

**UNITED STATES OF AMERICA**  
**Before the**  
**SECURITIES AND EXCHANGE COMMISSION**

**ADMINISTRATIVE PROCEEDING**

**File No. 3-20460**

**In the Matter of**  
**DAVID P. ORTIZ,**  
**Respondent.**

**DIVISION OF ENFORCEMENT'S MOTION FOR  
SUMMARY DISPOSITION AGAINST DAVID P. ORTIZ**

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## **I. INTRODUCTION**

The Division of Enforcement, pursuant to Rule 250(b) of the Commission's Rules of Practice, 17 C.F.R. § 201.250(b), moves for summary disposition of this matter. As set forth in this motion, the undisputed material facts demonstrate that David Ortiz, a state-registered and experienced investment adviser, acted as an unregistered broker-dealer for at least 16 months in selling more than \$6 million of the unregistered securities of 1 Global Capital, LLC ("1 Global" or "the Company"), a Florida merchant cash advance business. The facts further show that 1 Global operated as a massive fraud while raising \$320 million from more than 3,600 investors nationwide, and that its Chairman and CEO misappropriated more than \$32 million.

The undisputed material facts show Ortiz ignored a series of red flags that should have alerted him that 1 Global was lying to investors and sales agents about its business operations and use of investor funds. Just as egregiously, Ortiz sent a series of emails to clients extolling the benefits of the 1 Global investment that contained statements either he knew weren't true or he made recklessly without engaging in even the most minimal inquiry as to their truth. For example, 1 Global's marketing materials (which Ortiz distributed to and discussed with investors) and other materials he received about 1 Global contained conflicting statements about whether the Company had audited financial statements. Yet Ortiz never bothered to ask to see 1 Global's financial statements or reconcile the discrepancy while pitching the investment as a sound product to dozens of investment adviser clients and other customers. On at least one occasion he emailed a potential 1 Global investor that the Company was "independently audited."

In another example, 1 Global promoted itself exclusively as a merchant cash advance company. Yet the document investors signed when they invested in 1 Global clearly stated that it was within 1 Global's sole discretion how it would use investor funds. Ortiz read the investment

document and discussed it with his clients in detail. When confronted with this obvious discrepancy between what 1 Global told him it was doing and what it said in writing, Ortiz ignored it and continued to promote and sell the investment.

These examples and many others demonstrate Ortiz's reckless conduct. They show the Division is entitled to summary disposition, and to the relief we seek of securities industry and penny stock bars.

## **II. PROCEDURAL HISTORY**

The Commission filed a complaint in United States District Court against Ortiz on March 17, 2021, alleging he violated Sections 5(a) and (c) of the Securities Act of 1933 ("Securities Act") and Section 15(a)(1) of the Securities Exchange Act of 1934 ("Exchange Act") in connection with his offer and sale of 1 Global securities from mid-2017 through July 2018. Complaint in *SEC v. Ortiz*, Case No. 21-cv-60590, Southern District of Florida, attached as Exhibit 1. Several weeks later, Ortiz agreed to settle the action, and on August 5, 2021, the District Court entered a consented-to final judgment against Ortiz that included a permanent injunction against violations of Securities Act Sections 5(a) and (c) and Exchange Act Section 15(a)(1), disgorgement of \$149,986, prejudgment interest of \$16,216, and a civil penalty of \$30,000. Final Judgment Against Defendant David Ortiz, attached as Exhibit 2; Consent of Defendant David Ortiz to Final Judgment, attached as Exhibit 3.

Most relevant to this proceeding, Paragraph 11 of Ortiz's consent provided that "in any disciplinary proceeding before the Commission based on the entry of the injunction in this action, Ortiz understands that he shall not be permitted to contest the factual allegations of the Complaint in this action." Ex. 3 at Page 4, ¶11. Furthermore, the final judgment the Court entered against Ortiz incorporated his consent. Ex. 2 at Page 6, Section III.

Based on entry of the injunction in the District Court case, the Commission instituted the Order Instituting Proceedings (“OIP”) in this matter on August 13, 2021 pursuant to Section 15(b) of the Exchange Act and Section 203(f) of the Investment Advisers Act of 1940 (“Advisers Act”). In summary, the OIP alleges that Ortiz acted as an unregistered broker-dealer when he offered and sold 1 Global securities in unregistered transactions.

Ortiz answered the OIP on September 19, 2021, in which he acknowledged entry of the injunction against him and did not dispute the allegations of the District Court complaint. He denied that remedial sanctions are in the public interest for a variety of reasons. The parties then held a pre-hearing conference in which they agreed on a schedule for the Commission’s summary disposition motion, which the Commission adopted in a Scheduling Order dated November 5, 2021. The Division files this motion pursuant to the deadline set forth in the Scheduling Order.

### **III. FACTS**

#### **A. The District Court Complaint**

As noted above, Ortiz is precluded from contesting the factual allegations of the District Court complaint by virtue of his consent to the final judgment in that action. Ex. 3 at Page 4, ¶11. Therefore, the Commission can take as true the following facts against Ortiz.

#### **1. 1 Global’s Fraud**

From 2014 until July 27, 2018, 1 Global and its Chairman and CEO, Carl Ruderman, fraudulently raised at least \$320 million from the sale of unregistered securities to more than 3,600 investors nationwide. Ex. 1 at ¶10. 1 Global was in the business of funding merchant cash advances (“MCAs”), short-term loans to small and medium-sized businesses. *Id.* 1 Global funded its MCA business and operations almost entirely with money from investors. *Id.*

For the vast majority of the four-plus years 1 Global offered and sold its investment, it used

instruments entitled either a Syndicate Partner Agreement or a Memorandum of Indebtedness (“MOI”) as the note or contract between the Company and investors. *Id.* at ¶11. The MOIs called investors lenders. *Id.* While the MOI stated it was a nine-month note, for most of the time 1 Global raised money from investors the MOI also stated the note would automatically roll over into a new nine-month term unless the investor expressly informed the Company in writing at least 30 days before the end of the nine months that they did not want to renew the note. *Id.* at ¶12.

1 Global represented to investors in marketing materials it gave its sales agents to distribute – which Ortiz received from an intermediary - that it collected an average of \$1.30 to \$1.40 on each dollar it advanced in an MCA. *Id.* at ¶¶13, 22. This was the means by which 1 Global and investors both purportedly made a profit. *Id.* at ¶13. Although 1 Global sent investors monthly account statements purporting to show each investor’s account credited with interest payments, investors did not receive those payments until they cashed out their investment. *Id.* at ¶14. Rather, 1 Global commingled all investor funds into its various bank accounts and sometimes reinvested the investor money into new MCAs. *Id.* at ¶11. This practice allowed 1 Global and Ruderman to misappropriate investor funds. *Id.* at ¶14.

1 Global and Ruderman made material misrepresentations and omissions in marketing materials and on monthly account statements. They included: (A) 1 Global would use investor money to fund MCAs; (B) the monthly statements accurately disclosed the existing value of the investment; and (C) the Company’s supposed independent audit firm agreed with 1 Global’s method of calculating investors’ returns. *Id.* at ¶16.

In reality, 1 Global and Ruderman used a substantial amount of investors’ funds for purposes other than making MCAs, including on operations and non-MCA business transactions. *Id.* at ¶17. In addition, Ruderman misappropriated at least \$32 million in investor funds to enrich

himself as well as several companies in which he or his family members had a direct interest. *Id.* This included money to help fund a family vacation to Greece, monthly payments for a Mercedes Benz, monthly American Express credit card payments, payments for Ruderman's household staff, \$4 million to his family trust, and \$1 million to one of his sons to invest in cryptocurrency. *Id.*

Furthermore, 1 Global and Ruderman provided every investor with a monthly account statement that falsely showed the investor's portfolio value. *Id.* at ¶18. The statements reflected the investor's fractional interest in a number of MCAs, and a monetary figure representing the amount of the investment that was purportedly sitting in 1 Global's bank accounts available for MCA funding. *Id.* However, starting no later than October 2017, the monthly account statements were false because, due in large part to Ruderman's misappropriation, they overstated by \$23 million to \$50 million the amount of cash available for investors in 1 Global's bank accounts. *Id.* at ¶19. Because that amount was false, the total value of each investor's portfolio and the rate of return each account statement showed were overstated. *Id.*

Finally, each investor's 1 Global monthly account statement falsely claimed, "Our independent audit firm, Daszkal Bolton L.L.P., has endorsed and agrees with the rate of return formula." *Id.* at ¶20. However, Daszkal Bolton never audited 1 Global's financial statements, and never endorsed or agreed with 1 Global's rate of return formula. *Id.*

1 Global did not register its securities offering with the Commission, and there was no applicable exemption from registration for this offering. *Id.* at ¶4. 1 Global's business came to a crashing halt when it filed for bankruptcy in July 2018, leaving many of Ortiz's customers and thousands of other investors with massive losses. *Id.* at ¶3.

## 2. Ortiz's Actions

Ortiz, 60, resides in Whittier, California. *Id.* at ¶6. He is a 100 percent owner of David

Ortiz Advisors, Inc. (“Ortiz Advisors”), a California company registered during the events alleged in the complaint as an investment adviser in that state. *Id.*; *see also* Testimony Transcript of David Ortiz, attached as Exhibit 4, at 18 L.14 to 19 L.21. Ortiz was associated with Ortiz Advisors as an investment adviser, held Series 6, 63, and 65 securities licenses during the events in question, and still holds the Series 65 license. Ex. 4 at 13 L.21-23; *see also* David Patrick Ortiz CRD, attached as Exhibit 5, at 5 and 8. Ortiz Advisors’ California registration was terminated as of October 27, 2021. David Ortiz Advisors IARD, attached as Exhibit 6, at 3. During the time he offered and sold 1 Global’s securities, Ortiz was not registered as a broker-dealer or associated with a registered broker-dealer. Ex. 1 at ¶4.

1 Global recruited a network of sales agents. *Id.* at ¶21. Ortiz learned of the 1 Global investment from an entity he did business with that called itself an alternative investment wholesaler. *Id.* Ortiz signed an agreement with the wholesaler to offer 1 Global’s notes for a commission of approximately 2.5 percent on all direct sales he made. *Id.*

The wholesaler provided 1 Global sales materials to Ortiz for use in marketing the investment. *Id.* at ¶22. Those materials included a list of Frequently Asked Questions and a description of the MCA program and the investment process. *Id.* The Frequently Asked Questions claimed 1 Global investors had *averaged* “high single digit” and “low double digit” annual returns. *Id.* at ¶23. In addition, 1 Global sent copies of monthly investor account statements to Ortiz and other sales agents to show investors. *Id.* Those statements showed returns ranging from 8 to 17 percent a year. *Id.*

Ortiz used the sales materials in soliciting clients to invest, attaching them to emails and using the information when he spoke to prospective investors. *Id.* at ¶22. He told investors 1 Global could earn them high single digit to low double digit returns a year. *Id.* at ¶24. In at least

one instance, Ortiz emailed a prospective investor stating that 1 Global averaged a 15 percent annual return – a figure even higher than 1 Global used to promote its notes. *Id.*

Ortiz also repeated 1 Global’s assertions that the Company offered better returns than fixed instruments such as annuities, and was a safe, short-term alternative to more risky stock market investments. *Id.* at ¶25. In addition, he personally vouched for the Company’s business model. *Id.* For example, an email to an investor stated “as far as credit worthiness is concerned, this company relative to others I have reviewed has the strictest underwriting standards and lowest default rate. There are reserves that protect the principle as well ultra-diversification.” *Id.*

Ortiz furthermore forwarded 1 Global’s Frequently Asked Questions to investors without checking to see whether those representations conflicted with his own knowledge. *Id.* at ¶26. One of those Frequently Asked Questions falsely stated that investor “returns are offered and secured by [the MCA] funding portfolio itself.” *Id.* Although Ortiz knew investors’ investments were not secured by the MCA loans, he never questioned 1 Global about the discrepancy and continued to send the Frequently Asked Questions to investors. *Id.*

The MOI, the document investors signed to make their investment in 1 Global and which Ortiz reviewed with investors, clearly stated that it was within 1 Global’s sole discretion how to use investors’ funds. *Id.* at ¶27. Ortiz never questioned this statement or how it contradicted the Company’s representations that investor funds were secured by MCAs. *Id.*

1 Global’s outside counsel told Ortiz and other sales agents that 1 Global’s notes were not securities because they were only for terms of nine months. *Id.* at ¶28. Although aware of the automatic rollover provision in the MOIs, Ortiz never questioned whether that provision affected whether the notes were for longer than nine months. *Id.* Ortiz also never spoke to anyone at Daszkal Bolton to verify that the firm was 1 Global’s “independent auditor” or whether it truly

verified 1 Global's formula for determining investors' rates of return. *Id.* at ¶29. Despite that, and despite never seeing any audited financial statements from 1 Global, Ortiz sent at least one email to an investor stating that 1 Global was "independently audited." *Id.*

From no later than July 2017 through July 2018, Ortiz used the 1 Global materials to offer and sell 1 Global's securities to investors via various means, including emails, telephone calls, and in-person meetings. *Id.* at ¶30. Through the wholesaler, 1 Global paid Ortiz \$149,986 in transaction-based sales commissions, earned as a result of Ortiz raising approximately \$6 million in transactions with at least 60 investors. *Id.*

### *B. Evidence That Ortiz Was Reckless And Ignored Red Flags*

#### *1. Ortiz's Insufficient Due Diligence On 1 Global*

In addition to owning his own investment adviser firm, Ortiz was an experienced investment adviser representative. Ex. 4 at 16 L.17 to 19 L.9; Ex. 5 at 3-8. Ortiz has held securities licenses and acted as an investment adviser at various firms, including his own, from 1994 through the present. Ex. 4 at 16 L.17 to 19 L.9; Ex. 5 at 3-8. In addition to being an investment adviser and the owner of his own advisory firm, Ortiz acted as the chief compliance officer for Ortiz Advisors. Ex. 4 at 37 L.24 to 38 L.7. As an investment adviser, he owed the 400 to 500 clients his firm services a fiduciary duty to look out for their best interests in advising them. *Id.* at 18 L.7-11. Ortiz marketed and sold 1 Global notes to his investment adviser clients, among others. *Id.* at 73 L.2-8.

As an investment adviser, Ortiz purported to advise clients to diversify their portfolios. *Id.* at 69 L.5 to 70 L.15. He advised clients there were three basic "buckets" to put their money into – safe or guaranteed investments such as CDs and annuities; non-guaranteed investments that could achieve higher returns but with more risk, such as stock; and "nontraditional" alternative

investments that have less liquidity than stocks but better returns than an annuity or CD. *Id.* at 70 L.4-15. 1 Global was one of those alternative investments. *Id.* at 69 L.5 to 70 L.15.

Ortiz first began doing business with a company called American Alternative Investments (“AAI”), a “wholesaler” of alternative investments, in about 2015. Ex. 1 at ¶21; Ex. 4 at 40 L.18-25. AAI would find alternative investments and then solicit investment advisors and other agents to sell them. Ex. 4 at 39 L.13-24. Ortiz began his association with AAI by selling life settlement contracts in 2015, then learned about 1 Global from AAI at some point in 2016. *Id.* at 40 L.18-25 and 41 L.20 to 42 L.3.

Ortiz conducted minimal due diligence on 1 Global before starting to sell the Company’s promissory notes. He attended a webinar and workshops put on by AAI about 1 Global. *Id.* at 41 L.17 to 42 L.3. He could only specifically identify two workshops - one in September or October of 2016 and the other in April of 2017. *Id.* At the 2017 seminar, 1 Global’s outside counsel, Dale Ledbetter, spoke. *Id.* Ortiz spoke to Ledbetter only two or three times before he started selling 1 Global. *Id.* at 48 L.7-10. Ortiz did not identify anyone else at 1 Global he spoke to before starting to sell the Company’s notes. *Id.* at 51 L. 20-24 (spoke to 1 Global executive Scott Merkelson later in 2017 *after* he started selling the notes).<sup>1</sup>

In fact, Ortiz acknowledged he did not have a direct relationship with 1 Global, instead getting most of his information from and relying on the principals of AAI for information about the Company. *Id.* at 41 L.14-15, 42 L.14-21, and 45 L.18 to 47 L.6. The record is replete with instances where Ortiz – a registered investment adviser with a fiduciary duty to his clients – relied on statements by AAI principals or written due diligence materials they had provided, without

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<sup>1</sup> The complaint indicates Ortiz started selling 1 Global notes no later than July 2017, but evidence shows he started offering and selling the notes as early as April 2017. Email of April, 9, 2017 from Ortiz to a client recommending 1 Global, attached as Exhibit 7.

following up with 1 Global or other third parties about crucial information on 1 Global. *See, e.g., Id.* at 45 L.18 to 47 L.6 (relied on statements by AAI principal and written due diligence materials AAI gave him about 1 Global's purported relationship with the accounting firm of Daszkal Bolton); 55 L. 18 to 56 L.9 (relied on written materials and reputations of 1 Global's outside counsel to conclude 1 Global's notes were not securities instead of talking to those attorneys further or seeking his own legal or compliance advice).

While Ortiz received a written due diligence package from AAI consisting largely of 1 Global's marketing materials, he ignored conflicting statements in the materials. For example, as described in more detail in Section III.B.2 below, various 1 Global marketing documents contained contradictory statements about whether 1 Global had audited financial statements. Ex. 4 at 172 L.20 to 173 L.2. Yet Ortiz never asked to see audited financial statements. *Id.* at 173 L.11-12. In another example, the MOI expressly stated that investor loans to 1 Global were secured by the assets in their accounts. *Id.* at 133 L.22 to 134 L.5. Although Ortiz said he always understood the loan to be unsecured, he never questioned that statement. *Id.* at 134 L.6-24.

As noted in Section III.A.2 above, 1 Global consistently touted itself as a merchant cash advance Company. Yet the MOI, the document investors signed to make their investment in 1 Global, which Ortiz reviewed with investors, clearly stated it was within 1 Global's sole discretion how to use investors' funds. Ex. 1 at ¶27; Ex. 4 at 122 L.5 to 123 L.8. Ortiz, a registered investment adviser and chief compliance officer, assumed without asking what the statement meant and never questioned how this statement conflicted with 1 Global's representations about how it would use investor money. Ex. 4 at 122 L.5 to 123 L.8. Additionally, 1 Global marketing materials also contained inconsistent statements about the MCA write-off rate, with one document saying it was four percent and another one eight percent. *Id.* at 105 L.20 to 107 L.1. Again, Ortiz

didn't even notice the contradiction, let alone question it. *Id.*

The only additional due diligence Ortiz conducted was to see what he could find on the Internet about 1 Global, such as biographies of the Company's outside counsel and purported outside accounting firm, and any complaints about the Company from third parties. *Id.* at 42 L.23 to 44 L.6. Although he had a third-party compliance firm advising him, he never asked the firm to research anything about 1 Global or give him any type of opinion about the Company (other than in what account he should deposit his commissions), including whether its notes were securities. *Id.* at 36 L.5-18 and 59 L.20 to 60 L.3.

## 2. 1 Global's Purported Audited Financial Statements

1 Global's marketing materials and offering documents contained differing assertions about whether it had audited financial statements. Ortiz received a 1 Global marketing brochure from AAI, which he used in discussing 1 Global with his clients, which contained the statement "accounting and auditing services are provided by the firm of Daszkal Bolton." Ex. 4 at 93 L.3-14 and 95 L.13-20; *see also* Merchant Cash Advance brochure, attached as Exhibit 8, at 3. A separate document AAI sent to Ortiz in 2016 about 1 Global was even more definitive – stating "External Independent CPA firm audits company financial statements annually." Ex. 4 at 170 L.9 to 172 L.7; *see also* 1 Global Capital Financial Services brochure dated October 24, 2016, attached as Exhibit 9, at 20.

However, in direct contrast to those statements, a third document AAI sent to Ortiz about 1 Global, also in 2016, provided only unaudited 1 Global financial statements and clearly specified that "no audited financial statements are available at this time." Ex. 4 at 163 L.13 to 165 L.10; *see also* Due Diligence Review for 1<sup>st</sup> Global Capital, attached as Exhibit 10, at 7, ¶¶29 and 30. Ortiz claimed that whether 1 Global had audited financial statements was important to him. Ex. 4 at 62

L.17-23. Yet despite the issue being important, Ortiz:

- Claimed he never even *noticed* the blatant contradiction between the documents – one claiming to have audited financial statements and one expressly stating there were none (*Id.* at 172 L.20 to 173 L.2);
- Never asked to see additional 1 Global financial statements (*Id.* at 173 L.11-12);
- Received no written proof of Daszkal Bolton’s work (*Id.* at 172 L.3-7); and
- Never contacted Daszkal Bolton to confirm whether that firm did work for 1 Global, and, if so, what work it did (*Id.* at 45 L.18-20). Instead, he took the word of 1 Global and a principal of AAI that Daszkal Bolton did work for 1 Global, although no one verified the specific work Daszkal Bolton allegedly performed (*Id.* at 45 L.18 to 48 L.19).

### 3. 1 Global Notes Purportedly Were Not Securities

Prior to Ortiz offering and selling 1 Global’s notes, Ledbetter told him the notes were not securities because the notes were only for nine-month terms, which made them exempt from registration under the securities laws. *Id.* at 53 L.10 to 56 L.9. A principal of AAI repeated that assertion, and Ortiz also said he saw an opinion letter from a colleague of Ledbetter memorializing that analysis. *Id.* at 53 L.14 to 54 L.22.

Ortiz attempted to do his own research on the issue, which resulted in him finding one blog that “answered the question directly” as well as “a lot of ambiguous information.” *Id.* at 56 L.21-24. Importantly, he found a pamphlet from FINRA, the organization that oversees and helps regulate registered broker-dealers, which discussed the risks of securities registration and the need for due diligence and attorney and accountant reviews. *Id.* at 56 L.24 to 57 L.7.

Despite being his firm’s chief compliance officer, and despite reviewing a self-regulatory organization’s express warning about the risks of registration issues, Ortiz did nothing else. He *assumed* because 1 Global *said* it employed attorneys and accountants, “I felt that it was covered.” *Id.* at 56 L.24 to 57 L.7. In addition, because he thought Ledbetter and his colleague had good resumes and reputations, he assumed they must have known what they were talking about. *Id.* at

55 L.18 to 56 L.5. He never even asked for a copy of the opinion letter and certainly did not employ his own counsel. *Id.* at 55 L.18 to 56 L.9.

This inaction and willful blindness continued after Ortiz began selling 1 Global securities. As set forth in Sections III.A.1 and 2 above, the MOI contained a provision in which the note automatically renewed after nine months unless the investor expressly informed the Company in writing at least 30 days before the end of the nine months that they did not want to renew the note. Ex. 1 at ¶12. *See also* Sample MOI, attached as Exhibit 11, at 19, ¶6. Ortiz never thought to ask anyone at 1 Global if the automatic renewal extending the term of the notes affected the nine-month analysis. Ex. 4 at 58 L.22 to 59 L.24.

It turns out that Ortiz was correct in one sense – Ledbetter and his colleague Jan Atlas did know what they were talking about. They knew the 1 Global note *was*, in fact, a security required to be registered with the Commission, and they further knew that two opinion letters stating the opposite that they drafted in May and August of 2016 (one of which Ortiz saw) were false. Plea Agreement of Jan Atlas in *United States v. Atlas*, Case No. 19-cr-60258 (S.D. Fla. Oct. 24, 2019), attached as Exhibit 12, at 9-12, ¶17; Plea Agreement of Dale Ledbetter in *United States v. Ledbetter*, Case No. 20-cr-60103 (S.D. Fla. Jan. 14, 2021), attached as Exhibit 13, at 8-12, ¶15.

#### 4. Ortiz's Reckless Communications With Investors

Ortiz sent a series of emails to clients interested in 1 Global containing statements that either he knew were not true or he made without knowing whether they were. For example, on April 9, 2017, Ortiz sent an email to a client attaching two brochures for alternative investments, one of which was for 1 Global. Ex. 7. Even though he had just started selling 1 Global notes, Ortiz wrote his client that “both of these have been performing very well. They have both been *independently audited* and due diligence has been done.” *Id.* (emphasis added).

By this time, Ortiz had received 1 Global documents containing conflicting statements about whether the company had audited financial statements, none of which he bothered to clarify. *See* Section III.B.2 above. Thus, at a minimum, Ortiz made the statement that 1 Global was independently audited without knowing whether it was true, and potentially knowing it was not true. *Id.* When pressed for an explanation, Ortiz – a registered investment adviser and chief compliance officer – actually claimed not to know what he meant by the phrase “independently audited” that *he* used. Ex. 4 at 162 L.22 to 163 L.12.

On June 8, 2017, in response to a potential investor’s email seeking more specific information about 1 Global, Ortiz agreed that 1 Global had been around “since the early 2000s,” “has had a steady and positive rate of return for investors across the board,” and was “considered a safe(r) investment opportunity.” June 2017 Email Chain, attached as Exhibit 14, at 2; Ex. 4 at 143 L.6 to 145 L.17. Ortiz also wrote that the Company was paying 15 percent annual returns. Ex. 14 at 2; Ex. 4 at 144 L.3-20. Ortiz knew the company had only been in existence since about 2013, that it was not a truly safe investment, and that 15 percent was the highest return even 1 Global was telling investors its notes earned when he wrote the June 8, 2017 email. Ex. 4 at 144 L.3 to 145 L.17. His excuse as a registered investment adviser: “I was answering in haste.” *Id.* at 145 L.12-13.

Two months later, in October 2017, Ortiz again wrote a client extolling the benefits of investing in 1 Global. This time, 1 Global was one of two alternative investments Ortiz recommended. October 3, 2017 Email Chain, attached as Exhibit 15, at 2. In response to a client’s questions about how much risk the 1 Global investment involved and how credit-worthy the Company was, Ortiz wrote, in part:

As far as credit worthiness is concerned, this company relative to others I have reviewed has the strictest underwriting standards and lowest default rate. There are reserves that protect

the principle as well as ultra-diversification.

A gentleman by the name of Dale Ledbetter did the due diligence on this firm and gave them a glowing report. Dale Ledbetter used to be a Wall Street trader then a securities attorney going after corrupt brokers and broker/dealers. He wrote a book call “How Wall Street Rips You Off”. I know Dale personally and I trust his due diligence reports.

Therefore, I think it is a very viable investment.

Ex. 15 at 1; Ex. 4 at 138 L.17 to 142 L.10. Ortiz claimed 1 Global had “the strictest underwriting standards” based solely on statements Ledbetter or AAI had made to him that he had never verified. Ex. 4 at 139 L.16 to 140 L.25. He made the statement that 1 Global had reserves also based on information that either AAI or Ledbetter had given him, again without verifying the information. *Id.* And he claimed he trusted Ledbetter even though he did not know him well and had only met him on a couple of occasions. *Id.*

In March 2018, in recommending 1 Global and another alternative investment, Ortiz wrote to a client that “the advantage of alternatives is . . . they are backed by hard assets.” March 8, 2018, Email Chain, attached as Exhibit 16; Ex. 4 at 146 L.17 to 148 L.8. At the time Ortiz knew there were not hard assets backing 1 Global, but later claimed he was referring to all alternative investments. Ex. 4 at 146 L.17 to 148 L.8. But he admitted his client might have concluded he was referring to 1 Global. *Id.* at 148 L.3-8.

Finally, in April 2018, in a follow-up email to the same client, Ortiz wrote that 1 Global was “liquid every nine months.” April 9, 2018 Email Chain, attached as Exhibit 17. However, Ortiz knew at the time that statement wasn’t true. 1 Global had told him and other sales agents in a December 2017 email that it would take 1 Global up to three months to completely repay investments of less than \$250,000 if the investor didn’t renew after nine months, and up to six additional months if the investment was more than \$250,000. Ex. 4 at 149 L.2 to 150 L.7. Ortiz, whose responsibility it was to keep his clients informed about their 1 Global investment, claimed

he had never seen the December 2017 email. *Id.*

However, Ortiz unquestionably saw a February 2018 email exchange with one of his staff members in which he acknowledged knowing it would take 1 Global up to three months after the expiration of a note to completely repay the principal. Ex. 4 at 158 L.18 to 160 L.23; February 16, 2018 Email Chain, attached as Exhibit 18, at 1. That was a full two months before he told the other client that 1 Global was liquid every nine months. Ex. 17.

#### **IV. MEMORANDUM OF LAW**

##### **A. Summary Disposition is Appropriate**

The Commission should grant summary disposition if there is “no genuine issue with regard to any material fact and the party making the motion is entitled to summary disposition as a matter of law.” 17 C.F.R. § 201.250(b). “[S]ummary disposition is ordinarily appropriate in follow-on proceedings.” *James S. Tagliaferri*, Securities Act Rel. No. 10308, at 10-11, 2017 WL 632134 (Feb. 15, 2017) (footnote omitted). *See also Omar Ali Rizvi*, Initial Dec. Rel. No. 479, 2013 WL 64626 (Jan. 7, 2013) (“Commission has repeatedly upheld use of summary disposition in cases where the respondent has been enjoined and the sole determination concerns the appropriate sanction.”). To oppose summary disposition, the respondent “may not rely on bare allegations or denials but instead must present specific facts showing a genuine issue of material fact for resolution at a hearing.” *Id.* at 11 (citation, quotation, and footnote omitted).

The facts Ortiz has admitted in the complaint and set forth in Section III.A above, as well as the additional facts set forth in Section III.B, demonstrate the Division is entitled to the relief it seeks under Exchange Act Section 15(b)(6)(A) and Advisors Act Section 203(f). Those sections contain near identical language. Section 15(b)(6)(A) provides in relevant part:

With respect to any person . . . at the time of the alleged misconduct, who was associated . . . with a broker . . . the Commission, by order, shall censure, place limitations on the activities

or functions of such person, or suspend for a period not exceeding 12 months, or bar any such person from being associated with a broker, dealer, investment adviser, municipal securities dealer, municipal advisor, transfer agent, or nationally recognized statistical rating organization, or from participating in an offering of penny stock, if the Commission finds, on the record after notice and opportunity for a hearing, that such censure, placing of limitations, suspension, or bar is in the public interest and that such person—

\* \* \* \*

(iii) is enjoined from any action, conduct, or practice specified in subparagraph (C) of such paragraph (4).

15 U.S.C. § 78o(b)(6)(A). Section 15(b)(4)(C) provides in relevant part that a person:

is permanently or temporarily enjoined by order, judgment, or decree of any court of competent jurisdiction from acting as an investment adviser, underwriter, broker, dealer . . . or from engaging in or continuing any conduct or practice in connection with any such activity, or in connection with the purchase or sale of any security.

15 U.S.C. § 78o(b)(4)(C). The jurisdictional language of Advisers Act Section 203(f) is the same.

Each of the requirements of these provisions – an injunction issued by a court of competent jurisdiction involving misconduct committed while Ortiz was acting as a broker or dealer – are satisfied here.

#### 1. A Court Of Competent Jurisdiction Has Enjoined Ortiz

There is no dispute that a court of competent jurisdiction has enjoined Ortiz. In Exhibit 2, the District Court entered an injunction against Ortiz violating Section 15(a)(1) of the Exchange Act – i.e., acting as an unregistered broker or dealer: “by making use of any means or instrumentalities of interstate commerce or of the mails and engaging in the business of effecting transactions in securities for the accounts of others, or inducing or effecting the purchase and sale of securities, while not registered with the Commission in accordance with the provisions of Section 15(b) of the Exchange Act, or while not associated with a broker-dealer that was so registered.” Ex. 2 at 2-3, Section 1.B. *See also* Ex. 2 at 1-2, Section 1.A (enjoining Ortiz from violating Sections 5(a) and (c) of the Securities Act).

## 2. Ortiz Was Acting As A Broker At The Time Of The Misconduct

Exchange Act Section 15(b)(6)(A) requires that Ortiz have been associated with or acting as a broker at the time of the misconduct. The broker in question need not have been a registered broker. *Tzemach David Netzer Korem*, Exch. Act Rel. No. 70044, at 12 and n.68, 2013 WL 3864511 (July 26, 2013).

Exchange Act Section 3(a)(4)(A) defines a “broker” as “any person engaged in the business of effecting transactions in securities for the account of others.” 15 U.S.C. § 78c(a)(4)(A). A person engages in the business of effecting securities by “participat[ing] in purchasing and selling securities involving more than a few isolated transactions; there is no requirement that such activity be a person’s principal business or the principal source of income.” *Anthony Fields*, Securities Act Rel. No. 9727, at 30, 2015 WL 728005 (Feb. 20, 2015) (quotations and alterations omitted). Indications of broker activity “include holding oneself out as a broker-dealer, recruiting or soliciting potential investors, handling client funds and securities, negotiating with issuers, and receiving transaction-based compensation.” *Id.*; *Tagliarferri*, Securities Act Rel. No. 10308, at 6-7, 2017 WL 632134 (respondent acted as a broker by actively finding investors, being closely involved in negotiations, and receiving transaction based compensation).

Here, the facts Ortiz has admitted through the complaint show he acted as a broker while offering and selling 1 Global securities from no later than July 2017 through July 2018. He solicited his clients to invest in 1 Global, discussed the merits of investing in 1 Global notes, answered clients’ questions about investing in 1 Global, communicated by email, telephone and in person with potential 1 Global investors, discussed the investment document with clients and helped them fill it out, communicated with 1 Global about clients’ renewal or non-renewal of the investment, helped clients send the MOIs and their money to 1 Global, and received more than

\$149,000 in transaction-based compensation from 1 Global for his offer and sale of 1 Global notes. Ex. 1 at ¶¶1, 2, 6, 8, and 21-30. Thus, the second jurisdictional requirement for remedial relief, that Ortiz acted as a broker while committing his misconduct, has been met. Furthermore, Ortiz has admitted in the complaint that he was not registered as a broker or dealer or associated with one during the time of the conduct in question. *Id.* at ¶4.

*B. Industry And Penny Stock Bars Are Appropriate Sanctions*

In determining whether “industry and penny stock bars . . . are in the public interest,” the Commission:

consider[s], among other things, the egregiousness of the respondent’s actions, the isolated or recurrent nature of the infraction, the degree of scienter involved, the sincerity of the respondent’s assurances against future violations, the respondent’s recognition of the wrongful nature of his conduct, and the likelihood that the respondent’s occupation will present opportunities for future violations.

*David R. Wulf*, Exch. Act Rel. No. 77411, at 5-6, 2016 WL 1085661 (March 21, 2016); *Steadman v. SEC*, 603 F.2d 1126, 1140 (5th Cir. 1979).

Here, the factors lead overwhelmingly to the conclusion that industry and penny stock bars are warranted. As to the first and third factors, Ortiz’s conduct was egregious and extremely reckless – displaying a high degree of scienter. Ortiz was an experienced securities professional – the owner and chief compliance officer of his own registered investment adviser firm. Yet despite having fiduciary duties to his adviser clients and the responsibility as David Ortiz Advisors’ chief compliance officer to make sure the firm’s products and activities complied with the securities laws, Ortiz inexplicably ignored obvious red flags about 1 Global that should have alerted him that Company officers were not telling him the truth. Among other things:

- Ortiz received contradictory statements and documents from 1 Global, through AAI, about whether the Company had audited financial statements and had an independent accounting firm and auditor working for it. Yet despite acknowledging that audited financial statements were important, Ortiz inexplicably never asked 1 Global for any financial

statements, audited or not. Furthermore, he never followed up with AAI or 1 Global to see proof of any accounting work Daszkal Bolton had done for 1 Global. And he never did something as simple as pick up the phone and contact Daszkal Bolton to verify it was doing accounting and auditing work for 1 Global. Instead, he simply assumed what 1 Global and AAI told him was true. As a registered investment adviser who owed his clients a fiduciary duty to look out for their best interests, Ortiz acted extremely recklessly in taking what 1 Global and AAI told him as true and in not verifying their representations.

- Despite not knowing whether 1 Global had audited financial statements, Ortiz wrote a potential 1 Global investor who he was recommending purchase 1 Global notes that the Company was independently audited.
- The reason 1 Global's attorney told Ortiz that the Company's notes were not securities – because they were nine-month notes - was contradicted by the automatic rollover provision of the MOIs Ortiz read and discussed with customers who bought 1 Global's notes. Ortiz ignored this evidence that called into question the opinion Ledbetter gave him, and failed to ask even a single question about the automatic rollover provision. Nor did he consult his own attorney or compliance firm on the issue.
- Ortiz received conflicting marketing materials from 1 Global, through AAI, that the Company's default rate on bad MCA loans was alternately four and eight percent. Despite acknowledging the difference was important, Ortiz never asked any follow-up questions about the discrepancy.
- Ortiz received information from 1 Global in both December 2017 and February 2018 that the Company would take a minimum of three months beyond the end of the nine-month term to repay investors if they did not renew their notes. Yet in April 2018 he was still falsely telling prospective investors that the note would be fully liquid in nine months.
- Ortiz falsely wrote another client that 1 Global had been in existence for years longer than it had and was averaging 15 percent annual returns, when he knew both statements weren't true. His excuse – that he answered an email in haste – is inexcusable for a registered investment adviser with a fiduciary duty to his clients.
- Ortiz's email to a client that 1 Global was backed by hard assets when he also knew that not to be the case is another example of his reckless conduct.

As the owner and chief compliance officer of a registered investment adviser firm, Ortiz had an obligation to ensure that he and his firm were telling investors the truth about 1 Global's notes, and were not violating the law in offering and selling the securities. But Ortiz utterly disregarded that responsibility, failing to make even the most basic of inquiries into the product he was recommending to his clients and failing to ensure he told investors the truth. He simply

accepted statements 1 Global and AAI made to him when he had no reasonable basis to do so. This conduct was extremely reckless and egregious. It resulted in many of Ortiz's clients losing extraordinary amounts of money while he took home \$149,000 in commissions.

As to the second factor, Ortiz's conduct was certainly not isolated. It continued for 16 months, from April 2017 through July 2018, during which time he sold 1 Global notes to at least 60 customers. On each occasion, he reviewed 1 Global's written materials with clients that contained the false or contradictory statements about which he had failed to inquire. Thus, the second factor weighs in favor of the Commission imposing bars on Ortiz. *See e.g., Richard P. Callipari*, Initial Dec. Rel. No. 237, 2003 WL 22250402, at \*5 (Sept. 30, 2003) (a scheme lasting several weeks constituted "recurring and egregious" behavior); *Phillip J. Milligan*, Exch. Act Rel. No. 61790, 2010 WL 1143088 at \*4-\*5 (March 26, 2010) (characterizing scheme that defrauded numerous investors over several months as recurrent).

As to the fourth and fifth factors, Ortiz agreed to settle the District Court action against him, which included repaying his commissions as disgorgement and a civil penalty. But that does not mean he has acknowledged that his conduct was wrongful. Ortiz did not admit or deny the allegations of the complaint in the District Court settlement. Ex. 3 at 1, ¶2. Furthermore, he continues to deny key allegations against him and maintains that his conduct was not wrongful. Answer to OIP at: 2 (claiming he conducted adequate due diligence and relied in good faith on 1 Global's representations about its securities); 4 (denying the he vouched for 1 Global's notes when the evidence shows he wrote at least one client that 1 Global had the strictest underwriting standards, lowest default rate, and reserves to back its product – all based on unverified 1 Global statements); and 4-6 (denying he ignored red flags when he admitted not inquiring into conflicting statements about term of 1 Global notes and whether the Company had audited financial

statements).

Ortiz further downplays his false statements to his clients set forth above, calling them at worst gross negligence (as if that should be acceptable in a registered investment adviser). Answer to OIP at 4-5. In fact, Ortiz's entire Answer to the OIP constitutes an attempt to justify his reckless and egregious behavior – the exact opposite of acknowledging the wrongful nature of his conduct.

Because Ortiz has not admitted the wrongful nature of his conduct, any assurances he may give about not violating the law in the future cannot be trusted. “[T]he existence of a violation raises an inference that it will be repeated.” *Korem*, Exch. Act Rel. No. 70044, at 10 n.50, 2013 WL 3864511. Ortiz's conduct and his clear lack of understanding of why it was wrong, demonstrates conclusively that he is a risk to violate the securities laws in the future if he is not barred from the industry. *Imperato v. SEC*, 693 Fed. Appx. 870, 876 (11th Cir. 2017) (the Commission did not grossly abuse its discretion in imposing an industry bar against the defendant where he “continues to deny wrongdoing and attempts to shift blame to others”).

Finally, Ortiz continues to hold a Series 65 securities license and has not given any indication that he intends to leave the investment adviser business. Thus, all six factors weigh in favor of the Commission ordering industry and penny stock bars against Ortiz.

## **V. CONCLUSION**

For the reasons discussed above, the Division asks the Commission to sanction Ortiz by issuing a penny stock bar and barring him from association with any broker, dealer, investment adviser, municipal securities dealer, municipal advisor, transfer agent, or NRSRO.

Dated: January 7, 2022

Respectfully submitted,

Levenson, Robert K.  
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DIVISION OF ENFORCEMENT  
SECURITIES AND EXCHANGE COMMISSION  
801 Brickell Avenue, Suite 1950  
Miami, FL 33131

**CERTIFICATE OF SERVICE**


Pursuant to Rule 150 of the Commission's Rules of Practice, I hereby certify that on January 7, 2022, the foregoing document was filed using the eFAP system and that a true and correct copy of the document has been served via email on this 7<sup>th</sup> day of January 2022, on the following persons entitled to notice:

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Levenson,  
Robert K.

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**UNITED STATES OF AMERICA**  
**Before the**  
**SECURITIES AND EXCHANGE COMMISSION**

**ADMINISTRATIVE PROCEEDING**

**File No. 3-20460**

**In the Matter of**  
**DAVID P. ORTIZ,**  
**Respondent.**

**INDEX OF EXHIBITS TO THE**  
**DIVISION OF ENFORCEMENT'S MOTION FOR**  
**SUMMARY DISPOSITION AGAINST DAVID P. ORTIZ**

- Exhibit 1- Complaint in *SEC v. Ortiz*, Case No. 21-cv-60590 (S.D. Fla.)
- Exhibit 2- Final Judgment against Ortiz in *SEC v. Ortiz*, Case No. 21-cv-60590 (S.D. Fla.)
- Exhibit 3- Consent of Ortiz to Final Judgment in *SEC v. Ortiz*, Case No. 21-cv-60590 (S.D. Fla.)
- Exhibit 4- Testimony Transcript of David Ortiz
- Exhibit 5- David Patrick Ortiz CRD
- Exhibit 6- David Ortiz Advisors IARD
- Exhibit 7- April 9, 2017 email from Ortiz to a client (Testimony Ex. 140)
- Exhibit 8- Merchant Cash Advance brochure (Testimony Ex. 123)
- Exhibit 9- 1 Global Capital Financial Services brochure dated Oct.24, 2016 (Testimony Ex. 143)
- Exhibit 10- Due Diligence Review for 1<sup>st</sup> Global Capital (Testimony Ex. 141)
- Exhibit 11- Sample MOI (Testimony Ex. 129)

Exhibit 12- Plea Agreement of Jan Atlas in *United States v. Atlas*, Case No. 19-cr-60258 (S.D. Fla. Oct. 24, 2019)

Exhibit 13- Plea Agreement of Dale Ledbetter in *United States v. Ledbetter*, Case No. 20-cr-60103 (S.D. Fla. Jan. 14, 2021)

Exhibit 14- June 2017 email chain (Testimony Ex. 128)

Exhibit 15- October 3, 2017 email chain (Testimony Ex. 127)

Exhibit 16- March 8, 2018, email chain (Testimony Ex. 131)

Exhibit 17- April 9, 2018 email chain (Testimony Ex. 132)

Exhibit 18- February 16, 2018 email chain (Testimony Ex. 139)

# **EXHIBIT 1**

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA**

**CASE NO.:**

<b>SECURITIES AND EXCHANGE COMMISSION,</b>	)
	)
<b>Plaintiff,</b>	)
	)
<b>v.</b>	)
	)
<b>DAVID P. ORTIZ,</b>	)
	)
<b>Defendant.</b>	)
	)

---

**COMPLAINT FOR INJUNCTIVE AND OTHER RELIEF**

Plaintiff Securities and Exchange Commission (“Commission”) alleges:

**I. INTRODUCTION**

1. From no later than July 2017 through July 2018, Defendant David P. Ortiz served as an unregistered broker on behalf of 1 Global Capital, LLC (“1 Global” or “the Company”), a South Florida merchant cash advance company. During that time, Ortiz raised more than \$6 million for 1 Global from the offer and sale of securities in unregistered transactions to at least 60 investors. Ortiz earned at least \$149,000 in commissions from those sales.

2. 1 Global marketed its investment as a safe and secure alternative to the stock market and baselessly claimed that investing in the Company’s merchant cash advance business would achieve high single-digit or low double-digit annual returns. Like other 1 Global sales agents, Ortiz repeated those claims to prospective investors.

3. Unbeknownst to Ortiz’s clients, many of whom invested their retirement savings, 1 Global’s business was a fraud. 1 Global and its chairman and chief executive officer Carl Ruderman were misrepresenting how they were using investor money, syphoning off millions in investor funds to fund Ruderman’s luxury lifestyle and operate unrelated businesses. 1 Global’s

business came to a crashing halt when it filed for bankruptcy in July 2018, leaving many of Ortiz's customers and thousands of other investors with hundreds of millions of dollars in losses.

4. During the time he offered and sold 1 Global's securities, Ortiz was not registered as a broker-dealer with the Commission or associated with a registered broker-dealer. Additionally, 1 Global did not register its securities offering with the Commission, and there was no applicable exemption from registration for this offering.

5. By engaging in this conduct, Ortiz violated Sections 5(a) and 5(c) of the Securities Act of 1933 ("Securities Act") [15 U.S.C. §§ 77e(a) and 77e(c)], and Section 15(a)(1) of the Securities Exchange Act of 1934 ("Exchange Act") [15 U.S.C. § 78o(a)(1)]. The Commission seeks an injunction against Ortiz from future violations of these provisions, as well as disgorgement of ill-gotten gains, prejudgment interest on disgorgement, and a civil money penalty.

## **II. DEFENDANT**

6. Ortiz, 59, resides in Whittier, California. He currently holds a Series 6 securities license and previously held a Series 63 securities license. Since August 2016, Ortiz has been associated with David Ortiz Advisors, Inc., an investment adviser firm registered with the State of California. Ortiz is also state-licensed to sell insurance and annuity products.

## **III. JURISDICTION**

7. This Court has jurisdiction over this action pursuant to Sections 20(b), 20(d) and 22(a) of the Securities Act [15 U.S.C. §§ 77t(b), 77t(d) and 77v(a)], and Sections 21(d), 21(e) and 27(a) of the Exchange Act [15 U.S.C. §§ 78u(d), 78u(e) and 78aa(a)].

8. This Court has personal jurisdiction over Ortiz and venue is proper in the Southern District of Florida because 1 Global transacted business from its headquarters in Hallandale Beach, Florida, and Ortiz regularly transacted business with 1 Global by email and telephone from July

2017 through July 2018. Ortiz offered and sold the securities of 1 Global – a company based in the Southern District of Florida – to his clients. This activity involved numerous specific acts, including but not limited to:

- a. Via the wholesaler referred to in Paragraph 21, receiving 1 Global’s marketing materials;
- b. Showing those marketing materials to potential clients and using them to pitch the 1 Global investment;
- c. Having his clients sign 1 Global’s investment instrument and send it to 1 Global; where 1 Global representatives signed it and returned it to investors;
- d. Having his clients send money directly to 1 Global to invest;
- e. Via the wholesaler, receiving commission checks from 1 Global;
- f. Receiving copies of his clients’ monthly account statements from 1 Global via email;
- g. Having at least three conversations with 1 Global’s outside counsel in 2017, where the two discussed features of the 1 Global investment, including why the outside counsel claimed the 1 Global notes were not securities;
- h. Reviewing an attorney opinion letter prepared for 1 Global;
- i. Via the wholesaler, receiving due diligence materials on 1 Global, including 1 Global financial statements; and
- j. Speaking to 1 Global’s director of investor relations at least twice on the telephone, once about client statements and once about the return of clients’ principal.

9. In connection with the conduct alleged in this Complaint, Ortiz, directly and indirectly, singly or in concert with others, made use of the means or instrumentalities of interstate commerce, the means or instruments of transportation or communication in interstate commerce, and of the mails.

#### **IV. FACTUAL ALLEGATIONS**

##### **A. The 1 Global Offering**

10. From 2014 until July 27, 2018, 1 Global and Ruderman fraudulently raised at least \$320 million from the sale of unregistered securities to more than 3,600 investors nationwide. 1 Global was in the business of funding merchant cash advances (“MCAs”) - short-term loans to small and medium-sized businesses. According to its marketing materials and website, 1 Global provided these businesses with an alternative source of funding to traditional bank loans and other financing methods. 1 Global funded its MCA business and operations almost entirely with money from investors, whom the Company referred to alternately as “Lenders” or “Syndicate Partners.”

11. For the vast majority of the four-plus years 1 Global offered and sold its investment, it used instruments entitled either a Syndication Partner Agreement (“SPA”) or a Memorandum of Indebtedness (“MOI”) as the note or contract between the Company and investors. The SPAs termed the investors partners, while the MOIs called investors lenders. The only use of investor funds 1 Global specifically identified in both documents as well as in its marketing materials was for MCAs. After 1 Global received investor funds, it pooled and commingled them together in non-segregated 1 Global bank accounts.

12. The SPAs and MOIs had terms of either nine months or one year. While the MOI stated that it was a nine-month note, for most of the time 1 Global raised money from investors the MOI also stated the note would automatically roll over into a new nine-month term unless the investor expressly informed the Company in writing at least 30 days before the end of the nine months that he or she did not want the note to roll over.

13. 1 Global represented to investors in marketing materials it gave its sales agents to distribute - including Ortiz - that it collected an average of \$1.30 to \$1.40 on each dollar it advanced

in an MCA. This was the means by which 1 Global and investors both purportedly made a profit.

14. Although 1 Global sent investors monthly account statements purporting to show each investor's account credited with interest payments, investors did not receive those payments right away. 1 Global only paid that interest when investors cashed out. Thus, the majority of investors, who allowed their investments to roll after nine months, never received interest payments and ultimately lost their principal. This practice allowed 1 Global and Ruderman to misappropriate investor funds.

15. The profitability of the 1 Global investment was derived solely from the efforts of 1 Global. Investors had no control over how Ruderman and 1 Global used their money. Investors could not and did not manage their MCA loan portfolios; it was solely up to 1 Global whether and when to use an investor's money to fund MCAs and which MCAs to fund. The success of the investment and whether an investor earned profits was solely dependent on 1 Global's decisions on MCA funding and other uses of money, as well as repayment and collection efforts.

#### **B. 1 Global and Ruderman's Misrepresentations**

16. 1 Global and Ruderman's false representations to investors in marketing materials and on monthly account statements included: (a) that 1 Global would use their money to fund MCAs; (b) the monthly statements accurately disclosed the existing value of the investment; and (c) that the Company's supposed independent audit firm agreed with 1 Global's method of calculating investors' returns.

17. In reality, 1 Global and Ruderman used a substantial amount of investors' funds for purposes other than making MCAs, including on operations and non-MCA business transactions. In addition, Ruderman misappropriated at least \$32 million in investor funds to enrich himself as well as several companies in which he or his family members had a direct interest. This included

money to help fund a family vacation to Greece, monthly payments for a Mercedes Benz, monthly American Express credit card payments, payments for Ruderman's household staff, \$4 million to his family trust, and \$1 million to one of his sons to invest in cryptocurrency.

18. Furthermore, with Ruderman's knowledge, 1 Global provided every investor with a monthly account statement that falsely showed the investor's portfolio value. The statements reflected the investor's fractional interest in a number of MCAs, and a monetary figure alternatively called "cash not yet deployed," "cash to be deployed," or "cash for future receivables." Regardless of the terminology used, the figure represented the amount of the investment that 1 Global had not yet put into MCAs and was purportedly sitting in 1 Global's bank accounts available for MCA funding.

19. However, starting no later than October 2017, the monthly account statements were false because, due in large part to Ruderman's misappropriation, they overstated by \$23 million to \$50 million the amount of cash available for investors in 1 Global's bank accounts. Because that amount was false, the total value of each investor's portfolio, the increase in the valuation since the original investment, and the rate of return each account statement showed, were all overstated.

20. Finally, each investor's monthly account statement falsely claimed, "Our independent audit firm, Daszkal Bolton L.L.P., has endorsed and agrees with the rate of return formula." However, Daszkal Bolton never audited 1 Global's financial statements, and never endorsed or agreed with 1 Global's rate of return formula.

**C. Ortiz Acted as an Unregistered Broker-Dealer and Offered and Sold  
1 Global Notes in Unregistered Securities Transactions**

21. 1 Global recruited a network of dozens of external, mostly unregistered, sales agents, including Ortiz. Ortiz was associated with a company that called itself an alternative investment wholesaler and learned about 1 Global from the wholesaler. Ortiz's agreement with

the wholesaler provided that Ortiz would receive a commission of approximately 2.5 percent on all direct sales he made.

22. The wholesaler regularly provided 1 Global sales materials to Ortiz for use in marketing the investment. Those materials included a list of Frequently Asked Questions, a history of the Company, and a description of both the MCA program and the investment process. Ortiz used the materials in soliciting clients to invest, attaching them to emails and using the information when he spoke to prospective investors.

23. The sales materials touted 1 Global's alleged consistently high returns for investors. The Frequently Asked Questions claimed 1 Global investors had averaged "high single digit" and "low double digit" annual returns. In addition, 1 Global sent copies of monthly investor account statements to Ortiz and other sales agents to show investors. Those account statements showed returns ranging from 8 to 17 percent a year.

24. Using this information, Ortiz told investors 1 Global could earn high single digit to low double digit returns a year. In at least one instance, Ortiz emailed a prospective investor stating that 1 Global averaged a 15 percent annual return – a figure even higher than those promoted by 1 Global.

25. Ortiz also repeated 1 Global's assertions that the company offered better returns than fixed instruments such as annuities, and was a safe, short-term alternative to more risky stock market investments. In addition, he personally vouched for the company's business model. For example an email to an investor stated "as far as credit worthiness is concerned, this company relative to others I have reviewed has the strictest underwriting standards and lowest default rate. There are reserves that protect the principle as well ultra-diversification."

26. Ortiz furthermore forwarded 1 Global's Frequently Asked Questions to investors

without checking to see whether those representations conflicted with his own knowledge. One of those Frequently Asked Questions falsely stated that investor “returns are offered and secured by [the MCA] funding portfolio itself.” Although Ortiz knew investors’ investments were not secured by the MCA loans, he never questioned 1 Global about the discrepancy and continued to send the Frequently Asked Questions to investors.

27. The MOI, the document Ortiz had investors sign to make their investment in 1 Global, and which Ortiz reviewed with investors, clearly stated that it was within 1 Global’s sole discretion how to use investors’ funds. Ortiz never questioned this statement, and how it contradicted the company’s representations that investor funds were secured by MCAs.

28. 1 Global’s outside counsel told Ortiz and other sales agents that 1 Global’s notes were not securities because they were only for terms of nine months. Although aware of the automatic rollover provision in the MOIs, Ortiz never questioned whether that provision affected whether the notes were for longer than nine months.

29. Ortiz also never spoke to anyone at Daszkal Bolton to verify that the firm was 1 Global’s “independent auditor,” or whether it truly verified 1 Global’s formula for determining investors’ rates of return. Despite that, and despite never seeing any audited financial statements from 1 Global, he sent at least one email to an investor stating that 1 Global was “independently audited.”

30. From no later than July 2017 through July 2018, Ortiz used the 1 Global materials to offer and sell 1 Global’s securities to investors via various means, including emails, telephone calls, and in-person meetings. Through the wholesaler, 1 Global paid Ortiz \$149,986 in transaction-based sales commissions, earned as a result of Ortiz raising approximately \$6 million in transactions with at least 60 investors. During the time he sold 1 Global notes in unregistered

securities offerings, Ortiz was neither a registered broker-dealer nor associated with a registered broker-dealer.

**CLAIMS FOR RELIEF**

**COUNT I**

**Violations of Sections 5(a) and 5(c) of the Securities Act**

31. The Commission repeats and realleges Paragraphs 1 through 30 of this Complaint as if fully set forth herein.

32. No registration statement was filed or in effect with the Commission pursuant to the Securities Act with respect to the securities Ortiz offered and sold as described in this Complaint and no exemption from registration existed with respect to these securities.

33. From no later than July 2017 and continuing through July 2018, Ortiz directly and indirectly:

- (a) made use of any means or instruments of transportation or communication in interstate commerce or of the mails to sell securities, through the use or medium of a prospectus or otherwise;
- (b) carried or caused to be carried securities through the mails or in interstate commerce, by any means or instruments of transportation, for the purpose of sale or delivery after sale; or
- (c) made use of any means or instruments of transportation or communication in interstate commerce or of the mails to offer to sell or offer to buy through the use or medium of any prospectus or otherwise any security;

without a registration statement having been filed or being in effect with the Commission as to such securities.

34. By reason of the foregoing, Ortiz violated, and unless enjoined is reasonably likely to continue to violate, Sections 5(a) and 5(c) of the Securities Act [15 U.S.C. §§ 77e(a) and 77e(c)].

**COUNT II**

**Violations of Section 15(a)(1) of the Exchange Act**

35. The Commission repeats and realleges Paragraphs 1 through 30 of this Complaint as if fully set forth herein.

36. From no later than July 2017 and continuing through July 2018, Ortiz, directly or indirectly, by the use of the mails or any means or instrumentality of interstate commerce effected transactions in, or induced or attempted to induce the purchase or sale of securities, while he was not registered with the Commission as a broker or dealer or not associated with an entity registered with the Commission as a broker-dealer.

37. By reason of the foregoing, Ortiz violated, and unless enjoined is reasonably likely to continue to violate, Section 15(a)(1) of the Exchange Act [15 U.S.C. § 78o(a)(1)].

**RELIEF REQUESTED**

**WHEREFORE**, the Commission respectfully requests the Court find Ortiz committed the violations alleged, and:

**A.**

**Permanent Injunctive Relief**

Issue a permanent injunction enjoining Ortiz from violating Sections 5(a) and 5(c) of the Securities Act and Section 15(a)(1) of the Exchange Act.

**B.**

**Disgorgement and Prejudgment Interest**

Issue an Order directing Ortiz to disgorge all ill-gotten gains or proceeds received as a result of the acts and/or courses of conduct complained of herein, with prejudgment interest thereon.

C.

**Civil Money Penalty**

Issue an Order directing Ortiz to pay a civil money penalty pursuant to Section 20(d) of the Securities Act and Section 21(d) of the Exchange Act.

D.

**Further Relief**

Grant such other and further relief as may be necessary and appropriate.

E.

**Retention of Jurisdiction**

Further, the Commission respectfully requests that the Court retain jurisdiction over this action in order to implement and carry out the terms of all orders and decrees that it may enter, or to entertain any suitable application or motion by the Commission for additional relief within the jurisdiction of this Court.

**JURY DEMAND**

The Commission demands a jury trial on all issues so triable – the issues of whether Ortiz is liable for violations of the securities laws.

March 17, 2021

Respectfully submitted,

Robert K. Levenson, Esq.  
Senior Trial Counsel  
Florida Bar No. 0089771  
Direct Dial: (305) 982-6341  
Email: [levensonr@sec.gov](mailto:levensonr@sec.gov)

Attorney for Plaintiff  
**SECURITIES AND EXCHANGE  
COMMISSION**  
801 Brickell Avenue, Suite 1950  
Miami, Florida 33131  
Telephone: (305) 982-6300

# **EXHIBIT 2**

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 21-cv-60590-ALTMAN/HUNT

SECURITIES AND EXCHANGE COMMISSION,

*Plaintiff,*

*v.*

DAVID ORTIZ,

*Defendant.*

---

**FINAL JUDGMENT AGAINST DEFENDANT DAVID ORTIZ**

This cause comes before the Court upon Plaintiff Securities and Exchange Commission's Unopposed Motion for Final Judgment Against Defendant David Ortiz ("Motion") [ECF No. 18]. By the Consent of David Ortiz to Final Judgment ("Consent") [ECF No. 18-2], without admitting or denying the allegations of the Complaint (except that Ortiz admits the jurisdiction of this Court over him and over the subject matter of this action and as otherwise set forth in Section V below), Ortiz has entered a general appearance, consented to entry of this Final Judgment, waived findings of fact and conclusions of law, and waived any right to appeal from this Final Judgment. The Court finds that good cause exists for entry of the Final Judgment.

