

AMAZING GRACE MOVIE -against- NEON RATED et al.  
WEHRFRITZ, JAMES on 12/15/2023

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1 SUPREME COURT OF THE STATE OF NEW YORK

2 COUNTY OF NEW YORK

3

4 AMAZING GRACE MOVIE, LLC, a )  
California limited liability )  
5 company, )



6 Plaintiff, )

) CASE NO. 652869/2022

7 -against- )

8 NEON RATED, LLC, a Delaware )  
limited liability company; and )  
9 DOES 1-10, )

10 Defendants. )

11 \_\_\_\_\_ )

12

13

14 Videotaped deposition of James Wehrfritz, taken on  
15 behalf of the Plaintiffs Pursuant to Notice via remote  
16 teleconference in Huntington Beach, California,  
17 commencing at 8:02 a.m., on Friday, December 15, 2023,  
18 before Lindsay Stoker, RMR, CRR, CRC, Certified  
19 Shorthand Reporter No. 14373 in and for the State of  
20 California.

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1 I N D E X

2 WITNESS: JAMES WEHRFRITZ

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8 EXHIBIT DESCRIPTION PAGE

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10 Expenses 3Q22 Statement - vDist  
(3).xlsx

11 EXHIBIT 2 Wehrfritz NAACP ticket purchase 126

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15 EXHIBIT 5 PDF created from Neon Rated's 214  
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18 EXHIBIT 7 Letter dated 3/1/2023 230  
19 NEON00004585

20

21

22

23

24

25

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1	STENOGRAPHIC REPORTER APPEARING REMOTELY	
2	HUNTINGTON BEACH, CALIFORNIA	
3	Friday, December 15, 2023, 8:02 a.m.	
4		08:02:52
5	THE VIDEOGRAPHER: Good morning. We are now	08:02:52
6	going on the record, and the time is 8:02 a.m.	08:02:54
7	Pacific Standard Time, on Friday, December 15th, of	08:02:58
8	2023.	08:03:03
9	This is the video-recorded deposition of James	08:03:05
10	Wehrfritz, taken in the matter of Amazing Grace	08:03:13
11	Movie, LLC, versus Neon Rated, LLC.	08:03:20
12	This case is filed in the Supreme Court of the	08:03:23
13	State of New York, County of New York, with an index	08:03:25
14	number of 652869/2022. This deposition is being	08:03:32
15	conducted remote via Zoom technology.	08:03:42
16	My name is Nicolas Allen, Videographer,	08:03:46
17	appearing on behalf of J.D. Reporting, and the court	08:03:49
18	reporter is Lindsay Stoker.	08:03:53
19	Counsel, will you please introduce yourselves	08:03:56
20	and affiliations, and the witness will be sworn.	08:03:59
21	MR. PESSAH: Good morning. Maurice Pessah for	08:04:02
22	Plaintiff.	08:04:05
23	MR. STRUBLE: Good morning. This is	08:04:05
24	Cory Struble of Quinn Emanuel Urquhart & Sullivan,	08:04:11
25	LLP, on behalf of Defendant, Neon Rated, LLC, and	08:04:14

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1 also the witness. 08:04:15

2 MR. GREENWALD: And Mark Greenwald also of Quinn 08:04:17

3 Emanuel, also on behalf of the witness and on behalf 08:04:20

4 of Defendant, Neon. 08:04:21

5 08:04:32

6 JAMES WEHRFRITZ,

7 called as a witness, having been first duly sworn,

8 was examined and testified as follows:

9

10 EXAMINATION

11 BY MR. PESSAH: 08:04:46

12 Q. Good morning, Mr. Wehrfritz. 08:04:46

13 A. Good morning. 08:04:50

14 Q. Am I pronouncing your last name correctly? 08:04:51

15 A. Yeah, close enough. 08:04:54

16 Q. Give me the correct pronunciation. I am a 08:04:55

17 stickler. 08:04:58

18 A. Wehrfritz. Like where are you, fritz. 08:04:59

19 Q. Got it. Wehrfritz. That helps. 08:05:04

20 Mr. Wehrfritz, I am counsel for Amazing Grace 08:05:09

21 Movie, LLC, and you're familiar with Amazing Grace, 08:05:15

22 the film; right? 08:05:20

23 A. Yes. 08:05:22

24 Q. Have you seen the film? 08:05:22

25 A. I have not. 08:05:23

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1	Q.	Oh, you have not. What have you heard	08:05:24
2		about the film?	08:05:27
3	MR. STRUBLE:	Object to form.	08:05:29
4	THE WITNESS:	What have I heard about it?	08:05:30
5	BY MR. PESSAH:		08:05:32
6	Q.	Yeah.	08:05:32
7	A.	I have heard it's a documentary. Yeah,	08:05:32
8		and -- yeah. I don't know. I have only heard of	08:05:36
9		it. I don't know literally that much about it,	08:05:39
10		yeah. And my knowledge of it is -- is limited.	08:05:43
11	BY MR. PESSAH:		08:05:48
12	Q.	Has anyone commented to you about whether	08:05:49
13		it's a good film or whether they don't like the film	08:05:50
14		or anything like that?	08:05:53
15	A.	No --	08:05:54
16		(Indiscernible crosstalk.)	08:05:55
17	MR. STRUBLE:	Sorry, sorry. Jim, if you would,	08:05:55
18		just give me a moment in case I need to object, just	08:05:58
19		a brief moment.	08:06:00
20	THE WITNESS:	Oh, sure.	08:06:02
21	MR. STRUBLE:	Object to the form of the	08:06:05
22		question.	08:06:06
23	BY MR. PESSAH:		08:06:08
24	Q.	Mr. Struble is going to be objecting a lot,	08:06:08
25		Mr. Wehrfritz, so just be aware of that. Okay. So	08:06:13

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1	you have not seen the film. Got it.	08:06:15
2	Do you understand that we're here to take your	08:06:17
3	deposition today?	08:06:19
4	A. Yes.	08:06:19
5	Q. Okay. And have you had your deposition	08:06:20
6	taken before?	08:06:21
7	A. No.	08:06:22
8	Q. Okay. So I'm just going to go over a few	08:06:22
9	ground rules with you, standard admonitions.	08:06:25
10	The first one is that you understand that you	08:06:27
11	are under oath?	08:06:29
12	A. Yes.	08:06:30
13	Q. And do you understand that the oath that	08:06:31
14	you have taken is the same oath you would take in a	08:06:34
15	court of law before a judge or a jury, and it	08:06:37
16	carries the same penalty of perjury as the oath you	08:06:39
17	would take in that setting?	08:06:42
18	A. Yes.	08:06:45
19	MR. STRUBLE: Object to form.	08:06:48
20	BY MR. PESSAH:	08:06:49
21	Q. Sorry. I didn't hear your answer.	08:06:49
22	A. I think Cory might have stepped in.	08:06:51
23	Q. Yeah. When he objects, he doesn't --	08:06:54
24	you -- you should answer my questions unless	08:06:56
25	Mr. Struble instructs you not to answer.	08:07:01

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1	Do you understand that?	08:07:02
2	MR. STRUBLE: Object to form.	08:07:05
3	THE WITNESS: Yes.	08:07:06
4	BY MR. PESSAH:	08:07:07
5	Q. Okay. So we're going to go back to the	08:07:08
6	part about penalty of perjury.	08:07:10
7	So you understand that you're under oath, and	08:07:12
8	the breach of that oath carries a penalty of perjury	08:07:13
9	with it?	08:07:16
10	MR. STRUBLE: Object to form.	08:07:18
11	BY MR. PESSAH:	08:07:21
12	Q. Do you understand that?	08:07:21
13	A. Yes.	08:07:22
14	Q. Okay. And we have a court reporter here,	08:07:22
15	you can't see her, she is transcribing everything	08:07:26
16	that is being said, not only by you, but by yourself	08:07:30
17	and your counsel.	08:07:34
18	And so it is important, if we want a clean	08:07:35
19	record, for you to always answer questions verbally	08:07:38
20	as opposed to gesticulating or nodding your head.	08:07:43
21	Do you understand that?	08:07:46
22	A. Yes.	08:07:47
23	Q. Okay. So "yes," "no," those are, you know,	08:07:48
24	good answers.	08:07:52
25	"Uh-huh" or "uh-uh," those are not good answers.	08:07:54

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1	Do you understand?	08:08:00
2	A. Yes.	08:08:00
3	Q. And because we have a court reporter here,	08:08:01
4	it is important that you let me finish my question	08:08:02
5	and then -- then maybe give a couple seconds for	08:08:04
6	Mr. Struble to object and then answer so we can	08:08:07
7	avoid what just happened a couple times now on the	08:08:12
8	record, where Mr. Struble's objections overlap with	08:08:14
9	your answers.	08:08:18
10	Do you understand that?	08:08:18
11	A. Yes.	08:08:19
12	Q. Okay. Got it.	08:08:19
13	Did you say this was the first time you were	08:08:26
14	having your deposition taken?	08:08:28
15	A. Yes.	08:08:29
16	Q. Okay. And have you consumed any -- any	08:08:29
17	drugs or alcohol, prescription or non-prescription,	08:08:33
18	that you believe would impair your ability to	08:08:36
19	testify competently and truthfully here today?	08:08:39
20	MR. STRUBLE: Object to form.	08:08:42
21	THE WITNESS: No.	08:08:43
22	BY MR. PESSAH:	08:08:45
23	Q. Got it.	08:08:46
24	And can I assume if you answer a question that	08:08:47
25	you understood it?	08:08:50

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1	MR. STRUBLE: Object to form.	08:08:54
2	THE WITNESS: Yes.	08:08:54
3	BY MR. PESSAH:	08:08:55
4	Q. And, occasionally, you may need a break to	08:08:57
5	go to the bathroom or whatnot, which is completely	08:09:00
6	fine. I just ask that if I have a question pending,	08:09:03
7	that you answer the question before we do that.	08:09:05
8	Does that sound reasonable?	08:09:08
9	MR. STRUBLE: Object to form.	08:09:10
10	THE WITNESS: Yes.	08:09:10
11	BY MR. PESSAH:	08:09:11
12	Q. So just give Mr. Struble a minute to	08:09:12
13	object.	08:09:15
14	I believe you said "yes," correct?	08:09:16
15	A. Yes. Correct.	08:09:17
16	Q. Okay. Let me see if there is anything --	08:09:20
17	oh, we already went over this, but unless	08:09:23
18	Mr. Struble instructs you not to answer, you are	08:09:28
19	required to answer my question. An objection does	08:09:29
20	not mean that you don't answer.	08:09:33
21	Do you understand that?	08:09:34
22	MR. STRUBLE: Object to form.	08:09:37
23	THE WITNESS: Yes.	08:09:38
24	BY MR. PESSAH:	08:09:38
25	Q. Okay. And where are you located right now,	08:09:39

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1	Mr. Wehrfritz?	08:09:41
2	A. Brooklyn, New York.	08:09:44
3	Q. Okay. Great. Because we are conducting	08:09:48
4	this deposition remotely, and you are not permitted	08:09:51
5	to receive any assistance during the deposition, or	08:09:53
6	rely on any notes, I am just going ask you to tilt	08:09:55
7	your camera down and show me the area around where	08:09:58
8	you're sitting so we can ensure that there's --	08:10:00
9	you're not receiving any sort of assistance, don't	08:10:02
10	have a cell phone next to you, if you could just	08:10:04
11	tilt it left and right.	08:10:06
12	A. Cell phone is sitting here.	08:10:12
13	Q. Okay. Yeah. Maybe put your cell phone	08:10:14
14	away, maybe silent. Thank you.	08:10:17
15	And you understand that you are not permitted to	08:10:26
16	receive any assistance from anyone, including but	08:10:28
17	not limited to your counsel.	08:10:31
18	Do you understand that?	08:10:32
19	A. Yes.	08:10:33
20	Q. Okay. And Neon is paying your legal fees;	08:10:35
21	right?	08:10:40
22	MR. STRUBLE: Object to form.	08:10:40
23	THE WITNESS: Yes.	08:10:41
24	BY MR. PESSAH:	08:10:44
25	Q. Did you ask them to do that?	08:10:45

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1	A.	No.	08:10:46
2	Q.	They offered; correct?	08:10:48
3	A.	Yes.	08:10:52
4	Q.	When did Neon make this offer to you?	08:10:53
5	A.	Shortly after I received the -- or after I	08:10:56
6		was served the deposition. I don't recall what day.	08:11:03
7	Q.	Who from Neon contacted you?	08:11:07
8	MR. STRUBLE:	Object to form.	08:11:12
9	THE WITNESS:	Cory.	08:11:13
10	BY MR. PESSAH:		08:11:16
11	Q.	Oh, Cory from Neon -- Cory is from Quinn	08:11:16
12		Emanuel.	08:11:21
13		Did somebody from Neon contact you?	08:11:22
14	A.	No. Sorry, nobody from Neon. It was just	08:11:23
15		from the law firm.	08:11:25
16	Q.	Got it. Okay. And do you remember around	08:11:27
17		what date that was?	08:11:31
18	A.	No. It was shortly after I received the --	08:11:32
19		the service of the deposition.	08:11:38
20	Q.	I see. And were you told not to	08:11:40
21		communicate with us?	08:11:43
22	MR. STRUBLE:	Object to form, and I am	08:11:46
23		instructing the witness not to answer. That would	08:11:47
24		be -- that would fall under legal advice,	08:11:49
25		Mr. Pessah, if that communication occurred.	08:11:53

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1	MR. PESSAH: I just think it's interesting that	08:11:55
2	you didn't announce that you were representing him	08:11:57
3	until 24 hours before you canceled his first	08:12:00
4	deposition. That's all.	08:12:03
5	Mr. Wehrfritz --	08:12:05
6	MR. STRUBLE: Object to the commentary.	08:12:05
7	BY MR. PESSAH:	08:12:07
8	Q. You're aware that your deposition was	08:12:07
9	noticed for a prior date; right?	08:12:09
10	A. Yes.	08:12:12
11	Q. And why weren't you able to attend on that	08:12:13
12	first date?	08:12:16
13	A. Health issues. I had a combination of	08:12:17
14	things going on, including the flu, plus a leg	08:12:22
15	infection --	08:12:28
16	Q. A leg infection?	08:12:29
17	A. -- caused by -- yeah, caused by an insect	08:12:31
18	bite.	08:12:32
19	Q. Whoa. A Brooklyn insect or were you	08:12:33
20	somewhere tropical?	08:12:36
21	A. Brooklyn insects.	08:12:37
22	Q. Okay. All right. Well, I am glad you are	08:12:38
23	feeling better. I thank you for being here today.	08:12:41
24	Did you prepare any documents for yourself in	08:12:46
25	preparation for this deposition?	08:12:49

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1	MR. STRUBLE: Object to form.	08:12:53
2	THE WITNESS: No.	08:12:54
3	BY MR. PESSAH:	08:12:54
4	Q. And did you search for any documents in	08:12:54
5	preparation for this deposition?	08:12:58
6	MR. STRUBLE: Object to form.	08:13:01
7	THE WITNESS: No.	08:13:01
8	BY MR. PESSAH:	08:13:02
9	Q. Were you aware that your deposition	08:13:05
10	subpoena calls for production of documents?	08:13:07
11	MR. STRUBLE: Object to form.	08:13:13
12	THE WITNESS: Yes.	08:13:15
13	BY MR. PESSAH:	08:13:15
14	Q. Just give Mr. Struble -- actually, he'll be	08:13:15
15	objecting a lot, so just let him object before you	08:13:18
16	answer.	08:13:20
17	You said yes?	08:13:21
18	A. Yes.	08:13:22
19	Q. Okay. And despite that, you didn't take a	08:13:22
20	moment to search for documents?	08:13:24
21	A. I --	08:13:25
22	MR. STRUBLE: Object to form.	08:13:27
23	THE WITNESS: I know I didn't have any	08:13:28
24	documents. I haven't had Neon documents in my	08:13:29
25	possession. I knew I didn't have any, so there was	08:13:32

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1	no searching to be done.	08:13:35
2	BY MR. PESSAH:	08:13:37
3	Q. How do you know that you don't have any?	08:13:37
4	A. Because I -- you know, I was moving	08:13:39
5	into town with my girlfriend at the time and	08:13:43
6	consolidating space, and I just -- there was no	08:13:46
7	space for anything, including previous employers.	08:13:49
8	Q. But did you -- did you check your cell	08:13:53
9	phone and laptop and computers for documents, or did	08:13:56
10	you just understand the subpoena to mean that you	08:13:59
11	had to look for physical documents?	08:14:03
12	MR. STRUBLE: Object to the form of the	08:14:05
13	question.	08:14:06
14	THE WITNESS: No, I don't -- I don't have record	08:14:07
15	of anything, to my knowledge, either physically or	08:14:09
16	on my phone or otherwise, electronically.	08:14:13
17	BY MR. PESSAH:	08:14:18
18	Q. And you know that because you conducted a	08:14:18
19	search, or because you are guessing?	08:14:19
20	MR. STRUBLE: Object to form.	08:14:22
21	THE WITNESS: Well, physically, I know I didn't	08:14:23
22	spend any time going through, like, electronically.	08:14:26
23	BY MR. PESSAH:	08:14:30
24	Q. You didn't spend time to look for any	08:14:31
25	electronic records?	08:14:34

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1	MR. STRUBLE: Object to form.	08:14:36
2	THE WITNESS: Yeah, that's correct.	08:14:37
3	BY MR. PESSAH:	08:14:40
4	Q. Okay. Were you aware that you were	08:14:41
5	required to do that?	08:14:43
6	MR. STRUBLE: Object to form, lacks foundation.	08:14:45
7	THE WITNESS: I knew I didn't have anything, so	08:14:47
8	I didn't spend a lot of time looking.	08:14:53
9	BY MR. PESSAH:	08:14:58
10	Q. I see. Okay. When was the last time you	08:14:58
11	had access to your @neonrated email address?	08:15:00
12	A. It was shortly, like, just before I left.	08:15:08
13	So early 2021.	08:15:11
14	Q. Early 2021. Do you recall the month and --	08:15:16
15	A. January?	08:15:21
16	Q. So January '21 was the last --	08:15:22
17	A. It was January, yeah.	08:15:24
18	Q. You had access -- so January '21 was the	08:15:28
19	last time you had access to your @neonrated email	08:15:30
20	address?	08:15:33
21	A. Correct.	08:15:34
22	Q. Okay. And did you have a company cell	08:15:34
23	phone?	08:15:39
24	A. No.	08:15:39
25	Q. Were you using your personal cell phone to	08:15:40

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1	conduct business?	08:15:47
2	A. Yes.	08:15:48
3	Q. Business on behalf of Neon?	08:15:48
4	A. Yes.	08:15:50
5	MR. STRUBLE: Object to form.	08:15:53
6	BY MR. PESSAH:	08:15:55
7	Q. And was Neon contributing to your cell	08:15:55
8	phone expenses?	08:15:57
9	MR. STRUBLE: Object to form.	08:15:59
10	THE WITNESS: No.	08:16:00
11	BY MR. PESSAH:	08:16:02
12	Q. So you were using your cell phone for both	08:16:03
13	personal and work purposes while you were employed	08:16:05
14	at Neon; correct?	08:16:07
15	MR. STRUBLE: Object to form.	08:16:10
16	THE WITNESS: Correct.	08:16:11
17	BY MR. PESSAH:	08:16:12
18	Q. And Neon wasn't paying any portion of your	08:16:12
19	cell phone expenses during the time you were	08:16:16
20	employed there; correct?	08:16:19
21	A. Correct.	08:16:20
22	Q. And when you would consult your -- your	08:16:24
23	Neon Rated emails on your cell phone, were you using	08:16:31
24	sort of the normal -- do you have an iPhone?	08:16:35
25	A. Yes.	08:16:37

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1 Q. Were you using the regular envelope icon 08:16:38  
2 through the platform -- through the Apple platform, 08:16:43  
3 or did you have, like, a separate Outlook app? 08:16:46

4 MR. STRUBLE: Object to the form of the 08:16:50  
5 question. 08:16:51

6 THE WITNESS: I believe the former. It has been 08:16:52  
7 a while. I don't recall specifically, but I believe 08:16:54  
8 the former. 08:16:58

9 BY MR. PESSAH: 08:16:58

10 Q. You believe the former. Got it. 08:16:59

11 Okay. And so there were local copies of Neon 08:17:00  
12 Rated emails stored on your cell phone at the time 08:17:03  
13 you were employed there; correct? 08:17:06

14 MR. STRUBLE: Object to form. 08:17:08

15 THE WITNESS: Possibly. 08:17:09

16 BY MR. PESSAH: 08:17:11

17 Q. Well, what -- what's your hesitation? Why 08:17:13  
18 do you say "possibly"? 08:17:15

19 A. Possibly. I don't know that there's -- 08:17:17  
20 they are stored locally on my cell phone. 08:17:22

21 Q. But you had access to it, up on your cell 08:17:24  
22 phone; correct? 08:17:26

23 THE WITNESS: Yes. Yes. 08:17:27

24 BY MR. PESSAH: 08:17:27

25 Q. And whenever you were on an airplane and 08:17:27

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1	didn't have access to the internet or Wi-Fi, you	08:17:29
2	could still look at emails that you received before	08:17:32
3	then; correct?	08:17:34
4	MR. STRUBLE: Object to form.	08:17:35
5	THE WITNESS: I -- assuming that that's how I	08:17:36
6	was viewing emails, which I believe I indicated	08:17:39
7	was -- I think that's how I received emails, yeah.	08:17:42
8	You would be correct. I am not specifically	08:17:46
9	100 percent sure that's how I was viewing my emails.	08:17:49
10	BY MR. PESSAH:	08:17:53
11	Q. Okay. And when you -- when you left Neon,	08:17:53
12	or when your employment terminated with Neon, in	08:17:56
13	January of 2021, did you delete those emails from	08:18:00
14	your phone?	08:18:03
15	MR. STRUBLE: Object to form. Object to form.	08:18:04
16	THE WITNESS: Yes. I don't have any Neon	08:18:09
17	emails -- yeah, through the company email. Yeah, I	08:18:13
18	just -- I don't. I don't recall the process of	08:18:17
19	deletion that I went through, but there's the phone	08:18:21
20	now that was sent to my @neonrated address.	08:18:31
21	BY MR. PESSAH:	08:18:35
22	Q. So you deleted emails, @neonrated emails on	08:18:35
23	your phone?	08:18:38
24	A. Yeah, I deleted emails --	08:18:38
25	Q. -- on your phone?	08:18:39

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1	MR. STRUBLE: Hold on. Object to form,	08:18:39
2	mischaracterizes the testimony, lacks foundation.	08:18:41
3	BY MR. PESSAH:	08:18:43
4	Q. Mr. Wehrfritz, I don't mean to	08:18:44
5	mischaracterize your testimony. You're not a	08:18:47
6	defendant in this case, and Neon is taking care of	08:18:50
7	your legal bills. So I -- it's just -- this is	08:18:51
8	really just about Amazing Grace Movie, LLC, and Neon	08:18:52
9	Rated's dispute.	08:18:55
10	So I don't mean to put you under any pressure.	08:18:56
11	I just need to know if you had emails on your cell	08:18:59
12	phone, which you answered you did, and then -- then	08:19:01
13	you're now saying that you no longer have those	08:19:04
14	emails.	08:19:06
15	MR. STRUBLE: Objection.	08:19:06
16	BY MR. PESSAH:	08:19:06
17	Q. So I -- I am trying to understand what	08:19:07
18	happened to the emails that were once on your phone?	08:19:11
19	MR. STRUBLE: Ask questions, and not -- don't	08:19:16
20	give speeches. The witness is not here to listen to	08:19:18
21	speeches. What question do you have for him? I	08:19:20
22	object to the commentary.	08:19:23
23	BY MR. PESSAH:	08:19:23
24	Q. Do you understand my question,	08:19:25
25	Mr. Wehrfritz?	08:19:27

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1	MR. STRUBLE: I think we need a read back,	08:19:28
2	because I don't understand it. What is it?	08:19:30
3	BY MR. PESSAH:	08:19:32
4	Q. What happened to the Neon Rated emails that	08:19:32
5	were once located on your cell phone?	08:19:35
6	MR. STRUBLE: Object to form, asked and	08:19:40
7	answered.	08:19:41
8	BY MR. PESSAH:	08:19:50
9	Q. Mr. Wehrfritz?	08:19:51
10	A. Yeah. There's -- there are no emails on my	08:19:55
11	phone. I don't recall what happened to them.	08:19:57
12	There's not on my phone now, and, you know, whether	08:19:59
13	they're stored -- yeah, there is none on my phone.	08:20:00
14	Q. Why is that?	08:20:02
15	A. I don't keep, historically, emails from a	08:20:03
16	company I don't work for anymore.	08:20:07
17	Q. So what do you do with them?	08:20:09
18	A. For any purpose.	08:20:10
19	Q. So what do you do with them?	08:20:11
20	MR. STRUBLE: Object to form.	08:20:13
21	BY MR. PESSAH:	08:20:15
22	Q. Hm?	08:20:16
23	A. I don't have them on my phone anymore. I	08:20:16
24	guess, were they deleted? Yeah, I don't know.	08:20:20
25	Remove the service that was providing the emails,	08:20:23



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1	BY MR. PESSAH:	08:21:24
2	Q. Did you delete them?	08:21:25
3	MR. STRUBLE: Same objections. Object to form.	08:21:26
4	BY MR. PESSAH:	08:21:33
5	Q. Did you delete them?	08:21:33
6	MR. STRUBLE: Same --	08:21:38
7	BY MR. PESSAH:	08:21:42
8	Q. Hold on. Let me see if your counsel has an	08:21:42
9	objection, so he doesn't strategically start	08:21:44
10	speaking right when you start speaking.	08:21:47
11	MR. PESSAH: Mr. Struble, other than your high	08:21:48
12	blood pressure, do you have any objections to the	08:21:51
13	question, "Did you delete them?"	08:21:53
14	MR. STRUBLE: Sir, I find it highly offensive	08:21:56
15	that you would speak that way in a deposition. And,	08:21:58
16	yeah, I do have objections. You're harassing him.	08:22:03
17	Have you been listening to his testimony? He	08:22:06
18	gave you an answer.	08:22:08
19	MR. PESSAH: The question is not --	08:22:13
20	MR. STRUBLE: Object to form.	08:22:14
21	MR. PESSAH: I am going to object that the	08:22:16
22	witness is nonresponsive, and I am going to ask	08:22:17
23	Mr. Wehrfritz one more time, or as many times as I	08:22:20
24	need, actually.	08:22:23
25	BY MR. PESSAH:	08:22:23

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1	Q. Mr. Wehrfritz, this is not a trick	08:22:23
2	question.	08:22:29
3	You do understand, Mr. Wehrfritz, that you're	08:22:30
4	not being sued in this lawsuit?	08:22:33
5	A. Right.	08:22:35
6	Q. And this lawsuit is not about you, you	08:22:37
7	understand that; right?	08:22:38
8	MR. STRUBLE: Object to form.	08:22:39
9	THE WITNESS: Yes.	08:22:41
10	BY MR. PESSAH:	08:22:41
11	Q. All right. So did you delete the Neon	08:22:42
12	Rated emails that once resided on your cell phone,	08:22:45
13	yes or no?	08:22:49
14	MR. STRUBLE: Object to form, asked and	08:22:51
15	answered.	08:22:52
16	The witness will answer one last time, but we	08:22:53
17	are not going to be harassed with badgering	08:22:57
18	questions when the testimony is already on the	08:22:59
19	record.	08:23:01
20	THE WITNESS: The emails are no longer on my	08:23:03
21	phone. They were removed when I disconnected from	08:23:04
22	Neon.	08:23:09
23	BY MR. PESSAH:	08:23:10
24	Q. Who removed them?	08:23:10
25	MR. STRUBLE: Object to form.	08:23:12

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1	THE WITNESS: I suppose I did.	08:23:13
2	BY MR. PESSAH:	08:23:17
3	Q. Okay. So what was the process that you	08:23:18
4	undertook to remove the Neon Rated emails that once	08:23:21
5	resided on your personal cell phone?	08:23:25
6	A. I don't recall specifically.	08:23:30
7	MR. STRUBLE: Object to form, asked and	08:23:31
8	answered.	08:23:34
9	Sorry, go ahead, Jim.	08:23:34
10	THE WITNESS: I don't recall specifics.	08:23:36
11	BY MR. PESSAH:	08:23:37
12	Q. Okay. You don't recall how -- how those	08:23:37
13	emails disappeared from your personal cell phone,	08:23:39
14	but you know that they are gone; correct?	08:23:41
15	MR. STRUBLE: Object to form.	08:23:44
16	(Reporter Clarification.)	08:24:29
17	(Record read as requested.)	08:24:30
18	MR. STRUBLE: Object to form.	08:24:31
19	THE WITNESS: Correct. Correct.	08:24:32
20	BY MR. PESSAH:	08:24:33
21	Q. And other than -- than transacting with	08:24:33
22	Neon Rated emails from your phone, did you ever	08:24:38
23	communicate with Neon Rated employees via text?	08:24:41
24	MR. PESSAH: Object to form.	08:24:51
25	THE WITNESS: Yes.	08:24:51

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1	BY MR. PESSAH:	08:24:52
2	Q. Did you hear his answer, Ms. Stoker?	08:24:52
3	THE REPORTER: Yes. I heard "yes."	08:24:59
4	BY MR. PESSAH:	08:25:01
5	Q. And do you still have those text messages?	08:25:01
6	MR. PESSAH: Object to form.	08:25:04
7	THE WITNESS: I don't know.	08:25:04
8	BY MR. PESSAH:	08:25:08
9	Q. Because you didn't check to see if you have	08:25:09
10	them; correct?	08:25:12
11	MR. STRUBLE: Object to form.	08:25:13
12	THE WITNESS: Correct.	08:25:14
13	BY MR. PESSAH:	08:25:17
14	Q. And would you have any objection to	08:25:18
15	conducting a search of your text messages?	08:25:20
16	MR. STRUBLE: Object to form, and it calls for	08:25:24
17	privileged information. The witness is instructed	08:25:31
18	not to reveal privileged information.	08:25:35
19	If the witness can answer without revealing	08:25:38
20	privileged information, then you may do so.	08:25:43
21	Otherwise, do not reveal privileged information.	08:25:45
22	BY MR. PESSAH:	08:25:48
23	Q. Mr. Wehrfritz?	08:25:48
24	A. Can you repeat the question again?	08:25:51
25	Q. Sure. Would you have any objection to	08:25:52

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1	conducting a search of your text messages to	08:25:55
2	determine whether or not you possess any text	08:25:59
3	messages between yourself and any current or former	08:26:02
4	Neon Rated employees?	08:26:05
5	MR. STRUBLE: Same objections and instructions.	08:26:06
6	BY MR. PESSAH:	08:26:14
7	Q. Mr. Wehrfritz?	08:26:15
8	A. I mean, I can.	08:26:18
9	Q. Okay. So I understand your answer to mean	08:26:19
10	that you don't have any objections to doing that.	08:26:22
11	Is that what you intended to convey?	08:26:25
12	MR. STRUBLE: Object, lacks foundation. We did	08:26:27
13	serve objections to your subpoena, so it lacks	08:26:29
14	foundation.	08:26:31
15	I instruct the witness not to answer the	08:26:31
16	question on the grounds of privilege.	08:26:33
17	BY MR. PESSAH:	08:26:36
18	Q. All right. Ms. Stoker, can you read back	08:26:36
19	the question, please?	08:26:39
20	THE REPORTER: Sure.	08:26:40
21	(Record read as requested.)	08:26:41
22	MR. PESSAH: That's the question you are	08:26:53
23	instructing him not to answer, Mr. Struble?	08:26:54
24	MR. STRUBLE: I think I misheard slightly. I am	08:27:00
25	going to object that it lacks foundation, but he can	08:27:02

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1	answer that question.	08:27:04
2	BY MR. PESSAH:	08:27:08
3	Q. Mr. Wehrfritz, I can have her read it back	08:27:08
4	one more time. It's no problem.	08:27:11
5	A. Yes, please.	08:27:11
6	MR. PESSAH: Ms. Stoker, please. Sorry to	08:27:11
7	bother you.	08:27:13
8	THE REPORTER: No problem.	08:27:13
9	(Record read as requested.)	08:27:25
10	MR. STRUBLE: Object to form.	08:27:26
11	THE WITNESS: Correct.	08:27:30
12	BY MR. PESSAH:	08:27:31
13	Q. Okay. When was the last time you	08:27:32
14	communicated with a Neon Rated employee?	08:27:39
15	A. Early 2001, kind of simultaneous with my	08:27:41
16	departure.	08:27:59
17	Q. Early 2021?	08:28:00
18	A. 2021, yes.	08:28:00
19	Q. And who did you communicate with at that	08:28:01
20	time?	08:28:03
21	A. I believe Jessica Nickelsberg.	08:28:03
22	Q. In your last communication with	08:28:10
23	Ms. Nickelsberg, did you guys discuss any of Neon	08:28:15
24	Rated's films?	08:28:18
25	MR. STRUBLE: Hold on. Okay. So	08:28:19

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1 Ms. Nickelsberg is an attorney. I am going to 08:28:21  
2 object on the grounds of privilege. 08:28:24

3 If you had communications with Ms. Nickelsberg 08:28:25  
4 that did not relate to legal advice or a legal 08:28:29  
5 dispute or a request for legal advice, if you had 08:28:34  
6 any communications that are not privileged, in other 08:28:39  
7 words, you may answer. Otherwise, do not reveal the 08:28:42  
8 substance of any communications. 08:28:45

9 MR. PESSAH: This is going to go to the Court, 08:28:47  
10 Cory, because your instruction is improper; as you 08:28:49  
11 know. 08:28:51

12 BY MR. PESSAH: 08:28:52

13 Q. Let me ask you another question, 08:28:52  
14 Mr. Wehrfritz, and then we will get back to the 08:28:55  
15 question that Mr. Struble incorrectly advised you 08:28:57  
16 not to answer. 08:29:00

17 Is Jessica Nickelsberg your lawyer? 08:29:01

18 MR. STRUBLE: Object to form. 08:29:03

19 THE WITNESS: No. 08:29:04

20 BY MR. PESSAH: 08:29:06

21 Q. Has she ever been your lawyer? 08:29:08

22 MR. STRUBLE: Object to form, vague and 08:29:10  
23 ambiguous. 08:29:11

24 THE WITNESS: No. 08:29:13

25 ///

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1	BY MR. PESSAH:	08:29:15
2	Q. Has she ever given you legal advice outside	08:29:16
3	of your capacity as a Neon Rated employee --	08:29:20
4	(Indiscernible crosstalk.)	08:29:20
5	MR. STRUBLE: Object to form.	08:29:20
6	BY MR. PESSAH:	08:29:20
7	Q. -- for legal advice?	08:29:26
8	MR. STRUBLE: Object to form.	08:29:26
9	THE WITNESS: No.	08:29:28
10	BY MR. PESSAH:	08:29:31
11	Q. Did you say "no"?	08:29:32
12	A. Correct. No, she hasn't.	08:29:33
13	Q. Okay. So you -- you testified,	08:29:35
14	Mr. Wehrfritz, that the last time you had	08:29:43
15	communications with a Neon Rated employee was in	08:29:44
16	early 2021, circa the time of your departure;	08:29:47
17	correct?	08:29:50
18	A. I believe so.	08:29:50
19	MR. STRUBLE: Object to form.	08:29:51
20	BY MR. PESSAH:	08:29:53
21	Q. Just let -- just assume that Mr. Struble is	08:29:53
22	going to object every single time I ask you a	08:29:58
23	question, and give him a few seconds to do the	08:30:00
24	little things that he likes to do, and then answer	08:30:02
25	your question.	08:30:04

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1 MR. STRUBLE: And I wish -- I wish I didn't have 08:30:05  
2 to. I don't like to. I mean, ask good questions 08:30:07  
3 that aren't compound or vague, I mean, but yeah, 08:30:09  
4 okay. 08:30:11  
5 MR. PESSAH: I mean, if you think my questions 08:30:13  
6 are so bad then just let him answer them. You seem 08:30:14  
7 very irritated by my questions. 08:30:17  
8 MR. STRUBLE: Answer bad questions and waive my 08:30:19  
9 objections, I don't understand, let's move on. 08:30:21  
10 MR. PESSAH: Well, if it's a bad question, it 08:30:25  
11 doesn't help my case. So just let him answer. 08:30:26  
12 MR. STRUBLE: You know how objections work, 08:30:29  
13 c'mon. 08:30:31  
14 BY MR. PESSAH: 08:30:32  
15 Q. Okay. Anyways, so, Mr. Wehrfritz, just let 08:30:32  
16 Mr. Struble do -- do the things that he does before 08:30:39  
17 you answer your question, please. 08:30:42  
18 And so the last time that you spoke to a Neon 08:30:43  
19 Rated employee was early in 2021; correct? 08:30:46  
20 A. I believe so. Yes. 08:30:49  
21 Q. Let him do his thing before you -- okay. 08:30:51  
22 MR. STRUBLE: There was no objection. I did not 08:30:56  
23 object. 08:30:57  
24 MR. PESSAH: But he didn't know that there was 08:30:58  
25 going to be no objection. That was, like, 1 in 08:30:59

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1	10,000 times that there's no objection. Okay. So I	08:31:03
2	am glad we can laugh about this.	08:31:05
3	So, Mr. Wehrfritz, did -- when you had that	08:31:07
4	discussion in early 2021 with Ms. Nickelsberg, did	08:31:11
5	you discuss any of Neon Rated's films?	08:31:15
6	MR. STRUBLE: Object to form.	08:31:19
7	And, again, same instruction as to privilege.	08:31:22
8	If you had privileged communications with	08:31:25
9	Ms. Nickelsberg, do not reveal those.	08:31:29
10	MR. PESSAH: The witness testified that	08:31:32
11	Ms. Nickelsberg is not his attorney and has never	08:31:33
12	been his attorney. There is no privilege between a	08:31:36
13	non-Neon Rated employee and his general counsel,	08:31:38
14	okay?	08:31:42
15	MR. STRUBLE: That's --	08:31:44
16	(Indiscernible crosstalk.)	08:31:46
17	MR. PESSAH: If you --	08:31:46
18	(Indiscernible crosstalk.)	08:31:46
19	MR. PESSAH: If you think you're going to file a	08:31:49
20	note of issue today with these improper, ridiculous	08:31:50
21	instructions, you are sorely mistaken. I can tell	08:31:53
22	you that all you're doing is creating circumstances	08:31:56
23	for us to have to go back to the Court and seek	08:32:00
24	redress.	08:32:04
25	I know that's not what you want, so let him	08:32:04

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1	answer my questions, please.	08:32:07
2	MR. STRUBLE: I have to respond, unfortunately.	08:32:09
3	I don't think you have established foundation that	08:32:11
4	he was no longer employed in early 2021.	08:32:13
5	If you want to, ask questions about him in his	08:32:17
6	capacity as a non-Neon employee with	08:32:19
7	Ms. Nickelsberg, establish that the communications	08:32:26
8	you are asking about occurred after the time he was	08:32:28
9	employed.	08:32:30
10	There is clearly a privilege between Neon's	08:32:30
11	general counsel and a Neon employee. Lay your	08:32:32
12	foundation and then answer -- and then ask the	08:32:35
13	questions.	08:32:36
14	MR. PESSAH: There is no blanket privilege. I	08:32:37
15	asked him if -- I am asking if they discussed any	08:32:41
16	films. That is not legal advice.	08:32:42
17	BY MR. PESSAH:	08:32:45
18	Q. Mr. Wehrfritz, did you and Ms.	08:32:46
19	Nickelsberg --	08:32:46
20	(Indiscernible crosstalk.)	08:32:48
21	MR. STRUBLE: Then I must add -- sorry. I	08:32:48
22	must --	08:32:48
23	(Indiscernible crosstalk.)	08:32:50
24	MR. PESSAH: You're interrupting -- you are	08:32:50
25	interrupting my question, Mr. Struble.	08:32:51

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1	MR. STRUBLE: No, I have to qualify --	08:32:51
2	MR. PESSAH: Mr. Struble. Mr. Struble --	08:32:51
3	MR. PESSAH: I'll do it after --	08:32:51
4	(Indiscernible crosstalk.)	08:32:51
5	MR. PESSAH: -- listen to me very carefully.	08:32:54
6	I am going to finish my question, and then you	08:32:56
7	can do your little speech, okay?	08:32:58
8	MR. STRUBLE: Go for it.	08:33:00
9	BY MR. PESSAH:	08:33:01
10	Q. Mr. Wehrfritz, when you discussed -- when	08:33:02
11	you had a conversation or communication with	08:33:04
12	Ms. Nickelsberg in early of 2020 -- early 2021, did	08:33:06
13	you and Ms. Nickelsberg discuss any of Neon Rated's	08:33:10
14	films?	08:33:15
15	MR. STRUBLE: Object to form. And to clarify my	08:33:19
16	prior objection, even if the -- even if he was no	08:33:21
17	longer a Neon employee, there may still be a	08:33:25
18	privilege so you need to establish the adequate	08:33:28
19	foundation for non-privileged communications.	08:33:30
20	I will allow the witness to answer yes or no to	08:33:32
21	your question, but subject to my objections.	08:33:34
22	THE WITNESS: No.	08:33:41
23	BY MR. PESSAH:	08:33:41
24	Q. Okay. What was the general subject matter	08:33:42
25	of your discussion with -- with Ms. Nickelsberg	08:33:46

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1	around the time of your departure?	08:33:49
2	MR. STRUBLE: Object to form, vague and	08:33:51
3	ambiguous. And, again, I instruct the witness that	08:33:53
4	if he has had privileged communications, do not	08:33:58
5	reveal those.	08:34:00
6	MR. PESSAH: I am asking a general question	08:34:02
7	about subject matter; your instruction is not	08:34:03
8	proper. Mr. Wehrfritz?	08:34:06
9	MR. STRUBLE: Same objections.	08:34:08
10	THE WITNESS: I believe it was in regards to my	08:34:09
11	separation agreement.	08:34:12
12	BY MR. PESSAH:	08:34:16
13	Q. Okay. And so what were the circumstances	08:34:16
14	of your departure.	08:34:18
15	Did you quit? Were you terminated? Were you	08:34:19
16	asked to resign?	08:34:21
17	MR. STRUBLE: Object to form.	08:34:23
18	THE WITNESS: Health reasons.	08:34:24
19	BY MR. PESSAH:	08:34:28
20	Q. Okay. So you voluntarily separated from	08:34:28
21	Neon?	08:34:37
22	A. It was a collaborative discussion.	08:34:38
23	Q. Did somebody ask you to resign?	08:34:40
24	A. No.	08:34:42
25	Q. Did somebody suggest that you should	08:34:48

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1	resign?	08:34:51
2	A. No.	08:34:51
3	Q. Did somebody imply that you should resign?	08:34:55
4	A. No.	08:35:03
5	Q. Okay. So what was the nature of the	08:35:05
6	collaborative discussion that you had regarding your	08:35:09
7	departure?	08:35:12
8	MR. STRUBLE: Object to form.	08:35:14
9	THE WITNESS: Regarding my health issue, it's a	08:35:19
10	private matter that I don't want to discuss.	08:35:23
11	BY MR. PESSAH:	08:35:25
12	Q. No, no problem. I don't want you to	08:35:25
13	discuss it either. I don't mean to pry. I am not	08:35:27
14	interested in your health. I hope you get better,	08:35:29
15	whatever it is, but I am not asking you to -- I am	08:35:33
16	not seeking to embarrass you at all. So I apologize	08:35:35
17	if you are taking the question that way.	08:35:38
18	Other than the health reasons, were there any	08:35:41
19	other reasons why you were -- you chose to leave	08:35:42
20	Neon?	08:35:46
21	A. No.	08:35:47
22	Q. Okay. And if you -- you wanted to stay,	08:35:48
23	could you have?	08:35:52
24	MR. STRUBLE: Object to form.	08:35:55
25	THE WITNESS: I believe so, yes.	08:35:56

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1	BY MR. PESSAH:	08:36:00
2	Q. Okay. And when -- and the last time you	08:36:00
3	spoke to Ms. Nickelsberg was in early 2021?	08:36:06
4	MR. STRUBLE: Object to form.	08:36:12
5	THE WITNESS: Yes.	08:36:13
6	BY MR. PESSAH:	08:36:14
7	Q. Okay. And when was the last time you spoke	08:36:14
8	to any other Neon Rated current or former employee?	08:36:17
9	MR. STRUBLE: Object to form.	08:36:22
10	THE WITNESS: The same timeframe. I believe the	08:36:23
11	last communication with any Neon Rated employee was	08:36:27
12	the -- you know, the first part of 2021.	08:36:32
13	BY MR. PESSAH:	08:36:37
14	Q. Who else did you speak to during that time?	08:36:37
15	A. Tom Quinn.	08:36:39
16	Q. What did you discuss with Mr. Quinn?	08:36:44
17	A. Related to my separation.	08:36:48
18	Q. Okay. Other than your separation	08:36:51
19	agreement, did you discuss any other subjects with	08:36:54
20	Mr. Quinn?	08:36:56
21	A. No.	08:36:58
22	Q. Did you discuss any other subjects with	08:37:00
23	Ms. Nickelsberg?	08:37:03
24	A. No.	08:37:05
25	Q. Have you seen Mr. Quinn since you stopped	08:37:09

