

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION**

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	No. 1:19-cr-00378-JMS-MJD
)	
WILLIAM ERIC MEEK and)	
BOBBY LEE PEAVLER,)	
)	
Defendants.)	

DEFENDANT BOBBY PEAVLER'S MOTION TO DISMISS

Defendant Bobby Peavler respectfully moves for the dismissal of the indictment pursuant to the Court's supervisory powers. There are certain lines that the United States government cannot cross while seeking to convict one of its citizens (or anyone else). Presenting false testimony crosses over one such line. Making false representations to the Court steps over another line. Making misstatements and omissions of exculpatory information traverses over a third line. And refusing to withdraw testimony known to be false leaps over a fourth line. In the last two years of this case, the government has sped past all of these lines, including when it:

- made false statements and omissions on 18 separate occasions in one interview memorandum about significant exculpatory information that was provided by Mr. Peavler during his proffer session;
- falsely attributed prosecutor accusations as though Mr. Peavler said them;
- ignored concerns repeatedly expressed by defense counsel about the accuracy of its interview memorandum;
- erroneously represented to the Court in pleadings that the government's memorandum of Mr. Peavler's proffer session was accurate;
- failed to comply with a Court order to identify the exculpatory information that was being withheld;

- argued for the right to present false testimony about the content of the proffer session;
- presented and endorsed materially false testimony of a FBI agent in an evidentiary hearing about a "vivid memory" of a supposed admission by Mr. Peavler that never happened; and
- refused to withdraw the false testimony when presented with contemporaneous notes that the lead prosecutor directly contradicted the substance of the agent's testimony during a telephone conversation on the day after Mr. Peavler's proffer session.

The Court's supervisory powers allow it to address these types of situations. They permit the Court to dismiss indictments when the government engages in intentional or reckless misconduct that prejudices a defendant's right to put on a defense and when there is no lesser remedy that can fix the harm. *United States v. Hasting*, 461 U.S. 499, 505 (1983); *United States v. Bundy*, 968 F.3d 1019, 1023 (9th Cir. 2020). This Court has stated in an analogous civil case that "[a] party . . . who not only lies to the Court, but when called to account for it, continues to lie under oath is deserving of the most severe sanctions." *Little v. Martinez*, No. 2:16-cv-00472-JMS-DLP, 2019 WL 1043256, *4 (S.D. Ind. Mar. 5, 2019). In this case, the government has had more than two years to address the problems and has continually doubled-down on false statements and refused to withdraw false testimony that it has presented. And there is every reason to believe that, because of the government's reckless conduct, Mr. Peavler has not received the exculpatory information that he is entitled to receive under *Brady v. Maryland*, 373 U.S. 83 (1963) and the orders of this Court and that is necessary for him to prepare his defense.

In support of his motion, Mr. Peavler has attached the declaration of Michael Kelly and 10 exhibits. Mr. Peavler is also filing a memorandum of law and an accompanying appendix setting forth the evidence of 18 examples in one interview alone where the government either misstated or omitted exculpatory information.

Mr. Peavler has not brought this motion lightly, and has repeatedly written letters to the government (which have been ignored), filed briefs with the Court, partially waived the protections of his work product doctrine, presented testimony from his lawyer, and written yet another letter (also ignored) in an effort to resolve these problems and move on with the case. But the government has not owned up to its conduct, and it has done everything possible not to admit its mistakes. Under these circumstances, Mr. Peavler respectfully moves the Court to dismiss the indictment pursuant to its supervisory powers as the most appropriate remedy for the government's reckless conduct in this case.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that, on May 26, 2022, a copy of Defendant Bobby Peavler's Motion to Dismiss was filed using the CM/ECF electronic filing system. Service of this filing will be made on the persons listed below by operation of the Court's electronic filing system, and parties may access these filings through the Court's electronic filing system.

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**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION**

UNITED STATES OF AMERICA,)	
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Plaintiff,)	
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v.)	No. 1:19-cr-00378-JMS-MJD
)	
WILLIAM ERIC MEEK and)	
BOBBY LEE PEAVLER,)	
)	
Defendants.)	

**DECLARATION OF MICHAEL P. KELLY IN SUPPORT OF
DEFENDANT BOBBY PEAVLER'S MOTION TO DISMISS**

I, MICHAEL KELLY, hereby declare as follows:

1. I am a partner with the law firm of Akerman LLP and counsel for Defendant Bobby Peavler in the above-captioned action.
2. I am filing this declaration in support of Mr. Peavler's Motion to Dismiss. I am filing this declaration for the purpose of attaching copies of the documents cited in Mr. Peavler's motion and to set forth my personal knowledge as to some of the matters discussed herein.
3. Exhibit 1 is a true and correct copy of a letter that I sent by email to the prosecution team in this case on March 2, 2022. As of the date of this declaration, I have not received a response from the government to this letter.
4. Exhibits 2 through 8 are true and correct copies of documents produced by the government to Mr. Peavler's counsel in connection with this case.
5. Exhibit 2 is a true and correct copy of certain text messages exchanged on December 9, 2016 between Robert Long, the chairman of the Audit Committee for Celadon Group,

Inc. ("Celadon"), and Greg Rexing, the lead engagement partner for BKD, LLP ("BKD") concerning its audit of Celadon.

6. Exhibit 3 is a true and correct copy of an email sent on January 26, 2017 by Virginia Redick, a BKD Director at the time, to Kyle Dillon, a BKD Manager. Ms. Redick and Mr. Dillon worked together on the Celadon engagement at the time. Ms. Redick's email forwards a presentation that she had previously sent to Celadon's Audit Committee earlier that day.
7. Exhibit 4 is a true and correct copy of an email exchange on the morning of February 8, 2017 between Mr. Peavler, Mr. Rexing, Ms. Redick, and Mr. Steve Boyer (Celadon's controller).
8. Exhibit 5 is true and correct copy of certain text messages exchanged on February 9, 2017 at 13:16 - 13:17 UTC between Mr. Long and Mr. Rexing. In February 2017, 13:16-13:17 UTC was the equivalent of 8:16 am-8:17 am EST.
9. Exhibit 6 is a true and correct copy of a FD-302 purporting to summarize an interview of Ms. Redick on November 5, 2019 by seven representatives of the Department of Justice, Federal Bureau of Investigation, and the Securities and Exchange Commission. The memorandum states that it was authored by Special Agents Joseph P. Weston and Victoria G. Madtson.
10. Exhibit 7 is a true and correct copy of a FD-302 purporting to summarize an interview of Ms. Redick on December 8, 2021 by five representatives of the Department of Justice and Federal Bureau of Investigation. The memorandum states that it was authored by Special Agent Victoria G. Madtson.

11. Exhibits 6 and 7 are two of the government interview memoranda produced by the government in this case. The government has produced recordings or interview memoranda relating to at least 67 witness interviews in this case (including the memorandum of Mr. Peavler's proffer session). Of those 67 interviews, 6 were tape-recorded; 61 were reduced to a FD-302 memoranda (or equivalent). According to the face of these memoranda, Agent Madtson was the sole or co-author of 38 of those 61 government interview memoranda (she authored 20 memoranda with Agent Weston, 17 by herself, and 1 with another agent). Agent Weston was the sole or co-author of 26 memoranda (20 with Agent Madtson and 6 by himself). Together, Agents Madtson and Weston were the author or co-author of 44 of the 61 memoranda referenced above.
12. Exhibit 8 is a true and correct copy of an email from Mr. Rexing to Mr. Peavler accepting the calendar invitation for a "Quarter Update Call" at 9:30 am on February 9, 2017.
13. Exhibit 9 is a true and correct copy of the email sent on February 9, 2017 at 11:02 am by Mr. Long to Messrs. Boyer, Peavler, and Ken Core (Celadon's general counsel), which attached Mr. Long's written consent approving Celadon's Form 10-Q for the period ending December 31, 2016. The Form 10-Q was ultimately filed by Celadon with the SEC on February 10, 2017.
14. Exhibit 10 is a true and correct copy of an email sent on February 9, 2017 at 12:51 pm by Mr. Rexing to Messrs. Peavler and Boyer and attaching a revised management representation letter.
15. Redacted copies of Ms. Sarah Wang's notes from the August 26, 2019 proffer session and the August 27, 2019 telephone call, along with her memorandum of the August 26, 2019

proffer session, were transmitted by email to the government on February 4, 2022 at approximately 11:51 am.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on this 26th day of May, 2022 in Washington, D.C.

/s/ Michael P. Kelly
Michael P. Kelly

EXHIBIT 1



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March 2, 2022

BY EMAIL

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Re: United States v. Meek, et al., No. 19-CR-378-JMS-MJD

Dear Counsel:

We are writing to raise our concerns that Local Rule 83-5(e) and Indiana Rule of Professional Conduct ("IRPC") 3.3(a)(3) require the Government to withdraw the false testimony of FBI Special Agent Victoria Madtson given during the evidentiary hearings in the above-captioned case on February 2 and 7, 2022. Those rules impose on lawyers, including those representing the Government, an ethical duty to decline to present, or to otherwise correct, testimony they know is false.¹ We raise this issue with you separately and in addition to those we have raised in the case itself, and any we may raise in the future, before the District Court or elsewhere.

The government has long been put on notice by defense counsel that Agent Madtson's FD-302 memorandum was false. On March 5, 2020, defense counsel wrote a letter stating its concerns about the inaccuracies of the FD-302 memorandum and that Mr. Peavler had strenuously denied any wrongdoing during the proffer "in every key area of the case." Def. Exh. 5 at 2. The government never responded to the letter and, according to Agent Madtson, never asked her to evaluate whether there were any mistakes in her FD-302 memorandum. 2/7/22 Tr. at 24. Counsel for Mr. Peavler sent another letter raising that

¹ We appreciate that Mr. Sawa and Ms. Scruggs were not present for the proffer session on August 26, 2019 and the telephone call on the next day, and have to rely on others for information about what happened during those two days. We have sent this letter to Mr. Atkinson and Mr. Linder too because they were present for both events.

issue on April 3, 2020, but the government ignored that letter too. Now, in light of the evidence produced at the hearing, we believe this letter is necessary to highlight what we believe is the government's ethical obligation.