Accordingly, it is hereby **ORDERED and ADJUDGED** that the Commission's Motion [ECF No. 18] is **GRANTED**.

The Court further orders as follows:

**I.**

**PERMANENT INJUNCTIVE RELIEF**

**A. Section 5 of the Securities Act of 1933 ("Securities Act")**

**IT IS ORDERED AND ADJUDGED** that Ortiz is permanently restrained and enjoined

from violating Section 5 of the Securities Act [15 U.S.C. § 77e] by, directly or indirectly, in the absence of any applicable exemption:

- (a) Unless a registration statement is in effect as to a security, making use of any means or instruments of transportation or communication in interstate commerce or of the mails to sell such security through the use or medium of any prospectus or otherwise;
- (b) Unless a registration statement is in effect as to a security, carrying or causing to be carried through the mails or in interstate commerce, by any means or instruments of transportation, any such security for the purpose of sale or for delivery after sale; or
- (c) Making use of any means or instruments of transportation or communication in interstate commerce or of the mails to offer to sell or offer to buy through the use or medium of any prospectus or otherwise any security, unless a registration statement has been filed with the Commission as to such security, or while the registration statement is the subject of a refusal order or stop order or (prior to the effective date of the registration statement) any public proceeding or examination under Section 8 of the Securities Act [15 U.S.C. § 77h].

**IT IS FURTHER ORDERED AND ADJUDGED** that, as provided in Federal Rule of Civil Procedure 65(d)(2), the foregoing paragraph also binds the following who receive actual notice of this Judgment by personal service or otherwise: (a) Ortiz's officers, agents, servants, employees, and attorneys; and (b) other persons in active concert or participation with Ortiz or with anyone described in (a).

**B. Section 15(a)(1) of the Securities Exchange Act of 1934 ("Exchange Act")**

**IT IS FURTHER ORDERED AND ADJUDGED** that Ortiz is permanently restrained and enjoined from violating, directly or indirectly, Section 15(a)(1) of the Exchange Act [15 U.S.C. § 78o(a)(1)] by making use of any means or instrumentality of interstate commerce or of the mails and

engaging in the business of effecting transactions in securities for the accounts of others, or inducing or effecting the purchase and sale of securities, while not registered with the Commission in accordance with the provisions of Section 15(b) of the Exchange Act, or while not associated with a broker-dealer that was so registered.

**IT IS FURTHER ORDERED AND ADJUDGED** that, as provided in Federal Rule of Civil Procedure 65(d)(2), the foregoing paragraph also binds the following who receive actual notice of this Judgment by personal service or otherwise: (a) Ortiz's officers, agents, servants, employees, and attorneys; and (b) other persons in active concert or participation with Ortiz or with anyone described in (a).

## II.

### **DISGORGEMENT, PREJUDGMENT INTEREST, AND CIVIL PENALTY**

**IT IS FURTHER ORDERED AND ADJUDGED** that Ortiz is liable to the Commission for \$149,986 in disgorgement, representing net profits gained as a result of the conduct alleged in the Complaint, prejudgment interest on disgorgement of \$16,216, and a civil penalty of \$30,000 pursuant to Section 20(d) of the Securities Act [15 U.S.C. § 77t(d)] and Section 21(d)(3) of the Exchange Act [15 U.S.C. § 78u(d)(3)].

Ortiz shall pay the total of \$196,202 to the Commission in four installments according to the following schedule: (1) \$50,000 already escrowed with his attorney within 30 days entry of this Final Judgment; (2) \$48,734 within four months of entry of this Final Judgment; (3) \$48,734 within eight months of entry of this Final Judgment; and (4) \$48,734 within one year of entry of this Final Judgment. Payments shall be deemed made on the date they are received by the Commission and shall be applied first to post judgment interest, which accrues pursuant to 28 U.S.C. § 1961 on any unpaid amounts due after 30 days of the entry of Final Judgment. Prior to making the final payment set forth herein, Ortiz shall contact the staff of the Commission for the amount due for the final payment.

If Ortiz fails to make any payment by the date agreed and/or in the amount agreed according to the schedule set forth above, all outstanding payments under this Final Judgment, including post-judgment interest, minus any payments made, shall become due and payable immediately at the discretion of the staff of the Commission without further application to the Court. The Commission may then enforce the Court's judgment for disgorgement and prejudgment interest by using all collection procedures authorized by law, including, but not limited to, moving for civil contempt at any time. The Commission may also then enforce the Court's judgment for penalties by the use of all collection procedures authorized by law, including the Federal Debt Collection Procedures Act, 28 U.S.C. § 3001 et seq., and moving for civil contempt for the violation of any Court orders issued in this action.

Ortiz may transmit payment electronically to the Commission, which will provide detailed ACH transfer/Fedwire instructions upon request. Payment may also be made directly from a bank account via Pay.gov through the SEC website at <https://pay.gov/public/form/start/39621196>. Ortiz may also pay by certified check, bank cashier's check, or United States postal money order payable to the Securities and Exchange Commission, which shall be delivered or mailed to:

Enterprise Services Center  
Accounts Receivable Branch  
6500 South MacArthur Boulevard  
HQ Bldg. Room 265, AMK-326  
Oklahoma City, OK 73169

and shall be accompanied by a letter identifying: the case title, civil action number, and name of this Court; Ortiz as a defendant in this action; and specifying that payment is made pursuant to this Final Judgment.

Ortiz shall simultaneously transmit photocopies of evidence of payment and case identifying information to the Commission's counsel in this action, Robert K. Levenson, Senior Trial Counsel, Securities and Exchange Commission, 801 Brickell Avenue, Suite 1950, Miami, FL 33131. By making

any payment, Ortiz relinquishes all legal and equitable right, title, and interest in such funds and no part of the funds shall be returned to him. The Commission shall hold the funds, together with any interest and income earned thereon (collectively, the “Fund”), pending further order of the Court.

The Commission may propose a plan to distribute the Fund subject to the Court’s approval. Such a plan may provide that the Fund shall be distributed pursuant to the Fair Fund provisions of Section 308(a) of the Sarbanes-Oxley Act of 2002. The Court shall retain jurisdiction over the administration of any distribution of the Fund, and the Fund may only be disbursed pursuant to an Order of the Court.

Regardless of whether any such Fair Fund distribution is made, amounts ordered to be paid as civil penalties pursuant to this Final Judgment shall be treated as penalties paid to the government for all purposes, including all tax purposes. To preserve the deterrent effect of the civil penalty, Ortiz shall not, after offset or reduction of any award of compensatory damages in any Related Investor Action based on his payment of disgorgement in this action, argue that he is entitled to, nor shall he further benefit by, offset or reduction of such compensatory damages award by the amount of any part of Ortiz’s payment of a civil penalty in this action (“Penalty Offset”). If the court in any Related Investor Action grants such a Penalty Offset, Ortiz shall, within 30 days after entry of a final order granting the Penalty Offset, notify the Commission’s counsel in this action and pay the amount of the Penalty Offset to the United States Treasury or to a Fair Fund, as the Commission directs. Such a payment shall not be deemed an additional civil penalty and shall not be deemed to change the amount of the civil penalty imposed in this Final Judgment. For purposes of this paragraph, a “Related Investor Action” means a private damages action brought against Ortiz by or on behalf of one or more investors based on substantially the same facts as alleged in the Complaint in this action.

**III.**

**INCORPORATION OF CONSENT**

**IT IS FURTHER ORDERED AND ADJUDGED** that the Consent filed herewith is incorporated herein with the same force and effect as if fully set forth herein, and Ortiz shall comply with all of the undertakings and agreements set forth therein.

**IV.**

**RETENTION OF JURISDICTION**

**IT IS FURTHER ORDERED AND ADJUDGED** that this Court shall retain jurisdiction of this matter and over Ortiz in order to implement and carry out the terms of this Final Judgment and all Orders and Decrees that may be entered, to entertain any suitable application or motion for additional relief within the jurisdiction of this Court, and to order any other relief that this Court deems appropriate under the circumstances

**V.**

**BANKRUPTCY NONDISCHARGEABILITY**

**IT IS FURTHER ORDERED AND ADJUDGED** that, solely for purposes of exceptions to discharge set forth in Section 523 of the Bankruptcy Code, 11 U.S.C. § 523, the allegations in the Complaint are true and admitted by Ortiz, and further, any debt for disgorgement, prejudgment interest, or civil penalty or other amounts due by Ortiz under this Final Judgment or any other judgment, order, consent order, decree, or settlement agreement entered in connection with this proceeding, is a debt for the violation by Ortiz of the federal securities laws or any regulation or order issued under such laws, as set forth in Section 523(a)(19) of the Bankruptcy Code, 11 U.S.C. § 523(a)(19).

**DONE AND ORDERED** in Fort Lauderdale, Florida this 5th day of August 2021.

A handwritten signature in black ink, appearing to read 'Roy K. Altman', written in a cursive style. The signature is positioned above a horizontal line.

---

**ROY K. ALTMAN**  
**UNITED STATES DISTRICT JUDGE**

cc: counsel of record

# **EXHIBIT 3**

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA**

**CASE NO. 21-cv-60590-ALTMAN/HUNT**

**SECURITIES AND EXCHANGE  
COMMISSION,**

**Plaintiff,**

**v.**

**DAVID ORTIZ,**

**Defendant.**

---

**CONSENT OF DEFENDANT DAVID ORTIZ TO FINAL JUDGMENT**

1. Defendant David Ortiz waives service of the Summons and the Complaint in this action, enters a general appearance, and admits the Court's jurisdiction over him and over the subject matter of this action.

2. Without admitting or denying the allegations of the Complaint (except as provided herein in Paragraph 12 and except as to personal and subject matter jurisdiction, which he admits), Ortiz hereby consents to the entry of the Final Judgment Against Defendant David Ortiz ("Final Judgment") in the form attached hereto and incorporated by reference herein. The Final Judgment, among other things, permanently restrains and enjoins Ortiz from violating Section 5 of the Securities Act of 1933 ("Securities Act") and Section 15(a)(1) of the Securities Exchange Act of 1934 ("Exchange Act"), and orders Ortiz to pay disgorgement of \$149,986, prejudgment interest on disgorgement of \$16,216, and a civil penalty of \$30,000 according to a payment plan set forth in the Final Judgment.

3. Ortiz acknowledges that the civil penalty paid pursuant to the Final Judgment may be distributed pursuant to the Fair Fund provisions of Section 308(a) of the Sarbanes-Oxley Act

of 2002. Regardless of whether any such Fair Fund distribution is made, the civil penalty shall be treated as a penalty paid to the government for all purposes, including all tax purposes. To preserve the deterrent effect of the civil penalty, Ortiz agrees that he shall not, after offset or reduction of any award of compensatory damages in any Related Investor Action based on Ortiz's payment of disgorgement in this action, argue that he is entitled to, nor shall he further benefit by, offset or reduction of such compensatory damages award by the amount of any part of Ortiz's payment of a civil penalty in this action ("Penalty Offset"). If the court in any Related Investor Action grants such a Penalty Offset, Ortiz agrees that he shall, within 30 days after entry of a final order granting the Penalty Offset, notify the Commission's counsel in this action and pay the amount of the Penalty Offset to the United States Treasury or to a Fair Fund, as the Commission directs. Such a payment shall not be deemed an additional civil penalty and shall not be deemed to change the amount of the civil penalty imposed in this action. For purposes of this paragraph, a "Related Investor Action" means a private damages action brought against Ortiz by or on behalf of one or more investors based on substantially the same facts as alleged in the Complaint in this action.

4. Ortiz agrees that he shall not seek or accept, directly or indirectly, reimbursement or indemnification from any source, including but not limited to payment made pursuant to any insurance policy, with regard to any civil penalty amounts he may be required to pay pursuant to the Final Judgment, regardless of whether such penalty amounts or any part thereof are added to a distribution fund or otherwise used for the benefit of investors. Ortiz further agrees that he shall not claim, assert, or apply for a tax deduction or tax credit with regard to any federal, state, or local tax for any penalty amounts that Ortiz pays pursuant to the Final Judgment, regardless of whether such penalty amounts or any part thereof are added to a distribution fund or otherwise used for the benefit of investors.

5. Ortiz waives the entry of findings of fact and conclusions of law pursuant to Rule 52 of the Federal Rules of Civil Procedure.

6. Ortiz waives the right, if any, to a jury trial and to appeal from the entry of the Final Judgment.

7. Ortiz enters into this Consent voluntarily and represents that no threats, offers, promises, or inducements of any kind have been made by the Commission or any member, officer, employee, agent, or representative of the Commission, to him or to anyone acting on his behalf, to induce him to enter into this Consent.

8. Ortiz agrees this Consent shall be incorporated into the Final Judgment with the same force and effect as if fully set forth therein.

9. Ortiz will not oppose enforcement of the Final Judgment on the ground, if any exists, that it fails to comply with Rule 65(d) of the Federal Rules of Civil Procedure, and hereby waives any objection based thereon.

10. Ortiz waives service of the Final Judgment and agrees that entry of the Final Judgment by the Court and filing with the Clerk of the Court will constitute notice to him of the Final Judgment's terms and conditions.

11. Consistent with 17 C.F.R. 202.5(f), this Consent resolves only the claims asserted against Ortiz in this civil proceeding. Ortiz acknowledges no promise or representation has been made by the Commission or any member, officer, employee, agent, or representative of the Commission with regard to any criminal liability that may have arisen or may arise from the facts underlying this action or immunity from any such criminal liability. Ortiz waives any claim of Double Jeopardy based upon the settlement of this proceeding, including imposition of any remedy or civil penalty herein. Ortiz further acknowledges that the Court's entry of a permanent injunction

may have collateral consequences under federal or state law and the rules and regulations of self-regulatory organizations, licensing boards, and other regulatory organizations. Such collateral consequences include, but are not limited to, a statutory disqualification with respect to membership or participation in, or association with a member of, a self-regulatory organization. This statutory disqualification has consequences that are separate from any sanction imposed in an administrative proceeding. In addition, in any disciplinary proceeding before the Commission based on the entry of the injunction in this action, Ortiz understands that he shall not be permitted to contest the factual allegations of the Complaint in this action.

12. Ortiz understands and agrees to comply with the terms of 17 C.F.R. § 202.5(e), which provides in part that it is the Commission's policy "not to permit a defendant or respondent to consent to a judgment or order that imposes a sanction while denying the allegations in the complaint or order for proceedings," and "a refusal to admit the allegations is equivalent to a denial, unless the defendant or respondent states that he neither admits nor denies the allegations." As part of Ortiz's agreement to comply with the terms of Section 202.5(e), he: (a) will not take any action or make or permit to be made any public statement denying, directly or indirectly, any allegation in the Complaint or creating the impression that the Complaint is without factual basis; (b) will not make or permit to be made any public statement to the effect that he does not admit the allegations of the Complaint, or that this Consent contains no admission of the allegations, without also stating he does not deny the allegations; (c) upon filing of this Consent, hereby withdraws any papers filed in this action to the extent they deny any allegation in the Complaint; and (d) stipulates solely for purposes of exceptions to discharge set forth in Section 523 of the Bankruptcy Code, 11 U.S.C. § 523, that the allegations in the Complaint are true, and further, any debt for disgorgement, prejudgment interest, or civil penalty or other amounts due by Ortiz under

this Final Judgment or any other judgment, order, consent order, decree, or settlement agreement entered in connection with this proceeding, is a debt for the violation by Ortiz of the federal securities laws or any regulation or order issued under such laws, as set forth in Section 523(a)(19) of the Bankruptcy Code, 11 U.S.C. § 523(a)(19). If Ortiz breaches this agreement, the Commission may petition the Court to vacate the Final Judgment and restore this action to its active docket. Nothing in this paragraph affects Ortiz's: (i) testimonial obligations; or (ii) the right to take legal or factual positions in litigation or other legal proceedings in which the Commission is not a party.

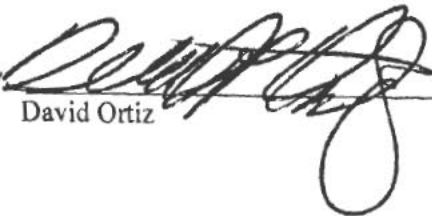
13. Ortiz agrees to waive all objections, including but not limited to, constitutional, timeliness, and procedural objections, to the administrative proceeding that will be instituted when the Final Judgment is entered.

14. Ortiz hereby waives any rights under the Equal Access to Justice Act, the Small Business Regulatory Enforcement Fairness Act of 1996, or any other provision of law to seek from the United States, or any agency, or any official of the United States acting in his or her official capacity, directly or indirectly, reimbursement of attorneys' fees or other fees, expenses, or costs expended by Ortiz to defend against this action. For these purposes, Ortiz agrees he is not the prevailing party in this action, since the parties have reached a good faith settlement.

15. Ortiz agrees that the Commission may present the Final Judgment to the Court for signature and entry without further notice.

16. Ortiz agrees that this Court shall retain jurisdiction over him and over this matter for the purpose of enforcing the terms of the Final Judgment.

May 12, 2021

By:   
David Ortiz

STATE OF CALIFORNIA )  
COUNTY OF Los Angeles )


On this 12<sup>th</sup> day of May 2021, before me personally appeared David Ortiz, who \_\_\_\_\_ is personally known to me or  produced a driver's license bearing his name and photograph as identification, and who executed this Consent, and he acknowledged to me that he executed the same.



Notary Public

Approved as to Form:



By:   
Mark A. Albert, Esq.  
Mark Anchor Albert & Associates  
445 S. Figueroa Street, Suite 3100  
Los Angeles, CA 90071  
Counsel to David Ortiz  
5/13/2021

# **EXHIBIT 4**

**FL-04148**

***Ortiz\_David\_20200812***

***8/12/2020 12:00 PM***

**Condensed Transcript**

**Prepared by:**

FL-04148

Tuesday, October 6, 2020

Page 1

1 UNITED STATES SECURITIES AND EXCHANGE COMMISSION  
2  
3 In the Matter of:     )  
4                     ) File No. FL-04148-A  
5 1 GLOBAL CAPITAL, LLC )  
6  
7 WITNESS: David Ortiz  
8 PAGES: 1 through 187  
9 PLACE: 801 Brickell Avenue, Suite 1800  
10 Miami, Florida 33141 - WebEx  
11 DATE: Wednesday, August 12, 2020  
12  
13 The above-entitled matter came on for hearing,  
14 pursuant to notice, at 12:00 p.m.  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24 Diversified Reporting Services, Inc.  
25 (202)467-9200

Page 2

1 APPEARANCES:  
2  
3 On behalf of the Securities and Exchange Commission:  
4  
5 GARY MILLER, ESQ.  
6 ROBERT LEVINSON, ESQ.  
7 Magaly Ordaz, legal assistant  
8 Division of Enforcement  
9 Securities and Exchange Commission  
10 801 Brickell Avenue  
11 Suite 1800  
12 Miami, Florida 33131  
13 (305)982-6331  
14 ordazm@sec.gov  
15  
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Page 3

1 APPEARANCES(CONT.)  
2  
3  
4 On behalf of the Witness:  
5  
6 MARK ANCHOR ALBERT, ESQ.  
7 Mark Anchor Albert & Associates  
8 800 West 6th Street  
9 Suite 1220  
10 Los Angeles, California  
11 (213)699-1355  
12 info@LALitigators.com  
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Page 4

1	C O N T E N T S	
2		
3	WITNESS	EXAMINATION
4	David Ortiz	5
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7	EXHIBITS	DESCRIPTION IDENTIFIED
8	1	Form 1662 7
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<p style="text-align: right;">Page 5</p> <p>1 PROCEEDINGS</p> <p>2 MR. MILLER: We're on the record at 12:08 p.m.</p> <p>3 Eastern daylight time on August 12, 2020.</p> <p>4 This is the testimony of a witness in Whittier,</p> <p>5 California, via WebEx. My name is Gary Miller, I'm joined</p> <p>6 by Robert Levinson, we're officers of the United States</p> <p>7 Securities and Exchange Commission for purposes of this</p> <p>8 proceeding.</p> <p>9 I will now swear the witness in.</p> <p>10 Mr. Ortiz, if you would be kind enough to raise</p> <p>11 your right hand.</p> <p>12 Do you swear or affirm to tell the truth, the</p> <p>13 whole truth, and nothing but the truth?</p> <p>14 MR. ORTIZ: I do.</p> <p>15 Whereupon,</p> <p>16 DAVID ORTIZ</p> <p>17 was called as a witness and, having been first duly</p> <p>18 sworn, was examined and testified as follows:</p> <p>19 MR. MILLER: You can put your hand down.</p> <p>20 Please state your full name and spell your name for the</p> <p>21 record.</p> <p>22 THE WITNESS: David Patrick Ortiz, D-A-V-I-D</p> <p>23 P-A-T-R-I-C-K O-R-T-I-Z.</p> <p>24 MR. MILLER: Do you go by any other names?</p> <p>25 THE WITNESS: No.</p>	<p style="text-align: right;">Page 7</p> <p>1 to formally send me a copy and then I sent it to you.</p> <p>2 THE WITNESS: It's the titles of the documents</p> <p>3 that I'm not clear, okay, I guess I did.</p> <p>4 MR. MILLER: So are you adopting what your</p> <p>5 counsel just represented?</p> <p>6 THE WITNESS: Yes.</p> <p>7 (SEC Exhibit No. 1 was marked for</p> <p>8 identification.)</p> <p>9 MR. MILLER: Excellent. Then the Commission's</p> <p>10 Supplemental Information Form 1661 -- 1662. That's been</p> <p>11 previously marked as Exhibit 1. And that I believe is on</p> <p>12 the screen right now.</p> <p>13 Prior to the opening of the record isn't it</p> <p>14 true you were provided with a copy of Exhibit 1 which is</p> <p>15 the Commission's Supplemental Information Form 1662?</p> <p>16 THE WITNESS: Yes.</p> <p>17 MR. MILLER: Mr. Ortiz, have you had an</p> <p>18 opportunity to read that exhibit?</p> <p>19 THE WITNESS: That's the one we're looking at</p> <p>20 now. Correct?</p> <p>21 MR. MILLER: Yes, sir.</p> <p>22 THE WITNESS: Yes.</p> <p>23 MR. MILLER: Do you have any questions</p> <p>24 regarding it?</p> <p>25 THE WITNESS: I do not.</p>
<p style="text-align: right;">Page 6</p> <p>1 MR. MILLER: As I mentioned I am going to</p> <p>2 note for the record you consented to have this testimony</p> <p>3 conducted remotely. Is that correct?</p> <p>4 THE WITNESS: That's correct.</p> <p>5 MR. MILLER: And I will further note for the</p> <p>6 record that you consent to have the oath you just took</p> <p>7 administered remotely. Is that correct?</p> <p>8 THE WITNESS: That's correct.</p> <p>9 MR. MILLER: This is an investigation by the</p> <p>10 United States Securities and Exchange Commission in the</p> <p>11 matter of 1 Global Capital, LLC, to determine whether</p> <p>12 there have been violations of certain provisions of the</p> <p>13 federal securities laws. However, the facts developed in</p> <p>14 this investigation might constitute violations of other</p> <p>15 federal or state, civil or criminal laws.</p> <p>16 Prior to the opening of the record you were</p> <p>17 provided with a copy of the formal order of investigation</p> <p>18 in this matter. It will be available for your examination</p> <p>19 during the course of this proceeding.</p> <p>20 Mr. Ortiz, at this point do you have -- have</p> <p>21 you had an opportunity to review the formal order?</p> <p>22 THE WITNESS: Mark.</p> <p>23 MR. ALBERT: I gave it to you and discussed it</p> <p>24 with you, yes, David. It's the order that initiated the</p> <p>25 investigation after the subpoena was issued I asked them</p>	<p style="text-align: right;">Page 8</p> <p>1 MR. MILLER: Mr. Ortiz, are you represented by</p> <p>2 counsel in this matter?</p> <p>3 THE WITNESS: Yes, I am.</p> <p>4 MR. MILLER: Would counsel please identify</p> <p>5 himself and state your full name, your firm's name, and</p> <p>6 address, and phone number for the record?</p> <p>7 MR. ALBERT: Yes, sir. My name is Mark Albert,</p> <p>8 I'm the principal of Mark Anchor Albert &amp; Associates. We</p> <p>9 are a litigation law firm located at 800 West 6th Street,</p> <p>10 Suite 1220, Los Angeles, California, 90071.</p> <p>11 MR. MILLER: And you are representing Mr. Ortiz</p> <p>12 as his counsel today?</p> <p>13 MR. ALBERT: Yes, correct, I'm here as his</p> <p>14 counsel, Mr. Miller.</p> <p>15 MR. MILLER: And do you represent anyone else</p> <p>16 with regard to these proceedings?</p> <p>17 MR. ALBERT: And any other entity owned by Mr.</p> <p>18 Ortiz that the SEC wishes to investigate.</p> <p>19 MR. MILLER: And Mr. Ortiz, I see it looks like</p> <p>20 you're in a different location than your counsel. Is</p> <p>21 anyone else with you?</p> <p>22 THE WITNESS: I am not in my office, no. I'm</p> <p>23 at my office, I have three employees out in their work</p> <p>24 stations but not in this room with me.</p> <p>25 MR. MILLER: Okay. Now, I'm going to ask</p>

<p style="text-align: right;">Page 9</p> <p>1 Magaly to please put up Exhibit 117 and put that on the 2 screen.</p> <p style="text-align: center;">EXAMINATION</p> <p>3</p> <p>4 BY MR. MILLER:</p> <p>5 Q So Mr. Ortiz, what is before you is Exhibit 117 6 and it's a subpoena addressed to you via counsel. It's 7 dated June 15, 2020.</p> <p>8 Have you seen this document before today?</p> <p>9 A Yes, I have.</p> <p>10 Q Excellent. And does this document contain the 11 subpoena to which you're appearing here today?</p> <p>12 A I don't recall.</p> <p>13 Q Okay. Can you turn to page --</p> <p>14 MR. MILLER: Magaly, can you turn to page four?</p> <p>15 MS. ORDAZ: Yes, we're on page four.</p> <p>16 BY MR. MILLER:</p> <p>17 Q And is that the subpoena which you're 18 testifying?</p> <p>19 A Yes, it is.</p> <p>20 MR. MILLER: And Magaly, can you replace that 21 and put up Exhibit 118.</p> <p>22 BY MR. MILLER:</p> <p>23 Q Mr. Ortiz, you've never seen this document 24 before, the e-mail?</p> <p>25 A The e-mail?</p>	<p style="text-align: right;">Page 11</p> <p>1 can see going to show you documents. At any time if you 2 want to take a short break to use the bathroom, drink some 3 water, feel free to let us know and we will do our best to 4 accommodate you.</p> <p>5 A Thank you.</p> <p>6 Q The court reporter transcribes these proceedings 7 and will create a transcript of your testimony at the end. 8 So if we have --</p> <p>9 THE COURT REPORTER: I didn't hear that, I'm 10 sorry, you're breaking up.</p> <p>11 BY MR. MILLER:</p> <p>12 Q If we have a dynamic where we are speaking to 13 you over a Zoom -- can you hear that?</p> <p>14 A I did hear that.</p> <p>15 MR. MILLER: Madam Court Reporter, can you hear 16 that?</p> <p>17 THE COURT REPORTER: Yes, better.</p> <p>18 BY MR. MILLER:</p> <p>19 Q Since she's going to be recording each word that 20 everyone says it's critically important for everyone that 21 speaks to let the other person finish speaking before 22 responding. Because if we talk over each other the court 23 reporter's job is going to be imminently more difficult 24 and the transcript will not be clear.</p> <p>25 And if you don't understand the question please</p>
<p style="text-align: right;">Page 10</p> <p>1 Q Yes.</p> <p>2 A Well, that's a communication that looks like I 3 was not involved in, no.</p> <p>4 Q Okay. So in sum, Exhibit 118 was a request from 5 your counsel to have an extension to the date to produce 6 documents and a date to extend the date to have the 7 testimony on, and the staff was able to grant that so we 8 were (inaudible) Exhibit 118 shows that we were able to by 9 agreement move the testimony. Unfortunately, I was unable 10 to attend the testimony apparently on that date and 11 counsel, Mark, I appreciate it was able to accommodate our 12 request to change it to today date, Exhibit 118.</p> <p>13 THE COURT REPORTER: Magaly, he's coming in 14 and out, do you hear it too, or is it just me?</p> <p>15 MS. ORDAZ: No, he was breaking up a little bit. 16 Gary, you were breaking up.</p> <p>17 BY MR. MILLER:</p> <p>18 Q I want to go through with you, Mr. Ortiz, some 19 of the procedures that we're going to be following today, 20 I don't know if you've taken or given investigative 21 testimony before so let me just basically --</p> <p>22 A I have not.</p> <p>23 Q Let me briefly explain the procedure we're going 24 to be following today. We're going to be asking you 25 questions, myself and Mr. Levinson. And we're also as you</p>	<p style="text-align: right;">Page 12</p> <p>1 let us know, we can do our best to clarify the question a 2 little bit more artfully for you. Because if you do 3 answer a question we're going to go under the operative 4 assumption that you understood the question.</p> <p>5 Do you follow me and do you agree with that?</p> <p>6 A I do and I agree.</p> <p>7 Q Thank you. Please make sure to answer my 8 question, Mr. Levinson's questions verbally because the 9 court reporter cannot pick up nodding or any other 10 gestures that we might use in conversation. Do you follow 11 that?</p> <p>12 A I do follow that.</p> <p>13 Q And you may tell me at any time if you would 14 like to change or modify a previous answer. And your 15 counsel will give you an opportunity at the end of the 16 staff's questions to change or modify a previous answer.</p> <p>17 I also want you to also know that we don't have 18 conversations, quote, unquote, off the record, so when we 19 do go off the record and we talk amongst ourselves here 20 and with you if that does happen I'm going to summarize 21 what we talked about when we go back on the record.</p> <p>22 Do you follow me on that?</p> <p>23 A I do follow.</p> <p>24 Q And I have to ask this of every single witness I 25 take, Mr. Ortiz, are you on any medication that would</p>

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1 impede your ability or memory to understand?  
2 A No. Mr. Miller, you're breaking up a little  
3 bit.  
4 Q Let's try now. What's your date of birth?  
5 MR. ALBERT: David, you're on mute, David.  
6 There you go.  
7 A 11/27/61.  
8 BY MR. MILLER:  
9 Q And the last four digits of your social?  
10 A I didn't hear that.  
11 Q What are the last four digits of your social?  
12 A 4062.  
13 Q What is your current address?  
14 A Home address is [REDACTED]  
15 [REDACTED]  
16 Q Start with college and give us from college to  
17 date your educational background.  
18 A I attended LA Trade Tech College in Los Angeles,  
19 took supplemental courses at El Camino College in  
20 Torrance, California, and I continued to do continuing  
21 education to meet my licensing requirement. I have taken  
22 and passed the Series 6, 63, and 65 test, and for my state  
23 insurance license I do 30 hours of continuing education  
24 every two years.  
25 Q And with the undergrad work did those result in

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1 any degrees?  
2 A I received an AA at LA Trade Tech and a second  
3 class FCC license.  
4 Q What is a second class SEC license?  
5 A Well, when I was a kid I wanted to get in radio  
6 communications not broadcasting but working on radio  
7 lines.  
8 Q Oh, did you say FCC?  
9 A Yes. F like Frank.  
10 Q I'm sorry, I thought you said SEC class two.  
11 A No.  
12 Q I've been doing this awhile, I haven't heard of  
13 that one before.  
14 A Never heard that one.  
15 Q So did you in fact get involved in broadcasting?  
16 A I did not.  
17 Q And then if you could after college and moving  
18 forward can you tell us about your employment background?  
19 A Yes. As I was going through school I was  
20 working retail at Gemco Stores which is similar to a  
21 Costco. And from there I got a job with a carpenter  
22 upholstery cleaning company in Los Angeles so I spent  
23 three years with that company. And then I was recruited  
24 by New York Life to work in the life and health insurance  
25 business, and that was in 1988, and I've been in this

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1 profession ever since.  
2 Q And the New York license, what year did that  
3 occur?  
4 A That was September 30th of 1988.  
5 Q What caused you to be recruited into New York  
6 Life, did you apply for that job?  
7 A Could you repeat the question, the last part was  
8 unclear?  
9 Q Did you reply to an advertisement, how did you  
10 get involved in New York Life?  
11 A No. They -- I'll try to keep this brief. An  
12 assistant manager of mine was supposed to open up the shop  
13 on a Saturday morning and he never showed, and of course  
14 in '88 we had no cell phones and I couldn't reach him so I  
15 showed up and worked that day. On Tuesday of the  
16 following week he called me and said he had received a  
17 position at New York Life and he thought it would be a  
18 good fit for me and the manager. I remember his name was  
19 Pat Miller, he called me and introduced me to the  
20 profession. So that's how I got recruited into the  
21 profession, I was not see an advertisement.  
22 Q Okay. So what did you do with New York Life and  
23 after that?  
24 A With New York Life I was mostly soliciting life  
25 insurance and small businesses for small business health

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1 and insurance.  
2 Q How long did you stay at New York Life?  
3 A I was there probably two years.  
4 Q What happened next?  
5 A From there I started working with the company,  
6 they were based out of Texas, it was called the Keith Wood  
7 Agency, and they were basically a large health insurance  
8 firm, and I was a manager with them, and our job really  
9 was to answer some leads that were sent to him for people  
10 needing group health insurance.  
11 And I was there probably two years before I  
12 started working with Banker's Life and Casualty doing the  
13 same work.  
14 Q And are these all in California or did you go to  
15 the location?  
16 A No, I was always in California.  
17 Q Okay. So now you're at Banker's Life, we're  
18 about 1994, what happens next?  
19 A I started working with a company, I can't  
20 remember the name, BF Whitaker Group, and they specialized  
21 in 403B's.  
22 Q So --  
23 A So with that company they had basically teachers  
24 that responded to advertising and I would go out there and  
25 talk to them about setting up a 403B. The equity group

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1 also had a small broker dealer that worked with them  
2 called Aragon Financial Services so I was licensed to do  
3 as a Series 6 and 63 to do variable annuities, mutual  
4 funds as well as annuities. And I did that all the way  
5 through 2000.  
6 Q Okay. So now we're up to 2000, what happened  
7 next?  
8 A In 2000 I started working with a company called  
9 Security Financial Group, and I was an independent  
10 contractor, and basically with them I was -- I was a  
11 notary but I also saw clients about estate planning  
12 services so a representative would set up a living trust,  
13 I would go out and notarize documents, and if they needed  
14 additional estate planning services in the form of  
15 insurance products, say life insurance or annuities, that  
16 was my job and I did that for about eight years.  
17 Q Okay.  
18 A After 2008 that company went bankrupt and I just  
19 continued to service my 403B clients and the estate  
20 planning clients that I had guard over that time and I was  
21 basically just working off of referral work. And that's  
22 how I started working with that. And as an independent  
23 insurance agent and Series 6 and 63 advisor I was  
24 introduced to possibly getting my Series 65 and working  
25 there as a fiduciary advisor. I did get my 65 I believe

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1 it was in 2008. I had kind of an informal relationship  
2 with the company, really -- I really didn't do much with  
3 them, it was not a lot of training, so to speak, so I was  
4 introduced to another gentleman I believe it was 2014 in  
5 Phoenix, Trade Wealth, and there I worked as an IAR for  
6 about a year and a half.  
7 Q For the record what's an IAR?  
8 A I'm sorry, investment advisor representative.  
9 Q What does that allow you to do?  
10 A It allows me to represent registered investment  
11 advisor as a fiduciary subadvisor for them.  
12 Q Okay. And then does that take us -- that takes  
13 us to present. So keep going.  
14 A Yes. So from there I worked with another  
15 company, the name alludes me right now, it was advisors --  
16 it will come to me, I'm sorry. I started working with  
17 them for a little while. But it just long story short I  
18 decided to go independent because it still didn't feel  
19 like a shared relationship with my clients because they  
20 seem to just want us to sell proprietary products and that  
21 just didn't feel right to me so I decided to apply with  
22 the State of California to become a IAR, or investment  
23 advisor representative for my own firm as a RIA.  
24 Q When did you do that?  
25 A I believe that was 2016.

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1 Q Okay. Why do you believe it was 2016?  
2 A I'm trying to chronological it in my mind. I  
3 think it was '16.  
4 Q Okay. And do you still currently have the  
5 Series 6, 63, and 65?  
6 A It shows up on my ADV, yes.  
7 Q Has any of them been suspended or revoked at any  
8 time?  
9 A Never.  
10 Q Okay. So you came up with your own RIA that's  
11 California registered, and tell me about what the name of  
12 the firm and how many people you have working there, what  
13 do you do?  
14 A The name of the firm is David Ortiz Advisors,  
15 Inc. I have seven employees, and I have another IAR that  
16 works with me, the other employees mostly do customer  
17 service, paperwork, and maybe answering general questions,  
18 non-advice, that's just left to me and the subadvisor,  
19 Frank Wilson. And I have another person that basically  
20 follows up on people that have inquired for our services  
21 and just reaches out to them.  
22 Q Frank Wilson is the other RIA?  
23 A Yes, he is.  
24 Q Okay. And so is it fair to say -- is it  
25 accurate that you have not been registered as a broker

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1 dealer or associated with a registered broker dealer  
2 during any of the time of your employment that we  
3 discussed?  
4 A No. You said is it fair to say that?  
5 Q Correct.  
6 A Yes, I have not been affiliated with the broker  
7 dealer.  
8 Q Okay. And you're not a registered broker  
9 dealer?  
10 A I am not, no.  
11 Q Okay. And through David Ortiz Advisors how many  
12 clients would you say you have? Let's just go year by  
13 year. So we started off how many clients and also add to  
14 under management and take me forward to present, please.  
15 A Wow.  
16 Q To the best of your ability, just I understand  
17 you're not -- you know, this is not a memory test so just  
18 to the best of your ability.  
19 A I would say that we have upwards of 4 or 500  
20 clients going back to when I started working with 403B's  
21 and then estate planning services through the present. As  
22 far as securities AUM we're at about 42 million, with life  
23 insurance and annuity products our portfolio is closer to  
24 80. I think it's 83 million right now. I could look that  
25 number up but that's to the best of my ability right now.

<p style="text-align: right;">Page 21</p> <p>1 Q Okay. And how do get customers?</p> <p>2 A Well, like I said going back to 2008 I worked</p> <p>3 mostly on a referral basis. I have and still do advertise</p> <p>4 on the radio really just my fiduciary services. I don't</p> <p>5 advertise any products, never have, so I do get some from</p> <p>6 radio, some from the internet on our website, and a good</p> <p>7 majority are still referrals and existing clients.</p> <p>8 Q What content is on your website?</p> <p>9 A It just talks a little bit about, you know, who</p> <p>10 we are, what we do, some educational information about</p> <p>11 various ways or -- various ways or marketplaces that you</p> <p>12 can invest in. It talks a little bit about the fiduciary</p> <p>13 versus suitability, there is some estate planning</p> <p>14 information on there. Most of it is education.</p> <p>15 Q But did it also contain like from time to time,</p> <p>16 obviously we're going to be speaking about 1 Global</p> <p>17 Capital today, did you have occasion to populate 1 Global</p> <p>18 Capital on your website at any time?</p> <p>19 A Never.</p> <p>20 Q Okay. And is your business fee based, is it</p> <p>21 commission based, how does it work?</p> <p>22 A The business is fee based.</p> <p>23 Q Any exceptions to that?</p> <p>24 A Well, yeah, inherently annuity products and life</p> <p>25 insurance products pay commission.</p>	<p style="text-align: right;">Page 23</p> <p>1 at things that are non-correlated assets. We try to build</p> <p>2 an asset, a portfolio very similar to that of an endowment</p> <p>3 strategy where there are illiquid assets which kind of</p> <p>4 gives us an illiquidity premium. These can be sold off,</p> <p>5 for example, a private real estate investment trust as</p> <p>6 opposed to publicly traded. So these are the types of</p> <p>7 things we like to recommend, of course for our more risk</p> <p>8 adverse clients we'll recommend annuities for life</p> <p>9 insurance business.</p> <p>10 Q Okay. And besides the licenses you mentioned,</p> <p>11 the 63 and 65, did you need a license (inaudible).</p> <p>12 THE COURT REPORTER: Can you please repeat</p> <p>13 that, you broke up all throughout?</p> <p>14 BY MR. MILLER:</p> <p>15 Q The products you just described and the services</p> <p>16 you just described, obviously you had a 63 and a 65 during</p> <p>17 that period of time, did you need any other licenses to</p> <p>18 sell it that's offered from 2016 to present?</p> <p>19 MR. ALBERT: Excuse me, I just want to object</p> <p>20 on the grounds that it calls for legal conclusion but,</p> <p>21 David, you can answer to the best of your knowledge.</p> <p>22 THE WITNESS: To the best of my knowledge, no.</p> <p>23 BY MR. MILLER:</p> <p>24 Q Okay. And I want to go back and just get these</p> <p>25 other housekeeping items.</p>
<p style="text-align: right;">Page 22</p> <p>1 Q And anything else?</p> <p>2 A Typically if we refer something out on a say fee</p> <p>3 basis I'll get a flat referral fee that's not based on the</p> <p>4 value of the referral, but most everything we do is fee</p> <p>5 based and has been for a few years. We try not to do</p> <p>6 anything that pays a commission so we've looked at annuity</p> <p>7 products lately that are all fee based, the conflict of</p> <p>8 interest we're trying to act as true fiduciaries so no</p> <p>9 commission.</p> <p>10 Q If you can just walk me through generally</p> <p>11 speaking 2016 to present what are some of the investments</p> <p>12 that you offered to clients?</p> <p>13 A So typically with our securities platform which</p> <p>14 we custody those assets at TD Ameritrade we have used and</p> <p>15 still do use third party money managers, so we'll use</p> <p>16 what's called a third party money manager agreement, and</p> <p>17 we'll allocate a certain percentage to a given manager and</p> <p>18 they will manage their strategy on behalf of our clients</p> <p>19 and we pay them a fee from the fees that we build.</p> <p>20 Some of the ones that we recommend also are</p> <p>21 mutual funds, we try to mostly stick to exchange rated</p> <p>22 funds because of the cost. Excuse me. Some of the other</p> <p>23 things that we would recommend would be obviously usually</p> <p>24 some mutual funds, we do like alternative investments.</p> <p>25 Typically with the alternatives we're going to be looking</p>	<p style="text-align: right;">Page 24</p> <p>1 Have you ever been named as a defendant or</p> <p>2 respondent in any action brought by the SEC?</p> <p>3 A I have not.</p> <p>4 Q Have you ever been named as a defendant or a</p> <p>5 respondent in any action brought by any other federal or</p> <p>6 state securities agency, any other federal agency, any</p> <p>7 stock exchange, or FINRA?</p> <p>8 A Not federal, only FINRA I believe it was.</p> <p>9 Right; Mark?</p> <p>10 MR. ALBERT: No, no. You had a private</p> <p>11 arbitration you didn't have a FINRA arbitration. That was</p> <p>12 a private arbitration not an agency arbitration.</p> <p>13 We provided that information to Mr. Levinson.</p> <p>14 Mr. Miller, that was in our supplemental</p> <p>15 production to you, we turned over the Mercado private</p> <p>16 arbitration complaint.</p> <p>17 MR. MILLER: Right.</p> <p>18 BY MR. MILLER:</p> <p>19 Q Mr. Ortiz, do you know whether or not that was</p> <p>20 filed against you (inaudible) such as FINRA?</p> <p>21 A No, I don't believe so.</p> <p>22 Q Have you ever been named as a defendant in a</p> <p>23 lawsuit or arbitration related to the securities laws?</p> <p>24 A I have not.</p> <p>25 Q Have you ever been subject to any disciplinary</p>

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1 action by the SEC, any federal agency, any state agency,  
2 or any state self-regulatory organization such as FINRA?  
3 A I have not.  
4 Q Have you ever had a customer complaint filed  
5 against you?  
6 A Only one. No, I think that was two, sorry.  
7 Q Okay. Tell me about the allegations as well as  
8 the outcome.  
9 A Could you repeat the question, I'm sorry?  
10 Q Sure. Tell me the nature of the complaint, the  
11 nature of the allegations and the outcome.  
12 A Okay, the first one was Monte Grusola, and he  
13 complained about a loss that he incurred in his TD  
14 Ameritrade portfolio that we had set up. It was  
15 submanaged by our third party manager investment pod.  
16 There was position in there called the XIV, it was an ETF  
17 sponsored by Credit Suisse, and sometime in 2018 I believe  
18 it was they pulled that position and he lost about \$5,000.  
19 We had no control over that because it was done by Credit  
20 Suisse, and after discussing it and presenting all the  
21 information to I believe it was Department of Business  
22 Oversight nothing happened with that. It was resolved and  
23 there was no damages or anything with that.  
24 With the Joe Mercado, that was a -- what was  
25 that, Mark, a complaint?

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1 MR. ALBERT: Yeah, that was a FINRA --  
2 MR. MILLER: Gentlemen, gentlemen, gentlemen,  
3 hold on.  
4 BY MR. MILLER:  
5 Q Mr. Ortiz, you're the one that's testifying  
6 today.  
7 A I'm sorry, I didn't know what to call it.  
8 Q Let's go from your memory and you describe it  
9 the best way you know how.  
10 A Yeah, I'm sorry, Mr. Miller, I didn't know what  
11 to call it that's why I asked Mark.  
12 Q That's fine.  
13 A I had a client that was dissatisfied with the  
14 portfolio that I had set up for him and he wanted to get  
15 out so he hired an attorney and it went to arbitration.  
16 And we discussed his portfolio which was my strategy  
17 typically to do a multi-bucket approach so we had some  
18 money for the liquid assets, we had some for long-term  
19 assets, and we had some for typically income, and he  
20 wasn't -- wasn't happy with the way it turned out, one of  
21 them didn't go well and so we ended up in arbitration and  
22 we ended up settling satisfactorily for him and myself.  
23 Q What was the amount of the settlement?  
24 THE COURT REPORTER: I didn't hear that.  
25 BY MR. MILLER:

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1 Q What was the amount of the settlement?  
2 A I believe -- oh gosh, I don't remember, I think  
3 it was about \$135 thousand total.  
4 Q Did you pay him that?  
5 A Yeah, that's been paid.  
6 Q Was there any other contribution?  
7 A No, I had -- there was an admission to insurance  
8 and they made a contribution and then I paid the  
9 difference.  
10 Q Okay. How much did you pay?  
11 A 25 thousand.  
12 Q And Mr. Mercado?  
13 A Yes.  
14 Q Okay. Anything else?  
15 A No, that's it.  
16 Q When did you first learn about the SEC  
17 investigation?  
18 A For me or 1 Global?  
19 Q Let's go with 1 Global.  
20 A I had actually received a call from a bankruptcy  
21 attorney because I guess it was filed and he had I guess  
22 has access to bankruptcy filings and called me and said  
23 hey, you know, you have a client that's part of this  
24 program and I was utterly shocked. It was probably the  
25 end of July of 2018. I don't remember the exact date, it

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1 might have been end of July and first of August, about two  
2 years ago. And right away I started taking a look at what  
3 the heck happened. Pardon me.  
4 Q And what did you find?  
5 A Well, what I can find publicly they did file for  
6 bankruptcy and it wasn't until time continued to develop  
7 that I started seeing all the other documents at what the  
8 principles of 1 Global had been doing behind the scenes  
9 unbeknownst to me and I would assume most everybody else.  
10 Q When did you learn about this investigation  
11 (inaudible)?  
12 THE COURT REPORTER: I'm sorry, repeat.  
13 BY MR. MILLER:  
14 Q When did you learn about this investigation,  
15 staff investigation to 1 Global as it relates to you?  
16 A I believe it was when you and Mr. Levinson  
17 called me and you left a message at my office and I called  
18 you back. I don't recall the date of that, I think it was  
19 in May or early June.  
20 Q And outside (inaudible).  
21 THE COURT REPORTER: You have to start over, you  
22 broke up; correct, everybody?  
23 THE WITNESS: Yes.  
24 MR. LEVINSON: Gary, we cannot hear you now.  
25 MR. MILLER: How about now?

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1 THE WITNESS: Yes, I can hear you.  
2 BY MR. MILLER:  
3 Q Outside of your counsel have you spoken with  
4 anyone else about this investigation?  
5 A Of course my family, my employees.  
6 Q And what did you tell your employees about it?  
7 A I told them I was being investigated because of  
8 what happened with 1 Global and that I was being -- I  
9 don't know what the right word is but I was being accused  
10 of selling an unregistered security which I found rather  
11 shocking not that it wasn't an unregistered security  
12 because I found that out through the documents that I  
13 found online but we had no idea that it was a security  
14 when we decided to offer it. So I was really shocked that  
15 I was being held accountable for the actions of another,  
16 or others, and that's what I told them, but you know what,  
17 we need to deal with it and take responsibility for  
18 whatever role we have. And you suggested -- you didn't  
19 suggest you said if you have counsel so do, and of course  
20 I called Mark and that was the extent of the conversation,  
21 my conversation with my employees.  
22 Q And without giving up any attorney client  
23 privilege how did you prepare for your testimony here  
24 today?  
25 A That's a great question. We talked about a few

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1 things, mostly the information that our staff has provided  
2 that was subpoenaed, things that I should be prepared for  
3 which is what we're going through right now --  
4 MR. LEVINSON: Wait a minute, Mr. Ortiz, hold  
5 up. Are you talking about conversations with your  
6 counsel?  
7 THE WITNESS: I guess.  
8 MR. LEVINSON: This is Bob Levinson by the way.  
9 Do not discuss conversations with your counsel.  
10 Gary, if I might, let me just maybe be narrow  
11 it down.  
12 BY MR. LEVINSON:  
13 Q Just include, you know, you talked to your  
14 counsel, did you talk to anyone else or review documents?  
15 A Yeah, of course I reviewed documents but I did  
16 not talk to anyone else.  
17 Q Okay. Without saying who showed them to you can  
18 you tell us what documents you reviewed?  
19 A The documents I reviewed were the things that I  
20 sent with the subpoena, the due diligence documents that I  
21 had acquired prior to offering 1 Global including sample  
22 memorandums of the indebtedness, the company's structure,  
23 the statements about why this offering was exempt and so  
24 on, these were all the things that I was reviewing as far  
25 as documents. And, you know, dates of when I got in touch

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1 with -- or when American Alternative Investments reached  
2 out to me and was trying to I guess talk to me about  
3 offering this product to my clients, of course I did my  
4 role of due diligence which is why I wanted to give you  
5 that information, but that's what I was reviewing.  
6 Q Okay. Other than reviewing those documents and  
7 talking to your counsel did you do anything else to  
8 prepare for the deposition today?  
9 A I prayed a lot.  
10 Q Understand. Okay, thanks.  
11 MR. LEVENSON: Gary, back to you, sorry.  
12 BY MR. MILLER:  
13 Q Okay. And then there were certain documents  
14 pursuant to Exhibit 117 that were requested that you  
15 produce to the staff.  
16 Did you withhold any of the documents that were  
17 called for in that production?  
18 A I did not.  
19 Q Were there any other documents that would have  
20 been responsive that were lost or stolen or otherwise  
21 unavailable and were, therefore, not produced?  
22 A To the best of my knowledge, no, because any  
23 correspondence would typically be done through e-mail and  
24 it's all archived for five years. We do use sales force  
25 as a CRM so we store documents there as well, and we make

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1 it a habit to store anything, so I don't to the best of my  
2 knowledge I don't think anything was lost or destroyed.  
3 Q Excellent.  
4 MR. MILLER: Magaly, could you please put up  
5 on the screen Exhibit 119?  
6 BY MR. MILLER:  
7 Q Mr. Ortiz, the staff has marked your CRD, yours  
8 personally, as Exhibit 119. I feel somewhat confident  
9 that you've seen this before, whether or not you've seen  
10 in this format I'm not so sure, if you can just take a  
11 moment and I'm not going to ask you any questions at this  
12 point but just peruse 119 and let me know if the materials  
13 on there are accurate. So to the extent you need Magaly  
14 to go quicker or slower you can let her know.  
15 A She was scrolling at a fine pace, thank you.  
16 That looks right.  
17 Q Excellent.  
18 MR. MILLER: And let's go back if we could,  
19 Magaly, to page eight of ten. Right in the center of the  
20 page other businesses.  
21 BY MR. MILLER:  
22 Q Mr. Ortiz, there is an entry that says Dave.Glo  
23 Investment Group, Inc. Investment related, Whittier,  
24 California, insurance services owner agent start date 1998  
25 incorporated in 2004 greater than 50 percent of time spent

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1 in this business.  
2 What does Dave.Glo Investment Group do?  
3 A That's the insurance division of my company so  
4 we do a lot of our annuity business through there, estate  
5 planning services, that's primarily what we do through  
6 that firm.  
7 Q Primarily or exclusively?  
8 A Not exclusively, I mean, we have referred  
9 businesses out -- or referred work out of that to others  
10 but that's primarily what we -- what that firm does.  
11 Q Does it -- sorry, go ahead.  
12 A No, no.  
13 Q Does it have its own bank account?  
14 A It does.  
15 Q And are any fees from say 1 Global paid into  
16 there?  
17 A They were paid into there, yes.  
18 Q For what reason?  
19 A It was the agreement that I had with American  
20 Alternative Investments, and so I had that agreement  
21 between that particular business and American Alternative  
22 and that's how I got compensated through for that  
23 particular product.  
24 Q What about the balance of your -- the products  
25 that you sold through the umbrella American Alternative

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1 Investments, were those also paid to Dave.Glo?  
2 A Yes, they were.  
3 Q And who established that relationship where  
4 that's where they would be paid?  
5 A That was me.  
6 Q And why did you select it, would go into that  
7 entity as opposed to your advisory accounts?  
8 A Because I did not feel any of the things they  
9 offered were securities.  
10 Q What do you mean by that?  
11 A Well, they weren't securities as I would call  
12 them that I would offer through TD Ameritrade, and  
13 anything that got paid through here was typically an  
14 insurance product or a referral fee so we referred  
15 business out and they paid fees into this.  
16 I also had an outside compliance person and  
17 that's what she had recommended I do as well.  
18 Q Who is the outside compliance person?  
19 A At the time it was Tiffany -- I have to look  
20 that up. Do you want to take a moment for me to look that  
21 up?  
22 Q Sure.  
23 A Okay. It was Tiffany Chamberlin with Polaris  
24 Compliance.  
25 Q Do you still do business with her?

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1 A No. Ever since 1 Global I hired another firm to  
2 do our compliance and everything else like that.  
3 Q Okay.  
4 BY MR. LEVINSON:  
5 Q You said Polaris Compliance. P-O-L-A-R-I-S?  
6 A Yes, sir.  
7 Q And where is that located?  
8 A That's a good question. I can look that up.  
9 Q Please.  
10 A I believe she is from South Carolina, I'm not  
11 positive.  
12 Q And please, go ahead.  
13 A They're in Georgia.  
14 Q Okay. And had you been doing business with  
15 Ms. Chamberlin, Polaris prior to consulting with them on 1  
16 Global?  
17 A Yes.  
18 Q How long had you been doing business with them?  
19 A When I established the IRA firm.  
20 Q Okay.  
21 A She helped me with all that paperwork so...  
22 Q Okay. And I take it you consulted with them on  
23 other compliance matters over the years?  
24 A I would ask her on this product that we're  
25 thinking about, you know, how should we do this.

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1 Q Okay.  
2 A That is a consultation that I received.  
3 Q Okay. Thank you.  
4 BY MR. MILLER:  
5 Q With respect to the AAI relationship which we'll  
6 go into in a couple of moments, did Ms. Chamberlin tell  
7 you that any monies you received in remuneration of  
8 selling a product through your associates with 1 Global  
9 should be paid to the Dave.Glo entity?  
10 A Yes.  
11 Q Outside of that did you do anything else with  
12 respect to the products that you looked at that were  
13 offered through AAI?  
14 A No. I don't believe she did.  
15 Q She didn't do any due diligence on them or see  
16 whether or not -- create a legal opinion or anything like  
17 that?  
18 A No.  
19 Q Okay.  
20 MR. MILLER: Magaly, if you can be kind enough  
21 to put Exhibit 120 for a brief moment.  
22 BY MR. MILLER:  
23 Q And if you page through it, I don't know if  
24 you've ever seen this, maybe not in this format, this is  
25 your IARD for your RIA entity. So Magaly will page

<p style="text-align: right;">Page 37</p> <p>1 through it and you tell her if she is going too slow, too  2 fast, or just right.  3 A She is going just fine. Okay.  4 Q Okay. Just a couple of things I want to  5 follow-up on.  6 MR. MILLER: Magaly, if you would please go to  7 page three of eight.  8 BY MR. MILLER:  9 Q And it says about three-quarters of the way down  10 the page registrations, and as you alluded to you're  11 registered with the State of California, your registration  12 status is approved and the status effective date is  13 January 17, 2018.  14 So I know earlier you thought it was 2016. Is  15 that perhaps when it was established your entity or is  16 that -- and then you became registered two years later, I  17 want to get the dates down?  18 A Not that I recall. I was pretty sure, I was  19 able to act as a RIA under my own firm after TD Ameritrade  20 did all their due diligence and to the best of my  21 knowledge and Tiffany's knowledge because I was relying on  22 her expertise that I was good to go.  23 Q Okay. Then the next page, four of eight.  24 Towards the bottom it says direct owners and  25 executive officers. That is David Patrick Ortiz listed as</p>	<p style="text-align: right;">Page 39</p> <p>1 Q And what is the frequency of the educational  2 seminars and workshops that you put on?  3 A I would say probably quarterly if that. I  4 haven't done any this year.  5 Q And how do you attract people to those  6 educational seminars and workshops?  7 A Usually through my website or I'll reach out  8 through an e-mail to existing clients.  9 Q Excellent.  10 MR. MILLER: Magaly, I'm done with 120, Exhibit  11 120.  12 BY MR. MILLER:  13 Q So let's talk about AAI. What is AAI?  14 A Well, the way I always saw them is they were a  15 wholesaler for alternative products.  16 Q What does that mean?  17 A Well, they basically would -- they would find  18 alternative products and then they would reach out to  19 advisors and whoever else they reached out to and  20 basically solicited, you know, an agreement with them to  21 offer those products, so anything that I did through AAI  22 was upon their recommendation. Now that being said, you  23 know, I would have never found 1 Global if it wasn't for  24 them calling me up.  25 Q So let's --</p>
<p style="text-align: right;">Page 38</p> <p>1 president and CCO. What does CCO mean?  2 A I believe that's probably I would guess but I'm  3 going to say chief compliance officer.  4 Q Okay. Are you in fact the chief compliance  5 officer?  6 A Yes. I hired a consultant to help me with that  7 job but I am the compliance officer, yes.  8 Q Okay. And you own a hundred percent or is the  9 75 percent more pretty much?  10 A I believe it's a hundred percent.  11 Q Okay. And then there is another business  12 located down at the bottom, it says Ortiz World Advisors,  13 what is that entity?  14 A That's actually a misstatement, it's Ortiz World  15 Wealth, it's basically David Ortiz Advisors doing business  16 as World Wealth.  17 Q So it's a d/b/a?  18 A Yes.  19 Q And then while we're still on that page it says  20 the types of advisory services. Is that accurate?  21 A Is that a little bit up because I don't see  22 that?  23 Q Yes, it is.  24 A I'm not sure what BDC's is, broker dealer  25 company I guess. That seems accurate, yes.</p>	<p style="text-align: right;">Page 40</p> <p>1 A So let me be why I come up with the term  2 wholesaler. In the insurance business most of the time,  3 probably the 99 percent of the time we don't have direct  4 relationships with insurance companies, they're usually  5 offered through FMOs or IMOs, field marketing  6 organizations or insurance marketing organizations that  7 have the master contract with an insurance company. And  8 then they would reach out to insurance agents and  9 basically support us in if we had any questions on  10 products, or if I had a client that had a specific  11 situation I could reach out to them and I would go through  12 them to do that. And that was the same situation that I  13 had with AAI. If, you know, they had specific products  14 that they reached out to people like myself, many, and  15 then they would say these are our product offerings and  16 then we would however we would find our own compliance  17 that was up to us. But I was recruited by them.  18 Q Okay. How did they recruit you and what year  19 did they recruit you?  20 A I believe they go back to 2015 and I was  21 actually referred by a gentleman called John Meratory. I  22 had known John for a couple of years, and his specialty  23 was life supplement contracts and he suggested this one  24 through AAI so I had that relationship with them offering  25 life settlement contracts.</p>

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1 Q And then it evolved to other programs?  
2 A And then as my relationship I will say didn't  
3 evolve but in that respect, but they started getting more  
4 products on their platform, of course they have webinars  
5 and seminars and workshops and this is how they I guess  
6 built their agency base or whatever you want to call it,  
7 they're affiliated people like myself.  
8 So I guess they went out and found products  
9 including 1 Global.  
10 Q Okay. And were you able to go and maintain a  
11 relationship with 1 Global directly or did you need to go  
12 through your affiliation, and I'm going to use that term  
13 loosely, with AAI to act as 1 Global and sell it?  
14 A Every client went directly to AAI. I did not  
15 have a direct relationship with 1 Global.  
16 Q And why is that?  
17 A It just was easier going through AAI. I never  
18 even contemplated working with them. So, you know, AAI  
19 like I said up until that point I had a pretty decent  
20 working relationship with them. They first introduced the  
21 product to me I think it was through a webinar. And then  
22 they had several workshops where they came out here from  
23 Indiana. One in particular I remember I believe it was  
24 September or October of 2016 there must have been 500  
25 agents and advisors at that, and then they did another one

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1 I believe it was April of 2017 and that's where they had  
2 people speaking on 1 Global, and I know who that was, that  
3 was Dale Ledbetter.  
4 Q What date was that?  
5 A I can look it up.  
6 Q 2017 Ledbetter spoke?  
7 A Yeah. But I also had a phone conversation with  
8 him in January of the same year. And I believe he was at  
9 another AAI sponsored workshop seminar, whatever you want  
10 to call it, there was two or three at the end of 2016,  
11 that's when I requested the due diligence documents from  
12 them. So it was probably five or six months before I ever  
13 offered this product.  
14 Q Who did you request the due diligence documents  
15 from?  
16 A It was either one of three people. It was  
17 either Jamie Wilson, Rob Woodlow, or Tom Bosen.  
18 Q Okay. So those are the principles of AAI?  
19 A I believe Rob Woodlow is the principle and Tom  
20 Bosen was the compliance officer. I don't remember his  
21 title.  
22 Q So sorry to interrupt.  
23 When you went to them and said I would like to,  
24 you know, do business with AAI can you do due diligence on  
25 it, is that the way it went?

