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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF KENTUCKY
CENTRAL DIVISION AT LEXINGTON

UNITED STATES OF AMERICA,	- - -	Case No. 5:20-CR-00063-1
	.	5:20-CR-00063-2
Plaintiff,	.	
	.	Lexington, Kentucky
- v -	.	
	.	Wednesday, October 5, 2022
DOUGLAS WILLIAM VANCE and	.	
MOLLY IRENE MCKINNON,	.	JURY TRIAL DAY 2 OF 7
Defendants.	.	

- - -
TRANSCRIPT OF JURY TRIAL PROCEEDINGS
BEFORE THE HONORABLE DANNY C. REEVES
UNITED STATES DISTRICT COURT JUDGE
- - -

For the United States:	JAMES T. CHAPMAN, ESQ. GREGORY ROSENBERG, ESQ. Assistant U.S. Attorney United States Attorney's Office 260 West Vine Street, Suite 300 Lexington, Kentucky 40507
For the Defendant Douglas William Vance:	JEFFREY A. DARLING, ESQ. Nichols Walter PLLC 3120 Wall Street, Suite 210 Lexington, Kentucky 40513
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Court Reporter:	LINDA S. MULLEN, RDR, CRR Official Court Reporter 101 Barr Street Lexington, Kentucky 40507

Proceedings recorded by mechanical stenography, transcript produced by computer.

1 (Proceedings in open court, October 5, 2022, 8:59 a.m.)

2 THE COURT: Thank you. The jury is not present at this
3 time. I had just one issue I would like to take up with the
4 parties before we start.

5 It occurred to me that during opening statements, the
6 parties did not specifically address the substantive wire fraud
7 charges in the case, in terms of dates and other information.
8 So it's my plan this morning, before we continue with
9 testimony, to provide the jury with additional information
10 about the nature of the charges.

11 What I'm planning to do is use the language from the draft
12 set of instructions that I had given you before we started,
13 specifically instruction number 20. And I'll be providing the
14 jury with the information beginning in the third paragraph as
15 well as the fourth paragraph.

16 Any objection to that procedure?

17 MR. CHAPMAN: Nothing from the United States, Your Honor.

18 THE COURT: All right.

19 MR. DARLING: No, Your Honor.

20 THE COURT: All right.

21 MS. LEWIS: No, sir.

22 THE COURT: Let's see if we have any other issues that we
23 need to take up this morning.

24 I'll also remind the jury to -- let's see, how will I put
25 this -- to pay close attention to the testimony presented. I

1 won't make references to sleeping, I didn't notice anyone
2 sleeping, but I'll remind the jury to pay close attention to
3 the testimony as presented.

4 All right. We'll go ahead and bring the jury in.

5 MS. LEWIS: Your Honor, I have an issue.

6 THE COURT: Yes, ma'am.

7 MS. LEWIS: I purchased an adapter yesterday that I
8 thought would work with the Court's visual or video system.
9 Apparently, I have the wrong adapter. I know it's not the IT
10 department's job to supply me with that, but I was wondering if
11 one would be available before we can get one here?

12 THE COURT: I don't know exactly what you need. What is
13 it that you need for a hookup?

14 THE CLERK: She needs a hookup to the VGA. But I don't
15 think they have one to supply. But nobody's here until 9:00 --
16 well, Loretta might be here.

17 THE COURT: All right. We'll take a brief recess and see
18 what we can find before we bring the jury in. We'll wait for a
19 few moments. Why don't you check on that, if you could?

20 (A recess was taken from 9:02 a.m. to 9:14 a.m.)

21 THE COURT: Thank you.

22 Good morning, everyone. The record will reflect all
23 members of the jury are present. The defendants and all
24 counsel are present as well.

25 I have just a couple of matters to bring up with you,

1 ladies and gentlemen, before we continue the testimony in the
2 case.

3 Yesterday, I did not provide you with specific information
4 about the substantive wire fraud charges that are made in this
5 case, so I want to give you a little more information about
6 that before we continue with the testimony.

7 This relates to Counts 2 through 6 of the indictment.

8 Count 2 alleges that both defendants committed wire fraud
9 on or about July 5th of 2018, when they caused an automated
10 clearinghouse or an ACH deposit of \$5,600 to be transmitted
11 from Gary Chamblee to Whitaker Bank, the account for NexGen
12 Energy Partners, LLC.

13 Count 3 alleges that the defendants committed wire fraud
14 on or about October 18, 2017 when they caused a wire deposit of
15 \$15,000 to be transmitted from Kenneth Shumard to the Whitaker
16 Bank account for NexGen Energy Partners, LLC.

17 Count 4 alleges that the defendants committed wire fraud
18 on or about June 5th, 2017, when they caused a wire fraud
19 deposit of \$86,000 to be transmitted from GGC Funding, LLC to
20 the Whitaker Bank account for NexGen Energy Partners, LLC.

21 Next, Count 5 alleges that Defendant Vance committed wire
22 fraud on or about December 16th, 2017, when he transmitted an
23 email containing falsified Nex-Gen Industries' bank records to
24 Dell Jagers.

25 And finally, Count 6 alleges that Defendant McKinnon

1 committed wire fraud on or about June 26th, 2017, when she
2 transmitted an email providing false financial reports to Dell
3 Jagers.

4 So that information is provided to you as additional
5 background information.

6 The second matter I wanted to mention to you is sometimes
7 during trials, and particularly toward the end of the day in a
8 case in which there is a lot of documents, the attorneys are
9 referring to documents, the witnesses are referring to
10 documents, and you don't always see the documents. You hear
11 about those and you see those later. It becomes easy or
12 tempting to listen with your eyes closed. And so I'll just
13 remind you, if you can, sometimes that can give a false
14 impression. So if you would, if you can avoid listening with
15 your eyes closed during the course of the trial, I'm sure the
16 parties would certainly appreciate that.

17 All right. Are we ready to proceed with further
18 cross-examination of the witness that's on the stand?

19 MS. LEWIS: Yes, Your Honor.

20 THE COURT: All right. Go ahead and bring the witness
21 back in.

22 Mr. Deware, you can come on up and return to the witness
23 stand. As you're coming up, I'll remind you you are still
24 under oath, of course.

25 THE WITNESS: Yes, sir.

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1 THE COURT: Ms. Lewis, you may continue with your
2 questions.

3 MS. LEWIS: Thank you, Your Honor.

4 CONTINUED CROSS-EXAMINATION

5 BY MS. LEWIS:

6 Q. Good morning, Mr. Deware.

7 A. Good morning.

8 Q. We left off with a handwritten operating agreement, which
9 has been marked as Defendants' Exhibit Number 106.

10 MS. LEWIS: I'll move to admit that at this time.

11 THE COURT: Any objection?

12 MR. CHAPMAN: No, Your Honor.

13 THE COURT: Exhibit 106 is admitted, Defense Exhibit 106.

14 (Defense Exhibit 106 was admitted.)

15 BY MS. LEWIS:

16 Q. You recall reviewing that document yesterday, sir?

17 A. Yes, ma'am.

18 Q. You can see it on your screen?

19 A. Yes, ma'am.

20 Q. To reiterate and catch us up from yesterday, these
21 handwritten agreements that we started going over were supposed
22 to be the outline of your agreement for a partnership with
23 Mr. Vance, correct?

24 A. Yes, ma'am.

25 Q. And it also outlined your agreement with Mr. Smith and

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1 Ms. McKinnon?

2 A. Yes, ma'am.

3 Q. So you were interested in forming this company with
4 Mr. Smith and Molly McKinnon to become partners with Mr. Vance
5 after he was able to buy out the Shumard Group, correct?

6 A. No, ma'am.

7 Q. So you're still maintaining it wasn't your intent ever to
8 buy them out?

9 A. At no point in time, ma'am.

10 Q. But you were also interested in handling the marketing
11 with Mr. Vance, correct?

12 A. I would rather put it in my own words, if I could.

13 Q. Well, it's yes or no, sir.

14 THE COURT: You can answer but then you can explain.

15 A. I'm not good with people putting words in my mouth so I
16 would rather use my own, if I could, please.

17 My company in Honduras has -- is number one, top. So when
18 I come to another company I can say hey, I can put you in
19 contact with people, I can introduce you to people. That
20 doesn't make me in charge of the marketing department. I
21 can -- I think, as a member of the board, I can say hey, you
22 can talk to so and so who can help you with it, but that
23 doesn't make me in charge of it.

24 Q. So you had several connections with your other businesses
25 related to marketing and sales?

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1 A. Yes, ma'am.

2 Q. Then the proposed name for this partnership was supposed
3 to be Egen, correct?

4 A. Initially, yes. And then, like you said yesterday, Molly
5 reported to us that she was unable to open that. So then it
6 was going to be opened up under some other name at some point.

7 Q. Then there was going to be a new company name after you
8 made your partnership with Mr. Vance, correct?

9 A. I was able to review my emails last night -- I assume
10 that's okay -- so you asked yesterday about V4 Carbon. Molly,
11 in December of 2016 --

12 Q. Sir, sorry to cut you off.

13 A. I'm answering your question.

14 THE COURT: He is allowed to answer your question. Go
15 ahead, please.

16 A. Molly, in December 2016, was sending emails about setting
17 up V4 Carbon, it was for all four partners. She sent an email
18 specifically saying that V4 Carbon was going to replace
19 Nex-Gen.

20 Q. All right.

21 A. So that would be -- you asked who were the members, so the
22 members would have been all four of us.

23 Q. Thank you. Do you recall telling Agent Hubbuch back in
24 October of 2019 that Mr. Smith and Molly were going to set up
25 their own company?

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1 A. I don't know exactly what that may have been referring to.
2 I know that Molly sent an email saying that to represent her
3 shares in Egen she was going to open up a company that was
4 called D-A-M, DAM company. I don't know, that may have been
5 referring to that. So I don't know the context of that
6 comment.

7 Q. Okay. But you are in agreement that the four of you were
8 going to do this V4 entity, correct?

9 A. Yes, ma'am. And the reason for that I think is important.

10 I had been asking for access to the banks, I wasn't
11 getting those. So I was -- the reason they were giving to me
12 is that Doug's personal information was in the banks and they
13 didn't want to share that with me. So I was looking for a way
14 to be able to get access to what was actually going on with the
15 banks. So that was a way to do that.

16 Q. You actually set up that bank account because you happened
17 to be in Kentucky at that point, correct?

18 A. Not at that point, but in April, yes, of -- around April
19 of 2017, yes.

20 Q. So you set up that account because you were in town, not
21 because you weren't getting access; is that fair to say?

22 A. I would not say that. I would say that was one of the
23 purposes of the trip. I mean, I flew from out of the country
24 to come up here to open that up, because I wanted access to see
25 what was going on in the bank accounts.

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1 Q. After that, you still deposited money into Mr. Vance's
2 Nex-Gen Industries account and not this V4 account that you
3 purposely set up?

4 A. I would have to check the accounts. I know that I sent
5 the last 60,000 into the V4 account, so I'm not aware of the
6 other wire, I would have to look at the account records.

7 Q. We'll get to that. But you can confirm you were a signer
8 on that V4 account?

9 A. Yes, ma'am.

10 Q. And that was at Community Trust?

11 A. I believe that's the name of the bank, yes, ma'am.

12 Q. So you made several assertions that you thought Nex-Gen
13 LLC had been formed, but you knew that company was never formed
14 because V4 was created.

15 A. I don't know that to be the case. What I know to be the
16 case is that there was confusion between Nex-Gen Inc. and
17 Nex-Gen Kentucky, and I wanted to clear up that confusion. And
18 by changing the name, I felt that would help us clear up any
19 confusion.

20 Q. But V4 was supposed to be the company that was going to
21 partner with Mr. Vance, correct?

22 A. At the end of the day, it was -- what -- so when I signed
23 the agreement with Doug to acquire Nex-Gen Inc. and merge that
24 into a new Kentucky LLC, that was supposed to be named Nex-Gen
25 Industries LLC in Kentucky. I don't know the status of that.

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1 What I know is that I didn't have access to the bank
2 accounts, and that by creating a new company name and a new
3 company bank account, my intention was to have more
4 transparency and to be able to have visibility on that.

5 Q. All right. So you opened this bank account for V4 at
6 Community Trust?

7 A. With Molly at my side, yes, ma'am.

8 Q. In April of 2017, correct?

9 A. Yes, ma'am.

10 MS. LEWIS: Can I see Government's Exhibit 213, please.

11 Q. We'll come back to that, sir.

12 Do you remember sending Molly an email in September of
13 2016 where you asked that your attorney would look over the
14 operating agreement or create an operating agreement?

15 A. I do, ma'am. Can I give more context, please?

16 Q. But you remember your attorney was going to be the one
17 creating this operating agreement?

18 A. Can I give more context, please?

19 Q. In September of 2016, do you recall emailing Molly
20 McKinnon that your attorney was going to create the operating
21 agreement for these entities that were being created?

22 A. I approached John Fresh, my attorney in Kansas, to create
23 an operating agreement. I wasn't able to get on his calendar.
24 He pointed me to like a standard, nondescript operating
25 agreement.

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1 I forwarded some of that information over to Molly. At
2 the end of the day, Molly was responsible for all of the
3 administration and finance. If I volunteer, here's another
4 asset that can be of assistance to you, in no way, shape or
5 form does that make me in charge or responsible for that
6 activity. She was responsible.

7 In an organization, be it in the Army, be it in corporate
8 America, people are in charge of certain activities and those
9 people are empowered with their position. Someone can offer
10 help, but that doesn't make the person who offers help be the
11 responsible party.

12 Q. So you're denying that you asked your attorney to create
13 the operating agreement?

14 A. I approached him to do that, he was unable to. So I let
15 Molly know that he wasn't able to get us anything. And that
16 I -- at the time Doug was asking for money, the initial \$30,000
17 and wanting us to move forward quickly. So unfortunately,
18 instead of going through that step, I trusted Doug and I sent
19 him the money.

20 Q. And you --

21 A. So, you know, did my attorney end up setting it up? No.

22 Did Doug ask me for money and I sent him money without
23 having set it up? Yes.

24 Q. Do you recall also asking your attorney to dissolve
25 Mr. Vance's current company at that time?

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1 A. I don't recall.

2 Q. Okay. That was actually never done, was it?

3 A. I don't believe it was ever done.

4 Q. And you never formalized a partnership with Mr. Vance?

5 A. I signed a partnership. I signed the bill of sale, I
6 signed the operating agreement for Nex-Gen Industries Kentucky,
7 I sent that signed agreement over to Molly.

8 Now, if Molly never took that over to the state and set it
9 up, I think that's indicative of what Molly and Doug are trying
10 to do in terms of signing a document with me and then not
11 actually opening up the company. You know, you decide what --
12 if that's good faith or not.

13 Q. But Ms. McKinnon did register both of the company names
14 that we've discussed, correct?

15 A. I'm not aware of what she ended up registering.

16 Q. Well, we talked about Carbon Holdings was created and she
17 registered that, correct?

18 A. I'm not familiar with Carbon Holdings. I'm familiar with
19 V4 Carbon.

20 Q. And V4 was registered, correct?

21 A. I know that I was on board with opening up V4. I know
22 that I opened up a bank account for V4. In terms of what
23 specific documents were registered or not registered, I
24 can't -- I can't speak to that.

25 Q. You mentioned the Carbonox purchase order yesterday.

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1 Do you recall?

2 A. Yes, ma'am.

3 Q. All right. Do you recall ever seeing a copy of that
4 purchase order?

5 A. Yes, ma'am.

6 MS. LEWIS: May I approach the witness, Your Honor?

7 THE COURT: Yes, ma'am, you may.

8 A. Thank you.

9 Q. Mr. Deware, what is that document I just gave you?

10 A. Give me one moment, please.

11 First one is an email that I've never seen before from a
12 Karen May, email at Carbonox. And it's sent to Molly.

13 Q. And Karen May is with Carbonox?

14 A. It's what the email says.

15 Q. It verifies that she's sending a purchase order?

16 A. That's what it says.

17 Q. All right. What is the date of that email?

18 A. August 18th, 2016.

19 MR. CHAPMAN: Your Honor, I'll object at this point. This
20 email doesn't appear to have any relevance for Mr. Deware.

21 MS. LEWIS: Can we approach, Your Honor?

22 THE COURT: You may. Yes, you can come up.

23 (Bench conference on the record.)

24 THE COURT: Yes, ma'am.

25 MS. LEWIS: He opened the door to this yesterday with

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1 discussion of this purchase order and an insinuation that it
2 was made up.

3 THE COURT: That doesn't mean he can verify an email that
4 was not sent to him.

5 MS. LEWIS: Well, it's -- it was in the course of the
6 business as well. So I think it's admissible.

7 THE COURT: No, it's not, not through this witness. It
8 may be through someone else, maybe through your client, but not
9 through this witness. Objection is sustained.

10 (Bench conference concluded.)

11 THE COURT: The objection is sustained.

12 MS. LEWIS: May I retrieve the document?

13 THE COURT: Yes, ma'am.

14 MS. LEWIS: Thank you.

15 BY MS. LEWIS:

16 Q. You talked about the difference between loans and
17 investments yesterday.

18 Do you recall that?

19 A. Yes, ma'am.

20 Q. And can you explain again what your interpretation is of
21 the difference between an investor and a lender?

22 A. Sure. An investor has shares in a company, a lender does
23 not.

24 And I believe we talked about the difference between a
25 loan and a sale. You are selling a good or service and you're

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1 receiving income. Versus taking in a loan, you're creating a
2 debt.

3 Q. All right. So Doug was pretty clear that he was looking
4 for an investor, not a lender, correct?

5 A. He did different things at different times. So in the
6 negotiation process, he had approached about a loan at one
7 point. He had approached about shares at a different point, so
8 different items have been discussed at different times.

9 Q. But the ultimate relationship you had in business with
10 Doug was you as an investor?

11 A. Yes, ma'am.

12 Q. All right. Now, you commented yesterday about this money
13 from the Shumard Group, how your interpretation was that was a
14 loan.

15 A. If you go back and you look at the documents that I signed
16 with Doug, which reflects the agreement that we made, I signed
17 a bill of sale. In that bill of sale, he was putting in his
18 intellectual property, his other property.

19 Q. Well --

20 A. I'm answering your question. I signed an agreement there
21 and he said he would be putting in \$500,000 worth of property
22 and other items. I was going to put in 200-and-something
23 thousand dollars worth of my money.

24 So I don't know what he did or what agreements he had in
25 order to come up with that \$500,000 that he was putting towards

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1 the company. That was his business prior to coming to business
2 with me. So he was putting that forth.

3 In the agreement, if you look at the draw schedule, at no
4 point in time does that draw schedule say hey, repay Shumard.
5 At no point in time does any of those other documents refer to
6 anything like that, because that was never our agreement.

7 Q. But there are emails talking about the Atlanta group, the
8 Shumard Group?

9 A. There are.

10 Q. All right. So yesterday -- to get back to my question --
11 I believe you stated that it was your understanding that
12 Shumard Group was making loans to Mr. Vance and Molly. So
13 these people that don't even know them personally are just
14 lending them money without getting shares or stake in
15 Mr. Vance's company?

16 A. Molly said that they were really good friends and that
17 that was okay. And that for those people, that amount of money
18 wasn't a big deal. And that was very much Molly's -- she asked
19 me, she approached me at different points to try to finance
20 them, paying them back.

21 I asked her, I believe in somewhere around November 2016,
22 I said all right, I can consider it, send me a detail of what
23 those folks have lent to you. And she never responded to that.

24 Q. But she did send you emails of what was going to be due to
25 them, correct?

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1 A. At one point I reviewed through the emails and she
2 mentioned that they owed something like \$170,000 to them. But
3 again, that was not ever my agreement to pay them. That was
4 never a debt that I had.

5 There was never an agreement for me to pay that back.
6 That would never be an investment I would make. I would --
7 there's no way I would come into a company with no experience
8 in sales and immediately come in and pay off another company
9 close to \$200,000. I would never do that. That would never be
10 an investment I would make.

11 Q. So two other people in this room had an interpretation
12 that the plan was for you to buy out the Shumard Group?

13 MR. ROSENBERG: Objection, Your Honor.

14 THE COURT: Sustained.

15 BY MS. LEWIS:

16 Q. Molly wasn't an owner in any of Mr. Vance's companies,
17 correct? She didn't put any equity or capital in, right?

18 A. I can't vouch for that. I can't vouch for anything that
19 she says. She's -- she said that there's sales that they were
20 having to Feldman that I don't see reflected in the bank
21 accounts. She said --

22 MS. LEWIS: Your Honor, I would object as nonresponsive.

23 THE COURT: As much as I've sustained the objection to
24 your question, it's not necessary to provide further answer.

25 Thank you.

ALLAN DEWARE - REDIRECT

1 THE WITNESS: Thank you.

2 MS. LEWIS: May I have a moment, Your Honor?

3 THE COURT: Yes, ma'am.

4 MS. LEWIS: I have nothing further at this time, Your
5 Honor. Thank you.

6 THE COURT: All right. Thank you.

7 Let me see if there's any redirect of the witness.

8 MR. CHAPMAN: Your Honor, I believe Mr. Darling --

9 THE COURT: Well, we're not going -- we're not taking this
10 out of order. Mr. Darling deferred to Ms. Lewis, so he's
11 passed on the opportunity to cross-examine.

12 So it's redirect on matters. And then if he has
13 additional questions on issues you bring up or that Ms. Lewis
14 brought up for the first time on cross, he can ask those
15 questions.

16 MR. CHAPMAN: Very good, Your Honor.

17 THE COURT: All right.

18 REDIRECT EXAMINATION

19 BY MR. CHAPMAN:

20 Q. Good morning, Mr. Deware.

21 A. Good morning.

22 Q. I have a few topics to discuss with you on redirect.

23 First, who would send you financial documents concerning
24 Nex-Gen?

25 A. Molly would.

ALLAN DEWARE - REDIRECT

1 Q. Would that be at your request?

2 A. Yes, sir.

3 Q. Would she also just do that sort of on a normal schedule?

4 A. What she would send on a normal schedule was a production
5 schedule, and that had production and sales.

6 According to the information that April sent to me, those
7 weekly reports that were being sent didn't reflect what was
8 actually happening in terms of trucks coming in and trucks
9 going out or production actually happening on the ground.

10 Q. Did you have direct visibility into the financial
11 paperwork of Nex-Gen?

12 A. I had no access to the Nex-Gen bank accounts that were
13 being used until I opened up the V4 Carbon in 2017. The only
14 information that I had about the finances was what Molly was
15 sending to me.

16 Q. Mr. Deware, there's been a lot of discussion on
17 cross-examination about the Shumard Group.

18 Do you recall that?

19 A. Yes, sir.

20 Q. Please remind the jury what your understanding of the
21 Shumard Group, in relation to Nex-Gen, if any, was.

22 A. I understood that they were friends of Molly, and Molly
23 said that she had some friends that had been supportive in them
24 getting started.

25 Q. Did you understand that they might have some potential

ALLAN DEWARE - REDIRECT

1 interest in investing?

2 A. She sent an email saying they were potential investors.

3 And then when we sat down and spoke, she said, well, you know,
4 they can either invest in the company or they can loan to us.

5 And I said, I'm not paying anybody's loans back.

6 And so she said, hey, when we hit profitability, we'll
7 take care of it.

8 I said, that's fine by me.

9 So what I understood is that was part of what they were
10 bringing to the table, is what they had already invested into
11 the company.

12 So in no shape or form or at any time did I have an
13 agreement where I was given partnership shares. Or I mean, I
14 never met the guy. I had no shares with him. I had no
15 dealings with him. I had never met him.

16 All the agreements that I had were with Doug. I said a
17 noncircumvent, noncompete, you know, confidentiality agreement
18 that everything that was his intellectual property, everything
19 that was his property in creating char, all that was in an
20 agreement with me. Zero percent left to go to someone else.
21 So I don't -- I don't understand how there could be confusion
22 there.

23 Now, Molly did send some emails that I was able to go back
24 and review. And knowing what I know now, they are very -- I
25 don't know if tricky or sneaky or whatever the right word is --

ALLAN DEWARE - REDIRECT

1 I don't know if we can put one of them up on the -- on here,
2 but she sent me an email where it mentioned 170. But she puts
3 it in a paragraph where, hey, you know, we owe the Shumard
4 Group 170,000.

5 And then it goes on and says, hey, you know, Doug needs
6 \$50,000 for operating expenses for this and this. And the next
7 draw schedule was for about \$50,000. So I send the 50, because
8 that's on the draw schedule and because that's what she says,
9 we need \$50,000 for these operating expenses.

10 But really, it should be two paragraphs. Hey, just so you
11 know, we owe them 170. "We" being Molly and Doug, not any
12 entity with me.

13 And then separately the \$50,000 that they were asking for
14 the operation.

15 So it's -- you know, reading out of context, some might
16 think that, but that was never the case.

17 Q. Before you saw the bank statement that April Francis sent
18 to you, did you know that someone named Kenneth Shumard was
19 putting money into the same entity that you were putting money
20 into?

21 A. No, sir.

22 Q. What was your reaction when you saw that?

23 A. Surprise, concern. I mean, immediately -- I mean, a
24 long -- at the same moment I was getting all the other
25 information that was going on, so I immediately understood

ALLAN DEWARE - REDIRECT

1 that, you know, when -- first in that conversation was April, I
2 was learning that the sales that were supposedly happening
3 weren't happening, the production that was supposedly happening
4 wasn't happening. The money that I sent was not going towards
5 what it was supposed to be going towards.

6 And then to find out that other people are sending them
7 money too, it comes to my mind, you know, they are receiving
8 money from multiple people for doing the same activity. It
9 seemed to me that was not -- not a normal business practice,
10 so -- and certainly they weren't being forthright or
11 transparent with what was going on.

12 So that was part of a larger piece of information that was
13 hitting me at that time.

14 So my immediate concern was, okay, so the company's not
15 making money. The books that are getting sent to me are not
16 accurate. So I'm out near \$400,000 and it looks like these
17 other folks are putting money into the company.

18 You know, if I go and ask them for money back, likely that
19 money is coming from someone else and I don't want someone
20 else's money. Like I would say hey, pay my money back from the
21 investment. They are going to take that money from someone
22 else. I can't do that in good faith. At that point I decided
23 to go to the authorities.

24 Q. Before you saw that bank statement from Ms. Francis, were
25 you aware that anyone related to the Shumard Group was an

ALLAN DEWARE - REDIRECT

1 investor?

2 A. No, sir.

3 Q. I want to shift topics slightly, Mr. Deware. There was
4 discussion on cross-examination about a pro forma.

5 Do you remember that?

6 A. If you could remind me, please.

7 Q. A pro forma based on that Carbonox purchase order.

8 A. I'm sorry. I know there was a Carbonox purchase order, I
9 don't remember the pro forma.

10 Q. We'll get it pulled up.

11 A. Okay.

12 Q. Mr. Deware, do you see the document on your screen?

13 A. Yes, sir.

14 MR. CHAPMAN: This document has been previously admitted
15 into evidence as Government's Exhibit 607.

16 THE COURT: Yes, sir.

17 BY MR. CHAPMAN:

18 Q. Mr. Deware, does this refresh your memory on the pro forma
19 that was discussed on cross-examination?

20 A. Yes. This is a projected cash flow, yeah.

21 Q. Now, remind the jury, the first line, tons produced
22 starting with 4,000, escalating to 10,000.

23 Do you see that?

24 A. Yes, sir.

25 Q. Remind the jury what those numbers are based on.

ALLAN DEWARE - REDIRECT

1 A. So there was a Carbonox purchase order that started off at
2 2,000 tons a month. Then it would be, after three months,
3 going up to 4,000 tons a month. And then potentially after
4 another three months, going up to 10,000 tons a month. So this
5 was a cash -- projected cash flow based off of performing that
6 purchase order or executing everything that had to be done in
7 order to fulfill that purchase order.

8 Q. So this was based on that actual purchase order that you
9 saw?

10 A. Yes, sir.

11 Q. Remind the jury, please, the importance of those sales
12 numbers to you.

13 A. The -- my decision to invest in the company --

14 MR. DARLING: Excuse me, Your Honor. Can we approach?

15 THE COURT: Yes, you can come on up.

16 (Bench conference on the record.)

17 THE COURT: Yes, sir.

18 MR. DARLING: This is not redirect. This is the same
19 thing he's already brought out on his direct examination. And
20 it does flow from the questioning Ms. Lewis had. I think it's
21 reminding him to get the last word in. It's not redirect.

22 THE COURT: Well, let's see if it's leading to a question.

23 Mr. Chapman?

24 MR. CHAPMAN: Your Honor, there was questioning on
25 cross-examination about the meaning of this purchase order, and

ALLAN DEWARE - REDIRECT

1 I am eliciting on redirect that this was based on actual sales
2 numbers, and the importance --

3 THE COURT: The projected sales numbers? Because --

4 MR. CHAPMAN: And morphing that into --

5 THE COURT: -- the footnote in the bottom, the purchase
6 order is not part of the purchase order. It's projections,
7 right?

