

RECEIVED

Jun 11 2026

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM HORRY COUNTY

B. Alex Hyman, Circuit Court Judge

Appellate Case No. 2025-002251

Timothy Wade Long and Clyde Ksier, individually and on behalf of TnW and More, LLC, Respondents,

v.

Timothy D. Kettner, Donald Kettner, and TNT and More, Inc., d/b/a Crab Catcher on the Waterfront, Defendants,

of which Timothy D. Kettner and TNT and More, Inc., d/b/a Crab Catchers on the Waterfront, areAppellants.

RECORD ON APPEAL
VOLUME II

R. Walker Humphrey, II
James T. Johnson
WILLOUGHBY HUMPHREY & D'ANTONI, P.A.
133 River Landing Drive, Suite 200
Charleston, South Carolina 29492
(843) 619-4426

Michael S. Harrison
HARRISON | PILLINGER, LLC
1297 Professional Drive, Suite 202
Myrtle Beach, South Carolina 29577
(843) 839-5909

Howell V. Bellamy, III
**BELLAMY, RUTENBERG, COPELAND, EPPS,
GRAVELY & BOWERS, P.A.**
1000 29th Avenue North
Myrtle Beach, South Carolina 29577
(843) 448-2400

Attorneys for Appellant TNT and More, Inc.

Ronald Richter, Jr.
Scott M. Mongillo
BLAND RICHTER, LLP
18 Broad Street, Mezzanine
Charleston, SC 29401
(843) 573-9900

Eric S. Bland
BLAND RICHTER, LLP
105 West Main Street, Suite D
Lexington, SC 29072
(803) 256-9664

Attorneys for Appellant Timothy D. Kettner

Tucker Player
PLAYER LAW FIRM
512 Village Church Drive
Chapin, SC 29036
(803) 315-6300

Attorney for Respondents

WADE LONG - DIRECT EXAMINATION

1 top.

2 **A** Surveyor called. He'll have everything ready
3 when I get back. Combining all lots. Said it will
4 probably take up to three weeks depending how busy
5 the county is.

6 **Q** June '16 he says we're going to combine all
7 lots. Was that your understanding of the
8 agreement?

9 **A** 100 percent. Yes, sir.

10 **Q** Did Tim own all of those lots?

11 **A** Yes.

12 **Q** Well, did Tim or TNT own them?

13 **A** I mean, Tim had the business TNT, but Tim was
14 the owner.

15 **Q** I think you are wrong, and I'll show that to
16 you in a minute.

17 At this point, the agreement between you and
18 Tim were to combine all of the lots?

19 **A** Yes.

20 **Q** And this is the survey that was done for 2017
21 by Harry Bruton?

22 **A** No. That was not done in '17. That the one
23 that me --

24 **Q** See right here, February --

25 **A** Okay. Yeah. Yeah.

WADE LONG - DIRECT EXAMINATION

1 **Q** What does this say?

2 **A** 3 acres, Horry County, South Carolina.

3 **Q** It says -- what does that say?

4 **A** Recombination plat.

5 **Q** According to this, in 2017, who owns all of
6 the tracts of land? Just TNT, right?

7 **A** Yes.

8 **Q** So all of the property that is supposed to be
9 combined and was put in this recombination plat
10 belonged to TNT and More, Inc., correct?

11 **A** That's correct.

12 **Q** Did Tim have the authority to do that?

13 **A** Tim was the managing member.

14 **Q** So your understanding was he was promising --
15 let me ask you. What did you take that as? Was
16 that a promise to you?

17 **A** Clear as day, yes.

18 **Q** And what was the promise?

19 **A** That we're going to join all of the
20 properties together, and do this joint venture, and
21 when we join it to together, it helps us with the
22 setbacks. Because when I tore the house down,
23 Dock's house, I wasn't aware that something that
24 old, when you remove it -- I went to Conway and got
25 a demolition permit and rented the trackhoe and did

WADE LONG - DIRECT EXAMINATION

1 the work myself. But it changed the setbacks, so
2 we lost a little frontage. It slid our project
3 back a little across the road. If we got it
4 prepared, we wouldn't have lost that little bit of
5 land. But the combination lots allows us to join
6 in together X amount of uplands to make the county
7 happy so we can build it.

8 Q I'll show you what is entered as Plaintiffs'
9 Exhibit 1.

10 A This is the material --

11 Q Who is Ivy?

12 A Ivy is the general manager from Blanton's
13 Building Supply. He's the manager, been there ever
14 since I went to Blanton's, and we had an account at
15 Blanton's to get material for our project.

16 Q Okay. So we talked about the loan from the
17 bank. You said it was to fund the construction,
18 right?

19 A Yes.

20 Q How did that process go? What did you have
21 to do with the bank?

22 A So the banker I met first with Horry County
23 State Bank, which the guy bought out and it became
24 United Community Bank, was Michelle Brown. She was
25 a commercial lending officer. Her boss was Geoff

WADE LONG - DIRECT EXAMINATION

1 Hopkins. They were in the banking business for
2 right at about 30 years. When they came down and
3 talked with her on the phone, she was wanting to
4 pretty much see a business plan, a spreadsheet, of
5 what we needed the money for, the project in
6 different tiers, how we expected the growth of the
7 business, and what we were building, how much the
8 ice cream was going to produce, restaurants, jet
9 skis, how much the docks would cost, and she wanted
10 a breakdown. So that is what I created for her.

11 Q I'll ask about Exhibit 12. See if you can
12 identify it?

13 A Commercial loan application.

14 Q What was that? Who did you give that to, and
15 what was it for?

16 A Yes. This was for TnW and More, LLC, and TNT
17 and More.

18 Q And then Exhibit 13?

19 A Promissory note.

20 Q How much was it for?

21 A \$1,100,000.

22 Q And then here is the mortgage.

23 A It has us listed as both borrowers on it.

24 Q Right. You said "us" as "both," who is that?

25 A TNT and TnW.

WADE LONG - DIRECT EXAMINATION

1 **Q** And the last one is the mortgage, right?

2 **A** That's correct.

3 **Q** So you put up properties as collateral for
4 this loan?

5 **A** That's correct.

6 **Q** But so did TNT?

7 **A** Yes.

8 **Q** So we'll turn back these pages. All of the
9 property that was in here, it talks about when the
10 property was transferred, right?

11 **A** Uh-huh.

12 **Q** Do you see anything in here that was in
13 Kettner's name at the time you got the loan?

14 **A** No, sir.

15 **Q** The deed transferred?

16 **A** September 15, 2017, and recorded September
17 15, 2017.

18 **Q** Okay.

19 **A** Forty, forty-three.

20 **Q** So you got the loan in November of '17,
21 right?

22 **A** Yes, sir.

23 **Q** So all of the property that was being pledged
24 and where you were supposed to build the marina,
25 was TNT's land, correct?

WADE LONG - DIRECT EXAMINATION

1 **A** Yes.

2 **Q** We'll talk about this one, Exhibit 15. I'll
3 ask you if you have seen it before, and I'll ask
4 you a question about the front page.

5 **A** Okay.

6 **Q** Who does it talk about in that paragraph?
7 Does it mention your name once? Who does it say
8 owns Crab Catchers?

9 **A** (Witness examines document.) Tim bought out
10 his sisters and brother-in-law and owned the
11 business a hundred percent.

12 **Q** Okay. Now, below that are some numbers about
13 what you are going to use the money for, correct?

14 **A** Yes.

15 **Q** And there are sources of income that you all
16 decided, at least you hoped what you could make,
17 correct?

18 **A** Yes, sir.

19 **Q** Is any of the income used to underwrite this
20 loan coming from Crab Catchers? Out of all of
21 those entries down there, are any of them part of
22 Crab Catchers' business?

23 **A** No, sir.

24 **Q** What is there -- not the numbers, just
25 testify what the sources of income is?

WADE LONG - DIRECT EXAMINATION

1 **A** Jet skis.

2 **Q** Did Crab Catchers do that?

3 **A** No, sir.

4 **Q** What else?

5 **A** Fuel sales, dockage, bulk ice sales, ice
6 cream shop sales, charter boat, referral program.

7 **Q** This memorandum shows you that this loan --
8 it only mentioned Crab Catchers, and the only
9 business operations it shows was for the new
10 marina, correct?

11 **A** Yes.

12 **Q** None of that is seafood -- food sales,
13 beverage sales, right?

14 **A** That's correct.

15 **Q** So what happens when you all get the loan?

16 **A** What happens when we get the loan?

17 **Q** Yes.

18 **A** Well, we got a loan, went to Roger Roy's
19 office, did the closing, and then Tim handled the
20 money, where it went to spend or give to me to pay
21 someone. We went to work finishing up what we were
22 working on, and get the business up and running.

23 **Q** Did you have to pay back the loan?

24 **A** Oh, yes, sir. I've been paying on it for
25 years. My part I pay is \$5,033 a month.

WADE LONG - DIRECT EXAMINATION

1 **Q** Who determined that?

2 **A** Donny. Tim sent me a message, and it was one
3 long lump together, and Tim allowed Donny to figure
4 what portion we paid, and what portion the Crab
5 Catchers pays.

6 **Q** When did Donny get an ownership in TnW?

7 **A** He hasn't.

8 **Q** But he was an officer?

9 **A** No, sir.

10 **Q** So Donny decides what you have to pay back,
11 and it is two-and-a-half times what he has to pay
12 back, correct?

13 **A** Yes, sir.

14 **Q** I'll show you Exhibit 16. Do you remember
15 what the total loan payment was?

16 **A** I don't remember the total. I can pull it up
17 on my phone, but that is our part.

18 **Q** Does seven, two, eighty-four sound right?

19 **A** Real close.

20 **Q** He told you what you were paying Tim Kettner,
21 right?

22 **A** Tim, also new payment on loan is \$5,033.62 --

23 **Q** So you were paying \$5,000 on a \$7,200 monthly
24 mortgage?

25 **A** Yes, sir.

WADE LONG - DIRECT EXAMINATION

1 **Q** To improve their parking lot?

2 **A** Yes.

3 **Q** And build docks connected to their
4 restaurant?

5 **A** Correct.

6 **Q** That they didn't pay for?

7 **A** Yes.

8 **Q** While you are doing all of this, did anyone
9 ask you for projections? And I'll hand you the
10 actual -- no, actually, this is a different -- once
11 you got the loan, did you do anything towards this
12 joint venture in terms of building a harbor
13 master's office, ice cream shop? I mean, the first
14 thing you had to do is get the permit for the
15 docks?

16 **A** Yes.

17 **Q** Who did you all use for that?

18 **A** Tim used Wayne Beam.

19 **Q** Okay. Who is Wayne Beam?

20 **A** He works with DHEC and OCRM in wetlands areas
21 and helps get you permits for dredging or building
22 docks.

23 **Q** And that is what this text is about, getting
24 in touch with him, Wayne Beam?

25 **A** Yes.

WADE LONG - DIRECT EXAMINATION

1 **Q** Now, how soon -- do you remember how soon
2 after you got a loan you were able to try to get a
3 permit for the docks? Was it '17 or '18?

4 **A** I don't remember to be exact. It's been
5 quite a while. Somewhere in '17, '18.

6 **Q** Was Chris part of the company?

7 **A** I think Chris bought into the company in '18.
8 It was just me and Tim at first, and then I'm
9 pretty sure it was '18 when Chris bought into the
10 company.

11 **Q** Okay.

12 **A** March, April, May.

13 **Q** But do you recall whether or not you had
14 gotten the permit for the docks at the point that
15 Chris came in?

16 **A** I think we had the permits for the docks when
17 Chris came in. If I'm not mistaken, I think they
18 were already constructed in the water.

19 **Q** Okay. And I'll show you Exhibit 18. Let's
20 see if you have seen this. And I'll pull it up on
21 screen.

22 So Wayne Beam is helping you get the dock
23 permits for TnW, correct?

24 MR. RICHTER: I'm sorry, what number is that?

25 MR. PLAYER: It's the -- Your Honor, can we

WADE LONG - DIRECT EXAMINATION

1 take a break?

2 THE COURT: Yeah. Let's take a short break.
3 If you will, go to your jury room, please.

4 (The jury exits at 11:58 a.m., and the
5 following is heard out of the presence of the jury.)

6 MR. PLAYER: It's the permit from 2017.

7 THE COURT: All right. We're at ease.
8 You okay, Mr. Player?

9 MR. PLAYER: I'm having an episode. It will
10 pass, I promise.

11 THE COURT: You can step down, but you can't
12 discuss your testimony.

13 (A recess was taken.)

14 THE COURT: Let's break for lunch rather than
15 bring them in and recess in an hour.

16 MR. BELLAMY: We're fine with that.

17 THE COURT: All right. Let's go to lunch,
18 and we'll come back at 1:30.

19 Can you tell the jury that for me?

20 THE BAILIFF: Yes, ma'am.

21 THE COURT: Thanks, guys.

22 (A lunch recess was taken.)

23 THE COURT: Okay. I think you were
24 referencing that as 3.

25 MR. HARRISON: But it isn't.

WADE LONG - DIRECT EXAMINATION

1 MR. PLAYER: It isn't?

2 MR. HARRISON: No. Your 3 is not the one you
3 had up here. So this (indicates) is just a large
4 version of 3. So we can mark it as Plaintiffs' 3.
5 He introduced it as a smaller version, but....

6 THE COURT: All right.

7 MR. HARRISON: There are seven of these, but
8 this one is just a big version of what he was
9 referring to, which is 3.

10 MR. RICHTER: Also, Your Honor, if you can
11 indulge us for a few minutes, we're talking about a
12 number that may limit the evidentiary presentation.

13 THE COURT: Sure.

14 (A recess was taken.)

15 MR. PLAYER: Your Honor, the issues of motion
16 in limine was focused on damages. I think what
17 we've agreed to do is we'll dismiss the
18 misappropriation claim against Mr. Kettner. I'll
19 introduce a couple of checks and couple ski hut
20 sheets to say this is why the relationship broke
21 down, and when we confronted Mr. Kettner, that is
22 when the war started. But we will specifically say
23 we are seeking no damages for any stolen money or
24 stolen cash.

25 THE COURT: Is that correct?

WADE LONG - DIRECT EXAMINATION

1 MR. RICHTER: Your Honor, a couple is a
2 couple, okay. So we're not going straight down the
3 rabbit trail on that.

4 THE COURT: I always asked my clients who I
5 represented on DUIs and they say, I just had a
6 couple, and that means 19.

7 MR. RICHTER: To that effect, on the
8 pleadings, as to the individual claims against Tim,
9 there was as misappropriation claim, and that's
10 gone. The breach of fiduciary duty has several
11 different aspects. To the extent that the
12 fiduciary duty claims a breach because of
13 misappropriation, that is gone. The rest of the
14 fiduciary duty remains.

15 MR. PLAYER: Correct. And all individual
16 defendants, except Tim Kettner, is dismissed. And
17 the assault claim is dismissed. I've told everyone
18 we were going to do that before we started trial.

19 So we'll have breach of a joint venture
20 agreement, promissory estoppel, breach of fiduciary
21 duty on the elements, that still remains.

22 THE COURT: So, if I'm correct, you are
23 abandoning your misappropriation claim, the assault
24 claim, and all claims against the individual
25 defendants, except for Mr. Timothy Kettner.

WADE LONG - DIRECT EXAMINATION

1 MR. PLAYER: Yes, sir.

2 THE COURT: And we can go ahead -- and I do
3 want to go ahead and let you guys know, so Friday
4 we are going to need to stop at 1:00. A judge is
5 being sworn in. He's having that here in this
6 courtroom at 3:00, so everybody has to get out.
7 You don't have to go home, but you can't -- no, you
8 can stay here for the swearing, but we'll have to
9 stop at 1:00, okay.

10 MR. RICHTER: If he still wants to do it
11 after this.

12 MR. HARRISON: After this case, he may want
13 to resign.

14 MR. PLAYER: So the proffer is no longer
15 needed, I'm assuming?

16 THE COURT: I don't believe so.

17 Okay. Thank you for working through that. I
18 appreciate it.

19 Mr. Player, are you ready?

20 MR. PLAYER: Yes, Your Honor.

21 THE COURT: Are we waiting on Mr. Bellamy?

22 MR. HARRISON: We can go.

23 THE COURT: We'll bring in the jury. And,
24 Mr. Long, you can come up to the witness stand.

25 MR. PLAYER: Mr. Bellamy sent me 37 sets of

WADE LONG - DIRECT EXAMINATION

1 discovery today for a case I have in a construction
2 case, and I'm really happy.

3 (A recess was taken.)

4 (The jury enters at 2:00 p.m., and the
5 following is heard in the presence of the jury.)

6 THE COURT: I hope you had a good lunch. I
7 know I sent word through the bailiff that we would
8 be starting at 1:30. We've been here since 1:30,
9 but the attorneys and staff have been diligently
10 working through some issues to actually, I think,
11 probably shorten this case, which I think will
12 benefit everybody, including you all.

13 I know you just had lunch and sometimes it's
14 hard to pay attention after a good lunch. If, for
15 some reason, you feel yourself dosing off and need
16 a break, get up and get a Coke or whatever, I'm
17 sure our staff has that. Please let staff know,
18 and we'll take a break. What they are going to be
19 putting up through evidence and from the witness
20 stand is certainly important, and I want you to get
21 it. So, again, thank you.

22 Mr. Player you can continue.

23 MR. PLAYER: Thank you, Your Honor.

24 **DIRECT EXAMINATION (CONT.)**

25

WADE LONG - DIRECT EXAMINATION

1 **BY MR. PLAYER:**

2 **Q** Easy to get lost, so I'll do a recap. We
3 were talking about Wayne Beam and what he was doing
4 for TnW and this joint venture for the marina. How
5 did you meet Wayne Beam?

6 **A** We met through Tim. Tim had a good
7 relationship with him. I think he did a few other
8 projects with him before my time, and he seemed to
9 be a nice guy and introduced me to him and
10 communicated a little bit through the process.

11 **Q** And when you wanted to build the dock, you
12 had to get a permit, right?

13 **A** Yes.

14 **Q** Is this '16. What is that?

15 **A** Critical permit for TnW and More.

16 **Q** This is for TnW, correct?

17 **A** That's correct.

18 **Q** To build the dock?

19 **A** Yes.

20 **Q** I want to go down to this section:
21 "Description of the project as authorized," right?

22 **A** Yes.

23 **Q** And the last sentence says: "The purpose for
24 the dock extension for the -- the purpose of the
25 authorized work is to provide patron access to Crab

WADE LONG - DIRECT EXAMINATION

1 Catchers" -- correct -- "and allow dockage of
2 recreational fishing charters to embark and
3 disembark at the location," right?

4 **A** Yes.

5 **Q** Sounds like you were working together. Was
6 that the arrangement you made? And you do have to
7 answer verbally.

8 **A** Yes, it was.

9 **Q** What was the specific arrangements with Crab
10 Catchers? What did you get for using -- for being
11 allowed to use the parking lot?

12 **A** What did I get?

13 **Q** Sorry. What did Crab Catchers get?

14 **A** They got to use two of our slips for dockage
15 for the restaurant. In the summertime, they are
16 really busy. And, honestly, the slips were more
17 valuable to a customer coming up, you know -- each
18 boat has four, five people drinking at the bar and
19 eating, each boat is worth a couple hundred bucks
20 every time it come in, every hour. So it was a lot
21 more valuable to Crab Catchers to turn it over ten
22 times a day, and us rent that slip out for a whole
23 year and get \$6,000 a year for slip. So they used
24 it for their customers.

25 **Q** So you gave them two slips that were theirs

WADE LONG - DIRECT EXAMINATION

1 to use exclusively?

2 **A** They used them, and when we were gone, we
3 didn't have nothing written, but when my boat was
4 gone or some other guys, we didn't have no problem.
5 They pulled in occasionally and used our slips. We
6 were working together as a team.

7 **Q** What did you normally charge for those slip
8 rentals?

9 **A** When we first opened up the slip rental, it
10 was pretty cheap. We were the new kid in town, so
11 we lowered prices to get business. Like \$400 or
12 450 per month, per slip.

13 **Q** And that was given to Crab Catchers for you
14 to use the parking lot, correct?

15 **A** Yes.

16 **Q** And did Crab Catchers ever use more than two
17 slips?

18 **A** Yes. They used a bunch when the boats
19 weren't there.

20 **Q** We'll scroll down the document and go down.
21 You can look on the screen. We'll back it up to
22 get it on the screen. This was part of your
23 permit, correct?

24 **A** Yes.

25 **Q** And the big piece of property, it says

WADE LONG - DIRECT EXAMINATION

1 "applicant"?

2 **A** Uh-huh.

3 **Q** If you look down on the bottom, left-hand
4 corner where it says "applicant," that is TnW More?

5 **A** Yes.

6 **Q** Not Inc.? I mean it says "Inc.," but it
7 shouldn't have been if it was a LLC, correct?

8 **A** Correct.

9 **Q** But that's representing the property that is
10 supposedly owned by TNT and More, correct?

11 **A** That is correct.

12 **Q** Does that include land that was actually
13 owned by TNT in the top half?

14 **A** I mean, it looks that way there.

15 **Q** Okay. And the representation is that that is
16 all TnW, Inc., right?

17 **A** That is correct.

18 **Q** And then the next page, overall site
19 conditions. Again, there is the applicant, and
20 that is TnW More, dot, expansion. And, here, is
21 this what was eventually built?

22 **A** Yes, that is.

23 **Q** To be the marina --

24 **A** Yes.

25 **Q** So I imagine Mr. Beam was able to get you a

WADE LONG - DIRECT EXAMINATION

1 permit; is that correct?

2 **A** He did end up getting us one.

3 **Q** You mentioned earlier Nick Nye. Who is he?

4 **A** Nick Nye is a building architect, parking
5 lots, helps us with our dock. He's the one that
6 designed that parking lot and the layout, and
7 actually did that plan.

8 **Q** Okay. And who paid him?

9 **A** TnW More. He did several plans for us, and
10 he worked along with Horry County Planning and
11 Zoning, the building department as well. Several
12 representatives in those departments he had a
13 relationship working with to try to get what we
14 were trying to achieve here on this project.

15 **Q** But all of these plans for construction and
16 the development of the parking lot, that's on TNT
17 land, right? Crab Catchers' property, right?

18 **A** Yes.

19 **Q** So why are you all paying for it?

20 **A** I mean, that was part of the deal, the back
21 half. I'm not trying to take something not ours,
22 but the original plan was the front part where the
23 docks are, where it was surveyed where that line
24 goes across the center. The forward part is where
25 we had all of the plans done to build the

WADE LONG - DIRECT EXAMINATION

1 restaurant, marina ship store. And the back part
2 was for the parking lot for us to share with Crab
3 Catchers. We were working as a team -- you know,
4 worked together. Our business was separate from
5 theirs, but we worked together on everything else.

6 Q Everything in regards to the parking lot and
7 the marina, in terms of constructing it, you had to
8 have TNT's cooperation, right? It's on their land?

9 A One hundred percent. They would never give
10 us the docks or even to get the plans to build the
11 marina ship store or parking or anything.

12 Q So you had to have the access to this
13 property?

14 A Yes.

15 Q And did you submit these plans to anybody in
16 the regular -- in regulations in order to get those
17 plans?

18 A Yes. Those plans have been submitted many
19 times to Horry County Planning and Zoning, the
20 building department.

21 Q And here he has -- what is this square up
22 here? It says "dock master." What is that?

23 A Where are you at?

24 Q Up on the screen in blue. Kind of turn your
25 head -- right here (indicates).

WADE LONG - DIRECT EXAMINATION

1 **A** Showing the dock master up there.

2 **Q** Hut or --

3 **A** I think it was a 40-by-80, 30-by-70,
4 something like that. I don't remember the exact
5 measurements, but it was a pretty good size
6 building.

7 **Q** But your intention was to build a permanent
8 structure?

9 **A** Yes. And if you zoom in, you can see the
10 layout of the floors, what it had in there. Right
11 there. You can see the kitchen. And Tim actually
12 did the takeoff on all of the equipment going in,
13 because I'm not familiar with the restaurant
14 business. I'm more of the fisherman. And he got
15 with Adam Woodworth and got the equipment
16 measurements and the takeoff for all of the
17 appliances and equipment for the kitchen, and I
18 submitted those for appliances and specs to Nick
19 Nye to draw into that plan.

20 MR. PLAYER: Nick Nye's stuff was 19, and 20
21 is the manual.

22 **Q** **(BY MR. PLAYER)** What is this document? And
23 I'm certainly not going to read it.

24 **A** This here is the "Marina Commercial Dock
25 Operation and Maintenance Manual."

WADE LONG - DIRECT EXAMINATION

1 **Q** Why do you have this?

2 **A** This is a requirement when you are
3 authorizing this. This is one of the requirements
4 you have to have.

5 **Q** So did you draft it?

6 **A** Not -- not -- this is original.

7 **Q** Did you pay somebody to draft it? Second
8 page. It says it was prepared by Wayne Beam. I
9 imagine he didn't do it for free.

10 **A** He would have been paid out of TnW More.

11 **Q** And the date he drafted this was April 17,
12 2017, correct?

13 **A** That's correct.

14 **Q** And I want to go back up, because we take for
15 granted we know what we're talking about, but the
16 jury might not.

17 We mention the OCRM, Office of Ocean and
18 Coastal Resource Management, is that what that is?

19 **A** Yes.

20 **Q** What do they control?

21 **A** They can control the -- pretty much the water
22 up to the critical area line.

23 **Q** And if you want to operate a marina or do
24 anything on the waterway, do you need their
25 blessing?

WADE LONG - DIRECT EXAMINATION

1 **A** You need their approval, their blessing.

2 **Q** Okay. All right. So we'll turn off the
3 screen and talk for a few minutes.

4 Outside of all of these plans to build a
5 marina, and eventually a restaurant, what actually
6 got built?

7 **A** We got the docks built. We purchased the jet
8 skis, purchased a little small hut that the other
9 side refers to as a "little shed." It came from
10 Leonard's Storage Buildings. It was a temporary
11 office to work out of to sell jet ski tickets.

12 Tim and Jose ran power and water to it. We
13 installed three phase power for the restaurant in
14 the future, and we were trying to get all of that
15 together for the first few years and then build the
16 restaurant, and then the marina and ship store.

17 So the only thing that was built was the
18 docks and the jet ski purchase, fixing the parking
19 lot, a few miscellaneous things, and that was it.

20 **Q** Didn't you put a fuel tank?

21 **A** Oh, sorry about that. Yes, we put a big fuel
22 tank in. We did the -- we actually built that up
23 in the parking lot right behind that little house
24 that Doc lived in, and that was approved by Horry
25 County Planning Department, Tommy Smith --

WADE LONG - DIRECT EXAMINATION

1 **Q** Hold on. Hold on. You are getting into
2 hearsay. My question is what was built and when
3 was it built in terms of the --

4 **A** I think it was built in '17.

5 **Q** Who handled the installation and -- the
6 installation of the 10,000-gallon tank?

7 **A** The 10,000-gallon tank was a guy we hired out
8 of the Rocky Mountain, North Carolina, Roscoe
9 Whitley. He was hired -- he was the fuel man, and
10 he was hired to do the tank from the original
11 beginning.

12 **Q** Who made the decision to put a 10,000-gallon
13 tank there?

14 **A** Me and Tim made that decision. We originally
15 purchased a 3,000-gallon tank, and neither one of
16 us have been in the fuel business before. But when
17 Roscoe Whitley came down, he's like you guys are
18 crazy. You have to buy fuel off the short truck,
19 and how you make money in the fuel business, you
20 buy a larger volume of fuel, and you can get it
21 cheaper. You don't have so pay it per freight
22 load.

23 So me and Tim was hurting ourselves by the
24 short truck, which holds 4,500 gallons versus
25 buying a semi load, which holds 7,600 gallons, and

WADE LONG - DIRECT EXAMINATION

1 we can get it for a dollar cheaper a gallon.

2 The catch basin was originally set up for a
3 3,000-gallon, and I really wasn't that educated on
4 the matter, and neither was Tim. So we thought it
5 was just swapping the tank out and putting it in.
6 The fuel guy talked us into it. We put the
7 10,000-gallon in, and it got inspected by the
8 county. I have the signed permits and e-mails from
9 -- not hearsay, it's from Tommy Smith personally --

10 Q That is still hearsay, but they are not
11 objecting yet, so keep going.

12 I mean, basically, did you think you were
13 doing something wrong?

14 A No, sir, I didn't think I was doing nothing
15 wrong.

16 Q Did Tim think he was doing something wrong?

17 A No, sir. And then Tim had his son, Casey --
18 and I have the messages -- list the tank on
19 Marketplace or Facebook to sell. Tim is the one
20 that sold the 3,000-gallon tank. He listed it on
21 Facebook. I don't have a Facebook. And they sold
22 the 3,000-gallon tank. So neither one of us
23 thought we were doing anything wrong. It was a
24 simple mistake with the fuel tank.

25 Q How long was the 10,000 tank there?

WADE LONG - DIRECT EXAMINATION

1 **A** That tank was there, and we never had an
2 issue with it from when we opened to when we
3 started having disputes, and I took over the
4 company, I think, October 2020 -- October 12th is
5 around when I took over. There was a little
6 rumblings before, but that is when it kind of got
7 nasty. None of the parties were talking or getting
8 along. But we had a great relationship prior.

9 I got kicked out of the restaurant. They
10 didn't buy fish from me. And it was war for both
11 parties. Never one problem with the county all of
12 the thousands of gallons of fuel we sold with
13 anyone prior to October 12 of 2020.

14 **Q** And then what happened?

15 **A** Then we started hiring attorneys --

16 **Q** No. No. No. Not in the grand scheme, but
17 with regard to the fuel tank. When did the first
18 -- when did you first learn there was a permit
19 problem with the 10,000-gallon tank?

20 **A** When I got turned in. They reported me to
21 the county -- referring to Tim and Crab Catchers.
22 TNT reported me to the county that I had an illegal
23 not properly permitted and too large for the
24 container.

25 **Q** What did you do?

WADE LONG - DIRECT EXAMINATION

1 **A** What did I do? I got it corrected right
2 away. I told them the truth of what happened, what
3 I did. I met with David Jordan, Planning and
4 Zoning, and Tommy Smith, in person, with my
5 attorney, Henrietta Golding. The exact words,
6 Wade, get this tank corrected, and we don't have an
7 issue with nothing or the jet ski hut.

8 So what did I do? Do you know how hard it is
9 to move a 10,000-gallon tank, 20-foot tall, 15 foot
10 in diameter and a very expensive process? So I had
11 to get a hold of PeeDee Tank to get me a tank built
12 as quick as possible, because they didn't have one
13 in the yard. So they constructed and built me a
14 brand new 3,000-gallon tank. It took about eight
15 days. I hired a crane company to come out, and
16 another company to come out to pump the fuel out of
17 the big tank where the crane can pick the small
18 tank up. In case something happened, I wouldn't be
19 responsible if fuel leaked.

20 The big tank was pumped out low enough to
21 pick it up, but it still had fuel remaining in it.
22 But they set it outside of the containment. I
23 didn't have no way to transport it or move it in
24 time, so it sat there on the lot for a pretty good
25 while. The 3,000 tank was put in its place, filled

WADE LONG - DIRECT EXAMINATION

1 with fuel, and the county allowed me to pump fuel
2 and operate.

3 Q And that what is in 2020?

4 A I think that was '20 or '21.

5 Q So the tank had been there for, like, four
6 years?

7 A Oh, prior to four years, no problem.

8 Q You talk about you bought jet skis. How many
9 did you all buy?

10 A We originally bought 12 jet skis.

11 Q Now, Mr. Richter talked about how terrible a
12 business jet skis are. I don't know you quite
13 agree with him.

14 A It's a great business -- I'm sorry.

15 Q What is the benefit to jet skis in a marina?
16 Why do you make money?

17 A We make money renting them. Where we live,
18 Myrtle Beach/Grand Strand, we have millions of
19 people come out every year, come down to vacation.
20 What better way to run up and down the Grand
21 Strand? We would rent them -- we had 12 jet skis
22 and rented them X amount of dollars, whether it was
23 a dolphin cruise 3 or 4 miles outside of the inlet
24 to the ocean. It was located about
25 three-and-a-half miles from our marina. We went up

WADE LONG - DIRECT EXAMINATION

1 the ocean, go behind the shrimp boats and see
2 dolphins, jet ski, jump a few waves, and that is
3 how we made our money renting skis.

4 Q Wasn't there another related benefit profit
5 making apparatus for the jet ski? Okay. That's
6 probably a bad question.

7 How did the jet skis get fuel?

8 A We owned the fuel system. We pumped the fuel
9 in it.

10 Q Okay. So one of the major expenses for jet
11 skis?

12 A Is fuel. That is the biggest expense.

13 Q And your jet skis didn't have to buy it from
14 someone else?

15 A No. We bought it at the price we paid for
16 fuel.

17 Q How did the jet ski business go in the first
18 couple of years?

19 A I thought it went pretty well. It started
20 out slow, like any business. My part of it was
21 kind of getting the skis and the hut and the dock,
22 and getting people there to buy the fuel with
23 bigger boats.

24 Tim hired two people that worked for him for
25 many years, Brett and Veronica, his wife. I didn't

WADE LONG - DIRECT EXAMINATION

1 really know Brett that well. And, you know, Tim
2 assured me he was a good person to run the company.
3 I trusted him, and he put pretty much Brett in
4 charge to run the day-to-day operation -- him and
5 Veronica. And then Tim overlooked everything at
6 the end of the day or the week.

7 Q Okay. Who paid for the jet skis?

8 A TnW More.

9 Q Did either you or Tim pay for some of them
10 and then be reimbursed?

11 A I don't really remember. It has been quite a
12 while. I think the first order was like \$130-,
13 \$140,000, roughly.

14 Q In 2018/2019, did you trust Tim?

15 A I did trust Tim, yes.

16 Q How did the daily operation of this new
17 business venture go? Who did what?

18 A So like I said earlier, I was in charge of
19 dealing with the contractors and getting the docks
20 built. I was in charge of getting the fishing
21 boats to rent the slips. I was in charge to get
22 the fuel accounts. I wasn't worried about the 10
23 or 15, but the hundreds of gallons for all the
24 charter and commercial boats, that is where we
25 would make money. You figure 200 gallons at 30

WADE LONG - DIRECT EXAMINATION

1 cents, that is, you know, 60 bucks a fill-up. Then
2 times 10 or 20 boats, it adds up fast and daily and
3 weekly.

4 I was in charge of getting the accounts
5 there. I did pump a little bit of fuel, but Tim
6 was in charge of running the day-to-day operation
7 dealing with the few employees we had and dealing
8 with the pumping of the fuel if I wasn't there.

9 Q And was he also running TNT Crab Catchers?

10 A He did. He also ran TNT and Crab Catchers.

11 Q Okay. Now, we talked a little bit earlier
12 about the office in TnW. Where is that located?

13 A Located upstairs. As you walk behind our
14 dock to the restaurant, straight upstairs, all the
15 way back, we had an office there with Tim's office.
16 That was his main office, and he allowed us to use
17 that for our jet ski office. And we had a filing
18 cabinet in there for our business, Crab Catchers,
19 and Get Away Adventures. He owned another tour
20 boat business.

21 Q And in order to build the docks on the
22 marina, did you have to demonstrate that you had
23 bathrooms?

24 A Yes. That was a huge requirement from DHEC.
25 We had to show them a whole plan. And, actually, I

WADE LONG - DIRECT EXAMINATION

1 think it is listed in this marina manual as well.

2 We had to show them where our bathrooms were, and

3 Crab Catchers was used for our bathrooms. And we

4 also had portable toilets as well, but they wanted

5 fixed brick and mortar restrooms.

6 Q And these were in Crab Catchers?

7 A Yes.

8 Q And they allowed you to use that for TnW?

9 A One hundred percent.

10 Q Did they maintain control of their property
11 when you were using it for your business? I mean,
12 could they -- with the bathrooms, it was still
13 theirs?

14 A Yeah, it was still theirs.

15 Q Okay. And was TnW required to pay for the
16 use of the parking lot?

17 A No, sir.

18 Q A straight swap for the use of the slips and
19 the parking lot?

20 A One hundred percent.

21 Q Okay. I want to talk about --

22 MR. PLAYER: Do you have exhibits, Wade?

23 THE WITNESS: I'm buried in paperwork up
24 here.

25 Q (BY MR. PLAYER) Okay. Yes. These are the

WADE LONG - DIRECT EXAMINATION

1 next two. Won't talk about. Read the first one.

2 Let the jury know what it is.

3 **A** The top one?

4 **Q** I think it is at the bottom.

5 MR. PLAYER: It's 19. Okay. You are --

6 MR. HARRISON: I think it is 21.

7 MR. PLAYER: 21? I told you not to let me
8 touch the exhibits. 19 was Nick Nye. 20 was OCRM
9 Manual. So, I apologize, it is 21.

10 **Q** Scroll a little, and we'll read it off the
11 screen. Down at the bottom, the second to the last
12 entry.

13 **A** Can I use Donny as a risk manager for TnW,
14 question mark. Will you have a drug test for
15 employees requirements, for being an employee,
16 describe training for employees, employee minimum
17 age, list, first aid supplies.

18 **Q** So now Donny, who has no interest in this
19 company, has only interest in TNT, is going to be
20 the risk manager for TnW?

21 **A** That is what he was asking, because a lot of
22 times I wasn't there. It wasn't like I was
23 loafing. I had to make a living, too. This wasn't
24 my only income, and it wasn't Tim's only income,
25 and I was fishing a lot. But I tried to have

WADE LONG - DIRECT EXAMINATION

1 things squared away as much as I could. I was
2 catching fish for the restaurant. Tim would leave
3 a lot of times come September -- August, late
4 September, and he would go to Wisconsin to be with
5 his family. So he would go up, and Donny was
6 there. Donny would be in charge of signing checks
7 or whatever needs to be done, and occasionally I
8 would make a deposit or Donny would pick something
9 up.

10 Q So Donny signed checks for TnW, and was the
11 risk manager for TnW?

12 A Yes. Yes. That is correct.

13 Q And did you -- how did you interpret that?

14 A I mean, I didn't have a problem with it,
15 because at the time, I mean, I trusted Donny and I
16 trusted Tim.

17 Q Eventually, things went south, right?

18 A Yes, it did.

19 Q What is your recollection of the first time
20 things started to go sour with Tim and TnW and TNT?

21 A I guess, you know, we never argued or got
22 loud with each other. The very first time, I don't
23 really remember what it was about, but the very
24 first time I introduced him to one of my best
25 friends and good business partner, Chris Kaiser,

WADE LONG - DIRECT EXAMINATION

1 about buying in. I don't know what it was, if we
2 were both worn out or the heat or what, but Tim --
3 which I want to get something done too, but
4 sometimes people can move so fast when it comes to
5 paperwork or building. They have schedules and
6 deadlines. He was putting pressure on me I think
7 it is for a marker for a jet ski float or
8 something, to get it done, and I was pretty hard on
9 him, but I wasn't moving fast enough for Tim. He
10 said something to me, and I snapped back at him,
11 and we said a few words. I mean, fussing a little
12 bit. That is the first time I ever had an issue
13 with Tim. And it was embarrassing for me because
14 it was right in front of Chris. We're hollering
15 and screaming at each other right in front of
16 Chris, and Chris is like, What in the world am I
17 getting myself into? And that was the very first
18 time. That was in '18, probably like March, April,
19 somewhere in there.

20 And then after that, everything was fine. We
21 go back to it. When I noticed a big problem was
22 sometime in -- I had questions about a few things,
23 and Tim would say there's the filing cabinet, help
24 yourself. I didn't think nothing was going on.

25 When we had a problem was when I got -- I was

WADE LONG - DIRECT EXAMINATION

1 watching the people in line when Martin -- he hired
2 Becca Martin and John Sessions, Carson and like
3 three or four other people that he managed to run
4 the jet ski company to work the docks and sales and
5 all of that stuff. I was in there quite a bit, but
6 I didn't dive into the checkbooks or accountings,
7 because I trusted him 100 percent.

8 I was happy to see people there renting skis
9 and buying fuel and renting docks. Well, I seen a
10 ton of people in line that day. He introduced me
11 to a lady, Teresa Lester. She owned -- it was like
12 kind of a mobile app, but it was a credit card
13 processing company. It is called Simple Swipe. I
14 had it on my phone, and I could see the
15 transactions and stuff. It is pretty exciting to
16 see the transactions flowing into your account.
17 We're making money, and I'm happy.

18 When I see all of the people standing in
19 line -- I can add and subtract, that is one thing I
20 can do. When I see the amount of people in line,
21 it didn't end up with what was deposited. It was
22 like 750 --

23 **Q** Don't talk about numbers.

24 **A** It didn't add up to the numbers I thought it
25 should have been. I walked over. Never bet Becca.

WADE LONG - DIRECT EXAMINATION

1 She didn't know who I was. I introduced myself to
2 her, and she was nice. I told her what was going
3 on, and she said, No, we've had a good day --

4 MR. RICHTER: Objection; hearsay.

5 Q (BY MR. PLAYER) You can't say what Rebecca
6 said.

7 A Okay.

8 Q Go back to what made you suspicious and
9 didn't add up in your mind, what you saw going
10 through the ski huts, and what was going into the
11 account.

12 A Yes.

13 Q Did you talk to Tim about it?

14 A We tried. Me and Chris tried a couple of
15 times, and we still had a few bickers going on. We
16 wanted -- we weren't the same people we were
17 towards each other. We were A little hostile
18 towards each other. Chris even was more -- I'm
19 easy going, but if you push me, I'll snap like
20 anybody. Chris is easier going than me, so he was
21 more of a mediator to kind of work things out to
22 see where this was going. But we never got nowhere
23 with it.

24 Then, what really put the icing on the cake
25 and rubbed me the wrong way, after that day

WADE LONG - DIRECT EXAMINATION

1 watching the skis, Tim Kettner sent a group message
2 out to every employee in Crab Catchers, including
3 one that is not here today, Jose, Justine, Casey,
4 and Donny, and copied me in it and said that he
5 talked to the banker and they agreed that I was
6 going to sign all of my shares over, and they are
7 going to take the profits in the company and pay it
8 off towards the loan. I did not do that, and those
9 words did not come out of Geoff Hopkins' mouth.

10 MR. HARRISON: Objection; hearsay.

11 THE COURT: Sustained.

12 Q (BY MR. PLAYER) Geoff will be here --

13 A I don't know if I'm allowed to say this, but
14 I actually have --

15 Q Let's wait.

16 Did you ever say you were willing to sell
17 your shares to Tim or TNT?

18 A Absolutely not. No, I didn't.

19 Q Did it make you angry?

20 A Yeah, it really did. It upset me.

21 Q So what did you do?

22 A I went -- a couple of days I was just a
23 wreck. And then I went to an attorney and got his
24 opinion on it, and he guided me and told me what to
25 do, Kenneth Moss, and he put the money --

WADE LONG - DIRECT EXAMINATION

1 **Q** Let's not talk about the money.

2 You did take what was left in the account
3 out, correct?

4 **A** Yes.

5 **Q** That was on the advice of counsel?

6 **A** Yes. Put it in his account; not mine.

7 **Q** Why did you do that?

8 **A** Because Tim said in this message he was
9 taking it out and paying it off towards the loan.
10 Why would you take that kind of money out and pay
11 it towards a loan where we had several years to pay
12 it? We knew what our payment was, so why would you
13 -- what he was wanting to do -- he thought he would
14 cat strap me, don't know my finances and --

15 MR. RICHTER: Speculation as to what he
16 thinks, Tim.

17 **Q** **(BY MR. PLAYER)** You are speculating to what
18 Tim was thinking.

19 **A** Okay.

20 **Q** How did it seem to you?

21 **A** That he was wanting to bleed the company
22 dry --

23 **Q** Well, when did this happen? Were you making
24 money or?

25 **A** We were making money. We had enough to take

WADE LONG - DIRECT EXAMINATION

1 us through the season and pay all of our payments
2 until spring and if we didn't have a high dollar
3 payroll.

4 Q But that \$80,000, was it needed, or were you
5 going to generate more income to pay out the rest
6 of the year?

7 A I mean, that money was needed to pay our
8 monthly payments. \$5,033 a month on miscellaneous
9 stuff, but our company was getting bled dry with
10 these kids making the biggest checks under the age
11 of 22 years old to run jet skis. I mean, I know
12 COs don't make the kind of money they were paid.

13 Q After the 80,000 you put in the attorney's
14 account, did you still have access to the books at
15 TnW?

16 A No, I didn't. I tried to get ahold -- and I
17 have the receipt for this, but I found it.
18 Actually, it was in these messages here. I
19 received a text message saying we had to reimburse
20 Steve Martin, but we had two iPads that Becca
21 Martin had that was purchased through her dad. Tim
22 had him purchase. Tim reimbursed her dad, Steve
23 Martin, for the iPads, and she was running
24 spreadsheets for all of her fuel sales, cash sales
25 or whatever.

WADE LONG - DIRECT EXAMINATION

1 So once Tim was on to me, I guess, being on
2 to him, I was trying to get the dome books where I
3 could see what was going on, because I was blind to
4 it. I was kicked out of Crab Catchers. Wasn't
5 welcomed. The only thing -- I felt uncomfortable
6 doing this -- was for the jet skis. All of those
7 kids turned against me. I only spoke to them one
8 or two times, because they were on Tim's side. I
9 was locked out. I took the two iPads. My wife was
10 trying to help figure out how to get into them. It
11 showed her locations on them around Coastal, and
12 she went from her location and cut it right off. I
13 did screen shots and saved as much information, but
14 I didn't get the books. Only thing I got was two
15 iPads.

16 **Q** So, at that point, did you have any idea what
17 was going on or what had gone on?

18 **A** I didn't have a clue. I didn't have a clue
19 about the -- I didn't have a clue about nothing.
20 Only thing I knew was the people that we rented the
21 slips to, because I got them there. I didn't have
22 a clue about the jet ski bills. I was locked out
23 of the Fair Harbor stuff. It was like a second
24 party booking agency. It is like Expedia. It does
25 boats and fishing. And she was using Fair Harbor

WADE LONG - DIRECT EXAMINATION

1 not only to book our jet skis, she was using it,
2 and Tim was paying her hourly, and she was also
3 booking her cruises on our dollar, our office
4 place. They were getting paid, so it was all her
5 trips were free, and we were paying the crew boats
6 as well.

7 And then when we got locked out of the iPads
8 and the phone, they quit communicating, and that
9 was pretty much it with the ski business. I
10 couldn't run it or operate it. So can you imagine
11 what it feels like to -- not that I couldn't do it,
12 but I was thrown into a business Tim has been
13 running for years. I could run it if I had the
14 right credentials and information.

15 I knew who my bank loan officer was. I knew
16 what I had to pay a month. I knew the fuel
17 suppliers, and the people that paid rent. I got
18 all of that squared away. But what I didn't get
19 was access to the books, banking. I got locked out
20 of Simple Swipe. Teresa Lester locked me out. She
21 said Tim was the manager on the account.

22 I was locked out of Carolina Bank, a credit
23 card that Tim used to purchase, but I could see
24 charges. I had to open a new bank account to
25 operate. So I had to weigh my options. Do I bleed

WADE LONG - DIRECT EXAMINATION

1 this company dry, or in a lawsuit and I need some
2 reserves and money for this, so I shut the jet ski
3 company down. I feel it was best to shut it down,
4 rent the space out, and stop the business. So I
5 told Becca what was going on. She got her last
6 paycheck from Kim Bryant, who did the payroll
7 weekly for Tim. And I called her and Jennifer,
8 told them. So we had no employees.

9 Only thing I was in charge for at that time
10 was to keep fuel tanks full, sell as much fuel as
11 possible, and continue my relationship with the
12 people I had on my dock, and that's what I've done
13 for the last four years. I have not rented no jet
14 skis. I've sold fuel, and I've rented my slips
15 out.

16 And I can tell you this, in the last four
17 years -- pick any of those four years -- I have
18 done five times as much in one year than Tim has
19 done in all of the years running the business. It
20 is a very profitable company, and I paid over --
21 right about a half million dollars in attorney's
22 fees out of the company, obviously. I had to pay
23 some of my own money at first because it bled the
24 company dry. I wouldn't be sitting here for a few
25 thousands of dollars. I've always had excellent

WADE LONG - DIRECT EXAMINATION

1 credit and pay my bills.

2 Q (BY MR. PLAYER) Sorry. We're getting
3 evidentiary issues straightened out. I didn't put
4 it in, and now it is relevant. It is minimal, but
5 it is an exhibit. Can you identify what that is?

6 A Operating agreement.

7 Q For who?

8 A TnW More.

9 Q You all right?

10 A (Witness crying).

11 MR. PLAYER: Can we take a break?

12 THE COURT: We'll take five minutes. Ladies
13 and gentlemen, if you will go back to your jury
14 room, we'll be back with you.

15 (The jury exits at 2:41 p.m., and the
16 following is heard out of the presence of the jury.)

17 (A recess was taken.)

18 THE COURT: Are we ready to proceed?

19 MR. PLAYER: Except -- I will be done by
20 4:00, and Mr. Harris wanted to spend between 4:00
21 and 5:00 to get all of the exhibits straight, so
22 he'll cross in the morning. I have to tell
23 witnesses tonight when to come.

24 THE COURT: No, that sounds good for me.

25 MR. HARRISON: That will give everyone time

WADE LONG - DIRECT EXAMINATION

1 to go through the exhibits and kind of prep for
2 cross as well.

3 MR. MONGILLO: I have one -- Mr. Player gave
4 us Plaintiffs' Exhibit 25, which is the four checks
5 that he said narrowed down to 17 to show the jury
6 to say this is what the dispute started over, but I
7 think at this point in time, before this even comes
8 in, that you should instruct the jury a curative
9 instruction that the complaints for
10 misappropriation and the breach of fiduciary duty
11 for absconding with the cash and diverting LLC
12 funds have been dismissed against Mr. Kettner
13 individually. Because based on the openings, they
14 still think that Tim is still accused of
15 misappropriation or stealing cash, and that is now
16 off the table. So I think they need to be informed
17 of that. Because a lot of them are taking notes, I
18 see, as they go forward. So I think since those
19 are no longer claims, they should be told.

20 MR. PLAYER: If his explanation when he says
21 we're not seeking damages for these, if that is not
22 sufficient, I'm fine with the curative instruction,
23 but I just know that pleadings aren't supposed to
24 be admitted into evidence.

25 THE COURT: Normally, when I give a curative

WADE LONG - DIRECT EXAMINATION

1 on that -- I had it happen before, and normally it
2 is at the end of the plaintiff's case. But that is
3 just what I've done before; that is not the rule.

4 MR. MONGILLO: I'm just concerned because,
5 you know, to them, that is a huge issue, right.
6 Based on the openings, I think Mr. Player said
7 "steal," and I don't know if he did, but that
8 question is in their head. I see them taking
9 notes, but it is off the table now.

10 So, I mean, I think it is appropriate at this
11 point in time because it has been dismissed.

12 THE COURT: If I'm going to do it that way, I
13 think I need to say the named individuals has been
14 dismissed as well.

15 MR. HARRISON: We would request the same.

16 THE COURT: All right. We'll put that on the
17 record for the jury.

18 Anything else before we bring the jury back
19 in?

20 MR. HARRISON: No, Your Honor.

21 (The jury enters at 2:53 p.m., and the
22 following is heard in the presence of the jury.)

23 THE COURT: Ladies and gentlemen, you can be
24 seated.

25 Ladies and gentlemen, we're going to go a

WADE LONG - DIRECT EXAMINATION

1 little longer this afternoon and release you for
2 the evening.

3 I do want to let you know -- you know, I
4 mentioned earlier that the attorneys had been
5 working trying to potentially make this case
6 shorter for you and had agreed on some things. One
7 of the things they've agreed on is that the
8 plaintiff is no longer actively pursuing a claim
9 for misappropriation against Mr. Tim Kettner.

10 They are also not seeking any other claims
11 against the individuals named as Donald Kettner,
12 Jose Morales, Casey Kuzmik, and Robert Benoit. I
13 do want to make you aware of that. Again, those
14 claims have been dismissed and are not for your
15 consideration.

16 All right. You can continue your direct
17 examination.

18 MR. PLAYER: Thank you, Your Honor.

19 You good?

20 MR. LONG: Yeah. I'm good. Thank you. I
21 would like to apologize to everybody. I got choked
22 up. I've just been under a lot of financial and
23 mental stress, and I've also buried both of my
24 parents.

25 MR. PLAYER: It's been going on awhile.

WADE LONG - DIRECT EXAMINATION

DIRECT EXAMINATION (CONT.)

1
2 **BY MR. PLAYER:**

3 **Q** We talked, and I can't remember where we
4 left, but we talked about the jet skis, and you
5 couldn't run it after Tim got --

6 **A** No. It was too hostile on the docks. I
7 didn't really want to be around him and was unsure
8 what was going to happen. I just tried to keep
9 myself away from the docks as much as possible and
10 run the business as remotely as I possibly could.
11 And it was pretty easy because we signed a year
12 contract on slip rentals. If I had a problem with
13 the fuel or had to go down there, that was an
14 issue. But I mostly tried to stay away as much as
15 possible until everything was straightened back out
16 and, hopefully, one day open the jet skis business
17 back up.

18 **Q** Who did you rent the slips to for the jets
19 ski business?

20 **A** I rented the slips out and the location to
21 Eric Rolf. He had East Coast Atlantic Jet Skis.

22 **Q** And how much was he renting the slips -- how
23 much was he renting the space for the jet skis on a
24 monthly basis?

25 **A** He was paying for the jet skis about \$10,000

WADE LONG - DIRECT EXAMINATION

1 a month.

2 Q Once you and Tim got at odds and you took
3 over the business, what did the focus at Crab
4 Catchers do with regard to your operations?

5 A It was really terrible. At first, Donny and
6 Casey -- he and I had a good relationship with
7 those guys, and Justine. They pretended to still
8 be my friends, that they didn't know what was going
9 on, playing both sides of the fence, but it didn't
10 take me long to figure out, you know, what was
11 going on, playing good cop and bad cop.

12 But even me trying to be as remotely as
13 possible to run the business, obviously I needed
14 Eric. That helped out to produce an income for the
15 companies to pay the mortgage and hopefully be
16 profitable at the end of the year. They locked me
17 out of the parking lots, tore my fish cleaning
18 table and the roof down -- the only fish cleaning
19 table we had. Tim and Donny has cleaned a million
20 pounds of fish on the same table. They tore it
21 down.

22 So my guys on the dock did not have any way
23 to clean fish that came into shore after 12 hours
24 offshore to stand in the rain or blazing sun for
25 hours. They literally torn it down with a chainsaw

WADE LONG - DIRECT EXAMINATION

1 in the middle of the day. Tried to block me off of
2 my locked. Put gates up. Locked me out of the
3 parking lot, took a chainsaw and cut my Little
4 River Water sports sign down on a ladder that's
5 been there for five years.

6 On top of it, I always have been a pretty
7 decent person, and I never had a criminal record.
8 And I was -- they moved my jet ski up -- totes it
9 off the property. Towed my jet ski off the
10 property, hooked their tractor and chain to it, cut
11 my three-phase power with wire cutters, left the
12 power exposed for someone to hit the line and
13 electrocute them, cut my water lines.

14 MR. HARRISON: Objection. What relevance is
15 this? All this happened after the lawsuit was
16 filed.

17 THE COURT: I'll allow him to testify.

18 MR. PLAYER: Thank you, Your Honor.

19 **A** I went down there and talked to my attorney
20 first, and I talked to a police officer that
21 morning when the sign was cut down.

22 **Q (BY MR. PLAYER)** We can't talk about what he
23 said.

24 **A** Okay. Well, I was instructed to -- if I had
25 an issue, call north precinct Horry County PD or

WADE LONG - DIRECT EXAMINATION

1 911 if it got out of hand. Never had an issue, but
2 it was really getting heated and aggressive. I had
3 to stand up and protect what was mine. I had a
4 mortgage to pay and a business to run. So that day
5 I called Henrietta Golding and asked her, and she
6 said that is your building, you have --

7 MR. HARRISON: Objection.

8 Q (BY MR. PLAYER) That is hearsay, too.

9 A Bring your building back. So I said, okay.
10 Went to my house, got my tractor, drove it there
11 and had someone follow because it is a big track,
12 caution lights and all. I live about 6 miles away.
13 Hooked up with my guys. There was, I don't know,
14 probably 15 people in that parking lot that day --

15 Q You are talking about a hut. Is that it?

16 A That's the hut right there, yes, sir. It's
17 like a 16-by-8 Leonard's building that we used.

18 So I hooked the truck and train to it. It is
19 on skids. I went to pull it back to the location.
20 It was all the way back in the parking lot chained
21 to a John Deer tractor. And Eric's guys were up
22 there sitting on the fuel tank, nowhere to operate
23 the jet ski business. He is paying me \$10,000 a
24 month, and how does it look for me not to provide
25 him a place with the weather. It's terrible. You

WADE LONG - DIRECT EXAMINATION

1 have nothing to work out of. It looks like he's
2 running a half ass business.

3 So as I was bringing it back, that black
4 truck pulls in front of me and cuts me off. By
5 this time, I'm really hot. He starts putting his
6 hands on my property. Wade, just don't do this. I
7 freaked out, got nervous, called 911. First time I
8 ever called 911 or a police officer in my life.
9 Never had a criminal record. What happens?

10 I called, and the Officer Lavender (ph) shows
11 up 45 minutes later. Wade, stay there, I'll be
12 with you in a minute. Okay. Sat there with my
13 tractor, 15 people in the parking lot. What in the
14 world is going on? I just didn't want nothing to
15 break out or no one to get hurt.

16 About 45 minutes, an hour later, he said,
17 We're waiting on the sergeant. The sergeant showed
18 up. So the three walked up to me. Are you Wade?
19 Yes, sir. He said, Put your hands behind your
20 back, you are under arrest. He put two sets of
21 handcuffs on me, put me in the back of the car,
22 drove me all the way. Within five minutes of J.
23 Reuben Long, asking me all of these questions. He
24 was nice. I was about to suffocate. Before he
25 left the parking lot -- I am a big guy, and it was

WADE LONG - DIRECT EXAMINATION

1 a small Ford car. I was in the back seat and he
2 put two sets -- not one -- behind my back,
3 ratcheting me into the seatbelt. I'm about to
4 suffocate. I'm trying to signal through a window
5 to John -- I was about to pass out.

6 Q So I take it that wasn't a pleasurable
7 experience?

8 A No. June 6, summer. Rode in the back of the
9 car all the way to Conway. They turned around,
10 brought me back, and said he got a call. Got a
11 call --

12 MR. HARRISON: Objection; hearsay.

13 THE COURT: Sustained.

14 A I seen the guy get a phone call with my own
15 two eyes, and he said, I'm taking you back.

16 Q (BY MR. PLAYER) You can't say what he said.

17 A Well, I was going somewhere. I was going
18 back to Little River. Went back to Little River
19 right there in front of the Par 3 and Little River.
20 I said, Man, I'm about to pass out, you got to get
21 me some air. No air was in the back of the car.
22 He stopped in front of Par 3 and Little River, let
23 me out of the back. I stood on the side of the
24 road. Embarrassed as hell. I didn't care, I was
25 about to fall out. Just to get fresh air. He took

WADE LONG - DIRECT EXAMINATION

1 the handcuffs off my back, handcuffed me in the
2 front, drove me back to Little River where he
3 arrested me, and said, Wade, I got to --

4 Q Can't say what he said.

5 MR. HARRISON: Objection.

6 THE COURT: Sustained.

7 A I was waiting for the sergeant to come. I
8 stood there for 30 minutes in handcuffs, and I
9 said, Can you please take these off? I'm not going
10 nowhere. I waited for 30 minutes. He finally took
11 them up. Said, I'm going to take them off.

12 MR. HARRISON: Objection.

13 A The handcuffs came off because the sergeant
14 never showed back up.

15 Q (BY MR. PLAYER) But you did not go to jail?

16 A No. I rode in the car for two-and-a-half
17 hours on June 6th.

18 Q So let's talk about pictures. Explain to the
19 jury what is that big blue thing?

20 A Rust on it? That is the 10,000 fuel tank.
21 That is the original first fuel tank we put in that
22 container.

23 Q Whose truck is that?

24 A Robert Benoit.

25 Q Does that interfere with the operations of

WADE LONG - DIRECT EXAMINATION

1 the fuel and the ski hut?

2 **A** Yeah. It was terrible. Because Eric
3 operated out of the two front slide windows there,
4 and they would pull up right there. All of them
5 would just to, I guess, be spiteful or run us off
6 or whatever. Also, it blocked the fuel tank. That
7 tank there, we did get a semi-load of fuel. It was
8 an 18-wheeler. He can come in the parking lot one
9 way and back up there to fill it up. The fill-up
10 is on the side of the front of the hood of that
11 Dodge Ram to the left.

12 **Q** So you couldn't put gas in the tank?

13 **A** You could. It would be a pain in the butt.
14 It is hard for the big trucks. I guess he would
15 have to maneuver it and had to have extra hose if
16 he needed to.

17 **Q** And let me put two things in real quick.
18 We're not going to put it on up on the screen.
19 Plaintiffs' 24, which another witness will go
20 through in future testimony. Can you tell me what
21 those are?

22 **A** This right here?

23 **Q** Uh-huh. Not what it says, just what they
24 are.

25 **A** Looks like hut sheets for ski rentals.

WADE LONG - DIRECT EXAMINATION

1 **Q** Did you ever see those when Tim was running
2 these?

3 **A** I never seen these. I didn't run that side
4 of the business, but I've never seen these.

5 **Q** Okay. And then Exhibit 25, there is four
6 checks. I want you to look at them.

7 **A** (Witness examines document.)

8 **Q** Who are those checks?

9 **A** It is a check made out to Tim for 30,000. It
10 says reimbursement for TnW business -- something.

11 **Q** Do you have glasses somewhere?

12 **A** I got -- I had acid in any eyes.

13 **Q** Have you ever heard of a doctor?

14 **A** Yeah.

15 **Q** So what is indicated on the check that Tim
16 paid himself \$30,000 for?

17 **A** Reimbursement for TnW and More.

18 **Q** Okay. Did that raise any suspicions in your
19 mind?

20 **A** It did.

21 **Q** But you are not seeking any damages now for
22 misappropriation of funds?

23 **A** No, sir. Because I don't know -- I mean, it
24 is not for me to look in the -- be more detailed in
25 that part, but I trusted him. I don't know if it

WADE LONG - DIRECT EXAMINATION

1 was a dollar or whatever.

2 Q But you are not seeking for this jury to give
3 you that?

4 A No, sir.

5 Q But these are what caused the break with Tim,
6 right?

7 A Yes, sir.

8 Q Did he give you an explanation back then of
9 what in the world \$30,000 -- he was paying \$30,000
10 to himself for?

11 A No, sir. And these other ones --

12 Q They will be there for the jury to review.
13 MR. PLAYER: Was his explanation good enough?

14 MR. RICHTER: Yeah. Thank you.

15 MR. PLAYER: Okay. 26 was Robert's truck.
16 The black truck we just had up was 26.

17 UNIDENTIFIED SPEAKER: I had it as 24.

18 MR. PLAYER: The two I just put in because I
19 already marked that. That is why we need time to
20 get the exhibits straight.

21 MR. MONGILLO: Checks are 24.

22 MR. PLAYER: Blocking the tank was 26. And
23 then the next picture is Donny's truck blocking the
24 hut, and that is 27. A lot of paper. A lot of
25 trees died for these two weeks.

WADE LONG - DIRECT EXAMINATION

1 **Q** What is this -- while I try to find it on my
2 computer.

3 **A** This is Donny's truck pulled right up to the
4 window of the ski hut and blocking the fuel tank.

5 **Q** Some place. Blocking the ski hut?

6 **A** And it hurt Eric Roth's daily operation.

7 **Q** So same place?

8 **A** A lot worse. I mean, people can't even get
9 access to the window.

10 **Q** Could you operate with a truck blocking those
11 two things?

12 **A** I mean, if you were paying to come down for a
13 jet ski ride -- I mean, doesn't it look like a half
14 ass -- I mean, I would be embarrassed.

15 **Q** I know, but we're not --

16 **A** Sorry.

17 MR. PLAYER: 27.

18 **Q** **(BY MR. PLAYER)** This one I need a little
19 explanation, and then I'll mark it. What is that a
20 picture of?

21 **A** A picture I took out of my truck window where
22 the gates were locked into the parking lot and all
23 of the customers. This is a good day because
24 normally it is lined up all the way. But customers
25 are parking on the outside.

WADE LONG - DIRECT EXAMINATION

1 **Q** The parking lot you were promised to use for
2 your business?

3 **A** Yes.

4 **Q** The parking lot that has signs being used by
5 Crab Catchers and Little River Water Sports?

6 **A** Yes.

7 **Q** And those are all Little River Water Sports
8 customers parking on the street?

9 **A** Usually, they are lined up on both sides in
10 the summer when it gets really busy. We have
11 pictures of that where you can't even -- an
12 emergency vehicle or truck can barely get through.

13 **Q** I'm going to quit touching the exhibits. You
14 look at the screen. What is that?

15 **A** That's a Crab Catchers' customers going to
16 have a sandwich or drink parked on the back side of
17 the fuel dock. I'm thankful it is on back side,
18 because they park on the front side, and then
19 commercial boats can't fuel up.

20 **Q** Did you have problem with boats for people
21 going to Crab Catchers using your docks and
22 blocking your fuel pump?

23 **A** The biggest problem was -- after the lawsuit
24 started, they were intentionally -- like
25 intentionally told to park there.