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1	working at Neon?	08:37:15
2	A. No.	08:37:18
3	Q. Have you seen Ms. Nickelsberg?	08:37:20
4	A. No.	08:37:23
5	Q. Have you seen any current or former Neon	08:37:25
6	Rated employee since you left the company?	08:37:29
7	A. No.	08:37:32
8	Q. Okay. Besides Mr. Quinn and	08:37:33
9	Ms. Nickelsberg, who else did you speak to?	08:37:37
10	MR. STRUBLE: Object to form.	08:37:44
11	BY MR. PESSAH:	08:37:44
12	Q. Around the time of your departure?	08:37:45
13	MR. STRUBLE: Object to form.	08:37:46
14	THE WITNESS: I don't recall anybody else	08:37:47
15	specifically.	08:37:50
16	BY MR. PESSAH:	08:37:51
17	Q. When did you first become aware that -- of	08:37:52
18	this lawsuit?	08:37:55
19	A. When I was served the notice for my	08:37:57
20	deposition.	08:38:04
21	Q. So when you were served with a notice, that	08:38:06
22	was the first time you knew or understood that Neon	08:38:08
23	Rated was involved in a legal dispute?	08:38:15
24	A. Correct.	08:38:19
25	Q. Okay. Mr. Quinn never mentioned to you	08:38:21

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1	that Mr. Elliott or his company were suing Neon?	08:38:26
2	MR. STRUBLE: Object to form.	08:38:31
3	THE WITNESS: No.	08:38:32
4	MR. PESSAH: Okay. I need to take a quick	08:38:41
5	bathroom break actually, so why don't we take	08:38:43
6	five minutes.	08:38:45
7	Is that okay with you, Mr. Wehrfritz?	08:38:45
8	THE WITNESS: Yes, absolutely.	08:38:50
9	MR. PESSAH: All right. Okay.	08:38:50
10	THE VIDEOGRAPHER: We are going off the record	08:38:50
11	and time is 8:38 a.m.	08:38:51
12	(Recess.)	08:45:55
13	THE VIDEOGRAPHER: We are now going back on the	08:45:55
14	record, and the time is 8:45 a.m.	08:46:00
15	BY MR. PESSAH:	08:46:02
16	Q. Okay, welcome back, Mr. Wehrfritz.	08:46:02
17	Do you understand you are still under oath?	08:46:05
18	A. Yes.	08:46:07
19	Q. And did you discuss this deposition with	08:46:08
20	anyone, other than your attorneys, during the break?	08:46:10
21	A. No.	08:46:12
22	Q. Other than your attorneys, who did you	08:46:14
23	discuss this deposition with?	08:46:17
24	A. I mentioned that I had a deposition with my	08:46:19
25	girlfriend.	08:46:26

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1	Q.	Anyone else?	08:46:28
2	A.	I mentioned that I had a deposition with my	08:46:34
3		current employer.	08:46:36
4	Q.	And who is your current employer?	08:46:37
5	A.	Chain Asset Management.	08:46:39
6	Q.	Okay. And did you start working there	08:46:43
7		right after you left Neon?	08:46:48
8	A.	Yes.	08:46:49
9	Q.	And you're -- I'm sorry to ask, but you	08:46:49
10		were not prevented from working at Chain Asset	08:46:56
11		Management due to personal reasons?	08:47:01
12	A.	No.	08:47:02
13	Q.	But you couldn't work at Neon for personal	08:47:07
14		reasons?	08:47:09
15	A.	I started working at Chain shortly after	08:47:10
16		Neon. The circumstances were different. My	08:47:17
17		employment was -- it was remote-based. It is	08:47:23
18		currently remote-based.	08:47:27
19	Q.	Were you remote at Neon?	08:47:32
20	A.	No.	08:47:35
21	Q.	Ever?	08:47:35
22	A.	During -- I mean, there were periods of	08:47:36
23		time, certainly. But my current employer is	08:47:41
24		entirely remote-based.	08:47:45
25	Q.	So is that why you left Neon, because you	08:47:47

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1	wanted to work -- have the option of working	08:47:50
2	remotely? I don't want to pry into your health. I	08:47:53
3	just -- I have to clarify, you know, you left	08:47:55
4	obviously for personal reasons at Neon.	08:47:58
5	I want to know it if there were any other	08:48:00
6	reasons you left Neon, other than personal?	08:48:02
7	MR. STRUBLE: Object to form, asked and	08:48:05
8	answered.	08:48:06
9	BY MR. PESSAH:	08:48:12
10	Q. Were there any other reasons why you left	08:48:12
11	Neon?	08:48:14
12	A. No, my --	08:48:14
13	MR. STRUBLE: Same objection.	08:48:17
14	THE WITNESS: No. The situation with my -- my	08:48:18
15	health was the predominant one.	08:48:24
16	BY MR. PESSAH:	08:48:27
17	Q. Okay. But you were -- that didn't prevent	08:48:27
18	you from working at your current employer; right?	08:48:30
19	MR. STRUBLE: Object to form.	08:48:35
20	THE WITNESS: Correct.	08:48:36
21	BY MR. PESSAH:	08:48:38
22	Q. And the reason for that is because of	08:48:39
23	the -- of the option to work remotely?	08:48:45
24	A. Correct, flexibility regarding remoteness.	08:48:48
25	Q. Got it. Okay. And in your separation	08:48:52

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1	agreement with Neon, is there a confidentiality	08:48:59
2	provision in it?	08:49:03
3	MR. STRUBLE: Object to form.	08:49:05
4	THE WITNESS: I believe so. I haven't looked at	08:49:07
5	it in a while.	08:49:11
6	BY MR. PESSAH:	08:49:14
7	Q. Okay. Do you have an iCloud account,	08:49:14
8	Mr. Wehrfritz?	08:49:19
9	A. Yes.	08:49:19
10	Q. And what's the purpose of that iCloud	08:49:24
11	account?	08:49:27
12	MR. STRUBLE: Object to form.	08:49:30
13	THE WITNESS: Largely to serve as a back-up for	08:49:31
14	pictures taken, yeah. Yeah, really for pictures and	08:49:35
15	just back-up of general iPhone data. It eases the	08:49:41
16	transition to a new phone.	08:49:48
17	BY MR. PESSAH:	08:49:50
18	Q. And the data that you have backed up in	08:49:50
19	your iCloud account, does that include emails?	08:49:57
20	MR. STRUBLE: Object to form.	08:50:00
21	THE WITNESS: I don't know the specifics of what	08:50:00
22	my -- what's is in my iCloud account.	08:50:02
23	BY MR. PESSAH:	08:50:04
24	Q. Did you search your iCloud account when you	08:50:05
25	received the deposition subpoena?	08:50:07

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1	A.	I did not.	08:50:08
2	Q.	And your iCloud account, it also backs up	08:50:12
3		text messages; right?	08:50:18
4	MR. STRUBLE:	Object to form.	08:50:20
5	THE WITNESS:	I don't know what the precise	08:50:21
6		settings on my iCloud account are.	08:50:26
7	BY MR. PESSAH:		08:50:29
8	Q.	Do you know if your text messages are	08:50:29
9		backed up on your iCloud account?	08:50:31
10	A.	I do not know.	08:50:32
11	Q.	Okay. When you -- you mentioned	08:50:36
12		transitioning phones. So when you buy a new phone,	08:50:39
13		do you notice that the same text messages you had on	08:50:43
14		the prior phone are on your new phone also?	08:50:48
15	A.	I haven't bought a new phone in a while,	08:50:51
16		but -- so I can't comment.	08:50:55
17	Q.	When was the last time you bought a new	08:50:59
18		phone?	08:51:01
19	A.	I believe it's been at least -- I can't	08:51:02
20		comment. I don't know the exact time.	08:51:15
21	Q.	And the last time you purchased a new	08:51:17
22		phone, it had everything on it that your old phone	08:51:23
23		had, in terms of communications; right?	08:51:25
24	MR. STRUBLE:	Object to form.	08:51:29
25	THE WITNESS:	I believe so. That's not --	08:51:31

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1	that's a comment made with a -- comprehensive	08:51:33
2	review of what was on my previous phone, what was	08:51:48
3	on -- and this is what's on my new phone --	08:51:52
4	THE REPORTER: I'm sorry.	08:51:52
5	THE WITNESS: -- under --	08:51:52
6	THE REPORTER: Can you repeat that answer? I	08:51:52
7	didn't -- comment made, what about the comprehensive	08:51:52
8	review.	08:51:54
9	THE WITNESS: My comment was, I believe so, but	08:51:54
10	that's -- without having a comprehensive review of	08:51:54
11	what was on my previous iPhone versus what's on my	08:51:57
12	current new iPhone.	08:52:00
13	THE REPORTER: Thank you.	08:52:04
14	BY MR. PESSAH:	08:52:04
15	Q. Okay. Were you friends with any of your	08:52:05
16	coworkers while you were working at Neon?	08:52:10
17	A. Friendship -- yeah, I would say we were,	08:52:15
18	you know, work acquaintances for the most part. I	08:52:26
19	mean, we had friendly relationships that we -- I had	08:52:30
20	friendly relationships with most everybody. But to	08:52:34
21	the extent outside of the work environment.	08:52:38
22	Q. Okay. Did you socialize with any of your	08:52:42
23	coworkers at Neon?	08:52:48
24	A. On a limited bases.	08:52:49
25	Q. Who -- who did you socialize with?	08:52:51

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1	A.	I don't recall specifics.	08:52:55
2	Q.	You don't recall who, if anybody --	08:53:03
3	A.	No. I am trying to think of names. Again,	08:53:05
4		it has been a while since I worked there. Yeah, no.	08:53:09
5		I -- yeah. Apologies, I just can't recall the folks	08:53:19
6		that I really socialized with outside of Neon.	08:53:27
7	Q.	No problem. Did you socialize with Tom	08:53:33
8		Quinn?	08:53:37
9	A.	No.	08:53:37
10	Q.	Why not?	08:53:38
11	A.	He is my boss, and I -- it was a	08:53:38
12		relationship where I didn't want to necessarily have	08:53:53
13		a friendship thing. It was historically, like, a	08:53:55
14		business working relationship.	08:53:59
15	Q.	And did you ever meet Mr. Quinn?	08:54:02
16	A.	Yes. Yes, many times.	08:54:04
17	Q.	And can you describe to me what your	08:54:07
18		opinion is, or how would you describe Mr. Quinn,	08:54:17
19		just personality-wise?	08:54:20
20	MR. STRUBLE:	Object to form.	08:54:23
21	THE WITNESS:	Mr. Quinn, in my opinion, he is an	08:54:24
22		incredibly smart individual when it comes to the	08:54:30
23		film industry. I've got the utmost respect for him.	08:54:34
24		He is a personable person. And, yeah, I am not sure	08:54:39
25		how else to describe my relationship with him or my	08:54:49

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1	perception of him as a person.	08:54:52
2	BY MR. PESSAH:	08:54:54
3	Q. Did you ever have any disagreements with	08:54:54
4	him?	08:54:56
5	A. Disagreements specifically -- I am not sure	08:54:57
6	what you're referencing.	08:55:07
7	Q. Do you know what a disagreement is?	08:55:08
8	A. I do.	08:55:10
9	Q. Did you have any disagreements with	08:55:12
10	Mr. Quinn?	08:55:15
11	MR. STRUBLE: Object to form, asked and	08:55:17
12	answered.	08:55:18
13	THE WITNESS: Yes.	08:55:19
14	BY MR. PESSAH:	08:55:25
15	Q. And can -- can you describe to me what the	08:55:25
16	disagreements were about?	08:55:30
17	A. No. I know that we had disagreements. I	08:55:31
18	don't recall the content of those disagreements.	08:55:34
19	Q. How many times did you -- can you recall	08:55:37
20	you and Mr. Quinn having disagreements?	08:55:40
21	A. I don't recall.	08:55:43
22	Q. Five times?	08:55:44
23	MR. STRUBLE: Object to form.	08:55:48
24	THE WITNESS: Yeah, I couldn't speculate.	08:55:51
25	///	

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1	BY MR. PESSAH:	08:55:53
2	Q. I am asking you to estimate, not to	08:55:54
3	speculate.	08:55:58
4	A. I couldn't estimate.	08:55:58
5	Q. Okay. Would you say it was more than once?	08:55:59
6	MR. STRUBLE: Object to form.	08:56:03
7	THE WITNESS: Yes, I would say more than once.	08:56:06
8	BY MR. PESSAH:	08:56:10
9	Q. How about at least five times?	08:56:10
10	MR. STRUBLE: Object to form.	08:56:13
11	THE WITNESS: You know, I don't know if it was	08:56:14
12	more than five times.	08:56:19
13	BY MR. PESSAH:	08:56:22
14	Q. Okay. Was it --	08:56:23
15	A. I can't say with certainty.	08:56:24
16	Q. Was it more than once?	08:56:25
17	A. Yes.	08:56:26
18	MR. STRUBLE: Object to form, asked and	08:56:27
19	answered.	08:56:29
20	BY MR. PESSAH:	08:56:38
21	Q. When did you start working at Neon?	08:56:38
22	A. I believe it was July of 2018.	08:56:40
23	Q. July 2018?	08:56:42
24	A. Yeah, I believe so. It was December of	08:56:44
25	2018.	08:56:46

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1	Q.	Okay. And so you worked there from	08:56:47
2		July 2018 through January 2021?	08:56:51
3	A.	I believe that's correct.	08:56:53
4	Q.	Okay. And during that timeframe,	08:56:56
5		approximately how many times did you and Mr. Quinn	08:57:00
6		have disagreements?	08:57:03
7	MR. STRUBLE:	Object to form, asked and	08:57:04
8		answered.	08:57:06
9	THE WITNESS:	Yeah, I don't have a specific	08:57:06
10		number.	08:57:14
11	BY MR. PESSAH:		08:57:14
12	Q.	Do you recall if the subject matter of any	08:57:14
13		of your disagreements with Mr. Quinn related to	08:57:17
14		internal procedures at Neon?	08:57:23
15	A.	I don't recall.	08:57:25
16	Q.	Do you recall if they related to any	08:57:28
17		accounting procedures at Neon?	08:57:32
18	A.	I don't recall.	08:57:35
19	Q.	Did you -- when you had those disagreements	08:57:36
20		with Mr. Quinn, were they in-person disagreements?	08:57:40
21	MR. STRUBLE:	Object to form.	08:57:45
22	THE WITNESS:	Typically, I believe so.	08:57:46
23	BY MR. PESSAH:		08:57:53
24	Q.	And when they weren't in person, how would	08:57:53
25		those disagreements be communicated?	08:57:57

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1	MR. STRUBLE: Object to form.	08:58:00
2	THE WITNESS: Telephone conversation.	08:58:02
3	BY MR. PESSAH:	08:58:05
4	Q. How else?	08:58:06
5	MR. STRUBLE: Object to form.	08:58:09
6	THE WITNESS: I believe that's it.	08:58:14
7	BY MR. PESSAH:	08:58:14
8	Q. Okay. And so when was the first time you	08:58:15
9	recall, just approximately month and year or just	08:58:17
10	the year, that you had a disagreement with	08:58:20
11	Mr. Quinn?	08:58:23
12	You said you started in July of 2018, so when	08:58:23
13	was the first time?	08:58:31
14	A. Yeah, I don't recall. I don't recall the	08:58:32
15	timeframe.	08:58:33
16	Q. Was it your first day at -- at Neon?	08:58:34
17	MR. STRUBLE: Object to form.	08:58:38
18	THE WITNESS: I don't think it was my first day.	08:58:39
19	BY MR. PESSAH:	08:58:44
20	Q. Was it your last day at Neon?	08:58:44
21	MR. STRUBLE: Object to form.	08:58:47
22	THE WITNESS: I don't think it was my last day.	08:58:48
23	BY MR. PESSAH:	08:58:52
24	Q. Okay. So somewhere in between your first	08:58:52
25	day and last day, you had at least two disagreements	08:58:54

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1	with Mr. Quinn; right?	08:58:58
2	A. Yes.	08:58:59
3	Q. Okay. So you didn't work there for ten	08:58:59
4	years, you worked there for three years, so -- less.	08:59:01
5	So let's try to get some sort of an estimate. I am	08:59:04
6	not asking you, again, for a precise date and time.	08:59:08
7	But I -- you know, I have to make sure that I fully	08:59:11
8	vet this topic.	08:59:21
9	So with that, Mr. Wehrfritz, do you recall if	08:59:22
10	you had any disagreements with Mr. Quinn in 2018?	08:59:28
11	A. I do not recall specifically.	08:59:34
12	Q. Okay. And as you sit here today, you have	08:59:36
13	absolutely no recollection whatsoever about why you	08:59:38
14	had those disagreements with Mr. Quinn?	08:59:42
15	A. I don't recall specifics.	08:59:47
16	Q. Okay. Give me the general?	08:59:51
17	MR. STRUBLE: Object to form.	08:59:56
18	THE WITNESS: Yeah. Is it possible to take a	08:59:57
19	quick break to talk with Cory?	09:00:09
20	BY MR. PESSAH:	09:00:13
21	Q. Right after -- remember at the beginning,	09:00:14
22	we had an admonition, if there's a question	09:00:15
23	pending --	09:00:18
24	A. Yes, I remember.	09:00:18
25	Q. So -- so --	09:00:19

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1	(Indiscernible crosstalk.)	09:00:19
2	A. I --	09:00:19
3	Q. Just a general --	09:00:20
4	(Indiscernible crosstalk.)	09:00:21
5	MR. STRUBLE: Wait, wait, wait.	09:00:21
6	BY MR. PESSAH:	09:00:23
7	Q. -- answer the question first, and then we	09:00:23
8	can take a break.	09:00:24
9	MR. STRUBLE: I have to -- I have to correct	09:00:25
10	you, Mr. Pessah. If the witness has a question	09:00:26
11	about either privilege or confidentiality, I am	09:00:30
12	permitted to interrupt the deposition under the	09:00:32
13	applicable rules to consult with him about those	09:00:33
14	obligations.	09:00:35
15	Mr. Wehrfritz, do you have such a question for	09:00:39
16	me that you need to consult about?	09:00:41
17	THE WITNESS: No, it's not in regards to those	09:00:44
18	things.	09:00:46
19	BY MR. PESSAH:	09:00:47
20	Q. Okay. So then he can answer the question.	09:00:47
21	Just generally, and then we can definitely take a	09:00:50
22	break.	09:00:53
23	A. Yeah, so generally, staffing.	09:00:54
24	Q. Anything else?	09:00:58
25	A. No.	09:00:59

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1	MR. STRUBLE: Object to form.	09:01:02
2	MR. PESSAH: Okay. Let's take a break. Five	09:01:04
3	minutes, ten minutes?	09:01:06
4	THE WITNESS: Ten minutes would be great.	09:01:07
5	MR. PESSAH: Ten minutes, sure, no problem.	09:01:12
6	THE WITNESS: Thanks.	09:01:15
7	THE VIDEOGRAPHER: We are going off the record,	09:01:15
8	and the time is 9:01 a.m.	09:01:16
9	(Recess.)	09:11:44
10	THE VIDEOGRAPHER: We are now going back on the	09:11:44
11	record and the time is 9:11 a.m.	09:11:59
12	BY MR. PESSAH:	09:11:59
13	Q. Mr. Wehrfritz, welcome back. Before we	09:12:03
14	took a break, you said you needed five minutes.	09:12:06
15	Your attorneys have asked now for a lunch break,	09:12:08
16	which I have absolutely no problem with. I know you	09:12:11
17	are on the -- the East Coast. We have a lot more	09:12:16
18	questions for you.	09:12:19
19	So do you have any objection to staying here	09:12:21
20	with us until 6:00 p.m. Eastern instead of	09:12:25
21	5:30 p.m.?	09:12:29
22	MR. STRUBLE: Object to form.	09:12:35
23	THE WITNESS: No, I don't.	09:12:36
24	MR. PESSAH: Okay. So, Mr. Struble, you and	09:12:42
25	Mr. Greenwald have placed an artificial stop time	09:12:47

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1 that is less than the seven hours that we are 09:12:50  
2 entitled to under the CPLR. The artificial stop 09:12:52  
3 time you have placed is 5:30 p.m. Pacific -- I'm 09:12:57  
4 sorry, 5:30 p.m. Eastern. 09:13:00

5 Now, the witness has stated he is okay staying 09:13:06  
6 until 6:00 p.m. Eastern, which it would be very 09:13:08  
7 helpful for me in inquiring and investigating the 09:13:12  
8 facts I need to prosecute this case. So I am more 09:13:14  
9 than happy to take a break, a lunch break. 09:13:17

10 The witness has stated he is okay staying until 09:13:19  
11 6:00 Eastern, and I would appreciate the courtesy 09:13:23  
12 from you and your office so we can give the witness 09:13:26  
13 the lunch break he needs and give everyone the lunch 09:13:28  
14 break they need. 09:13:31

15 But the videographer and the court reporter are 09:13:32  
16 not on the East Coast. So it's not their lunchtime 09:13:34  
17 technically yet, but if the witness needs a break, I 09:13:36  
18 have no issue with that. But what you are telling 09:13:39  
19 me on the heels of a 5-minute break that you said is 09:13:42  
20 that he now needs a 30-minute break or an hour break 09:13:44  
21 for lunch in the middle of my examination. 09:13:50

22 We haven't even been going an hour, and what 09:13:51  
23 happened right before we went on the break was that 09:13:54  
24 you were up in arms claiming that the witness needed 09:13:55  
25 to discuss -- take a break to discuss an answer with 09:14:00

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1	you that involved privilege, when this witness, to	09:14:03
2	his credit, answered honestly and stated that he	09:14:07
3	didn't need any assistance with privilege. That was	09:14:09
4	your insertion. So --	09:14:11
5	(Indiscernible crosstalk.)	09:14:13
6	MR. STRUBLE: He indicated he needed to talk to	09:14:13
7	me.	09:14:18
8	MR. PESSAH: Hold on. Hold on. So now if the	09:14:19
9	witness is okay staying until 6:00 p.m. Eastern, are	09:14:20
10	we good with that, yes or no?	09:14:24
11	MR. STRUBLE: I will need to consider it over	09:14:26
12	lunch. We're not -- we're not going to bargain --	09:14:29
13	barter for lunch breaks that are normal, but I will	09:14:30
14	consider it. You know, counsel have obligations,	09:14:34
15	too, and in the East Coast, where this action is	09:14:36
16	pending, there is a thing such as close of business	09:14:38
17	on a Friday night.	09:14:41
18	But let me consider it. I will try my best to	09:14:42
19	be reasonable and work with you, but we did not	09:14:45
20	place artificial limits. You could have come to New	09:14:47
21	York to take this New York witness's deposition in a	09:14:49
22	New York action.	09:14:52
23	We started at 11:00 a.m. so that you could, I	09:14:52
24	guess, sleep in. I don't know. And, you know, we	09:14:55
25	will try to be reasonable and work something out if	09:14:56

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1 the witness can stay until 6:00, and counsel can, 09:14:58  
2 too. But I think we should take a break for lunch, 09:15:01  
3 because I sense that the witness needs some food and 09:15:04  
4 sustenance to continue the deposition. 09:15:08

5 MR. PESSAH: Mr. Struble, we started the 09:15:10  
6 deposition -- I started this deposition at 8:00 a.m. 09:15:12  
7 in LA. So I didn't, quote/unquote, sleep in. Also, 09:15:14  
8 as you know, the majority of depositions in this 09:15:17  
9 case have taken place in Los Angeles, California, 09:15:19  
10 including Mr. Quinn's. And that -- 09:15:21

11 (Indiscernible crosstalk.) 09:15:21

12 MR. PESSAH: -- that deposition was taken in Los 09:15:25  
13 Angeles, California, still you insisted that it 09:15:29  
14 occur remotely so the witness wouldn't have to come 09:15:32  
15 to my office. 09:15:34

16 MR. STRUBLE: That's not true. 09:15:35

17 MR. PESSAH: You worked with us in LA time, no 09:15:36  
18 problem for that one. For whatever reason, you have 09:15:39  
19 placed some artificial limitations on this witness's 09:15:42  
20 testimony, who appears to be ready, willing, and 09:15:46  
21 able to give us his honest testimony about his 09:15:49  
22 experiences at Neon. And I have a lot more 09:15:53  
23 questions about his role in accounting and things of 09:15:55  
24 that nature. 09:15:57

25 So, Mr. Wehrfritz, do you need a lunch break, 09:15:58

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1	sir?	09:16:01
2	THE WITNESS: Yes, please.	09:16:02
3	MR. PESSAH: Okay. No problem. How much time	09:16:04
4	would you like?	09:16:05
5	THE WITNESS: One hour.	09:16:08
6	MR. PESSAH: One hour. Okay. So then I will	09:16:11
7	request, then, Mr. Struble, that we stay until 6:30	09:16:13
8	Eastern so I can complete the deposition of this	09:16:20
9	witness.	09:16:22
10	MR. STRUBLE: I will consult with my client and	09:16:23
11	colleagues, and I will take it under advisement.	09:16:24
12	This is a normal break.	09:16:27
13	And I do want to correct the record. We didn't	09:16:28
14	request any special accommodations for the	09:16:30
15	remoteness for Mr. Quinn. You agreed at the outset	09:16:32
16	of the case, and for cost efficiency reasons, that	09:16:35
17	you wanted to do remote depositions. And by the	09:16:37
18	way, I have been staying, in some cases, until 9:00	09:16:37
19	Eastern, without complaint, to accommodate you	09:16:40
20	starting with West Coast witnesses at a later time.	09:16:42
21	This witness happens to be on the East Coast.	09:16:45
22	Therefore, for the one deposition in this case where	09:16:47
23	you need a sacrifice, it would be appropriate to	09:16:49
24	either come to New York or wake up earlier, but we	09:16:51
25	don't need to argue about this.	09:16:54

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1	MR. PESSAH: If you want to keep this deposition	09:16:56
2	open, I am happy to come to New York and work on	09:16:57
3	your time. Is that what you prefer?	09:17:00
4	MR. STRUBLE: Let's go -- let's take our lunch	09:17:03
5	break.	09:17:04
6	MR. PESSAH: Is that what you prefer,	09:17:04
7	Mr. Struble? Because I will jump on a plane Monday	09:17:06
8	and come to New York to finish this deposition. And	09:17:07
9	we can do it on your time.	09:17:09
10	MR. STRUBLE: Well, you didn't do that	09:17:11
11	before where --	09:17:12
12	MR. PESSAH: Will you give me seven hours --	09:17:12
13	(Indiscernible crosstalk.)	09:17:12
14	MR. PESSAH: -- if I -- if I come to New York,	09:17:14
15	because I'm ready to do it.	09:17:15
16	MR. STRUBLE: I'm not -- I already told you this	09:17:16
17	is a one-day deposition. You are not imposing on	09:17:18
18	the witness for two days, and you are not depriving	09:17:20
19	him of reasonable lunch breaks. And --	09:17:22
20	(Indiscernible crosstalk.)	09:17:24
21	MR. PESSAH: If it's up to me, we can adjourn	09:17:24
22	right now, and I will come to New York and do my	09:17:26
23	full seven hours.	09:17:28
24	MR. STRUBLE: No, you -- you will have waived	09:17:28
25	your rights. Let's stop arguing.	09:17:29

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1	(Indiscernible crosstalk.)	09:17:29
2	MR. STRUBLE: As I said, I would like to find a	09:17:32
3	reasonable solution.	09:17:34
4	MR. PESSAH: Off the record.	09:17:34
5	(Indiscernible crosstalk.)	09:17:35
6	MR. PESSAH: Sir, I promise you -- I promise you	09:17:35
7	we will go back to the Court if we have to, okay?	09:17:37
8	We'll take a one-hour break.	09:17:40
9	MR. STRUBLE: I know that you love going to the	09:17:40
10	Court for the most nonsensical things, such as a	09:17:41
11	scheduling accommodation for an East Coast witness.	09:17:43
12	But let's stop arguing on your record time and	09:17:46
13	take lunch, and we will revert to you if we have --	09:17:48
14	(Indiscernible crosstalk.)	09:17:48
15	MR. PESSAH: Hopefully --	09:17:48
16	MR. STRUBLE: -- an accommodation --	09:17:51
17	(Indiscernible crosstalk.)	09:17:51
18	MR. PESSAH: Hopefully, the witness will not	09:17:53
19	allow you to coach him about his answers regarding	09:17:55
20	Tom Quinn over the -- over the break, because I	09:17:57
21	think everyone in the industry deserves to know	09:17:59
22	exactly what happened in this case.	09:18:01
23	MR. STRUBLE: Now, you're trying to coach. I'm	09:18:06
24	not coaching anything, sir, and the insinuation that	09:18:08
25	you are making is absolutely baseless, and I can't	09:18:09

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1	believe you would make a comment on the record, let	09:18:11
2	alone ever.	09:18:14
3	So let's be professionals. Give me a moment to	09:18:15
4	take your sudden request to disrupt everyone's	09:18:18
5	Friday evening on the East Coast under advisement.	09:18:22
6	Let's go off the record.	09:18:22
7	(Indiscernible crosstalk.)	09:18:24
8	MR. PESSAH: -- request.	09:18:24
9	Again, I will come to New York.	09:18:25
10	Okay. We can go off the record.	09:18:26
11	Enjoy your lunch break, Mr. Wehrfritz. Thank	09:18:27
12	you for your testimony.	09:18:30
13	THE VIDEOGRAPHER: We are now going off the	09:18:32
14	record, and the time is 9:18 a.m.	09:18:34
15	(Luncheon recess taken at 9:18	
16	a.m.)	
17	* * *	
18		
19		
20		
21		
22		
23		
24		
25		

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1	A F T E R N O O N S E S S I O N	
2	Commenced at 10:18 a.m.	
3		
4	EXAMINATION (Resumed).	10:18:03
5	THE VIDEOGRAPHER: We are now going back on the	10:18:03
6	record, and the time is 10:18 a.m.	10:18:21
7	BY MR. PESSAH:	10:18:24
8	Q. Welcome back and good afternoon,	10:18:25
9	Mr. Wehrfritz.	10:18:30
10	Are you there?	10:18:33
11	A. Yep, sure am.	10:18:35
12	Q. Before we went back on the record,	10:18:37
13	Mr. Struble advised me that contrary to his prior	10:18:43
14	admonition, him and the witness are now prepared to	10:18:51
15	stay until 6:00 p.m. Eastern, depending on -- or,	10:18:54
16	no, I see him shaking his head.	10:18:56
17	Why don't -- why don't you tell me what you	10:18:58
18	said, Mr. Struble?	10:19:00
19	MR. STRUBLE: Why don't you address the	10:19:00
20	questions to me? I speak for Mr. Wehrfritz	10:19:02
21	regarding the length of this deposition among --	10:19:05
22	MR. PESSAH: I said --	10:19:07
23	MR. STRUBLE: -- other things.	10:19:07
24	MR. PESSAH: I said "Mr. Struble." Go ahead.	10:19:09
25	MR. STRUBLE: Well, yeah. It sounded like it	10:19:12

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1	was directed to him.	10:19:13
2	MR. PESSAH: I literally --	10:19:14
3	MR. STRUBLE: You spoke --	10:19:14
4	MR. PESSAH: -- said your name.	10:19:14
5	MR. STRUBLE: You spoke to me in the third	10:19:17
6	person, so I thought you were talking to him.	10:19:18
7	But in any event, what I said was, we have some	10:19:19
8	general amenability to potentially going past 6:00	10:19:21
9	p.m., but we are reserving our rights. We want you	10:19:25
10	to conduct this deposition the way that the rules	10:19:30
11	require and to not make offensive remarks on the	10:19:33
12	record, do not badger the witness with repetitive	10:19:36
13	questioning that's been asked and answered, and, you	10:19:39
14	know, basically harassing the witness.	10:19:42
15	And so, look, if you want -- if you conduct the	10:19:44
16	deposition properly, we are more than willing to	10:19:48
17	make reasonable accommodations for you, because I	10:19:52
18	know you wanted to start later in the day, because	10:19:54
19	you are in California, even though the witness is in	10:19:57
20	New York. But we will consider that in good faith,	10:20:00
21	but we want to see how you proceed, because we're	10:20:03
22	not going to make accommodations for a deposition to	10:20:06
23	be conducted inconsistently with what the rules of	10:20:08
24	professional conduct in depositions require.	10:20:12
25	MR. PESSAH: I am not going to waste any more	10:20:16

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1 time on this. The record is clear. I was not 10:20:18  
2 harassing the witness. I have a right to ask 10:20:20  
3 follow-up questions when the witness says he doesn't 10:20:22  
4 recall something. There's nothing offensive about 10:20:26  
5 that. 10:20:28

6 We have been conducting depositions in this 10:20:28  
7 fashion throughout the case. This is the first time 10:20:31  
8 that your office has sought to place an artificial 10:20:33  
9 limit. Most of the depositions in this case, 10:20:36  
10 because most of the witnesses in this case are 10:20:37  
11 located in Los Angeles and have taken place in Los 10:20:39  
12 Angeles, and we have never had an issue before. 10:20:41

13 I think the issue arose when you wanted to 10:20:44  
14 intervene and pretend like the witness had a 10:20:47  
15 question about privilege, so you could coach the 10:20:49  
16 witness. But what -- but the witness clearly stated 10:20:51  
17 that he had no issues responding to my questions 10:20:55  
18 because they had nothing to do with privilege. 10:20:57

19 You were the one -- 10:21:02

20 (Indiscernible crosstalk.) 10:21:04

21 MR. STRUBLE: -- for the record. 10:21:04

22 MR. PESSAH: But now -- now I will continue with 10:21:06  
23 my deposition, because we're never going to clarify 10:21:09  
24 the record between the two of us. You're going to 10:21:10  
25 have your story, and I'm gonna have mine. And I'm 10:21:12

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1	fine with that.	10:21:14
2	MR. STRUBLE: And then there's something called	10:21:14
3	the truth.	10:21:15
4	BY MR. PESSAH:	10:21:16
5	Q. Mr. Wehrfritz, did the discussions you had	10:21:16
6	over the break, are those going to prevent you from	10:21:20
7	testifying truthfully?	10:21:22
8	MR. STRUBLE: Object to form. And object --	10:21:24
9	exclude any conversations with counsel, if any, from	10:21:31
10	your answer that concern privileged matter.	10:21:34
11	Otherwise, you may answer.	10:21:36
12	BY MR. PESSAH:	10:21:38
13	Q. I am just asking you if any of the	10:21:40
14	discussions you had over the break are going to	10:21:41
15	prevent you from testifying truthfully today?	10:21:43
16	MR. STRUBLE: Same objections and instructions.	10:21:46
17	THE WITNESS: No.	10:21:48
18	BY MR. PESSAH:	10:21:49
19	Q. Okay. And you understand you are still	10:21:49
20	under oath?	10:21:52
21	A. Yes.	10:21:52
22	Q. Great. And before we went off the record,	10:21:53
23	your -- we were discussing disagreements that you've	10:21:58
24	had with Mr. Quinn.	10:22:02
25	Do you recall that?	10:22:03

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1	A. Yes.	10:22:04
2	Q. And you identified a few occasions, I don't	10:22:05
3	remember the exact number, when you had	10:22:09
4	disagreements with Mr. Quinn.	10:22:13
5	Do you recall that?	10:22:15
6	MR. STRUBLE: Object to the form and	10:22:16
7	mischaracterization of testimony.	10:22:17
8	THE WITNESS: Yes.	10:22:18
9	BY MR. PESSAH:	10:22:25
10	Q. And when I asked you about the nature of	10:22:25
11	those disagreements, you stated that you don't	10:22:27
12	remember anything specific about them; do you -- is	10:22:28
13	that correct?	10:22:30
14	A. Correct.	10:22:30
15	MR. STRUBLE: Form.	10:22:32
16	BY MR. PESSAH:	10:22:33
17	Q. And you indicated that generally, one or	10:22:33
18	some of those disagreements that you had with	10:22:38
19	Mr. Quinn related to staffing.	10:22:41
20	Do you recall that?	10:22:42
21	MR. STRUBLE: Object to form.	10:22:44
22	THE WITNESS: Yes.	10:22:47
23	BY MR. PESSAH:	10:22:47
24	Q. And other than staffing disagreements, what	10:22:48
25	other types of disagreements would you have with	10:22:53

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1	Mr. Quinn?	10:22:55
2	MR. STRUBLE: Object to form.	10:22:57
3	THE WITNESS: I don't recall the content of any	10:22:58
4	of the other disagreements.	10:23:02
5	BY MR. PESSAH:	10:23:04
6	Q. Okay. I'm just asking you generally, one	10:23:04
7	of the topics you identified was with staffing.	10:23:08
8	So are you saying that the only disagreements	10:23:12
9	you had with Mr. Quinn related to staffing?	10:23:15
10	A. I am saying the only one that I can recall	10:23:21
11	was related to staffing.	10:23:23
12	Q. Okay. And so what was the issue in your	10:23:25
13	opinion relating to staffing?	10:23:29
14	A. The issue was in terms of the appropriate	10:23:31
15	level of employees that need to be hired into the	10:23:37
16	accounting/finance function.	10:23:43
17	MR. STRUBLE: And object to the form of the	10:23:47
18	question. Sorry.	10:23:49
19	BY MR. PESSAH:	10:23:50
20	Q. Did you feel that, or was it your opinion	10:23:50
21	at the time of this agreement, that Neon's	10:23:53
22	accounting and finance department was understaffed?	10:23:57
23	MR. STRUBLE: Objection to form, and to -- in	10:24:01
24	your opinion.	10:24:02
25	THE WITNESS: No. I wouldn't characterize it as	10:24:07

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1	that. It's just -- no. When I first started, I was	10:24:10
2	still trying to understand kind of the organization	10:24:15
3	of Neon and just trying to get my hands around it.	10:24:19
4	BY MR. PESSAH:	10:24:23
5	Q. And so what was the particular issue with	10:24:23
6	staffing and the accounting and finance department	10:24:27
7	as you have identified it?	10:24:29
8	MR. STRUBLE: Object to form.	10:24:31
9	THE WITNESS: At the time, whether or not we	10:24:31
10	needed to hire on permanent folks to assist in the	10:24:35
11	accounting and finance function.	10:24:39
12	BY MR. PESSAH:	10:24:42
13	Q. And was it your belief that Neon needed to	10:24:43
14	hire permanent folks to staff its accounting and	10:24:45
15	finance department?	10:24:48
16	MR. STRUBLE: Object to form.	10:24:50
17	THE WITNESS: Yes, it was.	10:24:51
18	BY MR. PESSAH:	10:24:53
19	Q. And why did you think that would be better?	10:24:53
20	MR. STRUBLE: Object to form.	10:24:56
21	THE WITNESS: For continuity.	10:24:57
22	BY MR. PESSAH:	10:25:03
23	Q. Continuity of accounting?	10:25:04
24	A. Continuity, yeah, in terms of just a -- set	10:25:06
25	up a project-based solutions or -- you know, in	10:25:11

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1	terms of staffing. Staffing companies typically are	10:25:14
2	useful, and, you know, as a permanent function -- or	10:25:20
3	I thought we needed to have permanent resources.	10:25:22
4	Q. Was Neon using staffing companies to staff	10:25:25
5	its accounting and finance department?	10:25:29
6	MR. STRUBLE: Objection to form.	10:25:31
7	THE WITNESS: Yes, we had employed, you know,	10:25:32
8	part-time folks through staffing companies to	10:25:36
9	fulfill certain needs in this -- in the accounting	10:25:38
10	and finance department.	10:25:41
11	BY MR. PESSAH:	10:25:43
12	Q. And what were the needs that you needed	10:25:44
13	to -- that Neon needed to fulfill?	10:25:45
14	A. Accounting. Literally that, accounting and	10:25:47
15	finance, day-to-day activities.	10:25:53
16	Q. And was it your belief at the time that	10:25:58
17	Neon had adequate staff in its accounting and	10:26:00
18	finance department?	10:26:06
19	MR. STRUBLE: Object to form.	10:26:06
20	THE WITNESS: I mean, we hired on people to, you	10:26:07
21	know, assist in those matters to make it so that it	10:26:16
22	was adequate in my estimation.	10:26:20
23	BY MR. PESSAH:	10:26:22
24	Q. And when you were first hired, did you	10:26:23
25	believe that it was adequate?	10:26:24

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1 MR. STRUBLE: Object to form. 10:26:26

2 THE WITNESS: When I was hired, the company was 10:26:28

3 in infancy -- infancy. So it was -- you know, at 10:26:31

4 the time I think it was -- it was adequate. But, 10:26:32

5 you know, it came out -- the reassessment after 10:26:35

6 having a little bit of time, it was that my opinion 10:26:40

7 on the matter evolved. 10:26:46

8 BY MR. PESSAH: 10:26:47

9 Q. As you -- as you stayed on board, you 10:26:47

10 identified shortcomings in the staffing in the 10:26:49

11 accounting and finance department; is that what you 10:26:54

12 -- 10:26:57

13 MR. STRUBLE: Object to form. 10:26:57

14 THE WITNESS: No. Not shortcomings. It was -- 10:26:58

15 it was literally my thoughts on what an ideal 10:27:02

16 finance/accounting department would look like and me 10:27:06

17 trying to like, push, for that sort of organization 10:27:11

18 type. 10:27:15

19 BY MR. PESSAH: 10:27:15

20 Q. When you were first hired, how many people 10:27:18

21 worked in the accounting and staffing department? 10:27:20

22 A. It was outsourced largely to Alamo, and my 10:27:32

23 role, when I came in, was to bring back in-house and 10:27:40

24 stop needing to leverage Alamo. So it was, you 10:27:45

25 know, the resources were really specifically Alamo 10:27:49

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1	Drafthouse and their accounting resources.	10:27:57
2	Q. Just a reference, when you were first hired	10:27:59
3	by Neon, what was the job title you were given?	10:28:01
4	A. Vice president of finance and strategy, I	10:28:03
5	believe.	10:28:07
6	Q. Okay. And is that -- was that your	10:28:08
7	outgoing title as well?	10:28:14
8	A. Yes.	10:28:15
9	Q. And so when you were first hired as the	10:28:16
10	vice president of finance and strategy, how many	10:28:19
11	people were working in Neon's accounting and finance	10:28:23
12	department?	10:28:29
13	A. None specifically at Neon, but, again, it	10:28:29
14	was -- Neon had been leveraging Alamo Drafthouse's	10:28:39
15	accounting and finance department.	10:28:43
16	Q. So is it fair to say when you first started	10:28:44
17	as VP of finance and strategy, you were the only	10:28:46
18	Neon employee in the accounting and finance	10:28:49
19	department there?	10:28:50
20	MR. STRUBLE: Object to form.	10:28:53
21	THE WITNESS: Yes.	10:28:53
22	BY MR. PESSAH:	10:28:57
23	Q. So you -- did you have anyone internally at	10:28:57
24	Neon reporting to you when you first started?	10:29:02
25	A. No.	10:29:08

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1 Q. And in your estimations as a finance and 10:29:09  
2 accounting professional, was that structure 10:29:21  
3 internally at Neon, in combination with its reliance 10:29:26  
4 on Alamo, sufficient to engage in what was required 10:29:32  
5 for an accounting and finance department in the 10:29:42  
6 motion picture industry? 10:29:46

7 MR. STRUBLE: Object to form. 10:29:49

8 THE WITNESS: At the -- at the very beginning 10:29:50  
9 when I came in, it seemed like it was adequate. We 10:29:51  
10 were quite small. But I -- I knew that there was, 10:29:53  
11 you know, visions of being something larger. So, 10:29:58  
12 you know, my thinking was more on the lines of being 10:30:03  
13 prepared to be a larger entity and the requirements 10:30:08  
14 that would be needed in the finance and accounting 10:30:10  
15 department if -- if we did grow. 10:30:12

16 BY MR. PESSAH: 10:30:13

17 Q. And when you were being considered for this 10:30:14  
18 position, were you told that Neon already had an 10:30:21  
19 accounting and finance department that was staffed 10:30:25  
20 internally? 10:30:28

21 MR. STRUBLE: Object to form, lacks foundation. 10:30:30

22 THE WITNESS: No. I knew that they were using 10:30:33  
23 Alamo Drafthouse in the accounting and finance 10:30:38  
24 department. 10:30:41