8 MR. CHAPMAN: Morphing that into the projections,
9 absolutely.

10 THE COURT: But you've been leading to a question that was
11 raised on cross-examination, or a point that was raised on
12 cross-examination.

13 MR. CHAPMAN: A point that was made.

14 THE COURT: I'll overrule the objection.

15 (Bench conference concluded.)

16 THE COURT: Thank you. Please proceed.

17 BY MR. CHAPMAN:

18 Q. Mr. Deware, you may continue answering the question.

19 A. I lost my train of thought. If we could start over,
20 please.

21 Q. My question is, what was the importance of these -- of the
22 actual sales numbers that formed the basis of this pro forma?

23 A. There was a Carbonox purchase order that was shown as the
24 basis of the investment. And the basis was hey, we need money
25 to be able to get the raw materials and to be able to

ALLAN DEWARE - REDIRECT

1 produce -- basically, you know, manual labor, finish the
2 machines, get the machines up and running. So we need an
3 investment in order to fulfill this purchase order.

4 And if we fulfill this purchase order, this is what the
5 projected income off of that would be.

6 Q. And so these were not just made-up numbers made out of
7 thin air?

8 A. No, sir. These were based off that Carbonox purchase
9 order.

10 Q. Now, there were questions on cross-examination about
11 logging.

12 Do you recall that?

13 A. Yes, sir.

14 Q. Were you aware that Nex-Gen was in the business of
15 logging?

16 A. No, sir. And last night, I looked up what a boom truck
17 is. It's a -- like a bucket truck or you can put a crane on
18 the end of it. The very first page of Google, it shows a whole
19 bunch of people moving lumber around a parking lot.

20 Q. But at the time that that -- you received an email that
21 referenced that sort of truck, were you aware of what that was?

22 A. No. No, sir. But at no point in time were they like,
23 hey, we're changing the purpose of the company.

24 You know, if you look at what we agreed to, it was making
25 wood chips, it was making char. It was never logging.

ALLAN DEWARE - REDIRECT

1 At no point in time did they come up and say hey, Allan,
2 we would like to get into the logging business, we want to go
3 cut trees down in the forest. Nobody ever talked to me about
4 that ever.

5 Q. Just because the company was involved in wood chips, does
6 that mean they were logging the trees to get them?

7 A. I would not assume that ever.

8 Q. Mr. Deware, there was some discussion on cross-examination
9 also about your conversations with Ms. Francis.

10 Do you recall that?

11 A. I'm sorry, I didn't understand, sir.

12 Q. There was discussion on cross-examination about the
13 conversations that you had with April Francis.

14 A. Yes, sir.

15 Q. When Ms. Francis contacted you, was her personal life your
16 focus?

17 A. No, sir.

18 Q. What was your focus?

19 A. My focus was that she was indicating to me that the
20 production numbers were not equaling what was coming in and
21 out, and that the information that was given to me was false.
22 That the sales that were being reported to me were false, that
23 there were other people investing into the company that I
24 thought was mine, or giving money or other kinds of monies were
25 coming in that I was unaware of. So there's lots of cash

ALLAN DEWARE - REDIRECT

1 transactions coming in and out.

2 So that was my concern, because that was my investment.

3 Everything else to me was peripheral.

4 Q. Does anything about Ms. Francis' personal life or what was
5 in her mind impact anything about the revelation that those
6 false financial documents had on you?

7 A. No. I mean, if she and Doug had some kind of relationship
8 or didn't have some kind of relationship, or they had one and
9 then Doug apologized, I don't see where that has anything to do
10 with them giving me false documents. I think that's, you know,
11 it's smoke in the air and, really, the thing is that doesn't
12 excuse giving me false documents and asking me for money based
13 off those false documents.

14 Q. Sir, I would now like to show you what was previously
15 admitted into evidence as Defense Exhibit 106.

16 Sir, do you recognize the document from discussion in
17 cross-examination?

18 A. Yes, sir.

19 Q. Would you please read the title of the document?

20 A. Letter of Intent for Operating Agreement.

21 Q. What is a letter of intent, sir?

22 A. Like the name implies, it's putting in writing the intent
23 the partners have.

24 Q. Is it, in your understanding, a formal, binding legal
25 document?

ALLAN DEWARE - REDIRECT

1 A. I think it puts down your intent. I think that if there's
2 money that's put forth based off the document, I think that
3 there is, you know, four signees there. There is money
4 exchanged based off of four signees.

5 I'm not a lawyer, but I think that if four people sit down
6 and sign a document and then money is exchanged based off that,
7 I think that certainly the law must give some kind of credence
8 to that.

9 Q. Was this ever formalized into an actual operating
10 agreement for an entity named Egen?

11 A. For Nex-Gen, I signed a document for Egen. Egen was never
12 created that I'm aware of.

13 Q. So Egen never did and does not exist?

14 A. I'm not aware of it being formed.

15 Q. If I can direct your attention to the third line of text
16 of this document?

17 A. Going through my emails last night, I saw that Molly, in
18 December of 2016, was still sending emails about forming Egen
19 and that she would get that done in January of 2017. I don't
20 know if that actually happened.

21 Q. Thank you, sir. If you could look at the third line of
22 text in this document? Does it say "we," the four parties,
23 "agree to the following items to be incorporated into the
24 operating agreement"?

25 Do you see that language?

ALLAN DEWARE - REDIRECT

1 A. Yes, sir.

2 Q. And does that indicate to you that this is not a final
3 document?

4 A. Yes, sir. It basically says hey, when the operating
5 agreement is drafted, you know, we're agreeing that these
6 things should be included.

7 MR. CHAPMAN: Ms. Poynter, if we can scroll down in the
8 document?

9 A. There's one thing up above, if I could --

10 Q. Go ahead.

11 A. If you could go up, Ms. Poynter? It says in point 2A,
12 Doug will receive all funds from transactions in place prior to
13 the execution of the agreement for a period of a year. He
14 talked about having some kind of internet sales of char and
15 that he wanted to have that as his personal income, and I had
16 agreed to that.

17 But that didn't include the Carbonox purchase order, as
18 you saw on the agreement that we signed, the bill of sale, it
19 included the Carbonox purchase order. And that was in there
20 specifically because he was trying to keep whatever those
21 previous internet sales were as income. So just to clarify
22 what that one says there.

23 MR. CHAPMAN: If we can scroll to the bottom of this page?

24 Q. It looks like paragraph 8 there, will you please read that
25 into the record, sir?

ALLAN DEWARE - REDIRECT

1 A. "Determination will be made" prior -- or "before Operating
2 Agreement is executed regarding distribution to partners."

3 Q. So is that indicating there is still terms to be
4 determined?

5 A. That's how I would read that. But I think it's pretty
6 clear above, where it says 51 and 49. But I think that's
7 talking about, you know, when there is profits, will they --
8 say there is a hundred thousand dollars in profits. Are we
9 going to distribute all hundred thousand dollars or are we
10 going to say, all right, keep 50 in the company and distribute
11 50.

12 I believe that's what that's referring to. So in terms
13 of, like, the board deciding okay, we have X amount of profit,
14 of that profit, how much are we going to distribute? That's
15 how I read that.

16 Q. That had not been determined at the time of this
17 handwritten agreement?

18 A. Correct.

19 MR. CHAPMAN: If we could go to the next page of this
20 exhibit, please.

21 Q. The paragraph in the middle that's on the screen
22 currently, would you please read that paragraph into the
23 record, sir?

24 A. "The company will be formed as an LLC or as recommended by
25 legal/accounting counsel in whatever state is recommended."

ALLAN DEWARE - REDIRECT

1 Q. I have two questions for you on this paragraph, sir.

2 First, does it indicate that there is not even final
3 agreement about the form that this entity would take?

4 A. Yes, sir.

5 Q. And second, it indicates there is no agreement as to even
6 what state this would be incorporated or formed in?

7 A. Correct. At that point in time, there was discussion of
8 David, Molly and I were all Florida residents. And then the
9 company -- you know, the company was moving to Kentucky, we
10 needed to get more counsel to figure out what was the right
11 place to open that.

12 Q. Mr. Deware, where in Defense Exhibit 106 does it authorize
13 falsification of documents?

14 A. It does not.

15 Q. Where in Defense Exhibit 106 does it authorize
16 misrepresentations of sales?

17 A. It does not.

18 Q. Where in Defense Exhibit 106 is the Shumard Group
19 mentioned?

20 A. At no place and time.

21 Q. If you were intending to have some sort of financial
22 relationship with the Shumard Group, do you think they might be
23 mentioned in the document?

24 A. Absolutely, sir.

25 MR. CHAPMAN: May I have just a moment, Your Honor?

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1 THE COURT: Yes, sir.

2 MR. CHAPMAN: Nothing additional on redirect. Thank you.

3 THE COURT: All right. Thank you.

4 Mr. Darling, if you have matters brought on
5 cross-examination affecting your client or on redirect, you may
6 ask them.

7 MR. DARLING: I do, Your Honor. Thank you.

8 CROSS-EXAMINATION

9 BY MR. DARLING:

10 Q. Mr. Deware, Jeff Darling, I represent Doug Vance.

11 A. Good morning, Mr. Jeff.

12 Q. I have just a couple of things for you. I want to hand
13 you one, two, three, it looks like four emails. All I want you
14 to do right now is to verify they are emails between you and
15 Molly McKinnon. Is that all right?

16 A. Yes, sir.

17 MR. DARLING: May I approach?

18 THE COURT: Certainly.

19 MR. CHAPMAN: Can we see what --

20 A. Yes, sir.

21 Q. So, Mr. Deware, would you agree that these -- that these
22 documents are copies of emails between you and Molly McKinnon?

23 A. Yes, sir.

24 MR. DARLING: Your Honor, I move for the introduction of
25 Defendants' Exhibits 30, 32, 33 and 34.

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1 MR. ROSENBERG: May we approach, Your Honor?

2 THE COURT: Yes, sir, come on up.

3 (Bench conference on the record.)

4 MR. ROSENBERG: I think an issue that may be good just to
5 address here going forward, only a few of the defense exhibits
6 that we have been provided have -- are labeled with defense
7 exhibit numbers. The rest are like the -- the PDF we were
8 provided, I think all of the stuff is in there, but they are
9 not labeled as Defense Exhibit 30, whatever. And so we're
10 having to search for -- like see the body of the email and then
11 run searches to try and identify where it is.

12 I don't know if there's additional copies that we haven't
13 received that are actually labeled, but it's just pretty
14 difficult for us to follow what's being introduced when it's
15 just referenced as Defense 34.

16 MS. LEWIS: We dropped off printed and tabbed binders to
17 the United States back in the spring with the first go around.
18 So they should have them.

19 THE COURT: All right. This is Mr. Darling's exhibit.

20 MR. DARLING: No, they're actually --

21 THE COURT: You're doing this on behalf of Ms. Lewis?

22 MR. DARLING: Yes.

23 MS. LEWIS: Well, we have --

24 MR. DARLING: I'm using her exhibits.

25 THE COURT: All right. So that should be in my binder

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1 then, right? Or wrong? It's back here.

2 All right. So I guess you don't have those documents here
3 with you that were dropped off in April? So that's part of the
4 problem. You've got just the general generic --

5 MR. ROSENBERG: I guess I have the electronic version.
6 But -- and I guess I wasn't following what was McKinnon defense
7 exhibit versus Vance defense exhibit. But I guess we can look
8 back to see if we can match that up.

9 THE COURT: Do you want to use this copy that was given to
10 me?

11 MR. ROSENBERG: No, I think the Court should have their
12 exhibits.

13 MR. DARLING: I mean --

14 MR. ROSENBERG: I can look briefly at them.

15 MR. DARLING: Do you want to take a minute to find it? I
16 don't have a problem taking a five-minute break, if that --

17 THE COURT: Well, I get to decide that, Mr. Darling. I
18 appreciate that.

19 MR. DARLING: All I said was I don't -- I'm certainly not
20 asking the Court to do that.

21 THE COURT: Thank you.

22 MR. ROSENBERG: I think we can certainly take a brief look
23 at the exhibits, just the copy right here. And I'm sure at the
24 lunch break address the broader issue for us to make sure that
25 we can kind of follow efficiently.

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1 THE COURT: Just take a look at these right now. I think
2 31 is not included as of now.

3 MR. ROSENBERG: Thank you, Your Honor.

4 THE COURT: Do you need to keep these until this witness
5 is finished?

6 MR. ROSENBERG: If they are admitted, I think they will be
7 on the screen so we can follow along that way.

8 THE COURT: You can borrow those from the witness if you
9 need to.

10 MR. ROSENBERG: Thank you, Your Honor.

11 THE COURT: Thank you.

12 (Bench conference concluded.)

13 THE COURT: All right. I think we are ready to go now.
14 Let's see. There was a motion to admit Defendants' Exhibits
15 30, 32, 33, and 34.

16 Is there an objection to their admission?

17 MR. CHAPMAN: No, Your Honor.

18 THE COURT: Defense Exhibits 30, 32, 33 and 34 will be
19 admitted at this time.

20 (Defense Exhibits 30, 32-34 were admitted.)

21 MR. DARLING: Can you put 32 up on the screen?

22 BY MR. DARLING:

23 Q. Do you have that in front of you, Mr. Deware?

24 A. Yes, sir.

25 Q. Would you agree with me that the -- at the bottom of that,

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1 in an email that Ms. McKinnon sends to you, it says "Allan,
2 the first draw for the \$865,000, that money will be given back
3 to Shumard so we would also need the next draw the same week.
4 I don't have the exact number right now, but it's approximately
5 20,000."

6 A. Can you go down below that, please, sir?

7 Q. "David said you are making arrangements for 200,000 so it
8 should be okay."

9 A. No, the next page, please.

10 MR. DARLING: Go to the next page.

11 Q. I don't have a next page.

12 A. It says page 1 of 2.

13 Q. I don't have --

14 A. It was there when you gave it to me, sir.

15 Q. I'm sorry?

16 A. It was in the packet that you handed to me.

17 This is a response to another email.

18 Q. I'm sorry, Mr. Deware, I don't have the second page.

19 A. Would you mind showing me, sir, the documents that you
20 showed me?

21 MR. DARLING: May I give them back to him, Your Honor?

22 THE COURT: Yes, sir.

23 A. Thank you, sir. This page, sir.

24 BY MR. DARLING:

25 Q. Mr. Deware, what you were asking me to look at was Exhibit

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1 Number 33, which is an email from two weeks after that email.

2 We're going to get to that, but --

3 A. Okay.

4 Q. It's not -- it doesn't follow this one. It's certainly
5 not -- 32 doesn't follow 33.

6 A. Okay.

7 Q. So --

8 A. So this email is dated the 16th of September --

9 Q. It's on your screen.

10 A. -- 2016. That would be five days after we signed the
11 intent agreement.

12 So that last document that you sent me was on the 11th of
13 September, the one on the yellow sheet of paper, correct, sir?

14 Q. I'm sorry, Mr. Deware, I don't answer your questions. I
15 don't know what you're talking about.

16 A. Okay. Then I'll affirm. So on the 11th of September, we
17 signed that yellow sheeted document, the intention of what's
18 going to go in there.

19 Q. Before you get into your explanation, Mr. Deware, is that
20 what that email says?

21 A. That email is not what we ended up agreeing upon.

22 Q. I know. But that's what the email says. At least as of
23 September 16, 2016, you were aware that \$165,000 would be going
24 back to Shumard?

25 A. They are asking me for a loan for that, yes, sir.

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1 Q. It says the first draw would be 165,000, that money would
2 be given back to Shumard. That's what that says, right?

3 A. Go back to the draw schedule, please, sir. Can you put
4 up --

5 Q. I'm sorry, I don't go back to things when you ask me to.
6 Is that what that says?

7 A. That is what that says. But then there's another document
8 that was sent later, after, that was clarified and had a
9 different draw schedule that was not included, sir.

10 Q. Okay.

11 A. Just because someone sends me an email and then they say,
12 hey, we want you to do this doesn't mean I'm necessarily going
13 to be on board with that doing.

14 Q. Well, your response to that email directly above that is
15 "Molly, okay, I'll send 200,000 or more to my USA account to be
16 ready when we sign the document."

17 A. But they had sent me another draw schedule that was asking
18 for \$209,000, so

19 Q. You responded to this email, the email that Molly sent to
20 you was 9:22 a.m., the email you sent back was 11:55 a.m. the
21 same day?

22 A. I --

23 Q. You're saying there is another draw schedule that was
24 prepared and agreed to by you within that two-hour period?

25 A. I'm saying there is another draw schedule, and that other

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1 draw schedule is for \$209,000.

2 Q. Okay. I understand that. All I'm trying to get at,
3 Mr. Deware, is, on September 16, 2016, you agreed to send
4 \$200,000 to Molly McKinnon knowing that was going to go to
5 Shumard.

6 I'm not asking what happened later, but on that -- in that
7 snapshot in time --

8 A. There was a point in time when they were asking me to lend
9 them money so they could pay back a loan, and that was
10 discussed, yes, sir.

11 Q. This email -- will you agree with me, this email doesn't
12 say anything about, okay, I'll loan you the money. It talks
13 about it being a draw, and that you were going to send them the
14 money to the USA account?

15 A. And then there were other discussions and other emails
16 prior to us signing --

17 Q. I'll tell you what --

18 A. -- documents --

19 MR. CHAPMAN: Your Honor, may the --

20 THE COURT: Just let the witness finish his answer,
21 Mr. Darling.

22 A. I think that anything is taken into a greater context of
23 all the other communications.

24 And what we finally ended up agreeing upon was not that,
25 because Molly presented to me that it was a loan that she had

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1 and that it would be repaid.

2 Did they ask me to repay that? Yes.

3 Q. Okay.

4 A. Did I ever repay that? No.

5 Did I later ask in November for clarification, what monies
6 has been sent? Did they ever clarify that for me? No.

7 So they sent me another document asking for \$209,000 with
8 a draw schedule. And that was -- so there's a lot of different
9 things here. And I think, you know, that can create quite a
10 bit of confusion.

11 Q. This is Defense Exhibit 33, and the date of this email
12 appears to be September 29th, 2016, 10:22 a.m., from Molly
13 McKinnon to you. And would you agree that it just said that
14 Molly says she just spoke to Doug about the next wire, I think
15 the next wire is supposed to be \$170,000. And I think you
16 referenced this email earlier.

17 A. I did.

18 Q. "So Doug could refund money to Shumard, but he knows you
19 ran into a snag with NFCU," and "if you could go ahead and send
20 \$50,000 to Wells now until you can get the bank situation
21 resolved."

22 And your response to that was, "Molly, the wire for 50,000
23 went out of my account a couple hours ago. Hopefully it hits
24 the Nex-Gen account tomorrow morning."

25 So would you agree with me, two weeks later you received

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1 an email where you were told that \$170,000 was needed in the
2 account so Doug could refund money to Shumard?

3 A. I believe that this is out of context. And I think if you
4 read this going back and knowing what I know now, it's very
5 tricky, confusing two different items. So this should be two
6 different paragraphs. If I was writing it, it would be two
7 different paragraphs but it's not.

8 So at first she says the -- there is 170,000 that she's
9 talking about for Shumard. But down below it says he wants --
10 he needs money now at Trus Joist for moving machines,
11 insurance, utilities, feedstock and labor.

12 And if you go to the other draw schedule, it will show
13 that it's roughly \$50,000 that I need to send for the second
14 week.

15 So I'm sending the \$50,000 in my mind for what this says,
16 is moving machines, insurance, utilities, feedstock, labor,
17 which is the agreement that I made and the draw schedule that
18 they sent me. So you know, I think this is very tricky.

19 Q. I don't dispute what you just said.

20 My point here is, on September 29th, 2016, you were told
21 by Molly that they needed \$170,000 to refund money to Shumard,
22 regardless of whether that \$50,000 that you sent them was part
23 of that, you were aware at that moment in time, that
24 snapshot --

25 A. I was aware that Molly and Doug were representing that

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1 they owed at that point in time something around \$170,000 to
2 Mr. Shumard.

3 Q. Okay. This is Defendants' Exhibit 34, also an email from
4 Molly McKinnon to you dated October 28th, 2016, so about a
5 month later.

6 And I know there is a lot in this email, I want to go
7 right to paragraph 3 where it says, "Doug wants to meet with
8 the Atlanta group face to face instead of telling them over the
9 phone. He...wants me to be present for the meeting since I
10 introduced them."

11 And Molly talks about how she's going to fly back so she
12 can do that.

13 You know the Atlanta group to be Shumards, right?

14 A. I know that they referred to an Atlanta group, and I know
15 that they have referred to the Shumards as being in Atlanta, so
16 it may have been them.

17 Q. So on October 28th, 2016, you were aware that Doug and
18 Molly were dealing with this Atlanta group, the Shumards?

19 A. That's reasonable, sir.

20 Q. Okay. Thank you.

21 Mr. Deware, this is Defendants' Exhibit Number 30, which
22 is an email from you to Molly McKinnon dated November 2nd,
23 2016. Would you agree that it says, "Molly, please send me the
24 documentation showing what is owed to the Atlanta group. I
25 want to prepare the monies to be sent, and I want to make sure

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1 I see the information reflecting the deposits that they made to
2 Doug previously"?

3 A. Yes, sir, that's correct. And she never responded to
4 that.

5 Q. Okay.

6 A. So they are asking me to loan them that money, I was
7 willing to, and they never sent me the information of what
8 actual deposits or anything that they received.

9 Q. Okay.

10 A. So --

11 Q. I understand what you're saying, but all I can deal with
12 is what's on this piece of paper.

13 Would you agree with me on November 2nd, 2016, you were
14 agreeing to provide money that was going to go to the Atlanta
15 group?

16 A. I wanted to help my business partners resolve a personal
17 issue that they had, yes, sir.

18 Q. And then the second page of that exhibit in that email
19 chain is November 4th, 2016, email from you to Molly McKinnon
20 where you ask, "How did the meetings go in Atlanta?"

21 A. Yes, sir.

22 Q. Mr. Deware, that's all I have. Thank you.

23 THE COURT: All right. Let's see if we have any other
24 questions.

25 A. Sir, it would -- that last one --

ALLAN DEWARE - FURTHER REDIRECT

1 Q. I'm sorry.

2 MR. DARLING: I'm through, Your Honor.

3 THE COURT: All right.

4 Mr. Chapman, if you need to follow up to allow him to
5 explain the last answer, you can do that.

6 MR. CHAPMAN: I will, Your Honor. Thank you.

7 THE COURT: All right.

8 FURTHER REDIRECT EXAMINATION

9 BY MR. CHAPMAN:

10 Q. Mr. Deware, would you like to provide any additional
11 context on your last answer?

12 A. Molly at the time was saying --

13 MR. DARLING: Your Honor, I would object. That's not a
14 question. That's not a substantive question per the rules.

15 THE COURT: Overruled. He can explain his last answer.

16 A. Molly at the time was saying that they owed this money to
17 this Shumard Group, and that they were going to go talk to them
18 to see if it would be due immediately or if they were going to
19 be able to get terms where they could pay that off over a
20 longer period of time.

21 So I knew that they had that debt, they presented that to
22 me. They had asked me to help them pay that. All that is
23 true.

24 But it was never that this other group was a coinvestor in
25 this company with me. They had asked me for a loan to pay them

ALLAN DEWARE - FURTHER REDIRECT

1 back, I was willing to do so.

2 I understood that meeting was to agree to what the terms
3 of the paycheck were going to be for them, be it immediate or
4 some kind of period of time. So I understood they were doing
5 that and I was aware of that.

6 Q. Thank you, sir.

7 MR. CHAPMAN: Nothing further, Your Honor.

8 THE COURT: Ms. Lewis, any additional questions of the
9 witness just on matters that have been brought out either by
10 Mr. Chapman or Mr. Darling?

11 MS. LEWIS: No, Your Honor.

12 THE COURT: All right. Thank you.

13 All right. Thank you, sir. You may step down.

14 THE WITNESS: Thank you, sir.

15 THE COURT: We will go ahead and take our morning recess
16 before the next witness is called.

17 Ladies and gentlemen, please keep in mind the admonitions
18 that you were given previously. Please don't discuss the case
19 among yourselves while we are in recess. We will call you back
20 in approximately 15 minutes. If you need a little more time,
21 let the security officer know that and we will make sure we
22 don't start before you're ready.

23 All right. Jury will be excused for approximately
24 15 minutes.

25 (Jury left courtroom at 10:22 a.m.)

1 THE COURT: Thank you. Before we recess, let's see if we
2 can get things worked out on the exhibits for the next witness.

3 Who will be the next witness in the case?

4 MR. CHAPMAN: Ken Shumard, Your Honor.

5 THE COURT: Mr. Shumard.

6 And I would assume the defendants will have some exhibits
7 they will want to provide. Will we need to take a break after
8 initial cross-examination to -- or -- well, we may need to take
9 a break to make sure everyone has the documents they need.

10 Of course, counsel doesn't have to disclose the documents
11 until they present those to the witness. And so what we may
12 have to do is just take a break when the documents are shown
13 and we'll let the United States attempt to locate those if
14 there is an issue about their authenticity or whether they are
15 admissible. I think that's probably the best we can do at this
16 point.

17 See if there is any other issues to take up in the case.

18 MR. CHAPMAN: No, Your Honor.

19 MR. DARLING: No, Your Honor.

20 MS. LEWIS: No, Your Honor.

21 THE COURT: All right.

22 Mr. Darling, whenever you defer questioning, you know, you
23 made a big deal about the fact that you go first and then
24 Ms. Lewis goes next. And then you attempt to kind of
25 circumvent that. We're not playing those games.

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1 We will be in recess.

2 (A recess was taken from 10:25 a.m. to 10:43 a.m.)

3 THE COURT: Thank you.

4 The record will again reflect all members of the jury are
5 present. Counsel and defendants are also present in the
6 courtroom.

7 And we will proceed with United States' next witness.

8 Mr. Chapman.

9 MR. CHAPMAN: Thank you, Your Honor. United States calls
10 Kenneth Shumard.

11 THE COURT: Thank you.

12 **KENNETH SHUMARD, GOVERNMENT WITNESS, SWORN**

13 THE COURT: Thank you.

14 Mr. Chapman, you may proceed.

15 MR. CHAPMAN: Thank you, Your Honor.

16 KENNETH SHUMARD

17 DIRECT EXAMINATION

18 BY MR. CHAPMAN:

19 Q. Good morning, sir.

20 A. Good morning.

21 Q. Would you please state your name and spell your last name
22 for our court reporter?

23 A. My name is Kenneth Marshall Shumard, S-h-u-m-a-r-d.

24 Q. Mr. Shumard, in what city and state do you currently live?

25 A. I live in the Atlanta area, Atlanta, Georgia area.

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1 Q. And how are you currently employed, sir?

2 A. I am not employed. I serve as the president of the
3 foundation, charitable foundation and don't get paid for that.

4 Q. What is the name of that foundation?

5 A. It is the Shumard Foundation.

6 Q. And what is your role?

7 A. I am the principal officer of it and provide -- we work in
8 providing revenue for it and giving the money away.

9 Q. Is that also located in the Atlanta area?

10 A. That's correct.

11 Q. How long have you been the principal member of the Shumard
12 Foundation?

13 A. I think since 2005, approximately.

14 Q. Please give the jury a little bit more detail about the
15 type of business the Shumard Foundation conducts.

16 A. Well, we're -- we're a 501(c)(3), and we are able to, you
17 know, provide gifts to organizations that help them, whether
18 it's food banks or building orphanages or schools or whatever
19 it might be. So we -- we probably serve maybe 75 individuals
20 and organizations throughout the world.

21 Q. You mentioned food banks, orphanages. What other types of
22 businesses might you assist?

23 A. Well, we helped build a couple of schools in Africa. And
24 we work with a lot of international students to bring them to
25 the states to get an education. I would say we do a lot with

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1 addiction recovery, with marriage enrichment, just a few of
2 those.

3 Q. Is there a spiritual component?

4 A. Well, we think there should be and we try to encourage
5 those that use this money to honor God. So there is.

6 Q. What are some of the goals of the Shumard Foundation?

7 A. Well, I -- I'm not so sure that I've got a clear picture
8 on that because I'm almost 80 years old. But our -- I would
9 guess our goal is to -- we have a board of directors that keep
10 us straight. And then we have quite a few family members
11 coming along. I have three kids that are in their 50s, and
12 close to 60, so they are -- and I have eight grandkids behind
13 that and one great grandson. So we hope someone in the family
14 will keep that going over the years.

15 Q. Does the Shumard Foundation focus on employment
16 opportunities?

17 A. Excuse me?

18 Q. Does the Shumard Foundation focus on employment
19 opportunities?

20 A. I'm not sure I understand your question.

21 Q. Sure. Employment.

22 A. Oh, employment. Yes. Yes. Some of the investments that
23 the foundation and charitable remainder trust that we manage,
24 we probably have built out 75 housing communities throughout
25 the East Coast, and those 75 probably employed, you know,

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1 thousands of people doing the construction.

