

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TENNESSEE**

UNCLE NEAREST, INC.)	
)	
Appellant,)	
)	
v.	)	Case No. 3:26-cv-00135-CEA-DCP
	)	On Appeal from Case No.
	)	3:26-bk-30470-SHB
PHILLIP G. YOUNG, JR.,)	
in his capacity as Receiver, et al.,)	
)	
Appellees.)	
)	

**APPELLANT’S REPLY IN SUPPORT OF EMERGENCY MOTION TO
EXPEDITE APPEAL**

Appellant Uncle Nearest, Inc. (the “Debtor”) respectfully submits this Reply in further support of its Emergency Motion to Expedite Appeal pursuant to Federal Rule of Bankruptcy Procedure 8013(b), and in the alternative, for certification of direct appeal to the United States Court of Appeals for the Sixth Circuit pursuant to 28 U.S.C. § 158(d)(2).

As set forth in the Emergency Motion, the appellant articulated clearly that there is a basis to expedite this case under Rule 8013. The motion explicitly stated pursuant to 28 USCS § 1657(a) that this court has the power to expedite the appeal. Furthermore, the motion clearly explained that “good cause” as this term is used in the context of Rule 8013 is shown when a constitutional right under the Constitution of the United States or a Federal Statute [...] would be maintained in a factual context that indicates that a request for expedited consideration has merit." 28 USCS § 1657(a). *In re Bechard*, CIVIL NO. 19-2025 (RAM) (D. P.R. Nov 27, 2019).

In response to this articulation of the explicit legal standard for the application of the expedited process for this appeal, the receiver and creditor in their response have chosen not to

present case law or precedent in opposition, and simply have simply devolved into what could only be characterized as name calling: simply claiming with no legal support that the use of a prior declaration somehow proves that there is no emergency.

This approach is legally flawed and has no support.

The case for expedited review is simple and straightforward: This court has the authority to expedite the appeal process and the standard under Rule 8013 is to demonstrate good cause to do so. Good cause has a specific definition in this context which the receiver has completely ignored in its response: i.e., that 1) a constitutional right has been impaired and 2) there is irreparable harm being caused to the Appellant.

I. The Response by the Receiver and Farm Credit do not dispute the ongoing and worsening harm being caused to the company by the dismissal of the Chapter 11 case.

Both Appellees assert that no emergency exists. (Receiver Resp. at 3; Farm Credit Resp. at 6.) Neither meaningfully addresses the current record. Their argument simply makes the flawed logical leap that the use of a prior declaration means that there is no emergency.

Of course, the problem with this position is that the Declaration submitted by Fawn Weaver makes it clear that it reflects present-day conditions, including firsthand observations of materially diminished operations at Nearest Green Distillery, a significant reduction in tourism activity, and continued erosion of consumer engagement. It further reflects measurable performance decline, including a 46.7 percentage point reversal from market outperformance to underperformance, and the loss of more than 2,000 distribution points.

Appellees do not rebut these facts. They do not contend that conditions are improving. They do not offer competing data. Instead, they characterize the Motion as repetitive.

That characterization does not address the substance of the harm and confirms it has not been resolved.

Where ongoing harm is undisputed and continues to worsen, the basis for expedited review is established.

II. The Bankruptcy Court Order does in fact Impair a Constitutional Right of the Debtor.

In the responses filed by the Receiver and Farm Credit, both make the illogical argument that the Bankruptcy Court Order argues that the Motion is a “rehash” of prior filings. (Receiver Resp. at 3.) That argument fails as a matter of logic.

The argument made in the reply is that the Receivership Order did not forbid Uncle Nearest, Inc. from filing for bankruptcy protection, but rather dictated *who* had the authority to make that decision on behalf of the company. However, this argument fails to recognize that the very conversation about who has the right to file bankruptcy on behalf of the company literally concedes the point being made by the Appellants: the receivership order cannot lawfully divest the officers and board of the company of the authority to file bankruptcy, even if it intended to do so, and over 100 years of case law in this Circuit supports this position. The Appellant cited several cases which make this point clear.¹ In the response, the Receiver has cited none. Therefore, the Receiver’s argument, unsupported by caselaw, is nothing more than that – argument.

III. The Appellant’s Declaration Regarding Harm to the Company does not Re-Hash old argument: it makes clear that the Harm is Ongoing.

As noted above, the Receiver takes issue with the use of a prior declaration in support of this motion, although there is no rule of evidence or procedure that prevents its use, as it makes

¹ See *In re Yaryan Naval Stores Co.*, 214 F. 563, 565 (6th Cir. 1914) (recognizing debtor’s “undeniable right” to seek bankruptcy relief notwithstanding a federal receivership); *Struthers Furnace Co. v. Grant*, 30 F.2d 576, 577 (6th Cir. 1929); *Merritt v. Mt. Forest Fur Farms of Am.*, 103 F.2d 69, 71–72 (6th Cir. 1939); *Muffler v. Petticrew Real Estate Co.*, 132 F.2d 479, 481 (6th Cir. 1942).

painfully obvious the crucial point: that the harms identified in that Declaration are unresolved and ongoing. In fact, the harms to the company have been intensified.

The Appellant has provided yet another Declaration with this reply to make this as clear as possible. (See Exhibit 1). The current Declaration reflects new observations, updated data, and continued deterioration of the Company's operations. The persistence of harm does not diminish urgency. It establishes urgency.

Appellees' position would require the Court to disregard ongoing injury simply because it was previously identified. That is not the standard for expedited consideration under 28 U.S.C. § 1657. The receiver's position on this issue is without merit.

IV. The Oppositions Filed by the Receiver and Farm Credit Confirm the Need for Expedited Review

The opposition filings themselves underscore the need for expedited review. They do not present independent responses to the Emergency Motion. Instead, they reflect a coordinated litigation posture between the Receiver and Farm Credit that mirrors their conduct throughout these proceedings.

Both Appellees advance the same core arguments: that no emergency exists, that the asserted harms are a "rehash," that Appellant lacks authority, and that the Motion is an improper attempt to terminate the receivership (Farm Credit Opp. at 6–7; Receiver Resp. at 3). The Receiver acknowledges that Farm Credit advances "similar arguments" (Receiver Resp. at 2).

That alignment is not new. It was recognized by the Bankruptcy Court:

"The parties agreed that there are no facts in dispute affecting the question of Ms. Weaver's authority to file the petition and that the Court need only interpret the Order Approving Receiver in light of applicable law." (Bankr. Dkt. 48 at 2).

The Bankruptcy Court treated the motions as presenting a single issue and resolved them on that basis. It did not distinguish between the Receiver’s and Farm Credit’s positions.

That alignment was explicit at the hearing. Farm Credit adopted the Receiver’s argument:

“I also don’t want to rehash what Mr. Campbell said, as we do agree with the argument about who has authority.” (Hr’g Tr. Mar. 19, 2026).

Both parties likewise represented that no factual disputes existed and that the issue was purely legal—a position the Court accepted in framing its ruling (Bankr. Dkt. 48 at 2).

This coordinated posture extends beyond litigation. At the February 9, 2026 hearing, testimony established that ordinary-course decisions—including sales, marketing, production, and bottling—were routed through the Receiver’s team but described as requiring approval from “the bank” or its financial consultant (2/9/26 Hr’g Tr. 118:11–25). The Company was required to prepare forecasts, purchase orders, and detailed plans to obtain approval before executing routine decisions (2/9/26 Hr’g Tr. 115:1–25).

The operational impact was substantial. Decisions that previously took minutes could take “a month, if not more, sometimes six weeks” (2/9/26 Hr’g Tr. 113:8–22), affecting product releases, inventory availability, and revenue.

This pattern predates the Bankruptcy Court proceedings. Shortly after his appointment, and after conferring with counsel for the secured lender, the Receiver sought to expand the scope of the receivership to additional entities whose ownership and relationship to the Company were unknown at the time (Dkt. 41 at 2–3, 3 n.1). The lender then advanced that position, seeking authority for the Receiver to investigate those entities and determine whether they should be included (Dkt. 44 at 1–2, 6–7).

Taken together, the record reflects a consistent structure: aligned litigation positions, aligned legal arguments, and aligned operational control.

The point is not to relitigate those issues. It is to underscore that the question on appeal is not abstract. It is actively governing the Company's ability to operate and to access bankruptcy relief.

Appellees' oppositions confirm that this structure remains in place. They defend the same authority framework, advance the same arguments, and seek to maintain the same control pending appeal. In sum, both the Receiver and Farm Credit are working together to deny the company bankruptcy relief.

That is precisely why expedited review is warranted.

V. Pending Proceedings Do Not Eliminate the Urgency of this Appeal.

Farm Credit argues that expedited review is unnecessary because related issues remain pending in the underlying receivership action. (Farm Credit Resp. at 7.) That argument is misplaced.

The existence of parallel proceedings does not prevent ongoing harm. It prolongs it.

The Company's ability to seek bankruptcy protection, and to present its claims and counterclaims in the underlying action of *Farm Credit Mid-America, PCA v. Uncle Nearest, Inc.*, remains unresolved. In the meantime, the Company continues to incur measurable losses in distribution, tourism, and market position.

The question before this Court is whether delay will allow that harm to continue. The answer is yes.

VI. Appellees Identify No Prejudice from an Expedited Review of this Case.

Notably, Appellees do not identify any meaningful prejudice that would result from an expedited schedule.

They do not argue that the issues are factually complex.

They do not argue that the record is incomplete.

They do not argue that they are unable to respond within an accelerated timeline.

Their opposition rests solely on the assertion that no emergency exists.

Where one party faces ongoing and irreparable harm, and the opposing parties identify no corresponding prejudice, expedited review is appropriate.

VII. Conclusion

Rule 8013 permits expedited consideration of procedural matters, and 28 U.S.C. § 1657 requires a showing of good cause. That standard is satisfied where delay permits ongoing irreparable harm. Here, the record in this appeal as outlined in the declaration of Fawn Weaver (see Exhibit 1) reflects:

- continued loss of distribution
- declining retail performance
- deterioration of tourism and consumer engagement
- erosion of brand momentum and enterprise value

These harms are ongoing, compounding weekly, and not fully recoverable. The Appellant has outlined their position that their rights have been infringed and that there is good cause to grant the relief. Despite any allegation to the contrary in the Reply Brief, the motion for Expedited Relief should be granted.

Respectfully submitted,

JOHNSON & JOHNSON, P.C.

/s/ Curtis Johnson

Curtis Johnson (TN BPR No. 015518)
Florence Johnson (TN BPR No. 015499)
1407 Union Avenue, Suite 1002
Memphis, TN 38104
T: (901) 725-7520
cjohnson@johnsonandjohnsonattys.com
fjohnson@johnsonandjohnsonattys.com

Counsel for Appellant

CERTIFICATE OF SERVICE

I hereby certify that on May 8, 2026, a copy of the foregoing was served via this Court's CM/ECF system on all parties consenting to receive electronic service.

/s/ Curtis Johnson

Curtis Johnson

LIST OF EXHIBITS

Exhibit 1

Declaration of Fawn Weaver in Support of Appellant's Emergency Motion to Expedite Appeal

Exhibit A

Updated Nielsen Retail Scan Data / Market Performance Analysis

Exhibit B

Nearest Green Distillery Revenue and Tour Attendance Metrics

Exhibit 2

Transcript of Proceedings, Feb. 9, 2026 Hearing, Case No. 4:25-cv-00038, ECF No. 144.

Exhibit 3

Transcript of Proceedings In re Uncle Nearest, Inc., Case No. 3:26-bk-30470-SHB (Bankr. E.D. Tenn. Mar. 19, 2026)

Exhibit 4

Order Dismissing Chapter 11 Case

In re Uncle Nearest, Inc., Case No. 3:26-bk-30470-SHB (Bankr. E.D. Tenn. Mar. 19, 2026)

Exhibit 5

Receiver's Motion for Clarification of Receivership Order
(Dkt. 41, Case No. 4:25-cv-38)

Exhibit 6

Statement of Farm Credit Mid-America, PCA in Support of Motion for Clarification of Receivership Order
(Dkt. 44, Case No. 4:25-cv-38)

Exhibit 7

Declaration of Fawn Weaver in Support of Motion to Reconsider
(Dkt. 151-1, Case No. 4:25-cv-38)

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TENNESSEE**

UNCLE NEAREST, INC.)	
)	
Appellant,)	
)	
v.	)	Case No. 3:26-cv-00135-CEA-DCP
	)	On Appeal from Case No.
	)	3:26-bk-30470-SHB
PHILLIP G. YOUNG, JR.,)	
in his capacity as Receiver, et al.,)	
)	
Appellees.)	
)	

**DECLARATION OF FAWN WEAVER IN SUPPORT OF APPELLANT’S EMERGENCY
MOTION TO EXPEDITE APPEAL**

I, Fawn Weaver, state under penalty of perjury as follows:

I. Identity, Role, and Basis of Knowledge

1. I am the Founder, largest individual shareholder, and Chief Executive Officer of Uncle Nearest, Inc. (“Uncle Nearest” or the “Company”), and have served in that role since inception.
2. I submit this Declaration based on my personal knowledge, my direct involvement in the Company’s operations, my oversight of executive leadership, and my familiarity with Company records maintained in the ordinary course of business.
3. I submit this Declaration to provide factual information regarding the Company’s operational condition, performance, and ongoing harm during the Receivership.
4. As Chief Executive Officer, I remain actively involved in the marketing of the Uncle Nearest brand at both the retail and wholesale levels. At the retail level, this includes direct consumer engagement through market events and brand presence. At the wholesale level, I

maintain active relationships with the Company's distributor network, which are essential to the Company's performance and growth.

II. Ongoing Operational Harm and Firsthand Observations

5. The Receiver has represented that the business has been "stabilized," and both the Receiver and Farm Credit have taken the position that no ongoing harm is occurring. Based on my personal observations, and the data and sales figures we rely upon, their position is inconsistent with facts.

6. I was physically present at Nearest Green Distillery this past Saturday. What I observed was materially different from the operations and visitor activity that historically defined the distillery. Prior to the receivership, weekends at the distillery were consistently at or near capacity, with approximately 25 or more tours frequently sold out. During my visit, attendance was significantly diminished. On a day when tours would ordinarily be full, the team was attempting to fill approximately 12 tours and was unable to do so. A visiting team from one of the Company's largest national accounts, which I was there to meet with, received a private tour not by design, but because virtually no other guests were present.

7. Based on my firsthand observations, the decline in visitor traffic and operational activity at Nearest Green Distillery since the receivership is substantial and unmistakable. The deterioration I witnessed is inconsistent with the historic performance and trajectory of the business prior to the receivership and reflects, in my opinion, significant harm to the Company's brand, customer engagement, and enterprise value.

8. To my knowledge, the Receiver has not been physically present at the distillery in at least six months. He has access to weekly performance data reflecting the ongoing decline, and that data is consistent with what I observed firsthand. In my view, reviewing data from a distance

does not fully capture the severity of what is happening on the ground, including the loss of visitor energy, consumer engagement, and brand momentum at the distillery.

9. During that same visit, I also observed conditions at Humble Baron, located at Nearest Green Distillery. Humble Baron, which was designed and built as the world's longest bar to serve as a primary driver of tourism to the distillery, was completely empty during a time that, prior to the receivership, would have been bustling. Based on internal tracking by the Company's marketing team, approximately 25 percent of visitor traffic to Nearest Green Distillery has historically been attributable to the presence of Humble Baron as part of a full-day guest experience. Prior to the receivership, and prior to public statements suggesting that Humble Baron should be brought into the receivership, the venue was consistently active with group events, including large gatherings, celebrations, and coordinated tour experiences tied to the distillery.

10. Humble Baron was operating as expected for a newly developed hospitality concept of its scale, with initial operating losses during its first approximately two and a half years, and was projected internally to reach break-even in 2026 based on increasing event bookings and scheduled group activity. At the time of my visit, that trajectory had materially changed. The reduction in attendance and bookings at Humble Baron has diminished the overall visitor experience at the distillery and has directly impacted the Company's ability to attract and retain group tourism.

11. The attached Exhibit B reflects the broader trend consistent with what I observed. Following the receivership, key metrics at the distillery declined materially, including approximately a 32 percent decrease in combined revenue and a 41 percent decrease in tour attendance (Exhibit B; Weaver Decl. ¶¶ 92–93).

12. The distillery is a central driver of the Company's brand strength. Visitors who experience the distillery frequently become long-term consumers and advocates for the brand in their home markets. A decline in tourism therefore affects not only on-site revenue, but also downstream sales across national markets.

13. The impact is also reflected in the Company's distribution footprint. Since the receivership was imposed, the Company has lost more than 2,000 distribution points from at least four national retail accounts. These placements required significant time, relationships, and market development to secure. Once lost, they are not easily or quickly recovered and are often replaced by competitors, making recovery uncertain and, in many cases, permanent.

III. Market Performance and Measurable Decline

14. At the February 9, 2026 hearing, the Company's largest independent distributor testified that uncertainty in the market following the receivership created risk of lost placement with national retail chains and required distributors to actively counter negative messaging from competitors (Hr'g Tr. Feb. 9, 2026; Weaver Decl. ¶ 100).

15. At that same hearing, the former longtime chief economist of the Distilled Spirits Council of the United States testified that Nielsen retail scan data is widely relied upon across the industry and that the Company experienced a sharp and atypical reversal in performance relative to the broader market (Hr'g Tr. Feb. 9, 2026; Weaver Decl. ¶¶ 83–87).

16. The attached Exhibit A reflects a clear and material reversal in performance following the receivership and has been updated twice since it was last presented to the Court in the underlying case. Prior to the receivership, the brand consistently outperformed the market, including by approximately 31.2 percentage points in January 2025. Following the appointment of the Receiver, performance declined sharply. By January 2026, the brand was underperforming the

market by approximately 18.3 percentage points; by February 2026, approximately 16.0 percentage points; and by March 2026, approximately 15.5 percentage points. This reflects a sustained and significant reversal in market performance.

17. Taken together, this reflects a 46.7 percentage point reversal from January 2025, when the brand outperformed the market by approximately 31.2 percentage points, to March 2026, when it underperformed by approximately 15.5 percentage points. This reversal is not consistent with ordinary market conditions and reflects a material deterioration in brand performance coinciding with and following the receivership.

IV. Valuation Disconnect and Liquidation Framework

18. Based on my personal knowledge, my direct involvement in the Company's operations, and my review of Company records maintained in the ordinary course of business, I am aware that prior to the receivership, Kevin Larin of Riveron, acting on behalf of the secured lender, informed the Company's financial team that, upon appointment of a receiver, the lender intended to pursue liquidation of the Company's assets.

19. He provided a breakdown of that estimate, including valuing barrels at approximately \$500 per barrel, totaling approximately \$28.5 million, valuing Nearest Green Distillery at approximately \$20 to \$25 million, and valuing finished goods at approximately \$5 million.

20. That valuation bears no relationship to economic reality. Those same barrels, when utilized through the Company's established bottling and distribution platform, generate finished goods revenue that can be up to 20 times greater. The Company had already presented a sale leaseback letter of intent valuing the distillery at approximately \$70 million.

21. Valuing these assets in isolation, and at liquidation levels, rather than as part of an integrated and revenue-generating enterprise, materially understates the Company's true value and is inconsistent with how the Company generates revenue as a going concern.

22. This pre-receivership liquidation framework, advanced on behalf of the secured lender, is inconsistent with a neutral, value-preserving administration of the enterprise and reflects an approach that prioritizes liquidation outcomes over the Company's going-concern value. In my experience, this approach increases the risk that operational decisions during the receivership will continue to be made in a manner that diminishes brand momentum, limits growth, and contributes to the ongoing losses described above.

23. The Receiver's own financial reporting reflects a similar disconnect between stated reliance on lender support and actual funding. For the quarter ending March 29, 2026, the Receiver reported approximately \$1.66 million in professional fees, or roughly \$553,000 per month, while reporting no additional funding from Farm Credit during that same period. At the same time, the Receiver has stated that the Company cannot operate without financial support from the secured lender. In my experience, this structure places increasing strain on the Company's operations and limits its ability to invest in the activities necessary to stabilize performance and preserve brand value.

V. Irreparable Harm

24. Prior to the receivership, Nearest Green Distillery welcomed more than 230,000 visitors annually and was projected to exceed 250,000 visitors. That trajectory has been disrupted.

25. The losses described above cannot be fully recovered even if relief is later granted, because they involve lost consumer relationships, diminished brand momentum, lost distribution, and foregone market opportunities.

26. The Company has sought relief in the underlying proceeding for more than four months. During that time, the conditions described above have continued to deteriorate. The harm is ongoing.

27. The conditions described above are not static. They are continuing to deteriorate in real time. Each week that passes results in additional loss of distribution, diminished consumer engagement, reduced tourism, and further erosion of brand momentum. These losses compound and cannot be reversed through later relief. These conditions are continuing while the issues underlying this appeal remain unresolved and while the Company has not yet had the opportunity to present its claims and counterclaims in the underlying action of *Farm Credit Mid-America, PCA v. Uncle Nearest, Inc.*, in which the Receiver was appointed. Absent prompt resolution of the issues on appeal, the Company will continue to lose market position, revenue opportunities, and enterprise value in a manner that cannot be fully restored.

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

Dated: May 5, 2026

A handwritten signature in black ink, appearing to read 'F. Weaver', written over a horizontal line.

Fawn Weaver
Chief Executive Officer
Uncle Nearest, Inc.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

ON BEHALF OF THE DEFENDANTS:

MICHAEL E. COLLINS
SAMUEL MARC BUCHMAN
Manier & Herod
1201 Demonbreun Street, Suite 900
Nashville, Tennessee 37203

ON BEHALF OF THE RECEIVER:

PHILLIP G. YOUNG, JR.
JUSTIN TIMOTHY CAMPBELL
Thompson Burton, PLLC
6100 Tower Circle, Suite 200
Franklin, Tennessee 37067

-- --

INDEX OF PROCEEDINGS

PHILLIP G. YOUNG, JR.

Cross Examination by Mr. Collins.....19
 Cross Examination by Ms. Liggins.....94
 Redirect Examination by Mr. Campbell.....103
 Recross Examination by Mr. Collins.....105

KATHARINE JERKENS

Direct Examination by Mr. Collins.....108
 Cross Examination by Ms. Liggins.....138
 Redirect Examination by Mr. Collins.....144

DANIEL ROMANO

Direct Examination by Mr. Collins.....147

ANTHONY SEVERINI

Direct Examination by Mr. Collins.....158
 Cross Examination by Mr. Campbell.....165
 Cross Examination by Ms. Liggins.....165

DAVID OZGO

Direct Examination by Mr. Collins.....169
 Cross Examination by Mr. Campbell.....176
 Cross Examination by Ms. Liggins.....178

KEVIN LARIN

Cross Examination by Mr. Collins.....181
 Cross Examination by Ms. Liggins.....223
 Redirect Examination by Mr. Campbell.....224
 Recross Examination by Mr. Collins.....226
 Recross Examination by Ms. Liggins.....230

FAWN WEAVER

Direct Examination by Mr. Collins.....233
 Cross Examination by Ms. Liggins.....247

-- --

1 (Proceedings commenced at 10:00 a.m.)

2 THE COURTROOM DEPUTY: We're here for a motion
3 hearing in Civil Action 4:25-CV-38, Farm Credit Mid-America
4 versus Uncle Nearest, et al.

5 THE COURT: All right. Would counsel please make
6 appearances for the record.

7 MR. COLLINS: Good morning, Your Honor. Michael
8 Collins, Manier & Herod, along with my co-counsel, Marc
9 Buchman. We're here on behalf of Grant Sidney, Inc., Fawn
10 Weaver, Keith Weaver, and I won't name all the nonparties, but
11 all the nonparties as well to the matter.

12 THE COURT: All right. Thank you.

13 MR. CAMPBELL: Good morning, Your Honor. Justin
14 Campbell here on behalf of Phillip Young, the receiver.
15 Mr. Young is here as well.

16 THE COURT: Okay. Thank you.

17 MS. BARNES: Good morning, Your Honor. Erika Barnes
18 of Stites & Harbison, along with Demetra Liggins and Alexandra
19 Shipley of McGuire Woods, on behalf of Farm Credit
20 Mid-America, PCA.

21 THE COURT: Okay. Thank you.

22 All right. Welcome, everyone. We're here on these two
23 motion hearings. I understand from the filings that this is
24 going to be an evidentiary hearing; in other words, you would
25 like the Court to hear some testimony.

1 Does either party wish to invoke the rule?

2 MR. COLLINS: No, Your Honor.

3 MR. CAMPBELL: No, Your Honor.

4 MS. LIGGINS: No, Your Honor.

5 THE COURT: All right. So then witnesses may remain
6 in the courtroom while other witnesses are testifying.

7 Okay. Firstly, it's also my understanding that there are
8 some stipulations for the record. Would you like to go ahead
9 and enter those into the record? And then we'll proceed after
10 that.

11 MS. LIGGINS: Good morning, Your Honor. Demetra
12 Liggins on behalf of FCMA.

13 Yes, we did work on a stipulation. There was a
14 declaration filed by Phillip Young, or an affidavit. It will
15 come in as direct testimony. There is a declaration filed
16 by -- a declaration of Brian Klatt on behalf of Farm Credit in
17 support of both motions. It will come in as direct testimony.
18 That's Docket 130. And then there is a declaration of Kevin
19 Larin, which is Docket 131. It will also come in as direct
20 testimony.

21 We also reached some agreements on exhibits. The
22 receiver's exhibits are A through C and then E through F are
23 admitted. Farm Credit's exhibits are 1 through 10, 12 through
24 15, 16 through 20, 22 through 32.

25 And I would not -- I don't remember your exact list that

1 we have.

2 MR. COLLINS: I'm sorry?

3 MS. LIGGINS: Your list of exhibits, your numbers.

4 MR. COLLINS: Your Honor, we can file the stipulation
5 proposed. We do have an agreement on them, and as they come
6 in, we'll -- if that's acceptable to Your Honor.

7 THE COURT: Sure, yeah.

8 MS. LIGGINS: But I think we agreed to certain of
9 your exhibits up front, right?

10 MR. COLLINS: You did. That's what --

11 MS. LIGGINS: Okay.

12 MR. COLLINS: Yeah. I'm just saying that we're
13 in agreement, and we can file that once -- as opposed to
14 wasting the Court's time.

15 MS. LIGGINS: Okay. So at this time, I would
16 actually move to admit FCMA's Exhibits 1 through 10, 12
17 through 16, 20, and 22 through 32.

18 THE COURT: All right. So ordered without objection.

19 All right. Anything else preliminarily?

20 Mr. Campbell.

21 MR. CAMPBELL: Your Honor, Justin Campbell on behalf
22 of the receiver. I'll just go ahead and admit the ones that I
23 know that we're going to let in. It's A through C and E
24 through F on our list. The first, of course, is the affidavit
25 of Phillip Young. I'm going to offer that as direct

1 testimony, his direct testimony, and I think we've all agreed
2 to that.

3 THE COURT: All right.

4 MR. CAMPBELL: Just for the record.

5 THE COURT: All right. So ordered.

6 Ms. Norwood, are you getting all that down?

7 THE COURTROOM DEPUTY: Yes, sir.

8 THE COURT: All right. Thank you.

9 Anything else?

10 MR. COLLINS: No, Your Honor. We had a draft of a
11 stipulation, but I actually don't have mine.

12 I think that listed our exhibits that you guys
13 were agreeing to.

14 MS. SHIPLEY: I have a copy.

15 MR. COLLINS: That would be great if -- we might as
16 well --

17 MS. SHIPLEY: Do you need it displayed?

18 MR. COLLINS: -- since we're all making this happen
19 right now.

20 MS. BARNES: We'll display it.

21 MS. LIGGINS: We'll display it.

22 MR. COLLINS: Okay. Perfect.

23 THE COURT: All right. Are we ready to proceed?

24 MR. COLLINS: I think so, Your Honor.

25 THE COURT: Okay. How do you-all want to proceed? I

1 don't have a preference. So however you think will be the
2 easiest to understand and the most streamlined, I'll be happy
3 to do that since this is just a motion hearing.

4 MR. COLLINS: I think that -- I think -- and I'll
5 not -- speaking for myself, I guess, and hopefully for them,
6 but I think we talked about having like a brief opening
7 statement, and then -- and then we would go first with our
8 direct.

9 THE COURT: Proof. Okay.

10 MR. CAMPBELL: That's fine with us, Your Honor.

11 THE COURT: Okay. All right. Please proceed.

12 MR. COLLINS: Good morning again, Your Honor.
13 Michael Collins of Manier & Herod on behalf of the named
14 parties that I just mentioned a moment ago, specifically Grant
15 Sidney and the Weavers in this, with regard to the motion to
16 reconsider.

17 Before the Court is this motion to reconsider, and with
18 respect to it, Your Honor has seen a lot of, a lot of
19 affidavits and filings. One thing that Your Honor will note
20 is there's been, like, an endless stream of insinuations and
21 allegations.

22 For example, in the receiver's affidavit, he has 70
23 paragraphs of allegations and five exhibits. Most of the
24 allegations are just simply not supported by evidence. And so
25 it's -- you know, it sounds like the receiver is just

1 confident that this Court is going to take his word without
2 actually him having to present evidence to support it. And
3 that's troubling for us, and that's what this hearing is
4 about, is trying to get through that smoke screen and actually
5 see what the real evidence is so the Court can make a decision
6 that really impacts a company that went from zero to a top 30
7 whiskey brand in a matter of eight years.

8 You know, this is a company that the growth is third-
9 party demonstrated, right? Their Nielsen number, the numbers,
10 in terms of case sales, are not the company's numbers. They
11 are industry numbers that are verifiable. So no one can
12 dispute that this company did amazing things in this industry,
13 and we'll have testimony to support that amazing growth.

14 So at the outset, this idea and this picture that's being
15 painted, that this company was a shamble when the receiver
16 took over, is simply not the case. It has issues, Your Honor,
17 no question. No question it has issues, but this is a company
18 that had solid bones and has solid bones, and it doesn't need
19 to be liquidated within a fire sale process.

20 You know, we're going to talk about the receiver's skill
21 set that he brings to this table. And I've known the receiver
22 for many years. I respect him completely. You know, we're
23 friends. So I don't do this lightly, but I do receivership
24 and trustee work myself. I've done it for 30 years. I've
25 been the receiver or Chapter 11 trustee for over 30 companies

1 in the past 25 years. What I did before I became a trustee, I
2 got a law degree. I worked for the Department of Justice, in
3 the bankruptcy group. I went back and got an MBA. I became a
4 certified insolvency and restructuring advisor. I worked for
5 PricewaterhouseCoopers, in their financial restructuring
6 group, for a number of years.

7 I took a lot of actions really solely with the goal to be
8 a receiver and be a trustee because it takes -- it is not an
9 easy job. I mean, it is very difficult and it takes a lot of
10 skill set to do it correctly. And that's -- I think the
11 receiver's skill set is something different, and I think
12 that's being reflected in how this case goes, and that's what
13 we'll try to --

14 THE COURT: Mr. Collins, this is the receiver you
15 wanted.

16 MR. COLLINS: Your Honor, companies across the globe
17 hire people every day, and people get fired every day.

18 THE COURT: I mean, there were three choices. One of
19 them was Uncle Nearest's choice, and the Court chose Uncle
20 Nearest's choice for a lot of reasons, all put forth in the
21 Court's order. But one of them was that, you know, you would
22 think that the one you selected would be the easiest one to
23 work with.

24 MR. COLLINS: You're right, Your Honor. And
25 decisions like that get made every day in companies around the

1 world, in terms of who they select as their CEO, who they
2 select, and CEOs get fired and get replaced. I mean, that's
3 just the nature of it. You don't know until you know. And
4 you look at -- I think, you know, the prior counsel that went
5 this route, I'm sure they felt, and, frankly, I think
6 Mr. Young feels like he's the right choice for this company.

7 My job, in evaluating this and evaluating it for -- and
8 putting this evidence to Your Honor is to let Your Honor
9 decide whether it's the right choice or not, and now we have
10 the benefit of hindsight to work through that. So I don't
11 dispute that he is our guy. He was our guy. We just don't
12 think that right now he's the right guy.

13 THE COURT: Please proceed.

14 MR. COLLINS: And then, you know, so what I also want
15 to ask the Court to do is focus on what's here and now. You
16 know, there's probably going to be evidence -- we know the
17 Klatt affidavit talks about things that happened prior. Most
18 of the things that happened prior were made known by an
19 internal investigation to the bank back in October of 2024.
20 The bank took about eight months, knowing all of this
21 information, without seeking a receiver, without seeking an
22 emergency motion. They agreed to the operation of this
23 company, knowing all of that for eight months. They entered
24 into a forbearance agreement, knowing that information.
25 So, you know, the idea that, you know, all of that

1 historical information is relevant today is smoke screen. And
2 so I would ask the Court again to -- you know, let's not focus
3 on, you know, what's going to be argued in the underlying
4 litigation. This is about a receivership and whether a
5 receivership is necessary.

6 And I think the relevant issues are, you know, what's the
7 fair value of the company's assets? Is the -- are those
8 assets adequate to cover the collateral or the claim of Farm
9 Credit? Is the company able to cash flow from its current
10 operations? Is there any malfeasance or fraud by current
11 management? Is the receivership causing more harm than good?
12 And can the company's management team reverse what Your Honor
13 is going to see is in a severe downward sales trend, that has
14 happened literally almost to the day of the receivership is
15 when that downward trend began.

16 We're going to, you know, prove, we're going to prove
17 that value is there, no evidence of fraud, receivership is
18 causing extreme losses, and existing management is best
19 positioned, and we're going to do it by relying on industry
20 data on value. We're going to use the receiver's own
21 financial reports and projections to show that the twist
22 they're putting on them isn't correct.

23 We're going to have testimony from industry veterans.
24 Danny Romano, who is an executive of a major U.S. spirit
25 distributor, is here to testify. David Ozgo is the former

1 chief economist for the Distilled Spirits Council of the U.S.,
2 a trade association representing 70 percent of all distilled
3 spirit brands sold in the U.S. He's here to testify. They're
4 going to testify as to the importance of this management team,
5 based on their knowledge of the industry, to the success of
6 this company.

7 We're also going to provide evidence from a former
8 president of J.B. Thome, which is the highest volume whiskey
9 broker in the U.S. since 1977, regarding the state of the
10 market for barreled Tennessee whiskey, and he's going to
11 indicate the value of barreled Tennessee whiskey remains
12 stable because Tennessee whiskey has a smaller footprint than
13 Kentucky. So looking at Stoli isn't relevant. Stoli is a
14 Kentucky bourbon. There is a glut of Kentucky bourbon.
15 Because there are fewer Tennessee whiskey distillers, there is
16 not as much of a glut. So that -- his evidence will show that
17 that has stabilized and that they're anticipating a growth in
18 the value of Tennessee whiskey moving forward.

19 Again, we'll talk about the Nielsen numbers and how the
20 retail sales have begun a massive decline since the
21 receivership. We're going to show that the fire sale process
22 that the receiver is undertaking is exacerbating the decline
23 and is only literally going to result in disaster by trying to
24 sell in a down market, in a receivership, in a fire sale, a
25 company that had 41 million of sales. We'll show you the

1 multiples that have been paid recently for companies that are
2 on the upside, that are growing, and that there's no basis to
3 try to sell it the way that they're trying to sell it.

4 You know, I know the Court -- we're going to try to move
5 this as quickly along, but we're going to try to address the
6 receiver's allegations, you know, effectively, paragraph by
7 paragraph, and do it as quickly as we can. But it's all -- if
8 Your Honor believes I'm moving in a direction that's
9 irrelevant for Your Honor, please let me know and I'll move
10 on. But I think everything in the receiver's affidavit, he
11 believes it's relevant, and so I think it's necessary for me
12 to try to rebut it.

13 And then -- and we're going to -- you know, we've got,
14 you know, the receiver, in his affidavit -- you know, the
15 difficulty of pursuing a lot of allegations that we believe
16 are incorrect and not supported by facts is that when you have
17 so many of them, it becomes hard to pick which ones are going
18 to be the most important and which ones aren't.

19 Two that I think the Court should consider in terms of
20 just the scope of this case, Your Honor has seen the motion to
21 clarify. Your Honor has seen what evidence is in the
22 affidavit to support the motion to clarify. It's an
23 aggregation. He's just simply aggregated a bunch of
24 transactions and said, look, there are so many transactions
25 here, it's got to be commingling. That's kind of the approach

1 that the receiver has taken to this case. He hasn't dug into
2 any details. He just makes allegations and wants this Court
3 to kind of go, okay, well, you know, whatever.

4 The number of transactions doesn't prove commingling if
5 the substance of the transactions have business purpose. So
6 you can't just aggregate things. But that's his approach to
7 this is just simply not digging in and doing the work before
8 he makes the allegation. He makes the allegation and then
9 hopes that Your Honor gives him the latitude then to do the
10 work.

11 That's kind of this approach. And that kind of goes with
12 the allegations he's made against Kate Jerkens. So he -- and
13 this will come up in the testimony. In his affidavit, he
14 accuses an employee, literally the first employee that was
15 ever employed -- so she's been with the company since the
16 start. She does their forecasting. He accused her, in a
17 public pleading, of conspiring with Fawn Weaver to boost up
18 the projections. They're projections, Your Honor. They don't
19 even have much meaning other than internal workings.

20 But he put that in a pleading. It doesn't appear that he
21 investigated it because, frankly, the projections she made
22 ended up being below. He said she was pumping them up. They
23 ended up being below what the company actually did. So it's
24 those types of things that evidence kind of a broad approach
25 to this that has been difficult for us to deal with, and I

1 think it's problematic for the company moving forward.

2 So, again, we ask the Court to just keep an open mind on
3 this. You've seen a lot of -- we haven't -- just because
4 we've been drinking from a fire hose, literally, for the last
5 week or two weeks, we couldn't put in 70, you know, 50-page
6 affidavits, and we just didn't have the ability to get that
7 done. So we're going to -- we're stuck here with trying to
8 get evidence in.

9 THE COURT: You're not stuck, but, you know --

10 MR. COLLINS: But that's the practical difficulty
11 that we've had.

12 THE COURT: Mr. Collins, you're going to be heard.

13 MR. COLLINS: Okay.

14 THE COURT: You know, you're going to be heard, but
15 let's get to it.

16 MR. COLLINS: Yeah. Thank you, Your Honor.

17 THE COURT: All right. Mr. Campbell, let's see, on
18 your behalf, and then I'll hear from Farm Credit after that.

19 MR. CAMPBELL: Thank you, Your Honor. Again, Justin
20 Campbell. I have just a very short couple of comments to make
21 as an opening, and then I'm happy to step aside and let
22 everybody get started.

23 The couple of things that I want to point out to the
24 Court is there's two things before the docket today. There is
25 a motion to reconsider the receivership order and the

1 receiver's motion for clarification. What's not before the
2 Court today is a motion to remove the receiver. Also what's
3 not before the Court today is a motion to sell any of the
4 property here.

5 So I know we're conflating this, I know it's going to get
6 bigger than it probably needs to, but I want the Court to
7 understand there's only two things before the Court today, and
8 that's the motion for our clarification and the motion to
9 reconsider the Court's own receivership order.

10 So with that, that's all I have.

11 THE COURT: Okay. Thank you.

12 Farm Credit.

13 MS. LIGGINS: Thank you, Your Honor. Like
14 Mr. Campbell, I'll be super brief. I also wanted to agree
15 that there's only two motions before the Court. It's the
16 clarification motion filed by the receiver and a
17 reconsideration motion filed by what I'm going to call the
18 Weaver parties. And I know the cast of characters are
19 different because it's a little bit different on a
20 reconsideration motion. Usually it's everybody coming back.
21 Unfortunately, with the change in counsel, Mr. Collins wasn't
22 at the last hearing. Mr. Young wasn't at the last hearing.
23 Only FCMA and the Court were at the last hearing, and the cast
24 of characters has changed, but the facts haven't. And on a
25 motion for reconsideration, you don't retry a hearing; you

1 need to show a change in circumstances, and the Court said
2 that in their order.

3 And so we just want to remind the Court that we are here
4 on an interlocutory order that's being moved for
5 reconsideration, and they need to demonstrate and show that
6 there's been a change in circumstances. But we're not here to
7 retry the reconsideration -- I mean the receivership hearing
8 all over again.

9 THE COURT: All right. Thank you.

10 All right. Thank you.

11 Mr. Collins, are you ready to go to proof?

12 MR. COLLINS: I am, Your Honor.

13 THE COURT: All right.

14 MR. COLLINS: Call Phillip Young.

15 THE COURT: Call your first witness.

16 And I assume this is for cross-examination, since what
17 his --

18 MR. COLLINS: Pretty much, because I don't know that
19 we're going to tread any new water than what --

20 THE COURT: But I'll certainly give you some
21 latitude.

22 MR. COLLINS: Thank you, Your Honor.

23 THE COURT: All right. Come on around, sir.

24 THE COURTROOM DEPUTY: Do you solemnly swear your
25 testimony will be the truth, the whole truth, and nothing but

Young - Cross

1 the truth, so help you God?

2 THE WITNESS: I do.

3 THE COURT: All right. Thank you.

4 THE COURTROOM DEPUTY: If you would please scoot up
5 to those two microphones. Please state and spell your name
6 for the record.

7 THE WITNESS: Phillip Gary Young, Jr., P-H-I-L-L-I-P,
8 and the last name is Y-O-U-N-G.

9 THE COURT: Whenever you're ready, Mr. Collins.

10 PHILLIP G. YOUNG, JR.,
11 having been first duly sworn, was examined and testified as
12 follows:

13 CROSS EXAMINATION

14 BY MR. COLLINS:

15 Q Good morning, Mr. Young.

16 A Good morning, Mr. Collins.

17 Q So I'm just going to -- I'm not going to get into your
18 background. That's all in your thing. We may talk about it a
19 little bit later, but -- so you were appointed receiver in
20 this case on August 22nd, 2025, correct?

21 A That sounds right.

22 Q And you filed a motion for clarification on September
23 12th, 2025, correct?

24 A I did.

25 Q And that was about 21 days after you were appointed,

1 approximately?

2 A That sounds about right.

3 Q And actually let me -- prior to the motion to clarify,
4 had you made any request for copies of bank statements from
5 any of those companies?

6 A Not that I can recall.

7 Q Okay. So when you filed the motion for clarification,
8 you hadn't done any investigation of those companies other
9 than finding the transactions in the Uncle Nearest records?

10 A Right. Obviously, there was a reason that those -- I
11 didn't pull those names out of thin air, so those names kept
12 coming up in the Uncle Nearest records.

13 Q Okay. Did you seek any explanation of any of those
14 transactions relating to the additional entities?

15 A At that time, no.

16 Q Okay. Had you -- did you seek any depositions from any
17 of those entities?

18 A No.

19 Q No. And in the motion for clarification, you actually
20 didn't even take a position as to whether they should be part
21 of the receivership, correct?

22 A That's correct.

23 Q Okay. I have a bunch of questions. I'm going to skip to
24 my questions. Because of time, instead of going through the
25 documents, we'll skip directly to questions relating to

1 your -- to the motion to reconsider.

2 So your affidavit consists of 25 pages of factual
3 assertions and also incorporates your second quarterly report,
4 correct?

5 A Let me clarify something, Mr. Collins. There are some
6 factual assertions, and then there are some opinions.

7 Q Okay.

8 A But, yes, it incorporates -- if your question is does it
9 incorporate the second operating report, the answer is yes.

10 MR. COLLINS: Okay. So we're going to -- I tell you
11 what. If we can pull up the affidavit, please, that would be
12 easiest to --

13 THE COURT: What exhibit number is it?

14 MR. COLLINS: That, it would be Mr. Young's exhibit.
15 Well, it's the affidavit they filed. I'm not exactly sure how
16 that comes up as an exhibit.

17 THE COURT: I don't know what your exhibit numbers
18 are, so you're going --

19 MR. COLLINS: Well, it's not my -- it's actually, I'm
20 kind of crossing him on his testimony. So his affidavit, it's
21 the exhibit to his affidavit.

22 Well, the affidavit, actually. I'm sorry. Okay. If you
23 scroll down to paragraph 26.

24 BY MR. COLLINS:

25 Q So paragraph 26 of your affidavit, you state that because

1 of -- and I think it's the top of page 11. You say that
2 "Because of substantial budget cuts I have made to the
3 Company's operations, its monthly losses have been reduced
4 from approximately \$1 million per month to approximately
5 \$100,000 per month."

6 Do you see that?

7 A I do.

8 Q Okay. And then you restated that again at paragraph 48.

9 If you could scroll down to 48, please. Make sure I've
10 got that right.

11 A I don't think it's in 48, but I know that I restated it.

12 Q Yeah. It may be 40 -- 40 -- look at 49 there.

13 Okay. Well, you restate it there, and then I think you
14 restate it again at the end of the document. I think it's
15 paragraph 70.

16 A Looks like it's in 46.

17 Q 46. And then you restate that again in paragraph 70.

18 Hopefully I got that one right. Yeah. So it's in the final
19 paragraph. Again, you say 1 million per month to an average
20 of 100,000 per month, right?

21 A Right.

22 MR. COLLINS: So if you can pull up Exhibit 5 to the
23 Young affidavit.

24 BY MR. COLLINS:

25 Q And then so what is Exhibit 5? Can you -- if we can get

1 it to the front there. Can you describe what Exhibit 5 is?

2 A It's an income statement. And I'll go ahead and say, as
3 I mentioned in the affidavit, certain of this information
4 comes from company data and certain of this information was
5 data that we produced as part of the receivership. So, as I
6 said in the affidavit, I think it's somewhat limited in its
7 reliability, but in the pleadings you asked for this document,
8 and so I provided this document.

9 Q In terms of the -- in terms of your statement that you
10 reduced the company expenses by 100,000 -- or by \$900,000 per
11 month, what was that based on? Because I believe -- let me
12 ask you, what was that based on?

13 A Yeah. And I'm glad you brought this up, because there is
14 a slight clarification, okay? In one place I say 350, and in
15 one place I say 100 are the operating losses since I've been
16 involved, and I would like to explain that because I'm not
17 sure it was entirely clear.

18 Q Well, we'll do that on redirect.

19 A Okay. That's fine. What's your question?

20 Q So the question is, what did you -- when you indicated
21 that you had reduced monthly operating expenses by \$900,000,
22 what was that based on?

23 A I think, I think the statement was we've reduced losses
24 from a million dollars a month to \$100,000 a month.

25 Q Okay.

1 A And looking at the company records prior to the
2 receivership, it was losing about a million dollars a month.
3 And that is simply just, you know, a revenue minus cost
4 analysis. And looking at the same revenue minus cost since
5 the receivership, putting aside a \$1 million initial input
6 that had to be made in order to catch a number of things up,
7 revenue minus cost averaged out to be about a \$100,000-a-month
8 loss.

9 Q So did you increase revenue?

10 A No.

11 Q You haven't increased revenue. So in order to get
12 \$900,000 of less loss, that means you must have -- that whole
13 amount must have come from a decrease in expenses?

14 A Correct.

15 Q Okay. So you are saying that you decreased expenses for
16 the company by \$900,000 per month?

17 A Right.

18 Q Okay. So let's look at --

19 A Well, it's actually more than 900,000 because revenues
20 have decreased and expenses have decreased by more than
21 revenues have decreased.

22 Q Okay. Very good. So let's look at the income statement,
23 and let's look at the -- let's see. So you see at the bottom
24 there's a line titled "Total Expense"?

25 A I do.

1 Q Okay. So the receivership began in the third quarter of
2 2025, correct?

3 A Toward the end of the third quarter, I believe.

4 Q Right. So the fourth quarter is where most of the
5 reduction in expenses occurred, correct?

6 A That's right.

7 Q Okay. So if we look at -- so in the fourth quarter, when
8 all of your cuts were reflected, the total quarterly expense
9 number, what is that number?

10 A Looks like it's 4.2 million.

11 Q Correct. And in terms of operating expenses, what is
12 that total number? It's the one right above it.

13 A 3.4 million.

14 Q Okay. And in terms of the -- so if we look at operating
15 expenses, the difference between -- let's see. So the total,
16 the total quarterly expense number for Q2 is, for operating
17 expenses, is 3.947, correct?

18 A 3.9 for operating expenses, 6.5 for total expense.

19 Q Okay. And the difference there is about 482,000,
20 correct?

21 A The difference where?

22 Q Between the 3.947 and the 3.465.

23 A Just in operating expense, yes.

24 Q Correct.

25 A Right.

1 Q And then the difference between the total expense line of
2 4.2, and that was in Q4, and the total expense line in Q3 is
3 what? 5.3 to 4.2 is what number? How much is that?

4 A Just about 1.1 million. And again I'll remind you, I
5 can't verify anything before August 21st.

6 Q But you relied on that for your \$900,000, correct? I
7 mean, you had to rely on something for the \$900,000.

8 A I think we looked at actual expenses, not what was
9 reported expenses.

10 Q Well, so you prepared a financial statement that didn't
11 look at actual -- this is your -- this is prepared by you,
12 correct?

13 A Right. No. Again, as indicated in the affidavit, this
14 was prepared -- anything prior to the receivership was
15 prepared by the company.

16 Q Right. But you indicated that you cut \$900,000. You had
17 to base it on something prior, right?

18 A Actual expenses, not reported expenses.

19 Q But you prepared a -- why would you prepare a
20 financial -- if you knew what the actual expenses were, why
21 would you prepare a financial statement that wasn't based on
22 numbers you knew were accurate?

23 A We're working on reconciling this, but the reconciliation
24 of this company's finances takes quite some time.

25 Q Okay. Well, so you're basically saying that you really

1 can't verify whether you reduced this by 900,000?

2 A No. I'm telling you, I'm telling you we can verify that
3 we -- I'm telling you that I can't verify these numbers that
4 you're showing me for Q1, Q2, Q3. I can for Q4.

5 Q So how -- so basically you haven't provided any evidence
6 that actually shows a reduction of expenses?

7 A Mr. Collins, I'm not trying to bring -- I'm not trying to
8 prove anything. I'm trying to do what the Court's asked me to
9 do, and I'm trying to report to the Court my facts and my
10 opinions based on those facts. I'm not trying to drive any
11 outcome here.

12 Q Okay. Well, let's just presume that the Q3 numbers
13 are -- that you've reported in this financial statement and
14 you attached to your affidavit, let's presume they're correct
15 for purposes of this discussion, right? And so you've
16 indicated there's about a 1.1 million difference between the
17 expenses between Q3 and Q4, correct?

18 A Assuming those numbers are correct.

19 Q Assuming they're correct. Okay. And then a quarter is
20 three months, is it not?

21 A That's correct.

22 Q Okay. So if we base that -- if we assume that then, that
23 that 1.1 is divided by 3, you know, what's that number?

24 A It's about 300,000. But I'll point out that I was
25 operating this about half of Q3.

1 Q Correct. But you were operating it fully in Q4?

2 A That's right.

3 Q Right.

4 A Right.

5 Q And so you said you reduced operating expenses by
6 \$900,000 -- you said it three times -- per month?

7 A Right.

8 Q This would show that, at best, it was \$300,000 per month?

9 A I disagree.

10 Q Okay. Well, you disagree that the analysis we just went
11 through doesn't -- wouldn't indicate 300,000?

12 A If these numbers -- assuming these numbers are correct
13 and assuming that I had not operated the company for half of
14 Q3 and so that some of the expenses were already cut in Q3, I
15 would agree with you. But if you compare Q4 to Q1, I think
16 you'll find a \$3.4 million difference, and across three months
17 that's more than a million dollars.

18 Q I thought you said you were at the tail end of Q3. I
19 mean --

20 A About midway through. A month and a half.

21 Q You got appointed which date?

22 A August 21.

23 Q And when did you start implementing cuts?

24 A Immediately.

25 Q And did they take effect immediately?

1 A No, of course not.

2 Q Yeah. So when do you think those cuts took effect?

3 A Early September.

4 Q You believe that you made cuts in -- you got appointed on
5 August 22nd. You made cuts as quickly thereafter as you
6 could, and those cuts actually impacted the financial
7 statements immediately?

8 A Not, not the complete impact. But did they begin
9 impacting? Yes, they did.

10 Q So maybe, maybe half a month of Quarter 3 got an impact?

11 A I don't know, Mr. Collins. I'm not sure.

12 Q Okay. But, I mean, you realize that you can't make cuts
13 that impact immediately?

14 A Right, of course not.

15 Q So based on these numbers, at best, you had a \$300,000
16 benefit in terms of revenue or in terms of reducing losses?

17 A I understand the point you're trying to make, and I
18 disagree with it, and I think I've explained why I disagree
19 with your assumptions.

20 Q And I'm trying to understand --

21 A Your math is correct, but your basis is faulty.

22 Q Well, explain that.

23 A I think I have explained that because, number one, these
24 numbers are not reliable. Number two, part of Q3 shows cost
25 cuts that I've already implemented. I think I've already

1 explained that.

2 Q And I'm asking what your basis -- I mean, what numbers
3 are you relying upon to make that determination?

4 MR. CAMPBELL: Your Honor, objection, asked and
5 answered. I mean, I don't know where we're going with this.

6 MR. COLLINS: Do you have -- is there just one thing
7 you can point me to?

8 THE COURT: Mr. Collins, Mr. Collins, you made your
9 point.

10 MR. COLLINS: Okay.

11 THE COURT: I understand the point you're trying to
12 make. Thank you.

13 MR. COLLINS: Let's look at the -- pull up my
14 additional exhibit cash flow spreadsheet.

15 MR. BUCHMAN: Which exhibit?

16 MR. COLLINS: It's actually in the additional, in our
17 rebuttal.

18 MR. BUCHMAN: Oh, rebuttal.

19 MR. COLLINS: Sorry, Your Honor. We're trying to
20 figure out the -- yeah. You can put this up. Is it on the
21 screen? Okay.

22 BY MR. COLLINS:

23 Q So this is, this is basically an analysis we did from the
24 Larin affidavit that will -- that's been put into evidence,
25 Exhibit 4. And this is a summary of what's in his, in his

1 affidavit. Are you familiar with his affidavit and exhibits?

2 A I am not. I've never looked at his affidavit.

3 Q Okay. Then we'll actually -- now are you familiar with
4 the Newpoint cash flow -- pull up Movant's Exhibit 5, please.
5 It's our Exhibit 5.

6 Is this a document you've seen before?

7 A It is.

8 Q Okay. And then let's go back to the cash flow
9 spreadsheet we just had.

10 So basically what this cash flow spreadsheet does, at the
11 bottom, is it takes the actual data from that exhibit and
12 basically shows that from that exhibit and basing it on it,
13 the monthly reduction in operating disbursements pre- and
14 post-receivership is a total of \$55,000, okay?

15 A Okay.

16 Q Do you have any reason to dispute what's in the Newpoint
17 cash flow numbers, the actual numbers?

18 A Certainly not.

19 Q Okay. But you haven't seen the Larin affidavit?

20 A I have not.

21 Q Okay.

22 A I don't know what this includes and what it doesn't
23 include.

24 Q Okay. If those numbers on the operating disbursements
25 are correct in terms of what's shown on the Newpoint cash flow

1 disbursement -- well, we'll move for this into -- I don't
2 think this was in evidence as one of our exhibits.

3 MS. LIGGINS: Your Honor, we have never seen this
4 exhibit.

5 MR. COLLINS: This is a rebuttal, yeah. So this is
6 used just to rebut the assertion that the \$900,000 loss --
7 we'll actually get this in during Mr. Larin's -- we'll go
8 through it more deeply with him because he's the one who
9 prepared the report, so --

10 THE COURT: So you're not moving it into the record
11 now.

12 MR. COLLINS: We're not going to move it in. I would
13 ask the Court actually to move it into evidence. And one of
14 the things I wanted to talk to the Court about is where we are
15 in the preliminary proceeding. You know, we recognize that
16 this is -- we haven't had time to kind of fully develop the
17 evidence, and the courts typically will be more lenient in
18 terms of allowing matters in because of the compressed time
19 frame.

