

<p>1</p> <p style="text-align: center;">UNITED STATES BANKRUPTCY COURT FOR THE DISTRICT OF COLORADO</p> <p>Case No. 13-15554-ABC</p> <hr/> <p>DEPOSITION OF: TODD DAVID BURKE - July 23, 2014</p> <hr/> <p>In Re:</p> <p>TODD BURKE,</p> <p>Debtor.</p> <hr/> <p>HEPBURN INGHAM Plaintiff, v. TODD BURKE, Defendant.</p> <hr/> <p>PURSUANT TO NOTICE, the deposition of TODD DAVID BURKE was taken on behalf of the Plaintiff at 730 17th Street, Suite 500, Denver, Colorado 80202, on July 23, 2014, at 9:58 a.m., before Kimberly Smith, Registered Professional Reporter and Notary Public within Colorado.</p>	<p>3</p> <p style="text-align: center;">I N D E X</p> <p>EXAMINATION OF TODD DAVID BURKE: PAGE July 23, 2014</p> <p>By Mr. Shilliday 6</p> <p>DEPOSITION EXHIBITS: INITIAL REFERENCE</p> <p>Exhibit 1 Resume 36</p> <p>Exhibit 2 Biography 56</p> <p>Exhibit 3 LinkedIn Page 62</p> <p>Exhibit 4 Executive Summary 87</p> <p>Exhibit 5 Karatcom Tower Information 99</p> <p>Exhibit 6 globalTowers, Inc., Spreadsheet 108</p> <p>Exhibit 7 Stock Certificate issued to Hepburn Ingham from globalTowers, Inc., 80,000 Shares 114</p> <p>Exhibit 8 E-mail to marty@karatcom.com from Burke, Subject: Touching Bases, 6/5/2000 117</p> <p>Exhibit 9 Letter to GTI Shareholders from the President and CEO, 10/16/00 125</p> <p>Exhibit 10 E-mail to Lindsay from Ingham, Subject: Dividends?, 4/9/04, with attached e-mail 137</p> <p>Exhibit 11 Convertible Promissory Note issued to Ingham from GTI, 11/16/2000 142</p> <p>Exhibit 12 Stock Purchase Agreement, 2/21/01 145</p> <p>Exhibit 13 E-mail to Lindsay from Ingham, Subject: Mark Mullen, 4/9/04, with attached e-mails 152</p>
<p>2</p> <p style="text-align: center;">A P P E A R A N C E S</p> <p>For the Plaintiff:</p> <p>ROBERT J. SHILLIDAY, III, ESQ. Law Offices of Robert J. Shilliday, III, P.C. 730 17th Street, Suite 500 Denver, Colorado 80202</p> <p>For the Defendant:</p> <p>TODD DAVID BURKE (Pro Se) 160 Valley Lane Boulder, Colorado 80304</p> <p>Also Present:</p> <p>Anne Thilges Hepburn Ingham</p>	<p>4</p> <p>Exhibit 14 Financial Statements and Supplementary Information Together with Accountant's Compilation Report, For the Year Ended April 30, 2001 156</p> <p>Exhibit 15 Promissory Note, 11/15/01 164</p> <p>Exhibit 16 Stock Certificate issued to Hepburn Ingham from globalTowers, Inc., 31,750 Shares 166</p> <p>Exhibit 17 E-mail to Lindsay from Ingham, Subject: Bridge, 4/9/04, with attached e-mail, with attachments 167</p> <p>Exhibit 18 Fischer's Complaint 174</p> <p>Exhibit 19 Bank Statement of Hepburn Ingham, 4/1/02 through 4/30/02 178</p> <p>Exhibit 20 E-mail to Lindsay from Ingham, Subject: Update June 2002, 4/9/04, with attached e-mail 179</p> <p>Exhibit 21 Defendant's Answers to Discovery Requests by Plaintiff 182</p> <p>Exhibit 22 Plaintiff's First Set of Written Discovery Requests Propounded To Defendant Todd Burke 182</p> <p>Exhibit 23 Outwater's Complaint 186</p> <p>Exhibit 24 E-mail to Lindsay from Ingham, Subject: Chelo (Sept '02), 4/9/04, with attached e-mail 195</p> <p>Exhibit 25 E-mail to Lindsay from Ingham, Subject: Update (Oct '02), 4/9/04, with attached e-mail 197</p> <p>Exhibit 26 E-mail to Lindsay from Ingham, Subject: Funds (Dec '02), 4/9/04, with attached e-mail 200</p> <p>Exhibit 27 E-mail to Ingham from Burke, Subject: Funds, 2/10/03, with attached e-mails 205</p>

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6	<p>1 WHEREUPON, the following proceedings were 2 taken pursuant to the Federal Rules of Civil 3 Procedure. 4 * * * * * 5 TODD DAVID BURKE, 6 having been first duly sworn to state the whole truth, 7 testified as follows: 8 EXAMINATION 9 BY MR. SHILLIDAY: 10 Q. Good morning. Would you please state your 11 name for the record. 12 A. Todd Burke. 13 Q. Would you please spell your last name. 14 A. B-u-r-k-e. 15 Q. Do you have a middle name? 16 A. David, D-a-v-i-d. 17 Q. And what is your date of birth? 18 A. January 17, 1967. 19 Q. Where were you born? 20 A. Worcester, Massachusetts. 21 Q. Have you been deposed before? 22 A. Once. 23 Q. When was that? 24 A. It might have been two years ago. 25 Q. In connection with what type of matter?</p>	8
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9	<p>1 A. I apologize. Sorry.</p> <p>2 Q. Okay. You do understand that you're under</p> <p>3 oath in this deposition today?</p> <p>4 A. Yes.</p> <p>5 Q. And that you're sworn to tell the truth?</p> <p>6 A. Yes.</p> <p>7 Q. Are you under any medications or anything</p> <p>8 that you've taken recently that would inhibit your</p> <p>9 ability to testify truthfully today?</p> <p>10 A. No.</p> <p>11 Q. And you are here in the action involving</p> <p>12 Mr. Hepburn Ingham against you in your personal</p> <p>13 bankruptcy matter. Is that your understanding?</p> <p>14 A. Yes.</p> <p>15 Q. Do you understand the nature of the claims</p> <p>16 being asserted against you in this complaint?</p> <p>17 A. Yes.</p> <p>18 Q. Okay. When was True Collection formed?</p> <p>19 A. The company was named Aspen Beyond, Inc.,</p> <p>20 when we formed. That was the corporate name. True</p> <p>21 Collection was the -- kind of the brand name, if you</p> <p>22 will. So I believe it was 2005, 2006.</p> <p>23 Q. Was that a Colorado corporation, Aspen</p> <p>24 Beyond, Inc.?</p> <p>25 A. It was.</p>	11
10	<p>1 Q. Who were the initial shareholders?</p> <p>2 A. Just myself.</p> <p>3 Q. What was the purpose of the business?</p> <p>4 A. Travel -- adventure travel, providing</p> <p>5 travel opportunities for clients.</p> <p>6 Q. At a point in time after 2005, were other</p> <p>7 shareholders brought into the company?</p> <p>8 A. Yes.</p> <p>9 Q. Do you recall their names?</p> <p>10 A. Yes.</p> <p>11 Q. And who are they?</p> <p>12 A. Julie Uranga.</p> <p>13 Q. Can you spell the last name?</p> <p>14 A. U-r-a-n-g-a.</p> <p>15 Q. Okay. Is she a friend?</p> <p>16 A. Yes.</p> <p>17 Q. Okay. What's your relationship to Julie</p> <p>18 Uranga?</p> <p>19 A. A friend.</p> <p>20 Q. Okay. And how much did she invest with</p> <p>21 Aspen Beyond, Inc.?</p> <p>22 A. I do not recall.</p> <p>23 Q. Is that company operating today?</p> <p>24 A. No.</p> <p>25 Q. What happened to the entity?</p>	12
9	<p>1 A. It was dissolved out of Colorado. It was</p> <p>2 dissolved.</p> <p>3 Q. Do you have an understanding as to why the</p> <p>4 business failed?</p> <p>5 A. The business was closed because I was</p> <p>6 convicted of a Class 4 felony in a nondisclosure</p> <p>7 securities case by not disclosing debt to the</p> <p>8 shareholders of The True -- of Aspen Beyond, Inc.</p> <p>9 So I was not allowed to own and operate any</p> <p>10 corporations in Colorado. And it was then closed</p> <p>11 down. And the business itself was picked up by</p> <p>12 partners that I had in the company and still actually</p> <p>13 is active.</p> <p>14 However, it's not active under the same</p> <p>15 company name anymore. So it was dissolved here, and</p> <p>16 the company was picked up and -- and carried on</p> <p>17 without me.</p> <p>18 Q. Okay. You said a lot. So we'll back up,</p> <p>19 and --</p> <p>20 A. Yeah.</p> <p>21 Q. -- I'll try to break that down.</p> <p>22 A. All right.</p> <p>23 Q. When were you convicted of a Class 4</p> <p>24 felony?</p> <p>25 A. Last -- I was convicted last -- last</p>	11
10	<p>1 fall -- last summer, August. It was a plea -- plea</p> <p>2 deal. August 2013.</p> <p>3 Q. And who brought this complaint?</p> <p>4 A. The District Attorney in Boulder.</p> <p>5 Q. And was it a criminal action?</p> <p>6 A. It was a felony. So maybe I'm not</p> <p>7 understanding the question.</p> <p>8 Q. Okay. My -- when I hear, "felony," I think</p> <p>9 of a criminal action. Do you know the difference</p> <p>10 between a criminal action and a civil action?</p> <p>11 A. It was a criminal action --</p> <p>12 Q. Okay.</p> <p>13 A. -- that was brought against me, I believe.</p> <p>14 I -- yes.</p> <p>15 Q. And this complaint was brought against you</p> <p>16 by the Boulder County District Attorney --</p> <p>17 A. Yes.</p> <p>18 Q. -- for securities fraud?</p> <p>19 A. It was for nondisclosure. And it was a</p> <p>20 Class 3 securities fraud case, and I pleaded guilty to</p> <p>21 a Class 4 felony, which was basically -- yeah, theft</p> <p>22 instead of securities fraud.</p> <p>23 Q. Okay.</p> <p>24 A. I believe that's what it was, so . . .</p> <p>25 Q. Do you know what a Class 3 felony is?</p>	12

13

1 A. I do not understand the question.

2 **Q. Okay. Well, you mentioned, I was charged**

3 **with a Class 3 felony. I'm trying to elicit your**

4 **understanding as to what that means.**

5 A. I believe it was a securities fraud case,

6 which -- which -- which would have been a Class 3

7 felony if I was convicted of that. That's what I --

8 **Q. Do you --**

9 A. That's what my understanding is right at

10 this moment. Yeah.

11 **Q. Do you specifically recall the allegations**

12 **leveled against you by the Boulder County District**

13 **attorney in that case?**

14 A. No, I don't.

15 **Q. Do you know what shareholder or individual**

16 **it involved?**

17 A. None of the shareholders, from what I

18 recall. It was the D.A.s bringing -- bring -- they

19 brought it on me.

20 **Q. And it was for --**

21 A. So it was victims, which were some of the

22 shareholders, that there's now restitution to be paid

23 for. But it wasn't the shareholders that brought it

24 against me. It was the District Attorney.

25 **Q. Sure. What shareholders or victims were**

14

1 **involved in that case?**

2 A. Julie, Kevin Byford.

3 **Q. Can you spell that last name?**

4 A. B-y-f-o-r-d.

5 **Q. Anybody else?**

6 A. Keith Hartigan.

7 **Q. Can you spell the last name?**

8 A. H-a-r-t-i-a-g-a-n, I believe.

9 **Q. Any other shareholders?**

10 A. Patrick Howe -- I mean, Patricia Howe,

11 H-o-w-e.

12 **Q. Was Mr. Ingham an investor in Aspen Beyond,**

13 **Inc.?**

14 A. I do not think so, no.

15 **Q. And do you have an understanding as to what**

16 **the shareholders were complaining about that --**

17 A. I -- I do. There was one complaint, which

18 was Patricia Howe. And the complaint initially

19 started on lack of communication on -- on activity of

20 the company.

21 And so the security -- she was from Kansas.

22 And I had never met her. I had met her son, who was a

23 horseback guy up in -- in the mountains in Colorado.

24 And so she had called the -- I believe it

25 was the Kansas Security office to see if she could

15

1 trigger some communication with me, and that's what

2 triggered the communication with the Colorado

3 Securities office.

4 **Q. Other than lack of communication, was**

5 **there, to your understanding, any other allegation**

6 **against you in your connection with Aspen Beyond,**

7 **Inc.?**

8 A. I don't recall exactly the whole situation

9 as far as the allegations go, so I don't recall.

10 **Q. And again, when was Aspen Beyond, Inc.,**

11 **formed?**

12 A. Like, 2005, I -- I believe.

13 **Q. What was your position or title of --**

14 A. A founder. It was a Colorado -- I believe

15 we were a C Corp. So it would have been president.

16 **Q. And again, if you wouldn't mind, let me**

17 **finish asking the question. And when I'm complete,**

18 **I'll give you a head nod or something. We'll get used**

19 **to this. Okay?**

20 A. Okay. Thanks.

21 **Q. Okay. In 2005, were there any other**

22 **officers or directors of Aspen Beyond, Inc., besides**

23 **yourself?**

24 A. I do not believe so.

25 **Q. When the company closed -- which was in**

16

1 **what year?**

2 A. I believe we dissolved it in 2013.

3 **Q. In 2013?**

4 A. Uh-huh.

5 **Q. When Aspen Beyond, Inc., dissolved --**

6 **A. Uh-huh.**

7 **Q. -- were there any officers or directors in**

8 **the company other than yourself?**

9 A. No.

10 **Q. Were you the 100 percent shareholder of the**

11 **entity when it formed in 2005?**

12 A. Yes, I believe so.

13 **Q. How were the stock -- strike that.**

14 **How was the stock of the company issued to**

15 **the shareholders that you mentioned earlier that**

16 **initially complained -- or excuse me -- eventually**

17 **complained to the Boulder County District Attorney?**

18 A. May -- what exactly do you mean?

19 **Q. Okay. Were actual shares, certificates of**

20 **shares, issued to these stockholders in connection**

21 **with Aspen Beyond, Inc.?**

22 A. No.

23 **Q. Did you sign promissory notes to these**

24 **investors?**

25 A. No.

17

1 **Q. How did these investors actually invest**
 2 **money with Aspen Beyond, Inc.?**
 3 A. I do not understand the question.
 4 **Q. Okay. You said they're investors, right?**
 5 A. Yeah. Yes.
 6 **Q. Okay. How did they invest money in Aspen**
 7 **Beyond, Inc.?**
 8 A. I believe it was just a -- it wasn't a
 9 private placement memorandum. It was just a -- a
 10 documentation of percent of ownership that they agreed
 11 to and signed. And it was just a check or cash into
 12 the corporation, into Aspen Beyond, Inc.
 13 **Q. I understand your answer. You, on behalf**
 14 **of Aspen Beyond, Inc., would issue something that**
 15 **would state the position or ownership percentage of**
 16 **the company for the investor who was making an**
 17 **investment; is that a fair statement?**
 18 A. That's a fair statement.
 19 **Q. Okay. Would you sign that? As the**
 20 **president of Aspen Beyond, Inc.?**
 21 A. Yes.
 22 **Q. Okay.**
 23 A. Yes.
 24 **Q. And did you do that with respect to each**
 25 **shareholder that you mentioned above?**

18

1 A. Yes.
 2 **Q. Were there --**
 3 A. May I?
 4 **Q. Please.**
 5 A. I do not recall if it was the same for
 6 everyone, because it was spread over time. So I
 7 believe it was -- I -- I do not recall if it was
 8 exactly the same. I believe it was pretty -- pretty
 9 typical what we did, yeah.
 10 **Q. At any time during the existence of Aspen**
 11 **Beyond, Inc., did the company have legal**
 12 **representation?**
 13 A. As -- can I ask the question back? As far
 14 as me personally or the corporation itself issuing
 15 shares and that kind of stuff?
 16 **Q. Well, since you asked that question, let's**
 17 **break down the question further.**
 18 A. All right.
 19 **Q. With respect to the corporation itself, did**
 20 **it have legal representation in connection with the**
 21 **issuance of these ownership certificates you mentioned**
 22 **earlier to these investors?**
 23 A. I do not believe so.
 24 **Q. With respect to you personally, did you**
 25 **seek legal advice in connection with your sale of**

19

1 **stock or percentages of Aspen Beyond, Inc., to these**
 2 **prospective investors?**
 3 A. I do not believe so.
 4 **Q. Did you seek legal representation for any**
 5 **reason in connection with Aspen Beyond, Inc.?**
 6 A. I believe we did with certain aspects of
 7 the contract agreements we had with homeowners and
 8 stuff like that, but nothing to do with shareholders.
 9 **Q. What was the nature of the business of**
 10 **Aspen Beyond, Inc.?**
 11 A. Adventure travel, arranging travel for --
 12 for clients, adventure trips in Colorado which
 13 extended into other -- other areas -- other states, I
 14 should say.
 15 **Q. Did you issue any financial statements or**
 16 **summary of financial projections to your investors and**
 17 **shareholders at any time during the existence of Aspen**
 18 **Beyond, Inc.?**
 19 A. I think we did, uh-huh.
 20 **Q. And would you review those before they were**
 21 **sent to the investors?**
 22 A. I created them. Yes.
 23 **Q. Did you -- did you have assistance of a**
 24 **certified public accountant or any other accountant or**
 25 **bookkeeper?**

20

1 A. Assistance doing that?
 2 **Q. Yes, sir.**
 3 A. I do not believe I did.
 4 **Q. Did Aspen Beyond, Inc., have any employees?**
 5 A. No. No.
 6 **Q. Just yourself?**
 7 A. (Deponent nodded head up and down.)
 8 **Q. Did you compensate yourself in connection**
 9 **with Aspen Beyond, Inc.?**
 10 A. Yes, I -- yes, I did.
 11 **Q. And in 2013, when the company dissolved,**
 12 **did you take any distributions or salary from Aspen**
 13 **Beyond, Inc.?**
 14 A. I do not believe anything was taken in
 15 2013.
 16 **Q. What about 2012?**
 17 A. Possibly.
 18 **Q. How much?**
 19 A. But it -- it could have been under -- I
 20 don't know. I'm not sure. I can give you an
 21 estimate, but I can't give you an exact amount.
 22 **Q. An estimate would be acceptable.**
 23 A. Under 20,000 maybe.
 24 **Q. Okay. Do you recall --**
 25 A. I'm sorry.

21

1 **Q. Sure.**
 2 A. I'm going off tax -- my tax returns.
 3 **Q. Between 2005 and 2013, do you recall the**
 4 **year in which you made the highest amount of money**
 5 **from Aspen Beyond, Inc., and, if so, what was the**
 6 **amount and what year?**
 7 A. I don't recall that, but I can -- I do
 8 recall that it might have been an average of 30,000 a
 9 year over a six -- six-year period, so you can do the
 10 math on that. A hundred -- between -- under 200,000,
 11 over 100,000.
 12 **Q. And you stated --**
 13 A. I --
 14 **Q. I'm sorry. Are you -- please finish.**
 15 **Okay. And you stated earlier in your testimony that**
 16 **you pleaded guilty to securities fraud with the**
 17 **Boulder County District Attorney?**
 18 A. No, I did not.
 19 **Q. Okay.**
 20 A. I pleaded to a theft charge. It was a
 21 negotiated plea deal with the D.A.'s office, because I
 22 couldn't afford to fight it.
 23 **Q. Theft of what?**
 24 A. I don't know. Cash, I guess.
 25 **Q. Whose cash?**

22

1 A. I don't know the -- I do not know.
 2 **Q. Do you have a copy of the stipulation that**
 3 **you signed with the Boulder County District Attorney?**
 4 A. I would have to get it from my attorney.
 5 **Q. Who is your attorney?**
 6 A. Dave Suro, S-u-r-o, out of Denver.
 7 **Q. And do you know what statute or law you**
 8 **agreed to stipulate to violating in connection with**
 9 **that judgment?**
 10 A. I do not know the statute.
 11 **Q. Okay. But you believe it was a theft**
 12 **charge?**
 13 A. I think it was a -- I believe it was a
 14 theft charge of between -- yes. I don't know the
 15 amount, 4- to 10,000 or something, and -- but I do not
 16 know the exact amount.
 17 **Q. And you also testified earlier that you**
 18 **also agreed to pay restitution; is that correct?**
 19 A. There was a restitution that came along
 20 with the plea deal. That's right.
 21 **Q. And restitution to whom?**
 22 A. The four people that I mentioned in the --
 23 early -- the shareholders of -- of Aspen Beyond, Inc.
 24 **Q. And do you know the total amount of**
 25 **restitution you agreed to pay?**

23

1 A. I can give you a close amount --
 2 **Q. Please do.**
 3 A. -- but I can't give you an exact -- I think
 4 it's 230,000.
 5 **Q. And did that equal or approximate the funds**
 6 **that these individual investors --**
 7 A. Yes.
 8 **Q. -- had made in to Aspen --**
 9 A. Yes.
 10 **Q. -- Beyond, Inc.?**
 11 A. Yes.
 12 **Q. Thank you. We don't want Kim getting mad**
 13 **at us; do we?**
 14 **Have you been making restitution payments?**
 15 A. Yes. I make them monthly.
 16 **Q. How many?**
 17 A. A thousand dollars a month.
 18 **Q. To each investor?**
 19 A. No. I make it to the court.
 20 **Q. Boulder County District Court?**
 21 A. Yes.
 22 **Q. You have not missed any payments so far?**
 23 A. No.
 24 **Q. What is your present employment?**
 25 A. I'm a project manager for Colt & Steel

24

1 Corporation.
 2 **Q. Colt & Steel?**
 3 A. Yes.
 4 **Q. C-o-l-t, space, a-n-d, space, S-t-e-e-l?**
 5 A. Yes.
 6 **Q. Okay. Do you know the address of that**
 7 **company?**
 8 A. The physical address?
 9 **Q. Yes, sir.**
 10 A. Yes.
 11 **Q. What is the physical address?**
 12 A. 1001 Lee Hill Road, Boulder, Colorado.
 13 **Q. How long have you been employed with Colt &**
 14 **Steel?**
 15 A. I think it was October of 2013.
 16 **Q. And you stated you're a project manager?**
 17 A. Yes.
 18 **Q. Can you describe your duties as project**
 19 **manager for Colt & Steel?**
 20 A. Sure. Yes. I estimate projects. I manage
 21 the construction crews. I do job-cost reporting. I
 22 do some -- I manage the goodwill of the company. We
 23 do a lot of -- not goodwill. We do a lot of charity
 24 work as far as flood-related volunteer activities, so
 25 I've been highly active in that. So those are

25	<p>1 the . . .</p> <p>2 Q. Who is the owner of Colt & Steel, if you</p> <p>3 know?</p> <p>4 A. There's four owners. I believe there's</p> <p>5 four owners.</p> <p>6 Q. And do you know their names?</p> <p>7 A. I do.</p> <p>8 Q. And what are they?</p> <p>9 A. Joe DeFranco -- Joseph DeFranco.</p> <p>10 Q. D-e-F-r-a-n-c-o?</p> <p>11 A. Yes.</p> <p>12 Q. Okay. The second owner?</p> <p>13 A. Arlene Gleason.</p> <p>14 Q. G-l-e-a-s-o-n?</p> <p>15 A. Yes.</p> <p>16 Q. And the third owner?</p> <p>17 A. Chad Renner, R-e-n-n-e-r -- R-e-n-n-e-r.</p> <p>18 Q. Two Ns?</p> <p>19 A. I believe it's two Ns.</p> <p>20 Q. Okay. And the fourth?</p> <p>21 A. Ben -- Ben Low. And I believe it's L-o-w-e</p> <p>22 (sic).</p> <p>23 Q. What is your annual compensation at Colt &</p> <p>24 Steel, Inc.?</p> <p>25 A. \$60,000.</p>	27	<p>1 A. I can give you an estimate.</p> <p>2 Q. Please.</p> <p>3 A. I think it was nineteen -- maybe 1991-ish,</p> <p>4 early '90s.</p> <p>5 Q. What is your present address?</p> <p>6 A. 160 Valley Lane, Boulder, Colorado.</p> <p>7 Q. Do you own that property?</p> <p>8 A. No.</p> <p>9 Q. Who owns it?</p> <p>10 A. Should I try to spell his name?</p> <p>11 Q. Please.</p> <p>12 A. Lenny Gold- -- Goldstein, I believe.</p> <p>13 Q. Do you pay rent to Mr. Goldstein?</p> <p>14 A. I do.</p> <p>15 Q. Do you -- how do you know Mr. Goldstein?</p> <p>16 Is he just a landlord, or do you know him personally?</p> <p>17 A. He's just a landlord.</p> <p>18 Q. Do you have a lease agreement with</p> <p>19 Mr. Goldstein?</p> <p>20 A. I do.</p> <p>21 Q. What's your monthly rent?</p> <p>22 A. I believe it's 1500 a month.</p> <p>23 Q. Anybody there living with you?</p> <p>24 A. There's tenants above, but no one in my</p> <p>25 house. My -- my son stays with me part time.</p>
26	<p>1 Q. Are your wages currently being garnished in</p> <p>2 any way?</p> <p>3 A. They were. They just -- I think they</p> <p>4 just -- I just got finished. It was a \$1500 tax lien</p> <p>5 from a couple years ago, from the State.</p> <p>6 Q. The State of Colorado?</p> <p>7 A. Yes. And I think it's completed.</p> <p>8 Q. Do you pay your restitution to your</p> <p>9 investors yourself, through your own personal account,</p> <p>10 or is it deducted by your employer?</p> <p>11 A. I pay it from my -- from myself to the</p> <p>12 court. So myself.</p> <p>13 Q. Any other criminal convictions that</p> <p>14 you've -- that you've had at any time in your life,</p> <p>15 other than the theft conviction that you just spoke of</p> <p>16 in 2013?</p> <p>17 A. I had a -- well, I don't know if it's a</p> <p>18 criminal conviction -- DWI in 1999, I believe it was.</p> <p>19 Q. The state of Colorado?</p> <p>20 A. Yes.</p> <p>21 Q. How long did you live in California?</p> <p>22 A. I don't recall how long I lived in</p> <p>23 California.</p> <p>24 Q. Do you recall what years you lived in</p> <p>25 California?</p>	28	<p>1 Q. How old is your son now?</p> <p>2 A. Seventeen today.</p> <p>3 Q. Oh. What is your Social Security number?</p> <p>4 A. 013-46-5453.</p> <p>5 Q. When did you graduate from high school?</p> <p>6 A. 1985.</p> <p>7 Q. From which high school?</p> <p>8 A. Lincoln-Sudbury Regional High School..</p> <p>9 Q. Located where?</p> <p>10 A. Sudbury, Massachusetts.</p> <p>11 Q. Is that in the Boston area?</p> <p>12 A. That is outside the Boston area, the</p> <p>13 suburbs of Boston.</p> <p>14 Q. Did you obtain any degrees from a college</p> <p>15 or university after graduating from high school in</p> <p>16 1985?</p> <p>17 A. I -- I received an associate's degree in</p> <p>18 Florida, out of South Florida Community College.</p> <p>19 Q. Did you have a major emphasis of study?</p> <p>20 A. I think it was just liberal arts.</p> <p>21 Q. Any other degrees?</p> <p>22 A. No, sir.</p> <p>23 Q. Did you attend any other classes, other</p> <p>24 than the classes in connection with your associate's</p> <p>25 degree you just testified about?</p>

29	<p>1 A. Classes in other colleges?</p> <p>2 Q. Yes, sir.</p> <p>3 A. Yes.</p> <p>4 Q. What were those?</p> <p>5 A. The classes or the schools?</p> <p>6 Q. Let's start with the schools.</p> <p>7 A. I'm -- I was at South Florida College.</p> <p>8 Q. Did you have an emphasis of study?</p> <p>9 A. I do not recall.</p> <p>10 Q. Do you recall the classes you were taking?</p> <p>11 A. No.</p> <p>12 Q. Any other schools that you attended?</p> <p>13 A. Yes.</p> <p>14 Q. Which ones?</p> <p>15 A. Saint Leo College.</p> <p>16 Q. Saint Leo?</p> <p>17 A. Yes.</p> <p>18 Q. Okay. What years?</p> <p>19 A. Late '80s.</p> <p>20 Q. What was the purpose of you attending Saint</p> <p>21 Leo College?</p> <p>22 A. I don't understand the question.</p> <p>23 Q. Were you trying to obtain a degree? Were</p> <p>24 you --</p> <p>25 A. Yes.</p>	31	<p>1 A. No.</p> <p>2 Q. Did you ever tell anyone you were obtaining</p> <p>3 an M.B.A. degree?</p> <p>4 A. M.B.A. degree?</p> <p>5 Q. Yes.</p> <p>6 A. No. I don't recall.</p> <p>7 Q. Okay.</p> <p>8 A. May I back up?</p> <p>9 Q. Sure. And also --</p> <p>10 A. I think I --</p> <p>11 Q. -- if you ever need to take a break --</p> <p>12 A. Right.</p> <p>13 Q. -- let me know.</p> <p>14 A. Okay.</p> <p>15 Q. It's for your comfort.</p> <p>16 A. All right.</p> <p>17 Q. That's another rule. That's Rule No. 2.</p> <p>18 And if you don't understand a question --</p> <p>19 A. Uh-huh.</p> <p>20 Q. -- which you've already done a good job</p> <p>21 with, just tell me you don't understand or ask me to</p> <p>22 repeat it or rephrase it, and I'll be happy to do so.</p> <p>23 A. Okay.</p> <p>24 Q. My intent is not to trick you. My intent</p> <p>25 is to elicit the best testimony I can from you today.</p>
30	<p>1 Q. Okay. What were you trying to do?</p> <p>2 A. I don't recall the major.</p> <p>3 Q. What years were you at Saint Leo?</p> <p>4 A. Late '80s.</p> <p>5 Q. Where is Saint Leo located?</p> <p>6 A. North of Tampa.</p> <p>7 Q. Any other schools?</p> <p>8 A. I think I was registered at Palm Beach</p> <p>9 Junior College shortly, but I can't recall if that was</p> <p>10 a full semester or not.</p> <p>11 Q. Did you obtain a degree from Saint Leo?</p> <p>12 A. No.</p> <p>13 Q. Did you obtain a degree from South Florida?</p> <p>14 A. No.</p> <p>15 Q. Any other degrees that you obtained, other</p> <p>16 than the associate's degree you testified about?</p> <p>17 A. No.</p> <p>18 Q. It was a liberal arts associate's degree?</p> <p>19 A. Yes.</p> <p>20 Q. Okay. Any formal training in construction?</p> <p>21 A. As -- training -- "formal training,"</p> <p>22 meaning certificates -- certificates or schooling?</p> <p>23 Q. Yes, sir.</p> <p>24 A. No.</p> <p>25 Q. Did you ever attend an M.B.A. program?</p>	32	<p>1 Okay?</p> <p>2 A. Okay.</p> <p>3 Q. And you wanted to back up.</p> <p>4 A. Yes. But now I don't recall what I was</p> <p>5 going to say.</p> <p>6 Q. We were discussing your education, South</p> <p>7 Florida -- excuse me -- South Florida, Saint Leo,</p> <p>8 M.B.A. degree that you did not seek -- or go to</p> <p>9 classes with respect to. Does that trigger your</p> <p>10 memory?</p> <p>11 A. Yes.</p> <p>12 Q. Okay.</p> <p>13 A. I believe when I was first getting into</p> <p>14 construction in Boston, I think I received a -- a</p> <p>15 certificate from the American General Contractors</p> <p>16 Association. I think I got involved with them. But</p> <p>17 it was a long time ago, so I don't recall exactly was</p> <p>18 it was.</p> <p>19 Q. Do you recall the emphasis of study?</p> <p>20 A. No. It's just a certificate --</p> <p>21 certification program.</p> <p>22 Q. Have you received an inheritance within the</p> <p>23 past five years?</p> <p>24 A. No.</p> <p>25 Q. Past ten years?</p>

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1 A. No.
 2 **Q. Do you know who Brian Gurinsky is?**
 3 A. Say that again.
 4 **Q. Brian Gurinsky. Do you know who that is?**
 5 A. Gurinsky?
 6 **Q. Yes.**
 7 A. I don't recall the last name.
 8 **Q. Okay.**
 9 A. Uh-uh. Gurinsky. Maybe -- could you be
 10 saying it incorrectly?
 11 **Q. I might be. Brian Gurinsky (pronouncing)?**
 12 A. Yes.
 13 **Q. Okay. Who is Brian Gurinsky?**
 14 A. He -- I believe he was a former landlord of
 15 mine --
 16 **Q. Okay.**
 17 A. -- years -- a long time -- I don't remember
 18 what year.
 19 **Q. And with respect to what property?**
 20 A. It was a property -- it was an apartment in
 21 Denver, and I don't recall the address.
 22 **Q. Did you become involved in a legal**
 23 **proceeding with Mr. Gurinsky?**
 24 A. I believe so. And I believe it had to do
 25 with leaving the property prior to fulfilling the

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1 lease term.
 2 **Q. And he sued you for unpaid rent?**
 3 A. I assume so. I don't recall.
 4 **Q. In Denver County Court, correct?**
 5 A. It must . . .
 6 **Q. Did Mr. Gurinsky obtain a judgment?**
 7 A. Yes. I believe so, but I don't recall the
 8 amount. I think it was for the unpaid rent for the --
 9 the months that I didn't -- you know, I left before
 10 the rental agreement was fulfilled.
 11 **Q. Do you recall being arrested in connection**
 12 **with failing to respond to postjudgment discovery in**
 13 **connection with that case? This would have happened**
 14 **sometime in 2013.**
 15 A. I was arrested for a couple things in 2013.
 16 **Q. Okay. Let's go through them. How about**
 17 **the one -- let's start with the first one you recall.**
 18 A. There was -- when I went to the District
 19 Attorney's office by myself, just to talk to them
 20 openly, I had a warrant open for an unpaid dog ticket
 21 in 2008, I believe, for my dogs --
 22 **Q. Okay.**
 23 A. -- in Wash Park.
 24 **Q. Okay. So you were arrested then?**
 25 A. I was arrested then.

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1 **Q. Okay. What about the second time?**
 2 A. And then I believe I -- I don't recall --
 3 I -- I -- I believe I turned myself in on the arrest,
 4 so I don't know if you consider that an arrest or not.
 5 **Q. With respect to the fraud charges?**
 6 A. Yes. They asked me to come in and just --
 7 right, exactly.
 8 **Q. And any other times you recall being**
 9 **arrested in 2013?**
 10 A. I don't recall.
 11 **Q. Do you recall being arrested in connection**
 12 **with the Gurinsky --**
 13 A. I don't recall.
 14 **Q. -- case?**
 15 A. I don't recall.
 16 **Q. Okay. Do you recall posting bail at the**
 17 **Denver County Court?**
 18 A. I recall posting bail, but I don't recall
 19 if that was for the dog thing or not.
 20 **Q. Okay. Was that your money?**
 21 A. I don't recall.
 22 **Q. Okay.**
 23 A. I do believe it was about a thousand bucks,
 24 but not sure if it was mine or not.
 25 MR. SHILLIDAY: I'm going to mark this as

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1 Exhibit 1.
 2 (Deposition Exhibit 1 was marked.)
 3 **Q. (BY MR. SHILLIDAY) Mr. Burke, Exhibit 1**
 4 **has been handed before you. I'll be asking you a**
 5 **series of questions about this document. I'll give**
 6 **you a moment to examine it, and please let me know**
 7 **when you are finished.**
 8 A. Okay.
 9 **Q. Okay. Thank you. Do you recognize Exhibit**
 10 **1?**
 11 A. Some of it.
 12 **Q. Okay. Did you prepare Exhibit 1?**
 13 A. I don't recall if I prepared it or I had
 14 someone prepare it for me.
 15 **Q. Do you recall directing someone to type**
 16 **this for you?**
 17 A. I don't recall.
 18 **Q. Okay. Do you know what this is?**
 19 A. It looks like a resume.
 20 **Q. Is this your resume?**
 21 A. Most -- yes.
 22 **Q. Do you recall when this was prepared?**
 23 A. No.
 24 **Q. Do you recall why this was prepared?**
 25 A. No.