WADE LONG - DIRECT EXAMINATION

1 MR. RICHTER: Speculation.

2 THE COURT: Sustained.

3 A Numerous times people would try to --

4 Q (BY MR. PLAYER) He'll testify.

5 A Or myself on the dock. People say this is
6 Crab Catchers' dock; not yours.

7 Q (BY MR. PLAYER) So people were telling you
8 that?

9 A Yes, sir.

10 MR. HARRISON: Objection.

11 MR. PLAYER: Goes to state of mind and --

12 A To me, not to Eric.

13 MR. PLAYER: I know, but you are still saying
14 what other people said.

15 That was 28.

16 Q (BY MR. PLAYER) What is this?

17 A That was a sign, but that is on the corner of
18 the dock as you go down the gangway to get on the
19 floating dock. That is a sign they made and put
20 up.

21 Q It says it is for them, right?

22 A Uh-huh.

23 Q Your dock?

24 A Yep.

25 Q You paid for, correct?

WADE LONG - DIRECT EXAMINATION

1 **A** Yes.

2 **Q** They are claiming it's theirs.

3 29?

4 MR. BELLAMY: What exhibit was the last one
5 you were talking about? Right there.

6 MR. PLAYER: That was 30.

7 **Q** **(BY MR. PLAYER)** This one may be hard to see.
8 You see what it is?

9 **A** Yes. I see the fuel tank, two of our
10 customers, Eastern Carolina Outfitters, our jet ski
11 rental.

12 **Q** Who put the chain there to block the
13 entrance?

14 **A** TNT and More.

15 **Q** And this picture, whose fuel pump is that?

16 **A** TnW More's.

17 **Q** Who are the people standing around it?

18 **A** Right there in front of it in the blue tank
19 top is Donny, Mr. Howell Bellamy, and the reddish
20 color khaki shorts and camouflage blue shirt is
21 Robert Benoit. That was on a Friday afternoon,
22 drizzling rain. I don't know if I'm allowed, but
23 they called the EPA --

24 **Q** Let's do this. The day after this, what
25 happened? What was scheduled to happen the next

WADE LONG - DIRECT EXAMINATION

1 day?

2 **A** The day after this a gentleman, Kenneth
3 Raymond, from USEPA, called me and said he has been
4 contacted by Robert --

5 **Q** Again, hearsay. Did EPA come out to inspect
6 it?

7 **A** Yes.

8 **Q** Next day?

9 **A** Yes, he did.

10 **Q** Is that your dock?

11 **A** Yes.

12 **Q** Are those Crab Catchers people?

13 **A** Even before it was inspected. Yes.

14 **Q** But they are down there on your dock fiddling
15 with your gas pump?

16 **A** One hundred percent.

17 **Q** Do you know who took these pictures?

18 **A** I do.

19 **Q** Who?

20 **A** That picture there was taken by Eric Rolf,
21 but we also had a security camera system. That is
22 Howell's hand touching the hose there. But that
23 was Eric took that pictures, screen shot, but we
24 had surveillance footage as well with cameras on
25 our dock.

WADE LONG - DIRECT EXAMINATION

1 MR. PLAYER: That was 32, 33 about.

2 Q (BY MR. PLAYER) So two more. I'll hand these
3 to you. This picture, which is going to be 33,
4 what is that?

5 A That right there is Donny. He's opening the
6 gates or closing the gates.

7 Q And the pictures we saw a second ago, there
8 wasn't a gate there, right?

9 A No, sir.

10 Q So they installed a gate after you went to
11 war?

12 A They did install multiple gates, chains.

13 Q This is 33 and will be over here.

14 The next one is my favorite. What is
15 blocking your fuel pump?

16 A Not only did they lock the gates, they
17 wrapped a chain around it twice, locked it. They
18 parked a tractor in front of it and extended the
19 bucket on it to block access.

20 Q And I believe that is 34.

21 So what did you think they were trying to do
22 with all of this?

23 MR. RICHTER: Objection; speculation.

24 THE COURT: Sustained.

25 Q (BY MR. PLAYER) What did it do?

WADE LONG - DIRECT EXAMINATION

1 **A** My beliefs --

2 **Q** No. What did it do to your business?

3 **A** It crippled me. I about went under. It was
4 like I was -- all my time to keep it open and make
5 as much money as possible without being there. Do
6 you know how hard that is to pay bills where I
7 wouldn't lose it? Because I knew they wouldn't put
8 in on it, so I had to keep it going. I was just
9 trying to constantly keep it going.

10 There are several times I thought about just
11 giving up and just paying the mortgage, but I
12 wouldn't have no expense (sic) of people there
13 buying fuel until we got through the litigation.
14 But I'm thankful to keep it going, and the people
15 believed in me in the community. Most of these
16 people have known me my whole life in Little River.
17 I hand selected every one of those people that
18 rented those dock slips. They watched me work as a
19 kid. A lot of them are older than me, in their
20 60's. They own charter or commercial boats. They
21 believed in me and my character, so they stayed and
22 supported me through all of this. A lot of them
23 has been there their whole life, a captain for 40
24 years.

25 MR. PLAYER: If it's okay, I'll designate

WADE LONG - DIRECT EXAMINATION

1 these as Plaintiffs' Video 1 through 5. It is the
2 videos.

3 Q So this is Plaintiffs' Video No. 1. What is
4 this a video of?

5 A At nighttime. This is the fuel tank I was
6 telling you guys about.

7 Q The 10,000 tank?

8 A The 10,000-gallon tank that I pumped most of
9 the fuel out. I was trying to wait because it was
10 so expensive to move, thousands of dollars to move
11 it. Robert gets in one of his moods and hooks a
12 tractor to it at 10:00, 11:00 at night trying to
13 move it with a chain.

14 Q All right. Here is Video 2.

15 A He's trying to pull the fuel tank with fuel
16 in it.

17 Q There is fuel in it, and they are so worried
18 about a gas spill on their property. What is that
19 going to do?

20 A I didn't understand it, because I was the one
21 that reported it to the EPA about not having
22 appropriate gas, but yet they are trying to pull
23 over a 10,000-gallon fuel tank.

24 Q Does that look like they are trying to take
25 control over your property?

WADE LONG - DIRECT EXAMINATION

1 **A** One hundred percent.

2 **Q** This is Video No. 3. Was he successful
3 moving the tank at all?

4 **A** No, not at all.

5 **Q** Can you tell from the timestamp? This is
6 video No. 4. What time is he doing this?

7 **A** Let's see. That is like 9:00.

8 **Q** Probably, 8:30 -- no. 9:30, you are right.

9 **A** 9:30.

10 **Q** And then Video No. 5?

11 **A** Yeah, 9:32.

12 **Q** Seems like he was having a little trouble?

13 **A** Made several attempts to try to move that
14 tank.

15 **Q** We go back to the loan. What have you paid
16 on the loan up to date that you took out for this
17 business venture?

18 **A** How much up to today have I paid?

19 **Q** Yes.

20 **A** \$5,033 a month, every month up until now.

21 **Q** So about 66 months of \$5,000?

22 **A** 5,033 and change a month, yes, sir.

23 **Q** So about 340 that you paid already?

24 **A** Yes, sir.

25 **Q** How much is owed on that loan as of today?

WADE LONG - DIRECT EXAMINATION

1 **A** I think it's 700-some odd thousand.

2 **Q** 779?

3 **A** 779.

4 **Q** When is that due?

5 **A** November 29 of 2024.

6 **Q** 2024. So you are on the hook for that. You
7 lose your land if you don't pay that, right?

8 **A** Yes, sir.

9 **Q** So you paid 350 and still owe 750, so 1.1
10 just on the loan?

11 **A** Correct.

12 **Q** How much money have you put into this?

13 **A** That is what I was talking about earlier. I
14 was thinking if I gave money to fund this one, when
15 all of this stuff was going on with the fuel tanks
16 and attorney fees, that was really rough. But I
17 put a couple hundred thousand dollars to keep it
18 going until it got -- it is starting to sustain
19 itself again.

20 **Q** In terms of your money in the business, it's
21 around 1.3, 1.4?

22 **A** Yes.

23 **Q** What you put into it?

24 **A** Yes.

25 **Q** Now, we got a nice little box here. Mr.

WADE LONG - DIRECT EXAMINATION

1 Harrison said it is empty. With regards to
2 profits, lost profits, Mr. Richter pointed out it
3 didn't make any money while the joint venture was
4 going on, right? Did you ever make positive money
5 while Tim was running things?

6 **A** No, sir. I never got any money. That is
7 what I was trying to say earlier. I didn't get
8 none. And when the company started making money --
9 and I never wrote myself a check or paid myself.
10 The books don't lie.

11 But since October 12 of 2020, the company has
12 done extremely well to dig itself out of a hole,
13 even with a half million dollars of attorney's
14 fees. That is a lot of money that could have gone
15 to profits, split between the owners, back in the
16 business. I know it is a lot of wasted money, but
17 what do you do?

18 **Q** If you were allowed to do what was promised
19 and operate your business --

20 **A** Yeah. So I made a living with that marina
21 versus before -- we were supposed to make money on
22 ice cream, jet ski rentals, fuel sales, restaurant.
23 Never got the restaurant built. Never got the ice
24 cream. The jet skis, I figured it was easier to
25 lease it out. So I made a profit on just renting

WADE LONG - DIRECT EXAMINATION

1 the docks and selling the fuel, and it was a large
2 number I did with just that, with those two things,
3 fuel and dock rentals.

4 Q So we'll go back to the credit memorandum
5 with the bank. They were putting money on -- well,
6 you were putting money on ice cream stores -- none
7 of that is there, right?

8 A No, sir.

9 Q But you have been able to turn it into a
10 profitable business. How much money would you have
11 made if we didn't have the expenses from this
12 lawsuit?

13 A I mean, no telling. A lot. I can tell you
14 what we've done the last few years, if I'm allowed
15 to. And I know it can be way larger. We're
16 strictly selling fuel to the commercial boats that
17 I have a relationship with and rent from us, and
18 the slips. That's it.

19 Q I don't want you to speculate, how much --

20 A This is factual information.

21 Q How much profit have you made in the last
22 couple of years just from what you have been able
23 to do?

24 A Anywhere -- depending -- if it weren't for
25 the attorney's fees, 250 to \$500,000 a year.

WADE LONG - DIRECT EXAMINATION

1 **Q** If you were allowed to operate unfettered,
2 you could continue to make that, right?

3 **A** Yes.

4 **Q** So you've got 1.3 in it, and if you are
5 allowed to operate, you can make up to half a
6 million, 2 million a year based on?

7 MR. HARRISON: Objection; speculation.

8 MR. PLAYER: Basing it on two previous years
9 of sales.

10 MR. HARRISON: He's asking simply about
11 future profits.

12 MR. PLAYER: I'm getting to his personal
13 valuation and how he gets there.

14 MR. RICHTER: Same conversation about -- we
15 had about valuation versus speculation on future
16 income, and there is nothing in the record to
17 support 2020 and 2021. There's not so much as a
18 tax return for a record.

19 MR. PLAYER: If he has personal knowledge.
20 He's testifying what money he's made, and our
21 argument is that they are -- if he's not allowed to
22 claim this property for use of his property, he
23 loses a business that can make this much a year.
24 That is not projection from what he made in the
25 last two years. So that's not speculation.

WADE LONG - DIRECT EXAMINATION

1 THE COURT: Ladies and gentlemen, I'll let
2 you step out for a few minutes. We have a matter
3 of law to take up.

4 (The jury exits at 3:26 p.m., and the
5 following is heard out of the presence of the jury.)

6 THE COURT: All right. He has testified to
7 what money was brought in during that time period,
8 but as far as anything in the future, that is
9 speculative. I understand your argument that he
10 can do it on property, real property he owns. It
11 is not speculation on profits. I mean, he would
12 need information concerning the market, inflation,
13 things like that. Again, that is for an expert
14 witness. Unless he's got some type of knowledge in
15 that field --

16 MR. PLAYER: Your Honor, he can opine on the
17 value of his property. The business is his
18 property. All we're saying is why he thinks, you
19 know, he's getting ready to say a number, and this
20 is one of the reasons we may --

21 THE COURT: The rule is he can opine as to
22 real properties, not valuation of a business. That
23 is completely separate. I'm very clear on that. I
24 looked it up. He can do it on real property, but
25 business value is completely separate. He can

WADE LONG - DIRECT EXAMINATION

1 testify what he has brought in during this time
2 period, but speculation on what future can be, he's
3 not -- he can't give the Court or the jury that
4 opinion.

5 MR. PLAYER: I'm not asking him to say what
6 are you going to make in the future.

7 THE COURT: That's exactly what you asked.

8 MR. PLAYER: No. You made this in the last
9 two years. That is what he's going to continue
10 forward unless they stop it. If they stop, he
11 won't make the money in the last two years.

12 THE COURT: Again, you're having to speculate
13 to do that, because there could be other things
14 causing it to go up or down.

15 MR. PLAYER: So he doesn't get to say what
16 the value of his property is?

17 THE COURT: He can say the value of the real
18 property, but as far as the valuation of the
19 business, that is the argument we've been having.
20 It is clear on that. It talks about real property,
21 not -- not a business. Not a business valuation.

22 MR. RICHTER: Your Honor, I have a problem
23 with the use of the word "profit." I think that is
24 a subject matter for expert testimony. I don't
25 know what that means. Again, in three years we

WADE LONG - DIRECT EXAMINATION

1 haven't even seen a tax return for 2020. He is up
2 there as a layperson saying my profits is \$250,000
3 to \$500, that is if you don't include legal
4 expenses. I don't know what any of that means. It
5 is highly improper for him to be offering testimony
6 like that. He can say I brought in gross revenues.
7 In discovery, we never have been told that. This
8 is the first time we're hearing this.

9 MR. BELLAMY: Right.

10 THE COURT: He can't testify as to what the
11 gross revenues or net would be either. He said
12 besides legal fees it would be 250 to \$500,000.
13 That is a \$250,000 swing. That is a big swing.

14 MR. BELLAMY: Your Honor, basically, they are
15 an S Corp, and never have they been issued a K1 to
16 any of the -- as far as to other members. So I'm
17 having a hard time -- because I was there -- I was
18 present when Mr. Long was deposed on three separate
19 occasions, and I never heard it indicated that they
20 had any profit. There was argument that they
21 didn't have profits. They didn't have to file
22 something, so on and so forth, even if they were a
23 party.

24 The point we're saying is if they claim to be
25 a joint venture, they would have to file a

WADE LONG - DIRECT EXAMINATION

1 partnership return, IRS, regarding any income, and
2 they didn't do that, obviously. They filed an S
3 Corporation. It is an S Corp, and never filed a K1
4 for any members of TnW.

5 MR. RICHTER: I didn't want to object, and
6 trying not to get in your way, Tucker, but the use
7 of the word "they" is getting very cumbersome,
8 because there is not a "they." Tim left. He sold
9 his interest in TNT. He's out of the picture in
10 September of 2020. We're seeing videos from 2021
11 or 2020 when some of these chains to a tank, and
12 every word spoken is "they, they, they." There is
13 no "they." These are post-litigation events, and
14 we're gone. So I would like for Counsel to be
15 precise about who it is he is making this
16 allegation against.

17 MR. HARRISON: Yeah. Because that is part of
18 the very issue between Mr. Richter's client and my
19 client, is the lumping together of everybody. It
20 is sort of ambiguous when we're talking about using
21 the words like "they" and "those guys" and "those
22 guys over there." They are making no distinction
23 between these people and Mr. Kettner. Mr. Kettner
24 has been retired from this. We're talking about
25 events long after he left.

WADE LONG - DIRECT EXAMINATION

1 THE COURT: He did testify that the person on
2 the tractor was Robert.

3 MR. HARRISON: Benoit.

4 THE COURT: He testified to that. I
5 understand the "they," but he did testify as to who
6 was on the track that was doing that. He did
7 testify who was on the dock that day. I mean,
8 those are individual people. He testified who was
9 on the dock that day.

10 MR. BELLAMY: One other thing I have a
11 problem with, if we are co-joint ventures and on
12 the dock looking at the fuel dispenser, how is that
13 interfering with the business if we're co-joint
14 ventures?

15 THE COURT: I think that is proper
16 impeachment. I mean, you can argue that.

17 MR. PLAYER: Also it's alternative pleading.
18 I mean, we can plead both and argue both, and the
19 jury decides.

20 MR. BELLAMY: One of the things -- I mean,
21 the reason we're looking at it is there was a claim
22 by Henrietta that someone punctured the fuel line
23 and it was leaking. Someone was insinuating that
24 my client did it. We have a right to go on the
25 dock and look at it. And then when on the dock, we

WADE LONG - DIRECT EXAMINATION

1 get accused of trespassing on the property, and
2 they were going to call the police on us. You
3 know, assuming if they are arguing it is a joint
4 venture, clearly, based on their legal theory, we
5 have a right to be there, which is bizarre. We
6 weren't expecting the fuel dispenser to -- we
7 looked at it, and that was not the case. I think
8 subsequently the Coast Guard came out and confirmed
9 it was not the case. But they alleged that our
10 clients did that, and I think that is the reason
11 why we're out there.

12 MR. PLAYER: That is cross examination.

13 THE COURT: I agree with that. But as far as
14 to the testimony of the value of what their profits
15 would be in the future, again, that requires expert
16 testimony. I've allowed him to testify as to what
17 his profits were during that, and the jury can take
18 what they want. You can cross examine and say, Can
19 you show us that. I mean, I don't want to tell you
20 how to do your job, but you understand.

21 As to future earnings, I won't allow him to
22 testify. If he wants to testify to real value of
23 the real property, I think the rules allow him to
24 do that. But as to the valuation of a business
25 entity, I don't think he's qualified to do that.

WADE LONG - DIRECT EXAMINATION

1 MR. PLAYER: I wasn't going to ask him and
2 say, you know, the deed -- I'm planning on or
3 expecting to make these profits in the future. It
4 was just what have you made in these last few
5 years, and what is it worth to you? What have you
6 lost?

7 MR. HARRISON: He asked the question already.

8 THE COURT: You did take it a step forward
9 and asked.

10 MR. HARRISON: That is why I stood up.

11 MR. PLAYER: Okay. I'm having a heart attack
12 over here, give me a break (laughing).

13 MR. HARRISON: We move to strike that
14 testimony -- or at least curative instruction.

15 THE COURT: I'll tell the jury -- I'm not
16 going to strike the testimony as to what his
17 profits were during that time period, but I'll
18 allow you ample opportunity to cross him on that.

19 MR. PLAYER: Because he didn't answer the
20 question.

21 THE COURT: I don't think he did. I'll tell
22 the jury to disregard the last question in regards
23 to future profits.

24 MR. HARRISON: Okay.

25 THE COURT: Let's bring in the jury.

WADE LONG - DIRECT EXAMINATION

1 MR. PLAYER: We're getting ready to finish,
2 Your Honor.

3 (The jury enters at 3:36 p.m., and the
4 following is heard in the presence of the jury.)

5 THE COURT: Thank you. Ladies and gentlemen,
6 you may be seated.

7 As I previously said before, every once in
8 awhile I have to send you out for a matter of law.
9 I have my ruling in the previous question
10 concerning future profits. It is to be stricken
11 from the record. You are not to consider that or
12 any answer that may have been given. So thank you.

13 DIRECT EXAMINATION (CONT.)

14 Q (BY MR. PLAYER) Wade, what do you want this
15 jury to do?

16 A I would like them to listen to both sides
17 here. I'm not telling you to take my side, but I
18 just want you to feel like you have a good heart
19 and that you will make the right decision. This
20 has been really tough on me. And, yes, you are
21 right, I didn't keep track of what Mr. Kettner has
22 taken or what I believe has taken. I have been
23 abused in several ways. I think they should have
24 to pay. I'm not trying to get something back that
25 I can't track, so I'll let that go.

WADE LONG - DIRECT EXAMINATION

1 But if I have to shut my business down, I'm
2 in debt all of that money and the money I took away
3 from my family and dumped into the company for
4 years. I lose the marina. I have to have so much
5 uplands for the parking lot and to build the
6 restaurant, and that is the most revenue in the
7 future. Once the building was constructed, to sell
8 the fresh steaks and fresh fish off the boat and
9 create an atmosphere to bring your family down to
10 Little River, whether you are from mid-West or
11 here, experience it on the dock.

12 My boats coming in from three or four days of
13 fishing and interacting with the fishermen and us,
14 showing the species, cutting the fish on the dock,
15 restaurants. I mean, it was a whole master plan,
16 and I feel it was the perfect plan for Little River
17 to really make in good money, and we never got to.

18 But I feel for right now with how I'm
19 restricted -- I still want to build my restaurant.
20 I want to operate my fuel docks and the fishing
21 boats. I would like the jet ski business back. I
22 want the American dream to run my business. That
23 is all I want, to let me run it and don't interfere
24 with me. I'm not ready to give up right now.

25 MR. PLAYER: Thank you, wade. No further

WADE LONG - DIRECT EXAMINATION

1 questions.

2 THE COURT: Ladies and gentlemen, we are
3 going to break for the day. We'll come back
4 tomorrow. Defense will have an opportunity to
5 cross examine Mr. Long.

6 As I previously stated to you, please do not
7 discuss this matter with anybody at home. Don't do
8 any of your own research. Don't pull up on Google
9 or anything. That is not what your duty is. I'll
10 ask you to be here at 9:00 a.m. Enjoy your night,
11 and see you in the morning. Thank you.

12 (The jury exits at 3:40 p.m., and the
13 following is heard out of the presence of the jury.)

14 THE COURT: All right. Are you going to try
15 to get the exhibit numbers lined up tonight?

16 MR. PLAYER: Yes. If we can have the
17 courtroom when you leave?

18 THE COURT: That will be fine. Let's try to
19 be here -- what time do you want to be here?

20 MR. PLAYER: 11:30.

21 THE COURT: I have the jury coming in at
22 9:00. They will have breakfast, and probably won't
23 be ready until 9:30. Does 8:45 work for you? That
24 way, if there is any issues.

25 MR. BELLAMY: That's fine, Your Honor.

WADE LONG - DIRECT EXAMINATION

1 THE COURT: All right. See you in the
2 morning.

3 (WHEREUPON, THE PROCEEDINGS FOR JUNE 11, 2024
4 CONCLUDED.

5 (THE FOLLOWING WAS HAD ON JUNE 12, 2024 OUT
6 OF THE PRESENCE OF THE JURY.)

7 MR. HARRISON: We just realized we will be
8 closed on Juneteenth. Before we begin, we'll have
9 a couple of things that we will want to talk to you
10 about.

11 THE COURT: Sounds good. Are we ready to
12 proceed?

13 MR. HARRISON: Given the fact of Mr. Long's
14 testimony yesterday, and the deposition transcripts
15 that have been put in the record and read, we ask
16 that the Court give him instruction on perjury and
17 contempt before we proceed.

18 MR. PLAYER: He's required to tell the truth
19 and the consequences if he doesn't, so I've advised
20 him.

21 MR. HARRISON: I would ask counsel about
22 their preference how to proceed with the excerpts.
23 Does the Court have a directive for me in regards
24 to the excerpts; in other words, Your Honor, is it
25 -- is it the Court's preference that I read the

WADE LONG - DIRECT EXAMINATION

1 excerpts, or is it the Court's preference that I
2 read the question from the excerpt and have
3 Mr. Long read the answers?

4 THE COURT: Normally -- and I don't have a
5 way I like it either way, but generally speaking,
6 in the past, I had attorneys ask the questions,
7 point at page number and line number and ask
8 whoever is on the stand to read the answer into the
9 record. Now, I've also had when they weren't
10 calling the witness to have a layperson put up here
11 to read everything. But if you are going to use it
12 for impeachment, I think it would be proper for him
13 to read it.

14 MR. HARRISON: I'll have him read his answer,
15 and I'll read whatever question?

16 THE COURT: That's correct.

17 MR. HARRISON: And, Judge, we've already
18 submitted the excerpts.

19 MR. PLAYER: The whole deposition is in
20 through Mr. Richter.

21 MR. HARRISON: And these are sealed, if you
22 want them. Do you want us to admit them now?

23 THE COURT: It is my understanding -- were
24 these stipulated to and already admitted?

25 MR. HARRISON: Yes.

WADE LONG - DIRECT EXAMINATION

1 THE COURT: So we're good.

2 MR. HARRISON: So you don't need these?

3 THE COURT: No.

4 Mr. Long, you're still under oath, as I'm
5 sure your attorney has made you aware. Obviously,
6 there are consequences if you are to not be
7 truthful under oath. I understand you have given,
8 I think it is, three depositions prior to this.
9 You know, obviously given the fact you have given
10 sworn testimony, I'll simply warn you about the
11 dangers of perjury that you would be held in
12 contempt, and perjury is a crime. I'm sure your
13 attorney has discussed this matter with you. You
14 are a smart man, and I'm sure you understand that.
15 Thank you, sir.

16 All right. Anything else before we bring the
17 jury in?

18 MR. PLAYER: No, Your Honor.

19 (The jury enters at 10:54 a.m., and the
20 following is heard in the presence of the jury.)

21 THE COURT: Ladies and gentlemen, I apologize
22 for making you wait back there. As I previously
23 told you before, we were out here working, and the
24 parties were diligently trying to work through a
25 few issues.

WADE LONG - CROSS EXAMINATION - MR. HARRISON

1 That being said, we'll go ahead and continue.
2 We left off yesterday with Mr. Long testifying. It
3 is now defense's turn to cross examine, so we'll
4 begin the cross examination.

5 Mr. Long is still under oath.

6 MR. HARRISON: Thank you, Your Honor. May it
7 please the Court?

8 Good morning, ladies and gentlemen. Thank
9 you for sticking with us.

10 **CROSS EXAMINATION**

11 **BY MR. HARRISON:**

12 **Q** Good morning, Mr. Long. How are you today?

13 **A** Good. And yourself?

14 **Q** Good, sir. You testified yesterday that you
15 are an honest, hard-working man; is that correct?

16 **A** That it is a hundred percent correct.

17 **Q** And you understand you are under oath today?

18 **A** Yes, sir, I do.

19 **Q** And prior to today, you had given
20 depositions, correct?

21 **A** Yes, sir. Several times, for several days.
22 And it could be a year ago, two years ago, I don't
23 quite remember. But, yes, I do remember the long
24 days.

25 **Q** I got you. And I do, too. There were three,

WADE LONG - CROSS EXAMINATION - MR. HARRISON

1 correct?

2 **A** Yes, three days.

3 **Q** And you understand that when you gave those
4 statements, that you were under oath then as well?

5 **A** Yes, it was all recorded.

6 **Q** And you understand that the verified
7 pleadings is what you signed in this case, right,
8 where you are verifying the statements as true and,
9 correct?

10 **A** Yes, sir.

11 **Q** All right. So given the fact that we did
12 take those transcripts, I want to go through these
13 with you Mr. Long. I'm going to give you a copy of
14 these excerpts. We're going to go through them.

15 MR. HARRISON: Ladies and gentlemen, I
16 apologize. This may take some time, and I'll do
17 this as quickly as I possibly can.

18 **Q** (BY MR. HARRISON) What we talked about is
19 when I asked the question, you'll give your answer.
20 So where the answer is here, right, so where you
21 see the "A," that is where you read. For instance,
22 like here (indicates), I may read the next question
23 or just skip. But I will direct you to the page
24 and line numbers, and you just answer the questions
25 as I ask them. This is basically your script. You

WADE LONG - CROSS EXAMINATION - MR. HARRISON

1 don't have to think of anything for a little while.

2 **A** Okay. Makes it a little easier.

3 **Q** Okay. Mr. Long, one of the depositions that
4 we took from you was September the 15th. Do you
5 have that one in front of you? Should say,
6 "Excerpts from Thomas Wade Long deposition."

7 **A** Yes, sir.

8 **Q** You are there?

9 **A** Yes, sir, on September 15th.

10 **Q** Okay. And you see where it says "by Mr.
11 Harrison"?

12 **A** Yes, I do.

13 **Q** That's me?

14 **A** Yes, sir.

15 **Q** And you are the answerer here; is that
16 correct?

17 **A** I'm the answerer.

18 **Q** So when I ask the question, you are going to
19 give me the answer you gave during this particular
20 deposition straight from these excerpts.

21 **A** Yes, sir.

22 **Q** So let's get started, because we have a lot
23 to go through.

24 The first question I'm looking at here,
25 Mr. Long, is Page 13. We'll start in order right

WADE LONG - CROSS EXAMINATION - MR. HARRISON
1 there at the top -- actually, no. Let's skip that
2 one. Let's go down to where it says Page 15. Are
3 you there with me?

4 **A** Yes, sir.

5 **Q** The question that I asked was: "Who formed
6 TnW?" What is the answer there?

7 **A** I said: "Timothy Kettner."

8 **Q** And then I asked: "Did he form it with
9 anybody?" And what was your answer?

10 **A** "With me."

11 **Q** And what was your answer right after that?

12 **A** "Tim did all the paperwork and filing and
13 that kind of stuff. I did the leg work and the
14 filling."

15 That's true.

16 **Q** And when was TnW formed?

17 **A** I would say it was back in 2016.

18 **Q** And how was that formed? Did you file?

19 **A** Tim filed.

20 **Q** Flipping over to the next page, Mr. Long,
21 Page 2. If you will, continue with your answer.

22 **A** "Tim used Roger Roy for everything, and we
23 did all of that stuff through Roger Roy."

24 **Q** I asked you: "What type of entity is TnW and
25 More registered as? Is it an LLC? Is it a

WADE LONG - CROSS EXAMINATION - MR. HARRISON
1 corporation?"

2 Your answer?

3 **A** I said: "I know Kim Bryant did all of that,
4 like the tax work and stuff for the company."

5 **Q** "When you formed TnW, did anyone draft an
6 operating agreement for TnW?"

7 **A** "Yes. There was an operating agreement.
8 Roger Roy did that. I know the first time that
9 agreement was done, Roger Roy had sent Tim and
10 Chris, and then there was an amendment made to it."

11 **Q** Let me stop you there and ask you a question
12 about that.

13 You say on Line 18 "that was done by Roger
14 Roy, he sent it to me" -- I'm assuming you are
15 referring to yourself, Mr. Long -- "and Tim and
16 Chris."

17 All right. So did any of my clients have
18 anything to do with that?

19 **A** No, sir, not that I'm aware of. When Roger
20 -- when it was originally me and Tim when Roger Roy
21 did the agreement. When Chris was coming in, there
22 was something -- I don't remember if it was
23 something Chris didn't like or Tim didn't like, but
24 Roger redid the agreement and sent it back to Tim
25 for us to approve and sign.

WADE LONG - CROSS EXAMINATION - MR. HARRISON

1 **Q** Okay. Fair enough.

2 If -- you've alleged in this case there is a
3 joint venture between TnW, right, the marina, what
4 you and Tim formed originally, and TNT, the
5 restaurant. If you were in a joint venture, why
6 would your joint venture partner not be involved in
7 the formation and writing up of all of these
8 agreements?

9 **A** Honestly, Mr. Harrison, I couldn't tell you.
10 Maybe I don't know the proper definition of joint
11 venture, marriage, partnership, LLC. Only thing I
12 can tell you is we all worked together for many
13 years. Even though we did some marina stuff, they
14 did the restaurant stuff. We had a \$1.1 million
15 mortgage altogether.

16 We worked in the parking lot together, worked
17 on events together, shared money and funds that
18 went into different companies. Tim handled that
19 part, but there was many funds and checks -- over
20 50-some or more probably -- that went into TNT. So
21 I would say that is considered a joint venture. I
22 just may not know the proper definition.

23 **Q** That is not the question I was asking. What
24 I was asking is why you didn't involve any of my
25 clients in the discussion you had with the lawyer

WADE LONG - CROSS EXAMINATION - MR. HARRISON
1 in the formation of what you allege is a joint
2 venture?

3 **A** Honestly, Mr. Harrison, I don't know. I kind
4 of went under Tim's guidance. He was the big boss
5 for both companies.

6 **Q** Fair enough. Fair enough. But you did
7 involve Chris, and you did involve Tim?

8 **A** Yes.

9 **Q** Are they your partners in TnW?

10 **A** Yes, they are.

11 **Q** So they were involved in it, but not the
12 people that you allege are the joint venturers when
13 you talked to your lawyer; is that correct?

14 **A** Crab Catchers -- Donny, Casey, Justine, they
15 were heavily involved. They were at several of the
16 meetings.

17 **Q** That is not what I asked you. Answer the
18 question I'm asking. Were they involved when you
19 went to the lawyer?

20 **A** Not for the agreement, no, sir.

21 **Q** So they were not involved for the alleged
22 agreement?

23 **A** Just for the closing part and all the banking
24 stuff.

25 **Q** Okay. Let's move on. Let's go to Page 20,

WADE LONG - CROSS EXAMINATION - MR. HARRISON

1 Line 3. I asked you: "What percentage ownership
2 do you have in TnW?"

3 A I said: "33.3."

4 Q Keep reading.

5 A "And so it's a third, a third, a third. It
6 wasn't at first. It was me and Chris."

7 I meant it was me and Tim. Me and Tim were
8 50 percent owners before the shares got split down
9 to 33.3, and that is when Chris bought in.

10 Q So it is a third, a third, a third, and one
11 third is yours, correct?

12 A Yes, sir.

13 Q One third is Chris', correct?

14 A Yes, sir.

15 Q And one third is Tim's, correct?

16 A Yes, sir.

17 Q Where is the ownership interest in the joint
18 venture for my clients? What is it?

19 A I mean, right here, what I'm looking at -- I
20 mean, it don't show the percentage in this part of
21 it.

22 Q Are you alleging that they do own a
23 percentage in TnW?

24 A Not here, no, sir.

25 Q You allege that TnW is the joint venture in

WADE LONG - CROSS EXAMINATION - MR. HARRISON

1 this case?

2 **A** We're together in several parts. I don't
3 know the proper way to put this. That is why I'm
4 dependent on you guys, legal counsel and --

5 **Q** Well, you can't depend on me. You brought
6 the case, you have to bring your case.

7 **A** They brought the case against us, Crab
8 Catchers. They sued us first --

9 **Q** No. No. Mr. Long, the case we're here for
10 today -- let's not confuse the jury -- is the case
11 you filed; is it not?

12 **A** That Henri filed.

13 **Q** But you signed the pleadings as the
14 plaintiff?

15 **A** Yes, I did.

16 **Q** So you filed this case?

17 **A** Okay.

18 **Q** Not my clients, right? Because you filed; is
19 that right?

20 **A** Yes, sir.

21 **Q** I just want to be clear.

22 **A** You're clear.

23 **Q** Okay. Let's move on. Page 21: "So tell me,
24 how does TnW operate on a day-to-day basis? Is it
25 a member managed company, or do you guys have

WADE LONG - CROSS EXAMINATION - MR. HARRISON
1 employees that manage the company?"

2 If you would read the answer.

3 **A** "No. It's done a little different now
4 since -- I manage it, and Tim runs it on a daily
5 basis."

6 **Q** Keep reading.

7 **A** "Me and Tim had the marina. He actually
8 hired two people that worked for him for about ten
9 years named Brett and V. They ran the docks, the
10 people, and managed the books. I think it was 2020
11 or 2021 in October is when I took over. I pretty
12 much done it myself."

13 **Q** Keep reading, Line 19 on Page 22.

14 **A** "October 12 is when I took over the books --
15 or took over."

16 **Q** "Took over," what do you mean by that?

17 **A** I can explain it very easy to you. So prior
18 to October 12 of 2020 -- I told you guys yesterday,
19 I did all of the work in the building, getting
20 people there renting slips, trying to get fuel
21 accounts. Tim oversee -- or call him the GM, the
22 manager. He hired and fired employees. He was in
23 charge of the books and the people reporting to
24 him, not me. Occasionally, they would call me if
25 they had a problem. Brett and V ran the jet ski

WADE LONG - CROSS EXAMINATION - MR. HARRISON

1 hut that Tim hired. They did the fuel sales, jet
2 ski sales, and then they communicated with Tim.

3 And then I think it was -- I stated it was
4 2021, but I don't know the exact date. It had to
5 be 2020, because I took over October 12 of 2020.
6 So prior when I took over, they have been fired or
7 released. I couldn't really tell you exactly for
8 what reason -- I think several different things.
9 But there was a lady named Becca Martin, John
10 Sessions, and several other younger kids that
11 were -- I would say -- under 26, 27 years old that
12 Tim had hired to run the ski hut.

13 My understanding -- I didn't really
14 communicate with Becca Martin, but she was managing
15 and running the ski hut and reporting to Tim. When
16 I took over -- what I meant here, when I took over
17 everything, I am one hundred percent responsible
18 and accountable for any penny or anything took on
19 after October 12th.

20 Now, our insurance was in effect, because Tim
21 signed that up for the following year. It didn't
22 expire until January of '21, and that is when I
23 took over that part. But everything else I took
24 over. I shut the jet ski business down, because I
25 tried to stay away from the place as much as

WADE LONG - CROSS EXAMINATION - MR. HARRISON

1 possible. Didn't want to be harmed or anyone get
2 hurt. I strictly tried to keep the docks open to
3 sell fuel. I rent slips out to the boats to keep
4 the income coming in to pay the bills.

5 Q Is it fair to say that you are basically
6 running the operation without the help of anybody
7 now?

8 A Correct.

9 Q So you're the guy, right?

10 A I am the man, yes.

11 Q Let me ask you -- and it is in here, and
12 we'll go through it -- but what would you say
13 Kiser's role is now?

14 A Mr. Kiser -- his role is kind of like what it
15 was from the beginning. He was kind of the
16 marketing guru. He's a broker, real estate agent,
17 and really good at marketing properties and
18 tourists attractions and stuff. And he was kind of
19 on the back burner. That was his gig. He was in
20 it for the big picture with the restaurant and
21 marina ship store.

22 Q Is that still true today?

23 A That is true today.

24 Q So his role hasn't really changed?

25 A Occasionally, he would come down and help out

WADE LONG - CROSS EXAMINATION - MR. HARRISON

1 on the docks if we had, you know, something going
2 on or I wasn't around, but as far as running the
3 company, responsible for paying the bills, the
4 money, the loan, dealing with the people and the
5 problems, the insurance, the taxes, property taxes,
6 that was one hundred percent me. No one can point
7 the finger at no one else but me.

8 Q Thank you, Mr. Long.

9 Now, I'm on Page 3 -- Page 23 up there at the
10 top. I think this will confirm what you said, but
11 let's go through this.

12 My question to you was: "And Mr. Kiser's
13 current role?"

14 A "Mr. Kiser, he sent pretty much people to it,
15 but he don't really do the day-to-day. He's kind
16 of like a silent partner."

17 Q Keep reading.

18 A "He has Myrtle Beach Retreats, was a jet ski
19 booking and customers to do tours with us."

20 Q And then I asked: "What is it that TnW
21 does?"

22 A "We are a small marina. We rent boat slips,
23 and I try to rent the slips out to not just every
24 weekend boater, but the commercial charter boats
25 fishermen, capitalizing on vessels that make the

WADE LONG - CROSS EXAMINATION - MR. HARRISON
1 most money possible."

2 Q Keep reading.

3 MR. RICHTER: Your Honor, I apologize. Can
4 we ask the witness to read exactly as his
5 transcript appears?

6 Q (BY MR. HARRISON) Let me see if we can pick
7 up. You can be loud like me, I know you can.

8 Going back, let's start with your answer on
9 Line 7, Page 24 where it says "we rent to." Pick
10 up there for me.

11 A "He's kind of like a silent partner. He has
12 Myrtle Beach Retreats" --

13 Q Sorry. No. No, Mr. Long. Page 24, Line 7.

14 A Oh, I'm sorry.

15 Q One down.

16 A Sorry.

17 "We rent to, roughly, 12 to 15 different
18 owners and businesses that runs a charter or a
19 commercial boat. I sell fuel to those commercial
20 vessels."

21 Q Keep reading.

22 A "Tim ran the skis, you know, for years with
23 Brett and V. I leased out jet skis and business
24 location out to another company, and he runs his
25 jet skis out of the marina."

WADE LONG - CROSS EXAMINATION - MR. HARRISON

1 **Q** Thank you.

2 Just for clarification, so we all know what
3 you are talking about there, you mentioned he runs
4 his jet skis. You talk about this other company.
5 Who is that other company?

6 **A** Okay. So I would like to clarify that, but
7 that is true, what's here. But when you are hit
8 with a million questions, it's hard to remember
9 every exact thing, but this is one hundred percent
10 honest.

11 **Q** Just answer the question.

12 **A** October 12, when I shut the business down,
13 October -- October 12 of 2020, in the year of 2021,
14 we had those slips -- no income was coming in. I
15 didn't want the day-to-day running the skis and
16 being down there with all of this chaos going on to
17 get in a fight or someone getting hurt. So I
18 rented the jet ski location to Eric Rolf. He had a
19 jet ski company. I didn't have no part of his
20 business. He strictly paid me at --

21 **Q** So that is who you are referring to, Eric
22 Rolf?

23 MR. PLAYER: Mr. Harrison needs to let him
24 finish his answer.

25 MR. HARRISON: Your Honor, he's not answering

WADE LONG - CROSS EXAMINATION - MR. HARRISON

1 the question I'm asking. He's going on to
2 diatribes. I asked him a very simple question, and
3 I'm getting all of this.

4 THE COURT: Reask the question.

5 Q (BY MR. HARRISON) Let me ask the question
6 again.

7 Who is the other company that runs these jet
8 skis?

9 A Eric Rolf.

10 Q What is his company?

11 A He owns -- I think he owns Atlantic Jet Skis
12 and East Coast Jet Skis. He's a jet ski and water
13 sports company.

14 Q So you say he runs it. Does he run it? Does
15 he own it? Does he lease it?

16 A I'm sorry. He owns that company, and he
17 leases the location from me, just like any other
18 boat slip.

19 Q Thank you.

20 A He works out of my location and pays me a
21 monthly lease.

22 Q That's the clarification I want.

23 And so he leases from TnW; is that right?

24 A That is correct. I negotiated the deal with
25 him.

WADE LONG - CROSS EXAMINATION - MR. HARRISON

1 **Q** Okay. And you negotiated it?

2 **A** Yes, sir, I did.

3 **Q** With him directly or with somebody else?

4 **A** With him directly.

5 **Q** Did you ask any of my clients about leasing
6 that space?

7 **A** No, sir, I didn't.

8 **Q** Why not?

9 **A** They didn't communicate -- no one
10 communicated with me at that time. And when I had
11 -- am I allowed to tell you the rest of the story?

12 **Q** No. No. I'll ask a question. It will make
13 it easier.

14 So you lease -- I want to make sure that I'm
15 clear. You leased the jet ski operation down
16 there, that TnW used to run, to Mr. Rolf. What I'm
17 asking you is -- as you said, I negotiated that
18 directly with Mr. Rolf. Why did you not consult
19 with the alleged joint venturers about that lease?

20 **A** Because in that time, in 2021, we already
21 started fighting and arguing. This is 2021 that I
22 started leasing to Mr. Eric Rolf. We started
23 fighting in early '20. And when I took over, it
24 was October 12 of 2020.

25 So when I reached out to -- I think it was

WADE LONG - CROSS EXAMINATION - MR. HARRISON
1 called -- I'm not educated. If I speak wrong on
2 it, I'm sorry. But when I hired Attorney Henrietta
3 Golding, we had -- I don't remember the exact time,
4 but we talked about several things with Mr.
5 Kettner, things called "meeting of the minutes."
6 It was a recorded conversation, a couple different
7 ones, if I recall. We still have those.

8 He pretty much -- when we told him what we
9 had to do to make money to come into the marina, to
10 operate and pay the mortgage so it wouldn't get
11 shut down, he said at this time --

12 MR. RICHTER: Objection; hearsay.

13 MR. PLAYER: Your Honor, he's a party
14 opponent.

15 THE COURT: Sustained.

16 MR. PLAYER: I didn't hear it, Your Honor.

17 THE COURT: Sustained. Is he getting into
18 what Mr. Kettner may have told him?

19 MR. PLAYER: Mr. Kettner is a party opponent.

20 THE COURT: I'm sorry. I was thinking it was
21 the other Mr. Kettner that had been released.

22 THE WITNESS: I'm sorry, Mr. Tim Kettner.

23 **Q (BY MR. HARRISON)** Wade, if you would, all of
24 these -- we have Kettners and T's and W's. I know
25 how it is, but for clarity's sake, for the jury's

WADE LONG - CROSS EXAMINATION - MR. HARRISON
1 sake, for my sake, for the judge's sake, when you
2 talk about Tim Kettner, don't say "Kettner." Just
3 say "Tim." But if you are talking about Donny
4 Kettner, use "Donny."

5 **A** All right.

6 **Q** That's fine. Finish your answer. We don't
7 have to be all that formal. I may even call you
8 Wade.

9 **A** So when I talked to with Tim, it was me and
10 Chris on that conversation expressing our concerns
11 about income and what we're doing. At the time,
12 with the litigation started, you know, we were all
13 kind of grumpy towards each other, but we tried to
14 be as professional as possible to get through it.
15 He couldn't comment on doing anything or moving
16 forward.

17 And I said, you know what, we need to try to
18 make as much money as possible in income to pay the
19 mortgage and keep the marina afloat. At the time,
20 he just said I can't comment or answer at this
21 time. He didn't voice much of an opinion on
22 anything.

23 So, at that time, no one is going to help me
24 if I don't help myself. Do I let it fall and the
25 bank take it and bad credit and be ruined for seven

WADE LONG - CROSS EXAMINATION - MR. HARRISON

1 years? Or do I put someone in those slips to
2 produce income?

3 Q Fair enough. And you said you didn't contact
4 my people because you were fighting with them and a
5 lawsuit was going on, right?

6 A Correct.

7 Q So you leased that space to another party
8 during the lawsuit; is that right? Did I hear that
9 right?

10 A That is correct.

11 Q And during the lawsuit, you didn't have
12 counsel -- you had counsel the entire time; did you
13 not?

14 A I did.

15 Q And is it --

16 A I don't know if it was proper counsel.

17 Q We don't have to get into that.

18 A I never had that before.

19 Q I understand. We will talk about that. I'll
20 give you an opportunity to talk about that, I
21 promise I will.

22 But with regards to that -- one more
23 question, and then we'll get back into this stuff.
24 Couldn't you just simply send them an e-mail before
25 you had someone come out on their property and

WADE LONG - CROSS EXAMINATION - MR. HARRISON

1 start using their parking lot?

2 **A** Out of all of the boat slips that I rented or
3 Tim has been a part of, I mean, we all got along.
4 We've never --

5 **Q** It is a yes or no question.

6 **A** No, sir. No, sir. I didn't ask him about
7 it.

8 **Q** Could you have?

9 **A** I guess I could have.

10 **Q** And you chose not to; is that correct?

11 **A** Yes, sir. Never done it before, so I didn't
12 think I was breaking the law or doing anything
13 wrong.

14 **Q** I understand. So where did we leave off?
15 Let's go to Page 25. Do you see that one there on
16 Line 5? I asked the question: "And you guys are
17 incorporated, and you have an operating agreement?
18 Did you guys have a term in your operating
19 agreement that requires you all to meet?"

20 Your answer, please.

21 **A** I said: "Like this lawsuit with Tim, Henri,
22 you know, would tell me schedule a meeting. I
23 would do it through e-mail, copy all, and e-mail is
24 there a time we can meet."

25 **Q** And I asked on Page 26, Line 4: "Was that

WADE LONG - CROSS EXAMINATION - MR. HARRISON
1 always your operating procedure on how you handled
2 meetings prior to the lawsuit?"

3 And your answer was?

4 **A** "Before -- before the lawsuit, me, Tim, and
5 Chris would get together, and our office was
6 upstairs in the restaurant."

7 **Q** And you are referring to which restaurant?

8 **A** I'm referring to Crab Catchers, upstairs in
9 the same office I told you we had our stuff in.

10 **Q** Okay.

11 And you said, "me, Tim, and Chris." Did you
12 not meet with your other joint venturers ever?

13 **A** No, sir, we didn't meet with them every time.
14 Now, we did meet with them a few times -- several
15 times actually. But a lot of times it was just me,
16 Chris, and Tim.

17 **Q** Did you ever meet with every single one of
18 the alleged members of the joint venture to discuss
19 anything, ever?

20 **A** We did a few times, yes.

21 **Q** So you had every single member together?

22 **A** Well, sometimes Tim would run his son, Casey,
23 out and say, Casey, just a minute, we're finishing
24 up.

25 **Q** No. No. That is not what I'm asking. Was

WADE LONG - CROSS EXAMINATION - MR. HARRISON

1 there ever a time when you met -- when you, Mr.
2 Kiser, Mr. Timothy Kettner, Mr. Casey Kettner, Mr.
3 Robert Benoit, or Donny Kettner, were you ever in a
4 room at the same time for these corporate meetings?

5 **A** To answer your question, that would be no,
6 never, because I never met Robert Benoit until we
7 had this project well off the ground --

8 **Q** Thank you. "No" is sufficient.

9 I asked you on Page 26, Line 15 -- sorry,
10 Line 14: "Were those meetings recorded or minutes
11 kept by anyone?"

12 Your answer, please.

13 **A** My answer: "I do not recall him doing
14 anything like that."

15 **Q** Okay. Was there any reason why you didn't
16 have corporate meetings and didn't record whatever
17 meetings you did have?

18 **A** Mr. Harrison, I honestly don't know. I don't
19 remember recording anything. I really wasn't that
20 educated on that part, but I don't recall recording
21 nothing.

22 **Q** Fair enough. But you are a business owner,
23 right?

24 **A** Yes. Like I said, I was the laborer and in
25 the field doing the labor work. Tim was more of

WADE LONG - CROSS EXAMINATION - MR. HARRISON

1 the business mind that ran the office and the
2 books.

3 Q Do you know what your operating agreement --
4 which we'll talk about later -- says about the
5 division of labor for TnW?

6 A What's that?

7 Q Do you know?

8 A Not right off the top of my head, no, sir.

9 Q That's fair. We'll get to it later.

10 All right. Let's jump ahead. I will try to
11 hit the highlights here, because this is painful
12 for everybody, and thank you all for bearing with
13 me.

14 Page 28. This is on Page 4 of your packet,
15 Page 28. I asked you: "Back then, are you
16 familiar enough with the operating agreement to
17 tell us whether or not there are terms regarding
18 the dissolution of the company?"

19 What did you say?

20 A We're talking about 28/3?

21 Q It's 28, your Line is 24.

22 A Okay. I'm sorry.

23 "No, I'm not really that familiar with it to
24 speak on that part."

25 Q And so what you are referring to when you say

WADE LONG - CROSS EXAMINATION - MR. HARRISON

1 "it," you're referring to the operating agreement?

2 A Yes, sir.

3 Q So you're not sure about the terms in the
4 operating agreement, and not sure about the terms
5 in the operating agreement back then, and as you
6 said, you can't recite what the duties are in the
7 operating agreement. You've testified what they
8 are, but you can't off the top of your head say
9 what your operating agreement actually says?

10 A No, sir. I don't know it word for word. I
11 would be lying to you.

12 Q Fair enough. All right.

13 Page 29, Line 7: "Is TnW insured?"

14 A "Yes, it is. It's been insured from day one
15 through Hub International. The insurance agent is
16 Rhett Salisbury."

17 Q "Were there any additional policies other
18 than the ones you had with Mr. Salisbury" -- and
19 that is a Sansbury, but you and I know that.

20 Your answer, Page 30, Line 3?

21 A Hold on, I got lost. Which one?

22 Q Page 30, Line 3.

23 A I'm here. Yes, sir.

24 Q Let me ask the question again so you can
25 answer what is in here.

WADE LONG - CROSS EXAMINATION - MR. HARRISON

1 "Were there any additional policies other
2 than the ones you had with Mr. Salisbury?"

3 A I answered: "Yes, sir. In, roughly, 2020, I
4 got a call from the USEPA. Robert actually called
5 and reported me for pumping fuel and fuel leaking
6 in the water. When I met Ken, he was the agent
7 with USEPA, Ken" -- Raymond I think his last name
8 is.

9 Q It was spelled out there, right? When it is
10 like that, Wade, you just actually pronounce the
11 letters.

12 If you would, answer on Line 18, for clarity.

13 A "He recommended pollution insurance, and
14 that's what I added on in 2022."

15 Q So you didn't have pollution insurance on
16 this marina before?

17 A No, sir. I didn't handle the insurance
18 policies. I didn't handle the office work. Tim --

19 Q But you are a member of this company, and you
20 didn't handle the insurance or know about it?

21 A I am a member. No, sir, I didn't know about
22 it. I am a member. I did meet with Mr. Rhett
23 Salisbury, but Tim had a relationship with him for
24 many years with Crab Catchers. That was his go-to
25 agent. He was the one that told him what we are

WADE LONG - CROSS EXAMINATION - MR. HARRISON

1 doing.

2 Tim was the managing member for both
3 companies, and he was the one that lined the
4 insurance up with Rhett Salisbury, and I was under
5 the assumption we were doing the right thing. We
6 never had a problem for four years or ever brought
7 to my attention until Ken, the USEPA, got called on
8 me, and then I took charge. And when I found out,
9 hey, we have to do this, what did I do? I did the
10 right thing and got the insurance he required.

11 Q What year again?

12 A That was in --

13 Q It's in the deposition.

14 A It says '22 year. I think '22, but it may
15 have even been '21. It's hard to remember.

16 Q But you testified 2022?

17 A Yeah. I mean, I have the records.

18 Q Do you know when you filed this lawsuit?

19 A Who filed the lawsuit?

20 Q Do you know when you filed this lawsuit?

21 A Not -- it's been a long time. I've been
22 paper worked to death. No, sir, I don't remember
23 exactly.

24 Q I can bring the pleadings up here, but I'll
25 represent to you -- and if you think I'm wrong,

WADE LONG - CROSS EXAMINATION - MR. HARRISON

1 I'll bring it up -- but it was March 12 of 2021.

2 Does that sound right?

3 **A** Okay.

4 **Q** That was the last second amended complaint.

5 **A** I believe you. I believe you.

6 **Q** It's in the record, right?

7 So then my question is: You got this
8 pollution insurance a year into the lawsuit?

9 **A** I guess. That's what it seems like. When I
10 first originally dealt with Mr. Rhett Salisbury --
11 I think the last policy Tim had came up in --
12 expired in February of '21. That's when I had to
13 get with him and Misty with Hub International.
14 That is the first time I ever dealt with them as
15 far as renewing the whole process and policy
16 myself. I told him what we needed, what we got.
17 He advised me what to get.

18 But then it was like Mr. Salisbury was on
19 both sides of the fence. But I got exactly what he
20 told me we needed, paid the policy, and I thought
21 we were good to go. I was trying to do the right
22 thing.

23 **Q** I understand. Why didn't you do it before
24 the lawsuit?

25 **A** Well, honestly, before the lawsuit, I thought

WADE LONG - CROSS EXAMINATION - MR. HARRISON

1 it was done and we were properly insured, because I
2 trusted him. He is a very smart businessman.

3 Q But you are a 33-and-a-third percent owner in
4 this, right?

5 A Yes, sir. And I guess that's my fault. Part
6 of my responsibility, too, is I didn't look over
7 it.

8 Q Is insurance important for a business?

9 A Yes, sir.

10 Q And if something had happened that was
11 applicable to the pollution policy and you didn't
12 have it, there wouldn't be any coverage, would
13 there, before the lawsuit was filed, right?

14 A That's correct. I just don't understand why
15 it took, you know, four years to finally come up.
16 Why didn't someone catch it or the agent before?
17 He is the professional.

18 Q But you are operating the agreement, and it
19 is your job to get the insurance, and you are
20 saying you didn't have it?

21 A No, we had it. Tim purchased the insurance,
22 but I guess the pollution part -- if we had a
23 spillage that we would be responsible for if we
24 didn't have it, and he advised us to get it.

25 Q I understand. And when you say a "spill,"

WADE LONG - CROSS EXAMINATION - MR. HARRISON

1 you are talking about fuel spill?

2 **A** Fuel spill or a tank tumbled over in the
3 property, yes, sir.

4 **Q** Fair enough.

5 Let's go back to the transcript, please.

6 Page 31, this is referring to the insurance. We're
7 still in that vein here. I asked the question:

8 "Do you know what your policy limits are?"

9 Answer, please.

10 **A** "I don't know exactly what they are. And
11 then for everybody at the dock, you know, I
12 required them to have their own insurance."

13 **Q** Right there. Stop right there.

14 Okay. For clarity's sake, would you read --
15 it is on Page 5.

16 **A** Next page?

17 **Q** Yeah. Go to Page 5. There is some things
18 that I would like you to start.

19 MR. PLAYER: What is the deposition page?

20 MR. HARRISON: Sorry. Deposition Page 32,
21 but I'm having him read from Page.

22 MR. PLAYER: Of the depo?

23 MR. HARRISON: Of my excerpts.

24 **Q** **(BY MR. HARRISON)** Wade, I'm going to ask you
25 to start with your answer on Line 7, and read all

WADE LONG - CROSS EXAMINATION - MR. HARRISON
1 the way down to Line 16, and then I'll pick up the
2 next question there.

3 **A** Okay.

4 "So he was worried about someone, I guess,
5 getting hurt or them getting hurt. Someone sued,
6 so Rhett suggested to Henri to add to the policy.
7 It was very cheap, so we listed them on the
8 insurance policy just where they would be covered
9 if someone got hurt. It's just has TNT listed."

10 **Q** There is a name in there. Can you tell me
11 who Henri is?

12 **A** Ms. Henri Golding, an attorney I first hired.
13 My original first attorney was Kenneth Moss out of
14 Cherry Grove, and then he recommended me to reach
15 out to her. So she's, I guess, a highly thought of
16 attorney that got her start and has worked for
17 Bellamy Law Firm for --

18 **Q** So she was your lawyer, right?

19 **A** Yes, sir.

20 **Q** Previous counsel?

21 **A** Yes, sir.

22 **Q** So she recommended during the lawsuit that
23 you get this coverage, right?

24 **A** When it was -- when it came from you guys to
25 her -- someone was communicating with her telling

WADE LONG - CROSS EXAMINATION - MR. HARRISON

1 her we didn't have it and beating us up about not
2 having an insurance policy, which we had insurance.
3 It's never expired. It's never ran out.

4 Q Not my question.

5 A Sorry.

6 Q My question was: Did Henri, your former
7 counsel, tell you you need to get this insurance
8 policy?

9 A Yes, sir.

10 Q She did. Thank you.

11 Now, you had counsel before Henri, didn't
12 you?

13 A I did, but he --

14 Q Roger Roy, right?

15 A Roger Roy, no. He didn't ever represent us
16 in any of these matters. He did a lot of closings
17 for TNT and Tim, and he did our stuff, operating
18 agreements and I think the loan closing for the
19 bank.

20 Q Right. Right. So you had Roger Roy at the
21 inception of this business, right? When you were
22 getting it filed with the Secretary of State, the
23 operating agreements, right? That is who helped
24 you?

25 A Roger Roy did that.

WADE LONG - CROSS EXAMINATION - MR. HARRISON

1 Q Getting everything up?

2 A Yes.

3 Q Did he mention anything to you about
4 insurance, liability policies? Roger is a pretty
5 good guy.

6 A Roger is a great person. Great attorney.
7 Good friend of mine. I thought he was doing a
8 great job. And Tim -- I know the bank required
9 insurance, and we thought we had the proper
10 insurance. It was just an add-on to be protected
11 for the pollution part of it. Kind of like storm
12 water insurance, if you want to pay extra for the
13 wind, water, or flooding.

14 Q Fair enough.

15 So let's go with the next question, Line 17.
16 I'm still up on the top of Page 5. I asked you:
17 "As an additional insured?"

18 And you said?

19 A "Yeah. Yeah."

20 Q Keep reading.

21 A "That was done February of 2022."

22 Q And then I asked: "Did you have additional
23 insured's name prior to the lawsuit?"

24 A I said: "No, sir. Not that I know of."

25 Q "Is there any mention of TNT or any of its

WADE LONG - CROSS EXAMINATION - MR. HARRISON

1 members other than Tim Kettner in the operating
2 agreement?"

3 A "Not that I know of. I don't remember none
4 of that."

5 Q "So there's nothing in your operating
6 agreement that spells out the terms of your
7 relationship?"

8 A No, sir, not that I'm aware of.

9 Q We're reading.

10 A Oh, okay. Sorry.

11 Q What was your answer?

12 A Which one is that again?

13 Q I'll ask the question again. Line 16: "So
14 there's nothing in your operating agreement that
15 spells out the terms of your relationship?"

16 A "No."

17 Q "TnW maintains a bank account, I assume?"
18 Your answer?

19 A "That account is at United Community Bank."

20 Q "Is that the only account?"

21 A No, that's the only account after I --

22 Q No. Just reading. I asked the question:
23 "Is that the only account?" Line 25. Your next
24 line is Line 1.

25 A "Yes, sir."

WADE LONG - CROSS EXAMINATION - MR. HARRISON

1 **Q** Keep reading from there, please.

2 **A** "That's the only account after I -- I guess
3 it is typo -- tool (sic) over before Tim had
4 another account before at Carolina First Bank.
5 That's where he banked for years, then on Sea
6 Mountain Highway in Cherry Grove. I never did no
7 banking there, and then it was -- our bank was
8 Horry County State Bank, and when it was bought
9 out, it became United Community Bank."

10 **Q** Keep reading.

11 **A** "He had a personal one there. One there for
12 TNT doing business as Crab Catchers, and he had one
13 there for us."

14 **Q** I asked the question: "Whose names were on
15 the prior account other than you and Tim, if
16 anybody?"

17 And your answer, Line 9, please?

18 **A** "It was just me and Tim."

19 **Q** Okay. So on this bank account there was only
20 one bank account associated with TnW that I was
21 asking about; is that fair to say?

22 **A** Yes, sir. That's all I'm aware of.

23 **Q** You are on it? You had access to it?

24 **A** Yes, sir.

25 **Q** Mr. Kettner was on it?

WADE LONG - CROSS EXAMINATION - MR. HARRISON

1 **A** Yes, sir.

2 **Q** Did you ever add Mr. Kiser to that bank
3 account?

4 **A** No. I don't remember whether this was before
5 he bought in or not. I don't remember. But I
6 think Donny was a signer on the account. He had
7 access to it because I took deposits sometimes to
8 the bank.

9 **Q** Do you have any information that you produced
10 in discovery that shows Donny Kettner -- because we
11 haven't seen it -- saying that Donny Kettner is a
12 signer --

13 **A** Shows he is a signer, and that for me -- he
14 sent me a message to drop by and pick up the
15 deposits to take to the bank, that I guess he's got
16 them all filled out and signed off. Yes, Tim made
17 him signer on it.

18 MR. HARRISON: Counsel, if you will produce
19 that record for me, that would be great, because I
20 have not seen it in our documents.

21 **Q** **(BY MR. HARRISON)** So you had access to the
22 account, and you allege that Donny Kettner has
23 access to the account --

24 **A** Well, he's a signer.

25 **Q** Tim Kettner has access to the account. Does

WADE LONG - CROSS EXAMINATION - MR. HARRISON

1 Robert, Justine, Casey -- my clients have access to
2 that, or did they ever?

3 A I don't think Justine or Jose or Robert -- I
4 don't even know the guy. He had no access to it.
5 But I know it was me and Tim, and I know Donny
6 could sign checks or write checks, so I'm assuming
7 if he has the power to do that, he can make a
8 deposit or take money out. But I know one
9 hundred percent sure it was me and Tim on the
10 account.

11 Q So you and Tim had the control over the
12 account, right?

13 A Yes, sir.

14 Q Nobody else?

15 A Well, I wouldn't see Donny doing something,
16 you know, without Tim's permission or mine.

17 Q So the only person that could open and close
18 that account would be you and Tim Kettner, right?

19 A Yes, at the time.

20 Q So my guys wouldn't have the control to go
21 shut that down, would they?

22 A No, sir.

23 Q Moving on. If you could, let's go to the
24 next page. Flip over, Mr. Long. Page 6. Pick up
25 on Line 12, Page 36. I'm asking the question --

WADE LONG - CROSS EXAMINATION - MR. HARRISON

1 see where I'm at?

2 **A** Yes.

3 **Q** "Is Mr. Kettner on the account?"

4 Your answer, please?

5 **A** "Not on the account. He's on the original
6 account, but we have two accounts at United
7 Community Bank. It's got my name, Wade Long --
8 yeah, Wade Long, Tim Kettner, and Clyde Kiser. And
9 we had lawsuits started up, and when Tim sent that
10 text message to the banker and included all of the
11 workers, all of the owners of TNT in that text
12 message, I went and hired an attorney, Kenneth
13 Moss, in Cherry Grove. I was running when I wanted
14 to run the company. I didn't want no fingers
15 pointed at me, so I wanted a clean slate, so I
16 opened up a brand new account at United Community
17 Bank in my name, Chris' name, TnW and More, doing
18 business as Little Water Rivers Sports."

19 That is correct. Would you like me to
20 explain why?

21 **Q** No. Just want you to read for now. But I do
22 have a question --

23 **A** Sure.

24 **Q** -- that might clear that up. You say that
25 you took money out of a -- opened up a brand new

WADE LONG - CROSS EXAMINATION - MR. HARRISON

1 account at United --

2 **A** I did one hundred percent.

3 **Q** Can you tell the jury why you moved money
4 from the original bank to --

5 **A** Yes, sir. I would be glad to. Because I
6 could not keep up. There were so many checks
7 written for different companies. Like I told you,
8 I couldn't put any dollar amount, cash amount, or
9 checks going into Crab Catchers or coming out and
10 what they were for, what funds were missing, what
11 funds were accounted for. So when I took over the
12 \$80,000 that was left in the account, I opened a
13 brand new account where if there was a mistake or
14 something out of place, there was only one person
15 to blame: myself. I take full responsibility.
16 There is not a penny missing.

17 **Q** So is it to make a clean cut?

18 **A** A clean cut. But it was Tim's money, and
19 even though he wasn't running it at the time, he is
20 still 33.3. Whatever is in there, he's entitled to
21 a third.

22 **Q** When you say "him," that is Mr. Kettner?

23 **A** Tim. Mr. Tim. I didn't want no fingers
24 pointed at me of mismanaging funds or any shady
25 business, so I wanted a clean record where there

WADE LONG - CROSS EXAMINATION - MR. HARRISON
1 was no argument.