20 THE COURT: Well, you've still got to follow the
21 rules of evidence.

22 MR. COLLINS: Well, this will -- correct, Your Honor.
23 And I think this is ultimately, this is summarized from
24 exhibits that are --

25 THE COURT: Tell me, what exhibit number is it?

1 MR. COLLINS: This is -- we premarked it as Exhibit
2 19. It's not in the exhibit list yet.

3 But basically, Your Honor, what this is is the Larin
4 affidavit has been admitted, so it's a summary of that data.
5 And, again, I have to get a witness up here to put it in, and
6 we don't have time, and so I'm asking --

7 THE COURT: Why do you not have time?

8 MR. COLLINS: Because we have one day to try to get
9 in a lot of evidence.

10 THE COURT: Okay.

11 MR. COLLINS: So what I would ask Your Honor is
12 let's -- that because this is just -- and I'll give Your Honor
13 the thing. This is a summary of what's in the Larin
14 affidavit, and we'll --

15 THE COURT: Have you even shown it to the other side?

16 MR. COLLINS: No, not yet.

17 THE COURT: Okay. Why don't you give them a copy,
18 and then we'll come back and address it after they've reviewed
19 it and had an opportunity to comment on it. They might agree
20 with it. I don't know. But you've got to show it to the
21 other side.

22 MR. COLLINS: Yeah.

23 THE COURT: I gave you time to submit what you
24 thought your exhibits were.

25 MR. COLLINS: Your Honor, we had to do that before we

1 even saw the affidavit.

2 THE COURT: Okay.

3 MR. COLLINS: Your Honor, that's a practical problem
4 is we got a 70-page affidavit, and we have had to scramble to
5 put together the analysis of it in order to just be
6 responsive.

7 THE COURT: This is your motion, Mr. Collins.

8 MR. COLLINS: I understand, Your Honor.

9 THE COURT: Okay.

10 MR. COLLINS: But that's the practical reality. I
11 understand that it's our motion.

12 THE COURT: Okay. All right.

13 MR. COLLINS: So we'll move on, Your Honor.

14 MR. CAMPBELL: We're not moving it in yet?

15 THE COURT: What?

16 MR. CAMPBELL: It's not being moved in currently.

17 Did I understand that?

18 THE COURT: It's not in the record yet.

19 MR. COLLINS: Yeah, yeah.

20 THE COURT: But look at it.

21 MR. CAMPBELL: I will.

22 THE COURT: And look, take a look at it. If you
23 don't have any heartburn over it, just let me know and let's
24 move on.

25 MR. CAMPBELL: Understood.

Young - Cross

1 THE COURT: I mean, fight about what you need to
2 fight about.

3 MR. CAMPBELL: Understood.

4 THE COURT: Pick your battle.

5 BY MR. COLLINS:

6 Q Who would be the best person, in terms of the data that
7 supports the \$900,000 decrease, and who would -- and from your
8 financial team, who would be the best person to speak to that?

9 A Probably Tim Stone or Mark Runday.

10 Q Okay. Let's move to Exhibit 4 and the Young affidavit.

11 Okay. Can you describe what this document is?

12 A Yeah. This is something that I asked Newpoint to produce
13 to show the effects. This one shows the effects if the
14 receivership had never been instituted, the net loss
15 difference.

16 Q Okay. And the original cash flow base model is what
17 exactly? That's the first line. You see that? What exactly
18 is that?

19 A I think that shows the actual result from the last four
20 months, and then what it does is adds to that expenses that
21 would have had to have --

22 Q Okay.

23 A -- would have been incurred but for the receivership.
24 So, for example, Dash Funding MCA Payments, obviously those
25 were stopped as part of the receivership. So had the

1 receivership not been implemented, that would have been an
2 extra cost.

3 Q And who prepared the base model?

4 A Newpoint.

5 Q Newpoint. And do we have -- is that in the record?

6 A I don't know.

7 Q Okay. If it isn't in the record, how do we know that
8 that original cash flow number, what it's based on?

9 A You can ask -- you can ask Tim Stone. He's here today.

10 Q Okay. But you don't know what it's based on?

11 A No. I don't get down in the weeds on every single
12 number, Mr. Collins, no.

13 Q All right. But it's in your -- I mean, you've referenced
14 this in your affidavit, so presumably, hopefully you got
15 somewhat in the weeds.

16 A I know what this is. I asked for this chart to be
17 produced, so I know what this is.

18 Q But it's not your chart?

19 A No, it's not my -- I didn't sit with a calculator.
20 That's for sure.

21 Q Okay. So in the absence of some --

22 THE COURT: Mr. Collins, Mr. Collins, Mr. Collins, we
23 have no idea what exhibit numbers you're referencing. So,
24 look, you have to reference what's on your list, okay? And so
25 this is -- let's see. The clerk says that she doesn't know

1 exhibit numbers you're referencing compared to the exhibit
2 list. Is this Exhibit 5 to affidavit? What is the exhibit
3 number for this hearing?

4 MR. COLLINS: And that's part of the -- I'm not sure
5 what the receiver's -- this is one of the receiver's exhibits.

6 THE COURT: Look, okay? Look, you wanted this
7 hearing, okay? I gave you time to file an exhibit list so we
8 could go through everything quickly and know how to reference
9 it and get it in the record so that it could be thoughtfully
10 considered, all right? So stick to your exhibit list, and
11 let's move on.

12 MR. COLLINS: If Your Honor please, this is actually
13 the -- this is the receiver's exhibit that he had as part of
14 his affidavit.

15 THE COURT: Okay.

16 THE COURTROOM DEPUTY: What number is that?

17 MR. COLLINS: It's --

18 MR. BUCHMAN: Your Honor, this is Exhibit 4 to
19 Exhibit A of the receiver's exhibits.

20 THE COURT: Okay. Does that comport with what's on
21 our exhibit list, Ms. Norwood?

22 MR. COLLINS: It would be on the receiver's exhibit
23 list.

24 THE COURT: Okay. Whichever exhibit list. You can
25 reference what's on their list. We just have to know what

1 you're talking about.

2 MR. COLLINS: Understood, Your Honor. I think part
3 of the issue is I'm not sure the receiver broke out his
4 exhibits into individual --

5 THE COURT: Mr. Collins, that's your responsibility
6 to, you know, kind of know where you're going.

7 MR. COLLINS: Understood.

8 THE COURT: You know, it's not the Court's.

9 MR. COLLINS: We did an amended --

10 THE COURT: Ms. Norwood, do we know what he's talking
11 about?

12 THE COURTROOM DEPUTY: Is it A, B, C?

13 MR. CAMPBELL: It's A.

14 MR. BUCHMAN: Exhibit A.

15 THE COURT: I can see why you wanted seven days,
16 Mr. Collins.

17 MR. COLLINS: Your Honor, understood.

18 THE COURT: Are we ready, Ms. Norwood?

19 THE COURTROOM DEPUTY: Yes, sir.

20 THE COURT: All right. Is it in the record?

21 THE COURTROOM DEPUTY: Yes, sir.

22 THE COURT: All right. Let's go.

23 MR. COLLINS: So go back to Exhibit, Receiver's
24 Exhibit A, subpart 4.

25 BY MR. COLLINS:

1 Q Okay. So we're on Receiver's Exhibit A, subpart 4. And
2 do I -- I guess we can just start where we were.

3 So you don't have any basis to know what yourself, as the
4 receiver sitting here, what the initial original cash flow
5 model that is the start of this chart, what it's based on
6 or --

7 A Well, no, except that it does seem to tie to -- as you
8 were flipping through exhibits, it does seem to tie to cash on
9 hand.

10 Q Okay. But you don't know exactly?

11 A No.

12 Q Okay.

13 A No. I'm sorry.

14 Q Okay.

15 A And that would make sense. In looking at the chart, I
16 mean, it makes sense that that's cash on hand because then you
17 back out the receivership funding and things like that and
18 other expenses that would have had to have been paid but for
19 this Court's order.

20 Q Okay. Very good. Let's move to paragraph 28.

21 A Of my affidavit?

22 Q Correct. It's in the same document.

23 Yeah, scroll it up.

24 So this is still Receiver's --

25 MR. BUCHMAN: Exhibit A.

1 MR. COLLINS: -- Exhibit A.

2 MR. BUCHMAN: You said 28?

3 MR. COLLINS: Yeah, paragraph 28.

4 BY MR. COLLINS:

5 Q In paragraph 28 you indicate that, as part of the exhibit
6 we were just looking at, that Ms. Weaver provided you,
7 provided you operating projections. Do you see that?

8 A Where is that?

9 Q It's in paragraph 28. Are we in paragraph 28?

10 A Are you talking about where I say -- I think it's at the
11 bottom here -- "For the benefit of the doubt, this
12 even assumes that sales during this time would increase" --

13 Q Correct.

14 A -- "by \$1.8 million based on Fawn Weaver's revenue
15 projections."

16 Q So did Fawn Weaver actually provide you revenue
17 projections?

18 A Or Kate Jerkens.

19 Q So are you conflating Kate Jerkens and Fawn Weaver?

20 A Perhaps.

21 Q So it really wasn't Fawn Weaver that gave you these
22 projections?

23 A Perhaps it was Kate Jerkens. I think that's probably
24 right.

25 Q And, in fact, we're going to talk about that later, that

1 you basically have blamed Kate Jerkens and accused her of
2 conspiring with Fawn Weaver to create these projections?

3 A I don't think I've accused anybody of anything. But I
4 said if you do the math, when you have a -- when you have a
5 revenue projection that comes in for January, which is
6 historically a very low month, that is 20-something percent
7 higher than a revenue projection or an actual revenue for
8 November, which is a very high month, when you see that, then
9 you start asking questions. And when we did the reverse math,
10 we realized that the revenue projections for January were
11 almost exactly what would be needed to balance the budget of
12 our projections.

13 Q And did you investigate that issue?

14 A No. I just -- exactly what I just told you.

15 Q So you didn't, you didn't ask the team to go back and
16 verify it?

17 A No.

18 Q Okay. And do you know that they actually did go back and
19 verify it?

20 A I don't.

21 Q So you put the accusation in there without even
22 investigating whether, in fact, it was accurate?

23 A I know that we had an internal discussion in -- at the
24 end of December, where we made the determination not to
25 provide the 13-week cash flow analysis anymore because we

1 thought it was being used for improper purposes.

2 Q And do you know that her projection actually came in
3 \$500,000 under what actually happened in January?

4 A No.

5 Q So you don't know the numbers for January?

6 A No.

7 Q You're the receiver. You don't know the numbers for
8 January?

9 A No. We're sitting at February 9th, so no.

10 Q You don't even know the top-line numbers, I mean, the
11 projection numbers?

12 A I mean, I could see it from the chart, but, no, off the
13 top of my head, I do not.

14 Q Would it surprise you to learn that, in fact, January was
15 higher than her projection?

16 A It would be a pleasant surprise.

17 Q It's going to be a fact, and she's here to testify. So
18 you kind of dragging her through the mud, if that were true,
19 wouldn't that be a problem?

20 A I don't think I'm dragging her through the mud,
21 Mr. Collins.

22 Q Okay. We'll let her speak to that.

23 So when you received this projection -- and let's roll
24 back to Receiver's Exhibit A, subpart 4, I believe.

25 So when you received this projection from Kate Jerkens,

1 was it based on a post-receivership scenario?

2 A Yes.

3 Q I mean, and let me clarify, was it based on a scenario
4 where there was no receivership?

5 A Oh, no.

6 Q Okay.

7 A No.

8 Q Do you think that the -- wouldn't the projection be
9 better if it were post-receivership?

10 A I don't know.

11 Q Haven't you testified, or in your affidavit, that the
12 receivership itself is -- you know, the uncertainty of the
13 receivership is causing a problem with sales?

14 A Receiverships and litigation like this always have a
15 negative impact on business. Would it immediately get better
16 if this were dismissed? I don't think so. That's just my
17 opinion based on my experience.

18 Q But it would likely get better at some point?

19 A Not with this cash flow.

20 Q But just talk about, everything being the same, would the
21 lack of litigation increase the future in terms of sales?

22 A At some point, maybe, but I think it would be out of
23 business before then based on the cash flow.

24 Q Well, that's a different issue, but this is about the
25 projection, right? So if we -- so if we assume that that

1 projection would -- well, so as a practical matter, if you're
2 relying on that projection that we know might be different if
3 it were taking into account no receivership, then that's going
4 to impact the validity of this projection too, right?

5 A That would be on the next page. So this, this assumes --
6 this is backward looking, Mr. Collins. If you'll see, it
7 says, "Summary of Adjustments to Cash Flow 9/1/25 to 1/18/26."
8 Where you see that increased sales projection would be in the
9 next chart --

10 Q Perfect.

11 A -- which is forward looking.

12 Q It's part of Exhibit 4, but it's the next page, right?

13 A That's right. That next page, right.

14 Q And so let's look at that.

15 A And, in fact, if you'll look at the second line there, it
16 says Fawn Weaver increased sales collections.

17 Q Correct.

18 A Increased to 1.8 million.

19 Q Correct. Thank you for the clarification. So
20 ultimately -- so the first part of your exhibit is backward
21 looking. This is the forward looking?

22 A That's right. This one looks at essentially the next
23 four months. Were this receivership to be terminated by the
24 Court, this is what we would project to be the net impact --

25 Q Right.

1 A -- on the estate.

2 Q And so if we look at the -- so the negative original cash
3 flow basis, again, is based on just the forward of other
4 projections?

5 A That's right. If no more funding is inserted in the
6 company, based on projections, at May 31, it would be negative
7 3 million. That's right.

8 Q So, but that's the beginning balance?

9 A That's right.

10 Q So if we zeroed that out -- so if we're looking at a go-
11 forward cash flow, wouldn't you zero that out?

12 A Yes, I think so.

13 Q All right. So let's zero that out. Fair enough?

14 A I see what you're saying. So it would be an impact -- I
15 think what you're trying to get me to say is it would be an
16 impact of negative 6.8 million.

17 Q No. What I'm saying is -- yeah.

18 A Right.

19 Q Well, what I'm really saying is, if you're really looking
20 forward, then you don't come in with a zero -- you don't come
21 in with a negative starting balance, right?

22 A Well, it does if you're talking about at the end of May
23 31, '26. Assuming no more money is input by Farm Credit,
24 looking at our operating budget, by May 31, it would be
25 negative \$3 million.

1 Q But this is a beginning balance. This is as of January
2 19th, 2025. That's the original cash flow base model.

3 A No, Mr. Collins. This is showing the end of that time
4 period. This is showing where, where the --

5 Q Okay.

6 A -- where the estate would be without any more Farm Credit
7 money, operating as it is currently operating. At the end of
8 May, it would be negative \$3 million in the bank, essentially,
9 right? And then you see --

10 Q I got you.

11 A -- adjustments made for that.

12 Q I got you. Well, so if we look at that, so in the
13 original cash flow model, that includes receivership fees. It
14 might include payment on past obligations, like TDG?

15 A I'm not sure I understand your question.

16 MR. COLLINS: Well, so in your original cash flow
17 model -- let's pull up -- pull up the Newpoint. That is --
18 yes. So let's find out where this is as an exhibit. What is
19 this?

20 MR. BUCHMAN: This is Exhibit 5 for the movants.

21 THE WITNESS: I think maybe I can clarify. We've
22 tried to zero out the things that would go away, if that's
23 what you're asking me. If you look at that other chart, we
24 tried to -- like, you'll see that we took out receivership
25 expenses, for example, right?

1 BY MR. COLLINS:

2 Q Well, not, not -- if you're using -- let's look at the
3 exhibit that's before you. Is this the exhibit -- or is this
4 the -- now, granted, this is -- we don't have the most current
5 one that they've done that I assume you're relying upon,
6 because you haven't provided that because -- even though we've
7 asked. But this is the December 10th one that was prepared by
8 Newpoint, correct?

9 A That looks to be what it is.

10 Q Yeah. And so this is what that -- are you saying this --
11 it may not be this exact one, but it's the -- this, you know,
12 form in the future that is forming the basis of your base cash
13 flow number?

14 A That's right. That's right. If you played, if you
15 played the projections forward through May 31, that's what it
16 is.

17 Q And so if you look down at the bottom, you've got non-
18 operating disbursements. Do you see that?

19 A I do.

20 Q And that includes receiver fees?

21 A It does.

22 Q And then if you -- would also payments to TDG be
23 reflected and Tennessee Distilling Group be reflected on this
24 cash flow chart?

25 A Yes, but you would still have payments to TDG if the

1 receivership were to go away, because there's --

2 Q Well, I'm talking about, I'm talking about payments that
3 were for debts that were incurred prior to the receivership.

4 A Yes, that would, that would be, that would be included.

5 Q Yeah. So if you -- and how much has been paid to
6 Tennessee Distilling Group? I can refresh your memory. About
7 1.5 million?

8 A I was about to say between a million and 2, but I was
9 trying to do the math in my head.

10 Q About 1.5 million?

11 A That sounds about right.

12 Q And then how much has been paid in receiver fees?

13 A I don't know. It's in the -- it's in the report.

14 Q You don't -- I mean, do you have a ballpark of what it
15 is?

16 A I know it's under what was budgeted. That's what I care
17 about.

18 Q Okay. Was it -- I believe that number is approximately
19 2.4 million. Does that sound about right?

20 A With consultants? Consultants too?

21 Q Everything, yeah.

22 A Yes, that's probably right.

23 Q Okay.

24 A Yeah.

25 Q So if you take 2.4 million and you add 1.5 million to it,

1 what do you get?

2 A 3.9.

3 Q 3.9 million.

4 A You're challenging my math skills.

5 Q So if we go back to the other exhibit, Receiver's Exhibit
6 A, subpart 4, page 2, and we add \$3.9 million to that original
7 cash flow number, what do you get?

8 A No, we're not adding 3.9 because, again, this is a
9 forward looking model. The TDG payments have already been
10 made.

11 Q I know. But you have to -- it has to be starting
12 somewhere, right? Because these numbers don't total up. The
13 numbers below the original cash flow line, they don't total up
14 to negative 9 -- 9 million.

15 A I don't know. I don't have a calculator here. It looks
16 like it does to me, but --

17 Q You would have to add back the 3.9 million, and you would
18 end up with a starting -- the starting number would be
19 positive \$900,000?

20 A No. We've already added it back, 2.5. This is
21 assuming -- I'm not sure I understand your question, but let
22 me tell you what this chart is. This is assuming on January
23 19th, which is -- obviously we're past that today. But this
24 is assuming on January 19th, this Court were to terminate the
25 receivership, what is the net financial impact from January

1 19th through May 31?

2 And honestly, I mean, it's really simple if you look at
3 it. What we've done is, because this Court has stayed certain
4 obligations, we have to add -- because if the receivership
5 goes away, the stay goes away. So you have to add back in
6 those things. You have to add the Farm Credit P&I loans to
7 the negative, right? That's a negative impact. And then we
8 take out because a positive impact would be no professional
9 fees, and we have a positive impact of increased sales of \$1.8
10 million, which is what the projections we've been given were.

11 Q Well, again, we're talking about operating cash flow,
12 correct? Isn't that what this is about? Right?

13 A That's right.

14 Q So when we talk about operating cash flow, you do add
15 back the professional fees, but the principal and interest
16 payments to Farm Credit are not operating cash flow items,
17 correct?

18 A Yes, they are. They would be, they would be debits that
19 would be required if this Court were to lift its order.

20 Q Well, only if the Court required the payment. I mean,
21 that's a pre-receivership number, correct?

22 A No, only if the Court were to lift the stay.

23 Q The bank's collection action is the underlying lawsuit in
24 this case, right?

25 A That's right.

1 Q Okay. Is there an order that says that they have -- that
2 we have to pay that judgment before it's even rendered?

3 A There's a note.

4 Q But it's part of this litigation, so it wouldn't be paid?

5 A If you say -- that's for the Court to determine.

6 Q Is that operating cash flow, though?

7 A Yes. Payment of principal and interest payments is part
8 of operating cash flow.

9 Q Okay. Well, we'll talk about that. The -- and the
10 stayed vendor payments, again, these are -- we're talking
11 about pre-receivership stuff. This is historical debt, right?

12 A That's correct.

13 Q Okay. And so when we talk about -- when I talk about
14 operating cash flow, and why I'm asking the question, I'm
15 talking about does the company have -- generate enough money
16 from current operations to pay current debts.

17 A No.

18 Q That's what I'm -- you can't say no. I'm stating what
19 my --

20 A Okay. I thought you were asking me a question.

21 Q No, no. I'm asking you -- I'm saying that when I ask you
22 about operating cash flow, that's the definition I'm using,
23 right, of can the company generate enough revenue from current
24 operations to pay its current debts.

25 A As they're accruing.

1 Q As they're accruing.

2 A Okay.

3 Q Okay. And so when -- you know, I understand that there
4 are historical debts that have to get paid at some point, and
5 that's, I think that's the difference of what I'm trying to
6 have you testify about is this chart includes the payment of
7 historical debts. It is not a current cash flow analysis.

8 A Right. That's right. This is assuming the stay is
9 lifted and that other debt has to be serviced.

10 Q Correct. And the service of that debt is a function of
11 whether the company has agreements with those vendors, for
12 example?

13 A Sure. Right.

14 Q Right. So when this case was filed, how many vendor
15 lawsuits were pending?

16 A One that I'm aware of.

17 Q Which one was that?

18 A It was in Oregon.

19 Q Okay. So you said that there is, like, 50 million of
20 vendor debt or unsecured debt?

21 A It's actually more than that --

22 Q Okay.

23 A -- as of last week, when Advanced Spirits gave me a
24 demand.

25 Q And so isn't it interesting that there isn't -- there

1 weren't any lawsuits pending?

2 A No.

3 Q Isn't that unique, I mean, to have that much vendor debt
4 and have no lawsuits?

5 A No.

6 Q And were they all current?

7 A No.

8 Q And so why do you think it was that there were no
9 lawsuits being filed?

10 A I don't know the answer to that.

11 Q Would it surprise you if the management of Uncle Nearest
12 had just made arrangements with these vendors?

13 A No, that wouldn't surprise me at all.

14 Q Okay. Is it not conceivable that those arrangements
15 would continue once the management got back in control?

16 A I don't know how to answer that other than to say, based
17 on the correspondence I've gotten from vendors, I would say
18 that the answer to that is no.

19 Q But you don't know that the answer to that is no?

20 A Of course not.

21 Q Okay. And you haven't asked them that question?

22 A Have I asked them whether they plan to sue --

23 Q No.

24 A -- if the receivership were terminated?

25 Q Whether they would be agreeable to terms with the debtor

1 post-receivership.

2 A No. That's not my job as receiver to ask about what
3 would happen post-receivership.

4 Q Understood. Understood. But you don't know the answer
5 to that question?

6 A I do not know the answer to that question.

7 Q Okay. Let's turn to paragraph 30 of the receiver's, of
8 again Exhibit A to the receiver. This is just Exhibit A,
9 paragraph 30.

10 Let's see. Okay. I believe in paragraph 30 you indicate
11 that the total debt of the company is approximately \$164
12 million; is that correct?

13 A That was correct at that time. That's right.

14 Q Okay. And are you aware that the company's management
15 disputes some of those debts?

16 A I've read it in your papers.

17 Q Okay. Has your team audited the debts of the company to
18 determine the validity of them?

19 A We've audited them in the sense that we've tried to clean
20 up the books, so if there were, you know, there were
21 conflicting numbers or that kind of thing. Have I gone
22 through to determine whether or not 1.1 million is actually
23 owed to Dash Funding or whether it's 900,000? No, I have not.

24 Q Okay. And you haven't sent out letters to the vendors
25 seeking confirmation that they're owed?

1 A No, not at all. And, in fact, you know, what this, what
2 this is, just for clarity, is as we would get demands from
3 creditors that were not on the AP list, we would include them.

4 Q Okay. So at this point in time, that is just an estimate
5 of debt?

6 A That's right. And I will add, Advanced Spirits last week
7 made a \$45 million demand on their account. So actually my
8 number today would be more like 99 million. I noted in the,
9 in the affidavit that that was a contingent liability, that
10 they had not given me a number, and last week they gave me a
11 number of 45 million.

12 Q Now that is offset by the barrel inventory that they
13 hold?

14 A In theory. That would be my argument.

15 Q Right.

16 A You read my mind because, because that would be
17 something, if we get to -- when we get to the point of
18 reconciling that, I agree. If we're going to pay \$45 million,
19 we want the 20,000 barrels back, right?

20 Q Exactly. And if those --

21 A But I'm just telling you that's what their demand is.

22 Q Yeah, yeah. So we don't know that that's -- we don't
23 know what the number of that debt is?

24 A I would actually say you need to reduce it by the value
25 of 20,000 barrels.

1 Q Correct.

2 A Or Uncle Nearest would need to accept the 20,000 barrels.
3 But I'm just telling you what their demand was.

4 Q And the demand, the actual loan documents themselves
5 don't require any payment for several years still, correct?

6 A That's right. They declared a default.

7 Q They declared a default?

8 A Right.

9 Q Because of why?

10 A Because we did not make the payments during the
11 receivership because it was an upside down deal.

12 Q Exactly, right. Well, it's only -- so the receivership
13 failing to make the payments on that debt is what caused the
14 default?

15 A Yeah. Do you want to know why we failed to make the
16 payments?

17 Q I'm just saying, you're basically saying that we've got
18 this additional debt, but in fact it's the receivership that
19 caused that demand to be made?

20 A That's right.

21 Q Okay.

22 A It was a bad contract, though. That's why. It was not
23 an advisable contract.

24 MR. COLLINS: Okay. I would move to strike that,
25 Your Honor. That wasn't responsive to a question.

1 THE COURT: Just let's move on, Mr. Collins.

2 MR. COLLINS: Okay.

3 THE COURT: Let's keep the back-and-forth to a
4 minimum, gentlemen, okay?

5 BY MR. COLLINS:

6 Q On page 17 of your affidavit -- so move to 17. It's down
7 a bit.

8 You indicate that "Initially, I was optimistic about the
9 prospects of an aggressive sales price because the Company had
10 reported revenues of \$75 million for 2024 and there seemed
11 excitement about the Uncle Nearest brand."

12 Do you see that?

13 A I do.

14 Q Okay. And you continued to believe -- at least as late
15 as October '25, you continued to believe that, correct?

16 A I sure did.

17 Q Yeah. And was it your opinion at that time -- or
18 actually, in this same document, I think you indicate that the
19 word you were getting was that the value of spirit companies
20 ranged from a two times multiple to a 15 times multiplier of
21 revenue, correct?

22 A Adjusted revenue, yes.

23 Q Adjusted revenue?

24 A Yes, correct.

25 Q And what is adjusted revenue?

1 A My understanding, and I'm not a spirits expert, but my
2 understanding from spirits experts is that you have to take
3 revenue and back out some taxes and then you back out sort of
4 bulk sales.

5 Q So it's based primarily on case sales?

6 A That's right.

7 Q Correct? Case sales?

8 A Right, right.

9 MR. COLLINS: And so let's refer to Larin Exhibit 5.
10 So if you look at the bank's -- can we pull up -- do we have
11 the number for Larin's Exhibit 5? That is --

12 (Off-the-record discussion between Mr. Collins and
13 Mr. Buchman.)

14 BY MR. COLLINS:

15 Q Are you -- have you seen this document?

16 A I've seen parts of this document.

17 Q Okay.

18 A I've not seen it as part of Mr. Larin's affidavit
19 because, again, I didn't look at it.

20 Q You didn't review Mr. Larin's affidavit?

21 A I did not.

22 Q Okay. But you have seen this document?

23 A I've seen pieces of the Keystone document in the company
24 records.

25 Q And so you never received a copy of this document?

1 A No.

2 Q Okay. Then we'll move on.

3 This, I believe this document has been admitted into
4 evidence by the -- as part of our stipulations. So I'm going
5 to turn to page 8. So this is page 8 of the document. Do you
6 see that?

7 A I do.

8 Q And so this chart shows the M&A activity in the spirit
9 industry and gives some examples of M&A transactions. Do you
10 see that?

11 A I do.

12 Q And it points out several transactions recently,
13 including, you know, if we look at Aviation Gin, it sold in
14 2020 for a 24 times revenue multiple. Do you see that --

15 A I do.

16 Q -- on the side? And Proper No. Twelve sold for \$600
17 million at a 12 times revenue in 2021?

18 A I see that.

19 Q And then Don Papa Rum sold for a 12.5 revenue multiple in
20 2021 as well. You see that?

21 A Yes, I do.

22 Q And then to the left of that, it basically shows the
23 revenue multiples at various, at various revenue numbers?

24 A I see that.

25 Q And so at 40 you indicated that the -- that in 2024, the

1 revenue of the company, effectively the adjusted case sale
2 revenue, maybe with some other adjustments for taxes, perhaps,
3 was around 40 million?

4 A That's right.

5 Q And so --

6 A Before tax adjustments, but, yes, 41 million.

7 Q So as of the end of -- if you applied the lowest revenue
8 multiple here, the 12 times multiple -- which is still within
9 the range that you had indicated, correct, in your affidavit?

10 A Originally, the two to 15 times, yeah.

11 Q Two to 15?

12 A Right.

13 Q It would be in the range of \$480 million?

14 A If you could get 12X, yes.

15 Q Okay. So what do you indicate the sales for 2025 were,
16 approximately?

17 A About 25 million.

18 Q About 25 million. So if you got a 12 times multiple on
19 25 million, that would be \$300 million, correct?

20 A That's right, if you got a 12 times.

21 Q And even if, even if you got lower than that, you could
22 easily be above 200 million, correct?

23 A Depends on what the multiplier is, right.

24 Q Yeah. If, in fact, you could get \$300 million, that
25 would make the company solvent, correct?

1 A I'm doing some math in my head. Sorry.

2 MR. CAMPBELL: Your Honor, I'm going to object to the
3 question on speculation. And this is not a motion to sell
4 hearing, so I'm not sure know what this goes to.

5 THE COURT: Overruled.

6 Just answer if you can answer it. If you know the
7 answer --

8 THE WITNESS: I've done the math. I've done the
9 math. The answer to that is yes.

10 THE COURT: I'm sorry. What was your answer?

11 THE WITNESS: The answer is yes with the assumptions
12 that he's asked me to make.

13 THE COURT: All right. Thank you.

14 BY MR. COLLINS:

15 Q You point to, I think, in that same paragraph 36 -- let's
16 go back to, yeah, 36. I'm sorry. Let's see. You point to
17 several factors affecting the appropriate multiplier. Do you
18 see that? I think it's --

19 A Yes.

20 Q It says, "However, many" -- let's see.

21 A Yeah, I see it. And I have some recollection of that
22 paragraph.

23 Q And it's right there at the top, actually.

24 A Right.

25 Q And so what you say is size of business, trajectory of

1 growth, brand appeal, and availability of other brands in the
2 market, correct?

3 A That's right.

4 Q Okay. And where did you get that information from?

5 A In discussions with Arlington and Thoroughbred.

6 Q Okay. So if we look at the size of business -- let me
7 see that Keystone document.

8 If we go back to page 8, so if we look, for example,
9 again at Aviation Gin, so Aviation Gin sold for 610 million
10 based on a 24 times multiple. So if you divided 610 by 24,
11 you would get basically their adjusted --

12 A Their adjusted revenue.

13 Q -- sales, yeah. Revenue number, right?

14 A Right.

15 Q And so that means that their sales were \$25.4 million at
16 the time of that sale. Does that make --

17 A I'm going to trust your math.

18 Q Yeah. So, yeah, so trust my math on it. I appreciate
19 that.

20 A I'm going to trust your math. I don't have a calculator.

21 Q I did use a calculator when I did it.

22 A Okay.

23 Q And then Don Papa Rum sold for \$280 million at a 12 and a
24 half times revenue. And if you divide 280 by 12, you get
25 about 22.4 million in sales.

1 A Okay.

2 Q So those, those are basically similar size revenue
3 numbers to what we even have now, not counting 2024. That's
4 basically what was done in 2025, correct?

5 A Yes, and not counting the time difference between 2021
6 and 2026.

7 Q Correct. Understood. You also mentioned trajectory of
8 growth as a factor, correct?

9 A That's right.

10 Q So that trajectory was upward prior to the receivership,
11 correct?

12 A No.

13 Q And we're talking about sales growth. You say the sales
14 growth was not on an upward trajectory prior to --

15 A Correct.

16 Q And what do you base that on?

17 A Well, based on what I know the reported 2023 sales were,
18 revenues were -- which we don't have the record. I've been
19 really clear about that. We don't have the records. We've
20 not been able to go back and reconcile that number. But
21 actual 2024 numbers were less than reported 2023 numbers, and
22 then obviously 2025 is below 2024.

23 Q Did you evaluate that in Park Street?

24 A No.

25 Q Okay. So wouldn't Park Street be independently

1 verifiable information?

2 A Yes.

3 Q Okay. So if Park Street showed that 2024 was actually
4 higher than 2023 --

5 A That would be the best source.

6 Q Okay. And so if I were to show you -- let's pull up Park
7 Street.

8 A If you tell me that Park Street was higher in '24 than
9 '23, then I would say, yes, that was a growth.

10 MR. COLLINS: Okay. I think it's in our rebuttal
11 exhibit. It's Park Street --

12 MR. BUCHMAN: Depletion.

13 MR. COLLINS: It's not the depletion scorecard. It
14 is the sales comparison.

15 BY MR. COLLINS:

16 Q Okay. And there's a better printout on paper. It
17 doesn't show up as well on the screen.

18 A I've not seen this, but I'm going to take your word for
19 it. If you tell me that 2023 is higher than 41 -- I mean, is
20 lower than 41 million, I'm going to take your word for it.

21 Q Well, I'll show you these numbers. And these are printed
22 out from Park Street. This is -- you can see that 2020 -- you
23 can't see it on the screen, but it's available on the print.
24 This is the 2023 number at 25,309,003, for 2023.

25 A Okay.

1 MR. COLLINS: And then if we scroll to the -- provide
2 it to the Court as well, although I think you -- yeah.

3 Your Honor, may we approach and provide Your Honor a
4 copy, a readable copy?

5 THE COURT: What exhibit is this?

6 MR. COLLINS: This is a rebuttal exhibit, so it's
7 premarked as Exhibit 29. Exhibit 29. So it isn't in the
8 exhibits. This is just rebuttal.

9 THE COURT: Have you shown it to the other side?

10 MR. COLLINS: We just gave them a copy.

11 THE COURT: All right.

12 MR. CAMPBELL: I don't know how it says what
13 Mr. Collins thinks it says or verifies that it came from where
14 he says it came from.

15 THE COURT: Well, he can ask his witness about it.

16 MR. COLLINS: We'll have testimony. We've got Kate
17 Jerkens here.

18 THE COURT: He can ask the witness about it.

19 MR. COLLINS: Yeah.

20 THE COURT: Can you not put it on the thing?

21 MR. COLLINS: It's on the screen, Your Honor. It's
22 just the dates on it aren't visible. They're visible on the
23 printed copy, but they aren't showing up very well.

24 THE COURT: Okay. Bring it to Ms. Norwood.

25 All right. You want to show this to the witness and ask

1 him some questions; is that right, Mr. Collins?

2 MR. COLLINS: Sure.

3 THE COURT: You're not approaching. She is. All
4 right. Thank you.

5 Ms. Norwood, give it to the witness. Thank you.

6 THE WITNESS: Thank you.

7 BY MR. COLLINS:

8 Q Have you ever gotten into the Park Street yourself?

9 A No.

10 Q So you don't --

11 A No. Other people have.

12 Q Kate Jerkens is here and she can testify as to this, but
13 this is -- so if you were to -- if this were proven to be true
14 Park Street numbers through her testimony, 25 million is shown
15 there for 2023. You see that?

16 A I do.

17 Q And then if you scroll to the next page -- let's go to
18 the next page -- this is the 2024 number from Park Street at
19 34,954,000, so a significant increase?

20 A If -- right. Assuming that these are the Park Street
21 numbers, that's right.

22 Q So from 2023 to 2024, at least from Park Street numbers,
23 there was significant growth for Uncle Nearest, assuming again
24 that we verify this is correct?

25 A And assuming that this is a complete report, yes, right.

1 Q And there are other parts of sales that go on too. So
2 there could have been bulk whiskey sales and some other things
3 that happened, but in terms of case sales growth, that's what
4 this is reflecting, correct?

5 A Right. Park Street captures most of the case sale
6 growth.

7 Q In terms of performance in the market, case sales is more
8 determinative of that than bulk whiskey sales, correct?

9 A I would agree.

10 Q Yeah. And then so that represents 2024. Now I think you
11 testified that 2025, the first part of 2025, you had questions
12 about whether, you know, it was going to be as good as 2024,
13 correct?

14 A That's right.

15 Q Okay. And in terms of your experience now with the
16 industry, what are the strongest and weakest quarters for a
17 brand?

18 A My understanding is that the strongest quarter is Q4 and
19 the weakest quarter is Q1.

20 Q Okay. So, and so the bulk of the sales for a spirit
21 brand, the highest volume of sales occurs in Q4, as they call
22 it, October, November, December, correct?

23 A Right. I'm not sure it's more than 50 percent for the
24 year, but it's the largest quarter.

25 Q Correct. And you know what depletions are, correct?

1 A I do.

2 Q Okay. And do you understand how -- well, tell me, in
3 your own words, just to make sure we understand exactly what
4 they are.

5 A Yeah. My understanding -- again, not being a whiskey
6 expert, right, spirits expert, my understanding is that
7 depletions are when cases are sold out of the stream from the
8 distributor and then replenished.

9 Q To the retailer?

10 A Right.

11 Q So the distributor sells to the retailer, and that's a
12 depletion?

13 A That's the way I understand it.

14 Q And in terms of how the distributor has a product to
15 deplete, the distributor buys from the distilleries?

16 A Correct.

17 Q Okay. And so in terms of revenue for the distillery,
18 that sometimes becomes a function of the pull-through, the
19 depletion pull-through from the distributor, correct?

20 A That's my understanding, right.

21 Q And if the distributor has a lot of inventory, they're
22 going to wait. Before they order again from the distillery,
23 they're going to wait until they get the demand pull-through
24 from the retailer?

25 A Correct.

1 Q So when we think about the health of a brand, we think
2 about the health of a brand at the retail level because that's
3 the source of the whole chain, right? If you get demand at
4 the retail level, the retailers then buy from the
5 distributors, and the distributors then buy from the
6 distilleries?

7 A Right.

8 Q Correct. And if there isn't a whole lot of pull-through,
9 there isn't a whole lot of demand at the retail side, the
10 distributors don't order because they already are sitting on
11 supply?

12 A Right, or if the distributors have already ordered too
13 much product.

14 Q Exactly.

15 A Right.

16 Q And so in terms of timing of revenues, a lot of that is
17 kind of based on just the dynamics between the retailer and
18 the distributor, in terms of what they already have in
19 inventory?

20 A That's right.

21 Q Right. And so when we talk about whether a company is on
22 the incline or whether it's on the decline, the distributor
23 orders don't tell the whole story, correct?

24 A I would agree with that.

25 Q Yeah.

1 A Right.

2 Q And so you really do have to look at what's happening on
3 the retail level?

4 A At least to some extent, I agree.

5 MR. COLLINS: Okay. So let's do -- let's look at
6 Exhibit 10. Okay. And actually let's pull, pull the Nielsen
7 data. What exhibit is that?

8 MR. BUCHMAN: 6.

9 MR. COLLINS: Yeah, yeah. Okay.

10 BY MR. COLLINS:

11 Q Okay. Have -- do you ever look at the Nielsen numbers?

12 A I don't personally, no.

13 Q Do you know what Nielsen is?

14 A I do know what Nielsen is.

15 Q Do you know what Nielsen tracks?

16 A I do know what Nielsen tracks.

17 Q Okay. So Nielsen tracks through certain sources, right?
18 It's not a complete set of sources in the industry recognized?

19 A Correct.

20 Q But it tracks retail sales of whiskey brands?

21 A Among certain stores and chains and things, yes.

22 Q Right, exactly.

23 A Correct.

24 Q And would you agree it's most reliable when you're
25 talking about, you know, the bigger distilleries that have

1 50-state distribution?

2 A I don't know that I would say that.

3 Q If you don't know, that's fine. That's fine.

4 If we look at -- so now pull the next exhibit, Exhibit
5 10.

6 So basically taking the data that's on those Nielsen
7 charts, this is a summary of that Nielsen data. From a
8 trajectory of growth standpoint at the retail level, what's on
9 this chart -- and it's listed as Exhibit A, but this is our
10 Exhibit 10 -- it basically shows Uncle Nearest's dollar
11 growth, based on Nielsen, you know, the percentage growth; it
12 shows the market growth, which is the American whiskey sector
13 growth; and then it shows the difference.

14 So, as you can see, January through July of 2025, Uncle
15 Nearest's growth was significantly higher. It was positive,
16 actually, wasn't it, in every, in every month?

17 A That's what this chart indicates, yes.

18 Q And the market, on the other hand, was actually down in
19 each of those months, correct?

20 A That's what this says, yes.

21 Q Okay. And the difference is then shown in that. The
22 difference between Uncle Nearest's growth versus the market
23 growth is the delta that's calculated there.

24 So based on the Nielsen numbers, wouldn't you say that
25 Uncle Nearest was a growing company through the first part of

1 the year?

2 A Relative to the market?

3 Q Correct.

4 A Yes.

5 Q So the growth number that's reported is a year-over-year
6 growth, right? So it reflects -- so for January, for example,
7 this shows that, as compared to January 2024, Uncle Nearest
8 was up 30.2 percent on its own, year over year?

9 A I don't know what it's compared to, but --

10 Q Yeah. It compares to the prior year. It's a year-over-
11 year chart.

12 If you go back to Exhibit -- yeah.

13 So each of these, each of these are compared for year
14 over year for each of these brands. And so what this chart
15 shows is basically all -- you can see them all, Woodford,
16 Maker's, Buffalo Trace. It shows that in -- on this
17 particular chart, it shows on January -- as of January 25th,
18 2025, Uncle Nearest was the 28th largest, in terms of Nielsen
19 numbers tracking, was the 28th largest American whiskey brand,
20 because I believe this is just all American whiskey is what's
21 on this. So it includes bourbon. It includes Tennessee
22 whiskey. But each one of these show -- the red and the green,
23 it shows the brands that are positive and the brands that are
24 negative in terms of year-over-year growth.

25 Okay. So go back to -- so this chart again kind of shows

1 the pre-bank lawsuit. The lawsuit was filed in July, as
2 I under -- I think that's right. August 2025, Uncle Nearest
3 was still, still up 7.2 percent in August.

4 A That's what it says.

5 Q Yeah. And the market was still down in August?

6 A .6, yes.

7 Q So there's still a healthy delta showing that Uncle
8 Nearest was still performing strong at the retail level,
9 correct? Again, assuming the chart is correct.

10 A Assuming the chart is correct.

11 Q After the appointment of the receiver, this is what
12 Nielsen shows. It shows that in September we underperformed
13 the market. The market was down 6.8 percent. We were down
14 8.2 percent. And then each month after that, including
15 January, which just came out, the performance is getting
16 substantially worse --

17 A That's what it shows.

18 Q -- at the retail level. And again, assuming this chart
19 is correct and the underlying data is correct, that's what
20 Nielsen is showing, correct?

21 A That's what it shows.

22 Q Okay. So this all started when we were talking about
23 multiples, right? So in terms of an applicable multiple, if
24 we were selling this company in July of 2025, when we're on an
25 upward trajectory as compared to the market, wouldn't that

1 demand a higher multiple?

2 A I think you've asked me to assume a lot. But assuming
3 that, yes.

4 Q Okay. And now when we're in January and we're on a
5 downward trajectory, that would presume a lower multiple?

6 A I mean, that logic follows.

7 Q Okay. And if the company were able to reverse that
8 trajectory again and begin to grow, we would then be talking
9 about a higher multiple again, correct?

10 A I think it would have to show some sustained growth, but
11 I agree in general with your premise.

12 Q So I think the final thing in terms of the applicable
13 multiple, you were talking about the availability of other
14 brands in the market. In terms of Tennessee whiskey, that is
15 a much smaller segment than Kentucky bourbon, for example?

16 A That's right.

17 Q Right. So --

18 A But they're related.

19 Q They -- people who drink Tennessee whiskey also drink
20 bourbon?

21 A Usually.

22 Q Maybe not at the same time, hopefully.

23 Let's see. So, again, if we're looking at July, if we're
24 looking at pre-receivership and we're thinking about
25 multiples, we're -- this company was at a much higher

1 potential multiple just prior to the filing of the lawsuit and
2 the receivership than it would demand at this point, in your
3 opinion?

4 A I'm not sure I agree with that only because of lack of
5 profitability.

6 Q But does profitability come into play? That's not part
7 of the multiple process, correct?

8 A It's not directly part of the multiple process, but I
9 think when people look at due diligence, yes, it comes into
10 play when you're figuring multiples.

11 Q Let me ask you this: Is it your understanding that when
12 a company such as Diageo or Brown-Forman purchases a brand,
13 they are purchasing it thinking that they're not going to take
14 over the operations and manage the brand themselves?

15 A I'm sure they're thinking they can make it more
16 profitable, if that's your question.

17 Q Yeah. And so in terms of the most likely buyers of this,
18 they are not financial buyers, right? They are strategic
19 buyers?

20 A I don't think I agree with that.

21 Q Okay. If they were -- well, we can probably get this
22 from Arlington. But if they were strategic buyers, they would
23 be less concerned about profitability, correct?

24 A I think that follows. I understand what you're asking.
25 I think that follows.

1 MR. COLLINS: Turn to page 36.

2 I'm trying to skip through, Your Honor, and kind of move
3 this along.

4 BY MR. COLLINS:

5 Q You state in your affidavit some reasons why you changed
6 your feelings about value as the case has gone, and the first
7 thing is you say my -- and this is I think in paragraph --
8 let's see.

9 I think we're still on -- we're on paragraph 36 in his
10 affidavit. And scroll one more down. Scroll down to the
11 bottom of 17.

12 So in subparagraph -- in footnote 8 of your affidavit,
13 you indicate that, you know, "The Weaver Parties acknowledge
14 the state of the spirits industry, and argue it's not a good
15 time to sell whiskey-related assets."

16 You say you agree with that but that it's effectively the
17 only option?

18 A That's right.

19 Q Okay. So in terms of it being the only option, what
20 efforts did you take to evaluate the ability to restructure
21 the debt of this company?

22 A I considered a lot of things. We made a lot of
23 reach-outs to parties about refinancing debt. I considered
24 whether we could put this into Chapter 11 and reorganize it
25 without a buyer through Chapter 11.

1 Ultimately, the problem with any of those options was
2 that if the company is not cash flow positive without
3 servicing any debt currently, then even incremental increases
4 in debt service would kill a Chapter 11 plan, for example, or
5 would dissuade -- what we found is it has dissuaded anybody
6 from refinancing the debt.

7 Q Did you and your advisors put together a business plan
8 for the company?

9 A No.

10 Q Okay. In terms of doing a Chapter 11, wouldn't that be
11 kind of the first thing you would do, in terms of evaluating
12 whether the company was viable moving forward, create an
13 evaluation of the company and a business plan for it?

14 A No.

15 Q Why do you think a business plan would not have been
16 needed in this case?

17 A Because the numbers were self-evident. It was losing
18 money without any debt service. If you add any debt service,
19 even if there was some world where we could cram down the
20 secured debt and get rid of the unsecured debt, come up with a
21 plan, it could not service the debt.

22 Q But the only way you can determine, as a restructuring
23 professional, whether in fact that can happen is not just to
24 look at current cash flow. It's a function of creating a
25 business plan that evaluates future cash flow, correct?

1 A I disagree with that.

2 Q So it's your understanding that, in a reorganization, you
3 only look historically to determine whether there's viability,
4 you don't look to the future?

5 A My understanding, based on doing this for 25 years, is
6 that you have to show a track record that then creates the
7 reasonable likelihood that you can hit projections going
8 forward.

9 Q But couldn't a Chapter 11 plan be created, right, where
10 you put the company back on an upward trajectory and the plan
11 is then a refinance after you now get that multiple that the
12 company would have gotten prior to, prior to? Couldn't that
13 be a legitimate reorganization strategy?

14 A If the numbers worked, it would be.

15 Q And that was not explored?

16 A No. It was explored. I was just explaining to you, the
17 numbers won't work here.

18 Q So you don't even think there is a possibility for some
19 interim financing to get the company moving again in a
20 positive direction, obtain the higher multiple in a structured
21 sale process that is not a fire sale, that that could not lead
22 to a better price in a sale process?

23 A What I'm telling you is that we could not find any other
24 source of lending in this case.

25 Q But you only looked at lending to take out the Farm

1 Credit debt, correct?

2 A No. We cast a broad net.

3 Q And so you couldn't find anybody -- you have some
4 unencumbered assets, correct?

5 A No, not in my opinion.

6 Q So does somebody have a lien on -- does Farm Credit have
7 a lien on the cognac assets?

8 A No, but its assets were used to purchase the cognac
9 assets, which I think then --

10 Q That doesn't create a lien?

11 A No, it's not a lien. So if you're talking about --
12 that's the only, that's the only asset that I'm aware of --
13 I'm thinking. But it's the only asset that I'm aware of in
14 the portfolio that does not have a lien. That doesn't mean
15 that I'm free to do whatever I want to do with those funds for
16 the receivership. That's not what that means. But I agree
17 with you, there is not a lien on the cognac chateau.

18 Q All right. So it isn't -- it is not their property to
19 get -- they don't have a right --

20 A They don't have a lien.

21 Q -- to the proceeds of that any better than any unsecured
22 creditor, correct?

23 A I'm not sure I agree with that, again, because I can
24 trace the funds.

25 Q I don't want to waste too much time on that. So is there

1 a scenario where equity financing -- did you pursue an equity
2 infusion in order to bridge this and get the company back to
3 an upward trajectory?

4 A No.

5 Q Okay. In your change about the feelings of value, you
6 indicate -- I believe it's in the same paragraph -- that "My
7 accounting team determined that the actual revenues for 2024
8 were only 41 million, and 2025 revenues are expected to be
9 less than 25 million when totally accounted for."

10 Does that sound right?

11 A That's right.

12 Q Okay. Now, in fact, the case sales of 2024 were actually
13 known, have been known for a while, right? The question of 70
14 to 40 is about barrel sales, correct?

15 A Known to whom?

16 Q Well, in fact, it's in this Keystone report. So the
17 Keystone report -- we'll put this back up. So the -- keep
18 them in order so I don't get out of whack.

19 So the Keystone report is dated February 11, 2025.

20 A I see that.

21 Q Yeah. And --

22 A I didn't have the Keystone report, just for clarity.

23 Q But you've talked to other professionals in the case that
24 have analyzed, including Riveron, and got information from
25 Riveron about the case, I assume, correct?

1 A I've not. My professionals have.

2 Q Okay. But you're testifying as to -- you're working with
3 your professionals, right?

4 A Sure.

5 Q So, and in doing your affidavit, you have consulted with
6 your professionals, correct?

7 A That's right.

8 Q Okay. So this is the report from Keystone, and you can
9 see at the very top -- and I didn't put the highlighting on
10 this. This was in their report. They are showing sales of 40
11 million, correct?

12 A I see that.

13 Q Without barrel sales?

14 A Right.

15 Q So this information about what the actual case sales was
16 has been available. It's been available on Park Street as
17 well, correct?

18 A Yes.

19 Q Okay. So, in fact, you -- while you state that you
20 changed your opinion based on, you know, this idea that you
21 weren't -- you know, the level of sales was misrepresented to
22 you, that's not exactly correct, right? Because you had
23 access to the -- you had access to the \$40 million number very
24 early?

25 A I'm not disputing that I had access to it. I'm telling

1 you that we had not gotten that information. Having access to
2 it and having actual knowledge are two different things.

3 Q But you -- by the time -- we're talking about late
4 October, right? You had been -- you had been -- that's when
5 you said you changed your opinion, right?

6 A Early October. Well, it was sometime during October,
7 yes.

8 Q Right. And so you had been in the case for more than
9 five weeks?

10 A That's right.

11 Q And so you hadn't evaluated the 2024 numbers prior to
12 that?

13 A I had not.

14 Q Okay. You mentioned -- again, I think this is still
15 in -- go back to the receiver's affidavit, paragraph 36, I
16 believe we were still on.

17 Scroll down. Is that 36? Yeah.

18 I believe you indicate that the media coverage and the
19 Weavers' participation is damaging brand viability?

20 A That's what I was told.

21 Q Yeah. Who were you told that by?

22 A It was just feedback from everybody that was reaching out
23 to me, creditors, shareholders, potential buyers.

24 Q Okay. And so --

25 A That was not my individual opinion. I was trying to

1 report the feedback I was getting.

2 Q And this was happening, again, mid-October time frame,
3 because that's when you say you changed your opinion on value?

4 A I think, I think it's been increasing throughout the
5 case. So, yes, I think it really began picking up mid-
6 October.

7 Q Okay. But, again, in your statement, you're saying mid-
8 October was when you changed your opinion on value?

9 A Right, because in the first few weeks, we were just
10 trying to balance the budget and pay the bills, and it was not
11 until after that critical time period passed that we could
12 look beyond what we needed today.

13 Q Okay. And so you were appointed, and then in 21 days you
14 filed the motion to clarify?

15 A That's right.

16 Q And in the motion to clarify, you made the suggestion
17 that there was all this commingling between the company and
18 these ten entities, correct?

19 A Correct.

20 Q And you hadn't done any investigation prior to filing
21 that pleading?

22 A That's right.

23 Q Did it surprise you that the ten entities disputed that
24 they had been commingled with the defendants?

25 A No.

1 Q Okay. So them filing pleadings contesting that was not a
2 surprise to you?

3 A No.

4 Q Okay. So in October the only -- what pleadings had the
5 Weavers filed by mid-October that you thought were creating
6 this issue in the -- with the value?

7 A Nothing in mid-October. I think what I describe here in
8 the affidavit is that it began to shift in mid-October. My
9 optimism began to shift in mid-October. But, no, there had
10 not been any pleadings in the --

11 Q Other than responding to motions to verify?

12 A Right, right, right, which again I was not surprised by.

13 Q And, in fact, the Weavers didn't file anything in this
14 case about the receivership until the end of November, when
15 they filed their motion to begin, to have the litigation begin
16 to move forward?

17 A I think that's right.

18 Q So there isn't -- there weren't pleadings being filed by
19 the Weavers during this period of time that were causing any
20 media coverage, correct?

21 A Not mid-October, right.

22 Q Okay. Or, frankly, until the end of November, correct?

23 A That's right.

24 Q You indicate in paragraph 38 that the best indicator of
25 value is what the market is currently willing to pay, correct?

1 A Correct.

2 Q And so, you know, if we -- if you said, you know, look,
3 we need to have all our offers in by tomorrow, you know,
4 everybody put your offer in and that's what we're going to do,
5 no due diligence, would that be an indicator of the true value
6 of the company?

7 A No.

8 Q Okay. So the true value of the company is not what a
9 willing buyer is going to pay today. It's about what a buyer
10 will pay in an orderly sales process?

11 A That's correct.

12 Q Okay. And the determination of an orderly sales process,
13 because I know you do a lot of sales, is a function of the
14 asset, correct?

15 A I would agree with that, yeah.

16 Q And when you're talking about a business, a sale of an
17 operating business, that process can sometimes take awhile?

18 A It can.

19 Q Okay. And so if you're -- and you started this process
20 with the sales -- when did you employ them, like Novemberish?

21 A November, I believe.

22 Q November. And they've done a call for offers. They did
23 their call for offers. When was that?

24 A Well, it was not, it was not a call for offers. It was a
25 call for initial letters of interest.

1 Q And when was that?

2 A Late December or early January, I believe.

3 Q So 30 days. Had people done significant due diligence?

4 A I think it was like 60 days. But, I mean, yes. I mean,
5 there's a data room and people had looked in the data room
6 already.

7 Q But nobody had met with management?

8 A No.

9 Q Okay.

10 A I mean, this was an asset sale, so --

11 Q Correct. But it's a sale of a going concern operation,
12 correct?

13 A Correct.

14 Q Are you familiar with the term "normalization" when
15 valuing a company?

16 A Somewhat, yes.

17 Q And do you have a -- I mean, can you even -- you may not
18 know enough to even state what you think it is.

19 A No. I've heard the term, right.

20 Q Would it surprise you if what normalization is is the
21 prospect of looking at a company and normalizing for
22 extraordinary events that are occurring to the company?

