

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN BERNARDINO
VICTORVILLE DISTRICT

Center for Biological)
Diversity,)
)
 Plaintiff,)
)
 vs.) No. BCVBS09950
)
County of San Bernardino,)
)
 Defendant.)

Judgment Debtor Exam of: JEFF MEBERG
Date: Thursday, May 17, 2012
Times: 8:57 a.m. - 10:11 a.m.
Location: 14455 Civic Drive
 Department V8
 Victorville, CA

Reported by: Barbara R. Swengel
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ALSO PRESENT:

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NORMAN DIAZ

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I N D E X

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Ms. Foley	4

E X H I B I T S

NO.	PAGE	DESCRIPTION
A	12	Chase Bank document (1 page)
B	12	Nursery Products, LLC, Balance Sheet as of May 16, 2012 (2 pages)
C	22	Nursery Products, LLC, Profit & Loss January 1 through May 16, 2012 (2 pages)

1 J E F F M E B E R G,
2 having been sworn, testified as follows:

3
4 EXAMINATION

5 BY MS. FOLEY:

6 Q All right. Mr. Meberg, thanks for appearing
7 today. Just the standard questions to get it out of the
8 way. Do you have any medical conditions or on any
9 medication that might affect the accuracy of your
10 testimony?

11 A No.

12 MR. HAYS: And real quick, let her finish the
13 question before you answer, because it will make the
14 reporter's job a lot easier.

15 THE WITNESS: Okay.

16 MR. HAYS: She can't take down two people at
17 once, and make sure you answer everything audibly since
18 she's taking it down.

19 THE WITNESS: Okay.

20 Q (BY MS. FOLEY) All right. First of all, can
21 you state the name of Nursery Products' agent for
22 service of process?

23 A I think it would be me now --

24 Q Okay.

25 A -- Jeff Meberg.

1 Q And can you state the address where you accept
2 service of process?

3 A For now we'll use what you used last time,
4 2916 Carta Taza, San Clemente.

5 Q Okay. And just so I understand, is that -- has
6 that information been sent to the Secretary of State
7 or --

8 A That was sent to the Secretary of State a few
9 years ago. So I don't know what happened with this
10 paperwork.

11 Q Okay.

12 A So that's why when there's a problem being
13 served, I just told Jennifer just to use this address.

14 Q Okay. Thank you. And the 2916 Carta Taza
15 address, if I'm understanding correctly, that's your
16 home address?

17 A That's my house, yeah.

18 Q So it's not an office for Nursery Products?

19 A Correct.

20 Q Does Nursery Products actually have an office?

21 A No, no.

22 Q So were all the -- are all of Nursery Products
23 business documents, articles of incorporation, things
24 like that, are those all kept at your home?

25 A Either at my home or in storage up in

1 Helendale.

2 Q Okay. So Nursery Products has a storage space?

3 A We have a trailer, yeah.

4 Q All right. So just to start off, can you just
5 take me through a list of any real property that Nursery
6 Products has?

7 A Nursery Products owns 160 acres where the
8 compost site is being built and then to the north a
9 40-acre parcel.

10 Q And so for the purposes of this -- of this
11 exam, are you comfortable with -- just for ease of
12 conversation, are you comfortable with calling that the
13 Hawes facility?

14 A Yes.

15 Q Am I pronouncing that correctly?

16 A I think so, yeah. Well, there's two
17 properties. There's the Hawes property, which is what
18 the original EIR was done for, which is 160 acres. And
19 then after the EIR started, we bought a 40-acre parcel
20 to the north. So that's called the 40-acre parcel now.