A. Applicable Statute and Rules.

As you likely know, 28 U.S.C. § 530B provides that "[a]n attorney for the Government shall be subject to State laws and rules, and local Federal court rules, governing attorneys in each State where such attorney engages in that attorney's duties, to the same extent and in the same manner as other attorneys in that State." Similarly, under Local Rule 83-5(e) of the Southern District of Indiana "[t]he Indiana Rules of Professional Conduct and the Seventh Circuit Standards of Professional Conduct (an appendix to these rules) govern the conduct of those practicing in the court."

Under IRPC 3.3(a)(3), a "lawyer shall not knowingly... offer evidence that the lawyer knows to be false." And the rule adds that if a witness called by the lawyer "has offered material evidence and the lawyer comes to know of its falsity, the lawyer shall take reasonable remedial measures, including, if necessary, disclosure to the tribunal." As Comment 5 to IRPC 3.3 explains, "Paragraph (a)(3) requires that the lawyer refuse to offer evidence that the lawyer knows to be false, regardless of the client's wishes. This duty is premised on the lawyer's obligation as an officer of the court to prevent the trier of fact from being misled by false evidence." And Comment 8 adds that "[t]he prohibition against offering false evidence only applies if the lawyer knows that the evidence is false. A lawyer's reasonable belief that evidence is false does not preclude its presentation to the trier of fact. A lawyer's knowledge that evidence is false, however, can be inferred from the circumstances."²

At the recent evidentiary hearing in this case, Agent Madtson testified repeatedly about her "vivid" memory of an exchange that she claims took place at Bobby Peavler's proffer session on August 26, 2019 and that the prosecutors present at the interview know did not occur: that is, her claim that Assistant United States Attorney Nick Linder asked Mr. Peavler whether his conduct toward Bank of America was deceptive and that Mr. Peavler responded affirmatively. One of several reasons we know this testimony was false, and that you all should know it as well, is that Mr. Linder himself confirmed, in a call with Mr. Peavler's counsel the next day, that he had specifically *not* asked Mr. Peavler that question during the proffer interview because he was afraid that Mr. Peavler would deny the allegation. We believe the rules quoted above require that the Government withdraw Agent Madtson's testimony, and that it do so before the Court rules on the Government's pending motion *in limine*.

² Of course, the Department of Justice states that it holds itself to a much higher standard. For instance, the Department's seal "refers to the Attorney General (and thus to the Department of Justice), *who prosecutes on behalf of justice* (or *the Lady Justice*)."
<https://www.justice.gov/about/history/doj-seal-history-and-motto> (internal citations omitted) (emphasis in the original).

Although you all are of course familiar with the underlying facts of this matter in light of the pending motion *in limine* and the recent hearing before Judge Magnus-Stinson, we set them forth herein in some detail, for the sake of completeness.

B. Agent Madtson's Testimony on February 2 and 7, 2022.

Agent Madtson testified twice about her purported recollection of an exchange between AUSA Linder and Mr. Peavler: once on direct examination, and again on cross-examination:

1. Testimony on Direct Examination.

At the first hearing day, on February 2, Agent Madtson testified on direct examination as follows:

Q And did Mr. Peavler return to the interview after lunch?

A Yes, he did.

Q Did all three of his lawyers return?

A Yes.

Q Were you seated in the same position as the morning proffer?

A Yes.

Q Where was Mr. Acosta sitting in relation to you?

A Across the—on the long side of the table across the table, maybe one chair over but with—I had a good vantage point on him.

Q Was he sitting next to Mr. Peavler?

A Yes, he was.

Q Were you able to hear Mr. Acosta?

A Yes.

Q And when the parties returned from lunch, do you recall Mr. Acosta making a statement about Mr. Peavler's actions regarding the bank covenants?

A Yes.

Q What did he say?

A Mr. Acosta started out after lunch by -- I think he pointed, which doesn't—pointing just to capture, but just by going back to my recollection, Mr. Acosta indicated Mr. Peavler and said, "Bobby acknowledges that what he provided to Bank of America was deceptive."

Q Did anyone from the Government respond to Mr. Acosta?

A Yes.

Q Who was that?

A AUSA Nick Linder.

Q What did AUSA Nick Linder say?

A He said—I believe he addressed Mr. Acosta by his first name. He said, "Sergio, I don't want to hear it from you; I want to hear from your client."

Q And was Bobby Peavler asked whether he believed what was provided to Bank of America was deceptive?

A Yes.

Q Did he respond?

A Yes, he did.

Q Did you hear his response?

A Yes, I did.

Q What was it?

A I believe the exact word was "yeah," but it was—it was an affirmation that he agreed with the statement.

Q And did you write in your notes about this exchange?

A I wrote in my notes what Mr. Peavler acknowledged.

Q If you'll go to—take a look at Exhibit 1 and go to the top of page 32, please.

A I'm there.

Q Do you see anything on that page documenting the exchange you just testified about?

A Yes, at the very top.

Q Could you please read that for the Court.

A Yes. I handwrote, "BP ACK"—which is my shorthand for acknowledged—"what provided to BOA was deceptive."

Q And did you document this exchange in your 302?

A Yes, I did.

Q Could you go to Exhibit 2, please, and turn to page 18.

A I'm there.

Q Do you see on this page a reference to the exchange you just testified about?

A Yes, I do.

Q And could you please read the relevant portion to the Court.

A Yes. "Peavler acknowledged that what he provided to Bank of America was deceptive."

Q Now, you didn't write that Peavler said that, correct?

A No.

Q You didn't write that Mr. Acosta said that, correct?

A No.

Q Why not?

A Because the focus of the note-taking and the FD-302 is what Mr. Peavler says or acknowledges, and I try to split those between making sure the 302 accurately—or records that he acknowledged it, not freehand said it.

Q Would you typically write what defense attorneys say during an interview?

A No.

Q Would you typically write what the prosecutor says during an interview?

A Not typically, with the exceptions of the closed-ended questions we discussed earlier.

2/2/2022 Tr. at pp. 66-69.

2. Testimony on Cross-Examination.

When the hearing reconvened five days later, on February 7, Agent Madtson adhered to her earlier testimony on the issue of the purported exchange between AUSA Linder and Mr. Peavler when the proffer interview resumed after lunch:

Q I am going to direct you to the statement "Peavler acknowledged that what he provided to Bank of America was deceptive. In his interactions with BKD, he was focused on supporting what had previously been done and not having a restatement." Do you see that language on page 18?

A Yes, I do.

Q As I recall last Wednesday, you testified that you remembered Mr. Acosta saying, "Bobby acknowledges that what he provided to Bank of America was deceptive," correct?

A Yes.

Q But you didn't write down what Mr. Acosta said, right?

A No.

Q Because your practice is not to write down what defense attorneys say, only the witness, right?

A Correct.

Q Mr. Acosta was using the present tense of the word "acknowledges," correct?

A Yes, I believe so.

Q He wasn't referring to what Bobby had believed in the past, right?

A I don't know that I can speak to what—I just remember him using the present tense "acknowledges."

Q You testified that Mr. Linder then said, "Sergio, I don't want to hear it from you. I want to hear it from your client." Is that right?

A Yes.

Q That is a vivid memory you have of that day, right?

A Yes.

Q And you testified—I'm sorry. You didn't write that down either, when Mr. Linder said those—that thing—that statement. You didn't write that down in your notes, correct?

A Correct.

Q Your notepad was empty before he said "yeah" or made an affirmation, correct?

A I can't say for certain. I would be—I would be guessing. I can't say for certain, but I assume that's the way I wrote it down, that—as you said. But I don't recall the order in which the words went down on the notepad....

Q And you testified that you believed Bobby responded with the word—exact word "yeah" or in affirmation that he agreed with the statement, correct?

A After the question was repeated to him, yes.

Q Okay. And at that precise moment, that's when you wrote down in your notes that Mr. Peavler had acknowledged that statement, correct?

A Yes.

Q And your testimony is you believe you wrote all of this down as soon as Mr. Peavler acknowledged and said "yeah" or made some kind of affirmation to Mr. Linder's statement?

A Yes.

Q And you're certain that this whole exchange happened exactly as you described it?

A To the best of my recollection

Q After Mr. Peavler made that affirmation, did anyone say anything to him?

A I can't recall.

Q So you don't recall any follow-up questions about "What do you mean by saying that"?

A I don't recall any follow-up questions.

Q Okay. And do you recall any statements that were made afterwards?

A If there were a statement by him—pardon?

Q Statements made in the room immediately after he said that by anyone.

A I don't recall any.

2/7/2022 Tr. at pp. 8-11.

3. Others Present at the Proffer Interview.

Besides Agent Madtson, three Government lawyers and two other federal agents were present in the room during this portion of the proffer session: Fraud Section Assistant Chief Rush Atkinson; Fraud Section Trial Attorney Kyle Maurer; Assistant United States Attorney Nick Linder, FBI Special Agent Joseph Weston, and Postal Inspector Anna Hallstrom. In addition, Mr. Acosta was accompanied by his colleagues, Douglas Paul and Sarah Wang.

C. The Evidence Contradicts Agent Madtson's Testimony.

Each of the Government lawyers and agents present at the proffer session knows that Agent Madtson's FD-302 and her testimony regarding the purported exchange between AUSA Linder and Mr. Peavler did not actually take place, and each is thus bound by applicable rules to act to withdraw that testimony.³ Over and above what they witnessed, though, there is substantial evidence that supports that conclusion, evidence that each of the lawyers must also consider in deciding what their obligations are under 28 U.S.C. § 530B and IRPC 3.3(a)(3).