2 Q Did you tell your partner -- that we know he
3 was your partner in TnW -- did you tell him you
4 were going to do that?

5 A No, I didn't, because I got that text message
6 that -- all of them were copied: Donny, Justine,
7 Jose, Casey. Tim Kettner was the one that executed
8 the message to everybody, and they responded. They
9 all agreed.

10 Q And you weren't happy about that text
11 message?

12 A Wasn't happy at all. Just felt like I just
13 wasted four years and just handing it over to them
14 and walking away.

15 Q I'm trying to understand Mr. Kettner --
16 sorry, Mr. Long --

17 A It's okay.

18 Q You took the money out independently. You
19 did not consult with Mr. Kettner. How much money
20 was it?

21 A It was --

22 Q Give or take.

23 A Roughly, \$79-, \$80,000. I was advised by my
24 counsel, Ken Moss -- and it stayed at his law firm
25 in an escrow account for several months until I got

WADE LONG - CROSS EXAMINATION - MR. HARRISON

1 Henri onboard, and she advised me to open up an
2 account at the same bank, same name, to keep clean
3 records.

4 Q When you did that, who had access to that new
5 account?

6 A I had access to it. I think Chris had access
7 to it.

8 Q Donny have signing rights on that account?

9 A No, sir, he didn't.

10 Q You closed that account, right?

11 A Sorry?

12 Q You closed that account?

13 A The --

14 Q The one that you took the money from?

15 A Yes, sir.

16 Q My question to you is: Why were you upset
17 that your joint venturers, that you've alleged are
18 your joint venturers, my clients, included on an
19 e-mail about money getting moved?

20 A Why I was upset about it?

21 Q Yeah. You just testified that you took money
22 out of TnW, and you've alleged that my clients are
23 part of that joint venture, and yet you are upset
24 that they got an e-mail --

25 A Text message.

WADE LONG - CROSS EXAMINATION - MR. HARRISON

1 **Q** You're right. They got a text message
2 talking about you closing down the account that you
3 alleged Donny Kettner is signing on, right? Why
4 would you be upset that your joint venturers know
5 what is going on with the funds of the joint
6 venture that they are allegedly in with you? Why
7 would you be upset about that?

8 **A** The reason I was upset about it -- it was
9 clear in the message they sent me that they already
10 -- I mean, I'm a third owner or half owner,
11 whatever, in the one business. I think Chris was
12 in at the time. I was anywhere from 50 to
13 33 percent owner in the business at that time, and
14 they are pretty much telling me that they are
15 overpowering me, that I'm walking away -- advising
16 Geoff I'm walking away from my shares and stock and
17 take all the money and pay towards the loan. I
18 guess the same reason they were ruling me out.
19 They already made their decision. I wasn't present
20 for that meeting.

21 **Q** What meeting?

22 **A** The meeting they had among themselves to put
23 words in a banker's mouth that I was just going to
24 walk away from my stock.

25 **Q** So you weren't present at the meeting, so how

WADE LONG - CROSS EXAMINATION - MR. HARRISON

1 do you know what was talked about?

2 **A** Because I read the text message.

3 **Q** You are talking about a meeting that you were
4 not invited to. How do you know what was said in
5 that meeting if you weren't invited to it?

6 **A** Because I talked to the banker.

7 **Q** So the banker told you what they said in a
8 meeting that they had with the banker? Is that not
9 hearsay? How do you know that to be true?

10 **A** I guess it's hearsay then.

11 **Q** It is.

12 **A** I go off of what the text message read.

13 **Q** Let's pick back up. Page 37, Line 10. I ask
14 the question: "Doing business as Little River
15 Water Sports?"

16 **A** "That is correct."

17 **Q** "And that's the operating account for TnW?"

18 **A** "That's correct."

19 **Q** "Is that the operating account for Little
20 River Water Sports?"

21 **A** "Yes, sir."

22 **Q** Page 40, Wade.

23 "You mentioned a critical line and is part of
24 that property, not solid land, and you don't know
25 what percentage is buildable?"

WADE LONG - CROSS EXAMINATION - MR. HARRISON

1 Your answer?

2 A "I don't know about the buildable percentage,
3 no, sir. Getting an updated survey."

4 Q Okay.

5 A So, yes -- can I?

6 Q Go ahead.

7 A Let me tell you a little bit about that. So
8 I wasn't quite sure. I know we had the original
9 survey done, the high-water mark, the critical area
10 line, and the part that was buildable ground, that
11 we had approved by the county to build our
12 restaurant, marina ship store on, and it was all
13 drawn in the plan. We were right behind the
14 critical area line. Can I tell you exactly or
15 educated someone that specializes in wetlands? No,
16 sir, I can't. I know where it was roughly. I
17 hired another surveying company to come do it, and
18 we had several surveys on the property.

19 Q I understand.

20 Mr. Long, would you turn to Page 7 of your
21 little packet. I'm going to Page 42 of your
22 deposition.

23 A If this is a little one, please don't give me
24 a big one.

25 Q I think this one will be short. Page 42, I

WADE LONG - CROSS EXAMINATION - MR. HARRISON

1 asked the question on Line 6 -- are you there?

2 **A** Yes, sir, I am.

3 **Q** Okay. Just want to make sure.

4 "What value do you put on it if you were to
5 sell that property to me today?"

6 **A** "A good value. I would say it would be, you
7 know, 10 million. I'm basing calculations on a
8 couple nearby small marinas and tracts of land,
9 some that sold, and some that hasn't sold, what
10 they are listed for."

11 **Q** And I said: "So you are talking about the
12 old Harbor Gate Marina?"

13 And you said?

14 **A** "Yeah. Yes, sir."

15 **Q** Page 45, Line 21. "Who signed for the
16 company on those leases?"

17 Your answer?

18 **A** "Tim originally had them done with Roger Roy,
19 and those leases were drafted the first time. So I
20 had Henri draft me the new lease agreements."

21 **Q** Can you tell me what leases you are referring
22 to there?

23 **A** I'm talking about the leases for the tenants
24 at the docks. Say, for example, Mr. Harrison, you
25 own a charter boat and a business, and you want to

WADE LONG - CROSS EXAMINATION - MR. HARRISON

1 rent a slip at Little River Water Sports. I
2 provide you with a lease agreement. It has your
3 company name on it, your name, address, contact, so
4 forth, what you are leasing, how long of a term.

5 Q Okay.

6 A And it has a few docking rules and other
7 rules. She just took the old contract we had. It
8 was a pretty basic contract, and once this lawsuit
9 was in effect, she made it a lot more ironclad to
10 make everyone happy.

11 Q So there was some kind of leases before?

12 A Yes, sir.

13 Q And we've asked for those in discovery. I
14 haven't seen them.

15 A I didn't have the leases before. That was
16 Tim in Tim's office we had upstairs. He handled
17 the leases. I got the people there. And once
18 again, he handled the paperwork and contracts.

19 Q That's correct, but whose leases were they?
20 Who were they between?

21 A The customer and Little River Water Sports
22 and TnW More.

23 Q So the landlord was who?

24 A TnW More, doing business as Little River
25 Water Sports.

WADE LONG - CROSS EXAMINATION - MR. HARRISON

1 **Q** And then your captains were the tenants?

2 **A** Yes, sir.

3 **Q** Did you bother to ask your joint venturers,
4 that you have alleged are in a joint venture with
5 you, if it was okay to do that?

6 **A** No, sir, we didn't. I mean, I don't know if
7 it was the right way to do things, but it was the
8 way that Tim has been doing business for years. I
9 didn't know no different. We did stuff together.
10 Some things we kept separate, like the restaurant
11 and the marina, and some things we shared together.
12 I didn't see no harm, and I don't think at the time
13 Tim didn't see no harm in it.

14 **Q** But these tenants you are talking about, they
15 are captains, right? They are all boat captains?

16 **A** They are.

17 **Q** Did they park in that parking lot we've all
18 be talking about?

19 **A** They definitely did, and they sent all of
20 their customer to eat at the restaurant.

21 **Q** Did they walk up and down those docks and
22 bring customers to go fishing?

23 **A** They did.

24 **Q** Could any of those people have gotten injured
25 during that process?

WADE LONG - CROSS EXAMINATION - MR. HARRISON

1 **A** Sure. Anyone can get injured.

2 **Q** Right. But you didn't think that was
3 something you should talk to them about? You
4 didn't let them look at the lease, did you?

5 **A** Not that I'm aware of. Not unless Tim showed
6 it to them. I didn't personally show it to them.

7 **Q** So they didn't have any right or control over
8 the language you put in these lease agreements?

9 **A** No, sir, they didn't. But, Mr. Harrison,
10 when I took over in --

11 **Q** It is a yes or no question. Did they have
12 any control, Mr. Long?

13 **A** No, sir.

14 MR. PLAYER: Your Honor, he is allowed to
15 explain his answer.

16 THE COURT: I think he answered it, unless he
17 has an explanation he needs to give.

18 **Q** **(BY MR. HARRISON)** Okay. So let's go down to
19 Page 48, Mr. Long.

20 **A** Okay.

21 **Q** I asked the question: "Do you lease space to
22 anyone other than the boat captains?"

23 Your answer on Line 13?

24 **A** "Yes, I do. I lease slips to jet ski
25 business."

WADE LONG - CROSS EXAMINATION - MR. HARRISON

1 Q Keep reading.

2 A "I charge them \$7,000 a month. That's quite
3 a bit difference than the 45,000" --

4 Q No, I think that is a -- you want to clarify
5 that for the jury?

6 A I'm sorry. I misread the question.

7 Q It's tricky.

8 A "So to answer your question: Yes, I do. I
9 lease slips to the jet ski business. I charge them
10 \$7,000 a month."

11 Q And I asked the question: "That's quite a
12 bit of difference than the 45, comma, 500?"

13 A My answer?

14 Q Not yet. I have a question for you: What
15 were you charging the other people that weren't
16 giving you seven grand a month?

17 A It was us. It was our skis.

18 Q Okay. But what is the seven grand? Who were
19 you renting to for seven grand?

20 A Eric Rolf.

21 Q Okay. And, again, did you consult with my
22 clients about that?

23 A No, sir.

24 Q Okay. Let's flip over, Mr. Long. I'm trying
25 to cut this down, and thank you for bearing with us

WADE LONG - CROSS EXAMINATION - MR. HARRISON

1 here.

2 Let's go to Page 55. This is on Page 8 of
3 the packet I gave you. This is Page 55 of your
4 transcript, and the question was asked on Line 3:

5 "Does TNT own any personal property?"

6 Your answer?

7 **A** "The only thing we own is the dirt at the
8 docks and the fuel tanks."

9 MR. PLAYER: Is it "TNT" in the depo?

10 MR. HARRISON: TnW.

11 MR. PLAYER: You said "TNT."

12 MR. HARRISON: Oh, correction for the record.
13 I knew I would do it. We've all done it in this
14 case. My apologies. We'll try it again.

15 **Q** **(BY MR. HARRISON)** Page 55, Line 3, I asked:
16 "Does TnW own any personal property?"

17 Your answer, please?

18 **A** "The only thing we own is the dirt there at
19 the dock and the fuel tanks."

20 **Q** I asked: "Any other equipment?"

21 It says "shakes head." Just read Line 16 for
22 me.

23 **A** Okay. "We did have the jet skis, and we sold
24 them back in 2020, January or February, and that
25 money was deposited into the bank account."

WADE LONG - CROSS EXAMINATION - MR. HARRISON

1 **Q** So January and February of 2020. That was
2 before the lawsuit got filed, right? You sold the
3 jet skis?

4 **A** I'm trying to -- I thought it was -- I mean
5 -- I thought we sold them after I took over. It
6 may have been a mistake with the 2020. But, yes, I
7 did sell them.

8 **Q** So what you said here is incorrect? You are
9 saying you misspoke here? I want to give you an
10 opportunity.

11 **A** What I'm telling you -- this is a one hundred
12 percent truthful answer. The date from 2020 to
13 2021, I may have misspoke on that, but I'm not
14 lying when I said I took the money, but I thought
15 that was after the suit started. I took over
16 October 12 of 2020, so it was sometime after that
17 date.

18 **Q** So you misspoke here?

19 **A** If I said January or February, it was '21
20 when I sold them.

21 **Q** Well, that is not what you said, right? You
22 said -- and I quote -- Line 16:

23 Answer Mr. Long: We did have the jet skis,
24 and we sold the jet skis back in 2020.

25 That was your statement then?

WADE LONG - CROSS EXAMINATION - MR. HARRISON

1 **A** One hundred percent correct, but I can't
2 remember every little detail. But, yes.

3 **Q** That is why we are here, to get all of those
4 details out.

5 **A** Yes, sir, that is correct.

6 **Q** Page 56, I ask a question: "Do you remember
7 what they were sold for?"

8 Your answer?

9 **A** "I think it was like 30,000."

10 **Q** Keep reading.

11 **A** Little more or little less, I don't remember.

12 **Q** No. No. Keep reading. Don't editorialize
13 unless I ask.

14 **A** "It was deposited into the bank account."

15 **Q** "What bank account?"

16 **A** "United Community Bank."

17 **Q** So the 30,000 -- you sold the jet skis for
18 30,000. Did you buy the jet skis with the loan
19 money?

20 **A** I think the jet skis were bought with the
21 loan money, yes, sir.

22 **Q** But you pocketed the 30,000 when it got sold?

23 **A** No, I didn't -- I did not pocket no money.
24 I've never took no money out of the company for any
25 of my use or personal use. That went into the

WADE LONG - CROSS EXAMINATION - MR. HARRISON

1 company to fund the company -- because the jet skis
2 are shut down -- to pay the bills of \$5,033 a
3 month, insurance and everything else. That is what
4 that money was used for.

5 Q So before this lawsuit gets filed, you sold
6 jet skis, \$30,000 was deposited into whose bank
7 account?

8 A It was deposited in Little River Water
9 Sports' bank account. But I'm telling you the jet
10 skis were not sold before this litigation started,
11 or Tim would have been in charge of it.

12 Q But you said that?

13 A I'm telling you, if I made a mistake here --

14 Q My question is: Are you misleading us now or
15 misleading me then?

16 MR. PLAYER: Please, he interrupts my client.

17 THE COURT: Let him finish the question.

18 A No, sir. I'm telling you this is truthful,
19 and I have the documents to show you exactly what
20 I've done. If I made a mistake speaking all this
21 paperwork, if I made one mistake from 2020 to
22 2021 -- if I remember correctly, I sold the jet
23 skis after I took over, because Becca Martin and
24 John -- and all the people Tim had on payroll --
25 they were running those skis. Well, we had the

WADE LONG - CROSS EXAMINATION - MR. HARRISON

1 same skis for like three, four years. So it would
2 not have made sense me selling the skis. The
3 skis -- if I said January or February, it was 2021.
4 It was after October 12 of 2020, or it was January
5 or February of 2021. That's not something I'm
6 trying to lie about, Mr. Harrison. It is a simple
7 mistake from '20 to '21.

8 **Q (BY MR. HARRISON)** I didn't give the answer
9 Mr. Long. You read the answer here.

10 **A** And I'm responsible for it.

11 **Q** Right. And the truth matters today just as
12 much as then.

13 **A** One hundred percent.

14 **Q** And if the truth is the truth, why do you
15 have to remember that?

16 **A** Well, it's a lot to remember.

17 **Q** A lot to remember, indeed.

18 **A** You just spoke on a name wrong.

19 **Q** So let's move on. Let me go to the next
20 line: "The personal property that you mentioned,
21 fuel tank and the other items, what do you believe
22 the value of the personal property to be dollar
23 value?"

24 And your answer on Page 57, Line 3? Pick up
25 there for me.

WADE LONG - CROSS EXAMINATION - MR. HARRISON

1 **A** Yes, sir. "It was 330-some thousand."

2 **Q** I asked the question: "330,000 for the
3 personal property?"

4 And your answer?

5 **A** "For the fuel tank."

6 **Q** Keep reading.

7 **A** "The containment, the setup."

8 **Q** Okay. And then I asked: You said that
9 somebody -- I said: "You said you got somebody to
10 evaluate that, who was that?"

11 **A** "I got two quotes from two companies, MICO
12 (ph) of Augusta and Greenville."

13 I actually have one more, and I forgot to
14 tell you that.

15 **Q** Did you have that at the time when you told
16 me that?

17 **A** I don't think it was at that time, no, sir.

18 **Q** So you got three quotes now?

19 **A** I think it was three.

20 **Q** So total? But at this time you think you
21 only had two?

22 **A** Yes. It never came in. The guy never got
23 back to me in time.

24 **Q** I understand.

25 So you had the dirt, right?

WADE LONG - CROSS EXAMINATION - MR. HARRISON

1 **A** Yes, sir.

2 **Q** Docks?

3 **A** Yes.

4 **Q** And this, right (indicates)? \$330,000 in
5 personal property?

6 **A** Well, when I'm saying 330, I'm talking about
7 the tanks -- I guess you asked me about the tanks.
8 I'm talking about the fuel tanks, fuel pump, fuel
9 hoses.

10 **Q** All of it? All of that stuff sitting on our
11 property? The tanks, lines, all of that stuff that
12 you put in, the docks, all of your equipment,
13 right? About 330 is what you told me there?

14 **A** Yes, sir.

15 **Q** And then all you had was the dirt, and we'll
16 get into --

17 **A** The land and fuel tanks it sits on.

18 **Q** And the docks?

19 **A** Yes, sir.

20 **Q** And the jet skis?

21 **A** Uh-huh.

22 **Q** That got sold.

23 Let's go to Page 58. I asked the question:
24 "Is that quote on a used replacement or new
25 replacement?"

WADE LONG - CROSS EXAMINATION - MR. HARRISON

1 Your answer?

2 **A** "That was on a new replacement, and then it
3 was on another 90-some thousand for the lines and
4 the pumps. That is set up on the floating dock.
5 To the end of the dock was like 90-some thousand."

6 **Q** Keep reading.

7 **A** "Only appraisal was ever done was by Hucks
8 and Associates. It was somewhere between 16 and
9 17."

10 **Q** Okay. And I asked -- and I'm on Page 9 where
11 you just finished reading, Line 8: "In this
12 lawsuit, you've alleged that Mr. Tim Kettner either
13 embezzled or removed money unlawfully from TnW."

14 What was your answer?

15 **A** I said: "Yes."

16 **Q** And then I asked: "When did you notice the
17 problem?"

18 **A** "After we had a pretty busy summer and we had
19 a couple new employees hired. Her name was Becca
20 Martin and John. I went up there a couple hours
21 later. I talked to Rebecca, and I had the app on
22 my phone. Her name was Teresa Lester. She did our
23 credit card swipe processing. It was called Simple
24 Swipe. I didn't see all of the money account. She
25 said, oh, well, someone paid cash. Well, I got it

WADE LONG - CROSS EXAMINATION - MR. HARRISON

1 right here in a separate box, and this is an
2 additional book that I made all of the cash notes
3 for Tim and handed it to him at the end of the
4 day."

5 Q And then I asked: "Was that how the books
6 were typically kept?"

7 A "I couldn't tell you how Tim kept the books.
8 I didn't really deal with the books. Tim did. All
9 the checks and banking handled that part with
10 Becca."

11 Q And then I asked: "So there was one book
12 that dealt with cash; is that correct?"

13 A "When I say 'book,' there was no notebook. I
14 handed you a hundred dollar bill, she would take
15 that. She would write four people one hour and put
16 that money in the bank -- in a bank."

17 Q Flip over and keep reading. Top of the page,
18 Line 21.

19 A "And give that to Tim daily at the end of the
20 day, or if he wasn't around, the next day. That
21 was strictly for cash transactions. But we never
22 had a system, and I was never familiar with a
23 system. And I got locked out of that system when I
24 took over the company. It was called Fair Harbor.
25 Becca ran that, Fair Harbor system and had it set

WADE LONG - CROSS EXAMINATION - MR. HARRISON

1 up. When I asked for passwords and this and that
2 and an iPad -- they had an iPad that they did Fair
3 Harbor on -- and I opened it up and seen all of the
4 stuff, and I didn't -- I did screen shots of it,
5 and seen a lot of it. Then, all of the sudden, it
6 was -- she logged in, locked me out of it."

7 **Q** Then I asked on Page 75, Line 23: "Who
8 handled cash deposits? "

9 And your answer was?

10 **A** "Tim, as far as -- Tim or Donny. Tim did
11 some of the depositing, and then it got to where
12 Becca was there, for some reason. He seemed to
13 like her, and he would let Becca, and she was only
14 there for like one year. Tim prepped it, and she
15 take it, and she dealt with Bryant's accounting,
16 and she took deposits to the bank. And before
17 that, Donny did, Tim did, and I think I may have
18 did one or two."

19 **Q** I asked: "Did you look at those books ever
20 that day or any time after?"

21 Your answer?

22 **A** I said: "I did. I looked at the books, and
23 Tim had two sets of books."

24 **Q** "Who was the last person that you know of
25 that was in possession of that book?"

WADE LONG - CROSS EXAMINATION - MR. HARRISON

1 Your answer?

2 **A** "I know the last person I physically seen
3 with my eyes was Becca Martin. And then after
4 that, she locked me out of -- like I got the iPad
5 with -- purchased an iPad that her dad tried to
6 get, Steve Martin."

7 **Q** I asked the question: "Who could make
8 withdrawals from the account?"

9 Your answer?

10 **A** "Withdrawals would probably be me and Tim
11 only."

12 **Q** Page 94, Line 6, I asked the question: "So
13 you noticed an abnormality in the bookkeeping,
14 things that weren't adding up?"

15 Your answer?

16 **A** "Once the lawsuit took place, that is when I
17 had all of the reports printed out. There were
18 several charges, roughly about \$75,000 worth of
19 checks that were written, a paper trail from TnW
20 and More written into TNT and More. This was what
21 really alarmed me to a credit card company that was
22 through Carolina First Bank that Tim had. I had a
23 card, and time (sic) had a car. The only time I
24 used it was for business-related stuff."

25 **Q** So you guys had cards associated with the

WADE LONG - CROSS EXAMINATION - MR. HARRISON

1 bank accounts?

2 **A** Yes, sir.

3 **Q** Debit cards, credit cards?

4 **A** It was a credit cards, but I don't think it
5 was linked -- I think it was at Carolina First or
6 something.

7 **Q** So you had one and who else had one?

8 **A** Tim had one.

9 **Q** Did my guys have one?

10 **A** Not that I'm aware of.

11 **Q** So you never gave my guys a credit card?

12 **A** I didn't. Tim gave me mine.

13 **Q** So Tim gave you yours. To your knowledge,
14 did anyone give them one?

15 **A** Not that I'm aware of.

16 **Q** You had one for sure?

17 **A** Yes, sir.

18 **Q** But you never gave these four -- my clients
19 -- a credit card for that account?

20 **A** No, sir.

21 **Q** And that is the account for TnW, right?

22 **A** That's correct.

23 **Q** So you and Tim right? Is that it?

24 **A** Yes.

25 **Q** Tim gave you your card?

WADE LONG - CROSS EXAMINATION - MR. HARRISON

1 **A** Yes, sir.

2 **Q** Fair enough.

3 So let me pick up here on Page 100. I asked
4 a question: "Were you ever able to run that down
5 and find anything definitive that showed you
6 exactly what happened to the money and how it was
7 taken?"

8 Your answer, please?

9 **A** I said: "No, I couldn't tell you exactly."

10 **Q** I asked: "Are there any restrictions on --"
11 You answered?

12 **A** "None that I know of."

13 **Q** "-- on purchases or withdrawals?"

14 **A** I said: "Yes. My card has restriction on
15 it. It may be -- it was 1500 or 3,000. Like I
16 said, only thing the card has ever been used for
17 was, I guess, legit purchases for lumber, material,
18 and stuff that you can actually see that went to
19 the marina on the dock."

20 **Q** Thank you.

21 Move down to Page 104. I'm skipping this for
22 time's sake, Wade. I'm sorry. I don't want to beat
23 this horse to death.

24 Stay with me. I asked a question on Line 6:
25 "Did you ever write a check for anything out of

WADE LONG - CROSS EXAMINATION - MR. HARRISON

1 TnW's account that was not directly related to
2 TnW's business?"

3 Your answer?

4 **A** I said: "Yes. That's what I was telling you
5 earlier. I may have wrote 12 checks."

6 **Q** Okay. And then flip over for me. Page 114,
7 I asked the question: "Have you taken any action
8 to oust Tim Kettner outside of this lawsuit?"

9 **A** "No."

10 **Q** Keep reading.

11 **A** "I hired Henri and just kind of at her beck
12 and call. Whatever she tells me to do, that's what
13 I do."

14 **Q** That's important. I'm going to ask you about
15 that. You say that you only did what your counsel
16 told you to do?

17 **A** Yes, sir. She's the professional, not me.

18 **Q** Right. But you signed the pleadings, right?

19 **A** Signed what?

20 **Q** The pleadings in this case, the complaint.

21 **A** Yes, sir.

22 **Q** You filed against Mr. Kettner and these guys,
23 right?

24 **A** Yes, sir.

25 **Q** Well, I guess the question that I have is:

WADE LONG - CROSS EXAMINATION - MR. HARRISON

1 Did Henri tell you to file this lawsuit, or did you
2 decide to file this lawsuit?

3 **A** No. I was following my representation. She
4 told me that, you know, what we need to do is file
5 a lawsuit and defend ourselves.

6 **Q** You went to her to file it, right? This was
7 your idea. You wanted to file against my guys,
8 right?

9 **A** I didn't want to be in no lawsuits. I've
10 never been in no lawsuits or up here doing this
11 before.

12 **Q** But you are the client, right? She can't
13 file a lawsuit until you tell her to do so.

14 **A** Yes, but I took her advice. I had to give
15 her authority. Hey, Wade, do you want to do this?
16 Yes, if she recommends it. Yes, that's what I'm
17 going to do. I'm going to trust her.

18 **Q** Did she recommend that you file a lawsuit?

19 **A** Yes, she did.

20 **Q** And you did that because she recommended it
21 or because you wanted to do that?

22 **A** Because she recommended it, and I agreed with
23 her. I thought it was the right thing to do.

24 **Q** So you agreed you wanted to file a lawsuit?

25 **A** I didn't at first. She recommended it. I

WADE LONG - CROSS EXAMINATION - MR. HARRISON

1 trust her judgment, so I agreed with it.

2 Q Can you explain that to me? You didn't want
3 to --

4 A Sure. I'll make it real easy for you, Mr.
5 Harrison. I trusted Ms. Henri Golding, just like I
6 would trust you if I hired you. You are the
7 professional at what you do. You have a degree in
8 practicing what you do. I trusted her advice on --
9 I'm trying to get help. I'm going to her for help.
10 I'm paying you. Please, help me. My company is
11 dying, I need help. So I hired her, and she guides
12 me the right way and advises me what I need to do,
13 and that is what she recommended, and I agreed. I
14 thought I was doing the right thing.

15 Q Page 118, I asked the question: "Did you
16 report Mr. Kettner to the police at any point?"

17 A "I never did. I never reported" -- I'm going
18 to say Mr. Tim -- "to the police."

19 You told me not to say Kettner.

20 Q Do you know what we're talking about there,
21 because the jury doesn't understand?

22 A What they are talking about right here --
23 when everything went south, and I thought Mr. Tim
24 was taking money and I couldn't track none of the
25 monies where they went, they are asking me. So I

WADE LONG - CROSS EXAMINATION - MR. HARRISON

1 hired Ms. Henri Golding, the attorney, to represent
2 me. Why did I agree with what she was saying? The
3 reason is because she's the professional. I
4 trusted her. I hired her.

5 The next part of it, they are asking, well,
6 why didn't you report Mr. Tim to the police? I've
7 never done this before, guys. I didn't know was I
8 supposed to call the police. I figured it is
9 business, and I can't determine what he took off
10 right off the rib, but I hired Ms. Henri thinking I
11 can get some help or professional accountant or
12 something to check to see what was going on. I'm
13 trusting her. I mean, that is why I hired her.
14 I'm not a professional.

15 So I was strictly going off -- I don't want
16 to see Tim or Donny or any of them in jail -- no
17 one. I just want this resolved and what's right
18 for everyone. That is why I didn't call the
19 police. I went and hired an attorney.

20 Q Thank you for explaining that, Wade. I
21 appreciate it.

22 Drop down to 131 on Page 12 of 13. We're
23 almost done. We're making headway, and I
24 appreciate your patience.

25 Page 131, I ask: "So TnW does have a d/b/a

WADE LONG - CROSS EXAMINATION - MR. HARRISON
1 of Little River Water Sports?"

2 And your answer?

3 **A** "Our d/b/a is Little River Water Sports."

4 **Q** I want to be clear on this, because there has
5 been a lot of talk about a lot of different
6 entities. I want you to tell the jury what is
7 going on with Little River Water Sports and TnW?
8 What is the relationship as far as you are
9 concerned?

10 **A** What I was aware of, and what I was
11 thinking -- Tim named it TnW and More. It was
12 easy. His other business was TNT. Like I said,
13 yesterday the "T" stands for "Tim" and "W" for
14 Wade, and More, everybody else was a part of it.
15 The Little River Water Sports is a name I actually
16 came up with, and Tim said, I like it. When you
17 have a jet ski or dock, I mean, I'm not picking on
18 the name, but it sounds boring. It is not -- TnW
19 More, what is that? What is Little River Water
20 Sports? It is more welcoming. It's nice. We had
21 nice signs and logos made. So we always opened the
22 account up as TnW More, doing business as Little
23 River Water Sports. That is all I'm aware of.

24 We had the marketing stuff done, websites,
25 business cards, flyers, shirts, brochures, and that

WADE LONG - CROSS EXAMINATION - MR. HARRISON

1 is what we were advertising our business as:

2 Little River Water Sports.

3 Q Did you incorporate TnW with the State of
4 South Carolina, a registered corporation with the
5 State of South Carolina?

6 A I don't know was that done properly. I think
7 we did something after I took over, but Tim
8 originally did it.

9 Q But it exists in the Secretary of State's --

10 A Yes.

11 Q Just making it sure. So it is a registered
12 LLC, TnW is?

13 A Yes, sir.

14 Q Was Little River Water Sports a registered
15 corporate entity to, your knowledge?

16 A Not to my knowledge. I honestly don't know.
17 I just named it. I didn't do the listings and
18 filings and all of that.

19 Q So you don't know if it was incorporated?

20 A I mean -- no, I honestly don't know.

21 Q Okay.

22 A I was assuming everything was right. I named
23 it, and we were using the name, and it was on all
24 of the marketing and Websites, so I figured we were
25 legit. Like I said, Mr. Michael, at the time I

WADE LONG - CROSS EXAMINATION - MR. HARRISON
1 didn't do all of the bookwork stuff.

2 Q I understand. Let me read to you my next
3 question in this deposition, Mr. Long. Page 132:
4 "Did you have any contractor or contract employees
5 that weren't necessarily on you (sic) payroll" --
6 because I can't speak, apparently.

7 "Did you have any contractor or contract
8 employees that weren't necessarily on you (sic)
9 payroll?"

10 A "yes. It was Brett and V Enterprise. Tim
11 would write the one check from our company to Brett
12 and V Enterprise, and then they would have to pay
13 the other two people out of that. They were
14 contractors."

15 Q Thank you.

16 So Brett and V were contractors of who?

17 A I guess they were TnW More. I think they had
18 their own -- what I found out later, after the
19 lawsuit was started, I wasn't aware when it was
20 going on because, once again, I didn't handle the
21 office stuff. I think they had like a management
22 company set up named after dogs, Abby and Miley or
23 something.

24 Q We have those documents, and we'll talk about
25 that. My question really is: Did these two

WADE LONG - CROSS EXAMINATION - MR. HARRISON

1 individuals, Brett and V that you are referring to
2 in here, did they work for you, or did they work
3 for the restaurant?

4 **A** They worked for Little River Water Sports and
5 TnW More.

6 **Q** So they did work --

7 **A** Yes.

8 **Q** So you guys paid them?

9 **A** Tim paid them.

10 **Q** But Tim paid them with TnW money?

11 **A** That is correct.

12 **Q** Okay. I just want to make sure.

13 Do you know if Brett and Veronica Todd, who
14 were your employees, under your control, are you
15 aware that they filed articles of incorporation for
16 Little River Water Sports?

17 **A** I wasn't aware of that until you brought it
18 to my attention that day when you questioned me for
19 three days.

20 **Q** So you didn't know anything about that when I
21 asked you this, but you do now, right?

22 **A** The only time I knew about it is when you
23 asked me when we went to Mr. Bellamy's office.

24 **Q** When we did this deposition when I was asking
25 you?

WADE LONG - CROSS EXAMINATION - MR. HARRISON

1 **A** I think so, yes, sir. But I wasn't aware of
2 it at first.

3 **Q** Not before, but are you aware that it was
4 incorporated -- that it has been incorporated?

5 **A** No, sir. I'm not one hundred percent aware.

6 **Q** You are relying on what I told you in the
7 deposition?

8 **A** No. I'm saying that part is a little -- I'm
9 really not that educated and up to speed on how --
10 it is so confusing. I don't know what they filed.
11 I know they had a company, Abby and Miley or
12 something, that checks were going to, and from the
13 beginning. I thought Little River Water Sports was
14 us.

15 **Q** You keep mentioning Abby and Miley. That is
16 another company?

17 **A** It is a company that Tim instructed Brett and
18 V Todd to open up where he could pay them a check
19 out of our company for them. What reason, why it
20 was done that way? I cannot tell you. That is a
21 question for the accountant.

22 **Q** So are you now aware that Brett and Veronica
23 Todd incorporated and made Little River Water
24 Sports an LLC? Have you seen any paperwork to that
25 effect in this case or on your own time?

WADE LONG - CROSS EXAMINATION - MR. HARRISON

1 **A** Honestly, Mr. Harrison, I seen so much
2 paperwork. I don't know if Henri showed it, no. I
3 thought we cleared something up. I just don't
4 honestly remember. I may have remembered something
5 then, but there was a lot of stuff that changed
6 since then.

7 **Q** I'm asking you one more question on this.
8 Did you instruct them to incorporate --

9 **A** I did not instruct them to incorporate, no,
10 sir, I did not.

11 **Q** Fair enough. Fair enough.

12 So I asked on Page 136: "Have you ever
13 transferred money out of TnW's operating account
14 into your personal account for any purpose,
15 whatsoever?"

16 And we're almost done. If you will read that
17 answer.

18 **A** "I was paying Henri the funds out of my
19 personal pocket until we got authorized that the
20 company could pay it for -- for it and for the
21 money I gave her a couple times. I reimbursed that
22 amount back to my company."

23 **Q** Thank you.

24 MR. HARRISON: Judge, it is 12:30. We've
25 been going all morning and up here a long time.

WADE LONG - CROSS EXAMINATION - MR. HARRISON

1 I'm sure the jury is hungry and tired. I ask
2 that -- it may be an appropriate time to take a
3 break. I'm done with that transcript. I have two
4 more to go. Probably a good time to break.

5 THE COURT: It is 12:20. We'll break for
6 lunch. Be back here at 1:45. Thank you, ladies
7 and gentlemen. Just a reminder: Don't speak about
8 anything about what you have heard, about the
9 testimony with fellow jurors or anyone else.

10 (The jury exits at 12:22 p.m., and the
11 following is heard out of the presence of the jury.)

12 THE COURT: We'll be at ease until 1:45 p.m.

13 (Lunch break was taken.)

14 THE COURT: Thank you. You can be seated.
15 Are we ready to proceed?

16 MR. HARRISON: I am, Your Honor.

17 THE COURT: Anything from the plaintiff?

18 MR. PLAYER: No, Your Honor.

19 THE COURT: Anything else?

20 MR. RICHTER: No, Your Honor. Thank you.

21 THE COURT: Let's bring them in.

22 (The jury enters at 1:59 p.m., and the
23 following is heard in the presence of the jury.)

24 THE COURT: Thank you, ladies and gentlemen.
25 I hope you had a good lunch. We'll continue with

WADE LONG - CROSS EXAMINATION - BY MR. HARRISON
1 the cross examination.

2 Counsel.

3 MR. HARRISON: Thank you, Your Honor.

4 **CROSS EXAMINATION (CONT.)**

5 **BY MR. HARRISON:**

6 **Q** Mr. Long, we finished that first set of
7 excerpts. I want you to turn to the next set of
8 excerpts. It is entitled, "Thomas Wade Long
9 Deposition, Dated November 29, 2022." Let me know
10 when you are there.

11 **A** I'm there.

12 **Q** Got it? You ready? Okay. This was on
13 November 29th. This was a continuation of the
14 previous deposition. I asked -- and this is at the
15 very top, Wade, "By Mr. Harrison," on Page 146. I
16 asked the question: "Are you aware that there is a
17 business out there called Little River Water
18 Sports?"

19 Your answer, please?

20 **A** I said: "No, other than us, I'm not aware
21 of."

22 **Q** And I asked: "At that time, did you ever
23 incorporate Little River Water Sports yourself?"

24 **A** "No, I did not. It was always TnW and More
25 doing business as Little River Water Sports. I

WADE LONG - CROSS EXAMINATION - BY MR. HARRISON

1 mean, we own that -- the main name, Website,
2 everything, Horry County Business License
3 Department."

4 Q "And whose name is under the name of the
5 business?"

6 A "Little River Water Sports."

7 Q "And who does it show as owners?"

8 A "Me and Tim."

9 Q "Let me ask you a question: If your business
10 license is the name of Little River Water Sports,
11 and Little River Water Sports was owned by somebody
12 else, how did TnW come to use the name Little River
13 Water Sports as its d/b/a?"

14 A "Well, we've been using that name before
15 Veronica and Brett ever came onboard."

16 Q Keep reading.

17 A "I formed TnW and More, LLC. This business
18 venture became known as Little River Water Sports."

19 Q And then I asked the question: "And you have
20 alleged in your pleadings that there is a joint
21 venture between TNT and TnW."

22 And then I asked: "How do you reconcile that
23 statement with your pleadings?"

24 Your answer?

25 A "The joint venture was never really my word.

WADE LONG - CROSS EXAMINATION - BY MR. HARRISON

1 That was Henri's word. Yes, we are supposed to
2 have -- if you call it -- joint venture partnership
3 with Tim. I had no ownership in Crab Catchers to
4 provide his office upstairs and his bathrooms for
5 our customers to use, and had that in our Marina
6 Operations Manual, and it's listed in it. So, yes,
7 he didn't provide to do that until we get the land
8 cleared off to build a new place."

9 Q Mr. Long, it is a very important statement.
10 This whole case, as we've talked about, is about a
11 joint venture and who it is between, and you are
12 saying the joint venture was never really my word,
13 that was Henri's word, but those words were used in
14 the pleadings in which you sued my client; is that
15 correct?

16 A Yes, sir. Like I told you, I don't know the
17 proper definition of "joint venture," but that was
18 Tim Kettner's word, joint venture, in his messages
19 that we saw yesterday.

20 Q But you signed a verification saying you
21 understood what was in it and that you were saying
22 that the information in that pleading was true, but
23 here today you are saying that you didn't know what
24 it meant when you filed it?

25 A Well, I mean, partnership, marriage, that is

WADE LONG - CROSS EXAMINATION - BY MR. HARRISON

1 exactly what I said. I explained that to you
2 earlier. Joint venture, to me, that's my term of
3 it. You are in an agreement together whether it is
4 a marriage, partnership, LLC. We worked together
5 for many years as a team, together.

6 Q But you know joint venture is a very specific
7 legal definition, do you not?

8 A Well, I sure do now after all of this
9 litigation.

10 Q Did you not know that before you brought us
11 all up here for this?

12 A Well, when I hired Henri she informed me
13 exactly what it was, and she always called it joint
14 venture, and I assumed that is what we were in.

15 Q So she called it that?

16 A And Tim called it that, and that's what I was
17 assuming we were in, in a joint venture.

18 Q And who was in the joint venture?

19 MR. RICHTER: May I interpose an objection?
20 When he says "Tim," he is misstating the evidence.
21 Tim said joint venture between Tim and Wade. If he
22 can point to a text where he said joint venture
23 between TNT and TnW -- I want to make sure it is
24 clear for the jury when he's using words like that.

25 MR. PLAYER: The evidence speaks for itself,

WADE LONG - CROSS EXAMINATION - BY MR. HARRISON

1 Your Honor. As we've argued, the joint venture
2 couldn't occur without using TNT's land, and he was
3 the CEO and managing member of TNT. So this is a
4 legal argument, not a factual argument, for the
5 jury.

6 MR. RICHTER: I'm concerned he's
7 mischaracterizing what the facts are. Yes, there
8 was a text from Tim Kettner that used the word
9 "joint venture." It never said a joint venture
10 between TNT and TnW, and that is central for this
11 case and needs to be made clear for the jury.

12 MR. PLAYER: Again, I believe he is
13 misconstruing the evidence because the same text
14 string said we're going to combine all lots. So
15 TNT had to be --

16 THE COURT: The text is in evidence. The
17 jury can refer back to that text, and they can take
18 from the text what they deem necessary.

19 MR. PLAYER: Thank you, Your Honor.

20 MR. HARRISON: Thank you. And I think we
21 have those texts in these documents. So if we
22 still have it in here, I'll ask about it.

23 **Q (BY MR. HARRISON)** But I'll get back to what I
24 was asking you.

25 **A** Yes, sir.

WADE LONG - CROSS EXAMINATION - BY MR. HARRISON

1 **Q** When you signed the verified statement, you
2 understand when you signed that, you are signing it
3 under oath, and you were saying that you were in a
4 joint venture with my clients, but you can't tell
5 me what a joint venture is as we sit here today?
6 You say it is a partnership or something like that?

7 MR. PLAYER: Objection. He's asking my
8 client to make a legal determination, and that is
9 improper.

10 MR. HARRISON: Your Honor, he filed that we
11 are in a joint venture with them. If he doesn't
12 know what he's filing against us, then why are we
13 here?

14 THE COURT: I'll let him answer the question.

15 **A** What would you like me to answer?

16 MR. HARRISON: Would you read back the
17 question?

18 (Last question read.)

19 **A** Yes. That's exactly what I'm telling you. I
20 feel like a joint venture is another word for
21 "partnership," working together, partners. We were
22 partners whether we did TNT -- Tim did the books
23 for TNT or TNN (sic). We did a lot of stuff
24 together. So, yes, I was assuming that we were a
25 joint venture, but I've never heard the word so

WADE LONG - CROSS EXAMINATION - BY MR. HARRISON
1 much until all of this litigation started.

2 Q (BY MR. HARRISON) Okay. So just to clarify
3 for the lawyer's edification what we just heard,
4 and I want to know, do you know what a joint
5 venture is as we sit here today, the legal
6 definition?

7 A I've heard it four, five different times. If
8 you can inform me of what the definition is, I
9 would love for you to.

10 Q I was asking you. You filed it, you tell me
11 if you know the definition.

12 A Yes, I did file it, but I was informed from
13 Henri and what we need to do and what we need to
14 file. But this seems to be the whole sum of this
15 case that you keep bringing up as joint venture, so
16 please tell me.

17 Q It's not my job to do that. It was your job
18 to know what you filed when you filed.

19 A I filed based on my legal counsel, Ms.
20 Golding.

21 Q So you knew what a joint venture was then?

22 A She kind of informed me, but that was years
23 ago. I don't remember every single detail.

24 Q That is what this whole case is about, Mr.
25 Long. You don't know what the definition of joint

WADE LONG - CROSS EXAMINATION - BY MR. HARRISON
1 venture is and you signed the pleadings?

2 **A** Tell me.

3 **Q** That's not my job, Mr. Long. You filed the
4 pleadings, and you alleged that you were in a joint
5 venture with my clients, but you can't even tell
6 this jury and this Court what that is, can you?

7 **A** My definition of joint venture -- joint, I
8 would take it as working together. You know, some
9 type of working relationship. We're in partners
10 together. We're in business together. We're
11 conducting income. We're coming together as one,
12 sitting down at the table and eating. That is my
13 personal definition.

14 **Q** Okay. But you don't get to sue on your
15 personal definition, do you, Your Honor?

16 **MR. PLAYER:** Your Honor, he is literally
17 asking him to give a legal definition of a cause of
18 action.

19 **THE COURT:** This has been asked and answered.
20 Let's move on.

21 **Q (BY MR. HARRISON)** All right. Let's pick back
22 up where we left off. Page 157. This is on 2 of
23 14, Mr. Long. Do you see that? Line 7?

24 **A** Line 7, yes, I do.

25 **Q** Would you pick up there for me and just start

WADE LONG - CROSS EXAMINATION - BY MR. HARRISON
1 reading, and I'll pick up the question and we'll go
2 through it.

3 **A** "I formed TnW or LLC, the business venture
4 became known as Little River Water Sports."

5 **Q** And I asked: "And you've alleged in your
6 pleadings that there is a joint venture between TNT
7 and TnW?"

8 And then I asked: "How do you reconcile that
9 statement?"

10 That's how we got here, so I will skip down
11 and won't make you read that again. I think
12 everyone's heard what your statement was there.

13 I want you to read -- pick up reading Line 1,
14 Page 158, and read from there.

15 **A** Okay. "I had no ownership of Crab Catchers
16 to provide this office upstairs and the bathrooms
17 for our customers to use, and had that in our
18 Marina Operating Manual, and it is listed in it.
19 So, yes, he did provide to do that until we get the
20 land cleared off to build our new place."

21 **Q** Explain that to me. What were you agreeing
22 to there, because I'm not sure I understand it?

23 **A** So until -- you know, when we first opened to
24 build the marina, DHEC required us to have a place
25 for customers to wash their hands, clean restrooms.

WADE LONG - CROSS EXAMINATION - BY MR. HARRISON

1 We didn't have that. We had no brick and mortar
2 location. Only thing we had is docks and slips and
3 cleared land and fuel tanks. We had no constructed
4 building.

5 So Crab Catchers was our office from day one.
6 Crab Catchers was our bathrooms from day one, and
7 we were using those bathrooms until we had our own
8 facility there built, and then we would have our
9 own bathrooms.

10 Q Did those bathrooms that you promised to
11 build ever get built?

12 A No, sir, they never got built.

13 Q Was there anything else that you had planned
14 to do that you didn't build from your original
15 plans?

16 A Yes, the marina ship store and restaurant,
17 that's what we didn't build.

18 Q Why didn't you build that?

19 A The little bit of fussing and bickering
20 started happening. Donny's, I think, mother and
21 aunt, which seemed to be nice people, came into the
22 restaurant at Crab Catchers. Tim hired them, and
23 they started working there. Tim was originally
24 going to do breakfast in the place. We were going
25 to do breakfast, lunch, and dinner. I think once

WADE LONG - CROSS EXAMINATION - BY MR. HARRISON

1 he presented to his family members, they got a
2 little upset like we were competing against them
3 with having another restaurant, so it got put off a
4 little bit.

5 And we were also working with the county. We
6 submitted several plans under advisement. We were
7 waiting for approval of the plan, and there was a
8 couple adjustments on the parking lot that Nick
9 Nye, the architect, was working on to get the plan
10 approved for the county where we can start
11 construction.

12 And we also had two docks -- that, actually,
13 Tim got the permits for -- that was ready to go to
14 join our docks of TnW and More and TNT and More
15 together to add a 12-foot expansion, 60-feet long.
16 That never got constructed. We were going to build
17 another dock. That never got done. It was up on
18 the top of the hill. We had a permit -- or a price
19 for. It was going where Doc's house was. It was
20 kind of running at an angle and steps stepping down
21 to Crab Catchers where the customers could go back
22 and forth between both locations.

23 Q So there was a lot of stuff that never came
24 to fruition?

25 A That is true.

WADE LONG - CROSS EXAMINATION - BY MR. HARRISON

1 **Q** Is it fair to say that you abandoned those
2 plans?

3 **A** No, sir, I didn't.

4 **Q** Are you still working on them?

5 **A** I mean, I'm working on this -- all this
6 litigation, Mr. Mike.

7 **Q** No. All the plans you had.

8 **A** We still have all of those plans.

9 **Q** You got them. Are you working on those?

10 **A** Hopefully. As soon as this litigation -- you
11 all decide what we are doing, we can move forward.

12 **Q** So you are saying that the only -- I want to
13 be clear. The only reason you haven't finished
14 that is because of what my clients have done; is
15 that right?

16 **A** We've been stepped on. We've been -- I mean,
17 everything you can imagine --

18 **Q** I'm asking you. That's why we are here. You
19 can't do what you want to do on our land because my
20 clients won't let you, right?

21 **A** We would not be here today if they didn't
22 interfere with our business, and if we worked
23 together like we previously did for years.

24 **Q** When did you get the loan to build all of
25 this?

WADE LONG - CROSS EXAMINATION - BY MR. HARRISON

1 **A** I think '17 or '18.

2 **Q** And when did this lawsuit get filed?

3 **A** In 2020, I think -- '21.

4 **Q** 2021. We talked about this earlier, right?

5 What happened between 2018 and 2021? Why didn't

6 you build all of those things? You had a \$1.1

7 million?

8 **A** Yes, sir. You tell me where the 1.1 went.

9 **Q** I'm asking why you didn't build the things --

10 **A** We did dredging. We built a marina, 185-foot

11 of dock slips with 12 slips on the front side, and

12 185 feet of face dock. We did dredging several

13 different times. We bought jet skis. The company

14 was running, and when it came time to, you know --

15 we opened up in '17 or '18, and it's only been a

16 few years to do that major construction.

17 We did a three-year business plan and steps

18 and tiers with the bank, and we were just waiting

19 to get a few funds and everybody onboard. I told

20 you we had a little hesitant when Donny's aunt and

21 mom came onboard. They felt we were competing

22 against each other selling ice cream, building a

23 restaurant. So that put things on hold

24 temporarily.

25 **Q** Okay. But in 2018, what did my clients do to

WADE LONG - CROSS EXAMINATION - BY MR. HARRISON
1 prevent you from building your plans?

2 **A** They didn't do one thing in '18. We just got
3 our docks and everything built, construction. The
4 new business just opened up. Just got the land --
5 I don't know if you ever tried to get any permits
6 with the county, but it is not the easiest thing in
7 the world. And there is a time, and '21 is not
8 that long from when we opened up.

9 **Q** It's five years?

10 **A** I think our --

11 **Q** You incorporated TnW when?

12 **A** I think it was '17.

13 **Q** Okay.

14 **A** Our plans got completed. We had a set done
15 in '17, and then having those plans I think in '18
16 or '19, and the parking lot -- you know, like all
17 of the additions at Crab Catchers, that happened
18 over 30 years, not in three or four.

19 **Q** Right. But my question is -- and I'm not
20 sure -- if I am confusing you, I'll try to
21 rephrase. My question is: Nobody interfered with
22 you in 2018. Did anyone interfere with you in
23 2019?

24 **A** No.

25 **Q** Anyone interfere with you in 2020?

WADE LONG - CROSS EXAMINATION - BY MR. HARRISON

1 **A** Yes. It started in 2020.

2 **Q** That is when it started?

3 **A** Yes, sir.

4 **Q** And you got the loan when? 2017?

5 **A** I think '17.

6 **Q** So three years you had the plans. You had
7 1.1 million. Does it take three years to build a
8 marina?

9 **A** Sometimes it takes three years just to get
10 the permits.

11 **Q** Let's read on. Let's go to -- I'm going to
12 flip -- Mr. Long, bear with me. I'll try to hustle
13 through this as much as I can.

14 Would you flip to Page 3? And I want to
15 start at where it says -- Page 163, I asked the
16 question on Line 9: "Did you ever operate TnW or
17 any of your businesses out of that office at Crab
18 Catchers?"

19 Your answer?

20 **A** "Tim operated all of his business out of that
21 office."

22 **Q** "What was the primary reason for not building
23 the harbor master's office" -- I'm sorry, I
24 editorialized.

25 The question from Line 4 was: "What was the

WADE LONG - CROSS EXAMINATION - BY MR. HARRISON
1 primary reason for not building the harbor master's
2 office?"

3 **A** "And as I answered: Tim had a little bit of
4 pullback on it."

5 Like I said earlier.

6 **Q** Why did Tim have pullback?

7 **A** I think he had little pullback, put in a
8 tough situation between his --

9 **Q** Sorry, Mr. Long, me and you were talking like
10 we were in that deposition.

11 I just want to read.

12 Why did Tim have that pullback?

13 Read that answer for me.

14 **A** I'm trying -- 9?

15 **Q** Yes, sir. I asked why Tim had pullback, and
16 your answer is Line 10.

17 **A** Tim operated all of the --

18 **Q** Line 10, under Page 164.

19 "Answer: He was --"

20 **A** Sorry. Line 4? "Tim had a little bit of
21 pullback on it."

22 **Q** I asked: "Why did Tim have pullback?"

23 **A** "He was saying his kids and the owners of
24 Crab Catchers was giving him a little hard time
25 about the property -- the property lines and

WADE LONG - CROSS EXAMINATION - BY MR. HARRISON
1 stuff."

2 That's what I was -- that is what I was
3 trying to talk about earlier with the families
4 working at the restaurant.

5 Q Let's move through this.

6 A I'll shut up.

7 Q Page 165, I asked the question: "So you took
8 out the loan with UCBI for the purposes of building
9 that structure?"

10 And your answer?

11 A "No."

12 Q Keep reading.

13 A "That would just cover the first phase of the
14 little harbor master downstairs. There was three
15 or four phases. The first phase that never
16 happened, and that was another one Tim backed out
17 on."

18 Q Keep reading.

19 A "I was like, Tim, that's valuable space that
20 we're spending for jet skis. We can keep them at
21 your place or my place, cut down on that. You are
22 going to take our parking away from the building,
23 and then they shot that part down. The next one
24 was the ticket office, harbor master's. The next
25 one was the restaurant up top, and then the other

WADE LONG - CROSS EXAMINATION - BY MR. HARRISON

1 one was a walkway out on the docks. We have a
2 whole other walkway with seating areas all the way
3 down to the floating dock."

4 May I back up and answer something there for
5 you?

6 Q Did I ask a question?

7 A No, sir. I was just wondering --

8 Q No. No. Just let me ask. Let me ask this,
9 and this may get to what your concern is, I don't
10 know.

11 But you said there was three or four phases.
12 That first phase, that never happened, and that was
13 another one Tim backed out on.

14 Tim backed out on? What about your alleged
15 joint venturers?

16 A Like I said, Mr. Harrison, I always dealt
17 with Tim. He was the boss.

18 Q Okay.

19 A Managing member. You know, I kind of looked
20 up to him as my boss as well, even though we are
21 partners. You know, I listened to Tim. I respect
22 Tim.

23 Q Why do you think he was the boss, Wade?

24 A He was the one that started Crab Catchers and
25 formed it, and I've always had respect for older

WADE LONG - CROSS EXAMINATION - BY MR. HARRISON

1 people. It was -- the restaurant was his, and we
2 formed a business together, but it's still all
3 right to look up to someone.

4 Q Did you know he had partners?

5 A I knew his kids were into it, and he gave
6 them the option to buy in, the same option he
7 offered me.

8 Q So you thought Tim was controlling
9 everything?

10 A Tim did control everything.

11 Q Okay.

12 A I don't think. Tim did control everything.

13 Q Do you know what TNT's operating agreement
14 says about who is in control of TNT?

15 A Only thing I can tell -- I've been there 25
16 years, and every day I watched what happened and
17 what went on. I watched the man control the place.
18 Whether the paperwork said it or not, I couldn't
19 tell you. I can just tell you what I witnessed as
20 a person being present a lot.

21 Q So paperwork doesn't matter?

22 A Yes, it matters. I'm just telling you how I
23 felt from what I seen.

24 Q But if you're wrong and he didn't have that
25 control, do you believe he could have bound my

WADE LONG - CROSS EXAMINATION - BY MR. HARRISON

1 clients into a joint venture?

2 **A** I mean, I believe what I see, Mr. Harrison.
3 With the bank and everything, Tim was the one that
4 signed the stuff and gave them the okay for us to
5 get the \$1.1 million together. There ain't no way
6 -- have you ever tried to get a loan for that
7 amount of money? They don't hand that out. It
8 takes time and months, and it did with us. They
9 did their homework to make sure they would get paid
10 back.

11 **Q** That's your belief. Do you know that to be
12 true?

13 **A** That is my experience. I've had many loans,
14 and I have excellent credit for a reason. I pay my
15 bills. I've had many loans processed, and I know
16 how it works, how a loan is structured to a certain
17 extent. And if I don't, that is when I get an
18 attorney to help me with.

19 **Q** Fair enough. Okay. Let's flip. We'll flip
20 and get you to the page here in a minute. Flip
21 over to Page 4 of this one.

22 **A** Page 4?

23 **Q** Uh-huh. I'm looking at the left-hand column,
24 says Page 177. I'll pick up on Line 14. I asked:
25 "did you form any other business entities outside

WADE LONG - CROSS EXAMINATION - BY MR. HARRISON
1 of the alleged joint venture with Tim?"

2 **A** "No, sir."

3 **Q** "So it's only been the one?"

4 **A** "Yes, sir."

5 **Q** "And that's TnW?"

6 **A** "That's correct."

7 **Q** "Doing business as Little River Water
8 Sports?"

9 **A** "That's correct."

10 **Q** So your social marketing -- I'm sorry. "So
11 your marketing materials and everything else that
12 you put out in the public is done under --"

13 Your answer?

14 **A** "Correct."

15 **Q** My question: "-- Little River Water Sports?"

16 My question again: "Does Eric Rolf have any
17 relationship with Little River Water Sports?"

18 **A** "Only thing he uses is some of our business
19 from Little River."

20 That means some of our existing customers.

21 **Q** That's fine. I don't need the explanation.

22 Page 182, question on Line 8: "So those
23 signs say 'Little River Water Sports,' but he's
24 using his --"

25 Your answer?

WADE LONG - CROSS EXAMINATION - BY MR. HARRISON

1 **A** "Yes."

2 **Q** Question: "-- company's name; is that
3 correct?"

4 **A** "Yes. Correct."

5 **Q** Page 183. I asked the question: "So Little
6 River Water Sports, TnW, at this point does what?"

7 **A** "Little River Water Sports -- I just have the
8 Website, all of the jet skis, all of the people
9 working; that is, Eric Rolf and company, his
10 employees."

11 **Q** You still have the jet skis today?

12 **A** Am I allowed to answer that, or you want me
13 to stick to this?

14 **Q** I'm asking a question off of that.

15 Do you have the jet skis today?

16 **A** No, sir. I told you all earlier and yourself
17 multiple times, I sold those skis. I think it was
18 January or February of '20 or '21. It was easier
19 for me to lease the location out to someone else
20 that had a business and let them deal with the
21 employees and day-to-day operation. I had enough
22 headaches with all of the litigation, and I was
23 trying to keep it as simple as possible, keep my
24 docks rented, sell fuel. I have to have my docks
25 filled with customers and tenants paying me; if

WADE LONG - CROSS EXAMINATION - BY MR. HARRISON

1 not, I would have no income. So what am I supposed
2 to do? Shut down and close and lose everything?

3 Q So you no longer are using the jet skis?

4 A No, sir.

5 Q Fair to say you've abandoned that aspect of
6 the project?

7 A I mean, if that's your language. That's not
8 my language.

9 Q No. I want you -- I want you to tell me
10 whether or not you feel that you have abandoned the
11 jet ski operation that you say was at the heart of
12 the plans that you had when you formed this
13 business.

14 A I don't like the word "abandon." I never
15 abandon nothing. Put it on the back burner? Yes,
16 I did put it on the back burner because, like I
17 said earlier, it was very stressful with what I was
18 trying to run and manage to keep the business
19 going.

20 Q So are you telling this jury that you plan to
21 restart the jet ski rentals if all of this works
22 out for you?

23 A Yes, sir. One hundred percent.

24 Q Why sell the jet skis?

25 A Because I don't know -- that is where I'm

WADE LONG - CROSS EXAMINATION - BY MR. HARRISON

1 educated and, no offense, you're not. I'm in the
2 boat business and I have owned many jet skis. We
3 should have sold those every year, because what
4 they cost \$9-, \$10, \$12,000, you suck it up as a
5 cost. You sell them for half price and get new jet
6 skis. If not, you spend a lot of money in repairs,
7 especially if you don't have the correct person to
8 operate the skis.

9 But, yes, we had quite a few years -- I think
10 three, going on four, with the skis and started
11 having problems with them. That's why we sold
12 them. Yes, my intentions were, if we get through
13 this and everything works out, I would love to get
14 back in the jet ski business because it is
15 profitable and a money-making business.

16 **Q** So you just said that you know business
17 better than I do. Maybe you do --

18 **A** I said jet skis and boats. I have fished all
19 my life.

20 **Q** So you know it better than me. You think
21 that? Is that true?

22 **A** I said the boats and the jet skis.

23 **Q** Which is the business?

24 **A** Maybe not the LLC and the operating
25 agreement. That is where you come in. But to

WADE LONG - CROSS EXAMINATION - BY MR. HARRISON

1 operate a boat, the mechanics of it, turn a wrench,
2 I can do it.

3 Q But you are in a business operation?

4 A Yes, sir. That is why Tim ran the office,
5 and I did the work.

6 Q So you only know one part of the business,
7 but not the other part, which is the part that you
8 are alleging is how we got to a joint venture with
9 my clients?

10 A I'm not ashamed of what I do and know. This
11 is what I'm good at. I'm not good at everything,
12 but I'm good at fishing and boats and getting
13 certain work done. I don't claim to be an attorney
14 or lawyer or anything like that.

15 Q You are a simple man?

16 A I'm a simple man. That is why I thought we
17 had a good fix. Tim was more the business side, I
18 was the worker side. I had a lot of contacts,
19 great name, people trusted me, and I got it done.

20 Q Fair enough.

21 Just so you know, Mr. Long, I spent five
22 years working boats.

23 Page 183. Go with the question: "Little
24 River Water Sports, TnW, at this point does what? "

25 And you answer what?

WADE LONG - CROSS EXAMINATION - BY MR. HARRISON

1 **A** On 10? You are asking me?

2 **Q** Yeah.

3 **A** "Little River Water Sports, I just have" -- I
4 think read that.

5 **Q** You did.

6 **A** Read it again? I got you.

7 "Little River Water Sports, I just had the
8 website, all of the jet skis, all of the people
9 working; that is, Eric Rolf and company, his
10 employees."

11 **Q** I want you to flip over to Page 5 for me. Go
12 to Page 184. Do you see that up at the top?

13 **A** Yes.

14 **Q** I'm going to start with Line 25 and ask the
15 question, and then we'll go from there okay, sir?

16 "Does the name Little River Water Sports
17 predate TnW? Were you using that before TnW, or
18 did that start together?"

19 Answer, please?

20 **A** That is correct.

21 **Q** No. I mean -- read your answer to the
22 question.

23 **A** Oh, I'm sorry. I missed that.

24 "About the same time."

25 **Q** "So does it have a separate EIN number for

WADE LONG - CROSS EXAMINATION - BY MR. HARRISON
1 tax purposes?"

2 A I said: "That is correct."

3 Q "It doesn't file separate taxes?"

4 A "Uh-huh."

5 Q Tell me what that "uh-huh" means. We don't
6 know.

7 A Means I really don't know. I never did the
8 tax stuff. Tim always did the tax stuff with
9 Bryant's Accounting. She does all of his
10 restaurant stuff, and all of our stuff. Stuff was
11 turned into Tim, and he would turn it into her.

12 Q I asked you another question, Line 22: "It
13 doesn't have separate employees?"

14 Your answer to that?

15 A I said, "Uh-huh."

16 Q And then I asked: "Does Little River Water
17 Sports have employees?"

18 And you said?

19 A "No, sir."

20 Q "So what happened to those employees?"

21 A That is what I was --

22 Q Answer. Just reading.

23 A Oh, I'm sorry.

24 Q I want you to follow --

25 A Sorry.

WADE LONG - CROSS EXAMINATION - BY MR. HARRISON

1 Q I know this is tough. Let me ask again.

2 "So what happened to those employees?"

3 Pick up there, Page 186, Line 1. Your answer
4 was: "I was like" --

5 A "I was like, guys, I'm the boss, you are
6 going to listen to me, so they all just quit."

7 Prior to -- sorry.

8 Q I asked the question then: "Prior to the
9 lawsuit, did you have any relationship, whatsoever,
10 with a gentleman by the name of a Rigo Corroti
11 (ph)?"

12 Your answer, please?

13 A I said: "Yes."

14 Q Keep reading.

15 A "The guy I dealt with, DHEC, was Chris
16 Stroud. I think it's like Stroud."

17 Q Question: "Any relationship or interaction
18 with Tommy Smith prior to the lawsuit?"

19 A "Yes."

20 Q "Okay. How about Eric Rolf?"

21 Your answer, Line 6?

22 A "Never had no dealings with him until after
23 it was -- it was right there after the lawsuit."

24 Q Okay. Page 192 --

25 A You want me to finish reading? I didn't see

WADE LONG - CROSS EXAMINATION - BY MR. HARRISON

1 it, sorry.

2 Q That's fine.

3 A "He was actually looking to buy a place, but
4 how that came up, word was on the street, that
5 we're selling because Tim has already reached out
6 to three or four people trying to buy, and one of
7 them was Steve Martin. His daughter worked for us.
8 Her name is Becca Martin."

9 Q And then I asked a question. I said: "Were
10 you aware that Mr. Worley utilized campaign
11 Websites to post information about the defendants
12 in this case?"

13 And your answer was?

14 A "To do what now?"

15 Q And I asked: "That he used his campaign
16 website to post information about the defendants in
17 this case."

18 And your answer was?

19 A "No, I'm not aware of that."

20 Q And then I asked: "Do you know if Mr. Worley
21 contacted county officials on behalf -- on your
22 behalf of this lawsuit?"

23 And you said?

24 A "No, sir."

25 Q Can you tell the ladies and gentlemen who

WADE LONG - CROSS EXAMINATION - BY MR. HARRISON

1 Mr. Worley is? They may know, but....

2 **A** Yes. Mr. Worley is my father-in-law. He's a
3 good man. I love him to death. He loves me to
4 death. He would do anything for me, and I'd do
5 anything for him. That is what family is supposed
6 to do. I've been with his daughter since we were
7 15 years old. We've been together 25 years.