21 MR. HAYS: Counsel, do you mind real quick?

22 You say "we." Is that Nursery Products as the
23 title --

24 THE WITNESS: I'm sorry.

25 MR. HAYS: -- or yourself individually?

1 THE WITNESS: We is Nursery Products.

2 Q (BY MS. FOLEY) And how much did you pay for
3 the 160 acres?

4 A 260,000.

5 Q Is that roughly how much the property is worth
6 today?

7 A That's what the bank is saying it's worth.

8 Q Okay. And how much did you pay for the 40-acre
9 parcel?

10 A 40,000.

11 Q And is that roughly what it's worth today?

12 A Yes.

13 Q Okay. Now, are there any liens, encumbrances,
14 easements, anything like that on either of these
15 parcels?

16 A There's a lien on the 160 acres from the SBA.

17 Q Can you explain more about that?

18 A The SBA -- I have an SBA loan to build the
19 site. And so they're in first position to make a lien
20 on the property. They have not liened the 40 acres.

21 Q Okay. Does Nursery Products own any other real
22 property?

23 A No.

24 Q Okay. Does Nursery Products rent any other
25 property?

1 A No.

2 Q Okay. Does Nursery Products have the right of
3 first refusal for any property?

4 A No.

5 Q Okay. All right. Let's move to bank accounts.
6 Does Nursery Products have kind of a deposit account,
7 checking account, any kind of bank account?

8 A We have a checking account and a CD,
9 certificate of deposit.

10 Q All right. And what institution is your
11 checking account held with?

12 A Chase Bank in San Clemente.

13 Q And do you know the address of the branch of
14 the Chase Bank in San Clemente that you opened the
15 account with?

16 A Yes. 638 Camino De, D-e, Los, L-o-s, Mares in
17 San Clemente.

18 Q Okay. Thank you. And how -- what's the
19 balance of that account as of today?

20 A It is exactly \$7,245.

21 Q Okay. I'm sorry. Can you say that one more
22 time?

23 A Here.

24 Q Thank you.

25 A Where was the checking?

1 Q This.

2 A Yeah.

3 Q Thank you.

4 A You can have it. That's for your use.

5 Q All right. And the CD?

6 A Same bank.

7 Q Same bank? Same branch also?

8 A Same branch.

9 Q Okay. And what's the balance of it?

10 A 25,000.

11 Q And that's as of today or very recently?

12 A Yeah. It's a joint CD held between Nursery

13 Products and the City of San Bernardino Municipal Water

14 District.

15 Q All right. Now, going back to the checking

16 account, are there any other names on that account aside

17 from Nursery Products?

18 A Just Nursery Products.

19 Q Does Nursery Products own any other type of

20 banking account, jointly with any other --

21 A No.

22 Q Okay. Does Nursery Products have a safe

23 deposit box?

24 A No.

25 Q Does Nursery Products own any stocks?

1 A No.

2 Q Does Nursery Products own any bonds?

3 A No.

4 Q Okay. All right. Is Nursery Products the
5 beneficiary of any trust accounts?

6 A No.

7 Q Okay.

8 A No.

9 Q All right. Is Nursery Products owed any money
10 by any business or individual?

11 A No.

12 Q Okay. Has Nursery Products taken out any loans
13 from any institution or --

14 A The SBA.

15 Q Okay. Is that the only loan?

16 A Yeah, it's the only loan.

17 Q Okay. And what was the amount of that loan?

18 A 1.8 million.

19 Q And what was that money used for?

20 A Construction of the site.

21 Q And how much of that 1.8 million has been spent
22 so far?

23 A 1.55.

24 Q Okay. All right. So I'm just going to go
25 through this list of assets.

1 A Well, what I -- here's the bank accounts.

2 Q Okay.

3 A And then I -- to make it easier, I tried to
4 just answer the questions in order that were on here.

5 Q Okay.

6 THE WITNESS: Do you want to see this?

7 MR. HAYS: That's fine.

8 Q (BY MS. FOLEY) So I'm just going to read part
9 of this into the record. So this is a piece of paper
10 that says that Chase Bank account for Nursery Products
11 is the following account number, 000003131106573. The
12 certificate of deposit is an account ending in 4699, and
13 that's a joint account with Nursery Products and the
14 City of San Bernardino Municipal Water Department.

15 A And the reason it has -- ending in the last
16 four digits is that's the last piece of paperwork I
17 could find. That's all that it says on it.