³ Though not strictly bound by those rules of professional conduct for attorneys, the agents present are under similar obligations. For example, it would be a violation of FBI Offense Code 2.3 for Special Agent Weston to sign a FD-302 memorandum that he knew to contain false information or where he was acting in reckless disregard of the accuracy or completeness of the information in the memorandum. *See* Department of Justice, Office of Inspector General, Report No. 21-093 at 6 (July 2021) ("An FBI employee violates FBI Offense Code 2.3, False/Misleading Information—Investigative Activity, by '[k]nowingly providing false or misleading 'information in an investigative document; or signing or attesting to the truthfulness of the information provided in an investigative document in reckless disregard of the accuracy or completeness of the pertinent information contained therein.'").

1. AUSA Linder's Notes.

As an initial matter, AUSA Linder's own notes from the proffer session contradict Agent Madtson's testimony about Mr. Peavler's purported "affirmation." Mr. Linder only wrote down three things during the entire six-hour proffer session that were produced to Mr. Peavler, while something else was redacted. One of his three notations says: "Sergio: Bank covenants were deception." Def. Exh. 1 at 2. Mr. Linder's notes say nothing, though, about any statement or "affirmation" of Mr. Acosta's statement by Mr. Peavler himself.

The idea that Mr. Linder would have made that notation in that way if, in fact, Mr. Peavler had also made (or "affirmed") that statement is not plausible. As an experienced prosecutor, Mr. Linder would have recognized that an admission made *by the target* of his investigation (Mr. Peavler) would have significance to his case, and would thus have been worthy of noting down. If Agent Madtson's testimony was accurate, Mr. Linder's note would at least have also stated what Mr. Peavler "affirmed." Instead, Mr. Linder's note accurately records what actually happened: Mr. Peavler did not say anything about Mr. Acosta's statement.

2. Sarah Wang's Contemporaneous Notes.

a. The August 26, 2019 Proffer

Mr. Acosta was accompanied, at both the proffer session and on a call with Government lawyers the next day, by Sarah Wang, a colleague at this firm. One of her primary purposes in being at the proffer and on the call the next day was to make a detailed record of what happened, and she did just that. As a result of the litigation on this issue, the Government has had the opportunity to review the relevant notes Ms. Wang took on both those occasions.

Ms. Wang's notes show that Mr. Linder did not ask Mr. Peavler the question described by Agent Madtson and that Mr. Peavler did not answer any such question or "affirm" any such statement. Rather, her notes from the proffer show that, immediately following Mr. Acosta's statement, it was Mr. Atkinson who spoke up, and not Mr. Linder, and that Mr. Atkinson responded to Mr. Acosta's statement by making a series of remarks about what he believed to be Mr. Peavler's role in the case:

Sergio statement. Based on all our conversations with Bobby and from this morning, he understands that what was provided to the bank at the time of the September 30 cutoff for the bank was deceptive because it did not include all of the info for the company....

Rush: we know you're not the mastermind and you in certain ways were brought along – that doesn't excuse your conduct but we understand that framework.

Def. Exh. 8 at 21 (emphasis added). Like AUSA Linder's notes, Ms. Wang's notes do not reflect that Mr. Peavler was asked anything at that moment or that he said anything in response to a question or statement by AUSA Linder, or anyone else for that matter.

As Ms. Wang testified at the hearing, she did not simply stop taking notes at that point in the interview. 2/7/22 Tr. at 108. Moreover, there is no objective reason for the Government to discount the accuracy or completeness of her notes, while there are several that support crediting them. First, the notes are very complete, much more so than either Agent Madtson's or Mr. Linder's at every point in the interview. Second, given the detail with which Ms. Wang wrote things down, she would not have failed to note something as important as an admission made by her client. Third, it is clear that Ms. Wang would have had no reason or motive to omit anything of import from her notes, which she never expected to produce to the Government "in a million years." 2/7/2022 Tr. at 116.

Unlike Ms. Wang, Agent Madtson cannot account for what happened after Mr. Acosta's statement, and she admitted in her testimony that she has no memory of it. However, if Mr. Peavler had agreed that his conduct towards the bank was deceptive, the government would have asked follow-up questions as to why he changed his mind. Before lunch, Mr. Peavler had strenuously denied that Celadon was required to notify the Bank of America of the October 3, 2016 purchase of trucks from Truck Country. If Agent Madtson's account was accurate, the government would have pursued the subject and tried to obtain as many admissions as it could on the point. In her account, Agent Madtson cannot explain why that did not happen. Of course, we know why Mr. Linder did not pursue the subject at all – because he was afraid that Mr. Peavler would deny the allegation based on his earlier strenuous denials. That is further evidence that Agent Madtson's testimony is false.

b. The August 27, 2019 Telephone Call

Ms. Wang was also on the call with defense counsel and prosecutors Linder and Atkinson that took place the day after the proffer session, and she again took detailed notes. Ms. Wang's notes include the following entry about what Mr. Linder said on the call:

So Bucket #2 was the 9/30 transaction, lying to the banks, messing with the covenants through cash flow management, and then not reporting on the 10Q. He [Mr. Peavler] denied wrongdoing really strenuously all the way through, and then we ended and broke for lunch. It was clear you had a tough discussion over lunch and we appreciate *your telling us where he's coming from* – that yeah, that transaction was deceptive – but you'll prob note that this wasn't an attorney proffer, this was his – *we didn't turn to him and say well what do you have to say about that? I wanted to ask him, but frankly at that point my expectations were so shattered that I didn't have any idea what he would say at that point.* The fact that they were deceptive isn't

relevant; it's did you intend them to be deceptive. *He wasn't prepared to answer that I don't think.*

Def. Exh. 10 at 1 (emphasis added). There is, again, no objective reason to discount the accuracy of these notes, which are similarly detailed and also were never intended to be produced. Moreover, the specific and detailed way Ms. Wang recorded what Mr. Linder said also supports their accuracy. Mr. Linder's statement directly contradicts Agent Madtson's testimony: they both cannot be true.

Ms. Wang's notes also point to a broader problem with Agent Madtson's FD-302 memorandum of the proffer session. As Ms. Wang noted, Mr. Linder acknowledged on the call that Mr. Peavler "denied wrongdoing really strenuously" throughout the proffer session. But Agent Madtson's FD-302 memorandum does not reflect those "strenuous" denials, and therefore does not address why the Government lawyers were visibly frustrated with Mr. Peavler at the proffer interview. They were frustrated because of Mr. Peavler's strenuous denials.

D. IRPC 3.3(a)(3) Requires That the Government Withdraw Agent Madtson's Testimony Before the Court Considers Relying On It.

The statute and rules quoted above require that any lawyer, including any Government lawyer, who is aware that his or her side is presenting false testimony take action to prevent its use. And the Commentary to IRPC 3.3(a)(3) makes plain that, while a lawyer may present evidence to a court even under the reasonable belief that it is false—which, even if permitted, would be a very odd thing for a Department of Justice lawyer to do with the testimony of an FBI agent—the lawyer need not be aware of direct evidence of falsity; rather, whether the testimony is false may be "inferred from the circumstances."

In this instance each lawyer present at the proffer session has his own independent direct knowledge that Mr. Linder did not ask Mr. Peavler, and Mr. Peavler did not respond to (affirmatively or otherwise), the question to which Agent Madtson testified. And both Mr. Linder and Mr. Atkinson know, again directly from their presence on the call the next day, that Mr. Linder confirmed in that call that he had not asked Mr. Peavler that question, and explained why. All this direct knowledge is enough to require action under IRPC 3.3(a)(3). In addition, though, the circumstances outlined above confirm that conclusion. Indeed, the only "circumstance" that actually supports Agent Madtson's testimony is her own notes of the interview, which are rather self-serving under the circumstances. But that version is contradicted by both Mr. Linder's notes from the proffer session and Ms. Wang's notes from both that session and the follow-up call.

This is no longer, if it ever was, an instance of an agent mistakenly attributing a statement by an attorney to his client. Agent Madtson has now testified under oath to a "vivid" recollection of an exchange that never took place. Under these circumstances the lawyers involved in this case are bound by IRPC 3.3(a)(3) to act to correct Agent Madtson's false testimony. The proper way to do that is to withdraw that testimony, and to do so before Judge Magnus-Stinson completes her consideration of it and rules on the

Government's motion *in limine*. Indeed, IRPC 3.3(a)(3) does not permit counsel to wait until a court has actually determined that testimony is false before taking corrective action. As Judge Magnus-Stinson herself has emphasized, "[t]he Court cannot allow parties and their counsel to only acknowledge their false statements when they are specifically recognized by the Court, and then only attempt to correct the false statements in the narrowest way possible.... Much more is expected from counsel practicing in this Court, and much more is required by the Indiana Rules of Professional Conduct." *Little v. Martinez*, 2019 WL 1043256, at *18 (S.D. Ind. March 5, 2019).

For the reasons explained herein, the lawyers that are representing or have represented the United States in this case must withdraw Agent Madtson's false testimony, as well as the statements made by the Government in prior pleadings in the case that cite or rely on it. Filing No. 120 at 16 n. 8; Filing No. 164 at 3, 6; Filing No. 198 at 7. And they must do so before the Court rules on the Government's pending motion *in limine*. To do otherwise (or even simply to fail to act) would violate Rule 3.3(a)(3) of the Indiana Rules of Professional Conduct, as well as and Local Rule 83-5(e). Please let us know the Government's position on these issues as promptly as possible.

Sincerely,



Michael Kelly

cc: Sergio E. Acosta, Esq.
Ildefonso P. Mas, Esq.
Jonathan Bont, Esq.
Christopher Goff, Esq.

