

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

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ORIGINAL

APPEAL FROM LEXINGTON COUNTY  
Court of Common Pleas

R. Knox McMahon, Circuit Court Judge

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Case No. 2010-CP-32-3172  
APPELLATE CASE NO. 2012-212705

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Martha D. Goodwyn,

Respondent,

v.

Shadowstone Media and  
Robert Pachaly,

Appellants.

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RECORD ON APPEAL

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**RECEIVED**

MAY 09 2013

**SC Court of Appeals**

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2  
**ORIGINAL**

STATE OF SOUTH CAROLINA )

IN THE COURT OF COMMON PLEAS

COUNTY OF LEXINGTON )

Civil Action No. 2010-CP-32-0372

Martha D. Goodwyn, )

3172-WALT

Plaintiff, )

**ORDER GRANTING TREBLE DAMAGES AND ATTORNEY'S FEES**

vs. )

Shadowstone Media, Inc., and Robert Pachaly )

Defendants. )

DEBRA A. GARRISON  
CLERK OF COURT  
LEXINGTON, SC

2012 JUN 29 PM 2:49

FILED

The Plaintiff seeks attorney's fees and treble damages arising from a case for owed wages. This trial was conducted before a jury and the Court on June 5, 2012. Plaintiff was represented by T. Jeff Goodwyn, Jr., of the Goodwyn Law Firm, LLC, and Defendants were represented by Brian P. Robinson, of Bruner, Powell, Wall & Mullins, LLC. The jury returned a verdict against the Defendants for \$3,444.00 on violation of the Payment of Wages Act and for \$0 on breach of contract. For the reasons following, the Plaintiffs' requests for treble damages and attorney's fees shall be **GRANTED**.

"Attorney's fees are not recoverable unless authorized by contract or statute." Jackson v. Speed, 326 S.C. 289, 486 S.E.2d 750 (1997). There are six factors to consider in awarding attorney's fees: (1) the nature, extent, and difficulty of the legal services rendered; (2) the time and labor necessarily devoted to the case; (3) the professional standing of counsel; (4) the contingency of compensation; (5) the fee customarily charged in the locality for similar legal services; (6) the beneficial results obtained. Baron Data Systems, Inc. v. Loter, 297 S.C. 382, 384-85, 377 S.E.2d 296, 297 (1989). In determining whether attorney's fees are appropriate, the Court should consider the actual likelihood that a party will have to pay those fees. Calhoun v.

Calhoun, 339 S.C. 96, 529 S.E.2d 14 (2000). For example, a pro se defendant would not be entitled to attorney's fees. *Id.*

The Wage Payment Act provides that an employee "may recover in a civil action an amount equal to three times the full amount of the unpaid wages, plus costs and reasonable attorney's fees as the court may allow." S.C. Code Ann. §41-10-80.<sup>1</sup> Whether or not to grant authorized treble damages and attorney's fees is a matter in the discretion of the Court. Mathis v. Brown & Brown of South Carolina, 689 S.C. 299, 698 S.E.2d 773 (2010); Rice v. Multimedia, Inc., 318 S.C. 95, 456 S.E.2d 381 (1995). In determining whether treble damages are appropriate, the Court may consider any number of factors, but primarily (1) what is necessary "to protect employees from the unjustified and willful retention of wages by the employer" and (2) whether there is a bona fide dispute that would render treble damages unjust and harsh. Rice at 98, 456 S.E.2d at 383.

Defendants allege there is ample evidence of a bona fide dispute over whether wages were due. Defendants rely on "the hiring letter" dated April 10, 2009 marked as Plaintiff's 2. The letter is addressed to the Plaintiff and states "...As you are aware most of the accounts will be paying monthly over a period of a 12 month period. As a result you will receive one twelfth of the total commission of that month's bill from the advertiser." The Plaintiff's testimony was that she had never seen this letter prior to the taking of her deposition after the institution of the lawsuit. Mr. Pachaly's testimony was unclear as to whether he handed the letter to the Plaintiff in the office or mailed it to the Plaintiff. Regardless the Court does not know what weight or value the jury gave to the "hiring letter", if any, but concludes that this would not constitute a bona fide good faith defense to the failure to pay wages under the facts of this case. Mr. Pachaly basically

<sup>1</sup> This is a substantially smaller statutory penalty than previously existed in the state. The case Wynne v. Seaboard Air Line Ry., 96 S.C. 1, 79 S.E. 521 (1913) awarded wages due of \$1.93 plus a penalty of \$5 per day the payment was delayed for a total penalty of \$95.

testified that an individual named "Sal Saylor" came to him and wanted to rent some unused office space to start this coupon book business. Mr. Pachaly allowed "Saylor" to do so but within a very brief period of time "Saylor" was incarcerated for some types of crime involving fraud or financial misconduct. Mr. Pachaly then decided along with others to attempt to make a go of this coupon book business and basically took it over in the absence of "Saylor". He testified that he hired the Plaintiff and that she was his best producer and he held her in high regard.

As to the issue of additional damages, this Court finds that there was not a sufficiently close question of law or fact that would discourage the award of additional damages. Furthermore, the Court finds that additional damages are necessary to serve the substantial interest of the state in protecting employees. Therefore, the Plaintiff's request for treble damages is **GRANTED**.

As to the issue of attorney's fees, the Court applies the Baron factors: (1) the case raised issues of law some complexity necessitating legal representation; (2) Plaintiff's attorney worked 65.7 hours on the case and submitted no work that appeared duplicative or unreasonable; (3) the attorney is experienced, skilled, and in good professional standing; (4) not applicable, since this was not a contingency case; (5) the fee charged is in line with local practice; and (6) Plaintiff's attorney achieved a beneficial result for his client on one, but not both, of the claims.

Defendants argue that no such fees or costs should be awarded because Plaintiff's attorney is her husband. While there is a substantial chance that the fees will be shared between the party and her attorney, the Court recognizes that the time spent by Plaintiff's attorney could have been otherwise spent working on other cases and matters. Opportunity lost is opportunity cost. However, the Court does find the requested fees to be unreasonably large given that much

of the time spent on the case was spent on a claim that bears no attorney's fees and resulted in no damages. Therefore, Plaintiff's request for attorney's fees is **PARTIALLY GRANTED** and


Plaintiff's request for costs is **GRANTED**.

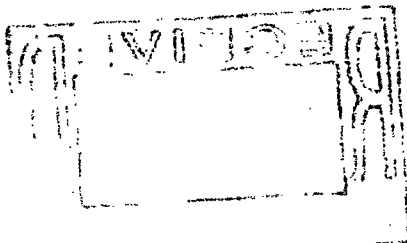
To summarize, the Court awards the following:

1. Damages awarded by the jury (\$3,444.00), times three .....	\$10,322.00
2. Requested attorney's fees, halved.....	\$4,927.50
3. <u>Requested attorney's costs</u> .....	<u>\$1,167.00</u>
Total .....	\$16,416.50

Judgment in the above amount shall be entered against both Defendants, Shadowstone Media, Inc. and Robert Pachaly, jointly and severally, on behalf on the Plaintiff Martha Goodwyn as there is but one amount, but one recovery.

Lexington, S.C.  
June 28, 2012

  
\_\_\_\_\_  
The Honorable R. Knox McMahon





4.

Defendants Robert Pachaly owns and operate multiple small corporations including Defendant Shadowstone.

5.

Plaintiff was hired by Defendant Robert Pachaly to work as a sales person for Defendants Robert Pachaly and Shadowstone with a start date of April 2, 2009, being paid a \$300 per week salary plus commission on sales, and comprehensive health insurance coverage after one month of employment.

6.

Defendants Robert Pachaly failed to pay Plaintiff wages and other benefits as agreed as set forth in more detail below.

7.

Defendants have violated S.C. Code Ann. §41-10-30(A) in failing to provide written notice of the normal hours and the wages agreed upon, the time and place of payment, and the deductions which will be made from the wages, including payments to insurance programs.

8.

Defendants have violated S.C. Code Ann. §41-10-30(B) in failing to keep records of wages paid and deductions made.

9.

Defendants have violated S.C. Code Ann. §41-10-30(C) in failing to furnish Plaintiff with an itemized statement showing her gross pay and deductions made from her wages for each pay period.

10.

Defendants have violated S.C. Code Ann. §41-10-40(D) in failing to pay all wages when due.

11.

Defendants have violated S.C. Code Ann. §41-10-50 in failing to pay all wages owed within 48 hours of separation.

COUNT I  
BREACH OF CONTRACT

12.

Plaintiff re-alleges the allegations set forth in paragraphs 1-11 as if set forth here verbatim.

13.

Defendants have breached their employment contract with Plaintiff by failing to pay Plaintiff the \$300 per week salary, commissions, and the comprehensive medical insurance plan as agreed.

14.

As a result of Defendants' breach of this employment contract, Defendants are each liable to Plaintiff for at least \$5,194.00 in back wages owed for unpaid salary, at least \$3,500.00 in unpaid commissions, plus the value of health insurance that also went unpaid which is valued at \$1,428.39 for a total of \$10,122.39.

15.

Plaintiff is alleging that in addition to Robert Pachaly being personally liable to Plaintiff as her direct employer, Plaintiff is attempting to pierce the corporate veil and

make Defendant Robert Pachaly personally liable for the debts to Plaintiff of Shadowstone.

COUNT II  
VIOLATIONS OF S.C. CODE §41-10-10 ET SEQ.

16.

Plaintiff re-alleges the allegations set forth in paragraphs 1-15 as if set forth here verbatim.

17.

Defendants are liable to Plaintiff pursuant to §41-10-80(C) for three times the full amount of unpaid wages of \$10,122.39 for a total of \$30,367.17 plus reasonable attorney's fees in an amount to be determined at the time of trial.

18.

Plaintiff is alleging that in addition to Robert Pachaly being personally liable to Plaintiff as her direct employer, Plaintiff is attempting to pierce the corporate veil and make Defendant Robert Pachaly personally liable for the debts to Plaintiff of Shadowstone.

COUNT III  
FRAUD

19.

Plaintiff re-alleges the allegations set forth in paragraphs 1-18 as if set forth here verbatim.

20.

Defendants hired Plaintiff intending to pay her less than she was eventually to be owed and intending to never make a good faith effort to maintain an ongoing enterprise that would sustain itself to the point where it could properly pay its employee's wages and the other debts to its employees and other creditors.

21.

Defendants behaved fraudulently in inducing Plaintiff into working for an enterprise where the true purpose of the enterprise was to generate revenues not for the purpose of maintaining the enterprise, but to funnel revenues away from the enterprise by moving the enterprises' revenues to VGP Trust for the ultimate benefit of Defendant Robert Pachaly.

22.

As a result of the fraud of Defendants, Plaintiff is entitled to actual and punitive damages in an amount to be determined at trial.

WHEREFORE, Plaintiff demands a jury trial, judgment against the Defendants in the amount of at least \$30,367.17, together with all interest allowed by law, all costs of this action, reasonable attorney's fees pursuant to §42-10-80(C), punitive damages, and such other legal and equitable relief as this Court deems proper.

BETH A. CAMPBELL  
CLERK OF COURT  
LEXINGTON, SC

2011 SEP 26 P 12:01

FILED

This 12 day of September, 2011

GOODWYN LAW FIRM, LLC

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ATTORNEY FOR PLAINTIFF

Columbia, South Carolina.

BETH A. CARRIGG  
CLERK OF COURT  
LEXINGTON, SC

2011 SEP 29 12:01

FILED

**COPY**

IN THE STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF LEXINGTON )  
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Martha D. Goodwyn, )  
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 )  
Plaintiff, )  
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 )  
vs. )  
 )  
Shadowstone Media, Inc. and Robert )  
Pachaly, )  
 )  
Defendants. )  
 )  
\_\_\_\_\_ )

IN THE COURT OF COMMON PLEAS  
Civil Action No. 2010-CP-32-3172

**ANSWER TO AMENDED  
COMPLAINT**

RECEIVED  
CLERK OF COURT  
LEXINGTON, SC  
2010 OCT 12 10 21 AM

**PPB**

The Defendants answer the allegations of the Amended Complaint as follows.

**FOR A FIRST DEFENSE**

1. The Defendants deny all allegations of the Amended Complaint unless otherwise admitted, qualified, or explained.
2. The Defendants admit, upon information and belief, the allegations of Paragraph 1 of the Amended Complaint.
3. The Defendants admit the allegations of Paragraph 2 of the Amended Complaint.
4. The Defendants deny the allegations of Paragraph 3 of the Amended Complaint, but admit that those allegations were true at the time suit was filed.
5. The Defendants deny the allegations of Paragraphs 4, 5, 6, 7, 8, 9, 10, and 11 of the Amended Complaint.
6. Answering the allegations of Paragraph 12 of the Amended Complaint, the Defendants reiterate the above as if set forth verbatim here.
7. The Defendants deny the allegations of Paragraphs 13, 14, and 15 of the Amended Complaint. Further answering the allegations of Paragraph 15 of the Amended

Complaint, the Defendants deny that there exist any facts which would support an action to pierce the corporate veil.