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1 **Q. Is the information contained in Exhibit 1**
2 **accurate, to the best of your knowledge?**
3 A. To the best of my knowledge.
4 **Q. Do you recall whether you gave Exhibit 1 to**
5 **Mr. Ingham?**
6 A. I do not recall.
7 **Q. Did you give resumes to prospective**
8 **shareholders of globalTowers, Inc., at any time?**
9 A. I'm sure I did.
10 **Q. Why would you do that?**
11 A. Why would I do that?
12 **Q. Yes, sir. It might be a softball question,**
13 **but I'm trying to understand why you would give**
14 **resumes to shareholders.**
15 A. To show what they were investing in, the
16 management team, and what -- what I had done in the
17 past, what I had been a part of. So I would probably
18 give them my resume to make sure that they understood
19 who I was and what I was capable of.
20 **Q. Let's start with the top of the page of**
21 **Exhibit 1. What is globalTowers, Inc.?**
22 A. globalTowers, Inc., was a company we formed
23 to build -- build towers for wireless cell phone
24 companies.
25 **Q. When was it formed?**

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1 A. I do not recall the exact year. I believe
2 it was 1991 into 2000-ish, give or take.
3 **Q. In what state was it incorporated?**
4 A. I think we incorporated in California.
5 **Q. Did globalTowers, Inc., have legal**
6 **representation at the time the --**
7 A. Yes.
8 **Q. -- entity was formed?**
9 A. Yes.
10 **Q. Who was that?**
11 A. I don't recall the attorney's name.
12 **Q. Do you recall --**
13 A. He was out of Santa Barbara. Yeah.
14 **Q. Okay. So the company was formed in**
15 **California?**
16 A. It was formed in California, uh-huh.
17 **Q. Is it a California entity?**
18 A. Yes.
19 **Q. You believe it was formed in 1999, correct?**
20 A. I believe so.
21 **Q. At the time globalTowers -- and do you mind**
22 **if I call it GTI?**
23 A. No.
24 **Q. Thank you. At the time GTI was formed, who**
25 **were the initial shareholders?**

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1 A. Would you like me to answer if I know at
2 least some of them, even if it wasn't all of them?
3 **Q. The purpose of my deposition today is to**
4 **get your best personal knowledge today.**
5 A. Okay.
6 **Q. Let me also state, if you have a document**
7 **that would assist us -- we've already propounded**
8 **discovery to you. In response to most our document**
9 **requests, you said you didn't have any documents.**
10 **But if you do have a document that would**
11 **help you refresh your recollection and you want to**
12 **produce that instead of your testimony today, please**
13 **feel free. But today, I'm intending --**
14 A. Okay.
15 **Q. -- to get and elicit from you your best**
16 **personal knowledge.**
17 A. Okay. So I believe I formed it with
18 Marty -- Martin Snyder at the time.
19 **Q. S-n-y-d-e-r?**
20 A. S-n-y- -- S-n-y-d-e-r.
21 **Q. How did you come to know Mr. Snyder?**
22 A. That's a good question. I believe he was
23 somehow introduced to me through the wireless
24 communications industry. I don't recall how we met.
25 **Q. How did you become involved in the wireless**

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1 **communication industry?**
2 A. When I was back in Boston, I was working
3 with my brother-in-law, Diversified Construction
4 Company, and there was a division for Diversified
5 Wireless. We started -- we started doing some tower
6 development back then.
7 And when -- I moved to Colorado, I believe
8 in 1997, and worked for a friend of mine's family,
9 Paramount Construction. We were a civil construction
10 company.
11 And I had kind of opened the division of
12 Diversified Wireless out here at the same time we were
13 doing Paramount Construction work. And we were going
14 in to try to develop -- developing a communication
15 division inside Paramount Construction.
16 So on my construction background and my
17 work with Diversified and Paramount, it kind of
18 launched us in the communi- -- in the tele- -- the
19 teleconstruction -- or communication construction
20 industry.
21 **Q. Okay. As is usual with the way I do**
22 **things, I'm going to back up and ask you some**
23 **follow-up questions about your answer.**
24 A. Okay.
25 **Q. You mentioned a brother-in-law. What's his**

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1 name?
 2 A. John Childs.
 3 Q. C-h-i-l-d-s?
 4 A. Yes.
 5 Q. And what was his position at Diversified
 6 Wireless?
 7 A. He was -- I don't know what structure they
 8 had, but he was the founder, slash, owner, I guess.
 9 Q. What was your wife's name?
 10 A. Kirstin, K-i-r-s-t-i-n.
 11 Q. What's her maiden name?
 12 A. Childs.
 13 Q. And you're divorced now?
 14 A. Yes.
 15 Q. When was the divorce?
 16 A. I believe it was 2004.
 17 Q. Was there a property settlement agreement
 18 in connection with the divorce?
 19 A. I -- I don't recall. She kept the house we
 20 had. I believe she -- it was -- whatever was left was
 21 left in her name.
 22 Q. What was the address of that house that she
 23 kept?
 24 A. I don't recall the actual address.
 25 Q. You don't recall the actual address --

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1 A. No.
 2 Q. -- of a house you lived in?
 3 A. The number, no. The street, yes.
 4 Q. Okay. What's the street?
 5 A. Quince Street, Q-u-i-n-c-e.
 6 Q. In Boulder?
 7 A. Yes, sir.
 8 Q. You mentioned a company by the name of
 9 Paramount. What is that company?
 10 A. Paramount is a Colorado-based civil
 11 construction company.
 12 Q. What's their connection to the wireless
 13 communication industry?
 14 A. We started going in -- we -- like I said
 15 before, when I got -- I came to work for them with --
 16 they were a civil construction company, and I came on
 17 as a project manager. And we started moving into the
 18 wireless communication-development construction field
 19 when I started working there.
 20 Q. If you wouldn't mind --
 21 A. Yeah.
 22 Q. -- I -- I want to better understand your
 23 background. And maybe we should do this in
 24 chronological order --
 25 A. All right.

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1 Q. -- from the top down on Exhibit 1. So if
 2 you would start with globalTowers, Inc. What was your
 3 position with that company?
 4 A. I was the founder.
 5 Q. Okay. Were you -- any other positions?
 6 A. I ran projects. I was a project manager.
 7 I -- I ran the sales of the company. I pretty much,
 8 you know, I guess did everything when we started. And
 9 Marty was the -- was a partner of mine, a working
 10 partner at that time.
 11 Q. Did you have a title?
 12 A. Probably CEO at the time -- president or
 13 CEO. I don't recall which -- which one I was. I
 14 think we switched a couple times. Yeah. So we
 15 founded that. And -- and that was really founded on
 16 the basis of the opportunities to go into the wireless
 17 industry and build a lot of communication structures.
 18 And we saw an opportunity to -- to start in
 19 Paramount Construction and Diversified. But Paramount
 20 Construction didn't really want to go into that
 21 direction. It was a family-owned business here, and
 22 they wanted to stay with bridge work, civil
 23 construction, stuff that they had known for 20, 30
 24 years here. So I had left them to start the -- the
 25 globalTowers company.

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1 Q. Was that in 1999?
 2 A. I think -- I don't recall. I think it was
 3 close, yeah, right around there. Karatcom -- just so
 4 you know, I think we started with the name of
 5 Karatcom. That was the idea of it. And we were going
 6 to be a consulting firm.
 7 Marty's background was more -- how would
 8 you call it? He was consulting in wireless companies.
 9 He would go in and actually manage the build-outs --
 10 the wireless build-outs.
 11 So when we started going -- when we started
 12 Karatcom prior to Global, it was kind of -- we were
 13 looking at kind of which way to go: were we going to
 14 be more of a consulting team or a construction team.
 15 And when we started really picking up more
 16 construction work, tower building, we -- we changed
 17 the name to globalTowers, Inc. And that's kind of
 18 where the whole globalTowers company was launched --
 19 or when it was launched.
 20 Q. When you say, "Karatcom," that's
 21 K-a-r-a-t-c-o-m --
 22 A. Right.
 23 Q. -- comma, Inc.?
 24 A. Yes.
 25 Q. Was that a legal entity? Was that --

45	<p>1 A. I don't --</p> <p>2 Q. -- actually formed?</p> <p>3 A. I don't recall. I don't think we did. I</p> <p>4 don't know if we formed it or we just -- we -- I don't</p> <p>5 recall exactly what we did. I don't know if we --</p> <p>6 when we first really got going, if we formed it to --</p> <p>7 to -- if we did business as Karatcom or not. I don't</p> <p>8 recall.</p> <p>9 Q. When Karatcom was formed --</p> <p>10 A. Uh-huh.</p> <p>11 Q. -- you had an interest in the entity,</p> <p>12 correct?</p> <p>13 A. Yes.</p> <p>14 Q. And Mr. Snyder had an interest in the</p> <p>15 company, correct?</p> <p>16 A. Yes.</p> <p>17 Q. Any others?</p> <p>18 A. At that time, I don't believe so. I don't</p> <p>19 think we raised any capital or really started</p> <p>20 developing the towers until it was globalTowers.</p> <p>21 Q. Okay. I want to make sure I understand</p> <p>22 that.</p> <p>23 A. Yeah.</p> <p>24 Q. You didn't raise any capital --</p> <p>25 A. For Karatcom.</p>	47	<p>1 programs. So Marty was a consultant that these</p> <p>2 corporations would hire.</p> <p>3 Q. Did Marty have any technical training in</p> <p>4 construction?</p> <p>5 A. More -- I don't recall if it was</p> <p>6 construction or business school. I -- I don't recall.</p> <p>7 Q. Okay.</p> <p>8 A. I know he was a construction guy by trade,</p> <p>9 more of a cabinetmaker than he was anything else. But</p> <p>10 that had nothing to do with the wireless industry.</p> <p>11 Q. And when you testified earlier -- and</p> <p>12 correct me if I'm wrong.</p> <p>13 A. Uh-huh.</p> <p>14 Q. You stated that, when Karatcom was formed,</p> <p>15 you and Marty were trying to figure out if the</p> <p>16 business would go more towards construction of towers</p> <p>17 or more towards consultation. Is that a fair</p> <p>18 statement?</p> <p>19 A. That's a fair statement. Or both. I -- I</p> <p>20 think we were trying to develop the whole model and</p> <p>21 what we were -- we would be best suited for. I more</p> <p>22 had a construction background. Marty had the</p> <p>23 technical background.</p> <p>24 Q. When you say, "technical," what do you</p> <p>25 mean?</p>
46	<p>1 Q. -- for Karatcom?</p> <p>2 A. No.</p> <p>3 Q. Did you solicit investors for Karatcom?</p> <p>4 A. I don't remember. I don't think so.</p> <p>5 Q. Is it possible?</p> <p>6 A. It's possible. But I think we were just</p> <p>7 trying to really get our feet wet at that time. I</p> <p>8 don't think we had anything established going on,</p> <p>9 other than my involvement in the industry and Marty's</p> <p>10 background.</p> <p>11 Q. When you say, "Marty," that's Martin</p> <p>12 Snyder?</p> <p>13 A. Yes. Yes.</p> <p>14 Q. Is it okay if we refer to him as "Marty"?</p> <p>15 A. Yes.</p> <p>16 Q. Okay. I'll refer to him as either "Marty"</p> <p>17 or "Mr. Snyder," if that's okay with you.</p> <p>18 A. Yes.</p> <p>19 Q. Okay. What was Mr. Snyder's background?</p> <p>20 A. He was a high-level executive consultant</p> <p>21 for companies such as AT&T. So in 1997, when the --</p> <p>22 they call it -- the Deregulation Act came into play,</p> <p>23 when the wireless phone companies really launched,</p> <p>24 Marty was a key player in the launch of certain areas,</p> <p>25 such as, I think, California for AT&T, the build-out</p>	48	<p>1 A. Well, he designed RF systems as well, like</p> <p>2 he'd -- when we design a -- when you design a phone</p> <p>3 system or a wireless system, you would do testing</p> <p>4 of -- with certain radiofrequency testing.</p> <p>5 So RF design, core planning, as well as --</p> <p>6 that's more the technical side. And then that is --</p> <p>7 then there's site acquisition, real estate that's</p> <p>8 involved with it. And Marty had managed, you know,</p> <p>9 those full, A to Z, if you will, on the entire buildup</p> <p>10 programs.</p> <p>11 But the technical side would have been more</p> <p>12 of the -- the -- the design side of it. So Marty had</p> <p>13 a staff he would hire, and he was managing -- he would</p> <p>14 manage the entire buildup.</p> <p>15 Q. And when you said earlier, "RF," do you</p> <p>16 mean radiofrequency?</p> <p>17 A. Yes.</p> <p>18 Q. Okay. And again, what was the name of the</p> <p>19 attorney that assisted you in the formation of</p> <p>20 globalTowers, Inc.?</p> <p>21 A. Well, if I may, when we first formed the</p> <p>22 company, it was out of California.</p> <p>23 Q. Correct.</p> <p>24 A. When we raised capital and started really</p> <p>25 pushing, it was Holme, Roberts & Owen. Holme --</p>

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1 Holme -- HRO, they were doing most of our stuff on --
 2 on the investment side, helping us. And then we had a
 3 real estate attorney as well. So initially, I can't
 4 recall the Santa Barbara attorney that helped us form
 5 it --
 6 **Q. Okay.**
 7 A. -- if that's what the question was.
 8 **Q. That was the question.**
 9 A. Okay.
 10 **Q. We'll get to HRO.**
 11 A. Okay.
 12 **Q. Looking at Exhibit 1, can you describe your**
 13 **work experience with the next entity beneath**
 14 **globalTowers.**
 15 A. Yeah. The -- so when I came out to
 16 Colorado, I was working for Paramount. And we also --
 17 my brother-in-law had the vision of expanding
 18 Diversified Wireless outside of New England.
 19 And because he knew Brian -- Brian used to
 20 work for John as well. So Paramount was owned by the
 21 Moffitt family. So Brian Moffitt worked for John in
 22 Boston with me. So he was very familiar, kind of,
 23 with Brian, the company, where I was moving to. I had
 24 a sister with me.
 25 The whole goal was to kind of -- at the

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1 time, we were thinking of expanding Diversified
 2 Wireless out here. So I helped him acquire a couple
 3 small cell phone -- cell construction companies out
 4 here, so Diversified Wireless had a presence in
 5 Colorado.
 6 About the same time, give or take, we were
 7 doing -- I was working with Paramount. So they were
 8 looking to expand out here. I helped them broker some
 9 deals, basically build some construction teams.
 10 And they kind of -- I think -- I can't
 11 recall exactly why. But, you know, one of the reasons
 12 I don't think they came this way is because they were
 13 more suited for New England at the time, and they just
 14 didn't expand the -- they didn't expand Diversified
 15 Wireless much more than that first year attempt. I
 16 don't know if that answers your question.
 17 **Q. It does somewhat. Were you actually**
 18 **employed by Paramount at any time?**
 19 A. Yes.
 20 **Q. For how long?**
 21 A. I don't recall the length of time. It was
 22 a while, but I don't recall the length of time.
 23 **Q. What were your job duties at Paramount?**
 24 A. Project manager, sales. So Paramount was
 25 mostly a public -- they did mostly civil work for

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1 municipalities in the state of Colorado. So when I
 2 got here, we were doing bridge develop- -- bridgework,
 3 water tanks.
 4 And then we were trying to look at
 5 expanding into the private sector, which would have
 6 been -- when you call it "private," even AT&T would
 7 have been private. Even though we're a public
 8 company, it's not a public bid. It's a negotiated
 9 private contract.
 10 So I was -- I was partly involved with
 11 trying to get some of the private construction work in
 12 the -- in -- in the doors. That would have been civil
 13 work and wireless work, so project management and
 14 sales, I guess you could say.
 15 **Q. And Brian Moffitt was an owner of**
 16 **Paramount?**
 17 A. His dad owned it. And I don't know if they
 18 made Brian an owner at that point, but he later on
 19 took over the company.
 20 **Q. Okay.**
 21 A. Yes.
 22 **Q. Let's talk about the next entity on**
 23 **Exhibit 1, with respect to your work experience.**
 24 A. Which one are we on?
 25 **Q. We're beneath -- I think we did**

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1 **globalTowers. I think we've talked about Paramount.**
 2 A. Uh-huh.
 3 **Q. What about Diversified Wireless?**
 4 A. We -- well, that was what I was just -- I
 5 just spoke with you about. It was kind of side by
 6 side, the two of them. Diversified Wireless, when I
 7 was back in Boston -- and if you could skip down a
 8 few, almost four, Canyon Design and Restoration
 9 Company, we were a major subcontractor to my
 10 brother-in-law's company. So that was mostly private
 11 restoration work in the city of Boston.
 12 And John had gotten into the wireless
 13 market back in Boston. And when I moved out to
 14 Colorado with Paramount, that's when we were trying to
 15 work the -- the -- the Diversified Wireless company
 16 out here as well. So they kind of all fit together in
 17 some ways.
 18 So Diversified Wireless was the attempt for
 19 us to -- which I -- I think I already said. We tried
 20 to buy a couple companies for John out here. So I
 21 helped him broker some deals on some smaller
 22 construction teams. So they acquired a -- a
 23 local-based cell phone tower construction company.
 24 I was trying to do some sales for him at
 25 the time. So we did get some projects out here for

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1 him under Diversified Wireless. And you'll notice
 2 that in some of the same years here, I was doing -- I
 3 was doing work for Paramount at the same time as well.
 4 But I was fully -- full -- fully -- full-time employed
 5 by Paramount Construction.
 6 **Q. What were your job duties at Diversified**
 7 **Wireless?**
 8 A. Mostly sales out here, you know,
 9 developing -- developing projects, developing a
 10 team -- so we acquired a construction team for the
 11 company -- and then basically sales, trying to get
 12 projects in the door.
 13 **Q. What was Diversified Wireless selling?**
 14 A. Wireless communication tower construction.
 15 **Q. Just the construction services?**
 16 A. Mostly the construction services.
 17 **Q. Actually building the tower?**
 18 A. Yes.
 19 **Q. Okay.**
 20 A. Building the tower or maintenance on
 21 antenna work that ties up with -- that would already
 22 be on a rooftop.
 23 **Q. Were you an owner of Canyon Design?**
 24 A. Yes.
 25 **Q. What percentage?**

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1 A. It was just me. It was a sole
 2 proprietorship, I believe.
 3 **Q. Was that a Massachusetts company?**
 4 A. Yes.
 5 **Q. Did that entity file for bankruptcy relief?**
 6 A. I don't think so.
 7 **Q. Okay. What about your work experience**
 8 **underneath Canyon Design? What's that entity?**
 9 A. That was John -- Diversified Contracting
 10 Company, same company.
 11 **Q. Same company as Diversified Wireless?**
 12 A. Yeah.
 13 **Q. Okay. On Page 2 of Exhibit 1, any of these**
 14 **companies have anything to do with wireless**
 15 **communications?**
 16 A. No, not at all.
 17 **Q. Okay. Were these your jobs outside of**
 18 **college -- or your junior college degree?**
 19 A. These jobs, were they outside of my college
 20 degree?
 21 **Q. Well, after you graduated from -- well, let**
 22 **me put it this way: After you graduated --**
 23 A. I graduated in ninety -- I think '89. I
 24 don't know. That's pushing it. Maybe '88. I can't
 25 recall when I left college. So all this would have

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1 been after school.
 2 **Q. Okay. Is this in chronological order?**
 3 A. Yes.
 4 **Q. Starting from Page 2 backwards?**
 5 A. Yeah.
 6 **Q. Okay. Do you recall any jobs or positions**
 7 **or companies you worked for that are not on Exhibit 1**
 8 **between graduating from junior college and**
 9 **globalTowers, Inc.?**
 10 A. I think I was a bartender at certain
 11 points. You know, I think I did some various --
 12 various work. I was a -- I think I had a position
 13 with -- I don't know whether it was John Hancock or
 14 New England Financial Group or Independent Insurance
 15 as kind of an insurance -- life insurance sales guy
 16 when I got out of school. But that didn't last long.
 17 **Q. That would have been in the late '80s?**
 18 A. Probably late '80s. I -- I worked for my
 19 father's engineering company for a while. He had an
 20 engineering and manufacturing business out of -- in
 21 Boston. And so I was responsible -- I did some sales
 22 for the -- for his company.
 23 **Q. As part of your theft judgment, have you**
 24 **agreed not to be an owner of a company again?**
 25 A. It's up to my probation officer.

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1 **Q. Okay.**
 2 A. So at this point in time, yes, the -- I had
 3 to eliminate myself from any ownership in any entity
 4 until further -- further notice. So I think
 5 that answers -- does that answer your question?
 6 **Q. Yes, sir. In connection with your -- your**
 7 **stipulation --**
 8 A. Yes.
 9 **Q. -- and the judgment, you do not presently**
 10 **own any interest in any business or entity, correct?**
 11 A. Zero. No.
 12 **Q. Okay.**
 13 A. So -- well, the answer is correct, yes.
 14 **Q. Okay. But you wanted to add something?**
 15 A. Well, I -- you said, "correct," and I said,
 16 "No." So you asked me a question, and I said, "No."
 17 But the answer is yes, you're correct.
 18 **Q. Okay. Thank you.**
 19 A. I don't own anything.
 20 **Q. Correct. Okay. Thank you.**
 21 MR. SHILLIDAY: Can we mark this as
 22 Exhibit 2.
 23 (Deposition Exhibit 2 was marked.)
 24 **Q. (BY MR. SHILLIDAY) Mr. Ingham, Exhibit**
 25 **2 has been -- excuse me. Mr. Burke, Exhibit 2 has**

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1 **been handed to you. Do you recognize that document?**

2 A. It looks like something I put together.

3 **Q. What is Exhibit 2?**

4 A. It looks like a bio.

5 **Q. Do you know why you put Exhibit 2 together?**

6 A. I can't recall when. So, no, I'm not sure

7 why I put it together.

8 **Q. You don't recall when or why?**

9 A. I don't recall when or why.

10 **Q. Okay.**

11 A. And the reason is I've had multiple bios in

12 certain times in my career, so I don't know when or

13 why this one was put together.

14 **Q. Was that in connection with globalTowers?**

15 A. I don't recall.

16 **Q. Okay.**

17 A. I'm assuming it was, but I don't recall.

18 **Q. Do you recall providing this bio to**

19 **Mr. Ingham?**

20 A. I don't recall, but that doesn't mean I

21 didn't do that, so . . .

22 **Q. Is the information contained in Exhibit 2**

23 **accurate?**

24 A. Can I read through it?

25 **Q. Yes, sir.**

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1 A. Thanks. Can I keep this, or no?

2 **Q. No. I can give you an extra copy after the**

3 **deposition.**

4 A. That's fine. I just wanted to make sure

5 I -- it would be nice to have it, but that's fine.

6 So for the most part, I think it's

7 accurate, other than a few things that might have --

8 be conflicting with timing. Like, Karatcom and

9 globalTowers is kind of the same thing, because we

10 didn't do much with Karatcom.

11 And I don't know if we just named the

12 company Karatcom when I first -- when we first

13 started, like back to what I said earlier. So that

14 might be a little incorrect as far as obviously the

15 timing and the name -- the name. But everything else

16 looks pretty good.

17 The whole ABBCI thing was a stint -- a -- a

18 person I met in Boulder from -- I think he was from

19 France, that asked me to be part of this entity. And

20 I did become part of that entity for a while, kind of

21 a -- nothing that was organized. It was more

22 something -- I think he had the -- I think this guy,

23 Stephen -- Andres Stephen, or whatever his name was,

24 he had a -- he had some international trade business

25 he asked me to get involved with, and I did.

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1 And I don't recall what -- what efforts we

2 actually did -- I mean, what -- what, if any, business

3 was really done together. I know he left and went

4 back to France. I actually completely forgot about

5 that.

6 **Q. What is ABBCI?**

7 A. American Business Brokers Company

8 International, I think was the name of the entity,

9 which it says here.

10 **Q. What does it do?**

11 A. I don't remember. It was a -- it was a --

12 it was a trade -- it was like an international trade

13 business. And he was trying to import products from

14 France to the United States.

15 And we were really going to try to push

16 the -- the -- the Web site at the time and all that

17 stuff, and I was getting involved. And all I remember

18 is the guy just bailed on me and left town. So I

19 never heard from him again.

20 **Q. Any other --**

21 A. There really wasn't much activity, other

22 than trying to create that entity out of -- or open up

23 a division of it out of Boulder, I think. And I --

24 and I can't recall what year it was, but it was a long

25 time ago.

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1 **Q. Any other inaccuracies with respect to**

2 **Exhibit 2?**

3 A. Oh, if you want to really dig into it,

4 Diversified Wireless Technologies, I say it was a

5 national site development company. It was really a

6 New England-based site development company.

7 We were trying to -- we were trying to

8 expand it nationally, which was my goal out here in

9 the western region. That's probably an inaccuracy.

10 It is an inaccuracy.

11 **Q. Any others with respect to Exhibit 2?**

12 A. Yes. I was not -- Paramount Communication

13 Systems was kind of part of Paramount Construction,

14 and we were trying to develop a communications

15 department inside Paramount.

16 So even though I -- I found it -- I was the

17 founder of the whole -- I drove the wireless

18 communications department for Paramount, you would --

19 I would call that an inaccuracy as founder and VP of

20 Paramount Communication Systems, because there really

21 wasn't any -- I mean, a separate entity other than --

22 it was all under the Paramount Construction umbrella.

23 So that would be an inaccuracy.

24 **Q. Did you prepare Exhibit 2?**

25 A. I don't recall. I -- I would -- I don't

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1 recall.

2 **Q. If it wasn't you, then who else would do**

3 **it?**

4 A. I don't -- exactly. So most likely.

5 **Q. Most likely it was you, right?**

6 A. Yes.

7 **Q. Okay.**

8 A. Yes.

9 **Q. Any other inaccuracies?**

10 A. The two separate Boston-based restoration

11 companies, my -- Canyon Design and Construction was

12 one. I also had -- Kitchen Designs by Burke was kind

13 of -- was another entity, which basically had -- you

14 know, restored and remodeled kitchens.

15 So I guess that's pretty accurate. But the

16 working towards -- in cyberspace towards a Masters of

17 Business Administration is a bunch of -- I don't know

18 what that was. I don't know why I put that in.

19 **Q. Okay.**

20 A. That was -- there may be a time where I was

21 looking online to do that through the -- the colleges

22 in Denver. I can't remember the name of the

23 universities, but I never -- I never received my

24 business administration degree.

25 **Q. I believe you testified earlier you never**

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1 **even attended classes, right?**

2 A. No, I didn't. Well, I attended school. I

3 told you I attended multiple schools.

4 **Q. No. I'm talking about for a masters in**

5 **business administration.**

6 A. No. I -- I think I might have looked at

7 it, to do it online.

8 **Q. Okay.**

9 A. But that was it. And I'm sure I had looked

10 at it, but I don't know why -- you know, I think -- I

11 guess it doesn't matter why I didn't get it.

12 **Q. Any other inaccuracies with Exhibit 2?**

13 A. No. That's pretty -- that's about it, I

14 think. That looks close.

15 MR. SHILLIDAY: Can we go off the record

16 for a second.

17 (Discussion off the record.)

18 MR. SHILLIDAY: Back on the record. We'll

19 mark the next document as Exhibit 3.

20 (Deposition Exhibit 3 was marked.)

21 **Q. (BY MR. SHILLIDAY) Exhibit 3 has been**

22 **handed to you, Mr. Burke.**

23 A. Uh-huh.

24 **Q. I'll give you a moment to look at it.**

25 A. Okay.

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1 **Q. What is Exhibit 3, to your -- to your**

2 **knowledge?**

3 A. It's a list of companies that I've been

4 part of.

5 **Q. Did you prepare Exhibit 3?**

6 A. I can only assume so, yes.

7 **Q. Do you recall when Exhibit 3 was prepared**

8 **by you?**

9 A. No, uh-uh. No, I do not.

10 **Q. Do you remember --**

11 A. It must have been after 2010, I'm guessing.

12 I don't recall exactly.

13 **Q. Do you recall --**

14 A. Oh, actually -- I mean, this might be my

15 LinkedIn page. Sorry.

16 **Q. This is your LinkedIn page?**

17 A. I -- I -- I don't -- I don't know if

18 it's -- I haven't been on it and updated it for a

19 while, but I'm thinking it might be my LinkedIn page.

20 **Q. Again, same question: Any inaccuracies in**

21 **this document?**

22 A. Well, there might be -- no. No.

23 **Q. Accurate?**

24 A. Just a second. Yeah, it's accurate.

25 **Q. Okay. You're done with that one.**

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1 **Now, when GTI was formed in 1999, I believe**

2 **you testified it was you and Mr. Snyder who were the**

3 **shareholders, correct, at that time?**

4 A. I believe so, yes.

5 **Q. What percentage or number of shares did you**

6 **hold with respect to what became GTI?**

7 A. I can't recall the share -- the total

8 amount of shares that were issued, but I do recall it

9 was 50/50.

10 **Q. Make sure I got that accurate for the**

11 **record. At the time GTI was formed in or about 1999,**

12 **you owned 50 percent of the company, correct?**

13 A. I believe that's to be -- yes, I believe

14 so.

15 **Q. And Mr. Snyder owned the other 50 percent?**

16 A. Yes.

17 **Q. And you don't recall what the total number**

18 **of issued shares were?**

19 A. I do not.

20 **Q. Do you recall the number of shares that you**

21 **owned personally?**

22 A. I do not.

23 **Q. But it was 50 percent?**

24 A. Yes.

25 **Q. What was Mr. Snyder's title in 1999 when**

65

1 **GTI was formed?**
 2 A. I believe it was president.
 3 **Q. And what was your title when GTI was**
 4 **formed?**
 5 A. Well, it's either CEO or, if he was CEO, I
 6 was president. I don't -- I don't recall.
 7 **Q. And my guess is, from your prior testimony,**
 8 **you and Mr. Snyder traded that title back and forth?**
 9 A. We may have.
 10 **Q. At certain times you were the president and**
 11 **he was the CEO, and other times you were the CEO and**
 12 **he was the president; is that a fair statement?**
 13 A. I believe so. I just can't remember.
 14 **Q. Sure.**
 15 A. Yeah.
 16 **Q. It's a long time ago.**
 17 A. It's a long time ago.
 18 **Q. Mr. Snyder eventually left the company,**
 19 **correct?**
 20 A. Yes.
 21 **Q. When?**
 22 A. I think he left, like, maybe -- I would say
 23 between one and two years later. A year to two, I'm
 24 guessing. I can't recall exactly.
 25 **Q. Did Mr. Snyder leave prior to Mr. Ingham**

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1 **making his first investment in the company? And I'll**
 2 **represent to you that was in May 2000.**
 3 A. I -- did he leave prior?
 4 **Q. Yes, sir.**
 5 A. I don't recall.
 6 **Q. Okay. Do you know when Mr. Snyder left?**
 7 A. I don't -- I don't recall.
 8 **Q. Do you know why he left?**
 9 A. I -- I can give it a shot.
 10 **Q. Give it a shot, please.**
 11 A. I think we were -- at the time, we were
 12 trying to look for a -- a major industry investor in
 13 the company. And we were looking at becoming part of
 14 a company called Richmond Towers out of Florida --
 15 Tampa, Florida, and we had gone in looking for a
 16 certain amount of money from them.
 17 They built mostly -- if you will, they
 18 built mostly television communication towers, call
 19 them \$10 million a shot; whereas we were building
 20 wireless communication towers, you know, for the cell
 21 phone industry.
 22 And they were trying to break into our
 23 industry, and they were having a tough time. So they
 24 looked at us as a way to jump-start their wireless
 25 tower division.