2 We've helped build the largest sport park in the country
3 north of Atlanta, and that employs hundreds there.

4 We are currently leading to develop a way to bring
5 electricity from the wind farms out in Iowa to the eastern grid
6 with Canadian Pacific Railroad.

7 So there is just a lot of employment involved in this.
8 That's been an issue for us from the very beginning, is how we
9 can help people get back to work and so forth.

10 Q. Do you have a core team of people at the Shumard
11 Foundation?

12 A. I do.

13 Q. Who are they?

14 A. I've got, really, outside of our board of directors who
15 are made up of some really outstanding people, we operate very
16 lean. We have two CPAs that no longer carry that
17 certification, but have worked in public accounting in the past
18 that serve as kind of the lead chief financial officers and
19 investment officers that we have, Gary Chamblee and Mendie
20 Hogan.

21 And then we have other accountants and people that work in
22 these industries.

23 Q. You just mentioned an individual named Gary Chamblee.

24 A. Correct.

25 Q. What is his role within the foundation?

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1 A. He is probably -- I would say would be the chief
2 investment officer, for a better term. He works with us in
3 creating avenues of how to invest money that we can get a
4 return on and give that money away. So we've been together, I
5 believe, 17 years, so -- and Mendie as well, 17 years.

6 Q. "Mendie" would be Mendie Hogan?

7 A. That's correct.

8 Q. And what is her role?

9 A. More on the financial side. She's got a hard job of
10 keeping up with every detail, but Mendie does a great job.

11 Q. Would you describe projects that you all work on as a
12 group effort among that core team?

13 A. Oh, yeah, we work together, meet every day, go over any
14 projects or any needs that are out there. So we kind of focus
15 as a team on that.

16 Q. Mr. Shumard, through your involvement in the foundation,
17 did you come to know two individuals named Doug Vance and Molly
18 McKinnon?

19 A. I did.

20 Q. How did you come to know them?

21 A. Doyle Rabren, who brings kind of investment opportunities
22 to us, brought Molly McKinnon to us to look at a project in
23 Eastern Kentucky. And we had never done something like that
24 before.

25 But we met with Molly probably once or twice before we

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1 actually met Doug Vance. We kind of got a feel about what kind
2 of business it is, what the opportunities are, what the
3 investments might be, what would be everybody's
4 responsibilities involved.

5 Q. Do you remember approximately when you were first
6 introduced to Ms. McKinnon?

7 A. It would be the summer of 2016. I don't know the exact
8 date.

9 Q. But the summer of '16?

10 A. Yeah, yes.

11 Q. What were those initial conversations with Ms. McKinnon
12 like?

13 A. Well, you know, we deal with a lot of folks that bring us
14 these opportunities. Sometimes they are productive, sometimes
15 we -- we probably reject 75 percent, 80 percent of them.

16 And but this one had some interesting aspects. We could
17 see maybe we could bring employment to this region of Kentucky,
18 we felt like -- there was a need for the product, or what we
19 understood about the product. And that we could spend time
20 maybe developing even some energy components to that. So you
21 know, we decided to look at it deeper.

22 Q. Just a moment ago you referenced the product.

23 A. Yes.

24 Q. What was your understanding of what the product was?

25 A. I'm sorry I can't go into a lot of details, I am not a

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1 scientist. But biochar product that can go into agriculture.
2 I understand there is multiple uses of the product, but that's
3 about as deep as I can go.

4 Q. Did you understand this to be coal or carbon-based
5 products?

6 A. Correct.

7 Q. Now at some point you referenced earlier through
8 Ms. McKinnon you met Mr. Vance; is that correct?

9 A. That's correct.

10 Q. What were your conversations with Mr. Vance like at the
11 beginning?

12 A. Well, we -- we drove up to Richlands, Virginia, and we met
13 Mr. Vance, and we met one or two of his friends that were there
14 that gave us some, a little more depth in Mr. Vance's
15 relationship in the community.

16 We watched a demonstration of it. We ended up going over
17 eventually that next day to Eastern Kentucky and look at a
18 facility over there that we might be able to utilize, warehouse
19 or lumber place. And we spent about two parts of days
20 together.

21 Q. The site that you referenced in Eastern Kentucky, did you
22 ever hear it referred to as the Trus Joist site?

23 A. Yes, that's correct.

24 Q. Do you know why it was referred to as that?

25 A. Well, Weyerhaeuser owned it. And my understanding, I

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1 don't know the details of it, but that they harvested a lot of
2 timber and made trusses for building construction out of it and
3 closed that facility down several years ago.

4 Q. So at the beginning when you would meet with Mr. Vance and
5 Ms. McKinnon, did they have an ask of you?

6 A. They did. They asked for \$3 million. And we felt that we
7 could not deal with that type of investment because we -- one,
8 we didn't have a lot of history in that space.

9 And secondly, we had very little knowledge about the skill
10 sets here. So we said no, we could not provide \$3 million.

11 Q. When they requested \$3 million, what was your
12 understanding of what that would be used for?

13 A. Well, they gave us a printout. And some of the things
14 were maybe buying a building or buying equipment, doing
15 marketing. Just a lot of the aspects of getting a business off
16 the ground.

17 Q. Again, what business are we talking about here?

18 A. We're talking about Nex-Gen Partners.

19 Q. So within Nex-Gen Partners --

20 A. Yes.

21 Q. -- what was your understanding of Mr. Vance's role?

22 A. Well, we had no history of his success in the past. And
23 what we decided to do was to take -- take a majority interest
24 in that LLC. We had our attorney create a new limited
25 liability company and we would take about a 51 percent interest

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1 in it, and allow Mr. Vance to have a 49 percent interest. But
2 him providing all of his equipment, his -- everything that he
3 had -- he had owned would go into that corporation.

4 Q. When you say his equipment and everything he had, was this
5 from a preexisting business?

6 A. I would assume so. But what we saw was a prototype in
7 operation there in Richlands, Virginia. We didn't get a list
8 of those items he put in the -- as an investment, but he valued
9 it around 240,000. And then we provided the cash for 250,000
10 to get that started.

11 Q. Now, within this business we're talking about, what was
12 your understanding of Ms. McKinnon's role?

13 A. Well, in the very beginning, I -- we kind of saw her as a
14 third party that would help us, you know, provide some
15 accounting, some information as we go along. She had offered
16 that. She offered to help in the marketing of it.

17 At that time, I think she was living in Florida and later
18 moved to Georgia. But you know, we did not see her as a
19 partner with Mr. Vance at that point.

20 Q. Did that perspective ever shift?

21 A. Yes.

22 Q. Please explain.

23 A. Well, we -- I don't know how deep this went, but what we
24 saw was Ms. McKinnon was very involved in a lot more, spent a
25 lot of time there in Hazard, Kentucky, and spent a lot of time,

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1 you know, working closely with Mr. Vance.

2 Q. You mentioned she would help on the accounting side?

3 A. Yes.

4 Q. General financial work?

5 A. Just documentation about how things were going. Financial
6 is just one piece of that. We wanted to know how they were,
7 you know, scheduling product and how they were making product
8 and things like that. The timing of things.

9 Q. So she had a broader role than simply financial or
10 accounting?

11 A. Yeah. And that was what she offered.

12 Q. Now, Mr. Shumard, you already mentioned the formation of
13 an LLC.

14 A. Correct.

15 Q. At some point in your initial conversations with Mr. Vance
16 and Ms. McKinnon, did the Shumard Foundation at some point say
17 yes, this is a project we want to be involved with?

18 A. First of all, the Shumard Foundation was not involved in
19 this as an entity. We have a charitable remainder trust, it's
20 called KJS Holdings, which will end up in the foundation at
21 some point. Under that KJS umbrella, we have multiple C corps
22 that are business ventures, whether it's real estate or
23 whatever. And one of those C corps under KJS is one piece of
24 the investment.

25 Q. So you did decide to invest?

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1 A. We did.

2 Q. Now, sir, is there an entity associated with the Shumard
3 Foundation called Creola Holdings, Inc.?

4 A. Yes, that's the C corp underneath our charitable remainder
5 trust.

6 Q. Do you have a role within Creola Holdings?

7 A. Yes, yes. I'm chairman of the KJS, which all of the
8 other -- we have multiple C corps and so forth underneath that.

9 Q. Now, when you make the decision to invest, was there a
10 separate LLC formed?

11 A. Yeah, we had our attorney draft up a separate, I believe a
12 Delaware LLC. I'm not sure about that. But he created that
13 and documented it for both Doug and us.

14 Q. What was the name of this new LLC?

15 A. Well, you know, we knew his previous name, and we kind of
16 wanted to build on that name to some degree. I believe it was
17 called NexGen Partner -- Energy Partners, I think. Forgive me,
18 I'm -- some time has passed.

19 Q. NexGen Energy Partners?

20 A. Yes.

21 Q. In that answer, you referenced Mr. Vance's previous thing.
22 What did you mean by that?

23 A. I think he had the name Nex-Gen Industries, I am not sure
24 about that.

25 Q. Was that what you understood to be operating out of

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1 Virginia?

2 A. I don't know that.

3 Q. Okay.

4 A. I don't know where it was operating out of. My
5 understanding is it was not in existence anymore. We were not
6 trying to buy that company, we were only trying to create a new
7 one and him bring the assets to the new company.

8 Q. Do you remember approximately when NexGen Energy Partners
9 was formed?

10 A. Well, I can't give you exact dates, but I would say in the
11 fall of 2016. We visited in Richlands, Virginia the latter
12 part of August 2016. And then it would be in that fall the
13 documents were put together.

14 Q. You had your first visit in the summer?

15 A. Excuse me?

16 Q. You had your first contact with Ms. McKinnon and Mr. Vance
17 in the summer?

18 A. Yes, in the summer of 2016, yes.

19 Q. And formation of the LLC, you believe --

20 A. Was later.

21 Q. -- in the fall?

22 A. Was later.

23 Q. Now, what were the most critical elements or terms of the
24 formation of this new LLC for you?

25 A. Well, in any venture we get into, we look -- we try to

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1 look as deeply as we can at the integrity of people, their
2 competency, do they know how to make a product. Or if they --
3 you know -- you know, their depth and their understanding of
4 what needs to be done. We are not hands-on people, we're not
5 going to stay in Hazard and oversee this. We knew we've got
6 too many other things that we work with.

7 But we have to work with people that we felt -- we feel
8 that can do what they say they can do.

9 For example, Mr. Vance said in an email that by the end of
10 2017, we would make \$3 million. Well, we made nothing. You
11 know, so it's just -- we try to -- we try to find people
12 that -- and relationships that match our objectives and
13 hopefully their objectives.

14 Q. What was the split of ownership within NexGen Energy
15 Partners?

16 A. We talked about this. In most ventures that we get into
17 that are new that we don't always know a lot of history, we
18 always take controlling interest into it.

19 We can adjust to that if it goes out of line. If things
20 happen, if we don't mind, a minority interest. But in this
21 case, we had to have a 51 percent interest in that business so
22 that our people could, you know, take control if need be or
23 influence it.

24 Q. Was there an individual named Allan Deware involved in
25 this transaction?

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1 A. I don't know the name.

2 Q. You don't know Mr. Deware?

3 A. No.

4 Q. Mr. Shumard, after the formation of this LLC, was there an
5 initial investment into it?

6 A. Yes. We, over a period of time, you know, put 250,000
7 into it. The way we operate is they -- each of our businesses
8 create -- makes a request for funds and gives a reason for it.
9 If they need a front loader, if they need a -- you know, raw
10 materials or something, they would -- they say we need X amount
11 of money for these items.

12 And so that was kind of the way it was set up. The first
13 quarter million was used to set up -- I'm not sure when he
14 added the second unit, but it would be what I'll refer to as
15 the second unit, the processing equipment to make biochar, and
16 with a plan of setting up four of them as the objective.

17 Q. Do you know if that objective was ultimately successful?

18 A. We never saw four. We only saw two and maybe one in the
19 process. Yeah.

20 Q. You've referenced a \$250,000 initial investment.

21 A. Correct.

22 Q. Did subsequent infusions of money follow that?

23 A. That's not uncommon for us to see. That money is usually
24 loans to the business that when materials are sold, you know,
25 we would get the loan money back and so forth.

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1 So over the course of time, I probably put another,
2 ballpark number here, \$650,000 in loans. And Mr. Chamblee put
3 some in and -- yeah, over -- between that and the fall of 2018.

4 Q. When you would send your funds --

5 A. Yes.

6 Q. -- I think you just estimated it as roughly 650,000?

7 A. Uh-huh.

8 Q. Would you send that via wire transfer?

9 A. Yes. Our experience is mixed when we deal with banks. If
10 I sometimes sent a check, they may hold the fund for ten days
11 and you can't get -- you can't get that funds working.

12 So we -- we -- I don't know if Mr. Vance requested that or
13 we mentioned that, but we started wiring the money. So if you
14 requested a wire amount of money, we would wire it and it would
15 be live that day. I mean, it would be cleared that he could do
16 what he says he's going to do with it.

17 Q. What would cause you to send those wire transfers?

18 A. It would be requests for raw materials, requests for
19 equipment. I know one request came in for a wood chipper. We
20 never saw the wood chipper, but that doesn't -- you know, but
21 the request came in.

22 You know, there's just payment for employees, just the
23 normal course of business. But he, every week or two weeks, he
24 would submit the request for money and give the reason for it.

25 Q. When you say "he," who are you referring to?

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1 A. Mr. Vance.

2 Q. Would Ms. McKinnon participate in requesting withdrawals?

3 A. I don't remember exactly her doing the request. I felt in
4 the latter years of this, when I say later, after we started,
5 there was input from her to write up those requests.

6 Q. Sir, I would like to show you a document that's previously
7 been marked as Government Exhibit 202.

8 MR. CHAPMAN: Ms. Poynter, if we can go to page 209? If
9 we can zoom in?

10 Q. First of all, sir, do you recognize the document on your
11 screen?

12 A. Yes, Whitaker Bank is the bank that was used.

13 Q. For which entity?

14 A. Well, for the -- we created a partnership, the entity.

15 Q. NexGen Energy Partners?

16 A. Correct.

17 Q. What is the account name that you see there?

18 A. NexGen Energy Partners, LLC.

19 MR. CHAPMAN: And if we can scroll to the deposit section?

20 Q. Mr. Shumard, do you see a series of deposits on your
21 screen there?

22 A. Yes, there are two wires that came from my personal
23 account.

24 Q. What day did those two occur?

25 A. It would be the first part of -- it looks like

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1 October 14 -- October 4th, 2017, and then October 18th, 2017.

2 Q. And the amount of your October 4th wire?

3 A. I've sent the first wire on the 4th for \$48,750.

4 And then I sent the second for 15,000.

5 Q. Please remind us the date of that \$15,000 wire.

6 A. Yeah, it was October 18th, 2017.

7 Q. Mr. Shumard, in your business dealings with Mr. Vance and
8 Ms. McKinnon, were you depending on information you received
9 from them to be accurate?

10 A. Yes. We -- we were not privy to a lot of details, the
11 financials, the sales numbers and so forth, so we depended upon
12 them to provide us an accounting every -- every -- we generally
13 like every month.

14 And then we can take from there, get back with them with
15 questions and so forth. But we want to see progress.

16 Q. Is accurate information important to your business?

17 A. Oh, it's very important. Because with all of the things
18 that we work with, you know, we just have to be as careful as
19 we can about our management of funds and know where it is.

20 Q. Over the course of your dealings with Mr. Vance and
21 Ms. McKinnon, did you come to believe that the information they
22 were providing was not accurate?

23 A. Yes. Over time there were red flags that went up that
24 we -- for example, we were encouraging Ms. McKinnon to provide
25 us some financial information. And just a few days later, she

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1 said her house burned down and all of the information was lost.
2 Sorry to have heard about that, but we asked, you know,
3 reconstruct that through the bank statements is the first step
4 of seeing where the money come from and where it went. It was
5 through bank statements.

6 We didn't get that information.

7 Q. What significance did that have to you?

8 A. Excuse me?

9 Q. What significance did that have to you?

10 A. Well, you know, it's just checks and balances on the money
11 we send, whether the business is functioning as they said it
12 would. I mean, it's just -- it's just a normal course of being
13 prudent about how you manage business.

14 Forgive me about my voice, I've had cancer so I'm a little
15 bit on the -- forgive me. Okay?

16 Q. Did Ms. McKinnon make any representations about why she
17 could not provide bank statements?

18 A. Not to me directly, but --

19 Q. Okay. That's fine.

20 A. Yeah.

21 Q. Not to you directly?

22 A. That's right.

23 Q. Was there an incident involving a pile of coal that you
24 remember?

25 A. Well, we would not have loaned money to a great degree if

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1 we didn't feel like there was inventory to cover it. That was
2 the biggest issue for us. I mean, we could have gone more than
3 the money that was sent if we knew there was inventory, there
4 was going to be customers and that would work through the
5 system.

6 So we wanted to send an engineer in or an auditor in to
7 inventory the amount of finished product. And first of all, we
8 were told that it was shipped down to a loading area on a river
9 port and there was, I don't know how many, 90 freight railcars
10 involved, they sent receipts on that. Nothing got sold out of
11 that that we were aware of any significance.

12 Then they said they were going to bring that material back
13 and just store it until they got customers. We said that's
14 fine, we just need to go in there and audit it for our own
15 records that we had enough money in merchandise to cover any of
16 the loans that we had or investments we had.

17 There was -- they would not provide the location. We had
18 a young man that was working with us and we asked him to try.
19 And Mr. Vance took him, I think blindfolded, what he said,
20 to -- and showed him a pile --

21 MS. LEWIS: I would object, Your Honor.

22 A. -- of material.

23 THE COURT: Excuse me. Just a moment.

24 That's based on a statement by someone else to you?

25 THE WITNESS: I'm sorry?

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1 THE COURT: Your prior statement, was that based on what
2 someone told you?

3 THE WITNESS: Yeah.

4 THE COURT: All right. I'll sustain.

5 THE WITNESS: Mr. Thomson, who worked for us.

6 THE COURT: All right. I'll sustain the objection, what
7 was stated to you.

8 All right. Thank you.

9 MR. CHAPMAN: Thank you, Your Honor.

10 BY MR. CHAPMAN:

11 Q. Mr. Shumard, don't repeat the statements anyone else said
12 to you.

13 A. That would be fine. I understand.

14 Q. But please, with that caveat, please continue on what you
15 know about this incident.

16 A. We did kind of a satellite search in that area for where
17 potential big piles of coal might be, or processed coal, and we
18 found a place. And Mr. Chamblee, who works with us, went to
19 see that and was surprised to find out that that coal pile was
20 not of any value.

21 MR. DARLING: Objection.

22 THE COURT: Come on up.

23 (Bench conference on the record.)

24 MR. DARLING: Mr. Shumard is being very general in what he
25 says. It's clear that he is relating things that other people

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1 did, other people said, other people thought. And I would ask
2 that he be instructed to only testify as to what's in his
3 personal knowledge, what he saw and observed, rather than other
4 people.

5 MR. CHAPMAN: Your Honor, candidly, I agree the comment
6 about what Mr. Chamblee's reaction was, I do believe that
7 should not come in.

8 THE COURT: All right.

9 MR. CHAPMAN: But I do think he can describe what is in
10 his knowledge about the incident.

11 MR. DARLING: Well, if it's in his knowledge, not based on
12 what other people did and other people informed him of, sure.

13 MR. ROSENBERG: Well, to be fair, he can -- there may be
14 actions that he took that we have to give context for. And so
15 we wouldn't be offering that information for the truth of the
16 matter asserted.

17 But, you know, if you're running a business and you say,
18 go, you know, check and see if this coal pile is legit, and
19 then you make decisions, you know, based on that information, I
20 think we can fairly elicit that.

21 MR. DARLING: I understand that. I'm just concerned that
22 it's not what Mr. Shumard was doing.

23 THE COURT: Well, to the extent that he took action, you
24 can ask him about the actions he was taking --

25 MR. CHAPMAN: Yes, Your Honor.

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1 THE COURT: -- he had taken. To the extent he needs to
2 put some context in terms of why did you take those actions, it
3 was based upon something that someone told me, then I can tell
4 the jury that the statements would not have been made for the
5 truth of the matter asserted, but to explain that he took some
6 actions.

7 MR. CHAPMAN: Yes, Your Honor.

8 THE COURT: So that's -- that would be relevant at that
9 point.

10 MR. CHAPMAN: Yes, Your Honor.

11 THE COURT: Otherwise, just be careful with the hearsay.

12 MR. CHAPMAN: Yes, Your Honor. Thank you.

13 (Bench conference concluded.)

14 THE COURT: Thank you, Counsel. Please proceed,
15 Mr. Chapman.

16 BY MR. CHAPMAN:

17 Q. Mr. Shumard, we were in the middle of questioning about
18 this incident involving a coal product.

19 A. Yes.

20 Q. What action did you ultimately take concerning this pile
21 of coal?

22 A. Well, again, Mr. Chamblee is employed by me. It's not
23 uncommon that I would ask him to investigate, to the best he
24 could. And evidently he and -- you know, met somebody that
25 came up and said I own that pile --

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1 THE COURT: All right.

2 A. -- and it's worthless.

3 THE COURT: I'll sustain the objection.

4 The question is, what action did you take? So if you
5 could answer that question.

6 THE WITNESS: Yes. Okay.

7 THE COURT: And the information may be somewhat relevant,
8 but we'll do that --

9 A. I sent Mr. Chamblee to investigate.

10 BY MR. CHAPMAN:

11 Q. And what significance did the results of that
12 investigation have for your business?

13 A. That the -- there was not any product to be sold and we
14 felt that we were in danger at that point financially.

15 Q. Was that, the results of that contrary information,
16 provided to you by Mr. Vance and Ms. McKinnon?

17 A. No. They -- to me, they went silent.

18 Q. Now, what had Mr. Vance represented to you about this
19 pile?

20 A. Well, he sent me 90-some railcar receipts of the product
21 that was sent to the loading dock downriver.

22 And then next thing we know, it's being shipped -- these
23 came from him to me and to Mr. Chamblee and Ms. Hogan that, you
24 know, he was moving it back to a place in West Virginia. So
25 that was all we knew.

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1 Q. I believe you said a moment ago that the result was that
2 there was no product to be sold.

3 A. Well, there had been no product that has been -- that we
4 could find. If it existed, we couldn't find it.

5 Q. Were there occasions where Mr. Vance would return money?

6 A. I don't know how many, maybe two, twice, maybe three
7 times. They were small amounts that was sent claiming they
8 were product sold, but we never got a name of a company.

9 It came out of a -- not our normal bank account, which we
10 expect people to deposit into our company account, this came
11 out of a different account out of -- and it -- it was a
12 certified check that was sent to our office.

13 Q. Did he make representations about the source of those
14 funds?

15 A. He said it was product sold to, but he wouldn't give us a
16 name.

17 Q. When you received those funds in return, what did you do
18 with them?

19 A. Well, it went to pay back maybe some of the loans
20 involved. But you know, we -- we -- we were hopeful that this
21 was just the beginning of bigger sales and more activity.

22 Q. Is it significant to you as an investor whether the
23 company you're investing in is making sales?

24 A. Well, at least in a couple of small cases, we were left
25 under that impression.

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1 Q. Why would that be significant to you?

2 A. Well, that would encourage that there was activity,
3 well -- yeah.

4 Q. If you were to learn that the money that was represented
5 as sales in fact came from different investors, would that
6 change your decision-making about your investment?

7 A. Oh, it would immensely.

8 Q. Why is that?

9 A. Well, I didn't know that there was other investors. You
10 know, that -- we had an agreement that all of the assets would
11 come into this new LLC and there would not be any other
12 investors involved in this -- in our business.

13 Q. If you became aware there were other investors, would that
14 have impacted what you did?

15 A. Oh, yes. Yes.

16 Q. What would you have done?

17 A. Well, I'm not sure what we would have done. We would have
18 probably closed things down as quickly as we could and stop the
19 bleeding of money. You know, I would say we would approach
20 somebody to find out why, you know, it's a different portrayal
21 than what we understood from the very beginning.

22 Q. So the amounts of money that were returned and represented
23 to you as income from sales of products, what impact did that
24 have on you?

25 A. Well, it wasn't so much the financial impact, because they

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1 weren't a great deal of money. But it was an encouragement to
2 us that maybe we're getting things going here, you know, this
3 business has the potential of achieving what the plan was from
4 day one.

5 Q. Did it encourage you to keep the business going?

6 A. Yes, at that point it was encouragement to keep it going.

7 Q. Did Mr. Vance or Ms. McKinnon ever disclose any loans that
8 they had taken out to you?

9 A. No.

10 Q. If they had disclosed loans, would that be relevant to
11 your decision-making?

12 A. Well, I think if the loans involved this corporation, it
13 would have. You know, if they were taking out a loan to buy a
14 car, that would be their business.

15 But anything that would have to do with the business
16 itself would be -- any loan would have to go through, our
17 understanding --

18 Q. Why is that?

19 A. -- approval. Well, I mean, if we are partners in
20 something, and with a controlling interest of that partnership
21 or business, we need to know if there is loans being taken out
22 on behalf of that business.

23 Q. Is it important to you to know the level of debt that the
24 entity is in?

25 A. I didn't know there was debt. The debt was totally within

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1 us. We were funding it.

2 Q. Generally speaking, if you're investing into an entity in
3 general, is it important to you to know the level of debt?

4 A. Oh, yes. Yes.

5 Q. Why?

6 A. Well, just good business sense. You know, you don't want,
7 you know, loose ends that you can't manage, either loans or
8 whatever reason, it just needs to be communicated and cleared
9 by all the partners.

10 Q. Now, sir, a moment ago you were going through some aspects
11 that made you come to believe that the information provided to
12 you was not accurate.

13 Do you remember that?

14 A. Correct.

15 Q. Was there anything else that sticks out to you that you
16 want to mention about that?

17 A. You know, I was only in Hazard a couple of times. I
18 probably would defer that to others to answer that.

19 Q. Okay. Ultimately, did you make a decision to end your
20 business relationship with Mr. Vance and Ms. McKinnon?

21 A. Well, there was -- yes, I mean it just happened that we
22 stopped doing things. And then a month or so later, Mr. Vance
23 contacted our attorney about buying us out. And he used the
24 term, I want to make it right. But nothing ever came from
25 that.

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1 Q. Mr. Vance made those representations?

2 A. That's right.

3 Q. If you had to say one biggest reason why you decided to
4 end the operation, what would you say?

5 A. Integrity.

6 Q. Explain what you mean.

7 A. Excuse me?

8 Q. Explain what you mean.

9 A. Oh, just I expect people to be forthcoming with
10 information and treat us as a partner. I expect them to not
11 manipulate things such as, you know, product that didn't exist
12 that they said existed. It was just -- it's a matter of
13 integrity.

14 Q. Do you believe Mr. Vance and Ms. McKinnon displayed
15 integrity in their dealings with you?

16 A. No. They didn't.

17 MR. CHAPMAN: Your Honor, may I have one moment?

18 THE COURT: Yes, sir.

19 MR. CHAPMAN: Thank you, Your Honor. That's all I have at
20 this time.

21 THE COURT: All right. Thank you, Mr. Chapman.

22 Mr. Darling.

23 MR. DARLING: Thank you, Your Honor.

24 CROSS-EXAMINATION

25 BY MR. DARLING:

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1 Q. Good morning, Mr. Shumard.

2 A. Good morning.

3 Q. I'm Jeff Darling, I represent Doug Vance in this case. I
4 have a few questions for you.

5 A. Yes.

6 Q. You -- again, how -- it's my understanding from what you
7 testified that your initial contact was with Molly McKinnon.

8 A. That's correct.

9 Q. And how did you and Molly get together?

10 A. Well, somehow there was a communication with another party
11 named Doyle Rabren, and Mr. Rabren also brings us, I call them
12 deals, they are opportunities to look at, and you know, and so
13 that's how it came to be.

14 Q. So Doyle connected -- Mr. Rabren connected you with Molly
15 McKinnon?

16 A. Yes, that's correct.

17 Q. You indicated Mr. Rabren had brought people with deals to
18 you in the -- prior to this?

19 A. I don't know if he brought people. He's brought me some
20 real estate opportunities and things like that, yeah.

21 Q. So was it unusual, then, that Mr. Rabren would say, I've
22 got somebody you need to talk to, Molly McKinnon, about an
23 opportunity?

24 A. Not unusual at all.

25 Q. And prior to that, did you know anything about Molly

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1 McKinnon?

2 A. Not a bit.

3 Q. Prior to meeting her, did you do any investigation, any
4 due diligence as to who she was and what she represented?

5 A. Well, you know, that happened in the one or two meetings
6 we had before we met Mr. Vance, was we met in Atlanta.

7 Q. Right.

8 A. And we asked a lot of questions along the way to get a
9 feel of what she knew about this business.

10 Q. So you mean asked a lot of questions of Ms. McKinnon?

11 A. Yes.

12 Q. Did you do any -- any investigation independently of just
13 talking to Ms. McKinnon? Did you check her out, if you will,
14 or any background?