EXHIBIT 2

SMS Messages																	
Party	Date	Time	All timestamps	Direction	Delivered-Date	Delivered-Time	Read-Date	Read-Time	Folder	Status	Source	SMSC	Message	Deleted	Tag Note	Carved	Manually decoded
From: +1317968 [REDACTED] Bob Long To: +1317431 [REDACTED]	12/9/2016	12/9/2016 14:25(UTC+0)		Incoming			12/9/2016	12/9/2016 14:47(UTC+0)	Inbox	Read			That works. Another Seeking Alpha article out this morning regarding a swap of tractors with Stoops. Claims to have lots of insider information about improper accounting for the swap. Just curious if that was looked at in any degree of detail for the September 30 quarter.				
From: +1317431 [REDACTED] To: +1317968 [REDACTED] Bob Long	12/9/2016	12/9/2016 13:52(UTC+0)		Outgoing					Sent	Sent			Tight this morning. How about this afternoon?				
From: +1317968 [REDACTED] Bob Long To: +1317431 [REDACTED]	12/9/2016	12/9/2016 13:50(UTC+0)		Incoming			12/9/2016	12/9/2016 13:52(UTC+0)	Inbox	Read			Have a minute for a call?				

EXHIBIT 3

From: Redick, Nickie
Sent: Thursday, January 26, 2017 8:25 PM
To: Dillon, Kyle
Subject: FW: Celadon Audit Committee Presentation - Q2 2017
Attachments: Q2 - Audit Committee Presentation.ppt

Rexing and I sent this out today! We are ahead given we normal do at 11:00 the night before.

Nickie Redick, CPA
Director | BKD, LLP
201 North Illinois Street, Suite 700
Indianapolis, IN 46244
317.383.4000
317.383.4128 Direct
www.bkd.com



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From: Redick, Nickie
Sent: Thursday, January 26, 2017 3:22 PM
To: Bob Long <rdlong03@yahoo.com>; mmillerinv@gmail.com; Cathy Langham (cathylangham@elangham.com) <cathylangham@elangham.com>
Cc: Rexing, Greg <grexing@bkd.com>; Bobby Peavler (BPeavler@celadontrucking.com) <BPeavler@celadontrucking.com>; Scott Selm (sselm@celadontrucking.com) <sselm@celadontrucking.com>; Steve Boyer (SBoyer@celadontrucking.com) <SBoyer@celadontrucking.com>
Subject: Celadon Audit Committee Presentation - Q2 2017

Bob, Michael and Cathy,

Attached is our audit committee presentation for Quarter 2. We are still working through our review process but we wanted to get this out to the group early for review before next week. Obviously any changes or updates between now and then we will share with you at the audit committee meeting next week.

See everyone on Tuesday!!

Nickie Redick, CPA
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CPAs & ADVISORS

CELADON GROUP, INC. – AUDIT COMMITTEE PRESENTATION

Presented by Greg Rexing, Partner, and Nickie Redick, Director

BKD-DOJ_208203
PROPRIETARY AND CONFIDENTIAL BUSINESS INFORMATION
NOT SUBJECT TO RELEASE UNDER THE FREEDOM OF
INFORMATION ACT, 5 U.S.C. § 552(b)(4)

DOJ-0000263747

AGENDA

1. BKD's Responsibility Under AU Section 722
2. Annual Declaration of Independence
3. Accounting and Other Matters
4. Status of Quarter / Next Steps
5. Audit Committee / BKD Executive Session

BKD'S RESPONSIBILITY UNDER AU SECTION 722

- // The objective is to provide a basis for communicating whether we are aware of any material modifications that should be made to the interim financial statements for them to conform to GAAP.
- // Differs significantly from that of an audit conducted in accordance with PCAOB auditing standards. A review of interim financial information does not provide a basis for expressing an opinion about whether the interim financial information is presented fairly, in all material respects.
- // Consists principally of performing analytical procedures and making inquiries of persons responsible for financial and accounting matters, and does not contemplate (a) confirmations or inspections; (b) tests of controls to evaluate their effectiveness; (c) the obtainment of corroborating evidence in response to inquiries.

DECLARATION OF INDEPENDENCE

- // Annual Declaration made to the Audit Committee in letter dated October 24, 2016
- // Engagement letter of audit the 401k Plan. Will not impair independence.
- // No other matters to bring to the attention of the Audit Committee

ACCOUNTING AND OTHER MATTERS

- // Transactions during the quarter
- // 19th Capital Transaction with Element
- // IVA Receivable – Mexico Tax
- // Goodwill Impairment Consideration—Annual test date of April 1
- // Sale lease back transaction
- // Stoops Truck Country Transactions
- // Presentation of Revenue for Quality
- // Department of Labor Response on 401k Audit

STATUS OF QUARTER AND NEXT STEPS – Q2

- // Update on the review for Q2
- // Reviewing support for material transactions
- // Stoops transactions and accounting
- // 19th Capital transaction with Element
- // Finish the review procedures include reviewing:
 - // Review of the consolidation and supporting documents
 - // Review press release
 - // Review 10Q & other procedures

THANK YOU

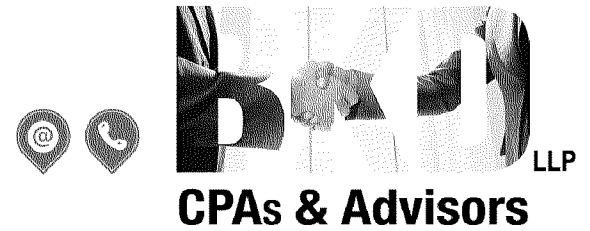


EXHIBIT 4

From: Bobby Peavler [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=54C9087C3E1642BAAB5CB9232858A25C-BPEAVLER]
Sent: 2/8/2017 10:39:27 AM
To: Rexing, Greg [grexing@bkd.com]; Redick, Nickie [nredick@bkd.com]
CC: Steve Boyer [sboyer@celadontrucking.com]
Subject: RE: Call

I believe Bob just wanted a final update on your review. I thought you always had a quick call with them prior to filing?

Bobby Peavler | Chief Financial Officer - Treasurer | bpeavler@celadontrucking.com
P: 317.972.7000 Ext. 23638 | C: 317.833. [REDACTED]

From: Rexing, Greg [mailto:grexing@bkd.com]
Sent: Wednesday, February 08, 2017 10:36 AM
To: Redick, Nickie <nredick@bkd.com>; Bobby Peavler <bpeavler@celadontrucking.com>
Cc: Steve Boyer <sboyer@celadontrucking.com>
Subject: RE: Call

Bobby-

Just curious...why the change in protocol? We've not been on similar calls in the past.

Gregory D. Rexing, CPA
Partner | BKD, LLP
201 North Illinois Street, Suite 700
Indianapolis, IN 46204
317.383.4000
317.383.5461 Direct
317.431. [REDACTED] Cell
317.383.4200 Fax
31127 Internal
www.bkd.com



From: Redick, Nickie
Sent: Wednesday, February 08, 2017 10:35 AM
To: Bobby Peavler <bpeavler@celadontrucking.com>; Rexing, Greg <grexing@bkd.com>
Cc: Steve Boyer <sboyer@celadontrucking.com>
Subject: RE: Call

Bobby – I checked and it looks like Greg and I are both free tomorrow morning if you would like us on the call with the board.

As for a time today, Greg and I were hoping to be through a clean draft of the Q just so if we need to discuss everything first. I know Steve is working through the comments from legal now and he provided a new note. So my guess would be this afternoon sometime is better. I looked and Greg and I are open most of the afternoon so let us know what works for you guys.

Thanks!

Nickie Redick, CPA
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Indianapolis, IN 46244
317.383.4000
317.383.4128 Direct
www.bkd.com



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From: Bobby Peavler [<mailto:bpeavler@celadontrucking.com>]
Sent: Wednesday, February 08, 2017 10:30 AM
To: Rexing, Greg <grexing@bkd.com>; Redick, Nickie <nredick@bkd.com>
Cc: Steve Boyer <sboyer@celadontrucking.com>
Subject: Call

Greg/Nickie,

I am setting up a call tomorrow morning with the board for sign off of the Q. Do you have availability to be on that call? Let me know what works.

Also, do you have an idea when you would like to talk to me today?

Bobby Peavler | Chief Financial Officer - Treasurer | bpeavler@celadontrucking.com
P: 317.972.7000 Ext. 23638 | C: 317.833. [REDACTED]
***** BKD, LLP Internet Email Confidentiality Footer *****

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Any tax advice contained in the body of this email was not

intended or written to be used, and cannot be used, by the recipient for the purpose of avoiding penalties that may be imposed under the Internal Revenue Code or applicable state or local tax law provisions.

These discussions and conclusions are based on the facts as stated and existing authorities as of the date of this email. Our advice could change as a result of changes in the applicable laws and regulations. We are under no obligation to update this information if such changes occur. Our advice is based on your unique facts and circumstances as you communicated them to us and should not be used or relied on by anyone else.