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1 So we went down to them to look at having
 2 them invest in globalTowers as a partner, and instead
 3 they offered to buy us. And I can't recall the exact
 4 amount, but I believe it was a \$5 million buy at the
 5 time, to buy the company, and we refused.
 6 And Marty was pretty upset about it,
 7 because they offered us a five-year employment
 8 agreement, as well, which was a pretty hefty -- a lot
 9 of money. And Marty needed the cash, and he needed
 10 that income, and he wanted that security.
 11 And we decided not to accept the
 12 purchase of -- the -- the -- the offer, if you will,
 13 and we decided to stay the course and go -- go at it
 14 on our own. And that kind of broke the -- it didn't
 15 break anything.
 16 It kind -- that -- that began the process
 17 of Marty looking to go elsewhere, to -- to seek, I
 18 think, more secure long-term employment; because we
 19 were still new, and I think he was really looking for
 20 that security and -- and that contract that they would
 21 have gave -- given -- given he and myself and a couple
 22 of the key team members at the time. So that's why I
 23 think he left.
 24 **Q. Okay. Let's break that down. Richmond**
 25 **Towers. When was the offer made for the \$5 million**

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1 **acquisition of globalTowers, Inc.?**
 2 A. Before Marty left. So I don't know what
 3 year it was. I believe it might have been maybe a
 4 year to two in -- in -- a year to two inside of our
 5 incorporating or -- yeah.
 6 **Q. Was that in 2000 or 2001?**
 7 A. I don't recall what year. I don't know.
 8 **Q. Sure. Do you know whether it was before or**
 9 **after Mr. Ingham had invested in the company?**
 10 A. Unfortunately, I don't remember.
 11 **Q. Okay.**
 12 A. I don't know.
 13 **Q. Isn't it true that you and GTI were sued**
 14 **personally for failing to disclose this offer to the**
 15 **shareholders?**
 16 A. I -- you know, I do recall a lawsuit, but I
 17 don't recall the details of it.
 18 **Q. Do you know a Mr. Outwater?**
 19 A. Yes, I do. Chris -- Christopher Outwater.
 20 **Q. Who is he?**
 21 A. He was a friend of Marty's in -- in Santa
 22 Barbara. So he was a shareholder of GTI that came in
 23 very early on, very early on, I believe. But I can't
 24 recall what date or what -- what position he came in
 25 at. So he was a Santa Barbara investor that was

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1 friends with Marty.
 2 **Q. Isn't it true that Mr. Outwater sued you**
 3 **personally and the company for, among other things,**
 4 **breach of fiduciary duty for failing to disclose the**
 5 **Richmond Tower-acquisition offer?**
 6 A. I don't recall the lawsuit.
 7 **Q. Okay.**
 8 A. I do recall the suit, but I don't recall
 9 all the details of it.
 10 **Q. Do you recall settling that lawsuit?**
 11 A. No, I don't recall settling it.
 12 **Q. Do you recall paying Mr. Outwater money to**
 13 **settle the lawsuit?**
 14 A. No, I don't recall that either.
 15 **Q. Okay. And if Mr. Outwater testified**
 16 **differently, would you believe he was not telling the**
 17 **truth?**
 18 A. Well, no. I don't recall.
 19 **Q. Okay.**
 20 A. I'm not saying it didn't happen.
 21 **Q. Okay.**
 22 A. There's a difference.
 23 **Q. Okay.**
 24 A. Yeah.
 25 **Q. Thank you for that clarification. In 1999,**

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1 **based on your prior testimony, it was you and Mr.**
 2 **Snyder that were 50/50 owners of the outstanding**
 3 **shares of GTI, correct?**
 4 A. Yes.
 5 **Q. Who was the first investor to invest in GTI**
 6 **after that?**
 7 A. Do you want me to guess?
 8 **Q. Your best knowledge.**
 9 A. I don't recall. I don't recall.
 10 **Q. Okay.**
 11 A. My best knowledge would be Gary Wester.
 12 **Q. Wester?**
 13 A. Yeah.
 14 **Q. W-e-s-t-e-r?**
 15 A. I believe so. But that's my guess -- a
 16 guess on the timing. I don't know.
 17 **Q. In 2000, who was on the board of directors**
 18 **of GTI?**
 19 A. I can guess again. I don't know for sure.
 20 **Q. Okay. Best -- best guess.**
 21 A. Best guess would be myself, Todd Burke,
 22 Marty Snyder. I would guess Kim Gleason, who was our
 23 accountant. And I can't tell you at that point -- who
 24 else was at that point.
 25 **Q. When did Kim Gleason first begin performing**

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1 **accounting services for GTI?**
 2 A. I -- I would say the very beginning.
 3 **Q. 1999?**
 4 A. Yeah.
 5 **Q. How did you meet Kim Gleason?**
 6 A. He was -- he's a friend of -- of -- he's
 7 the brother of a friend.
 8 **Q. Okay. And did you meet him in Santa**
 9 **Barbara?**
 10 A. No. He's Colorado based.
 11 **Q. When did GTI move to Colorado?**
 12 A. We were always in Colorado.
 13 **Q. Okay.**
 14 A. We had an office in Santa Barbara where
 15 Marty lived, and we had -- we -- and I lived here,
 16 so...
 17 **Q. Okay.**
 18 A. Yeah.
 19 **Q. Do you recall when the entity was first**
 20 **called GTI as opposed to Karatcom?**
 21 A. I don't remember the exact date.
 22 **Q. Okay. But is there any meaning behind**
 23 **Karatcom for the name?**
 24 A. I think -- no.
 25 **Q. Who came up with it?**

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1 A. I don't remember exactly, but I think -- I
 2 think Marty did.
 3 **Q. Were the investors -- strike that.**
 4 **Were there any investors in Karatcom, other**
 5 **than yourself and Marty?**
 6 A. Again, I don't think there were any
 7 investors in Karatcom. I think -- I -- I think we --
 8 we began with that name, but I don't know if we had
 9 brought money in -- I think it was GTI, strictly GTI.
 10 I think we started the process, and the
 11 name was going to be Karatcom. And then we ended up
 12 changing the name, before we really got -- before we
 13 got into investment money, to globalTowers, Inc.
 14 **Q. When G- --**
 15 A. Does that make sense?
 16 **Q. Yes, it does.**
 17 A. Yeah.
 18 **Q. When GTI was formed, did you provide any**
 19 **capital contribution or money to fund the company and**
 20 **its operations, personally?**
 21 A. Very little, so -- I think we both had to
 22 put something in.
 23 **Q. What did you put in?**
 24 A. I don't recall the amount.
 25 **Q. But you said, "Very little"?**

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1 A. Very little. I think just to open it up,
 2 we both put a very little amount in.
 3 **Q. You're talking 20 bucks?**
 4 A. Yeah. I mean, it was very little.
 5 **Q. Okay.**
 6 A. Very little. It might have been 5,000, it
 7 might have been a thousand, it might -- I don't
 8 remember the number.
 9 **Q. Where did GTI do its banking?**
 10 A. I think we did it with -- I think we did --
 11 oh, what's the name of the bank? Vectra Bank, I
 12 think, when we first started, because I think -- is
 13 that right? Is that -- that's a Colorado bank, Vectra
 14 Bank. Because I think we got our first line of credit
 15 with Vectra. Kim Gleason had a relationship with
 16 Vectra. And then maybe -- I don't remember how
 17 many -- how many banks we had.
 18 **Q. And you said earlier --**
 19 A. Yeah.
 20 **Q. -- that Kim Gleason was performing**
 21 **accounting services for GTI from the beginning, right?**
 22 A. I would -- I said I think it was -- if --
 23 if anybody did any accounting for us, it was Kim. So
 24 it would have been from -- it should have been from
 25 the very beginning. There wasn't -- I don't believe

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1 we had another do accounting, so . . .
 2 **Q. Let's start in 1999.**
 3 A. Uh-huh.
 4 **Q. To your knowledge, was Kim Gleason**
 5 **preparing profit and loss statements and balance**
 6 **sheets for the company?**
 7 A. Yes.
 8 **Q. In 2000, was Mr. Gleason preparing balance**
 9 **sheets and profit and loss statements for the company?**
 10 A. Let me back up. Whenever we did a profit
 11 and loss statement, whether it was -- 1999 was our
 12 first one or not, if it was done, Kim -- Kim had done
 13 most of the accounting for us. I just don't know if
 14 that was the exact year or date that he did it for us.
 15 **Q. Who was responsible for providing the**
 16 **financial information to Mr. Gleason to prepare those**
 17 **reports?**
 18 A. I guess it would have been myself and
 19 Marty.
 20 **Q. Okay.**
 21 A. Yeah.
 22 **Q. You personally participated in providing**
 23 **the financial information to Mr. Gleason to prepare**
 24 **the reports, correct?**
 25 A. The reports -- the reports are created

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1 based on the -- most of it was created based on the
 2 books. He was keeping all the books of the company.
 3 **Q. Okay.**
 4 A. If there was other things for the reports
 5 that were included in the reports, like a
 6 work-in-progress report or a backlog report, those are
 7 things that I would assist in. That's kind of how
 8 that works.
 9 So if there was any reports that were
 10 generated that were strictly unaudited financials and
 11 were compilation reports, those would all come from
 12 Kim. Does that make sense?
 13 **Q. I'm just trying to understand.**
 14 A. Yes.
 15 **Q. Since I'm the attorney showing up in this**
 16 **case, I'm trying to understand how GTI prepared**
 17 **financial reports and how it did its accounting.**
 18 **Let's take an example where a service is performed for**
 19 **a customer, and the customer makes a payment.**
 20 A. Right.
 21 **Q. How would that payment get booked into the**
 22 **books and records of GTI, and who would do that?**
 23 A. In the very beginning, it was Kim Gleason.
 24 And then we hired our own -- some of our own staff
 25 members that were -- were part of -- were employees of

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1 GTI.
 2 Kim would always oversee the accounting.
 3 But in the beginning, his office did the bookkeeping.
 4 And then we got too big for them to do that, so we
 5 ended up hiring our own staff to do the bookkeeping
 6 internally. And Kim would oversee all the -- all the
 7 accounting of it.
 8 **Q. Which --**
 9 A. So Kim was more or less the CFO, if you
 10 would.
 11 **Q. In 2000, do you recall being the president**
 12 **of GTI?**
 13 A. I don't recall the title and the year.
 14 **Q. Okay.**
 15 A. But at some point, I would have been, yeah.
 16 **Q. After Mr. Snyder left, you, then, became**
 17 **the sole president and CEO, correct?**
 18 A. I believe so, yes. I believe that's
 19 correct.
 20 **Q. And after Mr. Snyder left the company, did**
 21 **anyone else, other than yourself, hold the title of**
 22 **president and CEO of GTI?**
 23 A. I don't recall.
 24 **Q. You don't recall?**
 25 A. I don't recall. I don't believe so,

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1 though. I believe I was the only one.
 2 **Q. Okay.**
 3 A. And the reason I say, "I don't recall," we
 4 were moving pretty fast, and I don't recall if we put
 5 someone in there for a short period of time or not.
 6 But I -- I doubt it. I think it was just me.
 7 **Q. Let's focus on 2000. In 2000, you were**
 8 **either the president or the CEO of GTI, correct?**
 9 A. Yes.
 10 **Q. And in 2000, do you recall what you were**
 11 **doing for GTI as either the president or the CEO of**
 12 **GTI?**
 13 A. I recall -- I can -- I can give it a shot,
 14 yeah.
 15 **Q. Please do.**
 16 A. I was -- I was responsible for all the
 17 development of our -- our staff, so hiring of all of
 18 our key employees. I was -- I was responsible for the
 19 vision of the company as far as where we wanted to go.
 20 I was responsible for the -- all the
 21 sales -- well, not all the sales, but leading the
 22 sales and marketing of the corporation, building key
 23 relationships with the phone companies that we were
 24 working for, such as Nextel and Sprint and so forth
 25 and so on. So I was responsible for doing direct, you

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1 know, contract negotiations and getting us involved
 2 with the wireless companies.
 3 I was responsible for looking at
 4 partnerships, such as ClearShot Communications out of
 5 Pennsylvania, who became a partner of the company, so
 6 strategic partnerships and relationships such as that.
 7 I was responsible for raising capital for
 8 us. I was also responsible at the time for overseeing
 9 all the construction teams. So I kind of never washed
 10 my hands of being involved in that.
 11 I oversaw all the construction projects,
 12 made sure I was involved in every bid that went out
 13 the door, estimates. I was involved in the -- making
 14 sure that the company worked with our -- you know,
 15 from a financial standpoint, I was involved with
 16 overseeing the financial side of it, along with our
 17 CPA, which was Kim.
 18 **Q. Can you explain that a little bit in more**
 19 **detail. What did you do in connection with overseeing**
 20 **Kim, the CPA?**
 21 A. I don't -- well, that's a good question. I
 22 don't know if I oversaw him. I just -- he reported to
 23 me a lot: how much cash we had in the bank, what we
 24 needed to do, you know, always trying to figure out
 25 what -- what we were going to do next to -- to keep

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1 the thing -- you know, grow, keep it going. So I
 2 don't think I -- I don't know if I oversaw him. I
 3 worked alongside him.
 4 **Q. You -- did you -- strike that.**
 5 **Would you, in 2000, for example, review the**
 6 **balance sheets and profit and loss statements that**
 7 **Mr. Gleason would prepare for the company?**
 8 A. Yes.
 9 **Q. Okay. Would you review them to ensure they**
 10 **were accurate?**
 11 A. To the best of my ability.
 12 **Q. Okay.**
 13 A. Yes. Yes.
 14 **Q. In 2000, were you involved at all with**
 15 **preparing financial projections for the company?**
 16 A. Yes.
 17 **Q. What did you do?**
 18 A. We probably put -- well, I don't recall
 19 exactly how we did it, but I know it would have come
 20 from -- from me. I can't recall how we -- we put the
 21 projections together.
 22 **Q. Were financial --**
 23 A. Yeah.
 24 **Q. Strike that.**
 25 **Were written financial projections for GTI**

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1 **actually prepared, to your recollection?**
 2 A. You mean, was a spreadsheet created?
 3 **Q. Correct.**
 4 A. Yeah. I'm sure, yeah.
 5 **Q. Do you recall what it looked like?**
 6 A. I don't recall exactly what it looked like,
 7 but it was pretty in-depth.
 8 **Q. Was that given to prospective investors?**
 9 A. I don't recall, but I would say most
 10 likely, yes.
 11 **Q. And how were those projections prepared?**
 12 **What information was used to come to the projection,**
 13 **the information provided?**
 14 A. Probably the historical data that we were
 15 using on -- on cost reporting and projects that we had
 16 already completed; profit and loss statements on -- on
 17 work-to-date and what we've done; projections in the
 18 sales; how much more work we could bring in the door.
 19 You know, industry assumptions was a lot of it,
 20 especially when it had to do with tower development
 21 and ownership.
 22 There was -- there was data that was
 23 collected through -- through -- well, multiple means
 24 of public -- public data that we -- we would gather
 25 from public tower company reports, valuations through

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1 brokerage firms that we were working with on -- on
 2 potentially the -- you know, building our own towers,
 3 which we started to do, and then historical data on
 4 the sales of those towers and the values of those
 5 towers.
 6 So we would incorporate those -- those into
 7 our projections, as well -- I'm sure of it -- other
 8 industry, probably, data that we collected for
 9 expansion into different -- into different markets
 10 that were -- we knew were growing, that we knew we
 11 wanted to go into. So yeah.
 12 **Q. Is that your complete answer?**
 13 A. Yes.
 14 **Q. Okay. When you said, "industry**
 15 **assumptions" during your answer, what do you mean?**
 16 A. Well, when you build a tower, there's
 17 assumptions. So an assumption would be -- for
 18 example, a cellular tower at X amount of feet would
 19 cost \$100,000 to build. That's an assumption.
 20 An assumption would be what would -- in a
 21 geo- -- geo- -- geographical location, an assumption
 22 would be what would you project the tenant payment to
 23 be on your tower. Those are industry assumptions. So
 24 a tenant would pay us \$1500 a month to place their
 25 antenna on our tower.

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1 **Q. Okay.**
 2 A. That's an assumption.
 3 **Q. And where did you get that number from?**
 4 A. Those are industry -- those are industry
 5 standard reports from -- public reports from the tower
 6 companies, as well as, I guess, tower news magazines,
 7 industry standards that -- industry reports that would
 8 come from the data collected from our brokerage firm
 9 that we were working with on averages over tower --
 10 you know, a certain amount of towers that they had in
 11 their portfolio that were -- would sell.
 12 So they were based on the -- based on the
 13 averages from those -- from those guys and local
 14 market -- local knowledge that we had from -- from
 15 local phone companies that we worked for, cell phone
 16 companies that we worked for on what they were
 17 gathering, rental -- see, when the phone companies
 18 started, they built a lot of their own towers.
 19 So the tower industry wasn't really born
 20 as -- until maybe a couple years after, when the phone
 21 companies decided they didn't want to be tower --
 22 tower owners. They wanted to be phone companies.
 23 And then the large tower owners, like
 24 American Tower, really started buying up a lot of
 25 these assets. And that's kind of when the tower

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1 industry was born, at least the tower asset holders.
 2 So those -- those numbers are where we --
 3 we gather a lot of our data for assumptions,
 4 projections.
 5 **Q. The industry assumptions you referred to --**
 6 A. Uh-huh.
 7 **Q. -- let's say, for example, the fifteen**
 8 **dollar -- \$1500 per month --**
 9 A. Right.
 10 **Q. -- for the rental, correct? --**
 11 A. Right.
 12 **Q. -- that would assume that GTI owned the**
 13 **tower, correct?**
 14 A. Correct.
 15 **Q. And would it also assume --**
 16 A. Or a portion of the tower.
 17 **Q. Sure. And it would also assume that the**
 18 **construction on the tower was completed, correct?**
 19 A. Yes.
 20 **Q. Okay. And it would also assume that there**
 21 **were no liens on the tower, correct?**
 22 A. Yes.
 23 **Q. From the -- for example, liens from**
 24 **contractors who weren't paid when the towers were**
 25 **constructed, correct? Because those had to be paid**

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1 **first from --**
 2 A. Yes, yes, yes. So the assumption would be
 3 based -- yes. Yes.
 4 **Q. Okay.**
 5 A. Yes.
 6 **Q. In 2000, did GTI own any towers?**
 7 A. I don't recall when we owned our -- we had
 8 our first tower. I'm not sure of the year. So I
 9 don't know if we had one in 2000 or not.
 10 **Q. What was the first tower?**
 11 A. I don't recall the first tower.
 12 **Q. Where was it located?**
 13 A. I think -- the first tower we built or the
 14 first tower we owned?
 15 **Q. Well, let's break that down. Would you buy**
 16 **the property to put these towers on?**
 17 A. No. You'd lease them.
 18 **Q. Okay.**
 19 A. You'd have a rental agreement with the
 20 landowner.
 21 **Q. Okay. What was -- what was the first tower**
 22 **that GTI actually built from the ground up?**
 23 A. Again, may I ask to -- to build for someone
 24 else or -- we had -- so we had two divisions: a
 25 construction service division that we built -- and

85	<p>1 that's where we had most of our revenue. The</p> <p>2 construction service division would build a tower for</p> <p>3 somebody else.</p> <p>4 Q. Okay.</p> <p>5 A. And then we started the real estate</p> <p>6 division, which basically we would build our own</p> <p>7 towers. And we would have project- -- you know, there</p> <p>8 would be a real estate --</p> <p>9 Q. Component.</p> <p>10 A. -- component to the company.</p> <p>11 Q. I see.</p> <p>12 A. Thank you very much.</p> <p>13 Q. Okay. So based on your answer, the first</p> <p>14 tower constructed for somebody else, when was that?</p> <p>15 A. The -- right when we opened the doors. So</p> <p>16 as soon as we opened, we were -- we were -- ninety --</p> <p>17 I would say 1999. If that's when we incorporated, we</p> <p>18 were building.</p> <p>19 Q. Which tower was that?</p> <p>20 A. The first tower?</p> <p>21 Q. Yeah.</p> <p>22 A. I --</p> <p>23 Q. It's something you would remember, right?</p> <p>24 That's a big deal?</p> <p>25 A. Huh?</p>	87	<p>1 A. Very much, yes.</p> <p>2 Q. Okay.</p> <p>3 A. The margins were very, very, very good in</p> <p>4 the construction of the towers.</p> <p>5 MR. SHILLIDAY: I'm going to mark this as</p> <p>6 Exhibit 4.</p> <p>7 (Deposition Exhibit 4 was marked.)</p> <p>8 Q. (BY MR. SHILLIDAY) I'll give you a moment</p> <p>9 to review Exhibit 4. And just let me know --</p> <p>10 A. Uh-huh.</p> <p>11 Q. -- when you've had a chance to review it.</p> <p>12 Not line by line so much, but familiar- --</p> <p>13 A. Okay.</p> <p>14 Q. -- familiarize yourself -- excuse me --</p> <p>15 with the document.</p> <p>16 A. Okay. It's been a long time, but I'm</p> <p>17 fairly familiar with all of it, yeah.</p> <p>18 Q. What is Exhibit 4?</p> <p>19 A. It's an Executive Summary.</p> <p>20 Q. Did you participate in its preparation?</p> <p>21 A. Most certainly.</p> <p>22 Q. Okay. Why do you say that with such</p> <p>23 enthusiasm?</p> <p>24 A. Because I pretty much wrote everything that</p> <p>25 we -- the company put out. Most -- I mean, I had</p>
86	<p>1 Q. That's a big deal, right?</p> <p>2 A. I think the first antenna system we put up</p> <p>3 would have been on Loveland Pass, which is a tower</p> <p>4 that you pass every day if you go up I-70. And it's</p> <p>5 right before the tunnel on the left-hand side. I</p> <p>6 believe that might have been our first one.</p> <p>7 Q. That's GTI --</p> <p>8 A. That's GTI. You've got to remember, I</p> <p>9 built towers before GTI. Right?</p> <p>10 Q. Right. No. I'm asking --</p> <p>11 A. It's not easy to remember exactly my first</p> <p>12 tower. But that was -- I would think that might have</p> <p>13 been our first one, which is a pole up on the Loveland</p> <p>14 ski base area right there.</p> <p>15 Q. You don't recall what year that was built?</p> <p>16 A. I don't.</p> <p>17 Q. Who was that built for?</p> <p>18 A. I think that was -- I think that was</p> <p>19 VoiceStream at the time.</p> <p>20 Q. And do you recall how much GTI made in</p> <p>21 revenue from that construction project?</p> <p>22 A. No, I don't recall how much we made, but we</p> <p>23 did -- we did well.</p> <p>24 Q. The revenues exceeded the cost of</p> <p>25 construction?</p>	88	<p>1 assistants, but I was always part of it or reviewed it</p> <p>2 or edited it, so I'm sure I was part of it.</p> <p>3 Q. Thank you. And was this document given to</p> <p>4 prospective investors of GTI?</p> <p>5 A. I don't recall. I'm assuming it was. I</p> <p>6 would guess yes, but I don't recall if this particular</p> <p>7 one was or not. We -- I'm sure it was an Executive</p> <p>8 Summary that went out. I don't know if this was it.</p> <p>9 Q. Do you recall giving an Executive Summary</p> <p>10 to Mr. Ingham in connection with his investments in</p> <p>11 GTI?</p> <p>12 A. Again, I don't recall, but I'm sure I did.</p> <p>13 I can't recall exactly when.</p> <p>14 Q. Do you know when Exhibit 4 was prepared?</p> <p>15 A. No, I don't know when this was prepared.</p> <p>16 Q. Was it prepared early in the company's --</p> <p>17 A. Yeah, I would guess it was really -- it was</p> <p>18 early in the company.</p> <p>19 Q. 2000?</p> <p>20 A. That's probably -- do you want me to -- I</p> <p>21 don't know if that's the year, but I would say early</p> <p>22 in the company.</p> <p>23 Q. Okay. And where was the information</p> <p>24 derived to come up with this Executive Summary for</p> <p>25 GTI?</p>

89	<p>1 A. I would say a lot of this was market --</p> <p>2 again, market data that we had been gathering and --</p> <p>3 yeah. I think I would say, back to how I described</p> <p>4 this a little earlier, when we put our -- all of our</p> <p>5 financial projections together, all the pricing, all</p> <p>6 the -- all the strategies, all the numbers weren't</p> <p>7 something we just created. It was something that was</p> <p>8 gathered through data -- you know, data in the</p> <p>9 industry -- industry data, all of it.</p> <p>10 Now, the projections on market share, I'm</p> <p>11 sure that was what we -- we were projecting to go</p> <p>12 after. That wasn't data that was collected. That was</p> <p>13 our -- our goal of the -- of the company.</p> <p>14 But anything to do with assumptions or the</p> <p>15 industry growth, estimations of growth in the industry</p> <p>16 itself, that was all public -- public -- public data</p> <p>17 that we created.</p> <p>18 Q. Okay. Now, looking at Exhibit 4 -- and I</p> <p>19 think you made a reference to this -- there's a</p> <p>20 spreadsheet or a box with numbers in it. Do you see</p> <p>21 that --</p> <p>22 A. Yes.</p> <p>23 Q. -- towards the upper third of the page?</p> <p>24 A. Uh-huh.</p> <p>25 Q. Is this assuming -- or making a</p>	91	<p>1 and spoken of pretty openly at tower forums, industry</p> <p>2 tower trade shows that we went to. These towers were</p> <p>3 being pushed out to -- to either public tower</p> <p>4 companies or small private tower companies like us.</p> <p>5 So those numbers were -- were where we</p> <p>6 thought, as a company, we could -- we could -- we</p> <p>7 could -- we -- we could shoot for.</p> <p>8 Q. GTI filed for bankruptcy relief under</p> <p>9 Chapter 11 on October 30, 2003, correct?</p> <p>10 A. I don't recall the date, but we did file</p> <p>11 for bankruptcy.</p> <p>12 Q. Was it 2003?</p> <p>13 A. That's about right.</p> <p>14 Q. 2003?</p> <p>15 A. I don't -- I -- I don't recall the date.</p> <p>16 Q. We'll -- we'll get to it.</p> <p>17 A. Yeah.</p> <p>18 Q. When GTI filed for bankruptcy relief, how</p> <p>19 many towers did it own?</p> <p>20 A. I don't recall how many.</p> <p>21 Q. Would it surprise you that the answer is</p> <p>22 one?</p> <p>23 A. Well, no, it wouldn't surprise me. But we</p> <p>24 had a partnership, as well, so we owned a percentage</p> <p>25 of towers.</p>
90	<p>1 representation, based on your recollection, of the</p> <p>2 number of towers that GTI intends to own?</p> <p>3 A. Yes.</p> <p>4 Q. Okay.</p> <p>5 A. Yes.</p> <p>6 Q. And where did these numbers come from?</p> <p>7 A. That's the -- what was a -- probably -- I</p> <p>8 don't recall exactly where they came from. I can</p> <p>9 guess that it was -- that was our goal to build all</p> <p>10 those towers -- build and to acquire.</p> <p>11 Q. Okay. And what -- what assumptions or what</p> <p>12 facts were used to derive or come up with this goal of</p> <p>13 these --</p> <p>14 A. The relation --</p> <p>15 Q. -- numbers of towers; by Year 5, for</p> <p>16 example, of almost a thousand towers?</p> <p>17 A. The relationships that we were building in</p> <p>18 the United States with all the phone companies and the</p> <p>19 build-to-suit opportunities that were coming out from</p> <p>20 the phone companies.</p> <p>21 So as I told you before, originally the</p> <p>22 phone companies built their own towers. They were</p> <p>23 really pushing at that time to build -- build-to-suit</p> <p>24 projects out to companies like us.</p> <p>25 So those numbers were being pushed to us</p>	92	<p>1 Q. You're talking about the Alamosa Towers?</p> <p>2 A. No. I'm talking -- well, that was in the</p> <p>3 partnership. But we had a partnership called Global</p> <p>4 Tower P- -- GTP, of which global- -- one of the deals</p> <p>5 we had was globalTowers, Inc., would own 30 percent of</p> <p>6 everything that was built under this partnership.</p> <p>7 Q. I'm sorry. I missed that. What was the</p> <p>8 name of the partnership?</p> <p>9 A. Global Tower Partnership, GTP.</p> <p>10 Q. GTP. Okay.</p> <p>11 A. Yes.</p> <p>12 Q. So can we call it "GTP"?</p> <p>13 A. GTP.</p> <p>14 Q. Okay. Who were the partners of Global</p> <p>15 Tower Partners?</p> <p>16 A. ClearShot Communications, out of</p> <p>17 Pennsylvania, and GTI.</p> <p>18 Q. And it was called Global Tower</p> <p>19 Partnership --</p> <p>20 A. Yes, sir.</p> <p>21 Q. -- Inc.?</p> <p>22 A. Yes.</p> <p>23 Q. Colorado company?</p> <p>24 A. I don't know if we were Colorado or</p> <p>25 Pennsylvania. I think it was Colorado. Holme,</p>

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1 Roberts & Owen, HRO, did that whole thing for us. But
 2 I believe it was Colorado, yeah.
 3 **Q. Ultimately only ten towers were sold to**
 4 **ClearShot in connection with that partnership, right?**
 5 A. We never sold a tower to ClearShot. They
 6 developed them with us. It was a joint venture. You
 7 could call it a joint venture.
 8 **Q. All right. ClearShot --**
 9 A. They -- they financed the development of
 10 the towers through GTI. So we did all the work: site
 11 acquisition work, construction work. And then GTI had
 12 a 30 percent equity ownership in the -- in the
 13 project, and ClearShot would have 70 percent of the
 14 ownership in that project.
 15 **Q. It's your recollection --**
 16 A. In that tower. Sorry.
 17 **Q. It's your recollection, is it not, that**
 18 **ultimately ClearShot acquired full title and ownership**
 19 **of ten towers? Is that a fair statement?**
 20 A. Will you ask that again?
 21 **Q. Sure. Ultimately --**
 22 A. Yeah.
 23 **Q. -- it's fair to say, correct, that**
 24 **ClearShot acquired full ownership and title to ten**
 25 **towers developed by GTP, correct?**

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1 A. I don't -- I don't recall. And I -- maybe
 2 I'm not following.
 3 **Q. Okay. How many towers did -- did GTP**
 4 **develop?**
 5 A. We -- I don't recall the number.
 6 **Q. Okay.**
 7 A. We -- but I will tell you, if you'd like to
 8 know, we -- we put about \$2 million in in entitlement
 9 work to prepare for the development of a lot of towers
 10 before we went bankrupt.
 11 So we had almost \$2 million in entitlement
 12 work in Colorado ready to go. Work -- work -- when I
 13 say, "entitlement work," that's site acquisition, RF
 14 engineering, zoning, getting the tower ready to build
 15 prior to construction.
 16 We also had some towers -- and I don't
 17 recall the amount of towers that we had in the
 18 partnership -- that we built and owned. And that
 19 number was -- I -- I don't recall the final -- that
 20 number -- the final number.
 21 So there was a lot of money spent on the
 22 partnership on -- for preparation and development of a
 23 lot of towers.
 24 **Q. Where did the 2 million come from you that**
 25 **just referred to?**

95

1 A. ClearShot, in -- in our partnership
 2 agreement, they -- they would invest -- they would
 3 invest -- they would capitalize the partnership for us
 4 to go do the development.
 5 So they paid GTI for the services -- to
 6 perform the services to go acquire a site, design a
 7 site, and ultimately build a site. So the money all
 8 came from the ClearShot partnership, the ClearShot
 9 team.
 10 And I can't recall their investment team.
 11 They had a team of seven people on it. So Kim Gleason
 12 and globalTowers would submit all of our costs to the
 13 partnership, and they would reimburse us for all the
 14 site acquisition -- everything else -- everything that
 15 would go into development of the tower -- of the
 16 tower.
 17 So in the bankruptcy, whoever got -- you
 18 know, wherever it went, they -- all the entitlement
 19 work that was in that partnership was -- was part of
 20 it as well.
 21 **Q. Prior to GTI filing bankruptcy, did GTI**
 22 **ever make any money from the partnership with**
 23 **ClearShot through GTP?**
 24 A. We made some -- we might have made some
 25 money because we had some markup. We negotiated a

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1 markup. That was part of our agreement with
 2 ClearShot, to provide the services to the partnership
 3 to do all the work.
 4 So there was probably some profits inside
 5 of the costs. So our job was to obviously keep the
 6 costs down in the partnership, because ultimately we
 7 wanted to build a tower for as low as we could.
 8 But we didn't do the -- we weren't
 9 performing the services for nothing. We were
 10 performing at some markup, but I can't recall what --
 11 **Q. Okay. I'll back up and ask my question**
 12 **again, and then we'll take a short break. Did GTI**
 13 **ever make any profit; in other words, revenues**
 14 **exceeded the costs incurred from its 30 percent**
 15 **interest in GTP?**
 16 A. I don't recall.
 17 **Q. Okay.**
 18 A. I don't recall how much.
 19 **Q. Are you saying there was a profit?**
 20 A. I don't recall.
 21 **Q. Okay.**
 22 A. Yeah.
 23 **Q. A couple more questions before we take a**
 24 **break. Did -- to your knowledge, did you ever solicit**
 25 **Mr. Ingham to invest in GTP?**

97	<p>1 A. I don't recall on that either.</p> <p>2 Q. Any other --</p> <p>3 A. I believe --</p> <p>4 Q. -- investors?</p> <p>5 A. I believe it was just ClearShot. It wasn't</p> <p>6 anyone else, no. Because GTI was part of GTP</p> <p>7 regardless, so all the shareholders would be -- would</p> <p>8 be part of that. So we didn't -- we weren't looking</p> <p>9 for outside capital from that standpoint. ClearShot</p> <p>10 was looking to put in, you know, up to 10 million, I</p> <p>11 think it was. Yeah.</p> <p>12 So no. The answer is no, I don't believe I</p> <p>13 did ask Mr. Ingham for more money in GP- -- GTP,</p> <p>14 because, as a -- as a group, we all owned part of the</p> <p>15 partnership.</p> <p>16 Q. Between 2000 and 2003, where did you hold</p> <p>17 your personal bank accounts?</p> <p>18 A. Boulder, Colorado, probably. I don't know</p> <p>19 which bank.</p> <p>20 Q. You don't recall which bank?</p> <p>21 A. Probably Wells Fargo, but I might have had</p> <p>22 multiple accounts.</p> <p>23 Q. Okay. Multiple accounts at Wells Fargo or</p> <p>24 multiple accounts with different banks?</p> <p>25 A. Probably both.</p>	99	<p>1 A. Just college mostly.</p> <p>2 Q. Did you play ball in college?</p> <p>3 A. Yeah.</p> <p>4 Q. What team?</p> <p>5 A. All the college teams that I mentioned to</p> <p>6 you.</p> <p>7 Q. Okay.</p> <p>8 A. Every school I went to, I played baseball.</p> <p>9 Q. What was your position?</p> <p>10 A. Center field mostly and pitch, so . . .</p> <p>11 MR. SHILLIDAY: Five.</p> <p>12 (Deposition Exhibit 5 was marked.)</p> <p>13 Q. (BY MR. SHILLIDAY) Exhibit 5 is before</p> <p>14 you, Mr. Burke. I'll give you a minute. And I'll</p> <p>15 even give you -- an insight into my first question is</p> <p>16 whether you recognize it.</p> <p>17 A. I don't really recognize it. I recognize</p> <p>18 some names, though.</p> <p>19 Q. Do you know what this is about?</p> <p>20 A. Maybe when we first started Karatcom, how</p> <p>21 we were going to split it up. Maybe we were bringing</p> <p>22 in some -- I don't really know.</p> <p>23 Q. Just looking at the document, it appears</p> <p>24 that there's a discussion about the costs and profit</p> <p>25 for building a tower. Do you see that?</p>
98	<p>1 Q. Okay.</p> <p>2 A. But I can't recall every bank. I might</p> <p>3 have listed it for us, but I don't know if -- I don't</p> <p>4 know exactly. I would say most of my money or the</p> <p>5 accounts were with Wells Fargo.</p> <p>6 MR. SHILLIDAY: Okay. We can take a short</p> <p>7 break. I know you need to clear your throat. Off the</p> <p>8 record.</p> <p>9 (Recess taken, 11:45 a.m. to 11:58 a.m.)</p> <p>10 Q. (BY MR. SHILLIDAY) Were you ever arrested</p> <p>11 in Santa Barbara for anything?</p> <p>12 A. I don't believe so.</p> <p>13 Q. Okay. You don't recall being charged at</p> <p>14 all for any kind of --</p> <p>15 A. No.</p> <p>16 Q. -- misdemeanor in California?</p> <p>17 A. No.</p> <p>18 Q. Okay. Did you ever play professional</p> <p>19 baseball?</p> <p>20 A. I worked out with a few teams, but I wasn't</p> <p>21 employed.</p> <p>22 Q. When you were unemployed?</p> <p>23 A. No. I wasn't employed by a professional</p> <p>24 baseball team, if that's what your question was.</p> <p>25 Q. Okay.</p>	100	<p>1 A. Yeah.</p> <p>2 Q. What is that? What tower? Do you know?</p> <p>3 A. No, I don't remember what tower.</p> <p>4 Q. Okay. Do you remember whether you had</p> <p>5 anything to do with the preparation of this document?</p> <p>6 A. I don't remember that, no. I think Marty,</p> <p>7 when we -- I think these people that are listed under</p> <p>8 Principals, those are some of Marty's Boulder -- I</p> <p>9 think when we first started getting globalTowers -- or</p> <p>10 Karatcom off the ground, we were going to give some of</p> <p>11 those folks maybe some percentage in order to come on</p> <p>12 board as a part of the team.</p> <p>13 Q. Other than that, you're just guessing what</p> <p>14 this is?</p> <p>15 A. I'm just guessing.</p> <p>16 Q. Okay. Well, I don't want you to guess. Go</p> <p>17 ahead and put that one in the stack. You're done with</p> <p>18 that one.</p> <p>19 Mr. Burke, beginning in 2000, who was</p> <p>20 responsible within GTI for soliciting new investors to</p> <p>21 the company? When I say, "company," I mean</p> <p>22 globalTowers, Inc.</p> <p>23 A. Well, I would have to go back to myself and</p> <p>24 Marty. Maybe Ralph Blasingame.</p> <p>25 Q. Who is Ralph Blasingame?</p>

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1 A. He was a -- I can't remember the capacity
 2 that we had him in the company. He was one of the
 3 companies that -- construction companies that became
 4 part of GTI, and he was -- I don't know if he was on
 5 the board or not, to tell you the truth, but he was
 6 part of the company as kind of a -- maybe in
 7 operations or a director.
 8 **Q. Was he an employee?**
 9 A. We paid him as an employee, yeah.
 10 **Q. How do you spell his last name?**
 11 A. B-l-a-s-i-n-g-a-m-e.
 12 **Q. What was his position or title with GTI?**
 13 A. I can't recall his title, but mostly
 14 construction, oversaw the -- all the -- a lot of
 15 construction, construction management.
 16 **Q. I believe you testified earlier that the**
 17 **first investor you specifically remember coming in to**
 18 **GTI after you and Mr. Snyder was a Mr. Wester,**
 19 **correct?**
 20 A. I believe that's -- well, the name is
 21 correct, yes. And I believe that he might have been
 22 one of the first ones.
 23 **Q. And what is Mr. Wester's --**
 24 A. I can't remember the -- he was a microwave
 25 engineer.