25 ///

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1	BY MR. PESSAH:	10:30:42
2	Q. So prior to you being hired, all of Neon's	10:30:42
3	accounting and finance department was outsourced to	10:30:47
4	Alamo Drafthouse?	10:30:52
5	MR. STRUBLE: Object to form.	10:30:54
6	THE WITNESS: I believe so, yes.	10:30:55
7	BY MR. PESSAH:	10:30:57
8	Q. And Alamo Drafthouse, that's a theater	10:30:58
9	chain, isn't it?	10:31:02
10	MR. STRUBLE: Object to form.	10:31:04
11	THE WITNESS: Yes.	10:31:05
12	BY MR. PESSAH:	10:31:08
13	Q. It's not a distributor; right?	10:31:08
14	MR. STRUBLE: Object to form.	10:31:12
15	THE WITNESS: I don't know their full capacity.	10:31:13
16	I know they are largely, like, a theatrical chain.	10:31:16
17	But I don't know what other activities they are	10:31:19
18	involved in or were involved in at that point.	10:31:25
19	BY MR. PESSAH:	10:31:27
20	Q. And Neon is not a theatrical chain; right?	10:31:28
21	MR. STRUBLE: Object to form.	10:31:30
22	THE WITNESS: Not to my knowledge.	10:31:31
23	BY MR. PESSAH:	10:31:34
24	Q. And so were there differences in terms of	10:31:35
25	accounting procedures and policies that had to be	10:31:42

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1	implemented to reflect that Neon was a distributor	10:31:45
2	and not a theater chain?	10:31:47
3	MR. STRUBLE: Object to form.	10:31:51
4	THE WITNESS: No, I think Alamo Drafthouse, they	10:31:52
5	were cognisant of differences in business and, like,	10:31:57
6	adjusting their -- adjusting their internal	10:32:02
7	accounting and finance procedures accordingly.	10:32:05
8	BY MR. PESSAH:	10:32:07
9	Q. I'm just going to shift gears for a second,	10:32:07
10	Mr. Wehrfritz, because we haven't discussed your	10:32:11
11	particular expertise yet.	10:32:14
12	So did you study finance and accounting in	10:32:14
13	college?	10:32:19
14	A. I did. Finance at the undergraduate level	10:32:20
15	and also at the graduate level and got an MBA.	10:32:24
16	Q. You have an MBA with a focus and emphasis	10:32:29
17	in finance?	10:32:32
18	A. Finance, marketing, and strategy.	10:32:34
19	Q. Okay. Do you hold any professional	10:32:36
20	licenses in the category of accounting?	10:32:41
21	A. No, I do not.	10:32:42
22	Q. So you are not a CPA; correct?	10:32:46
23	A. Correct.	10:32:48
24	Q. And so -- but you took accounting courses	10:32:49
25	in your undergraduate work in college?	10:32:52

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1	A.	Yes.	10:32:56
2	Q.	And did you take -- did you do some	10:32:56
3		accounting coursework at the graduate level as well?	10:32:59
4	A.	Yes.	10:33:01
5	Q.	Where did you get your MBA?	10:33:04
6	A.	Northwestern University.	10:33:08
7	Q.	Oh, Kellogg; right?	10:33:10
8	A.	Yep.	10:33:11
9	Q.	Okay. Great. And where did you go to	10:33:12
10		undergrad?	10:33:17
11	A.	Indiana University.	10:33:17
12	Q.	Okay. Great. Indiana, they're known for	10:33:20
13		their accounting department, aren't they?	10:33:23
14	MR. STRUBLE:	Object to form.	10:33:28
15	THE WITNESS:	They do -- or they are, apologies.	10:33:29
16		Yes.	10:33:32
17	BY MR. PESSAH:		10:33:32
18	Q.	Yeah. I've heard great things about that	10:33:32
19		school. Okay.	10:33:33
20		So other than your undergraduate degree, was	10:33:34
21		that -- was that a bachelor's of science or a	10:33:36
22		bachelor's of arts?	10:33:38
23	A.	Bachelor of science.	10:33:39
24	Q.	Okay. So a bachelor of science and an MBA,	10:33:40
25		other than those sort of more official degrees, do	10:33:45

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1	you have any certificates or other sort of	10:33:48
2	vocational or other degrees that you have procured?	10:33:54
3	A. No, I do not.	10:33:58
4	Q. Okay. And had you ever run an accounting	10:34:03
5	and finance department prior to being hired at Neon?	10:34:05
6	MR. STRUBLE: Object to form.	10:34:10
7	THE WITNESS: No, I haven't.	10:34:11
8	BY MR. PESSAH:	10:34:16
9	Q. What was your job immediately prior to	10:34:17
10	Neon?	10:34:20
11	A. I worked at The Orchard in their films	10:34:20
12	group, specifically in finance.	10:34:28
13	Q. Okay. I am familiar with -- okay, cool.	10:34:30
14	A. Yeah.	10:34:34
15	Q. And so you were -- did you have the same	10:34:34
16	title there, VP of finance and strategy?	10:34:36
17	A. Yes.	10:34:38
18	Q. Okay. And The Orchard, is that a larger	10:34:38
19	company than Neon?	10:34:48
20	MR. STRUBLE: Object to form.	10:34:52
21	THE WITNESS: Yeah, at the time, I mean, the	10:34:53
22	film group was -- was small. The Orchard itself is	10:34:55
23	a, you know, larger entity in my estimation, because	10:35:01
24	their primary focus is on music. So I don't -- so I	10:35:03
25	don't know the specifics to draw a comparison, but,	10:35:10

1	yeah, The Orchard was a bigger entity, certainly, at	10:35:11
2	the time.	10:35:14
3	BY MR. PESSAH:	10:35:14
4	Q. And it's -- and you were specifically	10:35:15
5	working in finance in its film group?	10:35:16
6	A. Yes.	10:35:19
7	Q. Okay. And how many people were in the	10:35:20
8	accounting and finance department in Orchard's film	10:35:23
9	group, which you said was small?	10:35:27
10	MR. STRUBLE: Object to --	10:35:29
11	THE WITNESS: Yeah.	10:35:29
12	MR. STRUBLE: -- form.	10:35:30
13	THE WITNESS: Yeah, it was two people.	10:35:30
14	BY MR. PESSAH:	10:35:32
15	Q. Including yourself?	10:35:32
16	A. Yes.	10:35:33
17	Q. Okay. And how did you obtain a job at	10:35:34
18	Neon?	10:35:38
19	MR. STRUBLE: Object to form.	10:35:40
20	THE WITNESS: A colleague of mine at Neon, she	10:35:45
21	used to work at The Orchard.	10:35:48
22	BY MR. PESSAH:	10:35:51
23	Q. And she helped recruit you?	10:35:52
24	A. Yes.	10:36:00
25	(Reporter Clarification.)	10:36:04

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1	BY MR. PESSAH:	10:36:05
2	Q. What's her name?	10:36:05
3	A. Elissa Federoff.	10:36:07
4	Q. Okay. Yeah, we've seen her name. Okay.	10:36:09
5	No worries.	10:36:11
6	And, again, this is not about any particular	10:36:13
7	person or ascribing guilt on any particular person,	10:36:15
8	just letting you know.	10:36:18
9	MR. STRUBLE: Object to the commentary.	10:36:21
10	BY MR. PESSAH:	10:36:23
11	Q. Okay. I got it.	10:36:24
12	So let's -- let's go back to your time at Neon	10:36:26
13	when you were hired as a VP of finance and strategy.	10:36:29
14	Who -- who actually interviewed you and hired	10:36:33
15	you?	10:36:39
16	MR. STRUBLE: Object to form.	10:36:39
17	THE WITNESS: If I recall correctly, I believe	10:36:40
18	it was Tom Quinn and Jessica Nickelsberg.	10:36:45
19	BY MR. PESSAH:	10:36:50
20	Q. And what did Tom Quinn tell you about the	10:36:50
21	role?	10:36:54
22	A. I -- I don't recall specifics. I mean,	10:36:58
23	they had a -- they had an outline of job	10:37:02
24	responsibilities, but I don't think he necessarily	10:37:08
25	elaborated upon that.	10:37:12

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1	Q. And did you feel like the job	10:37:12
2	responsibilities that were described to you in the	10:37:14
3	recruitment process were an accurate representation	10:37:16
4	of the actual job responsibilities you had when you	10:37:20
5	commenced your employment at Neon?	10:37:23
6	MR. STRUBLE: Object to form.	10:37:26
7	THE WITNESS: Yes.	10:37:28
8	BY MR. PESSAH:	10:37:30
9	Q. Okay. So when you started at Neon, you	10:37:30
10	were the only person in its accounting and finance	10:37:37
11	department, I think is what you testified to;	10:37:40
12	correct?	10:37:43
13	MR. STRUBLE: Object to form.	10:37:43
14	THE WITNESS: Yes.	10:37:44
15	BY MR. PESSAH:	10:37:44
16	Q. And how long did it take until someone else	10:37:45
17	was hired in the accounting and finance department	10:37:50
18	at Neon?	10:37:53
19	MR. STRUBLE: Object to form.	10:37:55
20	THE WITNESS: I don't recall the exact time.	10:37:56
21	BY MR. PESSAH:	10:38:01
22	Q. Was it a year?	10:38:01
23	A. Less than a year.	10:38:03
24	Q. Like six months?	10:38:06
25	MR. STRUBLE: Object to form.	10:38:12

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1	THE WITNESS: I think less than six months.	10:38:13
2	BY MR. PESSAH:	10:38:18
3	Q. Okay. Well, was it still in 2018?	10:38:18
4	MR. STRUBLE: Form.	10:38:23
5	THE WITNESS: Yes.	10:38:24
6	BY MR. PESSAH:	10:38:25
7	Q. Okay. So the first time -- and who was	10:38:26
8	that hire? Who was that the first time?	10:38:31
9	MR. STRUBLE: Object to form.	10:38:33
10	THE WITNESS: So this is -- we were using	10:38:33
11	temporary staffing at the time.	10:38:34
12	BY MR. PESSAH:	10:38:37
13	Q. Well, I am talking about the first hire of	10:38:37
14	a Neon employee in the accounting and finance	10:38:42
15	department.	10:38:44
16	A. We -- we didn't have -- during my time	10:38:45
17	there, we didn't -- we hadn't employed, on a	10:38:47
18	full-time basis, anybody other than me in the	10:38:57
19	finance and accounting group.	10:38:59
20	Q. Okay. So if I am understanding you	10:39:00
21	correctly, Mr. Wehrfritz, from July 2018, the time	10:39:02
22	you were hired, to January of 2021, the time you	10:39:06
23	left, you were the only Neon employee in the	10:39:09
24	accounting and finance department; correct?	10:39:12
25	A. No.	10:39:14

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1 MR. STRUBLE: Object to form. 10:39:16

2 THE WITNESS: The only person hired under me, 10:39:17

3 that would be correct, but I know, you know, Ryan 10:39:19

4 came on in the middle of 2021, and he brought 10:39:22

5 somebody else with him. So, yeah, leading up to 10:39:28

6 Ryan's hire, yes, I was the only person on a 10:39:33

7 full-time basis. 10:39:37

8 BY MR. PESSAH: 10:39:37

9 Q. Wait a minute. You said Ryan was brought 10:39:38

10 in the middle of 2021? 10:39:39

11 A. I thought it was the middle of 2021. 10:39:41

12 Q. But you left at the beginning of 2021; 10:39:42

13 right? 10:39:44

14 A. Yeah. He was -- he was there while I was 10:39:44

15 starting. 10:39:50

16 Q. I'm sorry. I have a note here that you 10:39:51

17 testified it was January of -- 10:39:53

18 A. Apologies. Yeah. Sorry, 2020. I am 10:39:56

19 just -- I am having a hard time recollecting the 10:39:59

20 exact time. 10:40:02

21 BY MR. PESSAH: 10:40:03

22 Q. Oh, I see. So you were employed from 2018 10:40:03

23 to 2020? 10:40:06

24 MR. STRUBLE: Objection to form. 10:40:06

25 THE WITNESS: 2020 that was through, I think, 10:40:07

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1	January of 2021. So Ryan, I believe, was brought in	10:40:09
2	summer of 2020.	10:40:13
3	BY MR. PESSAH:	10:40:15
4	Q. Okay. I'm sorry I have to take a	10:40:17
5	two-minute break. Someone is waiting outside of my	10:40:20
6	office. It will be a couple minutes.	10:40:23
7	A. Okay.	10:40:25
8	THE VIDEOGRAPHER: We are now going off the	10:40:27
9	record, and the time is 10:40 a.m.	10:40:29
10	(Recess.)	10:47:15
11	THE VIDEOGRAPHER: We are now going back on the	10:47:15
12	record, and the time is 10:47 a.m.	10:47:18
13	BY MR. PESSAH:	10:47:21
14	Q. Okay. Sorry about that, Mr. Wehrfritz,	10:47:21
15	just an interruption from my wife and son.	10:47:27
16	We were talking about the accounting and finance	10:47:30
17	department at Neon Rated before the break.	10:47:32
18	Do you recall that?	10:47:37
19	A. Yes.	10:47:38
20	Q. Okay. And you were mentioning that	10:47:38
21	Mr. Friscia, Ryan Friscia, he was hired at Neon in	10:47:43
22	mid-2020; correct?	10:47:49
23	A. Correct. I believe that -- yeah, that's	10:47:50
24	the timeframe.	10:47:53
25	Q. And he was hired simultaneously with	10:47:54

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1	another colleague; is that right?	10:47:56
2	MR. STRUBLE: Object to form.	10:47:58
3	THE WITNESS: Yes. Yes.	10:47:59
4	BY MR. PESSAH:	10:48:01
5	Q. Okay. And what -- what was Mr. Friscia's	10:48:01
6	title at the time?	10:48:06
7	A. I don't recall when it was.	10:48:09
8	Q. Who was the other person that was hired	10:48:12
9	with him?	10:48:14
10	A. I believe his name was Leo.	10:48:15
11	Q. Do you remember Leo's last name?	10:48:22
12	A. I don't.	10:48:23
13	Q. Okay. I'm going to say something a little	10:48:24
14	bit weird, Mr. Wehrfritz. So sometimes when	10:48:29
15	witnesses can't recall things, we leave a blank in	10:48:34
16	the transcript, because you will receive a copy of	10:48:36
17	your transcript at the end of this -- after this	10:48:38
18	deposition at some point. And you'll have an	10:48:40
19	opportunity to review what you've testified to and,	10:48:41
20	you know, sign off on it, or change it.	10:48:45
21	And sometimes what we do is we leave a space in	10:48:49
22	the transcript, and if you recall, you know, between	10:48:51
23	now and the time you read the transcript, there is a	10:48:56
24	blank in there for you to fill in the name. So if	10:48:58
25	we leave a blank in the transcript, will you make an	10:49:01

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1	effort to recall the name -- the last name of Leo?	10:49:05
2	MR. STRUBLE: Well, object to form, object to	10:49:07
3	the speech, and the characterization of what's	10:49:09
4	required in the rules. I don't think that's a thing	10:49:11
5	in New York, and so we will -- that's a question	10:49:12
6	properly directed to counsel and, of course, the	10:49:14
7	witness will take under advisement. But it's not	10:49:17
8	properly directed to the witness.	10:49:21
9	MR. PESSAH: We would like it in the transcript,	10:49:24
10	regardless, next to Leo's name, and we will leave	10:49:25
11	the rest to you.	10:49:28
12	So Mr. Friscia and Leo were reporting to you;	10:49:29
13	correct?	10:49:34
14	THE WITNESS: No.	10:49:34
15	BY MR. PESSAH:	10:49:35
16	Q. Okay. Who were they reporting to?	10:49:35
17	A. Ryan was reporting to -- to Tom.	10:49:37
18	Q. Tom Quinn?	10:49:45
19	A. Yes.	10:49:47
20	Q. But you were the VP of finance and	10:49:47
21	strategy, weren't you?	10:49:51
22	MR. STRUBLE: Object to form.	10:49:52
23	THE WITNESS: Yeah, yeah. Ryan was brought in	10:49:52
24	to be a higher level in that -- in that group.	10:49:55
25	///	

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1	BY MR. PESSAH:	10:49:57
2	Q. Okay. So were you then reporting to Ryan	10:49:58
3	as well?	10:50:00
4	A. Yes.	10:50:01
5	Q. Okay. And do you know what Ryan's	10:50:02
6	credentials were; for example, his education level?	10:50:07
7	MR. STRUBLE: Object to form.	10:50:10
8	THE WITNESS: I know -- I think he had an	10:50:14
9	advanced degree in finance or in business.	10:50:15
10	BY MR. PESSAH:	10:50:22
11	Q. Okay. So in mid-2020, you began reporting	10:50:24
12	to Mr. Friscia?	10:50:27
13	MR. STRUBLE: Object to form.	10:50:29
14	THE WITNESS: Correct.	10:50:30
15	BY MR. PESSAH:	10:50:31
16	Q. Okay. Okay. So let's go back to when you	10:50:31
17	started, and there was no one in Neon's finance and	10:50:36
18	strategy team, or finance and accounting team.	10:50:41
19	I guess -- we will call it a department, because	10:50:45
20	it was just you. And there -- was it your idea to	10:50:49
21	try to veer away from relying on Alamo's accounting	10:50:55
22	department?	10:51:01
23	MR. STRUBLE: Object to form and also the	10:51:02
24	characterization that preceded the question, the	10:51:05
25	commentary.	10:51:07

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1	THE WITNESS: I think there was a need to from	10:51:09
2	an advanced perspective to do so without my input.	10:51:15
3	I think there was a requirement, based on the	10:51:18
4	relationship with Alamo to, you know, cease	10:51:21
5	leveraging their accounting and finance team.	10:51:25
6	BY MR. PESSAH:	10:51:30
7	Q. Okay. And when, as far as you know, did	10:51:32
8	Neon stop leveraging Alamo's accounting and finance	10:51:36
9	team?	10:51:42
10	A. It would have been in, I guess, the third	10:51:43
11	quarter of 2018.	10:51:48
12	Q. The third quarter of 2018?	10:51:51
13	A. Yeah.	10:51:53
14	Q. And then so what was the protocol starting	10:51:54
15	from the third quarter of 2018?	10:51:59
16	MR. STRUBLE: Object to form.	10:52:01
17	BY MR. PESSAH:	10:52:04
18	Q. What then were the resources that Neon	10:52:04
19	relied upon once Alamo Drafthouse was phased out	10:52:06
20	from accounting and finance?	10:52:10
21	MR. STRUBLE: Object to form.	10:52:16
22	THE WITNESS: External temporary workers, as	10:52:20
23	well as we used an accounting firm called RSM to	10:52:22
24	help us.	10:52:24
25	///	

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1	BY MR. PESSAH:	10:52:26
2	Q. And, Mr. Wehrfritz, do you want to get a	10:52:28
3	glass of water or something?	10:52:31
4	A. Yeah. Actually, I have a glass. I will	10:52:33
5	take a drink.	10:52:35
6	Q. Sure.	10:52:36
7	A. Apologies. Some remnants from my sickness.	10:52:38
8	Q. I have the same cup.	10:52:43
9	So there was a shift from leveraging Alamo	10:52:46
10	Drafthouse's accounting and finance department to	10:52:55
11	using external temporary employees who would then	10:52:56
12	participate and assist with the accounting and	10:53:01
13	finance for Neon's film projects; correct?	10:53:04
14	MR. STRUBLE: Object to form.	10:53:13
15	THE WITNESS: Correct.	10:53:14
16	BY MR. PESSAH:	10:53:15
17	Q. And were you involved in hiring and	10:53:15
18	recruiting those external temporary employees?	10:53:17
19	MR. STRUBLE: Object to form.	10:53:21
20	THE WITNESS: Yes.	10:53:22
21	BY MR. PESSAH:	10:53:23
22	Q. Okay. And what were some of the -- was it	10:53:23
23	your decision to hire them, or -- who had ultimate	10:53:25
24	authority to hire and fire these temporary	10:53:29
25	employees?	10:53:32

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1	MR. STRUBLE: Object to form.	10:53:32
2	THE WITNESS: The decision on who was hired was	10:53:33
3	mine. The decision that we would utilize these	10:53:39
4	outsourced resources was a collective decision that,	10:53:47
5	you know, me, Jessica, and Tom made.	10:53:50
6	BY MR. PESSAH:	10:53:53
7	Q. Okay. And did you, at the time, agree with	10:53:55
8	Ms. Nickelsberg and Mr. Quinn that it was a proper	10:54:01
9	way to proceed?	10:54:04
10	MR. STRUBLE: Object to form.	10:54:05
11	THE WITNESS: Yes, at the time.	10:54:07
12	BY MR. PESSAH:	10:54:11
13	Q. Okay. And around what timeframe was that	10:54:11
14	decision made?	10:54:15
15	A. Simultaneous with the departure from my --	10:54:15
16	COURT REPORTER: I'm sorry.	10:54:15
17	THE WITNESS: -- on Alamo, so third quarter	10:54:42
18	2018.	10:54:43
19	THE REPORTER: I'm sorry.	10:54:43
20	MR. PESSAH: From the third quarter, he said.	10:54:35
21	(Reporter Clarification.)	10:54:35
22	THE WITNESS: Simultaneous with the shift from	10:54:36
23	utilizing Alamo's resources.	10:54:39
24	THE REPORTER: Thank you.	10:54:39
25	BY MR. PESSAH:	10:54:43

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1	Q.	And so who -- what were the names of the	10:54:43
2		external -- were they considered consultants or	10:54:47
3		employees; do you know?	10:54:52
4	A.	Consultants.	10:54:54
5	Q.	Consultants, got it. So they were not	10:54:55
6		permanent employees of Neon.	10:54:57
7		Did they work remotely?	10:54:58
8	MR. STRUBLE:	Object to form of the prior two	10:55:01
9		questions.	10:55:03
10	THE WITNESS:	No, they worked in our offices.	10:55:03
11	BY MR. PESSAH:		10:55:10
12	Q.	Okay. What were their names, or what are	10:55:10
13		their names?	10:55:12
14	A.	It's been a while. We went through a few	10:55:13
15		of them, too.	10:55:15
16	Q.	Well, in third quarter of 2018, I am just	10:55:19
17		looking for the first one or ones that you brought	10:55:22
18		onboard?	10:55:24
19	A.	Yeah, I don't recall.	10:55:26
20	Q.	How many outside consultants did you -- did	10:55:28
21		Neon start with in third quarter of '18?	10:55:33
22	A.	I believe it was one.	10:55:37
23	Q.	Okay. So and for how long was it -- was	10:55:39
24		there just that one external consultant?	10:55:45
25	A.	I don't recall.	10:55:48

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1	Q.	Were they there -- I mean, you worked	10:55:49
2		directly with that external consultant; right?	10:55:53
3	A.	Yes.	10:55:56
4	MR. STRUBLE:	Object to form.	10:55:57
5	BY MR. PESSAH:		10:55:58
6	Q.	And as far as the accounting and finance	10:55:59
7		department was concerned, it was you internally with	10:56:02
8		one external consultant; right?	10:56:06
9	MR. STRUBLE:	Object to the form.	10:56:08
10	THE WITNESS:	Yes.	10:56:09
11	BY MR. PESSAH:		10:56:10
12	Q.	And for how long was that the case?	10:56:11
13	MR. STRUBLE:	Object to form.	10:56:14
14	THE WITNESS:	I don't recall. We soon	10:56:15
15		thereafter brought in another accounting firm -- or	10:56:21
16		an accounting firm to help us out.	10:56:23
17	BY MR. PESSAH:		10:56:26
18	Q.	Okay. Would you say that it was you and an	10:56:26
19		external consultant for three months?	10:56:27
20	MR. STRUBLE:	Object to form.	10:56:31
21	THE WITNESS:	I don't recall specifics.	10:56:32
22	BY MR. PESSAH:		10:56:34
23	Q.	No, I am just asking for a general.	10:56:34
24	A.	Yeah. I don't -- I recall generally	10:56:39
25		speaking. I -- I wouldn't put a number to it. I'm	10:56:41

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1	just not sure off -- I don't recall.	10:56:43
2	Q. Okay. And when did you -- when did Neon	10:56:45
3	bring on the accounting firm, was it RSM, you said?	10:56:50
4	A. Yes.	10:56:54
5	MR. STRUBLE: Object to form.	10:56:56
6	Give me a moment to object, please.	10:56:57
7	BY MR. PESSAH:	10:57:02
8	Q. And when -- when was RSM retained?	10:57:02
9	A. I don't know the dates. I think it was at	10:57:05
10	the end of 2018.	10:57:15
11	Q. Okay.	10:57:17
12	A. I believe.	10:57:22
13	Q. Okay. What was the name of the external	10:57:23
14	temp that you guys had, the first one?	10:57:29
15	MR. STRUBLE: Object to form.	10:57:33
16	THE WITNESS: I don't recall -- you're referring	10:57:35
17	to the person?	10:57:38
18	BY MR. PESSAH:	10:57:40
19	Q. Yeah.	10:57:40
20	A. Yeah, I don't recall his name. Sorry.	10:57:41
21	Q. Okay. Do you recall if he was good at his	10:57:42
22	job?	10:57:46
23	MR. STRUBLE: Object to form.	10:57:47
24	THE WITNESS: I recall him being okay at his	10:57:48
25	job.	10:57:57

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1	BY MR. PESSAH:	10:57:57
2	Q. Okay. And --	10:57:57
3	A. Competent.	10:57:58
4	Q. All right. So let's say you had to give	10:57:59
5	him a grade.	10:58:02
6	MR. STRUBLE: Object to form.	10:58:07
7	BY MR. PESSAH:	10:58:08
8	Q. What would --	10:58:08
9	MR. STRUBLE: Object to form.	10:58:08
10	THE WITNESS: Yeah, I don't know how to	10:58:12
11	characterize him in that regard --	10:58:13
12	BY MR. PESSAH:	10:58:17
13	Q. An "F"?	10:58:17
14	A. -- a letter grade.	10:58:17
15	A letter grade, I don't know what I would give	10:58:18
16	him.	10:58:21
17	Q. Would you give him an F?	10:58:21
18	MR. STRUBLE: Object to form.	10:58:22
19	BY MR. PESSAH:	10:58:24
20	Q. Would you give him --	10:58:24
21	(Indiscernible crosstalk.)	10:58:24
22	BY MR. PESSAH:	10:58:24
23	Q. Would you give him an A plus?	10:58:25
24	MR. STRUBLE: Object to form, vague and	10:58:26
25	ambiguous.	10:58:28

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1	MR. PESSAH: A plus?	10:58:30
2	THE WITNESS: No. He was -- no. Somewhere in	10:58:31
3	between. A "B" student, probably.	10:58:36
4	BY MR. PESSAH:	10:58:39
5	Q. A "B" student, then, and do you know if he	10:58:40
6	had any competency in accounting?	10:58:44
7	MR. STRUBLE: Object to form.	10:58:47
8	THE WITNESS: We hired specifically for that	10:58:50
9	function in mind so that would be part of when the	10:58:53
10	hire was made in the first place.	10:58:57
11	BY MR. PESSAH:	10:58:58
12	Q. Okay. And when you say he was okay at his	10:58:58
13	job, what makes you say that he was okay and not	10:59:03
14	exceptional?	10:59:07
15	MR. STRUBLE: Object to form.	10:59:12
16	THE WITNESS: I come from a, you know, pretty	10:59:14
17	rigorous finance background, and I know that the	10:59:16
18	general -- general pathway for folks that are	10:59:21
19	working on a consultant basis isn't necessarily the	10:59:25
20	same sort of thing.	10:59:29
21	So I think he just didn't have that sort of	10:59:30
22	mentality coming into it. And not that it wasn't	10:59:33
23	reflected in his work, I think he did a fine job.	10:59:37
24	It was just -- you know, he wasn't as much of a go	10:59:39
25	getter, quote/unquote, as I would have liked to have	10:59:43

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1	seen.	10:59:47
2	BY MR. PESSAH:	10:59:47
3	Q. Did you ever catch any mistakes that he	10:59:47
4	made?	10:59:52
5	MR. STRUBLE: Object to the form.	10:59:53
6	THE WITNESS: Through the learning process,	10:59:54
7	there was definitely some things that we had to talk	10:59:58
8	through. But it was, you know, basic lack of	11:00:00
9	understanding for how things worked. So it was	11:00:03
10	definitely an iterative learning process for us both	11:00:06
11	to kind of get him up to speed.	11:00:11
12	BY MR. PESSAH:	11:00:12
13	Q. Was it a lack of understanding with respect	11:00:12
14	to accounting and finance, or was it more specific	11:00:14
15	to the industry?	11:00:17
16	MR. STRUBLE: Object to form.	11:00:20
17	THE WITNESS: Specific to the industry.	11:00:22
18	BY MR. PESSAH:	11:00:23
19	Q. Did he have any experience in the	11:00:23
20	entertainment industry, specifically in accounting,	11:00:27
21	before he joined Neon as a consultant?	11:00:29
22	MR. STRUBLE: Object to form.	11:00:37
23	THE WITNESS: No, not that I recall.	11:00:37
24	BY MR. PESSAH:	11:00:39
25	Q. Okay. I see. I want to fast-forward to	11:00:39

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1 around the time of -- let's say, between January and 11:00:47  
2 April of 2019. 11:00:51

3 Can you place yourself in that timeframe while 11:00:53  
4 you were at Neon? 11:00:55

5 A. I will try. 11:00:56

6 Q. Okay. Thanks. And I want to ask you, in 11:00:57  
7 that timeframe, how many people did you have 11:01:10  
8 assisting you in the accounting and finance 11:01:13  
9 department? I include employees and consultants. I 11:01:15  
10 understand Mr. Friscia joined in 2020. 11:01:21

11 So is it safe to assume that there were no 11:01:23  
12 permanent employees beyond your department during 11:01:26  
13 that? 11:01:31

14 MR. STRUBLE: Object to form. 11:01:32

15 A. Yes. 11:01:32

16 BY MR. PESSAH: 11:01:33

17 Q. And how many -- 11:01:33

18 MR. STRUBLE: Object to form to the prior 11:01:37  
19 question. I don't think the record -- 11:01:39

20 (Indiscernible crosstalk.) 11:01:45

21 BY MR. PESSAH: 11:01:45

22 Q. So how many consultants did you have at 11:01:46  
23 your disposal during that timeframe? 11:01:47

24 MR. STRUBLE: Object to form. 11:01:49

25 THE WITNESS: Well, we had a team, including 11:01:50

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1	employing directly consultants within Neon, and we	11:01:52
2	also used an outside accounting firm, RSM, to assist	11:01:57
3	who had specialties in a number of areas.	11:02:05
4	BY MR. PESSAH:	11:02:09
5	Q. And, Mr. Wehrfritz, feel free to drink as	11:02:09
6	much water as you would like. We can --	11:02:14
7	A. No, I don't think the water is going to	11:02:16
8	help. It's just my voice right now.	11:02:17
9	Q. If you need to take a break and get a cough	11:02:18
10	drop, it's fine.	11:02:21
11	A. Let's keep going for a little bit and then	11:02:22
12	maybe.	11:02:24
13	Q. Okay. Because your voice is a very	11:02:24
14	important part of this deposition --	11:02:27
15	A. I know.	11:02:28
16	Q. -- if you can't speak, then we can't do a	11:02:29
17	deposition.	11:02:32
18	A. Yeah, it's going to -- maybe give me five	11:02:32
19	minutes just to --	11:02:36
20	Q. No problem. No problem.	11:02:37
21	A. Okay, thanks.	11:02:38
22	THE VIDEOGRAPHER: We are now going off the	11:02:39
23	record, and the time is 11:02 a.m.	11:02:41
24	(Recess.)	11:10:22
25	THE VIDEOGRAPHER: We are now going back on the	11:10:22

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1	record, and the time is 11:12 a.m.	11:12:54
2	BY MR. PESSAH:	11:12:59
3	Q. Okay. Mr. Wehrfritz, thank you. I hope	11:12:59
4	your voice is better now.	11:13:04
5	So can you tell me, who is Jeffery White?	11:13:05
6	A. Jeff White, he was an external consultant.	11:13:08
7	Q. Was he one of the external consultants who	11:13:16
8	was assisting with -- with accounting and finance?	11:13:20
9	A. He was.	11:13:22
10	Q. Okay. And do you know if he was doing	11:13:22
11	anything else for Neon?	11:13:26
12	A. Not to my knowledge.	11:13:27
13	Q. Do you know if Jeff White possessed or	11:13:32
14	possesses any expertise in accounting and finance?	11:13:39
15	MR. STRUBLE: Object to form, vague and	11:13:44
16	ambiguous.	11:13:46
17	THE WITNESS: I don't know what his	11:13:46
18	qualifications would be in those areas.	11:13:49
19	BY MR. PESSAH:	11:13:51
20	Q. Okay. And were you involved in the	11:13:52
21	decision to bring him onboard as an outside	11:13:56
22	consultant in the accounting and finance department?	11:13:59
23	A. No, I wasn't.	11:14:01
24	Q. Who made the decision to bring him on as an	11:14:04
25	outside consultant for accounting and finance?	11:14:09

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1	MR. STRUBLE: Object to form.	11:14:11
2	THE WITNESS: I do not know.	11:14:12
3	BY MR. PESSAH:	11:14:13
4	Q. Okay. And is he the person whose name you	11:14:13
5	couldn't recall earlier?	11:14:16
6	A. No.	11:14:19
7	Q. Okay. And how was Mr. White at his job?	11:14:19
8	MR. STRUBLE: Object to form.	11:14:29
9	THE WITNESS: From what I recall, he was -- he	11:14:30
10	was good.	11:14:33
11	BY MR. PESSAH:	11:14:34
12	Q. And what makes you say that?	11:14:35
13	A. I remember him being very communicative and	11:14:36
14	just generally a good person to work with, the way	11:14:41
15	he presented things was in a logical manner which,	11:14:48
16	yeah, I took to mean he was -- he was definitely	11:14:52
17	competent.	11:14:57
18	Q. And do you know how much these outside	11:14:57
19	consultants were charging you for their services?	11:15:01
20	MR. STRUBLE: Object to form.	11:15:03
21	THE WITNESS: I don't recall how much Jeff was	11:15:05
22	making.	11:15:08
23	BY MR. PESSAH:	11:15:08
24	Q. How about the other consultants?	11:15:09
25	A. Yes.	11:15:13

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1	Q.	How much were they making?	11:15:14
2	A.	Well, I recall that --	11:15:16
3	MR. STRUBLE:	Hold on. Object to form. Sorry.	11:15:18
4		Object to form.	11:15:21
5	THE WITNESS:	I mean, I recall that we paid	11:15:21
6		them. I was certainly not, like, part of how much	11:15:25
7		they were getting paid. I don't recall how much it	11:15:29
8		was.	11:15:31
9	BY MR. PESSAH:		11:15:31
10	Q.	Okay. Do you recall if they were being	11:15:31
11		paid by the hour or if they were on some sort of a	11:15:32
12		consulting fee?	11:15:37
13	MR. STRUBLE:	Object to form.	11:15:40
14	THE WITNESS:	Generally speaking, it was hourly.	11:15:41
15	BY MR. PESSAH:		11:15:43
16	Q.	Okay. And what was the approximate hourly	11:15:43
17		rate for these outside consultants?	11:15:45
18	MR. STRUBLE:	Object to form.	11:15:47
19	THE WITNESS:	I don't recall.	11:15:49
20	BY MR. PESSAH:		11:15:49
21	Q.	Was it \$100 an hour?	11:15:51
22	MR. STRUBLE:	Object to form.	11:15:54
23	THE WITNESS:	I don't recall. It was less than	11:15:55
24		that, though.	11:15:56
25		///	

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1	BY MR. PESSAH:	11:15:57
2	Q. Less than \$100 an hour? Okay.	11:15:58
3	A. I believe so. I -- I don't recall how much	11:16:00
4	RSM was making. It might have been north of that.	11:16:03
5	Q. Oh, okay. And I am just asking about -- I	11:16:05
6	am not asking about RSM yet.	11:16:08
7	A. Yeah.	11:16:10
8	Q. I am talking about the individual outside	11:16:10
9	consultants.	11:16:13
10	A. Okay, yeah.	11:16:13
11	Q. When you tell me approximately, do you	11:16:15
12	understand that I am not -- I am not interpreting	11:16:19
13	that as exactly?	11:16:24
14	A. I --	11:16:26
15	MR. STRUBLE: Hold on. Object to form to the	11:16:26
16	prior three questions. I can -- didn't get to jump	11:16:28
17	in, sorry.	11:16:30
18	MR. PESSAH: That's okay.	11:16:34
19	THE WITNESS: Absolutely. I am just, you know,	11:16:36
20	estimating. I'm not even sure directionally. Like,	11:16:39
21	I know it was certainly less than \$100 an hour, but	11:16:42
22	I am not sure, you know, how much south of \$100 it	11:16:44
23	was.	11:16:47
24	BY MR. PESSAH:	11:16:48
25	Q. Okay. And did you find that to be fair	11:16:48

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1	compensation for outside accounting and finance	11:16:53
2	consultant?	11:16:57
3	MR. STRUBLE: Object to form.	11:16:58
4	THE WITNESS: I thought it was a market rate,	11:16:58
5	given the tasks that we were giving them.	11:17:04
6	BY MR. PESSAH:	11:17:08
7	Q. What type of tasks were you giving them?	11:17:08
8	MR. STRUBLE: Object to form.	11:17:10
9	THE WITNESS: From what I recall, it was	11:17:11
10	gathering together information to make accounting	11:17:16
11	and -- accounting journal entries.	11:17:18
12	BY MR. PESSAH:	11:17:21
13	Q. Gathering accounting information to make	11:17:22
14	accounting journal entries?	11:17:24
15	A. Yeah.	11:17:26
16	MR. STRUBLE: Object to form.	11:17:28
17	THE WITNESS: Yes.	11:17:29
18	BY MR. PESSAH:	11:17:29
19	Q. Okay. No, I appreciate that you clarified	11:17:29
20	the yeah with a yes. Thank you.	11:17:33
21	So what did that entail?	11:17:35
22	MR. STRUBLE: Object to form.	11:17:38
23	THE WITNESS: Literally that, gathering the	11:17:40
24	information they need. So whether it was working on	11:17:45
25	expenses and consolidating those, or looking at the	11:17:48

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1 revenue items and kind of wading through those 11:17:55  
 2 materials as they came in through the different 11:18:01  
 3 revenue sources, including theaters as well as 11:18:03  
 4 additional outside and delineating those, it was a 11:18:07  
 5 variety of tasks, and they were related to expenses 11:18:11  
 6 and revenue. 11:18:13

7 BY MR. PESSAH: 11:18:14

8 Q. It was a what task? 11:18:14

9 A. It was -- it was a number of different 11:18:16  
 10 tasks they had to do, but it was all related to the 11:18:18  
 11 revenue and expenses. 11:18:21

12 Q. And when these outside consultants, like 11:18:24  
 13 Mr. White, were doing -- were rendering these tasks, 11:18:27  
 14 were they rendering them generally for Neon's 11:18:30  
 15 business? 11:18:34

16 MR. STRUBLE: Object to form, vague and 11:18:34  
 17 ambiguous. 11:18:36

18 You can answer. 11:18:41

19 THE WITNESS: Yeah, I am not sure what you mean 11:18:42  
 20 by "generally." 11:18:44

21 BY MR. PESSAH: 11:18:45

22 Q. Like were they given tasks that were 11:18:46  
 23 specific, like, per-project at Neon, or were they 11:18:49  
 24 just -- did they just have a general rule of 11:18:52  
 25 gathering information and booking it by project, or 11:18:55

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1	was it -- was there, like, a general ledger for all	11:18:58
2	of Neon? That's what I'm talking about.	11:19:01
3	A. Yeah --	11:19:05
4	MR. STRUBLE: Hold on. Object to form, vague,	11:19:06
5	ambiguous, totally incomprehensible.	11:19:09
6	BY MR. PESSAH:	11:19:12
7	Q. Mr. Wehrfritz, you can answer.	11:19:12
8	A. I believe so. I know, like, Jeff worked on	11:19:18
9	largely a project basis, but I think it was across	11:19:20
10	films. The specifics regarding Jeff is -- the	11:19:26
11	entirety of his responsibilities, so I don't recall.	11:19:30
12	Q. So for a film, for -- on average, for one	11:19:32
13	of Neon's films, how many hours of accounting work	11:19:39
14	was required, on average, to properly and adequately	11:19:46
15	account for all revenues and expenses, on average?	11:19:50
16	MR. STRUBLE: Object to form, lacks foundation,	11:19:54
17	vague and ambiguous.	11:19:58
18	THE WITNESS: I couldn't even characterize that.	11:19:59
19	The films just varied so much. Assigning any sort	11:20:01
20	of average is just beyond something that I could	11:20:06
21	pull together just offhand.	11:20:12
22	BY MR. PESSAH:	11:20:14
23	Q. Okay. Well, were the assignments given on	11:20:14
24	like a per-film basis?	11:20:17
25	MR. STRUBLE: Object to form.	11:20:19

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1 THE WITNESS: Generally speaking, we had, you 11:20:20  
 2 know, a number of films going on at one time, so to 11:20:26  
 3 ask who it would be regarding, it'd be all films' 11:20:29  
 4 activity that we had going on at that time. 11:20:34

5 BY MR. PESSAH: 11:20:36

6 Q. Oh, so it would be -- okay. And how would 11:20:36  
 7 the company account for, you know, how much time a 11:20:39  
 8 consultant was spending on film A versus film B? 11:20:44

9 Was there a procedure for that internally? 11:20:47

10 A. Yeah -- 11:20:50

11 MR. STRUBLE: Object to form, vague. 11:20:50

12 THE WITNESS: Yeah, we certainly -- we certainly 11:20:52  
 13 tracked it. I don't recall the exact method, but 11:20:57  
 14 the invoices were looked at, the value side, based 11:20:59  
 15 on the films that were being worked on. 11:21:04

16 BY MR. PESSAH: 11:21:06

17 Q. So in a situation where somebody was 11:21:06  
 18 submitting an invoice that didn't specifically 11:21:09  
 19 mention a film, how would the amounts on that 11:21:13  
 20 invoice get allocated, if at all? 11:21:17

21 MR. STRUBLE: Object to form, lacks foundation, 11:21:20  
 22 calls for speculation, incomplete hypothetical. 11:21:23

23 THE WITNESS: Yeah. Well, it wasn't clear, and 11:21:26  
 24 a lot of times -- there was no allocation to films 11:21:32  
 25 specifically for -- for the consultants. I think 11:21:37

1 Jeff was different. His was clearly delineated with 11:21:40  
2 the other resources we used. It wasn't as clear. 11:21:44  
3 So I don't know that we ascribed anything from their 11:21:49  
4 work to the films -- no. I just don't recall. 11:21:51  
5 BY MR. PESSAH: 11:21:55  
6 Q. Okay. So you were employed at Neon as the 11:21:58  
7 VP of finance and strategy when the company acquired 11:22:01  
8 the rights to Amazing Grace, right? 11:22:05  
9 A. Yes, I believe so. 11:22:07  
10 MR. STRUBLE: Object -- 11:22:11  
11 BY MR. PESSAH: 11:22:12  
12 Q. And are you -- do you have any recollection 11:22:12  
13 or awareness, generally, of, you know, how much that 11:22:14  
14 film generated in theatrical revenue? 11:22:19  
15 MR. STRUBLE: Object to form. 11:22:24  
16 THE WITNESS: I don't recall at all. It has 11:22:25  
17 been too long. And, yeah, no, I don't remember it. 11:22:28  
18 BY MR. PESSAH: 11:22:32  
19 Q. And how -- how complex would it be to do 11:22:32  
20 accounting and finance for a film like Amazing 11:22:38  
21 Grace, which is purely a documentary and for which 11:22:41  
22 no actors had to be hired and no writers had to be 11:22:49  
23 hired? 11:22:51  
24 How complex would that be? 11:22:53  
25 MR. STRUBLE: Object to form, lacks foundation, 11:22:55

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1	vague, ambiguous.	11:22:58
2	THE WITNESS: Yeah, that's a weird one to	11:22:59
3	characterize. I don't know how to -- yeah,	11:23:01
4	articulate any sort of -- regarding its complexity.	11:23:05
5	I don't -- I don't know what to say.	11:23:10
6	You know, every film had its nuances, so just	11:23:11
7	because it was a documentary without any,	11:23:14
8	quote/unquote, actors or actresses being hired, I	11:23:16
9	don't know that that minimizes its complexity in	11:23:20
10	many instances. So, yeah, I think it's a tough	11:23:23
11	thing to answer.	11:23:30
12	BY MR. PESSAH:	11:23:31
13	Q. So would you say, generally, it's a complex	11:23:31
14	task to account for the revenues and expenses in a	11:23:33
15	motion picture?	11:23:38
16	MR. STRUBLE: Object to form.	11:23:41
17	THE WITNESS: I say that it can be. There are	11:23:42
18	certainly instances where it's easier than other	11:23:46
19	cases.	11:23:48
20	BY MR. PESSAH:	11:23:49
21	Q. It can be? Okay. And what -- what	11:23:50
22	determines whether it is or it is not?	11:23:53
23	MR. STRUBLE: Object to form.	11:23:56
24	THE WITNESS: The types and sources of revenue,	11:24:00
25	the types and sources of expenses, as well as that	11:24:03

