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S.C. SUPREME COURT

**STATE OF SOUTH CAROLINA
In the Supreme Court**

**APPEAL FROM LANCASTER COUNTY
Court of Common Pleas**

Deandrea G. Benjamin, Circuit Court Judge

**Case. No. 2018-CP-001127
Appeal No. 2025-002144**

Paul David Hess, Respondent-Petitioner

v.

**Morphis Pediatric Group of Lancaster, PA and
Elizabeth J. Morphis M.D, Gregory M. Alexander, CPA and
Moore Beauston and Woodham LLP; Defendants**

**Of Whom Morphis Pediatric Group of Lancaster, PA and
Elizabeth J. Morphis are Petitioner-Respondents**

**JOINT APPENDIX
VOLUME II**

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INDEX

VOLUME I

ORDERS

Order Denying JNOV and Remittitur	1
Order Awarding Additional Interest	16
Order Denying Defendant's Motion to Amend	19
Order Granting Trebling, Attorney Fees and Pre-Judgment Interest	25

JUDGMENTS

Verdict Forms	42

PLEADINGS

Amended Answer	50
Answer	58
Complaint	66
Plaintiff Petition for Trebling, Fees, & Interest	86
Affidavits in Support of Fees	96
Correspondence with Court Regarding Attorney Fees	107
Plaintiff's Attorney Invoices of Fees Supporting Motion for Same	111
Plaintiff's Election of Remedies	153
Defendants' Motion for Remittitur	155
Defendants' Memorandum Opposing Trebling, Fees, and Interest	160
Motion to Amend Order on Prejudgment Interest	172
Defendants' Memorandum in Support of Directed Verdict Motion	174
Defendants' Motion for Judgment Notwithstanding the Verdict	191

TRANSCRIPTS

May 19, 2022 Hearing Regarding Post-Trial Motions	209
Volume III (Trial days January 31 through Feb 2)	282
Volume I (Trial day January 26, 2022)	486

VOLUME II

Volume I (Trial day January 26, 2022) (continued)	498
Volume II (Trial days January 27 and 28, 2022)	602

EXHIBITS

Plaintiff 1 2010 Agreement	833

Plaintiff 2 Morphis 2015 Email	840
Plaintiff 3 Alexander 2015 Email	843
Plaintiff 4 Morphis May 28 Email	845
Plaintiff 5 Morphis 2/16/2015 Email	847
Plaintiff 6 Woodham Email	852
Plaintiff 7 Morphis Bonus Calculations	853
Plaintiff 8 MPG Board Minutes	857
Plaintiff 9 Profit & Loss Statements	875
Plaintiff 11 Payroll Information	881
Plaintiff 14 Tax Returns	887
Plaintiff 15 Tax Returns	899
Plaintiff 16 Revenue & Expense Statement	911
Plaintiff 18 2015 Agreement	912
Plaintiff 19 Damages Analysis	924
Defendant 5 Emails	925
Defendant 4 Requests to Admit	933

1 Q. During 2009, at some point, did Dr. Green --
2 or where was your office located in 2009?

3 A. My office was located in that strip mall
4 behind the McDonalds.

5 Q. On, is it Woodlawn?

6 A. Woodlawn, correct.

7 Q. And how big was that office in 2009?

8 A. It was small. It either had two or three exam
9 rooms. I'm not sure. It was pretty small.

10 Q. Were you and Dr. Green the only providers
11 actually seeing patients at that office?

12 A. Dr. Green did not see patients in that office
13 in general --

14 Q. Where was Dr. Green working?

15 A. If she did, it was because I wasn't there.

16 Q. Where was Dr. Green working at that time?

17 A. Down Meeting Street, there was a house across
18 from the funeral home down here and it was one of those
19 houses, where she was seeing the ADHD patients.

20 Q. And "ADHD", you're talking about Attention
21 Deficit Hyperactivities?

22 A. -- disorders. Yes, sir.

23 Q. Is that a common ailment among children these
24 days?

25 A. It's being more recognized. Everybody has

1 their own opinions. I think sometimes people use that
2 diagnosis for things, when it's not necessarily that.
3 But, yes, it is a relatively common diagnoses.

4 Q. During 2009, describe to the jury what your
5 day-to-day interactions with patients or with the
6 practice at Lancaster was?

7 A. I would see physicals. I would see acute
8 visits, ear infections, sore throats, mono, flu, well
9 child visits from birth to -- we kept the patients up to
10 19, unless they stayed in college, then we would
11 continue to see them. Medication refills on some of
12 them. Generalized medical care, what you would see a
13 regular doctor for.

14 Q. How often did you work with Dr. Beth Morphis
15 in Lancaster during that first year?

16 A. Very little.

17 Q. Was there room for more than one practitioner
18 at the time in the Lancaster office when you first
19 started?

20 A. Not in the initial office, no. We were
21 falling over each other just to see patients.

22 Q. Did Dr. Morphis have regular office hours in
23 Lancaster during 2009?

24 A. No.

25 Q. So she wouldn't come up one or two days a week

1 and see patients up here?

2 A. No.

3 Q. Do you recall ever working with Dr. Morphis
4 during that first year seeing patients at the Lancaster
5 office?

6 A. Not while I was there, no.

7 Q. Do you recall what your starting salary at
8 Morphis Pediatric Group of Lancaster was in 2009?

9 A. It was roughly \$100,000.

10 Q. Did you have a written contract with
11 Dr. Morphis at that time?

12 A. No, I did not.

13 Q. What about the founder of Morphis Pediatrics,
14 Dr. J.O. Morphis. Did you ever meet Dr. J.O. Morphis?

15 A. I did. It wasn't until -- it was at the
16 Hartsville Christmas party. I can't tell you if it was
17 December 2009 or December of 2010. It would have been
18 one of those two years. I'm not sure exactly when I was
19 invited down.

20 Q. And where was Dr. J.O. Morphis' office, main
21 office located?

22 A. It's right beside -- across the street from
23 the Hartsville Hospital. I don't know the address
24 there.

25 Q. Did you occasionally work in the Morphis

1 Pediatric office in Hartsville?

2 A. In 2009 or just in general?

3 Q. In 2009?

4 A. Probably not in 2009, no.

5 Q. Did you ever receive any feedback from Dr.
6 Beth Morphis about your job performance at the Lancaster
7 office in 2009?

8 A. Nothing specifically. I mean, we would just
9 -- there were times where some cases and stuff that we
10 would discuss, but nothing direct that, "you need to do
11 this" or "you need to do that." No.

12 Q. Did you ever do a performance evaluation or
13 some type of formal review of your job performance in
14 Lancaster?

15 A. No, sir.

16 Q. At some point, did Dr. Morphis offer you an
17 employment contract for the Lancaster office in Morphis
18 Pediatrics?

19 A. She did.

20 MR. ROTHSTEIN: Your Honor, I would like to
21 hand the witness what has been marked as Plaintiff's
22 Exhibit 1. Your Honor, I provided an exhibit notebook
23 earlier that you should have.

24 (Plaintiff's Exhibit 1, 2010 Contract,
25 was marked for Identification.)

1 THE COURT: Yes, sir. Thank you.

2 Q. (By Mr. Rothstein) Mr. Hess, do you recognize
3 Plaintiff Exhibit 1?

4 A. I do, sir.

5 Q. If you will, turn to the second to last page
6 of that exhibit. Do you recognize your signature above
7 the line, "Employee, David Hess., APRN-BC"?

8 A. Yes, sir.

9 Q. What do the initials "APRN-BC" mean?

10 A. Advance Practice Registered Nurse, Board
11 Certified.

12 Q. Is that a designation for a nurse
13 practitioner?

14 A. Yes. The National Certification Body
15 determines what they're using. They've actually changed
16 it since then.

17 Q. Do you recognize any of the other signatures
18 on that page?

19 A. Dr. Morphis' and Sandra Tiner's.

20 Q. Who is Sandra Tiner?

21 A. She is the officer manager at Lancaster.

22 Q. Was she the office manager at Lancaster the
23 entire time you were there?

24 A. Yes.

25 MR. ROTHSTEIN: Your Honor, I would like to

1 move Exhibit 1 into evidence at this time.

2 MR. THOMPSON: No objection.

3 THE COURT: Any objection?

4 MR. MACKELCAN: No objection.

5 THE COURT: It will be entered without
6 objection.

7 (Plaintiff's Exhibit 1, 2010 Contract,
8 was entered into evidence.)

9 Q. (By Mr. Rothstein) Do you see at the top of
10 the first page it says: "This agreement was made this
11 1st day of January." There is no year on there. Do you
12 know what year this references?

13 A. It would have been 2010.

14 Q. I'm going to turn to page, I think it's 3,
15 paragraph 3 of the agreement, under "Term". Do you see
16 where it says -- can you tell the jury what your initial
17 term of employment was under the contract?

18 A. January 1, 2010 until December 31, 2010.

19 Q. The second sentence of that paragraph says:
20 "It shall continue from year-to-year, thereafter, until
21 terminated in the manner described below," and it's
22 Section 3. "In the manner specified in Section 13
23 below, or else were in this agreement."

24 Is that consistent with what your
25 understanding of the contract, that it would

1 automatically rollover unless upon being terminated?

2 A. Yes, sir.

3 Q. Is this the contract that was enforced until
4 you signed the contract on December 30, 2015?

5 A. Correct.

6 Q. At the bottom of this page is Paragraph 4
7 entitled "Compensation". It says that you would be
8 entitled, as a full-time employee to a base salary of
9 \$100,000; is that right?

10 A. Yes, sir.

11 Q. Is that your base salary the entire time you
12 were at Morphis Pediatrics?

13 A. Yes, sir.

14 Q. Did you ever receive a raise between 2009 and
15 the date of your termination, in 2018?

16 A. No, sir.

17 Q. On the last -- on the next page, the carryover
18 on Paragraph 4, your contract says: "All or any bonuses
19 shall be at the discretion of the board or as determined
20 in A-Appendix that is hereby signed and agreed upon by
21 both parties."

22 What was your understanding of that part of
23 the contract?

24 A. Well, since there was an Appendix A, then
25 Appendix A takes away everything in Paragraph 4, as far

1 as, the bonus part of it.

2 Q. The last page of Exhibit 1, does that -- is
3 that the appendix that you're referring to that talks
4 about your bonus compensation?

5 A. Yes, sir.

6 Q. Did you ever have any discussions with the
7 board of Morphis Pediatrics about what your eligibility
8 criteria, what you had to do in order to earn a bonus
9 every year?

10 A. No, sir.

11 Q. Every year that you were there, did you
12 receive a performance related bonus?

13 A. Yes, sir.

14 Q. There was no year during your employment,
15 other than the 2009 year, where you did not receive a
16 bonus; is that right?

17 A. Correct.

18 Q. What was your understanding of what your
19 arrangement with Dr. Morphis was or did she actually
20 describe to you what the bonus formula was?

21 A. We sat and talked about it. And for the most
22 part, of what it says in here; after all the expenses
23 and everything were paid, all the bills were paid, and
24 everything else was paid, she and I would split the
25 remaining money between us 50/50. I do remember asking

1 what the royalties was, because royalties don't usually
2 fall under pediatrics coming from the area of medical so
3 much. And she said, that was for Dr. J.O. Morphis for
4 using his name. So we paid him a royalty to use his
5 name as Morphis Pediatrics in the Lancaster office.

6 Q. At some point during your employment, did
7 Dr. J.O. Morphis actually retire from the practice of
8 medicine?

9 A. He semiretired in '11 or '12. He would
10 fill-in occasionally when Dr. Elizabeth Morphis would be
11 gone or she needed help with stuff. I don't know
12 exactly when he completed retired from medicine.

13 Q. Did you have an understanding from the time
14 you signed this document in 2010 of who was on the board
15 of Morphis Pediatrics of Lancaster?

16 A. I knew Dr. Beth was. I thought that J.O. was.
17 And at some point, she bought him out of the practice
18 completely; I want to say that was maybe '11 or '12.
19 Even after that, he would still help out. He maintained
20 his license up until...

21 Q. Can you explain to the jury, how this
22 particular contract was actually presented to you?

23 A. Dr. Beth and Ms. Tiner and I met at the
24 Applebee's Restaurant here in Lancaster. From what I
25 remember, she had it in a manila folder and handed it to

1 me and I started reading it.

2 Q. What was your reaction when you read the
3 bonus, Appendix A bonus formulation?

4 A. I was shocked, but not in a bad way, in a good
5 way. Obviously, it's very generous, it was not
6 something I was expecting. I figured she had a lot of
7 faith in me and was willing to compensate me for doing
8 what I've done for the previous year and to try turning
9 that clinic around from falling and failing to being a
10 productive clinic.

11 Q. And did you have an understanding of who
12 proceeded you, other than Dr. Green, at the Lancaster
13 clinic?

14 A. There were two other physicians and a nurse
15 practitioner that were no longer employed with Morphis.

16 Q. Do you know anything about the circumstances
17 of their leaving?

18 A. The one physician, she just decided to take an
19 opportunity somewhere else down near -- closer to the
20 beach area. The other physician and nurse practitioner,
21 my understanding was, they packed up and walked out one
22 day and opened their clinic across town.

23 Q. Is that Dr. Cruz?

24 A. Correct.

25 Q. And what was her nurse practitioner's name?

1 A. Robin Estrata. I don't know if that was her
2 name then, but that's the name I know her by now.

3 Q. Tell me about your experience with the year
4 2010, your first year under the contract. How did
5 things go in the office?

6 A. Very well. We were very busy. At some point
7 we started talking about, we needed to expand and move.
8 And where we were, that building that we rented, there
9 was nowhere to expend. We started looking at some of
10 the other buildings that were in that strip mall. And
11 there was a guy that was a pain management doctor that
12 used to come down a couple days a week or whatever, and
13 he had a medical office and was using two out of the
14 five buildings. And at some point, we started looking
15 at it, talking about it, looking at it and working at it
16 and we ended up going -- I couldn't tell you exactly
17 when we decided to do that, but moved down three
18 buildings, I believe it was.

19 Q. The contract we showed you, I meant to ask.
20 Did you have anything to do with the language in the
21 contract?

22 A. No, sir. I never saw the contract until
23 Dr. Beth gave it to me.

24 Q. Do you have an understanding of who prepared
25 the language in the document itself?

1 A. I could make an assumption of one or two
2 people, but I'm not for sure who.

3 Q. Did you negotiate any changes in the language
4 of the contract?

5 A. The only thing that was ever changed was the
6 amount of CME money. I believe the contract said \$1000,
7 and we had agreed at some point for \$1500.

8 Q. Explain to the jury what CME means?

9 A. It's Continuing Medical Education. It's the
10 classes we need to go take. Usually, once a year or
11 whatever, depending on your certification, your
12 licensure. How often you have to maintain the number of
13 credit hours for education to continue to practice.

14 Q. Did yours change from \$1500 -- \$1000 to \$1500
15 reimbursement of expenses, is that reflected in the
16 contract itself?

17 A. I don't believe it was reflected in this
18 contract, no.

19 Q. Did Dr. Beth agree on paying you the \$1500 --

20 A. Yes.

21 Q. -- for the reimbursement?

22 A. Yes.

23 Q. In 2010, the first year of your contract, did
24 Dr. Beth Morphis ever come up and see patients in
25 Lancaster on a regular basis?

1 A. In 2010?

2 Q. 2010.

3 A. She did not have a set schedule. If she'd
4 come up, it was to fill-in for me if I had a doctor's
5 appointment or if I was sick or something. She never
6 had a set schedule in Lancaster when I was here. I
7 can't say, "no, she never did," but I can tell you it
8 was not very much, very infrequent.

9 Q. If you had to say, how many full days of
10 clinical work she did in the Lancaster office --

11 A. -- full days?

12 Q. Full days?

13 A. For the year 2010?

14 Q. Yes.

15 A. Under five.

16 Q. How much vacation did you take in 2010?

17 A. How much, I probably did some long weekend
18 things. That's a long time ago. I know I got vacation.
19 I probably didn't take a week off at a time unless, we
20 were going to Costa Rica once or twice.

21 Q. If you had a vacation or were sick or
22 something, did other people come up and cover from
23 Hartsville to see all the patients?

24 A. We had four, three or four different PRMs
25 providers, Jacob Coward he usually actually started

1 coming out almost every Friday when we were into the
2 newer building. I don't think he ever came in the
3 smaller building.

4 Q. Explain to the jury what PRM stands for?

5 A. As needed, on-call kind of thing. He had
6 another job in Hartsville. He was a pediatric nurse
7 practitioner and he was off on Friday's and I'm not
8 sure, I think Dr. Beth probably got him on board. She
9 knew him and we needed some assistance.

10 Q. Did Mr. Coward work for the Hartsville
11 location of Morphis Pediatrics?

12 A. No.

13 Q. Do you know who he worked with in Hartsville?

14 A. He worked with his father who was a
15 pediatrician in Hartsville.

16 Q. After the end of the first year, do you recall
17 any discussions with Dr. Beth about your bonus?

18 A. No.

19 Q. How did you find out that you received a bonus
20 in 2010?

21 A. I either got the check or I got my W-2.

22 Q. Do you recall what the amount of your first
23 year bonus was at Morphis Pediatrics of Lancaster?

24 A. Before taxes it was 75 or -- yeah, before
25 taxes it was \$75,000.

1 Q. During your entire tenure at Morphis, was that
2 \$75,000 bonus the highest bonus you ever received?

3 A. Yes.

4 Q. When you -- you either were informed by with a
5 check or a W-2, was there any type of statement that
6 showed how that \$75,000 bonus was calculated?

7 A. No.

8 Q. What was your reaction to receiving a bonus of
9 \$75,000?

10 A. I was pretty happy.

11 Q. Did you have any idea what the profitability
12 of the Lancaster practice was in 2010?

13 A. I figured it was about \$150,000. I got 75 --
14 we were splitting 50/50, that's 150, within a couple of
15 dollars.

16 Q. When you signed the contract with Dr. Morphis,
17 did you have an understanding of whether she intended to
18 take a salary in addition to splitting the 50/50 profits
19 with you?

20 A. It was not my understanding that she was going
21 to take a salary. Basically, her -- what she was going
22 to get was going to be the 50 percent of whatever we got
23 via the year profits.

24 Q. Did Dr. Morphis ever refer to you as the
25 "managing partner" of the Lancaster office?

1 A. She did once or twice.

2 Q. Is that consistent with how you viewed your
3 role at the Lancaster office?

4 A. That's probably how I viewed my role, yes.

5 Q. Let's talk about 2011. Do you recall what
6 your bonus was in 2011?

7 A. I believe that's the year it dropped down. I
8 want to say it was about 25.

9 Q. Did Dr. Morphis provide you any explanation as
10 to why your bonus dropped from 75,000 in 2010 to 25,000
11 in 2011?

12 A. Other than probably, "we didn't do as well as
13 we did the year before," but that was about it.

14 Q. Did she provide you any financial information
15 about the practice to share why your share of the
16 profits decreased 100,000 -- I'm sorry, \$50,000?

17 A. No.

18 Q. Did you ask Dr. Morphis to see any of the
19 financial reports of the practice, so you could see the
20 details of revenue and expenses and where you might be
21 able to improve the profitability of the practice?

22 A. Yes. I can't tell you exactly when I started
23 asking her. I had an MBA, she would say she's not a
24 business person. She doesn't understand things and
25 stuff like that. And I really thought I -- when I

1 retired from the Army, I managed 18 different clinics
2 with about 150 different providers from physicians to
3 nurse practitioners to PAs, they were all underneath me.

4 Q. What was the budget of that operation?

5 A. Well, the budget does not include salaries,
6 because salaries in the military are centralized it came
7 out to a department in the Army, in DC. I had
8 approximately, about a 22 million dollar --

9 Q. Operating budget?

10 A. -- Budget. Sorry. 22 million dollar budget
11 to manage the different clinics and stuff, which were
12 also scattered over three different states Florida,
13 Mississippi, and Georgia. I would have to travel.

14 Q. Did you ever have discussions with Sandra
15 Tiner, the office manager in Lancaster, about improving
16 the profitability of the practice?

17 A. Yes. We would discuss that at least weekly,
18 if not more so sometime.

19 Q. And based on your discussions with Ms. Tiner,
20 was she privy to some of the financial statements and
21 financial records of Morphis Pediatrics of Lancaster?

22 A. She had access in some other -- to some
23 information, obviously, she was the officer manager. I
24 didn't have access to anything. She had access to
25 different things. I don't know exactly how much and

1 everything that she had access too, but I know she
2 signed the books. She would see bank statements and she
3 could sign checks.

4 Q. Did you have signatory authority at the bank?

5 A. Did I?

6 Q. Yes.

7 A. No, I did not.

8 Q. Your understanding was that Ms. Tiner could
9 write checks for Morphis Pediatrics of Lancaster?

10 A. Correct.

11 Q. Do you know whether Ms. Tiner was privy to any
12 of the complete financial statements from the accounts
13 that would come out on a periodic basis, either monthly,
14 or yearly, or quarterly?

15 A. I do not know for sure. I assume that she
16 probably did not.

17 Q. Do you recall what your bonus was -- actually,
18 when you were asking for more information, what was Dr.
19 Morphis' response to you?

20 A. That she would either -- when I would ask
21 specific questions, she would say, she didn't know the
22 answer to that and she would have to ask somebody, Gregg
23 or somebody else the information, which Gregg being the
24 CPA account...

25 Q. -- and when you say "Gregg" you're talking

1 about Gregg Alexander?

2 A. Yes, sir. Prior to him it was Will. He was
3 our account prior to him and Will died in '10 or '11.

4 Q. That's William Woodham of Moore Beauston &
5 Woodham?

6 A. Yes.

7 Q. Did you ever actually have any interactions
8 with Will Woodham before he passed away?

9 A. I think I met him once or twice. There was
10 not a lot of interaction, not that I can recall.

11 MR. THOMPSON: Your Honor, I need to ask the
12 Court's indulgence, could we -- I require a short break.

13 THE COURT: Yes, sir.

14 MR. THOMPSON: I'm sorry, If I could just have
15 a short break?

16 THE COURT: Okay. Ladies and gentlemen of the
17 jury, at this time we'll take about a five minute break
18 and we'll receive you back in. Please do not discuss
19 the case, thank you.

20 ((Jury exited)).

21 THE WITNESS: May I step down?

22 THE COURT: You cannot discuss your testimony
23 during any breaks with your attorney or anyone else.

24 (Whereupon, a recess was taken.)

25 THE COURT: Let's take five minutes.

1 (Whereupon, a short recess was taken.)

2 THE BAILIFF: All rise, the Court's now back
3 in session.

4 THE COURT: You maybe seated. I usually go
5 about a hour and-a-half. I need to take another break
6 at 3:30 pm. We will stop around 3:30 to sign some
7 warrants or something, with some officers. I will need
8 a break around 3:30 pm.

9 Let's bring them back in.

10 ((Jury Entered))

11 THE COURT: Thank you.

12 Yes, sir. We will continue with direct of the
13 plaintiff.

14 MR. ROTHSTEIN: Thank you, your Honor.

15

16 CONTINUED DIRECT EXAMINATION.

17 BY MR. ROTHSTEIN:

18 Q. David, we were talking about 2011, the second
19 year of your contract. Did Lancaster hire two
20 additional providers during that year?

21 A. We ended up hiring Dr. Carter as a
22 pediatrician and roughly, six to eight months later we
23 hired a lady, Dr. West.

24 Q. At that point, once you hired the two, there
25 were three of you, three providers in Lancaster?

1 A. Correct.

2 Q. Did Dr. Morphis come up on a regular basis in
3 2011 to work in the clinic in Lancaster?

4 A. No.

5 Q. I also understand that in 2011 the office
6 adopted an electronic medical records program. Can you
7 describe to the jury what that involved?

8 A. We converted from paper to EMR. It was also
9 the medical management of it. So it was all on one
10 system, the electronic records, it was all under a
11 company called APRIMA.

12 Q. Can you speak a little closer to the
13 microphone?

14 A. Sorry.

15 Q. Can you tell the jury the name of that EMR
16 system again?

17 A. APRIMA.

18 Q. Were you involved in the implementation of the
19 APRIMA system?

20 A. Yes. They came and presented to us in
21 Lancaster. Dr. Beth was there for that, I was there,
22 Sandra was there. I don't remember who else was there
23 at the time. They presented the software to us. We had
24 interviewed or talked with different providers also and
25 ultimately, we ended up deciding to go with APRIMA.

1 Q. Did the Hartsville office use APRIMA at the
2 time?

3 A. No.

4 Q. What did implementing this electronic medical
5 records system or medical office management system
6 involve from your office?

7 A. We had to buy laptop computers for the
8 providers and for the nursing staff. We had to replace
9 what computers we had in the front office, in the back
10 office and for billing and for the administrative staff
11 and stuff like that.

12 Q. Who did the research and the leg work on
13 actually getting the computers for the new electronic
14 medical records system?

15 A. I did.

16 Q. Was Dr. Morphis involved in the acquisition of
17 the hardware and start running the APRIMA system?

18 A. For the Lancaster office, no.

19 Q. Once Dr. Carter and Dr. West came on board,
20 did you also start doing work for Springs Memorial
21 Hospital?

22 A. We did. Dr. Beth negotiated a contract where
23 we would be on the pediatric hospital list, because they
24 were running out of pediatricians to cover both the
25 newborn nursery and cover the pediatric floor and they

1 needed additional providers. We agreed, I don't know
2 all the exact details of it, but we agreed to provide, I
3 want to say 85/90 percent of coverage per month to the
4 hospital.

5 Q. The income from that contract, was that given
6 to you directly or did that go through the Lancaster,
7 Morphis Pediatrics of Lancaster?

8 A. It went through the office.

9 Q. Did you do any work to help fulfill that
10 contract?

11 A. I pulled call, made rounds, covered the
12 newborn nursery. Did some procedures, circumcisions and
13 stuff like that. Admitted patients, discharged patients
14 from the hospital.

15 Q. Did you receive any additional salary or
16 stipend for doing work under the Springs contract?

17 A. I did. I couldn't tell you what it was. I
18 think we got paid so much per call per night and then
19 for making rounds and stuff.

20 Q. Was that paid directly to you through Springs
21 or was that money that went to --

22 A. I went to -- it was money that came from
23 Morphis. Springs paid Morphis of Lancaster and they
24 paid.

25 Q. Would the additional income from the Springs

1 contract be reflected in the revenue numbers of Morphis
2 Pediatrics of Lancaster?

3 A. Was it or should it?

4 Q. Would it?

5 A. It should have been. I'm not sure.

6 Q. Did Dr. Morphis also help fulfill that
7 contract at Springs Hospital?

8 A. She did. I don't know how many times she
9 actually covered just primary call, but as a nurse
10 practitioner, one of the requirements from Springs was
11 that I have a physician available to me either for
12 telephone consultations or if I needed help in the
13 facility, that somebody else would be available to me to
14 back me up.

15 Q. Did Dr. Carter and Dr. West do that from time
16 to time?

17 A. I knew Dr. Carter did. I assume Dr. West did.
18 I don't remember her specifically to be honest with you.
19 I know Dr -- there were some weekends and stuff that I
20 was on primary call and Dr. Beth would come up and stay
21 with some friends in the area and stuff like that, but
22 she didn't usually come in and make actual rounds.

23 Q. How often were you actually having to make
24 calls or going to Springs to make rounds on the
25 pediatric patients?

1 A. Honestly, I don't remember. It's been almost
2 ten years now.

3 Q. Was it a fairly routine thing, like every
4 other week --

5 A. Probably twice a week maybe and occasionally,
6 three times a week. There was an odd number of us and
7 stuff like that, it would just vary.

8 Q. We talked about your bonus. Let's talk about
9 2012. How long did Dr. Carter and Dr. West stay at
10 Morphis Pediatrics.

11 A. Dr. Carter came first and she left first. I
12 don't know if she was there -- I know she was there a
13 year. I don't know if she was there over a year or not.
14 If she was, it wasn't significantly over a year.

15 Q. And what about Dr. West?

16 A. Dr. West's contract, from what I remember, was
17 just not renewed. She worked one year and we were
18 pretty much done from what I remember.

19 Q. Do you recall what your bonus was in 2012?

20 A. Not without seeing the sheet. I want to say
21 it was 45-ish.

22 Q. Let's be a little -- I want to be precise
23 here. I'm gonna hand you Exhibit 12.

24 David, can you tell the jury what Exhibit 12 is?

25 A. It's a payroll summary from Morphis Pediatrics

1 Group.

2 Q. If you'll turn to the second page. Do you --
3 is that a summary for you?

4 A. Yes. It's mostly my stuff.

5 Q. And does this -- was this document provided to
6 you or provided to us during the discovery in this case
7 from an accounting firm?

8 A. I believe so. It's not something I would have
9 had seen prior to the case.

10 Q. And does this appear to be an accurate
11 reflection of the annual bonuses that you received from
12 2010 through 2015?

13 A. Yes, it looks like it. I didn't go through
14 every one.

15 Q. Does that refresh your memory about what you
16 received in 2012 in terms of performance bonus?

17 A. \$46,968.

18 MR. ROTHSTEIN: Your Honor, I'd move Exhibit
19 12 into evidence at this time.

20 THE COURT: Any objection?

21 MR. THOMPSON: No objection.

22 MR. MACKELCAN: No objection.

23 THE COURT: Exhibit 12 will be entered without
24 objection.

25 (Plaintiff's Exhibit 12, financial

1 summary, was marked for Identification.)

2 Q. (By Mr. Rothstein:) When you received your
3 bonus in 2012 for \$46,000 and some change, did Dr.
4 Morphis explain to you how she calculated that bonus?

5 A. She did not.

6 Q. Did she provide you any financial information
7 about the profits and/or income and expenses of the
8 Lancaster practice from which your bonus would have been
9 calculated?

10 A. No.

11 Q. What about 2013, do you recall what your bonus
12 was in 2013?

13 A. \$53,414.

14 Q. Does that seem correct to you?

15 A. No.

16 Q. Let me show you another document. I'll show
17 you Plaintiff's Exhibit 4. Do you recognize Plaintiff's
18 Exhibit 4?

19 A. Yes, I do.

20 Q. I'll ask you if you'll turn to the second page
21 of Plaintiff's Exhibit 4. Is this a document you
22 received from Gregg Alexander in 2015 summarizing your
23 bonus payments?

24 A. Yes, it is.

25 Q. What did Mr. Alexander indicate to you was

1 your bonus in 2013?

2 A. \$48,800.

3 Q. Does that comport with your recollection of
4 what you received?

5 A. Yes.

6 Q. Was it odd for you to receive a bonus payment
7 to the exact dollar or around number like that?

8 A. Pretty strange. I mean, stuff's not usually
9 that perfect in business, everything's \$29.95.

10 Q. And what happened with your bonus in -- let's
11 talk about 2014. What happened in 2014 when you -- your
12 W-2 came at the end of the year?

13 A. When I got my W-2 I had not received my bonus
14 check yet and I hadn't been told I wasn't getting one.
15 But I got my W-2 and they started to deliver it to us
16 and I opened it up and it was about \$50,000 less than
17 what I was expecting. It was basically just my yearly
18 base pay, that was all.

19 Q. And did you bring that issue up with
20 Dr. Morphis, about why your bonus was not reflected in
21 your W-2 that year?

22 A. I did bring it up immediately. It was quite a
23 shock. When you get a 35 percent pay cut and not even
24 know about it, I was a little disturbing.

25 Q. During that time between 2010 and 2014, had

1 you been working your tail off for Morphis Pediatric
2 Group?

3 A. Yes, sir. I was trying to make that place a
4 lot better, because I knew the better I made it, the
5 better my bonus would be. The better Beth's bonus would
6 be. The better we would be. And I was willing to do
7 pretty much whatever it took, 'cause I figured -- I took
8 ownership, I want to say, and I wanted to make it better
9 and not just for me, but for everybody.

10 Q. How far of a commute did you have everyday
11 from your home in Rock Hill or Fort Mill to Lancaster?

12 A. Approximately, 45 minutes or more.

13 Q. Did you ever ask to be reimbursed for mileage
14 for your daily commute?

15 A. No.

16 Q. Did you -- were you dedicated to the -- in
17 your time, did you work there long hours?

18 A. I worked until it was done every time.

19 Q. Did sometimes that include missing some of
20 your stepdaughter's school events or softballs games and
21 stuff like that?

22 A. Yes, sir.

23 Q. What was Dr. Beth's response in 2014 when you
24 said, "Hey, my W-2 don't show my bonus, what's going
25 on?"

1 A. I believe she, from what I recall, she said
2 she would have to check with Gregg to see what happened.
3 I don't remember a direct answer.

4 Q. At some point, did Mr. Alexander, Gregg
5 Alexander, communicate with you about the bonus?

6 A. He did.

7 Q. What did he tell you?

8 A. Pretty much that -- I don't remember if they
9 said they just forgot about it, but because they
10 switched from a S-Corp -- from a C-Corp to an S-Corp,
11 they were just going to pay me the same amount of money
12 as they did the previous year, so I wouldn't get
13 penalized for the conversion from the company.

14 Q. What did they make your bonus in 2014?

15 A. It was identical to the previous year \$48,000.

16 Q. Did that strike you as odd that your bonus
17 would be exactly the same from one year to the next?

18 A. I've never seen a company make the same amount
19 of money every year in a row.

20 Q. And based on what Mr. Alexander told you, did
21 you believe that the profit of the Lancaster practice
22 had gone down when the firm switched from an C-Corp to
23 an S-Corp?

24 A. I'm sorry. Say that again.

25 Q. Based on what Mr. Alexander told you, did you

1 believe that the profitability of Lancaster had
2 decreased based on the switched from a C-Corp to an
3 S-Corp?

4 A. I was trying to figure out what was going
5 on -- I know it was because the S-Corp was a pass, it
6 represents an LLC, which I actually have an LLC, so I
7 could have understood that. I wasn't sure exactly what
8 was going and they weren't providing any information.

9 Q. Eventually, did you get paid your bonus in
10 2015?

11 A. I did. I want to say it was like in March or
12 something.

13 Q. Did that effect your having the bonus on your
14 2015 income effect your taxes?

15 A. It changes my taxes because we had planned for
16 the money to be paid -- the bonus was for the year 2014.
17 We planned for the bonus to be paid in 2014. We have an
18 accountant. All of our stuff was dealt with for that
19 year specifically. So now, I'm paying -- you decreased
20 my tax liability for 2014, but you potentially increased
21 my tax liability in 2015 by \$50,000 -- an extra \$50,000
22 which happen to have a huge impact then on how we do our
23 financial stuff and everything else. There was a huge
24 -- and that was one of the issues that I brought up with
25 both, Gregg and Dr. Beth.

1 Q. What was Dr. Morphis' response to that when
2 you brought up that this may effect your tax liability?

3 A. I honestly don't remember.

4 Q. Did she offer to make good on it or cover the
5 difference?

6 A. No. There was nothing, no discussion about
7 that part of it.

8 Q. Sometime in mid 2015, did Dr. Morphis approach
9 you or Mr. Alexander approach you with discussions about
10 changing how your bonus was calculated?

11 A. They did. I don't remember who? I would
12 imagine it was probably Dr. Beth, not Gregg.

13 Q. Can you describe the meeting, what you can
14 recall from the meeting?

15 A. We ended up scheduling a meeting for the end
16 of May. In attendance was myself, Dr. Beth, Gregg,
17 Sandra Tiner and Tom Henson who was the Hartsville
18 manager. We discussed the numbers. They showed me the
19 spreadsheet -- he ended up somewhere showing me the
20 spreadsheet and he ended up emailing that spreadsheet to
21 me. And they were trying to show me, convince me that
22 taking -- instead of taking the 50 percent of the net
23 profits at the end of the year. Every year what I would
24 do is, take 5 percent of the gross revenues at the end
25 of the year. According to them, it would make it easier

1 for everybody. There wasn't a -- there would be no
2 question about how it got to be where it was. Those
3 numbers could be pulled off the APRIMA software, which I
4 had full access and administrative rights and access to.
5 So literally, I could run the report December 31st and
6 see what it was, take 5 percent of that, that would be
7 my bonus for the year.

8 Q. Did the APRIMA software track the expenses of
9 the practice?

10 A. It did not. It only showed income and the
11 patient records and stuff like that. It didn't show
12 where anything went out.

13 Q. Did Mr. Alexander bring any documents to the
14 meeting in May of 2015 to share?

15 A. The excel spreadsheet that's on the back of
16 this page here.

17 Q. That's Exhibit 4?

18 A. That is Exhibit 4. Yes, sir.

19 Q. At some point did Mr. Alexander send you an
20 email after the meeting with a copy of the spreadsheet
21 that he brought to the meeting?

22 A. Yes. I asked him to email me a copy of it
23 because he didn't have any additional copies.

24 Q. Is that what's reflected in the Exhibit 4, the
25 email and attached spreadsheet?

1 A. Yes.

2 MR. ROTHSTEIN: Your Honor, I move Exhibit 4
3 into evidence.

4 THE COURT: Any objection?

5 MR. THOMPSON: No objection.

6 MR. MACKELCAN: No objection.

7 THE COURT: Number 4 will be in evidence.

8 (Plaintiff's Exhibit 4, May 28, 2015
9 email, was entered into evidence.)

10 Q. (By Mr. Rothstein:) I know at the top there,
11 it says Chuck Thompson. I think because he printed it
12 out to give it to me. That's Mr. Thompson, the lawyer.
13 But other than that, does that appear to be the same
14 email that Gregg Alexander sent to and you Dr. Beth on
15 May 28, 2015 about 4:44 in the afternoon?

16 A. It is and I want to -- I don't believe he
17 actually brought that excel spreadsheet to the meeting.
18 I think he discussed it and discussed what the numbers
19 were, but he ended up sending me the email later on.

20 Q. This first page of Exhibit 4 is the cover
21 email; right? It was sent to both you and Dr. Beth?

22 A. That is correct.

23 Q. What was your understanding of what
24 Mr. Alexander was trying to illustrate with this
25 spreadsheet?

1 A. He was trying to show me that by converting to
2 5 percent, I would be getting approximately the same
3 amount -- an average of what my previous bonuses had
4 been.

5 Q. And did you understand how Mr. Alexander
6 computed -- let's look at this first column, and I'll
7 see if I can get it on this screen here.

8 I guess 2010 is reflected here; right?

9 A. Correct.

10 Q. Does that accurately reflect the \$75,000 bonus
11 that you received from that year?

12 A. It does.

13 Q. There's also a Christmas bonus. Was the
14 Christmas bonus mentioned at all in the contract?

15 A. No. That was Beth's gift to everybody.
16 Everybody in the company got a Christmas bonus.

17 Q. Did you believe that the Christmas bonus was
18 something that was discretionary with Dr. Morphis?

19 A. I mean, I think it was discretionary. Nobody
20 had any contract that had anything to do with the
21 Christmas bonus. But I do recall talking with Christy
22 Brown. Shes' like, they always give Christmas bonuses
23 out every year at the Christmas party and they have for
24 a number of years. Everybody in the company got a
25 Christmas bonus.

1 Q. Did you have any type of contractual right to
2 receive a Christmas bonus?

3 A. I did not.

4 Q. If Dr. Beth decided one year not to give the
5 Christmas bonus, would that have offended you or you
6 felt like your rights have been violated?

7 A. No.

8 Q. In that first year, do you understand how Mr.
9 Alexander came up with 7.2 percent bonus as a percent of
10 gross revenues?

11 A. I believe it was my total gross pay into the
12 1.1 million dollars, comes out to approximately 7
13 percent.

14 Q. Did he include your gross or was it just
15 bonuses?

16 A. I'd have to do the numbers to see if the
17 Christmas bonus was included or not included. It
18 doesn't say -- it doesn't describe what was added and
19 divided by to make that number.

20 Q. He indicated -- and that was a bonus as a
21 percentage gross revenue, not total comprehensive
22 percentage of the gross revenue; correct?

23 A. Correct.

24 MR. MACKELCAN: Objection. Leading question.

25 MR. ROTHSTEIN: I apologize --

1 THE COURT: Sustained. Please rephrase.

2 Q. (By Mr. Rothstein:) Do you have an
3 understanding of whether that 7.2 percent number
4 included your \$100,000 a year salary?

5 A. I believe it did include the \$100,000 base
6 salary. Yes.

7 MR. ROTHSTEIN: Beg your pardon. One minute,
8 your Honor.

9 Q. (By Mr. Rothstein:) Let's use the calculator
10 on my phone. Can you take \$180,414.04 divided by the
11 gross revenue number?

12 A. It says 1.6.

13 Q. Is that 16 percent of -- how about trying
14 75,000 divided by the gross revenue? 75,0000 divided by
15 1.116 million.

16 A. That comes to 6.7 percent.

17 Q. Try \$80,414.19 adding your bonus and the
18 Christmas bonus as a percentage of the gross revenues?

19 A. .72 percent.

20 Q. It appears that Mr. Alexander was including
21 both the Christmas bonus and the performance bonus as a
22 percentage age of your revenue?

23 A. That's correct.

24 Q. What was Mr. Alexander trying to do in handing
25 you this spreadsheet. Did he explain to you what he was

1 trying to convince you of and handing you this
2 spreadsheet?

3 A. That by taking the 5 percent of the gross
4 revenues it would actually be more beneficial or at
5 least neutral to getting 50 percent of the profits.

6 Q. Did you ask Mr. Alexander any questions during
7 that meeting?

8 A. I did.

9 Q. What did you ask?

10 A. I asked him if I was getting 50 percent of the
11 profits because even though my bonus said that, I did
12 not actually know if that is 50 percent of the profits.
13 That was just a number that I was given. I specifically
14 asked, "Am I getting 50 percent of the profits of the
15 practice?"

16 Q. And what was Mr. Alexander's response?

17 A. I can't divulge that information. That is
18 Dr. Beth's private tax information.

19 Q. What was your response to that?

20 A. I asked him not to divulge the information.
21 That, "yes" or "no". "Am I getting 50 percent of the
22 profits?" You're not divulging any information, yes or
23 no. He should know that, he's an accountant. He's the
24 company accountant.

25 Q. What was his response?

1 A. I can't divulge that information because it
2 would divulge Beth's tax information.

3 Q. I want to show you Exhibit 3. Mr. Hess, do
4 you see Plaintiff's Exhibit 3?

5 A. Yes, sir.

6 Q. And that document doesn't have the
7 accountant's label on the bottom of it, does it?

8 A. No, sir.

9 Q. And that says, Morphis 300 and Morphis --
10 well, there's a spreadsheet from the accountant. Which
11 was, for the record, it's Defendant's CC-S-55-9. Have
12 you ever seen the first page of Exhibit 3 prior to us
13 filing this lawsuit?

14 A. No, sir.

15 Q. Have you ever seen the second page of Exhibit
16 3 prior to us filing this lawsuit?

17 A. No, sir.

18 MR. ROTHSTEIN: Your Honor, I'm going to move
19 this Exhibit 3 into evidence at this time.

20 THE COURT: Any objection?

21 MR. MACKELCAN: Your Honor, I object in that
22 it hasn't been authenticated. He's not a party to the
23 email.

24 MR. ROTHSTEIN: These are documents that are
25 produced by the defendant, your Honor. They're their

1 documents.

2 Q. (By Mr. Rothstein:) Is this a true and
3 accurate depiction of what we received in discovery from
4 the defendant?

5 A. Yes, it is. Chuck Thompson's name is at the
6 top, he produced it.

7 Q. Did you make any alterations to the document?

8 A. No.

9 THE COURT: Hold on one second. Is he a party
10 to the document or did he just receive it as a result of
11 discovery?

12 MR. ROTHSTEIN: He just received it as a
13 result of discovery.

14 THE COURT: You can question him about it, but
15 I am not going to allow it into evidence.

16 MR. ROTHSTEIN: Okay.

17 Q. (By Mr. Rothstein:) The second page of the
18 spreadsheet itself, did that look familiar to the
19 document that you received and just looked at that
20 Exhibit 4?

21 A. Yes. The top part of the document was the
22 same part of the document that I received in the email.

23 Q. How is the email of Mr. Alexander sent that's
24 marked as Exhibit 3, how is that spreadsheet different
25 then the one you received?

1 A. It includes three additional lines at the
2 bottom.

3 Q. What are those three additional lines at the
4 bottom?

5 A. Net income for each year. Doctor bonuses for
6 each year. And net income before doctor bonuses for
7 each year.

8 Q. Did you ever receive that information from Mr.
9 Alexander?

10 A. No, I did not.

11 Q. Net income doctor bonuses and net income
12 before doctor bonuses?

13 A. I did not.

14 Q. If you had received that document, with those
15 additional three lines in the spreadsheet, would you
16 have been able to tell immediately whether or not you
17 had been receiving 50 percent of the Lancaster profits?

18 MR. MACKELCAN: Objection, calls for
19 speculation.

20 THE COURT: Overruled.

21 THE WITNESS: Probably, within about five
22 seconds.

23 Q. (By Mr. Rothstein:) Let's take a look at
24 Exhibit 11 -- sorry. The column for January through
25 December of 2011. How much did it indicate that

1 Dr. Beth received in doctor bonuses that year?

2 A. \$180,000.

3 Q. What was your bonus that year?

4 A. \$25,000.

5 Q. In 2012 what did the spreadsheet indicate that
6 Dr. Beth's doctor bonus was that for year?

7 A. \$330,000.

8 Q. And what was your supposed 50 percent bonus of
9 that year?

10 A. \$46,968.48.

11 Q. And how about in 2013, what did Mr. Alexander
12 indicate was Dr. Beth's bonus from the Lancaster
13 practice?

14 A. \$151,000.

15 Q. How much did you receive in bonus that year?

16 A. \$48,000 even.

17 Q. The next year when they switched from C-Corp.
18 To S-Corp. How much was the actual net income to the
19 practice indicated on Mr. Alexander's spreadsheet?

20 A. For which year?

21 Q. For 2014, the year they switched from the
22 C-Corp. To the S-Corp.

23 A. The net income before doctor bonuses was
24 \$277,838.94.

25 Q. What was your -- that was the year they paid

1 you the same bonus from 2013?

2 A. Correct.

3 Q. What was that number?

4 A. \$48,000 even.

5 Q. In the meeting you had in May of 2015 with Mr.
6 Alexander and Ms. Morphis, did Mr. Alexander mention any
7 of these net income numbers or how much Dr. Morphis was
8 taking out?

9 A. There was no -- never any indication or
10 showing to say, "This is what Beth's been getting."
11 "This is what you're getting." "This is better for
12 you." I had no idea of what her -- what she was
13 receiving.

14 Q. Later in 2015, did Dr. Beth present a contract
15 to you formally changing your bonus from the 2010 number
16 based on 50 percent of your net income to 5 percent of
17 the gross revenues?

18 A. Some point during that year, I don't remember
19 exactly when I first saw it.

20 Q. Was it around the May timeframe or was it
21 almost the end of the year?

22 A. They did not have anything when we had our
23 meeting in May, it was just discussed about doing the 5
24 percent. I probably had a copy of the contract prior to
25 signing it, but I don't recall it being for much more

1 than a week or two prior to me actually signing it,
2 around the first of December probably.

3 Q. Did you have discussions with Tom Henson about
4 the new contract? Tom Henson being the officer manager
5 of Hartsville.

6 A. Not that I can recall.

7 Q. Let me show you Exhibit 18. Do you recall
8 receiving Exhibit 18 some time towards the end of 2015?

9 A. Yes, sir.

10 Q. Do you recognize Exhibit 18?

11 A. I do.

12 Q. What is Exhibit 18?

13 A. It's the new contract changing me from 50
14 percent profit to the 5 percent revenue.

15 Q. You see your signature on the last two pages
16 of Exhibit 18?

17 A. Yes.

18 Q. What is the date of Exhibit 18?

19 A. December 30, 2015.

20 Q. Did Mr. Henson ever tell you that if you
21 didn't sign that document before the end of the year,
22 2015, that may have an effect on your bonus?

23 A. Yes. Yes, he implied if I do not sign this
24 contract that we would consider that I did not have a
25 contract and I would get no bonus at all.

1 Q. Even though you signed the document on
2 December -- what was the date you actually signed the
3 document?

4 A. December 30th.

5 Q. Did you fill-in the date?

6 A. That's not my writing, no.

7 Q. Do you know whose writing that is?

8 A. I'm not sure actually. It think it looks like
9 Beth.

10 Q. If you'll turn to the third page of Exhibit 18
11 and --

12 MR. ROTHSTEIN: And your Honor, I'm not sure
13 if I moved that into evidence. If not, I will go ahead
14 and move that into evidence now.

15 THE COURT: That's 13? What number did you
16 say?

17 MR. ROTHSTEIN: Exhibit 18.

18 MR. THOMPSON: No objection.

19 MR. MACKELCAN: No objection.

20 THE COURT: No objection to Exhibit 18. It
21 will be entered without objection.

22 (Plaintiff's Exhibit 18, 2015 Employment
23 agreement, was entered in evidence.)

24 Q. (By Mr. Rothstein:) On the third page of that
25 document, can you tell me when it says the actual new

1 contract would be effective?

2 A. They backdated it to March 1, 2015.

3 Q. At the time you signed the 2015 employment
4 agreement, did you have any financial information about
5 the firms profitability in 2015?

6 A. I did not, no.

7 Q. Do you know whether -- whose idea was it to
8 try to make the 2015 employment agreement retroactive
9 back to March 2015?

10 A. Dr. Beth.

11 Q. How much bonus were you paid in 2015 under the
12 news formula based on gross revenues of Lancaster as
13 opposed to net income and profit?

14 A. If I recall correctly, it was \$70,000.

15 Q. At the time you signed the 2015 employment
16 agreement changing your bonus formula, were you aware
17 that the Lancaster practices net income was over half a
18 million dollars?

19 A. I was not.

20 Q. Who worked with you in Lancaster in 2016 and
21 2017?

22 A. Dr. Sandra Hussey.

23 Q. And what kind of doctor is Dr. Hussey?

24 A. She's a pediatrician.

25 Q. Between 2016 and 2017 how often was

1 Dr. Morphis coming to the Lancaster practice to see
2 patients?

3 A. None that I can recall.

4 Q. Did Dr. Morphis ever mention anything about
5 the profitability of the Lancaster practice in 2016 and
6 2017 to you?

7 A. I don't recall when it started, but she did
8 start to say we were not making as much money as we had
9 been. We're starting to loose money. At one point she
10 said, we're bleeding money. It's not profitable
11 anymore. It's stressing her out. And then, at some
12 point, she decided -- she said, I think we're going to
13 sell the practice.

14 Q. When did she indicate that she was interested
15 in trying to sell the practice?

16 A. It was -- things pretty much came to a head
17 probably January 2018.

18 Q. At some point were you and Dr. Hussey trying
19 to do sort of outside of the box things to increase the
20 profitability of the Lancaster practice?

21 A. When she indicated that she was thinking about
22 trying to sell the office, it was later on in April or
23 May that she told us she made the decision, she's gonna
24 start soliciting offers for the practice. And at that
25 point, Dr. Hussey and I got together and decided, let's

1 see what we can find out, figure out if there's a way
2 that we can get together and she and I can get together
3 and take over the practice and buy the practice from
4 her.

5 Q. Before you found out that Dr. Morphis was
6 interested in trying to sell the practice, did you and
7 Dr. Hussey try to do things to increase the revenues of
8 the Lancaster practice?

9 A. We did. We changed our hours. We would
10 stayed over later in the evening and had evening hours
11 and alternated those hours. We never did any weekends.
12 We advertised. I think the biggest thing was trying to
13 extend our hours beyond what we traditionally had just
14 to try to get people to come in and maybe entice people
15 that weren't part of our practice that we had theses
16 extended hours to come to us. We had these extended
17 hours, so if you're working and stuff like that, we're
18 here for you afterwards too as much as possible.

19 Q. Did Dr. Morphis ever volunteer and say, "Hey,
20 I'll come in and work some extra hours in the evenings
21 to help with these extended hours?"

22 A. No. Dr. Hussey and I did it ourselves.

23 Q. Did that seem to satisfy -- were you
24 successful in generating enough income to make
25 Dr. Morphis happy?

1 A. She still elected that she was going to sell
2 the practice.

3 Q. And what time of the year did she announce
4 that she was interested in trying to sell the Lancaster
5 practice?

6 A. May or June of '18, I don't remember exactly.

7 Q. And when you and Dr. Hussey decided to try to
8 make an offer, did you request financial information so
9 that you could appraise or get the business valued by
10 professionals, like an accountant or a business
11 appraiser?

12 A. We did. We were given access to a portal that
13 Mr. Alexander set up and he emailed us the user name and
14 password or whatever to be able to access whatever was
15 in the portal.

16 Q. Do you recall how many years you were able to
17 get information about --

18 A. We were able to see back five years.

19 Q. That would have been '13, '14, '15, '16, and
20 '17; is that right?

21 A. And part of '18 was also included in that.

22 Q. And when you finally had a chance to look at
23 the financial records from the accountant, what did you
24 notice -- what, if anything, did you notice?

25 A. Well, one that -- there was a BMW on there

1 that none of us owned. Dr. Morphis was running her BMW
2 lease through the Hartsville -- through the Lancaster
3 office.

4 Q. Do you recall about how much a month that was
5 taking out of Lancaster office?

6 A. That was \$800 and some odd dollars a month.

7 Q. What else did you notice about the finances of
8 the Lancaster practice?

9 A. She was taking a monthly salary from the
10 Lancaster office.

11 Q. Anything else that you noticed?

12 A. We could see some of the year ends too. So we
13 could see some of the total amounts that she was taking.
14 I don't know that we have a completely clear picture,
15 but we could see that she was at least taking about
16 \$80,000 every year out of the practice. When we were
17 trying to calculate, would we be able to afford to buy
18 this? The two things we came up with was, Dr. Hussey
19 and I would both take a pay cut and obviously, that
20 \$80,000 that Dr. Morphis was taking out we would be able
21 to put back into company to try to keep it afloat and
22 operational.

23 Q. Prior to you getting the information through
24 Mr. Alexander's portal, did you have any idea about the
25 BMW lease that was being run through the Lancaster

1 office?

2 A. I think there was once or twice we saw on some
3 of the bank statements, but we weren't sure exactly what
4 it was because we didn't see it like every month the
5 bank statements. Every now and then, we would have a
6 bank statement and it would show BMW and we weren't sure
7 exactly what that was.

8 Q. Did Dr. Morphis ever tell you that she was
9 running her BMW convertible through the Lancaster
10 office?

11 A. She did not, no.

12 Q. In your observation did Dr. Morphis' BMW
13 provide any benefit to the Lancaster office?

14 A. No.

15 Q. Did you ever get to drive the BMW?

16 A. No.

17 Q. Okay. Did Dr. Morphis accept the offer that
18 you and Dr. Hussey made for the Lancaster -- to buy the
19 Lancaster practice?

20 A. No. They told us it was embarrassingly low or
21 something to that effect.

22 Q. Who did you communicate with about the offer
23 to buy the Lancaster practice?

24 A. They were accepting sealed bids up until a
25 certain point in time and everything was going through

1 Mr. Alexander.

2 Q. Did Mr. Alexander ever convey a counteroffer
3 or counter proposal from Dr. Morphis to you to sell you
4 and Dr. Hussey the practice?

5 A. No, they just told us it was unacceptable and
6 they were not accepting our offer.

7 Q. What happened with your employment and Dr.
8 Hussey's employment after you made the unsuccessful bid?

9 A. I don't know exactly. It was July-ish, middle
10 of July, when we made the bid and they declined it. And
11 I remember exactly, it was the last day of July and I
12 believe it was a Friday, but won't swear to that, but
13 Dr. Morphis and the HR Group and I believe Tom came up.

14 Q. When you say "Tom" you're talking about Tom --

15 A. Tom Henson, correct.

16 Q. He's the office manager?

17 A. For Hartsville.

18 Q. Okay.

19 A. And asked to have a meeting with Dr. Hussey
20 and I. We assumed that they were coming up at that
21 point basically to discuss the offer, make a counter
22 offer, discuss the offer, different things. And they
23 walked in and we all sat out front in the waiting room,
24 they handed both Dr. Hussey and I folders or envelopes
25 and basically said, "You're fired."

1 Q. Did you have any idea that you were going to
2 be fired that day?

3 A. No, sir.

4 Q. What did the envelopes actually say?

5 A. They had -- it was approximately a five letter
6 -- termination letter.

7 Q. Five page termination letter?

8 A. Yes.

9 Q. What did the termination letter say?

10 A. That we're being released without cause. That
11 we did not need to work at all anymore. That they would
12 pay us out the time that we had to be paid out for the
13 notice. They said that they would look into our
14 vacation and CME money, which we never got anything back
15 about that. They talked about sending out cards to all
16 of our patients because literally on that day, we were
17 gone and our patients never saw or heard from us again.
18 I asked about that on numerous occasions. They were
19 supposed to develop a little postcard to be able to send
20 to the patients, what it was supposed to say. We were
21 supposed to have maybe a little bit of input into
22 because, obviously, I care about these kids. I took
23 care of some of these kids since literally the day they
24 were born and for ten plus years. These patients I can
25 tell you stuff about, it's just some of the things that

1 these kids did was just unbelievable. And the next
2 thing I know, I'm out of their lives and they have no
3 idea. And when they asked, I heard rumors of various
4 things.

5 Q. Why did you file this lawsuit against
6 Dr. Morphis and Mr. Alexander?

7 A. A couple different reasons. One, I thought
8 Beth was my friend. With the few times I had questions
9 and stuff, I never even questioned it was her. I
10 thought it was the accounting firm. I even made the
11 recommendation that we get a new accounting firm because
12 I thought they were stealing from us, not just from me
13 but from her also. I had like, a little bit of
14 information and I would try to use everything I had to
15 figure out where, why, things don't add up. One plus
16 one equals two, that doesn't change anywhere you go.
17 Our one plus one never equaled two. Sandra and I tried
18 to figure out stuff. We tried to get pay raises for the
19 girls. We would hear, "there's not enough money."
20 "There's no money." The last year plus, it was, "we're
21 bleeding money." "We're bleeding money." We weren't
22 bleeding money. It was going somewhere, it just wasn't
23 where it should have been going. I'm not trying to be
24 greedy, but we had a contract. It wasn't just a
25 gentleman's contract. We had written contract that says

1 I get half the profits. She took that away. My wife
2 and I, we had some hard times in our lives and she knew
3 about them. She was taking \$330,000 and I'm struggling.
4 I'm sorry, that's wrong.

5 Q. After the lawsuit was filed, were you able to
6 get financial records back beyond what was available?

7 A. Yes. Once I had enough information and I came
8 to you and told you and you subpoenaed the records, we
9 found out a lot more information and a lot more details
10 then what I knew at that time.

11 Q. In your review of those records, did
12 Dr. Morphis ever share 50 percent of the profits of
13 Lancaster with you from the very beginning of your
14 contract?

15 A. Never.

16 MR. MACKELCAN: Objection.

17 THE COURT: What's the objection?

18 MR. MACKELCAN: Opinion testimony by a lay
19 witness.

20 THE COURT: Overruled.

21 Q. (By Mr. Rothstein:) In your review of those
22 records, did Dr. Morphis ever share the profits from
23 Lancaster, net profits 50/50 with you?

24 A. No, sir. Never.

25 Q. Have you had an opportunity to calculate the

1 losses that you suffered from Dr. Morphis' breech of her
2 promise?

3 A. Yes, sir.

4 Q. Exhibit 19. Do you recognized Exhibit 19?

5 A. Yes, sir. I do.

6 Q. What is Exhibit 19?

7 A. It's an excel spreadsheet that you and I put
8 together.

9 Q. Where did the information from this
10 spreadsheet come from?

11 A. Either from Dr. Morphis' discovery or form the
12 Alexander's and the CPA's documentation, the tax records
13 and everything else, they provided all the information.

14 Q. And you, personally, reviewed all the
15 information that was provided in discovery from this
16 case from Dr. Morphis, her attorney, and the accounting
17 firm and their attorney?

18 A. 99 percent of it, sure.

19 Q. Is this a fair and accurate summary of the
20 information that shows year-by-year gross revenues,
21 reported net income, Dr. Morphis' total compensation,
22 the BMW expenses each year, and the bonuses that you
23 were paid?

24 A. Yes, sir. It does.

25 Q. How did you determine what the net profits of

1 Lancaster should have been prior to any bonus split?

2 A. Using their records and adding back in my
3 bonus, Beth's compensation, her salary, the BMW and
4 everything back in, that should have been the net income
5 and that number, then would have been divided by two to
6 come up with what my bonus would have been, what her
7 bonus would have been.

8 MR. ROTHSTEIN: Your Honor, at this time I'd
9 move Exhibit 19 into evidence.

10 THE COURT: Any objection?

11 MR. THOMPSON: No objection.

12 MR. MACKELCAN: No objection.

13 THE COURT: It will be entered without
14 objection.

15 (Plaintiff's Exhibit 19, Excel
16 spreadsheet by Plaintiff, was entered
17 into evidence.)

18 Q. (By Mr. Rothstein:) Mr. Hess, what did you
19 determine the actual profit of Lancaster was before
20 consideration of Dr. Morphis' bonuses, the BMW expense
21 -- adding back the BMW expense and adding back your
22 bonus of \$75,000 for that year?

23 A. For to '10?

24 Q. For 2010?

25 A. Before the net profit would have been

1 \$251,905.63.

2 Q. And under your understanding of the contract,
3 what would have been your share of that?

4 A. It should have been around \$125,000.

5 Q. And you actually received how much?

6 A. \$75,000.

7 Q. That final column is the difference between
8 what you believe you should have received and what you
9 actually received; is that correct?

10 A. Correct.

11 Q. What was the total damages you are seeking for
12 years 2010, 2011, 2012, 2013, 2014, and 2015?

13 A. \$656,950.82.

14 MR. ROTHSTEIN: No further questions. Your
15 Honor, I'd like to move that into evidence. I guess
16 it's already entered.

17 THE COURT: Yes.

18 MR. ROTHSTEIN: Thank you, David. The other
19 attorney's may have some questions for you.

20 THE COURT: Mr. Thompson, I'll let you go and
21 then we'll take that break around 3:30 pm.

22 MR. THOMPSON: May it please the Court?

23 THE COURT: But no rush.

24 MR. THOMPSON: I will take longer than 15
25 minutes.

1 THE COURT: I know. After the brake we will
2 be prepared.

3 MR. THOMPSON: Okay.

4
5 CROSS-EXAMINATION

6 BY MR. THOMPSON:

7 Q. Mr. Hess, I want to ask you about a couple of
8 things you mentioned. You mentioned that you discussed
9 with Sandra Tiner on a regular basis the finances of the
10 Lancaster office; is that correct?

11 A. We discussed how we could make the Lancaster
12 office more profitable. Where we could get our supplies
13 from different places. We would shop around different
14 medical supplies. We would shop around different
15 pharmacies to provide the medications that we kept in
16 stock. Sometimes we would get stuff out of Florida,
17 because they didn't have sales tax and they would charge
18 overnight express free shipping, it was cheaper instead
19 of getting it from a local supplier. We did everything
20 we could to cut our expenses.

21 Q. You mentioned something about access to
22 information. What information, financial information,
23 did you have access to, say from 2010 to 2014?

24 A. Occasionally, Dr. Morphis would send a
25 monthly, I don't know if it was a profit and loss stuff.

1 It was very generic. It did not have a breakdown of
2 stuff. It would just say salaries and the total amount.
3 It would say postage and the total amount. It would
4 say, basic headers and not the actual breakdown to see
5 where the actual thing was going too. Ms. Tiner,
6 occasionally, would have access to some of the bank
7 statements and stuff like that and we would look at
8 those and try to review those to see if there was
9 something we could do to -- was there excess money going
10 out in areas and stuff like that.

11 Q. You mentioned you saw BMW payments. So you
12 looked at the checking account statements?

13 A. The bank statements, yes.

14 Q. During the period of 2010 to 2014?

15 A. Yeah. I saw a couple of them. It was not
16 every month. It was not continuously. Ms. Tiner would
17 have a copy of it or have it and we would review it and
18 look at it.

19 Q. You mentioned that you thought it was odd that
20 you get \$48,000 even as a bonus, I believe that was in
21 2013?

22 A. Two years in a row, correct.

23 Q. Why did you find that amount to be odd?

24 A. That means I would have had the exact same
25 number of patients doing the exact same thing for two

1 years in a row.

2 Q. So it caused you to question whether or not
3 you were getting 50 percent of the net income?

4 A. Correct.

5 Q. I have a question for you about the call
6 contract in 2012. That lasted approximately the year
7 2012?

8 A. I'm sorry, what about 2012?

9 Q. The call contract you mentioned in 2012?

10 A. Oh, for the hospital?

11 Q. Yes.

12 A. Okay, yes.

13 Q. That was in 2012?

14 A. I believe so.

15 Q. And that lasted approximately 12 months?

16 A. I believe -- it was either '11 or '12. I'm
17 not sure exactly when it started and ended. It was in
18 that timeframe though.

19 Q. And Dr. Morphis was the one that obtained that
20 revenue; correct?

21 A. She was the one who negotiated doing the
22 contract, yes.

23 Q. You occasionally handled some of that call?

24 A. I did.

25 Q. And you got paid for that separately; correct?

1 A. Correct.

2 Q. Did that -- did those monies hit your W-2?

3 A. One way or the other. I don't remember if I
4 got a W-2 or I got a separate 1099.

5 Q. Were there sometimes that you got a separate
6 1099 from Morphis Pediatrics?

7 A. Honestly, I don't remember. I would guess it
8 was on my W-2. I don't really remember getting any
9 1099. I would have to pull my tax records to look.

10 Q. Now, Dr. Morphis you don't contest, she did
11 own the practice; correct?

12 A. She did.

13 Q. And she did see patients from time-to-time in
14 Lancaster; correct?

15 A. What do you consider time-to-time?

16 Q. Well, you tell me. What's your perception of
17 how often she would see patients?

18 A. Per year I could count on less than two hands.

19 Q. You had access, full access to the APRIMA
20 reports; correct?

21 A. I did.

22 Q. For example in 2011, would you have reason to
23 question me if I said Dr. Morphis generated \$128,426 in
24 revenue --

25 A. Yes.

1 Q. -- out of the Lancaster practice?

2 A. She didn't generate \$128,000 the ten years I
3 was there.

4 Q. Did you see her revenue numbers on the APRIMA
5 reports?

6 A. Can I see copies of those?

7 Q. Yeah.

8 MR. THOMPSON: Your Honor, can we go ahead and
9 mark that for identification as Defense 1.

10 THE COURT: Yes.

11 (Defendant's Exhibit 1, APRIMA Reported
12 revenue numbers, was marked for
13 Identification.)

14 Q. (By Mr. Thompson:) What is the first year you
15 have there that you're looking at?

16 A. 2011.

17 Q. What is the APRIMA report Dr. Morphis
18 generated in terms of revenue?

19 MR. ROTHSTEIN: Your Honor, I'm going to
20 object to this question. It assumes something that
21 there's been no foundation for. Again, Mr. Thompson is
22 reading off of a report, we have no idea what that
23 report is. I think he has to lay a foundation before he
24 assumes that's what the report is showing.

25 THE COURT: Lay your foundation as to what it

1 is you're questioning.

2 Q. (By Mr. Thompson:) Mr. Hess, is this a report
3 that you've seen before?

4 A. I've seen similar reports to this, yes.

5 Q. Is that a APRIMA report?

6 A. It looks similar to reports I've seen.

7 Q. And you've printed out reports of this kind
8 from time-to-time?

9 A. Did I in the past, yes.

10 Q. You had full access and administrative rights
11 to the APRIMA reports in Lancaster?

12 A. That's correct.

13 Q. And Hartsville did not have APRIMA; correct?

14 A. They do have APRIMA now. They did --

15 Q. I said at the time.

16 A. -- get APRIMA about a year afterwards. I
17 don't know when they became APRIMA.

18 Q. And looking at these numbers, do you disagree
19 that or dispute that Dr. Morphis did generate revenue at
20 of the Lancaster practice?

21 A. These numbers don't say that. They say that
22 they were billed.

23 Q. How does a doctor bill numbers out of a
24 practice --

25 A. When you get -- new providers come in who are

1 not credentialed yet by the insurance companies, they
2 were all billed under Dr. Morphis' name, not under the
3 actual provider that saw them. So you would actually
4 have to run the report to see what Dr. Morphis actually
5 did, not what was billed underneath her name.

6 Q. So you're saying -- when -- who would do that?
7 They would enter billing for one provider under another
8 providers names? You're saying that was done out of
9 Lancaster?

10 A. Yes, sir.

11 Q. Would you do that?

12 A. I don't do billing.

13 Q. You're just basically denying she had patient
14 revenue out of Lancaster?

15 A. Completely? No. This amount? Yes.

16 Q. How about in 2012, \$168,802 you deny she
17 should have had a gross revenue?

18 A. Yes. She had 1800 RVUs. Even if that is
19 accurate. I had 11,000 RVUs.

20 Q. I'm not comparing.

21 A. But you can do a comparison.

22 Q. I'm not asking you about a comparison. I'm
23 asking if you deny that she could generate those kinds
24 of revenues?

25 A. Do I deny that she could generate those? No,

1 she could. She probably did a lot more than that in
2 Hartsville, but not in Lancaster.

3 Q. How about for 2014, you deny then that she
4 could generate \$232,400 charges out of Lancaster?

5 A. For which year 2014?

6 Q. 2014, yes.

7 A. You said she did \$232,000? No. Dr. Hussey
8 started in February, there was two of us there. She was
9 not there to generate \$232,000 for that year.

10 Q. So in 2015 there was a number of \$338,530 you
11 deny that she could have done that?

12 A. Yes. Dr. Hussey and I were both there.

13 Q. And 2016, there's a smaller number of
14 \$143,750. Do you deny that she could have generated
15 that revenue?

16 A. Yeah, only 133 RVUs.

17 Q. And the only explanation you can think of is
18 that other providers were putting billing under her
19 name?

20 A. Not other providers. Providers don't do the
21 billing.

22 Q. Okay. So who was doing the billing?

23 A. At that time, it would have been Diane.

24 Q. That would be improper wouldn't it?

25 A. It would be.

1 Q. Have you seen these reports before? They were
2 produced to you in discovery.

3 A. Correct. I've seen them in discovery.

4 Q. Let's take a look, if you will, at your 2010
5 agreement. The first sentence in Appendix A mentions
6 the word "Criteria". Do you have any understanding of
7 what criteria you had to meet to be qualified eligible
8 for an annual bonus?