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1 **Q. So let's back up. I want to clean that up.**
 2 **I believe you testified earlier that Mr. Wester was**
 3 **one of the first investors in the company, correct?**
 4 A. Yes.
 5 **Q. And was he also an employee of the company?**
 6 A. Yes.
 7 **Q. What was his title?**
 8 A. Director of engineering, I believe.
 9 **Q. And what did he do for the company?**
 10 A. He led up our engineering consulting team.
 11 So we actually had some consulting contracts when we
 12 started out to perform RF engineering for other
 13 companies. Similar to building towers, they would
 14 hire us to do the engineering stuff.
 15 And Gary did microwave links design, he did
 16 antenna -- RF antenna design work, and then oversaw
 17 all of our technical kind of engineering stuff in
 18 those.
 19 **Q. Do you know how much Mr. Wester invested in**
 20 **the company in total?**
 21 A. I could guess.
 22 **Q. Please.**
 23 A. Thirty -- up to 30,000 maybe.
 24 **Q. Do you know how much Mr. Ingham invested**
 25 **total in GTI?**

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1 A. I could guess.
 2 **Q. Go ahead.**
 3 A. I think it's well over 600,000.
 4 **Q. How -- strike that.**
 5 **Were you involved in soliciting Mr. Wester**
 6 **to invest in the company?**
 7 A. Yes.
 8 **Q. How were you involved?**
 9 A. I personally met with Mr. Wester.
 10 **Q. Do you recall the circumstances: where?**
 11 **When?**
 12 A. Yeah. We sat on a picnic bench downtown
 13 Denver somewhere. I can't remember the exact place we
 14 sat, but -- and I don't recall how I knew Gary. But I
 15 knew Gary because he was working with us in some
 16 capacity. So I knew Gary. He was already either --
 17 he was an employee of the company, I think, already.
 18 I'm pretty sure of that.
 19 **Q. Did you give Mr. Wester any documents --**
 20 **financial projections, financial information --**
 21 **relating to the company in connection with your**
 22 **solicitation of him as an investor?**
 23 A. I don't recall exactly, but I believe so.
 24 **Q. Do you recall what you gave him?**
 25 A. No.

104

1 **Q. Was there a typical package or a group of**
 2 **documents that were given to prospective investors for**
 3 **GTI?**
 4 A. I don't recall if we used one package for
 5 everybody or not. I can't recall. I think I might
 6 have -- well, I don't recall.
 7 **Q. Was the Executive Summary given to**
 8 **prospective investors, which was Exhibit 4?**
 9 A. I can't tell you if that Executive Summary
 10 was given, but there was always typically an Executive
 11 Summary given.
 12 **Q. Were there financial projections given to**
 13 **prospective investors?**
 14 A. Most likely.
 15 **Q. And you --**
 16 A. I don't recall exactly which ones, but,
 17 yes, I'm sure there were.
 18 **Q. And did you prepare those financial**
 19 **projections that were given to investors?**
 20 A. I would have -- I would have assisted in
 21 them. I would not say I would -- would have been the
 22 sole creator of them, but, yes, I would assist in
 23 those projections.
 24 **Q. Would you provide the information as to,**
 25 **for example, the number of towers, like we saw in**

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1 **Exhibit 4, that the company believed it would be**
 2 **owning by Year 5? Would that be a number coming from**
 3 **you?**
 4 A. I would have had -- I would have had
 5 probably something to do with that projection, yeah.
 6 **Q. Something to do with it, being what?**
 7 A. Setting the goals, choosing what our goals
 8 and our targets should be -- would be.
 9 **Q. Okay.**
 10 A. I was comfortable with that, those numbers.
 11 **Q. And you represented to investors that these**
 12 **were the numbers that the company planned to --**
 13 A. Yes.
 14 **Q. -- achieve?**
 15 A. Yes. If that's what I presented --
 16 whatever I presented, I'm sure I reviewed it and
 17 approved it.
 18 **Q. And you believed it was true, correct?**
 19 A. Yes.
 20 **Q. How did you first meet Hep Ingham?**
 21 A. I don't recall the first time we met, but I
 22 was friends with his family -- his brother. His
 23 brother's name is Mark. And I believe the
 24 introduction was probably through that relationship.
 25 And that might have -- that was -- again, I don't

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1 recall the year we met.
 2 **Q. Do you recall when it was when you first**
 3 **spoke with Mr. Ingham?**
 4 A. Regarding anything?
 5 **Q. Anything.**
 6 A. No, I don't recall the first time we spoke.
 7 **Q. Do you recall the first time you met him in**
 8 **person?**
 9 A. Man, I want to say it was at Mark's house,
 10 but I can't -- I can't be for sure.
 11 **Q. Was it a social event?**
 12 A. I would -- I would guess it was a social
 13 event. It wasn't anything to do with business, if he
 14 was there.
 15 **Q. Do you recall when -- the first time you**
 16 **ever spoke to or met Mr. Ingham?**
 17 A. I don't recall the first time -- or
 18 spoke -- I don't know, no. I don't know.
 19 **Q. Do you know whether it was spring, summer,**
 20 **winter, or fall?**
 21 A. I -- I don't recall the first time. I just
 22 recall many times being with him. I don't recall the
 23 first time, and I don't recall the time of the year
 24 first meeting him.
 25 **Q. Do you recall when you first began to speak**

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1 **to Mr. Ingham about GTI?**
 2 A. The only recollection I have is some
 3 phone -- maybe some phone calls in the very beginning.
 4 And Mr. Ingham was interested, I think, at the time.
 5 And at least the way I remember it, he
 6 had -- he was looking for a place to put some money.
 7 And I didn't think he -- I think he had told me he
 8 didn't want it in the stock market.
 9 I can't recall the exact conversation, but
 10 I do remember having conversations at length over the
 11 phone quite a bit, because I believe he was living in
 12 Texas, so -- but I don't recall the first time.
 13 I know his brother, Mark, was -- you know,
 14 I was pretty close with him a while back. And he --
 15 he was -- he had told me a number of times that his
 16 brother would be a -- a really good person to get
 17 involved in the company, because he had some money.
 18 And it never really happened -- it didn't happen right
 19 away. It just happened over time.
 20 **Q. When GTI issued shares to investors, was**
 21 **there a stock certificate issued for each investment**
 22 **to each investor? Do you understand the question?**
 23 A. I understand the question. I want to say I
 24 believe so. I don't recall. So I -- I want to say,
 25 yes, I believe so.

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1 **Q. Was HRO involved -- Holme, Roberts & Owen**
 2 **involved in assisting GTI in the issuance of stock**
 3 **certificates?**
 4 A. Yes, sir.
 5 **Q. Were you involved in the issuance of stock**
 6 **certificates?**
 7 A. I -- I can't remember at what capacity I
 8 was. I don't recall how it worked, to tell you the
 9 truth.
 10 **Q. Who within GTI was keeping track of what**
 11 **stock certificates had been issued to whom and in what**
 12 **number of shares?**
 13 A. I think we had a -- I think we had a list.
 14 And I don't know if -- I can't -- I don't know who it
 15 was, whether it was Gary Wester or Kim's office, that
 16 we had a spreadsheet on -- a list of it. I just don't
 17 remember. I don't know.
 18 MR. SHILLIDAY: Six.
 19 (Deposition Exhibit 6 was marked.)
 20 **Q. (BY MR. SHILLIDAY) Is that the list?**
 21 A. This is a list.
 22 **Q. Okay. Do you know who prepared this list,**
 23 **Exhibit 6?**
 24 A. No, I don't.
 25 **Q. I put a little arrow for your convenience**

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1 next to Mr. Ingham's name. Do you see that?

2 A. I see that, yeah.

3 Q. Did you assist in preparing Exhibit 6?

4 A. I don't recall. I don't recall this list,

5 but I certainly recall all the names.

6 Q. You testified earlier that there was a list

7 kept by Mr. Gleason or by Mr. Wester potentially?

8 A. Potentially.

9 Q. Okay. Did you ever see a list like this

10 when you were --

11 A. Yeah, yeah, yeah, yeah.

12 Q. Okay.

13 A. Yeah.

14 Q. This doesn't shock you to see this

15 document?

16 A. No, no, no.

17 Q. Who would ensure that the information on

18 the list was accurate?

19 A. I don't recall exactly. I'm sure -- I

20 don't know if it landed in one person's lap to sign

21 off on it, but I'm sure I was familiar with every --

22 everybody and every percentage of ownership that was

23 on here.

24 Q. Mr. Ingham is shown owning 80,000 shares by

25 this document, correct?

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1 A. Yes.

2 Q. And if I understand this document

3 correctly, the investment that he made for that 80,000

4 shares was \$100,000?

5 A. By this document.

6 Q. Okay. Do you have any reason to believe

7 that that's not true at whatever --

8 A. No, I have no reason to believe it's not

9 true, no.

10 Q. Do you know when this document was

11 prepared?

12 A. I don't know. It has a date of

13 6/10/2014 on top, but I'm sure that's not the date.

14 Q. As part of your job responsibilities as

15 president and CEO of GTI, would you ensure that there

16 was a list of stockholders for GTI?

17 A. Yes.

18 Q. And you would ensure that the number of

19 shares were accurate that were listed with respect to

20 each shareholder?

21 A. Yes.

22 Q. And would you ensure that the amount

23 invested was accurate on that list?

24 A. Yes.

25 Q. And was that list updated from time to time

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1 within GTI?

2 A. Yes.

3 Q. Was it your responsibility to ensure those

4 updates were accurate?

5 A. I can't recall whether we had the attorney

6 updating them or I -- or someone in the office updated

7 them. Whether it was myself, Kim, or Gary, somebody

8 was responsible. But I'm sure I looked at it and

9 approved it every time it was updated, if that answers

10 your question.

11 Q. At least when this document was -- strike

12 that.

13 Is there any reason for you to doubt this

14 was a document prepared within GTI?

15 A. No.

16 Q. Okay. At the time this document was

17 prepared, what -- what was the number of shares you

18 owned?

19 A. I don't know. I can't tell you when this

20 document was prepared.

21 Q. Okay.

22 A. I can tell you that this says 38 percent.

23 Q. Okay. And the number of shares is what?

24 A. 2 million.

25 Q. Okay. Did you actually have stock

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1 certificates in your possession that reflected the

2 2 million shares that you owned?

3 A. Yes, I believe I did -- I don't remember

4 exactly how many, but, yeah, I think I did.

5 Q. And where were they kept, your stock

6 certificates?

7 A. I don't know where I kept them. Probably

8 at home or in a vault, safe deposit box.

9 Q. Was there ever a time when you sold your

10 shares that you owned personally in GTI to Mr. Ingham?

11 A. I believe there was.

12 Q. Okay. And was that more than one time that

13 you sold your personal shares to Mr. Ingham?

14 A. I don't know if it was more than once, but

15 I believe so. But I don't know for sure. I can't

16 remember.

17 Q. And when you did sell those shares to

18 Mr. Ingham, did you instruct GTI or its lawyers to

19 issue new stock certificates in Mr. Ingham's name?

20 A. I don't recall.

21 Q. Okay. Would the -- a list of the

22 shareholders and the percentage of shares in the

23 company be revised each time you sold your personal

24 shares to Mr. Ingham?

25 A. I don't recall.

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1 **Q. Okay. Would there be any reason why that**
 2 **wouldn't happen?**
 3 A. I don't know. I don't recall, though.
 4 **Q. For example, hypothetically, if you owned**
 5 **2 million shares and you sold 100,000 to Mr. Ingham,**
 6 **then the corporate records, if they were correct,**
 7 **should reflect that Mr. Ingham now owns 100,000 shares**
 8 **and you own 1.9 million, correct, under my**
 9 **hypothetical?**
 10 A. Hypothetically, yes.
 11 **Q. Okay. Was it the practice of you and the**
 12 **company to issue Mr. Ingham stock certificates to**
 13 **evidence his ownership in the company when he did buy**
 14 **your personal shares?**
 15 A. Would you repeat the question?
 16 **Q. Sure. You testified earlier that you**
 17 **sold --**
 18 A. Yeah.
 19 **Q. -- your personal shares to Mr. Ingham,**
 20 **correct?**
 21 A. Yes.
 22 **Q. Okay. How would that be evidenced?**
 23 A. I think -- well, I know for sure we had
 24 documentation between us, between Mr. Ingham and
 25 myself. How we cal- -- I mean, how we accounted for

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1 it, I can't recall how we placed it in the -- in the
 2 corporate record book.
 3 MR. SHILLIDAY: Exhibit 7.
 4 (Deposition Exhibit 7 was marked.)
 5 **Q. (BY MR. SHILLIDAY) Exhibit 7 has been**
 6 **placed before you. Mr. Burke, does this appear to be**
 7 **a stock certificate issued by globalTowers, Inc.?**
 8 A. Yes.
 9 **Q. And it's issued to Mr. Ingham?**
 10 A. Yes.
 11 **Q. 80,000 shares?**
 12 A. Yes.
 13 **Q. If you look in the lower left-hand corner,**
 14 **there's a date of May 1, 2000?**
 15 A. Yes.
 16 **Q. Okay. Did you have anything to do with the**
 17 **issuance of these shares to Mr. Ingham by the company?**
 18 A. I'm -- did I have anything to do with it?
 19 Could you elaborate?
 20 **Q. Sure. Was this the result of your**
 21 **discussions with Mr. Ingham about investing in GTI?**
 22 A. I'm sure of it, yes.
 23 **Q. How many times did you speak with Mr.**
 24 **Ingham about investing in GTI before he made his first**
 25 **investment?**

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1 A. I don't recall how many times.
 2 **Q. More than once?**
 3 A. I don't recall how many times.
 4 **Q. Okay. Do you recall what you discussed?**
 5 A. No, I don't recall. I'm sure we discussed
 6 the company and the business -- everything that -- I'm
 7 sure all the questions he had, I tried to answer. I
 8 can't remember exactly what we discussed.
 9 **Q. Do you recall giving Mr. Ingham written**
 10 **documents about GTI?**
 11 A. I'm -- yes, I'm sure I did. I recall
 12 sending him stuff.
 13 **Q. What do you recall sending him?**
 14 A. I don't recall what.
 15 **Q. Were they financial projections?**
 16 A. I don't recall what.
 17 **Q. You don't recall at all?**
 18 A. No. Well, I can guess.
 19 **Q. Okay. Go ahead and tell me what you**
 20 **remember.**
 21 A. I remember that we sent him the executive
 22 summary. We probably sent him projections, maybe --
 23 maybe a business plan at the time, if we had it. I
 24 don't know. Just a guess. Probably a number of
 25 e-mails that were probably just -- my just trying to

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1 explain what we were trying to accomplish. I don't
 2 know what exactly.
 3 **Q. In or about May and June of 2000, was GTI**
 4 **solvent? Do you know what that means?**
 5 A. I don't recall what our position was at
 6 that time.
 7 **Q. Was GTI generally paying its bills as they**
 8 **became due?**
 9 A. Yes.
 10 **Q. Were they paying its employees?**
 11 A. Yes.
 12 **Q. Any problems with bouncing checks or not**
 13 **being able to pay employees?**
 14 A. I don't recall that.
 15 **Q. Okay. Did you tell Mr. Ingham that GTI was**
 16 **solvent, making money?**
 17 A. I don't recall what I told him.
 18 **Q. Did you tell Mr. Ingham that GTI was**
 19 **profitable in May 2000?**
 20 A. I don't recall what I told him.
 21 **Q. Looking at Exhibit 7, do you recall this**
 22 **was the first investment that Mr. Ingham made in the**
 23 **company?**
 24 A. I don't know that.
 25 **Q. Okay. If I told you that this was the**

117	<p>1 first investment that Mr. Ingham made in the company,</p> <p>2 would you have any reason to disbelieve that?</p> <p>3 A. No.</p> <p>4 Q. Okay. Did you ever get into an argument</p> <p>5 with Mr. Snyder about you using corporate money to buy</p> <p>6 things for yourself, like cars?</p> <p>7 A. Did I get into an argument with him?</p> <p>8 Q. Yeah.</p> <p>9 A. I would not doubt it for one minute. We</p> <p>10 argued about a lot of things.</p> <p>11 Q. Are you saying that Mr. Snyder was</p> <p>12 untruthful in saying that you bought cars for -- using</p> <p>13 company money for personal reasons?</p> <p>14 A. Did I say that?</p> <p>15 Q. I'm asking you, did Mr. Snyder ever accuse</p> <p>16 you of that?</p> <p>17 A. I don't recall having bought a car with the</p> <p>18 company money.</p> <p>19 Q. Okay.</p> <p>20 A. But I know we had arguments over vehicles</p> <p>21 and reimbursements and a lot of things, and I don't</p> <p>22 recall exactly what it was -- the situation was.</p> <p>23 MR. SHILLIDAY: Exhibit 8.</p> <p>24 (Deposition Exhibit 8 was marked.)</p> <p>25 Q. (BY MR. SHILLIDAY) Exhibit 8 is a -- I'll</p>	119	<p>1 Q. Was he also an investor?</p> <p>2 A. I don't know if he was personally an</p> <p>3 investor or they had a group investment. I can't</p> <p>4 recall.</p> <p>5 Q. If you look on the page before, that we</p> <p>6 were just looking at, what was the date of this e-mail</p> <p>7 Marty sent to you?</p> <p>8 A. Sorry. The page before?</p> <p>9 Q. Yeah.</p> <p>10 A. June 5th, 2000.</p> <p>11 Q. Do you recall this e-mail?</p> <p>12 A. No, I don't recall this e-mail.</p> <p>13 Q. Okay.</p> <p>14 A. Like I said, we had a lot of e-mails, I'm</p> <p>15 sure, and a lot of disagreements. But I'm sure this</p> <p>16 is -- I'm sure this is from Marty to me (sic).</p> <p>17 Q. It sounds like you weren't getting along</p> <p>18 with Marty.</p> <p>19 A. There were moments we didn't get along.</p> <p>20 Q. Was Mr. Snyder accusing you of using</p> <p>21 corporate funds for personal reasons?</p> <p>22 A. I don't know.</p> <p>23 Q. Do you recall that ever happening:</p> <p>24 Mr. Snyder accusing you of using corporate funds for</p> <p>25 personal reasons?</p>
118	<p>1 represent to you is -- what we obtained is a series of</p> <p>2 e-mails between you and Mr. Snyder. And I've taken</p> <p>3 the liberty of highlighting some places where I wanted</p> <p>4 you to focus on. Is that okay?</p> <p>5 A. Underlined?</p> <p>6 Q. Yes, sir.</p> <p>7 A. Yes.</p> <p>8 Q. Okay. So if we turn to the second-to-last</p> <p>9 page, at the top, do you see where I've underlined</p> <p>10 that?</p> <p>11 A. Yes.</p> <p>12 Q. Can you read that into the record, please.</p> <p>13 A. Hold on.</p> <p>14 Q. Sure.</p> <p>15 A. "For example you bought a Car with company</p> <p>16 money the day after we got funding from Alex and</p> <p>17 Chris, but you did not mention it to me until 3 days</p> <p>18 later."</p> <p>19 Q. Who were Alex and Chris?</p> <p>20 A. Chris Outwater, I believe, was the -- the</p> <p>21 guy we mentioned before out of Santa Barbara. And I</p> <p>22 don't remember at that time what his position was with</p> <p>23 us, but he became a shareholder.</p> <p>24 Q. Who is Alex?</p> <p>25 A. Alex was Chris' friend.</p>	120	<p>1 A. Now I do, yes.</p> <p>2 Q. Okay. Do you recall Mr. Fischer -- Scott</p> <p>3 Fischer, making the same accusations?</p> <p>4 A. No, I don't recall that.</p> <p>5 Q. Did Mr. Fischer sue you?</p> <p>6 A. Yeah, he sued me or the company -- I can't</p> <p>7 recall if it's me or both. But it was definitely me,</p> <p>8 if not both -- when we released him from employment.</p> <p>9 And I can't remember what year it was.</p> <p>10 Q. He got a judgment against you; didn't he?</p> <p>11 A. He got a judgment against me for sure. I</p> <p>12 don't know about the company.</p> <p>13 Q. And you listed Mr. Fischer as a creditor in</p> <p>14 your personal bankruptcy schedules?</p> <p>15 A. I believe I did.</p> <p>16 Q. Okay. Let's look at the first page of</p> <p>17 Exhibit 8, the one we're focusing on. And do you see</p> <p>18 where I've underlined for you again?</p> <p>19 A. Yeah.</p> <p>20 Q. First of all, what is the first page of</p> <p>21 Exhibit 8? Is this your reply back to Mr. Snyder?</p> <p>22 A. I don't know what it is. It's an e-mail</p> <p>23 from Marty to me.</p> <p>24 Q. Okay. What's the date of the e-mail?</p> <p>25 A. Monday, June 5th.</p>

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1 **Q. Okay. And that's the same date of**
 2 **Mr. Snyder's e-mail to you that we just looked at,**
 3 **right, a few pages back?**
 4 A. Yeah.
 5 **Q. Okay. And you can tell page 1, on**
 6 **June 5th, it's a little later in the day than the one**
 7 **from Marty, correct?**
 8 A. Well, wait a second. Monday, June 5th,
 9 11 a.m. This is Monday, June 5th, 4:31 p.m. So this
 10 one was the first one of the day, right?
 11 **Q. Could be. Why don't you -- do you recall**
 12 **sending this e-mail, the one on page 1 of Exhibit 8,**
 13 **to Mr. Snyder?**
 14 A. I don't recall.
 15 **Q. Okay. Can you read what's underlined.**
 16 A. I sat in my -- I sat in my office Friday
 17 night working -- or taking call after call from our
 18 guys wanting answers to why they work their ass off
 19 for us every day and we can't pay them. Saturday
 20 morning, the men that were out of town, tried to cash
 21 their checks Saturday and could not.
 22 **Q. Okay. So did you recall writing that to**
 23 **Marty?**
 24 A. I don't recall.
 25 **Q. Okay. Is it true that employees weren't**

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1 **being able to cash their paychecks in 2000, of GTI?**
 2 A. Well, I don't recall, but it certainly --
 3 it certainly was the case on this day. I mean, I
 4 know we had -- the reason we went to raise money
 5 obviously was to try to start cash flow on our
 6 projects right away.
 7 We had a lot of guys when we first started,
 8 a lot of employees, and cash flow was always an issue.
 9 So that obviously states that we had a problem then,
 10 right then.
 11 **Q. Does this refresh your recollection as to**
 12 **the financial circumstances of GTI in May -- in**
 13 **June 2000?**
 14 A. On this day.
 15 **Q. Okay.**
 16 A. I remember days where we had some problems.
 17 **Q. Okay. So on some days, you couldn't pay**
 18 **your bills, and other days, you could?**
 19 A. Our cash flow dictates what days we paid
 20 bills, yeah. I mean, some days were better than
 21 others. So some days were -- some days it was more
 22 difficult, yeah.
 23 **Q. And if you look at Exhibit 7, Mr. Ingham**
 24 **had these shares issued in -- on May 1st, 2000,**
 25 **correct?**

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1 A. Yeah.
 2 **Q. Did you ever tell Mr. Ingham that GTI was**
 3 **on some days not being able to pay its own employees**
 4 **when Mr. Ingham made that investment?**
 5 A. I have no recollection if I did or did not.
 6 **Q. Okay. Do you think that was something you**
 7 **should have told Mr. Ingham?**
 8 A. I don't know if I told him or not.
 9 **Q. Do you think it's something you should have**
 10 **told him is my question?**
 11 A. Absolutely.
 12 **Q. Okay. Why didn't you tell him, then?**
 13 A. I don't know if I told him or not.
 14 **Q. Okay. So if Mr. Ingham testified that**
 15 **there's no way you ever told him that in 2000, when he**
 16 **made that investment, Exhibit 7, would you have any**
 17 **reason or basis to disbelieve him?**
 18 A. No, I wouldn't have any reason to
 19 disbelieve him.
 20 **Q. Okay. In 2000, was GTI being sued by**
 21 **anybody for not paying its bills?**
 22 A. I don't recall that.
 23 **Q. Okay. Do you recall what the assets were**
 24 **of GTI in --**
 25 A. No.

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1 **Q. -- May 2000?**
 2 A. I don't recall.
 3 **Q. Okay. Does Mr. Gleason still hold the**
 4 **financial records for GTI?**
 5 A. I don't know. That's a good question. I
 6 have no idea. I know -- I don't know if he still has
 7 them or not.
 8 **Q. When was the last time you spoke with**
 9 **Mr. Gleason?**
 10 A. I spoke -- I speak with him a lot.
 11 Yesterday. Two days ago.
 12 **Q. Is he still your accountant?**
 13 A. He's my personal accountant, yep, and he's
 14 an accountant for Colt & Steel Corporation.
 15 **Q. Does he have an ownership interest in Colt**
 16 **& Steel?**
 17 A. No.
 18 **Q. But he does their books and records?**
 19 A. Yeah.
 20 **Q. Is that something that was already existing**
 21 **when you started at Colt & Steel, or did you recommend**
 22 **Mr. Gleason for Colt & Steel?**
 23 A. He just became the accountant for them
 24 right away. I didn't recommend him.
 25 **Q. Mr. Burke, did there ever come a time in**

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1 **2000 when you would issue letters to shareholders**
 2 **about the company?**
 3 A. Issue letters.
 4 **Q. Yeah.**
 5 A. I don't know what you mean.
 6 **Q. Well, write them and then send them out.**
 7 A. It's possible.
 8 **Q. Okay. Do you recall doing that at any**
 9 **time -- you can put that there. Do you recall at any**
 10 **time doing that while you were the president and CEO**
 11 **of GTI?**
 12 A. I don't -- I recall writing letters to the
 13 shareholders, yeah, but I don't recall -- I can't tell
 14 you what dates. I don't know what day -- dates.
 15 **Q. Why would you write letters to shareholders**
 16 **of GTI?**
 17 A. I would probably write them to keep them --
 18 either to keep them informed or -- I don't know what
 19 exactly -- it depends on what letter -- what the
 20 reason of the letter was. I'm not sure.
 21 **Q. Would you write letters to shareholders in**
 22 **order to induce them to make additional investments in**
 23 **GTI?**
 24 A. I don't recall.
 25 MR. SHILLIDAY: Okay. Exhibit 9.

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1 (Deposition Exhibit 9 was marked.)
 2 **Q. (BY MR. SHILLIDAY) I've taken the liberty,**
 3 **Mr. Burke, of underlining that to perhaps save some**
 4 **time. If you don't like that, I can give you a clean**
 5 **copy. Do you recognize this document?**
 6 A. I haven't had a chance -- let me go through
 7 it.
 8 **Q. Sure, sure. I apologize.**
 9 A. That's all right. So -- I mean, I
 10 definitely vaguely recall this for sure.
 11 **Q. What is --**
 12 A. I recall a lot of this stuff in here.
 13 **Q. What is this exhibit? We're on Exhibit 11,**
 14 **right?**
 15 A. Nine.
 16 **Q. Nine. Excuse me. Exhibit 9. What is**
 17 **Exhibit 9?**
 18 A. A letter to GTI shareholders from the
 19 president and CEO.
 20 **Q. Do you recall writing this?**
 21 A. I don't recall writing it.
 22 **Q. Is your name at the bottom on page 2?**
 23 A. It's typed in there as my name and my
 24 title, yes.
 25 **Q. And what's the date of this letter?**

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1 A. 10/16/2000.
 2 **Q. Do you recall preparing this?**
 3 A. No.
 4 **Q. Do you recall directing that this be sent**
 5 **to shareholders?**
 6 A. I don't.
 7 **Q. Do you recall sending this letter to**
 8 **Mr. Ingham?**
 9 A. I don't.
 10 **Q. Any reason to doubt that this is your**
 11 **letter?**
 12 A. No.
 13 **Q. Okay.**
 14 A. No reason to doubt it.
 15 **Q. Okay. Would you read into the record the**
 16 **first sentence there on the -- underlined into the**
 17 **record, please.**
 18 A. The company is currently invoicing \$600,000
 19 per month in services.
 20 **Q. Okay. Where does that information come**
 21 **from that you put into that letter?**
 22 A. I don't recall.
 23 **Q. Okay. But you wrote it, right?**
 24 A. I don't know.
 25 **Q. You didn't write this?**

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1 A. I don't recall. I said I had no reason to
 2 believe I didn't.
 3 **Q. Okay. Okay.**
 4 A. I don't know if that came from our books or
 5 me or our accounting firm. I don't know. I don't
 6 recall.
 7 **Q. It's a fair statement to say, correct, that**
 8 **you were representing to the shareholders that that**
 9 **was true? Isn't that a fair statement?**
 10 A. If I wrote this --
 11 **Q. Okay.**
 12 A. -- that would be a fair statement.
 13 **Q. Okay. So you're representing that --**
 14 **A. Yeah.**
 15 **Q. -- the company was making 600,000?**
 16 A. No. That's not what it says.
 17 **Q. Please re-read it. I'm sorry.**
 18 A. It says, The company is currently invoicing
 19 600,000.
 20 **Q. Okay. What do you mean by that?**
 21 A. That's not making 600,000. The way I read
 22 that is that we would have invoiced, billed, generated
 23 \$600,000 in work. That does not show the profit on
 24 \$600,000.
 25 **Q. I see. Fair statement. Was GTI, in**

129	<p>1 October 2000, having problems with collecting on its</p> <p>2 invoices?</p> <p>3 A. I don't recall. I do recall having set up</p> <p>4 a -- in order to expedite cash flow, we set up a</p> <p>5 Silicon Valley banking -- I don't know if you call it</p> <p>6 a facility or not -- a factoring program to help us</p> <p>7 get the invoices paid faster, if you're familiar with</p> <p>8 factoring.</p> <p>9 Q. I am.</p> <p>10 A. So that's what we were doing at this point,</p> <p>11 because the bigger public phone companies weren't</p> <p>12 paying their bills fast enough.</p> <p>13 I remember that was -- so we had set up a</p> <p>14 factoring program, so we could get -- I think it was</p> <p>15 80 percent of our invoice paid immediately upon</p> <p>16 invoicing one of our clients -- their clients anyway,</p> <p>17 but -- so I don't know if that answered your question</p> <p>18 or not.</p> <p>19 Q. It actually raises several other issues.</p> <p>20 A. All right.</p> <p>21 Q. I was aware that you were factoring with</p> <p>22 Silicon Valley Bank. Do you recall the terms,</p> <p>23 generally, that you had with Silicon Valley?</p> <p>24 I think you had mentioned one, that upon</p> <p>25 the invoice going out, Silicon Valley Bank, pursuant</p>	131	<p>1 can't recall how much we owed the bank.</p> <p>2 Q. Can you read the next sentence into the</p> <p>3 record underlined on Exhibit 9.</p> <p>4 A. GTI -- GTI booked 1.7 million in revenues</p> <p>5 the first year. The year-end financials are still to</p> <p>6 be complete by our accounting firm, Gleason and Hogan.</p> <p>7 Q. The 1.7 million, where did that number come</p> <p>8 from?</p> <p>9 A. I don't recall.</p> <p>10 Q. But you're representing to shareholders</p> <p>11 that that's true?</p> <p>12 A. I don't -- I don't recall where it came</p> <p>13 from.</p> <p>14 Q. Okay. But in this letter, you're</p> <p>15 representing to shareholders that that number is</p> <p>16 correct, right?</p> <p>17 A. "The year-end financials are still to be</p> <p>18 complete by our accounting firm." I would guess so,</p> <p>19 yeah.</p> <p>20 Q. Okay. And would you please read the next</p> <p>21 sentence into the record.</p> <p>22 A. The company has a projected -- the company</p> <p>23 has projected revenues in the second year of 10- to</p> <p>24 15 million in sales. These revenues are a combination</p> <p>25 of additional telecommunications services and wireless</p>
130	<p>1 to the credit facility, would pay GTI 80 percent of</p> <p>2 the invoice; is that a fair statement?</p> <p>3 A. I would say -- if 80 percent is the right</p> <p>4 number, yes.</p> <p>5 Q. Okay.</p> <p>6 A. I think it's close. I don't know if it's</p> <p>7 the right number, though.</p> <p>8 Q. Do you know the interest that was being</p> <p>9 paid by GTI pursuant to the line of credit with</p> <p>10 Silicon Valley Bank?</p> <p>11 A. I would guess it was, like, 17 percent, but</p> <p>12 I don't know if I'm high or low. I'm just guessing.</p> <p>13 It was pretty high.</p> <p>14 Q. Did you disclose to Mr. Ingham that you</p> <p>15 were factoring in -- when I say, "you," I mean GTI,</p> <p>16 was factoring with its invoicing and invoices to</p> <p>17 customers in 2000?</p> <p>18 A. I don't recall telling him.</p> <p>19 Q. Okay.</p> <p>20 A. I'm not sure if I did or not.</p> <p>21 Q. Do you know how much was owed to Silicon</p> <p>22 Valley Bank at the end of 2000, by GTI?</p> <p>23 A. From my -- by GTI?</p> <p>24 Q. Yes.</p> <p>25 A. I don't recall how the program works. I</p>	132	<p>1 tower construction for GTI ownership.</p> <p>2 Q. Where did those numbers come from? 10- to</p> <p>3 15 million is what I'm referring to.</p> <p>4 A. I don't recall exactly. It's got to be</p> <p>5 just the projections in the amount of sales we thought</p> <p>6 we could do. It's just a projection.</p> <p>7 Q. Do you recall having discussions with</p> <p>8 anyone within GTI before you made that representation</p> <p>9 to shareholders?</p> <p>10 A. Within GTI?</p> <p>11 Q. Yes, sir.</p> <p>12 A. I don't recall.</p> <p>13 Q. Did you review any profit or loss</p> <p>14 statements before making that statement to</p> <p>15 shareholders?</p> <p>16 A. Projected revenue -- I don't recall how --</p> <p>17 I don't recall.</p> <p>18 Q. Would you read and review the profit and</p> <p>19 loss statements prepared by Mr. Gleason on a monthly</p> <p>20 basis?</p> <p>21 A. I believe so, yes.</p> <p>22 Q. Okay.</p> <p>23 A. Yeah. Yes.</p> <p>24 Q. Would you read the balance sheets prepared</p> <p>25 by Mr. Gleason every month, as the CEO and/or the</p>

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1 **president of GTI?**
 2 A. Yes, yes. Anything he prepared, I would
 3 look at.
 4 **Q. Okay. Would you read the next sentence,**
 5 **please.**
 6 A. The company has recently signed a joint
 7 venture with another tower company to form Global
 8 Tower Partnership to perform \$8 million in tower
 9 construction of which GTI will own 30 percent of the
 10 units in the joint venture.
 11 **Q. Okay. We discussed this earlier. Is that**
 12 **ClearShot that you're talking about?**
 13 A. Yes.
 14 **Q. So the deal with ClearShot was entered into**
 15 **sometime around October of 2000. Does that refresh**
 16 **your recollection?**
 17 A. The company has recently signed -- if we
 18 already signed it, then, yes.
 19 **Q. Okay. On or before October of 2000?**
 20 A. Yeah, yeah. I just don't know what date.
 21 **Q. Sure. Okay. The next sentence, please.**
 22 A. The partner, ClearShot Wireless
 23 Partnership, has also made an equity investment into
 24 the corporation at \$1.00 per share for 500,000 shares.
 25 **Q. Did ClearShot actually get stock**

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1 **certificates issued to it?**
 2 A. I believe they did, but I -- I believe they
 3 did. I don't know for sure. That was part of the
 4 deal: They wanted a part ownership of the company in
 5 order to form the joint venture.
 6 **Q. And they paid \$500,000?**
 7 A. Yeah, I believe they did.
 8 **Q. And do you recall that you received said**
 9 **funds from ClearShot from the investment that's being**
 10 **referred to in this Exhibit 9?**
 11 A. Yeah, I'm pretty sure we did.
 12 **Q. Okay. The next sentence.**
 13 A. GTI is also working at securing a \$20
 14 million credit facility of which we will use to
 15 continue building wireless services and communication
 16 towers.
 17 **Q. What's -- what's the \$20 million credit**
 18 **facility?**
 19 A. I don't recall. Let me read.
 20 **Q. Sure.**
 21 A. I don't recall where -- I don't recall what
 22 we were working on. I know we were talking with
 23 ClearShot. We were talking with Kim Gleason. We
 24 were -- I just don't recall exactly what we were -- we
 25 were doing at that point.

