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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 9:20-cv-81205-RAR

SECURITIES AND EXCHANGE
COMMISSION,

Plaintiff,

vs.

COMPLETE BUSINESS SOLUTIONS
GROUP, INC. d/b/a PAR FUNDING,
et al.,

Defendants.

_____ /

Via Zoom Videoconference
Broward County, Florida
Friday, July 9, 2021
10:21 a.m. to 1:53 p.m.

DEPOSITION OF RAYMOND ANDJICH

Taken before Marlene Gutierrez, Notary
Public, State of Florida at Large, pursuant to Notice
of Taking Deposition filed in the above cause.

- - - - -

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1 APPEARANCES:
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6
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17 On behalf of Defendant Lisa McElhone.
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New York, New York 10017
20 On behalf of Defendant Lisa McElhone.
21
22 ALSO PRESENT:
Joshua Levine
David Ferguson
23 Michael Furman
Brian Miller
24
25 -----

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1 THE COURT REPORTER: Due to the current Florida
2 Supreme Court administrative order, the parties will
3 stipulate that the court reporter may swear in the
4 witness via videoconference and that the witness has
5 verified that he is, in fact, Raymond Andjich.
6 Would the attorneys please state your name and
7 so stipulate, starting with the plaintiff.
8 MS. BERLIN: This is Amie Riggle Berlin on
9 behalf of the U.S. Securities and Exchange
10 Commission, and we so stipulate.
11 MR. SOTO: This is Alex Soto on behalf of
12 Defendant Joseph LaForte, and we so stipulate.
13 MR. ROSENBLUM: This is Douglas Rosenblum on
14 behalf of the court-appointed receiver, Ryan
15 Stumphauzer; and we so stipulate.
16 MR. BACHNER: Michael Bachner, B-A-C-H-N-E-R,
17 attending on behalf of Lisa McElhone, and we so
18 stipulate.
19 MR. FUTERFAS: Alan Futerfas, A-L-A-N
20 F-U-T-E-R-F-A-S, also on behalf of Lisa McElhone.
21 THE COURT REPORTER: Sir, would you raise your
22 right hand, please.
23
24
25 Thereupon --

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15 (Exhibits retained by Mr. Soto.)
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1 RAYMOND ANDJICH
2 was called as a witness by the Defendant and, having
3 been first duly sworn, and responding, "I do," was
4 examined and testified as follows:
5
6 DIRECT EXAMINATION
7 BY MR. SOTO:
8 Q Good morning, sir.
9 A Good morning.
10 Q Would you please state your name for the
11 record.
12 A My name is Raymond Andjich. That's spelled
13 A-N-D-J-I-C-H.
14 Q Would it be okay if I called you Ray?
15 A Absolutely.
16 Q Great. Thank you.
17 Where do you currently work?
18 A I work for a third-party government contractor
19 by the name of CLJ Consulting, but I am assigned to the
20 Miami regional office of the United States Securities
21 and Exchange Commission. And that's Brickell Avenue,
22 Miami, Florida.
23 Q And how long have you been an independent
24 contractor for the SEC?
25 A Since May of 2015.

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1 Q Okay. And what do you do for the SEC as an
 2 independent contractor?
 3 A I conduct research as needed, I sit in on
 4 interviews when requested, and I would say that's --
 5 that's generally what I do.
 6 Q Okay. What did you do before your stint with
 7 the SEC as an independent contractor?
 8 A I was a special agent with the Federal Bureau
 9 of Investigation.
 10 Q How long did you hold that position?
 11 A 31 years, from February of 1984 through April
 12 of 2015.
 13 Q I imagine you interviewed probably hundreds of
 14 witnesses during your 30-plus years as an FBI agent?
 15 A Many more than that.
 16 Q More than that.
 17 Did you ever train other agents with respect to
 18 how to build an investigation, interview witnesses,
 19 things of that nature?
 20 MS. BERLIN: I object on grounds of relevance.
 21 This is the deposition of the SEC. Mr. Andjich's
 22 work at the FBI is irrelevant, and the FBI is not
 23 here to object to Mr. Andjich testifying about his
 24 duties there and whether they might be confidential
 25 or otherwise protected by the investigatory or law

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1 enforcement privileges. And Mr. Andjich is also --
 2 there might also be attorney work product. They're
 3 not here to object, so I object to the questioning
 4 for the reasons stated.
 5 MR. SOTO: Thank you. Unless you're
 6 instructing him not to answer --
 7 Mr. Andjich -- Ray, you can answer.
 8 BY MR. SOTO:
 9 Q And I don't hear Amie instructing you not to
 10 answer, so did you train -- in your capacity as an FBI
 11 agent over the course of 30 years, did you train others
 12 with respect to how to build cases and interview
 13 witnesses?
 14 A I was designated as a training agent when new
 15 agents would come to a squad.
 16 Q Okay. And as Amie just indicated, you're here
 17 as the SEC's 30(b)(6) designee, correct?
 18 A Yes.
 19 Q Okay. So for purpose of this deposition, when
 20 I ask you a question, when I refer to you, I am going to
 21 be referring to you in your capacity as an SEC 30(b)(6)
 22 designee for this deposition. Okay?
 23 A Yes.
 24 Q All right. If I want to have you answer as
 25 Ray Andjich, in your personal capacity, I will make that

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1 clear, but if I don't, you understand that you'll be
 2 answering in the capacity as the SEC's 30(b)(6)
 3 designee. Is that fair?
 4 A Yes.
 5 Q Okay. So first question, Ray, is, did you play
 6 a role in the investigation of this particular case?
 7 A Yes. I provided assistance to the staff
 8 attorneys that worked this matter.
 9 Q Okay. What sort of assistance did you provide?
 10 MS. BERLIN: I object on grounds of
 11 investigatory privilege, attorney-work-product
 12 privilege, and direct the witness not to testify
 13 about specific work he did in connection with the
 14 SEC's nonpublic investigation.
 15 MR. SOTO: Amie, some of the work he did is
 16 public, in the sense that he prepared declarations
 17 that are on the public docket. Are you instructing
 18 him not to answer questions with respect to those
 19 items, or his role in those items?
 20 MS. BERLIN: I'll just object on a
 21 question-by-question basis. So it depends on the
 22 question that you ask him.
 23 BY MR. SOTO:
 24 Q I'll repeat the question. Did you play a role
 25 in the investigation of this case, and if so, in what

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1 capacity?
 2 MS. BERLIN: That's been asked and answered.
 3 That's not the question I objected to.
 4 MR. SOTO: You objected to in what capacity?
 5 MS. BERLIN: I object to the witness testifying
 6 about any work that he did concerning the SEC's
 7 nonpublic investigation, on grounds of investigatory
 8 privilege, attorney work product, as well as
 9 deliberative process privilege. So I am directing
 10 the witness not to answer that general, broad
 11 question.
 12 MR. SOTO: Okay. Let's go to Exhibit 1.
 13 (Defendant's Exhibit 1 was marked for
 14 identification.)
 15 BY MR. SOTO:
 16 Q This is a copy of the SEC's amended complaint.
 17 It's docket entry 119.
 18 Have you seen this complaint?
 19 A Yes.
 20 Q Did you review it before today's deposition?
 21 A I reviewed the motion for temporary restraining
 22 order, with the annotated footnotes. I did read this
 23 document.
 24 Q Okay. What I'd like to do is I'd like to go
 25 over some terminology that I'll be using during the

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1 course of this deposition, and I'd like to use the
2 complaint to help us go through that terminology. That
3 way, when I use a particular word or phrase, you and I
4 will understand what I mean by it. Is that fair?
5 A Yes, it is.
6 Q Okay. So in the amended complaint, the SEC
7 breaks down the timing of the offer and sale of the
8 notes at issue in this case into three phases.
9 MR. SOTO: Let's go to paragraph 2.
10 BY MR. SOTO:
11 Q And I'll give you a moment to read that.
12 Do you see paragraph 2?
13 A Yes.
14 Q So paragraph 2 refers to a time period between
15 August 2012 to December 2017, where the SEC alleges
16 Par Funding offered and sold notes to the public
17 directly and for a period of time through sales agents.
18 Do you see that?
19 A Yes.
20 Q Okay. This is phase one, according to the
21 SEC's complaint.
22 Would you agree with that?
23 MS. BERLIN: I object on the grounds -- I
24 haven't seen anything on the document referring to
25 phase one. On the screen, we're only seeing

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1 paragraphs 2, 3, and 4, and I don't see any
2 reference to phase one.
3 MR. SOTO: Amie, I'm going to, at this point,
4 ask you not to engage in speaking objections. The
5 proper objection is an objection to the form. If
6 you have an issue with the question, that is the
7 appropriate objection. At this point, you're
8 coaching the witness, and we're just getting
9 started, so I want to make that point now. So if
10 you're not directing him not to answer --
11 BY MR. SOTO:
12 Q Mr. Andjich, the question is, would you agree
13 that this is phase one of the time period, as alleged by
14 the SEC's complaint?
15 MS. BERLIN: And I, once again, object. Again,
16 so the record is clear and the Court understands
17 what we're seeing on our screen -- by the way,
18 Mr. Soto, is this being video-recorded?
19 MR. SOTO: It is not.
20 MS. BERLIN: Okay. So the record is clear, on
21 the screen we're not seeing anything that says
22 phase one. So I object, and I want the record to be
23 clear what Mr. Andjich is being shown at this time.
24 MR. SOTO: You're confused about whether this
25 is phase one? Is that what your objection is, that

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1 that's confusing to you?
2 MS. BERLIN: My objection is, you're showing
3 Mr. Andjich a paragraph and asking him if this
4 paragraph refers to phase one.
5 MR. SOTO: No, that was not my question. My
6 question was not whether phase one appears in this
7 paragraph. My question was whether this time
8 period -- if he agrees that this time period refers
9 to phase one, as alleged by the SEC. But I can
10 refer you to paragraph 49, if that helps.
11 BY MR. SOTO:
12 Q Okay. Mr. Andjich, do you see that
13 paragraph 49 reads that from no later than August 2012
14 until December 2017, Par Funding sold promissory notes
15 directly to investors?
16 A Yes.
17 Q Okay. Do you see the subheading above that
18 that refers to this time period as phase one of the
19 offering?
20 A I do.
21 Q Okay.
22 MR. SOTO: Let's go back to paragraph 2.
23 BY MR. SOTO:
24 Q Okay. So in paragraph 2, the second sentence
25 says "from August 2012 until approximately