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1 A They were introducing the product and I said  
2 well, I need more information than just these webinars  
3 that you're doing, I need a complete due diligence break  
4 down on what you guys have done that made you want to  
5 offer this product.  
6 Then after that I did my own due diligence what  
7 I can find on the internet as far as complaints, third  
8 party information, information about the outside counsel  
9 that they had which was an the accounting firm Daszkal  
10 Bolton, their law firm, and the people that were  
11 sponsoring it, and I found some biographies on those  
12 people and that's where my due diligence started. But I  
13 still had not made a decision to do anything with them.  
14 Q When you say your due diligence started, did  
15 your due diligence, did you memorialize it in any way?  
16 A What do you mean by that?  
17 Q Did you keep a file?  
18 A Yes.  
19 Q And was that produced to the SEC?  
20 A I believe it was. Mark?  
21 MR. ALBERT: Yes, Mr. Miller, we produced it  
22 as a separate batch the due diligence documents which also  
23 have an index, due diligence index, separate due diligence  
24 index for you for your convenience.  
25 BY MR. MILLER:

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1 Q Okay. And is that separate from the due  
2 diligence package that was put together by AAI or are they  
3 one in the same?  
4 A It was one of the same plus my supplemental  
5 information. Information that I had found outside of what  
6 they provided.  
7 Q Okay. Are you still doing business with AAI?  
8 A Right after 1 Global I haven't done anything  
9 with them.  
10 Q Now let's talk about what we've already been  
11 talking about which is 1 Global. So you heard it through  
12 various webinars that AAI conducted. Is that right?  
13 A That's correct.  
14 Q What attracted you to it?  
15 A And based on the way I usually work with my  
16 clients I wasn't actually looking at it, I thought it was  
17 something unique and different that could fit some -- some  
18 piece of the puzzle for some clients, not all but for  
19 some, so I wanted to investigate it a little further.  
20 Some of the things that appealed to me were the short-term  
21 note status so it wasn't a long-term commitment like an  
22 annuity would be or even long-term notes.  
23 And the other thing that I liked about it was  
24 the performance was good based on the diversification that  
25 they touted where a single memorandum of indebtedness

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1 could have dozens or even several hundreds fractional  
2 ownership in their MOI. And that to me was appealing  
3 because if there was a default it was only a small  
4 portion. And that's the way it was presented as well.  
5 Q Anything else you liked about it?  
6 A I liked the uniqueness of it. And then of  
7 course once we had referred three or four people we  
8 started looking at the statements because I asked for  
9 access on behalf of my clients and we saw the performance  
10 right away so, you know, after I had investigated on due  
11 diligence Daszkal Bolton and I saw that they had verified  
12 the process on these statements, you know, I was pleased  
13 that everything that they said was actually happening. So  
14 I did like the fact that it was, you know, paying in the  
15 low single digit -- I mean high single digit requirements  
16 and if clients wanted to get out they could get out at the  
17 end of nine months.  
18 Q And tell me about how you verified what Daszkal  
19 Bolton was in fact doing?  
20 A Well, I didn't verify with Daszkal Bolton. I  
21 pretty much took the word of the due diligence and the  
22 outside counsel section of the due diligence that I had.  
23 I did ask Rob Woodlow if he in fact spoke to Daszkal  
24 Bolton and he said that he did, and they verified verbally  
25 that they were doing -- that they either the accountant or

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1 they were auditing the information.  
2 Q What information?  
3 A The information on the statements that they were  
4 acting as their outside accounting firm.  
5 Q Okay. So he spoke to him but you never did?  
6 A I never did, no.  
7 Q Why didn't you?  
8 A At this time based on the relationship that I  
9 had with Rob Woodlow and my third party looked at just on  
10 the internet about Daszkal Bolton and others I didn't feel  
11 at that time that I had any reason to doubt what they were  
12 saying. It looked like they did a pretty thorough job on  
13 due diligence.  
14 BY MR. LEVINSON:  
15 Q Did Mr. Woodlow give you any details of his  
16 conversation with Daszkal Bolton, for instance, did he say  
17 who he spoke to?  
18 A I don't recall. He may have, but he did say he  
19 called them up and verified that they did have that  
20 relationship with 1 Global.  
21 Q I want to drill down on that to did he say that,  
22 you know, did Mr. Woodlow say that Daszkal Bolton whoever  
23 he spoke to verified the rate of return formula on the  
24 account statements as the account statements say they did?  
25 A I don't think he verified that information. I

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1 think he verified the relationship, that they did have a  
2 relationship.  
3 Q What was the relationship that he verified to  
4 you?  
5 A I guess that we're acting as outside counsel on  
6 accounting. I don't recall, that was, gosh, three years  
7 ago. But I know it wasn't on the verification of the  
8 statements but I did assume they did have that working  
9 relationship with 1 Global. It was verified by AAI.  
10 Q And did he indicate that I think there was also  
11 statements that, you know, that Daszkal Bolton was 1  
12 Global's external auditor did --  
13 A That's what it was.  
14 Q Okay. Did Mr. Woodlow verify whether in fact or  
15 tell you whether he verified whether in fact Daszkal  
16 Bolton had performed any audit on 1 Global's financial  
17 state?  
18 A I don't think he verified that information.  
19 Q Okay. Did you ever speak to anybody at 1 Global  
20 about 1 Global's relationship with Daszkal Bolton?  
21 A I did, one of those people was Dale Ledbetter,  
22 and another one was a guy by the name of I believe it was  
23 Scott Merkelson because his name was on the statement. I  
24 had very little contact with them directly but when I  
25 would call them I did ask those questions and they did

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1 verify the information.  
2 Q Okay. So let's break this down.  
3 MR. LEVINSON: Gary, are you okay for me to  
4 keep going?  
5 MR. MILLER: Absolutely.  
6 BY MR. LEVINSON:  
7 Q So when did you -- how many times did you speak  
8 to Mr. Ledbetter?  
9 A I would probably say prior to offering this two  
10 or three times. After that I think I may have spoke to  
11 him at various workshops another couple times, and then  
12 one time face to face at a large workshop, it might have  
13 been like I said I'm going to guess 500 people there at a  
14 hotel.  
15 Q So the two or three times you spoke to him  
16 before you started offering the 1 Global product did you  
17 discuss 1 Global's relationship with Daszkal Bolton?  
18 A I did not but he did bring it up, he said that  
19 all the statements were verified by Daszkal Bolton.  
20 Q Did he use -- I'm sorry, I interrupted you, go  
21 ahead, I apologize.  
22 A No, please. What he had verified is all the  
23 questions that I asked him were on the note status and,  
24 you know, how are these statements verified, and he  
25 supported all the information that, you know, we come to

1 find was false but he did support that information.  
 2 Q I understand.  
 3 A And he was asked face to face by me and he did  
 4 verify that.  
 5 Q We're going to get into the issue of whether the  
 6 products were securities and what Mr. Ledbetter said. Now  
 7 I just wanted to ask you about what he said about Daszkal  
 8 Bolton, again, we understand the conversations took place  
 9 a few years ago, and like Gary said it's not a memory test  
 10 just to the best of your recollection tell us what you  
 11 recall about the conversations.  
 12 Do you remember specifically what he verified  
 13 about what Daszkal Bolton did for 1 Global?  
 14 A Other than they independently audited the  
 15 performance I don't think he verified much more than that.  
 16 Q Okay.  
 17 A Whatever he said on the statements he verified.  
 18 Q Okay. When you said they independently verified  
 19 the performance, that's a little bit different than what's  
 20 on the statements so I --  
 21 A Forgive me, Mr. Levinson. I'm trying to recall  
 22 because I did ask him about the document that I had in  
 23 front of me which were sample statements.  
 24 Q Okay.  
 25 A And I said how is this information verified and

1 so he went on to explain the relationship with Daszkal  
 2 Bolton, that these were outside verified.  
 3 Q Okay.  
 4 A But that's what he did say. And he said it in  
 5 front of a large group and also to me.  
 6 Now for me this is all knew and I'm a little  
 7 nervous but I'm settling down so thank you guys for your  
 8 patience.  
 9 MR. ALBERT: Be sure to let Mr. Levinson and  
 10 Mr. Miller finish their questions, just take a breath  
 11 before you answer, you're doing great.  
 12 THE WITNESS: Thanks. Like I said, it's a  
 13 little unsettling for me.  
 14 BY MR. LEVINSON:  
 15 Q I understand. I echo what your counsel told  
 16 you, please make sure we get to finish the question,  
 17 please make sure that, you know, you understand the  
 18 question, so take that minute. If you don't understand or  
 19 you want us to rephrase let us know, you know. And again,  
 20 this is not like Gary said, it's not a memory test, we  
 21 have -- you know, when I said the words are important I  
 22 just want as best you can recollect, and we understand  
 23 that you're not going to have a perfect memory of the  
 24 conversation like it was yesterday but we do ask that you  
 25 give us your absolute best recollection, and if you don't

1 recall something tell us that, too, you know.  
 2 A I do know that he did talk about the  
 3 relationship with Daszkal Bolton and how it pertained to  
 4 the performance on the statements. In what capacity I  
 5 don't recall.  
 6 Q Okay. You mentioned what's on the statements, I  
 7 know what it says on the statements in various languages  
 8 that Daszkal Bolton had verified the rate of return  
 9 formula that 1 Global used to impute rate of return.  
 10 Did Mr. Ledbetter tell you specifically that's  
 11 what Daszkal Bolton had done?  
 12 A Yes.  
 13 Q Okay.  
 14 A Yes, he did.  
 15 Q Okay. So you mentioned he said that in front of  
 16 a large group too, was this one of the seminars?  
 17 A Yeah. It was a large I don't know what they  
 18 call it, a AAI event, and I'm not sure if that was the one  
 19 in April of 2017 or October of 2016.  
 20 Q Okay. And then you said you spoke to Mr.  
 21 Merkelson about Daszkal Bolton.  
 22 Do you remember when that was?  
 23 A I would have to look. I don't remember exactly  
 24 but I believe it was later in 2017 when we started  
 25 questioning some of the numbers and how they related to

1 the client, what, you know, dollars yet to be deployed and  
 2 how compared to the statement before it and we asked him  
 3 -- I asked him to explain that to me. I didn't understand  
 4 how these numbers could change so dynamically on a month  
 5 by month basis, and I don't recall if he mentioned Daszkal  
 6 Bolton specifically but he did explain what all the  
 7 numbers meant on the statement.  
 8 Q Okay. All right. I think we're probably going  
 9 to come back to that discussion. Was it just the one time  
 10 you talked to Mr. Merkelson?  
 11 A I talked to him a few times.  
 12 Q Okay. Was it just this conversation that  
 13 Daszkal Bolton potentially came up?  
 14 A I think the initial conversation because when we  
 15 spoke to him Daszkal Bolton was on the statement so we got  
 16 this performance number how is that calculated, how is  
 17 this money yet to be deployed calculated, how do you guys  
 18 determine, you know, who goes on what statement. Because  
 19 at one time they had actually listed the merchants on the  
 20 statement and then they stopped, and I said okay, here's  
 21 another phone call, why did you guys stop. But I always  
 22 reached out to him because he was the one signing the  
 23 paper.  
 24 Q Okay. We'll come back to that.  
 25 BY MR. MILLER:

<p style="text-align: right;">Page 53</p> <p>1 Q Excellent. So describe to us what you 2 understood 1 Global's business to be before you started to 3 market it to your customers? 4 A What I understood it to be was a merchant cash 5 advance to small businesses with nine month or shorter 6 term. And the uniqueness of it was multiple lenders would 7 participate in multiple merchant cash advances there by 8 minimizing the risk. And that's what I understood it to 9 be. 10 So everything in our due diligence in 11 conversations which I called, I asked many times about 12 that nine-month note and why would it be exempt, but that 13 was the uniqueness of it. 14 Q Okay. Who did you talk to about the nine-month 15 note and why it would be exempt? 16 A I talked to the principles of AAI and I spoke to 17 Dale Ledbetter personally about that. 18 Q What did they say? 19 A Because nine months or less notes are exempt and 20 do not have to be registered as securities. So before I 21 took their word for it I did my own research and I found 22 supporting information for that. 23 Q Okay. So what did Ledbetter tell you exactly? 24 A Well, I know at one of the workshops, it may 25 have been both, he did talk about the attorney opinion</p>	<p style="text-align: right;">Page 55</p> <p>1 they were acting as outside counsel as well. So I 2 researched them and they had a good reputation. 3 Q Outside of seeing this letter was it ever given 4 to you? 5 A I don't think it was. I don't have a copy of 6 it. If I had it I would have produced it but I don't 7 think I had it. I didn't see it. I believe it was 8 presented in one of the webinars but I don't have a copy 9 of that. 10 Q Did you ever ask for it? 11 A I believe I did, yes. 12 Q What was the answer? 13 A I have to get it from my attorneys. And that 14 was from principles at AAI, one of them. It might have 15 been one of the three guys I mentioned before. Because I 16 had everything else with that opinion letter but I did see 17 it. 18 Q Okay. And did you take any further action to 19 retain counsel in order to get an opinion letter that 20 opined whether or not these were securities or not? 21 A I did not. 22 Q Why not? 23 A At the time, and again, this is going back in 24 time, I assumed based on the reputation of Dale Ledbetter 25 and Jan Atlas being securities attorneys with combined</p>
<p style="text-align: right;">Page 54</p> <p>1 letter. I recall seeing it but I do not have a copy of 2 that for some reason where based on whatever that 3 information was it was an exempt transaction, it could be 4 offered to sophisticated investors, that it didn't have to 5 be an accredited investor, so that question was brought up 6 when he spoke to that large group and he confirmed that 7 information. And when I spoke to him face to face he 8 confirmed it again. 9 And also over the phone that was the biggest 10 question I had is why can this thing be offered the way 11 it's being offered and he reiterated the nine-month note, 12 we have an opinion letter, and so on. But that was one of 13 the bigger issues for me and once I felt satisfied that 14 that was addressed by somebody else I felt was reputable 15 that's when I decided to offer it. 16 Q Did you ever see the opinion letter? 17 A I believe I did, and I don't know if it was at 18 one of the workshops or one of the webinars that AAI 19 hosted. 20 Q Do you know who drafted it? 21 A Yeah, it was Jan Atlas which is why I got a 22 biography on him as well. And as it turned out Jan Atlas 23 and Dale Ledbetter were working at the same firm and the 24 firm on the due diligence package that I received stated 25 that Ostrow -- I forget the name of the firm, forgive me,</p>	<p style="text-align: right;">Page 56</p> <p>1 75 years experience that that was good. I thought that 2 was good due diligence on their part. I was taking their 3 word for it and their opinion. I figured who would know, 4 who would I know that knows more than two securities 5 attorneys. 6 Q Did you approach Mr. Ledbetter and/or Mr. Atlas 7 directly and say may I have a copy of that I'll pay for it 8 or can you give it to me gratis? 9 A I don't recall asking for it, no. 10 Q Why is that? 11 A I never met Jan Atlas. When I finally met Dale 12 Ledbetter and spoke to him I had already done all my due 13 diligence, and I attended a webinar, maybe two, so I was 14 trying to tie up the lose ends of things that I thought 15 were things I needed to tie up before I offered this note. 16 Q And anything else, you mentioned you did your 17 own due diligence into I believe the law to see whether or 18 not a nine-month note was exempt from registration 19 provisions. Did I get that right? 20 A Yes. 21 Q What exactly did you do? 22 A I searched the internet, I found a lot of 23 ambiguous information but I did find a blog that answered 24 the question directly, and I also found a FINRA pamphlet 25 that talked about promissory notes and exemptions. I</p>

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1 think it was -- it was dated 2000 -- might have been 2008  
2 but it did talk about the exempt status, also the risks of  
3 this, and one of those was due diligence that if it's a  
4 registered security there is due diligence that's done and  
5 you would have accountants and attorneys looking at it. I  
6 said well, accountants and attorneys are looking at it so  
7 I felt that was covered.

8 Q Did you keep any of the due diligence you did?  
9 A I did.

10 Q With respect to any other analysis into the 1  
11 Global product did you investigate or do any independent  
12 legal research to see whether or not it could be construed  
13 as an investment contract, for example?  
14 A I did not.

15 Q Do you know what an investment contract is?  
16 A I know there is three key points but I couldn't  
17 quote them to you.

18 BY MR. LEVINSON:

19 Q I know you mentioned the nine-month note, you  
20 know, as being given a reason for this, you know, wasn't a  
21 security. Did Mr. Ledbetter or anyone else give you any  
22 other reasons why the 1 Global note was allegedly not a  
23 security?  
24 A I don't recall but that was the primary reason.

25 Q Okay. Did Mr. Ledbetter or anyone mention the

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1 idea that this was a commercial loan or a commercial  
2 product?  
3 A I don't recall the word commercial but it was,  
4 you know, from small business advances to merchants.

5 Q Okay. But, I mean, from the investor or lender  
6 than 1 Global did anyone discuss that was reportedly a  
7 commercial loan as opposed to anything else?  
8 A I don't recall, no.

9 Q So it was primarily the nine-month note?  
10 A Yes.

11 Q Okay. Now, when you offered -- I just want to  
12 ask a couple quick, when you began offering the 1 Global  
13 product did your clients customers use the I believe it  
14 was called the memorandum of indebtedness as the  
15 investment instrument they used?  
16 A Yes. And from what I had researched it was a  
17 state by state basis. I guess California used the  
18 memorandum of the indebtedness.

19 Q Okay. And did any of your clients ever invest  
20 in something called the syndicate partner --  
21 A I don't recall. I don't think so.

22 Q Did you already -- so on the memorandum of  
23 indebtedness were you familiar with what I'll call the  
24 rollover or automatic rollover provision whereby the  
25 clients investment would automatically rollover unless

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1 they popped it out at a certain time during the nine  
2 months --

3 A I do recall that. But everybody that did renew  
4 had to sign a new memorandum of indebtedness.

5 Q Did you -- did the provision -- and we may have  
6 to look at that because was there a provision in the  
7 contracts you used that said it automatically rolled over  
8 unless they specifically opted out of the investment?  
9 A I recall reading that, yes.

10 Q Did you ever ask Mr. Ledbetter or anyone else at  
11 1 Global whether that automatic rollover provision in  
12 effect made the investment longer than a nine-month note?  
13 A No, I did not because up to that point if the  
14 information that I was able I believe to find and verify  
15 what was being told me never mentioned that provision as  
16 being something that would preclude it from being a exempt  
17 note.

18 Q Okay.

19 A So I did not think to ask that.

20 Q Did you ever in your consultation with Polaris  
21 or Ms. Chamberlin did you discussion whether or not this  
22 note was a security or ask them to give you any kind of  
23 opinion on that issue?  
24 A I did not.

25 Q Okay.

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1 A I don't recall. Actually I think she did.

2 Q Okay. Let me be clear, did you ask?  
3 A Did I ask, no, I don't think I did.

4 Q Okay.

5 MR. LEVINSON: All right, that's what I have.

6 BY MR. MILLER:

7 Q Prior to hearing about 1 Global were you  
8 familiar with the concept of a merchants cash advance?  
9 A Only from firsthand experience because I had  
10 done one.

11 Q And can you tell us about that circumstance?  
12 A Yeah. We were -- I needed to hire somebody so I  
13 wanted a small advance so that I could put somebody to  
14 work because we were shorthanded and the note terms were  
15 anywhere from one to nine months, I chose six months and  
16 paid it off.

17 Q What were the -- what was the factoring on that?  
18 A I can't recall. I know it wasn't an interest  
19 rate but it was a factoring strategy, however they  
20 credited that. So I was familiar how it worked just based  
21 on my own personal experience.

22 Q Okay. So the basic reasons you liked it is in  
23 short-term and the performance was good. Was there any  
24 other reason to like it?  
25 A Yeah, the uniqueness of the offering.

<p style="text-align: right;">Page 61</p> <p>1 Q What do you mean by that?</p> <p>2 A That it wasn't a Reg D security, and could only</p> <p>3 be offered to accredited investors, that it was a multi</p> <p>4 diversified investment, so to speak, and a note that</p> <p>5 people were -- they weren't just tied to one note so they</p> <p>6 would run the risk of a single default and therefore lose</p> <p>7 everything, there was multiple merchants inside a single</p> <p>8 account and so we felt based on the way it was presented</p> <p>9 to us, and I agreed by everything that I had seen by that</p> <p>10 time that, you know, if you have a hundred people and one</p> <p>11 or two or ten default at least it's you're not tied to one</p> <p>12 note that one note defaults and you're out. So those were</p> <p>13 the factors that I liked about it.</p> <p>14 Q Okay.</p> <p>15 A There was nothing else out there like it.</p> <p>16 Q Did you ever visit the company?</p> <p>17 A 1 Global, no.</p> <p>18 Q Was 1 Global itself end its business of merchant</p> <p>19 cash advance, were they regulated in any way?</p> <p>20 A I don't know. I don't recall. The question I</p> <p>21 asked in the due diligence packet and I don't remember</p> <p>22 what the answer to that question was.</p> <p>23 Q Okay. And did that cause you any concern?</p> <p>24 A Yes.</p> <p>25 Q And how did you resolve it?</p>	<p style="text-align: right;">Page 63</p> <p>1 financial's?</p> <p>2 A I did not ask, it was asked in the due diligence</p> <p>3 packet from AAI. I don't recall the answer but I believe</p> <p>4 that they didn't do it at that time or didn't have to do</p> <p>5 it at that time, I don't remember the information which is</p> <p>6 why I inquired of their outside counsel and I was</p> <p>7 satisfied with that, and I also asked -- I didn't ask</p> <p>8 Daszkal Bolton but I assumed they were also an auditing</p> <p>9 company that they hired and listed and was on statements</p> <p>10 so I guess I assumed that it was being done.</p> <p>11 Q Assumed what was being done?</p> <p>12 A That they were being audited. Internal audit,</p> <p>13 and if I remember correctly they also said they hired</p> <p>14 somebody that was going to be doing that on a regular</p> <p>15 basis.</p> <p>16 Q Did you ever tell any prospective investors that</p> <p>17 it had audited financial's?</p> <p>18 A I did not.</p> <p>19 Q And when you're offering it to the customers</p> <p>20 were you looking mainly for retail investors or</p> <p>21 institutional investors?</p> <p>22 A Retail investors.</p> <p>23 Q Okay.</p> <p>24 A I deal mostly with individuals so...</p> <p>25 Q Okay. And was it generally elderly or younger</p>
<p style="text-align: right;">Page 62</p> <p>1 A I resolved the concern by digging deeper into</p> <p>2 the information that I had, and that's why I was -- well,</p> <p>3 I mean, obviously I was satisfied by the outside counsel</p> <p>4 that I had been given by Oscar Kopelowitz Ostrow and I</p> <p>5 forget the rest, it's a long company name, and Mr.</p> <p>6 Ledbetter, and by the principles at AAI including I</p> <p>7 believe their compliance officer. I don't remember which</p> <p>8 guy that was, I think it was Tom Bosen, it may have been</p> <p>9 Jamie Wilson.</p> <p>10 Q And now it's about 2016, late 2016 when you hear</p> <p>11 about it, how long had 1 Global been in business?</p> <p>12 A According to the due diligence package that I</p> <p>13 had 2013.</p> <p>14 Q Okay. And you knew that when you started to</p> <p>15 present that to the customers. Right?</p> <p>16 A Yes.</p> <p>17 Q And did it have audited financial's?</p> <p>18 A I remember getting the financial's but I don't</p> <p>19 recall if they were audited or not, but I know that I had</p> <p>20 three years of financial's in the due diligence packet.</p> <p>21 Q Would it be important to you if they were</p> <p>22 unaudited versus audited?</p> <p>23 A Yes, it would be especially in retrospect.</p> <p>24 Q Okay. So realtime not in retrospect, but in</p> <p>25 realtime did you ask whether or not those were audited</p>	<p style="text-align: right;">Page 64</p> <p>1 individuals?</p> <p>2 A I wouldn't say -- I mean, the demographics of my</p> <p>3 clientele is pretty broad but the majority of my clients</p> <p>4 are probably middle-aged or older.</p> <p>5 Q Okay. And would you say that you were looking</p> <p>6 for qualified or unqualified or nonqualified money?</p> <p>7 A I was looking at clients, I wasn't looking</p> <p>8 specifically at the type of money they had, they were</p> <p>9 seeking me out mostly for fiduciary services so I wasn't</p> <p>10 targeting any specific demographic or clientele or money.</p> <p>11 Q What do you mean they were targeting you?</p> <p>12 A I didn't say they were targeting, they would see</p> <p>13 me for my services. I never marketed this product. Like</p> <p>14 I said, my -- for me most of what I had done on the radio</p> <p>15 was really just trying to differentiate myself as an</p> <p>16 advisor not selling products, and when I would seek</p> <p>17 clients I would evaluate their situation to my risk</p> <p>18 assessment questionnaire, look at their goals and</p> <p>19 determine, you know, what product would fit. Not this one</p> <p>20 specifically but just in general. And if this one met a</p> <p>21 certain niche for that client then I would offer it, but I</p> <p>22 didn't formally look for people for this product.</p> <p>23 Q Okay. So just so I can get some more clarity at</p> <p>24 that, were there any occasions where you said, you know,</p> <p>25 Mr. Jones looks like, you know, he wants short-term and he</p>

<p style="text-align: right;">Page 65</p> <p>1 wants something with good performance, and diversification  2 of merchants, I'll send him out an e-mail on that and  3 include the brochure, would you do that on occasion?  4 A On occasion.  5 Q Okay. I'm sorry.  6 A Most clients came to my office but, yes, on  7 occasion.  8 Q But in those situations aren't you proposing or  9 soliciting 1 Global?  10 A I suppose, but for me it was really just trying  11 to assess the client's risks and goals and what products  12 would fit those -- that criteria. So if I did do that it  13 was part of more than one offering so it wasn't this is  14 the only thing I'm going to recommend, it was normally  15 this is what I would recommend as possible offerings that  16 would fit your criteria.  17 Q Okay. And then a couple other quick questions,  18 did you consider this to be -- and I know these are kind  19 of like squishy terms. Was this a safe investment?  20 A No, most people knew there was risk involved.  21 Actually I believe everybody knew that there was risk  22 involved. Any time you're involved in notes there is  23 risk.  24 Q Did you ever tell people it was a safe  25 investment?</p>	<p style="text-align: right;">Page 67</p> <p>1 as I had expected it took three months to have clients get  2 out of those notes. And that's when we really we  3 specifically said, you know, something is not the way it  4 was presented to us.  5 Q And how did the three months that it took to  6 fully liquidate this supposed nine months note work with  7 the analysis of nine months being exempt from the security  8 laws registration requirements?  9 A I don't know that.  10 Q Did you ever ask anybody that?  11 A I did ask that but I didn't ask it as it  12 pertains to securities law. I asked why is it taking  13 longer than the nine months, he said well, some of these  14 monies were redeployed into other nine month merchant's  15 contracts and therefore they had to wind them down.  16 BY MR. LEVINSON:  17 Q When was that when you first started asking that  18 question or noticing it was taking three months?  19 A I'm sorry, Mr. Levinson. When I first had to  20 experience it because I didn't have that many people that  21 renewed because I wasn't in it that long. I wasn't  22 involved with them since 2016. It was really more in the  23 middle of 2017. So I only had a few clients that got to a  24 renewal, maybe a dozen, and of the ones that did I think  25 two or three opted out and that's when I realized the</p>
<p style="text-align: right;">Page 66</p> <p>1 A I don't recall that I did, no.  2 Q Did you ever tell people it was a risky  3 investment?  4 A Did I ever tell them it was a risky investment?  5 I told them that there was risks, I don't know that I said  6 specifically that it was risky.  7 Q And what risks you did disclose?  8 A I said the risk was lack of liquidity and the  9 risk of default.  10 Q Okay. So let's go into lack of liquidity. What  11 was the issue there?  12 A Well, once you put your money you send it to 1  13 Global it's there for nine months unless you choose to  14 renew it otherwise you don't have access to that principle  15 for nine months.  16 Q What happened after nine months?  17 A After nine months they were given the option to  18 renew at least with us and if they did they would sign a  19 new memorandum of indebtedness.  20 Q What if they wanted to cash out?  21 A Then we would not renew it and we would get the  22 process of that cashing out.  23 Q How long did that take?  24 A Well, we did a handful of them and that's when I  25 really started having issues with them because it wasn't</p>	<p style="text-align: right;">Page 68</p> <p>1 situation of hey, this is going to take a little bit  2 longer.  3 Q When was that time, was it 2017, 2018?  4 A It would have been in 2018.  5 Q Do you know when?  6 A I don't recall.  7 Q After that point when, you know, you noticed  8 that did you still continue to sell that 1 Global product?  9 A I did, I recall I do, but they're very far and  10 few between and smaller numbers that I think sometime by  11 it was either May or June of 2018 the only way I offered  12 that was if it was referred typically by an existing  13 client that was happy and liked it, otherwise no.  14 Q Okay. You didn't go back and ask Dale Ledbetter  15 or anybody hey, this is, you know, the fact that it's  16 taken three months to payout does that make this a one  17 year note and security, you didn't ask that?  18 A No. I asked Scott Merkelson and the way he  19 explained it was some of the monies were redeployed in  20 that nine-month period and some of the other notes that,  21 you know, were three or four months into the clients MOI  22 and still had to be wound down to pay them off. That's  23 the way it was explained.  24 Q But you didn't ask Mr. Merkelson did it make  25 this a security, you just asked him why is this taking so</p>

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1 long?

2 A Yes, I never thought to ask that.

3 Q Thank you.

4 BY MR. MILLER:

5 Q If you could take a couple of moments here, the

6 staff would like to get an idea about how you presented

7 this, how you offered it and sold it to your customers.

8 So, for example, did you compare it to the stock market,

9 did you compare it to CD's, did you compare it to

10 annuities, those kind of things, how did you basically

11 pitch it?

12 A It was part of a diversified portfolio so I

13 didn't specifically pitch that product as compared to

14 anything else. My typical presentation is once I get a

15 fair assessment of where people are we'll make some

16 recommendations for a multi portfolio approach. So we may

17 have portfolio one which is short-term liquid low risk low

18 volatility for income, something that is more stable for

19 portfolio two, and then portfolio three and four are more

20 growth oriented therefore we don't need much liquidity

21 because we may not need the money anywhere from six to ten

22 years or longer. And I felt that those particular

23 clients that product fit into those two categories,

24 portfolio three or four. But I didn't compare it to any

25 specific product, it was more of a standalone product that

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1 would be a good fit for that portfolio for that client.

2 Can I elaborate a little bit more?

3 Q Please, do.

4 A So normally when I talked to clients I say there

5 is three basic marketplaces that you can put your money.

6 There is the guaranteed marketplace which is banks and

7 insurance companies, it's like CD's and annuities, then

8 there is non-guaranteed marketplace which is stocks,

9 bonds, mutual funds, ETFs, and then there is the

10 alternatives marketplace which is nontraditional

11 investments. In there you find things like real estate,

12 precious metals, notes, things like that, these are things

13 that have less liquidity than stocks and bonds and better

14 performance, typically better performance than say an

15 annuity or a CD, they're the nontraditional investment.

16 Q Better performance in what way?

17 A Well, the experience of the companies that I

18 would work with like Cantor Fitzgerald and others they

19 would have interest rates that they're paying on their

20 real estate anywhere from five to six percent as opposed

21 to a CD at one percent for five years. With limited

22 liquidity, for example, you might have to -- you might be

23 a hold period for one year, two years, three years, but

24 the understanding was it was a nontraditional investment

25 that had unique features to that it could give them things

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1 that they were looking for.

2 Q And did you go through that comparison as you

3 just did with myself and Mr. Levinson where you did

4 discuss that there is differences in return between those

5 three buckets, for lack of a better term, and in this one

6 you -- you're locked up for nine months or so to speak,

7 but you're receiving a much higher rate than you would in

8 a CD or annuity?

9 A Yes.

10 Q Okay. So you compared the rate that folks would

11 receive with 1 Global and that compared favorably to CD's

12 at their prevailing rates and annuities; is that what you

13 told them?

14 A Well, I compared all three marketplaces because

15 each one had unique risks and rewards to it.

16 Q Okay. Let me ask you a few questions. When you

17 did your due diligence what was the credit rating analysis

18 for the merchants that receive the advances?

19 A I don't recall. I know based on the information

20 that I was given that they did not approve a lot of these

21 companies and they supposedly did a good job of vetting

22 the merchants they were lending the money to.

23 Q And I assume 1 Global told you that?

24 A 1 Global told us that AAI told me that, you

25 know, apparently their underwriting was superior, at least

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1 that's what I was told, and whatever supporting

2 information I could find on that validated what they were

3 telling me.

4 Q Was the investment backed by anything?

5 A No. That was it unsecured debt and that's what

6 I explained to clients. It's based on the ability for

7 these people to make their payments which is where the

8 diversification of the MOI agreements mitigated some of

9 that risk is that you're not tied to one single note.

10 Q Okay. But it wasn't backed by anything like a

11 hard asset?

12 A No.

13 Q Did you ever tell anybody it was backed by a

14 hard asset?

15 A Never, I said it was unsecured debt.

16 Q Okay. Did you ever tell prospective clients

17 that you thought this was suitable for them?

18 A Yeah, I mean, we had to look at their income and

19 assets and if they understood it, is this something we

20 felt it would be suitable, if it wasn't suitable we would

21 never recommend it.

22 Q And how did this -- your obligation for

23 suitability, how did that translate into something that

24 wasn't part of your -- I assume this was a business

25 outside of your advisory function. Is that right?

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1 A Can you clarify the question?

2 Q Was your offering of AAI product, in particular

3 1 Global, was that outside the purvey of your advisory,

4 your RIA capacity?

5 A No. We would never recommend that unless we got

6 a full holistic view of our clients. We couldn't make a

7 recommendation without understanding their risk tolerances

8 and their goals. So I think that answers the question.

9 Q And does the monies that were allocated from

10 your clients to 1 Global, for example, did you get paid a

11 commission from 1 Global via AAI on the sale?

12 A Well, I would assume so but everything I ever

13 got paid came directly from AAI, I don't know what AAI

14 actually got paid.

15 Q Okay. And that was based on the amount

16 committed to the investment. Is that fair to say?

17 A That's fair to say.

18 Q And on those same monies that went with the ones

19 that were allocated to 1 Global were you also collecting a

20 advisory fee on those?

21 A No.

22 Q Okay. Did you recommend to customers what

23 amount they should invest?

24 A Based on our four typical portfolio strategy we

25 would recommend what percentage would be a good fit in

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1 what particular portfolio. We always left it up to the

2 client. We make the recommendations, discuss it with

3 them, and get their approval before we did anything.

4 Q How did you describe the return to customers?

5 How did you -- did you give them a number, did you give

6 them a range?

7 A I typically would give them a range based on the

8 information that was in the literature provided by 1

9 Global and sample statements. Basically the only

10 literature they ever got from me on that offering was

11 provided by 1 Global.

12 MR. ALBERT: I'm sorry, it's Mark Albert,

13 counsel for Mr. Ortiz, I just note at least on my screen

14 here in Los Angeles the court reporter is now missing.

15 MR. LEVINSON: She's still here.

16 THE COURT REPORTER: I'm here. I can hear

17 everything.

18 MR. MILLER: It's 2:00 p.m. Eastern daylight

19 time on August 12, 2020, let's take a five to ten minute

20 break and we'll stay connected on this.

21 Please understand, Mr. Ortiz, that myself and

22 Mr. Levinson will be on this so any conversations you have

23 with your attorney you should not have on this line.

24 THE WITNESS: Thanks for the warning.

25 (Thereupon, a recess was had.)

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1 MR. MILLER: It's 2:12 p.m. Eastern daylight

2 time on August 12, 2020. We're back on the record.

3 BY MR. MILLER:

4 Q And during the break we just took, Mr. Ortiz, is

5 it true that you did not have any conversations with

6 myself or Mr. Levinson regarding the substance of this

7 investigation?

8 A Regarding the substance of it and the

9 conversation when you called me in May.

10 Q No, during the break we just took.

11 A During the break, I'm sorry, no.

12 Q I want to ask you, you talked about that one of

13 the things that frustrated you was you didn't find out

14 about or have an understanding about the liquidity aspect

15 then what you initially were told. Can you elaborate on

16 that?

17 A Yeah. Based on everything we had read and what

18 we were told, and I believe that was even by people --

19 people was most likely Scott Merkelson, Dale Ledbetter

20 either in phone conversation or webinar and AAI in that

21 nine months people had an option to renew or get out, but

22 we were never told it would take three months to unwind

23 this thing. And most people chose because of the

24 statements they were getting it was doing good, they loved

25 it, a lot of people even added to it that they just

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1 renewed so we didn't have an experience until one client,

2 you know, she needed money for something and she wanted to

3 take it out and that's when we found out what the process

4 was.

5 Q When was that?

6 A I don't recall. It was probably spring or, you

7 know, April, May, June of 2018 when we had our first

8 experience where somebody wanted to get out.

9 Q Okay. And you mentioned something before about

10 accredited investors. Was this an investment for

11 accredited investors?

12 A We were told it was not by multiple people.

13 Accredited investors we had different strategies we would

14 use so, no, it was not for accredited investors to our

15 knowledge and by all accounts of what we were told.

16 Q And was it an investment for sophisticated

17 clients?

18 A Yes. Sophisticated people having knowledge of

19 their own people who could make the decision on their own

20 whether they felt this was a good investment for them or

21 not, and that's the way we looked at it, they were

22 sophisticated at least, accredited at best. Again, with

23 the accredited investors, I mean, we do have I think more

24 than 50 percent, maybe 60 percent of the people who

25 invested in this were accredited investors as well, the

<p style="text-align: right;">Page 77</p> <p>1 rest were sophisticated.</p> <p>2 BY MR. LEVINSON:</p> <p>3 Q Who told you it wasn't for accredited investors?</p> <p>4 A I was told by the principles at AAI and also by</p> <p>5 Dale Ledbetter. He made that statement in more than one</p> <p>6 occasion.</p> <p>7 Q Okay. He made the difference between accredited</p> <p>8 and sophisticated?</p> <p>9 A Yeah, accredited, there is a dollar amount to</p> <p>10 it. The way I've always understood sophisticated is</p> <p>11 people who understand the risk and rewards and are willing</p> <p>12 to self -- what's the word, self -- basically say, yes, I</p> <p>13 understand it, self-acknowledge that they are</p> <p>14 sophisticated.</p> <p>15 BY MR. MILLER:</p> <p>16 Q Was there any scripts that were provided to you</p> <p>17 to use in presenting 1 Global to prospective investors?</p> <p>18 A No, there were not.</p> <p>19 Q Did you create one?</p> <p>20 A I did not.</p> <p>21 Q Did you ever tell customers that this was a</p> <p>22 stable investment?</p> <p>23 A I did not.</p> <p>24 Q And what about the -- was there any words that</p> <p>25 you weren't allowed to say, like were you not allowed to</p>	<p style="text-align: right;">Page 79</p> <p>1 or that there will be some fee paid to me.</p> <p>2 Q Was there anything in writing that disclosed</p> <p>3 whereby you were able to disclose and say hey, see that in</p> <p>4 paragraph X, this is how much I'm getting paid?</p> <p>5 A No, I don't believe so.</p> <p>6 Q So did you say it to them orally?</p> <p>7 A Yeah, I didn't -- I don't remember telling them</p> <p>8 the exact percentage but I did tell them I was getting</p> <p>9 paid. It was a small percentage but I did get paid.</p> <p>10 Q Okay. But you have a recollection of telling</p> <p>11 every customer that before they purchased it you were</p> <p>12 getting paid on this?</p> <p>13 A I recall I do, yes. I don't know if it was</p> <p>14 everyone but to the best of my recollection I would say</p> <p>15 most likely because that's my standard practice.</p> <p>16 Q And you alluded earlier about that once they</p> <p>17 matured in one factor or another they would just renew.</p> <p>18 Did you get paid on that investment as well?</p> <p>19 A I believe I did on the original MOI so not on</p> <p>20 the accumulated amount just the original amount.</p> <p>21 Q Just on the original face amount?</p> <p>22 A Yes.</p> <p>23 Q And did you disclose that as well, that you're</p> <p>24 going to be paid not only on the original but on the</p> <p>25 renewal?</p>
<p style="text-align: right;">Page 78</p> <p>1 call it an investment; for example?</p> <p>2 A If I remember correctly, yes. I don't recall</p> <p>3 who told me that but it was a loan to 1 Global, that was</p> <p>4 most often I believe understood, you know, they were</p> <p>5 called a lender throughout all the documents and</p> <p>6 everything we got but it was not an investment.</p> <p>7 Q So what was the import of that, why weren't you</p> <p>8 allowed to call it an investment?</p> <p>9 A You know, I don't recall but from my</p> <p>10 understanding it was a -- it was a loan that you basically</p> <p>11 were a lender to a large company like 1 Global who then</p> <p>12 lent the money to merchants and as monies got paid back</p> <p>13 you got your pro rata share.</p> <p>14 Q Was there any fees that the investor had to pay</p> <p>15 for you to be paid?</p> <p>16 A No.</p> <p>17 Q But you in fact were paid. How did you get</p> <p>18 paid?</p> <p>19 A I got paid directly from American Alternative</p> <p>20 Investment.</p> <p>21 Q Did you ever disclose that, that you did receive</p> <p>22 payment to your investors?</p> <p>23 A I'm sure I did. I always do. They know my fee</p> <p>24 structures on securities and they know they're going to be</p> <p>25 buying an annuity that there is going to be a commission</p>	<p style="text-align: right;">Page 80</p> <p>1 A I don't recall but I would assume I did.</p> <p>2 Q What's your assumption based on?</p> <p>3 A Because I tell everybody what I make. They know</p> <p>4 what fees I get for assets under management, they know I</p> <p>5 get paid on commissions for annuities, and the products</p> <p>6 that I referred out that I typically collect a fee from</p> <p>7 them so they don't pay me directly.</p> <p>8 Q Where did the fee come from, what generated the</p> <p>9 fee?</p> <p>10 A What do you mean?</p> <p>11 Q What part of the merchants cash advance business</p> <p>12 generated a fee --</p> <p>13 A The initial -- the initial MOI amount. So if</p> <p>14 they put in 35 thousand or 50 thousand I got a percentage</p> <p>15 of that amount paid to me by American Alternative</p> <p>16 Investments, and the statements did not reflect any fee</p> <p>17 being paid to me from the client's principle.</p> <p>18 Q Right. So what I was referring to and apologize</p> <p>19 if I didn't ask the question too artfully, there is you're</p> <p>20 being paid we understand that on a percentage of the face</p> <p>21 amount. Where does that money come from if the client</p> <p>22 doesn't pay for it?</p> <p>23 A Well, I would assume just the same way with the</p> <p>24 insurance commission that AAI was being paid a commission</p> <p>25 from 1 Global and then paid me a percentage of that for</p>

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1 the referral.  
2 Q Right. And did you look in to see whether or  
3 not 1 Global had a source of money to payout commission  
4 dollars?  
5 A I did not.  
6 Q How much did you ultimately sell face amount of  
7 1 Global?  
8 A I believe the number was about six million. I  
9 don't know it specifically but it was about six million  
10 regrettably.  
11 Q And how many customers did that turn into?  
12 A I believe the number was about 62, 63 clients  
13 altogether.  
14 Q Besides California what other states did they  
15 purchase them at, were your purchases located?  
16 A They were all in California.  
17 Q All customers?  
18 A Yeah, all the customers were in California.  
19 Q And what percentage of them renewed?  
20 A Because we weren't in it for longer than  
21 probably a total of maybe 18 months I would say the ones  
22 that did renew which was maybe I'm going to guess 15 of  
23 them, it was all renewal, but all the rest would have  
24 renewed but I couldn't give you a specific number. The  
25 one that reached that nine-month maturity all but a couple

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1 renewed.  
2 Q And what documents did you use in order to  
3 present 1 Global to investors?  
4 A Well, the only document that I used were the 1  
5 Global brochure. I think that was the only one that I  
6 had. And there may have been -- oh no, there was a FAQ  
7 page. I think it was a separate -- separate document, it  
8 wasn't part of the brochure. And there was also a sample  
9 statement. And all those were provided to me by AAI via 1  
10 Global, or the other way around.  
11 Q Did you tell if the -- did you tell the  
12 prospective customer that was a good product, did you give  
13 them your advice on whether or not it was a good product?  
14 A Well, I felt that assuming -- well not assuming,  
15 knowing it was a unsecured debt that the way it was done I  
16 felt that the risk was well mitigated and by comparison,  
17 yeah, I would say it was -- it was good. I wouldn't have  
18 offered it if I didn't think it was good but it wasn't an  
19 annuity or anything like that.  
20 MR. LEVINSON: Can I ask a question?  
21 BY MR. MILLER:  
22 Q Is it fair to say it's something you  
23 recommended; right?  
24 A If it fit their criteria for specific goals and  
25 risk tolerances, yes.

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1 Q And in addition to the FAQ and the brochure did  
2 you also use a sample monthly account statement as part of  
3 your sales presentation?  
4 A I thought I said that, forgive me if I didn't.  
5 I gave them three items, if I remember correctly  
6 and I do, it was the 1 Global brochure, the 1 Global FAQ,  
7 and a sample account statement.  
8 Q Was there any limitation on who could buy?  
9 A For me personally?  
10 Q Yes.  
11 A Yeah, if it didn't meet their criteria or risk  
12 tolerances we didn't offer it. We had several hundred  
13 clients, maybe, I don't know, five, ten percent of the  
14 people that we work with.  
15 MR. MILLER: Bob, did you want to jump in?  
16 BY MR. LEVINSON:  
17 Q A couple of things. One, you called it an  
18 unsecured debt, can you elaborate on that?  
19 A Yeah. So unlike a home loan that's  
20 collateralized by the property these were basically a  
21 personal loan to accompany your individual. And there was  
22 as far as I know there was nothing that basically said  
23 that this was collateralized in any way other than it was  
24 an advance to a business.  
25 Q Okay.

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1 A So I don't know because I never actually got a  
2 copy of the agreement between the merchant and 1 Global,  
3 but I don't know that they actually use collateral of the  
4 business like a -- I forget what's it called. Or anything  
5 like that to secure the debt, it was just the underwriting  
6 and the company's ability to pay.  
7 Q Nobody from 1 Global ever tried to tell you or  
8 told you or AAI that it was a secured debt?  
9 A I don't believe so. I would have remembered  
10 that.  
11 MR. LEVINSON: Gary, a question for you, are  
12 you going to put one of the MOI's up at some point?  
13 MR. MILLER: Yes.  
14 MR. LEVINSON: For the other question I'll wait  
15 till you do that.  
16 MR. MILLER: Magaly, let's take a look and put  
17 up Exhibit 121.  
18 MS. ORDAZ: 121?  
19 MR. MILLER: Yes, ma'am.  
20 BY MR. MILLER:  
21 Q I'm showing you a document -- first of all, is  
22 this big enough for everyone?  
23 A Yes.  
24 Q Okay. And it's been marked as 121. It appears  
25 to be an e-mail from Greg Wilson to someone named Brent

<p style="text-align: right;">Page 85</p> <p>1 and it cc's David Ortiz.</p> <p>2 Before we take a look at Exhibit 121, Mr. Ortiz,</p> <p>3 do you agree with the following statement, that Mr. Ortiz</p> <p>4 never advertised or marketed 1 Global product publicly or</p> <p>5 privately or in any way, that you never conducted any</p> <p>6 seminars pitching 1 Global Capital products and never</p> <p>7 solicited investors for 1 Global products, that you never</p> <p>8 mailed or distributed any fliers or other promotional</p> <p>9 materials to the public to garner sales of these products?</p> <p>10 A I would say that's true.</p> <p>11 Q What's true about it?</p> <p>12 A I never sent documents to anybody soliciting</p> <p>13 them to buy a product. If I ever made a recommendation it</p> <p>14 was after an initial meeting where we assessed the</p> <p>15 client's risk tolerance and goals. So I never advertised</p> <p>16 that, I never did a seminar or anything for those</p> <p>17 products. Just like I would do for things that we offer</p> <p>18 on TD Ameritrade. Once I set the clients goals if we do a</p> <p>19 break down and I say hey, I think these products would fit</p> <p>20 perfect in your situation then that's when they would</p> <p>21 receive material. So it was after we already spoke to the</p> <p>22 client but we never used materials to solicit anybody.</p> <p>23 Q Got it. So let's take a look at 121. Tell me</p> <p>24 what's going on here.</p> <p>25 A Like I said, we typically use a multiple</p>	<p style="text-align: right;">Page 87</p> <p>1 A That's correct.</p> <p>2 Q But for you discussing with him orally and then</p> <p>3 sending out the actual documents that describe the</p> <p>4 investment he wouldn't have done anything about it. Is</p> <p>5 that fair to say?</p> <p>6 A That's fair to say, yes.</p> <p>7 Q Okay. And then it says although our</p> <p>8 illustration boasts a conservative nine percent return the</p> <p>9 pamphlet indicates performance in the double digits.</p> <p>10 Why did you put nine percent and call it</p> <p>11 conservative?</p> <p>12 A Okay. So on that portfolio three we have</p> <p>13 software, and you can see it's attached. Our bucket</p> <p>14 approach has a long time horizon, and we were using a</p> <p>15 portfolio three allocation that was securities and based</p> <p>16 on past performance of investments that we had used in</p> <p>17 that portfolio, they have achieved more than nine. But</p> <p>18 we're not going to illustrate that for sure.</p> <p>19 This was generated by Greg, obviously I got a</p> <p>20 copy of it, but normally we use an eight and a half --</p> <p>21 excuse me, eight percent portfolio with a ten plus time</p> <p>22 horizon.</p> <p>23 Q What does that mean, a ten plus time horizon?</p> <p>24 A So the way the bucket approach works if you're</p> <p>25 not familiar with it, we'll have typically three,</p>
<p style="text-align: right;">Page 86</p> <p>1 portfolio strategy, and what we have is I had Greg send</p> <p>2 the client what I felt was a good break down of products</p> <p>3 for this client with this time horizon, he's a young guy,</p> <p>4 he's my age, he's 58, but when we met him a couple of</p> <p>5 years ago he was still looking at 65 to 67 before he would</p> <p>6 retire so we were looking at these types of options for</p> <p>7 people in the future.</p> <p>8 Q And prior to this Exhibit 128 being sent by Mr.</p> <p>9 Wilson to Brent had you discussed specifically 1 Global</p> <p>10 with Brent?</p> <p>11 A I'm sure I did.</p> <p>12 Q Okay. And you see it's attached up there;</p> <p>13 right?</p> <p>14 A I do. And I spoke to Brent before this ever</p> <p>15 went out.</p> <p>16 Q And you have a specific recollection that you</p> <p>17 talked to him about 1 Global?</p> <p>18 A I can't say specifically. I'm sure that I did</p> <p>19 once we assessed the situation. I remember meeting Brent</p> <p>20 at a restaurant, gathering information, and then having</p> <p>21 several follow-up conversations with him and saying okay,</p> <p>22 I think these are the recommendations that I would like to</p> <p>23 go with, tell me what you think and we'll go from there.</p> <p>24 Q So the idea of going with 1 Global came from you</p> <p>25 not from him?</p>	<p style="text-align: right;">Page 88</p> <p>1 four buckets in most cases where portfolio one has a</p> <p>2 target growth rate of say two, portfolio two has a target</p> <p>3 growth rate of four, portfolio three has a target growth</p> <p>4 rate of six, and portfolio four has a target growth rate</p> <p>5 of eight.</p> <p>6 And then we'll find the products that best fit</p> <p>7 those time horizons and expectations. And of course we</p> <p>8 rebalance those on an ongoing basis because as you know</p> <p>9 the market changes, but that's how we build a portfolio</p> <p>10 for the client.</p> <p>11 MR. MILLER: Bob, do you have any other</p> <p>12 questions on this one?</p> <p>13 MR. LEVINSON: No, I don't, thanks.</p> <p>14 MR. MILLER: Magaly, let's put up Exhibit 122.</p> <p>15 BY MR. MILLER:</p> <p>16 Q Have you ever seen this document before?</p> <p>17 A I'm sure I have.</p> <p>18 Q So it's to someone named Carol, and it says</p> <p>19 based on your conversation I feel that this would be a</p> <p>20 suitable opportunity for you, please read the attached</p> <p>21 brochure and literature. And its subject is 1 Global</p> <p>22 recommendation April 27, 2018.</p> <p>23 A Correct.</p> <p>24 Q So tell me about the conversation you had with</p> <p>25 Carol that caused you to send information just on 1</p>

<p style="text-align: right;">Page 89</p> <p>1 Global?</p> <p>2 A She reached out to me and she was looking for</p> <p>3 investments. She has a lot of real estate and she wanted</p> <p>4 to do something different with a portion of her portfolio.</p> <p>5 So per our conversation of what she was looking for,</p> <p>6 especially at this time when we had already seen based on</p> <p>7 our statement and conversation that this was really</p> <p>8 working well I felt this would have been a good investment</p> <p>9 for her and the situation she is looking for. Which was</p> <p>10 better than what she was getting. And I don't recall what</p> <p>11 money it was, it was a money market, a CD, you know, she</p> <p>12 wanted to do a little bit better than what she was doing.</p> <p>13 So after from talking to her about the risk and rewards I</p> <p>14 thought this was a good investment for that small portion</p> <p>15 of her overall portfolio.</p> <p>16 Q And did she indeed invest?</p> <p>17 A She did.</p> <p>18 Q And is that money returned to her or is that in</p> <p>19 the bankruptcy?</p> <p>20 A That's in bankruptcy. I think -- you know what,</p> <p>21 this was -- this was pretty close to the end and I think</p> <p>22 she may have had -- she may have had a return, I can't</p> <p>23 answer that question, sorry. I think they returned her</p> <p>24 money, I can't say for sure.</p> <p>25 Q Okay. When you went in and met with her and had</p>	<p style="text-align: right;">Page 91</p> <p>1 Q You know for a fact you did not recommend it?</p> <p>2 A Not on our first conversation, no.</p> <p>3 Q Okay. So you agree with the statement that on</p> <p>4 April 27, 2018, when you sent her out the papers for 1</p> <p>5 Global that's when you distributed flyers or promotional</p> <p>6 materials in order to solicit her to invest in it?</p> <p>7 A I suppose but that was based on a conversation,</p> <p>8 it wasn't blank solicitation. I felt based on our</p> <p>9 experience at the time that this was a good investment for</p> <p>10 her based on our conversation.</p> <p>11 Q I didn't suggest it was a blind conversation I'm</p> <p>12 just asking whether or not mechanically this is when it</p> <p>13 happened?</p> <p>14 A I guess, yes.</p> <p>15 MR. MILLER: Now let's take a look, Magaly, if</p> <p>16 we could, will you put up Exhibit 123.</p> <p>17 BY MR. MILLER:</p> <p>18 Q If you can just scroll through the first on the</p> <p>19 cover page I just want to see whether or not you're</p> <p>20 familiar with that, Mr. Ortiz?</p> <p>21 A I am.</p> <p>22 Q And what is it?</p> <p>23 A That's the Merchant Cash Advance brochure that I</p> <p>24 was given.</p> <p>25 Q And who gave it to you?</p>
<p style="text-align: right;">Page 90</p> <p>1 your conversation with her prior to sending this e-mail</p> <p>2 did you talk about multiple investments or did you talk</p> <p>3 about in general about what her needs were?</p> <p>4 A Well, a little bit of both. I do talk about</p> <p>5 what her needs are. You know, whether goals are risk</p> <p>6 tolerances, what other investments does she have, and I</p> <p>7 explained as I typically do the three marketplaces that</p> <p>8 you can invest in, you know, in that respect, you know,</p> <p>9 what is it that she was looking for, you know, what are</p> <p>10 her priorities, so to speak, you know, is it growth, is it</p> <p>11 liquidity, is it safety, you know, because you can't get</p> <p>12 all three in any one marketplace as you know. So what was</p> <p>13 her overall objective. And based on that conversation I</p> <p>14 made this recommendation.</p> <p>15 Q Did you make the recommendation of 1 Global</p> <p>16 during the conversation with her or is it after you came</p> <p>17 back, thought about it, and then you sent this e-mail</p> <p>18 April 27th?</p> <p>19 A The latter.</p> <p>20 Q Okay. So can you elaborate on that?</p> <p>21 A Yeah. I always talk to clients first before I</p> <p>22 make any recommendation. Matter of fact, I always make it</p> <p>23 a practice to never recommend products on the first</p> <p>24 conversation. So I know for a fact this is the first time</p> <p>25 I spoke to her.</p>	<p style="text-align: right;">Page 92</p> <p>1 A I got these from AAI.</p> <p>2 Q Okay. Do you see AAI on the bottom left-hand</p> <p>3 corner of Exhibit 123? Is that right?</p> <p>4 A I do, that's correct.</p> <p>5 Q Now, is this the -- when we saw the attachments</p> <p>6 on Exhibits 122 and 121 was this one of the documents that</p> <p>7 you attached?</p> <p>8 A Yes, it is.</p> <p>9 Q Okay.</p> <p>10 MR. MILLER: And just real briefly, Magaly,</p> <p>11 take this down and put up Exhibit 124 but don't let 123 go</p> <p>12 too far away.</p> <p>13 BY MR. MILLER:</p> <p>14 Q Does this look like another document that was</p> <p>15 attached to those e-mails of 121 and 122?</p> <p>16 A Is that the FAQ one?</p> <p>17 Q Let's go back to the top. Yeah.</p> <p>18 A Yeah, I believe so.</p> <p>19 Q Okay.</p> <p>20 MR. MILLER: And let's take that down for a</p> <p>21 moment and let's put up 125. And if you can you can</p> <p>22 scroll down gently on 125.</p> <p>23 BY MR. MILLER:</p> <p>24 Q Does this look like one of the sample</p> <p>25 statements?</p>