23 A That's the way I understand it.

24 Q And so from a valuation standpoint, you would normalize
25 it by adjusting the value to take away those extraordinary

1 events and kind of see the true --

2 A Right, pluses and minuses. Correct. Yeah, right.

3 Q Would you consider receivership being kind of an
4 extraordinary event?

5 A Sure.

6 Q In terms of the receivership and the expense of
7 operation, we've already talked about kind of cutting
8 expenses. A lot of those expenses that were cut were in the
9 sales and marketing budget, correct?

10 A Yes. Certainly some of them, yeah.

11 Q Well, and if we look at -- go back -- or go to his
12 exhibit, the financial statements. I think it's -- this will
13 be Receiver's Exhibit A, subpart -- keep scrolling down.
14 Down, down, down. Right here.

15 Okay. So if we look again at -- this is the income
16 statement that we already looked at. This is Receiver's
17 Exhibit A, subpart 5.

18 All right. So if we look at line -- so I may be looking
19 at the wrong exhibit. Let me make sure. Yeah, scroll, keep
20 scrolling down.

21 So this is -- it's still part of Exhibit 5?

22 MR. BUCHMAN: Yes.

23 MR. COLLINS: So if we scroll down on Exhibit 5 to
24 sales and marketing expense. Keep scrolling down. Yeah. So,
25 and scroll all the way down to the very bottom. Should have a

1 total line, marketing. No, no, no. Yeah.

2 BY MR. COLLINS:

3 Q So, yeah. So if we look at that marketing line, so you
4 see line 6900 at the top?

5 A I do.

6 Q Okay. And you can see -- scroll that page down a little
7 bit. Yeah, down. The other way, other direction.

8 Okay. So you can see then the dramatic -- so just to
9 remind everybody that the columns, right, it's Q1, Q2, Q3, Q4,
10 and then the total for the year.

11 So in Q1, you know, 1.4 million in marketing expense; Q2,
12 1.15; then it decreases substantially in Q3 to 586; and then,
13 you know, again down to 217,232. So a pretty massive
14 reduction?

15 A I would agree.

16 Q And you've already indicated, right, that Q1 is the most
17 important sales time of the year, correct?

18 A It's the largest, yes.

19 Q Isn't it safe to say that the reduction of sales and
20 marketing expense would have an impact on sales during that
21 period?

22 A Yeah, I think that's safe to say.

23 Q Okay. And that's a pretty massive reduction, correct?

24 It's --

25 A Yes.

1 Q -- an 80-percent reduction --

2 A Yes.

3 Q -- or more.

4 In terms of multiples, right, so if we just assume,
5 let's say, a six multiple on top-line sales, if we take
6 an assumption that a dollar of marketing expense might lead to
7 a dollar of sales, right? Can we just make that kind of
8 assumption?

9 A Okay.

10 Q If you spend a dollar and you increase sales by a dollar
11 and then you apply that six multiple to the sales, your one
12 dollar creates enterprise value of \$6. Does that make sense?

13 A Based on your assumptions, yes, right.

14 Q Yeah. And so when you cut sales by a dollar and you lose
15 that dollar of -- you cut your marketing expense by a dollar
16 and you lose a dollar of sales, right, because you've saved
17 your money but you lost the sales, you've actually decreased
18 it by the multiple?

19 A I agree, again --

20 Q You've decreased enterprise value by the multiple?

21 A I agree based on your assumptions. That's right.

22 Q And so the strategy of cutting this company back in the
23 process of a sales process -- I mean, this was a sales
24 process, right? You were moving towards a sales process,
25 right?

1 A I would say we were not moving toward a sales process,
2 honestly, until we realized that there was no reorganization,
3 there was no refinance options that were going to be
4 available.

5 Q Well, you were doing it on a dual basis?

6 A That's right.

7 Q Right. So they were happening simultaneously?

8 A Correct.

9 Q Okay. But you were still -- a sales process was in the
10 works, assuming you couldn't get a refinance, correct?

11 A In November, right.

12 Q In November?

13 A Right.

14 Q And during that period of time, you're slashing -- during
15 the highest point of the year, right, in terms of sales,
16 you're slashing the sales and marketing budget. Isn't that a
17 reason why you're not getting the sales numbers you thought
18 you were going to get and then the numbers in terms of what
19 people would offer for the company?

20 A No, I don't think so.

21 Q Okay.

22 A I mean, is it a contributing factor? It could be a
23 contributing factor, but, you know, you can't spend money you
24 don't have.

25 Q Right. But ultimately did you ever go to Farm Credit and

1 propose a business plan that said, look, we're going to a
2 sales process; I need some funding in order to make sure we
3 keep sales at this level so we can get the multiple and people
4 are interested in buying?

5 A Did I have that exact, that exact conversation? No.

6 Q Okay. So we're still on this same exhibit. Let's move
7 to the balance sheet.

8 THE COURT: Mr. Collins, how much do you anticipate
9 with this witness more?

10 MR. COLLINS: It's hard to say, Your Honor. I'm
11 trying to skip through and --

12 THE COURT: This is your emergency motion.

13 MR. COLLINS: I'm not sure what time we're at. I
14 probably -- I'm probably about halfway through, Your Honor,
15 honestly.

16 THE COURT: All right. Let's take 55 minutes for
17 lunch. We'll come back, we'll start promptly at 1 p.m.

18 MR. COLLINS: Okay.

19 THE COURT: Okay. I want to see Mr. Collins, counsel
20 for the receiver, and counsel for Farm Credit for about three
21 minutes after we recess for lunch.

22 MR. COLLINS: Okay.

23 (Court recessed from 12:08 p.m. to 1:00 p.m.)

24 THE COURT: All right. Mr. Collins, are you ready?

25 MR. COLLINS: I am, Your Honor.

1 THE COURT: Go ahead.

2 MR. COLLINS: I think, a preliminary matter, we got
3 the exhibits that are the list to go into evidence for the --
4 that has been agreed to.

5 THE COURT: Okay. Which witness list are these on?

6 MR. COLLINS: This would be our witness list -- or
7 not our witness list, excuse me, our exhibit list.

8 THE COURT: Okay.

9 MR. COLLINS: I think before the hearing we hadn't
10 done that.

11 THE COURT: Okay.

12 MR. COLLINS: So, Madam Clerk, are you ready?

13 THE COURT: We're listening.

14 MR. COLLINS: Okay. It is our Exhibit 1 and 2,
15 Exhibits 4 through 8, Exhibits 10 and 11, Exhibits 14 through
16 18, Exhibits 20 to 28, Exhibit 30 and 31, Exhibit 34 and 35,
17 and Exhibits 37 through 39.

18 THE COURT: All right. Is that correct,
19 Mr. Campbell?

20 MR. CAMPBELL: Your Honor, with the exception of
21 Number 11. I think Number 11 is that letter of intent.

22 MR. COLLINS: Oh, okay. Yeah, excluding Number 11.

23 THE COURT: All right.

24 MR. CAMPBELL: With that correction, Your Honor,
25 correct.

Young - Cross

1 THE COURT: Ms. Liggins?

2 MS. LIGGINS: That's correct, Your Honor.

3 THE COURT: All right. So ordered.

4 MR. COLLINS: So, Your Honor, I think how we would
5 like to proceed, if Your Honor is amenable, is we would end
6 with Mr. Young, with the possibility that we might call him
7 back if we have time at the end of the hearing, if that's
8 acceptable to Your Honor.

9 THE COURT: Yeah. So you have no further questions
10 at this time of Mr. Young?

11 MR. COLLINS: We would cease questions with
12 Mr. Young.

13 THE COURT: Okay. Mr. Campbell, did you have any
14 questions of the receiver?

15 MR. CAMPBELL: I've got a little bit of redirect,
16 Your Honor, but I don't know if Ms. Liggins is going to cross
17 Mr. Young.

18 THE COURT: Ms. Liggins.

19 MS. LIGGINS: I have some questions for Mr. Young,
20 Your Honor.

21 THE COURT: Okay. Do you want to do that now?

22 MS. LIGGINS: Yes, Your Honor.

23 THE COURT: All right.

24 MR. CAMPBELL: Then I'll redirect following that,
25 Your Honor.

1 THE COURT: All right. Thank you.

2 CROSS EXAMINATION

3 BY MS. LIGGINS:

4 Q Good afternoon, Mr. Young.

5 A Good afternoon.

6 Q Before we get started, I just want to clear up something
7 you said in both the first and second quarterly report. You
8 referenced that you -- and in your testimony -- that you had
9 signed or entered into a forbearance agreement with FCMA, and
10 I wanted to make it clear for the record. Did you really mean
11 the amendments to the credit agreement?

12 A Right. That was a mistake. It was just an amended
13 credit agreement.

14 Q Okay. And those, those agreements are Exhibits 27 and 28
15 for FCMA.

16 What were those -- those were for protective advances?

17 A Yes. We give Farm Credit a rolling 13-week budget to
18 project what the cash needs of the receivership will be and
19 then, once we agree upon an advance amount, to cover any
20 shortfall that gets documented with a credit agreement.

21 Q So, so far during the receivership, what have you used
22 the protective advances to pay?

23 A We have paid off Tennessee Distilling Group because they
24 had liens on the barrels. We have paid operating expenses,
25 shortfalls of the receivership. And especially at the

1 beginning there were some significant amounts that needed to
2 be paid initially in order for vendors to continue doing
3 business with the estate, and then we've paid professional
4 fees.

5 Q Okay. And then you testified earlier that you had made
6 some marketing cuts, sales and marketing cuts. Can you tell
7 us what kind of cuts those were?

8 A Yeah. It's a lot to travel, honestly. I know that's a
9 big -- we only cut a couple of employees. We've cut quite a
10 bit on, quite a bit on travel. And all of those, all of those
11 cuts were made in consultation with Thoroughbred.

12 Q What kind of travel?

13 A Travel to do tastings or to do bottle signings or things
14 like that.

15 Q And this is multiple employees that are traveling?

16 A Yes.

17 Q Who is -- is there any employee that travels more than
18 any others?

19 A Ms. Weaver travels the most.

20 Q Okay. I'm going to just jump right into it. In your
21 testimony that's in the record, Receiver's Exhibit C, and in
22 your affidavit, which is Exhibit A, you said that Ms. Weaver
23 and the management team had initially indicated to you that
24 the revenue was 70 million for 2024; is that right?

25 A That's correct.

1 Q But you then, in your, I guess, recalculations -- I know
2 you said you're putting together the financials again -- it
3 ended up being around, is it 41 million?

4 A That's correct.

5 Q Okay. And that you believe that the 2025 revenue, which
6 I understand is not complete, but you're estimating or
7 projecting it's going to be 25 million?

8 A That's right.

9 Q Okay. And then when it comes to the debts, Ms. Weaver
10 and the previous management team, they had indicated that the
11 other debt -- when I say other debt, I mean debt other than
12 the FCMA debt -- was around 10 million; is that right?

13 A I think it was 5 to 10, something in that range.

14 Q Okay. But you've discovered that that debt is actually
15 50 million?

16 A Well, and now 99 with the Advanced Spirits demand, but,
17 yes, 54 million excluding that.

18 Q Okay. And in addition to Advanced Spirits, have you
19 received any other like demands like the Advanced Spirits
20 demand?

21 A Yes.

22 Q From whom?

23 A A lot of people, WhistlePig, a lot of smaller creditors,
24 and when I say smaller creditors, you know, 100,000, 200,000,
25 I mean, some 3,000, right? But a lot.

1 Q Okay. How much was the WhistlePig?

2 A I think it was between 4 and 5 million.

3 Q Okay. And you said the TDG was 1.5?

4 A TDG was 1.5.

5 Q And Advanced Spirits, 45?

6 A That's right.

7 Q Okay. Any other demand letters?

8 A MarcyPen.

9 Q What's MarcyPen.

10 A So it's MP-TN LLC had two promissory notes, convertible
11 promissory notes, in which Uncle Nearest was the borrower and
12 MP-TN LLC was the lender.

13 MR. COLLINS: If I can object, Your Honor. I'm not
14 sure -- they've already done direct. I don't think we got
15 into any of this on cross.

16 THE COURT: Let's just let them flesh it out. I know
17 how -- overruled to the extent that was an objection.
18 I assume that's what that was. Overruled.

19 BY MS. LIGGINS:

20 Q Okay. And how much is the MarcyPen debt?

21 A Just over 20 million.

22 Q And it's to Uncle Nearest?

23 A The loan was to Uncle Nearest. It was a convertible
24 note, but they declared a default before it converted.

25 Q Okay. And when you say it's a convertible note, what

1 does that mean?

2 A There were some conditions under which the debt could be
3 converted to equity. If there were certain -- well, it was
4 always at MP-TN's discretion, but if there were certain
5 benchmarks made or a certain time amount, then MP-TN could
6 exercise their right to convert the debt to equity.

7 Q Okay. So you're the person since the receivership
8 hearing, since appointment of the receiver, that you are
9 running the day-to-day of the company, correct?

10 A That's correct.

11 Q And so do you have an opinion about whether the company
12 is solvent?

13 A It's not solvent.

14 Q And why do you say that?

15 A It's not solvent for two reasons, and I think I've
16 covered this in my affidavit. It can't meet its obligations
17 as they come due month to month, and the debt is in excess of
18 the value of the assets.

19 Q Okay. And then you also said in your affidavit that the
20 financials -- and these are your words, not mine -- were in
21 shambles. Is that because there's no audited financials?

22 A It's for a lot of reasons. There were no audited
23 financials, but there were not very good financial controls,
24 which led to a lot of problems.

25 Q What do you mean by not very good financial controls?

1 A A lot of things. There were not very good checks and
2 balances like you would expect from a company this size.

3 MR. COLLINS: Your Honor, may I object? We've got a
4 limited amount of time, and we have -- the whole purpose was
5 the direct, they were putting in that as their direct. It
6 seems like we're just creating more direct in this round of
7 testimony. So I'm trying to solve time. So I'll object on
8 the basis that that wasn't -- we're getting into things that
9 weren't into -- that I didn't cover with him.

10 THE COURT: I don't think they're limited by that,
11 Mr. Collins.

12 MR. COLLINS: Okay. Well, that's what I understood,
13 that the direct -- that the affidavit was taken as their
14 direct testimony. That's what the stipulation was.

15 THE COURT: So you're saying -- okay.

16 MS. LIGGINS: May I respond?

17 MR. COLLINS: So I did -- I had my cross.

18 THE COURT: I understand.

19 MR. COLLINS: Yeah. And --

20 THE COURT: Yeah.

21 So let me ask you this, Ms. Liggins: What is it that
22 you're wanting to show?

23 MS. LIGGINS: Well, Your Honor, first, I am limiting
24 my questions to Mr. Young's direct testimony, which I think
25 is allowed under the Federal Rules of Evidence. I get to

1 cross on whatever he said on his direct. But I am trying to
2 point out the things that are impactful to show that there is
3 no material change in circumstances since the appointment of
4 the receiver back in August.

5 THE COURT: Yeah.

6 Mr. Collins, I'm going to overrule your objection. We'll
7 give them a little bit of latitude on this. However, I
8 understand what your base position is, is that -- and so I
9 understand that argument. So to the extent that there's
10 something out there that's not already in the record that I
11 don't know about, you know, cover that. But if not, let's
12 kind of get on.

13 MS. LIGGINS: Okay.

14 BY MS. LIGGINS:

15 Q Let's turn then to something that was new, that was not
16 in the testimony, that I believe you filed after your witness
17 and exhibit list and added, which was you were talking about
18 the MarcyPen deal, which is an email from Ms. Weaver that also
19 discussed that deal. Have you seen that email, Exhibit -- I
20 think it's Receiver's Exhibit G?

21 A I have seen it. I know what you're talking about.

22 Q Okay. And when you say -- and I'm not going to go
23 through the exhibit because it's in evidence. But when you're
24 referring to the MarcyPen deal, you are talking about the
25 transactions that are referenced in that as well?

1 A That's correct. It was a loan from MP-TN LLC to Uncle
2 Nearest, funded to Uncle Nearest. The money was transferred
3 to Grant Sidney, and then Grant Sidney made some distributions
4 out of its account, including some money that went back to
5 Uncle Nearest.

6 Q Okay. And so that's the \$20 million debt that Uncle
7 Nearest has to MarcyPen?

8 A It's the same issue.

9 Q Okay. And then you also testified about a sales process,
10 and I think you and Mr. Collins were talking about that you
11 were in the preliminary stages and had received some
12 indications of interest. Are any of those indications of
13 interest greater than the amount of debts that you're aware of
14 that the company has today?

15 A No.

16 Q Are any of those indications of interest greater than
17 just the FCMA debt?

18 A No.

19 Q Are any of those indications of interest greater than the
20 other debt, taking the FCMA debt out?

21 A Not if you include Advanced Spirits. If you exclude
22 Advanced Spirits, then the answer is yes.

23 Q Okay. And then you originally filed the clarification
24 motion, and when you filed it, you initially said that you
25 didn't have an opinion about it; you were just looking for

1 some direction from the Court, yes?

2 A That's right.

3 Q But when you filed your supplemental information, you
4 said you now have an opinion about not all ten entities but
5 the reduced seven entities, about whether they should be
6 included or excluded?

7 A That's correct.

8 Q And what's your opinion now?

9 A I think they have to be included in order to have a full
10 view of the financial operations of Uncle Nearest, just
11 because of the amount of transfers that were back and forth
12 between entities that are a part of the receivership and those
13 entities that are not a part of the receivership.

14 Q Okay. You also, you and Mr. Collins were discussing, on
15 his cross, that you were finding the Weavers' conduct to be --
16 I think you said media and conduct were making things more
17 difficult for you?

18 A That's what third parties were telling me is that it was
19 impacting things.

20 Q Okay. And what -- and so do you think that -- do those
21 third parties include prospective buyers?

22 A Yes.

23 Q Okay. So buyers have given you that feedback in
24 connection with their --

25 MR. COLLINS: Your Honor, I would object on hearsay

Young - Cross/Redirect

1 grounds.

2 THE COURT: Overruled.

3 THE WITNESS: They have.

4 BY MS. LIGGINS:

5 Q Okay. Thank you. The last thing I want to touch on is
6 Chapter 11. You were discussing Chapter 11. You said that
7 you had considered Chapter 11. Are you still considering
8 Chapter 11 today, or is that something that is past tense?

9 A I'm still considering it today, primarily because a
10 number of the potential buyers have raised that, that they
11 would like to buy assets out of a 363 sale, which I
12 understand, obviously, as a bankruptcy lawyer.

13 Q Okay. So that would be you putting the company and/or
14 some related entities into a Chapter 11 process and then you
15 serving as the debtor in possession in that case?

16 A Correct.

17 MS. LIGGINS: Okay. No further questions, Your
18 Honor.

19 THE COURT: Thank you.

20 Mr. Campbell, did you have anything?

21 MR. CAMPBELL: Very short. Maybe a minute and a
22 half, Your Honor.

23 THE COURT: All right.

24 REDIRECT EXAMINATION

25 BY MR. CAMPBELL:

Young - Redirect

1 Q Mr. Young, when you were appointed receiver, you hired a
2 series or a team of professionals to help you with the matter,
3 correct?

4 A I did.

5 Q And do you rely on those professionals to give you
6 information to make your decisions?

7 A I do.

8 Q And I assume you've read the receivership order multiple
9 times?

10 A Multiple times.

11 Q Do you believe the receivership order mandates you to
12 grow this brand?

13 A It does not.

14 Q And in your affidavit you mentioned some of your
15 experience working on some larger Chapter 11 cases, Service
16 Merchandise, Murray, Regal Cinemas, which we know here, and
17 James River Coal. Were those liquidations or reorganization
18 cases?

19 A They all started as reorganization. Murray liquidated.
20 Service Merchandise liquidated. Regal Cinemas was an asset
21 sale. James River was a refinance.

22 Q As part of your work on those cases, did you evaluate
23 both options, both a reorganization and a liquidation option?

24 A Yes.

25 Q And did you review financing options and lending options

1 for those?

2 A We certainly did.

3 Q So you have experience in that field?

4 A I do.

5 MR. CAMPBELL: No further questions, Your Honor.

6 THE COURT: Thank you.

7 All right. Mr. Collins, I understand that you're
8 reserving the right to call this witness again later. Did you
9 have anything at all right now?

10 MR. COLLINS: Let me -- just a couple, because there
11 were a couple points that were just brought up.

12 THE COURT: Okay. All right.

13 RECCROSS EXAMINATION

14 BY MR. COLLINS:

15 Q So you just testified that the receivership order doesn't
16 require you to grow the value of the company, correct?

17 A That's correct.

18 Q Okay. But it does require you to preserve the value of
19 the company?

20 A Yes.

21 Q Right. So if it came into the receivership on an upward
22 trend, then you had more value at that point, correct, than it
23 has today?

24 A I'm not sure I agree. I understand your question. I'm
25 not sure I agree with your conclusion. I'm not sure that it

Young - Recross

1 came in on an upward trend. I don't think you can make that
2 determination just looking at Nielsen data.

3 Q Okay. And then on your experience, all the cases we just
4 talked about, what was your role in those cases?

5 A That was when I was at Bass Berry. So I was with a law
6 firm, obviously, so I was an associate at a law firm in all of
7 those cases.

8 Q Okay. So there were two partners ahead of you that were
9 handling those cases directly, correct?

10 A One, one partner ahead of me on some of those cases.
11 There were, there were some where there were two partners
12 ahead of me.

13 Q Correct. And then in some of those cases you guys were
14 co-counsel with Skadden Arps, for example?

15 A I think in all of those cases we had outside counsel.

16 Q Right. And you were the outside -- the client was to
17 Skadden Arps and those bigger firms. You guys were just
18 assisting, correct?

19 A Well, we were local counsel on some of those and
20 co-counsel on some of those.

21 Q Correct, yeah. So --

22 A Which may be a difference without a distinction, but I
23 understand.

24 Q So that's -- your personal experience was kind of three
25 layers away from kind of being on the front edge of that

Young - Recross

1 negotiation?

2 A I wouldn't agree with that. I was intimately involved
3 with a lot of those conversations, but --

4 MR. COLLINS: That's all I have, Your Honor.

5 THE COURT: All right. Thank you.

6 Thank you.

7 All right. Mr. Collins, your next witness, please.

8 MR. COLLINS: I call Kate Jerkens.

9 THE COURT: Ms. Jerkens.

10 MR. COLLINS: Yeah, Katharine Jerkens.

11 THE COURT: Ms. Jerkens, come around, please.

12 THE COURTROOM DEPUTY: Go ahead and raise your right
13 hand.

14 Do you solemnly swear your testimony will be the truth,
15 the whole truth, and nothing but the truth, so help you God?

16 THE WITNESS: I do.

17 THE COURTROOM DEPUTY: Have a seat, please.

18 THE WITNESS: Thank you.

19 THE COURTROOM DEPUTY: If you'll scoot close to these
20 microphones.

21 THE WITNESS: Sure.

22 THE COURTROOM DEPUTY: Please state your full name
23 for the record.

24 THE WITNESS: Sure. So my name is Katharine Jerkens.
25 It's K-A-T-H-A-R-I-N-E, and it's Jerkens, J-E-R-K-E-N-S.

Jerkens - Direct

1 THE COURT: Whenever you're ready.

2 KATHARINE JERKENS,
3 having been first duly sworn, was examined and testified as
4 follows:

5 DIRECT EXAMINATION

6 BY MR. COLLINS:

7 Q Good afternoon, Ms. Jerkens. Can you give the Court your
8 position at Uncle Nearest?

9 A Sure, yes. I'm the chief business officer at Uncle
10 Nearest.

11 Q And how long have you been with the company?

12 A Since December of 2016, so I'm employee number one.

13 Q Okay. So you have a lot of experience with this company?

14 A I would say so.

15 Q Did you start out as the chief business officer?

16 A I started out as all-hands-on-deck, but really started
17 out as more of like a VP of sales and marketing at the time.
18 My job was really to figure out sales and distribution from
19 the very beginning.

20 Q Okay. And then as chief business officer, what do you
21 oversee?

22 A I oversee all of our sales, I oversee all of our
23 distributors, I oversee our marketing efforts, and I touch
24 logistics and production as a collaboration.

25 Q Okay. And so in that role, what types of things are you

Jerkens - Direct

1 involved in, in terms of company operations?

2 A Sure. So I collaborate with our production team on, you
3 know, our needs in the market. So we're following -- we
4 have -- we are following our warehouses, what kind of
5 inventory we have in our warehouses, what our depletions are
6 looking like, and ensuring that we are monitoring our
7 production schedule to ensure we have enough product on the
8 floor.

9 Q Okay. And in that process, you create projections that
10 help assist the company kind of manage its operations moving
11 forward?

12 A My goal is always to help assist the company and to
13 ensure that we have enough product for our customers, yes.

14 Q And is what you do important in the budgeting process for
15 the company?

16 A I would think it's important, yes.

17 Q Okay. And since the -- since the receivership has been
18 in place, who have you communicated with primarily to provide
19 information about the sales and marketing function?

20 A Yeah. Day-to-day it would be Mark Ruday and Scott, and
21 then peripherally it would be Tim, and then Phillip at the
22 beginning.

23 Q Okay. And so Mark Ruday and Tim are part of Newpoint?

24 A Part of Newpoint. Scott is with Thoroughbred.

25 Q And that's Scott Schiller?

Jerkens - Direct

1 A Scott Schiller, correct, yes.

2 Q Do you have direct communications with Mr. Young?

3 A I do not any longer, no.

4 Q Okay. In terms of how you function in the sales and
5 marketing role, is that function dependent on kind of timely
6 and quick information?

7 A Yes, especially for a growing company like ours. And
8 what I'm accustomed to is being able to be able to pivot and
9 be a little bit more -- be a step ahead of our competitors at
10 any given time, yes.

11 Q And that's talking about kind of marketing. You're
12 dealing with all 50 states, correct?

13 A Yes, all 50 states, and then we also have business
14 outside of the U.S.

15 Q And in the -- in this industry, because you sell through
16 distributors?

17 A We do.

18 Q Okay. And what is your -- how many distributors are you
19 dealing with in that process?

20 A We right now have a total of 20 different distributors.

21 Q Okay. And they all have different geographic areas; is
22 that correct?

23 A All different geographic areas, and every state in this
24 country has a different rule or a different way of working.
25 So, yes, it's complex.

Jerkens - Direct

1 Q And some states are -- do they have different -- they're
2 private versus public --

3 A Yeah.

4 Q -- in terms of the distributorship?

5 A Yeah. So there's open states, which are -- we will use
6 Tennessee as an open state since we're here, where the
7 distributors are private companies. So I'm selling direct.
8 We're selling to distributors. Distributors are selling to
9 retailers.

10 In a controlled state, so we'll look at a close by state,
11 North Carolina, that particular state is a state -- the liquor
12 there is state-run, so the money runs through the state, or in
13 North Carolina it runs through counties. But it's not --
14 there's no private distributors there.

15 Q And in terms of the sales and marketing function, what
16 are the types of marketing things that you do?

17 A Oh, yeah. So, well, I mean, from the beginning,
18 conceptually, you know, what kind of trade marketing do we
19 want to do, trade being towards our distributors, and then
20 retail buyers, bartenders, people that are making decisions
21 every day what they're going to pour, looking at overall
22 consumer marketing. So really high level.

23 And then my job is also to go, and to go and to actually
24 execute all the way down, anywhere from ensuring that we have
25 enough funds for tastings to attend consumer-facing events,

Jerkens - Direct

1 for having our team be able to go into market and meet with
2 each one of our distributors, because, as we know, this is a
3 competitive market. So we need to be in front of our
4 distributors, having meetings, collaborating with them,
5 patting them on the back, pushing them when we need to push
6 them.

7 We need to be in front of our actual customers, the
8 people that are -- you know, every single day a bartender is
9 being asked, like, what drink do you recommend? And in order
10 to be competitive in this space, you have to have people that
11 are interacting with those folks and ensuring that they know
12 that Uncle Nearest is the best pour. So it's very -- it's
13 very tactical.

14 Q Okay. And in terms of the process, your job, how has
15 that changed between the time prior to the receivership versus
16 after the receivership?

17 A Sure. So I want to clarify. We had already been making
18 cuts in 2025. We recognized cuts needed to be made, and I
19 think it's actually very evident when you look at Q1 marketing
20 cuts to Q2 and then you look at Q3. So, yes, Q4 was another
21 cut, but those cuts had already been being made.

22 Fawn and I sat in a room. Fawn and Keith and I sat in a
23 room. We sat with our financial advisors, and we started
24 looking at things that needed to be cut. We also had
25 already -- we had some -- we had made already some actual

Jerkens - Direct

1 sales team cuts prior to the receivership.

2 One of the biggest things that's changed for me is just
3 timing, right? It's the ability to have an idea, to ask for
4 something, and to be able to execute it in a timely manner.
5 And unfortunately right now, I now have layers that I have not
6 had prior. So I would say, like, just the ability to execute
7 in a timely manner has been the biggest change.

8 Q And so how much -- what's the time difference pre, in
9 terms of generally getting things done so that you can move,
10 versus the process post-receivership, from a timing
11 standpoint?

12 A Twenty minutes to a month, and then some in the middle.

13 Q Okay. And just to clarify, you're saying before the
14 receivership, you might get an answer in 20 minutes or very
15 quickly?

16 A I mean, 20 minutes was generous. I mean, Fawn and I
17 would talk and then we would move forward, yes.

18 Q And then post-receivership, more like a month to get
19 those decisions made?

20 A Could be. Not everything. I want to be clear. Not
21 everything, but it could be at least a month, if not more,
22 sometimes six weeks.

23 Q Can you tell us about limited time offers, LTOs?

24 A Yes. Limited time offers are basically offerings that we
25 have. So we have our core SKUs that we have that are

Jerkins - Direct

1 available, what we call our everyday items. And then
2 throughout -- since 2018, I believe, 2019, we've offered
3 limited time offers, which is something where it's a special
4 bottling. Maybe it's been aged in a special way. Maybe it's
5 older than everything else that we have, has a specialty
6 label, and there's a very limited amount of it, right?

7 And so those, those are very important in this industry.
8 We're seeing everybody else use these as well. And what they
9 do is, A, they're one of the most -- they're very profit-
10 driven offerings, right? Because if my everyday offerings are
11 \$60 and now I can go sell something that's 130 to \$160 or even
12 \$99, at the end of the day the actual cost of all those are
13 not the same as what we're actually able to get because of the
14 scarcity of these items.

15 Scarcity marketing is a huge tactic when it comes to
16 whiskey especially. So telling the general public that you
17 only have 200 bottles -- well, not 200 -- 2,000 cases or 8,000
18 bottles or whatever it might be, it makes people clamor for
19 the product. They want to get it. It makes them want to go
20 to their local liquor store. It makes them want to go and
21 find this item.

22 And what happens is, in that process, well, shoot, I
23 didn't get that, but I picked up a couple extra bottles,
24 right? And so on top of it just being very profitable for us
25 when we do these limited time offers, it's also a great

Jerkens - Direct

1 marketing tactic as well, because we've seen, for Uncle
2 Nearest, that scarcity marketing does work.

3 Q And how important have LTOs been to the growth of Uncle
4 Nearest as a brand?

5 A They've been extremely important and it's been part of
6 our strategy since day one, and people expect them and they
7 get excited about them.

8 Q Okay. In terms of the approval process for things like
9 LTOs and getting those approved, what -- again, the process is
10 what? Like, if you had an LTO that you wanted to put out, how
11 would that happen post-receivership?

12 A Yeah. So in this case what I came to find out at the end
13 of September, which I didn't realize, is that we had to, we
14 basically had to justify every bottling that we do, not just
15 for LTOs but for all bottling, which is why forecasts were
16 being asked of us. So before we could dump any of the
17 barrels, we needed to have, we needed to have a case for it.

18 So when it came to the LTOs in question, the Toasted
19 Barrel and then the Cognac Cask, on the Uncle Nearest side,
20 the side that's distributing out into the market, we basically
21 had to show we had purchase orders and preorders for both of
22 those.

23 And when it comes to even just the other SKUs, we also
24 needed to try and forecast and had to talk about what we
25 thought we were going to be doing for the remainder of the

Jerkens - Direct

1 year, or into this year, in order to be able to move forward
2 with those bottlings.

3 Q How -- in terms of the history of Uncle Nearest, how
4 quickly have LTOs typically sold, sold out?

5 A So here's the thing: For us, all that matters is how
6 quickly we get them to the distributors, because the minute
7 they get to our distributors or they get to the states, for
8 the distributors in the open states, an invoice is generated
9 and most of those people are working on 30-day terms.

10 That being said, the minute -- I would say from the
11 minute we bottle until the minute we get paid is probably
12 about a six-week turnaround, and I would say confidently that
13 our LTOs sell out on the market and they're clamoring. When
14 we sell our limited amount online, they're sold out within
15 minutes or hours.

16 Q When you -- so have there been occasions when you have
17 proposed a marketing expenditure or a bottling that have not
18 been approved since the receivership started, like an LTO?

19 A Nothing hasn't been approved. It's just taken longer.

20 Q Okay.

21 A Yeah.

22 Q So in terms of that time --

23 A Uh-huh.

24 Q -- so let's think about the first -- what was the first
25 LTO that you requested to be done since the receivership?

Jerkens - Direct

1 A Right. And so this is -- I want to just also just
2 level-set that our LTOs are in conjunction with our
3 distillery. And so one of the greatest ways -- and I do
4 not -- just for the record, I do not do distillery marketing.
5 So I just -- but we do collaborate together. And one of the
6 greatest ways to get people to the distillery is to launch
7 these LTOs at the distillery. That creates a lot of
8 excitement.

9 And we have seen the craziest of crazy things with people
10 coming the night before, with people lining up down the
11 highway, causing traffic jams. And, in fact, I've heard
12 anecdotally that someone tried to even break in once to sleep
13 inside of our distillery so they could be the first in line
14 for these LTOs.

15 So that is a big deal. It's a big deal to be able to
16 have those people come. And then the minute they walk through
17 the door for that one LTO, now they're there. They're likely
18 buying more because we have incredible retail, or we had
19 incredible retail. We have tastings. We have tours. So
20 there's a lot to do once you're there. It's a great way to
21 get people out there.

22 For us, we were collaborating with the distillery to
23 ensure that we found the right date, the best day of week to
24 get it launched at the distillery, and we always launch into
25 the distillery first, and then we say, let's get it to the

Jerkens - Direct

1 market, let's start shipping it to the market, even the week
2 after it's hit the distillery.

3 And so there was a plan in place to have the Cognac Cask
4 and the Toasted Barrel happening, but what happened is once
5 the end of September came along and we realized that we were
6 going to have to really get permission to dump all of our
7 barrels, there was quite a bit of back-and-forth, I would say,
8 about when we could actually dump them, and there was a lot of
9 things that we had to prepare, myself and the marketing team
10 at the distillery, in order to get those permissions.

11 Q And we're talking about permissions from the receiver,
12 correct?

13 A Correct.

14 Q Or the receiver team?

15 A Which what I understood is, what I was always told is,
16 you're sending this to us; we're getting permission from the
17 bank.

18 Q Okay. So they were --

19 A That was always the reference, "the bank."

20 Q So just to be clear, when you were asking for approval of
21 an LTO or things like that, the delay, they were referencing
22 the delay was being caused by the bank, or Riveron?

23 A Any moment, any, any, any moment, yes. It was, it was,
24 it was the delay but also just the decision-making in general.
25 There was pushback on it in general. There was a conversation

Jerkens - Direct

1 that I had where I was even told that, even despite how good
2 the margins are on these LTOs, that the bank did not really
3 care unless they all sold the minute that we bottled them.

4 So the margins did not matter. It was really about the
5 bank. Again, and I'm just using that because that's how it
6 was said to me is, "the bank" wanted to ensure that whatever
7 we're bottling was going to be sold immediately. Those were
8 the parameters we were looking at, and that was why we had to
9 have very solid plans, in order to present to the bank.

10 Q Prior to -- where does Uncle Nearest do its bottling
11 presently?

12 A Right now at our distillery in Shelbyville, the Nearest
13 Green Distillery.

14 Q Okay. Is that where it's always been bottled?

15 A No.

16 Q What kind of volume bottling can you do at the
17 distillery?

18 A On average, I think we can get to about 2,000 cases a
19 week on a good week. I've learned throughout the years,
20 though, that depends on how cold it is, how hot it is, pending
21 any challenge, operational challenges which could cause us to
22 have a delay.

23 Q In your experience, do you think that enough bottling is
24 happening in order to meet demand?

25 A I would, I would -- my personal thought is that we need

Jerkens - Direct

1 another, we need another plan.

2 Q And do you think that more inventory ought to be held in
3 order to meet the sales requirements?

4 A Yes.

5 Q Has that -- have you relayed that to the receiver and his
6 team?

7 A I think at the moment -- so I'll just be perfectly
8 honest. On a weekly basis, I will say that the people that I
9 interact with are very cordial, great conversations, where we
10 have very open and honest conversations about what is needed.
11 My conversations with them are about what our abilities are
12 today. We don't get into the what-ifs of if we had something
13 else because that's just not what we have.

14 So on -- during those calls, we are talking about we need
15 1884, which is one of our everyday SKUs. We need that now.
16 We've now sold out in Florida and New Jersey. And then the
17 conversation is, shoot, well, we also need to bottle this
18 Toasted Single Barrel, which has been approved, and we've told
19 our distributors they're getting it. We all as a group need
20 to decide what's more important.

21 So really what's happening is that because of the limited
22 bottling line that we have, we as a group have to make
23 decisions that sometimes are going to delay getting product to
24 the market. We very rarely have anything just extra sitting
25 on the floor.

Jerkens - Direct

1 Q Are you aware of out-of-stocks in the market?

2 A Yes, we've had out-of-stocks, especially closer to the
3 beginning, when there were some -- you know, while we were
4 getting our feet wet and all of that good stuff, yes, towards
5 the beginning. I do feel like we've gotten to a place that is
6 better, and again I just want to clarify, working with what we
7 have.

8 Q Okay. And so in terms of LTOs, how many LTOs have been
9 released since the receivership started?

10 A Two.

11 Q And that is which two?

12 A The Cognac Cask and the Toasted Single Barrel.

13 Q Now the Cognac Cask was released broader than the
14 distillery, correct?

15 A Both of them were.

16 Q And the Toasted Barrel, when was Toasted Barrel supposed
17 to launch initially?

18 A In an ideal world, it would have launched early
19 September, to be perfectly frank. So that's why I just -- it
20 then launched, I believe. And, again, I believe we ended up
21 having it launch first or second week of November at the
22 distillery.

23 We actually made a decision that it was more important to
24 make sure the distillery had it and had a way of driving
25 revenue and achieving the forecast that had been set forth and

Jerkens - Direct

1 given to the bank and that we could not -- the one thing you
2 cannot do is send out two LTOs at the same time into the
3 market. So though what was working, going to work for the
4 distillery, wasn't necessarily going to work for us. So we
5 made a strategic decision that they were going to launch it at
6 the distillery.

7 One of the neat things about the Toasted Single Barrel is
8 it's only ever been at the distillery, so no one on the market
9 had to know that they were missing out on anything in that
10 time. We then made a strategic decision to launch the Cognac
11 Cask on Black Friday through a series of announcements that
12 led up to it, and then that released into the markets.

13 And then this January, I think the second or third week
14 of January, we started to ship the Toasted Single Barrel out
15 into the market. So people are getting that as kind of a
16 surprise. They didn't know that it was coming because it had
17 been released just at the distillery.

18 Q But in the absence of receivership, what would have been
19 the schedule for the release of Toasted Barrel and Cognac
20 Cask?

21 A The Toasted Single Barrel for us would have come out
22 earlier. The Cognac Cask was meant to have come out earlier
23 in the year, though. So to be very frank, like, that was --
24 we -- one of the biggest things that our CMO and myself, when
25 it all started, when the receivership started, is we have

Jerkens - Direct

1 those LTOs, we literally have this product. It is sitting in
2 barrels. We need to get the labels. We need to get the
3 bottles.

4 The Cognac Cask needed to be bottled, or the idea of it
5 and what we had done with it wasn't going to work any longer.
6 It had been sitting in the barrel, the Cognac Casks, for long
7 enough.

8 Q And in terms of timing of release, if you miss a release
9 date of an LTO, that's just basically lost. It's delayed
10 revenue, right?

11 A It is delayed revenue.

12 Q Yeah.

13 A Yeah. There's no -- yeah, it's a delay. If we didn't
14 get it out, if we had it in our forecast for November 1st and
15 we didn't get it out until December 1st, then, yes, that's
16 delayed revenue.

17 Q And then it delays the next LTO, correct? So it's a --

18 A It is. To go onto the general market, yes, there has to
19 be a time, there has to be time to let it sit.

20 Q And at the end of the day, an LTO, does it effectively
21 represent increased sales --

22 A Oh, yeah.

23 Q -- in your opinion?

24 A Yes, because you have your cadence of everyday SKUs, and
25 then you're going to have a little bit of an increase when

Jerkens - Direct

1 those products go onto the market.

2 Q So if LTOs had been approved quicker, for example, in
3 2025, if you had gotten, you know, two full releases of an
4 LTO, would that have, in your opinion, kind of increased the
5 sales revenue, the top-line revenue of the company?

6 A In all honesty, by the time we got to the conversation
7 about those, the strategy that we have in place right now
8 would have not affected 2025. It would have been great if we
9 could have gotten it out earlier in January. But, no, in my
10 personal opinion for the market, to have released the Single
11 Barrel -- and I've said that to Scott and to Mark, so I'm
12 being very honest. No, it would have not made sense to -- if
13 by the time the Toasted Single Barrel was ready to -- excuse
14 me. By the time we decided when we were going to launch the
15 Cognac Cask, it would have not made sense to launch the Single
16 Barrel based on the timing that we were given.

17 Q Well, I understand the timing you were given. I guess
18 what I'm saying is, if you could have gotten the two LTOs out
19 in 2025 --

20 A Uh-huh, if we had been able to get them out in 2025,
21 overall, yes.

22 Q And the reason you couldn't get them out in 2025 was
23 effectively the receivership?

24 A Not necessarily.

25 Q If that's not correct, then --

Jerkens - Direct

1 A No, not necessarily.

2 Q Okay.

3 A Yeah. Not necessarily, no.

4 Q Okay. So recently, I think in December, you provided a
5 cash flow forecast for the company to, I guess to the receiver
6 professionals?

7 A So, yes. So the most -- so I don't, I don't, I don't
8 send cash flow forecasts. I forecast top-line revenue. So --

9 Q For sure.

10 A So on January 8th, I sent a Q1 2026 forecast.

11 Q And how was that received?

12 A The next day, on our weekly Friday calls, I was told, I
13 believe it was by Tim or Mark, that the bank had lost trust or
14 lost, like, trust in the validity of these revenue forecasts.
15 And at that time they wrote, they said to me that my forecast
16 was 25 percent higher for Q1 than it was for how we landed in
17 Q4.

18 And I know that because I sat befuddled on the call. I
19 was actually embarrassed because I was like, if I turn in a
20 forecast like that, I don't even know what to do. So I just
21 was quiet for the rest of the call. I went back, looked at
22 all the numbers, looked at the emails I sent them, and I sent
23 an email to Ryan and Team. And I have it here, and I think
24 you have it as well. I said, "This is what I show we did in
25 Q4 in Park Street, \$5.7 million. Our Q1 forecast that I

Jerkens - Direct

1 submitted was 4.9, which is 18 percent less than what I show
2 on Park Street we did for Q4. I am confused by the
3 discrepancy" is what I wrote. I said, "I am confused by the
4 discrepancy. If you could please share for me the numbers you
5 have so that I can ensure we're all looking at the same
6 numbers, that would be great."

7 Q Did you get a response to that?

8 A I did not get a response to that email.

9 Q Okay. Did anybody ask you for further clarification of
10 your projections?

11 A So that day -- that's a Friday, so it was our Friday
12 calls. And Friday afternoons, that Friday afternoon, Mark and
13 I talked. And I said -- you know, we both talked on the phone
14 and decided that it made sense for myself, Mark, Scott, Tim,
15 Ryan, and then Chuck, my colleague, to get on a call on Monday
16 and really talk through the forecast, so we could talk through
17 days on hand -- which days on hand is we have reports where we
18 can see how much product is in our distributor warehouses.

19 So we can see projections by how things are depleting
20 from every one of our distributors. That's how we can start
21 to make forecasts. If they only have 30 days of inventory, we
22 can assume that in this next month they're going to have to,
23 they're going to have to order X amount of product.

24 We also, we have the industry knowledge and we have --
25 Chuck's worked with me since 2018. I've been there since

Jerkens - Direct

1 before. So we wanted to explain ourselves. And I thought
2 Mark -- I thought it was a great idea. So we got on the call
3 on Monday. That was January 12th. On that call I said, I do
4 want to make sure we're all on the same page. I sent this
5 email. I was then told, "You know what? 25 percent may not
6 have been exactly what you were over. We've only really
7 looked at cases so far." So on this screen, I just got cases,
8 not revenue, and that it maybe was closer to 20 percent. And
9 I said, "I still don't have that number."

10 And we kind of moved on from that to all of us talking
11 about days on hand, all that kind of stuff. And more than
12 once I said, if you guys don't want to use my forecast, you
13 absolutely don't have to use my forecast. We're using the
14 tools that we have. But that's -- I can only use the tools
15 that we have. And I understand. If your concern is that my
16 forecast is too heavy, feel free to, feel free to utilize
17 whatever you would like to utilize.

18 Q So the receiver, in his affidavit, basically said that he
19 was concerned that you specifically -- named you
20 specifically -- had perhaps, I guess, conspired with Fawn
21 Weaver to pump up the projections. Is that true?

22 A It's patently false and it's offensive, honestly. I --
23 nope. So I can tell you exactly -- first of all, Fawn wasn't
24 involved in that forecast. Chuck, my colleague, and I spend
25 time. He puts together a forecast, he sends it to me, I look

Jerkins - Direct

1 at it, I poke holes, I go back, and we go back and forth.

2 When we feel like it's ready, we send it to Fawn. She looks
3 at the format and says, okay, send it, period, end of story.

4 Q And --

5 A And I just want to say for the record, I don't understand
6 what making a forecast bigger than what it's supposed to be,
7 what it would do for us. Not only that, but I don't have
8 access to cash flow forecasts.

9 So I would like just to say that Mr. Young mentioned that
10 perhaps I had reverse-engineered. I don't even know how I
11 could have reverse-engineered anything when we're not being
12 given cash flow forecasts. And honestly, like, not -- I just
13 don't know if I'm that clever. I just, I literally turn in a
14 forecast based on all of the knowledge that I have and was
15 able to talk about it with Mark, with Tim, with Scott, and
16 that was the end of it.

17 Q And in terms of your forecast and in terms of the
18 actuals, right, the actual outcome, how did your forecast end
19 up in relation to the actual numbers?

20 A Sure. So the forecast that I turned in for January was
21 1.452 million -- 500,000 -- so 1.45. In Park Street, for
22 January, I show that we ended the month at 1.960, so
23 1,960,000.

24 Now I will say that there are some -- we had some
25 erroneous postings by Park Street that have been between

Jerkens - Direct

1 November, December, and January. My understanding is that
2 January number is probably 80,000. So if you back that out,
3 it would be 1.88 is what I'm getting.

4 Again, I've asked more than once -- I have several emails
5 that I can present where I've asked how they pulled their
6 numbers versus how I pull mine. I've worked with Park Street
7 since day one. I only know how to pull the numbers one way.
8 So when I asked for help --

9 Q And what is Park Street?

10 A Park Street is -- who is Park Street? Park Street is --
11 the best way to talk about them would be a logistics company.
12 So they basically, they run -- all of our orders run through
13 Park Street. All of our AP and AR, as it relates to our
14 distributors, runs through Park Street. And they then, they
15 also handle all of the orders and dealing with our warehouses,
16 et cetera.

17 Q So the numbers you get from Park Street are generally
18 solid numbers?

19 A When you log into Park Street on a daily basis, it tells
20 you your sales for the month, your sales year to date, and
21 your cash balance, everything. Like, it's literally just a
22 dashboard that's just there when you plug it in. So, and what
23 I did is I -- so what I have just given you are numbers that
24 people can pull from Park Street.

25 So I asked more than once. I asked in December and I

Jerkens - Direct

1 asked in January if someone could please show me how they are
2 pulling the numbers so that we could get on the same page, and
3 I received no response either time. I didn't realize that we
4 were at that time not being given access to the forecasts or
5 numbers. So that might -- that's probably why I wasn't
6 answered.

7 Q And so just to make sure I'm understanding correctly, so
8 you forecast a number and you're accused of overinflating the
9 forecast?

10 A Correct.

11 Q And then when the actual numbers happened, you were
12 actually below the actual?

13 A Correct. And in Mr. Young's affidavit, he said that I
14 inflated November, the strongest month traditionally of the
15 year for spirits. The number I show for Park Street, again
16 for clarification, for November, is 1.764 million. I again
17 forecasted 1.462 million, which to me is not 20 percent above
18 but is actually below. And then we still hit 1.96.

19 Q Okay.

20 A And actually on February 2nd, the day that the filings
21 were made with that affidavit, I had a call that day with
22 Mark, Ryan, myself, and Chuck, where Mark during that call
23 acknowledged that we had achieved over our forecast.

24 Q Thank you.

25 A Uh-huh.

Jerkens - Direct

1 Q So I've put up on the screen -- this is -- we've marked
2 it as --

3 MR. BUCHMAN: 29.

4 BY MR. COLLINS:

5 Q This is our Exhibit Number 29. It's already been
6 provided. This was dealt with in the Phillip Young direct.
7 This was the Park Street data that compared 2023. It's the
8 one with the -- where on the screen it's not as clear as on
9 the paper.

10 Are you familiar with Park Street?

11 A I am.

12 Q Yeah. And you're familiar with these two sheets?

13 A I am.

14 Q Okay. And is the first sheet an actual representation of
15 the actual Park Street numbers for 2023?

16 A So I can't see the date range on here, if I'm being
17 honest.

18 MR. COLLINS: Yeah. If we can have a paper printout,
19 I'm happy to --

20 THE COURTROOM DEPUTY: Why don't you put it on that
21 monitor right there.

22 MR. COLLINS: Oh, that's a good point.

23 THE WITNESS: Not even these glasses will help for
24 that one, unfortunately. Yes.

25 BY MR. COLLINS:

Jerkens - Direct

1 Q I think -- can you see the number there?

2 A Yes. So, just for background, so this is the sales
3 invoice report. So this is a screenshot of the top of the
4 report, which shows you the top-line revenue and then
5 everything -- you could export it to Excel to see every single
6 cell that related to that time period.

7 Q So for 2023 it's 25 million and change?

8 A Exactly.

9 Q And then this is, this is also a Park Street printout,
10 correct?

11 A Yes, it is, correct.

12 Q And this is for what period?

13 A This is for 2024.

14 Q Okay. And for 2024 it shows 34 million, well, actually
15 close to 35 million, correct?

16 A Correct.

17 Q So 2024 was significantly higher than 2023?

18 A It was.

19 MR. COLLINS: Your Honor, I would move these into
20 evidence, please.

21 THE COURT: Any objection?

22 MR. CAMPBELL: No, Your Honor.

23 THE COURT: So ordered without objection.

24 MR. COLLINS: This, we have -- and do you have a
25 copy?

Jerkens - Direct

1 THE COURT: Mr. Collins, I couldn't see that in ten
2 years. Can you blow that up.

3 THE WITNESS: I'm glad you said that.

4 There we go.

5 THE COURT: What exhibit is this, Mr. Collins?

6 MR. COLLINS: This --

7 MR. BUCHMAN: Your Honor, we have it marked as
8 Exhibit 56, but I believe Mr. --

9 MR. COLLINS: It's not in evidence yet, so we're
10 going to --

11 MS. LIGGINS: I don't think we've seen it.

12 BY MR. COLLINS:

13 Q Have you seen this document before?

14 A Yes. It's a screenshot from our depletion scorecard.

15 Q Okay. And this is a report that you generate?

16 A That Chuck Cronkhite generates for me, yes, that we use
17 every single month, correct.

18 Q And this is -- what is this showing?

19 A So the first, the first row, 2025 actual, those are our
20 depletions by month. So the 11,968 refers to -- that refers
21 to January and so on. And the final number, 156,429, would be
22 the total.

23 Q Okay. And so the last column is the total?

24 A Correct.

25 Q Okay. And this compares several years, correct?

Jerkens - Direct

1 A This is comparing -- yes. So this is comparing
2 depletions 2025 over 2024, and it's also showing our
3 depletions for 2023.

4 Q And in terms of -- I think the Court has already heard
5 what depletions are, so we won't go into that. But in terms
6 of the growth of depletions -- and maybe quickly just say
7 again what depletions are between the distributor and the
8 distillery.

9 A Yeah. The depletions, how we look at it, are cases
10 leaving the distributor warehouse.

11 Q Okay. And so how do -- from a sales and marketing
12 standpoint, how do depletions impact what you do?

13 A Yeah. I mean, every time product leaves the distributor
14 warehouse, then that leaves us -- that leaves more room for
15 them to come back and order again. It also means that they've
16 sold into a retailer or to a bar or restaurant.

17 Q And how do distributors decide when to buy?

18 A When they need the inventory. So typically, I would say
19 typically -- we also have Danny Romano here who can talk about
20 what their cycle is. But some of them will run, they want to
21 make sure they have at least 60 days inventory, some people
22 running a little more lean these days at like 30 to 45 days of
23 inventory.

24 Q And so high depletions would -- what would that
25 represent?

Jerkens - Direct

1 A It would represent them moving through their inventory
2 and needing to order more inventory.

3 Q And in terms of this chart, in the third column, what
4 does it -- what does it show as between 2023, 2024, and 2025?

5 A Yeah. So in 2025, we depleted 156,000 -- I'm just going
6 to round if that's okay -- 156,000 cases. In 2024, we were at
7 147,000. And in 2023, we were at 142,000.

8 Q So year over year --

9 A And I would just like to -- may I clarify? And this is
10 because this has come up a few times. All of this is in 4-
11 and-a-half-liter cases. We do have a product -- so our core
12 SKUs run in 4-and-a-half-liter cases. Our latest one that we
13 launched in 2024, it comes in 9-liter cases. But we run the
14 report in 4-and-a-half-liter cases. And I can tell, because I
15 have my people that I work with in the back, that this is a
16 conversation that we have, and that's kind of a challenge
17 sometimes when you have two different sized cases. But this
18 represents 4-and-a-half-liter cases, for the record.

19 Q So at least in terms of this chart, it shows that, at
20 least between 2023, 2024, and 2025, depletions were
21 increasing?

22 A Have increased, correct.

23 MR. COLLINS: Your Honor, I would move for this into
24 evidence.

25 MS. LIGGINS: I have an objection, Your Honor. I

Jerkens - Direct

1 just, I can't tell actually what it is, where it came from,
2 who prepared it. This is his direct witness. This was not on
3 the exhibit list. I mean, I know it's a printout and she's
4 testifying, but, I mean, we're trying to be lenient. We let
5 the Park Street in, exhibit. We can't see it. I just don't
6 know what it really, truly is.

7 THE COURT: All right. Mr. Campbell, anything?

8 MR. CAMPBELL: Your Honor, I generally agree with
9 Ms. Liggins.

10 THE COURT: Okay.

11 MR. CAMPBELL: But I don't know that I want to lodge
12 a formal objection.

13 THE COURT: All right. Flesh it out a little bit,
14 Mr. Collins, you know, briefly, and I'll let it in. But flesh
15 it out for me, okay?

16 MR. COLLINS: Okay. I will.

17 So explain again exactly --

18 THE COURT: You heard the issues that she had with
19 it, so just answer those questions.

20 BY MR. COLLINS:

21 Q So explain again how this was created and who created it.

22 A Yes. So this is, this is something our team uses, Chuck
23 Cronkhite, who is my SVP of distributor relations. The
24 actuals here are taking actual depletions from every open
25 state distributor in the country and then the depletions by

Jerkens - Direct

1 control states. So those are -- when it comes to the
2 distributors, that's product that's leaving the distributor
3 warehouse. In the case of control states, it's what they've
4 sold through the control states. So all of those make up the
5 actuals. And then is there more? Does that help?