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1 December 2017." Same time period, correct?
2 A Yes.
3 Q Okay. So we agree this is phase one?
4 A Yes.
5 Q Okay. And during this time period, Par Funding
6 offered and sold notes directly to the public, correct?
7 A That's what's stated.
8 Q Okay. And can we agree that, just for purposes
9 of terminology, the individuals who purchased these
10 notes -- we'll call them phase one investors. Is that
11 fair?
12 A Okay.
13 Q All right. So when I refer to phase one
14 investors, you'll understand the time period that I'm
15 talking about, correct?
16 A Yes.
17 Q All right.
18 MR. SOTO: Let's go to paragraphs 3 and 4.
19 BY MR. SOTO:
20 Q I'll give you a minute to review that. Let me
21 know when you're done.
22 A All right.
23 Q All right. Let's go to paragraph 70, so
24 there's no confusion.
25 Okay. So just above paragraph 70, do you see

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| <p style="text-align: right;">Page 14</p> <p>1 that it says phase two of the offering?</p> <p>2 A I do.</p> <p>3 Q Okay. Paragraph 70, you would agree, says that</p> <p>4 phase two began from January 2018 through the present,</p> <p>5 that being the date of the amended complaint, July 27,</p> <p>6 2020, correct?</p> <p>7 A Correct.</p> <p>8 Q Okay. So, again, the terminology that I'll be</p> <p>9 using for phase two is going to refer to this period,</p> <p>10 where, according to the SEC's complaint, Par Funding</p> <p>11 began selling notes to agent funds, correct?</p> <p>12 A Yes.</p> <p>13 Q Okay. And you understand that during</p> <p>14 phase two, agent funds offered and sold their own notes</p> <p>15 to investors. Is that fair?</p> <p>16 A Yes.</p> <p>17 MR. SOTO: So let's go to paragraph 7 of the</p> <p>18 amended complaint.</p> <p>19 BY MR. SOTO:</p> <p>20 Q Okay. And paragraph 7 refers to some of the</p> <p>21 individuals who operated the agent funds, correct?</p> <p>22 A Yes.</p> <p>23 Q Okay. Those individuals include Vagnozzi,</p> <p>24 Michael Furman, and John Gissas as operating agent</p> <p>25 funds?</p> | <p style="text-align: right;">Page 16</p> <p>1 unit so that there's no confusion.</p> <p>2 MS. BERLIN: Thank you.</p> <p>3 MR. SOTO: Let's go to paragraph 92.</p> <p>4 BY MR. SOTO:</p> <p>5 Q Okay. You would agree that the LPs in</p> <p>6 Mr. Vagnozzi's agent funds opened accounts at an IRA</p> <p>7 administrator company he directed them to, correct?</p> <p>8 A That's my understanding, yes.</p> <p>9 Q Okay. And at paragraph 96, you would agree</p> <p>10 that the agent funds offered more than just investment</p> <p>11 interests in MCAs; they also offered investment</p> <p>12 interests in investments having nothing to do with MCAs,</p> <p>13 correct?</p> <p>14 MS. BERLIN: I object. Are we referring to</p> <p>15 paragraph 96, Mr. Soto?</p> <p>16 MR. SOTO: We are.</p> <p>17 MS. BERLIN: Are you asking the witness to tell</p> <p>18 you what paragraph 96 says, or are you asking him</p> <p>19 for information beyond what is stated in</p> <p>20 paragraph 96?</p> <p>21 MR. SOTO: I asked the witness whether he would</p> <p>22 agree, having read paragraph 96, that the agent</p> <p>23 funds offer more than just investment interests in</p> <p>24 MCAs; they offer investment interests in other</p> <p>25 investment opportunities.</p> |
| <p style="text-align: right;">Page 15</p> <p>1 A That's what it states, yes.</p> <p>2 Q Okay. It also says that the purchasers of</p> <p>3 notes or -- the securities that the agent funds were</p> <p>4 selling are referred to as limited partners. Do you see</p> <p>5 that? They sell promissory notes and limited</p> <p>6 partnership interests to investors.</p> <p>7 A Yes.</p> <p>8 Q Okay. So phase two investors, just so we are</p> <p>9 all in agreement, I'll be referring to them as LPs.</p> <p>10 Okay?</p> <p>11 A Okay.</p> <p>12 Q So when I refer to LPs, I'll be referring to</p> <p>13 investors who purchased investments from the agent</p> <p>14 funds. Is that fair?</p> <p>15 A Yes.</p> <p>16 Q Okay.</p> <p>17 MS. BERLIN: Mr. Soto, please clarify so that I</p> <p>18 understand. When you refer to LPs, are you</p> <p>19 referring to the promissory notes as well as limited</p> <p>20 partnership interests?</p> <p>21 MR. SOTO: I'm referring to any investors who</p> <p>22 purchased notes or interests from the agent funds in</p> <p>23 particular.</p> <p>24 MS. BERLIN: Got it. Thank you.</p> <p>25 MR. SOTO: We want to capture that just as one</p> | <p style="text-align: right;">Page 17</p> <p>1 MS. BERLIN: So I object. This is not based on</p> <p>2 what we're seeing on the screen. We're seeing on</p> <p>3 the screen paragraph 96, which is only referencing</p> <p>4 one of the agent funds.</p> <p>5 BY MR. SOTO:</p> <p>6 Q Okay. Mr. Andjich, would you agree that this</p> <p>7 particular agent fund offered more than just investment</p> <p>8 opportunities in MCAs; this particular agent fund also</p> <p>9 offered three other investment opportunities, correct?</p> <p>10 A Well, I would have to see the actual document</p> <p>11 that the investor had signed to answer whether or not</p> <p>12 there were other investment opportunities. I mean,</p> <p>13 that's what the complaint says. I have no reason to</p> <p>14 doubt that fact.</p> <p>15 Q Okay. That was my next question.</p> <p>16 You have no reason to doubt what's alleged in</p> <p>17 the complaint, do you?</p> <p>18 A No.</p> <p>19 Q Okay. Can you read the first line of</p> <p>20 paragraph 96.</p> <p>21 A "Attendees were given a one-page flyer</p> <p>22 describing four investment opportunities, one of which</p> <p>23 was MCAs."</p> <p>24 Q Okay. Do you know what an MCA is?</p> <p>25 A Merchant cash advance.</p> |

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1 Q Okay. So you see that in paragraph 95, above
 2 paragraph 96, it references a dinner hosted by Dean
 3 Vagnozzi, correct?
 4 A Yes.
 5 Q Okay. And in paragraph 96, you understand that
 6 the word "attendees" refers to individuals who attended
 7 that dinner, correct?
 8 A Yes.
 9 Q Okay. So individuals who attended that dinner
 10 were given a one-page flyer describing four investment
 11 opportunities. You would agree that that would be
 12 investment opportunities in ABFP, according to
 13 paragraph 95, correct?
 14 A Yes.
 15 Q Okay. And it says "four investment
 16 opportunities, one of which was MCAs," correct?
 17 A That's what it states.
 18 Q Okay. So would it be fair to say that the
 19 three other investment opportunities offered by ABFP on
 20 that evening to those attendees did not have anything to
 21 do with MCAs?
 22 MS. BERLIN: Objection. Calls for speculation.
 23 And it's also beyond the scope of the notice of
 24 deposition.
 25 BY MR. SOTO:

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1 Q Mr. Andjich, you can answer.
 2 MS. BERLIN: If the witness knows what you're
 3 referring to, he can answer; however, it would be in
 4 his individual capacity and not on behalf of the
 5 SEC. This was not a noticed topic.
 6 MR. SOTO: Amie, you are, again, coaching the
 7 witness. I'd ask that you refrain from doing so,
 8 and that you limit your objections to objections to
 9 the form, which is what is appropriate in this
 10 setting.
 11 BY MR. SOTO:
 12 Q So, Mr. Andjich, I'll ask you again --
 13 (Overlapping speakers.)
 14 MS. BERLIN: Please give me the legal cite, or
 15 what you're relying on, that the only proper
 16 objection is objection to form in a deposition. I
 17 certainly don't want to break a rule that I don't
 18 know about.
 19 MR. SOTO: Okay. I'm not going to give you the
 20 legal cite. You're supposed to understand the rules
 21 before you get involved in a deposition, so I'm not
 22 going to educate you with respect to the rules. But
 23 I'm going to ask that you not coach the witness.
 24 This is the second time I've asked you to do that.
 25 BY MR. SOTO:

Page 20

1 Q So, Mr. Andjich, again, would you agree that
 2 attendees at Mr. Vagnozzi's November 21st, 2019, dinner
 3 were given an opportunity, by virtue of this flyer, to
 4 invest in four investment opportunities, only one of
 5 which had anything to do with MCAs?
 6 MS. BERLIN: And I object that it calls for
 7 speculation, and it's outside of the scope of the
 8 30(b)(6) deposition notice. Therefore, if
 9 Mr. Andjich can answer the question, his answer is
 10 in his personal capacity and not on behalf of the
 11 SEC.
 12 BY MR. SOTO:
 13 Q Mr. Andjich, you can answer.
 14 A I recall the flyer, seeing the flyer. As I sit
 15 here today, I don't have a specific recollection of the
 16 other investment opportunities that were being offered.
 17 What does, perhaps, come to mind is real estate
 18 and then a -- and I forgot the terminology -- life
 19 settlement. But, you know, I'd like to see the flyer,
 20 then I could, you know, speak more accurately.
 21 Q Okay.
 22 MR. SOTO: Let's go to paragraph 67.
 23 BY MR. SOTO:
 24 Q Okay. Paragraph 67 reads: The agent fund PPMs
 25 distributed to potential investors state that the agent

Page 21

1 fund is raising money to invest in an MCA company.
 2 Do you see that?
 3 A Yes.
 4 Q Okay. Fair to say that the agent funds
 5 prepared and issued their own PPMs?
 6 MS. BERLIN: Objection. Outside of the scope
 7 of the deposition notice, and, therefore,
 8 Mr. Andjich would not be testifying on behalf of the
 9 SEC. I also object that this is not a memory test.
 10 And if you're asking about a specific document,
 11 there are more than 44 agent funds. So I object
 12 that this is really broad and he's not being shown
 13 any specific document. He's now being expected to
 14 testify based on his memory. But the witness can
 15 answer in his individual capacity.
 16 THE WITNESS: Could you repeat the question?
 17 BY MR. SOTO:
 18 Q Yes.
 19 Would you agree that the agent funds prepared
 20 and issued their own PPMs?
 21 A My recollection is that a lawyer by the name of
 22 John Pauciulo -- I don't know if I'm pronouncing that
 23 correctly -- actually prepared the offering materials
 24 relative to each of these funds, that the funds did not
 25 actually prepare the documents themselves.