EXHIBIT 5

SMS Messages																	
Party	Date	Time	All timestamps	Direction	Delivered-Date	Delivered-Time	Read-Date	Read-Time	Folder	Status	Source	SMSC	Message	Deleted	Tag Note	Carved	Manually decoded
From: +1317431 [REDACTED]	2/9/2017	2/9/2017 13:17(UTC+0)		Outgoing					Sent	Sent			I've got time now				
To: +1317965 [REDACTED] Bob Long																	
From: +1317965 [REDACTED] Bob Long	2/9/2017	2/9/2017 13:17(UTC+0)		Incoming			2/9/2017	2/9/2017 13:17(UTC+0)	Inbox	Read			Actually I have a call at 9 o'clock with Steve Boyer. So I should have asked if you have 5 minutes for a call before 9 o'clock.				
To: +1317431 [REDACTED]																	
From: +1317965 [REDACTED] Bob Long	2/9/2017	2/9/2017 13:16(UTC+0)		Incoming			2/9/2017	2/9/2017 13:17(UTC+0)	Inbox	Read			Any chance you might be available for a five-minute call before the 9:30 board call? Just wanted to give you a heads up, board members may be asking about your degree of concern about any of the individual accusations by Jay Yoon through Seeking Alpha				
To: +1317431 [REDACTED]																	

EXHIBIT 6

FEDERAL BUREAU OF INVESTIGATION

Date of entry 03/09/2020

Nickie Redick ("Redick"), date of birth [REDACTED], was interviewed at the U.S. Attorney's Office in Indianapolis, Indiana. Present on Redick's behalf were attorneys Scott Schreiber, Heather Hosmer, and Elissa Preheim with Arnold & Porter Kaye Scholer LLP. Present on behalf of the government were AUSA Nick Linder, DOJ attorneys L. Rush Atkinson and Kyle Maurer, FBI Special Agents Joseph Weston and Victoria Madtson, and SEC attorney Jaclyn Janssen. SEC accountant Trevor Schumacher participated by phone. Redick was reminded that the interview was voluntary, and she was free to speak with her attorneys at any time. She was advised that she needed to provide truthful information. Redick provided the following information:

Background

Redick attended the University of Indianapolis. She was first an intern at BKD, LLP before joining the firm full-time. Redick has been with BKD for the past 13 years, always in the audit practice. She focuses on commercial clients. She obtained her CPA license in 2008.

In addition to public clients, Redick also has 15 to 20 private clients with revenues ranging from \$1 billion to several million. Her engagements include reviews, compilations, and audits.

Celadon

Redick began working on Celadon's corporate audit in 2014. She was part of the employee benefit plan audit before then. Up until 2016, Celadon was Redick's only public client.

Redick was the senior manager on the Celadon audit team. She was onsite with the team and was Celadon's primary contact.

Prior to 2016, Redick's contact with Celadon's C-suite executives was

Investigation on 11/05/2019 at Indianapolis, Indiana, United States (In Person)

File # 318A-IP-2213073

Date drafted 11/15/2019

by Joseph P. Weston, Victoria G. Madtson

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Continuation of FD-302 of (U) Interview of Nickie Redick 11/05/2019, On 11/05/2019, Page 2 of 13

mostly with Bobby Peavler ("Peavler"). She also had some contact with Eric Meek ("Meek"), but not on a day-to-day basis. Meek wasn't the main person the audit team interacted with. He sat in on some of the meetings Redick attended. She had the least amount of contact with Paul Will ("Will"). All of the contact was audit related.

Redick interacted with Steve Boyer ("Boyer") and his accounting team more than she did with Meek and Will.

By 2016, the fleet on Celadon's books had grown, both in the number of trucks in Celadon's fleet and the number in Celadon's leasing subsidiary, Quality. By the summer of 2016, Quality was having some trouble and was delayed in providing information to the BKD audit team.

Truck Price Testing

Redick cares about the truck values on Celadon's books, because overvalued inventory needs to be written down to reflect accurate values. There are different impairment tests that can be performed.

Market value determines the value on the books for inactive trucks used for leasing. Writing down the value of an asset on the books to reflect market value results in a reduction of net income.

Celadon's profit and loss statement (P&L) for 2016 was "not great." A \$5 million hit to Celadon's P&L would have been significant.

BKD did a lot of interim audit work for Celadon's quarter ending March 30, 2016, including truck value testing. The team looked at the sales prices of trucks sold by Celadon and rolled the values forward for the June 30, 2016 year-end audit. For example, if the team saw that Celadon had sold 100 of its model year 2012 Prostar MaxxForce trucks for \$30,000 each, the \$30,000 would be used to value the remaining units on its books. BKD used TruckPaper.com and other websites to obtain values if there wasn't enough historical sales data available; however, it would have been considered a "last ditch effort" since BKD preferred to use other sources first.

Controls Testing

BKD must test controls to see if they are working. The results of controls testing affects the amount of substantive testing performed by BKD.

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Sampling is utilized in the testing to determine reasonableness.

BKD relies on management for accurate and complete information as part of an audit.

Document #1

[Agent note: Redick was shown an email dated August 1, 2016 with subject, "Audit committee presentation," which is attached to this FD-302 as Document #1. She was also shown the presentation that was attached to the email.]

Redick recognizes the presentation included in Document #1. BKD presented to Celadon's audit committee every quarter before the press release. BKD was required to report certain items to the audit committee.

The interviewers directed Redick to the "Critical Audit Areas" slide of the presentation (Bates CLDN_00446772). Redick stated size, valuation, and classification were important for the audit. The interviewers asked Redick about the "held for sale" classification noted on the same slide. Redick stated the held for sale classification is for assets that are to be sold within a year. If assets will not be sold within a year, they are long-term assets, i.e., noncurrent assets, which impacts what is reported to the bank and shareholders. The valuation of the assets is the same, but the classification is different.

The interviewers asked Redick about the "Presentation and disclosures in the footnotes" sub point on the aforementioned slide. Redick stated subsequent activity had to be included in the footnotes.

The interviewers directed Redick to the "PCAOB Inspection" slide of the presentation (Bates CLDN_00446776), specifically the "Valuation of Equipment held for sale" sub point. Redick stated the PCAOB had reviewed BKD's audit of Celadon for the year ending June 30, 2015 and had an issue with Celadon's controls over the valuation of its equipment held for sale. Celadon hadn't provided BKD with the control document for this area.

Redick reiterated that truck values are important.

Historically, Will and Meek were involved in the audit committee presentation.

DOJ-MOI-0000000953

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Boyer was BKD's point of contact for the truck value testing.

Peavler sometimes discussed classification issues with Redick.

Redick wasn't involved in many discussions with Meek.

Danny Williams ("Williams") was the "sales guy" and BKD would go to him and his Quality team for information. Nobody ever said Williams didn't know what he was doing or didn't know what he was talking about.

Document #2

[Agent note: Redick was shown an email exchange dated August 4, 2016 with subject, "exhibits," which is attached to this FD-302 as Document #2.]

The statement made by Greg Rexing ("Rexing"), "They take great pride in having newer well maintained trucks as a way to help recruit drivers," was something that was often said by Celadon personnel. Historically, Celadon would buy a new truck for \$100,000 and run it in its fleet for three years. While in use, the truck would be depreciated and sold for \$75,000 with a recognized gain. The gain on the sale would increase Celadon's income.

Document #3

[Agent note: Redick was shown an email exchange dated September 12, 2016 with subject, "Open items," which is attached to this FD-302 as Document #3.]

The interviewers directed Redick to Rexing's email in Document #3. Redick considers the timeframe of the "Stoops transactions" to have been June 2016 to September 2016. It wasn't odd for Quality to be selling trucks to Stoops. Quality had done bundled truck deals with other companies before.

BKD selected some of Quality's sales to Stoops for valuation testing in the June 30, 2016 audit. Inflated truck prices would have impacted BKD's valuation audit work. Inflated prices would have allowed for unrecognized losses.

It would have been important for Redick to know if the Stoops transactions were trade deals, because BKD would have had to look at the transactions together and not independently to see if the values were

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accurate. During the audit, Redick was never told by anyone at Celadon or Quality that the transactions were trades. Redick first heard about the transactions being trades when she saw a Jay Yoon ("Yoon") article after the audit, around the close of the September quarter.

Historically, Peavler had been involved in the discussion about the "held for sale" classification.

Peavler never provided Redick with documentation that showed the Stoops transactions were trades. It would have been a red flag to Redick if he had.

Prior to 2016, Quality was in the same accounting system as Celadon. In 2016, Quality moved to another accounting system, which slowed down the process of BKD getting the documents they requested. Most of the documents requested by BKD came from Boyer or Mike Beckner, who was Quality's controller and a prior BKD employee. Julie Bynum also provided information to BKD.

Documents #4, #5

[Agent note: Redick was shown an email exchange dated May 17, 2016 with subject, "Navistar - Cummins Re-power," which is attached to this FD-302 as Document #4. She was also shown an email exchange dated August 4, 2016 with subject, "(6) 2012 IHC Prostars w/MaxxForce @ \$15,000 each," which is attached as Document #5.]

Redick doesn't remember if anyone at Celadon told her about the difficulty of selling the 2012 Prostar MaxxForce trucks because of the engine problem. It may have been documented in BKD's work papers.

The interviewers directed Redick to the \$15,000 "Market Value w/MaxxForce" under the "Assumptions" section of the spreadsheet included in Document #4. They also directed her to the \$15,500 price of the Prostars discussed in Document #5. Documents #4 and #5 were never shown to Redick prior to today. Nobody at Celadon ever disclosed to Redick that the 2012 Prostar MaxxForce trucks were worth half of the amount carried on Celadon's books. This is information the BKD audit team would have wanted to know. Celadon should have written the trucks down.

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Document #6

[Agent note: Redick was shown an email exchange dated September 28, 2016 with subject, "Quick Update," which is attached to this FD-302 as Document #6.]

Redick hasn't seen Document #6 before.

The interviewers directed Redick to Jon McCoy's ("McCoy") reference to a "Celadon guarantee" in his email at 6:33 p.m. in Document #6. Redick stated the guarantee wasn't disclosed to BKD at that time.

Redick can see several red flags with the payment structure discussed in McCoy's email. One is that the transactions involved in the deal appear to be linked. Another is how the payments straddle the end of the quarter. Celadon needed to recognize the \$27 million obligation on September 28, 2016, or a disclosure was needed.

Meek and Peavler never told Redick about the substance of Document #6, which is information she would have wanted to know about at the time.

Document #7

[Agent note: Redick was shown a Celadon management representation letter dated November 9, 2016, which is attached to this FD-302 as Document #7.]