<p style="text-align: right;">Page 93</p> <p>1 A Yes, it does.</p> <p>2 Q Okay.</p> <p>3 MR. MILLER: Now, let's go back -- and I</p> <p>4 apologize for this, can we put 123 back up there?</p> <p>5 BY MR. MILLER:</p> <p>6 Q Okay. So you received this from AAI. Is that</p> <p>7 correct?</p> <p>8 A That is correct.</p> <p>9 Q Do you know who drafted Exhibit 123?</p> <p>10 A I do not.</p> <p>11 Q Do you know did you use 123 in each one of your</p> <p>12 presentations to prospective investors?</p> <p>13 A For those I felt it was a good investment for</p> <p>14 I'm sure I did.</p> <p>15 Q Excellent. And when it says on the front cover</p> <p>16 variable right nine month maturity -- excuse me, let me</p> <p>17 start again. Variable rate nine-month term lending</p> <p>18 opportunity. How did you explain those words to</p> <p>19 prospective investors?</p> <p>20 A What I told them is that, you know, the rate</p> <p>21 could vary as explained in some of the -- I believe it was</p> <p>22 in the FAQ, but it is a lending opportunity and they're</p> <p>23 going to participate in multiple cash advances. And this</p> <p>24 is a nine-month term so after nine months they can exit or</p> <p>25 they can renew if they so choose. So the illiquidity part</p>	<p style="text-align: right;">Page 95</p> <p>1 Q Did you ever -- did you just not notice it in</p> <p>2 the --</p> <p>3 A I did not notice that.</p> <p>4 Q Okay.</p> <p>5 BY MR. MILLER:</p> <p>6 Q Let me start out with a better question. When</p> <p>7 you received Exhibit 123 did you read it cover to cover?</p> <p>8 A It's a second version of one that I got before,</p> <p>9 I would assume that I had but it was, you know, more beat</p> <p>10 up with speed reading version of it but I do not recall</p> <p>11 seeing that version. I don't recall seeing that</p> <p>12 statement.</p> <p>13 Q Let's turn to the next page, please. Okay. In</p> <p>14 the upper quadrant it says the highly -- their highly</p> <p>15 motivated management team has many years of combined</p> <p>16 skills in business operations, consumer and commercial</p> <p>17 learning, internet telemarketing and sales. They were</p> <p>18 recommended by the Law Firm of Kopelowitz Ostrow,</p> <p>19 accounting and auditing services are provided by the firm</p> <p>20 of Daszkal Bolton. I know we talked about the Kopelowitz</p> <p>21 and Ostrow before and I know we mentioned Daszkal Bolton.</p> <p>22 What type of accounting services are you aware</p> <p>23 of that Daszkal Bolton provided?</p> <p>24 A From what I understood they were verifying the</p> <p>25 crediting method or the values on the statements of each</p>
<p style="text-align: right;">Page 94</p> <p>1 of it was always nine months.</p> <p>2 Q Got it. But your testimony earlier was you</p> <p>3 didn't know that at nine months there is an extra period</p> <p>4 of time you have to wait.</p> <p>5 A I had no idea.</p> <p>6 Q Got it. Let's go to the second page, please.</p> <p>7 Let's take a look at the first paragraph. It says midway</p> <p>8 through AAI's Merchant Cash Advance vendor. Was this</p> <p>9 germane and exclusive to AAI?</p> <p>10 A That I don't know but I know that for us we</p> <p>11 offered that to our clients through AAI.</p> <p>12 Q Got it.</p> <p>13 A I don't think they were the only ones.</p> <p>14 Q Okay. And on the last sentence of that page it</p> <p>15 says in exchange for providing funds competitive potential</p> <p>16 returns are offered and secured by funding portfolio</p> <p>17 itself. What does that mean?</p> <p>18 A I don't remember reading that but the only thing</p> <p>19 I can think of just that it was a multiple MCA's that</p> <p>20 diversified the risk for a client within their single MOI.</p> <p>21 That's the only thing I can think of. I've always</p> <p>22 presented it as unsecured debt.</p> <p>23 BY MR. LEVINSON:</p> <p>24 Q That statement is not true; is it?</p> <p>25 A Not to my knowledge.</p>	<p style="text-align: right;">Page 96</p> <p>1 client, that's what I was told and that's what I believe.</p> <p>2 I think that was just -- I believe that was probably it, I</p> <p>3 don't know that they did any other accounting to my</p> <p>4 knowledge.</p> <p>5 Q What about auditing?</p> <p>6 A You know, I don't know. I know we were told</p> <p>7 this information, but as far as the company being audited</p> <p>8 I don't know. I know that I was told that the statements</p> <p>9 were verified by Daszkal Bolton.</p> <p>10 Q Okay. But you do see the word audited?</p> <p>11 A I sure do.</p> <p>12 Q And that's a big difference in accounting.</p> <p>13 Right?</p> <p>14 A Sure is.</p> <p>15 Q Why?</p> <p>16 A Well, because auditing means they're cracking</p> <p>17 open the books and taking a look at it. Accounting is</p> <p>18 pluses and minuses.</p> <p>19 Q So did you ever drill down and find out what</p> <p>20 they were actually auditing?</p> <p>21 A No, I did not.</p> <p>22 Q Any reason why you didn't?</p> <p>23 A Well, to this point I had no reason to doubt</p> <p>24 that what they were telling me was true or not. Because</p> <p>25 everything that I was told up to this point was being</p>

<p style="text-align: right;">Page 97</p> <p>1 substantiated by the phone calls that I had, webinars that  2 were still being conducted, and by the statements that my  3 clients were receiving. So it didn't raise any red flags  4 for me to check into it.  5 Q Isn't the auditing function to conducted by an  6 independent third party?  7 A I don't know the answer to that. I would think  8 so.  9 Q And isn't that the kind of verification you  10 would want?  11 A I would.  12 Q As a registered investment advisor --  13 A Absolutely.  14 Q -- seeking --  15 A Absolutely, and that's what we were told Daszkal  16 Bolton's role was.  17 Q Accounting and auditing but you didn't know what  18 they audited; if anything?  19 A That's correct.  20 MR. MILLER: Magaly, can you turn to the next  21 page? The one that starts financial model. You can stop  22 there.  23 BY MR. MILLER:  24 Q It says financial model, on average 1.30 to 1.35  25 is collected for every dollar advanced.</p>	<p style="text-align: right;">Page 99</p> <p>1 Q But I'm talking about within the context of 1  2 Global that you were offering to customers.  3 A No. But again, I would base that opinion on my  4 personal experience. Some of the other merchants were in  5 a similar situation than mine.  6 Q Got it.  7 MR. MILLER: Magaly, could you be so kind as  8 to go to the second -- excuse me, the third to last page  9 of Exhibit 123. The one that starts out frequently asked  10 questions. There you go.  11 BY MR. MILLER:  12 Q Okay. So is this the document we earlier talked  13 about that you e-mail to customers?  14 A Yes, or there was a printed brochure which I  15 gave them.  16 Q Got it.  17 A But this looks like it.  18 Q It says right here in the second -- the second  19 one what has been the average annual write-off rate since  20 inception of the company. First of all, what's a  21 write-off?  22 A I would say bad and uncollectible debts.  23 Q Is that something you think the definition or  24 did somebody tell you that's the definition either from 1  25 Global or AAI?</p>
<p style="text-align: right;">Page 98</p> <p>1 Do you remember reading that?  2 A I do.  3 Q And I guess my question is in the Merchants Cash  4 Advance you said you have in your personal experience that  5 predated 1 Global was this about the factoring rate that  6 they -- that you had to pay?  7 A I did two, the first one it was pretty close,  8 the second one was not, it was a little bit less. But the  9 first one definitely this high, which was my incentive to  10 pay it off faster.  11 Q Using your financial acumen and training and  12 your license what did you think about companies that  13 needed a dollar just to pay 1.30 to 1.35 in factoring in  14 order to have advances of money from a creditworthy  15 standpoint?  16 A Well, if I was going to make the assumption I  17 would say that these companies were not creditworthy or  18 just couldn't get fast funding. That would be my  19 assumption.  20 Q Did you disclose that -- well, strike that.  21 Did that concern you?  22 A Having done it myself, no. And the reason it  23 didn't is because for me time was of the essence and I was  24 willing to do that as long as I could pay it off in a  25 timely fashion which I was able to do.</p>	<p style="text-align: right;">Page 100</p> <p>1 A I thought that was the definition but I was also  2 told that by AAI.  3 Q And you see here it says four percent?  4 A Yes.  5 Q Did it ever change in any of the frequently  6 asked questions?  7 A I don't recall that. I don't recall if it ever  8 changed.  9 Q And is four percent in your mind a reasonable  10 percentage?  11 A In the way this was presented, yes.  12 Q Okay. Let's go to the next page.  13 MR. LEVINSON: Before you leave that, Gary, I  14 wanted to ask a question.  15 BY MR. LEVINSON:  16 Q Mr. Ortiz, do you see below the write-off the  17 question says how often do syndicate partners receive  18 status reports on their account, and then it says  19 syndicate partner portfolio statements are generated  20 monthly? Do you see that?  21 A Yes.  22 Q What are syndicate partners?  23 A I would assume those are the people buying --  24 using the MOI as a subcontract between them and 1 Global.  25 Q In other words, what you refer to them as</p>

<p style="text-align: right;">Page 101</p> <p>1 lenders?</p> <p>2 A I refer to them as lenders, yes.</p> <p>3 Q Did you ever prior to now have you ever -- did</p> <p>4 you see this statement syndicate partners?</p> <p>5 A I don't recall seeing it in any document. I do</p> <p>6 recall seeing the term but I've always equated that to the</p> <p>7 lenders.</p> <p>8 Q How did you come to equate that to the lenders,</p> <p>9 did somebody tell that you or was it just your assumption?</p> <p>10 A A little bit of both. I don't remember who told</p> <p>11 me. But my main communication on this product was through</p> <p>12 AAI. Presentations that they did changed terminology or</p> <p>13 kept terminology as syndicate partners.</p> <p>14 Q Are you speculating or do you know?</p> <p>15 A I'm speculating.</p> <p>16 Q Okay.</p> <p>17 MR. LEVINSON: All right. Thank you.</p> <p>18 MR. MILLER: Magaly, can you flip to the</p> <p>19 next page?</p> <p>20 BY MR. MILLER:</p> <p>21 Q On the first one it says what has been the</p> <p>22 historic annual return to parties lending funds to 1</p> <p>23 Global, low double digits.</p> <p>24 And how did that equate when you were offering</p> <p>25 it in 2017 and 2018 to what CD's were similar nine-month</p>	<p style="text-align: right;">Page 103</p> <p>1 A I'm not sure when this brochure came out, by</p> <p>2 then I had seen several dozen statements over a couple of</p> <p>3 months.</p> <p>4 Q Got it.</p> <p>5 MR. MILLER: Magaly, can you go to the bottom</p> <p>6 of that same page? Right there.</p> <p>7 BY MR. MILLER:</p> <p>8 Q It says the next to last question says how are</p> <p>9 syndicate partner account performances verified, an</p> <p>10 external accounting firm validates syndicate partner</p> <p>11 portfolio performances and balances quarterly.</p> <p>12 Prior to me reading that to you had you ever</p> <p>13 noticed that language?</p> <p>14 A No.</p> <p>15 Q What does that mean?</p> <p>16 A We're taking it as I read it that the lender</p> <p>17 statements were verified externally, I would have assumed</p> <p>18 Daszkal Bolton on a quarterly basis not monthly.</p> <p>19 Q And are they doing that from an auditing</p> <p>20 standpoint, an accounting standpoint, or you don't know?</p> <p>21 A I don't know.</p> <p>22 Q When Mr. Levinson asked you if you heard the</p> <p>23 term syndicate partner I think you mentioned you had not</p> <p>24 heard that. Right?</p> <p>25 A Yeah, I don't recall. I've never used that</p>
<p style="text-align: right;">Page 102</p> <p>1 term were paying?</p> <p>2 A Comparing it to another product; is that the</p> <p>3 question?</p> <p>4 Q How did low double digit return versus what a</p> <p>5 nine-month CD was paying?</p> <p>6 A There was no comparison.</p> <p>7 Q Huge difference; right?</p> <p>8 A There is a huge difference.</p> <p>9 Q One of them is low double digits, an 11, 12,</p> <p>10 13 percent presumably, and the other one is maybe one</p> <p>11 percent.</p> <p>12 A Maybe.</p> <p>13 Q Did you discuss that gap with any of your</p> <p>14 prospective investors and how that would rate to risk?</p> <p>15 A I did and I explained to them mostly on my</p> <p>16 personal experience, these are typically people that need</p> <p>17 loans quickly, it's paid over a short period of time, and</p> <p>18 in fact, many of them according to the literature I</p> <p>19 received in due diligence were eight months or nine, some</p> <p>20 of them eight, but a lot of them were four, so the</p> <p>21 factoring was an incentive to pay those loans off faster.</p> <p>22 And that's the way I explained it. And based on all the</p> <p>23 information I had, and by this time I had seen multiple</p> <p>24 statements that supported that statement right there.</p> <p>25 Q Got it.</p>	<p style="text-align: right;">Page 104</p> <p>1 phrase.</p> <p>2 Q Is this the first time that you see that an</p> <p>3 external accounting firm validated syndicate partner</p> <p>4 portfolio performance and balances quarterly?</p> <p>5 A Yes.</p> <p>6 Q Do you remember reading this frequently asked</p> <p>7 questions?</p> <p>8 A I'm sure I did. You know, I didn't see much</p> <p>9 difference from this brochure and the other brochure.</p> <p>10 Q Did this raise any questions to you?</p> <p>11 A I don't recall reading that, sir.</p> <p>12 Q Why not?</p> <p>13 A That was a long time ago. I just don't recall</p> <p>14 reading it.</p> <p>15 Q But if you did read it would that have raised</p> <p>16 questions for you?</p> <p>17 A Yes, it would have.</p> <p>18 Q Okay.</p> <p>19 MR. MILLER: Magaly, can you put up Exhibit 124?</p> <p>20 MR. LEVINSON: Before you do, Gary, I want to</p> <p>21 ask you a couple of questions on this document.</p> <p>22 BY MR. LEVINSON:</p> <p>23 Q You got this from AAI. Right?</p> <p>24 A I certainly did.</p> <p>25 Q And do you know who drafted it?</p>

<p style="text-align: right;">Page 105</p> <p>1 A I don't.</p> <p>2 Q Did you ask, you know, did you ask?</p> <p>3 A Like I said, at this point I had no reason to</p> <p>4 distrust them. Everything seemed to be working as I was</p> <p>5 told it would.</p> <p>6 Q Okay. But do you know if AAI drafted it or 1</p> <p>7 Global drafted it?</p> <p>8 A My assumption, and again, this is just my</p> <p>9 assumption, is that this was 1 Global's brochure that AAI</p> <p>10 put their stamp on.</p> <p>11 Q But you just assumed it, you just went ahead and</p> <p>12 used it with the clients without knowing?</p> <p>13 A Without knowing. And again, I had no reason to</p> <p>14 doubt that especially based on the experience with the</p> <p>15 clients that were already in this that any of this was not</p> <p>16 true.</p> <p>17 Q Okay.</p> <p>18 MR. MILLER: Magaly, put 124 up, please.</p> <p>19 BY MR. LEVINSON:</p> <p>20 Q Mr. Ortiz, with regard to 124 would your answers</p> <p>21 be the same to the questions asked, did you get this from</p> <p>22 AAI?</p> <p>23 A Of course I did, everything I ever got -- I'm</p> <p>24 sorry, sir.</p> <p>25 Q Did you ask who drafted it?</p>	<p style="text-align: right;">Page 107</p> <p>1 A Yes, it is. And I'm not happy about it.</p> <p>2 Q Why?</p> <p>3 A Because well, from the time of this bankruptcy I</p> <p>4 feel like everybody has been lying to me now. And now it</p> <p>5 looks I feel like I've been lied to by a lot more people.</p> <p>6 Q Such as who?</p> <p>7 A AAI.</p> <p>8 Q And in Exhibit 123 of the FAQ says low double</p> <p>9 digits, at the bottom of this page it says what has been</p> <p>10 the historical annual return to parties lending funds to 1</p> <p>11 Global --</p> <p>12 A I can't see that.</p> <p>13 Q In excess of 15 percent.</p> <p>14 A Wow. I never told clients to expect that. I</p> <p>15 told them if anything it would be high double digits.</p> <p>16 Excuse me, high single digits, forgive me. Because that's</p> <p>17 what our statements were showing. We never saw anybody</p> <p>18 with double digit performance so I wouldn't say that.</p> <p>19 MR. MILLER: Bob, do you have anything else</p> <p>20 with that exhibit?</p> <p>21 MR. LEVINSON: No.</p> <p>22 THE WITNESS: Unbelievable.</p> <p>23 MR. MILLER: Magaly, can you pull up 125,</p> <p>24 please?</p> <p>25 BY MR. LEVINSON:</p>
<p style="text-align: right;">Page 106</p> <p>1 A I did not.</p> <p>2 Q Okay.</p> <p>3 A All the printed literature I got directly from</p> <p>4 AAI. The only thing I did not get directly from them was</p> <p>5 the statements that were being e-mailed to my clients from</p> <p>6 1 Global, those came directly from 1 Global.</p> <p>7 BY MR. MILLER:</p> <p>8 Q Okay. Let's take a look at -- first of all, did</p> <p>9 you read 124 when you got it?</p> <p>10 A I'm sure I did.</p> <p>11 Q And these were the documents you disseminated to</p> <p>12 your prospective investors. Is that right?</p> <p>13 A Yes. They had changed, I think this was the</p> <p>14 second or third iteration of the original, but I do</p> <p>15 remember sending these out.</p> <p>16 Q Okay. Let's look at number four. What has been</p> <p>17 the average annual write-off rate since inception of 1</p> <p>18 Global Capital?</p> <p>19 A It says eight.</p> <p>20 Q How does that equate to the number we just saw</p> <p>21 on Exhibit 123?</p> <p>22 A It's not the same.</p> <p>23 Q Like it's double; right?</p> <p>24 A Yes.</p> <p>25 Q Is this the first time you noticed that?</p>	<p style="text-align: right;">Page 108</p> <p>1 Q Mr. Ortiz, I've heard you say now two or three</p> <p>2 times I didn't see that or I don't recall reading that,</p> <p>3 but that was different from your understanding and your</p> <p>4 assumption in other documents, maybe you didn't do as good</p> <p>5 a job as reading these documents as you should have?</p> <p>6 A Well, That's apparent, yes.</p> <p>7 Q Thank you.</p> <p>8 A And it breaks my heart.</p> <p>9 BY MR. MILLER:</p> <p>10 Q We have 125 up.</p> <p>11 Mr. Ortiz, is this one of the -- one of the</p> <p>12 documents or similar to the documents that you used in</p> <p>13 order to solicit investors to purchase 1 Global Capital?</p> <p>14 A Yes, it is.</p> <p>15 Q Okay. And who did you receive this from?</p> <p>16 A I believe all printed material came directly</p> <p>17 from AAI. However, I did have existing client statements</p> <p>18 that came directly from 1 Global.</p> <p>19 Q You see this one has redactions so there is no</p> <p>20 -- there is no indication who the investor is. So do you</p> <p>21 think this came from AAI or do you think it came from 1</p> <p>22 Global or you have no idea?</p> <p>23 A I have no idea. My assumption it came from 1</p> <p>24 Global because it has Scott Merkelson's name on it and</p> <p>25 their logo on the top right corner.</p>

<p style="text-align: right;">Page 109</p> <p>1 Q And who, if anyone, told you what to do with 2 this statement in marketing 1 Global to prospective 3 investors? 4 A I don't think anybody told me to do anything 5 with it, it was just a statement. The way I explained it 6 was the diversification because this point here with that 7 kind of investment or from contribution there to 1 Global 8 it was probably 200 names on that brochure. Maybe more. 9 So that's how I used to explain it. Some people it was 10 just a couple of pennies, some it was just a couple of 11 dollars, so it's not a huge portion, that's how I used 12 this statement. 13 Q Just for clarity of the record there is no names 14 on there. 15 A There are no names. 16 Q How did that make you feel? 17 A Well, it was presented as a sample statement, 18 and I had by this time I had already seen many client 19 statements that looked exactly like this or very similar 20 to this. 21 Q So you had no idea who they were investing with? 22 A I do not. All I know is based on my copies of 23 actual client statements they look like this. 24 Q But you and your investors who invested in 1 25 Global have no idea who 1 Global was lending money to?</p>	<p style="text-align: right;">Page 111</p> <p>1 independent audit firm, and now it's not just accounting 2 audit it's audit firm Daszkal Bolton, LLC, has endorsed 3 and agrees with the rate of return formula. 4 A I believed that to be true at the time. 5 Q Okay. Did you ever see any documentation from 6 Daszkal Bolton where they were absent from being printed 7 on a 1 Global account statement when you saw the backup to 8 show that they endorsed and agreed? 9 A I did not. The only reference to Daszkal Bolton 10 was in the due diligence packet that I received and listed 11 them as outside counsel. I believe that was for 12 accounting and auditing. I don't remember exactly. 13 Q And what's that word, what's the context of 14 endorsing something mean to you in terms of an auditing 15 firm? 16 A That they agree with those numbers, they put 17 their stamp of approval on it. 18 Q But that's what it says right after that, it 19 says has endorsed and agrees, I'm asking why the word 20 endorsed is in there? 21 A I don't know. The implication to me personally 22 is that they are putting their stamp of approval and they 23 agree with it. 24 Q Okay. Did you ever ask anybody about that? 25 A No, I did not.</p>
<p style="text-align: right;">Page 110</p> <p>1 A On the early statements it did say the companies 2 that they were lending to. I don't remember when they 3 changed it but those lenders they claimed it was for 4 privacy purposes changed to identification numbers instead 5 of names. But yes, we did know who they were lending to. 6 BY MR. LEVINSON: 7 Q How could you know who they were lending to once 8 they removed the name from the statement? 9 A We didn't. 10 Q Okay. So it was just -- 11 A That raised a red flag for us and that's why we 12 started not recommending that product. 13 Q Okay. 14 BY MR. MILLER: 15 Q So do you remember anything in the memorandum of 16 indebtedness when they said the sophisticated or qualified 17 investor or lender has the opportunity to determine the 18 creditworthiness of the ultimate merchant, do you remember 19 that? 20 A I don't remember that. 21 Q I'm just wondering how that would happen if 22 there is no names here? 23 A I don't remember that being in there. 24 Q Okay. We'll get to that shortly. 25 And then on the first page of 125 it says</p>	<p style="text-align: right;">Page 112</p> <p>1 Q And in all your years of being a registered 2 investment advisor have you come across any audit firms or 3 auditors that have used the word endorsed? 4 A I have not. 5 MR. MILLER: Bob, do you have anymore questions 6 on 125? 7 BY MR. LEVINSON: 8 Q The language that Gary just read to you, Mr. 9 Ortiz, about Daszkal Bolton endorsed and agrees with the 10 rate of return formula. Is that the verification that 11 earlier when you were talking about I think Dale Ledbetter 12 mentioned this, is that the language you were referring 13 to? 14 A That's the language I was referring to, yes. 15 Q Thank you. 16 MR. MILLER: Magaly, can you put up 129? 17 Can you scroll down so the gentlemen can see the first 18 page? 19 BY MR. MILLER: 20 Q Mr. Ortiz, have you seen this document prior to 21 today that's been marked as Exhibit 129 or something 22 similar to it? 23 A Yes, I have. 24 Q What is it and who did you get it from? 25 A That is the memorandum of indebtedness</p>

<p style="text-align: right;">Page 113</p> <p>1 application and so on and I got these from AAI.  2 Q And what did you do with it when you got it?  3 A For clients that decided to move forward with  4 this recommendation I would fill out this application.  5 Q Stop for a second. What did you personally do  6 with it when you got it?  7 A Can you please clarify?  8 Q Did you read it?  9 A Yes, of course.  10 Q Okay. So you read it.  11 A I did read it.  12 Q Cover to cover?  13 A Yeah. I had a copy of the due diligence packet  14 and this lined up with what I got, I did read it.  15 Q Did you have any questions on it when you read  16 it?  17 A I'm sure I did. I don't recall what they were.  18 Q Did you raise any of the questions with anyone  19 at AAI, anyone at --  20 A I'm sure I did. Typically -- I'm sorry, go  21 ahead, Mr. Miller.  22 Q Anyone at 1 Global, anyone at Kopelowitz, anyone  23 at Daszkal Bolton.  24 A The only person I would have talked to or people  25 I would have talked to were AAI and it was the same</p>	<p style="text-align: right;">Page 115</p> <p>1 Q Did you talk about 1 Global?  2 A I talked about multiple investments.  3 Q And how long did you -- how long had you known  4 him before he decided to lend \$50 thousand?  5 A I don't recall but I would guess that the amount  6 of time prior to this was probably a month or more. I met  7 him several times.  8 Q Okay. So let's go to page -- let's go to page 9  9 of 26. Whose handwriting is populating this suitability  10 form?  11 A That's mine.  12 Q Okay. And do you see at the bottom --  13 MR. MILLER: Magaly, can you scroll down to  14 the bottom where the numbers are.  15 BY MR. MILLER:  16 Q Did you populate those as well?  17 A No. My then assistant Laurel populated that  18 information in her conversation with Mr. De Carlo. Or I  19 may have had that information on my own notes at the time,  20 I don't recall. She filled that out.  21 Q Got it. And with respect to these figures did  22 you determine that \$50 thousand would be a suitable  23 investment amount for Mr. De Carlo?  24 A I did.  25 Q So you suggested the number and he agreed?</p>
<p style="text-align: right;">Page 114</p> <p>1 people, Jamie Wilson typically is the person I would ask  2 these questions to or one of their support staff.  3 There was a few other people but mostly he was  4 the knowledge base. There was office managers there, a  5 lady by the name of Terry Short, but I think for those  6 kind of application questions I absolutely asked them for  7 clarification on these.  8 Q Let's page through this a little bit. So I want  9 to start on page 5 of 26 right there.  10 So this is an intent to purchase Merchant Cash  11 Advance nonqualified funds, and you see there it's a Mr.  12 De Carlo. Right?  13 A Yes.  14 Q Who is Mr. De Carlo?  15 A He is a client of mine.  16 Q And how did you obtain him as a client?  17 A I believe Mr. De Carlo heard me on the radio.  18 Q Talking about 1 Global?  19 A Never.  20 Q What did he hear you talk about?  21 A I probably gave an example of how I help people  22 with our multi bucket approach.  23 Q And at the time that Mr. De Carlo agreed to lend  24 \$50 thousand had you ever met with him?  25 A I did.</p>	<p style="text-align: right;">Page 116</p> <p>1 A Yeah, I'm pretty sure, yes. I don't think he  2 was looking to invest more than \$50 thousand.  3 Q Got it. And as far as these numbers are  4 concerned did they just come from Mr. De Carlo or did you  5 request back up to support these numbers?  6 A They came from Mr. De Carlo.  7 Q Is it fair to say that Mr. De Carlo normally  8 consults with an investment advisor normally before making  9 investment decisions?  10 A I would think so.  11 Q And he attested thereto?  12 A Yes.  13 Q He attested thereto on the next page.  14 A Yes.  15 MR. MILLER: Let's move forward a little bit,  16 Magaly. Let's go to page 15 of 26.  17 BY MR. MILLER:  18 Q So this is called a product disclosure merchant  19 cash advance. Have you ever seen this before?  20 A Yes, I have.  21 Q And who provided it to you?  22 A As I said, all the paper documents I got from  23 AAI.  24 Q Okay. And did you ever go over this product  25 disclosure with your client in order for your client to</p>

<p style="text-align: right;">Page 117</p> <p>1 populate his initials?  2 A Absolutely.  3 Q Okay. How did you explain the second question?  4 A That was actually I believe in the memorandum of  5 the indebtedness, but I did tell him that the account is  6 not liquid and he can't withdraw the funds until the end  7 of the term and he understood that. In fact every client  8 understood that.  9 Q And then you later found out that wasn't the  10 case?  11 A I later found out it was not the case. I had to  12 experience it for myself to find that out.  13 MR. MILLER: Let's turn, Magaly, to the  14 memorandum of indebtedness page 18 of 26.  15 BY MR. MILLER:  16 Q So just walk Mr. Levinson and myself through  17 this. We've seen examples in I believe 121 and 122 where  18 the documents were sent out to a prospective investor on 1  19 Global.  20 Was it your practice to send a memorandum of  21 indebtedness out as well or was that something that was  22 populated once a customer came in your office or you went  23 to go see the customer?  24 A Once the customer came in. We needed them to  25 say yes, I want to go through with this before we filled</p>	<p style="text-align: right;">Page 119</p> <p>1 A I'm not sure exactly what that means but I would  2 assume that if they're collecting on a lot of people and  3 unless these guys are going to lose and was going to  4 adversely effect the company and the -- in this case what  5 I would assume is the lender, then they would not report  6 that information because it was not relevant. That's my  7 assumption in reading it now. What it meant at the time I  8 couldn't tell you but I would think that this is an  9 ongoing process of what they do, they're collecting.  10 Q But did it make you uncomfortable that your  11 client, the lender, was dependent on what 1 Global thought  12 was a material adverse effect and then they would record  13 it?  14 What I'm trying to say is, sir, this was not  15 quantified in any way; right?  16 A No, it wasn't.  17 Q Did you recognize that as a risk at the time?  18 A No, I did not, not at the time. I assumed there  19 was bad debt, there was collections, and there was some  20 they collected and some they had to write-off.  21 Q Let's look at the next one, number six, maturity  22 date. This indebtedness shall mature at the end of the  23 ninth month and shall automatically rollover into a new  24 indebtedness unless borrower receives written notice of  25 termination by the lender no less than 30 days before</p>
<p style="text-align: right;">Page 118</p> <p>1 out any paperwork.  2 Q Got it. On page one this looks like it's the  3 agreement between Mr. De Carlo and 1 Global. Would you  4 agree with that?  5 A I would agree with that.  6 Q If we take a look at page two, and Bob, if you  7 have anything on an earlier page please stop me.  8 On page two on number five it says litigation,  9 borrower may be involved in litigation arising from its  10 efforts to collect consumer debts and accounts. Borrower  11 will not report such litigation to lender unless it is  12 likely to have a material adverse effect on borrower.  13 First of all, did you ever read that before  14 today?  15 A I did.  16 Q And how did you feel about that?  17 A I know they talked about a big part of their  18 practice was collections, and that was the strong part of  19 their -- of this particular offering, so I felt that was  20 reasonable assuming that they may have to have collection  21 on some of these merchants that potential default.  22 Q But what about the words that the borrower will  23 not report such litigation to lender unless it is likely  24 to have a material adverse effect on borrower, what did  25 that mean to you?</p>	<p style="text-align: right;">Page 120</p> <p>1 maturity date. If this indebtedness is terminated  2 pursuant to the section, the distribution of any  3 outstanding amounts owed to lender by borrower upon  4 maturity of this indebtedness shall be controlled by  5 Sections 8 and 11, below. That's a mouthful.  6 How did you interpret that?  7 A Up to this point I still believed it was a nine  8 month note, had 30 days to not renew and they'd get their  9 money.  10 BY MR. LEVINSON:  11 Q Earlier I had asked you about this language.  12 This was the language that was in all of your client  13 MOI's. Correct?  14 A Correct.  15 Q Okay.  16 A Again, I was focussed on the nine month and let  17 them know anyone that did come up for maturity that we  18 would let them know with plenty of notice if they wanted  19 to do it or not.  20 BY MR. MILLER:  21 Q If they wanted to do it it just happened  22 automatically. Right?  23 A No, I believe we got a new memorandum of  24 indebtedness for these people.  25 BY MR. LEVINSON:</p>

<p style="text-align: right;">Page 121</p> <p>1 Q That's not what it says.  2 A I know it's not what it says but that's what we  3 did.  4 Q Are you sure about that?  5 A I'm pretty positive.  6 Q Do you still have records, Steve, have copies of  7 all of the MOI's that your clients entered into including  8 what you say were written rules?  9 A Are you talking to me, Mr. Levinson?  10 Q Yes.  11 A I thought you said Steve.  12 Q No.  13 A Yes, I do.  14 Q Okay. And were those part of the documents that  15 you produced?  16 A I believe so. Actually every document we have  17 we did.  18 Q Okay.  19 BY MR. MILLER:  20 Q On number seven prior to today did you read and  21 understand number seven?  22 A Let me see. Yeah, that's kind of what they were  23 saying in their brochure and what I heard from AAI and 1  24 Global it was an underserved area that had a void that  25 needed to be -- and I interpreted this as their</p>	<p style="text-align: right;">Page 123</p> <p>1 AAI told you.  2 A Yeah, so I found out too late.  3 Q Okay.  4 BY MR. MILLER:  5 Q Did you have an attorney, did you retain an  6 attorney to look at the MOI before you decided to put your  7 customers in it?  8 A I did not.  9 MR. MILLER: Let's turn to page 20 of 26,  10 please, Magaly. Specifically 8.4.  11 BY MR. MILLER:  12 Q Do you see lender agrees that a 13 percent  13 management fee will be computed on and withdrawn from all  14 collected amounts of lenders allocation for each MCAT, the  15 net amount shall hereinafter be referred to as lender's  16 payment.  17 Did you explain the 13 percent management fee to  18 your client?  19 A I remember asking about that. I don't remember  20 the answer that I received, there was a few people that  21 did ask me about that but the answer that I received I  22 believe came from AAI and also from 1 Global. But yeah,  23 it rarely came up but I do recall seeing that.  24 Q What did you tell your prospective investors?  25 A That this was fees that were collected by the</p>
<p style="text-align: right;">Page 122</p> <p>1 underwriting practices. And it was at their sole  2 discretion to determine who they would lend money to or  3 not.  4 BY MR. LEVINSON:  5 Q Do you see the second sentence of paragraph  6 seven, the covered activities shall be conducted by  7 borrower in borrower's sole discretion. This shall  8 include, but not limited to, providing alternative funding  9 known as Merchant Cash Advance. Do you see that?  10 A I do.  11 Q Did you read that at the time you first got the  12 MOI and subsequent MOI?  13 A I did and I assumed that pertained to merchant  14 cash advance transactions.  15 Q It doesn't say that; does it? It says the  16 covered activities shall be conducted by borrower in  17 borrower's soul discretion. Covered activities include,  18 but not be limited to, okay, doesn't that give 1 Global  19 discretion to do what it wants with the money?  20 A It does now that I'm reading that. But from  21 everything that I had to that point the only thing they  22 were doing was merchant cash advances with nine month time  23 frames on it.  24 Q I understand that's what they told you, but the  25 language of this MOI is different from what 1 Global or</p>	<p style="text-align: right;">Page 124</p> <p>1 lender from the collections of these merchant cash  2 advances, the lender being 1 Global, but they still had a  3 net performance after those fees, whatever that would be.  4 Q Right. And then it says under 8.5 borrower  5 shall allocate lender's payment to lender pursuant to this  6 section; however, lender -- that's your client; right?  7 A Uh-huh.  8 Q Understands and agrees that lender's payment  9 will be retained by the borrower as working capital  10 through the maturity date.  11 Were you aware of that?  12 A Yes, I was. It was explained to me that many of  13 these notes get paid off quickly and so they redeploy that  14 money and that's why they always had an amount yet to be  15 deployed -- I'm just telling you what they told me. Yet  16 to be deployed that changed on a monthly basis from  17 statement to statement.  18 Q Okay. But doesn't working capital mean  19 something a little different than that, can't they use  20 working capital to pay salary?  21 A I suppose they could but I was looking at this  22 as this is merchant cash advance and they were using that  23 money to go back to lend money to other people, to lend  24 money to merchants, that's the way I read it and that's  25 the way I understood it.</p>

<p style="text-align: right;">Page 125</p> <p>1 Q The next paragraph says what you just alluded 2 to, lender's payment shall be reinvested at future MCAT. 3 Does that appear to be consistent with -- does 4 8.6 appear to be consistent or inconsistent in your mind 5 with 8.5? 6 A It seemed to be consistent. That they were 7 using that money to continue to lend money to merchants, 8 that's the way I understood it. 9 Q And then go to Mr. Levinson's point, the covered 10 activities shall include providing advances but shall not 11 be limited to that. 12 So this money again could have been used for 13 anything; would you agree? 14 A Based on the understanding of that sentence 15 today, yes. I did not interpret it that way at the time. 16 MR. MILLER: Magaly, can we go to -- are you 17 done with that page, Bob? 18 MR. LEVINSON: Yes. 19 MR. MILLER: Can we go to page 2 of 26? 20 MR. LEVINSON: Can you back up a second? Can 21 you go to the previous page just one second? Hold on. 22 Stop. Can you scroll up a little bit, Magaly. 23 BY MR. LEVINSON: 24 Q Do you see paragraph 11? 25 A Yes, sir.</p>	<p style="text-align: right;">Page 127</p> <p>1 to the ninth month. I didn't know it was extending beyond 2 the ninth month. 3 Q But you assumed that based on what you read but 4 did anybody from 1 Global or AAI tell you that? 5 A No. 6 Q When you read paragraph 11 did you ask anybody 7 about it at the time? 8 A No, because it seemed to be consistent with 9 everything else I was being told and with 30-day written 10 notice then this thing would not renew on the ninth month 11 so the grace period to me was a 30-day period, I didn't 12 assume that it was anything different. 13 Q Okay. 14 MR. MILLER: Magaly, can you go to page 22 15 of 26, please? Specifically get to 12.3. 16 BY MR. MILLER: 17 Q Lenders sophisticated and qualified individual 18 or business entity and has entered into this agreement for 19 commercial purpose. Let's just stop there. 20 What's the commercial purpose? 21 A I assume the commercial purpose was that it was 22 merchant cash advance not an individual cash advance. 23 Q Okay. Do you know whether or not the use of the 24 word commercial has anything -- any special meaning or any 25 term of art in the securities laws?</p>
<p style="text-align: right;">Page 126</p> <p>1 Q Okay. Do you recall reading paragraph 11 when 2 you first got the MOI? 3 A I do. 4 Q Okay. Isn't that -- I know when we talked 5 earlier you said you found out that it was taking, you 6 know, three months or so for people to fully get repaid 7 their loan. Doesn't paragraph 11 on the MOI speak to 8 that? 9 A Well, I assume that all this would happen. The 10 grace period was in that -- was within the nine-month 11 period of time. I did not know that it extended beyond 12 the nine months. 13 Q Let me ask a question. If somebody -- it says 14 if lender elects to terminate this indebtedness on the 15 maturity date, monies from the ACH daily collection shall 16 be paid to lender as each MCAT included in the account 17 unwinds through the daily course of business, until such 18 time that lender's indebtedness is repaid in full. 19 Okay. So isn't that what you just said 20 inconsistent with this, doesn't this tell you if they 21 don't renew at the end of the nine months that that's 22 going to be a grace period that's beyond the nine months? 23 A Well, in previous paragraphs and from 24 information that I gathered already you have 30 days, so I 25 assumed that the 30-day period was from the eighth month</p>	<p style="text-align: right;">Page 128</p> <p>1 A I did not. 2 Q As far as the sophisticated investor I think you 3 described that. What's a qualified individual? 4 A I'm not sure what their interpretation of a 5 qualified individual was but for me you're either 6 sophisticated, accredited, or something less than that 7 which would be just, you know, person just starting off 8 with investing and has no knowledge or experience in 9 investing. But people who have some experience and maybe 10 extensive experience I would consider sophisticated, and 11 an accredited investor, of course I don't need to explain 12 that to you, people with liquid net worth of a million or 13 more or income of 200 thousand or 300 thousand if they're 14 married. 15 But the way it was explained to me a 16 sophisticated investor or this product was for anybody and 17 it didn't have to be an accredited investor. That being 18 said, I did not look at it as being for anybody, it had to 19 be a specific purpose and for people who had knowledge of 20 how it would work and had substantial liquidity beyond 21 this investment. 22 Q Did you understand that AAI or 1 Global would do 23 any analysis or testing to determine for themselves 24 whether or not the lender was sophisticated or qualified? 25 A Well, I know on the application from AAI we did</p>

1 get income information and other information regarding a  
 2 client's attestation to being sophisticated, so once we  
 3 would submit a application to AAI they had another layer  
 4 of I guess vetting to see if a client was suitable or this  
 5 is suitable for a client. So that was the extra, so to  
 6 speak, layer of checking out the clients.  
 7 Q And on 12.4 it says, lender has relied solely on  
 8 its own investigation and due diligence and it has not  
 9 relied upon any oral or written information provided by  
 10 borrower, borrower's personnel, or agents and acknowledges  
 11 that no employee or representative of borrower has been  
 12 authorized to make any written statements other than those  
 13 specifically contained in this agreement and that lender  
 14 has not relied upon any such statements.  
 15 Is that a true statement?  
 16 A Lender has relied solely on its own  
 17 investigation. No, of course not. They were given  
 18 information from me but I also gave them website  
 19 information they could look up the company which is  
 20 public. Whether they did it or not I don't know. I would  
 21 assume if they signed this they probably did. But there  
 22 was still information that can go beyond what literature I  
 23 had received to figure this out or do a little bit more  
 24 research on their own.  
 25 Q But you don't know that they actually did that?

1 A Excuse me for one moment, can I turn on a fan,  
 2 it's getting stuffy in here?  
 3 Q Sure.  
 4 MR. MILLER: Bob, did I step over you, did you  
 5 want to ask questions?  
 6 BY MR. LEVINSON:  
 7 Q I just wanted to ask Mr. Ortiz is it a fair  
 8 statement to say that, you know, that no lender that you  
 9 sold the note to relied solely on their own investigation  
 10 and due diligence?  
 11 A I would say that's fair.  
 12 Q Okay.  
 13 A I mean, they had to receive something from me;  
 14 right. They didn't just -- I don't think they pulled the  
 15 information off 1 Global out of thin air and did due  
 16 diligence.  
 17 Q You said something a second ago, I want to make  
 18 sure I understood what you meant, you said you gave them  
 19 information, you know, on 1 Global that they can go look  
 20 at which was public, you mean the information was public?  
 21 A Well, the brochures is what I gave them but I  
 22 also told them they can go to 1 Global's website and take  
 23 a look at them.  
 24 Q You weren't saying 1 Global was a publicly  
 25 traded company?

1 A Never.  
 2 Q Okay. No, I just wanted to clarify what you  
 3 meant by use --  
 4 A No, I'm sorry, they had a website at the time  
 5 that, you know, discussed what they were from the business  
 6 side of it not the note side of it. So it kind of had --  
 7 I guess it was the retail storefront that they could look  
 8 at.  
 9 Q Okay.  
 10 BY MR. MILLER:  
 11 Q If I can move on to 12.5, it says lender has had  
 12 the opportunity to do any and all due diligence and has  
 13 had sufficient access to information to make its own  
 14 credit decision, and it has performed such due diligence  
 15 to its satisfaction. What does that sentence mean?  
 16 A Apparently it's looking as though the lender has  
 17 had the opportunity to do any due diligence and had  
 18 sufficient access to information to make its own  
 19 decisions.  
 20 I would assume that if the lender had the  
 21 opportunity to do their own due diligence and take a look  
 22 at this situation for themselves. I would say they  
 23 absolutely did only because I never had a client come to  
 24 me and say sign here. We always discussed options before  
 25 we ever made any decisions. Now whether they did it or

1 not I couldn't tell you.  
 2 Q I guess my question is I'm kind of hung up on  
 3 the words make its own credit decision. What does that  
 4 mean?  
 5 A To make its own credit decision, I don't know  
 6 what that means. I know they were underwriters lending  
 7 monies on MCA's so I know it's kind of a vague statement.  
 8 So I guess the credit decision would be based on the  
 9 lender himself or herself.  
 10 Q You don't see that's ambiguous and that could  
 11 possibly be the credit decision in order to give an  
 12 advance to Joe's Auto?  
 13 A Well, this is specifically about the lender so I  
 14 think it's talking about the person who lent them money, I  
 15 don't think it has to do with the Merchant Cash Advance  
 16 itself. That's not the way I read this phrase because  
 17 we're talking about the lender borrower relationship and 1  
 18 Global being the borrower.  
 19 Q Got it. It says here lender understands that  
 20 borrower has made no representations as the applicability  
 21 of any federal or state statutes or logs.  
 22 What does that mean?  
 23 A Well, the lenders -- let me see. I guess 1  
 24 Global hasn't made any representations about the  
 25 applicability of their investments offering, or their note

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1 offering, excuse me.  
2 Q And then I guess my question is did you make any  
3 representations regarding the applicability of any federal  
4 or state statutes or laws?  
5 A No.  
6 Q Did you ever tell anybody that this is not a  
7 security?  
8 A No.  
9 Q Did you ever tell anybody that you didn't need  
10 to be licensed because it wasn't a security?  
11 A No.  
12 Q Let's go to page 23 of 26.  
13 BY MR. LEVINSON:  
14 Q Did any of your clients ever ask you whether 1  
15 Global the way you were selling them if it was a security  
16 or regulated?  
17 A No, nobody ever asked me.  
18 Q Okay.  
19 MR. MILLER: If we can focus on 23 of 26,  
20 Magaly, item 13.  
21 BY MR. MILLER:  
22 Q Mr. Ortiz, can you read 13 into the record and  
23 tell us how you understand that?  
24 A Collateral, lender's specifically acknowledge --  
25 specifically acknowledges that this indebtedness is

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1 secured by accounts assets contained within the lender's  
2 account during the activity. Acquired by borrower  
3 pursuant to the covered activities relating to this  
4 specific indebtedness or lesser portions thereof in  
5 aggregated accounts as delineated above.  
6 The way I understood it, if the client gave \$50  
7 thousand that money was deployed, they were starting to  
8 get their pro rata share of payments back, that that was  
9 the collateral for their \$50 thousand investment, the  
10 amount that was lent out.  
11 Q Earlier when Mr. Levinson asked whether or not  
12 this was secured you said it was unsecured, does this  
13 change your opinion?  
14 A Well, the way I understood, or the way I  
15 understand secured versus unsecured debt is secured debt  
16 has a specific collateral, like a piece of real estate,  
17 something like that. So I've always understood it to be  
18 unsecured debt because it was going to be based on the  
19 ability to pay by the small business.  
20 It doesn't change my mind, I don't think that it  
21 was ever secured. I know what it's saying but I  
22 understood it as the principle that the client invested  
23 was secured by the portfolio the loans that were being  
24 paid back by on, but not by any assets of a borrower.  
25 MR. MILLER: Bob, I don't have anymore

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1 questions on 129; do you?  
2 MR. LEVINSON: No.  
3 MR. MILLER: I did need to take a five minute  
4 break. Let's go off the record, it's 3:47 p.m. Eastern  
5 daylight time on August 12, 2020. Five minute break,  
6 please, thank you.  
7 (Thereupon, a recess was had.)  
8 MR. MILLER: I want to go through some e-mails.  
9 Magaly, can you get Exhibit 126, please?  
10 We're back on the record at 3:54 p.m. Eastern  
11 daylight time on August 12, 2020.  
12 BY MR. MILLER:  
13 Q During the break we just took, Mr. Ortiz, you  
14 did not have any conversations of substance about this  
15 investigation with Mr. Levinson or myself. Is that  
16 correct?  
17 A That's correct.  
18 Q We just put up Exhibit 126. I would like you to  
19 take a moment and, first of all, tell me if that's large  
20 enough for you and whether or not recognize this exhibit  
21 and if you can just tell me what it is?  
22 A Can you scroll down a little bit? Okay.  
23 Q Can you describe what that is?  
24 A That would be an internal e-mail between myself  
25 and the admin group. We were using a different rather

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1 fundamental CRM at the time called agency block which is  
2 what the AB stands for. We had since migrated to sales  
3 force, so that's the only thing I can think of this has to  
4 do with is the migration of document.  
5 Q Got it. I'm done with that exhibit.  
6 MR. MILLER: Can you put up 127, please, Magaly?  
7 BY MR. MILLER:  
8 Q Exhibit 127 is an e-mail thread dated October 3,  
9 2017, between looks likes you and I'm going to butcher his  
10 last name, Patrick Semcheshn.  
11 The best way to do it, let's start on the second  
12 page, Magaly, so that Mr. Ortiz can look at it its actual  
13 sequence.  
14 So you see on Tuesday, October 3rd, at about  
15 3:37 a.m. you wrote, got it. And I don't know what that  
16 means. And then I'm attaching a brochure about us and  
17 what we do. In your case I will recommend two options  
18 based on your age, goals, and liquidity needs. And the  
19 second one is 1 Global. Is that right?  
20 A Can you scroll down a little bit? The other  
21 way. To the bottom of the page. Yes.  
22 Q Okay. And this is where you put -- are you  
23 doing the writing here or is someone doing it on your  
24 behalf?  
25 A This came from me.

<p style="text-align: right;">Page 137</p> <p>1 Q Okay. So you describe it as an alternative 2 investment. Why did you do that as opposed to a loan? 3 A Well, because to me it wasn't -- we were just 4 starting a conversation on what this was. Right, I did 5 explain that, you know, they lent money to small 6 businesses on a short-term basis but this was a 7 nontraditional investment as opposed to a investment buy 8 which is our algorithm manager that does the ETFs 9 primarily. 10 Q And then it says average returns in the 8 to 11 12 percent range. 12 What was the basis for that statement? 13 A Statements that we had seen and the information 14 I was given at the time. I know they said 15 but I didn't 15 feel comfortable using that number. 16 Q Got it. And then you wrote this is illiquid but 17 is liquid every nine months. 18 So that's a false statement? 19 A The way I understood it, no, it's illiquid but 20 every nine months should he choose to renew he can opt out 21 and that's the way I explained it to him. 22 Q If he opted out and not renew is it liquid in 23 nine months or does he have to wait? 24 A Well, my assumption at the time at the end of 25 the nine months it's over.</p>	<p style="text-align: right;">Page 139</p> <p>1 Dodd-Frank left. Banks cannot and do not make these types 2 of loans. 3 How did you get that information? 4 A From the information that I was given and my 5 experience, and even with the people that I dealt with 6 get my bridge loan because those were approved in like 7 three days. 8 Q Got it. And the next paragraph you wrote this 9 too; right? Did you write these words? 10 A Yes, I did. 11 Q As far as credit worthiness is concerned, this 12 company relative to others I have reviewed has the 13 strictest underwriting standards and lowest default rate. 14 There are reserves that protect the principle as well as 15 (inaudible). 16 So tell me about the company that you reviewed 17 to determine that this one had the strictest underwriting 18 standards and the lowest default rate? 19 A Well, a lot of the other companies that we were 20 looking at, that I was looking at, many of them had 21 unsecured debt and they had higher default rates. So some 22 of the companies that I was looking at I wanted to see if 23 their interest was fully covered and many of them were 24 not. They were using reserves to meet their interest rate 25 gain. So based on the information that I was given from 1</p>
<p style="text-align: right;">Page 138</p> <p>1 Q And your assumption was wrong? 2 A Yes, it was. 3 Q So that's a false statement? 4 A In retrospect, yes. At the time, no. 5 Q Even though what we looked at in the memorandum 6 of understanding? 7 A Well, again, my understanding was that, you 8 know, they had 30 days and then the end of the nine months 9 it was over. That's the way I always understood it unless 10 I saw it in practice. 11 Q Got it. So let's go up a little higher. And 12 it's his response to you and it says option two would 13 diversify away from the equities markets as this looks 14 like a bridge loan commercial paper. How creditworthy and 15 how much risk. Do you see that? 16 A I do. 17 Q And you respond on the first page. Let's go to 18 thank you, right there. 19 So you wrote back at 10:57, and your first 20 paragraph is 1 Global is an alternative investment. The 21 reason most endowment fund managers are true successful 22 hedge fund managers use alternatives is because they're 23 non-correlated to the stock market. As far as 1 Global, 24 it works like a bridge loan but it's actually a merchant 25 cash advance. The same vacuum is getting filled that</p>	<p style="text-align: right;">Page 140</p> <p>1 Global and discussed with AAI and Dale Ledbetter that they 2 only approved one in ten people. So with that information 3 I assumed that nine out of ten people couldn't get a cash 4 advance from them. 5 Then of course the statement showed that there 6 was multiple notes or merchants cash -- I guess notes 7 inside of a Merchant Cash Advance contract with the lender 8 that would offer diversification as opposed to a single 9 note. 10 Q How do the reserves come in, how were you able 11 to evaluate the reserves? 12 A I was told about the reserves. I believe at the 13 time, I don't remember the exact number but it was in the 14 tens of millions, I believe at one time I was told the 15 reserves were in excess of a hundred million, or right 16 about a hundred million. I assumed that to be true, I had 17 no reason to believe anybody was lying to me. 18 Q Who told you that? 19 A I'm not sure. I think it was either AAI or Dale 20 Ledbetter. 21 Q So that's a big number, the numbers you just had 22 there for reserves. 23 Did you ever seek verification from that rather 24 than somebody just telling you that? 25 A Unfortunately, no. But again, my reason for not</p>

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1 doing it is I had no reason to not trust the people I was  
2 getting my information from.  
3 Q A gentleman by the name Dale Ledbetter did the  
4 due diligence on this firm and gave them the glowing  
5 report. Dale used to be a Wall Street trader then a  
6 securities attorney going after corrupt brokers and broker  
7 dealers, he wrote a book called How Wall Street Rips You  
8 Off. I know Dale personally and I trust his due diligence  
9 reports.  
10 Outside of meeting him on those couple of  
11 occasions did you really know him personally?  
12 A Not like that, no. But I have met him. And  
13 you're right, maybe I was a little embellishment but, yes,  
14 I did know Dale, we spoke, we were on a first name basis  
15 in that respect.  
16 I did talk -- attend several things or whether  
17 they were online or in person to him. So I trusted him.  
18 I had no reason not to. I thought his credentials were  
19 fantastic. He had a long history and, you know, I spoke  
20 very highly of this investment after digging deep in the  
21 weeds and taking a look at the company.  
22 Q Did he ever turn over his due diligence reports  
23 that you trusted?  
24 A I didn't ask for those.  
25 Q Then why did you put I trust his due diligence

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1 reports?  
2 A Well, at one of the workshops he said that he  
3 did extensive due diligence on the company from their  
4 management to their operations and everything else like  
5 that. I had due diligence on 1 Global at the time from  
6 AAI, a lot of that information I already had, I did not  
7 think to ask that question, I'm sorry.  
8 Q And then it looks like, therefore, I think this  
9 is a very viable investment otherwise I would not be  
10 offering them as an option.  
11 A I believe it true at the time.  
12 Q Okay. So what you're doing is when you say  
13 viable is that answering his question about how  
14 creditworthy and how much risk?  
15 A No, but I think I addressed those questions and  
16 he felt comfortable with my answer because he did invest.  
17 Q Right. So you're making a solicitation and  
18 representation to him?  
19 A Based on the information I was given and a  
20 recommendation based on previous conversations, yes.  
21 Q And it says here you're offering it. Right?  
22 A Yeah, I would not be offering them as options.  
23 It was always his choice.  
24 Q So you're making an offering, you made an offer  
25 and he made a purchase, so you made an offer and then it

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1 resulted in a sale. Right?  
2 A It did.  
3 MR. MILLER: Do you have any other questions on  
4 that one, Bob?  
5 MR. LEVINSON: I don't.  
6 MR. MILLER: Can you put up Exhibit 128, Magaly.  
7 Thank you.  
8 BY MR. MILLER:  
9 Q So this is someone named Laura Cox and this is  
10 June 3, 2017, and she is writing to you.  
11 Who is Laura Cox?  
12 A She is the daughter of an existing client of  
13 mine, David and Janet Kray.  
14 Q And is it fair to stay that if you look at the  
15 entire thread here where you get back to her on June 8th  
16 that you are responding to her question?  
17 A I would say remembering that, yes, I would.  
18 Q Okay. Let's make sure we have -- we're on the  
19 same page here. She writes to you, I've been made aware  
20 of the basics but want to ensure I understand the facts  
21 correctly. It's a minimum 25K investment with an  
22 investment period of nine months. The answer yes is in  
23 all caps. Is that you writing typing in yes?  
24 A That's me replying, yes.  
25 Q Okay. So at that point, June 3rd, you still

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1 thought it was a nine month. Right?  
2 A Yes, I did.  
3 Q Okay. So let's go to the next page. The  
4 average rate of return is ten percent. And is the words  
5 no: 15 percent; is that you?  
6 A That was me. I based that on the printed  
7 literature that I was receiving.  
8 Q Earlier you testified you tried not to go up to  
9 those numbers.  
10 A Yes, I did.  
11 Q What changed here?  
12 A I guess that was just based on the information  
13 that I had at the time and that was the literature that I  
14 had from AAI.  
15 BY MR. LEVINSON:  
16 Q You had literature from AAI that said  
17 15 percent?  
18 A I think their literature said 12 to 15 percent,  
19 or the 1 Global brochure said 12 to 15 percent, the  
20 original one.  
21 BY MR. MILLER:  
22 Q The third bullet on that page, my dad has made  
23 me aware that this is not FDIC insured, but that 1 Global  
24 has been around since the early 2000's and has had a  
25 steady and positive rate of return for investors across

<p style="text-align: right;">Page 145</p> <p>1 the board. Based on this, it's considered a safe or safer  2 investment opportunity?  3 Is that you writing true?  4 A Based on that question, yes, I did type true.  5 Q Okay. So is there anything false about that  6 statement?  7 A It's not really truly safe. It's safer than  8 securities but, I mean, than stocks but is it safer than  9 an annuity or a CD, No.  10 Q And it also hasn't been around since the early  11 2000's. Is that right?  12 A Yeah, I didn't elaborate on that question I was  13 answering in haste and I just put true. That was  14 information she got from her dad, I know it was 2013 or  15 something or other like that.  16 Q But your answer is not completely truthful then?  17 A That's correct.  18 MR. MILLER: Do you have anything else on this  19 exhibit, Bob?  20 MR. LEVINSON: No, thank you.  21 MR. MILLER: Magaly, let's pull up 130.  22 BY MR. MILLER:  23 Q 130 looks like an exchange between you and Chris  24 De Carlo. I believe we looked at one of his MOI's before.  25 And is this the way -- it says investment confusion. He</p>	<p style="text-align: right;">Page 147</p> <p>1 write hi, Mark. This is you writing, nobody else; right?  2 A That comes from me, yes.  3 Q Hi Mark, Mark, I asked Laurel -- who is Laurel?  4 A She was my assistant.  5 Q To pre-prepare those applications based on our  6 original plan, see attached. Portfolios two and three and  7 four sometimes have alternatives in them. I've attached  8 which ones we use typically in a portfolio similar to  9 yours. The first one is Petro-Rock is a nine month to two  10 year note with guaranteed rates of seven and a half  11 percent to nine perfect.  12 Is Petro-Rock something that was offered through  13 AAI?  14 A It was at the time.  15 Q And then number two, 1 Global is a merchant cash  16 advance company with yields in the nine percent to  17 15 percent range. The advantages of alternatives are that  18 although they're not readily liquid they are backed by  19 hard assets and pay higher than bank returns. They're  20 perfect in a volatile market. You have had plenty in  21 equities so I would suggest putting a good portion in  22 alternatives to capture gains and get significant growth.  23 Is that a true statement about 1 Global?  24 A No, it wasn't about 1 Global it's essentially a  25 separate paragraph. It's not pertaining to 1 Global.</p>
<p style="text-align: right;">Page 146</p> <p>1 says hello, David, I'm a bit confused about the two \$50  2 thousand investments I have. On May 24, 2017, I wrote you  3 a check for \$50 thousand made out to 1 Global Capital,  4 LLC. And then he asks some more questions.  5 And you wrote him back on October 30th, hi,  6 Chris. So basically AAI is a distribution center for  7 these alternative investments.  8 A That's the way I always understood it.  9 Q They are not the investment, much like TD  10 Ameritrade is not the stocks within.  11 A I can't read that.  12 Q Top of the first page, I'm sorry.  13 Did you disclose to Mr. De Carlo or anyone else  14 that this distribution center was also paid a commission?  15 A No, I did not.  16 Q Okay.  17 MR. MILLER: Magaly, can you put up Exhibit 131?  18 BY MR. MILLER:  19 Q Do you remember a customer named Mark Sletto?  20 A Sletto, yes.  21 Q Do you recognize this is an e-mail you sent to  22 him which is now marked as Exhibit 131 on March 8, 2018?  23 A Yes. If you can scroll down a little bit more I  24 can see it.  25 Q Right there. You can stop right there. So you</p>	<p style="text-align: right;">Page 148</p> <p>1 There is items one and two and then the paragraph  2 continues.  3 Q How does Mark Sletto know you're not saying 1  4 Global is backed by hard assets?  5 A I don't know that he didn't know that. I did  6 explain it to him, he understood that it was unsecured  7 debt, but that sentence doesn't say that. It was not  8 pertaining specifically to 1 Global.  9 MR. MILLER: Magaly, can you put 132 up there?  10 BY MR. MILLER:  11 Q So now we're also dealing with Mark Sletto  12 again. It's April 9, 2018, Exhibit 132.  13 Do you recognize your conversation with Mr.  14 Sletto?  15 A I do.  16 Q So on number three for the portfolio three is  17 partially liquid, 235 thousand is in 1 Global, 1 global  18 which is liquid every nine months.  19 Is it your testimony that as of April 9, 2018,  20 you still thought that was true?  21 A I still thought that was true, yes.  22 Q Why?  23 A Because up to that point they had to fill out a  24 new memorandum of indebtedness to renew and I hadn't seen  25 any of these people unwind or what it was going to take to</p>