8 **Q** So he is your father-in-law?

9 **A** He is my father-in-law, yes.

10 **Q** Was he elected in a political office?

11 **A** I think he was a county councilman for 22, 23
12 years.

13 **Q** So a well-known connection in Horry County?

14 **A** Great person. Yes.

15 **Q** I'll pick back up on Page 209. This is going
16 to be Line 8.

17 "Did TnW ever purchase any of the subject
18 matter land?"

19 What was your answer?

20 **A** "Only land that we purchased, me and Tim
21 together, the property that we built docks" --

22 **Q** Sorry. You are reading the wrong spot. 209,
23 Line 8. I asked the question: "Did TnW ever
24 purchase any of the subject matter land?"

25 And then I asked: "And get a deed for that

WADE LONG - CROSS EXAMINATION - BY MR. HARRISON
1 purchase?"

2 Now start with 13, your answer.

3 **A** "Only land that we purchased, me and Tim
4 together, was property that we built docks on from
5 Freddie McGin."

6 **Q** "At what point do you allege that TNT and TnW
7 formed a joint venture?"

8 **A** "Well, as far as form a joint venture, that
9 was the word that Henri liked using. It was me,
10 Chris, Tim, and then me, Tim, and Chris. I didn't
11 nose in their businesses, but then they did get in
12 my business. We supported each other."

13 **Q** I'm sorry, I need you to reread that because
14 there was an error in what you read.

15 **A** "I didn't nose in their business, but -- and
16 then they didn't get in my business. We supported
17 each other."

18 **Q** Supported each other?

19 **A** Uh-huh.

20 **Q** Okay. And then I asked you: "But they were
21 separate businesses?"

22 Your answer?

23 **A** "They were separate businesses. They were
24 totally separate businesses. They owned TNT. We
25 opened TnW. They did their business. We did our

WADE LONG - CROSS EXAMINATION - BY MR. HARRISON
1 business. But as far as me mingling with
2 management or in their checkbooks or -- they're not
3 supposed to be in ours."

4 Q That's interesting. So they are separate
5 businesses, as you said in your deposition --

6 A Uh-huh.

7 Q If they are separate businesses, explain how
8 you are in a joint venture with them, Mr. Long?

9 A Mr. Harrison, that is what I was telling you
10 earlier. I don't know how you want to come up with
11 this or put it together, but there was TNT and
12 More, TnW and More. They had a business with their
13 funds, and we had a business. There was checks
14 going back and forth between both businesses. Once
15 again, we came together as one on the parking and
16 stuff and got a \$1.1 million mortgage together. I
17 mean, you know that better than I do. You are the
18 smart one.

19 Q Let me ask you this: Has TnW ever been
20 profitable?

21 A TnW was never -- that I'm aware of --
22 profitable. I never pulled no money out of it or
23 seen any profits. But I can tell you if it weren't
24 for all of the litigation, if I'm allowed to say
25 this, when I took over --

WADE LONG - CROSS EXAMINATION - BY MR. HARRISON

1 **Q** That's all I'm asking you. I'm asking has
2 TnW since its inception ever made a profit?

3 **A** No, sir.

4 **Q** If you made a profit, how would you
5 distribute that and who would it go to?

6 **A** Me, Tim, and Chris.

7 **Q** You, Tim, and Chris?

8 **A** I do --

9 **Q** You are not going to give profits to my guys?

10 **A** Yes, I did leave one little thing out.

11 **Q** No. No. Answer the question I asked you.
12 Do you plan to give profits, if you ever make a
13 profit, to my guys?

14 **A** We actually did one time, that I remember of.
15 It was \$23,000. I raised \$600,000 for a fishing
16 event over three days.

17 **Q** So it did make a profit or it didn't make a
18 profit?

19 **A** No, TnW didn't make a profit. May I finish
20 that question or tell you something?

21 **Q** No. You answered my question. So, Mr. Long,
22 you never made a profit, but you are here telling
23 us you are in a joint venture, which requires
24 sharing profits, and you are telling us you never
25 shared profits with my clients?

WADE LONG - CROSS EXAMINATION - BY MR. HARRISON

1 **A** Not unless Tim did. I didn't. I'm not aware
2 of it. He would be a better one to ask than me.

3 **Q** You said it is two separate businesses,
4 right?

5 **A** Yes, sir.

6 **Q** Do they have any control over what you do?

7 **A** Not that I'm aware of, but to a certain
8 extent, they did.

9 **Q** No. No. Do they or do they not have control
10 over your business?

11 MR. PLAYER: Would he allow him to answer the
12 question? He can say yes and no, and then he gets
13 to explain it.

14 THE COURT: Let him answer his question.

15 MR. HARRISON: Read back the question, Madam
16 Court Reporter.

17 (Last question read.)

18 **A** No, sir. They don't really have control over
19 what we do. I mean --

20 MR. HARRISON: Your Honor, yes or no.

21 **A** I'm saying that is a worded way, because they
22 did have certain control over us, building a
23 restaurant.

24 **Q** **(BY MR. HARRISON)** In what way did they
25 control you --

WADE LONG - CROSS EXAMINATION - BY MR. HARRISON

1 MR. PLAYER: Again, he's not letting him
2 answer a question. He gets to answer it.

3 MR. HARRISON: It's a yes or no question.

4 THE COURT: I'll let him finish answering it.

5 **A** Yes and no, to answer your question. I was
6 trying to tell you, I put a tournament series
7 together, Shoot Out South series. It's a bunch of
8 elite guys that fish. I actually fished in that
9 tournament, help create it, and bring it to the
10 south. It's never been down here before. Raised
11 \$600,000 with 60 boats. I finished third, fourth,
12 and fifth in all three events, and I raised money.
13 We did pay it back to the fishermen, but there was
14 \$23,000 left over. Crab Catchers did have to do --
15 you know, I did all of the leg work getting it
16 together, bringing it there, on our docks, used the
17 parking lot. They set the tent up, supplied the
18 beer and dinner, spaghetti dinners. It was for
19 three days. It was, roughly, maybe between \$21- to
20 \$25,000. We were supposed to split it. I got
21 upset with Tim, asked him where he got mad and
22 wrote a \$4,000 check, and I gave it back to him and
23 said, Just keep the money. It means more to you.
24 I'm not operating that way.

25 So, yes, that was money I brought in the

WADE LONG - CROSS EXAMINATION - BY MR. HARRISON
1 company, and they kept the whole thing.

2 **Q** (BY MR. HARRISON) Okay. Page 211, Line 16:
3 "Were there any conversations between you and Tim
4 where you two discussed forming any other entity
5 other than TnW, doing business as Little River
6 Water Sports?"

7 Your answer?

8 **A** "No. That was it."

9 **Q** "Did you ever have any discussions with
10 Donald Kettner about forming a business together?"

11 **A** "No. Only thing -- only we know -- ever
12 talked to Donny about forming a separate business
13 together, but Donny was very aware of our business
14 that we were doing."

15 **Q** So you didn't talk to Donny? And for the
16 record, you are referring to my client, Donald
17 Kettner?

18 **A** Yes, sir.

19 **Q** Just want to make sure so that the jury
20 understands who we are talking about.

21 I then asked a question: "Was there ever a
22 discussion about getting a loan between you and the
23 other members?"

24 Your answer?

25 **A** "No."

WADE LONG - CROSS EXAMINATION - BY MR. HARRISON

1 **Q** I asked a question: "Did you have any
2 expectation of the ownership of Crab Catchers
3 restaurant when you signed that agreement?"

4 Your answer?

5 **A** "Absolutely not."

6 **Q** Keep reading.

7 **A** "I never had the ownership in Crab Catchers
8 or I knew that piece of paper wasn't intended me to
9 be on it."

10 **Q** "You said there was something in writing?"

11 Answer?

12 **A** "I meant we had an original contract like we
13 did with the bank."

14 **Q** Question: "And you said there was no written
15 agreement promising you any ownership in TNT's
16 property?"

17 **A** "That is correct."

18 **Q** Page 219. Keep reading.

19 **A** "So I ran the trackhoe and got all of the
20 dumpsters lined up, and I removed that whole entire
21 house, graded it off, the septic tank up, and
22 that's where we were able to build our fuel tank.
23 Tommy Smith came out and approved it, CO'd it, and
24 here we are."

25 **Q** And I asked the question: "Did you read that

WADE LONG - CROSS EXAMINATION - BY MR. HARRISON
1 complaint before you signed the verification?"

2 Your answer?

3 A "If it's got my signature on it, I signed
4 it."

5 Q Okay.

6 Question: "And you signed those every time
7 your former counsel asked you to?"

8 Answer?

9 A "Right, I have. Yes, I have read everything
10 to the best of my knowledge."

11 Q Flip over and keep reading.

12 A "And understanding. Yeah, I may have missed
13 one or two things, but, yes, I read everything."

14 Q Keep reading.

15 A "Henri always referred to "joint venture," so
16 I knew what she was talking about."

17 Q Okay.

18 Question: "Well, did you believe that you
19 had a business relationship with Tim?"

20 A "I wasn't partners in Crab Catchers'
21 business."

22 Q "Were they partners in your business?"

23 Your answer?

24 A "They were not partners in my business."

25 Q Keep reading.

WADE LONG - CROSS EXAMINATION - BY MR. HARRISON

1 **A** "Only money I ever received from TNT is
2 strictly made out to Long Shot Charters for any
3 fish I sold."

4 **Q** Question: "Any services that you gave them
5 or any services that they gave you?"

6 Questions: "Did TNT give TnW --"

7 Your answer?

8 **A** "Right. Any funds."

9 **Q** Question: "Did they work for you all or
10 anything?"

11 **A** "No."

12 **Q** Question: "Now, the pleadings allege a joint
13 venture. What is your definition of the joint
14 venture, if you believe that a joint venture
15 exists?"

16 Answer?

17 **A** "I guess I really need to look up the
18 definition of joint venture because I may be
19 thinking something differently, but I understand
20 what a partnership would be like more than a joint
21 venture. That's why I never really liked the word.
22 Joint would be making -- meaning we're together."

23 **Q** Question: "Any other investors?"

24 **A** "No."

25 **Q** "It was just you two?"

WADE LONG - CROSS EXAMINATION - BY MR. HARRISON

1 Answer?

2 **A** "Yes."

3 **Q** All right. On Page 242, I asked a question,
4 not a lot of context, but I'll let you elaborate a
5 little bit here.

6 But the question is: "So the only thing that
7 would get foreclosed on would be TNT's property?"

8 Your answer?

9 **A** "Huh?"

10 **Q** Did you know what I was talking about there,
11 Mr. Long?

12 **A** Yeah. I do, now, yes.

13 **Q** So you remember the context of this, because
14 I do not want to put words in your mouth?

15 So what were you and I discussing there?
16 What were we talking about getting foreclosed on?

17 **A** I think you are talking about the property
18 that was put up for collateral to get the loan, the
19 TNT land and the TnW land.

20 **Q** We're talking about the agreement to pay that
21 \$1.1 million loan?

22 **A** Yes, all parcels.

23 **Q** So that is the context of that. I want the
24 jury to know, and I know you and I may remember and
25 may have a little PTSD over it.

WADE LONG - CROSS EXAMINATION - BY MR. HARRISON

1 But for the jury, what we're talking about
2 was in the context of what would happen if the loan
3 didn't get paid back. And your answer to that was,
4 again -- I asked the question: What would get
5 foreclosed on? And I asked: Was it Crab Catchers
6 or you?

7 **A** And I said: Huh.

8 **Q** Right. If they foreclosed on that loan
9 today, they would take the Crab Catchers
10 restaurant, right, potentially?

11 **A** Crab Catchers and our property.

12 **Q** How much property are you claiming you own?

13 **A** I mean, I don't know exactly. The one piece,
14 and then it was all kind of put together. It was
15 all put up for collateral. I think it was like
16 3.25 acres.

17 **Q** What did you put up? Because we have the
18 application --

19 **A** The piece me and Tim purchased to go with the
20 other properties is .75 acres.

21 **Q** So you have .75 acres? So they can foreclose
22 on that, which include the docks that go over the
23 marsh and all of that? They would take that from
24 you if they foreclosed, right?

25 **A** Yes.

WADE LONG - CROSS EXAMINATION - BY MR. HARRISON

1 Q Crab Catchers has a restaurant, right?

2 A Uh-huh.

3 Q They have a parking lot, and they have a
4 business that has been around how many years, Wade?

5 A I think now 25, 30 years.

6 Q 25, 30 years?

7 A Something like that, yes.

8 Q And they do turn a profit, don't they?

9 A They do.

10 Q So who had more to lose on a foreclosure, in
11 your opinion?

12 A I mean, I think we all do. You know, I'm the
13 little fish. They are the big pockets, TNT More.
14 You said that yesterday, I'm the little box.

15 Q Right. So if they got foreclosed on because
16 you didn't pay the loan, you lose this much, and
17 they lose this much (indicates); is that fair to
18 say?

19 A And I lose my credit of 46 years.

20 Q And doesn't theirs as well?

21 A I lose my investment and time, and, yes, sir,
22 it does.

23 Q And it happens to them, too?

24 A That is why I would make sure when you get a
25 loan like that, who would risk it if we weren't in

WADE LONG - CROSS EXAMINATION - BY MR. HARRISON
1 it together?

2 Q We're suing each other over it, so who knows,
3 right?

4 Let's keep going here. Page 255.

5 Question: "Did you approach the bank, Tim,
6 Michelle, Geoff, any of those people about him
7 embezzling money? Did you report that to the bank?"

8 And just for the folks in the jury -- and
9 you know what this is about -- but if -- when I say
10 "him" in that question, do you remember who I was
11 talking about?

12 A Yes, I do.

13 Q Who was I talking about?

14 A Let me read it one more time. (Witness
15 examines document.)

16 (A brief pause in the proceedings.)

17 A Yes, I do. You are talking about Tim.

18 Q Okay. But did you report any of that to the
19 bank? I am asking the question now.

20 A I did. I was really embarrassed about it,
21 and they actually came to me about a few things
22 that was going on. Yes, I did.

23 Q So, to your knowledge, has the bank taken any
24 action against Mr. Kettner for removing those funds
25 from the account?

WADE LONG - CROSS EXAMINATION - BY MR. HARRISON

1 **A** Not that I'm aware of --

2 **Q** I'm sorry, that was my fault, Wade. I asked
3 the question on Line 11: "To your knowledge, has
4 the bank taken any action against Mr. Kettner for
5 removing those funds from the account?"

6 And your answer?

7 **A** "No. Because I don't know how they can take
8 any action against Tim. He's actually on the
9 account, the owner of the company. It wasn't money
10 he was stealing from a company. It was money that
11 he was taking from our company, TnW and More."

12 **Q** I asked a question: "He could take money out
13 if he wanted to?"

14 Your answer?

15 **A** "Yeah."

16 **Q** Question: "Spend it on whatever he wanted to
17 just like you?"

18 **A** Mr. Mike, are we talking about the \$80,000
19 there?

20 **Q** I'm just reading through this deposition.
21 Just follow along.

22 **A** Sorry.

23 **Q** "Spend it on whatever he wanted to, just like
24 you; is that fair?"

25 **A** "Yes, that's fair. Very fair."

WADE LONG - CROSS EXAMINATION - BY MR. HARRISON

1 **Q** Wade, to answer your question, I'm talking
2 about the general operating money that TnW had.

3 **A** He had full access to it, but as I was
4 reading it, the way it was worded, it made me think
5 it was the \$80,000. That is how I was reading it.

6 **Q** You and I did this a long time ago. I
7 understand. It was a couple of years since we did
8 this. I understand that.

9 Question: "So what action are you alleging
10 that Tim Kettner took to implicate Tim in some
11 removal of the money from TnW?"

12 Your answer?

13 **A** "I don't know."

14 **Q** Okay. Bear with me. I'm trying to cut down
15 some pages so we can move on to the next thing.

16 We don't need to do any more, I won't.

17 (A brief pause in the proceedings.)

18 **Q** **(BY MR. HARRISON)** I'll pick up on Page 11,
19 Mr. Long. Flip over for me down at the bottom
20 there. Page 290. Let's me know where you are
21 there.

22 **A** Yes, I do.

23 **Q** Question: "When you filed this lawsuit, what
24 damages are you alleging that my clients have
25 committed towards you, Chris, or TnW?"

WADE LONG - CROSS EXAMINATION - BY MR. HARRISON

1 Your answer?

2 **A** "As far as fuel leaks, DHEC, the county, and
3 proper permitting. I've been locked out of the
4 parking lot. I've had my four dumpsters ransacked
5 with extra guards -- I put locks on them -- getting
6 them cut off."

7 **Q** And then I ask you, if you flip over --

8 **A** It makes me sound like an idiot as I read
9 this, the way it is worded or something.

10 **Q** It never comes off the way it does live.

11 Page 291, I asked a question: "All of those
12 things that you just mentioned, did they happen
13 before the lawsuit or after the lawsuit?"

14 Your answer?

15 **A** "After the lawsuit."

16 **Q** Keep reading.

17 **A** "Before the lawsuit, I never had a problem
18 with access to the property or access to the dock.
19 I just had a problem with Tim."

20 **Q** Question: "What was going on prior to the
21 lawsuit?"

22 **A** "Just, really, me and Tim arguing a little
23 bit."

24 **Q** Question: "When you filed the lawsuit, what
25 were you looking the Court to award you the day

WADE LONG - CROSS EXAMINATION - BY MR. HARRISON

1 that you filed the lawsuit? What is it that you
2 wanted from my clients?"

3 Your answer?

4 **A** "I was just wanting Tim to do the right
5 thing."

6 **Q** Now, Wade, I asked this question. I said:
7 "What is it that you want from my clients?" Did
8 you understand that Tim was not my client at that
9 time when I asked the question?

10 **A** Maybe I misinterpreted it. It is a lot of
11 language and lingo, and my mind is thinking one
12 thing, but I'm trying to be as honest as possible
13 with you guys.

14 But at the time, to answer your question, as
15 I said, I didn't have a problem with them at the
16 time. I just had a little problem with Tim before
17 the lawsuit. We were arguing a little bit. And at
18 that time, years ago, I was just wanting him to
19 truly do the right thing and move on versus all of
20 these crazy things that he has done to stop my
21 business.

22 **Q** That is not what you said. You said you
23 wanted Tim to do the right thing. You didn't say
24 you wanted my clients to do the right thing.

25 **A** At that time, before the lawsuit, like I

WADE LONG - CROSS EXAMINATION - BY MR. HARRISON

1 said, it was just me and Tim arguing a little bit.
2 It didn't get bad until after the lawsuit. After
3 the lawsuit was filed is when it got really bad,
4 Mr. Mike. That's when I got locked out and all of
5 the crazy stuff happened.

6 Q So all of those damages that you testified to
7 in that deposition, all of that stuff you are
8 alleging that my clients did, that happened after
9 the lawsuit got filed?

10 A When you are -- telling me your --

11 Q What we just read.

12 A Read it to me again.

13 Q Let me go back. I asked you in the
14 deposition -- I'll walk us back through it, and
15 tell me when you are ready.

16 "When you filed the lawsuit, what were you
17 looking to the Court to award you the day you filed
18 the lawsuit? What is it that you wanted from my
19 clients?"

20 Your answer: "It was just wanting Tim to do
21 the right thing."

22 Answer: "Well, I had no problem with your
23 clients at first in this lawsuit. I had to file a
24 lawsuit against them to protect myself."

25 A That is one hundred percent right.

WADE LONG - CROSS EXAMINATION - BY MR. HARRISON

1 Q I didn't ask.

2 A Okay, sorry.

3 Q Question: "Can you qualify how much money it
4 cost you prior to the lawsuit?"

5 Your answer on Line 7, please.

6 A Which page?

7 Q Same page, 296, Line 7 is your answer --

8 A "I'm sure I could come up with what may not
9 agree with what I think my damages or my company
10 damages is worth."

11 Q And I asked: "But you haven't done that
12 yet?"

13 And your answer was?

14 A "No."

15 Q Have you done that yet today? Have you done
16 that now?

17 A Oh, I have several numbers in my head I'd be
18 glad to tell you.

19 Q I'm sure you do have several numbers, but
20 we'll get to your numbers, perhaps. Perhaps your
21 counsel will ask you about it.

22 Let me continue. Page 296, 12: "So your
23 main problem up until the day you filed the lawsuit
24 was a dispute between you and Tim; is that fair?"

25 Your answer, Line 15?

WADE LONG - CROSS EXAMINATION - BY MR. HARRISON

1 **A** "I didn't do Crab Catchers."

2 **Q** Question on 306: "Did your lawyer tell you
3 that there was an order to remove that shack from
4 its place where you had it originally?"

5 Your answer?

6 **A** "No. She was the one that told me to go back
7 and get it."

8 **Q** Let's get context for that, and I know you
9 remember this.

10 **A** Oh, I remember that real good. Never forget
11 it. I was reminded of it yesterday.

12 **Q** I will never forget about it, and I've seen a
13 lot in this business. But my question about
14 that -- first of all, will you tell the jury what
15 the shack was?

16 **A** Yeah. So the building that is referred to as
17 a shack, it was purchased brand new from Leonard
18 Roger that owns Leonard's Buildings in Little
19 River. It is like a building you put in your yard,
20 nice little building, plywood, three-quarter inch
21 plywood, like 16-by-8 construction, 16 long, 8
22 wide, 8 tall. It has a little loft in it, sliding
23 windows.

24 We purchased that temporarily to work out of
25 for the jet ski hut. Tim and Jose hooked up power

WADE LONG - CROSS EXAMINATION - BY MR. HARRISON

1 to it, water up to it, put Gatorades and water, a
2 cash register, sunglasses, Simple Swipe, sunglass
3 bands for the jet ski customers. That is what
4 Brett and Veronica operated out of from day one
5 when we opened the jet ski business, me and Tim.
6 It is a simple building.

7 I think it was like five grand, and we had to
8 have it delivered and spent several thousand
9 dollars in it and installed some expensive camera
10 equipment in it, but that is what they operated out
11 of.

12 Any jet ski business in Little River/North
13 Myrtle -- matter of fact, the guy I lease to now --
14 I wasn't allowed to put one back, but he was
15 allowed to put one there with no permits or
16 nothing, and Crab Catchers, and TnT, Mike, and Mr.
17 Bellamy has no problem with it. He's been there
18 for two years and still operating. We had to stand
19 out in the pouring down rain and in the sun. We
20 didn't have so as much as an umbrella.

21 Q So you bought a shack to protect the guys who
22 were going to sell tickets?

23 A Yes.

24 Q Did you use it as a harbor master's office?

25 A I mean, we didn't -- it wasn't big enough to

WADE LONG - CROSS EXAMINATION - BY MR. HARRISON

1 have people come in and drink coffee and buy
2 fishing gear, but it was big enough to keep two,
3 three people working outside of the sun and
4 elements and to have a little stand, you know,
5 sitting behind to conduct business.

6 Q So it wasn't a harbor master's office?

7 A I mean, that is what we called it. You can
8 call it a harbor master, call it a little rundown
9 shack.

10 Q But words matter. It is a harbor master's
11 office --

12 A Yes, it is.

13 Q You know the words better than me, Mr. Long.

14 A Yes. Yes. But when you see a guy sitting up
15 on the side of the road with a truck and a shed,
16 would you call him a produce stand, or a guy trying
17 to make a living?

18 Q That's what I'm asking you. You know about
19 marinas. You are an expert, by your own testimony.
20 And so my question is: Was the shack your harbor
21 master's office or not?

22 A Yes, sir. We sold fuel out of it, collected
23 payments, and sold jet ski tickets. When they came
24 up to ride the skis, we had signs up there. We had
25 one windsail like the yellow ones in Crab Catchers.

WADE LONG - CROSS EXAMINATION - BY MR. HARRISON

1 They had like 12 or 15 of them. We had one that
2 went across the front. Tim and Jose put a post in
3 the ground. Ours was blue because it matched our
4 logo. It was just enough to give the customer
5 shade when they would go up and swipe their credit
6 card or pay cash, or Brett and V would give them
7 safety courses. We had a safety board with about
8 15 rules on it, and that is the same building that
9 I allowed Eric Rolf to use when I rented to him.

10 Q Thank you.

11 Did you get a permit before you put that on
12 my client's property?

13 A No, sir.

14 Q Did that become an issue?

15 A It was never an issue for four years when
16 Mr. Tim ran it.

17 Q Did it become an issue?

18 A Oh, yeah. A lot of stuff became an issue.

19 Q So the shack became an issue?

20 A Uh-huh.

21 Q Did that issue involve the county?

22 A Yes, it did.

23 Q Planning and zoning?

24 A It did.

25 Q And are you aware that my clients were fined

WADE LONG - CROSS EXAMINATION - BY MR. HARRISON

1 because you pulled that shack out on their
2 property?

3 **A** Oh, yeah. I seen the fine, yes, sir.

4 **Q** So you've seen they got fined for it?

5 **A** Yes.

6 **Q** And you put it out there?

7 **A** Yes, sir.

8 **Q** And my clients had to pay because your
9 building was not permitted?

10 **A** Me and Tim were aware of the shack. And not
11 only did me and Tim put the building there, but
12 Crab Catchers' employees painted inside with
13 two-part epoxy, because I bought the paint. We
14 built shelves inside. So they were very well aware
15 of the shack, too.

16 **Q** I'm not saying they weren't aware. I'm just
17 saying did you get a permit to put that shack on
18 our property or not?

19 **A** No, sir.

20 **Q** So it became a problem?

21 **A** Uh-huh.

22 **Q** And my clients paid a fine for it, right?

23 **A** Yes, they did.

24 **Q** Did you pay any fines for it?

25 **A** Yes, I did. I paid a \$47,000 fine because

WADE LONG - CROSS EXAMINATION - BY MR. HARRISON

1 David Jordan and Tommy Smith struck a deal with me,
2 Chris, and Henri. They spoke to Henri first, we
3 were coming over here to go to one of these
4 courtrooms. It was the older building. Right
5 before we went in, Mr. Jordan told me and Tommy --
6 Tommy was always real nice, and he's the one that
7 inspected most of the stuff and gave me the CO.
8 David Jordan said, Wade, our concern is not the
9 building. We know it is not a brick and mortar. I
10 told him it was temporary. All the other locations
11 use those shacks. Why are we singled out? He
12 said, My biggest concern is that fuel tank, the
13 capacity of it and your containment is not large
14 enough to hold fuel. Yes, sir, I'm aware of that.
15 I admitted to him the truth about me and Tim, what
16 we did.

17 And he said, You fix that, and he says, we're
18 good on the building until we get through this
19 litigation. So what did I do? I spent the money
20 and had that tank built. It was like six, eight
21 days, and had it replaced, set the other tank in
22 the yard until I could get it sold. It was so
23 expensive to move because it was so big.

24 And then the next time when the building got
25 removed, I was under -- I was aware that -- I

WADE LONG - CROSS EXAMINATION - BY MR. HARRISON

1 thought we had a judge's order to kind of protect
2 us to leave the building there -- I wasn't working
3 out of it, Eric was -- until, you know, we got
4 further down the road to determine what we're doing
5 or if we have to move it. But Donny, Robert,
6 Casey, Justine and Jose -- if Jose was still there
7 -- they took it upon themselves to cut the power
8 and water and drag the building off to the back of
9 the parking lot. And what I was reading here, when
10 Henri told me to bring it back, that is when I got
11 arrested.

12 Q Thank you, Mr. Long, for that explanation.

13 You said you and who made a deal with the
14 county?

15 A It was David Jordan. He was the planning and
16 zoning. He was the one that --

17 Q But you didn't get fined. I listened to your
18 story.

19 A I got fined \$47,000 to --

20 Q Do you have a receipt for that where you paid
21 the county \$47,000?

22 A I didn't pay the county. I paid PeeDee Tank
23 and the oil companies to build the tank and put it
24 there.

25 Q That is not a fine. What I asked you is, did

WADE LONG - CROSS EXAMINATION - BY MR. HARRISON

1 you get fined by the county? You said, Yes,
2 \$47,000. Now you are telling me you had to pay to
3 do something else. I get that, but did the county
4 fine you \$47,000 or not?

5 **A** I'm sorry, Mr. Harrison. I'm sorry. The
6 county did not fine me. What I paid the money on
7 was the fuel tank to make the county happy. I felt
8 they had the jurisdiction and authority to tell me
9 what to do. I was truly trying to do the right
10 thing as a business owner. I wasn't trying to rock
11 the boat. It was never a problem for four years.
12 When it became a problem, I did everything in my
13 power to make it right with the county, with DHEC,
14 OCRM, anyone. I did everything in my power, and I
15 have evidence to back it up. I tried to do the
16 right thing to keep the doors opened.

17 **Q** You said there was never any problem with
18 that, but you also just testified that there was no
19 permit. Wouldn't having no permit on my clients'
20 property be a problem?

21 **A** I sure didn't think so. It was a portable
22 building, and other companies do it every day. I
23 didn't think we were doing nothing wrong.

24 **Q** Did you ask?

25 **A** No, I didn't.

WADE LONG - CROSS EXAMINATION - BY MR. HARRISON

1 **Q** You just did it, didn't you?

2 **A** It was a portable building on skids.

3 **Q** But you didn't ask the county if you could do
4 that, did you?

5 **A** No, sir.

6 **Q** And as you said earlier, you didn't bother to
7 ask my guys about it. They knew, but you didn't
8 ask them. You said that on the record, right?

9 **A** I did.

10 **Q** So you put it on our property, we got fined,
11 you didn't, right?

12 **A** That's correct.

13 **Q** When we got fined and had these problems, did
14 you move the shack?

15 **A** No, I didn't move it.

16 **Q** Why didn't you move your shack? It was your
17 personal property.

18 **A** I was told it was fine by the county, by
19 David Jordan and Tommy Smith.

20 **Q** The county obviously didn't think it was
21 fine --

22 **A** It wasn't fine. The next day Mr. Jordan
23 changed his mind, and I guess there was a judge
24 order or something said that -- I was understanding
25 by the judge's order it was not to be messed with.

WADE LONG - CROSS EXAMINATION - BY MR. HARRISON

1 And I also understood that once the building was
2 moved and I brought it back and got arrested, it
3 went back to the dumpster, there was another
4 judge's order that said put the building back. You
5 got 30 days to put it back, and it never got put
6 back.

7 Q So, I'm sorry, let's go back to this deal you
8 cut.

9 A I didn't cut a deal. I was doing the right
10 thing. He was -- when I say "cutting deal," I
11 forgot where I'm at. That is my figure of speech.
12 David Jordan and Tommy came to me and said, Our
13 biggest concern right now is not the building. You
14 can operate out of your hut. Our concern is the
15 capacity of the fuel tank, what it holds, the
16 capacity versus your containment. For example, a
17 10,000-gallon tank in our containment, if it did
18 leak, it would only hold like 4,500 gallons,
19 because it was supposed to be like 10 percent over.

20 So he said, We need you to put a 3,000-gallon
21 tank in place. We're not worried about the hut
22 right now. I said, Okay, I'll get it down. I was
23 thankful for that. They were working with me.
24 That is exactly what I've done. And I have the
25 paperwork where they said, Open up and conduct

WADE LONG - CROSS EXAMINATION - BY MR. HARRISON

1 business.

2 Months down the road, I got shut down again
3 because they said I didn't have a permit. I had to
4 come over here to the county, sit down with Nick
5 Baxtrum (ph) David Jordan, Tommy Smith, and more
6 people I didn't know. My business was shut down
7 for six or seven days. They said I didn't have a
8 permit, could not find it nowhere in the system.
9 Only thing, thank God, I save all my texts and
10 e-mails and my records, so I brought my permits
11 with me. I was embarrassed.

12 Pulled it up, and Tommy got quiet for a
13 minute and said, Wade, I do remember inspecting
14 this. I'm truly sorry. He says, You open your
15 business right back up. They gave me a piece of
16 paper saying we have a permit when it was inspected
17 and done, and I haven't had a problem since.

18 **Q** You testified yesterday -- and I believe this
19 is what you are saying now -- when there is a
20 problem, you got right on it and fixed it?

21 **A** Yes, sir, I did. On any problem. Not just
22 one.

23 **Q** Got it done?

24 **A** Yeah, I got it done.

25 **Q** Let me ask you this: Do you know when the

WADE LONG - CROSS EXAMINATION - BY MR. HARRISON
1 first time my clients got notice that your fuel
2 tank was not permitted at the size it was installed
3 at? Do you know when that was?

4 **A** I don't remember exactly. I'm very familiar
5 with your client's -- all of these agencies, every
6 single one of them.

7 **Q** I'm saying do you know the first time -- you
8 don't know when that was?

9 **A** Mr. Mike, I fixed so much stuff, I don't
10 remember the dates and times, but I can assure you
11 I fixed everything -- and I have paperwork to back
12 it up -- within days or weeks or as fast as they
13 would let me move.

14 **Q** I believe you have fixed it. There is no
15 argument. There is no longer a 10,000-gallon out
16 there, you changed it --

17 **A** Right away.

18 **Q** But when?

19 **A** When it was brought to my attention, and when
20 I went to the county that day and we were -- I
21 forgot, but we was going in the courtroom in the
22 old building over there about something. And David
23 and Henri was there, and Tommy and David Jordan
24 said we want to talk to you, Wade. This is what we
25 came up with and what we want you to do. I feel

WADE LONG - CROSS EXAMINATION - BY MR. HARRISON

1 like they were working with me. I don't want to
2 buck them. I was going to do the right think. I
3 couldn't afford to be shut down.

4 Q We'll talk about it. We're going to go into
5 those documents.

6 But does 2022 sound about right when you got
7 that fixed? Because there is no doubt that you did
8 get it fixed, but was it 2022?

9 A If you are saying -- I can look at my
10 records.

11 Q Do you remember?

12 A I'll be honest, I don't remember the exact
13 time, but I could pull up my phone pictures, if you
14 want to give me a minute.

15 Q No. No. I'm just asking. I'll help you out
16 a little. Was it before or after the lawsuit?

17 A It was after the lawsuit. 90 percent of this
18 was after the lawsuit: DHEC, OCRM, county permits.

19 Q So sometime after March 12 of 2021, you did
20 eventually get that fixed?

21 MR. PLAYER: Objection. There are several
22 complaints. There is the initial filing of the
23 complaint, at which point nothing happened to the
24 shack. Then the stuff with the shack happened, and
25 it was removed. And the second amended complaint

WADE LONG - CROSS EXAMINATION - BY MR. HARRISON
1 that was filed in 2021 was after they removed the
2 shack.

3 So I believe Wade was talking about the
4 original complaint, nothing had happened. But what
5 happened between the original complaint and the
6 second amended, that is what happened -- that
7 happened after the original complaint, but before
8 the second amended.

9 MR. HARRISON: I think Mr. Long can speak for
10 himself about facts.

11 MR. PLAYER: When you say "complaint," just
12 like they keep asking us to delineate TNT or Tim,
13 what complaint? Because there is a second amended
14 and three complaints.

15 **Q (BY MR. HARRISON)** Mr. Long --

16 THE COURT: Hang on. I think it is fair to
17 differentiate between whether this is the first or
18 second amended. So I'll ask when you ask these
19 questions, you address whether it is the first or
20 second amended complaint.

21 MR. HARRISON: Okay. I'll clarify.

22 **Q (BY MR. HARRISON)** The second amended
23 complaint.

24 **A** Okay. Ask me one more time.

25 (Last question read.)

WADE LONG - CROSS EXAMINATION - BY MR. HARRISON

1 **A** Yes, I did.

2 **Q** **(BY MR. HARRISON)** And my --

3 **A** But we are talking about the tank? We had so
4 many --

5 **Q** Let me ask this question before we go through
6 the rabbit hole again.

7 **A** Sure.

8 **Q** The second amended complaint, which I gave
9 the date for, March 12 of 2021, the second amended
10 complaint you filed in the lawsuit was filed
11 March 12.

12 **A** Okay.

13 **Q** My question is -- with that qualifying -- did
14 you get the fuel tank fixed after the March 12,
15 2021 filing of this lawsuit, or before --

16 **A** So you are saying --

17 **Q** Second amended complaint was filed March 12,
18 2012.

19 **A** Would you give me 30 seconds and I can pull
20 it up on my phone? I don't remember.

21 **Q** I need your recollection.

22 **A** I don't know the date, but I have a million
23 pictures.

24 **Q** I don't even need the date. Let me simplify
25 it. I need you to tell me: Did it get fixed

WADE LONG - CROSS EXAMINATION - BY MR. HARRISON
1 before you filed the lawsuit, the second amended
2 complaint, or after you filed the second amended
3 complaint?

4 MR. PLAYER: If he would give him the second
5 amended complaint, because he keeps talking about
6 it --

7 MR. HARRISON: Your Honor, it's a date. It
8 is in the record. It is March 12.

9 MR. PLAYER: It was years ago.

10 MR. HARRISON: He knows when he filed the
11 lawsuit. I mean, I can bring the pleadings up.

12 THE COURT: If he can answer the question, he
13 can. If he can't, he can't. I'll allow him the
14 opportunity to answer it. If he can't answer, he
15 can't.

16 MR. PLAYER: Your Honor, we sued them for
17 moving the shed and that happened after he fixed
18 the tank.

19 MR. HARRISON: Your Honor, this is a basic
20 factual question I'm asking.

21 MR. PLAYER: He's trying to trick --

22 MR. HARRISON: I'm not trying to trick
23 anyone. He either did this before -- he either
24 fixed the problem before the lawsuit, or he didn't.
25 It is a simple question. Yes or no. There is no

WADE LONG - CROSS EXAMINATION - BY MR. HARRISON
1 trick to that. When did it happen?

2 MR. PLAYER: It's time for a break.

3 THE COURT: Yeah. Let's take a break.

4 Ladies and gentlemen, step to your jury room.

5 We'll be back in just a moment.

6 (The jury exits at 3:15 p.m., and the
7 following is heard out of the presence of the jury.)

8 THE COURT: First off, how much longer do we
9 have of this?

10 MR. HARRISON: So there is -- I've got one
11 more question on this expert.

12 MR. PLAYER: He's not even half way through
13 the binder.

14 MR. HARRISON: You know, I have a third one.

15 THE COURT: I'll let you ask questions --

16 MR. HARRISON: I'll tell you what, if we can
17 just admit this into evidence, I won't go through
18 it. I have two more questions on this one, two of
19 the excerpts. I have a third. And if they'll
20 accept it into evidence, which it already was filed
21 and accepted into evidence, so that the jury can
22 see the -- the third edification of this, if they
23 want to.

24 THE COURT: I was under the impression that
25 the depositions had been entered into evidence.

WADE LONG - CROSS EXAMINATION - BY MR. HARRISON

1 MR. PLAYER: The entire deposition was
2 entered by Mr. Richter.

3 MR. HARRISON: And the excerpts were
4 exchanged. But rather than read the excerpts, if
5 you just want to take the third deposition in as --
6 I mean, I don't need to read.

7 MR. PLAYER: If it saves time, we're fine.

8 THE COURT: I'm concerned --

9 MR. HARRISON: I'll be honest with you,
10 Judge. If I can do that -- I know this looks like
11 a lot. I can burn through this as soon as we get
12 done with that, because most of my questions on
13 cross have been asked through this.

14 THE COURT: All right. Let's do this. Take
15 five. Start back. The third deposition, since
16 it's already in evidence, is it fine to send that
17 back?

18 MR. PLAYER: That's fine. That's fine.

19 THE COURT: Any objection?

20 MR. RICHTER: No, sir, Your Honor.

21 THE COURT: Take five and start back.

22 (A recess was taken.)

23 THE COURT: Mr. Harrison, are you ready to
24 continue?

25 MR. HARRISON: We are.

WADE LONG - CROSS EXAMINATION - BY MR. HARRISON

1 THE COURT: All right. Bring in the jury.

2 (The jury enters at 3:30 p.m., and the
3 following is heard in the presence of the jury.)

4 MR. HARRISON: Before I begin, Judge, would
5 Your Honor instruct the court (sic) as to what
6 we're doing on the third set of the excerpts?

7 THE COURT: The third set of excerpts, third
8 deposition, will be placed into evidence for the
9 jury to see at the appropriate time, okay.

10 MR. HARRISON: We're trying to save time for
11 you all, and we thank you for your patience. I
12 know this is long. It is long for all of us. This
13 is the last page of the last transcript or last
14 excerpt.

15 **CROSS EXAMINATION (CONT.)**

16 **BY MR. HARRISON:**

17 **Q** Mr. Long, I'm on Page 13 of 14. Are you on
18 that page?

19 **A** Yes, sir.

20 **Q** Let's finish this out. Page 312, I asked the
21 question: "So the day that you were hauling that
22 shack back on the back of the tractor, back to
23 where it was originally, there was no permit?"

24 Your answer?

25 **A** "I had no permit to bring it back, but...."

WADE LONG - CROSS EXAMINATION - BY MR. HARRISON

1 **Q** I asked the question: "And no permit to put
2 it there either."

3 Your answer?

4 **A** "And I was under the understanding that
5 building had the -- what Henri was telling me, and
6 what I understood, and that's what the county I
7 understood kept -- but she told me that it was
8 supposed to stay based on the judge's order. I
9 couldn't intervene or move -- it couldn't intervene
10 or move anything, tanks or nothing until we got
11 through the litigation."

12 **Q** Keep reading.

13 **A** "But I didn't have no permits to bring that
14 new fuel tank back they told me to bring back
15 either."

16 **Q** The question I asked on Page 313, Line 14:
17 "And, again, do you own the land that you were
18 towing the shed on?"

19 Your answer?

20 **A** "No, I don't."

21 **Q** Question: "So you didn't feel it was
22 necessary to ask the property owner's permission to
23 do something on their property and why?"

24 **A** "No, I haven't asked them nothing. I did
25 everything through my attorney."

WADE LONG - CROSS EXAMINATION - BY MR. HARRISON

1 **Q** Question: "So Robert Benoit was the only one
2 that approached you on the tractor?"

3 **A** "Yes. And Donny and Casey were coming, too.
4 And once they got to the fuel tank, they stopped
5 right there."

6 **Q** Question: "How far away from the tractor
7 were Donny and Casey and the rest of them?"

8 **A** "Probably 60 feet."

9 **Q** Question: "So you weren't -- you didn't feel
10 threatened by Donny and Casey?"

11 **A** "I didn't feel threatened by Donny or Casey."

12 **Q** Mr. Long, do you remember -- I know you
13 remember what we were talking about here?

14 **A** Oh, yeah, very well.

15 **Q** Was this the same day that the police were
16 called?

17 **A** Yes. Very embarrassing day for me. I got
18 arrested.

19 **Q** And that was that day, that is what we were
20 talking about there?

21 **A** Yes.

22 **Q** Just wanted to be sure the jury understands
23 that.

24 Okay. Let's switch gears. I won't make you
25 read anymore -- well, that's a lie. I'll make you

WADE LONG - CROSS EXAMINATION - BY MR. HARRISON
1 read a little bit.

2 **A** I could use a break.

3 **Q** For every document, I have a copy. I'm going
4 to present these to you. I may show the jury, so
5 just bear with me on that.

6 The first thing was an exhibit that was
7 entered into evidence yesterday as Plaintiffs' 14.
8 That is your copy, so everything is on the
9 up-and-up with you, Mr. Long.

10 What is this that is in your hand,
11 Plaintiffs' 14?

12 **A** This is the mortgage.

13 **Q** Okay.

14 **A** Mortgage and lender.

15 **Q** And if you would, Mr. Long, I want you to
16 flip all the way to the back to where it shows this
17 page, signature page. You got that?

18 (A brief pause in the proceedings.)

19 MR. PLAYER: Is the mortgage or the
20 guarantor?

21 MR. HARRISON: The mortgage. Plaintiffs 14,
22 the mortgage.

23 **Q (BY MR. HARRISON)** My only question about this
24 document is under the mortgagor, who does it say is
25 the mortgagor?

WADE LONG - CROSS EXAMINATION - BY MR. HARRISON

1 **A** TNT and More.

2 **Q** At the top? First page?

3 **A** Yeah. This says TNT and More, Inc. -- right
4 there?

5 **Q** Oh, I got you. I gave you the wrong one.

6 **A** Sometimes it's easy to make mistakes.

7 **Q** Let me do this. I'll show you my copy.

8 **A** Sure.

9 **Q** Plaintiffs' 14 in evidence, and the jury has
10 access to this.

11 Is that Plaintiffs' 14?

12 **A** That is.

13 **Q** Mortgage?

14 **A** Yes.

15 **Q** And this is for?

16 **A** TnW and More, LLC.

17 **Q** That is you?

18 **A** Yes, sir.

19 **Q** Can you tell me how many -- what this says
20 down here, right here?

21 **A** Property is located in Horry County at
22 1.5 acres, located adjacent to 4474 Waterfront
23 Drive --

24 **Q** That's perfect. How many acres?

25 **A** It said 1.5.

WADE LONG - CROSS EXAMINATION - BY MR. HARRISON

1 **Q** There is a question about how much you own,
2 but 1.5 is owned by TnW?

3 **A** That is what it says.

4 **Q** And this is the mortgage?

5 **A** Yes.

6 **Q** And just to be clear -- real quick, and we'll
7 move on -- whose signature is on this?

8 **A** That is Timothy Kettner, me -- is that
9 Jose -- Justine, Donny.

10 **Q** Oh, the witnesses. Who are the actual
11 signers?

12 **A** Me -- Tim Kettner, and Wade Long.

13 **Q** And that was signed what date?

14 **A** Signed 11/29/17.

15 **Q** And the manager in this is who?

16 **A** Tim Kettner.

17 **Q** And the member is who?

18 **A** Wade Long.

19 **Q** And the rest are witnesses?

20 **A** Yes, sir.

21 **Q** Is there anything here -- and you can look at
22 my copy -- that says "on behalf of TNT"?

23 MR. PLAYER: One correction. I put in TNT
24 the mortgage. They put in TnW. So I think you
25 have to mark that differently. I'm not objecting.

WADE LONG - CROSS EXAMINATION - BY MR. HARRISON

1 You are saying Plaintiffs' 14, but for me that was
2 the TNT mortgage.

3 **A** I'm assuming -- on the first page it says TnW
4 and More.

5 **Q (BY MR. HARRISON)** You don't see "TNT" on
6 this?

7 **A** No, sir.

8 MR. HARRISON: Madam Court Reporter, I have
9 labeled it as Plaintiffs' 14, this is going to be
10 Defendants' 1.

11 (Defendants' Exhibit 1 marked.)

12 MR. PLAYER: I apologize. I didn't realize
13 there was two until last night.

14 THE COURT: You are admitting that into
15 evidence? I understand there is no objection?

16 MR. PLAYER: Correct.

17 MR. HARRISON: Yes, Your Honor.

18 THE COURT: Defendants' 1 is admitted into
19 evidence.

20 (Defendants' Exhibit 1 previously admitted.)

21 **Q (BY MR. HARRISON)** Mr. Long I have another
22 document here.

23 MR. HARRISON: Mr. Player, this is your -- is
24 that right?

25 MR. PLAYER: Yes.

WADE LONG - CROSS EXAMINATION - BY MR. HARRISON

1 **Q** **(BY MR. HARRISON)** So this is Plaintiffs' 14.
2 That was Defendants' 1. So Mr. Player ran through
3 his documents so fast yesterday, I couldn't keep
4 up.

5 So this mortgage is for who? Who is the
6 mortgagor?

7 **A** It says TNT and More.

8 **Q** And real quick, who is the signer of that
9 right there?

10 **A** Timothy D. Kettner, president.

11 **Q** Anybody else's signature on it?

12 **A** No. It is witnesses.

13 **Q** Okay. Thanks.

14 Mr. Long, I have another copy here. Now,
15 this was marked as Plaintiffs' 13, promissory note?

16 MR. HARRISON: Correct me if I'm wrong, Mr.
17 Player.

18 MR. PLAYER: That's correct.

19 **Q** **(BY MR. HARRISON)** That is Plaintiffs' 13.
20 Tell me what that is.

21 **A** Promissory note, United Community Bank.
22 Borrowers are TnW and More, LLC; TNT and More as
23 well.

24 **Q** So there is both you and my client on this,
25 right?

WADE LONG - CROSS EXAMINATION - BY MR. HARRISON

1 **A** Yes.

2 **Q** And this is the promissory note to pay back
3 this loan everyone keeps talking about?

4 **A** Yes.

5 **Q** All right. I want to be clear. Before we
6 put it away, if you would, right there, that
7 says -- tell me what that says?

8 **A** Acres?

9 **Q** The address line.

10 **A** 4474 Waterfront Drive, Little River, South
11 Carolina 29566.

12 **Q** Do you know what is at that address?

13 **A** Yes. That address -- it is real funny, and
14 I'll be honest, that is the actual physical address
15 of the restaurant, but we used that address for
16 years because that land had working boats and docks
17 when I was kid. But for years it's been so screwed
18 up down there. But the actual address for the dock
19 part is 4458, if I'm not mistaken.

20 **Q** But for the restaurant?

21 **A** That is the address we always used, 4474, and
22 for us.

23 **Q** And that is showing as TNT?

24 **A** Yes, sir.

25 **Q** And yours is down here, and that was what we

WADE LONG - CROSS EXAMINATION - BY MR. HARRISON

1 just saw?

2 **A** Waterfront Drive, yes. But it is listed at
3 4474 as well.

4 **Q** The way they listed it here was, what?

5 **A** Waterfront Drive.

6 **Q** No. Down here. 1.5?

7 **A** 1.5 acres located adjacent to 4474 Waterfront
8 Drive, Little River 29566.

9 **Q** This is referring to the collateral that was
10 put up that we were talking about earlier?

11 **A** Yes, sir.

12 **Q** So you put up what you owned, they put up
13 their restaurant?

14 **A** Correct.

15 **Q** And we've heard what you owned in that, so I
16 won't belabor the point.

17 This one is a little hard for me to read, but
18 can you read the very, very top line of that for me
19 right here?

20 **A** It's small.

21 **Q** Not the small -- the title of the document.

22 **A** Commercial Loan Application.

23 **Q** Thank you, sir.

24 And who was this with?

25 **A** That was with United Community Bank.

WADE LONG - CROSS EXAMINATION - BY MR. HARRISON

1 **Q** This is the loan we were talking about in
2 this case?

3 **A** Yes, sir.

4 **Q** And my question to you is, to verify: Who is
5 the signators on this?

6 **A** Timothy D. Kettner, and he's the manager, and
7 Thomas Wade Long, the member.

8 **Q** I'm sorry, is my clients' signature on there
9 anywhere?

10 **A** No, sir.

11 **Q** Okay. Thank you, sir.

12 Mr. Long, this next document was marked as
13 Plaintiffs' Exhibit 23. It is the TnW and More,
14 LLC, amended and restated operating agreement. Did
15 I read that correctly?

16 **A** Yes.

17 **Q** So I'm going to give you a copy of this
18 because I do want you to read through this one with
19 me.

20 **A** Is that the new one or the old one?

21 **Q** I'll let you tell me in a second. We'll talk
22 about all of this thing real quick. We'll be
23 quick.

24 That says "amended and restated." I assume
25 by that that there was something before this?

WADE LONG - CROSS EXAMINATION - BY MR. HARRISON

1 **A** Yes.

2 **Q** But if you could, for the jury, do you know
3 what date this was drafted?

4 **A** I don't. I can tell you who drafted it, but
5 I don't remember --

6 **Q** Who was it?

7 **A** Jeddie Boone, Palmetto Construction.

8 **Q** She drafted this version?

9 **A** I think this is the one she helped draft.

10 **Q** So will you flip to Page 3.

11 **A** Yes, sir.

12 **Q** And this is TnW's, right? I'm looking at
13 Section 2, "members." Under "Rights and Duties of
14 Members," Section 2.1. Do you see that?

15 **A** I do.

16 **Q** Will you read starting with "each" all the
17 way down to that -- end of that section? So stop
18 where it says "9.2."

19 **A** So share in profits and loss, shared in
20 distributions, vote and manage the LLC, inspect LLC
21 records, and receive information.

22 **Q** Again, my clients are not parties to this
23 document, are they? Are they signed on this?

24 **A** No, sir.

25 **Q** Is this the document that would tell us who

WADE LONG - CROSS EXAMINATION - BY MR. HARRISON

1 is the -- who has access to profits and loss as
2 shared distributions?

3 **A** Ask me that again.

4 **Q** Is this the document that tells TnW who
5 shares in the profits and losses and shares in
6 distributions?

7 **A** Yes. I was thinking about -- Jeddie Boone
8 did not do this. This was one that Roger Roy did.

9 **Q** Do you remember when?

10 **A** I don't remember when. I was thinking about
11 something else. This should tell how everything
12 should flow. It is an agreement.

13 **Q** Is it fair to say that this was in place in
14 2016/2017 while this was going on?

15 **A** There were two of them. I'm --

16 **Q** I have the other. We'll talk about it.

17 **A** Is this the new one or old one?

18 **Q** I don't know.

19 **A** I don't know. It's been quite a while. I
20 know we had two of them, and one was starting out,
21 and then it was redone. I don't know if it was
22 before or after, to be honest with you.

23 **Q** That's okay.

24 2.2 says: Admission of new members by vote
25 of the members. Do you see that there?

WADE LONG - CROSS EXAMINATION - BY MR. HARRISON

1 **A** Yes, I do.

2 **Q** Will you read -- start reading at
3 "additional" and I'll tell you when to stop.

4 **A** Additional members may be amended into the
5 LLC only upon the vote of majorly of the members,
6 which admissions vote shall specify shared in
7 profits and losses --

8 **Q** That's fine. You can stop. Did you vote TNT
9 or any of its partners in?

10 **A** Did I vote any of them in?

11 **Q** Yeah.

12 **A** No, not that I remember.

13 **Q** So they never have been voted in as members
14 of TnW?

15 **A** Not that I'm aware of.

16 **Q** Skip down to Section 2.4. It is entitled:
17 "A member may not assign his/her financial rights
18 without the consent of the other members." Do you
19 see that?

20 **A** I do.

21 **Q** Start reading it at the very beginning where
22 it says "a member."

23 **A** A member may voluntarily sign or pledge his
24 or her distribution interest, his or her financial
25 rights to another person or entry upon the vote of

WADE LONG - CROSS EXAMINATION - BY MR. HARRISON

1 majority or assignment or pledge of such
2 distribution interest is effected as to the LLC
3 when reflected upon the books or records of the
4 LLC. As an assignment or pledge to all or any
5 portions of a member's distributions is not deemed
6 or evidence --

7 Q That's fine. Did you have a vote on this
8 issue with regards to my client?

9 A Not that I remember, no, sir.

10 Q Seems to be the only way to admit a new
11 member, right?

12 A Yes, sir.

13 Q Now, flip over to Page 4 of the document.
14 You see this Section 3.1? Management by members?

15 A Yes.

16 Q Read that paragraph.

17 A "Members of the LLC should have full power
18 and authority to manage the affairs of the business
19 to make all decisions and to take all actions for
20 the LLC."

21 Q Thank you.

22 Flip to Page 5 for me, please, sir. This is
23 Section 3.9. I'm looking at "required vote and
24 type of vote." See that?

25 A Which one now?

WADE LONG - CROSS EXAMINATION - BY MR. HARRISON

1 Q Section 3.9, "required vote."

2 A Yes.

3 Q So if you would, start with Subparagraph A,
4 "ordinary actions" -- begin reading that for me.

5 A "Actions required vote may be" --

6 COURT REPORTER: Could you slow down just a
7 little?

8 THE WITNESS: I'm sorry.

9 A "Required votes may be improved at either a
10 duty call and meeting. Written consent through a
11 formerly approved -- any ordinary action to be
12 taken, members holding more than 50 percent votes,
13 firmly vote yes, ordinary actions or all actions of
14 the LLC except those specified as extraordinary
15 actions."

16 Q Okay. So those are ordinary actions. Read
17 "extraordinary actions."

18 A "Extraordinary actions in the section or
19 which other -- of this operating agreement require
20 a greater vote."

21 Q Keep going.

22 A "Or any extraordinary action to be taken.
23 Members holding more than 75 percent votes must
24 firmly vote yes."

25 Q And if you read 3.9(c), "unanimous actions."

WADE LONG - CROSS EXAMINATION - BY MR. HARRISON

1 **A** "Unanimous consent of all members is required
2 to amend this operating agreement of articles or
3 organization. Voluntary dissolved LLC require
4 permits and contribution of additional capital by
5 members merge with other LLCs or other entities.
6 The sale of all -- of all the company's" --

7 **Q** That's good. Stop there. It says, "merge
8 with another LLC or entity." When did you vote
9 unanimously to include my clients in your operating
10 agreement?

11 **A** I don't remember doing it.

12 **Q** It is required, isn't it?

13 **A** By reading this, yes, sir.

14 **Q** But you didn't do it?

15 **A** No, sir, not that I'm aware of.

16 **Q** So how can they be engaged in this merged
17 joint venture if you never held a vote to do it?

18 **A** I mean, I couldn't tell you.

19 **Q** But the document requires it, right?

20 **A** That does, yes, sir.

21 **Q** This was the document that outlined how your
22 business was supposed to run, right?

23 **A** Yes, sir.

24 **Q** But you didn't take the vote, right?

25 **A** That's correct.

WADE LONG - CROSS EXAMINATION - BY MR. HARRISON

1 **Q** All right. One more thing on this and we'll
2 move on. See this page here, 6.4?

3 (A brief pause in the proceedings.)

4 **Q** **(BY MR. HARRISON)** This is Section 6.4,
5 "Distributions to members." Under "regular
6 distributions," Mr. Long, pick up where it says
7 "the LLC."

8 **A** The LLC may take distributions of cash to
9 members monthly. The members from time to time
10 total the total amount of each monthly cash
11 distribution --

12 **Q** That's enough. It says "members," doesn't
13 it?

14 **A** Yes, sir.

15 **Q** But you never held a vote with these guys to
16 be members of TnW, did you?

17 **A** No, sir.

18 **Q** Never held a vote to merge TnW with TNT?

19 **A** Not that I'm aware of, no, sir.

20 **Q** And this tells us the distributions are made
21 to members?

22 **A** Correct.

23 **Q** What do you think that "distributions" is?
24 Distribution of what?

25 **A** Profit, money, capital.

WADE LONG - CROSS EXAMINATION - BY MR. HARRISON

1 **Q** So under this, even if you wanted to, could
2 you share profits with my clients based on what you
3 just read?

4 **A** No, sir.

5 **Q** Let's move on. That was Plaintiffs' 23.

6 MR. PLAYER: I think she has two. D1 was the
7 mortgage, remember?

8 MR. HARRISON: You put the mortgage in.

9 MR. PLAYER: I put TNT mortgage, and you put
10 in TnW.

11 MR. HARRISON: These are all documents you
12 put in. They have your tab on them.

13 MR. PLAYER: Not the empty operating
14 agreement, first operating agreement.

15 MR. HARRISON: That is D2, is what you are
16 saying?

17 MR. PLAYER: Right.

18 (A discussion was had off the record.)

19 COURT REPORTER: So we do not have a D2?

20 MR. HARRISON: We don't, no. D2, I may get
21 to that, but....

22 THE COURT: Mr. Harrison, step up here one
23 second.

24 (Whereupon, a bench conference was had.)

25 **Q** **(BY MR. HARRISON)** Mr. Long, Defendants'

WADE LONG - CROSS EXAMINATION - BY MR. HARRISON

1 Exhibit 30, already entered in. Can you see that?

2 I don't want you to strain your eyes. You looked
3 at it yesterday.

4 **A** I remember this, yes, sir.

5 **Q** That is the sign that you talked about
6 yesterday?

7 **A** Yes.

8 **Q** Can you tell me where that sign is in
9 relationship to the property -- two properties?

10 **A** Yes. I can see it good enough. Yes, I know
11 where it is. So when you walk down the main dock
12 that runs parallel behind the restaurant, you make
13 a right and you come down that piece of ground,
14 until it meets the big piece of property.

15 **Q** Down in here (indicates)?

16 **A** Yes. That is like the fixed pier. That is
17 not floating. It is elevated on pilings. To the
18 left of it is where the gangway comes off, and it
19 heads to the floating docks.

20 **Q** And that is the floating docks you built and
21 installed?

22 **A** Yes, sir.

23 **Q** And those were attached to that fixed pier,
24 right?

25 **A** Yes, sir.

WADE LONG - CROSS EXAMINATION - BY MR. HARRISON

1 **Q** So this is on the old, fixed pier? And if
2 you walk down the gangway, that is the new docks
3 you put in?

4 **A** Yes. That is on the end of the fixed pier
5 where we had our fish cleaning table.

6 **Q** But this is right before you go down to the
7 floating docks?

8 **A** Probably 75 feet from the restaurant.

9 **Q** How far from your -- would you say from your
10 gangway was this?

11 **A** The gangway I think is 20 feet. So depending
12 on the tide, anywhere from 15 to 20 feet.

13 **Q** So this is somewhere on these docks between
14 your property and theirs; is that right?

15 **A** Yes, sir.

16 **Q** This was entered as Plaintiffs' 35 yesterday.
17 We talked about this. You know this picture?

18 **A** Yes, sir.

19 **Q** What is this?

20 **A** That's the Crab Catchers tractor parked
21 behind the gates that they installed to block us
22 access to the parking lot. I guess they figured
23 the gates wasn't strong enough, so they put a piece
24 of equipment behind it in case I cut the gates
25 (sic).

WADE LONG - CROSS EXAMINATION - BY MR. HARRISON

1 **Q** Did they tell you they parked that tractor
2 there for that purpose?

3 **A** They didn't physically tell me that, no, sir.

4 **Q** That is an assumption you made based on
5 everything that was going on?

6 **A** I've seen it, and I lived it for years.

7 **Q** So you assumed they put it there to block
8 you, and that was the only reason?

9 **A** No, sir, not unless they were trying to sell
10 the tractor and advertise to sell the tractor to
11 the jet ski or charter boat people to buy a
12 tractor.

13 **Q** Could they have?

14 **A** I didn't see a "for sale" sign on it.

15 **Q** Could they have been trying to protect their
16 property?

17 **A** Yes. From us entering the parking lot.

18 **Q** Not you. Could it have been to protect their
19 property from somebody else?

20 **A** Sure.

21 **Q** Again, they didn't tell you?

22 **A** No, sir.

23 **Q** You said time and time again that they locked
24 you, harassed you. We've heard that. We entered a
25 Plaintiffs exhibit yesterday. Do you remember this

WADE LONG - CROSS EXAMINATION - BY MR. HARRISON

1 one?

2 **A** Yes, sir.

3 **Q** Whose truck is that?

4 **A** Mr. Robert Benoit's.

5 **Q** You say this is blocking what?

6 **A** It's blocking the jet ski hut. It is
7 blocking -- if we were getting fuel, it's
8 blocking -- the truck comes in, the 18-wheeler, and
9 hooks up to the backside of the tank, to the left
10 of Mr. Benoit's hood.

11 **Q** How many feet would you say there is from the
12 front of his truck to the front of the shed there?

13 **A** In this particular picture, I would say you
14 probably have 15, 20 feet. As you see right there,
15 on the fuel containment it says "no parking," and
16 it has yellow columns around it to protect it.

17 **Q** That's on this side?

18 **A** On all four sides.

19 **Q** It is?

20 **A** Yes.

21 **Q** Is that in this picture?

22 **A** I can't see it because the truck is blocking
23 it.

24 **Q** But your complaint is he was blocking the
25 hut?

WADE LONG - CROSS EXAMINATION - BY MR. HARRISON

1 **A** It is blocking the fuel tank from getting
2 fueled up.

3 **Q** Where does the fuel tank fill up?

4 **A** Right to the left of his hood. If you go to
5 the front of the hood where the truck is parked,
6 you can't pull an 18-wheeler beside that truck.
7 And does that look inviting to customers trying to
8 rent skis?

9 **Q** I think that is a matter of opinion, but I'm
10 asking you -- is it possible to refuel the fuel
11 tank where the truck is?

12 **A** Yes, it would be possible. Complicated, and
13 I would get bitched at a little bit -- sorry.

14 **Q** It's okay. Is it possible to get to your hut
15 with 15, 20 feet in front of his truck?

16 **A** It could, yes.

17 **Q** So this doesn't show us that he was blocking
18 anything that particular day? I'm not saying that
19 he didn't, but that doesn't show it?

20 **A** I have better ones.

21 **Q** But this is the one in evidence.

22 (Defendant's Exhibit 2 marked.)

23 Mr. Long, I'm going to try to pick up a
24 little speed here. I'm going to show you a series
25 of photographs. These are put together. We would

WADE LONG - CROSS EXAMINATION - BY MR. HARRISON

1 enter these in as the next ones. They have been
2 exchanged.

3 Q What is this picture here?

4 A A fuel tank dispenser.

5 Q What is it sitting on?

6 A Sitting on a floating dock, roughly a 8-by-20
7 structure that we had marked -- me and Tim with
8 Palmetto -- to put a fuel dispenser on. Because
9 the previous way we had it -- how they were poking
10 out -- was dangerous for boats to come in. As you
11 have been on a boat, you know how the tide runs,
12 you always point the nose into the tide.

13 So it makes more sense building the dock
14 parallel to the waterway for people to pull up.
15 Here, it was hard with the tide. It would run by
16 the docks at five and six knots, and boats could
17 pull in. We built that floating structure and
18 pinned it from the lines, and put the fuel
19 dispenser on it. That's where it was from pretty
20 much day one.

21 Q Did DHEC permit that?

22 A No, they did not permit that floating
23 structure. When we did it, we were within our
24 lines. Only thing we did to that dock was facing
25 straight out, just like this (indicates). We took

WADE LONG - CROSS EXAMINATION - BY MR. HARRISON

1 it and it was pinned with hinges. As I told you,
2 it was built in the parking lot in 20-by-30
3 structures. It pivots and floats. So we took the
4 dock how it was originally -- like a finger, like
5 that -- and pivoted within the property lines and
6 turned it and pinned it that way to run parallel.
7 They said it was not in compliance.