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1	overall structure of the transaction when it comes	11:24:07
2	to the profit-sharing mechanisms.	11:24:11
3	MR. PESSAH: I am going to introduce Exhibit 1	11:24:21
4	for identification. I am going to share my screen,	11:24:23
5	and then my colleague is going to drop the exhibit	11:24:25
6	into the chat.	11:24:28
7	(Exhibit 1 was marked for	11:24:28
8	identification.)	11:24:31
9	MR. PESSAH: So let me share my screen with you,	11:24:31
10	Mr. Wehrfritz. This is Neon 1211.	11:24:41
11	MR. STRUBLE: I want a copy of the exhibit	11:24:44
12	before you question.	11:24:45
13	MR. PESSAH: It's in the chat, and I just gave	11:24:47
14	you the Bates number.	11:24:48
15	MR. STRUBLE: Hold on. I need to download it.	11:24:48
16	MR. PESSAH: Mr. -- Mr. Wehrfritz --	11:24:48
17	MR. STRUBLE: It's not in the chat. It's not in	11:24:52
18	the chat. When I do depositions, I get a copy of	11:24:54
19	the exhibit.	11:24:55
20	MR. PESSAH: You have a copy. It's on the	11:24:56
21	screen. It's on your screen, also.	11:24:57
22	MR. STRUBLE: This is -- this is -- you're	11:24:58
23	showing me what you're looking at. I don't see the	11:24:58
24	actual copy --	11:25:00
25	(Indiscernible crosstalk.)	11:25:00

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1	MR. STRUBLE: -- I get a copy to inspect.	11:25:02
2	Send me a copy.	11:25:03
3	(Indiscernible crosstalk.)	11:25:03
4	MR. STRUBLE: That is how depositions are done.	11:25:05
5	MR. PESSAH: Mr. Struble, please lower your	11:25:07
6	voice. The exhibit is on the screen.	11:25:10
7	MR. STRUBLE: I am not permitting questioning	11:25:11
8	until you give me a copy. There's no copy in the	11:25:14
9	chat.	11:25:14
10	MR. PESSAH: And let's go -- all right. I need	11:25:16
11	to go off the record until you have your copy,	11:25:16
12	because I don't want to take up time like this --	11:25:19
13	MR. STRUBLE: That's not how --	11:25:19
14	MR. PESSAH: -- either.	11:25:22
15	MR. STRUBLE: -- it's done either.	11:25:22
16	(Indiscernible crosstalk.)	11:25:22
17	MR. PESSAH: We are going off the record. You	11:25:25
18	are --	11:25:25
19	MR. STRUBLE: I am --	11:25:25
20	(Indiscernible crosstalk.)	11:25:25
21	MR. PESSAH: -- going to stop interrupting me.	11:25:25
22	Go ahead object. We are going off the record.	11:25:26
23	MR. STRUBLE: Over protest. And over	11:25:34
24	objection --	11:25:34
25	THE REPORTER: Off the record?	11:25:34

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1	(Indiscernible crosstalk.)	11:25:34
2	MR. STRUBLE: This is not how depositions are	11:25:35
3	run. Give me --	11:25:36
4	MR. PESSAH: Mr. --	11:25:36
5	MR. STRUBLE: -- a copy of the exhibit to be --	11:25:38
6	(Indiscernible crosstalk.)	11:25:38
7	MR. PESSAH: Mr. --	11:25:38
8	MR. STRUBLE: I see Exhibit 1 has been dropped	11:25:39
9	in the chat. I will download it now, and now you	11:25:40
10	may question him.	11:25:41
11	MR. PESSAH: Lower your voice --	11:25:41
12	(Indiscernible crosstalk.)	11:25:41
13	MR. PESSAH: -- Mr. Struble.	11:25:41
14	Lower your voice.	11:25:43
15	MR. STRUBLE: My voice is fine. I just want	11:25:44
16	you --	11:25:44
17	MR. PESSAH: Mr. --	11:25:44
18	MR. STRUBLE: -- you are talking over me.	11:25:46
19	BY MR. PESSAH:	11:25:48
20	Q. Mr. -- Mr. Wehrfritz, do you recognize this	11:25:49
21	document? The title of the document it says	11:25:51
22	"Expense Statement, third quarter of 2022."	11:25:55
23	Have you ever seen this document?	11:25:59
24	MR. STRUBLE: Object to form.	11:26:02
25	THE WITNESS: "Expense statement, third quarter	11:26:09

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1	2022," and this was after I was there.	11:26:10
2	BY MR. PESSAH:	11:26:12
3	Q. Yeah. But see all these expenses --	11:26:13
4	expenses from 2019 on here, including --	11:26:14
5	A. Yes.	11:26:14
6	Q. -- one from Alamo Drafthouse; do you see	11:26:17
7	that?	11:26:19
8	A. I see that.	11:26:20
9	Q. So this is date-stamped 12/11, and Neon's	11:26:23
10	attorneys have produced this document in discovery,	11:26:27
11	okay?	11:26:29
12	Do you remember anything about any direct	11:26:34
13	advertising that Alamo Drafthouse was doing for the	11:26:35
14	film Amazing Grace?	11:26:38
15	MR. STRUBLE: Object to form.	11:26:44
16	THE WITNESS: I don't recall.	11:26:44
17	BY MR. PESSAH:	11:26:45
18	Q. Okay. You were there during this time.	11:26:45
19	You were at Neon during this time.	11:26:47
20	So what would you -- what would be your best	11:26:49
21	estimate about what this is actually for?	11:26:50
22	MR. STRUBLE: Object to form, lacks foundation,	11:26:55
23	vague and ambiguous as to time.	11:26:58
24	THE WITNESS: I honestly just don't remember.	11:26:59
25	///	

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1	BY MR. PESSAH:	11:27:02
2	Q. Was Alamo charging Neon for using its	11:27:03
3	accounting and finance department?	11:27:09
4	MR. STRUBLE: Object to form.	11:27:13
5	THE WITNESS: This would -- I don't think this	11:27:14
6	is that. I don't honestly recall. I don't want	11:27:18
7	to -- to guess what this was.	11:27:21
8	BY MR. PESSAH:	11:27:23
9	Q. No, I don't want you to guess either.	11:27:23
10	The question was: Was Alamo charging Neon for	11:27:26
11	using its accounting and finance department?	11:27:31
12	MR. STRUBLE: Object to form.	11:27:33
13	THE WITNESS: I can't remember what the	11:27:34
14	arrangement was.	11:27:39
15	BY MR. PESSAH:	11:27:40
16	Q. Okay. Do you know if Neon was paying Alamo	11:27:40
17	for any of the services that Alamo was rendering on	11:27:44
18	its behalf?	11:27:47
19	MR. STRUBLE: Object to form.	11:27:51
20	THE WITNESS: I don't recall.	11:27:52
21	BY MR. PESSAH:	11:27:55
22	Q. Okay. But you were responsible for the	11:27:55
23	accounting and finance department during this period	11:27:57
24	at 9/30/20, were you not?	11:27:59
25	MR. STRUBLE: Object to form.	11:28:06

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1	THE WITNESS: Yes, I -- I just don't recall.	11:28:06
2	BY MR. PESSAH:	11:28:08
3	Q. Okay. And so seeing this does not refresh	11:28:08
4	your recollection at all?	11:28:09
5	MR. STRUBLE: Object to form as to what it --	11:28:12
6	(Indiscernible crosstalk.)	11:28:20
7	BY MR. PESSAH:	11:28:20
8	Q. Okay.	11:28:20
9	A. I just don't recall. It has been a long	11:28:20
10	time. And it honestly could be something completely	11:28:21
11	different, I don't remember.	11:28:26
12	Q. What is completely different?	11:28:26
13	A. No, I'm just -- I'm saying, like, I haven't	11:28:27
14	spent any time in theatrical space since my time at	11:28:29
15	Neon. And, yeah, I just -- you know, kind of out of	11:28:32
16	sight, out of mind when it comes to working in the	11:28:35
17	industry.	11:28:38
18	So, yeah. Well, I remember certainly, like,	11:28:40
19	looking at line items like these, but, you know, I	11:28:42
20	don't remember any specifics is my point.	11:28:49
21	Q. I understand. Do you recall if there were	11:28:50
22	any other services besides accounting and finance	11:28:52
23	that Alamo was rendering on Neon's behalf?	11:28:57
24	MR. STRUBLE: Object to form.	11:29:04
25	THE WITNESS: I don't recall.	11:29:04

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1	BY MR. PESSAH:	11:29:09
2	Q. Okay. So do you see lines 412 through 421?	11:29:09
3	I am moving my cursor up and down, okay, and those	11:29:21
4	all say "Jeffery White Productions"?	11:29:23
5	A. Yes.	11:29:25
6	Q. Okay. And so you worked with Mr. White as	11:29:26
7	an outside consultant in the accounting and finance	11:29:30
8	department; right?	11:29:36
9	A. Correct.	11:29:36
10	Q. Okay. So do you know what these charges	11:29:37
11	are for?	11:29:38
12	MR. STRUBLE: Object to form, compound, and I	11:29:39
13	think you need to magnify the screen. I can't see	11:29:41
14	or read what you're looking at.	11:29:45
15	MR. PESSAH: You held this up so you could	11:29:51
16	download this exhibit, so why don't you just look --	11:29:54
17	MR. STRUBLE: So you're asking the witness to	11:29:55
18	look at it this way. I presume --	11:29:56
19	(Indiscernible crosstalk.)	11:29:57
20	MR. PESSAH: -- downloaded.	11:29:57
21	Look at the one you downloaded.	11:29:57
22	MR. STRUBLE: You are showing it to the witness,	11:29:59
23	Maurice. Blow it up. What's the problem?	11:30:00
24	MR. PESSAH: It's 412 to 420, you can just refer	11:30:03
25	to the same lines on your own copy, Mr. Struble,	11:30:05

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1	instead of yelling and cursing.	11:30:07
2	Mr. --	11:30:10
3	MR. STRUBLE: There -- don't say cursing. There	11:30:12
4	was no cursing, and it wasn't yelling. I -- this is	11:30:14
5	my voice. You talk over people, and I want you to	11:30:16
6	hear what I'm saying. There is no issue in blowing	11:30:19
7	this document up so people can read it.	11:30:21
8	MR. PESSAH: I just blew it up. The witness	11:30:24
9	didn't ask me to blow it up, and you have a copy of	11:30:25
10	it downloaded onto your device.	11:30:28
11	BY MR. PESSAH:	11:30:30
12	Q. Mr. Wehrfritz, do you see lines 412 to 421	11:30:30
13	on this Excel spreadsheet?	11:30:33
14	A. Yes.	11:30:34
15	Q. Okay. And do you recognize any of these	11:30:37
16	charges?	11:30:40
17	A. I am going to say they are from -- from	11:30:41
18	Jeff White. I don't recall specifically what he did	11:30:46
19	for -- for this film.	11:30:49
20	Q. But you testified that he was assisting in	11:30:51
21	the accounting and finance department; right?	11:30:57
22	MR. STRUBLE: Object to form --	11:31:00
23	THE WITNESS: He was --	11:31:00
24	MR. STRUBLE: -- argumentative.	11:31:01
25	///	

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1	BY MR. PESSAH:	11:31:01
2	Q. To your knowledge, was he assisting with	11:31:02
3	creative advertising?	11:31:03
4	MR. STRUBLE: Object to form.	11:31:04
5	THE WITNESS: Yeah, I don't recall -- I don't	11:31:06
6	recall how it was done accounting-wise at that time.	11:31:10
7	BY MR. PESSAH:	11:31:14
8	Q. To your recollection, was Mr. White	11:31:15
9	assisting with the creative advertising for the film	11:31:16
10	Amazing Grace?	11:31:21
11	MR. STRUBLE: Object to form.	11:31:21
12	THE WITNESS: I don't recall.	11:31:22
13	BY MR. PESSAH:	11:31:22
14	Q. So he may have been assisting with creative	11:31:28
15	advertising and accounting?	11:31:30
16	MR. STRUBLE: Object to form, asked and	11:31:31
17	answered.	11:31:32
18	THE WITNESS: Yeah, I don't recall.	11:31:33
19	BY MR. PESSAH:	11:31:33
20	Q. Do you think it's possible that he was	11:31:37
21	assisting the company with creative advertising	11:31:38
22	while simultaneously working with you in accounting	11:31:40
23	and finance?	11:31:43
24	MR. STRUBLE: Object to form.	11:31:44
25	THE WITNESS: I don't recall.	11:31:49

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1	BY MR. PESSAH:	11:31:50
2	Q. Do you think it's possible?	11:31:50
3	MR. STRUBLE: Same objection. Objection to	11:31:52
4	form, asked and answered.	11:31:54
5	THE WITNESS: I can't ascertain the possibility	11:31:55
6	of anything when it comes to something like this.	11:32:02
7	I -- I don't know. I just can't speak to it,	11:32:04
8	because I just can't.	11:32:07
9	BY MR. PESSAH:	11:32:11
10	Q. You can't tell me if you think it was	11:32:11
11	possible that Mr. White, while he was working	11:32:16
12	directly with you in accounting and finance, was	11:32:18
13	also working in creative advertising?	11:32:21
14	MR. STRUBLE: Object to form, asked and	11:32:24
15	answered, now harassing or badgering at least.	11:32:27
16	THE WITNESS: I mean -- yeah. I don't know how	11:32:31
17	to answer something like that. But regardless of	11:32:36
18	the possibility of it, there is a possibility of	11:32:39
19	anything; right?	11:32:41
20	BY MR. PESSAH:	11:32:42
21	Q. In the time that you worked with him, did	11:32:47
22	he ever mention he was working on creative	11:32:48
23	advertising for the film?	11:32:50
24	MR. STRUBLE: Object to form.	11:32:52
25	THE WITNESS: I don't recall.	11:32:52

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1	BY MR. PESSAH:	11:32:54
2	Q. Let's say, Mr. Wehrfritz, that -- do you	11:33:02
3	understand, Mr. Wehrfritz, that these are charges	11:33:08
4	that were charged to the film Amazing Grace?	11:33:09
5	MR. STRUBLE: Object to form, lacks foundation.	11:33:11
6	THE WITNESS: Based on presentation of what you	11:33:15
7	have here, it would lead me to believe that that	11:33:16
8	is -- that was the case.	11:33:20
9	BY MR. PESSAH:	11:33:21
10	Q. Okay. And while you were working with	11:33:22
11	Mr. White, do you believe that he rendered the	11:33:26
12	equivalent of over \$10,000 in accounting and finance	11:33:29
13	consulting for the film -- specifically for the film	11:33:34
14	Amazing Grace?	11:33:39
15	MR. STRUBLE: Object to form.	11:33:42
16	THE WITNESS: I don't recall.	11:33:42
17	BY MR. PESSAH:	11:33:43
18	Q. Do you believe that is a reasonable	11:33:43
19	estimation of the work that he did on this film?	11:33:45
20	MR. STRUBLE: Object to form, asked and	11:33:46
21	answered, vague and ambiguous.	11:33:50
22	THE WITNESS: I don't recall. The specifics, I	11:33:55
23	just -- you know, I don't have in my recollection.	11:33:57
24	BY MR. PESSAH:	11:34:01
25	Q. So Mr. White was being paid by the hour,	11:34:01

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1	was he not?	11:34:04
2	MR. STRUBLE: Object to form.	11:34:05
3	THE WITNESS: I think Mr. White was -- I don't	11:34:06
4	remember what his exact information was,	11:34:13
5	specifically. He was a consultant, not -- not like	11:34:14
6	the other ones that we had hired, and I don't	11:34:23
7	remember what his exact payment arrangement was.	11:34:25
8	BY MR. PESSAH:	11:34:27
9	Q. What other ones are you talking about?	11:34:27
10	A. I am talking about the other accounting --	11:34:28
11	temporary accounting folks that we had hired.	11:34:32
12	Q. So the other accounting folks you hired	11:34:36
13	were on an hourly basis, and Mr. White was not?	11:34:39
14	A. I -- I just don't recall what -- what	11:34:42
15	Jeff's arrangement was offhand. The other ones --	11:34:43
16	the other accounting resources were certainly on an	11:34:47
17	hourly basis. I don't recall Jeff White's	11:34:50
18	arrangement.	11:34:51
19	Q. But you testified earlier, Mr. Wehrfritz,	11:34:52
20	that you were the person who hired these outside	11:34:57
21	consultants.	11:34:57
22	Do you recall testifying to that?	11:35:01
23	THE WITNESS: Well, I do --	11:35:02
24	MR. STRUBLE: Objection to form.	11:35:02
25	Mischaracterizes testimony.	11:35:03

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1	THE WITNESS: Well, also -- but Jeff White, I	11:35:04
2	mean, that was somebody who -- I remember mentioning	11:35:05
3	that he was not -- you know, he was somebody that	11:35:08
4	was not hired by me, it was another relationship.	11:35:12
5	BY MR. PESSAH:	11:35:19
6	Q. Who hired Mr. White?	11:35:19
7	A. I don't know who it was.	11:35:20
8	Q. Okay. So you -- you believe it is	11:35:27
9	reasonable for Mr. White to charge almost \$10,000	11:35:35
10	for his accounting work, specifically to Amazing	11:35:40
11	Grace --	11:35:44
12	(Indiscernible crosstalk.)	11:35:46
13	MR. STRUBLE: Object to form, asked and	11:35:46
14	answered, lacks foundation.	11:35:48
15	THE WITNESS: I don't recall specifics. And I	11:35:53
16	don't know that it's -- reasonableness is tough	11:35:56
17	without having a specific recollection of the	11:36:02
18	overall film, which I don't.	11:36:04
19	BY MR. PESSAH:	11:36:06
20	Q. It's tough to talk about reasonableness?	11:36:06
21	A. It is. It is.	11:36:08
22	Q. And recalling -- without recalling exact	11:36:09
23	things? I mean --	11:36:11
24	A. That said --	11:36:13
25	Q. -- you testified that you have credentials	11:36:14

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1	from some of the best schools in the country,	11:36:17
2	accounting and finance, you worked at Orchard, which	11:36:19
3	is a film company and music company before you	11:36:24
4	worked at Neon; right?	11:36:27
5	MR. STRUBLE: Hold on.	11:36:29
6	THE WITNESS: Yes.	11:36:29
7	MR. STRUBLE: Hold on. Hold on. Hold on.	11:36:29
8	Object to form, argumentative, and asked and	11:36:30
9	answered. And this is kind of what I was talking	11:36:32
10	about earlier in terms of the way this deposition is	11:36:34
11	being conducted, but please continue.	11:36:39
12	BY MR. PESSAH:	11:36:40
13	Q. So, Mr. Wehrfritz, based on your past	11:36:41
14	experiences and your credentials for a film like	11:36:43
15	Amazing Grace, I mean, how much accounting is really	11:36:48
16	required for a film like that?	11:36:50
17	MR. STRUBLE: Object to form, asked and	11:36:54
18	answered.	11:36:56
19	BY MR. PESSAH:	11:36:59
20	Q. Mr. Wehrfritz?	11:36:59
21	A. Yeah, no. I think there's specific nuances	11:37:00
22	on every film that make it hard to categorize, you	11:37:03
23	know, what is an appropriate level of accounting and	11:37:08
24	finance. It is just, you know, you don't know -- it	11:37:10
25	is not a cookie cutter sort of business where you	11:37:15

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1	can ascribe estimates for something like this.	11:37:20
2	Q. Okay. But, I mean, \$10,000 for one	11:37:22
3	accounting consultant, not to mention the others and	11:37:31
4	yourself.	11:37:36
5	MR. STRUBLE: Objection.	11:37:36
6	BY MR. PESSAH:	11:37:36
7	Q. Does this look like a reasonable amount of	11:37:36
8	money to charge to one film in a time span of two	11:37:38
9	years for accounting and finance services?	11:37:41
10	MR. STRUBLE: Again, object to form. And now	11:37:45
11	harassing the witness when it has been asked and	11:37:47
12	answered several times; and, frankly, object to the	11:37:50
13	characterization of the document as well.	11:37:52
14	(Reporter Clarification.)	11:38:08
15	MR. PESSAH: Over 10,000.	11:38:11
16	THE REPORTER: Oh, thank you.	11:38:13
17	BY MR. PESSAH:	11:38:13
18	Q. Mr. Wehrfritz?	11:38:14
19	A. What -- sorry. Yeah. What was the	11:38:16
20	question again?	11:38:18
21	Q. We can have it read back.	11:38:19
22	(Record read as requested.)	11:38:39
23	MR. STRUBLE: Same objections.	11:38:41
24	THE WITNESS: I just don't recall.	11:38:43
25	///	

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1	BY MR. PESSAH:	11:38:45
2	Q. I am not asking for your recollection,	11:38:47
3	Mr. Wehrfritz. I am asking --	11:38:49
4	A. My recollection of the industry, like, and	11:38:50
5	to make an estimate if -- like, its reasonableness,	11:38:53
6	I'm just trying to recollect what I would think	11:38:56
7	is -- is reasonable. But to ask me to put myself	11:38:57
8	back in the time where I was very close to the	11:39:00
9	industry, and I am no longer at all close to the	11:39:04
10	industry, so it's really hard for me to produce any	11:39:06
11	sort of reasonableness estimates.	11:39:09
12	Q. I am not asking you to recall anything. I	11:39:12
13	am just asking based on your experience, does that	11:39:14
14	not appear to be, in your estimation, a reasonable	11:39:17
15	amount of money to pay one consultant amongst many	11:39:21
16	for accounting services on a documentary film?	11:39:28
17	MR. STRUBLE: Object to form, same objections as	11:39:31
18	previously, asked and answered, and otherwise object	11:39:33
19	to form.	11:39:40
20	THE WITNESS: Yeah. I don't know what else to	11:39:41
21	say. I just can't ascertain its reasonableness at	11:39:42
22	this point in my career. At that point, I would be	11:39:48
23	in a better position to be able to say if that's --	11:39:52
24	if that seems reasonable. I just can't do it now.	11:39:55
25	I am too far removed.	11:39:57

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1	BY MR. PESSAH:	11:40:00
2	Q. How about \$100,000? Would that be	11:40:00
3	reasonable?	11:40:02
4	MR. STRUBLE: Object to form, calls for	11:40:03
5	speculation, incomplete hypothetical.	11:40:04
6	BY MR. PESSAH:	11:40:07
7	Q. Would that be reasonable, Mr. Wehrfritz?	11:40:07
8	A. \$100,000 --	11:40:10
9	MR. STRUBLE: Same objections.	11:40:10
10	THE WITNESS: That seems like a lot; and, yeah,	11:40:13
11	obviously, like, reasonableness -- I think that	11:40:19
12	changes when you start talking about, you know,	11:40:24
13	multiple ten.	11:40:28
14	BY MR. PESSAH:	11:40:29
15	Q. Okay. So how about \$50,000? Would that be	11:40:30
16	reasonable?	11:40:36
17	MR. STRUBLE: Object to form, calls for	11:40:36
18	speculation, incomplete hypothetical, and vague and	11:40:37
19	ambiguous as to what you're talking about for	11:40:41
20	expenditures.	11:40:43
21	THE WITNESS: Yeah. It's too hard for me to	11:40:46
22	comment on reasonableness without -- yeah.	11:40:49
23	BY MR. PESSAH:	11:40:52
24	Q. Well, when you said \$100,000 seems --	11:40:52
25	A. \$100,000 sounds like a lot, because it's	11:40:55

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1 ten times what we're talking about here. My 11:40:57

2 confidence -- 11:41:01

3 Q. Again, we are talking about one person, 11:41:01

4 Mr. Wehrfritz. You testified that there were 11:41:04

5 multiple consultants like Mr. White who were 11:41:05

6 assisting in accounting and finance; right? 11:41:11

7 MR. STRUBLE: Object to form. 11:41:13

8 THE WITNESS: Yeah, Jeff -- Jeff did one -- one 11:41:15

9 sort of thing for accounting and finance. Yes, 11:41:18

10 there was other consultants. But, yeah, Jeff is 11:41:21

11 represented here. Again, I can't make, like, an 11:41:25

12 assessment of its reasonableness. I just can't. 11:41:30

13 I could, at that point in time, I'm sure, 11:41:35

14 because I would have that knowledge in front of me. 11:41:46

15 I can't now. I just -- I don't recall. 11:41:46

16 BY MR. PESSAH: 11:41:47

17 Q. I am asking for whether or not \$50,000 11:41:48

18 would be, in your opinion, an excessive or 11:41:56

19 reasonable amount for accounting services rendered 11:42:01

20 by one consultant, amongst many, on a documentary 11:42:05

21 film like Amazing Grace. That's what I'm asking. 11:42:09

22 MR. STRUBLE: Object to form, asked and answered 11:42:13

23 numerous times, harassing the witness with the same 11:42:15

24 question over and over again. 11:42:17

25 THE WITNESS: I don't know the answer to that 11:42:20

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1 because there could be a lot of -- just because it's 11:42:23  
2 a documentary film, there could have been a lot of 11:42:26  
3 complicating accounting and finance nuances that had 11:42:28  
4 to be maneuvered through. So I just don't know. 11:42:32  
5 BY MR. PESSAH: 11:42:37  
6 Q. Okay. Do you see the name here, 11:42:39  
7 Mr. Wehrfritz, on line 408? 11:42:40  
8 A. I do. 11:42:42  
9 Q. What is this? 11:42:43  
10 A. Honestly, I have no idea. That could have 11:42:44  
11 been something that I -- yeah, I don't recall. 11:42:48  
12 Maybe that is something I charged my credit card 11:42:50  
13 that I did the invoice for. 11:42:54  
14 Q. Do you ever recall charging \$6,500 to your 11:42:55  
15 credit card? 11:42:59  
16 MR. STRUBLE: Object to form. 11:43:00  
17 THE WITNESS: I don't. 11:43:00  
18 BY MR. PESSAH: 11:43:04  
19 Q. Okay. Could this possibly be a mistake? 11:43:04  
20 MR. STRUBLE: Object to form, lacks foundation. 11:43:06  
21 THE WITNESS: It could have been. I mean, I 11:43:11  
22 could -- I could speculate if our corporate credit 11:43:15  
23 card for whatever reason wasn't working. I know I 11:43:17  
24 have made -- I made a charge maybe once or twice on 11:43:20  
25 my own card. 11:43:23

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1 BY MR. PESSAH: 11:43:25

2 Q. Mr. Wehrfritz, was there ever time you 11:43:27

3 attempted to use the Neon credit card, and it wasn't 11:43:34

4 working? 11:43:36

5 MR. STRUBLE: Object to form. 11:43:37

6 THE WITNESS: I didn't personally have a Neon 11:43:37

7 credit card, so if somebody's wasn't working, I -- I 11:43:39

8 know I have volunteered to use mine before. 11:43:44

9 BY MR. PESSAH: 11:43:47

10 Q. So -- so who had Neon credit cards? 11:43:48

11 A. I'd say, I mean, like, Elissa, Tom, 11:43:53

12 obviously, Zisa, and there's a handful of people, 11:43:59

13 like -- I am trying think who else. 11:44:04

14 Yeah, I think there's five or six people that 11:44:08

15 had them, like Christian had one. 11:44:12

16 Q. And would -- would any of those -- have any 11:44:16

17 of those people ever approached you and told you 11:44:18

18 that their cards weren't working? 11:44:21

19 A. Yes. 11:44:23

20 MR. STRUBLE: Object to form. 11:44:26

21 BY MR. PESSAH: 11:44:27

22 Q. And do you recall what scenarios those were 11:44:27

23 for? 11:44:31

24 MR. STRUBLE: Object to form. 11:44:32

25 THE WITNESS: No. I am not sure what you mean. 11:44:33

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1 BY MR. PESSAH: 11:44:34

2 Q. Well, what was the reason why their credit 11:44:35

3 cards weren't working; do you know? 11:44:37

4 MR. STRUBLE: Object to form. 11:44:38

5 THE WITNESS: Yeah, based on, like, the credit 11:44:40

6 card arrangement we had, so it was just a function 11:44:43

7 of the -- the card type. 11:44:47

8 BY MR. PESSAH: 11:44:49

9 Q. What was the credit card arrangement that 11:44:51

10 you had? 11:44:53

11 A. I mean, we had to -- it was kind of a "pay 11:44:53

12 as you go" sort of arrangement, I suppose, where you 11:44:58

13 had to pay it down and leave a certain amount of 11:45:03

14 available credit at all times, and you can 11:45:06

15 immediately pay it down with funds and free up 11:45:08

16 capacity. But there were certain times where the 11:45:11

17 credit card, it wasn't on its billing cycle. But we 11:45:14

18 would pay it down early to free up capacity so 11:45:18

19 people could use it. 11:45:20

20 Q. Do you have an American Express credit 11:45:23

21 card, Mr. Wehrfritz? 11:45:26

22 A. No. 11:45:28

23 MR. STRUBLE: Objection. 11:45:28

24 BY MR. PESSAH: 11:45:31

25 Q. Have you ever had an American Express 11:45:31

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1	credit card?	11:45:34
2	A. Oh, I actually do have. Yeah, sorry. I do	11:45:34
3	have an American Express credit card. I don't use	11:45:36
4	it; but, yeah, I do.	11:45:38
5	Q. Does it end in 8003?	11:45:39
6	MR. STRUBLE: Object to form --	11:45:42
7	THE WITNESS: Yeah --	11:45:43
8	MR. STRUBLE: Objection to form.	11:45:44
9	THE WITNESS: Yeah. I think it does.	11:45:45
10	BY MR. PESSAH:	11:45:48
11	Q. Okay. Have you ever attended -- or did you	11:45:49
12	attend the 50th NAACP Image Awards?	11:45:56
13	MR. STRUBLE: Object to form.	11:46:02
14	THE WITNESS: I did not, but that sounds like an	11:46:03
15	expense that I had to charge on my card.	11:46:05
16	BY MR. PESSAH:	11:46:07
17	Q. Okay. So let's look at that expense	11:46:07
18	together. My colleague is going to drag Exhibit 2	11:46:09
19	into the chat --	11:46:13
20	(Exhibit 2 was marked for	11:46:13
21	identification.)	11:46:13
22	BY MR. PESSAH:	11:46:13
23	Q. -- for Mr. Struble.	11:46:17
24	If you don't mind, Mr. Wehrfritz, I am just	11:46:20
25	going to share my screen. That is much easier than	11:46:22

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1	making you download things, I assume.	11:46:24
2	All right. So before Mr. Struble loses it,	11:46:27
3	let's share the screen.	11:46:31
4	MR. STRUBLE: No commentary like that. It	11:46:33
5	really doesn't help things, Maurice.	11:46:35
6	BY MR. PESSAH:	11:46:37
7	Q. So, Mr. Wehrfritz, do you see your name	11:46:37
8	here at the top of this? And this is, by the way,	11:46:40
9	Neon 1421.	11:46:43
10	A. Yep.	11:46:44
11	Q. And do you recall being asked to charge	11:46:44
12	\$6500 on your credit card for --	11:46:49
13	MR. STRUBLE: Object to form.	11:46:53
14	BY MR. PESSAH:	11:46:55
15	Q. -- for tickets to the NAACP awards?	11:46:55
16	MR. STRUBLE: Object to form and the witness	11:46:58
17	should be permitted to inspect the document you are	11:47:00
18	asking him about.	11:47:02
19	THE WITNESS: Yeah. I mean, I have a vague	11:47:08
20	recollection --	11:47:10
21	BY MR. PESSAH:	11:47:10
22	Q. Would you -- sorry, go ahead.	11:47:10
23	A. I have a vague recollection of it.	11:47:11
24	Q. Okay. Can you tell me what that is?	11:47:12
25	MR. STRUBLE: Object to form.	11:47:14

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1	THE WITNESS: Yeah. Amazing Grace, ticket buy,	11:47:17
2	\$6500.	11:47:21
3	BY MR. PESSAH:	11:47:23
4	Q. This is the second page of the exhibit, and	11:47:23
5	then here is the third page.	11:47:26
6	A. Yeah. I mean, I remember, yeah, using my	11:47:31
7	credit card for some sort of purchase. I don't	11:47:33
8	recall the specifics.	11:47:36
9	Q. Who asked you to charge your card for this?	11:47:39
10	A. I don't recall who.	11:47:42
11	Q. You -- you definitely weren't at this	11:47:43
12	awards show; right?	11:47:46
13	MR. STRUBLE: Object to form.	11:47:49
14	THE WITNESS: That's correct.	11:47:52
15	BY MR. PESSAH:	11:47:52
16	Q. Sorry, what did you say?	11:47:53
17	A. That's correct.	11:47:53
18	Q. Do you know who was?	11:47:54
19	A. I do not.	11:47:55
20	Q. Okay. How often would this happen, where	11:48:01
21	you would be asked to charge \$6,500 on your personal	11:48:05
22	American Express card because someone's corporate	11:48:12
23	Neon card wasn't working?	11:48:17
24	A. I --	11:48:20
25	MR. STRUBLE: Object to form. Wait, wait.	11:48:20

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1	Sorry. Again, give me a second. Objection to form,	11:48:21
2	lacks foundation.	11:48:24
3	THE WITNESS: I can't think of any other	11:48:24
4	instance like this.	11:48:28
5	BY MR. PESSAH:	11:48:29
6	Q. Okay. Was there any other film for which	11:48:30
7	you were asked to incur this type of a charge?	11:48:35
8	A. No, not that I recall.	11:48:37
9	MR. STRUBLE: Object to form to that question as	11:48:39
10	well.	11:48:40
11	BY MR. PESSAH:	11:48:41
12	Q. This only happened for Amazing Grace,	11:48:41
13	that's the only film; right?	11:48:44
14	MR. STRUBLE: Object to form.	11:48:45
15	THE WITNESS: I don't recall any others.	11:48:50
16	BY MR. PESSAH:	11:48:53
17	Q. Okay. Did you ever have to do anything	11:48:54
18	like this when you were working at Orchard?	11:48:59
19	MR. STRUBLE: Object to form, vague and	11:49:01
20	ambiguous.	11:49:04
21	THE WITNESS: No.	11:49:04
22	BY MR. PESSAH:	11:49:08
23	Q. In your opinion, was -- or I guess not in	11:49:09
24	your opinion but based on your personal experience	11:49:12
25	and knowledge of Neon's books and records, was the	11:49:15

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1	company undercapitalized?	11:49:18
2	MR. STRUBLE: Object to form, vague and	11:49:21
3	ambiguous, lacks foundation.	11:49:22
4	THE WITNESS: No. I don't think so.	11:49:25
5	BY MR. PESSAH:	11:49:27
6	Q. Even when you first started working there?	11:49:28
7	MR. STRUBLE: Same objections. Object to form.	11:49:32
8	THE WITNESS: No -- yeah. I don't think it was.	11:49:33
9	BY MR. PESSAH:	11:49:36
10	Q. Okay. So you think it was adequately	11:49:38
11	capitalized to --	11:49:40
12	A. I think so.	11:49:41
13	Q. Okay. Including for staffing?	11:49:41
14	MR. STRUBLE: Object to form.	11:49:45
15	THE WITNESS: Yeah. It's a -- like, it's a	11:49:46
16	wholistic general comment, yeah, that I think that	11:49:49
17	the company was adequately capitalized.	11:49:56
18	BY MR. PESSAH:	11:49:58
19	Q. Okay. And what are you basing that -- that	11:49:58
20	statement on?	11:50:00
21	A. On its ability to make its financial	11:50:00
22	obligations as they came up.	11:50:09
23	Q. Okay. Like the \$6,500 charge when	11:50:10
24	someone's card was not working?	11:50:16
25	A. Yeah, that is not a --	11:50:17

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1	MR. STRUBLE: Object to form.	11:50:20
2	THE WITNESS: Sorry. That is not a function of	11:50:21
3	capitalization. It's just a -- an immediate issue	11:50:23
4	with the credit card. We were a new company, so it	11:50:27
5	was hard to get a credit card that was as flexible	11:50:30
6	as we would have liked.	11:50:33
7	BY MR. PESSAH:	11:50:37
8	Q. So the company was adequately capitalized,	11:50:37
9	to the best of your recollection, but sometimes	11:50:40
10	company credit cards would decline; correct?	11:50:43
11	A. Yes.	11:50:46
12	MR. STRUBLE: Objection to form.	11:50:47
13	BY MR. PESSAH:	11:50:49
14	Q. And how often would the company credit	11:50:49
15	cards be declined like this, where you would have to	11:50:52
16	put \$6,500 on your own credit card to pay for an	11:50:54
17	event that you weren't even attending?	11:51:00
18	MR. STRUBLE: Object to form, lacks foundation.	11:51:05
19	THE WITNESS: Yeah, I mean this was the only	11:51:07
20	time something like this happened to me.	11:51:11
21	BY MR. PESSAH:	11:51:12
22	Q. Are you sure?	11:51:12
23	A. I think -- I think so. That is the only	11:51:13
24	one of my recollection. I see this -- the amount	11:51:16
25	\$6500 it seems like -- it's all I can think of. I	11:51:17

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1 remember there being a big charge. I thought there 11:51:21  
2 was only one, but that's -- that's based on my 11:51:23  
3 recollection, which is -- yeah. 11:51:26

4 Q. And this -- on page 2 of Exhibit 2, it says 11:51:28  
5 it's for ten tickets at \$650 apiece. 11:51:32

6 Do you see that? 11:51:38

7 A. Yes. 11:51:38

8 Q. And do you know which ten people those 11:51:39  
9 tickets were for? 11:51:44

10 MR. STRUBLE: Object to form. 11:51:47

11 THE WITNESS: I do not. 11:51:47

12 BY MR. PESSAH: 11:51:49

13 Q. Do you know anyone who would know? 11:51:51

14 MR. STRUBLE: Object to form. 11:51:55

15 THE WITNESS: I would imagine there's people at 11:51:56  
16 the company that would, like, Elissa. Maybe Tom, I 11:51:59  
17 don't know. 11:52:04

18 BY MR. PESSAH: 11:52:04

19 Q. Okay. So when you were asked to do this, 11:52:05  
20 you just generously offered to use your card. Do 11:52:10  
21 you remember if you had to go on a website or call 11:52:13  
22 anyone to have your card charged, or did you just 11:52:16  
23 give someone your credit card information? 11:52:18

24 MR. STRUBLE: Object to form. 11:52:20

25 THE WITNESS: I believe it was the latter, but I 11:52:21

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1	don't recall specifically.	11:52:25
2	BY MR. PESSAH:	11:52:27
3	Q. Okay. And you were, in fact, reimbursed	11:52:27
4	for this?	11:52:30
5	A. Yeah, absolutely.	11:52:33
6	Q. Okay.	11:52:33
7	A. Absolutely.	11:52:35
8	Q. Okay. Okay. And just from your	11:52:35
9	perspective, as an accounting and finance	11:52:41
10	professional who worked at Neon, was it appropriate	11:52:45
11	to charge this amount to the film without having any	11:52:51
12	evidence that this amount actually was related to	11:52:57
13	any of Neon's activities with respect to this film?	11:53:03
14	MR. STRUBLE: Object to form, lacks foundation,	11:53:08
15	calls for speculation.	11:53:10
16	THE WITNESS: Yeah, can you repeat that?	11:53:15
17	BY MR. PESSAH:	11:53:18
18	Q. Was it appropriate to charge this amount of	11:53:18
19	money as an expense to Amazing Grace with just the	11:53:21
20	information that is contained in this Exhibit 2?	11:53:26
21	MR. STRUBLE: Same objections.	11:53:31
22	THE WITNESS: Yeah, I don't know.	11:53:36
23	BY MR. PESSAH:	11:53:36
24	Q. Okay. Other than seeing "Amazing Grace,	11:53:37
25	ticket buy" here, how would one verify if this \$6500	11:53:40

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1	expense actually had anything to do with Amazing	11:53:49
2	Grace?	11:53:24
3	MR. STRUBLE: Object to form, calls for	11:53:53
4	speculation.	11:54:02
5	BY MR. PESSAH:	11:54:02
6	Q. From an accounting standpoint, how would	11:54:02
7	one verify that?	11:54:05
8	MR. STRUBLE: Same objections.	11:54:07
9	THE WITNESS: Yeah, I mean, based on the working	11:54:08
10	knowledge at the time of the vendors that we were	11:54:09
11	working with and having discussions with folks on	11:54:10
12	the team.	11:54:12
13	BY MR. PESSAH:	11:54:14
14	Q. Okay. Did you ever speak to somebody named	11:54:14
15	Philip Green?	11:54:19
16	A. Maybe, I don't recall.	11:54:22
17	Q. Philip Green is an expert witness that Neon	11:54:25
18	retained in this case.	11:54:29
19	Were you aware of that?	11:54:32
20	A. No.	11:54:34
21	Q. Did Mr. Green ever call you to discuss this	11:54:35
22	charge with you?	11:54:40
23	MR. STRUBLE: Object to form.	11:54:41
24	THE WITNESS: No.	11:54:42
25	///	

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1	BY MR. PESSAH:	11:54:45
2	Q. Okay. So who at Neon would be able to	11:54:46
3	explain how this \$6500 charge for ten tickets to the	11:54:52
4	50th NAACP Image Awards have anything to do with	11:55:00
5	Amazing Grace?	11:53:23
6	MR. STRUBLE: Again, asked and answered, object	11:55:09
7	to form, lacks foundation, calls for speculation.	11:55:11
8	THE WITNESS: I don't know. I don't know	11:55:14
9	specifics in regards to this charge, and what I'm --	11:55:21
10	I'm sure people that are still there have	11:55:24
11	familiarity with it.	11:55:26
12	BY MR. PESSAH:	11:55:27
13	Q. Okay.	11:55:28
14	A. I think I mentioned before Elissa. I don't	11:55:28
15	know, maybe Zisa, I don't know.	11:55:31
16	Q. Okay. How much in severance pay did Neon	11:55:37
17	pay you in your separation agreement?	11:55:41
18	MR. STRUBLE: Object to form.	11:55:43
19	THE WITNESS: I will have to double-check. It	11:55:44
20	was awhile ago.	11:55:47
21	BY MR. PESSAH:	11:55:48
22	Q. Was it the equivalent of one year's salary?	11:55:48
23	MR. STRUBLE: Object to form.	11:55:51
24	THE WITNESS: Not a full year's, I don't think.	11:55:51
25	///	

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1	BY MR. PESSAH:	11:55:58
2	Q. Okay. A little less than a year's salary?	11:56:00
3	THE WITNESS: I believe so.	11:56:04
4	MR. STRUBLE: Object to form.	11:56:04
5	BY MR. PESSAH:	11:56:05
6	Q. And what was your annual salary at Neon?	11:56:05
7	A. I don't recall what it was.	11:56:09
8	Q. You don't recall what your salary was at	11:56:10
9	the last job you had?	11:56:14
10	A. No.	11:56:15
11	MR. STRUBLE: Object to form.	11:56:15
12	BY MR. PESSAH:	11:56:17
13	Q. Okay. Was it more or less than you make	11:56:17
14	now?	11:56:19
15	A. It's about the same.	11:56:19
16	Q. Okay. So then --	11:56:21
17	A. I think. I think.	11:56:22
18	Q. So what would be about the same, then? If	11:56:23
19	it's -- you know how much you make now, don't you?	11:56:25
20	A. Well, I know that it wasn't a step down or	11:56:28
21	a step up. It was a pretty lateral move. I think	11:56:31
22	it was like \$135,000.	11:56:33
23	Q. 135?	11:56:36
24	A. Yeah. I think that's what it was.	11:56:37
25	Q. Okay. So, Mr. Wehrfritz, other than	11:56:39

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1 disagreements you had with Mr. Quinn about staffing, 11:56:53  
2 were there any other subject matters about which you 11:57:00  
3 and Mr. Quinn disagreed? 11:57:03

4 MR. STRUBLE: Object to form, asked and 11:57:05  
5 answered. 11:57:07

6 THE WITNESS: Not that I recall. 11:57:10

7 BY MR. PESSAH: 11:57:11

8 Q. And so what was the disagreement with 11:57:11  
9 respect to staffing that you had with Mr. Quinn? 11:57:13

10 MR. STRUBLE: Object to form, asked and 11:57:16  
11 answered. 11:57:18

12 THE WITNESS: Yeah, I think I did answer this 11:57:18  
13 one. It was -- I thought it made sense to have more 11:57:22  
14 permanent resources as opposed to contract workers. 11:57:24

15 BY MR. PESSAH: 11:57:28

16 Q. And why did you feel that way? 11:57:28

17 MR. STRUBLE: Object to form, asked and 11:57:31  
18 answered. 11:57:32

19 THE WITNESS: Yeah. I think I answered this 11:57:33  
20 question, too. 11:57:34

21 MR. STRUBLE: You asked this question two hours 11:57:36  
22 ago. 11:57:38

23 THE WITNESS: In regards to continuity from a 11:57:39  
24 film-to-film business. I think it makes sense that 11:57:42  
25 they needed a permanent resource or to have 11:57:50