9 A. No. I was never given any criteria.

10 Q. Was there any discussions about that from when
11 you were presented with the 2010 agreement?

12 A. I was never given any criteria for any year.

13 Q. And it's not defined anywhere in your
14 agreement; correct?

15 A. That is correct.

16 Q. How about the term "Eligible." Did you have
17 any understanding as to what that meant? What you had
18 to do to be eligible for an annual bonus?

19 A. I had to meet the criteria.

20 Q. That's your understanding. Was there any
21 discussion if you weren't eligible?

22 A. No.

23 Q. Is it defined anywhere in the agreement?

24 A. No.

25 Q. In going down to, "50 percent of said monies

1 after all debts, expenses, expenditures, royalties."
2 We've already talked about royalties, your understanding
3 of that. Do you have any understanding as to what debts
4 could be deducted in the calculation?

5 A. In general, yes.

6 Q. What was your understanding?

7 A. I understand the word debts means --

8 Q. No. No. My question is, from this Appendix,
9 did you have any understanding of what was meant by the
10 word "debts that could be deducted?"

11 A. You have the piece of paper, I could read it
12 just like anybody else. I mean, debts or debts.
13 They're what's incurred by the practice.

14 Q. Was there any discussion as to what debts to
15 be deducted?

16 A. No.

17 Q. What is the difference between expenses and
18 expenditures, do you have any understanding as to that?

19 A. Not much.

20 Q. So maybe expenses implying -- what's the
21 different between -- why is an expenditure different?

22 A. I would have used the same word for both.

23 Q. And there was no discussion about that as far
24 as you can recall?

25 A. No.

1 Q. And it's not defined in the agreement?

2 A. That is correct.

3 Q. You mentioned royalties. What is your
4 understanding of the word "royalty" what that meant,
5 where did that come from?

6 A. Dr. Beth.

7 Q. She told you something about that?

8 A. Yes.

9 Q. In reference to this agreement?

10 A. Yes.

11 Q. And how did that topic even come up?

12 A. I asked what royalties were because I didn't
13 understand that.

14 Q. And you've already testified as to what she
15 said.

16 A. That is correct.

17 Q. Then it says, "the monies will be determined
18 by the company accountant." Who did you regard as the
19 company accountant?

20 A. At that time it would have been Will.

21 Q. And who was it after that in your
22 understanding?

23 A. Mr. Alexander.

24 Q. And I think you've already testified as to
25 this. There was no dispute as to these net income

1 numbers, do we? Can you see those?

2 A. I disagree with your numbers, yes.

3 Q. I'm just on the net income numbers.

4 A. Yeah, with your net income numbers.

5 Q. Do you still have your Exhibit 19 in front of
6 you?

7 A. I do.

8 Q. There's a slight difference as to the 2010 net
9 income number. You've got 15,000. We've got 17,000.

10 A. Correct.

11 Q. The 2011 net income numbers are the same;
12 correct? Your spreadsheet and my spreadsheet?

13 A. Correct.

14 MR. ROTHSTEIN: You reported that income from
15 our --

16 MR. THOMPSON: I'm looking at your exhibit.

17 THE WITNESS: No, but you're looking at the
18 reported net income, not what I considered the net
19 income that's...

20 Q. (By Mr. Thompson:) We'll get there.

21 A. Okay.

22 Q. In terms of reported net income from profit
23 and loss statement --

24 A. Correct.

25 Q. -- those are the same numbers other than we

1 have a slight difference in 2010, do you agree?

2 A. Those numbers are similar, yes. Do I believe
3 it's the net income, no.

4 Q. My question is, are these the numbers off the
5 profit and loss statements from these years
6 respectively?

7 A. No. They would be inaccurate. They're
8 misleading.

9 Q. That's not my question. Are those the numbers
10 off the profit and loss statement?

11 A. Well, yeah, but I can write a number on a
12 piece of paper too, it doesn't mean it's right.

13 Q. That's the number that came from the company
14 accountant; correct?

15 A. Well, sure. When you zero out the books every
16 year.

17 Q. Well, that's not zeroing it out, is it? Those
18 are numbers.

19 A. They're numbers.

20 Q. And they're numbers from the year-end profit
21 and loss statement from the company accountant; correct?

22 A. They're -- I don't know how you want me to
23 answer that. They're numbers.

24 Q. I want you to answer with a truthful answer.
25 We can go through each profit and loss statement if you

1 want to.

2 THE COURT: Before you do that, we are going
3 to take a break.

4 Ladies and gentlemen of the jury, I had some
5 law enforcement officer's that I previously scheduled to
6 meet with, not related to this case. It will take about
7 15 minutes. We will go ahead and take our 15 minute
8 break at this time.

9 Thank you. Please do not discuss the case.

10 ((Jury exited.))

11 THE COURT: You may step down.

12 Give me about 15 minutes. They have a bunch
13 of warrants, I did not realize. Give me about 15
14 minutes.

15 (Whereupon, a short recess was taken.)

16 THE BAILIFF: All rise.

17 THE COURT: You may be seated. Let's bring
18 the jury in.

19 ((Jury entered.))

20 THE COURT: Ladies and gentlemen of the jury,
21 I apologize for that long delay. I did not have any
22 idea it was going to take that long. We are ready to
23 continue with cross-examination of Mr. Thompson.

24

25 CONTINUED CROSS-EXAMINATION

1 BY MR. THOMPSON:

2 Q. Mr. Hess, during the break did you discuss
3 your testimony with anybody?

4 A. No, sir.

5 Q. Did you review any documents or exhibits
6 during the break?

7 A. No, sir.

8 MR. THOMPSON: I'd like to offer this and mark
9 it as Defense Exhibit 2.

10 (Defendant's Exhibit 2, Profit and loss
11 statements 2010-2015, was marked for
12 Identification.)

13 Q. (By Mr. Thompson:) Mr. Hess, do you recognize
14 these as the profit and loss statements for Morphis
15 pediatrics 2010 through 2015?

16 A. Yes.

17 Q. Let me ask you again. The numbers in my
18 summary exhibit here, income, net income from 2010, is
19 that not the same number that is reflected on the
20 Morphis Pediatric Group profit and loss statement from
21 2010 from the company accountant?

22 A. That's the net income they reportedly done
23 with, yes.

24 Q. Well, my question was, is that net income
25 reported by the company accountant?

1 A. For tax purposes and stuff, yes, I would say.

2 Q. Why do you that add that qualifier, for tax
3 purposes?

4 A. Well, this was a C-Corp., you try your best to
5 zero out the record so you don't have a ton of taxes to
6 pay on the income of the corporation because basically
7 you're being double taxed if you do.

8 Q. So --

9 A. It's been a process of zeroing out the books.

10 Q. And for 2011, is a loss of \$9,359.12 the
11 number reported by the company accountant?

12 A. That is what they reported, yes.

13 Q. And for 2012 is net income of \$520.52, the net
14 income reported by the company accountant?

15 A. That is what they reported.

16 Q. And for the year December 2013, net income
17 reported as \$23,021.03?

18 A. That's what they reported.

19 Q. And for the year December ending 31st 2014, is
20 the net income reported by the company accountant
21 \$196,623.64?

22 A. For which year?

23 Q. 2014.

24 A. That's what they reported.

25 Q. And for the year ending December 31, 2015 is

1 the net income reported by the company accountant
2 \$374,893.28?

3 A. That is what they reported.

4 Q. I don't want to play a game with you. If you
5 don't take out Dr. Morphis', the money that she took as
6 compensation -- you want to call it a bonus, I call it
7 compensation -- to get the net income without taking
8 that out, you would take the net income -- I'm talking
9 about the net income before your bonus. You would take
10 the net income from the company accountant, add your
11 bonus back in and then take 50 percent of that?

12 A. To get -- you would take what they had listed,
13 I would say is the net income or loss, add my bonus back
14 in, add Beth's bonus back in, which is based on the
15 accountants paperwork that says bonus, not salary bonus,
16 put the BMW back in, that would give you a number of
17 roughly -- I don't have that paperwork in front of me
18 any longer. That would be -- what would be divided by
19 two to come up with my bonus and her bonus.

20 Q. If you didn't take Dr. Morphis' compensation
21 out, you would just add back in your bonus and take 50
22 percent of that to calculate the bonus?

23 A. You have to add all bonuses back in. Why
24 would I add that back in and divide that again by two?
25 Now, you're dividing money by-two by-two by-two.

1 Q. Isn't she entitled to some salary?

2 A. Not according to the contract.

3 Q. Okay. Where does it say that she's not
4 entitled to a salary in the contract?

5 A. She has an email saying, "I never attempted to
6 get a salary."

7 Q. Where does it say in the contract that she's
8 not entitled to any salary for the Lancaster practice?

9 A. It doesn't. Where does it say she is
10 entitled?

11 Q. I'm sorry, did you say -- does it say in the
12 contract anything about her taking a salary?

13 A. No.

14 Q. Personally, do you think she is entitled to
15 some compensation for her ---

16 A. Personally? I think she would be entitled to
17 some compensation at a reasonable amount. \$330,000 is
18 more than she made in Hartsville where she worked
19 full-time.

20 Q. Let's talk about that year of 2012. Did she
21 negotiate a contract that brought in substantial revenue
22 to the practice with regard to the hospital?

23 A. She negotiated it, yes.

24 Q. There were a couple other years she also
25 negotiated contracts with the hospital to get money to

1 recruit positions too; correct?

2 A. It would have been prior to the other
3 contract.

4 Q. I'm sorry. What other contract?

5 A. The one for -- when we were in the hospitals
6 for the pediatrics.

7 Q. In this time period 2010 to 2014, did she
8 negotiate contracts with the hospital so that Lancaster
9 got money from the hospitals to pay for physicians that
10 she was hiring?

11 A. Correct.

12 Q. That didn't have anything to do with you
13 delivering services to patients that --

14 A. No, but my contract didn't say "based on my
15 delivery of services." It said, "based on 50 percent of
16 profits of Morphis Pediatric Group of Lancaster."

17 Q. You didn't have anything to do with
18 negotiating these contracts did you?

19 A. Probably not.

20 Q. Did you have any idea how much revenue came in
21 to the practice because of these contracts?

22 A. No, I was never given that information.

23 Q. You mentioned, handling call. Wasn't call
24 voluntary? You can sign up for call or not sign up for
25 call as you wanted?

1 A. I'd have to refer back to my spreadsheet.

2 Q. You said it in your testimony?

3 A. But I don't have my spreadsheet in front of me
4 and I don't recall offhand.

5 Q. I want to make sure you know what I'm talking
6 about. You were talking about when you got to the end
7 of the year and you looked, there was no bonus; correct?

8 A. Correct.

9 Q. In 2014?

10 A. Correct.

11 Q. You said something about, but "I was expecting
12 X amount," do you remember that?

13 A. I never knew what the bonus was going to be
14 until I either got the check or W-2.

15 Q. So you don't recall testifying earlier that
16 you were expecting a certain amount?

17 A. No.

18 Q. Let me ask you it this way. Did you have a
19 number in your mind when you looked at your W-2 and
20 whatever information you got for 2014, that you were
21 expecting that number to be?

22 A. I expected it to be over my base pay and the
23 \$5,000 I got for a Christmas bonus.

24 Q. Did you have any idea of what the amount may
25 be of the bonus that you were getting?

1 A. No. I never knew the amount until I either
2 got the W-2 or the check itself. There was never -- I
3 never got, "Hey, you're gonna get this amount." She
4 never came to me or anybody came to me and said, "This
5 is what we're going to be expecting to pay you."

6 Q. But you did have some access to financial
7 information I think you said; right?

8 A. I had access to APRIMA and every now and then
9 I would get a very generalized monthly expenditure
10 report.

11 Q. And you testified something about, you
12 couldn't understand why there wasn't more money?

13 A. Correct.

14 Q. And that was a concern you had somewhere in
15 2010 to 2014?

16 A. Right. 'Cause it showed more money coming in
17 and there wasn't enough going out to account for the
18 lack of bonuses.

19 Q. How did you judge this "not enough money going
20 out" to justify the lack of funds. What did you use --

21 A. We had an idea. We knew what some of our
22 expenditures and stuff were. We were the ones buying
23 all the supplies. We were the ones buying all the
24 stuff. We were able to guesstimate peoples salaries and
25 stuff like that. We knew what my salary was. We were

1 able to come up with -- we knew how much the rent was,
2 we handed them the check every month. We had a decent
3 idea. I have an MBA, I can sit down and start
4 calculating and looking at things.

5 Q. You said "we" who is we?

6 A. Sandra and I would work together.

7 Q. And this was done in this time period from
8 2010 to 2014?

9 A. On and off, yes.

10 Q. I'm sorry?

11 A. We didn't do it every single day.

12 Q. I understand. How often would you try to
13 figure that out you think?

14 A. There was probably two times we tried to
15 figure out as much as possible. And I know one of those
16 times, I approached Beth and was concerned because I
17 thought the accounting firm was not doing something
18 right with the money. Because the numbers, no matter
19 how we looked at them and even if -- we always figured
20 we would estimate high. We would rather be high on the
21 expenditures than low on the expenditures, because that
22 way it's a safer bet. And no matter how high we can
23 estimate everything to be, there's -- the numbers just
24 could never add up.

25 Q. And that caused you to question in your mind

1 whether or not you were getting the bonus?

2 A. That caused a lot of things. We weren't
3 giving the girls pay raises half the time.

4 Q. And your bonus was one of those things?

5 A. My bonus was one of those things.

6 Q. And there was a meeting in May of 2015 that
7 you talked about. Who was there Tom, Gregg --

8 A. Dr. Beth, Sandra and myself.

9 Q. And this was discussed, that proposed 2015
10 agreement?

11 A. Correct.

12 Q. And one of the questions you asked was, "Am I
13 getting 50 percent of the profits?"

14 A. That is correct.

15 Q. And you asked that question in part because
16 you thought you weren't getting 50 percent of the
17 profits; is that correct?

18 A. That is correct. Well, it's because I wasn't
19 sure. So the only way to find out is to ask the
20 question. "Am I getting 50 percent of the profits,
21 "yes" or "no"?" And I specifically asked, "yes" or
22 "no". Don't give me information. Don't divulge tax
23 information. "Am I getting 50 percent, yes or no?"

24 Q. Your total compensation in 2010, would you
25 agree with me, was \$175,000?

1 A. They do.

2 Q. So again, I'll ask you in your total
3 compensation in my column D -- do you agree with those
4 -- we went through all those numbers and you agree with
5 all those numbers; correct?

6 A. I'm not sure about '16 and '17. I don't have
7 those numbers in front of me.

8 Q. Okay. Have you looked at the 2016 and '17
9 numbers before, for total compensation?

10 A. I probably have. I don't recall, there's a
11 lot of numbers.

12 MR. ROTHSTEIN: Judge, I would impose an
13 objection that, '16 and '17 are not at issue in this
14 case. We haven't made a claim that the bonuses in '16
15 and '17 were improperly calculated. I think his line of
16 questioning is an irrelevant issue in this lawsuit.

17 MR. THOMPSON: My answer to that, your Honor.
18 If you recall, what their claim is, in 2015 we defrauded
19 him into entering into a new contract and should get
20 paid under the 2010 agreement. Well, we're going to
21 argue certainly that if you're going to essentially
22 abandon -- if you're going to say, I was frauded into
23 entering the 2015 agreement, then you don't get the
24 benefit of 2016 and 2017. I'm entitled to bring up what
25 he got in 2016 and 2017 and he got more than he would

1 have gotten under the 2010 contract years.

2 THE COURT: Alright then --

3 MR. ROTHSTEIN: May I respond to that?

4 THE COURT: Yes, sir.

5 MR. ROTHSTEIN: Your Honor, the Payment of
6 Wages Act clearly requires 7 days advance notice of any
7 change. The fraud is that they lead Mr. Hess into
8 believing that his bonus that he received in 2015 would
9 be the same as it would have been under the 2010
10 contract. When in fact, it was about half a million
11 dollars difference. What happened in 2016 and 2017 is
12 not relevant. He accepted the change and to base his
13 bonus on 5 percent going forward. We are not making a
14 claim for 2016 and 2017. They're trying to off set
15 somehow and say, "Alright, if we undo the 2015 contract
16 looking forward, this is what would have happened." I
17 don't see how you can possibly do that.

18 THE COURT: I will let him ask the question as
19 to relevance. Y'all can argue about that later.

20 Objection is overruled.

21 Q. (By Mr. Thompson:) Let me ask you it this way
22 Mr. Hess. Do you recall approximately what your total
23 compensation was in 2016, was it approximately \$157,000?

24 A. Approximately, yes.

25 Q. And would you agree in 2017 your total

1 compensation was at least approximately \$150,000?

2 A. It was probably somewhere in that
3 neighborhood, yes.

4 Q. And I'll ask you again. Would you disagree
5 that your total compensation for all those years
6 actually exceed Dr. Morphis' total compensation?

7 A. Am I surprised that it did?

8 Q. Yeah, do you disagree? Not surprised, do you
9 disagree?

10 A. Say the question again.

11 Q. Did your total compensation exceed
12 Dr. Morphis' compensation for the years 2010 through
13 2017?

14 A. Yes.

15 Q. And did you receive bonuses totalling
16 \$421,754.89 not including Christmas bonuses?

17 A. If your numbers are correct then, yes. But I
18 would have expected my income to be slightly higher than
19 hers. I get a base salary of \$100,000 and we're
20 splitting the profits after that. So I would expect
21 each year, my total compensation versus her total
22 compensation would have been \$100,000 as a base salary,
23 which is in the contract. I get \$100,000 base salary
24 and then the division of the profits, which is 50/50.

25 Q. Once again, under your theory under your

1 contract, she gets no compensation before profits are
2 returned?

3 A. That's what she said.

4 Q. Well, what does the contract say?

5 A. Doesn't say she gets compensation.

6 Q. It doesn't say she doesn't either, does it?

7 I'm sorry what was the answer?

8 A. It doesn't say either way.

9 Q. Now, when you did finally get access to the
10 financial information when you put in your bid, nothing
11 was hidden from you. You saw her compensation for
12 example; correct?

13 A. I don't recall exactly what I saw, but I saw
14 there was some compensation for her. Yes.

15 Q. And you saw the BMW, nobody hid that from you,
16 did they?

17 A. Depends on what she hid, she had it for five
18 years.

19 Q. I'm talking about when you saw the financials.
20 When you and Dr. Hussey put in your bid, in that process
21 you were given full access to the financials?

22 A. I believe I was given the full access, I'm not
23 sure.

24 Q. Did you testify it was then that you realized
25 Dr. Morphis was taking compensation from the practice?

1 A. Yes.

2 Q. So you saw those numbers?

3 A. Yes.

4 Q. And you saw the BMW numbers?

5 A. Yes.

6 Q. Were you aware of any law that says a business
7 owner can't expense a vehicle?

8 A. I believe it says if you're going to use it
9 for business you have to claim the personal use of the
10 vehicle too.

11 Q. Did y'all ask --

12 A. The business has got to be -- the vehicle has
13 got to be used for the business that it's being leased
14 to.

15 Q. Do you know what she used it for in terms of
16 business verus none business?

17 A. No.

18 Q. Y'all ask for her automobile logs?

19 A. No.

20 Q. What kind of car do you drive Mr. Hess?

21 A. Currently?

22 Q. What kind of car did you drive back then?

23 A. I original had a Ford Expedition. Then I got
24 a GMC SUV.

25 Q. You had a corvette also?

1 A. I did.

2 MR. ROTHSTEIN: Objection. It's completely
3 irrelevant of what kind of car he had. He didn't
4 expense vehicles through the business.

5 THE COURT: Objection is overruled. I'll let
6 him ask the question.

7 Q. (By Mr. Thompson:) At some point did
8 Dr. Morphis give you every other Friday off?

9 A. Excuse me.

10 Q. At some point during your employment, did she
11 give you every other Friday off, when did that start?

12 A. I do not recall when that started.

13 Q. Did she hire somebody to work for you?

14 A. I believe that's when Jacob Coward was
15 partially coming up there, yes. It wasn't just me it
16 was one of the other providers also.

17 Q. Did you ask for that benefit?

18 A. I don't recall asking for that.

19 Q. Where do you currently work?

20 A. Concentra Medical Center.

21 Q. Do you get paid hourly or salary?

22 A. Salary.

23 Q. Hourly?

24 A. Salary.

25 Q. What is your annual salary now?

1 A. Approximately \$138,000 plus incentive bonuses.

2 Q. You mentioned Tom Henson, who is he?

3 A. He's the office manager for Hartsville.

4 Q. Did he perform some services for the Lancaster
5 practice?

6 A. I think he did the books for -- he did the
7 numbers for payroll, but that was done by an HR service.
8 He probably balanced the checkbooks.

9 Q. He did the accounting too, didn't he, internal
10 accounting?

11 A. He's not an accountant.

12 Q. Did he do the internal bookkeeping?

13 A. He balanced the checkbooks. I don't know what
14 all was involved in that.

15 Q. Are you aware that they use Quickbooks
16 accounting software?

17 A. Yes.

18 Q. Do you know if he took care of that aspect?

19 A. Yep. He would put the checks in and take the
20 checks out.

21 Q. Expenses, accounts payable, accounts
22 receivable, those kinds of things?

23 A. Correct.

24 Q. Do you know how much time he spent in
25 Lancaster versus Hartsville?

1 A. He in his deposition he said he did about --

2 Q. Other than that?

3 A. The time that I worked there I think Tom came
4 up to Lancaster twice. One time was to bring checks up
5 because they forgot to write them.

6 Q. You don't know what he's doing back in the
7 Hartsville office in terms of Lancaster work?

8 A. No.

9 Q. Regarding the 2014 bonus, did somebody
10 apologize to you for your bonus being late in 2014?

11 A. Gregg did.

12 Q. Who was it that actually paid the bills for
13 the Lancaster office and processed and paid those bills?

14 A. Probably a majority of them went through Tom,
15 but I know Ms. Tiner paid a few of them also.

16 Q. I think I understood your earlier testimony
17 that you had some sort of hint before 2015 that
18 Dr. Morphis was taking compensation?

19 A. I'm sorry. Say that again?

20 Q. Did you have some sort of idea that
21 Dr. Morphis might be taking compensation from the
22 Lancaster practice before 2015?

23 A. It may have crossed my mind or I may have
24 heard about it. But I didn't know for sure I was never
25 given complete records.

1 Q. Do you recall hearing something from Tom who
2 gave you the idea that Dr. Morphis might be taking
3 compensation out of the practice?

4 A. Yes.

5 Q. And did you hear perhaps something from Sandra
6 that made you think that perhaps Dr. Morphis was taking
7 something out of the practice?

8 A. Not that I recall from Sandra, no.

9 Q. So just from Tom?

10 A. I believe so.

11 Q. Sometime before 2015?

12 A. I don't know the timeline. It might have been
13 later than that.

14 Q. Sometime before you met with Gregg and Tom and
15 Beth to discuss the 2015 contract?

16 A. I really don't recall when it was.

17 Q. You utilized Clark Moore to -- let me back up.
18 Who is Clark Moore?

19 A. He's my accountant.

20 Q. How long has he been your accountant?

21 A. Seven, eight, ten years.

22 Q. And before the meeting with -- the May 2015
23 meeting, did you discuss this contract with Clark Moore?

24 A. Probably not before the meeting. I didn't
25 know about the contract when I went to the meeting in

1 May.

2 Q. Did you discuss it with him before -- let me
3 ask you this. When was that agreement finalized, was
4 that in June?

5 A. The contract?

6 Q. Yes, the 2015 contract.

7 A. December 31, 2015 was when it was signed.

8 Q. But y'all discussed it in May?

9 A. It was brought up briefly. There was no
10 paperwork, there was no nothing. It was just let's
11 convert from this to this.

12 Q. Do you recall basically agreeing to it in June
13 2015?

14 A. In June, I know I had questions. I think I
15 proposed some alternatives, but I do not recall agreeing
16 to it.

17 MR. THOMPSON: We'll mark this for Defense 3.

18 (Defendant's Exhibit 3, Email
19 communication, was marked for
20 Identification.)

21 Q. (By Mr. Thompson:) What I've marked as
22 Defense 3, is some related emails. The one on top being
23 dated June 1st from you to Dr. Morphis; correct?

24 A. It is.

25 Q. This is an email you sent to Dr. Morphis?

1 A. The top part of it is, yes.

2 Q. Then in the email you tell Dr. Morphis that,
3 "I agree." "This makes it easier for us."

4 Are you talking about the 2015 agreement?

5 A. I believe I was. And I also had some
6 questions and comments and concerns about it also.

7 Q. Right. Do you think that you would have
8 talked to Mr. Moore about the 2015 agreement before this
9 June 1, 2015 email?

10 A. Probably not. Depending on the day of the
11 week --

12 Q. I'm talking about anytime, sometime before, is
13 my question.

14 A. The meeting was on May 28th. That's Memorial
15 Day.

16 Q. Gotcha.

17 A. So Memorial Day weekend they were probably
18 closed.

19 Q. How about this, does this email help you
20 refresh your memory perhaps as to when you think you
21 might have first discussed the 2015 agreement with Clark
22 Moore?

23 A. I probably wouldn't have talked to him until I
24 actually had something in hand. I may have brought it
25 up with him on a telephone conversation and asked him

1 about it, what his opinion was. And I remember some of
2 the -- I mean, I don't remember the conversation
3 verbatim, but I remember some of the concerns that he
4 had with the contract.

5 Q. When do you think is the first time you had
6 those discussions with Clark Moore?

7 A. It would have been sometime after our meeting
8 on May 28th.

9 Q. Within a couple months at least?

10 A. Probably.

11 Q. And did you express concern about whether or
12 not you got 50 percent of the profit of the prior years
13 to Clark Moore?

14 A. I did. I believe I probably discussed that
15 with him.

16 Q. And who brought that up first you or Clark
17 Moore?

18 A. I know we both brought it up. I couldn't tell
19 you who brought it up first.

20 Q. And then 2017 and 2018 you agreed that the
21 number of patients coming through Lancaster did decline;
22 correct?

23 A. It did.

24 Q. As did revenue?

25 A. It did.

1 Q. And you mentioned something about being a
2 partner. You were never a partner of Morphis Pediatrics
3 Group, were you?

4 A. Legally, no. I was called a managing partner
5 on a couple of occasions.

6 Q. Who called you a managing partner on a couple
7 of occasions?

8 A. Dr. Beth did.

9 MR. THOMPSON: Your Honor, that's all the
10 questions I have for this witness.

11 THE COURT: Thank you. Mr. Mackelcan.

12
13 CROSS-EXAMINATION

14 BY MR. MACKELCAN:

15 Q. Mr. Hess, you were aware that Morphis
16 Pediatrics wasn't providing you full financials long
17 before you ever interacted with Gregg Alexander in 2015
18 about your 2014 bonus; correct?

19 A. I had my suspensions, yes.

20 Q. And the extent of your interactions with Gregg
21 Alexander about your bonus involved a phone conversation
22 in February of 2015 and this meeting that's been
23 discussed, May 28, 2015 and an email that he sent
24 shortly after the meeting that same day; correct?

25 A. The original conversation in February would

1 have been from the 2014 bonus, not the '15. As I didn't
2 get paid.

3 Q. Excuse me. But about the bonus. That the
4 extent of your communication with Mr. Alexander were on
5 those two days as to your bonus?

6 A. Pretty much, yes.

7 Q. I'm going to try not to repeat questions that
8 have already been asked for everybody's benefit. I know
9 you have testified that you were provided certain
10 financial information and you pieced together other
11 information that you were able to access. And again,
12 this was all done before you ever communicated with Mr.
13 Alexander about your bonus; correct?

14 A. Yes.

15 Q. So Mr. Alexander's refusal to provide you
16 certain financial information of Morphis Pediatrics of
17 Lancaster in May, on May 28, 2015 was actually just a
18 continuation of an existing policy from Morphis
19 Pediatrics of Lancaster, your employer; correct?

20 A. I never asked Mr. Alexander for information
21 until the meeting on the 28th about, "Was I receiving
22 the 50 percent."

23 Q. But you had been asking for the information
24 from Morphis Pediatrics of Lancaster. So my question
25 was, his refusal was just an extension of Morphis

1 Pediatrics of Lancaster's preexisting position regarding
2 not giving employees full financial information of the
3 company; right?

4 A. I guess you could look at it that way, yes.

5 Q. Gregg Alexander was never your accountant;
6 correct?

7 A. Correct.

8 Q. And Moore, Beauston & Woodham has never
9 provided accounting services for you personal or your
10 family?

11 A. That is correct.

12 Q. And just to be clear, because there was a
13 reference to Clark Moore. Clark Moore is not related to
14 Moore Beauston & Woodham. He has is own accounting
15 firm?

16 A. Right. It's with Moore and Moore.

17 Q. A different person all together?

18 A. Right.

19 Q. At the time that you interacted with Mr.
20 Alexander until early 2015, you were aware that he
21 performed certain accounting services for Morphis
22 Pediatrics; is that correct?

23 A. That is correct.

24 Q. Your theory of this case against Mr. Alexander
25 and Moore Beauston & Woodham is by not answering your

1 question on May 28, 2015. Whether or not Morphis
2 Pediatrics of Lancaster had been paying you 50 percent
3 of profits. He and his accounting firm are liable to
4 you for fraud, misrepresentation and tortious
5 interference with the contact?

6 A. That is correct.

7 Q. And at the time that you asked that question
8 and Mr. Alexander answered you that he could not answer
9 your question, you understood that he was choosing not
10 to answer the question, right. Not providing you any
11 false information?

12 A. I understand not divulging numbers, the way
13 they were doing things. But he's the company
14 accountant, he should know "yes" or "no" did I get 50
15 percent.

16 Q. You've said that a couple of times. You asked
17 him "yes" or "no". He didn't answer yes or no; did he?

18 A. He didn't answer anything. He just said, it's
19 a taxable issue -- not tax.

20 Q. He answered that he could not answer the
21 question; right?

22 A. He did.

23 Q. Okay. And you understood that that was his
24 answer?

25 A. I did.

1 Q. He didn't give you any wrong information?

2 A. He did. He mislead me. Lying by omission is
3 lying.

4 Q. Please answer my question. He did not give
5 you any wrong information, did he?

6 A. Actually, I think he did. The spreadsheet I
7 think was inaccurate. Now, does it say one plus one
8 equals two, yeah. But if it should have been two plus
9 two, then it is wrong.

10 Q. My question was related to, when you asked him
11 if you had been given 50 percent of bonuses. He didn't
12 give you any wrong information in his answer?

13 A. Not at that time.

14 Q. He just didn't give you the information that
15 you wanted and that you had been asking Dr. Morphis and
16 Morphis Pediatrics of Lancaster for years; right?

17 A. On and off, correct.

18 Q. And you know that Mr. Alexander did not
19 calculate and determine your bonuses; correct?

20 A. I do now, yes.

21 Q. And you don't know the scope of accounting
22 services that he provided for Morphis Pediatrics; right?

23 A. In general, but not in detail, no.

24 Q. But you weren't involved in the engagement
25 letters --

1 gross revenues was more or less comparable to the
2 average bonus that you can receive. You understood that
3 was the purpose of this spreadsheet?

4 A. The average bonus that's received.

5 Q. Correct.

6 A. Correct.

7 Q. At some point or along the way or around this
8 time there were discussions about some of the benefits
9 of a new bonus structure. Do you recall that?

10 A. Yes.

11 Q. And you recall that one of them was that the
12 new bonus structure provided greater protection from you
13 for unanticipated expenses; correct?

14 A. That couldn't be --

15 Q. Well, the expenses were no longer a factor
16 in the determination of your bonus so...

17 A. Right. Yes. That part there.

18 Q. And the gross revenues were more or less
19 fairly comparable. So you knew that your bonus was
20 going to be approximately \$50,000 correct, and maybe
21 more and maybe slightly less, but right about that,
22 under the 2015 agreement?

23 A. I believe so, yes.

24 Q. And it was better than that in 2015 I think
25 you testified it was \$70,000?

1 A. Correct.

2 Q. And \$57,527 in 2016, something to that effect?

3 A. Yes.

4 Q. And \$50,900 in 2017?

5 A. Correct.

6 Q. And you admitted in this case that your bonus
7 had you been under the 2010 agreement in 2016 would have
8 only been \$16,956?

9 A. I'm sorry, say that again. For which year?

10 Q. For 2016 if it had been done under the 2010
11 agreement?

12 A. I never calculated it under the old bonus. I
13 don't have -- I've never been given this or really
14 examined the financial records.

15 Q. And under the 2017 agreement you actually
16 would not -- in 2017, under the 2010 agreement, you
17 actually would not have been entitled to a bonus at all
18 correct?

19 A. I'm not aware.

20 Q. You admitted that -- you've admitted that in
21 this case, both of those numbers have been admitted.

22 A. Can I see those? I believe that somebody else
23 brought those up, but I've never calculated those so I
24 can't verify to that.

25 Q. But you agree that you were paid considerably

1 more in 2016 and 2017 under the new agreement then you
2 would have been under the old agreement?

3 A. I'd have to sit down and calculate that.

4 MR. MACKELCAN: Your Honor, I believe I have a
5 matter of law before the Court.

6 THE COURT: Ladies and gentlemen of the jury,
7 we'll see you all out there.

8 ((Jury exiting.))

9 THE COURT: Yes, sir.

10 MR. MACKELCAN: Your Honor, I have spent a lot
11 of time over the last week or so trying to figure out
12 how to handle the situation with the request to admit
13 and I believe this is the appropriate way to handle it,
14 through testimony. But he needs to -- they have been
15 admitted. So he needs to answer those that they have
16 been admitted. That's all I'm doing. I'm try to get
17 the testimony as to what's been admitted in a way that I
18 think is the easiest and clearest way for the jury.
19 These questions are coming straight from the request to
20 admit.

21 MR. ROTHSTEIN: It's not relevant to anything,
22 your Honor. We're not making a claim for the 2016 and
23 2017 bonus. We're also not trying to undo the 2025
24 (sic) bonus except for -- the 2015 bonus except for the
25 year 2015, because it didn't comply with the South

1 Carolina Payment of Wages Act.

2 MR. MACKELCAN: Your Honor, I think Mr.
3 Thompson has adequately argued his point already, but to
4 reiterate the point is, plaintiff has accused my client
5 of fraud, negligent misrepresentation, and tortious
6 interference of contract. The entire claim is, that you
7 induced me to sign this contract. It is absolutely
8 relevant to the case. What he made and the fact that
9 two of the three years were better than under the old
10 contract, it is absolutely relevant. I don't know the
11 technicalities of the Payment of Wages Act, because it
12 has nothing to do with my case. But I can tell you in
13 terms of relevance, what he earned under the new
14 contract, his entire claim against my client, is that he
15 was induced to sign this agreement. We are entitled to
16 tell the jury to hear the contract was better -- the new
17 contract was better.

18 THE COURT: I agree. I am not sure if there
19 was an objection, but it is relevant. I guess the
20 objection as to relevance is overruled.

21 I think you need to rephrase the question and
22 refer and say, do you recall previously admitting that
23 bam, bam, bam.

24 MR. MACKELCAN: But he said that he doesn't,
25 that is the issue.

1 of Plaintiff, was marked for
2 Identification.)

3 Q. (By Mr. Mackelcan) Mr. Hess, you've been
4 handed a document entitled: Gregory Alexander, Moore
5 Beauston & Woodham's First Request For Admission and
6 First Supplemental Interrogatories of the Plaintiff.

7 Do you see that document?

8 A. I do.

9 Q. And you see how it was addressed to your
10 attorney?

11 A. I do.

12 Q. And you understand that the requests in this
13 document -- you have admitted these requests in this
14 document for trial?

15 A. I'd have to read them to see what I'm
16 admitting too, I guess. You want a reply to this?

17 Q. And as a result of that, you understand that
18 there's a court order designating all these responses
19 admitted, correct? Do you understand that?

20 A. If that is what you're telling me, yes, I do
21 now.

22 Q. So my questions before we broke were related
23 to that and I asked that -- I'll repeat them.

24 You admit that your bonus in 2016 was
25 \$57,527.9 pursuant to the 2015 agreement?

1 A. For 2016?

2 Q. I'm just reading directly from Number 1.

3 A. Based on this paper, yes.

4 Q. And you admit that your 2017 bonus was
5 \$50,992.44 pursuant to the 2015 agreement?

6 A. Yes. Based on this, yes.

7 Q. And you have admitted that plaintiff's 2016
8 bonus if calculated pursuant to the 2010 agreement would
9 have been \$16,956.62?

10 A. That's what this said. Like I said, I'm not
11 the person who calculated that.

12 Q. And you would admit that you would not have
13 received a bonus for 2017 if it was calculated pursuant
14 to the 2010 agreement because Morphis Pediatrics did not
15 make a profit?

16 A. Again, that is what this says, yes.

17 Q. You admit that your 2016 bonus pursuant to
18 2015 agreement was more than you would have received had
19 it been calculated pursuant to the 2010 agreement;
20 correct?

21 A. Yes.

22 Q. And you admit that your 2017 bonus calculated
23 pursuant to the 2015 agreement was also more than you
24 would have received if it had been calculated pursuant
25 to the 2010 agreement?

1 Q. Mr. Hess, you either do or you don't. You can
2 either tell the jury some explanation of why you believe
3 my client should have breached his ethical and legal
4 obligations or can't?

5 A. I can give them my opinion, yes.

6 Q. I'm not asking for your opinion. You're not
7 qualified to give an opinion in this case.

8 I am asking whether you, personally, have an
9 explanation?

10 A. No.

11 MR. MACKELCAN: No further questions, your
12 Honor.

13 THE COURT: Redirect?

14

15 REDIRECT EXAMINATION

16 BY MR. ROTHSTEIN:

17 Q. Mr. Hess, just to make it clearer. Are you
18 making a claim for 2016 or 2017 bonuses?

19 A. No.

20 Q. Are you an accountant?

21 A. I am not.

22 Q. Have you ever been trained as an accountant?

23 A. No.

24 MR. ROTHSTEIN: No further questions.

25 THE COURT: All right. Is it about 5:48 pm,

STATE OF SOUTH CAROLINA)
COUNTY OF LANCASTER }

COURT OF COMMON PLEAS

PAUL DAVID HESS)
PLAINTIFF,)

v.)

TRANSCRIPT OF RECORD
18-CP-29-01127

MORPHIS PEDIATRIC GROUP,)
OF LANCASTER, P.A.,)
ET. AL.)
DEFENDANTS.)

January 27, 28, 2022
Lancaster, South Carolina

B E F O R E :

THE HONORABLE DEANDREA G. BENJAMIN, JUDGE;
AND JURY

A P P E A R A N C E S:

DAVID E. ROTHSTEIN, ESQ.
Attorney for the Plaintiff

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INDEX

	Page
Sandra Tyner:	
Direct examination by Mr. Rothstein	4
Cross-examination by Mr. Thompson	66
Redirect examination by Mr. Rothstein	75
Dr. Elizabeth Morphis:	
Direct examination by Mr. Rothstein	77
Cross-examination by Mr. Thompson	258
Cross-examination by Mr. MacKelcan	269
Redirect examination by Mr. Rothstein	272
Greg Alexander:	
Direct examination by Mr. Rothstein	287
Cross-examination by Mr. MacKelcan	386
Cross-examination by Mr. Thompson	417
Redirect examination by Mr. Rothstein	420
Directed verdict motions	427
Thomas Hinson:	
Direct examination by Mr. Thompson	489
Cross-examination by Mr. MacKelcan	498
Redirect examination by Mr. Thompson	518

EXHIBITS

PLAINTIFF'S:

No.	Description	I.D/EVD.
2	Email 5-27-15	196/196
3	Email 5-28-15	/211
5	Email 2-16-15	183/183
7	Notes, bonus calculation	105/
8	Annual meeting minutes	124/124
9	Profit loss statement	114/114
10	General ledger	137/137
11	Payroll summary	121/121
14	Tax return - 2010/Lancaster	311/
15	Tax return - 2010/Hartsville	/318
16	Revenue and expense statement	217/218

DEFENSE:

5	Email	269/275
6	Engagement letter	396/397
7	AICPA Code	410/412
8	SC Rule 40	416
9	Federal Code	418

COURT'S:

1	Recruitment agreement	269

1 THE COURT: We ready to bring them?

2 MR. ROTHSTEIN: Yes, Your Honor.

3 MR. MACKELCAN: Yes, Your Honor.

4 THE COURT: All right. Bring them on in.

5 (WHEREUPON, the jury was returned to the
6 courtroom at approximately 9:47 a.m., and the
7 following proceedings commenced in open court.)

8 THE COURT: Good morning, ladies and
9 gentlemen of the jury. I hope you had a restful
10 evening. At this time we are ready to continue with
11 the Plaintiff's case. I would ask the Plaintiff to
12 call their next witness.

13 MR. ROTHSTEIN: Plaintiff calls Ms. Sandra
14 Tyner.

15 THE CLERK: Would you raise your right
16 hand please.

17 WHEREUPON,

18 **SANDRA TYNER,**
19 having been duly sworn by the clerk, testified
20 as follows:

21 THE CLERK: Please be seated in the
22 witness stand.

23 **DIRECT EXAMINATION**

24 BY MR. ROTHSTEIN:

25 Q Good morning, Ms. Tyner. And you're

PW - S. TYNER - DIRECT

1 welcome to take your mask off if you feel
2 comfortable doing that. There's a microphone right
3 there in front of you. If you'll try and speak in
4 the microphone so the jury can hear you. Can you
5 please state your full name for the record.

6 A Sandra Leviner Tyner.

7 Q That's T-Y-N-E-R?

8 A Yes, sir.

9 Q And where do you currently live,
10 Ms. Tyner?

11 A Sir?

12 Q Where do you currently live?

13 A Hartsville, South Carolina.

14 Q How long have you lived in Hartsville?

15 A About fifty years.

16 Q Okay. I understand that you're recently
17 retired; is that correct?

18 A Yes, sir.

19 Q Okay. When did you retire?

20 A How long?

21 Q What day did you retire?

22 A Oh, it's been about a year-and-a-half.

23 Q Okay. Where did you work before you
24 retired?

25 A Morphis Pediatric Group.

1 Q How long did you work for Morphis
2 Pediatric Group?

3 A Thirty-two years.

4 Q You worked with Dr. J.O. Morphis?

5 A Yes, sir.

6 Q Okay. You worked with Dr. Beth Morphis?

7 A Yes, sir.

8 Q At some point did you serve as the office
9 manager in the Morphis Pediatric Group office in
10 Hart-- in Lancaster, South Carolina?

11 A Yes, sir.

12 Q Did you also work sometimes in the Morphis
13 Pediatric Group office in Hartsville, South
14 Carolina?

15 A Yes, sir.

16 Q How far is it, the drive from your home to
17 the Lancaster office?

18 A Fifty miles.

19 Q And how long did you serve as the office
20 manager for the Hartsville office in Lancaster?

21 A About ten years.

22 Q Okay. Were you the office manager in
23 Lancaster the entire time that David Hess was the
24 nurse practitioner there?

25 A Yes, sir.

1 Q Were you employed at the Harts-- Lancaster
2 office when Dr. Beth Morphis started the Lancaster
3 office?

4 A Yes, sir.

5 Q Were there any other office managers at
6 Lancaster between the time you started, I think it
7 was about 2002 or 2003, does that sound -- in
8 Lancaster?

9 A Yes. There was one other office manager
10 there, but she soon left when -- that practice
11 started, it was right behind the hospital here; and
12 we soon moved out of that building because the rent
13 was like 8 or \$10,000, and it was paid to the
14 hospital so we soon -- and we had a different office
15 manager there, but that practice kind of dissolved
16 and Dr. Morphis took it over.

17 Q Okay. And when the Lancaster practice
18 first started and was behind the hospital, was --
19 was Dr. Morphis coming up almost every day to see
20 patients?

21 A Well, the hospital contacted her about
22 taking over that practice because it was just
23 dissolving; and the MDs and they had one nurse
24 practitioner that worked there, they actually all
25 left that practice, except for Dr. Green.

PW - S. TYNER - DIRECT

1 Q Okay.

2 A She was still there.

3 Q Okay. Which providers were in the
4 Lancaster office behind the hospital before they --
5 before they moved?

6 A Oh, gosh. It was Dr. Cruise, she left.
7 They had a nurse practitioner; she left. Several
8 doctors left.

9 Q Okay. Was that Miss Astronaut (ph)? Is
10 that Robin Astronaut? Does that sound ---

11 A She was the nurse practitioner.

12 Q Okay. And then Dr. Morphis also came up
13 and worked out of that office?

14 A Well, ---

15 Q Dr. Beth Morphis?

16 A What happened was, the hospital contacted
17 her and asked her if she would take that practice;
18 and I don't know anything about if she was charged,
19 if they just gave it to her. I know nothing about
20 it except that it was dissolving.

21 Q Okay. My question was, at that time were
22 you working in Hartsville?

23 A Yes, sir.

24 Q Okay. And what were you doing in
25 Hartsville?

PW - S. TYNER - DIRECT

1 A I was over the billing department.

2 Q Okay. And when Dr. Morphis took over the
3 practice that was failing, she asked you to come up
4 and be the office manager in Lancaster; is that
5 right?

6 A Well, we -- we still had an office manager
7 partly from the practice that they had started
8 initially; but she soon left too because she went
9 with the other doctors, and we moved out of that
10 building because it was so hardly expensive.

11 Q Okay. My question was, though, at some
12 point you moved up to become the office manager for
13 the Morphis Pediatric Group?

14 A I first came to work the insurance ---

15 Q Okay.

16 A ---because there was a problem with the
17 insurance, and then I became the office manager.

18 Q Okay. Do you recall when David Hess
19 started to work for Morphis Pediatric in Lancaster?

20 A Not really. I don't have that date, I'm
21 sorry.

22 Q I'll just tell you, he testified yesterday
23 it was early, like, January 1st of 2009. Does that
24 sound about right to you?

25 A That's -- that's really close.

PW - S. TYNER - DIRECT

1 Q Okay. Prior to Mr. Hess coming in as the
2 nurse practitioner, was there a lot of turnover in
3 the office in terms of doctors and nurse
4 practitioners and PAs that would work?

5 A They were -- they were leaving. Evidently
6 they knew that that practice was gonna dissolve or
7 that hopefully Dr. Morphis would take that practice,
8 and she did. So we kind of salvaged what was left
9 from there, but we soon moved out of that building
10 because it belonged to the hospital.

11 Q Okay. Did you get a sense of whether the
12 practice was profitable before Mr. Hess came in in
13 2009?

14 A Well, we'd lost a lot of patients along
15 with all those doctors that left.

16 Q Okay. Would it be fair to say that the
17 practice was struggling before David Hess came up to
18 Lancaster?

19 A Well, Dr. Morphis was salvaging what was
20 left. I mean, you know, that was before David came,
21 but we soon built a very profitable practice.

22 Q Okay. I'm gonna ask you in two thousand
23 ---

24 A And we still had Dr. Green too, you know.
25 We didn't -- you know, she didn't go anywhere. We

1 Q What is your understanding of Mr. Hess'
2 bonus compensation arrangement?

3 A What is my understanding?

4 Q Yes, ma'am.

5 A My understanding after all the bills were
6 paid, all the expenditures, all the everything else,
7 it plainly states that he receives 50-percent of the
8 balance. That is what I understood.

9 Q Okay. And do you have an understanding
10 where the other 50-percent was supposed to go?

11 A I would think Dr. Morphis got the other
12 50-percent. She owned the practice.

13 Q As the office manager, were you aware of
14 who was on the payroll at the Lancaster office and
15 Morphis Pediatric Group?

16 A Sort of.

17 Q Okay. Was Dr. Beth Morphis on the
18 payroll? Did she receive a paycheck every two weeks
19 or every month from Morphis Pediatric Group of
20 Lancaster?

21 A I can't answer that question. But I will
22 tell you this, she owned the practice and the deal
23 was that David got 50-percent. She got 50-percent
24 after all the bills were paid, but I did not pay all
25 the bills.

PW - S. TYNER - DIRECT

1 Q Okay. Did you have an understanding of
2 whether Mr. Hess received a base salary in addition
3 to his split of the bonus or the bonus for the split
4 the profits every?

5 A He got a salary every month.

6 Q Okay. Did Dr. Morphis receive a salary
7 every month from Lancaster?

8 A I'm not able to answer that question.

9 Q Who would be able to answer that question?
10 Who actually did the payroll for the Lancaster
11 office?

12 A It was done in Hartsville.

13 Q Okay. And at some point did they hire a
14 payroll company out of Columbia to process it, to
15 your knowledge?

16 A I wondered that -- I do not know.

17 Q Have you ever read the Appendix A bonus
18 compensation term in this contract that you
19 witnessed?

20 A Sir?

21 Q Have you ever read the Appendix A, the
22 bonus language prior to sitting here today?

23 A Yes, sir, I read that.

24 Q Did you read that when you signed it as
25 the witness to the contract?

PW - S. TYNER - DIRECT

1 A Yes, sir.

2 Q Okay. And based on your reading of that
3 document, how did you interpret the contract?

4 A I interpreted it that she got ---

5 MR. THOMPSON: Objection.

6 THE COURT: Sustained.

7 MR. THOMPSON: Objection, Your Honor.

8 THE COURT: Sustained.

9 MR. THOMPSON: She can't keep interpreting
10 the contract.

11 THE COURT: I said sustained. All right.

12 Ask the next question.

13 MR. THOMPSON: I'm sorry, I didn't hear
14 you. I'm sorry.

15 THE COURT: All right. I'm sorry, my mic,
16 it was off. I said it three times sustained before
17 you even -- when you stood up I said sustained
18 before you could even say anything.

19 BY MR. ROTHSTEIN:

20 Q Did you ever hear Dr. Morphis refer to
21 Mr. Hess as the managing partner of the Lancaster
22 office?

23 A I'm not able to answer that question.

24 Q Okay. You don't recall one way or the
25 other?

PW - S. TYNER - DIRECT

1 A (No verbal response.)

2 Q Okay. When you were the officer manager,
3 was David Hess sort of the lead practitioner or the
4 lead provider at the Lancaster office?

5 A Yes, sir.

6 Q Okay. And was that true from 2009 when he
7 first started until 2018 when he was terminated?
8 Was he always the lead provider at that office?

9 A Yes, sir.

10 Q How would you describe Mr. Hess' job
11 performance in Lancaster?

12 A Excellent.

13 Q Was he a hard worker?

14 A Yes, sir.

15 Q Okay. Did he seem committed to the
16 success of the Lancaster office?

17 A Yes, sir, we all did.

18 Q Now did he work long hours in Lancaster?

19 A No, sir.

20 Q Okay. Was he willing to stay if there was
21 a flu season and there were 70 patients that needed
22 to be seen in one day? Was he the one that saw
23 those patients?

24 A Yes, sir, he'd stay.

25 Q Did he generally seem to see more patients

PW - S. TYNER - DIRECT

1 than other providers like Dr. Carter or Dr. West or
2 Dr. Hussey?

3 A Yes, sir.

4 Q Did his patients seem to like him? Did he
5 seem to get along with the children?

6 A Yes, sir.

7 Q Okay. What about the parents? Did the
8 parents of the guardians of the kids that were
9 brought to the office seem to like Dr. Hess?

10 A Yes.

11 Q I'm sorry, Mr. Hess. Did patients or
12 parents ever ask specifically to see Mr. Hess by
13 name instead of one of the other providers?

14 A Yes, sir.

15 Q Would it be fair to say that you and
16 Mr. Hess basically ran the day-to-day operations of
17 the Lancaster office from 2009 until 2018 when he
18 was terminated?

19 A Yes, sir, but Dr. Morphis came if we
20 needed her.

21 Q Okay. How often did Dr. Morphis come up
22 to the Lancaster office actually to see patients
23 between 2009 and 2018?

24 A She came every time we called her. We
25 always had at least a monthly meeting.

PW - S. TYNER - DIRECT

1 Q And during your monthly meetings would she
2 up come up to Lancaster, or would you stop by
3 Hartsville on your way up to Lancaster?

4 A No, sir. She came to Lancaster, and we
5 had a meeting with David and any other providers
6 that were working at that time.

7 Q How long would you say those meetings
8 lasted?

9 A Two hours, maybe longer.

10 Q Okay. Now instead of just looking at the
11 administrative things, did she actually see
12 patients? Did she actually work in the clinic as a
13 doctor on a regular basis, like a day or two days, a
14 half a day a week, or something like that?

15 A If we needed her she always came.

16 Q Okay. Was she ever on the schedule to see
17 patients? Like did she come every Friday to see
18 patients?

19 A She -- she was on schedule if one of our
20 providers was on vacation or something.

21 Q Okay.

22 A She would arrange with her Hartsville
23 schedule so she could come to Lancaster.

24 Q And did other -- did other providers from
25 Hartsville also come up to fill in for David on

PW - S. TYNER - DIRECT

1 A We continued to -- to get new patients all
2 the time.

3 Q Did you have a lot of turnover among the
4 staff after Mr. Hess came and after you were the
5 office manager?

6 A No, sir.

7 Q Did you treat each other like family up
8 here in Lancaster?

9 A Yes, sir.

10 Q Would you often do things in the office
11 like celebrate birthdays or work anniversaries or
12 office luncheons and that kind of thing?

13 A Yes, sir.

14 Q Okay. Did Dr. Beth usually come up for
15 those types of office celebrations?

16 A She came for some of them, yes.

17 Q How would you describe Mr. Hess'
18 personality?

19 A He's jamb up.

20 Q Okay. Have you ever known Mr. Hess to be
21 intimidating or abusive towards you?

22 A I don't think so.

23 Q When you worked with Mr. Hess, was he
24 interested in improving the efficiency and
25 profitability of Lancaster?

PW - S. TYNER - DIRECT

1 A Yes, sir.

2 Q Okay. Did you and Mr. Hess work together
3 to try and cut your expenses, like, try to save or
4 shop around to find the best deal on ---

5 A We did.

6 Q ---supplies, equipment, that kind of
7 thing?

8 A Yes, sir, we did.

9 Q When you were the office manager in
10 Lancaster, did you and the other employees generally
11 receive cost-of-living increases or in your salaries
12 or wages each year?

13 A We tried, yes.

14 Q Okay. Is that somewhere in the 2- to
15 4-percent range or the -- do you know if Mr. Hess
16 ever received an increase in his base salary between
17 2010 and 2018?

18 A Oh, I can't answer that question now.

19 Q Okay. What about retirement
20 contributions? At some point did you all receive
21 retirement contribution equal to 25-percent of your
22 pay?

23 A I don't know what percentage it was, but
24 we did have some retirement.

25 Q And was that a profit sharing plan?

1 Q Okay. Describe to the jury what RVU is or
2 what your understanding of an RVU is.

3 A Those actually are units that are given
4 depending on office visits or other things, and
5 they're counted in the computer. If a patient comes
6 and we see them four times, we should have four
7 RVUs; but if they come and they have other things,
8 those are counted also.

9 Q All right. Can you explain to the jury,
10 too, in your experience with billing what the
11 term -- there are certain codes that are used in
12 billing to like Medicaid or to insurance companies
13 ---

14 A Yes.

15 Q ---certain procedure. What does that
16 referred to as?

17 A Those codes have to do with what you
18 actually do to a patient, the time spent with a
19 patient, if you order labs, other things. If a
20 patient comes in and they have -- they're totally
21 distressed or something, then you spend more time
22 with them than you would a patient who came in and
23 said, oh, I just got a sore throat. You just look
24 down their throat, do a throat culture, give them a
25 prescription and let them be on their way. It has a

1 lot to do with the time that is spent with a patient
2 as to a charge and depending on what is wrong with
3 that patient.

4 Q Is that some-- are you -- you're familiar
5 with the term CPT code?

6 A Yes, sir.

7 Q So if you had, like, a newborn child come
8 in for a -- child does not have any problem, two
9 weeks after they were born, they just come in for
10 routine visit, is that given a certain CPT code
11 that's used to bill that to Medicaid?

12 A Yes, it is. It's -- we have codes for
13 newborns and codes for adolescents.

14 Q Okay.

15 A So, and we have codes for physical exams
16 also, so they are coded differently.

17 Q Okay. So like the example I gave, if a
18 newborn, two-week old newborn came in for a
19 well-check, that will be CPT code X, Y, Z?

20 A That's exactly right for a well-check.

21 Q And then that would correspond somewhat to
22 the RVU system, correct?

23 A And what age the child is, yes.

24 Q So you may get like 1.5 RVUs for a well
25 visit?

PW - S. TYNER - DIRECT

1 A That's correct.

2 Q And then if you had a child that came in
3 and they were bleeding uncontrollably from a gash or
4 a head wound or something like that, you know, that
5 would be -- would be a different CPT code?

6 A That's exactly right.

7 Q And that may be a different RVU. That may
8 count as ---

9 A Right.

10 Q ---as two RVUs?

11 A Yes.

12 Q Okay. Does Aprima allow you to track how
13 many units the doctors work in a given period of
14 time? Like, if you break -- do you say I want a
15 report from Aprima that shows how many RVUs each of
16 the providers in this office worked for ---

17 A You can break it down by office visits.

18 Q Okay.

19 A Depending on what code is assigned to a
20 particular office visit, you can run a report
21 that'll just tell you, for instance, what doctor had
22 99214s which is a normal regular office visit. You
23 can run that code.

24 Q Okay. So you just sped off 99214. That's
25 the CPT, CPT code for just a routine office visit?

PW - S. TYNER - DIRECT

1 A Yes.

2 Q And you know in 30 years of doing billing
3 and office manager, I mean, what that number is and
4 what that translates to?

5 A Right.

6 Q Okay. I'm gonna show you a document
7 that's been marked as Exhibit D-1 for
8 identification. Is that the -- and you'll see at
9 the top it says financial summary totals for
10 rendering providers and then there's a date, January
11 1st, 2011, with December 31st, 2011. Do you see
12 that? Okay. At some point in 2011 do you recall
13 about half way through the year that's when you all
14 adopted the Aprima system?

15 A To start with, this report is incorrect.

16 Q Okay.

17 A Be---

18 Q Before we get there, let me just ask if
19 you recognize this sort of format as a -- as a
20 report from ---

21 A Yes, sir.

22 Q ---Aprima? And you were here yesterday
23 for part of the time and I gave you a copy of this
24 report before you went home last night. Did you
25 have chance to read over, to look over this report?

PW - S. TYNER - DIRECT

1 A I did look at it. That's the reason I
2 told you that the report is incorrect.

3 Q Okay.

4 A Number one, it lists Marketa West two
5 times on this report.

6 Q Okay.

7 A So if the information put in is wrong ---

8 Q Okay. Let me get you through this. You
9 see under this first column here, and I'll kind of
10 point to it on the screen, beginning AR. What does
11 that indicate to you on this report?

12 A Well, that indicates to me that it must be
13 brand new because there are no prior charges on any
14 of these providers.

15 Q Okay. So this would confirm that at some
16 point in 2011 this is a new system, right?

17 A Evidently, yes, sir.

18 Q Tell the jury what AR stands for.

19 A Accounts receivable.

20 Q Okay. So that means you did the work, you
21 billed for it, you just haven't gotten the money in
22 yet for it, right?

23 A Right.

24 Q Okay. So if you see beginning AR is zero,
25 that means nobody is billed anything yet, there's no

1 outstanding ---

2 A That's right.

3 Q Beginning AR would be the -- at the
4 beginning of the particular reporting period, what
5 was the doctor's account receivable balance, right?

6 A Right.

7 Q Okay. Now this next column over, charges.
8 You see this second column where it says charges?

9 A Yes, sir.

10 Q Okay. What does that "charges" indicate
11 on this Aprima report?

12 A That indicates that those providers had
13 that amount in charges that someone got from
14 somewhere and put on the screen.

15 Q Okay. So that's basically what was billed
16 under each of those providers' name?

17 A Yes, sir.

18 Q Okay. Do you see down there for Elizabeth
19 Morphis there's a ---

20 A Yes, sir.

21 Q ---total of \$195,000 billed under her name
22 according to this report from ---

23 A Yes, sir.

24 Q ---2011? In your experience and
25 observations, did Dr. Morphis work enough in the

PW - S. TYNER - DIRECT

1 Lancaster office in 2011 to bill \$195,000 dollars?

2 A No, but let me explain something to you.
3 If our office was open and Dr. Morphis hired a brand
4 new physician, that physician can't come in there
5 and see a patient today and charge him \$50 because,
6 number one, that physician or nurse practitioner is
7 not credentialed with all of our insurance
8 companies. So, what that indicates is, we have to
9 bill it under someone that \$50 because that
10 actually, that M.D. physician, nurse practitioner,
11 was working under Dr. Morphis so that's where those
12 charges may be coming from.

13 Q Okay. So that \$195,000, you believe that
14 that would include work that was done by people
15 other than Dr. Morphis?

16 A Yes, sir.

17 Q What about when somebody came in either
18 from Hartsville or another practice, came in while
19 Dr. Hess was on vacation or was sick or something
20 like that, do you think that would have been billed
21 under Dr. Morphis' name as well?

22 A Yes, sir.

23 Q Now this ---

24 A Of course now it could have been
25 Dr. Morphis, you know, because she -- she took call

PW - S. TYNER - DIRECT

1 A Yes, sir.

2 Q And if you come over here to this
3 adjustments column. \$473.89 in adjustments. Is
4 that even possible to bill \$232,000 and have less
5 than \$500 in adjustments?

6 A It's a discrepancy in this report.

7 Q Okay. Over here, 116 units. Would it be
8 possible for a doctor to bill 116 RVUs in a year and
9 charge \$232,400?

10 A No, sir.

11 Q You see in this report during that same
12 period Mr. Hess was credited for over 11,000 RVUs?

13 A Yes, sir.

14 Q Another thing I want to point out on this
15 report, according to this report Dr. Morphis
16 charged -- or \$232,000 in charges were submitted
17 under her name and the company actually received
18 more money than she actually billed. Has that ever
19 happened where you billed, I mean, you actually
20 received more money than you billed the government?

21 A I promise you they do not pay you in
22 excess.

23 Q In your 30-years of billing practice and
24 office management in the medical field, have you
25 ever seen a doctor collect more money than they

1 actually billed?

2 A Doesn't happen.

3 Q The next year, 2015. According to this
4 report Dr. Morphis, or somebody submitted \$338,500
5 in charges under her name. You see that?

6 A Yes, sir.

7 Q \$1300 in adjustments. Is that possible?
8 212 RVUs for Dr. Morphis in that time period. Is it
9 possible to report 212 RVUs and bill \$338,000?

10 A (No verbal response.)

11 Q This next page is 2016. Okay. Here you
12 see Dr. Morphis, according to this report, \$143,000
13 billed under her name for that year, right?

14 A (No verbal response.)

15 Q Okay. Again, according to this report
16 the practice received over \$1,000 more than she
17 actually billed that year. You see that?

18 A (No verbal response.)

19 Q And according to this report, zero dollars
20 in adjustments. Is it possible in your 30 years of
21 experience to have zero dollars in adjustments in a
22 year of billing?

23 A No, sir.

24 Q Okay. Dr. Morphis is this line right
25 here, 133 units. Is it possible to bill \$143,000

PW - S. TYNER - DIRECT

1 and work 133 RVUs in a year?

2 A (No verbal response.)

3 Q You have to answer out loud.

4 A No, sir.

5 Q Do you believe that this report came from
6 Aprima?

7 MR. THOMPSON: Objection, Your Honor.

8 THE WITNESS: I guess. But I ---

9 THE COURT: Hold on. Sustained.

10 THE WITNESS: I find it real hard to ---

11 THE COURT: Hold on one second, ma'am.

12 THE WITNESS: ---believe that it's an ---

13 THE COURT: You can't ---

14 THE WITNESS: ---Aprima ---

15 THE COURT: ---answer that question, okay.

16 BY MR. ROTHSTEIN:

17 Q Okay. Let me ask it this way. Is Aprima
18 generally a pretty accurate -- the computer system
19 is fairly accurate?

20 A Yes, sir.

21 Q Is it possible to manipulate the
22 information coming out of Aprima?

23 A It depends on where that information is
24 being pulled from.

25 Q I mean, you've never -- never sat down at

PW - S. TYNER - DIRECT

1 the computer and tried to spit out these kind of
2 reports, have you?

3 A No, sir.

4 Q Do you -- would you have the ability to do
5 that?

6 A Yes, sir.

7 Q Okay. So if somebody had the log-in and
8 password to Aprima at Dr. Morphis' office, they
9 could go in and say, hey, I wanna pull up
10 Dr. Morphis' productivity report or how many RVUs
11 did she work during this time period?

12 A I assume so.

13 Q Okay. And if you're also interested to
14 see how many patients Dr. Morphis actually saw, you
15 could actually link to the medical records for that
16 particular patient, couldn't you, through ---

17 A Yes, sir.

18 Q ---Aprima?

19 A Yes, sir.

20 Q Okay. So if you wanted to see in this
21 year 2017 when they have 122 RVUs recorded for
22 Dr. Morphis, you could say, I want to see every
23 patient that makes up those 122 units, correct?

24 A Yes, sir.

25 Q Okay.

PW - S. TYNER - DIRECT

1 MR. ROTHSTEIN: I'd like to approach the
2 witness and hand her Exhibit No. 9.

3 BY MR. ROTHSTEIN:

4 Q Ms. Tyner, during your employment at
5 Morphis Pediatric Group in Lancaster did you
6 occasionally see the profit and loss statements for
7 the -- for the practice?

8 A (No verbal response.)

9 Q Again, you have to answer audibly, out
10 loud for the record.

11 A You mind asking that again?

12 Q Yes. During your employment as the office
13 manager at Morphis Pediatric Group in Lancaster, did
14 you ever see the full profit and loss statements for
15 the business?

16 A Not the full.

17 Q Okay. Did you ever discuss the profit and
18 loss, the full profit and loss statements with David
19 Hess?

20 A No, sir.

21 Q Okay. Did you and Mr. Hess ever discuss
22 the fact that Dr. Morphis was not sharing with you
23 the financial information, the full financial
24 picture of the practice?

25 A No, sir.

PW - S. TYNER - DIRECT

1 Q Did you ever have any interactions with
2 any of the accountants for Dr. Morphis' practices?

3 A No, sir.

4 Q Did Mr. Hess ever express to you that he
5 was frustrated by not being able to see what all of
6 the expenses that were charged to Lancaster were?

7 A From time to time he and I would just make
8 a comment but never got down and checked everything.

9 Q Okay. Did you have check writing
10 authority for Morphis Pediatric Group?

11 A Yes, sir.

12 Q Did doc-- did Mr. Hess ever have check
13 writing authority for Morphis Pediatric Group?

14 A I can't answer that, but I think no.

15 Q Okay. And you had a few, maybe a stash of
16 maybe 10 or 20 checks, like blank checks, that if
17 you needed to write a check from the -- from the
18 practice, you have the authority to do that?

19 A Oh, yes, sir. I had plenty of checks and
20 a credit card.

21 Q Okay. You know if David Hess ever had a
22 credit card for the Morphis Pediatric Group?

23 A I don't think so. I think me and Dr.
24 Morphis were the only ones that had the credit
25 cards.

1 Q And if you'll look at the first page of
2 Exhibit 9. The title of this document is Morphis
3 Pediatrics of Lancaster Profit and Loss, January
4 through December 2010. You see at the top of that
5 document?

6 A Yes, sir.

7 Q Okay. And do you see it lists the
8 profit -- or this has professional income and total
9 income for the profit of 1.1 million dollars ---

10 A Yes, sir.

11 Q ---for that year. And then there's a
12 listing under the income for expenses and it details
13 about 20 or 25 different expenses. You see that?

14 A Yes, sir.

15 Q Okay. Now if you'll look down to the
16 third line under auto expense. You see where it
17 says in 2010 there was \$13,180.28 for auto expenses?

18 A Yes, sir.

19 Q Okay. Were you aware that there was a
20 company car in Lancaster?

21 A No, sir, I drove my own car.

22 Q Okay. Did you get paid mileage for
23 driving your own car back and forth?

24 A I did.

25 Q Okay. Were you aware that Dr. Beth drove

PW - S. TYNER - DIRECT

1 a BMW convertible?

2 A Yes, sir, she's always had a BMW.

3 Q Were you aware that that convertible was
4 being paid for out of the Lancaster office?

5 A No, sir.

6 Q If you'll look down -- these expenses are
7 in alphabetical order. If you'll look down to
8 salaries/officers. Do you know who the officers of
9 Morphis Pediatrics Group were?

10 A No, sir.

11 Q Okay. Do you know of any officers of
12 Morphis Pediatric Group other than Dr. Beth Morphis
13 in ---

14 A No.

15 Q ---2010?

16 A No, sir.

17 Q Okay. It's your understanding that she's
18 the sole owner of the practice?

19 A No, sir.

20 Q You don't know one way or the other?

21 A Sir?

22 Q You just don't know one way or the other
23 whether she's the sole owner of Morphis Pediatric
24 Group?

25 A I always thought she was the sole owner,

PW - S. TYNER - DIRECT

1 yes, sir.

2 Q And sitting here today, you don't know if
3 any other officers other than Dr. Beth, the
4 president of Morphis Pediatric Group, right?

5 A Right.

6 Q Okay. And do you see it lists \$148,662.68
7 for officer salary?

8 A Yes, sir.

9 Q Okay. Did you -- were you aware that
10 Dr. Beth was paying herself a hun-- in that year
11 2010 she paid herself \$148,662 as ---

12 A No, sir.

13 Q ---salary?

14 A No, sir.

15 Q Okay. I skipped over one I want to focus
16 on, profit sharing plan. You see in 2010 it looks
17 like there was a profit sharing expense of
18 \$85,000?