8 Once I realized -- it was perfectly fine for
9 four years, but once the lawsuit started, I got
10 turned in for that. I started working with Ben
11 Stone, Brittany Miles. Tell me what I need to do
12 to get this in compliance. I have all of the
13 paperwork. I have tried to get everything in
14 compliance, and they are waiting to get -- I even
15 had Palmetto Marine Construction working on it. I
16 had a site plan done, everything to get it in
17 compliance.

18 You can amend a permit, it's done every day.
19 And I tried to have it done, but they would not let
20 me correct it until the litigation is resolved to
21 see where the ownership falls, and that is what I
22 was told by the agency.

23 Q That makes sense. I've taken my boat up that
24 way. You are not wrong about the tide. It starts
25 to move a little quicker up in that area.

WADE LONG - CROSS EXAMINATION - BY MR. HARRISON

1 So, Mr. Long, do you recognize this?

2 **A** Oh, yeah. Sure do.

3 **Q** Tell me what that is.

4 **A** This here is when I got called on -- I think
5 this is the second or third time.

6 **Q** Tell me what it is.

7 **A** This is where I had the fuel company come
8 down, and I got called about a fuel leak. Every
9 fire truck in Little River was there. You would
10 think it was Christmas and the Fourth of July at
11 the same time. I was scared to death.

12 This is about 9:30, 10:00 at night when it
13 happened. I went down there. They said they
14 smelled fuel or fuel in the water. And this right
15 here, I called immediately -- I think it was
16 Campbell Fuel Company -- and had them send their
17 people out because it appeared to be a rub place on
18 the line. There was heavy rust buildup. So they
19 put a temporary patch on it and clamped it off to
20 be safe.

21 Can I finish?

22 **Q** Yeah. Go ahead.

23 **A** So when I hired the company to come down, the
24 experts, to claim there was a fuel leak -- and that
25 is a huge fine, and I didn't want to deal with DHEC

WADE LONG - CROSS EXAMINATION - BY MR. HARRISON
1 or Coast Guard. I know them by their first name
2 now, I promise you that. I put a patch temporarily
3 until I can get the hose. It cost a lot of money
4 for this hose. So out of the good faith -- that
5 fuel pipe was only six years old when it was
6 installed, but I didn't want nothing to come back
7 on me or any leaks, so I had the whole entire fuel
8 line replaced.

9 When I lined it up with Campbell Oil to come
10 down -- it was scheduled for several weeks. It was
11 an emergency repair. Once they came down to do the
12 repair, Donny, Casey, Justine, Robert stopped them
13 from repairing the line. No, you are not doing
14 this on our property. I'm like you are --

15 MR. HARRISON: Hearsay.

16 THE COURT: Hearsay. I'll sustain the
17 objection -- I mean not an objection, but it is
18 hearsay. You can't testify to what someone else
19 said.

20 THE WITNESS: Can I testify to what I seen
21 and witness being present?

22 THE COURT: You can testify what you saw.

23 **A** So I was there with Travis. He's the main
24 rep of Campbell Oil. He is the installer. As they
25 came there, he said, Wade -- I talked to him in

WADE LONG - CROSS EXAMINATION - BY MR. HARRISON

1 person. I was right there. Donny and Robert was
2 there. The chief was called, north precinct,
3 officers came down, and they were trying to stop us
4 from repairing the fuel line that they made the
5 complaint about. I was trying to fix the problem,
6 put a new fuel line in where everyone is happy, and
7 then they called the county.

8 Tommy Smith is aware of this. I met with
9 Tommy. They were fine. They said, Wade, get a
10 mechanical contractor to come with Campbell Oil to
11 repair it. I had to go to Conway. To make them
12 happy, I got a permit, even though it was just a
13 replace and repair. To make Crab Catchers people
14 happy, I got a permit with the county, and Nick
15 Baxtrum, Tommy Smith allowed me to replace the fuel
16 line, and the police officer told Crab Catchers to
17 go back and mind their business. The Coast Guard
18 was happy. Everyone was happy.

19 Q And there (indicates)?

20 A That definitely looks like an oil sheen.

21 Q Is that oil on your property?

22 A That is my property, but I can't tell you
23 whether it is mine or not. The Coast Guard wrote a
24 letter and signed off on it.

25 Q We'll look on it. But do you believe that

WADE LONG - CROSS EXAMINATION - BY MR. HARRISON

1 this looks like your property?

2 A It does.

3 Q And looks like oil, doesn't it?

4 A Yes, sir.

5 Q Wade, you and I both love the water. I grew
6 up on it, too, just a different creek than you.

7 Oil and water is a problem personally,
8 professionally?

9 A Uh-huh.

10 Q When did this all occur?

11 A I don't remember that exact time. I think
12 that fuel line -- maybe within the last year,
13 year-and-a-half.

14 Q So during this lawsuit; is that fair to say?

15 A Yes, for sure.

16 Q I'm not trying to be tricky, just asking.

17 Wade, you gave us little information about
18 this sort of distance here earlier. Can you tell
19 me what this is? This is a picture from a
20 different angle?

21 A I can very well tell you what that is.

22 Q Is that the same area we were looking at with
23 a different truck?

24 A Yes.

25 Q And this is the 15, 20 feet we're talking

WADE LONG - CROSS EXAMINATION - BY MR. HARRISON
1 about in front of this beige truck there?

2 A Yeah. Yes.

3 Q And that is the same post that hasn't been
4 moved?

5 A That is correct. That's where you fill the
6 tank up here. So the truck needs to back up here.
7 He has to connect about 50 feet of hoses this big
8 around. It's tough. It's tough to get an
9 18-wheeler between those two trucks.

10 Q But you can do it?

11 A Yeah. As long as no more cars don't come in.
12 He has to go in on one side. Our property is on a
13 one-way street. I don't know if it's in evidence,
14 I hope it is, but we have pictures where the fuel
15 truck was actually turned away by Crab Catchers.

16 Q That is not in evidence.

17 A Well, I won't talk about it.

18 Anyway, the truck comes in one way. It can
19 only come in one way, turn around, and go back the
20 same way. If the cars are blocking, he has an
21 extremely tough time.

22 Q But this is the same area?

23 A Yes. And that is our little shack with
24 Little River Water Sports sign.

25 Q Would you say this car is blocking --

WADE LONG - CROSS EXAMINATION - BY MR. HARRISON

1 **A** It is blocking, but it can still be accessed
2 with an 18-wheeler.

3 **Q** So partially blocking?

4 **A** Partially blocking the fuel tank, yes.

5 **Q** But this is in a parking lot?

6 **A** In a parking lot.

7 **Q** Are there lines painted to tell people where
8 they can park?

9 **A** No, sir. But there was parking signs
10 installed, and they've been torn down.

11 **Q** Were they in at this point?

12 **A** No.

13 **Q** So pretty much you pull up in the dirt and
14 park wherever you can?

15 **A** Yes.

16 **Q** Mr. Long, this is another picture from this
17 exhibit. Can you tell me what that is?

18 **A** Yes, I can. So this is one of the other fuel
19 tanks here.

20 **Q** Is it gasoline?

21 **A** It is a thousand-gallon gasoline tank. It
22 has pillars and everything around it. Those are
23 crab Catchers signs and Little River Water Sports
24 sign, and it got cut down with a chainsaw.

25 **Q** This is the tank you use?

WADE LONG - CROSS EXAMINATION - BY MR. HARRISON

1 **A** Yes. We use it regularly. Oh, and there's
2 the 3,000-gallon tank in place, and the
3 10,000-gallon, the one we moved out.

4 **Q** Is it fair to say that it represents all of
5 the tanks you got out there? That is the new one
6 you fixed?

7 **A** Yes.

8 **Q** And what color is that?

9 **A** Red.

10 **Q** And this color?

11 **A** Gray.

12 **Q** That's the old one?

13 **A** Old one.

14 **Q** We're just telling the jury. You and I know
15 what it is.

16 What is that here?

17 **A** The gasoline tank.

18 **Q** That's one in front?

19 **A** Yes.

20 **Q** Regular gasoline, not diesel?

21 **A** Right.

22 **Q** And the red one, we have a permit for?

23 **A** Diesel.

24 **Q** The gray one you had to trade that. No
25 permit on that?

WADE LONG - CROSS EXAMINATION - BY MR. HARRISON

1 **A** Correct.

2 **Q** Permit on that one (indicates)?

3 **A** Yes, sir.

4 **Q** Have you given that to --

5 **A** You should have it. Mr. Tommy submitted --
6 and David Jordan is very aware of it because they
7 shut me down for like six, seven days. They
8 couldn't find the permits, and those tanks were
9 there in place from day one when Mr. Tommy Smith
10 approved it. I still have his personal text
11 message and email, and he has it in his file with
12 the county.

13 **Q** That red tank again. This is the old one?

14 **A** Yes, sir.

15 **Q** And that is the containment area?

16 **A** That is the containment.

17 **Q** This is the red one and the gray one.

18 (Published to the jury.)

19 **Q** **(BY MR. HARRISON)** Do you recognize that
20 picture there up at the top? Do you know where
21 that is?

22 **A** Yeah, jet ski hut.

23 **Q** What is the date on this?

24 **A** April 5.

25 **Q** What is going on in this picture, you tell

WADE LONG - CROSS EXAMINATION - BY MR. HARRISON

1 me?

2 **A** I don't really know.

3 **Q** Taking stuff in, taking stuff out?

4 **A** They are doing something. There is a bunch
5 of people standing there. I know that is Eric's
6 truck, but I don't know what is going on.

7 **Q** Fair to say it's being used, right?

8 **A** Yeah. I just don't know what they are doing,
9 but it appears -- I don't know if they are cleaning
10 or moving or something.

11 **Q** This was April 5 of 2022. Can you read the
12 time?

13 **A** 1:42 p.m.

14 **Q** I'll try to read more stuff for you. I just
15 wanted to verify.

16 Was this before or after you found out that
17 the county had a problem with that rental hut?

18 **A** I think that was -- I think we found out the
19 county had a problem with it before that day, if
20 I'm not mistaken.

21 **Q** So fair to say you knew the county had a
22 problem with you using it for commercial purposes,
23 but it is still being used that day, April 5, 2022?

24 **A** Yes, but I don't know that that played out
25 with the situation with Mike Jordan and Tommy or

WADE LONG - CROSS EXAMINATION - BY MR. HARRISON

1 not.

2 Q That's fair.

3 A When someone told me something had to be
4 fixed, I wasn't crossing anyone.

5 Q But you knew about this problem before this
6 date, and this is still your hut they told you --

7 A I can't tell you what they are doing.

8 Q But it's being used for something?

9 A I don't know. They're moving stuff out. I
10 don't see noting set up and the windows are closed
11 in the front.

12 Q This is Defense Exhibit 3. Can you tell me
13 what this is?

14 A This is --

15 Q What does it say up at the top?

16 A Traffic ticket. I can barely read, I'm
17 sorry.

18 Q That's all right. I'll read through it, and
19 you tell me if I'm misinterpreting any of this.
20 This is a uniform traffic ticket, and this is your
21 traffic ticket, right?

22 A Yes, sir. It's got my name.

23 Q Your name is on the top?

24 A That's correct.

25 Q Your address on it?

WADE LONG - CROSS EXAMINATION - BY MR. HARRISON

1 **A** Yes.

2 **Q** Wade, you got a little slimmer since then?

3 **A** Probably a little fatter.

4 **Q** You and me both. Might be this lawsuit.

5 So the name of the trial court was
6 magistrates court. This was issued to you. It
7 says: "Violation Section 23-47-0080." The
8 violation that it states on here is use of a 911
9 number, unlawful. That is what it reads?

10 **A** Yes.

11 **Q** And your court appearance was required.
12 There is a "yes" there. This was at 1407 -- for
13 those who have never been in the military, that is
14 2:07 in the afternoon. You know military time?

15 **A** Yes.

16 **Q** Is that fair?

17 **A** Yes.

18 **Q** And so June 6 of 2022, correct?

19 **A** Yep.

20 **Q** And the arresting officer's name is Sergeant
21 Deitzel, who is on our witness list.

22 Mr. Long, you talked about this. You are
23 very upset about it. You called 911 that day,
24 didn't you?

25 **A** I did.

WADE LONG - CROSS EXAMINATION - BY MR. HARRISON

1 **Q** You got arrested for it, didn't you?

2 **A** I did.

3 **Q** Do you typically get arrested when you do the
4 right thing?

5 **A** I've never been arrested.

6 **Q** You were arrested here?

7 **A** I've never been arrested. Never had a
8 criminal record. I didn't cuss. I didn't say
9 anything. I said, Yes, sir, I'm Wade. Put your
10 hands behind your back, you are arrested.

11 **Q** Was this the same day of the incident in the
12 parking lot?

13 **A** I think it was. There was four, five days
14 going on. Cops were getting called every day.

15 **Q** If they arrested me for calling them, I would
16 remember what it was for. Do you remember?

17 **A** Yeah, I remember it was for calling 911.

18 **Q** Why did you call --

19 **A** I was instructed from the officer to --

20 **Q** Why did you call 911?

21 **A** I felt threatened like I was going to get in
22 a fight or jump out of the tractor. Robert Benoit
23 was climbing up on my tractor. I'm an easy-going
24 guy, but when I flip my trigger, I don't want to
25 hurt no one. I don't want no one to hurt me. I

WADE LONG - CROSS EXAMINATION - BY MR. HARRISON

1 don't want to get shot or no one hurt.

2 Q Do police officers typically arrest people
3 for --

4 A No. That is what is -- police officers don't
5 typically take people to J. Reuben Long, turn
6 around in the front of it, and bring them back and
7 let them out.

8 Q Do you believe that he denied probable cause
9 for this?

10 MR. PLAYER: He's asking a legal question.

11 MR. HARRISON: I'll withdraw the question.

12 Q (BY MR. HARRISON) I'll ask it a different
13 way. There was an incident, correct? You called
14 911 to complain because you were afraid?

15 A Yes, I did.

16 Q And the police officer decided to arrest you?

17 A Yes, he did. 45 minutes later he showed up.
18 First officer showed up was Officer Lavender. I
19 think he came out the following morning and said,
20 Wade, if you have a problem, call the police, and
21 gave me the number of the north precinct, or if you
22 think it's an emergency, call 911. That is the
23 first time I ever called that number in my whole
24 entire life. I was shocked that I got arrested.

25 I understand when you call or if you are

WADE LONG - CROSS EXAMINATION - BY MR. HARRISON

1 doing something wrong, you know, a police officer
2 is going to arrest you if you are doing the wrong
3 thing. But if you give it the most respect
4 possible -- there was 15, 20 witnesses standing
5 around. And what's so alarming, if the officer
6 thought he was doing the right thing, why in the
7 world did he bring me back? I was about to pass
8 out. Why did I go to the -- why was it necessary
9 of two sets of handcuffs? I have handcuff marks
10 and x-rays. I am a big guy and I can take a lick
11 and keep going, but it was unnecessary punishment
12 and embarrassing.

13 Q Unnecessary punishment? We have courts that
14 deal with this?

15 A Yeah. And it's been two-and-a-half, three
16 years.

17 Q So no disposition on this? Is it pending?

18 A I don't know. Ask Tucker.

19 Q Tucker can't testify.

20 A I don't know. I turned it over to my
21 attorney, and I haven't heard nothing back.

22 Q That's fair. If you don't know anything
23 about it, you don't know anything about it. You
24 don't know whether there is a disposition in this
25 case or pending; is that right? Okay. That is

WADE LONG - CROSS EXAMINATION - BY MR. HARRISON
1 fair.

2 You got brought back up and dropped off as
3 you were heading to J. Reuben Long. There was a
4 phone call you testified to. Do you have any idea
5 or ever told why you were brought back and dropped
6 off after they arrested you and transporting you to
7 jail?

8 **A** (Witness Crying).

9 THE COURT: Take five minutes.

10 (The jury exits at 4:25 p.m., and the
11 following is heard out of the presence of the jury.)

12 THE COURT: Mr. Harrison, I've given you
13 ample opportunity to get through this stuff. What
14 is the relevance of this that you are going
15 through?

16 MR. PLAYER: We dismissed the assault charge.

17 MR. HARRISON: The arrest -- he's created all
18 of these problems. He testified how he --

19 THE COURT: Stop. Stop.

20 MR. HARRISON: He testified how upset he was.
21 He created --

22 THE COURT: Stop talking. How is this
23 relevant to what this case is about?

24 MR. HARRISON: He was allowed to testify how
25 upset he was. He cried. It is obviously upsetting

WADE LONG - CROSS EXAMINATION - BY MR. HARRISON
1 to him. I don't like going back through it, but
2 the jury needs to understand --

3 THE COURT: I mean, Mr. Player, this is a
4 question for you. Does he understand he has a
5 right against self-incrimination if it's still
6 pending?

7 MR. PLAYER: He didn't commit a crime, Your
8 Honor. I'm going to sue the crap out of HCPD for
9 this. This was basically kidnapping. If that
10 officer comes in this courtroom, if he's stupid
11 enough to do that. You are going to see fireworks,
12 I can assure you of that.

13 THE COURT: Well, we are going to move on
14 from this. This questioning has gone on long
15 enough. I'm going to forewarn you right now: When
16 I tell you to stop, that means stop. That doesn't
17 mean keep talking. Are we clear on that?

18 MR. HARRISON: Yes, Your Honor. My
19 apologies, Your Honor.

20 THE COURT: Let's take another two, three
21 minutes and let this jury finish using the restroom
22 if they need to, and we'll go from there.

23 MR. HARRISON: I'm going to mark these now.
24 It is all of these plats. So we'll enter it in as
25 Defendants' 4, I believe.

WADE LONG - CROSS EXAMINATION - BY MR. HARRISON

1 THE COURT: Just aides or demonstratives for
2 the jury?

3 MR. PLAYER: He has all of those for
4 demonstratives. If they want to take the big ones
5 back, I'm fine with it.

6 MR. HARRISON: That's fine.

7 MR. RICHTER: I'm confused. My understanding
8 is it is all in?

9 THE COURT: Yeah, I agree.

10 MR. BELLAMY: All insurance policies, all of
11 the tax returns, all of that is in, correct?

12 MR. PLAYER: (No verbal response.)

13 MR. HARRISON: Let me ask your preference,
14 because you asked if I wanted to enter it into
15 evidence. Do I need to do that with each one?

16 THE COURT: No. If it is stipulated as far
17 as the admittance of it, you don't have to. What I
18 mentioned earlier, I assumed it had not been
19 stipulated to, so.

20 MR. HARRISON: All of these documents have
21 been stipulated to. Okay.

22 COURT REPORTER: It's actually 3, because we
23 haven't marked 3 yet.

24 MR. RICHTER: How late do you intend to hold
25 the jury?

WADE LONG - CROSS EXAMINATION - BY MR. HARRISON

1 THE COURT: Probably 5:00.

2 MR. PLAYER: So you are doing your cross in
3 the morning.

4 (A recess was taken.)

5 THE COURT: Okay. bring them in.

6 (The jury enters at 4:39 p.m., and the
7 following is heard in the presence of the jury.)

8 (Defendants' Exhibits 4 marked.)

9 Q (BY MR. HARRISON) We won't talk about this
10 any longer.

11 This is an e-mail regarding a fish cleaning
12 station and roof. You want me to do the reading?

13 A Yes.

14 Q So this is an e-mail from Ben Stone to Wade
15 Long, and it says -- Ben Stone writing: "Mr. Long,
16 I received a photograph of the new fish cleaning
17 station with a roof that was installed on the
18 15-by-15 floating dock at your marina. In our
19 previous discussions, I stated that fish cleaning
20 stations could be installed on a floating dock as
21 long as they were not cantilevered, and that they
22 would need to be added to the O&M. The new fish
23 cleaning station appears to be cantilevered and,
24 therefore, needs to be authorized by permit. The
25 roof over the fish cleaning stations is

WADE LONG - CROSS EXAMINATION - BY MR. HARRISON
1 unauthorized and cannot be permitted. Signed
2 Benjamin Stone, South Carolina Department of DHEC,
3 project manager."

4 You mentioned yesterday you were upset about
5 them tearing down that fish station. Didn't they
6 do that because of the information here that it was
7 not permitted? Isn't that what Mr. Stone is saying
8 here?

9 **A** That is the new fish cleaning table. Once
10 the old one got tore down -- actually it was Donny
11 that took most of it down I think. I had to have
12 something for my guys to clean their fish after
13 coming from the ocean from 12, 14 hours a day in
14 all kinds of weather conditions. I researched it.
15 I didn't have time to physically build one with
16 treated lumber. I wasn't sure what I could quite
17 build, so I called other marinas and researched
18 that there, who makes it. It is all aluminum, and
19 made by Killer Dock System. I ordered it from the
20 company. They are all over Charleston Harbor
21 Marina, so I thought it was perfectly fine. It was
22 preassembled. I moved it down and installed it.

23 I have pictures from -- Crab Catchers took
24 pictures of it, sent it to Ben Stone, and Ben Stone
25 came and talked to me and told me I would need to

WADE LONG - CROSS EXAMINATION - BY MR. HARRISON

1 remove the top, which was the most important thing.
2 He let me leave the fish cleaning table. It was
3 only like a 5-by-8. It was like a windsails
4 blew -- Mr. Harrison can show you a picture of it.
5 It just covers a fish cleaning table. So I had to
6 take that part down. So I strictly have a 8-foot
7 fish cleaning table there with no roof, whatsoever,
8 which kills us. It is really tough.

9 Q Thank you, Mr. Long.

10 A Would you mind showing that picture?

11 Q I don't have it.

12 Mr. Long, this next document is Defendants'
13 5. This is a Horry County business license, and
14 I'll read it. But up in the corner this circle, it
15 says: "Little River Water Sports," right?

16 (Defendants' Exhibit 5 marked.)

17 A Yes.

18 Q There is a lot of little writing. Instead of
19 making you read through all of this, answer me one
20 question about this. Did my guys have anything to
21 do with getting the business license for Little
22 River Water Sports?

23 A No, sir. Tim got the license for Little
24 River Water Sports. Prior to I took it over, I
25 think I was responsible and started getting the

WADE LONG - CROSS EXAMINATION - BY MR. HARRISON

1 business license. It would be around April of
2 2021. Prior to that date until now, I have
3 purchased the last few business licenses.

4 Q But my guys didn't have anything to do with
5 your business license, right?

6 A (No audible answer.)

7 (Defendants' Exhibit 6 marked.)

8 Q This is the dock lease agreements. Does that
9 look like what we're talking about.

10 A Yes.

11 Q And I'll read so you don't have to. This
12 first one -- and there is a series of these dock
13 lease agreements. The dock lease agreements are in
14 the names of each individual lessee. The
15 designated dock is Little River Water Sports, and
16 all of these will be between your captains and TnW
17 or Little River Water Sports?

18 A That's correct.

19 Q Did my clients have any input on the making
20 of these lease agreements?

21 A No, sir.

22 Q So they had no control over the language?

23 A No, sir. I think that is the new ones. I
24 don't know.

25 Q I'll show them to you. I'm trying to save

WADE LONG - CROSS EXAMINATION - BY MR. HARRISON

1 your eyes.

2 **A** I don't know which one it is.

3 **Q** Take a look. You tell me: New or old?

4 **A** Is that 2020 or 2022?

5 **Q** '22.

6 **A** So this is the new agreements that I had
7 done, and I had signed with the customers.

8 **Q** Did the old agreements -- did you consult
9 with my clients about those?

10 **A** No, sir. Unless Tim ran across them, I
11 didn't.

12 (Defendants' Exhibit 7 marked.)

13 **Q (BY MR. HARRISON)** This is Defense Exhibit 7.
14 I'll read this to you. It was admitted into
15 evidence. What this is -- rather than belabor this
16 point -- we already talked about all of this stuff
17 in here. Is it fair to say that there were some
18 regulatory or permit problems at the marina that
19 you had to deal with?

20 **A** Yes. There were two that I'm aware of. It
21 was the floating structure that the fuel dispenser
22 was sitting on, and I got on it right away to get
23 the issue corrected. And the other one was the
24 fish cleaning table I had to remove the top off of.

25 **Q** And so you are saying there were only two

WADE LONG - CROSS EXAMINATION - BY MR. HARRISON

1 issues?

2 **A** The only ones I'm aware of is the floating
3 structure, which I think they have it list -- the
4 floating structure -- they identified each
5 individual piece. I think they have one identified
6 like an 8-by-20 or 3-by-5. At one time, before it
7 was a fuel dispenser dock, I carried 35 traps. I
8 used it to store all of my traps, fish boxes, et
9 cetera. It was a working dock, and we turned it in
10 because it made more sense with the fuel.

11 And then, if I'm not mistaken, something
12 about the fish cleaning table is still there. I
13 tried to correct it. I got all the paperwork where
14 we went back and forth. They are waiting on this
15 before they will let me move forward with any
16 permits to get in compliance.

17 **Q** Fair enough. So, essentially, there were
18 some issues?

19 **A** Yes, sir. Never had a problem for the first
20 four years. After the lawsuit, there was a lot of
21 problems with us.

22 **Q** Did any of my clients contribute to those
23 issues?

24 **A** They were the ones that built the fish
25 cleaning table, the original, I guess without

WADE LONG - CROSS EXAMINATION - BY MR. HARRISON

1 permits.

2 Q And they took that out?

3 A Oh, yeah. They took it out.

4 Q So they put it in and took it out?

5 A Correct.

6 Q But there were other problems that were
7 created by the marina that are just marina
8 problems, and you are working through those; is
9 that what you are saying?

10 A Yes, but we're not talking about no decks or
11 nothing.

12 Q No. No. We're not getting into all that.
13 Just for what it's worth, it's in evidence. The
14 jury can make what they want of it.

15 We have alleged in this case that what you
16 had is permissive use. I'll read these documents
17 and ask you one quick question about it.

18 This is Donald Kettner. He is writing, to
19 what appears to be, you, Wade Long, Chris Kiser,
20 and Tim Kettner. So Donald Kettner writing to you,
21 Chris Kiser, and Tim Kettner, your partners, as you
22 testified, in TnW.

23 It says: Gentlemen, apparently my request to
24 fix your lines isn't on top of your list of
25 important issues, but I can assure you, it's at the

WADE LONG - CROSS EXAMINATION - BY MR. HARRISON

1 top of mine. I see this as a clear threat to my
2 livelihood, as well as of the livelihood of 40-plus
3 people who we employ. I've tried to be reasonable
4 to communicate and to give adequate time to make
5 the repair to the hanging fuel line. I find this
6 manner of handling business on your end completely
7 unacceptable and unprofessional. Please accept
8 this e-mail as you're eviction notice. I want all
9 lines and tanks removed from TNT and More property
10 by Sunday, October 25, 2020. I will be advising my
11 attorney of this matter Monday morning. If the
12 lines and tanks are not removed by the end of two
13 weeks, I fully intend of filing a lawsuit. Signed
14 Donny Kettner, president, TNT and More.

15 And then Tim Kettner down at the bottom
16 simply responds -- there is no other responses to
17 this part -- where Mr. Kettner replies to Donny:
18 Received. Thank you.

19 So is this the -- I mean, you were on this
20 e-mail?

21 **A** I think I remember that. There were several
22 ones, but that was one where they are trying to
23 uproot us and run us off the property. And Tim
24 told Donny what to do. Am I supposed to remove the
25 fuel tanks and lines because of the fussing and

WADE LONG - CROSS EXAMINATION - BY MR. HARRISON

1 fighting and shut the business down when we are on
2 a \$1.1 million loan together that we're both
3 responsible for and all pieces of property? Would
4 that make a lot of sense? I don't cut my right arm
5 for my left.

6 Q I'll read the next line from Donald Kettner,
7 October 8 of 2020, three days before that. Donny
8 Kettner writing to you again, Chris Kiser, Mr.
9 Kettner.

10 Gentlemen, it's been a couple of weeks since
11 I informed you of the broken conduit and exposed
12 fuel lines. I've been told that they would be
13 fixed, and obviously not that hasn't been done.
14 This is a huge concern for the safety of my
15 restaurant and the environment. If they are not
16 fixed by the close of business Saturday,
17 October 10, I will expect all lines and tanks
18 removed from the property. I cannot afford to
19 jeopardize the restaurant, Donny Kettner.

20 Seems to indicate to me that Donny Kettner
21 had concerns?

22 A He did. I remember when me and Chris went
23 down to double check and when Rosco Whitley
24 installed a two-inch black iron fuel line, it was
25 all piped and threaded on the location of the job.

WADE LONG - CROSS EXAMINATION - BY MR. HARRISON

1 He put it in. I don't remember if it was 20 or
2 30-foot sections. If you can imagine two to
3 two-a-half-inch black iron pipe, he put it inside a
4 sleeve. He painted it with an oxidized primer with
5 red paint to keep it from rusting. But he also put
6 it with a clean out in case the two or
7 two-and-a-half inch black iron into a 4-inch PVC.
8 And 4 inch PVC with sunlight on it, I don't care
9 how much you strap, over time -- I mean, docks, you
10 can look at them now and how they have moved
11 tremendously. The casing around it settled, and if
12 the glue joints opened up, the pipe didn't. So I
13 took a Jon boat and re-strapped the whole entire
14 PVC pipe. Looking at it, it appeared that it was
15 broken at certain locations where the tide gets
16 high and pushed it up and snapped it. But me and
17 Chris and I addressed it.

18 Q Thank you.

19 (Defendants' Exhibit 8-9 marked.)

20 Q (BY MR. HARRISON) I'll read it for you. This
21 was October 1st of 2020. This is you talking about
22 the same issue you were just talking about. You
23 were writing Donny Kettner on the 1st. This is a
24 week, week-and-a-half before the other e-mails.

25 You write to Donny. You say -- and, by the

WADE LONG - CROSS EXAMINATION - BY MR. HARRISON
1 way, your partner Chris and Tim is on this. Donny,
2 I'll touch base with you tomorrow by lunch. I'm
3 talking with Nick Baxtrum's boss. If we don't get
4 it worked out, it will be gone by the 4th.

5 Was that the 4th of September or 4th of
6 October you're referring to?

7 **A** What was going to be gone?

8 **Q** You tell me. Again, we're talking about the
9 fuel tank?

10 **A** Right.

11 **Q** We were just talking about -- Donny, I'll
12 touch base with you tomorrow by lunch -- this is
13 October 1st -- I'm talking with Nick Baxtrum's
14 boss. If we don't get it worked out, it will be
15 gone by the 4th?

16 **A** Oh, I was talking about -- if I'm not
17 mistaken, it was a long time ago -- that I would
18 have to pull my tank out --

19 **Q** No. This is the jet ski hut.

20 **A** Oh, I'm sorry. I thought we were still on
21 fuel tanks. Sorry.

22 **Q** No. It's okay.

23 **A** So that's when I told you I did talk to Nick
24 both times and made several trips to the county. I
25 did tell Donny that. I wanted to stay in good

WADE LONG - CROSS EXAMINATION - BY MR. HARRISON

1 graces. That is shortly after that time or
2 whatever that David Jordan and Tommy told me I was
3 good as long as I did the fuel tank. That was the
4 same time.

5 Q So it did, eventually, get worked out?

6 A No. It got towed off. That is what we were
7 talking about earlier, and I got arrested.

8 Q You said: If we don't get it worked out, it
9 will be gone by the 4th.

10 Did you remove it on the 4th?

11 A Of what?

12 Q I don't know.

13 A It went on for a while.

14 Q What were you talking about when you said the
15 4th? This was dated October 1st. Were you
16 talking about October 4th?

17 A I honestly don't know what I was talking
18 about at this time. But I did contact Nick, I
19 remember that. It was about the jet ski hut. We
20 worked on it for a while before anything got done.
21 It was going back and forth.

22 MR. PLAYER: That is 2020?

23 MR. HARRISON: October 1 of 2020.

24 MR. PLAYER: Yeah.

25 (Defendants' Exhibit 10 marked.)

WADE LONG - CROSS EXAMINATION - BY MR. HARRISON

1 **Q** **(BY MR. HARRISON)** We talked about Horry
2 County complained about the tanks and fuel, and you
3 said you knew they got tickets for those things?

4 **A** Yes. They informed me of it.

5 **Q** This is in evidence. Does that look like the
6 right tickets, Horry County tickets? I'll read
7 them for you.

8 **A** Yes. How much were they?

9 **Q** I'll read everything on these. I don't know
10 that they have a fine amount. But these are
11 tickets going to be issued by Horry County. It's a
12 uniform ordinance summons entered as Defense
13 Exhibit 10. That shows that the fines associated
14 with the structure without permit were written to
15 TNT and More, Inc., slash, Donald Kettner. Not to
16 Mr. Long.

17 **A** Was there a fine amount on there?

18 **Q** There is not. It just says we need to appear
19 at trial. Let me see. I'll look through and see
20 if there is any amount.

21 (A brief pause in the proceedings.)

22 **Q** **(BY MR. HARRISON)** We paid it. I think this
23 is what you are looking for. Case history from the
24 Conway Magistrate Court. TNT and More, Donald
25 Kettner. It says the offense building code

WADE LONG - CROSS EXAMINATION - BY MR. HARRISON
1 violation, first offense, violation date there, and
2 says guilty. Disposition date was May of 2022, and
3 fine amount total was \$500. Is that about right?

4 **A** Yes, sir.

5 MR. PLAYER: Was that a defense --

6 (Defendants' Exhibit 11 marked.)

7 **Q (BY MR. HARRISON)** This is magistrates court,
8 County of Horry, 15th Judicial Circuit. The
9 parties are the State of South Carolina, plaintiff,
10 versus Donald Kettner and TNT and More, Inc.,
11 defendants. This is an order -- I'm going to read
12 a piece of -- this is signed by Judge Bradley
13 Mayers. It says: Therefore, it is hereby ordered
14 that the defendants after the Court's acceptance of
15 their guilty plea -- referring to the guilty plea
16 we were just talking about -- hereby has 30 days
17 from the date of this hearing, or until June 3 of
18 2022, to comply with the violation -- it gives the
19 same number we just looked at -- by removing the
20 un-permitted building structure from its property.

21 So this is an order from the court telling my
22 clients to remove it from their property?

23 **A** Yes, sir, it is. And we have an order before
24 that stating not to remove it, from a judge.

25 **Q** I got you. But that was an order? This is

WADE LONG - CROSS EXAMINATION - BY MR. HARRISON

1 an order?

2 **A** Yes, sir, it is an order.

3 **Q** This is thick. I'll ask you one question
4 about this document. All I really want you to do
5 is I need you -- and this is -- bear with me. Make
6 sure this is the right policy. This is an
7 insurance document, and I won't let you read this
8 because of your eye issues.

9 **A** Is that Mr. Salisbury?

10 **Q** Yeah, Sansbury, Rhett.

11 **A** Sorry, Sansbury.

12 **Q** You signed this document -- and I won't make
13 you do this. It is in evidence. There is a
14 question in this document that asks what type of
15 entity are you. The box is checked "other than a
16 joint venture." Can you explain to me why you
17 would have checked "other than a joint venture"
18 when you have alleged that we are in a joint
19 venture on your insurance application?

20 **A** I think that is the one that was done in the
21 previous one. I tried to do it the same way.

22 **Q** So you did this not once, but -- the entire
23 time you've had the same basic insurance; is that
24 right?

25 **A** No, sir. Tim previously did all of the

WADE LONG - CROSS EXAMINATION - BY MR. HARRISON

1 insurance up until I took care of it, the
2 insurance, October 12, 2020. It lapsed over, and I
3 don't think we were supposed to renew it until
4 January or February of '21. Rhett reached out to
5 me, and Missy with Hub International, and sat down,
6 and we signed it and paid him in full for the
7 insurance. I told him we were not operating -- I
8 did not own the jet skis. We put air on the policy
9 as well, told him what was going on, and I thought
10 I was in good graces, and I've always had it.

11 Q But why did you check the box that said
12 "other than a joint venture"?

13 A That is how the previous one was. I think it
14 was LLC or something.

15 Q Because you are an LLC, right?

16 A Yes.

17 Q But you checked the box that said "other than
18 joint venture," and you did not that not once, but
19 multiple times?

20 A I think I did it three, four times since I've
21 done it. And then he wanted us to be on Crab
22 Catchers' policy, and Crab Catchers to be on our
23 policy.

24 Q Understand.

25 Mr. Long, I have asked for the taxes, and I

WADE LONG - CROSS EXAMINATION - BY MR. HARRISON

1 have here tax returns for 2016 for TnW. Here is a
2 tax -- incorporated as an LLC, right?

3 **A** Yes, sir.

4 **Q** And I have a tax return for TNT, which is
5 also incorporated as a corporation?

6 **A** Yes, sir.

7 **Q** These are the only taxes I have for any
8 entities. Any other taxes you haven't produced?

9 **A** No, sir, not that I'm aware of.

10 **Q** So I've got taxes for TNT, taxes for TnW.
11 Where are the taxes for the joint venture?

12 **A** Like I said, prior to 2020, I didn't do
13 nothing. Tim handled that. When I took over, I
14 turned everything to Kim Bryant at Bryant's
15 Accounting. She had the full records. There
16 wasn't no two sets of books or notes on paperwork.
17 I gave her all of the information to the accounts,
18 and she got what she needed to make things right.

19 **Q** Do you still use Ms. Bryant?

20 **A** I do still use her.

21 **Q** Does the corporation still use her?

22 **A** I think they do, yes.

23 **Q** Do you know if Tim Kettner or Donny Kettner
24 any of my clients use Kim Bryant?

25 **A** Unless they switched. They've used her for

WADE LONG - CROSS EXAMINATION - BY MR. HARRISON
1 years. They are the ones that got me to use her.

2 Q So she basically did all of your taxes,
3 individually and professionally, and you think that
4 that is the same for them?

5 A Not unless they switched companies. Because
6 I used to see her there all the time. She would
7 bring theirs checks and stuff.

8 Q And you have no idea why there is no tax
9 filings for a joint venture?

10 A No, sir.

11 Q But you are not alleging that these are tax
12 filings for the joint venture, are you?

13 A No, sir. That would be a Kim question.

14 Q If taxes didn't get paid, is that going to be
15 a problem?

16 A Yes, sir, it would.

17 Q And you have used Ms. Bryant for years. Do
18 you think she would make that big of an error?

19 A I wouldn't think that so. I like Ms. Kim. I
20 haven't had no issues, no, sir.

21 Q But if your taxes didn't get paid and she did
22 them, are you going to have a problem with her?

23 A We'll be in trouble.

24 Q You would be in trouble, wouldn't you?

25 A Yes.

WADE LONG - CROSS EXAMINATION - BY MR. HARRISON

1 (Defendants' Exhibits 12-13 marked.)

2 Q (BY MR. HARRISON) Mr. Long, not much more.

3 Maybe five minutes.

4 A You have to worry about him, not me.

5 (Defendants' Exhibit 14 marked.)

6 Q That's right.

7 To save people time, this is going to be
8 Defense 14, a series of deeds. This is a series of
9 deeds that shows the ownership of these lots that
10 are on this plat map. That covers every TMS number
11 at issue. The TMS number is the tax map serial
12 number on the deed, so it tells you which one of
13 these lines up with which one of these. There is
14 no dispute, is there, Mr. Long, that you only own
15 that .75 acres, right? You only have one deed that
16 says you own that, right?

17 A That's correct, but a minute ago you made me
18 read one that says 1.5.

19 Q Right. That's what you claimed, but on here
20 it says .75?

21 A Yes, sir.

22 Q And the rest of the deeds that I have in my
23 hand do not have your name on them in regards to
24 these properties back here that we own. Your name
25 wouldn't be on a property we own, would it?

WADE LONG - CROSS EXAMINATION - BY MR. HARRISON

1 **A** No, sir.

2 **Q** TnW is not on these deeds, except for the
3 property you own, this front piece?

4 **A** That's correct.

5 **Q** Ownership in South Carolina is by deed, isn't
6 it? You buy a house, you get a deed?

7 **A** Yes, sir.

8 **Q** When you buy a house, do you get a plat?

9 **A** I don't think so.

10 **Q** I got you. So when you -- you bought a house
11 before, Mr. Long?

12 **A** I have. Several places. Normally have a
13 survey done. I've been in the process of doing
14 combination plats. But the whole reason that was
15 done to join the lands together and move the
16 property lines. I can't help what's deeded now. I
17 know what was supposed to be deeded to the company,
18 and the paperwork and documents showed what was
19 supposed to be ours to operate, but it never became
20 that.

21 **Q** I got you. But are you --

22 **A** I'm not arguing --

23 **Q** You are not saying these deeds are incorrect
24 or that they have been altered or changed in any
25 way?

WADE LONG - CROSS EXAMINATION - BY MR. HARRISON

1 **A** No, I don't think so.

2 **Q** And deeds are what you want when you close on
3 a piece of property, right?

4 **A** Yes.

5 **Q** You are not going to leave that closing
6 without a deed, are you?

7 **A** No.

8 **Q** Just a couple of question. You heard me say
9 to these jurors, who have been patient, that a
10 joint venture requires control and shared profits.
11 You put up a lot of testimony here, Mr. Long. Did
12 you share profits?

13 **A** No, sir. Never got a profit.

14 **Q** Did you share control?

15 **A** No. Certain things we made all decisions on,
16 but we never shared no control.

17 **Q** So if you need to share profits and you need
18 to share control to have a joint venture in South
19 Carolina, do you have a joint venture with my
20 clients?

21 MR. PLAYER: Objection; calls for a legal
22 conclusion.

23 THE COURT: It does call for a specific legal
24 conclusion. I'll sustain your objection.

25 MR. HARRISON: Try it another way, Your

WADE LONG - CROSS EXAMINATION - BY MR. HARRISON

1 Honor.

2 THE COURT: Okay.

3 MR. HARRISON: And I'll withdraw my question
4 on that.

5 Q (BY MR. HARRISON) Mr. Long, you've heard me
6 say you are going to have to have shared profits
7 and shared control. Let's be clear, because that
8 is why we are all here, because this joint venture
9 agreement, right?

10 A Yes, sir.

11 Q You are an honest man. You say you are
12 honest.

13 A Yes.

14 Q You are telling these jurors right here and
15 now -- I want to be clear -- you did not share
16 profits with my clients, TNT?

17 A I don't recall sharing any profits.

18 Q And you did not share control with my clients
19 individually, did you?

20 A No, we just made decisions. I didn't really
21 control me, and they didn't control us.

22 MR. HARRISON: Nothing further, Your Honor.

23 THE COURT: All right. Ladies and gentlemen,
24 it's right after 5 o'clock. We're going to break
25 for the evening. Hope you have a good night and

WADE LONG - CROSS EXAMINATION - BY MR. HARRISON

1 get good rest. Be back here at 9:00 a.m. Don't do
2 any research. Do not discuss this with your
3 husband, wife, children, grandchildren,
4 grandparents, anything like that. I want to thank
5 you for your patience and your attention today.
6 We'll see you in the morning.

7 (The jury exits at 5:09 p.m., and the
8 following is heard out of the presence of the jury.)

9 THE COURT: Anything else for the record?

10 MR. PLAYER: No, Your Honor.

11 THE COURT: Be here tomorrow at 9:00 and get
12 started at 9:30.

13 MR. HARRISON: Quick question. In order to
14 speed this up for the Court, I cut a bunch of
15 documents out. In order to speed it up, to hand
16 this young lady what she needed for exhibits, I
17 gave her my copies. So can I -- is anybody going
18 to have any objection to me swapping out copies for
19 copies that don't have my notes?

20 MR. PLAYER: No. That is preferable.

21 MR. BELLAMY: We put all of our exhibits in
22 the record, but not all are marked, correct?

23 THE COURT: You want to -- get with Natalie
24 in the morning and mark the rest of those, but make
25 sure Mr. Player understands what those numbers are,

JUNE 13, 2024

1 so if he wants to references them as well.

2 MR. HARRISON: I'll get with my staff.

3 (WHEREUPON, THE PROCEEDINGS FOR JUNE 12, 2024
4 CONCLUDED.

5 (THE FOLLOWING WAS HAD ON JUNE 13, 2024 OUT
6 OF THE HEARING OF THE JURY.)

7 THE COURT: Keep your seats.

8 Sorry I made you guys wait. I had a marshal
9 I had to get with.

10 Are we ready to proceed?

11 MR. RICHTER: Yes, sir, Your Honor.

12 MR. HARRISON: Yes, Your Honor.

13 MR. PLAYER: Do you want to mention Tim's
14 issue?

15 MR. RICHTER: Just to call it to the Court's
16 attention, Mr. Kettner's mother is having health
17 issues. She's been taken to the hospital. He may
18 have to take a phone call and excuse himself in the
19 courtroom.

20 THE COURT: That's fine.

21 MR. RICHTER: And he may have to depart and
22 return to the trial Monday, if that is okay?

23 THE COURT: That would be fine.

24 MR. RICHTER: If he did, would you mind
25 telling the jury --

WADE LONG - CROSS EXAMINATION - BY MR. RICHTER

1 MR. PLAYER: No objection, obviously.

2 THE COURT: Okay. I will definitively.

3 Thank you.

4 Let's bring them in.

5 (The jury enters at 9:46 a.m., and the
6 following is heard in the presence of the jury.)

7 THE COURT: Do we have one more -- there you
8 go. Thanks.

9 Ladies and gentlemen, you may be seated.
10 We'll continue with cross examination of Mr. Long.

11 Mr. Long, I remind you, you are still under
12 oath.

13 THE WITNESS: Yes, sir.

14 MR. RICHTER: May it please the Court?

15 THE COURT: Yes, sir.

16 MR. RICHTER: Good morning, folks.

17 **CROSS EXAMINATION**

18 **BY MR. RICHTER:**

19 **Q** Good morning, Mr. Long.

20 **A** Good morning.

21 **Q** Mr. Long, I've waited patiently to have this
22 conversation with you. I've listened to your
23 criticisms about my client, and I thought the best
24 way to approach this is may start with some things
25 that you and I can agree on before we get down to

WADE LONG - CROSS EXAMINATION - BY MR. RICHTER
1 disagreeing.

2 **A** Yes, sir.

3 **Q** So let's see how far we can go agreeing with
4 one another. You would agree with me that Tim
5 Kettner is a hard-working man, wouldn't you?

6 **A** Very hard worker. One of the top ten hard
7 workers I've ever known.

8 **Q** I call him the hardest working man in this
9 courtroom. You can agree or disagree with that
10 one.

11 **A** I wouldn't say he's the hardest working one,
12 but he's up there, yeah. There may be equals one
13 in here.

14 **Q** He reminds me of my dad in a sense that I
15 would call him a just-shut-up-and-work man. Do you
16 like that description: Just shut up and work?

17 **A** I do. Get it done. Whatever it takes to get
18 the job done.

19 **Q** In your deposition, you called him a humble
20 man. That is how he struck you when you first met
21 him?

22 **A** Very humble man. Down to earth like myself.
23 We would wear basketball shorts and T-shirts all
24 the time.

25 **Q** And he wasn't too proud for any work, was he?

WADE LONG - CROSS EXAMINATION - BY MR. RICHTER

1 **A** Not at all.

2 **Q** He would break down a fish, clean toilets?

3 **A** Didn't matter what it was, he would do it.

4 **Q** And you respected that about him?

5 **A** Very much so.

6 **Q** And you respected him?

7 **A** I did.

8 **Q** And you liked him?

9 **A** I did.

10 **Q** And you trusted him?

11 **A** I sure did.

12 **Q** To be clear, when you all met on the dock
13 braking fish down, he owed you nothing?

14 **A** He didn't owe me one thing.

15 **Q** But he liked you, too, didn't he?

16 **A** He did.

17 **Q** And you developed a friendship?

18 **A** Very good friendship.

19 **Q** And let's talk about TNT for a second, Crab
20 Catchers. You would agree with me that Tim worked
21 tirelessly to build Crab Catchers from something of
22 a dump to a really nice restaurant?

23 **A** He did.

24 **Q** And you saw the work he put into that, didn't
25 you?

WADE LONG - CROSS EXAMINATION - BY MR. RICHTER

1 **A** Sure did.

2 **Q** You saw the hours he put in, right?

3 **A** Yes, sir.

4 **Q** Sweat, blood, sacrifice, right?

5 **A** Yes, he did.

6 **Q** He's the first-guy-in-last-guy-out kind of
7 guy, right?

8 **A** One hundred percent.

9 **Q** And you would agree with me, also, that you
10 contributed nothing to the success of TNT, the
11 restaurant, right?

12 **A** No. Only success I feel like I attributed to
13 TNT was my knowledge with the fishing and the boat,
14 and I brought in literally thousands of pounds of
15 fish to provide for that restaurant and create an
16 experience that their customers could see on the
17 dock, to provide that restaurants with freshest
18 product possible. I feel that was -- over the
19 years, that's what made Crab Catchers. That is why
20 people came, the attraction, knowing that my boats
21 were bringing the fish in. We televised it. We
22 aired it all over TV, commercials. Tim was the one
23 in the commercials talking about the freshest fish,
24 Wade here, 34 days on his Long Shot charter boats
25 collecting fish for Crab Catchers, fried, blackened

WADE LONG - CROSS EXAMINATION - BY MR. RICHTER

1 or grilled, any way you want it.

2 Q Mr. Long, I'm not disrespecting what you do.
3 I have a lot of respect for what you do. You were
4 a fish vendor for Crab Catchers?

5 A I was a poor fishermen.

6 Q They bought fish from you?

7 A Yes, sir.

8 Q And you benefitted from them buying fish from
9 you?

10 A Sure did, yes.

11 Q And they don't buy fish anymore?

12 A No, sir. Stopped in August of 2020.

13 Q And they are just fine?

14 A They're just fine. I don't think they have
15 the visitors they used to have, but they are still
16 doing just fine.

17 Q They are buying fresh fish from somewhere
18 else? This is Myrtle Beach, South Carolina.

19 A Yeah. It still gets delivered on my docks.

20 Q You would agree with me at the time you all
21 met, TNT, Crab Catchers did not need a marina?

22 A No. They were a restaurant.

23 Q They were doing just fine, right?

24 A They were doing great, yes, sir.

25 Q And this marina -- this marina concept, this

WADE LONG - CROSS EXAMINATION - BY MR. RICHTER

1 was a dream of Tim's, that became a dream of you
2 all's?

3 A That is true.

4 Q As you all talked about this dream, you and
5 Tim talking about the dream, Donnie ain't talking
6 about the dream, is he?

7 A No, sir. But we talked about this dream, and
8 the others were -- you know, Tim filled them in on
9 the dream, how it would benefit both parties. Like
10 I said before -- and I hate this word that has
11 gotten us in so much trouble -- joint venture. I
12 told you guys my definition of it, whether it is
13 marriage, relationship, you are a couple working
14 together, sharing equal parts. I know you are
15 supposed to share profits and equal responsibility,
16 but that is how we worked.

17 We built the dock, the parking lot, and Crab
18 Catchers -- and we benefitted, too, from the
19 parking lot, but Crab Catchers benefitted from the
20 parking lot. Crab Catchers' business excelled even
21 more when we had the docks because hundreds of
22 people -- if you realize how busy our Intracoastal
23 Waterway is, we are the closest location to the
24 Little River inlet, the closest restaurant, a
25 marina, located to the ocean. We're 3 miles. It

WADE LONG - CROSS EXAMINATION - BY MR. RICHTER
1 makes the perfect place for water sports, perfect
2 place to pull up on your boat to have a cocktail or
3 eat fresh fish dinner. So it was a great
4 combination and business plan for both of us.

5 Q Are you done?

6 A Yes, sir. I was just answering your
7 question.

8 Q No, sir. My question was -- my question was:
9 When you and Tim were talking about the dream,
10 Donnie wasn't in those conversations. Yes or no?

11 A No.

12 Q When you and Tim are talking about the dream,
13 Robert is not in the conversation. Yes or no?

14 A No, sir.

15 Q When you are all talking about the dream,
16 Justine is not in the conversation. Yes or no?

17 A No.

18 Q Casey is not in that conversation, right?

19 A No.

20 Q And as you all talked about your all's dream
21 for a marina, the dream kind of expanded. It's,
22 Hey, let's add jet skis, let's add an ice cream
23 shop. How about a harbor master's suite? How
24 about a future restaurant? So this is you and a
25 friend breaking down fish, talking on the dock

WADE LONG - CROSS EXAMINATION - BY MR. RICHTER
1 about a dream that grows, and that becomes TnW,
2 right?

3 A That's correct.

4 Q And TnW is Tim and Wade, right?

5 A That's correct.

6 Q Now, you all tried to get a loan without Crab
7 Catchers, didn't you?

8 A No, sir, we didn't.

9 Q You didn't?

10 A Everybody was informed before we got the loan
11 about this big joint venture and all the aspect
12 moving parts of it, because we created a business
13 plan for the bank. So everyone was aware what we
14 were getting into before we got this money.

15 Q Let me ask the question again. It's a yes or
16 no.

17 A Sorry.

18 Q Before the loan that we'll talk about, the
19 1.1 million loan, before that loan, you and Tim
20 tried to get a loan by yourselves without the
21 involvement of Crab Catchers?

22 A I'm not aware of that, no, sir.

23 Q Now, this loan -- let's talk about this loan.
24 You told me in your deposition -- you said it over
25 and over -- a joint venture ain't my words. That

WADE LONG - CROSS EXAMINATION - BY MR. RICHTER

1 is just words that some lawyer put in my mouth,
2 right?

3 **A** I said that was Tim's word and Henri's word.
4 They phrased that word a lot, and I heard it a
5 million times.

6 **Q** When was that Tim's word?

7 **A** From the very beginning.

8 **Q** How many times did he say the word "joint
9 venture" to you? How many times?

10 **A** I don't recall. I've heard it a few times,
11 but it wasn't something that I kept notes of.

12 **Q** You kept note of one, though. In June of
13 2016, there is a single text while you are talking
14 about the dream where Tim says, hey, we'll have a
15 joint venture together. You and me Wade, right?

16 **A** Uh-huh.

17 **Q** And that's the only time he ever uses those
18 words; isn't that true?

19 **A** That I remember. I haven't gone through
20 every single message or remember every single
21 conversation, but there were several that we were
22 copied into as a team, all of us, Crab Catchers
23 crew.

24 **Q** There is a single text June of 2016 between
25 you and Tim where Tim says, Let's be a joint

WADE LONG - CROSS EXAMINATION - BY MR. RICHTER

1 venture, right?

2 A Yes, sir.

3 Q And then on July 1st, within a month, TnW
4 is formed, right?

5 A Yes, sir.

6 Q And that is the joint venture that Tim was
7 talking about with you, that you and I are going to
8 get together and do something together?

9 A Okay.

10 Q And that is something is called "TnW," right?

11 A Yes, sir.

12 Q And now this loan, this 1.1 billion (sic)
13 dollar loan, you would come here today and say in
14 front of this Court, well, here's my proof that
15 we're all a joint venture, look at this loan. I'm
16 going to ask you to look at the loan through a
17 different lens.

18 A Okay.

19 Q I think that loan is a love letter from a son
20 to his father. You know why I didn't think that?

21 A Why is that?

22 Q Because I think Tim went to Donny and said
23 the only way we can get this done, my dream, is to
24 use the collateral of Crab Catchers to get the loan
25 to allow me to pursue the marina. And his son

WADE LONG - CROSS EXAMINATION - BY MR. RICHTER
1 consented to allow that to happen. Isn't that how
2 the loan came to be?

3 **A** I don't -- I don't agree with you how that
4 happened like that. But, yes, I do agree as far as
5 Crab Catchers being collateralized, TnW More's
6 property collateralized. And before me and Tim got
7 started, before any loans, I wrote the checks of my
8 hard-working money that I served for years, about
9 \$150,000, and Tim told me how much I had to write
10 my first check for. It was like \$75- or \$76,000
11 that I wrote and made payable to Crab Catchers.
12 Because me and Tim got started our own money first
13 before the loan, and that's what we bought the
14 first property with. So our money -- we had about
15 \$200-, \$250,000 on the line too that we would have
16 lost. So we did have sweat and value into what we
17 had, land and cash.

18 **Q** Let me approach it from a different way. If
19 -- are you contending that there is a joint venture
20 between the restaurant and the marina? Are you
21 contending that there is a joint venture between
22 the restaurant and the marina? Yes or no, sir?

23 **A** Yes.

24 **Q** If there is a joint venture, what are the
25 percentages of ownership in that joint venture?

WADE LONG - CROSS EXAMINATION - BY MR. RICHTER

1 What are the percentages of ownership?

2 A In this service is what I was trying to
3 explain yesterday --

4 Q Answer my question and then say whatever you
5 want.

6 A I'm trying to answer it.

7 Q My question is: What are the percentages of
8 ownership in the joint venture between the
9 restaurant and the marina? Answer that, and then
10 explain any way you want to.

11 A Okay. I don't have no ownership showing no
12 percentage owed in TNT, nor do they have any
13 ownership showing in TnW More. I was under the
14 impression we got the loan as a joint venture, and
15 we're altogether. It is like husband and wife.
16 I'm married to my wife, but we file our taxes
17 separate, but we are a team and put everything in
18 the pot. I haven't seen no profit, and with
19 everything with this litigation and stuff we
20 haven't made no profit but paying bills. But we
21 did share equal parts, but we've never shared a
22 profit.

23 Q So this jury is left to figure out what was
24 intended here, and so you can't tell them today if
25 these are the two players to the joint venture or

WADE LONG - CROSS EXAMINATION - BY MR. RICHTER

1 how we are even whacking the thing up, can you?

2 **A** I guess it is a good father/son relationship.
3 These guys signed all of this on for me, for me to
4 get my own personal -- the recreational fisherman,
5 for myself? A \$1.1 million loan? To me, that
6 sounds really stupid, and this is a professional
7 company of bankers of 25, 30 years we're dealing
8 with. You have to provide a lot of documents and
9 factual information to a bank to get a loan. If
10 any of you guys ever got a loan, especially that
11 large, they run you through the wringers with an
12 appraisal, cash flow, what you are doing, your
13 future business plans. I mean, they stayed in
14 communication with us all the time.

15 And even when -- even when we are having a
16 rough time with Covid -- what was it, February or
17 March 2020 -- and copied all of the Crab Catchers
18 crew, sent a letter to the bank -- I think it was
19 -- I don't remember which one, Geoff or Michelle,
20 but someone, and said we're all struggling at the
21 time. He got our payments put off for like six
22 months because we were all struggling. That was a
23 rough time. My fishing boats were tied up at the
24 dock for two months -- can I finish?

25 MR. RICHTER: Your Honor, I want him to

WADE LONG - CROSS EXAMINATION - BY MR. RICHTER

1 explain his answer, but every question is not a
2 dialogue. If he could be responsive to the
3 question and limit his answer to be responsive to
4 the question.

5 THE COURT: Let's ask the question again and
6 see if he --

7 Q (BY MR. RICHTER) You cannot tell the jury
8 today how it is that we're supposed to determine
9 what the percentage of ownership is in this alleged
10 joint venture, can you?

11 A No, sir.

12 Q And so let's take a "for example." It is
13 true that every year from 2016 until today, TnW has
14 lost money, correct?

15 A Yes, sir.

16 Q It is true that every year from 2016 to 2024
17 the restaurant has made money, right?

18 A I'm assuming they make money. I haven't seen
19 the books. Mr. Harrison said they were the ones
20 with the money, so I'm assuming they made a lot of
21 money.

22 Q If you are a joint venture, you are not going
23 to suggest to this jury that what is fair is that
24 the restaurant should owe money to the marina for
25 every year, from 2016 to 2024? You are not going

WADE LONG - CROSS EXAMINATION - BY MR. RICHTER

1 to say that, are you?

2 **A** Ask me the question again.

3 **Q** If you are joint venture partners, and that
4 restaurant has made money every year from '16 to
5 '24, you're not going to suggest to this jury that
6 that restaurant should somehow split its money with
7 you guys at the marina, are you?

8 **A** No. I never asked for that. And Tim handled
9 the books.

10 **Q** If you are a joint venture, and the marina
11 has lost money every single year from '16 to '24,
12 you're not going to suggest to that jury, You know
13 what, TNT, the restaurant, should have to pick up
14 half of our losses because that's our joint venture
15 partner over there? You are not going to say that,
16 are you?

17 **A** No.

18 **Q** And you are not going to say that because it
19 sounds crazy, doesn't it?

20 **A** Yes, sir.

21 **Q** Okay. Let's talk about your business, Long
22 Shot Charters. I have seen some of your YouTube
23 output. It's fantastic. I think you are probably
24 a terrific fisherman, and I mean that in all
25 sincerity.

WADE LONG - CROSS EXAMINATION - BY MR. RICHTER

1 **A** Thank you.

2 **Q** But for the entire time that the marina
3 exists, I would contend that any fish you caught,
4 you caught on the back of that man over there. If
5 you are out fishing --

6 **A** I didn't understand that. On the back of
7 that man?

8 **Q** On the back of Tim Kettner.

9 **A** Explain that.

10 **Q** If you are out fishing, someone is at the
11 fort manning the operation, right?

12 **A** Yes, sir.

13 **Q** Someone is handling the day-to-day?

14 **A** Yes, sir.

15 **Q** Someone is managing employees?

16 **A** One hundred percent.

17 **Q** Someone is pumping fuel?

18 **A** That's correct.

19 **Q** That man is Tim Kettner?

20 **A** Yes.

21 **Q** And I know it is a lot of work because you
22 told the jury that after you had to start doing
23 that work, you had to all but give up your YouTube
24 channel. You just don't have the time to produce
25 it anymore?

WADE LONG - CROSS EXAMINATION - BY MR. RICHTER

1 **A** I said after the litigation. Running the
2 marina is really not that hard. But the jet ski
3 business and the day-to-day operation, yes. It
4 involves -- it's like running any business, but
5 it's really hard to run a business when I'm trying
6 to operate a marina and a business with four or
7 five people, that is constantly, you know -- I
8 don't want to get in a fight with, don't want to
9 get shot at, getting locked off of my gates, my
10 dock, my signs are cut. It is embarrassing. My
11 people are like, I'm locked out there, locked out
12 here. It is like a half-run business. So, yes, I
13 struggle. But I built that business. I did the
14 parking lot. I got all of the fishing boats there.
15 I got all of the business there besides the jet ski
16 customers. I helped with the website, everything.

17 And not only was out there fishing and
18 working, the bank don't care if the wind blows 30
19 or 40 knots. I don't know if you have ever been
20 out in 10-, 15-foot swells, but it's not fun, or to
21 be away from your kids for four, five days at a
22 time. But I did that to catch fish for the
23 restaurant. Tim's like, We're out of fish, Wade,
24 you need to go fishing. If I didn't go fishing --
25 he's like, We need fish. They use a tremendous

WADE LONG - CROSS EXAMINATION - BY MR. RICHTER

1 amount of fish. I was very happy to have a
2 business and with the relationship with him.

3 So, yes, I had to fish and still make a
4 living. He had to run a restaurant and still make
5 a living. But he managed the people. I did all of
6 the front-end work building the place, and he
7 managed the people, so it was an equal
8 relationship.

9 Q Sounds like Long Shot Charters is in a joint
10 venture with the restaurant.

11 A We did all of our marketing together, all of
12 the billboards on 17 together for thousands of
13 millions of people to see. Long Shot TV, Crab
14 Catchers, Little River Water Sports. We did
15 business cards together. Long Shot TV, 10 percent
16 off of Crab Catchers. We put it in thousands of
17 hotels and rental properties up and down the Grand
18 Strand.

19 Q Does that make you joint venture with the
20 restaurant?

21 A No, but it makes us like partners. We
22 supported each other. I supported all of Donny's
23 fights -- all of his fights. I got X amount of
24 rooms a year, and he supported me with my
25 television show. We supported each other and

WADE LONG - CROSS EXAMINATION - BY MR. RICHTER

1 worked together as a team in a working
2 relationship.

3 Q Okay. The loan, I'm not contesting that.
4 That loan makes you co-borrowers. You are
5 definitely co-borrowers, aren't you?

6 A Yes, sir.

7 Q And you're co-guarantors, too. That is what
8 you told the bank?

9 A Yes, sir.

10 Q So what the bank knows about who you are and
11 what you are is it knows you are co-borrowers and
12 co-guarantors?

13 A Yes, sir.

14 Q But the bank was never told that you are a
15 joint venture with anybody, were they?

16 A I'm not sure. It's been quite a while ago.
17 That is a question for the bank.

18 Q Let me ask it just to you. You never told
19 the bank that you were a joint venture with
20 anybody, did you?

21 A To be honest with you, I don't know that I
22 used those exact words, but they knew that we were
23 in -- how I phrase it, my definition, a
24 partnership, a marriage. We're doing multiple
25 things together as one. We came together as one as

WADE LONG - CROSS EXAMINATION - BY MR. RICHTER
1 a team to make this whole venture happen. In what
2 aspect, I couldn't tell you. That is a question
3 for them, for you to run across with them.

4 Q What you told me in your deposition, and you
5 told me repeatedly, was the words "joint venture"
6 were never your words. You even said you would
7 argue with your lawyer when she put it in your
8 mouth, that you never thought that?

9 A Well, that's a heck of a gift for, like, I'm
10 just a fisherman and Tim loves me as a son. How
11 many people here have had a gift of \$1.1 million,
12 but you still got to make a payment? And if they
13 didn't feel responsible for their part, why would
14 they pay their \$2,000 a month and I pay my \$5,033
15 a month for many years and worrying about making
16 that payment?

17 Q Well, I would ask you: Why didn't you take
18 the time to get a piece of paper and write down
19 what it is that you were going to do?

20 A I trusted Tim. He's the managing member of
21 the company. I followed his guys. He was the
22 managing member at the time of both companies.

23 Q He was the managing member?

24 A He was at the time, of both companies, that I
25 was aware of.

WADE LONG - CROSS EXAMINATION - BY MR. RICHTER

1 Q Turn to exhibit --

2 A And that's -- only time I became the managing
3 member is when we had a meeting of the minutes, and
4 I don't remember the exact date.