6 Q So you mentioned Chuck. Chuck is part of your team?

7 A He's part of my team, correct.

8 Q Part of the sales and marketing team?

9 A Uh-huh.

10 Q And this is all done -- this is a business record done
11 within the context of --

12 A It is. So we're using -- so the data, the way the data
13 is pulled, it's pulled from a system called VIP. VIP is a
14 system that basically it dials into all of these distributor
15 warehouses for the open states, and on a nightly, on a nightly
16 basis, it dumps the data from these distributor warehouses.
17 So we actually -- it's actually a great tool for us because on
18 every single day we can go in and see what was literally sold
19 by our open state distributors every day.

20 Control states are a whole 'nother, they're a whole
21 'nother bag, to be perfectly honest. We do not get that data
22 sometimes for 30 to maybe 45, even 60 days, because they have
23 to go through so much more red tape.

24 Q But, again, this is not a report that you just kind of
25 put together for this. This is something you guys use in

1 the --

2 A Yeah. This is data coming from VIP and then from our
3 control state data.

4 Q And it's something you use in the ordinary course of your
5 job?

6 A We use it every month to review how we're doing, and we
7 use this to work with our sales teams and our distributors to
8 address when there's challenges and to celebrate when we have
9 successes.

10 MR. COLLINS: I believe that's covered. If there's
11 something else I need to cover, Your Honor, I would be happy
12 to.

13 THE COURT: It's admitted. Let's move on.

14 MR. COLLINS: Thank you. I believe that's all I
15 have, Your Honor.

16 THE COURT: All right. Thank you.

17 Now you have no questions, Mr. Campbell?

18 MR. CAMPBELL: I'm going to let Ms. -- mine are very
19 short. I've got maybe three.

20 THE COURT: Okay.

21 MR. CAMPBELL: I'm going to let Ms. Liggins go first,
22 and then I'll clean up.

23 CROSS EXAMINATION

24 BY MS. LIGGINS:

25 Q Good afternoon, Ms. Jerkens.

Jerkens - Cross

1 A Hi.

2 Q I just have a couple of questions.

3 A Of course.

4 Q The first one is, you said that you're the chief business
5 officer?

6 A Correct.

7 Q Okay. And as the chief business officer, does your
8 compensation include equity?

9 A In the first two and a half years I was given some goals,
10 and with those goals I did earn stock options, which I
11 actually have not exercised those options.

12 Q So do you hold any equity today?

13 A The equity that I hold is based on a \$25,000 investment
14 that my husband and I made.

15 Q Okay. So you are an equity holder?

16 A Correct.

17 Q Okay. And then you said that, you testified that you
18 guys were already making cuts because we recognized that cuts
19 needed to be made?

20 A Uh-huh.

21 Q What was the thing that made you recognize that cuts
22 needed to be made? What was going on?

23 A The -- my -- what I was being -- I was brought in to
24 speak to -- and I apologize because I didn't get a lot of
25 introduction. Like, it was kind of a fast-paced time. But we

Jerkens - Cross

1 had Carlos, who was working as a consultant with us, and then
2 I believe --

3 Q I'm going to stop you real quick. Who is Carlos?

4 A Carlos' last name of --

5 AUDIENCE CHORAL RESPONSE: Flores.

6 THE WITNESS: Sorry?

7 AUDIENCE CHORAL RESPONSE: Flores.

8 THE WITNESS: Flores. He was the consultant that was
9 working as an acting CFO with us. Prior to that was Felicia.
10 We had -- we --

11 BY MS. LIGGINS:

12 Q I'm sorry. I'm going to stop you again.

13 A Sorry.

14 Q Who is Felicia?

15 A Why can't I think?

16 UNIDENTIFIED VOICE: SVP of finance.

17 THE WITNESS: No. I know who Felicia is, SVP of
18 finance. I cannot remember her last name.

19 BY MS. LIGGINS:

20 Q Is it Gallagher?

21 A Correct.

22 Q Okay.

23 A So I would say -- do you mind if I back up a little bit
24 to explain?

25 Q No. Go ahead.

Jerken - Cross

1 A When the Weavers made some changes in finance and
2 somebody like Felicia came along and Carlos came along, our
3 financial -- those financials, as discovery was made that we
4 needed to -- I don't know how to say this without -- proper
5 financials were being looked at. We were looking at real-time
6 data and realized that marketing, that there needed to be
7 marketing cuts at that time.

8 Q And was the real-time data, was it like a lack of
9 revenue?

10 A It was not necessarily a lack of revenue, but it was our
11 costs were outweighed -- the revenue you can control so much.
12 It was that my marketing expenses at that time were too high.

13 Q Okay. And so when you started making cuts, what kind of
14 cuts did you make?

15 A The initial cuts that we made, the initial cuts we made
16 in May were to -- well, let me start with earlier in the year
17 we started to taper down our credit card spend with the team.
18 So what Mr. Young referenced earlier, we had made some cuts
19 already to travel.

20 And travel is kind of a broad term. If you don't mind, I
21 will say that when you're a sales, when you're a sales rep in
22 the market, it's not just a travel expense, but it's an
23 expense to go into bars and restaurants, to go into those
24 places and to, quote, account-support. So it's more than just
25 traveling. A lot of -- there is money that's on those cards

Jerkens - Cross

1 that is spent just to go in, to be in your home market. So we
2 made reductions to that.

3 We made reductions to events that we were participating
4 in. We made reductions to digital marketing spend. And we
5 made reductions to point-of-sale materials. And then we also
6 made some staff cuts.

7 Q And you said that before you guys weren't doing
8 forecasting. You and Ms. Weaver would just meet and decide
9 what needed to be done, right?

10 A That's not what I said. What I said, when Fawn and I
11 would meet had to do with when we had like a marketing idea,
12 it didn't have to pass through a week to six weeks of
13 approvals. We would come up with an idea and start to execute
14 on it.

15 Q Because everybody who needed to approve was already in
16 the room?

17 A Correct.

18 Q Okay. And then you said that you have had more red tape
19 because of the bank. When you say bank, who do you mean?

20 A That's a good question. I'm being told the bank.

21 Q By whom?

22 A By the team that I send my forecasts or my approvals to,
23 so to the team at Thoroughbred or Newpoint. I understand that
24 the bank -- I think once or twice it's been said that it's
25 actually Riveron, but typically the term is "the bank."

Jerkens - Cross

1 Q Okay. But you've never met with anybody at the bank?

2 A I have not talked to anyone from Riveron nor the bank.

3 Q Okay. And you were talking about bottling at the
4 distillery?

5 A Correct.

6 Q Okay. But there's no distilling going on at the
7 distillery, right?

8 A Just the bottling, correct.

9 Q Just bottling. Okay. And so just real quick on this
10 exhibit, that's the same one where you have the budget, so I
11 apologize.

12 THE COURT: I can't see it.

13 MS. LIGGINS: I can't either.

14 THE WITNESS: Even with these guys. I'm sorry.

15 MS. LIGGINS: Even with my readers.

16 MR. BUCHMAN: If you switch to my monitor --

17 MS. LIGGINS: Okay. Great.

18 BY MS. LIGGINS:

19 Q But I'm just going to ask about the budget number.

20 A Yes.

21 Q And you said who puts the number in for the budget?

22 A That budget number for depletions was something that we
23 worked on together, myself, Fawn, and Chuck. And it was also
24 numbers that we had worked on as we set our 2025 budget, so
25 Felicia and Carlos would have been involved in that as well.

Jerken - Cross/Redirect

1 Q Okay. And does the red mean that the budget was never
2 met?

3 A So, yes, the depletion numbers were not met, correct.

4 MS. LIGGINS: Okay. No further questions, Your
5 Honor.

6 THE COURT: All right. Thank you.

7 MR. CAMPBELL: No questions, Your Honor.

8 THE COURT: All right.

9 MR. COLLINS: Just real quick.

10 THE COURT: Anything else?

11 MR. COLLINS: Real quick.

12 REDIRECT EXAMINATION

13 BY MR. COLLINS:

14 Q On the depletions, your projections, we don't control
15 depletions at the distillery or you don't control depletions
16 by the distributors, correct?

17 A Our -- we, we -- our goal is to drive depletions with our
18 distributors, correct.

19 Q Yeah. Well, what I'm saying is you couldn't say, we're
20 low on depletions; let's deplete some. It's the distributor
21 that does the depletions?

22 A Correct.

23 Q So ultimately -- and it's the retailers that drive it.
24 So you're projecting depletions based on retail sales?

25 A By -- yes, by retail sales and also bars and restaurants

Jerkens - Redirect

1 purchasing, correct.

2 Q Right. And so it's a function of a lot of parameters
3 that make it somewhat difficult to predict?

4 A There are definitely a lot of factors that affect
5 depletions, absolutely, you know, including uncertainty with
6 the receivership, a multitude of things.

7 Q At the end of the day, the actual numbers, though, are
8 really what happened, correct?

9 A The actual numbers are what happened. And we did, in
10 fact, despite a market that was in decline, there aren't a lot
11 of spirits companies right now that can say that, in 2025,
12 that we grew our depletions.

13 Q And then just to clarify, so when you talk about being an
14 equity holder -- she just asked you the question.

15 A Yeah.

16 Q You made a 25 -- you're a \$25,000 equity holder, correct?

17 A Correct. And we actually did sell some of our shares on
18 the secondary market in 2023, so I have a total of 6,666.
19 Even though that's the 666 we don't like, that's the number of
20 shares that I currently have.

21 Q Very good. And then there was questions about the travel
22 expense and Ms. Weaver. In terms of the marketing of this
23 company, how important is Fawn Weaver individually to the
24 success of the marketing and sales plan for this company?

25 A I mean, when it comes to the travel, the travel that she

Jerkens - Redirect

1 spends, it's been incredibly important, from -- we've had some
2 huge initiatives, you know, through starting with the CEO
3 tour, where she made her way around the country and actually
4 met people and met buyers and shook hands and thanked people
5 for their support. There's no CEO in the spirits business
6 that's doing stuff like that, and then the Love and Whiskey
7 Tour, where again the opportunities to interact with
8 consumers.

9 So those things are important, and there are not CEOs
10 that are doing that in the spirits business. It's something
11 different. It's a way to differentiate us. And so those
12 expenditures make sense to me, and they've been an influential
13 part of our marketing campaign.

14 Q And when she does bottle signings, how does that usually
15 turn out?

16 A People line up out the door.

17 Q And, in fact, in December, didn't the company --

18 A Multiple stores had multiple lines outside their door,
19 rain or shine.

20 Q In your knowing the sales and being a sales and marketing
21 person, do you think that this company could have had the
22 success it had without the marketing efforts of Fawn Weaver?

23 A No.

24 MR. COLLINS: No further questions, Your Honor.

25 THE COURT: All right. Thank you.

Romano - Direct

1 Thank you.

2 THE WITNESS: Thank you.

3 THE COURT: All right. Mr. Collins.

4 MR. COLLINS: Your Honor, I will call Danny Romano.

5 THE COURT: Mr. Romano. All right.

6 THE COURTROOM DEPUTY: Raise your right hand.

7 Do you solemnly swear your testimony will be the truth,
8 the whole truth, and nothing but the truth, so help you God?

9 THE WITNESS: I do.

10 THE COURTROOM DEPUTY: Have a seat, please.

11 Will you state and spell your name for the record.

12 THE WITNESS: Daniel Romano, R-O-M-A-N-O.

13 THE COURTROOM DEPUTY: Thank you.

14 DANIEL ROMANO,

15 having been first duly sworn, was examined and testified as
16 follows:

17 DIRECT EXAMINATION

18 BY MR. COLLINS:

19 Q Good afternoon, Mr. Romano. Can you give us a bit of
20 your employment history.

21 A I -- my grandfather started a liquor -- in the liquor
22 business in 1913, and we had a family distributorship in
23 Illinois until 2002, when we sold it. I had a noncompete that
24 ended in 2017, and in 2018 we started a small distributor, and
25 we've been in business since then.

Romano - Direct

1 Q And how has that distributorship grown?

2 A My distributor, it went from nothing, and last year we
3 did, like, \$70 million.

4 Q So you're not a small distributor anymore, correct?

5 A Well, we're still small. You know, there's a couple of
6 distributors that are a billion dollars, and so we're small.

7 Q Right. But 70 million is not tiny?

8 A Yeah. I think we're the fourth largest in Illinois.

9 Q Okay. And then so when you kind of formed this -- what's
10 your new company's name?

11 A Romano Beverage.

12 Q Romano Beverage. So when you started Romano Beverage,
13 how did you start it? What was your --

14 A We started by buying a few small companies in Illinois
15 that were basically going out of business. You know, we
16 bought small ones and just built from there.

17 Q And who was your first, your first account for -- your
18 first brand?

19 A Our first brand, I don't remember. We bought some
20 companies that -- we bought some companies that had brands.

21 Q Well, how early did you get involved with Uncle Nearest?

22 A Oh, like, right at the start. I met Fawn, and what
23 happened is that we had a couple of small -- we just had a
24 couple small companies, and we just took the owners and maybe
25 one salesman. But when Fawn came, we ended up having to hire

Romano - Direct

1 a bunch more people because of what her plans were and what we
2 thought what we can do with Fawn and the product. That's when
3 we started adding the people in. It was our first major brand
4 that we had. We had just a couple small brands that guys were
5 going out of business with.

6 Q Okay. And so you've been with --

7 A Yes.

8 Q -- or dealing with the Uncle Nearest products for a
9 little bit?

10 A We sold the first case of Uncle Nearest.

11 Q Yeah. Okay. So in your role as a distributor, how do
12 you interact with retailers?

13 A I go to a lot of the buyers' meetings. I'm the CEO and
14 the owner. And, you know, I'm not good at a lot of things,
15 but I am good at meeting with buyers and the people who make
16 the decisions, and meet with the restaurant owners, and that's
17 my job.

18 Q And as a distributor just kind of generally, the
19 interaction between distributors and retailers, both on-
20 premise and off-premise, right, bars on-premise, liquor stores
21 off-premise, how does that, how does that marketing process
22 between the distributor and the retailer work, like in terms
23 of shelf space and those types of things?

24 A Well, it's our job to get the information from the
25 supplier and then present it to the buyer: This is why you

Romano - Direct

1 should have this product, this is the margins you're going to
2 make, this is the advertising that they're going to do, and
3 this is why we think we should get this product in your store
4 or why we should generate this many -- all these shelves or
5 prices and whatever.

6 Q Now do you rely on any data for that at all?

7 A Yeah. We rely on what our suppliers say that they're
8 going to spend in the market. We rely on stuff like that.

9 Q Okay. And in terms of promotional activity, do you work
10 with your distillery accounts and brands in terms of kind of
11 joint marketing efforts?

12 A Our suppliers, yes.

13 Q And what -- can you tell us a little bit about how that
14 works?

15 A I'm not sure what you mean. It's like we meet with the
16 supplier and they say, okay, this is, this is how we're going
17 to promote the brand. This is the kind of money that we have
18 to spend. And then we will say, okay, we need this, this, and
19 this. And it's up to the supplier and I to, okay, you know,
20 we'll contribute this, you guys contribute this, and together
21 we'll build this so that we can get what we want from a
22 retailer or from a restaurateur.

23 Q So it's kind of a --

24 A Yes.

25 Q -- you guys collaborate together?

1 A Yeah.

2 Q Both in terms of expertise and money, right?

3 A Right.

4 Q To promote the brand?

5 A Yeah. I like to envision it or look at it as, you know,
6 you don't know where one company starts and one company ends.

7 It's like, you know --

8 Q Symbiotic?

9 A Right.

10 Q It's a symbiotic relationship?

11 A Like we've had with Uncle Nearest for many years.

12 Q Okay. And so from your perspective as a distributor, in
13 terms of, let's say, going back to the middle of the summer,
14 right, before the receivership, what was your view of the
15 brand and its trajectory as of that time?

16 A It was great. We were growing it every month and we had
17 a brand. It was, you know, it was the first major brand we
18 had, and it was our most important brand that we had in our
19 portfolio. So our salespeople spent a lot of time, you know,
20 selling the product. And Fawn and Victoria and Kate, they
21 would come to the market and promote the brand and help us,
22 you know, sell the product.

23 Q Okay. And in terms of the retailers that you deal with,
24 what did you view their view of the brand to be back in, let's
25 say, middle of the summer of 2025?

Romano - Direct

1 A I would say they view it as Fawn Weaver's brand, you
2 know, that she was the energy behind it and it was a great
3 brand. You know, that was the first thing our salespeople,
4 first thing we talked about in every presentation is, you
5 know, Uncle Nearest, what they have coming, what they're
6 doing.

7 And then they would have a ton of promotions come in.
8 Fawn would come to auditoriums and sell out. You know, I
9 don't know how many we had that we would sell out a bunch of
10 stuff. I had to pay \$100 for a ticket. I was upset about
11 that. But that was what we would tell the retailers, that we
12 would tell the restaurateurs, hey, she's coming, she's giving
13 a speech in an auditorium. And that's what we did.

14 Q And so in terms of to you, as a distributor, the value of
15 this brand as part of your portfolio, how tied in your mind is
16 that to Fawn Weaver?

17 A She's the brand. I would say 100 percent she's the
18 brand.

19 Q So let's kind of move forward now. Now we're in January.
20 We've been in a receivership for a few months. Has anything
21 changed in terms of the retailers and the perception of what's
22 happening?

23 A Yeah. What's changed is -- in my opinion, what has
24 changed is we've had to deflect a lot, basically, from our
25 competitors. You know, they're saying, okay, you know,

Romano - Direct

1 they're in receivership. Who knows what's going to happen to
2 them?

3 So there was a lot of deflecting that we would have to
4 do. We would have to come on the offense because our
5 competitors would say, well, you never know what's going to
6 happen to them, or, you know, who knows what's going to
7 happen? You know, you don't know if they're going to be
8 around, if they're going to be sold or whatever.

9 So that was the -- that's what I've -- we've had to spend
10 a lot of time deflecting that. And I say, no, no, no, no, no.
11 This is the way it's going. This is where it's going. It's
12 strong. Our numbers are still pretty good. And in terms of,
13 you know, the industry, our numbers are -- have been good on
14 Uncle Nearest.

15 Q And in terms of sales and marketing and dollar spend,
16 have you seen any kind of -- has there been any modification
17 in that?

18 A From the retailers?

19 Q No, from the spend on marketing in your distribution
20 network.

21 A From Uncle Nearest to us?

22 Q In terms of from the company.

23 A No. I -- you know, I have to say that, you know, every
24 time we've come to Kate, looking for help to build this brand,
25 you know, we have gotten it.

Romano - Direct

1 Q And that's probably why you're seeing in your market that
2 sales have actually --

3 A Yeah, they've grown. You know, there is, there is an
4 issue where, you know, we have a couple major chains, a couple
5 national chains, and the national chains, you know, they hear
6 the chirping from their competitors. And, you know, there's a
7 national chain that has said that, you know, because of
8 national -- Niensens, you know, are going to probably
9 discontinue 1884, which, you know, that one chain is 184
10 accounts that, you know, we're going to lose distribution on.

11 Q And do you have any indication of what may be causing
12 them to --

13 A I can only surmise, you know, that I would believe that
14 retailers and national accounts, national chains, you know,
15 they look at Nielsen and they decide, okay, what's the trend
16 coming from the east, what's the trend coming from the west.
17 They see the Nielsen. Then they make the decision.

18 They also have, you know, their competitors coming in or
19 my competitors coming in and chirping in their ear, like, you
20 know, you never know what's going to happen. This is going to
21 happen. This is going to happen. In the state of
22 uncertainty, you know, buyers make the decisions.

23 Now, you know, the buyer from this national chain has not
24 told me personally that that's the reason, but I can surmise.
25 You know, I've been in this business since -- I'm 69. I've

Romano - Direct

1 been in this business since I was 13, so I can surmise what
2 happens.

3 Q Yeah. You mentioned about the Nielsen data. How
4 important is the Nielsen data, especially talking to chains
5 and --

6 A For national chains, you know, they make, I don't know,
7 I'm not going to say all their decisions, but I assume they
8 can make a lot of their decisions based on Nielsen.

9 Now, you know, at the old Romano company that we had, you
10 know, we had brands like Bacardi and Jack Daniels, and we used
11 Nielsens all the time. We showed, you know, how the Nielsens
12 are growing so that we could get more ads and we could say,
13 well, we need more ads because look at the ads that you run
14 have shown incremental growth. So we would use Nielsens all
15 the time from my bigger company. For this company, we use
16 Nielsens for the major chains.

17 Q You've mentioned kind of, in your view, the brand is Fawn
18 Weaver. Can you explain a little bit again why you say that?

19 A Well, you know, because, you know, when we first started
20 it, we didn't sell any case of it. And, you know, I met Fawn
21 and so, you know, I was caught up with the energy. And
22 because of my relationship with these buyers, I was able to
23 get appointments that not many people in Chicago can get. You
24 know, I'm not going to say I'm important, but we were the
25 largest distributor in Illinois. So when I called, I can get

Romano - Direct

1 an appointment with anybody.

2 And, you know, I remember our first appointment we met
3 with the number one restaurateur in Chicago. And he had a
4 meeting with Fawn, and he took it into all his restaurants, I
5 mean, or I think most of his restaurants. And it was just
6 because of the energy she had. That's what I say, she's
7 been -- we've grown the brand, so I'm going to take some, I'm
8 going to take some credit for it.

9 But when she came in, you know, I was able to get her in
10 front of, you know, the Binny's people, which is a big chain,
11 you know, and all those people. She came in, did whatever she
12 does, and they brought it in. And so I was able to say, oh,
13 look at, Binny's brought it in and they're supporting it. You
14 know, Osco's bringing it in; they're supporting it. Phil
15 Stefani, the restaurateur, he's bringing it in.

16 And so I was able to use, you know, her first meetings
17 with these people to get them in. I was able to use that as
18 the selling point on growing this brand. So that's what I
19 mean, she was the brand. Does that make sense?

20 Q And in terms of -- do you think your story is unique in
21 the distributor world --

22 A No.

23 Q -- with respect to Ms. Weaver and her impact --

24 A No.

25 Q -- on other distributors --

1 A No.

2 Q -- and retailers?

3 A Look, I obviously don't know. But I see, when I go to
4 all the signings that Victoria has or the signings or the
5 talks that Fawn did, where you get all these people, you know,
6 that you feel there's something more than a distributor built
7 in the brand. There's a -- I wouldn't say it's a cult
8 following, but, you know --

9 Q Is it like a celebrity --

10 A Oh, yeah, definitely celebrity, definitely so much energy
11 and passion people have for Fawn. I don't even know if they
12 drink the brand, but they have the passion for her. You have
13 people crying. You know, it was crazy. I spent \$100 for a
14 ticket. Did I tell you that?

15 Q In your experience, can the value of this brand, the true
16 value of this brand be achieved without Fawn Weaver?

17 A No.

18 MR. COLLINS: Okay. No further questions, Your
19 Honor.

20 THE COURT: All right. Thank you.
21 Any questions?

22 MS. LIGGINS: No questions, Your Honor.

23 THE COURT: Okay. Do you have any questions,
24 Mr. Campbell?

25 MR. CAMPBELL: No.

Severini - Direct

1 THE COURT: Thank you, sir.

2 THE WITNESS: Thank you.

3 THE COURT: Mr. Collins.

4 MR. COLLINS: I'll call Anthony Severini.

5 THE COURT: All right.

6 THE COURTROOM DEPUTY: Raise your right hand.

7 Do you solemnly swear your testimony will be the truth,
8 the whole truth, and nothing but the truth, so help you God?

9 THE WITNESS: I do.

10 THE COURTROOM DEPUTY: Would you state and spell your
11 name for the record.

12 THE WITNESS: Sure. It's Anthony Severini,
13 A-N-T-H-O-N-Y, S-E-V-E-R-I-N-I.

14 ANTHONY SEVERINI,
15 having been first duly sworn, was examined and testified as
16 follows:

17 DIRECT EXAMINATION

18 BY MR. COLLINS:

19 Q Mr. Severini, can you state what your employment is.

20 A I'm the CFO for Genesis Global Recruiting, Inc., which is
21 the co-employer of all the Uncle Nearest and Nearest Green
22 Distillery employees.

23 Q And when you say co-employer, kind of explain what that
24 means.

25 A We do all the payroll and human resource services for

Severini - Direct

1 those entities.

2 Q Okay. And how long have you been involved with Uncle
3 Nearest as a company?

4 A I think around 2018, 2019, somewhere around there.

5 Q Okay. And you've read the affidavit that was submitted
6 by the receiver?

7 A I did not.

8 Q Oh, you did not?

9 A No.

10 Q In terms of the -- so the receivership occurred in, I
11 guess, late August of this year, and can you explain your
12 first interaction with the receiver and how that came about.

13 A Sure. It was around the August time frame. I guess it
14 was the latter part of August we received the notice from the
15 receiver that Uncle Nearest and Nearest Green were put into a
16 receivership. So we had to reach directly out to them because
17 we're the payroll providers. We have to be traditionally
18 working with Fawn and Keith Weavers. We have the relationship
19 with them that they're guaranteeing that payroll will be
20 covered.

21 We had given them payment terms as such, being a long
22 relationship, understanding they're a growing brand, they've
23 got a lot of financing needs to do, so that's where we were
24 going to be able to extend the credit to them. We don't do
25 that with all our clients.

Severini - Direct

1 Once the receiver gets inserted, that relationship is now
2 broken. We can no longer rely on them to make sure things are
3 paid. So at that point we went to the receiver, said, you
4 have to pay payroll. We're not covering payroll because we
5 don't have a relationship with you. And the receiver even
6 said, yeah, we don't -- we would suggest that you don't ever
7 put a dollar out.

8 So that was the initial interactions with him. We
9 continued relationships with Mr. Young throughout. I think
10 I've had four conversations with him as late as early January.
11 Every conversation has been positive in terms of lots of value
12 in the brand, we're making good headway, I'm going to turn
13 this company back over to the Weavers in great shape. So it
14 was always positive, nothing negative.

15 January was as close as you got to negative, where he
16 said, we haven't had a bank come in and make any offers. And
17 his comment was, it's because they're suing their bank, so no
18 other bank wants to come in. We haven't had any investors
19 come in and make a good offer that we would want to take, but
20 we're still working towards it.

21 I mean, the first conversation I actually had with
22 Mr. Young was his plan was to sell the company or find a
23 refinancing by the end of 2025, at the latest Q1 of 2026.
24 That didn't change. The latter part of 2025 he made the
25 reference, we're taking longer. I had to go back and restate

Severini - Direct

1 numbers. We're finding a lot of inconsistencies, but there's
2 still a ton of value in this brand.

3 So from that, I don't know if I told you, but today was
4 kind of the first day I'm hearing the negative side of stuff.
5 And when you're intentionally lied to, in my world as a CPA,
6 it's called fraud, and I feel like Mr. Young committed fraud,
7 intentionally lying to me and to my company so that we
8 continue to cover payroll.

9 Every day that we have an employee there, we incur
10 liability. It's a fiduciary responsibility to make sure every
11 company has enough funds to cover their payroll. If he's
12 saying today they're insolvent, he's breaking that fiduciary
13 responsibility to make sure you've got proper funds to pay
14 your employees.

15 Q Well, let's kind of go back. So has -- well, let me just
16 clarify. So what you're saying in terms of the
17 representations of cash flow, what have his representations of
18 cash flow been to you for the company?

19 A As of January, they were cash flow neutral to cash flow
20 positive. I had asked, I said, does that include your costs?
21 He says, not all of our costs. So I said, if you removed your
22 costs, you still have to bring in admin fees. He said, yes.
23 So it would make you slightly below cash flow neutral. And
24 he's like, yes.

25 So from that perspective, my understanding was that the

Severini - Direct

1 business was operating appropriately and that their operating
2 expenses would be covered.

3 Q And then leading up to, leading up to the receivership,
4 you had mentioned the arrangement you had with the company.
5 Was there any point prior to the receivership that you had
6 threatened not to continue to fund or to advance funds for the
7 payroll?

8 A No, no. The conversations are always, because we've got
9 a couple million dollars of debt owed from the companies to us
10 that in a sense are continuing to fund it, was, you have to
11 continue making payments on those debts in order for us to
12 continue, to continue with your payroll. Once you start
13 failing that, again, it comes out to fiduciary responsibility.
14 If the company isn't solvent, you technically -- I think it's
15 against the law to actually hire or employ somebody knowing
16 that you can't pay them in their time. So it's just a
17 requirement that we have and something that's needed to be
18 done.

19 Q And the receiver's affidavit and certain of his reports
20 have indicated that the company wasn't going to make payroll
21 at the time that he was appointed. In your opinion, is that
22 incorrect?

23 A The day prior to him making -- being receiver, that's
24 incorrect. We have never made that statement. That was never
25 the case. Genesis Global has proper funding to make payroll.

Severini - Direct

1 We had an active agreement with the Weavers that things would
2 be going through.

3 We were well aware it's a growing brand. I've run many
4 companies, mostly small to growing to becoming sustainable
5 companies. They all have to start out looking for additional
6 capital, and you need all the sources you can get to get that.

7 So as the employer of record, we knew there is higher
8 risk with a company like that. But we understood it's a
9 support that we were doing because we believed in where they
10 were going and how their growth was coming.

11 Q Okay. Are there -- did you guys have regular -- I mean,
12 was there a scheduled regular type of call, or how did these
13 calls occur with the receiver? Was that you initiating them?

14 A I would initiate them all the time because I would want
15 an update. Like I said, when we first had the conversation
16 late August, early September, we're looking to exit the
17 company or refinance the company. Since we had a sizable
18 amount of debt that was owed to us, we -- by us providing
19 payroll, we feel like we're protecting our asset. We're
20 making sure that the company can survive so that the value can
21 improve. And his comment to me is, I'm going to adjust costs,
22 I'm going to make this a more sustainable business and hand it
23 back to the Weavers in a better position so that they can keep
24 growing it.

25 And that was reiterated to me several times. Every time

Severini - Direct

1 I would follow up and say, what's the status of stuff, we're
2 doing a good job of, you know, rightsizing the ship and
3 getting where we need to be.

4 And again today, when I hear this stuff that they're
5 insolvent, that the value of the company is half what their
6 outstanding debt is, Genesis Global is incurring a liability
7 that it's kind of like I'm cutting my nose off to spite my
8 face. I'm putting money out there that I'm not going to get.
9 He knows that we would lose out because we're not secured. We
10 did this as a relationship with the Weavers, understanding
11 what their capability is. So for him to flat-out lie to us to
12 keep us paying, you know, just it infuriated me. It's like
13 that's not what a receiver is supposed to do.

14 What a receiver is supposed to do is protect your assets.
15 You know, if there is distress happening and you can't adjust
16 and, you know, survive, that's when you're supposed to go back
17 to the court and you're supposed to say, hey, it's not a
18 viable business. We've to figure out how we can do and
19 salvage this. But for five or six months now it's been, oh,
20 no, there's lots of value in this company. You're going to
21 get recuperated. We've just got to get to the right spot. He
22 even in January said, my statement is going to be to the
23 Court, I can't stay here forever because it's too costly. I
24 need to transition this back to the Weavers.

25 MR. COLLINS: Okay. No further questions, Your

Severini - Cross

1 Honor.

2 THE COURT: All right. Thank you.

3 Mr. Campbell.

4 CROSS EXAMINATION

5 BY MR. CAMPBELL:

6 Q Mr. Severini, has the receivership missed any payments to
7 you since Mr. Young was appointed?

8 A No, they haven't.

9 Q None?

10 A No.

11 MR. CAMPBELL: No further questions.

12 THE COURT: Do you have any questions?

13 MS. LIGGINS: Just a couple.

14 CROSS EXAMINATION

15 BY MS. LIGGINS:

16 Q Mr. Severini, you didn't know that they were in distress,
17 but they were a couple million dollars behind in payroll?

18 A I didn't say I didn't know they were in distress.

19 Q You said you didn't know that there was anything going on
20 with solvency?

21 A No. He said they weren't insolvent. Then today he said
22 they're insolvent. I said, as a company, if you're insolvent,
23 you have to have enough payroll dollars to cover payroll.

24 That was our agreement. Once the Weavers are no longer in
25 place, we're not funding the company. The receiver has to

Severini - Cross

1 then verify that they've got funds to cover the payroll. So
2 prior to that, we knew about the distress. I said that, that
3 it's a growing company. I understand they need financial
4 resources, hence why we extended credit to them, where we
5 don't do that with all our clients.

6 Q And what was the agreement to extend that credit?

7 A In terms of?

8 Q You said you had an agreement with the Weavers. What was
9 it?

10 A Net 60, I believe, is what their terms are.

11 Q Net 60?

12 A Net 60, meaning that --

13 Q So they get 60 days behind?

14 A -- they get 60 days to pay an existing invoice. So every
15 60 days -- so if payroll is Friday, you know, the 13th, they
16 have until April 13th to pay for that February 13th payroll.

17 Q Okay. So you would front them the money?

18 A Correct.

19 Q Let them go ahead and pay payroll?

20 A Correct.

21 Q Even though you weren't getting paid?

22 A Until that 60 days, correct.

23 Q Right. And then you said you got a couple million
24 dollars in. When did that come in?

25 A We've been -- it's been that balance for a long time,

Severini - Cross

1 because that's their -- their average payroll a month is
2 \$500,000, somewhere around there. Maybe it might have even
3 been more than that, actually, in '24. They've been cutting
4 back. So that's how you accumulate the \$2 million.

5 Q So they're kind of always running \$2 million behind?

6 A Correct. Correct.

7 MS. LIGGINS: No further questions. Thank you.

8 THE WITNESS: Sure.

9 THE COURT: All right. Thank you.

10 MR. COLLINS: Nothing further.

11 THE COURT: Thank you, sir.

12 MR. COLLINS: Your Honor, can I have five minutes to
13 kind of think about the next witness or just take a quick
14 break?

15 THE COURT: All right. We'll take a -- everybody
16 probably needs to stretch their legs, so we'll take a
17 ten-minute stretch-your-legs break, and then we'll come back
18 in and be ready to go, okay?

19 MR. COLLINS: Thank you.

20 (Court recessed from 2:36 p.m. to 2:48 p.m.)

21 THE COURTROOM DEPUTY: Raise your right hand.

22 Do you solemnly swear your testimony will be the truth,
23 the whole truth, and nothing but the truth, so help you God?

24 THE WITNESS: I do.

25 THE COURTROOM DEPUTY: Have a seat, please.

1 I'm going to have you scoot up to that microphone.

2 Will you state and spell your name for the record.

3 THE WITNESS: Sure. David Ozgo, D-A-V-I-D, O-Z-G-O.

4 THE COURTROOM DEPUTY: Thank you, sir.

5 MR. CAMPBELL: Your Honor, before we get started with
6 this witness, this individual was added on a witness and
7 exhibit list at 10:30 last night. We've had no opportunity to
8 review anything as to this particular witness. He got added
9 12 hours ago. So I'm going to object to his testimony in
10 totality.

11 MS. LIGGINS: Likewise, Your Honor.

12 THE COURT: Okay.

13 MS. LIGGINS: He was not on the witness list. He's
14 not on the exhibit list. We have not received any information
15 about him, who he is, what he is going to be called to
16 testify. We know nothing.

17 MR. COLLINS: If I can speak, Your Honor.

18 So Mr. Nielsen -- or excuse me. Mr. Ozgo, he is going to
19 testify about the Nielsen data. And basically we didn't even
20 know we had an issue of the Nielsen data until we got the
21 answers. He's a rebuttal witness. We don't -- I don't
22 think --

23 THE COURT: Rebuttal to what?

24 MR. COLLINS: He's a rebuttal to the fact that they
25 are diminishing the implications of the Nielsen data. So he's

Ozgo - Direct

1 basically here to support that the Nielsen data is the
2 valid --

3 THE COURT: I'm going to allow it. We'll give him a
4 little bit of latitude on this.

5 But look, let's keep it to what we've already heard about
6 Nielsen data, although I think I understand how that works and
7 we've heard plenty on it. They'll be able to cross-examine
8 him. But let's go on.

9 MR. COLLINS: Very good.

10 DAVID OZGO,
11 having been first duly sworn, was examined and testified as
12 follows:

13 DIRECT EXAMINATION

14 BY MR. COLLINS:

15 Q Can you give me a little bit of your background, please?

16 A Certainly. I've been an economist for over 30 years.
17 Twenty-two years of that, I was the chief economist and a
18 senior vice president at the Distilled Spirits Council of the
19 United States.

20 Now, in that role, obviously, I analyzed trends in the
21 industry and had the opportunity to work with virtually all
22 the data sources across the industry. We -- one of the things
23 I did is I developed a dataset called the Market Segmentation
24 Database, which is today used for marketing and planning
25 purposes by a lot of the distilleries for marketing and

Ozgo - Direct

1 planning.

2 Q Now what's your educational background?

3 A Sure. I have bachelor's and master's degrees in
4 economics from George Mason University.

5 Q Okay. And you mentioned DISCUS?

6 A Yes.

7 Q Can you explain exactly what DISCUS is.

8 A Yes. DISCUS stands for the Distilled Spirits Council of
9 the United States. It's a trade association that represents
10 the distillers and importers of spirits in the U.S. At
11 various times, they've represented between 60 to 70-some-odd
12 percent of the entire industry. Like most trade associations,
13 the primary purpose is for public policy, so, i.e., we have a
14 lot of lobbyists, work with a lot of regulators.

15 In addition to, however, we also provided a service to
16 our member companies of something called Brand Data. Brand
17 Data was a data sharing program amongst our member companies
18 that allowed them to look at shipments, i.e., movements from
19 the distillery to the distributor, which gave everybody a
20 very, very good overview of what was going on within the
21 marketplace.

22 Q And in terms of your involvement with DISCUS, how do you
23 guys use -- well, explain the Nielsen data and how you guys
24 use it, please.

25 A Yeah. For probably ten years or so, we were not a direct

Ozgo - Direct

1 Nielsen client. However, Nielsen, since all of my members
2 were Nielsen clients, they would give me a report on a monthly
3 basis where I was able to look at the data from a retail
4 perspective and look at which categories were growing, which
5 brands were growing, potentially what kind of volume was being
6 done, and just what exactly sales were.

7 Q Okay. And in terms of your knowledge of how your members
8 view Nielsen, how important are those numbers to the members
9 of DISCUS?

10 A Yeah, they were very important, and people had a lot of
11 confidence in the data that they saw. When you -- it was
12 previously mentioned that, well, Nielsen does not cover the
13 on-premise, on-premise trade. Well, that is certainly true,
14 but on-premise at this point is only about 20 percent of the
15 total market. So the Nielsen data covers a segment that
16 accounts for 80 percent of all sales.

17 Now, obviously Nielsen doesn't necessarily cover all 80
18 percent. They have about half of that. So A.C. Nielsen
19 covers about 40 percent of the total spirits market, 40
20 percent of everything that's sold.

21 Now, 40 percent doesn't necessarily sound like a lot if
22 this were an accounting exercise. Certainly you wouldn't want
23 to try to balance your checkbook with only 40 percent of the
24 entries. But this is really more of a survey. And if you
25 were doing a survey, if you were doing a poll and you covered

Ozgo - Direct

1 40 percent of your target audience, assuming that's a randomly
2 distributed survey, that's going to give you extraordinarily
3 accurate information.

4 It was my experience, over the 22 years that I worked at
5 DISCUS, that when I would compare Brand Data -- now, Brand
6 Data was the only source in the country where I knew that I
7 had 100 percent of the volume being shipped by a member
8 company. So if Bacardi was a member, I can tell you exactly
9 how many cases of Bacardi rum were being shipped into, say,
10 Texas in one-liter bottles. It was that detailed.

11 When I would look at the trend that I would see in Brand
12 Data, particularly over a 12-month rolling period, it's always
13 very, very consistent when I would look at the 12-month trends
14 in A.C. Nielsen. So from that perspective it told me, okay,
15 when I have a 100-percent view of the marketplace, it's very,
16 very consistent then with what we see in A.C. Nielsen.

17 Q And in terms of the issue of -- I believe in the
18 affidavit of the receiver, he indicates that it isn't valid
19 for independent brands. Would you consider that to be
20 applicable in this particular instance?

21 A Certainly not in this instance. Even though Uncle
22 Nearest is an independent brand, it's an independent brand
23 that has national coverage. They're in all 50 states. I
24 believe they're in thousands of accounts. So, as a result,
25 they're going to be picked up by A.C. Nielsen, and the trends

Ozgo - Direct

1 are going to be very, very accurate.

2 MR. COLLINS: If we could show the receiver's
3 affidavit, that is Exhibit A, I believe.

4 Okay. And if you scroll down, yeah.

5 BY MR. COLLINS:

6 Q So, and you've -- did you read this paragraph from --

7 A Yes, I did.

8 Q In terms of, again, in terms of how Uncle Nearest is
9 maybe different than other independents in terms of its
10 50-state scope?

11 A Yeah. Well, there are a lot of independents out there
12 that just aren't all that large. Many of them aren't even
13 regional brands. They're almost local brands. But with Uncle
14 Nearest being a national brand in all 50 states, with, you
15 know, depending upon which number you're looking at, 25 to 41
16 million dollars in sales, well, they're a national brand, and
17 national brands are very, very well covered by A.C. Nielsen.

18 Q And, in fact, on the Nielsen chart that we've already
19 seen, they're on the first page of it?

20 A Yes.

21 Q I mean, they're one of the larger --

22 A That's correct. I've never looked at that entire chart
23 because I know you end up with several hundred brands on it.
24 To be in the top 30 means that you are very, very, very well
25 represented across the A.C. Nielsen collection points.

Ozgo - Direct

1 Q And so when you talk -- and the reason they use the term
2 "independent brand," what does that mean when you say
3 "independent brand"?

4 A Sure. I mean, there are a lot of brands out there.
5 Larger companies like Jim Beam or Brown-Forman are going to
6 own dozens or even hundreds of brands, whereas A.C. -- or, I'm
7 sorry, whereas Uncle Nearest, it's one brand with, I don't
8 know, seven or eight SKUs, depending upon what products they
9 have in the market at any given time.

10 Q And so when you generally talk, when people generally
11 talk about an independent brand, they're usually referring to
12 that lower set of very small --

13 A That's correct.

14 Q -- distillers?

15 A Yes.

16 Q But once you get to be a big distiller, even though
17 you're independent, you're really a different type of entity
18 then?

19 A You're a different type of entity, exactly.

20 Q Okay. In terms of what you've seen -- and you've had an
21 opportunity to review the Nielsen data --

22 A Yes, I have.

23 Q -- for this company. In terms of the change -- pull
24 up --

25 A Yeah. I was able to look at the data, and what I

Ozgo - Direct

1 found -- and it's already been shown. And we won't go month
2 to month. You already saw an exhibit. But essentially from
3 January 2025 through August of 2025, Uncle Nearest was
4 outperforming the market by ten points.

5 Well, then beginning from September 2025 through January
6 2026, the last month for which we have data, they are
7 underperforming the market by 10 points. So that's a very,
8 very dramatic turnaround in a short time.

9 Q Is that something that, in your experience with DISCUS
10 and kind of reviewing this data, that you've seen kind of
11 before, such a dramatic shift?

12 A That certainly would not be the norm. Yes, there were
13 certainly times when brands lost market share and declined,
14 but that would typically happen over time, not that quickly,
15 not over basically a three-month period.

16 Q And in terms of your experience, could that decline be
17 just explained by the market, by --

18 A Well, no. Since we're comparing Uncle Nearest to the
19 market in general, we see that previously they had been
20 outperforming the market and fairly substantially. To go from
21 outperforming the market to underperforming the market in such
22 a quick time indicates something dramatic happened. There is
23 nothing -- yes, I know there are headwinds in the marketplace
24 right now for all bourbons, for all spirits, for all beverage
25 alcohol generally. But those, those headwinds are impacting

Ozgo - Direct/Cross

1 all brands, and it would not impact Uncle Nearest's
2 performance versus the marketplace generally.

3 Q So would it be fair to say that if Uncle Nearest -- in
4 the absence of a change of circumstances, if Uncle Nearest
5 were outperforming the market while the market was up, it
6 would still outperform the market, the general market, even if
7 it was down, barring any other circumstances?

8 A Yes. I see no reason that they would have had
9 this dramatic -- barring a change of circumstances, I see no
10 reason why their trajectory would have changed.

11 MR. COLLINS: I think that's all I have for this
12 witness, Your Honor.

13 THE COURT: All right. Thank you.

14 Any cross?

15 CROSS EXAMINATION

16 BY MR. CAMPBELL:

17 Q Good afternoon, Mr. Ozgo. Are you still with DISCUS?

18 A No. I left at the end of 2022.

19 Q The end of 2022. Okay. What did you do after you left
20 DISCUS in 2022?

21 A I was the president of the Cigar Association of America
22 for two and a half years, roughly, and now I'm an independent
23 consultant.

24 Q Okay. In what space for independent consulting?

25 A I -- my firm is Advocacy Analytics. I do a lot of public

Ozgo - Cross

1 policy work. I also do work advising, I don't know,
2 investment firms on political risk. I still do some work
3 within the alcohol space. I have one client that I do a
4 lot -- that's in the spirits, beer, and wine space that I do
5 work for. So really I have a number of clients.

6 Q One client in the spirits industry. So is it safe to say
7 that since 2022 you haven't really had your finger on the
8 pulse of what the alcohol and beverage market would be?

9 A Not necessarily. I have had to do some work with -- as I
10 said, I do have a client still in the beverage alcohol
11 industry who does have spirits, so I've had to do some work.
12 I also advise informally the current chief economist for
13 DISCUS, even though they're not paying me. The gentleman
14 worked for me for 22 years, so he gets the benefit of my
15 experience. So I'm still -- I still have a hand in the
16 industry.

17 Q And I want to touch on a point that was in the affidavit
18 that Mr. Collins kept coming back to. The line in the
19 affidavit reads "independent stores." I think Mr. Collins has
20 referred to independent brands. Does Nielsen cover
21 independent stores, independent liquor stores?

22 A They have some independent liquor stores, but it's not
23 what they specialize in. They do tend to -- they are -- they
24 have the best coverage in larger chains and in larger liquor
25 stores, yes.

Ozgo - Cross

1 Q So most independent stores are not covered in those
2 numbers is what you're saying?

3 A Yes, that's correct. However, it's been my experience
4 that, particularly over a 12-month period, if something gets
5 hot in an independent liquor store, trust me, the big guys
6 aren't going to sit on their hands for very long. So, you
7 know, they will pick up the brand fairly readily. So the
8 trends, they're not perfectly correlated, but they're very,
9 very consistent.

10 Q And I think, if I remember your testimony correctly, you
11 said that the Nielsen data covers approximately 40 percent of
12 the sales; is that correct?

13 A That's correct, which is very high if you are looking at
14 something as a survey instrument, which a lot of people
15 consider it.

16 Q Sure. And I understand you said that if it was a random
17 survey -- forgive me, my stats. You've got plenty more stats
18 information than I do. But if it's 40 percent of everything
19 but all the independent stores are not included, then it's not
20 really a random sample, correct?

21 A Well, you're making the assumption that the trends in the
22 independent stores would be dramatically different from the
23 trends in the major stores, and that's just not the case. You
24 know, if something happens in a major store, the smaller
25 stores are going to want to pick up on it because, hey, they

Ozgo - Cross

1 all like to make money. The same with the independent stores.
2 So while there will be some differences for a major brand like
3 Uncle Nearest, you're going to look -- you're going to have
4 fairly consistent trends.

5 Q And if I may ask, when were you asked to come here today?

6 A I was -- Friday.

7 Q And were you paid to come here today?

8 A Yes, I am being paid. I am being compensated.

9 MR. CAMPBELL: No further questions.

10 THE COURT: Thank you.

11 CROSS EXAMINATION

12 BY MS. LIGGINS:

13 Q Just a few questions. Did you prepare this exhibit
14 that's up?

15 A No. That was prepared by Uncle Nearest. I did, however,
16 review the background material.

17 Q Okay. What was the background material?

18 A The background material is A.C. Nielsen reports, which I
19 also did, in fact, get from Uncle Nearest. However, they
20 comport to the reports that I've seen on dozens of occasions
21 that come from A.C. Nielsen, so I was confident that these, in
22 fact, were legitimate A.C. Nielsen reports.

23 Q When you were analyzing the Nielsen data, did you analyze
24 other brands that were in receivership?

25 A I'm not aware of any other brands that were in

Ozgo - Cross

1 receivership on the list. No, I didn't.

2 Q Have you ever analyzed Nielsen data with a company that's
3 in receivership?

4 A No, I have not.

5 Q What about that's in litigation?

6 A You know, there were -- yes. Patron Tequila was in
7 litigation for a long, long time over some ownership question.
8 We oftentimes looked at Patron data. And so, yes, I have.

9 Q And you saw a downward trend with that data too?

10 A That's not actually what I recall. Patron was up and
11 down. You know, I don't remember any particular downward
12 trend. You know, it could have been a difference in -- it was
13 a question of ownership. Everybody wanted to see the brand
14 succeed, so, you know, you continued operating as if it was --
15 you know, there was no legal question.

16 MS. LIGGINS: Okay. No further questions.

17 Thank you, Your Honor.

18 THE COURT: All right. Thank you.

19 Thank you, sir.

20 THE WITNESS: Thank you.

21 THE COURT: Anything else, Mr. Collins?

22 MR. COLLINS: Call Kevin Larin.

23 THE COURT: Who?

24 MR. COLLINS: Kevin Larin, Your Honor.

25 THE COURT: Okay.

Larin - Cross

1 THE COURTROOM DEPUTY: Do you solemnly swear your
2 testimony will be the truth, the whole truth, and nothing but
3 the truth, so help you God?

4 THE WITNESS: I do.

5 THE COURTROOM DEPUTY: Be seated, please.

6 Please state and spell your name for the record.

7 THE WITNESS: My name is Kevin Larin, L-A-R-I-N.

8 THE COURTROOM DEPUTY: Thank you.

9 KEVIN LARIN,

10 having been first duly sworn, was examined and testified as
11 follows:

12 CROSS EXAMINATION

13 BY MR. COLLINS:

14 Q Good afternoon, Mr. Larin.

15 A Good afternoon, Mr. Collins.

16 MR. COLLINS: So let's go ahead and pull up the Larin
17 affidavit, please. I believe that is Receiver -- or, excuse
18 me, on FCMA's exhibit list.

19 Can we pull up the -- I don't know the logistics. There
20 should be a digital copy. Again, I don't know the process of
21 getting it up there. Is that -- okay.

22 THE COURT: What is it you're trying to show?

23 MR. COLLINS: Trying to get the declaration of Kevin
24 Larin on the screen. I believe it's FCMA's Exhibit Number 2.

25 THE COURTROOM DEPUTY: Do you have a paper copy?

Larin - Cross

1 MR. COLLINS: I do. I can do it that way.

2 THE COURT: I assume you-all have seen this. This
3 one's stipulated to; is that correct?

4 MR. COLLINS: This is his direct testimony. That has
5 been stipulated as his direct.

6 THE COURTROOM DEPUTY: Yes, sir.

7 BY MR. COLLINS:

8 Q So, Mr. Larin, this is from your affidavit, paragraph 16.
9 Do you kind of recognize this as part of your affidavit?

10 A I do recognize this, yes.

11 Q In this paragraph, you state that "In analyzing Uncle
12 Nearest's actual cash flows for the 9 weeks ending June" --
13 and I think it's starting, so I can get you to it, I think
14 it's actually the first sentence. "In analyzing Uncle
15 Nearest's actual cash flows for the 9 weeks ending June 13th,
16 2025, the Riveron team found that the cash flow was
17 approximately negative by \$1,215,000." Correct?

18 A Correct.

19 MR. COLLINS: Okay. I need Exhibit 4 to the Larin
20 affidavit. So let's take this over.

21 BY MR. COLLINS:

22 Q So this has been stipulated to in evidence. This is --
23 make sure I don't get myself messed up here. Do you recognize
24 this exhibit?

25 A I do.

1 Q Can you tell us what it is?

2 A Yes. This was -- this was a weekly cash, statement of
3 cash receipts and disbursements that was prepared by the
4 then-interim CFO, Mr. Carlos Flores.

5 MR. COLLINS: Okay. Sorry, Your Honor. I have
6 misplaced my notes.

7 Oh, here it is. Sorry. Too many things on my table.

8 BY MR. COLLINS:

9 Q So this is not something that you prepared?

10 A This is a recitation of Mr. Flores' work.

11 Q Okay. But you prepared this?

12 A I believe, yes. I believe we compiled his work, yes,
13 correct.

14 Q Okay.

15 A And by the way, I only say that because the top bar, in
16 the blue with the white text, is pretty endemic of the work
17 that we do.

18 Q So we'll go under the assumption that you guys prepared
19 this, correct? It's based on other data, but this is
20 something -- this is a document you prepared?

21 A Yes. We compiled. I wouldn't say "prepared," but I
22 would say "compiled" probably would be a better term.

23 Q So, and you're using this to support conclusions in your
24 affidavit?

25 A Correct.

Larin - Cross

1 Q Okay. So when you say that the cash flows for the nine
2 weeks ending June 13, 2025, were negative, are you, are you
3 saying operating cash flow?

4 A What I'm saying is cash receipts minus cash
5 disbursements. The reason I would make that distinction,
6 operating cash flows on a three-statement financial model
7 would mean that I'm going to the statement of cash flows,
8 which is completely separate. At these points of emergency in
9 companies that are, for all intents and purposes, losing cash,
10 we deal at the first steps with just cash receipts and
11 disbursements until we have an opportunity to stabilize
12 operations, at which time we can deal with the remainder of
13 the financial statements.

14 Q And in that process you're just looking at all cash
15 receipts and all cash disbursements, correct?

16 A Yes. Yes.

17 Q Okay.

18 A Sorry. The word "all" gave me a little bit of pause, so
19 I wanted to stop there.

20 Q Well, and the point I'm making is -- and perhaps I'm not
21 using the right accounting term. When we talk about all cash
22 flow for the company, that can include payment, paydown of
23 debt, of existing debt, and other things that are not really
24 the current, kind of showing whether the company is cash-
25 flowing from current operations?

Larin - Cross

1 A Within the three statements, the statement of cash flows,
2 the statement of cash flow from operations is I think where
3 you're going. If I could just have a point of correction, is
4 that correct?

5 Q That's correct.

6 A I apologize. I don't mean to ask questions from the
7 stand.

8 Q That's good. I appreciate that.

9 A But I wanted to be clear. Yeah, at this point, at these
10 points, at these early stages of an engagement, when a company
11 is hemorrhaging cash, we really don't worry about the
12 financial statements and whether they are going to work
13 through a three-statement model. We worry about whether or
14 not we are losing cash on a daily operating basis.

15 Q Got you. Got you. And so when we, when we look at this
16 Exhibit 4, what are the last two line items? There are two
17 line items, if you look there at the bottom. One is "Other/
18 Uncategorized," and the next one is "Other Obligations"?

19 A Uh-huh. All right.

20 Q Do you know what are in those categories?

21 A I do. I'm familiar with both of those because they both
22 jumped out at us early on. So we actually investigated that
23 with Mr. Flores. What we came up with is -- we'll work from
24 the bottom here -- "Other Obligations" were payments to Dash
25 Funding.

Larin - Cross

1 Q Yeah.

2 A This is the company that the -- that this line of credit
3 to sell future revenue was entered against. So these were the
4 periodic payments for that.

5 The one above that, frankly, is one -- you know, quite
6 often if you see a line that says "Other" and "Uncategorized"
7 and has large dollar amounts in it, that brings your area of
8 focus. So we moved our area of focus to that.

9 Quite candidly, Mr. Flores was unable to provide us any
10 detail. The things that he couldn't categorize elsewhere, he
11 just left in this "Other." So this was cash that went out the
12 door.

13 Q Okay. So we don't know, we don't know whether that was
14 current operating cash or what it was paid to, correct?

15 A That would be correct.

16 Q Okay. And the -- what you mentioned in terms of the
17 "Other Obligations" line, you said that was to Dash Funding?

18 A Correct.

19 Q Was it all Dash Funding?

20 A If memory serves me correctly, yes, it was.

21 Q Okay. And what is Dash Funding?

22 A Dash Funding is -- I don't even know how I would
23 categorize it, but it's essentially a financing operation
24 where you take on debt, selling future revenue at a discount.

25 Q Okay. Now if you remove -- let's say you removed the

Larin - Cross

1 "Other/Uncategorized," right? If we were trying to get to
2 actual kind of operating cash flow -- and this is again
3 leading up to the case, so it's got some relevancy, but it may
4 not have perfect relevancy at the moment.