8. Answering the allegations of Paragraph 16 of the Amended Complaint, the Defendants reiterate the above as if set forth verbatim here.

9. The Defendants deny the allegations of Paragraphs 17 and 18 of the Amended Complaint. Further answering the allegations of Paragraph 18 of the Amended Complaint, the Defendants deny that there exist any facts which would support an action to pierce the corporate veil.

10. Answering the allegations of Paragraph 19 of the Amended Complaint, the Defendants reiterate the above as if set forth verbatim here.

11. The Defendants deny the allegations of Paragraphs 20, 21, and 22 of the Amended Complaint.

**FOR A SECOND DEFENSE**  
**(SCRCP Rule 12(b)(6))**

12. The Plaintiff has failed to state facts sufficient to constitute a cause of action.

13. The Defendants plead failure to state facts sufficient to constitute a cause of action as a complete defense.

**FOR A THIRD DEFENSE**  
**(Payment)**

14. The Defendants paid the Plaintiff all the money to which the Plaintiff was entitled.

15. The Defendants plead payment as a complete defense.

**FOR A FOURTH DEFENSE**  
**(Waiver and Estoppel)**

16. The Plaintiff had not expectation of payment from Pachaly, individually.

17. The Plaintiff waived any payment from Pachaly after the complaint was filed.

18. The Plaintiff did not demand any payment from the Defendants during the 122 days she worked for Shadowstone Media, Inc.

19. Shadowstone Media, Inc. paid the Plaintiff what she earned under her employment agreement.

20. The Plaintiff has waived any causes of action against Pachaly, individually.

21. The Plaintiff stated in Exhibit A to the Complaint and to the Amended Complaint that she was to be paid by draws.

22. Shadowstone Media, Inc. in fact did pay Plaintiff by draws.

23. The Plaintiff should be estopped from now claiming that she expected to be paid a salary.

24. The Defendants plead waiver and estoppel as complete defenses.

25. Pachaly, individually, pleads waiver and estoppel as complete defenses.

**FOR A FIFTH DEFENSE BY PACHALY**  
**(No Employer-Employee Relationship)**

26. The Defendants deny that Robert Pachaly was in any way the Plaintiff's employer.

27. Plaintiff cannot have a claim against Pachaly, individually, when he was not her employer.

28. Pachaly pleads the lack of employer-employee relationship as a complete defense.

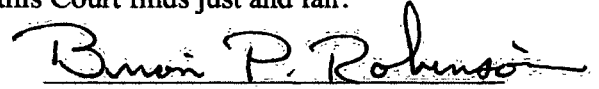
**FOR A SIXTH DEFENSE BY PACHALY**  
**(No Damages)**

29. Plaintiff states that she did not expect to be paid by Pachaly.

30. Plaintiff has no damages against Pachaly, individually.

31. Pachaly pleads lack of damages as a complete defense.

**WHEREFORE**, having fully answered, the Defendants pray for judgment in their favor, for costs, and for such other and further relief as this Court finds just and fair.



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Bruner, Powell, Robbins, Wall  
& Mullins, LLC  
P.O. Box 61110  
Columbia, SC 29260  
Attorney's for the Defendants

Columbia, South Carolina

October 4, 2011

**PPB**  
BETH A. DANFOS  
CLERK OF COURT  
LEXINGTON, SC  
OCT 12 12 12 11



1 until you hear the rest of the testimony. Because when  
2 you get -- as an old commentary used to say "the rest of  
3 the story," things turn around. So my question to you is,  
4 and my admonishment to you is, listen to all the testimony  
5 before you make up your mind.

6 Thank you very much.

7 THE COURT: Thank you, Mr. Robinson.

8 Mr. Goodwyn, you may call your first witness.

9 MR. GOODWYN: We'd call Marci Goodwyn.

10 THE COURT: All right. If you'd come around and  
11 be sworn, please.

12 MARTHA D. GOODWYN, after being duly sworn,  
13 testified as follows:

14 MR. GOODWYN: Your Honor, one issue before we  
15 get going here is it'd be nice to be able to show the jury  
16 some of these documents on the projector.

17 (A discussion was held off the record.)

18 THE COURT: All right. Mr. Goodwyn.

19 MR. GOODWYN: Okay. We'll let this thing warm  
20 up. We'll go ahead and get started.

21 DIRECT EXAMINATION

22 BY MR. GOODWYN:

23 Q Marci, can you please your state full name for the  
24 record?

25 A Martha Danielle Goodwyn.

1 Q And --

2 A I go by Marci.

3 Q -- what's your current address?

4 A 2101 Bayberry Court.

5 Q And was that your address at the time of -- at the  
6 time of -- that you were employed for the defendants in  
7 this case?

8 A Yes.

9 Q And how old are you?

10 A Forty-one.

11 Q And do you have children?

12 A I have three.

13 Q And in 2009 when you were applying for the job in  
14 this case, how many children did you have?

15 A Two.

16 Q And what were their ages at that time?

17 A At that time -- I think four and two.

18 Q Okay. Well, I guess the key issue for this case is,  
19 were they old enough to be in public school yet?

20 A No.

21 Q Okay. And at the time that you were -- let's just  
22 say, you know, January, February, March 2009, before you  
23 applied for this job, were you working at that time or  
24 were you unemployed?

25 A Unemployed.

1 Q And were you seeking employment?

2 A Yes.

3 Q And what is your -- what is your background workwise?

4 A Sales, outside sales.

5 Q Okay. Can you tell us a little bit about what types  
6 of jobs you've had since you got out of college?

7 A I worked for a company called Muzak, which sells  
8 restaurant/elevator music, and I was there for ten years.  
9 And then when we moved to Columbia -- that was in Atlanta.  
10 When we moved to Columbia, I worked for a T-shirt company.

11 Q Okay.

12 A We sold town T-shirts.

13 Q And -- all right. Did you work somewhere before  
14 Muzak?

15 A I had a couple -- I worked -- I sold diamonds at the  
16 Apparel Mart in Atlanta and sold cappuccino machines,  
17 outside sales.

18 Q Okay. Were all these sales jobs commission jobs?

19 A No. Some of them -- the diamond one was salary.

20 Q Okay.

21 A We got a tiny bit of commission, but not much.

22 Q Okay. For the commissioned sales jobs that you had,  
23 how were you paid? How were you paid the commission?  
24 Were you paid the entire commission upfront or did you  
25 have to wait for the customers to actually make the

1 payments over time and then you would get paid over time  
2 as they paid?

3 A We were paid the entire commissions up front.

4 Q Okay. And is that -- did you ever have a job where  
5 you had to wait for the clients to pay before you got paid  
6 the commission?

7 A No.

8 Q And why were you trying to go back to work in  
9 January, February, March of 2009?

10 A We had just moved here from Atlanta, and we were  
11 just -- we needed the money.

12 Q Okay. Do you remember how you found the ad for  
13 Shadowstone Media and Bob Pachaly?

14 A I think it was online --

15 Q Okay.

16 A -- with one of the online jobs.

17 Q All right. So what did you do to try to get the job?  
18 Did you just make a call or how did it work?

19 A I can't remember if I sent my resumé in or if I  
20 called and set up an appointment. I can't remember  
21 exactly what happened, but one of those two things.  
22 Either I sent my resumé and they called me back, or I  
23 called and set up a time to come in with my resumé.

24 Q All right. And did you go for an interview?

25 A Yes.

1 Q And where was the interview?

2 A In -- on St. Andrews Road in the office.

3 Q Okay. And that was -- that was Bob's offices?

4 A Yes, Bob's office.

5 Q Was there a sign out front with Shadowstone Media,  
6 Inc.?

7 A No.

8 Q Was there anything on the office that indicated that  
9 Shadowstone Media, Inc. --

10 A No.

11 Q -- was renting that space?

12 A No.

13 Q Was there anything in the ad that said anything about  
14 Shadowstone Media, Inc.?

15 A I don't remember.

16 Q Who did you interview with at that first interview?

17 A I interviewed with Bob and also with another guy that  
18 was his manager or something, John.

19 Q Okay. And what were you told about the proposition?

20 A I was told that -- I was shown this book and --

21 Q This book?

22 A Yes. And told that we would be selling ad space to  
23 different -- different people, and that they are actually  
24 going to do -- their idea was to do a retail book, a  
25 restaurant book, like four -- like two or three different

1 books, and that those books would be distributed for free  
2 to people in the area. He wanted to do a Lexington book,  
3 an Irmo book, a Columbia -- all the different areas, and  
4 he wanted to be able to distribute those for free to the  
5 people so that the people who were advertising would have,  
6 you know, a big advantage of doing it.

7 Q Okay. Did you have any kind of understanding or did  
8 Bob tell you whether or not this was a start-up company or  
9 an existing company?

10 A He actually said they had done it one other place and  
11 it was very successful.

12 Q Did he tell you where that was?

13 A He never told us where.

14 Q Is that -- did you find out later whether or not that  
15 was actually true?

16 A I don't think it was. I just -- I never found out  
17 where. I asked him a couple of times, and he said  
18 somewhere in Ohio.

19 Q Okay. But you never got any verification of that?

20 A No.

21 Q So how did the interview go from -- after he kind of  
22 explained to you what the position was, did he offer you  
23 the position at that time? Was there a second interview?

24 A No, there wasn't a second interview. He offered me  
25 the position, and I told him that I needed to discuss it

1 over with my husband, and, you know, after we had talked  
2 about payments and all of that. And I told him I would  
3 have to think about it. And he was, like, no, this is a  
4 great job, you'll do very well. And just kept trying to  
5 talk me into doing it.

6 Q Okay. Did you have any discussions at that time  
7 about your -- about your salary needs, about the childcare  
8 issues?

9 A Yes. Yes. I told him I had two kids that were in  
10 daycare and it was \$300 a week for the daycare and that I  
11 couldn't accept a position unless I knew for sure I would  
12 be making that.

13 Q Okay. Did -- was there any doubt that he understood  
14 that?

15 A No.

16 Q What did -- well, did -- did Bob offer to pay you  
17 that?

18 A Yes.

19 Q What about commissions? Was there any offer to pay  
20 commissions on your sales?

21 A Yes. He said that we should be getting about a  
22 thousand dollars per sale.

23 Q Okay. And that was --

24 A Commissions.

25 Q Did he give you any idea of the selling price of an

1 ad, if you sold an ad, how much it would cost the  
2 customer?

3 A Yes. He said it would be \$295.

4 Q That was the going rate?

5 A Right.

6 Q Okay. And then that was -- when you say \$295, is  
7 that \$295 a month?

8 A Yes.

9 Q Okay. And that was for how many months?

10 A Twelve.

11 Q Okay. So that's \$3,500--something for a year and of  
12 that, you'd be paid a thousand?

13 A Right.

14 Q Okay. And was that thousand-dollar commission to be  
15 paid at the time of the sale or were you going to have to  
16 wait?

17 A I don't -- he never -- I assumed it was because  
18 that's what I've always been paid. I've never been paid  
19 on a monthly basis. But he didn't have anything or tell  
20 us anything that laid everything out.

21 Q Okay. Was there any discussion during the interview  
22 about health insurance?

23 A Yes. I told him that I would like to be covered,  
24 that I needed to be covered for health insurance. Because  
25 we were paying out of pocket for me and the kids. And so

1 it would help us if just -- just me was covered -- just I  
2 was covered, so --

3 Q Okay.

4 A We talked about that. He said he was working on  
5 getting something in place, and that he would have  
6 something within a month.

7 Q Okay. All right. So after that meeting -- did you  
8 accept the position at that meeting, or did you --

9 A Yes.

10 Q Okay. And that was approximately when, do you  
11 recall?

12 A The end of March, beginning of April.

13 Q Okay. Did you fill out a job application during that  
14 interview?

15 A Not during that one.

16 Q Okay.

17 A He said to come back, like, that Saturday, and he had  
18 some other people coming in, and we were going to train  
19 and go over everything and then fill out the job  
20 application.

21 Q Okay. And did you come in that weekend?

22 A Yes.

23 Q All right. Is this the application that you filled  
24 out when you came in next?

25 A Yes.

1 Q Okay. Can you look at the additional pages? Is that  
2 the entire application?

3 A I also filled out a medical -- I don't know if it was  
4 like -- I can't remember if it was that same day or not  
5 because I don't think he had anything in place at this  
6 point, but he was working on it.

7 Q Okay.

8 A He had me fill out a medical application for medical  
9 insurance.

10 Q Okay. I will get to that in just a minute.

11 MR. GOODWYN: I would like to move to introduce  
12 this as Plaintiff's Exhibit 1.

13 MR. ROBINSON: No objection.

14 THE COURT: Plaintiff's 1 is in evidence without  
15 objection.

16 (WHEREUPON, Plaintiff's Exhibit No. 1 was marked  
17 for identification and received into evidence.)