Redick directed the interviewers to representation 27 which reads, "Management has entered into commitments identified on the attached page as of September 30, 2016. No additional commitments have been entered into as of this date which would need disclosed [sic] in the 10-Q." She then pointed out that the \$27 million commitment to Stoops was not included in the attachment to the letter. She didn't notice this until the day prior to this interview.

Bank Covenants

Redick opined that it wasn't okay for Celadon to decrease its debt-to-EBITDAR ratio with the structuring of the Stoops transaction at quarter-end with Celadon paying Stoops back five days later. Celadon was just "kicking the can." The interviewers asked Redick what her reaction would have been if Celadon had laid out the details of the deal's structure to BKD. She stated

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she would have called Mike Wolfe ("Wolfe") right away and told them "No." It wouldn't have been a close call; there would have been red flags right away.

Document #7 (cont.)

The interviewers directed Redick to representation 4 in Document #7 which reads, "We have disclosed any significant unusual transactions the Company has entered into during the period, including the nature, terms and business purpose of those transactions and whether such transactions involved related parties." Redick stated that unusual transactions are scrutinized by BKD; there are "more eyes on them." BKD needs to know all of the pieces of an unusual transaction. The "why" is important, because it can change the transaction.

The interviewers directed Redick to representation 11 in Document #7 which reads, "We understand that your review would not necessarily disclose fraud. We have no knowledge of any known or suspected: a) Fraudulent financial reporting or misappropriation of assets involving management or employees who have significant roles in internal control. b) Fraudulent financial reporting or misappropriation of assets involving others that could have a material effect on the financial statements." Redick stated BKD isn't required to find fraud, which is noted in the engagement letter.

The interviewers directed Redick to representation 13 in Document #7 which reads, "We have informed you of the existence of any of the following unusual transactions: a) Large sales with unusual payment terms (e.g., material receivables from customers that are subject to out of the ordinary discounts or extended due dates.) b) Sales with rights of return. c) Any "bill and hold" sales (i.e., sales that have been invoiced and recorded as revenue but the property was held by us as of the date of our financial statements.) d) Oral modifications to written sales contracts." Redick stated the transaction discussed in Document #6 would have been considered a large sale with unusual payment terms.

The interviewers directed Redick to representation 15 Document #7, specifically sub point (k), which reads, "Except as reflected in the financial statements, there are no...Guarantees, whether written or oral, under which the Company is contingently liable." Redick stated this representation is important to BKD.

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Continuation of FD-302 of (U) Interview of Nickie Redick 11/05/2019, On 11/05/2019, Page 8 of 13

BKD was required to have a signed representation letter from Celadon, which is the same with other clients.

Yoon Articles

Redick saw Yoon's December 8, 2016 article when it was released. She didn't know how Yoon knew the information in the article. During the period of time between December 8, 2016 and February 9, 2017, which was the date of BKD's first management representation letter, BKD asked Celadon for a memo to address the Stoops transactions. Once received, BKD looked into the information contained in the memo. BKD was shown the invoices from Stoops and Quality. During the quarterly audit meeting with Celadon's audit committee and members of management, BKD asked if there was support which showed the transactions were tied together. They were told there wasn't any. Rexing and Redick were both present at the meeting. Will was also present.

During a subsequent call with the audit committee, BKD was told Celadon/Quality had sold some trucks after the date used to value them as of December 31, 2016. The sales had been made to Truck Central. Rexing said if nothing tied the transactions together, they would be reviewed by BKD as independent transactions. Redick recalls she was in Colorado when she participated in the call. She believes Will, Peavler, and Boyer participated in the call. She doesn't think Meek did. It wasn't normal to have a second call with the audit committee.

Documents #8, #9, #10

[Agent note: Redick was shown an email dated February 9, 2017 with subject, "Management Rep Letter," as well as the representation letter that was attached to the email. Both are attached to this FD-302 as Document #8. She was also shown Document #9, which is another email dated February 9, 2019. The subject is "Updated Support," and Redick was shown the representation letter that was attached to it. Lastly, Redick was shown Document #10, which is a management representation letter dated February 10, 2017.]

The interviewers directed Redick to representation 26 in Document #8 which reads, "Management has agreed that [sic] Stoops transactions were conducted at arm's length and the prices at which the Company bought and sold vehicles reflect fair market values and were independently established

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by a third party."

The interviewers also directed Redick to representation 26 in Document #9 which reads, "The Stoops sales and purchases transactions were conducted at arm's length and the prices at which the Company bought and sold vehicles reflect fair market values at the time of the transactions. Each transaction was discreet in nature and none were interdependent. There are no undisclosed side agreements related to these transactions."

The interviewers directed Redick to representation 27 in Document #10 which contains the same wording as representation 26 in Document #9. The interviewers asked Redick why representation 27 was included in Document #10. She stated it was because of the questions BKD had been asking about the Stoops transactions.

Redick likely drafted the first version of the letter included in Document #8. Her draft would have been reviewed by Peter Kern, BKD's independent reviewer for the Celadon engagement. Redick assumes he made the change that resulted in the wording of representation 27 in Document 10.

The interviewers asked Redick about the inclusion of "arm's length" in representation 27. She stated if the transactions were linked, it could change the accounting treatment.

The interviewers asked Redick about the inclusion of "fair market values" in representation 27. She stated the fair market values would affect the values on Celadon's books.

The interviewers asked Redick about the inclusion of "interdependent" in representation 27. She stated if the transactions were linked, there would be accounting treatment implications.

The interviewers asked Redick about the inclusion of "side agreements" in representation 27. She stated it included verbal or written agreements. By that time, BKD hadn't received anything from Celadon that disclosed the terms of the deal, such as Document #6.

BKD wouldn't have issued its quarterly review opinion if Celadon hadn't been willing to sign off on representation 27. The same would have been true if Celadon's management had disclosed the structing of the final Stoops deal

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to BKD.

Celadon never disclosed to BKD that the Truck Central deal was connected to any other deals. BKD was given the impression it was a standalone deal.

[Agent note: A break was taken at 11:30 a.m. for several minutes.]

PCAOB

Redick and Rexing flew to Springfield, Missouri to meet with Wolfe in connection with the PCAOB's inquiry into the Stoops transactions. Redick helped gather information for Wolfe, and she was involved in some of the subsequent requests to Celadon for information. The focus of the work Redick did for the PCAOB was to determine if the transactions were connected and if there were side agreements that tied them together.

Redick wasn't present for the presentation Celadon/Quality made to BKD on April 5, 2017.

Redick had continuing conversations with Wolfe.

The consistent message from Celadon was the Stoops transactions weren't related. It stayed that way until the \$750,000 payment from Stoops came up.

Document #11

[Agent note: Redick was shown Document #11, which is a copy of Wolfe's notes from the April 14, 2017 meeting at Celadon.]

Redick attended the meeting at Celadon on April 14, 2017. Wolfe led most of the meeting for BKD. Redick left the meeting thinking she hadn't learned much new information. She thought she would have gotten more answers. Williams came in for a small portion of the meeting. His message was similar to what he had said before. Boyer was quieter in this meeting than he had been in other meetings. There wasn't any discussion about the structuring of the fourth Stoops transaction. Redick believes Wolfe sent her and Rexing his notes afterward to review and for their input.

By the time of the April 14th meeting, BKD's concerns included the transactions being related, truck values, and the forthrightness of Celadon's management. Redick feels that BKD made it clear that they wanted

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to know if the transactions were linked and if there were any emails or side agreements that could change the accounting.

Document #12

[Agent note: Redick was shown an email exchange dated April 23, 2017 with subject, "Revised Agreement," along with the purchase agreement that was attached to the email. Both are attached to this FD-302 as Document #12.]

Redick hadn't seen Document #12 before April 23, 2017. She was frustrated when she saw it, because BKD had been specifically asking Celadon for side agreements related to the Stoops transactions since the meeting in February 2017. She was also frustrated Celadon had signed the management representation letter. Will, Peavler, and possibly Meek had been asked for side agreements.

Document #13

[Agent note: Redick was shown an email exchange dated April 24, 2017 with subject, "Revised Agreement," which is attached to this FD-302 as Document #13.]

Redick thinks the \$27 million discussed in Document #13 would have impacted Celadon's debt covenants. Without doing the calculation herself, Redick assumes Celadon would have failed its debt-to-EBITDAR ratio if the \$27 million had been included.

BKD looked at Celadon's debt covenants every reporting period.

Redick wasn't involved in BKD's decision to pull their Celadon audit opinion.

Redick wasn't involved in any subsequent work at Celadon.

Other Red Flags

Redick has read the documents associated with Williams' charges and guilty plea.

The interviewers asked Redick if she saw any additional red flags, in hindsight. Redick stated that BKD had concerns about the qualifications of Celadon's accounting team, which seemed to be made up of young people from

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the same university. This concern was discussed during BKD's planning. BKD was also skeptical about Meek's truthfulness; however, they didn't have many dealings with him.

Milestone

Redick recalls an issue that came up around the time of a previous management representation letter, possibly the third quarter of 2016. The issue revolved around the recognition of a gain in connection with a particular milestone. The gain could have been deferred or recognized, which was important because Redick believes it was nearly a break-even quarter for Celadon. There were multiple criteria to recognize the gain. Redick wanted to talk to Jake Rinehart to see if the criteria would be met, but she didn't get to speak with him. Peavler and Boyer talked to Will about it, and the decision was made to defer the gain. Redick wasn't part of Celadon's internal discussions about the matter.

Truck Price Testing (cont.)

The interviewers asked Redick how BKD selected the trucks on TruckPaper.com for testing. Redick stated it was done by the audit staff and she would have to look at BKD's workpapers to find the answer. The goal was to select average trucks for the testing, not outliers. This was difficult because there were a lot of specifications that could vary from truck to truck.