18 Q That's fine. All right. So let's go through
19 this list of assets.

20 MR. HAYS: Counsel, are you going to mark that
21 as an exhibit to the transcript?

22 MS. FOLEY: This?

23 MR. HAYS: Yes.

24 MS. FOLEY: I can.

25 MR. HAYS: It's up to you. I just was asking.

1 If you were, it would be a good time to do it.

2 MS. FOLEY: Sure. So let's mark the piece of
3 paper with the account numbers that I just read in as
4 Exhibit A. Thank you.

5 (Exhibit A marked for identification.)

6 Q (BY MS. FOLEY) Okay. So can you explain the
7 basis for this number? And what I'm looking at is a
8 number that says total assets, and then it has a number
9 that's a little over 3.2 million.

10 A The -- all the work that we did out on the
11 site, according to accounting rules, is considered a
12 capital expenditure and not an expense. And so I had --
13 I had to credit it as an asset, not as an expense or
14 debit. So that's why it's all listed as assets,
15 everything I spent on legal fees and the engineering of
16 the designs of the plan, the EIR itself, everything is
17 considered an asset.

18 Q Okay. Thank you. All right. So I'm going to
19 mark the balance sheet that Mr. Meberg handed me as
20 Exhibit B.

21 (Exhibit B marked for identification.)

22 Q (BY MS. FOLEY) All right. So moving on from
23 that, is Nursery Products involved in any other -- aside
24 from this legal proceeding, is Nursery Products involved
25 in any other legal proceedings?

1 A Still an open appeals case from three years
2 ago --

3 Q Do you have --

4 A -- where we filed an appeal to the EIR. It
5 lost, and the case is still open with the law firm
6 because the -- they claim that they didn't do a good job
7 representing. So we're still fighting.

8 Q So it's a legal malpractice case against --

9 A Exactly.

10 Q -- your old law firm?

11 A Exactly.

12 Q And is that the case that's in arbitration now?
13 Are we talking about the same case?

14 A If I understand what arbitration is --

15 Q Uh-huh.

16 A Well, what city is that in? Is that in L.A.?

17 Q Uh-huh.

18 A Yeah. Then that's where that would be.

19 Q So that's the only other --

20 A That's the only other.

21 Q -- legal proceeding?

22 A I talked over you. Sorry.

23 Q That's okay. So how much money is Nursery
24 Products seeking in that legal proceeding?

25 A Just to settle the debt --

1 Q Okay.

2 A -- which is 180,000.

3 Q And can you kind of give me an update, status
4 update, on the arbitration? Is it expected to settle?

5 A It's expected to settle.

6 Q Okay. All right. Have you been paid
7 anything -- has Nursery Products been paid anything yet
8 from that --

9 A No.

10 Q -- case?

11 A We wouldn't be paid. It would be -- it would
12 be -- we would eliminate the debt owed to it.

13 Q Okay. I see.

14 A They're claiming I owed them 180,000, but they
15 didn't represent us well.

16 MR. HAYS: So it's a mandatory fee arbitration,
17 not a malpractice lawsuit, correct?

18 THE WITNESS: Yes. Thanks. Thanks.

19 Q (BY MS. FOLEY) Okay. So just so I'm
20 understanding everything correctly, Nursery Products
21 would not be paid anything from this case even if you
22 are successful?

23 A Correct.

24 Q Okay.

25 MR. HAYS: Under a state bar MFA, there's no

1 recovery. It's only to eliminate debt sought by an
2 attorney, and if you want an affirmative recovery,
3 you've got to file your malpractice case.

4 Q (BY MS. FOLEY) Okay. Thank you. So how
5 was --

6 THE WITNESS: How do you know?

7 MR. HAYS: 20 years, I learn a few things.

8 THE WITNESS: I didn't know that.

9 Q (BY MS. FOLEY) So can you give me a status
10 update about where the Hawes facility is now?

11 A We're opening Tuesday.

12 Q Okay. And how are you funding -- I imagine
13 there's construction work and things like that going on
14 at the site. How are you funding that?