18 THE COURT: Do you have a copy I could look at?

19 MR. GOODWYN: I think I do.

20 BY MR. GOODWYN:

21 Q All right. So what -- what date did you fill out the  
22 application?

23 A I think the 4th.

24 Q And is that your signature on the second page there  
25 at the bottom?

- 1 A Yes.
- 2 Q And what date is it dated?
- 3 A 4-4-09.
- 4 Q Okay. Do you recall the day of the week that was?
- 5 A I think it was Saturday because he had me come in on  
6 Saturday.
- 7 Q All right. What'd y'all do at that first meeting?
- 8 A We just talked a little bit about the company -- I  
9 mean not the company, but the book, and what he wanted us  
10 to do. There was some other salespeople there, also.
- 11 Q Okay. Did he give you any sales materials?
- 12 A He gave us the book.
- 13 Q Anything else?
- 14 A I can't remember.
- 15 Q Okay. When did you start selling?
- 16 A That Monday. I mean, he gave me the contracts, I  
17 guess, that had all the information on it as far as, you  
18 know, the client signing off on it --
- 19 Q Okay.
- 20 A Signing up for the -- for the book.
- 21 Q Okay. So you began selling in earnest on Monday, the  
22 5th?
- 23 A Right.
- 24 Q I'm going to show you a document. This is a letter  
25 that was produced to us during the discovery process in

1 this case. Have you ever seen that letter?

2 A No.

3 Q This is -- what is this?

4 A I think I saw it during the deposition, but I'd never  
5 seen it before.

6 Q Okay. And your deposition was taken after this  
7 lawsuit was commenced?

8 A Yes.

9 Q Who was the letter from?

10 A Bob.

11 Q Pachaly?

12 A Pachaly.

13 Q Who was it to?

14 A Me.

15 MR. GOODWYN: Your Honor, I'd like to move to  
16 introduce this as Plaintiff's Exhibit 2.

17 MR. ROBINSON: No objection, Your Honor.

18 THE COURT: Plaintiff's 2 is in evidence without  
19 objection.

20 (WHEREUPON, Plaintiff's Exhibit No. 2 was marked  
21 and received into evidence.)

22 MR. GOODWYN: Here's a copy.

23 THE COURT: Thank you.

24 MR. GOODWYN: Sure.

25 BY MR. GOODWYN:

1 Q Okay. What's the date on this letter?

2 A April 10th, 2009.

3 Q All right. And did you ever receive this letter?

4 A No, I did not.

5 Q And I believe you testified a minute ago you didn't  
6 see it until your deposition?

7 A No, I don't even think I read through it. That's why  
8 I'm sitting here reading it because I've never seen it.

9 Q Okay.

10 A I saw it during the deposition, but I never read it.

11 Q Okay. And the letter, what -- what is the essence of  
12 the letter?

13 A I'm not real sure. Basically, it's saying welcome to  
14 Shadowstone Media, normal working hours from 8:30 to 5:00.  
15 It says, "Your commission, \$1,000 for each full-rate ad in  
16 each book. In the event that the ad rate is discounted,  
17 then the commissions are reduced."

18 But we didn't talk about the commissions being  
19 reduced or the rate being discounted until probably a  
20 month and a half into it when they realized that the sales  
21 were going to be a little harder to get at 295.

22 Q Okay.

23 A So we never even -- that was never mentioned until  
24 probably the end of May, beginning of June.

25 Q Okay. So you're saying that not only did you not

1 receive this letter, but you didn't have any discussions  
2 about any of the terms in the letter, either, he never  
3 discussed those?

4 A No.

5 Q All right. So how did your job progress after you  
6 started selling? Were you able to make some sales?

7 A Yes. Yes.

8 Q What types of people were you selling to?

9 A Well, sold some to restaurants and stores, different  
10 kind of specialty stores. I had one for Puro Clean, which  
11 was a company that cleans up after fires, that type of  
12 thing. Had one for a plumbing company, a children's  
13 store.

14 Q Okay. What was your -- or do you recall what your  
15 first sale was?

16 A I think it was Puro Clean.

17 Q Okay. And who -- is Puro Clean a friend of yours or  
18 do you know the owner of Puro Clean?

19 A Yeah. He's a very good friend of ours, and he was  
20 the first sale.

21 Q Okay. And let me do this to kind of -- to help you  
22 because I know all these numbers are a little different  
23 because they're two and a half years old now.

24 There's a couple of documents that were produced  
25 to us during the case. These are a couple of documents

1 that were produced during discovery that -- that is a --  
2 that looks like a list of your sales and the amounts  
3 collected. Is that -- are those lists accurate?

4 A The list is, yes.

5 MR. GOODWYN: Okay. I'd like to go ahead and  
6 move to admit both of these Plaintiff's 3 and 4.  
7 Plaintiff's 3 will be calculations of commissions earned,  
8 and then Plaintiff's 4 --

9 THE WITNESS: Well, I've never seen -- I've  
10 never seen this that tells me what my commission earned  
11 was. I've never seen this.

12 BY MR. GOODWYN:

13 Q Okay. We can discuss that in a second. Just so I  
14 have something to reference.

15 A Yeah.

16 MR. GOODWYN: The other document is just titled  
17 Marci Goodwyn Accounts, and that will be Plaintiff's 4.

18 THE COURT: All right. Mr. Robinson?

19 MR. ROBINSON: No objection at all, Your Honor.

20 THE COURT: All right. 3 and 4 is in evidence.  
21 Well, you have to lay foundation for 3 if she's  
22 never seen it.

23 MR. GOODWYN: She -- I asked about the list.  
24 She said the list was accurate, but she hadn't seen --

25 THE COURT: One she said she'd never seen.

1 THE WITNESS: Well, there's two. One is the  
2 list just of my accounts and the price I sold them for.  
3 And the second one is a list of my accounts, the total  
4 collected -- it says "full commission" and then  
5 "commission earned," and I've never -- yeah.

6 BY MR. GOODWYN:

7 Q You may disagree with the figures --

8 A Well, I've never seen it before. I mean, they've  
9 never laid anything out that says, like, what our full  
10 commission would be if we sold something and what it was  
11 earned. So that's new.

12 Q But the list is accurate?

13 A The list is accurate and the amount.

14 Q On both sheets?

15 A Yes.

16 THE COURT: Mr. Robinson?

17 MR. ROBINSON: I still have no objection, Your  
18 Honor.

19 THE COURT: 3 and 4 are in evidence without  
20 objection.

21 (WHEREUPON, Plaintiff's Exhibits Nos. 3 AND 4  
22 were marked for identification and received into  
23 evidence.)

24 BY MR. GOODWYN:

25 Q Now, did you make sales to other friends that you

1 knew that owned businesses?

2 A Yes.

3 Q And these amounts that are listed in Exhibit 3 as  
4 being collected, is that accurate as to what you collected  
5 from them?

6 A Yes, it is.

7 Oh, wait. Yeah, I think so.

8 Q All right. So these monthly fee amounts, those are  
9 amounts that you had -- were able to sell the ad space  
10 for?

11 A Correct.

12 Q And it looks like the amount collected for each one  
13 of those is just one month's worth?

14 A Right.

15 Q And what was the -- how was the customer supposed to  
16 pay?

17 A We collected the first month's payment. And then  
18 once the books were distributed and printed up, then we  
19 would collect the next 11 months.

20 Q Okay. And again, it was your understanding that you  
21 were going to be paid the full commission --

22 A Yes, yes.

23 Q -- up front?

24 A Yes.

25 Q And was there any discussion about reducing your

1 commission if the price of the ad was reduced?

2 A At the time of the interview or at the time, when?

3 Q At any time -- well, I guess, let's start at the time  
4 of the interview.

5 A No, not at the time of the interview because  
6 everything was supposed to be 295.

7 Q Okay. Then, with your -- was this -- I think you  
8 said the Puro Clean was your first sale?

9 A Yes.

10 Q And that looks -- that's not 295, it's \$239?

11 A Right. Right.

12 Q Was there any -- did Bob tell you that your  
13 commission was going to be reduced because the monthly  
14 rate was reduced?

15 A I don't think so, but we did talk about it later on.  
16 I don't think he did with that one.

17 Q Okay. All right. So tell me this -- and I'm going  
18 to put up Plaintiff's Exhibit 4 here. This is a different  
19 list that shows, again, the same information, monthly  
20 amount, monthly collected, and then it says, "Full  
21 commission and commission earned."

22 This is a document -- not a document that you  
23 created, correct?

24 A Oh, no.

25 Q Okay. This is a document that you received from Bob;

1 is that right?

2 A No, I didn't -- I didn't receive it.

3 Q Or -- I'm not saying -- I'm saying after this lawsuit  
4 was commenced --

5 A Oh, yeah. I mean, yeah, today -- yeah.

6 Q All right. Very good. So this is what Bob is saying  
7 your commissions are based on the amount of the sale. Is  
8 that -- do you understand that now?

9 A Yes.

10 Q Was that discussed at the time these sales were made?

11 A No.

12 Q And when you were making these sales for less than  
13 the full amount -- it looks like no sales were made for  
14 the 295?

15 A No.

16 Q Were you -- did you have to get permission from Bob  
17 to make -- to sell at a reduced rate?

18 A Yes. Yes, I did.

19 Q And at the time that you got that permission, did Bob  
20 tell you, "You can do that but your commission's going to  
21 be reduced"?

22 A No.

23 Q What was your understanding as to what your  
24 commission was going to be?

25 A Honestly, I didn't know. We talked about a thousand

1 dollars for each sale, but he -- he did mention, you know,  
2 he would have to adjust the commissions accordingly  
3 because we weren't getting as much. But we never talked  
4 about a number.

5 Q Okay.

6 A And we asked him repeatedly, if I sell it for 99,  
7 what will my commissions be? And he said he would work on  
8 it and figure it out.

9 Q Okay. Did he ever --

10 A No.

11 Q -- actually give you a number?

12 A Never.

13 Q Is the information that we have now that's in  
14 Plaintiff's Exhibit 4 here, that we received after this  
15 lawsuit was filed, is this the first time you ever  
16 actually saw figures --

17 A Yes.

18 Q -- for what he thought you were supposed to get paid?

19 A Yeah. I've never seen any figures.

20 Q Did you ever receive any -- and this is -- I think  
21 this is kind of -- you just answered that. But this is a  
22 commission schedule that we received after commencing this  
23 lawsuit. Have you ever seen this document?

24 A Never seen it.

25 Q And you never received any similar-type documents

1 showing what the commission schedule would be for reduced  
2 sales during your employment with Bob?

3 A No. We asked him numerous time, but he never would  
4 give us any figures.

5 Q Okay. Did any of your customers, any of the people  
6 that you sold, be it to your friends or people you didn't  
7 know, did they ever get any of their money back?

8 A No.

9 MR. ROBINSON: Objection, Your Honor.

10 THE COURT: What's the basis?

11 MR. ROBINSON: Hearsay.

12 MR. GOODWYN: Well, she -- she collected the  
13 money.

14 THE COURT: I don't want to hear any argument.  
15 Overruled.

16 BY MR. GOODWYN:

17 Q How did you explain to your customers and your  
18 friends why this went bad, why no books were produced?

19 A I mean, it's still extremely embarrassing whenever I  
20 see any of the people that I know that I sold to, because  
21 I couldn't get their money back for them, and I didn't  
22 know what to say. Because I've never -- you know, I've  
23 never dealt with anything like this where -- when I call  
24 on somebody, and I take their money, they always get the  
25 product. And for nothing to ever be done, it's -- I

1 didn't know what to say. I really didn't know what to  
2 say.

3 Q Okay.

4 A I just apologized constantly.

5 Q Okay. Now, tell the jury about the paychecks that  
6 you did receive.

7 Were you paid the \$300 the first week that you  
8 worked?

9 A No.

10 Q Were you paid the \$300 that second work that you  
11 worked?

12 A No.

13 Q Did you go to Bob and ask him where's the \$300?

14 A Every day.

15 Q And what would he say?

16 A "I'm working on it. I'm working on it."

17 Q And did he ever say anything else other than, "I'm  
18 simply working on it," or --

19 A No.

20 Q And did you believe him? Did you believe that he was  
21 honestly --

22 A I really did. I believed -- I mean, I'm just -- it's  
23 not in my nature to think that somebody is just not doing  
24 what they say. So I really did. I believed him, and I  
25 just thought that he had to get things together so he

1 could get organized.

2 Q Okay. I'm going to show you a document that we  
3 received, that we received from Bob after this lawsuit was  
4 commenced, showing, it looks like, what your -- a summary  
5 of what paychecks you received. Does that look like an  
6 accurate list of the paychecks you received?

7 A I think so. I'm not sure. I mean, I don't remember.

8 Q Okay. But, I mean, it looks roughly accurate?

9 A Yeah. Yeah.

10 MR. GOODWYN: I would like to introduce this as  
11 Plaintiff's Exhibit 5 if there is no objection.

12 THE COURT: Mr. Robinson?

13 MR. ROBINSON: No objection, Your Honor.

14 THE COURT: All right. Plaintiff's 5 is in  
15 evidence without objection.

16 (WHEREUPON, Plaintiff's Exhibit No. 5 was marked  
17 for identification and received into evidence.)