5 But if you were to take that out, obviously you would
6 then add back those amounts and that would, from an operating
7 standpoint, decrease this number in terms of a weekly cash
8 burn number, correct?

9 A I think it would decrease it, but I don't think it tells
10 the entire picture and what else would need to be normalized
11 in this.

12 Q Well, and I think it sounds like you guys haven't fully
13 investigated all of these numbers so that maybe the relevance
14 of this is somewhat not fully there?

15 A I don't know if I would go that far. I think we've
16 looked sufficiently in this, and I think that there is
17 significant relevance to it.

18 Q But in terms of, you know, what you're stating as the
19 actual weekly cash burn, especially if you were just talking
20 about operating expenses, it could be less than that?

21 A And it could be a lot more. I'll tell you why.

22 Q But we don't know. I guess the answer is we don't know?

23 A No. Actually, we can look and see the week ending 5/30,
24 that large collection from Park Street was actually a pull-
25 forward for receivables out of actual normal cycle. So that

Larin - Cross

1 typically sits at a couple hundred thousand dollars a week.

2 It actually approached a million dollars.

3 On top of that, during this time period, ordinary
4 payables were not being paid in the ordinary course. So that
5 payables balance was continuing to age upwards and upwards.
6 So not only are receipts, these cash receipts overinflated
7 from what was expressed earlier in terms of standardizing
8 operations, the receipts are not standardized; they're
9 actually overinflated.

10 The disbursements are underrepresentative of the actual
11 obligations as they actually came due. So I would say in
12 totality, probably on a normalized basis, on a standardized
13 basis, this company probably hemorrhages faster cash than what
14 was reflected here in Mr. Flores' own work.

15 Q Now you guys have put together the 2024 financials,
16 right?

17 A No.

18 Q I'm sorry. Not the 2024. I'm talking 2025. I'm sorry.
19 I said the wrong year. You've done the financials for 2025,
20 right?

21 A There's nothing in the Riveron engagement that would have
22 us preparing financial statements.

23 Q Oh, that's a good point. Okay. Fair enough. Point
24 taken.

25 So the point of this is, this is what was provided to

Larin - Cross

1 you, but in terms of Riveron actually having fully
2 investigated these numbers, that hasn't happened?

3 A Fully investigating, no, probably not, because I would
4 tell you, when we asked questions about these, I don't think
5 that the answers were as forthcoming as we would have liked to
6 have done to conduct a full investigation.

7 Q But as a practical matter, we have actuals for this full
8 period, correct?

9 A I guess that depends on the definition of the term
10 "actuals." If you're talking about actual prepared financial
11 statements during this time period that would stand up to
12 scrutiny for, let's say, a CPA, I don't think we have actual
13 financials yet. But I would have to leave that to the
14 receiver and his financial advisors to tell us the state of
15 the affairs of these financials.

16 Q So we have a receiver that's been in place for four
17 months with an accounting team that's been going through the
18 records. And, generally speaking, even if you just cut off
19 2025 at January, you should be able to find out what the
20 revenue and expenses are for the company, right? You have
21 bank records. You have other things that can -- and this is a
22 cash flow statement?

23 A I would say that that's probably a resource-loaded
24 question. You give me enough bodies, I'm sure we could
25 probably do that, but then, of course, each one of those

Larin - Cross

1 bodies is going to cost time and money.

2 Q Correct. And that's happened. So I guess my point is,
3 if we have actual numbers, then really these projections don't
4 really have much pertinence?

5 A These aren't projections. These are actuals as they
6 occurred. This is cash coming into their bank accounts and
7 leaving their bank accounts. These are not projections.

8 Q And my point is, if we have the receiver having actually
9 kind of gone through and looked at the numbers, those would be
10 the more relevant numbers than these, wouldn't they be?

11 A Would you repeat the question. I'm not sure if I'm
12 following what you're saying.

13 Q I mean, if the receiver has actually gone through and
14 done the work that they, that his professionals have been paid
15 to do, then those would be the relevant numbers, not this?

16 A Then I'll state that differently. Maybe if I can answer
17 it this way and you tell me if I'm answering your question
18 correctly. I'm not trying to be combative. But I feel
19 relatively confident, because we saw these in the bank
20 statements, that the cash that came in on the week of 4/18 was
21 377,000, and the cash that went out was 407,000. And I think
22 if we continued through week by week, I have a pretty high
23 degree of confidence that that would stay, that that would
24 stay true to what this statement shows. I can't say with
25 absolute certainty here on the stand, but I would be willing

1 to say that I think we could be relatively confident that this
2 was the amount of cash that left the bank over this time
3 period.

4 MR. COLLINS: Okay. We'll move on.

5 Go back. Can you put the affidavit back on. I think
6 that is Exhibit 2. Oh, I'm sorry. I've got to do it on this.
7 I'm sorry.

8 BY MR. COLLINS:

9 Q Okay. You also state in this paragraph that "Uncle
10 Nearest's own restructuring plan showed forecasts for an
11 additional need for funding, with an approximately \$32 million
12 cash need in 2024 and a \$48 million cumulative cash need
13 through the first half of 2026."

14 Do you see that?

15 A But just one correction. You said 2024, but it says
16 2025.

17 Q I'm sorry. Did I get it wrong, the date?

18 A It's okay. It's okay. But that is correct.

19 Q So let's look at your Exhibit 5 that I think you referred
20 to. So you recognize this document?

21 A I do. It is a proposed restructuring plan, given to us
22 by the Keystone Group at the early outset of our retention.

23 Q And this is the document you're referring to with the
24 projections?

25 A Yes. When I refer to Uncle Nearest's own financial

Larin - Cross

1 advisor at the time, it was the Keystone Group.

2 Q Let's find the -- I believe that is what you're referring
3 to; is that correct?

4 A That's correct.

5 Q So when we look at this sheet and we look at the negative
6 cash flow, you see that center section where it talks about
7 debt service and past due debt service?

8 A Correct.

9 Q Okay. And if we just look -- we don't include 2024 and
10 we just include 2025 and 2026. There is 28 -- \$35 million
11 that is included in that, in this statement, for paydown of
12 past-due debt service, correct?

13 A Past-due debt service would be 13.

14 Q Well, or debt service and past-due debt service?

15 A So the total fixed charges is what you're --

16 Q Now do you know if the debt service -- what is included
17 in that category?

18 A Off my memory, no. This is well over a year ago, so I
19 don't think I can say with confidence.

20 Q Understood. But most likely that is an operating debt,
21 because that would be included up above in the --

22 A Yeah. I don't think that I could testify as to whether
23 the Keystone Group has properly categorized something in one
24 line or another.

25 Q But if, in fact, that were and you added back 35 million

Larin - Cross

1 in payments, that would significantly impact this negative
2 cash flow that you reference, correct? Again, in terms of
3 operating, right? I understand you can always pay down debt
4 and use cash flow to pay that, but when we're talking about
5 operating cash flow and we're not talking about just paydown
6 of debt --

7 A Assuming, I would say -- pardon me. I didn't mean to
8 interrupt you. But assuming that what has been presented here
9 as a forecast is accurate, then I think, yes, that would, that
10 would make sense, that would hold water. But I can't attest
11 to that.

12 I think the observation here was that the first proposal
13 for a plan was that we need 32 to \$48 million, along with
14 significant relief, along with the ability to sell off the
15 bank's -- or, excuse me, FCMA's collateral and share in it on
16 an approximately 60/40 split.

17 Q Yeah.

18 A That seemed like a few too many asks in a first opening
19 foray.

20 Q Understood. And really my point of my question is trying
21 to get to the operating cash flow kind of analysis. And so I
22 recognize that this isn't your report. You do have it in your
23 exhibit and reference to it. And so my point is, and I think
24 you've answered it, is that if, in fact, that debt was not
25 included, that would obviously change the impact of your

Larin - Cross

1 statement, at least in terms of operating cash flow?

2 A In terms of operating cash flow, maybe it does, but I
3 think that my statement with respect to that report was that
4 their own financial advisor had asked us for relief. \$48
5 million is just a portion of the ask.

6 Q Fair enough. And, again, my distinction is really just
7 not to say that what you said was wrong, that if, in fact,
8 some of this wasn't operating debt that was being paid, then
9 that, from the standpoint of whether this company can cash-
10 flow, would impact that analysis?

11 A Yes, a lot of things could impact that analysis, correct.

12 Q Very good. So in terms of preparing your affidavit --
13 and you've got your experience in there and you have a lot of
14 experience, and I assume you brought that all to bear in your
15 analysis. And I know that Riveron has spent a good deal of
16 time on this case. I think you indicated 2,000 man-hours; is
17 that correct?

18 A In the pre-receivership period, yes.

19 Q Go back to paragraph 16. So this, again, paragraph 16 of
20 your affidavit, you state, the next sentence after the one we
21 just spoke about, "Furthermore, a 13-week cash flow forecast
22 that Uncle Nearest provided in May 2025 showed a negative
23 cumulative cash flow of negative \$6,788,000 through the week
24 ending August 8th, 2025."

25 Do you see that?

Larin - Cross

1 A Yes, I do.

2 Q Okay. And when you state that, you cited to this
3 exhibit, correct?

4 A Correct.

5 Q Okay. So you've analyzed this exhibit?

6 A Yes. Yes.

7 Q Okay. So when I looked at it, I had some kind of
8 immediate questions, okay? The first thing I noticed was it
9 says, "Provided by Uncle Nearest," which is kind of odd for
10 something -- that an exhibit would -- you know, somebody would
11 prepare it and say "Provided by" versus "Prepared by."

12 A Uh-huh.

13 Q So that caught me kind of weird. Does that sound -- I
14 mean, that may not be weird to you, but that's fine. But when
15 I look at the total cash in number, I see numbers 235, 235,
16 235, and this is a cash flow forecast. So, number one,
17 doesn't Uncle Nearest generally bring in more cash than that
18 in a week?

19 A I can tell you that this is the cash forecast that was
20 provided to us.

21 Q Okay. All right. And you looked at it and didn't see
22 anything interesting about it?

23 A I saw, frankly, a lot of rounded numbers. We asked, you
24 know, what these were built on, especially considering that
25 there was such talk about reliance upon Nielsen data and what

Larin - Cross

1 could be derived from that. For this just to arrive at flat
2 groups of numbers, it just felt a little bit -- I don't mean
3 to sound this pejorative, but a little bit lazy in its
4 execution, that somehow a little more thought should have been
5 put into this.

6 Q Well, you know, even if we just kind of look back, so I
7 think you indicated that you had summarized the -- you know,
8 in this Exhibit 4 that we just looked at -- I'll put it back
9 up -- that you had summarized the information that was given
10 to you by Uncle Nearest, correct?

11 A Uh-huh.

12 Q Okay. And so what's the total cash in number by week
13 there?

14 A Normalized, after we take out some advances on Park
15 Street, I would be stretching my memory to be able to say, but
16 I think I would have to take out Park Street collections as
17 probably its own line.

18 Q Actually --

19 A And I would have to correct for the pull-forward on Park
20 Street in the week ending 5/30, although I don't have it in
21 front of me, what that exact amount was. But then that would
22 give me what the Park Street collections would be, which would
23 frankly be a representation of a longer term amount of
24 depletions.

25 Then I would also look at retail and tours, which tends

Larin - Cross

1 to sit at around \$100,000 a week. I mean, I would say if you
2 asked me in passing for a quick conversation, how much do they
3 do in retail and tours a week, I would tell you \$100,000.

4 When it comes to Park Street collections, it really depends.
5 It depends on seasonality. It depends on the information that
6 they have available and how they put their forecast together.

7 Q Okay. All right. But now Park Street collections is the
8 actual cash collection number, is it not?

9 A Yes.

10 Q Yeah. So that number is --

11 A Well, I'm sorry. Let me clarify. That is the -- those
12 are the cash collections with respect to depletions.

13 Q Correct. But it's a cash number, correct?

14 A Correct.

15 Q Okay. So you don't need to adjust that because you're
16 doing a cash flow forecast, correct?

17 A Not necessarily, because that week, what happened in the
18 week of 5/30 -- and I realize I have the luxury of having been
19 part of those conversations. There was an agreement that, as
20 it was represented to us by both Ms. Weaver and I believe
21 Mr. Flores, that there was a pull-forward of collections that
22 were not quite due yet, to be able to bring them in out of
23 cycle, to be able to add additional liquidity to the company
24 because it was burning so much cash even though it wasn't
25 making the payments as they came due.

Larin - Cross

1 Q Just to make sure, are you sure you're not speaking about
2 the difference between the collections number versus the --
3 effectively there is an account in Park Street that also has
4 funding based upon future collections or has a number based on
5 future collections, and that the discussion you were having
6 with them was whether to include, whether you just include the
7 cash collections number or you also would include the
8 potential for the future collections? Wasn't that the actual
9 discussion you were having with them at that point?

10 A Don't know if that was the actual discussion, but if you
11 have newer and better information on that, then okay. I don't
12 remember that. What I remember, what was represented, what I
13 remember being represented to us, there is an amount that we
14 can draw during a time period, and this was an amount that was
15 brought outside of cycle faster than it typically gets paid to
16 be brought in.

17 Q Okay. Well, I tell you what. It may not, it may not
18 matter. And so, in your estimation, this \$235,000 number
19 doesn't cause you any, any notice. It sounds about right?

20 A It doesn't give me heartburn if this is their
21 representation.

22 Q Does it seem low?

23 A Taken in seasonality -- and I would have to go back and
24 look over my notes to be able to say what was going on during
25 sales leading up to this, what was going on in depletions

Larin - Cross

1 leading up to this. I think it's kind of a loaded question
2 for me to say if it feels low, but am I really harmed by 3.2
3 million over a calendar quarter? Not particularly.

4 Q Okay. All right. What about the next line, "Payroll
5 Genesis"? Anything about that line seem weird to you?

6 A Absolutely.

7 Q What's weird about it?

8 A Well, first off, they don't pay their payroll on time.
9 They haven't paid their payroll on time. As we've heard so
10 far, they've had to finance it.

11 Q Okay.

12 A It has been typically a few months behind, and even
13 despite the fact of what's been purported as 60-day terms, it
14 would often go three, four, five invoices before they finally
15 got paid. So to see a Payroll Genesis line that showed up in
16 every single one, a little bit, a little bit troubling.

17 Q Well, in fact, isn't the weird thing that payroll was
18 done twice a week -- or twice a month, not every week?

19 A Sure.

20 Q And what about the next line, "Ramp"? That's the credit
21 cards, correct?

22 A Oh, boy. We referred to them as credit cards, and I
23 would say the only reason I said "Oh, boy" is that we were met
24 with a significant amount of resistance from the folks onsite
25 when we called them credit cards. They are payment cards, not

Larin - Cross

1 credit cards, but just thought I would be correct.

2 Q But are those paid monthly -- or paid weekly? Excuse me.
3 Is that charge paid weekly?

4 A Can it be paid weekly? Yes. Has it been paid weekly?
5 At times, yes.

6 Q It's not due weekly?

7 A I don't know when it's actually due. I don't know if
8 I've actually seen an invoice from Ramp.

9 Q All right. Well, fair enough. Okay. So let's go down
10 to the production line, "NGD Production." Every week it's the
11 exact same number?

12 A Exactly.

13 Q And same with the sales and marketing and same with Uncle
14 Nearest Corporate and NGD Corporate. Literally, every line is
15 exactly the same across?

16 A Correct.

17 Q Do you see that?

18 A Yes.

19 Q So that doesn't strike you as kind of weird?

20 A I think I've already said that it struck me as a bit
21 lazy. And, again, I don't mean that in a pejorative manner,
22 but I don't think that someone thought too hard about this,
23 the point being when a company, left to their own devices,
24 provides us with a cash forecast, they show us over the next
25 13 weeks they're going to lose \$6.7 million and really has a

Larin - Cross

1 difficult time putting together a cash forecast without
2 assistance.

3 Q So just to make sure I'm clear, you saw a report that has
4 plainly ridiculous numbers, and it doesn't strike you enough
5 to say, is this a report that I need to rely upon as a
6 legitimate company report of cash flow?

7 A Repeat that again, because I could answer that a couple
8 different ways, and I don't want to sound like --

9 Q Right. That's fine. In your affidavit, you present this
10 as the company having given you this cash flow forecast, and I
11 guess implying that they gave it to you legitimately as a cash
12 flow forecast. And it clearly is so ridiculously wrong that
13 it didn't strike you to question whether, in fact, this is
14 really a cash flow forecast that they had provided?

15 A I think when the CFO of a company provides me with a cash
16 flow forecast that says over the next 13 weeks, when we are
17 representing the first lien lender, who is severely in
18 arrears, and comes back and says over the next quarter we are
19 going to lose \$6.7 million, that gives me pause.

20 Q What if I told you -- and maybe you believe this or not.
21 What if I told you that this, in fact, was a template for a
22 cash flow forecast that they were working on, preparing, and
23 had provided to you and your team as the format for a cash
24 flow forecast and basically they just put dummy numbers in
25 there because it wasn't really a cash flow forecast? What

1 would you say to that?

2 A Don't know if I would say anything to that. I didn't
3 know that there was any evidence to that effect.

4 Q Well, we'll have to draw that out in testimony. But your
5 testimony is you and your team got this and believed that it
6 was an actual cash flow forecast being presented to you by the
7 company?

8 A I think it was ridiculous on its face, yes.

9 Q And did you question the ridiculousness of this forecast?

10 A Absolutely. Absolutely.

11 Q And who did you question that to?

12 A To Mr. Flores. I'm trying to think. I'm not even sure
13 who else was in that conversation.

14 Q And you did that personally?

15 A Personally?

16 Q Yeah.

17 A In person? Probably over the phone. Probably on Zoom.

18 Q But it was you?

19 A It was either me and/or someone else on my team at that
20 day.

21 MR. COLLINS: Can we switch to --

22 THE COURTROOM DEPUTY: You said computer?

23 MR. COLLINS: Yeah, use the computer, please.

24 BY MR. COLLINS:

25 Q So what you have -- have you seen this document before?

Larin - Cross

1 A Can't recall that I have specifically seen this, but I
2 may have.

3 Q What does this look like to you?

4 A It looks like it's following a similar format to what we
5 saw on the other document.

6 Q Okay. And is this the format that you would receive cash
7 forecasts from the company?

8 A Wow. Yeah, it appears that it is. I don't have any
9 reason to believe that it wouldn't be.

10 Q And what's the time period covered by this one?

11 A May 23rd to August 15th, 2025.

12 Q Okay. And Exhibit 6 that we were just looking at, what
13 time period did that cover?

14 A May 16th to August 8th.

15 Q Okay. All right. So basically the same time period?

16 A Uh-huh.

17 Q A week off, correct?

18 A Yes, that would be correct.

19 MR. COLLINS: Could we go back to the computer,
20 please. Thank you.

21 BY MR. COLLINS:

22 Q And so what is the negative cash flow on this
23 spreadsheet?

24 A Let's see. Do we have a cumulative column on here? Not
25 sure if we do. To be honest with you, unless I have a

Larin - Cross

1 calculator at hand, I would actually prefer to use Excel with
2 this.

3 Q I believe -- let's scroll back to the first page of it.

4 So do you see an ending balance of cash?

5 A Ending balance of cash.

6 Q This is a report that you use, right? I mean, this is a
7 report that was provided to you.

8 A I'm trying to find where we're looking. When you say
9 ending balance of cash -- oh, there we go. As of 8/15,
10 correct.

11 Q But let me ask you this: Is this report -- and take your
12 time to review it. Is this showing a negative \$6,788,000,
13 negative cash flow?

14 A No, it does not appear to be.

15 Q Okay. So do you want to change your opinion on what this
16 Exhibit 6 is?

17 A No. I've said that the company presented a cash flow
18 forecast to us that said that they were going to lose over \$6
19 million in the 13-week period as we were working through our
20 processes. As we were working through finding a path for them
21 to navigate their cash shortfalls, to navigate repayment of
22 the loans, they presented a cash forecast.

23 Q And they presented you a cash forecast. They wanted you
24 to fund and they presented you a cash forecast that forecasts
25 \$6 million negative?

Larin - Cross

1 A Uh-huh.

2 Q And then, a week later, provided you another cash
3 forecast that was nowhere near that?

4 A And a couple months earlier, they presented a business
5 plan that said that they needed \$48 million. I think it's
6 really a testament to the fact that there was a lack of
7 clarity on the financial documents that came out of this
8 company.

9 Q Isn't it possible that you just didn't investigate
10 Exhibit 6 and realize that, in fact, it was never intended to
11 be a projection; it was simply the template, which Exhibit
12 54 -- which I would like to get into evidence, Your Honor.

13 Exhibit 54 was then tailored, tailored to, right?
14 Because, as you said, it looks like the same format, on the
15 topside, as that one. Isn't that the truth?

16 A The truth. I'm sorry. I'm --

17 Q Isn't it a fact that you just did not investigate this
18 exhibit to determine that, in fact, it was never presented as
19 a true cash flow forecast; it was just presented as a template
20 that was then used to prepare the true cash flow forecast,
21 which shows nowhere near a \$6 million negative balance?

22 A Yeah. I don't know in the ordinary course of business,
23 as a financial advisor for a troubled company, if the CFO
24 sends me a document, that I investigate with a question like,
25 was that a joke? Are you kidding? Was that just a template

Larin - Cross

1 that you sent me? Those are not typical, ordinary course
2 questions.

3 Q And so it's your testimony under oath that this was not
4 sent to you as a template and asking whether you would approve
5 the format?

6 A I'm unaware of this being sent to me as a template to
7 approve the format.

8 MR. COLLINS: We'll move on.

9 Your Honor, before this hearing is over, I will get a
10 copy of the email, and we'll probably need to talk with
11 Mr. Larin again, but we'll move on.

12 THE COURT: You know, I'm going to reserve a little
13 time for their motion as well, and, you know, you're staring
14 16 till 4:00 right in the face.

15 MR. COLLINS: Yeah. Got you.

16 Let's pull up Larin Exhibit 4.

17 Your Honor, I would like to move Exhibit 54 into
18 evidence. That was this, what's showing on the screen right
19 now. This is the cash flow forecast that was --

20 MS. LIGGINS: Your Honor, I'm just going to keep a
21 rolling objection going now. This is an exhibit that we have
22 not seen, that was not designated on the list. I do not know
23 who prepared it. I do not know when it was prepared. We
24 don't have any information about this exhibit. He showed it
25 to Mr. Larin all of five minutes ago.

Larin - Cross

1 MR. COLLINS: Your Honor, he's testified --

2 THE COURT: Is that true, Mr. Collins?

3 MR. COLLINS: He's testified that this is --

4 THE COURT: Mr. Collins.

5 MR. COLLINS: I'm sorry.

6 THE COURT: Answer my question. Is that true?

7 MR. COLLINS: Is what?

8 THE COURT: That they've never seen this, you didn't
9 provide it to them until five -- and the first time they saw
10 it was five minutes ago. Is that true?

11 MR. COLLINS: That is true.

12 THE COURT: It's not admitted.

13 MR. COLLINS: Your Honor, my understanding is, in
14 rebuttal, we can use rebuttal evidence without having --

15 THE COURT: You haven't laid the foundation for that.

16 MR. COLLINS: The foundation is he testified that
17 this is the report that he was receiving.

18 MS. LIGGINS: Your Honor, I think that's a
19 mischaracterization of Mr. Larin's testimony. He did not
20 testify about this exhibit. He doesn't know what this exhibit
21 is. What he testified to is what he thought Exhibit 6 was,
22 which was provided to the Weaver parties, as ordered by the
23 Court, in accordance with its orders and rules.

24 MR. COLLINS: May I respond? I would say if you want
25 to limit the -- the purpose of this exhibit is not to prove

1 the number that's on there. This is to prove the format of --
2 that, in fact, what he testified to as being a legitimate cash
3 flow forecast being provided to him, showing negative 6
4 million 7, was not true and that, in fact, it was simply a
5 format that they were agreeing to for this type of report.

6 THE COURT: I've not seen evidence of that yet. I
7 mean, you've stated that.

8 MR. COLLINS: And that's --

9 THE COURT: But I've not seen that. I mean, you've
10 said that there's, I guess, an email or something that says
11 that. Have you got that?

12 MR. COLLINS: That, we will get that, Your Honor.
13 That's why I reserved for the end of the time.

14 THE COURT: All right.

15 MR. COLLINS: Your Honor, honestly, I think the --

16 THE COURT: Well, then I'll deal with that issue when
17 the rest of that's put forth then.

18 MR. COLLINS: In terms of allowing --

19 THE COURT: Whether or not to admit it.

20 MR. COLLINS: Okay.

21 THE COURT: All right. Let's move on. And, again,
22 Mr. Collins, and I don't want to fuss at you, but this is your
23 motion and your emergency hearing. You wanted an emergency
24 hearing on this.

25 MR. COLLINS: Understood, Your Honor.

Larin - Cross

1 THE COURT: And so I expect you to be prepared for
2 it.

3 MR. COLLINS: Your Honor, we're doing the best we can
4 to get through our evidence.

5 THE COURT: Well, I know, but you called it. I
6 didn't call it. This isn't my hearing.

7 MR. COLLINS: Understood.

8 THE COURT: All right.

9 MR. COLLINS: Understood.

10 We've got Exhibit 4, please, on the Larin Exhibit 4. So
11 I think we need to -- I need to do that.

12 So now this -- okay. Actually, let's go back to the
13 affidavit. I think that -- is that -- I need to do that too,
14 don't I?

15 THE COURTROOM DEPUTY: Doc camera?

16 BY MR. COLLINS:

17 Q So paragraph 23 of your affidavit, you say, "Prior to the
18 appointment of the Receiver, Uncle Nearest provided Riveron
19 with various financial reports." Correct?

20 A That's correct.

21 Q And among those were the operating receipts and
22 disbursements for the period April 12th through June 13th?

23 A Correct.

24 Q Let's go to Exhibit 9.

25 And then we go to the post-receivership receivables.

Larin - Cross

1 This, again, was prepared by Riveron?

2 A Compiled by Riveron, yes.

3 Q And this was based on receivership numbers, correct?

4 A Post-receivership, yes.

5 Q And in paragraph 24 of your statement, you state, "In
6 particular, cumulative post-receivership cash flow statements
7 demonstrate that operating cash flows continue to be negative.
8 In particular, cumulative post-receivership cash flows from
9 September 1 through January 18 were negative \$930,000 or
10 approximately negative \$47,000 per week." Correct?

11 A Correct. And just to refresh, this is where I come to
12 the conclusion that they are -- my opinion that they are cash
13 flow negative, from the -- excuse me -- from an operating cash
14 flow perspective; is that correct?

15 Q Okay.

16 A I'm just, I'm trying to make sure which section I'm
17 looking at here --

18 Q Yeah. Okay.

19 A -- without having to refer back to my notes.

20 Q So, but this, this operating report does not exclude
21 payments to Tennessee Distilling Group, correct?

22 A Does not -- does not exclude payments?

23 Q Well, exclude, include. I mean, it doesn't -- it
24 basically, it doesn't exclude, correct, the payments to
25 Tennessee Distilling Group, right? So it includes their

1 payments?

2 A Let me answer that differently and see if that answers
3 your question. To the best of my knowledge, information, and
4 belief, from the work that my team did, this represents the
5 actual cash received into the bank accounts and that left, but
6 for the FCMA funding. And these are the adjustments on here.
7 We added back the receivership fees and the FCMA funding to
8 say that, to go back to that conversation from earlier,
9 standardizing cash flows.

10 Q But you didn't, you didn't -- this is not an operating
11 cash flow statement in the sense that you also included
12 payments on historical Tennessee Distilling Group debt as part
13 of that cash flow?

14 A Oh, the catch-up payment to Tennessee Distilling?

15 Q Correct, yes. Those are included in this cash flow?

16 A They are. So, just so we're clear, when Tennessee
17 Distilling came in and made their demand, wanted to be paid
18 for what they had not been paid for in the past and they were
19 paid, yes, that is represented in the cash that is burned
20 during this time period.

21 Q Right. So when we talk about operating cash flow,
22 generally you wouldn't be talking about payment on liabilities
23 that were before the receivership, at least, when we're
24 talking about does this company cash flow currently?

25 A I think the fact that they're paying on old debt that had

Larin - Cross

1 not been paid is a statement that they're not paying their
2 bills as they come due.

3 Q Well, I mean, you could make this negative. If you paid
4 \$50 million, what you said the past debt is -- if you paid 50
5 million, you could say it's 50 million in negative cash flow,
6 right?

7 A If it's 50 million that you had not paid in the ordinary
8 course when it came due, yes.

9 Q But if we're talking about can this company, moving
10 forward, pay its current operations from current income, you
11 would not include in that analysis payments that were not
12 current obligations -- not current obligations?

13 A Assuming that they owed nothing, that they didn't owe
14 about \$175 million right now, that they didn't owe \$22 million
15 in AP, I don't know as a fact. I would have to spend some
16 time on -- I would like to spend some time on Excel to be able
17 to work through that, to say if starting from right now, if we
18 had a fresh start, let's say emerging from bankruptcy on a
19 fresh start, could it do it? I would like to reserve my
20 opportunity to answer that question until I have the ability
21 to look at what the assumptions are going into it, what the
22 growth assumptions, what the depletion assumptions are, what
23 the go-forward operating costs are. There's a lot to be
24 unpacked in that.

25 Q But, I mean, don't we have that right here? Right?

Larin - Cross

1 Because all you have to do is add back the Tennessee
2 Distilling payments to see that, but for the Tennessee
3 Distilling payments, this company is cash flow positive by
4 \$900,000?

5 A I think you're mistaken on that conclusion.

6 Q Let's do the math.

7 A Because this Judge, this Court, this proceeding has
8 stayed a significant amount of payments, including debt
9 service payments, including trade payments that were wrapped
10 up in the previous receivership period.

11 Q I'm just looking at your sheet. Let's just look at your
12 sheet, right? If we add back \$1,500,000 that was paid on old
13 debt to Tennessee Distilling Group, the cumulative cash,
14 adjusted cash flow would be positive by about \$900,000.
15 That's just simple math; isn't that right?

16 A Based on those assumptions that you're making, based on a
17 series of assumptions, yeah. If I added back 1.5 million to
18 this amount, yes.

19 Q It's one assumption.

20 A Okay.

21 Q It's one assumption that we don't include the Tennessee
22 Distilling Group payments on old debt to clear liens, right?
23 That was the point of that, correct, was to clear the lien?
24 That was testified earlier. You were in here. If we add that
25 back, the company is cash flow positive by \$900,000, based on

1 this spreadsheet?

2 A If that was the only adjustment, perhaps.

3 Q Okay. Let's go to Exhibit 10. Do you recognize this
4 document? Let me zoom you in here a little bit.

5 A Yeah. Thank you very much. It may be a little bit too
6 close there.

7 All right. I'm trying to remember. Yeah, I do remember.
8 This is the -- I think I do remember this. I'm trying to,
9 trying to recall. Is this -- hmm. Apologies. I recognize
10 the format. I don't recognize having been through these.

11 Q This is part of your affidavit.

12 A Sure.

13 Q This is, yeah, your exhibit. So it's Exhibit 10 to your
14 affidavit.

15 A Okay.

16 Q Do you recognize it?

17 A I do.

18 Q Okay. And what is this showing?

19 A To be honest with you, right now as I'm looking at this,
20 I'm not remembering exactly what that is. I would love to be
21 able to refer back to my notes, but I'm not going to do this.
22 But what this shows is that it's both a combination of both
23 actual and projected cash flow from the period of the weeks
24 ending January 18th through April 19th.

25 Q Right. And this is based on the same format as the last

1 one we just looked at, right?

2 A Uh-huh.

3 Q And, again, this also includes the Tennessee Distilling
4 Group amount, correct?

5 A Correct, yes.

6 Q And so, again, if we add back \$1,500,000 of cash flow,
7 the ending cash is positive \$900,000?

8 A If that were the only add-back and that was the only
9 adjustment, yes.

10 Q In your affidavit, you indicate -- and we'll go to
11 paragraph 31. You indicate that "Based on information
12 provided by both Uncle Nearest and the Receiver, it's my
13 opinion that Uncle Nearest lacks sufficient asset value to
14 fully secure the loans." See that?

15 A Yeah. I apologize, Mr. Collins. It's cut off on my
16 screen. Could you shift it up a little bit. Thank you very
17 much. Yes.

18 Q But earlier in your affidavit, you indicated you aren't
19 giving a value opinion in your affidavit?

20 A A valuation opinion.

21 Q Valuation?

22 A Value would be a different thing.

23 Q How is value different than valuation?

24 A Well, valuation would mean that I'm giving a number as to
25 the actual valuation. Value is, of course, a different word.

Larin - Cross

1 I have my values. I think that there's value in that
2 statement, right? But am I giving a value opinion? No. And
3 I'm not giving a valuation opinion either.

4 Q I'm not sure I'm understanding. You say in this that
5 Uncle Nearest lacks sufficient asset value to fully secure the
6 loans. You aren't saying that -- you aren't using "value" in
7 the way you just said, I don't think, right? I mean --

8 A No, I'm not giving an opinion of value. I'm saying that
9 within the rubric that they apply for their revolving line of
10 credit, that there is not sufficient asset value, giving 75
11 percent value to essentially the AR and 70 percent value to
12 the -- what do you call it -- to the inventory, that that
13 would be -- that would not be enough to cover what they owe on
14 this loan.

15 Q You're talking about the borrowing base?

16 A I am talking about the borrowing base.

17 Q That doesn't say the borrowing base here. It says,
18 "lacks sufficient asset value to fully secure the loans."

19 A Uh-huh.

20 Q If you're only talking 70 percent, then if you add the
21 other 30 percent, it would cover the loans?

22 A If that was achievable, but it's more often than not
23 achievable because banks assign the borrowing base percentages
24 to cover a net orderly liquidation value.

25 Q So your basis here is based on an arbitrary borrowing

Larin - Cross

1 base number, not based on true asset value, correct?

2 A I'm not sure if I would agree with the word "arbitrary."

3 But if --

4 Q Let's talk about borrowing base. How do you set a
5 borrowing base?

6 A By agreement with the person who has lent you money.

7 Q And isn't that pretty arbitrary?

8 A No, I would not agree with the word "arbitrary" on that.

9 Q But if they say it's 80 percent, then 80 percent becomes
10 the borrowing base?

11 A Then I think there would be a meeting of the minds
12 between the two parties.

13 Q But, I mean, it's not something that is defined by the
14 world. This is something that parties just agree to a number
15 and that's it. It isn't necessarily based on value, correct?

16 A I don't know if I agree with you, just because of my
17 interaction with banks over the years, that they base these
18 percentages off of the work that they do to come to net
19 orderly liquidation value, commonly known as NOLV.

20 Q But just to clarify, your testimony is that, based on the
21 borrowing base, they don't secure the loan. It's not based on
22 the value of the barrels?

23 A At least on that point, yes.

24 Q In terms of the borrowing base -- let's move to Exhibit
25 13. I believe it's his Exhibit 13.

Larin - Cross

1 So this is -- what is this we're looking at? I'm sorry.

2 A It's okay. There we go. Thank you.

3 This is a projected prospective borrowing base had the
4 company issued a borrowing base at 12/31, using the exact same
5 methodologies and rubrics that they had for every other
6 borrowing base, apart from the ones where they were
7 overstated.

8 Q And the borrowing base is based on cost, right?

9 A It is.

10 Q Are most borrowing bases based on either accounts
11 receivable or inventory?

12 A Based on, yes, typically a combination of the two and
13 other accounts.

14 Q And do those types of assets generally appreciate in
15 value over time?

16 A That's a rather general statement. Across which
17 industries? And wasting and obsolescence, all those things
18 work their way in. So do -- some industries, the values of
19 inventory go down.

20 Q But generally speaking -- obviously, this is a different
21 inventory. But generally speaking, inventory values and
22 borrowing base calculations do not generally go up over time?

23 A Yeah. Generally, generally, I would say they either stay
24 constant or they go through some sort of wasting over time.

25 Q Correct. And same with accounts receivable. Accounts

Larin - Cross

1 receivable don't get better over time, correct?

2 A Uh-huh.

3 Q And --

4 A Well, hold on. Sorry. I said, "Uh-huh," but I don't
5 know if I necessarily agree with that statement.

6 Q Accounts receivable?

7 A Accounts receivable don't get better over time was the
8 question?

9 Q Right. As they age, they become less collectible
10 usually, correct?

11 A As they age. Okay.

12 Q Yeah.

13 A All right. So that was the distinction. Excuse me.

14 Q So that's correct, though?

15 A I think it's a factor of what the terms are. So if I
16 move to a new supplier who, say, is going to pay me in 90-day
17 terms but they've got a higher credit rating, higher cash
18 flow, as opposed to me dealing with small interests who have
19 30 days, 30-day terms, and if I've moved my aging and it's now
20 gotten older, it actually may have more value and
21 collectibility because I've got more financially stable
22 sellers.

23 Q If I have an account receivable today, is it going to be
24 more valuable in a month than it is most likely today?

25 A An individual entry?

Larin - Cross

1 Q An individual account receivable.

2 A An individual entry, not the accounts receivable ledger
3 overall?

4 Q As a general category.

5 A An individual collection entry?

6 Q A single asset, a single account receivable, does it get
7 better over time? As it ages, does it get more valuable? In
8 fact, it loses value, right, because of time value of money?

9 A Not necessarily.

10 Q Time value of money?

11 A Let's say it's on 30-day terms. If it's on 30-day terms
12 and the first time you saw it it's five days old, but the
13 second time that you see it you're one day from collection, I
14 would say that has more value because that's about to hit your
15 bank account.

16 Q Well, let's talk then about barrels. Barrels age and
17 increase in value, clearly, right? You don't have to go
18 through a machination about it. They get more valuable over
19 time?

20 A As I have learned through this engagement, in dealing
21 with various people who are involved in the sale, the purchase
22 of barrels, what has typically been true is that barrels have
23 gone up in value.

24 What is happening now is that barrels are not necessarily
25 going up in value, or they're going up in a slower rate than

Larin - Cross

1 they had in the past, and/or it's much more difficult to find
2 a place to sell them because the secondary market is
3 oversaturated with excess supply.

4 So it's a loaded answer. I apologize for it. But in the
5 historic, yes, barrels would typically age out and become more
6 valuable, assuming they've been in a good rickhouse, well
7 cared for, that there was good, that there was a good process
8 to getting them there. However, we are at a different stage
9 in the market, from all of my understanding. But I'm not a --
10 I'm not a BevAlc expert.

11 Q Fair enough. But you have kind of indicated about this
12 borrowing base, and the borrowing base is based on cost. So
13 if you have a barrel that's four years old, it's going to be
14 worth more than a new barrel, I mean, in any market, correct?

15 A Based on a conversation I just had with a representative
16 who is out there buying and selling barrels is that the cost
17 of a new-fill barrel and the cost of a four or five-year-old
18 barrel is about the same right now. Nobody wants them.
19 That's a statement that was made to me. Again --

20 Q Have you talked to -- and who was this made by?

21 A This was made by a representative of the Tiger Group.

22 Q Have you ever talked with Thome? Are you familiar with
23 J.B. Thome?

24 A I'm sorry. With whom?

25 Q Are you familiar with J.B. Thome?

Larin - Cross

1 A J.B. Thome. No, I don't think I've had a conversation
2 with a J.B. Thome.

3 Q Okay. A barrel broker.

4 A Okay.

5 Q The largest barrel broker since 1977. If I were to show
6 you a report that he did -- and I won't -- so this is a report
7 from J.B. Thome that basically includes a current --

8 THE COURT: I don't even know what it is, so --

9 MR. CAMPBELL: I know. I feel like I've got to
10 reserve the objection.

11 MS. LIGGINS: We don't either, Your Honor.

12 MR. COLLINS: I won't put this into evidence, Your
13 Honor, but I want him to --

14 THE COURT: Mr. Collins, you only have so much time.
15 I understand the point about the valuation of the barrels, but
16 you're really, you're spending a lot of time on stuff that --
17 I mean, it's your time, but --

18 MR. COLLINS: Yeah, Your Honor. I appreciate it.
19 It's hard to try to manage a short period, and we're trying to
20 do what we can. So I'll move on. Point well-taken, Your
21 Honor.

22 I think we're about to wrap up. Just making sure we
23 don't have anything.

24 I think that's all, Your Honor, for this witness.

25 THE COURT: All right. Thank you.

Larin - Cross

1 Do you-all have any questions?

2 MS. LIGGINS: I just have a couple clean-ups but not
3 much.

4 CROSS EXAMINATION

5 BY MS. LIGGINS:

6 Q Mr. Larin, just a couple things.

7 A Yes, ma'am.

8 Q I'm going to show you what is your declaration, paragraph
9 31.

10 A Yes, ma'am.

11 Q I believe Mr. Collins was asking you what Exhibit 10 is,
12 but I don't think you had your declaration in front of you,
13 which is your direct testimony.

14 A It has been passed to me just as of recently, yes.

15 Q Okay. But if you -- yes, scroll up so you can see what
16 the exhibit is. Scroll down, sorry, to the screen. Yeah,
17 right there.

18 Do you see the definition of Exhibit 10?

19 A Yes.

20 MS. LIGGINS: Okay. Now can you show me Exhibit 10.

21 BY MS. LIGGINS:

22 Q You said you didn't recall what this is?

23 A That's correct.

24 Q Does this refresh your recollection of what this actually
25 is?

Larin - Cross/Redirect

1 A Thank you very much. Yes, that does refresh my
2 recollection.

3 Q And what is it?

4 A This is a cumulative cash flow forecast for the period of
5 January 18th through April 19th.

6 Q So these are the numbers from the receiver during the
7 receivership?

8 A That is correct.

9 MS. LIGGINS: Okay. No further questions.

10 THE COURT: All right. Thank you.

11 Mr. Campbell, anything.

12 MR. CAMPBELL: I just have one question, Your Honor.

13 THE COURT: All right.

14 THE WITNESS: Yes, sir.

15 REDIRECT EXAMINATION

16 BY MR. CAMPBELL:

17 Q Mr. Larin, I'm going to refer back to Exhibit 9 here. We
18 talked a lot about TDG and the payment to TDG and whether or
19 not that's calculated. I want to direct your attention to the
20 second column, the actual 12/8 through 12/14 and then 12/15
21 through 12/21. Can you see the million-dollar bump there?

22 A I'm sorry. Give me one second to catch up on your --

23 Q Yeah, sure.

24 A You said 12/8?

25 Q Yes, sir.

Larin - Redirect

1 A Yes, got that. The one that starts at 1.535?

2 Q Correct.

3 A Over to which, which one?

4 Q The column below. What I'm really looking to ask you
5 about is the FCMA funding, the two totals there.

6 A Yes.

7 Q Is the difference --

8 THE COURTROOM DEPUTY: Touch the screen and you can
9 mark it.

10 MR. CAMPBELL: Huh?

11 THE COURTROOM DEPUTY: Touch the screen and you can
12 mark it.

13 MR. CAMPBELL: Oh, okay. Yeah, right there. Fancy.

14 BY MR. CAMPBELL:

15 Q Does that amount include the TDG payment?

16 A It does include it. That was the amount of funding that
17 was provided by FCMA to cover the -- to cover that payment.

18 Q Right. And so you've already backed out the FCMA funding
19 on this, right?

20 A Yes, that's correct.

21 Q So if you backed out the FCMA funding and then you backed
22 out the TDG funding, you would actually, in fact, be double-
23 counting that number, correct?

24 A I think that's probably correct.

25 MR. CAMPBELL: No further questions.

Larin - Recross

1 THE COURT: All right. Thank you.

2 RECROSS EXAMINATION

3 BY MR. COLLINS:

4 Q Let's run through this again. The FCMA funding is a
5 negative. You have to add -- if you add back, you'd then
6 offset the negative, correct?

7 A If I add back --

8 Q Right. So, yes, you're showing, the FCMA's funding is
9 showing a negative outflow that is related to the TDG payment,
10 correct?

11 A Following the logic here. Excuse me. So let's just walk
12 through that. The cumulative net cash flow report is 1.5.
13 The add-back for the receiver fees, 1.3. So that's 2.8,
14 correct. Now we also -- if it is going to take out, at that
15 point, the 2.7, okay, adding back that 2.7, then that would,
16 in my opinion, reverse any sort of -- not reverse. How do I
17 say this properly? It properly accounts for the fact that
18 that 2.7 million is a -- oh, shit, I'm even doing it in the
19 wrong -- oh, excuse me.

20 Q Maybe I can make this -- let me simplify this for you.
21 Let me simplify this for you, right? You have a cash flow,
22 right, a cumulative net cash flow reported. That's kind of
23 the net, right, of your model? You then add back the
24 receiver's fees, but then you take out the FCMA funding. The
25 FCMA funding paid both the receiver's fees and the TDG

Larin - Recross

1 payment. So if you're going to add back the cumulative
2 receiver fees, you've got to add back the TDG fees in order to
3 make that offset work; is that not correct?

4 A That's not correct, because what is in the cumulative net
5 cash flow reported includes the amount of money that Farm
6 Credit has given to Uncle Nearest in the post-receivership
7 period to bring it to that 1.5.

8 Q Well, then why do you add back the cumulative
9 receivership fees? Wouldn't they also then be included if you
10 were going to say that includes those? This isn't complicated
11 math.

12 A No. I think it's just the positives and negatives going
13 out at various levels that are just giving me pause. Give me
14 one second to answer this.

15 So, at this point, add back the cumulative receivership
16 fees. No. I would say that no, it doesn't, because the
17 receivership fees at this point were being paid at least out
18 of ordinary -- or at least out of cash flow being generated at
19 that time.

20 Q You're saying that the cumulative cash flow number --
21 because we just went through this, right? And you testified
22 the other way, and now you're reversing yourself. So let's --
23 this is an important point, right, because this determines
24 whether we're cash flow positive or cash flow negative.

25 So you're saying -- are you saying that in the cumulative

Larin - Recross

1 net cash flow you included everything, including the TDG
2 payments, but you didn't include the receivership fees?

3 Isn't it true that that is just the top of the net cash
4 flow number? It does not include receivership fees, it does
5 not include the TDG payments; is that correct?

6 A I do not think that that's correct because, if my memory
7 serves me correctly, the cumulative net cash flow reported was
8 prior to the receivership fees. Wait a minute.

9 Q It was net of all of the TDG -- everything that was
10 funded by the bank -- the bank funded both the receivership
11 fees and funded the TDG payments. That is the correct answer,
12 is it not?

13 A I do not believe that that is the correct answer.

14 Q This is your report.

15 A Uh-huh.

16 Q This is based on your own cash flow -- I'm sorry we have
17 to wait to deal with this in a short time, but this is what
18 we've got.

19 Can we go to the computer, please. Thank you.

20 So if we look at this, you see the operating
21 disbursements line and then you see the non-operating
22 disbursements line. You see that. And then you see
23 non-operating collections and operating collections. And in
24 terms of the payment to TDG, those were included in the
25 non-operating disbursements, correct?

Larin - Recross

1 A TDG -- let me just see if I can find where the TDG
2 actually is on this.

3 Q You can see there's a cash reserve for pre-receiver TDG
4 payments at the bottom?

5 A Uh-huh, yeah. The term "reserve" gives me a little bit
6 of pause to be able to say that that was actually money going
7 out the door rather than just calling it a reserve.

8 Q We're just talking a hypothetical then. If, in fact, you
9 take out the TDG payments, which you should on that prior
10 exhibit, the company was cash flow positive by about \$900,000,
11 correct, assuming my assumption?

12 A Assuming your assumption. I would want to compare that
13 to the other one live, but --

14 Q We just had this conversation before the re -- or the
15 redirect, I guess. Is that a yes?

16 A Well --

17 Q I'll take that you can't answer it, that you're going to
18 go -- that, in fact, you haven't studied this enough to be
19 able to have an answer and that we need to move on.

20 But, Your Honor, this is --

21 THE COURT: Look, I'm giving you a little bit of time
22 because I want you to be able to make your point, but I don't
23 think he's going to answer, so --

24 MR. COLLINS: Then I would -- if he can't answer a
25 question about his own spreadsheet, then I think --

Larin - Recross

1 THE COURT: The Court will take its own inference
2 from it.

3 MR. COLLINS: Then I think the inference ought to be
4 in our favor, that the 900 --

5 THE COURT: Well, the Court will evaluate it. That's
6 what we're here for. Are you ready to move on?

7 MR. COLLINS: We are. I don't have any further
8 questions.

9 THE COURT: Okay. All right.

10 MS. LIGGINS: Just real quick. I'm so sorry, Your
11 Honor.

REXCROSS EXAMINATION

12
13 BY MS. LIGGINS:

14 Q On this exhibit that's up, this is for the week ending
15 11/24, correct?

16 A The week ending 11/30, yes.

17 Q Right. And the TDG payment was made in December, so it's
18 not in this sheet?

19 A That's correct. This is the -- this is the cash flow
20 launcher system that Newpoint does. This is not my
21 spreadsheet.

22 Q Right. It's just a different time period?

23 A Correct.

24 Q Okay. And let me just ask it simply like this: When you
25 do the cash flow, you account for all the money that comes in?

Larin - Recross

1 A Correct.

2 Q \$2.7 million came in from Farm Credit, so it would be a
3 part of cash that came in?

4 A Correct.

5 Q But that is not a normal operating receipt, correct?

6 A That is not.

7 Q Because that was for a protective advance?

8 A That is correct.

9 Q The payment to TDG, however, is a normal operating
10 disbursement?

11 A Yes, it is.

12 MS. LIGGINS: No further questions.

13 THE COURT: All right. Thank you.

14 All right. Thank you.

15 All right. Mr. Collins, I want to reserve a little bit
16 of time for their motion for clarification. How much do you
17 have left?

18 MR. COLLINS: Well, if we can get Fawn Weaver on the
19 stand, we'll move through it as quickly as we can, Your Honor.

20 THE COURT: Okay.

21 MR. COLLINS: She's going to talk about kind of what
22 it would look like post-termination.

23 THE COURT: All right. If I don't let Ms. Norwood go
24 home at 5:00 o'clock, I'm going to be in trouble, Mr. Collins.

25 MR. COLLINS: Okay. Understood, Your Honor. We'll

1 do our best.

2 THE COURT: All right.

3 MR. COLLINS: Call Fawn Weaver.

4 THE COURT: What is it, Mr. Campbell?

5 MR. CAMPBELL: I think I may be able to speed the
6 Court's process up a little bit, if I can. As it pertains to
7 the motion for clarification, our motion for clarification,
8 we're willing to rest on the pleadings in the affidavit. So
9 I'm not sure that we have a whole lot. So to the extent --

10 THE COURT: You originally asked for a hearing, and
11 so I was going to give you a hearing. But if you want to rest
12 on the filings, that's fine with the Court.

13 MR. CAMPBELL: And I understand, Your Honor, and I
14 appreciate the opportunity to have the hearing.

15 THE COURT: All right.

16 MR. CAMPBELL: But I think for the purposes of trying
17 to move things along, we feel comfortable with everything we
18 submitted, and we'll move that forward.

19 THE COURT: Understood. Thank you.

20 MR. CAMPBELL: Thank you, Your Honor.

21 THE COURT: All right.

22 MS. WEAVER: What happened to the Bible?

23 THE COURTROOM DEPUTY: Do you solemnly swear your
24 testimony will be the truth, the whole truth, and nothing but
25 the truth, so help you God?

Weaver - Direct

1 THE WITNESS: So help me God. Thank you.

2 THE COURTROOM DEPUTY: Will you state and spell your
3 name for the record.

4 THE WITNESS: It is Fawn Weaver, F, as in Frank,
5 A-W-N, last name Weaver.

6 FAWN WEAVER,
7 having been first duly sworn, was examined and testified as
8 follows:

9 DIRECT EXAMINATION

10 BY MR. COLLINS:

11 Q Ms. Weaver, you've heard some of this cash flow
12 testimony?

13 A Yes. It's very interesting.

14 Q Do you have any thoughts in terms of -- and you're the
15 CEO --

16 A Yeah.

17 Q -- of the company, correct?

18 A Yes. I have quite a few thoughts. If you put the
19 document back up that's under question that you can't find the
20 email for, but once -- I have a device. I'm happy to forward
21 the email in.

22 While he's finding that, I will share what it is, because
23 Mr. Larin absolutely has it because that is a part of a folder
24 that still exists to this day of Google Docs. I just simply
25 went in and pulled it down. Not that one. The actual cash

Weaver - Direct

1 flow.

2 That was sent as a template by Mr. Flores, asking, is
3 this how you want this to be done? And the actual cash flow
4 is what came after that. That is the document you're trying
5 to get into evidence. Can you put that one up?

6 While he's doing this, Your Honor, I understand that you
7 do not do these kind of hearings.

8 THE COURT: Hold on a minute.

9 Mr. Collins.

10 MR. COLLINS: Yeah.

11 THE COURT: Hold on a minute.

12 Ms. Weaver, please don't speak to me directly.

13 THE WITNESS: I'm sorry.

14 THE COURT: Okay?

15 THE WITNESS: Yeah, yeah.

16 THE COURT: Mr. Collins, ask questions.

17 Ms. Weaver, answer questions.

18 THE WITNESS: Got it.

19 THE COURT: Let's stay to that, all right?

20 THE WITNESS: Okay. So this particular document was
21 the actual forecast. That was what actually went in. You
22 have the actuals to the left, and you have the forecast to the
23 right.

24 BY MR. COLLINS:

25 Q And have you seen this document before?

Weaver - Direct

1 A Absolutely. We all have. It's a part of the folder that
2 was created in every single week. Our interim CFO, Carlos
3 Flores, and our other team member would enter this in every
4 single week. I wasn't involved in the preparation of it, but
5 I most certainly saw it every single week, as did Mr. Larin.

6 Q And this is a business record of the company?

7 A And it still remains in the same Google Doc that is
8 shared by all of us to this day, Riveron, Uncle Nearest.

9 MR. COLLINS: I would move to have this into
10 evidence, Your Honor.

11 MS. LIGGINS: Your Honor, I still don't believe she's
12 laid the proper foundation for the admittance of this exhibit.
13 She has actually testified that she did not prepare it, that
14 she has an email that somebody else sent to her that is not --

15 THE WITNESS: No, no. That --

16 THE COURT: Hold on a minute. Ms. Weaver, listen,
17 when you're asked a question, answer it. Other than that,
18 nothing, okay?

19 THE WITNESS: Yes, sir.

20 THE COURT: Now go ahead.

21 MS. LIGGINS: Thank you, Your Honor. She has
22 testified that she did not prepare this document. She's
23 testifying about an email that is not in evidence. So I do
24 not think the foundation has been properly laid. I think the
25 same objection that I had before continues.

Weaver - Direct

1 MR. COLLINS: I think she has the ability to testify
2 as to this document as a legitimate business record. She's
3 the CEO of the company. This is a cash flow forecast that the
4 company prepared. I think the foundation is there. I think
5 even the foundation for her to testify to how this process
6 between exhibit, the exhibit to the Larin --

7 THE COURT: I understand your objection, and a lot of
8 good points. It's a little unconventional how we proceeded in
9 this hearing. The Court's going to admit this and give it the
10 weight that the Court thinks it deserves. But your objection
11 is overruled and I'm going to admit it. But let's move on.

12 MR. COLLINS: Thank you, Your Honor.

13 THE COURT: We've talked about this one a lot. Now I
14 imagine there are more important points you want to get to,
15 Mr. Collins.

16 BY MR. COLLINS:

17 Q And so let's talk about what might happen to this company
18 and where you see the company moving if the receivership were
19 terminated.

20 A Absolutely. Well, if I can go back to Mr. Severini's
21 testimony, until the beginning of January, we were never told
22 that there was a cash flow challenge at all. We were told the
23 exact opposite. Every cash flow forecast that has been
24 provided to me until the receiver stopped providing them
25 showed that we were cash flow positive. It's the same

Weaver - Direct

1 communication he has shared with everyone.

2 And it wasn't until December 10th, when it was the last
3 cash flow report I received, and after that I was advised that
4 unless I sign an NDA and agree not to file those cash flow
5 reports with the Court, it is the only way I would be able to
6 see cash flow reports.