<p style="text-align: right;">Page 149</p> <p>1 unwind.</p> <p>2 MR. MILLER: Magaly, can you keep that handy</p> <p>3 and put up 49?</p> <p>4 BY MR. MILLER:</p> <p>5 Q I know you're not on this list. Did you ever</p> <p>6 see Exhibit 49 prior to today?</p> <p>7 MR. MILLER: And Magaly, if you can scroll</p> <p>8 slowly through the first page so that Mr. Ortiz and</p> <p>9 counsel could look through it.</p> <p>10 A This thing I'm looking at now?</p> <p>11 BY MR. MILLER:</p> <p>12 Q 49, yeah.</p> <p>13 A I've never seen this.</p> <p>14 Q Specifically at the end of page one of 49 where</p> <p>15 it says distribution schedule, you might not have seen</p> <p>16 this but did you see this information ever conveyed?</p> <p>17 A Never.</p> <p>18 Q And this is dated December 29, 2017. And this</p> <p>19 plainly sets out a distribution schedule which is</p> <p>20 different than what you told your clients almost four</p> <p>21 months later.</p> <p>22 A That's correct, I've never seen this statement</p> <p>23 before, this document before.</p> <p>24 Q Nobody at AAI, nobody at 1 Global ever advised</p> <p>25 you that they changed their distribution schedule?</p>	<p style="text-align: right;">Page 151</p> <p>1 A Not in regards to 1 Global. As a matter of</p> <p>2 fact, after talking to him I told him this was an</p> <p>3 unsecured debt and he was thinking about putting more</p> <p>4 money into it and I talked him out of it. But that</p> <p>5 doesn't matter at this point. I never said it was safe</p> <p>6 and secure.</p> <p>7 MR. MILLER: Do you have anything else on</p> <p>8 that, Bob?</p> <p>9 MR. LEVINSON: I don't.</p> <p>10 MR. MILLER: Can you put up 133, please?</p> <p>11 BY MR. MILLER:</p> <p>12 Q This looks like this is an e-mail between you</p> <p>13 and Wayne Mahall, September 25, 2017, or thereabouts</p> <p>14 Do you have any recollection of that?</p> <p>15 A Wayne sent me a lot of e-mails about a lot of</p> <p>16 things.</p> <p>17 Q Okay.</p> <p>18 A I may, I may not.</p> <p>19 Q Got it. Let's just go onto -- let's go look at</p> <p>20 Bates stamp MAHA04 right at the bottom of that page.</p> <p>21 Right there. It looks like you're writing to Mr. Mahall</p> <p>22 on October 29, 2017, almost 10:00 at night.</p> <p>23 A That's what it looks like, yes.</p> <p>24 Q Sorry, Wayne, I was off today see my answers</p> <p>25 below. Okay.</p>
<p style="text-align: right;">Page 150</p> <p>1 A Never.</p> <p>2 Q Okay. Can you put up --</p> <p>3 A I would remember this.</p> <p>4 MR. MILLER: Can you put up 132, again?</p> <p>5 BY MR. LEVINSON:</p> <p>6 Q I'm sorry, Mr. Ortiz, what did you say?</p> <p>7 A I would have remembered this.</p> <p>8 BY MR. MILLER:</p> <p>9 Q So in the next paragraph it says I think you'll</p> <p>10 have plenty of liquidity. Alternatives by their very</p> <p>11 nature are periodically illiquid but the trade-off is</p> <p>12 security and a predictable growth rate.</p> <p>13 What does that sentence mean, the trade-off is</p> <p>14 security and a predictable growth rate?</p> <p>15 A Well, typically with the alternatives that I</p> <p>16 offer like interval funds such as Blue Rock investments,</p> <p>17 that Petro-Rock reg D note, they are collateralized by</p> <p>18 something typically real estate and they give you a stated</p> <p>19 rate that's very consistent, as in those notes they had a</p> <p>20 stated rate of return, with most of the other ones they</p> <p>21 paid consistent dividends of five to six percent. They're</p> <p>22 not liquid but the trade-off is you do get this money and</p> <p>23 there is collateral that does support the asset.</p> <p>24 Q Right. So are you saying to Mr. Sletto that</p> <p>25 this is a safe security?</p>	<p style="text-align: right;">Page 152</p> <p>1 MR. MILLER: Magaly, let's go to the next page.</p> <p>2 Let's go to the bottom. The very bottom of this page.</p> <p>3 BY MR. MILLER:</p> <p>4 Q Okay. So it says here for the risky I am</p> <p>5 leaning towards doing the 25K in 1 Global over 20K in the</p> <p>6 managed. Now, is that Mr. Mahall writing?</p> <p>7 A That's Mr. Mahall, my writing was in bold.</p> <p>8 Q So now the next part of it it says it will be,</p> <p>9 and then we turn to the next, easier to fund the managed</p> <p>10 the following year. Yes, it would.</p> <p>11 Now is the yes it would yours?</p> <p>12 A No. That's him.</p> <p>13 Q Why would he say that?</p> <p>14 A In my opinion, but I made it a point to bold my</p> <p>15 type.</p> <p>16 Q Let's go back to the last page, let's go to</p> <p>17 MAHA005. So we just looked at the for the risky, let's go</p> <p>18 to the sentence below. It looks like the Russell could be</p> <p>19 a California tax exempt fund need?</p> <p>20 Is that you writing yes?</p> <p>21 A Where are you, I'm sorry?</p> <p>22 Q The second line from the bottom.</p> <p>23 A Okay, let's see. Yes, I would have typed yes.</p> <p>24 Q Okay. So that's not in bold; right?</p> <p>25 A No.</p>

<p style="text-align: right;">Page 153</p> <p>1 Q Where would the attached funds be applied and 2 what is the minimum investment fees? And then it's a 3 question mark. 4 Tax favored accounts not sure if the minimums. 5 I can't recall. I will call on Monday. 6 Is that you writing? 7 A Yes, I guess that is my hand. 8 Q And that's not bolded either? 9 A No, it's not. 10 Q Let's go to my original question. For the risky 11 I am leaning towards doing the 25K. In 1 Global over 20K 12 in the managed. It will be easier to fund the managed the 13 following year. Yes, it would. 14 Do you think that's you now? 15 A I'm going to assume it could be. I mean, it 16 looks like an answer to a question. 17 Q Let's to MAHA007. Let's go to item five. It 18 says in the second paragraph, I also like the 1 Global 19 account, I could swing the 25K in it instead of the 20 managed if you think that is the better first option? If 21 not, I do not plan on adding to this fund portfolio 22 annually, so in theory, I could open up the 1 Global 23 account in 2019. 24 Is that you responding that either way it's good 25 this company keeps getting better?</p>	<p style="text-align: right;">Page 155</p> <p>1 I see the word loan there and investment, which 2 one was it, a loan or investment? 3 A It was a loan. 4 Q Why did you write investment? 5 A I was just responding to her quickly. I was 6 trying to make it simple for her. 7 MR. MILLER: Can you put 136 up, please? 8 BY MR. MILLER: 9 Q This is again with you and Mr. De Carlo, 10 November of 2017, in the middle of the page it says, 11 however, the 1 Global pays between 10 and 15 percent, that 12 being said I wanted to add stability and consistency to 13 your portfolio. The 1 Global is not guaranteed but it is 14 stable. 15 Stable in what way, what did you mean by that? 16 A Stable in that it was paying consistent returns 17 based on our experience. 18 Q And consistency. Does all that kind of like 19 mean stake or could it be construed by a client as stake? 20 A It could be but I never implied that it was. 21 Q And you don't see how those words could either? 22 A Not based on conversations that I had with them. 23 Q Okay. 24 MR. MILLER: Let's take a look at 137, please. 25 BY MR. MILLER:</p>
<p style="text-align: right;">Page 154</p> <p>1 A Yes. 2 Q What's the basis for you saying this company 3 keeps getting better? 4 A Basically the performance that we kept seeing 5 from these client statements led me to believe that 6 everything they had said to that point was true and 7 correct. I had to reason to doubt them at this point. 8 Q Got it. 9 MR. MILLER: Can you jump to 135 now, Magaly? 10 BY MR. MILLER: 11 Q It looks like this is a conversation between 12 Elaine Nunn and you. Is that correct? 13 A That's correct. 14 Q Is she a sophisticated investor? 15 A Her and her husband, yes. 16 Q And you told her it was a loan. Right? 17 A I'm pretty sure I did. 18 Q She writes on June 8th, Hi, David, I was just a 19 little confused as to why our portfolio says loan 20 statement from 1 Global Capital. We had made an 21 investment so I just needed clarification. And you wrote 22 you did make an investment, 1 Global is a lender. When 23 you invest your money with them you're considered a 24 co-lender. Yes, that's what I thought. LOL. Feels 25 better just clarifying.</p>	<p style="text-align: right;">Page 156</p> <p>1 Q This is a conversation with you and Mr. 2 LaMastra? 3 A Yes. 4 Q So it looks like it may have deviated from your 5 -- from your standard operated procedure. This is 6 November 10, 2017. This is you writing, it was so nice to 7 hear from you. I am glad the investment is working out 8 for you. To answer your question California doesn't tax 9 the living trust upon your death. Everything gets a fair 10 market value step-up and typically there is no tax. As 11 far as good investment there are many. The question is 12 for the growth you want does it need to be liquid? I have 13 attached a couple of great investments that are yielding 14 7-10 percent for our clients. The problem is they're 15 liquid only every nine months. And then attach what looks 16 like the 1 Global FAQ's and the 1 Global lender brochure. 17 Is that right? 18 A That's correct. 19 Q So is it fair to say that you had never 20 discussed these with Mr. LaMastra before sending this 21 e-mail? 22 A This was -- this e-mail was follow-up from a 23 phone call that we had. And of course I always spoke to 24 him, he preferred to be -- he preferred the phone. So I 25 would always go over these things with him over the phone.</p>

<p style="text-align: right;">Page 157</p> <p>1 Q That's not my question. Did you mention 1 2 Global to him before that? 3 A No. 4 Q Before you sent this e-mail? 5 A No, I did not. 6 Q Okay. So you're soliciting 1 Global? 7 A Well, it was a recommendation that I would 8 suggest would have been good for him based on our 9 conversation. 10 Q Got it. And on 137 you're writing in November 11 of 2017 that it's yielding 7 to 10 percent. Do you see 12 that? 13 A I do. 14 Q Yet on 128 on June 8th you wrote the average 15 rate of return is 15 percent. 16 What happened in those four months, five months? 17 A I don't think anything happened. I think I was 18 quoting whatever was on the literature and I chose to not 19 use that anymore and I was using those particular range 20 for something that was for that particular investment. 21 But the 15 percent that was something in print from AAI's 22 FAQ page. I believe 12 to 15 percent. 23 Q So I think you've already admitted that you 24 didn't understand the implications of the nine month 25 liquidity. Is that right?</p>	<p style="text-align: right;">Page 159</p> <p>1 \$4,496.61 since inception. Sent these two statements. 2 So is it fair to say that in fact as of 3 February 16, 2018, you were aware that there was a 4 three-month liquidation process? 5 A No, I was not. I didn't understand it. 6 Q Okay. Then let's read further down. 7 BY MR. LEVINSON: 8 Q I want to go back to that answer. You said I 9 explained to him I didn't fully understand. You obviously 10 were aware at this point that there was a three-month 11 liquidation process; didn't you? 12 A I must have heard it from somebody or talked to 13 someone about it because he asked for his money, I think 14 it was back at that time and -- yes, sir. 15 BY MR. MILLER: 16 Q If I can interrupt, it says it right in the next 17 e-mail when Steve wrote to you on February 16th at 1:37, 18 he said forwarding this to you, Dave, how would you like 19 to respond, I got a call from Katie today from AAI, she 20 said "it's too late to liquidate AI's account at this 21 time. If AI submits proper paperwork in time next time he 22 would get three months -- he would get three payments over 23 three months to dissolve his share of the investment. 24 Now, you responded I think you did a fine job. 25 I explained to him I didn't fully understand the three</p>
<p style="text-align: right;">Page 158</p> <p>1 A Yes. 2 Q When do you think you understood that first? 3 A I would say when clients decided that they 4 wanted to opt out and we were told after the fact that 5 once they reached that date that it was going to be over 6 several months, we had no idea. 7 MR. MILLER: Magaly, can you put up 132 again, 8 please? 9 BY MR. MILLER: 10 Q Is it fair to say, Mr. Ortiz, that in this 11 e-mail you still felt that it was liquid after nine 12 months? 13 A Yes, I did. 14 Q Okay. 15 MR. MILLER: Can you take that down and put up 16 132, please? 139, please. 17 BY MR. MILLER: 18 Q Have you ever seen 139 before? 19 A I believe so, yes. 20 Q This is February 16, 2018, you're writing Steve 21 Clark. Who is Steve Clark? 22 A He's an employee of mine. 23 Q I think you did a fine job. I explained to him 24 that I didn't fully understand the three month liquidation 25 process myself. In light of that, he is still up</p>	<p style="text-align: right;">Page 160</p> <p>1 months liquidation process myself. In light of that, and 2 you go on to say how much money he saved. 3 Is it fair to say up until you got this e-mail 4 on February 16, 2018, at 1:37 you didn't understand that 5 there was a three-month liquidation but now you've at 6 least implied that there is a three-month liquidation 7 process? 8 A The way I understood it he missed his deadline 9 to liquidate and that the next time he would do it it 10 would take three months. 11 BY MR. LEVINSON: 12 Q Mr. Ortiz, that doesn't answer the question. 13 You were told on February 16th of 2018 that there was a 14 three-month liquidation process; weren't you? 15 A I understand from Katie regarding this client. 16 Q So your testimony is you thought it was limited 17 to this one client? 18 A Because that's the only time that we ever had to 19 deal with this. 20 Q You didn't think to inquire any further, you 21 said it's just this one client, I'm not going to ask 22 anymore questions; is that your testimony today, sir? 23 A I would say that's probably true. I'm sorry. 24 BY MR. MILLER: 25 Q If you look on 132 which was not February of</p>

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1 2018, not March, but April 9th you still were sticking  
2 with it liquid every nine months even though 139 suggests  
3 that wasn't the case.  
4 A That's the way I still understood it at that  
5 point.  
6 MR. MILLER: Magaly, could you put up 140,  
7 please?  
8 BY MR. MILLER:  
9 Q Remember me asking you earlier whether or not  
10 you told anybody that 1 Global was independently audited  
11 and you said you never told anybody that?  
12 A I don't recall -- I mean I recall saying that  
13 today, yes.  
14 Q Okay. Let's take a look at 140.  
15 Do you recognize this? It's an e-mail  
16 transmission between you and someone named Ricardo.  
17 A Yes.  
18 Q Two of the things you attach are 1 Global and  
19 something called Petro-Rock. Ricardo, I have attached two  
20 alternatives for your review. These other products came  
21 available through one of my alternative investment  
22 platforms recently. Both have been performing very well.  
23 They have both been independently audited and due  
24 diligence has been done.  
25 What did you mean by the statement independently

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1 audited?  
2 A Again, that was based from the information that  
3 I got on Daszkal Bolton and on statements that I was  
4 receiving and reiterated by AAI and those involved in 1  
5 Global that it was being -- those accounts were being  
6 audited. And again, the term was audited.  
7 BY MR. LEVINSON:  
8 Q Mr. Ortiz, you said earlier what you were told  
9 that they had verified the rate of return from the rate of  
10 return statements, you never told us that anyone told you  
11 that they were independently audited.  
12 A All I'm saying is I know what the statement said  
13 and I believe it does say that it was audited.  
14 Q Can you point to any statement anywhere from 1  
15 Global -- this is different from your prior testimony.  
16 A Okay.  
17 Q You said you were told what was on the accounts  
18 when I specifically asked you is this the wording you were  
19 referring to when you said they verified the rate of  
20 return point.  
21 A Yes, I did.  
22 Q Okay. But now you're saying someone told you  
23 that Daszkal Bolton independently audited 1 Global's  
24 financial statements. Is that your testimony?  
25 A Not their financial statement.

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1 Q What does the term independently audited mean,  
2 Mr. Ortiz?  
3 A Well, I'm sorry, I guess I don't understand  
4 that.  
5 Q You don't understand as a registered investment  
6 advisor, you don't understand the term independently  
7 audited means?  
8 A Not in reference to that. I was again assuming  
9 that had to do with the performance of the account.  
10 Q Okay. But you did tell somebody here, this  
11 person, that 1 Global was independently audited?  
12 A I guess I did.  
13 MR. MILLER: Magaly, can you put up 141, please?  
14 BY MR. MILLER:  
15 Q We've been talking by due diligence for a few  
16 hours here. Is this the due diligence package that you  
17 reviewed that was prepared by AAI on 1 Global?  
18 A Yes, it was.  
19 Q And when did you receive this?  
20 A I don't recall the exact date but it was after  
21 one of the webinars or seminars, it had to be sometime in  
22 late 2016.  
23 Q Okay. And did you request it or did AAI send it  
24 to all of their vendors?  
25 A I requested it.

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1 Q Okay.  
2 MR. MILLER: So Magaly, can you turn to the  
3 third page, please?  
4 BY MR. MILLER:  
5 Q While you're scrolling down there, Mr. Ortiz,  
6 did you read the entire document?  
7 A I did.  
8 Q Item 10, I think we went over this a few minutes  
9 ago. It wasn't found in the -- it wasn't created in the  
10 early 2000's but you said in an e-mail where you agreed  
11 with the e-mail was June 2013. Right?  
12 A I was answering your question in haste, I didn't  
13 think to correct with specific dates, I just answered in  
14 the affirmative. Yes, I knew it was 2013.  
15 MR. MILLER: And let's go to Bate stamp that  
16 ends with zero, Magaly. Did I say zero? Sorry, I meant  
17 seven.  
18 BY MR. MILLER:  
19 Q Okay. Let's see. Do you see number 29?  
20 A I do. Independent auditor and advisory services  
21 are provided by Daszkal Bolton, a large regional firm  
22 located in Boca Raton, Florida. For information on the  
23 firm please see their website. 1 Global began working  
24 with Daszkal Bolton during 2014.  
25 Q And then can you read 30?

<p style="text-align: right;">Page 165</p> <p>1 A Please provide historic financial statements of 2 the issuer and its affiliates, with particular focus on 3 financial statements that have been audited by an 4 independent certified public accountant (if any) and 5 auditor letters to management. 6 See financial statements in Exhibit 4. These 7 are unaudited financial statements. No audited financial 8 statements are available at this time. Daszkal Bolton has 9 been engaged to perform an audit on 1 Global Capital's 10 financial statements for the year ended 12/31/16. 11 Q So you knew that, is it fair to say you knew 12 that when you drafted the letter, the e-mail to Ricardo 13 which was with -- 14 A I did. 15 Q Which was Exhibit 140, and you wrote to him they 16 both been independently audited? 17 A I did. 18 Q Why did you write that? 19 A I don't know. I don't have an answer. 20 Q But it's not true, it says it right here. 21 A No, it's not. Especially now reading it again. 22 I knew the relationship was there, I knew they said that 23 they were retrained to audit but was there specifically 24 done up to that point I didn't know. So even when I 25 e-mailed Mr. Yanez I assumed that it had been done and</p>	<p style="text-align: right;">Page 167</p> <p>1 Operating under a formal business plan document would be 2 cumbersome and inefficient at this time with no immediate 3 benefit to this company. 4 Q As a RIA did you have a business plan? 5 A Do I have a business plan? 6 Q Yes. 7 A Yes. 8 Q How would you feel about putting \$6 million of 9 your clients money into a company with no formal business 10 plan? 11 A I knew they were growing and I figured that the 12 business model was continue to do merchant cash advances, 13 so this unfortunately did not raise any red flags or 14 alarms. 15 Q Does it raise them now? 16 A Absolutely. 17 Q Do you wish you read this more carefully? 18 A I wish I never got involved with this company. 19 So yes, I do, regrettably. 20 MR. MILLER: Magaly, can you go to page 13? 21 BY MR. MILLER: 22 Q Question 55. Please provide -- this is a 23 question from AAI presumably. Please provide the exit 24 strategy for this investment. Discuss the firm's strategy 25 criteria plan for exiting investments. Include an</p>
<p style="text-align: right;">Page 166</p> <p>1 Daszkal Bolton was involved. So that's all I can say to 2 that. But yes, I did answer that question. 3 Q Did they have a business plan at that time? 4 A Did -- 5 Q Did 1st Global. 6 A I believe they did. 7 Q What's your belief based on? 8 A I'm trying to recall this document from 2016. I 9 believe they were asked about a business plan. 10 Q What did they say? 11 A I don't remember. 12 MR. MILLER: Magaly, can you scroll to page 11 13 that ends in Bates 11. 14 BY MR. MILLER: 15 Q When you get there, Mr. Ortiz, can you read 46, 16 the question and the answer into the record? 17 A I don't see 46. 18 Please provide a business plan, business model 19 or other description of the business intentions and its 20 management and their expectations for the business. 21 At this point in time, the company does not have 22 a current, formal business plan document. 1 Global 23 Capital is a rapidly expanding business operating in 24 rapidly expanding industry. The company is prepared to 25 expand and take advantage of opportunities as they arise.</p>	<p style="text-align: right;">Page 168</p> <p>1 analysis of past exits. Provide examples that illustrate 2 the firm's decision-making for choosing the type of exits. 3 The answer, we do not consider this vehicle to 4 be an "investment". These are loans from syndicate 5 partners. As such any exits from the vehicle are covered 6 under the terms of the promissory note or memorandum of 7 indebtedness governing the loan from the syndicate 8 partners. See Exhibits 6 and 7 for the terms of a typical 9 promissory note or memorandum of indebtedness. 10 Was there more of a justification that you got 11 than this, anybody else that this was not considered to be 12 an investment besides the people you already mentioned, 13 Mr. Ledbetter and the folks at AAI? 14 A And this document here, no. 15 Q Got it. 16 MR. MILLER: Magaly, can you put up 142, please? 17 We're almost done, gentlemen. 18 BY MR. MILLER: 19 Q So I think in 141 they spoke about an attachment 20 for Exhibit 4, the financial statements. Do you recall 21 taking a look at this? 22 A I do. 23 Q Okay. So were you when you analyzed this, this 24 is for the period 11/18/16, what were your thoughts, your 25 eye level thoughts when you reviewed the document?</p>

<p style="text-align: right;">Page 169</p> <p>1 MR. MILLER: Magaly, are you able to turn that?</p> <p>2 BY MR. MILLER:</p> <p>3 Q Is that big enough for you?</p> <p>4 A Yes.</p> <p>5 Q Okay. Was this sufficient as far as the</p> <p>6 financial statements which is what it says it is?</p> <p>7 A At that time for me, yes.</p> <p>8 Q Why?</p> <p>9 A I was taking a look at all the information that</p> <p>10 AAI gathered under due diligence questions and I saw that</p> <p>11 it was provided, and again, we hadn't gotten involved with</p> <p>12 them at all until the following year. And we had again</p> <p>13 been several other workshops, seminars, and talked to</p> <p>14 other people involved with them including principles at</p> <p>15 AAI and Dale Ledbetter, so at the time we were still</p> <p>16 investigating this plan. And I did not get anything</p> <p>17 beyond this after that date.</p> <p>18 Q And what was the -- so in your mind that it was</p> <p>19 a preliminary draft that even though it doesn't say that</p> <p>20 it's not audited you've already read it, the due</p> <p>21 diligence, what's the utility of the documents that it's a</p> <p>22 preliminary draft and unaudited?</p> <p>23 A I'm not sure if I understand your question.</p> <p>24 Q Is there any utility or reliability in your mind</p> <p>25 giving your clients money to a company that doesn't have</p>	<p style="text-align: right;">Page 171</p> <p>1 Q Got it. Did you show this to any prospective</p> <p>2 investors?</p> <p>3 A No, not that I recall. I didn't have a copy. I</p> <p>4 had the due diligence copy but I didn't show that to any</p> <p>5 client.</p> <p>6 Q Got it.</p> <p>7 MR. MILLER: Magaly, let's go to page 20.</p> <p>8 BY MR. MILLER:</p> <p>9 Q Do you recall seeing this page ever?</p> <p>10 A I do.</p> <p>11 Q Pretty impressive; huh?</p> <p>12 A Yes, it was.</p> <p>13 Q Any of it true?</p> <p>14 A Now, no. It's sickening.</p> <p>15 Q But you knew from the due diligence that they</p> <p>16 didn't have audited financial's, it says right here on the</p> <p>17 left side external audit. External independent CPA firm,</p> <p>18 audit company's financial statement annually.</p> <p>19 Yet the document we just saw, I believe it was</p> <p>20 141 they say we don't have it. Here it says it's done.</p> <p>21 A Yeah.</p> <p>22 Q You didn't pick up that glaring contradiction?</p> <p>23 A It was a lot of documents to go through. I</p> <p>24 don't recall picking up that contradiction. But I do know</p> <p>25 I was not comfortable with moving forward and making my</p>
<p style="text-align: right;">Page 170</p> <p>1 audited financial's and all they give you is an income</p> <p>2 statement?</p> <p>3 A Well, at the time we were still investigating.</p> <p>4 So to answer your question directly, I don't think it has</p> <p>5 utility, however, we hadn't done anything with them to</p> <p>6 this point.</p> <p>7 Q Got it. But eventually you did?</p> <p>8 A Eventually we did.</p> <p>9 MR. MILLER: Let's go to 143, Magaly.</p> <p>10 BY MR. MILLER:</p> <p>11 Q Have you ever seen this document before today?</p> <p>12 A I have.</p> <p>13 Q In what context?</p> <p>14 A I believe it was -- I never got the physical</p> <p>15 copy but I believe that was e-mailed to me as part of the</p> <p>16 due diligence package and it was presented by it was</p> <p>17 either 1 Global in conjunction -- excuse me, AAI in</p> <p>18 conjunction with 1 Global, and these were the types of</p> <p>19 slide decks that they would use for their webinars and</p> <p>20 then address all the thereafter.</p> <p>21 Q Did you read this when you got it?</p> <p>22 A I did.</p> <p>23 Q Cover to cover?</p> <p>24 A I'm going to you say yes, but I don't know that</p> <p>25 I accepted it all but I'm sure I read it.</p>	<p style="text-align: right;">Page 172</p> <p>1 recommendation until I dug a little bit deeper. And</p> <p>2 that's what I was doing. And did do.</p> <p>3 Q Okay. And then you see here external review</p> <p>4 external independent CPA firm validates syndicate partner</p> <p>5 portfolio balances quarterly.</p> <p>6 Any proof that was ever done?</p> <p>7 A No, none.</p> <p>8 Q This is October 24, 2016, and you sold this from</p> <p>9 '17 through July of '18, and this never raised its head in</p> <p>10 your mind as to hey, where are those independent audit</p> <p>11 financial statements?</p> <p>12 A No. Couple reasons. We were told it was going</p> <p>13 to be done, or I was told it was going to be done in the</p> <p>14 due diligence documents, and I was told verbally by AAI</p> <p>15 and Ledbetter that it was done. I believe.</p> <p>16 Q Right. But you just said this document,</p> <p>17 Exhibit 143, was part of the due diligence; isn't that</p> <p>18 what you just testified to?</p> <p>19 A Yes.</p> <p>20 Q So in one document in a due diligence it says we</p> <p>21 haven't done the audit yet. And then in this document it</p> <p>22 says external independent CPA firm audits company</p> <p>23 financial's statements annually. They don't appear to be</p> <p>24 consistent statements; do they, Mr. Ortiz?</p> <p>25 A No, they do not.</p>

<p style="text-align: right;">Page 173</p> <p>1 Q And you didn't pick that up before today?</p> <p>2 A I did not.</p> <p>3 BY MR. LEVINSON:</p> <p>4 Q I want to clarify. You said you were told by</p> <p>5 AAI and Dale Ledbetter that it was done.</p> <p>6 Did you mean that they told you there were</p> <p>7 audited financial statements or did you mean something</p> <p>8 else?</p> <p>9 A I don't recall. But I do know that they did say</p> <p>10 they had a CPA firm that audited at least the statements.</p> <p>11 Q Did you ask to see the financial statements?</p> <p>12 A I never did, no, I did not, regrettably.</p> <p>13 Q Okay.</p> <p>14 MR. MILLER: Bob, our last Exhibit is 144.</p> <p>15 Can you load that up, Magaly?</p> <p>16 BY MR. MILLER:</p> <p>17 Q This was produced by your counsel Friday,</p> <p>18 appreciate you guys producing this. Exhibit 144 is a</p> <p>19 statement prepared for David Ortiz. It has the date here</p> <p>20 4/21/17. I imagine that's not the date it was prepared.</p> <p>21 Is that correct?</p> <p>22 A What do you mean?</p> <p>23 Q Well, this statement wasn't prepared on 4/21/17.</p> <p>24 Is that correct?</p> <p>25 A I don't know.</p>	<p style="text-align: right;">Page 175</p> <p>1 2.50 percent which equate to combined fee for these two</p> <p>2 opportunity names \$2,602.04.</p> <p>3 Is that what goes to you?</p> <p>4 A That's what goes to me.</p> <p>5 MR. MILLER: Magally, can you go to page three?</p> <p>6 BY MR. MILLER:</p> <p>7 Q On page three the opportunity name is Ernest</p> <p>8 Zimmerman.</p> <p>9 A Yes.</p> <p>10 Q And you are the upline here. What's going on</p> <p>11 here?</p> <p>12 A There was one agent that came to see me, she was</p> <p>13 a agent or advisor, and that's Cathy Zimmerman and Ernest</p> <p>14 Zimmerman is her husband. And rather than work directly</p> <p>15 with AAI she just asked if I would do that for her. So</p> <p>16 that's the only one I've ever done with her. Or anybody</p> <p>17 else for that matter.</p> <p>18 Q You need to put a little bit more meat on the</p> <p>19 bones because I'm not following you.</p> <p>20 A I guess because she had reached out to me to do</p> <p>21 this product but she was also licensed so she had asked me</p> <p>22 to initiate this investment for her husband. So she got</p> <p>23 paid something, I got paid something, and that was it.</p> <p>24 Q Okay. So if you look at the payment line it</p> <p>25 comes out 736.31. Is that what you got?</p>
<p style="text-align: right;">Page 174</p> <p>1 Q There is multiple pages here and they go -- if</p> <p>2 you look, I don't want you to scroll through it but the</p> <p>3 last page is page 92 and that has an entry of July 16,</p> <p>4 2018.</p> <p>5 A Right, these are all on a periodic basis.</p> <p>6 Q I understand.</p> <p>7 A No, the whole document is not 4/21/17, just that</p> <p>8 particular statement.</p> <p>9 Q Okay. So this is -- from this looks like a</p> <p>10 purchase. And is the opportunity name, is that synonymous</p> <p>11 with your investor?</p> <p>12 A I guess.</p> <p>13 Q And you are the marketing partner or purchaser's</p> <p>14 rep?</p> <p>15 A Yes.</p> <p>16 Q And Mr. Muratore is your upline?</p> <p>17 A He was at the time. He's the one that referred</p> <p>18 me to AAI.</p> <p>19 Q What does upline mean?</p> <p>20 A I guess he got some kind of override on whatever</p> <p>21 business I produced.</p> <p>22 Q Are you guessing or do you know?</p> <p>23 A I'm going to guess but I would almost say he got</p> <p>24 something.</p> <p>25 Q So then we see the annualized comp rate of 2.81,</p>	<p style="text-align: right;">Page 176</p> <p>1 A That's what I got.</p> <p>2 Q And what about the rate, the first it looks like</p> <p>3 the first rate is point 75 percent and then the next one</p> <p>4 is ten percent. What's going on there?</p> <p>5 A To be honest with you I don't know. I think my</p> <p>6 percentage of whatever she had gotten was ten percent,</p> <p>7 that's the only thing I can think of. I really don't know</p> <p>8 what that number represents.</p> <p>9 MR. MILLER: Magaly, let's go to the one that</p> <p>10 ends in six, please.</p> <p>11 BY MR. MILLER:</p> <p>12 Q Here I just want to focus on two things. It</p> <p>13 says product Merchant Cash Advance first term.</p> <p>14 What does that mean?</p> <p>15 A Well, I'm going to assume that was the 1 Global</p> <p>16 investment and this is not a renewal, it's their first</p> <p>17 time getting involved in that -- the note.</p> <p>18 Q Okay. And now if a rate of 2.625 percent as</p> <p>19 opposed to the rate of 2.8125 percent that you got on your</p> <p>20 sales in April 2017. What happened?</p> <p>21 A I have no idea.</p> <p>22 Q Did you notice that before today?</p> <p>23 A No, no, I knew that.</p> <p>24 Q Let's go to the next page. Page seven.</p> <p>25 Now your back up to 2.8125 percent. What</p>

<p style="text-align: right;">Page 177</p> <p>1 happened that?</p> <p>2 A I have no idea. Truthfully, I don't know.</p> <p>3 Q And why is it now called Merchant Cash Advance</p> <p>4 old?</p> <p>5 A I don't know. That's the way the statements</p> <p>6 were issued to me. I don't know how AAI came up by naming</p> <p>7 these products the way they did.</p> <p>8 Q Got it.</p> <p>9 A I wasn't focussed on the commission so I didn't</p> <p>10 think to ask why.</p> <p>11 Q Mr. Levinson asked you awhile ago about</p> <p>12 executing addendums.</p> <p>13 A Yes. Well, I don't recall that.</p> <p>14 Q Let's turn to page 62. Is that what you meant</p> <p>15 by addendum?</p> <p>16 A Are you asking me?</p> <p>17 Q Yes.</p> <p>18 A I don't recall talking about an addendum. An</p> <p>19 addendum was in addition to an existing account.</p> <p>20 Q Okay. What was the minimum investment here?</p> <p>21 A The minimum was 25 thousand.</p> <p>22 Q Was there a section to that?</p> <p>23 A I don't recall. I believe everybody was 25</p> <p>24 thousand or above. If there was additional like this one</p> <p>25 with Chris De Carlo when he opted to renew he wanted to</p>	<p style="text-align: right;">Page 179</p> <p>1 commissions go, no, this is horrible.</p> <p>2 Q Well, advisory fees are not commissions; are</p> <p>3 they?</p> <p>4 A No, they're not. I'm just saying, you know, if</p> <p>5 it was about the commission I would have much rather sold</p> <p>6 annuities and made six to eight percent.</p> <p>7 Q Okay.</p> <p>8 MR. LEVINSON: I don't have anything else.</p> <p>9 MR. MILLER: Okay.</p> <p>10 BY MR. MILLER:</p> <p>11 Q Did Mr. Wilson or anybody else at your firm sell</p> <p>12 1 Global or was it just you?</p> <p>13 A It was just me.</p> <p>14 Q Did you ever sell anything called Woodbridge?</p> <p>15 A Never.</p> <p>16 Q Are you currently selling anything that's</p> <p>17 unregistered?</p> <p>18 A No, I'm not.</p> <p>19 Q Do you have any -- I know we've asked a lot of</p> <p>20 questions today. Do you have any additional information</p> <p>21 on any topics we've covered today in testimony that you</p> <p>22 want to let the staff know about?</p> <p>23 A I don't think so, the questions were very</p> <p>24 thorough.</p> <p>25 Q Are there any subject areas or questions that</p>
<p style="text-align: right;">Page 178</p> <p>1 add more money based almost solely on the performance of</p> <p>2 his account.</p> <p>3 Q So who let it go under 25 thousand?</p> <p>4 A He already had an account, this was added to it.</p> <p>5 This is an individual account, he was adding to an</p> <p>6 existing account.</p> <p>7 Q I see.</p> <p>8 MR. MILLER: Bob, do you have any other</p> <p>9 questions?</p> <p>10 MR. LEVINSON: In general?</p> <p>11 MR. MILLER: Yes.</p> <p>12 BY MR. LEVINSON:</p> <p>13 Q What were the total amount of commissions that</p> <p>14 you made for selling 1 Global; do you know off the top of</p> <p>15 your head?</p> <p>16 A Roughly it was about 145 thousand.</p> <p>17 Q Okay. What percentage of your income during the</p> <p>18 time that you sold 1 Global was that 145 thousand?</p> <p>19 A It was over a year and a half period, I would</p> <p>20 say it was probably around 15 percent maybe. Gros revenue</p> <p>21 of the company I would have to check my tax record.</p> <p>22 Q Okay. The commissions, that does pay pretty</p> <p>23 well; doesn't it?</p> <p>24 A My fees on the advisory side range anywhere from</p> <p>25 one to two percent of assets under management so as</p>	<p style="text-align: right;">Page 180</p> <p>1 you thought the staff might ask today but we didn't ask?</p> <p>2 A I would have to defer to my counsel for that, I</p> <p>3 can't think of anything, I've never been through this</p> <p>4 before.</p> <p>5 Q He'll get his chance in a second.</p> <p>6 Have you spoken -- do you know anyone else who</p> <p>7 has been subpoenaed or testified in this investigation?</p> <p>8 A No, nobody personally. But if I am they should</p> <p>9 be. This is a big deal and I'm not taking it lightly,</p> <p>10 it's a very serious matter.</p> <p>11 Q Mr. Ortiz, we would like to remind you this is a</p> <p>12 confidential nonpublic information to the extent that you</p> <p>13 can help us keep it that way we would appreciate it.</p> <p>14 The staff has no further questions at this time.</p> <p>15 However, in the future we may wish to call you again to</p> <p>16 testify. If it is necessary obviously we will contact</p> <p>17 your counsel.</p> <p>18 Mr. Ortiz, do you wish to clarify any of the</p> <p>19 statements you've made today? Do you wish to add anything</p> <p>20 or more completely respond to any statements you've made</p> <p>21 here today?</p> <p>22 A I don't know. You asked a lot of questions,</p> <p>23 we've been at this for five hours and it's exhausting and,</p> <p>24 quite frankly, having not been through this before it's</p> <p>25 very nerve-racking for me so forgive me, I can't -- I</p>

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1 couldn't even think of what to ask you.  
2 MR. MILLER: Mr. Albert, do you wish to ask  
3 Mr. Ortiz any clarifying questions?  
4 MR. ALBERT: I would, please, Mr. Miller, thank  
5 you very much for the opportunity.  
6 Mr. Ortiz, could you just describe briefly for  
7 the SEC, the officials here and their staff what did you  
8 do to comply fully and completely with their subpoenas?  
9 THE WITNESS: Oh my gosh, I think my staff was  
10 working overtime for about two weeks just to get  
11 everything together according to what was subpoenaed  
12 including having pulling up e-mails from everybody in my  
13 office, pulling up documents from all the people who were  
14 participating, the compensation statements, learning how  
15 to actually create Bates files to organize these  
16 documents. It was an exhaustive amount of work to meet  
17 that obligation.  
18 Mr. Albert, thank you so much for helping me  
19 with that but it was a long process. And Mr. Alberto to  
20 do that but he did coach me through it and we were able to  
21 get it done.  
22 Thank you for the extension of time but it was  
23 exhaustive. It was of painstaking to say the least.  
24 MR. ALBERT: And have you and your staff  
25 produced every single document to the best of your ability

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1 without withholding any or redacting any documents in  
2 response to the SEC's subpoenas?  
3 THE WITNESS: We searched everything in regard  
4 to the subpoenas.  
5 MR. ALBERT: Have you to the best of your  
6 ability and your staff done everything within your power  
7 to cooperate diligently to cooperate with the SEC?  
8 THE WITNESS: That's my full intent is to  
9 cooperate.  
10 MR. ALBERT: Do you intend to fully and  
11 completely cooperate with the SEC in any further  
12 investigations including any trials of these other  
13 individuals involved?  
14 THE WITNESS: Absolutely.  
15 MR. ALBERT: Are you willing to testify at  
16 any administrative proceedings or criminal proceedings to  
17 assist the SEC in its prosecution and investigations into  
18 these matters?  
19 THE WITNESS: I would.  
20 MR. ALBERT: Do you take responsibility for  
21 the fact that some of your clients lost money because of  
22 the 1 Global Capital notes that you recommended for them?  
23 THE WITNESS: From the very beginning I've been  
24 heart broken over this, lost sleep over it, it's just been  
25 very, very difficult so I'm more than remorseful, I wish

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1 it never happened.  
2 MR. ALBERT: All right. Are you willing to  
3 make a full disgorgement of the 145 thousand that you made  
4 in commissions selling this product?  
5 THE WITNESS: Yes. I don't think it's fair  
6 that if I would profit from clients who lost money. Yes,  
7 it would be painful but it's also not right and if that's  
8 what I need to do I'm willing to do that.  
9 MR. ALBERT: What efforts are you doing now to  
10 obtain the \$145 thousand in disgorgement money so that we  
11 can pay it to the SEC?  
12 THE WITNESS: Well, we're still in the growing  
13 phase of the company, the company doesn't have a lot of  
14 liquid capital so I'm going to be looking into getting a  
15 line of credit on my personal residence so I can fulfill  
16 that.  
17 MR. ALBERT: Okay. And just to round this off,  
18 do you believe that there was further due diligence that  
19 you should have done that you didn't do and what have you  
20 learned from this to make sure something like this never  
21 happens again in your advisory practice?  
22 THE WITNESS: Well, first of all, I do have a  
23 different compliance officer that I rely on now. I'm  
24 still compliance officer but there is a compliance  
25 consultant and I defer all these matters to them, number

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1 one.  
2 Number two, unless it's a security -- unless  
3 it's something I can buy on TD Ameritrade's platform on  
4 behalf of my clients or it's a reg D offering where I can  
5 refer somebody to it I do not work with anything other  
6 than that. Or insurance products, I do insurance products  
7 as well. But anything that sounds too good to be true, is  
8 dubious in nature like this or, you know, flies under the  
9 radar of exemptions like nine month notes I don't consider  
10 those, I don't entertain those, I'm not going to be doing  
11 any of that. Ever.  
12 MR. ALBERT: Okay. I thank all of you for  
13 giving us the extensions of time that you gave us. If  
14 there is anything further that you need from us we're here  
15 to cooperate and we're here to answer any questions and  
16 we'll make Mr. Ortiz available to you again, at any time  
17 that you wish to interview him or his staff.  
18 MR. MILLER: I appreciate that. I just want  
19 to follow-up on one thing.  
20 BY MR. MILLER:  
21 Q Can you hear me?  
22 A I can.  
23 Q In response to counsel you just said I won't be  
24 buying anything that, quote, "sounds too good to be true."  
25 When did you have that feeling about 1 Global

1 that it sounds too good to be true?  
 2 A From the beginning. That's why I needed to do  
 3 some more digging and researching into these notes. I  
 4 knew how merchant cash advances worked because I did a  
 5 couple of them myself. It wasn't until I started seeing  
 6 these statements from 1 Global to my clients at how they  
 7 were performing and that they were supposedly verified  
 8 information that I started to become a believer. Now, you  
 9 know, I need a lot more transparency than that. It was a  
 10 hard lesson learned. My whole family has suffered from  
 11 this, and clients are suffering even more so, and all I  
 12 can do is just God willing be able to make it right  
 13 somehow.  
 14 MR. MILLER: I don't have anything else. Bob,  
 15 do you have anything?  
 16 MR. LEVINSON: No. Thank you for your time  
 17 today, Mr. Ortiz, we do appreciate it a lot. I know it's  
 18 an exhausting procedure but we appreciate it. Thank you,  
 19 Mr. Albert.  
 20 THE WITNESS: Thank you guys for being patient.  
 21 MR. MILLER: It's 5:18 p.m. Eastern Daylight  
 22 Time on August 12, 2020. We are off the record.  
 23 (Whereupon, at 5:18 p.m., the examination  
 24 examination was concluded.)  
 25 \* \* \* \* \*

1 UNITED STATES SECURITIES AND EXCHANGE  
 2 REPORTER'S CERTIFICATE  
 3  
 4 I, MICHELLE R. PAYNE, Reporter, hereby certify that  
 5 the foregoing transcript of 187 pages (August 12, 2020) is  
 6 a complete, true, and accurate transcript of the testimony  
 7 indicated held on August 12, 2020 at 12:00 p.m. in the  
 8 matter 1 GLOBAL CAPITAL, LLC.  
 9  
 10 I further certify that this proceeding was recorded  
 11 by me, and that the foregoing transcript was prepared  
 12 under my direction.  
 13  
 14 Date: August 20, 2020  
 15 Official Reporter: Michelle R. Payne  
 16 Diversified Reporting Services, Inc.  
 17  
 18 \_\_\_\_\_  
 19 MICHELLE PAYNE, Court Reporter  
 20  
 21 Notary Public-State of Florida  
 22 Commission No. GG137749  
 23 Expires: September 28, 2021  
 24 Transmittal Number: M000126  
 25

1 PROOFREADER'S CERTIFICATE  
 2  
 3 In the Matter of: 1 GLOBAL CAPITAL, LLC  
 4 Witness: David Ortiz  
 5 File Number: FL-04184-A  
 6 Date: Wednesday, August 12, 2020  
 7 Location: Miami, Florida  
 8  
 9 This is to certify that I, Christine Boyce,  
 10 (the undersigned), do hereby certify that the  
 11 foregoing transcript is a complete, true and accurate  
 12 transcription of all matters contained on the  
 13 recorded proceedings of the investigative testimony.  
 14  
 15 \_\_\_\_\_  
 16 (Proofreader's Name) (Date)  
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# **EXHIBIT 5**

## Notice

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FINRA operates the IARD system as a vendor pursuant to a contract with the Securities and Exchange Commission and undertakings with NASAA and participating state regulators.

**Reportable Information:** Information that is required to be reported on the current version of the uniform registration forms.

**Non-Reportable Information:** Information that is not currently reportable on a uniform registration form. Information typically is not reportable because it is out-of-date; it was reported in error; or some change occurred either in the disposition of the underlying event after it was reported or in the question on the form that elicited the information. Although not currently reportable, this information was once reported on a uniform form and, consequently, may have become a state record. Users of this information should recognize that filers have no obligation to update non-reportable data; accordingly, it may not reflect changes that have occurred since it was reported.

**Details for Request#:** 27535682  
**Report:** Snapshot - Individual  
**Requested By:** MO

<u>Parameter Name</u>	<u>Value</u>
Request by CRD# or SSN:	CRD#
Individual CRD# or SSN	2775170
Include Personal Information?	Yes
Include All Registrations with Employments:	Both Current and Previous Employments
Include All Registrations for Current and/or Previous Employments with:	All Regulators
Include Professional Designations?	Yes
Include Employment History?	Yes
Include Other Business?	Yes
Include Exam Information?	Yes
Include Continuing Education Information? (CRD Only)	Yes
Include Filing History? (CRD Only)	Yes
Include Current Reportable Disclosure Information?	Yes
Include Regulator Archive and Z Record Information? (CRD Only)	Yes

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Individual 2775170 - ORTIZ, DAVID PATRICK

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**Administrative Information****Composite Information**

Full Legal Name ORTIZ, DAVID PATRICK

State of Residence CA

Active Employments &lt;&lt;No Current Active Employments found for this Individual.&gt;&gt;

Reportable Disclosures? Yes

Statutory Disqualification? SDRQRSRVW

Registered With Multiple Firms? No

Material Difference in Disclosure? No

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**Personal Information**

Individual CRD# 2775170

Other Names Known By &lt;&lt;No Other Names found for this Individual.&gt;&gt;

Year of Birth 1961

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**Registrations with Current Employer(s)**

&lt;&lt;No Registrations with Current Employer(s) found for this Individual.&gt;&gt;

**Registrations with Previous Employer(s)**

From 09/07/2016 To 09/21/2021 DAVID ORTIZ ADVISORS, INC.(282161)

Reason for Termination Voluntary

**Termination Comment**

Regulator	Registration Category	Status Date	Registration Status	Approval Date
CA	RA	09/27/2021	TERMED	01/17/2018

From 09/07/2016 To 12/31/2017 DAVID ORTIZ ADVISORS, INC.(282161)

Reason for Termination

**Termination Comment**

Regulator	Registration Category	Status Date	Registration Status	Approval Date
CA	RA	12/31/2017	FTR	09/08/2016

From 11/02/2015 To 09/08/2016 TOTAL ADVISOR NETWORK, LLC(171616)

Reason for Termination Voluntary

**Termination Comment**

Regulator	Registration Category	Status Date	Registration Status	Approval Date
CA	RA	09/08/2016	TERMED	12/18/2015
WA	RA	12/21/2015	T_NOREG	

From 06/23/2014 To 12/02/2015 TRAJAN WEALTH, L.L.C.(158847)

Reason for Termination Voluntary

**Termination Comment**

Regulator	Registration Category	Status Date	Registration Status	Approval Date
CA	RA	12/03/2015	TERMED	06/26/2014

From 07/18/2012 To 07/02/2014 NEWPORT COAST SECURITIES, INC.(16944)

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## Snapshot - Individual

CRD® or IARD(TM) System Report provided to: SEC

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Individual 2775170 - ORTIZ, DAVID PATRICK

## Administrative Information

## Registrations with Previous Employer(s)

Reason for Termination Voluntary

## Termination Comment

Regulator	Registration Category	Status Date	Registration Status	Approval Date
CA	RA	07/09/2014	TERMED	07/19/2012
NV	RA	07/09/2014	TERMED	08/27/2012

From 02/17/2010 To 07/26/2010 GRADIENT ADVISORS, LLC(152665)

Reason for Termination Discharged

Termination Comment LACK OF PRODUCTION.

Regulator	Registration Category	Status Date	Registration Status	Approval Date
CA	RA	07/26/2010	TERMED	02/18/2010

From 10/14/2009 To 02/17/2010 GRADIENT INVESTMENTS, LLC(141726)

Reason for Termination Other

Termination Comment MOVED TO AFFILIATED RIA; GRADIENT ADVISORS, LLC

Regulator	Registration Category	Status Date	Registration Status	Approval Date
CA	RA	02/17/2010	TERMED	11/12/2009

From 07/10/1996 To 12/21/2001 ARAGON FINANCIAL SERVICES, INC.(16023)

Reason for Termination Other

Termination Comment FAILURE TO RENEW

Regulator	Registration Category	Status Date	Registration Status	Approval Date
CA	AG	12/21/2001	TERMED	08/26/1996
FINRA	IR	12/21/2001	TERMED	08/26/1996

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Individual 2775170 - ORTIZ, DAVID PATRICK

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**Administrative Information**

**Professional Designations**

<<No Professional Designations found for this Individual.>>

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**Employment History**

From	07/2016	To	Present	<b>Name</b>	DAVID ORTIZ ADVISORS, INC.
				<b>Location</b>	WHITTIER, CA, United States
				<b>Position</b>	PRESIDENT / INVESTMENT ADVISOR REPRESENTATIVE
				<b>Investment Related</b>	Yes
From	09/2001	To	Present	<b>Name</b>	DAVE-GLO INVESTMENT GROUP, INC.
				<b>Location</b>	WHITTIER, CA, United States
				<b>Position</b>	LIFE AND ANNUITY AGENT
				<b>Investment Related</b>	Yes
From	12/2015	To	09/2016	<b>Name</b>	TOTAL ADVISOR NETWORK, LLC
				<b>Location</b>	WHITTIER, CA, United States
				<b>Position</b>	INVESTMENT ADVISER REPRESENTATIVE
				<b>Investment Related</b>	Yes
From	06/2014	To	12/2015	<b>Name</b>	TRAJAN WEALTH, LLC
				<b>Location</b>	SCOTTSDALE, AZ, United States
				<b>Position</b>	INVESTMENT ADVISER REPRESENTATIVE
				<b>Investment Related</b>	Yes
From	07/2012	To	06/2014	<b>Name</b>	NEWPORT COAST SECURITIES, INC.
				<b>Location</b>	IRVINE, CA, United States
				<b>Position</b>	REGISTERED INVESTMENT ADVISOR
				<b>Investment Related</b>	Yes
From	02/2010	To	07/2010	<b>Name</b>	GRADIENT ADVISORS, LLC
				<b>Location</b>	SHOREVIEW, MN, United States
				<b>Position</b>	IAR
				<b>Investment Related</b>	Yes

**Office of Employment History**

From 09/2016 To 09/2021  
**Name** DAVID ORTIZ ADVISORS, INC.(282161)

**Independent Contractor** No

**Office of Employment Address**

## Snapshot - Individual

CRD® or IARD(TM) System Report provided to: SEC

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Individual 2775170 - ORTIZ, DAVID PATRICK

## Administrative Information

## Office of Employment History

## Office of Employment Address

CRD Branch#	Branch Code#	Firm Billing Code	Registered Location?	Private Residence?	Address Start Date	Address End Date	Type of Office
IA Main			Yes	No	09/07/2016	09/21/2021	Located At
	Address 13006 PHILADELPHIA STREET, STE. 311 WHITTIER, CA 90601 United States						
			No	No	09/07/2016	03/31/2017	Located At
	Address 6528 GREENLEAF AVENUE, SUITE 223 WHITTIER, CA 90601 United States						

From 09/2016 To 12/2017

Name DAVID ORTIZ ADVISORS, INC.(282161)

Independent Contractor No

## Office of Employment Address

CRD Branch#	Branch Code#	Firm Billing Code	Registered Location?	Private Residence?	Address Start Date	Address End Date	Type of Office
IA Main			Yes	No	09/07/2016	12/31/2017	Located At
	Address 13006 PHILADELPHIA STREET, STE. 311 WHITTIER, CA 90601 United States						

From 11/2015 To 09/2016

Name TOTAL ADVISOR NETWORK, LLC(171616)

Independent Contractor Yes

## Office of Employment Address

CRD Branch#	Branch Code#	Firm Billing Code	Registered Location?	Private Residence?	Address Start Date	Address End Date	Type of Office
IA Main			Yes	No	11/02/2015	09/08/2016	Supervised From
	Address 3918 N POST ST SPOKANE, WA 99205 United States						
			No	No	11/02/2015	09/08/2016	Located At
	Address 6528 Greenleaf Avenue, Suite 223 Whittier, CA 90601 United States						

From 06/2014 To 12/2015

Name TRAJAN WEALTH, L.L.C.(158847)

Independent Contractor Yes

## Office of Employment Address

CRD Branch#	Branch Code#	Firm Billing Code	Registered Location?	Private Residence?	Address Start Date	Address End Date	Type of Office
			No	Yes	06/23/2014	12/02/2015	Located At
	Address 8019 VIEWCREST DRIVE						

Snapshot - Individual

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Individual 2775170 - ORTIZ, DAVID PATRICK

Administrative Information

Office of Employment History

Office of Employment Address

WHITTIER, CA 90602 United States

From 07/2012 To 07/2014

Name NEWPORT COAST SECURITIES, INC.(16944)

Independent Contractor Yes

Office of Employment Address

CRD Branch#	Branch Code#	Firm Billing Code	Registered Location?	Private Residence?	Address Start Date	Address End Date	Type of Office
			No	No	06/07/2013	07/02/2014	Located At
	Address 13502 WHITTIER BLVD., #260 WHITTIER, CA 90605 United States						
270667			Yes	No	07/18/2012	07/02/2014	Supervised From
	Address 18872 MACARTHUR BLVD., SUITE 100 IRVINE, CA 92612 United States						
			No	No	07/18/2012	06/07/2013	Located At
	Address 27281 LAS RAMBLAS, SUITE 150 MISSION VIEJO, CA 92691 United States						

From 02/2010 To 07/2010

Name GRADIENT ADVISORS, LLC(152665)

Independent Contractor Yes

Office of Employment Address

CRD Branch#	Branch Code#	Firm Billing Code	Registered Location?	Private Residence?	Address Start Date	Address End Date	Type of Office
IA Main			Yes	No	02/17/2010	07/26/2010	Supervised From
	Address 4105 LEXINGTON AVENUE N., SUITE 225 ARDEN HILLS, MN 55126 United States						
			No	No	02/17/2010	07/26/2010	Located At
	Address 13502-H WHITTIER BLVD, #260 WHITTIER, CA 90605 United States						

From 10/2009 To 02/2010

Name GRADIENT INVESTMENTS, LLC(141726)

Independent Contractor Yes

Office of Employment Address

CRD Branch#	Branch Code#	Firm Billing Code	Registered Location?	Private Residence?	Address Start Date	Address End Date	Type of Office
IA Main			Yes	No	10/14/2009	02/17/2010	Supervised From
	Address 4105 LEXINGTON AVENUE NORTH, SUITE 250 ARDEN HILLS, MN 55126 United States						
			No	No	10/14/2009	02/17/2010	Located At

Snapshot - Individual

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Individual 2775170 - ORTIZ, DAVID PATRICK

Administrative Information

Office of Employment History

Office of Employment Address

Address 13502-H WHITTIER BLVD. #260  
WHITTIER, CA 90605 United States

From 07/1996 To 12/2001

Name ARAGON FINANCIAL SERVICES, INC.(16023)

Independent Contractor No

Office of Employment Address

CRD Branch#	Branch Code#	Firm Billing Code	Registered Location?	Private Residence?	Address Start Date	Address End Date	Type of Office
			No	No	07/10/1996	12/21/2001	Located At
Address 12671 HEFLIN DR LA MIRADA, CA 90638 United States							

Other Business

1)DAVE.GLO INVESTMENT GROUP, INC, INVESTMENT-RELATED, WHITTIER, CA, INSURANCE SERVICES, OWNER/AGENT, START DATE 1998 (INCORPORATED IN 2004), GREATER THAN 50% OF TIME SPENT IN THIS BUSINESS. 2)DOGO ENTERPRISES, NOT INVESTMENT RELATED, LONG BEACH, CA, LAUNDROMAT, OWNER, START DATE 01/2010, LAUNDROMAT SERVICE RELATED BUSINESS. 3)OWNER OF RESIDENTIAL RENTAL PROPERTY ACQUIRED IN 2009. NON-INVESTMENT RELATED. ZERO HOURS PER MONTH SPENT ON BUSINESS.