18 MR. GOODWYN: Do you want a copy of this, Your  
19 Honor?

20 THE COURT: If you have one.

21 MR. GOODWYN: Yes, I do.

22 BY MR. GOODWYN:

23 Q This is another list of other payments that appears  
24 to be made to you at some point for expenses or some other  
25 reason?

1 A Oh, yes.

2 Q Okay. Does that look -- does that list look  
3 accurate?

4 A Yes. Yeah, because that was another thing. He said  
5 he was going to pay for my cellphone.

6 MR. GOODWYN: Okay. I'd like to --

7 THE WITNESS: I forgot about that.

8 MR. GOODWYN: -- move to introduce this as  
9 Plaintiff's 6.

10 THE WITNESS: That looks right.

11 MR. ROBINSON: No objection.

12 THE COURT: Plaintiff's 6 in evidence without  
13 objection.

14 (WHEREUPON, Plaintiff's Exhibit No. 6 was marked  
15 for identification and received into evidence.)

16 MR. GOODWYN: Your Honor, while I'm at it, I  
17 don't think I moved to introduce the book, without  
18 objection, as Plaintiff's 7.

19 MR. ROBINSON: No objection.

20 THE COURT: Plaintiff's 7 is in evidence without  
21 objection.

22 (WHEREUPON, Plaintiff's Exhibit NO. 7 was marked  
23 for identification and received into evidence.)

24 BY MR. GOODWYN:

25 Q Okay. This is Plaintiff's Exhibit 5 on the screen

1 here showing a list of paychecks to you and the dates and  
2 the amounts. It looks like seven paychecks?

3 A Uh-huh.

4 Q And the first one being May 15th, 2009. Does that  
5 appear to be about the first time you received a paycheck?

6 A I think so, yeah.

7 Q And what is that --

8 A It was a long time.

9 Q Approximately six weeks after you started?

10 A Yeah.

11 Q And -- okay. And did you -- tell us, why did you  
12 keep working for Bob for that period, for six weeks,  
13 without receiving a paycheck?

14 A We -- I had been looking for a job and couldn't find  
15 anything and we needed it, we needed the money. So it was  
16 a forced situation, but we were paying out childcare every  
17 week.

18 Q And you -- I think you testified earlier you were  
19 paying approximately \$300 a week --

20 A Right.

21 Q -- in childcare this<sup>n</sup>entire time, correct?

22 A Yes.

23 Q Okay. So you received a paycheck May 15th, 2009, for  
24 \$114. Is that -- I believe that is net pay. Even after  
25 receiving that, was that the \$300 --

1 A No.

2 Q -- that you had agreed to?

3 A No.

4 Q And did you go to Bob and say, Hey, why isn't this  
5 the \$300 amount?

6 A Yeah. I went to Bob, like, four times a day. And  
7 when I got this -- I mean, I literally started laughing  
8 when I got it because it was, like, so ridiculous. I  
9 mean, I was like, really?

10 Q And what was his response?

11 A "I'm working on it. I'm working on getting you more  
12 money."

13 Q Okay.

14 A But I was bringing in money the whole time. That's  
15 the thing I couldn't --

16 Q And how long -- and these -- these lists that we've  
17 made, Plaintiff's Exhibit 4 and 3, don't show the dates of  
18 the sales. But as of May 15th, this is six weeks in,  
19 about how many sales had you made by that point?

20 A I think three or four, but I'm not real sure. I  
21 don't remember the dates.

22 Q Okay. About how long into it did it take before you  
23 made your first sale with Puro Clean?

24 A The first week, I think.

25 Q Okay. So you had some sales?

1 A Uh-huh.

2 Q Okay. And had you -- do you even know whether this  
3 May 15th, 2009, check was for commissions or for the \$300  
4 a week that you were guaranteed?

5 A I don't know.

6 Q Did you -- did you ever find out what any of these  
7 paychecks represented?

8 A No.

9 Q It was just a paycheck of some amount?

10 A Uh-huh.

11 Q Okay. And were any taxes withheld from your  
12 paycheck?

13 A I'm not sure. I don't -- I don't think so.

14 Q Let me show you what we've marked as Plaintiff's  
15 Exhibit 6. It's a -- it's another list of checks. Do  
16 you -- do you recall what these checks were for, for less  
17 amounts?

18 A Yeah. He had said in the interviewing process that  
19 he would paid for my cellphone, and so that was for that.

20 Q Okay. Was it a fixed amount that he was going to pay  
21 for the cellphone, or --

22 A It was supposed to be \$50 a month.

23 Q Okay. And did he pay for any other expenses?

24 A I don't -- I don't remember.

25 Q Okay.

1 A I don't think so.

2 Q But this -- these -- this list here, that represents  
3 checks for expenses, not for wages?

4 A Right. Right.

5 Q All right. I'm going to show copies of pay stubs.  
6 Are those copies of your pay stubs?

7 A Yes.

8 Q Or two of them at least?

9 A Yes.

10 MR. GOODWYN: Okay. I would like to move to  
11 introduce this as Plaintiff's Exhibit 8.

12 MR. ROBINSON: No objection.

13 THE COURT: Plaintiff's 8 is in evidence without  
14 objection.

15 (WHEREUPON, Plaintiff's Exhibit No. 8 was marked  
16 for identification and received into evidence.)

17 BY MR. GOODWYN:

18 Q All right. Now, looking at these pay stubs, it looks  
19 like the pay period ending 7-14-2009 and then 7-31-2009?

20 A Uh-huh.

21 Q They appear to be the last two pay stubs based on the  
22 information that we've been provided. Do you recall  
23 receiving any pay after June -- July 31st, 2009?

24 A No.

25 Q Were any -- was any money withheld for state or

1 federal taxes that you can see?

2 A No.

3 Q And the amounts for Social Security and Medicare,  
4 were those monies -- were you able to determine whether  
5 that money was actually submitted to the IRS?

6 A I don't think it was because we ended up having to  
7 pay it when we did our taxes.

8 Q So money was withheld from your paycheck that you  
9 ended up having to pay because it wasn't submitted?

10 A (Witness nodded.)

11 Q Is that a yes?

12 A Yes, sorry.

13 Q All right. This -- this final amount here,  
14 year-to-date amount on that final paycheck of 1,406, is  
15 that the total amount that you were paid in wages for the  
16 entire time that you worked for Bob?

17 A Yes.

18 Q Did you file taxes in -- for 2009?

19 A Yes.

20 Q Did you receive a W-2 from Bob before January 31st,  
21 2010?

22 A No.

23 Q Do you recall when you received the W-2?

24 A It was February or March of that year.

25 Q Okay. I'll show you a copy of the W-2. Is this a

1 copy of the W-2 that you received?

2 A Yes.

3 MR. GOODWYN: I'll mark this and move this into  
4 evidence as Plaintiff's 9.

5 MR. ROBINSON: No objection, Your Honor.

6 THE COURT: Plaintiff's 9 is in evidence without  
7 objection.

8 (WHEREUPON, Plaintiff's Exhibit No. 9 was marked  
9 for identification and received into evidence.)

10 BY MR. GOODWYN:

11 Q Is this a copy of the W-2 you received?

12 A Yes.

13 MR. GOODWYN: Your Honor, I didn't do this  
14 beforehand. I just realized it. Would you mind if we  
15 redact the Social Security number?

16 THE COURT: I was going to redact both -- I was  
17 going to redact a good bit of the personal identifying  
18 information on both the original application, Social  
19 Security number, ID, there's some medicals. All of that  
20 would not be relevant. So before it goes to the jury, I  
21 was going to have all that redacted.

22 MR. GOODWYN: Okay.

23 THE COURT: I was going to speak to you outside  
24 the presence of the jury concerning that.

25 MR. GOODWYN: Okay.

1 MR. ROBINSON: That's sounds correct to me,  
2 Judge.

3 THE COURT: Sir?

4 MR. ROBINSON: That sounds correct to me.

5 MR. GOODWYN: Okay. All right. I will try to  
6 avoid putting it up on the screen.

7 THE COURT: If you mark that out now, I don't  
8 have any objections because it will end up in the file,  
9 which is public record. It's information that's not  
10 relevant.

11 Would that allow you to publish it now?

12 MR. GOODWYN: Well, no. That was just a  
13 highlighter. So now it's nice and highlighted.

14 THE COURT: What?

15 MR. GOODWYN: It's just highlighted now. I  
16 don't have a black marker.

17 MR. ROBINSON: If I may, Your Honor.

18 (Counsel confer off the record.)

19 MR. GOODWYN: He has a redacted copy.

20 THE COURT: All right. Any problems with  
21 substituting?

22 MR. ROBINSON: No. This will be Plaintiff's  
23 Exhibit 7. I don't care if you put it on the screen.

24 MR. GOODWYN: Oh, it's Defense Exhibit 7.

25 MR. ROBINSON: I'm sorry, Defense Exhibit 7.

1 (WHEREUPON, Defendant's Exhibits No. 7 was  
2 marked for identification only.)

3 MR. GOODWYN: Okay. Instead of -- do I need to  
4 withdraw Plaintiff's Exhibit 9, then, and save it?

5 THE COURT: I would save 9 and we'll just --

6 MR. GOODWYN: We'll just use Defense Exhibit 7.

7 BY MR. GOODWYN:

8 Q Okay. Marci, do you recognize these?

9 A Yes.

10 Q What are these?

11 A This is a book, I think, that has all my information  
12 in it for all my people I called on, all the business  
13 cards. It's where I keep all my business cards.

14 Q Okay. And that's when you were trying to sell the --

15 A Uh-huh.

16 Q -- the retail book?

17 A And information about them, yeah.

18 MR. GOODWYN: Okay. Your Honor, I'd like to  
19 move this as Plaintiff's Exhibit 9.

20 THE COURT: Well, no. We already have a  
21 Plaintiff's 9, don't we?

22 MR. GOODWYN: Well, I thought we -- that was  
23 converted to Defendant's 7. I mean, we can go to 10, if  
24 you want, but 9 is now --

25 THE COURT: I didn't convert anything.

1 MR. GOODWYN: I apologize.

2 THE COURT: And we have a Plaintiff's Exhibit 9.

3 MR. GOODWYN: Okay.

4 THE COURT: Now, do we have a Plaintiff's 10?

5 MR. GOODWYN: That's fine. I don't -- I'd like  
6 to withdraw Plaintiff's 9, then, because it's the  
7 un-redacted version of that document.

8 THE COURT: We'll get it redacted.

9 MR. GOODWYN: Okay.

10 THE COURT: We'll get it redacted --

11 MR. GOODWYN: Okay.

12 THE COURT: -- but we will just keep the same  
13 number.

14 MR. GOODWYN: Okay.

15 THE COURT: All right. So Plaintiff's 10,  
16 Mr. Robinson?

17 MR. ROBINSON: I'm sorry, Your Honor. I'm not  
18 sure I've ever seen this before. I'm reasonably certain.  
19 I do not recall ever seeing all these cards, so I'm going  
20 to object on the basis that I've not seen it before.

21 THE COURT: All right. We'll mark it for  
22 identification only at this time, Mr. Goodwyn.

23 MR. GOODWYN: Okay.

24 THE COURT: That would be Plaintiff's 10 for ID  
25 only.

1 (WHEREUPON, Plaintiff's Exhibit No. 10 was  
2 marked for identification only.)

3 BY MR. GOODWYN:

4 Q Okay. And do you recognize this folder?

5 A Yes. This is all my -- all the sales sheets.

6 Q Okay. Is that what you used in your day-to-day  
7 business selling --

8 A Uh-huh.

9 Q -- selling for Bob?

10 A Yes. And appointment setting, the appointments that  
11 I had. And some presentation scripts. And just what the  
12 other -- these are all the other books that he was  
13 planning on putting out. These are covers for all these  
14 books.

15 Q Okay. About how many hours a day did you spend  
16 working for Bob? And let's talk about during the first --  
17 you know, from, you know, when you started until --  
18 through July.

19 A What? I'm sorry.

20 Q I'm sorry.

21 A What did you say? I was reading.

22 Q About how many hours a day did you spend working for  
23 Bob?

24 A I worked from 9 to 5 every day.

25 Q Now, during your employment for Bob, did he ever ask

1 you to work on anything other than selling for this retail  
2 card book?

3 A Yes.

4 Q At what point did he start asking you to do other  
5 work?

6 A Probably about a month in.

7 Q And what types of things was he asking you to do?

8 A Well, mostly, you know, talk -- he would -- he had  
9 all kinds of ideas for different businesses, and so he was  
10 constantly talking about all the other business ideas.

11 Q And what were some of these other business ideas?

12 A One was a women's wear clothing store that was like a  
13 discount women's wear clothing store. And he asked me to  
14 go to the mall with him to look at different women's  
15 clothing stores and just help him with ideas, mostly.

16 Q And why was he talking to you about these ideas?

17 A I have no idea.

18 Q Was he asking your opinion and input or what was --

19 A I guess. I mean, he was asking my opinion and asking  
20 what I thought about it, but mainly he was just talking  
21 about all those ideas.