Page 22

1 Q Okay. He prepared them for the agent funds?
 2 A At the request of Mr. Vagnozzi.
 3 Q Correct.
 4 Do you have any evidence that Par Funding
 5 played any role in asking Mr. Pauciulo to prepare the
 6 PPMs for those agent funds?
 7 MS. BERLIN: Objection. Just a moment.
 8 Objection. This, again, is not within the scope of
 9 the deposition notice. And you're asking
 10 Mr. Andjich to -- I'm sorry, Mr. Soto. Repeat your
 11 question so that I can make sure my objection is
 12 proper.
 13 MR. SOTO: Madam Court Reporter, can you read
 14 it back.
 15 (The requested portion of the record was read
 16 back by the reporter as above recorded.)
 17 MS. BERLIN: So, again, I object. It's outside
 18 of the scope of the deposition notice, and this
 19 witness has not been prepared on this subject
 20 matter. And so if he chooses to answer, it's in his
 21 individual capacity and not on behalf of the SEC.
 22 MR. SOTO: Okay. I disagree with you, Amie,
 23 but if you're not instructing him to not --
 24 (Overlapping speakers.)
 25 MS. BERLIN: Please tell me which topic. Which

Page 23

1 topic would this fall under, Mr. Soto? Maybe I'm
 2 wrong.
 3 MR. SOTO: If you look at Exhibit A, we asked
 4 for a designee prepared to answer questions that
 5 support the Commission's allegations, causes of
 6 actions, or requests for relief in the amended
 7 complaint, at docket entry 119, with respect to
 8 materially misleading statements and omissions to
 9 investors in connection with the purchase offer or
 10 sale of securities in this matter. And the agent
 11 funds and their sale of investments are part of this
 12 complaint. And I am asking about the agent fund
 13 PPMs which are part of this complaint. Obviously,
 14 they're alleged in the complaint, and I am making
 15 specific reference to a paragraph within the
 16 complaint. So, again, there's no need for us to
 17 debate --
 18 MS. BERLIN: Well, we can litigate that. Yeah,
 19 I'm not going to respond to any of your comments
 20 today, but I will repeat my objection. I do not
 21 believe this falls -- whether or not any of the 44
 22 agent funds were directed -- or had CBSG directing
 23 Mr. Pauciulo is not within the scope of the
 24 deposition notice, and it is also not something that
 25 is alleged in the complaint.

Page 24

1 So to the extent Mr. Andjich has reviewed the
 2 entire file in this case and is prepared to testify,
 3 he does so in his individual capacity, not on behalf
 4 of the SEC.
 5 MR. LEVINE: Amie, I'm going to ask that you
 6 not give a speech --
 7 THE COURT REPORTER: Who's speaking? I don't
 8 know who's speaking.
 9 MR. LEVINE: Sorry. This is Josh Levine.
 10 Amie, it's sufficient to say "outside the
 11 scope" and move along. And if we need to litigate
 12 it later, we can litigate it later, but --
 13 MS. BERLIN: I'm not going to respond,
 14 Mr. Levine --
 15 MR. LEVINE: What's that?
 16 MS. BERLIN: I'm not going to respond to you or
 17 Mr. Soto, with your criticisms, or whatever. I'm
 18 going to state my objections --
 19 MR. LEVINE: Outside the scope --
 20 (Overlapping speakers.)
 21 MR. LEVINE: Speaking objections are improper.
 22 We're done.
 23 MS. BERLIN: Mr. Levine, you're not even
 24 representing the witness today; Mr. Soto is. So
 25 this is Mr. Soto's deposition, not -- I believe you

Page 25

1 both represent the same party.
 2 But it is important to explain what I've
 3 stated. So I restate my objection, and the witness
 4 can testify in his individual capacity, if he knows
 5 the answer to that question.
 6 MR. FUTERFAS: I'm going to lodge an objection.
 7 THE COURT REPORTER: Who's speaking? I don't
 8 know who's speaking.
 9 MR. FUTERFAS: Alan Futerfas. I announced
 10 myself. It's Alan Futerfas. I'm a lawyer for Lisa
 11 McElhone.
 12 I'm going to lodge an objection for the day,
 13 and that is that the defense is entitled to a
 14 certain amount of time to conduct a deposition.
 15 And, Ms. Berlin, if you are going to end up
 16 taking 50 percent of the time by lengthy objections
 17 to every single question, then I'm going to object
 18 that our time is not being -- we are not being
 19 permitted appropriate time during the deposition and
 20 will have to continue day to day until we
 21 actually get our seven hours of deposition time.
 22 So if you want to lodge just a continuing
 23 objection, Ms. Berlin, to every single question on
 24 every possible ground, you can do that now, and that
 25 will save us a lot of time litigating later. Thank

Page 26

1 you.

2 MR. SOTO: Amie, I'm going to join in that

3 objection. I was about to say the same thing. If

4 you continue to engage in speaking objections and

5 take up the bulk of the time here, we're going to

6 ask the judge for additional time, to compensate for

7 the time you took up in your unnecessary speaking

8 objections.

9 MS. BERLIN: And, Mr. Soto, I will remind you

10 that you and Mr. Cutercross took breaks with your

11 witness, of 10 to 15 minutes at times during your

12 client's deposition, and I extended you the courtesy

13 of not criticizing you on the record, and was very

14 professional and courteous. I will state the

15 objections that need to be stated so that the judge

16 can review the transcript and understand the basis

17 for the objections. So I stated my objection to

18 this question quite some time ago, and I don't need

19 to repeat it.

20 BY MR. SOTO:

21 Q Mr. Andjich, you testified that the agent funds

22 had their PPMs prepared by an attorney, John Pauciulo,

23 correct?

24 A Yes.

25 Q Okay. And my question was, do you have any

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1 knowledge, any evidence, that Par Funding directed John

2 Pauciulo to play any role in preparing the PPMs for the

3 agent funds?

4 MS. BERLIN: Objection. It's outside the scope

5 of the deposition notice. And Mr. Andjich, if he

6 knows the answer to this, would not be testifying on

7 behalf of the SEC, but in his personal capacity as

8 an individual.

9 BY MR. SOTO:

10 Q Mr. Andjich, you can answer the question.

11 A As I sit here today, I don't have a specific

12 recollection. If there is a document or something you'd

13 like to show me which might refresh my recollection, I'd

14 be happy to take a look at it.

15 Q Mr. Andjich, there wouldn't be a document,

16 because, to my knowledge, there is no such evidence.

17 I'm asking you whether you're aware of any evidence of

18 the agent funds taking direction from -- or rather, John

19 Pauciulo taking direction from Par Funding with respect

20 to the preparation of the PPMs for the agent funds?

21 MS. BERLIN: Objection. It's outside of the

22 scope of the deposition notice. And I believe this

23 question has been asked and answered. If

24 Mr. Andjich can testify about this, he would be

25 doing so in his individual capacity and not binding

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1 the Securities and Exchange Commission.

2 BY MR. SOTO:

3 Q Is that correct, Mr. Andjich, that you have no

4 knowledge and you have seen no evidence that Par Funding

5 directed John Pauciulo to prepare PPMs for the agent

6 funds? Is that correct?

7 MS. BERLIN: Again, I object.

8 MR. SOTO: Amie, your objection is noted.

9 MS. BERLIN: I object. It misstates

10 Mr. Andjich's testimony. This is outside of the

11 deposition notice, and he would be testifying in his

12 individual capacity regarding his testimony about

13 Mr. Pauciulo and the agent funds, and CBSG and

14 Mr. Pauciulo.

15 MR. FERGUSON: This is David Ferguson.

16 Alex, this isn't going to work. You can give

17 the court a call. I've never seen anything like

18 this. This isn't going to work.

19 MR. SOTO: Thank you, David. I'm going to keep

20 trying, but I hear you.

21 BY MR. SOTO:

22 Q Mr. Andjich, you can answer.

23 A I think I gave you my answer. I don't have a

24 specific recollection, but if there is a document that

25 might suggest that that's the case, I'd gladly take a

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1 look at it.

2 Q Okay.

3 MR. SOTO: Let's turn to paragraph 87 of the

4 amended complaint.

5 BY MR. SOTO:

6 Q Okay. Mr. Andjich, fair to say that one of the

7 agent funds, referred to as ABFP, prepared their own

8 Form Ds with the Commission, giving notice of their

9 individual offerings?

10 MS. BERLIN: Objection. It's outside of the

11 scope of the deposition notice. Therefore,

12 Mr. Andjich does not bind the SEC. And if you can

13 identify the topic, Mr. Soto, then it would save me

14 from having to object to some of your questions.

15 MR. SOTO: I've stated the topic, Amie.

16 BY MR. SOTO:

17 Q Mr. Andjich, you can answer the question.

18 A That's what the complaint states, yes.

19 Q Okay. Are you aware of any evidence to the

20 contrary?

21 MS. BERLIN: Hold on a minute. Again, it's

22 outside of the scope of the deposition notice.

