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UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA

CONSUMER FINANCIAL PROTECTION BUREAU, Plaintiff, v. CASHCALL, INC., WS FUNDING, LLC, DELBERT SERVICES CORPORATION, and J. PAUL REDDAM, Defendants.	CASE NO.: 2:15-cv-07522-JFW (RAOx) DEPOSITION TESTIMONY OF DANIEL BAREN (JUNE 14, 2016) IN SUPPORT OF DEFENDANTS' REPLY IN SUPPORT OF THEIR MOTION FOR SUMMARY JUDGMENT Hearing Date: August 1, 2016 Time: 1:30 p.m. Place: Courtroom 16 Judge: Hon. John F. Walter Pre-Trial Conf.: September 9, 2016 Trial: September 27, 2016

53:12 Q. Okay. So you said one of the things that
53:13 needed to happen on the reservation was the funding
53:14 of the loans.
53:15 A. Correct.
53:16 Q. And we were talking about it in the
53:17 context of this meetings in April 2009 where you
53:18 are deciding to go into business --
53:19 A. Sure.
53:20 Q. -- with Mr. Webb. When you ultimately did
53:21 go into business with Mr. Webb, how were those
53:22 loans funded?
53:23 A. Sure. Over the next 10 months, what --
53:24 what was -- eventually Western Sky was able to open
53:25 a bank account with Wells Fargo. And the loan
54:1 funding process was through that Wells Fargo
54:2 account that was owned and operated by Western Sky.
54:3 There were initially two types of employees. There
54:4 were more than two, but for purposes of this --
54:5 this question, there's two types of employees on
54:6 the reservation employed by Western Sky. There is
54:7 the underwriters and there's the funders. The
54:8 process, at that point, was the underwriter would
54:9 review all of the loans that were set to fund on
54:10 that particular day and provide a final approval
54:11 for those loans. And that would entail moving the
54:12 loans from what was called an underwriting queue
54:13 into the funding account, funding queue.
54:14 And then subsequent to that, another

54:15 Western Sky employee who was the funder, would go
54:16 through and perform a final audit and, like I said,
54:17 press the button to move the -- move the loan from a
54:18 -- the funding queue to a funded queue, which would
54:19 instruct Wells Fargo Bank to wire $2600 to this
54:20 person's bank account.

62:15 Q. Okay. What input did you give as far as
62:16 the products that were to be offered?
62:17 A. I'm not sure I gave input. I communicated
62:18 with Mr. Webb, so I would take input from the
62:19 CashCall team, and I was the liaison to Mr. Webb.
62:20 So I would -- I would meet with our people and say,
62:21 "Well, this is what we think the program should
62:22 look like," and I would have conversations with him
62:23 where he would give me his input. And at the end
62:24 of the day, you come up with an agreement.

163:17 Q. So, as far as you recall, was there a
163:18 Katten regulatory opinion issued with the April
163:19 2010 closing?
163:20 A. I'm certain of it, yes.
163:21 Q. And do you know if there were changes to
163:22 that regulatory opinion between -- that are
163:23 captured in this June 23rd, 2010 opinion?
163:24 A. I don't know if there are any changes to
163:25 the actual body of the opinion, but I can tell you
164:1 that I'm pretty certain that the assumptions in

164:2 that initial opinion are different than what I read
164:3 here.
164:4 Q. And what are the differences that you know
164:5 of?
164:6 A. I don't have it in front of me, but I'm
164:7 pretty sure that the assumptions in there were
164:8 actually accurate. I believe that it said Western
164:9 Sky was formed by a member of the CRST and is
164:10 licensed by the CRST as opposed to the language
164:11 here that says that Western Sky was actually
164:12 organized by the CRST, and the second paragraph --
164:13 excuse me, the second sentence where it says, "One
164:14 or more CRST tribal officers is an owner or
164:15 director of Western Sky, and CRST has the ability
164:16 to remove directors." I'm almost certain that that
164:17 also was not in the original opinion.
164:18 Q. So just focusing on Exhibit 18 that you
164:19 have in front of you, under "Assumption of Facts,"
164:20 is there anything inaccurate in that first full
164:21 paragraph?
164:22 A. Yes. Both sentences are entirely
164:23 inaccurate.
164:24 Q. Okay. Would you have reviewed this letter
164:25 from Katten before it was finalized?
165:1 A. I said it was possible, though not likely.
165:2 And it's probable that I didn't because that's
165:3 something that if I had read, I definitely would
165:4 have caught it.

165:5 Q. And do you know why they would have
165:6 included this inaccurate paragraph?
165:7 A. I have no idea. It looks like Claudia
165:8 made a mistake. Katten made a mistake.
165:9 Q. I know you said you don't know if you
165:10 reviewed this June 23rd, 2010 letter. Do you know
165:11 if anyone within your legal department would have
165:12 reviewed it before it was finalized?
165:13 A. No. I would have been the only person to
165:14 review it, if, in fact, anyone reviewed it.
165:15 Q. Do you recall seeing this inaccurate
165:16 paragraph at some point and it being corrected?
165:17 A. I recall seeing it at some point, and I
165:18 recall both Mark Conley and I notified Ms. Callaway
165:19 that she had a factual error in opinion. I don't
165:20 know if it was this one, but I know that both Mark
165:21 and I notified her that she did have a factual
165:22 error and that she needed to amend her next
165:23 opinion, or if it was a draft, amend the final
165:24 opinion to reflect the actual facts. And she in
165:25 essence said, oops, you're right, in response to
166:1 that.

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