22 Q Do you recall any of the other ideas that he --

23 A He had western wear that he wanted to produce this --  
24 these western wear, like, shirts, and I think jeans that  
25 he wanted to produce. And he wanted to have them made in

1 China and then shipped over to sell.

2 Q Okay. Again, why was he talking to you about all  
3 this?

4 A I don't know. I mean, he wanted me to help him.

5 Q Okay.

6 A He wanted me to help him with the western wear and he  
7 wanted me to help him with the women's.

8 Q Did he have any other business ideas?

9 A He had one for, like, freeze-dried vegetables.

10 Q And what -- what about freeze-dried vegetables?

11 A He wanted to sell them. He had gotten a company that  
12 freeze dried a lot of different foods, and he brought that  
13 in and he was cooking it up one day. And we didn't really  
14 talk about that one very much. I was kind of done talking  
15 about all his ideas.

16 Q All right. And was the time that you spent working  
17 with Bob on these other ideas taking away from your time  
18 trying to sell these retail card books?

19 A Yes.

20 Q Did you -- all these -- all the sales that you made,  
21 you turned in all your paperwork for those sales?

22 A Yes.

23 Q All right. Do you recognize all these documents?

24 A I recognize these.

25 Q Generally, what are those documents?

1 A Well, some of these are my sales, and some of these  
2 are other people's sales.

3 Q Okay. When you say "sales," what do you mean?

4 A The advertising that -- these are the people that  
5 signed up for the books.

6 Q That's just the documentation that you would get from  
7 the customers and submit --

8 A Uh-huh.

9 Q -- to Bob?

10 A Yeah. And some of it is the stuff that we were going  
11 to put in the book. Some of these are other -- the other  
12 salespeople's. So it looks like it's everybody's sales  
13 for the book.

14 Q Okay. What all is involved in a sale? What do you  
15 have to get from the customer?

16 A You have to get the information that they're going to  
17 put in the book, the graphics. Some of them had -- had  
18 their own graphics and some of them had -- we were going  
19 to do the graphics for them.

20 Q Okay. So they would produce their -- their graphics?

21 A Some of them, yeah. And some of them had, you know,  
22 their logos and that kind of thing, and then we were going  
23 to do the graphics for them.

24 Q Okay. And that's what some of this information is?

25 A Uh-huh.

1 Q At any time did -- you know, as you progressed along,  
2 did Bob ever ask you to work for a company called Nyquist  
3 Engineering?

4 A Yes.

5 Q What is Nyquist Engineering?

6 A It was a computer-type company.

7 MR. ROBINSON: Objection, Your Honor.

8 Can we approach?

9 THE COURT: Sure.

10 (A bench conference was held with the judge and  
11 attorneys in the presence of the jury but out of the  
12 hearing of the jury.)

13 BY MR. GOODWYN:

14 Q At what point did you -- did you finally just give up  
15 on Bob?

16 A I mean, I just wasn't getting any money. And he just  
17 kept asking me to do different things, and I finally was  
18 just done.

19 And he -- you know, I just kept asking him about  
20 the book, about why we hadn't gotten anything. I kept  
21 asking him if we're not going to do the book, let's take  
22 the money -- you know, give the money back to the people  
23 who paid. Because I was getting calls like crazy from  
24 everyone that I had sold asking me what was going on, and  
25 I was getting yelled at. And it was putting my reputation

1 on the line as a person and a salesperson, and it -- I  
2 just -- I just couldn't take it anymore. It was too  
3 upsetting.

4 Q Okay. And did you send Bob a letter shortly after  
5 you stopped working?

6 A Yes.

7 Q Is this a copy of that letter?

8 (Counsel confer off the record.)

9 BY MR. GOODWYN:

10 Q Is this a copy of that letter?

11 A Yes.

12 Q What's the date of that letter?

13 A September 3rd, 2009.

14 Q And so did you quit right around that period?

15 A Yes.

16 Q Okay. And who drafted that letter?

17 A You did.

18 Q Okay.

19 A My husband.

20 Q All right.

21 MR. GOODWYN: And I would like to mark this as  
22 Plaintiff's 11 I think we're at.

23 MR. ROBINSON: No objection, Your Honor.

24 THE COURT: All right. Plaintiff's 11 is in  
25 evidence without objection.

1 (WHEREUPON, Plaintiff's Exhibit No. 11 was  
2 marked for identification and received into  
3 evidence.)

4 BY MR. GOODWYN:

5 Q Okay. Can you briefly kind of go through --

6 MR. GOODWYN: I'm assuming y'all can read that.

7 BY MR. GOODWYN:

8 Q Are you able to read it?

9 A Yes.

10 Q Okay. What were you telling Bob in this letter?

11 A That I was not able to work for him anymore because  
12 he had not paid me. That he had agreed to pay me \$300 a  
13 week plus commissions and health benefits, and I didn't  
14 see any of that.

15 Q Okay. Are you demanding that he pay you wages that  
16 you're owed?

17 A Yes.

18 Q And how did you calculate the damages, the wages that  
19 you're owed?

20 A Based on the \$300 a week for the 22 weeks I was  
21 there, plus health benefits and commissions that I had  
22 earned.

23 Q All right. Now, I see here in the bottom paragraph,  
24 it says, "commissions owed on sales I've made which totals  
25 \$3,500."

- 1                   Where did that \$3,500 figure come from?
- 2    A    We just -- since we never had a scale or anything
- 3    telling us exactly what my commission was, we just kind of
- 4    guesstimated what it would be.
- 5    Q    Okay. And going back to exhibit -- Plaintiff's
- 6    Exhibit 4 here, these are the figures that we received
- 7    from Bob. Have you totaled what he's saying the full
- 8    commissions would be?
- 9    A    Uh-huh.
- 10   Q    And is that the \$4,850 number?
- 11   A    Yes.
- 12   Q    Okay.
- 13   A    So he figured more than me.
- 14   Q    All right. And this -- and, again, the \$4,800 -- the
- 15   \$4,850, that's the total of those full commissions?
- 16   A    Right.
- 17   Q    And, again, that -- that was based on what he -- the
- 18   commission schedule he gave you after the fact?
- 19   A    Yes. Yes. He never gave us a commission schedule.
- 20   Q    Okay. All right. Now, going back to this letter,
- 21   the first paragraph here, the fourth line down, it reads:
- 22   "I needed a draw of \$300 a week to which you agreed."
- 23   A    Uh-huh.
- 24   Q    Is the word "draw" a correct representation of what
- 25   you agreed to?

1 A No.

2 Q What did you agree to?

3 A We agreed to \$300 a week plus commissions.

4 Q Okay. And if it were a draw, how would -- well, I  
5 guess, let me run through the hypothetical just so it's  
6 clear, because it can get real confusing.

7 If you made a sale and were entitled to a  
8 commission of \$700 for a week, what you expect your  
9 paycheck for that week to be?

10 A Seven hundred plus 300.

11 Q So a thousand?

12 A Yes.

13 Q Okay. And if it were a true draw, what's your  
14 understanding of what your pay would end up being?

15 A Well, a draw is when you get money up front for  
16 future sales.

17 Q Okay. And is that -- was that your arrangement with  
18 Bob?

19 A No, it was not.

20 Q And was the use of the word "draw" --

21 A Yes.

22 Q -- in this letter --

23 A You misspoke when you wrote the letter, which  
24 confused everybody.

25 Q Okay.

1 A But I didn't catch it so -- when I signed it.

2 Q Okay. Let's talk about the \$1,400 -- \$1,428.39  
3 figure mentioned in there for health benefits.

4 A Uh-huh.

5 Q Where did -- where did that number come from?

6 A That came from what my husband had to pay for my  
7 health insurance for those four months --

8 Q Okay.

9 A -- out of pocket.

10 Q All right. So that's -- okay. So that's just the  
11 amount that you ended up having to pay --

12 A Right.

13 Q -- because you didn't get the health insurance?

14 A Right.

15 Q So today, though, you're asking for an award for the  
16 \$300 a week times 22 weeks, \$6,600; is that correct?

17 A Uh-huh, yes.

18 Q And for the \$1,428.39; is that correct?

19 A Right.

20 Q And as far as the commissions, an amount that --  
21 you're asking for payment for your commissions, correct?

22 A Yes.

23 Q And are you asking for the sum of what Bob has said  
24 your commissions were, so that \$4,850 number?

25 A Correct.

1 Q Did you do everything in your power to make these  
2 sales and to get this book published?

3 A Yes.

4 Q All right. What is your understanding as to why this  
5 book, the retail book, was never published?

6 A He didn't publish it. I don't know -- I still don't  
7 know really why because he had the sales, he had enough to  
8 fill the book up, and he had money that everyone had paid.

9 Q One month's worth of money?

10 A One month, yes.

11 Q Okay. Do you know if that one month's worth of money  
12 was enough to fund the publishing --

13 A I have no idea.

14 Q -- of the books?

15 A I have no idea. But that -- I mean, if you're going  
16 to sell a book, you need to be able to publish it.

17 Q And the reason that the customers didn't continue  
18 paying was, what?

19 A Because there was no book. The deal was you pay your  
20 first month's rent -- not rent -- first month on the book.  
21 And then after the book was published, they would pay the  
22 rest of the payments -- the rest of the 11 months. But  
23 the book was never published so the rest of it was never  
24 paid.

25 Q Okay. Now, after -- after you stopped working for

1 Bob and you sent him this letter, did you receive any --  
2 any of your back wages?

3 A No.

4 Q Did he make any effort at all to explain to you why  
5 he wasn't going to pay you?

6 A No.

7 Q Did -- to your knowledge, did any of the other  
8 salespeople continue to work for Bob or did they stop  
9 working as well?

10 A All of them but one stopped working.

11 Q Did you end up making a complaint with the Department  
12 of Labor, Licensing and Regulation?

13 A Yes.

14 Q And did you receive a letter in response to your  
15 complaint?

16 A I did.

17 Q Is this the letter you received?

18 A Yes.

19 MR. GOODWYN: Move to make it, I guess,  
20 Plaintiff's Exhibit 12.

21 MR. ROBINSON: I don't have any objection, Your  
22 Honor.

23 THE COURT: All right. This would be  
24 Plaintiff's 12?

25 MR. GOODWYN: Yes, Your Honor.

1 THE COURT: Plaintiff 12 is in evidence.

2 MR. GOODWYN: It's a two-page document.

3 THE COURT: Without objection.

4 (WHEREUPON, Plaintiff's Exhibit No. 12 was  
5 marked for identification and received into  
6 evidence.)

7 BY MR. GOODWYN:

8 Q All right. What does -- what does this letter  
9 indicate?

10 A I'm sorry?

11 Q What does -- what does the letter indicate? What did  
12 the Department of Labor, Licensing, and Regulation tell  
13 you?

14 A They -- they said that they were -- they found that I  
15 was right, that he wasn't paying.

16 Q Okay. In this third --

17 A Said that I could pursue legal action.

18 Q Okay. Is that why we're here today?

19 A Yes.

20 Q All right. And what is this second page here?

21 A Basically that he failed to pay me and failed to hold  
22 up his end of the bargain, I guess.

23 Q Was there a fine assessed that you know of?

24 A I think so. I can't read it from there, though. It  
25 looks like it. Yeah, a penalty.

1 Q Okay. What was the fine?

2 A I can't tell. Is that 1,100?

3 Q Yeah, it looks like that to me.

4 A Yeah.

5 THE COURT: All right. How much longer do you  
6 have? It appears one of our jurors needs a break, and  
7 I'll tell her she's not alone. I need a break also.

8 MR. GOODWYN: I'm almost done, but if I could  
9 get a minute just to kind of look through my documents.

10 THE COURT: All right. Then if you'll keep your  
11 seat right there, Ms. Goodwyn.

12 Mr. Foreman, ladies and gentlemen, we'll take  
13 about a 15-minute recess.

14 Please do not discuss the case during this brief  
15 recess.

16 Thank you very much.

17 You may now go with your bailiff.

18 (The jury left open court at approximately 11:35  
19 a.m. and the following proceedings were held:)

20 THE COURT: All right. Ms. Goodwyn, you may  
21 certainly step down and refresh yourself during this brief  
22 recess.

23 You may not discuss your testimony with anyone  
24 during this break. You're subject to continued direct and  
25 then cross-examination, perhaps redirect and recross.

1 THE WITNESS: Okay.

2 THE COURT: But you may step down.

3 Thank you, very much.

4 The Court will be in recess 15 minutes.

5 (Proceedings recessed at 11:36 a.m. and resumed  
6 at 11:53 a.m.)

7 THE COURT: All right. Anything from the  
8 plaintiff before we bring in our jury?

9 MR. GOODWYN: No, Your Honor.

10 THE COURT: Defendant?

11 MR. ROBINSON: None from us, Your Honor.

12 (The jury came into open court at approximately  
13 11:54 a.m.)