15 A. I'm not sure I can answer that. Somebody did, but I
16 personally did not do it.

17 Q. Somebody within your foundation or company?

18 A. Our organization, yes.

19 Q. So are you telling me that somebody did some
20 investigation, checked her out, if you will, within your
21 company prior to you meeting with Ms. McKinnon?

22 A. You know --

23 Q. Or do you know?

24 A. Well, I would like to answer that.

25 Q. Sure.

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1 A. Okay? The question involved with, you know, do I
2 investigate Molly McKinnon, at that time she was not a partner
3 in all -- in what Doug Vance was doing. She was bringing me a
4 deal to look at. So I don't need to go extremely deep in the
5 investigation of Molly or -- you know, I'm looking at the deal.
6 We investigate from that end.

7 Q. Okay. And I understand, it wasn't a trick question. I
8 wanted to know your -- your regular practice, if you are
9 setting up a meeting with somebody, do you normally do any
10 investigation prior to meeting with them? And you say maybe,
11 maybe not.

12 A. Sometimes we do, sometimes we don't, because they don't
13 have any financial interest in it.

14 Q. Now, I'm curious as to Mr. Rabren's involvement in this.

15 A. Uh-huh.

16 Q. In that does he vouch for Molly McKinnon? Or does he just
17 say, here's somebody you may be interested in talking to?

18 A. I just remember a call from him saying I know of her, I've
19 never done any business with her, would you hear the story.

20 Q. And I'm sorry, he said he had never done any business with
21 her?

22 A. No, that's what I said.

23 Q. Okay.

24 A. Yes, yes.

25 Q. All right. So you met with Molly McKinnon and who else

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1 was in the meeting?

2 A. Probably Doyle Rabren and Gary Chamblee. I'm not sure if
3 Mendie Hogan was in that meeting or not. But yeah.

4 Q. And I believe you testified you thought that was in the
5 summer of 2016?

6 A. Yeah, I don't have a date, but

7 Q. Sure.

8 A. Yeah.

9 Q. Does Mr. Rabren have any official connection with the
10 foundation or your companies?

11 A. No. No.

12 Q. Okay. All right. So you met in Atlanta sometime in the
13 summer 2016?

14 A. Yeah.

15 Q. And what was proposed to you?

16 A. Well, what I remember is just the story that, you know,
17 she thought this was potentially a good deal for investment by
18 our organization. And that she kind of gave us a general
19 overview of it, I don't remember details of that. But you
20 know, it was -- the purpose was to kind of lead towards a
21 face-to-face visit.

22 Q. Was Doug Vance involved in this meeting?

23 A. No. No.

24 Q. Did his name come up?

25 A. I'm sure it did.

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1 Q. Well, let me ask it this way. Do you remember
2 specifically the name coming up?

3 A. Yes, his name came up.

4 Q. So after you had this meeting --

5 A. Uh-huh.

6 Q. -- tell us what -- any further investigation you did to
7 check out Molly McKinnon or what she was proposing.

8 A. Probably --

9 Q. Not probably, what you remember.

10 A. We -- to my knowledge, for me, I did not investigate her.

11 Q. Okay. All right. So at some point you came to some
12 agreement with Molly McKinnon to form this company to engage in
13 business?

14 A. No. From that point, we set a time to meet in Richlands,
15 Virginia.

16 Q. Right.

17 A. And she was to be there to introduce us to Mr. Vance.

18 Q. Did that happen?

19 A. Yes.

20 Q. What went on in that meeting of Virginia?

21 A. Well, there was several things. We met in a
22 warehouse-type facility. He demonstrated the piece of
23 equipment that he had there. We talked to a couple of other
24 men, and I don't remember their names, that were from that
25 area.

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1 Q. Were they affiliated with Mr. Vance?

2 A. I don't know. I don't know.

3 Q. Do you know why --

4 A. Well, I know one referred that he owned the building that
5 we were sitting in, okay?

6 Q. All right.

7 A. I don't remember his name.

8 Q. That's fine.

9 A. Yeah. So that was that.

10 And then the next morning, we drove over to Hazard and
11 just Doug Vance and Gary and I and Rabren was along on that.

12 That's about it. The first meeting.

13 Q. Does Mr. Rabren receive any compensation for putting you
14 with somebody?

15 A. He would receive some compensation. And it was talked
16 about in the very beginning that Molly would receive
17 compensation. That's typical, people bring a deal --

18 Q. Sure.

19 A. -- they want compensation from it.

20 Q. Is there a set amount, a commission if you will, that
21 Mr. Rabren receives if he puts together a deal with you?

22 A. I don't remember it.

23 Q. Do you remember if he received any compensation for this
24 particular deal?

25 A. No, he didn't receive anything.

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1 Q. All right. So you then met in Hazard with Doug Vance,
2 Gary Chamblee, and Mr. Rabren?

3 A. Yes. I'm not sure if anybody else was there, but that's
4 the core.

5 Q. What happened in Hazard?

6 A. We toured this Weyerhaeuser facility. It had a lot of
7 land, a lot of buildings and stuff like that. We, you know,
8 really struggled to get our arms around that big of a facility
9 to get. But Mr. Vance felt like he could get it at a very
10 reasonable price and I don't know that number.

11 But it was -- but you know, I do know that the warehouse
12 in Richlands, Virginia was offered to us for \$3 million. And
13 we couldn't get our arms around that.

14 Q. So this facility in Hazard, Mr. Vance didn't own that
15 facility, correct?

16 A. No, uh-uh.

17 Q. Was the owner of that facility there?

18 A. No. No. I don't know who the owner is. Probably there
19 might have been a broker there to show it to us.

20 Q. So the purpose of looking at this facility was for the
21 possibility of purchasing this facility to do the business?

22 A. No, more like possibility of using the facility on a
23 rental basis to, you know, produce product.

24 Q. So when you say Mr. Vance thought he could get the
25 facility at a reasonable price, you meant for rental?

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1 A. That's correct. And there was talk about we should buy
2 it, something like that, but that was just talk at that point.

3 Q. Where are we now, time wise, do you remember? Do you
4 remember when this meeting was in Hazard?

5 A. Well, I believe we met the last few days of August of
6 2016. I think it was around the 26th that we first met, maybe
7 the 26th or 27th.

8 Q. After this meeting in Hazard, how did this arrangement
9 proceed?

10 A. Well, there was some information provided to us.

11 Q. Provided by whom?

12 A. By Mr. Vance.

13 Q. Okay. What sort of information?

14 A. Well, I would describe it as a potential prospectus of
15 what he could produce and what the marketplace was like.

16 Q. What did you do with this prospectus?

17 A. We read it and kept it.

18 Q. Did you attempt to have any of the information in it
19 verified by other sources or investigated further?

20 A. I can't answer that.

21 Q. Because you don't know if you did?

22 A. No. I would not be the one to investigate it.

23 Q. To your knowledge, did anyone within your foundation or
24 company do that?

25 A. I believe they did some research on it. They would have

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1 to be the ones to talk about that.

2 Q. Any chance you can narrow down who they are?

3 A. Well, it was only two people, Mr. Chamblee and Ms. Hogan.

4 Q. Okay.

5 A. Yeah.

6 Q. I think we'll have the opportunity to ask them.

7 A. That's right.

8 Q. Okay. How did this prospectus received from Mr. Vance
9 help to advance your arrangement?

10 A. Well, there was a description of potential customers and
11 what product could be bought for, what -- like coal or wood
12 chips, and -- or what they could process it and sell it for.
13 So it was it would be in that prospectus.

14 Q. Did you know anything about this business?

15 A. Not one bit.

16 Q. Did you talk to anybody else within the industry or
17 related industry about this type of business?

18 A. I did not.

19 Q. So basically your one source for information as to how
20 this business worked was Doug Vance?

21 A. Well, correct.

22 Q. How long before something more substantive happened in
23 this arrangement?

24 A. I'm not sure I know the timing of all of that. We had --
25 you know, we got our attorney involved and it would have been a

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1 few weeks after that. So I can't pinpoint a date.

2 Q. And so what did your attorney do?

3 A. He -- he wanted to make sure that -- he did some homework,
4 make sure there was not any legal liabilities there on the part
5 of it. He kind of advised us to create a new LLC to move
6 assets into and that would be a fresh company.

7 Q. That's what you did, right?

8 A. That's what we did.

9 Q. As far as you know, were there any further investigation
10 done regarding Mr. Vance's background?

11 A. Not by me.

12 Q. Do you know if someone within your foundation or company
13 did?

14 A. Again, our staff did some investigation on that.

15 Q. And either Mr. Chamblee or Ms. Hogan would be privy to
16 that?

17 A. They would be privy to it.

18 Q. Who ultimately, on behalf of your foundation or company,
19 made the decision to advance this relationship?

20 A. I think all of three of us together, not just by me. But
21 we operate where the three of us meet a lot of times daily and
22 weekly to evaluate next steps on everything that we do.

23 Q. Now, as a practical matter, within your foundation, is
24 there any one person -- I'm guessing I'm asking you
25 specifically, would you have had the ability to make a decision

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1 if Mr. Chamblee and Ms. Hogan disagreed with you?

2 A. If they disagreed with it, we wouldn't have done it. We
3 all need to be -- we're unified in our decisions.

4 First of all, you keep asking about the foundation, the
5 foundation is not involved in this.

6 Q. Okay.

7 A. Okay? It's a C corp under a charitable remainder trust.

8 Q. I apologize for that.

9 A. That's all right.

10 Q. So your policy is that the three of you, the triad of
11 Shumard, Chamblee, and Hogan, unanimously agree or else
12 something doesn't proceed?

13 A. Yeah. If one of us doesn't think something would work, we
14 don't fight each other over it.

15 Q. Okay.

16 A. We just move on.

17 Q. After this initial meeting that you had with Ms. McKinnon
18 in Atlanta, it appears that you started dealing with Doug Vance
19 at that point?

20 A. That's correct.

21 Q. What was Ms. McKinnon's role going forward?

22 A. Our understanding from the very beginning, that she was
23 more of a deal maker, bring Mr. Vance to the table. And that's
24 what we understood from the very beginning.

25 Q. Did she have any role later on particularly in the

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1 financial end of things?

2 A. Well, she asked to be able to, you know, take a more role
3 into it by agreeing to do the financial statements and things
4 like that.

5 Q. Did that happen?

6 A. No.

7 Q. Any particular reason?

8 A. I don't know it.

9 Q. Do you know what dealings she had with Mr. Chamblee going
10 forward?

11 A. She would have had more interaction with Mr. Chamblee than
12 I would have.

13 Q. Did Mr. Chamblee ever present to you anything that
14 Ms. McKinnon was doing or any role she had going forward?

15 A. Yeah, there was -- there was conversation about her kind
16 of expanded role about -- Mr. Chamblee and Ms. Hogan talked
17 about it. We didn't at that point see a problem but, you know,
18 I can only stop at that.

19 Q. I'm sorry?

20 A. I don't have any further details --

21 Q. Okay.

22 A. -- for you.

23 Q. At any point as this arrangement moved forward, I know I
24 keep asking you this and we may defer to other people, was
25 there any further due diligence done by anyone within your

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1 company regarding either Mr. Vance, Ms. McKinnon or the
2 business itself?

3 A. Again, it wasn't done by me, so you would have to ask
4 somebody else.

5 Q. Okay. Mr. Shumard, thank you for your time.

6 A. You're welcome.

7 THE COURT: We're going to break for lunch or --

8 MS. LEWIS: Yes, please, Your Honor.

9 THE COURT: Yes, ma'am. Ladies and gentlemen, we will
10 take our lunch break at this time until 1:00 this afternoon.

11 Again, please keep in mind all the admonitions you were
12 given previously. Please don't discuss the case among
13 yourselves. Make sure you wear your badges when you go out for
14 lunch.

15 Does anyone need to go back into the deliberation room?
16 If you do, you can go on back. But those of you, if you want
17 to go on to lunch, we'll do the same procedure we did
18 yesterday. You can leave your notebooks there in your chairs.
19 And if you want to go out the front, you can do that. But if
20 you need to go back into the jury deliberation room, we'll make
21 sure everyone is out of the room before we recess.

22 So at this time the jury will be excused.

23 (Jury left courtroom 11:56 a.m.)

24 THE COURT: Mr. Shumard, you are excused as well until
25 1:00.

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1 Let's see if we have any issues to take up outside the
2 presence of the jury.

3 MR. CHAPMAN: No, Your Honor.

4 MS. LEWIS: No, Your Honor.

5 MR. DARLING: No, Your Honor.

6 THE COURT: Ms. Lewis, how long do you anticipate taking
7 with your cross-examination?

8 MS. LEWIS: I would estimate 20 to 30 minutes at most,
9 Your Honor.

10 THE COURT: It may be of some assistance in making sure we
11 have the next witness available and ready to go.

12 We will be in recess until 1:00 p.m. this afternoon.

13 (Recess taken from 11:57 a.m. to 1:03 p.m.)

14 THE COURT: Thank you.

15 The record will reflect that all members of the jury are
16 present. Defendants and all counsel are present as well.

17 Mr. Shumard has returned to the witness stand, he is
18 reminded he is still under oath.

19 Ms. Lewis, you may proceed with your questions.

20 MS. LEWIS: Thank you, Your Honor.

21 CROSS-EXAMINATION

22 BY MS. LEWIS:

23 Q. Good afternoon, Mr. Shumard.

24 A. Good afternoon.

25 Q. I'm Brandi Lewis, I represent Molly McKinnon.

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1 A. Uh-huh.

2 Q. And I just have a few questions for you.

3 Now, with your business, you talked about several
4 businesses that you give money to and that you run.

5 Now, all accounting for those businesses are done
6 in-house; is that right?

7 A. Some of them we joint venture with others, but we account
8 for everything in-house.

9 Q. So that would be Mr. Chamblee, Ms. Hogan, their
10 department?

11 A. Yes -- we -- that's right.

12 Q. All right. And you mentioned you have to run a check and
13 balances on businesses, understandably, correct?

14 A. Yes, that's correct.

15 Q. But nobody from the Shumard Group requested financial
16 documents for about seven months into this venture, did they?

17 A. Would you repeat that? I can't hear you.

18 Q. Nobody from the Shumard Group requested financial
19 documents from Ms. McKinnon or Mr. Vance until about seven
20 months into this joint venture, correct?

21 A. I don't know the answer to that.

22 Q. All right. Now, you talked about Trus Joist and that
23 there was just talk about purchasing that.

24 Do you recall saying that this morning?

25 A. That was discussed, yes. That, as an option, we didn't

KENNETH SHUMARD - CROSS

1 want to go that way because we wanted to rent it, if we could.

2 Q. All right. But do you recall sending a letter back in
3 August of 2016 to the owner of the property stating that you
4 had proof of funds to purchase it?

5 A. I don't know what the amount is, but I would probably have
6 proof of funds. But I don't remember the letter.

7 Q. Okay. Can I provide you with a letter? Maybe that would
8 refresh your memory?

9 A. Yeah, that would be good.

10 MS. LEWIS: May I approach?

11 THE COURT: Yes, ma'am.

12 A. Okay.

13 Q. That letter is from you, Mr. Shumard?

14 A. Yes, it is.

15 Q. When is that dated?

16 A. August 18 of 2016.

17 Q. That is before you started any funding with Mr. Vance,
18 correct?

19 A. That's correct.

20 Q. In that letter, you state that you do have funds available
21 to purchase that Trus Joist property?

22 A. That's what it says, yes.

23 Q. And what is attached to that letter?

24 A. Excuse me?

25 Q. What is attached to your letter that you sent with it?

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1 A. Well, it's a financial statement of KJS as of that date of
2 this -- of this letter.

3 Q. Do you know if that's calculated or accounted for on a
4 cash basis?

5 A. Yeah, it accounts for everything in the KJS Holdings
6 group, yes.

7 Q. All right. And I want to bring your attention to page 2,
8 if you will.

9 MS. LEWIS: I would move to introduce this exhibit, Your
10 Honor, as Defense Exhibit 113.

11 THE COURT: See if there's any objection.

12 MR. CHAPMAN: No objection.

13 THE COURT: Defense Exhibit 113 is admitted.

14 (Defense Exhibit 113 was admitted.)

15 BY MS. LEWIS:

16 Q. This is page 2 of the balance sheet on your screen, sir?

17 A. Yes, that's page 2.

18 Q. At the top, it states Creola Holdings. What is that
19 entity?

20 A. Well, as I explained earlier, we have C corps under this
21 nonprofit, KJS Holdings, that we pay taxes on.

22 Q. Who is involved with Creola Holdings again?

23 A. Well, who is involved? You know, it would be under our
24 leadership.

25 Q. So Mr. Chamblee is involved with that?

KENNETH SHUMARD - CROSS

1 A. He is.

2 Q. And then below that, it has Gary Chamblee mortgage?

3 A. Uh-huh.

4 Q. So KJS holds the mortgage to Mr. Chamblee's house?

5 A. If it is a C corp, it can. It's under a C corp.

6 Q. So --

7 A. For tax -- we pay taxes on things that are in the C corp.

8 Q. So KJS, your trust, provided funding for Mr. Chamblee's
9 personal home?

10 A. It was a situation where I think he bought that house and
11 we loaned him the money.

12 Q. All right. Mr. Chamblee is a CPA, correct?

13 A. Excuse me?

14 Q. Mr. Chamblee is a CPA; is that correct?

15 A. He's not licensed today but he has served as a CPA, yes.

16 Q. So that was his profession?

17 A. That's what?

18 Q. That was his profession?

19 A. Yes, that's correct.

20 Q. Were you aware that Mr. Chamblee was buying and selling
21 coal from someone named Ken McCoy?

22 A. Ken McCoy? I don't recognize that name. Could you give
23 me more information?

24 Q. No, that's all I have. I want to know if you recognize
25 that name, sir.

KENNETH SHUMARD - CROSS

1 A. I don't recognize it.

2 Q. Now, you mentioned railcar receipts. You didn't receive
3 those from Mr. Vance, did you? You received them from
4 Mr. Chamblee?

5 A. I don't remember who received them first, but I saw the
6 receipts.

7 Q. But you didn't receive them yourself directly from
8 Mr. Vance?

9 A. I said I don't know. I saw the receipts. It may have
10 come from -- through Mr. Chamblee. It could have come direct,
11 I don't know.

12 Q. Thank you. Are you familiar with a company named RJF
13 Logistics?

14 A. RJF Logistics?

15 Q. And that Mr. Chamblee is involved with that?

16 A. I don't know that.

17 Q. As part of the NexGen Energy Partners operating agreement,
18 that if any partner is affiliated with another business, that
19 they are supposed to disclose that.

20 Do you recall that?

21 A. That sounds right.

22 Q. So if Mr. Chamblee was, in fact, involved with RJF
23 Logistics, he should have disclosed that to the other partners?

24 A. It would be if it's a competing group, it would make
25 sense. But if it's just an investment, I don't know that he

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1 needs to share that with anybody.

2 Q. If it's a business that he was insisting be used by NexGen
3 Energy Partners, he should have disclosed his ownership
4 interest, right?

5 A. I don't know what that acronym sounds -- represents. So I
6 don't know anything about it.

7 Q. All right. But if he was using a business that he had an
8 ownership interest in as a service provider for NexGen Energy
9 Partners, he should have disclosed that to the other partners,
10 right?

11 A. Well, I don't know, you'll have to ask him. I don't know.

12 Q. As to Ms. McKinnon, you stated her role changed in time?

13 A. Correct.

14 Q. She never acquired any ownership interest in NexGen Energy
15 Partners, did she?

16 A. I'm not aware of anything. I'm not aware of Mr. Vance's
17 relationship financially with her.

18 Q. But as one of the signing partners with NexGen Energy
19 Partners, is it your recollection that she never had any
20 ownership interest in that?

21 A. In the very beginning, I wasn't aware of any, that's
22 right. It was strictly with Mr. Vance.

23 Q. You stated that Mr. Vance provided you cashier's checks
24 and those, to your recollection, were repayment of the loan
25 money.

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1 MR. CHAPMAN: Your Honor, I'll object. That was not
2 consistent with his previous testimony.

3 THE COURT: All right. The objection will be noted, but
4 it will be up to the jury to recall what the testimony was on
5 this point.

6 BY MS. LEWIS:

7 Q. You never personally talked to Mr. Vance about these
8 cashier's checks, did you?

9 A. The cashier's check?

10 Q. Yes.

11 A. I don't remember talking to him.

12 Q. And you mentioned a gentleman by the name of Doyle Rabren.

13 A. Correct.

14 Q. Wasn't his role to also help with sales in the business?

15 A. In the very beginning, he offered to help with the sales.
16 That did not materialize.

17 Q. Do you think his efforts were hindered by Mr. Chamblee
18 perhaps?

19 A. No. I was -- I don't -- I don't have a good answer for
20 that.

21 Q. But all in all, he never made any sales, is that --

22 A. No. No.

23 Q. All right. Thank you. That's all I have.

24 A. Uh-huh.

25 THE COURT: See if there's any redirect on matters covered

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1 on cross-examination.

2 MR. CHAPMAN: No, Your Honor.

3 THE COURT: Thank you.

4 Mr. Darling, on matters covered by Ms. Lewis?

5 MR. DARLING: No, Your Honor. Thank you.

6 THE COURT: Thank you.

7 Mr. Chamblee, you may step down at this time.

8 THE WITNESS: Okay. Thank you.

9 THE COURT: Mr. Shumard, I'm sorry. Thank you.

10 Ready for the next witness, Counsel?

11 MR. CHAPMAN: Yes, Your Honor. The United States calls

12 Gary Chamblee.

13 THE COURT: Thank you.

14 **GARY CHAMBLEE, GOVERNMENT WITNESS, SWORN**

15 THE COURT: Mr. Chapman.

16 MR. CHAPMAN: Thank you, Your Honor.

17 GARY CHAMBLEE

18 DIRECT EXAMINATION

19 BY MR. CHAPMAN:

20 Q. Good afternoon, sir.

21 A. Good afternoon.

22 Q. Would you please state your name and spell your last name
23 for the court reporter?

24 A. Okay. Gary Chamblee, C-h-a-m-b-l-e-e.

25 Q. Mr. Chamblee, where do you currently live?

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1 A. In Alpharetta, Georgia.

2 Q. Is that a suburb of Atlanta?

3 A. Yes, it is.

4 Q. How are you currently employed?

5 A. I work as a consultant for the Shumard Family Office.

6 Q. What do you do as a consultant for the Shumard Family
7 Office?

8 A. I help them manage their investments.

9 Q. Can you give the jury a little more context about your
10 day-to-day job responsibilities?

11 A. Sure. The Shumard family had a business, they sold that
12 business many years ago, formed foundations and trusts, most of
13 them for charitable purposes. I was on their original
14 foundation board. And in 2008, they asked me to step off the
15 board and help them invest the money and manage those
16 investments. And I've been doing that since the fall of 2008.

17 Q. When you say that you help manage an investment, can you
18 provide a little more context for that?

19 A. We receive a lot of investment opportunities. And so when
20 those come, we look at it and see if it's something we would be
21 interested in.

22 Then we investigate, make the decision as to if that's a
23 wise investment. We have a committee of people that look at
24 it.

25 We then would make the investment. And then I would

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1 follow up on the investment with the people we have invested
2 with, as far as procedures and the things are going according
3 to plan.

4 Q. Just generally speaking, at any given time how many
5 different investments are you helping to manage?

6 A. About 20.

7 Q. Is there a core group of people there at the Shumard
8 office?

9 A. Yes, it's a small core.

10 Q. Who is part of that core?

11 A. It's Ken Shumard, who is the founder. And then Mendie
12 Hogan, and myself. And Mendie and I are both certified public
13 accountants.

14 Q. You just described Mr. Shumard as the founder, I believe?

15 A. Yes.

16 Q. What's his general role in the business?

17 A. Well, Ken built a large business, sold that business and
18 his role, mainly he likes to be involved in giving money away.
19 He has a foundation that we give through and so he -- then also
20 likes to have a review of his investments. Earlier years, he
21 spent more time actually in the field looking at those
22 investments. And that's kind of the role he takes.

23 Q. Same question for Ms. Hogan.

24 A. Mendie is more of the chief financial officer. She
25 manages all the accounting, all of the compliance, most of our

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1 contracts.

2 Q. Okay. Mr. Chamblee, through your role in the Shumard
3 Family Office, did you come to know two individuals named Doug
4 Vance and Molly McKinnon?

5 A. Yes, I did.

6 Q. How did you come to know them?

7 A. Ken has a friend who has brought investments to us, his
8 name is Doyle Rabren. And Doyle introduced to us Molly
9 McKinnon.

10 Q. Do you remember approximately when that occurred?

11 A. I want to say it was the fall of 2016 or 2017, right in
12 that time.

13 Q. Who is Mr. Rabren?

14 A. Doyle was a personal friend of Ken's, and he was involved
15 in real estate primarily on the Gulf Coast market. And when
16 everything kind of stopped in the real estate markets in 008,
17 he looked at other types of investments. And when he saw an
18 opportunity that he thought would be interesting to
19 Mr. Shumard, he would bring that to him to look at.

20 Q. And as part of that role, Mr. Rayburn brought Molly
21 McKinnon?

22 A. That's correct.

23 Q. What was your understanding at the start of what was being
24 proposed by Mr. Rabren bringing in Ms. McKinnon?

25 A. It was a business of converting coal to predominantly two

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1 products, biochar, which is a highly fertile product that can
2 be used in agriculture, and then calcinated coal, which is used
3 in steel production.

4 Q. Did you have an initial meeting with Ms. McKinnon?

5 A. Yes, we did.

6 Q. And do you remember approximately when that would have
7 been?

8 A. It would have been sometime in August of that year. And I
9 believe that was in our office in Peachtree Corners, Georgia.

10 Q. So it was an in-person meeting?

11 A. Yes.

12 Q. Do you recall who else, if anyone, was part of this
13 meeting?

14 A. I think Doyle Rabren and Ken Shumard.

15 Q. And yourself and Ms. McKinnon?

16 A. Yes.

17 Q. I would like to show you an exhibit that was previously
18 marked as Government's Exhibit 105.

19 A. Okay.

20 Q. Do you see this document on your screen, sir?

21 A. I do.

22 Q. Generally speaking, what is this?

23 A. This is an email from Doug Vance to us expressing how
24 pleased he was that we were considering this project.

25 Q. Is this a true and accurate copy of the email you received

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1 from Mr. Vance?

2 A. Yes, it is.

3 MR. CHAPMAN: Your Honor, I would move the admission of
4 Government's Exhibit 105.

5 THE COURT: Any objection?

6 MS. LEWIS: No objection.

7 THE COURT: United States Exhibit 105 is admitted.

8 (United States Exhibit 105 was admitted.)

9 BY MR. CHAPMAN:

10 Q. Now, Mr. Chamblee, if you could simply read for the
11 jury -- excuse me. First of all, if you will look at the
12 header of the email?

13 A. Yes.

14 Q. Do you recognize that address listed in the "from" line?

15 A. Yes. NGI, nexgen.industries@yahoo.com.

16 Q. Who did you know to use that email address?

17 A. Doug Vance.

18 Q. And the email listed in the "to" line, do you also
19 recognize that email?

20 A. Yes. That is my email address.

21 Q. If you would please read for the jury the message that
22 Mr. Vance sent to you there at the top?

23 A. "Gary and Ken," I just -- "just wanted to extend a thank
24 you for considering this project. Words can't express what
25 that simple reply means to me. Sincerely, Doug Vance."

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1 Q. And that was in response to an email that you had sent?

2 A. Yes.

3 Q. And would you simply read that message into the record as
4 well?

5 A. "We are moving forward based on your email and need to
6 know where and to whom to send the POF." Ken and Gary -- or
7 "Gary and Ken."

8 Q. What is a POF?

9 A. It's a proof of funds.

10 Q. And so what did it mean when you said we need to know to
11 whom the send POF?

12 A. They wanted to know that we had the money to fund an
13 investment and so we were sending them proof of that. And so
14 that was the purpose of it.

15 Q. Now, so what is the date on this email?

16 A. The date on the email that -- the master email here is
17 August 18th from Doug, and August 18th from me as well.

18 Q. Of 2016?

19 A. Yes.

20 Q. So by that time, you were in touch with Mr. Vance?

21 A. That's correct.

22 Q. What had happened between your initial meeting with
23 Ms. McKinnon and this email?

24 A. We had had communications, I'm trying to think as to
25 whether we had made our original first visit to Richlands, but

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1 we were moving forward looking at the investment and the
2 significance of it.