23 Mr. Andjich has not been prepared about this matter,

24 and if he testifies about it, it is in his personal

25 capacity; it's not binding the Securities and

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1 Exchange Commission.
2 BY MR. SOTO:
3 Q Mr. Andjich, do you remember the question?
4 A Could you repeat it?
5 Q Based on the evidence that you reviewed in your
6 capacity as the 30(b)(6) designee for the SEC, would you
7 agree that the agent funds, the ABFP agent fund,
8 prepared its own Form Ds with the Commission, giving
9 notice of its own individual offerings?
10 MS. BERLIN: And I repeat my objection.
11 THE WITNESS: Well, that's what the complaint
12 states, and I have no reason to doubt it. I think I
13 have seen those, one or more of those documents,
14 yes.
15 BY MR. SOTO:
16 Q Okay. Having reviewed those documents, would
17 you agree with that statement, that ABFP prepared their
18 own Form Ds in connection with their own offerings?
19 MS. BERLIN: Objection. Mr. Andjich has no
20 personal knowledge about who prepared the documents,
21 it's not alleged, and it's outside of the scope of
22 the deposition notice.
23 BY MR. SOTO:
24 Q Mr. Andjich, you can answer.
25 A I'll stand by what the complaint states.

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1 Q Mr. Andjich, you just referenced having seen a
2 couple of Form Ds, and I'm asking you based on -- not
3 just on the complaint, but on your review of the
4 evidence to include what you just said you saw.
5 A Well, if you could point me to a specific piece
6 of evidence on the Form D, I'll gladly take a look at
7 it.
8 Q We're going to be going through a lot of
9 exhibits today. I'm asking you, based on your
10 recollection of the Form Ds that you just testified you
11 reviewed, whether you would agree that the ABFP agent
12 funds filed their own Form Ds in connection with their
13 own offerings.
14 A I don't know how to answer that, because if by
15 "ABFP funds," you're referring to Vagnozzi funds --
16 Q I am.
17 A -- I would say yes. But there were many, many
18 other agent funds, and I don't know if Form Ds were
19 filed in those instances.
20 Q I asked only with respect to ABFP, the Dean
21 Vagnozzi funds.
22 A I have seen Form Ds.
23 Q Okay. Do you have any evidence --
24 A How many were filed, as I sit here today, I
25 don't recall.

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1 Q Okay. I didn't ask you how many. That's fine.
2 Do you have any evidence, or are you aware of
3 any evidence, that Par Funding played any role in
4 preparing those Form Ds on behalf of the agent funds?
5 MS. BERLIN: I object on grounds that this is
6 outside of the scope of the deposition notice; and,
7 therefore, if Mr. Andjich testifies about this, it
8 would be in his individual capacity and not
9 representing the SEC.
10 BY MR. SOTO:
11 Q You can answer, Mr. Andjich.
12 A I think you would have to look at each specific
13 Form D, because the last line item, there is a
14 signature -- I mean, it states who actually prepared the
15 Form D.
16 Q Okay. You mentioned earlier that you --
17 MS. BERLIN: Alex, I need to take a quick
18 personal break. Can we take five minutes, please?
19 MR. SOTO: Yes.
20 MS. BERLIN: Thank you.
21 MR. SOTO: Off the record.
22 (A break was taken from 11:00 a.m. to
23 11:14 a.m.)
24 MR. SOTO: So, Amie, I'm going to offer this as
25 a potential way of resolving the dispute we had

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1 before we broke, which is, if your objection to a
2 question is that it refers to matters outside the
3 scope of the notice of deposition, that you simply
4 say it's outside the scope. And we will agree with
5 respect to the consequences that you stated earlier,
6 which is that you believe Mr. Andjich would be
7 speaking only in his individual capacity as opposed
8 to speaking as the 30(b)(6) designee.
9 MS. BERLIN: Well, I will address it on a
10 question-by-question basis as I hear it.
11 Are we on the record right now?
12 MR. SOTO: We are.
13 MS. BERLIN: Oh, we are? Okay.
14 So I'll make my objections on a
15 question-by-question basis.
16 MR. SOTO: Okay. I'm also going to state for
17 the record, in response to your question, that under
18 Rule 30(d), the commentary at Subdivision (d) states
19 as follows: The first sentence of new paragraph
20 (1) provides that any objections during a deposition
21 must be made concisely and in a nonargumentative and
22 nonsuggestive manner. Depositions frequently have
23 been unduly prolonged, if not unfairly frustrated,
24 by lengthy objections and colloquy, often suggesting
25 how the deponent should respond. While objections

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1 may, under the revised rule, be made during a
2 deposition, they ordinarily should be limited to
3 those that under Rule 32(d)(3) might be waived if
4 not made at that time, i.e., objections on grounds
5 that might be immediately obviated, removed, or
6 cured, such as to the form of a question or the
7 responsiveness of an answer.
8 So that is what I was referring to. Your
9 obligation, when objecting, is to be as concise and
10 nonargumentative as possible, and object to the form
11 whenever necessary, and not object in a manner that
12 suggests the answer to the witness or unnecessarily
13 prolongs the deposition, which I think three lawyers
14 have suggested you were doing. So that is in
15 response to your request for the rule I was thinking
16 about. That is the rule.
17 BY MR. SOTO:
18 Q Mr. Andjich, are you ready to proceed?
19 A Yes.
20 Q All right.
21 MR. SOTO: Let's go to Exhibit 3.
22 (Defendant's Exhibit 3 was marked for
23 identification.)
24 BY MR. SOTO:
25 Q Okay. This is the re-notice of your 30(b)(6)

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1 deposition. Have you seen this?
2 A Yes.
3 Q Okay. What did you do to prepare for each of
4 the -- let's go to Exhibit A. I'm sorry.
5 You reviewed Exhibit A?
6 A Yes.
7 Q The topics that you were supposed to be
8 prepared for today?
9 A Yes.
10 Q Okay. What did you do to prepare for each of
11 these topics?
12 A I reviewed the complaint. I reviewed the
13 motion for temporary restraining order. I reviewed the
14 evidence that was cited in the motion for temporary
15 restraining order, the footnotes and the corresponding
16 exhibits. I looked at the enforcement manual, SEC's
17 website, some documents from the investigative file, and
18 also production of communications with a lawyer by the
19 name of Shane Heskin.
20 Q Okay. You mentioned that there were others
21 involved in the investigation, a staff attorney?
22 A Yes.
23 Q Did you speak to the staff attorney who was
24 involved in the investigation in connection with your
25 preparation?

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1 A Yes.
2 Q Okay. Who was that staff attorney?
3 A Linda Schmidt, senior counsel at the Miami
4 regional office of the SEC; and Elisha Frank, who's
5 assistant regional director with the Miami office of the
6 SEC; and, of course, Amie Berlin, who is senior trial
7 counsel.
8 Q Okay.
9 MR. SOTO: Let's go to Exhibit 4.
10 (Defendant's Exhibit 4 was marked for
11 identification.)
12 BY MR. SOTO:
13 Q Okay. One of the topics you were asked to
14 prepare for was whether the notes are exempt from
15 registration. Do you recall that? We can go back to
16 the exhibit if you don't remember.
17 A Yes.
18 Q You do remember?
19 A Repeat the question.
20 Q One of the topics you were asked to prepare for
21 for today's deposition is any evidence with respect to
22 the exemption from registration with respect to the
23 securities at issue in this case, the notes at issue in
24 this case.
25 A Okay.

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1 Q It's paragraph 4 in Exhibit A.
2 Do you recall that?
3 A Yes.
4 Q Okay. So let's look at Exhibit 4, which is a
5 Form D, Notice of Exempt Offering.
6 Have you seen this document before?
7 MR. SOTO: Can you go to the very top, so the
8 witness can see the very top of it.
9 THE WITNESS: Yes, I see it. It's Form D, for
10 Complete Business Solutions Group, Inc. It's kind
11 of hard to read; it's small, but I see it.
12 MR. SOTO: Can you scroll down to page 6 -- I'm
13 sorry -- page 3, section 6.
14 BY MR. SOTO:
15 Q Do you see that the item 506(b) is marked
16 there, under Federal Exemptions?
17 A Yes.
18 Q Okay.
19 MR. SOTO: Can we scroll all the way to the
20 bottom.
21 BY MR. SOTO:
22 Q Okay. And you see that this document is filed
23 on behalf of the issuer, Complete Business Solutions
24 Group?
25 A Yes.

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1 Q And it's signed by Complete Business Solutions
 2 Group's general counsel, Cynthia Clark, correct?
 3 A Yes.
 4 Q And it is dated February of 2019, February 12,
 5 2019, correct?
 6 A Yes.
 7 Q Okay. And you'll also see that there's a
 8 description in the second bullet point, stating that if
 9 the issuer is claiming a Regulation D exemption for the
 10 offering, the issuer is not disqualified from relying on
 11 Rule 504 or Rule 506.
 12 Do you see that? It's the second bullet point.
 13 A Okay.
 14 Q You do see that, sir?
 15 A Can you point to it again, the second bullet
 16 point.
 17 Q I'm sorry. It's the third bullet point. It's
 18 the last bullet point.
 19 A It begins with "certifying that"?
 20 Q Yes. You can read that to yourself.
 21 A Okay.
 22 Q All right. So would you agree that this is a
 23 Form D notice filed by CBSG which claims an exemption
 24 from registration under Rule 506(b) based on the
 25 provisions you've seen so far?

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1 A Yes.
 2 Q Okay. And would you agree that this document
 3 was signed by CBSG's lawyer, Cynthia Clark?
 4 A That's what it says, yes.
 5 Q Okay.
 6 MR. SOTO: Let's go to Exhibit 5. Let's go to
 7 the top.
 8 (Defendant's Exhibit 5 was marked for
 9 identification.)
 10 BY MR. SOTO:
 11 Q The issuer here, again, is Complete Business
 12 Solutions Group. Do you see that?
 13 A Yes.
 14 Q Okay.
 15 MR. SOTO: Let's go to page 3 -- section 6,
 16 rather. Okay. Right there. Yeah.
 17 BY MR. SOTO:
 18 Q Do you see that a claim under Rule 506(b),
 19 under a federal exemption, is claimed here as well?
 20 A Yes.
 21 Q Okay. So just as before, Complete Business
 22 Solutions Group has filed, in connection with this
 23 Form D, an exemption from registration, correct?
 24 A That's what it states.
 25 Q Okay.