14 THE COURT: All right. Welcome back, ladies and  
15 gentlemen. Everybody's not in the same seat, are they?

16 THE JURORS: No.

17 THE COURT: A lot of you are, though.

18 I find many jurors are very territorial. They  
19 want to sit in the same seat and have the same view of the  
20 witness stand and the courtroom every time. Others, it  
21 just doesn't come up on the radar, they have no stake in a  
22 particular location.

23 The bailiff mentioned to me one matter, and I do  
24 want to mention it to you, Mr. Foreman, ladies and  
25 gentlemen, the cellphones.

1           You may not have your cellphone with you in the  
2 jury room. If you need to use it at a break, check on  
3 family, check on children, check on work, what have you,  
4 please do so. It will be -- your cellphone will be  
5 secured by the bailiffs. Usually they sit right over  
6 here. They don't call China but once or twice. No, they  
7 just stay right here, and they'll be secured. But keep  
8 that in mind, that you can't have it in the jury room with  
9 you during the trial or during the deliberations.

10           At a break, just tell one of the bailiffs if you  
11 need to call and check on something. We can provide a  
12 phone or you're certainly welcome to use your own  
13 cellphone.

14           Thank you very much.

15           We're continuing the trial of the case by the  
16 direct testimony of the plaintiff, Ms. Goodwyn.

17           Mr. Goodwyn, you may proceed.

18           MR. GOODWYN: Thank you, Your Honor.

19 BY MR. GOODWYN:

20 Q       We're almost done here. Just a few more questions.

21           Marci, after you left working for Bob in early  
22 September, did you stop or did you pull your children back  
23 out of daycare and take care of them at home?

24 A       Yes.

25 Q       So about -- at least according to the letter, it cost

1 you about \$300 a week to put your children in daycare --

2 A Yes.

3 Q -- while you worked for Bob?

4 A Yes.

5 Q And that was about \$6,600, because it was 22 weeks?

6 A Yes.

7 Q You were paid a total of \$1,460, correct?

8 A Correct.

9 Q So this job cost you, what, about 50 -- about \$5,200?

10 A Uh-huh. Yes.

11 Q Let me ask you -- let's go back to kind of wrap up  
12 everything that you're asking for today. I believe it's  
13 summarized fairly well in this letter.

14 So it's \$6,600, which is \$300 a week times 22  
15 weeks; is that right?

16 A Yes.

17 Q The health insurance premiums, the \$1,420.39?

18 A Yes.

19 Q And then commissions which according to -- as you  
20 said in this letter, that \$3,500 was an estimate since you  
21 didn't have the actual figures?

22 A Correct.

23 Q Now that Bob's provided the actual figures, even  
24 using his figures, it's \$4,850 for commissions that you're  
25 owed?

1 A Correct.

2 Q Then, of course, that total, less \$1,406 that you  
3 were paid?

4 A Right.

5 Q Is that the total what you're asking for?

6 A Yes.

7 Q Okay. Now, I want to ask you -- because I know this  
8 is -- Bob is arguing that you were only entitled to  
9 commissions on the amount collected from the customers.  
10 And is it your position that you're entitled to the full  
11 commission on the sales that you made?

12 A Yes.

13 Q And why do you believe you're entitled to the full  
14 commission as opposed to just commissions on the amounts  
15 that were collected?

16 A Because it was by no fault of my own that they didn't  
17 pay the rest of them. It was because the book was put  
18 out -- was not -- was never put out. And had the book  
19 been put out, all these clients were extremely excited  
20 about the book. They thought it was a great product.  
21 They were excited that it was going to be, you know, sent  
22 out to 1,500 people or a thousand people. And they  
23 were -- they thought the book looked great, and they  
24 really wanted to be in it.

25 Q Okay. And had the book been published, did you have

1 any reason to believe that the clients would not have --

2 A No.

3 Q -- paid the remainder of --

4 A No. They would have. They were excited about it.

5 MR. GOODWYN: I think that's all I have, Your  
6 Honor.

7 THE COURT: Thank you very much, Mr. Goodwyn.  
8 Mr. Robinson?

9 MR. ROBINSON: Thank you, Your Honor. If I may.  
10 If I may approach, Your Honor, I have a notebook with my  
11 exhibits in it.

12 THE COURT: All right.

13 MR. ROBINSON: That's yours.

14 And, Mr. Goodwyn, there's a copy for you.

15 (WHEREUPON, Defendant's Exhibits Nos. 1-10,  
16 having been previously pre-marked, were marked for  
17 identification only.)

18 CROSS-EXAMINATION

19 BY MR. ROBINSON:

20 Q Ms. Goodwyn, I'll be asking you questions about the  
21 documents in this book, so I'm going to give you the book.  
22 And the easy way to get to something, is just if I wanted  
23 you to look at Exhibit 3, just flop it over and you'll be  
24 there.

25 A Okay.

1 A "A They said, 'Well, we'll work -- well, you  
2 will work for us.' And I said, 'Let me think about it.'  
3 And they -- and they were like, Well, that's where --  
4 that's they're -- 'what's there to think about? You need  
5 a job, and we want you to work for us.' And so I ended up  
6 calling my husband, and he said, 'Go for it.' And so that  
7 was it."

8 Q All right. So in that conversation, there wasn't  
9 anything at all about childcare, is there?

10 A In this paragraph, no.

11 Q Okay. And that's your conversation of the -- of the  
12 interview and how they hired you, right?

13 A No. That's my -- you asked me if they hired me.

14 Q Uh-huh.

15 A But we did talk about it.

16 Q Okay.

17 A We talked about all of that, because I wasn't going  
18 to go to work until I knew that would be covered.

19 Q All right. Now, your letter of September the 1st,  
20 which is Exhibit 1 in that book -- I'm sorry,  
21 September 3rd -- you say in this letter: "I needed a draw  
22 of \$300 a week, to which you agreed."

23 Do you see that?

24 A I do.

25 Q Okay. Now, your husband, I think you testified

1 earlier, wrote this letter, right?

2 A Right.

3 Q You signed it, correct?

4 A Yes.

5 Q And you read it before you signed it; is that  
6 correct?

7 A I did. And I was so over it, to be honest with you,  
8 that I just -- you know, I did -- I didn't notice the  
9 draw, but he wrote that, and that was not the case.

10 Q Now, your husband at the time he wrote this letter,  
11 he was an attorney, wasn't he?

12 A Yes.

13 Q Okay. And y'all had been married for a number of  
14 years, right?

15 A Yes.

16 Q Okay. And you had talked to him, I suppose, about  
17 your previous employment?

18 MR. GOODWYN: Objection, Your Honor.

19 Attorney/client privilege. He's asking her what she  
20 talked to me about and I was her attorney.

21 MR. ROBINSON: Let me rephrase the question,  
22 Judge.

23 THE COURT: Rephrase the question.

24 BY MR. ROBINSON:

25 Q When your husband was not acting as your attorney,

1 it?

2 A No.

3 Q It's from Shadowstone Media, right?

4 A Right.

5 Q And there's nothing in writing anywhere except your  
6 resignation letter --

7 A Right.

8 Q -- that says anything at all about \$300 a month --  
9 excuse me -- \$300 a week, right?

10 A Right.

11 Q When you weren't getting paid for 22 weeks, did you  
12 write a letter to Shadowstone and say, you know, you guys  
13 owe me \$300 a week, where's my money?

14 A I didn't write it until -- I don't think we did. But  
15 I asked him about it probably about four or five times a  
16 day. I asked him, "You got my check?

17 "I'm working on it. I'm working on it."

18 Q So for 22 weeks, almost half a year, you never wrote  
19 him a letter, sent him an email, anything that said, Hey,  
20 you owe me \$300 a week, and it's now up to X number of  
21 dollars, just pick the number of weeks. If it's ten  
22 weeks, that's \$3,000, isn't it?

23 A Uh-huh.

24 Q You never did that?

25 A I don't think I wrote a letter, no.

1 A I think I do. Initially, all the people that were  
2 working on sales were placed on a commission basis.

3 Q I'm asking you about the terms of Marci's employment.  
4 I'm not asking about any of the other salespeople.

5 A I think she had the same as everybody else in the  
6 beginning.

7 Q Do you recall any conversations during the interview  
8 about her needing a fixed amount for -- to cover childcare  
9 expenses?

10 A She said that she had to clear that amount, I think,  
11 on a weekly basis. And the expectations at the time were  
12 that this was going to be fairly easy to sell and sell at  
13 the price, which would have easily covered her.

14 Q Okay. Did you offer to pay her any fixed amount per  
15 week?

16 A She had approached us later when it was going a  
17 little slowly about having a draw. I think she asked for  
18 300. I said, "Well, we might be able to do 250," I would  
19 look into it and see what could be worked out.

20 Q So you are saying that she did ask you about money, a  
21 fixed amount of money per week, correct?

22 A She told me that she had child support (sic) to pay  
23 if she was going to come work for us, and it would cost, I  
24 think she said, 300 a week, and that she would have to  
25 clear that. And based on our sales figures, the price we

1 were charging, if she was closing at that rate, that  
2 wouldn't have been a problem at all.

3 Q I'm not asking what you thought, that she was going  
4 to make at least \$300 a week. I'm asking, did you agree  
5 to pay her a fixed amount per week?

6 A I did not agree to pay her \$300 a week. When she  
7 approached us about that, I looked at our figures of what  
8 was happening at that point, I said I might be able to  
9 work it in at 250.

10 Q Okay. And at what point are you saying that  
11 conversation happened?

12 A At what?

13 Q At what point do you claim that that conversation  
14 happened? How long after the initial interview?

15 A I would put that somewhere mid-May to first of June,  
16 I'm thinking, because I remember the weather was warmer at  
17 that point. I can't tell you the exact time.

18 Q Okay. But during her first month of employment?

19 A Probably second.

20 Q And to that point, is it your testimony that she was  
21 on straight commission?

22 A She was on straight commission.

23 Q Were you -- was she making any sales?

24 A She was.

25 Q And do you recall when she turned in her first sale?

1 Q When was that? When did you make that explanation?

2 A That would have been early in the game, I would say  
3 in April. We discussed that with all the people that were  
4 selling.

5 Q You had a sales meeting?

6 A Yes.

7 Q Do you recall when this sales meeting was?

8 A I'm sorry?

9 Q Do you recall when this sales meeting was?

10 A We had them fairly regularly, every week or so.

11 Q Okay. Now, this engagement letter you're referring  
12 to, this is the letter of April 10th, 2009?

13 A I don't have my glasses. Could I see that, please?

14 Q Yes.

15 A Yes, that is it.

16 Q Now, is it your testimony that this letter was mailed  
17 to Marci on April 10th, 2009?

18 A Actually, this letter was originally handed to Marci  
19 in our office.

20 Q When?

21 A It would have been on the date of the letter, within  
22 a day or two after that when she came in, because she had  
23 specifically asked for this, and we used the same basic  
24 letter for all the employees.

25 Q She asked for what?

1 A The letter.

2 Q What do you mean she asked for the letter? She just  
3 came and said give me the letter?

4 A Confirming her engagement and the terms of it.

5 And so that there's no misunderstandings, this  
6 same letter with the terms and conditions was given to  
7 everybody that came.

8 Q Do you have any copies, other copies of the letter to  
9 the other employees?

10 A I don't have them here today, but they could  
11 certainly be pulled off the computer.

12 Q I'm not talking about the computer. I mean -- but  
13 you don't -- you didn't bring it to court today?

14 A No.

15 Q Did you mail the letter as well?

16 A I think we did.

17 Q Did you send it certified?

18 A No.

19 Q And who are you saying handed it to Marci?

20 A I did.

21 Q Can you see that?

22 A I'm really having a problem because they're making  
23 new glasses for me, and without them, that's a little far  
24 for me.

25 THE COURT: New glasses don't help me.

1 A That is correct.

2 Q And what was your plan with distributing books, how  
3 would you distribute books?

4 A We had several ways of doing that. One was through  
5 supermarkets giveaways, one was through church giveaways,  
6 one was through, in certain areas, newspaper distribution.

7 Q Okay. And did you -- did you ever have anybody that  
8 had actually done that before on staff?

9 A Not on staff. You hired that out. That's something  
10 you contract to people who do that sort of thing.

11 Q Do you know -- did you have somebody lined up to do  
12 that?

13 A Oh, yeah, John and I had -- had a number of people  
14 available for distribution.

15 Q Okay. Let's go back to Marci's pay for a few  
16 minutes.

17 I believe you testified earlier that at some  
18 point, maybe during the first month, you had a  
19 conversation with her about paying her 250 a week?

20 A She had asked -- she needed to have a guarantee that  
21 that would come in. And I think she originally asked for  
22 300. I took a look at things, and I distinctly remember  
23 that that was just more than we could handle, and I said I  
24 think I could probably work something out around 250.

25 Q So when did you agree to start paying the 250 a week?

1 A I was working on it, and to provide that as a draw.  
2 The problem was that the sales were not sufficient to  
3 support that as a draw.