Exam Appointments

<<No Exam Appointments found for this Individual.>>

Exam History

Exam	Enrollment ID	Exam Status	Status Date	Exam Date	Grade	Score	Window Dates	Exam Validity
S6	22022336	Official Result	08/23/1996	08/23/1996	Passed	-		Expired
S63	22022337	Official Result	08/23/1996	08/23/1996	Passed	-		Expired
S65	22022338	Official Result	11/11/2009	01/05/2009	Passed	-		Valid until 09/27/2023

CE Regulatory Element Status

Current CE Status CE2YEARTERMED

CE Base Date

CE Appointments

<<No CE Appointments found for this Individual.>>

Current CE

<<No Current CE found for this Individual.>>

Next CE

<<No Next CE found for this Individual.>>

## Snapshot - Individual

CRD® or IARD(TM) System Report provided to: SEC

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**Individual 2775170 - ORTIZ, DAVID PATRICK****Administrative Information****CE Directed Sequence History**

&lt;&lt;No CE Directed Sequence History found for this Individual.&gt;&gt;

**Inactive CE History Dates**

From 12/24/2001 To 01/01/2004

**Previous CE Requirement Status**

Requirement Type	Enrollment ID	Session	Status	Status Date	Window Dates	Result
Anniversary	29127001	106	CE2YEARTERMED	01/01/2004	08/26/2001-12/23/2001	
Anniversary	29127001	106	CEINACTIVE	12/24/2001	08/26/2001-12/23/2001	
Anniversary	29127001	106	REQUIRED	08/26/2001	08/26/2001-12/23/2001	
Anniversary	28462062	101		12/19/1998	08/26/1998-01/22/1999	12/19/1998 - CMPLT
Anniversary	28462062	101	SATISFIED	12/19/1998	08/26/1998-01/22/1999	
Anniversary	28462062	101		12/10/1998	08/26/1998-01/22/1999	

**Filing History**

Date	Type	Submitted by
09/27/2021	U5 Full	DAVID ORTIZ ADVISORS, INC. (282161)
08/18/2021	U6 CRD Individual	United States Securities and Exchange Commission
08/18/2021	U6 CRD Individual	United States Securities and Exchange Commission
03/24/2021	U6 CRD Individual	United States Securities and Exchange Commission
01/04/2018	U4 Relicense IA	DAVID ORTIZ ADVISORS, INC. (282161)
09/08/2016	U5 Full	COLUMBIA ADVISORY PARTNERS, LLC (171616)
09/07/2016	U4 Relicense IA	DAVID ORTIZ ADVISORS, INC. (282161)
12/21/2015	U5 Partial	COLUMBIA ADVISORY PARTNERS, LLC (171616)
12/10/2015	U4 Amendment	COLUMBIA ADVISORY PARTNERS, LLC (171616)
12/03/2015	U5 Full	TRAJAN WEALTH, L.L.C. (158847)
11/10/2015	U4 Dual	COLUMBIA ADVISORY PARTNERS, LLC (171616)
07/09/2014	U5 Full	NEWPORT COAST SECURITIES, INC. (16944)
06/26/2014	U4 Relicense IA	TRAJAN WEALTH, L.L.C. (158847)
06/10/2013	U4 Amendment	NEWPORT COAST SECURITIES, INC. (16944)
08/31/2012	U4 Amendment	NEWPORT COAST SECURITIES, INC. (16944)
08/17/2012	U4 Amendment	NEWPORT COAST SECURITIES, INC. (16944)
07/18/2012	U4 Initial	NEWPORT COAST SECURITIES, INC. (16944)
07/26/2010	U5 Full	GRADIENT ADVISORS, LLC (152665)
02/17/2010	U4 Relicense IA	GRADIENT ADVISORS, LLC (152665)
02/17/2010	U5 Full	GRADIENT INVESTMENTS, LLC (141726)
11/11/2009	U4 Initial	GRADIENT INVESTMENTS, LLC (141726)
12/21/2001	U5 Full	ARAGON FINANCIAL SERVICES, INC. (16023)
09/12/2001	U4 Amendment	ARAGON FINANCIAL SERVICES, INC. (16023)

CRD® or IARD(TM) System Current As Of: 12/27/2021

Snapshot - Individual

CRD® or IARD(TM) System Report provided to: SEC

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Individual 2775170 - ORTIZ, DAVID PATRICK

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**Filing History**

<b>Date</b>	<b>Type</b>	<b>Submitted by</b>
09/06/2000	U4 Amendment	ARAGON FINANCIAL SERVICES, INC. (16023)
11/02/1999	U4 Amendment	ARAGON FINANCIAL SERVICES, INC. (16023)
07/07/1999	U4 Conversion	ARAGON FINANCIAL SERVICES, INC. (16023)
07/05/1999	U4 Conversion	ARAGON FINANCIAL SERVICES, INC. (16023)

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Individual 2775170 - ORTIZ, DAVID PATRICK

## Reportable Events

## Number of Reportable Events

Bankruptcy	0
Bond	0
Civil Judicial	1
Criminal	0
Customer Complaint	0
Internal Review	0
Investigation	0
Judgment/Lien	0
Regulatory Action	1
Termination	0

Occurrence#	2118508	Disclosure Type	Civil Judicial Action
FINRA Public Disclosable	Yes	Reportable	Yes
Material Difference in Disclosure	No		

Filing ID	56985574	Form (Form Version)	U6 (05/2009)
Filing Date	08/18/2021		
Source	United States Securities and Exchange Commission		
Disclosure Questions Answered			

Civil Judicial DRP **DRP Version** 05/2009

- 1 A. Court action initiated by: Securities and Exchange Commission  
 B. Name of party initiating the proceeding: UNITED STATES SECURITIES AND EXCHANGE COMMISSION
2. Relief sought: Civil and Administrative Penalty(ies)/Fine(s)  
 Disgorgement  
 Injunction  
 Monetary Penalty other than Fines
3. Court action:  
 A. Filing date/Explanation: 03/17/2021  
 B. Date notice/process was served/Explanation:
4. Product type(s): Promissory Note  
 Other: Unspecified Securities
5. Formal action brought in: Federal Court  
 A. Name of court: UNITED STATES DISTRICT COURT for the SOUTHERN DISTRICT OF FLORIDA  
 B. Location of court: Florida  
 C. Docket/Case#: 0:21-cv-60590
6. Employing firm: 1 Global Capital, LLC
7. Allegation(s): The Securities and Exchange Commission (the "Commission"), for its

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Individual 2775170 - ORTIZ, DAVID PATRICK

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## Reportable Events

## Civil Judicial DRP

DRP Version 05/2009

Complaint against Ortiz, alleges that from no later than July 2017 through July 2018, Defendant David P. Ortiz served as an unregistered broker on behalf of 1 Global Capital, LLC ("1 Global" or "the Company"), a South Florida merchant cash advance company. During that time, Ortiz raised more than \$6 million for 1 Global from the offer and sale of securities in unregistered transactions to at least 60 investors. Ortiz earned at least \$149,000 in commissions from those sales. 1 Global marketed its investment as a safe and secure alternative to the stock market and baselessly claimed that investing in the Company's merchant cash advance business would achieve high single-digit or low double-digit annual returns. Like other 1 Global sales agents, Ortiz repeated those claims to prospective investors. Unbeknownst to Ortiz's clients, many of whom invested their retirement savings, 1 Global's business was a fraud. 1 Global and its chairman and chief executive officer Carl Ruderman were misrepresenting how they were using investor money, siphoning off millions in investor funds to fund Ruderman's luxury lifestyle and operate unrelated businesses. 1 Global's business came to a crashing halt when it filed for bankruptcy in July 2018, leaving many of Ortiz's customers and thousands of other investors with hundreds of millions of dollars in losses. During the time he offered and sold 1 Global's securities, Ortiz was not registered as a broker-dealer with the Commission or associated with a registered broker-dealer. Additionally, 1 Global did not register its securities offering with the Commission, and there was no applicable exemption from registration for this offering.

By engaging in this conduct, Ortiz violated Sections 5(a) and 5(c) of the Securities Act of 1933 ("Securities Act"), and Section 15(a)(1) of the Securities Exchange Act of 1934 ("Exchange Act").

8. Current status: Final

9. Limitations or restrictions while pending:

10. If on appeal:

A. Action appealed to:

B. Court location:

C. Docket/Case#:

D. Date appeal filed/Explanation:

E. Appeal details:

F. Limitations or restrictions while on appeal:

11. Resolution detail:

A. Resolution: Judgment Rendered

B. Resolution date/Explanation: 08/05/2021

12. Sanction detail:

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Individual 2775170 - ORTIZ, DAVID PATRICK

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## Reportable Events

## Civil Judicial DRP

DRP Version 05/2009

A. Sanction detail: Civil and Administrative Penalty(ies)/Fine(s)  
 Disgorgement  
 Injunction  
 Monetary Penalty other than fines

B. Other sanctions: Undertakings

C. Enjoined:

Registration capacities affected: N/A

Duration (length of time)/Explanation: Permanent

Start date/Explanation: 08/05/2021

End date/Explanation:

D. Monetary Sanction:

Monetary related sanction type: MONETARYFINE

Explanation:

Total amount: \$30,000.00

Portion levied: \$30,000.00

Date paid / Explanation:

Penalty waived: No

Amount:

Monetary related sanction type: DISGORGEMENT

Explanation:

Total amount: \$149,986.00

Portion levied: \$149,986.00

Date paid / Explanation:

Penalty waived: No

Amount:

Monetary related sanction type: OTHER

Explanation: prejudgment interest on disgorgement

Total amount: \$16,216.00

Portion levied: \$16,216.00

Date paid / Explanation:

Penalty waived: No

Individual 2775170 - ORTIZ, DAVID PATRICK

## Reportable Events

## Civil Judicial DRP

DRP Version 05/2009

Amount:

13. Comment:

On August 5, 2021, a final judgment was entered, by consent, against Ortiz wherein he was permanently restrained and enjoined from violating Section 5 of the Securities Act; permanently restrained and enjoined from violating, directly or indirectly, Section 15(a)(1) of the Exchange Act; liable to the Commission for \$149,986 in disgorgement, representing net profits gained as a result of the conduct alleged in the Complaint, prejudgment interest on disgorgement of \$16,216, and a civil penalty of \$30,000; and shall comply with all of the undertakings and agreements set forth therein.

<b>Occurrence#</b>	2146599	<b>Disclosure Type</b>	Regulatory Action
<b>FINRA Public Disclosable</b>	Yes	<b>Reportable</b>	Yes
<b>Material Difference in Disclosure</b>	No		
<b>Filing ID</b>	57192786	<b>Form (Form Version)</b>	U5 (05/2009)
<b>Filing Date</b>	09/27/2021		
<b>Source</b>	282161 - DAVID ORTIZ ADVISORS, INC.		
<b>Disclosure Questions Answered</b>	7D		

## Regulatory Action DRP

DRP Version 05/2009

1. Regulatory Action initiated by:

A. Initiated by: Securities and Exchange Commission

B. Full name of regulator: UNITED STATES SECURITIES AND EXCHANGE COMMISSION

2. Sanction(s) sought:

Civil and Administrative Penalty(ies)/Fine(s)  
 Disgorgement  
 Monetary Penalty other than Fines  
 Other: Injunction

3. Date initiated/Explanation:

08/05/2021

4. Docket/Case#:

0:21-cv-60590

5. Employing firm:

David Ortiz Advisors, Inc.

6. Product type(s):

Other: Unregistered security of a merchant cash advance company

7. Allegation(s):

David Ortiz offered and sold the unregistered securities of a merchant cash advance company to his advisory clients.

8. Current status:

Final

9. Limitations or restrictions while pending:

Yes  
 David Ortiz was permanently restrained and enjoined from violating Section 5 of the Securities Act and Section 15(1)(1) of the Exchange Act.

10. If on appeal:

A. Appealed to:

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Individual 2775170 - ORTIZ, DAVID PATRICK

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Reportable Events

Regulatory Action DRP

DRP Version 05/2009

B. Date  
appealed/Explanation:

C. Limitations or restrictions  
while on appeal:

11. Resolution details:

A. Resolution detail: Decision

B. Resolution  
date/Explanation: 08/05/2021

12. Sanction detail:

A. Sanctions ordered: Civil and Administrative Penalty(ies)/Fine(s)  
Disgorgement

B. Other sanctions: David Ortiz was order to pay \$149,986.00 in disgorgement, \$16,216.00 in  
prejudgement interest on disgorgement and a civil penalty of \$30,000.00.

C. Willful violation or failure  
to supervise: No

i. Willfully violated:

ii. Willfully aided, abetted,  
counseled,  
commanded, induced,  
or procured:

iii. Failed reasonably to  
supervise another  
person:

D. Sanction type details:

E. Requalification type details:

F. Monetary related sanction type details:

Monetary related sanction type: Disgorgement

Total amount: \$149,986.00

Portion levied: \$149,986.00

Payment plan: 50000.00 paid

Payment plan current: Yes

Date paid / Explanation: 08/05/2021

Penalty waived: No

Amount:

Individual 2775170 - ORTIZ, DAVID PATRICK

## Reportable Events

## Regulatory Action DRP

DRP Version 05/2009

13. Comment:

Filing ID 56984707

Form (Form Version) U6 (05/2009)

Filing Date 08/18/2021

Source United States Securities and Exchange Commission

## Disclosure Questions Answered

## Regulatory Action DRP

DRP Version 05/2009

1. Regulatory Action initiated by:

A. Initiated by: Securities and Exchange Commission

B. Full name of regulator: UNITED STATES SECURITIES AND EXCHANGE COMMISSION

2. Sanction(s) sought: Other: N/A

3. Date initiated/Explanation: 08/13/2021

4. Docket/Case#: 3-20460

5. Employing firm: David Ortiz Advisors, Inc.

6. Product type(s): No Product

7. Allegation(s): The Securities and Exchange Commission ("Commission") deems it appropriate and in the public interest that public administrative proceedings be, and hereby are, instituted pursuant to Section 15(b) of the Securities Exchange Act of 1934 ("Exchange Act") and Section 203(f) of the Investment Advisers Act of 1940 ("Advisers Act") against David P. Ortiz. On August 9, 2021, a final judgment was entered by consent against Ortiz, permanently enjoining him from future violations of Sections 5(a) and 5(c) of the Securities Act of 1933 ("Securities Act") and Section 15(a)(1) of the Exchange Act, in the civil action entitled Securities and Exchange Commission v. David Ortiz, No. 21-cv-60590. The Commission's complaint alleged that Ortiz offered and sold the securities of a merchant cash advance company in unregistered transactions. The complaint alleged Ortiz offered and sold the company's securities to his advisory clients and other individuals via various means, including emails, telephone calls, and in-person meetings, while not registered as a broker-dealer or associated with a registered broker-dealer. The complaint further alleged that Ortiz told potential company investors that the company had averaged 15 percent annual returns and was a less risky alternative to the stock market. It also alleged that he falsely told investors their money was secured by the company's MCA loans, and personally vouched for the company's business model. The complaint alleged that Ortiz ignored red flags that should have alerted him that the company's representations to sales agents and shareholders were not true. For his sales efforts, Ortiz earned more than \$149,000 in transaction-based compensation from the company.

8. Current status: Pending

9. Limitations or restrictions while pending: No

Individual 2775170 - ORTIZ, DAVID PATRICK

Reportable Events

Regulatory Action **DRP**

**DRP Version** 05/2009

10. If on appeal:

A. Appealed to:

B. Date  
appealed/Explanation:

C. Limitations or restrictions  
while on appeal:

11. Resolution details:

A. Resolution detail:

B. Resolution  
date/Explanation:

12. Final order:

13. Sanction detail:

A. Sanctions ordered:

B. Other sanctions:

C. Willful violation or failure to supervise: No

i. Willfully violated:

ii. Willfully aided, abetted,  
counseled,  
commanded, induced,  
or procured:

iii. Failed reasonably to  
supervise another  
person:

D. Sanction type details:

E. Requalification type details:

F. Monetary related sanction type details:

14. Comment:

Regulator Archive and Z Records

<b>Occurrence#</b>	184069	<b>Disclosure Type</b>	Judgment/Lien
<b>FINRA Public Disclosable</b>	No	<b>Reportable</b>	No
<b>Material Difference in Disclosure</b>	No		
<b>Filing ID</b>	26936421	<b>Form (Form Version)</b>	U4 (05/2009)

Individual 2775170 - ORTIZ, DAVID PATRICK

Regulator Archive and Z Records

Filing Date 11/11/2009  
 Source 141726 - GRADIENT INVESTMENTS, LLC  
 Disclosure Questions Answered 14M

<b>Judgment/Lien DRP</b>	<b>DRP Version</b>	05/2009
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1. Judgment/Lien Amount: \$10,713.00
2. Judgment/Lien holder: IRS
3. Judgment/Lien type: Tax
4. Date filed/Explanation: 01/01/1992
5. Court: Other: NONE
  - A. Name of court: N/A
  - B. Location of court: N/A
  - C. Docket/Case#: N/A
6. Outstanding: No
7. Not outstanding:
  - A. Disposition date/Explanation: 10/28/2004
  - B. Resolution: Released
8. Comment: I HAD A LIEN PLACED ON ME TO SECURE A TAX LIABILITY. THIS WAS FOR TAX YEARS 12-31-87 1987.99 PAID OFF-TAX YEAR 12-31-88 323.31 PAID OFF- 12-31-89 1802.28 PAID OFF 12-31-90 7119.23 MAKING PAYMENTS LIEN FILED PAYMENT CURRENT I HAD A FEW YEARS ADJUSTED ON MY 1040 IN 1991. THE IRS FOUND ADJUSTMENTS AND DEMANDED THAT I PAY IMMEDIATELY. I DIDN'T HAVE 10,713 SO I WAS GIVEN A LIEN TO SECURE THAT I WOULD PAY. I MADE AN OFFER OF COMPROMISE. THE IRS CONSIDERED IT PAID IN FULL AS LONG AS I PAY MY TAXES ON TIME, WHICH I'VE DONE SINCE 2005. THE LIENS WERE LIFTED AND DEBT SETTLED.

# **EXHIBIT 6**

## Notice

**CRD® or IARD(TM) Information:** This report contains information from the CRD (Central Registration Depository) system, or the IARD system (Investment Advisers Registration Depository), which are operated by FINRA, a national securities association registered under the Securities Exchange Act of 1934. The CRD system primarily contains information submitted on uniform broker-dealer and agent registration forms and certain other information related to registration and licensing. The IARD system primarily contains information submitted on uniform investment adviser and agent registration forms and certain other information related to registration and licensing. The information on Uniform Forms filed with the CRD or IARD is deemed to have been filed with each regulator with which the applicant seeks to be registered or licensed and shall be the joint property of the applicant and such regulators. The compilation constituting the CRD database as a whole is the property of FINRA. Neither FINRA nor a participating regulator warrants or guarantees the accuracy or the completeness of the CRD or IARD information. CRD information consists of reportable and non-reportable information.

FINRA operates the CRD system in its capacity as a registered national securities association and pursuant to an agreement with the North American Securities Administrators Association, Inc. (NASAA).

FINRA operates the IARD system as a vendor pursuant to a contract with the Securities and Exchange Commission and undertakings with NASAA and participating state regulators.

**Reportable Information:** Information that is required to be reported on the current version of the uniform registration forms.

**Non-Reportable Information:** Information that is not currently reportable on a uniform registration form. Information typically is not reportable because it is out-of-date; it was reported in error; or some change occurred either in the disposition of the underlying event after it was reported or in the question on the form that elicited the information. Although not currently reportable, this information was once reported on a uniform form and, consequently, may have become a state record. Users of this information should recognize that filers have no obligation to update non-reportable data; accordingly, it may not reflect changes that have occurred since it was reported.

**Details for Request#:** 27535683  
**Report:** Snapshot - Firm  
**Requested By:** MO

<u>Parameter Name</u>	<u>Value</u>
Organization CRD #	282161
Snapshot Type	IA
Include Current Administration Information?	Yes
Include Current Reportable Disclosure Information?	Yes
Include Current Non-Reportable Disclosure Information?	Yes
Include Part 2 Brochure Information? (only valid for IA firms)	Yes

CRD® or IARD(TM) System Current As Of: 12/27/2021

Snapshot - Firm

CRD® or IARD(TM) System Report provided to: SEC

Request Submitted: 12/29/2021 2:04:32 PM

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Organization: 282161 - DAVID ORTIZ ADVISORS, INC.

**Administrative Information**

Organization CRD#: 282161

SEC#:

Primary Business Name: DAVID ORTIZ ADVISORS, INC.

Legal Name: DAVID ORTIZ ADVISORS, INC.

Additional CRD Numbers:

CIK Numbers assigned by SEC:

Registers more than one investment adviser under umbrella registration? No

Contact Information:

Main Office Address:

Phone: 800-584-1902

13006 PHILADELPHIA STREET, STE. 311

WHITTIER, CA 90601 United States

Total number of offices, other than your Principal Office and place of business: 0

Mailing Office Address:

Chief Compliance Officer Name: DAVID ORTIZ

Phone: 562-696-7800

Name of other person compensating CCO:

Additional Regulatory Contact Name :

Additional Regulatory Contact Person Telephone :

Public Reporting Company: No

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Registrations:

Regulator	Registration Status	Status Effective Date
California	Terminated	10/27/2021

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Notice Filings:

<<No notice filings found for this Organization.>>

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Exempt Reporting Statuses:

<<No Exempt Reporting Status found for this Organization.>>

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Form Of Organization:

Legal Status: Corporation

Month Fiscal Year Ends: December

State Of Formation: California

Country Of Formation: United States

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Disclosure Questions:

Yes Answers: None

No Answers: 11A(1),11A(2),11B(1),11B(2),11C(1),11C(2),11C(3),11C(4),11C(5),11D(1),11D(2),11D(3),

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CRD® or IARD(TM) System Report -- See notice regarding CRD Data on cover page.

OS Received 01/07/2022

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**Organization: 282161 - DAVID ORTIZ ADVISORS, INC.**
**Administrative Information**11D(4),11D(5),11E(1),11E(2),11E(3),11E(4),11F,11G,11H(1)(a),11H(1)(b),11H(1)(c),11H(2),  
2(C),2(D),2E(1),2E(2),2E(3),2E(4),2E(5),2F(1),2F(2),2F(3),2F(4),2F(5)**Unanswered:** None**Non-Disclosure Questions:****Yes Answers:** 1(I),5F(1),5K(1),5K(4),8A(2),8C(1),8C(2),8E,8I**No Answers:** 1(L),1(M),1(N),1(O),4A,5I(1),5J(1),5J(2),5K(2),5K(3),6B(1),6B(3),7B,8A(1),8A(3),8B(1),  
8B(2),8B(3),8C(3),8C(4),8F,8G(1),8H(1),8H(2),9A(1)(a),9A(1)(b),9B(1)(a),9B(1)(b),9D(1),  
9D(2),10A**Unanswered:** 5L(1)(a),5L(1)(b),5L(1)(c),5L(1)(d),5L(1)(e),5L(2),5L(3),5L(4),6B(2),8D,8G(2),12A,12B(1),  
12B(2),12C(1),12C(2)**Types Of Advisory Services:**

Financial planning services	Yes
Portfolio management for individuals and/or small businesses	Yes
Portfolio management for investment companies/BDCs	No
Portfolio management for pooled investment vehicles	No
Portfolio management for businesses (other than small businesses) or institutional clients	No
Pension consulting services	No
Selection of other advisers	Yes
Publication of periodicals or newsletters	No
Security ratings or pricing services	No
Market timing services	No
Educational seminars/workshops	Yes
Other	No
Other detail	

**Direct Owners and Executive Officers:****Full Legal Name:** ORTIZ, DAVID, PATRICK**Title or Status:** PRESIDENT/CCO**Date Acquired:** 07/2016**Ownership Code:** 75% or more**D/F/I:** Individual**Control Person:** Yes**Public Company:** No**ID #:** 2775170**Indirect Owners:**

&lt;&lt;No Indirect Owners found for this Organization.&gt;&gt;

**Other Business Names:****Name:** ORTIZ WORLD ADVISORS**Jurisdiction(s):** CA**Other Offices:**

&lt;&lt;No Other Office for this Organization.&gt;&gt;

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Organization: 282161 - DAVID ORTIZ ADVISORS, INC.

**Administrative Information**

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**Other Business Activities:**

Broker-dealer	No
Registered representative of a broker-dealer	No
Commodity pool operator, or commodity trading advisor	No
Futures commission merchant	No
Real estate broker, dealer, or agent	No
Insurance broker or agent	No
Bank (including a separately identifiable department or division of a bank)	No
Trust company	No
Registered municipal advisor	No
Registered security-based swap dealer	No
Major security-based swap participant	No
Accountant or accounting firm	No
Lawyer or law firm	No
Other financial product salesperson	No

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**Succession Information:**

<<No Succession Information found for this Organization.>>

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**Private Funds:**

**Adviser to Private Funds:** No  
**Count of Private Funds - 7.B.(1):** 0  
**Count of Private Funds - 7.B.(2):** 0

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Organization: 282161 - DAVID ORTIZ ADVISORS, INC.

**Custody Information:**

**Advisor Custodian**

Cash/Bank Accts: No

Securities: No

U.S. Dollar Amount:

Total Number of Clients:

Qualified Custodian: No

**Related Persons**

Cash/Bank Accts: No

Securities: No

U.S. Dollar Amount:

Total Number of Clients:

Qualified Custodian: No

**Reports**

Quarterly Statements: No

Annual Audit: No

Surprise Exam: No

Internal Control Report: No

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**Schedule R Information:**

<<No Relying Advisors Information found for this Organization.>>

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**Reportable Disclosures**

<<No reportable disclosures found for this Organization.>>

CRD® or IARD(TM) System Current As Of: 12/27/2021

Snapshot - Firm

CRD® or IARD(TM) System Report provided to: SEC

Request Submitted: 12/29/2021 2:04:32 PM

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Organization: 282161 - DAVID ORTIZ ADVISORS, INC.

**Non-Reportable Disclosures**

<<No non-reportable disclosures found for this Organization.>>

CRD® or IARD(TM) System Current As Of: 12/27/2021

Snapshot - Firm

CRD® or IARD(TM) System Report provided to: SEC

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Organization: 282161 - DAVID ORTIZ ADVISORS, INC.

PART 2 Brochures

<<No brochures found for this Organization.>>

# **EXHIBIT 7**

**From:** [David Ortiz](#)  
**To:** [ricardo@yanezfamily.com](mailto:ricardo@yanezfamily.com)  
**Cc:** [ricardo.yanez@boeing.com](mailto:ricardo.yanez@boeing.com)  
**Bcc:** [BlocEmail](#)  
**Subject:** Alternatives  
**Date:** Wednesday, April 19, 2017 6:14:48 PM  
**Attachments:** [1st Global Lender's Brochure.pdf](#)  
[Petro Rock Flipping Book for AAI 16 April 2017 \(1\).pdf](#)

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Ricardo,

I have attached 2 alternatives for your review. These other products came available through one of my alternative investment platforms recently. Both of these have been performing very well. They have both been independently audited and due diligence has been done.

Alternative investments typically have a low correlation with those of standard asset classes, which makes them suitable for portfolio diversification. Because of this, many large institutional funds such as pensions and private endowments have begun to allocate a portion of their portfolios to alternative investments such as hedge funds. Investments in hard assets such as gold and oil also provide an effective hedge against rising inflation, as they are negatively correlated with the performance of stocks and bonds.

Please call me with any questions.

Regards,

*David Ortiz*

*"Your Trusted Advisor"*

Investment Advisor

Office: 800-584-1902

Email: [David@DavidOrtizAdvisor.com](mailto:David@DavidOrtizAdvisor.com)

Web: [www.davidortizadvisor.com](http://www.davidortizadvisor.com)

13006 Philadelphia St. Suite 311, Whittier, CA 90601



Investment Advisory Services offered through David Ortiz Advisors, Inc. a California Registered Investment Adviser.

# **EXHIBIT 8**



# Merchant Cash Advance

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Putting cash to work for  
merchants while earning healthy  
returns for lenders.

Variable Rate 9 Month Term  
Lending Opportunity



## Merchant Cash Advance

Banking as we know it is undergoing a paradigm shift. Fewer and fewer banks are serving the retail needs of consumers and small businesses alike. They may soon become the new “unbanked” segment in America. Peering into the future, it is easy to see that many of these banks will no longer be a resource for capital for small to medium-sized businesses. AAI’s merchant cash advance vendor has recognized this trend and has put in motion the initiatives necessary to not only be the vanguard of this change, but to capture an opportunity to benefit our financial partners.

Merchant Cash Advance, or MCA, is the next generation financing product for small and medium sized business owners. Analysis of the economic situation suggests there will be strong, growing demand for capital from these companies and that traditional financing mechanisms will be unable to adequately respond. This will result in a dynamic and expanding marketplace for small to medium sized business financing and MCA is well positioned to optimize this opportunity.

We are confident that this model will provide a strong added value in the domestic marketplace, which will remain the core of MCA operations as well as prudently exploring international expansion. Potential lenders are sought to assist in meeting these aggressive growth targets, joining well-respected organizations such as Google Ventures and Goldman Sachs, which have already invested in this growing industry.

In exchange for providing funds, competitive potential returns are offered and secured by the funding portfolio itself.

---

*Advancing a  
merchant’s financial  
health, while earning  
healthy returns for  
lenders.*

# Cash Advance Vendor

## Poised to become one of the premier cash advance companies in a \$98 billion market.

1st Global Capital, AAI's preferred MCA vendor, will attain this status through innovative funding products which meet the growing needs of a marketplace that traditional banking and financial services no longer serve adequately. They are a privately-owned company with their global headquarters and operational center in the state of Florida. Their primary focus is the small to medium-sized business short-term funding market in the U.S. This market is growing rapidly and forecast to continue doing so for the foreseeable future. Their plan is to prudently expand internationally where regulatory, market conditions and operating efficiencies are favorable.

Their highly motivated management team has many years of combined skills in business operations, consumer and commercial lending, internet/telemarketing and sales. They are represented by the law firm of Kopelowitz Ostrow. Accounting and auditing services are provided by the firm of Daszkal Bolton.



*Thanks to our vendor's proven management team, well trained staff, and highly efficient forensic analytical decision making systems, they make credit decisions in house in as little as 4 hours from the time the applications are received.*

OS Received 01/07/2022

## The Market

Small to medium-sized businesses are the fastest growing sector and the backbone of the U.S. economy. They employ over 50% of the working population and create a substantial majority of new jobs. Growing businesses in this sector have a great appetite for immediate capital.

Our MCA vendor specializes in providing these businesses with their immediate short-term working capital needs. They excel in providing the needed funds quickly and efficiently.

The ideal customer is a merchant needing fast cash to grow their business or make capital improvements for the future—not someone paying off debt from the past. The focus is on businesses that can demonstrate a consistent cash flow.

Cash advances of \$25,000 - \$50,000 are the sweet spot of the MCA business model. However, advances are made consistently as small as \$10,000 to as large as \$750,000+.

# Financial Model

**On average, \$1.30-\$1.35 is collected for every dollar advanced.**

There is no interest rate attached to MCA. The cash advanced does not constitute a loan. Instead, a premium is collected on the future business receivables. The terms of the advances average 9 months.

By securing immediate daily repayments, a working relationship is created with the merchants. This relationship allows for monitoring of the merchant receivables in real time. Our vendor's process meets applicable regulatory and legal oversight requirements.

Our MCA vendor takes an agreed-upon set amount each day which is paid through the Automated Clearing House (ACH) process. The fixed amount withdrawn daily is determined by the merchant's cash flow, the size of the advance and the applicable factor rate. This method of payment also enables some merchants to improve credit ratings.



OS Received 01/07/2022

## Performance

Our MCA vendor has built a pipeline of lenders which allows them to service the growing merchant cash advance market. The funding portfolio has quadrupled in size over the past year. Currently, lenders have earned double digit annual returns.

Most of the leads from our vendor's competitors have traditionally come from a large and established network of Independent Sales Organizations (ISO's). As a future strategy, our vendor has created their own sales and marketing platform which enables them to acquire higher quality and more profitable leads. They directly target retailers, restaurants, service businesses, construction companies, laundromats, gas stations and other entrepreneurial enterprises.

AAI Global's preferred vendor is one of the most progressive merchant cash advance firms, which has made a significant investment in infrastructure and analytical software which streamlines the underwriting process and optimizes the efficiency of their company operations.

Their company has invested in the gold standard of industry underwriting tools and maintains the integrity of its approval process by putting applicants through a rigorous review. Their highly experienced underwriting team uses the most current and effective software such as CLEAR, Trans Union and DecisionLogic. This cutting-edge technology enables them to expediently determine whether or not to approve a merchant cash advance request.

# Growth Strategy

## **Building brand equity while driving same-day sales.**

By creating leads that go directly to our vendor, they can improve both the quantity and profitability of their qualified leads. Their goal is to make the phone ring and to convert the best quality leads into transactions, and “sell” the leads that don’t fit into their underwriting criteria. The ultimate goal is to add to the bottom line in all circumstances.

To accomplish these aggressive growth plans, they are investing in a highly effective and visible advertising campaign including broadcast on English and Hispanic stations, supported by search engine optimization, digital marketing, direct mail, out-of-home and other innovative marketing initiatives that can help build brand awareness while driving same-day sales.

These goals and objectives are supported by their sophisticated infrastructure, including separate Financial, Underwriting, IT and Sales Departments. Maintaining an internal sales division, rather than outsourcing it, results in a higher level of quality control and allows them to streamline the application and approval process. In addition to incorporating the latest technology to capture all potential leads, they can scale up or scale down the number of phone representatives they deploy, by days of the week and times of the day, to coincide with their advertising and broadcast media schedules.

*Saying “YES” when banks say “NO”.*

Banks have abandoned the small business sector of our economy. This void must be filled. Our vendor is stepping in to meet the financial needs of small and medium-sized businesses. This is important work to say “yes” when banks say “no”

*Say “YES” to sharing in this profitable growth opportunity.*

The mission is filling the gap between the financial needs of entrepreneurial businesses and the diminishing role of our nation’s banks.



# FAQ

## Frequently Asked Vendor Questions

What is the primary factor causing the growth of the merchant cash advance industry?

Fewer banks cater to the needs of small businesses. Even those who do, have a lengthy time period for processing and funding loans or cash advances.

What has been the average annual write-off rate since inception of the company?

Approximately 4%

How often do Syndicate Partners receive status reports on their account?

Syndicate Partners portfolio statements are generated monthly. In addition, Partners receive a portal password giving them access to their account status on a 24/7 basis.

What is the average size and maturity of a merchant cash advance?

Advances average approximately \$68,000, with terms averaging 9 months

How does 1st Global identify merchants in need of cash advances?

1. Internet Marketing
2. Use of Independent Sales Organizations ( ISO's )
3. In-house Agents
4. Repeat Business

How long does it take for an application for an advance to be processed and funded?

An application received by 10:00am can usually be funded by 4:00pm same day, assuming all stipulations required from the merchant are received timely.

What instrument is issued to parties lending money to 1st Global as evidence of indebtedness?

Syndicate Partners receive a 9-month Promissory Note, 9-month Memorandum of Indebtedness or Loan Agreement from 1st Global.

What has been the historical annual return to parties lending funds to 1st Global?

Low double digits.

How do Merchants repay the advances they receive from 1st Global?

Merchants make stipulated payments daily via ACH debit from their business operating bank accounts.

How large is the merchant cash advance industry?

The Customer Financial Protection Bureau estimates that merchant cash advances (MCA's) represent \$98B of the total \$1.4T small and medium enterprise lending market in the U.S. alone.

What percentage of Merchants submitting applications are given advances by 1st Global?

Approximately 1 out of 10

What underwriting tools does 1st Global rely on in analysing candidates for cash advances?

In addition to basic internet services, 1st Global uses Clear Report which is a program for background checks and Experian Report for business and personal credit scores, as well as Decision Logic to verify banking information.

How does 1st Global differ from other Merchant Lenders?

1st Global does not rely entirely on digital communication. Personal contact is made with every merchant before an advance is made. 1st Global staff remains in personal contact with the merchant throughout the term of the advance.

How are Syndicate Partner account performances verified?

An external accounting firm validates Syndicate Partner portfolio performance and balances quarterly.

What percentage of cash advance recipients refinance?

Approximately 30%

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Still have questions? For more information regarding this lending opportunity, please contact your advisor or feel free to reach out to our sales desk: **317-884-8767**

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# **EXHIBIT 9**



# **Merchant Ca\$h Advance**

## **High Growth Market / Solid Returns**

10/24/2016

DODUEDIL000054

# Disclaimer



This Document does not, nor is intended to, constitute an offer or a solicitation of any offer to sell equity or debt securities or any shareholdings. It is expressly for the use and consideration of qualified lenders to evaluate the merits of the opportunity in Merchant Ca\$h Advance Transactions (MCAT). This Document and any additional materials supplied are provided to the recipient solely in connection with the recipient's consideration of the proposed opportunity described herein and as an invitation to engage in further discussions.

You should not rely on this document alone as the basis for any decision. You are expected to conduct your own investigation with regard to 1<sup>st</sup> Global Capital (1GC), its business and industry and the terms of the arrangement, including the merits and risks involved. Prospective lenders are not to construe the contents of this Document as legal, investment, or tax advice. Prospective lenders should consult their advisors as to legal, tax and related matters.

1GC has prepared this Document and has submitted it confidentially to a limited number of interested parties. 1GC has not authorized its use, or the use of any other materials, for any other purpose. Neither this Document, nor other materials, may be copied or reproduced in whole or in part nor distributed to others. This Document may be distributed and its contents disclosed only to interested parties to whom it is provided. By accepting delivery of this Document, you agree to these restrictions.

This opportunity is subject to withdrawal, cancellation or modification by 1GC without notice and is specifically made subject to the terms described in this Document. 1GC reserves the right, in its sole discretion, to reject any funds, in whole or in part, for any reason.

# Our Business – Merchant Ca\$h Advance



- **Alternative finance** for small to mid-size businesses.
- **Not a “loan”** – stakes in future ca\$h flow at a discounted price.
- **Short term** (3-12 months).
- **Easy ACH daily repayment** rather than larger balloon bank repayment.
- **Rigorous** technology & management control.

# 1GC MISSION STATEMENT



## WE ARE THE NEXT GENERATION OF SMALL BUSINESS LENDING WHILE GENERATING SUPERIOR RETURNS TO OUR FUNDING SOURCES

- Providing entrepreneurs and small businesses with working capital, in a simple, friendly and transparent way.
- The right mix of technology, security and human insight to provide capital in as little as 24 hours.
- Experienced underwriters using the most accurate, secure data sources and a proprietary scoring algorithm that measures a business' overall health.
- Technologists employ the highest levels of encryption and security protocols.
- **Funding sources have historically received a non-correlated ROI of approximately 15%.**

# PROBLEM



## The ability of small to medium-sized merchants to obtain funding

- Small and medium-sized Enterprises (“SMEs”) employ a vast number of the labor population, and are very important for GDP, yet they frequently experience obstacles and barriers when seeking to connect, fund, and grow.
- SMEs require fast and efficient access to capital. Traditional bank borrowing is time consuming and burdensome due to regulation and recent financial crises, leaving a vacuum in the life cycle of SME financing.
- Small businesses are not well served by traditional loan products. For example, small businesses often seek small, short-term loans to fund short-term projects and investments, but traditional lenders may only offer products that feature larger loan sizes, longer durations and rigid collateral requirements that are not well suited to their needs. Banks believe small investments tend to yield small returns.
- It is difficult to assess the creditworthiness of small businesses.
  - SMEs are a diverse group spanning many different industries, stages of development, geographies and financial profiles.
  - SMEs business info is scattered across multiple online and offline sources, making it difficult to aggregate, analyze and monitor.
  - An SME business owner’s personal credit score is frequently used to assess creditworthiness even though it may not be indicative of the business’s credit profile.

# SOLUTION



- Entrepreneurs and SMEs are now starting their capital search activities via alternative financing platforms such as 1GC.
- 1GC offers efficient and frictionless sources of alternative financing to SMEs.
- Small businesses can apply for a ca\$h advance in minutes. We can make a funding decision quickly, and transfer funds in as little as 4 hours.
- Using our proprietary technology, we can rapidly, accurately and efficiently analyze high volumes of data to assess the creditworthiness of SMEs.
- **Our optimization of these funding methods creates an institutional quality asset class.**

# MCA vs Traditional Bank Loan



OS Received 01/07/2022

MCA	Traditional Bank Loan
<ul style="list-style-type: none"><li>• Approval on <i>measured</i> ability to pay</li></ul>	<ul style="list-style-type: none"><li>• Basically linked to personal credit</li></ul>
<ul style="list-style-type: none"><li>• <b>No collateral</b> required (UCC &amp; Personal Guarantee are required on every deal)</li></ul>	<ul style="list-style-type: none"><li>• Typically requires personal assets as collateral</li></ul>
<ul style="list-style-type: none"><li>• <b>Flat Fee premium included</b></li></ul>	<ul style="list-style-type: none"><li>• Interest paid over time</li></ul>
<ul style="list-style-type: none"><li>• Fast pre-approval/ <b>funds in days</b></li></ul>	<ul style="list-style-type: none"><li>• Approval &amp; funds usually in weeks</li></ul>
<ul style="list-style-type: none"><li>• Variable repayment / credit card sales linked</li></ul>	<ul style="list-style-type: none"><li>• Fixed repayment term</li></ul>

# MCA Market & 1GC



- **Total US market in excess of \$20 billion - growth 20% per annum**
- **1GC Portfolio**
  - \$23.2 million as of September 30, 2016
  - MCA typically \$25 – \$50k / range \$5 - \$500 k
  - Approximately 200 industry classifications financed to date
- **1GC Current markets - US & Puerto Rico**
  - Build rapidly on industry growth & 1GC structure & innovation
  - Planned expansion – Canada, Panama & U.S. Virgin Islands
  - 2017 continued growth and expansion without diminishing 1GC's standards and due diligence

# 1GC Competitive Situation



Competitor	2015 Funding
OnDeck Capital	\$1.9 b
CAN Capital	\$1.5 b
Funding Circle	\$1.2 b
BIZFI	\$480 m
Yellowstone Capital	\$422 m
Square Capital	\$400 m
Strategic Funding Source	\$375 m
Fora Financial	\$187 m

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# 1GC Competitive Advantage



**We do not have to lay out hundreds of millions of dollars per quarter. We will always maintain our rigorous evaluation criteria.**

- Technology checks at all phases.
- SME service dedicated - 65% repeat customers.
- Acquisition, distribution & sales – brand and style building, multi-channel marketing, in-house call center.
- Strong internal management control, targets & focus.
- Underwriting – Thorough & repayment dominated. Focus on client understanding & service.
- Funding – Fast & responsive to client needs. 4 hour basic analysis.
- Servicing – Daily ACH monitor/action & client care. Key management oversight.
- Collection – Flexible but tough.

# Portfolio Analysis



	2014	2015	2016 Forecast
Contracts Funded	444	675	1,108
\$ Funded	\$8.7m	\$15.9m	\$21.3m
Receivables	\$12.3m	\$25.5m	\$29.8m
Gross Factor Income	\$3.1m	\$5.2m	\$8.3m
Average Factor Rate	1.39	1.39	1.30 – 1.38
Average Term	4 months	5 months	7 months
<b>Average SP ROI</b>	<b>20.6%</b>	<b>18.2%</b>	<b>15+%</b>

# Income Statement Highlights (In Thousands)



	2013	2014	2015
Gross Factoring Income	\$122	\$3,076	\$5,343
Total Revenue	\$158	\$3,699	\$7,908
Gross Operating Margin	\$54	\$883	\$5,560
Net Operating Margin	\$54	\$719	\$3,633
G & A	\$137	\$1,415	\$3,509
EBITDA	\$(83)	\$(696)	\$124
Capital Expenditures	\$2	\$54	\$415

# Key Financial Statistics / Ratios



	9/30/2016 (in Millions)	12/31/2015 (in Millions)
Merchant Receivables	\$32.1	\$9.8
Funding Source Deposits	\$24.9	\$3.7
Syndicate Partnership Share of Receivables	\$25.3	\$8.9
Personal Contributions	\$1.6	\$1.6

# 1GC Funding/Syndication Process



## Leads (SME's)

- Third Party Sourced
- Internal Generated

## Underwriting

- Analysis of SME business data
- Soft Approval unless red flag

## Funding Process

- Fast Delivery (4hrs minimum)
- Syndicate Partner Matching

## 1GC Secure Risk Management

- MCA's spread across 200 industries
- Daily ACH / Credit Card split
- Technology & management monitoring
- Credit Syndicate Partner Account (Net 1GC fee)
- Payments under daily review by 1GC Management
- Corporate Counsel recovery as last resort

## Funds Acquired

- Execute Promissory Note
- Credit Syndicate Partner Account

## Funds Assigned

- To Merchant
- To Syndicate Partner Account

## Collection

- Daily receipt
- Daily SP assignment

# Syndicate Partner (SP) Core Conditions



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- **SP participates in diversified portfolio of 1<sup>st</sup> GC Merchant ca\$h Advances with same terms**
  - Same terms as 1GC and other SPs.
  - Subject to 1GC final decision -with no guarantees.
- **SP is not an equity investor in 1<sup>st</sup> GC**
  - Participant in MCA's/ returns and collectibles.
  - Each Syndicate Partner receives credit for it's respective share of MCA collections as they occur based on the specific merchant accounts participated in. There are no preferential payouts.
- **SP ROI is computed after deducting proportionate share of product acquisition fees, uncollectible accounts, and management fee.**

# Funding Source Details



- **Minimum tranches of \$100k from Funding Sources**
- **9-month minimum lending agreement**
  - Daily ACH / credit card receipts & ca\$h redeployment
  - Monthly portfolio value statement – 24/7 portal access
- **Withdrawals after 9 months - with 60 day written notice**
  - Repayments geared to participating MCA wind-down period

# Default Rates



- **Bad Debt Reserves:**
  - Bad debt reserves are established for all accounts, including accounts currently performing.
  - The amount of the reserve is based on an analysis of the collection status of the accounts (i.e., performing, nsf, modified payment plan, negotiating, legal, and write-off).
  - Bad debt reserves typically range from 10 to 12 percent
- **Write-offs:**
  - Write-offs occur after all collection attempts are exhausted.
  - Actual write-offs since inception have been approximately 6 percent of receivables.

# Global Ca\$h



- **Product Description:**

- A state-of-the-art, proprietary, integrated and comprehensive MCA software solution, **Global Ca\$h**, customized to meet 1GC's underwriting and reporting needs
- Scalable to meet the growing demands of 1GC

- **Objectives:**

- Pre-qualify a merchant via a combination of multiple parameters and financial markers within minutes
- Enables collection and repository of all application documents from the merchant
- Interfaces with external credit bureaus for downloading credit reports and credit scores
- The Underwriter determines the fund amount using a funding calculator with a pre-defined formula and discipline to arrive at the optimum funding for the merchant
- The work flow module facilitates electronic processing of the application between several "work flow points" which has been established to ensure a comprehensive discipline is adhered to
- Collections and repayments are automatically received from credit card processor or via ACH transactions
- Comprehensive interface to external accounting systems
- Robust reporting capabilities, including an interactive syndication module which provides 24/7 access to Syndicate Partners. Tracks:
  - ✓ Deals by merchant
  - ✓ Deal status
  - ✓ Participation amounts, collections and balances due

# Global Ca\$h SP Portal Dashboard

## 24/7 Online Access to SP Portfolio Data



Show all Application Details
Reload

**Total Participation Amount**  
**\$ 327,729.26**

### Six Month Activity Report

Month	Syndicated	Received
JUN	0	0
May	42,857.14	0
APR	42,857.14	0
MAR	35,714.29	0
FEB	28,571.43	0
JAN	21,428.57	0

**Payback Amount**  
**\$ 404,571.09**

**Management Fee**  
**\$ 48,548.53**

**Residual Fee**  
**\$ 0.00**

**Expected Repayment**  
**\$ 356,022.56**

**Received Amount**  
**\$ 0.00**

**Balance Amount**  
**\$ 356,022.56**

**Partner Balance Details**

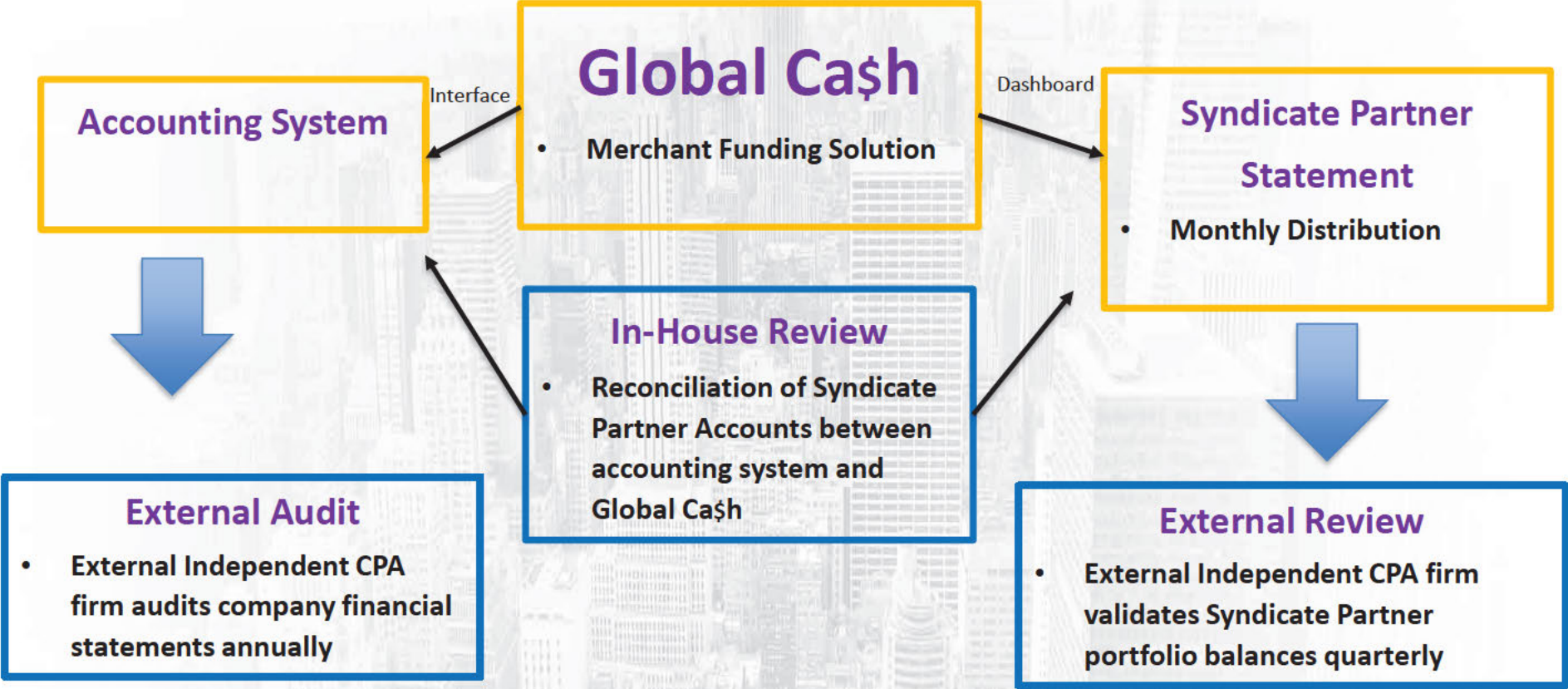
Showing page 1 of 10 Go to page:

DBA Name	Participation %	Syndicated Amount \$	Syndicated Payback \$	Total Collections \$	Partner Share on Collections \$
Bennett Construction & Remodeling Contractors, LLC	1.92139	845.42	1,037.56	23,225.14	446.55
Allred Quality Exteriors, LLC	1.85526	244.89	298.32	3,676.20	68.16
Syme Corporation	5.00000	2,775.00	3,400.00	34,686.44	1,734.18
Resende Construction Inc	10.00000	1,620.00	1,050.00	11,554.85	1,155.30
Eric Allshouse, LLC	5.00000	2,650.00	3,350.00	29,947.22	1,497.42
Cleaning services inc	1.75000	1,925.00	2,362.50	26,999.94	472.56
JW Industries Group LLC	1.83786	303.25	377.68	11,773.32	216.21

# Global Ca\$h - Data Validation



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# Outside Advisors



- Kopelowitz Ostrow Ferguson Weiselberg Gilbert (Legal Counsel)

[kolawyers.com](http://kolawyers.com)

- Daszkal Bolton LLP (CPAs)

[dbllp.com](http://dbllp.com)

- SysArc Infomatix, Pvt. Ltd. (Technology Provider)

[sysarcinfomatix.com/us/](http://sysarcinfomatix.com/us/)

# Management Team



- **Carl Ruderman (Chairman & CEO)** Experienced entrepreneur across multiple industries; founded more than 12 prosperous business operations; founding member of World Tourism Council
- **Steven A. Schwartz, MBA (COO)** 20 years experience servicing financial industry. Former President & COO of 2 public companies; currently on the Board of 2 entities in South Florida.
- **Alan Heide, CPA, CGMA (Exec VP)** 30 years experience servicing multiple industry sectors, including financial services
- **Lyn Sohun (Chief Compliance Officer)** 11 years of experience in both financial and non-financial industries including alternative lending, financial analytics, budgeting, forecasting, accounting and corporate strategy. Prior to joining 1st Global Capital she partnered with senior management at CAN Capital, the market leader in alternative small business finance
- **Eric Alexander, CPA (CFO)** Over 15 years of Accounting and Finance experience across multiple industries, including financial services, in capacities of audit, private equity investment, alternative investment management, and single family office enterprise development
- **Darice Lang (Director of Operations)** 30 years experience managing various corporate frontline functions within strategic and operations arenas
- **Professor Geoffrey Lipman, PhD and OBE (International Advisor)** 30-year member of the World Economic Forum's Global Agenda Council championing travelism with Heads of State, Ministers and Chief Executives. Currently leading a global green growth initiative

# Management Team



- **Juan Carlos Anduiza (Director of Underwriting)** 15 years experience managing risk and fraud for various financial institutions, including underwriting MCAT deals and processing ACH payments
- **Leopoldo Vargas (Sr. Collections Manager)** 10 years experience managing commercial collections and a certified collector by the American Collectors Association and a certified Subrogation Specialist; Fully versed in the Fair Debt Collection Practices Act and Debt Collections
- **Steven Zakharyayev (Corporate Counsel)** 5 years experience as a litigator within heavily regulated industries
- **Julio Rojas (Director Of Information Technology)** 18 years experience in IT and web development defining, implementing and managing IT-related business strategies, security policies, and operating procedures

# Contacts



## Alan Heide

1st Global Capital LLC

[alan@1stglobalcapital.com](mailto:alan@1stglobalcapital.com)

(305) 224-1490

## Steven Schwartz

1st Global Capital LLC

[Stevenallenschwartz@gmail.com](mailto:Stevenallenschwartz@gmail.com)

(917) 690-6810

# **EXHIBIT 10**



Due Diligence Review for:

# 1st Global Capital



**1. Product/Vendor Legal Name**

Business Product: Merchant Cash Advance

Business Legal Name: 1 Global Capital LLC, dba 1<sup>st</sup> Global Capital, LLC

**2. General Partner/Member Legal Name**

N/A

**3. Sponsor/Firm/Organization Name**

1 Global Capital LLC

**4. Please provide your organization's address, phone number, and fax number.**

Address: 1250 East Hallandale Beach Blvd. Suite 409, Hallandale Beach, FL 33009

Tel: 888-374-3150

Fax: 305-437-8081

**5. Please provide the address and website of the firm's headquarters and all branch offices.**

HQ Address: 1250 East Hallandale Beach Blvd. Suite 409  
Hallandale Beach, FL 33009

Branch: There are no branch offices.

Website: [www.1stglobalcapital.com](http://www.1stglobalcapital.com)

**6. Please provide your organization's address, phone number, fax number, and email address of the individual of who will be our primary contact.**

Dale Ledbetter: 1250 East Hallandale Blvd Suite 409  
Hallandale Beach, FL 33009  
Tel: 954-540-3642  
Fax: 305-225-1473  
Email: [ledbetter@kolawyers.com](mailto:ledbetter@kolawyers.com)



Steve Hively: 1250 East Hallandale Blvd Suite 409  
Hallandale Beach, FL 33009  
Tel: 818-292-7144  
Fax: 305-225-1473  
Email: stevehively@1stglobalcapital.com

**7. Please provide the name, phone number, fax number, and email address of the person responsible for investor/client relations.**

Darice Lang  
1250 East Hallandale Blvd. Suite 409  
Hallandale Beach, FL 33009  
Tel: 305-225-1473  
Fax: 305-437-8081  
Email: darice@1stglobalcapital.com

**8. Please provide governing documents, including any charter, bylaws and partnership agreement; noting any restrictions on its activities.**

See Exhibit 1

**9. Please provide the regulatory body that supervises the product/industry, if applicable.**

Not applicable

**10. Please provide the time that your entity has been in business, as well as a brief summary history of your firm.**

1 Global Capital LLC was organized in June of 2013 and began operations in August of 2013. The firm was founded by Carl Ruderman. Mr. Ruderman had previously founded, operated and ultimately sold several successful New York based publishing and travel related businesses. Upon moving to Florida he was seeking to invest his capital and earn decent returns. In the course of investigating various investment opportunities, Mr. Ruderman learned about the relatively new and growing Merchant Cash Advance industry from a friend and business associate. Taking his friend's advice, Mr. Ruderman investigated the industry and saw its growth potential. It was clear to him that traditional banks had virtually abandoned the financing of small and medium size businesses- the historic backbone of the American economy. Given the great need these businesses have for capital and the reluctance of banks to lend to them, Mr. Ruderman determined that the industry offered superior growth rates and superior returns.

Mr. Ruderman assembled a small team of people with experience in the industry and formed 1 Global Capital LLC dba 1<sup>st</sup> Global Capital. Starting with his own capital and Syndicate Partner funds provided by “friends and family” the company began to offer Merchant Cash Advances to businesses. Starting with a staff of 3 the firm has grown in three years to have over 60 employees. During that time, much attention has been paid to building the infrastructure of the firm. Throughout his career Mr. Ruderman has focused on the operational aspects of his businesses and 1<sup>st</sup> Global Capital is no exception. Through strategic hires, investment in technology, employee training and close management oversight 1<sup>st</sup> Global Capital has facilitated its past growth and laid a strong foundation for growth going forward. There are now approximately 300 Syndicate Partners providing funding for \$38 million in outstanding Merchant Cash Advances. This number changes daily as new Merchant Cash Advances are funded and as merchants make payments on existing Merchant Cash Advances.

**11. Is your firm affiliated with a broker dealer?**

No.

**12. Are you a registered investment advisor? Please attach a copy of your ADV Part II.**

No.

**13. Are you currently or have you been in the last 5 years out of compliance with any regulatory agencies? If yes, please explain thoroughly.**

No.

**14. Has your firm been audited by any regulatory agency in the past 5 years. Please explain any key findings. Please attach a copy of the findings and firm responses.**

No.

**15. Do you have a dedicated regulatory/compliance officer? Does this person serve other roles within the firm? If so, please describe.**

Lyn Sohun is in charge of Compliance. She also is involved in strategic planning, competitive analysis and operational improvement activities.

**16. Please provide your firm’s organization chart.**

See Exhibit 2



17. Please provide biographies, years of service with the years in current position for:

- a. directors and officers,
- b. any owners (holdings of 10% or more), and
- c. Key employees.

See Exhibit 3

18. Please give succession plans for key employees if retirements are planned within 5 years.

No retirements are planned within the next 5 years.

19. Describe the Firm's recruitment plans and procedures for hiring staff. To what extent are background checks involved and how are objective references obtained?

In looking to hire staff, 1<sup>st</sup> Global Capital uses outside search firms and agencies specializing in the type of position it is seeking to fill. Once candidates are identified, 1<sup>st</sup> Global Capital conducts interviews, background checks and reference checks.

20. What, if any, are the carried interests and ownership interests in the general partner or management company held by individuals or business entities not employed by the firm?

None.

21. What is the general partner's capital commitment to the business? What is the amount committed by each participant in the general partner? What is the source for each contributor's funds? (Cash, Deferred Fees, etc.)

1<sup>st</sup> Global Capital uses a corporate (LLC) structure, not a partnership structure. The stock of the enterprise is 100% owned by Mr. Carl Ruderman through his family trust.

Mr. Ruderman has loaned 1<sup>st</sup> Global Capital \$3.5 million. The source of the funds was cash. The funds were used to support the build out of infrastructure and as working capital for the firm. There are no repayment terms on the loan and there are no current intentions to repay the amount at this time.

Members of Mr. Ruderman's family have contributed funds for the funding of Merchant Cash Advances. The original amount of the contribution was \$1.6 million. The contribution has grown to a balance of \$2.2 million currently due to redeployment of collections received on the MCA funded with this contribution. The source of the funds was cash.



- 22. Have you experienced any recent personnel changes? Discuss the Firm's approach to staff retention and training. Discuss the Firm's historical experience in this area. Discuss any significant promotions or departures that took place over the last year.**

As 1<sup>st</sup> Global Capital is a growing firm, the primary focus of personnel changes has been to add staff to accommodate increased business activity and to build out the infrastructure of the firm. In the past year the firm has added to its senior management ranks with the addition of a Chief Compliance Officer, an in-house Legal Counsel and a Chief Financial Officer. It has also brought in a more experienced Director of Credit Underwriting/Risk Management. Throughout the company, the staffing is generally stable, and turnover has not been a problem.

- 23. Has the Firm; any affiliated entity or any of its key personnel filed for bankruptcy?**

No.

- 24. Do you, or any members of management have any previous or potential regulatory or disciplinary problems? If so, please summarize, including any reportable events to a regulatory agency.**

No.

- 25. Are you or any of your affiliates involved in any pending litigation? If so, please provide details (claimant, defendant, claimed damages, brief history, status, anticipated outcome, and name of Company's counsel).**

There is no pending litigation outside of the normal course of the firm's business. Collection activities are an important and significant aspect of the Merchant Cash Advance business. In the course of collecting on delinquent accounts it may become necessary to pursue legal remedies. As such, the firm has a number of such actions pending. All such actions stem from routine collection activities. This litigation is primarily handled by 1<sup>st</sup> Global Capital's in-house legal area under the direction of its Corporate Counsel Steven Zakharyayev. At times, 1<sup>st</sup> Global Capital will need to engage attorneys to file actions in jurisdictions outside of Florida, but the volume of out of state actions is not significant. Most pending legal actions are expected to be resolved in favor of 1<sup>st</sup> Global Capital. None present the possibility of a significant negative impact on the company.

- 26. Do any of the principals have any conflicts of interest with the current business?**

No.



**27. Is the firm or any of its principals involved in, or a partner in, any other businesses outside of the firm's activities? describe.**

**Please**

Nothing of any significance.

**28. What types of insurance coverage does the Firm maintain (e.g. fidelity bond insurance, errors and omission insurance, directors and officers insurance, key person, other)? Provide proof of insurance and a summary of any material claims made against these policies in the last five years.**

See Exhibit 10.