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1 MR. SOTO: Let's go to the very bottom.
 2 BY MR. SOTO:
 3 Q And this one -- again, the issuer is the same.
 4 It's dated April 24th of 2020, correct?
 5 A Yes.
 6 Q And signed by Joe Cole?
 7 A Yes.
 8 Q Okay. So based on your review of the evidence,
 9 as you described, in your preparation for today, are you
 10 aware of any evidence that the claimed exemptions in
 11 either of those Form Ds are inaccurate or false?
 12 A Yes.
 13 Q What is your evidence?
 14 A Number one, there were general solicitations in
 15 the form of dinners, seminars, television and radio
 16 advertisements. There were sales to investors in
 17 multiple states, and there were no reasonable steps
 18 taken to assure that the people who invested were
 19 accredited investors.
 20 Q Okay. So let's take those one at a time.
 21 The general solicitation efforts that you
 22 referred to, what evidence do you have that Par Funding
 23 engaged -- or any of its representatives engaged in
 24 general solicitations? And first -- let me retract
 25 that.

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1 What do you mean by -- let's understand what
 2 you mean by "general solicitations."
 3 A That's a solicitation that can be done by a
 4 radio ad, a television ad, a newspaper advertisement,
 5 and these promotional dinners or presentations.
 6 Q Okay. What evidence do you have that
 7 Par Funding engaged in or caused a radio ad or a
 8 television ad, or a general solicitation, as you just
 9 described it?
 10 A Well, the one item is our Exhibit 136, which is
 11 basically a recording of a November 2019 dinner attended
 12 by several hundred people, and the presenters were
 13 Mr. Vagnozzi, and then later Abbonizio, and then
 14 LaForte, and I believe even Mr. Cole spoke.
 15 Q Okay. And based on your understanding of the
 16 evidence, who organized that event?
 17 A It may have been Vagnozzi.
 18 Q And what was the purpose of that event?
 19 MS. BERLIN: I object. Mr. Andjich has no
 20 personal knowledge about what was -- the purpose.
 21 BY MR. SOTO:
 22 Q Based on your review of the evidence, what is
 23 your understanding of the purpose of that event?
 24 A Well, it was to offer investment opportunities.
 25 Q Right. To offer investment opportunities to

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1 individuals interested in buying investments from ABFP,
2 correct, Dean Vagnozzi's business -- or agent fund,
3 rather?
4 A Yes.
5 Q Okay. Do you have any evidence or any
6 knowledge of evidence that exists that investors, or
7 prospective investors, at that dinner were offered an
8 opportunity to buy any sort of security from Par Funding
9 directly?
10 A Well, certainly a large part of that
11 presentation involved Mr. LaForte, Mr. Abbonizio, and
12 Mr. Cole touting their business, Complete Business
13 Solutions Group, and the investment opportunities that
14 were afforded -- or could be afforded to people by
15 investing through Mr. Vagnozzi.
16 Q Right. My question, Mr. Andjich, was, what
17 evidence are you aware of that any of the individuals at
18 the dinner you just referenced were offered an
19 opportunity to buy any sort of security directly from
20 Par Funding? Are you aware of any evidence?
21 A Clearly, the investment in Complete Business
22 Solutions Group was being touted. Whether it could be
23 purchased directly through CBSG or Mr. Vagnozzi, I'm
24 thinking it was probably through Vagnozzi.
25 Q It was a dinner put together by Mr. Vagnozzi in

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1 order to give individual attendees an opportunity to buy
2 investments in ABFP securities, correct?
3 A In ABFP, but specifically merchant cash
4 advances.
5 Q Yes. I'm sorry. I didn't mean to cut you off.
6 But earlier we discussed, did we not, that
7 Mr. Vagnozzi's company, ABFP, offered investments in
8 four different categories? Do you recall that?
9 A Yes. I recall you telling me there were four.
10 Q Right. But it's not just what I told you; it's
11 what the SEC alleged, correct?
12 MS. BERLIN: I object. This has been asked and
13 answered, and the complaint is what it is. If you
14 want to show him that paragraph again.
15 BY MR. SOTO:
16 Q Mr. Andjich, you can answer the question.
17 Do you recall that conversation we had earlier,
18 where you agreed --
19 A Yes.
20 Q -- you agreed that there were four investment
21 opportunities offered by ABFP, only one of which was
22 MCAs?
23 A I can't seem to recall the fourth, but
24 definitely MCAs. I think there was a real estate
25 investment, and the other was a life settlement. I

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1 don't recall the fourth.
2 Q Okay. So the reason we're talking about this
3 is because I asked you whether you were aware of any
4 information or any evidence that Par Funding was
5 involved in general solicitations, and you mentioned
6 this dinner; and we just discussed it. What other
7 general solicitations are you aware of, based on your
8 review of the evidence, that Par Funding is responsible
9 for?
10 MS. BERLIN: Objection. I think it's vague.
11 BY MR. SOTO:
12 Q You can answer, sir.
13 A I know that there were investor declarations
14 and people who indicated that they did hear radio and
15 television advertisements. Whether they were directly
16 put on by Par Funding or Mr. Vagnozzi, I don't recall.
17 Q So you don't recall any evidence that
18 Par Funding engaged in any of those radio advertisements
19 or television advertisements you just referenced, right?
20 MS. BERLIN: Alex, I have to object, or just
21 ask for clarification. Are you talking about the
22 ABFP offerings, or are you talking about promissory
23 notes of only CBSG --
24 MR. SOTO: Well, the question was --
25 MS. BERLIN: -- their involvement with the

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1 general solicitation, regardless of whose promissory
2 notes are being sold?
3 MR. SOTO: I'm happy to answer your question,
4 to clarify this, if necessary.
5 So the question, first, was, Are you aware of
6 any evidence that the claimed exemptions under
7 Rule 506(b) and the Form D notices that we discussed
8 earlier are inaccurate or false?
9 And Mr. Andjich's answer was that he was aware
10 of general solicitations and that some of the
11 individuals who purchased were not accredited. So
12 we're covering the general solicitation component of
13 that now.
14 The first answer he gave with respect to
15 examples of general solicitations that he believes
16 Par Funding might have been involved in was the
17 dinner that we just discussed. The second was what
18 he referred to as radio ads and television ads.
19 BY MR. SOTO:
20 Q Is that a fair summary of what your testimony
21 was, Mr. Andjich, what I just said?
22 A Yes.
23 Q So my question was, what evidence are you aware
24 of that Par Funding -- specifically Par Funding, not
25 ABFP -- paid for or in any way caused the general

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1 solicitations you just described: radio ads, television
2 ads, anything of the sort?
3 A I don't know.
4 Q Okay. What information -- when you mentioned
5 that sufficient efforts were not made to ensure that
6 investors were accredited, are you referring to phase
7 one investors, or are you referring to phase two LPs, as
8 we discussed earlier; or are you referring to both?
9 A I would say probably I would refer to both.
10 Q Okay. So with respect to phase one investors,
11 that is, those who purchased notes directly from
12 Par Funding between 2012 and 2017, what evidence are you
13 aware of that those phase one investors were not
14 accredited?
15 A Well, you would have to look to some of the
16 investor declarations.
17 Q Name one investor declaration for me where an
18 investor or a witness identifies or testifies that some
19 of the phase one investors were not accredited.
20 A I guess you'd have to show me the declarations,
21 and we'd have to go through them. I don't remember as I
22 sit here today.
23 Q Okay. You cannot remember a single witness who
24 testified in those declarations that phase one investors
25 were not accredited, correct? You don't remember as you

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1 sit here today?
2 A Yeah. I'd have to review those investor
3 declarations. I know there were a number of them.
4 Q I'm sorry. I didn't mean to cut off.
5 You would agree, Mr. Andjich, that it was your
6 obligation to prepare for today's deposition by
7 reviewing those declarations, correct, or any other
8 information you felt was necessary in order to prepare
9 for topic 4 of Exhibit A, correct?
10 A Yes.
11 Q Okay. And just so I'm clear, are you aware of
12 any evidence that any witness testified in a declaration
13 or otherwise that Par Funding did not take specific
14 steps, or sufficient steps, to ensure that phase one
15 investors were accredited?
16 A I don't know the -- I don't have the answer to
17 that.
18 Q I don't understand what you mean you don't have
19 the answer. Are you saying that you don't -- go ahead.
20 A I would have to review the investor
21 declarations again. I know there were a number of them.
22 I did look at them. I just don't have a specific
23 recollection as to the points you're asking about.
24 Q Okay. So you don't have any evidence -- you're
25 not aware of any evidence, as you sit here today, of a

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1 witness who was part of this investigation, leading to
2 this complaint, who said that Par Funding did not take
3 sufficient steps to ensure that its phase one investors
4 were accredited?
5 MS. BERLIN: Objection. Asked and answered.
6 BY MR. SOTO:
7 Q You can answer, Mr. Andjich.
8 A Well, there were a number of declarations that
9 I took a look at. I mean, Kara DiPietro comes to mind.
10 I know there were others. I just don't have their names
11 off the top of my head.
12 Q Okay. So you believe Kara DiPietro, in her
13 declaration, testified that Par Funding did not take
14 sufficient steps to ensure that its phase one investors
15 were accredited?
16 MS. BERLIN: I object. This isn't a memory
17 test. If you want to show him the document that
18 he's referring to -- Mr. Andjich only reviewed
19 documents that we filed in this case. So if you
20 want to show him the DiPietro declaration -- but I
21 will state on the record, anything Mr. Andjich
22 cannot recall, sitting here, since it's not a memory
23 test, despite our extensive preparation, the SEC, if
24 we don't object to the question, will just
25 supplement it after his deposition, so that you have

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1 your answers under oath.
2 MR. SOTO: So, Amie, I'm going to just state
3 for the record that that is probably the third or
4 fourth or fifth time that you've said that this
5 isn't a memory test and that he can't be expected to
6 remember everything. I understand that. There's no
7 need to repeat that. I'm asking for his
8 recollection based on the preparation that he did,
9 pursuant to the notice of deposition and the rules
10 under 30(b)(6), to tell us what evidence the SEC has
11 that Par Funding did not take sufficient steps to
12 ensure that its phase one investors were accredited.
13 BY MR. SOTO:
14 Q Mr. Andjich, if your answer is that you are not
15 aware of any, as you sit here today, I will take that
16 answer and we can move on.
17 MS. BERLIN: I believe he answered -- that
18 Mr. Andjich testified that he --
19 MR. SOTO: Amie, do not -- there is a question
20 pending. Do not instruct him how to answer, please.
21 BY MR. SOTO:
22 Q Mr. Andjich, is that a fair summary?
23 A I don't recall which specific investor or
24 investors told the SEC in a declaration that there was
25 no accreditation required or asked, but I know there are