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1 **Q. You don't remember a \$20 million credit**
 2 **facility discussion?**
 3 A. I don't recall how -- no, I don't. No, I
 4 don't -- I'm not saying I don't remember the
 5 discussion.
 6 **Q. Okay.**
 7 A. I don't remember exactly what we were doing
 8 to go forward with it.
 9 **Q. Okay. Who was this credit facility with?**
 10 A. I don't remember.
 11 **Q. You don't remember. Is this Silicon Valley**
 12 **Bank or somebody else?**
 13 A. No, it wasn't Silicon Valley Bank. I know
 14 that.
 15 **Q. Do you recall being told by a bank that GTI**
 16 **would have problems getting financing because of your**
 17 **prior history and credit problems with running other**
 18 **companies? Does that ring a bell?**
 19 A. I know my credit wasn't good. My credit
 20 definitely wasn't great, but -- my net worth -- I
 21 didn't have a strong net worth. So I knew that going
 22 into it.
 23 **Q. Do you remember having discussions with**
 24 **prospective lenders to GTI about your problems with**
 25 **Canyon Design and inability of Canyon Design to pay**

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1 **creditors?**
 2 A. Canyon Design. I don't remember that at
 3 all.
 4 **Q. Okay. We finished all the sentences.**
 5 A. Yeah.
 6 **Q. Okay. Yes, we have. You don't recall**
 7 **whether you gave this to Mr. Ingham or not?**
 8 A. I don't recall, no. I think -- you know,
 9 it says, "shareholders." If I sent this out, he
 10 should have gotten one.
 11 **Q. Right. Because at this point --**
 12 A. He was a shareholder.
 13 **Q. -- he was a shareholder, right?**
 14 A. Right.
 15 **Q. Do you recall reviewing this document to**
 16 **ensure the information was accurate before you sent it**
 17 **to the shareholders or directed it to be sent to the**
 18 **shareholders?**
 19 A. Do I recall --
 20 **Q. Yes.**
 21 A. -- reviewing it? No, I don't recall.
 22 **Q. Okay. Sitting here today, do you believe**
 23 **any of this information is incorrect?**
 24 A. Without looking at our books here, it's
 25 hard to say if the number was right on or not.

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1 **Q. Okay.**
 2 A. So I don't know. I don't remember the
 3 \$20 million credit facility, who we were talking
 4 about. I don't recall who that was with or what we
 5 were doing.
 6 **Q. When this letter was sent in October 2000,**
 7 **you had access to the books and records of GTI; fair**
 8 **statement?**
 9 A. Fair statement.
 10 **Q. And you reviewed them on a monthly basis,**
 11 **like you testified, correct?**
 12 A. Yes.
 13 **Q. So you would have known what the**
 14 **year-to-date financials were for GTI, January through**
 15 **September of 2000, when this letter was written,**
 16 **correct?**
 17 A. Yes.
 18 MR. SHILLIDAY: Okay. I think we're done
 19 with that. Exhibit 10.
 20 (Deposition Exhibit 10 was marked.)
 21 **Q. (BY MR. SHILLIDAY) I apologize, Mr. Burke,**
 22 **for bringing up e-mails from so long ago. But --**
 23 A. That's all right.
 24 **Q. -- I'll challenge you to recall if you**
 25 **remember this e-mail that's been marked as Exhibit 10.**

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1 A. (The deponent perused the exhibit.) Okay.
 2 **Q. Okay. Do you remember this e-mail?**
 3 A. I don't remember this e-mail.
 4 **Q. Okay.**
 5 A. But I do remember -- I vaguely remember,
 6 obviously, the thought process and the conversation.
 7 **Q. Okay. I've underlined the date of the**
 8 **e-mail. What's the date?**
 9 A. April 9 -- well, wait a second.
 10 **Q. No. Beneath.**
 11 A. Oh, November 7th, 2000.
 12 **Q. Okay. And who's this e-mail to?**
 13 A. Hep.
 14 **Q. Okay. From you?**
 15 A. Yes.
 16 **Q. Okay. And if you could read into the**
 17 **record where I've underlined for you.**
 18 A. I was thinking of selling you 1 to 150,000
 19 shares of my personal stock, so not to dilute the
 20 other shareholders during our JV negotiations. We are
 21 about 99 percent there with them and I wouldn't want
 22 to make any changes in the stock structure prior to
 23 signing. I can easily part with that much for this
 24 situation and it would make sense for the company. I
 25 will loan the company some money as needed and you get

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1 your stock.
 2 **Q. Okay.**
 3 A. Yeah.
 4 **Q. Do you recall telling Hep that?**
 5 A. I vaguely do.
 6 **Q. Okay.**
 7 A. It's been a long time. So I do vaguely
 8 remember this, yeah.
 9 **Q. What is your understanding when you use the**
 10 **word "dilute" in this e-mail to Mr. Ingham?**
 11 A. I don't recall.
 12 **Q. Okay. What's your general understanding of**
 13 **how shares get diluted?**
 14 A. Well, you sell more -- you sell more stock,
 15 you sell more shares, you know, and people get less
 16 percentage in the company based on what you sell and
 17 how much is sold.
 18 **Q. Correct. If I understand this e-mail**
 19 **correctly, what you're telling Mr. Ingham is that**
 20 **you'll sell your personal shares -- which I believe we**
 21 **talked about earlier. You had 2 million --**
 22 A. Uh-huh.
 23 **Q. -- so that the company wouldn't be required**
 24 **to issue new shares and, therefore, dilute the stock**
 25 **value for the existing shareholders, correct?**

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1 A. Correct.
 2 **Q. Okay. And --**
 3 A. And I was going to give some of mine, so
 4 the company shareholders didn't have to lose any of
 5 theirs. So I'd dilute it myself.
 6 **Q. And you recall telling Hep this, correct,**
 7 **Mr. Ingham?**
 8 A. I don't recall that. Well, I have a vague
 9 recollection of this.
 10 **Q. Okay. And did you represent to Mr. Ingham**
 11 **that the money that Mr. Ingham gave to you for these**
 12 **shares would then be invested in the company?**
 13 A. I don't recall what I told him for that.
 14 **Q. Okay.**
 15 A. Yeah.
 16 **Q. You wouldn't have told Mr. Ingham, correct,**
 17 **that you intended to use this money for personal**
 18 **reasons, right?**
 19 A. Well, I was selling him shares. I don't
 20 know what I -- I was selling him shares. I don't know
 21 what I told him. I can't recall what I exactly told
 22 him.
 23 **Q. Mr. Ingham was intending and wanting to**
 24 **invest in GTI; is that your understanding, in or about**
 25 **that time?**

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1 A. Yes, absolutely.
 2 **Q. Okay. And what you're telling him,**
 3 **correct, is that instead of getting the shares**
 4 **directly from GTI, you would sell him your personal**
 5 **shares --**
 6 A. Right.
 7 **Q. -- so as not to dilute the stock, correct?**
 8 A. Right.
 9 **Q. And you also told him, isn't it true, that**
 10 **you would then take that money that Mr. Ingham gave**
 11 **you and invest it in the company, right?**
 12 A. I don't recall that.
 13 **Q. Okay. If Mr. Ingham testified to that,**
 14 **would you doubt that?**
 15 A. I don't know.
 16 **Q. You don't know whether you'd doubt it?**
 17 A. No, I don't recall saying that exactly,
 18 what I would do with that -- selling the money -- I
 19 mean, the money that came to me.
 20 I wouldn't doubt Mr. Ingham -- I'm not
 21 saying that. I don't mean to say that. Hopefully you
 22 didn't take it that way. But I would -- it would be
 23 not correct for me to say -- just say, yes, I said it,
 24 because I don't remember it.
 25 **Q. It's true that you were asking Mr. Ingham**

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1 **to invest in GTI because GTI needed the money to**
 2 **continue operations, right?**
 3 A. That wasn't always true, no. As a matter
 4 of fact -- no, that's not always true. Maybe at
 5 certain points -- I know he made multiple investments.
 6 That might have been the case on certain investments.
 7 But my recollection is at one point I
 8 didn't -- we didn't really need any more money, was my
 9 thought -- the way we felt, and I know he wanted to
 10 put more money in. And I don't remember the
 11 conversation exactly, how it went, but it wasn't --
 12 back to your question to me, no, the answer is I don't
 13 believe it was always the case.
 14 **Q. Okay. And what's the date of this e-mail**
 15 **that we're looking at, Exhibit 10?**
 16 A. November 7, 2000.
 17 **Q. Is it your testimony that on November 7,**
 18 **2000, GTI did not need any new investment money to**
 19 **fund its expansion and operations?**
 20 A. I don't recall our situation on that date.
 21 MR. SHILLIDAY: Okay. Next exhibit.
 22 (Deposition Exhibit 11 was marked.)
 23 **Q. (BY MR. SHILLIDAY) I'll give you a moment,**
 24 **Mr. Burke, to look at that.**
 25 A. Okay.

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1 **Q. What is this document, Exhibit 11?**
 2 A. A convertible promissory note.
 3 **Q. Issued by GTI?**
 4 A. Yes.
 5 **Q. To Mr. Ingham?**
 6 A. Yes.
 7 **Q. Do you recall this document?**
 8 A. I recall this document.
 9 **Q. Do you recall being involved in its**
 10 **preparation?**
 11 A. I don't know if I prepared it, but I know I
 12 sure reviewed it.
 13 **Q. How did you -- strike that.**
 14 **In what respect did you review this**
 15 **document?**
 16 A. I must have read it before I signed it.
 17 **Q. What's your understanding as to what this**
 18 **document is doing or representing or, if I could say**
 19 **it correctly, evidencing?**
 20 A. Hep would put in \$150,000, into the
 21 company.
 22 **Q. Okay.**
 23 A. He could convert it.
 24 **Q. Do you know when this was executed?**
 25 A. I don't know, no.

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1 **Q. It's a little confusing, but it looks to me**
 2 **that it was sometime in November of 2000 because of**
 3 **its maturity date being -- if you look on the first**
 4 **page --**
 5 A. Right.
 6 **Q. -- within 90 days from the 12-month**
 7 **anniversary. Do you see that?**
 8 A. I see that.
 9 **Q. Does this refresh your recollection as to**
 10 **when this was signed by you?**
 11 A. I mean -- no.
 12 **Q. Okay.**
 13 A. I mean, I know -- yeah, about the -- it's
 14 about the right time frame -- period, yes.
 15 **Q. November 2000?**
 16 A. I didn't date it, so I don't know when I
 17 signed it.
 18 **Q. Is that your signature?**
 19 A. That's my signature.
 20 **Q. Last page of Exhibit 11?**
 21 A. Yes. I mean, if that's the date, that's
 22 the date.
 23 **Q. Right.**
 24 A. It says November 16th on here, and I signed
 25 it, so I would say it's November 16th.

145	<p>1 Q. Okay. And do you recall Mr. Ingham making</p> <p>2 a \$150,000 investment in GTI in November of 2000?</p> <p>3 A. I don't recall the exact dates, so I don't</p> <p>4 remember when he put the money in. But I do recall</p> <p>5 the -- you know, I do recall him putting the money in.</p> <p>6 MR. SHILLIDAY: Exhibit 12.</p> <p>7 (Deposition Exhibit 12 was marked.)</p> <p>8 A. (The deponent perused the exhibit.) Okay.</p> <p>9 Q. (BY MR. SHILLIDAY) Do you recognize</p> <p>10 Exhibit 12?</p> <p>11 A. I recognize it.</p> <p>12 Q. What is Exhibit 12?</p> <p>13 A. It looks to be a stock purchase agreement.</p> <p>14 Q. And this Exhibit 12 is a stock purchase</p> <p>15 agreement between you personally, correct --</p> <p>16 A. Yes.</p> <p>17 Q. -- and Mr. Ingham?</p> <p>18 A. Yes. That's correct.</p> <p>19 Q. And pursuant to this agreement, you're</p> <p>20 agreeing to sell your own personal stock to Mr.</p> <p>21 Ingham?</p> <p>22 A. That's correct.</p> <p>23 Q. How many shares?</p> <p>24 A. 75,000 shares.</p> <p>25 Q. For what price?</p>	147	<p>1 to register the Transferred Shares" -- I don't recall</p> <p>2 exactly how I was going to present him the paperwork.</p> <p>3 I just don't remember.</p> <p>4 Q. But it's your understanding, correct, that</p> <p>5 Mr. Ingham was to receive 75,000 shares in the form of</p> <p>6 stock certificates for GTI, correct?</p> <p>7 A. No, I don't remember how we were going to</p> <p>8 transfer. I know he was supposed to receive 75,000</p> <p>9 shares. I know that.</p> <p>10 Q. Did he?</p> <p>11 A. I don't know. I don't know. I can't</p> <p>12 recall how we gave him the shares or if I had given</p> <p>13 him another piece of paper. I don't know. I can't</p> <p>14 recall how we distributed or issued those shares. I</p> <p>15 don't remember.</p> <p>16 Q. But at the time this document was signed --</p> <p>17 A. Yeah.</p> <p>18 Q. -- and before this document was signed, you</p> <p>19 told Mr. Ingham that he would receive 75,000 shares in</p> <p>20 GTI stock, correct?</p> <p>21 A. Seventy -- yes.</p> <p>22 Q. Okay.</p> <p>23 A. That's right.</p> <p>24 Q. Would it surprise you he never received any</p> <p>25 shares?</p>
146	<p>1 A. Two dollars per share.</p> <p>2 Q. So if I'm doing my math right, did Mr.</p> <p>3 Ingham pay you personally \$150,000?</p> <p>4 A. If he did then, yes -- I mean, yes, I would</p> <p>5 say that's correct.</p> <p>6 Q. And what's the date of this document?</p> <p>7 A. Where's the date? The 21st of February,</p> <p>8 2001.</p> <p>9 Q. Okay. Do you recall receiving \$150,000 in</p> <p>10 funds from Mr. Ingham pursuant to this agreement?</p> <p>11 A. Yes.</p> <p>12 Q. Where did you put that money?</p> <p>13 A. It must have been in my account -- personal</p> <p>14 account.</p> <p>15 Q. In connection with this agreement, it was</p> <p>16 your understanding, is it not, that you were to issue</p> <p>17 Mr. Ingham shares in GTI that were formerly owned by</p> <p>18 you?</p> <p>19 A. I don't remember -- I don't recall how it</p> <p>20 was going to work, but I know I was supposed to</p> <p>21 somehow get him 75,000 -- or, I'm sorry, 75,000</p> <p>22 shares.</p> <p>23 Q. Okay.</p> <p>24 A. So I just -- I don't know -- reading C, "I</p> <p>25 understand that the Corporation is under no obligation</p>	148	<p>1 A. No, I don't remember the -- we had it</p> <p>2 recorded, I'm sure, but I -- but I don't recall</p> <p>3 exactly what he received, if anything at all. So it's</p> <p>4 not a surprise.</p> <p>5 Q. Why would it not surprise you that he</p> <p>6 received no shares?</p> <p>7 A. Because he said he didn't.</p> <p>8 Q. Okay. And I've asked you for documents in</p> <p>9 this case, correct?</p> <p>10 A. You've asked me for documents, yes.</p> <p>11 Q. Do you have any document to show that GTI</p> <p>12 had on its books and records that, in February of</p> <p>13 2001, Mr. Ingham acquired from you 75,000 shares of</p> <p>14 GTI stock?</p> <p>15 A. I don't have any records of anything. I</p> <p>16 don't have access to any of the corporate documents</p> <p>17 anymore.</p> <p>18 Q. To your knowledge, did any other investors</p> <p>19 of GTI not receive stock certificates for shares they</p> <p>20 purchased?</p> <p>21 A. I don't recall, uh-uh.</p> <p>22 Q. You weren't surprised that Mr. Ingham</p> <p>23 didn't get his, right?</p> <p>24 A. Well, this is because it was between he and</p> <p>25 I.</p>

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1 **Q. Okay. But you don't --**
 2 A. So there might have been something that I
 3 did not follow through on. And so that wouldn't
 4 surprise me if I missed -- missed -- you know, so,
 5 yes -- no, it doesn't surprise me.
 6 **Q. It doesn't surprise you --**
 7 A. It's a little different, but I didn't do
 8 this with anybody else except Hep, as far as selling
 9 personal shares to Hep. Everyone else put the money
 10 right in the company, as Hep did with some other
 11 investments.
 12 **Q. If I understand your testimony correctly,**
 13 **it's not surprising to you that you didn't give him**
 14 **the certificates you promised to give him?**
 15 A. No, that's not what I'm saying.
 16 **Q. Okay.**
 17 A. No. It's not -- I'm -- he's -- if he said
 18 he didn't receive them, then I'm not saying that that
 19 didn't happen. I'm saying that because this was
 20 separate from the company actually giving -- selling
 21 him the shares and issuing the stock, that it's -- it
 22 wouldn't be prudent of me to say that I definitely did
 23 something that I don't know what I did.
 24 So I don't know exactly what he received
 25 for this, if anything. I'm not sure, other than my

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1 paperwork between Hep and I. So I don't know if HRO
 2 issued him shares for this or not. I don't know.
 3 **Q. Any other documentation, other than this**
 4 **exhibit, that you know of that evidences Mr. Ingham's**
 5 **purchase of 75,000 shares from you in February 2001,**
 6 **you personally?**
 7 A. No. This is -- I have no idea.
 8 **Q. This is it?**
 9 A. This is -- I have no idea if there's any
 10 other documentation that exists other than this.
 11 **Q. Isn't it true that Mr. Ingham asked you on**
 12 **numerous occasions after February 2001 to issue the**
 13 **75,000 shares?**
 14 A. I don't really recall that.
 15 **Q. Okay. You don't recall him ever bringing**
 16 **it up?**
 17 A. Vaguely.
 18 **Q. Vaguely, he did?**
 19 A. I mean, vaguely. I don't recall, though,
 20 exactly what he said or what the situation was.
 21 **Q. I'm not trying to badger you, Mr. Burke.**
 22 A. Well, I'm being truthful with you. I don't
 23 recall what he said or if he was asking for things
 24 that we didn't get him. I don't recall the situation
 25 or why it didn't get to him.

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1 **Q. Okay. Here's my question: Let's assume**
 2 **here, in February of 2000 (sic), you neglect to issue**
 3 **the shares, but then Mr. Ingham asked you on numerous**
 4 **occasions -- let's assume he testified that way, and**
 5 **he asked you for the issuance of the shares, and you**
 6 **still didn't do it, time and time again, do you have**
 7 **an explanation of why you didn't do that?**
 8 A. No, I don't recall.
 9 **Q. Okay. If Mr. Ingham testifies in this**
 10 **trial that, I received absolutely nothing for my**
 11 **150,000 and I received no shares at any time from**
 12 **Mr. Burke pursuant to his agreement after I asked him**
 13 **numerous times to issue the shares, would that**
 14 **surprise you?**
 15 A. I don't know if it would surprise me, no.
 16 I mean, I would say, again, I don't recall the
 17 situation and why he didn't receive anything else
 18 besides this piece of paper. I don't know the reason.
 19 **Q. Were you too busy at this time period to**
 20 **issue these shares that he bought?**
 21 A. I can't say that either. I don't recall my
 22 situation at that point. I know we were -- I mean, I
 23 don't want to just agree to that. Of course we were
 24 busy, but I'm not sure why HRO didn't issue shares or
 25 what the situation was. I can't recall.

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1 **Q. Would it upset you if you bought 75,000**
 2 **shares of a company stock for \$150,000 and never**
 3 **received the stock certificates?**
 4 A. I guess if the company didn't do well, it
 5 would. If it was from my friend and I trusted him, I
 6 wouldn't. But, yeah, I guess it would if things went
 7 south.
 8 **Q. Do you feel like you didn't have to issue**
 9 **the stock certificates to Mr. Ingham because he was**
 10 **your friend?**
 11 A. I don't think -- I don't remember having
 12 any thought process around it.
 13 **Q. Okay.**
 14 THE DEPONENT: Is there any way we could go
 15 to the bathroom?
 16 MR. SHILLIDAY: Oh, yes, sir. That was my
 17 deal. Off the record.
 18 (Recess taken, 1:03 p.m. to 1:13 p.m.)
 19 (Deposition Exhibit 13 was marked.)
 20 **Q. (BY MR. SHILLIDAY) Mr. Burke, Exhibit 13**
 21 **has been handed to you. I'll give you a moment to**
 22 **review the text of this e-mail. And again, begin from**
 23 **the -- about a third of the way down.**
 24 A. So do you want me to read the whole e-mail?
 25 **Q. I just want you to familiarize yourself**

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1 **with it.**
 2 A. Okay. Okay.
 3 **Q. Okay. Do you recognize this document?**
 4 A. No. But that doesn't mean anything.
 5 **Q. Okay. Is this an e-mail from you?**
 6 A. Apparent- -- yes.
 7 **Q. Okay. So who --**
 8 A. It says, "Todd Burke." Yes.
 9 **Q. To who?**
 10 A. Mark Mullen.
 11 **Q. Who is Mark Mullen?**
 12 A. I'm trying to remember Mark Mullen. I
 13 think Daniels is the -- do you know Daniels out of
 14 Denver, Cherry -- do you know --
 15 **Q. Daniels Fund?**
 16 A. Yeah.
 17 **Q. Okay.**
 18 A. Yeah. Daniels was pretty big in telecom,
 19 and I think we were approaching them at this point.
 20 **Q. If you could read into the record the**
 21 **underlined section.**
 22 A. "Our revenues from our services hit
 23 5 million this year out of our Denver office, and we
 24 expect to hit somewhere between 15 and 20 million this
 25 year with our expansion into the other two markets,

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1 and moving into Boston this summer. We have a large
 2 Verizon project coming up there and we hired the
 3 former market director of Bell Atlantic to run New
 4 England. He also ran AAT (sic) Communications for
 5 their two best growth years." That's correct.
 6 So we signed a JV this past year to build
 7 30 communication towers with ClearShot Communications
 8 out of Pennsylvania, of which GTI will turnkey each
 9 site and own 30 percent of the tower for three years,
 10 at which point there is a put/call option to sell our
 11 percent ownership. This project is currently
 12 underway.
 13 **Q. Okay. The project is currently underway.**
 14 **Is that the JV with ClearShot?**
 15 A. Yeah, that's right.
 16 **Q. Okay.**
 17 A. That's how I read it.
 18 **Q. Okay. And why were you sending this to**
 19 **Mr. Mullen?**
 20 A. Well, I don't know. I'm trying to remember
 21 this. It was -- I think it was an introduction, and I
 22 think we were looking at trying to get them involved
 23 with us for funding through their telecom group.
 24 **Q. What's the date of this e-mail that you**
 25 **sent to Mr. Mullen?**

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1 A. Let's see. April 17th, 2001.
 2 **Q. And when you're talking about the revenue**
 3 **projections of 15 to 20 million, you're talking about**
 4 **for fiscal year 2001?**
 5 A. Let's see. We had opened -- at this point
 6 in time, if I'm not mistaken, we opened our Dallas
 7 office and Santa Barbara -- we had a Santa Barbara
 8 office -- is that right? -- and Denver. So three
 9 offices. And I think we were trying -- our goal was
 10 to do 5 million in each office.
 11 So that was -- that was April 17th, 2001.
 12 So Daniels -- I don't remember Mark, so -- but I do
 13 know -- I remember Daniels.
 14 **Q. When you're saying 15 to 20 million in**
 15 **revenues, is that based on any kind of actual facts?**
 16 A. It was our service revenue projection. We
 17 were trying -- we opened those office because you had
 18 to be regionally based in order to get approved
 19 through the wireless carriers. That's why we opened
 20 an office in Arlington. We had one in Golden at the
 21 time.
 22 And I guess we -- I don't know if we still
 23 had our office in Santa Barbara or not. But the goal
 24 was to get the service revenues up to -- I believe we
 25 were shooting for 5 million in each market.

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1 **Q. Okay.**
 2 A. Construction services for other companies,
 3 not necessarily building our own towers.
 4 **Q. And you were making this statement to**
 5 **Mr. Mullen in April 2001, correct?**
 6 A. Well, I made this statement, I guess --
 7 yeah, based on this date, that's correct.
 8 **Q. Okay. And the monies you were going to**
 9 **make from the JV with ClearShot, that was based on**
 10 **internal numbers too? Internal to GTI, I mean.**
 11 A. The JV -- yes.
 12 **Q. It's coming from data you had --**
 13 A. Yes.
 14 **Q. -- collected from inside GTI?**
 15 A. Yes.
 16 **Q. Okay.**
 17 MR. SHILLIDAY: Exhibit 14.
 18 (Deposition Exhibit 14 was marked.)
 19 **Q. (BY MR. SHILLIDAY) I have no doubt you**
 20 **recognize Exhibit 14.**
 21 A. It is a compilation.
 22 **Q. Do you recognize Exhibit 14?**
 23 A. I recognize it as a compilation, and I
 24 recognize our accountant's name.
 25 **Q. Mr. Gleason?**

157	<p>1 A. Yeah, Gleason, yeah.</p> <p>2 Q. Does Mr. Gleason, Kim Gleason, have a</p> <p>3 brother named Todd Gleason?</p> <p>4 A. Yeah.</p> <p>5 Q. And Todd Gleason is with the current</p> <p>6 company you're with: Colt & Steel?</p> <p>7 A. Yeah. His wife is the owner.</p> <p>8 Q. And his wife is Arlene?</p> <p>9 A. Yeah.</p> <p>10 Q. Okay.</p> <p>11 A. Yeah.</p> <p>12 Q. And is Todd Gleason married?</p> <p>13 A. To his wife, Arlene, yes.</p> <p>14 Q. Arlene Gleason?</p> <p>15 A. Yes.</p> <p>16 Q. And Arlene Gleason is the owner of Colt &</p> <p>17 Steel?</p> <p>18 A. One of, yes.</p> <p>19 Q. And I believe you testified earlier that</p> <p>20 Mr. Gleason was -- and I'm referring to Kim Gleason --</p> <p>21 was the CFO, if you will, of GTI during 2000, 2001.</p> <p>22 Is that a fair statement?</p> <p>23 A. He was the CFO. We called him the CFO, I</p> <p>24 guess. He was our accountant. I don't know what</p> <p>25 time -- if he was ever officially called the CFO, but</p>	159	<p>1 A. I don't recall if that's what we did for</p> <p>2 the whole duration of the company, but obviously for</p> <p>3 this year, it did.</p> <p>4 Q. Okay.</p> <p>5 A. Okay.</p> <p>6 Q. And as the president and/or CEO of GTI, you</p> <p>7 would have received this document in 2001?</p> <p>8 A. I would have received this document, yes,</p> <p>9 yes. That's correct.</p> <p>10 Q. And again, as you testified earlier, on a</p> <p>11 monthly basis, you reviewed the profit and loss</p> <p>12 statements and the balance sheets and other financial</p> <p>13 documents that Mr. Gleason prepared on behalf of the</p> <p>14 company, right?</p> <p>15 A. If they were -- if they were prepared on a</p> <p>16 monthly basis and given to me, I would review them,</p> <p>17 yes.</p> <p>18 Q. Do you recall whether this document,</p> <p>19 Exhibit 14, was shared with any shareholders in or</p> <p>20 about 2001, April?</p> <p>21 A. Do I recall? No, I don't recall.</p> <p>22 Q. Do you recall whether this document,</p> <p>23 Exhibit 14, was given to Mr. Ingham at any time?</p> <p>24 A. I do not recall that either.</p> <p>25 Q. There's page numbers at the bottom. If you</p>
158	<p>1 he was kind of acting as one, I would say, during this</p> <p>2 period. We hired Scott Fischer later on as the CFO.</p> <p>3 I can't remember what the -- I think -- what the --</p> <p>4 what the dates were.</p> <p>5 Q. What is your understanding as to what</p> <p>6 Exhibit 14 is?</p> <p>7 A. Can I look through it?</p> <p>8 Q. Yes, sir.</p> <p>9 A. It's a financial statement, a compilation</p> <p>10 report from our certified accountant, public</p> <p>11 accountant, Kim Gleason, from his office.</p> <p>12 Q. Do you recall receiving this document in or</p> <p>13 about 2001?</p> <p>14 A. I don't recall receiving it. That doesn't</p> <p>15 mean I didn't.</p> <p>16 Q. Is a report like Exhibit 14 something that</p> <p>17 Mr. Gleason prepared on behalf of GTI?</p> <p>18 A. Yes.</p> <p>19 Q. And is it your understanding that this is a</p> <p>20 financial summary of GTI's performance for the fiscal</p> <p>21 year ending April 2001?</p> <p>22 A. Yes.</p> <p>23 Q. Okay. And as the president and the CEO of</p> <p>24 GTI, you understand that the fiscal year of GTI ended</p> <p>25 in April of each year?</p>	160	<p>1 would flip to page 4, which is six pages in.</p> <p>2 A. Uh-huh.</p> <p>3 Q. Do you know what this document is, this</p> <p>4 page 4 in this Exhibit 14?</p> <p>5 A. It's a statement of income.</p> <p>6 Q. Okay. Do you recall seeing this document?</p> <p>7 A. I don't recall seeing it.</p> <p>8 Q. Do you know how to read a document like</p> <p>9 this?</p> <p>10 A. I'm not a -- I'm not an accountant or a</p> <p>11 CPA, but I can get through it a little bit, yes.</p> <p>12 Q. Okay. What are the -- what were the</p> <p>13 revenues for GTI for year ending April 2001?</p> <p>14 A. Total revenue?</p> <p>15 Q. Yeah.</p> <p>16 A. 4,608,250.</p> <p>17 Q. Okay. If you look down at the bottom, do</p> <p>18 you see where there's a reflection of the net income?</p> <p>19 A. In the net -- yes.</p> <p>20 Q. What's the number?</p> <p>21 A. The net loss?</p> <p>22 Q. Net loss, yes. Income, slash, loss.</p> <p>23 A. Net loss is negative \$318,911.</p> <p>24 Q. To your knowledge, was this information</p> <p>25 ever provided to shareholders?</p>

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1 A. I don't recall. I don't recall.
 2 **Q. Do you recall ever disclosing to**
 3 **shareholders and Mr. Ingham, in particular, the**
 4 **expenses and the costs that are being incurred by the**
 5 **company during 2000 and 2001, that are reflected on**
 6 **page 4 of Exhibit 14?**
 7 A. If we had a -- if we had a shareholder
 8 meeting, it might come out, but I don't know if we did
 9 or not.
 10 **Q. Were there shareholder meetings in 2001?**
 11 A. I don't recall that either.
 12 **Q. Was there ever a shareholder meeting for**
 13 **GTI between 2000 and 2003?**
 14 A. I would say yes, but I can't say when.
 15 **Q. Okay. When was this shareholder meeting?**
 16 A. I said I can't tell you when.
 17 **Q. Looking at page 4 of Exhibit 14, do you**
 18 **believe these numbers prepared by Gleason to be**
 19 **accurate?**
 20 A. Yes. I would say that if Mr. Gleason
 21 prepared them, they would be accurate.
 22 **Q. Did you receive these types of reports**
 23 **annually by Mr. Gleason for 2002 and 2003, to your**
 24 **recollection?**
 25 A. To my recollection, I believe we did, yes.