7 So I sit here having only seen cash flow reports during
8 the entire receivership, sans the first portion of it where
9 the cash flow report was incorrect, and I contacted both Mark
10 and Tim because it was showing a loss of a million dollars.
11 It was incorrect because --

12 Q And you're talking about Mark Ruday and Tim Stone?

13 A Mark Ruday and Tim Stone. It was incorrect because --
14 and I think they're fantastic. However, they were running a
15 52-week run rate. That included an enormous amount of legacy
16 payments between the departure of our CFO in October and that
17 period of time.

18 For Mr. Severini, we began paying past-due payments of
19 payroll that we didn't know was outstanding while also keeping
20 up with the current payroll. And so if you're looking at all
21 of these additional payments that were being made during that
22 period of time, they had already been cut out by the time the
23 receivership came in. I had personally cut 40 percent of
24 expenses by the time he had come in, 40 percent that had been
25 realized. An additional 20 percent had already been cut by

Weaver - Direct

1 the time we got to October.

2 Q Let me ask you a question. In January, from all of 2025,
3 has Farm Credit provided any funding in terms of availability
4 on the credit line?

5 A No.

6 Q So everything that has happened in this company, at least
7 before '25 but certainly all of '25, that eight months, or six
8 or seven, eight months, was all done through company operating
9 cash flow?

10 A Absolutely, and because, as the testimony that you've
11 heard today, Uncle Nearest was continuing to grow. We were
12 continuing to outpace the market. We always have. We ran
13 into a very challenging time that I, as a CEO, was trying to
14 maneuver some uncharted waters for me, to say the least,
15 continuing to lead this company forward, continuing to grow
16 this company in a background that is challenging, but still
17 making sure that in the market we're growing, because if in
18 the market Uncle Nearest is beating the market when everyone
19 else is down or mostly everyone else is down, that makes our
20 company highly valuable. It makes us highly valuable to
21 refinance. It makes us highly valuable in order to sell.

22 At the time that the receivership began, the reason why
23 there were no lawsuits by any of our creditors, including our
24 payroll company, is we had made arrangements with every single
25 one, including TDG, and we were on time for all of them, as

Weaver - Direct

1 Mr. Severini has in his.

2 So, yes, it was a juggle, yes, it was tough, but I was
3 managing that, and our team was still continuing to grow the
4 brand and to grow the company. We cut the fat. We cut no
5 muscle. The receiver came in. He began insisting on things
6 that would cut muscle, slowing down the process.

7 So when we're talking about a material change, what has
8 happened from the time that the receivership began to what is
9 happening now, when it began, we were figuring out how to take
10 care of a lot of legacy payments, how to get Farm Credit
11 refinanced. That's what we were figuring out, but we were
12 doing it while still growing. The more we grow in a market
13 that is down, the more options we have. By putting the
14 receiver in, we lost every option.

15 Q And during 2025, did you make any payments? Did the
16 company make any payments to Farm Credit?

17 A Of course.

18 Q How much, about, approximately?

19 A In 2025, 7.5 million.

20 Q So \$7.5 million was paid down on the Farm Credit debt?

21 A Correct. In the period of time that -- their prior
22 testimony was that we were in default from January 2024 until
23 the time they filed. We spent, we paid Farm Credit \$16
24 million during that period of time.

25 Q Okay. And in terms of -- you know, we've seen the

Weaver - Direct

1 Nielsen data and the things dropping. How do you see the
2 company moving forward, if the receivership were terminated,
3 in terms of reversing that trend?

4 A It will be liquidated. He would have taken a very
5 healthy company that had a --

6 Q That's not my question. My question is if the
7 receivership is terminated.

8 A If it is terminated, if it is terminated today, say, for
9 instance, if it is terminated today and I walk out onto the
10 front of the courtroom steps and I simply put up a social
11 media post -- and the irony of this conversation about media
12 is I haven't said a single thing in the media since this began
13 because I never wanted to influence anything that was said in
14 the media.

15 But what I will say is that the Uncle Nearest consumer
16 still believes in me. The majority of Uncle Nearest
17 investors -- who ironically every single one of our largest
18 investors are actually connected to Danny Romano. That's how
19 we found him. They call him on a very regular basis to check
20 in. And the conversation has never been that Fawn makes the
21 company less valuable. It has always been, if she is not out
22 there and building this company, none of us are going to get
23 our money back.

24 Q Now, in terms of vendors, let's say the receivership were
25 terminated. Do you believe that the vendors that were working

Weaver - Direct

1 with you prior to the receivership would also work with you
2 after the receivership?

3 A Without question. If you take Advanced Spirits, for
4 instance, that just wrote a demand letter, that goes away.
5 MarcyPen's convertible note, that was based on the sale of my
6 own personal shares. They only triggered that because of the
7 receivership. That wasn't set to convert until 2030.

8 So you have a series of things that are showing as owed.
9 In their own financial report that they filed, it shows 17
10 million that's due to UN affiliates. Who are those
11 affiliates?

12 So we have all these numbers that if the receivership
13 isn't in place, the 10 million that we started off with, we
14 still get back to that 10 million or very close to it. But if
15 you're looking at all of the people that are now triggering
16 because I am no longer leading this company and a receiver who
17 told all of them that we were cash flow positive until the
18 first week of January, yes, they are absolutely upset and they
19 are absolutely triggering right now.

20 Q In terms of your role as CEO, what would you recommend as
21 the outcome of this hearing and why would that help benefit
22 the company?

23 A I would recommend as the outcome of this hearing -- I
24 can't say what the Court should do, could do. The only thing
25 I know for sure is, as quickly as that Nielsen trend went

Weaver - Direct

1 down, because the receivership began -- it wasn't the lawsuit.
2 The things that the bank claimed, there's a trial for that or
3 there's a hearing for that. We will do the counterclaims, all
4 of that.

5 But as consumers of Uncle Nearest, as they looked at it
6 and I was still in control, it is why the sales went up when
7 that happened, because they looked at it as Uncle Nearest is
8 under attack. Fawn Weaver is under attack. We've got to
9 support.

10 That support comes back. It has gone nowhere. The only
11 reason that Mr. Young gets the calls from investors is because
12 I stepped back from having those communications with them, not
13 wanting to interfere, because he believed that he could get
14 the loan refinanced.

15 Now that I understand that he's not going to get it
16 refinanced, that he ran a four-week process -- everyone's
17 interest was due on December 19th. He ran a four-week
18 process. It takes months to sell a brand in a healthy market.
19 Four weeks in this market, you're indicating to every
20 potential buyer this is a fire sale. And if I'm a PE company
21 or I'm a VC company and I know the value of Uncle Nearest, I
22 am going to absolutely cram down the value of it, offer
23 something incredibly low, flip it to another PE company
24 immediately, who flips it to another one immediately, who then
25 flips it to a big guy to kill it, because, outside of Tito's,

Weaver - Direct

1 Uncle Nearest is the first independent spirit brand to succeed
2 nationwide, hard stop.

3 Q Okay. In terms of your marketing and your efforts during
4 the receivership, have you slowed down at all in terms of
5 being out in the public and trying to still build a brand?

6 A The only slowdown has happened this year, because even
7 though they spoke about the fact that I travel the most, what
8 they left out is that I cost the least as well. And the
9 reason I cost the least is because I am a highly sought-after
10 speaker. At least I was before they put this cloud over me,
11 trying to paint fraud and misappropriation, which their own
12 records show is not true. When you do that, you lose speaking
13 engagements.

14 The reason why I had so many speaking engagements,
15 besides the fact that I only pay myself \$90,000 a year from
16 Uncle Nearest, but the reason I had so many is because we
17 timed them with going into markets for me to do GSMS, general
18 sales meetings, for me to do bottle signings, for me to -- so
19 they see me all over the country. But Uncle Nearest wasn't
20 paying for that. Whoever brought me in to speak was paying
21 for that.

22 MR. COLLINS: Your Honor, I know we're running out of
23 time, so I don't want to go long.

24 BY MR. COLLINS:

25 Q Are there any other things about the hearing today that

Weaver - Direct

1 cause you concern that the Court ought to know?

2 A I'm greatly concerned. We absolutely -- you have an
3 unbelievable amount of affidavits that were filed on
4 Wednesday, and if I were given the time, I could go one by one
5 and dispute every single one with evidence. But in an
6 environment where everything is crammed into one day, it's
7 absolutely impossible.

8 I wish I could. I sort of think that I have superpowers
9 in that regard, but it's just not reasonable. They labeled
10 their exhibits today when they got here, so there's no way to
11 prepare, to go back and say, okay, this exhibit, this -- so we
12 look like we're fumbling. But that was intentional. They
13 literally data-dumped with so many lies, and we can't -- we
14 don't have the ability or the time to dispute.

15 Mr. Larin going back and forth on his own document,
16 saying that he wasn't familiar with that cash flow, it's in
17 his folder. He created the folder. The folder exists to this
18 day. And the only way that you can put the things that they
19 put in the affidavits is that you are absolutely trying to
20 paint a picture that you cannot paint with the truth.

21 Through December 10th, the last cash flow report I
22 received from the receiver, every cash flow report is
23 positive, and it doesn't flip negative until potentially the
24 second week in February. And I told them then that they were
25 under-forecasting, and I knew they were under-forecasting

Weaver - Direct

1 because they're listening to Scott with Thoroughbred. And
2 Scott is fantastic, his team is fantastic, but they've never
3 worked with a brand our size.

4 They also have never worked with a brand whose consumer
5 base is the culture. For everyone who isn't a part of the
6 culture, the best way to describe the culture is everybody who
7 dances on two and four. So it's not just Black, it's, you
8 know, certain parts, certain Latinos. But that particular
9 consumer base where they keep going back to, bourbon is down,
10 bourbon is down, yes, bourbon is down, but the Uncle Nearest
11 consumer is not the bourbon consumer. The Uncle Nearest
12 consumer is the Uncle Nearest consumer.

13 If I had control -- now, I don't care about that.
14 Listen, we had the third-party investigation that was going
15 before the receiver came in.

16 MS. LIGGINS: Your Honor, what is the question?

17 MR. COLLINS: We're trying to -- I'm trying to speed
18 this up, Your Honor.

19 THE COURT: I'm going to give her a little bit of
20 latitude. So to the extent that that's an objection --

21 MS. LIGGINS: It is an objection.

22 THE COURT: -- which I assume it is --

23 MS. LIGGINS: Yes, Your Honor.

24 THE COURT: -- it's overruled. But let's -- yeah.

25 BY MR. COLLINS:

Weaver - Direct

1 Q So finish up.

2 A I don't even remember. Sorry.

3 But this is what I will say, and this is what I know for
4 sure, is there is not a single person in this room who has
5 built a brand the size of Uncle Nearest, that has worked with
6 the CPG brand in the spirits industry the size of Uncle
7 Nearest, an independent.

8 What we have done across this country has never been done
9 before. And to say that the larger spirit conglomerates would
10 love to get their hands on Uncle Nearest at a discount is an
11 understatement. So if Mr. Young is getting calls from people
12 saying that my involvement is harming the brand, that is
13 because I haven't gone away, and the Uncle Nearest consumer is
14 waiting to buy again the moment that they know that I am
15 leading the company.

16 So if I had an outcome -- and I don't even know what the
17 legal is, and you and I haven't spoken about this. But if I
18 had an outcome that I felt would be most beneficial to
19 allowing the company to grow, it is to put the company back in
20 my hands. If they want to prove fraud or misappropriation, by
21 all means, please do. You have access to every record that
22 exists. By all means, please do. But until you can actually
23 charge me with something or actually claim something against
24 me, do not kill my company in the process that I built with
25 every penny I have.

Weaver - Cross

1 Q You're not disputing that Advanced Spirits has a debt,
2 right?

3 A Well, let's be clear about -- no, no. You can't ask me a
4 question and -- let's be clear about what that debt is related
5 to.

6 THE COURT: Hold on, hold on, hold on, hold on. Ask
7 a question, answer the question. I don't want any arguing,
8 okay?

9 MS. LIGGINS: Yes, Your Honor.

10 THE COURT: You don't have to agree with the
11 question.

12 THE WITNESS: Yes.

13 THE COURT: But you answer the question.

14 THE WITNESS: Yes.

15 THE COURT: No back-and-forth.

16 BY MS. LIGGINS:

17 Q Do you dispute that Advanced Spirits has a debt?

18 A I can say that Advanced Spirits' debt is directly related
19 to the \$21 million in barrels you have said are missing. So
20 if the debt is due, the \$21 million in barrels that you-all
21 said were missing have somehow been found.

22 Q Do you dispute that MarcyPen has a debt?

23 A MarcyPen has a debt but only because the receivership
24 triggered it. MarcyPen had no intention of taking on debt.
25 And since you asked the question, let's talk about what that

1 MarcyPen debt is.

2 MarcyPen wanted to buy shares into the company. They had
3 no desire to do a convertible note, none whatsoever. I asked
4 them to do a convertible note because the shares that were
5 being sold were my personal shares. And I was putting 100
6 percent of the \$20 million, which you so wonderfully tracked
7 in your subordinated credit agreement, that every single penny
8 that I am now being said to have misappropriated is in the
9 document that you filed, showing that 100 percent of that
10 money went to Uncle Nearest.

11 But who was the owner of those shares? Me, Grant Sidney.
12 That 21 million was never meant to, was never meant to convert
13 into a loan. And if it hadn't been for the receivership, it
14 would not. And I guarantee if I make a phone call to them and
15 say, would you still like interest in the company instead of
16 the loan, we'll be able to work that out, like every other
17 vendor, every other relationship. The only relationship that
18 we had a challenge with, leading up to this, was Farm Credit,
19 the only one.

20 Q To the tune of \$100 million?

21 A To the tune of \$100 million. There's no question about
22 that.

23 Q Okay.

24 A But you're bringing in other vendors, and none of them --
25 or creditors -- had an issue. We had -- every single one was

Weaver - Cross

1 willing to work with us, every single one.

2 Q Everybody was working with you with their debt except for
3 MCA, except for Farm Credit?

4 A Correct.

5 Q Okay. And MarcyPen gave Uncle Nearest, what did you say,
6 \$20 million?

7 A It wasn't a gift.

8 Q A loan?

9 A I sold my shares, and it was done as a loan at my
10 request.

11 Q Okay.

12 A And it was only for tax purposes. It was never to be
13 treated -- they never intended it to be a loan. It was
14 because I was putting all 20 million back into Uncle Nearest.
15 I would have been taxed \$9.5 million, which the company would
16 have had to have covered this year. That didn't make any
17 sense for me to sell my shares, to put it into the company,
18 for the company to then have to pay a \$9.5 million capital
19 tax.

20 So I asked MarcyPen, instead of buying the shares, can we
21 do it as a convertible note, but what you're converting are my
22 personal shares? That is what is in the document that you
23 have; that if you don't have it, Mr. Young most certainly has
24 it, because he received it on the very first day that his
25 receivership began, and I walked him through what it was on

1 the very first day.

2 Q Okay. So they, MarcyPen, structured the \$20 million as a
3 loan to Uncle Nearest to prevent you from having tax
4 liability?

5 A To prevent Uncle Nearest from having to pay the tax
6 liability, because 100 percent of that 20 million was going
7 into the company. If I had sold it as they had requested, it
8 makes sense if that money is coming to me. But the money
9 wasn't coming to me. The money was being invested in Uncle
10 Nearest.

11 Q Okay. So then you moved the \$20 million. Is that why
12 you moved the \$20 million from Uncle Nearest to Grant Sidney,
13 because it was for your shares?

14 A No. Let's be very clear. Let's be very, very clear.
15 You have, you-all -- well --

16 Q When you say you, who are you talking about?

17 A Farm Credit.

18 Q Okay.

19 A That's who you represent, Farm Credit. But it was
20 specifically McGuire Woods. It was specifically your firm
21 that was quite aggressive during this window of time where
22 this money was being received, very aggressive. So along with
23 my board and financial advisors, we made the decision to make
24 sure that \$20 million coming in could not be snatched by you.

25 Q Okay. So that's why you moved it into a Grant Sidney

Weaver - Cross

1 account, because Farm Credit was being so aggressive about
2 wanting to collect its debt, so you moved it to an account so
3 FCMA couldn't get to it?

4 A No. Actually, that's not what happened. The reason --
5 it wasn't FCMA. I mean, you would have still had to file
6 things to get to it. It is that we were in the middle of
7 negotiating a forbearance agreement with you, and you were
8 telling us, you personally were telling us that we needed to
9 come up with \$40 million in two weeks or you were going to put
10 our company into receivership, a company that was otherwise
11 healthy in terms of the brand and the growth. And we were
12 trying to figure that out, but we needed to also make sure we
13 were able to operate our business, and that meant I needed to
14 bring in outside resources.

15 So, yes, we brought it into an account that was set up
16 solely for the transaction, has never been used before. And
17 you-all have these bank statements. It had never been used
18 before. It's never been used after. So the transfer was used
19 as a pass-through and a pass-through only.

20 The reason it came into Grant Sidney is they were my
21 shares, and I needed to make sure that we could continue
22 operating the company when you-all were clearly trying to harm
23 the company. Whether or not you think that's what you were
24 trying to do, that is effectively what was happening. And it
25 was my job, as a CEO and the person who built this company, to

Weaver - Cross

1 do anything and everything I could to make sure that my
2 company did not die over some past dealings with former
3 employees.

4 Q Got it. And so I heard you say that you are focused on
5 returning the investors back all their money?

6 A You heard me say that just now?

7 Q When you were testifying with Mr. Collins.

8 A That wasn't -- that's not what I said.

9 Q That's not your focus?

10 A That is not what I said.

11 Q Is that your focus?

12 A My focus is making sure that every creditor is paid off,
13 that every shareholder is made whole, and that Uncle Nearest
14 continues to grow, yes. But was that a part of testimony
15 today? No.

16 Q And what's your plan to pay FCMA?

17 A The same plan that we were working on when you rejected
18 the offer to pay off the debt, the same thing, because the
19 process that the receiver is running now, you will make less
20 money than you would have if you had accepted the offer from
21 our investor to begin with.

22 Q And you did testify that if you went to the courthouse
23 steps, all the other debt would go away, right?

24 A No, that's not what I testified. But I appreciate
25 your -- what I said is that if I went to the courthouse steps

Weaver - Cross

1 and said Uncle Nearest is back in my hands, every store with
2 Uncle Nearest across this country would sell out, the same
3 thing that happened when you filed the lawsuit. The moment
4 that happened, I went on social media and I said, I can't
5 really tell you-all what's going on right now because I'm
6 under a gag order. However, I need you to go across the
7 country and clear the shelves.

8 And, as Mr. Romano and any other distributor that will
9 attest to, I did one single post and every bottle of Uncle
10 Nearest across the country cleared out. However, you wouldn't
11 let us dump our barrels in order to replace the Uncle Nearest
12 in the market, so Uncle Nearest just began going out of stock
13 around the market because you believed that your barrels at a
14 liquidated price would make you more money than allowing Uncle
15 Nearest to make between 6,000 and \$8,000 a month on our
16 finished goods going out across the country.

17 So, yes, to answer your question. Do I believe that I
18 turn this company around and the valuation of this company
19 around if it is back in my hands? And, yes, if I did a single
20 post on the courthouse steps that said that? Yes, without
21 question. Those negative numbers that you see in the Nielsen
22 would turn black within 30 days. I am positive of that.

23 Q But it won't make the debt go away, will it, Ms. --

24 A It will not make the debt go away, but --

25 Q Wait. Wait. Let me finish.

Weaver - Cross

1 A I thought that was a question.

2 Q It won't make the debt go away because you do a social
3 media post, correct?

4 A Well, what it will do is it will build the valuation of
5 the company back so that when we're talking about what can
6 investors invest in, they're investing in a company that is
7 going against the entire market, that is growing against all
8 odds. We are able to tell investors this is the brand that
9 will still be here centuries from now. We're able to tell
10 investors this is the brand that can beat every other brand in
11 the market if it has what it needs. We can go out and we can
12 do that, and then you can be paid off. Yes, that does all
13 correlate.

14 Q How many investors do you have today?

15 A 212.

16 Q Do you have an accurate cap table?

17 A We do not. And you know why?

18 Q Yes.

19 A But would you like me to share why?

20 Q I would.

21 A Feel free to ask the question so I can answer it.

22 Q Oh, thank you.

23 THE COURT: Hold on a minute. That's going to stop
24 or this hearing is over with, okay? No back-and-forth.

25 Do you understand me?

Weaver - Cross

1 THE WITNESS: Oh, absolutely.

2 THE COURT: Do you understand me?

3 MS. LIGGINS: Yes, Your Honor.

4 THE COURT: All right. Let's be professional, and if
5 we can't be professional, this hearing is over.

6 THE WITNESS: Yes, sir.

7 BY MS. LIGGINS:

8 Q Why don't you have an accurate cap table?

9 A We do not have an accurate cap table because our former
10 CFO was selling shares on the market in the secondary, and
11 there are a lot of shareholders that purchased shares, many of
12 the shares belonging to me, in which he used forged stock
13 trade certificates in order to sell shares.

14 So do we have an accurate cap table based on what we knew
15 had come into the company? Absolutely. Do we have an
16 accurate cap table based on the secondary shares that were
17 sold? We do not. But we also were the reason for the
18 third-party investigation in which our board hired Duane
19 Morris, a top law firm, who then hired Kroll in order to do a
20 third-party investigation not just into our CFO but into our
21 CFO, the entire finance team, and into myself and into my
22 husband.

23 This was not a report that we were going to get; that we
24 were going to deliver to the board. It was going to be
25 delivered directly to the board. And if there was any

1 wrongdoing from my husband and I, based on what those
2 third-party results were, that would have been in there. But
3 that ended when the receiver came in, so they never, they
4 never finished. However, had they, we might have a more
5 accurate cap table, because that's what they were working on
6 as a part of their forensic investigation.

7 Q Understood. You heard some testimony probably earlier
8 about Chapter 11?

9 A What about it? Yes.

10 Q Have you considered -- did you consider filing Chapter 11
11 before the receivership was in place?

12 A I did not consider it because every single person who
13 recommended it, every single one said my cap table would be
14 wiped out. So the company would continue, but the cap table
15 would be wiped out, which means that every person who believed
16 in me, every person who invested in me would go to zero. I
17 wasn't willing to let that happen.

18 Q You also said you had been working on raising, you know,
19 capital, looking at other deals. You were doing that before
20 the receivership too, though, weren't you?

21 A What are you referring to? I haven't looked at raising
22 capital since this began because I can't -- I don't have
23 financials. We've asked for them over and over, and we've
24 either been met with silence or we've been told no.

25 Q Did you try to refinance before the receivership?

Weaver - Cross

1 A We didn't try to refinance. We had investors that were
2 willing to take the debt out, and those investors were turned
3 over to the receiver when that began. And they were all
4 interested in taking out the debt, and then they realized that
5 a fire sale was being run, so they participated in a fire
6 sale, as I would have if I were the investor.

7 MS. LIGGINS: Okay. No further questions, Your
8 Honor.

9 THE COURT: Thank you.

10 Do you have any questions?

11 MR. CAMPBELL: No questions, Your Honor.

12 THE COURT: All right. Thank you, Mr. Collins.

13 MR. COLLINS: Thank you, Your Honor.

14 THE COURT: Thank you, ma'am.

15 THE WITNESS: Thank you.

16 THE COURT: All right. Is that it, Mr. Collins?

17 MR. COLLINS: If we want to go to the motion to
18 clarify, I guess that's their motion.

19 THE COURT: He said he didn't want to pursue that,
20 just to proceed on the pleadings, so --

21 MR. COLLINS: We may be able to --

22 THE COURT: You can step down.

23 MR. COLLINS: I'm trying to think of the best way to
24 make this super short.

25 THE COURT: Well, I tell you what we're going to do.

1 If that's all of our proof, then the Court is going to take
2 that under submission. An order is going to be forthcoming.
3 I'm going to give you a little bit of direction on what I
4 would like from both sides before I decide this issue. And so
5 does that sound fair?

6 MR. COLLINS: That sounds good, Your Honor. I
7 appreciate all -- I know the timing of this was crazy, but I'm
8 glad we were able to work through it and get it done.

9 THE COURT: So I will put down an order that will
10 give you a timeline, and I will make some requests in that
11 order of what I will need from you-all. And it might include
12 if you want to submit some additional proof by affidavit for
13 the Court's consideration. The Court will consider it. So
14 that order will be forthcoming.

15 Until any further order of the Court, all existing orders
16 stay in place, so we're still proceeding as we did when we
17 came in here. I'll make a decision as quickly as possible.
18 I'll get that order down with some further directions quickly.
19 I'm going to put you on a quick timeline because I imagine you
20 want a quick answer to this, and then I'll turn an order, a
21 final order around with a final decision as quickly as I can.

22 Does that answer your question, Mr. Collins?

23 MR. COLLINS: Very good, Your Honor. Thank you.

24 THE COURT: But before you leave here today -- now,
25 and I'm not -- this statement is not intended to forecast a

1 decision. I haven't made a decision. But if I were to
2 terminate this receivership, that stay goes away, Mr. Collins.
3 You understand that, don't you?

4 MR. COLLINS: Understood, Your Honor. I understand
5 it very well, Your Honor.

6 THE COURT: If there are wolves at the door, they're
7 coming inside.

8 MS. WEAVER: Yes.

9 MR. COLLINS: Understood.

10 THE COURT: Ms. Weaver, do not speak out in court.

11 MS. WEAVER: I'm sorry.

12 THE COURT: Do you understand?

13 MS. WEAVER: Yes, sir.

14 THE COURT: All right. Anything else, Mr. Collins?

15 MR. COLLINS: Nothing, Your Honor.

16 THE COURT: Anything from the receiver?

17 MR. CAMPBELL: No, Your Honor.

18 THE COURT: Anything from Farm Credit?

19 MS. LIGGINS: Just one thing, Your Honor. I just
20 want to note our evidence is -- you know, we would like it to
21 be considered for both the clarification --

22 THE COURT: Yes, of course.

23 MS. LIGGINS: -- and the reconsideration, even though
24 we did not technically take the clarification up today.

25 THE COURT: It's been submitted on -- they requested

1 a hearing on it. I don't know that a hearing is necessary.
2 But I thought that I would, while I'm here, if there was
3 something out there that I was unaware of, but then
4 they've abandoned that. They haven't abandoned their motion.
5 They just abandoned the hearing on it. But, no, everything in
6 the record today and everything filed on both motions will be
7 considered for both.

8 MS. LIGGINS: Thank you, Your Honor.

9 THE COURT: All right. Anything else?

10 MR. COLLINS: And just so Your Honor knows, on the
11 motion to clarify, we were planning to have Mr. Weaver,
12 because he's the owner of a lot of these things, to give
13 testimony about alter ego and that type of thing. We're happy
14 to do that by affidavit if we need to, Your Honor.

15 THE COURT: All right. Thank you.

16 MR. COLLINS: Thank you.

17 (Court adjourned at 5:05 p.m.)
18
19
20
21
22
23
24
25

1 I, Aaron H. LaDuke, do hereby certify that I reported in
2 machine shorthand the proceedings in the above-styled cause,
3 and that this transcript is an accurate record of said
4 proceedings.

5 _____
6 s/Aaron H. LaDuke,
7 Official Court Reporter
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

1 APPEARANCES (continued):

2 For Farm Credit Mid-America, Stites & Harbison, PLLC
PCA: By: ERIKA R. BARNES, ESQ.
3 401 Commerce Street, Suite 800
Nashville, TN 37219

4
5 McGuireWoods, LLP
By: DEMETRA LIGGINS, ESQ.
6 845 Texas Avenue, Suite 2400
Houston, TX 77002

7 For United States Trustee: Office of United States Trustee
BY: TIFFANY DIIORIO, ESQ.
8 800 Market Street, Suite 114
Knoxville, TN 37902

9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

P R O C E E D I N G S

(Bracketed text indicates insertions as directed by the Court)

THE COURT: All right. Next on our docket are three new cases and a multitude of first day motions. I'll call, I'll go ahead and call them all and then I'll take appearances. And what I'm going to want is to address the two motions to dismiss first.

So Uncle Nearest, Inc. is 26-30470; Nearest Green Distillery, Inc. is 26-30471; Uncle Nearest Real Estate Holdings, LLC is 26-30472. And while I do have, including on the docket here today, a motion for administrative consolidation of those, they're not yet administratively consolidated. And so let me just call all the matters that are pending for today's hearing while everybody takes their seats.

In Uncle Nearest, Inc., we have a motion by Uncle Near -- by the -- by -- in all three cases, we have a motion by all three debtors for an order that would direct the joint administration of the case; a motion in all three to appoint or employ Kenneth Welt as a chief restructuring officer; an expedited motion by the receiver, Phillip Young, for dismissal or to recognize the receiver as an authorized representative of the debtors. I think there's also -- yes -- the motion by the debtor for authority to pay pre-petition wages; a motion by Farm Credit Mid-America, PCA to dismiss the cases or to appoint

1 Mr. Young as a chapter 11 trustee; a motion by the debtor for
2 interim authority to use cash collateral; motion by the debtor
3 to expedite the hearing on the motion for prepetition wages; a
4 motion by Farm Credit Mid-America to expedite the hearing on
5 its motion; a motion by the debtor to expedite hearing on its
6 motion to use cash collateral; and a motion by debtor to
7 expedite the hearing on the motion to employ.

8 I will grant all four of the motions to expedite the
9 hearings as they apply in each of the cases.

10 So let me start, then, by taking appearances. I will
11 note Ms. Holmes is here, as is Mr. Tarpy for all three debtors.

12 And let me take appearances over here on the other
13 side of the table

14 MR. CAMPBELL: From the, from the podium or the table,
15 your Honor?

16 THE COURT: For, just for this, from the table's fine.
17 Thank you for asking.

18 MR. CAMPBELL: Justin Campbell here on behalf of the
19 receiver, Phillip G. Young.

20 THE COURT: Good morning to both of you.

21 MS. BARNES: Good morning, your Honor. Erica Barnes
22 for Farm Credit Mid-America, PCA, along with Demetra Liggins of
23 McGuireWoods.

24 As a preliminary matter, your Honor, we do have a
25 pending *pro hac vice* motion for Ms. Liggins and would ask

1 permission for her to argue this morning.

2 THE COURT: I will grant that, yes.

3 MS. BARNES: Thank you, your Honor.

4 MS. LIGGINS: Thank you.

5 THE COURT: Ms. DiIorio is here for the U. S. Trustee.

6 Who else? Anyone else want to make an appearance?

7 (No response)

8 THE COURT: All right. And bear with me just one
9 moment, please.

10 (Pause)

11 THE COURT: All right. I have read all of the motions
12 with, with regard to the request for dismissal and as well as
13 the debtor's opposition. I've done extensive research already
14 and I will hear argument. But I want to also ask, with regard
15 -- and this really is a question probably directed best to
16 debtor's counsel -- with regard to the question of authority,
17 is there any dispute of fact or is it just a matter of
18 construing the receivership order and applying the law?

19 MS. HOLMES: Your Honor, there's, there's no dispute
20 of fact that the receivership order is in place and that it
21 says what it says. It is simply a matter of ensuring what the
22 language of that receivership order says and how the applicable
23 law interprets and ultimately results in the outcome that will
24 be had here today.

25 THE COURT: Okay. Thank you. That's helpful to frame

1 this.

2 So Mr. Campbell, if you want to go ahead and come up.

3 (Mr. Campbell complies)

4 THE COURT: What I want to hear is argument and if you
5 think there are any facts that are disputed that I should hear.
6 It strikes me that there are none, but I'm happy to hear if you
7 think -- 'cause I'm prepared to rule today after I hear this
8 argument, unless there's an issue of fact.

9 MR. CAMPBELL: Thank you, your Honor. Again, Justin
10 Campbell on behalf of the receiver, Phillip Young.

11 As a preliminary matter, we don't think there's any
12 significant facts at dispute. We think this is strictly just a
13 legal argument. And I'm going to make my presentation to the
14 Court pretty brief because, as the Court said, you've already
15 read everything. You, you've done your extensive research. So
16 there's just a few things that I want to highlight for the
17 Court as you're, as you're making your, your ruling.

18 Again, thank you for hearing it. I know this has been
19 a flurry, so I appreciate the Court's time, giving us some time
20 and on a couple days' notice.

21 Your honor, this is a Hail Mary by Ms. Weaver to try
22 to get an end around around Judge Atchley's receivership order.
23 We were here five weeks ago upstairs in front of Judge Atchley
24 for a seven-hour hearing on whether or not to remove the
25 receiver or, well, reconsider the receivership order and a

1 motion to extend the receivership to, to other entities. We,
2 we believe that the, that Judge Atchley was, understood our
3 argument, and we think this is another end around just to get
4 around that. Judge Atchley is still ruling. We've got, we had
5 some post brief, post-hearing briefing to do. And so Judge
6 Atchley, I think, is still working on his briefing.

7 But that's all this is, your Honor. It's forum
8 shopping. It's an attempt to step around the receivership.
9 Mr. Young was appointed receiver in, in August of 20, August 22
10 of '25, last year. And in that receivership order, the most
11 important, one of the most important sections of that
12 receivership order is that it says -- and it's paragraph 9 of
13 the receivership order which we've attached the motion -- it
14 grants the receiver the exclusive right to "all the powers of
15 the officers, directors, members, and managers of Uncle Nearest
16 and subject entities to take, to take his actions as necessary
17 on behalf of Uncle Nearest and subject entities each of Uncle
18 Nearest and the subject entities' rights and powers to act on
19 behalf of other entities, including, without limitation, each
20 subject entity to direct such other entity to take or refrain
21 from taking any action in furtherance of the terms of this
22 order."

23 The receivership order then goes on to give Mr. Young
24 the authority to file bankruptcy. And you're going to hear
25 argument likely today surrounding the 530 case, the 530

1 Donelson case of, of Judge Mashburn. And Mr. Young has
2 authority. He doesn't have -- the, the language exclusive is
3 not in the bankruptcy provision. But if you take that
4 paragraph with paragraph 9 from Judge Atchley's order, no one
5 else can sign the petition. No one else has the authority to
6 even push this, this case, these companies, into a bankruptcy.
7 It's just the receiver. It specifically sets out in the
8 receivership order in paragraph 10(b) what Mr. and Mrs.
9 Weaver's roles will be for the court. It says, "For the
10 avoidance of any doubt, this means Fawn and Keith Weaver may
11 continue to market Uncle Nearest's products and manage the
12 Uncle Nearest brand, subject to the receiver's supervision."
13 It's reducing the role of Ms. Weaver to marketing the company
14 under the receivership's position, under the receivership
15 supervision. And if there was any ambiguity as to how Judge
16 Atchley wanted this, this order interpreted, in December of
17 last year, Judge Atchley put down an order striking a response
18 that Mr. and Mrs. Weaver had filed on behalf, attempted to file
19 on behalf of the entities and a notice of appearance that was
20 attempted to be filed on behalf of the entities. Judge Atchley
21 again said the receiver is the only party that can, can
22 represent the companies here, doubling down on what was already
23 in the receivership order.

24 So at its core, your Honor, Ms. Weaver can't open a
25 bank account for the company. She can't sign a check for the

1 company. She can't file a tax return for the company. She
2 can't sign a board resolution for the company. But now
3 somehow, the debtors want you to believe that she has the
4 authority to sign a petition under the federal Bankruptcy Code.
5 I'll get into the -- I want to briefly touch on the bad faith
6 piece.

7 As the Court knows, there's no bright-line rule for
8 bad faith. We look at for cause.

9 THE COURT: Wouldn't I have to have an evidentiary
10 hearing on bad faith?

11 MR. CAMPBELL: You would, yeah. Yeah. I mean, I
12 think you can, you can look at what's been filed and take
13 judicial notice of what's there, then impart those actions.

14 But practically, your Honor, I think the most
15 important thing that I want to, to set with the Court is
16 there's a big -- there's -- this company's in limbo because of
17 the receivership order and the bankruptcy case. The receiver's
18 getting calls from employees, from creditors. Who's in charge?
19 We don't know. Who's, who do we take orders from? We don't
20 know. If, if this goes forward and they don't get cash
21 collateral, there's no payroll on Monday. They're not making
22 payroll on Monday. And this thing's cratering.

23 And so without some guidance from the Court and the
24 dismissal of these cases and putting the receivership back in
25 place, putting the receiver back in place, this is going to

1 cause catastrophic damage to the companies, so.

2 THE COURT: Can I -- your alternative request that I
3 declare that the receiver is the only authorized representative
4 of the debtors, is that akin to a 543(d) request that the
5 receiver, not as custodian, not be required to turn over
6 operations to the debtors?

7 MR. CAMPBELL: Correct. Correct, your Honor.

8 THE COURT: Okay.

9 MR. CAMPBELL: Yeah. We would -- it would
10 essentially, I mean, that's not the most practical or
11 advantageous approach because we'd be scrambling to try to get
12 this together. I think it's no secret that the receiver may
13 ultimately need to file a bankruptcy at some point for these
14 companies to, to run a potential sale through a 363 situation
15 to cleanse it. But we're not there. We, we haven't, we
16 haven't finalized a stalking horse. There's too many moving
17 parts, too many variables at this point to try to shoehorn the
18 receiver. Obviously, we're going to put that up. We're going
19 to put that request in there as, as a backup.

20 But our -- our immediate -- our, our main request is
21 that the Court dismiss the cases, so.

22 THE COURT: Thank you, Mr. Campbell.

23 MR. CAMPBELL: Thank you.

24 THE COURT: Before I give the debtors an oppor,
25 debtor's counsel an opportunity to respond, let's go ahead and,

1 and bring up Ms. Liggins to argue the motion that was filed
2 late yesterday on behalf of Farm Credit Mid-America.

3 MS. LIGGINS: Thank you, your Honor. Demetra Liggins
4 on behalf of Farm Credit.

5 I want to say at the outset we also do not believe
6 there's anything, factual issues present this morning. This is
7 just a matter of interpreting an order that has already been
8 entered by Judge Atchley in the district court and what that
9 order allows for Ms. Weaver, Fawn Weaver, to do.

10 I also don't want to rehash what Mr. Campbell said, as
11 we do agree with the argument about, you know, who has
12 authority. The receivership order did not just divest Uncle
13 Nearest with the ability to go into bankruptcy. The order is
14 just clear about who can put Uncle Nearest into bankruptcy.
15 And we believe that only the receiver has that ability. We are
16 the party that sought the receiver back in August, but Mr.
17 Young was the choice of the debtors.

18 THE COURT: I saw the footnote.

19 MS. LIGGINS: And to date, there's been no allegations
20 that he has operated or managed the prop, or, or managed the
21 company improperly. Instead, what we have had are many
22 iterations of wanting a do-over. And I think that this is the
23 latest do-over. We had a receiver put in place. Then we had a
24 motion for reconsideration. We had a, like he said, a seven-
25 hour hearing on the reconsideration. We were waiting for a

1 ruling. And in, in the midst of this, we have this. Our
2 position is there is only one person who can file the case.
3 That's Phillip Young. All of that authority lies with him.

4 Our position is, also, if the Court should disagree
5 this debtor, these debtors should not be in possession, then
6 there should be a Chapter 11 trustee. That trustee should be
7 Phillip Young. To appoint anyone else as a fiduciary of these
8 companies would cause disruption. We're in the middle, or the
9 receiver's in the middle of a sale process. It will confuse
10 the buyers. It will set us back months. We will lose all
11 types of money and time and resources.

12 There is also no dispute that we are the first
13 lienholder. We have a lien on substantially all of the assets.
14 So all operations and first day motions, they will require use
15 of cash collateral and that, we have a lien on cash collateral
16 and we have not consented to the use of cash collateral. We
17 have not even been contacted about if we would even provide any
18 consent or any terms.

19 So we think that this is a misuse of judicial
20 resources. We think that it is violent, that it violates the
21 district court order. There are guardrails under the
22 Bankruptcy Code for this purpose. You will note, your Honor,
23 there were no resolutions attached to the petition. I think
24 one of the reasons you'll see that there were no resolutions is
25 they don't have the ability to sign any resolutions because all

1 of that authority belongs to Mr. Young.

2 We know that there is a big dispute between Farm
3 Credit and these companies. That is undisputed. The
4 litigation is hard fought. It is longstanding. It is
5 expensive. What we are looking for is to put some finality to
6 that so that Mr. Young can do his job and we can actually move
7 forward with a reorganization strategy under the receivership.

8 THE COURT: All right. Thank you.

9 MS. LIGGINS: Thank you.

10 THE COURT: Does the U. S. Trustee have any position
11 that you'd want to state before the debtor's counsel?

12 MS. DIORIO: With regards to the --

13 THE COURT: It's hard to stand up there.

14 MS. DIORIO: Sorry, your Honor.

15 With regards to the authority, the U. S. Trustee takes
16 no position.

17 THE COURT: All right. Thank you.

18 All right. Ms. Holmes.

19 MS. HOLMES: Good morning, your Honor.

20 THE COURT: Good morning.

21 MS. HOLMES: This motion turns on a single issue,
22 whether the receivership order express, expressly divested the
23 debtors of authority to file bankruptcy. Of course, it's the
24 debtor's position that it did not. Under In re 530 Donelson,
25 the rule is clear. Appointment of a receiver does not

1 eliminate a debtor's authority to file bankruptcy unless the
2 order expressly says so. The order here does not prohibit the
3 debtors from filing, and it does not grant the receiver
4 exclusive authority. It simply authorizes the receiver to act.
5 Authorization is not exclusivity. The receiver relies heavily
6 on language granting him all powers of management, but that
7 governs operational control, not the separate federal right to
8 seek bankruptcy relief. Donelson makes clear that if a court
9 intends to divest that right, the order must do so clearly and
10 unmistakably.

11 THE COURT: But for the receivership, Ms. Holmes, who
12 would have authority to put these debtors in bankruptcy?

13 MS. HOLMES: Fawn Weaver, your Honor.

14 THE COURT: By herself?

15 MS. HOLMES: Well, the, the corporate board structure,
16 they would sign off on it, but --

17 THE COURT: Right. In fact, the, the Tennessee Code
18 makes clear that a corporation or an LLC, corporation acts
19 through its, its board. And the LLC acts through its either
20 members or its board, depending upon how it's set up and how
21 it's managed. But here, she's acting alone, is she not?

22 MS. HOLMES: She is acting alone, your Honor, but that
23 is simply because of the nature of the receivership has
24 prohibited her from doing --

25 THE COURT: How so?

1 MS. HOLMES: -- anything other --

2 THE COURT: Why is that?

3 MS. HOLMES: Because she doesn't have the authority to
4 do exactly what you're hinting at. But the corporate
5 formalities are impacted by the receivership and a lack of --

6 THE COURT: And the corporate formalities by the
7 receivership have been exclusively vested in the receiver, have
8 they not?

9 MS. HOLMES: They have, which is separate from the
10 federal right to file a bankruptcy, not --

11 THE COURT: Yes. And, and what about this
12 receivership order precludes the debtor from filing bankruptcy?

13 MS. HOLMES: Your Honor, can you repeat your question?

14 THE COURT: What about the receivership order
15 precludes the debtor from filing bankruptcy?

16 MS. HOLMES: You're saying in the case that it does?

17 THE COURT: No. I hear you --

18 MS. HOLMES: It --

19 THE COURT: -- say it does. Does it? It doesn't. In
20 fact, the receiver has the authority -- the, the debtor is not
21 divested. The debtors are not divested of authority to file
22 the bankruptcy case. That authority is in the receiver.

23 MS. HOLMES: Your Honor, the exclusive authority to
24 file a bankruptcy was not divested. The exclusive authority --
25 I, I do understand what you're saying, but --

1 THE COURT: But, but what I'm saying, what I'm asking
2 you to acknowledge or not, and explain, if your answer is no,
3 the receivership order does not preclude these debtors from
4 being in bankruptcy, is that right?

5 MS. HOLMES: That's correct.

6 THE COURT: Okay. So then your argument and all these
7 cases that talk about state court, by the way, receivership
8 orders that don't leave an avenue for a debtor to be in
9 bankruptcy, that's not applicable here, is it?

10 MS. HOLMES: Your Honor, well, it is. So the
11 receivership order under Donelson must exclusively divest the
12 authority from the corporate board to file a bankruptcy. That
13 language is not present in the receivership order. It grants
14 the receiver authority to file a bankruptcy, but not the
15 exclusive authority. And Donelson makes clear that if a court
16 intends to divest that right, it has to state that expressly.
17 It didn't.

18 THE COURT: It did exclusively vest all corporate
19 governance authority in the receiver, though, did it not?

20 MS. HOLMES: Yes, but even under Donelson, they, they
21 view those things as, as separate matters. It was the same in,
22 in Donelson.

23 THE COURT: Well, it wasn't exactly the same. It was
24 a very -- I'll get to that eventually. But, but Judge Mashburn
25 in Donelson noted that it was just a standard receivership,

1 state receivership order, without those kinds of express
2 provisions. And it, it vested rights in the receiver, but it
3 did not divest rights from the governing body in 530 Donelson.

4 MS. HOLMES: Well, then I think that leads us to a
5 point that didn't have to be fleshed out in Donelson, which was
6 the issue of preemption and I --

7 THE COURT: We've got a federal court here.

8 MS. HOLMES: I under --

9 THE COURT: Why are we preempted? It's federal law.

10 MS. HOLMES: That's rooted in state law. The
11 receivership and all of his controls that he has been granted
12 by the receivership order, they're all rooted in state law.

13 THE COURT: Okay. Well, if that's -- that's where I
14 thought you were going, was preemption. But this receivership
15 order doesn't say that the debtors may not file bankruptcy. It
16 says that the receiver has the right to file a bankruptcy
17 petition. So why, how is there any preemption? It's not as if
18 you have a court of any sort, federal or state, that's saying
19 you can't file bankruptcy. That's not what we have here.

20 MS. HOLMES: Well, to, to prohibit -- as, as the
21 receiver stated, he's, he's planning on putting, according to
22 his words, the, the case in a bankruptcy at some point. And we
23 are here today -- the debtor -- any order to prohibit a
24 bankruptcy filing would raise serious federal questions.

25 THE COURT: But it doesn't prohibit a bankruptcy

1 filing.

2 MS. HOLMES: By the, by the debtor and --

3 THE COURT: It doesn't prohibit a bankruptcy filing by
4 the debtor. Show me, show me where.

5 MS. HOLMES: Your Honor --

6 THE COURT: It expressly authorizes a bankruptcy
7 filing by the debtor under the authority of the receiver.

8 MS. HOLMES: Then I have to circle back to the fact
9 that under Donelson that -- I'm, I'm going to parrot myself.
10 If the corporate board is to be divested of their authority to
11 file a bankruptcy, then in the bankruptcy section of the
12 receivership order, it should have explicitly stated that.

13 THE COURT: I understand your argument,

14 MS. HOLMES: Your Honor, and on, on the same point,
15 and then I'll move on from the authority section, but courts
16 know how to remove officers, restructure governance, and
17 expressly prohibit filings. And it, it did not do that here.
18 I'll touch --

19 THE COURT: It didn't remove officers?

20 MS. HOLMES: Not to our knowledge, your Honor.

21 THE COURT: How about paragraph 9? Doesn't it
22 expressly vest exclusively all of the powers in the receiver?
23 Isn't that exactly what paragraph 9 does?

24 "The receiver shall be exclusively vested with (a) all
25 of the powers of officers, directors, members and/or

1 managers, as applicable, of Uncle Nearest and the
2 subject entities to take or refrain from taking any
3 and all actions on behalf of Uncle Nearest and the
4 subject entities."

5 Isn't that replacing? And don't, aren't there
6 numerous cases that say when the receivership order replaces
7 the officers, directors, etc., then the receiver has the
8 authority, the full authority --

9 MS. HOLMES: For operation --

10 THE COURT: -- and the others don't?.

11 MS. HOLMES: For operational control. Yes, that's
12 correct, your Honor.

13 THE COURT: Okay. Go ahead.

14 MS. HOLMES: I'll touch briefly on the, the bad faith
15 issue, even though the Court's already noted that that would
16 have to be evidentiary.

17 On bad faith, the Sixth Circuit requires a totality of
18 the circumstances analysis under Lacuna and Trident. Those,
19 those factors aren't present here. Aside from there being a
20 receivership order in place, these are operating businesses,
21 not single-asset entities. They're not newly created. And
22 it's not a two-party dispute. Your Honor, the, the bankruptcy
23 filing is not an attempt on the debtor's behalf to evade
24 anything. It was necessary to step, a necessary step to
25 preserve the value and to stabilize operations. In the exhibit

1 that we uploaded with our response to the motion to dismiss,
2 you can see there's been a decline in the gross revenue of the
3 business since the receivership has, has taken over. As the
4 receiver stated, he's not prepared to move forward with the
5 bankruptcy, but the debtor is. We've assembled a team and we
6 have our chief restructuring officer and a team of accountants,
7 forensic accountants, that are prepared to transparently
8 operate this business under the laws of the federal Bankruptcy
9 Code.

10 THE COURT: Thank you.

11 Mr. Campbell.

12 MR. CAMPBELL: Thank you, your Honor.

13 I was, I was prepared to get up here and help the
14 Court see the differences between Judge Mashburn's ruling in
15 530 in the current situation, but I think the Court understands
16 that. It's a great ruling. Judge Mashburn did a great job
17 with the opinion, but it's just different than the facts we
18 have here. So I, I won't belabor that point.

19 The only thing I wanted to point out to the Court is
20 this argument about sales dropping. Judge Atchley heard that
21 for seven hours. That's what we talked about for seven hours,
22 was the sales dropping, the sales dropping. I would like to
23 remind the Court that through the entire receivership, the
24 receiver hasn't missed payroll. The receiver has stabilized
25 the company. The receiver has settled down all of the stormy

1 waters that had occurred prior to the receivership.

2 So with that, your Honor, unless the Court has
3 questions, that's all I have.

4 THE COURT: Ms. Liggins, anything further from you?

5 MS. LIGGINS: Nothing further, your Honor.

6 THE COURT: All right. So what we have is the
7 receiver's grounds for the motion are:

8 No. 1, Ms. Weaver lacked authority to file the
9 petition so that the court lacks subject matter jurisdiction;

10 No. 2, the petition was filed in bad faith; and

11 No. 3, alternatively, essentially, what we've fleshed
12 out this morning is that the receiver would say under 543(d),
13 if the case continues, he should not be or should be relieved
14 from the requirement of 543(a) and (b).

15 Farm Credit Mid-America's grounds for dismissal:

16 No. 1, Ms. Weaver's not authorized to file the
17 petition on behalf of the debtors under the provisions of the
18 receivership order that exclusively vested with the receiver
19 all the powers of corporate authority, including the authority
20 to file a bankruptcy petition. Even if the receivership order
21 didn't divest the board of authority, Ms. Weaver lacked
22 authority because she's provided no evidence of corporate
23 resolution;

24 No. 2, the petition was filed in bad faith; and

25 No. 3, alternatively, the receiver should be appointed

1 as a chapter 11 trustee. And I'll note for that I don't have
2 authority to pick the chapter 11 trustee if one were to be
3 appointed.

4 Everybody has consented that there is no factual issue
5 as to the authority portion of these motions to dismiss, that
6 it's a matter of my interpreting the receivership order and the
7 law that applies.

8 Debtor's opposition is that it's not an issue of
9 subject matter jurisdiction, first of all, and the debtors
10 argue that there's controlling Sixth Circuit authority, notably
11 citing to the 530 Donelson case, which is not controlling on
12 this court. Nonetheless, I have reviewed that case and we'll
13 go into it momentarily, along with the cases on which it
14 relied, including the Sixth Circuit case from a hundred years
15 ago, that would be controlling authority if it were on all
16 fours. And the debtors also argue that even if the
17 receivership order gave the receiver exclusive authority, that
18 would raise federal preemption concerns.

19 So I will start with -- and I have not actually
20 drafted a bench opinion. So pardon, please, my going back and
21 forth between cases and documents and such, but this is going
22 to be the bench opinion. And I'll enter an order that will not
23 otherwise transcribe this bench opinion.

24 So first of all, subject matter jurisdiction is a
25 threshold issue. "Corporate authority to file a bankruptcy

1 petition, while necessary, does not impact a bankruptcy court's
2 subject-matter jurisdiction." In re The Phoenix Fund LLC, [No.
3 26-00712 (ESL), 2026 WL 693114, at *7 (Bankr. D.P.R. Mar. 11,
4 2026) (quoting Talon Diversified Holds. Inc. v. Forsythe (In re
5 Parks Diversified, L.P.), Nos. 24-5516, 24-5517, 24-5911, 24-
6 5918, 24-5920, 24-6314, 24-6638, 2026 WL 588285, at *10 (9th
7 Cir. Mar. 3, 2026))], out of the District of Puerto Rico from
8 March 11 of 2026, 2026 WL 693114. And it's quoting In re Parks
9 Diversified, L.P., which is from the Ninth circuit also this
10 month, March 3rd of 2026, at 2026 WL 588285.

11 So the question then is does Price v. Gurney, 324 U.S.
12 100, from the Supreme Court (1945), provide a rule of subject
13 matter jurisdiction when there's a lack of authority? The
14 Ninth Circuit, as I indicated, just ruled on March 3rd that it
15 does not. And here's a long quote from the Parks Diversified
16 opinion, again 2026 WL 588285, at *7-8:

17 "In Price, the Supreme Court expounded on the
18 principle that 'the initiation of bankruptcy
19 proceedings, like the run of corporate activities, is
20 left to the corporation itself, that is, to those who
21 have the power of management.'"

22 And that's quoting the Price case.

23 "The Court held that the" -- the Supreme Court held
24 that "The district court could not entertain Gurney's
25 claims because if the district court determined that a

1 bankruptcy petition was filed without corporate
2 authority, 'it had no alternative but to dismiss the
3 petition.'

4 The Court couched its ruling in jurisdictional terms,
5 using that language that Appellants repeatedly
6 emphasize in their opening brief in the Ninth Circuit
7 case. The Court stated that there was 'no basis of
8 federal jurisdiction'" -- that's true. That is what
9 Price v. Gurney said -- "and that 'under the
10 Bankruptcy Act the power of the court to shift the
11 management of a corporation from one group to another,
12 to settle intracorporate disputes, and to adjust
13 intracorporate claims is strictly limited to those
14 situations where a petition has been approved.' It
15 further explained that 'nowhere is there any
16 indication that Congress bestowed on the bankruptcy
17 court jurisdiction to determine that those who in fact
18 do not have the authority to speak for the corporation
19 as a matter of local law are entitled to be given such
20 authority and therefore should be empowered to file a
21 petition on behalf of the corporation.' At bottom,
22 the Court stated:

23 Any such enlargement of the jurisdiction of the
24 bankruptcy court is for Congress. It has chosen to
25 withhold from stockholders the right to institute

1 these bankruptcy proceedings. In the absence of
2 federal incorporation, intracorporate disputes of the
3 character presented here are, as we have said,
4 governed by state law. The creation of a new basis of
5 federal jurisdiction to hear them, pass on their
6 merits, and adjudicate them is a legislative act.
7 Now on its surface" -- again, I'm still quoting from
8 the Ninth Circuit -- "this language may sound like the
9 Price Court made a jurisdictional ruling. But there
10 are at least two compelling reasons why the rule
11 announced by the Supreme Court in Price should not be
12 considered jurisdictional.

13 First, the more recent Supreme Court jurisprudence has
14 walked back so-called 'jurisdictional' decisions like
15 Price, and that jurisprudence cuts against the theory
16 that Price is jurisdictional. 'Jurisdiction,' it has
17 been observed, 'is a word of many, too many,
18 meanings.'" [(quoting Steel Co. v. Citizens for a
19 Better Env't., 523 U.S. 83, 90 (1998) (quoting United
20 States v. Vanness, 85 F.3d 661, 663 n.2 (D.C. Cir.
21 1996)).]

22 And there's lots of quotations from Supreme Court cases. If
23 this matter is transcribed, I will edit the transcript to
24 include all of the proper citations.

25 "Courts, including the Supreme Court have been less

1 than meticulous' in the use of that word. They've
2 often referenced requirements as 'jurisdictional' when
3 those requirements lack the potency of a rule of
4 subject-matter jurisdiction and are more properly
5 characterized as claims-processing rules or elements
6 of causes of action. [Kontrick v. Ryan, 540 U.S. 443,
7 454 (2004); see also Arbaugh v. Y&H Corp., 546 U.S.
8 500, 511 (2006) ("Subject matter jurisdiction in
9 federal-question cases is sometimes erroneously
10 conflated with a plaintiff's need and ability to prove
11 the defendant bound by the federal law asserted as the
12 predicate for relief—a merits-related determination."
13 (citation omitted)).]