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1 a number of SEC declarations from investors.
2 Q Okay. And are those investors who purchased
3 directly from Par, or are those investors who were LPs,
4 who purchased from agent funds?
5 A It could be both.
6 Q Okay. And you can't remember a single one
7 as you sit here today?
8 MS. BERLIN: Objection. Asked and answered.
9 BY MR. SOTO:
10 Q You can answer, sir.
11 A Well, the one that comes to mind is Kara
12 DiPietro. I don't recall exactly when she invested.
13 But I know there were a number of other declarations by
14 investors.
15 Q Okay. Do you know whether -- do you remember
16 whether Ms. DiPietro purchased a note or -- purchased a
17 note directly from Par Funding or from an agent fund?
18 A I don't know which.
19 Q Okay. Are there any others you can think of
20 as you sit here today?
21 MS. BERLIN: Objection.
22 THE WITNESS: Well, there are a number of other
23 investors, as there are declarations. I remember
24 one by the name of Beebe. That's B-E-E-B-E. Let me
25 see. Let's see. There's another one, Eric Husebo,

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1 H-U-S-E-B-O. There's a Ronald Lipowski,
2 L-I-P-O-W-S-K-I. I think declarations were prepared
3 for them. There are others. I just don't recall
4 the names.
5 BY MR. SOTO:
6 Q Okay. So let's go back to Exhibit 1 and
7 paragraph 40 -- I'm sorry -- 240.
8 Okay. So in paragraph 240 -- I'll give you an
9 opportunity to review it -- the SEC alleges that the
10 Form D filings that we just discussed falsely
11 represented that Mr. Cole and Ms. McElhone would not
12 receive gross proceeds of the securities offering; is
13 that right?
14 A Yes.
15 Q Okay. So I want to understand the SEC's
16 position here, and it's important that we understand the
17 terminology. "Gross proceeds" mean investor funds,
18 correct?
19 A Yes.
20 Q Okay. So the SEC is alleging that Mr. Cole and
21 Ms. McElhone were paid directly from investor funds? Is
22 that the allegation?
23 A I know there was an accounting performed by
24 Melissa Davis from an outside accounting firm, and that
25 will tell you exactly from which accounts the money

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1 came.
2 Q Okay. So cash that is paid back to CBSG to
3 Par Funding by merchants is not gross proceeds, correct?
4 A Could you repeat the question?
5 Q Yes.
6 Cash that comes into Par Funding from investors
7 and is then sent out to merchants, advanced to
8 merchants, and then comes back, as cash coming back from
9 those merchants, are not gross proceeds, correct?
10 MS. BERLIN: Objection. Calls for an expert
11 opinion or conclusion that this witness hasn't been
12 prepared for.
13 (Reporter clarification.)
14 MS. BERLIN: Just one moment, please.
15 Alex, I need to confer with Mr. Andjich.
16 MR. SOTO: Okay. There's a question pending,
17 and he needs to answer before you confer.
18 MS. BERLIN: Okay. So I would like point out,
19 during my deposition of Ms. McElhone, I had a
20 question pending, and you and Mr. Futerfas and
21 Ms. McElhone took a break before coming back to
22 answer. Mr. Andjich can answer this question, if he
23 knows the answer, and then I would just state that I
24 need to take a break to speak with him.
25 MR. SOTO: That's fine. I don't represent

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1 Ms. McElhone. I don't recall what it is that you're
2 saying. I would not have asked for a break on her
3 behalf. But I will insist that he answer the
4 question before we break, and then you can break and
5 confer with him.
6 MS. BERLIN: Thank you.
7 BY MR. SOTO:
8 Q So my question, Mr. Andjich, is simply, cash
9 that comes back to the company, to Par Funding, from
10 merchants does not represent investor proceeds,
11 correct -- not gross proceeds, as referenced here?
12 MS. BERLIN: And I have the same objection that
13 I stated previously. I won't repeat it.
14 BY MR. SOTO:
15 Q Mr. Andjich, you can answer.
16 MS. BERLIN: Wait, wait. Just a moment.
17 I don't believe this is within the topic. And
18 if Mr. Andjich knows this definition, he can
19 testify.
20 THE WITNESS: I don't know. All I can do is
21 tell you that there was an extensive review done of
22 the bank records and the accounts, and that those
23 numbers that are cited in the affidavit -- or the
24 complaint come from the analysis that was done by
25 Melissa Davis and her team, the outside accounting

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1 firm.

2 BY MR. SOTO:

3 Q I'm sorry. I didn't mean to cut you off.

4 You were asked to testify today with respect to

5 several topics, one of which was Lisa McElhone and Joe

6 Cole's receipt of funds, correct?

7 A Yes.

8 Q Okay. And this is one of those topics. This

9 refers to a representation and allegation made by the

10 SEC that Mr. Cole and Ms. McElhone received gross

11 proceeds from an offering, correct?

12 A Yes.

13 Q That implicates their receipt of funds,

14 correct?

15 A Yes.

16 Q So it is within the scope of the topics in the

17 notice, right?

18 A And, again, I'm going to repeat my answer. I

19 think you have to look to the declaration of Melissa

20 Davis, who's analyzed the bank accounts in this case.

21 Q Right. Melissa Davis is not the witness today;

22 you are. And you can prepare however it is you see fit,

23 which includes reviewing Melissa Davis's declaration and

24 any other evidence in order to prepare yourself to

25 answer the questions.

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1 And so my question simply is this: The SEC has

2 alleged that Mr. Cole and Ms. McElhone received gross

3 proceeds of a securities offering, correct?

4 MS. BERLIN: I'm objecting. Asked and

5 answered, and argumentative. The witness has

6 answered, and he's directed you to the evidence

7 supporting this allegation.

8 BY MR. SOTO:

9 Q Mr. Andjich, the SEC has alleged that Mr. Cole

10 and Ms. McElhone have received gross proceeds of a

11 securities offering, correct? You agreed with that a

12 few minutes ago.

13 A I believe you pointed me to that section,

14 right?

15 Q Okay. And you agree that "gross proceeds" mean

16 investor funds, right?

17 MS. BERLIN: I'm sorry to interrupt you. Is

18 this paragraph 240? Because that's what I see on my

19 screen. Or was it a different paragraph?

20 MR. SOTO: It's paragraph 240.

21 BY MR. SOTO:

22 Q Mr. Andjich, you agreed earlier that "gross

23 proceeds" mean investor funds, correct?

24 MS. BERLIN: Hold on. I object. We're looking

25 at paragraph 240, and I don't see "gross proceeds"

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1 referenced in this allegation.

2 BY MR. SOTO:

3 Q Mr. Andjich, you can answer the question.

4 You agreed earlier that "gross proceeds" mean

5 investor funds, correct; or do you want to change your

6 answer?

7 A I -- I don't know. You know, I'm looking at

8 the analysis that was done. The monies that flowed to

9 Cole and McElhone, the source of those funds, obviously,

10 can be traced to bank accounts. You know, whether there

11 was any commingling of investor funds, I don't know the

12 answer. You'd have to look to her declaration.

13 Q Okay. So your position, then, is -- the SEC's

14 position, by virtue of your designation here, is that

15 you can't tell us what "gross proceeds" mean?

16 MS. BERLIN: I'm going to object. This has

17 been asked and answered. And I don't see the phrase

18 "gross proceeds" in the paragraph that you're

19 showing him on the screen, which is paragraph 240.

20 BY MR. SOTO:

21 Q Mr. Andjich, you can answer.

22 Your position is that the SEC does not

23 understand what "gross proceeds" means?

24 MS. BERLIN: Mr. Soto, it's outside of the

25 scope. You've asked him and he's answered multiple

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1 times --

2 MR. SOTO: He hasn't answered, because you keep

3 interrupting him. And every time you interrupt him

4 with an objection, I have to re-ask it. So we can

5 just keep doing this, and then we can go to the

6 judge, and we'll just be here tomorrow, or the next

7 day and the next day, until we get the question

8 answered.

9 MS. BERLIN: If he says he doesn't know, Alex,

10 we've already told you that we will supplement in

11 writing the answer. Mr. Andjich has testified.

12 MR. SOTO: You are testifying, Amie. You are

13 testifying. And I'd ask you, again, that you stop.

14 Your objections should be narrow, should be concise.

15 You asked me for the rule. I cited the rule. It

16 specifically says that you are to be concise and

17 narrow in your objections. You are doing more

18 talking than the witness is.

19 MS. BERLIN: I would say --

20 MR. SOTO: And your objection is noted. Amie,

21 your objection is absolutely noted. You've said it

22 five times.

23 MS. BERLIN: Mr. Soto, you are speaking a lot

24 as well. I am simply stating that I think the

25 transcript will reflect you've asked the same thing

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1 over and over. I wanted to point it out, because
 2 the Court doesn't have the benefit of seeing what's
 3 on the screen. You're asking him about paragraph --
 4 you're showing him paragraph 240 and asking him
 5 about gross proceeds. And that's all I was trying
 6 to reflect. And I was also stating that I believe
 7 the witness has answered your question and directed
 8 you to the evidence supporting paragraph 240. I
 9 believe at this point it's just badgering him. If
 10 you would like to ask it again, please do, and then
 11 I'd like to speak with Mr. Andjich and take a break.
 12 BY MR. SOTO:
 13 Q Mr. Andjich, you testified earlier that "gross
 14 proceeds" means investor funds. Are you changing that
 15 answer now?
 16 A I mean, that would be my understanding, but,
 17 again, we'd have to look to the declaration of Melissa
 18 Davis as to the source of the monies that wound up in
 19 the hands of McElhone and Cole. I don't have that
 20 specific knowledge. I know she looked at a number of
 21 bank accounts. They're listed in her declaration. She
 22 could tell you what the source of those monies were.
 23 MR. SOTO: Okay. You want to take that break
 24 now?
 25 MS. BERLIN: Yes. Thank you.