5 Q That is the only time?

6 A '21, '22. That I'm aware of, yes, sir. I
7 think I was just a member.

8 Q Take a look at Exhibit 17, Kettner 17, in
9 that notebook. There is already a version in
10 evidence, but this is the one we had. They read
11 the same.

12 A You said 17?

13 Q 17, sir. At the bottom, there is a Bates
14 stamp "Plaintiff Long 00405." Look for that
15 number, in 17, Page 405.

16 A I'm in 17. I don't see -- I see 00386. I
17 must be on the wrong page, I'm sorry.

18 Q You're good.

19 (A brief pause in the proceedings.)

20 Q (BY MR. RICHTER) This is the operating
21 agreement from when Mr. Kiser joined, and you all
22 became a third, a third, a third. And that was in
23 2018, right?

24 A I think so, yes.

25 Q June of 2018, you, Mr. Kiser, Mr. Kettner

WADE LONG - CROSS EXAMINATION - BY MR. RICHTER

1 became a third, a third, a third in the marina,
2 right?

3 **A** Yes.

4 **Q** And you all signed this agreement, this
5 operating agreement. I understand you have an
6 issue with your eyes, so I'll read it. It is
7 Exhibit B: "Description of each member's duties
8 and responsibilities." It says the same for all
9 three: "Tim Kettner: To manage, operate, and
10 direct the operation of the business." Do you see
11 that?

12 **A** Yes, sir.

13 **Q** "Thomas Wade Long: To manage, operate, and
14 direct the operation of the business," right?

15 **A** Yes, sir.

16 **Q** So it is true that at least since 2018,
17 whether you did it or not, you had equal managerial
18 and operational control over TnW? By your
19 agreement, you had equal managerial and operational
20 control over the business?

21 **A** Yes, sir.

22 **Q** Now, what you chose to do with it is a whole
23 other matter, right?

24 **A** Well, we always -- I mean, Tim kind of ran it
25 and, you know, I followed his lead or whatever he

WADE LONG - CROSS EXAMINATION - BY MR. RICHTER
1 says. But I had seen something whether it was
2 plainly listed manager, member, and member.

3 Q You had the authority under the agreement --

4 A We're supposed to act the same way -- I guess
5 we all had equal rights, but Tim was the final
6 decision-maker like at the bank or credit cards.
7 That is a proven fact when they told me he was
8 manager. I got locked out of all the stuff. He
9 was the main holder. He had like the final say-so.
10 He was the one authorized -- you know, it wasn't me
11 sending the letter. It was him, Hey, I'm
12 authorizing Donny to be a signer. I never did
13 that.

14 Q You chose that to happen?

15 A I trusted him.

16 Q He trusted you.

17 A We did.

18 Q Okay. All right. But don't be an absentee
19 owner and then come back and be critical of what
20 happened. Isn't that what happened in this case?

21 A No, sir. I've never been an absentee owner.
22 We wouldn't have the business we had if I didn't
23 fill the docks up and get the fuel. You make we
24 sound like I'm -- I hate to say this, but you make
25 me sound like I'm a deadbeat. I have to make a

WADE LONG - CROSS EXAMINATION - BY MR. RICHTER
1 living fishing.

2 Q No, sir. I think you are a hard-working guy,
3 to be clear. I think you are ungrateful. I do
4 think that. Had you ever said thank you to Tim
5 Kettner?

6 A Many times. And he has thanked me.

7 Q So 2020 hits, and the world is turned upside
8 down, right?

9 A Yes, sir.

10 Q We have Covid. No one knows what is going to
11 happen. It is a very stressful time, right?

12 A It is.

13 Q And it was stressful for you, too?

14 A Yes.

15 Q And you wanted money. You needed money in
16 2020?

17 A I went to work. I never asked no one for
18 money.

19 Q You did ask Tim to buy you out of TnW in
20 2020?

21 A I asked him to buy me out when he was going
22 around and brought Steve Martin in, and I was
23 wanting to salvage mine and Tim's relationship and
24 my fishing relationship. I sold him several
25 hundred thousand dollars' worth of fish a year.

WADE LONG - CROSS EXAMINATION - BY MR. RICHTER

1 That is a lot of fish. I didn't want to lose that.
2 I've never been in a fight or argument with him but
3 one time, the very first time I introduced him to
4 Chris Kiser. I did not want to lose the marina,
5 but I thought it was better to save my
6 relationship, because he made the decisions, and I
7 wasn't going to go against him, you know, fighting.
8 So, yes, we did. He was bringing in three, four
9 different partners trying to buy everyone out, and
10 we didn't need no more. We already had enough.

11 Q Isn't it true that you and Mr. Kiser wanted
12 out in 2020?

13 A Yes. We had Roger Roy draft an agreement up.
14 I don't know if it was 2020 or '18 offer '19, and
15 it was for a really cheap amount. And Chris was
16 the one that was better -- I feel -- like at
17 talking to Tim about stuff like that. He carried
18 it in there, and Tim balled it up and threw it at
19 him and said, That won't happen, boys. Guess we'll
20 see you in court. Remember, I have an ace in the
21 hole. And that is what Chris told me.

22 Q Did you think it would preserve your
23 relationship with Tim to tell the bank that he was
24 embezzling money?

25 A No. No, it didn't.

WADE LONG - CROSS EXAMINATION - BY MR. RICHTER

1 **Q** Do you think it would preserve your --

2 **A** I don't want to say those words at all, or I
3 didn't ever want to accuse Tim of that, but he was
4 taking funds. Can I track how much? Absolutely
5 not.

6 MR. RICHTER: Objection, Your Honor.

7 MR. PLAYER: He asked a question.

8 THE COURT: You did ask the question.

9 **A** I'm sorry, but my personal belief -- guys, I
10 would not be sitting here. I would not be taking
11 all this time away from my business, my family. I
12 just want to get my life back.

13 Yes, I think Tim took funds, quite large
14 amount of funds. And the reason why -- you say,
15 Oh, it is speculation or how do I believe it.
16 Well, I actually seen the checks. I don't know
17 what they are for. I don't know where the cash
18 went that was paying for things. I didn't run the
19 books. But I'm not a hundred percent dumb butt. I
20 knew the business we did and the amount of fuel we
21 sold. And not that I was looking to get money out
22 of -- I never asked for a draw out of the
23 company -- never. I never asked for a loan even
24 when I was down and out. I never borrowed money
25 from no one.

WADE LONG - CROSS EXAMINATION - BY MR. RICHTER

1 **Q** Let's be clear on this point. For
2 three-and-a-half years and \$500,000 in legal fees,
3 you have accused that man of stealing hundreds of
4 thousands of dollars?

5 **A** Yes, sir.

6 **Q** And two days ago you abandoned that claim in
7 its entirety?

8 **A** Yeah, because you came over to my attorney
9 and you worked it out. I was still --

10 **Q** No, sir. No, sir. On the record, you didn't
11 have to abandon those claims. You abandoned those
12 claims.

13 **A** I didn't want to abandon nothing. It was you
14 guys talking, Hey, let's drop this charge here.
15 I'm here.

16 MR. HARRISON: Objection. They are talking
17 about counsel conversations outside of the
18 courtroom.

19 THE COURT: Move on from this line of
20 questioning, please.

21 **Q** **(BY MR. RICHTER)** Let's talk about TnW over on
22 your oversight. There is no question that Tim left
23 in September of 2020?

24 **A** Yes.

25 **Q** And overlapping in time, his parents were

WADE LONG - CROSS EXAMINATION - BY MR. RICHTER

1 ill. He had to go home to take care of them, and
2 he left?

3 A He sure did. He leaves every year around
4 September.

5 Q This time he left because he had parents very
6 ill; you understand that?

7 A Yes. My dad died in 2020. My mom died in
8 '21.

9 Q So you don't blame him?

10 A No. I totally understand. He loves his
11 parents.

12 Q When he left about the same time, he also
13 transferred his ownership of the restaurant to that
14 group over there, didn't he?

15 A I think so, yes, sir.

16 Q So when he left, he no longer owns a
17 restaurant. He is still a one-third owner of the
18 marina with you and Kiser?

19 A Yes.

20 Q And now you are in the seat, and you are
21 running the show, right?

22 A Yes.

23 Q And I heard your testimony to the jury that
24 it did great under your watch?

25 A It did.

WADE LONG - CROSS EXAMINATION - BY MR. RICHTER

1 **Q** And if it wasn't for this lawsuit, it would
2 be doing really good?

3 **A** It sure would.

4 **Q** And it is the lawsuit you brought?

5 **A** It is, because -- let me ask you something.
6 If you have a multi-million dollar piece of
7 property, and how you value -- I don't care whether
8 it is on the water or oceanfront. Some pieces of
9 property you have to look at your business and what
10 that piece of ground and bring as far as future
11 potential. As far as an oceanfront piece of
12 property, an average person may look at it and say,
13 God, do we build a restaurant there that can gross
14 \$3-, \$4 million dollars, or do we build a 20-story
15 high-rise and sell the units for \$800,000 and turn
16 the project that is worth \$3-, \$4 million to 250?

17 We had a very valuable piece of property that
18 we're on the hook for, for 1.1 million. That is a
19 lot of money. We have to pay that back, and we're
20 trying to work the property to benefit us to
21 provide us the most income and potential property.
22 It was the restaurant, the marina, the jet skis,
23 the ice cream -- it was a combination of
24 everything. We were like a set of Dominoes. Crab
25 Catchers had a great business. We were building a

WADE LONG - CROSS EXAMINATION - BY MR. RICHTER

1 great business with water sports, fishing boats.

2 We sent the business to Crab Catchers. They
3 sold more product, their revenue went up, I sold
4 more fish. It went back to us to riding the jet
5 skis, the fishermen bought a lot of fuel, and we
6 were like the perfect combination.

7 Q TnW today still owns what it owns, right?

8 A Yes.

9 Q Okay. And TNT still owns what it owns?

10 A That's why I'm here. I don't understand --

11 Q Because you want a piece of what they own?

12 A That is why we are here to let you guys
13 figure this out. I'm not a professional. I'm
14 telling you what we agreed upon. It is not right,
15 and that is why I'm here. Yes, I spent a half a
16 million dollars in attorney's fees, over \$2 million
17 in losses, hundreds of thousands of dollars in
18 specialists coming in, permits, tanks, and all of
19 this stuff we had to redo when we got turned into
20 all of these government agencies after the lawsuit
21 started. I wasn't expecting all of that additional
22 cost. But, yes, we would be doing fine if it
23 weren't for all of that.

24 Q You all had a meeting -- TnW had a meeting --
25 you, Tim, and Chris -- about the lawsuit. Tim

WADE LONG - CROSS EXAMINATION - BY MR. RICHTER

1 said, I vote against it. I don't want to do a
2 lawsuit, right?

3 **A** I reckon he wouldn't, he's the one --

4 **Q** He would want to sue himself --

5 **A** Right.

6 **Q** And if you and Chris outvoted him, did you
7 consider at the time --

8 **A** Yes, we outvoted him, because he told us to
9 let the loan go in default, he wouldn't pay another
10 dollar. We told him we needed money. Let's get
11 another loan. He said, I'm not signing nothing.
12 That was a recorded conversation meeting of the
13 minutes. We had two of them. So what would you do
14 if you had to pay 1.1 million? Would you let it
15 go? Not pay a penny and get bad credit?

16 **Q** Let's talk about that. He guaranteed that
17 loan?

18 **A** I did, too.

19 **Q** And the loan comes due in November, right?

20 **A** November 29.

21 **Q** \$795,000?

22 **A** Yes.

23 **Q** You would have \$500,000 more if you didn't do
24 the lawsuit, right?

25 **A** We would.

WADE LONG - CROSS EXAMINATION - BY MR. RICHTER

1 **Q** And when the bank comes knocking -- there is
2 all this talk about foreclosure and all. Banks
3 don't want property. They want guarantors with
4 money. Do you have \$795,000 in November to pay
5 them?

6 **A** I have my part to pay them, yes. We tried to
7 pay this loan off multiple times. We said we would
8 pay their part off. Me and Chris have tried to pay
9 our portion off, but no one will tell us what that
10 exact amount is. The bank will not allow us to buy
11 each other. They want the note paid off. We have
12 tried to pay our part off for the last two years.
13 We are prepared to pay our part.

14 **Q** The bank doesn't care about your part.

15 **A** I understand that. That's why we're
16 together.

17 **Q** Those guarantees are full and unconditional?

18 **A** Yes.

19 **Q** Meaning the bank can go to any of you or all
20 of you, right?

21 **A** Yes. If I have to pay it off, I have to.

22 **Q** And if they come knocking at Tim's door, he
23 has to pay it off?

24 **A** Yep.

25 **Q** Did it occur to you that suing TNT -- if you

WADE LONG - CROSS EXAMINATION - BY MR. RICHTER

1 sell hundreds of thousands of dollars of fish to
2 TNT, maybe they wouldn't want to buy fish from you
3 anymore?

4 **A** That is correct, yes, it is. And I had to
5 weigh my options: What was more valuable, a couple
6 hundred of thousands of dollars in fish, or several
7 millions of dollars in a future business revenue?
8 There ain't no marina on the water -- you show me
9 one -- that is what you are making -- there ain't
10 one for sale. The closest one I know is over
11 five-and-a-half million, and it's a mile from us,
12 built in 1953.

13 **Q** Let's talk about the fees, the \$500,000. You
14 didn't pay that.

15 **A** Pay what?

16 **Q** \$500,000 to lawyers.

17 **A** The company did, and I paid \$101,000 -- I
18 don't remember the exact amount. But when we first
19 got going, Ms. Henri took a lot of money from us
20 and used all of the company money paying her bills
21 and mortgage, and I paid -- me and Chris split it
22 equally. I don't remember the exact number. Like
23 50 to a hundred thousand dollars from our own
24 pockets.

25 I didn't want to write no checks out of the

WADE LONG - CROSS EXAMINATION - BY MR. RICHTER

1 company to myself to reimburse to get myself in an
2 embezzlement situation. So Henri approved it. We
3 had all of the documents, and she said we would get
4 our money back. And even on in litigation the
5 company, TnW More, paid for litigation, and it
6 exhausted the funds again. So now I'm back up to
7 somewhere a little over a hundred thousand dollars
8 in personal money for pay attorney's fees.

9 Q So the money that was paid by TnW, 33 cents
10 of every dollar paid to a lawyer by TnW --

11 MR. PLAYER: We're not asking for attorney
12 fees. If this is an argument that allows us to
13 recover them, he can keep them going. But I don't
14 understand when we have not asked for them. I
15 don't know why we're doing this.

16 MR. RICHTER: I misunderstood the plaintiffs'
17 presentation because I heard him go through these
18 numbers specifically. If I now understand on the
19 record that there is no request for attorney's
20 fees, I'll move on. Is that where we are at?
21 There is no request for attorney's fees?

22 MR. PLAYER: In terms of the promissory
23 estoppel --

24 MR. RICHTER: No. No. In terms of anything.
25 Are we asking for attorney's fees or not?

WADE LONG - CROSS EXAMINATION - BY MR. RICHTER

1 MR. PLAYER: I don't know of any legal
2 recourse where we can ask for them, Ronny.

3 MR. RICHTER: Then I'll move on.

4 Q Let's talk about this alleged joint venture.
5 You would agree with me that there is not a piece
6 of paper that I can look at that will tell me who
7 the players are, right?

8 A You are correct.

9 Q There is not a piece of paper that I can look
10 at that would tell me what the purpose is, right?

11 A A piece of paper you can look at to tell you
12 what the purpose?

13 Q Yes.

14 A Besides the loan, that's all I know of. And
15 the agreement we got between me, Tim, and Chris. I
16 don't have a piece of paper.

17 Q There is not a piece of paper that will tell
18 me how we will manage this thing, who is going to
19 do what, right?

20 A No. We just met in person, and Tim managed
21 it.

22 Q Not a piece of paper that will tell me how we
23 are going to capitalize it, right? How we are
24 going to pay expenses, right?

25 A Yes, sir.

WADE LONG - CROSS EXAMINATION - BY MR. RICHTER

1 **Q** There is not a piece of paper that will tell
2 me what do we do about future capital calls? What
3 do we do about expenses? What do we do if we want
4 to sell it? What do we do if someone wants to
5 leave it? There is none of that, right?

6 **A** No, sir.

7 **Q** And these folks are left to fill in all of
8 those blanks for us. Is that what you are asking?

9 **A** Only I know about the cash call is what the
10 contract -- if you had put money in, you need to
11 run it across the other partners. I think one of
12 you guys thought that was ridiculous, just do it.

13 **Q** Let's be clear on this point. TNT had no
14 right to control TnW, right?

15 **A** Yeah. They didn't really control us.

16 **Q** And TnW had no right to control TNT?

17 **A** No, but we would get together and talk about
18 certain things, you know, I think we need to do
19 this or that. But, no, we got along great as a
20 team.

21 **Q** I'm talking about the right to control.

22 **A** No, sir.

23 **Q** Could you all go over to the restaurant and
24 say, We want to reset the prices on the menu?

25 **A** No, sir.

WADE LONG - CROSS EXAMINATION - BY MR. RICHTER

1 **Q** Could you set the hours?

2 **A** No, sir.

3 **Q** Could you hire and fire the employees?

4 **A** No, sir.

5 **Q** Could they come over to you all and say, We
6 think you are charging too much per hour for the
7 jet skis, or, we want to do this for the charter
8 fishing?

9 **A** I mean, they would come over and say, hey, I
10 don't like that boat or that captain there, let's
11 get him off the dock.

12 **Q** Did they have the right to control the
13 operation of your business?

14 **A** No, sir.

15 **Q** Let's talk about the cart before the horse.
16 Before doing this thing, whatever it is, nothing is
17 ever reduced to writing, right?

18 **A** You are correct.

19 **Q** Before even borrowing 1.1 billion (sic)?

20 **A** Million.

21 **Q** 1.1 million. You never even sat down and put
22 in on a piece of paper on what you were going to
23 do?

24 **A** Yes, we did. We formed a business plan for
25 the bank. The bank asked us to put something down

WADE LONG - CROSS EXAMINATION - BY MR. RICHTER

1 and make notes. I think they still have that
2 information.

3 Q You built the docks before you even got the
4 loan money?

5 A We built the docks -- yeah, that was also the
6 money that me and Tim had. We built the docks and
7 the parking lot to capitalize on our summer or we
8 would open up making money, not just build
9 something and being in all of this debt up to our
10 eyeballs.

11 Q You built the docks before you even had a
12 permit to put the docks in the water?

13 A No. Wayne Beam was working on the permits,
14 and he sent Mr. Kettner, Tim, I've done dumber
15 things, proceed on. He recommended us to go ahead
16 and build them.

17 Q You bought and placed a 10,000-gallon fuel
18 tank on the property without a permit?

19 A We had a permit.

20 Q Is that a yes or a no, sir? Did you put a
21 10,000-gallon tank on the property without a
22 permit?

23 A Yes.

24 Q Did you put a building on the property
25 without a permit?

WADE LONG - CROSS EXAMINATION - BY MR. RICHTER

1 **A** Yes, sir.

2 **Q** This business you were going to operate, you
3 had no prior fuel sales experience, right?

4 **A** No, sir.

5 **Q** No prior marina ownership experience, right?

6 **A** I've had a lot of experience docking a boat.
7 A marina, fuel, I didn't have experience. Docking
8 a boat, I've had a lot of experience, yes, sir, my
9 whole life.

10 **Q** Yeah. Well, I can rent a hotel, but I can't
11 run a hotel. You never owned and operated a marina
12 before this, right?

13 **A** No, I hadn't.

14 **Q** Never operated an ice cream shop, right?

15 **A** Never operated an ice cream shop.

16 **Q** Never operated a jet ski business, no harbor
17 master's shop?

18 **A** No.

19 **Q** With your business, Long Shot, you have Long
20 Shot Charters, Long Shot TV. It is just you,
21 right?

22 **A** I have Long Shot Charters. It's one hundred
23 percent mine, yes.

24 **Q** And Long Shot TV?

25 **A** Long Shot TV, me and Chris are owners in that

WADE LONG - CROSS EXAMINATION - BY MR. RICHTER

1 company.

2 Q But as closely related as those businesses
3 are, you appreciate that you got to keep them
4 separated, right?

5 A Yes, sir, but they weren't together, too. We
6 were working together for years promoting each
7 other. It goes with what we are doing.

8 Q So does that mean you have a joint venture
9 together?

10 A I don't know what you want to call it.

11 Q Let's talk about this idea of the joint
12 venture between the restaurant and the marina.
13 Your contention before this jury is that a
14 restaurant that has been in business and successful
15 for 25, 30 years wanted to partner with a
16 yet-to-be-built marina consisting of 12 slips, with
17 no operational history of any kind, whatsoever?
18 That's the joint venture, right?

19 A Yes.

20 Q This is really what we're talking about, an
21 oral promise to transfer real property, right?

22 A Yes.

23 Q And we're also talking about an oral promise
24 that is going to take you more than a year to
25 perform, right? You are not going to get this all

WADE LONG - CROSS EXAMINATION - BY MR. RICHTER

1 done in a year, are you?

2 **A** No, sir.

3 **Q** I'm assuming you file tax returns every year
4 personally?

5 **A** I do.

6 **Q** And I'm assuming you would have included in
7 those tax returns the K1s you got from TnW?

8 **A** Tim handled all of the taxes from Kim, and
9 once that is turned over, my wife handles the tax
10 stuff for me.

11 **Q** But you would have gotten a K1 every year?

12 **A** Yes.

13 **Q** And that would accompany your tax return?

14 **A** Yes.

15 **Q** And on your tax return you would have sworn
16 under penalty of perjury that it was correct?

17 **A** Yes.

18 **Q** And so what was also correct on your tax
19 return was the K1 that you attached to it, right?

20 **A** Yes, sir.

21 **Q** And so if your return is correct, then the
22 returns of TnW that produced that K1 must,
23 therefore, be correct as well, right?

24 **A** Yes.

25 **Q** We saw all of these annual applications for

WADE LONG - CROSS EXAMINATION - BY MR. RICHTER
1 insurance where year after year -- as you apply for
2 insurance, there is a box you check, what are you?
3 Are you a partnership? Are you a corporation? Are
4 you an LLC? Are you a joint venture -- hold on.

5 **A** Sorry. I didn't mean to cut you off.

6 **Q** Year after year, those applications indicate
7 that TnW is not a joint venture, correct?

8 **A** Yes, sir.

9 **Q** And that's true even for the applications
10 that you filled out after filing this lawsuit
11 contending that it is a joint venture, right?

12 **A** Yes, sir.

13 **Q** And year after year, when TnW files its tax
14 returns, it does not file a return as a joint
15 venture, does it?

16 **A** No, sir.

17 **Q** And it does not file a return as a joint
18 venture even after you filed a lawsuit contending
19 that; is that right?

20 **A** You are correct.

21 **Q** Now, you are having abandoned the claims that
22 Tim took money. I think what we're left with is
23 your continued claim that he breached duties to TnW
24 by conspiring with Donny to hurt the business,
25 right?

WADE LONG - CROSS EXAMINATION - BY MR. RICHTER

1 **A** One hundred percent.

2 **Q** And I saw a bunch of pictures. I didn't see
3 a picture of Tim's truck parked in front of any
4 tanks or sheds, did I?

5 **A** No. No, sir, you didn't. Can I say more?

6 **Q** No. We'll get it all, I promise you.

7 I didn't see a picture of a backhoe blocking
8 access to anything, did I?

9 **A** No, sir, you didn't.

10 **Q** I didn't see Tim putting chains on anything,
11 did I?

12 **A** No, sir.

13 **Q** And all of that behavior was after he's left,
14 after he's residing in Wisconsin, and after he sold
15 the restaurant to that crowd over there?

16 **A** Yes.

17 **Q** I did see a text after the breakup where Tim
18 says, You are the enemy and don't buy fish from
19 that man. You've seen those texts?

20 **A** Oh, yeah.

21 **Q** TnW doesn't sell fish, does it?

22 **A** No, TnW don't sell fish.

23 **Q** And whether Tim told them not to buy fish
24 from you or not, you understood when you sued them
25 they probably are not going to buy fish from you?

WADE LONG - CROSS EXAMINATION - BY MR. RICHTER

1 **A** Totally understand.

2 **Q** That is a business decision you had to make?

3 **A** Yeah, I had to weigh my options.

4 **Q** So let's get to the heart of this claim.

5 Something else that bothers me about it. Tim

6 didn't need to do TnW, did he?

7 **A** He didn't.

8 **Q** If you put a dollar in TnW, he put a dollar
9 in, too?

10 **A** Yes.

11 **Q** If you spent an hour on the docks, he spent
12 an hour or more?

13 **A** Yes.

14 **Q** If you signed a loan and guaranteed it, he
15 signed the same loan, didn't he?

16 **A** Yes.

17 **Q** Whatever TnW owns today, he owns a third of
18 the same thing, right?

19 **A** Yes.

20 **Q** But I think what you are suggesting to the
21 jury is that he would burn his house down to watch
22 yours smoke?

23 **A** He would.

24 **Q** So he's just going to lose all of that?

25 Whatever time, love, money, sweat, sacrifice went

WADE LONG - CROSS EXAMINATION - BY MR. RICHTER
1 into TnW, he's going to burn that to the ground?

2 **A** Yes. Just like I had to weigh my options, Do
3 I lose a couple hundred thousand dollars in fish
4 sales a year, or do I try to save a multi-million
5 dollar piece of property and my business? He's
6 weighing his options, Do I lose this and my
7 restaurant, or fight and put Wade out of business?
8 He has called the shots with TNT, Donny and sons,
9 the new partners for the last four years, to
10 execute them -- to run them like a trained Army to
11 put me out of business. That was their goal from
12 day one.

13 I have done as much as I want to -- you know,
14 cuss them out, flip them off, or dig my heels, but
15 I have not done one thing to those people but mind
16 my business and work. I'm the one that's locked
17 out, people locked, signs cut down, every agency in
18 the world called on me. Do you know how hard it to
19 fight against all of that and keep your doors open?

20 **Q** The business is operating today?

21 **A** What?

22 **Q** Your business is operating today?

23 **A** Barely. We have been shut down for months,
24 and we've lost millions of dollars in revenue. I
25 have struggled.

WADE LONG - CROSS EXAMINATION - BY MR. RICHTER

1 **Q** You told me you would be doing great if it
2 wasn't for the lawsuit?

3 **A** We would. That's what I'm telling you. But
4 the lawsuit and the stopping of them, TNT has
5 hindered us from doing that business. I have
6 leased the jet ski location out. We could have
7 been running the jet skis. I could sell fuel to
8 the people pulling up. I can't have a chance of
9 them pulling up and getting ran off or blocked off.
10 Our people coming into the parking lot, they can't
11 get in. The ones that have stayed with me is the
12 ones that has watched me grow up and believed in
13 me. The same people that supported Tim when him
14 and his family came down from Wisconsin back in the
15 day. He was an outsider.

16 I mean, here in Horry County a lot of people
17 stick together and support each other. That is
18 what you do. When they came down here, they
19 treated them like family. I have five sisters and
20 four brothers, and not just them, the other family,
21 the Jules, the Longs, the Hendersons. They took
22 Tim in and supported him. He didn't even know what
23 a sea bass was. They showed him and helped him.
24 Sent tons of people to eat and support him like
25 they were best friends. That is what helped

WADE LONG - CROSS EXAMINATION - BY MR. RICHTER
1 getting Crab Catchers started.

2 Q Isn't it true there was a point of time that
3 Tim offered you 10 percent?

4 A He did, for \$500,000.

5 Q And is it not true -- maybe 500 was
6 obstruction, but it didn't happen because they
7 didn't want you as a partner?

8 A No.

9 Q Those people sitting there didn't want you to
10 be an owner of the restaurant?

11 A Not at all. He was more than glad for me to
12 be an owner. He was going to allow me to pay him
13 back -- I didn't have to pay him \$500 up front,
14 just like the rest of them. He sold them all. I
15 can tell you what the percentage are of every one
16 of them, and they paid him over years. Look at
17 their tax returns. Look what they got to write-up
18 paying Tim. He took it off of their profits and
19 the business to bring the gross number down to him
20 out on his taxes, but hurt them. He was going to
21 let me buy my way through the company off of the
22 back of the business. If I made a hundred grand --
23 if the business made a hundred, okay, you have
24 10 percent, I'll take this much out. I wouldn't
25 see no money, but over in time and years, I would

WADE LONG - CROSS EXAMINATION - BY MR. RICHTER
1 own a stock of 10 percent.

2 Q Isn't it true that when the idea that you are
3 going to own a piece of the restaurant, what
4 happened was Donny said I don't want to be partners
5 with Wade?

6 A Not at all. I don't remember that at all.
7 That is not true.

8 Q And Casey and Justine and Robert said the
9 same thing?

10 A I don't remember that at all. We got along
11 great.

12 Q Getting along great and business partners --

13 A I'm telling you how I felt and how they
14 treated me. They never had one harsh word with me.
15 And Justine got along great. She wrote checks
16 after this lawsuit. I got along with a lot of
17 employees there, but after this, none of the
18 employees were allowed to talk to me.

19 Some of the people there -- for example, when
20 I got locked out of the bathrooms, Elvis Containers
21 supplied me with porta potties. Jed, the manager,
22 he said, Wade, I'm sorry. I've done business --
23 they have threatened to pull my business if I
24 service your porta potties. He said what I'm going
25 to have to do is save these toilets and take the

WADE LONG - CROSS EXAMINATION - BY MR. RICHTER

1 stickers off the side. I bought the toilets. He
2 took the stickers off, and I videoed it.

3 They told the food rep that I've been dealing
4 with for years, Paul, their food rep that sold them
5 food for 15 years and cut fish -- we worked
6 together. I got him a lot of accounts, and he got
7 me a lot of accounts. At a restaurant I have, I
8 called him about selling me food. He said, Wade,
9 I'm sorry, I'm not allowed to sell it to you. If I
10 sell you food, they are going to stop doing
11 business with me, I lose -- that's exactly what
12 happened. That's the truth. That is how I got
13 threatened with all kinds of people.

14 **Q** I've heard you say it more than once. You
15 had no trouble with Donny until after all this went
16 down?

17 **A** No, I didn't have no trouble.

18 **Q** And it is when you sue people and accuse
19 people of stealing, bad things happen?

20 **A** Yes, sir.

21 **Q** Yeah. They don't like it, right? People
22 don't like to be sued and accused of stuff?

23 **A** No, sir, but you cross the law and do bad
24 intentional things that possibly could hurt
25 someone -- do you pull fuel tanks over? Do you cut

WADE LONG - CROSS EXAMINATION - BY MR. RICHTER

1 signs down?

2 Q Are they permitted fuel tanks?

3 A Do you lock people out of property?

4 Q Do you have permission to be there?

5 A Yes, sir, I do.

6 Q So when the police showed up and escorted you
7 off, it wasn't --

8 A I got arrested on my own location, on my own
9 equipment.

10 Q You sure you behaved yourself that day?

11 A Yes, sir. Yes, sir. I never got off of my
12 tractor until he got there. The sergeant, he
13 walked up. There was like 15 witnesses. It was
14 all videoed. Can see it yourself. He walked up to
15 me, the one officer, Wade, stay there.

16 Mr. Lavender, real nice to me. I didn't as much
17 say a cuss word, raise my temper, nothing. He
18 walked to me and said, Are you Wade? Yes, sir, I
19 am. He said, Put your hands behind your back,
20 you're under arrest. I said, Yes, sir, what am I
21 getting arrested for?

22 Q Let me talk to you about a joint venture.
23 Say, hypothetically, that you are a farmer, and I
24 have a food packing business. There is a big
25 government contract out there, and we get together

WADE LONG - REDIRECT EXAMINATION

1 and say, You know what, you grow the food, I'll
2 pack it, and we'll service that contract and rack
3 up the profits. Nothing like that ever happened in
4 the context of this, did it?

5 **A** No, sir.

6 MR. RICHTER: Those are all of the questions.
7 Thank you, Your Honor.

8 THE COURT: Counsel.

9 **REDIRECT EXAMINATION**

10 **BY MR. PLAYER:**

11 **Q** All right, Wade. I'm back, and we'll clarify
12 some things. I promise we won't be here all day.

13 They keep talking about control, and you kind
14 have given a couple different answers in last two
15 days. What happened when nobody was there to run
16 the ski huts and gas pumps, when you were all in
17 good graces? Who ran them?

18 **A** Well -- you are talking when Tim left?

19 **Q** If Tim wasn't there and you weren't there,
20 who went and ran the pumps?

21 **A** Brett and V. They ran the fuel pump.

22 **Q** But not Brett and V.

23 **A** After hours, Tim trained -- I don't know if
24 it was Tim or Donny or who trained employees at
25 Crab Catchers to pump fuel and to do the sales, and

WADE LONG - REDIRECT EXAMINATION

1 they would run the cred card upstairs on their
2 credit card processor or take cash, however they
3 paid.

4 Q All right, Wade --

5 A Four or five were trained to do the fuel.

6 Q So they were running your business when you
7 weren't there; is that what you are saying?

8 A Yes, sir.

9 Q Is that not control?

10 A Yes, sir.

11 Q In order to run the marina, you had to have
12 mortar built bathrooms?

13 A Yes, sir. That was the biggest complaint.
14 That is what about crippled us. We had to have
15 brick and mortar restrooms, and we would have never
16 got the marina permit to build or do anything if we
17 didn't have Crab Catchers' bathrooms, because we
18 did not have a structure built. And porta potties
19 at the time -- or even now -- were not sufficient
20 enough.

21 Q And those bathrooms were in Crab Catchers?

22 A Yes, sir.

23 Q Were you able to go in there and use it when
24 they closed their door?

25 A No, I didn't even go on the property. Wasn't

WADE LONG - REDIRECT EXAMINATION

1 allowed to use the bathrooms, office, nothing.

2 Q So they controlled your bathrooms?

3 A Yes.

4 Q You built your tanks on their land, and they
5 sent you a letter in October of 2020 saying, Get
6 off my land. Is that not control, Wade?

7 A Yeah. They were controlling the property.

8 Q Okay.

9 A That was the original thing we had to use the
10 land as parking, and that is what we put all the
11 time and energy into getting the parking lot and
12 everything right for both of us to use, and then we
13 got locked out and --

14 Q And then we talked about the operating
15 agreement, and that everybody had equal shares, and
16 everybody could run things. Mr. Richter avoided a
17 very important provision. Who was the tax matter
18 member for the LLC; do you know?

19 A Who was what now?

20 Q Look at 9.4 and read -- well, never mind. I
21 forgot, Wade is not -- you hold it. That says the
22 tax matters -- the member who handles all tax
23 matters for the LLC is Tim Kettner, correct?

24 A Yes, sir.

25 Q Doesn't say Wade? Doesn't say Chris?

WADE LONG - REDIRECT EXAMINATION

1 **A** No, sir.

2 **Q** Now, we're going to get to the good part:
3 The love letter. The lover letter from Donny to
4 his dad, right? That is what they say. Let's go
5 back to what was told to the bank. It is
6 Plaintiffs' Exhibit 15. If I put it up on the
7 screen, is that easier?

8 **A** Yeah.

9 (A brief pause in the proceedings.)

10 **Q** **(BY MR. PLAYER)** We'll try to do this without
11 the screen, and get into the details of Geoff, but
12 I did want to get into one provision before you got
13 off the stand. There it is right here, UCB-003.
14 You see where it says "subject property
15 description," right?

16 **A** Yes. I'll trust you now.

17 **Q** "Zoning requires one parking space per
18 hundred square feet of indoor space, and 150 square
19 feet of outdoor space for restaurants. The subject
20 property would require 43 parking spaces as-built.
21 The land area with the assignment is considered as
22 one. The subject restaurant would be
23 non-conforming due to parking shortage."

24 They couldn't operate without the parking lot
25 that he gave them. That's what they told the bank.

WADE LONG - REDIRECT EXAMINATION

1 MR. RICHTER: Objection to the testimony. I
2 think this is redirect.

3 MR. PLAYER: I apologize, Your Honor. And,
4 again, we'll go with this --

5 Q (BY MR. PLAYER) We'll go over this with
6 Geoff.

7 The mortgage, do you know what a mortgage
8 does?

9 A Yes, sir.

10 Q What does it do?

11 A A mortgage is what you take out with the bank
12 to sign a note to what you are going to pay for.

13 Q Well, that is kind of the promissory note.

14 A Yes.

15 Q But what is the mortgage?

16 A It lists all of the details and the facts.

17 Q But does it -- the mortgage secures the
18 property?

19 A Yes.

20 Q So the mortgage is what allows the bank to go
21 back and take the property if you don't pay the
22 loan off, right?

23 A Yes.

24 Q This is the mortgage for TNT's property. Who
25 signed it? There is only one signature, the other

WADE LONG - REDIRECT EXAMINATION

1 two are witnesses.

2 **A** Timothy, Tim.

3 **Q** No one else signed it? Nobody else signed
4 this document? None of those people they keep
5 pointing to signed the document that said, All of
6 our property we pledge to secure this loan, and it
7 was only Tim Kettner that did it?

8 MR. RICHTER: Your Honor, please. This is
9 redirect. If he wants to ask his witness a
10 question -- I'm objecting to the Counsel's
11 testimony to the jury.

12 MR. PLAYER: I will stop, Your Honor. I
13 apologize.

14 THE COURT: Just ask the question.

15 **Q (BY MR. PLAYER)** Again, they keep talking
16 about the arrest. I'll just ask one question:
17 What were you arrested for?

18 **A** I honestly don't know. I got arrested -- I
19 called for help. I was instructed earlier that day
20 from Officer Lavender, if you have any issues,
21 call. They had already been down there a half
22 dozen times. I'm sure -- I didn't call them down.
23 Other people called them down. I've never called
24 the cops. That is the first time I ever made a
25 mercy call in my life.

WADE LONG - REDIRECT EXAMINATION

1 **Q** We don't want to get back into it. That is
2 all we need to know.

3 And counsel for the defendants keep talking
4 about the joint venture, okay. When did the joint
5 venture end? Was it when they told you to get off
6 your property?

7 **A** That's why all this started. I got locked
8 out. I was told to get off, move my stuff. If I'm
9 not there, the business dies.

10 **Q** Did you and Chris have a meeting with Tim
11 where you tried to save things?

12 **A** We did.

13 **Q** And what happened in that meeting?

14 **A** It was always one way with Tim. You know, if
15 it wasn't what he liked, he wasn't scared to tell
16 you, it's his way or the highway, and do what you
17 boys got to do.

18 **Q** And the location where you put your fuel
19 tank, that piece of property, was that specifically
20 discussed in that meeting?

21 **A** Before, or you are talking about at the end?

22 **Q** I'm talking about before, before everything
23 blew up.

24 **A** Yes. That was discussed multiple times. I
25 did all of the work on it. I was the one that did

WADE LONG - REDIRECT EXAMINATION

1 the whole catch basin. I dug the catch basin. I
2 laid it out. Nick Nye did the plans. That is when
3 the fence -- there was a fence up. There was a big
4 fence up there for years, and you had Crab Catchers
5 facing back towards where the parking lot is now,
6 and Doc's house was on the other side of that
7 fence. We talked about it many times. We're just
8 not going to go there and dig something on
9 someone's else's --

10 Q Sure. My question is: Once you and Chris
11 confronted him about the problems with TnW, what
12 did Tim say about that piece of property?

13 A He just didn't like it. I think that is what
14 he was referring to as his ace in the hole.

15 Q Ace in the hole?

16 A That was his figure of speech. I don't know
17 really what he meant by that.

18 Q Okay. What is the Blue Crab Festival?

19 A The Blue Crab Festival is an event put on at
20 Little River. All different vendors, a lot of
21 arts, crafts, food, blue crabs. It used to be very
22 popular. They would steam them, live music. I
23 think there is somewhere between 40 to 50,000
24 people that attend, but it's been going on ever
25 since I was a kid. I think it is usually the

WADE LONG - REDIRECT EXAMINATION

1 second or third week in May.

2 Q Does it increase or decrease the amount of
3 people that are in Little River?

4 A Oh, my gosh --

5 Q Let me finish my question. She can't type
6 two. Is there more people or less people?

7 A A lot more people.

8 Q During the Blue Crab Festival, do the patrons
9 of Crab Catchers restaurant use your docks to pull
10 up and eat at Crab Catchers?

11 A One hundred percent. I don't even go down
12 there because -- I can show you pictures and
13 videos. Literally, some days -- it doesn't even
14 have to be a festival, there is so many people down
15 there you can't walk.

16 Q Before you built the marina and you paid for
17 the marina, could those people park their boats and
18 go into Crab Catchers?

19 A No.

20 Q They had how many docks?

21 A One.

22 Q Now, they have ten. So you have increased --
23 what did that do for their business in terms of
24 people coming off of the water?

25 A It definitely increases it by the waterway

WADE LONG - REDIRECT EXAMINATION

1 traffic in the summertime. Not the off-season, but
2 when the weather is beautiful, say April to
3 October, especially your key months of June, July,
4 and August, it is killer for the business.

5 Q Okay.

6 A And then you have -- there is another. You
7 have the fall fest, too. The Shrimp Fest in
8 October. It is a little smaller than Blue Crab,
9 but a very busy weekend, and then you have the boat
10 regalia before Christmas. You can't even get on my
11 docks there is so many people. The whole parking
12 lot is packed with them, and there is so many
13 people on my docks you can't even walk.

14 Q And those people are for Crab Catchers?

15 A They are there for Crab Catchers to eat and
16 drink, but also watch the boats. It is the best
17 location to watch it.

18 Q But it brings people in?

19 A Oh, tons of people, hundreds and thousands of
20 people.

21 Q Okay. Now, they always want to talk about
22 joint venture. I want to ask you, you know -- why
23 did you do this? Why did you decide to build a
24 parking lot for Crab Catchers and build a marina
25 down on the water?

WADE LONG - REDIRECT EXAMINATION

1 **A** Honestly, I liked Tim at the time. I liked
2 his family. We had a lot of good times, laughing,
3 joking, eating lunch. They worked hard. I worked
4 hard. I love the waterfront. That is where I was
5 born and raised and grew up. Spent every day of my
6 childhood on that waterfront. It just made me
7 feel -- I mean, closer to my family, and I seen a
8 lot of potential future in the business with the
9 restaurant to make the income, the charter boats,
10 jet skis, and the combination of everything. It
11 was like the perfect storm for success.

12 **Q** But did you do this out of the goodness of
13 your heart?

14 **A** No. Ain't no way I could go through all of
15 that trouble and get a loan out of the goodness of
16 my heart. I mean, we can be friends and don't have
17 to do this, but I did it for future business. I
18 was thinking that was going -- you know, will be
19 the last thing I would do. You know, I was set
20 there for life to manage and work and make a
21 living, and hopefully my kids can come into that.
22 It would be perfect. It would be right near their
23 home.

24 **Q** Did someone make a promise to you --

25 **A** Yes.

WADE LONG - REDIRECT EXAMINATION

1 **Q** -- to induce you to do that?

2 **A** Yes. I never would have done all of that.

3 **Q** What was the promise?

4 **A** We were sharing everything together. We are
5 using the land, docks, restaurant, bathrooms,
6 office. They were using our docks. We were
7 working together as a team. It was a perfect
8 thing.

9 **Q** But, specifically, what was promised in terms
10 of the land use?

11 **A** We had the parking for fuel tanks, we had the
12 land for parking to go to restaurants, build a
13 marina ship store.

14 **Q** My question is this: Did Tim Kettner own
15 that land that you were going to use for the
16 parking lot, which I showed you yesterday it was in
17 the name of TNT?

18 **A** Yes.

19 **Q** So how can Tim Kettner by himself make a
20 promise to use another company's land?

21 **A** Can't.

22 **Q** So if he can sign on a mortgage, he can make
23 a promise to you; is that what you understood?

24 **A** Yes, sir.

25 **Q** And you relied on that promise to invest this

WADE LONG - REDIRECT EXAMINATION

1 money and do the work?

2 **A** One hundred percent. I trusted Tim.

3 **Q** And that cost you a fair amount of money?

4 **A** Yes. A lot.

5 **Q** But more importantly, this case you sued to
6 stop them from breaking their promise. If they
7 break their promise and you can't use their land,
8 do you have a business?

9 **A** No, I have no business. I mean, all of these
10 agencies, DHEC and stuff, they are waiting for this
11 to be resolved. I had to have a restaurant up the
12 street write a letter to allow me to use their
13 restrooms, because even though I have porta
14 potties -- I think I have four of them for my
15 customers to use -- in the eyes of DHEC, they are
16 just kind of, you know -- they understand the
17 litigation, so they are thankful I'm at least doing
18 that.

19 But I have a restaurant that I had to take
20 pictures of and have them write a letter that I'm
21 allowed to use their restrooms for my customers.
22 But, yes, if I can't get to the park and use the
23 fuel tank and no land, I have no business at all.

24 **Q** One last issue that was a matter of confusion
25 yesterday. Mr. Harrison kept talking to you about

WADE LONG - REDIRECT EXAMINATION

1 were you injured before you filed the lawsuit, and
2 you said they didn't do anything until we filed;
3 you remember saying that?

4 **A** Yes, sir.

5 **Q** Were you talking about the original
6 complaint, the first one you filed?

7 **A** I'm talking -- I don't remember dates and
8 times. It is so much stuff. I'm telling you right
9 around when I took over, around October 12, after
10 that date is when everything got bad, and it is
11 amazing I'm still sitting here and didn't lose it.
12 But from that day forward is when my life was a
13 living heck, and I can barely make ends meet.

14 **Q** But you eventually filed -- you changed your
15 pleadings, correct?

16 **A** Yes.

17 **Q** So in 2022 is when you filed the last
18 pleading you filed, and in that, did you seek to
19 recover for them removing the shed from your
20 property?

21 **A** Yes.

22 **Q** So everything before moving the shed, you've
23 asked to recover in this case?

24 **A** Yes.

25 **MR. PLAYER:** No further questions, Your

WADE LONG - REDIRECT EXAMINATION

1 Honor.

2 THE COURT: Mr. Long, you can step down.

3 Ladies and gentlemen, we're going to take a
4 brief recess. Again, don't discuss any testimony
5 you heard or evidence. We'll be back with you in a
6 few minutes.

7 (The jury exits at 10:56 a.m., and the
8 following is heard out of the presence of the jury.)

9 THE COURT: All right. Take five minutes.

10 MR. HARRISON: Before we call the jury back,
11 and I don't know if you want to do it now or after
12 break, but we have motions to dismiss claims, do
13 some bifurcation. I don't know if you want to do
14 it now or come back before you call the jury in.

15 MR. PLAYER: I think it is fine we do it at
16 the DV stage because it is their counterclaim, not
17 my stuff. So we can do it all at the end.

18 MR. HARRISON: I mean, why would we wait?
19 Why not get this done to move along?

20 MR. PLAYER: I have four witnesses to get out
21 today, and that is tight.

22 MR. HARRISON: All I need is five minutes on
23 the record.

24 MR. PLAYER: That is fine.

25 THE COURT: Let's do it now.

WADE LONG - REDIRECT EXAMINATION

1 MR. HARRISON: Judge, we are going to move to
2 dismiss our counterclaims as to plaintiff TnW and
3 More for negligence. We are going to dismiss our
4 third counterclaim for negligence per se against
5 TnW and More. We would dismiss the
6 fourth counterclaim, tortious interference with
7 contract. And the fifth counterclaim, Your Honor,
8 against TnW and More, we would ask to dismiss the
9 breach of contract.

10 We would like to bifurcate --

11 THE COURT: Sorry. What was the third one?
12 Negligence, negligence per se?

13 MR. HARRISON: Negligence, negligence per se,
14 tortious interference with contract, breach of
15 contract.

16 We would like to move to bifurcate the claims
17 against TnW and More, Thomas Wade Long, and Clyde
18 Kiser for malicious prosecution, abuse of process,
19 and frivolous claims. We'll bifurcate those, as
20 well as the alter ego piercing the corporate veil
21 matter.

22 As to our crossclaims for Timothy Kettner, we
23 would bifurcate all crossclaims between us and Mr.
24 Kettner.

25 THE COURT: Mr. Richter, anything?

WADE LONG - REDIRECT EXAMINATION

1 MR. RICHTER: No. We agree with the
2 bifurcation. We are just seeing what the result is
3 and deal with that later.

4 MR. PLAYER: I think that the abuse of
5 process and frivolous are supposed to be done after
6 the case, after they win. But if it is bifurcated,
7 you know, that's fine with me.

8 THE COURT: Okay. Anything else?

9 MR. HARRISON: No, Your Honor.

10 THE COURT: I don't have a law clerk and
11 didn't have a chance to write down everything you
12 were saying. If during the break or sometime you
13 can just e-mail me.

14 MR. HARRISON: As soon as I get a chance,
15 I'll e-mail it, Judge.

16 THE COURT: Thank you.

17 MR. HARRISON: Since your clerk is on
18 vacation, I sent it directly to you.

19 THE COURT: Correct, to me. Yes.

20 As far as scheduling purposes, your next
21 witness, is it a long witness? Short witness?

22 MR. PLAYER: No. I have three short
23 witnesses that I'm going to, hopefully, get through
24 before lunch: Mr. Morales, Mr. Trent, and Mr.
25 Todd, who has not gotten here yet, but I told him

DEAN TRENT - DIRECT EXAMINATION

1 to be here at 11:00.

2 THE COURT: Okay. Start back in about five
3 minutes.

4 (A recess was taken.)

5 THE COURT: Okay. Anything else before we
6 bring in the jury?

7 MR. RICHTER: No, sir.

8 MR. PLAYER: No, sir.

9 THE COURT: Bring in the jury.

10 (The jury enters at 11:14 a.m., and the
11 following is heard in the presence of the jury.)

12 THE COURT: Thank you.

13 Mr. Player.

14 MR. PLAYER: Yes, Your Honor. We call Dean
15 Trent.

16 (DEAN TRENT, having been duly sworn,
17 testified as follows:)

18 THE WITNESS: Dean Trent.

19 **DIRECT EXAMINATION**

20 **BY MR. PLAYER:**

21 **Q** Mr. Trent, what do you like to be called?

22 **A** Everybody calls me Doc.

23 **Q** Okay. Introduce yourself to the jury, Doc.

24 **A** Ladies and gentlemen, my name is Dean Trent.
25 Everyone calls me Doc. I live in Hickory, North

DEAN TRENT - DIRECT EXAMINATION

1 Carolina now. I did live right there in that
2 little house on the left-hand corner until it
3 gotten taken away from me, but that is another
4 story.

5 Q Do you know Tim Kettner and Wade Long?

6 A Know them both well.

7 Q How do you know them?

8 A Well, I worked for Crab Catchers for ten
9 years. Wade and him were partners, that is how I
10 met Wade. I ran that lot for ten years running
11 customers back and forth from the restaurant back
12 to their cars. I brought a lot of people into that
13 restaurant. When I first started, I started in the
14 front yard of that house there parking cars, and
15 then parked them at the casino parking lot, which I
16 wasn't allowed to, but I did to bring them to Crab
17 Catchers.

18 Q Did Crab Catchers pay you for what you did?

19 A Yes, sir.

20 Q At one point did Tim and Wade come to you
21 about a business idea they had?

22 A No. I heard from -- a little from another
23 and another. I talked to Tim every day and talked
24 to Wade about every day I seen him because I was
25 always out in the lot.

DEAN TRENT - DIRECT EXAMINATION

1 And then the restaurant -- I know that they
2 was partners in a lot of stuff that was supposed to
3 go on, an ice cream shop, and this and that. There
4 was a big ole pond in that lot, and Wade spent I
5 don't know how many weeks with truckloads of dirt
6 coming in, gravel coming in. At that time, Tim
7 didn't own that section. I had a four-room trailer
8 up there where the fence is, but that got sold out.

9 **Q** Do you know who it got sold out to?

10 **A** No, I don't. It was some boy in Conway, him
11 and his family bought it.

12 **Q** But you watched Wade fill in the pond?

13 **A** Oh, yeah. I left there, like I said, every
14 day. I watched him. There was really two lots
15 there. There was a smaller one, and once that pond
16 got built -- that was a big lot, a big parking lot.

17 **Q** Did he have to do anything else besides
18 filling in the pond on the parking lot?

19 **A** Yeah. They beautified it around there. Jose
20 was there every day, too, working out there and
21 mowing and cutting.

22 **Q** That is Jose Morales in the back of the
23 courtroom?

24 **A** Yes, sir.

25 **Q** Who did he work for?

DEAN TRENT - DIRECT EXAMINATION

1 **A** He worked Crab Catchers, too. Tim Kettner.
2 I think -- I can't say for sure, but I think he was
3 a piece owner at one time, too. I don't know.

4 **Q** So what all did they do in that space behind
5 your house?

6 **A** Well, they filled it in, that pond. Like I
7 said, it was a huge pond. They made a nice parking
8 lot over in the backhand corner. Wade had
9 container trailers for his fishing business, and
10 Tim had a couple up there, refrigerator truck-like
11 deal to keep his frozen seafood in. Sometimes when
12 they need me I took it up there, load it up, and
13 run seafood down or picked up a case for Donny and
14 let them get what they need and haul them back. I
15 hailed all of their employees back and forth.

16 **Q** Okay. So when they did the work, did they
17 ever tell you what it was for, what they were doing
18 all this work for? Was it for Crab Catchers or for
19 Tim and Wade?

20 **A** Tim and Wade. It was going to be a parking
21 lot where I parked people for the restaurant. I
22 just heard that they were going to have a business
23 out of it, ice cream shop, bait shop, little things
24 like that. But that never happened, and I never
25 asked. It wasn't none of my business.

DEAN TRENT - DIRECT EXAMINATION

1 **Q** Okay. What led you to leaving the house?

2 **A** Leaving? I ended up buying that little house
3 right there yonder and borrowing \$10,000 off of Tim
4 Kettner, told him I would pay him off in eight
5 months. I had my own business, Coast to Coast
6 Painting, and that is what I did on the side until
7 I got out of it because of my back. When I went to
8 Tim to get my deed, he said, Sorry, I put this in
9 Crab Catchers' name. Get you a lawyer, and you can
10 fight it, but it ain't going to do you no good. I
11 didn't have the money to fight that kind of
12 business, so I let it go.

13 A few weeks later, Tim ended up giving me
14 \$20,000, which I wouldn't have taken 20 or a
15 hundred thousand today for it. But he did give me
16 \$20,000, and my fiancée, her niece, her dad died up
17 there in Hickory, and they was moving to another
18 place, and we was able to afford that or we would
19 have been homeless.

20 **Q** You would have been homeless?

21 **A** Oh, yeah, for sure. She went through cancer
22 four times.

23 **Q** Good for her.

24 MR. PLAYER: Thank you, Mr. Trent. You came
25 a long way for short testimony, but I appreciate

DEAN TRENT - CROSS EXAMINATION - BY MR. HARRISON
1 it. Answer any questions that the attorneys may
2 have.

3 THE WITNESS: No problem.
4

5 **CROSS EXAMINATION**

6 **BY MR. HARRISON:**

7 **Q** Good morning, Doc. I won't be long.

8 **A** Go ahead, brother. All the time you need,
9 I'm here.

10 **Q** Just a few questions. Are you a member of
11 any of these companies we're talking about?

12 **A** No, sir.

13 **Q** Were you ever?

14 **A** No. No. No. I never had -- only thing I
15 had to do with them was work.

16 **Q** Were you privy to any documents or agreements
17 between these parties? Did you ever see any of
18 that?

19 **A** No. That was none of my business. I
20 wouldn't want to know about that anyway.

21 **Q** I got you.

22 **A** I know Tim is a good man. I know Wade is a
23 good man. We all got along good.

24 **Q** You were talking about what happened with the
25 property up there, and that was between you and

DEAN TRENT - CROSS EXAMINATION - BY MR. HARRISON

1 Tim?

2 A Yeah. Wade had nothing to do with that.

3 Q Are you mad about that?

4 A Not happy about it. We would still be living
5 there. We wouldn't be in Hickory, North Carolina.

6 Q You blame that on Tim; is that right?

7 A Yeah. He was the one that turned my deed
8 over and put it in the restaurant's name, so. I'm
9 a poor guy, I couldn't get a lawyer or nothing like
10 that.

11 Q And that land you were living on, you owned
12 the house, but isn't it true Mr. Faircloth owned
13 the dirt under it?

14 A No. Mike out of Florida owned the property.
15 I bought the living will from Wayne Faircloth,
16 which he bought that will from Susan Henderson, who
17 homesteaded on that place. I have it until she
18 dies, which she is still alive today. But we would
19 still be living there. We loved it there. I can't
20 stand it where I'm at now.

21 Q We think Little River is a little better than
22 Hickory, too.

23 A Oh, yeah. Never a dull moment.

24 Q Doc, that's all I got. Thank you.

25 MR. RICHTER: May it please the Court?

DEAN TRENT - CROSS EXAMINATION - BY MR. RICHTER

THE COURT: Yes, sir.

CROSS EXAMINATION

BY MR. RICHTER:

Q Hey, Doc, I'm Ronny Richter. How are you?

A Doing good.

Q The dirt was owned by Wayne Faircloth, right?

A The house that the land sit on was owned by
Wayne Faircloth.

Q Whatever Tim Kettner bought, he bought from
Wayne Faircloth?

A No. I did. I used Tim's lawyer, went
through him, let him have the deed until I paid it
back the \$10,000, which I paid him back in eight
months as I told him I would.

Q There's a public record?

A Yeah. Yeah. Yeah. I paid the lawyer
offices, the brand new ones that his lawyer is in.
When I walked in the door, the man remembered me.

Q And that lawyer is Roger Roy?

A Yes. On 17.

Q And then he gave you \$20,000?

A Well, couple weeks afterwards. At first, he
said we might give you \$10,000, and I said it ain't
for sale. I can sell it for 50, but I'm not
selling. I've had people pull up and say, Hey,

DEAN TRENT - CROSS EXAMINATION - BY MR. RICHTER
1 checkbook, name your price. It ain't for sale. We
2 loved it there.

3 Q And you understood Wade and Tim to be
4 partners?

5 A Oh, yeah. Yeah. They were together every
6 day, worked together every day. Tim said they was
7 partners. Wade said they were partners. I took it
8 they were because they were always doing it
9 altogether.

10 Q Wade and Tim were?

11 A Yes.

12 Q And then they had dreams of stuff that never
13 happened, ice cream shops and stuff?

14 A Well, I guess so. That is what was in the
15 grapevine, going to have this and a bait shop and
16 open up a fish place to sell. I know Wade supplied
17 Crab Catchers for years --

18 Q Sure.

19 A -- with fish, and I think he had a couple
20 other places that he supplies fish to. I don't
21 know. It is none of my business, but I know he
22 supplied Crab Catchers. I got along with Casey,
23 Donny, Justine. Like I said, I was there for ten
24 years. Good people.

25 Q Thank you for coming.

JOSE MORALES - DIRECT EXAMINATION

1 THE WITNESS: I'm gone?

2 MR. PLAYER: I ask that he be released.

3 MR. HARRISON: No objection.

4 MR. PLAYER: We call Jose Morales to the
5 stand.

6 (JOSE MORALES, having been duly sworn,
7 testified as follows:)

8 **DIRECT EXAMINATION**

9 **BY MR. PLAYER:**

10 **Q** Good morning, Mr. Morales. How are you?

11 **A** Good.

12 **Q** Can you introduce yourself to the jury?

13 **A** Yes, sir. Jose Morales.

14 **Q** Do you know Wade Long?

15 **A** Yes, I do.

16 **Q** How do you know Wade?

17 **A** The guy was fishing.

18 **Q** Let's get background. Where are you from?

19 **A** Me?

20 **Q** Yes, sir.

21 **A** El Salvador.

22 **Q** How long have you been in the United States?

23 **A** Pretty much all my life.

24 **Q** This case is about a bunch of stuff that
25 happened -- well, let's talk about it. What do you

JOSE MORALES - DIRECT EXAMINATION

1 know about the relationship between Tim Kettner and
2 the Wade Long?

3 **A** They was friends to each other.

4 **Q** Did they have business interests together?

5 **A** Like everybody say, they were working
6 together, had a business I guess.

7 **Q** Have you ever been an owner of TNT and More,
8 Inc., which operates as the restaurant, Crab
9 Catchers?

10 **A** No. I was helping Tim sometimes when Tim was
11 working.

12 **Q** Were you not a 20 percent owner of the
13 business?

14 **A** For Crab Catchers?

15 **Q** Yes, sir.

16 **A** Yes, sir.

17 **Q** Are you anymore?

18 **A** No, sir.

19 **Q** And in this case do you remember when I sent
20 you a subpoena for the text messages on your phone?

21 **A** Uh-huh.

22 **Q** And do you remember turning your phone over?

23 **A** Yeah. You guys got my phone, yeah.

24 **Q** And this is Plaintiffs' Exhibit No. 36, which
25 is in evidence. These, I want you to look at them

JOSE MORALES - DIRECT EXAMINATION

1 real quick. I'll pull this one up actually.

2 MR. MONGILLO: Is it Exhibit 4 in red on it?

3 MR. PLAYER: Yes. Yes.

4 MR. MONGILLO: Okay. Thank you.

5 Q (BY MR. PLAYER) This is a long one, but I'll
6 hand it so you can --

7 A So you have to help me with that because I
8 can't read English.

9 Q Sure. I'll read it out loud.

10 A Yes.

11 Q So we sent you a subpoena, and you gave us
12 your phone, and we pulled text messages between you
13 and all of the other people?

14 A Got my phone. You asked for it.

15 Q Right. And I wanted to go through and set it
16 up. The blue that pops up on these things, that is
17 from other people, and they have names up at top.
18 Like here, you will see this blue says from number
19 (843)455-2960, Tim. Is that Tim Kettner?

20 A I can't remember his number, but it's coming
21 from my phone, probably it's his number. I don't
22 remember. Tim left.

23 Q When did Tim leave?

24 A I can't remember, sir. It was awhile,
25 because I be out of Crab Catchers for awhile.

JOSE MORALES - DIRECT EXAMINATION

1 **Q** Green part, that is you?

2 **A** The what?

3 **Q** The green, is that the text coming from you?

4 **A** I think it's me. I guess. I can't remember
5 all of that stuff, you know. It be awhile.

6 **Q** Well, let's read along to the text message.

7 Start at the top. Any idea maybe to purchase the
8 hut on your land, you can have a use for it.

9 That's from Tim. Do you know what hut he's talking
10 about?

11 **A** It was a lot of stuff going down back then,
12 you know. I was through a lot of stuff. I can't
13 remember all of this stuff.

14 **Q** Do you remember a hut on their land that they
15 used to rent out jet skis next to the fuel tanks?

16 **A** Yeah, I think there is.

17 **Q** So we've got "true" from 843 --

18 MR. RICHTER: May I ask counsel to publish
19 the date? I don't mind you reading.

20 MR. PLAYER: Oh, no. No. I'm sorry.

21 MR. RICHTER: If you can publish the date.

22 MR. PLAYER: 9/18/2020. An idea maybe to
23 purchase the hut since it's on your land. You may
24 have use for it. Right? And then "true" the same
25 day. "Roger" comes from Donny on the same day.

JOSE MORALES - DIRECT EXAMINATION

1 And then Tim again: Offer with contingency. You
2 can obtain permit and agree to turn off the power
3 and water to it.

4 They are talking about that hut, right,
5 Mr. Morales?

6 **A** I don't see if it is for that or the
7 restaurant, because the water, I don't know which
8 was attached. I think the attach was for the
9 restaurant, because we got a leak somewhere. I
10 don't remember.

11 **Q** So there was a hut for the restaurant?

12 **A** No. It was for the....

13 **Q** Marina?

14 **A** I don't know. I never touched that water. I
15 don't know how water got there. I never touched
16 that.

17 **Q** You never ran water and electricity to the
18 hut?

19 **A** It was water there, but it was with a hose,
20 like normal hose. It was not like coming from the
21 city.

22 **Q** But it ran to a hut, correct?

23 **A** There was shower outside.

24 **Q** Not at Crab Catchers. I'm talking about
25 across the street.

JOSE MORALES - DIRECT EXAMINATION

1 **A** Yeah. Yeah. I know what you are talking
2 about. I don't remember. There was water outside,
3 yes, because there was a hole in it.

4 **Q** So let's go back. 2020, Tim says: Donny as
5 president makes the offer. And you say: Okay.
6 Donny says: Got it.

7 Then it is Tim again: Look at citation
8 closely. State your case to code enforcement that
9 you are trying to buy it from another company, and
10 you had nothing to do with any of it. It was a
11 verbal usage thing between businesses. Quick
12 response to code enforcement is always a plus, plus
13 it supports the hut is on your land.

14 So this was a hut that was on Crab Catchers'
15 land?

16 MR. MONGILLO: Could you tell us the bottom
17 Bates number at the bottom so we can follow along
18 with your exhibit?

19 MR. PLAYER: This is the one that is on file
20 -- let me see.

21 (Attorneys confer.)

22 MR. PLAYER: It is 830 to 836, the one I'm
23 discussing.

24 Oh, he has it that's why it is a single text.

25 **Q** **(BY MR. PLAYER)** Sorry, Mr. Morales. We're

JOSE MORALES - DIRECT EXAMINATION

1 trying to get this paperwork straight. So we go
2 down to -- sorry.

3 Somebody responds the same day: We will be
4 contacting them Monday morning.

5 Tim says: Roger.

6 And then again Tim says -- even though now
7 Donny is president -- Just my thought, Donny or
8 Justine do the legwork. Code enforcement knows
9 them for a Long time. Rob should stay incognito as
10 much as possible.

11 Do you know why Mr. Benoit was supposed to be
12 "incognito as much as possible?"

13 **A** What does that mean?

14 **Q** Like a spy. Like he's hiding.

15 MR. MONGILLO: What is the date of that for
16 the jury?

17 MR. PLAYER: 9/18/20.

18 MR. HARRISON: Objection, Your Honor. He's
19 calling for what my client's personal thoughts
20 were.

21 THE COURT: He's asking if he knew why.

22 **A** What do you mean "spy"? Like?