14 Over the last four decades, the Court has consistently
15 explained that many of its prior passing references to
16 'jurisdiction' do not, in fact, mean 'subject matter
17 jurisdiction.' [See, e.g., Arbaugh, 546 U.S. at 511;
18 Kontrick, 540 U.S. at 454; *Henderson ex rel. Henderson*
19 *v. Shinseki*, 562 U.S. 428, 435 (2011); Reed Elsevier,
20 Inc. v. Muchnick, 559 U.S. 154, 161 (2010); Boechler,
21 P.C. v. Comm'r., 596 U.S. 199, 203-04 (2022); Zipes v.
22 Trans World Airlines, Inc., 455 U.S. 385, 395-97
23 (1982); Wilkins v. United States, 598 U.S. 152, 156-57
24 (2023); Steel Co., 523 U.S. at 90-91.] It has also
25 more clearly articulated a standard for whether a rule

1 really is 'jurisdictional': it is 'jurisdictional only
2 if Congress 'clearly states' that it is. [Boechler,
3 596 U.S. at 203 (quoting Arbaugh, 546 U.S. at 515).]
4 Congress need not 'incant magic words,' but the
5 'traditional tools of statutory construction must
6 plainly show that Congress imbued a procedural bar
7 with jurisdictional consequences.' [Id. (first
8 quoting Sebelius v. Auburn Reg'l Med. Ctr., 568 U.S.
9 145, 153 (2013); and then quoting United States v.
10 Kwai Fun Wong, 575 U.S. 402, 410 (2015)).]
11 The Supreme Court's Arbaugh case provides particularly
12 helpful instruction here. There, the Court decided
13 whether the requirement in a Title VII of the Civil
14 Rights Act of 1964 that an employer have 'fifteen or
15 more employees' to be an 'employer' under the statute,
16 is a rule of subject-matter jurisdiction, or 'a
17 substantive ingredient of a Title VII claim.'
18 [Arbaugh, 546 U.S. at 503.] The Court in Arbaugh
19 determined that the latter is correct. [Id. at 504.]
20 Although federal-question jurisdiction requires that a
21 case 'arise' under federal law (and Title VII doesn't
22 apply if the employee-numerosity requirement is
23 unsatisfied), [id. at 513 (quoting 28 U.S.C. § 1331),]
24 the Court explained that 'nothing in the text of Title
25 VII indicates that Congress intended courts, on their

1 own motion, to assure that the employee-numerosity
2 requirement is met.' [Id. at 514. . . .]

3 Second, other principles cut against the theory that
4 Price is jurisdictional. 'Subject-matter
5 jurisdiction, because it involves a court's power to
6 hear a case, can never be forfeited or waived.' [Id.
7 (quoting United States v. Cotton, 535 U.S. 625, 630
8 (2002)).] Treating the authority-to-file issue as
9 jurisdictional is incompatible with that fundamental
10 rule. Under California law, for instance, 'an agency
11 may be created, and an authority may be conferred, by
12 a precedent authorization or a subsequent
13 ratification.' [Cal. Civ. Code § 2307 (emphasis
14 added).] And, in general, 'the effect of a
15 ratification is that the authority which is given to
16 the purported agent relates back to the time when he
17 performed the act.' [Rakestraw v. Rodrigues, 500 P.2d
18 1401, 1405 (Cal. 1972).] If an unauthorized person
19 filed a voluntary bankruptcy petition purportedly on
20 behalf of a corporation, the corporation could ratify
21 the filing, and the authority would be treated as
22 having existed at the time of the filing. But that
23 effectively amounts to a waiver of the Price rule,
24 which further evinces that the rule is not
25 jurisdictional."

1 In In re Chicago South Loop Hotel Owner, LLC, No. 25-
2 12829, 2026 WL 690868, at *1 n. 3 [(Bankr. N.D. Ill. Mar. 10,
3 2026),], the bankruptcy court for the Northern District of
4 Illinois on March 10, 2026 noted:

5 "Several circuit courts have recently weighed in on
6 whether a lack of authority to file impacts a
7 bankruptcy court's subject matter jurisdiction. The
8 Seventh Circuit has not addressed this issue, but
9 others have." [See In re Parks Diversified, L.P.,
10 2026 WL 588285 (9th Cir., March 3, 2026); New Haven
11 Radio, Inc. v. Meister (In re Marin-Trigona), 760 F.2d
12 1334, 1340 (2nd Cir. 1985); Protopapas v. Brenntag AG
13 (In re Whittaker Clark & Daniels Inc.) 152 F.4th 432,
14 443 (3rd Cir. 2025).]

15 And that case cites to In re Parks Diversified from the Ninth
16 Circuit; New Haven Radio, Inc. v. Meister (In re Marin-
17 Trigona), 760 F.2d 1334, 1340, from the Second Circuit 1985);
18 and Protopapas v. Brenntag AG, which is In re Whittaker Clark &
19 Daniels Inc., 152 F.4th 432, 443, from the Third Circuit, 2025.

20 "This court finds that it even if it does not have
21 subject matter jurisdiction, it is not needed to enter
22 an order dismissing this case under 11 U.S.C. Section
23 1112(b)(1)."

24 And I find the same.

25 Although the Sixth Circuit has not addressed -- that's

1 the end of the quote, by the way, from the Ninth Circuit case.

2 Although the Sixth circuit has not addressed the
3 direct question, it has taken an approach similar to the
4 approach of the Ninth Circuit by recognizing that "the Supreme
5 Court has been rigorous and vigorous in distinguishing between
6 requirements that go to the subject matter jurisdiction of the
7 federal courts and requirements that are mandatory." That's
8 from Tennial v. REI Nation, LLC (In re Tennial), 978 F.3d 1022,
9 1025 [6th Cir. 2020).] The court acknowledged Justice
10 Ginsberg's "trailblazing unanimous decision for the Court that
11 created a clear-statement rule for the daunting array of
12 settings in which the question arises. Congress must 'clearly
13 state' that the requirement implicates the judiciary's subject
14 matter jurisdiction - its 'statutory or constitutional power to
15 adjudicate the case' - before the federal courts will treat the
16 requirement as a nonwaivable and non-forfeitable jurisdictional
17 imperative." [Id.] In Tennial, the Sixth Circuit applied that
18 principle to disagree with other circuits on the issue of
19 whether the 14-day appeal deadline in Bankruptcy Rule 8002 is
20 jurisdictional, holding that it is not.

21 Based on the Sixth Circuit's decision in Tennial, the
22 Ninth Circuit's decision in Parks Diversified, and the Third
23 Circuit's decision in Whittaker Clark & Daniels Inc. (stating
24 that "The statutes granting federal courts jurisdiction over
25 bankruptcy cases do not attach jurisdictional significance to

1 the propriety of a debtor's petition."), the court finds that
2 even if Ms. Weaver lacked authority to file the petitions, the
3 court is not deprived of subject-matter jurisdiction.

4 Under Price, the court must look to state law to
5 determine who has authority to file a bankruptcy petition.
6 Such authority may be exercised by the individuals who have
7 management control of a corporation. Tennessee Code Annotated
8 Section 48-18-101 requires each corporation to have a board of
9 directors, and "all corporate powers shall be exercised by or
10 under the authority of, and the business and affairs of the
11 corporation managed under the direction of, its board of
12 directors, subject to any limitation set forth in the charter."
13 Under Tennessee Code Annotated Section 48-238-101, the powers
14 of an LLC are exercised by or under the authority of, and the
15 business and affairs of the LLC shall be managed by or under
16 the direction of, its members, if member-managed, or its board
17 of governors, if board-managed.

18 Here the receivership order unequivocally divested Ms.
19 Weaver of any authority, with a small exception that I'll
20 reference in a moment, by exclusively vesting the receiver with
21 "(a) all the powers of officers, directors, members
22 and/or managers as applicable of Uncle Nearest and the
23 subject entities; to take (or refrain from taking) any
24 and all actions on behalf of Uncle Nearest and the
25 subject entities; and

1 (b) Each of Uncle Nearest and the subject entities'
2 rights and powers to act on behalf of any other
3 entity, (including as an officer, director, manager,
4 equity holder), including, without limitation, each
5 subject entity to direct such other entity to take (or
6 refrain from taking) any action in furtherance of the
7 terms under this order, in each case, until further
8 order of the Court."

9 That paragraph unequivocally divests anyone except the
10 receiver by exclusively vesting in the receiver all rights of
11 governance of the receivership entities, which are debtors
12 here.

13 Now paragraph 10(b) -- that was paragraph 9 of the
14 receivership order. Paragraph 10(b) authorizes the receiver to
15 direct the debtors and their officer and "each of their
16 officers, directors, partners, managers, agents, servants,
17 employees, representatives, attorneys, and all persons in
18 active concert or participation with them who receive notice of
19 this order by personal service or otherwise, to continue to
20 manage all of the ordinary course operations of Uncle Nearest
21 and the subject entities."

22 So that sentence allows the receiver to authorize,
23 empower, and direct all of those people to continue to manage
24 ordinary course operations. Clearly, the filing of the
25 bankruptcy petition is not an ordinary course operation.

1 Furthermore, paragraph 10(b) goes on to say, "For the
2 avoidance of any doubt, this means Fawn and Keith Weaver may
3 continue to market Uncle Nearest products and manage the Uncle
4 Nearest brand, subject to the receiver's supervision." The
5 filing of a bankruptcy petition is not marketing the products
6 or managing the brand, and even if it is, it's subject to the
7 receiver's supervision.

8 Now to continue looking at the receivership order and
9 its provisions concerning bankruptcy, that is found in
10 paragraph 10(q) on page 12 of the order, and it says that, "The
11 receiver is authorized to commence a proceeding under Title 11
12 of the United States Code on behalf of Uncle Nearest and the
13 subject entities." If that provision were not in this
14 receivership order, the receiver would not have been vested
15 with the authority, arguably, to file a bankruptcy petition.
16 Much like in a power of attorney, if the power of attorney does
17 not reflect that the attorney-in-fact has the authority to file
18 a bankruptcy petition, then there is no authority to file a
19 bankruptcy petition under that document. And so here, this
20 provision is simply indicating that the receiver is authorized.
21 The receiver, who has the exclusive vesting of all powers of
22 the, of the organizations, is also authorized to commence a
23 proceeding under Title 11.

24 Now there is also injunctive language and language
25 that in paragraph 10(d) that says, "The receiver shall retain

1 sole and exclusive possession of each of the assets." Putting
2 a debtor in bank -- putting an entity in bankruptcy would
3 obviously override that provision.

4 There's also this injunction in paragraph 11 that's
5 pretty clear that you can't impair any assets, you can't
6 obstruct or prevent in any way the receiver's actions under the
7 order, which, by the way, filing a bankruptcy petition would be
8 impairing the receiver's right to file a bankruptcy, or
9 interfere in any other way with the receiver directly or
10 indirectly.

11 So I want to address the cases and there are many of
12 them, some of which you all didn't cite and many of which that
13 you did. And so I want to -- this is, this is going to be,
14 perhaps, not very articulate or artfully articulated, but I
15 want to walk through these cases and explain why they govern my
16 decision today, which will be to grant the motions to dismiss.

17 The first case, and this was cited by the receiver, is
18 In re Licores, which is Licores -- it's a liquor store versus a
19 court-appointed receiver. And this is 2013 WL 6834609. And
20 this is a district court affirming the bankruptcy court,
21 Central District of California, from December 20th of 2013. It
22 was an appeal of the bankruptcy court's order that dismissed
23 the bankruptcy case. There was a state court receiver
24 appointed. And now I will say that in this case, the case
25 expressly quotes not only language that gave the receiver the

1 authority to file a bankruptcy, but expressly divested,
2 specifically, the power to file a bankruptcy from anyone else.

3 I read our receivership order here as akin to that
4 because it exclusively vested in the receiver all corporate
5 authority. "The receivership order" -- I'm quoting from the
6 Licores case -- "does not divest debtor from its power to seek
7 bankruptcy protection," which is an issue raised by the debtors
8 here in opposition to these motions.

9 "Rather, the order identifies who has the power to
10 file the bankruptcy petition on behalf of the debtor.
11 As the Supreme Court stated in Price:

12 'Nowhere is there any indication that Congress
13 bestowed on the bankruptcy court jurisdiction to
14 determine that those who in fact do not have the
15 authority to speak for the corporation as a matter of
16 local law are entitled to be given such authority and
17 therefore should be empowered to file a petition on
18 behalf of the corporation.' [Price, 324 U.S. at 107.]
19 Thus, the receivership order does not run contrary to
20 Congress's right to enact uniform laws or bankruptcy
21 or to change the application of bankruptcy laws to
22 debtors."

23 [Id. at *6.]

24 As here, "The receivership order does not preclude
25 debtor from availing itself of bankruptcy protection, but only

1 restricts who may file the petition on its behalf. If the
2 receiver determines that it is in the best interest of debtor
3 to file bankruptcy, receiver has the power to do so." [Id.]

4 That exactly, that statement exactly applies here.
5 And I will also note that Ms. Weaver lacked authority under
6 state law to file this bankruptcy petition, even if there
7 wasn't a receiver because she can't do it on her own under
8 Tennessee law.

9 The next case is Citizens & Northern Bank v. Pembroke
10 Pines Mass Media[, N.A., Corp., No. 09-CV-6385-CJS, 2012 WL
11 1119755 (W.D.N.Y. Apr. 3, 2012).] This is from the Western
12 District of New York, another district court decision, from
13 April 3, 2012, 2012 WL 1119755. Now this one was a federal
14 receivership order. And the court held that there was no
15 authority, but says that the order doesn't deprive others. The
16 order in this case, that, the Citizens & Northern Bank, case
17 did not deprive others. It just gave the right to the
18 receiver. And the rationale, what's, what's referenced here
19 that I think is important is the appointing order restrained
20 anyone but the receiver from filing a bankruptcy petition on
21 behalf of the debtor. But that was a, this was an order from
22 another jurisdiction that was never, if I'm not mistaken, this
23 was never brought, then, to New York. And under New York State
24 law, an ancillary receiver was never appointed.

25 In the case, Pembroke relied, in great part, on the

1 Sixth Circuit decision that is the foundation for 530 Donelson,
2 which is In re Yaryan Naval Stores Company, 214 F. 563, from
3 the Sixth Circuit, 1914. The Sixth Circuit there determined,
4 and I'm quoting from the Citizen & Northern Bank case -- that
5 "the terms of the injunction issued by the Federal District
6 Court in Georgia did not prohibit the company from filing for
7 bankruptcy." Notably, as the Bank pointed out in the Citizens
8 & Northern Bank case, the rationale behind the decisions in
9 many of the older cases relied on the Bankruptcy Code's
10 conferral of the right to file on all persons and corporations
11 and that, "Rights and privileges so positively bestowed cannot
12 be destroyed, denied, or abridged by any power save that which
13 created and brought them into being." [Citizens & N. Bank,
14 2012 WL 1119755, at *3 (quoting In re Yaryan Naval Stores, 214
15 F. at 565).] And that's a quote from In re Yaryan Naval
16 Stores.

17 Here, the bankruptcy injunction does not prevent
18 Pembroke from filing a, voluntary filing a petition in
19 bankruptcy court. Instead, it gives the authority to make that
20 decision to the receiver. And so what happened in the case was
21 that the order confirming its authority to file a chapter 11
22 bankruptcy petition was denied. So there was a request for the
23 court to confirm that there was authority in Pembroke Pines
24 Mass Media and that was denied.

25 The next case, also cited by the receiver in its brief

1 is [Sino Clean Energy, Inc. v. Seiden (In re Sino Clean Energy,
2 Inc.)], 901 F.3d 1139 [(9th Cir. 2018)], from the Ninth
3 Circuit, of 2018. This was a state court receivership order
4 and it replaced the board, just like this receivership order
5 replaces the board by its terms of exclusively vesting in the
6 receiver all of those rights. That's what, that's what this
7 Ninth Circuit case held, that the state court order did the
8 same thing. It replaced the board so that the debtor was still
9 fully able to file for bankruptcy through valid filings made by
10 its eligible board of directors, but not by this reconstituted
11 board that didn't have authority.

12 The next case is one I already discussed concerning
13 subject matter jurisdiction. It's the recent case out of
14 Chicago from March 10th, In re Chicago South Loop Hotel Owner
15 [2026 WL 690868] And I raise it again now because the court
16 found that the state court receiver order did not identify a
17 receiver before the petition was filed. And for that reason
18 there was a problem, there was no problem with the petition
19 having been filed.

20 In the case of [Adams v. Marvil (In re Bayou Grp.,
21 LLC)], 564 F.3d 541 (2nd Cir. 2009)], there was a district court
22 receivership order and the receiver filed the petition. The
23 receiver was entitled to be the sole and exclusive managing
24 member and representative of each of the receivership entities
25 possessing without limitation the authority to petition for

1 protection under the bankruptcy court. And as the sole and
2 exclusive managing member and representative, that receiver had
3 the sole and exclusive power and authority to manage and direct
4 the business and financial affairs, including the authority to
5 file the bankruptcy petition. Here, Mr. Young is the sole and
6 exclusive authority for these debtors and has the sole and
7 exclusive authority to file a bankruptcy petition.

8 In the 530 Donelson [660 B.R. 887 (Bankr. M.D. Tenn.
9 2024)] case, I note -- 660 B.R. 887 from the Middle District of
10 Tennessee Bankruptcy Court in 2024 -- this was filed by a
11 member who was no longer in control after a receiver was
12 appointed. It was filed, however, with the support of the
13 receiver. And it was a state court receivership order and the
14 request to dismiss the case was denied and the court made these
15 particular statements concerning the receivership order there.
16 The court order, the receivership order, stated:

17 "The receiver shall have all the powers of a court-
18 appointed receiver that are described in Tennessee
19 Code Annotated Section 29-41-12, all of which are
20 incorporated by reference herein."

21 "It was more or less a plain vanilla receivership -
22 with nothing that would alter the structure of the LLC,
23 formally remove members, or deal with the possibility of
24 bankruptcy."

25 Here, we have much more than a plain vanilla

1 receivership order. We have a receivership order that did
2 alter their structure by exclusively vesting Mr. Young with all
3 of the powers which, by exclusively vesting him, then,
4 effectively, divested the board and all of the members, the
5 officers, the directors, of any of their authority. And unlike
6 530 Donelson, which did not deal at all with the possibility of
7 bankruptcy, this receivership order did. Judge Mashburn said,
8 "The general rule in the Sixth Circuit is that the appointment
9 of a receiver and the issuance of the typical injunction
10 against interference does not affect a company's, or by its
11 extension, its managers' authority to file bankruptcy." [In re
12 530 Donelson, 660 B.R. at 891.] And he cited to the Sixth
13 Circuit case from 1929, Struthers Furnace Company v. Grant, [30
14 F.2d 576 (6th Cir. 1929).], which I'll discuss in a moment. He
15 then went on to say:

16 "The pendency of a receivership does not ordinarily
17 prevent the filing of a voluntary petition,' nor does
18 the usual injunction against interference. A company
19 is 'not deprived of the right to file its petition
20 merely because its property is in the custody of a
21 state court receiver.'" [(citations omitted).]

22 I agree with all of those statements, but that's not
23 what we have here.

24 In Yaryan, which Judge Mashburn referred to here, he
25 notes that:

1 "The order appointing the receivers there was in the
2 'usual form in such cases,' commanding company officers and
3 agents to turn over property to the receivers and authorizing
4 the receivers to continue the business and operate the plants
5 in Georgia and Mississippi. The order enjoined the company and
6 its officers, agents, creditors, and other persons 'from
7 interfering.'" [In re 530 Donelson, 660 B.R. at 891 (quoting
8 In re Yaryan Naval Stores Co., 214 F. at 563).] The difference
9 is the vesting and the exclusive vesting in particular.

10 Judge Mashburn then went on to quote from the Yaryan
11 decision by the Sixth Circuit to say this particular sentence,
12 "Nor, in the absence of specific declaration, will it be
13 presumed that any court intends to make an order which must be
14 ineffective because in direct conflict with the legislative
15 will and mandate." Here, there is not an absence of a specific
16 declaration in our receivership order.

17 Continuing on, looking at the 530 Donelson case:

18 "Two principles," Judge Mashburn said, "can be drawn
19 from the Yaryan case and the authority cited in that
20 opinion. First, if a court intends in a receivership
21 order to deprive a company of the right to file
22 bankruptcy, it must expressly state its intent to
23 deviate from the general rule that a receivership will
24 not affect bankruptcy rights. In the words of Yaryan,
25 there would need to be a 'specific declaration' to

1 that effect." [In re 530 Donelson, 660 B.R. at 892
2 (citation omitted).]

3 I find that the receivership order here included a
4 specific declaration to that effect by exclusively vesting in
5 the receiver all of the rights of the corporate formalities and
6 organization in the LLC and providing that he also had the
7 right, has the right to place these particular entities in a
8 bankruptcy case.

9 "The second principle," Judge Mashburn said, "derived
10 from the Sixth Circuit cases is that it is questionable whether
11 any provision expressly prohibiting bankruptcy would be
12 enforceable and not preempted by the Bankruptcy Code." [In re
13 530 Donelson, 660 B.R. at 892 (citation omitted).]

14 Again, not at issue here, because the receiver has the
15 authority to put these debtors, currently debtors, the
16 receivership entities, into a bankruptcy case. So there's no
17 stripping of that right of the debtor. It's just saying who
18 has the right. And that is the receiver.

19 Looking at the Yaryan case itself directly, 214 F.
20 563, from 1914 out of the Sixth Circuit, it was a federal
21 receivership order, at least one of them was. But again, the
22 language of the receivership order here is express. In that
23 case, "it contained nothing which indicated an intention to
24 prohibit a due application being made to the appropriate
25 bankruptcy court or the exercise by the latter court of its

1 special jurisdiction and powers whenever the requisite
2 statutory conditions might be found to exist." [In re Yaryan
3 Naval Stores, 214 F. at 565.] Here, there was no one, there is
4 no one except Mr. Young who has the authority to put this
5 debtor in bankruptcy under Tennessee law or under the
6 receivership order itself.

7 The other Sixth Circuit case is from 1929, Struthers
8 Furnace Company v. Grant. [30 F.3d 576 (6th Cir. 1929).] It
9 was a state court order, which I do think is important, and it
10 appointed as receiver the appellee in the case. A petition was
11 filed under a resolution of the board of directors authorizing
12 such action on the ground that the receiver had been unable to
13 operate the business of the corporation profitably. So in a
14 way, akin to what we're hearing here, which is that Ms. Weaver
15 is concerned about how the receiver is operating the business,
16 or maybe not about how the receiver is operating the business,
17 but about how the market is responding to the receiver's
18 operating the business. There was some language that the
19 receiver contended was, that the broad language, which said
20 under the then Bankruptcy Act, had to be "limited so as to
21 exclude corporations instituting bankruptcy proceedings for the
22 purpose of ending state court receiverships to which they had
23 otherwise voluntarily submitted." [Grant, 30 F.3d at 576.]
24 But the court said no, the statute says what it says and the
25 order in the case did not adequately exclude anyone else from

1 filing a bankruptcy petition. The receiver, who was the
2 appellee in the Grant case says that, he said that, "The filing
3 of the bankruptcy petition was part of a scheme to escape the
4 state court receiver's vigorous assertion of the corporate
5 chose in action against the president of the company. This is
6 neither explicitly stated nor inferable from the stipulated
7 facts," the court said, Sixth Circuit said. [Grant, 30 F.3d at
8 576] "The only proper inference therefrom is that of an
9 endeavor to supplant control of the state court by that of the
10 federal court." Here though, again, we have a federal court
11 receivership order that very clearly divests any authority for
12 anyone except the receiver to file a bankruptcy petition.

13 Another case is Jordan v. Independent Energy
14 Corporation. [446 F. Supp. 516 (N.D. Tex. 1978)] This is from
15 the District Court of the Northern District of Texas, 1978, 446
16 F. Supp. 516. This Court acknowledges that cases about state
17 court receivership orders are generally not applicable to
18 federal court receivership orders. It says, "The federal court
19 also can, though, enjoin a bankruptcy petition by a blanket
20 injunction." [Jordan, 446 F. Supp. at 529 ("In the absence of
21 Congressional guidance to the contrary, a federal district
22 court may theoretically restrain voluntary or involuntary
23 access to the bankruptcy court by issuing a blanket
24 receivership injunction.)].] That's not the case here. What we
25 have here is authority for the receiver to file a bankruptcy

1 case and no authority for anyone else to do anything except
2 ordinary course operations.

3 Another case is Roxwell Performance Drilling, LLC [No.
4 13-50301-RLJ-11, 2013 WL 6799118 (Bankr. N.D. Tex. Dec. 20,
5 2013)] from the bankruptcy court for the Northern District of
6 Texas, December 20th of 2013, 2013 WL 6799118. The question
7 that was before the court was whether the receiver had
8 authority to file a chapter 11 petition and the receiver was
9 found to have authority. There is discussion in here about the
10 543 turnover, which is how I discovered that that was an issue,
11 frankly. But, the bankruptcy court authorized, found that
12 there was authority for the receiver because of the
13 receivership order to file the bankruptcy. And it cites to the
14 Bayou case that I previously noted and how the receiver's
15 authority there to manage the bankruptcy proceedings stems not
16 from his position as a federal equity receiver, but from the
17 language in the receivership order that specifically appointed
18 him as Bayou's sole and exclusive managing member, thereby
19 vesting him with the authority to file and manage the
20 bankruptcy proceedings. Here, again, the exclusive vesting of
21 all of those rights in Mr. Young divested everyone else and it
22 gives him the right and him the right only to file the
23 bankruptcy case.

24 The debtors cited to In re Stewart [No. 24-32471, 2025
25 WL 715494 (Bankr. N.D. Ohio Mar. 5, 2025)], a recent case out

1 of the bankruptcy court for the Northern District of Ohio, 2025
2 WL 715494, March 5th of 2025, in which Judge Gustafson found
3 that the state court divorce decree that barred a bankruptcy
4 filing by either of the spouses was ineffective. It's
5 completely inapposite to this case.

6 And then we have the Whittaker Clark & Daniels case
7 from the Third Circuit. [Whittaker Clark & Daniels Inc. v.
8 Brenntag AG (In re Whittaker Clark & Daniels Inc.)], 152 F.4th
9 432 (3rd Cir. 2025).] Again, that has to do with, the subject
10 is not subject matter jurisdiction, but in that case there was
11 a state court receivership. This is the one where there was no
12 ancillary bringing that state court receivership order from
13 South Carolina to New Jersey where the entity was incorporated
14 and that was never done. And so the court found that because
15 the state court receivership order was never brought to New
16 Jersey in ancillary proceedings, the board was not replaced so
17 that the board could still file the petition, again
18 distinguishable from here.

19 And then finally, Lexington Hospitality Group, LLC,
20 577 B.R. 676 [(Bankr. E.D. Ky. 2017).], out of the bankruptcy
21 court for the Eastern District of Kentucky, 2017. And this was
22 having to do with an amended operating agreement and whether a
23 managing member who was still a manager when the petition was
24 filed had authority to file a bankruptcy petition on the LLC's
25 behalf. And he did because he was not divested, which meant he

1 continued to have authority. Again here, everyone except Mr.
2 Young was divested of authority.

3 And I don't think it's necessary for that order -- I
4 think what the debtor would argue is that Judge Atchley should
5 have said in the order in paragraph 10(q), that he should have
6 said the receiver is exclusively authorized to commence a
7 proceeding. I don't think it's necessary to use the word
8 "exclusively" there because he's already exclusively vested Mr.
9 Young with all of the powers of operating the business except
10 in the ordinary course. And even then, only in coordination
11 and under his supervision can other entities or people act on
12 behalf of the debtors.

13 For those reasons, I find that the receivership order
14 provides the sole authority to Mr. Young. I find that Ms.
15 Weaver did not have authority, as she was divested of any
16 authority except ordinary course marketing and managing the
17 brand. And for those reasons, I find that there is cause for
18 dismissal because there is a lack of authority for the
19 petitions as they were filed.

20 I will not ask the court reporter to transcribe my
21 opinion. If it is transcribed at the request of any party, I
22 reserve the right to make any edits -- and there will be a lot
23 of them -- as to format, style, grammar, or citation, in
24 addition to the rights under Federal Rule of Bankruptcy
25 Procedure 9024, which makes Federal Rule of Civil Procedure

1 60(a) applicable in bankruptcy proceedings.

2 And an Order of Dismissal will be entered shortly.

3 Is there anything else I need to handle in these cases
4 today?

5 MR. TARPY: No, your Honor.

6 MR. CAMPBELL: No, your Honor.

7 THE COURT: All right. Thank you all.

8 MS. LIGGINS: Thank you, your Honor.

9 MR. CAMPBELL: Thank you.

10 THE COURT: That moots everything else that was before
11 the Court today that I did not already grant.

12 Safe travels.

13 (Proceedings concluded at 11:18 a.m.)

14

15

16 CERTIFICATE

17 I, court approved transcriber, certify that the
18 foregoing is a correct transcript from the official electronic
19 sound recording of the proceedings in the above-entitled
20 matter.

21

22 /s/ Janice Russell

March 25, 2026

23 Janice Russell, Transcriber

Date

24

25



SO ORDERED.
SIGNED this 19th day of March, 2026

THIS ORDER HAS BEEN ENTERED ON THE DOCKET.
PLEASE SEE DOCKET FOR ENTRY DATE.



Suzanne H. Bauknight
CHIEF UNITED STATES BANKRUPTCY JUDGE

**IN THE UNITED STATES BANKRUPTCY COURT FOR THE
EASTERN DISTRICT OF TENNESSEE**

In re

UNCLE NEAREST, INC.

Case No. 3:26-bk-30470-SHB
Chapter 11

Debtor

ORDER

Debtor, through its Chief Executive Officer, Fawn Weaver (“Ms. Weaver”), filed the Voluntary Petition commencing this Chapter 11 bankruptcy case on March 17, 2026 [Doc. 1]. Motions to dismiss were filed by Phillip G. Young, Jr., Receiver (“Mr. Young”), and Farm Credit Mid-America, PCA (“Farm Credit”) [Docs. 8, 26] and heard on expedited basis on March 19, 2026.¹ Together with other grounds, the motions to dismiss collectively raised the issue of cause for dismissal based on a lack of Ms. Weaver’s authority to file the case in light of the Order Appointing Receiver entered by the United States District Court for the Eastern District of

¹ A number of motions filed by Debtor also were set for expedited hearing; however, the Court’s dismissal of this case mooted all other matters set for March 19, 2026, except for procedural motions that were adjudicated at the hearing.

Tennessee on August 22, 2025, in *Farm Credit Mid-America, PCA v. Uncle Nearest, Inc., et al.*,² Case No. 4:25-cv-38, though which United States District Judge Charles E. Atchley appointed Mr. Young as Receiver. [Doc. 8-1.]

Arguments were presented to the Court through the respective motions to dismiss and Debtor's objection [Doc. 16], and the Court heard oral argument on March 19 from Debtor's bankruptcy counsel, counsel for Mr. Young, and counsel for Farm Credit. The parties agreed that there are no facts in dispute affecting the question of Ms. Weaver's authority to file the petition and that the Court need only interpret the Order Approving Receiver in light of applicable law.

As stated by the Court in its decision delivered from the bench, the Order Approving Receiver leaves no doubt concerning who has the authority to act on behalf of Debtor, including but not limited to the authority to file a bankruptcy case, and who does *not* have any such authority. Specifically, the Order Approving Receiver includes the following directives:

9. **Receiver's Vested Power of Subject Entities:** The Receiver shall be exclusively vested with: (1) all the powers of officers, directors, members, and/or managers (as applicable) of Uncle Nearest and the Subject Entities to take (or refrain from taking) any and all actions on behalf of Uncle Nearest and the Subject Entities

10. Until further order of this Court, the Receiver is hereby authorized forthwith to take any actions he deems reasonably necessary to the proper and lawful discharge of his responsibilities under this Order and the conduct of Uncle Nearest, including the following:

. . . .

b. **Management of Uncle Nearest Operations:** The Receiver is authorized, empowered, and directed to direct and cause Uncle Nearest and the Subject Entities, and each of their officers, directors, partners, managers, agents, servants, employees, representatives, attorneys, and all persons in active concert or participation with them who receive notice of this Order by personal service or otherwise, to continue to manage *all of the ordinary course operations* of Uncle Nearest and the Subject Entities. For the avoidance of any

² As explained in the Order Appointing Receiver, for purposes thereof, "the term 'Uncle Nearest' refers collectively to Defendants Uncle Nearest, Inc., Nearest Green Distillery, Inc., and Uncle Nearest Real Estate Holdings, LLC." [Doc. 8-1 at ¶ 1 n.2.] The term "Subject Entities" likewise refers to the same entities. [*See id.*]

doubt, this means Fawn and Keith Weaver *may continue to market* Uncle Nearest products *and manage* the Uncle Nearest brand, subject to the Receiver's supervision;

... [and]

q. **Bankruptcy**: The Receiver is authorized to commence a proceeding under title 11 of the United States Code on behalf of Uncle Nearest and the Subject Entities;

....

11. **Enjoined Actions**: Until further Order of the Court, other than with respect to the Receiver or persons and entities operating on behalf of the Receiver, Uncle Nearest, the Subject Entities, and each of their officers, directors, employees, agents, assigns, or any other persons or entities acting on behalf of or in concert with Uncle Nearest or the Subject entities are enjoined from taking any of the following actions:

a. **Sale of Receivership Assets**: Selling, transferring assigning, encumbering, disposing of, or otherwise impairing any Receivership Asset without express written from the Receiver;

....

c. **Obstruction**: Interfering with, obstructing, or preventing in any way, the Receiver's actions pursuant to this Order, including, but not limited to, any and all actions that may damage the brand and reputation of the Receivership Assets in any form, whether written, verbal, and disseminated through any medium; and

d. **Interference**: Interfering in any other way with the Receiver, directly or indirectly.

12. **Non-Disturbance of Receivership Assets and Estate**: All persons or entities, including employees, agents, creditors, banks, investors, shareholders, officers, directors, subsidiaries, affiliates, owners or others, with actual or constructive notice of this Order, are enjoined and restrained from in any way disturbing, interfering or affecting the Receivership Assets or the administration of the receivership estate. This includes, without limitation, prosecuting, initiating or continuing any actions or proceedings, enforcing judgments, perfecting liens; pursuing actions or proceedings against the Receiver and the Receiver Representatives, designed to collect their debts or which in any way involve the Receiver or the Receiver Representatives or which affect the Receivership Assets, to the extent that the same would interfere with or disturb these receivership proceedings, without the permission and approval of this Court; provided, however,

that nothing herein shall preclude any party with standing from seeking relief from this Order on proper application and after notice and a hearing. Any actions in violation of this paragraph shall be null and void as acts in contravention of this Order. This injunction is intended to function in a manner consistent with the protections afforded by the automatic stay under 11 U.S.C. §362.

[Doc. 8-1 at 4-5, 12-13 (emphases added).]

A plain reading of the foregoing terms makes it clear that Mr. Young alone has the decision-making authority on behalf of Debtor, and paragraph 10.q is simply a clarification that such authority includes bankruptcy. That paragraph 10.q does not expressly state that Mr. Young has the exclusive right to file a bankruptcy case is immaterial because paragraph 9 has already made clear that *all* rights under the Order Approving Receiver belong exclusively to Mr. Young, with the carve-out provision in paragraph 10.b that Ms. Weaver and Mr. Weaver “may continue to market Uncle Nearest Products and manage the Uncle Nearest brand,” (although even that limited authority is “subject to the Receiver’s supervision”). [*Id.* at 5.] Further, the Order Approving Receiver expressly authorizes *only* Mr. Young to act on behalf of Debtor with respect to actions that must be authorized or accomplished by a board of directors for a corporation or its members for a limited liability company, including the authority to file a bankruptcy case for the company.

Because Ms. Weaver had no authority to file the Voluntary Petition on March 17, 2026, and for the reasons and in consideration of the authority stated in detail by the Court at the March 19 hearing, the Court directs the following:

1. The Receiver’s Expedited Motion to Dismiss Bankruptcy Cases or, in the Alternative to Recognize Receiver as Authorized Representative of the Debtors filed by Mr. Young on March 18, 2026 [Doc. 8], is GRANTED in part.

2. The Motion to Dismiss Bankruptcy Cases or, in the Alternative, Appoint Phillip G. Young, Jr. as Chapter 11 Trustee filed by Farm Credit on March 19, 2026 [Doc. 26], is GRANTED in part.

3. This Chapter 11 bankruptcy case is DISMISSED.

###

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
WINCHESTER DIVISION**

FARM CREDIT MID-AMERICA, PCA,)	
)	
Plaintiff,	)	Case No. 4:25-cv-38
)	
v.	)	Judge Atchley
)	
UNCLE NEAREST, INC., <i>et al.</i>,	)	Magistrate Judge Steger
)	
Defendants.)	

MOTION FOR CLARIFICATION OF RECEIVERSHIP ORDER

COMES NOW the receiver herein, Phillip G. Young, Jr. (“Receiver”), by and through undersigned counsel, and hereby respectfully moves the Court for clarification of Paragraph 2 of the Order Appointing Receiver (“the Order.”) In support of this Motion for Clarification, the Receiver states as follows:

On August 22, 2025, United States District Judge Atchley, Jr. entered the Order which appointed Phillip G. Young, Jr as receiver of Uncle Nearest, Inc. and Subject Entities and Receivership Assets.

Within the Order, Paragraph 2 defined the Receivership Assets as follows:

The “Assets” include (i) all of Uncle Nearest’s assets, including proceeds, wherever located, including but not limited to, all of Uncle Nearest’s: (a) right, title and interest in any property, real and personal, tangible and intangible, of whatever kind and description, wherever situated, including, without limitation, the Nearest Green Distillery Real Property, property leased or occupied by Uncle Nearest, all rents, litigation claims, accounts receivable, computers, all media on which information is stored electronically, vehicles, equipment, inventory, furniture, furnishings, licenses, permits, books, records, documents and intellectual property; (b) rights (including rights to payment and distributions), title, and interest, whether now owned or hereafter acquired in, under and to any entity (including, but not limited to, Domaine D’Anatole, Inc., Domaine D’Anatole, S.A.S, UNAH, Inc., S1 Organic Vodka, LLC, UN House MV, LLC, Uncle Nearest Ventures, LLC, and the Nearest

Green Historical Preservation & Culture Fund, including any rights of control, ownership, distribution, and participation (collectively, the "Subject Entities"); (c) cash and any bank and brokerage accounts; (d) any other property in which the Lender is granted a security interest pursuant to the Security Agreement and/or UCC-1 financing statements recorded against Uncle Nearest in favor of the Lender; and (e) claims and causes of action of any type, whether in equity or in kind, in contract or pursuant to a promissory note or any other enforceable agreement, in litigation, via settlement, or pursuant to any form of insurance policy or coverage (collectively, "Causes of Action"); and (ii) the Eady Road Property, in each case, including proceeds therefrom.

During his investigation of Receivership Assets, which involved a diligent review of Uncle Nearest, Inc.'s books and records, financial statements, corporate documents, and other relevant contractual agreements, the Receiver has identified several entities (the "Entities") that appear to be somewhat related to Uncle Nearest, Inc. ("Uncle Nearest") and may fall within the scope of the Court's Order including:

1. Uncle Nearest Real Estate Holdings LLC, a Tennessee Limited Liability Company. While this entity was listed in the Complaint, because it was not specifically listed in the Order, certain financial institutions are confused about whether its assets are subject to this receivership.
2. Shelbyville Barrel House BBQ LLC, a Tennessee Limited Liability Company. This entity is believed to be owned by Keith Weaver. It operates from the Uncle Nearest/Nearest Green property, but appears to be separate financially from Uncle Nearest.
3. Humble Baron, Inc, a Delaware Corporation. This entity appears to be owned by a blind trust that benefits Keith Weaver. Upon information and belief, this entity must be owned by a blind trust in order to keep its restaurant license separate from Uncle Nearest's distilling license. It operates from the Uncle Nearest/Nearest Green property, but appears to be separate financially from Uncle Nearest.
4. Grant Sidney, Inc., a Tennessee Corporation. Upon information and belief, this entity is owned by Fawn Weaver. It is the largest shareholder of Uncle Nearest and has contributed capital to Uncle Nearest from time to time. The Receiver believes that this company also owns interests in other spirits unrelated to Uncle Nearest.
5. Uncle Nearest Spurs VI, LLC, a Delaware Limited Liability Company. It is unclear how this entity is related to Uncle Nearest. This entity was revealed in a general search of the Delaware corporate records.

6. Quill and Cask Owner, LLC, a Tennessee Limited Liability Company. Upon information and belief, this entity is owned by Fawn and Keith Weaver. It has contributed capital to Uncle Nearest from time to time, and has purchased barrels of spirits from Uncle Nearest.
7. Nashwood, Inc., a Delaware Corporation. Upon information and belief, this entity is owned by Fawn and/or Keith Weaver and operates Tolley House Bed & Breakfast in Lynchburg, Tennessee. It shares a common corporate address with many of the Weavers' other corporate entities.
8. Classic Hops Brewing Co. Upon information and belief, this was a concept began by Keith Weaver. It is unclear whether this entity was ever incorporated or fully operational.
9. Shelbyville Grand, LLC, a Tennessee Limited Liability Company. Upon information and belief, this entity is owned by Fawn and/or Keith Weaver and operates from the same location as several other of the Weavers' corporate entities. It is unclear the purpose or function of this entity, but it appears in certain corporate records.
10. Weaver Interwoven Family Foundation. The ownership and function of this entity is unknown, but it appears in certain corporate records of Uncle Nearest.
11. 4 Park Street LLC, a Delaware Limited Liability Company. Upon information and belief, this entity is owned by Keith and/or Fawn Weaver. It maintains bank accounts at similar banks as Uncle Nearest and, upon information and belief, the Weavers are signatories on those bank accounts. Its purpose and function are unknown to the Receiver.

As indicated above, each of the Companies is related to Uncle Nearest, Inc. by common ownership, common business operations, and/or common financial operations. The Receiver makes no representation about whether these entities should be included within the scope of this receivership.¹ Rather, the Receiver files this Motion for Clarification to seek the Court's determination as to whether it intended the entities listed

¹ Based upon conversations with Fawn and Keith Weaver, the Receiver expects them to argue that these other entities and their assets should be beyond the scope of this receivership. Based upon conversations with counsel for the secured lender, the Receiver expects it to argue that these entities and their assets should be included in this receivership. Therefore, the Receiver seeks this Court's guidance on the issue.

above to fall within the scope of the Receivership Assets under the Order. The Receiver endeavors to fully and completely carry out the wishes and instructions of this Court.

WHEREFORE, Receiver respectfully requests that the Court enter an Order clarifying whether the Entities listed above are within the scope of the Receivership Assets under Paragraph 2 of the Order.

Dated this 12th day of September 2025.

By: /s/ Justin T. Campbell
Justin T. Campbell, Tn. Bar No. 31056
Thompson Burton PLLC
1801 West End Avenue, Suite 1550
Nashville, Tennessee 37203
Voice: (615) 465-6015
Fax: (615) 807-3048
Justin@thompsonburton.com

Counsel for Receiver

CERTIFICATE OF SERVICE

I hereby certify that on the date noted below, a true and correct copy of the foregoing listed below was filed and served via the Court's CM/ECF system upon all parties requesting service in the above-listed case.

Dated: September 12, 2025.

/s/ Justin T. Campbell

Justin T. Campbell

**IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF TENNESSEE**

FARM CREDIT MID-AMERICA, PCA,)
)
 Plaintiff,)
)
 v.)
)
 UNCLE NEAREST, INC., NEAREST)
 GREEN DISTILLERY, INC., UNCLE)
 NEAREST REAL ESTATE HOLDINGS,)
 LLC, FAWN WEAVER and KEITH)
 WEAVER,)
)
 Defendants.)

Case No. 4:25-cv-38

Judge Atchley

Magistrate Judge Steger

**STATEMENT OF FARM CREDIT MID-AMERICA, PCA
IN SUPPORT OF MOTION FOR CLARIFICATION OF RECEIVERSHIP ORDER**
[Relates to Dkt. No. 41]

In response to the *Motion for Clarification of Receivership Order* (the “Entity Clarification Motion”)¹ filed by Phillip G. Young, Jr. (the “Receiver”), Farm Credit Mid-America, PCA (“FCMA” or the “Lender”) submits this statement in support of the Entity Clarification Motion and bringing the entities (the “Additional Entities”) identified by the Receiver within the scope of the Receivership Assets.²

INTRODUCTION

1. From information provided by Uncle Nearest to FCMA and from FCMA’s own diligence, a significant overlap appears to exist between the operations, finances, and likely the personnel of Uncle Nearest and the Additional Entities. Upon information and belief, some (or

¹ Dkt. No. 41.

² Each capitalized term used but not defined herein shall have the meaning ascribed in the *Order Appointing Receiver* [Dkt. No. 39] (the “Receivership Order”) or the *Emergency Motion for the Immediate Appointment of Receiver* [Dkt. No. 3].

perhaps all as may be revealed by investigation) of these Additional Entities have received assets or proceeds of assets from Uncle Nearest or Uncle Nearest has paid such Additional Entities' obligations to other parties directly (or vice versa). These assets or proceeds of the assets (which also constitute FCMA's Collateral) transferred before the Receivership Order are Receivership Assets and the receipt and/or use of these assets should place these Additional Entities squarely within the scope of the receivership. Additionally, the failure of the Weavers and Uncle Nearest to recognize corporate formalities and division of finances with respect to the Additional Entities further warrant the inclusion of the Additional Entities under the Receivership Assets. To the extent the Receiver does not currently have sufficient information to determine whether any of the Additional Entities (or other entities that were not specifically identified in the Receivership Order) should be included as Receivership Assets, an order from this Court providing the Receiver access to the books and records of all potentially related entities is necessary.

ARGUMENT

2. Section 29-40-112 of Tenn. Code Ann. Provides that “[t]he powers and duties of a receiver may be expanded, modified, or limited by court order.”³ Courts have “broad powers and wide discretion in crafting relief” in a receivership.⁴ Courts may use their inherent broad powers to expand receiverships where expansion is necessary to safeguard assets and guard against potential dissipation.⁵ Here, to ensure all available—and apparently commingled—assets are brought within the receivership, the Court should expand the Receivership Assets to include all

³ Tenn. Code Ann. § 29-40-112.

⁴ *United States v. Capital Across Am., L.P.*, 369 Fed. App'x. 674, 678 (6th Cir. 2010) (citing *Quilling v. Trade Partners, Inc.*, 572 F.3d 293, 298 (6th Cir. 2009)).

⁵ See *Consumer Fin. Protection, Bureau v. StratFS, LLC*, No. 24-CV-40-EAW-MJR, 2025 WL 1466196, at *7 (W.D.N.Y. May 22, 2025); *SEC v. Elmas Trading Corp.*, 620 F. Supp. 231, 233-34 (D. Nev. 1985) (corporate entity disregarded “in the interests of public convenience, fairness, and equity” where the key goal of expanding the receivership is “ensur[ing] that all available assets are brought within the receivership and may properly be distributed to creditors”).

the Additional Entities. In this receivership estate, at a minimum, Grant Sidney, Inc. (“Grant Sidney”), Humble Baron, Inc. (“Humble Baron”) and Quill and Cask Owner, LLC (“Quill and Cask”) should be included. Further, to the extent additional information is necessary for the Receiver to determine whether the remaining Additional Entities or other entities that may be related to Uncle Nearest constitute (or should constitute) Receivership Assets an order should be entered directing the Receiver to examine the books and records of any such entity.

I. Grant Sidney, Humble Baron, and Quill and Cask are Receivership Assets.

3. As this Court noted in the Receivership Order, the Receivership Assets include “all of Uncle Nearest’s assets, including proceeds, wherever located” [Dkt. No. 39 ¶ 2] and “all Collateral as described in the Loan Documents.” [*Id.* ¶ 3]. To ensure that all of Uncle Nearest’s assets, including proceeds, and all Collateral are clearly within the scope of the Receivership Order, this Court should find that Grant Sidney, Humble Baron, and Quill and Cask are Receivership Assets.

a. Grant Sidney

4. Uncle Nearest’s website states that “Uncle Nearest Premium Whiskey and Nearest Green Distillery are owned by Uncle Nearest, Inc. Uncle Nearest, Inc. is owned by Grant Sidney, Inc. Grant Sidney, Inc. is wholly owned by Fawn Weaver.”⁶

5. Upon information and belief, in 2025, Grant Sidney made multiple wires totaling over \$16 million to Uncle Nearest for the purposes of paying (a) payroll, (b) the \$7.5 million paydown at the closing of the Forbearance Agreement, and (c) for other operating costs of Uncle Nearest. Further upon information and belief, Grant Sidney and Uncle Nearest maintained bank accounts at CalPrivate Bank. FCMA has not had access to the CalPrivate Bank account information

⁶ *Who Owns Uncle Nearest*, <https://unclenearest.com/fawnweaver/> (last visited Sept. 19, 2025).

from years prior to 2025, but Grant Sidney’s significant infusions of capital during this short time period to Uncle Nearest warrant an investigation by the Receiver into the source of these funds. These transfers are also an example of the lack of separation of finances between the Weavers, Uncle Nearest, and the other entities related to the Weavers.

b. Humble Baron

6. The funds and operations of Uncle Nearest and Humble Baron appear to be comingled such that Humble Baron falls within the scope of the Receivership Assets. One glaring example is the likely payment by Uncle Nearest, Inc. of at least one settlement agreement payment on Humble Baron’s behalf. On August 1, 2024, Levy Premium Foodservice Limited Partnership (“Levy”) filed a complaint against Humble Baron and Shelbyville Barrel House BBQ LLC for their failure to pay to Levy contracted amounts in the action styled *Levy Premium Food Service Ltd. Partnership v. Shelbyville Barrel House BBQ LLC, et al.*, Case No. 24-0890-II, in the Chancery Court for the State of Tennessee, 20th Judicial District, Davidson County, Tennessee (the “Levy Litigation”). On July 23, 2025, the presiding court in the Levy Litigation entered an agreed order filed by the parties to the Levy Litigation, which reflected that the parties reached a confidential settlement agreement (the “Levy Settlement Agreement”) and noted that, by September 15, 2025, they expected the terms would be satisfied.⁷ Upon information and belief, Uncle Nearest, Inc. made at least one payment directly to Levy after execution of the Levy Settlement Agreement. This settlement payment, alone, demonstrates that FCMA’s Collateral has been used to fund Humble Baron’s obligation.

7. Upon information and belief, Uncle Nearest made a payment to Guinness World Records on March 22, 2023, in the amount of \$82,500. Uncle Nearest made a second payment on

⁷ FCMA did not attach a copy of the Levy Settlement Agreement due to its confidential nature. At the Court’s direction or request, FCMA will provide a copy for in camera review or file a copy under seal.

April 29, 2024, in the amount of \$42,500. On March 23, 2023, Guinness World Records named Humble Baron as the holder of the record for longest bar in the world.⁸ These payments further demonstrate that FCMA's Collateral has been used to fund Humble Baron's business endeavors.

8. Additionally, despite Humble Baron's location on the Nearest Green Distillery property, it does not appear that Humble Baron has any lease with, or has paid rent to, Uncle Nearest for Humble Baron's operations of the restaurant on the premises. Even if Humble Baron were truly to be considered a separate entity not part of the Receivership Assets, it would essentially be occupying a Receivership Asset for free.

9. Further, despite requests to Uncle Nearest before the entry of the Receivership Order, FCMA never received a list of the Humble Baron employees and their roles. Without access to books and records, the Receiver's ability to determine the source of funding of Humble Baron payroll or if Humble Baron is being operated by Uncle Nearest employees is impossible.

c. Quill and Cask Owner, LLC

10. In January and February of 2025, Uncle Nearest indicated that it had a buyer for barrels of whiskey at a competitive price. A Purchase and Sale Agreement (the "PSA")⁹ provided to FCMA by Uncle Nearest for barrel sales was between Uncle Nearest, Inc. and "Q and Cask, Inc." as the potential purchaser. A search of Delaware, Tennessee, and California (the most likely

⁸ *Longest Bar*, <https://www.guinnessworldrecords.com/world-records/69267-longest-bar> (last visited Sept. 19, 2025); see also Steve Russell, *The World's Longest Bar Now Exists at a Distillery in Tennessee*, GARDEN & GUN, <https://gardenandgun.com/articles/the-worlds-longest-bar-now-exists-at-a-distillery-in-tennessee/> (Mar. 21, 2023); and Seth Thompson, *WORLD'S LONGEST BAR: 'Humble Baron' Grand Opening at Uncle Nearest Distillery Features Elite Cocktail and Culinary Program*, THE BOURBON REVIEW, <https://www.gobourbon.com/worlds-longest-bar-humble-baron-grand-opening-at-uncle-nearest-distillery-features-elite-cocktail-and-culinary-program/> (Mar. 24, 2023).

⁹ FCMA did not attach a copy of the PSA due to its confidential nature. At the Court's direction or request, FCMA will provide a copy for in camera review or file a copy under seal.

states of organization for the entity) secretary of state websites turned up no results for “Q and Cask, Inc.” as an entity in existence.

11. However, an entity named Quill and Cask Owner, LLC did appear as an entity formed in Tennessee. The Articles of Organization retrieved from the State of Tennessee reflect that the principal executive office and mailing address of this entity is Keith Weaver, Suite 2000, 600 North Main St., Shelbyville, TN 37160. A true and correct copy of the certified record of the Articles of Organization is attached as **Exhibit A**. When FCMA inquired into any potential relationship between “Q and Cask, Inc.” and Uncle Nearest, Uncle Nearest, through its financial advisor at the time, advised that Q and Cask, Inc. was a different entity than Quill and Cask Owner, LLC. Now that the Receiver has begun his diligence, the fact that Quill and Cask is an affiliate is undisputed.

12. Upon information and belief, Quill and Cask made a payment on or about January 30, 2025, in the amount of \$275,000 to Uncle Nearest. This payment leads to more questions about the relationship between Quill and Cask and Uncle Nearest.

d. Remaining Additional Entities.

13. As to the remaining Additional Entities, the Receiver cannot obtain sufficient information to make an informed determination whether those Additional Entities fall within the scope of the Receivership Assets. An order from this Court to examine those Additional Entities’ books and records is necessary to enable the Receiver to make such a determination.

II. No financial discipline has been maintained between Uncle Nearest, the Subject Entities, and the Additional Entities identified by the Receiver.

14. The Weavers and Uncle Nearest have maintained no financial discipline or corporate formalities between the Weavers, Uncle Nearest, the Subject Entities, the Additional Entities, and potentially other entities related to the Weavers. Due to the lack of financial discipline

between Uncle Nearest and the Additional Entities, these Additional Entities (and any others the Receiver uncovers as possibly related or transferring money to or from the Weavers, Uncle Nearest, the Subject Entities, or the Additional Entities) should be included in the Receivership Assets.

15. As noted above, courts may expand receiverships and disregard corporate entities “in the interests of public convenience, fairness, and equity” where a key goal of expanding a receivership is “ensur[ing] that all available assets are brought within the receivership and may properly be distributed to creditors.”¹⁰

16. Because of the wholesale absence of structure between the Weavers, Uncle Nearest, and the Additional Entities, in the interest of equity and to ensure all available and intertwined assets are brought within the receivership, the Additional Entities (and potentially more) should be included. Without their inclusion in the receivership, the Receiver will be left with an incomplete picture of the finances of the Uncle Nearest and Weaver enterprise and without access to assets that should be administered as Receivership Assets for the benefit of all impacted stakeholders.

CONCLUSION

17. Based on information that FCMA has received or been made aware of, FCMA believes that all of the Additional Entities should be a part of the receivership estate. At a minimum, Grant Sidney, Humble Baron, and Quill and Cask are all entities whose own operations and finances are so comingled with Uncle Nearest’s that their inclusion in the scope of the Receivership Assets is warranted. The Receiver’s ability to obtain an accurate financial and operational understanding of all entities relating to Uncle Nearest is critical to allow him to operate in accordance with his duties. Further, to complete the financial and operational understanding, the

¹⁰ *Consumer Fin. Protection, Bureau v. StratFS, LLC*, 2025 WL 1466196, at *7 (citing *SEC v. Elmas Trading Corp.*, 620 F. Supp. 231, 233-34 (D. Nev. 1985)).