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1	permanent resources.	11:57:52
2	BY MR. PESSAH:	11:57:52
3	Q. Okay. And what was Mr. Quinn's reaction to	11:57:53
4	your suggestion?	11:57:54
5	MR. STRUBLE: Object to form.	11:57:55
6	THE WITNESS: He actually took it under	11:57:56
7	advisement and became amenable to it as our	11:57:59
8	relationship grew and his trust for me grew. So we	11:58:02
9	certainly looked at and pursued, you know, hiring	11:58:07
10	other people.	11:58:11
11	BY MR. PESSAH:	11:58:14
12	Q. Did he initially disagree with you?	11:58:14
13	A. I think he -- sorry, Cory, if you had to	11:58:16
14	step in. No, I think he wanted to see how things	11:58:23
15	got going. It was a new relationship. The company	11:58:26
16	was just starting out, and it was something that was	11:58:29
17	more easily tackled with a -- temporary workers at	11:58:33
18	the onset.	11:58:41
19	Q. So then what were you disagreeing about?	11:58:42
20	MR. STRUBLE: Object to form, argumentative,	11:58:47
21	asked and answered.	11:58:49
22	THE WITNESS: Yeah. I think his inclination was	11:58:49
23	go with temporary folks to start out with, and then	11:58:54
24	just kind of wait and see how things go -- or how	11:58:57
25	things went in terms of hiring full-time employees.	11:58:58

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1	I would rather hire full-time employees from the	11:59:02
2	get-go.	11:59:04
3	BY MR. PESSAH:	11:59:05
4	Q. So he disagreed with you initially about	11:59:09
5	having more -- having permanent resources, meaning	11:59:12
6	employees in-house at Neon; is that correct?	11:59:15
7	A. That's my recollection.	11:59:17
8	MR. STRUBLE: Object to form.	11:59:18
9	BY MR. PESSAH:	11:59:20
10	Q. Okay. And your testimony is, other than	11:59:20
11	one disagreement with Mr. Quinn regarding staffing,	11:59:24
12	you never had any other disagreements with him while	11:59:28
13	you were at Neon; correct?	11:59:32
14	MR. STRUBLE: Object to form, mischaracterizes	11:59:33
15	testimony.	11:59:34
16	THE WITNESS: Yeah, I don't think I said it was	11:59:38
17	one disagreement.	11:59:39
18	BY MR. PESSAH:	11:59:40
19	Q. Okay. How many disagreements did you have?	11:59:40
20	MR. STRUBLE: Object to form, asked and answered	11:59:41
21	several times.	11:59:43
22	THE WITNESS: Yeah, I definitely answered this	11:59:44
23	before. I couldn't give you a number.	11:59:47
24	BY MR. PESSAH:	11:59:49
25	Q. Okay. But, needless to say, you had	11:59:50

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1	disagreements about more than one subject, other	11:59:53
2	than staffing with Mr. Quinn; correct?	11:59:56
3	MR. STRUBLE: Object to form, asked and	11:59:59
4	answered, and mischaracterizes the testimony.	12:00:01
5	THE WITNESS: Yeah, that's correct.	12:00:09
6	BY MR. PESSAH:	12:00:12
7	Q. Okay. And how would Mr. Quinn typically	12:00:12
8	react when you had disagreements with him?	12:00:16
9	MR. STRUBLE: Object to form, vague and	12:00:17
10	ambiguous.	12:00:19
11	THE WITNESS: He was always looking for	12:00:19
12	discussion to talk about anything, so he wouldn't --	12:00:24
13	you know, he didn't adamantly oppose any ideas, but	12:00:37
14	it was more of a wait and see sort of thing when it	12:00:40
15	came to staffing.	12:00:42
16	BY MR. PESSAH:	12:00:45
17	Q. And was there a disagreement about your	12:00:45
18	departure?	12:00:46
19	MR. STRUBLE: Objection to form, asked and	12:00:47
20	answered.	12:00:48
21	THE WITNESS: In what regard?	12:00:49
22	BY MR. PESSAH:	12:00:49
23	Q. In any regard relating to your departure?	12:00:50
24	MR. STRUBLE: Same objection.	12:00:54
25	///	

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1	BY MR. PESSAH:	12:00:56
2	Q. Sure.	12:00:56
3	A. I don't understand the question.	12:00:56
4	Q. Did you and Mr. Quinn have any	12:00:57
5	disagreements about the circumstances of your	12:01:00
6	departure from Neon?	12:01:03
7	A. No.	12:01:06
8	MR. STRUBLE: Objection to form.	12:01:06
9	THE WITNESS: I wouldn't say so.	12:01:07
10	BY MR. PESSAH:	12:01:11
11	Q. Okay. And did you ever witness Mr. Quinn	12:01:12
12	lose his temper?	12:01:14
13	MR. STRUBLE: Object to form.	12:01:16
14	THE WITNESS: No. I never saw it.	12:01:17
15	BY MR. PESSAH:	12:01:23
16	Q. Did you find Mr. Quinn to be intimidating?	12:01:24
17	MR. STRUBLE: Object to form, vague, ambiguous.	12:01:28
18	THE WITNESS: Intellectually so, yes. He is a	12:01:29
19	smart guy.	12:01:38
20	BY MR. PESSAH:	12:01:39
21	Q. Okay.	12:01:40
22	A. Yeah, he is a smart guy in the space, for	12:01:40
23	sure, and has an industry-wide reputation that is,	12:01:42
24	you know, well-known.	12:01:45
25	Q. Got it. Okay. And what is his reputation?	12:01:45

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1	MR. STRUBLE: Object to form.	12:01:49
2	THE WITNESS: I mean I think he's -- he's known	12:01:50
3	as kind of one of the pioneers in the indie space,	12:01:54
4	and Neon is a -- is seen as an entity that is very	12:02:00
5	well respected. And Mr. Quinn has a ton (audio	12:02:06
6	disruption). The respect for him in the industry is	12:02:16
7	vast and, uh, -- yeah. I don't know what else to	12:02:18
8	say about Tom. I think he's a great guy, and, like	12:02:24
9	I said, well-respected, and it's an amazing thing	12:02:28
10	that he started.	12:02:31
11	BY MR. PESSAH:	12:02:32
12	Q. Okay. Great. When Neon would hire outside	12:02:32
13	consultants, would those outside consultants	12:02:38
14	have @neonrated email addresses and titles inside	12:02:44
15	the company?	12:02:47
16	MR. STRUBLE: Objection to form, vague and	12:02:47
17	ambiguous as to time and consultants.	12:02:49
18	THE WITNESS: If I recall correctly, there was a	12:02:54
19	general email account that we would give to them,	12:02:57
20	and then they wouldn't have titles. It would just	12:02:59
21	be consultants.	12:03:06
22	BY MR. PESSAH:	12:03:08
23	Q. Was that true for the entirety of your	12:03:08
24	employment?	12:03:10
25	A. From what I recall. Sorry, do you mind if	12:03:11

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1	we take just about a 5-minute break just to clear my	12:03:14
2	throat?	12:03:16
3	Q. No problem.	12:03:17
4	A. Okay. Thank you.	12:03:18
5	THE VIDEOGRAPHER: We are now going off the	12:03:20
6	record, and the time is 12:03 p.m.	12:03:22
7	(Recess.)	12:17:50
8	THE VIDEOGRAPHER: We are now going back on the	12:17:50
9	record, and the time is 12:17 p.m.	12:17:57
10	MR. PESSAH: A quick note for the record.	12:18:05
11	Unfortunately, the witness is not feeling well, and	12:18:07
12	his voice is a little scratchy. And he has required	12:18:08
13	a few breaks, some at my suggestion to clear his	12:18:13
14	throat, which is totally fine. He's entitled to	12:18:19
15	clear his throat, and he's entitled to be healthy.	12:18:20
16	But the -- the problem that counsel has insisted	12:18:23
17	on limiting the time artificially of his deposition.	12:18:26
18	So each time we go on a break, we get closer and	12:18:29
19	closer to the artificial limit that counsel placed	12:18:32
20	on this deposition. And I am just noting that for	12:18:36
21	the record because I have proposed to conduct the	12:18:42
22	deposition in New York. I have proposed to come	12:18:43
23	back. And I will propose it now, to come back on a	12:18:46
24	day where the witness's voice is better, so we can	12:18:50
25	conduct a deposition without interruption.	12:18:53

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1 And I see Mr. Struble looks very disappointed to 12:18:56  
2 hear all this, so I will -- 12:19:02

3 MR. STRUBLE: I don't look disappointed at all. 12:19:03  
4 I'm actually -- my face shows skepticism of the 12:19:07  
5 mischaracterizations you're placing on the record. 12:19:10

6 First of all, your mischaracterizations of the 12:19:13  
7 breaks are wrong. He is well enough to be deposed. 12:19:14  
8 He wanted a cup of tea. There is nothing wrong with 12:19:17  
9 getting a cup of tea, and the offer to come to New 12:19:19  
10 York is only after you've already made him sit for 12:19:22  
11 one day so that you can take it a second day. 12:19:23

12 You should have came to New York in the first 12:19:25  
13 instance or woke up at a reasonable time to take his 12:19:27  
14 deposition, and I don't know why you are wasting 12:19:31  
15 your own record time, multiple times now, with these 12:19:32  
16 speeches. 12:19:34

17 You should continue the deposition, sir, without 12:19:35  
18 these self-serving setups for an inevitable motion 12:19:36  
19 to compel that you're dead set on conducting, 12:19:40  
20 whether or not it is warranted. 12:19:43

21 MR. PESSAH: No, no. We have on the record 12:19:44  
22 evidence of the witness's voice going out and 12:19:46  
23 getting very raspy. And that's no offense to the 12:19:49  
24 witness, but that's -- those are the facts. I mean, 12:19:51  
25 that's not -- I'm not making this up. 12:19:57

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1	So if the witness is well enough to continue,	12:19:58
2	that is fine. But if we're going to have to take	12:20:00
3	breaks every half an hour so the witness can drink	12:20:02
4	tea, then I would rather let the witness go, so he	12:20:05
5	can drink tea, feel better, and we can come back on	12:20:07
6	a day where we don't have to take those breaks.	12:20:10
7	And, Mr. Struble, I'd appreciate if you keep	12:20:12
8	your voice down, and I'll just try to continue the	12:20:16
9	deposition --	12:20:16
10	(Indiscernible crosstalk.)	12:20:18
11	MR. STRUBLE: My voice is fine, and it's totally	12:20:18
12	misleading. You took a six-minute break to hang out	12:20:20
13	with your family. I'm sorry. This is a deposition.	12:20:23
14	Take your deposition.	12:20:25
15	MR. PESSAH: That's inaccurate.	12:20:26
16	Mr. Wehrfritz, I just want to make sure --	12:20:28
17	(Indiscernible crosstalk.)	12:20:28
18	MR. PESSAH: Mr. Wehrfritz, are you ready to	12:20:31
19	proceed with your deposition now, or do you need	12:20:34
20	some more time?	12:20:36
21	THE WITNESS: Yes, I am good.	12:20:38
22	BY MR. PESSAH:	12:20:39
23	Q. You're good, okay. So again, if you need a	12:20:39
24	break for your voice, you can always let me know.	12:20:41
25	But unfortunately, your counsel has placed some	12:20:43

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1	artificial limits on this.	12:20:45
2	MR. STRUBLE: We have not. You are wasting your	12:20:48
3	time. Stop arguing and mischaracterizing things.	12:20:49
4	MR. PESSAH: Mr. Struble, please lower the	12:20:53
5	temperature.	12:20:56
6	MR. STRUBLE: You are the one wasting time.	12:20:57
7	MR. PESSAH: Please lower the temperature,	12:21:01
8	Mr. --	12:21:01
9	MR. STRUBLE: Ask your -- ask your questions.	12:21:05
10	MR. PESSAH: Mr. -- Mr. Struble, please lower	12:21:05
11	the temperature.	12:21:06
12	MR. STRUBLE: Please ask your questions.	12:21:08
13	MR. PESSAH: Can I have the last question read	12:21:08
14	back, please?	12:22:00
15	(Record read as requested.)	12:22:00
16	BY MR. PESSAH:	12:22:01
17	Q. Okay, great.	12:22:01
18	Mr. Wehrfritz, welcome back.	12:22:03
19	Did any of the discussions you had, during the	12:22:10
20	break, would those impair your ability to testify	12:22:12
21	truthfully today?	12:22:14
22	MR. STRUBLE: Objection to form.	12:22:16
23	THE WITNESS: No.	12:22:17
24	BY MR. PESSAH:	12:22:17
25	Q. And would they change your testimony in any	12:22:18

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1	way, shape, or form?	12:22:21
2	A. No.	12:22:24
3	Q. Okay. Great.	12:22:24
4	So you mentioned RSM was an outside accounting	12:22:26
5	firm that Neon retained to assist in the accounting	12:22:35
6	and finance department; correct?	12:22:39
7	MR. STRUBLE: Objection to form.	12:22:41
8	THE WITNESS: Correct.	12:22:42
9	BY MR. PESSAH:	12:22:43
10	Q. And when you -- when did they bring on RSM	12:22:43
11	to the best of your recollection?	12:22:45
12	A. I thought it was in 2018. It might have	12:22:47
13	been 2019.	12:22:55
14	Q. So sometime in the 24 months between 2018	12:22:56
15	and the end of the 2019?	12:23:01
16	A. Yes. Well, I was there in 2018, started in	12:23:03
17	July.	12:23:10
18	Q. Okay. And how long after you started was	12:23:10
19	RSM hired?	12:23:13
20	A. I don't --	12:23:15
21	MR. STRUBLE: Objection to form.	12:23:15
22	THE WITNESS: Yeah, I don't recall the date.	12:23:17
23	BY MR. PESSAH:	12:23:18
24	Q. And what specifically was RSM hired to do?	12:23:18
25	A. To provide some assistance on the	12:23:21

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1 accounting and finance side of things, from a -- you 12:23:29  
2 know, a halfway accredited accounting firm. They -- 12:23:35  
3 they were brought in to really assist. 12:23:40

4 Q. And then why -- why was their assistance 12:23:42  
5 needed? Why couldn't the accounting and finance 12:23:45  
6 work be done by yourself and the other consultants 12:23:49  
7 on the team? 12:23:52

8 MR. STRUBLE: Object to form, asked and 12:23:54  
9 answered. 12:23:56

10 THE WITNESS: Yeah. No, they were brought in 12:23:58  
11 just given that they're -- they were a reputable 12:24:00  
12 accounting firm that I thought their resources were 12:24:04  
13 just, in a word, better than perhaps some of the 12:24:08  
14 external consultants that we had up to that point. 12:24:13

15 BY MR. PESSAH: 12:24:20

16 Q. So what specifically were they hired for, 12:24:21  
17 other than the fact that they had a good reputation? 12:24:23

18 MR. STRUBLE: Object to form. 12:24:26

19 THE WITNESS: They helped us in putting together 12:24:29  
20 financial statements, specifically. 12:24:32

21 BY MR. PESSAH: 12:24:33

22 Q. And did -- did Neon need assistance with 12:24:34  
23 that? 12:24:37

24 MR. STRUBLE: Object to form. 12:24:39

25 THE WITNESS: Yeah, from a resource perspective, 12:24:39

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1	we certainly did.	12:24:42
2	BY MR. PESSAH:	12:24:43
3	Q. Okay. So -- so Neon lacked resources to	12:24:43
4	prepare accounting statements without the assistance	12:24:49
5	of RSM?	12:24:55
6	MR. STRUBLE: Object to form.	12:24:56
7	THE WITNESS: As we grew bigger, our needs --	12:24:58
8	our needs, you know, grew as well in regard to	12:25:01
9	accounting and finance so they were -- they were	12:25:06
10	brought in to help kind of just alleviate some of	12:25:08
11	the -- some of the stresses that were being put	12:25:12
12	on -- on us as resources in the accounting and	12:25:16
13	finance, just to really offset -- not offset, but	12:25:19
14	just to further the depth of us as an accounting and	12:25:24
15	finance organization.	12:25:29
16	BY MR. PESSAH:	12:25:30
17	Q. Had RSM not been hired, would Neon have	12:25:31
18	sufficient resources to do the work that it needed	12:25:37
19	to do in the accounting and finance arena?	12:25:39
20	MR. STRUBLE: Objection to form, vague and	12:25:42
21	ambiguous, calls for speculation.	12:25:43
22	THE WITNESS: We would have had to do something.	12:25:44
23	If it wasn't RSM, it would have been, you know,	12:25:51
24	somebody else.	12:25:53
25	MR. PESSAH: I'm going to have the question read	12:25:56

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1	back.	12:25:58
2	Ms. Stoker?	12:25:58
3	(Record read as requested.)	12:25:59
4	MR. STRUBLE: Object to form. Same objections,	12:26:14
5	asked and answered, actually.	12:26:15
6	THE WITNESS: Yeah, the same answer. If RSM	12:26:19
7	wasn't hired, it would have had to be somebody else.	12:26:23
8	BY MR. PESSAH:	12:26:26
9	Q. So then Neon did not have sufficient	12:26:27
10	resources on its own to handle the accounting and	12:26:28
11	finance to match its growth; correct?	12:26:32
12	MR. STRUBLE: Object to form.	12:26:37
13	THE WITNESS: Yeah, we got to the point where	12:26:37
14	we -- you know, we were growing quickly, and we	12:26:39
15	needed to match that with appropriate level of	12:26:43
16	resources. So RSM was hired to do it, to be that	12:26:47
17	resource.	12:26:50
18	BY MR. PESSAH:	12:26:50
19	Q. And so, therefore, Neon did not have	12:26:51
20	sufficient internal resources to meet the demands of	12:26:53
21	its growth; correct?	12:26:55
22	MR. STRUBLE: Object to form, vague, ambiguous,	12:26:56
23	asked and answered.	12:26:58
24	THE WITNESS: I mean, it was a -- you know, the	12:26:59
25	entity was growing -- growing quickly, and we	12:27:04

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1 maneuvered to accommodate the needs of this growing 12:27:06  
2 business by hiring externally. 12:27:10

3 BY MR. PESSAH: 12:27:13

4 Q. And without hiring externally, Neon did not 12:27:13  
5 have sufficient internal resources to meet those 12:27:16  
6 needs; correct? 12:27:20

7 MR. STRUBLE: Object to form, asked and 12:27:21  
8 answered. 12:27:22

9 THE WITNESS: Yeah, I think I articulated 12:27:23  
10 already that, you know, we needed to hire. 12:27:27

11 BY MR. PESSAH: 12:27:33

12 Q. And so is it safe to say that Neon did not 12:27:33  
13 have sufficient internal resources to meet its 12:27:35  
14 accounting and finance needs without the assistance 12:27:38  
15 of an outside company like RSM? 12:27:40

16 MR. STRUBLE: Object to form, asked and 12:27:43  
17 answered. 12:27:45

18 THE WITNESS: No, I mean, the same question. 12:27:46  
19 But that's why we hired RSM. 12:27:49

20 BY MR. PESSAH: 12:27:52

21 Q. Because you didn't have sufficient internal 12:27:52  
22 resources at the time; correct? 12:27:53

23 A. Because we were growing and we needed 12:27:55  
24 external resources. 12:27:57

25 MR. STRUBLE: Objection to form. 12:27:59

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1	BY MR. PESSAH:	12:27:59
2	Q. And without those external resources, there	12:28:00
3	would not be enough resources to meet the growing	12:28:02
4	needs of Neon; correct?	12:28:06
5	MR. STRUBLE: Object to form.	12:28:07
6	THE WITNESS: Okay. Yes.	12:28:09
7	BY MR. PESSAH:	12:28:12
8	Q. Okay. And did you find RSM to be a good	12:28:14
9	external partner for the resources that were needed	12:28:23
10	at Neon?	12:28:28
11	MR. STRUBLE: Object to form.	12:28:29
12	THE WITNESS: I did.	12:28:29
13	BY MR. PESSAH:	12:28:30
14	Q. And who at RSM was your main point of	12:28:30
15	contact?	12:28:34
16	A. His name was Devon.	12:28:35
17	Q. Do you remember his last name?	12:28:37
18	A. I am trying to think. It has been a while.	12:28:39
19	I don't recall his last name.	12:28:45
20	Q. Okay. And Devon, what was RSM's primary	12:28:46
21	task?	12:28:54
22	A. They were helping us in all -- in all	12:28:56
23	facets of accounting and finance, including doing	12:28:58
24	journal entries, statement preparation.	12:29:06
25	Q. And would you qualify RSM as an outside	12:29:09

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1	consultant as well?	12:29:14
2	A. I believe -- I can't remember how we -- how	12:29:16
3	we did it for the -- for bookkeeping purposes, but I	12:29:20
4	believe that's what we did.	12:29:27
5	Q. I am not asking what you did for	12:29:29
6	bookkeeping purposes. I am asking if you would	12:29:32
7	consider them to be an outside consultant.	12:29:34
8	A. Yes.	12:29:36
9	MR. STRUBLE: Object to form, vague and	12:29:38
10	ambiguous.	12:29:39
11	BY MR. PESSAH:	12:29:40
12	Q. And were their services -- the charges for	12:29:40
13	their services allocated to the different films that	12:29:44
14	Neon was working on?	12:29:49
15	MR. STRUBLE: Object to form.	12:29:50
16	THE WITNESS: I don't recall specifics on how	12:29:51
17	they were allocated, if they were, across films.	12:29:55
18	I believe it was -- the charges were just, were	12:29:59
19	not allocated, actually, across films.	12:30:03
20	BY MR. PESSAH:	12:30:06
21	Q. Okay. So Neon would pay for RSM services?	12:30:06
22	MR. STRUBLE: Object to form.	12:30:12
23	THE WITNESS: I believe that's correct.	12:30:13
24	BY MR. PESSAH:	12:30:14
25	Q. But when they would hire other consultants	12:30:15

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1	for accounting and finance, the other consultant	12:30:19
2	services would be allocated as fees amongst the	12:30:21
3	films; right?	12:30:25
4	(Indiscernible crosstalk.)	12:30:26
5	MR. STRUBLE: Object to form. Hold on. Lacks	12:30:26
6	foundation.	12:30:30
7	THE WITNESS: Well, they were very typical --	12:30:30
8	well, they were very definitively ascribable to film	12:30:33
9	work. RSM's job -- jobs were -- were typically --	12:30:35
10	you know, a generalized level.	12:30:42
11	But if there was consultants hired to do	12:30:45
12	specific work on specific films, it could be	12:30:47
13	ascribed to those films, then that's how it was	12:30:50
14	treated.	12:30:53
15	BY MR. PESSAH:	12:30:57
16	Q. What were RSM's various jobs?	12:30:57
17	A. As I mentioned, it was doing accounting	12:30:59
18	journal entries, statement preparation.	12:31:07
19	Q. Statement preparation for specific films,	12:31:11
20	like quarterly statements?	12:31:14
21	MR. STRUBLE: Object to form.	12:31:18
22	THE WITNESS: No. It was using our accounting	12:31:19
23	software to generate statements, largely at the Neon	12:31:20
24	level.	12:31:24
25	///	

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1	BY MR. PESSAH:	12:31:25
2	Q. And how long did RSM -- did RSM's	12:31:28
3	engagement last?	12:31:35
4	A. We -- I mean, they -- they -- the entire	12:31:38
5	time -- you know, there was never a period of time	12:31:43
6	where they weren't engaged once they were initially	12:31:46
7	engaged. So throughout my time at Neon, since we	12:31:49
8	hired them until I departed, RSM was -- was working	12:31:54
9	with Neon.	12:32:00
10	Q. Okay. So RSM was still working with Neon	12:32:03
11	when you left; correct?	12:32:05
12	A. Yes.	12:32:06
13	Q. All right. And do you know if RSM	12:32:07
14	implemented any internal controls that Neon then	12:32:15
15	incorporated into its accounting and finance	12:32:21
16	department?	12:32:23
17	MR. STRUBLE: Objection to form, vague and	12:32:23
18	ambiguous.	12:32:25
19	THE WITNESS: If -- if -- can you actually	12:32:29
20	repeat that?	12:32:30
21	BY MR. PESSAH:	12:32:31
22	Q. Do you know if RSM ever recommended	12:32:31
23	internal controls for Neon's accounting and finance	12:32:35
24	department that were then incorporated and	12:32:41
25	implemented based on those recommendations?	12:32:43

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1	MR. STRUBLE: Wait a second. I am going to	12:32:46
2	object.	12:32:53
3	MR. PESSAH: Hurry up, Mr. Struble.	12:32:59
4	MR. STRUBLE: I am going to object to the extent	12:33:03
5	that any information protected by accountant-client	12:33:05
6	privileges are implicated, the witness should not	12:33:07
7	reveal those privileged communications.	12:33:13
8	Otherwise, he can answer.	12:33:15
9	MR. PESSAH: There's no such thing as	12:33:18
10	accountant-client privilege. That does not exist.	12:33:21
11	That's not a thing. Okay.	12:33:24
12	Mr. Wehrfritz is in accounting and finance. We	12:33:30
13	have been talking to him all day. Okay. So there	12:33:35
14	is no such thing as accountant-client privilege.	12:33:37
15	You just probably made that up.	12:33:39
16	(Indiscernible crosstalk.)	12:33:39
17	MR. PESSAH: I need you to stop obstructing this	12:33:43
18	deposition -- his deposition.	12:33:45
19	(Indiscernible crosstalk.)	12:33:46
20	MR. STRUBLE: I am merely telling him that any	12:33:46
21	privileges that exist should not be invaded. That's	12:33:48
22	all.	12:33:52
23	MR. PESSAH: You're here to object, and if you	12:33:53
24	are going to object on grounds of privilege, you	12:33:55
25	need to articulate what that privilege is.	12:33:57

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1	Do you -- can you articulate it or not?	12:34:00
2	MR. STRUBLE: Yes.	12:34:06
3	MR. PESSAH: Okay.	12:34:07
4	MR. STRUBLE: It is --	12:34:07
5	MR. PESSAH: What's the privilege? What's it	12:34:08
6	called?	12:34:09
7	MR. STRUBLE: It's called the accountant-client	12:34:09
8	privilege.	12:34:12
9	MR. PESSAH: That does not exist. There is no	12:34:14
10	such thing.	12:34:16
11	MR. STRUBLE: I'm going to permit him to answer,	12:34:16
12	but I will re-raise this issue if I need to.	12:34:18
13	MR. PESSAH: Can we have the question read back,	12:34:22
14	before Mr. Struble really interrupted with his	12:34:24
15	nonsensical privilege objection?	12:34:26
16	(Record read as requested.)	12:34:29
17	THE WITNESS: So they certainly had	12:34:56
18	recommendations. I don't recall specifics in terms	12:34:59
19	of implementation.	12:35:01
20	BY MR. PESSAH:	12:35:03
21	Q. At the time that you left, what type of	12:35:05
22	internal controls, if any, did Neon have in its	12:35:08
23	accounting and finance department?	12:35:14
24	MR. STRUBLE: Object to form.	12:35:16
25	THE WITNESS: I mean, there was numerous	12:35:16

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1	controls in place when it came to expenses and other	12:35:18
2	-- other parts of the accounting process. I don't	12:35:25
3	recall specifics, but they -- there were in place,	12:35:29
4	they were in place.	12:35:34
5	BY MR. PESSAH:	12:35:35
6	Q. And what were they?	12:35:35
7	MR. STRUBLE: Object to form.	12:35:36
8	THE WITNESS: Yeah, specifics, I don't recall,	12:35:37
9	but certainly governing expenses. They -- they were	12:35:41
10	in place.	12:35:45
11	I mean, there's controls limiting spending on a,	12:35:45
12	you know, per-person basis, you know, credit card	12:35:48
13	limits, et cetera, and, you know, that's one	12:35:53
14	example -- the one that I can easily recall. There	12:35:58
15	was other controls as well. I just -- offhand I	12:36:02
16	don't recall them.	12:36:04
17	BY MR. PESSAH:	12:36:04
18	Q. What were the spending controls that were	12:36:04
19	in place at Neon?	12:36:06
20	A. I mean, there were limitations. Typically,	12:36:10
21	spending was done on with people's credit cards, and	12:36:12
22	there was limitations put in place there. Every	12:36:15
23	person had a different limit based on where they	12:36:18
24	were in the organization and what their role was.	12:36:22
25	Q. And other than the credit card limits --	12:36:26

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1	MR. STRUBLE: Objection to the form of the	12:36:26
2	question as well.	12:36:28
3	BY MR. PESSAH:	12:36:29
4	Q. And other than the limits on the credit	12:36:30
5	cards that were placed, what were the other limits	12:36:33
6	that you recall --	12:36:36
7	(Indiscernible crosstalk.)	12:36:36
8	THE WITNESS: Well, it certainly --	12:36:38
9	MR. STRUBLE: Object to form.	12:36:38
10	THE WITNESS: I mean, certainly, from onset of	12:36:40
11	any movie project, there was a plan put into place,	12:36:43
12	and every department had to, you know, adhere from a	12:36:45
13	budgetary perspective with the dollars ascribed to a	12:36:50
14	marketing effort regarding a film. So, yeah, the	12:36:53
15	people were -- were tied to their budgets on a	12:36:58
16	per-film basis. They were limited to that -- those	12:37:03
17	amounts to spend.	12:37:06
18	There was exceptions, but those were, you know,	12:37:06
19	dealt with on a, you know, per-exception basis.	12:37:10
20	But, yeah, there was strict adherence to budgets as	12:37:13
21	they were created.	12:37:18
22	BY MR. PESSAH:	12:37:18
23	Q. Okay. Any other limitations that you can	12:37:19
24	think of?	12:37:22
25	A. Not offhand.	12:37:24

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1	MR. STRUBLE: Object to form.	12:37:24
2	THE WITNESS: Not offhand.	12:37:25
3	BY MR. PESSAH:	12:37:26
4	Q. So other than the per-employee spending	12:37:27
5	limits on employee credit cards, you can't recall,	12:37:30
6	as you sit here today, any other internal controls	12:37:32
7	that existed in the accounting and finance	12:37:34
8	department at Neon while you were there?	12:37:36
9	MR. STRUBLE: Object to form.	12:37:39
10	(Indiscernible crosstalk.)	12:37:39
11	MR. STRUBLE: Object to form, mischaracterizes	12:37:41
12	testimony.	12:37:43
13	THE WITNESS: Yeah. Like I said, there was --	12:37:43
14	there were other controls in the accounting and	12:37:45
15	finance departments than just -- you know, I don't	12:37:49
16	recall them specifically.	12:37:53
17	BY MR. PESSAH:	12:37:54
18	Q. Do you recall them generally, other than	12:37:55
19	the ones relating to employee spending?	12:37:56
20	MR. STRUBLE: Object to form.	12:37:59
21	THE WITNESS: Yeah. Spending was the biggest	12:38:00
22	one. The controls were -- were very definitive	12:38:03
23	about that. Back-up required for expenses was	12:38:10
24	noticed -- was clearly delineated in terms of what	12:38:12
25	needed to be provided.	12:38:17

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1 And, yeah, there was an approval process for 12:38:19  
2 expenses, certainly ones that weren't charged to the 12:38:22  
3 credit card, the larger ones. But, again, this 12:38:27  
4 is -- you know, was looked at on a per-project 12:38:29  
5 basis. 12:38:32

6 And, you know, at the onset of every project, it 12:38:32  
7 was well-known what the expenses were largely going 12:38:35  
8 to be, so strict adherence was compelled by Tom down 12:38:40  
9 to all departments. 12:38:44

10 BY MR. PESSAH: 12:38:48

11 Q. You said it was well-known what the 12:38:48  
12 expenses were going to be on a per-project basis at 12:38:49  
13 the outset of projects? 12:38:53

14 A. Yeah. 12:38:55

15 Q. Okay. 12:38:55

16 A. Well, well-known in terms of this is -- 12:38:56  
17 this is where we need to be budgetary-wise, and 12:38:59  
18 everybody is familiar with the vendors. They worked 12:39:02  
19 with these vendors, and they've got a strong 12:39:04  
20 familiarity with them. They know kind of where 12:39:07  
21 things are going to end up. 12:39:08

22 So determining the initial budget and then 12:39:10  
23 adhering to that was -- was something that, you 12:39:13  
24 know, I think folks were good at. People knew how 12:39:16  
25 to manage their budgets. 12:39:19

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1 Q. Okay. And so -- other than what you've 12:39:20  
2 listed in terms of internal controls, can you recall 12:39:24  
3 anything else? 12:39:27

4 A. That's all I can recall right now. 12:39:29

5 Q. Okay. So I think you mentioned employee 12:39:31  
6 expenses and expense budgets per project, as the two 12:39:35  
7 broad categories; right? 12:39:44

8 MR. STRUBLE: Object -- object to form, 12:39:47  
9 mischaracterizes the testimony. 12:39:48

10 THE WITNESS: Yeah. That's -- that's largely 12:39:49  
11 true. I mean, there's, you know, ultimate approval 12:39:54  
12 on things at the Tom level, and I'm assuming 12:39:59  
13 departments had their own -- own limitations on 12:40:05  
14 spending. 12:40:07

15 But Tom was the overall approver or non-approver 12:40:07  
16 of things. So there was a hierarchy of approvals -- 12:40:14  
17 approvers. 12:40:16

18 BY MR. PESSAH: 12:40:17

19 Q. So Tom was Mr. Quinn. When you say "Tom," 12:40:17  
20 you mean Mr. Quinn; correct? 12:40:21

21 A. Yeah. Sorry. 12:40:22

22 Q. Mr. Quinn was the person responsible for 12:40:23  
23 enforcing the internal controls in the accounting 12:40:26  
24 and finance department at Neon? 12:40:28

25 A. Not enforcing. 12:40:31

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1	MR. STRUBLE: Object to form.	12:40:31
2	THE WITNESS: Sorry. Not -- not enforcing	12:40:33
3	necessarily. I don't know if that is unarticulated,	12:40:35
4	but he was certainly the overall approver in terms	12:40:37
5	of expenses that were deemed large or inconsistent	12:40:42
6	with how the original budget was formulated.	12:40:49
7	BY MR. PESSAH:	12:40:50
8	Q. Okay. We'll talk about -- how do you	12:40:51
9	distinguish approval versus enforce?	12:40:53
10	MR. STRUBLE: Object to form.	12:40:56
11	BY MR. PESSAH:	12:41:00
12	Q. Are you -- are you making -- you seem to be	12:41:00
13	making that distinction.	12:41:01
14	A. Yeah. And I don't know that that	12:41:02
15	distinction is correct. Maybe I am conflating them.	12:41:05
16	But, yeah, I think the terms are probably largely	12:41:08
17	interchangeable here.	12:41:09
18	Q. So he was the person tasked with enforcing	12:41:11
19	the internal controls in the accounting and finance	12:41:14
20	department at Neon while you were there?	12:41:18
21	A. Well, when it came to spending, he was the	12:41:20
22	ultimate approver, and --	12:41:23
23	MR. STRUBLE: Object to the form of that	12:41:26
24	question.	12:41:28
25	///	

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1	BY MR. PESSAH:	12:41:28
2	Q. And was he the enforcer as well of the	12:41:28
3	spending policies while you were employed at Neon?	12:41:31
4	MR. STRUBLE: Object to form.	12:41:34
5	THE WITNESS: Yes.	12:41:35
6	BY MR. PESSAH:	12:41:37
7	Q. Okay. So meaning if anyone did not follow	12:41:38
8	one of those internal controls, he would be the	12:41:43
9	person who would have knowledge of that and then	12:41:48
10	take appropriate action?	12:41:51
11	MR. STRUBLE: Object to form, calls for	12:41:53
12	speculation, incomplete hypothetical.	12:41:57
13	THE WITNESS: Yeah, I'm not sure how to answer	12:41:59
14	that.	12:42:00
15	BY MR. PESSAH:	12:42:01
16	Q. Is it that you don't know?	12:42:04
17	A. No, I just --	12:42:06
18	MR. STRUBLE: Object to form.	12:42:06
19	THE WITNESS: Just maybe you can reframe the	12:42:07
20	question.	12:42:08
21	MR. PESSAH: Sure. I will have the court	12:42:09
22	reporter read it back?	12:42:11
23	(Record read as requested.)	12:42:12
24	MR. STRUBLE: Object to form.	12:42:32
25	THE WITNESS: Okay. Yes.	12:42:34

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1 BY MR. PESSAH: 12:42:36

2 Q. And how would -- how would he be informed 12:42:41

3 of that. Let's say, for example, an employee didn't 12:42:43

4 provide accurate -- adequate support for an expense, 12:42:48

5 was -- was there like an internal system where he 12:42:55

6 would get an alert about that, or would somebody 12:42:56

7 communicate that to him? 12:42:58

8 MR. STRUBLE: Object to form. Hold on. Object 12:43:01

9 to form, calls for speculation. 12:43:03

10 THE WITNESS: Yeah. It was the former. Plus, 12:43:04

11 you know, we were constantly producing film 12:43:07

12 statements that would show the progress of where 12:43:10

13 spending was on a -- on all the films that we were 12:43:12

14 working on at a given point, so he could track -- he 12:43:16

15 could see in realtime what the spending was like. 12:43:19

16 BY MR. PESSAH: 12:43:23

17 Q. Okay. And so just broad categories, it was 12:43:26

18 employee spending and then budgets for film; right? 12:43:32

19 Those are the two broad categories that you recall, 12:43:36

20 sitting here today, pertaining to Neon's -- (audio 12:43:41

21 disruption) internal controls? 12:43:44

22 MR. STRUBLE: Object to form, asked and 12:43:46

23 answered, vague and ambiguous. 12:43:50

24 THE WITNESS: Yeah. Again, there is other -- 12:43:51

25 other controls. Certainly, I'd just, you know, have 12:43:55

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1 to refresh my memory, and I am not sure off the top 12:43:56  
2 of my head, specifically what those other controls 12:44:00  
3 were. 12:44:02

4 They existed, and I just -- you know, they're 12:44:02  
5 not easily refreshable on my end. 12:44:07

6 BY MR. PESSAH: 12:44:09

7 Q. Okay. And while you were at Neon, did Neon 12:44:10  
8 retain any company to conduct a third-party audit of 12:44:17  
9 its accounting? 12:44:23

10 MR. STRUBLE: Object to form. 12:44:26

11 THE WITNESS: Yeah. I mean, we had our first 12:44:27  
12 audit in -- for the year -- I think it was for the 12:44:30  
13 year 2019 to 2020, I would say. 12:44:34

14 BY MR. PESSAH: 12:44:47

15 Q. You had an audit conducted in 2019 or 2020, 12:44:47  
16 you don't recall? 12:44:49

17 A. 2019, I think was the year of the audit -- 12:44:50  
18 or the first year that it was audited. 12:44:55

19 Q. And which -- which company was retained? 12:44:57

20 A. I think it was 2019. 12:45:00

21 Q. Which company? 12:45:01

22 A. RSM. I think it was RSM. Yeah. Sorry, I 12:45:02  
23 am really struggling here with recalling some of 12:45:05  
24 these things. 12:45:07

25 Q. No worries. RSM conducted an outside audit 12:45:07

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1 of the Neon's books and records? 12:45:11

2 A. I think it was RSM, or actually, I don't 12:45:13

3 know. Ryan got somebody else, possibly, to do the 12:45:16

4 audit. 12:45:20

5 Q. Okay. And -- but to the best of your 12:45:20

6 recollection, it was RSM that conducted that audit? 12:45:24

7 A. I think it was RSM. 12:45:27

8 Q. Okay. And -- 12:45:31

9 MR. STRUBLE: Object to form. 12:45:32

10 BY MR. PESSAH: 12:45:34

11 Q. And whose -- whose idea was it for an 12:45:36

12 external third-party audit to be conducted at that 12:45:39

13 time? 12:45:41

14 A. I think it was a requirement for our 12:45:41

15 investors. 12:45:47

16 Q. Your investors, like 30West? 12:45:48

17 MR. STRUBLE: Object to form. 12:45:52

18 THE WITNESS: Correct. 12:45:53

19 BY MR. PESSAH: 12:45:54

20 Q. Was there a specific individual at 30West 12:45:55

21 that was requesting an outside audit? 12:45:58

22 A. I think it was in the documentation. I 12:46:00

23 don't know if it was a verbal request. I think it 12:46:04

24 was like a formal requirement. 12:46:06

25 Q. Was it a formal requirement, like, on a 12:46:10

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1	condition of the investment?	12:46:14
2	MR. STRUBLE: Object to form. Calls for a --	12:46:15
3	THE WITNESS: Yeah, that I don't know. I don't	12:46:18
4	have the details.	12:46:20
5	BY MR. PESSAH:	12:46:21
6	Q. And do you know if there was a report	12:46:22
7	generated as a result of that third-party audit?	12:46:24
8	A. Yeah, there's an audit report.	12:46:28
9	Q. And have you seen that report?	12:46:30
10	A. I have seen it, or I saw it, yeah.	12:46:33
11	Q. Okay. And do you recall what the findings	12:46:36
12	of that audit report were?	12:46:39
13	A. No.	12:46:40
14	Q. Do you recall any of the information or	12:46:41
15	findings that were contained in that report?	12:46:46
16	A. I do not. It has been a while.	12:46:48
17	Q. Okay. Are you familiar with a company	12:46:50
18	called CohnReznick?	12:46:57
19	A. Yes.	12:46:59
20	Q. During your employment at Neon, did	12:47:00
21	CohnReznick do any work for Neon?	12:47:04
22	A. I don't recall. I think they -- maybe	12:47:06
23	that's a company that Ryan brought in. I don't	12:47:10
24	recall, yeah. Sorry.	12:47:13
25	Q. Did Ryan bring in another accounting	12:47:15

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1	company to replace RSM?	12:47:17
2	A. For a -- from an audit perspective, I think	12:47:19
3	so.	12:47:25
4	Q. And why? Why did RSM need to be replaced?	12:47:26
5	MR. STRUBLE: Objection to form, calls for	12:47:42
6	speculations, lacks foundation.	12:47:44
7	THE WITNESS: Yeah, I don't know.	12:47:44
8	BY MR. PESSAH:	12:47:45
9	Q. In your opinion, RSM was doing an adequate	12:47:50
10	job; right?	12:47:54
11	MR. STRUBLE: Object to form.	12:47:54
12	THE WITNESS: I thought so. The -- the tasks	12:47:55
13	that we were giving them, I think they did a good	12:47:57
14	job.	12:48:00
15	MR. PESSAH: We will mark Exhibit 3 for	12:48:15
16	identification.	12:48:16
17	(Exhibit 3 was marked for	12:48:16
18	identification.)	12:48:16
19	BY MR. PESSAH:	12:48:16
20	Q. I am going to share my screen with you,	12:48:21
21	Mr. Wehrfritz, and my colleague will be dropping the	12:48:29
22	exhibit in the chat; okay?	12:48:31
23	So this is an email chain Bates-stamped Neon	12:48:32
24	12100 through 12101.	12:48:39
25	And, Mr. Wehrfritz, who is Sumyi Antonson?	12:48:44

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1	MR. STRUBLE: Hold on. I need a copy of the	12:48:51
2	exhibit before you continue questioning.	12:48:53
3	MR. PESSAH: Do you not see the exhibit on the	12:48:59
4	screen?	12:49:01
5	MR. STRUBLE: I am entitled to inspect it. Have	12:49:02
6	you been to depositions where people just don't hand	12:49:05
7	out exhibits?	12:49:06
8	MR. PESSAH: No, we're putting it in the chat.	12:49:06
9	I'm just trying to save us time. The witness can	12:49:07
10	see it, you can see it, and it's about to be dropped	12:49:08
11	in the chat.	12:49:08
12	MR. STRUBLE: We don't save time by skipping	12:49:09
13	over normal -- normal requirements of a deposition.	12:49:11
14	MR. PESSAH: I am not skipping over anything,	12:49:12
15	dude.	12:49:14
16	BY MR. PESSAH:	12:49:15
17	Q. Mr. Wehrfritz, do you see this document?	12:49:15
18	Can you see the document on my screen?	12:49:18
19	A. Yes.	12:49:19
20	Q. Okay. Who is Sumyi Antonson?	12:49:19
21	A. She is either a former or current, I don't	12:49:27
22	know if she still works at Neon, employee. She	12:49:29
23	works in -- she works in marketing in the LA office.	12:49:31
24	Q. Okay. Did you ever interact with her while	12:49:36
25	you were employed?	12:49:38

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1	A.	Yes, I've had interactions with her.	12:49:41
2	Q.	In what context? Like, she was working in	12:49:44
3		marketing, and you were in accounting.	12:49:47
4		So what was the interplay between those two?	12:49:49
5	A.	Yeah. I mean, consistent throughout the	12:49:51
6		whole organization. I mean, there's always	12:49:53
7		involvement from a finance perspective in most	12:49:55
8		activities --	12:49:57
9	Q.	Uh-huh.	12:50:00
10	A.	-- clients spend money.	12:50:01
11	Q.	Who is Clint Cockrill?	12:50:05
12	A.	He's similarly also -- either is currently	12:50:09
13		or was, at that point, employed by Neon and also the	12:50:11
14		marketing group -- and marketing department, sorry.	12:50:13
15	Q.	Okay. Very well. And did you -- did you	12:50:21
16		ever speak to Mr. Cockrill?	12:50:22
17	A.	Yes.	12:50:24
18	Q.	You still speak with him?	12:50:24
19	A.	No. Sorry, I did at the time. I haven't	12:50:26
20		spoken to him.	12:50:30
21	Q.	Okay. And you can see here that	12:50:31
22		Ms. Antonson is saying to someone at -- it looks	12:50:34
23		like at KCRW, "Our finance team has been revamping	12:50:38
24		their internal process this year, and unfortunately,	12:50:42
25		these months have slipped through the cracks."	12:50:46