19 A Yes, sir.

20 Q Okay. Do you know who benefited from that
21 \$85,000 of profit sharing?

22 A I would assume the profit sharing was the
23 people who worked in the office.

24 Q And if you'll look down at
25 salaries/employees, do you see it was about almost

PW - S. TYNER - DIRECT

1 \$500,000 in expenses for all the employees in the
2 office?

3 A Yes, sir.

4 Q Not counting the officers?

5 A Yes, sir.

6 Q Okay. Did you receive a Christmas bonus
7 every year you worked at Morphis Pediatric Group?

8 A Yes, sir.

9 Q Okay. Was that Christmas bonus, did you
10 do that as a gift from Dr. Morphis?

11 A Yes, sir.

12 Q All right. If you'll turn to the next
13 page of the profit loss statement. That's
14 Exhibit 9.

15 MR. ROTHSTEIN: Your Honor, I prefer to
16 introduce these into evidence. I, you know, if
17 they're gonna argue foundation with this particular
18 witness, I mean, this is their document. These are
19 the documents that they provided to me. I'd rather
20 be able to show these to the jury. I don't know if
21 there's gonna be objection to me moving this into
22 evidence at this point or not.

23 MR. THOMPSON: If we have the right one.

24 MR. ROTHSTEIN: These have your Bates
25 numbers on them: M14, M16, M18, M20, and M22, so I

1 A Do what?

2 Q That she doesn't like confrontation?

3 A Yeah.

4 Q And would you agree that Mr. Hess
5 frequently asked her questions about finances of the
6 Lancaster practice?

7 A I think so, yes.

8 Q Is he a little pushy about it sometimes?

9 A No, I don't think he was pushy. I think
10 he just asked questions.

11 Q And when did you say you started working
12 in Lancaster?

13 A It was before David came so I guess
14 whenever Dr. Morphis took over that prac-- well, no,
15 I need to back up because I was trying to collect
16 bad debts because they had a lot of 'em and so...

17 Q Do you remember that maybe she worked out
18 of Lancaster for 2002 and 2003 before you got there?

19 A Yes, sir.

20 Q Okay. And at that time do you know that
21 she worked full schedule seeing patients in
22 Lancaster, 2002/2003?

23 A Dr. Morphis?

24 Q Yes, before you got there?

25 A She, she still had a practice in

1 the practice?

2 A Right.

3 Q Are you receiving retirement money from
4 the profit sharing plan that you got asked about?

5 A Now?

6 Q Yes, ma'am.

7 A No, sir.

8 Q Not yet? And would it be correct that
9 when you do retire you can -- you've got a 401k from
10 Morphis and a -- the profit sharing plan? Can you
11 answer that?

12 A Yes, sir.

13 Q I'm sorry, I'm not picking on you.

14 A That's okay.

15 Q I just want to make sure she gets it down.
16 I can't remember the answer to your question. Do
17 you recall Mr. Hess ever bringing up and discussing
18 with you his bonus?

19 A We'd just talk about things from time to
20 time but nothing written in stone.

21 Q Okay. Did he -- did he ever say anything
22 about he was concerned about his bonus, whether or
23 not he was getting the right amount?

24 A Yeah, he -- he was concerned.

25 Q And he expressed that concern to you?

1 A Sir?

2 Q He expressed that concern to you?

3 A Yes.

4 Q Do you remember what he said?

5 A (No verbal response.)

6 Q No?

7 A I don't have that, I'm sorry.

8 Q Oh, I know what question I wanted to ask
9 you. What's the longest it might take between a
10 charge for a service and getting paid for those
11 charges? How long might it take?

12 A The shortest would be probably within a
13 month, but the longest could be depending on if they
14 needed additional information or something, could be
15 two or three months.

16 Q So there could be a delay between when a
17 charge was made and when the money is collected?

18 A Yes, sir.

19 Q And that could last months?

20 A But once you got the money you should do
21 the write-offs at that time.

22 Q And so that was my next question, thank
23 you. When would the adjustments be made? When the
24 money came in?

25 A When the money was posted the adjustments.

1 Q Okay. So there is a timing difference
2 between charges, adjustments, and collections?

3 A Yes, sir.

4 Q Okay. Thank you very much.

5 THE COURT: Yes, sir.

6 MR. MACKELCAN: No questions of this
7 witness, Your Honor.

8 THE COURT: All right. Any redirect?

9 MR. ROTHSTEIN: One minute, Your Honor.

10 **REDIRECT EXAMINATION**

11 BY MR. ROTHSTEIN:

12 Q Ms. Tyner, on the units that -- on that
13 chart we looked at ---

14 A These RVS things?

15 Q RVUs. Are there any other -- in your
16 practice of medical office administration and
17 billing, is there any other thing that units could
18 refer to, other than RVUs or relative value units?

19 A I wouldn't think so.

20 Q Thank you.

21 THE COURT: All right. You may step down,
22 ma'am.

23 THE WITNESS: Thank you, darling.

24 THE COURT: And any objection to this
25 witness being excused?

1 MR. THOMPSON: I was just gonna say I
2 don't plan on calling her, Your Honor, so she may be
3 excused.

4 THE COURT: All right, ma'am, you're free
5 to leave. Thank you.

6 THE WITNESS: Thank you.

7 THE COURT: All right. Ladies and
8 gentlemen of the jury, it is 11:11 and so it is time
9 we'll go ahead and take our morning break, and we'll
10 see you back in about 15 minutes. All right, please
11 do not discuss the case.

12 (WHEREUPON, the jury was removed from
13 the courtroom at 11:11 a.m.)

14 THE COURT: All right, let's take about 15
15 minutes.

16 (WHEREUPON, a recess was taken from the
17 proceedings.)

18 THE COURT: We ready to bring them in?
19 Bring them on in.

20 (WHEREUPON, the jury was returned to the
21 courtroom at approximately 11:30 a.m., and the
22 following proceedings commenced in open court.)

23 THE COURT: Call your next witness.

24 MR. ROTHSTEIN: We call Dr. Elizabeth
25 Morphis.

1 THE CLERK: Raise your right hand please.
2 WHEREUPON,

3 ELIZABETH J. MORPHIS,
4 having been duly sworn by the clerk, testified
5 as follows:

6 THE CLERK: Please be seated in the
7 witness stand.

8 **DIRECT EXAMINATION**

9 BY MR. ROTHSTEIN:

10 Q Good morning, Dr. Morphis.

11 A Good morning.

12 Q Would you please state your full name for
13 the record.

14 A Elizabeth Johnson Morphis.

15 Q Is Johnson your maiden name?

16 A Yes, sir.

17 Q And I understand that you -- you're --
18 obviously you're a pediatrician in Hartsville?

19 A Yes, sir.

20 Q Okay. When did you finish medical school?

21 A 19-- sorry, hang on. 1992.

22 Q Okay. And then you did a residency, I
23 believe, in pediatrics at the Greenville Hospital
24 System; is that correct?

25 A Yes, sir.

PW - E. MORPHIS - DIRECT

1 Q Half a mile from our office in Greenville.
2 When did you finish the residency in Greenville?

3 A 1995.

4 Q Okay. And when you finished your
5 residency you went to work for Hartsville Pediatrics
6 in Hartsville, South Carolina; is that right?

7 A Yes, sir.

8 Q And you've been there ever since?

9 A Yes, sir.

10 Q Okay. And the practice name has changed
11 to Morphis Pediatric Group; isn't that right?

12 A Yes, sir.

13 Q Okay. And that's -- was named in honor of
14 your father-in-law Dr. J. O. Morphis; is that
15 correct?

16 A Yes, sir.

17 Q Okay. So Morphis Pediatrics is not
18 referring to you, it's referring to Dr. J. O.
19 Morphis; is that correct?

20 A Yes, sir. I don't recall the year, but
21 we -- I think it was maybe his birthday or some
22 celebration and we can't get him anything so we
23 decided to do that to honor him before I was a
24 Morphis.

25 Q Okay. And you actually ended up marrying

PW - E. MORPHIS - DIRECT

1 Dr. J. O. Morphis's son Jamie; is that right?

2 A Yes, sir.

3 Q When did y'all get married?

4 A 1999.

5 Q Okay. And I understand that you were full
6 time in Hartsville or you continue to work full time
7 in Hartsville, the Hartsville location; is that
8 correct?

9 A I do. I also have started working for the
10 Durant Children Center doing child abuse as well.

11 Q And from the time you started at
12 Hartsville Pediatrics, now Morphis Pediatric in '95,
13 you've not had any break and so you continue to work
14 full-time at Hartsville even through today; is that
15 right?

16 A Yes, sir.

17 Q Okay. And understand that you decided to
18 open an office in Lancaster, South Carolina, in
19 2002; is that right?

20 A I think that's correct.

21 Q Okay. And what caused you to open the
22 Lancaster office? Is it sort of like a branch
23 office of Morphis Pediatrics?

24 A I guess so, yes, sir. We -- we have some
25 good friends that lived in Lancaster, Coach and Jane

PW - E. MORPHIS - DIRECT

1 Roscoe. He was the coach in Hartsville prior to
2 that. We knew him like a, like a family member; but
3 anyway, he called and said that Dexter Cooke, who is
4 a known pediatrician in Lancaster, was moving and
5 that was leaving his Harts-- I mean, his office wide
6 open so would I be interested. And so I talked to
7 Springs Hospital and came up here and that's when it
8 first started. There was a nurse practitioner that
9 had worked with Dr. Cooke still at -- or that wanted
10 to still work, so she and I worked in Lancaster.

11 Q Okay. And that Coach Roscoe, he was the
12 one that was with you at counsel table during jury
13 selection, is that right, ---

14 A Yes, sir.

15 Q ---on the first day? Okay. He's not
16 involved or as a witness or anything like that in
17 this case, is he?

18 A No, sir.

19 Q Okay. Now when the -- Dr. Cooke, so you
20 took over essentially Dr. Cooke's practice after he
21 left. Was it Robin Estrada who was the nurse
22 practitioner?

23 A Yes, sir.

24 Q Okay. And I think Ms. Tyner just talked
25 that originally your office, you just basically took

PW - E. MORPHIS - DIRECT

1 you were up here fairly frequently; is that right?

2 A I was. At first it was every -- it was
3 five days a week, and I know that we were just
4 hearing that I was in Hartsville as well; but we
5 actually had some more physicians in Hartsville at
6 the time so it allowed me to come here and then I
7 could go back there and do either night clinic or
8 take my call. At the time, we took a week of call
9 at a time sort of like a hospitalist.

10 Q Okay. When you came up here to stay, did
11 you go back and forth or did you stay for the whole
12 week and stay with your friends or whatever?

13 A I usually went back and forth because I
14 had night call. Dr. Morphis covered me during the
15 day, then I would do nights.

16 Q Okay. And I understand that after
17 Dr. Cruz and Dr. Green started, you dropped down to
18 about two days a week in Lancaster; is that right?

19 A Yes, sir.

20 Q And the balance of your time was the
21 full-time job in Hartsville, correct?

22 A Yes, sir.

23 Q Okay. And how -- how long did Dr. Cruz
24 stay before she took the nurse practitioner Estrada
25 and went and set up her own practice?

PW - E. MORPHIS - DIRECT

1 regularly at all?

2 A Well, I started with the five days at
3 first; and then once we got a full staff, I had cut
4 back to two days and then I came like once a week
5 and then went to once a month. But I could not tell
6 you exact -- once it got up and running and
7 everybody was good, then I was like, okay, we're
8 good, I don't have to come as often.

9 Q Okay.

10 A But I don't recall the exact timing.

11 Q Okay. And then at some point Dr. Hussey
12 left, went back to Manning, and it was just Christie
13 Green in the office, right?

14 A And myself. I would come up more then
15 because I was needed.

16 Q And can you tell me when David, David
17 Hess, started working for the practice?

18 A Yes, it was 2009.

19 Q Okay. And were -- did you interview David
20 Hess, or how did he come to get that position?

21 A So, Dr. Green, she knew David. She had
22 met David through the emergency room and then they
23 became friends, I think, and -- anyway, Dr. Green
24 came to me and said, I think this guy would be
25 interested and he would be good at the practice, and

PW - E. MORPHIS - DIRECT

1 that up at a different location. And she had
2 certain days a week that she was there initially and
3 then she came up to the office and saw patients, in
4 the general office; and then as David liked it and
5 stuck with us, he became more general patients and
6 she would do behavioral patients.

7 Q Okay. Did you work much with David Hess
8 in 2009? Were you still coming up once a month or
9 once a week or something like that?

10 A I still came up. We didn't have generally
11 monthly meetings at that point. He was still fairly
12 new. I would come up and do some clinic patients
13 and some behavioral patients even.

14 Q Okay. Was the adolescent behavioral
15 center, was that a separate entity that Dr. Green
16 sort of set up with you?

17 A Yes, sir. In retrospect it probably
18 wasn't the best business decision, but we -- it just
19 wasn't that many patients; but, yes, she was over
20 there and so that's why it, it really didn't take
21 off like we thought and that's why she had more
22 liberty to come over and see general patients.

23 Q Okay. Did that Dr. Green's adolescent
24 behavioral group, did that practice ever become
25 profitable?

PW - E. MORPHIS - DIRECT

1 A I don't recall. I know we separated some
2 of those financial reports, but I don't recall the
3 profitability really.

4 Q So at some point after the -- during the
5 2009 year, you were pleased enough with Mr. Hess'
6 performance that you decided to offer him an
7 employment contract; is that right?

8 A Yes, sir.

9 Q And I'm gonna show you, this is Exhibit 1.
10 It's already in evidence. Do you recognize this as
11 the employment contract that you and Mr. Hess
12 entered into effective January 1st of 2010?

13 A Yes, sir.

14 Q Okay. Do you recall how you presented
15 this contract to Mr. Hess?

16 A I do not. I've heard you all talk about
17 it, but I don't remember the day.

18 Q Okay. Do you recall meeting at Applebee's
19 Restaurant here in Lancaster with David Hess and
20 Sandra Hussey when you kind of gave him the envelope
21 with the offer in it?

22 A I do not remember that specific day; but I
23 believe that's what happened, yes, sir.

24 Q Okay. And who actually drafted this
25 employment agreement?

PW - E. MORPHIS - DIRECT

1 A I'm assuming it would be Dick Jones.

2 Q Okay. And Dick Jones was your lawyer at
3 the time?

4 A Yes, sir, he -- for the office.

5 Q Did you have a fairly standard employment
6 agreement that you would use with practitioners or
7 providers?

8 A We did, but most of our providers had been
9 MDs and so the nurse practitioner agreement may have
10 been a little different.

11 Q Did Mr. Hess make any changes to the
12 actual language in the employment agreement after
13 you presented it to him?

14 A I don't recall.

15 Q Okay. It's possible he just signed it as
16 it was exactly presented to him?

17 A It's possible. It seems like there was a,
18 maybe a mark through on CME, but I don't rem-- I
19 mean, I just heard testimony and I don't really
20 recall that same day. I do know that David wanted
21 to have each page initialed and we did. That's,
22 that's mostly what I remember.

23 MR. THOMPSON: Your Honor, we're getting
24 some -- I don't know if y'all can hear it. It's
25 feedback on her mic.

PW - E. MORPHIS - DIRECT

1 THE WITNESS: Am I too close?

2 THE COURT: Yes. Let me see if I can get
3 someone from the Clerk's office.

4 THE WITNESS: I can back up.

5 THE CLERK: I think if you just back up is
6 what all it needs.

7 THE COURT: Yeah, I heard it earlier.
8 Thank you.

9 THE WITNESS: Yes, thank you.

10 BY MR. ROTHSTEIN:

11 Q The contract is dated January 1st of 2010.
12 Do you recall whether you presented it to him on
13 that day or was it a couple of weeks before?

14 A I don't recall presenting this to him at
15 all. I mean, I believe I did, but I don't remember
16 that day.

17 Q Okay. Sitting here today, you're not
18 aware of any changes other than a possible strike
19 through that Mr. Hess made to the language of the
20 agreement?

21 A I don't think so.

22 Q And if you look down under duties, No. 2,
23 it says, "Employer provides professional services
24 and outpatient facilities by duly licensed
25 physicians, physician assistants, and nurse

1 practitioners and employee accepts employment by the
2 employer as a PA/NP to assist in fulfilling its
3 corporate purpose." Does that refresh your memory
4 about whether this was sort of a standard agreement
5 that you would use for both PAs and NPs?

6 A I think it would be.

7 Q Okay. In pediatrics practice have you
8 hired both PAs and NPs to work for Morphis
9 Pediatrics?

10 A Yes, sir.

11 Q Is there much difference in the scope of
12 practice between a PA and a nurse practitioner in
13 pediatrics?

14 A No, sir, not in the scope of practice I
15 don't believe.

16 Q I'm gonna turn to Page 3, paragraph 3,
17 which is the Term of the Employment Contract. Says,
18 "Employment shall commence on January 1st, 2010, and
19 shall continue through December 31st, 2010, unless
20 sooner terminated," right?

21 A Yes, sir.

22 Q All right. And the next sentence says
23 that the contract would continue from year to year
24 after the first year unless it was terminated in the
25 manners described within the contract, right?

PW - E. MORPHIS - DIRECT

1 A Yes, sir.

2 Q Okay. So you knew that after the first
3 year if you wanted to change the contract, all you'd
4 have to do is say, Mr. Hess, we need to renegotiate
5 your contract, right?

6 A Yes, sir.

7 Q But if you didn't do that, this same
8 contract would continue into the subsequent year,
9 2011, until it was terminated, right?

10 A Yes, sir.

11 Q So in 2015, at the beginning of 2015, you
12 hadn't terminated Mr. Hess' contract as of
13 January 1st of 2015, right?

14 A We had not.

15 Q Okay. So this contract would have been
16 from another year that would have run from
17 January 1st of 2015 to December 31st of 2015, right?

18 A Yes, sir.

19 Q Okay. All right. Next paragraph under
20 Compensation. You agreed to pay Mr. Hess under this
21 contract a base salary \$100,000, right?

22 A Yes, sir.

23 Q And that would be paid on a regular, you
24 know, regular pay day, every -- was it monthly or
25 biweekly or how did y'all ---

PW - E. MORPHIS - DIRECT

1 A I think it was every two weeks.

2 Q Okay. On the next page of Exhibit 1 it
3 said that -- it continues over about a salary and it
4 says, "All or any bonuses shall be at the discretion
5 of the board." And then it says, "Or as determined
6 in any appendix that is hereby signed and agreed
7 upon by both parties, see Appendix A," right?

8 A Yes, sir.

9 Q Okay. So that statement says you -- fully
10 discretionary with the board or if there's an
11 Appendix A attached to the agreement, that's what
12 governs the bonus, right?

13 A Yes, sir, I understood it as it could be
14 either/or.

15 Q Okay. And you did attach an Appendix A to
16 Mr. Hess' employment agreement, correct?

17 A Right.

18 Q Okay. Before I switch to that page I'm
19 gonna turn your attention to Fringe Benefits, okay.
20 You understood Mr. Hess was a veteran of the army?

21 A Yes, sir.

22 Q Okay. And he received health benefits
23 through Tri Care, right, because he retired from the
24 army?

25 A Okay.

PW - E. MORPHIS - DIRECT

1 Q And so you didn't provide him any type of
2 health insurance through Morphis Pediatrics,, right?

3 A No, sir.

4 Q Okay. Have you ever provided health
5 insurance to your employees at Morphis Pediatrics?

6 A No, sir.

7 Q Okay. So ---

8 A We might -- sorry. We might now. I'm not
9 sure what our benefits are, but not then.

10 Q Okay. Under -- the fringe benefits you
11 said, "Employer will include employee and any tax
12 qualified pension or profit sharing plans, which
13 will be funded at 25-percent of employee's base
14 pay." You see that?

15 A Yes, sir.

16 Q Okay. Was that the -- tell me your
17 understanding of how the profit sharing plan worked?

18 A So, this is not my expertise but, what we
19 did was we would meet at the end of the year with
20 the accountant and the attorney and then we would
21 try to maximize the contribution; and in the
22 beginning when this was signed, we had a pension
23 profit sharing, profit sharing plan, and we would --
24 I think the maximum contribution at that time was
25 25-percent which we usually did, but it varied from

PW - E. MORPHIS - DIRECT

1 18 to 25-percent I think. But I think we -- the
2 employer did not put anything into their retirement.
3 Morphis took your -- your gross pay and put
4 25-percent into the pension and profit sharing.
5 They could -- the accountants could probably tell
6 you better than I, than I can.

7 Q And that -- other than the -- your paying
8 his licensing fees and giving him vacation and
9 stuff, that was the primary benefit he received in
10 addition to his salary and benefits, right?

11 A Yes, sir, I believe so.

12 Q And I'll just turn just to the signature
13 page here. You recognize your signature on the
14 middle line there, Elizabeth Morphis, M.D.?

15 A Yes, sir.

16 Q Okay. Now Appendix A, Bonus Compensation,
17 first of all, let me ask you this. The entire time
18 that Mr. Hess worked at Morphis Pediatrics he
19 received a performance bonus at the end of every
20 year; isn't that right?

21 A Yes, sir. I'm pretty sure, yes, sir.

22 Q Except for 2018 when he was terminated in
23 the middle of the year or toward the beginning of
24 the fall, right?

25 A Yes, sir, and I honestly don't know about

PW - E. MORPHIS - DIRECT

1 2009. I'm not sure what his -- I, I don't recall
2 that.

3 Q I meant under the -- ever since this
4 contract ---

5 A Oh, yes, sir.

6 Q ---signed ---

7 A Yes, sir. Sorry.

8 Q ---he received the bonus, right?

9 A Yes.

10 Q Okay. And so this -- basically, the first
11 paragraph says, "Provided that employee meets
12 criteria as decided upon by the board, the employee
13 will be eligible for an annual bonus paid by the
14 company based on the following formulation." Did I
15 read that correctly?

16 A Yes, sir.

17 Q Okay. So the fact that you paid Mr. Hess
18 a bonus every year meant he met the criteria to
19 receive a bonus every year, right?

20 A I'm assuming so. That -- that criteria
21 would change from time to time; but, yes, sir, I'm
22 assuming he did meet it since he got his bonus.

23 Q Okay, all right. And then so you could,
24 under this formula if you said, you know, he didn't
25 do a good job, I'm not gonna give him any bonus.

PW - E. MORPHIS - DIRECT

1 That would be within your discretion, right?

2 A Yes, sir.

3 Q Okay. But every year he worked there, you
4 said he at least met criteria to receive a
5 performance bonus, correct?

6 A Yes, sir.

7 Q Then the next paragraph says, it says,
8 "All end of the year profits generated by this above
9 mentioned business," meaning Morphis Pediatrics of
10 Lancaster, "shall be divided and the employee is
11 granted 50-percent of the said moneys after all
12 debts, expenses, royalties, and expenditures have
13 been allowed," correct?

14 A Yes, sir.

15 Q Okay. So basically what this is saying
16 is, you're gonna look at the financial performance
17 of Lancaster every year and Mr. -- Mr. Hess is gonna
18 get half of the profits from Lancaster as his bonus,
19 correct?

20 A Yes, sir.

21 Q Okay. The other half was to go to you as
22 the owner of the business, right?

23 A No, not necessarily.

24 Q Okay. And where'd the other half of the
25 profits go?

PW - E. MORPHIS - DIRECT

1 A Well, again, I'm not positive about this,
2 but sometimes we would have to leave money in the
3 account for the next year.

4 Q Okay. So it was -- you would either
5 receive 50-percent of the profits or less if you
6 left some of them on the end under this bonus
7 formula, right?

8 A Right.

9 Q Okay. So you would expect that your bonus
10 was never being more than Mr. Hess' bonus, right, at
11 least under the contract?

12 A Right.

13 Q Okay.

14 A And there was, I think, a year that I
15 had -- that I did not have any bonus.

16 Q Okay. The next sentence says, "These
17 moneys will be determined by the company
18 accountant." Who was the company accountant at that
19 time?

20 A at This time it was Will Woodham.

21 Q Okay. And will is one of the main
22 partner -- was one of the main partners of Moore
23 Beauston and Woodham in Hartsville?

24 A Yes, sir.

25 Q And he passed, I understand, he passed

PW - E. MORPHIS - DIRECT

1 objection sustained. Please rephrase it.

2 MR. ROTHSTEIN: Okay.

3 BY MR. ROTHSTEIN:

4 Q Is there anyone other -- was there an
5 internal company accountant at Morphis Pediatrics?

6 A No, sir.

7 Q Okay. So that phrase "company
8 accountant," referred to Will Woodham at Moore
9 Beauston and Woodham accounting firm, correct?

10 A On that year, yes, sir.

11 Q And under the terms of the contract, the
12 accountant is the one that's supposed to calculate
13 the bonus, correct?

14 A No, sir. He -- he would provide the
15 moneys that were left over or the moneys that were
16 expensed out. He would provide me with a income and
17 expense, and I know y'all call it different things
18 and I apologize but, the money in, the money out,
19 and then what we had left to determine a bonus.

20 Q Okay. So this phrase "these moneys," your
21 -- your position is that that refers to the profits
22 and losses, not to the bonus; is that right?

23 A Right. They would provide me with the
24 year profits generated by this business or whatever
25 that part is.

1 Q So your testimony is that you never asked
2 the accountants to provide or calculate or determine
3 the bonus that Mr. Hess was getting, right?

4 A They did not calculate that, no, sir.
5 They may help me figure out what we had at the end
6 of the year because what's very important is that a
7 lot of times these -- these calculations were done
8 before the 31st of December and so I -- I would have
9 to have their input into income and loss or income
10 expenses.

11 Q Okay. And your understanding was that to
12 determine the bonus, half of the profits, you would
13 take the revenues at Lancaster, subtract out the
14 expenses, whatever is left over Mr. Hess gets half
15 of it and that half of either goes to you or stays.
16 Some of it may stay within the company; is that
17 right?

18 A Yes, sir. And honestly, when you say
19 revenues, that was supposed to be moneys that were
20 generated by Lancaster, Morphis Pediatric Group of
21 Lancaster, like the patient volumes that were seen
22 there.

23 Q And where does it say that in the
24 contract? Wherever it says ---

25 A It says the money -- I don't know that it

PW - E. MORPHIS - DIRECT

1 says that in the contract. It may not state that,
2 but that's the moneys that the business -- I thought
3 it said something about the moneys that the business
4 generated or something.

5 Q It says, "The profits generated by this
6 above mentioned business."

7 A Okay.

8 Q Okay. That's -- that's income minus
9 expenses, right?

10 A Okay.

11 Q Profits, okay. I show the witness
12 Exhibit 7 please. All right. And, Dr. Morphis, you
13 recognize Exhibit 7 as your calculations,
14 handwritten calculations of Mr. Hess' bonus from
15 2010 through -- and what's the last year on that?
16 2014?

17 A Yes, sir. 2010 through 2014 minus 2011.

18 MR. ROTHSTEIN: Your Honor, I move that
19 document into evidence, Exhibit 7 into evidence.

20 THE COURT: Any objection?

21 MR. WILSON: No objection.

22 MR. THOMPSON: No objection.

23 THE COURT: So that's Plaintiff's?

24 MR. ROTHSTEIN: Plaintiff's Exhibit 7,
25 yes, ma'am.

PW - E. MORPHIS - DIRECT

1 (WHEREUPON, Plaintiff Exhibit No. 7
2 was admitted into evidence.)

3 BY MR. ROTHSTEIN:

4 Q This is Plaintiff's Exhibit 6. You
5 recognize Plaintiff's Exhibit 6?

6 A Yes, sir.

7 Q Okay. And that's a email correspondence
8 between you and Will Woodham about Mr. Hess' 2020 --
9 2010 bonus; is that correct?

10 A Yes, sir. Hang on, I'm so sorry. I
11 wanted to read the bottom part 'cause I didn't see
12 that. Yes, sir.

13 Q Okay.

14 MR. ROTHSTEIN: Your Honor, I'd like to
15 move Exhibit 6 into evidence at this time.

16 THE COURT: Any objection?

17 MR. WILSON: No objection.

18 BY MR. ROTHSTEIN:

19 Q I'm sorry, I'm gonna put Exhibit 6 up on
20 the screen. Can you see it on your screen,
21 Dr. Morphis?

22 A Yes, sir.

23 Q So the first part of this email thread was
24 on December 30th, the day before the end of the
25 year. You sent Mr. Will Woodham at Moore Beauston

PW - E. MORPHIS - DIRECT

1 and Woodham an email with the subject Bonus,
2 correct?

3 A Yes, sir.

4 Q Okay. It says, "Hey, Will, got your
5 message this a.m., sorry. I have the flu and have
6 been in bed for two days. I do want to look at
7 numbers with you at some point but," and then you
8 said, "for now can we make David's," meaning David
9 Hess', "bonus \$75,000," right?

10 A Right.

11 Q Okay. So, and then you kind of explain
12 yourself. You said, "We are showing an income of
13 about 1.3 million and monthly expenses are averaging
14 \$50,000 so I just can't figure out why the profit
15 margin is so low. Anyway, we can look at it after
16 the first. Have a happy New Year, Beth." Right?

17 A Yes, sir.

18 Q So, at that time, end of the year, you
19 had the flu, you were sick. You said, look, I know
20 we need to calculate Mr. Hess' bonus, can you just
21 for now make it \$75,000 and we'll go back after the
22 first of the year and sort of true up the numbers.
23 Is that the fair characterization?

24 A Yes, sir.

25 Q And at that time you thought the income at

PW - E. MORPHIS - DIRECT

1 Lancaster was about 1.3 million dollars, right?

2 A Yes, sir.

3 Q And you thought that the monthly expenses
4 were about \$50,000, and you got those numbers from
5 periodic statements that Mr. Woodham was providing
6 to you, right?

7 A I assume so. I'm not sure where I
8 actually pulled those numbers from, if there was any
9 kind of, you know, last minute draft or anything;
10 but I, again, it was very fluid at that time and we
11 would be calculating these numbers and I would try
12 to guesstimate the end of the year.

13 Q So if the -- your business expenses in
14 Lancaster were about \$50,000 a year, if I take
15 50,000 times 12, that's \$600,000 in expenses. Is
16 that -- is that about what you anticipated it would
17 be?

18 A Yes, probably so. Whatever that figure
19 is.

20 Q And if the income at that point was
21 1.3 million dollars, if you subtract \$600,000 from
22 the income number, you're talking about a profit of
23 your 1.3 million -- about \$700,000 is what you
24 anticipated the profit to be in Lancaster?

25 A So I think that what I -- I agree with

PW - E. MORPHIS - DIRECT

1 those numbers, yes, sir, but I think I'm saying --
2 so I can't figure out why the profit margin is so
3 low so I think I must have looked at something else
4 that showed a different profit margin so I went,
5 what's, why is this different, and so I think that's
6 what I'm trying to say there.

7 Q Okay. If you're making 1.3 million
8 dollars and it's costing you \$600,000 to earn that
9 income, that's more than 100-percent profit margin;
10 isn't it?

11 A It would be, yes, sir. But I'm saying ---

12 Q Do you think that was low?

13 A No. No, no, no. That's what I'm trying
14 to say. What you -- the numbers you just did, like,
15 if we had 1.3 million coming in and 600 went out, I
16 think that would be great. But apparently there was
17 something making me say, so I just can't figure out
18 why the profit margin is low so I must have seen
19 something that, okay, again, I'm in the bed with the
20 flu so I can't, ---

21 Q Okay.

22 A ---don't really recall, but there was
23 something that made me go, that would not have been
24 a low profit margin in my opinion.

25 Q Okay. But if that were the actual numbers

PW - E. MORPHIS - DIRECT

1 and you had \$750,000 in profits in Lancaster,
2 Mr. Hess would have gotten a \$350,000 bonus that
3 year, right?

4 A I think -- if, yes, sir.

5 Q Yeah. So Mr. Woodham responds back to
6 you, okay. "Hey, Beth," this is later in the day.
7 I think it's -- you sent the email at 10:20 in the
8 morning. You see that?

9 A Yes, sir.

10 Q And he responds at 1:30 -- 1:36 that
11 afternoon, right. He says, "Hey, Beth, I'm back in
12 the office this morning looking at the LA," is that
13 Lancaster income statement. "We are currently
14 showing gross income of 1.1 million before year-end
15 bonuses and profit sharing and trust contribution.
16 Expenses total \$795,000 or about 66,000 a month."
17 So your estimate was a little off in terms of what
18 Mr. Woodham said the actual financial statement
19 showed, right?

20 A Yes, sir.

21 Q So instead of the \$700,000 profit, you're
22 now talking about \$1,101,037 minus \$795,000, okay,
23 so that's 306 thousand dollars and 37 -- or,
24 \$306,037. Okay?

25 A Okay.

PW - E. MORPHIS - DIRECT

1 Q And, again, if you divided that by two,
2 Mr. Hess would have gotten about \$150,000 profits,
3 right?

4 A No, sir, that's before year-end bonus is
5 in the profit sharing contribution.

6 Q Okay.

7 A So we would have to take out -- and I
8 don't know what else that was -- that would have to
9 be taken out, but that -- if all that had been taken
10 out, yes, sir, you'll be correct but, no, we had
11 still -- we still had expenditures.

12 Q Okay. So, and you're right. I mean, it
13 says before year-end bonus and the profit sharing,
14 right. But before that's taken out you're looking
15 at about a \$300,000 profit here for ---

16 A Okay.

17 Q All right. So your handwritten
18 calculations, now what you did was you said, all
19 right, this is the hundred and -- 1.1 million that
20 Mr. Woodham just told me about for income, it wasn't
21 1.3 that I thought it was, right. This expense
22 number that Mr. Woodham gave you and there's that
23 \$305,000 number that we calculated, right?

24 A Yes, sir.

25 Q All right. So you took out bonuses of

1 \$23,459.28. Was that Christmas bonuses?

2 A I would assume so, but I -- I'm not sure.
3 This is my handwriting, this is my thought process,
4 but I'm not sure where I got that figure from. If
5 that was maybe the year before bonus or that was the
6 exact this year bonus, I don't know.

7 Q Okay. But whatever that bonus number,
8 you're taking that number out and then you're
9 estimating about \$132,000 for profit sharing, okay?

10 A Yes, sir.

11 Q All right. And that gave you once you
12 take out the bonus number, the retirement number,
13 that gives you the \$150,355.72 that you thought at
14 that time was the expected profits in Lancaster,
15 right?

16 A Yes, sir.

17 Q Okay. And so that's where you came up
18 with this \$75,000. You divided the profit by two,
19 come up with 75,000. That's what Mr. Hess' bonus
20 was for the first year, correct?

21 A That, plus he did also receive a Christmas
22 bonus, I believe, that year.

23 Q Okay. But that Christmas bonus is already
24 in there, right?

25 A I don't know; but I think so, yes, sir.

PW - E. MORPHIS - DIRECT

1 Q And then what I just drew the box around,
2 MGMT bonus, what does that mean?

3 A Management.

4 Q Okay, management bonus?

5 A Yes, sir.

6 Q Did you -- do you recall ever referring to
7 David Hess as a managing partner of the Lancaster
8 office?

9 A So I don't know if I called him that, but
10 I probably referred to him in our conversations
11 'cause he would come to me and ask to be a partner
12 ---

13 Q Right.

14 A ---and let's get into partnership, and so
15 we considered that and I went back to my attorney
16 and he said, you really don't want to do that, I'm
17 not advising that because of liability and risk from
18 an MD to a nurse practitioner, but if you wanted to
19 compensate him somehow in helping you manage the
20 practice, then he could be considered a managing
21 partner. And so we really didn't have titles. We
22 didn't walk around with titles, but that's what --
23 that's where that came from.

24 Q Okay, that's fair enough. So the 75,000
25 that you said -- let's just make it 75 now and

PW - E. MORPHIS - DIRECT

1 that's what you paid Mr. Hess based on this
2 estimated retirement of 132,000 and income of
3 1.1 million, right?

4 A Yes, sir.

5 Q Okay. I'm gonna show you Exhibit 9. You
6 recognize Exhibit 9 as a collection of profit loss
7 statements for the Morphis Pediatric Group of
8 Lancaster for the years 2010 consecutively through
9 2015?

10 A Yes, sir.

11 Q And if you look at the bottom of those,
12 that collection of documents, the first document has
13 an M14 at the bottom, bottom right-hand corner. You
14 see that?

15 A Yes, sir.

16 Q Okay. Now do you recognize those as
17 documents, document identifying numbers that your
18 attorney put on these documents before he gave them
19 to me?

20 A I did not know that until y'all said that
21 earlier; but, yes, sir, that's -- I -- I agree.

22 MR. ROTHSTEIN: Your Honor, I'd offer
23 Exhibit 9 into evidence at this time.

24 THE COURT: Any objection?

25 MR. THOMPSON: I thought they were already

1 in.

2 MR. ROTHSTEIN: They weren't. There was
3 an objection about Ms. Tyner not being able to lay
4 the foundation.

5 THE COURT: Yeah, you objected it so we
6 didn't enter it.

7 MR. THOMPSON: I objected to her
8 testimony, but not to the admission of the document.
9 That was my intent, yeah, but no objection.

10 THE COURT: Yeah, it wasn't entered. I
11 think the objection was that she couldn't get it in
12 because she wasn't familiar with the document so
13 we'll put it in. Any objection?

14 MR. WILSON: No objection.

15 MR. ROTHSTEIN: Okay.

16 (WHEREUPON, Plaintiff Exhibit No. 9
17 was marked for identification and admitted into
18 evidence.)

19 BY MR. ROTHSTEIN:

20 Q Okay. Can I get that one back too?

21 A Oh.

22 Q And I'm kind of sharing the screen a
23 little bit with that original handwritten document
24 and the handwritten calculation on that I have to
25 run and print. So when you calculated Mr. Hess'

PW - E. MORPHIS - DIRECT

1 bonus, you used an income figure of 1.101 million
2 dollars, right?

3 A Yes, sir.

4 Q Okay. And the actual number was 1.116
5 million, about \$15,000 more than you included in
6 your bonus calculation, correct?

7 A Yes, sir.

8 Q Okay, all right. And then under
9 retirement you estimated 132,000 for retirement, but
10 profit sharing is actually \$85,000, right?

11 A Yes, sir.

12 Q Okay. So your estimate of 132,000 when
13 the expense was actually 85,000 is about \$47,000,
14 okay?

15 A Yes, sir.

16 Q Okay. So you're almost \$50,000 short on
17 the retirement contribution and \$15,000 short on the
18 income of calculation, correct?

19 A Okay, yes, sir.

20 Q Okay. So did you ever go back and share
21 that additional 60,000 -- or \$65,000 in profit that
22 Lancaster earned in 2010 with Mr. Hess?

23 A So, what is important here is that the
24 year-end calculation with my scribble, that is prior
25 to the end of the year, and that profit statement

PW - E. MORPHIS - DIRECT

1 that you have is well after the end of the year so
2 there are -- those are more real numbers and the
3 numbers I had obviously you can see are estimates
4 and guesses. So at the very end when we sit down
5 with the attorney and -- well, that's before, but.
6 At the very end when we sit down with each other to
7 discuss the end of the year, it's before the end of
8 the year. Am I making sense?

9 Q Okay.

10 A We don't have all the numbers until maybe
11 January or February.

12 Q So if I can paraphrase that, you base Mr.
13 Hess' bonus on an estimate that showed 75,000, but
14 the real numbers showed that the profit was about
15 \$65,000 more than that; is that correct?

16 A No, sir.

17 MR. THOMPSON: Objection, your Honor. The
18 statement doesn't say that at all.

19 THE COURT: Show him what you're referring
20 to.

21 MR. ROTHSTEIN: That's what she just
22 testified about is that she -- her handwritten
23 scribbles were before the end of the year; and it
24 was based on the information she had at the time,
25 but the actual numbers were different.

1 THE COURT: All right.

2 BY MR. ROTHSTEIN:

3 Q Is that a fair characterization?

4 A The actual numbers were different but
5 not in the way that you said. It wasn't the 65,000
6 more is what you were -- you were asking me was it
7 \$65,000 more and I said no, sir.

8 MR. THOMPSON: I withdraw the objection,
9 Your Honor. I think she explained it.

10 MR. ROTHSTEIN: Okay.

11 BY MR. ROTHSTEIN:

12 Q Well, we had the -- you overestimated the
13 expense for the profit sharing by 50,000.

14 A Yes, sir.

15 Q And you underestimated the income by
16 about 15,000?

17 A Yes, sir.

18 Q So that is about a \$65,000 shortage that
19 your calculation showed and the actual numbers
20 showed; is that right?

21 A But you're not taking into consideration
22 all of the actual numbers. When you look at the
23 complete profit and loss statement of 2010, there
24 are more concrete numbers in there and that's why
25 there was such a variance at the end of the year.

PW - E. MORPHIS - DIRECT

1 Q Mr. Hess' bonus Appendix A doesn't say
2 that it's -- you can calculate it based on your sort
3 of understanding before the end of the year. It
4 says, "The moneys will be determined by the company
5 accountant after the close of the year on
6 December 31st." And the bonus is payable on or
7 before the 15th of February, right?

8 A Yes, sir.

9 Q Okay. So the actual bonus that Mr. Hess
10 was due should have been calculated based on the
11 real numbers, not on your estimate; isn't that
12 correct?

13 A Usually it was. I think that this was the
14 year that I had said to Will I could not meet him
15 that day, I was sick, and this looked like it would
16 cover us and then if we needed to adjust we can; and
17 that's why I said, let's talk about this after the
18 first of the year. I was sort of doing ---

19 Q And you never did that. You never went
20 back to Mr. Woodham and said, uh-oh, I
21 underestimated Mr. Hess' bonus, he should have
22 gotten half of another \$65,000 for 2010, did you?

23 A That's incorrect.

24 Q You left it at \$75,000. You left his
25 bonus at \$75,000?

PW - E. MORPHIS - DIRECT

1 A When we looked at the final profit margin,
2 whatever you say, it was not as I calculated it; and
3 I think the numbers are out there somewhere but.
4 The net profit maybe came up to something different.

5 Q Didn't you take the whole \$65,000 for
6 yourself that year? You took the 75 that you
7 calculated for Mr. Hess' half and then you gave
8 yourself the additional 65 for yourself. You didn't
9 share that with Mr. Hess; isn't that right?

10 A Sir, I took a -- I took compensation that
11 year for the work I had done.

12 Q Right. And that compensation was
13 \$140,000, right? The 75,000 that you split with Mr.
14 Hess and the 65 that you under calculated profit;
15 isn't that right?

16 A No, sir. The 65 that was calculated for
17 my compensation was for the work I had done that
18 year at the office.

19 Q Okay. I'm gonna ask you to look at --
20 this is page, Exhibit 9, Page 1. You right here
21 where it says Salaries/Officers?

22 A Yes, sir.

23 Q You see that?

24 A Yes, sir.

25 Q Okay. That's that \$140,000 I just talked

PW - E. MORPHIS - DIRECT

1 about, right?

2 A Yes, sir.

3 Q Okay. And on top of that \$140,000 there's
4 \$8,662.68, correct?

5 A There's what? I'm sorry.

6 Q You see it's not around 148; it's
7 148,662.68?

8 A Yes, sir.

9 Q Do you know where that \$8,662 came from?

10 A I could not speak to that specifically. I
11 know that we felt it was -- I never took a salary
12 off for the year. We felt that at the end of the
13 year that's the time to look at everything, and it
14 was gonna be such that I could take compensation for
15 the work that I had done and that was my earnings.

16 Q Didn't you pay yourself an \$8,000 grossed
17 up Christmas bonus that year?

18 A I don't recall.

19 Q Okay. I show you Exhibit 11. And you
20 recognize Exhibit 11 as the summary of the
21 compensation that you received from 2010 to 2015?

22 A Yes, sir.

23 Q Okay.

24 MR. ROTHSTEIN: Your Honor, I move that
25 into evidence at this time.

PW - E. MORPHIS - DIRECT

1 THE COURT: What number is that?

2 MR. ROTHSTEIN: 11, Your Honor.

3 THE COURT: Any objection?

4 MR. THOMPSON: No objection, Your Honor.

5 THE COURT: Any objection?

6 MR. WILSON: No objection.

7 THE COURT: All right, no objection.

8 Without objection.

9 (WHEREUPON, Plaintiff Exhibit No. 11 was
10 marked for identification and admitted into
11 evidence.)

12 BY MR. ROTHSTEIN:

13 Q All right. Okay. This is the first page
14 of Exhibit 11, and this shows the payroll summary
15 for Morphis Pediatric Group of Lancaster for the
16 month of December 2010. You see that?

17 A Yes, sir.

18 Q Okay. And for privacy reasons I've
19 blocked everybody else out except for you and Mr.
20 Hess on this page, okay?

21 A Yes, sir.

22 Q All right. Do you see on December the 6th
23 you wrote yourself a check, or your bookkeeper or
24 accountant or bookkeeper at the firm wrote you a
25 check ---

PW - E. MORPHIS - DIRECT

1 A Yes, sir.

2 Q ---for \$8,000, ---

3 A Yes, sir.

4 Q ---correct?

5 A Yes, sir.

6 Q And that was your Christmas bonus?

7 A It was. I just didn't recall it earlier.

8 Q And Mr. Hess got a check for \$5,000 for
9 his Christmas bonus also on the 6th?

10 A Yes, sir. Yes, sir.

11 Q Okay. And then this shows his other
12 regular payroll, regular salary in biweekly
13 installments, right?

14 A I think so, yes, sir.

15 Q Okay. Over here, that year-to-date number
16 shows that only salary you took out of the practice
17 in, at that time, was your Christmas bonus, right?

18 A Yes, sir.

19 Q And the amount was \$8,662.68, right?

20 A Yes, sir.

21 Q So the summary we looked at before was
22 \$148,663.68?

23 A Yes, sir.

24 Q So you took -- you really took a bonus of
25 \$140,000 on top of your Christmas bonus, right?

PW - E. MORPHIS - DIRECT

1 A Well, it wasn't a bonus. It was -- I took
2 a modest salary of \$65,000, but I didn't take it
3 till the end of the year because we wanted to see if
4 we had anything. I had been working at this
5 practice -- I started in 2002 and so I'm trying to,
6 you know, get a return on investment, make a profit.
7 And so at the end of the year we would determine if
8 there was gonna be enough money for me to be
9 compensated for the work that I had done so I took a
10 very modest salary and then I took the bonus money
11 ---

12 Q Okay.

13 A ---that year.

14 Q So your testimony is that you took a
15 modest salary of how much?

16 A I think it was \$60,000 or 65,000, I'm not
17 sure.

18 Q 65,000 and bonus of people and Mr. Hess
19 of 75,000; is that right?

20 A Well, we -- and I apologize 'cause I don't
21 have an accounting background, but we called it
22 compensation and I guess you can call it what you
23 want to, but it was all -- it was my compensation.
24 But, yes, sir, I think it was split out like that.

25 Q Okay. That's something that you

PW - E. MORPHIS - DIRECT

1 determined as the board of Morphis Pediatrics,
2 correct?

3 A Well, I had input from my attorney and
4 from the accounting firm, yes, sir.

5 Q Okay.

6 A And in 2010, I'm so sorry, I was not the
7 only board member.

8 Q Okay. I'm gonna show you Exhibit 8,
9 Plaintiff's Exhibit 8. You recognize Exhibit 8 as a
10 collection of board meeting minutes from 2010
11 through 2015 for Morphis Pediatrics?

12 A Hang on just a second. Yes, sir.

13 MR. ROTHSTEIN: Your Honor, I move that
14 document into evidence at this time.

15 THE COURT: Any -- any objection?

16 MR. THOMPSON: No. No objection.

17 MR. WILSON: No objection.

18 THE COURT: All right. It'll be entered
19 without objection.

20 (WHEREUPON, Plaintiff Exhibit No. 8 was
21 marked for identification and admitted into
22 evidence.)

23 BY MR. ROTHSTEIN:

24 Q All right. Now turn to the last group of
25 documents. You see that this purports to be minutes

PW - E. MORPHIS - DIRECT

1 of the joint annual meeting of stockholders and
2 board of directories of Morphis Pediatric Group of
3 Lancaster, PA, right?

4 A Yes, sir.

5 Q Okay. And that document is -- it looks
6 like a meeting occurred on December the 7th of 2010,
7 correct?

8 A It appears that way, yes, sir.

9 Q This is, you know, three, four weeks
10 before the end of the year, correct?

11 A Yes, sir.

12 Q Okay. And at that meeting, the company's
13 accountant -- that would have been Mr. Woodham --
14 presented and discussed the financial report of the
15 company's year-to-date operations, right?

16 A Yes, sir.

17 Q Okay. And this wasn't the final numbers
18 because you're talking about December the 7th, the
19 year hadn't ended yet, right?

20 A Yes, sir.

21 Q And at that time, the day after you paid
22 the Christmas bonus, there was a motion made and the
23 board of directors unanimously approved total
24 compensation for \$148,663 to Elizabeth Morphis,
25 correct?

PW - E. MORPHIS - DIRECT

1 A Yes, sir.

2 Q Okay. So that includes the Christmas
3 bonus of gross is 8663 and some change and \$140,000
4 in additional compensation for you, correct?

5 A Yes, sir.

6 Q Second page of the -- second page of the
7 document says after -- "Discussion followed
8 concerning the contribution to be made to the
9 company's retirement plan." Do you see that?

10 A Yes, sir.

11 Q Okay. And it says, "After consideration
12 of upon motion duly made and carried, the board of
13 directors unanimously approve a contribution to the
14 profit sharing plan of \$85,281," right?

15 A Yes, sir.

16 Q It wasn't the 135,000 that you used in
17 your estimate in calculating Mr. Hess' bonus, was
18 it?

19 A No, sir.

20 Q So you knew on December 7th what the
21 profit sharing contribution was gonna be, right?

22 A I did not have this paper, I don't think,
23 on December 7th; but I don't know that I would have
24 known that number.

25 Q You think this paper is inaccurate or does

PW - E. MORPHIS - DIRECT

1 not reflect ---

2 A No, no, no, no. I think the meeting was
3 held on December 7th, but I don't think I had the
4 minutes yet or whatever.

5 Q Okay. All right. At that time the board
6 members, you kind of reelected yourselves again,
7 right? It was J.O. Morphis, Jr. That's Dr. J.O.
8 Shirley Atkinson, who at the time was -- she's now
9 deceased I understand, but at the time she was the
10 office manager of Hartsville?

11 A Yes, sir.

12 Q Not Lancaster, but Hartsville, correct?

13 A Right.

14 Q And you, Elizabeth Morphis, right?

15 A Yes, sir.

16 Q Okay. Is there any discussion in these
17 board minutes about bonus criteria for David Hess?

18 A I don't think so.

19 Q Do you recall any discussion during the
20 meeting, board meeting, about Mr. Hess' bonus in
21 2010?

22 A I do not.

23 Q Okay. All right. Let's look at 2011.
24 Okay. All right, this is Exhibit 7. Your notes for
25 bonus calculation of 2011 have nothing, right?

PW - E. MORPHIS - DIRECT

1 A Yes, sir.

2 Q Okay. Why is that bonus calculation
3 blank?

4 A Well, unfortunately, I'm not the most
5 organized person and I would grab a notebook and I
6 would try to use the same notebook, but I found this
7 page when I was going back doing my research and it
8 didn't have anything so I looked through other
9 notebooks and I could not find the 2011 so I really
10 don't understand -- or I really don't know why
11 that's blank on that page. It may be somewhere else
12 I guess is what I'm trying to say, but I could not
13 find that.

14 Q Okay. In 2011 Mr. Hess testified that his
15 bonus was \$25,000. It dropped from 75 the first
16 year to 25,000 the second year. Does that
17 refresh -- I mean, do you dispute that?

18 A No, sir, I don't dispute that.

19 Q Okay. All right. Tell me how you
20 calculated the \$25,000 bonus due to Mr. Hess?

21 A So, I don't know exactly thinking back. I
22 know that we had hired two new physicians, and we
23 had expanded our building or were in the process of
24 expanding so I know that our numbers were down, I
25 mean, our profit margin was gonna be down. But I do

PW - E. MORPHIS - DIRECT

1 not have the calculations for 2011.

2 Q Okay.

3 A I'm not sure where the \$25,000 came from.

4 Q Okay. Now when you hired the two new
5 providers, you're talking about Dr. -- let me see if
6 I can remember these names without looking. Dr.
7 Carter?

8 A Yes, sir.

9 Q And Dr. West. Is that right?

10 A Yes, sir.

11 Q Okay. And after you hired Dr. Carter and
12 Dr. West, your patient care responsibilities in
13 Lancaster really dropped off in 2011 until they were
14 no longer at the practice; is that fair?

15 A The direct patient care probably did drop
16 off some. I think the administrative part
17 increased.

18 Q Okay. Why did the administrative part
19 increase?

20 A Because recruiting and hiring those two
21 physicians was quite an adventure or endeavor
22 rather. I had to negotiate with the hospital about
23 their contracts 'cause they wanted to do a straight
24 income guarantee. And so Dr. J.O. Morphis had
25 taught me years ago that that probably wasn't a good

PW - E. MORPHIS - DIRECT

1 idea because it sets up competition within the
2 office and so then, because you have to pay that
3 money back, that doctor would be wanting to see
4 patients so that they wouldn't have to pay a lot
5 back, but then the patients would want to see the
6 people that had been there for a long time. So we
7 negotiated so that we could bypass that income
8 guarantee and so I made a guarantee -- or made a
9 contract with the hospital that if the hospital
10 would pay Morphis, then I would take care of paying
11 the new doctor and so that -- that's how -- and we
12 still had an income guarantee, but Morphis would
13 absorb the difference.

14 Q Okay. And you did that for both Dr. West
15 and Dr. Carter?

16 A Yes, sir.

17 Q Okay. And did you have some professionals
18 helping you with the negotiation of those contracts,
19 like accountants or attorneys or anything like that?

20 A I don't really recall. I know that I had
21 been that -- through that before with Dr. Morphis
22 because he did that for me because he had been there
23 forever and he said, you know, if you come on new,
24 they're gonna wanna see me. He's -- and that was
25 gonna make my pay back more. So I kind of used that

PW - E. MORPHIS - DIRECT

1 same model, that's what we did, and then I don't
2 recall -- I had the hospital administration, you
3 know, in there with me. Janice Dabney was the CEO I
4 believe, and ---

5 Q How many different meetings would you say
6 it took you to hash out the details of those
7 contracts?

8 A Gosh, it was different with Dr. Carter
9 than it was with Dr. West; but between meeting with
10 their attorneys and the hospital and the hospital
11 attorneys and myself, I couldn't -- 15.

12 Q Fifteen meetings?

13 A Yeah, a lot. 10 or 15, I don't know. It
14 was just ---

15 Q And how long were those meetings? Hour?
16 Two hours?

17 A I have no idea.

18 Q Something like that? Did they last all
19 day?

20 A No, no, no, no. Like, an hour-and-a-half
21 to two hours maybe.

22 Q Okay. So we're talking about 10 to 15
23 meetings in a hour to an hour-and-a-half, maybe 20
24 to 25 hours a time -- 25 to 30 hours?

25 A I -- that would be an an---

PW - E. MORPHIS - DIRECT

1 Q Let's say 30 hours -- is 30 hours on the
2 high. Wouldn't you say that's on the high end?

3 A Probably. You talking about with the
4 hospital?

5 Q I'm talking about the negotiating the
6 contracts with the hospital for Dr. West and Dr.
7 Carter, these additional administrative things that
8 you have to deal with?

9 A Yes, probably so, and then -- and there
10 were also meetings with Dr. West and with Dr. Carter
11 separate that we didn't have to sit down with the
12 attorneys, but there was just a lot of back and
13 forth.

14 A Okay. And then ---

15 Q And ---

16 A And then also -- I'm sorry to interrupt
17 you. The recruiting of these doctors, before we got
18 to negotiate the contract there was the recruiting
19 part and ---

20 Q How long would you say you spent with the
21 recruiting and the on boarding and that kind of
22 thing with Dr. Carter and Dr. West?

23 A I don't know. Honestly ---

24 Q Just estimate high. Was it more than 20
25 hours?

PW - E. MORPHIS - DIRECT

1 down to salaries/employees, that number for 2011 is
2 \$717,945, right?

3 A Yes, sir.

4 Q That's about -- previous year is about
5 half a million, about 500,000, right? So your
6 payroll increased from 2010 to 2011 by over
7 \$200,000?

8 A Yes, sir.

9 Q And that was because of Dr. Carter and
10 Dr. West?

11 A Well, yes, sir. I'm -- we hired two new
12 people, yes.

13 Q And that number also includes your bonus
14 for the year; isn't that right?

15 A Well, that year I just took the money that
16 I made off of the negotiated contracts. I didn't
17 take anything else.

18 Q All right. Go back to the minutes,
19 Plaintiff's Exhibit 8, the minutes of the board
20 meeting. The board approved compensation for you of
21 \$180,000. You see that?

22 A Yes, sir.

23 Q And according to the board minutes, that
24 was based on your continued service and dedication
25 to the company, right?

PW - E. MORPHIS - DIRECT

1 A Yes, sir.

2 Q Okay. You don't believe that was a bonus
3 to you of \$180,000?

4 A I mean, you -- I -- we didn't -- I didn't
5 call it a bonus. I -- that was money that I felt
6 like I had earned from the -- the contracts that we
7 negotiated. That was separate. Because we didn't
8 have that much left in the -- in the end.

9 Q Okay. So your testimony is you didn't
10 take a bonus at all in 2011?

11 A I don't think so. My -- I didn't get like
12 a check like David would get a check as a bonus
13 check; I didn't get that. They were referred to
14 minus compensation, although when we -- when we talk
15 about bonus, I did get a Christmas bonus and that
16 was a check; but these other ones, these other
17 moneys weren't done that way.

18 Q All right. This is Page 2 of Exhibit 11.
19 That's your payroll summary. All right. And I
20 blocked out the other employee on the other sheet.
21 You see here you received zero in salary from
22 Morphis Pediatric Group in Lancaster; is that
23 correct?

24 A Yes, sir.

25 Q Under Bonus you received \$180,000 bonus

PW - E. MORPHIS - DIRECT

1 from Lancaster, right?

2 A It says bonus there and that, I think,
3 came from the accountant maybe or the payroll -- I
4 don't know, but it wasn't -- it was determined at
5 the end of the year. It was not said that, you
6 know, I get a bonus. I don't know if you can call
7 it a bonus, I suppose, but that's not how ---

8 Q Your accountant called it a bonus, right?
9 It wasn't a salary, it was a bonus. You got zero
10 salary ---

11 A It was actually -- it was the money that I
12 had earned from the contracts. I -- that was
13 something -- I negotiated those contracts and I
14 was -- I thought I was the queen of the business
15 world that day. I thought that was great. And I
16 thought I was doing a good thing.

17 Q Okay.

18 A But I mean, I don't know -- you can call
19 it a bonus, I suppose.

20 Q All right. And that's the same year that
21 Mr. Hess' bonus was 25,000, right?

22 A Yes, sir.

23 Q Okay.

24 MR. ROTHSTEIN: Beg your pardon one
25 minute, Your Honor. Let me -- I misplaced a

PW - E. MORPHIS - DIRECT

1 document. Your Honor, before we go to the next
2 year, this may be a good time to break for lunch. I
3 don't -- I don't know what your -- I know if it's --
4 you want to go to lunch now?

5 THE COURT: We were trying to let you --
6 but, yeah, but I was going to plan to go to lunch.

7 MR. ROTHSTEIN: Okay, all right. Let me
8 go find this real quick.

9 BY MR. ROTHSTEIN:

10 Q Plaintiff's Exhibit 12. You recognize
11 Plaintiff's Exhibit 12?

12 A Yes, sir. Is this all 10? I'm
13 sorry, ---

14 Q That's ---

15 A ---I see it. Yes, sir. Yes, sir, I do.

16 Q That's a question of Mr. Hess's
17 year-to-date compensation records from Morphis
18 Pediatrics of Lancaster, right?

19 A Yes, sir.

20 MR. ROTHSTEIN: Okay. Your Honor, we move
21 that document, Exhibit 12, into evidence at this
22 time.

23 THE COURT: Any objection? All right,
24 it'll be entered without objection.

25 MR. THOMPSON: Hang on, Your Honor. It's

PW - E. MORPHIS - DIRECT

1 several pages.

2 THE COURT: Oh, sorry.

3 THE COURT REPORTER: I have it down as
4 already being in, Judge.

5 THE COURT: Huh?

6 THE COURT REPORTER: I have it down as
7 already being in, Judge. Plaintiff's 12.

8 THE COURT: You do?

9 THE COURT REPORTER: Uh-huh.

10 THE COURT: Was that entered through the
11 Plaintiff?

12 MR. ROTHSTEIN: I think -- yeah, I think
13 that's all -- that's why -- all right.

14 THE COURT: Yeah, it was entered.

15 MR. ROTHSTEIN: You're right, I apologize.
16 BY MR. ROTHSTEIN:

17 Q Page 2 -- this is 2011 -- shows the
18 \$100,000 base salary and then a bonus of \$30,299.41.
19 That would include the \$25,000 performance bonus,
20 plus five and some change for staff for Christmas
21 bonus; is that right?

22 A Yes, sir.

23 Q Okay. So how did you calculate Mr.
24 Hess' bonus to be 25,000 but yours to be 180,000?

25 A You know, ---

PW - E. MORPHIS - DIRECT

1 MR. THOMPSON: I object, Your Honor She's
2 already described the 180 was not a bonus. Counsel
3 keeps putting words into his questions that aren't
4 correct.

5 THE COURT: All right. I think he --
6 overruled. He asked how did they calculate it. All
7 right, she can explain.

8 MR. ROTHSTEIN: Yeah.

9 BY MR. ROTHSTEIN:

10 Q How did you calculate Mr. Hess' bonus to
11 be only 120 but yours to be 180? I mean 25, and
12 yours to be 180?

13 A So, when all this started, when we
14 started looking at it, I don't really know how he
15 got the 25,000 plus the other five -- the five was
16 the Christmas bonus; but the 25, because without the
17 extra income that was separate, the other income,
18 the company showed only, if I'm recalling correctly
19 and I know y'all have it on paper, but it was like
20 14 or \$15,000 for the net income. And so, as much
21 as I would want to give David a bonus and I
22 generally like David, I thought he did a good job.
23 I would not have made a bad business decision and
24 done more than -- well, he actually got more than
25 the 50-percent, and I'm not sure why I did that.

PW - E. MORPHIS - DIRECT

1 Q Okay. So your testimony is that the
2 25,000 you gave him in 2011 was more than he earned
3 under the split of the profits?

4 A Yes, sir.

5 Q Okay. That \$180,000 that you paid
6 yourself or that Morphis Pediatrics paid in bonus,
7 that -- that number is reflected in the profit loss
8 statement; isn't it?

9 A I'm not -- yes, it shows as other income.
10 Is that what you're saying?

11 Q No, it would show as an expense, right? I
12 mean, you're saying, okay, the 173,000 was the other
13 income.

14 A I'm -- I'm not following you, I'm sorry.

15 Q I'm sorry, my question wasn't very clear.
16 All right. This \$173,000 is actually treated as
17 income to the practice, right? I'm talking about
18 the \$180,000 bonus that you say was based not on
19 profits, but was based on your -- the actual
20 performing work for the hospital, correct?

21 A Right. I took -- in my head, that was my
22 money. That was my -- that was the money that --
23 you're referring to it as a \$180,000 bonus, but I
24 think it was a -- maybe a Christmas bonus and that
25 173,000.

PW - E. MORPHIS - DIRECT

1 Q Okay. But on the sheet, this is an income
2 number, not an expense number, right?

3 A Right. I just -- I'm -- I'm sorry.

4 Q Okay. The expense, the 180 that you paid
5 yourself was reflected in this number is what I'm
6 saying. That 717,000 for salaries/employees
7 includes your \$180,000 in bonus, right?

8 A Okay.

9 Q Okay. So if you added your \$180,000 back,
10 you would have sort of zeroed out the company's
11 profit. You would have had a -- shown a loss of two
12 thousand doll-- \$2600 for that year, right?

13 A I'm not following you.

14 Q Yeah. I mean, the only reason there's
15 \$182,000 loss shown on your financial statements is
16 because it includes the \$180,000 that you paid
17 yourself, right?

18 A I'm gonna assume you're right; I don't
19 know. I'm -- I took -- I try to take the money that
20 I had negotiated that contract with and so that
21 would not pull out of the moneys from the practice.

22 Q Okay. So it's clear, though, that you
23 received \$180,000 from Morphis Pediatric Group of
24 Lancaster as your total compensation for 2011,
25 right?

PW - E. MORPHIS - DIRECT

1 A Yes, sir.

2 Q And Mr. Hess received a base salary and a
3 bonus of \$25,000?

4 A Plus his five, yes, sir.

5 Q And Mr. Hess came to you and was kind of
6 concerned about why when we're building a practice
7 we've got two new providers, income seems to be
8 going up, we got this additional contract with the
9 hospital, why did my bonus drop \$50,000 from the
10 first year to the second year? Didn't he ask you
11 that question?

12 A Yes, sir. And, you know, just like from
13 the beginning when I started the practice, when you
14 get new employees or new -- new providers, it's
15 gonna take a little while for them to build up their
16 patient volume and so, you know, we have a great
17 expense and we don't have the great benefit yet to
18 those new employ-- or new providers. Plus, and I
19 may be a little bit off on my timing, at the time we
20 were trying to either expand or -- or buy a
21 building. I wanted to buy, not rent a building
22 because I thought that'd be more -- better for the
23 practice to not pay rent and have some equity. And
24 so, I would come up looking at different buildings
25 in Lancaster. But I think we ended up even -- it

PW - E. MORPHIS - DIRECT

1 might have been '12 when we finally did it, but we
2 expanded, I think, to two store front areas in that
3 strip mall and then went to three and so there was
4 more expense occurred -- incurred.

5 Q Now when you paid Mr. Hess the first year
6 bonus of \$75,000, did your husband think that you
7 were overpaying David Hess?

8 A Yes, sir.

9 Q Okay. Did your sister think that you were
10 overpaying David Hess?

11 A I don't know that my sister knew. I
12 vented to my sister several times. But at the time,
13 that was 2010 and David's compensation was 180,000,
14 and nurse practitioners typically -- that worked out
15 to be like, I don't know, \$98 an hour or something.
16 And my husband is a banker so he was like, why in
17 the world are you paying somebody this salary and
18 that's not -- it's not standard for the nation, the
19 community, the state. It was -- it was well above
20 the norm and so that's why he thought it was too
21 much.

22 Q Well, that's what Mr. Hess' contract said,
23 right?

24 A It was, and I honored that, yes, sir.

25 Q Okay. And you didn't change the contract

1 in 2011, 2012, 2013, or 2014, right?

2 A You're exactly right.

3 Q What you did was, you took it upon
4 yourself to reduce Mr. Hess' bonus and take the
5 extra money for yourself; isn't that right?

6 A No, sir.

7 Q Okay. So you paid Mr. Hess in 2011
8 \$25,000, you paid yourself 180, and according to the
9 accountant's notes, it was a bonus. And the
10 shareholder minutes don't say anything about
11 \$180,000 being paid because of the contract with the
12 hospital, do they?

13 A The minutes don't. Now, I do have
14 handwritten minute-- handwritten notes from the
15 meetings and so they could reflect that. I know we
16 talked about this because in general I'm trained in
17 pediatrics obviously and, you know, I've done a lot
18 go good in pediatrics, I'm trained that way. But
19 in business, I was so proud that I had negotiated
20 this contract and so I shared that with everybody
21 thinking that I had done something great.

22 Q Okay. Well ---

23 A So, it might not reflect that in those
24 minutes and they probably shouldn't.

25 Q Your testimony under oath is you have

PW - E. MORPHIS - DIRECT

1 do speaking objections, but they keep everybody
2 relaxed at a little bit just because of Covid and
3 everybody having to be in each other's faces at the
4 side bar so. But if there's something we need to
5 make extensive argument over, you know, just let me
6 know we have a matter of law and I'll send the jury
7 out. All right. Let's bring them in.

8 (WHEREUPON, the jury was returned to the
9 courtroom at approximately 2:20 p.m., and the
10 following proceedings commenced in open court.)

11 THE COURT: All right. Ladies and
12 gentlemen of the jury, I hope you had a good lunch.
13 At this time we will continue with the Plaintiff's
14 witness.

15 BY MR. ROTHSTEIN:

16 Q Dr. Morphis, I think before we broke for
17 lunch we were talking about the 2011 year and the
18 issue of the payment that you took, \$180,000 payment
19 you took out of the firm that you say was what you
20 thought you were deserving of under the hospital
21 contract, right? Did you ever tell David Hess that
22 you were taking the \$180,000 in compensation that
23 year.

24 A I don't recall doing that.

25 Q Okay. Did you ever tell Mr. Hess that you

PW - E. MORPHIS - DIRECT

1 were running your BMW through the Lancaster
2 practice?

3 A No, sir.

4 Q And we looked at a number of these --
5 well, two of them so far -- but Exhibit 9, which was
6 the profit loss summary. Did you ever share that
7 with David Hess, the annual profit loss statements?

8 A He asked me so many times for that that
9 I'm sure that I did at some point because I was
10 afraid not to. I didn't know what else to say, and
11 I just gave in. So I'm sure I have shared some. I
12 don't know what year.

13 Q Okay. So your testimony under oath today
14 is that you gave David Hess the anti-profit loss
15 statement, final profit loss statement for the
16 entire year of Morphis Pediatric ---

17 A I'm sorry, for 2011?

18 Q Of any year?

19 A Oh, I don't know if I gave him the
20 final -- like, the December one that has the whole
21 year. I know that he would ask to see expenses, and
22 he would say can you get me the finances, I need to
23 see this, this is not right, there's no way we could
24 have had this, I don't know what this includes, you
25 know. And so I would try to explain as best I could

PW - E. MORPHIS - DIRECT

1 and I'd say, well, let me go ask my accountant Greg
2 Oriole (ph). And then I would come back and with an
3 answer, and he'd say, no, that can't be that, da,
4 da, da; and so, we kind of went back and forth, we
5 battled it. At some point I know I shared some
6 financial statement with him, but I don't know which
7 ones it was.