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1 (A break was taken from 11:55 a.m. to
 2 12:39 p.m.)
 3 MS. BERLIN: During this break, I spoke with
 4 Mr. Soto, and I'll state on the record what he and I
 5 just discussed. And I spoke with Mr. Andjich.
 6 Mr. Andjich spent about 40 hours preparing for
 7 this deposition today, and he has been asked to
 8 regurgitate a lot of things that he memorized, and
 9 his memory is not such that he can just regurgitate
 10 everything that he prepped; and he feels that he
 11 cannot do it accurately.
 12 And so we have offered that we will designate
 13 other witnesses, people who worked on the
 14 investigation. And that, obviously, will not
 15 include any of this time towards the seven hours or
 16 limit it that way in any way. And the SEC would,
 17 you know, of course, pay for the court reporter. We
 18 can make those arrangements, that the defendants are
 19 not paying for the court reporter again, so that we
 20 don't spend more time today.
 21 What we're asking to do is to pause and then
 22 continue this on another day in the near future with
 23 different witnesses. Because despite the extensive
 24 preparation that Mr. Andjich did with me, and by
 25 himself, it's just not possible for him to

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1 regurgitate everything from memory here today and be
 2 able to respond accurately. And so he feels that
 3 way. And knowing that, that we have a witness who
 4 won't be able to give and regurgitate the accurate
 5 evidence from memory, we are asking that we
 6 continue -- we will not count, obviously, the time
 7 used today towards the time for the deposition. We
 8 will pay for the continued-deposition court reporter
 9 costs. And we apologize. We did not anticipate
 10 this, and I assure you that we did an extensive
 11 amount of preparation.
 12 So we've offered -- we've asked to go ahead and
 13 continue the deposition so that we can make sure
 14 that your deposition is worthwhile and you have a
 15 witness who's able to regurgitate all of this
 16 evidence that the witness will have to memorize.
 17 And that's it. And we would obviously do it in the
 18 very near future so that we're not delaying the
 19 defense. So we will also make this a priority item,
 20 so that we're not causing any sort of further delay
 21 from the defense in getting the 30(b)(6) testimony
 22 that they're seeking.
 23 So that's it. We're asking to just continue on
 24 another day.
 25 MR. SOTO: Okay. Our position is that the SEC

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1 should have designated more than one individual if
 2 the volume of information here is too much for one.
 3 They had that opportunity, and they chose not to do
 4 that. We are not inclined to continue the
 5 deposition. We stated our conditions.
 6 Our first condition would be that the
 7 individual designated in Mr. Andjich's place would
 8 be Linda Schmidt, who is a staff attorney and was an
 9 investigator on this case. And I believe
 10 Mr. Andjich testified she was involved as an
 11 investigator on this case as a staff attorney.
 12 The second condition would be that any of the
 13 statements Mr. Andjich has made to this point on the
 14 record would be and remain binding against the SEC,
 15 with the exception, of course, of any objections
 16 that Ms. Berlin has made with respect to the scope.
 17 So any questions that she believes are outside
 18 the scope, we could either confer, agree, disagree,
 19 litigate those, but beyond that, any statements he
 20 makes would be binding on the SEC. In other words,
 21 somebody wouldn't be able to come in and say, Well,
 22 I'm going to provide testimony that essentially
 23 erases or replaces or supplants that testimony. We
 24 would not agree to that.
 25 To this point, I think Ms. Berlin has suggested

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1 that Ms. Schmidt cannot be the sole designee, for
 2 reasons we don't need to mention on the record, but
 3 can be a designee, one of two or, you know, more
 4 designees, if we have an agreement. I need to
 5 confer with my client about that. But I do need an
 6 assurance that any of the statements, as I said,
 7 that Mr. Andjich has made to this point would be
 8 binding in the event that we brought someone else
 9 in, or others in.

10 MS. BERLIN: So, I mean, as we stated, part of
 11 the reason that we need to continue it is,
 12 Mr. Andjich's memory isn't such that -- he's not --
 13 there have been many statement where he's
 14 obviously -- and I'm sure it's clear to all of us --
 15 Mr. Andjich has testified about the wrong company,
 16 or about -- you know, things that he's confused
 17 about, who the person is.

18 So, no, we would need someone to clarify it,
 19 and Mr. Andjich's statements that -- I mean,
 20 obviously, the amended complaint is annotated in our
 21 temporary restraining order, so we all know what the
 22 evidence is that the SEC relied on. Mr. Andjich has
 23 to do it from his memory, and he's citing different
 24 evidence because he's confused about -- he's getting
 25 the companies confused and the offerings confused.

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1 And so that's why we're asking for the continuance.
 2 It's because he can't keep it all straight. And
 3 he's already testified to things that he knows, and
 4 has acknowledged to me, he jumbled and got confused
 5 on and regurgitated incorrectly.

6 So, I mean, we can't do that. Like, that would
 7 be ridiculous. I mean, we all know -- like,
 8 everything you asked in that sentence is in a
 9 temporary restraining order, with a footnote to the
 10 evidence. Mr. Andjich hasn't read any document in
 11 this case that we received after the preliminary
 12 injunction, because the deposition notice was about
 13 the evidence that supported the allegations in the
 14 complaint, and we haven't finished reviewing all of
 15 the discovery in this case. So that's how he was
 16 prepared, and that's how our subsequent -- I haven't
 17 decided what other evidence supports things.

18 But Mr. Andjich's testimony so far -- there are
 19 several things that need to be corrected. And
 20 Mr. Andjich would tell you that, that he's been
 21 confused about some things and that he realizes he
 22 doesn't -- he's not able to regurgitate it all
 23 correctly. And he realizes that, because he's
 24 incapable of doing that, we have to switch witnesses
 25 and give you someone, as soon as possible, who can

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1 do it. But we can't be bound by something that, I
 2 mean, we all know is wrong. He's given you
 3 testimony about ABFP and CBSG, and talking to you
 4 about -- I think that we all know what's going on,
 5 and so this sort of feels like a trap. The reason
 6 that we need to continue with a different witness is
 7 because it's become apparent that Mr. Andjich cannot
 8 regurgitate the evidence to you correctly by memory,
 9 without looking at something, which he hasn't been
 10 permitted to do.

11 And, Mr. Andjich, do you agree with what I've
 12 just stated, that you are unsure -- or feel that
 13 maybe some of the answers that you gave, you
 14 confused the evidence or the facts, because you just
 15 can't memorize everything in this case that was
 16 noted?

17 MR. SOTO: Well, Amie, I'm going to object to
 18 that question.

19 MS. BERLIN: It's not a question. We're on the
 20 record, and we're just making statements, and I'd
 21 like Mr. Andjich to answer that, so it's clear that
 22 I am not just making this decision. Mr. Andjich
 23 feels that he cannot regurgitate all of this from
 24 memory and that he knows he's already had some
 25 issues with his testimony.

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1 Mr. Andjich, do you agree?

2 MR. SOTO: That's fine. And I'm just going to
 3 object. To the extent that Mr. Andjich feels that
 4 he's unable to continue, I certainly don't have a
 5 problem with him stating that, but I am not going to
 6 allow you to ask a question that undermines all of
 7 the testimony he just gave, by saying, you know,
 8 broadly, Is it true that everything you said, you're
 9 confused about? That's not appropriate. We're
 10 not --

11 MS. BERLIN: Alex --

12 MR. SOTO: Hold on, Amie. Let me just make my
 13 record.

14 MS. BERLIN: Go ahead.

15 MR. SOTO: We're not at the place where it is
 16 even appropriate for you to be asking questions of
 17 Mr. Andjich, because I'm still conducting my direct
 18 examination. If you want to ask cross-examination
 19 questions, you know the rules; you know when that
 20 happens, and you know how to ask them. And that's
 21 not an appropriate way to ask. So I would object to
 22 that. If he wants to tell us that he's unable to
 23 continue, I'm happy to hear.

24 MS. BERLIN: Mr. Soto, I think I can ask
 25 anything I want or want. Like, maybe resumed the

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1 deposition. We were all talking before the
2 questioning to be resumed. So I think he can just
3 state it right now. Or do I need to get it from him
4 in a sworn declaration that I email to you? What's
5 the difference? It's better to just do it now.
6 Mr. Andjich, do you agree with the statement
7 that I made?
8 MR. SOTO: Same objection.
9 THE WITNESS: Yes.
10 MS. BERLIN: So there it is. And we don't want
11 to waste the day having you get information that's
12 wrong, Alex. And that's why I'm offering. And I
13 reviewed it. He's prepared as much as humanly
14 possible, and we need to -- we are offering to
15 provide you other witnesses very quickly, to not
16 count this towards your time, and to give you a
17 different court reporter, because Mr. Andjich, for
18 all the reasons I've stated, that he agrees with --
19 and that's based on my conversation with him --
20 everything I just said.
21 Like, I'm sorry, we're going to have to correct
22 some of those things, because his memory doesn't
23 allow him to just spit it out. And maybe we have
24 to, like, designate ten people, because of how broad
25 the 30(b)(6) is, so people can memorize the evidence

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1 attached to the motion. But Mr. Andjich can't do
2 it.
3 MR. SOTO: Okay. Well --
4 MS. BERLIN: I have to ask to continue, and I
5 think that's -- I'm just trying to do the right
6 thing here, because once I realized and once I
7 talked to Mr. Andjich, and he expresses that to me,
8 which is what occurred during the break, I have an
9 obligation then to make sure that I give you people
10 who can answer these questions, and to do it as
11 quickly as possible, so that you can get the
12 discovery that you want, so that it's meaningful.
13 MR. SOTO: Okay. Well, you've made your
14 record; I've made mine. We object to your,
15 essentially, cancelling and postponing this
16 deposition. We are going to have to bring this up,
17 obviously, with the Court. We'll try to confer with
18 you before then and consider the proposal that you
19 made. But as I said, we don't agree with it.
20 So if your position is that Mr. Andjich can't
21 continue, and you are -- you are unilaterally making
22 the decision to cut this off, you're doing that over
23 our objection. That's it.
24 MS. BERLIN: Well, I don't want to do that. I
25 mean, we can continue, but the witness might just