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1 He had me do them -- and I think we had to do them
 2 more than once a year if we were -- we had to provide
 3 them to a bank or something like that. So I believe
 4 we probably generated these more than -- yeah, at
 5 least annually.
 6 **Q. Do you have copies of other annual reports**
 7 **for GTI, other than this one for 2001, in your**
 8 **possession?**
 9 A. I have no copies of any records in my
 10 possession, so the answer to that is no.
 11 **Q. We discussed Mr. Outwater a bit earlier,**
 12 **correct?**
 13 A. Yes.
 14 **Q. And you recall that he sued you at some**
 15 **point, right?**
 16 A. Yes.
 17 **Q. He sued you personally and GTI, correct?**
 18 A. I don't recall whether it was just me
 19 personally and GTI -- I don't recall the lawsuit. I
 20 recall the lawsuit, but I don't recall the details of
 21 it.
 22 **Q. Okay.**
 23 A. It's been a long time.
 24 **Q. And do you recall when Mr. Outwater or his**
 25 **representative first raised the issues with you and**

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1 **threatened to sue you and the company?**
 2 A. I don't recall actually.
 3 **Q. Okay. When Mr. Outwater did sue either you**
 4 **or the company -- and we'll get to that --**
 5 A. Right.
 6 **Q. -- do you recall telling the shareholders**
 7 **about this lawsuit?**
 8 A. No, I don't recall. I don't recall much of
 9 it.
 10 **Q. Okay.**
 11 A. So I don't recall telling anybody anything
 12 because I don't recall -- other than recalling the
 13 lawsuit itself, you know, the details of it, I don't
 14 recall what correspondence I had with who.
 15 **Q. Did you ever at any point tell Mr. Ingham**
 16 **that another shareholder, Mr. Outwater, had sued you**
 17 **and the company for essentially fraud?**
 18 A. I don't recall that at all.
 19 **Q. Okay. You never recall any conversations**
 20 **with Mr. Ingham about the Outwater lawsuit?**
 21 A. I don't recall that. No, I don't.
 22 **Q. Mr. Fischer sued you, as well, right?**
 23 A. He -- yes, he did, but I don't -- yes, he
 24 did.
 25 **Q. Did you ever tell Mr. Ingham about**

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1 **Mr. Fischer's lawsuit?**
 2 A. I don't recall that either.
 3 **Q. Do you recall when Mr. Fischer sued you?**
 4 A. It was when the company was active, so -- I
 5 don't recall what year, but I would guess 2003-ish,
 6 2002-ish.
 7 **Q. And Mr. Fischer took over as the CFO of GTI**
 8 **from Mr. Gleason; is that correct?**
 9 A. Mr. Gleason -- I don't know if Mr. Gleason
 10 ever had the title CFO. He was just our accountant in
 11 meeting all our financial stuff. When we hired Scott,
 12 he just -- we gave him that title. So he didn't take
 13 it over.
 14 MR. SHILLIDAY: Exhibit 15.
 15 (Deposition Exhibit 15 was marked.)
 16 **Q. (BY MR. SHILLIDAY) Mr. Burke, Exhibit 15**
 17 **has been put before you. Do you recognize this**
 18 **document?**
 19 A. Yes.
 20 **Q. What is Exhibit 15?**
 21 A. It's a promissory note for \$100,000 on
 22 November 15th, 2001, from Hep Ingham.
 23 **Q. To Hep Ingham?**
 24 A. No. From Hep Ingham to globalTowers.
 25 **Q. Second page, is that your signature?**

165	<p>1 A. Yes.</p> <p>2 Q. To your knowledge, what is this document</p> <p>3 evidencing?</p> <p>4 A. Undersigned globalTowers, a California</p> <p>5 corporation, promises to pay Hep the principal sum of</p> <p>6 \$100,000 and interest at 9 percent per annum,</p> <p>7 compounded annually. So it represents, obviously, a</p> <p>8 note for the \$100,000 from globalTowers back to Hep</p> <p>9 Ingham.</p> <p>10 Q. In that same paragraph, at the bottom,</p> <p>11 there's a reference to the issuance of 31,750 shares.</p> <p>12 Do you see that?</p> <p>13 A. Yes, I do.</p> <p>14 Q. Okay. Do you recall why this note was</p> <p>15 executed?</p> <p>16 A. I don't know if I recall exactly why this</p> <p>17 was executed, no.</p> <p>18 Q. Okay. Did you have legal counsel help you</p> <p>19 prepare this?</p> <p>20 A. This one?</p> <p>21 Q. Yes.</p> <p>22 A. I don't remember. I don't know if -- I</p> <p>23 don't know if we did it internally with just Kim or we</p> <p>24 did it with HRO. I have no idea.</p> <p>25 Q. Do you recall anything else about this</p>	167	<p>1 this note. So, no.</p> <p>2 Q. Okay.</p> <p>3 A. Oh.</p> <p>4 Q. Mr. Burke, I'm not here to testify for you,</p> <p>5 but --</p> <p>6 A. No. It's been a long time. I'm sorry.</p> <p>7 Q. It has something to do with Exhibit 9.</p> <p>8 A. Okay.</p> <p>9 Q. That's all I've got to tell you.</p> <p>10 A. All right.</p> <p>11 Q. They're all related -- Exhibit 9 is related</p> <p>12 to Exhibit 15 and 16. But if you don't recall, you</p> <p>13 don't recall.</p> <p>14 A. All right.</p> <p>15 Q. Do you recall anything else?</p> <p>16 A. No.</p> <p>17 MR. SHILLIDAY: Okay. Next in order.</p> <p>18 (Deposition Exhibit 17 was marked.)</p> <p>19 A. (The deponent perused the exhibit.) Okay.</p> <p>20 Q. (BY MR. SHILLIDAY) Do you remember sending</p> <p>21 the e-mail that's in Exhibit 17 to Mr. Ingham?</p> <p>22 A. No.</p> <p>23 Q. What's the date of this e-mail?</p> <p>24 A. March 18th, 2002.</p> <p>25 Q. Do you know why you sent it?</p>
166	<p>1 note?</p> <p>2 A. No.</p> <p>3 MR. SHILLIDAY: Okay. I'm done with that.</p> <p>4 THE DEPONENT: Okay.</p> <p>5 (Deposition Exhibit 16 was marked.)</p> <p>6 Q. (BY MR. SHILLIDAY) Exhibit 16 has been</p> <p>7 placed before you. This is a stock certificate issued</p> <p>8 by GTI; is that correct?</p> <p>9 A. Yes, it is.</p> <p>10 Q. To Mr. Ingham?</p> <p>11 A. Yes.</p> <p>12 Q. For 31,750 shares?</p> <p>13 A. Yes, it is.</p> <p>14 Q. Okay. Do you recall this stock certificate</p> <p>15 being issued to Mr. Ingham?</p> <p>16 A. Do I recall it?</p> <p>17 Q. Yeah.</p> <p>18 A. Yeah, I do.</p> <p>19 Q. Okay. What do you recall?</p> <p>20 A. I believe I recall signing it and seeing</p> <p>21 it.</p> <p>22 Q. Do you know why 31,750 shares are being</p> <p>23 issued to Mr. Ingham?</p> <p>24 A. I don't know if it's related to this or</p> <p>25 not. So, no, I can't -- unless it goes with this --</p>	168	<p>1 A. No. I don't remember sending it.</p> <p>2 Q. Can you read the highlined --</p> <p>3 A. Yes.</p> <p>4 Q. -- or underlined portions into the record.</p> <p>5 A. Yes. March 18, 2002. "What is the</p> <p>6 prospect of the bridge, until we get some funding in,</p> <p>7 or our contracts hit."</p> <p>8 Q. Okay. Let me stop you there. What bridge</p> <p>9 are you talking about?</p> <p>10 A. I don't recall.</p> <p>11 Q. Are you asking Mr. Ingham to make a bridge</p> <p>12 loan to GTI?</p> <p>13 A. I don't know. I don't recall.</p> <p>14 Q. Okay. Next sentence, please.</p> <p>15 A. Just need to know our options. You can see</p> <p>16 here in a spreadsheet, as simple "quick look" at cash</p> <p>17 flow needs based on contract execution, inflows and</p> <p>18 outflows. Need a couple hundred thousand for the</p> <p>19 month, and then I need to begin the Alamosa tower</p> <p>20 build in Texas and Missouri, 15 sites at approximately</p> <p>21 80,000 per site in costs. I could sell these puppies</p> <p>22 to ClearShot or Richland for about 150K apiece, or</p> <p>23 merge them into a new partnership with this new group</p> <p>24 I think we should join. So there are options, but I</p> <p>25 need to stay above water until I ink something out.</p>

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1 **Q. Who's Richland?**
 2 A. There was a spreadsheet. Richland was the
 3 company I mentioned before that offered to buy us.
 4 **Q. Okay.**
 5 A. Down in Florida.
 6 **Q. And the spreadsheet that you're referring**
 7 **to is the one that's attached to Exhibit 17; is that**
 8 **right?**
 9 A. I don't know. It says -- yeah, I don't
 10 know.
 11 **Q. You don't know?**
 12 A. No. I don't know if that spreadsheet is
 13 this.
 14 **Q. Do you recall hearing -- or participating**
 15 **in the preparation of the spreadsheet that's attached**
 16 **as part of Exhibit 17?**
 17 A. I don't recall that.
 18 **Q. Do you recall ever sending this spreadsheet**
 19 **to Mr. Ingham when you were asking for money from him?**
 20 A. I don't recall that. I don't recall the
 21 e-mail.
 22 **Q. Okay. Any reason to doubt that this e-mail**
 23 **is correct, that in fact, in March 2002, you sent this**
 24 **e-mail to Mr. Ingham with this spreadsheet attached?**
 25 A. No, there's no doubt.

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1 **Q. Okay. What is the spreadsheet showing? Do**
 2 **you know?**
 3 A. No.
 4 **Q. Do you have any recollection of the**
 5 **spreadsheet?**
 6 A. No.
 7 **Q. None?**
 8 A. Uh-uh. I don't.
 9 **Q. Do you remember whether you participated in**
 10 **its preparation?**
 11 A. No, I don't. I don't remember it.
 12 **Q. Do you --**
 13 A. "Cash Flow Projections." No, I don't know
 14 where it came from.
 15 **Q. If you look at your e-mail --**
 16 A. Yeah.
 17 **Q. -- on the first page of Exhibit 17, you're**
 18 **saying where it's coming from, right?**
 19 A. You're asking me if I remember, right?
 20 **Q. Okay. Well, let me --**
 21 A. I don't remember.
 22 **Q. Okay. Well, let me --**
 23 A. I'd like to revisit it.
 24 **Q. Sure.**
 25 A. If you'd like me to do that, I can look at

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1 it. I don't recall putting it together. Other than
 2 it coming from our financials, I don't know where else
 3 this could have come from.
 4 My -- there were cash flow projections.
 5 It's obviously an excellent spreadsheet that we
 6 created. I don't know if this was something I was
 7 doing or we were doing internally, which was a
 8 combination of myself and someone else. So I don't
 9 know.
 10 **Q. If you need more time to review it, please**
 11 **do.**
 12 A. Yeah, I don't know what it was for.
 13 There's not enough detail on whether this was a
 14 project-based thing or what it was for, so I don't
 15 recall.
 16 **Q. It's true, is it not, that you're sending**
 17 **this to Mr. Ingham in order to induce him to invest**
 18 **more money in the company?**
 19 A. I don't remember sending it, so I don't
 20 know where I sent it.
 21 **Q. Okay. Let's go back to the first page of**
 22 **Exhibit 17. You're asking for more money from**
 23 **Mr. Ingham, correct?**
 24 A. Yes, obviously I am.
 25 **Q. Okay. And you're referring to a**

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1 **spreadsheet attached to show Mr. Ingham something**
 2 **about the company and its financials, correct?**
 3 A. Yes.
 4 **Q. Okay.**
 5 A. What I'm saying is it says nothing else on
 6 here to show whether -- what this particular
 7 spreadsheet was for. So I'm assuming it was for all
 8 the cash flow projections of the company, but it's not
 9 listed on here.
 10 So I'm not saying I did not send this, and
 11 I'm not saying I didn't create it. I'm saying I just
 12 can't recall exactly what this is -- how we came to
 13 these numbers and what they were for.
 14 **Q. Okay. So if I can understand your answer,**
 15 **the spreadsheet attached to Exhibit 17, you don't**
 16 **recall how the projections were calculated, correct?**
 17 A. On this particular spreadsheet, I don't
 18 know how I did this or how we did this.
 19 **Q. But you participated in preparing the**
 20 **spreadsheet, correct?**
 21 A. I don't know that either. I e-mailed it to
 22 him.
 23 **Q. Okay.**
 24 A. I can tell you if this was attached, I know
 25 that it went out, and I must have looked at it and

173

1 approved it. Okay?

2 **Q. Okay. So let's back up there. You**

3 **approved the spreadsheet attached to Exhibit 17?**

4 A. If I sent it, I approved it.

5 **Q. And you are representing to Mr. Ingham that**

6 **it's true, right?**

7 A. Yes.

8 **Q. Okay. And you're representing to him that**

9 **it's true in connection with inducing him to invest**

10 **more money with GTI in March of 2002, correct?**

11 A. It looks like I'm asking him for the

12 prospect of a bridge loan --

13 **Q. Right.**

14 A. -- with this spreadsheet as an attachment,

15 yes.

16 **Q. Okay.**

17 A. So I guess -- yeah. I mean, I'm asking him

18 for a bridge loan in this until we get more funding.

19 That's what this is for. And that spreadsheet was

20 part of this e-mail that I approved.

21 **Q. Did you ever approve financial documents to**

22 **be sent to shareholders without knowing or having a**

23 **reason to believe whether the information in them was**

24 **true or not?**

25 A. Would you ask that again?

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1 **Q. Sure. Did you ever, during your time as**

2 **president or CEO of GTI, ever send out financial**

3 **information to shareholders, like Mr. Ingham, without**

4 **really ascertaining whether the information in that**

5 **financial document was true or not?**

6 A. I don't believe so, no.

7 **Q. You always verified if the information was**

8 **true before it was sent?**

9 A. To the best of my ability, yes.

10 MR. SHILLIDAY: Exhibit 18.

11 (Deposition Exhibit 18 was marked.)

12 **Q. (BY MR. SHILLIDAY) Okay. Exhibit 18.**

13 **Here's Mr. Fischer's lawsuit. I'll give you time to**

14 **familiarize yourself with it.**

15 A. Uh-huh. No. 2, page 2 is a little bit off.

16 **Q. Yes. And I'll represent to you that I**

17 **downloaded this from the court records, and that's the**

18 **way it appeared.**

19 A. Okay. Okay. Let's see. Sorry. Let me

20 see. One second. Yes. Okay.

21 **Q. Okay. We can look at the first page of**

22 **this exhibit. We've established who Scott Fischer is,**

23 **correct?**

24 A. Yes.

25 **Q. And he was acting as the CFO.**

175

1 A. I guess so. Obviously -- it wasn't the

2 CFO. It was the national finance director.

3 **Q. Okay. Okay. And who is he suing?**

4 A. He was suing me --

5 **Q. Okay.**

6 A. -- personally.

7 **Q. And do you, having reviewed this document,**

8 **remember why he was suing you?**

9 A. Yeah. He was pissed off that we fired him.

10 **Q. Okay. And is he accusing you of using**

11 **corporate funds without permission or documentation?**

12 A. You can read that -- you could say that in

13 here.

14 **Q. Sure.**

15 A. Yeah.

16 **Q. And do you deny these charges?**

17 A. Yeah, yeah. We denied them, and we've

18 corrected them all in the financials. We took --

19 yeah.

20 **Q. If you look at the first page of this**

21 **document, when was this lawsuit filed, according to**

22 **the stamp up top?**

23 A. May 28th, 2002.

24 **Q. Did you ever disclose this lawsuit to any**

25 **investors of GTI?**

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1 A. I don't know. I can't recall that. I

2 don't recall that.

3 **Q. Did you defend yourself in this case?**

4 A. I had an attorney.

5 **Q. Okay. Having reviewed the court records, I**

6 **can represent to you that a default judgment was**

7 **entered against you. Do you recall that?**

8 A. Yeah, I recall that. But now it's going

9 way back. I did have an attorney, but what -- was

10 that for this or not? I believe that was for this.

11 **Q. You did have an attorney for this case?**

12 A. Yeah.

13 **Q. But eventually a default judgment was**

14 **entered against you. And my question is this: If you**

15 **deny the charges, why did you not defend yourself in**

16 **this case?**

17 A. I could have been -- well, do you want me

18 to speculate?

19 **Q. I --**

20 A. It could have been a matter of me having no

21 money to fight it.

22 **Q. You had no money in 2002?**

23 A. I didn't have a lot of money.

24 **Q. Mr. Ingham just gave you \$150,000 on**

25 **November 2001. What happened to it?**

177	<p>1 A. You asked me a question. I answered that I</p> <p>2 don't -- I can't recall unless we go back to my bank</p> <p>3 account and actually look. I don't ever recall</p> <p>4 sitting on a lot of money.</p> <p>5 Q. Do you have access to your bank account --</p> <p>6 A. No.</p> <p>7 Q. -- records?</p> <p>8 A. I mean, we all -- we could have access if I</p> <p>9 have to go back to the banks and if they could pull</p> <p>10 them from -- from way back then.</p> <p>11 Q. Mr. Ingham gave you personally more money</p> <p>12 in 2002; is that correct?</p> <p>13 A. I do recall something like that, but I</p> <p>14 don't remember what the terms were --</p> <p>15 Q. Okay.</p> <p>16 A. -- or what the -- how much.</p> <p>17 Q. Okay. There were two times when Mr. Ingham</p> <p>18 gave you money in 2002. Does that sound familiar?</p> <p>19 A. Somewhat.</p> <p>20 Q. Okay. And he sent money by a wire transfer</p> <p>21 to you personally on two occasions in 2002. Do you</p> <p>22 agree with that?</p> <p>23 A. Was that related to this? I don't know</p> <p>24 if -- I can't recall what it was for. I know he</p> <p>25 bought shares of stock from me, but I don't recall him</p>	179	<p>1 A. I only recall the money sent to me on the</p> <p>2 share transfers, on the purchase of personal shares.</p> <p>3 That's what I recall.</p> <p>4 Q. You don't recall anything else?</p> <p>5 A. No, I don't.</p> <p>6 Q. Do you recall in 2002 promising to give</p> <p>7 more of your personal stock to Mr. Ingham in exchange</p> <p>8 for cash that he would pay you personally?</p> <p>9 A. Say that again?</p> <p>10 Q. Do you recall promising to give Mr. Ingham</p> <p>11 more of your personal shares in GTI in exchange for</p> <p>12 Mr. Ingham paying you money personally?</p> <p>13 A. No, I don't recall exactly how that -- no,</p> <p>14 I don't.</p> <p>15 Q. Okay.</p> <p>16 A. That doesn't mean I didn't say it.</p> <p>17 MR. SHILLIDAY: Done with that.</p> <p>18 (Deposition Exhibit 20 was marked.)</p> <p>19 Q. (BY MR. SHILLIDAY) You know, Mr. Burke, I</p> <p>20 don't have very many questions about this, but this</p> <p>21 e-mail piqued my curiosity. It's an e-mail from you.</p> <p>22 A. Okay.</p> <p>23 Q. If you look at it, it was written on June</p> <p>24 26th of 2002.</p> <p>25 A. Right.</p>
178	<p>1 doing anything else.</p> <p>2 Q. I need you --</p> <p>3 A. Right.</p> <p>4 Q. -- to remember as best as you can --</p> <p>5 A. Okay.</p> <p>6 Q. -- what you recall in 2002.</p> <p>7 A. Okay.</p> <p>8 Q. Mr. Ingham gave you money in 2002; true?</p> <p>9 A. I don't know. I can't recall whether he</p> <p>10 gave me money or bought shares from me in 2002.</p> <p>11 Q. Okay. You can't remember anything else?</p> <p>12 A. Uh-uh.</p> <p>13 Q. Okay.</p> <p>14 MR. SHILLIDAY: Next exhibit.</p> <p>15 (Deposition Exhibit 19 was marked.)</p> <p>16 Q. (BY MR. SHILLIDAY) I'll represent to you</p> <p>17 that this is a bank statement of Mr. Ingham's.</p> <p>18 A. Uh-huh.</p> <p>19 Q. And you'll see there there's an underlined</p> <p>20 transaction on April 1 of a wire of \$100,000. Do you</p> <p>21 see that?</p> <p>22 A. I do.</p> <p>23 Q. Okay. Does this in any way refresh your</p> <p>24 recollection as to the amount of money paid to you by</p> <p>25 Mr. Ingham, you personally, and the date it was sent?</p>	180	<p>1 Q. Do you see that?</p> <p>2 A. Uh-huh.</p> <p>3 Q. Do you recall this e-mail at all and why</p> <p>4 you sent it?</p> <p>5 A. (The deponent perused the exhibit.)</p> <p>6 Yeah. I mean, it looks like we had some</p> <p>7 towers built and were trying to sell them, because we</p> <p>8 probably needed cash flow. It looks like we had an</p> <p>9 opportunity to do more build-to-suits with Alamosa</p> <p>10 PCS, which is why I made note of an additional amount</p> <p>11 of towers to build.</p> <p>12 So I made note of what was going on with</p> <p>13 our JV partnership and some other opportunities that</p> <p>14 we had off the site and site development. So I don't</p> <p>15 know. I guess it looks like just an update of what</p> <p>16 was going on.</p> <p>17 Q. And who were you sending this e-mail to?</p> <p>18 A. I don't know. Let me see. Hep.</p> <p>19 Q. Okay. And you don't recall why you were</p> <p>20 sending Hep this update?</p> <p>21 A. Other than what it says, no, I don't know</p> <p>22 exactly why.</p> <p>23 Q. Are you trying to solicit more money?</p> <p>24 A. I don't know what we were doing. I guess I</p> <p>25 was just giving him an update. I don't know. The</p>

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1 first sentence says, "I need an aggressive lender,
 2 bank, or investor," but it doesn't directly ask him.
 3 **Q. But you're sending it to him?**
 4 A. I -- yeah, I did send it to him.
 5 **Q. Okay.**
 6 A. I know -- wait a sec. June -- when was
 7 this sent?
 8 **Q. June 26th.**
 9 A. 2010.
 10 **Q. 2002.**
 11 A. 2002, yeah. It clearly -- yeah, if I keep
 12 reading -- I didn't read the whole thing. My
 13 apologies.
 14 **Q. No problem. So you are soliciting him for**
 15 **more money?**
 16 A. Yeah, it looks like I wanted to know if he
 17 wanted to buy out some of the other shareholders.
 18 **Q. Did you say "I need money" at this point?**
 19 A. Must have.
 20 **Q. Why?**
 21 A. I don't recall why. I didn't really know
 22 what was going -- I can't recall exactly what was
 23 going on on June 26th. Anything else on that?
 24 **Q. No.**
 25 MR. SHILLIDAY: I'm going to take some

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1 documents out of order here. Hold on just a second.
 2 Okay. Twenty-one.
 3 (Deposition Exhibits 21 and 22 were
 4 marked.)
 5 **Q. (BY MR. SHILLIDAY) I want you to look at**
 6 **these together, Mr. Burke. Looking first at 21, these**
 7 **are the responses you gave in this case to discovery**
 8 **requested by Mr. Ingham, correct?**
 9 A. Yes.
 10 **Q. Okay. Are the answers that you gave true**
 11 **and correct?**
 12 A. To the best of -- yes.
 13 **Q. Okay. Would you go, please, to the last**
 14 **page of 21. We've got a -- you typed your name,**
 15 **right? You're signing it, right?**
 16 A. I'm sorry. What's the question? I don't
 17 see my name.
 18 **Q. Page 21 -- excuse me. Exhibit 21, last**
 19 **page.**
 20 A. Yeah.
 21 **Q. Okay. Are you -- you're right. You're**
 22 **right. Would you -- I'll give you my pen. I need you**
 23 **to sign these because you didn't sign these. I have**
 24 **no idea whether they're true and correct. You're**
 25 **saying they're true and correct, but I need you to**

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1 **sign them. Would you do that, and we can have this**
 2 **for the record.**
 3 A. Well, yeah.
 4 **Q. Anywhere.**
 5 A. Just -- sure.
 6 **Q. And then date it, please.**
 7 A. Do you know what the date is again today?
 8 I'm sorry. Seven . . .
 9 MS. THILGES: Twenty-three.
 10 THE DEPONENT: Thanks.
 11 **Q. (BY MR. SHILLIDAY) Okay. Thank you. All**
 12 **right. Stick to the last page. Do you see a Request**
 13 **For Admission No. 33?**
 14 A. Yes.
 15 **Q. Okay. And what's the answer you provided?**
 16 A. I provided the answer "Yes" to No. 33.
 17 **Q. Okay. Let's look at the next exhibit I**
 18 **gave you.**
 19 A. Uh-huh.
 20 **Q. And let's find Interrogatory No. 33, which**
 21 **is on the next-to-last page. And would you please**
 22 **read into the record what Request For Admission 33 is**
 23 **asking.**
 24 A. Admit that, on March 30th, 2002, and
 25 December 30th, 2002, respectively, Plaintiff wired

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1 100,000 and 65,000 to a bank account controlled by
 2 debtor.
 3 **Q. Okay. Does this refresh your recollection**
 4 **as to the amounts paid by Mr. Ingham to you in April**
 5 **and December of 2002 in the amounts of 100,000 and**
 6 **65,000 respectfully?**
 7 A. No, it doesn't at all. And the reason I
 8 even said yes to this -- and let's be very clear about
 9 this. I don't question anything he says is true as
 10 far as money transfers to me goes. So if those were
 11 the dates they were done -- I didn't have my bank
 12 accounts at that time --
 13 **Q. Okay.**
 14 A. -- I agree to that. What they were
 15 actually for, I don't know.
 16 **Q. Okay.**
 17 A. But I do agree that -- I do -- I agree, and
 18 the answer is yes to that --
 19 **Q. Okay.**
 20 A. -- that it was given to me by Hep.
 21 **Q. Clarity of the record. I want to make**
 22 **sure. This is important.**
 23 A. Okay.
 24 **Q. Per your answer to the request for**
 25 **admission -- which is Exhibit 21, right? --**

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1 A. Yes.

2 **Q. -- April 1 (sic), 2002, Hep Ingham wired**

3 **\$100,000 to your personal bank account, correct?**

4 A. Did you want me to look at a certain

5 number?

6 **Q. I'm sorry. Well, if you look at your**

7 **answer to Request For Admission No. 33 --**

8 A. That says March 30th, not April 1.

9 **Q. March 30th. Excuse me. So March 30th,**

10 **2002, Hep Ingham wired \$100,000 to your personal bank**

11 **account; true?**

12 A. The answer is I don't know the exact dates.

13 That is the truth. But I do know that he did wire

14 money. So I don't know exactly if it's March 30th,

15 but I'm agreeing that he did.

16 **Q. Okay.**

17 A. I don't know if that's . . .

18 **Q. Are you agreeing with the amount, 100,000?**

19 A. Yes, I'm agreeing with the amount.

20 **Q. Okay.**

21 A. Yes.

22 **Q. And with respect to the second wire**

23 **transfer, on December 30, are you at least agreeing**

24 **with the amount of 65,000?**

25 A. Yes.

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1 **Q. So if you total those two up, at least**

2 **during 2002 --**

3 A. Yes.

4 **Q. -- in March and December of 2002,**

5 **Mr. Ingham wired to you personally, to one of your**

6 **personal bank accounts, a total of \$165,000, correct?**

7 A. Yes.

8 MR. SHILLIDAY: Okay. Okay. You're done

9 with those.

10 (Deposition Exhibit 23 was marked.)

11 **Q. (BY MR. SHILLIDAY) Okay. This is Mr.**

12 **Outwater's lawsuit. Do you -- does this help refresh**

13 **your recollection, No. 23, with respect to the lawsuit**

14 **filed by Mr. Outwater?**

15 A. Well, I recall the lawsuit, but I don't

16 remember the details of it all.

17 **Q. Okay. Take a look.**

18 A. Okay. So it wasn't against the company.

19 It was against -- well, no. globalTowers and

20 individuals.

21 **Q. Okay. Go back to the first page.**

22 A. Yeah.

23 **Q. Are you one of the individuals named?**

24 A. Todd Burke. Yes.

25 **Q. Okay. So at least, based on the first page**

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1 **of this document, the company is being sued; you're**

2 **being sued personally, correct?**

3 A. Yes.

4 **Q. And others?**

5 A. Yes.

6 **Q. Okay.**

7 A. Okay.

8 **Q. If you look at the last page, does this**

9 **refresh your recollection as to when this lawsuit was**

10 **filed against you and the company?**

11 A. If that's the date, that's the date. I

12 don't recall exactly what day it was.

13 **Q. And what date is it?**

14 A. That says August 9th, 2002.

15 **Q. Okay.**

16 A. Right?

17 **Q. Yes. Do you recall receiving this**

18 **complaint?**

19 A. You know, of course I did. I recall

20 receiving it. I just don't know when we received it.

21 **Q. What was your reaction when you received**

22 **the complaint?**

23 A. Bullshit.

24 **Q. Really?**

25 A. Yeah.

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1 **Q. What happened to this lawsuit? What was**

2 **the result?**

3 A. I don't recall exactly what happened with

4 the lawsuit.

5 **Q. Did you pay money to Mr. Outwater?**

6 A. I don't recall that either.

7 **Q. Did you tell any of the other investors**

8 **about this lawsuit when you received it?**

9 A. Well, Gary Wester was an investor. He

10 was -- he was one of the ones listed on here. I don't

11 recall exactly how this was communicated, if at all.

12 **Q. Did you tell Mr. Ingham about this lawsuit**

13 **after it was filed?**

14 A. I don't recall that at all.

15 **Q. Would it surprise you if you did not?**

16 A. I don't recall that at all, so I don't

17 know.

18 **Q. Do you believe it was a material thing to**

19 **tell Mr. Ingham?**

20 A. Yes, I do.

21 **Q. Okay. Do you believe it was material to**

22 **tell him before he made the additional \$65,000**

23 **investment to you personally on December 30, 2002, for**

24 **\$65,000?**

25 A. Now I do.

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1 **Q. Now you do?**
 2 A. Yes, I do.
 3 **Q. Back then, you didn't think it was**
 4 **material?**
 5 A. I thought this was a bunch of bullshit back
 6 then, and I probably just pushed it aside --
 7 **Q. Okay.**
 8 A. -- because -- yeah. So -- but, yes, I do
 9 think he should have been told.
 10 **Q. You don't recall whether this case was**
 11 **settled with the --**
 12 A. I don't recall how we settled this.
 13 **Q. Do you recall paying money to Mr. Outwater**
 14 **and the other plaintiffs?**
 15 A. I said that already. I don't -- I don't
 16 recall that. I don't recall that, unfortunately.
 17 **Q. Do you recall paying money personally from**
 18 **one of your own bank accounts to settle this case --**
 19 A. No --
 20 **Q. -- and get you out of the lawsuit?**
 21 A. -- I don't recall that either.
 22 **Q. I'm almost at a point for a break, but I**
 23 **just want to ask a few more questions.**
 24 A. Sure.
 25 **Q. Okay. With respect to the \$100,000 that**

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1 **Mr. Ingham paid you on or about March 30, 2002 --**
 2 **right? You know what I'm talking about?**
 3 A. I'm assuming the one you just asked me to
 4 say yes to?
 5 **Q. Correct.**
 6 A. Yes.
 7 **Q. We established that Mr. Ingham paid you**
 8 **\$100,000 --**
 9 A. Yes. Yes.
 10 **Q. -- on or about March 30, 2002 --**
 11 A. Yes.
 12 **Q. -- correct?**
 13 A. Yes.
 14 **Q. And we established that that money was**
 15 **transferred to one of your personal bank accounts?**
 16 A. Yes.
 17 **Q. And please allow me to finish my questions.**
 18 **Do you recall anything you said to Mr. Ingham as to**
 19 **the terms of -- or what Mr. Ingham would receive in**
 20 **response for this money?**
 21 A. No, I don't.
 22 **Q. Did you tell him that you would issue your**
 23 **personal stock in exchange for the \$100,000 in GTI?**
 24 A. I do not recall that.
 25 **Q. Did you promise to give him a promissory**

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1 **note for the \$100,000 loan and to evidence the**
 2 **\$100,000 loan?**
 3 A. No, I don't recall that.
 4 **Q. Do you recall any terms about how the money**
 5 **would be repaid to Mr. Ingham?**
 6 A. No, I don't recall that at all.
 7 **Q. Do you recall an interest rate that you**
 8 **agreed to?**
 9 A. No.
 10 **Q. Do you recall telling him why you needed**
 11 **the money?**
 12 A. No.
 13 **Q. Did you tell him that the money was going**
 14 **to be given to GTI to help fund their operations for a**
 15 **few more months?**
 16 A. I don't recall.
 17 **Q. Did you tell him that the money was needed**
 18 **for GTI?**
 19 A. I don't recall.
 20 **Q. Did you tell him that the money was needed**
 21 **to be transferred to you personally so as not to**
 22 **dilute further the shares of GTI?**
 23 A. If we're talking about one of the
 24 investments that were made for him to buy my shares
 25 and that was the e-mail that I wrote to him for

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1 that -- for the amount of money you're talking about,
 2 then, yes.
 3 **Q. Okay.**
 4 A. I don't know if they're two different
 5 transactions. I'm getting a little confused.
 6 **Q. In March of 2002, you and Mr. Ingham are**
 7 **friends, correct?**
 8 A. Yes.
 9 **Q. Okay. Friends don't just loan \$100,000 to**
 10 **friends without expecting anything in return. Was it**
 11 **your understanding that Mr. Ingham wanted something in**
 12 **return for the \$100,000?**
 13 A. Yes, but I don't recall the situation, and
 14 I don't recall the terms of the situation -- I don't
 15 recall.
 16 **Q. And you don't recall in any way why you**
 17 **were asking for \$100,000 from Mr. Ingham?**
 18 A. At this time, I don't recall. If it was
 19 money for the company, that's one thing. Then it
 20 would probably be for the company. And if it was not
 21 to dilute the shareholders and he was buying it from
 22 me, then that would be very clear why.
 23 But if it was for something else, if it was
 24 a personal loan that I can't recall, then that's -- I
 25 don't know what I -- I'm not sure what we discussed.

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1 **Q. And sitting here today, you don't remember**
 2 **anything of what you said or represented to Mr. Ingham**
 3 **about what the \$100,000 was to be used for?**
 4 A. No, I don't recall.
 5 **Q. And you don't recall anything about what**
 6 **you told him as to what the terms of the repayment**
 7 **would be?**
 8 A. If I'm -- no, I don't recall. But I'm
 9 confused on which one -- what we're talking about.
 10 **Q. I'm talking about --**
 11 A. Yeah.
 12 **Q. -- the \$100,000 on March 30, 2002, that**
 13 **we've established.**
 14 A. Unless there's documentation that shows me,
 15 like, the -- what it was, an e-mail to him or
 16 something, I don't recall what the terms were. I
 17 don't recall.
 18 **Q. And you don't recall what you promised to**
 19 **give him?**
 20 A. I don't recall.
 21 **Q. Was it your understanding the \$100,000 was**
 22 **a gift?**
 23 A. I don't know if -- are you talking about a
 24 loan he made to me or a purchase of shares? And I
 25 don't recall. So I'm confused on what we're talking

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1 about.
 2 **Q. I can't help you anymore, Mr. Burke.**
 3 A. All right. So I don't recall. I don't
 4 know.
 5 **Q. Okay. But I am talking about the \$100,000**
 6 **that we've established that Mr. Ingham sent to you by**
 7 **wire to your personal account and --**
 8 A. For what purpose?
 9 **Q. That's what I'm asking you.**
 10 A. I don't know why he did it. I don't
 11 recall.
 12 **Q. You don't recall anything at all?**
 13 A. I don't know if it was a stock purchase --
 14 personal stock -- and I'm not sure if that same --
 15 what we already went over in here or not for that
 16 particular date. I can't tell you what it was for.
 17 The 65- and the 100-, I don't know if that was for a
 18 stock purchase or a loan to me.
 19 **Q. And with respect to the \$65,000 loan that**
 20 **we established was on December 30 of 2002, again,**
 21 **we've established that Mr. Ingham gave you, to a**
 22 **personal bank account, \$65,000 on December 30, 2002,**
 23 **correct?**
 24 A. Gave me, yeah. Wired me?
 25 **Q. Yes.**

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1 A. Yes. But I don't -- yes, but I'm not sure
 2 what the purpose was for.
 3 **Q. You don't recall, sitting here today, why**
 4 **he gave you the \$65,000?**
 5 A. Was it a stock purchase I'm agreeing to? I
 6 don't know. I don't recall exactly, no.
 7 **Q. All I'm trying to do is elicit your best**
 8 **recollection.**
 9 A. No, I don't recall what that particular
 10 \$65,000 was for.
 11 **Q. And you don't recall any terms or what you**
 12 **said to Mr. Ingham to induce him to give you another**
 13 **\$65,000 in December 2002?**
 14 A. I don't recall, no.
 15 **Q. Okay. And that's your best knowledge?**
 16 A. Yes.
 17 MR. SHILLIDAY: Okay. All right. Why
 18 don't we take a short break.
 19 (Lunch recess taken, 2:09 p.m. to
 20 2:47 p.m.)
 21 (Deposition Exhibit 24 was marked.)
 22 **Q. (BY MR. SHILLIDAY) Mr. Burke, Exhibit 24**
 23 **has been handed to you. I'll give you a minute to**
 24 **review it.**
 25 A. Yeah.