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1	Do you know what Ms. Antonson is talking about	12:50:50
2	when she refers to revamping internal processes?	12:50:53
3	MR. STRUBLE: Object to form.	12:50:59
4	THE WITNESS: Yeah. I mean, I can only	12:51:01
5	speculate that it's related to us working with RSM.	12:51:02
6		12:51:02
7	BY MR. PESSAH:	12:51:10
8	Q. Okay.	12:51:10
9	A. And employing --	12:51:22
10	(Reporter Clarification.)	12:51:22
11	THE WITNESS: I can only speculate that it's	12:51:22
12	related to us employing third parties to help us	12:51:24
13	out, including RSM, on our -- on our accounting and	12:51:26
14	finance work.	12:51:28
15	BY MR. PESSAH:	12:51:29
16	Q. Okay. Can you just refresh your	12:51:29
17	recollection in terms of who -- who was on Neon's	12:51:38
18	internal accounting and finance team around this	12:51:44
19	time, August 2019?	12:51:49
20	A. Yeah. I mean, it would have been me plus,	12:51:51
21	yeah, external consultants.	12:51:54
22	Q. But internally it was just you; correct?	12:51:56
23	MR. STRUBLE: Object to form.	12:52:00
24	THE WITNESS: Yes.	12:52:01
25	///	

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1	BY MR. PESSAH:	12:52:02
2	Q. And who -- how many outside consultants did	12:52:02
3	Neon have in its accounting and finance department	12:52:06
4	in August of 2019?	12:52:08
5	A. I don't know at that point in time.	12:52:12
6	Q. At least five?	12:52:16
7	A. I don't know.	12:52:18
8	Q. Absolutely no idea whatsoever?	12:52:19
9	A. I don't know the number is. It was RSM,	12:52:22
10	but -- and we also had a one or two that would work	12:52:25
11	for us in our offices in New York.	12:52:27
12	Q. All right. So when Ms. Antonson is saying	12:52:33
13	"finance team," who do you understand that to be?	12:52:36
14	MR. STRUBLE: Objection, asked --	12:52:39
15	(Indiscernible crosstalk.)	12:52:39
16	MR. STRUBLE: -- to form.	12:52:44
17	THE WITNESS: It should be referring to me, plus	12:52:45
18	whoever was hired as external help at the time.	12:52:46
19	BY MR. PESSAH:	12:52:50
20	Q. Do you know if Neon ever disclosed to any	12:52:50
21	of its licensors that it actually didn't have an	12:52:53
22	internally dedicated accounting and finance team	12:53:00
23	around this time, and that it was just one person	12:53:06
24	who was responsible for that internally?	12:53:10
25	MR. STRUBLE: Object to form, lacks foundation.	12:53:12

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1	THE WITNESS: I don't know.	12:53:16
2	BY MR. PESSAH:	12:53:17
3	Q. Okay. And so when Ms. Antonson says that	12:53:19
4	Neon has been revamping its finance -- its internal	12:53:23
5	processes -- or the finance team has been revamping	12:53:26
6	their internal process, do you know what she is	12:53:31
7	talking about?	12:53:34
8	A. No, not specifically.	12:53:36
9	Q. How about generally?	12:53:37
10	MR. STRUBLE: Object to form.	12:53:40
11	THE WITNESS: Not generally either.	12:53:41
12	BY MR. PESSAH:	12:53:42
13	Q. You have no idea what she is talking about?	12:53:42
14	A. I can speculate.	12:53:44
15	Q. Sure.	12:53:46
16	MR. STRUBLE: I thought you don't want witnesses	12:53:48
17	to speculate.	12:53:51
18	MR. PESSAH: I don't think when he says	12:53:53
19	speculate that's what he means. I mean, you're	12:53:55
20	not -- you have -- you have some personal knowledge	12:53:56
21	over the internal accounting processes in the	12:53:57
22	finance department at Neon; right, at the time you	12:54:00
23	were there; right?	12:54:03
24	MR. STRUBLE: Objection to form, argumentative.	12:54:04
25	THE WITNESS: Yeah, certainly. But I don't know	12:54:06

1 specifically what she is referring to when she says 12:54:12

2 "revamping their internal process." 12:54:14

3 BY MR. PESSAH: 12:54:18

4 Q. Are you aware of any internal processes in 12:54:18

5 the finance and accounting team at Neon that were 12:54:21

6 being revamped on or around August 7, 2019? 12:54:24

7 A. We were continually trying to make 12:54:29

8 improvements to -- to our systems, our internal 12:54:31

9 systems. So, yeah, I would say there's improvements 12:54:35

10 always going on. 12:54:40

11 Q. So when -- but when you hear the words 12:54:41

12 "revamp," do you associate that with any actions 12:54:45

13 that were being taken on or around August 7th, 2019? 12:54:47

14 MR. STRUBLE: Objection to form. 12:54:52

15 THE WITNESS: No, I don't know specifically what 12:54:53

16 she is referring to. 12:54:56

17 BY MR. PESSAH: 12:54:58

18 Q. Okay. And were there any -- was there an 12:54:58

19 overhaul of Neon's accounting processes that was 12:55:03

20 occurring on or about August 7th, 2019? 12:55:06

21 MR. STRUBLE: Objection to form. 12:55:11

22 THE WITNESS: Overall, not to my knowledge. 12:55:12

23 BY MR. PESSAH: 12:55:14

24 Q. Before you were hired to -- as VP of 12:55:15

25 finance and strategy, who internally at Neon was 12:55:19

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1	tasked with heading the accountant -- accounting and	12:55:23
2	finance department?	12:55:26
3	A. I think we talked about this earlier. It	12:55:27
4	was Alamo Drafthouse's internal account and finance	12:55:34
5	department.	12:55:37
6	Q. So there was nobody internally at Neon	12:55:37
7	before you who was responsible for accounting and	12:55:39
8	finance; correct?	12:55:42
9	MR. STRUBLE: Objection to form, asked and	12:55:45
10	answered.	12:55:46
11	THE WITNESS: Yeah, still correct.	12:55:47
12	BY MR. PESSAH:	12:56:00
13	Q. All right. Mr. Wehrfritz, do you know who	12:56:01
14	Andrew Brown is?	12:56:03
15	A. Yes.	12:56:05
16	Q. Who is he?	12:56:05
17	A. He is, in a general sense to put it, like,	12:56:07
18	the digital revenue guy who had relationships with	12:56:13
19	the streaming providers.	12:56:18
20	Q. The digital revenue guy?	12:56:20
21	A. Yeah, when I -- that's what I said, in a	12:56:23
22	general sense, like, that's how I would think of him	12:56:26
23	as. But he was the person that headed up the	12:56:29
24	relationships with the -- the digital service	12:56:32
25	providers, the streaming companies.	12:56:35

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1	Q. Was he an employee of Neon?	12:56:41
2	MR. STRUBLE: Objection to form, vague and	12:56:43
3	ambiguous as to timeframe.	12:56:45
4	THE WITNESS: I know he was -- he was on a	12:56:46
5	contract basis for a while, and then he was made	12:56:49
6	permanent.	12:56:52
7	BY MR. PESSAH:	12:56:57
8	Q. Okay. Do you recall when he was made	12:56:57
9	permanent?	12:56:59
10	A. I don't recall a time.	12:56:59
11	Q. Okay. And did you find him to be competent	12:57:00
12	at his job?	12:57:06
13	MR. STRUBLE: Objection to form, vague and	12:57:07
14	ambiguous.	12:57:09
15	THE WITNESS: Yes, absolutely.	12:57:09
16	BY MR. PESSAH:	12:57:10
17	Q. Okay. And how would -- how would you judge	12:57:10
18	that?	12:57:14
19	MR. STRUBLE: Objection to form.	12:57:17
20	THE WITNESS: No, he was -- Andrew was great.	12:57:19
21	He -- the work he put together was terrific. He	12:57:22
22	always had answers to any questions I had for him on	12:57:25
23	revenue, and he was very good at putting together	12:57:31
24	information in an easy, decipherable sort of way.	12:57:33
25	Yeah, Andrew was terrific.	12:57:36

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1	BY MR. PESSAH:	12:57:37
2	Q. Okay. And you -- you knew that because you	12:57:38
3	had spoken with him before; right?	12:57:40
4	A. Yeah, I worked right across the road from	12:57:42
5	him.	12:57:45
6	Q. Okay. Great. And so you know at one point	12:57:47
7	he became permanent, but you just don't know when;	12:57:56
8	correct?	12:57:56
9	A. I know that --	12:57:58
10	MR. STRUBLE: Objection to form.	12:57:58
11	THE WITNESS: I know that he was, I believe,	12:57:59
12	made permanent. I just don't know when.	12:58:00
13	BY MR. PESSAH:	12:58:02
14	Q. And before he was made permanent, your	12:58:02
15	understanding was he was a consultant; correct?	12:58:04
16	A. Correct. That's my understanding.	12:58:06
17	MR. PESSAH: I am going to show you another	12:58:32
18	exhibit, I am marking for identification as	12:58:34
19	Exhibit 4. My colleague is going to drop a copy in	12:58:36
20	the chat, so Mr. Struble doesn't have a conniption,	12:58:38
21	and then I will share my screen.	12:58:45
22	MR. STRUBLE: There are no conniptions. It's	12:58:47
23	standard to share exhibits with people.	12:58:49
24	MR. PESSAH: I -- I've been sharing them this	12:58:51
25	entire time on my screen, and you have been	12:58:52

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1	objecting so --	12:58:53
2	(Indiscernible crosstalk.)	12:58:53
3	MR. STRUBLE: I need them --	12:58:56
4	(Indiscernible crosstalk.)	12:58:56
5	MR. PESSAH: It's Bates-stamped Neon 14231. I	12:58:59
6	am going to share my screen with you, Mr. Wehrfritz.	12:59:01
7	And can you see when I'm scrolling around or	12:59:05
8	moving in a circle on this Excel spreadsheet?	12:59:07
9	THE WITNESS: Yep.	12:59:09
10	BY MR. PESSAH:	12:59:10
11	Q. Okay. Great.	12:59:11
12	(Exhibit 4 was marked for	12:59:11
13	identification.)	12:59:11
14	BY MR. PESSAH:	12:59:11
15	Q. And so there are little tabs here at the	12:59:15
16	bottom of the screen, and I have one up for Amazing	12:59:16
17	Grace.	12:59:18
18	Do you see that?	12:59:18
19	A. Yes.	12:59:18
20	Q. And have you seen this document before?	12:59:19
21	A. I don't believe so.	12:59:24
22	Q. Do you know --	12:59:24
23	A. I don't believe I have. I don't recall	12:59:33
24	seeing this one specifically.	12:59:34
25	Q. Okay. Do you know what it is?	12:59:36

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1	A.	Yeah. I mean, I can -- I can see what it	12:59:40
2		is.	12:59:44
3	Q.	What is it?	12:59:44
4	A.	It looks like a -- like a revenue statement	12:59:47
5		that was put together with -- yeah, this is maybe	12:59:51
6		something that Jeff Deutchman put together.	12:59:56
7		(Reporter Clarification.)	01:00:04
8		BY MR. PESSAH:	01:00:07
9	Q.	And what is this? Does this look like	01:00:07
10		projections to you?	01:00:12
11	A.	It does.	01:00:13
12	Q.	Okay. And when you said -- when you	01:00:19
13		testified before that projections regarding expenses	01:00:20
14		were generally adhered to at Neon, is -- is this	01:00:22
15		what you meant by -- by a projection?	01:00:26
16		MR. STRUBLE: Objection to form.	01:00:32
17		THE WITNESS: I think this looks like something	01:00:33
18		that was done, at least initially, when we're	01:00:35
19		looking at acquiring the film rights, the film	01:00:38
20		distribution rights. But the marketing plan is put	01:00:41
21		together in a more granular level. That's really	01:00:44
22		what I was speaking to when I was referencing strict	01:00:47
23		adherence to budgets.	01:00:51
24		So I think this is kind of like the -- at least,	01:00:52
25		when they are initially formulated by Jeff, there's,	01:00:56

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1 like, some generalness to the numbers as presented, 01:01:00  
2 and then the budgets themselves, which is what I was 01:01:03  
3 specifically referencing for, are what is strictly 01:01:06  
4 adhered when it comes to spending. 01:01:09

5 BY MR. PESSAH: 01:01:12

6 Q. Okay. So this is -- I am sorry. This is 01:01:12  
7 not what you had in mind when you said that budgets 01:01:15  
8 are strictly adhered to, or it is? 01:01:18

9 A. Well, it's just a different document, not 01:01:20  
10 the one I was referring to. 01:01:23

11 Q. Okay. Is this -- does this look like 01:01:24  
12 something -- look like something that would be 01:01:25  
13 strictly adhered to or not? 01:01:27

14 MR. STRUBLE: Objection to form. 01:01:33

15 THE WITNESS: I don't know what that means. 01:01:34

16 BY MR. PESSAH: 01:01:35

17 Q. Do you recall testifying, Mr. Wehrfritz, 01:01:36  
18 that there was typically strict adherence to 01:01:38  
19 projections about budgets for projects; correct? 01:01:41

20 A. Yes. 01:01:44

21 MR. STRUBLE: Objection to form. 01:01:44

22 BY MR. PESSAH: 01:01:48

23 Q. Okay. Is this such a projection? 01:01:48

24 A. No, it's not. That's what I was just 01:01:51  
25 referencing. There's a -- it's a document that gets 01:01:54

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1 produced, like, when these are first put together, 01:01:56  
2 they are used at the time of acquisition of 01:01:57  
3 distribution of film rights. 01:01:59

4 But then there's a document that's put together 01:02:01  
5 that is specific to and a very detailed layout of 01:02:05  
6 the marketing plan, and that's what is specifically 01:02:09  
7 adhered to. So that does go into this once -- I 01:02:14  
8 guess, this captures actuals of the onset. You 01:02:18  
9 know, this is usually used to determine if a film 01:02:21  
10 is -- what the economics are going to be at the time 01:02:25  
11 of acquisition. 01:02:29

12 But when I was referring to strict adherence, it 01:02:29  
13 wasn't related to this document. Although, I guess 01:02:32  
14 this document is -- does envelop the projections as 01:02:33  
15 they are made in the other document I was referring 01:02:39  
16 to. It's not the one I was referring to. 01:02:40

17 BY MR. PESSAH: 01:02:44

18 Q. Okay. So you see here, at the bottom of 01:02:44  
19 the screen where I am moving the cursor, it says 01:02:48  
20 Amazing Grace, right? 01:02:51

21 A. Yep. 01:02:51

22 Q. So this would appear to be, based on your 01:02:52  
23 knowledge formerly as SVP of finance strategies, 01:02:56  
24 this would appear to be numbers and projections 01:03:01  
25 relating specifically to the project Amazing Grace; 01:03:04

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1	correct?	01:03:08
2	MR. STRUBLE: Objection to form, lacks	01:03:09
3	foundation, calls for speculation.	01:03:10
4	THE WITNESS: That's what it would appear to be,	01:03:16
5	yes.	01:03:19
6	BY MR. PESSAH:	01:03:19
7	Q. Okay. And so where would I look, which	01:03:19
8	line number would I look for to determine what the	01:03:22
9	projection is for expenses on this project?	01:03:30
10	MR. STRUBLE: Objection -- same objections,	01:03:33
11	object to form.	01:03:34
12	THE WITNESS: I mean, there's targets; right,	01:03:35
13	like the target column?	01:03:36
14	BY MR. PESSAH:	01:03:40
15	Q. The target column, okay --	01:03:40
16	A. Yeah.	01:03:42
17	Q. -- and so which line number?	01:03:43
18	A. So, yeah, it looks like -- and this is me	01:03:45
19	just interpreting what I'm seeing before me, is --	01:03:50
20	there's numbers ascribed as the estimates given at a	01:03:53
21	particular point in time. And it looks like there's	01:03:57
22	two sets of estimate -- dated -- dated estimates,	01:04:01
23	one, 12/5/2018, and then one, 4/8/2019, and you can	01:04:08
24	then see the numbers below are at that point in time	01:04:14
25	what the -- what the estimates are for -- for the	01:04:18

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1	overall film.	01:04:22
2	The actuals, I guess, show up in column L. But	01:04:24
3	the -- yeah, to the left of column K, it's -- it's	01:04:26
4	all estimate -- or it's estimates done at two points	01:04:30
5	in time.	01:04:35
6	Q. Okay. So where -- where can we find -- on	01:04:35
7	which line can we find the estimate for delivered	01:04:37
8	expenses?	01:04:40
9	MR. STRUBLE: Objection to form, lacks	01:04:40
10	foundation.	01:04:43
11	THE WITNESS: Yeah, you've got delivered	01:04:43
12	expenses in row, looks like, 29.	01:04:45
13	BY MR. PESSAH:	01:04:58
14	Q. All right. Go ahead.	01:04:58
15	A. Digital expenses, physical expenses under	01:04:58
16	the subdistributor deductions.	01:05:01
17	Q. Okay. Anything else?	01:05:04
18	A. Yeah, I don't see anything. Domestic P&A,	01:05:06
19	yeah, that's the biggest one. It's row 28.	01:05:19
20	Q. What's domestic P&A?	01:05:23
21	A. Yeah. I mean, that's the marketing budget.	01:05:28
22	Q. What does "P&A" stand for?	01:05:33
23	A. Prints and -- it's some -- like an	01:05:35
24	antiquated term that is used, but it's "prints and	01:05:38
25	advertising."	01:05:40

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1	Q.	Prints and advertising.	01:05:41
2	A.	Yeah.	01:05:44
3	Q.	So does -- this indicates that the target	01:05:45
4		projection for prints and advertising in December of	01:05:48
5		2018 was \$2 million; correct?	01:05:56
6	A.	Yeah, target, looks like.	01:06:01
7	Q.	And the target was also \$2 million in April	01:06:06
8		of 2019; correct?	01:06:10
9	A.	That's what it looks like.	01:06:12
10	Q.	Okay. And then on the low end in 2018, we	01:06:16
11		have 1.2 million; the low end of 2019, we still have	01:06:23
12		\$2 million; correct?	01:06:28
13	A.	That's what it looks like, yes.	01:06:31
14	Q.	Okay. And so prints and advertising, just	01:06:32
15		based on your experience at Neon and your personal	01:06:39
16		knowledge as the former VP of strategy and finance,	01:06:45
17		how -- how does Neon come up with these projections?	01:06:51
18		And my specific question is, are these	01:06:56
19		projections a function of the projected revenue, or	01:06:58
20		are they stand-alone projections?	01:07:03
21	A.	They're certainly intertwined. There's a	01:07:07
22		relationship between, you know, the amount you need	01:07:12
23		to spend to achieve a certain amount of revenues.	01:07:16
24		It varies by film type, definitely, but the	01:07:20
25		construction of these estimates is based, really, on	01:07:23

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1 historical knowledge and previous dealings in this 01:07:27  
2 space. 01:07:31

3 So if you had a history of -- in film, like Tom 01:07:32  
4 and Jeff have -- Tom Quinn and Jeff Deutchman have, 01:07:37  
5 they are able to put together these estimates, 01:07:42  
6 because they've seen how these films play out when 01:07:46  
7 it comes to the costs associated with domestic 01:07:48  
8 distribution. 01:07:50

9 Q. Okay. So domestic prints and advertising 01:07:51  
10 are domestic prints and distribution? 01:07:58

11 MR. STRUBLE: I need to interrupt. I'm sorry. 01:08:00  
12 I was -- my computer froze. I am on an alternative 01:08:02  
13 device. I need to take a brief break to reset the 01:08:07  
14 Zoom. 01:08:11

15 MR. PESSAH: Hold on a second, Mr. Struble. Is 01:08:12  
16 Mr. Greenwald not here yet? 01:08:19

17 MR. STRUBLE: He is not here, and I entirely 01:08:22  
18 lost connection. My computer is frozen. 01:08:23

19 MR. PESSAH: Yeah, but we can hear you fine now. 01:08:25

20 MR. STRUBLE: I am telling you, I need to take a 01:08:27  
21 break. I need to be on my machine. This is not my 01:08:29  
22 machine. This is not a suitable place. Give me two 01:08:31  
23 minutes to take a break, please. 01:08:35

24 MR. PESSAH: Sure. 01:08:37

25 THE WITNESS: Okay. 01:08:38

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1	THE VIDEOGRAPHER: We are now going off the	01:08:39
2	record. The time is 1:08 p.m.	01:08:41
3	(Recess.)	01:08:45
4	THE VIDEOGRAPHER: We are now going back on the	01:14:03
5	record, and the time is 1:14 p.m.	01:14:26
6	MR. STRUBLE: I need to put a statement on the	01:14:34
7	record. This is counsel for the witness. I lost --	01:14:36
8	my computer froze -- sorry, my computer froze when	01:14:39
9	the question pending was, "Where can we find and	01:14:42
10	which line can we find the estimate for delivered	01:14:46
11	expenses," at approximately 13:04. I am objecting	01:14:49
12	to the form of the questions that followed.	01:14:53
13	I was not -- I did not have access to the	01:14:55
14	deposition during that time until the point at which	01:14:57
15	I said I need to interrupt at 13:08.	01:15:00
16	MR. PESSAH: Okay. I was unaware that	01:15:04
17	Mr. Struble had lost his connection. Mr. Greenwald,	01:15:07
18	managing partner of Quinn Emanuel's New York office	01:15:10
19	or founding partner, who is a very -- I believe has	01:15:13
20	been here almost the entire time of the deposition.	01:15:18
21	MR. GREENWALD: I was not on the line then,	01:15:22
22	Mr. Pessah.	01:15:24
23	MR. PESSAH: Okay. But you're here now.	01:15:26
24	MR. GREENWALD: I am.	01:15:27
25	///	

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1	BY MR. PESSAH:	01:15:30
2	Q. Okay, great. Mr. Wehrfritz, we were	01:15:31
3	looking at what I had marked previously as	01:15:33
4	Exhibit 4, this is Neon 14231, and we were	01:15:36
5	discussing these projections and whether -- or the	01:15:39
6	interplay, I guess, between domestic P&A expenses	01:15:45
7	on line 27 and revenue targets.	01:15:50
8	Do you recall that?	01:15:53
9	A. Yes.	01:15:53
10	Q. And so I didn't quite understand your	01:15:54
11	answer on the interplay between the projected	01:15:58
12	expenses and the projected revenues.	01:16:02
13	Does the -- does the revenue target drive the	01:16:05
14	expense number, or does the expense number drive the	01:16:08
15	revenue target?	01:16:16
16	MR. STRUBLE: Objection to form.	01:16:19
17	THE WITNESS: So, I mean, there's an	01:16:20
18	interrelationship; right? You have to, you know,	01:16:20
19	spend a certain amount of money to make a certain	01:16:22
20	amount of money, and then -- you know, and that only	01:16:25
21	carries so far.	01:16:27
22	But the reality is, you know, to -- specifically	01:16:28
23	on the theatrical side, you have to spend a certain	01:16:33
24	amount of money to, like I said, make a certain	01:16:36
25	amount of money.	01:16:39

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1	BY MR. PESSAH:	01:16:41
2	Q. And so do you know why or can you explain	01:16:41
3	or offer insight into why on line 28, for example,	01:16:45
4	there are different projections for this P&A	01:16:51
5	expense, domestic P&A. And there are three places	01:16:54
6	where we see the number 2 million. Column E, where	01:16:58
7	the target is 5 million; column H, where the target	01:17:03
8	is 2 million; column I, where the target is 3	01:17:07
9	million.	01:17:12
10	So can you -- can you help us understand what	01:17:12
11	this means if -- if what you make is a function of	01:17:21
12	what you spend, how could it be possible that	01:17:25
13	\$2 million in expenses could generate targets that	01:17:31
14	are so vastly different?	01:17:35
15	MR. STRUBLE: Objection to form, lacks	01:17:38
16	foundation.	01:17:40
17	THE WITNESS: Yeah, the -- the composition of	01:17:40
18	that \$2 million might have changed, might have	01:17:42
19	shifted.	01:17:45
20	BY MR. PESSAH:	01:17:46
21	Q. Sorry. Mr. Elliott, please mute yourself	01:17:48
22	and turn your camera off.	01:17:51
23	I'm sorry. What did you say, Mr. Wehrfritz?	01:17:56
24	A. I'm saying that -- without seeing the	01:18:00
25	detail behind those line items, there's no	01:18:01

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1 granularly there, it's -- the -- with -- with the 01:18:05  
2 \$2 million, it's hard to say how that number -- you 01:18:06  
3 know, you can see it, at a macro level, like, at \$2 01:18:09  
4 million is -- you know, goes up higher at 01:18:12  
5 \$2.5 million. And I just don't know the composition 01:18:18  
6 of it, but that can certainly shift as strategy for 01:18:20  
7 the film may shift. 01:18:24

8 Q. Okay. But -- so you think there are 01:18:27  
9 circumstances whereby a company would spend 01:18:32  
10 \$2 million in a film like this to generate \$5 01:18:38  
11 million, and then at the same time spend 2 million 01:18:41  
12 to generate also 2 million, as we are seeing here on 01:18:43  
13 column H? 01:18:46

14 MR. STRUBLE: Objection to form, lacks 01:18:48  
15 foundation. 01:18:49

16 THE WITNESS: Well, as the column is indicated, 01:18:49  
17 it's low. That's a low. So the target is broken 01:18:55  
18 out as -- you know, there's really 40, I think looks 01:18:59  
19 like a base case, which would be represented in 01:19:02  
20 column I, and then you've got a high and then a low. 01:19:05  
21 So -- low case, a high case, and then kind of an 01:19:07  
22 expected case or more of a baseline case. 01:19:11

23 BY MR. PESSAH: 01:19:14

24 Q. Okay. And, to your knowledge, what would 01:19:14  
25 cause these projections to change from December 2018 01:19:17

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1	to April 2019?	01:19:23
2	MR. STRUBLE: Objection to form, lacks	01:19:25
3	foundation, calls for speculation.	01:19:26
4	THE WITNESS: Well, specifically, on the	01:19:28
5	theatrical front, just more knowledge of the	01:19:31
6	theatrical space at the time can cause numbers to	01:19:34
7	shift. So -- I don't know, there are dynamics that	01:19:38
8	might happen in the -- the theatrical environment	01:19:41
9	that would cause the numbers to either increase or	01:19:43
10	decrease.	01:19:46
11	BY MR. PESSAH:	01:19:48
12	Q. Okay. How about down here on line 65,	01:19:48
13	license or profit -- I'm sorry, Neon profit? So how	01:19:51
14	are these numbers calculated and determined, if you	01:19:57
15	know?	01:20:00
16	A. You know, this is --	01:20:00
17	MR. STRUBLE: Objection to form.	01:20:01
18	THE WITNESS: Yeah. This is -- this is	01:20:02
19	Jeff's -- I am pretty sure this is Jeff's	01:20:05
20	spreadsheet.	01:20:08
21	(Doorbell sounding.)	01:20:08
22	THE WITNESS: He's -- he's got the knowledge	01:20:09
23	behind it. If I played around with it, I could tell	01:20:09
24	you. But just -- not looking at it, it is --	01:20:12
25	looking at, it is not for me to say exactly.	01:20:15

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1	BY MR. PESSAH:	01:20:20
2	Q. Somebody is making a lot of noise?	01:20:20
3	A. That's my doorbell. Can I go grab it real	01:20:21
4	quick?	01:20:24
5	MR. PESSAH: Then we have to take a break.	01:20:27
6	THE WITNESS: Yep.	01:20:29
7	THE VIDEOGRAPHER: We are now going off the	01:20:31
8	record, and the time is 1:20 p.m.	01:20:32
9	(Recess.)	01:21:30
10	THE VIDEOGRAPHER: We are now going back on the	01:21:31
11	record, and the time is 1:21 p.m.	01:21:42
12	BY MR. PESSAH:	01:21:44
13	Q. Mr. Wehrfritz, did you ever detect any	01:21:45
14	mistakes in Neon's internal accounting procedures or	01:21:49
15	policies?	01:21:53
16	A. Mistakes?	01:21:55
17	Q. Yes.	01:21:57
18	MR. STRUBLE: I'm sorry. Objection to form. I	01:22:01
19	was on mute. Objection to form, vague and	01:22:01
20	ambiguous.	01:22:03
21	THE WITNESS: Yeah, I mean, people made	01:22:03
22	mistakes. People make mistakes, sorry.	01:22:10
23	BY MR. PESSAH:	01:22:13
24	Q. You know, I'm not asking for, like, a	01:22:13
25	general philosophical idea of human beings being	01:22:15

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1	fallible.	01:22:20
2	A. You weren't?	01:22:21
3	Q. No, I wasn't. I am asking you whether you	01:22:22
4	observed Neon commit accounting errors while you	01:22:26
5	were there?	01:22:32
6	MR. STRUBLE: Objection to form, still vague and	01:22:34
7	ambiguous.	01:22:38
8	THE WITNESS: Yeah. Again, I am not sure what	01:22:38
9	the question is really asking, like, intentional	01:22:40
10	wrongdoings?	01:22:44
11	BY MR. PESSAH:	01:22:46
12	Q. No, mistakes.	01:22:46
13	A. Mistakes, absolutely there were mistakes	01:22:47
14	made.	01:22:50
15	Q. What were some examples of those mistakes?	01:22:51
16	A. I don't have any.	01:22:53
17	MR. STRUBLE: Object to form. Object to form.	01:22:59
18	THE WITNESS: I can't recall any specifically,	01:23:02
19	but I know there were things that, you know, would	01:23:03
20	need to get fixed.	01:23:05
21	BY MR. PESSAH:	01:23:05
22	Q. Like what?	01:23:06
23	MR. STRUBLE: Object to form.	01:23:08
24	THE WITNESS: I don't have any examples.	01:23:09
25	It's -- but it would be -- you know, if a revenue	01:23:14

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1 number was overstated or understated, and if we 01:23:19  
2 looked at the statement, and then, like, so this 01:23:24  
3 happens also -- or it did happen with some frequency 01:23:28  
4 where the digital providers would provide a 01:23:32  
5 statement and show numbers and then they provide a 01:23:35  
6 subsequent statement that showed different numbers. 01:23:37

7 So there's mistakes made by the digital 01:23:39  
8 providers. The theatrical revenue would sometimes 01:23:41  
9 need to be re-stated because of the numbers 01:23:46  
10 changing. So -- and then my concern links -- you 01:23:50  
11 know, sometimes, you know, things would just happen 01:23:53  
12 and things would happen on -- on, maybe, expenses 01:23:55  
13 that, you know, we would have to just fix. And, you 01:24:02  
14 know, we categorized, just to make sure that we were 01:24:03  
15 100 percent right when we were ascribing expenses to 01:24:05  
16 a given film. 01:24:08

17 BY MR. PESSAH: 01:24:09

18 Q. And in all of these different types of 01:24:09  
19 mistakes or errors that you discussed, how many of 01:24:12  
20 those do you recall -- of those types of mistakes or 01:24:21  
21 errors do you recall observing during your time at 01:24:23  
22 Neon? 01:24:27

23 MR. STRUBLE: Objection to form. 01:24:27

24 THE WITNESS: Yeah. You know, there was -- 01:24:28  
25 we -- I try to be very, very diligent in my review 01:24:32

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1 process of everything that was done by the 01:24:35  
2 consultants. And, likewise, they were very, very 01:24:41  
3 thorough, so we would try to catch anything that was 01:24:43  
4 done. I can't quantify the number of mistakes that 01:24:46  
5 were made. 01:24:48

6 I just know, and will communicate now, that 01:24:48  
7 there was very much a discernable effort to make 01:24:52  
8 sure the mistakes were rectified. 01:24:55

9 BY MR. PESSAH: 01:24:57

10 Q. And whose responsibility at Neon was it to 01:24:57  
11 rectify those errors while you were there? 01:25:00

12 MR. PESSAH: Object to form. 01:25:03

13 THE WITNESS: Well, it would be a combination. 01:25:04  
14 It would be me or RSM or, you know, other 01:25:07  
15 consultants. 01:25:13

16 BY MR. PESSAH: 01:25:13

17 Q. But internally at Neon, not consultants and 01:25:13  
18 not RSM -- 01:25:15

19 A. Yeah. 01:25:17

20 Q. -- who was responsible for catching those 01:25:17  
21 mistakes? 01:25:20

22 A. It depends on what the mistakes were. I 01:25:22  
23 know like Andrew Brown would catch mistakes, and I 01:25:24  
24 think others would, too, when it came to the budgets 01:25:29  
25 specifically. On expenses, I would notice things, 01:25:33

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1	so I think the people were -- were all, generally	01:25:35
2	speaking, very good about reviewing documents and	01:25:41
3	looking for things that might be issues and	01:25:43
4	investigating them.	01:25:47
5	MR. STRUBLE: And object to form on the prior	01:25:48
6	question. I didn't get a chance.	01:25:49
7	BY MR. PESSAH:	01:25:50
8	Q. How did you know that all of the mistakes	01:25:51
9	that occurred when you were there were caught and	01:25:56
10	fixed?	01:25:58
11	MR. STRUBLE: Object to form.	01:26:00
12	THE WITNESS: I don't know with 100 percent	01:26:01
13	certainty. I just know that we were extremely	01:26:04
14	diligent about identifying mistakes and rectifying	01:26:06
15	them.	01:26:09
16	BY MR. PESSAH:	01:26:09
17	Q. So you don't know with 100 percent	01:26:09
18	certainty.	01:26:10
19	So how certain are you that all the mistakes	01:26:11
20	that occurred while you were at Neon were rectified?	01:26:13
21	MR. STRUBLE: Object to form.	01:26:19
22	THE WITNESS: I can't ascribe to them.	01:26:20
23	BY MR. PESSAH:	01:26:21
24	Q. Well, you said --	01:26:21
25	(Indiscernible crosstalk.)	01:26:21

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1	BY MR. PESSAH:	01:26:21
2	Q. So it's not a hundred. We know that;	01:26:28
3	right?	01:26:28
4	A. Yeah.	01:26:28
5	MR. STRUBLE: Objection to form.	01:26:32
6	BY MR. PESSAH:	01:26:33
7	Q. Okay. So how certain are you that you	01:26:34
8	caught 100 percent of the mistakes?	01:26:35
9	MR. STRUBLE: Objection to form, vague and	01:26:36
10	ambiguous, calls for speculation.	01:26:38
11	THE WITNESS: Yeah, I mean, I can't know that.	01:26:40
12	I can't know an answer to that. I felt good about	01:26:42
13	the process of reviewing, and that I was catching as	01:26:47
14	much as, you know, I possibly could. But, yeah, I	01:26:50
15	don't know. It's -- yeah, I'm not sure really how	01:26:55
16	to answer your question.	01:26:58
17	BY MR. PESSAH:	01:27:00
18	Q. What about the question is unclear? I	01:27:01
19	mean, do you --	01:27:02
20	A. The fact that, yeah, I can't ascribe, like,	01:27:03
21	a percentage or a level of confidence on how many	01:27:06
22	mistakes were caught versus how many went uncaught.	01:27:10
23	I don't know how to quantify the ones that went	01:27:13
24	uncaught. I -- I don't know.	01:27:16
25	Q. Okay. But you certainly did observe	01:27:17

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1	mistakes that were made at Neon in terms of	01:27:22
2	allocating expenses and revenues; correct?	01:27:25
3	MR. STRUBLE: Objection to form, lacks	01:27:27
4	foundation, mischaracterizes testimony.	01:27:29
5	THE WITNESS: I -- yeah. I mean, mistakes were	01:27:30
6	certainly made, but, again, like every effort was	01:27:33
7	made to catch those mistakes. And we caught, in my	01:27:35
8	estimation -- you know, I think this is what you	01:27:40
9	were getting at before, but, yeah, I was -- we	01:27:44
10	caught as much as we possibly could. And we did a	01:27:45
11	really good job. We were very diligent about	01:27:49
12	looking for issues.	01:27:51
13	BY MR. PESSAH:	01:27:53
14	Q. And notwithstanding your diligence, there	01:27:54
15	were still mistakes that were made; correct?	01:27:58
16	MR. STRUBLE: Object to form.	01:28:00
17	THE WITNESS: Correct. And in any sort of	01:28:01
18	business environment, mistakes get made.	01:28:06
19	BY MR. PESSAH:	01:28:09
20	Q. And those are mistakes that they	01:28:09
21	actually -- are sometimes would be costly to the	01:28:10
22	licensors; right?	01:28:12
23	MR. STRUBLE: Objection to form, lacks	01:28:13
24	foundation, calls for speculation.	01:28:17
25	THE WITNESS: Because of dynamics like that, we	01:28:17

1 were extremely diligent in looking for issues and 01:28:20  
2 trying to identify mistakes, because we are 01:28:22  
3 exceptionally cognisant of the financial 01:28:27  
4 ramifications to all parties involved. 01:28:30

5 BY MR. PESSAH: 01:28:32

6 Q. But if you didn't catch mistakes, there 01:28:33  
7 would be implications for the licensors; right? 01:28:34

8 MR. STRUBLE: Objection to form, calls for 01:28:37  
9 speculation again, incomplete hypothetical. 01:28:39

10 THE WITNESS: There would be implications, yes. 01:28:41

11 BY MR. PESSAH: 01:28:44

12 Q. And there were times when you were the only 01:28:54  
13 person in the accounting and finance department at 01:28:56  
14 Neon; right? 01:29:00

15 MR. STRUBLE: Objection to form, asked and 01:29:02  
16 answered. 01:29:04

17 THE WITNESS: Early on, yeah, that is the case. 01:29:09

18 BY MR. PESSAH: 01:29:11

19 Q. And do you recall how many projects Neon 01:29:11  
20 was responsible for distributing at the time you 01:29:13  
21 started working there? 01:29:17

22 MR. STRUBLE: Objection to form, vague and 01:29:19  
23 ambiguous. 01:29:20

24 THE WITNESS: I do not. 01:29:20

25 ///

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1	BY MR. PESSAH:	01:29:23
2	Q. Was it at least ten?	01:29:23
3	MR. STRUBLE: Objection to form.	01:29:31
4	THE WITNESS: I'm not sure.	01:29:32
5	BY MR. PESSAH:	01:29:33
6	Q. Okay. Let's do a quick exercise. I am	01:29:33
7	going to use a demonstrative. It's not an exhibit.	01:29:53
8	It's just a demonstrative, so I am going to show it	01:29:59
9	on my screen.	01:30:01
10	I am -- I have accessed here the website of	01:30:03
11	neonrated.com. Well, it's the World Wide Web,	01:30:11
12	publicly available, website of Neon. I am scrolling	01:30:14
13	up, and I'm to going the home page of the	01:30:17
14	neonrated.com website.	01:30:21
15	And can you see my screen, Mr. Wehrfritz?	01:30:22
16	MR. STRUBLE: Objection. I object -- we object	01:30:27
17	to not marking an exhibit and looking -- just	01:30:29
18	looking at the internet together. That's improper.	01:30:30
19	MR. PESSAH: Well, there would be hundreds of	01:30:33
20	pages if I had to mark this whole website. There's	01:30:34
21	so many pages.	01:30:34
22	But, anyways, that's fine. I am clicking on --	01:30:38
23	(Indiscernible crosstalk.)	01:30:38
24	BY MR. PESSAH:	01:30:38
25	Q. I am clicking on "films."	01:30:40

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1	Do you see that?	01:30:42
2	A. Yes.	01:30:42
3	Q. Okay. So I am going to go all the way	01:30:43
4	down.	01:30:46
5	MR. STRUBLE: I am going to object. Again, this	01:30:48
6	needs to be an exhibit so the finder of fact can	01:30:50
7	follow the testimony. We would move to strike all	01:30:52
8	of this testimony without a marked exhibit. This is	01:30:55
9	improper.	01:30:57
10	MR. PESSAH: We will provide the film's page of	01:31:02
11	the Neon Rated website momentarily.	01:31:04
12	MR. STRUBLE: I want it before you --	01:31:08
13	(Indiscernible crosstalk.)	01:31:09
14	MR. PESSAH: Mr. -- Mr. --	01:31:09
15	(Indiscernible crosstalk.)	01:31:09
16	MR. PESSAH: -- Wehrfritz, I am entitled to do	01:31:09
17	this.	01:31:09
18	You're objecting. I understand that. Do not	01:31:10
19	interrupt my deposition.	01:31:11
20	MR. STRUBLE: Lower your voice.	01:31:12
21	MR. PESSAH: Stop --	01:31:12
22	MR. STRUBLE: Lower your temperature.	01:31:13
23	MR. PESSAH: Stop interrupting my deposition.	01:31:14
24	MR. STRUBLE: You are shouting. Please stop.	01:31:17
25	///	

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1	BY MR. PESSAH:	01:31:20
2	Q. Mr. Wehrfritz, this film, The B-Side, was	01:31:20
3	that one of Neon's films when you were hired?	01:31:23
4	MR. STRUBLE: Objection to form and the	01:31:26
5	exhibit -- the lack of exhibit.	01:31:28
6	THE WITNESS: I believe it was.	01:31:29
7	BY MR. PESSAH:	01:31:31
8	Q. Okay. And how about these three films:	01:31:32
9	The Bad Batch, Colossal, and Risk?	01:31:34
10	MR. STRUBLE: Same objections, object to form.	01:31:37
11	THE WITNESS: I believe so.	01:31:40
12	BY MR. PESSAH:	01:31:42
13	Q. Okay. Borg/McEnroe, Ingrid Goes West, and	01:31:43
14	Gemini, were those three films part of Neon's	01:31:51
15	catalog when you were hired?	01:31:56
16	MR. STRUBLE: Same objections.	01:31:58
17	THE WITNESS: Yes.	01:32:00
18	BY MR. PESSAH:	01:32:00
19	Q. Well, that's seven. Do you agree that	01:32:00
20	that's seven films so far, Mr. Wehrfritz?	01:32:02
21	A. Yeah, let me count my fingers, yes.	01:32:08
22	Q. I, Tonya, Revenge, and Beach Rats; were	01:32:11
23	those films part of Neon's catalog when you were	01:32:16
24	hired?	01:32:22
25	A. Yeah.	01:32:22

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1	MR. STRUBLE: Same objections.	01:32:23
2	BY MR. PESSAH:	01:32:24
3	Q. That's ten; right, Mr. Wehrfritz?	01:32:24
4	A. Yes.	01:32:26
5	MR. STRUBLE: Same objections.	01:32:28
6	THE WITNESS: Vox Lux, Assassination Nation,	01:32:30
7	Wild Rose; were those part of Neon's catalog when	01:32:34
8	you were hired?	01:32:37
9	MR. STRUBLE: Same objection.	01:32:38
10	THE WITNESS: Yeah. While I was at Neon, yes.	01:32:39
11	BY MR. PESSAH:	01:32:42
12	Q. So that is 13 on my count; do you agree?	01:32:42
13	A. Sure.	01:32:44
14	Q. Is that a "yes"?	01:32:44
15	A. Yes.	01:32:45
16	MR. STRUBLE: Same objections.	01:32:47
17	BY MR. PESSAH:	01:32:49
18	Q. Three Identical Strangers, Amazing Grace,	01:32:49
19	Little Woods; were those films that were part of	01:32:53
20	Neon's catalog when you were hired?	01:33:01
21	MR. STRUBLE: Same objections.	01:33:03
22	THE WITNESS: Yes.	01:33:04
23	BY MR. PESSAH:	01:33:05
24	Q. When you were hired?	01:33:05
25	A. No, I said -- that's what I was saying	01:33:05

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1	before, I -- these are either during the time of my	01:33:06
2	employment.	01:33:08
3	Q. Okay. During the time of your employment,	01:33:08
4	so let's go --	01:33:10
5	A. Yeah.	01:33:10
6	Q. -- we will talk about when you were hired.	01:33:10
7	So I will go to the line -- I, Tonya, Revenge,	01:33:12
8	and Beach Rats; were these three films part of	01:33:17
9	Neon's catalog when you were hired?	01:33:20
10	MR. STRUBLE: Object to form.	01:33:23
11	THE WITNESS: Those were --	01:33:23
12	MR. STRUBLE: Object to the lack of exhibit.	01:33:24
13	THE WITNESS: Yeah. I mean, those were -- at	01:33:25
14	the time of my employment, yeah, I, Tonya was	01:33:27
15	already out, yes.	01:33:33
16	BY MR. PESSAH:	01:33:33
17	Q. I am talking about when you were hired?	01:33:34
18	A. Yes, yes, yes.	01:33:35
19	Q. Okay.	01:33:36
20	A. Part of the catalog.	01:33:37
21	Q. And how about Wild Rose, Assassination, and	01:33:39
22	Vox Lux; were those part of Neon's catalog when you	01:33:43
23	were hired?	01:33:46
24	A. No.	01:33:47
25	MR. STRUBLE: Same objections.	01:33:47