8 Q Okay. But what you're talking about is a
9 monthly statement. Like, you may get -- in June you
10 may get a monthly statement at the end of June and
11 it shows year-to-date expenses or just the month of
12 June expenses, right?

13 A Probably so, yes, sir, I'm sorry.

14 Q But you never shared the ones that had
15 your compensation in there at the end of the year,
16 did you?

17 A Not that I know of.

18 Q Okay. All right. Let's look at 2012. In
19 2012 my understanding is -- or it may -- I think it
20 was in 2012 that J.O. Morphis, Dr. J.O. Morphis
21 completely retired from the practice; is that right?

22 A I think so, yes, sir.

23 Q And did that put additional burden on you
24 to take over as both the head of the Hartsville
25 practice and the head of the Lancaster practice, or

PW - E. MORPHIS - DIRECT

1 the owner? I'm sure at that point you're the sole
2 owner of the business, right?

3 A Yes, sir, I think it probably increased my
4 risk a little bit.

5 Q Okay. And if we look at the profit loss
6 statement for 2012 -- pull that down so you can see
7 the head. January through December of 2012. You
8 see that?

9 A Yes, sir.

10 Q And it looked like the Lancaster practice
11 that year had just over a million dollars,
12 1.02 million in professional income, right?

13 A Yes, sir.

14 Q Okay. And then at the bottom, \$340,000 of
15 other income. You see that?

16 A Yes, sir.

17 Q Okay. And according to the books it's
18 showing a net income for the entire year of only
19 \$520.52, right?

20 A Yes, sir.

21 Q Okay. At that time the Lancaster practice
22 was still a C corporation; isn't that correct?

23 A Yes, sir.

24 Q Okay. And you understood that at the end
25 of every year you wanted to get all of the profit

1 out of Lancaster because it was a C corporation so
2 you didn't want the IRS to think you were making any
3 money in Lancaster, right?

4 A Honestly, I didn't really understand the
5 implications of a C corp. I just know that when I
6 met with the accountant and the attorney, they said
7 we need to get these expenses out of here. And I
8 didn't understand the tax implication.

9 Q Do you ever recall them using the phrase
10 zero out the books?

11 A Yes, sir.

12 Q Okay. And so you're sort of from a
13 accounting standpoint, or you understood that the
14 accountant was trying to zero out the books over the
15 year while you were a C corporation, is that -- is
16 that a fair statement?

17 A I think that's fair.

18 Q All right. And if you look -- we got the
19 auto expenses again, \$10,838.10, again, for your
20 BMW, correct?

21 A Yes, sir.

22 Q All right. And then I don't see a profit
23 sharing contribution that year. Did you not make a
24 profit sharing contribution to the retirement plan
25 in 2012?

PW - E. MORPHIS - DIRECT

1 A I do not think we did.

2 Q Okay. And your salary for employees went
3 up to almost a million dollars, \$979,000 for that
4 year, right?

5 A Yes, sir.

6 Q Okay. So that's an increase of, I think,
7 well over 200,000 from the prior year, right? 717
8 was from 2011. You see that?

9 A Yes, sir.

10 Q Okay. Right there?

11 A Yes, sir.

12 Q Okay. You know how much Mr. Hess' bonus
13 was in 2012?

14 A I've seen it on the spreadsheets, but I
15 can't recall. Forty-- I don't know right off the
16 top of my head.

17 Q All right. According to exhibit -- I
18 think this is 12. It looks like Mr. Hess in
19 December got -- that may be his Christmas bonus.
20 Let me see. All right. So this particular paycheck
21 he got \$46,968 in bonus money. You see that?

22 A Yes, sir.

23 Q And so the year to date was a little
24 higher than that because that would have also
25 included his Christmas bonus, right?

PW - E. MORPHIS - DIRECT

1 A Yes, sir.

2 Q Okay. So if you were paying according to
3 the contract the net income, if you double that with
4 Mr. Hess is getting half of the profit in Lancaster,
5 double that would be about 90 -- almost 94,000,
6 \$94,000, right? In profit?

7 A I think so, 90. Yes, sir.

8 Q All right. And so your bonus should have
9 been equal to Mr. Hess' bonus, at least the bonus
10 component of your pay, right?

11 A I had to give him 50-percent of the
12 profit. I didn't have to take the other 50-percent
13 is my understanding.

14 Q Okay. You recall how much you took out of
15 the business in 2012?

16 A I took the ordinary -- or the -- not the
17 ordinary income, the other income, because that
18 again goes -- it's the same thing as 2011. It was
19 the contract money that had been negotiated that was
20 not earned in the office.

21 Q Okay. So's that that four-- I'm sorry.
22 That's this number here?

23 A Yes, sir.

24 Q Okay. That is included as a -- as income,
25 not as an expense, right?

PW - E. MORPHIS - DIRECT

1 A Right. It's under other income.

2 Q Okay. And so the expense, your 340 or 330
3 that you took out would have been in that, included
4 in that salaries/employees number; is that right?

5 A I don't know that, but I would assume so.
6 I don't know what's in that category, but it makes
7 sense if it's like 2011.

8 Q Okay. And I'm gonna show you the -- your
9 statement from that year, which is the next page of
10 Exhibit 11. All right. And the accounting records
11 here show that you paid yourself a bonus in December
12 of 2012 of \$330,000. You see that?

13 A I see that. Again, I kind of would debate
14 bonus; but, yes, sir, you can call it that.

15 Q Okay. Well, that's what your accountant
16 call it.

17 A I under-- yes, sir, I understand that.

18 Q That's the same accountant that's referred
19 to in the contract that says company accountant will
20 calculate bonuses, right?

21 A It's actually not the same person; but,
22 yes, it's the same group.

23 Q Okay. Same, same accounting firm?

24 A Yes, sir.

25 Q Okay. So that \$330,000 that you took out

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1 in 2012, that was pretty substantial --
2 substantially higher than the 180 you took out in
3 2011, right?

4 A Yes, sir.

5 Q Okay. Did you renegotiate a new contract
6 in 2012 or was this the same contract?

7 A No, this is -- all those contracts kind of
8 coming in and I -- I mean, I had the two physicians
9 that I had negotiated and then the call contract I
10 had it coming in so.

11 Q So that 330,000 you paid yourself in 2012,
12 what is that -- you think that was entirely the -- I
13 mean, you just basically took out the money that the
14 practice received from the contract, you took that
15 for yourself, correct?

16 A Yes, sir. So, I was concerned about the
17 accounting and I, again, don't pretend to understand
18 it; but when it -- I didn't want that money to come
19 in like patient money. That's a different -- that's
20 a different bucket. And so when I realized all
21 these contracts were gonna add up some to money, I
22 was proud and I said let's put this separate and so
23 that would be my compensation. I did the work. I
24 recruited the physicians. I managed the contracts.
25 I worked with the hospital, negotiated it, and took

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1 some of the call and covered the patients when they
2 needed to be covered, I mean, the doctors when they
3 need to be covered so. Yes, sir, I was -- I thought
4 that was a good day's work.

5 Q Okay. So between the two years of 340,000
6 one year and about 180 the next year, that's over
7 half a million dollars in two years to negotiate
8 these two contracts, right?

9 A I think so.

10 Q Okay. So the 70 hours we talked about
11 before lunch that you worked negotiating these
12 contracts and recruiting the doctors, you got paid
13 or you took out of the Lancaster practice half a
14 million dollars plus for that, right?

15 A No, sir. That was for everything I did.
16 That wasn't just for those 70 hours.

17 Q Okay.

18 A I mean, those moneys are for call and -- I
19 mean, everything back up supervision being owner of
20 the business. That's everything that I did.

21 Q Okay. The money you got from the
22 hospital, that was intended to reimburse Lancaster
23 for expenses that they would incur in connection
24 with those additional doctors and their guaranteed
25 salary for the first two years, right?

PW - E. MORPHIS - DIRECT

1 A Right. Those were -- that was everything
2 that it entailed in bringing those doctors in.

3 Q Okay. So the expenses were running
4 through Lancaster as ordinary expenses. Why
5 wouldn't you run the reimbursement from the hospital
6 through the Lancaster practice as income?

7 A I don't know. That -- I don't -- I'm not
8 following your question.

9 Q Okay. Well, let's look at the minutes
10 from 2012, the board of directors minutes, okay. It
11 looks like at that time you were the -- actually,
12 next page. At this time Dr. J.O. Morphis had
13 retired fully, right?

14 A I think so, yes, sir. That shows it right
15 there, yep.

16 Q So you were president, vice-president,
17 secretary, and treasurer of the company, right?

18 A Yes, sir.

19 Q Wearing four hats, plus being the
20 provider, right?

21 A Yes, sir.

22 Q All right. And that year, the year that
23 you took \$330,000 out of Lancaster, the board
24 approved a payment to you of \$180,000; isn't that
25 right?

PW - E. MORPHIS - DIRECT

1 A It looks like that, yes, sir.

2 Q Where'd the other \$150 come from --
3 \$150,000 come from that you took out of Lancaster?

4 A I would assume from the contracts because
5 what -- and this may go back to what you were
6 saying. I may have misunderstood you, and I
7 apologize but. That was -- that 330, 40, whatever
8 it was that was under other income, that was income
9 straight from those hospital contracts to Morphis;
10 but Morphis, like you said, maybe for the expenses
11 we still had to pay out money that was not included
12 in that. You know what I mean? We still had
13 expenses to incur so that would reduce that 330.

14 Q I understand, but why did you treat the
15 330 as your own income, not the practice's income,
16 but allow the expenses that were being reimbursed
17 from the hospital to be expenses to the hospital --
18 to the Lancaster practice?

19 A Because I negotiated the contract in such.
20 That wouldn't have been my expenses. I would not --
21 I would not have paid rent for these doctors to come
22 in. That would have been -- I'm not following what
23 you're saying I guess.

24 Q Well ---

25 A That -- when I negotiated the contracts it

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1 wasn't like the Springs gave me that -- all that
2 money. I mean, it went to the practice and then
3 through that money we had to use it to make these --
4 make whatever the adjustments for these physicians.

5 Q I agree with that. So it should have been
6 a wash. I mean, if you're incurring these
7 additional expenses to pay these new doctors and
8 guarantee their salary and the hospital is
9 reimbursing you for those expenses, why -- why are
10 you taking -- at the end of the year why are you
11 taking out that entire \$330,000 for yourself in
12 payments?

13 A Well, I didn't take the entire 330. It
14 looks like I took the -- I mean, I guess I did, but
15 it -- there wasn't that much left at the end because
16 we had expenses.

17 Q Okay. Well, there wasn't much then
18 because you zeroed out the books, right, so you
19 wanted to make a \$330,000 payment to yourself so
20 there'd be zero profit at the end of the year; isn't
21 that right?

22 A I didn't think of it that way. I thought
23 of it as the money that I negotiated, I will take
24 that money. That -- that will be my payment for the
25 year and that's my compensation, and I was very -- I

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1 was very proud of this deal that I had cut because,
2 like I say, I'm not, you know, the biggest business
3 person in the world. That was probably one of the
4 best things I thought in the business world I'd ever
5 done; not pediatrics, there's a whole another story.
6 But that, I was very proud. Look what I did. I
7 thought it was -- I thought that was a good thing
8 that I did it, negotiated a contract, and took the
9 extra that we -- that I negotiated ---

10 Q Okay.

11 A ---what was due to me. It wasn't income
12 produced from the Lancaster office I guess is what
13 I'm trying to say. That was separate.

14 Q All right. Well, let's look at the
15 retirement plan discussions. "Due to limited
16 profitability, no contribution could be made to
17 company retirement plan for the year ending
18 December 31st, 2012." Right?

19 A Right. And that's based on, like you say,
20 the profitability of the practice, of the office.

21 Q Okay. If you add that 330 back in the
22 business that you took out, you could have funded
23 the retirement; couldn't you?

24 A We -- yeah, or I could have just written a
25 check every year out of my -- you know, that's just

PW - E. MORPHIS - DIRECT

1 not what we did. That was my compensation.
2 That's -- I don't -- I personally didn't fund the
3 retirement.

4 Q So at least what was approved from the
5 board, 180,000 payment that was approved in the
6 board minutes, you took \$150,000 more in
7 compensation that year, right?

8 A I think so, yes, sir.

9 Q Didn't pay it to the retirement fund or
10 profit sharing fund?

11 A No, there was no contribution that year.

12 Q Right, okay. All right, let's look at
13 2013. All right, 2013, professional income of a
14 little over a million, 1.04 million. You've got the
15 auto expenses now of \$11,000. And this time we have
16 salaries to the employees of 565,000, and we've got
17 the separate line item for salaries/officers of
18 151,000. Do you see that?

19 A Yes, sir.

20 Q Okay. So you paid yourself or authorized
21 Morphis Pediatric of Lancaster to pay you a salary
22 of \$151,000 that year, right?

23 A Okay, yes, sir.

24 Q And that was listed as an expense to the
25 Lancaster practice, correct?

PW - E. MORPHIS - DIRECT

1 Q The auto expenses, the \$11,444.50?

2 A What's your question? I'm sorry.

3 Q That would be treated as an expense to
4 Lancaster, right?

5 A Yes, but ---

6 Q Let me ask it this way. If -- if you
7 didn't run this expense through either practice, the
8 profitability of the firm that year would have
9 increased by \$11,444.50, right?

10 A Sure.

11 Q Okay. So Mr. Hess' bonus would have
12 increased by half of that, right?

13 A Well, I'm not sure because that bottom
14 line like on the other sheets, I don't remember it
15 ever being zero when it shows the net income.

16 Q So basically, by running your car through
17 the Lancaster practice, you're making Mr. Hess
18 subsidize half of your lease payments of your car;
19 isn't that right?

20 A No, sir. I have every right to run my
21 vehicle through the office, and he was always paid
22 50-percent.

23 Q And why didn't you tell David Hess that
24 you were running the BMW through the business?

25 A I didn't need to. I didn't have to have

1 his permission to do that. With all due respect,
2 sir, he was a nurse practitioner that worked with me
3 and who I very much appreciated; but I didn't need
4 to ask him about that or tell him about that.

5 Q But his contract said that he's entitled
6 to half of the net after you take the income minus
7 the expenses, including your car, he's entitled to
8 half of it, right?

9 A Yes, sir, and he agreed to that and he
10 signed that. And honestly, before I got the BMW I
11 looked at a very big safety SUV that was twice as
12 much as my car.

13 Q And the bonus that was paid to Mr. Hess
14 that year of 2013, including the Christmas bonus,
15 was 53,000 so his bonus was somewhere in the \$48,000
16 range. Does that sound about right?

17 A Yes, sir.

18 Q And, again, your bonus that year which
19 was figured by Mr. Alexander is \$330,000; isn't that
20 right?

21 MR. WILSON: Objection, Your Honor. It's
22 misstatement of the facts.

23 THE COURT: Sustained. Please rephrase.

24 BY MR. ROTHSTEIN:

25 Q The statement you got from Mr.

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1 Alexander's office shows bonus, correct? It doesn't
2 show salary. You see -- let me make sure this is
3 clear. Zero dollars in salary that year ---

4 A I'm so sorry, I thought we were on 2013.

5 Q I'm sorry, my mistake. Zero dollars in
6 salary for the year 2013, right?

7 A Yes, sir.

8 Q Okay. And bonus officer \$151,000,
9 correct?

10 A That's what it says, yes, sir.

11 Q So the statement you got from your own
12 accountant shows you got a bonus of \$151,000?

13 A Yes, sir.

14 Q Let's look at 2014. All right. So in
15 2014 you recall changing the structure of your
16 corporation from a C corporation to an S
17 corporation?

18 A Yes, sir.

19 Q And that means that the corporation is no
20 longer paying taxes itself, that tax liability flows
21 through you as the owner of the company, right?

22 A I think -- I agree with you. That's what
23 they told me. I don't understand it as I should;
24 but, yes, sir, I'm gonna agree with you.

25 Q So the income to the firm that year

1 1.191 million-dollars?

2 A Yes, sir.

3 Q Pretty healthy increase from the prior
4 year when you're 1.043. So we're talking about
5 \$150,000 increase in the profit or the income side
6 of the firm, correct?

7 A Okay.

8 Q You still have your auto expense. It's
9 gone down a little bit to 9100 instead of the 11,000
10 we had before. There is a profit sharing expense of
11 \$15,833.03. You recall going from a profit sharing
12 plan to a 401k plan around the same time?

13 A Yes.

14 Q The last time you made the profit sharing
15 contribution it was 25-percent of everybody's base
16 pay, right?

17 A Yes.

18 Q I think it was \$85,000 in 2010?

19 A Yes.

20 Q So you're now going to a much less
21 expensive retirement plan?

22 A Yes.

23 Q Okay. All right. And your salaries/
24 officers here \$81,212.80. You paid yourself a
25 salary that year 81,212.80, right?

PW - E. MORPHIS - DIRECT

1 A Yes.

2 Q Okay. So even including your salary, the
3 net income from the firm jumped to \$196,000. You
4 see that?

5 A Yes.

6 Q Okay. Under the bonus formula Mr. Hess
7 would have been entitled to half of that; isn't that
8 right?

9 A It seems such -- it seems so, but there
10 was a -- there's something with the accounting going
11 from an S corp to a C -- I mean, from a C corp to an
12 S corp and I, I don't know -- I couldn't -- I just
13 don't know enough about that to tell you why that
14 changed.

15 Q Okay. If -- I know you may not understand
16 all the technicalities of the C corp S corp change;
17 but under your understanding of the bonus formula in
18 the 2010 contract, Mr. Hess would have been entitled
19 to half of 106-- 196,000 as his bonus, right?

20 A Yes, sir, and...

21 Q Almost \$100,000 in bonus?

22 A Yes, sir. And I think the reason that is,
23 is because now the money goes -- you don't zero it
24 out anymore and so we put aside, correct me if I'm
25 wrong, but I think the accountant can tell you. I

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1 think -- we put aside about \$100,000 for the -- for
2 the next year going forward because you didn't zero
3 out the account; and so that was for like capital
4 expenditures or any changes that we made, that kind
5 of thing. I that's what we decided to do.

6 Q Okay. And you could have changed
7 Mr. Hess' contract in 2014, but you didn't?

8 A No, I didn't.

9 Q Okay. That year 2014, you didn't pay him
10 a bonus other than the Christmas bonus. You see
11 this?

12 A Yes, sir, that was an oversight.

13 Q Okay, all right. So under his contract,
14 all you paid him from 2014 was the Christmas bonus?

15 A Yes, sir.

16 Q Okay. Would you agree with me, even
17 taking out \$100,000 for the company, you still would
18 have made 96 thou-- I mean, if you set aside 100,000
19 of that number for future expenses, you're not
20 zeroing out the business anymore, you made almost
21 four times as much income at \$96,000 a year as you
22 did in 2013, right? 2013 was about \$23,000?

23 A Yes.

24 Q Okay. So your year in 2014 was much more
25 profitable for you than it was in 2013 even with the

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1 change from a C corp to an S corp, right?

2 A I think so, yes, sir.

3 Q And when Mr. Hess received his W-2 for
4 2014 and you had -- I think you said it was an
5 oversight; there's no bonus in there at all. His
6 W-2 showed he made about a \$50,000 less in 2014 than
7 he made in 2013, correct?

8 A Yes, sir, that was an oversight and I
9 apologized to him and we -- and we made it right.

10 Q Okay. And he was -- he was not happy with
11 that; isn't that right?

12 A Right, because I think he -- it caused
13 some tax implications for 2015 and -- I'm not sure.
14 But of course he wasn't happy, I wouldn't be happy
15 either but it was an oversight. It was a mistake
16 and I did apologize to him and I made it right.

17 Q Okay. Did you make it right or did
18 Mr. Alexander make it right?

19 A Well, it would be me making it right. I'm
20 sure I told Mr. Alexander to write him a check, or
21 whoever writes the checks, but it would have been
22 my -- it was my mistake.

23 Q I'm gonna show you Exhibit 5.

24 (WHEREUPON, Plaintiff Exhibit No. 5 was marked for
25 identification only.)

PW - E. MORPHIS - DIRECT

1 said, "I'm contemplating quitting my day job, ha
2 ha." Then he says, "I do have an issue I need to
3 discuss with you. I totally forgot David Hess'
4 end-of-the year bonus. We always give him a
5 Christmas bonus and then a little productivity bonus
6 after that." Okay. Under the contract Mr. Hess was
7 entitled to more than a little productivity bonus,
8 right?

9 A Absolutely. And I -- when I read this I
10 don't have any idea because he got one of the
11 biggest bonuses I've ever heard of so I don't know
12 why I wrote "little productivity bonus."

13 Q And then you told Mr. Alexander, "He is
14 furious, of course, and hounding me why it is not in
15 his W-2." And then you said, "I told him we were
16 transitioning to an S corp and that I would get it
17 straight somehow. Please advise." Correct?

18 A Yes, sir.

19 Q All right. So Mr. Alexander responds, "We
20 can take care of it. How much would you like to
21 bonus him? This bonus will show up on his 2015
22 W-2." Right?

23 A Yes, sir.

24 Q Okay. So he's asking you how much the
25 2014 bonus Mr. Hess should have been, correct?

PW - E. MORPHIS - DIRECT

1 A Right, yes, sir.

2 Q And if you use the formula that's in the
3 contract, he should have gotten half of the 195-- or
4 \$196,000 in income that showed up in the practice
5 for 2014, right?

6 A Well, no, sir, because the -- when we took
7 the 100,000 out for capital expenditures, that would
8 be another expenditure that would be reducing the
9 196 so it would have been half of the 96, whatever
10 the number was.

11 Q Did you tell Mr. Alexander to make the
12 bonus 46 -- or 48, the same number he had from the
13 prior year or is that Mr. Alexander's doing?

14 A No, that was my doing. I would have taken
15 the ninety-- and I don't have -- 96 something and
16 divided it by two.

17 Q Okay.

18 A And I think that's where we came up with
19 the 48 -- or I came up with the 48. He gave me the
20 numbers.

21 Q Okay. So Mr. Alexander is writing you
22 back and says, "Beth, I called David and apologized
23 that his bonus for 2014 was cut after 12/31/2014."
24 And then you said, "But at my direction" -- well,
25 you see where it's kind of bolded.

PW - E. MORPHIS - DIRECT

1 A Yes, sir.

2 Q "This was done from two reasons," right?

3 A Yes, sir.

4 Q So this wasn't something that
5 Mr. Alexander suggested to you. He's telling David
6 that this is something he suggested that you do,
7 right?

8 A I'm not following you.

9 Q Okay. Mr. Alexander is telling you that
10 he told David Hess that the bonus was cut at his
11 direction; isn't that right?

12 A I guess so. I thought it was saying at
13 his direction this is why.

14 Q Okay, all right. First thing he mentioned
15 is that you're converting from the C corp to the S
16 corp, right?

17 A Yes, sir.

18 Q Okay. And the second thing is changes to
19 the retirement plan, right?

20 A Yes, sir.

21 Q Okay. We already looked at the retirement
22 payment. Your retirement is actually cheaper now

23 ---

24 A Uh-huh.

25 Q ---under the 401k than it was with the

PW - E. MORPHIS - DIRECT

1 pension or profit -- or the profit sharing, right?

2 A Yes, sir.

3 Q All right. So that would reduce expenses
4 and make the company more profitable, right, not
5 less profitable?

6 A Yes, sir.

7 Q Okay. And this conversion from the C corp
8 to the S corp, we just saw that you quadrupled your
9 profits in 2014 when you moved from the C corp to
10 the S corp, right?

11 A Say that one more time.

12 Q Yeah.

13 A I'm so sorry.

14 Q You quadrupled your profits from 2013 when
15 you were a C corp to 2014 when you were an S corp?

16 A Yes, sir.

17 Q So those two things didn't reduce the
18 profitability of the firm. It actually increased
19 the profitability of the firm; isn't that right?

20 A I'm not sure if it was due for those two
21 things that increased the profitability or if it was
22 due to numbers, but I think Mr. Alexander is saying
23 here that the reason the bonus for 2014 was cut
24 after 1214 [sic] was because of these things. I
25 mean, we had a lot going on I think is what he's

PW - E. MORPHIS - DIRECT

1 trying to say, but it was -- I ultimately didn't
2 say -- I forgot, I forgot. I didn't say, oh, and by
3 the way, please cut this money.

4 Q And then Mr. Alexander said that the bonus
5 we decided to pay you was the same number from the
6 last year \$48,000, right?

7 A Yes.

8 Q Okay. And Mr. Alexander says, "I did not
9 have his employment contract in front of me" and
10 asked what it said, right?

11 A Yes, sir.

12 Q Okay. And then he, again, mentions that
13 Hess began questioning the numbers and you -- and he
14 said, Mr. Alexander said he'd be happy to discuss
15 the numbers with Mr. Hess but did not have
16 permission from you to do that, right?

17 A No, it just says he did not have the
18 liberty to do it at this time. I don't think if
19 that was a time or we had not really, I think,
20 spoken. I'm not sure what his liberties were at
21 that -- in that email.

22 Q Okay. When David Hess in the past had
23 questioned you about certain expenses, did you ever
24 tell him to call the accountant directly?

25 A Yes, sir.

PW - E. MORPHIS - DIRECT

1 Q So you were giving Mr. Hess permission to
2 discuss the finances of the Lancaster practice with
3 your accountant?

4 A On those questions. He had specific
5 questions and I gave him answers and he did not like
6 the answers I gave him; and maybe I didn't explain
7 it well so I would say, well, I'm not sure, why
8 don't you call the accountant yourself.

9 Q All right. Now you wrote back to
10 Mr. Alexander later that afternoon at 9:05 p.m.
11 Said, "Yes, sir. Thank you for talking to him. I
12 have given him bonuses in the past based loosely on
13 the profits." You see that?

14 A Yes, sir.

15 Q "And split it between him and me. His
16 contract states that his bonus would be 50-percent
17 of the, quote, net profits I think. I will look
18 that up, but he is not an owner of the practice, and
19 I am not interested in disclosing all of the numbers
20 to him", right?

21 A Yes, sir.

22 Q And then you said, "Maybe I should since
23 that is the wording of his contract and maybe I need
24 to have that changed, but I mostly feel distrusted
25 right now. I think that is what has made me angry.

PW - E. MORPHIS - DIRECT

1 I appreciate your help; and if you have any ideas on
2 how I should handle this and how much should be
3 disclosed to him, please let me know. I'm not
4 trying to be unfair, but I also don't want to be
5 taken advantage of and he is very intimidating
6 towards me." Okay. You recall writing that to
7 Mr. Alexander?

8 A Yes, sir.

9 Q If your income had dropped unexpectedly
10 from, say, almost a third, dropped a third, you'd be
11 pretty upset about that too, especially if you found
12 out right around the Christmas or holiday season,
13 right?

14 A Yes, sir. When somebody told me it was
15 an oversight and it was a mistake and they would
16 make it right, that I trusted, I would not have
17 gotten even more angry.

18 Q So when Mr. -- Mr. Alexander said, well,
19 let's, we're just gonna make your bonus \$48,000
20 because we don't want you to be damaged or harmed by
21 our switch from the C corp to the S corp; that
22 wasn't true, was it?

23 A I'm not -- what wasn't true? That we
24 wanted to do the 48,000?

25 Q No, no, no.

PW - E. MORPHIS - DIRECT

1 A Oh.

2 Q When Mr. Alexander said "We gave you the
3 same bonus you got in 2013 because we didn't want
4 you to suffer because of the change from the S
5 corp -- or from the C corp to the S corp," that was
6 not true, was it?

7 A Well, it -- it was true because the 96,000
8 -- and I don't have a calculator -- but when you
9 divide that by two, it came out to 48,000.

10 Q Okay.

11 A I don't know that it was 48 even now. I
12 don't -- but, you know, that -- that's where that
13 number came from.

14 Q Okay. So Mr. Alexander writes back and he
15 -- he suggests that you have Tom, Tom meaning Tom
16 Hinson, sort of be the bad guy. I mean, be the
17 intermediary between you and David Hinson about
18 discussions with regards to the profitability of the
19 Lancaster practice and the bonus; isn't that right?

20 Q Yes, sir. It wasn't the bad guy because I
21 just couldn't -- you -- I was constantly being
22 intimated and I couldn't -- I was like, I can't do
23 this anymore and so I need somebody else to -- and
24 I'd asked accounting, I'd ask my husband, I'd ask
25 the attorney, what are my requirements, what am I

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1 suppos-- what are my obligations. He's hounding me
2 all the time, well, this isn't right, this isn't
3 right, I need to see the numbers, I need to see the
4 numbers. And we got along well most times, but it
5 was just too much. I was -- I couldn't do it. So I
6 said, Greg, maybe you can help me, maybe you can
7 explain it better, I can't satisfy him.

8 Q Okay. If you showed Mr. Hess the
9 expenses, the actual expenses, that would have shown
10 the auto, the BMW that you were taking out that you
11 hadn't told him about, right?

12 A Sure.

13 Q And it would show your payments that you
14 took out of the profit, I mean, out of the business
15 that you hadn't told Mr. Hess about, right?

16 A I didn't need to tell Mr. Hess about that.

17 Q Okay. But if you had shown on the
18 financials, it would have shown that?

19 A Yes, it would have seen -- he would have
20 seen everything if I'd shown him the financials.

21 Q And he would have known if he looked at
22 the financials that you weren't holding up your end
23 of the deal about paying him half of the profits of
24 Lancaster, right?

25 MR. THOMPSON: I object, Your Honor.

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1 THE WITNESS: No, sir, he's too smart.

2 THE COURT: Hold on. Hold on one second.
3 We have objection. Objection. What's the
4 objection?

5 MR. THOMPSON: Argumentative, you weren't
6 holding up your end of the deal.

7 MR. ROTHSTEIN: It's cross-examination,
8 Your Honor.

9 THE COURT: I will let her answer the
10 question. She can -- objection is overruled.

11 THE WITNESS: Can you ask it one more
12 time, sorry.

13 MR. ROTHSTEIN: Can you read back the last
14 question, Madam Court Reporter?

15 THE WITNESS: I wasn't...

16 (Court reporter reads back the last question.)

17 THE WITNESS: And I said, no, I disagree
18 because he's too smart. He has an MBA; he's told me
19 that multiple times. And he would understand the
20 numbers if I had shown him those numbers.

21 BY MR. ROTHSTEIN:

22 Q All right. Now sometime in 2014 after
23 this issue with the 20-- I'm sorry, 2015, after the
24 issue of the 2014 bonus, somebody came up with the
25 idea of changing the way Mr. Hess' bonus was

1 calculated, right?

2 A Yes, sir.

3 Q And that wasn't David Hess that came up
4 with that, it was you or Mr. Alexander, correct?

5 A Yes, sir.

6 Q Okay. And the discussion was how about if
7 we base the numbers on the gross revenues of the --
8 of the Lancaster practice, rather than the net
9 profits; isn't that right?

10 A Yes, sir.

11 Q And at that point Mr. Hess wouldn't be
12 pestering you about the expenses because that
13 wouldn't be a factor at all in his bonus
14 calculations, right?

15 A Yes, sir, and I never minded being
16 questioned. It was -- it was -- it was constant and
17 it was intimidating. It wasn't just like, hey, why
18 is our electricity bill going up. It wasn't that;
19 it was -- it was way more than that. And so, yeah,
20 I said what can we do to fix this.

21 Q And what you came up with, either you or
22 Mr. Alexander, was, well, let's just base the bonus
23 on gross revenues rather than net, right?

24 A Yes, sir.

25 Q Okay. And you had a meeting with Mr.

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1 -- Mr. Hess, I think it was on May the 28th of 2015,
2 to discuss that?

3 A Yes, sir.

4 Q Okay. And do you recall at that meeting
5 -- actually, let me show you Exhibit 2.

6 (WHEREUPON, Plaintiff Exhibit No. 2
7 was marked for identification only.)

8 BY MR. ROTHSTEIN:

9 Q You recognize Exhibit 2, Dr. Morphis?

10 A Yes, sir.

11 Q That's an email exchange that you had with
12 Greg Alexander in preparation for this meeting that
13 was -- occurred May 28th of 2015; is that right?

14 A Yes, sir.

15 MR. ROTHSTEIN: And, Your Honor, I offer
16 Exhibit 2 into evidence at this time.

17 THE COURT: Any objection?

18 MR. WILSON: No objection.

19 MR. THOMPSON: No objection.

20 THE COURT: Plaintiff 2 will be entered
21 without objection.

22 (WHEREUPON, Plaintiff Exhibit No. 2
23 was admitted into evidence.)

24 BY MR. ROTHSTEIN:

25 Q And this email thread starts on -- see the

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1 date here, May 22nd, 2015, email from Greg Alexander
2 to you. Subject: Preparing for the meeting with
3 Hess. Right?

4 A Yes, sir.

5 Q All right. "Beth, I want to make sure
6 that I'm properly prepared for the meeting with Hess
7 next week. Please know" -- bold -- "I work for you
8 and want to be mindful of providing Hess with only
9 the information you want me to share," right?

10 A Yes, sir.

11 Q "Prior to the meeting, can you provide me
12 with a list of items I'm at liberty of sharing and
13 information I can't share. I don't mind being the
14 bad guy. All I need to know is what my boundaries
15 are." Right?

16 A Uh-huh. Yes, sir.

17 Q It says, "If there are items you are not
18 comfortable sharing, then when asked I will respond,
19 quote, that is part of the larger tax position we
20 are taking for Dr. Beth personally when the details
21 are not relevant," right?

22 A Yes, sir.

23 Q All right. "My understanding from the
24 meeting with Hess is: (a) to negotiate the new
25 contract." That will be the switching the bonus

PW - E. MORPHIS - DIRECT

1 formula, right? "And (b) for me to explain why his
2 bonus should be based on gross revenue versus net
3 income," okay. And then he lists: Number one, it
4 would be more -- it'd be simpler. It would avoid
5 discussion about why is this expense being allocated
6 to Lancaster instead of Hartsville, why are we
7 incurring this expense, and expenses should be paid
8 into a future year, right? All right. And then it
9 says, number two, it allows for income tax planning
10 without the possibility of negatively effecting
11 Hess' compensation. All right.

12 And the last thing -- I'm sorry. "Item C,
13 to discuss how his 2014 bonus was determined." And
14 then he has a colon and some italics. It says,
15 "2014 was a transition year from a C corp to an S
16 corp. As a result there were tax consequences that
17 needed to be properly determined, such as the
18 built-in gains tax and retirement contributions
19 which took considerable time to calculate and
20 required information from the software tracking
21 company and AR on sales, as well as having the third
22 party administrator calculate the maximum retirement
23 calculation. It wasn't fair for Hess to be
24 penalized for the transition, quote, pains. It was
25 decided to give him a comparable bonus the prior

PW - E. MORPHIS - DIRECT

1 years in attempt to be fair," right?

2 A Uh-huh.

3 Q Okay.

4 A Yes, sir.

5 Q All that accounting jargon was BS, right?
6 I mean, you just forgot to pay David Hess the bonus
7 is my point?

8 A I did forget to pay him; but I think what
9 he's trying to say there, and again, we always met
10 and we discussed things and we had a lot going on
11 and we did transition. And when we -- when I asked
12 how, how does this differ from last year, that's
13 when we were talking about the moneys rolling over
14 and so we put aside money for the beginning of the
15 next year. That's where the \$100,000 came in to
16 from -- from the 196. And so, that's in my head. I
17 don't know about -- I don't understand about a
18 built-in gains tax, etc., so there -- I felt like
19 that tax implications are what made us bring the
20 money over; but I don't understand that. I couldn't
21 say that's BS or not. I'm just telling you what --
22 they didn't come to me and say, hey, we need to do
23 Hess' bonus and I didn't call them up and say, hey,
24 I forgot Hess' bonus. I think we all had a lot
25 going on and I think he was trying to say this is

PW - E. MORPHIS - DIRECT

1 probably why you forgot. But I take the blame for
2 that, I forgot the bonus.

3 Q The last thing Mr. Alexander asked, a
4 couple of questions. Number one, "Should I be
5 prepared to review 2014 financial information for
6 Lancaster?" What'd you tell Mr. Alexander with
7 regard to the 2014 information?

8 A What did I tell him?

9 Q Yes.

10 A I don't -- I'll have to wait till they --
11 I don't remember.

12 Q Okay. Did you give him per-- ever give
13 Mr. Alexander permission to share with David Hess
14 the full financial picture for 2014?

15 A No.

16 Q And then Mr. Hess -- I mean, Mr. Alexander
17 says, "Would you like for me to read Hess' old
18 contract prior to the meeting," right?

19 A Uh-huh.

20 Q Although he says "old contract," that's
21 the same contract that's still at the existence or
22 in effect at the time of the meeting, right?

23 A Yes, sir.

24 Q Okay. And so it's his current contract
25 that we're talking about, ---

PW - E. MORPHIS - DIRECT

1 A Right.

2 Q ---that you talked about, right?

3 A I'm assuming that's what he means. It's
4 the only one he's had.

5 Q All right. And you wrote back an email
6 responding to Mr. Alexander on May the 27th of 2015,
7 right? Okay.

8 A Yes, sir.

9 Q And you start the email by saying, "Hey,"
10 I guess -- I guess you're talking at Greg at this
11 point, right? Then you say, "I spoke with Tom late
12 Friday p.m. and he also shared concerns about the
13 meeting. After a lot of thought regarding this
14 whole situation, let me try to clarify and give some
15 history that may explain how we have gotten to this
16 position; and hopefully, it will help us determine
17 what we should do." Right?

18 A Yes, sir.

19 Q So in this email you were trying to give
20 Mr. Alexander sort of your take of the full history
21 with David Hess' bonus, correct?

22 A Yes, sir.

23 Q Okay. And I want to ask you to look down
24 here. It says, "At some point prior to hiring
25 Dr. West, I met with David because ultimately he was

PW - E. MORPHIS - DIRECT

1 keeping the office open and alive. I'd asked him to
2 stay on and agreed to make him a, quote, managing
3 partner as Dick Jones described." You see that?

4 A Yes, sir.

5 Q And then you go on right here. You're
6 talking about how your understanding of how the
7 bonus was calculated. When we would get to the
8 bottom line, it -- meaning the profit, was divided
9 by two to figure his bonus, right?

10 A Yes.

11 Q And then it says, "At some point his bonds
12 was less than a prior year and he started asking
13 questions and so he and I started this back and
14 forth about expenses," right?

15 A Yes.

16 Q And then you say, "I initially went to
17 Shirley." Is that Shirley Atkinson?

18 A Atkinson, yes, sir.

19 Q And she -- when did she pass away?

20 A Maybe two years ago.

21 Q Okay. And then to Will, Will Woodham,
22 okay. "We already established earlier that Will
23 Woodham passed away in December," I mean, I'm sorry,
24 "June of 2011," right?

25 A Yes, sir.

PW - E. MORPHIS - DIRECT

1 Q So the one bonus that Mr. Hess had been
2 paid at that time was the first bonus 75,000 in
3 2010, right?

4 A Yes.

5 Q And his bonus, that was the highest bonus
6 he ever made at Morphis Pediatrics in Lancaster,
7 correct?

8 A I think so.

9 Q Okay. So when you're talking about his
10 bonus going down, you wouldn't have talked to
11 Mr. Will Woodham about Mr. Hess' bonus going down,
12 right?

13 A No. I think I talked to Will about him
14 having questions on every -- every line item or
15 every expense.

16 Q Then you say -- right here. "Also, at one
17 point Will had built in a royalty fee to MPG so I
18 could get compensated for my time there," right?

19 A Yes.

20 Q "These things were realized after I had
21 split the profits with David but really hadn't
22 gotten paid myself." And you say, "I think some of
23 these fees were, quote, created to help me, but I
24 never wanted to get paid from Lancaster," right?

25 A Because I feared David would question me.

PW - E. MORPHIS - DIRECT

1 Q All right. So it was your intention that
2 your sole compensation from Lancaster would have
3 been half of the bonus that you paid to Mr. Hess;
4 isn't that correct?

5 A No, sir. I assumed that my compensation
6 would not be a monthly salary because I knew that I
7 would get questions from David. I assumed that we
8 would take my compensation towards the end of the
9 year when I could see that there were profits or
10 that there were other income that I could get paid
11 by.

12 Q And now later on the email you said, "I
13 worry that David would question me because he
14 already had any time there was a dip in this -- in
15 his amount."

16 A Yes. Yes.

17 Q And I was told -- "And it was told to me
18 by Dick, Will, and reiterated by Jamie" -- that's
19 talking about -- Dick is the Dick Jones, the
20 attorney, right?

21 A Yes, sir.

22 Q Okay. Will is Will Woodham?

23 A Yes, sir.

24 Q And Jamie is your husband, right, ---

25 A Yes, sir.

PW - E. MORPHIS - DIRECT

1 Q --- not J.O. Morphis ---

2 A Right.

3 Q ---but your banker, your husband who is a
4 banker, correct?

5 A Yes, sir.

6 Q "That David is not privy to the books and
7 that I should not worry. I was told this is very
8 standard operations and he is paid well, etc.,
9 etc.," right?

10 A (No response.)

11 Q And then you go on to say that from time
12 to time you would give David a snapshot of the
13 expenses but never gave him the full financial
14 picture of the firm, right?

15 A I'm sorry, hang on.

16 Q Sorry.

17 A My question -- I ---

18 Q He was questioning you a lot. "He"
19 meaning Davis Hess, "was questioning me a lot and I
20 felt my integrity was being compromised."

21 A Yes.

22 Q "So I went to Will and he suggests we give
23 David a, quote, snapshot of the expenses."

24 A Yes.

25 Q "And we did that a few times, but it

PW - E. MORPHIS - DIRECT

1 always seemed like the more info he had, the more
2 questions I got," right?

3 A Yes.

4 Q "Then he started saying that the
5 accounting was off and we needed to hire a new
6 firm." He thinks that there's something hinky going
7 on with the accounting, right?

8 A He said, "Your accountant sucks."

9 Q Okay. "So here we are. I think this is
10 the whole story and probably a mess I have created,
11 but this is where we are regardless," right?

12 A Yes, sir.

13 Q Okay. So that was your explanation to Mr.
14 Alexander the day before this big meeting with
15 Mr. Hess talking about the bonus, right?

16 A Yes, sir. We had had conversation before,
17 but I -- I felt like Mr. Alexander needed to know
18 why I felt like we needed to change this bonus
19 because I had kept it in, I tried to fight this
20 myself, and I felt like I, I couldn't do it anymore.

21 Q Okay. Do you recall at the meeting Mr.
22 Alexander trying to convince David Hess that if you
23 switched from bonus based on gross revenues to bonus
24 -- I'm sorry, other way around. If you switched
25 from a bonus based on half of the net profits to a

1 bonus based on 5-percent of the gross revenues, that
2 should about equalize what your bonus was under the
3 2010 contract, right?

4 A Greg presented him with numbers trying to
5 compare what he had to what the gross would have
6 been if we had been doing it that way.

7 Q Okay. And what you were trying to do is
8 convince Mr. Hess that, hey, we want to be fair to
9 you, we want to approximate what your bonus has
10 historically been under the 2010 contract, and we're
11 gonna -- here's an illustration of how you would
12 have fared if we had based your bonus on 5-percent
13 of the gross, rather than 50-percent of the net,
14 right?

15 A At that point I was not trying to convince
16 him. I wanted to -- to say this is what we should
17 do or -- he's very smart with numbers, what, you
18 know, what do you suggest. But this is what we came
19 up with that would be a comparable bonus and I
20 wouldn't have to be intimidated all the time.

21 Q Okay. And Mr. -- do you remember
22 Mr. Alexander bringing a sort of a spreadsheet for
23 an illustration to the meeting itself?

24 A I thought so, but I think David said we
25 did not have that there.

PW - E. MORPHIS - DIRECT

1 Q Okay.

2 MR. ROTHSTEIN: This is already in, Your
3 Honor. This is Exhibit 4.

4 BY MR. ROTHSTEIN:

5 Q Do you remember seeing this email from
6 Greg Alexander dated May the 28th, 2015, 4:44 p.m.,
7 right?

8 A Yes, sir.

9 Q It says, "Dear Dr. Beth and David,
10 attached is the information requested concerning
11 David's bonus amount as a percentage of gross
12 revenues," right?

13 A Yes, sir.

14 Q "Please let me know if you have any
15 questions." And in that the email he sent to both
16 you and Mr. Hess is this spreadsheet, right?

17 A Yes, sir.

18 Q Okay. So what Mr. Alexander is trying to
19 say is, look, from 2010, which is here, to 2014,
20 over that five-year period this is how much the
21 average gross revenue of Morphis Pediatrics in
22 Lancaster is, right?

23 MR. WILSON: Objection, Your Honor,
24 misrepresentation. Mr. Alexander is not saying
25 anything in that document. The document is a

1 document.

2 THE COURT: Please rephrase the question.

3 BY MR. ROTHSTEIN:

4 Q Okay. You understood that Greg
5 Alexander sent this to you, right?

6 A He emailed this, yes, sir.

7 Q Okay. And you understood Mr. Alexander
8 created this spreadsheet, right?

9 A I assume so. I don't know who created it,
10 but it -- I assume he did.

11 Q Okay. So he's communicating the
12 information in the spreadsheet to you and to David
13 Hess, right?

14 A Yes, sir.

15 Q Okay. And in that, that spreadsheet, the
16 average that Mr. Alexander calculated for the
17 five-year period from December -- I'm sorry, from
18 January 2010 to December of 2014, the Lancaster
19 averaged approximately 1.068 million-dollars in
20 revenues, right?

21 A I'm -- yes, yes, yes, yes, I got you.

22 Q And during that time there's the bonuses,
23 Mr. Hess' \$100,000 salary, Christmas bonus, and then
24 this year-end bonus which is the contractual bonus
25 he was entitled to under the 2010 agreement,

1 correct?

2 A Yes.

3 Q All right. And so Mr. Alexander, is your
4 understanding that he took the two bonus numbers,
5 Christmas and year-end bonus as the top number of
6 the fraction and the gross revenues number as the --
7 was it that -- the denominator, the bottom number of
8 the fraction and came up with an average of
9 5-percent, right?

10 A Uh-huh.

11 Q Okay. Before Mr. Alexander sent you and
12 Mr. Hess this spreadsheet, Mr. Alexander also sent
13 you a spreadsheet, right?

14 A Okay.

15 Q Okay.

16 MR. ROTHSTEIN: And I don't know that this
17 one is in yet. I think we marked it for
18 identification. This is Exhibit No. 3, Your Honor.
19 BY MR. ROTHSTEIN:

20 Q You recognize Exhibit 3 as the email that
21 Mr. Alexander sent to you, but not to David Hess, at
22 4:31 p.m. on May the 28th, 2015?

23 A Yes, sir.

24 Q Okay.

25 MR. ROTHSTEIN: Your Honor, I'd move that

PW - E. MORPHIS - DIRECT

1 document into evidence at this time.

2 THE COURT: Any objection?

3 MR. WILSON: No objection?

4 MR. THOMPSON: No objection.

5 (WHEREUPON, Plaintiff Exhibit No. 3
6 was admitted into evidence.)

7 BY MR. ROTHSTEIN:

8 Q All right. So it looks like at 11:33 a.m.
9 you sent Mr. Alexander a message essentially
10 thanking him for meeting, correct?

11 A Yes, sir.

12 Q Okay. His response back to you was,
13 "Beth, first of all, thank you for your email. As
14 you well know, when working for the public it's
15 deeply gratifying when your client's patients
16 appreciate your efforts. Attached is the
17 spreadsheet you requested." Okay. It says, "I
18 thought it may be beneficial for you to see what
19 kind of profit you are receiving from the practice
20 in Lancaster." You see that?

21 A Yes, sir.

22 Q Why did you ask Mr. Alexander or request
23 that information?

24 A I have no idea.

25 Q Okay. Then he says, "This is for your

PW - E. MORPHIS - DIRECT

1 benefit only. I won't share this with David,"
2 right? All right. And this is the spreadsheet that
3 Mr. Alexander sent just to you, right? All right.
4 And the information above the green line is what he
5 sent to you and to David Hess, right? On the prior
6 email?

7 A Yes, sir.

8 Q All right. Everything below that line is
9 stuck something he sent just to you; isn't that
10 right?

11 A Yes, sir, that's what he said.

12 Q So he included in your spreadsheet the net
13 income of the firm, doctor bonuses, and that's
14 your -- what you received in bonus money, right?
15 And net income before doctor bonuses, correct?

16 A Yes, sir.

17 Q Okay. So what Mr. Alexander did was take
18 the bonus that was actually -- or I'm sorry, the net
19 income number that was shown on the spreadsheet,
20 added back your doctor bonuses and came up with,
21 really, the true profit number of Lancaster. You
22 take out your bonus, that shows how much profit
23 Lancaster earned before you took anything out of the
24 company; isn't that right?

25 A No, sir. I -- that is my compensation.

PW - E. MORPHIS - DIRECT

1 Q Okay. You see Mr. Alexander saying, "I
2 wanted you to see what kind of profit you were
3 receiving from the practice in Lancaster," right?

4 A Yes, but that's like y'all have profit
5 loss statements which are different than income
6 expense statements and that -- you can't take, I
7 mean, if you -- if I wasn't compensated I -- it
8 wouldn't be in existence.

9 Q Well, let's assume for a second that this
10 spreadsheet that he sent just to you shows the
11 profit you're taking out of Lancaster, right, like
12 he said it did. 2010, okay, you remember we talked
13 earlier about 2010 and you took 140,000 plus your
14 \$8,000 Christmas bonus that year?

15 A Okay.

16 Q Mr. Alexander has zero down there for you
17 that year, right?

18 A He has, yeah, for doctor bonuses.

19 Q Yeah. But you, you took out 148,000 and
20 some change from that year as doctor bonuses, right?

21 A I was compensated that. I don't recall
22 8,000, I think, was a Christmas bonus. I think we
23 figured that.

24 Q So if you add the \$148,000 back to the
25 \$17,000, we're talking about ---

PW - E. MORPHIS - DIRECT

1 A 65.

2 Q ---\$148,000 plus 17,869.31. That's
3 \$165,000, right?

4 A Yes, sir.

5 Q Okay. Mr. -- Mr. Hess should have gotten
6 half of that, at least half of that, as his bonus
7 compensation under the formula; isn't that right?

8 A No, sir. That takes -- I -- that would --
9 if I were not gonna get any compensation for
10 working, I wouldn't probably have that job.

11 Q Okay. But you were -- you have had a
12 full-time job in Hartsville, right? This wasn't
13 your full-time job in Lancaster.

14 A No, it wasn't my full-time job, but I put
15 my heart and soul into this practice from 2002 all
16 the way till now, and I would not do that for
17 nothing. I mean, it's not -- it's how hard you
18 work; it's not how much money you make. I, I, I --
19 I built this and I worked hard for it, and I think
20 I'm entitled to compensation for that. I think
21 anybody would believe that.

22 Q Okay. And even if you -- even if you took
23 half of the money you would still receive
24 compensation, right? I mean, if Mr. Hess got half
25 and you got half, you're being paid for your half of

PW - E. MORPHIS - DIRECT

1 the profits; isn't that right?

2 A No, sir.

3 Q Isn't that ---

4 A I could work for two dollars an hour if I
5 so chose. That doesn't -- to me that doesn't
6 compute; that doesn't make sense. And I'm sorry, I
7 don't meant to sound disrespectful, but I just don't
8 think that's reasonable.

9 Q Okay. You had a contract with Mr. Hess
10 that said his bonus is based on 50-percent of the
11 profits at Lancaster, right?

12 A Absolutely, and I, I gave him more than
13 50-percent some years, but I gave him 50-percent
14 after the expenditures.

15 Q Okay. I think you testified earlier that
16 you would even -- under the -- Mr. Hess got half and
17 you either took half or left some into the company,
18 right?

19 A I think so, yeah, whatever they --
20 whatever they told me to do with my money.

21 Q In 2011 you took out \$180,000, right? Mr.
22 Hess got paid 25,000, right?

23 A Yes, 'cause that's when -- that's -- that
24 was the other income that was not generated from the
25 practice. That was negotiated by me, earned by me.

PW - E. MORPHIS - DIRECT

1 Q Okay. 2012, you took out \$330,000 of the
2 profit?

3 A Yes, sir.

4 Q Okay. Mr. Hess got \$46,000 profits,
5 right?

6 A Yes, sir.

7 Q Okay. 2013 you took out \$151,000 in
8 doctor bonuses according to Mr. Alexander, right?

9 A In compensation, yes, sir.

10 Q And Mr. Hess got 48,000. 2014 you took
11 out \$81,000. Mr. Hess took out \$48,000. And
12 according to Mr. Alexander, the net income of the
13 firm adding your bonus back in was \$277,000?

14 A Yes, sir, and that's after the S corp
15 which we've just discussed. That's if you had -- if
16 you could go into the first of year with no money,
17 who -- who nobody does that as a business owner.

18 Q In 2015, the year that you had the
19 meeting -- I think you had the meeting on May
20 the 28th, correct?

21 A I think so, yes, sir.

22 Q All right. Bear with me one second. I
23 show you Exhibit 16.

24 (WHEREUPON, Plaintiff Exhibit No. 16
25 was marked for identification only.)

PW - E. MORPHIS - DIRECT

1 BY MR. ROTHSTEIN:

2 Q You recognize Exhibit 20 -- I'm sorry,
3 Exhibit 16.

4 A Yes, sir.

5 Q Exhibit 20 -- Exhibit 16 is the
6 year-to-date financial statements from January to
7 the end of May of 2015, right?

8 A Yes. Yes, sir.

9 Q So this would have ended three days after
10 the meeting you had with Mr. Hess and Mr. Alexander
11 and Mr. Hinson and -- was Shirley -- I mean, Sandra
12 Tyner there as well?

13 A I think she was. Yes, sir, she was.

14 Q Okay.

15 MR. ROTHSTEIN: Your Honor, I move Exhibit
16 16 into evidence at this time.

17 THE COURT: Any objection? Any objection?
18 I'll give y'all -- give you a second if you need a
19 second.

20 MR. WILSON: No objection.

21 THE COURT: Any objection, Mr. Thompson
22 from you?

23 MR. THOMPSON: No objection, Your Honor.

24 THE COURT: All right. It will be entered
25 without objection.

PW - E. MORPHIS - DIRECT

1 well; didn't it?

2 A I don't think so.

3 Q Okay. All right, back to Exhibit No. 9.

4 A It would have been about \$6,000, I guess,
5 difference.

6 Q This is the last page of Exhibit No. 9,
7 and it's the full profit and loss statement for the
8 year ending December 31st, 2015. You see that?

9 A Yes, sir.

10 Q All right. Professional income
11 1.4 million dollars. That was about the pace we
12 were looking at in May, right?

13 A Yes.

14 Q Pretty good year for you guys. Actually,
15 the best year you've ever had in Lancaster. Would
16 you agree with that?

17 A The ones we looked at yesterday, today,
18 this week, yes, sir.

19 Q At this point you're taking out \$80,000
20 per your salary, auto expense for that year \$758,
21 maybe one month of rent payment -- lease payments,
22 right?

23 A Yes, sir.

24 Q Okay. And the profitability of the firm
25 that year, net income -- okay, even including your

PW - E. MORPHIS - DIRECT

1 \$80,000, your net income in Lancaster was
2 \$374,893.28, correct?

3 A Yes, sir.

4 Q Okay. You remember what Mr. Hess' bonus
5 was that you paid him in 2015?

6 A Whatever 5-percent would be of 1.4 I'm
7 assuming.

8 Q This one is a little -- let me -- I think
9 it was about \$70,000.

10 A Okay.

11 Q Does that sound about right?

12 A I'm sure, sir. Yes, sir.

13 Q If he hadn't switched the contract from
14 the 2020 contract to the 2015 contract, his bonus
15 would have been half of \$374,000, even including
16 your \$80,000 salary; isn't that right?

17 A I think so, if we had no other
18 expenditures. Although, same kind of situation
19 2014, we're now in S corp so that 374 we may have
20 had money that had to be moved through. I can't
21 answer that.

22 Q Okay. Didn't you take out, in addition to
23 your \$80,000 salary, didn't you take an S
24 distribution from the company of \$411,000 in 2015?

25 A Me? 4---

PW - E. MORPHIS - DIRECT

1 Q Okay. Now I'm gonna show you Exhibit 18,
2 which is already in evidence. You recognize this
3 document as the new employment agreement that Dr. --
4 I mean, that you and Doc-- Mr. Hess signed on
5 December 30th, 2015?

6 A Yes, sir.

7 Q Okay. Is that your handwriting, writing
8 in the date?

9 A I think it is.

10 Q So you believe that you and Mr. Hess
11 signed this new employment agreement on
12 December 30th, 2015; is that right?

13 A I think so.

14 Q Okay. And where were you physically
15 located when you signed this document?

16 A I do not know.

17 Q In South Carolina?

18 A Oh, yes, sir.

19 Q Okay.

20 A Well, yes, sir.

21 Q Here in Lancaster or Hartsville?

22 A Yes, sir.

23 Q Okay. And this is the signature page of
24 the agreement. Do you recognize your signature as
25 president and secretary of Morphis Pediatric Group

PW - E. MORPHIS - DIRECT

1 of Lancaster, PA?

2 A Yes, sir.

3 Q Okay. And do you recognize David Hess'
4 signature as the employee?

5 A Yes.

6 Q And do you recognize Ms. Tyner's signature
7 as the witness to you signing?

8 A Yes, sir.

9 Q All right. Who prepared this document,
10 this new contract?

11 A I would assume Dick Jones.

12 Q Okay. It's not something Mr. Hess
13 proposed to you, right?

14 A He did not prepare this, no, sir.

15 Q All right. And the Exhibit A, this is
16 explaining that his bonus is now changing instead of
17 being based on the net income like the 2010
18 agreement, this is now saying that his bonus, annual
19 bonus, this is -- it is anticipated that employee
20 will be entitled to a bonus, I'm sorry, an annual
21 bonus in the amount of 5-percent of the gross
22 receipts of the company during each fiscal year. Do
23 you see that?

24 A Yes, sir.

25 Q Okay. And on the signature page -- this

PW - E. MORPHIS - DIRECT

1 is the same signature page. You see under 24 it
2 says, "This agreement shall be subject --
3 "considered subject to and governed by the laws of
4 South Carolina." Do you see that?

5 A Yes, sir.

6 Q Okay. Are you aware that under the South
7 Carolina Payment and Wages Act, a change in
8 employee's compensation ---

9 MR. THOMPSON: Objection, legal
10 conclusion, Your Honor.

11 THE COURT: Sustained.

12 BY MR. ROTHSTEIN:

13 Q Okay. This is the document that you used
14 to pay Mr. Hess' bonus in 2015, right?

15 A Yes, sir.

16 Q Even though he signed it two days, or one
17 day before the end of the year in 2015, right?

18 A Yes, sir. We had emailed back and forth,
19 and he was in agreement that this is the way we
20 should do it.

21 Q Okay. But the written notice to him of
22 the change in his contract occurred shortly before
23 December 30th of 2015, right?

24 A Well, we -- we -- I -- I'm not positive.
25 If I recall correctly, it was a June email that we

PW - E. MORPHIS - DIRECT

1 went back and forth. He went -- he came back to me
2 and agreed that this was the best plan. He just had
3 a couple of questions that if the money started
4 changing, could we go back to the old plan.

5 Q Okay. And when do you recall receiving
6 the contract from Mr. Jones' office?

7 A I do not know.

8 Q It was sometime shortly before the
9 document was actually signed, right? Maybe ---

10 A I would assume so, but I -- it might have
11 been. I don't know when it was.

12 Q Okay. So 2016/2017 Mr. Hess was paid
13 based on revenues rather than profitability of the
14 company, right?

15 A Yes, sir.

16 Q Okay. How did your -- the practice in
17 Lancaster do financially after the change in 2015?

18 A Up until today?

19 Q No.

20 A Oh, I'm sorry.

21 Q I'm sorry. In '16 and '17, the next two
22 years after this contract was signed, how did the
23 company perform financially in 2016 and 2017?

24 A I would have to look at the -- I don't
25 know the numbers, but it ---

PW - E. MORPHIS - DIRECT

1 Q Okay. You have a sense of how it went?

2 A It was -- it was okay. It was good. I
3 don't -- I don't know.

4 Q And at that time you were -- you were
5 taking a monthly salary out of the business every
6 month, right?

7 A I think so.

8 Q Okay. But no longer paying for the BMW
9 out of the business, right?

10 A I don't know.

11 Q Okay.

12 A I don't know why we would not have.

13 Q Okay. Do you recall telling Mr. Hess and
14 Dr. Hussey -- I think Dr. Hussey was working at that
15 time -- about the Lancaster struggling in 2016 and
16 2017?

17 A Yes, sir. And I, when I look at stuff --
18 I do look at finances, but I look at the numbers, at
19 the patient volume more than I do the finances
20 because the date of service is so very different
21 than the date of deposit.

22 Q Okay. And you notice that the number of
23 patients being seen in Lancaster dropped, right?

24 A Yes.

25 Q Okay. Did you ever determine why that

PW - E. MORPHIS - DIRECT

1 patient volume was dropping?

2 A Not 100-percent. We had meeting after
3 meeting trying to figure out why the no-show rate
4 was going up, why the numbers were falling; and we
5 tried different things. I think they tried calling
6 the no-shows back and calling for appointment
7 reminders.

8 Q Let me ask you this.

9 A The numbers continued to drop and ---

10 Q Do you know ---

11 A What -- excuse me.

12 Q I'm sorry, I didn't mean to cut your off.

13 A It wasn't until later that I found out by
14 going to work people were saying, well, we tried to
15 get an appointment and they kept calling and
16 canceling.

17 Q Do you know if any competing pediatric
18 groups opened in Lancaster or Indian Land around
19 that same time?

20 A I do not. I know there are several in
21 Lancaster.

22 Q Okay. Do you know if President Trump's
23 discontinuation of the Medicaid expansion had
24 anything to do with the patient volume dropping?

25 A I don't think so. It did not happen in

PW - E. MORPHIS - DIRECT

1 Hartsville, South Carolina, so I figured that would
2 be state to state.

3 Q Okay. And Hartsville is your home area.
4 You know, the demographics of Hartsville better than
5 you know Lancaster, is that right?

6 A Yes, sir.

7 Q Okay. Were you concerned about the
8 financial viability of the Lancaster office?

9 A Yes, sir.

10 Q From 2016, 2017, and 2018?

11 A I was concerned that the numbers were
12 dropping and, you know, we were not seeing our
13 average numbers anymore and we could not afford to
14 have two providers seeing a one provider practice.

15 Q At some point did you continue -- did you
16 consider discontinuing your \$80,000 a year salary to
17 help the financial viability of Lancaster?

18 A Well, my first choice was to try to
19 improve the patient volume. I -- we had a lot to do
20 to increase the patient volume. That's -- that was
21 my first choice.

22 Q Okay. You recall telling Mr. Hess and
23 Dr. Hussey that you're bleeding money in Hartsville?
24 I mean, in Lancaster?

25 A I don't recall using that term, but I

PW - E. MORPHIS - DIRECT

1 probably did. I would have been more focused on
2 patient numbers. We can't see 9 in the morning. We
3 need to have a patient volume of about 20.

4 Q Okay. Did you explore creative ways to
5 increase the patient volume like staying open later,
6 advertising, those types of things?

7 A Yes, sir.

8 Q Okay. Did that -- did that seem to work?

9 A Well, we tried night clinic and that was
10 not very profitable. It did not seem to take off.
11 We didn't do it for a long time, but I had a couple
12 of other nurse practitioners that came in to try to
13 help cover night clinic. Then we had talked about
14 because we have a high Spanish speaking population,
15 going into the schools and even getting our
16 interpreter from the office to go into the schools
17 and try to talk to the teachers and social workers,
18 but I don't think that ever happened. There were
19 several things we wanted to kind of court the OBGYNs
20 to try to get me more -- there were several things
21 that I don't know that all happened.

22 Q At some point you decided maybe I just
23 need to try and, you know, stop the bleeding in
24 Lancaster and try and sell the practice; is that
25 right?

PW - E. MORPHIS - DIRECT

1 A Yes, sir. I had option -- well, in my
2 mind, I had the option of either closing the
3 practice or trying to sell the place, and I hated to
4 close it because we had a lot of employees and
5 that's their livelihood and -- and they were trying.
6 They were there every day, you know, ready to work;
7 patients just weren't.

8 Q Okay. Did you tell Dr. Hussey and Mr.
9 Hess that the Lancaster practice was declining in
10 '16, '17 and '18?

11 A I don't know. I'd have to look back at my
12 notes. I know starting in 2018 we were having, at
13 least Sandra and I and sometimes with Dr. Hussey and
14 David, we were having almost weekly meetings.

15 Q And at some point in the middle of Decem--
16 middle of 2018, you decided to sell, try to sell the
17 practice; isn't that right?

18 A Yes, sir.

19 Q Okay. And you contacted Mr. Alexander to
20 try and do that or help you do that?

21 A To help me, yes, sir.

22 Q Did you ever have any type of appraisal
23 done in terms of what the business was worth as a
24 going concern?

25 A I would have to ask him about that; I'm

PW - E. MORPHIS - DIRECT

1 not sure.

2 Q Okay. You're not aware of any ---

3 A We talked about it, but I don't know if it
4 -- I don't remember how we -- my -- I don't remember
5 how we were coming up with the fair market value I
6 think is what they termed it.

7 Q Okay. Did ---

8 A I'm not sure.

9 Q Did you have in your mind what you thought
10 would be the fair market value of the practice?

11 A Not right offhand, I mean, but when we
12 started looking at numbers -- I can't remember, but,
13 yes, sir, we came up with a price that we thought
14 would be fair.

15 Q What did ---

16 A Fair market value that ---

17 Q What'd you think that was?

18 A I'm not sure. I think it was between
19 450,000 to -- about that. I got -- I don't know. I
20 shouldn't be commenting.

21 Q And you recall at some point in the summer
22 of 2018 Mr. Alexander communicated to people that
23 you were going to accept bids for the practice,
24 sealed bids, for the practice?

25 A Yes, sir.

PW - E. MORPHIS - DIRECT

1 Q Okay. And at that point did Mr. Alexander
2 establish a portal for people who are interested in
3 making a bid on the practice, could get access to
4 five years of financial records of the practice?

5 A I'm not sure, but I -- I think there's a
6 portal, but I don't know who it was for. I'm not
7 sure about that.

8 Q Okay. Is it your understanding that you
9 gave Mr. Alexander permission to share confidential
10 financial records of Morphis Pediatrics of Lancaster
11 to people who might be interested in purchasing the
12 practice?

13 A Yes, it was within a certain -- whatever
14 is necessary to buy a practice. My husband got
15 involved at that point and said you need to be
16 showing five years of something, I don't know.

17 Q Is that the first time to your knowledge
18 that David Hess ever had access to the entire
19 financial records of Morphis Pediatrics in Lancaster
20 was in the summer of 2018?

21 A Yes, if that was the entire -- I didn't
22 realize that the numbers that you used to buy the
23 practice would include like monthly profit. I
24 didn't know -- I don't know what he was privy to at
25 that point.

PW - E. MORPHIS - DIRECT

1 was terminated effective immediately, right?

2 A It was sometime after I returned back,
3 yes, sir.

4 Q And you paid Mr. Hess out a 30-day notice
5 period, right?

6 A I think so.

7 Q Okay. And you paid Dr. Hussey out for
8 60-day notice, right?

9 A I'm not sure.

10 Q Okay. Why did you terminate the two
11 providers in Lancaster?

12 A The practice was not doing well. I could
13 not afford two providers at that point to see 12 and
14 15 patients a day. We were losing revenue. We were
15 losing money. And I had met and met and met and met
16 and I did not feel like they were engaged anymore; I
17 don't know what happened. But the interest was not
18 there, the whole climate changed after that.

19 Q Okay.

20 A And so I had made other arrangements. I
21 did not want to close the practice down so I made
22 other arrangements to have somebody else come in and
23 work it and try to build it back up.

24 Q Why did you actually not have them work
25 out their 30 or 60-day notice period?

PW - E. MORPHIS - DIRECT

1 A That was just my choice. I don't think
2 that's good practice.

3 Q Okay. Did you tell people, patients,
4 email and ask where's Mr. Hess or Dr. Hussey?

5 A I just said they're no longer with us.

6 Q Okay. Did you ever send out a -- some
7 sort of announcement card saying that Dr. Hussey and
8 Mr. Hess are no longer in the practice, this is
9 where we think they are if you want to continue to
10 see them?

11 A No, sir. We looked into that and since
12 they were employees of Morphis Pediatric Group and
13 Morphis Pediatric Group was gonna maintain the
14 practice, we did not send anything out.

15 Q Okay.

16 A And I did not know where they were going
17 at that time.

18 Q Okay. Did you pay Mr. Hess any CME
19 reimbursement for 2015?

20 A I don't know. I did whatever the HR
21 company recommended.

22 Q Did you pay Mr. Hess a bonus for 2015? I
23 mean, 2018.

24 A No, sir, that is one of the criteria.

25 Q Okay. So he had worked for -- do you

PW - E. MORPHIS - DIRECT

1 remember when he was terminated?

2 A Like August or maybe -- I don't recall
3 exactly the day.

4 Q All right. And so you didn't prorate his
5 bonus so you worked two-thirds of the year, you get
6 two-thirds of your bonus?

7 A No, sir. You do have to be employed on
8 the end of the year to get the bonus for that year.

9 Q Well, that's the only criteria you've ever
10 had as the board for payment of the bonuses. You
11 have to actually be employed through the end of the
12 year you receive a bonus, right?

13 A No, sir.

14 Q Okay. What other published criteria did
15 you have for Mr. Hess to get a bonus?

16 A Well, we didn't have any published
17 criteria for Mr. Hess. Several years back in
18 Hartsville we had a criteria that this certain
19 physician had to see more volume or he would not be
20 eligible for a bonus.