**29. Who is the firm's independent auditor? How long have they been serving in this capacity?**

Independent auditor and advisory services are provided by Daszkal Bolton LLP, a large regional firm located in Boca Raton, Florida. For information on the firm please see their website at [dbllp.com](http://dbllp.com). 1<sup>st</sup> Global Capital began working with Daszkal Bolton LLP during 2014.

**30. Please provide historical financial statements of the issuer and its affiliates, with particular focus on financial statements that have been audited by an independent certified public accountant (if any) and auditor letters to management.**

See financial statements in Exhibit 4. These are unaudited financial statements. No audited financial statements are available at this time. Daszkal Bolton LLP has been engaged to perform an audit of 1<sup>st</sup> Global Capital's financial statements for the year ended 12/31/16.

**31. Please provide general accounting policies (revenue recognition, etc.). Have there been any changes in accounting policies or accounting firms used within the last five years, if so please explain the reason for the change.**

See Exhibit 11.

**32. Has the Firm established an internal audit function? If so, how often are internal control audits performed? Has there been any major control weaknesses identified from the audits? If so, what is the Firm doing to resolve the identified weaknesses? Please provide certifications or processes.**

1<sup>st</sup> Global Capital has not yet established a formal Internal Audit function. The company's current size does not support such a function at this time. Long-range plans are to add an Internal Audit function as the firm grows and can support such an expansion of its

infrastructure. In the meantime, various employees do at times perform audit and review tasks to ensure compliance with internal policies and guidelines.

**33. Who is the firm's legal counsel or do you use an in-house legal team? Please provide brief biographies for them, indicating how long they have been serving in this capacity.**

1st Global Capital uses both an external legal firm and has an in-house legal team. The external law firm used by 1<sup>st</sup> Global Capital is Kopelowitz Osttrow Ferguson Weiselberg Gilbert based out of Ft Lauderdale, Florida. This law firm has provided services to 1<sup>st</sup> Global Capital since the inception of 1<sup>st</sup> Global Capital.

The in-house legal team is managed by Steven Zakharyayev. Mr Zakharyayev has been with 1<sup>st</sup> Global Capital for approximately one year. A biography for Mr Zakharyayev is included in the Management Biography section of the exhibits.

**34. Please disclose any loans, relevant contracts, or other transactions between the Company or its affiliates and members of management that might affect the business.**

Other than the loans from Mr. Ruderman described in question 21 above, there are no other loans, contracts or other transactions between the Company and members of management.

A related entity, 1 West Capital, LLC which is used by the firm to originate Merchant Cash Advances in the state of California contracts with 1<sup>st</sup> Global Capital to service the MCA which it originates. This does not have a significant effect on the business and is done as a matter of convenience and operational efficiency.

**35. Do you expect the focus of the business to change? Please explain.**

No.

**36. Does the Firm have any existing business lines that are unrelated to the proposed investment strategy?**

No.

**37. Please provide any business affiliates/any major third party service providers, to the extent to which any cash needs or other expectations from/for the affiliate/third party vendor might affect the business. Do you have contracts with each provider? What due diligence was completed prior to relationship?**



Major third party service providers include the following:

- ACH Works – provider of ACH banking services. collection of remittances from merchants.
- SysArc Infomatirix – licensor of software used to originate and service Merchant Cash Advances
- AWS (Amazon Web Services)- Cloud computing servers and data storage.
- CLEAR (Transunion)- provider of background and credit checks used in making credit decisions to fund Merchant Cash Advances.
- Experian (Acranet)- provider of credit checks used in making credit decisions to fund Merchant Cash Advances.
- Decision Logic- service provider that facilitates the real time monitoring of activity in merchant bank accounts.

Financial obligations arising from any of these vendor relationships are not expected to have a negative effect on the business.

**38. Please provide product advertising, private placement memorandum, offering documents, marketing channels, etc.**

Due to the nature of the Syndicate Partner product there are no private placement memoranda or offering documents. Marketing materials consist of brochures and presentation materials. See Exhibit 5 for examples.

**40. Please provide any government filings for the product, and acceptance of those filings. (Form ADV, S-1, Blue Sky, etc.)**

Not applicable- none.

**41. Please provide list of other companies that you have selling agreements with and/or your marketing distribution channels that would be willing to provide references.**

Collins Asset Group, LLC  
Wendel Retirement Planning  
Chris A. Dantin Inc. and Chis Dantin Financial Services LLC

Contact information provided upon request.

**42. Please provide key relationships/partnerships; the status and trends of relationships/partnerships, prospects for future growth and development, and pipeline analysis.**

Not applicable- none.

**43. Please summarize the investment strategy/objectives for all parties involved. Include details on anticipated transaction sizes, investment pace, holding periods, geographic focus, industry/sector focus, investment stage and other relevant characteristics. Provide supporting documentation regarding your assumptions of the target market and the overall viability of the proposed strategy.**

Product Strategy/Objective: Produce a short-term product (9 months) yielding a double digit return with a broadly diversified (by industry and geography) risk profile.

Anticipated Transaction Size: \$100,000 minimum funding with no limit on upside amount. Exceptions to the \$100,000 minimum can be entertained and accepted in appropriate circumstances.

Funding Document: The funding document will be either in the form of a Promissory Note or a Memorandum of Indebtedness, depending on the state of residence of the person/entity providing the funds. See Exhibits 5 and 6 for examples of each.

**44. What is unique about this strategy/offering?**

This strategy is unique in that it offers a high rate of return with a relatively high degree of safety in a structure that is not subject to trading market risk or interest rate risk. In providing funds for Merchant Cash Advances (MCAs) through a Syndicate Partner arrangement, the Syndicate Partner is able to participate in a large number of MCAs to businesses with significant geographic and industry diversity, thus mitigating risk. No one MCA can have a significant impact on the portfolio. Furthermore, the short term of the MCAs (averaging 8 months, but as short as 4 months) and daily payment collection ensure rapid pay down of principal balances of the MCAs, again reducing risk. The redeployment of cash collections into new MCAs has the effect of turbo charging the returns as funds are always working. The redeployment of cash collections also aids in risk mitigation by further diversifying the portfolio of MCAs supporting the Syndicate Partner arrangement.

**45. Discuss the risk factors of the product/service or investment strategy (political, regulatory, economic, financial, technology, business cycle, etc.).**

The primary risk associated with funding Merchant Cash Advances is the risk of merchant default or non-payment. In addition to the diversification and risk reduction measures discussed in 44 above, this risk is mitigated as 1<sup>st</sup> Global Capital employs an aggressive collections approach which identifies missed payments on a daily basis and immediately initiates contact with the merchant. Within a week collection activity is escalated and if matters are not resolved quickly, legal action ensues. 1<sup>st</sup> Global Capital obtains a personal guarantee on all Merchant Capital Advances. Therefore, even if a business fails, 1<sup>st</sup> Global Capital is able to pursue the guarantor for repayment of the advance. The company takes full advantage of all legal remedies in seeking repayment from a guarantor. Thus, in most instances the only way that 1<sup>st</sup> Global Capital will not be fully repaid is if the business and the guarantor both declare bankruptcy.

The risk of non-payment can be influenced by macro-economic business cycle issues. In an economic downturn one would expect an increase in the number of business failures and by extension an increase in the rate of default on Merchant Cash Advances. In this situation the Syndicate Partner is protected by the geographic and industry diversity of the portfolio of MCAs funded through the Syndicate Partner. "Normal" recessions tend to have a geographic and industry component to them with some regions and industries being hard hit and others not experiencing much of a downturn. Having MCAs from all regions of the country and from many industries moderates the impact of a recession or economic downturn on the portfolio of MCAs. It would be reasonable to expect reduced returns in such a situation.

In any economic downturn the concept of "survival of the fittest" comes into play. The less economically sound businesses will take the biggest hit from a downturn. 1<sup>st</sup> Global Capital funds only 1 in 10 of the merchants that come to it seeking a MCA. Thus, by definition, 1<sup>st</sup> Global Capital is primarily dealing with the stronger entities in this small business segment. These are businesses seeking funds to advance growth, not merely survive, and, as such, they are generally better able to weather an economic downturn.

The possibility of political and regulatory issues is remote at this time, although there is always the possibility of state or federal legislation having a negative impact on the Merchant Cash Advance business. The chances of such governmental actions are lessened by the fact that this is a business-to-business product and does not involve consumers. Furthermore, the lack of viable alternative sources of financing for small and medium-sized businesses should make regulators and legislators hesitant to remove this option for their constituents.

**46. Please provide business plan, business model or other description of the business intentions and its management and their expectations for the business.**

At this point in time, the company does not have a current, formal business plan document. 1<sup>st</sup> Global Capital is a rapidly expanding business operating in rapidly expanding industry. The company is prepared to expand and take advantage of opportunities as they arise. Operating under a formal business plan document would be cumbersome and inefficient at this time with no immediate benefit to the company.

**47. Will the product provide distributions/dividends? If so, please provide frequency and details.**

There are no dividends paid on this product. Receipts generated by the repayment of Merchant Cash Advances funded through Syndicate Partners are redeployed as received into new Merchant Cash Advances for the term of the promissory note/ memorandum of indebtedness. Once the promissory note/memorandum of indebtedness has matured and the Syndicate Partner elects to not take out a new promissory note/memorandum of indebtedness, the net collections from Merchant Cash Advances funded with the funds from

the promissory note/memorandum of indebtedness are remitted to the Syndicate Partner on a weekly or monthly



**48. What is management's expectations for the return on investment and dividend yield?**

There is no dividend yield on this product. From inception, Syndicate Partners have received returns in excess of 15%. Management's expectations are that funding sources will continue to receive double-digit returns.

**49. Please provide background of industry, potential or perceived competitors, and any existing or potential regulatory restrictions on your business. Please discuss the current market opportunity.**

- a. Please describe market position and related strengths and weaknesses as perceived in the market place.
- b. Please describe the basis of competition (price, service, technology, distribution).

For a discussion of the industry, competition and 1<sup>st</sup> Global Capitals place in the market please refer to Exhibit 5- Syndicate Partner Marketing Materials, "Pitch Deck".

**50. What is the price per unit? Is the price per unit fixed until the end of the offer? If not, what determines the change in price?**

This product is not subject to unit pricing, per se. The Syndicate Partner loans funds to 1<sup>st</sup> Global Capital to be used by 1<sup>st</sup> Global Capital to extend Merchant Cash Advances to small and medium sized businesses. Pricing is a function of the returns earned on the transactions funded by the loans to 1<sup>st</sup> Global Capital. These returns are driven by the actual repayment experience of the specific Merchant Cash Advances funded with the funds provided by the Syndicate Partner.

**51. What is the minimum initial investment?**

As noted in # 43 above, the minimum funding is \$100,000. There is no limit on the maximum funding. Exceptions to the \$100,000 minimum can be considered and accepted in appropriate circumstances.

**52. Who can invest in this product?**

Qualified individual investors and institutions.

**53. What are the fees involved in this product for the investor?**

Any broker fees due on the procurement of Syndicate Partner or lender funding are paid directly by 1<sup>st</sup> Global Capital from its own funds and are not taken from Syndicate Partner funds.

1<sup>st</sup> Global Capital is reimbursed from Syndicate Partner funds for certain Merchant Cash Advance acquisition costs and is paid a servicing/management from future cash flows generated by the Merchant Cash Advances.

**54. Please provide the expected holding period in years. (Investment period, Follow-On Period, Remainder of Term, Extension Period)**

The majority of Syndicate Partners use a promissory note with a term of nine months. Other Syndicate Partners use a Memorandum of Indebtedness with a term of nine months. The distinction between the two is usually driven by state of residence of the Syndicate Partner. Syndicate Partners can enter into subsequent notes/memoranda upon the termination of the original note/memorandum. At the end of the term of the note or memorandum there is a grace period of several months to facilitate the payoff of the note/memorandum from the proceeds of the collection and payoff of the underlying Merchant Cash Advances.

Institutional investors may choose whatever structure they prefer. 1<sup>st</sup> Global Capital can be flexible in adapting to reasonable requested conditions and structures.

**55. Please provide the exit strategy for this investment. Discuss the Firm's strategy/criteria/plan for exiting investments. Include an analysis of past exits. Provide examples that illustrate the Firm's decision-making for choosing the type of exits.**

We do not consider this vehicle to be an "investment". These are loans from Syndicate Partners. As such any exits from the vehicle are covered under the terms of the Promissory Note or Memorandum of Indebtedness governing the loan from the Syndicate Partner. See Exhibits 6 and 7 for the terms of a typical Promissory Note or Memorandum of Indebtedness.

**56. Please detail the process that you would follow at the termination of the product/service.**

The vehicle by which the Syndicate Partner participates in the funding of Merchant Cash Advances through 1<sup>st</sup> Global Capital is via a promissory note or a memorandum of indebtedness, both of which have nine-month terms. At the end of the term, the Syndicate Partner can elect to enter into a new promissory note or memorandum of indebtedness or the Syndicate Partner can terminate its participation. In the event of notice of termination, no new MCA will be funded under that promissory note/memorandum of indebtedness- i.e. collections will not be deployed into new MCA. Instead funds collected from daily MCA remittances will be remitted back to the Syndicate Partner on a monthly basis. Such remittances will continue until such time as all MCAs in which the Syndicate Partner

**57. Please provide your firm's privacy policy.**

Please see Exhibit 12.

**58. Please describe your firm's disaster recovery and business continuity plans, specifically addressing the most recent date and the numbers of times you have practice and tested your procedures in the past 5 years, and the result of those exercises. Please provide a copy of your firm's disaster recovery and business continuity procedures.**

The IT system infrastructure for 1<sup>st</sup> Global Capital is cloud-based and spans two Amazon AWS Web Services Regions (US East-North Virginia & US-West-Oregon). The firm's funding platform is hosted on two Amazon AWS EC2 instances running Windows 2008 Server / SQL-Server. In addition, a third instance is utilized for development and user acceptance of new features. Having a cloud-based setup gives 1<sup>st</sup> Global Capital multiple security and recovery advantages. Each instance has been configured with strict security group policies which only allow specific service and port exposure as required by our funding platform. Furthermore, each instance has been assigned EBS type SSD-gp2 data volumes and Elastic IPs. Both features give us tremendous power and flexibility as it relates to contingency and recovery. Through Amazon EBS Snapshots, backups are conducted incrementally twice a day. The system backups / Snapshots are copied and maintained among the two regions in Amazon Simple Storage S3 buckets. This gives the firm the ability to switch between regions with a minimal impact on operations if the need should arise. The ability to switch between regions has been tested in the past.

A formal document of the business continuity and disaster recovery plan is under development but has not been completed as of this date.

**59. Is your product information available for public review on your website? If so, please provide the frequency that the information is updated?**

Yes, information regarding the company's product, Merchant Cash Advances, is available on our website at [www.1stglobalcapital.com](http://www.1stglobalcapital.com). The information is updated as needed, however, the information presented on the website is not of the type that necessitates frequent changes/updates.

We also provide a portal for Syndicate Partners which provides information regarding the Syndicate Partner's account and the Merchant Cash Advances extended with funds from the Syndicate Partner. This portal is updated daily.

# **EXHIBIT 11**



# **Merchant Cash Advance Application**

---

## **Non-Qualified Memorandum of Indebtedness**

T: (317) 884-8767 | F: (317) 215-5619 | E: [admin@aaishares.com](mailto:admin@aaishares.com) | W: [www.aaishares.com](http://www.aaishares.com)



Paperwork Checklist: Merchant Cash Advance  
**For Marketing Partner Use**

**HELPFUL TIP:** Print the application in color to best identify all places to complete or for the Buyer(s) to initial or sign.

**QUALIFIED PURCHASES:**

Provide Your Client With:	
Product Brochure	
Frequently Asked Questions Sheet	
Funding Facts & What to Expect Sheet	
IRA Services Trust Fee Schedule	

Required Documentation:	
Federal or State Issued Photo ID	
Existing Account Statement(s) <small>(for Transfer/Rollover of Funds)</small>	

IRA Services Trust Co. / AAI / 1st Global Capital Forms:	
Intent to Purchase: Merchant Cash Advance	
Product Disclosures: Merchant Cash Advance	
Suitability Form: Merchant Cash Advance	
W-9	
Disclosure and Authorization / IRA Services Trust Co / New Account Fees and Acct Rep	
Account Application* <small>(Title NEW account EXACTLY as existing accounts)</small>	
Beneficiary Designation	
Certification of Trust Agreement Form AAI-1302 <small>(if a Trust is named a beneficiary)</small>	
Representative Authorization (2 Copies)	

**NON-QUALIFIED PURCHASES:**

Provide Your Client With:	
Product Brochure	
Frequently Asked Questions Sheet	
Funding Facts & What to Expect Sheet	

Required Documentation:	
Federal or State Issued Photo ID(s)	

AAI / 1st Global Capital Forms:	
Intent to Purchase: Merchant Cash Advance	
Certification of Trust Agreement Form AAI-1302 <small>(if a Trust is purchasing or named a beneficiary)</small>	
Suitability Form: Merchant Cash Advance	
W-9	
Beneficiary Designation - Non-Qualified Accts	
Product Disclosures: Merchant Cash Advance	
Memorandum of Indebtedness (OR) Promissory Note <small>(state-specific lending documents are required)</small>	

**\*For a SEP IRA**

- Download IRA Services Trust's SEP IRA Employer Agreement form from the FORMS tab of the AAI Portal.
- If opening a new SEP IRA with a current year contribution, the following may be required for complete suitability review:
  - a copy of Lender's previous year's tax return, including Schedule C
  - a signed letter from the Lender's CPA approving the purchase amount

(Continued on Next Page)

## QUALIFIED PURCHASES (cont):

IRA Services Trust Co. / AAI / 1st Global Capital Forms:	
Transfer Authorization (if applicable)	
Deposit Information (if applicable)	
Internet Access Request	
Memorandum of Indebtedness (OR) Promissory Note <small>(state-specific lending documents are required)</small> CLIENT SIGNATURE MUST BE NOTARIZED	
Investment Authorization	
Wire Request	
Prohibited Transactions Questionnaire	

### Where to Sign or Initial

**SIGN  
HERE** →

**INITIAL  
HERE** →

Yellow sign here or initial flags are for the Marketing Partner

**INITIAL  
HERE** →

Green flags are for Lender initials

**SIGN  
HERE** →

Red flags are for Lender signatures

### Send Paperwork to:

**Qualified Applications: *Originals are required.***

**Non-Qualified Applications:**

**Mail to:**

**Email to:** [admin@aaishares.com](mailto:admin@aaishares.com)

AAI Administration Office  
973 Emerson Pkwy Suite B  
Greenwood, IN 46143

OR

**Upload on the AAI Portal:** [aaicrm.com/portal](http://aaicrm.com/portal)

### After Paperwork Submission:

Upon receipt of the application, a Case Manager will be assigned. The application will be reviewed for suitability. **You will receive an email notification when your new business is received, including your client's new account number.** The Case Manager will contact you for any outstanding requirements and will help expedite application processing.

View your Pending Business Report for status updates on cases by logging in to the AAI Portal: [aaicrm.com/portal](http://aaicrm.com/portal)

You may direct any new business questions to the Admin Team by:

Email: [admin@aaishares.com](mailto:admin@aaishares.com)

Phone: (317) 884-8767 OPT 2

**Please have your Referral ID# or Fund Manager Referral ID# and your client's new Account Number ready.**



# Funding Facts & What to Expect Merchant Cash Advance

## For the Lender

**Toll Free Client Services Number: (800) 899-0676**

Qualified Accounts	Non-Qualified Accounts
<p><b><u>Custodian Wiring Instructions:</u></b>            Fremont Bank            25151 Clawiter Rd            Hayward, CA 94545            (510) 792-2300            ABA/Routing Number: 121107882            Account Name: IRA Services Trust Co.            Account Number: 19902328            For Further Credit: "IRA Owner Name"</p> <p><b><u>Courier Delivery:</u></b>            IRA Services Trust Co- New Accounts            1160 Industrial Rd Suite 1            San Carlos, CA 94070</p> <p><b><u>Make Checks Payable:</u></b>            IRA Services Trust Company CFBO: "IRA Owner Name"</p> <p><b><u>Hold Periods at Fremont Bank:</u></b>            Wires/Cashier's checks: 0 days            Direct Transfer or Rollover Checks: 3 business days            Distribution or Personal Checks: 5 business days</p> <ul style="list-style-type: none"> <li>• Once your IRA is opened, you will receive an email invitation to set up online account access where you may download quarterly statements and end-of-year tax information.</li> <li>• You are lending money and therefore these funds cannot be used to satisfy RMD's.</li> <li>• After funds clear, you will receive:               <ul style="list-style-type: none"> <li>• Executed lending documents</li> <li>• Email invitation to 1<sup>st</sup> Global Capital online portal</li> <li>• Monthly statements</li> </ul> </li> </ul>	<p><b><u>Wiring Instructions:</u></b>            Bank of America            PO Box 25118            Tampa, FL 33622-5118            (888) 287-4637            ABA/Routing Number: 026009593            Account Name: 1 Global Capital LLC            Account Number: 8980 5892 0399            For Further Credit: AAI Global            Reference: "Lender(s) Name"</p> <p><b><u>Courier Delivery:</u></b>            AAI Global - Administration Team            973 Emerson Pkwy, Suite B            Greenwood, IN 46143</p> <p><b><u>NOTE: IF SENDING A CHECK, YOU MUST MAKE IT OUT EXACTLY AS WRITTEN BELOW.</u></b></p> <p><b><u>Make Check(s) Payable to:</u></b>            1 Global Capital, LLC            In Memo Line: "Lender(s) Name"</p> <p><b><u>Hold Periods at Bank of America:</u></b>            Bank Wire: 0 days            Checks: 3 business days</p> <ul style="list-style-type: none"> <li>• After funds clear, you will receive:               <ul style="list-style-type: none"> <li>• Executed lending documents</li> <li>• Email invitation to 1<sup>st</sup> Global Capital online portal</li> <li>• Monthly statements</li> </ul> </li> </ul>



# Intent to Purchase: Merchant Cash Advance Non-Qualified Funds

PRIMARY LENDER			
Primary Lender	Christopher P. DeCarlo	SSN	DOB
Primary Phone	Secondary Phone		
Email	Country of Citizenship		
Residence Street Address	City	State	Postal Code
Mailing Address (if different from Residence Address)	City	State	Postal Code

JOINT LENDER			
Joint Lender Name (if applicable)	SSN	DOB	
Primary Phone	Secondary Phone		
Email	Country of Citizenship		
Residence Street Address (if different from Primary Lender Address)	City	State	Postal Code
Mailing Address (if different from Residence Address)	City	State	Postal Code

ENTITY		Select One: <input type="checkbox"/> Trust <input type="checkbox"/> Corporation <input type="checkbox"/> Partnership	
Exact Name of Entity			
Trustee(s) / Manager(s) Name(s)	Tax ID of Entity	Date Established	
Primary Phone	Secondary Phone		
Email			
Residence Street Address	City	State	Postal Code
Mailing Address (if different from Residence Address)	City	State	Postal Code

MERCHANT CASH ADVANCE AMOUNT	
Amount to Lend: \$ <u>50,000</u>	<input checked="" type="checkbox"/> Exact Amount <input type="checkbox"/> Estimate Amount

METHOD OF FUNDING	
<input checked="" type="checkbox"/> Check <input type="checkbox"/> Bank Wire	Estimated Date of Wire: _____

Lender(s) Name Christopher P. DeCarlo Tax ID:

**PHOTO IDENTIFICATION**

If a **Natural Person(s)** are lending, attach clear copies of government issued photo I.D.(s).

**LENDING ENTITY IDENTIFICATION**

If a **Trust** is lending, complete form AAI-1302 Certification of Trust

If an **Entity** is lending, submit a copy of the full, executed legal agreements: (i.e. Articles of Organization, Operating Agreement, etc). A Partnership Authorization form AAI-1301 is also available on the Portal under Forms.

AAI and 1st Global Capital make certain reports, statements, and other communication available in a secure electronic form in order to help conserve our planet's resources. Does the Lender consent to receive such documents without separate postal mailing of paper copies?



Yes (default if not answered)  No, prefer paper

**MARKETING PARTNER / FUND MANAGER ACKNOWLEDGEMENTS**

I have known the Lender(s): \_\_\_\_\_ Years 2 Months

INITIAL HERE

I have verified the identity of the Lender(s) by viewing and obtaining a photocopy of a valid state or government-issued photo ID

INITIAL HERE

I certify that I used only Issuer-approved marketing materials with this application(s) and that an original or copy of all materials was left with the Lender(s)

**MARKETING PARTNER / FUND MANAGER INFORMATION**

Marketing Partner/Fund Manager Name: <u>David Ortiz</u>	Referral ID #: <u>MP-422-14</u>
Marketing Partner/Fund Manager Email: <u>david@davidortizadvisor.com</u>	
Signature (required):	Date: <u>5/24/17</u>
Split Case? (If yes, complete the section below) <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
2nd Marketing Partner/Fund Manager Name:	Referral ID #: _____ - _____ - _____
2nd Marketing Partner/Fund Manager Email:	Split % : _____ %
Signature (required):	Date:



Certification of Trust Agreement

Must be completed for all Trust applications or if a Trust is named a beneficiary on an account.




TRUST INFORMATION			
Name of Trust		Trust Tax ID	Date Established
Name(s) of Trustee(s)	Phone #:	Tax ID	DOB
Name(s) of Grantor(s)/Settlor(s)		Phone #:	Tax ID
Mailing Address of Trust		City	State Zip
What is the nature of the relationship between the Trustee and Grantor/ Settlor? <input type="checkbox"/> Relative (related to the Insured by blood or law) <input type="checkbox"/> Attorney <input type="checkbox"/> Accountant <input type="checkbox"/> Self(ves) <input type="checkbox"/> Other (If "Other", please state and explain relationship in detail) Details:			
Does the Grantor of the Trust have familial relationship with the Beneficiary? <input type="checkbox"/> Yes <input type="checkbox"/> No If not, please describe the relationship:			
What is the length of the relationship between the Trustee and Grantor/ Settlor? _____ Months / _____ Years (OR) <input type="checkbox"/> Not Applicable		Situs (State Governing law) of Trust	
Does the Trust contain a Spendthrift Provision (provision that prohibits a beneficiary or creditor of a beneficiary from anticipating or attaching an interest in the trust)? <input type="checkbox"/> Yes <input type="checkbox"/> No If "No", please explain in detail the strategy for leaving this provision out.			
What is the relationship between the Grantor and Situs of Trust? (in what county and state does the Grantor reside versus where is the situs of trust) Provide detail:			
Does the provision of the Trust contain the right to change the Beneficiary? <input type="checkbox"/> Yes <input type="checkbox"/> No			
Can the Situs be changed by the Trustee and/or Beneficiaries? <input type="checkbox"/> Yes <input type="checkbox"/> No			
Can the trust be merged or consolidated with another trust? <input type="checkbox"/> Yes <input type="checkbox"/> No			
Is the beneficiary granted a Power of Appointment (ability to appoint property during life or at death)? <input type="checkbox"/> Yes <input type="checkbox"/> No If "Yes", is the power limited to persons who are (a) related to the investor by blood or law? (b) have a substantial interest in the investor engendered by love and affection, or (c) hold a lawful and substantial interest in the continued life of the investor? <input type="checkbox"/> Yes <input type="checkbox"/> No			
Trustee(s) to sign and date the following: I/We attest that the Trust Agreement does not specifically exclude the purchase of alternative assets, including illiquid assets.			
SIGN HERE → Signature: _____		Date: _____	
SIGN HERE → Signature: _____		Date: _____	
SIGN HERE → Signature: _____		Date: _____	

[Signature Page for Entire Form Follows]

## REPRESENTATIONS AND SIGNATURES

The undersigned Trustee(s) hereby represents, declares, and acknowledges that:

1. The Trust is:  revocable and in full force and effect.  
 irrevocable and in full force and effect.
2. Pursuant to the terms of the agreement, the trustee(s) has the right to purchase alternative investment products.
3. The Issuer is entitled to recognize the Trustees as having all ownership rights in the account, including, but not limited to, the right to close the account, or assign ownership rights in the account. If there is more than one trustee, the signatures of all trustees will be required in the exercise of account rights, unless written evidence to the contrary is provided to Issuer.
4. **Optional Certification:** In checking this box , the Trustees certify that the Issuer may require only one trustee signature in the exercise of account administration and changes to the account.
5. The Issuer is not responsible for inquiring into the terms of the Trust and shall not be charged with knowledge of its provisions.
6. The Issuer may rely on the signature of the Trustees in the exercise of any account rights hereunder and is fully discharged from any liability as the result of such reliance.
7. Beneficial interests under the Trust can and will only be established for persons who (a) are related to the investor by blood or law, (b) have a substantial interest in the investor engendered by love and affection, or (c) hold a lawful and substantial economic interest in the continued life of the investor.
8. The Trustee agrees to immediately (within 30 days of the occurrence) notify the Issuer of (a) any changes to the named current beneficiaries identified above; (b) any modifications to the provisions of the Trust including a change in the Situs of the Trust as identified above; (c) a merger of the Trust with any other agreement; (d) transfer of any beneficial interests in the Trust or (e) any actions that would cause an immediate or future change to the recipients of the beneficial interest of the Trust.
9. The Issuer reserves the right to require the Trustees to provide (a) a copy of the trust agreement; and (b) a copy of any document relating to the items identified in paragraph 7 above, either before or after the account is opened, for any reason the Issuer may determine.

TRUSTEE(S) SIGNATURE(S)	STATE SIGNED IN	DATE
SIGN HERE 		
SIGN HERE 		
SIGN HERE 		



Lender(s)/Entity Name: Christopher P. DeCarlo Primary SSN/Tax ID:

**Investing Experience - Check all that apply**

- I have sufficient knowledge and experience in financial and business matters to evaluate the merits and risks of a prospective purchase to meet my needs or objectives as it pertains to cash-flow and liquidity
- I normally consult with an investment advisor before making investment decisions

**Additional Information - Check all that apply**

**Source of Purchase Funds:**  Money Market/Brokerage Acct  IRA (Trad, Roth, SEP or SIMPLE)  
 401k/403b  Pension or Benefit Plan  Checking/Savings  OTHER: \_\_\_\_\_

**If using Annuity Funds:**

Variable Annuity  Fixed Annuity  Indexed Annuity } If Penalty Free Amount Only, also check here:

**Federal Income Tax Bracket:**

0%  10%  15%  25%  28%  33%  35%  39.6%

**Special Notes or Considerations Regarding Suitability of this Application**

I attest, under the penalty of perjury, that I understand each question above and I have selected the best answer. I acknowledge that while my purchase is in escrow, I cannot terminate the purchase contract at any time. Furthermore, I affirm that the information furnished herein is materially correct and may be relied upon by AAI Global (hereinafter the "Company"). To the extent that I do not furnish the foregoing information accurately, the Company is relieved of its obligation to consider such information in its determination of purchase suitability. I agree to notify the Company of any material change in my personal situation or financial needs. I acknowledge and understand that any statements of financial goals or objectives by me does not make or imply any guarantee by the Company as to the attainment of such goals or objectives. I assume full responsibility for any adverse consequences that may result. I attest that no tax or legal advice was given to me by the Company or its representatives.

Print Primary Lender or Trustee/Manager Name: Christopher P. DeCarlo

**SIGN HERE** →

Primary Lender or Trustee Signature:  Date: 5/24/17

Print Joint Lender Name (if assigned): \_\_\_\_\_

**SIGN HERE** →

Joint Lender Signature (if assigned): \_\_\_\_\_ Date: \_\_\_\_\_

Print Spouse Name\*: \_\_\_\_\_

**SIGN HERE** →

Spouse Signature\*: \_\_\_\_\_ Date: \_\_\_\_\_

\*only required in a community or marital property state, when the spouse is NOT listed as 100% Primary Beneficiary

**Request for Taxpayer  
 Identification Number and Certification**

Give Form to the  
 requester. Do not  
 send to the IRS.

Print or type  
 See Specific Instructions on page 2.

Name (as shown on your income tax return)  
Christopher P. DeCarlo

Business name/disregarded entity name, if different from above

Check appropriate box for federal tax classification:  
 Individual/sole proprietor     C Corporation     S Corporation     Partnership     Trust/estate  
 Limited liability company. Enter the tax classification (C=C corporation, S=S corporation, P=partnership) ▶ \_\_\_\_\_  Exempt payee  
 Other (see instructions) ▶ \_\_\_\_\_

Address (number) \_\_\_\_\_ Requester's name and address (optional)  
 City, state, and \_\_\_\_\_  
 List account number \_\_\_\_\_

**Part I Taxpayer Identification Number (TIN)**

Enter your TIN in the appropriate box. The TIN provided must match the name given on the "Name" line to avoid backup withholding. For individuals, this is your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the Part I instructions on page 3. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN* on page 3.

**Note.** If the account is in more than one name, see the chart on page 4 for guidelines on whose number to enter.

Social security number

Employer identification number

--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--

**Part II Certification**

Under penalties of perjury, I certify that:

- The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me), and
- I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding, and
- I am a U.S. citizen or other U.S. person (defined below).

**Certification instructions.** You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the certification, but you must provide your correct TIN. See the instructions on page 4.

**Sign Here**    Signature of U.S. person ▶ **SIGN HERE**     Date ▶ 5/24/12

**General Instructions**

Section references are to the Internal Revenue Code unless otherwise noted.

**Purpose of Form**

A person who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN) to report, for example, income paid to you, real estate transactions, mortgage interest you paid, acquisition or abandonment of secured property, cancellation of debt, or contributions you made to an IRA.

Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN to the person requesting it (the requester) and, when applicable, to:

- Certify that the TIN you are giving is correct (or you are waiting for a number to be issued).
- Certify that you are not subject to backup withholding, or
- Claim exemption from backup withholding if you are a U.S. exempt payee. If applicable, you are also certifying that as a U.S. person, your allocable share of any partnership income from a U.S. trade or business is not subject to the withholding tax on foreign partners' share of effectively connected income.

**Note.** If a requester gives you a form other than Form W-9 to request your TIN, you must use the requester's form if it is substantially similar to this Form W-9.

**Definition of a U.S. person.** For federal tax purposes, you are considered a U.S. person if you are:

- An individual who is a U.S. citizen or U.S. resident alien,
- A partnership, corporation, company, or association created or organized in the United States or under the laws of the United States,
- An estate (other than a foreign estate), or
- A domestic trust (as defined in Regulations section 301.7701-7).

**Special rules for partnerships.** Partnerships that conduct a trade or business in the United States are generally required to pay a withholding tax on any foreign partners' share of income from such business. Further, in certain cases where a Form W-9 has not been received, a partnership is required to presume that a partner is a foreign person, and pay the withholding tax. Therefore, if you are a U.S. person that is a partner in a partnership conducting a trade or business in the United States, provide Form W-9 to the partnership to establish your U.S. status and avoid withholding on your share of partnership income.



# Beneficiary Designation Non-Qualified Accounts

## Lender(s) Information:

Primary Lender Name: <b>Christopher P. DeCarlo</b>	DOB: _____	SSN/Tax ID: _____
Joint Lender Name: (if applicable)	DOB: _____	SSN/Tax ID: _____
Name of Lending Entity:	Date Established:	
Trustee(s)/Manager(s) Name(s):	Tax ID:	

## Account Number(s): List all accounts to which this form should apply.

\_\_\_\_\_

## Primary Beneficiaries: If a Trust is named, form AAI-1302 is also required.

<input type="checkbox"/> Spouse <input checked="" type="checkbox"/> Non-Spouse <input type="checkbox"/> Trust <input type="checkbox"/> Other Entity	Full Name: _____	Relationship: _____
	SSN/Tax ID: _____	DOB: _____
		Percent Share: _____
		Per Stirpes: <input type="checkbox"/>
<input type="checkbox"/> Non-Spouse <input type="checkbox"/> Trust <input type="checkbox"/> Other Entity	Full Name: _____	Relationship: _____
	SSN/Tax ID: _____	DOB: _____
		Percent Share: _____
		Per Stirpes: _____
<input type="checkbox"/> Non-Spouse <input type="checkbox"/> Trust <input type="checkbox"/> Other Entity	Full Name: _____	Relationship: _____
	SSN/Tax ID: _____	DOB: _____
		Percent Share: _____
		Per Stirpes: _____
<input type="checkbox"/> Non-Spouse <input type="checkbox"/> Trust <input type="checkbox"/> Other Entity	Full Name: _____	Relationship: _____
	SSN/Tax ID: _____	DOB: _____
		Percent Share: _____
		Per Stirpes: _____
<b>INITIAL HERE</b>	Lender(s) Initials & Date: <b>CPD 5/24/17</b>	Lender(s) Initials & Date: _____
		TOTAL MUST ADD TO 100%

## Contingent Beneficiaries: If a Trust is named, form AAI-1302 is also required.

<input type="checkbox"/> Spouse <input type="checkbox"/> Non-Spouse <input type="checkbox"/> Trust <input type="checkbox"/> Other Entity	Full Name: _____	Relationship: _____
	SSN/Tax ID: _____	DOB: _____
		Percent Share: _____
		Per Stirpes: _____
<input type="checkbox"/> Non-Spouse <input type="checkbox"/> Trust <input type="checkbox"/> Other Entity	Full Name: _____	Relationship: _____
	SSN/Tax ID: _____	DOB: _____
		Percent Share: _____
		Per Stirpes: _____
<input type="checkbox"/> Non-Spouse <input type="checkbox"/> Trust <input type="checkbox"/> Other Entity	Full Name: _____	Relationship: _____
	SSN/Tax ID: _____	DOB: _____
		Percent Share: _____
		Per Stirpes: _____
<b>INITIAL HERE</b>	Lender(s) Initials & Date: _____	Lender(s) Initials & Date: _____
		TOTAL MUST ADD TO 100%

OS Received 01/07/2022

## Important Notices Regarding Signatures:

By applying your signature below, you:

- Understand that it is your responsibility to seek legal counsel with questions regarding this designation.
- Agree that the beneficiary information provided on this form replaces any prior beneficiary information that may be on record for the indicated account(s).
- If a trust is listed as beneficiary, a copy of the notarized summary pages is required or the Certification of Trust form (AAI-1302) must accompany this form. The AAI Holding Trust shall not be responsible for the application or disposition of the proceeds by the Trustee(s), and the receipt of the proceeds by the Trustee(s) shall be full discharge of the liability of the AAI Holding Trust. If the AAI Holding Trust receives proof satisfactory that the trust named as beneficiary has been revoked or is not in effect at the time of death, the beneficiary shall be the Lender's estate, and payment to the estate's legal representative based on such proof shall be full discharge of liability of the AAI Holding Trust.
- A Trustee named under any last Will & Testament shall be admitted to probate. If for any reason, a Trustee is not appointed, I designate my estate as beneficiary and any payment made in good faith to the legal representative of my estate shall be full discharge of the liability of the AAI Holding Trust.
- If this form is completed and signed by an Attorney-in-Fact, the Affidavit of Attorney-in-Fact form (AAI-1304) must accompany this form.
- Acknowledge that, if you check "per stirpes," that any share otherwise payable to a beneficiary shall instead be paid to that beneficiary's surviving descendants by right of representation if the original beneficiary does not survive the account owner.
- Acknowledge that "per stirpes" creates a category of beneficiaries (for example, the children of a beneficiary), and therefore may end up including individuals not yet born or adopted.
- Acknowledge that listing beneficiaries by name does NOT create a category of beneficiaries, and that if you later want to include other beneficiaries, you will need to submit a new beneficiary form.
- Agree that the AAI Holding Trust has no obligation to locate or notify any beneficiary or to independently verify any information submitted by any person claiming an interest in your account.
- Acknowledge that if you do not provide percentages, the account will be divided equally among primary or contingent beneficiaries, as applicable.
- Acknowledge that if you do not properly name a beneficiary, or no beneficiary survives you, your beneficiary will be your spouse or, if you are not married, your estate in accordance with the rules of succession in the Plan Document.
- Acknowledge that if you are married and live in a community property state (Arizona, California, Idaho, Louisiana, Nevada, New Mexico, Texas, Washington, and Wisconsin) or property arrangement in the state of Alaska, and you designate anyone other than your spouse as sole primary beneficiary, your designation cannot be accepted without your spouse's notarized signature below. Please note that the term "spouse" includes domestic partner or other partner as permitted by civil union, domestic partnership or similar law. Should spousal consent be required, AAI Holding Trust is not liable for any consequences resulting from failure to obtain proper consent.
- Agree that if your beneficiary allocation totals at least 99%, but less than 100% (e.g., 3 named beneficiaries are each assigned a 33% interest in the account), AAI Holding Trust will assign the unallocated remainder to the first named beneficiary.
- Agree that when your assets are distributed to your beneficiaries, fractional shares that cannot be distributed in accordance with your instructions will instead be given to the beneficiary receiving the largest percentage of the account's assets or, if each beneficiary is receiving an equal percentage, to the last paid beneficiary.
- Agree that if there are joint Lenders, beneficiary payouts are payable upon the death of the second Lender.
- If the current Lenders reside in the state of Massachusetts, the signature of a disinterested witness is required. A disinterested person is described as anyone other than a designated beneficiary. An advisor/agent may not sign as a disinterested witness.

**Lender Signature(s):** If you reside in MA, the signature of a disinterested witness is required. May not be your advisor or a named beneficiary

Print Primary Lender Name: <b>Christopher P. DeCarlo</b>	Signature: <b>SIGN HERE</b> 	Date: <b>5/24/17</b>
Print Joint Lender Name: (if applicable)	Signature: (if applicable) <b>SIGN HERE</b>	Date:
Print Trustee(s) / Manager(s) Name and Title:	Signature(s): <b>SIGN HERE</b>	Date:
Print Trustee(s) / Manager(s) Name and Title:	Signature(s): <b>SIGN HERE</b>	Date:
Disinterested Witness Name: (if required)	Signature: <b>SIGN HERE</b>	Date:

**Notarized Spousal Consent:** If you are married and reside in a community property state and do not name your spouse **100% primary beneficiary**, you must acquire a notarized spousal signature.

By applying your signature below, you:

- Agree to the designation of the beneficiary(ies) on this form.
- Understand and agree that you are allowing those beneficiary(ies) to receive assets that might otherwise be paid to you.

Print Spouse Name:

Signature:



Date:

**NOTICE TO COMMUNITY PROPERTY STATE RESIDENTS:** A Notary Public or other officer completing this certificate verifies only the identity of the individuals who signed this document, and not the truthfulness, accuracy or validity of this document. The Notary Public must be a U.S. Notary. Foreign notary or consular seals may not be substituted.

State of \_\_\_\_\_, in the County of \_\_\_\_\_, subscribed and sworn (or affirmed) to before me by the above-named individual who is personally known to me or proved to me on the basis of satisfactory evidence to be the person who appeared before me.

Commission Expires: \_\_\_\_\_

*[apply stamp below]*

\_\_\_\_\_  
Signature of Notary Public



Product Disclosures: Merchant Cash Advance

Lender(s) Initials:

INITIAL HERE

CPD

I understand that my interest rate is a variable rate and may result in lower or higher rates of return than expected. I further understand that no rate has been guaranteed in any way and liquidating my account after only one (1) term may result in a much lower overall rate of return.

INITIAL HERE

CPD

I understand that this account is NOT liquid and I CANNOT withdraw funds until month eight (8) of the nine (9) month term.

INITIAL HERE

CPD

I understand that taxes may be assessed on interest earned when my return is realized.

INITIAL HERE

CPD

I understand that this is a nine (9) month term and is NOT suitable as a short-term investment vehicle for less than the full term of the contract.

INITIAL HERE

CPD

I have read and understand the Promissory Note or Memorandum of Indebtedness as well as the Product Brochure associated with this lending opportunity.

INITIAL HERE

CPD

I understand that I/we have the right to rescind up until the signed lending documents are received by 1st Global Capital, LLC.

INITIAL HERE

CPD

I understand that in the event that 1st Global Capital, LLC should become insolvent, this may adversely affect my return.

For **Qualified** Purchases ONLY:

INITIAL HERE

I understand that this account is NOT available for Required Minimum Distribution (RMD) withdrawals, should I turn age 70 1/2 during the contract term.

INITIAL HERE

I have adequate liquidity in relation to net worth and to cover current and future financial obligations including other IRA money to satisfy RMD's, if lending funds for a Merchant Cash Advance from a self-directed IRA.

For **Non-Qualified** Purchase ONLY:

INITIAL HERE

CPD

I have adequate liquidity in relation to net worth and to cover current and future financial obligations.

[SIGNATURE(S) ON FOLLOWING PAGE]

I understand and agree to the above-referenced statements regarding the Merchant Cash Advance product.

Print Primary Lender or Lending Entity Name: Christopher P. DeCarlo

Print Trustee/Manager Name and Title (if assigned): \_\_\_\_\_

**SIGN HERE** Primary Lender or Trustee/Manager Signature:  Date: 5/28/17

Print Joint Lender Name (if assigned): \_\_\_\_\_

**SIGN HERE** Joint Lender Signature (if assigned): \_\_\_\_\_ Date: \_\_\_\_\_

Print Spouse Name\*: \_\_\_\_\_

**SIGN HERE** Spouse Signature\*: \_\_\_\_\_ Date: \_\_\_\_\_  
\*only required in a community or marital property state, when the spouse is NOT listed as 100% Primary Beneficiary



PLEASE COMPLETE ON THE MEMORANDUM OF INDEBTEDNESS (MOI):

- Page 1 of 10
  - Print Lender(s) Name
  - Print Mailing Address
- Page 10 of 10
  - Print Lender(s) or Lending Entity Name
  - Print Individual(s) Name and Title, if applicable
  - Lender(s) Signatures

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DO YOU KNOW THE **EXACT** LOAN AMOUNT AT THIS TIME?

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*IF YES:* You may fill in the yellow highlighted field on the next page:

- Page 1 of MOI
  - Exact Loan Amount

---

*IF NO:* Please leave this yellow highlighted field BLANK on this form.

- After the exact loan amount becomes known, communicate this to the Case Manager so they may complete this field and submit the paperwork to 1<sup>st</sup> Global Capital.

**MEMORANDUM OF INDEBTEDNESS**

May 24, 2017 ("Effective Date")  
(FOR 1ST GLOBAL CAPITAL USE ONLY)

This Memorandum of Indebtedness ("Agreement") is made and entered into by and between 1 Global Capital LLC, a Florida limited liability company, with a mailing address of 1250 East Hallandale Beach Boulevard, Suite 406, Hallandale Beach, FL 33009 (the "Borrower"), and Christopher P. DeCarlo, with a mailing address of \_\_\_\_\_ the "Lender," or together, the Parties).

PRINT MAILING ADDRESS

**RECITALS:**

Lender has offered to provide funds, as described below, to Borrower as described in this Agreement. Lender is willing to make such funds available to Borrower and Borrower is willing to accept such funds upon and subject to the provisions, terms and conditions hereinafter set forth herein.

Subject to and upon the terms and conditions of this Agreement, Lender has agreed to provide Borrower the funds herein described for the purposes set forth below.

**TERMS OF AGREEMENT**

- Indebtedness. Lender hereby agrees to provide the sum of \$ 50,000 to Borrower in accordance with this Agreement.
- Existence. Borrower is a limited liability company duly organized, validly existing, and in good standing under the laws of FLORIDA, and is duly qualified to transact business as a foreign corporation in each jurisdiction where the nature and extent of its business and property requires the same.
- Authorization. Borrower possesses all requisite authority, power, licenses, permits, and franchises to conduct its business and to execute, deliver, and comply with the terms of this Agreement. The execution and delivery of this Agreement, the consummation of the

transactions herein contemplated, compliance with the terms and provisions hereof, and the execution, issuance, and delivery of the Agreement have been duly authorized and approved by Borrower.

4. Enforceability of Agreement. This Agreement, when duly executed and delivered by Borrower, will constitute a legal, valid, and binding obligation of Borrower and wholly enforceable in accordance with its terms.

5. Litigation. Borrower may be involved in litigation arising from its efforts to collect consumer debts and accounts. Borrower will not report such litigation to Lender unless it is likely to have a material adverse effect on Borrower.

6. Maturity Date. The Indebtedness shall mature at the end of the ninth month from the Effective Date (the "Maturity Date") and shall automatically rollover into a new indebtedness unless Borrower receives written notice of termination by the Lender no less than thirty (30) days before the Maturity Date. If this Indebtedness is terminated pursuant to this section, the distribution of any outstanding amounts owed to Lender by Borrower upon the maturity of this Indebtedness shall be controlled by Sections 8 and 11, below.

7. Covered Activities. This Indebtedness is designed to enable Borrower to expand its current business activities ("Covered Activities") for a certain period beginning on the Effective Date and ending on the Maturity Date (the "Activity Period"). The Covered Activities shall be conducted by Borrower in Borrower's sole discretion. Covered Activities shall include, but shall not be limited to, providing innovative funding known as a Merchant Cash Advance Transaction ("MCAT") in order to provide alternative financing for a market that is inadequately serviced by traditional banking and banking institutions.

8. Payments. Lender's payments during the Activity Period shall be based on Borrower's Covered Activities for the Activity Period, as follows:

8.1 Borrower shall enter into MCATs in certain amounts and with certain merchants, which shall be done in Borrower's sole discretion.

8.2 Upon Borrower's use of the Indebtedness for each individual MCAT, Borrower shall assign Lender a percentage of such MCAT, entitling Lender to that percentage of the regularly collected amounts received by Borrower for each individual MCAT ("Lender's Allocation").

8.3 The percentage assigned to Lender by Borrower for each MCAT shall depend on the monetary amount of the Indebtedness allocated to each MCAT by Borrower. Lender understands that the percentages assigned to it for each individual MCAT may vary and that the amount of the Indebtedness used by Borrower, and resulting assigned percentages to Lender, shall be decisions made by Borrower in its sole discretion.

8.4 Lender agrees that a thirteen percent (13%) management fee will be computed on and withdrawn from all collected amounts of Lender's Allocation for each MCAT. The net amount shall hereinafter be referred to as "Lender's Payment."

8.5 Borrower shall allocate Lender's Payment to Lender pursuant to this Section; however, Lender understands and agrees that Lender's Payment will be retained by Borrower as working capital through the Maturity Date.

8.6 Lender has been advised that the MCAT advances are repaid through Automatic Clearing House (ACH) debits deducted daily from the merchant's receipts, and or via a percentage of merchant's daily credit card receipts. Lender's Payment shall be reinvested in future MCATs.

8.7 The totality of Lender's Allocations, Lender's Payments, and any portion of the Indebtedness that has not been allocated to an MCAT shall hereinafter be referred to as Lender's "Account."

9. Monthly Reports. On a monthly basis, Borrower shall provide Lender a reconciliation statement that reflects the following: (a) the total value of Lender's Account; (b) a listing of each MCAT included in Lender's Account; and (c) the amount due to Lender from each MCAT.

10. Fees. Lender understands that Borrower may owe an origination fee to a third party by entering into a MCAT with a merchant. Lender acknowledges and agrees that Borrower will use the Indebtedness or Lender's Payment to pay Lender's pro rata share of such origination fee (based on Lender's Allocation), if any.

11. Grace Period. If Lender elects to terminate this Indebtedness on the Maturity Date pursuant to Section 6, upon maturity of the Indebtedness, monies from the ACH daily collections shall be paid to Lender as each MCAT included in the Account unwinds through the daily course of business, until such time that Lender's Indebtedness is repaid in full (the "Grace Period"). Any amount included in Lender's Allocation for each MCAT during the Grace Period, which has yet to unwind, shall continue to accrue pursuant to Section 8 until such time as the MCAT unwinds.

12. Lender's Acknowledgments. Lender hereby specifically acknowledges and agrees to the following:

12.1 The proceeds of this Indebtedness may be aggregated with other funds of Borrower for the Covered Activities of Borrower and any collateral (as set forth in Section 13) associated with this Indebtedness shall be a proportional aggregate of assets acquired by

Borrower therefrom and/or unspent proceeds of the Indebtedness held in Borrower's account, as the case may be.

12.2 Lender has no right to accelerate this Indebtedness. Lender may not transfer, encumber, assign, hypothecate, or otherwise transfer this Indebtedness to any other party, individual, or entity without prior written approval of Borrower.

12.3 Lender is a sophisticated and qualified individual, or business entity, and has entered into this Agreement for a commercial purpose. Lender's decision to execute this Agreement is and was based upon Lender's own independent evaluation of information deemed relevant to Lender, including, but not limited to, the information made available by Borrower to Lender, and Lender's independent evaluation of all such information. Lender acknowledges that Borrower has responded satisfactorily to all of Lender's requests for information.

12.4 Lender has relied solely on its own investigation and due diligence and it has not relied upon any oral or written information provided by Borrower, Borrower's personnel or agents, and acknowledges that no employee or representative of Borrower has been authorized to make any written statements other than those specifically contained or incorporated in this Agreement, and that Lender has not relied upon any such statements.

12.5 Lender has had the opportunity to do any and all due diligence and has had sufficient access to information to make its own credit decision, and it has performed such due diligence to its satisfaction. Lender has had the opportunity to seek advice from its own independent professionals. Lender understands that Borrower has made no representations as to the applicability of any federal or state statutes or laws.

12.6 Lender acknowledges that Borrower, in utilizing the Indebtedness provided under this Agreement, and in the ordinary course of its business, may maintain

multiple accounts simultaneously and, as such, waives any right to bring any claim or complaint regarding Borrower's prioritization of one account or business function as to the utilization of the proceeds of this Indebtedness. All such decisions shall be made by Borrower based on its experience and in its sole discretion.

13. Collateral. Lender specifically acknowledges that this Indebtedness is secured by accounts/assets contained within the Lender's Account during the Activity Period, acquired by Borrower pursuant to the Covered Activities relating to this specific Indebtedness, or lesser portions thereof in aggregated accounts as delineated above.

14. Governing Law, Jurisdiction and Venue. This Indebtedness shall be governed by and construed in accordance with the laws of the State of Florida, without regard to any applicable principles of conflicts of law. Any suit, action or proceeding arising hereunder, or involving the interpretation, performance or breach hereof, shall be instituted in Broward County, Florida.

15. Severability. Any provision of this Agreement that is not enforceable in any jurisdiction shall, as to that particular jurisdiction only, not be effective but only to the extent it is not unenforceable, without making the remaining provisions of this Agreement invalid. It will not affect the validity or enforceability of that provision in any other jurisdiction.

16. Litigation and Attorneys' Fees. In the event that either party finds it necessary to retain counsel in connection with the interpretation, defense, or enforcement of this Agreement, the prevailing party shall recover its reasonable attorneys' fees and expenses from the unsuccessful party.

17. Counterparts. This Agreement may be executed in any number of identical counterparts, each of which shall constitute an original and may be delivered by facsimile or e-mail, and together shall constitute one instrument.

18. Articles, Sections, and Exhibits. All references to "Article," "Articles," "Section," "Sections," "Subsection," or "Subsections" contained herein are, unless specifically indicated otherwise, references to articles, sections, and subsections of this Agreement. The words "herein" "hereof," "hereunder" and other similar compounds of the word "here" when used in this Agreement shall refer to the entire Agreement and not to any particular provision or section.

All references to "Exhibits" contained herein are references to exhibits attached hereto, all of which are made a part hereof for all purposes, the same as if set forth herein verbatim, it being understood that if any exhibit attached hereto, which is to be executed and delivered, contains blanks, the same shall be completed correctly and in accordance with the terms and provisions contained and as contemplated herein prior to or at the time of the execution and delivery thereof.

19. Number and Gender of Words. Whenever herein the singular number is used, the same shall include the plural where appropriate, and vice versa; and words of any gender shall include each other gender where appropriate.

20. Notices. Unless otherwise expressly provided herein, all notices and other communications provided for hereunder shall be in writing and mailed by USPS certified mail, faxed, or delivered, to the address, facsimile number to the address specified for notices on the signature page below or to such other address as shall be designated by such party in a notice to the other parties. All such other notices and other communications shall be deemed to have been given or made upon the earliest to occur of (a) actual receipt by the intended recipient or (b) if

delivered by certified mail, return receipt requested with signature or the intended recipient, postage prepaid; or (c) if delivered by a nationally known overnight delivery service, upon receipt and signature of the recipient. Electronic mail and internet websites may be used to distribute routine communications, financial reports, and other information, and to distribute Loan Documents for execution by the parties thereto.

21. Entirety and Amendments. This Agreement embodies the entire understanding between the parties relating to the subject matter hereof (except documents, agreements and instruments delivered or to be delivered in accordance with the express terms hereof), supersedes all prior agreements and understandings, if any, relating to the subject matter hereof, and may be amended only by an instrument in writing executed jointly by Borrower and Lender and supplemented only by documents delivered or to be delivered in accordance with the express terms hereof. This Agreement may not be contradicted by evidence of prior, contemporaneous, or subsequent oral agreements of the parties. There are no unwritten oral agreements between the parties.

22. Parties Bound. This Agreement shall be binding upon and inure to the benefit of Borrower, Lender and their respective successors and assigns. No term or provision of this Agreement shall inure to the benefit of any Person other than Borrower and Lender and their respective successors and assigns; consequently, no Person other than Borrower and Lender and their respective successors and assigns, shall be entitled to rely upon, or to raise as a defense, in any manner whatsoever, the failure of Borrower or Lender to perform, observe, or comply with any such term or provision.

23. Waiver of Trial by Jury. Lender and Borrower knowingly, voluntarily and intentionally waive the right each may have to trial by jury with respect to any litigation that arises out of or under this Agreement.

**THE PARTIES INDICATE THAT THEY HAVE READ THIS MEMORANDUM OF INDEBTEDNESS IN ITS ENTIRETY, UNDERSTAND ITS TERMS, AND AGREE TO BE BOUND BY THEM. THE UNDERSIGNED FURTHER WARRANT THAT THEY ARE AUTHORIZED TO EXECUTE THIS MEMORANDUM OF INDEBTEDNESS.**

Executed this 24 day of May, 2018  
(FOR 1ST GLOBAL CAPITAL USE ONLY)

**BORROWER:**

**LENDER(S):**

1 GLOBAL CAPITAL, LLC

Christopher P. DeCarlo  
PRINT LENDER(S) NAME(S) OR LENDING ENTITY NAME

SIGN  
HERE



By: \_\_\_\_\_

By: Christopher P. DeCarlo  
PRINT PRIMARY LENDER OR TRUSTEE / MANAGER NAME

Its: \_\_\_\_\_

Its: \_\_\_\_\_  
PRINT TITLE, IF APPLICABLE

SIGN  
HERE

By: \_\_\_\_\_  
PRINT JOINT LENDER OR TRUSTEE / MANAGER NAME

Its: \_\_\_\_\_  
PRINT TITLE, IF APPLICABLE

# **EXHIBIT 12**

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 19-CR-60258-ALTMAN/HUNT

UNITED STATES OF AMERICA,

v.

JAN DOUGLAS ATLAS,

Defendant.

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**PLEA AGREEMENT**

The United States of America and Jan Douglas Atlas (“Atlas” or “Defendant”) (hereinafter “Defendant”) enter into the following agreement:

1. The Defendant understands that he has the right to have the evidence and charges against him presented to a federal grand jury for determination of whether or not there is probable cause to believe he committed the offenses with which he is charged. Understanding this right, and after full and complete consultation with his counsel, the Defendant agrees to waive in open court his right to prosecution by indictment and agrees that the United States may proceed by way of an information to be filed pursuant to Rule 7 of the Federal Rules of Criminal Procedure.

2. The Defendant agrees to plead guilty to one count of securities fraud, in violation of Title 15, United States Code, Sections 77q(a) and 77x. In exchange for Defendant’s agreement to plead guilty, and for fulfilling all of his other obligations set forth in this Plea Agreement (“Agreement”), and subject to the limitations and provisions set forth in the Agreement, the Office of the United States Attorney for the Southern District of Florida (hereinafter “Office”), agrees not to prosecute Defendant for any other offenses arising out of the conduct described in Paragraph 17

below. This Agreement includes only the conduct set forth in Paragraph 17 below, and excludes crimes of violence and any tax offense. This Agreement is also limited to this Office, and as such, does not and cannot bind other federal, state, regulatory, or local prosecuting authorities. This Agreement is further conditioned on Defendant's fulfilling all of the terms of this Agreement.