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1	BY MR. PESSAH:	01:33:49
2	Q. Okay. Wild Rose. Was Wild Rose a part of	01:33:49
3	the catalog when you were hired?	01:33:51
4	A. I don't recall.	01:33:54
5	Q. Was Assassination Nation part of Neon's	01:33:54
6	catalog when you were hired?	01:33:58
7	MR. STRUBLE: Same objections.	01:34:00
8	THE WITNESS: No.	01:34:01
9	BY MR. PESSAH:	01:34:01
10	Q. Vox Lux?	01:34:01
11	MR. STRUBLE: Same objections.	01:34:03
12	THE WITNESS: No, I don't believe so.	01:34:04
13	BY MR. PESSAH:	01:34:05
14	Q. Okay. So there's three. So at the time	01:34:05
15	you were hired, approximately ten films were part of	01:34:09
16	Neon's catalog; correct?	01:34:14
17	MR. STRUBLE: Same objections. Object to the	01:34:16
18	lack of exhibit, to the extent you're asking the	01:34:18
19	witness to count up this web page you've pulled up	01:34:20
20	without giving us a full copy and just scrolling	01:34:23
21	around, I object on that basis as well.	01:34:26
22	BY MR. PESSAH:	01:34:30
23	Q. Mr. Wehrfritz?	01:34:31
24	A. That looks correct.	01:34:32
25	Q. Okay. And, Mr. Wehrfritz, do you have any	01:34:33

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1	doubts that I am showing you Neon's website?	01:34:35
2	MR. STRUBLE: Object to form. Same objections	01:34:39
3	to the exhibit.	01:34:41
4	THE WITNESS: I mean, this looks like Neon's	01:34:41
5	website.	01:34:45
6	BY MR. PESSAH:	01:34:46
7	Q. Okay. So is it fair to say that, at the	01:34:46
8	time you were hired, the only internal employee at	01:34:49
9	Neon responsible for finance and accounting was you?	01:34:55
10	MR. STRUBLE: Object to form, asked and answered	01:35:03
11	several times in this deposition.	01:35:05
12	THE WITNESS: Yes.	01:35:06
13	BY MR. PESSAH:	01:35:07
14	Q. And so that made you solely responsible for	01:35:08
15	the accounting and finance of ten films; correct?	01:35:11
16	MR. STRUBLE: Object to form, argumentative.	01:35:17
17	THE WITNESS: I mean, yeah -- yes. But to	01:35:19
18	qualify that, no. We had external resources	01:35:25
19	available, very much immediately -- or not	01:35:29
20	immediately, but soon thereafter my hire.	01:35:32
21	BY MR. PESSAH:	01:35:35
22	Q. But at the time you were hired, it was just	01:35:36
23	you for ten films; right?	01:35:38
24	MR. STRUBLE: Object to form, argumentative,	01:35:39
25	vague and ambiguous.	01:35:42

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1	THE WITNESS: Films that had already gone to	01:35:43
2	release.	01:35:47
3	BY MR. PESSAH:	01:35:47
4	Q. Does that mean that there was no more	01:35:47
5	accounting left to do on them because they had	01:35:48
6	already been released?	01:35:50
7	A. That means --	01:35:54
8	MR. STRUBLE: Hold on. Sorry.	01:35:54
9	Object to form. Vague and ambiguous.	01:35:55
10	THE WITNESS: That means that the spending and	01:35:59
11	the tracking of expenditures related to the release	01:36:00
12	was done and that the amount of ongoing accounting	01:36:02
13	related to them would be significantly less than a	01:36:04
14	film that was going to be in release.	01:36:08
15	BY MR. PESSAH:	01:36:11
16	Q. So your testimony is that when you were	01:36:11
17	hired, these ten films had already been released;	01:36:14
18	correct?	01:36:17
19	MR. STRUBLE: Object to form.	01:36:18
20	THE WITNESS: I -- I think that's right.	01:36:19
21	Without having fully reviewed the titles --	01:36:22
22	BY MR. PESSAH:	01:36:26
23	Q. Let's review them again?	01:36:26
24	A. Well, Borg/McEnroe, I don't know for sure.	01:36:28
25	I'm pretty sure Ingrid Goes West was out.	01:36:33

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1	Q.	Okay.	01:36:33
2	A.	Gemini, I'm pretty sure was out.	01:36:37
3	Q.	Okay.	01:36:37
4	A.	Beach Rats, I am pretty sure. Yeah, I	01:36:38
5		think so. I believe so. That's -- I can go on the	01:36:39
6		record as having said, I believe so.	01:36:42
7	Q.	Okay. So at the time you were hired, you	01:36:44
8		were the sole internal employee at Neon that was	01:36:48
9		responsible for accounting relating to ten films	01:36:51
10		that had already been released; correct?	01:36:56
11	MR. STRUBLE:	Object, form.	01:36:59
12	THE WITNESS:	Already been released, yes.	01:37:00
13	BY MR. PESSAH:		01:37:02
14	Q.	Okay. And there was still accounting to do	01:37:02
15		on those films; correct?	01:37:04
16	MR. STRUBLE:	Object to form.	01:37:05
17	THE WITNESS:	Minimal ongoing accounting needs	01:37:06
18		related to already released films does exist, yes.	01:37:11
19	BY MR. PESSAH:		01:37:14
20	Q.	Okay. And do you recall how many films	01:37:14
21		were added to Neon's catalog during the time of your	01:37:18
22		employment?	01:37:22
23	A.	No, I do not.	01:37:23
24	Q.	Okay. And I am just going to go up here,	01:37:25
25		so -- these six titles that we're looking at: Wild	01:37:30

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1	Rose, Assassination Nation, Vox Lux, Little Woods,	01:37:35
2	Amazing Grace, and Three Identical Strangers, those	01:37:39
3	were all added to Neon's catalog after you were	01:37:41
4	hired; correct?	01:37:45
5	MR. STRUBLE: Object to form, and failure to	01:37:46
6	mark exhibit.	01:37:50
7	THE WITNESS: I believe so.	01:37:50
8	BY MR. PESSAH:	01:37:52
9	Q. Okay. And when -- when these additional	01:37:53
10	six films were added to Neon's catalog, in addition	01:37:56
11	to the ten that we've already discussed, making the	01:38:01
12	total 16, how many internal accounting employees did	01:38:03
13	Neon have in its finance and accounting department?	01:38:09
14	MR. STRUBLE: Object to form and the exhibit --	01:38:13
15	lack of exhibit.	01:38:15
16	THE WITNESS: Permanent hires?	01:38:18
17	BY MR. PESSAH:	01:38:19
18	Q. Yes.	01:38:20
19	A. Just one.	01:38:20
20	Q. That -- that being yourself; correct,	01:38:23
21	Mr. Wehrfritz?	01:38:27
22	A. Yes. Yes.	01:38:28
23	Q. So one person, one permanent employee in	01:38:30
24	accounting and finance, for 16 films; correct?	01:38:33
25	MR. STRUBLE: Object to form.	01:38:36

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1	THE WITNESS: Correct.	01:38:37
2	BY MR. PESSAH:	01:38:41
3	Q. Mr. Wehrfritz, looking at this -- this	01:38:48
4	list, which we will be marking as Exhibit 5 once we	01:38:54
5	resolve our technical issues, but I am showing you	01:38:58
6	effectively what would be Exhibit 5.	01:39:01
7	Do you recall the last film on this list that	01:39:08
8	was added to Neon's catalog at the time of your	01:39:11
9	departure?	01:39:15
10	MR. STRUBLE: Object to form and lack of	01:39:17
11	exhibit. We are unable to review the document.	01:39:20
12	You've taken control of a website you are scrolling	01:39:22
13	through.	01:39:24
14	MR. PESSAH: Mr. Struble, this is your client's	01:39:28
15	website. Your client has this document, controls	01:39:29
16	this website, and I am showing the witness this as a	01:39:32
17	demonstrative.	01:39:36
18	You objected vigorously to me doing so, even	01:39:38
19	though I am not aware of any rule that prevents me	01:39:42
20	from using a demonstrative in a deposition. But	01:39:45
21	since you have objected, my colleague is attempting	01:39:48
22	to PDF all of the films and -- that are listed on	01:39:51
23	the neonrated.com/films portion of its website so we	01:39:58
24	can mark it as an exhibit.	01:40:06
25	But in the meantime, the witness has identified	01:40:08

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1	that he is familiar with the website, and that this	01:40:11
2	does look like -- in fact, looks like Neon's	01:40:14
3	website.	01:40:16
4	Now --	01:40:17
5	MR. STRUBLE: Our objection stands. You should	01:40:17
6	have done it first. The websites are dynamic. We	01:40:20
7	don't know even if you're on Neon's website,	01:40:23
8	frankly. I don't know what you're looking at and --	01:40:26
9	(Indiscernible crosstalk.)	01:40:26
10	MR. STRUBLE: -- you have to show -- you have to	01:40:27
11	provide a copy of the exhibit so the fact finder	01:40:29
12	knows exactly what we were looking at.	01:40:32
13	And if you do it after the questions, we -- we	01:40:34
14	have the right to strike the questions that were	01:40:36
15	asked before you marked it.	01:40:38
16	MR. PESSAH: I -- I showed you exactly how I got	01:40:40
17	here; okay?	01:40:42
18	BY MR. PESSAH:	01:40:46
19	Q. Mr. Wehrfritz, was Palm Springs part of	01:40:47
20	Neon's catalog when you left?	01:40:51
21	MR. STRUBLE: Object to form, lack of exhibit.	01:40:54
22	THE WITNESS: When I left, yes.	01:40:57
23	MR. PESSAH: The exhibit's in the chat,	01:41:02
24	Mr. Struble.	01:41:04
25	MR. STRUBLE: Are you going to mark it? And are	01:41:07

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1	we going to look at that version?	01:41:08
2	MR. PESSAH: I just didn't mark it.	01:41:10
3	MR. STRUBLE: Well, I still object, because	01:41:10
4	you're not looking at the actual exhibit. You're	01:41:11
5	looking at the website that you claim is our	01:41:13
6	website.	01:41:15
7	MR. PESSAH: This is your website. You have a	01:41:17
8	doubt this is your website, Mr. Struble?	01:41:19
9	MR. STRUBLE: I don't know what you're -- what	01:41:21
10	you're doing over there, but we need to be looking	01:41:22
11	at a document that you represented as an exhibit on	01:41:24
12	the record.	01:41:26
13	You're looking at the website. You told me you	01:41:29
14	marked it as an exhibit, but you need to ask --	01:41:30
15	(Indiscernible crosstalk.)	01:41:31
16	MR. PESSAH: Do you -- do you see the exhibit in	01:41:31
17	the chat? Because it's in the chat.	01:41:32
18	MR. STRUBLE: That is what I'm saying.	01:41:33
19	(Indiscernible crosstalk.)	01:41:33
20	MR. STRUBLE: You are looking at the website.	01:41:35
21	MR. PESSAH: -- or are you just being obtuse,	01:41:37
22	and --	01:41:37
23	(Indiscernible crosstalk.)	01:41:39
24	MR. STRUBLE: No, that's what I'm saying. No,	01:41:39
25	that's what I'm saying. You're --	01:41:39

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1	(Indiscernible crosstalk.)	01:41:42
2	MR. PESSAH: Do you have the exhibit now?	01:41:42
3	MR. STRUBLE: I am saying you're using something	01:41:43
4	other than the exhibit. You --	01:41:45
5	MR. PESSAH: Let's go off the record, please.	01:41:46
6	MR. STRUBLE: Why?	01:41:52
7	MR. PESSAH: Because I want to make sure you	01:41:52
8	have your exhibit.	01:41:53
9	Let's go off the record, please.	01:41:55
10	MR. STRUBLE: I have it right now, but you're	01:41:56
11	looking at something else on screen. You're not	01:41:57
12	asking him about the --	01:41:57
13	MR. PESSAH: I'm not sharing my screen right	01:41:59
14	now.	01:42:01
15	MR. STRUBLE: You were, before you decided to go	01:42:01
16	off the record.	01:42:03
17	MR. PESSAH: But I am not sharing my screen now,	01:42:04
18	so we can stay on the record.	01:42:05
19	Do you -- do you have the exhibit?	01:42:06
20	MR. STRUBLE: I have it. Are you going to show	01:42:08
21	the exhibit, or are you going to show something	01:42:10
22	else?	01:42:11
23	MR. PESSAH: I'm going to do whatever I want	01:42:12
24	because this is my deposition.	01:42:13
25	Is that --	01:42:15

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1	MR. STRUBLE: Okay. Well --	01:42:15
2	MR. PESSAH: -- clear to you, Mr. Struble?	01:42:16
3	MR. STRUBLE: No, I will continue to object.	01:42:20
4	That's why I'm asking. I'm going to continue to	01:42:21
5	object then.	01:42:22
6	MR. PESSAH: I -- I don't care. So we're going	01:42:25
7	to look at Exhibit 5, which I will -- I have dropped	01:42:28
8	into the chat, and I will represent is a true and	01:42:29
9	correct copy of a PDF that I created from Neon	01:42:31
10	Rated's website.	01:42:36
11	(Exhibit 5 was marked for	01:42:37
12	identification.)	01:42:39
13	MR. PESSAH: I am putting that on the record,	01:42:39
14	now I'm going to share my screen and show the	01:42:42
15	witness Exhibit 5.	01:42:44
16	BY MR. PESSAH:	01:42:54
17	Q. Okay. So, Mr. Wehrfritz, I'm going to go	01:42:54
18	all the way back to the bottom. I'm scrolling	01:42:57
19	through these films.	01:43:01
20	Does this look like the same or a similar list	01:43:02
21	of films that we were looking at just a moment ago	01:43:06
22	when we were on the Neon Rated website, looking at	01:43:10
23	the -- the demonstrative?	01:43:13
24	MR. STRUBLE: Objection.	01:43:13
25	THE WITNESS: The order is different.	01:43:17

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1	MR. STRUBLE: I object to form and the reference	01:43:17
2	to the prior exhibit, the unmarked exhibit.	01:43:19
3	MR. PESSAH: It wasn't an exhibit. It was a	01:43:23
4	demonstrative.	01:43:25
5	You said the order is different, Mr. Wehrfritz?	01:43:26
6	THE WITNESS: Yeah.	01:43:29
7	MR. PESSAH: Hold on. It's not -- let's go off	01:43:41
8	the record for a second, because we have --	01:43:42
9	MR. STRUBLE: Why?	01:43:42
10	MR. PESSAH: -- two --	01:43:42
11	MR. STRUBLE: You didn't prepare your exhibits	01:43:46
12	before the depo? That's not my problem. Keep	01:43:47
13	going.	01:43:50
14	MR. PESSAH: Well, because I need to use the	01:43:50
15	bathroom, we're going off the record, please.	01:43:51
16	MR. STRUBLE: Oh, yeah. Okay. How long do you	01:43:58
17	want? How long do you want? No answer.	01:44:02
18	MR. PESSAH: Go off, please.	01:44:05
19	MR. STRUBLE: Jim, maybe we just should stay	01:44:05
20	here. I don't know how many minutes he wants.	01:44:07
21	MR. PESSAH: We're going off the record.	01:44:07
22	MR. STRUBLE: For how long?	01:44:09
23	THE VIDEOGRAPHER: Yeah. This is the	01:44:09
24	videographer. I just need all the parties to agree	01:44:10
25	to go off the record.	01:44:12

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1	MR. PESSAH: Two minutes.	01:44:16
2	MR. STRUBLE: Fine.	01:44:18
3	THE VIDEOGRAPHER: We are now going off the	01:44:19
4	record, and the time is 1:44 p.m.	01:44:21
5	(Recess.)	01:52:04
6	THE VIDEOGRAPHER: We are now going back on the	01:52:04
7	record, and the time is 1:52 p.m.	01:52:34
8	BY MR. PESSAH:	01:52:38
9	Q. Okay, excellent. Welcome back,	01:52:38
10	Mr. Wehrfritz.	01:52:41
11	I have marked Exhibit 6 for identification.	01:52:41
12	It's in the chat. So I am going to show you again,	01:52:44
13	and you can see it, at the bottom left-handed	01:52:47
14	corner, do you see where it says	01:52:50
15	"neonrated.com/films"?	01:52:58
16	A. Yes, I see that.	01:52:59
17	Q. And you recognize that as being the same	01:53:00
18	website we just reviewed together?	01:53:02
19	MR. STRUBLE: Object to form and reference to	01:53:04
20	prior website, it's an unmarked exhibit.	01:53:06
21	THE WITNESS: I believe so, yes.	01:53:08
22	BY MR. PESSAH:	01:53:10
23	Q. Okay. And so when I was doing my	01:53:11
24	demonstrative, I accessed -- you saw me access	01:53:13
25	neonrated.com/films; right?	01:53:15

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1	MR. STRUBLE: Same objections.	01:53:18
2	THE WITNESS: Yeah, I saw you access a website.	01:53:20
3	I believe it was this one.	01:53:21
4	BY MR. PESSAH:	01:53:22
5	Q. Okay. Excellent. And so do you remember	01:53:22
6	the B-Side was the first film that was at the bottom	01:53:24
7	of the list that we looked at on the website and --	01:53:29
8	A. Yes.	01:53:32
9	Q. -- that's still the case for Exhibit 6?	01:53:32
10	A. Yes.	01:53:34
11	MR. STRUBLE: Same objections.	01:53:40
12	MR. PESSAH: Did you get his answer, Lindsay?	01:53:42
13	THE REPORTER: Yes, I got "yes."	01:53:43
14	BY MR. PESSAH:	01:53:45
15	Q. And you identified that there were ten	01:53:45
16	films that were in Neon's catalog when you were	01:53:48
17	hired.	01:53:53
18	Do you recall that?	01:53:53
19	MR. STRUBLE: Object to form. Same objections.	01:53:55
20	THE WITNESS: I believe that's correct.	01:53:57
21	BY MR. PESSAH:	01:53:59
22	Q. Okay. And you also testified that at the	01:53:59
23	time Neon had acquired Amazing Grace, you were the	01:54:04
24	only internal permanent employee at Neon in the	01:54:08
25	accounting and financing department; correct?	01:54:13

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1	MR. STRUBLE: Objection to form, asked and	01:54:17
2	answered.	01:54:18
3	THE WITNESS: I believe that's correct. Yes.	01:54:19
4	BY MR. PESSAH:	01:54:20
5	Q. Okay. So I am going to scroll up in	01:54:21
6	Exhibit 6, and these three films: Parasite, Apollo	01:54:24
7	11, and Border. Were those part of Neon's catalog	01:54:32
8	at the time of your departure from Neon?	01:54:36
9	A. Yes.	01:54:37
10	MR. STRUBLE: Objection to form.	01:54:38
11	BY MR. PESSAH:	01:54:38
12	Q. And how many dedicated people were in	01:54:43
13	Neon's accounting department at the time of your	01:54:45
14	departure?	01:54:47
15	MR. STRUBLE: Objection to form.	01:54:49
16	THE WITNESS: At the time of my departure, there	01:54:51
17	was three at the time.	01:54:53
18	BY MR. PESSAH:	01:54:54
19	Q. And how about when these three films were	01:54:54
20	added to Neon's catalog, how many people were in	01:54:56
21	Neon's accounting department?	01:55:00
22	MR. STRUBLE: Objection to form, vague and	01:55:01
23	ambiguous as to "these three."	01:55:03
24	BY MR. PESSAH:	01:55:03
25	Q. Parasite, Apollo 11, and Border.	01:55:07

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1	MR. STRUBLE: Object to form.	01:55:10
2	THE WITNESS: One full-time employee, me.	01:55:11
3	BY MR. PESSAH:	01:55:15
4	Q. Still you. Okay. And how about -- how	01:55:16
5	about the next three films: Honeyland, Monos, and	01:55:19
6	The Beach Bum?	01:55:24
7	How many permanent employees were at Neon's	01:55:25
8	accounting department?	01:55:31
9	MR. STRUBLE: Objection to form.	01:55:31
10	THE WITNESS: One, me.	01:55:32
11	BY MR. PESSAH:	01:55:37
12	Q. How about these additional three films:	01:55:39
13	The Biggest Little Farm, Memories of Murder, and	01:55:41
14	Portrait of a Lady on Fire?	01:55:47
15	How many dedicated employees at Neon's	01:55:48
16	accounting and finance department?	01:55:50
17	MR. STRUBLE: Object to form.	01:55:52
18	THE WITNESS: One.	01:55:53
19	BY MR. PESSAH:	01:55:54
20	Q. Still you?	01:55:55
21	A. Yes.	01:55:55
22	MR. STRUBLE: Object to form.	01:55:56
23	THE WITNESS: Permanent employees, yes.	01:55:57
24	BY MR. PESSAH:	01:55:59
25	Q. How about Clemency, The Lodge, and Monsters	01:56:01

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1	and Men?	01:56:01
2	How many permanent, dedicated employees were	01:56:09
3	there at Neon in its accounting and finance	01:56:10
4	department?	01:56:12
5	MR. STRUBLE: Object to form.	01:56:14
6	THE WITNESS: One.	01:56:15
7	BY MR. PESSAH:	01:56:18
8	Q. Still you?	01:56:19
9	A. Yes.	01:56:20
10	Q. We're going to go to the next three on the	01:56:20
11	exhibit: Totally Under Control, Bad Hair, and Luce?	01:56:26
12	How many dedicated permanent employees at Neon's	01:56:30
13	accounting department?	01:56:35
14	MR. STRUBLE: Object to form.	01:56:36
15	THE WITNESS: Yeah, just one.	01:56:37
16	BY MR. PESSAH:	01:56:41
17	Q. Just you?	01:56:42
18	A. Yes.	01:56:42
19	Q. We are is going to go to the next three:	01:56:43
20	Palm Springs, Possessor Uncut, and Ammonite. Same	01:56:46
21	question.	01:56:56
22	A. Yes, one.	01:56:56
23	MR. STRUBLE: Object to form.	01:56:58
24	BY MR. PESSAH:	01:57:00
25	Q. Still just you?	01:57:00

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1	A. Yes.	01:57:01
2	MR. STRUBLE: Object to form.	01:57:02
3	BY MR. PESSAH:	01:57:03
4	Q. Okay. So the next three: Spaceship Earth,	01:57:03
5	Shirley, and She Dies Tomorrow, how many -- at that	01:57:09
6	point, how many dedicated employees in Neon's	01:57:12
7	accounting and finance department at that time?	01:57:16
8	MR. STRUBLE: Object to form.	01:57:19
9	THE WITNESS: The same, one.	01:57:19
10	BY MR. PESSAH:	01:57:23
11	Q. Okay. And do you see the next three on	01:57:25
12	page 7 of the exhibit: The Worst Person in the	01:57:28
13	World, The First Wave, and The Painter and the	01:57:32
14	Thief?	01:57:37
15	How many people at Neon dedicated in the	01:57:38
16	accounting and finance department?	01:57:39
17	A. What were the --	01:57:42
18	MR. STRUBLE: Object to form.	01:57:43
19	THE WITNESS: -- release dates on these?	01:57:44
20	MR. STRUBLE: Sorry.	01:57:43
21	Object to form.	01:57:43
22	BY MR. PESSAH:	01:57:47
23	Q. I actually couldn't tell you, but if you	01:57:47
24	don't recall, that's okay.	01:57:49
25	A. Yeah, just -- yeah, just one.	01:57:50

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1	Q.	Still one?	01:57:53
2	A.	Yeah.	01:57:54
3	Q.	Through the acquisition of The Painter and	01:57:55
4		the Thief --	01:57:58
5	A.	I believe so, yes -- yeah.	01:57:59
6	MR. STRUBLE:	Object to form in the prior two	01:58:02
7		questions.	01:58:05
8	BY MR. PESSAH:		01:58:05
9	Q.	Okay. And the next three: Titane, Flee,	01:58:06
10		and Spencer?	01:58:10
11	MR. STRUBLE:	Object to form.	01:58:11
12	BY MR. PESSAH:		01:58:14
13	Q.	Same question.	01:58:14
14	A.	Yeah.	01:58:16
15	MR. STRUBLE:	Object to form.	01:58:17
16	THE WITNESS:	Same answer, one.	01:58:18
17	BY MR. PESSAH:		01:58:20
18	Q.	Just you?	01:58:20
19	MR. STRUBLE:	Object to form.	01:58:21
20	THE WITNESS:	Yes.	01:58:22
21	BY MR. PESSAH:		01:58:22
22	Q.	The next three films: Ailey, The Year of	01:58:27
23		the Everlasting -- huh? Did you say something? The	01:58:34
24		Year of Everlasting Storm, and Pig, through the	01:58:41
25		acquisition of these three titles, how many	01:58:46

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1	dedicated accounting and finance staff were employed	01:58:50
2	at Neon?	01:58:54
3	MR. STRUBLE: Object to form.	01:58:56
4	THE WITNESS: So these three, I am not exactly	01:58:57
5	sure on their timing. These might have been right	01:59:00
6	around when I was leaving.	01:59:02
7	BY MR. PESSAH:	01:59:06
8	Q. And the more times you left, you were not	01:59:07
9	(audio disruption) --	01:59:09
10	(Reporter clarification.)	01:59:09
11	BY MR. PESSAH:	01:59:34
12	Q. At the time that you left, you were not the	01:59:34
13	only employee, permanent employee, in the accounting	01:59:39
14	and finance department; right?	01:59:42
15	MR. STRUBLE: Objection to form, asked and	01:59:43
16	answered.	01:59:45
17	THE WITNESS: Correct.	01:59:45
18	BY MR. PESSAH:	01:59:46
19	Q. I'm sorry. What was your answer?	01:59:46
20	A. Correct. Correct.	01:59:47
21	Q. Okay. And so the three films that we're	01:59:48
22	looking at here on page 6 of the exhibit: Ailey,	01:59:51
23	The Year of the Everlasting Storm, and Pig, you are	01:59:56
24	not sure if you were still the person in accounting	01:59:59
25	and finance at Neon when these three films became	02:00:02

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1	part of its catalog?	02:00:06
2	A. Correct.	02:00:07
3	MR. STRUBLE: Object to form.	02:00:08
4	BY MR. PESSAH:	02:00:09
5	Q. Okay. And were these -- had these films	02:00:09
6	already been acquired -- the ones we are looking at	02:00:15
7	on page 6, had they already been acquired when you	02:00:18
8	left?	02:00:20
9	MR. STRUBLE: Object to form, vague and	02:00:22
10	ambiguous as to what we're looking at.	02:00:24
11	THE WITNESS: I believe so. I think Pig was,	02:00:25
12	but I -- I don't know with 100 percent certainty the	02:00:31
13	timing of the others.	02:00:38
14	BY MR. PESSAH:	02:00:38
15	Q. Okay. How about these additional three,	02:00:39
16	Apollo 11, also on page 6 of the exhibit, page 6 of	02:00:42
17	Exhibit 6, Apollo 11, Quarantine, Billie Eilish:	02:00:46
18	The World's a Little Blurry, and The Earth, were	02:00:53
19	these films part of Neon's catalog at the time of	02:00:54
20	your departure?	02:00:58
21	A. Those were after.	02:00:59
22	MR. STRUBLE: Objection to form.	02:01:00
23	Jim, give me a chance.	02:01:01
24	Object to form.	02:01:01
25	THE WITNESS: After my departure.	02:01:02

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1	BY MR. PESSAH:	02:01:03
2	Q. Okay. And, Mr. Wehrfritz, when you were	02:01:04
3	working at Orchard -- The Orchard in accounting and	02:01:09
4	finance, were you relying on outside consultants for	02:01:12
5	the accounting and financing work you were doing	02:01:17
6	there?	02:01:19
7	MR. STRUBLE: Object to form.	02:01:20
8	THE WITNESS: No.	02:01:21
9	BY MR. PESSAH:	02:01:23
10	Q. All right. And how many people were in the	02:01:24
11	accounting and finance department at The Orchard	02:01:25
12	while you were there?	02:01:29
13	MR. STRUBLE: Object to form.	02:01:30
14	THE WITNESS: Two people.	02:01:31
15	BY MR. PESSAH:	02:01:33
16	Q. Including yourself?	02:01:33
17	A. Yes.	02:01:34
18	Q. And how many films were in The Orchard's	02:01:35
19	catalog that you guys were responsible at that time?	02:01:39
20	MR. STRUBLE: Object to form.	02:01:43
21	THE WITNESS: I don't recall how many.	02:01:44
22	BY MR. PESSAH:	02:01:47
23	Q. Was it at least five?	02:01:47
24	MR. STRUBLE: Object to form.	02:01:49
25	THE WITNESS: Yes.	02:01:49

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1	BY MR. PESSAH:	02:01:51
2	Q. Okay. Thank you. So, Mr. Wehrfritz, we	02:01:52
3	went through approximately 40 titles right now.	02:02:08
4	Does that surprise you?	02:02:13
5	MR. STRUBLE: Object to the form. Object to the	02:02:14
6	characterization.	02:02:17
7	THE WITNESS: Surprise me, in what way?	02:02:18
8	BY MR. PESSAH:	02:02:20
9	Q. Does it surprise you that we went through	02:02:20
10	40 films that were part of the Neon's catalog while	02:02:22
11	you were the only permanent employee in accounting	02:02:27
12	and finance?	02:02:29
13	MR. STRUBLE: Object to form, lacks foundation,	02:02:30
14	vague and ambiguous.	02:02:32
15	THE WITNESS: No.	02:02:32
16	BY MR. PESSAH:	02:02:35
17	Q. And do you believe that's the -- that's a	02:02:35
18	lot of films for a company that has one designated	02:02:38
19	employee for accounting and finance?	02:02:43
20	MR. STRUBLE: Object to form, lacks foundation.	02:02:45
21	THE WITNESS: One dedicated employee, but we	02:02:48
22	were -- we had resources at our disposal on an	02:02:50
23	external basis.	02:02:54
24	BY MR. PESSAH:	02:02:55
25	Q. But your suggestion and disagreement with	02:02:56

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1	Mr. Quinn was that you wanted, and you were	02:02:59
2	recommending, more permanent employees in the	02:03:04
3	accounting and finance department; isn't that true?	02:03:06
4	MR. STRUBLE: Object to form, argumentative,	02:03:09
5	mischaracterizes the testimony.	02:03:11
6	THE WITNESS: That was my -- my preference, but	02:03:13
7	I think that what we accomplished using external	02:03:15
8	resources didn't compromise in the quality of our	02:03:18
9	work product.	02:03:21
10	BY MR. PESSAH:	02:03:23
11	Q. Okay. But that was your -- that was your	02:03:24
12	recommendation to Mr. Quinn, correct, that there was	02:03:26
13	be more --	02:03:30
14	A. At the time of my hire --	02:03:30
15	Q. Let me finish my question.	02:03:31
16	At the time of your hire, there should be more	02:03:34
17	dedicated staff in the accounting and financing	02:03:36
18	department; right?	02:03:38
19	MR. STRUBLE: Object to form, lacks foundation,	02:03:40
20	mischaracterizes testimony, asked and answered.	02:03:42
21	THE WITNESS: Yes. Correct.	02:03:44
22	MR. STRUBLE: Anyways, I think Regina --	02:04:08
23	MR. PESSAH: Sorry, go ahead.	02:04:08
24	MR. STRUBLE: I was just going to say Regina is	02:04:09
25	ready to go, as per her chat.	02:04:11

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1	MR. PESSAH: Do we need to stop, or can we	02:04:13
2	just -- can we just have Ms. Vega take over?	02:04:15
3	THE REPORTER: Yeah, I don't think we need to	02:04:15
4	stop, unless -- you're all ready to go?	02:04:15
5	Do you just need to drop your realtime in the	02:04:15
6	chat, Ms. Vega? Thank you so much for your help.	02:04:18
7	MS. VEGA: I sent -- I sent the realtime links	02:04:18
8	directly to Mr. Cory Struble. I've sent those	02:04:42
9	already.	02:04:46
10	MR. PESSAH: Perfect.	02:04:46
11	MS. VEGA: I'm ready.	02:04:46
12	MR. PESSAH: Okay, great. Thank you. And so we	02:04:49
13	don't need to go off the record.	02:04:50
14	(Whereupon, the backup court reporter proceeded to	
15	capture the remaining proceedings.)	
16		
17		
18		
19		
20		
21		
22		
23		
24		
25		

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1 Friday, December 15, 2023

2 2:04 p.m.

3

4 JAMES WEHRFRITZ,

5 having previously been sworn, testified

6 further as follows:

7 (Resuming deposition in progress. Change

8 of reporters, no omissions.)

9

10 EXAMINATION (CONTINUED)

11 BY MR. PESSAH:

12 Q And so we don't need to go off the record.

13 I'm going to mark Exhibit 7 for identification.

14 I'm going to share my screen, as I have been doing  
15 every single deposition in this case. And, Mr. Wehrfritz --

16 MR. STRUBLE: I want my copy before the witness  
17 starts to testify about this exhibit.

18 MR. PESSAH: I'll get to that. I'm asking him if he  
19 can see my screen. Hold your horses.

20 BY MR. PESSAH:

21 Q Mr. Wehrfritz, can you see my screen? Do you see me  
22 scrolling around in circles like this?

23 A Yes.

24 (Exhibit 7 was marked for identification.)

25 Q Okay. Excellent.

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1                   And so this is what I marked as Exhibit 7. This is  
2 NEON 4585?

3                   MR. STRUBLE: And we object. It's incomplete. No  
4 attachment.

5                   MR. PESSAH: Okay, great.

6 BY MR. PESSAH:

7           Q    Mr. Wehrfritz -- I don't have questions about the  
8 attachments. I have questions about the document.

9                   Mr. Wehrfritz, were you employed by NEON on March 1,  
10                   21?

10 20

11           A    No.

12           Q    Okay.

13           A    I think -- yeah.

14           Q    Okay. Can you take a moment to just read the contents  
15 of this e-mail from Ms. Nickelsberg, please.

16                   Why don't you just read it into the record.

17                   THE REPORTER: I'm sorry, who said that?

18 BY MR. PESSAH:

19           Q    Just read this sentence for me, Mr. Wehrfritz, this  
20 last sentence.

21                   MR. STRUBLE: Object to form.

22                   THE WITNESS: "With that

23 correction" (unintelligible) --

24                   (The reporter asks for clarification.)

25                   THE WITNESS: "With that correction reflected in this

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1 statement, you'll see that the cumulative direct advertising  
2 expenses have been adjusted down less than \$12,000 from Q3  
3 2020."

4 BY MR. PESSAH:

5 Q Okay. What is your understanding of what this e-mail  
6 is referring to?

7 MR. STRUBLE: Object to form. Calls for speculation.

8 THE WITNESS: I don't know what expense this is  
9 referring to.

10 BY MR. PESSAH:

11 Q Not what expense, but what this e-mail in general is  
12 referring to?

13 MR. STRUBLE: Same objection.

14 THE WITNESS: Yeah. It looks like some sort of  
15 correction to the statement because of an expense that --

16 (Speaking simultaneously.)

17 BY MR. PESSAH:

18 Q Expense that wasn't what, sorry?

19 A Applied correctly. If I'm reading this correctly.

20 Q It says, "We discovered one expenditure that had been  
21 erroneously applied to Amazing Grace."

22 Do you see that?

23 A Yes.

24 Q And it's an expenditure from the third quarter of 2020.  
25 Do you see that here in the last part of the e-mail?

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1 MR. STRUBLE: Objection to form. Calls for  
2 speculation.

3 THE WITNESS: I see that in this e-mail, yes.

4 BY MR. PESSAH:

5 Q And Q3 2020, that's during the time you were employed  
6 at NEON, correct?

7 A Yes.

8 Q And is that during the time that NEON was also relying  
9 on outside consultants?

10 MR. STRUBLE: Object to form. Vague and ambiguous.

11 THE WITNESS: Yes, it is.

12 BY MR. PESSAH:

13 Q Was RSM involved during this time?

14 MR. STRUBLE: Object to form. Vague and ambiguous.

15 THE WITNESS: Yes.

16 BY MR. PESSAH:

17 Q Okay. And who else in terms of outside consultants  
18 were involved when this erroneous \$12,000 expense was charged  
19 to Amazing Grace?

20 MR. STRUBLE: Object to form. Vague and ambiguous as  
21 to timing. And lacks foundation.

22 THE WITNESS: Yeah. I don't recall any other  
23 external consultants at that time. I can't remember about Jeff  
24 White, if he was involved.

25 But this is the time that Ryan -- Ryan was involved,

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1 so he would have been, you know, a part of this.

2 BY MR. PESSAH:

3 Q Ryan -- Ryan was involved during Q3 of 2020?

4 MR. STRUBLE: Object to form.

5 THE WITNESS: Yeah, because I didn't leave until --  
6 when was it? -- the first part of 2021.

7 BY MR. PESSAH:

8 Q That's what you testified to, I believe.

9 A Yes. Yeah.

10 Q Okay. And so during the time you were at NEON, do you  
11 recall any other instances like this where expenses were  
12 erroneously charged to Amazing Grace or to other films?

13 MR. STRUBLE: Objection to form. Compound. Vague  
14 and ambiguous.

15 THE WITNESS: None that I can specifically recall.  
16 Like I said before, we made every effort to avoid situations  
17 like this.

18 BY MR. PESSAH:

19 Q So is it your testimony that when -- while you were  
20 there you don't remember observing any mistakes like the one  
21 we're reviewing here?

22 MR. STRUBLE: Objection to form. Asked and answered.

23 THE WITNESS: Yeah, I don't recall any specifically.

24 BY MR. PESSAH:

25 Q Okay. So your testimony is that as you sit here today,

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1 you don't recall, specifically or generally, any mistakes that  
2 were made on the films that NEON had in its catalog from an  
3 accounting standpoint?

4 MR. STRUBLE: Object to form. Asked and answered.

5 THE WITNESS: I don't -- I don't know how else to  
6 answer it. I mean, there was definitely -- I mean, there's  
7 corrections made to films, I just can't think of, like,  
8 particulars.

9 BY MR. PESSAH:

10 Q Corrections, meaning -- what was being corrected?  
11 Mistakes, right?

12 A Yeah --

13 MR. STRUBLE: Object to form.

14 MR. PESSAH: Sorry?

15 THE WITNESS: Yes. Yeah. Or, yeah, mis- -- right.  
16 I guess mistakes is the right way to put it.

17 BY MR. PESSAH:

18 Q It's okay, I mean, people make mistakes, right?

19 MR. STRUBLE: Object to form and the commentary.  
20 Asked and answered:

21 BY MR. PESSAH:

22 Q So, Mr. Wehrfritz, who at NEON in Q3 or -- when I  
23 say -- okay.

24 So who at NEON or who among the external consultants  
25 was responsible for tracking expenses in the third quarter of

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1 2020?

2 MR. STRUBLE: Objection, form. Lacks foundation.

3 THE WITNESS: I mean at this time, I believe it was

4 Ryan. He was in charge of the overall finance department.

5 BY MR. PESSAH:

6 Q Okay. And I -- I recall you testifying that Ryan,

7 Mr. Friscia, was good at his job, right?

8 A Yes.

9 Q And what grade would you give Mr. Friscia at his job?

10 MR. STRUBLE: Objection to form. Vague and

biguous.

11 am

12 THE WITNESS: I think he's an A student.

13 BY MR. PESSAH:

14 Q Okay. But just like anyone else, any student sometimes  
kes mistakes, right?

15 ma

16 A Sure.

17 MR. STRUBLE: Object to form. Calls for speculation

18 to the extent you're talking about Mr. Friscia. Vague and

biguous.

19 am

20 BY MR. PESSAH:

21 Q Who was responsible, then, in Q3 of 2020 for catching  
22 mistakes like this, was it Mr. Friscia?

23 MR. STRUBLE: Objection to form.

24 THE WITNESS: There was no one individual. Everybody  
25 was cognizant of the potential for mistakes and was always

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1 looking out to try to spot those -- (inaudible).

2 (The reporter asks for clarification.)

3 THE WITNESS: In trying to spot and rectify.

4 BY MR. PESSAH:

5 Q Okay. What was the protocol, then, when a mistake was  
6 identified? How quickly would -- would you rectify?

7 MR. STRUBLE: Objection to form. Lacks foundation.  
8 Vague and ambiguous.

9 THE WITNESS: As quickly as possible.

10 BY MR. PESSAH:

11 Q Okay. How quickly is that?

12 MR. STRUBLE: Object -- same objections. And object  
13 to form.

14 BY MR. PESSAH:

15 Q I'm sorry, I don't know what as quickly as possible  
16 means. That sounds like a very subjective thing.

17 So how quickly is as quickly as possible,  
18 Mr. Wehrfritz?

19 A It --

20 MR. STRUBLE: Hold on. Object to form.

21 THE WITNESS: I would say it's more of a general  
22 comment. I don't know about subjective. But, yeah, it's not  
23 something that I could quantify. But when mistakes were found,  
24 they were -- they were rectified in a timely fashion.

25 ///

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1 BY MR. PESSAH:

2 Q Did you receive any e-mails similar to this from  
3 Ms. Nickelsberg while you were working at NEON?

4 MR. STRUBLE: Hold on. Object to form. And then  
5 also because he's asked e-mails similar to this from  
6 Ms. Nickelsberg while you were an employee at NEON, I'm going  
7 to object on privilege grounds. I instruct the witness not to  
8 reveal any attorney/client communications between  
9 Ms. Nickelsberg, the general counsel of NEON, and you as a NEON  
10 employee to the extent, you know, they're similar to this  
11 e-mail.

12 Otherwise, you may answer as to nonprivileged  
13 communications.

14 MR. PESSAH: That's -- hold on. That's an improper  
15 instruction.

16 The witness has testified that Ms. Nickleberg --  
17 Ms. Nickelsberg never gave him legal advice. She never acted  
18 as his counsel. She's not his counsel. She is counsel to the  
19 company. There's nothing privileged about accounting mistakes.  
20 Mr. Wehrfritz has been testifying about accounting procedures  
21 and mistakes at NEON since he sat down for this deposition.

22 So are you maintaining that instruction? And if you  
23 are, please tell me why.

24 MR. STRUBLE: Yeah, because --

25 MR. PESSAH: What you basically told him is if you

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1 received anything similar to this, don't talk about it. Is  
2 that your instruction?

3 MR. STRUBLE: So let me respond.

4 First of all, we've already established, the judge I  
5 think has established that your privilege -- understanding of  
6 privilege is a little bit not correct, let's say.

7 MR. PESSAH: That's complete nonsense. That is  
8 complete --

9 (Speaking simultaneously.)

10 THE REPORTER: One at a time, please.

11 MR. STRUBLE: It's the hearing of this week when you  
12 said experts don't have any work product associated with  
13 them --

14 MR. PESSAH: No --

15 (Speaking simultaneously.)

16 MR. STRUBLE: Let not argue about that. To your  
17 question -- but don't interrupt. You can rebut --

18 MR. PESSAH: Just because you're speaking fast,  
19 doesn't mean you're correct. Do you get that? You can speak  
20 slower, but I'm going to correct --

21 MR. STRUBLE: I'm trying not to waste your time  
22 because you're asking me for more grounds for an objection  
23 that's plainly proper. That's why I'm speaking fast. If you  
24 want me to slow down and burn more time on an objection, I  
25 will. But --

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1 (Speaking simultaneously.)

2 MR. STRUBLE: Do you want the grounds of my objection  
3 or not? And stop speaking over me. The court reporter cannot  
4 hear both of us.

5 Do you want my grounds for the objection or not?

6 MR. PESSAH: No.

7 MR. STRUBLE: Okay. Well, let me just say then,  
8 because you misled on the record, the witness should not be  
9 misled by your speech.

10 The objection stands. The instruction stands. He  
11 didn't testify the way he claims he testified. And even if he  
12 did, there would still be a privilege as to any privileged  
13 matter concerning the company while he was an employee -- or  
14 potentially even afterwards. But I think you're talking about  
15 while he was an employee.

16 And so if there's an e-mail that's similar to this  
17 one, somehow -- because your question is so vague and bad --  
18 that it's somehow similar to this and you received a privileged  
19 communication pursuant to a request for legal advice, or  
20 pursuant to an attorney's request for assistance as work  
21 product in furtherance of litigation or anticipation of  
22 litigation, those things are privileged and the witness is  
23 instructed not to reveal those.