21 Q Okay. You never established that type of
22 criteria for Mr. Hess, right?

23 A I did not.

24 Q Okay. I don't have any -- wait.

25 MR. ROTHSTEIN: Excuse me, Your Honor. I

1 Q Could you read, like, the first two
2 sentences of that?

3 A From David Hess to me?

4 Q Yes, June 1, 2015.

5 A June 1st, yes, sir, regarding bonus. "Hi.
6 Sorry, I meant to email you over the weekend. I
7 agree and this makes it easier for us. Only
8 comments are, if something would happen, i.e.,
9 Dr. Hussey would leave or another large expense
10 change that we revisit it for that year. Another
11 question is, would it be paid, i.e., will 2015 be
12 paid in 2015 or 2016? This has more to ---"

13 Q Okay. What was your understanding of what
14 was being -- what that email is about?

15 A He was saying that he agreed to go to the
16 5-percent of gross revenue and that would make it
17 easier; but if Dr. Hussey were to leave or if there
18 was another large expense change, I'm assuming he
19 meant something that we would not have, could we
20 revisit it and go back to his 2010 agreement.

21 Q Okay. And y'all were discussing the 2015
22 contract?

23 A Yes, sir.

24 Q And in regards to David Hess' 2010
25 contract, did any other provider in the Lancaster

1 office have any agreement like that, any bonus
2 provision like that?

3 A No, sir.

4 Q Did any provider in the Hartsville office
5 have any sort of agreement like that, bonus
6 provision like that?

7 A No, sir.

8 MR. THOMPSON: Your Honor, that's all the
9 questions I have on cross.

10 THE COURT: All right, thank you. Hold on
11 one second.

12 Yes, sir.

13 **CROSS-EXAMINATION**

14 BY MR. MACKELCAN:

15 Q Good morning.

16 A Good morning.

17 Q Now I've heard you referred to as
18 Dr. Beth and Dr. Morphis. Which do you prefer?

19 A Either is fine. A lot of times around
20 the kids they'll see -- they'll say Dr. Beth, just
21 ---

22 Q Dr. Beth.

23 A 'Cause it's easier.

24 Q Okay. Dr. Beth, you've already testified
25 about the -- Mr. Hess' 2014 bonus and how you always

1 intended to give him a bonus but accidentally the
2 cut was not issued -- a check was not issued until
3 2015 and then this led to some unpleasant exchanges
4 with -- with Mr. Hess. And just to be clear, the --
5 and when you then began looking at ways to change
6 the bonus structure, this wasn't to pay Mr. Hess
7 less, was it?

8 A No, sir.

9 Q And it was -- it was just to make it, make
10 it easier?

11 A Yes, sir.

12 Q Make it easy. Simpler calculations, he
13 only has to look at the gross revenue. That's the
14 reason, right?

15 A Yes, and I -- I felt like that would help
16 save our friendship.

17 Q And, in fact, the amount of money as to
18 the bonuses that you paid him, under the new
19 agreement was more than the bonuses that were paid
20 under the 2010 agreement, is that -- isn't that
21 right?

22 A Yes, sir.

23 Q So, you know, there was that spreadsheet
24 that showed the -- his average bonus from those
25 years was approximately \$48,000. Then you gave that

1 nice Christmas bonus on top of that that was 5 to
2 \$7,000. And we've heard testimony already in this
3 trial that the 2015 bonus the first year under the
4 2015 agreement was about \$70,000, right, and the
5 2016 bonus I believe was \$57,000 or so, and then the
6 2017 bonus was 50,000 or so, is that -- is that
7 about right?

8 A Yes, sir.

9 Q So, you know, if you average 2015, 2016,
10 and 2017 -- and I'm not trying to ask you to do math
11 here on the hot seat but -- but it's approximately
12 \$59,000.

13 A Okay.

14 Q So we're looking at -- now you -- so you
15 were paying him \$11,000 more on average under the
16 new contract?

17 A Okay.

18 Q So this -- this allegation that somehow
19 you were trying to pay him less, that's just false,
20 right?

21 A Absolutely.

22 Q Okay. I've got no further questions.
23 Thank you.

24 MR. THOMPSON: Your Honor, I think I
25 forgot to ask Defense 5 be admitted, Defense 5.

PW - E. MORPHIS - REDIRECT

1
2 THE COURT: Any objection to Defendant's
3 5?

4 MR. MACKELCAN: No objection.

5 THE COURT: It will be in without
6 objection.

7 (WHEREUPON, Defense Exhibit No. 5 was
8 admitted into evidence.)

9 MR. ROTHSTEIN: If I can get that Exhibit
10 5 please, sir.

11 **REDIRECT EXAMINATION**

12 BY MR. ROTHSTEIN:

13 Q All right, Dr. Morphis, you can see
14 exhibit, Defendant's Exhibit 5 on the screen that
15 Mr. Thompson asked you a couple of questions about.

16 A Yes, sir.

17 Q And I know -- I don't know if you've been
18 in the military, but it looks likes this email, the
19 first email you sent to Mr. Hess was 18:39. I think
20 that's -- is that 6:39 in the evening?

21 A Yes, sir, I think.

22 Q So this was after you had received the
23 spreadsheet from Mr. Alexander that wasn't set for
24 Mr. Hess, right?

25 A I believe that was the -- I don't remember

PW - E. MORPHIS - REDIRECT

1 the date. Maybe the twenties. I'm not sure. I
2 think so.

3 Q Okay. I mean, we can pull it back out.

4 A Sure, I believe you.

5 Q You'll take my word for it?

6 A Yes, sir, I will.

7 Q All right. So when you say "I have looked
8 at the numbers," okay, okay, those included the
9 numbers that Mr. Alexander sent you that showed that
10 you weren't paying Mr. Hess 50-percent of the bonus
11 up until that date, right?

12 A I disagree with you.

13 Q Okay. Well, didn't Mr. Alexander's email
14 to you say, "I'm gonna send you this additional
15 spreadsheet that you requested"?

16 A Yes, sir.

17 Q "I'm not gonna share these last three
18 lines with David Hess, but I just wanted you to see
19 what kind of bonus you're getting from Lancaster."
20 Isn't that what he said to you?

21 A That is what he said.

22 Q Okay. So at the time you sent this email
23 to Mr. Hess, you knew that 5-percent of the gross
24 revenues was not equivalent to the 2010 agreement
25 where he was supposed to get 50-percent of the gross

PW - E. MORPHIS - REDIRECT

1 profits, right?

2 A I'm not following your question, sorry.

3 Q Okay. When you sent this email to
4 Mr. Hess saying, I think 5-percent would be fair to
5 you, you knew that 5-percent would have been less
6 than the original agreement in 2020 -- 2010, where
7 he was supposed to be getting 50-percent of the net
8 profits of the firm, correct?

9 A No, sir, I -- I disagree because when you
10 average his other bonuses the numbers would be very
11 close to these. We didn't have the full 2015; but
12 looking through the past years that Greg had sent,
13 his bonus would be very similar.

14 Q Okay. But you knew that you had not been
15 paying Mr. Hess 50-percent of the bonus in Lan--
16 50-percent of the profits in Lancaster?

17 A That is incorrect, sir.

18 Q Okay.

19 A That was com-- we, I thought, established
20 this but. Yes, sir, he received 50-percent or more
21 of the net profits.

22 Q Okay. When you tell Mr. Hess that you
23 think 5-percent of gross receipts is fair, it was
24 fair to you, right?

25 A Well, I felt like it was fair to him.

PW - E. MORPHIS - REDIRECT

1 I -- initially I did not think 5-percent was gonna
2 be fair. I thought that was gonna be too much and
3 that's when Greg did the calculations; but I was
4 more concerned about -- I was becoming resentful and
5 bitter because of Dr. Hess' -- of Mr. Hess'
6 attitude. I felt -- I didn't -- I was worried about
7 our friendship and our future at that point.

8 Q Okay. Because he was asking questions
9 that you didn't want to answer, right?

10 A No, sir, it was not asking ---

11 MR. THOMPSON: Your Honor, I object. This
12 is not redirect. This is cumulative. This has
13 already been covered in direct. It's not redirect.

14 MR. ROTHSTEIN: I'm asking her about this
15 document that Mr. Thompson put into evidence, Your
16 Honor.

17 THE COURT: All right. Objection is
18 overruled.

19 THE WITNESS: It wasn't just asking
20 questions. I'm fair; I can answer questions. It
21 was constant badgerment, I don't know, intimidation,
22 because every answer was never good enough. He'd
23 say, well, you need to go back, you need to do some
24 work, you need to do this, you need to do that. And
25 that's when I said, why don't you call the

PW - E. MORPHIS - REDIRECT

1 accountant because these were accounting questions.
2 I check ears for a living; I'm trained to do that.
3 But these were above, above what I could answer to
4 his satisfaction and it was constant.

5 Q Okay. So you were giving Mr. Hess
6 permission to get the accounting, the information
7 from the accountant, right?

8 A I gave him permission to call the
9 accountant and ask him the same questions that he
10 asked me.

11 Q Did you know whether Mr. Alexander would
12 answer those questions?

13 A I did not have a conversation with Mr.
14 Alexander. I was just trying to get David off my
15 back. I was -- I was scared to bring anything up.

16 Q Didn't you tell Mr. Alexander not to share
17 the information with David?

18 A I told -- no, sir. You're talking about
19 full financials of the books of Lancaster, of the
20 office in Lancaster. That is the only thing that we
21 had discussed, whether I needed to open those books
22 to David or not.

23 Q And you said ---

24 A And I didn't ---

25 Q You told the accountant not to open those

PW - E. MORPHIS - REDIRECT

1 books to David Hess, right? That -- that he's not
2 privy to those books 'cause you're the owner and
3 he's not the owner, right?

4 A I asked and I -- like I said, I'm a
5 pediatrician and so I went on the direction of my
6 attorney as to whether this was something that I
7 needed to show to a non-partner in the practice and
8 they said no.

9 Q Then the next sentence says, "Of course,
10 I'll need to get the blessings from the attorneys,"
11 right?

12 A Yes.

13 Q You think it's a fairer way to calculate
14 the bonus. At the time you sent that email and
15 Mr. Hess responded on June 1st, you didn't have a
16 contract with him about the terms of his new bonus,
17 did you?

18 A That's what we're discussing, I thought,
19 was the new contract.

20 Q Yeah, but there was no agreement in
21 place. You said, I've gotta-- still got to run all
22 this by the attorney, right?

23 A Well, I would have to get the contract
24 from the attorneys. They always did our contract.
25 I didn't do 'em. They -- they would have to give us

PW - E. MORPHIS - REDIRECT

1 the contract.

2 Q Okay. When Mr. Hess wrote back and said,
3 I agree and this makes it easy for us, what did you
4 think he was agreeing to?

5 A I think he -- he was agreeing to the
6 5-percent of gross revenue because he goes on to say
7 can we change it back if there's -- if there's a
8 major change. And I think he was at his wit's end
9 too. He was tired of me and I was tired of him, and
10 I think he was -- I think that's what made him get
11 angry with me is because he was tired of asking the
12 same stuff and then I would be intimidated and I
13 would just sort of tuck my tail and run and I was
14 tired of doing that.

15 Q Okay. I show you the first page of
16 Exhibit 5 which Mr. Thompson didn't discuss with
17 you; but it's in this exhibit, right? This is an
18 email between you and your sister, correct?

19 A Yes, sir.

20 Q Okay. All right. And it starts with an
21 email on December the 20th, 2015. So at that point
22 you didn't have an agreement with Mr. Hess for the
23 5-percent contract, correct?

24 A We did not have a signed agreement, no,
25 sir.

PW - E. MORPHIS - REDIRECT

1 for him or with him and -- and I was very upset.

2 Q Your sister wrote back, "I don't
3 understand most of it, but I did understand that he
4 implied you're hiding something," right?

5 A Yes.

6 Q Okay. You were hiding something from
7 David Hess; weren't you?

8 A No, sir.

9 Q Okay. You never showed him how much money
10 you were taking out of the firm, did you?

11 A I did not have any obligation to show him
12 or the receptionist or anyone else. I was not
13 hiding information.

14 Q Okay. I understand you don't have an
15 obligation or you feel like you didn't have an
16 obligation 'cause you're the owner; but you also had
17 a contract that told Mr. Hess that you were gonna
18 split the profits of Lancaster with him 50/50,
19 right?

20 A That he agreed to, yes, sir.

21 Q And whenever he asked you to see how you
22 calculated the profits, you hid that from him,
23 right? You never showed it to him?

24 A You can call it what you want to. I did
25 not hide anything.

PW - E. MORPHIS - REDIRECT

1 Q But you told him that you thought after
2 you looked at the numbers that you think switching
3 over to a new formula would be fair, right?

4 A I did think it would be fair.

5 Q Okay. And then you -- the final email of
6 this it says, "It's hard to understand, but I didn't
7 like his implications and he is not" -- capitalized
8 -- "a partner and should not be part of the books;
9 but every time I have to let him see it, he argues
10 with me about what accountant has said or done.
11 Just seems very ungrateful and his facts are totally
12 screwed up as fast as numbers and percentages. Just
13 another pain in the butt after this weekend,"
14 explanation point. What happened that weekend that
15 you're upset about?

16 A I have no idea.

17 Q And you say, "I feel like I try to be good
18 to people and keep getting screwed." I mean, when
19 did David Hess ever screw you?

20 A I don't -- I can't answer that. That's
21 not a -- that's not -- that's not a good question,
22 sorry.

23 Q He never -- I mean, he ended up making a
24 lot of money in Lancaster; didn't he?

25 A He was a good worker. He worked 9 to 12,

PW - E. MORPHIS - REDIRECT

1 2 to 5, four to five days a week under my
2 supervision.

3 Q Right.

4 A He was a -- he was a good nurse
5 practitioner, and that's why I continued to want to
6 keep him on the -- on the schedule and keep him in
7 the practice.

8 Q I mean, the more money Mr. Hess made, even
9 if he made it himself, you're making the same
10 amount, supposedly half of the profit as well in
11 Hartsville -- I mean, in Lancaster, right?

12 A He made money. He saw patients and he did
13 charges and receipts, but it ---

14 Q My question is ---

15 A I'm sorry.

16 Q The more money he made in Hart-- in
17 Lancaster, the more money you were gonna make in
18 Lancaster, right, if you -- if you split the profits
19 50/50 with him, right?

20 A I suppose so, but I would, I mean, it
21 wasn't just up to David. It could have been any
22 nurse practitioner seeing patients there. He was
23 good; I liked David. I hated that this has come to
24 this, but it -- it wasn't fair that I was being
25 bullied constantly about the numbers and told how he

1 was doing everything by himself and I didn't -- you
2 know, it just wasn't correct.

3 Q Okay. And then you said, "I feel like
4 daddy." What did you mean by that?

5 A My dad worked in a mill for years and he
6 was -- I don't feel like he was appreciated at
7 times.

8 Q And Mr. Hess made you feel like a mill
9 worker who's been taken advantage of by ---

10 A No.

11 Q ---the management?

12 A I felt taken advantage of and I did not
13 feel appreciated; and I think that's what I was
14 trying to indicate, not that I was a mill worker.

15 Q Okay. I don't have any further questions.
16 Thank you, ma'am.

17 MR. THOMPSON: Nothing further.

18 THE COURT: All right. You may step down.
19 Call your next witness.

20 MR. ROTHSTEIN: We call Greg Alexander,
21 Your Honor.

22 THE CLERK: Raise your right hand please.
23 WHEREUPON,

24 **GREGORY ALEXANDER,**
25 having been duly sworn by the clerk, testified
PW - G. ALEXANDER - DIRECT

1 as follows:

2 THE CLERK: Please be seated on the
3 witness stand.

4 **DIRECT EXAMINATION**

5 BY MR. ROTHSTEIN:

6 Q Good morning, Mr. Alexander.

7 A Good morning.

8 Q Will you state your name for the record
9 please?

10 A Sure. Gregory Michael Alexander.

11 Q And where do you currently live, sir?

12 A In Hartsville, South Carolina.

13 Q Okay. How long have you been in
14 Hartsville?

15 A I guess I moved back from college, I've
16 been there since I was 14 so 20 years probably.

17 Q Okay. And what do you do in Hartsville?

18 A I am a CPA, managing partner of the
19 Hartsville office of Moore Beauston and Woodham.

20 Q Okay. How long have you been a licensed
21 CPA?

22 A Since 2004.

23 Q Okay. When did you finish your schooling
24 as a CPA?

25 A So I graduated from the Citadel in 1999.

1 would bring us a Quickbook's file which would have
2 the bulk of this information in there. We would
3 review the file, make sure everything was in its
4 correct basket, correct expense account, and then we
5 will produce a financial statement. And so what
6 we're looking at here is only one piece of a much
7 bigger picture. So when you produce financial
8 statements, there's generally two main parts you're
9 looking at. One is called the income statement and
10 the second is the balance sheet. And so why that is
11 very important is, there's a huge difference between
12 income and cash flow; and so, especially when you're
13 looking at tax returns, there can be a tiny
14 difference. There generally is a tiny difference
15 between cash, where the cash is, and what your
16 actual taxable income is for that period. So what
17 we're looking at here is a portion of the financial
18 statement. It's not a complete picture of the
19 financial health of the business as of that date.
20 Does that answer your question?

21 Q No. My question is this piece of paper
22 was generated by your office. Whether it was based
23 on information provided by Dr. Morphis or not, your
24 office prepared this document, right?

25 A Not necessarily, no, because what we

1 received the QuickBooks file and the QuickBooks file
2 has this information. Did we review this
3 information? Yes, we did. Did we put it in a
4 financial statement format? Yes, we did.

5 Q That's not ---

6 A Did we populate all this? No, we did
7 not.

8 Q And I'm not asking if you populate it.
9 I'm just saying that you provided this -- you
10 processed the QuickBooks file. You put it in a nice
11 balance sheet, income statement, whatever, to show
12 Dr. Morphis and you turned it around and said, here,
13 Dr. Morphis, here's your complete financial picture
14 for the year 2010, right?

15 A Yes, we would have.

16 Q Okay. That's all I'm trying to get to.
17 And the income statement, it can also be referred to
18 as a profit loss statement, right?

19 A It can be.

20 Q So this is a -- this is a piece of the
21 financial picture that your firm gave back to Dr.
22 Morphis after you got all the QuickBook's
23 information from her, right?

24 A Correct.

25 Q Okay. So you didn't independently verify

1 A Yes. So where you're trying to lead me to
2 is should this be used for the calculation of the
3 bonuses, and I was never involved in calculation of
4 the bonuses. I'm not an attorney. I never
5 interpreted that contract. I didn't even know what
6 the -- I was not even aware of it until 2015.

7 Q Okay. Further on down the statement,
8 profit sharing plan. You see \$85,280.79?

9 A Uh-huh.

10 Q Were you involved at all in the -- either
11 the creation or the funding of that profit sharing
12 plan?

13 A So that was for 2010, absolutely not.

14 Q Okay.

15 A I wouldn't have been involved in that.

16 Q Okay. In your review of the financial
17 records, did you understand what type of profit
18 sharing plan Dr. Morphis had when you first started
19 in 2011?

20 A Yes, we had a discussion about that plan.

21 Q And what was their profit sharing plan at
22 that time?

23 A I don't remember the specifics of it.

24 Q All right. And then here we have
25 salaries, and it's broken out between employees and

1 officers. Do you see that?

2 A I do.

3 Q Okay. Why does this accoun-- this income
4 statement or profit loss statement differentiate
5 between salary of employees and salary of officers?

6 MR. MACKELCAN: Objection, Your Honor.
7 This lack of personal knowledge, this document.

8 THE COURT: Rephrase the question.

9 BY MR. ROTHSTEIN:

10 Q And maybe -- well, we can look at other
11 ones. I know this is before you started. But why
12 as an accountant would you feel it necessary to
13 differentiate between officers' salary and employee
14 salary on a financial statement?

15 A So, as I mentioned earlier, we receive
16 information from clients, we process that
17 information, and we give them some kind of output.
18 So in this case there's a financial statement. We
19 try to put the information in a format that's useful
20 to the client. That's why there may have been a
21 request at the time to put that -- to label it that
22 way. You know, the whole purpose is provide them
23 useful information so they know how to run and
24 manage their business.

25 Q But my question is, why would it be

PW - G. ALEXANDER - DIRECT

1 Q Okay. And this line that I just
2 scheduled, percent of time devoted to business,
3 okay. Both J.O. Morphis and Elizabeth Morphis on
4 the tax returns represented to the IRS that in 2010
5 they spent 100-percent of their business time in
6 connection with the Hartsville office, correct?

7 A That's 2010 so I didn't prepare that
8 return.

9 Q Okay. Well, let's look at one you did
10 prepare.

11 A Okay.

12 Q Okay. This is the third page of
13 exhibit -- this is the third page of Exhibit 15.
14 This is the tax return from Hartsville from 2011.
15 You see that right there?

16 A I do.

17 Q Okay. This year, line 12, Compensation of
18 Officers, 580,752, correct?

19 A Yes. So that's -- that is the tax burden
20 that had been pushed from the C corporation to the
21 officers. That is not necessarily cash.

22 Q All right. Again, this year, zero taxable
23 income?

24 A Yes.

25 Q All right. You recognize your signature

PW - G. ALEXANDER - DIRECT

1 now as the preparer of the income tax returns?

2 A I do.

3 Q Okay. So you prepared this return, signed
4 it, sent it to the IRS, and you dated that
5 February 23rd of 2012, right?

6 A Yes.

7 Q Okay. Again, Dr. Morphis, or whoever was
8 the president of the Hartsville pediatric group,
9 would have had to sign as a president under penalty
10 of perjury, right?

11 A Correct.

12 Q Now Schedule E, I think they changed the
13 name from Schedule E to Form 1125-E, right?
14 Sometimes they change, IRS changes forms?

15 A Uh-huh.

16 Q Okay. But this -- I don't know why
17 that -- I'm sorry. This document shows Dr. Morphis
18 took -- Dr. J.O. Morphis took \$291,137 in
19 compensation, or least that's what the -- was
20 reported to IRS. And Elizabeth Morphis took 289,615
21 and that's -- total is what we just looked at, the
22 580 from the prior page, right?

23 A Yes.

24 Q Okay. and, again, Item C, Percent of Time
25 devoted to business. Dr. Morphis and the

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1 information that you signed said that they're
2 spending 100-percent of their time in connection
3 with the Hartsville office, correct?

4 A Yes, that's what it says, but I'm not sure
5 the way you're conveying it is accurate. We'd have
6 to look at the instructions to see if that's exactly
7 what's going on there. I can't remember
8 specifically.

9 Q I don't have time to look at the
10 instructions. I mean, the instructions are five
11 pages long; aren't they? Okay.

12 A Well, they're more than five, yes.

13 Q Okay. 2012, that's another one that you
14 prepared, correct?

15 A Can you go a little further?

16 Q 2012?

17 A Yes, sir.

18 Q Is that your signature at the bottom?

19 A Yes, I did.

20 Q All right. Compensation of Officers, we
21 have 2.5 million. It's gone up to \$811,200 right
22 here, right?

23 A Correct.

24 Q So that's compensation that the officer
25 took out of Hartsville -- or not took out

PW - G. ALEXANDER - DIRECT

1 necessarily, but reported to the IRS as receiving in
2 2012?

3 A Yes, that's correct. It does not indicate
4 they took it necessarily.

5 Q Okay.

6 A Received the tax burden, yes.

7 Q All right. And at this point it looked
8 like Dr. J.O. Morphis no longer has any stock of
9 Morphis Pediatrics of Hartsville, right?

10 A Correct.

11 Q Okay. Dr. Elizabeth Morphis now looks
12 like she has 50-percent of the common -- outstanding
13 common stock of Hartsville. You know any other --
14 who else had the other 50-percent?

15 A And here, again, here's -- we're looking
16 at one piece of a much bigger puzzle.

17 Q Okay.

18 A I'd have to go back and see the -- what we
19 did with that, if it was considered treasury stock
20 so. She could have owned 50-percent of the stock
21 and then the company itself as a C corporation could
22 own treasury stock which could be the other
23 50-percent or just may be mistaken.

24 Q Okay.

25 A I can't tell you that.

PW - G. ALEXANDER - DIRECT

1 Q All right. But you're not aware of any
2 other shareholders at this time other than Elizabeth
3 Morphis of the Hartsville office?

4 A Correct.

5 Q Okay. And at that time J.O. Morphis got
6 180,000; but he may have retired partially through
7 the year and gotten a pro rata, pro-rated part of
8 the compensation, right?

9 A He could have. I can't speak to how much
10 he worked 'cause I was not at the practice on a
11 daily basis, monthly, quarterly.

12 Q Now Elizabeth Morphis took, or at least
13 attributed \$630,600 as compensation from the
14 Hartsville office that year, right?

15 A Correct.

16 Q And, again, she's indicating to the IRS
17 under penalty of perjury that she spent 100-percent
18 of her time in connection with the Hartsville
19 office; isn't that right?

20 A Yes, but I'm not sure that's exactly what
21 that means. I think we'd have to look -- like I
22 said, we'd have to look at the instructions. We're
23 looking at one piece of a much bigger puzzle, and I
24 think it might be misconstrued. We'd have to look
25 at the instructions to see exactly how to define

PW - G. ALEXANDER - DIRECT

1 what should be put on that line.

2 Q Okay. Did you explain all that to Ms.
3 -- Dr. Morphis when she signed "Under penalty of
4 perjury" that she's spending 100-percent of her time
5 in Lancaster when she submitted that to the IRS?

6 A Again, we need to look and see what the
7 instructions are on that.

8 Q All right. 2013 return. This is, again,
9 the next page of Exhibit 15. Again, this is
10 something you signed and the president of the
11 Hartsville practice signed, right?

12 A Yes.

13 Q All right. And showing a taxable loss
14 this year of two hundred and -- I'm sorry, \$21,789,
15 right?

16 A Correct.

17 Q So, again, Hartsville C corporation paid
18 no tax as an independent tax paying entity that
19 year, right?

20 A Correct.

21 Q Okay. And under Compensation of Officers
22 for 2013, \$700,600 in compensation from officers,
23 right?

24 A Correct.

25 Q If you look over to the supporting

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1 schedule for that, Dr. Morphis now 100-percent owner
2 of the stock, took all of that seven hundred and --
3 or with all the compensation \$700,600 was attributed
4 to Dr. Morphis from 2013 from Hartsville, right?

5 A Yes. \$700,000 of tax burden was shifted
6 to Dr. Morphis. Did she receive \$700,000 in cash, I
7 couldn't tell you that.

8 Q Okay. And, again, she's telling the IRS
9 she spent a 100-percent -- I mean, whatever the
10 instructions are, she's saying 100-percent of time
11 devoted to business, at least under that column, for
12 Hartsville is 100-percent, right?

13 A Yes.

14 Q Okay. 2014. You recognize your signature
15 at the bottom of the page?

16 A I do.

17 Q Okay. This is kind of getting to be a
18 little bit of a routine. Okay. At this point the
19 corporation is an S corporation, right?

20 A Correct.

21 Q Okay. So between 2013 and 2014, the
22 Hartsville office and to your understanding the
23 Lancaster office, switched from a C corporation to
24 an S corporation, right?

25 A Correct.

PW - G. ALEXANDER - DIRECT

1 Q Okay. Similar to gross receipts, 2.5
2 million, Compensation of Officers dropped down from
3 over \$700,000 last year down to 900-- I'm sorry,
4 394,205, right? Compensation of Officers?

5 A Yes.

6 Q Okay. And so the ordinary business income
7 now is -- I'm sorry. Ordinary business income is
8 \$368,385 in Hartsville?

9 A The taxable income, yes, that is the
10 taxable income for 2014.

11 Q Okay. And that taxable income now would
12 pass through to Dr. Morphis' personal return, rather
13 than having to zero out the taxable income like you
14 did in the past with a C corporation, right?

15 A Yes. So as a C corporation it would have
16 been possible tax here and at the individual level;
17 but as a S corporation, it all flows through and
18 hits her on her personal return.

19 Q And the 1125-E Compensation of Officers
20 schedule or form now shows, again, that \$394,205 of
21 income attributed to Dr. Morphis as the sole officer
22 of the company, right?

23 A Yes.

24 Q Okay. And, again, 100-percent of her time
25 devoted to business?

PW - G. ALEXANDER - DIRECT

1 A Yes, that's what it says.

2 Q I know this is kind of routine; but this
3 is the information from 2015, \$196,000 attributed to
4 officers, 422,000 in ordinary income to the S
5 corporation, right?

6 A Yes, that is the taxable income from S
7 corporation.

8 Q And, again, that would pass through Dr.
9 Morphis on her tax liability along with any tax
10 liability she had on 196,817, right?

11 A Yes. And it's also important to note,
12 here again, there's a difference between cash and
13 taxable income. That income went to her tax return.
14 She would have paid taxes on that income. That
15 does not necessarily mean that she received that
16 cash.

17 Q Okay. Again, 2015 she's telling the IRS
18 100-percent time devoted to business, right?

19 A Yes.

20 Q Okay. Now let me get back to this Exhibit
21 No. 9. Again, this is the profit loss statement.
22 It's the collection over from 2010 to 2015. So the
23 one, Page 2 for 2011, that would have been the year,
24 first year you were there, correct?

25 A Yes.

PW - G. ALEXANDER - DIRECT

1 or should it be considered bonuses; and so for our
2 purposes from what we were doing with this
3 information, it was irrelevant. So why this is
4 important and why this was done is make sure that
5 prop-- here, again, receive information, process it,
6 and we produce an output. What we're doing in this
7 case is we're making sure that all the payroll taxes
8 are properly accounted when the federal returns are
9 filed.

10 Q Okay. Now you seem to be very careful
11 with words, right? I mean, almost, you know ---

12 A Yes, I know you'll mislead them so, yes,
13 sir.

14 Q Okay. But under -- your firm described
15 this \$180,000 that Dr. Morphis received in 2011 as a
16 bonus, right?

17 A Yes.

18 Q Thank you.

19 A That how it's labeled here was not
20 relevant to how we were hand-- why we needed it and
21 what we used it for.

22 Q 2012, Dr. Morphis' payroll summary, again,
23 zero in salary, right?

24 A That line says zero, yes, it does.

25 Q \$330 in bonuses paid at the end of the

PW - G. ALEXANDER - DIRECT

1 year in December of 2012, right?

2 A No, that's not right. So, and here's the
3 difference between cash flow and taxable income.
4 Dr. Morphis in that year did not receive \$330,000
5 from that amount. Because a small business lives or
6 dies by cash flow, and so if there's not enough cash
7 in the business, then she would have to either not
8 cash that check or lend money back to the business.
9 So the reality of saying that she received \$330,000
10 of compensation or cash is not accurate. Those --
11 you know, some of those checks were not cashed for
12 six months waiting for the cash within the business
13 to be able to build up high enough to be able to
14 cash them. It was not a endless amount of cash in
15 the business.

16 Q All right. 2013, Dr. Morphis' payroll
17 summary, zero salary, \$151,000 in bonus, right?

18 A Did she receive \$151,000 compensation
19 taxable income was shifted to her 151,000.

20 Q Okay. And you call that a bonus, right?
21 Bonus, officer.

22 A It is labeled as bonus on there, yes.

23 Q Okay. 2014 for Dr. Morphis. Again, zero
24 in salary, and this time she received 40-- it looks
25 like half of her bonus prior to December 14th and

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1 doctor -- I'm sorry, Mr. Hess' employment contract
2 with Lancaster Pedia-- Morphis Pediatric Group of
3 Lancaster?

4 A Yes. I think the first time I saw it
5 would have been in 2015. I had not seen it prior to
6 then, and obviously I've seen it numerous times
7 through this trial.

8 Q Okay. And in 2015, was that really the
9 first involvement you had with David Hess?

10 A I can't remember having any involvement
11 with David Hess or even knowing who he was prior to
12 2015.

13 Q Okay. So in 2015 you recall Dr. Morphis
14 sending you -- I think you started the conversation
15 by congratulating her on her win at the Dancing with
16 the Stars charity event ---

17 A Yes, sir.

18 Q ---in Hartsville? Okay. And this is
19 Exhibit 5 that's already in evidence, right? So
20 just to refresh your memory, on February the 4th,
21 2015, you sent Dr. Morphis a congratulations email,
22 right?

23 A Yes, I did.

24 Q Okay. So you started the conversation
25 actually on January the 30th, "Congrats on the big

1 win last night," right? You were joking around
2 about her quitting her day job, right?

3 A Correct.

4 Q All right. Dr. Beth responds back after
5 the joke. She says, "I do have an issue I need to
6 discuss with you. I totally forgot David Hess'
7 end-of-the-year bonus. We always give him a
8 Christmas bonus and then a little productivity bonus
9 after that." You see that?

10 A I do.

11 Q Okay. So at least in this email you
12 understand that the Christmas bonus and the
13 productivity bonus are two separate things?

14 A Yes.

15 Q Okay. Christmas bonus comes first at the
16 Christmas party early December. Productivity bonus
17 is done at the end of the year, right?

18 A I can't answer that. I had no involvement
19 in calculating that bonus or when that bonus was
20 paid.

21 Q Okay. And at the time you received this
22 email, did you understand what Dr. Morphis meant
23 when she said "a little productivity bonus"?

24 A No, sir, I did not.

25 Q Okay. And you respond, "We can take care

PW - G. ALEXANDER - DIRECT

1 how much would you like to bonus him and confirm
2 that the bonus that we pay now since you're now into
3 February would have to show up on his 2015 W-2,
4 rather than his 2014 W-2," right?

5 A Correct.

6 Q Okay. And then Dr. Morphis responds, "I'm
7 not sure. Guess I need to look at the profit
8 numbers for Lancaster office again." He is saying
9 there are, "Major tax implications that getting this
10 money on a 2015 W-2. He's being pretty nasty about
11 the whole thing and asking questions about S corp
12 that I don't know. May have to have a meeting or
13 let him call you. He's just about to push my wrong
14 button." Did you ever speak with David Hess after
15 you got this email from Dr. Morphis?

16 A Did I speak with him? So this is
17 February 5th. So, I spoke with him at the meeting
18 on May twenty-- 28, was it?

19 Q Yeah. Before the May meeting did you
20 speak with him in February?

21 A So I -- I don't remember the exact date,
22 but I did speak to him between sometime in February
23 to May. I can't remember exactly when.

24 Q Okay. And so your next email says, "Beth,
25 I called David." Does that refresh your about

PW - G. ALEXANDER - DIRECT

1 what ---

2 A Yes, it does.

3 Q Is that the first time you think you've
4 ever spoke -- had ever spoken with David Hess?

5 A I think so.

6 Q Okay. How would you describe Mr. Hess on
7 the phone with you?

8 A That was about seven years ago. I can't
9 really recall.

10 Q You don't recall whether he was nasty and
11 intimidating with you?

12 A I don't recall.

13 Q Okay. Nothing sticks out in your mind
14 about your conversation with him in terms of his
15 demeanor?

16 A Correct.

17 Q Okay. So you apologized that the bonus
18 was cut, but you told David Hess that you were the
19 one that told Dr. Morphis to cut the bonus for two
20 reasons, right?

21 A Yes. So, what happened at this point, it
22 was like a tsunami, a drama so to speak, coming at
23 me; and my first goal for the situation was let's,
24 let's diffuse the situation, let's calm everybody
25 down, number one. Number two, let's find out what

PW - G. ALEXANDER - DIRECT

1 the facts are 'cause at this point I -- this is all
2 news to me. I had not heard of his bonus, wasn't
3 involved in his bonus, didn't know any of the facts
4 around on this. So yes.

5 Q Okay. So you were sort of trying to act
6 as the buffer between Mr. Hess and Dr. Morphis to
7 try and calm down the drama, right?

8 A Yes.

9 Q Okay. And what you told Mr. Hess was that
10 you were the one that recommended cutting the bonus
11 after December 31st, 2014, for two reasons, right?
12 One, there was a conversion from a C corp to an S
13 corp, and there were some changes made to the
14 retirement account, right?

15 A Yes. So this is something we would have
16 talked about, you know, outside of David Hess. So
17 leading up to this conversion is pretty significant
18 tax event from a C corporation to an S corporation;
19 but we have conversations about when to pay the
20 expenses and, you know, how it's gonna affect the
21 cash flow, absolutely. Particularly the cash flow
22 looking at it when the cash flow is coming in.

23 Q Okay. And then you said, all right, your
24 bonus is gonna be 48,000, the exact same amount that
25 you received in 2013, right?

PW - G. ALEXANDER - DIRECT

1 A Per email, yes.

2 Q Had you talked to Dr. Morphis at that time
3 about what she wanted the bonus to be?

4 A I would feel confident with that, yes.

5 Q Okay. Or were you the one that picked
6 what the bonus number was?

7 A Oh, no, I never messed with the bonus.

8 Q And then according to this email David
9 Hess says at this point he began asking why it was
10 the same as last year. You responded that he did
11 not have his employment contract in front of him and
12 you asked what it states. Okay. At that time had
13 you seen his employment contract?

14 A I don't believe I had.

15 Q Okay. But understood that he had an
16 employment contract?

17 A Yes.

18 Q Okay. And Mr. Hess told you that the
19 employment contract said his bonus was supposed to
20 be 50-percent of the profits in Lancaster, right?

21 A I don't know that -- I don't know to what
22 level we discussed the detail on it. I can't
23 recall. I couldn't tell you.

24 Q Okay. And then Mr. Hess started
25 questioning some of the numbers, whatever, and you

PW - G. ALEXANDER - DIRECT

1 responded happy to set up a meeting or go over the
2 details, but you didn't have liberty to do it at
3 that time, right?

4 A You're absolutely correct. We are bound
5 by federal, state laws, and our associations. We
6 can't release client information without the
7 client's permission.

8 Q All right. And Dr. Morphis responded at
9 1:05 that same day, "Yes, sir. Thank you for
10 talking to him." And then she said, "I have given
11 him bonuses in the past based loosely on the profits
12 and split it between him and me," right? Did you
13 understand what Dr. Morphis meant when she said that
14 his bonuses in the past were based loosely on the
15 profits?

16 A Not exactly, no. Here's what -- again,
17 what I was trying to do, calm the situation, and I
18 needed to kind of gather the facts. I didn't have
19 all the facts in terms of any of that.

20 Q And then she says, "His contract states
21 that his bonus will be 50-percent of the net profits
22 I think. I'll look that up. But he is not an owner
23 of the practice, and I am not interested in
24 disclosing all the numbers to him."

25 A Is that what it says there? yes.

PW - G. ALEXANDER - DIRECT

1 it, Dr. Beth and myself. Tom probably would have
2 been involved and, you know, then obviously we had a
3 meeting with Davis Hess to discuss it as well too.

4 Q Okay. But before you even met with Hess
5 you were already suggesting or trying to convince
6 David Hess why his bonus should be switched over
7 from revenues to income, right? I'm sorry, the
8 other way around. Why his bonus should be based on
9 revenues instead of income?

10 A Can you restate the question?

11 Q Yeah. Prior to even the meeting, it was
12 all-- I mean, before any input from David Hess about
13 a new bonus formula, y'all were trying to advocate
14 that Hess should accept this new bonus based on
15 gross revenues versus net income?

16 A That we were trying to advocate to David
17 ahead of time?

18 Q Yeah. You were trying -- you were trying
19 to explain to Mr. Hess why he should take this new
20 bonus formula, right?

21 A This email was to Dr. Beth; wasn't it?

22 Q It was. And you're strategizing with Dr.
23 Beth ahead of the meeting, correct?

24 A Okay.

25 Q And one thing you tell her is you are

PW - G. ALEXANDER - DIRECT

1 gonna explain to Mr. Hess or try to convince Mr.
2 Hess why he should accept the new bonus formula
3 versus staying with the old bonus formula, right?

4 A Yes.

5 Q Okay. And you list a couple of points,
6 right? It avoids any discussions about allocation
7 of expenses between Lancaster and Hartsville, right?
8 It avoids him questioning why that expense was
9 incurred, and it avoids questions about the timing
10 of when the expenses are paid, right?

11 A Correct.

12 Q Okay. And then Item C here is, you're --
13 you kind of script it out what you were gonna tell
14 David Hess about why his 2014 bonus was delayed in
15 the 2015, right?

16 A Yes, and that's accurate.

17 Q Okay. And you say you didn't think it was
18 fair for Hess to be penalized for these transition
19 pains so you agreed to leave his bonus exact same as
20 it was in 2013, right?

21 A No, I did not -- I never calculated his
22 bonus. That was not my responsibility.

23 Q Okay. But at this point you'd already
24 told him the bonus was gonna be \$48,000, right?

25 A Yes, he was told ---

PW - G. ALEXANDER - DIRECT

1 the meeting, I, from what I remember it went well.
2 I felt like there was agreement. I felt there was
3 collaboration in terms of deciding, you know, coming
4 up with something else gonna fit the situation at
5 hand.

6 Q Did you ever witness Mr. Hess be
7 intimidating or abusive toward Dr. Morphis?

8 A I have only been -- no, I have not.

9 Q Okay.

10 A So the only time I have ever been with
11 both of them at the same time was at this meeting.

12 Q Okay. Do you recall during that meeting
13 Mr. Hess asking if he had been receiving 50-percent
14 of the profits at Lancaster as his bonus?

15 A I don't remember it, but that's come up
16 numerous times and obviously it hadn't.

17 Q And you recall what your response was?

18 A I don't recall, but I remember seeing it
19 through this whole ordeal ---

20 Q But your preplanned, your sort of
21 preplanned response if there was a question you
22 thought Dr. Beth would be uncomfortable with was to
23 say I'm not at liberty to disclose that, that would
24 require me to divulge Dr. Beth's personal financial
25 tax stuff, right?

PW - G. ALEXANDER - DIRECT

1 A Yes.

2 Q Okay.

3 A There, again, I have an ethical duty not
4 to release my client's information unless they
5 provide me the ability to do that.

6 Q All right. Then the -- at 11:30 -- this,
7 again, is already in evidence, Plaintiff's
8 Exhibit 3. Dr. Morphis sent you an email at
9 11:33 a.m., May the 28th, 2015. "I just want to
10 thank you for conducting and navigating the
11 meeting," right? Okay. And you responded back to
12 her and said -- you kind of acknow-- you thanked her
13 for her kind email and said it was gratifying and
14 then you said, "Attached is the spreadsheet you
15 requested," right?

16 A Uh-huh.

17 Q And then you told her, "I thought it may
18 be helpful for you to see what kind of profit you
19 are receiving from the Lancaster practice," right?

20 A Correct.

21 Q Okay. Then you said, "This is for your
22 benefit only. Don't share this with David." And
23 that, David Hess, right?

24 A Correct.

25 Q And the spreadsheet you sent her to inform

1 her of what kind of profit she was taking out of
2 Lancaster or receiving from Lancaster, was this
3 document, right, this spreadsheet?

4 A Correct.

5 Q Okay. And these numbers down here, net
6 income, doctor bonuses, and net income before doctor
7 bonuses, that's something you created, correct?

8 A Yes, I did.

9 Q Okay. And where did you get the
10 information for your spreadsheet here?

11 A That information would have been derived
12 from the QuickBooks file. You have eluded that
13 there's some kind of collusion in here in terms of
14 trying to reduce his compensation which was not the
15 intent of this at all.

16 Q Okay. My ---

17 A It inaccurately portrayed what the purpose
18 for this was.

19 Q Look, my question was where did you get
20 the information? I mean, all this collusion and
21 stuff, that's not responsive to my question.

22 A Okay.

23 Q Where did you get the information to
24 create this document?

25 A I would have received that from the

1 QuickBooks file and from other accounting records.

2 Q Okay. And you summarized each year, 2014,
3 '13, '12, '11, '10, right?

4 A Correct.

5 Q All right. In 2010 you put doctor
6 bonuses. You have a slash or little, looks like a
7 dash, right? Is that what you all use for a zero?

8 A Correct.

9 Q And that's not correct, right?

10 A I don't recall.

11 Q Okay.

12 A Those are the same possibly.

13 Q If we look back at the 2010 tax return,
14 Dr. Morphis actually took out \$148,663 from the
15 Lancaster practice, or that was her compensation
16 that year, right?

17 A That was her compensation. I'm not -- did
18 she take that out? I can't answer that off the top
19 of my head.

20 Q So when you put zero there, that number
21 should have been 148,000 and some change, right?

22 A Yes. That appears to be a mistake.

23 Q Let me see if I can do that a little
24 better. All right. So instead of the zero, that
25 should have been 148,000. All right. And if you

PW - G. ALEXANDER - DIRECT

1 added that to the 17,869 that you had there, the
2 profit, this net income before doctor bonuses should
3 have been instead of 17,8 it should have been over
4 \$165,000, right?

5 A Yes. And so the reasoning behind this
6 spreadsheet and what we're trying to illustrate is,
7 here again, there's a significant difference between
8 cash flow and a taxable income and income as being
9 projected. And so, Dr. Beth has testified she
10 appreciates some education, kind of informing her on
11 what's going on, so what this is intended to do is
12 there's two parts to it here. So there's a bottom
13 part and there's a top part, the three lines that
14 Mr. Rothstein keeps referring to. So as we look at
15 this ---

16 THE COURT: Hold on one second. You can't
17 see it?

18 JUROR: Yeah, I haven't been able to see
19 any of these numbers. They're too small.

20 THE COURT: Is there any way -- there's a
21 way to expand that on that.

22 JUROR: Thank you. I'm sorry.

23 THE COURT: No, I appreciate you saying
24 that.

25 MR. ROTHSTEIN: I appreciate you pointing

PW - G. ALEXANDER - DIRECT

1 that out. I'll make the screen a little bit bigger.

2 All right. Just for your ---

3 THE COURT: Can you see that?

4 JUROR: Thank you.

5 THE COURT: How about in the back? Can
6 y'all see it?

7 BY MR. ROTHSTEIN:

8 Q Can I -- so what we're talking about is
9 where there's a dash there, that should have been
10 148,000 and some change. that would bring the total
11 up to 165,000 for 2010, right?

12 A Yes. And so the driving purpose behind
13 this is an educational tool to help explain -- I
14 would get the question quite often, more from Jamie
15 than Dr. Beth -- hey, wait a second, why are we
16 paying all this tax when we never received the cash.
17 And because there's a timing difference here. And
18 so what this is to illustrate is, the income that --
19 and this was part of a larger conversation too.
20 We're looking at one piece of a larger conversation.
21 So, for example, like in 2012 there's reflecting
22 \$330,000 there. She didn't receive \$330,000 in cash
23 that year. She -- because there was not enough cash
24 in the business, she had to hold those or basically
25 lend the money to the practice in order to continue

1 to operate. And so what this -- and also, that's
2 one part of what's going on here. And then the
3 other part is to illustrate like, for example, in
4 2011 where it has a loss here. So that's what's
5 called a net operating loss, okay. That's a taxable
6 loss. And here, again, there's a difference between
7 cash and the taxable income. That loss gets to
8 carry forward so we can use that future years to
9 help reduce her taxable income.

10 So the bottom part here was strictly for
11 the purposes of as an educational tool to help her
12 understand the difference between cash and taxable
13 income and what effects we have on the switch from a
14 C corporation to an S corporation.

15 Q You didn't say all that to doctor, Dr.
16 Morphis, did you?

17 A It may not be in the emails, but we would
18 have had a number of conversations.

19 Q Okay. But what you said in the email was
20 you wanted her to see what kind of profit she's
21 received in from the Lancaster practice, right?

22 A There, again, that's one piece of a much
23 bigger conversation.

24 Q And all this education you did, you didn't
25 educate David Hess as to what the profits were in

1 Lancaster, did you?

2 A I did not. David Hess was not my client.

3 Q Okay. What you did is you sent Mr. Hess
4 and Dr. Morphis a second email that day. You said,
5 "Dr. Beth and David, attached is the information
6 requested concerning David's bonus amount as a
7 percentage of gross revenues," right? And this one
8 was sent after the one you sent to Dr. Morphis,
9 right?

10 A If you say so.

11 Q All right. Can you see that okay?

12 A Yes, I can.

13 Q All right. This is the spreadsheet you
14 sent David Hess and Dr. Morphis, right?

15 A Yes, sir.

16 Q That's missing those three lines that show
17 profits, doctor bonuses, and net profits before
18 doctor bonuses, right?

19 A Yes, it is.

20 Q Okay. And what you're trying to convey to
21 Mr. Hess is if you look over the past five years and
22 we take what bonus you received, including both the
23 Christmas bonus and the year end bonus added
24 together, that would be a certain percentage of the
25 gross revenues of the firm, right?

PW - G. ALEXANDER - DIRECT

1 A No, that is a complete misrepresentation
2 of what this document was to be used for.

3 Q Explain to me how you calculated this
4 document and what it is intended to show.

5 A Sure, I'll be happy to. So what this --
6 so keep in mind there's two accounting systems
7 within their practice. One is the QuickBooks which
8 is housed in Hartsville which reflects all the
9 income, expense, assets, liabilities, and equity.
10 The second accounting or billing system really,
11 which I think Mr. Hess was involved in bringing in,
12 is what's called Aprima. And so within Aprima you
13 can pull reports to see what kind of collections you
14 should have, what you billed, and so Mr. Hess had
15 complete and total access to that software as I
16 understood. My understanding is he brought the
17 software in. So what this is intended to convey is
18 that you have the tools to look for it; and if you
19 had looked at the information from Aprima, what
20 we're looking at here comes out to close to
21 5-percent, so you have that information. You don't
22 have to ask anybody for it. It's readily at your
23 fingerprints. So this is not in any way to speak to
24 the accuracy of his bonuses in the past 'cause I had
25 nothing to do with producing those bonuses. This is

PW - G. ALEXANDER - DIRECT

1 simply a tool to say, okay, here is where you'll be
2 able to find information; and based on the
3 information, you'll be able to derive what your
4 bonus should be.

5 Q Let me just ask, is this an Excel
6 spreadsheet that you created?

7 A It is.

8 Q Okay. And what you did to get this number
9 here, okay, is you added that number 7543.94, which
10 was the Christmas bonus?

11 A Correct.

12 Q You added his year-end bonus based on
13 profits, took the sum of those two numbers as the
14 numerated fraction and you took that number as the
15 dominator of the fraction, right?

16 A I did.

17 Q Okay. You -- so you included the Chris--
18 the gift, the Christmas gift, in the bonus
19 calculations, right?

20 A Yes, I did.

21 Q Okay. And then based on that
22 calculations, you averaged everything out over here
23 and we're -- saying Mr. Hess, your bonuses over the
24 past four years have roughly averaged, some years
25 it's a little more, some years it's a little less,

PW - G. ALEXANDER - DIRECT

1 Q Okay. But you -- and Dr. Morphis had a
2 pretty good idea that May, I mean, that 2015 was
3 starting off as a banner year for Morphis Pediatrics
4 in Lancaster, right?

5 A No, I never remember having that
6 conversation.

7 Q Okay. Well, you knew from your prior
8 financial statements that the firm typically
9 averaged somewhere in the one to 1.1 million-dollar
10 range of income per year?

11 A Say your question again.

12 Q You knew from looking at the prior income
13 statements that the firm averaged, the Lancaster
14 practice averaged somewhere in the million to
15 1.1 million-dollars per year of income or revenues?

16 A Would I have thought about that at the
17 time? No.

18 Q Okay. But ---

19 A I understand what you're saying.

20 Q Five months into the year they're on par
21 to -- and if you just double that number, they're
22 well over 1.2 million-dollars, right?

23 A Your assumption is incorrect about the
24 fact that -- most pediatric practices are very
25 receptacle so when people get sick, they get sick in

PW - G. ALEXANDER - DIRECT

1 the fall, winter and the fall. During the summer is
2 a terribly slow time for pediatric practices, kids
3 are out of school, so they're not coming in. So to
4 be able to project what the annual income was gonna
5 be for that year in May, no, you could not do that.

6 Q Did you have ---

7 A You could not say that it was gonna be a
8 banner year.

9 Q Did you have the ability to compare the
10 first five months of 2014 or 2013 to how y'all were
11 doing in 2015?

12 A Yes.

13 Q Okay. And if we look down here there's no
14 longer auto expenses being taken out from the
15 practice, right?

16 A That's what that indicates, yes.

17 Q And look from year-to-date at some point
18 it looks like they paid one month or half a month of
19 a lease on the BMW and then stopped, right?

20 A Was that for the BMW? I -- I can't tell
21 you.

22 Q And down here Dr. Morphis is starting to
23 take a salary for herself, right? You see
24 Salaries/Officers?

25 A I do.

PW - G. ALEXANDER - DIRECT

1 Q Her monthly salary has been \$6152.84?

2 A I do.

3 Q Did you ever disclose that to David Hess
4 that Dr. Morphis is now taking a salary out of
5 Lancaster?

6 A No, I absolutely would not have. I cannot
7 release client information without their permission.

8 Q Okay. And so if we look down here, I know
9 this is not a complete, you know, yearly picture;
10 but at the first five months of the year, the
11 practice has already generated \$181,000 in net
12 income, right?

13 A In taxable income, not necessarily cash.

14 Q Okay. So if the -- if the practice
15 completely shut the doors and they said we're gonna
16 go out of business, all right, Mr. Hess, you need to
17 figure out your bonus for 2015, as of that date his
18 bonus would have been half of that net income
19 number, right?

20 A No, sir. I think you're skewing this a
21 little bit. There's a lot of facts that would go
22 into closing it down, the expenses associated with
23 that.

24 Q I understand that. But just
25 hypothetically, by May they'd already generated

PW - G. ALEXANDER - DIRECT

1 enough to give Mr. Hess a bonus of half of that
2 would be about \$90,000, right?

3 A No. Here, again, you're asking me to
4 comment on a contract I had no involvement with.
5 I'm not an attorney; I never drafted it. So you're
6 asking me is that the income that should be used for
7 that contract? I don't know the answer to that.

8 Q Now let's look at the year that -- total
9 year picture for Morphis Pediatrics of Lancaster,
10 all right. We looked at May with 632,000. The
11 total year is 1.4 million, right? That was the best
12 year Lancaster had had up to that date since you've
13 been their accountant, right?

14 A I can't tell you that with certainty.

15 Q Okay. I mean, we can look back but you'll
16 take my word ---

17 A If you say it is, then, yes.

18 Q All right. Now that the auto expense has
19 been taken out, I think we looked at that. Again,
20 there's that \$758 from the first month or so, right,
21 for auto expense?

22 A Yes.

23 Q Okay. Even including Dr. Beth's \$80,000
24 salary for the year and even including Mr. Hess'
25 bonus of \$70,000 for the year, the net ordinary

PW - G. ALEXANDER - DIRECT

1 income of the firm was \$374,200 -- \$374,287.42
2 ordinary income, right?

3 A Yes.

4 Q Okay. So if Mr. Hess hadn't switched from
5 the bonus plan based on 5-percent of the
6 1.4 million, he would have been entitled to half of
7 that as the bonus; isn't that right?

8 A No, sir, I don't know the answer to that.

9 Q Okay. One more thing just real quickly.
10 You remember we went through the tax returns,
11 Exhibit 15, the tax returns from Hartsville?

12 A Yes, we did, portions of it.

13 Q Okay. I forgot to show you some of the
14 portions on Exhibit 14. Give me one second. You
15 see Exhibit 14, tax returns for Lancaster?

16 A Yes, I do.

17 Q Okay. And remember we went through all
18 those compensation numbers?

19 A Yes.

20 Q Okay. And according to the Hartsville
21 numbers, Dr. Beth was spending a hundred percent of
22 her time, at least under that percent of time,
23 devoted to business?

24 A Yes.

25 Q Okay. You see here this is Harts-- I

PW - G. ALEXANDER - DIRECT

1 mean, this is Lancaster. She told the IRS that she
2 was spending 25-percent of her time and Dr. J.O.
3 Morphis was spending 25-percent of his time devoted
4 to the Lancaster practice. You see that?

5 A Yes, that's what it says. Here, again, I
6 think you might be skewing what we're looking at
7 here.

8 Q How is it possible ---

9 A Without looking at the instructions you
10 have to ---

11 Q Okay. How is it possible for someone to
12 spend 125-percent of their time on two different
13 businesses?

14 A Here, again, without looking at the
15 instructions we don't know exactly what -- does that
16 mean 100-percent of her total time? I don't know
17 the answer to that. I -- so I think we're -- you're
18 skewing what we're looking at there.

19 Q Okay. Looking at the next year. Again,
20 Dr. Morphis is telling the IRS that J.O. Morphis and
21 she are both spending the same amount of time,
22 25-percent of their time, on the Lancaster office,
23 right?

24 A That's what it says there, yes.

25 Q I used to have a little league coach that

1 MR. MACKELCAN: He said he could be ---

2 THE COURT: He couldn't come until -- I
3 thought the appointment was at ---

4 MR. THOMPSON: No, no, I'm sorry. He
5 could be here after 11. It's an early morning
6 appointment.

7 THE COURT: Oh, okay. That means ---

8 MR. THOMPSON: He can be here at 11.

9 THE COURT: Well, then that makes ---

10 MR. THOMPSON: I have to do ---

11 THE COURT: Okay. Yes, sir. All right.
12 Well, let's bring them back in.

13 (WHEREUPON, the jury was returned to the
14 courtroom at approximately 12:59 p.m., and the
15 following proceedings commenced in open court.)

16 THE COURT: Yes, sir.

17 **CROSS-EXAMINATION**

18 BY MR. MACKELCAN:

19 Q I have a hard time calling you Mr.
20 Alexander so excuse me if I refer to you as Greg.
21 Mr. Rothstein covered a lot of your background in
22 his exam and so I'm gonna try not to spend any more
23 time than we need to do, but fill in some gaps.
24 Mr. Alexander, I know you -- you testified that you
25 grew up in Hartsville, went to high school there,

1 A It is from this email.

2 Q Do you have any recollection of speaking
3 or communicating with Mr. Hess between that phone
4 conversation that is memorialized in your email and
5 the meeting that we've discussed on May 28th, 2015?

6 A I can only remember really having three
7 interactions with Mr. Hess. It would have been the
8 phone call and the email and then the meeting. And
9 then after the meeting which was May 28th, I really
10 didn't have anymore involvement with the way his
11 contract addressed.

12 Q And we've looked over the email and you've
13 already testified about some of your communications
14 with Dr. Beth prior to the meeting regarding the
15 change in the way Morphis Pediatric would calculate
16 Mr. Hess' bonus and so I don't want to repeat that
17 question, but is -- how -- do you recall how you
18 came up with that new formula, so to speak?

19 A Not specifically. It was a collaborative
20 effort. So we all went and talked about it and we
21 said, you know, what's gonna fit this situation,
22 what's gonna make everybody happy and -- and meet
23 all the needs. So we would just kind of been spawn
24 through conversation with Dr. Beth and I had and
25 likely Tom, and then obviously when we went and met

1 Q I'll try real hard to be super brief.
2 Counsel for the plaintiff kept pointing you to your
3 description of Dr. Morphis's compensation and that
4 spreadsheet as bonus. You recall that?

5 A I do.

6 Q All right. Is it described elsewhere as
7 salary?

8 A It is.

9 Q For example, in the profit loss statement
10 it's described as salary?

11 A And on the tax return.

12 Q And on the tax return. And in the general
13 ledger entries?

14 A I have to go back and look, but probably.

15 Q Have you looked at the general ledger
16 entries for Morphis?

17 A I have. I just don't remember them.

18 Q And if I were to show you general ledger
19 entries, would that refresh your memory?

20 A Yes, it would.

21 Q I'm showing you what are general ledger
22 entries which show Dr. Morphis' compensation
23 entries. Is that what you recognize that to be?

24 A I do. This is for 2010 and it's the
25 general ledger.

1 A Yes, she did.

2 Q And was David Hess one of those bidders?

3 A Yes, he was.

4 Q And did doc-- what kind of information did
5 Dr. Morphis authorize you to release?

6 A Normal information that's used in the due
7 diligence process for selling a business. It would
8 have been tax returns. It would have been financial
9 information, financial statements. So it would have
10 been -- it's open book of everything.

11 Q Did she give you any, any direction to X
12 things out or redact things or hide any information?

13 A No, she did not.

14 Q That's all the questions.

15 THE COURT: Redirect.

16 **REDIRECT EXAMINATION**

17 BY MR. ROTHSTEIN:

18 Q All right. Let's start with that bidding
19 thing. That was in the summer of 2018, right?

20 A That sounds correct.

21 Q Okay. And that was the only time that you
22 were given permission by Dr. Morphis to give any
23 financial, detailed financial records to David Hess,
24 right?

25 A That's -- yes, that's what I recall.

1 (Whereupon, a lunch break was taken.)

2 THE COURT: We're gonna take up -- let's
3 -- take up -- you want to take up each cause of
4 action I'm assuming, and then I'll give
5 Mr. Rothstein the opportunity to respond to you and
6 then we'll go over here and give them a opportunity
7 to respond.

8 MR. THOMPSON: Your Honor, I'm gonna cover
9 all the causes 'cause they're kind of like all ---

10 THE COURT: Interrelated, yeah.

11 MR. THOMPSON: Yes, ma'am.

12 THE COURT: Okay.

13 MR. THOMPSON: All right. May it please
14 the Court. The Plaintiffs in this case are a
15 violation of South Carolina Wage Payment Act for
16 failure to pay bonuses 2015, 2014, 2013 I believe,
17 breach of contract, failure to pay proper bonuses
18 2010 through 2014, breach of contract accompanied by
19 a fraudulent act before providing false information
20 related to the 2010 through 2014 bonus payments and
21 fraud/misrepresentation relating to the 2015
22 payment, possibly the 2014 payment, and negligent
23 misrepresentation also as to 2014 and 2015 payments.
24 There's a seventh and eighth cause of action that, I
25 think, are moot, the seventh request declaratory

1 judgment as to a non-competition agreement; however,
2 there was no non-competition agreement was ever
3 attempted to be enforced in this case. There was an
4 eighth cause of action for an accounting, but we've
5 already gone fully through discovery with, you know,
6 no objections as to the completeness of the matters
7 so I think those two are going to be moot.

8 Your Honor, regarding all the breach of
9 contract claims, breach of contract accompanied by
10 fraudulent act, negligent misrepresentation and
11 misrepresentation/fraud, there are statute of
12 limitations which are three years as to all these
13 causes of action. And there -- the clock starts to
14 run not as Mr. Rothstein would like it to be as when
15 he first saw the financial statements, but it begins
16 to run when someone should have discovered through
17 the exercise of reasonable diligence, diligence,
18 when the facts and circumstances would have put a
19 person of common knowledge and experience on notice
20 that some right had been invaded or a claim against
21 another party might exist. And it is said in -- and
22 I'm quoting from Meher v. -- or Meher v. Tietex
23 Corp, 500 SE 2d 204, very little is required to
24 start the clock running. And Meher v. Tietex is
25 remarkably similar to this case. Mr. Meher had a

1 bonus plan and it was a 50-percent bonus plan, and
2 he had a -- the company's defense was that they had
3 ended the plan, and he said, I didn't know that; but
4 his testimony was that before the magic date of
5 statute of limitations -- which in our case, the
6 case was filed September 2018, so we're looking at
7 September 2015 is the magic, magic date for statute
8 of limitations analysis. And so what did Mr. Meher
9 do? What put him on enough notice to start
10 the clock? He had conversations with his boss where
11 he asked about the bonus plan, and Mr. Lawson never
12 really gave me a direct answer one way or another.
13 And then he had another conversation a little bit
14 later. We had a similar conversation later in 1989,
15 very similar conversation in 1990 regarding the same
16 type of questions about 50-percent bonus plan.
17 Mr. Lawson was great in singing and dancing and not
18 answering the question directly and I kind of walked
19 away not really getting an answer to those
20 questions. The court held, "Meher's testimony
21 reveals that he believed at the time of the
22 conversations that he was not getting the bonus
23 money to which he felt entitled. Twice in 1989 and
24 1990 he raised his questions about the plan and
25 twice by his own words he walked away without really

1 getting a satisfactory response to his concern. In
2 our view Meher admitted dissatisfaction with this
3 response. It is clear evidence that he knew, could
4 have known, or should have known at that time that
5 he might have a cause of action over the 50-percent
6 bonus plan."

7 Your Honor, I would assert that it's even
8 clearer in this case that Mr. Hess was questioning
9 whether or not he was getting his 50-percent bonus
10 well before September of 2015. He, in the May
11 meeting he flat asked, well, am I getting
12 50-percent, and Mr. Alexander wouldn't answer. And
13 he testified the reason he asked -- and part, at
14 least in part, the reason he asked that question was
15 he doubted he was getting 50-percent. He testified
16 he tried to reconstruct a profit and loss results
17 for Lancaster and that he did that in part because
18 he doubted he was getting his 50-percent. He
19 testified he repeatedly asked for financial
20 statements, which were not provided. He even
21 testified that he had some indication that
22 Dr. Morphis from Mr. Hinson was taking a salary, the
23 very specific issue that they're now challenging.
24 All this was well before September 2015, by his own
25 testimony. They cannot get around the holding in

1 Meher. If anything, it's clear in this case he was
2 on notice before the clock -- before that magic
3 September 2015 time and, therefore, all those cause
4 of action are barred by the three year statute of
5 limitation.

6 All right. Next, Your Honor, regarding
7 the 2010 agreement, the language in the 2010
8 agreement, Your Honor, we can look at it. So first
9 where it talks about, up above where it talks about
10 his compensation. All right. Employer shall pay to
11 the employee or shall pay employee for full-time
12 services annual base salary \$100,000, and then it
13 says all or any bonuses shall be at the discretion
14 of the board or as determined in any appendix that
15 is hereby signed and agreed upon by both parties.
16 So the board has discretion as to whether or not to
17 give a bonus. And I know Mr. Rothstein argues,
18 well, but if you give him any bonus, then you -- you
19 must have -- or because appendix A is attached, then
20 you must do it according to appendix A. Okay, so
21 even if we have to do it that way, it starts off
22 with provided the employee meets criteria. I'm
23 gonna combine two arguments. So we're talking about
24 discretion and lack of essential terms. Provided
25 the employee meets criteria. Criteria is nowhere

1 defined in the agreement. You don't get past go
2 unless you meet criteria, which is undefined, and
3 could be anything that Dr. Morphis decides it's
4 going to be. And then it says if you pass the
5 criteria, I suppose, the employee will be eligible
6 for, not the employee shall receive, the employee
7 will be eligible for an annual bonus based on the
8 following formulation. So, again, discretionary
9 language, language which is not defined.
10 Eligibility is not defined.

11 So let's go down to the next paragraph.
12 All end of year profits generated by this above
13 mentioned business shall be divided and the
14 employees granted 50-percent of said moneys after
15 all debts, expenses, royalties, expenditures have
16 been allowed. Well, what does that mean? What does
17 debts mean? Expenses perhaps, you know, common
18 sense. Debts? What does that mean? Royalties,
19 what does that mean? Expenditures, how is that any
20 different from expenses? None of these terms are
21 defined. Then it says the moneys will be determined
22 by the company accountant after the close of the
23 year of each year and payable by the 15th of
24 February. Your Honor, appendix A and the language
25 up above it is highly discretionary. If a bonus or

1 any kind of payment is discretionary on the part of
2 the employer, it's not enforceable promise. An
3 overwhelming number of courts have held that a
4 discretionary bonus is not a contractual promise.
5 It has to be, according to unambiguous language of
6 the contract, due in payable. We've cited -- I've
7 already filed, Your Honor, refiled our motion for
8 summary judgment making the same arguments based
9 with one additional that I'll discuss later.
10 Language that bonuses would be contingent on
11 criteria such as performance, profitability, etc.,
12 make it discretionary and unclear. So one, Your
13 Honor, my next argument then after the statute of
14 limitations is, this was discretionary on the part
15 of Morphis and based on the cases cited in the
16 motion and memorandum that I filed and I can give
17 those to you if you wish. But if it's discretionary
18 on the part of the employer, it's not enforceable
19 contractual promise. And for the same, for related
20 reason, the terms are too indefinite and unfair to
21 be enforced. The criteria is not defined. Moneys,
22 debts, expenditures, expenses, profit, royalties,
23 none of these terms are defined. How is the court
24 supposed to know what these terms mean? They -- you
25 cannot. And therefore, it is impossible for the

1 court to fix the obligations of the parties. And I
2 quote from Amelia Salters case cited in our brief.
3 Certain terms such as price, time, place are
4 considered indispensable, must be set out with
5 reasonable certainty. Where a contract is not
6 fixed, definite price, there must be a definite
7 method for ascertaining it. Where there is no
8 definite method for ascertaining the amount, what
9 the amount of a bonus, here there is no definite
10 method for us ascertaining the amount of bonus. I'm
11 still quoting. The evidence in the record is
12 insufficient to establish the existence of contract.
13 There's too much uncertain terms, undefined terms,
14 for the court to fix the obligations of the parties
15 in this case.

16 And, Your Honor, the Wage Payment Act is
17 also going to fail because it depends necessarily on
18 an enforceable con-- enforceable promises within the
19 contract. If you can't find them within the
20 contract, then you're -- there's no entitlement to
21 the wages. And also, if it's discretionary, there
22 can be no Wage Payment Act claim. And I cite from a
23 California case, Stevens v. Mavent (ph) 2008 Westlaw
24 28-24-956, bonuses are not considered wages unless
25 contingencies for the awarding of such bonuses have

1 been established and met. And here, Your Honor, the
2 contingencies are not even defined so they're not --
3 it can't be wages under the Wage Payment Act.

4 And in addition, Your Honor, the South
5 Carolina Wage Payment Act 41-10-10, specifically
6 says that funds placed in pension plans or profit
7 sharing plans are not wages subject to this chapter.
8 Now Mr. Rothstein may say, well, that's talking
9 about Erisa Plans. It's not an Erisa plan. That's
10 not what the clear language of the statute says. It
11 doesn't say profit sharing plans under Erisa. It
12 just says profit sharing plans. And I can only find
13 one case where the issue was taken up, and it's
14 Caplin 39 Southern 3rd 725. It's a Louisiana case
15 in which -- in which case the court dealt with their
16 version of the Wage Payment Act in similar exclusive
17 of profit plans and it was not an Erisa plan. It
18 was like this one, an incentive plan, that was not
19 an Erisa plan.