23 **Q (BY MR. PLAYER)** Like he's not revealed. He's
24 in the shadows, and they don't reveal that Rob is
25 out there working for Crab Catchers.

JOSE MORALES - DIRECT EXAMINATION

1 **A** Really, I don't know because I was so busy.
2 You know, I was going there to work and had a
3 dream, you know. I was in paperwork, in the
4 process, going to El Salvador, and it was too much
5 for me. The best thing for me was to walk away
6 because I was tired, and I don't want to deal with
7 that. I don't care about money. I care about my
8 family, that's it.

9 **Q** Sure. I'm just asking about these
10 communications that were on your phone.

11 So next page, Donny says: K.

12 Tim says: Much more valuable for now behind
13 the scenes and infiltration.

14 It is the same text stream, so what is Rob
15 infiltrating?

16 **A** Not sure.

17 **Q** You'll have your time to shine, sir.

18 And then you give the thumbs up?

19 **A** Thumbs up because I put my phone -- because I
20 can read Spanish, so not English. I don't know
21 what that means.

22 **Q** Understand. I'm just going through what is
23 on the paper. I'm not accusing you of anything.

24 **A** All right.

25 **Q** So we have another "Roger."

JOSE MORALES - DIRECT EXAMINATION

1 Then Tim again: Actually, you all are.

2 Remember, Wade hates me only. Remember that and
3 use it. Example, maybe mention you know a guy for
4 work to Chris and Wade.

5 Now, were you friendly with Wade during this
6 time?

7 **A** I don't have a problem with Wade. I don't
8 have a problem with Tim. Whatever problem they
9 have is between them.

10 **Q** But Tim goes on: Remember, be nice signs.
11 You guys can conceal your gut wrenching experience.
12 Thin M (sic) about that.

13 And then Tim says again: It would be very
14 beneficial if you are all on the same page --
15 again, 9/18/2020 -- if you guys know who the F'g
16 enemy is.

17 You responded: Okay.

18 Someone responds: We'll be the best friends
19 ever.

20 Do you know who responded "we'll be the best
21 friends ever"? It is (760)271-5984. Do you know
22 that number? If you don't, that is fine.

23 **A** No. No. Because it's been awhile.

24 **Q** I want to talk about a few more to see if you
25 have any personal knowledge about it.

JOSE MORALES - DIRECT EXAMINATION

1 This is one dated 7/11/2021. The number at
2 the bottom is 305 --

3 MR. MONGILLO: What Plaintiffs' exhibit?

4 MR. PLAYER: All in 36, the Morales texts.

5 MR. HARRISON: You said 305?

6 MR. PLAYER: Yes.

7 **Q (BY MR. PLAYER)** First one you have a picture
8 of Obama?

9 **A**That is my number.

10 **Q**Yeah. And then the next one is that same
11 271-5984: Just got a call from the EPA. They will
12 be out here in a couple of weeks.

13 So Crab Catchers called EPA, correct?

14 **A**That's correct.

15 MR. MONGILLO: The date?

16 MR. PLAYER: 7/12/21. Sorry.

17 **Q (BY MR. PLAYER)** Here we go. 10/4/2020, Tim
18 sends a text --

19 MR. MONGILLO: Bates stamp, please?

20 MR. PLAYER: Sorry. I'll slow down. 70.

21 **Q (BY MR. PLAYER)** Tim sent the text to all the
22 Crab Catchers people and it says: Time for war.

23 And Donny says: Yes, sir.

24 What did he mean by "war," do you remember?

25 **A**I don't remember what that means. Like they

JOSE MORALES - DIRECT EXAMINATION

1 say stuff like that, but I don't pay too much
2 attention, you know, because I was going through a
3 lot of paperwork for my immigration, and I leave
4 that behind. I always going to work, and I was so
5 much process, and I spent six months in El
6 Salvador, and pretty much don't care.

7 Q Sure. I'm going to try to relieve you of
8 some of your nervousness. You just went and worked
9 your butt off?

10 A Yes, sir.

11 Q That is all you did. You didn't get into the
12 politics or invites?

13 A No.

14 Q You just wanted to keep your head down and
15 make money for your family, right?

16 A Yeah.

17 Q Now, here we go. Back the other ones. The
18 others were in 2020. This is April of 2021. Tim
19 is still sending you all texts, and this one says:
20 Put the heat --

21 MR. MONGILLO: Bates stamp?

22 MR. PLAYER: Sorry, Scott. 93. Date is
23 4/22/21.

24 Q (BY MR. PLAYER) Tim sends a text: Put the
25 heat on and keep it on. The gloves are F'ing off.

JOSE MORALES - DIRECT EXAMINATION

1 You said: Yes, sir, and showed Captain
2 Obvious, which is funny.

3 Do you know what you are talking about in
4 that text message?

5 **A** Really, was pretty much joking around and
6 stuff like that, but....

7 **Q** No. 64. The date is 9/21/2020. We're back
8 to these text messages over a couple of days.
9 We'll wait for Mr. Scott.

10 MR. MONGILLO: All set. Thank you, sir.

11 **Q** **(BY MR. PLAYER)** "Sounds good to me." That is
12 760, which we'll get to. That is later.

13 But Tim says: Just reading e-mails on the
14 hut. Remember, it's your land, your violation,
15 unless you have been involved in working things out
16 every step and meeting. I would rely on what code
17 enforcement has directed you to do. The guy
18 replying to your e-mails is not code enforcement.

19 So the first text is 9/21/2020. The second
20 is October 3, 2020. And they are talking about the
21 hut, is that correct?

22 **A** Yep.

23 **Q** And then this one -- this one is easy because
24 this is just you. The green stuff is Jose. Down
25 at the bottom --

JOSE MORALES - DIRECT EXAMINATION

1 MR. PLAYER: Sorry, Scott. This is 74.

2 MR. MONGILLO: I have it. Thank you.

3 Q (BY MR. PLAYER) You say at the bottom: Hey,
4 guys, this gas was on and I can't cut the power off
5 because it's locked. I got the power off for the
6 tank and the valve off.

7 So you went over there and turned the gas
8 off?

9 A Yeah, because they used to leave it on and
10 you can't leave it on. Something happens, you
11 know. I was making sure gas was off, because they
12 were asking me to do a favor.

13 Q Sure. Sure. But you are only working for
14 Crab Catchers? You never worked not for TnW?

15 A I was never working for them, but they asking
16 me to do that. I was helping them. But, honestly,
17 like, there was a lot of happening. That's it.

18 MR. PLAYER: Give me one second, Mr. Morales.

19 I told you I would be short. I'm done, but
20 these gentleman may ask you some questions, okay.

21 THE WITNESS: Okay.

22 MR. MONGILLO: Does he have hard copies
23 there? Can you leave them there for me, please?

24 MR. PLAYER: I believe that is the full
25 thing.

JOSE MORALES - CROSS EXAMINATION - BY MR. MONGILLO

1 **CROSS EXAMINATION**

2 **BY MR. MONGILLO:**

3 **Q** I'm Scott Mongillo, and I'm the attorney for
4 Tim Kettner. I'll ask you a few questions.

5 **A** Sure.

6 **MR. MONGILLO:** Can I treat him as a hostile
7 witness, Your Honor?

8 **THE COURT:** Yes.

9 **Q (BY MR. MONGILLO)** That doesn't mean we're at
10 odds. I'll just ask leading questions is all, so
11 no big deal.

12 All of these texts happened a long time ago?

13 **A** Yeah.

14 **Q** But you were in the courtroom here this
15 morning?

16 **A** Yeah.

17 **Q** Yes?

18 **A** Yes.

19 **Q** And you heard Mr. Long testifying, correct?

20 **A** Yeah.

21 **Q** And you heard Mr. Long say this morning that
22 Tim Kettner left the state of South Carolina in
23 September of 2020 because he had a dispute with
24 Mr. Long? Did you hear that testimony?

25 **A** Yeah.

JOSE MORALES - CROSS EXAMINATION - BY MR. MONGILLO

1 **Q** So these text messages, let's look at the
2 dates. That is why I was so particular about the
3 dates, because all of these text messages happened
4 after Mr. Kettner was kicked out of TnW by
5 Mr. Long; isn't that true? All the dates were
6 after September of 2020?

7 **A** Yes.

8 **Q** So if someone kicks you out of your business,
9 would you go to war with them?

10 **A** I walk away. I do walk away.

11 **Q** If someone kicks you out of the business and
12 accuses you of theft, would you go to war with
13 them?

14 **A** I was accused by a lot of things and best
15 thing for me is to just walk away and let it go,
16 you know. There's one thing my goal was for
17 fighting long time for happy in American and stuff
18 like that. I have a son and wife, I don't care
19 about that stuff, you know.

20 **Q** You are a better person. I would go to war
21 if someone --

22 **A** I don't want to lose my family, you know.

23 **Q** We saw a text here: You know who the F'ing
24 enemy is.

25 If someone kicks you out of the business,

JOSE MORALES - CROSS EXAMINATION - BY MR. HARRISON
1 accuses you of stealing, is that your friend or
2 enemy?

3 **A** That is your enemy.

4 **Q** Yeah, I agree.

5 And if you are going to go to war, you take
6 your gloves off, don't you, sir?

7 Now that glove-off text is April 22 of 2021.
8 Did you know that they filed a complaint on
9 March 12 of 2021 accusing that man of theft? Did
10 you know that date, sir?

11 **A** Yeah.

12 **Q** So after they filed the complaint accusing
13 him of theft, he texts you: The gloves are f'ing
14 off? Is the timeline correct, sir?

15 **A** Yes.

16 MR. MONGILLO: No further questions, Your
17 Honor.

18 **CROSS EXAMINATION**

19 **BY MR. HARRISON:**

20 **Q** Good morning, Mr. Morales. I'll be brief. I
21 know you don't remember a lot of this stuff. I
22 know it was a long time.

23 **A** I dropped out.

24 **Q** I understand.

25 The defense is saying that you did work for

JOSE MORALES - REDIRECT EXAMINATION

1 both Wade and Tim. You were only ever employed by
2 Tim, is that correct, and TNT? Is that right?

3 **A** Back then, I was -- I guess, yeah. I was
4 5 percent.

5 **Q** With Crab Catchers?

6 **A** Yeah. Yeah.

7 **Q** You didn't work for Wade?

8 **A** No. No. No. I helped Tim when Wade was not
9 there, you know. Tried to work together and get
10 stuff done.

11 **Q** I got you. So if you worked for Tim and he
12 asked you to do him a favor, you did him a favor,
13 right?

14 **A** Yeah.

15 **Q** And if that favor was to help Mr. Long --

16 **A** Everybody. I thought everything is going to
17 be good. That is the mentality.

18 **Q** So you never went into business with Wade?
19 You were in business with Tim?

20 **A** That's correct.

21 **Q** All right.

22 MR. HARRISON: No further questions.

23 **REDIRECT EXAMINATION**

24 **BY MR. PLAYER:**

25 **Q** Briefly. You got a paycheck from Crab

JOSE MORALES - REDIRECT EXAMINATION

1 Catchers, right? When you got paid, it came from
2 Crab Catchers?

3 **A** Yeah.

4 **Q** And, earlier, we talked about you were a
5 20 percent owner, and now you are not. Did you get
6 paid for the 20 percent, or was that something you
7 walked away from?

8 **A** Like I say, I walked away because I was done.
9 Like, you know, I don't want to go to that place,
10 you know.

11 **Q** My question is instead of fighting, you just
12 said "no mas"?

13 **A** You know, like I said to you guys, what I
14 saw, I go home and see my wife and see my son, you
15 want to fight. Walk away, and go find a better
16 place for me.

17 **Q** Better place to care for your family?

18 **A** Yes.

19 THE WITNESS: Are we good?

20 THE COURT: Yes, sir. You can step down.

21 MR. PLAYER: Mr. Morales is under subpoena.
22 I ask that he be released.

23 MR. HARRISON: No objection.

24 MR. RICHTER: No objection.

25 THE COURT: Thank you, Mr. Morales.

BRETT TODD - DIRECT EXAMINATION

1 MR. PLAYER: We call Brett Todd, Your Honor.

2 (BRETT TODD, having been duly sworn,
3 testified as follows:)

4 THE WITNESS: Brett Todd.

DIRECT EXAMINATION

5
6 **BY MR. PLAYER:**

7 **Q** Brett, introduce yourself, even though you
8 just did. Tell them who you are, family, where you
9 are from.

10 **A** My name is Brett Todd. I've been here for
11 most of my life. Moved here from West Virginia
12 when was about 13 years old. I worked at a water
13 sports business, Myrtle Beach Water Sports, for my
14 first job for about almost ten years. From there,
15 I started working for Crab Catchers, and then after
16 that I was asked to run a jet ski company, and now
17 I currently manage Clark's Seafood in Little River,
18 and I have two daughters. There you go.

19 **Q** Okay. How did you come to be involved with
20 Wade Long?

21 **A** I was asked to run Little River Water Sports
22 when I was working at Crab Catchers, and I kind of
23 got to know him through working at Little River
24 Water Sports.

25 **Q** And who was the boss at Crab Catchers?

BRETT TODD - DIRECT EXAMINATION

1 **A** Tim Kettner, from what I understand.

2 **Q** Who told you what to do when you worked
3 there?

4 **A** Tim Kettner.

5 **Q** And when you went over to run the ski hut or
6 jet ski business for TnW, who was your boss?

7 **A** Tim Kettner.

8 **Q** What was the arrangements with Tim as far as
9 working the jet ski business?

10 **A** I was supposed to be the, quote, end quote,
11 face of the business while being paid a salary
12 weekly to help manage the company, which basically
13 entailed just renting skis, taking in payments,
14 shutting it down, helping to be on foot and
15 advertise.

16 Basically, everything that someone who
17 actually owned the company would do without any of
18 the benefits of owning the company. And then I
19 would just kind of give all of the paperwork to Tim
20 at the end of the day. So I never was privy to any
21 financials after the fact.

22 **Q** What was the payment arrangement with Tim
23 when you were given this duty of running the jet
24 ski business?

25 **A** I was told that after we paid off all of our

BRETT TODD - DIRECT EXAMINATION

1 loans and we got out of the red, my wife and I
2 would start receiving 25 percent of the profit and
3 be 25 percent owners of the business, which is what
4 we were told. And every year, you know, I would
5 ask, and it never came to fruition.

6 MR. RICHTER: Objection; Relevance. Whatever
7 his financial arrangement was with Tim has no
8 bearing on the issues before this Court.

9 THE COURT: I'll allow it.

10 MR. PLAYER: Thank you, Your Honor.

11 Q (BY MR. PLAYER) So did you ever see any of
12 that 25 percent?

13 A No. Near the end of our last year with him,
14 when he didn't want to pay us a salary anymore, he
15 would take 25 percent of the sales for the day and
16 give that to us, and call that 25 percent of the
17 profit to appease us. But that was really a way of
18 avoiding paying my wife and I a full salary. Which
19 we were happy to just make money then, but we were
20 never given a 25 percent profit share of anything.

21 Q And let's get back to how you were paid. Did
22 you do anything to -- did you create any entities
23 to be paid through?

24 A So when we first started working for him, for
25 Little River Water Sports, we were told we needed

BRETT TODD - DIRECT EXAMINATION

1 to form an S Corporation, which I'm just a
2 blue-collar worker. I don't know much about that.
3 So he said you need to go here. It is better for
4 your taxes. My wife and I spent about \$500 out of
5 our own pocket. Can we form an S Corporation?
6 Sure. What do you want the name to be? We're
7 working on Little River Water Sports, call it
8 Little River Water Sports, Inc., so we formed that.

9 Q So you were the one that formed Little River
10 Sports?

11 A Yeah. But when I formed it and got back and
12 said, hey, here it is, he said, No. No. No. That
13 name can't associate with Little River Water
14 Sports. What are your two dogs' names? Abby and
15 Miley. He said, You need to form an S Corporation
16 called Abby and Miley Management. So I said, Okay.
17 Here I am a thousand dollars in the hole to try to
18 get a paycheck.

19 So now I form Abby and Miley Management, an S
20 Corporation. That is okay. That's fine. Lawyer
21 said you never use Little River Water Sports, it
22 will automatically dissolve. I didn't think
23 anything of it.

24 Q So if you look up at the screen, this is
25 Plaintiffs' Exhibit No. 24. We won't go through

BRETT TODD - DIRECT EXAMINATION

1 every page, but I want to show you an example.

2 MR. RICHTER: Objection; irrelevant and 403
3 based upon the stipulation placed on the record.

4 THE COURT: I don't think he's going into
5 that area.

6 MR. PLAYER: No, Your Honor.

7 THE COURT: I'm going to allow it.

8 Q (BY MR. PLAYER) Can you tell me what that
9 sheet is and --

10 A That is a jet ski log sheet, basically, for
11 sales for the day dividing how much was in credit
12 card, how much in cash. Basically, it is just
13 showing where the money went for the day. We
14 turned that into a safe at the end of the day at
15 Crab Catchers.

16 Q This would be -- what happened at the end of
17 the day?

18 A The blue is us. I don't know what the
19 checkmark is or any of the -- I mean, it is --

20 Q Don't speculate.

21 A I'm not, but there is a different color ink
22 there completely, after the fact, which wasn't us.
23 So I don't know what the stuff -- that is clearly
24 not us.

25 Q That's fine. I don't want you to say

BRETT TODD - DIRECT EXAMINATION

1 anything else about it. So that's done.

2 What was your understanding while you were
3 doing the ski hut business of the relationship
4 between Crab Catchers, TNT, and TnW, and Wade's
5 business?

6 **A** I was under the assumption that they were all
7 working together.

8 **Q** And you would have gotten that from who?

9 **A** Tim and Wade.

10 MR. PLAYER: Beg the Court's indulgence.

11 **Q (BY MR. PLAYER)** Did you ever train any of the
12 Crab Catchers' employees to do what you did?

13 **A** Yeah. I would show them how to pump gas on
14 the gas dock, how to shut off the fuel at the top
15 where you lock it.

16 **Q** If you and V weren't available, who ran the
17 jet ski business?

18 **A** Well, there was a bit of contention because
19 we come in very early and we wanted to leave at
20 5:00 every day. So I told Tim that. He said, All
21 right. Well, we'll have Crab Catchers run the fuel
22 dock, and we'll handle that when you guys leave.
23 Okay. That's fine. I just want to be done at the
24 end of the day. I'm not staying for boats coming
25 in.

BRETT TODD - DIRECT EXAMINATION

1 **Q** Okay. So 5 o'clock every day you turned over
2 total control of the docks to Crab Catchers?

3 **A** On average. Whenever the last ski came in
4 and my wife left, but, yeah.

5 **Q** Where was the office if you all had meetings
6 for what was going on in the marina? Where did you
7 go to have a meeting?

8 **A** Inside of Crab Catchers, upstairs.

9 **Q** Okay. What year did you work for Tim and
10 Wade running the jet ski business?

11 **A** From about 2018 to 2019 maybe. The end of
12 2017 -- it was two seasons. So summer of '19 and
13 summer of 2018 that I ran Little River Water
14 Sports.

15 **Q** Why didn't you do it in 2020?

16 **A** I was fired -- I was let go without warning,
17 put it that way.

18 **Q** What were the reasons for you -- what
19 happened just before you were let go? Did you have
20 a disagreement?

21 **A** I don't know. But, briefly, I could tell
22 that Tim's interactions with me were different when
23 I questioned his ethics on not getting new jet skis
24 after owning them for two years. If you are
25 familiar with water sports equipment, it starts to

BRETT TODD - DIRECT EXAMINATION

1 breakdown after a certain number of hours. If you
2 run a rental business, it is smart after about two
3 seasons to get new skis; otherwise, your guests are
4 always breaking down, and it's not really a good
5 business decision.

6 When I questioned that. I said the words, I
7 don't think this is a very ethical or business
8 moral decision, and ever since then there was a
9 huge disconnect. My wife caught it. She said,
10 We're going to get fired. No. Fast forward, and
11 we were let go.

12 Q And the bathrooms for the marina, where were
13 they located?

14 A So the marina didn't have bathrooms, but we
15 were told just to let them use the Crab Catchers'
16 bathrooms. But it became that we had to make sure
17 they didn't get water all over the floor and -- it
18 was kind of an issue, but it was what it was. We
19 just used it.

20 Q So you had to rely on the Crab Catchers'
21 bathrooms to serve your patrons?

22 A Yes.

23 MR. PLAYER: No further questions. Answer
24 any of these questions.

CROSS EXAMINATION

BRETT TODD - CROSS EXAMINATION - BY MR. HARRISON

1 **BY MR. HARRISON:**

2 **Q** Good afternoon, Mr. Todd.

3 **A** Hi.

4 **Q** I'm Michael Harrison. I have a few things I
5 want to ask you about. I'll be as brief as I
6 possibly can.

7 Just for clarification, Tim fired you, didn't
8 he?

9 **A** Well, he did let me go, yeah.

10 **Q** And if I understood this right -- and I don't
11 want to put words in your mouth -- it was because
12 you accused him of being unethical?

13 **A** I did, yeah.

14 **Q** Mad about that?

15 **A** No.

16 **Q** You are not mad that you got fired --

17 **A** I said no.

18 **Q** You got fired by --

19 **A** I said no.

20 **Q** Well, will you let me finish my question?

21 **A** You are asking the same question.

22 **Q** No, I'm not. Let me finish my question.

23 You got fired by Mr. Long, too, didn't you?

24 **A** No.

25 **Q** You didn't?

BRETT TODD - CROSS EXAMINATION - BY MR. HARRISON

1 **A** Tim is the one who was directly responsible
2 for me being fired -- or from what I was told.

3 **Q** So Tim you hold responsible for firing you?

4 Do you feel like Mr. Kettner cheated you
5 somehow?

6 **A** No. I was just told that Tim withheld a lot
7 of information from Wade, so he didn't keep Wade
8 privy of a lot of things going on. So there was no
9 way for me to be mad at Wade if Tim didn't tell him
10 anything. I can't be mad at someone who didn't
11 know something.

12 **Q** That wasn't what I asked you.

13 **A** Right.

14 **Q** I asked you: Do you feel that Tim Kettner
15 cheated you?

16 **A** I feel like he made a very unethical business
17 decision by letting me and my wife go.

18 **Q** So the unethical business decision was you
19 getting let go?

20 **A** From the words that he gave me, I think a lot
21 of things he did were unethical. I think anybody
22 would agree if you are let go of your job that you
23 worked at for two years without notice, I think you
24 could say that is unethical, right? Wouldn't you
25 agree?

BRETT TODD - CROSS EXAMINATION - BY MR. HARRISON

1 Q I'm asking you.

2 A Well, I'm asking you.

3 Q I'm not on the stand, sir.

4 A Okay. No problem.

5 Q You said earlier that you were under the
6 assumption that Tim and Wade were in business
7 together?

8 A Yeah.

9 Q What did you base that on?

10 A Tim Kettner telling me that.

11 Q What did Tim Kettner tell you about that?

12 A He said that him and Wade were partners, and
13 TnW and More, and that they were the ones that were
14 taking care of the jet ski business, and that them
15 and Crab Catchers were the same thing.

16 Q They told you that they were the same thing;
17 is that what you said?

18 A Yes.

19 Q Because you just said that Tim was in
20 business with Wade, and now you are saying that the
21 two businesses were the same thing. Can you
22 clarify that?

23 A The words out of Tim's mouth was, "Wade and I
24 are one."

25 Q Wade and I -- and he was referring to who?

BRETT TODD - CROSS EXAMINATION - BY MR. HARRISON

1 Tim and Wade?

2 **A** Yes. He said "Wade and I are one."

3 **Q** Not these guys, right?

4 **A** I did not hear mention of them, no, sir.

5 **Q** Fair enough.

6 Now, there was a time when Little River Water
7 Sports was incorporated. Are you aware of that?

8 **A** Yes, sir. That was the corporation I spoke
9 about earlier, that I had to form, that I was told
10 I had to do that to get paid.

11 **Q** I got you. So you formed Little River Water
12 Sports to place the paycheck you were getting while
13 you were working there?

14 **A** No. It was an S Corporation that he wanted
15 me to form so he could write me checks to the S
16 Corporation. Like a business for like a straight
17 fee, you know, whatever your salary is, and my wife
18 and I would claim all of that.

19 **Q** Why wouldn't he just pay you a paycheck? You
20 were an employee, right?

21 **A** Yeah. I mean, I don't know.

22 **Q** Did they ask you to form Little River Water
23 Sports with the Secretary of State?

24 **A** I didn't use the name Little River Water
25 Sports. I was told not to use that the name, but

BRETT TODD - CROSS EXAMINATION - BY MR. HARRISON

1 they told me to form the S Corporation, yes.

2 Q And you formed Little River Water Sports,
3 Inc.?

4 A Yes, sir, after I was asked to. But I didn't
5 really -- I formed Abby and Miley Management after
6 because I was told not to use that because of the
7 name.

8 Q So you formed Little River Water Sports. You
9 used that originally, but they didn't tell you to
10 do that, and when they found out you did it, you
11 changed it to Abby and Miley?

12 A Yeah, immediately. I don't think I even got
13 a check from Little River Water Sports.

14 Q But it was incorporated?

15 A Yeah. Yes. I didn't realize it didn't
16 dissolve immediately. Like I said, I never have
17 done stuff like that before.

18 Q Okay.

19 (Defendants' Exhibits 15 and 16 marked.)

20 Q In this case I sent a request for documents,
21 and you sent me a letter. This is your letter?

22 A Yeah. I don't have anything to do with
23 running the business or anything like that. Yes,
24 sir.

25 Q For the jury, if you would, would you read

BRETT TODD - CROSS EXAMINATION - BY MR. HARRISON

1 what you wrote in response to my request for
2 documents concerning this case?

3 **A** I, Brett R. Todd, do not have any documents
4 related to Little River Water Sports or any of its
5 dealings with Timothy Kettner or Wade Long. I
6 don't have any documents relating to the sale of
7 fuel or anything associated with TnW and More.

8 From 2018 to 2019, I was employed by Tim
9 Kettner as a manager of Little River Water Sports.
10 We were paid as salary employees and had nothing to
11 do with any of the company's documents or
12 financials. There were never any text discussions
13 that had anything to do with ownership of the
14 company with either Wade or Timothy Kettner. I was
15 simply a paid employee of Timothy Kettner, did take
16 advantage of.

17 After Little River Water Sports ran its
18 second season, Tim Kettner eliminated me from
19 managing the business, and I was fired. No
20 documents were ever signed by me. Tim Kettner was
21 very adamant that no signatures were ever needed as
22 we were just managing the company for him like
23 normal employees, and I had no actual control or
24 ownership of it.

25 It has come to my attention -- and this goes

BRETT TODD - CROSS EXAMINATION - BY MR. HARRISON

1 on. I didn't realize at this point that we were
2 talking about the Little River Water Sports,
3 Incorporated.

4 Q So when I asked for those documents, you did
5 not know that?

6 A I didn't realize it. I thought it was
7 dissolved.

8 Q So I asked for all documents concerning that,
9 and you didn't think it was pertinent?

10 A I didn't realize that it had anything to do
11 with anything. I dissolved that over six years
12 ago. I didn't -- that was a company that they --

13 Q But I asked you for those documents.

14 Just finish what you said.

15 A No documents of ownership were ever signed.
16 Tim Kettner forged my signature on a Secretary of
17 State document -- which I just talked about. I
18 didn't realize -- I didn't even know that document
19 existed. I had absolutely no control over any
20 financials of the company. No documents of
21 ownership were ever signed by me at any point in
22 time. I had nothing to do with ownership of Little
23 River Water Sports at any point in time. Anything
24 that was said otherwise is a fraudulent claim.

25 I didn't own the actual jet ski company. It

BRETT TODD - CROSS EXAMINATION - BY MR. HARRISON

1 was an S Corporation that they asked me to do that
2 had nothing to do with the company. That was my
3 wife and I personal checking account, basically. I
4 thought it was dissolved. I had no idea that that
5 was what you were referring to.

6 Q So this wasn't true? What you said today is
7 true?

8 A Yes, sir. That is correct.

9 Q So this was a different -- you are telling me
10 a different story here --

11 A No, I'm not telling you a different story.
12 I'm not telling you a different story, no, sir. I
13 didn't know that that is what you were referring
14 to. I had kind of moved past all of this. I did
15 not even remember forming the Little River Water
16 Sports, Inc., until it was brought to any attention
17 by the attorneys a few weeks ago that that was
18 something that was existent.

19 Q And you said in this document: I had nothing
20 to do with any of the company's documents or
21 financials.

22 So you really didn't know what the
23 relationships with these parties were? Is that
24 what you are saying?

25 A Yes, sir.

BRETT TODD - CROSS EXAMINATION - BY MR. HARRISON

1 **Q** And you don't have any of that stuff? You
2 weren't confused about that part?

3 **A** No, I don't.

4 **Q** I just want to make sure there isn't anything
5 out there?

6 **A** No. I don't have any of that stuff. That is
7 the logs that I turned into him, so.

8 **Q** So then if I understand you correctly, you
9 don't know anything about the companies, and you
10 are mad at Tim?

11 **A** Not mad at Tim. I'm solely fine. I'm
12 telling you the facts from what I understood.

13 **Q** Let me see if there is anything else. That
14 might be it.

15 (A brief pause in the proceedings.)

16 MR. HARRISON: Nothing further.

17 THE COURT: Counsel?

18 MR. RICHTER: Mr. Todd, I couldn't see you
19 around the corner. I'm Ronny Richter. I have no
20 questions for you. Thank you.

21 THE COURT: Any redirect?

22 MR. PLAYER: No, Your Honor.

23 THE COURT: You may step down. Thank you.

24 Ladies and gentlemen, it is 10 after 12:00.
25 Let's break for lunch. Be back in your jury room

BRETT TODD - CROSS EXAMINATION - BY MR. HARRISON
1 at 1:45.

2 (The jury exits at 12:11 p.m., and the
3 following is heard out of the presence of the jury.
4 A lunch break was taken.)

5 THE COURT: Are we ready to proceed?

6 MR. PLAYER: Yes, Your Honor.

7 THE COURT: Let's bring in the jury, please.

8 (The jury enters at 1:57 p.m., and the
9 following is heard in the presence of the jury.)

10 THE COURT: Thank you. You can have a seat.
11 Hope you had a good lunch. We'll continue.

12 Mr. Player.

13 MR. PLAYER: We call Nick Nye to the stand.

14 (NICK NYE, having been duly sworn, testified
15 as follows:)

16 THE WITNESS: Nick Nye.

17 **DIRECT EXAMINATION**

18 **BY MR. PLAYER:**

19 **Q** Now, Nick, sometimes the acoustics are not
20 good, so speak up. You have a microphone. Try to
21 speak into it so everyone can hear.

22 So introduce yourself to the jury. Tell them
23 who you are, where you are from, and your family or
24 what kind of family you have.

25 **A** I have a semi-famous family. Bill Nye, the

BRETT TODD - CROSS EXAMINATION - BY MR. HARRISON

1 science guy, is my cousin. We're from Brunswick
2 County. I've lived in Ocean Isle my whole life.

3 Q Ocean Isle?

4 A Yes. Would you like me to put on a little
5 accent?

6 I'm an architect, and I've worked for 30
7 years in this area.

8 Q What is your educational background?

9 A I went to Virginia Tech for a bachelor's of
10 architecture degree, and the Church Former (ph)
11 School, boarding school, for high school.

12 Q So I take it you've obtained your architect
13 degree?

14 A I did.

15 Q What kind of work do you generally do as an
16 architect?

17 A I've had the great fortunate to work with all
18 of the local entrepreneurs, especially in the
19 restaurant and hospitality industry, from
20 restaurants to hotels. I've been fortunate to help
21 out people in the church community doing things
22 like AME churches, Presbyterian churches, homes, a
23 Bible college. I've had the privilege of putting
24 in a brewery across the street from a church in
25 Shallotte, which made me quite popular with

BRETT TODD - CROSS EXAMINATION - BY MR. HARRISON

1 everyone I grew up with.

2 Q When you say you dealt with the local folks,
3 what are the local folks, local entrepreneurs you
4 mentioned?

5 A Harold Worley, Wade Long, Tim Kettner. Let
6 me think of a few others. The owners of the Beach
7 Live Group, owners of the Loss Pomaras (ph) Group
8 restaurants, the Patel family and some of their
9 existing hotels.

10 Q And you mentioned Wade and Tim. When did you
11 first meet either Wade Long or Tim Kettner?

12 A I think I first met Tim Kettner in Venture
13 Engineering's office long before I met Wade.

14 Q What is Venture Engineering?

15 A It is a local engineering firm here in
16 Conway. Tim was getting help dealing with the
17 Intracoastal Waterway, I believe.

18 Q Did you work with Tim from that first meeting
19 with him?

20 A No, I did not.

21 Q When did you meet Wade?

22 A I met Wade when his fiancée asked me to
23 design their house.

24 Q Do you remember what year that was?

25 A I will say 2006.

BRETT TODD - CROSS EXAMINATION - BY MR. HARRISON

1 **Q** Were you ever approached by Wade and Tim
2 together for something?

3 **A** Well, actually, yes, but I thought it was
4 meeting with Tim that day inside his office about
5 Crab Catchers.

6 **Q** What were you meeting with him about
7 pertaining to Crab Catchers?

8 **A** Essentially, as I understood it, there were
9 three pieces of property involved. Tim, of course,
10 owned Crab Catchers, which is on the water. Wade
11 of course owned the parking lot in the far back,
12 and some stubborn, now deceased, individual owned a
13 piece of little tiny property in between them that
14 Tim and Wade were hoping to take down and use to
15 design a store for Wade.

16 **Q** I don't think he's dead. I think he
17 testified earlier.

18 **A** I wouldn't know. It is the tiniest piece of
19 property I've ever seen.

20 **Q** So when they came to you, it was your
21 understanding that Wade owned the parking lot in
22 the back?

23 **A** Yes.

24 **Q** What did they want you to do?

25 **A** Well, they were talking about different

BRETT TODD - CROSS EXAMINATION - BY MR. HARRISON

1 buildings, and eventually it led into a
2 restaurant/brewery concept because Wade already
3 built a fuel tank. In addition to that, that was
4 morphing from the original design, which is
5 supposed to be a little ship store for fish and jet
6 ski rentals out in front of Crab Catchers.

7 Q Anything else? Maybe ice cream?

8 A Well, of course anything you can think of,
9 you can imagine, to use a tiny take-out window. I
10 think there might have been involved not only ice
11 cream, but a very small griddle and hood for
12 burgers and fries. Just a little corner takeout.

13 Q What did they tell you about the ownership of
14 the property where they wanted these designs?

15 A I was under the impression that the
16 properties -- at least in the back, maybe not Crab
17 Catchers itself -- were some partnership or joint
18 venture between the two.

19 Q And who told you that?

20 A I believe they expressed that to me jointly.
21 But it wasn't like they showed me a deed or
22 anything. This whole venture was them together,
23 from what I understood.

24 Q Okay. So what kind of plans -- what did you
25 eventually do for them?

BRETT TODD - CROSS EXAMINATION - BY MR. HARRISON

1 **A** Oh, there is two sets of drawings. The
2 original store concept, and then there's the one I
3 was hoping for, the brewery/restaurant, that was
4 going to be in the corner making a continuance
5 boardwalk from the end of Crab Catchers, all the
6 way back to almost halfway in the back of the
7 parking lot.

8 **Q** So the idea was to actually connect Crab
9 Catchers with this new restaurant?

10 **A** That's right. The whole idea was Tim was
11 going to operate two restaurants and the real goal
12 they were worried -- if you've ever been to Crab
13 Catchers, it is sinking in the waterway. In order
14 to fix it, they can't be in there. So if they
15 build a second restaurant, they can fit the first
16 restaurant, and carry on being a successful
17 restaurant.

18 **Q** Okay. And was there anything else that was
19 going to be built as part of this joint venture
20 they talked to you about?

21 **A** Wade, at some point, mentioned -- well, at
22 some point I designed a parking lot for them. That
23 was the hardest thing to get through. The city or
24 county wouldn't let them move forward without a
25 parking lot design. We did that, and it ended --

BRETT TODD - CROSS EXAMINATION - BY MR. HARRISON

1 it was mostly trees. Then, Wade, later on, as the
2 project evolved, they talked about getting a
3 storage building in the farther back. It always
4 included an idea for pumps for the gas for the jet
5 skis out along the docks. That is why he built the
6 tanks.

7 Q When you did these drawings, did you do them
8 for free?

9 A No.

10 Q Who paid you?

11 A I got checks from both of them.

12 Q Okay. Look up on the screen. Can you
13 identify what that is?

14 A That's the storage building design. You can
15 see the parking lot, which ended up having to be
16 the -- you can see the little parcel between them
17 that has the new building, that it is that -- some
18 guy lived in the trailer for years. Wade's tank is
19 on Wade's property, and they were going to build
20 the store on the combined shared property in
21 between. And then, of course, you can see how it
22 is connected to the walkway and go on down.

23 Q So it was your understanding that that little
24 piece where the shack is, was owned by Wade?

25 A Yes.

BRETT TODD - CROSS EXAMINATION - BY MR. HARRISON

1 **Q** Do you remember who told you that?

2 **A** I believe they both expressed it. It was
3 part of the partnership that they were going
4 together with.

5 MR. PLAYER: This is all.

6 MR. BELLAMY: Your Honor, I don't have an
7 objection, but if the witness says "they," if he
8 can verify who "they" is.

9 **Q** **(BY MR. PLAYER)** When we talked about you said
10 "they," you meant Tim and Wade?

11 **A** Tim and Wade were the only people I dealt
12 with directly.

13 MR. BELLAMY: Thank you.

14 **Q** **(BY MR. PLAYER)** So on this one you've got --
15 looks like "tank," and then you have something
16 called "dock master." What is that?

17 **A** Well, you have -- buildings, like boats, need
18 names and titles, so that's where -- you have to
19 rent the jet skis, if you want to go out there. If
20 you want to tie up, you have to pay fees. So dock
21 master is the guy making sure that no one runs off
22 with the jet skis -- well, you can't without a key.
23 There is some depth behind the existing dock that
24 someone can pull alongside, and I think they were
25 looking to rent at a daily rent or something.

BRETT TODD - CROSS EXAMINATION - BY MR. HARRISON

1 **Q** Was all this part of the partnership joint
2 venture they discussed with you?

3 **A** Yeah. That is the first design. The
4 restaurant came later.

5 **Q** Okay. And do you recognize what that is?

6 **A** What is that? What are you pointing at? The
7 whole drawing?

8 **Q** Yes, sir.

9 **A** That is the jet ski design and pump layouts.
10 It is -- it's parking for -- two, four, six, eight,
11 ten -- yeah, 12 jet skis, and room in the back. A
12 jet ski is about 7-, 8-feet wide. You don't -- you
13 know, it is also aquatic. It is not like you are
14 parking a car or putting a book on the shelf. You
15 need a little bumper room.

16 **Q** But that is what -- could boats park in those
17 slips?

18 **A** I wouldn't call them boats, but, yeah. If
19 you paddle it.

20 **Q** What is that?

21 **A** That is a slab plan for the small
22 restaurant/seafood -- fresh seafood dock master
23 building. On the left, you'll see the depressions
24 from draining the icehouse that is going to be
25 there. Wade's fishing business would off-load

BRETT TODD - CROSS EXAMINATION - BY MR. HARRISON

1 fresh fish for sale, not only at Crab Catchers and
2 the new restaurant, but for the public.

3 MR. MONGILLO: Could you give us the number,
4 please, the plaintiffs' exhibit number?

5 (A brief pause in the proceedings.)

6 Q (BY MR. PLAYER) You had the slab drawing, so
7 what is that?

8 A The floorplan that shows all three uses of
9 this tiny little building, and then, of course, the
10 take-out restaurant with outdoor seating on the
11 right.

12 Q Let me scroll over there.

13 A And it's also the main cash register. So
14 there is no guarantee that someone is going to be
15 shopping in the center part, so that is why this is
16 called dock master you can look out the service
17 window. But in there is a place to sell merch, you
18 know. Wade owns an outdoors company. I believe
19 it's called Longshot. They were looking to sell
20 hats and T-shirt and fishing rods and cups.

21 Q So you have the area called "ice cream and
22 snacks" --

23 A Yeah. That is the dock master. Kind of a
24 come-on-up-here-have-a-good-view, rent jet skis,
25 get a drink.

BRETT TODD - CROSS EXAMINATION - BY MR. HARRISON

1 Q And the covered porch?

2 A That is just for people to sit there. You
3 know, grandma doesn't want to go on the jet ski,
4 she might rent for the kids.

5 Q On the left-hand side, in the middle of the
6 building, was going to be a tackle shop?

7 A Yeah. Again, for selling whatever they
8 decided to on a retail level.

9 Q And all the way on the left is a fish cooler?

10 A Yeah. And the freezer, which is for the ice
11 that goes under the fish cooler. There is bin
12 separated by a half wall there, and that is just
13 for big tuna, whatever he pulls in.

14 Q Okay. And did you just do this on your own
15 or you had input on what they wanted?

16 A Wade is a demanding client, so I'm happy to
17 work with him because, you know, you don't get
18 excellence unless your clients demand it. You can
19 give it to them, and they'll reject it.

20 Q So who gave your input as to what was to go
21 in the buildings?

22 A Wade and I worked directly hand-in-hand in
23 the design.

24 Q Okay. What is that -- is that the roof line?

25 A Yeah. Because if you don't show the roof

BRETT TODD - CROSS EXAMINATION - BY MR. HARRISON

1 plan, you don't have a roof in this business.

2 That is the lighting, which is so old now.

3 We switched to LED.

4 Q But this was -- were there any other plans
5 needed -- and this is the HVAC plan?

6 A Yeah. And we don't even have to use the
7 ducted systems now anymore with the mini splits.
8 Yeah. Small buildings less than 5,000 square feet
9 are allowed under the IBC in South Carolina to be
10 designed specifically by an architect, not
11 necessarily with the involvement of structural
12 engineers. But almost everywhere you use civil
13 engineers. So I think Wade was dealing directly
14 with engineering for the parking lot and site plans
15 on this.

16 Q The site plan and the parking lot for just
17 this building, or for what you drew earlier?

18 A Just this building. Because he had to get
19 help putting in the tank. Regrettably, the
20 principal he worked with at Venture Engineering has
21 passed on.

22 Q And I noticed on this page there seemed to be
23 a lot of --

24 A All the good stuff.

25 Q -- all the stuff that goes into it?

BRETT TODD - CROSS EXAMINATION - BY MR. HARRISON

1 **A** Yeah. The best part is the grill and the
2 hood. Because they are so small, you can put them
3 in fellowship halls, but you need to have a
4 high-capacity air fan to suck the grease and the
5 air out.

6 Stand up cooler split, because it is a tiny
7 thing. It is smaller than a Subway. So, you know,
8 frozen drink mix, frozen meat, whatever you need,
9 cheese, soft serve.

10 **Q** And did you know if they already had ice
11 cream machines or going to have to purchase them?

12 **A** I was under the impression the entire
13 establishment was ground up, brand new.

14 **Q** And the last part -- I don't know if this is
15 the last part, but the next part --

16 **A** That is the elevation showing what it would
17 look like, the whole design concept, looking like a
18 Lowcountry building. Wade is very, very respective
19 of the Little River architecture, and Tim agreed
20 they wanted it to look like everything, including
21 the brewery. Crab Catchers has shake siding, so
22 that is why it is shake siding and gray look. It
23 might be lap siding in some places, by the way, but
24 they wanted it to look like it all belonged
25 together.

BRETT TODD - CROSS EXAMINATION - BY MR. HARRISON

1 **Q** So they wanted this building to look like it
2 was a part of Crab Catchers?

3 **A** The whole idea was to blend them. We
4 probably would do some repainting at some point.

5 **Q** Okay. This last part, what is that?

6 **A** That is called "building section." If you've
7 ever sliced a cake, you can tell the cake is made
8 out of two or three layers. This kind of building
9 drawing is done to be descriptive of all of the
10 important components from top to bottom.

11 Also, it is great to give out the little
12 important "look here" things like the tiny brick or
13 reinforcement or steps in a slab. This one is
14 lower than that one. It gives a three-dimensional
15 aspect to two-dimensional drawings.

16 **Q** Is that required to obtain permits?

17 **A** Yes. The minimum standards for building
18 standards in Horry County are: Plans, elevations,
19 and technically they call it a wall section, but
20 this building is so small, you can do the whole
21 thing. They have scale requirements,
22 three-quarters inch or half inch I believe for
23 sections. One-eighth for plans. So they fit on a
24 24-by-36 inch drawing sheet.

25 **Q** And then this sheet, what is this?

BRETT TODD - CROSS EXAMINATION - BY MR. HARRISON

1 **A** Present company excluded, God bless
2 government, the Department of Energy makes even
3 this tiny little building report that it is well
4 underneath the allowable energy it is attempting to
5 use. So this is called a "com check," and you have
6 to check the envelope to make sure it is properly
7 insulated, make sure the light is -- of course now
8 it is LED. That is no longer a problem. And then
9 mechanical to make sure that the air conditioning
10 will be sufficient to not draw too much energy, or
11 at the same time, under service, but mostly in the
12 heating environments.

13 That's a requirement, the elevation
14 certificate. That is surveys by FEMA for what they
15 call flooding -- come on, man, we're right next to
16 the waterway, there is only so much you can do.

17 **Q** Right. But you have to do it?

18 **A** I did report it for him on this project.
19 Surveyors are the one that have to get the final
20 one.

21 **Q** And this one here is the table and then --

22 **A** That was the fun one.

23 **Q** We'll go back to that one.

24 **A** See, all the plants they wanted by the
25 parking lot?

BRETT TODD - CROSS EXAMINATION - BY MR. HARRISON

1 **Q** Let's go over more here. You recognize that?

2 **A** Oh, yeah. Those are the parking lot projects
3 that we were trying to get done first. Actually,
4 that was the weirdest thing. I designed that
5 building and even designed the brewery around that
6 parking lot, and they ended up needing the parking
7 lot first.

8 **Q** And we don't have the brewery plans, but do
9 you know where that was planned to be built?

10 **A** Yeah. Everything before it -- you see how it
11 has a haunch that goes to the left? There is a
12 little line here --

13 THE WITNESS: May I stand up?

14 THE COURT: Yes, you may.

15 **A** This line represents pretty much the edge of
16 the marsh here. So we were building down here and
17 across, and connect that line going all the way
18 back so you get a great over-the-marsh view towards
19 the water. You can put bands and all sort of fun
20 stuff. Brick wall next to the fuel tank, because
21 no one likes to drink and be interrupted by
22 explosions.

23 **Q** So was it going to be in the blue-shaded part
24 at all?

25 **A** No. No. See that way corner in the back?

BRETT TODD - CROSS EXAMINATION - BY MR. HARRISON

1 That is about the location they eventually asked if
2 Wade could put a metal storage building.

3 Q In the very back at the top?

4 A Where the blue is. Back, left corner.

5 Q Okay. But the restaurant was going to go,
6 basically, right below where the red is?

7 A It is literally -- yeah. This would be
8 almost one-third of the front of the restaurant and
9 goes back here. And then the brewery would be up
10 here. In the middle would be the kitchen, and then
11 there would be a deck facing the water all the way
12 down -- a little marsh, technically.

13 Q Okay. What's this?

14 A That's the fun parking lot we had to put in
15 there. Six handicap parking. All of that parking
16 was not based on the restaurant design, but on the
17 combination use of Wade's store and Crab Catchers.

18 Q So that -- when you design -- did you design
19 this parking lot?

20 A I did. What they did is they came back and
21 wouldn't let us do, kind of, an open parking lot.
22 They made us put in all of this landscaping. That
23 was no fun.

24 Q But the reason -- why did it have to be that
25 big or --

BRETT TODD - CROSS EXAMINATION - BY MR. HARRISON

1 **A** They were just maximizing parking for future
2 development. And it is actually -- the landscaping
3 is the zoning requirements for Horry County now.

4 **Q** And in this picture, the restaurant would
5 be -- if I understood you earlier -- around here?

6 **A** That's right. You can almost see the
7 footprint. If I may? It wasn't the perfect L, but
8 it comes down, goes in the front and back.

9 **Q** So would the parking lot be there with the
10 restaurant?

11 **A** Yeah. They even had discussion and asked if
12 they could rip out some of the parking, and I said,
13 After all that work to get it approved you want to
14 go back to that? No.

15 **Q** Those discussions, who were they?

16 **A** When I say "they," that is Tim and Wade. But
17 it was really brief.

18 **Q** And this is just another part of parking lot
19 or drawing of the parking lot?

20 **A** Yeah. I would have to see the bottom, right
21 corner. See, now, that is a coversheet. That is
22 an enlarged floorplan.

23 Oh, yeah, the irrigation plan. They wanted
24 to make sure we were irrigating their parking lot.

25 **Q** And then this one?

BRETT TODD - CROSS EXAMINATION - BY MR. HARRISON

1 **A** That would be a coversheet for the building.

2 **Q** And a planting legend?

3 **A** Could be the planting plans where they --
4 yeah. They wanted to count the plants. There is
5 azaleas -- up at the top, scroll it down one notch,
6 and you can see that. Palmettos. The legend is at
7 the top of the sheet, not the bottom. Southern
8 Magnolia.

9 **Q** Southern Sugar Maple?

10 **A** Yeah. You have to follow the guidelines of
11 what they call "Cam P3." Those are tall trees and
12 certain breeds, and they don't want any oak-lined
13 allies like it's 1865.

14 **Q** I think that is the last page of the
15 drawings.

16 **A** Might be.

17 **Q** So do you recall how much you charged to do
18 those drawings?

19 **A** Not exactly, but I can tell you none of my
20 fees are huge. It is usually based on an hourly
21 assumption of work. So it would likely have been
22 \$4,800 or less.

23 **Q** Did you get paid?

24 **A** Oh, yeah. Wade is great.

25 **Q** Now, was the 48 just for those plans and

NICK NEY - CROSS EXAMINATION - BY MR. MONGILLO
1 then --

2 **A** Well, I think I've actually got two checks on
3 this, because you are looking at two different
4 instances. I'm not -- I'm pretty sure Wade paid me
5 for the store, but Mr. Kettner might have paid me
6 for the parking lot.

7 **Q** Do you have any knowledge or information
8 about the dispute that arose between Tim and Wade?

9 **A** I know my wife is mad I can't go to Crab
10 Catchers anymore.

11 **Q** Why do you feel you can't go to Crab Catchers
12 anymore?

13 **A** Because if I went to Crab Catchers, you know,
14 it might be choosing sides. But it is a really
15 good restaurant, and we liked going there for
16 years. But, otherwise, not exactly.

17 **Q** Thank you for coming and testifying.

18 MR. PLAYER: Answer any questions these
19 gentlemen may have.

20 THE WITNESS: I'm happy to help.

21 **CROSS EXAMINATION**

22 **BY MR. MONGILLO:**

23 **Q** I'm Scott Mongillo. I represent Tim Kettner
24 with Ronny Richter. We're sitting on the far side,
25 so you might not be able to see us.

NICK NEY - CROSS EXAMINATION - BY MR. MONGILLO

1 I have a few brief questions for you. Before
2 today, we've never met, have we?

3 A No.

4 Q You never met Ronny Richter before, have you?

5 A I don't think so.

6 Q Have you met with any other attorneys in this
7 courtroom before today?

8 A I don't think so.

9 Q Did you meet Mr. Player before today?

10 A No.

11 Q So you testified that some guy lives in a
12 trailer for years on a piece of that property.
13 Would that have been Dean "Doc" Trent? Does that
14 name sound familiar?

15 A I don't know. I thought it was an old lady,
16 to tell you the truth.

17 Q That's fair.

18 And then you testified that a deceased
19 individual owned that property between where the
20 trailer was. Would that individual be
21 Mr. Faircloth?

22 A I don't know the owner. I know that
23 finally -- that person passed away, so now the
24 property was finally available for sale.

25 Q Excellent. Thank you.

NICK NEY - CROSS EXAMINATION - BY MR. MONGILLO

1 And these plans we just discussed, they dealt
2 with real property?

3 A Yes, sir.

4 Q And these plans that we just discussed, they
5 could not be completed within one year, could they?

6 A Construction or design?

7 Q The construction.

8 A No, not the construction. The
9 construction -- you know, it depends which part.
10 If you are talking about -- the brewery would have
11 taken about a year.

12 Q The whole thing?

13 A If you include permitting time.

14 Q I'm including everything from when you
15 designed it to a certificate of occupancy.

16 A Depends which level it is. But if it was the
17 little store, yes. The parking lot, maybe not.
18 The brewery, no.

19 Q Thank you, sir.

20 We saw the Plaintiffs' Exhibit 19 the picture
21 of the parking lot and everything.

22 MR. PLAYER: You want me to put it up?

23 MR. MONGILLO: No, we're fine.

24 Q (BY MR. MONGILLO) Can you tell me who it was
25 for, who you did it for? Before you answer that,

NICK NYE - CROSS EXAMINATION - BY MR. BELLAMY
1 did you do did for a joint venture? TNT? Did you
2 do it for TnW? Tim Kettner? What do your
3 documents say who you did it for?

4 **A** On here, it says it was Wade Long, owner and
5 the builder.

6 **Q** Thank you.

7 One last question. Anywhere in those plans
8 we just saw is the word "joint venture" mentioned?

9 **A** No.

10 **Q** Okay.

11 MR. MONGILLO: No further questions. Thank
12 you.

13 **CROSS EXAMINATION**

14 **BY MR. BELLAMY:**

15 **Q** Mr. Nye, can I call you Nick?

16 **A** Yes, you may.

17 **Q** I'm Howell Bellamy. I'm an attorney with
18 Bellamy Law Firm, and I represent TNT and the
19 individual defendants in this case.

20 **A** Okay.

21 **Q** Nick, what I would like you to do is I've
22 got -- I want you to -- you identified a property
23 owned by Wade Long. If you would, put a sticky and
24 indicate where his property is and sign it.

25 **A** As I was under the impression.

NICK NYE - CROSS EXAMINATION - BY MR. BELLAMY

1 **Q** I just want you --

2 **A** You have to give me more than one. Because
3 they -- there is an abandoned property line that
4 could be confusing.

5 **Q** As far as -- I'm dealing with -- as far as --
6 have you seen the promissory note and the
7 mortgages?

8 **A** No.

9 **Q** All right. That's fine.

10 **A** (Witness complied.) Hand it over. You don't
11 have another one?

12 **Q** Yeah I have another one for you okay there
13 you go?

14 **A** One more. Now, there is an ironic piece of
15 property that we never talked about, and that is
16 right here. Technically, Wade owned that, or part
17 of the parcel, but it is marsh. You can't use it.
18 And, then, this parcel between, that is the joint
19 venture.

20 **Q** So we're clear for the record, every little
21 sticky where you have your initials on it --

22 **A** "WL," that is for "Wade Long." And "JV" for
23 "joint venture."

24 **Q** When you put JV, you testified that Wade
25 owned that property there?

NICK NYE - CROSS EXAMINATION - BY MR. BELLAMY

1 **A** I was under the impression they owned that
2 combined.

3 **Q** Combined?

4 **A** Combined.

5 **Q** But these properties were owned by Wade?

6 **A** I was under the impression that Wade owned
7 the parking lot and the marsh section.

8 **Q** Okay. Now, let me ask you this. When did
9 you have conversation with Wade or testimony -- or
10 specifically Wade that Wade indicated he owned
11 those parcels?

12 **A** Well, first, I was brought into a meeting at
13 Crab Catchers with Tim Kettner and Wade. They
14 talked about how they were going to go into a joint
15 venture, because Wade owned the property behind it,
16 and they were going together to buy the small
17 property for Wade's store. And then Wade's
18 property and the small store would allow Crab
19 Catchers to use Wade's property as a parking lot,
20 and the small store up front would be used for a
21 dock master, jet skis, fishing, and the tackle.

22 **Q** Do you remember what date that you had that
23 meeting with Wade and Tim?

24 **A** Honestly, no. But I do believe it might have
25 been 2008 or 2006.

NICK NYE - CROSS EXAMINATION - BY MR. BELLAMY

1 **Q** 2008 or 2006?

2 **A** The drawings have dates that are helpful, but
3 it was literally -- this project we worked on for
4 two, three years. Because we would draw something,
5 and it would get quiet.

6 **Q** Nick, this is Plaintiffs' Exhibit No. 19.
7 Are those your drawings?

8 **A** Yeah.

9 **Q** For the record, would you indicate the date
10 on those drawings?

11 **A** I'm trying to see them. It's terribly,
12 terribly small. If these are the later date
13 drawings for, say, the dock, that could be 17. I
14 can't see. This is just too small. Nothing on the
15 Horry County approval.

16 MR. PLAYER: It is not -- to me, it looks
17 like February 17. The only thing that is clear is
18 the "7." It is really hard to see.

19 MR. BELLAMY: February 17?

20 MR. PLAYER: No. February of 2017.

21 MR. BELLAMY: Okay.

22 **Q** Do you agree with that, Nick?

23 **A** Yeah. That sounds pretty accurate. It was a
24 couple of years since I talked about this project.

25 **Q** So is it fair to say that the conversations

NICK NYE - CROSS EXAMINATION - BY MR. BELLAMY

1 you had with Tim and Wade about they were going to
2 form a joint venture to develop this property, that
3 that occurred, you know, before February of '17,
4 2017?

5 **A** Yeah. Before the summer season. So, in
6 theory, just before summer season of 2016.

7 **Q** Let me ask you this. You used the term
8 "joint venture." What is your understanding as far
9 as what a joint venture is?

10 **A** It's usually a well-established company with
11 subrogated either properties or monies combined to
12 move forward on a project you are going to co-own.

13 **Q** Right. Jointly share in profits?

14 **A** Yeah. Jointly sharing responsibilities and
15 debts, too.

16 **Q** Right. And joint in sharing management and
17 control of the property, the subject matter of the
18 joint venture?

19 **A** Yes. That's the danger of partnerships.

20 **Q** Now, did they -- did Tim and Wade indicate
21 who the members of the joint venture were going to
22 be?

23 **A** No. I always thought it was just those two.
24 Because they contacted me first, and Wade was
25 acting like the lead, and the development was for

NICK NYE - CROSS EXAMINATION - BY MR. BELLAMY

1 his vision. This guy was just getting a parking
2 lot out of it.

3 Q I noticed when I was looking at your plans
4 that Wade is listed as the owner of the plans?

5 A Yeah. He's listed as the builder/owner on
6 the first plans because he was the guy out there
7 getting the permits and that kind of thing. Tim is
8 owning a parking lot, using the parking lot.

9 Q Based on your conversations with Wade and
10 Tim, your understanding is the joint venture would
11 be Tim and Wade?

12 A Yeah. Especially looking forward to the
13 brewery.

14 Q Now, as far as getting paid regarding the
15 plans, that was -- you were paid by Tim or Wade or
16 both?

17 A Both, all the way. No big checks. Nothing
18 more than 4,800, probably \$2,400.

19 Q You, obviously, know Crab Catchers?

20 A Love it. Been going there since the '90s,
21 man.

22 Q And Crab Catchers was not a part of this
23 joint venture, correct?

24 A I was under the impression that Crab Catchers
25 was going to be a part of the new restaurant for

NICK NYE - CROSS EXAMINATION - BY MR. BELLAMY

1 sure. So, I mean, not the little tiny ice cream
2 store, but the brewery and restaurant behind it, I
3 was under the impression that Crab Catchers'
4 biggest benefit was parking.

5 Q Let me ask you this. You previously
6 testified that the joint venture was just Tim and
7 Wade, correct?

8 A I've seen no documents that have organized
9 how the relationship was, the name of the business,
10 other than, you know, "TNT."

11 Q But there is no joint venture agreement?

12 A I have not seen one.

13 Q And in this particular case, would it be fair
14 to say that your clients were -- as far as these
15 plans -- were Tim and Wade?

16 A Absolutely.

17 Q And did TNT pay you to do -- put these plans
18 together?

19 A I believe so. But like I said, I got one
20 check from Tim, one from Wade, years apart
21 sometimes on some of these things.

22 Q And when you got the check from Tim, did he
23 sign on behalf of TNT or individually? Did he
24 issue a check individually?

25 A I couldn't tell you. I left that meeting

NICK NYE - CROSS EXAMINATION - BY MR. BELLAMY

1 with a check and probably ran to the bank.

2 Q Did anybody from -- I'm not talking about
3 Tim, but did anybody from TNT -- Donny, Justine,
4 Casey -- did they have any input or say as far as
5 the development of these plans that you put
6 together?

7 A I don't think so.

8 Q I mean, did you feel like you had an
9 obligation to consult with them regarding the
10 construction to take place on these lots you
11 identified?

12 A No. I thought everybody was on the same
13 team. We met on-site a couple of times, talked
14 about building with Tim and Wade on-site on that
15 little tiny storefront property. Because, you
16 know, it has an incline and a rip-rap wall. They
17 wanted to know if they could build a little bit out
18 on the marsh, and that is where the idea of a
19 boardwalk, because you can build boardwalks, but
20 not buildings over marsh.

21 Q Did Exhibit 19, Nick, was this a full set --
22 fully designed set of drawings permissible for the
23 complete project?

24 A Pretty generic question. From what you are
25 holding up there. If it was for the -- eventually

NICK NYE - CROSS EXAMINATION - BY MR. BELLAMY

1 what they want the permit for was the parking lot.
2 Everything else they were, what they call, at the
3 point of, say, design development or construction
4 in lending.

5 They never pulled that final
6 going-to-the-permit-office action. But, yeah, you
7 could build off of them. If I died the next day,
8 they could build off of them. Yeah. Because they
9 can't get a permit off of me because I'm dead.

10 Q So these were not a concept?

11 A No. No. We went all the way to get it as
12 fully developed as possible, because it helps with
13 estimating and lending.

14 Q If I understand your testimony, these plans
15 were permittable (sic), you can send them to the
16 county?

17 A I think so, yeah.

18 Q Let me ask you this. Where the restaurant is
19 located, the new harbor master's office, you agree
20 that is in a floodplain?

21 A Oh, yeah. The whole town is in a floodplain,
22 man.

23 Q Back in '22 or '23, did you have any
24 conversations with David Jordan?

25 A I don't think so. I can't remember who....

NICK NYE - CROSS EXAMINATION - BY MR. BELLAMY

1 **Q** He was head of planning and zoning for the
2 county?

3 **A** No. Any site work and flood plan work, I
4 dealt I talked with Steve Powell with Venture
5 Engineering.

6 **Q** I know Steve. He is a close friend of mine.
7 Unfortunately, he passed away.

8 Did the county ever tell you that you had to
9 elevate the harbor master's office because it was
10 in a flood place?

11 **A** You can flood-proof small buildings. That is
12 the only thing you can get. If we were going to
13 flood proof to elevate later on, I think the
14 floodplain is pretty reasonable. We are inland
15 form the ocean. So we had options of either on the
16 ground or up about three feet. Originally, they
17 wanted to keep it on the ground because they didn't
18 want to build a lot of deck work for the handicap.

19 **Q** If David Jordan told me that building the
20 harbor master's office had to be elevated on piles,
21 your testimony would be that is incorrect in saying
22 that?

23 **A** Either way, they have the final say. The
24 truth is between now and then, they decreased the
25 floodplains. So now David Jordan could say you

NICK NYE - CROSS EXAMINATION - BY MR. BELLAMY

1 could build on the ground. But then, David Jordan
2 might have asked for it to be elevated. One clear
3 foot of free board above what they call the area of
4 floodplain, around that section it is usually 12,
5 13 feet above sea level. The dirt is about 10 feet
6 above sea level. So you can get up a little room
7 in between and solve this.

8 But then, all the sudden, there is a rule
9 under the building code requiring clear space in a
10 crawlspace, so now you don't have enough room in
11 the crawlspace. So if you build it on the ground
12 and flood proofed it according to federal flood
13 proofing regulations -- you build barricades at
14 your doors and windows up to the floodplain height.
15 It is temporary and supposed to keep them on-site.
16 In this case, this building had two -- three
17 accessible human doors and a freezer. So very easy
18 to flood proof.

19 Q Was there an issue about having a fire
20 hydrant on the property?

21 A Always have to have a fire hydrant within
22 300 feet. More importantly, proper fire flow. The
23 bigger concern was not the building, but the gas
24 tank.

25 Q Let me go back to the fire hydrant.

NICK NYE - CROSS EXAMINATION - BY MR. BELLAMY

1 Obviously, because the property didn't have a
2 permanent structure, you didn't have to have a fire
3 hydrant within so many feet of the building. And
4 in talking to David Jordan, it probably would cost
5 up to \$40,000. Do you have any reason to disagree?

6 **A** Depends where it is. The hydrant isn't so
7 expensive, it is the pipe that is really --
8 hydrants is a specialized item. It depends also on
9 how much fire flow had to be provided. However,
10 that is an old street and there is city water, I
11 believe, going through there from Little River
12 Water and Sewer. So I'm pretty sure there was a
13 fire hydrant in place somewhere within 300 feet of
14 there.

15 **Q** So I'll ask you, is it your position that
16 there was a fire hydrant close enough they were in
17 compliance with the code?

18 **A** Yes. Because they never submitted for
19 building permits. The question never came up, but
20 there better be one within 300 feet of Crab
21 Catchers.

22 **Q** I'm talking more about the new harbor
23 master's office.

24 **A** Yes, sir. But the distance between those
25 buildings is 30 feet.

NICK NYE - CROSS EXAMINATION - BY MR. BELLAMY

1 **Q** Right. Is that your position?

2 **A** Yeah.

3 **Q** Can you explain why they never put these
4 plans and executed them and built the harbor
5 master's office?

6 **A** No. I think they got exhausted building the
7 parking lot, because that they did do.

8 **Q** Let me ask you. You would agree, based on
9 your plans, you had at least two restaurants? You
10 had crab Catchers, ice cream, which was a -- then
11 you had the restaurant, and above the harbor
12 master's office?

13 **A** Well, not exactly. The brewery project was
14 going to be a building in lieu of the harbor
15 master's ice building.