4 Q And do you recall when Marci's first sale came in,  
5 was it in the first week or two that she worked?

6 A I know it was, I think, in April. I don't remember  
7 the exact date, but we got one and everybody got excited  
8 about it.

9 Q And why did it take until May 15th for her to get her  
10 first paycheck?

11 A We used an outside service to do payroll. They did  
12 it on the 15th and last day of each month. So if that  
13 contract came in towards the latter part of April, she  
14 would have been paid on the 15th of May because the cutoff  
15 for the processor was one week ahead. In other words, for  
16 the -- to be paid on the 30th of April, it had to be in  
17 before, like, the 21st or 22nd.

18 Q This is Plaintiff's Exhibit 5. It's a listing of the  
19 paychecks Marci received. That is a document received  
20 from your attorney. Does that look like an accurate  
21 summary?

22 A I would think so.

23 Q Okay. And do you know what these amounts represent?  
24 There's "First paycheck, \$114.51." Any idea what that  
25 represents?

1 A That is what I told her, that that would be the most  
2 we could possibly do under the circumstances. And in the  
3 final analysis, because when the commissions were not up  
4 to the level to support the draw, it was scaled back to  
5 what was paid.

6 Q And you scaled it back without consulting Marci; is  
7 that correct?

8 A I cannot recall all the conversations we had back  
9 there, but it looks like we got her 250 per pay cycle, and  
10 that's what, I think, those amounts up there reflect.

11 Q But you would agree that it's not 250 a week?

12 A Absolutely.

13 Q Okay. Now, did -- how long did -- well, I guess a  
14 better way to ask this is: At what point did you throw in  
15 the towel on Shadowstone Media and the retail card book  
16 idea?

17 A I think it was in August that we -- John and I sat  
18 down said and said, you know, it's just not working right  
19 now. And we had some long discussions, I think, as to  
20 what we should do about trying to make it go. We put all  
21 sorts of ideas on the table, but in the final analysis, I  
22 think we pretty much had wrapped it up by the latter part  
23 of August.

24 Q Okay. Did you have a sales meeting and tell the  
25 salespeople to stop selling at that point?

1 A We talked with the individual people as they came and  
2 went, because it was easier when they'd pop in at  
3 different times to get materials, and I don't remember the  
4 exact date, but I know it was late summer, early fall that  
5 we just concluded it wasn't going to be viable.

6 Q Okay. What do you claim is Marci's last day of  
7 employment?

8 A As I recall, she pretty much phased out of it in --  
9 by the middle of August.

10 Q Did you have her working on anything else other than  
11 Shadowstone Media?

12 A We were looking to -- since the Shadowstone project  
13 did not seem to be bearing fruit, we had looked at some  
14 other things, and it might have been a little more  
15 successful. I had a few discussions in the office with  
16 Marci about it, and once we made a little trip over to the  
17 shopping mall to look at some things over there. But  
18 other than some brief discussions, nothing of any  
19 significance ever transpired.

20 Q Okay. Did you receive a letter from Marci around or  
21 shortly after September 3rd, 2009, asking for back pay?

22 A May I see that?

23 Yes, I believe that came in.

24 Q What was your response to the letter, if any?

25 A That since we had collected a total of, I'm thinking

1 \$1,200 to \$1,400 off Marci's sales, and she was asking for  
2 over \$10,000, it seemed a little preposterous.

3 Q Did you write a letter in response? How did you  
4 respond? Did you call her?

5 A . I do not recall if I called. I may have, but I think  
6 I put that in the file with the rest of the Shadowstone  
7 stuff, and it ultimately went to Brian Robinson.

8 Q Okay. But you didn't send anything in writing in  
9 response to this letter?

10 A I don't recall, but I don't think so.

11 Q Okay. Did you consider yourself the manager of  
12 Shadowstone Media, Inc.?

13 A John and I both managed what was going on, different  
14 aspects at different times. I more or less managed the  
15 locating and developing the relationships with the people  
16 who could produce the books. John managed personnel and  
17 sales. We had overlapping tasks, but I think we handled  
18 it together pretty much.

19 Q Who do you consider owned Shadowstone Media? If a  
20 profit was ever turned, who got the money?

21 A I'm sorry. Who?

22 Q If Shadowstone Media turned a profit, who got that  
23 money?

24 A Well, as I say, we had not yet issued shares. It was  
25 intended that I would get shares, Crystal and Georgette

1 MR. GOODWYN: And I don't want to have to argue  
2 one amount of damages for one claim and one amount for the  
3 other.

4 THE COURT: And I agree with that. So you're  
5 just going to withdraw on the insurance payments?

6 MR. GOODWYN: Right. That \$1,428.39, Judge.  
7 We'll withdraw that.

8 THE COURT: All right. If you'll withdraw that,  
9 and I don't even have to rule, that may be my best ruling  
10 of the day.

11 With that being said, anything further,  
12 Mr. Robinson?

13 MR. ROBINSON: No, Your Honor.

14 THE COURT: All right. Thank you very much.  
15 We'll take about 15 minutes.

16 (Proceedings recessed at 3:46 p.m. and resumed  
17 at 4:00 p.m.)

18 THE COURT: Bring us the jury.

19 (The jury came into open court at approximately  
20 4:01 p.m.)

21 THE COURT: All right. Welcome back, ladies and  
22 gentlemen.

23 The point we're at now is the plaintiff has  
24 rested. The plaintiff, Mrs. Goodwyn, has presented all  
25 the evidence, all the testimony she intends to produce in

1 Q Read that for us. Read that for us.

2 A It says: "Your compensation is based on commissions  
3 earned from the accounts which you sell into one or more  
4 of the card books. The standard commission is \$1,000 for  
5 each full-rate ad in each book. In the event that an ad  
6 rate is discounted, then the commissions are reduced  
7 accordingly."

8 Q All right. Now, did you say something in this letter  
9 about when they get paid?

10 A When the commissions are paid?

11 Q Well, here, look in this paragraph.

12 A Okay. It says: "Commissions are paid upon  
13 collection by the company of the ad cost from the  
14 accounts. If an account pays the entire ad cost at the  
15 time the insertion order is signed, then the entire  
16 commission will be paid in the next payroll cycle.

17 As you are aware, most of the accounts will be  
18 paying monthly over a 12-month period. As a result, each  
19 month you will receive one-twelfth of the total commission  
20 for the insertion each month upon collection of that  
21 month's bill from the advertiser."

22 Q All right. Is that the deal that you had with  
23 Ms. Goodwyn?

24 Is that the deal that you had with Ms. Goodwyn?

25 A Yes.

1 evaluate the adequacy of the verdict in light of the  
2 evidence presented.

3 I do not find that the amount returned by the  
4 jury was excessive or merely excessive. In fact, it was a  
5 third, perhaps, of what the plaintiff asked for, and I'm  
6 just kind of going on a ballpark figure of 10,000 and  
7 3,000. It appears to be about a third of that, so I do  
8 not find that it was excessive.

9 Further, I find that the fact that they returned  
10 no damages on the breach of contract would not affect my  
11 ruling for a new trial nisi remittitur on the wage  
12 violation.

13 Other motions, Mr. Robinson?

14 MR. ROBINSON: No, Your Honor.

15 At this time, would you like me speak to the  
16 plaintiff's motion?

17 THE COURT: Yes.

18 What section of the statute were you referring  
19 to?

20 MR. GOODWYN: I believe it's Section 41-10-80,  
21 is the section that provides for attorney's fees and three  
22 times the damages.

23 THE COURT: 41-10-80 (C) --

24 MR. GOODWYN: I believe so, Your Honor.

25 THE COURT: -- is that correct?

1 MR. GOODWYN: I believe so.

2 THE COURT: I thought maybe you had said it  
3 earlier, but that's fine.

4 MR. GOODWYN: I think it's towards the end of  
5 that section.

6 THE COURT: All right. Do you have an affidavit  
7 with costs and reasonable attorney fees -- well, your  
8 affidavit as to reasonable attorney fees?

9 MR. GOODWYN: Not today. My time would include  
10 today. I can get that to you tomorrow. But it's the  
11 treble damages and attorney's fees we're asking for. The  
12 attorney's fees, I'll have to get that to you.

13 THE COURT: All right. Mr. Robinson?

14 MR. ROBINSON: Your Honor, as I read the  
15 statute, there has to be a finding of willful violation of  
16 the statute, and I don't think that there is any evidence  
17 whatsoever that would find that either Shadowstone or  
18 Mr. Pachaly willfully failed to pay her. I think the  
19 evidence shows that they believed that they paid her a  
20 thousand dollars more than she was entitled to get under  
21 the statute -- excuse me, under the agreement.

22 I'm still at a loss as to how the jury came up  
23 with a number under the statute, nonetheless, they found  
24 zero damages under the contract. And I think it's logical  
25 to assume that a business owner would assume or believe

1 that he is to pay under the contract. So having found  
2 nothing on the contract, I think the jury was telling us  
3 it wasn't willful. Nonetheless, even though that may or  
4 may not be the case, there is no evidence that it was  
5 willful, and I think that being the case, this is not a  
6 case where the damages should be trebled nor the  
7 attorney's fees granted.

8 THE COURT: Where is the willful language you're  
9 referring to in the statute?

10 MR. ROBINSON: Your Honor, I do not have a copy  
11 of the statute with me. I'm sorry.

12 THE COURT: 41-10-80 is captioned, Violation and  
13 Penalties, Civil Actions by Employees, Administrative  
14 Review of Civil Penalties. (A) talks about written  
15 warnings from the director. (B) talks about a civil  
16 penalty. (C) states, quote: "In case of any failure to  
17 pay wages due to an employee, it is required by 41-10-40  
18 and 41-10-50" -- and I will look at those in a moment --  
19 "the employee may recover in a civil action any amount  
20 equal to three times the full amount of the unpaid wages  
21 plus costs and reasonable attorney fees as the Court may  
22 allow." And then there's a sentence in there concerning a  
23 three-year statute, kind of a statute of limitations.

24 41-10-50 would charge the jury in its entirety,  
25 "When an employer separates an employee from the payroll

1 for any reason, the employer shall pay all wages due to  
2 the employee within 48 hours of the time of separation or  
3 the next regular payday, which may not exceed 30 days."

4 And then the language we charged out of 41-10-40  
5 is under (D): "Every employer in the state shall pay all  
6 wages due."

7 I don't see the willful language. Give me just  
8 a moment.

9 MR. ROBINSON: I'm sorry, Your Honor, I would  
10 ask the Court to give me 48 hours to find that language if  
11 it's there.

12 THE COURT: All right. I will be glad to do  
13 that. And that will give Mr. Goodwyn the opportunity to  
14 submit costs and attorney fees affidavit to you and to the  
15 Court.

16 And if you need -- I know what your situation is  
17 tomorrow, Mr. Robinson. If you need more time than that,  
18 you want -- well, I'm actually on vacation next week. I'd  
19 rather do it this week.

20 MR. ROBINSON: I'm going to be sitting in the  
21 hospital, Judge. I can take the statute book with me.

22 THE COURT: Okay. Well, you need something to  
23 read.

24 Yes, sir.

25 MR. GOODWYN: You just want us to brief it for

1 you or --

2 MR. ROBINSON: That's the only question I'm  
3 raising, except, Your Honor, Section 50 says: "When the  
4 employer separates the employee."

5 THE COURT: Yes, sir.

6 MR. ROBINSON: In this case, that's not what  
7 happened. In this case, the employee resigned.

8 MR. GOODWYN: Judge, I would dispute that point.  
9 The first sentence says: "When an employer  
10 separates an employee from the payroll for any reason."  
11 The "separating from the payroll" doesn't mean -- doesn't  
12 say when the employer terminates the employee.

13 THE COURT: Well, either way, I don't know that  
14 that's relevant to the treble damages. There's only five  
15 cases I saw recently that I looked at. But, anyway, when  
16 do you want to have -- just send me an email.

17 MR. ROBINSON: I'll do that.

18 THE COURT: Both of you, if you want to send me  
19 an email, I'll be glad to look at it. If you'll email me  
20 the costs, the attorney fees, email it simultaneously to  
21 each other, I'll be glad to look at it, and I'll rule on  
22 it.

23 MR. ROBINSON: Thank you, Your Honor.

24 MR. GOODWYN: Thank you, Your Honor.

25 THE COURT: Thank you y'all very much. I

1 enjoyed being with you.

2 (WHEREUPON, The Court's Exhibit No. 1 was marked  
3 for purposes of the record.)

4 (The proceedings were concluded.)

5 \*\*\* END OF REQUESTED TRANSCRIPT OF RECORD \*\*\*

6 VOLUME 2 OF 2

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**SHADOWSTONE MEDIA, INC.**  
6156 St. Andrews Rd. Columbia, SC 29212

PHONE: 803-772-7775  
FAX: 803-772-4205

April 10, 2009

Ms. Martha Goodwyn  
2101 Bayberry Court  
Columbia, SC  
29206

Dear Ms. Goodwyn:

Thank you for your interest in Shadowstone Media. I am pleased that you have decided to join the company as an Account Sales Representative and will start immediately in presenting the Retail Card Book. Your initial assigned territory will be in the Forest Acres general area but additional areas may be included in the near future. You will be reporting to Mr. John Welch who is the sales manager. John will also be involved in setting appointments for the sales people. Please call on John for any assistance you may need with your accounts.