3 Q. So you just referenced an in-person visit?

4 A. Yes.

5 Q. In Richlands, Virginia?

6 A. Richlands, Virginia. And I think on that visit we also
7 went to Hazard, Kentucky.

8 Q. What went on in this in-person visit?

9 A. We went to meet Mr. Vance for the first time. We went to
10 see where he was currently producing product. We went to see
11 another machine that was in operation. And we went to see
12 something that he was considering for in the future, that was
13 the site in Hazard, Kentucky.

14 Q. Was Mr. Vance operating a business in Virginia?

15 A. Yes.

16 Q. What was your understanding of that business?

17 A. It was producing the biochar and calcinated coal and, you
18 know, it was a small operation so there was a need to expand.

19 Q. And was that the purpose of exploring the Kentucky site?

20 A. Yes.

21 Q. Did you know that site by the name of Trus Joist?

22 A. That is correct.

23 Q. And do you know why it was called that?

24 A. It was a plant that had been abandoned, but in prior days
25 it had been used to produce trusses for the building industry.

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1 Q. When you had that in-person visit to Mr. Vance's site,
2 what were your thoughts on the business opportunity that was
3 being provided to you?

4 A. Based on the nature of the product and what we were trying
5 to discover as a market for it, we felt there was a great
6 opportunity.

7 Q. Did it look promising?

8 A. Yes, very promising. It looked like it could be very
9 profitable.

10 Q. You mentioned earlier when you're presented with a
11 business opportunity, you'll do some investigation into it; is
12 that correct?

13 A. Yes.

14 Q. Did you do that here?

15 A. Yes. We investigated the site. I went and tried to
16 investigate, you know, biochar and its uses. I think there
17 were some exhibits sent to us from Ms. McKinnon and Mr. Vance,
18 some videos and other things.

19 And then, you know, I did other types of investigation. I
20 have friends in the coal industry, and because it was
21 converting a coal product, wanted to make sure there was a
22 readily available supply and it would be at an advantageous
23 price.

24 Q. What were the results of your investigation into this
25 potential opportunity?

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1 A. It looked like it was a product that there would be demand
2 for and we could produce, based on the information that had
3 been provided to us, at a good profit.

4 Q. Mr. Chamblee, do you know an entity called GGC Funding,
5 LLC?

6 A. Yes.

7 Q. What is that?

8 A. That is a single member LLC that I own personally that I
9 use for investing my personal money.

10 Q. Do those initials GGC have a meaning to you?

11 A. Yes, they are the initials of my name, Gary Graham
12 Chamblee.

13 Q. Mr. Chamblee, are you aware of the formation of a separate
14 LLC named NexGen Energy Partners?

15 A. Yes.

16 Q. Do you remember approximately when that entity was formed?

17 A. It was being formed in the fall of that year and documents
18 were being prepared for that.

19 Q. Do you remember negotiating the terms of that operating
20 agreement?

21 A. Yes.

22 Q. Are there any that strike you as especially significant?

23 A. Well, number one, we would retain 51 percent of the new
24 entity since, you know, we were putting in the funding for it
25 and we wanted to control it.

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1 And also that Mr. Vance was contributing all of his
2 interest that he had in Nex-Gen Industries and any related
3 businesses to this entity.

4 Q. Nex-Gen Industries that you just mentioned, was that the
5 company that you knew Mr. Vance to be operating previously --

6 A. Yes.

7 Q. -- in Virginia?

8 A. Yes.

9 Q. What was your understanding -- excuse me, before I go to
10 that -- if you had been told that Mr. Vance had, in fact,
11 pledged his interest in that company and his equipment and
12 other items to a separate entity, would that have impacted your
13 decision to go into this agreement?

14 A. Yes. We would not have moved into it since he was
15 pledging all of those assets into this agreement.

16 Q. Now, Mr. Chamblee, did the formation of NexGen Energy
17 Partners go forward?

18 A. Yes, it did.

19 Q. What was your understanding of what Mr. Vance's role would
20 be in NexGen Energy Partners?

21 A. He was going to basically run the operations of the
22 company. And he was going to, you know, build more equipment
23 to produce the product so we would be able to meet the demand
24 for the product.

25 Q. What was your understanding of what Ms. McKinnon's role

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1 would be?

2 A. Ms. McKinnon was going to be, when the plant moved from
3 Virginia to Tennessee, she was going to be managing the
4 administrative work there and also working on sales and
5 marketing for the product.

6 Q. You just said when the company moved to Tennessee.

7 A. That's correct.

8 Q. Is Tennessee --

9 A. I mean Kentucky. I'm sorry, in Hazard, Kentucky.

10 Q. Did you ultimately choose to invest in NexGen Energy
11 Partners?

12 A. Yes, we did.

13 Q. I would like to show you an exhibit previously marked as
14 Government's Exhibit 106.

15 A. Okay.

16 Q. Do you recognize this document, sir?

17 A. Yes.

18 Q. Generally speaking, what is it?

19 A. This would be what I would consider kind of a letter of
20 intent discussing the terms that would be, you know, used for
21 the investment and the understanding so that we could move
22 forward with the actual structural documents.

23 Q. Is it an email exchange between you and Mr. Vance?

24 A. Yes, it is.

25 Q. Is it a true and accurate copy of that exchange?

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1 A. Yes, it is.

2 MR. CHAPMAN: Your Honor, I will move the admission of
3 Government's Exhibit 106.

4 THE COURT: Any objection?

5 MS. LEWIS: No objection.

6 MR. DARLING: No objection.

7 THE COURT: United States Exhibit 106 is admitted.

8 (United States Exhibit 106 was admitted.)

9 BY MR. CHAPMAN:

10 Q. Mr. Chamblee, I do not want you to read verbatim, but if
11 you could simply summarize for the jury the content of your
12 message from August 26, 2016?

13 A. Sure. We were going to provide an equity investment for
14 the manufacture of the equipment and the operating capital so
15 that the company could move forward.

16 The investment would be \$200,000 based on a draw schedule.
17 Shumard interest would receive 51 percent interest in the new
18 company.

19 Doug would manage the operations and concentrate on
20 achieving the results based on the performance attached.

21 All parties would sign noncompete, nondisclosure
22 agreements to ensure the success of the operation. We wanted
23 everybody's 100 percent concentration on this effort to make
24 sure it was successful.

25 And that an operating agreement would be written and

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1 agreed by all parties to make sure the effort went forward.

2 It also laid out Molly McKinnon and Doyle Rabren's roles,
3 how they would be compensated.

4 MR. CHAPMAN: If we could scroll up in the exhibit?

5 Q. Mr. Chamblee, can you read into the record Mr. Vance's
6 response?

7 A. "Thank you for the opportunity to partner with you on this
8 venture. I am in agreement with these terms. Sincerely,
9 Douglas W. Vance."

10 Q. Thank you, sir.

11 Now I would like to show you an exhibit previously marked
12 as Government's Exhibit 107.

13 A. Okay.

14 Q. Do you recognize this email exchange?

15 A. Yes.

16 Q. Is this another email exchange between you and Mr. Vance?

17 A. Yes, it is.

18 Q. Is it a true and accurate copy?

19 A. Yes, it is.

20 MR. CHAPMAN: Your Honor, I would move the admission of
21 Government's Exhibit 107.

22 THE COURT: Any objection?

23 MS. LEWIS: No objection.

24 MR. DARLING: No objection.

25 THE COURT: United States Exhibit 107 is admitted.

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1 (United States Exhibit 107 was admitted.)

2 BY MR. CHAPMAN:

3 Q. Now, Mr. Chamblee, this looks like a follow-on email to
4 the one that you just read into the record; is that correct?

5 A. That is correct.

6 Q. What does your email from August 26 at 11:42 a.m. say?

7 A. It says that we had wired funds, meaning we had sent funds
8 by wire transfer to his account.

9 Q. What did that wire transfer represent?

10 A. It represented our initial investment into, you know, our
11 new venture together.

12 Q. Did Mr. Vance respond, "thank you"?

13 A. Yes.

14 Q. I would now like to show you a document marked as
15 Government's Exhibit 112.

16 A. Okay.

17 Q. Do you recognize this email exchange as well?

18 A. Yes.

19 Q. Who is this between?

20 A. This is between Doug Vance, Molly McKinnon, and myself.

21 Q. Is this a true and accurate copy of this email exchange?

22 A. Yes, it is.

23 MR. CHAPMAN: Your Honor, I will move the admission of
24 Government Exhibit 112.

25 THE COURT: Any objection?

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1 MS. LEWIS: No objection.

2 THE COURT: United States Exhibit 112 is admitted.

3 (United States Exhibit 112 was admitted.)

4 BY MR. CHAPMAN:

5 Q. Mr. Chamblee, again, without asking you to read verbatim
6 this email, can you explain -- excuse me, summarize it for the
7 jury?

8 A. I believe that was after a visit to Nex-Gen by myself, and
9 it acknowledged that we were behind but we were making
10 progress.

11 Q. Was this representative of the types of communication that
12 you would have with Mr. Vance and Ms. McKinnon?

13 A. Yes, uh-huh.

14 Q. Now, sir, aside from individuals or entities associated
15 with the Shumard Group, were you aware of any other investors
16 in the NexGen project?

17 A. No.

18 Q. Have you ever heard of an individual named Allan Deware?

19 A. Not that I recall.

20 Q. Have you ever met Mr. Deware?

21 A. Not that I recall.

22 Q. What was your understanding of what your investment in
23 NexGen Energy Partners would be used for?

24 A. It would be used to build the equipment that we would need
25 for production. It would be used to buy raw materials, and of

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1 course make operational needs, you know, payroll mainly.

2 Q. Do you know an individual named Heather Vance?

3 A. I know the name. I can't recall if she was Mr. Vance's
4 wife, but that's all I know.

5 Q. To the best of your knowledge, was she an employee of
6 NexGen?

7 A. No.

8 Q. Did you ever authorize or approve any payments to Heather
9 Vance?

10 A. Not that I recall, no.

11 Q. Over the course of your business dealings with Mr. Vance
12 and Ms. McKinnon, would you periodically make in-person visits
13 to the Trus Joist site?

14 A. Yes.

15 Q. Approximately how often would that occur?

16 A. Early on, more often. I think initially in the month of
17 October, I made a couple of visits. And then periodically,
18 once every month, every six weeks.

19 Q. What were the purpose of those visits?

20 A. Just to check, see what was going on. At times meet with
21 potential customers, look at the progress we were making in
22 getting the plant operational.

23 Q. Was that part of your job duties?

24 A. Yes, uh-huh.

25 Q. Okay. And why would you do that as opposed to Mr. Shumard

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1 or Ms. Hogan?

2 A. It's more my role. I've been much more involved in
3 operations in companies in the past and that was my understood
4 role.

5 Q. If you had to estimate, how many total visits would you
6 say that you made?

7 A. I would say probably somewhere around ten.

8 Q. Over the course of how long of a time?

9 A. A couple of years.

10 Q. Would Mr. Vance send you periodic updates on how things
11 were going?

12 A. Mr. Vance and Ms. McKinnon would both send updates.

13 Q. Do you recall any specific updates that they sent that
14 stick out in your mind?

15 A. There was one initially that we had received a significant
16 order from a company, I think it was Carbonox or Carbonox, for
17 a significant tonnage of material, it was one of our initial
18 first sales.

19 Q. Do you recall representations from Mr. Vance or
20 Ms. McKinnon about sales to other companies?

21 A. Yes.

22 Q. What do you recall about that?

23 A. We received information that we were getting other -- we
24 were having other sales and other contracts. There were
25 reports that were being written as, you know, product was

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1 supposedly being shipped or invoiced.

2 Q. Do you recall any other specific companies besides
3 Carbonox?

4 A. There was, to the best of my ability, AK Steel.

5 There was a -- I think it was AgriChar, a company that,
6 you know, we were selling the biochar to. And then there was a
7 company called Cabot. I think I said Carbonox.

8 A company called CTI. Clorox. Kingsford.

9 There was a company called Koch, K-o-c-h. Miller, Feldman
10 Brothers. Nucor Steel. Vencor Steel. Those are the ones that
11 I can recall just --

12 Q. I would like to ask you specifically about Koch.

13 A. Okay.

14 Q. Koch Industries. Do you recall any specific
15 representations made by Mr. Vance or Ms. McKinnon related to
16 Koch?

17 A. That we were going to receive a substantial contract from
18 them.

19 Q. Do you remember any representations about sales being made
20 to Koch?

21 A. Yes.

22 Q. What were those?

23 A. That we were selling our calcinated carbon product to
24 them.

25 Q. Were the representations phrased in terms of potentially

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1 selling or actually selling?

2 A. Actually selling.

3 Q. Following that initial investment that we saw the email
4 confirming, did you subsequently make additional infusions of
5 money?

6 A. Yes. As we were hearing about, you know, new contracts
7 and the need to purchase more material for the contracts, then
8 we advanced more money.

9 Q. What would cause you to make those subsequent infusions?

10 A. The fact that we were making sales, and we had contracts
11 for sales and we would need to purchase the coal to produce the
12 product. And we were also still expanding the number of
13 machines we were operating.

14 Q. Would you make those infusions on a regular basis or would
15 they follow requests from either Mr. Vance or Ms. McKinnon?

16 A. They followed requests from Ms. McKinnon or Mr. Vance, and
17 we would wire transfer the money when they made the request.

18 Q. Do you recall receiving those requests from both of them?

19 A. Yes.

20 Q. Have you made a determination of the total amount of money
21 that you put into this endeavor?

22 A. Me, personally, just a little more than \$200,000.

23 Q. Now, Mr. Chamblee, I would like to ask you about two
24 specific transactions. If I could show you what's been
25 previously been marked as Government's Exhibit 202B.

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1 Sir, do you recognize this document?

2 A. Yes, I do.

3 Q. Generally, speaking, what is it?

4 A. It is a bank statement from Whitaker Bank in the name of
5 NexGen Energy Partners, LLC.

6 Q. Is Whitaker Bank where you knew NexGen Energy Partners to
7 have an account?

8 A. Yes.

9 Q. If you can see there in the deposit/other credit section?

10 A. Uh-huh.

11 Q. Do you see an ACH deposit from you?

12 A. Yes.

13 Q. What is the first one -- what is date on that?

14 A. It is July 5, 2018.

15 Q. And who does the bank statement indicate is the sender?

16 A. It was me, Gary G. Chamblee.

17 Q. And the form of the infusion?

18 A. It was a three-day wire, which is regarded as an ACH.

19 It's a wire transfer, and you can send it over three days
20 instead of immediately. And the fees for sending the wire are
21 greatly reduced.

22 Q. What is the amount of that July 5th, 2018 deposit?

23 A. \$5,600.

24 Q. Thank you, sir.

25 I would now like to show you a separate document

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1 previously marked as Government's Exhibit 202D.

2 Similar question here. Sir, do you recognize this
3 document?

4 A. Yes, it's a bank statement.

5 Q. Also from Whitaker Bank?

6 A. Yes.

7 Q. Who is the name of the account?

8 A. NexGen Energy Partners, LLC.

9 Q. And if you will look into the deposit/other credit
10 section, do you see a wire deposit in the name of GGC Funding?

11 A. Yes, I do.

12 Q. What is the date on that wire deposit?

13 A. June 5th, 2017.

14 Q. What is the amount?

15 A. \$86,000.

16 Q. Again, what is GGC Funding, LLC?

17 A. That is a single entity LLC that I own, so those were
18 funds from my account.

19 Q. Did you conduct this wire deposit?

20 A. Yes, I did.

21 Q. Now, Mr. Chamblee, over the course of your interactions
22 with Mr. Vance and Ms. McKinnon, how would you communicate with
23 them?

24 A. I would communicate with emails, telephone, and then at
25 times personal visits.

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1 Q. Did you have communication with both Mr. Vance and
2 Ms. McKinnon?

3 A. Yes.

4 Q. I would like to show you a document previously marked as
5 Government's Exhibit 138.

6 A. Okay.

7 Q. Do you recognize this, sir?

8 A. Pardon me?

9 Q. Excuse me. Do you recognize this?

10 A. Yes. It is an email I received from Molly McKinnon.

11 Q. Is it a true and accurate copy of that email?

12 A. Yes, it is.

13 MR. CHAPMAN: Your Honor, I will move the admission of
14 Government's Exhibit 138.

15 THE COURT: Any objection?

16 MS. LEWIS: No objection.

17 THE COURT: United States Exhibit 138 is admitted.

18 (United States Exhibit 138 was admitted.)

19 BY MR. CHAPMAN:

20 Q. Now, Mr. Chamblee, in the header of the email, do you
21 recognize the email address listed in the "from" line?

22 A. Yes.

23 Q. What is that email address?

24 A. That's Ms. McKinnon's email address.

25 Q. Would you simply read it out loud?

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1 A. McKinnon -- molly@ngicarbon.com.

2 Q. And similarly in the "to" line, do you recognize that
3 email address?

4 A. Yes, to Gary Chamblee, g.g.chamblee@att.net.

5 Q. Is that an email address that you used at the time?

6 A. Yes.

7 Q. What is the date on this email?

8 A. July 16th, 2018.

9 Q. By the time you received this email, a few years have
10 passed --

11 A. Yes.

12 Q. -- from the initial investment; is that correct?

13 A. That's correct.

14 Q. What sort of representations is Ms. McKinnon making to you
15 in this email?

16 A. That first Doug would be talking to Cabot, one of our
17 customers, and get an update on the check that we were supposed
18 to be receiving. And that AK Steel confirmed, another one of
19 our customers, that we had shipped, the check should go out on
20 the 24th of the month. And that Washington Mills should pay
21 the deposit by the end of the month.

22 Q. Okay. Let me ask you about the first bullet point, "Doug
23 will be talking with Cabot..." What did you understand that to
24 mean?

25 A. He was calling Cabot to find out exactly when they were

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1 going to send the check that they owed for the product that we
2 had shipped to them.

3 Q. Okay. So they had purchased product?

4 A. That's correct.

5 Q. That was your understanding?

6 A. Yes.

7 Q. What about the second bullet point? "AK Steel confirmed
8 that the check should go out on the 24th."

9 What did you understand that to mean?

10 A. Another company that we had supposedly shipped product to
11 and we were supposed to get a check on the 24th of the month,
12 or it would go out on the 24th.

13 Q. The third bullet point, "Washington Mills should pay the
14 deposit by the end of the month"?

15 A. It was a contract that we were going to have with
16 Washington Mills, and they were going to send a deposit on that
17 contract. So you know, it was a sales contract.

18 Q. I would now like to show you an exhibit previously marked
19 as Government's Exhibit 176.

20 A. Okay.

21 Q. Do you recognize this, sir?

22 A. Yes.

23 Q. Generally speaking, what is it?

24 A. It was an email communication from Douglas Vance to me
25 copying Molly McKinnon and copying me. I actually have two

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1 email addresses, they both come into the same account, but they
2 are the two email addresses I use.

3 Q. Is this a true and accurate copy of the email you
4 received?

5 A. Yes.

6 MR. CHAPMAN: Your Honor, I would move the admission of
7 Government's Exhibit 176.

8 THE COURT: Any objection?

9 MS. LEWIS: No objection.

10 THE COURT: United States Exhibit 176 is admitted.

11 (United States Exhibit 176 was admitted.)

12 MR. CHAPMAN: If we could scroll to the bottom? Yes.

13 BY MR. CHAPMAN:

14 Q. Mr. Chamblee, this appears to be an email from you; is
15 that correct?

16 A. That's correct.

17 Q. What are you conveying in this email?

18 A. I was asking Molly for a summary of where we were, where
19 we were on the sale of the coal we had in inventory, the
20 product we had in inventory, that we were supposed to have
21 6,500 tons at the dock and a list of the orders by customer and
22 the ship date.

23 And then for reduction of the inventory based on those
24 shipments, so we would understand what our remaining inventory
25 was.

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1 Q. Why were you asking her these things?

2 A. Because we weren't seeming to get the information we
3 needed. We weren't collecting the funds we should be receiving
4 and it was a substantial amount of product.

5 Q. Was this sort of email communication, is this fairly
6 representative of the general type of communication you would
7 have with Ms. McKinnon and Mr. Vance?

8 A. Yes. Uh-huh.

9 Q. I would now like to show you the document previously
10 marked as Government's Exhibit 177.

11 A. Okay.

12 Q. Similar questions. Do you recognize this?

13 A. Yes, I do.

14 Q. Is this another email exchange between you and Mr. Vance
15 and Ms. McKinnon?

16 A. Yes, it is.

17 Q. And is it a true and accurate copy of that exchange?

18 A. Yes, it is.

19 MR. CHAPMAN: Your Honor, I would move the admission of
20 Government's Exhibit 177.

21 THE COURT: Any objection?

22 MS. LEWIS: No objection.

23 THE COURT: Exhibit 177 is admitted.

24 (United States Exhibit 177 was admitted.)

25 BY MR. CHAPMAN:

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1 Q. Mr. Chamblee, similar to before, what are you conveying in
2 your email there?

3 A. I was asking for a further update. We did not receive the
4 checks that we had been told we would receive that week, so I
5 was asking for an accounts receivable list with the customer
6 contact information so we could begin, out of our office in
7 Georgia, contacting the customers to find out why we were not
8 being paid.

9 Also told them I would be in Hazard that Thursday and
10 would like to talk to them about Koch, and that I had contacts
11 in their office that I could use if we needed to try to make
12 sure we received, you know, the contracts and the orders.

13 Q. Do you see a sentence in there indicating whether or not
14 you had actually contacted Koch?

15 A. I said that I had not contacted them at that point, no.

16 Q. How did Mr. Vance respond to your email?

17 A. "Ten 4," with an exclamation mark.

18 Q. What was your understanding of what "ten 4" means?

19 A. It meant that he understood that he needed to get me
20 information as soon as possible.

21 Q. Mr. Chamblee, if we can go back to sort of the beginning
22 of your relationship, your business relationship with Mr. Vance
23 and Ms. McKinnon. How did things go at first in your
24 partnership?

25 A. Very well.

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1 Q. Can you provide some detail of that?

2 A. You know, I felt we had a good working relationship based
3 on what I was being told. We were making a lot of progress and
4 getting the equipment developed, making sales so that we should
5 be able to have the business actually cash flowing itself based
6 on the performance we had received.

7 Q. Did your perspective stay the same over the course of
8 time?

9 A. No. I started getting very skeptical because we would be,
10 you know, promised checks that we never received. It was hard
11 to get information.

12 Q. Do you remember approximately when things started
13 changing?

14 A. It was at the end of 2017, maybe the beginning of 2018.

15 Q. Do you remember anything else about why you started having
16 a change of mindset?

17 A. We were having trouble verifying the inventory of product
18 that we had. And some of the customers we thought we had
19 contracts with, we were being told we didn't have those
20 contracts anymore. And there was pursuit of some contract in
21 China. And so it -- the business was kind of going off the
22 course that we had talked about and had communicated about and
23 pro forma'd.

24 Q. Mr. Chamblee, have you ever seen any return on the
25 investment that you put into NexGen Energy Partners?

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1 A. No, we have not.

2 Q. Has any of that money been returned to you?

3 A. There could have been a small interest payment to me on a
4 loan, but it would be insignificant.

5 Q. No principal returned?

6 A. No.

7 Q. When you made your investments in NexGen Energy Partners,
8 what were you relying on?

9 A. What were we relying on?

10 Q. Yes, sir.

11 A. We were relying on the business plan and the information
12 provided to us by Molly McKinnon and Doug Vance.

13 Q. You said the information provided to you by Ms. McKinnon
14 and Mr. Vance, is that what you said?

15 A. Yes.

16 Q. Would that include various representations about sale of
17 products that we've been discussing?

18 A. Yes.

19 Q. I would like to show you a document previously marked as
20 Government's Exhibit 123.

21 A. Okay.

22 Q. Do you recognize this, sir?

23 A. Yes. This is an email from Doug Vance to me and Molly
24 McKinnon is copied on it.

25 Q. Is this a true and accurate copy of the email that you

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1 received from Mr. Vance?

2 A. Yes, it is.

3 MR. CHAPMAN: Your Honor, I would move the admission of
4 Government's Exhibit 123.

5 MS. LEWIS: No objection.

6 MR. DARLING: No objection.

7 THE COURT: Exhibit 123 is admitted.

8 (United States Exhibit 123 was admitted.)

9 BY MR. CHAPMAN:

10 Q. Mr. Chamblee, can you tell the jury what's being conveyed
11 to you in this email?

12 A. The conversation that Doug had with Koch went well. Their
13 topic of conversation was the variety of carbon products that
14 we could produce and how that might fit into what they are
15 doing in the marketplaces. And they plan on doing a follow-up
16 and he would let us know as soon as possible.

17 Also, that Molly was working on a budget for three new
18 customers going into 2018 that should reflect a 10 million
19 increase in sales for the next year. And that the good part
20 about that is the new customers, two of them, Hamilton and
21 Miller, will be paying half of our feedstock up front and the
22 payment terms would be set for net 15 for a 1 percent discount.

23 Q. What is --

24 A. That we're on schedule for the deployment of that at the
25 end of the year.

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1 Q. Thank you, sir. What is the date on this email?

2 A. October 16th, 2017.

3 Q. Was that sort of in the middle of NexGen Energy Partners'
4 operation? Was that approximately in the middle of NexGen
5 Energy Partners' operation?

6 A. Yes.

7 Q. What impact, if any, did an email like that have on you as
8 an investor in this endeavor?

9 A. It made us feel very optimistic that we were going to
10 achieve our pro forma results and that the operation would be
11 very profitable.

12 Q. You just used a term "pro forma."

13 A. Yes.

14 Q. Could you explain to the jury what a pro forma is?

15 A. A pro forma is a budget of the sales, the cost of raw
16 materials that go into the sales. So kind of like a gross
17 profit, then operating expenses, that then results in a net
18 profit that the company will earn.

19 And so we would -- when you make an investment, you look
20 at that and say, if we're going to get that kind of return,
21 it's worth putting the capital in to net that kind of return.

22 And so based on, you know, the pro formas that we had been
23 seeing and information like this, it looked like this was going
24 to be a very profitable venture for us.

25 Q. I would now like to show you a document previously marked

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1 as Government's Exhibit 127.

2 A. Okay.

3 Q. Similar questions, Mr. Chamblee. Do you recognize this
4 document?

5 A. Yes, this is an email communication from Doug Vance to me.

6 Q. Is it a true and accurate copy of the email that Mr. Vance
7 sent to you?

8 A. Yes, it is.

9 MR. CHAPMAN: Your Honor, I would move the admission of
10 Government's Exhibit 127.

11 THE COURT: Any objection?

12 MS. LEWIS: No objection.

13 MR. DARLING: No objection.

14 THE COURT: United States Exhibit 127 is admitted.

15 (United States Exhibit 127 was admitted.)

16 BY MR. CHAPMAN:

17 Q. Mr. Chamblee, what is the date on this email?

18 A. It is January 7th, 2018.

19 Q. So is that a few months after the most recent email we
20 looked at?

21 A. Yes, it is.

22 Q. What's being communicated to you in this email?

23 A. That there is a letter of intent from Koch, and how we
24 will operate with them, the specifications, and how -- you
25 know, our costs associated with this, and that it would be

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1 profitable for us.

2 Q. Was it your understanding based on representations from
3 Mr. Vance that actual sale of products to Koch had occurred?

4 A. Yes.

5 Q. Did that impact your willingness to invest in this
6 endeavor?

7 A. Yes.

8 Q. Why is that?

9 A. Because Koch is a very, very large company, highly
10 reputable company. And it would be a very, you know, good sign
11 for our company and a good customer to have as we sought more
12 business.

13 Q. If you had been aware that no sale of products had
14 occurred to Koch, would that have impacted your willingness to
15 invest?

16 A. Yes.

17 Q. Why is that?

18 A. Because we would have been being totally misled about the
19 ability to sell the product, the customers that were buying the
20 product.

21 Q. Mr. Chamblee, was there a time where Ms. McKinnon messaged
22 you a picture of a stack of weigh tickets?

23 A. Yes, there was.

24 Q. I would like to show you a document previously marked as
25 Government's Exhibit 711.

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1 Do you recognize this?

2 A. Yes, it's kind of jumping around. Yes, I recognize the
3 tickets.

4 Q. Is this a true and accurate copy of the photograph that
5 Ms. McKinnon sent you?

6 A. Yes, it is.

7 MR. CHAPMAN: Your Honor, I would move the admission of
8 Government's Exhibit 711.

9 THE COURT: Any objection?

10 MR. DARLING: No objection.

11 MS. LEWIS: No objection.

12 THE COURT: United States Exhibit 711 is admitted.

13 (United States Exhibit 711 was admitted.)

14 BY MR. CHAPMAN:

15 Q. Mr. Chamblee, did Ms. McKinnon make representations to you
16 about these weigh tickets?

17 A. Yes.

18 Q. What were those?

19 A. That this was an inventory of all of our product that was
20 loaded on railcars. The product had previously been at the
21 dock, according to Mr. Vance and Ms. McKinnon, and we had to
22 move it. So it was all loaded on railcars to be returned, you
23 know, to our operation.