3. The Defendant is aware that the sentence will be imposed by the Court after considering the Federal Sentencing Guidelines and Policy Statements (hereinafter "Sentencing Guidelines"). The Defendant acknowledges and understands that the Court will compute an advisory sentence under the Sentencing Guidelines and that the applicable guidelines will be determined by the Court relying in part on the results of a Pre-Sentence Investigation by the court's probation office, which investigation will commence after the guilty plea has been entered. The Defendant is also aware that, under certain circumstances, the Court may depart from the advisory sentencing guideline range that it has computed, and may raise or lower that advisory sentence under the Sentencing Guidelines. The Defendant is further aware and understands that the Court is required to consider the advisory guideline range determined under the Sentencing Guidelines, but is not bound to impose that sentence; the Court is permitted to tailor the ultimate sentence in light of other statutory concerns, and such sentence may be either more severe or less severe than the Sentencing Guidelines' advisory sentence. Knowing these facts, the Defendant understands and acknowledges that the Court has the authority to impose any sentence within and up to the statutory maximum authorized by law for the offenses identified in paragraph 2, and that the Defendant may not withdraw the plea solely as a result of the sentence imposed.

4. The Defendant also understands and acknowledges that the Court may impose a statutory maximum term of imprisonment of five years for the count to be charged in the Information, followed by a term of supervised release of up to three years. In addition to a term

of imprisonment and supervised release, the Court may impose a fine of up to \$10,000, and must order restitution. The Defendant further understands and acknowledges that, in addition to any sentence imposed, a special assessment in the amount of \$100 will also be imposed on the Defendant. The Defendant agrees that any special assessment imposed shall be paid at the time of sentencing unless he is deemed financially unable to do so by the Court.

5. The Defendant agrees that he will make restitution in an amount to be determined by the Court. The Defendant understands and agrees that the Government and any victim of the crime charged in Count 1 of the information may provide evidence to the Court for the purpose of a determination as to restitution. The Defendant understands and agrees that the term "victim" means a person or entity directly and proximately harmed as a result of the commission of an offense of conviction for which restitution may be ordered including, in the case of a scheme, pattern, or conspiracy, any person directly harmed by the Defendant's criminal conduct in the course of the scheme, pattern, or conspiracy, as set forth in Title 18, United States Code, Section 3663A.

6. The Defendant agrees in an individual and any other capacity, to forfeit to the United States voluntarily, interest to any property, real or personal, which constitutes or is derived from proceeds traceable to the commission of the offense to which he is pleading guilty pursuant to Title 18 United States Code, Section 981(a)(1)(C) and Title 28, United States Code, Section 2461(c), specifically including payments he received from D.L., related to 1 Global Capital LLC ("1 Global"), and a reasonable estimate of legal fees he personally received attributable to work performed for 1 Global. The Defendant agrees that he shall assist the United States in all proceedings, whether administrative or judicial, involving forfeiture, and understands that such assistance may include, but is not limited to, the transfer of forfeitable property to this Office or

an assigned case agent, as directed, and the execution of all necessary and appropriate documentation with respect to said assets, including consents to forfeiture, quit claim deeds and any and all other documents necessary to deliver good and marketable title to said property.

7. The Defendant agrees that within 30-days of executing this Plea Agreement, he will resign his membership in the Florida Bar and any other state bar of which he is a member. Defendant will also provide a copy of this Plea Agreement to the Florida Bar. Defendant further agrees that absent prior approval of the Court, he will not practice law, directly or indirectly, during the pendency of this case, including any period of probation or supervised release that may be imposed.

8. The Office reserves the right to inform the Court and the probation office of all facts pertinent to the sentencing process, including all relevant information concerning the offenses committed, whether charged or not, as well as concerning the Defendant and the Defendant's background. Subject only to the express terms of any agreed-upon sentencing recommendations contained in this Agreement, the Office further reserves the right to make any recommendation as to the quality and quantity of punishment.

9. The Office will recommend at sentencing that the court reduce by two levels the sentencing guideline level applicable to the Defendant's offense, pursuant to Section 3E1.1(a) of the Sentencing Guidelines, based upon the Defendant's recognition and affirmative and timely acceptance of personal responsibility. If at the time of sentencing the Defendant's offense level is determined to be 16 or greater, the Government will make a motion requesting an additional one level decrease pursuant to Section 3E1.1(b) of the Sentencing Guidelines, stating that the Defendant has assisted authorities in the investigation or prosecution of his own misconduct by timely notifying authorities of his intention to enter a plea of guilty, thereby permitting the

Government to avoid preparing for trial and permitting the Government and the court to allocate their resources efficiently. The United States, however, will not be required to make these recommendations if the Defendant: (a) fails or refuses to make a full, accurate and complete disclosure to the probation office of the circumstances surrounding the relevant offense conduct; (b) is found to have misrepresented facts to the Government prior to entering into this Agreement; or (c) commits any misconduct after entering into this Agreement, including but not limited to committing a state or federal offense, violating any term of release, or making false statements or misrepresentations to any Governmental entity or official.

10. The Office and the Defendant agree that, although not binding on the probation office or the Court, they will jointly recommend that the Court make the following findings and conclusions as to the sentence to be imposed on the count to which the Defendant shall plead:

a. Applicable Guideline Offense and Base Offense Level:

Pursuant to Section 2B1.1 of the Sentencing Guidelines, the offense guideline applicable to Count One, the base offense level is 6.

b. Specific Offense Characteristics:

The parties agree and stipulate that the following offense characteristics apply: (1) The loss attributable to the offense is more than \$550,000 but not more than \$1,500,000, pursuant to Section 2B1.1(b)(1)(H), resulting in a 14 level increase; (2) the offense involved 10 or more victims pursuant to Section 2B1.1(b)(2)(A)(i), resulting in a 2-level increase; (3) the parties reserve their respective positions to argue whether sophisticated means applies under Section 2B1.1(b)(10)(C); and (4) the offense involved defendant abusing a position of trust or use of a special skill, specifically

his knowledge and license as a practicing attorney and member of the Florida Bar, pursuant to Section 3B1.3, resulting in a 2-level increase.

c. Variance:

Based on the age and health condition of the Defendant, pursuant to Sections 5H1.1 and 5H1.4, the Office agrees that a two-level downward variance is warranted.

The Office and the Defendant both agree to jointly recommend application of the above guidelines, except each party reserves its position as to sophisticated means. This Agreement does not prohibit Defendant from arguing for a downward departure pursuant to Section 2B1.1, Application Note 21, or additional variance, as described in Section 1B1.1, Background, but Defendant may make such a variance argument as to the guideline calculation only after recommending application of the above-referenced guidelines. The Government has informed the Defendant that it will oppose any such argument, but reserves its position. After recommending that the Court apply the guidelines in a manner consistent with this paragraph, either party may make additional sentencing arguments, including as to the ultimate sentence requested, under the factors set forth in 18 U.S.C. § 3553(a).

11. The Defendant is aware that the sentence has not yet been determined by the Court. The Defendant also is aware that any estimate of the probable sentencing range or sentence that the Defendant may receive, whether that estimate comes from the Defendant's attorney, the Government, or the probation office, is a prediction, not a promise, and is not binding on the Government, the probation office or the Court. The Defendant understands further that any recommendation that the Government makes to the Court as to sentencing, whether pursuant to this Agreement or otherwise, is not binding on the Court and the Court may disregard the

recommendation in its entirety. The Defendant understands and acknowledges, as previously acknowledged in paragraph 3 above, that the Defendant may not withdraw his plea based upon the Court's decision not to accept a sentencing recommendation made by the Defendant, the Government, or a recommendation made jointly by both the Defendant and the Government.

12. The Defendant agrees that he shall cooperate fully with this Office by, among other things: (a) providing truthful and complete information and testimony, and producing documents, records and other evidence, when called upon by this Office, whether in interviews, before a grand jury, or at any trial or other court proceeding; (b) appearing at such grand jury proceedings, hearings, trials, and other judicial proceedings, and at meetings, as may be required by this Office; and (c) cooperating with any regulatory agency as requested by this Office. In addition, the defendant agrees that he will not protect any person or entity through false information or omission, that he will not falsely implicate any person or entity, and that he will not commit any further crimes.

13. The Office reserves the right to evaluate the nature and extent of the Defendant's cooperation and to make the Defendant's cooperation, or lack thereof, known to the Court at the time of sentencing. If in the sole and unreviewable judgment of this Office the Defendant's cooperation is of such quality and significance to the investigation or prosecution of other criminal matters as to warrant the court's downward departure from the advisory sentence calculated under the Sentencing Guidelines, this Office may at or before sentencing make a motion consistent with the intent of Section 5K1.1 of the Sentencing Guidelines prior to sentencing, or Rule 35 of the Federal Rules of Criminal Procedure subsequent to sentencing, reflecting that the Defendant has provided substantial assistance and recommending that the Defendant's sentence be reduced from the advisory sentence suggested by the Sentencing Guidelines. The Defendant understands and

agrees, however, that nothing in this Agreement requires this Office to file any such motions, and that this Office's assessment of the quality and significance of the defendant's cooperation shall be binding as it relates to the appropriateness of this Office's filing or non-filing of a motion to reduce sentence.

14. The Defendant understands and acknowledges that the Court is under no obligation to grant the motion(s) referred to in this Agreement should the Government exercise its discretion to file any such motion. The Defendant also understands and acknowledges that the Court is under no obligation to reduce the Defendant's sentence because of the Defendant's cooperation.

15. The Defendant is aware that Title 18, United States Code, Section 3742 and Title 28, United States Code, Section 1291 afford the defendant the right to appeal the sentence imposed in this case. Acknowledging this, in exchange for the undertakings made by the United States in this Plea Agreement, the Defendant hereby waives all rights conferred by Sections 3742 and 1291 to appeal any sentence imposed, including any restitution order, or to appeal the manner in which the sentence was imposed, unless the sentence exceeds the maximum permitted by statute or is the result of an upward departure and/or an upward variance from the advisory guideline range that the Court establishes at sentencing. The Defendant further expressly waives his right to appeal based on arguments that (a) the statutes to which the Defendant is pleading guilty are unconstitutional and (b) the Defendant's admitted conduct does not fall within the scope of the statutes. The Defendant further understands that nothing in this Agreement shall affect the government's right and/or duty to appeal as set forth in Title 18, United States Code, Section 3742(b) and Title 28, United States Code, Section 1291. However, if the United States appeals the Defendant's sentence pursuant to Sections 3742(b) and 1291, the Defendant shall be released from the above waiver of appellate rights. By signing this Agreement, the Defendant

acknowledges that the Defendant has discussed the appeal waiver set forth in this Agreement with the Defendant's attorney.

16. In the event the Defendant withdraws from this Agreement prior to pleading guilty or breaches the Agreement before or after he pleads guilty to the charges identified in paragraph two (2) above or otherwise fails to fully comply with any of the terms of this Plea Agreement, this Office will be released from its obligations under this Agreement, and the Defendant agrees and understands that: (a) the Defendant thereby waives any protection afforded by any proffer letter agreements between the parties, Section 1B1.8 of the Sentencing Guidelines, Rule 11(f) of the Federal Rules of Criminal Procedure, and Rule 410 of the Federal Rules of Evidence, and that any statements made by the Defendant as part of plea discussions, any debriefings or interviews, or in this Agreement, whether made prior to or after the execution of this Agreement, will be admissible against the Defendant without any limitation in any civil or criminal proceeding brought by the Government; and (b) the Defendant stipulates to the admissibility and authenticity, in any case brought by the United States in any way related to the facts referred to in this Agreement, of any documents provided by the Defendant or the Defendant's representatives to any state or federal agency and/or this Office.

17. The Defendant hereby (i) confirms that he has reviewed the following facts with legal counsel, (ii) adopts the following factual summary as his own statement, (iii) agrees that the following facts are true and correct, and (iv) stipulates that the following facts provide a sufficient factual basis for the plea of guilty in this case, in accordance with Rule 11(b)(3) of the Federal Rules of Criminal Procedure:

From in or around 2014, through in or around July 2018, Defendant Jan Douglas Atlas ("Defendant" or "Atlas") acted as outside counsel for 1 Global Capital ("1 Global"). Atlas was a licensed attorney in the State of Florida, and was a partner at Law Firm #1. In connection with his representation of 1 Global, Atlas

primarily took direction from and provided legal advice to Individual #1, who was the Chairman of 1 Global, as well as Individual #2, who was the Chief Operating Officer of 1 Global and a trustee of the trust that effectively owned the business, Individual #3, who was an attorney who at times worked at Law Firm #1 and also at 1 Global, and Alan G. Heide (“Heide”), who was at times the Chief Financial Officer of 1 Global. Atlas also agreed at the request of Individual #1 to serve as a trustee for a trust that Individual #1 caused to be created, to control Bright Smile, an entity that received funds from 1 Global and that was controlled by Individual #1.

1 Global purportedly operated as a lending business to merchants, providing short-term loans referred to as merchant cash advance (“MCA”) loans. During the operation of 1 Global, Defendant came to learn that 1 Global obtained funds from potential investors (sometimes referred to as “lenders” or “syndicate partners”). Substantial questions arose during the operation of the business as to whether 1 Global was offering or selling a security in violation of federal or state securities laws. These questions were raised by investors, investment advisors, and regulators. Defendant knew that if 1 Global’s investment offering were determined to be a security, this would undermine the ability of 1 Global to raise funds from retail investors and to continue to operate without substantial additional expenses and reporting requirements. This also would undermine the ability of Individual #1 and others, including Defendant, from being able to profit from 1 Global’s operations in the form of fees, payments, or other financial transfers. Over time, Individual #1 made clear to Defendant that he (Individual #1) wanted legal cover in order to continue to operate without adhering to the registration requirements of federal and state securities laws. At various times, Individual #1 requested the assistance of Defendant to assist with Individual #1’s efforts to claim that the 1 Global offering was not a security, and thus not subject to federal or state registration and other reporting requirements. Over time, Defendant came to understand that Individual #1 was not interested in accurate legal advice based on real facts, but instead wanted false legal cover that would advance Individual #1’s desired outcome and allow Individual #1 and others to continue to profit from 1 Global.

At the request of Individual #1, in or around late 2015 and early 2016, Defendant arranged for Attorney #1, a former law partner of Defendant with expertise in securities law, to assess the 1 Global investment offering. Individual #1 caused 1 Global to pay a \$10,000 retainer to Attorney #1. Attorney #1 assessed the 1 Global investment offering and determined that it was a security, and the offer and sale without registration was in violation of federal and state securities laws. This advice was discussed among Defendant, Individual #1, Individual #2, Individual #3, and Heide. Upon receiving this advice, Individual #1 became angry and demanded his money back from Attorney #1, indicating that he intended to pay to get the answer he wanted from Attorney #1, not the answer he got. Attorney #1 thereafter returned the unused portion of the retainer to Individual #1.

At the request of Individual #1, Defendant thereafter authored an opinion letter dated May 17, 2016, that stated in substance that the 1 Global offering was not a security and not subject to the federal securities laws or registration requirements. Defendant knew at the time of this letter that various aspects of how the 1 Global investment actually worked, were omitted or described inaccurately in the letter, and this was done intentionally in order to achieve the opinion that Individual #1 desired. Defendant knew, for example, that the investment was not, in reality, a 9-month investment but was instead longer, that the “automatic renewal” aspect of the investment, and the fact that retail, non-sophisticated investors (such as IRA account holders) were investors—all were strong indicators that the investment opportunity was a security. Defendant intentionally described the investment in such a way in the May 17<sup>th</sup> opinion letter in order to achieve the desired result—an opinion that would give legal cover for 1 Global and its employees and agents to attempt to avoid application of the federal and state securities laws.

In or around June and July 2016, Defendant became aware of two opinion letters authored by attorneys at Law Firm #2 that were provided to 1 Global, dated June 20, 2016, and July 6, 2016, respectively. The first opinion stated in substance that the 1 Global offering was a security, and stated in footnote 1 that the interest rates charged by 1 Global likely violated Florida’s usury laws, and that the failure of 1 Global to pay Florida documentary stamp taxes could prevent 1 Global from successfully bringing collection actions to enforce the MCAs in Florida courts. The second opinion, in substance, provided guidance on how 1 Global could obtain compliance with the federal securities laws, including by potentially meeting the requirements of Rule 506(b) of the Securities Act of 1933. This would mean, among other things, that due to “integration” of the prior illegal offering of the 1 Global security to investors, 1 Global would likely have to engage in a six-month cessation of capital raising activities and would thereafter be able to offer the investment only to “accredited” investors. 1 Global would have to effectively cease operations for at least six-months if it were to comply with this advice. From conversations with Individual #1, Defendant understood that Individual #1 had no intention of following this legal advice.

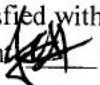

Defendant participated in conversations with Individual #1 and Individual #3 in or around July 2016 and August 2016, related to the advice by Law Firm #2. Individual #1 was very angry that this advice had been provided, and was also angry with Heide for having sought this advice. Defendant understood that Individual #1, Individual #2, and Individual #3 did not want the advice that had been received from Law Firm #2 to be disseminated to investors or provided to others. In fact, Individual #1 made clear to Defendant that he (Individual #1) wanted legal cover for the ongoing operations of 1 Global. Defendant understood this to mean that Individual #1 wanted legal cover regardless of the truth, and that Individual #1 was in reality asking Defendant to lie in order to provide such legal cover.

Defendant thereafter authored a second legal opinion letter dated August 25, 2016, that essentially repeated the false and misleading statements made in the May 17<sup>th</sup> opinion letter, including that the investment opportunity was a nine-month investment. This letter omitted reference to the automatic renewal provision and other aspects of the investment that would undermine the legal opinion. The letter also falsely stated that the investment was being offered only to sophisticated investors. At the time Defendant authored the August 25<sup>th</sup> opinion, he knew that the 1 Global investment offering fell squarely within the definition of a security under the federal securities laws and was required to be registered, that the concept of "integration" meant that the earlier terms of the offering (as a 12-month note or even as a 9-month note) meant that the continued offering as a 9-month note would not preclude the application of the securities laws, and that there were various aspects of the investment that were inaccurately described or omitted in order to give 1 Global, and its employees and agents, false legal cover to continue to conduct business unabated.

Defendant became aware that his August 25, 2016 letter would be used, and was used, by 1 Global employees and agents, including Individual #1, Individual #2, and Individual #3, and their employees and agents, to continue to raise money illegally. Defendant also became aware that the letter would be used in furtherance of the illegal offering of a security and would result in communications transmitted in interstate commerce and via the mails, including by the transmission of payments and communications to and from investors located in various states, with 1 Global employees and agents located in Florida.

At or around the time that Defendant executed the May 17<sup>th</sup> and August 25<sup>th</sup> opinion letters, and thereafter, he received payments from Individual #3, that Defendant understood to constitute a percentage of commissions received by Individual #3, of money raised by 1 Global from new investors. Defendant was aware that Individual #3 and others affiliated with 1 Global, raised money from investors using the false and fraudulent opinion letters he authored, or in reference to them to address concerns from such investors. These funds paid to Defendant by Individual #3 totaled approximately \$627,000, and were paid to Defendant's personal checking account. These funds were not disclosed to Law Firm #1, and Defendant knew that he was required to disclose and share all fees paid by clients of Law Firm #1, with Law Firm #1. These payments from Individual #3 were in addition to the legal fees that Defendant and Law Firm #1 charged 1 Global, and billed using Law Firm #1's regular billing process.<sup>1</sup>

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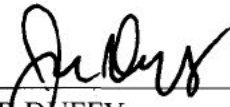
<sup>1</sup> I, Jan Douglas Atlas, after having completed plea negotiations and reached a plea agreement with the United States, hereby affirm that I understand the foregoing and voluntarily and knowingly adopt the Factual Basis set forth in paragraph 17 as my own statement. This statement is intended to be a post-plea discussion statement and is not protected by Criminal Procedure Rule 11(f) or Federal Rule of Evidence 410. No promises or inducements have been made to me other than those contained in this Plea Agreement. I am satisfied with the representation of my attorney in this matter.  
Defendant  and Defense Counsel 

18. This Office agrees that it will not seek additional upward specific offense characteristics, enhancements, or upward departures to or from the Defendant's offense level beyond those, if any, specifically referred to in this Agreement, except that this Office shall have the right in its discretion to seek additional upward specific offense characteristics, enhancements, or upward departures to or from the Defendant's offense level beyond those, if any, specifically referred to in this Agreement where any such additional upward specific offense characteristics, enhancements, or upward departures to or from the Defendant's offense level would be based on conduct occurring after the Defendant enters into this Agreement. The Defendant and the Government agree that they will jointly recommend that the Court calculate the guideline level in accordance with the calculations set forth in this Plea Agreement. The parties agree that the Defendant is not precluded from making additional sentencing arguments or factual presentations pursuant to 18 U.S.C. § 3553(a), and the Government may oppose any such factual presentation or argument.

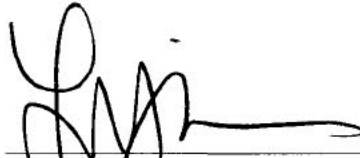
19. This Plea Agreement between the parties is the entire agreement and understanding between the United States of America and the Defendant. There are no other agreements, promises, representations, or understandings.

ARIANA FAJARDO ORSHAN  
UNITED STATES ATTORNEY  
SOUTHERN DISTRICT OF FLORIDA

Date: 10/23/2019


By:   
JERROB DUFFY  
ASSISTANT U.S. ATTORNEY

Date: 10/23/2019


By:   
LISA H. MILLER  
ASSISTANT U.S. ATTORNEY

FOR THE DEFENDANT:

Date: 10/23/19

By:   
DAVID O. MARKUS, ESQ.  
ATTORNEY FOR DEFENDANT

Date: 10/23/2019

By:   
MARGOT MOSS, ESQ.  
ATTORNEY FOR DEFENDANT

Date: 10/23/2019

By:   
JAN DOUGLAS ATLAS  
DEPENDANT

# **EXHIBIT 13**

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 20-CR-60103-RKA

UNITED STATES OF AMERICA,

v.

ANDREW DALE LEDBETTER,

Defendant.

\_\_\_\_\_ /

PLEA AGREEMENT

The United States of America and Andrew Dale Ledbetter (“Ledbetter” or “Defendant”) (hereinafter “Defendant”) enter into the following agreement:

1. The Defendant understands that he has the right to have the evidence and charges against him presented to a federal grand jury for determination of whether or not there is probable cause to believe he committed the offenses with which he is charged. Understanding this right, and after full and complete consultation with his counsel, the Defendant agrees to waive in open court his right to prosecution by indictment and agrees that the United States may proceed by way of an information to be filed pursuant to Rule 7 of the Federal Rules of Criminal Procedure.

2. The Defendant agrees to plead guilty to one count of conspiracy to commit wire fraud and securities fraud, in violation of Title 18, United States Code, Section 371. In exchange for Defendant’s agreement to plead guilty, and for fulfilling all of his other obligations set forth in this Plea Agreement (“Agreement”), and subject to the limitations and provisions set forth in the Agreement, the Office of the United States Attorney for the Southern District of Florida and the United States Department of Justice’s Criminal Division, Fraud Section (hereinafter the “Office”),

agree not to prosecute Defendant for any other offenses arising out of the conduct described in Paragraph 15 below. This Agreement includes only the conduct set forth in Paragraph 15 below, and excludes crimes of violence and any tax offenses. This Agreement is also limited to this Office, and as such, does not and cannot bind other federal, state, regulatory, or local prosecuting authorities, aside from the United States Attorney's Office for the Southern District of Florida and the United States Department of Justice, Criminal Division, Fraud Section. This Agreement is further conditioned on Defendant's fulfilling all of the terms of this Agreement.

3. The Defendant is aware that the sentence will be imposed by the Court after considering the Federal Sentencing Guidelines and Policy Statements (hereinafter "Sentencing Guidelines"). The Defendant acknowledges and understands that the Court will compute an advisory sentence under the Sentencing Guidelines and that the applicable guidelines will be determined by the Court relying in part on the results of a Pre-Sentence Investigation by the court's probation office, which investigation will commence after the guilty plea has been entered. The Defendant is also aware that, under certain circumstances, the Court may depart from the advisory sentencing guideline range that it has computed, and may raise or lower that advisory sentence under the Sentencing Guidelines. The Defendant is further aware and understands that the Court is required to consider the advisory guideline range determined under the Sentencing Guidelines, but is not bound to impose that sentence; the Court is permitted to tailor the ultimate sentence in light of other statutory concerns, and such sentence may be either more severe or less severe than the Sentencing Guidelines' advisory sentence. Knowing these facts, the Defendant understands and acknowledges that the Court has the authority to impose any sentence within and up to the statutory maximum authorized by law for the offenses identified in paragraph 2, and that the Defendant may not withdraw the plea solely as a result of the sentence imposed.

4. The Defendant also understands and acknowledges that the Court may impose a statutory maximum term of imprisonment of five years, followed by a term of supervised release of up to three years. In addition to a term of imprisonment and supervised release, the Court may impose a fine of up to \$250,000 or double the gross gain or gross loss, and must order restitution. The Defendant further understands and acknowledges that, in addition to any sentence imposed, a special assessment in the amount of \$100 will also be imposed. The Defendant agrees that any special assessment imposed shall be paid at the time of sentencing unless he is deemed financially unable to do so by the Court.

5. The Defendant agrees that he will make restitution in an amount to be determined by the Court. The Defendant understands and agrees that the Government and any victims of the crime charged in the information may provide evidence to the Court for the purpose of a determination as to restitution. The Defendant understands and agrees that the term “victim” means a person or entity directly and proximately harmed as a result of the commission of an offense of conviction for which restitution may be ordered including, in the case of a scheme, pattern, or conspiracy, any person directly harmed by the Defendant’s criminal conduct in the course of the scheme, pattern, or conspiracy, as set forth in Title 18, United States Code, Section 3663A. The Defendant is further agreeing to make voluntary restitution payments and assignments totaling approximately \$1,000,000—as set forth below or set forth in a January 24, 2020 letter sent to the Office—payable to the Clerk of the Court, on or before the date of his sentencing.

6. The Defendant agrees in an individual and any other capacity, to forfeit to the United States voluntarily, interest to any property, real or personal, which constitutes or is derived from proceeds traceable to the commission of the offense to which he is pleading guilty pursuant to Title 18 United States Code, Section 981(a)(1)(C) and Title 28, United States Code, Section

2461(c), specifically including all payments he received related to 1 Global Capital LLC (“1 Global”), and a reasonable estimate of legal fees he personally received attributable to work performed for 1 Global. The Defendant also agrees to a forfeiture money judgment in an amount to be determined at or before sentencing. The Defendant agrees that he shall assist the United States in all proceedings, whether administrative or judicial, involving forfeiture, and understands that such assistance may include, but is not limited to, the transfer of forfeitable property to this Office or an assigned case agent, as directed, and the execution of all necessary and appropriate documentation with respect to said assets, including consents to forfeiture, quit claim deeds and any and all other documents necessary to deliver good and marketable title to said property.

7. The Defendant agrees that within 30-days of executing this Plea Agreement, he will resign his membership in the Florida Bar and any other state bar of which he is a member. Defendant will also provide a copy of this Plea Agreement to the Florida Bar. Defendant further agrees that absent prior approval of the Court, he will not practice law, directly or indirectly, during the pendency of this case, including any period of probation or supervised release that may be imposed.

8. This Office reserves the right to inform the Court and the probation office of all facts pertinent to the sentencing process, including all relevant information concerning the offenses committed, whether charged or not, as well as concerning the Defendant and the Defendant’s background. Subject only to the express terms of any agreed-upon sentencing recommendations contained in this Agreement, this Office further reserves the right to make any recommendation as to the quality and quantity of punishment.

9. This Office will recommend at sentencing that the court reduce by two levels the sentencing guideline level applicable to the Defendant’s offense, pursuant to Section 3E1.1(a) of

the Sentencing Guidelines, based upon the Defendant's recognition and affirmative and timely acceptance of personal responsibility. If at the time of sentencing the Defendant's offense level is determined to be 16 or greater, the Government will make a motion requesting an additional one level decrease pursuant to Section 3E1.1(b) of the Sentencing Guidelines, stating that the Defendant has assisted authorities in the investigation or prosecution of his own misconduct by timely notifying authorities of his intention to enter a plea of guilty, thereby permitting the Government to avoid preparing for trial and permitting the Government and the court to allocate their resources efficiently. The United States, however, will not be required to make these recommendations if the Defendant: (a) fails or refuses to make a full, accurate and complete disclosure to the probation office of the circumstances surrounding the relevant offense conduct; (b) is found to have misrepresented facts to the Government prior to entering into this Agreement; or (c) commits any misconduct after entering into this Agreement, including but not limited to committing a state or federal offense, violating any term of release, or making false statements or misrepresentations to any Governmental entity or official.

10. This Office and the Defendant agree that, although not binding on the probation office or the Court, they will jointly recommend that the Court make the following findings and conclusions as to the applicable guidelines range and sentence to be imposed on the count to which the Defendant shall plead:

a. Applicable Guideline Offense and Base Offense Level:

Pursuant to Section 2B1.1(a)(2) of the Sentencing Guidelines, the applicable offense guideline, the base offense level is 6.

b. Specific Offense Characteristics:

The parties agree and stipulate that the following offense characteristics apply: (1) The loss attributable to the offense is more than \$65,000,000 but not more than \$150,000,000,000, pursuant to Section 2B1.1(b)(1)(I), resulting in a 24 level increase; (2) the offense resulted in a substantial financial hardship to more than 25 victims, pursuant to Section 2B1.1(b)(2)(C), resulting in a 6-level increase; (3) the offense involved sophisticated means, pursuant to Section 2B1.1(b)(10)(C), resulting in a 2-level increase; (4) the offense involved Defendant abusing a position of trust or use of a special skill, specifically his knowledge and license as a practicing attorney and member of the Florida Bar, pursuant to Section 3B1.3, resulting in a 2-level increase; and (5) the Defendant was a manager or supervisor, but not an organizer or leader, of a criminal activity that involved five or more participants and was otherwise extensive, pursuant to Section 3B1.1(b), resulting in a 3-level increase.

11. The Office and the Defendant both agree to jointly recommend application of the above guidelines calculations, and furthermore, that the Defendant should receive a sentence of the statutory maximum term of 60 months imprisonment. Defendant further agrees that he will not argue for a downward departure pursuant to Section 2B1.1, Application Note 21, or a variance, as described in Section 1B1.1, Background. Defendant further agrees that, under the factors set forth in 18 U.S.C. § 3553(a), no variance or departure below 60 months imprisonment is warranted.

12. The Defendant is aware that the sentence has not yet been determined by the Court. The Defendant also is aware that any estimate of the probable sentencing range or sentence that the Defendant may receive, whether that estimate comes from the Defendant's attorney, the

Government, or the probation office, is a prediction, not a promise, and is not binding on the Government, the probation office or the Court. The Defendant understands further that any recommendation that the Government makes to the Court as to sentencing, whether pursuant to this Agreement or otherwise, is not binding on the Court and the Court may disregard the recommendation in its entirety. The Defendant understands and acknowledges, as previously acknowledged in paragraph 3 above, that the Defendant may not withdraw his plea based upon the Court's decision not to accept a sentencing recommendation made by the Defendant, the Government, or a recommendation made jointly by both the Defendant and the Government.

13. The Defendant is aware that Title 18, United States Code, Section 3742 and Title 28, United States Code, Section 1291 afford the Defendant the right to appeal the sentence imposed in this case. Acknowledging this, in exchange for the undertakings made by the United States in this Plea Agreement, the Defendant hereby waives all rights conferred by Sections 3742 and 1291 to appeal any sentence imposed, including any restitution order, or to appeal the manner in which the sentence was imposed, unless the sentence exceeds the maximum permitted by statute or is the result of an upward departure and/or an upward variance from the advisory guideline range that the Court establishes at sentencing. The Defendant further expressly waives his right to appeal based on arguments that (a) the statutes to which the Defendant is pleading guilty are unconstitutional and (b) the Defendant's admitted conduct does not fall within the scope of the statutes. The Defendant further understands that nothing in this Agreement shall affect the government's right and/or duty to appeal as set forth in Title 18, United States Code, Section 3742(b) and Title 28, United States Code, Section 1291. However, if the United States appeals the Defendant's sentence pursuant to Sections 3742(b) and 1291, the Defendant shall be released from the above waiver of appellate rights. By signing this Agreement, the Defendant

acknowledges that the Defendant has discussed the appeal waiver set forth in this Agreement with the Defendant's attorney.

14. In the event the Defendant withdraws from this Agreement prior to pleading guilty or breaches the Agreement before or after he pleads guilty to the charges identified in paragraph two (2) above or otherwise fails to fully comply with any of the terms of this Plea Agreement, this Office will be released from its obligations under this Agreement, and the Defendant agrees and understands that: (a) the Defendant thereby waives any protection afforded by any proffer letter agreements between the parties, Section 1B1.8 of the Sentencing Guidelines, Rule 11(f) of the Federal Rules of Criminal Procedure, and Rule 410 of the Federal Rules of Evidence, and that any statements made by the Defendant as part of plea discussions, any debriefings or interviews, or in this Agreement, whether made prior to or after the execution of this Agreement, will be admissible against the Defendant without any limitation in any civil or criminal proceeding brought by the Government; and (b) the Defendant stipulates to the admissibility and authenticity, in any case brought by the United States in any way related to the facts referred to in this Agreement, of any documents provided by the Defendant or the Defendant's representatives to any state or federal agency and/or this Office.

15. The Defendant hereby (i) confirms that he has reviewed the following facts with legal counsel, (ii) adopts the following factual summary as his own statement, (iii) agrees that the following facts are true and correct, (iv) agrees that the below facts are a summary, and do not include every single fact known to him concerning his and his co-conspirators' criminal conduct, and (v) stipulates that the following facts provide a sufficient factual basis for the plea of guilty in this case, in accordance with Rule 11(b)(3) of the Federal Rules of Criminal Procedure:

From in or around 2015, through in or around July 2018, Defendant Dale Andrew Ledbetter ("Ledbetter") served as the primary marketer and promoter of

investment opportunities offered by 1 Global Capital (“1 Global”). Ledbetter also purported to serve as a securities lawyer and outside counsel to 1 Global, although his role was, overwhelmingly, to market 1 Global’s offerings. Ledbetter was a licensed attorney in the State of Florida, and was Of Counsel at Law Firm #1. In connection with his work for and representation of 1 Global, Ledbetter primarily took direction from Individual #1, who was the Chairman of 1 Global. Ledbetter also closely worked with Jan Douglas Atlas (“Atlas”), who was a partner at Law Firm #1, and who purported to serve as 1 Global’s outside legal counsel; Steven Allen Schwartz (“Schwartz”), the Chief Operating Officer of 1 Global and a trustee of the trust that effectively owned the business; and Alan G. Heide (“Heide”), who was at times the Chief Financial Officer of 1 Global.

1 Global purportedly operated as a lending business to merchants, providing short-term loans referred to as merchant cash advance (“MCA”) loans. During the operation of 1 Global, 1 Global obtained funds from potential investors (sometimes referred to as “lenders” or “syndicate partners”). Initially, 1 Global offered a 12-month note, which Ledbetter himself purchased. Thereafter, 1 Global attempted to change its offering to a 9-month note that automatically renewed, or “rolled over.” Substantial questions arose during the operation of the business as to whether 1 Global was offering or selling a security in violation of federal or state securities laws. These questions were raised by investors, investment advisors, and regulators. Ledbetter knew that if 1 Global’s investment offering were determined to be a security, this would undermine the ability of 1 Global to raise funds from investors and to continue to operate without substantial additional expenses and reporting requirements. This also would undermine the ability of Individual #1 and others, including Ledbetter, from being able to profit from 1 Global’s operations in the form of fees, commission payments, or other financial transfers. Over time, Individual #1 made clear to Ledbetter, Atlas, and other conspirators that he (Individual #1) wanted legal cover in order to continue to operate without adhering to the registration requirements of federal and state securities laws, and Ledbetter shared that goal. At various times, Individual #1 requested that Ledbetter and Atlas assist with Individual #1’s efforts to claim that the 1 Global offering was not a security, and thus not subject to federal or state registration and other reporting requirements. Ledbetter, Individual #1, and their co-conspirators were not interested in accurate legal advice based on real facts, but instead wanted false legal cover that would advance their desired outcome and allow Individual #1, Ledbetter, and others to continue to profit from 1 Global.

At the request of Individual #1, in or around late 2015 and early 2016, Atlas arranged for Attorney #1, a former law partner of his with expertise in securities law, who was also a former colleague of Ledbetter’s, to assess the 1 Global investment offering. Individual #1 caused 1 Global to pay a \$10,000 retainer to Attorney #1. Attorney #1 assessed the 1 Global investment offering and determined that it was a security, and the offer and sale without registration was in violation of federal and state securities laws. Attorney #1 did not reduce his opinion that 1 Global’s offering was a security to writing. However, this advice was discussed

among Ledbetter, Individual #1, Schwartz, Atlas, and Heide. Upon receiving this advice, Individual #1 became angry and demanded his money back from Attorney #1, indicating that he intended to pay to get the answer he wanted from Attorney #1, not the answer he got.

At the request of Individual #1, Atlas thereafter authored an opinion letter dated May 17, 2016, that stated in substance that the 1 Global offering was not a security and not subject to the federal securities laws or registration requirements. Ledbetter was copied on this letter, and knew of its purpose and existence. Ledbetter knew at the time of this letter that various aspects of how the 1 Global investment actually worked, were omitted or described inaccurately in the letter, and this was done intentionally in order to achieve the opinion that Individual #1, Atlas, and Ledbetter desired. Ledbetter knew, for example, that the investment was not, in reality, a 9-month investment but was instead longer, that the “automatic renewal” aspect of the investment, and the fact that retail, non-sophisticated investors (such as IRA account holders) were investors—all were strong indicators that the investment opportunity was a security. Atlas intentionally described the investment in such a way in the May 17<sup>th</sup> opinion letter in order to achieve the desired result—an opinion that would give legal cover for Ledbetter and others involved with 1 Global to attempt to avoid application of the federal and state securities laws.

In June and July 2016, Law Firm #2 provided 1 Global two opinion letters, dated June 20, 2016, and July 6, 2016, respectively. Some time after the opinion letters were provided to 1 Global, Ledbetter became aware of the first opinion, which stated in substance that the 1 Global offering was a security, and stated in footnote 1 that the interest rates charged by 1 Global likely violated Florida’s usury laws, and that the failure of 1 Global to pay Florida documentary stamp taxes could prevent 1 Global from successfully bringing collection actions to enforce the MCAs in Florida courts. The second opinion, in substance, provided guidance on how 1 Global could obtain compliance with the federal securities laws, including by potentially meeting the requirements of Rule 506(b) of the Securities Act of 1933. This would mean, among other things, that due to “integration” of the prior illegal offering of the 1 Global security to investors, 1 Global would likely have to engage in a six-month cessation of capital raising activities and would thereafter be able to offer the investment only to “accredited” investors. 1 Global would have to effectively cease operations for at least six-months if it were to comply with this advice. From conversations with Individual #1, Ledbetter understood that Individual #1 had no intention of following this legal advice and was angry about it. Nor did Ledbetter intend on following this advice. To the contrary, Ledbetter agreed with Individual #1, Atlas, Heide, and other co-conspirators to essentially “bury” the letters from Law Firm #2. After becoming aware of at least one of the opinion letters from Law Firm #2, Ledbetter did not change his pitches to investors to alert them to the material risks posed by the 1 Global investment. Instead, Ledbetter continued to falsely and fraudulently market 1 Global’s offerings as “loans,” and affirmatively stated that they were not securities.

Ledbetter understood that Individual #1 wanted legal cover regardless of the truth. After receipt of the letters from Law Firm #2, Atlas authored a second legal opinion letter dated August 25, 2016, that essentially repeated the false and misleading statements made in the May 17<sup>th</sup> opinion letter, including that the investment opportunity was a nine-month investment, and Ledbetter was again copied on the letter. This letter omitted reference to the automatic renewal provision and other aspects of the investment that would undermine the legal opinion. The letter also falsely stated that the investment was being offered only to sophisticated investors. At the time of the August 25<sup>th</sup> opinion letter, Ledbetter knew that the 1 Global investment offering fell squarely within the definition of a security under the federal securities laws and was required to be registered, and that there were various aspects of the investment that were inaccurately described or omitted in order to give 1 Global, and its employees and agents, false legal cover to continue to conduct business unabated.

Ledbetter, Individual #1, and additional 1 Global employees and agents used the opinion letters authored by Atlas to continue to raise money illegally. Ledbetter was aware that the letter would be used in furtherance of the illegal offering of a security and would result in communications transmitted in interstate commerce and via the mails, including by the transmission of payments and communications to and from investors located in various states, with 1 Global employees and agents located in Florida.

As Ledbetter stated in pitches to many investment advisers and potential investors, Ledbetter helped to raise at least approximately \$100 million in investor funds for 1 Global. Ledbetter received a commission of approximately 0.75% to 2% on all capital raised by 1 Global, and personally earned at least \$3 million. Ledbetter earned commissions on the investments of investors he brought in, and investors brought in by investment advisers he brought in. Ledbetter received a commission at the time of an investor's initial investment and upon renewals of investments, which often automatically renewed or rolled over. Ledbetter failed to disclose his commission payments in his sales pitches to investors and investment advisers. Furthermore, Ledbetter knew that he – and the investment advisers whom he recruited – were pitching 1 Global's offerings to unsophisticated retail investors, including many people who invested funds from their Individual Retirement Accounts ("IRAs"). Individual #1 was not only aware that IRA investors were being pitched, but also at times expressed a preference for retail investors over hedge funds and more inquisitive potential investors.

At or around the time that Atlas executed the May 17<sup>th</sup> and August 25<sup>th</sup> opinion letters, and thereafter, Ledbetter paid Atlas a percentage of commissions that he received, which came from money raised by 1 Global from new investors. These funds paid by Ledbetter to Atlas totaled approximately \$627,000, and were paid by checks made out to Atlas. Neither Ledbetter nor Atlas disclosed these side payments to Law Firm #1, despite Atlas's status as a partner at Law Firm #1, and

Ledbetter's status as Of Counsel there. These side payments from Ledbetter to Atlas were in addition to the legal fees that Law Firm #1 charged 1 Global, and billed using Law Firm #1's regular billing process. While these side payments were never disclosed to Law Firm #1, on multiple occasions, Ledbetter informed Individual #1 about the fact that he was paying Atlas these commissions in addition to the funds Individual #1 paid to Atlas as legal fees.

Furthermore, Ledbetter personally circulated pitch decks and marketing materials to 1 Global investors and investment advisers that contained statements representing that 1 Global utilized services of an independent, outside auditing firm to audit financial statements and 1 Global's rate of return. However, Ledbetter knew, at the time he circulated these materials, that 1 Global never in fact had any outside accounting or auditing firm complete an audit of 1 Global's financials. Indeed, on or about May 24, 2017, H.H., an investment adviser in Arkansas, sent an email to Ledbetter asking about specific representations made in the pitch deck regarding 1 Global's audited financials. Ledbetter responded by acknowledging that "there are no audited financials." Yet, Ledbetter did not change the pitch deck to correct the way in which it was misleading. Ledbetter knew these marketing materials were misleading in a material way, and continued to vouch for 1 Global.

Before 1 Global filed for bankruptcy in 2018, Ledbetter became aware that Individual #1 diverted 1 Global investor funds to pay for risky investments that were not disclosed to 1 Global investors, including, but not limited to, an approximately \$40 million loan to a car dealership in California; and diversion of 1 Global investor funds to Brightsmile Financing.

In 1 Global's final year of operations, 2018, Ledbetter also became aware of the company's struggles in raising new investor funds, in part due to increased scrutiny from state securities regulators. Ledbetter nevertheless continued to fight for 1 Global and to conceal the truth from investors.

On or about January 22, 2019, and on or about February 8, 2019, in Miami, Florida, Ledbetter was deposed, under oath, in *S.E.C. v. 1 Global Capital LLC and Carl Ruderman*, No. 18-61991-CIV-BB (S.D. Fla.). Ledbetter knew that the United States Securities and Exchange Commission ("SEC"), an agency of the United States, initiated that proceeding, which was pending in the Southern District of Florida. During the deposition, when asked by the SEC whether 1 Global received any advice regarding whether 1 Global's offering was a security, Ledbetter did not disclose the existence of the legal opinions by Law Firm #2 to the SEC.

16. This Office agrees that it will not seek additional upward specific offense characteristics, enhancements, or upward departures to or from the Defendant's offense level beyond those, if any, specifically referred to in this Agreement, except that this Office shall have

the right in its discretion to seek additional upward specific offense characteristics, enhancements, or upward departures to or from the Defendant's offense level beyond those, if any, specifically referred to in this Agreement where any such additional upward specific offense characteristics, enhancements, or upward departures to or from the Defendant's offense level would be based on conduct occurring after the Defendant enters into this Agreement. The Defendant and the Government agree that they will jointly recommend that the Court calculate the guideline level in accordance with the calculations set forth in this Plea Agreement. The parties agree that the Defendant should receive a sentence of the statutory maximum term of imprisonment.

*[The remainder of this page left intentionally blank]*

17.  
20.

This Plea Agreement between the parties is the entire agreement and understanding between the United States of America and the Defendant. There are no other agreements, promises, representations, or understandings.

ARIANA FAJARDO ORSHAN  
UNITED STATES ATTORNEY  
SOUTHERN DISTRICT OF FLORIDA

Date: 2/27/20

By: [Signature] FOR  
LISA H. MILLER  
JERROB DUFFY  
ASSISTANT U.S. ATTORNEYS

ROBERT ZINK  
CHIEF  
FRAUD SECTION, CRIMINAL DIVISION  
UNITED STATES DEPARTMENT OF JUSTICE

Date: 2/27/20

By: [Signature] FOR  
L. RUSH ATKINSON, ASSISTANT CHIEF  
ELIZABETH YOUNG, TRIAL ATTORNEY  
FRAUD SECTION, CRIMINAL DIVISION  
UNITED STATES DEPARTMENT OF JUSTICE

FOR THE DEFENDANT:

Date: 2/21/20

By: [Signature]  
~~JEFFREY SLOMAN, ESQ.~~ ERICA PERDOMO  
ATTORNEY FOR DEFENDANT

Date: 2/21/20

By: [Signature]  
ANDREW DALE LEDBETTER  
DEFENDANT

# **EXHIBIT 14**

**From:** [David Ortiz](#)  
**To:** ["Cox, Laura"](#)  
**Bcc:** [BlocEmail](#)  
**Subject:** RE: Questions regarding 25K Investment with 1st Global  
**Date:** Thursday, June 8, 2017 7:06:28 PM

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Laura,

Forgive me for being so late getting back to you. I am shorthanded this week. See below for my answers.

*David Ortiz*

*"Your Trusted Advisor"*

Investment Advisor

Office: 800-584-1902

Email: [David@DavidOrtizAdvisor.com](mailto:David@DavidOrtizAdvisor.com)

Web: [www.davidortizadvisor.com](http://www.davidortizadvisor.com)

13006 Philadelphia St. Suite 311, Whittier, CA 90601



**DAVID ORTIZ**

Living Trusts • Estate Planning • Sound Investing

Investment Advisory Services offered through David Ortiz Advisors, Inc. a California Registered Investment Adviser.

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**From:** Cox, Laura [mailto:[lcraig@liberty.edu](mailto:lcraig@liberty.edu)]  
**Sent:** Saturday, June 3, 2017 9:21 AM  
**To:** David Ortiz <[david@davidortizadvisor.com](mailto:david@davidortizadvisor.com)>  
**Subject:** Questions regarding 25K Investment with 1st Global

Good morning, David-

My parents, N. David and Janet Craig, have been meeting with you regarding investing 25K + with you all in 1st Global. They've made me aware of this and my husband and I are also considering joining to do the same. My husband is military and we currently live in Mississippi otherwise I'd love to schedule a meeting in person. Instead, my dad has recommended that I email to get a few questions answered, if that's okay.

I've been made aware of the basics, but want to ensure I understand the facts correctly:

It's a minimum 25K investment with an investment period of 9 months. YES

The average rate of return is 10%. NO: 15%

The risk is spread across small and medium business loans for a number of companies, upwards of 500: CLOSE, FROM 250-500

My dad has made me aware that this is not FDIC insured, but that 1st Global has been around since the early 2000's and has had a steady and positive rate of return for investors across the board. Based on this, it's considered a safe(r) investment opportunity. TRUE.

A few questions:

What all is necessary in order to set up the account? NAME, ADDRESS SS# AND \$25,000

How would I go about transferring the money over to your company? DEPENDS ON WHERE IT IS NOW. Would it need to be in a single motion or could I transfer to build it up over a weeks time frame? IT WOULD HAVE TO BE ALL AT ONCE UNFORTUNATELY. I'd like to avoid the cost of a wire transfer, if possible. WE PAY FOR THE WIRE

What is the cost of investing through you all? NO COST TO YOU. I GET PAID FROM THE COMPANY ABOUT 2% Is it a percentage taken out of the profits our money would make? YES. YOUR RETURN IS NET OF EXPENSES.

Can we re-invest back to back after the first 9 month period is complete? YES. MOST PEOPLE DO.

Is there a monthly or periodic account statement to show how the investment is progressing? YOU WILL HAVE A LOGIN TO SEE IT DAILY AS WELL AS A MONTHLY STATEMENT. Do we have access to watching the investment on demand? YES

Would this investment be considered a short term capital gain due to the fact that it's less than a year? NO, INTEREST INCOME. BUT I WILL DOUBLE CHECK. If so, from my (limited) understanding on the taxes, this would fall into an ordinary income tax rate? Would we be taxed out of the profit at the time of withdrawal (end of investment cycle), or would be be taxed on a form via a 1040 for the end of the calendar year? AT THE END OF THE YEAR.

I may think of more but this will help me feel more confident in our decision for the time being. I really appreciate your guidance and wisdom as we seek to proceed.

Thank you for your time,

Laura Cox

**Laura Cox**  
*Instructor of Aviation*  
*Instructional Mentor*  
**School of Aeronautics**

**LIBERTY UNIVERSITY**  
*Training Champions for Christ since 1971*

# **EXHIBIT 15**

[13006 Philadelphia St. suite 311, Whittier, CA 90601](#)

**From:** Patrick Semcheshen [REDACTED]

**Sent:** Tuesday, October 3, 2017 4:21 PM

**To:** David Ortiz <[david@davidortizadvisor.com](mailto:david@davidortizadvisor.com)>

**Subject:** Re: Prudential

Thank you.

What are the next steps?

On Tue, Oct 3, 2017 at 10:57 AM, David Ortiz <[david@davidortizadvisor.com](mailto:david@davidortizadvisor.com)> wrote:

1<sup>st</sup> Global is an alternative investment. The reason most endowment fund managers and true successful hedge fund managers use alternatives is because they're noncorrelated to the stock market. As far as 1<sup>st</sup> Global, it works like a bridge loan but is actually a merchant cash advance. The same vacuum is getting filled that Dodd-Frank left. Banks cannot and do not make these types of loans.

As far as credit worthiness is concerned, this company relative to others I have reviewed has the strictest underwriting standards and lowest default rate. There are reserves that protect the principle as well as ultra-diversification.

A gentleman by the name of Dale Ledbetter did the due diligence on this firm and gave them a glowing report. Dale Ledbetter used to be a Wall Street trader then a securities attorney going after corrupt brokers and broker/dealers. He wrote a book call "How Wall Street Rips You Off". I know Dale personally and I trust his due diligence reports.

Therefore, I think it is a very viable investment. Otherwise I would not be offering them as an option.

I hope this answers your question.

*David Ortiz*

Investment Advisor

Office: [\(800\) 584-1902](tel:(800)584-1902)

Email: [David@DavidOrtizAdvisor.com](mailto:David@DavidOrtizAdvisor.com)

[13006 Philadelphia St. suite 311, Whittier, CA 90601](#)

**From:** Patrick Semcheshen [REDACTED]  
**Sent:** Tuesday, October 3, 2017 10:40 AM  
**To:** David Ortiz <[david@davidortizadvisor.com](mailto:david@davidortizadvisor.com)>  
**Subject:** Re: Prudential

Option 2 would diversify away from the equity markets as this looks like bridge loans/commercial paper?

How credit worthy and how much risk?

On Tue, Oct 3, 2017 at 10:37 AM, David Ortiz <[david@davidortizadvisor.com](mailto:david@davidortizadvisor.com)> wrote:

Got it, thanks.

I am attaching a brochure about us and what we do. In your case I will recommend 2 options based on your age, goals and liquidity needs.

1. This is our proprietary investment strategy done by Investment POD exclusively through David Ortiz Advisors.
  - a. Average returns have been in the 8-12%
  - b. Has liquidity features
  - c. <http://davidortizadvisor.investmentpod.com>
  - d. Click the get started button and we'll do the rest.
  
2. An alternative investment through 1<sup>st</sup> Global. This is a company that lends money to small businesses on a short term basis.
  - a. Average returns in the 8-12% range
  - b. This is illiquid. But is liquid every 9 months.

# **EXHIBIT 16**

Office: (800) 584-1902

Email: [David@DavidOrtizAdvisor.com](mailto:David@DavidOrtizAdvisor.com)



13006 Philadelphia St., Suite 311, Whittier, CA 90601

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**From:** Sletto, Mark A <[mark.a.sletto@boeing.com](mailto:mark.a.sletto@boeing.com)>

**Sent:** Thursday, March 8, 2018 1:12 PM

**To:** David Ortiz <[david@davidortizadvisor.com](mailto:david@davidortizadvisor.com)>; Mark Sletto <[mark.sletto@att.net](mailto:mark.sletto@att.net)>

**Cc:** Greg Wilson <[gregw@davidortizadvisor.com](mailto:gregw@davidortizadvisor.com)>; Laurel Donoghue <[laurel@davidortizadvisor.com](mailto:laurel@davidortizadvisor.com)>

**Subject:** Re: Forms

Sure. I can be up your way at 4:00 if that works.

Sent from my BlackBerry 10 smartphone on the Verizon Wireless 4G LTE network.

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**From:** David Ortiz

**Sent:** Thursday, March 8, 2018 12:26 PM

**To:** Sletto, Mark A; Mark Sletto

**Cc:** Greg Wilson; Laurel Donoghue

**Subject:** RE: Forms

Hi Mark,

Mark, I asked Laurel to pre-prepare those applications based on our original plan (see attached). Portfolios 2 and 3 and sometimes 4 have alternatives in them. I have attached which ones we use typically in a portfolio similar to yours.

1. Petro-Rock is a 9 month to 2-year note with guaranteed rates of 7.5%-9%
2. 1<sup>st</sup> Global is a merchant cash advance company with yields in the 9%-15% range.

The advantages of alternatives are that although they're not readily liquid they are backed by hard assets and pay higher than bank returns. They're perfect in a volatile market. You have had plenty in equities so I would suggest putting a good portion in alternatives to capture gains and get significant growth.

Also, in regards to the post-tax money, it is not a Roth. Therefore, we can either open up a nonqualified (post-tax) account **AND/OR** a qualified account (Roth IRA). There is a distribution code "G" (see attached for definitions) which is why we can do a Roth. The Roth account is opened at TDA so we will fund it with the post-tax check today.

I know you want to talk Friday or next week. I will be free tomorrow after 3:30. Will that work?

Regards,

*David Ortiz*

Investment Advisor

# **EXHIBIT 17**

**From:** [David Ortiz](#)  
**To:** "Mark Sletto"  
**Bcc:** [BlocEmail](#)  
**Subject:** RE: Legacy Energy  
**Date:** Monday, April 9, 2018 5:00:51 PM  
**Attachments:** [Sletto income proposal rolling over 401k and pension.pdf](#)

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I understand Mark. That's why we have multiple portfolios.

In the attached illustration:

1. Portfolio 1 is liquid. This is your income portfolio. \$627,000
2. Portfolio 2 is not liquid but every 3 years. After that, depending on how soon we'll need to draw from that portfolio to keep the income going, we will usually switch to shorter terms like 9 months or less. \$366,000
3. Portfolio 3 is partially liquid. \$235,000 is in 1<sup>st</sup> Global which is liquid every nine months. \$297,000 liquid \$235,000 not liquid.
4. Portfolio 4 is liquid as well. \$301,000 liquid.

That's \$1,238,000 in liquid assets and \$601,000 in illiquid alternatives.

I think you'll have plenty of liquidity. Alternatives by their very nature are periodically illiquid. But the trade-off is security and a predictable growth rate. In exchange for predictable growth, the company needs time. For example, if you were an investor in first trust deeds like banks, they have terms in years, secured by real estate with a contracted interest rate i.e. 15-year mortgage.

I hope this brings your mind at ease. I'd be happy to discuss it further with you.

*David Ortiz*

Investment Advisor

Office: (800) 584-1902

Email: [David@DavidOrtizAdvisor.com](mailto:David@DavidOrtizAdvisor.com)



13006 Philadelphia St., Suite 311, Whittier, CA 90601

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**From:** Mark Sletto <mark.sletto@att.net>  
**Sent:** Monday, April 9, 2018 4:25 PM  
**To:** David Ortiz <david@davidortizadvisor.com>  
**Subject:** Legacy Energy

David,

I signed the revised PetroRock docusign, with one exception. One of the initial blocks indicated that the 3 year term may be extended indefinitely, am I OK with that? I said no. I'm already nervous about 3 year illiquidity, let alone a term like that.

# **EXHIBIT 18**

**From:** [David Ortiz](#)  
**To:** [Steve Clark](#)  
**Subject:** RE: FW: Renewal  
**Date:** Friday, February 16, 2018 4:06:05 PM  
**Attachments:** [ALVINDKORNDec2017.pdf](#)  
[ALVINDKORNJan2018.pdf](#)

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I think you did a fine job. I explained to him that I didn't fully understand the 3-month liquidation process myself. In light of that, he is still up \$4,496.61 since inception. Send these two statements.

*David Ortiz*

Investment Advisor

Office: (800) 584-1902

Email: [David@DavidOrtizAdvisor.com](mailto:David@DavidOrtizAdvisor.com)



13006 Philadelphia St., Suite 311, Whittier, CA 90601

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**From:** Steve Clark  
**Sent:** Friday, February 16, 2018 1:37 PM  
**To:** David Ortiz <[david@davidortizadvisor.com](mailto:david@davidortizadvisor.com)>  
**Subject:** FW: FW: Renewal

Forwarding this to you Dave,  
How would you like to respond?

I got a call from Kati today from AAI. She said, "It is too late to liquidate Al's account at this time. If Al submits proper paperwork in time next time he would get three payments over three months to dissolve his share of the investment."

I can email him back with this information. Or would you like to touch bases with him on this?

**From:** [adkdds2863@aol.com](mailto:adkdds2863@aol.com) [<mailto:adkdds2863@aol.com>]  
**Sent:** Friday, February 16, 2018 12:13 PM  
**To:** Steve Clark <[SteveC@davidortizadvisor.com](mailto:SteveC@davidortizadvisor.com)>  
**Cc:** [adkdds2863@aol.com](mailto:adkdds2863@aol.com)  
**Subject:** Re: FW: Renewal

Hello Steve,

Much of the problem stems from the fact that I got mixed messages regarding renewal date... Not that long ago, I was talking to Mr. Ortiz's son, and he repeated what I had heard from your office before.....that I had to give one month notice to renew or not! So I had calendared off March 31st.

Then I got your office's FedEx delivery, with a nine page format, that this poor ex dentist could not understand. Firstly why weren't all these rules presented to me before I entered into this contract? Then I could have hired an attorney to make sense of it.

Since I'm not about to hire an attorney now, and am not happy that I supposedly get my investment

back 3 months after the contract expires, I figured the best thing to do was state, that "I DO NOT WISH TO RENEW."

Investing is tough enough, but one doesn't want to be presented with the "rules of engagement" long after he enters the investment.

Sincerely, Al Kornblatt

P.S. Maybe it would be smart to find out details of my Resolute Capital investment, before the due date comes up.

In a message dated 2/16/2018 10:30:12 AM Pacific Standard Time, [SteveC@davidortizadvisor.com](mailto:SteveC@davidortizadvisor.com) writes:

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**From:** Steve Clark  
**Sent:** Thursday, February 15, 2018 2:40 PM  
**To:** '[marine\\_supt@earthlink.net](mailto:marine_supt@earthlink.net)' <[marine\\_supt@earthlink.net](mailto:marine_supt@earthlink.net)>  
**Subject:** Renewal

Hello Al,

I called AAI about the renewal. They told me that you missed the time to sign to cancel and it automatically renewed. AAI did say that if you wished to cancel they would be happy to look into it for you to see if they could get your funds sent to you.

If that is what you'd like them to do let us know and we will instruct them to proceed.

Sincerely,

*Steve Clark*

Case Manager

Office: (800) 584-1902

Email: [stevec@davidortizadvisor.com](mailto:stevec@davidortizadvisor.com)



**DAVID ORTIZ ADVISORS**  
Plan Smarter Live Better

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