20 Regarding breach of contract accompanied
21 by a fraudulent act, that of course, requires an
22 underlying enforceable contractual promise, the
23 reasons I have already discussed. There is none in
24 this case so there can be no breach accompanied by a
25 fraudulent act. Your Honor, even if there was a

1 contractual promise, there was no promise as to how
2 certain expenses would be treated. There was no
3 promise not to include her automobile. There was no
4 promise that she would not take compensation before
5 net income was determined. So there's no breach by
6 them claiming that those things should not have been
7 taken.

8 And related, Your Honor, and I cite in my
9 memorandum, a Kansas case, and this is clear in --
10 for federal law as well. The court really, with
11 respect, has no business telling a business how they
12 should conduct their affairs and how they should
13 take expenses or not take expenses or count income
14 in a civil case. Certainly tax laws apply, but none
15 of those are in question here. And essentially what
16 you're -- what plaintiff's counsel wants you to do
17 is say, despite the fact that there's no mention of
18 this anywhere in his agreement, oh, well, she
19 doesn't get to take certain expenses and you should
20 count some other expenses this way and reduce some
21 -- reduce expenses or take out expenses before. And
22 then there's no discussion of that anywhere in the
23 contract that falls within her discretion as a
24 business owner; and the court should not be second
25 guessing that, nor should the jury be allowed to do

1 so, Your Honor.

2 Again, if there's no viable claim to these
3 bonuses under the agreement, then there could be no
4 fraud or misrepresentation claim because those are
5 premised on the fact or the allegation that he did
6 not receive his correct bonuses so if he had no
7 enforceable promise, then there can be no
8 misrepresentation as to the 2015 agreement.

9 Your Honor, also, with respect to the tort
10 claims, Dr. Morphis, Morphis Pediatric did not owe
11 him any sort of duty and so, therefore, his
12 misrepresentation and fraud claims should fail.
13 It's his obligations arise only through contract;
14 and under the several cases that I've cited, one of
15 them Kennedy v. Columbia Lumber 384 S.C.2d 730, 1989
16 case, gov-- discussing economic loss rule. It bars
17 a tort action where the duties are created solely by
18 a contract. That's all we have here. Dr. Morphis
19 is not a CPA. She's not the doctor -- not the
20 lawyer. She has no duty outside of the contract to
21 Mr. Hess.

22 That -- that is our motion for directed
23 verdict, Your Honor. If you have any questions or
24 concerns, I'd be happy to address those. I tried to
25 do it as quickly as possible.

1 THE COURT: All right. I may have some
2 questions, but I'll be glad to hear from
3 Mr. Rothstein now.

4 MR. ROTHSTEIN: May it please the Court.
5 Thank you, Your Honor. These are the same arguments
6 that Mr. Thompson raised on summary judgment which
7 the court rejected. I think it's important to
8 remember what stage of the case we're at. We're at
9 a directed verdict. As Your Honor well knows, the
10 Court has to take all the facts and all the
11 evidence, testimony that's in the record thus far,
12 construe it in a light most favorable to Mr. Hess.
13 If there any disputes, question like reasonableness,
14 those questions or facts have to be decided by the
15 jury and not the Court after -- or at this stage of
16 the case.

17 With regard to the statute of limitations,
18 no question it's a three year statute of
19 limitations, Your Honor, but every one of those
20 causes of action recognizes the discovery rule.
21 Discovery rule says that the statute doesn't even
22 begin to start running until a person knows or
23 reasonably should have known that they had a claim
24 against the particular defendant. There's also
25 doctrine in the law called fraudulent concealment

1 where the statute of limitation is tolled if the
2 defendants themselves take active steps to conceal
3 the wrongdoing or to prevent the plaintiff from
4 knowing that he has a legal claim against the
5 defendant.

6 The Meher case that Mr. Thompson mentioned
7 is not identical. The only identical thing is it's
8 a 50-percent bonus plan. That case, the entire
9 bonus plan had been discontinued for a number of
10 years. This particular person was moved to a
11 completely new position in interim and he never -- I
12 think they discontinued the bonus plan for several
13 years and then he later found out that they had --
14 but he wasn't getting any bonus for the
15 profitability. Here Mr. Hess did receive bonuses;
16 and according to the representations that were made
17 when he was receiving the bonuses, these were
18 50-percent. I mean, he had no reason to question
19 that he was receiving what Dr. Morphis considered to
20 be half of the profits of the Lancaster firm. Sure,
21 he questioned things. I mean, he saw that, you know,
22 the income was going up. He had access to the
23 income numbers once they switched to Aprima. But
24 profit is -- involves two things, not only revenues,
25 but expenses; and if expenses are going faster than

1 your profits are going -- than your revenues are
2 going up, your profits are gonna decline. And so
3 Mr. Hess never had access to the expense information
4 prior to the summer of 2018 when he was -- he and
5 Dr. Hussey were gonna submit a bid purchasing the
6 practice. And it's very clear that Dr. Morphis
7 deliberately concealed that information because she
8 knew that she wasn't paying the 50-percent profit of
9 Lancaster as his bonus. So the -- at best, the
10 discovery rule and the fraudulent concealment issues
11 are questions of fact for the jury. You're talking
12 about whether someone knew or reasonably should have
13 known that they had a claim. And if you think about
14 it for a minute, what they're trying to say is,
15 well, when Mr. Hess' bonus went down because he was
16 questioning why his bonus went down, he would have
17 had to sue somebody at that point because he knew
18 that his bonus was going down. I mean, who does he
19 sue first of all? I mean, he -- Dr. Morphis was
20 saying, I'm not an accountant, I don't know what all
21 the numbers are, you need to talk to the accountant.
22 And at one point David Hess said, well, maybe it's
23 the accountants that are doing something shady with
24 the money, maybe we need to look into getting
25 another accounting firm. So cause of action doesn't

1 accrue unless you knew or should have known that
2 your rights had been violated by a particular
3 defendant. Here Mr. Hess had no idea that what the
4 expenses were. I mean, he knew his bonuses were
5 going down; but when he asked why or questioned why,
6 Dr. Morphis said well, you know, we've had all these
7 other additional expenses. So, you know, I believe
8 that that's a perfect candidate for the discovery
9 rule and fraudulent concealment.

10 The next argument that Mr. Thompson raises
11 is that the 2020 agreement is vague. Well, there's
12 two things wrong with Mr. Thompson's argument here.
13 First of all, not every single term in a contract
14 has to have a separate definition section. If the
15 term is undefined you apply the plain and ordinary
16 meaning of the language in the -- in the contract.
17 Nobody dispute -- I mean, there's no question about
18 what the prof-- what profit means; it's income minus
19 expense. Not the question of whether certain
20 expenses should or should not have been included in
21 that calculation, that brings up the duty of good
22 faith and fair dealing, Your Honor. As you know,
23 there's an implied duty of good faith and fair
24 dealing in every contract. And in this concept of,
25 well, she could have put whatever she wanted in

1 expenses and, you know, reduced his bonus that way.
2 I mean, that's -- certainly as a business owner you
3 can run certain -- try to run certain expenses
4 through your business; but if you're promising
5 somebody a 50-percent share of that profit, you have
6 a duty of good faith and fair dealing not to
7 artificially inflate the expenses of the business.
8 So, Your Honor, as you know, the contract has to be
9 construed in a light, in the light most favorable to
10 the party that did not -- if there is an ambiguity,
11 it has to be construed in a light -- in light most
12 favorable -- most favorable to the party who did not
13 draft the contract. No question that Mr. Hess had
14 nothing to do with the drafting of the language in
15 the contract. If they wanted to make something more
16 specific about what could or could not be included
17 as expenses, that was on them, but they didn't do
18 that.

19 Dr. Morphis knew what that contract said.
20 If you look at her handwritten calculations where
21 she's trying to figure out what the bonus is, she
22 takes income, subtracts out expenses, divides it by
23 two and says, all right, that's the management
24 bonus, half goes to you, half goes to me. But what
25 she didn't ever do -- and that first year is really

1 revealing because she was making a bunch of
2 assumptions. You recall there's an email from Dr.
3 Morphis to Will Woodham and it says, I've been sick
4 at home with the flu, we need to go over these
5 numbers, but can -- let's for now make the bonus
6 75,000, and we'll figure it out once all the numbers
7 are finalized. They never went back and did that;
8 and the reason they didn't do that is because Dr.
9 Morphis' husband and her sister said, I can't
10 believe you're gonna pay a nurse practitioner in
11 South Carolina over \$180,000 in compensation when
12 he's not taking call, he's not doing weekend work,
13 you know, he just has a 9-to-5 job and he's a nurse
14 practitioner, you know, he's probably the highest
15 paid nurse practitioner in the state of South
16 Carolina. Well, if they didn't like the way the
17 contract read, they could have changed the contract
18 the very next year. There's no-- I mean, that's
19 what should have happened, not artificially
20 inflation, inflating the expenses, not taking out
21 more than your fair share of the profits along with
22 David Hess about what he was receiving in bonus. So
23 the issue about the language being vague is absurd.

24 On breach of contract accompanied by a
25 fraudulent act. I pleaded this cause of action

1 hundreds of times in my career; and, you know, as
2 Your Honor knows, you have to show something other
3 than the breach itself to be the fraudulent act.
4 Well, here we have the implied fraud of saying,
5 okay, here's your share of the bonus, okay. Then
6 we've got the fraud of running expenses through the
7 benefit of Dr. Morphis personally, at least of a
8 luxury automobile that is nonessential to the
9 business. Sure, a business owner can do that; but
10 if she's promising what she called her managing
11 partner in Lancaster half of the profits, she can't
12 have him subsidizing her car payments. She can't
13 have him subsidizing her travel expenses to
14 conventions and C&E trips.

15 Again, the other part of the fraudulent
16 act, Your Honor, is in the 2015 meeting, in May of
17 2015, they told Mr. Hess that the new plan if we
18 switch to this 5-percent gross plan, that's not
19 going to decrease your bonus. They knew at that
20 time that that was an absolute lie. They paid him a
21 bonus of \$70,000 in 2015. They knew in May of 2015
22 that they were on par to get -- have a record year
23 in Lancaster. If they had not switched his bonus
24 plan that year, Your Honor, he would have received a
25 bonus of over \$200,000 in -- as half of the profits

1 in Lancaster. The other thing, Your Honor, on the
2 statute, I mean, on the statutory claim for the
3 South Carolina Payment and Wages Act, as Your Honor
4 knows, the statute requires advance written notice
5 before any change to your terms and conditions of
6 compensation are effective. There's no dispute the
7 contract was effective on -- was signed on December
8 the 30th. The earliest that -- of 2015. The
9 earliest that contract could have been in effect was
10 January the 6th of 2016.

11 MR. THOMPSON: Your Honor, I hate to
12 interrupt. That's not a claim in this case.

13 MR. ROTHSTEIN: It absolutely is a claim
14 in this case.

15 MR. THOMPSON: It's not -- no. It's not
16 in the Complaint. That's, I -- in fact, I was
17 surprised when he mentioned that in opening
18 argument ---

19 THE COURT: What does South Carolina ---

20 MR. THOMPSON: ---coming from. I'm sorry.

21 THE COURT: What's not a claim?

22 MR. THOMPSON: That we failed to violate
23 the Wage Payment Act by failing to notify him of
24 changes in wages. That's nowhere in the Complaint.
25 That's never been a part of this case.

1 MR. ROTHSTEIN: Your Honor, the testimony
2 was very clear that they tried to make the claim
3 retroactive to March of -- March 1st of 2015. The
4 contract was signed on December the 30th of 2015
5 under the -- we have a claim under the South
6 Carolina Payment and Wages Act. That's our first
7 cause of action.

8 MR. THOMPSON: Here's the Complaint,
9 nothing about failure to notify as a violation of
10 the Wage Payment Act.

11 MR. ROTHSTEIN: If I need to amend the
12 Complaint to conform to the evidence at this point,
13 Your Honor, I'm happy to do that.

14 MR. THOMPSON: He's not even ---

15 MR. ROTHSTEIN: He's known that's been my
16 theory of the case from day one in this case.

17 MR. THOMPSON: That's not true, David.

18 MR. ROTHSTEIN: That's absolutely true.

19 MR. THOMPSON: How could I know that when
20 it's not in the Complaint?

21 MR. ROTHSTEIN: Your Honor, I -- because
22 of -- well, I mean, we argued that on summary
23 judgment, Your Honor. I mean, it's clear it's been
24 in the case from day one.

25 THE COURT: But if it's not in there, you

1 can't raise it at this point and I think it would be
2 the notice issue, not the claim.

3 MR. ROTHSTEIN: The law is the law, Your
4 Honor. The law says that that contract can't be
5 effective. The December 5th contract changing the
6 bonus in 2015 could not have been effective until
7 the year 2016. There's plenty of testimony in the
8 record about that. Your Honor, and this -- the law
9 is the law. I mean, the fact that I didn't plead a
10 second cause of action under the Payment and Wages
11 Act is not relevant. As a matter of law, that 2015
12 contract did not become effective until 2016. And
13 this also goes to the fraud claim, Your Honor.

14 MR. THOMPSON: I need to address that if
15 he's -- if he's going to have argument on it, ---

16 THE COURT: Yeah, I'll give you the
17 opportunity ---

18 MR. THOMPSON: ---I'll have to get back up
19 and address that argument.

20 THE COURT: But I do want to address the
21 issue regarding that Mr. Thompson brought up earlier
22 regarding the Wage Payment Act, South Carolina Wage
23 Payment Act not covering the bonuses.

24 MR. ROTHSTEIN: That's -- first of all,
25 the South Carolina Wage Payment Act is a -- is a

1 beneficial statute for workers. It's very clear
2 case -- legionary case law that says that statute
3 has to be liberally construed in favor of employees.
4 The statute defines wages as all forms of payment.
5 The exclusion in there for pension plans, there's
6 clearly a pension and profit sharing plan. We're
7 not making a claim for the pension and profit
8 sharing claim under the Payment and Wages Act, but
9 the bonus is not -- the bonus agreement is not a
10 pension and profit sharing plan, Your Honor. I
11 mean, it's clear that that's not -- and the fact
12 that it may not uncover ---

13 THE COURT: Okay, I -- hold on one second.
14 So you're saying that based on the contract that the
15 50-percent of the bonuses, of the profit, is not
16 under profit sharing?

17 MR. ROTHSTEIN: Right. If you look at the
18 contract, Your Honor, Exhibit 1, Paragraph 8 says,
19 "Employer will include employee in any tax qualified
20 pension or profit sharing plan which will be funded
21 at 25-percent of base pay." That's what they're
22 talking about the statute as a pension and profit
23 sharing plan. The fact that Mr. Hess' bonus is
24 calculated from profit, I mean, every bonus in the
25 world is calculated from profits, Your Honor. I

1 mean, it's a -- in theory would be a form of sharing
2 the profits of the company. And they're, they're
3 not trying to force an ar-- I mean, again, I think
4 you have to recognize that the Payment of Wages Act
5 is a beneficial statute for employees. It has to be
6 construed liberally in favor of employees. Any
7 exceptions of that statute have to be narrowly
8 construed, and it's very clear that the exception
9 for doesn't include the pension and profit sharing
10 plan, it's talking about retirement plans, Your
11 Honor. It's not talking about bonus plans.

12 I mean, Your Honor, if you had a
13 salesperson that was paid, let's say, 10-percent
14 commission on the -- on their sales, that's clear,
15 that's a form of sharing in the profits; but
16 clearly, commissions are wages under the South
17 Carolina Payment of Wages Act. Bonuses are wages
18 under the South Carolina Payment and Wages Act. So
19 the -- if they wanted to put something more
20 specific, I mean, the fact that the contract itself
21 has a separate provision for a profit -- pension and
22 profit sharing plan of 25-percent of the base salary
23 but then includes a bonus compensation plan that
24 provides for 50-percent of the net revenues of the
25 practice, that's not what the statute is talking

1 about.

2 I agree with Mr. Thompson that the seventh
3 and eighth causes of action are moot. If there are
4 any other questions, Your Honor, I think this is a
5 case that needs to be sent to the jury and motions
6 for directed verdict should be denied.

7 THE COURT: Mr. Thompson, you want to go
8 ahead and reply? Do you have case law to support
9 that bonuses are not covered under the South
10 Carolina Wage?

11 MR. THOMPSON: Well, I raise the statute.
12 Funds placed in pension plans or profit sharing
13 plans are not wages subject to this chapter. And
14 then I cited the Louisiana case, Your Honor, 39
15 Southern 3rd 725 that dealt with the same type of
16 language in a Wage Payment Act and they dealt with a
17 non-Erisa profit sharing plan, said that was not
18 covered by their Wage Payment Act.

19 THE COURT: Now I think in the South
20 Carolina ---

21 MR. THOMPSON: Doesn't say anything about
22 Erisa in the South Carolina statute. It just says
23 profit sharing plan, pension plan, or profit sharing
24 plan. Could I have 60 seconds to address to further
25 address the failure to notify a violation of ---

1 THE COURT: Oh, go ahead.

2 MR. THOMPSON: I'm not repeating this.
3 It's new since he's saying he wants this claim in.
4 We have the June email exchange -- I forget which
5 exhibit it was. And this was after the May meeting
6 in which he was informed this is how the 2015
7 agreement would work if you agree to it; he agrees
8 to it in June. And then we still have the agreement
9 signed by December 31st before the payment would be
10 due in February the following year, so he was
11 clearly notified before the wages or compensation
12 would be due. So even if you allow that claim in,
13 he got notification which would satisfy the Wage
14 Payment Act.

15 THE COURT: All right, yes, sir.

16 MR. WILSON: Thank you, Your Honor. May
17 it please the Court. We are moving for directed
18 verdict on behalf of Alexander Moore Beauston and
19 Woodham on two grounds for the most part. It is the
20 failure to establish a duty under South Carolina law
21 and how that relates to each cause of action, the
22 three that Hess has asserted against our clients.
23 And then, in addition, the statute of limitations as
24 it relates to my client, which the allegations in
25 the Complaint and my client's involvement in this

1 MR. ROTHSTEIN: Your Honor, before I get
2 into responding to his argument I want to, if I
3 could, direct your attention to the screen. This is
4 a summary judgment brief that I filed in this case
5 August 31st of 2020; and in that summary judgment
6 brief you'll see, "Plaintiff's claim for 2015 is
7 based on the seven day notice requirement South
8 Carolina code annotated Section 41-10-30 which
9 provides in relevant part. Any changes to these
10 terms must be made in writing at least seven
11 calendar days before they become effective. The
12 2015 employment agreement, which was signed on
13 December 30th, 2015, but purports to be retroactive
14 to March 1st, 2015, could not have been effective
15 until January 6, 2016 at the earliest. Accordingly,
16 plaintiff's bonus for 2015 should not have been
17 based on the 20-- 50-percent net profit or either
18 the 5-percent for the gross revenue." For
19 Mr. Thompson to come into this court and tell Your
20 Honor that the first time he heard me raise that
21 theory was in opening statements is a blatant lie
22 and I ---

23 MR. THOMPSON: Your Honor, that's --
24 that's kind of outrageous.

25 THE COURT: Yeah, we're not gonna ---

1 MR. THOMPSON: Pretty upsetting.

2 THE COURT: Let's not -- let's not ---

3 MR. ROTHSTEIN: Your Honor, the second ---

4 THE COURT: ---make accusations.

5 MR. ROTHSTEIN: At the first summary
6 judgment hearing motion, Your Honor, I filed a Rule
7 56(f) affidavit saying we needed more time to
8 conduct discovery. The judge granted my motion to
9 extend discovery to allow us time so I filed a
10 second summary judgment motion in this case, Your
11 Honor, and that one was filed on March 15th of last
12 year 2021.

13 THE COURT: So I think the issue is
14 whether or not it's claimed in your Complaint.

15 MR. ROTHSTEIN: I'll show you the
16 Complaint. I've got it right here.

17 THE COURT: I got it up here too.

18 MR. ROTHSTEIN: Okay.

19 THE COURT: What page?

20 MR. ROTHSTEIN: Paragraph 28. I make a
21 claim for the 2015 bonus right there based on the
22 2010 employment agreement. The other issue, Your
23 Honor, is at that time we filed this Complaint in, I
24 think it was in September 2018. At that time
25 Mr. Hess, if you'll recall, only had information

1 going back five years. So if you look through this
2 Complaint, there's no discussion about the 2010
3 bonus, the 2011 bonus, the 2012 bonus, because I
4 didn't have any information about those years. We
5 discovered those issues in discovery. I don't have
6 to amend the Complaint every time I come up with
7 another element of damages. The Complaint is a
8 notice pleading. It's designed to put the defendant
9 on notice of what the plaintiff is claiming. In
10 that document I said, "We've never been provided any
11 financial information for years prior to 2013 to
12 verify whether the bonus was paid in prior years
13 were correct." If Mr. -- Mr. Thompson feels that I
14 need to amend the Complaint, I'll file a motion
15 right now in open court to amend the Complaint to
16 include a notice provision that I've raised since
17 20-- at least since by a summary judgment brief in
18 March of 20-- or August of 2020, Your Honor. I
19 mean, for him to say he's -- he was shocked when I
20 said that in opening statement is absurd.

21 MR. THOMPSON: I don't think I use that
22 word.

23 THE COURT: All right, let's move on.

24 MR. ROTHSTEIN: Okay. As to the
25 accounting defendants, Your Honor, their whole

1 this is clearly a case where directed verdict needs
2 to be denied and this case needs to be submitted to
3 the jury.

4 I do have those citations, Your Honor, to
5 Payment Wages claims. Dumas v. Infosafe, South
6 Carolina Payment and Wages Act is remedial
7 legislation designed to protect working people and
8 assist them in collecting compensation wrongfully
9 withheld. That's a South Carolina Court of Appeals
10 case from 1995, Dumas v. Infosafe. Another case,
11 Linder v. Paramount Acceptance Corp. Under former
12 section 41-11-110(2), definition of wages includes
13 monthly payments by employer to employee for meeting
14 production quota, as well as bonuses paid to
15 employee for having best monthly performance.
16 Bonuses are clearly wages under the statute, Your
17 Honor. This argument about they're sort of like a
18 pension or profit sharing plan is ridiculous. Thank
19 you.

20 THE COURT: What's that case number?

21 MR. ROTHSTEIN: I put the annotation up on
22 the screen, Your Honor.

23 THE COURT: What's the name of it?

24 MR. ROTHSTEIN: Oh, I'm sorry. It's
25 Linder v. Paramount Acceptance Corporation. It's a

1 South Carolina Court of Appeals case from 1987, 354
2 SE2d 567, 291 South Carolina Reporter 539.

3 THE COURT: We got it. Okay.

4 Yes, sir.

5 MR. WILSON: Briefly, Your Honor. The
6 only testimony that is in the record right now is
7 from Mr. Alexander himself that there's absolutely
8 no duty to disclose information. There's also no
9 testimony to suggest that Mr. Alexander at this
10 meeting told Hess that he would be better off under
11 the new bonus agreement. It's undisputed that Hess
12 contested, or at least was concerned that he was not
13 getting 50-percent of the profits, and everybody has
14 testified that he asked specifically if he could
15 have that information and it was denied because of
16 the confidentiality agreement.

17 I note as well, Your Honor, that under the
18 negligent misrepresentation cause of action,
19 plaintiff asserts three or four nondisclosures as a
20 basis; it just mirrors what is alleged under the
21 fraud and constructive fraud claims. Our law is
22 fairly clear that you cannot make a negligent
23 misrepresentation claim based on nondisclosure. So
24 those would be gone no matter what. And, Your
25 Honor, I think for those reasons we request that you

1 information when he's trying to contact him. And
2 then I'll be -- and I'll, of course, I'll need to
3 hear what the experts have to say in terms of the --
4 in terms of the duty. But had it just been him
5 calling him and no interaction and the three of them
6 not sitting down meeting, I would grant directed
7 verdict; but the -- that interaction, that meeting,
8 all of it I think gives that scintilla of evidence
9 that gets him over DV and so that will be the ruling
10 of the Court. And like I said, we'll have to
11 revisit some of this when we -- we'll have to
12 revisit some of this at the end of the case and we
13 have our charge conference. All right, thank you.

14 MR. THOMPSON: Your Honor.

15 THE COURT: Yes, sir.

16 MR. THOMPSON: I think just for issue
17 preservation purposes.

18 THE COURT: Yes, sir, please do.

19 MR. THOMPSON: I have to say that I don't
20 believe the Court addressed all my arguments. Of
21 course, I can't make the Court do that.

22 THE COURT: Which ones did I not address?
23 Y'all had a lot of them.

24 MR. THOMPSON: Well, there's an argument
25 about terms of discretionary and therefore cannot

1 form enforcement contract. That was one. I'm not
2 trying to be persnickety. I just ---

3 THE COURT: No, no, no, I know you're not.
4 I -- because it was a lot and I was thinking I may
5 not, and I didn't address his statute of limitations
6 either so I need to do that. But, yes, go ahead.
7 Yes, sir.

8 MR. THOMPSON: I got surprised before on
9 appeal, I -- so I'm kind of cautious about it.

10 THE COURT: Yes.

11 MR. THOMPSON: So terms of discretionary,
12 therefore not enforceable promise. Essential terms
13 could not be set by the court, therefore, too
14 indefinite and unclear.

15 THE COURT: Oh, and I know the reason for
16 that. The reason is because she's the drafter of
17 the contract. And if it's vague and the terms are
18 not clear, obviously we all know from, you know,
19 contract 101 that it's construed against her and
20 so -- and not against him, and so that was the
21 reason for the denial as to that. But go ahead, I'm
22 sorry.

23 MR. THOMPSON: All right. And then I
24 said -- cited you the cases that dealt with, of
25 course, there can be no fraud without the

1 Let's bring them on in.

2 (WHEREUPON, the jury was returned to the
3 courtroom at approximately 4:36 p.m., and the
4 following proceedings commenced in open court.)

5 THE COURT: All right, ladies and
6 gentlemen of the jury, I apologize for the delay. I
7 promise you we were in here working hard. And so we
8 are, as you heard, the plaintiff has rested at this
9 time. I will ask Mr. Thompson on behalf of
10 defendant Morphis and Morphis Pediatric to call
11 their first witness.

12 MR. THOMPSON: The defendant calls Tom
13 Hinson.

14 THE CLERK: Raise your right hand please.
15 WHEREUPON,

16 **THOMAS E. HINSON, Jr.,**
17 having been duly sworn by the clerk, testified
18 as follows:

19 THE CLERK: Please be seated on the
20 witness stand.

21 **DIRECT EXAMINATION**

22 BY MR. THOMPSON:

23 Q Good afternoon, Tom -- Mr. Hinson, excuse
24 me. Where are you currently employed?

25 A Morphis Pediatric Group.

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1 Q Can you give us your full name?

2 A Thomas Eugene Hinson, Jr.

3 Q And where do you live?

4 A Darlington.

5 Q And you work for Morphis Pediatric?

6 A Yes, sir.

7 Q How long have you worked for Morphis
8 Pediatric?

9 A April 9th of 2013.

10 Q And what'd you do before that?

11 A I was a banker.

12 Q Okay. How about give us a brief sketch of
13 your career, very brief.

14 A At Morphis?

15 Q Before that. Let's go all the way back to
16 your service with the Marine Corp.

17 A College at the Citadel, air traffic
18 controller in the Marine Corp, and then banking.

19 Q And then where did you go from there?

20 A Morphis.

21 Q And who -- you said something about
22 banking?

23 A Yes, sir.

24 Q Who'd you work for?

25 A It was Wachovia First.

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1 Q And in the years, say, 2010 to 2015, did
2 you perform duties that related solely to Lancaster?

3 A I did.

4 Q And were those -- what kind of duties were
5 they? Are they ---

6 A Same type of work. I didn't manage the
7 staff; but I took care of the payroll, took care of
8 the payables.

9 Q Okay. For that time period could you give
10 the jury an estimation of how much of your time was
11 devoted to Lancaster matters?

12 A 25-percent, 30-percent, somewhere in
13 there.

14 Q And to your knowledge ---

15 MR. ROTHSTEIN: I object on speculation on
16 the last question.

17 MR. THOMPSON: A little late, but...

18 THE COURT: Overruled.

19 BY MR. THOMPSON:

20 Q Did you ever travel Lancaster to do
21 anything?

22 A Yes, sir.

23 Q Okay. Did you have from time to time
24 attend meetings to discuss Lancaster matters?

25 A Some, not very often.

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1 Q All right. Did you ever have any personal
2 interaction with David Hess?

3 A I did.

4 Q And what -- why would be -- why would you
5 have interactions with him? What would be the
6 typical reaction -- interactions with him?

7 A Well, just talking, number one, but do
8 we -- talk about the IT system, the computer system.
9 David's a very intelligent person. He's an
10 excellent provider, but David is a very strong
11 willed person as well.

12 Q Okay. What do you mean by that, strong
13 willed?

14 A David can always do it better than anybody
15 else. I don't mean that ugly; it's just David.

16 Q Got you. And did he express this strong
17 will to Dr. Morphis from time to time?

18 A Not in an unprofessional manner, no; but
19 he did, yes.

20 Q Did you witness him asking about income
21 and expenses and questioning those things?

22 A He questioned me all the time.

23 Q All the time. What type of questioning
24 did he do of you?

25 A Well, he wanted to know the expenses and I

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1 couldn't tell him.

2 Q Why couldn't you tell him?

3 A He's not part of the company. I mean, he
4 wasn't a owner of the company.

5 Q And how often do you think he would -- how
6 often would you say he'd ask you those types of
7 questions about the expenses?

8 A Any time I was there or any time he may
9 have come to Hartsville, or it would be on his mind.

10 Q And this is -- we're talking about the
11 time period, just to make clear, 2010 and 2015 these
12 questions happened?

13 A I think it was April '13 I got there.

14 Q Yeah. So after that then?

15 A Correct.

16 Q So then after you got there to -- do you
17 remember -- let me, let me back up. Do you remember
18 that there was some discussions and a meeting in May
19 of 2015 about a new contract with David?

20 A Yes, sir.

21 Q And you were involved in that?

22 A I believe I was in on part of those
23 discussions, yes, sir.

24 Q Okay. And other than being in
25 discussions, did you prepare anything for that or

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1 look up any numbers for anybody?

2 A I may have pulled some reports on Aprima,
3 but that's it.

4 Q And what is Aprima?

5 A It's our medical record software.

6 Q What kinds of things -- what kind of
7 information would it give you that might be relevant
8 to the discussion about David Hess' bonus?

9 A Financial summary would be perfect.

10 Q And what, what kind of information would
11 that give you?

12 A It's gonna give you a sense of revenues
13 and what your billings are.

14 Q But not expenses?

15 A Correct.

16 Q So from the time period May of 2015, from
17 when you got there till 2015, do you recall David
18 asking these questions about expenses?

19 A He would generally have, might have some
20 operational questions or may have to come up for a
21 staff meeting; but, you know, periodically from time
22 to time he would pose questions about expenses.

23 Q Can you -- can you recall specifically
24 some examples of things ---

25 A He was very kind about it but he was, I'm

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1 really trying to figure this out, can you help me
2 out, help me understand this. I was, like, I can't
3 do it, David.

4 Q And what was he trying to understand? Did
5 he express that to you?

6 A I think he was just trying to get the
7 monthly expenses.

8 Q For the purposes of determining profit and
9 loss?

10 A Correct.

11 Q Did he say anything about his bonus, that
12 he was questioning his bonus or that he wanted this
13 information for his bonus?

14 A He did sometimes.

15 Q Now was it your understanding that the
16 2015 agreement, the -- at least from the Morphis
17 pediatric side of things, the motivation come up
18 with a new agreement was to relieve this tension
19 between Beth and David?

20 A Yes, sir.

21 Q And did you recall in general or
22 specifically what Doc Beth had to say about that?

23 A No, sir, I don't, I'm sorry.

24 Q How would you compare Dr. Morphis'
25 personality versus David's?

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1 A I think that's part of this whole
2 juxtaposition. Again, David is strong willed and he
3 wants to take control. He wants to lead. He wants
4 to do it his way. She's a very giving lady, very
5 compassionate. And those two personalities just
6 collide.

7 Q Were you aware of any information that
8 would indicate that revenue and patients were
9 declining in Lancaster beginning 2016?

10 A Yes, sir.

11 Q That's part of -- part of your duties?
12 You looked into that kind of thing?

13 A Yes, sir.

14 Q And that was, that was occurring?

15 A Yes, sir.

16 Q Do you remember having any discussions
17 with David about why that was occurring?

18 A No, sir, not that I recall.

19 Q Were you involved at all in the bidding
20 process when Dr. Morphis thought she might want to
21 sell the practice?

22 A Not that I recall, no, sir.

23 Q And back in, you said 2013 was when you
24 started. What was your -- what was your salary in
25 2013?

1 A Oh, goodness.

2 Q Roughly, that's fine.

3 A Forty-two.

4 Q And what is it now?

5 A I think it's ---

6 Q Roughly is fine.

7 A 60.

8 Q And to your knowledge was any of your
9 salary allocated to the Lancaster practice for
10 25-percent or whatever you said, work you did on
11 their behalf?

12 A No, sir, it's not.

13 MR. THOMPSON: No other questions, Your
14 Honor.

15 THE COURT: Yes, sir.

16 **CROSS-EXAMINATION**

17 BY MR. ROTHSTEIN:

18 Q Good afternoon, Mr. Hinson. You and I met
19 I think one time in the past; isn't that right?

20 A Yes, sir.

21 Q Okay. When Mr. Thompson asked you to go
22 through your medical -- I mean, your employment
23 history, he didn't say anything about any other type
24 of health care practice, did he? Or you -- you
25 never mentioned any other type of health care

1 their payables, collecting their time cards. I did
2 their payroll for several years.

3 Q All right. Well, let's talk about
4 payroll for a minute. When you first started there,
5 how many employees did -- did they have at the
6 Lancaster office?

7 A Counsel, I would -- eight possibly.

8 Q Okay.

9 A I'd have to go back and look.

10 Q Good bit smaller than the Hartsville
11 office, right?

12 A Yes, sir, we're twice as large.

13 Q Okay. So your payroll responsibilities in
14 Hartsville would have been twice as much as the
15 payroll responsibility you had in Lancaster, right?

16 A It is, but it's the same process.

17 Q At some time ---

18 A It takes the same amount of time.

19 Q And at some point you all decided to
20 outsource the payroll to an HR company in Columbia;
21 isn't that right?

22 A Yes, sir.

23 Q And what year was that?

24 A I think January of '16, could have been
25 '15.

1 Q So January 2015 or '16, about two or three
2 years after you started working there, you hired a
3 payroll company out of Columbia to do what you were
4 doing in terms of payroll, right?

5 A Yes, sir.

6 Q Okay. So after that time you didn't have
7 any responsibility for payroll in Lancaster, right?

8 A No, sir.

9 Q Okay.

10 A I still ---

11 Q Okay.

12 A Still had to work the time sheets though.
13 I mean, I'm still involved with the payroll.

14 Q Okay. When you say "work the time
15 sheets," what are you talking about?

16 A Well, they're going to a time clock
17 system. They'll make errors and you have to go back
18 and fix 'em.

19 Q Okay. But after 2015 or '16 when you got
20 the Columbia HR company involved, you didn't -- I
21 mean, your payroll responsibilities for Lancaster,
22 even in Hartsville, dropped off?

23 A It diminished some, yes, sir.

24 Q Okay. So that would just leave payables
25 in Lancaster. You basically wrote the checks for

1 expenses in Lancaster, right?

2 A Yes, sir.

3 Q Do you recall writing checks with
4 Dr. Morphis' name on them out of Lancaster for --
5 out of Lancaster account?

6 A Yes, sir.

7 Q Now do you recall writing checks of
8 \$180,000 ---

9 A Oh, no, sir.

10 Q ---for bonuses?

11 A No.

12 Q Do you know who wrote those bonus checks
13 to Dr., Dr. Morphis for the Lancaster practice?

14 A No, sir.

15 Q Okay.

16 A I do not recall ever writing one of those
17 kind of checks, sir.

18 Q And when we were talking about what you
19 did for Hartsville I think you told me in your
20 deposition that you did everything, that you cleaned
21 the bathrooms sometimes, picked up trash in the
22 parking lot, you know, went over the handbook with
23 new hires and things like that.

24 A Yes, sir.

25 Q You didn't do any of that stuff for

1 payroll at Lancaster, right?

2 A The only thing I've ever received that I
3 can recall from Lancaster might have been small
4 portion of a Christmas bonus.

5 Q You got a Christmas from -- a Christmas
6 bonus from both offices?

7 A I can, yes, sir.

8 Q Okay. How often did that happen?

9 A Only recently.

10 Q Okay. After Mr. Hess left, right?

11 A Correct.

12 Q But since -- while Mr. Hess was still a
13 provider in Lancaster, you never got any payment
14 because of the duties you did in Lancaster, right?

15 A Not that I can recall, no, sir.

16 Q All right. You also testified that David
17 Hess is a strong willed person, right?

18 A Yes, sir.

19 Q Did you ever hear him referred to by Dr.
20 -- or say anybody -- did you ever hear him referred
21 to as the managing partner of the Lancaster office?

22 A I read some verbiage in his contract, but
23 I can't attest to the fact that I ever heard that.

24 Q You never heard Dr. Morphis refer to David
25 as the office manager of the Lancaster practice?

1 A It could have been in some casual
2 conversation in her office, but I don't specifically
3 recall.

4 Q Okay. His job was essentially with him
5 and Ms. Tyner to run that Lancaster office; wasn't
6 it?

7 A That is correct, yes, sir.

8 Q And he had a vested interest in how well
9 the Lancaster office performed; wouldn't you agree
10 with that?

11 A Yes, sir.

12 Q Okay. So it would not be unusual for him
13 to ask you questions about expenses in Lancaster
14 because he wanted to make the business more
15 profitable; isn't that right?

16 A I understand.

17 Q Okay. And the better he did in Lancaster,
18 the more efficient he was and more profitable, the
19 better that -- that helped Dr. Morphis as well,
20 right?

21 A That's logical.

22 Q Okay. So there's nothing nefarious about
23 David Hess asking to see the expenses to try and
24 make things -- to find out where they're spending
25 more money than they should or where they can

1 improve and things like that, right?

2 A Correct.

3 Q Okay. But what Dr. Morphis told you is,
4 do not share these expenses with Davis Hess, right?

5 A He's not part owner of the company.

6 Q Right. I know, but she told --
7 specifically told you don't tell David Hess what the
8 expenses in Lancaster are?

9 A She expected me not to disclose it to
10 somebody though.

11 Q And you didn't disclose it. You didn't
12 disclose things like that Dr. Morphis was running
13 her car through the Lancaster office, did you?

14 A No, sir.

15 Q Okay. And you didn't disclose that David
16 Hess that -- I think the year you got there was the
17 year Dr. Morphis received a \$330,000 bonus for the
18 Lancaster office? You didn't disclose that to David
19 Hess?

20 A I don't recall that.

21 Q Okay. In fact, you didn't really discuss
22 anything with Davis Hess until after Dr. Morphis
23 decided to sell the practice in the summer of 2018,
24 right?

25 A Once he signed a disclosure, I guess a

1 non-compete or a privacy disclosure.

2 Q Okay. Now at that point you kind of
3 opened the flood gates. You gave David Hess
4 whatever information he wanted about the Lancaster
5 office; didn't you?

6 A Yes, sir.

7 Q Then you told him, hey, I've been writing
8 checks for a BMW, you want to look at that or didn't
9 you ---

10 A I shared with him the expenses, yes, sir.

11 Q But prior to that, your loyalty was -- was
12 to Dr. Morphis and the Morphis family, right? Prior
13 to the -- prior to him wanting to make a bid to buy
14 the practice in Lancaster, your loyalty was to
15 Dr. Morphis and the Morphis family, correct?

16 A Well, and to Lancaster too. I mean, I
17 didn't treat them any differently.

18 Q Now you've known the Morphis family for a
19 fairly long time; haven't you?

20 A Not closely, no, sir.

21 Q Wasn't Jamie Morphis' brother at the
22 Citadel with you?

23 A Yes, sir.

24 Q Okay. And you met Jamie at that time when
25 you were the commanding officer of his brother's

1 freshman year in ---

2 A I was his company first sergeant.

3 Q Now you also testified that -- I think
4 Mr. Thompson, I wrote it down. You said that David
5 Hess was a strong willed person and would ask
6 information about expenses. You said not in an
7 unprofessional manner. Did you ever see Davis Hess
8 act in an unprofessional manner toward you or Dr.
9 Morphis?

10 A I've seen he and Dr. Beth go back and
11 forth pretty good.

12 Q Okay. Did he ever cuss at Dr. Beth?

13 A Not to my knowledge, no, sir.

14 Q Did he ever physically ---

15 A No, sir.

16 Q ---intimidate Dr. Beth? He was just
17 asking about the -- he wanted to see those expenses
18 of Lancaster, right?

19 A In a very strong manner though.

20 Q Okay. But when you were involved in
21 discussions between David Hess, you said he was very
22 kind about it. Do you recall that, testifying about
23 that a few minutes ago?

24 A Yes, sir.

25 Q Okay. So at least to you he was not

1 intimidated or hostile or unkind. He just wanted
2 the information, right?

3 A Well, he knew I wasn't gonna tell him
4 until the time for the ---

5 Q You made that pretty clear that you were
6 gonna keep Dr. Morphis' secrets; isn't that right?

7 MR. THOMPSON: I object, Your Honor.
8 Argumentative.

9 THE COURT: I can't hear you. I can't
10 hear you.

11 MR. THOMPSON: It's argumentative and
12 it's not in evidence.

13 MR. ROTHSTEIN: I asked him if he made it
14 clear to David Hess that he was gonna keep
15 Dr. Morphis' secrets. That's not argumentative.
16 It's cross-examination.

17 THE COURT: Objection is overruled.
18 BY MR. ROTHSTEIN:

19 Q Isn't that right, Mr. Hinson? You made it
20 clear to David Hess that you were gonna keep
21 Dr. Morphis' secrets?

22 A I kept her privacy.

23 Q Okay. And understand that after Covid
24 happened sometime in the 2020 timeframe, you took
25 over some additional responsibilities in Lancaster;

1 Christmas bonus check to Elizabeth Morphis? Do you
2 know if she ever gave herself a Christmas bonus?

3 A She has.

4 Q Okay. When she gives herself a Christmas
5 bonus, is it usually the highest bonus, Christmas
6 bonus of anybody at the practice?

7 A No, sir. It's pretty close to the
8 smallest.

9 Q Okay. And you agree that, I think, she
10 has complete discretion as to whether or not to give
11 that Christmas bonus, right?

12 A Yes, sir.

13 Q Okay. You're not aware of any person,
14 either Lancaster or Hartsville, who's ever had a
15 contract that says you're gonna get this amount for
16 Christmas bonus every year, right?

17 A Not to my knowledge, no, sir.

18 Q So did you do that as a gift from
19 Dr. Morphis, the Christmas bonuses?

20 A That's the way it was phrased, yes, sir.

21 Q Okay. And you also knew that David Hess
22 had a contract of employment with Morphis Pediatrics
23 of Lancaster, right?

24 A Yes, sir.

25 Q He actually had two contracts, but you

1 Q Okay. So to make sure the jury
2 understands, 2015 is by far the highest patient
3 revenue for the Morphis Pediatrics of Lancaster,
4 right?

5 A Yes, sir.

6 Q Thank you, sir. I don't have any further
7 questions.

8 MR. WILSON: No questions for this
9 witness.

10 THE COURT: Yes, sir, redirect.

11 MR. WILSON: No, sir, Your Honor.

12 MR. THOMPSON: Just one.

13 **REDIRECT EXAMINATION**

14 BY MR. THOMPSON:

15 Q One question for you, hopefully. Do you
16 recall David Hess saying something to you about
17 wanting to take over the Lancaster practice and
18 change the name to Sunshine Pediatrics and running
19 it?

20 A Vaguely.

21 Q Vaguely? When -- you know what he meant
22 by that? Did he explain it?

23 MR. ROTHSTEIN: Your Honor, I'm gonna
24 object unless there's some sort of timeframe that
25 we're talking about here. I mean, he ---

This Agreement is made this 1st day of January, between **Morphis Pediatric Group₁** (hereinafter referred to as "Employer") and **David Hess, APRN-BC**, (hereinafter referred to as "Employee") for employment at **MORPHIS PEDIATRIC GROUP-LANCASTER**.

1. Employment. Employer employs Employee and Employee accepts employment upon the following terms and conditions. Employee pledges faithful adherence to all professional ethics and customs and to carefully avoid all acts which might injure in any way the professional reputation of the Employer, and its other employees.

2. Duties. Employer provides professional services in outpatient facilities by duly licensed Physicians, Physician Assistants (P.A.), and Nurse Practitioners (NP), and Employee accepts employment by the Employer as a P.A./NP to assist in fulfilling its corporate purpose. To this end, Employee will devote Employee's full-time skill, labor, attention and best efforts, on an **exclusive** basis, (Employee may engage in other non-pediatric work in a non-competitive nature), to perform such duties as the Board of Directors may from time to time determine to be in the best interests of the Employer. Employee further agrees, at all times during the existence of this Agreement, to be duly licensed in the State of South Carolina as a P.A./NP and maintain "BCLS/ACLS" certification, and such other certifications as may be mutually agreed upon, failing this, employment and all rights and obligations shall immediately terminate. Employer, through its Board of Directors may assign particular tasks to Employee and also relieve Employee from responsibility for handling any particular task the Employer feels would be better served by another employee of the Employer. It is expressly understood that the Board of Directors of the Employer has the authority to determine which matters will be accepted for service by Employer and which employees of Employer shall perform medical services in any particular case. Employee agrees to perform the required and assigned duties in accordance with the

Employer/Employee Initials

[Handwritten signature]

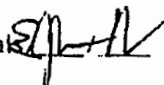


rules and regulations promulgated by the Board of Directors. Employee will also keep and maintain such records as are required by the Board of Directors and to make such reports as are provided or required by Employer. Employee will also observe the records retention policy of the Board of Directors. Employer's Board of Directors will handle all billings for the Employer in accordance with the fee schedule to be established by the Board of Directors. It is further agreed as follows:

A. It shall be the obligation of the Employee, and Employee's responsibility to:

- (1) Discuss with the attending MD/DO for patient review and to obtain any required authorized signature on a Patient's chart as needed.
- (2) Perform Patient history, regardless of complaint, recording pertinent patient symptoms and chief complaints.
- (3) Perform Patient examination, including abnormal and/or normal systems evaluation, regardless of complaint.
- (4) Give concise written instructions and/or verbal orders to RN/LPN/Paramedic/Technicians.
- (5) Make appropriate instructions for Patient disposition, as they relate to continuing care.
- (6) Dictate /document every chart of patients seen, by end of each shift.
- (7) Maintain complete professionalism, verbally and physically, at all times.
- (8) Write prescriptions strictly in accordance with state laws.
- (9) Arrange for coverage if unable to work regularly scheduled shift.
- (10) Maintain C.M.E. credits as per guidelines.
- (11) Attend and participate in required conferences.
- (12) All physical assault patients shall be reviewed by attending physician.

Employer / Employee Initials



B. Hours Worked Per Month:

(1) Employee shall be required to work full time for Employer for the twelve (12) consecutive month period beginning January 1, 2010. "Full time" is defined as one hundred fifty (150) hours per month of clinical service, or more, which the Employee must work in each succeeding twelve (12) month period.

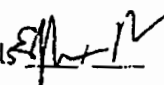
(2) Employee may be required to spend at least three (3) hours per week or more on hospital or Employer-related meetings without additional compensation.

(3) Employee may be required to work nighttime and or week-end shifts.

3. Term. The employment of Employee shall commence January 1, 2010, and shall continue through December 31, 2010, unless sooner terminated by death or as hereinafter provided. It shall continue from year to year thereafter until terminated in the manner described below in this Section 3, in the manner specified in Section 13 below, or elsewhere in this Agreement. Employer reserves the right to terminate the employment of Employee for any malfeasance or misfeasance in the performance of Employee's duties. Employer or Employee may terminate this Agreement at any time without cause upon not less than thirty (30) days written notice. In such event, Employee shall continue to render services and shall be paid regular compensation until the date of termination. It is further agreed that this Agreement shall automatically terminate whenever the Employee becomes legally disqualified to render professional services within this State, loses applicable certification, loses privileges at the hospital, or accepts other employment that, pursuant to existing laws, places restrictions or limitations upon the continued rendering of such professional services.

4. Compensation. Employer shall pay to the Employee for full-time services an annual base salary \$100,000, payable in regular periodic

Employer / Employee Initials



salary amounts determined by Employer's Board of Directors. All or any bonuses shall be at the discretion of the Board or as determined in any appendix that is hereby signed and agreed upon by both parties. (See Appendix A)

5. Continuing Medical Education Leave and Expense

Reimbursement. Employee will be granted up to one week annually with full pay for continuing medical education (CME). Said CME leave will not carry over from year to year and cannot be used as additional vacation time. Employer will reimburse Employee up to \$1000 annually for reasonable CME expenses incurred by Employee and approved by Employer.

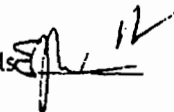
6. Professional Liability Insurance. Employer shall provide professional liability insurance coverage with limits, coverage's and with such company (ies) as determined in the sole discretion of the Board of Directors.

7. Working Facilities. Employer will furnish Employee with medical supplies and such facilities and services as are suitable to the position and adequate to the performance of the assigned duties. Employee may be reimbursed for such expenses as in the judgment of the Board of Directors have been incurred in the furtherance of the interest of the Employer.

8. Fringe Benefits. Employer will include Employee in any tax-qualified pension or profit sharing plans which will be funded at 25% of the Employee's base pay. In addition, Employer will pay for professional licensing fees with the State of South Carolina and DEA fees.

9. Vacation. Employee shall be entitled to three (3) weeks of vacation with full pay during each year. The scheduling of such

Employer/Employee Initials

Handwritten signature and initials, possibly "SPL" followed by "12", written over a horizontal line.

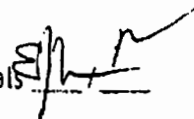
vacations shall be subject to approval by the Employer's Board of Directors and does not carry over from year to year.

10. Prohibition Against Assignment. Employee personally agrees and on behalf of Employee's personal representatives, fiduciaries, heirs, legatees, distributees, and any other person or persons claiming any benefit under Employee by virtue of this Agreement, that this Agreement and the rights, interests and benefits hereunder shall not be assigned, transferred, pledged or hypothecated in any way by any person and shall not be subject to execution, attachment or similar process. Any attempt to assign, transfer, pledge, or hypothecate or to otherwise dispose of this Agreement or of the rights, interests and benefits thereof contrary to the foregoing provisions, or the levy of any attachment or similar process thereupon shall be null and void and without effect, and shall relieve the Employer of any and all liability hereunder.

11. Arbitration. Any controversy or claim arising out of or relating to this Agreement, or to a breach thereof, shall be settled by an arbitrator who shall be an impartial physician and/or physician assistant or nurse practitioner, acceptable to the parties. If the Employer and the Employee cannot agree upon such impartial physician and/or physician assistant, or nurse practitioner then each of the Employer and the Employee shall select a third physician and/or physician extender. The decision of two of the three physicians and/or physician extenders on the matter in question shall be determinative of the question. Any such arbitrating physicians and/or physician extender shall act in accordance with the rules of the American Arbitration Association, and judgment upon the award rendered may be entered in any Court having jurisdiction thereof.

12. Notices. Any and all notices required or permitted to be given

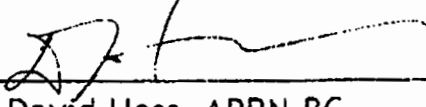
Employer / Employee Initials

A handwritten signature in black ink, appearing to be 'S/H' followed by a flourish, written over a horizontal line.

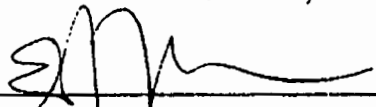
under this Agreement will be sufficient if furnished in writing, sent by registered or certified mail to his last known address in the case of the Employee or to its principal office in the case of the Employer.

13. Construction and Severability. The law of the State of South Carolina shall govern this Agreement and each numbered paragraph shall be severable, so that the invalidity of any paragraph shall not invalidate the other provisions of this Agreement. This Agreement revokes and replaces all agreements previously entered into by the parties hereto, whether oral or written, regarding the Employee's employment with the Employer.

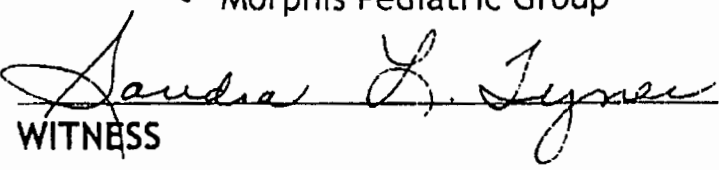
IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed on the day and year first written above.



EMPLOYEE: David Hess, APRN-BC



EMPLOYER: Elizabeth Morphis, MD,
Morphis Pediatric Group



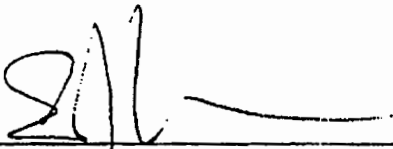
WITNESS

APPENDIX A

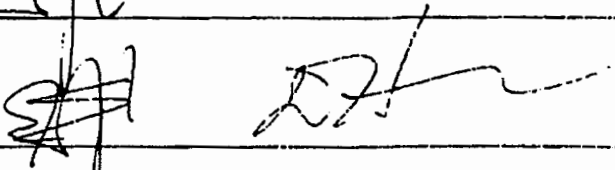
Bonus Compensation

Provided that the employee meets criteria as decided upon by the Board, the employee will be eligible for an annual bonus paid by the company based on the following formulation.

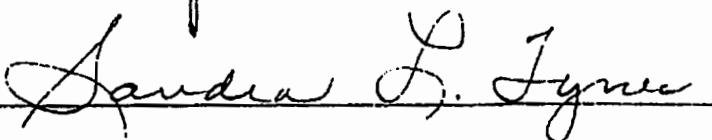
All end of the year profits generated by this above mentioned business shall be divided and the employee is granted 50% (fifty percent) of the said monies after all debts, expenses, royalties and expenditures have been allowed. These monies will be determined by the Company Accountant after the close of the year on December 31st of each calendar year and payable by the 15th of February.



Employer



Employee



Sandra L. Lynne Witness

Chuck Thompson

From: bjmorphis <bjmorphis@bellsouth.net>
Sent: May 27, 2015 7:31 AM
To: bjmorphis@bellsouth.net
Subject: RE: Preparing for the meeting w/ Hess

Hey, I spoke with Tom late Fri pm and he also shared concerns about the meeting. After a lot of thought regarding this whole situation, let me try to clarify and give some history that may explain how we have gotten to this position and hopefully it will help us determine what we should do.

We hired David when we had Dr Green there and she needed some help. She had worked with David in the ER and thought he was a sound provider. (Later I found out they had a more private personal relationship but I disregarded that information as it did not pertain to me.)

A year or so later, Dr Green decided she wanted to create a Behavioral Clinic w/in MPG which we did and she actually operated in a close by location in Lancaster. She later divorced, met someone else and moved to another state. David was not only operating the main MPG but was left to take on the behavioral pts as well. I went to Lancaster once a week or so to try and help out but he was taking on most of the brunt of the day to day duties. We were also working with the hospital to try and maintain privileges and round but this became very difficult because that hospital is very resistant to NPs AND once convinced to let David handle it, he began showing a "too confident" side of his personality and being honest he was so egotistical that he lost the confidence of the nursing staff and it once again became difficult for us to have him responsible for a level 2 nursery. I can't be exact on the time line as I am typing this away from my desk and any records but at this point I think we stopped hospital duties. We began recruiting for an MD. Meanwhile in Hartsville I was struggling a little as well between Dr Surka leaving, Ondria coming and going and trying to keep an MD...

Budhrams, Durst, up to present.

At some point prior to hiring Dr West, I met with David because ultimately he was keeping the office open and alive. I asked him to stay on and agreed to make him a "managing partner" as Dick Jones described it. David had asked me to make him a partner and Dick said no because he is not an MD and cannot shoulder the same responsibility as far as licensing and legal issues. ... the results of a bad lawsuit would fall on me regardless.

So, I know all of this is lengthy but it is important to our current position. At our annual meeting we would sit down in Dec and discuss finances which I never pretended to completely understand. When we would get the bottom line it was divided by 2 to figure his bonus. At some point his bonus was less than a prior year and he started asking questions and so he and I started this back and forth about expenses. I initially went to Shirley and then to Will. One yr MPG hville had taken a "loan" from Ian and that affected bottom line. Also at one point Will had built in a Royalty Fee to MPG so I could get compensated for my time there. These things were realized after I had split the profits with David but really hadn't gotten paid myself. I think some of these fees were "created" to help me but I never wanted to get "paid" because I feared David would question me. Now, as you know, I am good at thinking things up but I ALWAYS follow the recommendations of the experts (if I can't change their minds).

I was assured all of this was above board and that I "owned the business and should be compensated". I worried that David would question me because he already had any time there was a dip in his amount and it was told to me by Dick, Will, and reiterated by Jamie that David is NOT privy to the books and that I should not worry! I was told this is very standard operations and he is paid well etc, etc.

Sooooooo, this is the story. Now to complicate matters more, I heard them loud and clear BUT it was still myself facing this giant so when we would meet, I would never really repeat what they had said because I didn't want to anger...or hurt David. I was always a little softer and would try to explain some of the expenses saying what had been told to me...but probably losing some of the translation. He was questioning me a lot and I felt my integrity was being compromised so I went to Will and he suggested we give David a "snapshot" of the expenses and we did that a few times but it always seemed like the more info he had the more questions I got! Then he started saying that the



accounting was off and we needed to hire a new firm, etc and that was probably due to me not answering the questions appropriately because I didn't know the answers! I have told him over and over. ..just call Will..(or Greg, now). So here we are. I think this is the whole story and probably a mess I have created but it is where we are regardless. Lots of lessons learned. We can talk prior to tomorrow AM if needed.

Sent from my Verizon Wireless 4G LTE smartphone

----- Original message -----

From: "Gregory M. Alexander"

Date:05/22/2015 11:56 AM (GMT-05:00)

To: "Dr. Beth Morphis bjmorphis@bellsouth.net"

Subject: Preparing for the meeting w/ Hess

Beth,

I want to make sure I am properly prepared for the meeting w/ Hess next week.

Please know, I **work for you and want to be mindful of providing Hess w/ only the information you want me to share.**

Prior to the meeting can you provide me w/ a list of items I am at liberty of sharing & information I can't share.

I don't mind being the "*Bad Guy*", all I need to know is what my boundaries are.

there are items you are not comfortable sharing then when asked I will respond, "*That is part of a larger tax position we are taking for Dr. Beth personally & the details are not relevant.*"

 My understanding for the meeting w/ Hess is:

- A) To negotiate his new contract.
- B) For me to explain why his bonus should be based on Gross Revenue vs. Net Income.
 - 1) Simplicity – avoids discussions of:
 - a. Why is this expense being allocated to LAN instead of HVS?
 - b. Why are we incurring this expense?
 - c. That expense should be paid next year.
 - 2) Allows for Income Tax Planning w/o the possibility of negatively affecting Hess's compensation.

 To discuss how his 2014 bonus was determined: *2014 was a transition year from a C Corporation to a S Corporation. As a result there were tax consequences that needed to be properly determined (such as the Built In Gains Tax & Retirement Contributions) which took considerable time to calculate and required information from the software company tracking A/R & Sales as well as having the Third Party Administrator to calculate the maximum retirement calculation. It wasn't fair for Hess to be penalized for the transition "pains". It was decided to give him a comparable bonus to prior years in an attempt to be fair.*

I have a couple of questions:

- 1) Should I be prepared to review 2014 financial information for Lancaster?
- 2) Would you like for me to read Hess's old contract prior to the meeting?

Have a great weekend, Greg



Chuck Thompson

From: Gregory M. Alexander <Gregory.Alexander@fullservicecpa.com>
Sent: May 28, 2015 4:31 PM
To: bjmorphis
Subject: RE: Mtg
Attachments: Paul Hess Bonus Analysis 2010-2014.xlsx

Beth,

1st of all thank you for your email. As you well know, when working for the public, it is deeply gratifying when your clients/patients appreciate your efforts.

Attached is the spreadsheet you requested. I thought it may be helpful for you to see what kind of profit you are receiving from the practice in Lancaster. This is for your benefit only, I won't share this with David.

Thanks again, Greg

Greg M. Alexander, CPA
Partner

MOORE BEAUSTON WOODHAM
115 Cargill Way, Suite A
Hartsville, SC 29551
Phone: (843) 332.1335
Fax: (843) 332.9010
fullservicecpa.com

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From: bjmorphis [mailto:bjmorphis@bellsouth.net]
Sent: Thursday, May 28, 2015 11:33 AM
To: Gregory M. Alexander
Subject: Mtg

I just wanted to thank you for conducting and navigating the meeting. I think it went well and hopefully this will be a good move going forward. Maybe it will at least alleviate some stress for us all!

Sent from my Verizon Wireless 4G LTE smartphone



Morphis Pediatrics of Lancaster
 Bonus Analysis
 2010-2014

	Jan - Dec 14	Jan - Dec 13	Jan - Dec 12	Jan - Dec 11	Jan - Dec 10	Averages
Gross Revenues						
Gross Pay - David Hess	1,191,873.15	1,043,897.83	1,026,916.06	965,476.12	1,116,668.87	1,068,966.41
SALARY	99,999.90	99,999.90	99,999.90	99,999.90	99,999.85	99,999.89
Christmas Bonus	7,543.94	5,414.18	5,299.41	5,299.41	5,414.19	5,794.23
Year End Bonus	48,000.00	48,000.00	46,968.48	25,000.00	75,000.00	48,593.70
Total Gross Pay	155,543.84	153,414.08	152,267.79	130,299.31	180,414.04	154,387.81
Bonuses as a % of Gross Revenues	4.66%	5.12%	5.09%	3.14%	7.20%	5.04%
Net Income	196,626.14	23,021.43	520.52	(9,358.12)	17,869.31	45,735.66
Doctor Bonuses	81,212.80	151,000.00	330,000.00	180,000.00	-	148,442.56
Net Income Before Doctor Bonuses	277,838.94	174,021.43	330,520.52	170,640.88	17,869.31	194,178.22

Chuck Thompson

From: Gregory M. Alexander <Gregory.Alexander@fullservicecpa.com>
Sent: May 28, 2015 4:44 PM
To: Dr. Beth Morphis bjmorphis@bellsouth.net; dhess0530@gmail.com
Subject: Requested Information
Attachments: 5-28-2015 David Hess Bonus Analysis 2010-2014.xlsx

Dr. Beth & David,

Attached is the information requested concerning David's bonus amount as a % of Gross Revenues.

Please let me know if you have any questions.

Thanks, Greg

Greg M. Alexander, CPA
Partner

MOORE BEAUSTON WOODHAM

115 Cargill Way, Suite A

Hartsville, SC 29551

Phone: (843) 332.1335

fax: (843) 332.9010

fullservicecpa.com

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Morphis Pediatrics of Lancaster
 Bonus Analysis
 2010-2014

	Jan - Dec 14	Jan - Dec 13	Jan - Dec 12	Jan - Dec 11	Jan - Dec 10	Averages
Gross Revenues						
Gross Pay - David Hess	1,191,873.15	1,043,897.83	1,026,916.06	965,476.12	1,118,668.87	1,068,966.41
SALARY	99,999.90	99,999.90	99,999.90	99,999.90	99,999.85	99,999.89
Christmas Bonus	7,543.94	5,414.18	5,299.41	5,299.41	5,414.19	5,794.23
Year End Bonus	48,000.00	48,000.00	46,968.48	25,000.00	75,000.00	48,593.70
Total Gross Pay	155,543.84	153,414.08	152,267.79	130,299.31	180,414.04	154,387.81
Bonuses as a % of Gross Revenues	4.66%	5.12%	5.09%	3.14%	7.20%	5.04%

A

----- Forwarded Message -----

From: bjmorphis <bjmorphis@bellsouth.net>

To: "Gregory.Alexander@fullservicecpa.com" <Gregory.Alexander@fullservicecpa.com>

Sent: Monday, February 16, 2015, 8:58:54 AM EST

Subject: Re: Congratulations!!!

I have had the exact same thoughts!! I really think this is the best answer and actually mentioned it to Tom last week. I just hate being bullied and that's how it feels every time I discuss finances with David. While I can take a stand when I need to (and I think I need to), I am a great target for bullying because I have compassion and I think people mistake my kindness for weakness. I guess I'm gonna have to be a BIG girl every now and then but would love to pull Tom in and let him handle MOST everything going forward!!

Elizabeth Morphis, MD

Morphis Pediatric Group

On Monday, February 16, 2015 8:53 AM, Gregory M. Alexander
<Gregory.Alexander@fullservicecpa.com> wrote:

Beth,

I have been thinking about this. What if you had Tom handle the negotiations w/ David and all HR employee issues?

You could give Tom the parameters to work within and then defer all HR issues to him. Then just make it a policy/practice that everyone reports to Tom and Tom reports to you.

The more you empower Tom to make decisions the less you need to be involved.

Any way just some thoughts to make it easier for you.

Thanks, Greg

Greg M. Alexander, CPA
Partner

MOORE BEAUSTON WOODHAM
115 Cargill Way, Suite A
Hartsville, SC 29551
Phone: (843) 332.1335
fax: (843) 332.9010
fullservicecpa.com

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From: bjmorphis [mailto:bjmorphis@bellsouth.net]
Sent: Thursday, February 05, 2015 1:05 PM
To: Gregory M. Alexander
Subject: Re: Congratulations!!!

Yes sir! Thank you for talking to him. I have given him bonuses in the past based loosely on the profits and split it between him and me. His contract states that his bonus would be 50% of the "net profits" I think, I will look that up but he is NOT an owner of the practice and I am not interested in disclosing all of the numbers to him. Maybe I should since that is the wording of his contract and maybe I need to have that changed, but I mostly feel distrusted right now and I think that is what has made me angry. I appreciate your help and if you have any ideas on how I should handle this and how much should be disclosed to him, please let me know. I am not trying to be unfair but I also don't want to be taken advantage of and he is very intimidating towards me.
Thanks

Elizabeth Morphis, MD

Morphis Pediatric Group

On Thursday, February 5, 2015 11:00 AM, Gregory M. Alexander
<Gregory.Alexander@fullservicecpa.com> wrote:

Beth,

I called David and apologized that his bonus for 2014 was cut after 12-31-2014, but **at my direction** this was done for 2 reasons:

- 1) Morphis Pediatric converted from a C Corporation to an S Corporation
- 2) Changes in the Retirement Account

I then shared with him that his bonus was \$48k. At this point he began asking why it was the same as last year. I responded that I did not have his employment contract in front of me and asked him what it stated.

He then began questioning numbers, which I responded that I would be happy to go over the details with him but I did not have the liberty to do it at this time.

To give you a heads up, he suggested a meeting of you, him, & I to go over the numbers.

Hope this helps.

Thanks, Greg

Greg M. Alexander, CPA
Partner

MOORE BEAUSTON WOODHAM

115 Cargill Way, Suite A

Hartsville, SC 29551

Phone: (843) 332.1335

fax: (843) 332.9010

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From: bjmorphis [mailto:bjmorphis@bellsouth.net]

Sent: Thursday, February 05, 2015 7:46 AM

To: Gregory M. Alexander

Subject: RE: Congratulations!!!

Im not sure. ..guess I need to look at the profit numbers for Lanc office again. He is saying there are "major tax implications" to getting this money on 2015 W2. He is being pretty nasty about this whole thing and asking questions about S corp that I don't know. May have to have a meeting or let him call you. He's just about to push my wrong button!

Sent from my Verizon Wireless 4G LTE smartphone

----- Original message -----

From: "Gregory M. Alexander"

Date: 02/04/2015 1:19 PM (GMT-05:00)

To: bjmorphis

Subject: RE: Congratulations!!!

We can take care of it. How much would you like to bonus him?

This bonus will show up on his 2015 W-2.

Greg M. Alexander, CPA

Partner

MOORE BEAUSTON WOODHAM

115 Cargill Way, Suite A

Hartsville, SC 29551

Phone: (843) 332.1335

fax: (843) 332.9010
fullservicecpa.com

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From: bjmorphis [mailto:bjmorphis@bellsouth.net]
Sent: Wednesday, February 04, 2015 12:00 PM
To: Gregory M. Alexander
Subject: Re: Congratulations!!!

Thanks! Yes, I am contemplating quitting my day job!! Haha

I do have an issue I need to discuss with you. I totally forgot David Hess' end of the year bonus. We always give him a Christmas bonus and then a little productivity bonus after that. He is furious, of course, and hounding me why it is not in his W2. I told him we were transitioning to the S corp and that I would get it straight somehow. Please advise

Elizabeth Morphis, MD

Morphis Pediatric Group

On Friday, January 30, 2015 3:14 PM, Gregory M. Alexander <Gregory.Alexander@fullservicecpa.com> wrote:

Beth,

Congrats on the big win last night.

I was expecting to receive an email this morning telling me you are opening a dance studio in addition to your medical practice.

That had to be fun!!!

Have a good weekend, Greg

Greg M. Alexander, CPA
Partner

MOORE BEAUSTON WOODHAM
115 Cargill Way, Suite A
Hartsville, SC 29551
Phone: (843) 332.1335

fax: (843) 332.9010
fullservicecpa.com

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Willis J. Woodham Jr.

From: Willis J. Woodham Jr.
Sent: Thursday, December 30, 2010 1:36 PM
To: 'Beth'
Subject: RE: bonus

Hey Beth

I am back in the office & am looking at the LA income statement. We are currently showing gross income of \$1,101,037.

Before yearend bonuses and profit sharing trust contribution, expenses total \$795,222 or about \$66,000 per month.

As you mentioned, let's look at this next week when you have time.

Hope you are better soon.