24 And so I wanted to verify how much product was there so we
25 would know that all the money we had invested was actually

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1 represented in the inventory. And so we asked them to have all
2 of this weighed and send us weigh tickets so we could verify
3 how much product we had.

4 Q. And in response to that request, Ms. McKinnon sent you
5 this photograph?

6 A. Yes.

7 Q. Did you independently investigate this?

8 A. The weigh tickets, the railcars?

9 Q. Yes.

10 A. No, not at that time.

11 Q. Did you at some point investigate the stock of product?

12 A. Yes, I did.

13 Q. What were the results of that investigation?

14 A. Well, our relationship was not in what I would call great
15 terms. And so we found the product supposedly had been taken
16 out of the railcars and put at a secure site. And Mr. Vance
17 would not tell me where the product was, only that it was
18 there. And until we resolved everything, he wasn't going to,
19 you know, allow us access to that.

20 But he allowed an employee that we had, Curtis Thomson, to
21 go and see it and take a sample of it to have it analyzed. But
22 I later found out that Curtis did not control the sample so it
23 really wasn't anything we could verify.

24 I then asked if we could -- because we needed it for our
25 own accounting purposes, if we could at least have the product

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1 surveyed by drone, by an engineering firm. And that's -- they
2 fly over the product, they get kind of a three-dimensional
3 measurement of the product based on the shapes of the piles.
4 They can give you, from that three dimensional, the engineering
5 firm can then tell you approximately how much weight is in that
6 or how many tons of product are in that.

7 So we received that, but I noticed when I got the
8 engineering report that there was a, you know, location on
9 that. And so because the product basically was -- belonged to
10 the company and we control the company, owning 51 percent, I
11 then did some investigation to find out, you know, where the
12 property was and who owned the property.

13 I then contacted the owner of the property and he told me
14 that it was his product, it was not our product. It had been
15 there for some time and it was almost worthless product.

16 Q. Did this incident impact your relationship with Mr. Vance
17 and Ms. McKinnon?

18 A. Yes.

19 Q. How so?

20 A. Well, we froze any money that we would send. We only sent
21 necessary funds to make necessary payroll and so we could try
22 to resolve what had happened to all the money that we had
23 invested and where, in fact, it was.

24 Q. Do you recall a separate incident involving cashier's
25 checks given to you or given to the Shumard Group by Mr. Vance?

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1 A. Yes.

2 Q. What do you remember about that incident?

3 A. We thought it was strange that they were cashier's checks
4 coming to us and not checks from our vendors.

5 Q. Did Mr. Vance make any representations about the source of
6 the funds in the cashier's checks?

7 A. He said the -- he had deposited the funds in a different
8 account and was sending the cashier's checks to us.

9 Q. Did he make any representations about where the funds had
10 come from originally?

11 A. They were funds that had been paid by customers of ours.

12 Q. By "customers of ours," you mean from the sale of product?

13 A. Sales of product, that's correct.

14 Q. How did things ultimately end with Mr. Vance and
15 Ms. McKinnon?

16 A. Well, as our relationship was deteriorating, we received
17 a -- and we were trying to freeze and really terminate
18 everything until we could find out what was really ours and
19 what was really there, we received a call from the FBI with
20 questions about Mr. Vance saying that he was being
21 investigated.

22 Q. What did you do in response from being contacted by the
23 FBI?

24 A. We then cooperated with the FBI in their investigation and
25 stopped all of our business relationship with Mr. Vance and

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1 Ms. McKinnon, and went about to shut down the operation.

2 Q. So you shut down the Trus Joist site?

3 A. Yes.

4 Q. Is it fair to say at the end of the relationship -- the
5 business relationship that things had gotten somewhat
6 contentious?

7 A. Very contentious, yes.

8 Q. Can you provide a little context for that?

9 A. Well, at that point we realized that the money had
10 basically been used for some other purpose. It had been
11 misdirected. We had been given inaccurate information, that
12 basically our money had been stolen from us.

13 Q. And what was the tone or tenor of the communications at
14 the end?

15 A. At one point, Mr. Vance wanted to reconcile everything and
16 he was going to come up with a plan to send us all of our money
17 back.

18 Q. Now, sir, have you ever been physically violent toward
19 Ms. McKinnon?

20 A. No, I have not.

21 MS. LEWIS: Your Honor, can we approach?

22 THE COURT: Yes, if you need to.

23 (Bench conference on the record.)

24 THE COURT: This would be in response to assertions made
25 during opening statement?

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1 MR. CHAPMAN: Absolutely, Your Honor.

2 MS. LEWIS: Nothing to do with that. There was a juror in
3 the front row that appeared to be very asleep so -- but that
4 caught his attention.

5 THE COURT: I have not noticed, and I've been looking at
6 least every five minutes. But it's noted for the record. I
7 will remind the jury to stay awake and see if they need a break
8 at this point.

9 MR. CHAPMAN: I'm almost to the end of my direct.

10 THE COURT: All right.

11 MS. LEWIS: Thank you.

12 THE COURT: Thank you.

13 (Bench conference concluded.)

14 THE COURT: Ladies and gentlemen, we're going to take a
15 break in a couple minutes unless someone needs to take a
16 bathroom break this very minute. If you don't, hang on for a
17 couple of minutes, we'll take a break just as soon as the
18 direct examination has been completed.

19 All right. Mr. Chapman.

20 MR. CHAPMAN: Thank you.

21 BY MR. CHAPMAN:

22 Q. Mr. Chamblee, have you directed or encouraged anyone else
23 to be physically violent towards Ms. McKinnon?

24 A. Absolutely not.

25 Q. Have you ever inflicted emotional or psychological trauma

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1 on Ms. McKinnon?

2 A. Not that I know of, no.

3 Q. Have you ever directed or encouraged anyone else to do
4 that?

5 A. No.

6 Q. Have you ever made threats of physical violence or trauma
7 on Ms. McKinnon?

8 A. Absolutely not.

9 Q. Have you ever encouraged or directed anyone else to do
10 that?

11 A. No.

12 Q. Are you aware of an incident where either Ms. McKinnon or
13 her sister's house burned down?

14 A. Yes.

15 Q. Did you have anything to do with that?

16 A. Absolutely not. We actually heard about that after the
17 fact.

18 Q. Did you direct or encourage anyone to burn down the house?

19 A. No, I would not have even known where the house was.

20 Q. Did you ever direct Ms. McKinnon to falsify documents?

21 A. No.

22 Q. Would you want documents related to your business venture
23 to be falsified?

24 A. Absolutely not.

25 Q. Why?

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1 A. Because our whole organization is built around integrity.

2 Q. Are accurate documents essential to a good business?

3 A. Absolutely.

4 Q. Did you ever direct Ms. McKinnon to make false
5 representations about sales?

6 A. No.

7 Q. Same question, why would you not want to do that?

8 A. Because we had invested money in the company and we had to
9 have accurate information to know what was going on with the
10 company and the profitability of the company to, you know,
11 understand where our money was being used.

12 Q. If you had to specify one biggest reason that you ceased
13 your business partnership with Mr. Vance and Ms. McKinnon, what
14 would that be?

15 A. Lack of integrity.

16 Q. Thank you, sir.

17 MR. CHAPMAN: Your Honor, may I have just one moment?

18 THE COURT: Yes, sir.

19 MR. CHAPMAN: Your Honor, that is all the questions I have
20 at this time.

21 THE COURT: All right. Thank you, Mr. Chapman.

22 Ladies and gentlemen, we'll take about a 15-minute recess
23 before we continue with questions for the witness. Please keep
24 in mind the admonitions that you were given previously, and
25 please don't discuss the case among yourselves while we are in

GARY CHAMBLEE - CROSS

1 recess. The jury will be excused.

2 (Jury left courtroom at 2:20 p.m.)

3 THE COURT: See if we have any issues to take up outside
4 the presence of the jury.

5 MR. CHAPMAN: No, Your Honor.

6 MS. LEWIS: No, Your Honor.

7 THE COURT: We will be in recess for 15 minutes.

8 (A recess was taken from 2:21 p.m. to 2:37 p.m.)

9 THE COURT: The record will again reflect all members of
10 the jury are present. Counsel and all parties are present.

11 And, Mr. Chamblee, you are reminded you are still under
12 oath.

13 Mr. Darling, you may proceed with your questions.

14 CROSS-EXAMINATION

15 BY MR. DARLING:

16 Q. Mr. Chamblee, I am Jeff Darling. I represent Doug Vance
17 in this action, I have a few questions for you.

18 At the time you first began to be involved in this, Doyle
19 Rabren introduced you to Molly McKinnon, correct?

20 A. That's correct.

21 Q. What was Mr. Rabren's role in this, other than the
22 introduction?

23 A. He was going to be involved in sales and marketing. That
24 was his, you know, plan to work with Ms. McKinnon in sales and
25 marketing.

GARY CHAMBLEE - CROSS

1 Q. So he has no official involvement with Shumard, correct?

2 A. No, he does not.

3 Q. At the time you were notified that you were going to have
4 this meeting with Molly McKinnon, did you know her?

5 A. No, I did not.

6 Q. Did you know anything about her?

7 A. No, I did not. Only what I had heard from Mr. Rabren.

8 Q. And what was that?

9 A. That she was a very nice person and he had a very
10 interesting opportunity. That was about all.

11 Q. Was any effort made to investigate Ms. McKinnon's
12 background before you met with her or do any other diligence?

13 A. No, not at that time.

14 Q. Were you aware of -- well, let me ask you this way. What
15 were you aware of in terms of the deal at the time that you
16 walked in the room to meet with Ms. McKinnon?

17 A. Really nothing at that time.

18 Q. So blank slate? I mean, did you know what type of deal
19 would be proposed?

20 A. No, I did not.

21 Q. Okay. So it's my understanding the meeting was in --
22 sometime late summer, early fall 2016, you, Mr. Shumard,
23 Mr. Rabren, and Ms. McKinnon?

24 A. That's correct.

25 Q. So what did -- what information did you get that led you

GARY CHAMBLEE - CROSS

1 and Mr. Shumard to decide to get involved in this?

2 A. As I recall, she had some information on the product
3 types, that it would be -- biochar and calcinated coal would be
4 our two primary products. There could be other products, but
5 those would be our two primary products.

6 As I recall, calcinated coal was going to be the majority
7 of the sales, and that it was a wonderful opportunity, that he
8 had a process that he had invented, that Mr. Vance did, that
9 made it very profitable to, you know, produce the product.

10 Q. Did you know anything about calcinated coal or biochar?

11 A. No. I knew very little about biochar. I knew it was used
12 in agriculture, but very little.

13 Q. You indicated that you talked to some friends of yours in
14 the industry about this.

15 A. Yes, I talked to some friends in the coal industry to just
16 understand the coal market and what the raw material costs
17 would be, because that was going to be a significant part of
18 the cost of the product we would be producing.

19 Q. And the information that you received from your friends in
20 that market, that was positive?

21 A. Yes.

22 Q. Did any of these people know Mr. Vance or Ms. McKinnon?

23 A. As I recall, they knew of Mr. Vance.

24 Q. Anybody have anything good, bad or ugly to say about
25 Mr. Vance?

GARY CHAMBLEE - CROSS

1 A. I don't think they knew enough about him to, you know,
2 render an opinion.

3 Q. Other than talking to those friends of yours, did you or
4 anybody else with the Shumard Group make any effort to check
5 out Mr. Vance's background or his bona fides, if you will, in
6 this type of business?

7 A. We talked extensively with him about his background and
8 how he had come to be doing what he had done.

9 Q. Did you talk to anybody else?

10 A. Not that I recall, no.

11 Q. Any particular investigation into --

12 A. No.

13 Q. -- Mr. Vance? Okay. You said you had extensive
14 meetings -- is it meetings, calls or what with Mr. Vance?

15 A. When we went to visit with him, we spent, it was a day and
16 a half or so, and we spent a lot of time talking to him about
17 how he had come to discover how to make the product and what
18 his background had been.

19 Q. Spending a day and a half with him, you were impressed
20 with him enough to go into business with him?

21 A. Yes.

22 Q. Now, you invested personally, independently of Shumard
23 into this business?

24 A. Yes.

25 Q. I assume that Mr. Shumard and the others were aware that

GARY CHAMBLEE - CROSS

1 you were investing personally and didn't have a problem with
2 it?

3 A. Yes. As I recall, my investment was in loans to
4 Mr. Vance. I would have to go back and see because it's been a
5 few days, if I actually owned a percentage of the company. We
6 typically were paid by the Shumard organization for our work in
7 the investments.

8 Q. Okay. Let's dig into that a little bit. I think you
9 testified that you personally put in about \$200,000 --

10 A. Yes.

11 Q. -- into this business? And now you're saying that that
12 wasn't an investment, it was a loan?

13 A. Part of it -- I would have to go back and look at the
14 nature of both of those. Part of it could have been an
15 investment but a lot of it was loan as well.

16 Q. If there was a loan, would there be some document
17 memorializing a loan with terms?

18 A. Yes.

19 Q. And you don't recall what -- out of that 200,000, you
20 don't recall what percentage or all of it?

21 A. I don't right now.

22 Q. Do you recall what the terms were for repayment? Were
23 there regular payments necessary?

24 A. Yes.

25 Q. Do you remember what the terms were?

GARY CHAMBLEE - CROSS

1 A. I recall it was a 10 percent interest loan and interest
2 was paid -- was to be paid monthly, as I recall.

3 Q. Why was this done as a loan as opposed to the investment?

4 A. Because we had limited the amount of money we were
5 investing. Originally, Mr. Vance had asked for \$3 million as
6 an investment in the business, and we were interested but not
7 to the level -- to put that level of money into the company.

8 And so we decided to do it as a much lesser investment in
9 order for Mr. Vance to prove himself before we would provide
10 additional funds.

11 Q. Now, when he was talking about \$3 million, that would have
12 involved enough money to purchase the facility, correct?

13 A. That's correct.

14 Q. As it turns out, there was no purchase of the facility,
15 there was just a rental?

16 A. That's correct.

17 Q. So how much money did Shumard put into this?

18 A. I think total, if my memory serves me well, of about --
19 overall, over all the course of the business, about a million
20 dollars. I think -- excuse me, I think it's about \$800,000.

21 Q. And that's independently not counting the money that you
22 said you loaned?

23 A. Loaned or invested, yes.

24 Q. Was the loan to Mr. Vance or Ms. McKinnon personally or
25 was it to the company?

GARY CHAMBLEE - CROSS

1 A. It was to the company.

2 Q. Did you receive any of the loan payment back?

3 A. As I recall, I may have received a couple of interest
4 payments on the loan.

5 Q. At any time were you in a position to call the loan, if
6 you will, or did the terms allow that?

7 A. Yes, I probably would have. Since we were working on the
8 investment together, I saw no reason to call the loan.

9 Q. So Mr. Chapman brought out two particular transactions,
10 one on June 5th, 2017, which was listed from -- I don't
11 remember exactly, I have Chamblee, but it may have been GGC --

12 A. Yes.

13 Q. -- to NexGen, \$86,000?

14 A. Yes.

15 Q. Was that part of the loan?

16 A. As I recall, yes, it was.

17 Q. And then on July 5th, 2018, there was a transaction in the
18 amount of \$5,600, the same way. That was, again, personal from
19 you to NexGen?

20 A. That's correct.

21 Q. And that also would be considered a loan?

22 A. That's correct.

23 Q. You stated for some time you felt things were going well?

24 A. Yes.

25 Q. You had a good working relationship with Mr. Vance and

GARY CHAMBLEE - CROSS

1 Ms. McKinnon?

2 A. That's correct.

3 Q. During that period of time, with whom did you have more
4 contact with, Doug Vance or Molly McKinnon?

5 A. It's hard to say, probably a little more with Molly
6 McKinnon than Doug Vance.

7 Q. Now, the dealings that you would have with Ms. McKinnon
8 were what? Were those more financial in nature?

9 A. Really, she was keeping up with the -- all the information
10 regarding, you know, the purchase of raw materials and sales
11 and production and inventories. And so it would be
12 conversations regarding that.

13 Q. What about Doug Vance?

14 A. Conversations about the -- how it was going as far as
15 getting the equipment online and running. And then customers
16 that he was in touch with and, you know, opportunities that he
17 thought he had to sell product.

18 Q. I believe you testified that you thought you made about
19 ten site visits over the period of time that you were involved
20 in this arrangement?

21 A. To the best of my recollection, yes.

22 Q. I'm not holding you to ten.

23 A. Yeah.

24 Q. But you know, more than five, less than 20. I mean, that
25 type of thing?

GARY CHAMBLEE - CROSS

1 A. That's correct.

2 Q. When you say "site visit," where are you talking about?

3 A. They would be to the Trus Joist facility in Hazard,
4 Kentucky.

5 Q. And this may sound obvious, what was the purpose of you
6 making these site visits?

7 A. Wanted to see the progress, as far as getting the
8 equipment built and running. At times meeting with potential
9 customers, those types of visits.

10 Q. Were these site visits typically positive experiences?

11 A. Early on, yes.

12 Q. Seem to be making progress?

13 A. Yes.

14 Q. And did you meet some customers there?

15 A. Yes, I met potential customers.

16 Q. Now, there was some discussion on direct and I -- of two
17 customers, Hamilton and Miller.

18 Do you know who I'm talking about?

19 A. Yes, uh-huh.

20 Q. And these are actually companies, Hamilton Carbon and
21 Miller Brothers?

22 A. Yes.

23 Q. In Pennsylvania? And it's my understanding that you
24 actually met with them in Pennsylvania with Doug?

25 A. That's correct.

GARY CHAMBLEE - CROSS

1 Q. And what was the purpose of that?

2 A. Just to get to know them and to understand what our
3 business relationship would be.

4 Q. And again, did that appear to be potential positive
5 relationships?

6 A. It appeared to be potentially positive.

7 Q. And you were talking about dealing with Koch Industries,
8 and I know that's a massive company.

9 A. Yes.

10 Q. Did you have any contact with anybody from Koch?

11 A. I did not personally. I had contacts inside of Koch, but
12 Doug did not want me to contact them.

13 Q. Now, you were shown an exhibit, Government's Exhibit 127,
14 and I'm going to show it to you again.

15 MR. DARLING: She's going to center it for me.

16 Q. Mr. Chamblee, this is previously admitted Exhibit 127.
17 You and Mr Chapman went over this exhibit, correct?

18 A. That's correct.

19 Q. What is your understanding of what was going on in this
20 email?

21 A. That we were going to take product from Koch, and that we
22 were going to take that product and refine it and blend it with
23 our calcined product.

24 Q. So this was actually the company purchasing this green pet
25 coke from Koch Industries and refining it or calcinating it?

GARY CHAMBLEE - CROSS

1 A. Yes. If you look at the second sentence, we have three
2 suppliers under contract now at \$45 a ton, one of which is
3 partnered with Koch directly.

4 Q. This would be a good thing, right?

5 A. Yes.

6 Q. So after a while, it appeared that the company was not
7 working out?

8 A. That's correct.

9 Q. And they were not selling the product, the amount of
10 product that you had hoped and was expected, correct?

11 A. Well, they supposedly were selling product but we were not
12 collecting the money from the sales.

13 Q. And on what do you base that?

14 A. We would receive reports of their sales and accounts
15 receivable. And then we are making efforts to collect those
16 and then we collected very little of that.

17 Q. Did you discuss that with either Ms. McKinnon or
18 Mr. Vance?

19 A. Yes.

20 Q. What was their response?

21 A. There was an exhibit that discussed that directly, that
22 they were to send me the contact names of the customers so I
23 could contact them directly.

24 Q. And did you?

25 A. They never sent me the names.

GARY CHAMBLEE - CROSS

1 Q. So if either sufficient sales are not being made or you
2 were not getting the money, there was no reason for you to
3 continue in this relationship?

4 A. The only reason would be to recover all the money that was
5 supposedly in inventory and product.

6 Q. And did you attempt to do that?

7 A. Yes.

8 Q. And that didn't work out either?

9 A. We found out there was no product, that the product we
10 thought was there was actually product that was worthless, that
11 belonged to someone else.

12 Q. And how was it your understanding that that product
13 belonged to NexGen?

14 A. It was my understanding by Doug Vance and Molly McKinnon
15 that it had been moved from a barge site into railcars, weighed
16 on the railcars and then transferred to that site.

17 Q. All right. Thank you, sir. That's all I have.

18 THE COURT: All right.

19 Ms. Lewis.

20 CROSS-EXAMINATION

21 BY MS. LEWIS:

22 Q. Good afternoon, Mr. Chamblee. I'm Brandi Lewis and I
23 represent Ms. McKinnon.

24 A. Good afternoon.

25 Q. I have several questions for you.

GARY CHAMBLEE - CROSS

1 You were in this investment group with Mr. Shumard and
2 Mendie Hogan, correct?

3 A. Could you repeat that, please?

4 Q. You were in an investment group basically with Mr. Shumard
5 and Ms. Hogan?

6 A. Yes. We were investing Mr. Shumard's assets, but we were
7 consultants.

8 Q. All right. About how many businesses do you manage with
9 Mr. Shumard?

10 A. About 20.

11 Q. Do you typically invest personally in those businesses?

12 A. Sometimes I do when it's available, and sometimes I don't.

13 Q. Do you have an approximate amount of how many businesses
14 you've invested in with him?

15 A. Off the top of my head, I would not know.

16 Q. And you have authority to make decisions in these
17 businesses on behalf of Mr. Shumard; is that correct?

18 A. That is correct.

19 Q. Do you take it upon yourself to issue lines of credit on
20 behalf of the group?

21 A. No, I consult with Mr. Shumard and Ms. Hogan on that.

22 Q. So then it's an agreement amongst the three of you?

23 A. Yes.

24 Q. And you all were in a group with Mr. Vance for this entity
25 we're talking about?

GARY CHAMBLEE - CROSS

1 A. Yes.

2 Q. But sometimes you excluded him from any votes of
3 extensions of lines of credit, didn't you?

4 A. I'm sorry, would you repeat that?

5 Q. Did you ever -- or you did exclude Mr. Vance when lines of
6 credit were extended to NexGen Energy Partners?

7 A. Not that I know of.

8 Q. Do you recall a conversation with Ms. McKinnon back in
9 2017 where you told her that all of Mr. Shumard's businesses
10 were losing money?

11 A. No.

12 Q. And you were one of the managers of NexGen Energy
13 Partners, correct?

14 A. That's correct.

15 Q. All right. And as part of that, you had, again, authority
16 to make decisions on behalf of the entity?

17 A. That's correct.

18 Q. Was Mr. Vance included in many of those votes about
19 decisions?

20 A. What types of decisions?

21 Q. Any decisions that should have been voted on by the
22 members.

23 A. Yes.

24 Q. He received notice of those votes?

25 A. I'm sorry, I don't understand your question.

GARY CHAMBLEE - CROSS

1 Q. He received notice that a vote was going to be taken or a
2 decision was going to be made where his input was required?

3 A. As far as I know, we notified him about the decisions we
4 were making.

5 Q. So you notified your partners that Mr. Vance was also
6 engaged in a logging operation?

7 A. I didn't know about Mr. Vance being involved in a logging
8 operation.

9 Q. You were perfectly aware of all the income that was being
10 generated from the logging income, were you not?

11 A. No. We were buying logs to convert to biochar.

12 Q. So that -- and those logs came from his logging business,
13 didn't they?

14 A. Not that I know of, no.

15 Q. And you were made aware of two workers' comp injuries
16 sustained on the logging job sites?

17 A. No.

18 Q. So if you weren't aware about those injuries, you didn't
19 tell your business partners, did you?

20 A. Pardon me?

21 Q. If you weren't aware -- if you're claiming that you
22 weren't aware of those, you did not inform your business
23 partners in Georgia, did you?

24 A. I couldn't make business partners aware of something I
25 didn't know.

GARY CHAMBLEE - CROSS

1 Q. What roles did Mendie Hogan and Lisa Woody play in your
2 office?

3 A. Mendie Hogan is one of the consultants. Lisa Woody is an
4 accountant that works in our office.

5 Q. Is Ms. Hogan an accountant as well?

6 A. Yes.

7 Q. Are most of the businesses that the Shumard trust runs
8 taken care of -- or is the accounting for those businesses
9 taken care of in-house, typically?

10 A. No.

11 Q. But Mr. Vance requested that the Shumard Group handle the
12 accounting, didn't he?

13 A. I don't recall that specifically, no.

14 Q. You don't recall his initial proposal to you and your
15 partners was that the Shumard Group would take care of any
16 administrative and accounting issues?

17 A. No.

18 Q. I'm going to show you on the screen what's been marked
19 already as Government's Exhibit Number 105.

20 A. Okay.

21 MS. LEWIS: May I approach the witness, Your Honor?

22 THE COURT: Yes, ma'am.

23 BY MS. LEWIS:

24 Q. Do you recognize that document, Mr. Chamblee?

25 A. Yes.

GARY CHAMBLEE - CROSS

1 Q. That's an email?

2 A. It's an email from Doug Vance to me.

3 Q. What is the date of that?

4 A. August 18, 2016.

5 Q. All right. That's a true and accurate copy?

6 A. Yes.

7 MS. LEWIS: Move to introduce that, Your Honor.

8 THE COURT: All right. Any objection?

9 MR. CHAPMAN: Are we speaking about Government's Exhibit

10 105?

11 MS. LEWIS: Yes.

12 MR. CHAPMAN: That is in evidence.

13 MS. LEWIS: May I retrieve the exhibit, Your Honor?

14 THE COURT: Yes, ma'am.

15 BY MS. LEWIS:

16 Q. If you'll look at page 2 of this, Mr. Chamblee? This is
17 the portion of the email that's from Mr. Vance, correct?

18 A. That's correct.

19 Q. Do you see the part about administrative and accounts
20 receivable?

21 A. Yes, I do.

22 Q. And what is Mr. Vance asking the Shumard Family Office to
23 do?

24 A. He is asking the Shumard Family Office to oversee the
25 administrative and accounting functions.

GARY CHAMBLEE - CROSS

1 Q. All right. So he was already putting it out there that
2 that needed to be done by your office because he's not that
3 great at the accounting and business functions; is that fair to
4 say?

5 A. That's correct.

6 Q. That's not ultimately what happened here, was it?

7 A. No. Those operations were separated and divided between
8 Ms. McKinnon and the Shumard Family Office.

9 Q. Okay. But you all put the onus on Ms. McKinnon to do the
10 accounting here in Kentucky?

11 A. Yes, we did. There is a document, and I think we've
12 looked at it, where it says that she would function in a role
13 as the CEO.

14 Q. That wasn't Mr. Vance's initial intent, correct?

15 A. No, according to this document.

16 Q. All right. And Ms. McKinnon didn't have experience using
17 QuickBooks? Which is the software you requested she use.

18 A. That's correct. She had experience using another
19 software.

20 Q. Okay. She didn't have experience managing a manufacturing
21 facility either?

22 A. I don't know about that.

23 Q. She had no business -- or no experience in the carbon or
24 coal business, did she?

25 A. Not that I know of.

GARY CHAMBLEE - CROSS

1 Q. And she never owned a business that had employees working
2 under her, did she?

3 A. That I do not know.

4 Q. Ms. McKinnon reported to you, correct?

5 A. That's correct.

6 Q. And she was also a manager for NexGen Energy Partners?

7 A. That's correct.

8 Q. But she didn't have the same authority as you because you
9 were a member, right?

10 A. That's correct.

11 Q. After Ms. McKinnon left the business, the accounting
12 functions were then turned over to the Shumard Group, right?

13 A. That's correct.

14 Q. But you actually kept her on for a little bit to train
15 Curtis Thomson that came in after her, right?

16 A. I believe that's correct, I don't recall specifically.

17 Q. So even though Mr. Thomson was replacing Ms. McKinnon, who
18 was doing the accounting, he had no accounting experience, did
19 he?

20 A. He was doing what we would call more clerical functions on
21 site, and then the rest of the operation, the accounting
22 operations were done at the Shumard Family Office.

23 Q. Let's talk about the formation of NexGen Energy Partners.
24 Now, it's normal business -- or normal business practice when
25 someone creates a new business to start out from the beginning

GARY CHAMBLEE - CROSS

1 with an operating agreement, obtain an employer identification
2 number for tax purposes and banking. But that didn't happen
3 here, did it?

4 A. What's your question? While we were doing -- we were
5 preparing the documents, they were handling payroll through a
6 service, as I recall. I was not involved in the day-to-day
7 accounting function until we could get the operating agreement
8 actually put together.

9 Q. So the Shumard Group started funding this partnership with
10 Mr. Vance in August of 2016?

11 A. That's correct.

12 Q. But you didn't get an operating agreement to him until
13 about December 2016.

14 Do you recall that?

15 A. Yes. It was because there were negotiations back and
16 forth working with Mr. Vance's attorney and our attorney to
17 prepare the operating agreement.