The normal working hours for the office are from 8:30 AM until 5:00 PM daily. However, I understand that because of certain family responsibilities you will only be able to work on a part time basis. It is required that you check in with the office each day as early as possible and advise us as to which accounts you will be calling on.

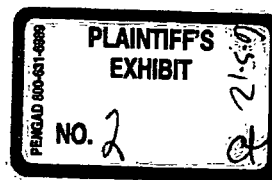
Your compensation is based on commissions earned from the accounts which you sell into one or more of the Card Books. The standard commission is \$1,000 for each full rate ad in each book. In the event that an ad rate is discounted then the commissions are reduced accordingly. Because of the high production costs of the books it is important to try and avoid discounts if possible except for multiple insertions.

Pay dates are on the 15<sup>th</sup> and last day of each month. In the event that a pay date falls on a Saturday then paychecks will be issued on Friday. If the pay date falls on a Sunday then the paychecks will be issued on the following Monday. Commissions are paid upon collection by the company of the ad costs from the accounts. If an account pays the entire ad cost at the time the insertion order is signed then the entire commission will be paid in the next payroll cycle. As you are aware most of the accounts will be paying monthly over a 12 month period. As a result each month you will receive one twelfth of the total commission for the insertion each month upon collection of that month's bill from the advertiser.

Once again I welcome you to the company and look forward to a long and prosperous relationship.

Best regards,

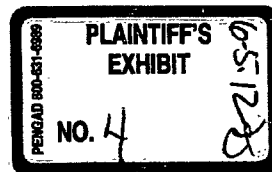
  
Bob Pachal  
General Manager



MARCI GOODWYN

CALCULATION OF COMMISSIONS EARNED

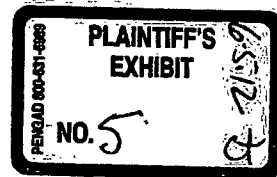
Name	Monthly Amount	Total Collected	Full Commission	Commission Earned
Puro Clean	239	239	850	70.83
Chapman	99	99	400	33.33
Earth Angel	149	149	500	41.67
Termite Prevention	195	195	700	58.33
Groucho's	99	99	400	33.33
Camp Bow Wow	50	50	400	33.33
Genesis Green	99	99	400	33.33
PlumbKrazy	75	75	400	33.33
Ductz	99	99	400	33.33
Enchanted Closet	99	99	400	33.33
Forest Lake Travel	0	0	0	0.00
				<u>404.17</u>



12:07 PM  
02/19/10  
Accrual Basis

### Shadowstone Media, Inc. Find Report All Transactions

Type	Date	Num	Name	Amount
Paycheck	7/31/2009	4395	Marci Goodwyn (ee)	-230.87
Paycheck	7/15/2009	4353	Marci Goodwyn (ee)	-230.87
Paycheck	7/15/2009	4355	Marci Goodwyn (ee)	-138.53
Paycheck	7/1/2009	4335	Marci Goodwyn (ee)	-230.88
Paycheck	6/15/2009	4321	Marci Goodwyn (ee)	-230.87
Paycheck	6/1/2009	4308	Marci Goodwyn (ee)	-121.91
Paycheck	5/15/2009	4280	Marci Goodwyn (ee)	-114.51
<b>Total</b>				<b>-1,298.44</b>



Martha D. Goodwyn  
2101 Bayberry Court  
Columbia, S.C. 29206

September 3, 2009

**VIA CERTIFIED MAIL**

Robert Pachaly  
6156 St. Andrews Road  
Columbia, S.C. 29212

Re: Resignation and Demand for Back Pay

Dear Bob:

As you are aware, I have not been getting paid per our agreement at the time of my hire. I have been working for you since the beginning of April of this year and have been paid less than \$1,500 despite you agreeing to pay me a \$300 per week draw plus commission and health benefits.

Due to the fact that you have not been paying me the amount we agreed upon, I am forced to resign and seek employment elsewhere. Enclosed are the proofs from some of the clients who have approved them as recently as yesterday.

I am demanding that you pay me the amounts owed through yesterday. I compute this amount as follows. When I began working for you on April 2, 2009, I explained to you that I had approximately \$300 per week in day care expenses and in order for me to justify going back to work, I needed a draw of \$300 per week to which you agreed. You also agreed to pay for health coverage after one month of employment which I have also not received despite you claiming that I have been covered. While you began paying something close to the \$300/week at first (only \$250/wk), paychecks have been very sporadic and I have not received this back pay despite my repeated requests for payment.

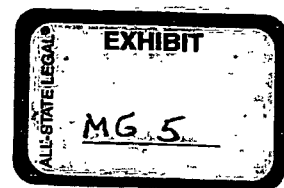
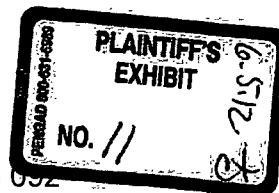
My most recent paycheck indicates that I have grossed \$1,406 for the 5 months I have been working for you. By my calculations, I am due \$300/wk for 22 weeks = \$6,600 plus health benefits for 4 months = \$1,428.39 plus commissions owed on sales I have made which total \$3,500 less the \$1,406 you have paid me. This totals \$10,122.39. Please pay this amount within 48 hours of the date of this letter or I will be forced to pursue all available legal remedies. Thank you and I look forward to your prompt response.

Sincerely,



Marci Goodwyn

MDG  
enclosures



115

STATE OF SOUTH CAROLINA	)	
	)	IN THE COURT OF COMMON PLEAS
COUNTY OF LEXINGTON	)	
	)	Civil Action No. 2010-CP-32-03172
Martha D. Goodwyn,	)	
	)	
Plaintiff,	)	<b>ATTORNEY'S FEES AFFIDAVIT</b>
	)	
vs.	)	
	)	
Shadowstone Media, Inc., Nyquist,	)	
Engineering, Inc., and Robert Pachaly,	)	
	)	
Defendants.	)	

PERSONALLY appeared before me, T. Jeff Goodwyn, Jr., Esquire, who being duly sworn, deposes and says:

1. I am an attorney with Goodwyn Law Firm, LLC, and I represent the Plaintiff in connection with the above-captioned matter.

**THE STANDARD**

2. I am informed and believe that the professional standing of counsel is one of the criteria to be considered by the Court in the setting of attorneys' fees.

3. I incorporate herein Rule 407, South Carolina Appellate Court Rules, which contains the Rules of Professional Conduct and specifically Rule 1.5 thereof and call to the Court's attention the cases of Nienow v. Nienow, 268 S.C. 161, 232 S.E.2d 504 (1977), and Atkinson v. Atkinson, 279 S.C. 454, 309 S.E.2d 14 (1983), which enunciate the factors and criteria to be considered in the setting of attorneys' fees. I rely upon the discretion of this Court in determining the amount of fees (based, among other things, on the Court's file and the Court's knowledge of the litigation between the parties and the Court's knowledge of the difficulty of the services rendered and to be rendered and based on the Court's information as to the time necessarily expended and to be expended, the

results accomplished, the professional standing of counsel and fees customarily charged in this area for similar legal services).

**FEES AND COSTS IN THIS CASE**

4. Plaintiff has had to retain legal services to represent her in this action which has been precipitated by Defendant's failure to pay wages owed of \$3,444.00 as determined by the jury in the trial of this case.

5. I am informed and believe that the time spent and was necessary to protect my client's interests and to make the clearest and most concise presentation to the Court of the issues currently before it. The person in the firm with the lowest hourly rate who was competent to the task to be performed was utilized and will be utilized as appropriate.

6. At the time Defendant retained this firm, she was advised that she would be charged T. Jeff Goodwyn, Jr.'s hourly rate of \$150.00 per hour (out-of-court and in-court); and paralegal's hourly rate of \$75.00 (out-of-court and in-court).

7. In accordance with my time and expense records, which are maintained on a regular basis, the following time expenditures have been made through the date of the trial on June 5, 2012 are as follows:

65.7 attorney hours by T. Jeff Goodwyn, Jr. at \$150.00 per hour:	\$9,855.00
0 paralegal hours by Mary S. Bush at \$75.00 per hour:	\$0.00
Total costs for filing fees, deposition transcripts, copying, and postage is:	\$1,167.00
<b><u>Total:</u></b>	<b><u>\$11,022.00</u></b>

8. These rates are not above the rates customarily charged in South Carolina for actions of this nature. A detailed billing is not attached, as that billing contains many confidential and strategy matters which are attorney-client privileged. Mr. Goodwyn is a member of the South Carolina Bar in good-standing and has been practicing law since 2001 handling these types of cases.

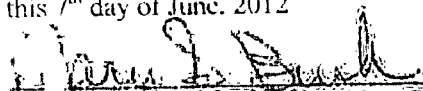
9. Plaintiff's attorney did obtain a favorable result for Plaintiff at trial with a Plaintiff's verdict in the amount of \$3,444 for back wages under the South Carolina Wage Payment Statute.

10. Based upon the foregoing and the other criteria which have been held to be relevant in the setting of attorneys' fees, costs and suit money, I request, on behalf of my client, that this Court require Plaintiff to pay a reasonable sum, as attorneys' fees, costs pursuant to S.C. Code §41-10-80.

  
T. Jeff Goodwyn, Jr.

SWORN and subscribed to before me

this 7<sup>th</sup> day of June, 2012

  
NOTARY PUBLIC FOR SOUTH CAROLINA  
My commission expires 10-19-2019

**CERTIFICATE OF RECORD ON APPEAL**

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

---

APPEAL FROM LEXINGTON COUNTY  
Court of Common Pleas

R. Knox McMahon, Circuit Court Judge

---

Case No. 2010-CP-32-3172

---

Martha D. Goodwyn,

Respondent,

v.

Shadowstone Media, Inc. and  
Robert Pachaly,

Appellant.

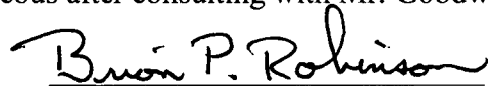
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**CERTIFICATE**

---

I certify that the record on appeal contains all the material proposed to be included in the record on appeal by all counsel and not any other material, except that I have deleted transcript page 11 (which I originally designated) as extraneous after consulting with Mr. Goodwyn.

April 18, 2013



Brian P. Robinson  
Bruner, Powell, Wall & Mullins, LLC  
Post Office Box 61110  
Columbia, South Carolina 29260  
(803) 252-7693  
Attorney for Appellants

**PROOF OF SERVICE OF A NOTICE OF APPEAL**

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

APPEAL FROM LEXINGTON COUNTY  
Court of Common Pleas

R. Knox McMahon, Circuit Court Judge

Case No. 2010-CP-32-3172

Martha D. Goodwyn,

Respondent,

v.

Shadowstone Media, Inc. and  
Robert Pachaly,

Appellants.

AMENDED PROOF OF SERVICE

I certify that I have served the Record on Appeal on Martha D. Goodwyn by having it hand delivered on May 3, 2013 to her attorney of record, T. Jeff Goodwyn, Jr., at his office at 2519 Devine Street, Suite A, Columbia, South Carolina 29205. Attached is the Affidavit of Mary Wilson.

May 24, 2013



Brian P. Robinson  
Bruner, Powell, Wall & Mullins, LLC  
Post Office Box 61110  
Columbia, South Carolina 29260  
(803) 252-7693  
*Attorneys for Appellants*

RECORDED

MAY 28 2013

SC COURT OF APPEALS

**CERTIFICATE OF RECORD ON APPEAL**

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

APPEAL FROM LEXINGTON COUNTY  
Court of Common Pleas

R. Knox McMahon, Circuit Court Judge

Case No. 2010-CP-32-3172

Martha D. Goodwyn, Respondent,  
v.  
Shadowstone Media, Inc. and Appellants,  
Robert Pachaly,

**CERTIFICATE OF SERVICE BY COURIER**


I, Mary Wilson, a runner with the law firm of Bruner, Powell, Wall & Mullins, LLC, attorneys for Appellants, do hereby certify that on the 3<sup>rd</sup> day of May, 2013, I served the **Record on Appeal** upon the following parties by personal delivery of same at the offices of the Goodwyn Law Firm, LLC, located on Devine Street, Columbia SC. At the time of signing the prior Certificate of Service by Courier on May 3, 2013, I did not realize the address (3100 Devine Street) on the Certificate was no longer valid for Mr. Goodwyn. The address I delivered the record on appeal to is as follows:

**RECEIVED**

MAY 28 2013

**COURT OF APPEALS**

T. Jeff Goodwyn, Jr., Esquire  
Goodwyn Law Firm, L.L.C.  
Suite A  
2519 Devine Street  
Columbia, South Carolina 29205  
*Attorneys for Respondent*

  
Mary Wilson

Columbia, South Carolina