16 **Q** Let me ask you this. My understanding is
17 they were going to build a restaurant above the
18 harbor master's office and serve fish and steaks.

19 **A** That project never took off. I was under the
20 impression that we weren't allowed to build over
21 the marsh. The one I drew and did a 3D rendering
22 of was a two-story restaurant.

23 **Q** What happened with that? Did it have like 80
24 tables; is that your understanding?

25 **A** Yeah. Wade said design out of the water or

NICK NYE - CROSS EXAMINATION - BY MR. BELLAMY

1 out over the marsh, and I'm like, okay, I don't
2 think they'll let us build this. But I designed it
3 for them and never heard any words afterwards.

4 Q Now, if -- let me ask you this. If you had
5 the three restaurants -- Crab Catchers, ice cream,
6 which is classified as a restaurant, and assuming
7 they did build a steakhouse above the harbor
8 master's office -- wouldn't that create a parking
9 issue for Crab Catchers?

10 A That is the irony of the scope of the parking
11 lot. If you see the size of it, that was some of
12 the combinations, I believe, they made us do. We
13 had to limit the restaurant size to meet its
14 allocation of parking within that joint parking
15 lot. It was supposed to be a parking lot for Crab
16 Catchers and a future restaurant, and/or a little
17 harbor master's office.

18 Q Nick, is your testimony that all three -- you
19 know, Crab Catchers, ice cream shop, and assuming
20 they built the restaurants over the harbor master's
21 office -- that all three of those restaurants would
22 have adequate parking? Is that your position?

23 A Yeah. One is a take-out restaurant. That
24 doesn't need parking; not required by code. Four
25 seats, at the time, per car was allowed. I can't

NICK NYE - CROSS EXAMINATION - BY MR. BELLAMY

1 remember the volume of parking, but each restaurant
2 they wanted to not be fire sprinklered, so it had
3 to be less than 300 occupants.

4 Q So for the record, let's be clear. I'm
5 saying building all three restaurants, the ones we
6 identified, it is your position that they could be
7 complied with the code?

8 A Yeah. They should have had at least 120 to
9 180 parking places to work.

10 Q If the county said something different,
11 obviously, you know --

12 A You modify. Take out seating, decks smaller.
13 No one likes to be told they have to spend more
14 money, but they don't mind saving money.

15 Q Has -- let me ask you this. Did anybody
16 prevent Wade or Tim from building this restaurant
17 from 2017 to 2020, as far as plans?

18 A No. I was expecting to get a phone call
19 saying we need to proceed to permit, and I never
20 did.

21 Q Did the \$1.1 million loan that TnW was able
22 to obtain from the bank, were those funds adequate
23 to build everything as set out in your design and
24 drawings?

25 A I never knew about the loan or I would have

NICK NYE - CROSS EXAMINATION - BY MR. BELLAMY
1 had better fees. Otherwise, yeah. But, you know,
2 finishing a restaurant, furniture, dishware,
3 glasses.

4 Q I'll let you explain, but answer my question.
5 Was the 1.1 million dollar loan, was that
6 sufficient to construct everything and sit out your
7 plans, which is marked as Exhibit 19?

8 A At that time, yeah. Construction costs were
9 a little better. But I believe so, yeah. Not the
10 larger restaurant.

11 Q What is set forth in your plans now?

12 A Yeah. That is the small restaurant, store,
13 the pumps, decks, parking, trees.

14 Q Did you obtain all the permitting you needed
15 in order to build everything set forth?

16 A As an architect, I do not apply for permits.
17 Owners and their contractors do because the state
18 wants someone liable for construction.

19 Q Let's me ask you this. Did you have an
20 agreement with Tim and Wade?

21 A Just a basic design agreement.

22 Q Was it an AIA agreement?

23 A No. No, I don't do construction
24 administration.

25 Q That is what I was going to ask you.

NICK NYE - CROSS EXAMINATION - BY MR. BELLAMY

1 **A** No. No. No. No. Who wants to do that?

2 That's a lot of work and pain in the neck. I'll
3 design them a building and give them a great deal.

4 **Q** Tell me little bit about the agreement you
5 had with Tim and Wade. Was it in writing?

6 **A** I believe so, yeah.

7 **Q** Did you provide a copy of that agreement to
8 Mr. Player?

9 **A** I don't believe I was asked to.

10 **Q** Tell me about the agreement, if you remember.

11 **A** All my agreements are two-page agreements
12 based on hourly architectural production for
13 documents and design. So it probably would have
14 been something like not to exceed 12, 14, 16 hours
15 of time.

16 **Q** As far as who was the signatory on the
17 agreement, it was you, Tim, and Wade?

18 **A** You know, I would have to see the agreement,
19 but I've made them out to Wade. I've made them out
20 to Kettner.

21 **Q** Based on your memory, you would have been --
22 you would be a party to your agreement; it is your
23 agreement?

24 **A** Uh-huh.

25 **Q** Then Tim signed the agreement, and did he

NICK NYE - CROSS EXAMINATION - BY MR. BELLAMY

1 sign it individually? Signed on behalf of anybody?

2 **A** If he did, he probably said Tim Kettner. I
3 don't know he did it on behalf of anyone.

4 **Q** Did he sign on behalf of TnW?

5 **A** No.

6 **Q** And Wade, did he sign individually?

7 **A** Yes.

8 **Q** Nobody from TNT signed the agreement?

9 **A** Didn't know anyone other than Tim and Wade.

10 **Q** So your two clients were Tim and Wade?

11 **A** Yeah.

12 **Q** TNT was not your client?

13 **A** No. I mean, they -- I didn't know TNT was a
14 name or anything until after I started working for
15 them.

16 **Q** I understand that. I'm talking about at that
17 point in time -- well, you signed the employment
18 agreement, you testified it was you, Tim, and Wade,
19 correct?

20 **A** Yes. A very simple meeting.

21 **Q** And let me see if I have anything else. One
22 thing I want to -- on the little stickies
23 identified that these were properties that Wade
24 owned, Wade told you that he owned those, correct?

25 **A** Yes.

NICK NYE - CROSS EXAMINATION - BY MR. BELLAMY

1 Q That was pre-February 2017?

2 A Yeah. I mean, at the meeting in Crab
3 Catchers, that is what I was made aware of, that
4 Wade made this parking lot out back.

5 Q Back here?

6 A Yeah. I had no idea he owned that property.
7 For the life of everybody that parked there -- I
8 thought it was owned by Crab Catchers, but as you
9 are telling me and you are showing me, someone else
10 did.

11 Q Wade told you that is what he owned?

12 A When I went to the meeting it was -- Tim
13 says, I own Crab Catchers and Wade opens that
14 parking lot in the back, and together we're going
15 to take the property in between us and combine it
16 all.

17 MR. BELLAMY: Okay. No further questions.

18 THE COURT: Thank you, sir -- any redirect
19 examination?

20 MR. PLAYER: No, sir.

21 THE COURT: Thank you. You are excused.
22 Any objection?

23 MR. BELLAMY: No objection.

24 MR. PLAYER: No, sir.

25 THE COURT: You're free to go. Thank you.

GEOFFREY HOPKINS - DIRECT EXAMINATION

1 MR. PLAYER: Plaintiff calls Geoff Hopkins.

2 (GEOFFREY HOPKINS, having been duly sworn,
3 testified as follows:)

4 THE WITNESS: Geoffrey Robert Hopkins.

DIRECT EXAMINATION

5
6 **BY MR. PLAYER:**

7 **Q** Good afternoon. Thank you for coming. Tell
8 the jury a little bit about yourself.

9 **A** 25-year banker, certified superior court
10 mediator in North Carolina.

11 **Q** Where are you currently employed?

12 **A** First Palmetto Bank.

13 **Q** Are you married?

14 **A** Yes.

15 **Q** Kids?

16 **A** One.

17 **Q** How old?

18 **A** 20.

19 **Q** Like me, makes you feel old, doesn't it?

20 **A** It does.

21 **Q** I'm going to put it up here and we'll talk
22 about it in a moment.

23 Did you always work at Palmetto Bank?

24 **A** No.

25 **Q** Did you work at Horry County State Bank at

GEOFFREY HOPKINS - DIRECT EXAMINATION

1 one point?

2 **A** Yes.

3 **Q** How do you know Wade Long and Tim Kettner?

4 **A** Wade was introduced to me -- I can't even
5 remember when, it's been awhile -- by another
6 customer of mine, and then Wade introduced me to
7 Mr. Kettner.

8 **Q** And do you recall the reason for that meeting
9 or -- did they want to do business with you?

10 **A** Yes.

11 **Q** What did they want?

12 **A** They were working on a plan to expand the
13 existing restaurant business and augment it with
14 different types of business and needed some
15 funding.

16 **Q** How does that process happen? How do they
17 get funding from a bank for this business venture?

18 **A** They bring the plan. They provide
19 projections. They put a plan together. They
20 provide somewhat of an ownership structure, and
21 then we start collecting financial information and
22 projections.

23 **Q** And the projections and the financial
24 information, what is that based on? Is it based on
25 what they are doing now or what they are asking the

GEOFFREY HOPKINS - DIRECT EXAMINATION

1 bank to loan the money for?

2 **A** Both, but primarily, if you are expanding a
3 business, you look at projections on what the
4 anticipated revenue is going to be. And,
5 obviously, at the same time, you want to make sure
6 there is some existing income, but the projections
7 are going to be pretty critical in expanding and
8 increasing in the business.

9 **Q** When you say "pretty critical," in what way
10 are they critical?

11 **A** Well, if you are going in and adding a
12 different type of business, you know, that's a
13 completely different line. So it's very, very
14 important to make sure that the people that are
15 involved are somewhat -- know what they are doing
16 and that the projections are legitimate, accurate,
17 and -- because that is going to be your source of
18 repayment.

19 **Q** So would the bank take pure speculation in
20 terms of these projections for the business they
21 are asking to be --

22 **A** No.

23 **Q** Now, we can get to the document. Can you
24 tell me what that document is in front of you?

25 **A** "Loan Credit Memorandum."

GEOFFREY HOPKINS - DIRECT EXAMINATION

1 **Q** How is that created?

2 **A** By the discussions with the prospective
3 buyer, sponsors, financial information, and just
4 general background on the sponsors.

5 **Q** And who would provide that information? It
6 would be the sponsors?

7 **A** Correct.

8 **Q** So what's in that credit memorandum is a
9 summary of what they told you they want the money
10 for?

11 **A** That's correct.

12 **Q** I want you to take a second and read those
13 two paragraphs, and I'll ask you a question --
14 well, I'll ask it beforehand. Can you show me
15 where anything in the borrower guarantor background
16 it mentions Wade Long or TnW and More, LLC?

17 **A** (Witness examines document.)

18 (A brief pause in the proceedings.)

19 **A** What was the question?

20 **Q** **(BY MR. PLAYER)** Did you see TnW or Wade Long
21 anywhere --

22 **A** I didn't see TnW or Wade Long.

23 **Q** This was to expand a business, you said. Do
24 you know what business you thought they were going
25 to be expanding?

GEOFFREY HOPKINS - DIRECT EXAMINATION

1 **A** Crab Catchers.

2 **Q** Now, a little further on this page you have a
3 -- what are those -- are those the projections you
4 are talking about?

5 **A** Appears to be.

6 **Q** Is there anything in those projections that
7 lists food or beverage sales from Crab Catchers?

8 **A** Not that I can see.

9 **Q** So the projections that the bank wanted to
10 see was for what they were going to do with the
11 money, right?

12 **A** Yes, sir.

13 **Q** And that was jet skis, fuel sales, dockage,
14 ice cream shop sales, and a charter boat referral
15 program?

16 **A** Yes, sir.

17 **Q** And the next paragraph is that two real
18 estate loans are being paid off with this money,
19 and both of those loans the debtor was Crab
20 Catchers, TNT, correct?

21 **A** I don't see that in here, but I recall that
22 being correct.

23 **Q** I apologize. It says "we." It doesn't
24 necessarily say "Crab Catchers" in there.

25 We'll go to the next page. And under "loan

GEOFFREY HOPKINS - DIRECT EXAMINATION

1 summary" where you have the collateral -- what is
2 collateral, in case anyone on the jury is fuzzy on
3 that?

4 **A** It is what the bank uses to secure a loan
5 when the bank is lending money. In the event that
6 the borrower defaults or stops paying the bank, it
7 seeks remedy with the collateral.

8 **Q** So you would -- collateral is real estate?

9 **A** In this case, yes.

10 **Q** So if the loan doesn't get paid back, what
11 happens to that real estate?

12 **A** It gets foreclosed on.

13 **Q** And goes to the bank?

14 **A** Correct.

15 **Q** Down below, "repayment," explain those three
16 entries.

17 **A** The primary source of repayment is the
18 business income from what we just talked about in
19 projections.

20 The secondary is what we say -- it is kind of
21 the backup to the primary. If the primary doesn't
22 work, we go to the secondary, personal income from
23 the guarantor. So we seek remedy from the business
24 first. If that fails, we go to the secondary,
25 which would be the guarantors. I called them

GEOFFREY HOPKINS - DIRECT EXAMINATION

1 "sponsors" a minute ago, but it is the same thing.
2 And then the tertiary is the last resort, which is
3 the collateral.

4 Q So we anticipate the new business will
5 generate enough income to pay us back; if not,
6 we'll go after the individuals; and if they don't
7 have anything, we'll take the land?

8 A Correct.

9 Q We'll scroll down a little bit more. We get
10 to these sections: One, loan requests, Page 3
11 maybe. Roman Numeral one, are you on that page?

12 A Yes, sir.

13 Q That says, The request is proposed to use the
14 existing restaurant known as Crab Catchers and the
15 previously purchased adjacent lot of 3.56 acres.

16 Again, is there anything in there about TnW
17 or Wade Long?

18 A I don't see anything.

19 Q And then on the second one: Subject property
20 description, project highlights. Go to the third
21 bullet point, zoning. Can you read that out loud
22 and tell them what that means.

23 A Zoning requires one parking space per 100
24 square feet of indoor space, and 150 square feet of
25 outdoor space for restaurants.

GEOFFREY HOPKINS - DIRECT EXAMINATION

1 The subject property would require 43 parking
2 spaces. As-built, subject's use would be legally
3 nonconforming due to FEMA current requirement
4 unless the land area within the assignment is
5 considered as one, the subject restaurant would be
6 nonconforming due to parking shortage.

7 **Q** So does that mean unless all of the property
8 involved that are taken as collateral was seen as
9 one property, they would be out of compliance with
10 regulations?

11 MR. HARRISON: Objection, Your Honor. He can
12 testify to the document. He can't speculate about
13 regulations unless they are putting him up as an
14 expert.

15 THE COURT: Sustain it. Stick to the
16 document.

17 MR. PLAYER: Okay.

18 **Q** **(BY MR. PLAYER)** Does that paragraph indicate
19 to the bank that the parking spaces are needed for
20 them to operate?

21 **A** Yes.

22 **Q** I'm assuming this part of the projections is
23 that -- a proforma that was provided by the
24 borrowers, or is that --

25 **A** Is this Page 4?

GEOFFREY HOPKINS - DIRECT EXAMINATION

1 Q The next one, I apologize.

2 A It would have been provided by the borrowers.

3 Q I think we're going to go down two pages,
4 three pages -- wait a minute. There we go. It
5 might be better if I pick it out. What is a PSOR?

6 A Prime Source Of Repayment.

7 Q What did the bank anticipate and expect as
8 the prime source of revenue -- primary source of
9 repayment for this loan?

10 A The expanded operation, which would be -- I
11 mean, here it says jet ski and ice cream stand.

12 Q So what does that indicate with the bank?
13 They thought that would be sufficient to cover the
14 debt service?

15 A Yeah. I mean, based on -- based on the
16 projections, yes.

17 Q And then SSRO?

18 A Secondary Source Of Repayment.

19 Q And company cash flow of post-distributions
20 of 547 covers company debt service of 91,000 at
21 5.99 -- what is all of that?

22 A That is probably -- and this being a little
23 distant here, I'm going to assume that is Crab
24 Catchers.

25 MR. HARRISON: Objection; speculation.

GEOFFREY HOPKINS - DIRECT EXAMINATION

1 MR. PLAYER: He handled the loan, Your Honor.

2 THE COURT: Overruled.

3 A I believe that was Crab Catchers'
4 distributions from profits and -- yeah.

5 Q (BY MR. PLAYER) But what is the 91,000? Is
6 that the yearly debt service that is expected?

7 A Yes.

8 Q So, explain that. What is that? They have
9 to pay \$91,000 a year?

10 A So what we do is when we set a loan up, we --
11 if it is on a 15-year repayment or 20-year
12 repayment, or whatever repayment term it is, we
13 come up with a monthly payment, and then we
14 annualize it. So if it's \$5,000 a month, annualize
15 it, and it is \$60,000 a year. Okay. So in this
16 particular case, the annual debt service was 91,000
17 and some change.

18 Q And that was about \$7,000 a month?

19 A Somewhere like that.

20 Q Now, a little further you have "weaknesses,"
21 and the first bullet point is "new project is
22 projection driven." Why is that a weakness.

23 A Well, any time you have projections, it's a
24 best -- it is an educated best guess. And so we
25 used those, but it is a weakness because it is not

GEOFFREY HOPKINS - DIRECT EXAMINATION

1 a historical proven cash flow.

2 Q Okay. I'll take that back before we lose it.

3 Thank you for answering the questions about it.

4 How much do you remember about the personal
5 interactions with Tim and Wade?

6 A I guess okay.

7 Q How did you understand what they were going
8 to do in terms of this new business venture?

9 A I understood that they were working together
10 to -- one had one expertise, the other had the
11 other expertise, and they were going to join forces
12 and make a big, you know --

13 Q Together?

14 A Yeah.

15 Q Were you aware of them having a falling out?

16 A I, ultimately, became aware of it.

17 Q Do you recall how?

18 A Yeah. I was asked to come to a meeting at
19 Crab Catchers. I went, and there was a group there
20 that -- I went in, and they told me that there was
21 a problem.

22 Q What was the problem?

23 A I really couldn't -- it was kind of hard to
24 tell. It sounded like there was just some
25 disagreement that one thought the other one thought

GEOFFREY HOPKINS - DIRECT EXAMINATION

1 the -- just seemed like a big disagreement about
2 the direction the business was going in and how the
3 funds were used, and all of that kind of stuff.

4 Q What did you do at the meeting?

5 A Primarily, just listened.

6 Q Do you recall what they were asking you to do
7 in this meeting?

8 A I don't know that they were asking me to do
9 anything. They were telling me that there was a
10 problem and that there was discontent between the
11 group, and that -- you know, the folks that invited
12 me to the meeting had their lawyer there. I don't
13 know that they were really asking me to do
14 anything. I think they were worrying about the
15 loan going into default. That was the main thing I
16 remember. Other than that, I don't know that they
17 really asked me to do anything.

18 Q Was there anything about the meeting that
19 made you feel uncomfortable?

20 A Well, I mean, I walked in and wasn't told
21 there would be a lawyer there. I felt like I was
22 being kind of ambushed a little bit.

23 Q Did anyone try to physically intimidate you?

24 A When I walked in the door there was a guy
25 that kind of (indicates).

GEOFFREY HOPKINS - DIRECT EXAMINATION

1 **Q** Bowed up?

2 **A** Yeah. Yeah.

3 **Q** So what happened in that meeting? Did you
4 tell them anything?

5 **A** You know, we had some discussion about Mr.
6 Kettner. His children were there. He wasn't
7 there. Wade Long wasn't there. I just felt
8 uncomfortable talking in that setting without the
9 group there. So I told them that, you know, as
10 soon as I leave, I'm going to call both parties and
11 tell them what was discussed because I was
12 uncomfortable talking to a few members of the
13 group, and it was nothing more than just some
14 discussions about the loan. But that was, really,
15 pretty much it.

16 **Q** Do you ever recall receiving a text or e-mail
17 that said, you know, Wade wants to turn over his
18 shares to us and we're going to take over the loan?
19 If you don't remember, that's fine.

20 **A** I don't remember.

21 MR. PLAYER: Hold on one second.

22 (A brief pause in the proceedings.)

23 **Q** **(BY MR. PLAYER)** Now, did the bank have any
24 role in delineating between TnW and TNT in terms of
25 the loan payment? Did you care who paid what?

GEOFF HOPKINS - CROSS EXAMINATION BY MR. RICHTER

1 **A** No.

2 **Q** Did you play any role in determining TnW pays
3 this and TNT pays that?

4 **A** No.

5 **Q** Do you remember who was at that meeting?

6 **A** I think Donny was there. I can't remember
7 the other fellow's name, but I've seen him over
8 here.

9 **Q** Mr. Benoit?

10 **A** Yes. He was there. I think the whole row
11 was there -- I think -- and their lawyer.

12 **Q** And they are all personal guarantors on the
13 loan?

14 **A** I think so.

15 MR. PLAYER: Thank you. I told you I
16 wouldn't be long. Please answer any questions any
17 of these gentlemen have for you.

18 **CROSS EXAMINATION**

19 **BY MR. RICHTER:**

20 **Q** Good afternoon. I'm Ronny Richter. I'm a
21 lawyer from Charleston. Nice to meet you.

22 Mr. Hopkins, this document that we've been
23 looking at, this is all a part of underwriting,
24 right?

25 **A** Yes, sir.

GEOFF HOPKINS - CROSS EXAMINATION BY MR. RICHTER

1 **Q** And underwriting is risk analysis for the
2 bank?

3 **A** Yes.

4 **Q** What the bank wants to know is not just is
5 there a stream of income to repay the loan, but if
6 that doesn't happen, what backs the loan up, right?

7 **A** Yes.

8 **Q** And I'll call this a "start up," is that a
9 fair description?

10 **A** Somewhat, yeah. It is more of a startup than
11 it's not.

12 **Q** I mean, Crab Catchers existed, but this thing
13 that they're talking about -- when I look at jet
14 skis, fuel sales, ice cream, that has never
15 happened, right?

16 **A** That's right.

17 **Q** And so when these numbers are put on a piece
18 of paper, this is just a best guess, right?

19 **A** Yes, sir.

20 **Q** And if all we had on this piece of paper was,
21 you know, some future jet ski sales, future ice
22 cream sales, dockage, that is a risk the bank won't
23 take based on this application? The bank required
24 more than that. I want to know that we have solid
25 guarantors, and I want to know that we have dirt

GEOFF HOPKINS - CROSS EXAMINATION BY MR. RICHTER

1 behind this, right?

2 A Yes, sir.

3 Q So based on this, I mean, we're calling them
4 projections, proforma, whatever you want to call
5 it, but this is just a guess about what this could
6 generate, right, because there is no earning
7 history, whatsoever, right?

8 A That's correct.

9 Q Matter of fact, the assets have not even been
10 constructed to do any of this activity, right?

11 A Not at the time.

12 Q Yeah. There is no jet skis. No one bought
13 jet skis yet, right?

14 A Right.

15 Q All right. There's no docks to put them on,
16 right?

17 A No, not at the time.

18 Q There is no ice cream shop?

19 A Correct.

20 Q So all of those numbers are just fiction. I
21 mean, it is our best guess if the stars align and
22 we actually do these things and we're successful,
23 then we can generate this kind of money, right?

24 A Correct.

25 Q And if that is the risk that was presented to

GEOFF HOPKINS - CROSS EXAMINATION BY MR. RICHTER

1 the bank, I have to think that that's a "no," we're
2 not doing that, right?

3 **A** If that was the only thing we were looking
4 at, correct.

5 **Q** Right. Yes, sir.

6 So the more that is added here is Crab
7 Catchers says we'll pledge our dirt, and that is
8 pretty good, right?

9 **A** Yes, sir.

10 **Q** And then we got solid guarantors, right?

11 **A** Yes, sir.

12 **Q** And let's take a look further at that
13 document, Exhibit No. 1 in the notebook in front of
14 you if you want to look at the paper version.
15 There is a little Bates stamp number at the bottom,
16 right? Look at Bates UCB11.

17 MR. PLAYER: What exhibit number?

18 MR. RICHTER: Exhibit 1 in mine.

19 MR. PLAYER: Oh, okay. Got you.

20 **Q** (BY MR. RICHTER) You see that?

21 **A** Yes, sir.

22 **Q** And that is called a credit memorandum?

23 **A** Yes, sir.

24 **Q** And this is an internal bank document that
25 summarizes what we're talking about, right?

GEOFF HOPKINS - CROSS EXAMINATION BY MR. RICHTER

1 **A** Yes, sir.

2 **Q** We look at the guarantors, and the first one
3 listed is Tim Kettner, right?

4 **A** Yes, sir.

5 **Q** And what impressed the bank about Tim is his
6 stated net worth of \$4.5 million, right?

7 **A** Yes.

8 **Q** And Donny Kettner is a personal guarantor
9 with a stated net worth of \$1.5 million, right?

10 **A** Yes, sir.

11 **Q** And Justine is there. Thomas Wade Long is on
12 there with a stated net worth of \$1.1 million. I
13 have to believe that gives the bank confidence that
14 we have solid guarantors behind this money?

15 **A** Yes, sir.

16 **Q** When I looked at that repayment -- this is on
17 the second page. We looked at this before. The
18 loan summary talks about the collateral. That is
19 the dirt we talked about. But on the repayment,
20 primary is business income -- sorry, on UCB2 at the
21 bottom, and it says "loan summary."

22 **A** Yes.

23 **Q** So "loan summary" describes the collateral.
24 And then it says "repayment"; you see that?

25 **A** Yes, sir.

GEOFF HOPKINS - CROSS EXAMINATION BY MR. RICHTER

1 **Q** And "primary repayment" is business income.

2 This is that projected best guess income that we're
3 going to generate from the new activities, right?

4 **A** Yes, sir.

5 **Q** But if that doesn't happen, then the second
6 place the bank is looking for that money is
7 personal income from guarantors?

8 **A** That's correct.

9 **Q** And then last place, if hell freezes over --
10 sorry -- and the money doesn't get paid back, the
11 last thing we're looking for is the tertiary, the
12 sale of the dirt, right?

13 **A** Yes, sir.

14 **Q** So we're going to the people first if that
15 loan doesn't get paid back?

16 **A** Yes, sir.

17 **Q** And each one of these people, personally and
18 unconditionally, guaranteed all of the debt?

19 **A** Yes, sir.

20 **Q** And I'm assuming that when the bank comes
21 knocking on the door, the door they'll knock on
22 first is the one with the most money. Does that
23 sound right?

24 **A** Yeah. Yes, it does.

25 **Q** You don't want to go through lengthy

GEOFF HOPKINS - CROSS EXAMINATION BY MR. RICHTER

1 foreclosures and get dirt and sell dirt to get your
2 money back, right? You want to knock, knock,
3 knock, Mr. Kettner, you owe me \$1.1 million? That
4 is what you want if the loan doesn't get paid back?

5 **A** Correct.

6 **Q** And you would go to the financially strongest
7 one first, I would think -- let me put it to you
8 this way. Because there is multiple guarantors
9 that doesn't mean you whack it up. Each one is
10 personally responsible for all of it, right?

11 **A** Yes.

12 **Q** So there is nothing that would obligate the
13 bank to say, hey, guys, loan is not paid, we have
14 to figure how to whack this up fairly among all of
15 you, right?

16 **A** Yes.

17 **Q** So if this loan crashes, it crashes first on
18 that man's watch, probably, right?

19 **A** That would make sense. It would make sense.

20 **Q** Now, back at the first page talking about the
21 fictitious future streams of revenue. These are
22 revenue projections. I don't see anything down
23 here for what the jet skis will actually cost me or
24 what the fuel will cost or what the ice cream is
25 going to cost. This is if we get this thing

GEOFF HOPKINS - CROSS EXAMINATION BY MR. RICHTER

1 running, here is the income it can generate; is
2 that fair?

3 **A** On that page, yes.

4 **Q** If you look at Exhibit 2 in the notebook,
5 that is a document called "promissory note"?

6 **A** Yes, sir.

7 **Q** So with regard to the same loan, the bank
8 looked at it, and because you got, you know, nice
9 projections, because you have good collateral,
10 strong guarantors, the bank says, yes, I'll loan
11 you that money, right?

12 **A** Yes.

13 **Q** And when it gets loaned, it is loaned to who?
14 Who are the co-borrowers here?

15 **A** TnW and More, LLC, and TNT and More, Inc.

16 **Q** So I think you were asked multiple times by
17 Mr. Tucker if you see Wade Long on here anywhere,
18 do you; but he is a personal guarantor, correct?

19 **A** Yes.

20 **Q** And TnW and More is a co-borrower of the
21 money, right?

22 **A** Yes.

23 **Q** And you and I would agree that co-borrowers
24 are not joint venturers? Those are two different
25 things. You agree with me?

GEOFF HOPKINS - CROSS EXAMINATION BY MR. RICHTER

1 **A** Yeah.

2 **Q** You've loaned money before to a joint
3 venture, haven't you?

4 **A** Yes.

5 **Q** Nowhere in this application has anyone said
6 we are a joint venture, have they?

7 **A** That term is not used.

8 **Q** And if they said they were a joint venture,
9 you would want to know stuff about it, wouldn't
10 you?

11 **A** Sure.

12 **Q** You would want to know who are the players,
13 right?

14 **A** Sure.

15 **Q** What is the corporate control structure?

16 **A** Sure.

17 **Q** How are we going to manage it, right?

18 **A** Yes.

19 **Q** The bank would want to know all of that,
20 because this goes into the risk analysis, right?

21 **A** Yes.

22 **Q** But the bank is never told any of that? The
23 bank never said we're coming to you as a joint
24 venture, and we would like you to loan money to our
25 joint venture? That never happened, did it?

GEOFF HOPKINS - CROSS EXAMINATION BY MR. RICHTER

1 **A** It did.

2 **Q** Show me where the joint venture --

3 **A** It wasn't in here, but it was discussed.

4 **Q** It was discussed that it was going to be an
5 expansion of something. Matter of fact, I wrote it
6 down when you said it. You said: "You know, we
7 were going to come together to make a big, you
8 know." And I don't know. I wrote it down in
9 quotes when you said it, "you know." No, I don't
10 know. A big what?

11 **A** More expansive business.

12 **Q** More expansive business?

13 Now, in loaning to joint venturers in the
14 past, you have required information about the joint
15 venture, correct?

16 **A** If the joint venture is a single entity, yes.
17 If they are forming a single entity, that's
18 correct.

19 **Q** Correct. Right. If it's a joint venture
20 between two existing entities, you would be
21 requiring information about both of those entities,
22 right?

23 **A** Yes.

24 **Q** Okay. The co-borrowers here are TNT and, an
25 entity, and TnW, an entity, right?

GEOFF HOPKINS - CROSS EXAMINATION BY MR. RICHTER

1 **A** Yeah.

2 **Q** And to Mr. Tucker's point, there is no
3 information in there about TnW, is there?

4 **A** I don't know. I don't have the file, so I am
5 not sure.

6 **Q** It doesn't appear in the credit memo. We
7 haven't seen it yet, have we?

8 **A** Like I said, it's 2017. I don't remember.

9 **Q** I would describe some of these folks over
10 here as co-guarantors. Would you accept that
11 definition?

12 **A** Yes, sir.

13 **Q** And you would agree that being a co-guarantor
14 doesn't make you a joint venturer, does it?

15 **A** No.

16 **Q** I'm assuming, like Mr. Tucker, at the end of
17 the day, as far as how the payment is made, the
18 bank doesn't care how the payment is made. Make
19 the payment, right?

20 **A** Yes, sir.

21 **Q** And you said when you came to that meeting,
22 you walked in on a problem, right?

23 **A** I don't think I said I walked in on a
24 problem.

25 **Q** Your sense was that there was some

GEOFF HOPKINS - CROSS EXAMINATION BY MR. RICHTER

1 disagreement. There was some discord, right?

2 **A** Yes.

3 **Q** And some of the folks thought what we agreed
4 on was one thing, and some of the folks thought
5 what we agreed on was something else. That's what
6 you walked in on, right?

7 **A** Yes, sir.

8 **Q** At the heart of the problem was the fact that
9 there was never a document between them that
10 defined who was going to do what; isn't that true?

11 **A** Don't know.

12 **Q** Take a look at Exhibit No. 3. That is a
13 mortgage, right?

14 **A** Yes, sir.

15 **Q** Who is the mortgagor?

16 **A** TnW and More, LLC.

17 **Q** That isn't Crab Catchers, right?

18 **A** It doesn't say Crab Catchers.

19 **Q** We know Crab Catchers to be TNT?

20 **A** Okay.

21 **Q** I'm not trying to trick you. It's confusing
22 for all of us because of the initials.

23 **A** It is. That is why I had to look at it.

24 **Q** But we talked about collateral and using the
25 collateral of TNT, and I believe that that

GEOFF HOPKINS - CROSS EXAMINATION BY MR. RICHTER

1 collateral lead credibility to this application.

2 But at least this mortgage/mortgages property of

3 TnW, right?

4 **A** Yes.

5 MR. RICHTER: Beg your indulgence one second.

6 (A brief pause in the proceedings.)

7 **Q** (**BY MR. RICHTER**) Now, with regard to this
8 agreement between these parties, whatever it was,
9 it was certainly going to take more than a year to
10 perform. That was the expectation, right?

11 **A** I would have to look at the memo.

12 **Q** Yeah. Sure. Go ahead. How long was the
13 loan to be paid back or over what period of time?

14 **A** Let me have a look and see.

15 **Q** Two might be the best place to look, that
16 promissory note.

17 **A** Looks like it has a seven-year maturity, but
18 -- that is why I wanted to look at the credit memo,
19 because there is probably a longer term
20 amortization, but it has a seven-year maturity.

21 **Q** So in seven years it becomes due, which
22 unluckily enough is November of this year?

23 **A** Yeah.

24 **Q** So at least the parties to whatever this is
25 understood that this portion of it was going to be

GEOFF HOPKINS - CROSS EXAMINATION BY MR. BELLAMY

1 seven years or more, correct?

2 **A** Yes, sir.

3 **Q** So whatever oral promises existed between
4 them were promises that they didn't anticipate
5 would be fulfilled within a year?

6 **A** Yes.

7 **Q** All right.

8 MR. RICHTER: That is all I have. Thank you
9 for coming.

10 **CROSS EXAMINATION**

11 **BY MR. BELLAMY:**

12 **Q** Mr. Hopkins, I'll be brief. You have a copy
13 of the two mortgages and the promissory note in
14 front of you, correct?

15 **A** Yes, sir.

16 **Q** You would agree based on --

17 MR. PLAYER: Howell, he only has the TnW
18 mortgage.

19 **Q (BY MR. BELLAMY)** Okay. But the mortgage is
20 identical as far as the language and the terms and
21 conditions; would you agree with that?

22 **A** I --

23 **Q** I can show --

24 **A** I'll take your word for it, but....

25 **Q** The loan, the promissory note, and the two

GEOFF HOPKINS - CROSS EXAMINATION BY MR. BELLAMY

1 mortgages, they were prepared by the bank, correct?

2 **A** Correct.

3 **Q** And the two borrowers are TNT, the restaurant
4 or Crab Catchers, and TnW, correct?

5 **A** Will you ask that again?

6 **Q** The two borrowers -- on the promissory note,
7 who are the borrowers?

8 **A** TNT and More and TnW and More.

9 **Q** Mr. Hopkins, you would agree that if the
10 borrowers are aware -- as far as the collateral,
11 and the collateral is the eight lots that TNT put
12 up to get the loan, and then as far as TnW had one
13 lot -- pursuant to the mortgages, when one of the
14 borrowers -- the property, if they learned that
15 there is a violation of a -- a permit violation
16 dealing with -- such as the fuel tank or the docks
17 or that the county cites them for, you know, having
18 un-permitted structures on the property, they have
19 a responsibility to report that to the bank,
20 correct?

21 **A** Correct.

22 **Q** And if they didn't report it to the bank,
23 they can get in trouble as a result of that,
24 correct?

25 **A** Correct.

GEOFF HOPKINS - CROSS EXAMINATION BY MR. BELLAMY

1 **Q** And the point I want to make is to the extent
2 that my clients notified the bank regarding various
3 issues where things were being built after the fact
4 without proper permits, as far as the aboveground
5 fuel tank, are you -- let me ask you this: You are
6 no longer with United Community Bank?

7 **A** That's correct.

8 **Q** You would agree that -- you don't speak for
9 the bank now, do you?

10 **A** No, sir.

11 **Q** And in the 30(b)(6) witness, Roger Young --
12 MR. PLAYER: Objection. He can't testify to
13 what that man said.

14 **Q** **(BY MR. BELLAMY)** The 30(b)(6) is the person,
15 based on our Rules of Civil Procedure, that is a
16 designated person for the bank. Do you know what a
17 30(b)(6) witness is?

18 **A** I do not.

19 **Q** What a 30(b)(6) witness is when we send a
20 subpoena to the bank asking the bank to identify
21 the person most knowledgeable about this particular
22 loan, as far as loan documents, as far as the
23 approval process, so on and so forth. The bank
24 determines who that person is that is best able to
25 answer the questions dealing with this loan dispute

GEOFF HOPKINS - REDIRECT EXAMINATION

1 between the parties. That is a basic definition.

2 So what I'm basically saying is you would
3 agree that as far as Roger Young, he is the
4 30(b)(6) witness for United Community Bank, and
5 obviously he would be the best person to speak on
6 these issues?

7 MR. PLAYER: Objection. He's asking for a
8 legal conclusion. He's testifying. I don't
9 understand what this is.

10 THE COURT: Sustained. He also testified
11 that he doesn't know what a 30(b)(6) is.

12 MR. BELLAMY: Your Honor, no further
13 questions.

14 THE COURT: Redirect?

15 MR. PLAYER: Very briefly.

16 **REDIRECT EXAMINATION**

17 **BY MR. PLAYER:**

18 **Q** Earlier, Ronny was asking you about personal
19 guarantors, and he was making a point that when you
20 sign the guarantor, you sign up for the whole ball
21 of wax, right?

22 **A** Yes.

23 **Q** Doesn't matter how much money you got. But
24 isn't that basically they all share the risk, and
25 they all share the benefits of it, correct?

GEOFF HOPKINS - REDIRECT EXAMINATION

1 **A** That's correct.

2 **Q** One last thing. I handed you Exhibit 2 in
3 the book. I'll hand it to you. I want you to --
4 here is the mortgage. This is the TnW mortgage.
5 Now, when the bank gets a signature, do they do
6 something to verify whoever signed it has a power
7 to sign it?

8 **A** Yes.

9 **Q** Because you go to a company and there's only
10 a 10-percent shareholder and he's the only one
11 signing the documents, is that an effective
12 document? If only 10 percent of the ownership is
13 signed, do they have the --

14 **A** If there is a resolution in place.

15 MR. RICHTER: Objection, Your Honor.

16 **Q** **(BY MR. PLAYER)** Right. So a resolution does
17 what?

18 **A** Provides that person with the power to sign.

19 **Q** I want you to look at the TnW mortgage and
20 tell me who signed it.

21 **A** Tim Kettner.

22 **Q** And?

23 **A** Thomas Wade Long.

24 **Q** Now, go to the promissory note. The
25 promissory note is the actual promise to pay back

GEOFF HOPKINS - REDIRECT EXAMINATION

1 the \$1.1 million, correct?

2 **A** Yes, sir.

3 **Q** Now, there are signatures from both companies
4 there, correct?

5 **A** Yes, sir.

6 **Q** Who signed for TNT?

7 **A** Tim Kettner.

8 **Q** Did Donald Kettner sign it?

9 **A** No, sir.

10 **Q** Did Justine Vaitis sign it?

11 **A** No, sir.

12 **Q** Robert Benoit?

13 **A** No, sir.

14 **Q** Casey Kuzmik?

15 **A** No, sir.

16 **Q** So is it fair to say today that Tim Kettner
17 can combine TNT with regards to the \$1.1 million
18 loan?

19 MR. RICHTER: Objection; speculation.

20 THE COURT: Overrule the objection.

21 MR. PLAYER: Thank you.

22 **Q** **(BY MR. PLAYER)** So for TnW, when it was a
23 50/50 split, both had to sign, right?

24 **A** Yes.

25 MR. PLAYER: Thank you. No further

GEOFF HOPKINS - REDIRECT EXAMINATION

1 questions, Geoff. Thank you for coming.

2 THE COURT: Mr. Hopkins, you may step down.

3 Can he be released?

4 MR. PLAYER: Yes.

5 MR. HARRISON: No objection.

6 MR. RICHTER: No objection.

7 THE COURT: You are released. Ladies and
8 gentlemen, let's take a brief recess, about five
9 minutes, and start right back up.

10 (The jury exits at 3:34 p.m., and a recess
11 was taken, and a recess was taken.)

12 THE COURT: Are we ready?

13 MR. PLAYER: Yes, Your Honor.

14 THE COURT: All right. Let's bring them in.

15 (The jury enters at 3:51 p.m., and the
16 following is heard in the presence of the jury.)

17 THE COURT: Ladies and gentlemen, thank you.

18 Mr. Player, call your next witness.

19 MR. PLAYER: We call Steven Crosson to the
20 stand.

21 (STEVEN CROSSON, having been duly sworn,
22 testified as follows:)

23 **DIRECT EXAMINATION**

24 **BY MR. PLAYER:**

25 **Q** Good afternoon, Steven.

STEVEN CROSSON - DIRECT EXAMINATION

1 **A** Good afternoon.

2 **Q** Introduce yourself.

3 **A** Steve Crosson. I've been here for about --
4 going on 11 years now. I was an employee of Crab
5 Catchers for about five years, and I now own and
6 operate my own handyman landscaping yard service
7 business.

8 **Q** Are you married?

9 **A** No. I have a girlfriend and a five-year-old
10 little boy.

11 **Q** Congratulations.

12 **A** Thank you.

13 **Q** I imagine he keeps you busy.

14 You said you worked for Crab Catchers. Do
15 you know when you worked for Crab Catchers?

16 **A** I started -- I got hired there before I even
17 moved down here. I believe it was about 2014/15 --
18 probably '14.

19 **Q** When was the last year you worked for them?

20 **A** 2019.

21 **Q** What did you do at Crab Catchers?

22 **A** I was a cook.

23 **Q** Cook?

24 **A** Yep.

25 **Q** What was the management structure of Crab

STEVEN CROSSON - DIRECT EXAMINATION

1 Catchers when you were there? Who did you answer
2 to?

3 **A** Day-to-day basis, it was either Casey, Donny,
4 or Justine, and Tim was the main owner.

5 **Q** Main owner?

6 **A** Yes.

7 **Q** Did the buck stop with Tim?

8 **A** Yes.

9 **Q** Did you all have employee meetings and
10 employee training at Crab Catchers?

11 **A** Yeah.

12 **Q** Was there one particular event that happened
13 on a yearly basis?

14 **A** Yeah. Every Super Bowl Sunday they would
15 rent out the bowling alley and yearly meeting to go
16 over everything that went on that year and the
17 plans for the next year, and then we would all bowl
18 for a few hours.

19 **Q** Who led those meetings where you discussed
20 what would happen in the next year?

21 **A** Tim would start off the meeting, go over
22 stuff that happened in the past year, you know, how
23 they did business, what their plans were for the
24 next year, and then if Donny or Casey or Justine
25 had anything to add, they would go after.

STEVEN CROSSON - DIRECT EXAMINATION

1 **Q** Do you know Wade Long?

2 **A** I do.

3 **Q** Describe your first meeting with Wade.

4 **A** The first interaction I had with Wade, I was
5 working as one of the cooks at Crab Catchers. He
6 had put in some new walk-in coolers out front, and
7 we kept -- that is where he kept his fish from the
8 boat. We would keep our oysters in there. I had
9 gone out to get some oysters for an order in the
10 steam kitchen, and I guess somebody had damaged one
11 of the boxes with his fish in it. It had been a
12 long day or something, and we kind of got into an
13 altercation. We had to have a staff meeting the
14 next day of who exactly Wade Long was and his role
15 in the partnership of everything that was going on
16 in there.

17 **Q** What were you told at that meeting after you
18 got into an altercation with Wade?

19 **A** Basically, that Wade -- we needed to respect
20 Wade with the same respect we would give Tim or
21 Donny or any of the other owners of Crab Catchers.

22 **Q** And this was a Crab Catchers meeting?

23 **A** Oh, yeah. An all staff meeting the next day.

24 **Q** Yeah. And so when you said whatever this
25 partnership was, what did you understand that was

STEVEN CROSSON - DIRECT EXAMINATION

1 going to be?

2 **A** So the partnership that we were told was that
3 Wade was basically the money man, Tim was the
4 brains of the operation, and we were -- they were
5 going to build the marina and brewery and jet ski
6 hut and rent jet skis and expand all of the parking
7 that was there. They had gravel lots, pond. There
8 was a pond that used to be there that Wade filled
9 in and tore down a little house.

10 **Q** And did you actually witness him filling in
11 the pond and working?

12 **A** Oh, yeah. He was out there. Took him weeks
13 to fill that thing in.

14 **Q** Was there ever a time when there was any kind
15 of meeting at Crab Catchers where it was discussed
16 what the roles of Crab Catchers was with regards to
17 the jet skis and the new dock and marina and that
18 stuff?

19 **A** We would have, like, at the end of the night,
20 staff meetings. Whoever was the manager, whether
21 it was Casey or Donny or Justine, kind of explain,
22 oh, they had a meeting with Wade the day before.
23 We need to start doing this. Like, for example,
24 when Brett and Veronica would leave and they needed
25 someone to fuel up a boat or something, we had to

STEVEN CROSSON - DIRECT EXAMINATION

1 learn how to turn the fuel pump on and off and
2 write down the amount of fuel they got, run a card
3 or take the cash for the fuel.

4 Q So did Crab Catchers train you how to run the
5 marina?

6 A Yeah. Yeah.

7 Q And did employees of the Crab Catchers run
8 the marina at points in time?

9 A Yeah. I mean, as far as run the marina, I
10 mean, we would fill up a boat or tie up a boat or
11 something.

12 Q What about take payments?

13 A Yeah. It would -- whoever filled up the boat
14 or we would give it to the bartender, whoever was
15 right there.

16 Q And what about credit cards for the jet skis,
17 how were those run inside Crab Catchers, or how
18 were credit card payments taken when the Crab
19 Catchers employees were handling docks?

20 A Well, they only had one credit card machine
21 for the whole place, so it was run on the machine
22 behind the bar.

23 Q At Crab Catchers?

24 A Yeah.

25 Q Okay.

STEVEN CROSSON - DIRECT EXAMINATION

1 **A** Cash payments would be put in an envelope
2 with a note saying this boat, this many gallons of
3 fuel, this much money, and put it in the drawer,
4 whatever.

5 **Q** What kind of things did you do for the marina
6 operation as an employee of Crab Catchers? Did you
7 do any painting, maintenance?

8 **A** When they got the jet ski hut, they called
9 it. It was a Leonard shed. I painted the whole
10 inside of the jet ski hut, helped them set up
11 counters and put in -- they had ice cream machines
12 that they put in there, painted all of the curbing
13 throughout the parking lot yellow, base all the
14 light posts. The fence that runs along the whole
15 parking lot, I painted that.

16 **Q** Who paid you for your work?

17 **A** All on my Crab Catchers' paycheck.

18 **Q** Did TnW ever pay?

19 **A** No.

20 **Q** Wade Long personally?

21 **A** No.

22 **Q** What about docks, did you ever help on the
23 docks?

24 **A** Yeah.

25 **Q** What did you do -- did you help them build

STEVEN CROSSON - DIRECT EXAMINATION

1 them?

2 **A** Yeah. We built them out in the parking lot.

3 **Q** Okay.

4 Do you know if these Crab Catchers meetings,
5 did they tell you what the scope of what they
6 planned to do -- how they were expanding this
7 business with docks and everything else?

8 **A** Yeah. So when it -- first came up with the
9 idea, and the first meeting we had, they told us
10 that they were combining all of the parking lots,
11 and eventually there would be a steak house/brewery
12 built where the fuel tank is now, put in boat
13 slips, and essentially a marina and a fish market.

14 **Q** Okay. And how did they refer to Wade? Did
15 they say --

16 MR. MONGILLO: Objection. Can he clarify who
17 "they" is?

18 THE COURT: If we can get clarification.

19 **Q** **(BY MR. PLAYER)** You said "they"?

20 MR. MONGILLO: Mr. Player was saying "they"
21 in his question, so I was trying to clarify if it
22 is TNT, TnW, someone at the meeting is speaking.
23 Who is "they"?

24 **Q** **(BY MR. PLAYER)** Who spoke at the meetings to
25 inform you about what they were doing with Wade?

STEVEN CROSSON - DIRECT EXAMINATION

1 **A** It would have either been Casey, Donny, or
2 Justine, or Tim, if he was there. Tim wasn't
3 really involved in the day-to-day functioning at
4 the restaurant as much as the others were.

5 **Q** Did they tell you -- the three that you just
6 mentioned, did they tell you they were partnering
7 with Wade?

8 **A** It was -- yes. It was basically they were
9 partnering with Wade and going in on this
10 partnership, I guess you could call it, or you are
11 referring it to as a joint venture or something.

12 **Q** But you don't know what that terms is?

13 **A** I perceived it as a partnership.

14 **Q** You were there from 2014 to 2019, so before
15 the docks and after the docks?

16 **A** Yes.

17 **Q** Did the docks help Crab Catchers?

18 **A** Yeah. I mean, they would get boat traffic
19 coming in off the water, you know, jet ski
20 customers come in and grab drinks at the bar.

21 **Q** So were the docks --

22 **A** Fishermen. A lot of the charter boats send
23 their customers in with the fish after they were
24 fishing all day to get it cooked.

25 **Q** Okay. How much business did Crab Catchers

STEVEN CROSSON - DIRECT EXAMINATION

1 get from people and boats on the water before the
2 marina was built?

3 **A** Well, before that, they only had two little
4 slips. So, I mean, it wasn't a whole lot, but
5 some.

6 **Q** When it increased to ten slips, it increased
7 the business?

8 **A** Oh, yeah.

9 **Q** Do you recall Wade yesterday talking about a
10 fishing tournament held where Crab Catchers
11 supplied stuff and money was made? Do you remember
12 that?

13 **A** Yeah. Yeah.

14 **Q** What did Crab Catchers do for the fishing
15 tournament?

16 **A** They supplied food and the space.

17 **Q** Okay. And do you know if it made any money
18 and where it went?

19 **A** I wasn't involved in the financials of it. I
20 would hope they made some money.

21 **Q** What about riding jet skis, did employees at
22 Crab Catchers ever ride the jet skis?

23 **A** Oh, yeah. Yeah.

24 **Q** Did they pay for it?

25 **A** Some of them did; some didn't. I was on them

STEVEN CROSSON - DIRECT EXAMINATION

1 a few times, but I would bring a large group of my
2 friends so we would get a discount, not for free.

3 Q Was that discussed in the meetings, offered
4 as a perk to the employees?

5 A Oh, yeah. Yeah. Hey, during the off-season
6 you guys can take out the jet skis.

7 Q Okay. I'm trying to get through this stuff
8 to make it faster. So -- sorry.

9 What was the business like at Crab Catchers
10 in 2014/2015?

11 A I mean, they were pretty good. They did a
12 good amount of business.

13 Q Has it increased until now -- or I guess 2019
14 before you left?

15 A I think they've had their hey day. It was
16 pretty busy when I first started working there as
17 compared to now.

18 Q What about fights, I've heard some mention of
19 promotional fights put on. Who was involved in
20 that?

21 A They did -- after the parking lot was
22 completed, they would set up a big white stick tent
23 and do MMA martial arts fights out in the parking
24 lot.

25 Q Do you know what role Chris and Wade had in

STEVEN CROSSON - DIRECT EXAMINATION

1 those promotional fights?

2 **A** I know they were one of the big sponsors of
3 the event.

4 **Q** Did they provide anything to the fighters?

5 MR. HARRISON: Objection; relevance. We're
6 talking about fights that took place. What does it
7 have to do with what we're here for?

8 MR. PLAYER: It's a business on the property
9 where it was involved --

10 THE COURT: Overruled.

11 **Q** (BY MR. PLAYER) You can answer.

12 **A** From our understanding, Wade had connections
13 with some hotel rooms. They would give hotel rooms
14 for the fighters and stuff like that.

15 **Q** Did Crab Catchers' employees ever help with
16 the boat and the marina?

17 **A** Yeah.

18 **Q** What would you do?

19 **A** If there was a boat, you know, trying to dock
20 or someone needed a hand, we would run out there
21 and help them. Sometimes they would call, hey, let
22 me get, you know, two cheeseburgers and a six-pack,
23 and we're coming by on the boat, and we would run
24 it out to them.

25 **Q** Did anybody from TnW, Wade or anybody like

STEVEN CROSSON - DIRECT EXAMINATION

1 that, ever tell the Crab Catchers employees or
2 patrons to get off the docks?

3 **A** No. I don't think they would have wanted it.
4 I mean, it was kind of all-as-one, basically.

5 **Q** All-as-one?

6 **A** Yeah.

7 **Q** The Blue Crab Festival, what exactly is that?

8 **A** It is a huge festival that takes place on the
9 waterfront. They close down all the streets, and
10 they have hundreds of vendors and 50,000 people
11 come in.

12 **Q** A lot of business?

13 **A** Oh, yeah. Two busiest days of the year.

14 **Q** And during those two busiest days of the
15 year, were Crab Catchers people coming to eat that
16 were parking at the docks?

17 **A** Yeah. Yeah.

18 **Q** Eventually, things went south. Were you
19 around when that happened?

20 **A** That was right around the time I was leaving.
21 When my son was born is when I was leaving, and
22 since then I started the business. I've helped
23 Wade do some repairs and maintenance on the docks.

24 **Q** And what happened when you would go to the
25 docks to do repairs after the fallout happened?

STEVEN CROSSON - DIRECT EXAMINATION

1 **A** We would get pushback from Crab Catchers. It
2 would be standing there to intimidate us or buck up
3 in the parking lot like they were going to fight us
4 for something. I'm like, I'm just here to fix a
5 board. It's not that serious.

6 **Q** Did you ever witness anyone from Crab
7 Catchers cutting down signs?

8 **A** Oh, yeah.

9 **Q** What kind of signs and what for?

10 **A** Mr. Long hired me to build some signs for the
11 election coming up for his father-in-law. He was
12 up for reelection. He had me build frames to hold
13 the signs and secure them to his property. We had
14 gotten there, and he had the local sign guys,
15 Southern Signs and Banners, meet us to hang the
16 sign. They refused to let him hang it, and then
17 cut the post off.

18 **Q** So he couldn't even --

19 **A** Couldn't hang the sign up, correct.

20 **Q** And this past year for the Blue Crab
21 Festival, did you notice the advertising they had
22 this year? Did you see anyone in this room that
23 was in an add?

24 **A** Yeah. Tim Kettner was on the Facebook page
25 in front of a sign advertising Little River Water

STEVEN CROSSON - DIRECT EXAMINATION

1 Sports and Crab Catchers together.

2 Q And that was this year?

3 A Yeah. Yeah. It was an old picture, but they
4 used it this year as one of their....

5 Q Sure. Sure.

6 MR. PLAYER: Give me one second.

7 Q (BY MR. PLAYER) As an employee of Crab
8 Catchers, what was your understanding of
9 relationship of TnW and Wade and Crab Catchers?

10 A They were a partnership, going in it
11 together.

12 Q Were you there the day that Wade was arrested
13 in the parking lot?

14 A Yes.

15 Q Did you see Donny and Rob Benoit that day?

16 A Yes.

17 Q What were they doing?

18 A When I first got there, they were standing
19 down by the corner of the parking lot, and when
20 Wade came with his tractor to put the shed back to
21 where it was supposed to be, that they ripped out
22 of the ground, is when Robert tried climbing up.

23 Q What about after, during the arrest, what was
24 happening?

25 A Donny was standing up in the window smiling

STEVEN CROSSON - CROSS EXAMINATION BY MR. MONGILLO
1 and laughing and taking pictures of everything that
2 was going on.

3 MR. PLAYER: Thank you. Answer any questions
4 these gentlemen have.

5 **CROSS EXAMINATION**

6 **BY MR. MONGILLO:**

7 **Q** Hi. I'm Scott Mongillo. When that arrest
8 occurred, what was the date? Do you remember?

9 **A** I would have to look at my phone.

10 **Q** But it was after September 2020 when Mr.
11 Kettner had been in Wisconsin, right?

12 **A** Yeah.

13 **Q** And you have been here a lot. I've seen you
14 hanging around. So you heard Mr. Long's testimony
15 today?

16 **A** Uh-huh.

17 **Q** And you heard that, you know, there was a
18 disagreement with Mr. Long and Tim, and Tim went up
19 -- north to Wisconsin September of 2020, correct?
20 You heard that?

21 **A** Yeah.

22 **Q** So all of that stuff you just talked about,
23 about cutting the signs and all of that, that
24 occurred after Tim had gone, right?

25 **A** Correct.

STEVEN CROSSON - CROSS EXAMINATION BY MR. MONGILLO

1 **Q** Now, you said that you have a handyman shop
2 now?

3 **A** Correct.

4 **Q** And so now you do work for Mr. Long, correct?

5 **A** Occasionally, yeah, if he needs anything.

6 **Q** You don't do any more work for Crab Catchers,
7 do you?

8 **A** No.

9 **Q** What was your job for Crab Catchers?

10 **A** I was a cook.

11 **Q** You testified -- I think you testified, and
12 correct me if I'm wrong, that you had no idea about
13 the financials of Crab Catchers?

14 **A** No.

15 **Q** Not the gross numbers or revenues?

16 **A** No. No.

17 **Q** And why were you let go from Crab Catchers?

18 **A** When my son was born, myself and my
19 girlfriend both worked there, and she made more
20 money working there than I did. So it was better
21 for her to work, and me stay at home with the baby.
22 That's when I started my business.

23 MR. MONGILLO: Thank you. No further
24 questions.

25 **CROSS EXAMINATION**

STEVEN CROSSON - CROSS EXAMINATION BY MR. MONGILLO

1 **BY MR. HARRISON:**

2 **Q** Good afternoon. I have a couple of things
3 for you.

4 **A** Okay.

5 **Q** Do you have neighbors?

6 **A** Yeah.

7 **Q** Do you ever help your neighbors with
8 anything?

9 **A** Yeah.

10 **Q** When you help your neighbors where you live,
11 does that form a business with your neighbors when
12 you do that?

13 **A** Well, a lot of what I do is part of my
14 business.

15 **Q** But if you are helping your neighbor, does
16 that put you in business with your neighbor?

17 **A** Not necessarily, no.

18 **Q** So every neighbor you helped is not in
19 business with you today, right?

20 **A** No.

21 **Q** Okay. And you left in what year?

22 **A** 2019. My son was born in May, so around
23 then.

24 **Q** You've done work for Mr. Long since that
25 time, since 2019?

STEVEN CROSSON - CROSS EXAMINATION BY MR. MONGILLO

1 **A** Correct.

2 **Q** How much work have you done?

3 **A** I mean, I've fixed a few things on the docks,
4 built the signs for him.

5 **Q** And he's paid you?

6 **A** Correct.

7 **Q** And we haven't paid you since that time,
8 right?

9 **A** No.

10 **Q** And do you know, approximately, how much
11 Mr. Long paid you since 2019 to now?

12 **A** I mean, couple hundred bucks.

13 **Q** Is that it? Okay.

14 MR. HARRISON: Nothing further. Thank you.

15 THE COURT: Redirect?

16 MR. PLAYER: No, Your Honor.

17 THE COURT: All right. Mr. Crosson, you may
18 step down.

19 May he be excused?

20 MR. PLAYER: Yes.

21 THE COURT: You are excused.

22 Ladies and gentlemen, it's 4:15. We're going
23 to let you go early. I hope you have a good night.
24 Remember, don't do any of your own research, don't
25 speak to anybody about anything that you have

JUNE 14, 2024

1 heard. There will be time to deliberate, and the
2 time is not yet.

3 Again, I appreciate your service. Thank you
4 for being here. We'll see you tomorrow morning at
5 9:00.

6 (The jury exits at 4:14 p.m., and the
7 following is heard out of the presence of the jury.)

8 THE COURT: Anything else before we are at
9 ease?

10 MR. PLAYER: No, Your Honor.

11 MR. HARRISON: No, Your Honor.

12 THE COURT: We'll see you tomorrow morning.

13 (WHEREUPON, THE PROCEEDINGS FOR JUNE 13, 2024
14 CONCLUDED.

15 (THE FOLLOWING WAS HAD ON JUNE 14, 2024 OUT
16 OF THE HEARING OF THE JURY.)

17 THE COURT: Thank you. You ready to proceed?

18 MR. PLAYER: One question. Do we have to get
19 all of the stuff out of the courtroom? Can we have
20 the side rooms so we don't have to bring everything
21 back up?

22 DEPUTY: That's fine by us. We should be
23 able to lock them.

24 MR. PLAYER: One room plaintiff, one room
25 defendant?

JUNE 14, 2024

1 THE COURT: Yeah. That's fine.

2 Everyone okay with that? We have to be out
3 of here by 1:00. It may be that we -- depending
4 where we -- we'll just have to see.

5 Are you ready to proceed?

6 MR. PLAYER: Yes, Your Honor.

7 MR. HARRISON: Yes, Your Honor.

8 THE COURT: Let's go ahead and bring them in.

9 (The jury enters at 9:37 a.m., and the
10 following is heard in the presence of the jury.)

11 THE COURT: Thank you, Mr. Foreman, ladies
12 and gentlemen. You can have a seat.

13 All right. Ladies and gentlemen, I will go
14 ahead and give you a little preview. We are --
15 we're not going to finish this case today. It will
16 go into next week, but we're not going to work you
17 late today. We should be out of here by 1 o'clock.
18 The courtroom has to be used for swearing in for a
19 new judge. He will be sworn today, one of our
20 newest circuit court judges. So you have that to
21 look forward to. We'll be closing out today around
22 1 o'clock, but we'll proceed.

23 Mr. Player.

24 MR. PLAYER: Thank you, Your Honor.

25 Plaintiff calls Eric Rolf to the stand.

ERIC ROLF - DIRECT EXAMINATION

1 (ERIC ROLF, having been duly sworn,
2 testified as follows:)

3 THE WITNESS: Eric Rolf.
4

5 **DIRECT EXAMINATION**

6 **BY MR. PLAYER:**

7 **Q** How are you feeling?

8 **A** Hanging in there.

9 **Q** Sick the last couple of days?

10 **A** Yes.

11 **Q** If you could, speak up and speak into the
12 microphone.

13 Introduce yourself to the jury, who you are
14 and what you are about.

15 **A** I'm Eric Rolf. I ran the jet ski business at
16 Little River waterfront next to the restaurant in
17 2021 and 2022.

18 **Q** How did you come about the marina in the
19 Little River?

20 **A** At the time I had a partner, and Wade and him
21 were talking, and then he introduced me to Wade,
22 and we started talking.

23 **Q** What was your business with this partner?

24 **A** We rented jet skis in 2020, the year before,
25 on the Waccamaw River.

ERIC ROLF - DIRECT EXAMINATION

1 **Q** And did you make money?

2 **A** We almost broke even that year. That was our
3 first year together.

4 **Q** So when did you begin discussions about
5 taking over or moving your jet ski operation up to
6 the marina that was opened by TnW?

7 **A** In 2020, 2021.

8 **Q** How did it come about? How did you first
9 talk to him?

10 **A** Me, Ryan, and I think it was Wade and Chris
11 had lunch together.

12 **Q** And what did they tell you about the
13 situation at Little River?

14 **A** At first, they just told me they wanted to
15 rent it out. They didn't want to rent jet skis
16 anymore, and that was about it. I didn't know much
17 about it.

18 **Q** And did you enter into an arrangement with
19 them with regards to renting space for the jet
20 skis?

21 **A** Yes. We signed a contract with them.

22 **Q** I'll show you Plaintiffs' 37 and see if you
23 can -- entered, not marked, sorry. Can you
24 identify that?

25 **A** Yes. This is the lease for the full year of

ERIC ROLF - DIRECT EXAMINATION

1 2021.

2 Q How much did you pay TnW for the use of the
3 docks for your jet ski operation?

4 A \$10,000 a month for the full year.

5 Q How much were you paying at Waccamaw?

6 A The river, it is really low or high, so we
7 were paying for every ski that went out.

8 Q But this was just a flat rate?

9 A (Witness nods head.)

10 Q What happened when you -- I mean, did you
11 start running the operation there?

12 A At Little River?

13 Q Yes. Yes.

14 A Yes.

15 Q Did you have any issues when you started?

16 A Immediately.

17 Q What kind of issues?

18 A The owners of the restaurant, Crab Catchers,
19 the males were blocking the gas station or fuel
20 tanks so we could not get fuel. They would block
21 the front entrance of our jet ski office, a storage
22 shed. And the windows that we would slide open to
23 check in the customers, they would pull their
24 trucks in front of the windows so no one could
25 stand there.

ERIC ROLF - DIRECT EXAMINATION

1 **Q** Did anyone from Crab Catchers or TNT make any
2 representations about who owned the docks?

3 **A** Not at first. I did catch them down at the
4 docks eventually, and they tried to say they owned
5 them, but that's not the case.

6 **Q** Other than blocking the ski hut and ski pump,
7 did you have any issues during the year when you
8 were trying to operate it?

9 **A** Yes. As customers were walking down to the
10 jet skis after they paid to get life vests, they
11 would constantly say the cars are going to get
12 towed.

13 **Q** Who would say that?

14 **A** The owners of Crab Catchers, the three males.

15 **Q** The three males?

16 **A** Uh-huh.

17 **Q** Who is that?

18 **A** Rob, Donald, and Casey. Justine kind of
19 stayed out of it, for the most part.

20 **Q** So they would actually talk to your customers
21 that were in ski jackets going to the jet skis?

22 **A** Yes, sir. And they did tow cars. Luckily,
23 they were not mine. I think it was Wade Long's
24 nephew or cousin's family member on the other side
25 of the restaurant. They took the wrong cars.