18 Q. And there was no EIN number applied for until February of
19 2017.

20 Do you recall that?

21 A. I don't recall that.

22 Q. But you're a CPA by trade, correct?

23 A. Yes. But that's not my practice.

24 Q. But it's your practice to fund a business and get the tax
25 identification number months later?

GARY CHAMBLEE - CROSS

1 A. I don't understand -- what's your question?

2 Q. My question is if -- you are an accountant, you are a
3 businessperson, it's your practice, according to what you just
4 said, to then get an identification number months later, after
5 a business has been funded?

6 A. We couldn't get the tax ID until the actual operating
7 agreement was signed and the company was actually formed in the
8 new name. Up until then, we were operating as we could because
9 Mr. Vance wanted to get going as quickly as possible. Most of
10 those details I left to our accounting department to work with
11 Ms. McKinnon.

12 Q. I would like to show you Defense Exhibit Number 70,
13 Mr. Chamblee.

14 Can you see that on your screen, sir?

15 A. Yes, sir -- yes, ma'am.

16 Q. What is this document?

17 A. That is a notification from the Department of Treasury
18 that an employer identification number has been applied to
19 NexGen Energy Partners, LLC.

20 Q. Are you able to see this email on your screen, sir?

21 A. Yes.

22 MS. LEWIS: All right. This is also part of Exhibit
23 Number 70. I would move to introduce this.

24 THE COURT: Any objection?

25 MR. CHAPMAN: No.

GARY CHAMBLEE - CROSS

1 THE COURT: Defense Exhibit 70 is admitted.

2 (Defense Exhibit 70 was admitted.)

3 BY MS. LEWIS:

4 Q. Who is this email from, Mr. Chamblee?

5 A. The email is from Molly McKinnon.

6 Q. And you're on the courtesy copy line?

7 A. Yes.

8 Q. All right. What is the date of this email?

9 A. February 14th, 2017. It was addressed to Mendie Hogan.

10 Q. But you were included on this as well?

11 A. Yes, as a copy.

12 Q. All right. And Ms. McKinnon's advising you and Ms. Hogan
13 that she has the EIN number that we just saw?

14 A. Yes.

15 Q. So this is about two months after the operating agreement
16 was signed back in December, correct?

17 A. As I recall, that's correct.

18 Q. So all along Shumard's depositing any money for NexGen
19 Energy Partners into Mr. Vance's existing business account,
20 correct?

21 A. That's correct. And we were working to get a new account
22 established.

23 Q. But best business practice as a CPA is to start that from
24 the beginning of a new entity, correct?

25 A. I'm sorry, what's your question?

GARY CHAMBLEE - CROSS

1 Q. Isn't it best business practices to start fresh when you
2 create an entity to have the EIN and have your own bank account
3 for that entity for proper accounting?

4 A. If, you know, you have the time to do that, that is
5 wonderful. If you're trying to get an operation that is
6 moving, then you can operate it until the operating agreement
7 is signed, the EINs are applied for and received. And that was
8 primarily the responsibility of our accounting department at
9 Shumard working with Ms. McKinnon.

10 Q. So six months later, the EIN number is obtained for NexGen
11 Energy Partners?

12 A. Yes.

13 Q. To refer back to page 2 of this exhibit, Mr. Vance is
14 listed under NexGen Energy Partners, correct?

15 A. Correct.

16 Q. He personally had 1 percent share in this entity?

17 A. I believe it was 49.

18 Q. That was Nex-Gen Industries, correct? Mr. Vance had
19 1 percent?

20 A. NexGen Energy Partners, I believe, Mr. Vance owned
21 49 percent and we owned 51 percent.

22 Q. We'll get back to that. So why would somebody, if he's
23 49 percent or 1 percent, why is he the one listed here, not
24 you, because you were the tax matters partner, correct?

25 A. I'm sorry, repeat that.

GARY CHAMBLEE - CROSS

1 Q. You were the tax matters partner?

2 A. No.

3 Q. You weren't?

4 A. The tax matters partner?

5 Q. It was your role in NexGen Energy Partners to take care of
6 the tax issues, correct?

7 A. Not mine personally, no.

8 Q. But you were involved in that and you were one of the
9 managers?

10 A. Yes.

11 Q. And you're the CPA that was the manager?

12 A. Yes.

13 Q. So it's fair to say you were the tax matters partner?

14 A. No. Mendie would have been that partner. Mendie is a
15 CPA.

16 Q. All right. Well, Mendie was an investor as well, correct?

17 A. Mendie was a consultant, that's correct.

18 Q. All right. So why is Mr. Vance listed here and not you or
19 not Ms. Hogan?

20 A. Because it came to his -- it came to his address in Hazard
21 or Chavies, Kentucky.

22 Q. But it's there because you told Ms. McKinnon to use his
23 name, correct?

24 A. No.

25 Q. Okay. And then Mr. Vance had no signing authority --

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1 signing authority on the NexGen Energy Partners account with
2 the Bank of America, did he?

3 A. Not that I recall.

4 Q. And again, he had requested that the Shumard Group take
5 care of any accounting issues in the beginning?

6 A. In the beginning, he had requested that, yes.

7 Q. But you chose to still use his account for about six or
8 seven months before opening any NexGen Energy Partners
9 accounts?

10 A. I don't recall all the conversations specifically about
11 that because that was not the area that I was most engaged in.
12 I think Mendie Hogan would be better qualified to answer that.

13 Q. Basically when Mr. Vance stops receiving income from the
14 logging operation, that's when the NexGen Energy Partners' bank
15 account's opened.

16 Do you recall that?

17 A. I have no knowledge of that whatsoever. I was not aware
18 that Mr. Vance was in a logging operation.

19 Q. You knew wood chips were being sent to the property, or
20 logs, I believe you said?

21 A. I knew that we were buying logs and that we were leasing a
22 wood chipper. We later purchased a wood chipper, and we were
23 chipping the logs and we were using that to produce biochar.

24 Q. Do you recall being reimbursed for your expenses related
25 to travel to Kentucky when you would visit the plant?

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1 A. I'm sorry, I didn't hear your question.

2 Q. Do you recall being reimbursed for your expenses when you
3 would visit the plant in Kentucky?

4 A. Yes.

5 Q. Can you tell me the last four digits of your personal bank
6 account number?

7 A. Not off the top of my head, no.

8 Q. Okay. Mr. Chamblee, I am going to show you what's already
9 been introduced as Government's Exhibit 202B.

10 A. Okay.

11 MR. CHAPMAN: As a brief remark, Your Honor, this actually
12 has not been introduced into evidence, it's simply been marked.

13 THE COURT: It's been marked. I understand it's not been
14 introduced. It can be shown to the witness --

15 MS. LEWIS: Thank you.

16 THE COURT: -- with any follow-up questions.

17 BY MS. LEWIS:

18 Q. Do you recognize this as a bank statement from Whitaker
19 Bank, Mr. Chamblee?

20 A. Yes, I do.

21 Q. It shows a deposit of \$5,600 coming from you?

22 A. That's correct.

23 Q. And that's on July 3rd, 2018?

24 A. I think it's July 5th. July 5th.

25 Q. All right. I'm going to show you another bank statement.

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1 Do you recognize this bank statement, Mr. Chamblee?

2 A. Yes.

3 Q. This is the Bank of America account?

4 A. That's correct.

5 Q. And who's the account holder?

6 A. NexGen Energy Partners.

7 Q. And then I'll direct you to page 3 that's going to be
8 coming up.

9 Do you see there a transfer for \$5,600?

10 A. Yes.

11 Q. And who is that to and from?

12 A. It was from NexGen Energy Partners to the Bank of America
13 bank account -- well, trying to see if it's an in or out on
14 that.

15 Q. It appears it's \$5,600 from the NexGen Energy Partners'
16 Bank of America account to --

17 A. That's correct.

18 Q. -- the Whitaker Bank account, correct?

19 A. Yes.

20 Q. So that's not from you on that day?

21 A. That's correct.

22 Q. All right. Now, do you recall Ms. McKinnon was asked to
23 produce financial documents to the Shumard Group about seven
24 months after the business started running or the partnership
25 began?

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1 A. I don't recall that specifically, no.

2 Q. But if that happened, that's not normal business practice
3 either, is it?

4 A. I'm sorry, would you repeat that?

5 Q. That's not normal business practice either, is it, to ask
6 for financial documents for a new business about seven months
7 later?

8 A. What -- I don't understand what the nature of your
9 question is. We were controlling cash receipts and
10 disbursements by information that Ms. McKinnon was sending us.
11 So we were, in fact, you know, controlling the ins and outs of
12 the finances.

13 Q. All right. But she wasn't requested to produce any
14 QuickBooks statements until about seven months into the running
15 of the business.

16 Do you recall that?

17 A. I do not recall that. Once again, that was something that
18 was handled predominantly, primarily by Mendie Hogan.

19 Q. Let's talk about different accounting practices. Can you
20 explain cash basis accounting, what that entails?

21 A. With cash basis accounting?

22 Q. Yes.

23 A. Yes. What would you like to know?

24 Q. Can you just briefly and generally explain what that
25 means?

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1 A. Cash basis accounting is you don't account for accounts
2 receivables or account payables. It's just whatever checks
3 you've written or money you've received.

4 Q. So it's basically a snapshot of what is happening in
5 realtime, what is coming in and what is going out at that time?

6 A. It's basically a snapshot of the bank account, but it
7 doesn't account for product that you've shipped or product that
8 you've purchased but haven't been invoiced for.

9 Q. All right. So that's where we get to accrual basis, it
10 would take into account accounts receivable; is that correct?

11 A. Accounts receivable and accounts payable and inventory.

12 Q. So if somebody chooses to use the accrual basis, it's
13 going to look like a business is generating more income than it
14 actually is?

15 A. No, that's incorrect.

16 Q. All right. So I'm not a person who even balances my own
17 checkbook so hopefully you can help me out here.

18 So accrual basis, it's going to take into account what has
19 been -- what product has been sold but not has been paid for?

20 A. That's correct.

21 Q. So is that amount going to show up on the income?

22 A. Okay. I'm confused as to what your real question is.

23 Q. All right. So if you're doing accrual basis accounting
24 for your business and you have accounts receivable, that
25 accounts receivable amount, is that going to be factored into

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1 the income of the business? Is it going to be reflected in
2 that -- what the income is?

3 A. Yes, it is.

4 Q. All right. So on paper, a business that uses this accrual
5 basis accounting is going to look perhaps more profitable than
6 cash basis?

7 A. Not necessarily.

8 Q. But if it has a large amount of accounts receivable that
9 are being included in that income, then that income is going to
10 look greater than money that hasn't come in yet.

11 A. Well, at the same side you could have purchased a
12 tremendous amount of product that you haven't paid for. So you
13 would have purchased things that you have not recorded on the
14 books. So you can't look at it that way.

15 Q. But depending on how the numbers play out, sometimes
16 accrual basis can appear to have a greater income for the
17 business than if you took those same numbers and did cash
18 basis?

19 A. It could be more profitable looking that way or it could
20 be even less profitable looking that way depending, because you
21 have to account for the inventory as well. So you can't look
22 at it one way.

23 Q. All right. So for the accounting for NexGen Energy
24 Partners, Ms. McKinnon started out using cash basis accounting
25 based on your direction; is that correct?

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1 A. No, I was not directing that. That was directed by Mendie
2 Hogan in that area of our company, I was not the one directing
3 that.

4 Q. But when Molly sends Ms. Hogan the numbers based on this
5 cash basis, you didn't like those numbers, did you?

6 A. I really don't understand your question.

7 Q. When Molly was requested to send in the financial
8 documents for NexGen Energy Partners, she sent that information
9 to Ms. Hogan. And you were not pleased with those numbers.

10 A. I don't recall the specific instance. We would have
11 automatically adjusted those numbers for any accounts
12 receivable or accounts payable before we would have made any
13 comment on a financial statement.

14 Q. So even though Ms. Hogan would have instructed Molly to
15 use cash basis, you're saying you all would have changed it to
16 accrual basis at that point?

17 A. That's with the assumption that Ms. Hogan had asked her to
18 report on a cash basis.

19 Q. So do you recall when Ms. McKinnon initially sent in the
20 financial reports that it showed the company had 19,000 in
21 sales and 267,000 for a loss?

22 A. I don't recall that specifically, no.

23 Q. All right. So you don't recall ever telling Ms. McKinnon
24 those numbers wouldn't work, do you?

25 A. I don't recall those specific numbers, no.

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1 Q. But you do recall telling Ms. McKinnon, numbers weren't
2 going to work?

3 A. I don't recall that specifically, no.

4 Q. So then after that, she comes back with additional
5 documents showing sales of 62,000 with a loss of 230,000.

6 Do you recall that?

7 A. No, I don't.

8 Q. And so then you don't recall telling her to change the
9 numbers again?

10 A. No, I don't.

11 Q. At a certain point do you recall then telling Mendie to
12 take care of the financial documents?

13 A. From the beginning, Mendie and Molly were working together
14 to take care of the financial information.

15 Q. Molly didn't prepare the tax documents that were
16 ultimately filed for the company, did she? You had an
17 accountant do that.

18 A. I don't know which documents you're referring to.

19 Q. The 2016 tax returns, 1099s.

20 A. As I recall, that would have been filed by our CPA firm.

21 Q. Do you recall with that 2016 return, the financial
22 documents, the business was initially showing a loss and then
23 after your coercion it's then showing a profit on the actual
24 tax return?

25 A. No, I don't.

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1 Q. It would be unusual for a business to be reporting a loss
2 and then report an income for a tax return; is that fair to
3 say?

4 A. I'm sorry, repeat your question.

5 Q. Typically, a business doesn't want to show a great amount
6 of income because you're going to have more taxes to pay,
7 correct?

8 A. Well, you want to show what your business actually has
9 made. If it's a profit or loss, it is what it is.

10 Q. But with the documents that Ms. McKinnon sent to
11 Ms. Hogan, it was initially showing a loss.

12 Do you recall that?

13 A. No, I do not.

14 Q. So in the beginning of running this business, Ms. McKinnon
15 wanted to set up a payroll service, correct?

16 A. I would imagine, but I don't recall that personally. That
17 was being handled by Mendie Hogan and Ms. McKinnon.

18 Q. So you're not aware of any agreements they potentially had
19 in place with Wells Fargo to handle payroll?

20 A. No.

21 Q. But you did switch to a payroll service in August of 2018
22 after being contacted by the FBI?

23 A. I would have to check with Mendie Hogan on that.

24 Q. All right. I'll ask her. Thank you.

25 Again, in the beginning, Mr. Vance asked for the Shumard

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1 Group to handle any accounting and administrative needs?

2 A. That was what he asked for in that initial LOI.

3 Q. You talked about this afternoon how there was never a plan
4 to buy the Trus Joist property, correct?

5 A. That's correct.

6 Q. But Mr. Shumard sent in proof of funds in a letter that he
7 could do that.

8 Do you recall that?

9 A. He sent proof of funds because Mr. Vance had asked him.
10 We weren't at that time looking at purchasing a facility. He
11 had asked for an initial investment of \$3 million and wanted
12 proof of funds that we could fund something of that size. But
13 it was before we actually started taking a serious look at what
14 we would invest in the business.

15 Q. You spoke about Mr. Rabren this afternoon. He was
16 supposed to be the sales arm of this business, correct?

17 A. No, he and Molly together were supposed to be the sales
18 and marketing arm initially when we began.

19 Q. All right. But Mr. Rabren never made any sales; is that
20 fair to say?

21 A. He tried, but he was never really given the information he
22 needed to make sales. And then Mr. Vance was providing, you
23 know, information that he was receiving large contracts so it
24 was not necessary.

25 Q. Didn't Molly ask you multiple times to get Dell involved

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1 to help make sales?

2 A. On the front end when we were trying to do that, that was
3 the original agreement. And so they were trying to get
4 information from the company to do that, and they were not
5 successful getting the information about that as I recall. And
6 so when sales started coming in and contracts, that -- we
7 didn't pursue that.

8 Q. Just so we're clear, Molly was an employee of the company,
9 correct? She wasn't an investor.

10 A. That's correct.

11 Q. She wasn't a partner in NexGen Energy Partners?

12 A. She was to receive a share of the profits of the business.

13 Q. Mr. Rabren was supposed to receive profits?

14 A. That's correct.

15 Q. Mr. Chamblee, are you able to see what's been marked as
16 Defense Exhibit Number 80?

17 A. Yes.

18 Q. And what is this?

19 A. This is an email from Molly McKinnon to Mendie Hogan,
20 copying me and Mr. Shumard.

21 Q. What is the date of that email?

22 A. February 17th, 2017.

23 MS. LEWIS: Move to introduce this exhibit, Your Honor.

24 THE COURT: Any objection?

25 A. Can you speak up a little bit more for me?

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1 MR. CHAPMAN: No objection.

2 THE COURT: Defense Exhibit 80 is admitted.

3 (Defense Exhibit 80 was admitted.)

4 BY MS. LEWIS:

5 Q. So Molly copied you on this email --

6 A. That's correct.

7 Q. -- to your partners? All right. You had told her to
8 investigate about possible lenders to help out the business.

9 Do you recall that? Or you can just read the first
10 sentence of the email, sir.

11 A. "Gary asked me to see if I could find a few lenders who
12 would consider providing a loan for the Trus Joist facility."

13 Q. Do you recall telling Molly that you or your partners
14 never provide personal guarantees on loans to the businesses
15 you're involved with?

16 A. I do.

17 Q. But you told her to use Mr. Vance's information as far as
18 trying to get loans or personal guarantees?

19 A. Not that I recall. That's not what this letter is
20 indicating.

21 Q. Well, I'm just asking, do you recall telling her to use
22 Mr. Vance's information to try to obtain loans?

23 A. When you are saying "Mr. Vance's information," what are
24 you referring to?

25 Q. His name, his social security number. Any information

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1 that one would typically provide to get a loan.

2 A. I don't recall that specifically.

3 Q. So you don't recall asking her multiple times to get
4 Mr. Vance to obtain a loan to buy the property?

5 A. No. There was discussion early on that there were large
6 grants available to purchase the property, because we had no
7 interest in investing a large sum of money to purchase the
8 facility. And so there was talk about pursuing those. But
9 that was the only discussions we had about actually purchasing
10 the facility.

11 Q. Now, when this entity was registered by your attorney or
12 the Shumard Group's attorney, it was registered in Delaware?

13 A. That's correct.

14 Q. Is there any particular reason to register in Delaware and
15 not Kentucky or Georgia?

16 A. I would have to ask my attorney, that was his
17 recommendation.

18 Q. But you're a CPA, we've already established that.

19 Would it be beneficial for tax purposes to register in
20 Delaware as opposed to another state?

21 MR. CHAPMAN: Your Honor, the witness has already said he
22 does not know.

23 THE COURT: I'll sustain the objection.

24 MS. LEWIS: Can we have Government Exhibit Number 706,
25 please?

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1 BY MS. LEWIS:

2 Q. Can you see this document, Mr. Chamblee?

3 A. Yes.

4 Q. And do you recognize that?

5 A. Yes.

6 Q. What is this document?

7 A. It was a transference of Rock 3 Recovery, LLC to NexGen
8 Energy Partners.

9 Q. All right. What was your understanding of the purpose of
10 this document?

11 A. When we made the business agreement with Mr. Vance that he
12 would convey all interest in companies related to Nex-Gen
13 Industries to NexGen Energy Partners.

14 Q. Did he receive these documents in late December 2016,
15 correct?

16 A. This document's dated August 26th of 2016, where he signed
17 it.

18 Q. Okay. But do you recall they were actually sent to him in
19 December of 2016? Just based on your recollection, not the
20 document.

21 A. No. But I know that the process of registering the
22 company, the new partnership, was ongoing.

23 MS. LEWIS: Can we see 709, please?

24 Q. This is another bill of sale, Mr. Chamblee.

25 Do you recognize that?

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1 A. It's a transfer of interest.

2 Q. Which Mr. Vance signed?

3 A. That's correct.

4 Q. What was your understanding of the purpose of this
5 agreement?

6 A. The same as the last one, that Mr. Vance was moving all of
7 his interests in anything related to our pro -- our new
8 partnership by the LOI, that he was transferring all that to
9 NexGen Energy Partners.

10 MS. LEWIS: Can we see Number 704, please?

11 Q. Mr. Chamblee, this is what's been marked as Government
12 Exhibit Number 704?

13 This is another bill of sale, correct?

14 A. This is a bill of sale, the others were not bills of sale.

15 Q. But the other documents were transferring Mr. Vance's
16 ownership?

17 A. The other documents were transfers of interest. This is a
18 bill of sale.

19 Q. So basically Mr. Vance was transferring everything he
20 owned in Nex-Gen Industries to NexGen Energy Partners?

21 A. That's correct.

22 Q. So then basically Nex-Gen Industries, which was a
23 48 percent owner in NexGen Energy Partners, became 1 percent?

24 A. I would have to look at the documents on that.

25 Q. But basically these documents make it so anything

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1 Mr. Vance earned through Nex-Gen Industries or his partners
2 therein went to NexGen Energy Partners?

3 A. That's correct.

4 Q. Do you think he was aware of that?

5 A. Yes.

6 Q. Did he have time to consult with counsel before he had to
7 return those?

8 A. Yes.

9 Q. He wasn't told to return them within an hour upon receipt?

10 A. I don't recall that.

11 Q. Did you or any of your partners ever discuss this transfer
12 of interest or bill of sale with Mr. Vance?

13 A. Yes. That was -- it was based all on the original LOI,
14 that we came together and Mr. Vance agreed that he would put
15 100 percent of his effort into our new entity, NexGen Energy
16 Partners, and that would be his 100 percent interest and
17 investment would be to further that company.

18 Q. Well, the original letter of intent gave him, Nex-Gen
19 Industries, 49 percent, correct?

20 A. That's correct.

21 Q. So with the documents we just discussed, that's
22 transferring all of that to NexGen Energy Partners.

23 A. Yes, I would have to go back and look at those. Yes, it
24 transfers everything to NexGen Energy Partners, the new entity.

25 Q. So that goes against the original intent?

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1 A. No, it does not.

2 Q. So it wasn't the original plan from the beginning with
3 Mr. Vance that he was going to have 49 percent interest in
4 NexGen Energy Partners?

5 A. I believe that's correct.

6 Q. That was the intent, he would have 49 percent?

7 A. That's correct.

8 Q. But just so I'm clear, the documents we just discussed
9 transferred that interest directly to NexGen Energy Partners,
10 which is thereby leaving Mr. Vance personally with 1 percent?

11 A. I would have to look at those documents because I don't
12 believe that is correct.

13 MS. LEWIS: Can I approach the witness, Your Honor?

14 THE COURT: Yes, ma'am.

15 BY MS. LEWIS:

16 Q. Mr. Chamblee, these are the documents we just discussed in
17 detail, the sale of his interest in these entities to NexGen
18 Energy Partners.

19 A. The document that would control that is the operating
20 agreement of NexGen Energy Partners.

21 Q. Which that was signed the same day as these documents; is
22 that correct?

23 A. I believe so.

24 MS. LEWIS: May I retrieve those documents, Your Honor?

25 THE COURT: Yes, ma'am.

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1 BY MS. LEWIS:

2 Q. I'm going to show you Government's Exhibit Number 703,
3 Mr. Chamblee, which is the operating agreement that you're
4 speaking of.

5 Do you recognize this document, Mr. Chamblee?

6 A. Uh-huh.

7 Q. This piece of the document?

8 A. Yes.

9 Q. What is this from?

10 A. This appears be the Exhibit A of the NexGen Energy
11 Partners agreement.

12 Q. And what interest does Nex-Gen Industries have in that?

13 A. 48 percent.

14 Q. What percent does Mr. Vance?

15 A. 1 percent.

16 Q. So the documents we talked about previously in-depth
17 transferred his interest in Nex-Gen Industries completely to
18 NexGen Energy Partners, correct?

19 A. I believe in the end, Mr. Vance wound up owning the
20 49 percent, but I would have to read all of the operating
21 agreement to know that for sure.

22 Q. This is the end of the operating agreement, as you
23 testified to. And that's not what that reflects, is it?

24 A. It says that, in this agreement, that the ownership of
25 NexGen Energy Partners is that Doug Vance owns, as Nex-Gen

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1 Industries, Inc., care of Doug Vance, president, owns
2 48 percent, and Doug Vance owns 1 percent.

3 Q. We'll move on from that.

4 Do you recall in August of 2016 conversations you had with
5 Molly about Mr. Deware and his visit to Kentucky?

6 A. About who?

7 Q. Allan Deware and his visit to Kentucky.

8 A. No.

9 Q. You don't recall having several conversations with her
10 about him?

11 A. No.

12 Q. Do you recall having several conversations with Molly
13 about Kentucky River Properties and their potential investment?

14 A. No.

15 Q. You had many conversations with Molly regarding Koch's
16 potential investment, didn't you?

17 A. Regarding what?

18 Q. Koch, Koch Company.

19 A. No.

20 Q. So you're denying that you had any conversations with her
21 about Koch possibly partnering with NGEP?

22 A. Yes. And I would add, that's to the best of my recall.
23 Those events happened six years ago.

24 Q. How long have you had your company GGC Funding?

25 A. I don't recall the exact date. I think it was sometime in

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1 2008, as I recall.

2 Q. Do you use that entity for many business ventures with the
3 Shumard Group as well?

4 A. Yes, and others.

5 Q. Did you have any other companies that you use in your
6 business partnerships?

7 A. I'm sorry, repeat that.

8 Q. Do you have any other businesses that you also utilize
9 with your businesses with the Shumard Group, like RJF
10 Logistics?

11 A. That I own individually. The Shumard family is not
12 involved in that.

13 Q. Did you disclose to your business partners your
14 involvement with RJF Logistics?

15 A. Yes.

16 Q. Mr. Shumard said he didn't recall that. But you're saying
17 you did tell him and your other partners of your involvement
18 with that?

19 A. Yes.

20 Q. Mr. Vance was also provided a promissory note from Creola
21 Holdings.

22 Did you have an interest in that?

23 A. In Creola Holdings, no.

24 Q. Okay. Your personal bank account was linked to the NexGen
25 Energy Partners Bank of America account, wasn't it?

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1 A. I'm sorry?

2 Q. Your personal Bank of America account was linked to the
3 NexGen Energy Partners business account?

4 A. When you say "linked," could you define that?

5 Q. Did you also have access to the business account and your
6 personal account, were they linked together?

7 A. We had a suite of accounts that were linked together.
8 It's under the way we bank with Bank of America.

9 Q. That makes it easy to transfer money back and forth?

10 A. Yes.

11 Q. And Molly or Mr. Vance were not granted access to that
12 account, were they?

13 A. No.

14 Q. Mr. Vance was a member of NexGen Energy Partners but
15 didn't have access; is that correct?

16 A. I believe that's correct, I would have to ask Ms. Hogan.

17 Q. NexGen Energy Partners also had a bank account with
18 Whitaker Bank, correct?

19 A. It may have. I don't recall.

20 Q. But you and your partners received bank statements from
21 Whitaker Bank every month.

22 Do you recall that?

23 A. No, those would have gone to Ms. Hogan in the accounting
24 area, or Lisa Woody.

25 Q. So as far as deposits you made with the Bank of America

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1 NexGen Energy Partners account, you would sometimes get
2 reimbursed for your contributions, correct?

3 A. My contributions?

4 Q. When you individually or GGC Funding would make
5 contributions or capital contributions to NexGen Energy
6 Partners, you would sometimes get a return on that, didn't you?

7 A. There may have been some interest returned on that, if so,
8 it was a very, very small amount.

9 Q. Do you remember a conversation you had with Molly in
10 December 2016 where you reported sales to her that you made?

11 A. I'm sorry, repeat that.

12 Q. Do you recall a conversation you had with Molly back in
13 December of 2016 where you told her you had made some sales?

14 A. No.

15 Q. I believe it may have been to Kingsford. Does that ring a
16 bell?

17 A. I was working with Mr. Vance on Kingsford, but I never
18 said I had made sales. We were working together to try to land
19 the account, Kingsford, but it was through Doug's contacts.

20 Q. Okay. But you were familiar with Jean Lacy with Clorox?

21 A. Yes.

22 Q. Which that was the parent company of Kingsford?

23 A. That's correct.

24 Q. And you had also tried to get Koch to purchase coal?

25 A. No, I never contacted anyone at Koch. Doug had requested

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1 that I not do that.

2 Q. And you testified earlier you have friends in the coal
3 industry?

4 A. Yes, I do.

5 Q. And Ken McCoy is one of those?

6 A. Yes.

7 Q. And he owns Seneca Coal; is that correct?

8 A. I don't know what he owns.

9 Q. But he does own coal mines and is in the coal business?

10 A. That is my understanding, yes.

11 Q. Do you have any business partnerships with him?

12 A. No, I do not.

13 Q. And you provided him with sales information for NexGen
14 Energy Partners?

15 A. What do you mean by "sales information"?

16 Q. Any financial documents to try to --

17 A. No.

18 Q. -- influence him to invest.

19 A. No. We talked about them because of some of the location
20 of their mines at the time being suppliers to Nex-Gen
21 Industries but that was working with Doug.