Receiver must have the power to review books and records of all the other Additional Entities and any other entities that he discovers may be related to Uncle Nearest and any other Receivership Asset. Moreover, the Receiver is subject to quarterly reporting, and once he has full access to information, he can always move to remove any of the Additional Entities to the extent his diligence reveals they are unrelated to the Receivership Assets.

PRAYER

WHEREFORE, for the reasons set forth above, FCMA respectfully requests that this Court enter an Order (a) clarifying that all the Additional Entities are subject to the Receivership Order, or (b) clarifying that Grant Sidney, Humble Baron, and Quill and Cask are entities within the scope of the Receivership Assets and (c) giving the Receiver the authority to examine books and records of the Additional Entities and any other entities that he determines may be related to the Receivership Assets. FCMA also requests that the Court order such other and further relief as this Court deems just and proper.

Respectfully submitted,

/s/Erika R. Barnes

Erika R. Barnes (TN Bar No. 028628)
STITES & HARBISON PLLC
401 Commerce St., Suite 800
Nashville, TN 37219
Telephone: (615) 782-2252
Email: ebarnes@stites.com

- and-

Demetra Liggins (admitted *pro hac vice*)
Dairanetta S. Spain (TN Bar No. 039981)
MCGUIREWOODS LLP
Texas Tower
845 Texas Ave., Suite 2400
Houston, TX 77002
Telephone: (713) 353-6661
Email: dliggins@mcguirewoods.com
dspain@mcguirewoods.com

M. Alexandra Shipley (admitted *pro hac vice*)
McGUIREWOODS LLP
77 West Wacker Drive, Suite 4100
Chicago, IL 60601
Telephone: (312) 849-8253
Email: ashipley@mcguirewoods.com

K. Elizabeth Sieg (admitted *pro hac vice*)
McGUIREWOODS LLP
Gateway Plaza
800 East Canal Street
Richmond, VA 23219-3916
Email: bsieg@mcguirewoods.com

Attorneys for Farm Credit Mid-America, PCA

Dated: September 25, 2025

CERTIFICATE OF SERVICE

I certify that on September 25, 2025, a true and correct copy of the foregoing was served on all parties entitled to service via this Court's ECF/CMF system, via U.S. Mail and electronic mail upon the following:

Rocklan W. King III
Stacia M. Daigle
Adams and Reese, LLP
1600 West End Avenue, Suite 1400
Nashville, TN 37203
Rocky.king@arlaw.com
Stacia.daigle@arlaw.com

Justin T. Campbell
Thompson Burton PLLC
1801 West End Avenue, Suite 1550
Nashville, TN 37203
Justin@thompsonburton.com

Lucas A. Davidson, Esq.
Tennessee Distilling Group, LLC
1 Music Circle South, Suite 300
Nashville, TN 37203
ldavidson@buchalter.com

/s/Erika R. Barnes

Erika R. Barnes

EXHIBIT A



Division of Business and Charitable Organizations
Department of State
 State of Tennessee
 312 Rosa L. Parks Avenue, 6th Floor
 Nashville, Tennessee 37243
 Phone: 615-741-2286
 sos.tn.gov/

Tre Hargett
 Secretary of State

TRACIE JORDAN
 194 WASHINGTON AVE
 ALBANY, NY 12210, USA

Request Type: Certified Copies

Issuance Date: 09/23/2025

Order #: C2025081585

Copies Requested: 1

Document Receipt

Receipt #: 2025-673598

Filing Fee: \$20.00

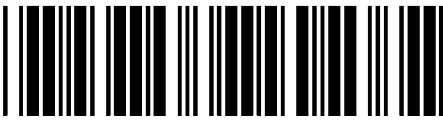
Payment: Credit Card - 3906520003

\$20.00

I, Tre Hargett, Secretary of State of the State of Tennessee, do hereby certify that **QUILL AND CASK OWNER, LLC**, Control # 001562521 was formed or qualified to do business in the State of Tennessee on 07/25/2024. QUILL AND CASK OWNER, LLC has a home jurisdiction of TENNESSEE and is currently in Active status. The attached documents are true and correct copies and were filed in this office on the date(s) indicated below.

Tre Hargett
 Secretary of State

Tracking #	Date Filed	Filing Description
B1600-4989	07/25/2024	Initial Filing for Quill and Cask Owner, LLC
B2025397585	06/10/2025	Notice of Determination for QUILL AND CASK OWNER, LLC



001562521

ARTICLES OF ORGANIZATION LIMITED LIABILITY COMPANY

SS-4270



Tre Hargett
Secretary of State

Division of Business Services
Department of State
State of Tennessee
312 Rosa L. Parks AVE, 6th FL
Nashville, TN 37243-1102
(615) 741-2286

Filing Fee: \$50.00 per member
(minimum fee = \$300.00, maximum fee = \$3,000.00)

For Office Use Only

-FILED-

Control # 001562521

The Articles of Organization presented herein are adopted in accordance with the provisions of the Tennessee Revised Limited Liability Company Act.

1. The name of the Limited Liability Company is: Quill and Cask Owner, LLC

(Note: Pursuant to the provisions of T.C.A. §48-249-106, each Limited Liability Company name must contain the words "Limited Liability Company" or the abbreviation "LLC" or "L.L.C.")

2. Name Consent: (Written Consent for Use of Indistinguishable Name)

This entity name already exists in Tennessee and has received name consent from the existing entity.

3. This company has the additional designation of: None

4. The name and complete address of the Limited Liability Company's initial registered agent and office located in the state of Tennessee is:

CAPITOL CORPORATE SERVICES, INC.
STE B
992 DAVIDSON DR
NASHVILLE, TN 37205-1051
DAVIDSON COUNTY

5. Fiscal Year Close Month: December

6. If the document is not to be effective upon filing by the Secretary of State, the delayed effective date and time is:
(none) (Not to exceed 90 days)

7. The Limited Liability Company will be:

Member Managed Manager Managed Director Managed

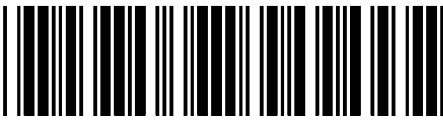
8. Number of Members at the date of filing: 1

9. Period of Duration: Perpetual

10. The complete address of the Limited Liability Company's principal executive office is:

KEITH WEAVER
SUITE 2000
600 NORTH MAIN STREET
SHELBYVILLE, TN 37160
BEDFORD COUNTY

B1600-4989 07/25/2024 12:14 PM Received by Tennessee Secretary of State Tre Hargett



ARTICLES OF ORGANIZATION
LIMITED LIABILITY COMPANY

SS-4270



Tre Hargett
Secretary of State

Division of Business Services
Department of State
State of Tennessee
312 Rosa L. Parks AVE, 6th FL
Nashville, TN 37243-1102
(615) 741-2286

Filing Fee: \$50.00 per member
(minimum fee = \$300.00, maximum fee = \$3,000.00)

For Office Use Only

-FILED-

Control # 001562521

The name of the Limited Liability Company is: Quill and Cask Owner, LLC

11. The complete mailing address of the entity (if different from the principal office) is:

KEITH WEAVER
SUITE 2000
600 NORTH MAIN STREET
SHELBYVILLE, TN 37160

12. Non-Profit LLC (required only if the Additional Designation of "Non-Profit LLC" is entered in section 3.)

I certify that this entity is a Non-Profit LLC whose sole member is a nonprofit corporation, foreign or domestic, incorporated under or subject to the provisions of the Tennessee Nonprofit Corporation Act and who is exempt from franchise and excise tax as not-for-profit as defined in T.C.A. §67-4-2004. The business is disregarded as an entity for federal income tax purposes.

13. Professional LLC (required only if the Additional Designation of "Professional LLC" is entered in section 3.)

I certify that this PLLC has one or more qualified persons as members and no disqualified persons as members or holders.

Licensed Profession:

14. Series LLC (optional)

I certify that this entity meets the requirements of T.C.A. §48-249-309(a) & (b)

15. Obligated Member Entity (list of obligated members and signatures must be attached)

This entity will be registered as an Obligated Member Entity (OME) Effective Date: (none)

I understand that by statute: THE EXECUTION AND FILING OF THIS DOCUMENT WILL CAUSE THE MEMBER(S) TO BE PERSONALLY LIABLE FOR THE DEBTS, OBLIGATIONS AND LIABILITIES OF THE LIMITED LIABILITY COMPANY TO THE SAME EXTENT AS A GENERAL PARTNER OF A GENERAL PARTNERSHIP. CONSULT YOUR ATTORNEY.

16. This entity is prohibited from doing business in Tennessee:

This entity, while being formed under Tennessee law, is prohibited from engaging in business in Tennessee.

17. Other Provisions:

Electronic

Signature

Taylor Kinard

Printed Name

Organizer

Title/Signer's Capacity

Jul 25, 2024 12:14PM

Date

B1600-4990 07/25/2024 12:14 PM Received by Tennessee Secretary of State Tre Hargett



Tre Hargett
Secretary of State

Division of Business and Charitable Organizations
Department of State
State of Tennessee
312 Rosa L. Parks Avenue, 6th Floor
Nashville, Tennessee 37243
Phone: 615-741-2286
sos.tn.gov/

CAPITOL CORPORATE SERVICES, INC.
992 DAVIDSON DR STE B
NASHVILLE, TN 37205-1051, USA

Issuance Date: 06/10/2025

Control Number: 001562521
Tracking Number: B2025397585

RE: Notice of Determination for QUILL AND CASK OWNER, LLC

Dear Business Entity:

Pursuant to the provisions of T.C.A. § 48-25-301 or § 48-246-501 of the Tennessee Limited Liability Company Act or T.C.A. § 48-249-604 or § 48-249-908 of the Tennessee Revised Limited Liability Company Act, it has been determined that the following ground(s) exist(s) for the administrative dissolution of the above limited liability company, if a Tennessee limited liability company, or the revocation of its certificate of authority, if a foreign limited liability company:

The annual report which was due on or before 04/01/2025 has not been filed. You may generate the annual report form from our website [<https://tncab.tnsos.gov>] and either file it electronically or mail it along with the filing fee to the Tennessee Secretary of State at the address noted on the annual report form.

If each ground for dissolution or revocation is not corrected or proven not to exist within 65 calendar days from the issuance date of this notice, the business entity, all associated assumed names, and any workers' compensation exemption registrations associated with this entity shall be administratively dissolved/revoked or may have its certificate of authority revoked and the entity will have to complete additional requirements and pay additional filing fees to reinstate or terminate.

NOTE: Make sure to add your business email when filing your annual report to receive reminders of important deadlines.

If you have questions, please contact us at the number noted below.

Sincerely,

Business Services Division



Division of Business and Charitable Organizations
Department of State
 State of Tennessee
 312 Rosa L. Parks Avenue, 6th Floor
 Nashville, Tennessee 37243
 Phone: 615-741-2286
 sos.tn.gov/

Tre Hargett
 Secretary of State

TRACIE JORDAN
 194 WASHINGTON AVE
 ALBANY, NY 12210, USA

Request Type: Certified Copies

Issuance Date: 09/23/2025

Order #: C2025081632

Copies Requested: 1

Document Receipt

Receipt #: 2025-673734

Filing Fee: \$20.00

Payment: Credit Card - 3906522103

\$20.00

I, Tre Hargett, Secretary of State of the State of Tennessee, do hereby certify that **QUILL AND CASK OWNER, LLC**, Control # 001562521 was formed or qualified to do business in the State of Tennessee on 07/25/2024. QUILL AND CASK OWNER, LLC has a home jurisdiction of TENNESSEE and is currently in Active status. The attached documents are true and correct copies and were filed in this office on the date(s) indicated below.

Tre Hargett
 Secretary of State

Tracking #	Date Filed	Filing Description
B2025479965	07/05/2025	2024 Annual Report for QUILL AND CASK OWNER, LLC

Tracking Number
B2025479965



Tre Hargett
Secretary of State

Annual Report

Division of Business and Charitable Organizations
Department of State

State of Tennessee
312 Rosa L. Parks Avenue, 6th Floor
Nashville, Tennessee 37243
Phone: 615-741-2286
sos.tn.gov/businesses

Control #: 001562521
Filed: 07/05/2025 12:12 PM
Tre Hargett
Secretary of State

Entity Information

Business Name: QUILL AND CASK OWNER, LLC

Entity Type: Limited Liability Company

Place of Formation: TENNESSEE

Principal Office Address:

600 NORTH MAIN STREET SUITE 2000
USA, SHELBYVILLE, TN 37160

Nature of Business (NAICS):

Number of Members: Six Or Less

Control Number: 001562521

Managed Type: Manager Managed

Mailing Address:

600 NORTH MAIN STREET SUITE 2000
USA, SHELBYVILLE, TN 37160

Officer Information

KEITH WEAVER

600 NORTH MAIN STREET SUITE 2000
USA, SHELBYVILLE, TN 37160

Manager

Registered Agent Information

CAPITOL CORPORATE SERVICES, INC.
992 DAVIDSON DR STE B
NASHVILLE, TN 37205-1051

Signature

By entering my name in the space provided below, I certify that I am authorized to file this document on behalf of this entity, have examined the document and, to the best of my knowledge and belief, it is true, correct and complete as of this day.

Signed Electronically: KEITH WEAVER

Title: MANAGER

Date: 07/05/2025

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TENNESSEE**

FARM CREDIT MID-AMERICA, PCA,)	
)	
Plaintiff,	)	Case No. 4:25-cv-38
)	
v.	)	Judge Atchley
)	
UNCLE NEAREST, INC., et al.,	)	Magistrate Judge Steger
)	
Defendants.)	
)	

DECLARATION OF FAWN WEAVER IN SUPPORT OF MOTION TO RECONSIDER

I, Fawn Weaver state under penalty of perjury as follows:

I. Identity, Role, and Basis of Knowledge

1. I am over eighteen (18) years of age.
2. I am the Founder, largest individual shareholder, and Chief Executive Officer of Uncle Nearest, Inc. (“Uncle Nearest” or the “Company”), and have served in that role since inception.
3. I submit this Declaration based on my personal knowledge, my involvement in the Company’s operations, my oversight of executive leadership, and my review of Company records maintained in the ordinary course of business.
4. I submit this Declaration to provide factual clarification regarding (i) governance and remediation before the receivership, (ii) operational developments during the receivership, (iii) financial reporting and cash flow matters, and (iv) the Company’s current condition.
5. As Chief Executive Officer, I oversee the Company’s operations, employees, distributor relationships, investor communications, and long-term strategic direction. As Chief

Executive Officer, I oversee the Company's operations, employees, distributor relationships, investor communications, and long-term strategic direction. Contrary to certain statements in the Receiver's filings, I have continued to oversee the Company's operational functions during the receivership, with the exception of the finance department. The Receiver's involvement outside of financial oversight has been limited. Since his appointment in August 2025, the Receiver visited the Company's operations only a few times in September 2025 and once or twice thereafter, and he did not meet with Company leadership during any visits following September 2025. The spirits consultant retained by the Receiver has functioned primarily as an intermediary, receiving sales and marketing proposals and budgets and transmitting them to the Receiver's financial consultants for approval or denial. The consultant and his team have likewise only visited the business once or twice since September and have otherwise had no involvement in sales and marketing strategy, distributor relationships, or operational execution. To the extent he or the Receiver has communicated with distributors or investors, those communications have generally been responsive in nature and limited to providing updates regarding the receivership.

6. Since the Receiver's appointment, I have reviewed information and reporting produced during the receivership, including cash flow schedules and other operating reports.

7. As the Founder and CEO of the Company, I have overseen the growth of the Company from a concept to a top-tier American whiskey brand. The Company was formed in 2016 and, in my role as CEO of the Company for the past 9 years, I have investigated and tracked all relevant trends in the spirit industry, including barrel values, trends in sales of whiskey brands, spirit marketing strategies, industry case sale data trends, etc.

8. As Chief Executive Officer of the Company, I have overseen the purchase and/or sale of more than 100,000 barrels of aged whiskey over the past nine years. Through my industry

relationships and experience, I regularly evaluate brand valuations reflected in transactions involving American whiskey and other premium spirits brands over the past 25 years. Those transactions include, among others, the approximately \$16 billion acquisition of Beam Inc. by Suntory in 2014, the transaction valuing Don Julio at approximately \$1.8–\$2 billion in 2014, the acquisition of Angel’s Envy by Bacardi in 2015 (widely understood within the industry to have been in the range of approximately \$170 million), and the \$5.1 billion acquisition of Patrón in 2018. Several years ago, in connection with the potential sale of another distillery and brand owner, a private equity firm informed the owner that it valued the company at approximately \$250 million. Applying the valuation framework I developed based on historical spirits transactions and revenue multiples derived from those and similar transactions, I concluded that the implied valuation was materially understated and that the company’s value was closer to \$750 million — approximately three times the proposed figure — and I communicated that analysis to its owner. Only months later, the company was sold at a valuation of approximately \$750 million.

9. As CEO of the Company, I also am actively involved in the marketing of the Uncle Nearest brand, both at the retail and wholesale level. At the retail level, my marketing of the brand includes my strong presence on social media, which connects the Uncle Nearest brand directly to consumers, and my presence in the market at bottle signings and other market-based events that help connect the brand to the consumers and creates significant brand momentum. Prior to the Receivership, I participated in at least 100 press interviews per year; since the commencement of these proceedings, I have significantly limited such media engagement out of sensitivity to this case and respect for this Court. At the wholesale level, I am extremely active in cultivating positive relationships with the Company’s distributor network, which is essential to not only the marketing effort for the Uncle Nearest brands, but also to manage the financial operations of Uncle Nearest.

II. Pre-Receivership Issues

10. In October 2024, shortly before Michael Senzaki, the Company's former Chief Financial Officer ("CFO") went on emergency medical leave, I learned that financial statements an investor had received from the CFO differed from financial information being circulated internally.

11. After the CFO commenced medical leave in October 2024, additional irregularities were identified, including email communications reflecting undisclosed payment arrangements with vendors that were not reflected in the Company's accounting system.

12. The Uncle Nearest Board initiated an internal review and retained Duane Morris LLP to supervise an independent investigation. Duane Morris engaged Kroll to conduct a forensic review led by a senior managing director and former federal prosecutor. The CFO initially participated in interviews and provided information but later ceased cooperating and was terminated. The Company's internal investigation, conducted with the assistance of Duane Morris, LLP, Kroll, KPMG, and Latham & Watkins, uncovered issues relating to (i) the issuance and gifting of warrants, (ii) evidence of unauthorized or forged signatures on certain loan documents and board minutes, (iii) tracking and documentation of secondary market transactions affecting the Company's capitalization table, and (iv) the preparation and filing status of certain federal tax returns. These issues were identified and placed under independent third-party review prior to the appointment of the Receiver.

13. Farm Credit was advised in late 2024 of accounting irregularities relating to the former CFO when they were initially identified and was thereafter kept apprised of the investigation to the extent authorized by Duane Morris and Kroll.

14. From January 2024 through April 2025, the Company paid \$16,324,604.07 to Farm Credit, including principal and interest payments later inaccurately characterized by Farm Credit as continuous payment default by the Company. Attached as **Exhibit A** is a timeline of payments made to Farm Credit by the Company during that period.

15. The independent director recommended by Farm Credit for appointment to the Board was approved by me on April 21, 2025, during the same Zoom call in which the candidate was proposed. At the request of Farm Credit's counsel, Keith Weaver and I subsequently met with the candidate and reaffirmed our approval. The candidate then requested meetings with additional members of Company leadership and an increase in directors' and officers' insurance coverage as a condition of appointment. The Company was in the process of securing the requested coverage at the time the Complaint was filed.

16. Farm Credit and its financial advisor were informed of these developments during the period in which they occurred.

17. Beginning in mid-2024, Company representatives participated in regular meetings with Farm Credit to review financial performance, borrowing base reporting, and operational updates. Beginning in early 2025, those meetings also included Farm Credit's financial consultant, Riveron.

18. During this period, the Company submitted borrowing base certificates, accounts receivable reports, financial packages, and other requested documentation.

19. These submissions occurred on an ongoing basis prior to the Receivership.

III. Martha's Vineyard Property

20. In its Emergency Motion seeking receivership, the Lender referenced the acquisition of property on Martha's Vineyard (the "MV Property") in a manner suggesting financial impropriety or misrepresentation by the Company.

21. The Contract to Purchase Real Estate dated January 28, 2023 (the "MV Property Contract"), a copy of which is attached as **Exhibit B**, reflects that the buyer was denoted as Keith Weaver in his individual capacity. The fact that the ownership of the property would not be in the name of Uncle Nearest was disclosed to Farm Credit at the time of acquisition. In fact, **Exhibit B**, a copy of the MV Property Contract clearly showing Keith Weaver as the purchaser, was provided to Jonathan Boyce at Farm Credit by email on February 23, 2023, more than one month prior to the scheduled closing of the sale. **Exhibit B** further provides email correspondence between the Company and Farm Credit confirming receipt of those documents and coordination of site visits to the MV Property by Farm Credit officers in 2023.

22. The MV Property Contract was ultimately assigned to UN House MV, LLC, which is wholly-owned by Keith Weaver, and purchased with loan proceeds obtained from Farm Credit pursuant to Amendment No. 4 of the Credit Agreement.¹ Farm Credit was fully aware of the purchase using proceeds from its loans and purposefully opted to take no security interest in the MV Property.² The intended use of the property was described to Farm Credit as part of the Company's brand relationship strategy, including hosting private, invitation-only gatherings to cultivate distributor and industry relationships. The loan proceeds were disbursed and applied in accordance with Amendment No. 4. The MV Property was purchased separately from Uncle

¹ Dkt. 1, Ex. 5.

² The Receiver's *Expedited Motion to Sell Real and Personal Property in Martha's Vineyard*, filed on February 25, 2026, asserts that Farm Credit holds a lien on the MV Property. That assertion is incorrect.

Nearest in order to be in compliance with local regulations and ordinances applicable to Martha's Vineyard and so that the property could be used as intended. Farm Credit was fully aware of this.

23. Farm Credit representatives attended meetings and events at or in connection with the property prior to this litigation. Prior to the receivership filing, Farm Credit did not assert that the ownership structure relating to the MV Property had been concealed or misrepresented.

24. In September 2024, UN House MV LLC entered into a mortgage agreement with Oaktree Funding Corp. in the principal amount of \$1,500,000 in order to fund improvements to the MV Property. Farm Credit was informed of renovation plans and related expenditures. The proceeds were used exclusively for improvements to the MV Property consistent with the property's disclosed purpose.

25. The transaction and all relevant details regarding the same were timely disclosed to Farm Credit through loan documentation, correspondence, and site visits prior to this litigation.

IV. Clarification of the Alleged Missing Barrels

26. At the time the receivership was sought, Farm Credit alleged that approximately \$21,000,000 in aging barrels of whiskey were missing from the Company's inventory. This was not correct. As I testified at the February 9, 2026 hearing, any asserted demand under the Advanced Spirits forward purchase arrangement corresponds to those same barrels previously characterized as missing. If a liability is asserted under that agreement, it is directly related to the identified barrel inventory.

27. The barrels referenced were those subject to the Advanced Spirits forward purchase arrangement. The barrels were never missing. They remained stored at Tennessee Distilling Group ("TDG") under the same designations existing prior to the October 2024 collateral inspection by Farm Credit. At no point were the barrels lost, removed, dissipated, or unaccounted for.

28. During the October 2024 inspection, certain barrels were not physically verified by Farm Credit's inspectors because they required tripartite documentation among Advanced Spirits, Uncle Nearest, and TDG had not been obtained in advance. The inability to verify barrels on that date resulted from a documentation and access issue, not non-existence.

29. **Exhibit J** reflects the consolidated barrel schedule summary confirming that the total number of barrels secured under the Advanced Spirits program exceeded 25,000 across multiple schedules. That inventory remains in storage.

30. Because the Advanced Spirit forward contracts identify the specific purchased barrels and require those barrels be paid for by specified dates, it was proper to include those barrels in the Company's inventory.

31. The acquisition of barrels through forward contracts is a common method of hedging whiskey supply in the spirit industry.

32. Any amount owed to Advanced Spirits under the forward contracts is directly offset by the value of the whiskey barrels.

V. Clarification of Company Liquidity Prior to Receivership

33. In seeking emergency appointment of a receiver, Farm Credit represented to the Court that the Collateral was in "imminent danger of being lost, concealed, injured, diminished in value, or squandered" and asserted a "lack of reliable financial information." Those assertions were presented in support of extraordinary relief. The liquidity concerns cited in support of that request relied in part upon a single reported cash balance of approximately \$261,000.

34. That figure was presented without reference to the surrounding operating cycle, the timing of a \$7.5 million payment to Farm Credit made shortly before that reporting week, available

distributor collections, covenant cure mechanics, or the Company's ongoing operating performance in the period immediately preceding the receivership filing.

35. Farm Credit cited a reported beginning cash balance of approximately \$261,000 as evidence that the Company had fallen materially below the \$1,500,000 minimum liquidity covenant. The referenced week followed a \$7.5 million payment by Uncle Nearest to Farm Credit and coincided with a scheduled payroll and legacy vendor payment cycle. It reflected a temporary trough within the Company's operating cash cycle.

36. The governing agreement between Uncle Nearest and Farm Credit provided that if cash temporarily fell below the \$1,500,000 minimum liquidity threshold, equity infusions could restore compliance.

37. In the week following the one cited by Farm Credit, the amount required to exceed the \$1,500,000 covenant threshold was a mere \$3,366, which was easily restored by a minimal equity fusion. That figure was not disclosed in Farm Credit's emergency presentation. The presentation also did not disclose that the Company remained operationally cash flow positive during the period leading up to the receivership filing.

VI. Issues with Farm Credit Exhibit 6

38. Kevin Larin of Riveron, who testified on behalf of Farm Credit, misrepresented Farm Credit Exhibit 6 as a 13-week cash flow presented by the Company reflecting approximately \$6.788 million in negative projected cash flow. That document, however, was not prepared as a cash flow forecast. It was provided to Riveron solely as a proposed template reflecting the format of a future cash flow forecast.

39. At Riveron's request, the Company expanded the template to include a 20-week forward projection together with four weeks of historical actual results. Approximately one week

after providing the template, the Company delivered a complete cash flow forecast to Riveron, admitted as Movants' Ex. 54. That forecast reflected positive projected cash flow over the 20-week period, as well as the prior four-weeks of actuals.

VII. Payroll Representations and Vendor Relationships

40. In his Second Quarterly Report (Docket 132 at 3), the Receiver stated that when he assumed control of the Company, it was "unable to make payroll" and described the Company as being in "financial shambles." Neither of those allegations is true.

41. As confirmed by the testimony of Anthony Severini, Chief Financial Officer of Genesis Global Workforce Solutions — the professional employer organization responsible for payroll processing for Uncle Nearest since 2019, and the sole creditor named in the Receiver's Affidavit to underscore his allegation — payroll for Uncle Nearest was not in jeopardy prior to the commencement of the Receivership. The Company and Genesis had a credit agreement in place that guaranteed that payroll would be covered. That agreement was upset solely as a result of the Receivership itself and the Receiver's communications with Genesis.

42. Furthermore, the Receiver's description of the Company being in financial shambles is not supported by the evidence. Although the Company had a few pending disputes with vendors, it had in place agreements with its key vendors prior to the Receivership.

43. At the conclusion of the February 9, 2026 hearing (the "Hearing"), the Court expressed concern that termination of the receivership could prompt destabilizing creditor action. However, prior to appointment of the Receiver, all of the Company's key vendors were managed in the ordinary course and were working with the Company, and payroll continued uninterrupted.

44. If the Receivership is terminated, the Company will resume its positive vendor relationships and will be able to work with those vendors to establish appropriate repayment plans.

VIII. Accounts Payable Reconciliation

45. Following the departure of the former CFO in October 2024 and discovery of irregularities within the finance function, I directed that each vendor be contacted for written confirmation of outstanding balances rather than relying on internal accounting entries.

46. Approximately 400 vendors were contacted and asked to provide written statements confirming amounts owed. Through third-party confirmations, approximately \$7 million in unsecured trade payables was initially identified. As additional vendor statements were reconciled, the confirmed total increased to approximately \$10 million.

47. These balances were derived from creditor confirmations and supporting documentation, rather than internal ledger entries, estimated accruals, or system placeholders.

48. The approximately \$10 million in unsecured trade payables confirmed through third-party reconciliation differs from unsecured debt totals later referenced in subsequent filings that aggregated internal accounting entries.

49. In the Receiver's Second Quarterly Report dated January 6, 2026³ and filed as Docket 132 on February 3, 2026, the Receiver states:

despite the Company's management (including its Chief Executive Officer and Chief Financial Officer) representing to the Receiver that the Company's unsecured debt was substantially less than \$10,000,000, the Receiver discovered that its unsecured debt eclipsed \$50,000,000.⁴

50. The Company did not represent to the Receiver that its unsecured debt was substantially less than \$10,000,000. At the time the Receivership commenced, the Company's reconciled records reflected unsecured trade payables of approximately \$9.5 million to \$10 million, based on vendor confirmations.

³ Dkt. 132.

⁴ Dkt. 132, ¶ 3.

51. Various material amounts that are apparently included as unsecured payables in the Receiver's figures either do not reflect presently due third-party enforceable obligations or were impacted by classifications arising during the Receivership, possibly including:

- a. As addressed in my testimony, approximately \$17 million is reflected as due to "UN Affiliates." In correspondence to counsel, the Receiver indicated that this figure remained in the accounting system because it had appeared in prior internal records. That entry functioned as an internal placeholder related to investment tracking. It does not represent a presently due third-party enforceable obligation.
- b. A \$20 million convertible instrument originally structured to convert to equity in 2030, with no interim payment obligation, that was classified as present debt following the Receivership.
- c. Approximately \$3.7 million is reflected as due to Grant Sidney, Inc. Grant Sidney did not loan the Company \$3.7 million, and no such loan exists.
- d. Approximately \$842,000 is reflected as owed to Equiano Rum, an investment completed in 2021. No current payable is owed in connection with that investment.
- e. Approximately \$600,000 is reflected as owed to a vendor whose balance was satisfied in March 2025. No outstanding obligation remains.
- f. Vehicle-related liabilities are reflected for vehicles previously returned at the end of their lease terms or sold and fully satisfied.
- g. The information set forth above is based on my personal knowledge of the Company's accounting records and the vendor-confirmation process conducted prior to the Receivership. Given the discrepancies identified through that reconciliation process, access to the accounting system currently being used to

generate the Receiver's reports would allow for additional reconciliation and may identify further entries that do not reflect valid, presently due third-party obligations.

52. **Exhibit C** reflects the Receiver's accounts payable balance updated through January 18, 2026. As of January 18, 2026, the accounts payable balance reflected in the Receiver's schedule was \$13,886,897.

53. As I testified at the Hearing, the Receiver's reference to a \$45 million demand under the Advanced Spirits forward purchase arrangement does not reflect the assets associated with that liability. As noted previously, the Advanced Spirits arrangement includes approximately 25,000 barrels of aged whiskey, *including the 20,000 or so previously characterized by Farm Credit and later by the Receiver as missing*, which remain stored at TDG under the account "Advanced Spirits c/o Uncle Nearest." Under standard accounting principles, the liability asserted under the forward purchase arrangement corresponds to barrel inventory with substantial economic value to the Company. Consequently, the Advanced Spirit claim is directly offset by the value of those aged whiskey barrels.

IX. Post-Receivership Operational Issues

54. Over more than a year prior to the appointment of the Receiver, the Company implemented cost reductions totaling approximately 40% of total expenses. These reductions were concentrated in non-revenue-generating categories. Core functions tied to revenue generation, distributor support, and production were preserved. The Company entered the Receivership operating with a lean structure.

55. Following the appointment of the Receiver, bottling and shipment activity required additional layers of approval. Company personnel were informed by the Receiver and his

professionals that such approvals required clearance from Farm Credit and its financial consultant, Riveron.

56. Prior to the Receivership, the Company operated under negotiated terms with its third-party storage and bottling partner, Tennessee Distilling Group (“TDG”), permitting incremental repayment of legacy balances while continuing production and shipment of finished goods. Federal excise tax was paid upon bottling.

57. After the Receiver’s appointment, and following a telephone call between the Receiver and the CEO of TDG, the previously negotiated operating terms changed. TDG thereafter required immediate payment of approximately \$1 million, followed by scheduled payments, before continuing production and release at prior levels.

58. The Company proposed an alternative solution requiring approximately \$100,000 in capital expenditure to expand bottling capacity at Nearest Green Distillery in Shelbyville, Tennessee. This expansion had been mapped out as part of expense-reduction planning prior to the Receivership and was ready to be implemented. The Receiver indicated that he agreed it was a preferable approach. The proposal, however, was not implemented, and approximately \$1 million was borrowed by the Receiver from Farm Credit to satisfy TDG’s demand.

59. The current payable balance to TDG, as reflected in the December 31, 2025 Accounts Payable Summary attached as **Exhibit D**, shows a current remaining balance owed to TDG of \$107,128.00.

60. Throughout the Receivership, production throughput and shipment release were constrained while decisions were subject to layered approval. Documented out-of-stock (“OOS”) conditions occurred across multiple markets, including Texas, Georgia, New York, Pennsylvania,

New Jersey, Washington, Oregon, Utah, Missouri, Kansas, and Arkansas, primarily affecting core SKUs.

61. Texas, the Company's second-largest state by depletions, is currently experiencing out-of-stock ("OOS") conditions for Uncle Nearest 1856, our most popular SKU in that state, in advance of Houston's largest annual event, at which Victoria Eady Butler, the Company's Master Blender and the great-great-granddaughter of Uncle Nearest, is scheduled to host market activations. Houston is among the Company's highest-performing markets within Texas. To address the out-of-stock condition, Ms. Jerkens had to negotiate a transfer of inventory from another market into Houston. As a result, product that had already been sold and invoiced elsewhere was reallocated to Houston, reducing the incremental Houston orders and invoice volume, and thereby reducing sales, that would otherwise have been generated during these planned activations.

62. The OOS condition in Texas coincided with TDG's refusal to release inventory while storage balances remained unpaid. Email correspondence between the Receiver's retained financial consultant, Newpoint, and TDG — with Company leadership copied — reflects that TDG declined to release a truckload shipment until confirmation was provided that a wire had been transmitted to satisfy outstanding storage fees, as shown in **Exhibit E**. After confirmation of payment, TDG authorized release of the shipment.

63. The delay occurred during a high-visibility sales window. Distributor ordering cycles depend on warehouse availability, so this delay created significant issues in the supply chain.

64. Additional OOS periods occurred during peak seasonal selling windows between September and December 2025. In certain markets, inventory gaps lasted multiple days to months.

These interruptions occurred during a period in which production and shipment decisions were subject to the additional and time-consuming layers of approval by the Receiver and Farm Credit.

X. Limited-Time Offerings (“LTOs”)

65. Limited-time offerings (“LTOs”) have been a component of the Company’s growth strategy since inception. As confirmed by Chief Business Officer Katharine Jerkens at the Hearing, LTOs generate incremental margin, stimulate consumer demand through scarcity positioning, support distributor engagement, and increase distillery visitation.

66. More than ten LTOs were planned by the Company for late 2025 and 2026. During the receivership period, only two were released: Toasted Single Barrel and Cognac Cask Finished.

67. The bottling of LTOs required advance justification and clearance, communicated as requiring approval from Farm Credit and its financial consultant, Riveron, before barrels could be harvested and bottled.

68. As a result of the delays associated with the additional approval process, release timelines changed. Toasted Single Barrel, originally scheduled for an early September launch, was released solely at the distillery in November 2025 and is only now rolling into the broader market, with limited accompanying marketing. Cognac Cask Finished was also released later than originally planned.

69. Toasted Single Barrel received only two days’ advance marketing notice at the distillery. Limited-time offerings (“LTOs”) are typically supported by coordinated pre-launch promotion designed to support demand, distributor alignment, and retail placement. In 2024, Toasted Single Barrel was the Distillery’s most popular LTO release.

70. Although both LTOs ultimately sold out, the compressed marketing windows and adjusted release sequencing affected distributor ordering cycles during that retail period, which negatively affected the Company's overall sales.

71. The number of executed releases during the Receivership period was lower than originally planned. Each missed release represented sales that would have occurred during a defined retail window and could not be recreated at a later date. In addition to direct release sales, LTO launches historically generate broader market lift, including increased distributor engagement, enhanced retail placement, and incremental pull-through of core SKUs in the affected markets.

XI. Market Blitzes and Sales Execution

72. Market blitzes have generated significant return on investment for the Company through leadership engagement, distributor activation, and coordinated retail execution. The Company's internal expectation is that a dollar spent on marketing, especially during a market blitz, will return more than \$4.50 - \$6.00 in actual case sales revenue.

73. In Florida (May 2025), a weeklong blitz produced a 58 percent year-over-year lift during the activation week and a 48.3 percent increase for the full month. For the month following execution, the blitz generated approximately \$4.50 in sales for every \$1.00 of marketing cost.

74. In Texas (June 2025), a weeklong blitz produced a 264 percent year-over-year lift during the activation week and a 139.2 percent increase for the full month. For the month following execution, the blitz generated approximately \$4.80 in sales for every \$1.00 of marketing cost. Prior to the blitz, Texas ranked in the bottom half of the Company's top ten states by volume. By year-end, Texas ranked #2 nationally.

75. In Illinois (December 2025), a blitz produced a 128 percent year-over-year lift during the activation week and a 15.7 percent increase for the full month. For the month following execution, the blitz generated approximately \$6.00 in sales for every \$1.00 of marketing cost.

76. Requests for first-quarter blitz approvals were submitted to the Receiver's team on November 14, 2025. After nearly two months of following up with the Receiver's finance and spirits consultants, approval was finally granted on January 5, 2026; however, the January activation windows had closed by then, and February planning cycles had progressed. Five blitzes have been requested for March 2026; only one has been approved.

77. The blitz data reflects measurable sales lift during the periods in which the activations occurred.

78. The Receiver implemented cost reductions of approximately \$900,000 during the critical October–November–December (“OND”) retail period. Based on the Company's historical return on investment from comparable sales and marketing expenditures during OND, those reductions correspond to an estimated \$4.5 to \$6 million in foregone revenue. Applying the most conservative multiple referenced in Farm Credit's Keystone exhibit, that revenue impact corresponds to an estimated \$48 to \$72 million reduction in enterprise value for the Company.

XII. Nielsen Performance and Market Data

79. The sales figures for the Company reflect a growing business and brand up to the point of the start of the Receivership, and a declining business and brand thereafter.

80. Contrary to the Receiver's Affidavit and subsequent testimony, the independently maintained case sales data (excluding distillery sales) reflects significant year-over-year sales growth from 2023 to 2024.

81. Likewise, the Nielsen sales data reflects significant year-over-year growth in the Company's retail sales during 2024 and the first half of 2025, prior to the Receivership.

82. As an integral part of my role as CEO of the Company, I review closely the Nielsen performance figures to assess how Uncle Nearest is performing in relation to its competitors, as well as the market overall.

83. Nielsen (NIQ) retail scan data, attached as **Exhibit F**, reflects that from January through August 2025, Uncle Nearest outperformed the American whiskey category. In January 2025, the Company outperformed the market by 31.2 percentage points. Positive delta performance continued through August 2025.

84. The Receiver was appointed on August 24, 2025. Beginning in September 2025, relative performance shifted from outperformance to underperformance.

85. By January 2026, the Company underperformed the category by 18.3 percentage points. By February 2026, underperformance was 16.0 percentage points, representing a 47.2-point negative change from February 2025 as shown in **Exhibit F**.

86. The February 2026 Nielsen data was released after the Hearing, and is included in **Exhibit F**, and shows continuing significant market underperformance.

87. I agree with the testimony of David Ozgo, former Chief Economist and Senior Vice President of the Distilled Spirits Council of the United States, that Nielsen retail scan data is widely relied upon across the industry and is highly correlated with shipment data. He testified that Uncle Nearest, operating in all 50 states, is well covered by the Nielsen data.

88. After the appointment of the Receiver, the retail sales of Uncle Nearest declined substantially, especially during the October, November and December ("OND") period, which is the most significant quarter of the year for spirit sales in the industry.

89. The causes of that decline are delays in approvals of needed marketing blitzes and LTOs, massive cuts to the sales and marketing budgets during the most critical OND period, out-of-stocks in key markets following a reduction in bottling capacity of approximately 75%, public filings by the Receiver and Farm Credit that generated negative press coverage; and the ongoing fire sale process being undertaken by the receiver which has created significant uncertainty within Company's distributor network and retail customer base.

90. The poor post-Receivership sales performance reflected in **Exhibit F** is a direct result of out-of-stock conditions, delayed limited-time offerings, and centralized approval of production, release, and marketing decisions during the receivership. Out-of-stocks result directly in lost sales that the Company can never recover.

91. Distributor depletion declines and reductions in tourism at Nearest Green Distillery also occurred during the months following the receivership appointment.

92. As reflected in **Exhibit G** (Nearest Green Distillery Data), pre-receivership combined tour and merchandise revenue increased approximately 9 percent year over year, despite a decline in the broader American whiskey tourism market, and tour attendance increased approximately 11 percent year over year. The four strongest weeks of attendance growth occurred following the filing of Farm Credit's lawsuit, with certain weeks exceeding 20 percent year-over-year growth. During that period, Ms. Weaver and Ms. Eady Butler maintained a consistent presence at the distillery to provide continuity and reassurance to visitors and stakeholders.

93. Following the appointment of the Receiver, combined tour and merchandise revenue declined by approximately 20 percent on average, and attendance declined by approximately 22 percent.

94. As the CEO of Uncle Nearest since its founding, I have overseen the sale and purchase of more than 100,000 barrels of whiskey, and I keep close tabs on the market value of bulk whiskey as a normal part of my CEO role, especially in light of the large inventory of whiskey held by Uncle Nearest. Consistent with other established American whiskey companies, wholesale barrel transactions have formed a component of the Company's revenue model.

95. The wholesale market for Tennessee whiskey is not subject to the same glut that is presently impairing the Kentucky bourbon market because there are significantly fewer producers of Tennessee whiskey. Consequently, bulk Tennessee whiskey has held its value significantly better than Kentucky bourbon.

96. The glut of whiskey presently tends to be in the one to three year old range based on the over production in the industry that occurred after COVID. Approximately 30% of Uncle Nearest's current Tennessee whiskey barrel inventory is over five years old and 75% will be more than four years old by the end of 2026, so the value of Uncle Nearest's inventory is not significantly impacted by the over-supply of younger whiskey. My impressions of the Tennessee Whiskey market are confirmed by the Statement of Terry N. Thome, former President of JB Thome Holdings, one of the largest spirit brokers in the U.S., founded in 1977, which is attached as **Exhibit H** (the "Thome Statement").

97. Based on my experience in the industry and my familiarity with the specific barrels at issue, and after reviewing the current barrel pricing reflected in the Thome Statement, I have evaluated Uncle Nearest's 56,296 barrels (exclusive of the Advanced Spirits barrels). Using those pricing benchmarks, the estimated fair value is \$81.2 million, with an average barrel value of \$1,495, driven in significant part by the proportion of barrels aged more than five years. Movants' Exhibit 10 reflects the owned barrel inventory and the corresponding estimated fair value in excess

of \$81 million, exclusive of barrels subject to the Advanced Spirits forward arrangement. To be clear, my valuation is based on the going concern value of the barreled whiskey, not the forced sale liquidation value of those barrels. In a forced sale, especially in the current market, the value of those barrels would be significantly less.

98. Prior to the filing of the Complaint, the Company was pursuing various sale/leaseback options for the Nearest Green Distillery. In July 2025, the Company received two feasible Letters of Intent. Farm Credit, through its financial consultant, Riveron, was notified of these opportunities and that a closing on one of the transactions was likely imminent. The attached Letter of Intent dated July 7, 2025, a copy of which is attached as **Exhibit I**, under which the Nearest Green Property would be sold for \$70.4 million and leased back by the Company. Negotiations were underway to ensure the Company would be able to repurchase the property at the end of the lease term. The Nearest Green Distillery is among the most visited distilleries in the world and ranks highly across major consumer review platforms. Based on the LOI and the property's operational performance, and other negotiations transpiring at the time of the Receiver's appointment, I believe its fair value exceeds the \$70.4 million purchase price reflected in the Letter of Intent. In a forced sale liquidation, the value recovered would likely be significantly less.

XIII. Present Operational Stability and Orderly Continuation Without a Receiver

99. The Court's Memorandum and Order appointing the Receiver was entered on August 24, 2025. Since that time, additional financial records, vendor confirmations, and sworn testimony have become available. The Company's investigation and remediation efforts were initiated prior to the receivership and will resume once the Receivership is terminated.

100. From a sales standpoint, the Company is positioned to recover the momentum and sales trajectory that it had prior to the Receivership. The brand remains healthy and, as confirmed

by the testimony of Daniel Romano, the Company's emergence from Receivership is expected to restore distributor engagement and retail placement, resulting in increased depletions and retail sales. Based on the Company's 2024 sales performance and applying the revenue-based valuation framework previously referenced in the Keystone exhibit, submitted by Farm Credit, a return to comparable sales levels would correspond to an enterprise valuation in the range of approximately \$480 million. The sale process that has been undertaken by the Receiver is the equivalent of a liquidation fire sale and will not generate purchase of offers or indications of interest that represent the true going concern value of the Company.

101. The actual figures provided by the Receiver show that the Receiver and his professionals have been paid \$2.3 million since the start of the Receivership through February 15, 2026 – at the rate of \$96,000 per week. The Company will be able to save the vast majority of that once the Receivership is terminated, even considering the engagement of additional personnel.

102. The individuals responsible for the Company's financial irregularities were terminated prior to the appointment of the Receiver.

103. Independent outside counsel was retained. A multi-month forensic investigation was conducted by Kroll under the supervision of Duane Morris. A Big Four accounting firm was engaged for tax remediation. The independent director selected by Farm Credit was approved by a majority of the Board for appointment. All remain on standby to resume their work following termination of the Receivership. The Company completed a multi-year, full migration to NetSuite, establishing consolidated financial reporting independent of the prior accounting environment.

104. Additionally, the Company retained KPMG to handle the Company's tax work and KPMG identified discrepancies between filings represented as submitted by the Company's CFO and IRS transcript data. KPMG developed a remediation plan, but that remediation plan was not

completed due to the appointment of the Receiver and his decision not to continue to engage KPMG, as shown in **Exhibit K**.

105. These measures were implemented prior to the appointment of the Receiver and remain in place.

106. The Company's current governance and financial reporting environment includes the investigative, accounting, and reporting measures described above.

107. Upon termination of the Receivership, the Company intends to pursue a dual-track approach consisting of:

- (a) restoration of operating momentum and re-establishment of market confidence to support refinancing and capital market alternatives; and
- (b) orderly, selective monetization of assets consistent with market absorption capacity.

108. It is my opinion that termination of the Receivership will allow the Company to regain its sales momentum, cause the brand value to return to its pre-Receivership levels, and facilitate a debt or equity refinancing of the Company with existing equity to retain interests in the Company.

XIV. Reputational and Operational Harm Resulting from Public Allegations

109. I receive an annual salary of approximately \$90,000 from Uncle Nearest and no additional monetary compensation from the Company. All proceeds from sales of my book *Love & Whiskey*, totaling nearly \$2 million to date, have been directed to Uncle Nearest, Inc.

110. Prior to the Receivership, my speaking engagements provided personal income and also benefited the Company. Organizations compensated me directly for those appearances, and the Company structured distributor meetings and market activations around those engagements, significantly reducing corporate travel expenses. Since the filing of the Receivership action and

the public allegations made in connection with these proceedings, my paid speaking engagements have been cancelled or suspended. As a result, I have lost substantial personal income that had been used to support household expenses.

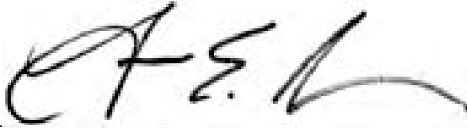
111. Keith Weaver oversees Nearest Green Distillery and the Company's operational employees and receives no compensation for that role. Prior to joining Uncle Nearest, he earned approximately \$1 million annually in media and entertainment executive positions. Since the public allegations in this matter, professional opportunities that were previously extended to him have been withdrawn or have not proceeded.

112. In addition, certain credit card accounts used exclusively for Uncle Nearest operations and sales activities were personally guaranteed by me. During the Receivership, those obligations were not paid in the ordinary course, resulting in adverse reporting to credit bureaus and a substantial decline in my personal credit score. Similarly, certain mortgages in my name for properties pledged to Uncle Nearest, Inc. were not paid when due during the Receivership. The resulting late-payment reporting reduced my credit score from approximately 800 to the mid-500s and has impaired my ability to refinance properties requiring refinancing, creating increased personal financial exposure tied directly to obligations undertaken for the benefit of the Company.

113. I do not share this information to seek sympathy from the Court, but to provide context. My husband and I have committed our professional livelihoods to building Uncle Nearest. Public allegations made in connection with these proceedings have generated recurring media coverage, and that coverage has had direct professional consequences for us. Because we are the founders and public faces of the Company, such coverage also affects the Company's enterprise value, as adverse press has corresponded with reduced distributor orders and retail depletions.

I declare under penalty of perjury pursuant to 28 U.S.C. § 1746 that the foregoing is true and correct.

Dated: February 25, 2026

A handwritten signature in black ink, appearing to read 'F. Weaver', written over a horizontal line.

Fawn Weaver
Chief Executive Officer
Uncle Nearest, Inc.

NIELSEN (NIQ) RETAIL SCAN DATA

Period	Uncle Nearest \$ Growth	Market \$ Growth	Delta
January 2025	30.2%	-1.0%	31.2 pts
February 2025	5.4%	-7.1%	12.5 pts
March 2025	-1.1%	-4.3%	3.2 pts
April 2025	7.0%	-4.9%	11.9 pts
May 2025	1.3%	-5.0%	6.3 pts
June 2025	1.3%	-0.4%	1.7 pts
July 2025	0.7%	-4.6%	5.3 pts
Bank Lawsuit Announced			
August 2025	7.2%	-0.6%	7.8 pts
Receiver Appointed			
September 2025	-8.2%	-6.8%	-1.4 pts
October 2025	-25.3%	-11.0%	-14.3 pts
November 2025	-14.8%	-7.7%	-7.1 pts
December 2025	-23.8%	-9.0%	-14.8 pts
January 2026	-26.8%	-8.5%	-18.3 pts
February 2026	-19.1%	-3.1%	-16 pts
March 2026	-17.7%	-2.2%	-15.5 pts
April 2026	-22.4%	-3.2%	-19.2 pts

By January 2026, Uncle Nearest underperformed the market by approximately 18.3 percentage points. By February 2026, underperformance was approximately 16.0 percentage points, and by March 2026, approximately 15.5 percentage points. This represents a **46.7 percentage point reversal** from January 2025, when the brand outperformed the market by approximately 31.2 percentage points.

NEAREST GREEN DISTILLERY: GROWTH PRE-RECEIVERSHIP/DECLINE POST-RECEIVERSHIP

	Week	Merchandise +		Combined Tour + Merchandise +		Tour/Tasting
		Whiskey Revenue % change	Tour Revenue % change	Whiskey Revenue % change	Tour Revenue % change	Attendance %change
Week 1	12/30-1/5	39%	76%	49%	71%	
Week 2	1/6-1/12	-68%	-73%	-69%	-66%	
Week 3	1/13-1/19	206%	207%	206%	124%	
Week 4	1/20-1/26	-18%	35%	-7%	15%	
Week 5	1/27-2/2	-18%	8%	-12%	2%	
Week 6	2/3-2/9	7%	38%	15%	32%	
Week 7	2/10-2/16	-21%	10%	-13%	-22%	
Week 8	2/17-2/23	-1%	-8%	-3%	-8%	
Week 9	2/24-3/2	55%	18%	44%	0%	
Week 10	3/3-3/9	-14%	14%	-8%	4%	
Week 11	3/10-3/16	-32%	-17%	-28%	-28%	
Week 12	3/17-3/23	-21%	1%	-17%	-11%	
Week 13	3/24-3/30	30%	44%	34%	8%	
Week 14	3/31-4/6	-11%	-20%	-13%	-24%	
Week 15	4/7-4/13	-5%	24%	2%	11%	
Week 16	4/14-4/20	-36%	-6%	-28%	-14%	
Week 17	4/21-4/27	1%	36%	9%	21%	
Week 18	4/28-5/4	5%	4%	5%	-2%	
Week 19	5/5-5/11	-3%	14%	2%	5%	
Week 20	5/12-5/18	64%	67%	65%	49%	
Week 21	5/19-5/25	20%	48%	28%	28%	
Week 22	5/26-6/1	51%	38%	47%	35%	
Week 23	6/2-6/8	-19%	9%	-11%	5%	
Week 24	6/9-6/15	-20%	-5%	-16%	-10%	
Week 25	6/16-6/22	-16%	20%	-7%	23%	
Week 26	6/23-6/29	-4%	25%	3%	9%	
Week 27	6/30-7/6	-6%	-14%	-8%	-12%	
Week 28	7/7-7/13	-4%	2%	-2%	2%	
Week 29	7/14-7/20	-26%	124%	6%	21%	
Week 30	7/21-7/27	2%	19%	7%	11%	
Week 31	7/28-8/3	-8%	4%	-4%	1%	
Week 32	8/4-8/10	-5%	30%	4%	14%	
Week 33	8/11-8/17	16%	43%	23%	30%	
Week 34	8/18-8/24	-31%	18%	-20%	18%	
Week 35	8/25-8/31	28%	58%	36%	44%	
PRE-RECEIVERSHIP		4%	26%	9%	11%	

POST RECEIVERSHIP						
Week 36	9/1-9/7	-27%	34%	-13%	16%	
Week 37	9/8-9/14	-15%	17%	-7%	-4%	
Week 38	9/15-9/21	42%	1%	30%	0%	
Week 39	9/22-9/28	21%	40%	26%	41%	
Week 40	9/29-10/5	-53%	7%	-40%	-4%	
Week 41	10/6-10/12	-40%	-15%	-33%	-20%	
Week 42	10/13-10/19	17%	161%	56%	30%	
Week 43	10/20-10/26	-37%	-16%	-31%	-19%	
Week 44	10/27-11/2	-56%	-35%	-51%	-35%	
Week 45	11/3-11/9	-36%	1%	-28%	-19%	
Week 46	11/10-11/16	-40%	-20%	-34%	-6%	
Week 47	11/17-11/23	-9%	-14%	-11%	-7%	
Week 48	11/24-11/30	152%	-23%	112%	-30%	
Week 49	12/1-12/7	5%	-26%	-2%	-33%	
Week 50	12/8-12/14	16%	-34%	3%	-37%	
Week 51	12/15-12/21	-15%	-32%	-19%	-38%	
Week 52	12/22-12/28	-34%	-37%	-35%	-38%	
Week 1	12/30-1/4	-16%	-14%	-23%	-16%	
Week 2	1/5-1/11	17%	47%	20%	-1%	
Week 3	1/12-1/18	-46%	176%	0%	-23%	
Week 4	1/19-1/25	-90%	-90%	-90%	-89%	
Week 5	1/26-2/1	-88%	-85%	-88%	-85%	
Week 6	2/2-2/8	-57%	-59%	-55%	-67%	
Week 7	2/9-2/15	-58%	-29%	-48%	-22%	
Week 8	2/16-2/22	-41%	-23%	-37%	-36%	
Week 9	2/23-3/1	-48%	-50%	-49%	-50%	
Week 10	3/2-3/8	-30%	-36%	-32%	-52%	
Week 11	3/9-3/15	-12%	9%	-7%	-6%	
Week 12	3/16-3/22	-25%	-4%	-20%	-16%	
Week 13	3/23-3/29	-52%	-39%	-48%	-41%	
Week 14	3/30-4/5	-49%	-33%	-45%	-47%	
Week 15	4/6-4/12	-55%	-41%	-52%	-55%	
Week 16	4/13-4/19	-22%	41%	0%	-42%	
Week 17	4/20-4/26	-56%	-54%	-55%	-53%	
Week 18	4/27-5/3	-45%	-25%	-40%	-38%	
POST-RECEIVERSHIP		-38%	-13%	-32%	-41%	