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1 say he doesn't know to every question. I mean,
2 Alex, it's up to you, but he's identified for you
3 that he feels that he cannot accurately regurgitate
4 the evidence to you. So if you want to continue for
5 the next seven hours and use this time as your
6 30(b)(6), with a witness who's told you that he's
7 not -- he can't accurately regurgitate all of the
8 evidence to you, I don't want -- I was doing this
9 because I thought it was the right thing to do. I
10 want to give you the witnesses who can do it.
11 If you want to use Mr. Andjich, even though his
12 answers might be that he doesn't know, and even put
13 on the record about his memory, that's your
14 decision. I'm certainly not -- we're not going to
15 walk out of this, but I just -- I didn't want you to
16 waste your day, and I thought I had a duty to notify
17 you as soon as I was advised. So if you want to use
18 this as your 30(b)(6) deposition, you can do that,
19 but Mr. Andjich's answers are probably -- I mean,
20 he's told you that he really can't proceed.
21 MR. SOTO: Right. So here's the issue -- and
22 I'll let Mr. Andjich --
23 MS. BERLIN: We're not walking out. So if you
24 want us -- I mean, I'm not going to walk out. Alex,
25 that's why I called you. I was trying to find a way

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1 that I could do the right thing here, and I feel
2 like I have a professional responsibility to notify
3 you right away and to try to correct this to the
4 best of my ability. And there's no further amount
5 of preparation that's going to help with
6 Mr. Andjich.
7 MR. SOTO: Mr. Andjich, did you want to say
8 something?
9 THE WITNESS: Look, my preparation, in large
10 part, involved looking at the motion for temporary
11 restraining order, and then looking at the exhibits
12 that were footnoted in that motion. And I know
13 there were at least 170 or more exhibits, and I'm
14 happy to go through paragraph by paragraph and point
15 out the exhibit that proves the allegation that the
16 SEC is making; but I certainly don't want to bind
17 the SEC for something that I've mistakenly stated.
18 MR. SOTO: Okay. Well, it's the SEC's
19 obligation to ensure that they present us with a
20 witness who is prepared. I understand the
21 challenges that you've suggested, that you
22 encountered in preparing. The SEC could've
23 designated you and one, two, three, or ten other
24 people, as Amie just said. They chose not to do
25 that. We disagree that the information you're

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1 providing isn't accurate. It's obviously a matter
2 of perspective. We're in litigation. We disagree
3 with respect to the facts and the evidence. So what
4 we will do --
5 MS. BERLIN: Alex, it's not that. Mr. Andjich
6 identified during a break -- like, he was talking to
7 you about, you know, like, radio ads and TV with
8 respect to CBSG, and he realized that he was
9 referring to ABFP. Like, he's --
10 MR. SOTO: I understand.
11 MS. BERLIN: -- there are memory issues here.
12 So, I mean, you get one shot at a 30(b)(6), and I'm
13 saying to you that we have recognized this is a
14 problem and let me fix it. We could not have
15 predicted that this would have occurred.
16 Mr. Andjich and I have spent weeks and time, close
17 to 40 hours, just going scrupulously through all of
18 the evidence supporting every claim, which is what
19 your topics -- and looking at all of your topics and
20 preparing topic by topic, item by item, everything
21 that you asked.
22 So Mr. Andjich has advised, and you heard him
23 agree with me, that he feels that he doesn't have
24 the -- he cannot regurgitate these things accurately
25 to you from memory. So I'm offering to give you --

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1 I've made my offering, and I feel like that's the
2 right thing to do, and it's the obligation to do,
3 once we identified that the witness can't do it.
4 MR. SOTO: Okay. You also said during our
5 conferral that you weren't going to -- my concern is
6 that we've been talking and conferring and taking
7 more breaks than we've been actually deposing
8 anyone. So I also want to state on the record that
9 you assured me that this seven-hour time period
10 isn't going to be an issue. So we can --
11 MS. BERLIN: We certainly would not count,
12 like, today towards your seven hours at all, either.
13 So, I mean, no, of course. Like, I'm trying to
14 rectify this, the issue that has arisen. So we
15 would -- you know, you're absolutely right. Like, I
16 agree with what you stated, is the bottom line. We
17 wouldn't count --
18 MR. SOTO: Let me do this: Why don't we take a
19 break. Let me confer, and we'll either come back
20 on, or I'll call you. I don't even know what time
21 it is. It is now 1 o'clock. Why don't we take a
22 30-minute break.
23 MS. BERLIN: Okay.
24 MR. SOTO: Let me consider this and what we're
25 going to do, and under what conditions we would do

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1 it, and we'll get back on at 1:30.
2 MS. BERLIN: Okay. Sounds great.
3 (A break was taken from 12:57 p.m. to
4 1:49 p.m.)
5 MR. SOTO: We want to put our agreement on the
6 record. The parties have agreed to postpone the
7 deposition. The SEC is going to identify another
8 designee or designees for purpose of the 30(b)(6).
9 They have agreed to have Linda Schmidt serve as one
10 of the designees on specific topics. We identified
11 those topics as conversations that she had with
12 investors, merchants, or counsel for either, and any
13 emails in which she was a participant, that is,
14 someone who drafted, received, or was copied on an
15 email -- in connection with this investigation,
16 obviously.
17 To the extent this case is tried, we have
18 agreed that we would use -- the SEC would not object
19 to our use of her deposition testimony, even if she
20 is available, because she might serve as trial
21 counsel. And if that is the case, we would use her
22 deposition testimony, and she would not be
23 identified in that deposition testimony as the
24 speaker. That deposition testimony would be
25 ascribed to an SEC representative or designee.

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1 The other component of this is that we have
2 agreed to schedule the next phase of this deposition
3 for July 21st, assuming the designees are available.
4 And Ms. Berlin has indicated to me that she's going
5 to work in good faith to make sure that that
6 happens. If that isn't possible, then we've agreed
7 to August 2nd, to reconvene the remainder of this.
8 We've also agreed that we will get seven hours
9 anew, for the remainder, that the SEC will pay for
10 the court reporter's fees to this point, and that
11 we --
12 MS. BERLIN: Alex, I was actually offering that
13 we would pay for your seven hours, or however long
14 you take for the continuation, which will be a
15 longer period of time.
16 MR. SOTO: Okay. Thank you for that, Amie.
17 MS. BERLIN: I was just offering that we could
18 just make the arrangements, and we could just
19 schedule it with the court reporter and do it by
20 Webex.
21 MR. SOTO: Yeah. That's fine.
22 Okay. So the only other -- two other things.
23 We agreed that we are not -- as counsel for
24 Mr. LaForte, not in any way agreeing that the
25 testimony that Mr. Andjich has provided to this

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1 point has been erased or will be supplanted by other
 2 testimony. The SEC is free, through interrogatories
 3 or whatever else is within the rules of evidence, to
 4 clarify any issues they wish, but his testimony
 5 today remains. And finally, we are advising that we
 6 are not waiving our right to request fees. That's
 7 it.
 8 MS. BERLIN: Sounds good.
 9 MR. SOTO: Okay. Thank you all.
 10 (The taking of the deposition was concluded.)
 11 (Reading and signing waived.)
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1 REPORTER'S DEPOSITION CERTIFICATE
 2
 3 STATE OF FLORIDA:
 : SS
 4 COUNTY OF DADE:
 5
 6 I, Marlene Gutierrez, Notary Public, certify that
 7 I was authorized to and did stenographically report the
 8 deposition of RAYMOND ANDJICH; that a review of the
 9 transcript was not requested; and that the transcript is
 10 a true and complete record of my stenographic notes.
 11
 12 I further certify that I am not a relative,
 13 employee, attorney, or counsel of any of the parties,
 14 parties' attorney, or counsel connected with the action,
 15 nor financially interested in the action.
 16
 17 Dated this 14th day of July, 2021.
 18
 19

 20 MARLENE GUTIERREZ
 21
 22
 23
 24
 25

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1 CERTIFICATE OF OATH
 2 STATE OF FLORIDA:
 : SS
 3 COUNTY OF DADE:
 4
 5 I, Marlene Gutierrez, Shorthand Reporter and
 6 Notary Public, State of Florida, certify that RAYMOND
 7 ANDJICH appeared before me via videoconference on the
 8 9th of July, 2021, and was duly sworn.
 9
 10 WITNESS my hand and official seal this 14th day
 11 of July, 2021.
 12
 13
 14

 15 marlene Gutierrez
 16 Notary Public-State of Florida
 17 My Commission #GG 126375
 18 Expires: July 20, 2025
 19
 20
 21
 22 Personally known _____
 23 Or Produced Identification ___x
 24 Type of Identification Produced ___government ID
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FLORIDA RULES OF CIVIL PROCEDURE

Rule 1.310

(e) Witness Review. If the testimony is transcribed, the transcript shall be furnished to the witness for examination and shall be read to or by the witness unless the examination and reading are waived by the witness and by the parties. Any changes in form or substance that the witness wants to make shall be listed in writing by the officer with a statement of the reasons given by the witness for making the changes. The changes shall be attached to the transcript. It shall then be signed by the witness unless the parties waived the signing or the witness is ill, cannot be found, or refuses to sign. If the transcript is not signed by the witness within a reasonable time after it is furnished to the witness, the officer shall sign the transcript and state on the transcript the waiver, illness, absence of the witness, or refusal to sign with any reasons given therefor. The deposition may then be used as fully as though signed unless the court holds that the reasons given for the refusal to sign require rejection of

the deposition wholly or partly, on motion under
rule 1.330(d)(4).

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ARE PROVIDED FOR INFORMATIONAL PURPOSES ONLY.
THE ABOVE RULES ARE CURRENT AS OF APRIL 1,
2019. PLEASE REFER TO THE APPLICABLE STATE RULES
OF CIVIL PROCEDURE FOR UP-TO-DATE INFORMATION.

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COMPANY CERTIFICATE AND DISCLOSURE STATEMENT

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