22 Q. But you brought him to the plant in Kentucky, didn't you?

23 A. That's correct.

24 Q. Along with Dave Fortner, I believe?

25 A. Yes.

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1 Q. Was that so you could entice them to invest in the
2 company?

3 A. No.

4 Q. You just brought them there?

5 A. I brought them to look at the operation and to
6 specifically look at whether they would have coal that would be
7 useful to Nex-Gen Industries.

8 Q. So you're denying today that you told Molly that you
9 bought into Seneca Coal, which is owned by Mr. McCoy?

10 A. Absolutely.

11 Q. And you never told Molly that you had to pay for coal
12 purchases from Mr. McCoy?

13 A. No.

14 Q. So along that same line, you never told her you needed to
15 use the money from Koch to pay for that coal?

16 A. No.

17 Q. So I guess if you're denying reporting any sales to Molly,
18 you're going to deny that you ever told her the sales you made
19 were bogus.

20 A. I'm sorry, would you repeat your question?

21 Q. Sure, gladly.

22 If you're going to deny under oath that you reported to
23 Molly that you had made sales, you're also going to deny that
24 those sales you reported to her were fake?

25 A. The only -- in the relationship with Clorox, working with

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1 Doug and a friend of Doug's who was the broker that brought
2 Clorox to us, we worked to secure a contract. We shipped
3 samples. And when I say "we," NexGen Energy Partners, Doug,
4 sent samples to their plant. They were very interested in the
5 product and would have given us contracts if we could have
6 supplied them. But we never made a sale.

7 Q. And you never reported any sales that you made otherwise
8 to her?

9 A. No.

10 Q. It's your testimony you never demanded that she alter bank
11 statements?

12 A. No.

13 Q. It's your testimony here today under oath that you never
14 threatened her or her family or had her threatened?

15 A. I never threatened her in any way.

16 Q. Have you ever engaged in business transactions with a
17 Mr. Bordman from K&T Global?

18 A. Mr. who?

19 Q. Bordman, Ernest Bordman from K&T Global.

20 A. No.

21 Q. Do you recall a conversation back in the Atlanta office
22 with Molly in January of '18 where you told her you reached out
23 to Ernie with K&T about --

24 A. I had reached out to who?

25 Q. To Ernie with K&T. You don't recall that?

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1 A. No.

2 Q. Do you recall sending her documentation for Mr. Vance to
3 sign when you had an opportunity to buy, I believe it was coal,
4 from another country but you needed payment up front to cover
5 it?

6 A. No.

7 Q. Do you recall a time where you and Mr. Vance took a trip
8 to Pennsylvania to see some buyers and you tried to get him to
9 sign a document?

10 Do you remember that?

11 A. That who tried to get him to sign a document?

12 Q. You, Mr. Chamblee, tried to get Mr. Vance to sign this
13 document.

14 A. What document?

15 Q. Getting to that, sir.

16 Where it was to secure a letter of credit for coal you
17 wanted to pay for up front and then resell.

18 A. No.

19 Q. I believe you said ultimately Mr. McCoy didn't invest
20 anything, correct?

21 A. He was never asked to invest anything.

22 Q. Do you recall bringing up Washington Mills to
23 Ms. McKinnon?

24 A. I'm sorry?

25 Q. Do you recall bringing up Washington Mills to

GARY CHAMBLEE - CROSS

1 Ms. McKinnon?

2 A. In what regard?

3 Q. That they had product to bring to the plant for Mr. Vance
4 to redry.

5 A. We may have discussed that.

6 Q. You told Molly you had to pay for shipping up front to get
7 the product to the plant, correct?

8 A. I don't recall that, no.

9 Q. So you don't recall telling her you needed scale tickets
10 for that, do you?

11 A. No.

12 Q. You don't recall saying if she couldn't get those tickets
13 for you, I can get someone to explain it to you that you won't
14 forget it?

15 A. No.

16 Q. Okay. Have you ever borrowed money from businesses of
17 Mr. Shumard?

18 A. I'm sorry, repeat that.

19 Q. Have you ever borrowed money from any of Mr. Shumard's
20 other businesses?

21 A. Yes.

22 Q. You told Ms. McKinnon that you were having problems
23 putting that money back this time, correct?

24 A. No.

25 Q. Do you recall telling her you had pulled out money from

GARY CHAMBLEE - CROSS

1 your retirement accounts to help with your financial situation
2 you were in?

3 A. No.

4 Q. Have you ever filed bankruptcy personally or in business?

5 A. No.

6 Q. Sorry to jump around but back to RJF Logistics. We've
7 already established that you had ownership interest in that.

8 A. Yes.

9 Q. And you demanded that Mr. Vance and Molly use RJF for
10 trucking purposes to ship the carbon product.

11 A. No.

12 Q. They wanted to use other providers that were cheaper and
13 more efficient, but it's your testimony you never demanded they
14 use RJF?

15 A. Never. Mr. Vance couldn't find trucks to ship the
16 supposed product and so I said, if you can't find trucks, I can
17 help you find trucks. But they were not any trucks that RJF
18 owned or operated, it was a friend of his that he knew that had
19 trucks in that area.

20 Q. But there are plenty of trucks around Hazard, Kentucky,
21 because it's basically a hub for the coal and logging industry,
22 correct?

23 A. As far as I know, yes.

24 Q. All right. So it seems a little far-fetched if Mr. Vance
25 said he couldn't find trucks, doesn't it?

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1 A. It was very far-fetched. So I was trying to take away his
2 excuse for not being able to ship products.

3 Q. Then it turns out in the end RJF was really undependable?

4 A. No.

5 Q. Trucks didn't break down?

6 A. No.

7 Q. There were delays? And the problem with getting --

8 A. It was -- actually, RJF never sent a truck there. So it
9 wasn't RJF that was trucking.

10 Q. So if RJF never sent a truck and they are the one --

11 A. Never sent a truck.

12 Q. Can I finish my question, sir?

13 A. Pardon me?

14 Q. Can I finish my question? Can I finish my question?

15 A. Sure.

16 Q. So if RJF was the one that was supposed to send trucks to
17 move product --

18 A. No, they were not supposed to send trucks.

19 Q. It was your testimony just now, sir, that they were going
20 to send trucks.

21 MR. CHAPMAN: Your Honor --

22 A. RJF was going to --

23 THE COURT: Excuse me. I'll sustain the objection. I
24 believe that was not his testimony.

25 BY MS. LEWIS:

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1 Q. So if RJF was supposed to transfer the product to
2 Kingsford, they weren't the issue, that's your testimony?

3 A. RJF was not involved, so it's a hypothetical question that
4 can't be answered.

5 Q. Okay.

6 MS. LEWIS: Can we approach, Your Honor?

7 THE COURT: Yes, you can.

8 (Bench conference on the record.)

9 MS. LEWIS: This is a certified bankruptcy filing for RJF
10 Logistics, Your Honor, and it speaks to income Mr. Chamblee may
11 have received from that.

12 I want to bring that up, I would like to get into that.

13 MR. ROSENBERG: What's the relevancy on this, given the
14 testimony that RJF didn't have anything to do with --

15 MS. LEWIS: I think it goes to overall credibility.

16 THE COURT: He hasn't indicated -- you haven't asked him
17 about RJF bankruptcy, you asked him about his own.

18 MR. CHAPMAN: He admitted he had an ownership interest in
19 it.

20 MR. ROSENBERG: So I mean, what's the credibility? I
21 mean, just the fact that a business has gone bankrupt?

22 MS. LEWIS: It's a small amount of income for a business
23 with a reported large income.

24 THE COURT: I'm sorry. I'm completely missing the point.

25 What's the point on the income of a company that was not

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1 involved in the case?

2 MS. LEWIS: Correct. I can forego it, Your Honor.

3 THE COURT: All right. Very well.

4 (Bench conference concluded.)

5 BY MS. LEWIS:

6 Q. Do you recall any bills for RJF being paid by NexGen
7 Energy Partners?

8 A. I don't know.

9 Q. Would Ms. Hogan know that information?

10 A. Yes.

11 Q. Back to this logging operation. Do you recall telling
12 Ms. McKinnon that Mr. Vance could keep some of the proceeds
13 from that after this workers' comp injury happened?

14 A. No.

15 Q. You don't recall having any conversations with
16 Ms. McKinnon about logging equipment being purchased?

17 A. The only equipment we talked about being purchased was a
18 chipper for NexGen Energy Partners, to chip the wood products
19 that were coming in to make biochar.

20 MS. LEWIS: Number 87, please.

21 Q. Can you tell me who Jeff Dimick is, Mr. Chamblee?

22 A. Yes. Jeff Dimick, he was a board member for a small
23 Christian University in West Virginia, and he was also trying
24 to promote a process of converting waste material to fuel.

25 Q. So he had a technology that was compatible with

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1 Mr. Vance's technology related to coal?

2 A. We were hoping it would be, yes.

3 Q. And Mr. Dimick was applying for grants that were worth
4 millions of dollars?

5 A. Not for what we were doing at -- in NexGen Energy
6 Partners, that was to build a unit somewhere else. We were
7 just looking at the application for the gases that were coming
8 off when we were producing product.

9 Q. And you introduced Mr. Dimick to Mr. Vance, correct?

10 A. Yes, I did.

11 Q. All right. And the hopes were their technologies could be
12 used together?

13 A. That's correct.

14 Q. And you were hoping to use that grant money that he was
15 bringing in for NexGen Energy Partners?

16 A. We were hoping to, if it was possible, to develop some
17 kind of a joint venture where we could take the gas that was
18 coming off our product and convert it initially into
19 electricity.

20 Q. And his, I believe, original grant that he was applying
21 for was approximately 6 million. Is that your recollection?

22 A. No.

23 Q. At some point did it increase to 30 million?

24 A. No. Those grants were for another operation, it was not
25 for what we were doing, I don't believe, at NexGen. It was to

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1 build a huge plant.

2 What we were initially trying to do, just to see if it was
3 plausible to, you know, operate the entities in a way that they
4 could benefit each other. I know he applied for a lot of
5 grants, but I was not really involved in that part of the
6 process.

7 Q. Are you currently in any business organization with
8 Mr. Dimick?

9 A. We are -- we loaned, not me personally, but the Shumard --
10 one of the Shumard entities loaned money to benefit this little
11 Christian University to look into that process.

12 Q. So that's just in the exploratory phase with Mr. Dimick?

13 A. Yes.

14 Q. Do you recall a contentious conversation with Ms. McKinnon
15 in September 2017 regarding not being able to meet payroll for
16 the employees?

17 A. No.

18 Q. So you never told her that you aren't supplying money, to
19 have Mr. Vance take care of it?

20 A. I don't recall any conversation like that, no.

21 Q. Do you recall around that time when she was assaulted and
22 robbed and stripped of the cash that she was taking to the
23 employees of the plant?

24 A. Yes, I do recall an incident like that.

25 Q. You made a comment after that happened to her before

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1 anybody advised you of her being robbed.

2 Do you recall that?

3 A. No.

4 Q. So you've never said, I want to make sure Doug gets the
5 message not to mess with you?

6 A. No.

7 Q. Do you recall telling Molly to install the app called
8 Silent Circle?

9 A. The app called what?

10 Q. Silent Circle.

11 A. No.

12 Q. Do you have that app?

13 A. No.

14 Q. So you never messaged her on that?

15 A. Pardon me?

16 Q. You never messaged her on that app then?

17 A. I never met what?

18 Q. You never messaged via the Silent Circle app?

19 A. No.

20 Q. You testified earlier that you were aware Ms. McKinnon's
21 home burned in June of 2018, correct?

22 A. I don't recall it was Ms. McKinnon's home. I believe it
23 was her sister's husband's home. It was a home that I think
24 she was staying in.

25 Q. Well, not home in the legal title sense, but it was where

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1 she resided, correct?

2 A. Yes, when she was in Georgia.

3 Q. Do you recall having a conversation with her where she
4 told you she had proof of the fact that you told her your sales
5 were bogus?

6 A. No.

7 Q. You don't recall her telling you she was going to go to
8 Mr. Shumard and the FBI?

9 A. No.

10 Q. And shortly thereafter -- well, then the fire occurs
11 around June of 2018. Is that your recollection?

12 A. I don't recall what the dates or times were. I do recall
13 that the -- all the information on the company, all the
14 records, accounting records and everything were on a thumb
15 drive that Molly said were destroyed in that fire.

16 Q. Well, any business records could be easily obtained from
17 the company banks, correct?

18 A. No.

19 Q. Not in the era of online banking?

20 A. Not invoices from different companies, all the
21 transactions. No, you can't recover that information.

22 Q. It could have easily been done if the Shumard Group had
23 done the accounting like Mr. Vance wanted now, couldn't it?

24 A. I'm sorry, repeat your question.

25 Q. It would have been easy if the Shumard Group had taken

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1 care of accounting like Mr. Vance had requested at the
2 beginning?

3 A. There's a document in there that shows that Ms. McKinnon,
4 when it was set up, was set up as the CEO and she was expected
5 to do those functions.

6 Q. But that initially wasn't Mr. Vance's request.

7 A. It wasn't in the original LOI. But the LOI was a working
8 document, it was not a final document.

9 Q. Do you remember an incident where you grabbed Ms. McKinnon
10 by the throat and pushed her against the wall?

11 A. That never happened.

12 Q. Do you recall that she was brutally assaulted in her hotel
13 room in Hazard in June of 2018?

14 A. I don't recall that, no.

15 Q. You told your partners Molly was voluntarily resigning to
16 take care of her sick husband.

17 Do you recall that?

18 A. I don't recall that specifically. That may have occurred,
19 but I don't recall that specifically.

20 Q. Okay. Do you recall telling Agent Hubbuch that she was
21 fired because she didn't do anything she was supposed to do?

22 A. I don't recall that specifically, but she was terminated,
23 yes.

24 Q. But you were just unsure whether she actually resigned and
25 now you're saying she was terminated.

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1 A. Well, you asked me about an incident and I didn't recall
2 that incident. But I do recall that we let her go because we
3 had discovered there were so many irregularities in our
4 documents that she was responsible for, had been burned and
5 would not ever be able to be recreated, and so we did terminate
6 her, yes.

7 Q. But yet you testified earlier this afternoon under oath
8 that you kept her on briefly to train Mr. Thomson?

9 A. That's correct.

10 Q. All right. Thank you.

11 MS. LEWIS: Nothing further.

12 THE COURT: All right.

13 Let's see if there is any redirect of the witness.

14 MR. CHAPMAN: Your Honor, brief redirect.

15 THE COURT: All right.

16 REDIRECT EXAMINATION

17 BY MR. CHAPMAN:

18 Q. Good afternoon, Mr. Chamblee. You were asked about an
19 application called Silent Circle, I believe.

20 Do you recall that?

21 A. Yes.

22 Q. Until that question, had you heard of that app?

23 A. No.

24 Q. I would like to show you a document previously marked as
25 Government's Exhibit 703.

GARY CHAMBLEE - REDIRECT

1 Do you recognize this, sir?

2 A. Yes.

3 Q. What is this?

4 A. That is -- looks like the title page to an operating
5 agreement for NexGen Energy Partners, LLC.

6 MR. CHAPMAN: And, Ms. Poynter, could we go to the
7 second-before-last page? The signature page.

8 Q. Do you see that document, sir?

9 A. Yes, I do.

10 Q. Does it appear to be signed by all relevant parties?

11 A. It does.

12 Q. Is this a true and accurate copy of the signed operating
13 agreement for NexGen Energy Partners?

14 A. Yes, it is.

15 MR. CHAPMAN: Your Honor, I will move the admission of
16 Government's Exhibit 703.

17 THE COURT: Any objection?

18 MS. LEWIS: No objection.

19 THE COURT: United States Exhibit 703 is admitted.

20 (United States Exhibit 703 was admitted.)

21 BY MR. CHAPMAN:

22 Q. Mr. Chamblee, do you see your own signature on the bottom
23 right-hand corner of this signature page?

24 A. Yes, I do.

25 MR. CHAPMAN: Now, if we could please go to the next

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1 page of this document?

2 Q. Mr. Chamblee, could you please review for the jury the
3 percentage -- the contribution, the percentage differentiation
4 on this page?

5 A. Yes. Kenneth M. Shumard made a capital contribution of
6 \$155,400, which represented 31.62 percent.

7 GGC Funding, LLC, care of Gary Chamblee, made a \$50,000
8 contribution, which represented 10.2 percent.

9 Mendie Hogan made a \$10,000 contribution, which
10 represented 2.04 percent.

11 Creola Holdings, Inc. made a \$34,600 contribution, which
12 represented 7.14 percent.

13 Nex-Gen Industries, care of Doug Vance president, made a
14 capital contribution of \$235,294, which represented 48 percent.

15 And Douglas Vance personally made a 4,902 contribution,
16 which represented 1 percent.

17 Q. And do you see at the bottom of the page a paragraph under
18 the word -- there is a two-line paragraph labeled Notes.

19 Do you see that two-line paragraph?

20 A. Yes.

21 Q. Do you see a paragraph below that?

22 A. Yes.

23 Q. Could you please read that into the record?

24 A. Sure. "Nex-Gen Industries, Inc. contributes all of its
25 tangible and intangible assets, including intellectual

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1 property, agreed to have a value of 48 percent of total
2 capital. Mr. Vance contributes all ownership interest, if any,
3 in Torretherm, Inc., Rock 3 Recovery, LLC, and Appalachian Wood
4 Products, LLC, agreed to have a nominal current value of
5 1 percent of total capital."

6 Q. So is this paragraph differentiating between assets and
7 ownership interests?

8 A. Yes.

9 Q. What did Nex-Gen Industries have in NexGen Energy
10 Partners?

11 A. I'm sorry, would you repeat that?

12 Q. Yes. What did Nex-Gen Industries have in NexGen Energy
13 Partners?

14 A. They had contributed all of the equipment and intellectual
15 property.

16 Q. The 48 percent, is that --

17 A. Correct.

18 Q. -- an ownership interest?

19 A. Yes, that's an ownership interest.

20 MR. CHAPMAN: I would like to show the witness the
21 document previously marked as Government's Exhibit 704.

22 Q. Do you see this document, sir?

23 A. Yes.

24 Q. You looked at it earlier. What is this document?

25 A. It is a Bill of Sale and Assignment.

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1 Q. Is this a true and accurate copy of the Bill of Sale
2 relevant to this case?

3 A. Yes.

4 MR. CHAPMAN: Your Honor, I'll move the admission of
5 Government's Exhibit 704.

6 THE COURT: Any objection?

7 MS. LEWIS: No objection.

8 THE COURT: Exhibit 704 is admitted.

9 (United States Exhibit 704 was admitted.)

10 BY MR. CHAPMAN:

11 Q. Mr. Chamblee, in the middle of the paragraph labeled
12 Statement of Purpose, do you see the phrase that says,
13 "Transferor has agreed to transfer to Transferee all of the
14 transferor's assets as further described below"?

15 A. Yes.

16 Q. Was that an accurate reading of that?

17 A. Yes, it was.

18 MR. CHAPMAN: And then if we could scroll down in the
19 document?

20 Q. Do you see there in the definitions paragraph it says, "As
21 used herein" -- "As used herein, the transferred 'Assets' shall
22 include:"

23 Do you see that?

24 A. Yes.

25 Q. Can you summarize for us the asset included in

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1 subparagraph a?

2 A. "All client/customer rights and relationships, whether or
3 not evidenced by a written and/or signed agreement or contract
4 between said client/customer and Transferor (referred to herein
5 as a Transferor's Clients,) as well as all computers and
6 equipment, furniture and furnishings, and other tangible
7 personal property owned and used by the Transferor in the
8 conduct of its business operations, excluding items of a
9 personal nature which are used in or adorn the offices or work
10 spaces of employees."

11 Q. Would that include ownership interests in other companies?

12 A. Yes.

13 Q. Where does it say that in that paragraph?

14 A. "All client/customer" -- "All client/customer rights and
15 relationships, whether or not evidenced by a written and/or
16 signed agreement or contract."

17 Q. So it's dealing with client/customer rights?

18 A. That's correct.

19 Q. Not an ownership interest?

20 A. That's correct.

21 Q. Okay. Let's go to subparagraph b.

22 A. "All ownership and license interests in all computer
23 software used by the Transferor in the conduct of its business,
24 including without limitation all software used for its billing
25 and financial accounting reporting purposes; including the data

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1 and work product generated by such software (provided that the
2 Transferor shall be entitled to retain copies for the same
3 periods through the date hereof to be used in its own financial
4 reporting and record keeping)."

5 Q. So this paragraph generally deals in interest in computer
6 software?

7 A. Yes.

8 Q. Not interest in other companies?

9 A. That's correct.

10 Q. C, "All intellectual property owned or developed by the
11 Transferor;" is that correct?

12 A. That's correct.

13 Q. Again, separate from ownership interests in companies?

14 A. Yes.

15 Q. D, again, to summarize, all proprietary information
16 developed by the transferor?

17 A. Yes. It's, you know, in the conduct of his business. It
18 includes but not limited "intellectual property or trade
19 secrets, customer and market information, business concepts,
20 business plans, processes, techniques, algorithms, work in
21 process, future development plans, and any marketing,
22 servicing, financing or personnel information relating to the
23 Transferor and its business operations, its clients and
24 customers, the real property in which its customers have an
25 interest, or business relationships, whether in oral, written,

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1 graphic or electronic form."

2 Q. So this paragraph relates generally to proprietary
3 information?

4 A. That's correct.

5 Q. Not ownership interests in companies?

6 A. That's correct.

7 Q. Paragraph e, this paragraph, generally speaking, deals
8 with cash and accounts?

9 A. That's correct.

10 Q. Paragraph f, any domain name or web page?

11 A. That's correct.

12 Q. Paragraph g, rights of Transferor to telephone numbers?

13 A. That's correct.

14 Q. H, all operating cash and accounts receivable?

15 A. That's correct.

16 Q. And i, rights of the transferor under any lease
17 obligation; is that correct?

18 A. That's correct.

19 Q. Do any of those paragraphs, sir, relate to ownership
20 interests in other companies?

21 A. No.

22 Q. And is that, in fact, why you executed separate transfer
23 of membership interest documents?

24 A. That's correct.

25 Q. And those are the two documents you were shown on

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1 cross-examination?

2 A. That's correct.

3 Q. Because those were not included in the definition of
4 assets?

5 A. That's correct.

6 MR. CHAPMAN: Your Honor, may I have one moment?

7 THE COURT: Yes, sir.

8 BY MR. CHAPMAN:

9 Q. Mr. Chamblee, do you recall the first transfer of
10 membership interest that you were shown related to Rock 3
11 Recovery, LLC?

12 A. Yes.

13 Q. And do you recall the other transfer of membership
14 interest that you were shown related to Appalachian Wood
15 Products, LLC?

16 A. Yes.

17 Q. Are either of those companies NexGen Energy Partners, LLC?

18 A. No.

19 MR. CHAPMAN: That's all I have, Your Honor.

20 THE COURT: All right. Thank you.

21 Mr. Darling, questions on --

22 MR. DARLING: No, Your Honor.

23 THE COURT: -- matters brought out by Ms. Lewis or on
24 redirect? Thank you.

25 Anything else?

GARY CHAMBLEE - RECROSS

1 MS. LEWIS: Just one question.

2 THE COURT: Yes, ma'am.

3 RECROSS-EXAMINATION

4 BY MS. LEWIS:

5 Q. Mr. Chamblee, briefly. Those documents the Assistant
6 United States Attorney went over, did that in effect prohibit
7 Mr. Vance from even operating Nex-Gen Industries by
8 transferring those interests?

9 A. Only outside of the interest in NexGen Energy Partners.

10 MS. LEWIS: Nothing further.

11 THE COURT: All right. Anything else? Thank you.

12 Mr. Chamblee, you may step down, sir. You are excused.

13 THE WITNESS: Thank you.

14 THE COURT: Ladies and gentlemen of the jury, we will go
15 ahead and break for the evening. We'll follow the same
16 procedures tomorrow morning as we have today. We'll start at
17 9:00.

18 Again, when you leave, you can leave your badges on your
19 notebooks. And if you want to leave through the front doors of
20 the courtroom, you can leave your notebooks on your chairs.

21 If not, if you need to go back into the jury deliberation
22 room, you can do that as well.

23 Again, please keep in mind all the admonitions you were
24 given previously. Please don't discuss the case among
25 yourselves and don't allow anyone to approach you to discuss

1 the case. Don't read, watch or listen to any accounts of this
2 matter, if there should be any.

3 Don't do any type of research or investigation on your
4 own. Don't communicate through social media your position as a
5 juror or anything about the case. And of course don't make up
6 your mind about the matter until it is finally submitted to
7 you.

8 The jury will be excused until 9:00 a.m. tomorrow.

9 (Jury left courtroom at 4:39 p.m.)

10 THE COURT: All right. Thank you. Please be seated.

11 Just briefly discuss with counsel your impressions on how
12 we're moving along and if we're -- if you anticipate that this
13 case will take more than the time that has been allotted for it
14 based on witnesses so far.

15 MR. CHAPMAN: Your Honor, we are approximately one witness
16 behind where we were hoping we would be when we laid out our
17 trial plan. We were hoping to get through Ms. Hogan's
18 testimony today. But in the trial plan we had laid out, there
19 is some additional time next week that I do think we are still
20 on track to finish in the time that we have allotted.

21 THE COURT: Keep in mind Monday is a holiday.

22 MR. CHAPMAN: Yes, Your Honor.

23 THE COURT: One that everybody wants to celebrate,
24 Columbus Day. I would not mind going on Monday, but it
25 sometimes is moving heaven and earth to hold hearings or trials

1 on days that are federal holidays.

2 All right. Any other issues that we need to take up in
3 the case at this point?

4 MR. CHAPMAN: No, Your Honor.

5 MR. DARLING: No.

6 MS. LEWIS: Judge Reeves, I want to make sure I introduced
7 the exhibits that I brought up with Mr. Chamblee. Number 70,
8 114, and 80.

9 THE COURT: Hold on a second here.

10 We will take them in reverse order. I was thinking that
11 80 had been admitted but I could be incorrect.

12 Madam Clerk, was 80 admitted?

13 THE CLERK: Yes, Your Honor.

14 THE COURT: So 80 has been admitted. What was the second
15 document?

16 MS. LEWIS: There was 114 and Number 70.

17 THE COURT: 70, I had marked as admitted as well.

18 And then 114?

19 MS. LEWIS: 114, Your Honor.

20 THE COURT: Yes, ma'am.

21 MR. ROSENBERG: 113, maybe?

22 MS. LEWIS: 114.

23 MR. CHAPMAN: The bank statement?

24 MS. LEWIS: Yes.

25 THE COURT: Any objection?

1 MR. CHAPMAN: I believe it's included in our records as
2 well, our exhibits. So no, no objection.

3 THE COURT: All right.

4 Madam Clerk, if you'll advise -- or remind me tomorrow,
5 I'll advise the jury that the one exhibit that was not
6 introduced, or has been introduced, it has been admitted.

7 THE CLERK: Of course.

8 THE COURT: 114. All right.

9 Any other issues to take up, Ms. Lewis?

10 MS. LEWIS: No, Your Honor. Thank you.

11 MR. ROSENBERG: Your Honor, I did have one matter.

12 THE COURT: Yes, sir, Mr. Rosenberg.

13 MR. ROSENBERG: I want to circle back to the collective or
14 bulk admission of a set of exhibits that we flagged at the
15 beginning of trial.

16 We did send a list of those to defense counsel during the
17 lunch break yesterday, so we would just ask if that could
18 potentially be teed up, perhaps tomorrow morning or at the
19 morning break, at some point if there are any like relevancy
20 objections, that they can be taken outside the jury presence.

21 THE COURT: You'll be able to provide me with those
22 numbers? We'll talk about that tonight, we can take those up
23 tomorrow before the jury comes in.

24 MR. ROSENBERG: Yes, Your Honor.

25 THE COURT: I'll come out before the jury is brought out

1 tomorrow morning and we can take those issues up. Ten minutes
2 be sufficient for that?

3 MR. ROSENBERG: I expect so. I haven't heard any
4 objections to this point.

5 THE COURT: All right.

6 MR. ROSENBERG: I think that should be sufficient.

7 THE COURT: We'll plan for ten minutes. If it takes
8 longer, we'll take as long as we need.

9 MR. ROSENBERG: Thank you, Your Honor.

10 THE COURT: Anything else to take up?

11 We will be in recess until 8:50 tomorrow morning.

12 (Proceedings adjourned at 4:45 p.m.)

13

14 C E R T I F I C A T E

15

16 I, Linda S. Mullen, RDR, CRR, do hereby certify that
17 the foregoing is a correct transcript from the record of
18 proceedings in this above-entitled matter.

19

20

21

22 /s/Linda S. Mullen
Linda S. Mullen, RDR, CRR
23 Official Court Reporter

April 20, 2023
Date of Certification

24

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