24 If there are nonprivileged communications, he can  
25 answer as to the rest.

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1 BY MR. PESSAH:

2 Q Mr. Wehrfritz, did you ever receive an e-mail similar  
3 to this from anyone at NEON during your time there?

4 MR. STRUBLE: Same objections, Mr. Wehrfritz.

5 THE WITNESS: Similar in what regard?

6 BY MR. PESSAH:

7 Q Similar in that the person sending the e-mail is  
8 identifying an erroneously applied expense to a film?

9 A I don't recall.

10 MR. STRUBLE: Hold on. Same objection and same  
11 instructions.

12 BY MR. PESSAH:

13 Q You don't recall, okay.

14 And so it's possible that you did receive something  
15 like this?

16 MR. STRUBLE: Same objections and instructions.

17 THE WITNESS: I don't recall.

18 BY MR. PESSAH:

19 Q Okay. So was this the protocol that was typically  
20 undertaken at NEON when there would be a mistake identified in  
21 terms of an expenditure? Is this how it would typically work,  
22 Ms. Nickelsberg e-mailing everybody and letting them know?

23 MR. STRUBLE: Okay. Objection to form. And, again,  
24 a question that potentially invades privilege, if such  
25 communications existed, I instruct the witness not to reveal

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1 any attorney/client or work product communications with  
2 Ms. Nickelsberg.

3 Otherwise, he can answer.

4 BY MR. PESSAH:

5 Q Mr. Wehrfritz, what's your answer?

6 A I don't recall.

7 Q You don't recall what the procedure was?

8 MR. STRUBLE: Objection to form.

9 BY MR. PESSAH:

10 Q Because that's what I asked you.

11 MR. STRUBLE: That's not what you asked him. You  
12 asked him something about Ms. Nickelsberg.

13 MR. PESSAH: No. I said was this the proper  
14 procedure.

15 MR. STRUBLE: What is "this." Vague and ambiguous.

16 BY MR. PESSAH:

17 Q Well, my question was clear when I asked it.

18 MR. STRUBLE: Not really.

19 THE WITNESS: I -- I don't know what proper procedure  
20 is.

21 BY MR. PESSAH:

22 Q Proper procedure, when an -- a mistaken expenditure was  
23 identified for a film, was this the proper procedure?

24 MR. STRUBLE: Objection to form. Vague and ambiguous  
25 as to "this." Incomprehensible.

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1 THE WITNESS: I still don't understand. By  
2 procedure, you mean sending out an e-mail?

3 MR. PESSAH: Yes.

4 MR. STRUBLE: Object to form. Do not reveal any  
5 attorney/client communications in your answer.

6 THE WITNESS: I believe there were --

7 (Speaking simultaneously.)

8 THE WITNESS: When mistakes were found, and I believe  
9 communications were made, if appropriate, to get back to the  
rties.

10 pa

11 BY MR. PESSAH:

12 Q Who was responsible for making those communications?

13 MR. STRUBLE: Objection to form. Vague and  
biguous.

14 am

15 THE WITNESS: I believe Jessica.

16 BY MR. PESSAH:

17 Q What was your understanding of Ms. Nickelsberg's role  
18 at NEON?

19 MR. STRUBLE: Object to form.

20 Do not discuss any role she had with legal --  
21 specific legal questions, specific disputes. Speak only when  
22 it concerns legalities to the general nature of her role, not  
23 as to any specific legal questions.

24 You can answer.

25 MR. PESSAH: That's not at all my question. My

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1 question has nothing to do with legal advice, Mr. Wehrfritz.  
2 It has nothing to do with legal disputes or conflicts or  
3 anything that Mr. Struble just said.

4 Do you understand that? It has nothing to do with  
5 any of those things.

6 MR. STRUBLE: Objection to form. And I interpret  
7 your message to mean that you're excluding those --

8 MR. PESSAH: Do you understand that, Mr. Wehrfritz?

9 MR. STRUBLE: Do not interrupt me. Do not interrupt  
10 me. You want to ask bad questions --

11 (Speaking simultaneously.)

12 MR. PESSAH: You're interrupting me. This is my  
13 deposition.

14 BY MR. PESSAH:

15 Q Mr. Wehrfritz, I'm not asking you about any legal  
16 advice or anything like that.

17 What I'm asking you is, what was your understanding  
18 of Ms. Nickelsberg's duties at NEON?

19 MR. STRUBLE: Same instructions, Mr. Wehrfritz.

20 And objection to form.

21 THE WITNESS: She's NEON -- she was Neon's general  
22 counsel, general counsel and operations leader.

23 BY MR. PESSAH:

24 Q What is operations?

25 MR. STRUBLE: Objection to form.

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1 THE WITNESS: I think it was largely related to the  
2 organizational structure. You know, I believe that's what it  
3 was. That's what she was focused on when it came to that side  
4 of her role. I knew her more on the general counsel side.

5 BY MR. PESSAH:

6 Q Can you elaborate on what you mean by operations or  
7 organizational structure?

8 A Oh, I think --

9 MR. STRUBLE: Same objection.

10 THE WITNESS: I think that's in her job title. So  
11 I -- not something that I'm really familiar with, but I think  
12 she -- you know, one of her -- I believe one of the things that  
13 she did or does is work on the structure of NEON when it comes  
14 to employees.

15 BY MR. PESSAH:

16 Q So what do you mean by "structure of NEON when it comes  
17 to employees," what do you mean by that?

18 A Well, I think she also -- well, I think she does like  
19 HR related things, human resources, I believe.

20 Q Okay. What else?

21 MR. STRUBLE: Object to form.

22 THE WITNESS: I'm not sure, honestly.

23 BY MR. PESSAH:

24 Q So other than HR and legal duties or duties as a -- as  
25 an in-house lawyer, you're not aware of any other duties that

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1 Ms. Nickelsberg had?

2 MR. STRUBLE: Object --

3 THE WITNESS: No, I am not.

4 BY MR. PESSAH:

5 Q And so when you see the word "operations" here in her  
6 title, you understand that to mean HR duties?

7 MR. STRUBLE: Object to form.

8 THE WITNESS: That is my understanding.

9 BY MR. PESSAH:

10 Q Okay. And did she ever -- did you ever witness her  
11 handling HR duties?

12 MR. STRUBLE: Object to form. Vague and ambiguous.

13 THE WITNESS: When it came to hiring people, yes.

14 BY MR. PESSAH:

15 Q So she was involved in hiring decisions?

16 A Yes.

17 Q And was she involved in firing decisions?

18 MR. STRUBLE: Objection to form.

19 THE WITNESS: I believe so, yes.

20 BY MR. PESSAH:

21 Q Was she involved in the discussions regarding the  
22 termination of your employment?

23 MR. STRUBLE: Objection to form.

24 THE WITNESS: I believe so, yes.

25 ///

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1 BY MR. PESSAH:

2 Q Why are you not sure of that?

3 A No, I just -- I believe so, yes.

4 Q Is it you believe so or is it yes? Do those --

5 those -- to me, I'm sorry, I'm just a lawyer. Those mean  
6 different things to me. A "yes" is --

7 A Yes. Yes.

8 MR. STRUBLE: Hold on. Mr. Wehrfritz. I do need to  
9 do these objections for the record. And the reporter will much  
10 appreciate if we don't have cross-talk that she has to go back  
11 and listen to.

12 So object to the form and the commentary and the  
13 characterization of the witness's testimony.

14 BY MR. PESSAH:

15 Q Okay. So I believe the answer to the question of was  
16 she involved in the decision to terminate your employment was  
17 yes, correct?

18 MR. STRUBLE: Object to form.

19 THE WITNESS: She -- yeah. She was a part of, yeah,  
20 my departure discussions.

21 BY MR. PESSAH:

22 Q Okay. And, again, your departure was totally  
23 voluntary, correct?

24 MR. STRUBLE: Object to form.

25 THE WITNESS: It was com- -- it was combination of

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1 a -- it was a discussion that we had relating to some  
2 circumstances I had going on in my personal life.

3 BY MR. PESSAH:

4 Q I see.

5 And did -- did NEON ask you to stay?

6 MR. STRUBLE: Objection to form.

7 THE WITNESS: We both thought it was the right  
8 decision to leave.

9 BY MR. PESSAH:

10 Q And why -- why do you think it was the right decision  
11 to leave? And I don't want to get into personal health stuff.

12 A Well, I --

13 MR. STRUBLE: Object to form.

14 THE WITNESS: -- to me that -- for me that's what was  
15 the driving factor.

16 BY MR. PESSAH:

17 Q Okay. And do you believe that was the driving factor  
18 for them as well?

19 MR. STRUBLE: Object to form. Calls for speculation.

20 THE WITNESS: I know it was certainly a part of their  
21 decision.

22 BY MR. PESSAH:

23 Q It was part of their decision --

24 A Their thinking.

25 Q Got it. Okay.

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1                   And were you represented by your own attorneys in the  
2 discussions to separate from NEON?

3                   MR. STRUBLE: Object to form.

4                   THE WITNESS: No.

5 BY MR. PESSAH:

6           Q    Okay. And Mr. Cockrel, Clint Cockrel [phonetic], do  
7 you know why he left?

8                   MR. STRUBLE: Object to form.

9                   THE WITNESS: I do not.

10 BY MR. PESSAH:

11           Q    Okay. When you were working at the Orchard, did you  
12 ever receive e-mails like this about expenses being erroneously  
13               plied to films?

13 ap

14                   MR. STRUBLE: Object to form. And the witness has  
15 confidentiality obligations or privilege obligations to his  
16 former employer. He's advised to be mindful of those in  
17 responding.

18                   MR. PESSAH: I'm not asking about any specific  
19 situations. I'm just asking if you ever received an e-mail or  
20 were aware of a mistake that was similar to this at the  
21 Orchard. Don't mention the names of the film if you don't want  
22 to.

23                   MR. STRUBLE: Same objections and instructions,  
24 Mr. Wehrfritz.

25                   THE WITNESS: No, I'm not aware.

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1 BY MR. PESSAH:

2 Q Okay. So were there accounting mistakes that were made  
3 at the Orchard that you're aware of?

4 MR. STRUBLE: Objection to form. Same objections --  
5 instructions.

6 THE WITNESS: Certainly there was issues that were  
7 had and rectified. I'm not sure what the form of any  
8 communications related to those was -- or to the involved  
9 parties. But I don't recall any e-mail like Jessica's going  
10 out.

11 BY MR. PESSAH:

12 Q Okay. Were there any instances where, at the Orchard  
13 where you caught an accounting mistake, specifically an expense  
14 being allocated to the wrong film?

15 MR. STRUBLE: Object to form.

16 BY MR. PESSAH:

17 Q To the best of your knowledge, did that ever happen  
18 while you were at the Orchard?

19 A No, I don't recall.

20 MR. STRUBLE: Object to form.

21 BY MR. PESSAH:

22 Q Is it no or is it you don't recall?

23 A I don't recall.

24 MR. STRUBLE: Object - okay.

25 ///

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1 BY MR. PESSAH:

2 Q Do you recall if while you were at the Orchard if  
3 revenues were ever inflated for any film?

4 MR. STRUBLE: Object to form. Vague and ambiguous.

5 THE WITNESS: No.

6 BY MR. PESSAH:

7 Q Do you recall while you were at the Orchard if revenues  
8 were ever understated for any particular film?

9 MR. STRUBLE: Objection to form. Vague and  
10 ambiguous.

11 THE WITNESS: No.

12 BY MR. PESSAH:

13 Q But you do recall those things happening while you were  
14 at NEON, correct?

15 MR. STRUBLE: Object to form.

16 THE WITNESS: Um, well --

17 MR. STRUBLE: Wait. Wait. Wait. Wait. Wait. Not  
18 only object to form but it lacks foundation. Mischaracterizes  
19 testimony. And vague as to "those things."

20 THE WITNESS: Yeah. Maybe can you repeat the  
21 question?

22 BY MR. PESSAH:

23 Q Yes.

24 Do you -- I can have the court reporter read it back.

25 ///

10 am

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1 (The requested portion of the record was  
2 read by the reporter.)

3 BY MR. PESSAH:

4 Q "Those things" being inflated revenues or underreported  
5 revenues?

6 MR. STRUBLE: And object to form to the extent you're  
7 suggesting the witness has testified to that, it  
8 mischaracterizes his testimony -- (inaudible).

9 (The reporter requests clarification.)

10 MR. STRUBLE: Vague and ambiguous.

11 THE WITNESS: The part about inflated, I think is  
12 mischaracterizing it. If there was mistakes regarding elements  
13 of revenue and/or expenses that were made, I mean, that's  
14 consistent at both organizations. I think the whole, just the  
15 word "inflate" seems to make it sound like it was an  
16 intentional wrongdoing, which was never the case in anywhere I  
17 worked.

18 BY MR. PESSAH:

19 Q To the best of your knowledge, correct?

20 MR. STRUBLE: Object --

21 THE WITNESS: Correct.

22 BY MR. PESSAH:

23 Q So you can't state that as a definitive fact. So  
24 you're just testifying to your own knowledge, right, Mr.  
25 Wehrfritz?

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1 MR. STRUBLE: Object to form. Argumentative. Vague  
2 and ambiguous as to definitive fact and own knowledge.

3 THE WITNESS: Correct.

4 BY MR. PESSAH:

5 Q Okay. But you said you couldn't recall any instances  
6 while you were at the Orchard where an expense was  
7 inappropriately allocated to the wrong film, correct?

8 MR. STRUBLE: Object to form.

9 THE WITNESS: No. I said there was mistakes made  
10 certainly at all places and we tried to find them as quickly as  
11 possible at both organizations.

12 MR. PESSAH: I'm going to ask -- objection.  
13 Nonresponsive.

14 I'm going to ask the court reporter to read the  
15 question back.

16 MR. STRUBLE: Object to the objection. It was  
17 responsive.

18 MR. PESSAH: No, it wasn't. Go ahead, speak up,  
19 please.

20 (The requested portion of the record was  
21 read by the reporter.)

22 MR. STRUBLE: Same objections. Asked and answered.

23 THE WITNESS: Yes, there was similarly mistakes made  
24 (unintelligible) --

25 (The reporter requests clarification.)

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1 THE WITNESS: At both organizations, you know,  
2 mistakes were made. At both organizations we strived to  
3 rectify those as quickly as possible.

4 BY MR. PESSAH:

5 Q But you don't recall, as you testified previously, any  
6 specific mistakes of that nature that occurred while you were  
7 at the Orchard, correct?

8 MR. STRUBLE: Objection as to form. Asked and  
9 answered.

10 THE WITNESS: I mean, it was a long time ago. Even  
11 further departed from versus NEON. So I can't think of any off  
12 the top of my head. But I know that they existed.

13 BY MR. PESSAH:

14 Q Okay. So you don't recall any specific ones, correct?

15 MR. STRUBLE: Object to form. Asked and answered.

16 THE WITNESS: That's correct.

17 BY MR. PESSAH:

18 Q And do you recall any specific mistakes at NEON while  
19 you were there?

20 MR. STRUBLE: Object to form. Asked and answered.

21 THE WITNESS: No, I don't recall any specific ones.

22 BY MR. PESSAH:

23 Q You're saying there were mistakes made at both  
24 organizations, correct?

25 MR. STRUBLE: Object to form. Asked and answered.

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1 THE WITNESS: Within the -- yes, within the groups,  
2 yes, absolutely. Within the greater NEON team and the greater  
3 Orchard team, yes, absolutely, there were mistakes made by  
4 people.

5 BY MR. PESSAH:

6 Q Regarding specifically the allocation of expenses to  
7 the wrong film?

8 MR. STRUBLE: Objection to form. Lacks foundation.  
9 Vague and ambiguous.

10 THE WITNESS: Regarding expense allocation, yes. I  
11 can't think of any off the top of my head, but I'm sure  
12 those -- those sorts of mistakes were made.

13 MR. PESSAH: Okay. I just need to take a quick water  
14 break. Let's take five, please.

15 MR. STRUBLE: Okay. I mean, at your option.

16 THE VIDEOGRAPHER: We are now going off the record,  
17 and the time is 2:34 p.m.

18 (At 2:34 p.m., a recess was taken.)

19 THE VIDEOGRAPHER: We are now going back on the  
20 record, and the time is 2:39 p.m.

21 BY MR. PESSAH:

22 Q Mr. Wehrfritz, which accounting software did NEON have  
23 when you first were hired by the company?

24 A It was QuickBooks.

25 Q What? What is it?

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1 A QuickBooks.

2 Q QuickBooks. They were using QuickBooks, okay.

3 And did that change at any time during your  
4 employment?

5 MR. STRUBLE: Object to form.

6 THE WITNESS: We were evaluating new software  
7 packages.

8 BY MR. PESSAH:

9 Q And QuickBooks is not an industry specific accounting  
10 software, is it?

11 MR. STRUBLE: Object to form.

12 THE WITNESS: No, it's not.

13 BY MR. PESSAH:

14 Q So how were the QuickBooks -- how was the QuickBooks  
15 organized at NEON?

16 MR. STRUBLE: Object to form.

17 THE WITNESS: How do you mean organized?

18 BY MR. PESSAH:

19 Q I mean, was it separated by film?

20 A Yes.

21 Q Okay. So was there a general ledger for each film?

22 MR. STRUBLE: Object to form.

23 THE WITNESS: Yeah. Yeah. It was separated out by  
24 film.

25 ///

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1 BY MR. PESSAH:

2 Q There was a general ledger for each film?

3 A Yeah, I believe -- (inaudible).

4 Q Okay, and then --

5 (The reporter requests clarification.)

6 THE WITNESS: I believe it was, yes.

7 BY MR. PESSAH:

8 Q And you were relying on -- on the QuickBooks to do your  
9 work at NEON, correct?

10 MR. STRUBLE: Object to form.

11 THE WITNESS: Correct.

12 BY MR. PESSAH:

13 Q And did you find that QuickBooks was the appropriate  
14 software for the type of work that NEON was doing?

15 MR. STRUBLE: Object --

16 THE WITNESS: It was okay.

17 BY MR. PESSAH:

18 Q Was it the appropriate software for the type of work  
19 that NEON was doing?

20 MR. STRUBLE: Object to form. Asked and answered.

21 THE WITNESS: I thought it served its purpose fine.

22 BY MR. PESSAH:

23 Q Was it the optimal software for the type of work NEON  
24 was doing?

25 MR. STRUBLE: Object to form. Vague and ambiguous.

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1 THE WITNESS: As we grew I think a (inaudible)  
2 accounting package would likely be better for the company.

3 (The reporter requests clarification.)

4 THE WITNESS: A more robust software package,  
5 accounting software package.

6 BY MR. PESSAH:

7 Q And was there a point during your employment that NEON  
8 did, in fact, procure a quote for a more robust accounting  
9 software?

10 MR. STRUBLE: Object to form.

11 THE WITNESS: I believe it was something that was  
12 signed up for at like the integration of which. Yeah, I don't  
13 exactly recall the timing.

14 BY MR. PESSAH:

15 Q So is it safe to say that during the time you were  
16 employed by NEON the only available software for accounting was  
17 QuickBooks?

18 MR. STRUBLE: Objection to form.

19 THE WITNESS: I believe that's the case.

20 BY MR. PESSAH:

21 Q Okay. And so how was the QuickBooks structured? You  
22 said there were different general ledgers for each film; is  
23 that correct?

24 MR. STRUBLE: Object to form. Asked and answered.

25 THE WITNESS: Yes, that's correct.

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1 BY MR. PESSAH:

2 Q And on that general ledger one would find all the  
3 expenses and all the revenues associated with each film,  
4 correct?

5 MR. STRUBLE: Object to form. Lacks foundation.

6 THE WITNESS: Correct.

7 BY MR. PESSAH:

8 Q And who was responsible for entering revenues and  
9 expenses into the general ledger on Neon's QuickBooks?

10 MR. STRUBLE: Object to form.

11 THE WITNESS: The response- -- responsibility was  
12 across everybody involved, from, you know, me, plus the  
13 external consultants that we employed.

14 BY MR. PESSAH:

15 Q So every single employee at NEON had access to the  
16 general ledger and QuickBooks?

17 MR. STRUBLE: Object to form. Mischaracterizes  
18 testimony.

19 THE WITNESS: Me, plus the external employees at the  
20 finance accounting department.

21 BY MR. PESSAH:

22 Q So you were the only permanent employee in the  
23 accounting and finance department when you were hired, correct?

24 MR. STRUBLE: Objection to form. Asked and answered.

25 THE WITNESS: Yes.

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1 BY MR. PESSAH:

2 Q And there were no outside consultants for accounting  
3 and finance when you were first hired, right?

4 MR. STRUBLE: Objection to form. Asked and answered  
5 so many times in this deposition.

6 THE WITNESS: Yes. It was Alamo (unintelligible) --  
7 (The reporter requests clarification.)

8 THE WITNESS: Alamo Drafthouse. So --  
9 (Discussion was held with the reporter off  
10 the record.)

11 BY MR. PESSAH:

12 Q So, Mr. Wehrfritz, at the time you were hired, you and  
13 certain individuals at Alamo Drafthouse had access to NEON'S  
14 general ledger?

15 MR. STRUBLE: Objection to form.

16 THE WITNESS: Yes.

17 BY MR. PESSAH:

18 Q And the QuickBooks software, was that NEON'S software  
19 license, or were you guys using Alamo's software license?

20 MR. STRUBLE: Objection to form.

21 THE WITNESS: I believe at the time it was Alamo  
22 Drafthouse's license.

23 BY MR. PESSAH:

24 Q So at the time you started working at NEON, NEON  
25 actually did not have accounting software, correct?

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1 MR. STRUBLE: Objection to form. Mischaracterizes  
2 testimony.

3 THE WITNESS: We had it by means of Alamo Drafthouse.

4 BY MR. PESSAH:

5 Q So is it correct to say that at the time you were hired  
6 as the VP of accounting and finance, NEON was using a copy of  
7 Alamo Draft's House [sic] QuickBooks?

8 MR. STRUBLE: Objection to form.

9 THE WITNESS: With their permission as I understand  
10 it.

11 BY MR. PESSAH:

12 Q So, again, NEON did not own its own license for  
13 QuickBooks, correct?

14 MR. STRUBLE: Objection to form.

15 THE WITNESS: As I recall, not immediately.

16 BY MR. PESSAH:

17 Q Okay. And so were you using QuickBooks Online or were  
18 you using a local copy of QuickBooks?

19 MR. STRUBLE: Objection to form.

20 THE WITNESS: I believe a combination of both,  
21 QuickBooks Online and a local copy.

22 BY MR. PESSAH:

23 Q Was the general ledger for a film on your local copy  
24 always identical to the ledger that was accessible on the  
25 streaming copy?

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1 MR. STRUBLE: Objection to form.

2 THE WITNESS: I believe so, yes.

3 BY MR. PESSAH:

4 Q And how would it remain identical if the local copy  
5 was -- was not the same as the streaming copy? I mean, how --  
6 my understanding is the streaming copy is a live copy, and a  
7 local copy is one that someone has to continue to update; isn't  
8 that right?

9 MR. STRUBLE: Objection to form. Compared to what  
10 question you wanted an answer. Vague and ambiguous. Calls for  
11 speculation.

12 BY MR. PESSAH:

13 Q Isn't that right, Mr. Wehrfritz?

14 MR. STRUBLE: Same objections.

15 THE WITNESS: I believe -- I think it was largely the  
16 online one that we used. I thought there was a -- maybe a  
17 local copy as well. I believe it was the online one that would  
18 be accessed on a daily basis.

19 BY MR. PESSAH:

20 Q And did you have your own personal access credentials?

21 A Yes.

22 Q Okay. So they were not credentials that you had to  
23 borrow from an Alamo employee?

24 MR. STRUBLE: Objection, form.

25 THE WITNESS: Yeah -- as far as I recall, yes, that's

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1 correct.

2 BY MR. PESSAH:

3 Q And who gave you those credentials?

4 A I don't recall.

5 Q How many people at Alamo Drafthouse were assisting NEON  
6 with its accounting?

7 MR. STRUBLE: Objection to form. Vague as to time.

8 THE WITNESS: I believe it was -- I believe it was  
9 two people.

10 BY MR. PESSAH:

11 Q Do you remember their names?

12 A I don't.

13 Q Not even a first name?

14 A No.

15 Q Okay. And so the folks that were assisting at Alamo  
16 Drafthouse had the ability to enter revenue and expense items  
17 on their general ledger for a film on QuickBooks, correct?

18 MR. STRUBLE: Object to form.

19 THE WITNESS: I believe that's the case.

20 BY MR. PESSAH:

21 Q And you had that ability as well, correct?

22 MR. STRUBLE: Object to form.

23 THE WITNESS: Correct.

24 BY MR. PESSAH:

25 Q And how would Alamo know what the revenues and expenses

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1 are on a particular film?

2 MR. STRUBLE: Objection to form. Calls for  
3 speculation.

4 THE WITNESS: There was communications directly from  
5 the team at NEON to them, between the theatrical team, the  
6 digital team. So they were well aware. Plus they had their  
7 own logins to -- specifically for additional revenues, so they  
8 could see for themselves online.

9 BY MR. PESSAH:

10 Q Logins to what?

11 A To the various digital streaming platforms, where you  
12 could track the revenues coming in.

13 Q So people at Alamo, who you cannot identify as you sit  
14 here today, had access to the expense and revenue data of films  
15 that were part of NEON'S catalog, correct?

16 MR. STRUBLE: Object to form. Asked and answered.

17 THE WITNESS: Yes, that's correct.

18 BY MR. PESSAH:

19 Q And at what point in your tenure did this arrangement  
20 change, if at all?

21 MR. STRUBLE: Object to form. Vague and ambiguous.

22 THE WITNESS: Very shortly after my arrival.

23 BY MR. PESSAH:

24 Q Was that your recommendation that it change?

25 MR. STRUBLE: Object to form.

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1 THE WITNESS: No. I think this is a part of  
2 arrangement that --that Tom had -- Tom Quinn had with Alamo.

3 BY MR. PESSAH:

4 Q Okay. I see.

5 And at what point did that change?

6 A Soon after I started, so the third quarter of 2018.

7 Q And so other than changing the relationship with Alamo,  
8 did NEON procure a different software package or a more robust  
9 software package to account for revenues and expenses?

10 A Not --

11 MR. STRUBLE: Object --

12 THE WITNESS: -- not at that point.

13 BY MR. PESSAH:

14 Q So what happened, NEON just continued to use QuickBooks  
15 but just got its own version of the software?

16 MR. STRUBLE: Object to form.

17 And also, just make sure my "objection to form" is  
18 noted for the prior question. I didn't see it.

19 THE WITNESS: Yes.

20 BY MR. PESSAH:

21 Q So around what year did NEON finally have its own  
22 version of QuickBooks?

23 MR. STRUBLE: Object to form.

24 THE WITNESS: This was in 2018. I'm pretty sure they  
25 started billing us directly, QuickBooks that is, for the online

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1 access.

2 BY MR. PESSAH:

3 Q In 2018?

4 A Yeah, I believe that's right.

5 Q Okay. And then so all the accounting of revenues and  
6 expenses for the film Amazing Grace, those were kept in a  
7 general ledger on QuickBooks?

8 MR. STRUBLE: Objection to form.

9 THE WITNESS: During my tenure, I believe that's  
10 correct.

11 BY MR. PESSAH:

12 Q Okay. And other than you, who else had access to make  
13 entries on the general ledger for the film Amazing Grace on  
14 QuickBooks?

15 MR. STRUBLE: Objection to form.

16 THE WITNESS: It would have been RSM, plus whatever  
17 external consultants we might have had employed at the time who  
18 I don't recall.

19 BY MR. PESSAH:

20 Q And yourself, correct?

21 A Correct, yes.

22 Q Okay. Do you know if NEON made the external  
23 consultants sign NDAs?

24 MR. STRUBLE: Objection to form.

25 THE WITNESS: I believe so, yes.

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1 BY MR. PESSAH:

2 Q Okay. And so at any point during your time at NEON,  
3 did NEON get a more robust accounting software?

4 MR. STRUBLE: Objection to form. Asked and answered.

5 THE WITNESS: Yeah, it was something that was  
6 always -- or not always, but it was a discussion. I can't  
7 remember where it was when I left.

8 BY MR. PESSAH:

9 Q But while you were there, they just continued to use  
10 QuickBooks, correct?

11 MR. STRUBLE: Objection to form.

12 THE WITNESS: I believe so, yes.

13 BY MR. PESSAH:

14 Q And why do you say that NEON could have benefitted from  
15 a more robust accounting software?

16 MR. STRUBLE: Objection to form.

17 THE WITNESS: I believe that as we got bigger, you  
18 know, I think the general thought is QuickBooks is up for -- or  
19 is good for businesses up to a certain size, which, you know, I  
20 think there was other accounting software packages that were  
21 probably a little bit more able to maybe be -- I don't know. I  
22 think there's just advantages to other software packages out  
23 there.

24 QuickBooks is great for what it is, which is a  
25 minimalist, small business software package. But as we grew, I

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1 think there was benefits from having a more robust package.  
2 Specifically when it comes to things like reporting, for  
3 instance.

4 BY MR. PESSAH:

5 Q Reporting what?

6 A Reporting out and tracking expenses. I know there's  
7 lots of bells and whistles with software packages these days.  
8 You can set up triggers to identify people when expenses exceed  
9 certain amounts. But also, reporting and having realtime P&Ls,  
10 profit and loss statements that people can access. That's  
11 something that QuickBooks, at least as far as I know, didn't  
12 really offer, at least at that time.

13 Q Okay. I see.

14 And so when you -- when NEON acquired Amazing Grace,  
15 was it your opinion that NEON was a small business?

16 MR. STRUBLE: Objection to form. Vague and  
17 biguous.

18 THE WITNESS: It's my opinion that they were a  
19 rapidly growing business. I think that their software package  
20 then was doing an okay job. But having a bigger, more robust  
21 one I think would have been beneficial for the reasons that I  
22 outlined previously.

23 I don't think that there's any sort of compromise by  
24 using QuickBooks at the time of Amazing Grace. But, again, I  
25 think just organizationally speaking, a bigger software -- a

17 am

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1 bigger, better software package would have been beneficial.

2 BY MR. PESSAH:

3 Q When you first started working at NEON, was NEON a  
4 small business?

5 MR. STRUBLE: Object to form.

6 THE WITNESS: Yeah, I would classify it as such.

7 BY MR. PESSAH:

8 Q When you left NEON was it a small business?

9 MR. STRUBLE: Object to form.

10 THE WITNESS: I think it was still -- it was a bigger  
11 business, still not -- you know, maybe you'd classify it as a  
12 lower, middle market. So I think it's, yeah, still a small  
13 business.

14 BY MR. PESSAH:

15 Q Still a small business but they could have used a more  
16 robust software package?

17 A I think so, just for the reasons I indicated before,  
18 not heavy on the reporting side.

19 MR. STRUBLE: Object to form of that question.

20 BY MR. PESSAH:

21 Q And so the quarterly statements and reports that were  
22 issued to Amazing Grace, those were generated by QuickBooks?

23 MR. STRUBLE: Objection to form. Vague and  
24 biguous.

25 THE WITNESS: I believe we would export to Excel --

24 am

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1 if I recall correctly. We would export to Excel and then  
2 provide a report that was coming out of Excel.

3 BY MR. PESSAH:

4 Q But -- but you could have easily generated reports out  
5 of QuickBooks, right?

6 MR. STRUBLE: Objection to form. Lacks foundation.

7 THE WITNESS: Yeah. Just the formatting, et cetera,  
8 wasn't as easy to deal with as it was when we exported it to  
9 Excel.

10 BY MR. PESSAH:

11 Q Do you believe that NEON'S licensors would have also  
12 benefited from a more robust accounting software?

13 MR. STRUBLE: Objection to form. Lacks foundation.  
14 Calls for speculation.

15 THE WITNESS: No. As I mentioned, I think that  
16 QuickBooks served its purpose well. I don't think it was  
17 anything compromised on the side of the licensors. I think  
18 really there's just benefits of having a bigger package. But I  
19 don't think anything directly impacted the licensors.

20 BY MR. PESSAH:

21 Q So really, your recommendation that NEON procure a more  
22 robust software package was really for NEON'S benefit, right?

23 A Yes. Correct.

24 MR. STRUBLE: Objection to form.

25 ///

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1 BY MR. PESSAH:

2 Q And that benefit includes functionality, such as being  
3 triggered when an expense passes a certain limit?

4 MR. STRUBLE: Objection --

5 THE WITNESS: Correct.

6 BY MR. PESSAH:

7 Q What were the other advantages that you thought would  
8 be gained from a more robust software package?

9 A Realtime P&L generation.

10 Q Oh, realtime P&L, that's what you said. Okay. Okay.

11 And so can you distinguish for me like, if NEON had a  
12 more robust software package and had a realtime P&L, so what --  
13 what -- sorry. What does QuickBooks offer if not realtime P&L?

14 MR. STRUBLE: Objection to form.

15 THE WITNESS: I was speaking more of the  
16 accessibility of it. I think the other software packages, you  
17 can access that. You don't have to be a member of the  
18 accounting or financing team to go in and see how the company  
19 is doing. You can assign that privilege to other folks within  
20 the company. So you can, you know, look at expenses, look at  
21 revenues on a per project basis or overall for the company.

22 You know, it gives access to that information to other people.

23 It's been a while since I've looked at accounting and  
24 finance software, but I believe that's kind of what I was --  
25 what we were looking at as being the advantages at that time.

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1 BY MR. PESSAH:

2 Q Did you encounter any resistant at NEON to your  
3 suggestion that there be a more robust accounting software?

4 MR. STRUBLE: Objection to form.

5 THE WITNESS: No.

6 BY MR. PESSAH:

7 Q Okay. And -- and at the Orchard, that company uses  
8 QuickBooks also?

9 A (Unintelligible.)

10 (The reporter requests clarification.)

11 THE WITNESS: I don't recall what software package.

12 MR. STRUBLE: And I need to object. We're now at  
13 00 o'clock, which is the time we agreed to extend to. We did 13 6:  
14 not agree to extend any further. We deem the deposition closed  
15 and completed.

16 MR. PESSAH: Deposition is not closed. We object to  
17 your premature adjournment of the deposition. The witness had  
18 to take a lot of breaks, and we have not hit the seven-hour  
19 rk. We will have the videographer give us an accounting of 19 ma  
20 time in the chat. We'll go off the record, and I can assure  
21 you we will not have met our seven-hour mark.

22 We believe that this is a premature and improper  
23 adjournment of this deposition. We would like the witness to  
24 be available for a second day. We're happy for that second day  
25 to happen in New York, if that's what the witness prefers. And

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1 we will be calling this witness at trial.

2 MR. STRUBLE: Okay. And I would -- Nicholas, I would  
3 like the time reading to be done on the record. If you need to  
4 go off the record, we can do that.

5 And I would just simply reply briefly that this could  
6 have all been obviated if you would have simply agreed to  
7 conduct the deposition beginning at a reasonable time in the  
8 morning, as opposed to prioritizing your own convenience over  
9 the witness's.

10 We see zero basis. This deposition wasted a lot of  
11 time. Asked and answered questions repeatedly. Going in  
12 circles with the same information, wasting the witness's time.  
13 I would have been more amenable to trying to work with you,  
14 assuming the witness is agreeable to it. But the fact of the  
15 matter is it's at 6:00 o'clock. We've been more than 15 ma  
16 reasonable. We've given you every accommodation.

17 It's unreasonable to demand the witness to be here  
18 at the close of business. It's already an hour past the 18 pa  
19 close of business, as you pointed out. And there's no basis to  
20 bring this nonparty in for a second day and ask him to  
21 sacrifice more time, when he was willing to start at New York  
22 morning time at start of business just like it is down on Wall  
23 Street.

24 So with that, Nicholas, we would like a time read,  
25 please.

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1 MR. PESSAH: Hold on. Again -- I have to respond.  
2 Again, we started this earlier than the business day  
3 starts. Business day starts at 9:00 a.m. We started this  
4 deposition at 8:00 a.m. Pacific, specifically to accommodate  
5 schedules.

6 The majority of depositions in this case, again,  
7 including the deposition of your client's CEO, Mr. Quinn,  
8 occurred in Los Angeles, and there was absolutely no issue  
9 brought up at that point. Mr. Quinn was allowed to testify for  
10 the full seven hours, and -- even though it was evening in  
11 New York.

12 This is the very first time that there's been a  
13 deposition taken -- that took place in New York where you are  
14 objecting based on your own personal preferences in terms of  
15 timing of the deposition.

16 Under the CPLR we are entitled to seven hours. It  
17 doesn't all have to happen tonight. We can do it at another  
18 day that's more convenient for the witness. I think that's a  
19 very reasonable option. Again, if there's a preference that  
20 the deposition be conducted on Eastern Time, I'm more than  
21 happy to fly to New York City, so we can go and do that. It's  
22 consistent with the time zone that you are in, Mr. Struble, and  
23 that you are in, Mr. Wehrfritz.

24 But I'm not going to be subjected to your unilateral  
25 discretion about when my deposition should end or how it should

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1 be conducted. Last I checked, neither you or Mr. Greenwald  
2 wear the robe, and that will be for a Court to decide if you  
3 ultimately refuse to produce this witness again. And if you  
4 refuse to produce him at trial.

5 And with that, we can get a reading into the record  
6 of how much time.

7 MR. STRUBLE: I want to respond to that proffer.

8 MR. PESSAH: Then you can do -- then you can do that  
9 off the record, because I'm not -- (unintelligible).

10 MR. STRUBLE: I -- I am -- no, you can't put  
11 self-serving statements on the record and then block me --

12 MR. PESSAH: You just did. It's my deposition.

13 MR. STRUBLE: No, I am responding --

14 MR. PESSAH: It's my deposition.

15 MR. STRUBLE: I am responding. I am responding.

16 If the Court reads Mr. Pessah's statement, it should  
17 know that it's entirely specious. We told him we wanted this  
18 New York deposition to be conducted on the witness's New York  
19 time zone. We asked him to begin at 9:00 a.m. That may be  
20 00 a.m. in L.A., but every deposition that Mr. Pessah has 20 6:  
21 mentioned has been in L.A. So he has gotten the benefit all  
22 along of starting at morning time, his time, while we on the  
23 East Coast, the New York lawyers for this New York action,  
24 started at noon and in some cases continued as late as  
25 00 o'clock at night, with no complaint, because it is about 25 9:

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1 the convenience of the witness. And we asked repeatedly for  
2 the witness's convenience to be prioritized, and we were  
3 rejected.

4 And with that, we would like a time read.

5 MR. PESSAH: It is absolutely false that every  
6 deposition in this case has taken place in L.A. That is false.  
7 We started today at 11:00 Eastern, not noon. 8:00 a.m.  
8 Pacific.

9 MR. STRUBLE: I will correct that. There was a  
10 deposition of Mr. Green that occurred, Mr. Green was in  
11 Orlando. We still started at later in the day because you  
12 asked for that.

13 MR. PESSAH: You're going to have to doubly correct  
14 yourself, because Mr. Deutchman, was also deposed in this case,  
15 and I believe that he lives in Brooklyn.

16 MR. STRUBLE: And he also -- correct. And he also  
17 started --

18 (Speaking simultaneously.)

19 MR. STRUBLE: My statement is that the L.A.  
20 depositions we've done have been on your schedule, and we have  
21 stayed late to accommodate the witness's schedule as well.  
22 This witness --

23 MR. PESSAH: You can make these arguments to the  
24 Court. We're done. You can make these arguments to the Court.  
25 I don't agree to adjourn.

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1 MR. STRUBLE: But the other depositions are  
2 irrelevant in any event. This is about one witness --

3 (Speaking simultaneously.)

4 MR. PESSAH: Mr. Struble -- Mr. Struble --

5 MR. STRUBLE: Look, if you want to argue on the  
6 record --

7 MR. PESSAH: We're going off the record now. Okay?

8 MR. STRUBLE: I want Nicholas to put the time on the  
9 record.

10 THE VIDEOGRAPHER: Sure -- I apologize. Go ahead.

11 MR. PESSAH: No, go ahead, Nick.

12 THE VIDEOGRAPHER: In order to get the final time  
13 I'll have to check the last clip, which requires me to go off.  
14 I did put it in the chat before this last segment, which would  
15 have been four hours and 28 minutes and 41 seconds. But give  
16 me a quick break just so I can stop the video and then we can  
17 go back on.

18 MR. PESSAH: Very well.

19 THE VIDEOGRAPHER: We are now going off the record,  
20 and the time is 3:06 p.m.

21 (At 3:06 p.m., a recess was taken.)

22 THE VIDEOGRAPHER: We are now going back on the  
23 record, and the time is 3:07 p.m.

24 MR. PESSAH: The videographer is going to read the  
25 total time we've had on the record. He's dropped it into the

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1 chat. It says 4 hours 55 minutes and 18 seconds. That is much  
2 less than the seven hours we're entitled to.

3 MR. STRUBLE is choosing to adjourn the deposition for  
4 the reasons he put on the record already, which I do not wish  
5 to revisit. So with that, it is our view that the deposition  
6 shall remain open. It's Mr. Struble's view that it's closed.  
7 We just differ on that point.

8 MR. STRUBLE: Well -- okay. Thank you.

9 THE VIDEOGRAPHER: Before I read the conclusion, can  
10 I have the orders for the video and for the transcript from  
11 each party?

12 MR. PESSAH: Well, I think -- separately to J.D.

13 THE VIDEOGRAPHER: You're going to go directly to the  
14 company and place your order with them; is that correct?

15 MR. PESSAH: That's correct.

16 THE VIDEOGRAPHER: Okay, great.

17 This concludes today's video testimony given by James  
18 Wehrfritz. The number of media used is 11. And we are now off  
19 the record at 3:08 p.m. Thank you.

20 (At 3:08 p.m. the foregoing proceedings  
21 were concluded.)

22

23

24

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1 Declaration Under Penalty of Perjury

2

3

4

5 I, James Wehrfritz, the witness herein, declare under  
6 penalty of perjury that I have read the foregoing in its  
7 entirety; and that the testimony contained therein, as  
8 corrected by me, is a true and accurate transcription of my  
9 testimony elicited at said time and place.

10

11

12 Executed this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_

13 At \_\_\_\_\_, \_\_\_\_\_  
14 City State

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James Wehrfritz

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I, REGINA B. VEGA Certified Shorthand Reporter for  
the State of California, do hereby certify:

That the proceeding was taken remotely by me, and  
that the foregoing contains a true record of the testimony  
of the witness.

Dated: This 13th day of January, 2024, at Ontario,  
California.

*Regina Vega*

Regina B. Vega  
CSR NO. 12612

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1 STATE OF CALIFORNIA )  
2 ) ss.  
3 COUNTY OF ORANGE )

4 I, LINDSAY ANNE STOKER, RMR, CRR, CRC, and  
5 Certified Shorthand Reporter and Deposition Notary  
6 Public of the State of California, does hereby certify:

7 That the foregoing deposition was taken  
8 before me at the time and place therein set forth, at  
9 which time the witness was duly sworn by me;

10 That the testimony of the witness and all  
11 objections made at the time of the deposition were  
12 recorded stenographically by me and were thereafter  
13 transcribed, said transcript being a true and correct  
14 copy of the proceedings thereof;

15 I further certify that I am neither counsel for  
16 nor related to any party to said action, nor in any way  
17 interested in the outcome thereof;

18 Further, that if the foregoing pertains to the  
19 original transcript of a deposition in a federal case,  
20 before completion of the proceedings, review of the  
21 transcript was not requested/offered on the record.

22 In witness whereof, I have subscribed my name,  
23 this 15th day of January, 2023.

24 *Lindsay A. Stoker*

25 \_\_\_\_\_  
Lindsay A. Stoker, RMR, CRR, CRC  
CA CSR No. 14373

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1 Errata Sheet

2

3 NAME OF CASE: AMAZING GRACE MOVIE -against- NEON RATED

4 DATE OF DEPOSITION: 12/15/2023

5 NAME OF WITNESS: James Wehrfritz

6 Reason Codes:

7 1. To clarify the record.

8 2. To conform to the facts.

9 3. To correct transcription errors.

10 Page \_\_\_\_\_ Line \_\_\_\_\_ Reason \_\_\_\_\_

11 From \_\_\_\_\_ to \_\_\_\_\_

12 Page \_\_\_\_\_ Line \_\_\_\_\_ Reason \_\_\_\_\_

13 From \_\_\_\_\_ to \_\_\_\_\_

14 Page \_\_\_\_\_ Line \_\_\_\_\_ Reason \_\_\_\_\_

15 From \_\_\_\_\_ to \_\_\_\_\_

16 Page \_\_\_\_\_ Line \_\_\_\_\_ Reason \_\_\_\_\_

17 From \_\_\_\_\_ to \_\_\_\_\_

18 Page \_\_\_\_\_ Line \_\_\_\_\_ Reason \_\_\_\_\_

19 From \_\_\_\_\_ to \_\_\_\_\_

20 Page \_\_\_\_\_ Line \_\_\_\_\_ Reason \_\_\_\_\_

21 From \_\_\_\_\_ to \_\_\_\_\_

22 Page \_\_\_\_\_ Line \_\_\_\_\_ Reason \_\_\_\_\_

23 From \_\_\_\_\_ to \_\_\_\_\_

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AMAZING GRACE MOVIE -against- NEON RATED et al.  
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