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1 **Q. Do you recall this e-mail?**
 2 A. I don't recall it exactly, no.
 3 **Q. What's the date of the e-mail?**
 4 A. September 11th, 2002.
 5 **Q. And sent by you?**
 6 A. Yes.
 7 **Q. To whom?**
 8 A. Hep.
 9 **Q. Mr. Ingham. Would you please read into the**
 10 **record what's been underlined for you.**
 11 A. I think we are going to sell some sites
 12 outright to our partners in Pennsylvania or another
 13 company in New York to get some cash. I think we can
 14 "net" about 800K by selling eight sites, so I am in
 15 the midst of trying to get all of the packages
 16 together to go start a bidding war on the East Coast.
 17 **Q. Now, Mr. Burke, it's true, is it not, that**
 18 **ClearShot ultimately pulled out of the JV with GTI,**
 19 **correct?**
 20 A. Let me think about that. I mean, maybe at
 21 the very end. But they were funding us quite -- they
 22 were in with us for quite a long time. So I don't
 23 know what you mean by "pulled out."
 24 I think they were with us through a -- the
 25 partnership was never dissolved, if that's what you

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1 mean. Not -- not -- not what I -- I can't recall that
 2 ever being dissolved, so that was part of the
 3 company's assets still, the 30 percent in GTP.
 4 **Q. Are you saying -- are you testifying that,**
 5 **prior to the bankruptcy --**
 6 A. Yeah.
 7 **Q. -- ClearShot never canceled its**
 8 **relationship with either GTI or GTP?**
 9 A. I don't recall exactly how it ended up, but
 10 I believe that GTP was still in effect.
 11 **Q. Do you recall ClearShot purchasing ten**
 12 **towers from GTP or the rights to acquire ten towers?**
 13 A. I have -- I don't know about the number
 14 ten. But I have a feeling -- I do recall them maybe
 15 buying some -- some -- some towers.
 16 **Q. Okay.**
 17 A. Yeah.
 18 **Q. Do you recall how much they paid for that?**
 19 A. No, I don't recall.
 20 **Q. Why are you saying this in this exhibit to**
 21 **Hep about these sales? What are you trying to convey**
 22 **to him? Do you recall?**
 23 A. No.
 24 MR. SHILLIDAY: Okay. Next exhibit.
 25 (Deposition Exhibit 25 was marked.)

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1 A. Okay.
 2 **Q. (BY MR. SHILLIDAY) All right. Exhibit 25,**
 3 **again, is an e-mail from you, correct?**
 4 A. Yes.
 5 **Q. To Mr. Ingham?**
 6 A. Yes.
 7 **Q. And what's the date of the e-mail?**
 8 A. October 25th, 2002.
 9 **Q. And would you please read into the record**
 10 **the highlighted portion.**
 11 A. Trying to wait until we get paid through a
 12 sale of six towers, which we were hoping to have a
 13 letter of intent -- an LOI in place next week that
 14 will work for us. Should net around 700K with an
 15 earn-out of up to 500K through 2003 on just these six
 16 sites. Doing this to jump start other projects and
 17 get the balance sheet looking better for the banks.
 18 **Q. Okay. Do you know what you're referring**
 19 **to, the sale and netting?**
 20 A. Yeah, I do. I can't recall what towers or
 21 where they were, but I know we were -- we were trying
 22 to sell some of the towers with an earn-out in it.
 23 So what that means is you'd sell a tower
 24 and then they would pay you based on the potential
 25 revenue that the tower would -- potential lease-up

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1 revenues, so -- say we sell a tower with one tenant on
 2 it, but we built it for three.
 3 So they would purchase the tower based on
 4 the value with one tenant, and they would give you an
 5 earn-out based on additional tenants coming down the
 6 road.
 7 **Q. And so --**
 8 A. So the potential earn-out would have been
 9 up to 500,000 on those towers that we were supposedly
 10 looking to sell.
 11 **Q. And the earn-out would be something that**
 12 **GTI would receive in the future --**
 13 A. Yes.
 14 **Q. -- as those lease spaces are sold?**
 15 A. Yes. That's right.
 16 **Q. And who is the buyer that you're referring**
 17 **to?**
 18 A. I don't recall. Either -- who was -- I
 19 think there was a company out of New York. I don't
 20 know who I'm referring to here. I can't recall who we
 21 sold some to.
 22 **Q. At this point, is Mr. Ingham asking for his**
 23 **money back?**
 24 A. I don't know that.
 25 **Q. Okay. At what point did Mr. Ingham, to**

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1 **your knowledge, first ask for a return of his**
 2 **investments to GTI? And I'm talking specifically**
 3 **about the money he lent that was part of the**
 4 **convertible stock purchase agreement. Do you recall**
 5 **that?**
 6 A. I don't have any recollection. I don't
 7 recall what date he asked for it.
 8 **Q. He did ask for the money, right?**
 9 A. I believe he did.
 10 **Q. And you don't recall when he first asked**
 11 **for it?**
 12 A. I don't recall that, no.
 13 **Q. Do you recall how many times he asked for**
 14 **it back?**
 15 A. No, I don't recall that.
 16 **Q. Why are you telling Mr. Ingham about these**
 17 **potential buyers in Exhibit 25?**
 18 A. I'm not sure why I was telling him that.
 19 Maybe -- I don't know exactly why. Maybe we were
 20 looking at -- I'm trying to tell him that we had
 21 potentially some money coming in to the company.
 22 That's what it looks like.
 23 **Q. Okay.**
 24 **(Deposition Exhibit 26 was marked.)**
 25 A. Okay. I've read it.

201

1 **Q. (BY MR. SHILLIDAY) What's the date of this**
 2 **e-mail on Exhibit 26?**
 3 A. December 30th, 2002, to Hep Ingham.
 4 **Q. And this is about ten days before Mr.**
 5 **Ingham makes that \$65,000 additional payment to you**
 6 **personally?**
 7 A. Okay. I guess so.
 8 **Q. Okay. And would you please read --**
 9 A. Well, was it to me personally? I don't
 10 know that.
 11 **Q. I thought you testified it was to you**
 12 **personally.**
 13 A. Well, I told you I was confused.
 14 **Q. Okay.**
 15 A. So if it was made to me, then, yes, I --
 16 absolutely, it was made to me. If that was a purchase
 17 of stock or a loan, I'm not sure.
 18 **Q. Okay. Would you please read into the**
 19 **record the underlined portions in Exhibit 26.**
 20 A. Yes. Close -- "Closed the deal Friday
 21 before Christmas, which means we will have 30 day
 22 closing period and follow up with a payment to you at
 23 the end of the month."
 24 Third paragraph: The deal is set for
 25 700,000 for 5 sites and a right of first refusal on

202

1 another 41. For those 41, we get 10 percent above our
 2 cost and up to a three-year earn-out for additional
 3 carriers. So each site could generate over 100,000
 4 for us for a two-year period after it is built. Total
 5 potential tower deal equals plus or minus 5 million.
 6 The fifth paragraph is, We need
 7 approximately 100K over the next few weeks to get us
 8 by, and an additional 65,000 from you will help
 9 tremendously. I will try and return some or all of
 10 that sooner -- sooner than the closing date based on
 11 receivables we have coming due.
 12 **Q. Okay. What deal had just closed in this**
 13 **e-mail you're referring to?**
 14 A. I don't know. I don't recall exactly what
 15 deal. I don't know exactly what deal. The sites we
 16 were selling. I don't remember exactly where these
 17 towers were.
 18 **Q. Do you recall where you were getting these**
 19 **numbers from that you're representing to Mr. Ingham in**
 20 **this e-mail?**
 21 A. Probably the purchase price in the deal
 22 that we had in place.
 23 **Q. Why are you asking for an additional**
 24 **100,000?**
 25 A. I don't recall.

203

1 **Q. Okay. It wasn't for GTI?**
 2 A. It says, We need approximately 100,000 over
 3 the next few weeks to get us -- yeah, that was for
 4 GTI, I guess.
 5 **Q. Okay.**
 6 A. It must be.
 7 **Q. And then there's a specific reference to**
 8 **the 65,000. Do you see that?**
 9 A. An additional 65,000 will help
 10 tremendously, so -- yeah. I don't know, other than we
 11 needed the cash.
 12 **Q. And then ten days later, Mr. Ingham sent**
 13 **you 65,000, right?**
 14 A. I don't know that.
 15 **Q. You now don't know that?**
 16 A. No. I don't know if it's ten days later
 17 from this date. Is that --
 18 **Q. Okay.**
 19 A. Yes.
 20 **Q. Does this --**
 21 A. I'd have to go back to the exact date. But
 22 if that's the date, yes, that's the date.
 23 **Q. Sure. Let's go back.**
 24 A. January . . .
 25 **Q. Exhibit 21 and 22. Those are your**

204

1 **discovery responses. Let's get that clear.**
 2 **Exhibit 21, your response to Question 33. Okay?**
 3 A. Yeah. But it doesn't say -- it says,
 4 December 30th. It doesn't say ten days after
 5 December 30th, so . . .
 6 **Q. I'm sorry. What's your confusion, then?**
 7 **Because this e-mail --**
 8 A. You said to me that I -- he sent me \$65,000
 9 ten days after this e-mail.
 10 **Q. Correct.**
 11 A. This e-mail was December 30th.
 12 **Q. I'm sorry. I misspoke. On the same day.**
 13 **On the same day, according to your response --**
 14 A. Okay.
 15 **Q. -- in Exhibit 21, where you admitted "Yes"**
 16 **to receiving personally \$65,000 from Hep Ingham on**
 17 **December 30, 2002 --**
 18 A. Okay.
 19 **Q. -- which is the same day as this e-mail,**
 20 **Exhibit 26.**
 21 A. Okay.
 22 **Q. Does this refresh your recollection?**
 23 A. Yes. But for the record, I need to know --
 24 yes. The answer is yes.
 25 **Q. Okay. And the money was going to be used**

205

1 **for GTI. That's what you told Mr. Ingham, correct?**
 2 A. I don't recall. But based on my e-mail, it
 3 looks like that was the case.
 4 **Q. Okay. Did, in fact, the money get used for**
 5 **GTI?**
 6 A. I don't recall.
 7 **Q. Did you use any of the funds paid by Mr.**
 8 **Ingham to pay a settlement to Mr. Outwater and the**
 9 **other plaintiffs in this lawsuit that we looked at?**
 10 A. I don't recall exactly what was paid to
 11 Mr. Outwater.
 12 **Q. Do you recall withdrawing approximately**
 13 **\$95,000 from your bank account shortly after April 1,**
 14 **2002?**
 15 A. Say that again?
 16 **Q. Do you recall withdrawing approximately**
 17 **\$95,000 from your personal bank account shortly after**
 18 **April 1, 2002?**
 19 A. No, I don't recall that.
 20 MR. SHILLIDAY: Okay. Next exhibit.
 21 (Deposition Exhibit 27 was marked.)
 22 A. (The deponent perused the exhibit.) Okay.
 23 **Q. (BY MR. SHILLIDAY) What is the date of the**
 24 **e-mail reflected in Exhibit 27?**
 25 A. February 10th, 2003, to Hep.

206

1 **Q. From you?**
 2 A. From Todd, me, yes.
 3 **Q. And would you please read into the record**
 4 **the underlined portion.**
 5 A. Close to closing the deal. Only holdup is
 6 we now have eight towers to sell instead of the
 7 original five. Working on getting the deal done,
 8 which was to be 700,000, now has to be -- now has to
 9 be 1.4 million in closing funds. So the attorneys are
 10 taking a bit longer. This will net us close to 600K.
 11 **Q. Okay. Is this a different deal than we**
 12 **talked about previously?**
 13 A. I don't know.
 14 **Q. We talked about a deal closing on**
 15 **December 30th in Exhibit 26, right?**
 16 A. It looks to be the same, yes, because it
 17 originally was five sites, and then it looks like it
 18 went to eight. And it looks like it could be a couple
 19 months later.
 20 **Q. If I'm understanding your testimony, then,**
 21 **the deal you said closed -- that did close on Friday**
 22 **in Exhibit 26 actually did not close in December, but**
 23 **instead it was set to close sometime later per your**
 24 **comments in Exhibit 27; is that fair?**
 25 A. No.

207

1 **Q. Okay.**
 2 A. I closed the deal -- so you want me to go
 3 back to 26?
 4 **Q. Yeah.**
 5 A. So "Closed the deal Friday before
 6 Christmas," which means we have 30-day closing period
 7 in follow-up.
 8 **Q. Okay.**
 9 A. Okay. So it looks like it went from that
 10 deal probably to the next one -- we actually had eight
 11 instead of that five, which looks like, because it was
 12 more, it was pushed out. That's the way I'm reading
 13 it.
 14 MR. SHILLIDAY: Exhibit 28.
 15 (Deposition Exhibit 28 was marked.)
 16 A. Okay.
 17 **Q. (BY MR. SHILLIDAY) Okay. What is**
 18 **Exhibit 28?**
 19 A. February 28th, 2003, e-mail to Hep Ingham
 20 from Todd Burke.
 21 **Q. Okay. Would you read the underlined**
 22 **portion into the record.**
 23 A. I left a message on your phone this
 24 morning -- a.m. We signed this term sheet today and
 25 expect it to take 30 to 45 days to close. See the

208

1 attached agreement. The deal went from 700,000 to one
 2 point -- 1.524 million. We should clear 800,000, with
 3 a development partner moving forward. Sorry for the
 4 delays here Fi. I am -- oh, that's not underlined.
 5 Okay.
 6 **Q. Do you know what you're referring to here**
 7 **in this e-mail?**
 8 A. Not exactly. I'm thinking it referred to
 9 these towers that were in Exhibit 26 and 27.
 10 **Q. In Exhibit 26, 27, and 28, which we're**
 11 **looking at now, are you referring to the deal with**
 12 **ClearShot?**
 13 A. I don't know.
 14 **Q. Do you know why you were saying this to**
 15 **Mr. Ingham?**
 16 A. He needed some -- well, apparently he was
 17 looking for some money back because he wanted to -- he
 18 wanted to buy some property, and he needed his cash
 19 back for -- in Boulder.
 20 So I'm sure we were -- I was trying to keep
 21 him informed of what the potential of the payback
 22 would be by the sale of these assets. That's what it
 23 is.
 24 MR. SHILLIDAY: Okay. 29.
 25 (Deposition Exhibit 29 was marked.)

209

1 A. (The deponent perused the exhibit.) Okay.

2 **Q. (BY MR. SHILLIDAY) What's the date of the**

3 **e-mail in Exhibit 29?**

4 A. March 19th, 2003.

5 **Q. From you to Mr. Ingham?**

6 A. From me to Hep Ingham.

7 **Q. Okay. And would you read into the record**

8 **the underlined portion.**

9 A. At this time, it's not possible to convert

10 the \$100,000 back to a loan -- it is not possible to

11 convert the \$100,000 back to a loan. If it is

12 something you need to do, it will not be for a while

13 until the program gets back on its feet and the

14 economy changes. Then I would be more than happy to

15 take care of it. We have allocated the 150,000 plus

16 interest to go back to you when the sale of these

17 first eight assets is complete.

18 **Q. Is this still the same assets that we've**

19 **been talking about in the previous e-mail that's**

20 **trying to close this deal?**

21 A. I'm assuming it is. I don't know for sure,

22 but, yes, I would say it is.

23 **Q. And that's the deal with ClearShot?**

24 A. I don't know if it's ClearShot or the other

25 company that was purchasing them.

210

1 **Q. Other than ClearShot, did GTI sell other**

2 **towers?**

3 A. Yeah. I think we sold to another small

4 group. I can't recall the name of the group. I think

5 it was a small group out of New York.

6 **Q. How many towers?**

7 A. Not many. Maybe it was these eight

8 actually. It could be these eight, or whatever the

9 final number would have been, but I don't know.

10 **Q. Did that deal actually close with the**

11 **New York group?**

12 A. I thought it did.

13 **Q. You're not sure?**

14 A. I don't know if all of these towers were

15 sold. So I'm not sure what the final -- I don't know

16 what the final number was.

17 **Q. Okay.**

18 **(Deposition Exhibit 30 was marked.)**

19 A. (The deponent perused the exhibit.) Okay.

20 **Q. (BY MR. SHILLIDAY) Okay. What is Exhibit**

21 **30?**

22 A. This is an e-mail dated March 21st, 2003,

23 from Todd Burke to Hep Ingham.

24 **Q. And would you read the underlined portion**

25 **into the record.**

211

1 A. I understand the notes to have the interest

2 as well, and I will calculate accordingly as I pay

3 these off. The first chunk should come sometime in

4 the first week of April, as we can only close on the

5 first four sites. Two more expected in the second or

6 third week of April, and then the last two in the

7 second or third week of May.

8 **Q. Going back to Exhibit 29, was GTI**

9 **experiencing financial difficulty in March of 2003?**

10 A. If we were selling assets, yes, I would

11 imagine so.

12 **Q. When did GTI first begin to experience**

13 **financial difficulty?**

14 A. Boy, I don't know the dates. I know it's

15 been extremely hard in 2002.

16 **Q. What point in 2002?**

17 A. Our construction services started going

18 down a little bit after 9/11/2001. It got a little

19 bit more difficult because the valuation started

20 dropping a bit because -- the valuations on the

21 towers.

22 So in between that period of, like,

23 October 2001 into 2002, it was getting -- it was

24 getting more difficult. I mean, the revenues

25 weren't -- I don't remember the exact monthly

212

1 revenues, but I know it was a slowdown.

2 **Q. If I understand your testimony, beginning**

3 **in 2001, September, the construction revenues began to**

4 **decline at GTI, correct?**

5 A. I saw -- I think I saw it then. The stock

6 market hurt the phone companies -- the cell phone

7 companies, and we had a lot of maintenance contracts

8 and new construction contracts with -- with -- that we

9 were doing, you know, in the first couple years. And

10 that's what -- it started slowing down then.

11 **Q. And did you report to the shareholders this**

12 **slowdown?**

13 A. If they -- I don't recall exactly how I

14 reported it, but I'm sure that -- I'm not even sure.

15 I don't exactly know how we communicated that.

16 **Q. But you're sure you communicated the**

17 **slowdown in revenues to the shareholders?**

18 A. I'm not sure how I did it. I'm not sure

19 what I said.

20 **Q. Was it in writing?**

21 A. I don't know that. I'm not sure. I don't

22 recall.

23 **Q. What percentage slowdown are we talking**

24 **about in revenues beginning in September 2001?**

25 A. I can't give you that number. I don't

213

1 remember the number, the percentage.
 2 **Q. Was it significant?**
 3 A. I'd say it was significant.
 4 **Q. Did it --**
 5 A. We got hurt. After that -- that late fall
 6 into 2002, the construction services wasn't what it
 7 was in the first couple of years. Yeah.
 8 **Q. And when you say the revenue slowdown was**
 9 **significant, did that slowdown begin to accelerate as**
 10 **time went on?**
 11 A. Yeah. It didn't -- yeah. It didn't come
 12 back. It didn't really come back to the way it was in
 13 the first couple of years.
 14 **Q. Was the slowdown -- my question was, was**
 15 **the slowdown getting worse each month as we moved away**
 16 **from September 2011 (sic)?**
 17 A. I don't recall if it was -- what's the word
 18 I'm looking for? -- if it was continuous. It might
 19 have -- did this for a while (indicated), but it
 20 wasn't -- it wasn't as steady.
 21 **Q. And just for the record, you're indicating**
 22 **up and down?**
 23 A. I think it was up and down, yeah.
 24 **Q. But the overall trend was a significant**
 25 **downturn in the revenues?**

214

1 A. The operations were going down, and the
 2 revenues were going down, too, the construction
 3 revenues, because the contracts were being kind of --
 4 they kind of flatlined.
 5 **Q. And you say, "construction revenues." You**
 6 **were talking about revenues derived by GTI for**
 7 **building towers on behalf of third parties?**
 8 A. Yes, exactly. Or antenna systems or
 9 maintenance. That's correct. That's correct.
 10 **Q. And the valuations you referred to, that's**
 11 **the valuations of the towers?**
 12 A. Of the towers, yes. That was a big deal,
 13 because the towers -- the valuations were at an
 14 18-times multiple, give or take, on one asset. And it
 15 pretty much dropped to -- to -- to not -- I don't
 16 remember the number it dropped to, but it dropped
 17 substantially.
 18 And all the public tower companies, the
 19 potential purchasers -- the potential buyers of these
 20 towers, the stocks crashed on those companies, as
 21 well, and the whole thing kind of just -- the
 22 valuations dropped quite a bit.
 23 **Q. By January 2003, would it be fair -- strike**
 24 **that.**
 25 **By March of 2002 --**

215

1 A. Okay.
 2 **Q. -- some six to seven months after**
 3 **September 11, 2001, would it be fair to say that you**
 4 **were aware, as the president and CEO of GTI, that**
 5 **construction revenues had slowed significantly for the**
 6 **company?**
 7 A. Yes.
 8 **Q. Okay. And by January of 2002, you're**
 9 **aware, correct, as the president and CEO of GTI, that**
 10 **the valuations for the towers owned by GTI were**
 11 **declining?**
 12 A. I would have been aware if -- assuming --
 13 I'd have to go back and look at how many towers we had
 14 in the air at that point. But if we had towers in the
 15 air, the valuations, based on what the market was
 16 telling us, was on a decline --
 17 **Q. Okay.**
 18 A. -- if that answers your question.
 19 **Q. Thank you. Did you discuss or disclose any**
 20 **of these facts to Mr. Ingham before the \$100,000 that**
 21 **he gave to you in March of 2002?**
 22 A. I don't recall having any discussions with
 23 him about it.
 24 **Q. Okay. Do you believe that would have been**
 25 **material to tell him before he made another**

216

1 **investment?**
 2 A. Yes.
 3 **Q. And with respect to the \$65,000 in December**
 4 **of 2002, by that point, you really knew that**
 5 **construction revenues were declining, correct?**
 6 A. I'm sorry. The date again?
 7 **Q. By December of 2002, you really knew that**
 8 **construction revenues were declining for GTI, correct?**
 9 A. Following -- the full year?
 10 **Q. Correct.**
 11 A. If we didn't have a pickup that year, which
 12 we may have, which I doubt, yeah, I would say, yeah, I
 13 would have known by then that the construction
 14 services were -- you've got to understand there was
 15 still building. There wasn't a complete halt.
 16 So we tried to change direction to see
 17 where we could pick up other revenues and pick up
 18 other construction, but it wasn't the same as it was.
 19 **Q. How did GTI try to change directions?**
 20 A. Well, I think we -- from what I recall, I
 21 think we tried to look at selling assets to bring
 22 capital in, maybe build -- build more towers with that
 23 capital, you know, and focus on the development as --
 24 more than we were focusing on the construction
 25 services.

217

1 Because the construction services were our
 2 bread and butter in the beginning, and we didn't have
 3 that revenue coming in. So we needed to -- we needed
 4 to figure out a way to bring revenue in. That's why
 5 we started selling some assets. We had a fire sale.
 6 **Q. And some of those sales of assets we've**
 7 **been looking at in your e-mails to Mr. Ingham,**
 8 **Exhibits 25, 26, 27, 28, 29? These are the sales**
 9 **you're referring to, correct?**
 10 A. Yeah. Those should be the assets that --
 11 yeah, that's what I'm saying.
 12 **Q. And GTI is selling those assets to try to**
 13 **raise capital to continue operations, correct?**
 14 A. Yes. I believe we still had our offices.
 15 If I'm not mistaken, in 2002, we still had all of our
 16 offices in each region, and I was trying to keep all
 17 the people going. So we slowly started closing down.
 18 I don't know what time -- I don't know if it was late
 19 2002 or not.
 20 **Q. During 2002 --**
 21 A. Yeah.
 22 **Q. -- other than Mr. Fischer and Mr. Outwater**
 23 **and the other plaintiffs in the Outwater case, it's**
 24 **true, is it not, that GTI began to be sued by multiple**
 25 **vendors for not being paid for their services or**

218

1 **products provided to GTI; is that correct?**
 2 A. We had creditor letters possibly, but I
 3 can't recall lawsuits.
 4 **Q. By the time that GTI --**
 5 A. Is that the right -- sorry.
 6 **Q. By the time that GTI filed for bankruptcy**
 7 **in 2003, do you know how many pending lawsuits or**
 8 **judgments were against GTI?**
 9 A. I do not know the quantity -- I don't know
 10 the amount.
 11 **Q. Would it be over 12?**
 12 A. Over 12 what?
 13 **Q. Lawsuits.**
 14 A. I don't know the amount. I don't know.
 15 **Q. Were there quite a number?**
 16 A. I don't know the amount. I really don't.
 17 **Q. Okay.**
 18 A. I really can't recall what the -- I
 19 remember we had a lot of creditors, but I don't
 20 remember any of the vendor lawsuits against the
 21 company really.
 22 **Q. Do you recall any vendors suing GTI for**
 23 **nonpayment?**
 24 A. Right at this minute, no. That doesn't
 25 mean there wasn't.

219

1 **Q. Okay.**
 2 **(Deposition Exhibit 31 was marked.)**
 3 A. (The deponent perused the exhibit.)
 4 **Q. (BY MR. SHILLIDAY) Okay. Exhibit 31, this**
 5 **is one that I want you to read from the bottom up. Do**
 6 **you see the e-mail at the bottom, which is April 6?**
 7 A. This here?
 8 **Q. Yeah.**
 9 A. Yeah.
 10 **Q. Yeah.**
 11 A. Do you want me to read the last line up or
 12 the last e-mail up?
 13 **Q. Just read -- this is an e-mail --**
 14 A. April 16th, 2003?
 15 **Q. Excuse me. April 16, 2003, from Hep Ingham**
 16 **to you, correct?**
 17 A. Okay. Yes.
 18 **Q. And then you're responding above, right?**
 19 A. Okay.
 20 **Q. Okay. Would you please read your response**
 21 **that's underlined.**
 22 A. Above?
 23 **Q. Yes.**
 24 A. "The notes are correct, but I have not
 25 calculated the interest amount to know if these

220

1 numbers are right on the mark. I will do that."
 2 **Q. Okay. And when you are saying to Mr.**
 3 **Ingham, "The notes are correct," you're referring to**
 4 **the summary of the investments that's beneath in**
 5 **Mr. Ingham's e-mail to you of April 16th. Do you see**
 6 **that?**
 7 A. I see that.
 8 **Q. Okay. And do you recall sending this**
 9 **e-mail response to Mr. Ingham?**
 10 A. I don't recall sending the e-mail, no.
 11 **Q. Okay. Do you have any -- today, in 2014,**
 12 **any reason to dispute your statement in Exhibit 31**
 13 **that the notes are correct, as you state here?**
 14 A. No.
 15 **Q. Okay.**
 16 A. I have no reason.
 17 **Q. Okay. But you're merely stating to Mr.**
 18 **Ingham that the principal amount of notes are correct.**
 19 **You just haven't actually calculated the interest to**
 20 **verify whether Mr. Ingham's interest calculations are**
 21 **correct or not?**
 22 A. It seems that way.
 23 **Q. Okay.**
 24 A. Yes.
 25 **Q. I want to make sure I understood that.**

221

1 A. Yes.

2 MR. SHILLIDAY: That's it for that one.

3 (Deposition Exhibit 32 was marked.)

4 **Q. (BY MR. SHILLIDAY) Exhibit 32 has been put**

5 **before you, Mr. Burke. I can shortcut this one for**

6 **you and just focus on the bottom of page 1 and the top**

7 **of page 2 and, in particular, the underlining at the**

8 **top of page 2.**

9 A. Would you like me to read it?

10 **Q. Yes, sir.**

11 A. So you know, I am not arguing the 165K. I

12 realize this is what it is. Although I did not plan

13 on taking on the extra 100,000 since I thought this

14 was going to be converted to stock, which you decided

15 was not the case as time went on.

16 **Q. Okay.**

17 A. And . . .

18 **Q. And turning to the first page of Exhibit**

19 **32, what's the date of this e-mail in which you said**

20 **that to Mr. Ingham?**

21 A. February 17th, 2004.

22 **Q. Okay. Do you know what you're referring to**

23 **as you're not disputing the 165K?**

24 A. Do I know what I'm referring to?

25 **Q. Yeah.**

222

1 A. Well, the 100,000 and the 65,000.

2 **Q. Yes, sir. Is that what you're referring**

3 **to?**

4 A. I assume so.

5 **Q. Okay. Why did you make a statement**

6 **about -- you assumed it was going to be converted to**

7 **stock? Is that helping you --**

8 A. My recollection was I thought -- I thought

9 at that time, before Hep was going to actually buy

10 that property he was going to buy, that he wanted to

11 keep the money in the company. So it was -- that's

12 what -- I think this is what that was referring to.

13 **Q. Does this refresh your recollection that**

14 **the 165,000 was going to be used for the company, and**

15 **that's what you told Mr. Ingham?**

16 A. Ask me that again --

17 **Q. Sure.**

18 A. -- please?

19 **Q. Does this refresh your recollection that**

20 **you told Mr. Ingham that the 165,000 -- the 100,000 in**

21 **March 2002 and the 65,000 in December of 2002, you**

22 **told Mr. Ingham that you were going to use that money**

23 **to keep running GTI?**

24 A. I don't recall. But if he said that's what

25 I said, I said it.

223

1 MR. SHILLIDAY: Okay. You're finished with

2 32.

3 (Deposition Exhibit 33 was marked.)

4 **Q. (BY MR. SHILLIDAY) All right. Exhibit 33.**

5 **This is Mr. Ingham's lawsuit against you, correct?**

6 A. Yes, it is.

7 **Q. Okay. Now, did you have any discussions**

8 **trying to resolve the issues with Mr. Ingham before he**

9 **filed this lawsuit in 2004? Do you recall any**

10 **discussions at all?**

11 A. I don't recall any discussions at all.

12 **Q. Okay. Any discussions with his attorney,**

13 **Mr. Michael Lindsay?**

14 A. I remember Michael Lindsay coming in to my

15 office. And the very first time I met him, I remember

16 him coming in to the office talking about all of it,

17 that I openly discussed with Michael Lindsay. But I

18 don't remember any discussion on -- beyond that. One

19 too many -- too many details in the discussions.

20 **Q. Mr. Lindsay came to your office?**

21 A. He came to my office in Boulder.

22 **Q. In Boulder?**

23 A. Yeah.

24 **Q. To discuss the debt that was owed to**

25 **Mr. Ingham?**

224

1 A. Yeah, I believe so.

2 **Q. Okay. Do you recall what was discussed?**

3 A. Do I recall what was discussed?

4 **Q. Yes.**

5 A. No, I don't. He was there for a while. I

6 don't recall -- I think he was asking about the health

7 of the business, what was going on, what's coming --

8 at that point, we were -- we were getting into a

9 pretty tough shape.

10 And I know that Hep came up to the office

11 in Boulder. I don't know how long before that he came

12 up, but I know he was at that office. We had closed

13 down all of our other offices and moved into one

14 office in downtown Boulder, and that's where Michael

15 Lindsay came to visit me. But I don't recall

16 the . . .

17 **Q. I want to make sure you're finished with**

18 **your answer.**

19 A. But I don't recall the full conversation

20 with Michael other than about Hep.