Will



MOORE BEAUSTON WOODHAM
Will Woodham, CPA
Partner

MOORE BEAUSTON WOODHAM
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From: Beth [mailto:bjmorphis@bellsouth.net]
Sent: Thursday, December 30, 2010 10:20 AM
To: Willis J. Woodham Jr.
Subject: bonus

Hey Will,

Got your message this am-sorry. I have the flu and have been in bed for 2 days. I do want to look at numbers w/you at some point but for now we can make Davids bonus \$75000.

We r showing an income of abt 1.3 mill and the monthly expenses are averaging 50000 so I just can't figure out why the profit margin is so low. Anyway, we can look at it after the first.

Have a happy new year!

Beth



12/10

2010 Year End -

Tot I - 1,101,037

Tot E - 795,222 before bonus/retirement

\$305,815

- 23,459.28 bonuses

- ≈ 132,000 Retirement

150,355.72 ÷ 2 ≈ 75,000 ^{against} bonus

2011 Bonus Calculation



Christmas gift for staff
next year

- Scrubs & monogram
- bag & monogram

Bonus '12

Income 1,026,916 $\uparrow$ 61,440 from '11
vs Exp same?

$$\begin{array}{l} 61,440 \div 2 = 30,700 \\ \text{gain from hosp} \quad \text{vs} \quad 15,000 \\ \text{contract} \\ \hline 45,700 = ? \text{ to David} \end{array}$$

\$ from hosp contract
NP, MD paid/shift

12/13 Bonus Calc.

$$\begin{array}{rcl} \text{Income} & = & 1,043,897.83 \\ \text{Expense} & = & \underline{\underline{951,968.31}} \end{array}$$

$$\begin{array}{r} 91,929.52 \\ \times \quad .50 \quad (50\%) \\ \hline \end{array}$$

45,964.76 (To David)

413-2936
CVS-D

2014 Bonus - Year End

I - 1,191,873.15

E - 995,249.51

196,623.64

- 100,000

96,623.64

\$ owed to HV -
[? ask Greg why]

$$\text{GDI} = 48,311.82$$

- Minutes from Nov mtg
- Marketing - Newspaper, shopping carts
- Dr. Hussey referrals & time off
- NBN - marketing to Springs

MORPHIS PEDIATRIC GROUP OF LANCASTER, P.A.
MINUTES OF JOINT ANNUAL MEETING OF STOCKHOLDERS
AND BOARD OF DIRECTORS

December 17, 2015

The Joint Annual Meeting of the Stockholders and Board of Directors of MORPHIS PEDIATRIC GROUP OF LANCASTER, P.A. was held at the office of Morphis Pediatric Group of Hartsville, P.A. in Hartsville, South Carolina, on the 17th day of December, 2015.

Present were a majority of the Company's Stockholders and a majority of the members of the Company's Board of Directors. Also present were Richard A. Jones, Jr., representing Dobson, Jones, Ball, Phillips & Bridges, P.A., the Company's corporate and tax attorneys, Greg Alexander, CPA, representing the firm of Moore Beauston & Woodham, L.L.P.

Upon motion duly made and carried, Elizabeth Morphis, served as Chairman and as Secretary of the meeting thereof.

A financial report of the Company's operations during the past year was presented, discussed, and approved by all present. A financial report of the Company's operations during the past year was presented, discussed, and approved by all present. Upon motion duly made and carried, the Board of Directors unanimously approved total compensation in the following amount for the Company's professional employee for the year ending December 31, 2015, based on her continued service and dedication to the Company:

Elizabeth Morphis	\$80,000.00

Upon motion duly made and carried, the Board further unanimously approved the continued employment of Dr. Elizabeth Morphis for the coming year at her current compensation level plus any increases that might be justified by increases in the cost of living or by increased productivity, as determined by the Board of Directors.



Discussion followed concerning the contribution to be made to the Company's retirement plan. After consideration, and upon motion duly made and carried, the Board of Directors unanimously approved a contribution of \$22,609.00 for the year ending December 31, 2015.

Upon motion duly made and carried, the following individuals were elected as the Company's Board of Directors, to serve for the coming year or until their successors have been duly elected and qualified:

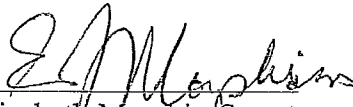
Elizabeth Morphis

Upon motion duly made and carried, the following individuals were elected as the Company's Officers, to serve for the coming year or until their successors have been duly elected and qualified:

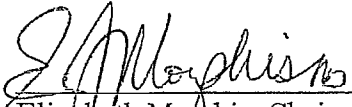
President	Elizabeth Morphis
Vice President	Elizabeth Morphis
Secretary	Elizabeth Morphis
Treasurer	Elizabeth Morphis

There being no further business, the meeting was adjourned.

Respectfully submitted,

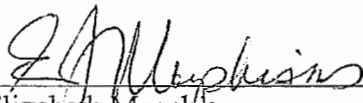

Elizabeth Morphis, Secretary

Approved:


Elizabeth Morphis, Chairman

WAIVER OF NOTICE

We, the undersigned, being all the Stockholders and members of the Board of Directors of MORPHIS PEDIATRIC GROUP OF LANCASTER, P.A., do hereby waive notice of the Joint Annual Meeting of the Stockholders and Board of Directors of the Company held on December 17, 2015.


Elizabeth Morphis

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MORPHIS PEDIATRIC GROUP OF LANCASTER, P.A.
MINUTES OF JOINT ANNUAL MEETING OF STOCKHOLDERS
AND BOARD OF DIRECTORS

December 18, 2014

The Joint Annual Meeting of the Stockholders and Board of Directors of MORPHIS PEDIATRIC GROUP OF LANCASTER, P.A. was held at the office of Morphis Pediatric Group of Hartsville, P.A. in Hartsville, South Carolina, on the 18th day of December, 2014.

Present were a majority of the Company's Stockholders and a majority of the members of the Company's Board of Directors. Also present were Richard A. Jones, Jr., representing Dobson, Jones, Ball, Phillips & Bridges, P.A., the Company's corporate and tax attorneys, Greg Alexander, CPA, representing the firm of Moore Beauston & Woodham, L.L.P.

Upon motion duly made and carried, Elizabeth Morphis, served as Chairman and as Secretary of the meeting thereof.

A financial report of the Company's operations during the past year was presented, discussed, and approved by all present. A financial report of the Company's operations during the past year was presented, discussed, and approved by all present. Upon motion duly made and carried, the Board of Directors unanimously approved total compensation in the following amount for the Company's professional employee for the year ending December 31, 2014, based on her continued service and dedication to the Company:

Elizabeth Morphis	\$81,213.00

Upon motion duly made and carried, the Board further unanimously approved the continued employment of Dr. Elizabeth Morphis for the coming year at her current compensation level plus any increases that might be justified by increases in the cost of living or by increased productivity, as determined by the Board of Directors.

Discussion followed concerning the contribution to be made to the Company's retirement plan. After consideration, and upon motion duly made and carried, the Board of Directors unanimously approved a contribution of \$15,833.00 for the year ending December 31, 2014.

The Chairman then stated that no dividend could be paid to the Company's Stockholders of record as of December 31, 2014, due to an expected loss and an unsettled economic situation.

Upon motion duly made and carried, the following individuals were elected as the Company's Board of Directors, to serve for the coming year or until their successors have been duly elected and qualified:

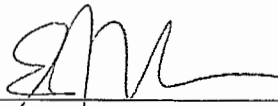
Elizabeth Morphis

Upon motion duly made and carried, the following individuals were elected as the Company's Officers, to serve for the coming year or until their successors have been duly elected and qualified:

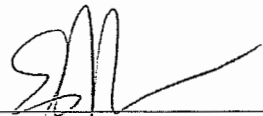
President	Elizabeth Morphis
Vice President	Elizabeth Morphis
Secretary	Elizabeth Morphis
Treasurer	Elizabeth Morphis

There being no further business, the meeting was adjourned.

Respectfully submitted,


Elizabeth Morphis, Secretary

Approved:


Elizabeth Morphis, Chairman

WAIVER OF NOTICE

We, the undersigned, being all the Stockholders and members of the Board of Directors of MORPHIS PEDIATRIC GROUP OF LANCASTER, P.A., do hereby waive notice of the Joint Annual Meeting of the Stockholders and Board of Directors of the Company held on December 18, 2014.



Elizabeth Morphis

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MORPHIS PEDIATRIC GROUP OF LANCASTER, P.A.
MINUTES OF JOINT ANNUAL MEETING OF STOCKHOLDERS
AND BOARD OF DIRECTORS

December 10, 2013

The Joint Annual Meeting of the Stockholders and Board of Directors of MORPHIS PEDIATRIC GROUP OF LANCASTER, P.A. was held at the office of Morphis Pediatric Group of Hartsville, P.A. in Hartsville, South Carolina, on the 10th day of December, 2013.

Present were a majority of the Company's Stockholders and a majority of the members of the Company's Board of Directors. Also present were Richard A. Jones, Jr., representing Dobson, Jones, Ball, Phillips & Bridges, P.A., the Company's corporate and tax attorneys, Greg Alexander, CPA, representing the firm of Moore Beauston & Woodham, L.L.P.

Upon motion duly made and carried, Elizabeth Morphis, served as Chairman and as Secretary of the meeting thereof.

A financial report of the Company's operations during the past year was presented, discussed, and approved by all present. A financial report of the Company's operations during the past year was presented, discussed, and approved by all present. Upon motion duly made and carried, the Board of Directors unanimously approved total compensation in the following amount for the Company's professional employee for the year ending December 31, 2013, based on her continued service and dedication to the Company:

Elizabeth Morphis	\$151,000.00

Upon motion duly made and carried, the Board further unanimously approved the continued employment of Dr. Elizabeth Morphis for the coming year at her current compensation level plus any increases that might be justified by increases in the cost of living or by increased productivity, as determined by the Board of Directors.

Discussion followed concerning the contribution to be made to the Company's retirement plan. After consideration, and upon motion duly made and carried, the Board of Directors unanimously approved a contribution of \$18,820.00 for the year ending December 31, 2013.

The Chairman then stated that no dividend could be paid to the Company's Stockholders of record as of December 31, 2013, due to an expected loss and an unsettled economic situation.

Upon motion duly made and carried, the following individuals were elected as the Company's Board of Directors, to serve for the coming year or until their successors have been duly elected and qualified:

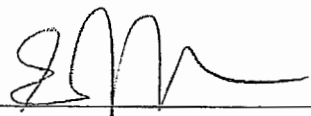
Elizabeth Morphis

Upon motion duly made and carried, the following individuals were elected as the Company's Officers, to serve for the coming year or until their successors have been duly elected and qualified:

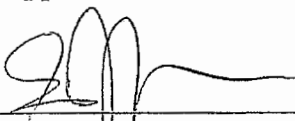
President	Elizabeth Morphis
Vice President	Elizabeth Morphis
Secretary	Elizabeth Morphis
Treasurer	Elizabeth Morphis

There being no further business, the meeting was adjourned.

Respectfully submitted,

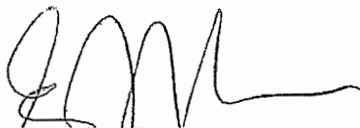

Elizabeth Morphis, Secretary

Approved:


Elizabeth Morphis, Chairman

WAIVER OF NOTICE

We, the undersigned, being all the Stockholders and members of the Board of Directors of MORPHIS PEDIATRIC GROUP OF LANCASTER, P.A., do hereby waive notice of the Joint Annual Meeting of the Stockholders and Board of Directors of the Company held on December 10, 2013.



Elizabeth Morphis

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MORPHIS PEDIATRIC GROUP OF LANCASTER, P.A.
MINUTES OF JOINT ANNUAL MEETING OF STOCKHOLDERS
AND BOARD OF DIRECTORS

December 13, 2012

The Joint Annual Meeting of the Stockholders and Board of Directors of MORPHIS PEDIATRIC GROUP OF LANCASTER, P.A. was held at the office of Morphis Pediatric Group of Hartsville, P.A. in Hartsville, South Carolina, on the 13th day of December, 2012.

Present were a majority of the Company's Stockholders and a majority of the members of the Company's Board of Directors. Also present were Richard A. Jones, Jr., representing Dobson, Jones, Ball, Phillips & Bridges, P.A., the Company's corporate and tax attorneys, Greg Alexander, CPA, representing the firm of Moore Beauston & Woodham, L.L.P.

Upon motion duly made and carried, Elizabeth Morphis, served as Chairman and as Secretary of the meeting thereof.

A financial report of the Company's operations during the past year was presented, discussed, and approved by all present. A financial report of the Company's operations during the past year was presented, discussed, and approved by all present. Upon motion duly made and carried, the Board of Directors unanimously approved total compensation in the following amounts for the Company's professional employees for the year ending December 31, 2012, based on their continued service and dedication to the Company:

Elizabeth Morphis	\$180,000.00

Upon motion duly made and carried, the Board further unanimously approved the continued employment of Dr. Elizabeth Morphis for the coming year at her current compensation level plus any increases that might be justified by increases in the cost of living or by increased productivity, as determined by the Board of Directors.

Discussion followed concerning the contribution to be made to the Company's retirement plan. Due to limited profitability, no contribution could be made to the Company's retirement plan for the year ending December 31, 2012.

The Chairman then stated that no dividend could be paid to the Company's Stockholders of record as of December 31, 2012, due to an expected loss and an unsettled economic situation.

Upon motion duly made and carried, the following individuals were elected as the Company's Board of Directors, to serve for the coming year or until their successors have been duly elected and qualified:

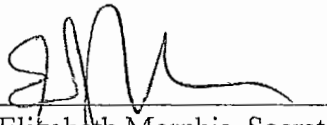
Elizabeth Morphis

Upon motion duly made and carried, the following individuals were elected as the Company's Officers, to serve for the coming year or until their successors have been duly elected and qualified:

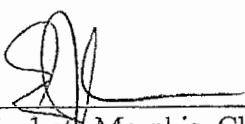
President	Elizabeth Morphis
Vice President	Elizabeth Morphis
Secretary	Elizabeth Morphis
Treasurer	Elizabeth Morphis

There being no further business, the meeting was adjourned.

Respectfully submitted,


Elizabeth Morphis, Secretary

Approved:


Elizabeth Morphis, Chairman

WAIVER OF NOTICE

We, the undersigned, being all the Stockholders and members of the Board of Directors of MORPHIS PEDIATRIC GROUP OF LANCASTER, P.A., do hereby waive notice of the Joint Annual Meeting of the Stockholders and Board of Directors of the Company held on December 13, 2012.

Elizabeth Morphis

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MORPHIS PEDIATRIC GROUP OF LANCASTER, P.A.
MINUTES OF JOINT ANNUAL MEETING OF STOCKHOLDERS
AND BOARD OF DIRECTORS

December 15, 2011

The Joint Annual Meeting of the Stockholders and Board of Directors of MORPHIS PEDIATRIC GROUP OF LANCASTER, P.A. was held at the office of Morphis Pediatric Group of Hartsville, P.A. in Hartsville, South Carolina, on the 15th day of December, 2011.

Present were a majority of the Company's Stockholders and a majority of the members of the Company's Board of Directors. Also present were Richard A. Jones, Jr., representing Dobson, Jones, Ball, Phillips & Bridges, P.A., the Company's corporate and tax attorneys, Greg Alexander, CPA, representing the firm of Moore Beauston & Woodham, L.L.P., and Michael Haggard, CFP, representing Ameriprise Financial Services, Inc.

Upon motion duly made and carried, Elizabeth Morphis served as Chairman of the meeting and Shirley Atkinson served as Secretary thereof.

A financial report of the Company's operations during the past year was presented, discussed, and approved by all present. A financial report of the Company's operations during the past year was presented, discussed, and approved by all present. Upon motion duly made and carried, the Board of Directors unanimously approved total compensation in the following amounts for the Company's professional employees for the year ending December 31, 2011, based on their continued service and dedication to the Company:

Elizabeth Morphis	\$180,000.00

Upon motion duly made and carried, the Board further unanimously approved the continued employment of Dr. Elizabeth Morphis for the coming year at her current compensation

level plus any increases that might be justified by increases in the cost of living or by increased productivity, as determined by the Board of Directors.

Discussion followed concerning the contribution to be made to the Company's retirement plan. Due to limited profitability, no contribution could be made to the Company's retirement plan for the year ending December 31, 2011.

The Chairman then stated that no dividend could be paid to the Company's Stockholders of record as of December 31, 2011, due to an expected loss and an unsettled economic situation.

Upon motion duly made and carried, the following individuals were elected as the Company's Board of Directors, to serve for the coming year or until their successors have been duly elected and qualified:

James O. Morphis, Jr.
Elizabeth Morphis

Upon motion duly made and carried, the following individuals were elected as the Company's Officers, to serve for the coming year or until their successors have been duly elected and qualified:

President	James O. Morphis, Jr.
Vice President	Elizabeth Morphis
Secretary	Elizabeth Morphis
Treasurer	Elizabeth Morphis

There being no further business, the meeting was adjourned.

Respectfully submitted,

SIGN HERE

Elizabeth Morphis, Secretary

Approved:

SIGN HERE

Elizabeth Morphis, Chairman

WAIVER OF NOTICE

We, the undersigned, being all the Stockholders and members of the Board of Directors of MORPHIS PEDIATRIC GROUP OF LANCASTER, P.A., do hereby waive notice of the Joint Annual Meeting of the Stockholders and Board of Directors of the Company held on December 15, 2011.

James O. Morphis, Jr.

SIGN HERE

Elizabeth Morphis

SIGN HERE

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MORPHIS PEDIATRIC GROUP OF LANCASTER, P.A.
MINUTES OF JOINT ANNUAL MEETING OF STOCKHOLDERS
AND BOARD OF DIRECTORS

December 7, 2010

The Joint Annual Meeting of the Stockholders and Board of Directors of MORPHIS PEDIATRIC GROUP OF LANCASTER, P.A. was held at the office of Morphis Pediatric Group of Hartsville, P.A. in Hartsville, South Carolina, on the 7th day of December, 2010.

Present were a majority of the Company's Stockholders and a majority of the members of the Company's Board of Directors. Also present were Richard A. Jones, Jr., representing Dobson, Jones, Ball, Phillips & Bridges, P.A., the Company's corporate and tax attorneys, and Willis J. Woodham, CPA, representing the firm of Moore Beauston & Woodham, L.L.P.

Upon motion duly made and carried, Elizabeth Morphis served as Chairman of the meeting and Shirley Atkinson served as Secretary thereof.

A financial report of the Company's operations during the past year was presented, discussed, and approved by all present. A financial report of the Company's operations during the past year was presented, discussed, and approved by all present. Upon motion duly made and carried, the Board of Directors unanimously approved total compensation in the following amounts for the Company's professional employees for the year ending December 31, 2010, based on their continued service and dedication to the Company:

Elizabeth Morphis	\$148,663.00

Upon motion duly made and carried, the Board further unanimously approved the continued employment of Dr. Elizabeth Morphis for the coming year at her current compensation level plus any increases that might be justified by increases in the cost of living or by increased productivity, as determined by the Board of Directors.

Discussion followed concerning the contribution to be made to the Company's retirement plan. After consideration, and upon motion duly made and carried, the Board of Directors unanimously approved a contribution in the amount of \$85,281.00 for the year ending December 31, 2010.

The Chairman then stated that no dividend could be paid to the Company's Stockholders of record as of December 31, 2010, due to an expected loss and an unsettled economic situation.

Upon motion duly made and carried, the following individuals were elected as the Company's Board of Directors, to serve for the coming year or until their successors have been duly elected and qualified:

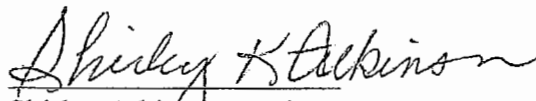
James O. Morphis, Jr.
Shirley Atkinson
Elizabeth Morphis

Upon motion duly made and carried, the following individuals were elected as the Company's Officers, to serve for the coming year or until their successors have been duly elected and qualified:

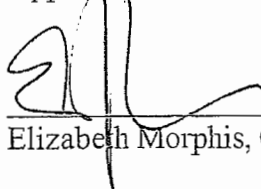
President	James O. Morphis, Jr.
Vice President	Elizabeth Morphis
Secretary	Elizabeth Morphis
Treasurer	Shirley Atkinson

There being no further business, the meeting was adjourned.

Respectfully submitted,

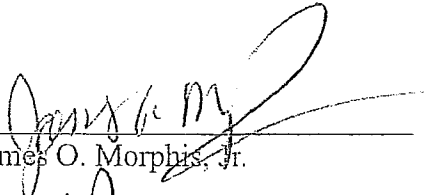

Shirley Atkinson, Acting Secretary

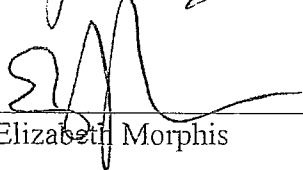
Approved:

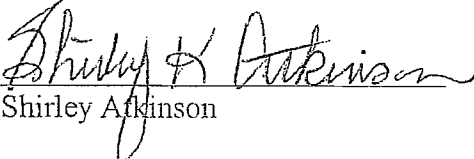

Elizabeth Morphis, Chairman

WAIVER OF NOTICE

We, the undersigned, being all the Stockholders and members of the Board of Directors of MORPHIS PEDIATRIC GROUP OF LANCASTER, P.A., do hereby waive notice of the Joint Annual Meeting of the Stockholders and Board of Directors of the Company held on December 7, 2010.


James O. Morphis, Jr.


Elizabeth Morphis


Shirley Atkinson

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9:43 AM

02/26/19

Cash Basis

Morphis Pediatrics of Lancaster

Profit & Loss

January through December 2010

Jan - Dec 10

Ordinary Income/Expense	
Income	
Professional Income	1,116,668.87
Total Income	1,116,668.87
Gross Profit	1,116,668.87
Expense	
Accounting	21,101.00
Advertising	1,504.68
Auto Expense	13,180.28
Bank Charges	1,788.40
Consulting	3,121.00
Contract Labor	64,370.44
Conventions & Seminars	415.28
Depreciation	29,481.00
Donations	50.00
Dues & Subscriptions	1,452.00
Employment Taxes	37,591.97
Gas & Oil	123.53
Insurance	14,032.19
Lease	17,483.40
Maintenance Contract	628.80
Meals & Entertainment	1,679.91
Medical Supplies	59,269.46
Miscellaneous	2,679.33
Pest Control	150.00
Postage	1,013.75
Profit Sharing Plan	85,280.79
Refunds	1,508.68
Rent	38,647.50
Repairs	243.10
Salaries- Employees	497,119.94
Salaries-Officers	148,662.68
Supplies	13,135.31
Taxes & Licenses	3,667.31
Telephone	18,465.01
Travel	15,561.27
Utilities	8,198.19
Total Expense	1,101,606.20
Net Ordinary Income	15,062.67
Other Income/Expense	
Other Income	
Interest Income	124.71
Reimbursed Expenses	3,121.00
Total Other Income	3,245.71
Other Expense	
Penalties	439.07
Total Other Expense	439.07
Net Other Income	2,806.64
Net Income	17,869.31



9:44 AM

02/26/19

Cash Basis

Morphis Pediatrics of Lancaster

Profit & Loss

January through December 2011

Jan - Dec 11

Ordinary Income/Expense	
Income	
Professional Income	965,476.12
Total Income	965,476.12
Gross Profit	965,476.12
Expense	
Accounting	15,854.99
Advertising	1,927.41
Auto Expense	10,786.56
Bank Charges	1,414.12
Computer & Internet Services	1,589.27
Consulting	42,843.34
Contract Labor	69,625.17
Conventions & Seminars	7,415.00
Depreciation	3,279.00
Donations	135.00
Dues & Subscriptions	4,153.68
Employment Taxes	50,885.70
Insurance	37,937.41
Janitorial	1,500.00
Lease	24,189.80
Legal	3,096.12
Maintenance Contract	773.57
Meals & Entertainment	1,509.26
Medical Supplies	46,041.49
Miscellaneous	953.63
Postage	1,187.37
Rent	36,323.50
Repairs	234.00
Salaries- Employees	717,945.88
Supplies	14,472.96
Taxes & Licenses	9,880.48
Telephone	20,225.89
Travel	14,590.69
Utilities	7,383.61
Total Expense	1,148,154.90
Net Ordinary Income	-182,678.78
Other Income/Expense	
Other Income	173,233.08
Other Income	86.58
Interest Income	
Total Other Income	173,319.66
Net Other Income	173,319.66
Net Income	-9,359.12

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02/26/19

Cash Basis

Morphis Pediatrics of Lancaster

Profit & Loss

January through December 2012

Jan - Dec 12

Ordinary Income/Expense	
Income	
Professional Income	1,026,916.06
Total Income	1,026,916.06
Gross Profit	1,026,916.06
Expense	
Health Ins	0.00
Accounting	12,999.75
Advertising	3,004.99
Auto Expense	10,838.10
Bank Charges	1,937.49
Computer & Internet Services	2,770.00
Contract Labor	71,138.50
Conventions & Seminars	3,791.45
Depreciation	1,041.00
Donations	75.00
Dues & Subscriptions	4,167.79
Employment Taxes	56,420.17
Insurance	40,167.59
Janitorial	750.00
Lease	12,493.94
Legal	809.30
Maintenance Contract	16,449.59
Meals & Entertainment	2,729.05
Medical Supplies	45,856.88
Miscellaneous	1,206.27
Pest Control	125.00
Postage	1,992.17
Refunds	164.80
Rent	37,275.00
Repairs	58.63
Salaries- Employees	979,135.79
Supplies	13,011.09
Taxes & Licenses	4,990.36
Telephone	21,078.18
Travel	12,105.95
Utilities	8,690.22
Total Expense	1,367,274.05
Net Ordinary Income	-340,357.99
Other Income/Expense	
Other Income	
Other Income	340,875.76
Interest Income	2.75
Total Other Income	340,878.51
Net Other Income	340,878.51
Net Income	520.52

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Morphis Pediatrics of Lancaster

02/26/19

Profit & Loss

Cash Basis

January through December 2013

Jan - Dec 13

Ordinary Income/Expense	
Income	
Professional Income	1,043,897.83
Total Income	1,043,897.83
Gross Profit	1,043,897.83
Expense	
Accounting	9,163.75
Advertising	8,697.45
Auto Expense	11,444.50
Bank Charges	1,397.04
Computer & Internet Services	2,188.26
Contract Labor	6,656.50
Conventions & Seminars	4,764.07
Depreciation	1,395.00
Donations	250.00
Dues & Subscriptions	2,896.24
Employment Taxes	50,181.39
Gas & Oil	54.15
Insurance	4,882.44
Janitorial	3,000.00
Lease	1,919.56
Maintenance Contract	27,671.47
Meals & Entertainment	3,964.75
Medical Supplies	45,255.61
Miscellaneous	250.05
Pest Control	45.00
Postage	1,338.88
Profit Sharing Plan	18,819.76
Refunds	402.71
Rent	37,200.00
Repairs	231.54
Salaries- Employees	565,020.97
Salaries-Officers	151,000.00
Supplies	15,456.24
Taxes & Licenses	4,606.40
Telephone	17,138.57
Travel	14,548.54
Utilities	9,038.07
Total Expense	1,020,878.91
Net Ordinary Income	23,018.92
Other Income/Expense	
Other Income	
Interest Income	2.50
Total Other Income	2.50
Net Other Income	2.50
Net Income	23,021.42

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02/26/19

Cash Basis

Morphis Pediatrics of Lancaster**Profit & Loss**

January through December 2014

	Jan - Dec 14
Ordinary Income/Expense	
Income	
Professional Income	1,191,873.15
Total Income	1,191,873.15
Gross Profit	1,191,873.15
Expense	
Accounting	9,377.00
Advertising	5,057.00
Auto Expense	9,100.20
Bank Charges	1,311.64
Billing Fees	206.50
Computer & Internet Services	2,740.67
Consulting	4,429.81
Contract Labor	6,453.44
Conventions & Seminars	2,799.00
Depreciation	27,961.00
Donations	405.00
Dues & Subscriptions	847.99
Employment Taxes	45,778.81
Insurance	15,509.00
Janitorial	2,750.00
Lease	961.16
Legal	47,029.46
Maintenance Contract	12,825.57
Meals & Entertainment	357.95
Medical Supplies	51,593.97
Pest Control	40.00
Postage	969.50
Profit Sharing Plan	15,833.03
Refunds	1,436.66
Rent	37,200.00
Repairs	1,995.48
Salaries- Employees	540,324.32
Salaries-Officers	81,212.80
Supplies	19,563.14
Taxes & Licenses	10,540.41
Telephone	15,613.76
Travel	12,972.26
Uniforms Lancaster	345.49
Utilities	9,707.49
Total Expense	995,249.51
Net Ordinary Income	196,623.64
Other Income/Expense	
Other Income	
Interest Income	2.50
Total Other Income	2.50
Net Other Income	2.50
Net Income	196,626.14

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02/26/19

Cash Basis

Morphis Pediatrics of Lancaster

Profit & Loss

January through December 2015

Jan - Dec 15

Ordinary Income/Expense	
Income	
Professional Income	1,419,101.23
Total Income	1,419,101.23
Gross Profit	1,419,101.23
Expense	
Accounting	11,636.90
Advertising	5,042.53
Auto Expense	758.35
Bank Charges	1,190.35
Computer & Internet Services	3,457.52
Consulting	207.25
Contract Labor	5,362.50
Conventions & Seminars	2,500.00
Depreciation	1,041.00
Donations	324.98
Dues & Subscriptions	1,187.00
Employment Taxes	48,514.62
Insurance	16,623.32
Janitorial	3,000.00
Lease	9,273.69
Maintenance Contract	12,279.79
Meals & Entertainment	1,982.43
Medical Supplies	69,424.54
Profit Sharing Plan	22,609.30
Refunds	1,920.37
Rent	37,200.00
Repairs	981.17
Salaries- Employees	639,397.78
Salaries-Officers	79,999.92
Supplies	12,241.25
Taxes & Licenses	17,863.38
Telephone	16,691.17
Travel	12,415.95
Uniforms Lancaster	413.20
Utilities	9,273.55
Total Expense	1,044,813.81
Net Ordinary Income	374,287.42
Other Income/Expense	
Other Income	873.00
Other Income	2.50
Interest Income	
Total Other Income	875.50
Other Expense	
Penalties	269.64
Total Other Expense	269.64
Net Other Income	605.86
Net Income	374,893.28

MORPHIS PEDIATRIC GROUP OF LANCASTER, PA

Payroll Summary

12/1/2010 to 12/31/2010

Client No: 13223 Page 1

Check	Date	Gross	Fed	Fica	Med	State	Deds	Net

9 CHRISTINE GREEN

YTD

12 ELIZABETH J MORPHIS

7739	12/6/10	8,662.68	537.07	0.00	125.61	0.00	0.00	8,000.00
QTD		8,662.68	537.07	0.00	125.61	0.00	0.00	8,000.00
YTD		8,662.68	537.07	0.00	125.61	0.00	0.00	8,000.00

16 SANDRA L TYNER

7737 12/6/10

7758 12/10/10

7789 12/23/10

MTD

QTD

YTD

17 PAUL D HESS

7730	12/6/10	5,414.19	0.00	335.68	78.51	0.00	0.00	5,000.00
7752	12/10/10	3,846.15	607.92	238.46	55.77	223.63	0.00	2,720.37
7782	12/23/10	3,846.15	607.92	238.46	55.77	223.63	0.00	2,720.37
7802	12/31/10	75,000.00	21,499.99	85.93	1,087.50	5,800.00	0.00	46,526.58
MTD		88,106.49	22,715.83	898.53	1,277.55	6,247.26	0.00	56,967.32
QTD		107,337.24	25,755.43	2,090.83	1,556.40	7,365.41	0.00	70,569.17
YTD		180,414.04	37,190.01	6,621.57	2,616.03	11,616.67	0.00	122,369.76

26 RENE C STEELE

7736 12/6/10

7757 12/10/10

7787 12/23/10

MTD

QTD

YTD

30 EVELYN M JENNETTE

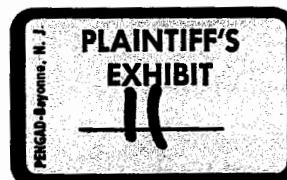
7733 12/6/10

7755 12/10/10

7785 12/23/10

MTD

QTD



Defendants (CCS) 0634

R 881

	DANIELLE M CLEMMER		Elizabeth J Morphis	
	Dec 11	Jan - Dec 11	Dec 11	Jan - Dec 11
Employee Wages, Taxes and Adjustm...				
Gross Pay				
SALARY			0.00	0.00
HOURLY			0.00	0.00
Unused Personal Days			0.00	0.00
Bonus			180,000.00	180,000.00
Total Gross Pay			180,000.00	180,000.00
Adjusted Gross Pay			180,000.00	180,000.00
Taxes Withheld				
Federal Withholding			-61,735.00	-61,735.00
Medicare Employee			-2,610.00	-2,610.00
Social Security Employee			-4,485.60	-4,485.60
SC - Withholding			-12,588.46	-12,588.46
Total Taxes Withheld			-81,419.06	-81,419.06
Net Pay			98,580.94	98,580.94
Employer Taxes and Contributions				
Federal Unemployment			42.00	42.00
Medicare Company			2,610.00	2,610.00
Social Security Company			6,621.60	6,621.60
SC - Unemployment Company			93.00	93.00
SC - Contingency Assessment			108.00	108.00
Total Employer Taxes and Contributi...			9,474.60	9,474.60

	Elizabeth J Morphis		EVELYN JENNETTE	
	Dec 12	Jan - Dec 12	Dec 12	Jan - Dec 12
Employee Wages, Taxes and Adjustments				
Gross Pay				
SALARY	0.00	0.00		
HOURLY	0.00	0.00		
Unused Personal Days	0.00	0.00		
Bonus	330,000.00	330,000.00		
Total Gross Pay	330,000.00	330,000.00		
Adjusted Gross Pay	330,000.00	330,000.00		
Taxes Withheld				
Federal Withholding	-113,652.00	-113,652.00		
Medicare Employee	-4,785.00	-4,785.00		
Social Security Employee	-4,624.20	-4,624.20		
SC - Withholding	-28,065.38	-28,065.38		
Total Taxes Withheld	-151,126.58	-151,126.58		
Net Pay	178,873.42	178,873.42		
Employer Taxes and Contributions				
Federal Unemployment	42.00	42.00		
Medicare Company	4,785.00	4,785.00		
Social Security Company	6,826.20	6,826.20		
SC - Unemployment Company	85.20	85.20		
SC - Contingency Assessment	12.24	12.24		
Total Employer Taxes and Contributions	11,750.64	11,750.64		

	DANIELLE M CLEMMER		Elizabeth J Morphis	
	Dec 13	Jan - Dec 13	Dec 13	Jan - Dec 13
Employee Wages, Taxes and Adjustm...				
Gross Pay				
SALARY			0.00	0.00
HOURLY			0.00	0.00
Medical Leave			0.00	0.00
Unused Personal Days			0.00	0.00
Bonus			0.00	0.00
Bonus - Officer			151,000.00	151,000.00
INSURANCE STIPEND			0.00	0.00
Total Gross Pay			151,000.00	151,000.00
Deductions from Gross Pay				
Dr. Bill			0.00	0.00
Employee Loan Repayment			0.00	0.00
Total Deductions from Gross Pay			0.00	0.00
Adjusted Gross Pay			151,000.00	151,000.00
Taxes Withheld				
Federal Withholding			-57,260.01	-57,260.01
Medicare Employee			-2,189.50	-2,189.50
Social Security Employee			-7,049.40	-7,049.40
SC - Withholding			-10,535.38	-10,535.38
Medicare Employee Addl Tax			0.00	0.00
Total Taxes Withheld			-77,034.29	-77,034.29
Net Pay			73,965.71	73,965.71
Employer Taxes and Contributions				
Federal Unemployment			42.00	42.00
Medicare Company			2,189.50	2,189.50
Social Security Company			7,049.40	7,049.40
SC - Unemployment Company			76.80	76.80
SC - Contingency Assessment			11.88	11.88
Total Employer Taxes and Contributi...			9,369.58	9,369.58

	DANIELLE M CLEMMER		Elizabeth J Morphis	
	Dec 14	Jan - Dec 14	Dec 14	Jan - Dec 14
Employee Wages, Taxes and Adjustments				
Gross Pay				
SALARY			0 00	0 00
HOURLY			0 00	0 00
Unused Personal Days			0 00	0 00
Bonus			0 00	0 00
Bonus - Officer			40,606 40	81,212 80
Total Gross Pay			40,606 40	81,212 80
Deductions from Gross Pay				
401K (Pre Tax)			0 00	0 00
Employee Loan Repayment			0 00	0 00
Total Deductions from Gross Pay			0 00	0 00
Adjusted Gross Pay			40,606 40	81,212 80
Taxes Withheld				
Federal Withholding			-35,500 00	-71,000 00
Medicare Employee			-588 80	-1,177 60
Social Security Employee			-2,517 60	-5,035 20
SC - Withholding			-2,000 00	-4,000 00
Medicare Employee Addl Tax			0 00	0 00
Total Taxes Withheld			-40,606 40	-81,212 80
Net Pay			0 00	0 00
Employer Taxes and Contributions				
Federal Unemployment			0 00	42 00
Medicare Company			588 80	1,177 59
Social Security Company			2,517 59	5,035 19
SC - Unemployment Company			0 00	0 00
SC - Contingency Assessment			0 00	10 68
Total Employer Taxes and Contributions			3,106 39	6,265 46

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01/14/16

**Morphis Pediatrics of Lancaster
Payroll Summary
December 2015**

	DANIELLE M CLEMMER		Elizabeth J Morphis	
	Dec 15	Jan Dec 15	Dec 15	Jan - Dec 15
Employee Wages, Taxes and Adjustments				
Gross Pay				
SALARY			0 00	18 461 52
Salary - Officer			9 230 76	61 538 40
HOURLY			0 00	0 00
Bonus			0 00	0 00
Total Gross Pay			9 230 76	79 999 92
Deductions from Gross Pay				
401K (Pre Tax)			0 00	0 00
Employee Loan Repayment			0 00	0 00
Garnishment			0 00	0 00
Total Deductions from Gross Pay			0 00	0 00
Adjusted Gross Pay			9 230 76	79 999 92
Taxes Withheld				
Federal Withholding			1 128 00	-10 870 14
Medicare Employee			133 85	1 160 00
Social Security Employee			-572 31	-4 960 00
SC Withholding			611 55	5 200 07
Medicare Employee Addl Tax			0 00	0 00
Total Taxes Withheld			2 445 71	22 190 21
Net Pay			6,785 05	57,809 71
Employer Taxes and Contributions				
Federal Unemployment			0 00	42 00
Medicare Company			133 85	1 160 00
Social Security Company			572 31	4 960 00
SC Unemployment Company			0 00	0 00
SC - Contingency Assessment			0 00	8 40
Total Employer Taxes and Contributions			706 16	6,170 40

MORPHIS PEDIATRIC GROUP OF LANCASTER, PA
Payroll Summary

12/1/2010 to 12/31/2010

Client No: 13223 Page 1

<u>Check</u>	<u>Date</u>	<u>Gross</u>	<u>Fed</u>	<u>Fica</u>	<u>Med</u>	<u>State</u>	<u>Deds</u>	<u>Net</u>

9 CHRISTINE GREEN

YTD

12 ELIZABETH J MORPHIS

7739	12/6/10	8,662.68	537.07	0.00	125.61	0.00	0.00	8,000.00
QTD		8,662.68	537.07	0.00	125.61	0.00	0.00	8,000.00
YTD		8,662.68	537.07	0.00	125.61	0.00	0.00	8,000.00

16 SANDRA L TYNER

7737 12/6/10
7758 12/10/10
7789 12/23/10
MTD
QTD
YTD

17 PAUL D HESS

7730	12/6/10	5,414.19	0.00	335.68	78.51	0.00	0.00	5,000.00
7752	12/10/10	3,846.15	607.92	238.46	55.77	223.63	0.00	2,720.37
7782	12/23/10	3,846.15	607.92	238.46	55.77	223.63	0.00	2,720.37
7802	12/31/10	75,000.00	21,499.99	85.93	1,087.50	5,800.00	0.00	46,526.58
MTD		88,106.49	22,715.83	898.53	1,277.55	6,247.26	0.00	56,967.32
QTD		107,337.24	25,755.43	2,090.83	1,556.40	7,365.41	0.00	70,569.17
YTD		180,414.04	37,190.01	6,621.57	2,616.03	11,616.67	0.00	122,369.76

26 RENE C STEELE

7736 12/6/10
7757 12/10/10
7787 12/23/10
MTD
QTD
YTD

30 EVELYN M JENNETTE

7733 12/6/10
7755 12/10/10
7785 12/23/10
MTD
QTD



Defendants (CCS) 0634
R 886.2

	PATRICIA G WRIGHT-EVANS		PAUL D HESS	
	Dec 11	Jan - Dec 11	Dec 11	Jan - Dec 11
Employee Wages, Taxes and Adjustm...				
Gross Pay				
SALARY			7,692.30	99,999.90
HOURLY			0.00	0.00
Unused Personal Days			0.00	0.00
Bonus			30,299.41	30,299.41
Total Gross Pay			37,991.71	130,299.31
Adjusted Gross Pay			37,991.71	130,299.31
Taxes Withheld				
Federal Withholding			-6,618.00	-25,770.00
Medicare Employee			-550.88	-1,889.34
Social Security Employee			-608.68	-4,485.60
SC - Withholding			0.00	-1,772.07
Total Taxes Withheld			-7,777.56	-33,917.01
Net Pay			30,214.15	96,382.30
Employer Taxes and Contributions				
Federal Unemployment			0.00	56.00
Medicare Company			550.88	1,889.34
Social Security Company			898.53	6,621.60
SC - Unemployment Company			0.00	256.92
SC - Contingency Assessment			0.00	108.00
Total Employer Taxes and Contributi...			1,449.41	8,931.86

	PAUL D HESS		RENEA STEELE	
	Dec 12	Jan - Dec 12	Dec 12	Jan - Dec 12
Employee Wages, Taxes and Adjustments				
Gross Pay				
SALARY	7,692.30	99,999.90		
HOURLY	0.00	0.00		
Unused Personal Days	0.00	0.00		
Bonus	46,968.48	52,267.89		
Total Gross Pay	54,660.78	152,267.79		
Adjusted Gross Pay	54,660.78	152,267.79		
Taxes Withheld				
Federal Withholding	-17,120.00	-36,368.00		
Medicare Employee	-792.58	-2,207.88		
Social Security Employee	-524.71	-4,624.20		
SC - Withholding	0.00	0.00		
Total Taxes Withheld	-18,437.29	-43,200.08		
Net Pay	36,223.49	109,067.71		
Employer Taxes and Contributions				
Federal Unemployment	0.00	42.00		
Medicare Company	792.58	2,207.88		
Social Security Company	774.57	6,826.20		
SC - Unemployment Company	0.00	111.60		
SC - Contingency Assessment	0.00	129.60		
Total Employer Taxes and Contributions	1,567.15	9,317.28		

	PATRICIA G WRIGHT-EVANS		PAUL D. HESS	
	Dec 13	Jan - Dec 13	Dec 13	Jan - Dec 13
Employee Wages, Taxes and Adjustm...				
Gross Pay				
SALARY			7,692.30	99,999.90
HOURLY			0.00	0.00
Medical Leave			0.00	0.00
Unused Personal Days			0.00	0.00
Bonus			53,414.18	53,414.18
Bonus - Officer			0.00	0.00
INSURANCE STIPEND			0.00	0.00
Total Gross Pay			61,106.48	153,414.08
Deductions from Gross Pay				
Dr. Bill			0.00	0.00
Employee Loan Repayment			0.00	0.00
Total Deductions from Gross Pay			0.00	0.00
Adjusted Gross Pay			61,106.48	153,414.08
Taxes Withheld				
Federal Withholding			-18,653.00	-35,817.00
Medicare Employee			-886.04	-2,224.50
Social Security Employee			-1,326.33	-7,049.40
SC - Withholding			0.00	0.00
Medicare Employee Addl Tax			0.00	0.00
Total Taxes Withheld			-20,865.37	-45,090.90
Net Pay			40,241.11	108,323.18
Employer Taxes and Contributions				
Federal Unemployment			0.00	42.00
Medicare Company			886.04	2,224.50
Social Security Company			1,326.33	7,049.40
SC - Unemployment Company			0.00	76.80
SC - Contingency Assessment			0.00	11.88
Total Employer Taxes and Contributi...			2,212.37	9,404.58

	PAUL D HESS		RENEA STEELE	
	Dec 14	Jan - Dec 14	Dec 14	Jan - Dec 14
Employee Wages, Taxes and Adjustments				
Gross Pay				
SALARY	7,692 30	99,999 90		
HOURLY	0 00	0 00		
Unused Personal Days	0 00	0 00		
Bonus	7,543 94	7,543 94		
Bonus - Officer	0 00	0 00		
Total Gross Pay	15,236 24	107,543 84		
Deductions from Gross Pay				
401K (Pre Tax)	-1,230 76	-15,384 50		
Employee Loan Repayment	0 00	0 00		
Total Deductions from Gross Pay	-1,230 76	-15,384 50		
Adjusted Gross Pay	14,005 48	92,159 34		
Taxes Withheld				
Federal Withholding	-3,094 00	-18,068 00		
Medicare Employee	-220 93	-1,559 39		
Social Security Employee	-944 65	-6,667 72		
SC - Withholding	-380 46	-2,916 86		
Medicare Employee Addl Tax	0 00	0 00		
Total Taxes Withheld	-4,640 04	-29,211 97		
Net Pay	9,365 44	62,947 37		
Employer Taxes and Contributions				
Federal Unemployment	0 00	42 00		
Medicare Company	220 93	1,559 39		
Social Security Company	944 65	6,667 72		
SC - Unemployment Company	0 00	0 00		
SC - Contingency Assessment	0 00	10 68		
Total Employer Taxes and Contributions	1,165 58	8,279 79		

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01/14/16

Morphis Pediatrics of Lancaster
Payroll Summary
December 2015

	PATRICIA G WRIGHT EVANS		PAUL D HESS		
	Dec 15	Jan - Dec 16	Dec 15	Jan	Dec 16
Employee Wages, Taxes and Adjustments					
Gross Pay					
SALARY			11 538 45	103 846 05	
Salary - Officer			0 00	0 00	
HOURLY			0 00	0 00	
Bonus			6 854 21	54 854 21	
Total Gross Pay			18 392 66	158 700 26	
Deductions from Gross Pay					
401K (Pre Tax)			-1 846 14	16 615 26	
Employee Loan Repayment			0 00	0 00	
Garnishment			0 00	0 00	
Total Deductions from Gross Pay			-1 846 14	-16 615 26	
Adjusted Gross Pay			16 546 52	142 085 00	
Taxes Withheld					
Federal Withholding			-3 500 00	35 777 00	
Medicare Employee			266 69	2 301 15	
Social Security Employee			0 00	7 347 00	
SC - Withholding			-507 28	3 677 77	
Medicare Employee Addl Tax			0 00	0 00	
Total Taxes Withheld			4 273 97	-49 102 92	
Net Pay			12,272 55	92,982 08	
Employer Taxes and Contributions					
Federal Unemployment			0 00	42 00	
Medicare Company			266 69	2 301 15	
Social Security Company			0 00	7 347 00	
SC - Unemployment Company			0 00	0 00	
SC Contingency Assessment			0 00	8 40	
Total Employer Taxes and Contributions			266 69	9,698 55	



A

Form **1120**
Department of the Treasury
Internal Revenue Service

U.S. Corporation Income Tax Return
For calendar year 2010 or tax year beginning _____, 2010, ending _____
▶ See separate instructions.

OMB No. 1545-0123

2010

A Check if:		Print or type MORPHIS PEDIATRIC GROUP OF LANCASTER, PA 708 MEDICAL PARK DRIVE HARTSVILLE, SC 29550	B Employer identification number
1 a Consolidated return (attach Form-851) ☐	C Date incorporated		
b Life/nonlife consolidated return ☐	1/01/2002		
2 Personal holding co (attach Sch PH) ☐	D Total assets (see instructions)		
3 Personal service corp (see instr) ☒	\$ 75,730.		
4 Schedule M-3 attached ☐	E Check if: (1) Initial return (2) Final return (3) Name change (4) Address change		

INCOME	1 a Gross receipts or sales	1,116,669.	b Less returns & allowances		c Balance	1 c	1,116,669.
	2 Cost of goods sold (Schedule A, line 8)					2	
	3 Gross profit. Subtract line 2 from line 1c					3	1,116,669.
	4 Dividends (Schedule C, line 19)					4	
	5 Interest					5	125.
	6 Gross rents					6	
	7 Gross royalties					7	
	8 Capital gain net income (attach Schedule D (Form 1120))					8	
	9 Net gain or (loss) from Form 4797, Part II, line 17 (attach Form 4797)					9	
	10 Other income (see instructions — attach schedule)		SEE STATEMENT 1			10	3,121.
	11 Total income. Add lines 3 through 10					11	1,119,915.
DEDUCTIONS	12 Compensation of officers (Schedule E, line 4)					12	148,663.
	13 Salaries and wages (less employment credits)					13	497,120.
	14 Repairs and maintenance					14	872.
	15 Bad debts					15	
	16 Rents					16	38,648.
	17 Taxes and licenses					17	41,259.
	18 Interest					18	
	19 Charitable contributions					19	0.
	20 Depreciation from Form 4562 not claimed on Schedule A or elsewhere on return (attach Form 4562)					20	38,809.
	21 Depletion					21	
	22 Advertising					22	1,505.
	23 Pension, profit-sharing, etc. plans					23	85,281.
	24 Employee benefit programs					24	
	25 Domestic production activities deduction (attach Form 8903)					25	
	26 Other deductions (attach schedule)		SEE STATEMENT 2			26	257,888.
	27 Total deductions. Add lines 12 through 26					27	1,110,045.
	28 Taxable income before net operating loss deduction and special deductions. Subtract line 27 from line 11					28	9,870.
29 Less: a Net operating loss deduction (see instructions)		SEE ST. 3	29 a	9,870.	29 b	9,870.	
b Special deductions (Schedule C, line 20)					29 c	0.	
30 Taxable income. Subtract line 29c from line 28 (see instructions)					30	0.	
31 Total tax (Schedule J, line 10)					31	0.	
32 a 2009 overpayment credited to 2010	32 a						
b 2010 estimated tax payments	32 b						
c 2010 refund applied for on Form 4466	32 c						
d Tax deposited with Form 7004				32 d	0.		
e Credits: (1) Form 2439 (2) Form 4136				32 e			
f Refundable credits from Form 3800, line 19c, and Form 8827, line 8c				32 f			
g Estimated tax penalty (see instructions). Check if Form 2220 is attached				32 g	0.		
33 Amount owed. If line 32h smaller than the total of lines 31 and 33, enter amount owed				33	0.		
34 Overpayment. If line 32h is larger than the total of lines 31 and 33, enter amount overpaid				34			
35 Enter amount from line 35 you want: Credited to 2011 estimated tax				35			
36 Refunded				36			

Sign Here	Under penalties of perjury, I declare that I have examined this return, including accompanying schedules and statements, and to the best of my knowledge and belief, it is true, correct, and complete. Declaration of preparer (other than taxpayer) is based on all information of which preparer has any knowledge.		May the IRS discuss this return with the preparer shown below (see instructions)? ☒ Yes ☐ No
	Signature of officer	Date	

Paid Preparer Use Only	Print/Type preparer's name	Preparer's signature	Date	Check ☐ if self-employed	PTIN
	WILL WOODHAM, CPA		2/11/11		
	Firm's name	Firm's EIN			
	Firm's address	Phone no.			
	MOORE BEAUSTON & WOODHAM LLP				
	PO BOX 1036				
	HARTSVILLE, SC 29551			(843) - 332-1335	

BAA For Paperwork Reduction Act Notice, see separate instructions.

CPCA0205L 01/19/11

Form 1120 (2010)

R 887

Defendants (CCS) 0911

Schedule A Cost of Goods Sold (see instructions)

1 Inventory at beginning of year	1
2 Purchases	2
3 Cost of labor	3
4 Additional section 263A costs (attach schedule)	4
5 Other costs (attach schedule)	5
6 Total. Add lines 1 through 5	6
7 Inventory at end of year	7
8 Cost of goods sold. Subtract line 7 from line 6. Enter here and on page 1, line 2	8

9a Check all methods used for valuing closing inventory:

- (i) ☐ Cost
(ii) ☐ Lower of cost or market
(iii) ☐ Other (Specify method used and attach explanation.)

b Check if there was a writedown of subnormal goods. ☐c Check if the LIFO inventory method was adopted this tax year for any goods (if checked, attach Form 970). ☐d If the LIFO inventory method was used for this tax year, enter percentage (or amounts) of closing inventory computed under LIFO. 9d ☐e If properly is produced or acquired for resale, do the rules of section 263A apply to the corporation? ☐ Yes ☐ Nof Was there any change in determining quantities, cost, or valuations between opening and closing inventory? If "Yes," attach explanation. ☐ Yes ☐ No**Schedule C Dividends and Special Deductions** (see instructions)

	(a) Dividends received	(b) Percentage	(c) Special deductions (a) x (b)
1 Dividends from less-than-20%-owned domestic corporations (other than debt-financed stock)		70	
2 Dividends from 20%-or-more-owned domestic corporations (other than debt-financed stock)		80	
3 Dividends on debt-financed stock of domestic and foreign corporations		see instructions	
4 Dividends on certain preferred stock of less-than-20%-owned public utilities		42	
5 Dividends on certain preferred stock of 20%-or-more-owned public utilities		48	
6 Dividends from less-than-20%-owned foreign corporations and certain FSCs		70	
7 Dividends from 20%-or-more-owned foreign corporations and certain FSCs		80	
8 Dividends from wholly owned foreign subsidiaries		100	
9 Total. Add lines 1 through 8. See instructions for limitation			
10 Dividends from domestic corporations received by a small business investment company operating under the Small Business Investment Act of 1958		100	
11 Dividends from affiliated group members		100	
12 Dividends from certain FSCs		100	
13 Dividends from foreign corporations not included on lines 3, 6, 7, 8, 11, or 12			
14 Income from controlled foreign corporations under subpart F (attach Form(s) 5471)			
15 Foreign dividend gross-up			
16 IC-DISC and former DISC dividends not included on lines 1, 2, or 3			
17 Other dividends			
18 Deduction for dividends paid on certain preferred stock of public utilities			
19 Total dividends. Add lines 1 through 17. Enter here and on page 1, line 4			
20 Total special deductions. Add lines 9, 10, 11, 12, and 18. Enter here and on page 1, line 29b			

Schedule E Compensation of Officers (see instructions for page 1, line 12)

Note: Complete Schedule E only if total receipts (line 1a plus lines 4 through 10 on page 1) are \$500,000 or more.

1	(a) Name of officer	(b) Social security number	(c) Percent of time devoted to business	Percent of corporation stock owned		(f) Amount of compensation
				(d) Common	(e) Preferred	
	JAMES O MORPHIS, JR.		25 %	50.00 %	0.00 %	0.
	ELIZABETH J. MORPHIS		25 %	50.00 %	0.00 %	148,663.
			%	%	%	
			%	%	%	
			%	%	%	
2	Total compensation of officers					148,663.
3	Compensation of officers claimed on Schedule A and elsewhere on return					
4	Subtract line 3 from line 2. Enter the result here and on page 1, line 12					148,663.

Form 1120 (2010)

Print/Type, preparer's name Preparer's signature Date Check ☐ if PTIN	GREGORY M. ALEXANDER, CPA			2-27-2012	self-employed	:
	Firm's name ▶ MOORE BEAUSTON & WOODHAM LLP				Firm's EIN ▶	
	Firm's address ▶ PO BOX 1036					
	HARTSVILLE, SC 29551				Phone no. (843) 332-1335	

Compensation of Officers

▶ Attach to Form 1120, 1120-C, 1120-F, 1120-RIC.
▶ See separate instructions.

OMB No. 1545-2225

Name MORPHIS PEDIATRIC GROUP
OF LANCASTER, PA

Note. Complete Form 1125-E only if total receipts are \$500,000 or more. See instructions for definition of total receipts.

[illegible]

2 Total compensation of officers.....	180,000.

3 Compensation of officers claimed on Form 1125-A or elsewhere on return

4 Subtract line 3 from line 2. Enter the result here and on Form 1120, page 1, line 12 or the appropriate line of your tax return. 180,000.

BAA For Paperwork Reduction Act Notice, see separate instructions.

Form 1125-E (12-2011)

U.S. Corporation Income Tax Return
For calendar year 2012 or tax year beginning _____, 2012, ending _____
Information about Form 1120 and its separate instructions is at www.irs.gov/form1120.

OMB No. 1545-0123
2012

A Check if: 1 a Consolidated return (attach Form 951) ☐ b Life/nonlife consolidated return ☐ 2 Personal holding company (attach Schedule C) ☐ 3 Personal service corporation (see instructions) ☒ 4 Schedule M-3 attached ☐		TYPE OR PRINT MORPHIS PEDIATRIC GROUP OF LANCASTER, PA 708 MEDICAL PARK DRIVE HARTSVILLE, SC 29550	B Employer identification number C Date incorporated 1/01/2002 D Total assets (see instructions) \$ 10,322.
E Check if: (1) Initial return (2) Final return (3) Name change (4) Address change			

INCOME	1 a Gross receipts or sales	1 a	1,026,916.	
	b Returns and allowances	1 b	165.	
	c Balance. Subtract line 1b from line 1a	1 c	1,026,751.	
	2 Cost of goods sold (attach Form 1125-A)	2		
	3 Gross profit. Subtract line 2 from line 1c	3	1,026,751.	
	4 Dividends (Schedule C, line 19)	4		
	5 Interest	5	3.	
	6 Gross rents	6		
	7 Gross royalties	7		
	8 Capital gain net income (attach Schedule D (Form 1120))	8		
	9 Net gain or (loss) from Form 4797, Part II, line 17 (attach Form 4797)	9		
10 Other income (see instructions — attach schedule)	10	340,876.		
11 Total income. Add lines 3 through 10	11	1,367,630.		
FOR LIMITATIONS SEE INSTRUCTIONS	12 Compensation of officers (see instructions — attach Form 1125-E)	12	330,000.	
	13 Salaries and wages (less employment credits)	13	649,136.	
	14 Repairs and maintenance	14	59.	
	15 Bad debts	15		
	16 Rents	16	37,275.	
	17 Taxes and licenses	17	61,410.	
	18 Interest	18		
	19 Charitable contributions	19	0.	
	20 Depreciation from Form 4562 not claimed on Form 1125-A or elsewhere on return (attach Form 4562)	20	1,041.	
	21 Depletion	21		
	22 Advertising	22	3,005.	
	23 Pension, profit-sharing, etc. plans	23		
	24 Employee benefit programs	24		
	25 Domestic production activities deduction (attach Form 8903)	25		
	26 Other deductions (attach statement)	26	283,744.	
	27 Total deductions. Add lines 12 through 26	27	1,365,670.	
	28 Taxable income before net operating loss deduction and special deductions. Subtract line 27 from line 11	28	1,960.	
TAXES AND REFUNDABLE CREDITS	29 a Net operating loss deduction (see instructions)	29 a	1,960.	
	b Special deductions (Schedule C, line 20)	29 b		
	c Add lines 29a and 29b	29 c	1,960.	
	30 Taxable income. Subtract line 29c from line 28 (see instructions)	30	0.	
	31 Total tax (Schedule J, Part I, line 11)	31	0.	
32 Total payments and refundable credits (Schedule J, Part II, line 21)	32	0.		
33 Estimated tax penalty (see instructions). Check if Form 2220 is attached ☐	33			
34 Amount owed. If line 32 is smaller than the total of lines 31 and 33, enter amount owed	34	0.		
35 Overpayment. If line 32 is larger than the total of lines 31 and 33, enter amount overpaid	35			
36 Enter amount from line 35 you want: Credited to 2013 estimated tax ☐ Refunded ☐	36			

Sign Here	Under penalties of perjury, I declare that I have examined this return, including accompanying schedules and statements, and to the best of my knowledge and belief, it is true, correct, and complete. Declaration of preparer (other than taxpayer) is based on all information of which preparer has any knowledge.		May the IRS discuss this return with the preparer shown below (see instructions)? ☒ Yes ☐ No
	Signature of officer: _____ Date: _____	Title: PRESIDENT	
Paid Preparer Use Only	Print/Type preparer's name: GREGORY M. ALEXANDER, CPA		Check ☐ if self-employed PTIN _____
	Preparer's signature: _____ Date: 2-14-2013		
	Firm's name: MOORE BEAUSTON & WOODHAM LLP		
	Firm's address: PO BOX 1036 HARTSVILLE, SC 29551		
		Firm's EIN: _____	Phone no. (843) 332-1335

Form **1120**Department of the Treasury
Internal Revenue Service**U.S. Corporation Income Tax Return**

For calendar year 2013 or tax year beginning 2013, ending 2013

OMB No. 1545-0123

2013Information about Form 1120 and its separate instructions is at www.irs.gov/form1120.

A Check if: 1 a Consolidated return (attach Form 851) ☐ b Life/nonlife consolidated return ☐ 2 Personal holding company (attach Schedule PH) ☐ 3 Personal service corp (see instructions) ☒ 4 Schedule M-3 attached ☐		TYPE OR PRINT: MORPHIS PEDIATRIC GROUP OF LANCASTER, PA 708 MEDICAL PARK DRIVE HARTSVILLE, SC 29550	B Employer identification number C Date incorporated 1/01/2002 D Total assets (see instructions) \$ 130,786.
E Check if: (1) Initial return (2) Final return (3) Name change (4) Address change			

INCOME	1 a Gross receipts or sales	1 a	1,043,898.	
	b Returns and allowances	1 b	403.	
	c Balance. Subtract line 1b from line 1a	1 c	1,043,495.	
	2 Cost of goods sold (attach Form 1125-A)	2		
	3 Gross profit. Subtract line 2 from line 1c	3	1,043,495.	
	4 Dividends (Schedule C, line 19)	4		
	5 Interest	5	3.	
	6 Gross rents	6		
	7 Gross royalties	7		
	8 Capital gain net income (attach Schedule D (Form 1120))	8		
	9 Net gain or (loss) from Form 4797, Part II, line 17 (attach Form 4797)	9		
10 Other income (see instructions — attach schedule)	10			
11 Total income. Add lines 3 through 10	11	1,043,498.		
DEDUCTIONS	12 Compensation of officers (see instructions — attach Form 1125-E)	12	151,000.	
	13 Salaries and wages (less employment credits)	13	565,021.	
	14 Repairs and maintenance	14	232.	
	15 Bad debts	15		
	16 Rents	16	37,200.	
	17 Taxes and licenses	17	54,787.	
	18 Interest	18		
	19 Charitable contributions	19	370.	
	20 Depreciation from Form 4562 not claimed on Form 1125-A or elsewhere on return (attach Form 4562)	20	1,395.	
	21 Depletion	21		
	22 Advertising	22	8,697.	
23 Pension, profit-sharing, etc. plans	23	18,820.		
24 Employee benefit programs	24			
25 Domestic production activities deduction (attach Form 8903)	25			
26 Other deductions (attach statement)	SEE STATEMENT 1	26	181,095.	
27 Total deductions. Add lines 12 through 26	27	1,018,617.		
28 Taxable income before net operating loss deduction and special deductions. Subtract line 27 from line 11	28	24,881.		
29a Net operating loss deduction (see instructions)	SEE ST 2	29a	9,479.	
b Special deductions (Schedule C, line 20)		29b		
c Add lines 29a and 29b		29c	9,479.	
30 Taxable income. Subtract line 29c from line 28 (see instructions)	30	15,402.		
31 Total tax (Schedule J, Part I, line 11)	31	5,391.		
32 Total payments and refundable credits (Schedule J, Part II, line 21)	32	0.		
33 Estimated tax penalty (see instructions). Check if Form 2220 is attached	☒	33	97.	
34 Amount owed. If line 32 is smaller than the total of lines 31 and 33, enter amount owed		34	5,488.	
35 Overpayment. If line 32 is larger than the total of lines 31 and 33, enter amount overpaid		35		
36 Enter amount from line 35 you want: Credited to 2014 estimated tax		36		

Sign Here	Under penalties of perjury, I declare that I have examined this return, including accompanying schedules and statements, and to the best of my knowledge and belief, it is true, correct, and complete. Declaration of preparer (other than taxpayer) is based on all information of which preparer has any knowledge.		May the IRS discuss this return with the preparer shown below (see instructions)? ☒ Yes ☐ No
	Signature of officer	Date	
Paid Preparer Use Only	Print/Type preparer's name	Preparer's signature	Date
	GREGORY M. ALEXANDER, CPA	<i>[Signature]</i>	3-1-2014
	Firm's name	Firm's EIN	Check ☐ if self-employed
	Firm's address	MOORE BEAUSTON & WOODHAM LLP	
PO BOX 1036 HARTSVILLE, SC 29551		Phone no. (843) 332-1335	

BAA For Paperwork Reduction Act Notice, see separate instructions.

CPCA0205L 07/30/13

Form 1120 (2013)

Form **1120S**Department of the Treasury
Internal Revenue Service**U S Income Tax Return for an S Corporation**Do not file this form unless the corporation has filed or is
attaching Form 2553 to elect to be an S corporationInformation about Form 1120S and its separate instructions is at www.irs.gov/form1120s

OMB No 1545 0123

2014

For calendar year 2014 or tax year beginning 2014 ending

A Selection effective date

1/01/2014

R Business activity code

000000

C Check if Schedule
M 3 attached ☐**TYPE
OR
PRINT**MORPHIS PEDIATRIC GROUP OF LANCASTER, PA
708 MEDICAL PARK DRIVE
HARTSVILLE, SC 29550**D** Employer identification number

1/01/2002

F Total assets (see instructions)

\$ 219,472

G Is the corporation electing to be an S corporation beginning with this tax year? Yes ☐ No ☒ If Yes attach Form 2553 if not already filed**H** Check if (1) ☐ Final return (2) ☐ Name change (3) ☐ Address change
(4) ☐ Amended return (5) ☐ S election termination or revocation**I** Enter the number of shareholders who were shareholders during any part of the tax year

1

Caution Include only trade or business income and expenses on lines 1a through 21. See the instructions for more information

INCOME	1a Gross receipts or sales	1a	1,191,873	1c	1,190,436
	b Returns and allowances	1b	1,437		
	c Balance Subtract line 1b from line 1a				
	2 Cost of goods sold (attach Form 1125 A)				
	3 Gross profit Subtract line 2 from line 1c				1,190,436
	4 Net gain (loss) from Form 4797 line 17 (attach Form 4797)				
DEDUCTIONS SEE INSTRS	5 Other income (loss) (see instrs - att statement)				
	6 Total income (loss) Add lines 3 through 5				1,190,436
	7 Compensation of officers (see instructions attach Form 1125 E)				81,213
	8 Salaries and wages (less employment credits)				540,324
	9 Repairs and maintenance				1,995
	10 Bad debts				
	11 Rents				37,200
	12 Taxes and licenses				56,319
	13 Interest				
	14 Depreciation not claimed on Form 1125 A or elsewhere on return (attach Form 4562)				1,053
	15 Depletion (Do not deduct oil and gas depletion)				
	16 Advertising				5,057
	17 Pension profit sharing etc plans				15,833
	18 Employee benefit programs				
	19 Other deductions (attach statement)		See Statement 1		227,326
20 Total deductions Add lines 7 through 19				966,320	
21 Ordinary business income (loss) Subtract line 20 from line 6				224,116	
TAX AND PAYMENTS	22a Excess net passive income or LIFO recapture tax (see instructions)	22a		22c	12,279
	b Tax from Schedule D (Form 1120S)	22b	12,279		
	c Add lines 22a and 22b (see instructions for additional taxes)				
	23a 2014 estimated tax payments and 2013 overpayment credited to 2014	23a		23d	
	b Tax deposited with Form 7004	23b			
	c Credit for federal tax paid on fuels (attach Form 4136)	23c			
	d Add lines 23a through 23c				
	24 Estimated tax penalty (see instructions) Check if Form 2220 is attached			☒	222
	25 Amount owed If line 23d is smaller than the total of lines 22c and 24 enter amount owed				12,501
	26 Overpayment If line 23d is larger than the total of lines 22c and 24 enter amount overpaid				
27 Enter amount from line 26 Credited to 2015 estimated tax			Refunded		

**Sign
Here**

Under penalties of perjury I declare that I have examined this return including accompanying schedules and statements and to the best of my knowledge and belief it is true correct and complete Declaration of preparer (other than taxpayer) is based on all information of which preparer has any knowledge

Signature of officer

Date

President

Title

May the IRS discuss this return
with the preparer shown below
(see instructions)?☒ Yes☐ No**Paid
Preparer
Use Only**

Print/Type preparer's name

Preparer's signature

Date

Check ☐ if
self employed

Gregory M Alexander, CPA

3-6-2015

Firm's name Moore Beauston & Woodham LLP

Firm's EIN

Firm's address PO Box 1036

Phone no (843) 332-1335

Hartsville, SC 29551

BAA For Paperwork Reduction Act Notice, see separate instructions

SPSA0105L 08/06/14

Form 1120S (2014)

(Rev December 2013)

Department of the Treasury
Internal Revenue Service

Compensation of Officers

▶ **Attach to Form 1120, 1120-C, 1120-F, 1120 REIT, 1120 RIC, or 1120S**
▶ Information about Form 1125 E and its separate instructions is at www.irs.gov/form1125e

OMB No. 1545-2225

Name _____

Employer identification number

MORPHIS PEDIATRIC GROUP OF LANCASTER, PA

Note Complete Form 1125-E only if total receipts are \$500,000 or more. See instructions for definition of total receipts.