Redick doesn't know how Boyer picked the values on TruckPaper.com that were provided to BKD. Redick doesn't know who Boyer got his information from; she assumes he had to speak with others at the company to obtain it.

Arm's Length

Redick believes Peavler, Boyer, and possibly Will were present in the meetings when BKD was first told the Stoops transactions had been done at arm's length. Williams wasn't present in the meetings, and she isn't sure if Meek was present.

PCAOB (cont.)

Redick wasn't involved in the actual drafting of BKD's response to the PCAOB, but Wolfe asked her for information.

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[Agent note: The interview ended at 12:00 p.m.]

EXHIBIT 7

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FEDERAL BUREAU OF INVESTIGATION

Date of entry 01/14/2022

Virginia "Nickie" Redick (hereinafter "Redick"), Director/Senior Manager with BKD, LLP, was interviewed in person at the United States Attorney's Office in Indianapolis. Present on Redick's behalf were attorneys Scott Schreiber and Elissa Prenheim with Arnold & Porter Kaye Scholer LLP, as well as Jeff Roberts, BKD Risk Team. Present on behalf of the Government were the following:

- DOJ Attorney Emily Scruggs
- DOJ Attorney Kyle Maurer
- Assistant United States Attorney (AUSA) Kyle Sawa
- FBI Special Agent (SA) Victoria Madtson
- FBI SA Vanessa Hassler (via video teleconference)

After introductions, Redick provided the following information to supplement her previous interview with the Government:

Redick is still at BKD. Redick is currently on the engagement team for one publicly-traded client, which is Continental Materials. This audit engagement was worked simultaneous to the Celadon engagement. Redick was on the Celadon audit engagement since the beginning of BKD's relationship, until BKD pulled its audit opinion. Redick served as Director/Senior Manager on the Celadon engagement/account. Her responsibilities included assigning and overseeing staff, and she also dove into harder areas. She was responsible for ensuring the audit was done accurately and then she passed the audit up to Greg Rexing for his review.

BKD's Celadon engagement team was at Celadon a lot. They started audit work in mid-April. Redick communicated with Steve Boyer ("Boyer"), Boyer's accounting team, and the CFO of Celadon.

For the June 30, 2016, audit, Boyer and Mike Beckner ("Beckner") helped with Quality's accounting. Redick had some communications with Leslie Tarble ("Tarble"), but Tarble was on maternity leave some of the time. Redick did not have much communication with Danny Williams ("Williams"). Redick communicated with Bobby Peavler ("Peavler") more frequently than she communicated with Williams. Redick asked Peavler for supporting

Investigation on 12/08/2021 at Indianapolis, Indiana, United States (In Person, Other (Video Teleconference (VTC)))

File # 318A-IP-2213073 Date drafted 12/13/2021

by Victoria G. Madtson

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(U) Interview of Virginia "Nickie" Redick

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documentation and made inquiries to him. Redick had less communication with Eric Meek ("Meek") than anyone else, but she still did the fraud interview with him and saw him at Board meetings. Redick had more communications with Meek when Meek was Celadon's CFO. Meek knew about Quality's business.

Fraud inquiries were done at the front end of the audit and documented.

Interim/Quarterly Reviews

Between the September 30, 2016, and December 31, 2016, quarters, the December quarter had more transaction work done at the request of Bob Long ("Long") and was a busier quarter. BKD reviewed Board minutes.

Boyer was BKD's "go-to". He collected documents and gave them to BKD. Boyer seemed like the person writing the memos, but Redick did not know specifically where he was getting the information. Redick understood Boyer's memos as the company's position. Long and the rest of the Celadon Audit Committee were not Management. BKD worked for the Audit Committee.

Auditors sample and make inquiries to get comfort and make sure there are no material misstatements. BKD received a Management Rep Letter from Celadon and reviewed outside documentation from third parties, on a sample basis or for more risky transactions. They also selected transactions due to size or if they looked odd. A transaction that is linked could change the accounting. Celadon relied on the non-linkage, but it turns out the assets were overvalued, which affected income.

Crossing the quarter-end affected Celadon's bank covenants. If the sides of the transaction were brought together, Celadon would have violated its bank covenants and had to ask for a waiver. Celadon would have also had to report the violation to investors.

BKD received Celadon's bank covenant calculation. BKD reviewed the calculation quarterly and audited it annually. The debt covenant calculation was important to BKD because it could move the debt to current. Redick reiterated that if Celadon failed its bank covenants, that would require disclosure to investors.

Redick has never testified or been deposed before.

Shown DOJ-0000165522 to 0000165527

Redick was shown the February 10, 2017 Management Rep Letter, which is bates stamped DOJ-0000165522 to 0000165527. The interviewers asked Redick to

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(U) Interview of Virginia "Nickie" Redick
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turn to paragraph 27 of this letter. Redick stated that she wrote it and the reviewers edited it. BKD was relying on the arm's length aspect of the transaction to support the values.

Redick recalled several junctures where BKD questioned or did additional work related to the values. First, when the Jay Yoon article came out, BKD asked Celadon management about the issues it raised. Second, when Long asked BKD to do more digging on the truck transactions. Third, when BKD found trucks that looked odd, such as trucks on the books for \$119,500 that were higher than others based on external source values. Historically, BKD used Celadon's sales over the last year as comparisons.

After BKD found the trucks on the books for \$119,500, they tested ones that were lower. BKD also asked Boyer about the \$119,500 trucks, and he gave them support on the Truck Central sales for \$119,500. It gave BKD some kind of comfort that someone else was willing to pay \$119,500 for these trucks.

If the sales were part of a trade or other agreement, BKD couldn't use those sales as audit evidence.

BKD looked at the trucks in pools. They looked at Truck Paper and actual documentation on Celadon's and Quality's sales. Third party sales were the best evidence. Understanding the terms mattered because the terms could change whether they were good evidence or not. BKD added language to the Management Rep Letter.

BKD used the June Stoops transaction values to support values in later transactions.

During BKD's review, BKD did not call Truck Central or Truck Country/Stoops. BKD did not contact customers directly but instead generally sent out confirmations to customers signed by the client as part of the audit. Auditors rely on management and management's representations until management demonstrates that the auditor can't rely on them.

Paragraph 27 of the Management Rep Letter was extremely important to BKD getting comfort with the Quarterly report and approving its release. BKD would not have approved the release of Celadon's quarterly report without the addition of Paragraph 27 and the signing of the letter itself.

Redick helped write the add-on paragraphs at the end of the Management Rep Letter. The add-on paragraphs are always at the end.

There were two Audit Committee meetings before the Quarterly report was

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(U) Interview of Virginia "Nickie" Redick
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released in February 2017. There was the standard meeting as well as the second meeting, which was not normal. Long requested the second meeting to discuss the Stoops transactions. Williams was not normally at those quarterly review meetings. Peavler was in some of the meetings with Boyer, discussing Boyer's memo.

Overall, Redick cannot do her job if she can't rely on management's representations, for two primary reasons. First, she doesn't see every piece of information so she must rely on their representations. Second, she has to trust what management is saying with regard to its estimates and judgements.

Shown DOJ-0000815420 to 0000815422 and DOJ-0000166975 to 0000166992

Redick was shown two emails with attachments. The first was bates stamped DOJ-0000815420 to 0000815422 and the second was bates stamped DOJ-0000166975 to 0000166992. On the attachment to the email with beginning bates stamp DOJ-0000815420, the interviewers pointed her to the line that read "Market Value w/MaxxForce \$15,000". Redick told the interviewers that she had never seen this analysis before her first interview with the Government. If BKD had seen this analysis, BKD would say \$15,000 is the book value that it needs to be written down to.

Redick recalls learning about an agreement related to the fourth Stoops transaction. She learned about this agreement after Mike Wolfe became involved.

EXHIBIT 8

From: Rexing, Greg [grexing@bkd.com]
Sent: 2/8/2017 1:08:43 PM
To: Bobby Peavler [bpeavler@celadontrucking.com]
Subject: Accepted: Quarter Update Call

Start: 2/9/2017 9:30:00 AM
End: 2/9/2017 10:00:00 AM
Show Time As: Busy

Recurrence: (none)

***** BKD, LLP Internet Email Confidentiality Footer *****

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Any tax advice contained in the body of this email was not intended or written to be used, and cannot be used, by the recipient for the purpose of avoiding penalties that may be imposed under the Internal Revenue Code or applicable state or local tax law provisions.

These discussions and conclusions are based on the facts as stated and existing authorities as of the date of this email. Our advice could change as a result of changes in the applicable laws and regulations. We are under no obligation to update this information if such changes occur. Our advice is based on your unique facts and circumstances as you communicated them to us and should not be used or relied on by anyone else.

EXHIBIT 9

From: Robert Long [rdlong03@yahoo.com]
Sent: 2/9/2017 11:02:21 AM
To: Steve Boyer [sboyer@celadontrucking.com]; Bobby Peavler [bpeavler@celadontrucking.com]; Ken Core [kcore@celadontrucking.com]
Subject: Consent to file Q

See attached.

Bob Long

(c)317.965. [REDACTED]

**UNANIMOUS WRITTEN CONSENT
OF THE
BOARD OF DIRECTORS
OF
CELADON GROUP, INC.**

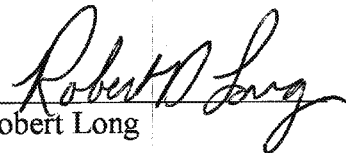
The undersigned, being all of the duly elected members of the Board of Directors (the "Board") of Celadon Group, Inc., a corporation organized and existing under the laws of the State of Delaware (the "Corporation"), hereby waive the giving of any and all notice of a meeting and hereby consent, pursuant to Section 141(f) of the Delaware General Corporation Law to the adoption of the following resolutions by the Board of the Corporation without a meeting and to the actions authorized thereby.