21 **Q. Okay. Why was the business of GTI not**

22 **improving in 2003?**

23 A. My opinion?

24 **Q. Yes, sir.**

25 A. My opinion was the valuations and the --

225

1 the rollouts of the wireless companies had completely
 2 slowed down to -- to a point where the opportunities
 3 had dwindled substantially.
 4 And then you had, you know -- so that meant
 5 less new construction from the wireless carriers; it
 6 meant less maintenance work to do; it meant less
 7 antennas to put on rooftops; and it meant less
 8 build-to-suit opportunities from a tower-developer
 9 standpoint.
 10 So it didn't come back fast enough. It
 11 couldn't -- and that's one of the biggest reasons we
 12 lost all of our -- you know, lost our income potential
 13 and our -- the values on the sites that we had in
 14 place.
 15 And then the \$2 million I told you about,
 16 give or take the \$2 million that GT- -- ClearShot
 17 invested in the partnership, all that entitlement work
 18 that we did -- typically you build a tower when you
 19 have a tenant. So it wasn't really a spec -- you
 20 would spec by putting this -- the entitlement work
 21 money out into the field. That's what we were doing.
 22 But you wouldn't build a tower unless you
 23 had a tenant. Because the economy took a bath, we
 24 couldn't get the wireless carriers to become part of
 25 our anchor-tenant agreement in order for us to go

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1 construct a tower.
 2 Everything just -- so all that entitlement
 3 work we had been working on for that year, year and a
 4 half just sat there. We couldn't go construct the
 5 towers that we designed.
 6 **Q. If I could clarify one thing.**
 7 A. Yeah.
 8 **Q. When you say, "entitlement work," you're**
 9 **talking about acquiring parcels of property and**
 10 **getting the --**
 11 A. Leasing. Yes. I'm talking about lease
 12 agreements with the homeowner or landowner or BLM or
 13 National Forest. Union Pacific railroad, I think we
 14 did some with. And then you sign a lease with the
 15 landowner.
 16 You go to zoning. You try -- you go
 17 through all the zoning processes to get the tower
 18 approved by the local or federal jurisdictions. So,
 19 yeah, that whole process took a lot of effort, and
 20 that's where a lot of our potential asset base that we
 21 had projected came to a halt.
 22 **Q. Mr. Ingham, do you -- Mr. Ingham. Mr.**
 23 **Burke, do you still have copies of your 2002, 2003 tax**
 24 **returns?**
 25 A. I don't -- I don't know if I do or not. I

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1 don't think I do.
 2 **Q. Who was your accountant at that time?**
 3 A. Probably Kim Gleason.
 4 **Q. Do you recall reporting on your 2002 tax**
 5 **return the monies given to you by Mr. Hep Ingham?**
 6 A. I don't recall my tax returns back then.
 7 **Q. Okay.**
 8 A. So I don't recall what was on them.
 9 **Q. Do you recall paying a higher tax in 2002**
 10 **than you ordinarily did?**
 11 A. I do recall that, but I recall not being
 12 able to afford to make the payment. So I don't know
 13 what the higher -- I don't know what it was. But I do
 14 recall that a couple years, if not one or two years --
 15 and I don't know if that's the same time you were
 16 talking about.
 17 **Q. Was Mr. Gleason your personal accountant?**
 18 A. Yes, sir.
 19 **Q. In 2002 and 2003?**
 20 A. Yes, sir.
 21 (Deposition Exhibit 34 was marked.)
 22 **Q. (BY MR. SHILLIDAY) Thirty-four is an easy**
 23 **one, Mr. Burke.**
 24 A. Yeah.
 25 **Q. To your knowledge, is this the judgment**

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1 **that was obtained against you by Mr. Ingham in**
 2 **September of 2004?**
 3 A. Yes.
 4 **Q. And you chose not to defend yourself or**
 5 **respond to this lawsuit, correct?**
 6 A. Yes.
 7 MR. SHILLIDAY: Okay. Exhibit 35.
 8 (Deposition Exhibit 35 was marked.)
 9 **Q. (BY MR. SHILLIDAY) Do you recognize**
 10 **Exhibit 35?**
 11 A. One sec. Yes.
 12 **Q. Page 2. Is your signature at the bottom**
 13 **left-hand corner --**
 14 A. Yes.
 15 **Q. -- of page --**
 16 A. Yes.
 17 **Q. -- 2, Exhibit 35?**
 18 A. Yes.
 19 **Q. This is the voluntary Chapter 11 petition**
 20 **for globalTowers, Incorporated?**
 21 A. Yes.
 22 **Q. And you signed this as the president of**
 23 **GTI?**
 24 A. Yes.
 25 **Q. And this petition for bankruptcy relief**

229	<p>1 filed by globalTowers, Incorporated, was filed on</p> <p>2 October 30, 2003?</p> <p>3 A. I'm sorry?</p> <p>4 Q. Sure.</p> <p>5 A. Again.</p> <p>6 Q. This document, Exhibit 35 --</p> <p>7 A. Yes.</p> <p>8 Q. -- was filed with the court on October 30,</p> <p>9 2003?</p> <p>10 A. Is that -- I don't know for sure. Is that</p> <p>11 on here? I don't know what date it was.</p> <p>12 Q. If you look at your signature on the bottom</p> <p>13 of page 2 --</p> <p>14 A. Yes. Yes.</p> <p>15 Q. Okay. Just for your information, there's</p> <p>16 also a line at the top that's called the stamp.</p> <p>17 A. Okay.</p> <p>18 Q. It gives the date.</p> <p>19 A. Thanks.</p> <p>20 Q. Okay. So the answer is yes?</p> <p>21 A. Yes.</p> <p>22 Q. Okay. Why did GTI seek bankruptcy relief</p> <p>23 under Chapter 11 of the bankruptcy code in October</p> <p>24 2003?</p> <p>25 A. Well -- forgive me. I'm tired.</p>	231	<p>1 and moving forward with a -- with a reorganization</p> <p>2 plan.</p> <p>3 Q. Thank you. If I understand your answer</p> <p>4 correctly, a company controlled by your</p> <p>5 brother-in-law, John Childs, was going to assist GTI</p> <p>6 in restructuring its debt obligation? Was that what</p> <p>7 you said, in part?</p> <p>8 A. No.</p> <p>9 Q. No. Please. I lost you.</p> <p>10 A. It was a company that I was introduced to.</p> <p>11 I knew this gentleman that -- my brother-in-law</p> <p>12 knew -- John Childs knew this group out of New</p> <p>13 England, but he wasn't part of it.</p> <p>14 Q. Okay.</p> <p>15 A. For the record, Mike Matthews was his name.</p> <p>16 And I can't recall the name of their tower company at</p> <p>17 this moment, but I think it was Great Western Towers,</p> <p>18 GWT.</p> <p>19 Q. When did you or anyone else within GTI</p> <p>20 first begin considering filing for bankruptcy relief?</p> <p>21 A. Not until Mike came out to see us. And I</p> <p>22 don't know the exact date of that, when he made his</p> <p>23 initial visit out to the company in Boulder.</p> <p>24 Q. Can you recall how many months it was prior</p> <p>25 to October 2003 that visit occurred?</p>
230	<p>1 Q. Sure.</p> <p>2 A. The reorganization bankruptcy was what?</p> <p>3 Q. Chapter 11.</p> <p>4 A. Chapter 11. We tried to seek a</p> <p>5 reorganization. We had a -- a group out of New</p> <p>6 England, small group. They were tower developers and</p> <p>7 owners that came in via a relationship I had with my</p> <p>8 ex-brother-in-law, John Childs. And he came in to try</p> <p>9 to look at a potential reorganization -- which he did.</p> <p>10 They did -- and got me to believe in them, to come in</p> <p>11 and actually bring us out of the position we were in</p> <p>12 through a reorganization.</p> <p>13 And we took -- we went on a -- that -- we</p> <p>14 took that -- I took that leap of faith in them, and we</p> <p>15 started the process of contacting -- and going through</p> <p>16 the Chapter 11 process and contacting all of our</p> <p>17 creditors.</p> <p>18 So we had -- I thought we had exhausted</p> <p>19 every other opportunity to bring in either new</p> <p>20 partnerships or new money because of this position of</p> <p>21 the company.</p> <p>22 And I thought that, at the time, knowing</p> <p>23 that these guys had capital behind them and they were</p> <p>24 a tower developer, and I knew -- I knew who they were,</p> <p>25 that the company had a good shot of turning it around</p>	232	<p>1 A. I would only guess to say a few, a couple</p> <p>2 maybe. It's a guess. I don't know for sure.</p> <p>3 Q. Did you or anyone else at GTI ever inform</p> <p>4 shareholders of the company's intent to file for</p> <p>5 bankruptcy relief?</p> <p>6 A. I don't recall that at all. I don't</p> <p>7 recall.</p> <p>8 Q. When was the last financial report or</p> <p>9 statement given to shareholders prior to October 2003</p> <p>10 that you can recall that was made by GTI?</p> <p>11 A. That I can recall? I can't -- I don't know</p> <p>12 the date. I can't recall a date.</p> <p>13 Q. Did GTI give annual reports to shareholders</p> <p>14 in a written format?</p> <p>15 A. I don't remember if we did or not.</p> <p>16 (Deposition Exhibit 36 was marked.)</p> <p>17 Q. (BY MR. SHILLIDAY) Exhibit 36, Mr. Burke</p> <p>18 Is your signature on this document?</p> <p>19 A. Yes, it is.</p> <p>20 Q. This is a corporate resolution?</p> <p>21 A. Yes, it is.</p> <p>22 Q. Do you recall signing this?</p> <p>23 A. I don't recall signing it, but I signed it.</p> <p>24 Q. Was there, in fact, a board meeting held by</p> <p>25 the GTI board of directors to authorize the company to</p>

233	<p>1 file for bankruptcy relief?</p> <p>2 A. I don't know. I would imagine so.</p> <p>3 Q. Were you a part of that meeting?</p> <p>4 A. I must have been.</p> <p>5 Q. Do you know when it occurred?</p> <p>6 A. No, I don't.</p> <p>7 Q. Do you know who was there?</p> <p>8 A. No, I don't. I can't really recall who was</p> <p>9 on the board at that time, so that's -- I don't recall</p> <p>10 the actual discussion we had to have this.</p> <p>11 Q. Were the shareholders ever informed of this</p> <p>12 board meeting to discuss bankruptcy relief?</p> <p>13 A. I don't know. I can't recall how we</p> <p>14 informed anybody. You mean prior to this being</p> <p>15 signed?</p> <p>16 Q. Correct.</p> <p>17 A. I don't know. I can't recall.</p> <p>18 Q. If you look at the document, it's referring</p> <p>19 to a meeting where the authorization was given by the</p> <p>20 company to file for bankruptcy relief?</p> <p>21 A. Right. Right.</p> <p>22 Q. And that's why I'm asking about that</p> <p>23 meeting.</p> <p>24 A. Yeah. I don't recall who was at the board</p> <p>25 meeting, and I don't recall submitting any information</p>	235	<p>1 A. Yes.</p> <p>2 Q. Okay. And at the bottom of the page,</p> <p>3 there's a Question 21. Do you see that?</p> <p>4 A. Yes.</p> <p>5 Q. Okay. Now, in 2003 -- strike that.</p> <p>6 In 2002, do you have any knowledge as to</p> <p>7 what percentage of the company Mr. Ingham owned?</p> <p>8 A. Do I have any knowledge?</p> <p>9 Q. Yeah.</p> <p>10 A. I don't know exact -- the exact percent. I</p> <p>11 don't know.</p> <p>12 Q. Can you estimate a percentage?</p> <p>13 A. No.</p> <p>14 Q. Okay. I'll ask it this way: It's true --</p> <p>15 isn't it correct that Mr. Ingham owned 5 percent or</p> <p>16 more --</p> <p>17 A. That's --</p> <p>18 Q. -- of the company stock?</p> <p>19 A. That sounds right.</p> <p>20 Q. Okay. Would around 8 percent surprise you?</p> <p>21 A. Would it surprise me? No.</p> <p>22 Q. Okay. Who was the largest shareholder in</p> <p>23 2003, October?</p> <p>24 A. I would guess it would be me.</p> <p>25 Q. Okay. If you'd look at Question 21 and</p>
234	<p>1 to the shareholders prior to this.</p> <p>2 Q. Okay.</p> <p>3 (Deposition Exhibit 37 was marked.)</p> <p>4 Q. (BY MR. SHILLIDAY) Mr. Burke, I obtained</p> <p>5 Exhibit 37 from the court records relating to the GTI</p> <p>6 bankruptcy. Exhibit 37, I'll represent to you, is the</p> <p>7 statement of financial affairs for globalTowers, Inc.</p> <p>8 Would you please turn to the last page. Is your</p> <p>9 signature on the last page?</p> <p>10 A. Yes, sir.</p> <p>11 Q. Do you recall signing this?</p> <p>12 A. I don't recall signing it, but that is my</p> <p>13 signature.</p> <p>14 Q. Okay. Do you recall reviewing this</p> <p>15 document before you signed it?</p> <p>16 A. I don't recall reviewing the document, but</p> <p>17 I'm sure I did.</p> <p>18 Q. Would there be any reason to doubt the</p> <p>19 accuracy of the information provided in this document?</p> <p>20 A. No.</p> <p>21 Q. There are -- in the upper right-hand</p> <p>22 corner, there are page numbers.</p> <p>23 A. Yes.</p> <p>24 Q. If you'd look at page 9 and page 10 of this</p> <p>25 document.</p>	236	<p>1 then look at the answer on the next page of Exhibit</p> <p>2 37 --</p> <p>3 A. Right.</p> <p>4 Q. -- Subsection B --</p> <p>5 A. Right.</p> <p>6 Q. -- I'll represent to you that Question 21</p> <p>7 is asking for a list of all shareholders of GTI who</p> <p>8 own 5 percent or more of the corporate stock of the</p> <p>9 debtor company.</p> <p>10 A. Right.</p> <p>11 Q. Do you see that question?</p> <p>12 A. I do.</p> <p>13 Q. You're listed, correct?</p> <p>14 A. Yes.</p> <p>15 Q. What's your percentage ownership?</p> <p>16 A. 56.2.</p> <p>17 Q. Is Mr. Ingham listed?</p> <p>18 A. I don't see his name.</p> <p>19 Q. Why not?</p> <p>20 A. I don't know.</p> <p>21 Q. Isn't it true that Mr. Ingham's shares that</p> <p>22 you purportedly said that he owned were never recorded</p> <p>23 with the company?</p> <p>24 A. Say that again?</p> <p>25 Q. Sure. Isn't it true that the shares that</p>

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1 you told Mr. Ingham he owned were never recorded with
 2 the company?
 3 A. I do not know that for sure.
 4 Q. Why would Mr. Ingham be deleted from this
 5 document, Exhibit 37, Question 21?
 6 A. That's a great question. I do not know why
 7 he's not on here if, in fact, he owned over 5 percent
 8 of the company.
 9 Q. I thought you said he did.
 10 A. No. You said, Would it surprise you if it
 11 was 5 percent or more, and I said, No, it wouldn't.
 12 Q. No. I asked you, Would it surprise you if
 13 it was 8 percent? Okay. The record speaks for
 14 itself.
 15 A. Right. I said I couldn't give you a
 16 guesstimate.
 17 MR. SHILLIDAY: Exhibit 38.
 18 (Deposition Exhibit 38 was marked.)
 19 Q. (BY MR. SHILLIDAY) Oh, you know what?
 20 Take a look at 37 again. Put 38 aside. If you'd look
 21 at page 2 and page 3 of Exhibit 37 --
 22 A. Page 2 and page 3. Yes, sir.
 23 Q. -- and look at Question 4. Do you see
 24 that? Are you on page 2? In the middle of the page,
 25 it's asking for all lawsuits that the company is

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1 involved in as of the petition date. Do you see that?
 2 A. I do.
 3 Q. Okay. And there's a list of lawsuits
 4 which -- you signed this document, so you're
 5 representing these lawsuits were in existence. That
 6 begins on page 2 and continues all the way on page 3.
 7 Do you see that?
 8 A. Yes, I see it.
 9 Q. Are any of these lawsuits involving vendors
 10 of GTI?
 11 A. Well, are they all lawsuits?
 12 Q. That's what it says.
 13 A. It says, "Garnishments" -- "Suits and
 14 administrative proceedings, executions, garnishments
 15 and attachments." "List all suits and administrative
 16 proceedings to which" . . . okay. So I'm sorry.
 17 Would you ask the question again?
 18 Q. Sure. Do any of the proceedings listed in
 19 your response to Question 4, Exhibit 37, involve
 20 vendors of GTI?
 21 A. Yes.
 22 Q. Okay. Which ones?
 23 A. Do you want me to list them out?
 24 Q. Sure.
 25 A. I think it's all of them.

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1 Q. All of them. Okay.
 2 A. Well, would you like me to go through each
 3 one of them? I believe they're all GTI's -- yeah, all
 4 GTI's vendors.
 5 Q. Okay. And were these lawsuits that were
 6 brought by these vendors because they weren't getting
 7 paid?
 8 A. It's possible. I don't know. Most likely,
 9 looking at all of them.
 10 Q. And each time a lawsuit was received for
 11 nonpayment by a vendor, did you disclose to the
 12 shareholders the existence of this lawsuit?
 13 A. I don't know when these came in.
 14 Q. I can represent to you that these all were
 15 filed in 2002 and 2003.
 16 A. Okay. All right. So the answer would be I
 17 don't know how many of these lawsuits, if any at all,
 18 were actually disclosed to each shareholder.
 19 Q. Do you recall telling Mr. Ingham about
 20 these lawsuits that were piling up against GTI?
 21 A. I don't recall telling him that.
 22 Q. Page 4, Question 5. Do you see that, sir?
 23 A. Yes.
 24 Q. It's a question about repossessions.
 25 A. Uh-huh.

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1 Q. What vehicle is that?
 2 A. I don't know. We had a lot of trucks.
 3 Q. Okay. Is that a truck that you were
 4 driving yourself, or was that just a fleet of --
 5 A. I didn't have one of those trucks. That
 6 was one of our fleet.
 7 Q. (BY MR. SHILLIDAY) Okay. Okay.
 8 Exhibit 38. Look at the first page of Exhibit 38,
 9 Mr. Ingham -- Mr. Burke. Do you see that summary of
 10 assets and liabilities?
 11 A. Yes.
 12 Q. Do you know how to read that?
 13 A. Yes.
 14 Q. Okay. What are the -- on the date this --
 15 these bankruptcy schedules were filed, what were the
 16 assets of GTI?
 17 A. Are they not -- if they're not listed in
 18 here, I --
 19 Q. It's summarized at the bottom here.
 20 A. I don't know what all the assets are.
 21 Q. The number.
 22 A. I see the summary, but I can't list out all
 23 the assets.
 24 Q. No. I'm just saying what the number --
 25 what the amount is.

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1 A. I'm sorry. 530,000.
 2 **Q. Okay. And what's the amount of debt?**
 3 A. 1,442,786.91.
 4 **Q. If you look at the top, when were these**
 5 **filed with the bankruptcy court?**
 6 A. "Entered: 11/14/03."
 7 **Q. And if you'd look at the last page of this**
 8 **Exhibit 38, do you recognize the signature?**
 9 A. I do.
 10 **Q. Is that your signature?**
 11 A. That is.
 12 **Q. Okay. And you're verifying that these**
 13 **schedules are correct?**
 14 A. They must be.
 15 **Q. Okay. Mr. Burke, I'll invite you to look**
 16 **this over.**
 17 A. Uh-huh.
 18 **Q. But there's a Schedule F in this document.**
 19 **And Schedule F is a list of all the unsecured**
 20 **creditors of GTI, and that would include investors and**
 21 **shareholders of GTI.**
 22 **I'll represent to you that Mr. Ingham is**
 23 **not anywhere listed in these bankruptcy schedules.**
 24 **And my question to you is do you know why?**
 25 A. No. Well, our attorney certainly knew

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1 everybody that was invested, so I'm not sure why
 2 they're not on here.
 3 **Q. If you'd look at the third page of**
 4 **Exhibit 38.**
 5 A. Third page of Exhibit 38. Third page.
 6 Does it say "page 3" up top? I start on page 12.
 7 **Q. I was looking at the third page. Page 3 --**
 8 **you're right -- which is the third page of Exhibit 38.**
 9 A. Uh-huh.
 10 **Q. Okay. Do you understand what this is**
 11 **telling you?**
 12 A. "Schedule B - Personal Property."
 13 **Q. Correct. And this is the assets of GTI**
 14 **that are not real property; is that your**
 15 **understanding?**
 16 A. Okay.
 17 **Q. Okay. If you'll look at the third page of**
 18 **Schedule B.**
 19 A. Third page. Sorry.
 20 **Q. Right here.**
 21 A. Okay. Yes.
 22 **Q. It appears to me that GTI's representing**
 23 **that it owns a tower; is that correct?**
 24 A. "Communications Tower - Arizona." Yes.
 25 **Q. Okay. What is that tower?**

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1 A. I don't know what tower it was.
 2 **Q. Was it called Arizona, or is it located in**
 3 **the state of Arizona?**
 4 A. No. We don't have a tower called Arizona.
 5 **Q. Well, I'm trying to figure it out.**
 6 A. I don't know -- no, we didn't have a tower
 7 called Arizona. They're all numbered.
 8 **Q. Is it located in Arizona?**
 9 A. I'm trying to figure out what it was.
 10 Yeah, I can't remember exactly what was in Arizona.
 11 **Q. Do you recall how the --**
 12 A. It must have been -- 140,000 is about the
 13 value of one tower with one tenant, so . . .
 14 **Q. You're anticipating my next question: How**
 15 **was that 140,000 arrived at for the value of this one**
 16 **tower?**
 17 A. I'd have to ask my accountant or an
 18 attorney. I don't know. Maybe the market value of
 19 it, current market value of debtors' interest.
 20 MR. SHILLIDAY: Okay. You're done with
 21 that exhibit.
 22 THE DEPONENT: Okay.
 23 (Deposition Exhibit 39 was marked.)
 24 **Q. (BY MR. SHILLIDAY) Do you need to take a**
 25 **break?**

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1 A. No. Thank you.
 2 **Q. Do you have Exhibit 39 in front of you?**
 3 A. I do.
 4 **Q. Okay. Is that your signature at the bottom**
 5 **of the page?**
 6 A. Yes.
 7 **Q. Do you recall signing this document?**
 8 A. No.
 9 **Q. It's your understanding this document was**
 10 **filed in connection with the GTI bankruptcy?**
 11 A. Yes.
 12 **Q. Do you know what an initial financial**
 13 **report is?**
 14 A. I'm sorry?
 15 **Q. Do you know what an initial --**
 16 A. I don't recall.
 17 **Q. But that is your signature?**
 18 A. Yes.
 19 **Q. On the next page?**
 20 A. That's the same page.
 21 **Q. Okay. On page 4, is that a true and**
 22 **correct copy of the GTI 2002 tax return?**
 23 A. I'd have to ask my accountant, but it looks
 24 like it to me. If he filed it -- was it filed?
 25 **Q. You attached it to this.**

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1 A. Yes, yes, it's -- yes, it is.
 2 **Q. If you look at page 10 of Exhibit 39, is**
 3 **this the form that the GTI balance sheets appeared in**
 4 **as you reviewed them, from month to month and year to**
 5 **year, as president and CEO of GTI?**
 6 A. I can't say for sure, but they look
 7 familiar.
 8 **Q. Okay. Would you receive balance sheets**
 9 **like this as president and CEO of GTI during your time**
 10 **as president and CEO from 1999 to 2003?**
 11 A. I would. But I don't know if this was the
 12 exact format. But it looks similar, yes.
 13 **Q. If you would look at page 13 of Exhibit 39.**
 14 A. Page 13. Yes. Sorry. Okay.
 15 **Q. What is this document beginning on page 13**
 16 **of Exhibit 39?**
 17 A. It says it's a profit and loss statement.
 18 **Q. Okay. And on page 14, the number at the**
 19 **bottom, what's -- what's the -- what's the income --**
 20 **or profit and loss -- I'm sorry -- of GTI for this**
 21 **period covered by this statement, which is the fiscal**
 22 **year -- excuse me -- through September 2003 -- 2002**
 23 **through September of 2003? Did I confuse you?**
 24 A. Kind of. Well, do you want me to read the
 25 net income number?

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1 **Q. Yes.**
 2 A. It's 274,480.87.
 3 **Q. And to your knowledge, that's true and**
 4 **correct?**
 5 A. It was the report my accountant gave me, so
 6 I would say it was true and correct as per his report.
 7 **Q. And what period is this covering?**
 8 A. September 2002 to September 2003.
 9 **Q. Thank you. And during this time period,**
 10 **September two-thousand -- strike that.**
 11 **During this time period, from September**
 12 **2002 to September 2003, did you tell Mr. Ingham, or**
 13 **any other shareholder, about the declining revenues**
 14 **and profit that's shown in this statement?**
 15 A. I don't recall conversations I would have
 16 had with them.
 17 **Q. Do you recall ever giving Mr. Ingham a**
 18 **financial summary of the actual profits and losses of**
 19 **the company during 2002?**
 20 A. I don't recall giving him -- no, I don't
 21 recall that.
 22 **Q. Do you recall giving Mr. Ingham any**
 23 **financial information about the actual profit and loss**
 24 **of GTI during 2001?**
 25 A. No, I guess I don't recall that either.

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1 **Q. Okay. Did you give Mr. Ingham, to your**
 2 **recollection, any actual information or actual numbers**
 3 **of profit and loss of GTI during 2003?**
 4 A. I don't know.
 5 MR. SHILLIDAY: Okay. Exhibit 40.
 6 (Deposition Exhibit 40 was marked.)
 7 **Q. (BY MR. SHILLIDAY) Mr. Burke, I don't have**
 8 **a lot of questions about Exhibit 40. I found this in**
 9 **the GTI bankruptcy file. Is that your signature at**
 10 **the bottom of Exhibit 40 as well?**
 11 A. Yes, it is.
 12 **Q. And this appears to be a supplemental**
 13 **initial financial report. Is that your understanding?**
 14 A. Yes.
 15 **Q. Okay. Looking on page 2 of Exhibit 40, do**
 16 **you know what this document is that you attached to**
 17 **Exhibit 40?**
 18 A. Will you give me a second?
 19 **Q. Yes.**
 20 A. I think -- I think -- I can't read it. I
 21 can't read the totals. But let me think about this.
 22 **Q. I'll be straightforward with you, sir. I**
 23 **didn't know what it was. I'm not sure what it is.**
 24 A. It looks like a -- it looks like those
 25 towers that were, you know, under construction or

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1 entitlement work was being done or something. And I
 2 can't recall -- I don't know exactly. I'll keep
 3 looking.
 4 **Q. Take your time.**
 5 A. This is not -- this particular format and
 6 this sheet is not familiar to me at all. Let me see.
 7 This might have been something that the -- the
 8 potential -- what do you call it? What's the name of
 9 it -- Mike Matthews and his group put together,
 10 because it looks like there's a -- it looks to me like
 11 there's costs relating to staying in business here,
 12 monthly -- monthly costs. I don't know.
 13 So I don't know exactly what it is.
 14 Operations costs. Maybe it was part of our submittal
 15 for re- -- GWT, LLC, was the group, just by the way.
 16 It's on here.
 17 **Q. GWT?**
 18 A. GWT, LLC. Projected revenue -- it's
 19 projected revenue, expenses, and cash flow for the
 20 first 120 days of postpetition operations. Document
 21 attached.
 22 **Q. Okay.**
 23 A. I believe that's what it was.
 24 MR. SHILLIDAY: Exhibit 41.
 25 (Deposition Exhibit 41 was marked.)

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1 **Q. (BY MR. SHILLIDAY) Mr. Burke, Exhibit 41**
 2 **is a group of documents, which I believe are related,**
 3 **that were found among documents provided to me**
 4 **concerning your case.**
 5 A. Okay.
 6 **Q. And my question to you is whether you've**
 7 **seen them before or are familiar with the subject**
 8 **matter.**
 9 A. Yeah.
 10 **Q. What does Exhibit 41 relate to?**
 11 A. Let me give you an answer in a sec here.
 12 Oh, it looks like -- I guess it was part of the
 13 initial -- potentially initial concepts of Mike
 14 Matthews coming on board or merging with Pinnacle or
 15 NewCo.
 16 So it looks like it was just a combination
 17 of ideas that we were throwing around to see if -- it
 18 was discussion points, I guess you would say, on what
 19 kind of deal, I guess, we could have put together,
 20 maybe prior -- I don't see a date, so maybe prior to
 21 the bankruptcy petition.
 22 **Q. And Mike Matthews, was that --**
 23 A. GWT. Yeah. He was the guy that came in to
 24 try to turn it around. He was the lead guy.
 25 **Q. As part of the reorganization?**

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1 A. Reorganization.
 2 **Q. Okay.**
 3 A. And maybe this was prior to it.
 4 **Q. And I believe you testified that Mr.**
 5 **Matthews came out to Colorado a few months -- you**
 6 **said, "a couple" -- prior to the bankruptcy. So this**
 7 **may have been right around the August-September time**
 8 **frame of 2003?**
 9 A. I testified that I was guessing it was a
 10 couple months. And you're right. So you're right on
 11 that. I don't know what the time frame was, but I
 12 would say this was around then.
 13 **Q. Okay.**
 14 A. Yes.
 15 **Q. Who is Pinnacle?**
 16 A. That's pushing me here. I think Pinnacle
 17 was -- so Mike was invited to actually go join -- I
 18 think Pinnacle was a -- one of the public tower
 19 companies. So the idea was Mike would have gone to
 20 Pinnacle. They were recruiting him heavily, and we
 21 would have merged globalTowers.
 22 And I don't know what we were trying -- it
 23 would have been maybe a two-step process, where Mike
 24 went to Pinnacle, and then we kind of came along with
 25 him. At the time, he was pretty much almost signed on

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1 the dotted line with Pinnacle.
 2 MR. SHILLIDAY: Okay. We can take a short
 3 break.
 4 (Recess taken, 4:01 p.m. to 4:13 p.m.)
 5 **Q. (BY MR. SHILLIDAY) Mr. Burke, have you**
 6 **ever heard of a company by the name of Warbonnet**
 7 **Films?**
 8 A. Yes.
 9 **Q. What is that?**
 10 A. It was an entity that I had set up just for
 11 possibly producing a film that I wrote, a movie.
 12 **Q. And what movie was that?**
 13 A. It was a screenplay I have.
 14 **Q. Okay. What's the name of the screenplay?**
 15 A. The Legend of Izzno Wyatt. I-z-z-n-o
 16 W-y-a-t-t. It's a story I -- story.
 17 **Q. Have you copyrighted that?**
 18 A. I don't know if I've copyrighted it. I've
 19 got a -- I've got a -- so I don't think it's
 20 copyrighted. I think it's rights to a story, I think.
 21 So I have some kind of documentation that's with the
 22 Writers Guild. It's called rights to a story. And
 23 I'm not sure if it's expired or if it's due for
 24 expiration this year.
 25 **Q. Going back to some of your earlier**

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1 **testimony, we talked about the relationship between**
 2 **ClearShot and GTI through a company called GDP -- GTP,**
 3 **correct?**
 4 A. Correct.
 5 **Q. And GTP stood for globalTowers Partnership,**
 6 **correct?**
 7 A. Correct.
 8 **Q. And that was a separate endy -- separate**
 9 **entity -- excuse me -- separate and apart from GTI?**
 10 A. Correct.
 11 **Q. Okay. And my understanding, from your**
 12 **testimony, is that GTI was the 30 percent owner of**
 13 **GTP, correct?**
 14 A. I believe -- I know -- it was 30 percent,
 15 yeah. That's right.
 16 **Q. And ClearShot was a 70 percent owner of**
 17 **GTP?**
 18 A. Yes.
 19 **Q. And was there any kind of written agreement**
 20 **with respect to the development of approximately 41**
 21 **sites by GTP, slash, GTI?**
 22 A. There was a document this tall (indicated)
 23 that HRO did for us.
 24 **Q. Okay.**
 25 A. That -- I don't know if we specified the

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1 amount, the number.
 2 **Q. And for the record, you said, "this tall. "**
 3 **You're referring to several feet thick?**
 4 A. The joint venture agreement.
 5 **Q. Okay.**
 6 A. It was a joint venture. Several feet
 7 thick, right.
 8 **Q. And to summarize the agreement, if you**
 9 **can, what did it say?**
 10 A. That ClearShot and globalTowers would be
 11 partners -- joint venture partners, I believe, in an
 12 entity set up to develop communication towers, of
 13 which ClearShot would fund all of the expenses to
 14 perform the tasks to get the towers fully developed in
 15 form of reimbursement to GTI, Inc. So that was pretty
 16 much it. And then the split was going to be -- was
 17 70/30.
 18 MR. SHILLIDAY: Off the record for a
 19 second.
 20 (Discussion off the record.)
 21 **Q. (BY MR. SHILLIDAY) Okay. Back on the**
 22 **record. Okay. And we had talked on and off about a**
 23 **project called the Alamosa towers --**
 24 A. Uh-huh.
 25 **Q. -- correct?**

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1 A. Uh-huh.
 2 **Q. What were the number of the Alamosa towers?**
 3 A. The total tower amount?
 4 **Q. Yeah.**
 5 A. I can't recall what was completed. I can't
 6 recall how many we completed. But I do recall
 7 Alamosa. So I think Alamosa PCS was going to be our
 8 anchor tenant, if I'm not mistaken.
 9 **Q. And that's a wireless provider?**
 10 A. Yes.
 11 **Q. Okay. That's why they were called Alamosa**
 12 **towers?**
 13 A. Yes.
 14 **Q. Okay. And they were located in Texas,**
 15 **correct?**
 16 A. I think where Alamosa's hub was, it was on
 17 the border of -- you know what? I don't know exactly
 18 where it was. I'm sorry. I think it might have been
 19 in multiple states --
 20 **Q. Okay.**
 21 A. -- but -- yeah.
 22 **Q. Do you recall GTI being sued by a vendor**
 23 **named Morehouse for unpaid -- you know, unpaid**
 24 **invoices for services provided by Morehouse to GTI in**
 25 **connection with construction of a tower in Texas?**

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1 A. No, I don't remember -- I recall something,
 2 but I don't remember the name Morehouse.
 3 **Q. Okay. What do you recall?**
 4 A. I don't recall -- I just -- there's
 5 something that triggered it, but I can't recall what
 6 it was.
 7 **Q. Do you recall an unpaid invoice by a vendor**
 8 **and being sued for it?**
 9 A. I don't recall. But it's something -- it
 10 does trigger something, that there might have been
 11 something down there, but I can't recall the name or
 12 what it was about.
 13 **Q. Why was GTI not paying these invoices that**
 14 **were being submitted by its vendors for the**
 15 **construction of towers?**
 16 A. Say that again?
 17 **Q. Why was GTI not paying invoices submitted**
 18 **to it by vendors for construction costs for these**
 19 **towers?**
 20 A. I don't know if that was the case. We
 21 would -- that -- I don't know if that was the case at
 22 all, or else ClearShot would have pulled the plug on
 23 us.
 24 I don't know -- I mean, I'm not sure where
 25 you're coming up with that: We developed a tower

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1 under that umbrella, and globalTowers didn't pay the
 2 vendor. I don't know if that was that specific
 3 project under that GTI umbrella.
 4 **Q. ClearShot, in fact, did pull the plug on**
 5 **GTP and GTI --**
 6 A. Okay. Okay.
 7 **Q. -- correct?**
 8 A. I don't know when. I mean, I told you
 9 that. I don't know how or when -- I can't recall how
 10 we stopped.
 11 **Q. But, in fact, ClearShot did stop doing**
 12 **business with GTP --**
 13 A. Well --
 14 **Q. -- and GTI?**
 15 A. GT- -- I don't know exactly how we finished
 16 it, because we had assets that were held in GTP, and
 17 we had a couple of years -- maybe a year to two years
 18 of entitlement work I told you we did.
 19 But I can't recall how we actually -- the
 20 split actually happened or when we stopped development
 21 together. I don't recall.
 22 **Q. It's true, is it not, that ClearShot, in**
 23 **fact, sued GTI?**
 24 A. Based on what I just saw, it looked like
 25 there was a suit, and I don't recall what it was for.

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1 **Q. You have no recollection?**
 2 A. I have no recollection what it was about.
 3 **Q. Did ClearShot obtain a judgment against**
 4 **GTI?**
 5 A. I can't recall that either.
 6 MR. SHILLIDAY: No further questions.
 7 Thank you.
 8 WHEREUPON, the within proceedings were
 9 concluded at the approximate hour of 4:20 p.m. on the
 10 23rd day of July, 2014.
 11 * * * * *

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REPORTER'S CERTIFICATE
 STATE OF COLORADO)
) ss.
 CITY AND COUNTY OF DENVER)
 I, KIMBERLY SMITH, Registered Professional
 Reporter and Notary Public ID 20054024603, State of
 Colorado, do hereby certify that previous to the
 commencement of the examination, the said TODD DAVID
 BURKE was duly sworn by me to testify to the truth in
 relation to the matters in controversy between the
 parties hereto; that the said deposition was taken in
 machine shorthand by me at the time and place
 aforesaid and was thereafter reduced to typewritten
 form; that the foregoing is a true transcript of the
 questions asked, testimony given, and proceedings had.
 I further certify that I am not employed by,
 related to, nor of counsel for any of the parties
 herein, nor otherwise interested in the outcome of
 this litigation.

IN WITNESS WHEREOF, I have affixed my
 signature this 5th day of August, 2014.
 My commission expires June 21, 2017.

__XX__ Reading and Signing was requested.
 _____ Reading and Signing was waived.
 _____ Reading and Signing is not required.

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1 I, TODD DAVID BURKE, do hereby certify that
 2 I have read the above and foregoing deposition and
 3 that the same is a true and accurate transcription of
 4 my testimony, except for attached amendments, if any.
 5 Amendments attached () Yes () No
 6
 7
 8 _____
 9 TODD DAVID BURKE

10 The signature above of TODD DAVID BURKE was
 11 subscribed and sworn to before me in the County of
 12 _____, State of Colorado, this ____ day of
 13 _____, 2014.

14 _____
 15 Notary Public
 16 My commission expires

17
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 24
 25 Todd Burke 7/23/14 (kds)

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REPORTER'S CERTIFICATE

STATE OF COLORADO)
) ss.
CITY AND COUNTY OF DENVER)

I, KIMBERLY SMITH, Registered Professional Reporter and Notary Public ID 20054024603, State of Colorado, do hereby certify that previous to the commencement of the examination, the said TODD DAVID BURKE was duly sworn by me to testify to the truth in relation to the matters in controversy between the parties hereto; that the said deposition was taken in machine shorthand by me at the time and place aforesaid and was thereafter reduced to typewritten form; that the foregoing is a true transcript of the questions asked, testimony given, and proceedings had.

I further certify that I am not employed by, related to, nor of counsel for any of the parties herein, nor otherwise interested in the outcome of this litigation.

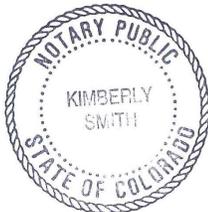
IN WITNESS WHEREOF, I have affixed my signature this 5th day of August, 2014.

My commission expires June 21, 2017.

XX Reading and Signing was requested.

_____ Reading and Signing was waived.

_____ Reading and Signing is not required.





Kimberly Smith
Registered Professional Reporter

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