[illegible]

BAA For Paperwork Reduction Act Notice, see separate instructions

Form 1125-E (Rev 12 2013)

Form

1120S**U.S. Income Tax Return for an S Corporation**

OMB No 1545-0123

Department of the Treasury
Internal Revenue Service▶ Do not file this form unless the corporation has filed or is
attaching Form 2553 to elect to be an S corporation▶ Information about Form 1120S and its separate instructions is at www.irs.gov/form1120s**2015**

For calendar year 2015 or tax year beginning , and ending

A Selection effective date
01/01/2014

Name

MORPHIS PEDIATRIC GROUP OF LANCASTER, PA

D Employer identification number

B Business activity
code number

Number, street, and room or suite no. If a P.O. box, see instructions

708 MEDICAL PARK DRIVE

E Date incorporated

01/01/2002C Check if Sch. M-3
attached ☐

City or town, state or province, country, and ZIP or foreign postal code

HARTSVILLE, SC 29550

F Total assets (see instructions)

\$ 197,040.G Is the corporation electing to be an S corporation beginning with this tax year? ☐ Yes ☒ No If "Yes," attach Form 2553 if not already filedH Check if (1) ☐ Final return (2) ☐ Name change (3) ☐ Address change (4) ☐ Amended return (5) ☐ S election termination or revocation

I Enter the number of shareholders who were shareholders during any part of the tax year

1**Caution** Include only trade or business income and expenses on lines 1a through 21. See the instructions for more information.

Income	1 a	Gross receipts or sales	1,419,101.	b	Return and allowances	1,920.	c	Balance	Subtract line 1b from line 1a	1,417,181.
	2	Cost of goods sold (attach Form 1125-A)								
	3	Gross profit. Subtract line 2 from line 1c								1,417,181.
	4	Net gain (loss) from Form 4797, line 17 (attach Form 4797)								
	5	Other income (loss) (attach statement)								873.
	6	Total income (loss). Add lines 3 through 5								1,418,054.
Deductions (See instructions for limitations)	7	Compensation of officers (see instrs. attach Form 1125-E)								80,000.
	8	Salaries and wages (less employment credits)								639,398.
	9	Repairs and maintenance								981.
	10	Bad debts								
	11	Rents								37,200.
	12	Taxes and licenses								66,378.
	13	Interest								
	14	Depreciation not claimed on Form 1125-A or elsewhere on return (attach Form 4562)								1,041.
	15	Depletion (Do not deduct oil and gas depletion)								
	16	Advertising								5,043.
	17	Pension, profit sharing, etc., plans								22,609.
	18	Employee benefit programs								
	19	Other deductions (attach statement)								188,928.
	20	Total deductions. Add lines 7 through 19								1,041,578.
	21	Ordinary business income (loss). Subtract line 20 from line 6								376,476.
Tax and Payments	22 a	Excess net passive income or LIFO recapture tax (see instructions)		22a						
	b	Tax from Schedule D (Form 1120S)		22b						
	c	Add lines 22a and 22b								
	23 a	2015 estimated tax payments and 2014 overpayment credited to 2015		23a						
	b	Tax deposited with Form 7004		23b						
	c	Credit for federal tax paid on fuels (attach Form 4136)		23c						
	d	Add lines 23a through 23c								
	24	Estimated tax penalty (See instructions). Check if Form 2220 is attached								
	25	Amount owed. If line 23d is smaller than the total of lines 22c and 24, enter amount owed								
	26	Overpayment. If line 23d is larger than the total of lines 22c and 24, enter amount overpaid								
27	Enter amount from line 26. Credited to 2016 estimated tax									

Sign
Here

Under penalties of perjury, I declare that I have examined this return, including accompanying schedules and statements, and to the best of my knowledge and belief, it is true, correct, and complete. Declaration of preparer (other than taxpayer) is based on all information of which preparer has any knowledge.

Signature of officer

Date

PRESIDENT

Title

May the IRS discuss
this return with the
preparer shown
below (see instr. 7)?☐ Yes ☐ No

Print/Type preparer's name

**GREGORY M. ALEXANDER,
CPA**

Preparer's signature

Date

3-14-2016Check if
self
employed ☐

PTIN

Paid
Pre
parer
Use
Only

Firm's name

MOORE BEAUSTON & WOODHAM LLP

Firm's EIN

Firm's address

**P.O. BOX 1036
HARTSVILLE, SC 29551**

Phone no.

**R 897
(843) 332-1335**

(Rev December 2013)

Department of the Treasury
Internal Revenue Service
Name _____

Compensation of Officers

▶ Attach to Form 1120, 1120-C, 1120-F, 1120-REIT, 1120-RIC, or 1120S

► Information about Form 1125-E and its separate instructions is at www.irs.gov/form1125e

OMB No 1545 2225

MORPHIS PEDIATRIC GROUP OF LANCASTER, PA

Note Complete Form 1125-E only if total receipts are \$500,000 or more. See instructions for definition of total receipts.

[illegible]

2 Total compensation of officers

2

80,000.

3 Compensation of officers claimed on Form 1125-A or elsewhere on return

3

4 Subtract line 3 from line 2. Enter the result here and on Form 1120, page 1, line 12 or the appropriate line of your tax return.

4

80R 8980.

Form 1120

Department of the Treasury
Internal Revenue Service

U.S. Corporation Income Tax Return

For calendar year 2010 or tax year beginning _____, 2010, ending _____

See separate instructions.

2010

PLAINTIFF'S
EXHIBIT
15

b. 1545-0123

Check if:

1 a Consolidated return
(attach Form 851) ☐b Life/nonlife consoli-
dated return ☐2 Personal holding co.
(attach Sch PH) ☐3 Personal service
corp (see instr) ☒4 Schedule M-3
attached ☐Print
or
typeMORPHIS PEDIATRIC GROUP
OF HARTSVILLE PA
708 MEDICAL PARK DRIVE
HARTSVILLE, SC 29550

B Employer identification number

57-0802148

C Date incorporated

7/01/1985

D Total assets (see instructions)

\$ 143,864.

E Check if:

(1) Initial return

(2) Final return

(3) Name change

(4) Address change

I N C O M E	1 a	Gross receipts or sales	2,740,714.	b	Less returns & allowances	6,847.	c	Balance	1 c	2,733,867.																											
	2	Cost of goods sold (Schedule A, line 8)		3	Gross profit. Subtract line 2 from line 1c		4	Dividends (Schedule C, line 19)	5	721.																											
	5	Interest		6	Gross rents		7	Gross royalties	8	5,601.																											
	8	Capital gain net income (attach Schedule D (Form 1120))		9	Net gain or (loss) from Form 4797, Part II, line 17 (attach Form 4797)		10	Other income (see instructions — attach schedule)	11	2,740,222.																											
	11	Total income. Add lines 3 through 10		12	Compensation of officers (Schedule E, line 4)		13	Salaries and wages (less employment credits)	14	8,463.																											
	15	Bad debts		16	Rents		17	Taxes and licenses	18	Interest																											
	19	Charitable contributions		20	Depreciation from Form 4562 not claimed on Schedule A or elsewhere on return (attach Form 4562)		21	Depletion	22	Advertising																											
	23	Pension, profit-sharing, etc. plans		24	Employee benefit programs		25	Domestic production activities deduction (attach Form 8903)	26	Other deductions (attach schedule)																											
	27	Total deductions. Add lines 12 through 26		28	Taxable income before net operating loss deduction and special deductions. Subtract line 27 from line 11		29	Less: a Net operating loss deduction (see instructions)	29 a	6,152.																											
	29 b	Special deductions (Schedule C, line 20)		29 c			30	Taxable income. Subtract line 29c from line 28 (see instructions)	31	Total tax (Schedule J, line 10)																											
	32 a	2009 overpayment credited to 2010	32 a		b	2010 estimated tax payments	32 b		c	2010 refund applied for on Form 4466	32 c		d	Balance	32 d	0.	e	Tax deposited with Form 7004	32 e		f	Credits: (1) Form 2439	(2) Form 4136	32 f		32 g	Refundable credits from Form 3800, line 19c, and Form 8827, line 8c	32 h	0.	33	Estimated tax penalty (see instructions). Check if Form 2220 is attached	34	Amount owed. If line 32h smaller than the total of lines 31 and 33, enter amount owed	35	Overpayment. If line 32h is larger than the total of lines 31 and 33, enter amount overpaid	36	Enter amount from line 35 you want: Credited to 2011 estimated tax

Sign
Here

Signature of officer

Date

PRESIDENT

Title

May the IRS discuss
this return with the
preparer shown below
(see instructions)?☒ Yes ☐ NoPaid
Preparer
Use Only

Print/Type preparer's name

WILL WOODHAM, CPA

Preparer's signature

WILL WOODHAM, CPA

Date

2/11/11

Check ☐ if

self-employed

PTIN

P00228342

Firm's name

MOORE BEAUSTON & WOODHAM LLP

Firm's EIN

57-0966291

Firm's address

PO BOX 1036
HARTSVILLE, SC 29551

Phone no.

(843) - 332-1335

Schedule A Cost of Goods Sold (see instructions)

1	Inventory at beginning of year	1	
2	Purchases	2	
3	Cost of labor	3	
4	Additional section 263A costs (attach schedule)	4	
5	Other costs (attach schedule)	5	
6	Total. Add lines 1 through 5	6	
7	Inventory at end of year	7	
8	Cost of goods sold. Subtract line 7 from line 6. Enter here and on page 1, line 2	8	

9a Check all methods used for valuing closing inventory:

- (i) ☐ Cost
(ii) ☐ Lower of cost or market
(iii) ☐ Other (Specify method used and attach explanation.)

b Check if there was a write-down of subnormal goods. ☐c Check if the LIFO inventory method was adopted this tax year for any goods (if checked, attach Form 970). ☐d If the LIFO inventory method was used for this tax year, enter percentage (or amounts) of closing inventory computed under LIFO. **9d** ☐e If property is produced or acquired for resale, do the rules of section 263A apply to the corporation? ☐ Yes ☐ Nof Was there any change in determining quantities, cost, or valuations between opening and closing inventory? If "Yes," attach explanation. ☐ Yes ☐ No**Schedule C Dividends and Special Deductions** (see instructions)

	(a) Dividends received	(b) Percentage	(c) Special deductions (a) x (b)
1 Dividends from less-than-20%-owned domestic corporations (other than debt-financed stock)		70	
2 Dividends from 20%-or-more-owned domestic corporations (other than debt-financed stock)		80	
3 Dividends on debt-financed stock of domestic and foreign corporations		see instructions	
4 Dividends on certain preferred stock of less-than-20%-owned public utilities		42	
5 Dividends on certain preferred stock of 20%-or-more-owned public utilities		48	
6 Dividends from less-than-20%-owned foreign corporations and certain FSCs		70	
7 Dividends from 20%-or-more-owned foreign corporations and certain FSCs		80	
8 Dividends from wholly owned foreign subsidiaries		100	
9 Total. Add lines 1 through 8. See instructions for limitation			
10 Dividends from domestic corporations received by a small business investment company operating under the Small Business Investment Act of 1958		100	
11 Dividends from affiliated group members		100	
12 Dividends from certain FSCs		100	
13 Dividends from foreign corporations not included on lines 3, 6, 7, 8, 11, or 12			
14 Income from controlled foreign corporations under subpart F (attach Form(s) 5471)			
15 Foreign dividend gross-up			
16 IC-DISC and former DISC dividends not included on lines 1, 2, or 3			
17 Other dividends			
18 Deduction for dividends paid on certain preferred stock of public utilities			
19 Total dividends. Add lines 1 through 17. Enter here and on page 1, line 4			
20 Total special deductions. Add lines 9, 10, 11, 12, and 18. Enter here and on page 1, line 29b			

Schedule E Compensation of Officers (see instructions for page 1, line 12)

Note: Complete Schedule E only if total receipts (line 1a plus lines 4 through 10 on page 1) are \$500,000 or more.

1	(a) Name of officer	(b) Social security number	(c) Percent of time devoted to business	Percent of corporation stock owned		(f) Amount of compensation
				(d) Common	(e) Preferred	
	JAMES O. MORPHIS, JR	237-40-8644	100 %	50.00 %	0.00 %	394,624.
	ELIZABETH MORPHIS	247-47-7360	100 %	50.00 %	0.00 %	394,624.
			%	%	%	
			%	%	%	
			%	%	%	
2	Total compensation of officers					789,248.
3	Compensation of officers claimed on Schedule A and elsewhere on return					
4	Subtract line 3 from line 2. Enter the result here and on page 1, line 12					789,248.

Form 1120 (2010)

Form 1120

Department of the Treasury
Internal Revenue Service

U.S. Corporation Income Tax Return

For calendar year 2011 or tax year beginning _____, 2011, ending _____

▶ See separate instructions.

OMB No. 1545-0123

2011

Check if:

- 1 **a** Consolidated return (attach Form 851) ☐
- b** Life/nonlife consolidated return ☐
- 2 Personal holding company (attach Schedule C) ☐
- 3 Personal service corporation (see instructions) ☒
- 4 Schedule M-3 attached ☐

TYPE
OR
PRINT

MORPHIS PEDIATRIC GROUP
OF HARTSVILLE PA
708 MEDICAL PARK DRIVE
HARTSVILLE, SC 29550

B Employer identification number

57-0802148

C Date incorporated

7/01/1985

D Total assets (see instructions)

\$ 174,136.

E Check if: (1) Initial return (2) Final return (3) Name change (4) Address change

INCOME	1a	Merchant card and third-party payments. For 2011, enter -0-	1a	0.
	b	Gross receipts or sales not reported on line 1a (see instructions)	1b	2,412,600.
	c	Total. Add lines 1a and 1b	1c	2,412,600.
	d	Returns and allowances plus any other adjustments (see instructions)	1d	1,150.
	e	Subtract line 1d from line 1c	1e	2,411,450.
	2	Cost of goods sold from Form 1125-A, line 8 (attach Form 1125-A)	2	
	3	Gross profit. Subtract line 2 from line 1e	3	2,411,450.
	4	Dividends (Schedule C, line 19)	4	
	5	Interest	5	418.
	6	Gross rents	6	
	7	Gross royalties	7	
8	Capital gain net income (attach Schedule D (Form 1120))	8		
9	Net gain or (loss) from Form 4797, Part II, line 17 (attach Form 4797)	9		
10	Other income (see instructions — attach schedule)	10		
11	Total income. Add lines 3 through 10	11	2,411,868.	
DEDUCTIONS	12	Compensation of officers from Form 1125-E, line 4 (attach Form 1125-E)	12	580,752.
	13	Salaries and wages (less employment credits)	13	1,058,793.
	14	Repairs and maintenance	14	10,638.
	15	Bad debts	15	
	16	Rents	16	82,500.
	17	Taxes and licenses	17	126,931.
	18	Interest	18	
	19	Charitable contributions	19	0.
	20	Depreciation from Form 4562 not claimed on Form 1125-A or elsewhere on return (attach Form 4562)	20	127,811.
	21	Depletion	21	
	22	Advertising	22	1,054.
	23	Pension, profit-sharing, etc, plans	23	
	24	Employee benefit programs	24	
	25	Domestic production activities deduction (attach Form 8903)	25	
	26	Other deductions (attach schedule) SEE STATEMENT 1	26	423,076.
	27	Total deductions. Add lines 12 through 26	27	2,411,555.
	28	Taxable income before net operating loss deduction and special deductions. Subtract line 27 from line 11	28	313.
TAX CREDITS AND REFUNDABLE CREDITS	29a	Net operating loss deduction (see instructions) SEE ST. 2	29a	313.
	b	Special deductions (Schedule C, line 20)	29b	
	c	Add lines 29a and 29b	29c	313.
30	Taxable income. Subtract line 29c from line 28 (see instructions)	30	0.	
31	Total tax (Schedule J, Part I, line 11)	31	0.	
32	Total payments and refundable credits (Schedule J, Part II, line 21)	32	0.	
33	Estimated tax penalty (see instructions). Check if Form 2220 is attached ☐	33		
34	Amount owed. If line 32 is smaller than the total of lines 31 and 33, enter amount owed	34	0.	
35	Overpayment. If line 32 is larger than the total of lines 31 and 33, enter amount overpaid	35		
36	Enter amount from line 35 you want credited to 2012 estimated tax ☐ Refunded ☐	36		

Sign Here

Under penalties of perjury, I declare that I have examined this return, including accompanying schedules and statements, and to the best of my knowledge and belief, it is true, correct, and complete. Declaration of preparer (other than taxpayer) is based on all information of which preparer has any knowledge.

Signature of officer

Date

PRESIDENT

Title

May the IRS discuss this return with the preparer shown below (see instructions)?

☒ Yes ☐ No

Paid Preparer Use Only

Print/Type preparer's name

GREGORY M. ALEXANDER, CPA

Preparer's signature

[Signature]

Date

2-23-2012

Check

if

self-employed

PTIN

P00558272

Firm's name

MOORE BEAUSTON & WOODHAM LLP

Firm's EIN

57-0966291

Firm's address

PO BOX 1036
HARTSVILLE, SC 29551

Phone no.

(843) 332-1335

Form **1120**Department of the Treasury
Internal Revenue Service**U.S. Corporation Income Tax Return**For calendar year 2012 or tax year beginning _____, 2012, ending _____
► Information about Form 1120 and its separate instructions is at www.irs.gov/form1120.

OMB No. 1545-0123

2012**A Check if:**

- 1 **a** Consolidated return (attach Form 851) ☐
- b** Life/nonlife consolidated return ☐
- 2 Personal holding co (attach Sch PH) ☐
- 3 Personal service corp. (see instrs) ☒
- 4 Schedule M-3 attached ☐

**TYPE
OR
PRINT**

MORPHIS PEDIATRIC GROUP
OF HARTSVILLE PA
708 MEDICAL PARK DRIVE
HARTSVILLE, SC 29550

B Employer identification number

57-0802148

C Date incorporated

7/01/1985

D Total assets (see instructions)

\$ 4,984.

E Check if: (1) Initial return (2) Final return (3) Name change (4) Address change

INCOME	1 a Gross receipts or sales	1 a	2,526,232.	
	b Returns and allowances	1 b	116.	
	c Balance. Subtract line 1b from line 1a	1 c	2,526,116.	
	2 Cost of goods sold (attach Form 1125-A)	2		
	3 Gross profit. Subtract line 2 from line 1c	3	2,526,116.	
	4 Dividends (Schedule C, line 19)	4		
	5 Interest	5	3.	
	6 Gross rents	6		
	7 Gross royalties	7		
	8 Capital gain net income (attach Schedule D (Form 1120))	8		
	9 Net gain or (loss) from Form 4797, Part II, line 17 (attach Form 4797)	9		
10 Other income (see instructions — attach schedule)	10	SEE STATEMENT 1	405.	
11 Total income. Add lines 3 through 10	11		2,526,524.	
FOR LIMITATIONS SEE INSTRUCTIONS	12 Compensation of officers (see instructions — attach Form 1125-E)	12	811,200.	
	13 Salaries and wages (less employment credits)	13	978,175.	
	14 Repairs and maintenance	14	11,538.	
	15 Bad debts	15		
	16 Rents	16	82,545.	
	17 Taxes and licenses	17	121,688.	
	18 Interest	18	2,725.	
	19 Charitable contributions	19	2,751.	
	20 Depreciation from Form 4562 not claimed on Form 1125-A or elsewhere on return (attach Form 4562)	20	1,300.	
	21 Depletion	21		
	22 Advertising	22	1,541.	
	23 Pension, profit-sharing, etc. plans	23		
	24 Employee benefit programs	24		
	25 Domestic production activities deduction (attach Form 8903)	25		
	26 Other deductions (attach statement)	26	SEE STATEMENT 2	467,149.
	27 Total deductions. Add lines 12 through 26	27		2,480,612.
	28 Taxable income before net operating loss deduction and special deductions. Subtract line 27 from line 11	28		45,912.
TAX CREDITS AND REFUNDABLE CREDITS	29 a Net operating loss deduction (see instructions)	29 a	SEE ST. 3	10,011.
	b Special deductions (Schedule C, line 20)	29 b		
	c Add lines 29a and 29b	29 c		10,011.
	30 Taxable income. Subtract line 29c from line 28 (see instructions)	30		35,901.
31 Total tax (Schedule J, Part I, line 11)	31		12,565.	
32 Total payments and refundable credits (Schedule J, Part II, line 21)	32		0.	
33 Estimated tax penalty (see instructions). Check if Form 2220 is attached ☒	33		226.	
34 Amount owed. If line 32 is smaller than the total of lines 31 and 33, enter amount owed	34		12,791.	
35 Overpayment. If line 32 is larger than the total of lines 31 and 33, enter amount overpaid	35			
36 Enter amount from line 35 you want: Credited to 2013 estimated tax ☐ Refunded ☒	36			

Sign Here

Under penalties of perjury, I declare that I have examined this return, including accompanying schedules and statements, and to the best of my knowledge and belief, it is true, correct, and complete. Declaration of preparer (other than taxpayer) is based on all information of which preparer has any knowledge.

Signature of officer

Date

PRESIDENT

Title

May the IRS discuss this return with the preparer shown below (see instructions)?

☒ Yes ☐ No**Paid Preparer Use Only**

Print/Type preparer's name

GREGORY M. ALEXANDER, CPA

Preparer's signature

Date

3-6-2012

Check ☐ if self-employed

PTIN

P00558272

Firm's name

MOORE BEAUSTON & WOODHAM LLP

Firm's EIN

57-0966291

Firm's address

PO BOX 1036
HARTSVILLE, SC 29551

Phone no.

(843) 332-1335

Compensation of Officers

▶ Attach to Form 1120, 1120-C, 1120-F, 1120-RIC, or 1120-REIT.

► Information about Form 1125-E and its separate instructions is at www.irs.gov/form1125e.

OMB No. 1545-2225

MORPHIS PEDIATRIC GROUP
OF HARTSVILLE PA

Employer identification number

57-0802148

Note. Complete Form 1125-E only if total receipts are \$500,000 or more. See instructions for definition of total receipts.

[illegible]

2	Total compensation of officers.....	811,200.

3 Compensation of officers claimed on Form 1125-A or elsewhere on return.....

4 Subtract line 3 from line 2. Enter the result here and on Form 1120, page 1, line 12 or the appropriate line of your tax return 811,200.

BAA For Paperwork Reduction Act Notice, see separate instructions.

Form 1125-E (Rev 12-2012)

Form 1120

Department of the Treasury
Internal Revenue Service

U.S. Corporation Income Tax Return

For calendar year 2013 or tax year beginning 2013, ending

OMB No. 1545-0123

2013

Information about Form 1120 and its separate instructions is at www.irs.gov/form1120.

A Check if:

1 a Consolidated return (attach Form 851) ☐b Life/nonlife consolidated return ☐2 Personal holding co. (attach Sch PH) ☐3 Personal service corp (see instrs) ☒4 Schedule M-3 attached ☐TYPE
OR
PRINTMORPHIS PEDIATRIC GROUP
OF HARTSVILLE PA
708 MEDICAL PARK DRIVE
HARTSVILLE, SC 29550

B Employer identification number

57-0802148

C Date incorporated

7/01/1985

D Total assets (see instructions)

\$ 230,767.

E Check if: (1) Initial return (2) Final return (3) Name change (4) Address change

INCOME	1 a Gross receipts or sales	1 a	2,627,029.
	b Returns and allowances	1 b	6,656.
	c Balance. Subtract line 1b from line 1a	1 c	2,620,373.
	2 Cost of goods sold (attach Form 1125-A)	2	
	3 Gross profit. Subtract line 2 from line 1c	3	2,620,373.
	4 Dividends (Schedule C, line 19)	4	
	5 Interest	5	3.
	6 Gross rents	6	
	7 Gross royalties	7	
	8 Capital gain net income (attach Schedule D (Form 1120))	8	
	9 Net gain or (loss) from Form 4797, Part II, line 17 (attach Form 4797)	9	
10 Other income (see instructions — attach schedule)	10		
11 Total income. Add lines 3 through 10	11	2,620,376.	
DEDUCTIONS SEE INSTRUCTIONS	12 Compensation of officers (see instructions — attach Form 1125-E)	12	700,600.
	13 Salaries and wages (less employment credits)	13	1,059,776.
	14 Repairs and maintenance	14	4,262.
	15 Bad debts	15	
	16 Rents	16	97,545.
	17 Taxes and licenses	17	119,210.
	18 Interest	18	
	19 Charitable contributions	19	0.
	20 Depreciation from Form 4562 not claimed on Form 1125-A or elsewhere on return (attach Form 4562)	20	1,864.
	21 Depletion	21	
	22 Advertising	22	5,081.
	23 Pension, profit-sharing, etc. plans	23	74,139.
	24 Employee benefit programs	24	
	25 Domestic production activities deduction (attach Form 8903)	25	
	26 Other deductions (attach statement)	26	579,688.
	27 Total deductions. Add lines 12 through 26	27	2,642,165.
	28 Taxable income before net operating loss deduction and special deductions. Subtract line 27 from line 11	28	-21,789.
	TAXES AND PAYMENTS	29 a Net operating loss deduction (see instructions)	29 a
b Special deductions (Schedule C, line 20)		29 b	
c Add lines 29a and 29b		29 c	
30 Taxable income. Subtract line 29c from line 28 (see instructions)	30	-21,789.	
31 Total tax (Schedule J, Part I, line 11)	31	0.	
32 Total payments and refundable credits (Schedule J, Part II, line 21)	32	0.	
33 Estimated tax penalty (see instructions). Check if Form 2220 is attached ☐	33		
34 Amount owed. If line 32 is smaller than the total of lines 31 and 33, enter amount owed	34	0.	
35 Overpayment. If line 32 is larger than the total of lines 31 and 33, enter amount overpaid	35		
36 Enter amount from line 35 you want credited to 2014 estimated tax. Refunded ☐	36		

Sign Here

Under penalties of perjury, I declare that I have examined this return, including accompanying schedules and statements, and to the best of my knowledge and belief, it is true, correct, and complete. Declaration of preparer (other than taxpayer) is based on all information of which preparer has any knowledge.

Signature of officer

Date

PRESIDENT

Title

May the IRS discuss this return with the preparer shown below (see instructions)?

☒ Yes ☐ No

Paid Preparer Use Only

Print/type preparer's name

GREGORY M. ALEXANDER, CPA

Preparer's signature

Date

3-1-2014

Check

if

PTIN

self-employed

P00558272

Firm's name

MOORE BEAUSTON & WOODHAM LLP

Firm's EIN

57-0966291

Firm's address

PO BOX 1036

HARTSVILLE, SC 29551

Phone no.

(843) 332-1335

BAA For Paperwork Reduction Act Notice, see separate instructions.

GPCA0205L 07/30/13

Form 1120 (2013)

Compensation of Officers

▶ Attach to Form 1120, 1120-C, 1120-F, 1120-REIT, 1120-RIC, or 1120S.

► Information about Form 1125-E and its separate instructions is at www.irs.gov/form1125e.

OMB No. 1545-2225

Name _____

MORPHIS PEDIATRIC GROUP
OF HARTSVILLE PA

Employer identification number

57-0802148

Note. Complete Form 1125-E only if total receipts are \$500,000 or more. See instructions for definition of total receipts.

[illegible]

2	Total compensation of officers:	700,600

3. Compensation of officers claimed on Form 1125-A or elsewhere on return.

4 Subtract line 3 from line 2. Enter the result here and on Form 1120, page 1, line 12 or the appropriate line of your tax return. 700,600

BAA For Paperwork Reduction Act Notice, see separate instructions.

Form 1125-E (Rev. 12-2013)

Form **1120S**Department of the Treasury
Internal Revenue Service**U S Income Tax Return for an S Corporation**

► Do not file this form unless the corporation has filed or is attaching Form 2553 to elect to be an S corporation
► Information about Form 1120S and its separate instructions is at www.irs.gov/form1120s

OMB No 1545 0123

2014

For calendar year 2014 or tax year beginning , 2014 ending

A S election effective date 1/01/2014	TYPE OR PRINT	MORPHIS PEDIATRIC GROUP OF HARTSVILLE PA 708 MEDICAL PARK DRIVE HARTSVILLE, SC 29550	D Employer identification number 57-0802148
B Business activity code number (see instrs) 621111			E Date incorporated 7/01/1985
C Check if Schedule M 3 attached ☐			F Total assets (see instructions) \$ 306,934

G Is the corporation electing to be an S corporation beginning with this tax year? ☒ Yes ☐ No If Yes attach Form 2553 if not already filed

H Check if (1) ☐ Final return (2) ☐ Name change (3) ☐ Address change
(4) ☐ Amended return (5) ☐ S election termination or revocation

I Enter the number of shareholders who were shareholders during any part of the tax year ► 1**Caution** Include **only** trade or business income and expenses on lines 1a through 21 See the instructions for more information

INCOME	1 a Gross receipts or sales	1 a	2,515,757		
	b Returns and allowances	1 b	9,944		
	c Balance Subtract line 1b from line 1a			1 c	2,505,813
	2 Cost of goods sold (attach Form 1125 A)			2	
	3 Gross profit Subtract line 2 from line 1c			3	2,505,813
	4 Net gain (loss) from Form 4797 line 17 (attach Form 4797)			4	
5 Other income (loss) (see instrs — att statement)			5		
6 Total income (loss) Add lines 3 through 5				6	2,505,813
DEDUCTIONS SEE INSTRUCTIONS	7 Compensation of officers (see instructions attach Form 1125 E)			7	394,205
	8 Salaries and wages (less employment credits)			8	956,378
	9 Repairs and maintenance			9	4,058
	10 Bad debts			10	
	11 Rents			11	90,000
	12 Taxes and licenses			12	104,419
	13 Interest			13	
	14 Depreciation not claimed on Form 1125 A or elsewhere on return (attach Form 4562)			14	1,926
	15 Depletion (Do not deduct oil and gas depletion)			15	
	16 Advertising			16	3,989
	17 Pension, profit sharing etc plans			17	57,665
	18 Employee benefit programs			18	
19 Other deductions (attach statement)	See Statement 1		19	524,788	
20 Total deductions Add lines 7 through 19			20	2,137,428	
21 Ordinary business income (loss) Subtract line 20 from line 6			21	368,385	
TAX AND PAYMENTS	22 a Excess net passive income or LIFO recapture tax (see instructions)	22 a			
	b Tax from Schedule D (Form 1120S)	22 b	12,682		
	c Add lines 22a and 22b (see instructions for additional taxes)			22 c	12,682
	23 a 2014 estimated tax payments artd 2013 overpayment credited to 2014	23 a			
	b Tax deposited with Form 7004	23 b			
	c Credit for federal tax paid on fuels (attach Form 4136)	23 c			
	d Add lines 23a through 23c			23 d	
	24 Estimated tax penalty (see instructions) Check if Form 2220 is attached ► ☒			24	229
	25 Amount owed If line 23d is smaller than the total of lines 22c and 24 enter amount owed			25	12,911
	26 Overpayment If line 23d is larger than the total of lines 22c and 24 enter amount overpaid			26	
27 Enter amount from line 26 Credited to 2015 estimated tax Refunded ► 27					

Under penalties of perjury I declare that I have examined this return including accompanying schedules and statements and to the best of my knowledge and belief it is true correct and complete Declaration of preparer (other than taxpayer) is based on all information of which preparer has any knowledge

Sign here

Signature of officer _____ Date _____ President _____ Title _____

May the IRS discuss this return with the preparer shown below (see instructions)?

☒ Yes ☐ No**Paid Preparer Use Only**

Print/Type preparer's name Gregory M Alexander, CPA Preparer's signature *Gregory M Alexander* Date 3-5-2015 Check ☐ if self employed PTIN P00558272
Firm's name ► Moore Beauston & Woodham LLP Firm's EIN ► 57-0966291
Firm's address ► PO Box 1036

Form 1125-E

(Rev December 2013)

Department of the Treasury
Internal Revenue Service

Compensation of Officers

► Attach to Form 1120, 1120 C, 1120 F, 1120 REIT, 1120 RIC, or 1120S

► Information about Form 1125-E and its separate instructions is at www.irs.gov/form1125e

OMB No. 1545-2225

Name _____

Employer identification number

MORPHIS PEDIATRIC GROUP OF HARTSVILLE PA

57-0802148

Note Complete Form 1125-E only if total receipts are \$500,000 or more. See instructions for definition of total receipts.

[illegible]

2 Total compensation of officers

394,205

3 Compensation of officers claimed on Form 1125 A or elsewhere on return

R 908

4 Subtract line 3 from line 2. Enter the result here and on Form 1120, page 1, line 12 or the appropriate line of your tax return.

301 305

1120S

U.S. Income Tax Return for an S Corporation

OMB No 1545 0123

2015

Department of the Treasury
Internal Revenue Service

Do not file this form unless the corporation has filed or is
attaching Form 2553 to elect to be an S corporation

Information about Form 1120S and its separate instructions is at www.irs.gov/form1120s

For calendar year 2015 or tax year beginning

, and ending

A Selection effective date 01/01/2014	Name MORPHIS PEDIATRIC GROUP OF HARTSVILLE PA	D Employer identification number ** - *****
B Business activity code number (see instructions) 621111	Number, street and room or suite no. If a P O box, see instructions 708 MEDICAL PARK DRIVE	E Date incorporated 07/01/1985
C Check if Sch M 3 attached ☐	City or town, state or province, country, and ZIP or foreign postal code HARTSVILLE SC 29550	F Total assets (see instructions) \$ 261,523.

G Is the corporation electing to be an S corporation beginning with this tax year? ☐ Yes ☒ No If Yes, attach Form 2553 if not already filed

H Check if (1) ☐ Final return (2) ☐ Name change (3) ☐ Address change (4) ☐ Amended return (5) ☐ S election termination or revocation

I Enter the number of shareholders who were shareholders during any part of the tax year **1**

Caution Include only trade or business income and expenses on lines 1a through 21 See the instructions for more information

Income	1 a Gross receipts or sales 2,595,091. b Return and allowances 3,641. c Bal Subtract line 1b from line 1a	1c	2,591,450.
	2 Cost of goods sold (attach Form 1125 A)	2	
	3 Gross profit. Subtract line 2 from line 1c	3	2,591,450.
	4 Net gain (loss) from Form 4797, line 17 (attach Form 4797)	4	
	5 Other income (loss) (attach statement) STATEMENT 1	5	972.
	6 Total income (loss) Add lines 3 through 5	6	2,592,422.
Deductions (See instructions for limitations)	7 Compensation of officers (see instrs attach Form 1125 E)	7	196,817.
	8 Salaries and wages (less employment credits)	8	1,106,241.
	9 Repairs and maintenance	9	4,960.
	10 Bad debts	10	
	11 Rents	11	90,000.
	12 Taxes and licenses STATEMENT 2	12	138,794.
	13 Interest	13	
	14 Depreciation not claimed on Form 1125 A or elsewhere on return (attach Form 4562)	14	1,696.
	15 Depletion (Do not deduct oil and gas depletion)	15	
	16 Advertising	16	2,898.
	17 Pension, profit sharing, etc., plans	17	68,888.
	18 Employee benefit programs	18	
	19 Other deductions (attach statement) STATEMENT 3	19	560,058.
	20 Total deductions Add lines 7 through 19	20	2,170,352.
	21 Ordinary business income (loss) Subtract line 20 from line 6	21	422,070.

Tax and Payments	22 a Excess net passive income or LIFO recapture tax (see instructions)	22a		22c	4,050.
	b Tax from Schedule D (Form 1120S)	22b	4,050.		
	c Add lines 22a and 22b				
	23 a 2015 estimated tax payments and 2014 overpayment credited to 2015	23a		23d	73.
	b Tax deposited with Form 7004	23b			
	c Credit for federal tax paid on fuels (attach Form 4136)	23c			
	d Add lines 23a through 23c				
	24 Estimated tax penalty (see instructions) Check if Form 2220 is attached ☒	24	4,123.		
	25 Amount owed If line 23d is smaller than the total of lines 22c and 24, enter amount owed	25			
	26 Overpayment If line 23d is larger than the total of lines 22c and 24, enter amount overpaid	26			
27 Enter amount from line 26 Credited to 2016 estimated tax Refunded	27				

Under penalties of perjury, I declare that I have examined this return, including accompanying schedules and statements, and to the best of my knowledge and belief, it is true, correct, and complete. Declaration of preparer (other than taxpayer) is based on all information of which preparer has any knowledge.

Sign Here	Signature of officer	Date	Title
			PRESIDENT

May the IRS discuss this return with the preparer shown below (see instr)?

☒ Yes ☐ No

Print/Type preparer's name GREGORY M. ALEXANDER,	Preparer's signature <i>G M Alexander</i>	Date 3-10-2016	Check if self-employed ☐	PTIN R 909
Paid Preparer's name CPA				P00558272

(Rev December 2013)

Department of the Treasury
Internal Revenue Service
Name _____

Compensation of Officers

▶ Attach to Form 1120, 1120-C, 1120-F, 1120-REIT, 1120-RIC, or 1120S

► Information about Form 1125-E and its separate instructions is at www.irs.gov/form1125e

OMB No 1545 2225

Employer identification number

MORPHIS PEDIATRIC GROUP OF HARTSVILLE PA

Note Complete Form 1125-E only if total receipts are \$500,000 or more. See instructions for definition of total receipts.

[illegible]

2 Total compensation of officers

2

196,817.

3 Compensation of officers claimed on Form 1125 A or elsewhere on return

3

R 910

4 Subtract line 3 from line 2. Enter the result here and on Form 1120, page 1, line 12 or the

Morphis Pediatrics of Lancaster
Statement of Revenue & Expenses-Income Tax Basis
For the One Month and Five Months Ended May 31, 2015

	May 15	Jan - May 15
Ordinary Income/Expense		
Income		
Professional Income	146,407 42	632,612 22
Total Income	146,407 42	632,612 22
Gross Profit	146,407 42	632,612 22
Expense		
Accounting	782 35	6,268 55
Advertising	439 00	2,634 00
Auto Expense	0 00	758 35
Bank Charges	119 05	546 84
Computer & Internet Services	340 25	1,614 83
Contract Labor	758 00	1,982 00
Depreciation	86 75	433 75
Donations	50 00	100 00
Dues & Subscriptions	0 00	904 00
Employment Taxes	3,783 05	24,247 32
Insurance	0 00	9,788 00
Janitorial	0 00	1,000 00
Lease	758 35	3,133 96
Maintenance Contract	103 68	7,191 83
Meals & Entertainment	0 00	1,319 03
Medical Supplies	3,373 06	30,375 39
Refunds	42 71	62 66
Rent	0 00	12,400 00
Salaries- Employees	43,068 39	278,432 52
Salaries-Officers	6,153 84	30,769 20
Supplies	724 27	6,119 77
Taxes & Licenses	2,130 77	16,567 77
Telephone	1,364 26	6,796 48
Travel	1,017 50	4,950 00
Utilities	216 05	2,872 37
Total Expense	65,311 33	451,268 62
Net Ordinary Income	81,096 09	181,343 60
Other Income/Expense		
Other Income		
Interest Income	0 21	1 03
Total Other Income	0 21	1 03
Net Other Income	0 21	1 03
Net Income	81,096 30	181,344 63

See Accountants' Compilation Report



THIS AGREEMENT IS SUBJECT TO BINDING ARBITRATION PURSUANT TO 15-48-10, et seq., OF THE SOUTH CAROLINA CODE OF LAWS, 1976 (THE SOUTH CAROLINA UNIFORM ARBITRATION ACT), AS MODIFIED HEREIN

STATE OF SOUTH CAROLINA)
)
COUNTY OF LANCASTER)

EMPLOYMENT AGREEMENT

THIS AGREEMENT, made and entered into this 30th day of December, 2015, by and between MORPHIS PEDIATRIC GROUP OF LANCASTER, P.A., hereinafter called the "Company", and Paul David Hess, APRN-BC, hereinafter called the "Employee".

WITNESSETH:

WHEREAS, the Company and the Employee previously entered into an employment agreement, and the parties hereto mutually agree that the previous employment agreement expired; and

WHEREAS, the Company employs the Employee as a Nurse Practitioner and wishes to enter into this Agreement with new terms and conditions of the parties' continued employment relationship; and

WHEREAS, the Employee is willing to accept such employment;

NOW, THEREFORE, the parties hereto, in consideration of the premises and the mutual covenants and promises hereinafter contained, do hereby agree as follows:

1. The Company does hereby agree to employ Employee for the practice of pediatric medicine.
2. Employee accepts such employment, and agrees that he will devote his entire time and endeavor to the Company's business, and that so long as he remains in the employ of the Company, he will not, without the consent of the Board of Directors of the Company ("hereinafter called the "Board of Directors"), engage in any other gainful occupation which requires his personal



attention; provided, however, that nothing herein contained shall restrict or prevent Employee from personally and on his own account investing in stocks, bonds, securities, commodities, real estate, or other forms of investments.

3. All professional services rendered by Employee shall be rendered in his capacity as an agent and servant of the Company, and all proceeds and remuneration received therefore shall inure to the Company's benefit. The Company shall determine what patients will be treated by Employee, the conditions of such treatment, and the fees to be charged therefor, and will in all respects govern and administer Employee's services.

4. Employee will actively and industriously pursue his profession in the Company's interest, will faithfully adhere to the Principles of Medical Ethics of the American Medical Association, and will carefully avoid any and all personal acts, habits, and usages which might injure in any way, directly or indirectly, his professional reputation or that of any other employee of the Company, or which might otherwise be detrimental to any interest of the Company. Employee shall not engage in any professional, business, social, political or other activity, or endeavor deemed by the Board of Directors to be contrary to the best interest of the Company.

5. The scope of the Employee's duties and responsibilities shall include the following:

- a. Report directly to the attending physician for patient review and to obtain any required authorized signature on a patient's chart;
- b. Perform patient history, regardless of complaint, record pertinent patient symptoms and chief complaints;
- c. Perform patient examination, including abnormal and normal systems evaluation regardless of complaint;
- d. Give concise written instruction and or verbal orders to staff members;

- e. Make appropriate instructions for patient disposition as they relate to continuing care;
- f. Dictate and/or document every chart of patients seen by the end of each shift;
- g. Maintain complete professionalism, verbally and physically, at all times;
- h. ~~Write prescriptions strictly in accordance with state laws;~~
- i. Arrange for coverage if unable to work regularly scheduled shift;
- j. Maintain C.M.E. credits as per guidelines;
- k. Attend and participate in required office and patient conferences;
- l. Work nighttime shifts if required; and
- m. Attend hospital or employee related meetings without additional compensation up to three (3) hours per week.

6. The term of this Agreement shall be for a one year period commencing on March 1st, 2015, and terminating on February 29th, 2016. This Agreement may be extended on a year-to-year basis by mutual agreement between the Employee and the Company, and it is anticipated such extensions will be made on the terms and conditions herein set forth. The Board of Directors of the Company shall annually approve Employee's salary, and his continuation of employment following such salary designation shall be deemed acceptance of such salary and of continued employment for the following year.

7. Employee shall be entitled to ^{four (4)} ~~three (3)~~ calendar weeks of vacation with full pay during each year. The scheduling of such vacations shall be subject to approval by the Employer's Board of Directors and does not carry over from year to year.

8. This Agreement may be terminated prior to the expiration date as stated in Paragraph 6 above, by the Employee, only as follows:

- a. If the Company breaches or defaults in the fulfillment of any provision of this Agreement, and if after thirty (30) days' written notice given by the Employee to the Company such breach or default has not been cured, Employee may terminate this Agreement forthwith.
- b. If the Employee wishes to terminate this Agreement for any other reason, the Employee may do so upon thirty (30) days' written notice to the Company.

9. This Agreement may be terminated prior to the expiration date as stated in Paragraph 6 above, by the Company, only as follows:

- a. If Employee breaches or defaults in the fulfillment of any provision of this Agreement, and if after thirty (30) days' written notice given by the Company to Employee such breach or default has not been cured, the Company may terminate this Agreement forthwith.
- b. If any of the following acts occurs, Employee's employment may be terminated immediately:
 - i. Employee's license or authority to practice as Nurse Practitioner in the State of South Carolina is withdrawn or suspended;
 - ii. Employee's license to dispense or prescribe narcotic drugs is withdrawn or suspended;
 - iii. Employee is held guilty of professional misconduct by any professional organization having jurisdiction;
 - iv. Employee becomes bankrupt, insolvent, or makes an assignment for the benefit of creditors, or becomes subject to the administration of

his assets in any kind of voluntary or involuntary creditors' proceedings:

- v. Employee performs any negligent or intentional act which damages the reputation or property of the Company;
 - vi. Employee loses privileges at the hospital;
 - vii. Employee is elected to public office; or
 - viii. Employee becomes uninsurable for medical malpractice insurance coverage or rates for such insurance are deemed by Company to excessively high as compared to normal insurance rates for nurse practitioners.
- c. If the Company wishes to terminate this Agreement for any other reason, the Company may do so upon thirty (30) days' written notice to the Employee.
- d. Company may terminate this Agreement at any time if Employee dies, retires, or becomes permanently and totally disabled.

10. For the initial year of this Agreement, the Company shall pay to Employee annual compensation of ONE HUNDRED THOUSAND AND NO/100 DOLLARS (\$100,000.00). In addition to the above amount, the Company may, but is not required, pay such additional bonuses as may from time to time be approved by the Board of Directors, as detailed in Exhibit A herein.

11. Company agrees that it will furnish or arrange to be furnished adequate facilities for the practice of medicine, including building, equipment, supplies, professional library, administrative and professional personnel. The Company will pay all reasonable expenses incurred by Employee incidental to his services, including the cost of dues and license fees for professional organizations and licensing authorities, continuing professional education (CPE) up to the amount of One

Five (1500 or) ~~(\$1,000.00)~~ Thousand Dollars per year and up to five (5) business days for attendance of such sessions, professional liability insurance, and communication equipment, all of which expenses shall be paid subject to availability of coverage and policies established by the Board of Directors from time to time. In addition, after Employee's first full year of employment, the Employee shall be qualified for eligibility under the terms of the Company's qualified retirement plan, if any, maintained at the time for the benefit of the Company's employees.

12. Should Employee's employment terminate for any reason, Employee agrees to purchase, at his own expense, professional liability insurance. In the event the Company has claims made tail coverage at the time of Employee's termination Employee shall purchase claims made tail coverage. Employee agrees to provide Company with proof of such coverage within a reasonable time of the termination. Provided, however, this paragraph shall not apply in the event Company's professional liability insurance automatically covers Employee for claims made tail coverage upon his termination of employment.

13. Employee hereby expressly agrees and covenants that during the term of his employment and the one (1) year period following termination of his employment for any reason, he will not engage directly or indirectly as principal, agent, owner, employee, director, officer, or in any other capacity whatsoever, in the practice of medicine within a twenty (20) mile radius of any location of the Company.

14. Employee covenants and agrees that upon termination of this Agreement for any reason, for and during the one (1) year period following termination of Employee's employment with the Company for any reason, he shall not solicit for treatment any former or existing patient (or member of any patient's household) of the Company, nor induce or attempt to influence any employee of the Company to terminate his relationship with the Company, nor interfere in any way

with any formal or informal relationship the Company may have with a hospital, other healthcare facility, or other physicians or physician groups. The prohibition contained herein regarding solicitation shall not apply to newspaper announcement nor telephone listings which announce the opening of a new practice or a practice relocation.

15. Employee agrees and acknowledges that the restrictions of Paragraphs 13 and 14 will not in any way prevent his from earning a livelihood, and that the term and geographic restrictions are reasonable under all of the facts and circumstances. In the event that a court of law determines the time period or geographic area to be excessive, the noncompetition covenant shall be enforceable for such time and geographic scope as the court deems to be reasonable. The Company and Employee further acknowledge and agree that any breach by Employee of Paragraphs 13 and 14 shall work irreparable harm to the Company and that there is no adequate remedy at law. Therefore, the Company may seek a temporary and permanent injunction as a result of such breach.

16. The provisions of Paragraphs 13 and 14 shall survive the termination of this Agreement.

17. Employee acknowledges and stipulates that: (i) During the term of this Agreement, the Employee will be placed in a position by the Company to become acquainted with various aspects of the Confidential Information (defined below); (ii) the use or disclosure of the Confidential Information by the Employee except as expressly authorized by the Company, is prohibited and would seriously damage the Company; and (iii) in addition to being given access to the Confidential Information, Employee will receive material benefits as a result of this Agreement, including compensation and experience. Therefore, Employee agrees as follows:

- a. During the term of this Agreement and thereafter, Employee shall not, without the prior written consent of the Board of Directors of the Company, directly or indirectly:
 - i. Divulge, furnish or make accessible to any Person or copy, take or use in any manner any of the Confidential Information;
 - ii. Take any action which might reasonably or foreseeably be expected to compromise the confidentiality or proprietary nature of any of the Confidential Information; or
 - iii. Fail to follow the reasonable suggestions made by the Company from time to time regarding the confidential and proprietary nature of the Confidential Information.
- b. "Confidential Information" means all of the materials, information and ideas of the Company, including, without limitation: patient names, patient lists, patient records, patient information, operation methods and information, accounting and financial information, marketing and pricing information and materials, internal publications and memoranda, and other matters considered confidential by the Company. Information (i) generally available to the public or generally known by or available to third parties, or (ii) required by law to be disclosed, is not considered Confidential Information.

The provisions of this Paragraph shall survive the expiration or termination of this Agreement for any reason.

18. In the event any dispute, claim or controversy arises among the parties with regard to this Agreement which the parties are unable to resolve by their mutual consent, then such dispute,

controversy or claim shall first be submitted to mediation. If mediation is unsuccessful, the dispute, claim or controversy shall be submitted to binding arbitration in accordance with the rules and procedures established by the American Health Lawyers Association. All expenses of arbitration incurred therein, shall be split equally between parties, except that each party shall bear its own attorney's fees. Judgment upon the award rendered by the arbitrator may be entered in any court of competent jurisdiction. The venue for arbitration shall be Lancaster, South Carolina or some location mutually agreed by the parties.

19. Should Employee be called or recalled involuntarily into the service of the armed forces of the United States, he shall be deemed to be on leave of absence during such period of military service, and shall have the right to return to the employ of the Company, at any time within ninety (90) days of his completion of obligatory military Service.

20. This Agreement may be altered at any time in writing by mutual consent of the parties hereto.

21. The terms and conditions of this Agreement are severable. In the event that any term or condition contained herein is determined by a court of law to be unenforceable, the remainder hereof shall remain in full force and effect.

22. This Agreement, together with any amendments hereto, shall be binding upon the parties hereto, their heirs, successors, and assigns.

23. Failure of either party at any time to require performance of any provision of this Agreement shall not limit the party's right to enforce the provision, nor shall any waiver of any

THIS AGREEMENT IS SUBJECT TO BINDING ARBITRATION PURSUANT TO 15-48-10, et seq., OF THE SOUTH CAROLINA CODE OF LAWS, 1976 (THE SOUTH CAROLINA UNIFORM ARBITRATION ACT), AS MODIFIED HEREIN

breach of any provision be a waiver of any succeeding breach of any provision or a waiver of the provision itself for any other provision.

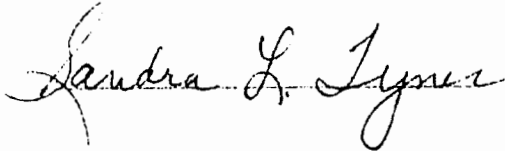
24. This Agreement shall be considered subject to and governed by the laws of the State of South Carolina.

25. The parties agree that this Agreement is the sole agreement and understanding between the parties in regards to Employee's employment with the Company and there are no other agreements, written, verbal, or otherwise in connection therewith.

26. In construing this Agreement, feminine or neuter pronouns shall be substituted for those masculine in form and vice versa, and plural terms shall be substituted for singular and singular for plural in any place in which the context so requires.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement the day and year first above written.

WITNESSES AS TO COMPANY:

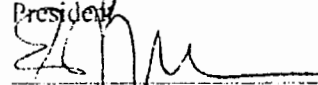


MORPHIS PEDIATRIC GROUP OF
LANCASTER, PA

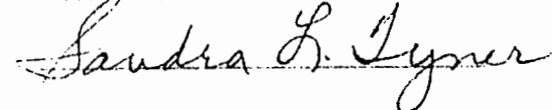
By:


Elizabeth J. Morphis, M.D.
President

And:


Elizabeth J. Morphis, M.D.
Secretary

WITNESSES AS TO EMPLOYEE:



EMPLOYEE:


Paul David Hess, APRN-BC

EMPLOYEE AGREES TO SIGN AND DATE

Exhibit A

Provided that Employee meets criteria as solely determined by the Board of Directors, Employee may be eligible for an annual bonus paid by Company based on the following formula and calculation:

It is anticipated that Employee will be entitled to an annual bonus in the amount of Five Percent (5%) of the gross receipts of the Company during each fiscal year. The calculation of the annual bonus shall be made exclusively by the Company accountant, and shall take into consideration the Company receipts calculation provided on the Financial Summary (Totals for Billing Providers) report generated by the Company's Electronic Medical Records (EMR) Software for the applicable fiscal year if available. The calculation of the annual bonus by the Company accountant shall be binding on all parties thereto. In the event that the annual bonus is approved by the Board of Directors, the Company accountant shall provide said annual bonus calculation to Employee and Company, along with supporting documentation as approved by the Board of Directors, with said payment of the annual bonus detailed herein being made on or before the 15th of February following the close of the fiscal year.

WITNESSES AS TO COMPANY:

Sandra L. Tyner

MORPHIS PEDIATRIC GROUP OF
LANCASTER, P.A

By:

Elizabeth J. Morphis, M.D.

Elizabeth J. Morphis, M.D.
President

And:

Elizabeth J. Morphis, M.D.

Elizabeth J. Morphis, M.D.
Secretary

WITNESSES AS TO EMPLOYEE:

Sandra L. Tyner

EMPLOYEE:

Paul David Hess, APRN-BC

Paul David Hess, APRN-BC

Hess v. Morphis--Damages Summary

Year	Gross Revenue Lancaster	Reported Net Income	Morphis Total Comp	Morphis BMW Expense	Hess Appendix A Bonus Paid	Lancaster Net Profit before Bonus Split	50% of Actual Lancaster Net Profit	Damages
2010	\$1,116,668.87	\$15,062.67	\$148,662.68	\$13,180.28	\$75,000.00	\$251,905.63	\$125,952.82	\$50,952.82
2011	1,138,709.20	-9,359.12	180,000.00	10,786.56	25,000.00	206,427.44	103,213.72	78,213.72
2012	1,367,791.82	520.52	330,000.00	10,838.10	46,968.48	388,327.10	194,163.55	147,195.07
2013	1,043,897.83	23,018.92	151,000.00	11,444.50	48,000.00	233,463.42	116,731.71	68,731.71
2014	1,191,873.15	196,623.64	81,212.80	9,100.20	48,000.00	334,936.64	167,468.32	119,468.32
2015	1,419,101.23	374,287.42	80,000.00	758.35	70,267.41	525,313.18	262,656.59	192,389.18
						Total		\$656,950.82



Hess vs. Morphis
Analysis of Financial Documents

	2010	2011	2012	2013	2014	Subtotal	2015	2016	2017	Subtotal	Grand Total
Gross Revenue	\$ 1,116,669.00	\$ 965,476.00	\$ 1,026,916.00	\$ 1,043,898.00	\$ 1,191,873.00		\$ 1,419,101.00	\$ 1,150,554.00	\$ 1,019,849.00		
Net Income	17,869.00	(9,359.00)	521.00	23,019.00	196,627.00		374,893.00	33,915.00	(56,860.00)		
Dr. Morphis Salary	148,663.00	180,000.00	330,000.00	151,000.00	81,212.80		80,000.00	86,700.00	86,154.00		
Officer Salary Adjustment per Industry \$230,000			(100,000.00)								
Auto Expense	13,180.28	10,786.56	10,838.10	11,444.50	9,100.20		9,100.20				
Allocated Overhead Expenses for Lancaster	32,363.70	32,352.79	22,266.74	17,550.28	22,000.00		22,000.00				
Net Income for Bonus Calculation	(1,314.42)	(30,925.23)	89,092.36	16,913.22	183,727.20		361,993.20	33,915.00	(56,860.00)		

Bonus Due per BBB 50% of Net Income for Bonus Calculation			44,546.18	8,456.61	91,863.60		180,996.60	16,957.50			
Bonus Due per 5% of Gross Revenue	80,414.19	30,299.41	52,267.89	53,414.18	55,543.94		70,955.05	57,527.70	50,992.45		
Total Bonus Paid							70,267.41	57,527.00	50,992.00		
Overpaid/(Underpaid) Bonus	\$ 80,414.19	\$ 30,299.41	\$ 7,721.71	\$ 44,957.57	\$ (36,319.66)	\$ 127,073.22	\$ (687.64)	\$ (0.70)	\$ (0.45)	\$ (688.79)	\$ 126,384.43

Bonus Due per Hess	89,856.08	90,713.78	170,679.31	92,731.72	143,468.32						
Bonus Due per BBB 50% of Net Income for Bonus Calculation			30,323.18	5,128.11	91,863.60						
Variance	(89,856.08)	(90,713.78)	(140,356.14)	(87,603.61)	(51,604.72)						



Chuck Thompson

From: Beth Morphis <bjmorphis@bellsouth.net>
Sent: December 21, 2015 10:01 AM
To: Mary Anne Spivey
Subject: Re: Contract

It's hard to understand but I didn't like his implications and he is NOT a partner and should not be part of books but every time I HAVE let him c it he argues with me abt what accountant has said or done. Just seems very ungrateful and his facts r TOTALLY screwed up as fast as numbers and percentages. Just another pain in the butt after this w/e!! I feel like I try to be good to people and keep getting screwed!! I feel like daddy!

Sent from my iPhone

On Dec 21, 2015, at 9:30 AM, Mary Anne Spivey <maspivey@charter.net> wrote:

I don't understand most of it but did understand that he implied you are hiding something!

Sent from my iPad

On Dec 21, 2015, at 9:18 AM, Beth Morphis <bjmorphis@bellsouth.net> wrote:

I am livid. He may have just worked himself out of ANY bonus. He has NO call, no w/e. Just a fn 9-5 job and what NP makes that kind of money!!!! I swear NO body appreciates ANYTHING!!

Sent from my iPhone

Begin forwarded message:

From: David Hess <dhe530@gmail.com>
Date: December 20, 2015 at 8:15:20 PM EST
To: bjmorphis <bjmorphis@bellsouth.net>
Subject: Contract

Hi Beth,

I am sending this to you because I think it is more appropriate than to send to Tom.

My accountant had some concerns that I will pass on to you but I also wanted to express my concerns and feelings.

We have spoken in the past that had Lauren talked with you before quitting, things might have been different. I am hoping that will be the case here. Please understand that I love my work in Lancaster and that my goal is to continue there until it is time to retire.

You have previously stated that I was a 'business partner' and I have taken that responsibility very seriously and have



assumed leadership and ownership of the clinic with the goal of improving care, increasing revenue and making the clinic the best in Lancaster. I believe that I, along with a great staff, have preformed beyond anyone's expectations; but on the other hand, you don't include me in major decisions that involve Lancaster. You won't share the books or other information with me; this implies that you are hiding something or that you don't trust me with the information. You once said the attorney stated that you should take a salary for your work in Lancaster and that you assume all the risk. I, too, assume a great amount of risk as you well know. I

- o See all ADHD appointments;
- o See all the family planning visits;
- o See all patients over 18;
- o Do most of all the procedures in the clinic;
- o Work to increase productivity and increase revenue;
 - § Have increased revenue by 28.6% over last 6 yrs.
- o Cover when the other provider is gone;
- o Ensure that I don't take days off that are already requested by other provider;
- o Had 20+ days less vacation days than the other provider....

but I don't reap any of the benefits .

My total compensation has decreased from a total of \$225,414 in 2010 to a low of \$130,299 in 2011. I made \$161,543 in 2014, and as you know the there was a 100% reduction in retirement from 2011, and 2012, and 87.5% reduction in 2013 and 2014. I understand the need for change but, looking at a \$90,000+ pay cut in one year is a lot for anyone to swallow, especially when the numbers in Lancaster don't support the decrease.

I put the clinic in front of my family and my personal self; I don't go to most of Jocelyn's school functions, I have missed weekend trips, put off routine doctor appointments and most of all stopped Steph from looking at jobs outside the Charlotte metro area to maintain, grow, and flourish my "partnership" which has resulted in lost opportunities for her and our family.

My accountant had the following concerns:

- Switching from 50/50 to 5% gross receipts,
- Amount to calculate 5% was based off previous bonus not actual 50% profits,
- Bonus doesn't correlate to changes in gross revenues.

· "If I was Dr. Morphis, I would rather make the bonus dependent on net income, after expenses, so you would have more incentive to help keep costs down".

Most of these are similar things I brought up in April, but the accountant was unable or unwilling to address my concerns and questions.

I understand that this is your company but you asked me to do a lot of extra things and I have done them well with little guidance and made Lancaster profitable, with help from Sandra and the staff. The contract that you gave me makes me an employee not a business partner.

So I propose the following:

- Increase base pay to \$150,000/yr with annual increases of 2-5%, based on revenue
- Paid \$44/ADHD visit (clinic paid \$110/visit) to be paid quarterly
- 4 weeks vacation.

There are a few other things in the contract that need to be modified so that we are both protected.

As far as 2015, I am agreeable to 5% gross revenue as my bonus.

I hope you understand that I have to protect myself and family as I am sure you would. I would like for us to have a discussion in the hope that we could resolve these issues to both of our benefit.

David

As I understand it, David has responded in the affirmative, agreeing to change his contract to a calculation based up gross. I have not yet petitioned the attorney to make the necessary changes. We had some computer hardware issues last week that absorbed much time and Dr. Beth is out of pocket this week. I foresee this being implemented in very short order. I shall confirm with Dr. Beth one more time before getting necessary changes made to David's contract.

Best Regards, Tom

From: Gregory M. Alexander [<mailto:Gregory.Alexander@fullservicecpa.com>]
Sent: Tuesday, June 09, 2015 8:17 AM
To: Dr. Beth Morphis bjmorphis@bellsouth.net; thenson@morphispediatric.com
Subject: Follow up on employment contract

Dr. Beth & Tom,

Just thought I would follow up on the contract for David Hess & see where the process stood.

Thanks, Greg

Greg M. Alexander, CPA
Partner

MOORE BEAUSTON WOODHAM
115 Cargill Way, Suite A
Hartsville, SC 29551
Phone: (843) 332.1335
fax: (843) 332.9010
fullservicecpa.com

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Chuck Thompson

From: David Hess <dhes0530@gmail.com>
Sent: June 1, 2015 9:21 PM
To: bjmorphis
Subject: Re: Bonus

Hi, sorry meant to email u over the weekend. I agree and this makes it easier for us. Only comments are if some thing would happen ie Dr Hussey would leave or another large expense change that we re visit it for that year. Another question is when would it be paid ie will 2015 be paid in 2015 or in 2016? This has more to do with taxes. When you know let me know because I Amy have another question or 2. Thanks for having me down and working with me. I really appreciate it and hope you know that I will continue to work hard to better the company.

David.

Sent from my iPad

On May 28, 2015, at 18:39, bjmorphis <bjmorphis@bellsouth.net> wrote:

I have looked at the numbers and think a 5% bonus of gross recpts is fair. Of course I will need to get the blessings from the attorneys but I do truly think this is a more fair way to calculate this and you not be subjected to intangible issues suhx as taxes and depreciation. Let me know what you think and if you agree I will forward this to Dick. I appreciate you coming to Hartsville today and we HAVE to make a time when the 4 of us can go out to eat and have some fun!

Sent from my Verizon Wireless 4G LTE smartphone

Chuck Thompson

From: Gregory M. Alexander <Gregory.Alexander@fullservicecpa.com>
Sent: May 28, 2015 4:44 PM
To: Dr. Beth Morphis bjmorphis@bellsouth.net; dhess0530@gmail.com
Subject: Requested Information
Attachments: 5-28-2015 David Hess Bonus Analysis 2010-2014.xlsx

Dr. Beth & David,

Attached is the information requested concerning David's bonus amount as a % of Gross Revenues.

Please let me know if you have any questions.

Thanks, Greg

Greg M. Alexander, CPA
Partner

MOORE BEAUSTON WOODHAM
115 Cargill Way, Suite A
Hartsville, SC 29551
Phone: (843) 332.1335
fax: (843) 332.9010
fullservicecpa.com

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Chuck Thompson

From: Tom Henson <thenson@morphispediatric.com>
Sent: May 20, 2015 11:25 AM
To: Greg Alexander
Cc: Beth Morphis
Subject: Meeting, MPG Hartsville 05282015

Greg, I have confirmed with David Hess that he can meet with us Thursday, May 28, 2015 at 9:00AM, Dr. Beth's office. Please confirm this works for your schedule.

I asked David to please advise if any specific questions that he knew he was to ask just so we could be better prepared to respond. I shall advise if/when he lets me know.

Let me know when you can... Thanks, Tom

in the amount of 5% of the gross receipts of Morphis Pediatric during each fiscal year, as identified in Exhibit B.

Additionally, the years associated with the bonuses below correspond to the fiscal year upon which the bonuses are based and not necessarily the year the bonuses were paid. For example, "2016 bonus" would be the bonus that is based on the earnings of Morphis Pediatric in 2016.

REQUESTS FOR ADMISSION AND SUPPLEMENTAL INTERROGATORIES

1. Admit Plaintiff's 2016 bonus was \$57,527.69 pursuant to the 2015 Agreement.
2. If the response to Request No. 1 is anything other than an unqualified admission, please provide an explanation sufficient to inform the undersigned of Plaintiff's basis for the same, including the specific amount Plaintiff contends his bonus was in 2016.
3. Admit Plaintiff's 2017 bonus was \$50,992.44 pursuant to the 2015 Agreement.
4. If the response to Request No. 3 is anything other than an unqualified admission, please provide an explanation sufficient to inform the undersigned of Plaintiff's basis for the same, including the specific amount Plaintiff contends his bonus was in 2017.
5. Admit Plaintiff's 2016 bonus, if calculated pursuant to the 2010 Agreement, would have been \$16,956.62.
6. If the response to Request No. 5 is anything other than an unqualified admission, please provide an explanation sufficient to inform the undersigned of Plaintiff's basis for the same, including the specific amount Plaintiff contends his 2016 bonus would have been had it been calculated pursuant to the 2010 Agreement.
7. Admit Plaintiff would not have received a 2017 bonus if it was calculated pursuant to the 2010 Agreement because Morphis Pediatric made no profit in 2017.

8. If the response to Request No. 7 is anything other than an unqualified admission, please provide an explanation sufficient to inform the undersigned of Plaintiff's basis for the same, including the specific amount Plaintiff contends his 2017 bonus would have been had it been calculated pursuant to the 2010 Agreement.

9. Admit Plaintiff's 2016 bonus pursuant to the 2015 Agreement was more than Plaintiff would have received if the bonus was calculated pursuant to the 2010 Agreement.

10. If the response to Request No. 9 is anything other than an unqualified admission, please provide an explanation sufficient to inform the undersigned of Plaintiff's basis for the same.

11. Admit Plaintiff's 2017 bonus pursuant to the 2015 Agreement was more than Plaintiff would have received if the bonus was calculated pursuant to the 2010 Agreement.

12. If the response to Request No. 11 is anything other than an unqualified admission, please provide an explanation sufficient to inform the undersigned of Plaintiff's basis for the same.

13. Admit Plaintiff is not claiming any damages against these Defendants associated with the bonuses Plaintiff did or did not receive in years 2010-2014.

14. If the response to Request No. 13 is anything other than an unqualified admission, please provide an explanation sufficient to inform the undersigned of what damages Plaintiff incurred in 2010-2014 that are specifically attributable to these Defendants.

15. Admit the revenues of Morphis Pediatric in 2016-2018 decreased from previous years.

16. Admit the number of patients treated at Morphis pediatric in 2016-2018 decreased from previous years.

17. Identify and describe the substantial non-economic damages Plaintiff suffered as a result of the actions of these Defendants, as indicated in ¶ 55 of the Complaint.

18. Admit Plaintiff did not suffer any emotional distress damages as a result of the actions of these Defendants.

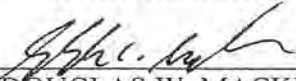
19. If the response to Request No. 18 is anything other than an unqualified admission, please explain the basis of Plaintiff's claim that the actions of these Defendants caused Plaintiff to suffer emotional distress damages, including but not limited to (a) the specific actions of these Defendants that caused emotional distress, (b) what emotional distress Plaintiff experienced, and (3) whether and how Plaintiff's emotional distress manifested in physical symptoms.

This 10th day of June, 2020.

Respectfully submitted,

COPELAND, STAIR, KINGMA & LOVELL, LLP

By:


DOUGLAS W. MACKELCAN

State Bar No.: 76332

SKYLER C. WILSON

State Bar No.: 102865

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STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM LANCASTER COUNTY
Court of Common Pleas

Deandrea G. Benjamin, Circuit Court Judge

Case. No. 2018-CP-001127
Appeal No. 2022-001589

Morphis Pediatric Group of Lancaster, PA and
Elizabeth J. Morphis M.D, ... Appellants-Respondents

v.

Paul David Hess Respondent-Appellant

CERTIFICATION

Pursuant to S.C. App. R. 210(g), I certify that the Record on Appeal contains all designated matter proposed to be included and not any other material.

August 29, 2023

/s/ Charles F. Thompson, Jr. _____
Charles F. Thompson, Jr.

**STATE OF SOUTH CAROLINA
In the Court of Appeals**

**APPEAL FROM LANCASTER COUNTY
Court of Common Pleas**

Deandrea G. Benjamin, Circuit Court Judge

C. A. NO. 2018-CP-29-01127

**Morphis Pediatric Group of Lancaster, PA and
Elizabeth J. Morphis M.D, ... Appellants**

v.

Paul David Hess Respondent

PROOF OF SERVICE

The foregoing Record on Appeal was served on Respondent, via first class mail, postage prepaid and addressed to Plaintiff's counsel of record:

David E. Rothstein
Rothstein Law Firm, PA
1312 Augusta Street
Greenville, SC 29605

/s/ Charles F. Thompson Jr. _____
Charles F. Thompson, Jr.
Malone, Thompson, Summers & Ott
339 Heyward Street
Columbia, S.C. 29201
Attorney for the Respondent

August 29, 2023