WHEREAS, the Board approves the 10Q for the period ended December 31, 2016.

IN WITNESS WHEREOF, the undersigned have duly executed this Unanimous consent as of February 9, 2017.

Paul Will

Michael Miller



Robert Long

Cathy Langham

Kenneth Buck

EXHIBIT 10

From: Rexing, Greg [greging@bkd.com]
Sent: 2/9/2017 12:51:41 PM
To: Bobby Peavler [bpeavler@celadontrucking.com]; Steve Boyer [sboyer@celadontrucking.com]
Subject: Revised MRL

Here you go.

Gregory D. Rexing, CPA
Partner | BKD, LLP
201 North Illinois Street, Suite 700
Indianapolis, IN 46204
317.383.4000
317.383.5461 Direct
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Any tax advice contained in the body of this email was not intended or written to be used, and cannot be used, by the recipient for the purpose of avoiding penalties that may be imposed under the Internal Revenue Code or applicable state or local tax law provisions.

These discussions and conclusions are based on the facts as stated and existing authorities as of the date of this email. Our advice could change as a result of changes in the applicable laws and regulations. We are under no obligation to update this information if such changes occur. Our advice is based on your unique facts and circumstances as you

communicated them to us and should not be used or relied on by anyone else.

February 9, 2017

BKD, LLP
Certified Public Accountants
201 North Illinois Street, Suite 700
Indianapolis, IN 46204

We are providing this letter in connection with your review of our condensed consolidated balance sheet as of December 31, 2016 and the related condensed consolidated statements of operations and comprehensive income (loss) for the three-month and six-month periods ended December 31, 2016 and 2015 and cash flows for the six-month periods ended December 31, 2016 and 2015. We are also providing this letter in connection with our condensed consolidated balance sheet as of June 30, 2016 which was derived from the audited consolidated balance sheet as of that date.

Your review was made for the purpose of expressing limited assurance that there are no material modifications that should be made to the statements in order for them to be in accordance with accounting principles generally accepted in the United States of America. We confirm that we are responsible for the fair presentation of the interim financial information in conformity with accounting principles generally accepted in the United States of America. We are also responsible for adopting sound accounting policies, establishing and maintaining effective internal control, and preventing and detecting fraud.

Certain representations in this letter are described as being limited to matters that are material. Items are considered material, regardless of size, if they involve an omission or misstatement of accounting information that, in light of surrounding circumstances, makes it probable that the judgment of a reasonable person relying on the information would be changed or influenced by the omission or misstatement.

We confirm, to the best of our knowledge and belief, the following:

1. The financial statements referred to above are fairly presented in conformity with accounting principles generally accepted in the United States of America applicable to interim information and applied on a basis consistent with the same period in the prior year and substantially consistent with the audited financial statements for the prior fiscal year ended. Except as disclosed in the financial statements or notes thereto, no changes in accounting principles or practices occurred during the period compared to those used in preparing other interim periods or the annual financial statements.
2. We have made available to you:

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- (a) All financial records and related data.
 - (b) All minutes of stockholders' and directors' meetings held through the date of this letter.
 - (c) All communications with regulatory agencies concerning noncompliance with or deficiencies in financial reporting practices.
 - (d) All significant contracts.
3. With respect to related parties:
- (a) We understand that the term related party refers to an affiliate; principal owners, management and members of their immediate families; subsidiaries accounted for by the equity method; and any other party with which the Company may deal if the Company can significantly influence, or be influenced by, the management or operating policies of the other. The term affiliate refers to a party that directly or indirectly controls, or is controlled by, or is under common control with, the Company.
 - (b) We have disclosed to you all relationships, transactions, balances, arrangements and guarantees with related parties, including the nature of such relationships between the Company and the related party.
 - (c) We have provided all information concerning related party transactions and amounts receivable from or payable to related parties, including support for any assertions that a transaction with a related party was conducted on terms equivalent to those prevailing in an arm's-length transaction.
 - (d) We have no knowledge of any relationships or transactions with related parties that have not been properly accounted for and adequately disclosed.
4. We have disclosed any significant unusual transactions the Company has entered into during the period, including the nature, terms and business purpose of those transactions and whether such transactions involved related parties.
5. We have informed you of all significant deficiencies, including material weaknesses, in the design or operation of internal controls which could adversely affect our ability to record, process, summarize and report financial data.
6. All control deficiencies identified and communicated to the Audit Committee during previous engagements, if any, have been resolved or, if unresolved, we have specifically identified these deficiencies to you.
7. Subsequent to June 30, 2016, there have been no changes in internal control over financial reporting or other factors that might significantly affect internal control

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over financial reporting, including any corrective action taken by management with regard to any significant deficiencies and/or material weaknesses.

8. All significant changes in accounting personnel, responsibilities, procedures or principles have been disclosed to you on the client planning questionnaire.
9. We believe the estimates and assumptions used to identify, recognize and measure tax positions of the company are reasonable and appropriate for purposes of determining uncertain tax positions and the related liability for unrecognized tax benefits.
10. We acknowledge our responsibility for the design and implementation of programs and controls to prevent and detect fraud.
11. We understand that your review would not necessarily disclose fraud. We have no knowledge of any known or suspected:
 - (a) Fraudulent financial reporting or misappropriation of assets involving management or employees who have significant roles in internal control.
 - (b) Fraudulent financial reporting or misappropriation of assets involving others that could have a material effect on the financial statements.
12. We have no knowledge of any allegations of fraud or suspected fraud affecting the Company received in communications from employees, customers, regulators, suppliers, analysts, short sellers or others.
13. We have informed you of the existence of any of the following unusual transactions:
 - (a) Large sales with unusual payment terms (*e.g.*, material receivables from customers that are subject to out of the ordinary discounts or extended due dates).
 - (b) Sales with rights of return.
 - (c) Any “bill and hold” sales (*i.e.*, sales that have been invoiced and recorded as revenue but the property was held by us as of the date of our financial statements).
 - (d) Oral modifications to written sales contracts.
14. We believe the effects of the uncorrected financial statement misstatements summarized in the attached schedule are immaterial, both individually and in the aggregate, to the financial statements taken as a whole.
15. Except as reflected in the financial statements, there are no:

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- (a) Plans or intentions that may materially affect carrying values or classifications of assets and liabilities.
 - (b) Material transactions omitted or improperly recorded in the financial statements.
 - (c) Material gain/loss contingencies requiring accrual or disclosure, including those arising from environmental remediation obligations.
 - (d) Events occurring subsequent to the balance sheet date through the date of this letter requiring adjustment or disclosure in the financial statements.
 - (e) Unrecorded transactions, side agreements or other arrangements (either written or oral) undisclosed to you.
 - (f) Agreements to purchase assets previously sold.
 - (g) Violations or possible violations of law, regulations or requirements of regulatory agencies which should be considered for disclosure or recording a loss.
 - (h) Unasserted claims or assessments that our attorneys have advised us are probable of assertion.
 - (i) Capital stock repurchase options or agreements, or capital stock reserved for options, warrants, conversions or other requirements.
 - (j) Restrictions on cash balances or compensating balance agreements.
 - (k) Guarantees, whether written or oral, under which the Company is contingently liable.
16. Provision, when material, has been made for any losses resulting from:
- (a) Uncollectible receivables.
 - (b) Sales commitments, including those unable to be fulfilled.
 - (c) Purchase commitments in excess of normal requirements or above prevailing market prices.
17. Except as disclosed in the financial statements, the Company has:
- (a) Satisfactory title to all recorded assets, and they are not subject to any liens, pledges or other encumbrances.

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- (b) Complied with all aspects of contractual agreements, for which noncompliance would materially affect financial statements.
18. The financial statements disclose all significant estimates and material concentrations known to us. Significant estimates are estimates at the balance sheet date which could change materially within the next year. Concentrations refer to volumes of business, revenues, available sources of supply, or markets for which events could occur which would significantly disrupt normal finances within the next year.
19. The fair values of financial and nonfinancial assets and liabilities, if any, recognized in the financial statements or disclosed in the notes thereto are reasonable estimates based on the methods and assumptions used. The methods and significant assumptions used result in measurements of fair value appropriate for financial statement recognition and disclosure purposes and have been applied consistently from period to period, taking into account any changes in circumstances. The significant assumptions appropriately reflect market participant assumptions.
20. We have not been designated as a potentially responsible party (PRP or equivalent status) by the Environmental Protection Agency (EPA) or other cognizant regulatory agency with authority to enforce environmental laws and regulations.
21. We have fully and truthfully responded to all your inquiries.
22. Management believes the IVA Recoverable for Mexico and Servicios Leasing is collectible and no reserve is deemed necessary. For the current fiscal year, the Company anticipates filing the returns after the old IVA Recoverable is received. A third party has been hired by management to help collect the IVA Recoverable in Mexico. Management has received confirmation from Mexico's government a significant amount of the older IVA Recoverable will be received before the end of the second quarter, December 31, 2016.
23. Management believes the Company has the ability and intent to permanently invest the undistributed earnings of their foreign subsidiaries into the operations of such subsidiaries.
24. Management has entered into commitments identified on the attached page as of December 31, 2016. No additional commitments have been entered into as of this date which would need disclosed in the 10-Q
25. Management believes that there has been no triggering events during the first quarter ending December 31, 2016 that would require the Company to perform a formal evaluation of impairment of goodwill.
26. The Stoops sales and purchases transactions were conducted at arm's length and the prices at which the Company bought and sold vehicles reflect fair market

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values at the time of the transactions. Each transaction was discreet in nature and none were interdependent. There are no undisclosed side agreements related to these transactions.

Paul Will, President and Chief Executive
Officer

Bobby Peavler, Executive Vice President,
Chief Financial Officer, and Treasurer