15 A SBA loan.

16 Q Okay.

17 MS. FOLEY: You can stop recording.

18 (Discussion was held off the record.)

19 Q (BY MS. FOLEY) So how many employees does
20 Nursery Products have currently?

21 A One.

22 Q So are you -- is the construction work and
23 things like that being carried out by independent
24 contractors?

25 A Contractors.

1 Q Okay.

2 A The first three.

3 Q So Mr. Meberg just indicated that the following
4 companies are independent contractors for Nursery
5 Products -- I'm just going to read this into the
6 record -- Quantum Construction, Geosyntec, EC
7 Applications.

8 And if I'm understanding this correctly, this
9 is -- the number that's by each name is the amount of
10 the contract?

11 A No. That's the amount -- yeah. That's a good
12 question because that's unclear. This is the amount --
13 that's the amount that's owed to them as of this
14 morning.

15 Q Oh, okay. I understand. So I'm just going to
16 read that into the record too. Quantum Construction is
17 owed the following amount by Nursery Products, 189,450.
18 Geosyntec is owed 174,440. EC Applications is owed
19 56,500.

20 MR. HAYS: Counsel, you said "independent
21 contractor." I believe he said contractor, and I think
22 there might be a legal difference.

23 So can you clarify that? These are
24 contractors, not independent contractors?

25 THE WITNESS: Correct.

1 MR. HAYS: Okay.

2 THE WITNESS: These are three -- they're
3 construction firms. They have contract licenses. They
4 were low bid on bids that we put out to do specific work
5 to build the Hawes site.

6 Q (BY MS. FOLEY) So Nursery Products has a
7 contract with these three companies to do specific work
8 on the site?

9 A Correct.

10 Q What's the term of each of these contracts?
11 Does it last until the work is done?

12 A Until the work is done.

13 Q So it's not a definitive term, like a year or
14 something like that?

15 A Correct.

16 Q Okay. And all of these independent
17 contractors -- or excuse me. Not independent
18 contractors.

19 All of these contractors are being paid through
20 the SBA loan?

21 A Correct.

22 Q Okay.

23 A You read the first three, and I'm sorry. I --
24 because I said the first three, and there's a fourth,
25 Marina Landscape.

1 Q Oh, okay. So Marina Landscape is also a
2 contractor that Nursery Products is contracting with for
3 work on the site, and currently Nursery Products owes
4 them \$11,200.

5 And this Dalton Commercial, can you explain
6 what they --

7 A They supplied rock to build a road.

8 Q And Nursery Products currently owes Dalton
9 Commercial a little over \$11,000. All right.

10 So you said Nursery Products only has one
11 employee. Are you counting -- is that you?

12 A No. I'm not an employee.

13 Q Okay. Does Nursery Products also have other
14 corporate officers aside from yourself?

15 A No.

16 Q So they don't have a vice president --

17 A No.

18 Q -- CEO or anything --

19 A No.

20 Q -- like that?

21 Okay. So -- does the articles of incorporation
22 for Nursery Products, did you bring that?

23 A No, I did not.

24 Q Okay. That's fine.

25 MR. HAYS: I'm not sure there are articles of

1 incorporation, per se, but would there be an operating
2 agreement for the LLC?

3 THE WITNESS: Yeah. There was an operating
4 agreement. I was assuming that's what that question
5 was.

6 Q (BY MS. FOLEY) So other than the operating
7 agreement, Nursery Products doesn't have any articles of
8 incorporation?

9 A Correct.

10 Q Okay. Can you tell me a little bit about the
11 operating agreement?

12 A They -- it's an LLC operating agreement that
13 you buy online that you have to have to open up a
14 checking account. So it's just boilerplate language
15 that lists me as the president.

16 Q Okay. Is it filed with the Secretary of State?
17 Is --

18 A I think so.

19 Q Is that who requires it?

20 A The bank required it.

21 Q Okay.

22 A I don't think that you submit it to the state.

23 Q Okay.

24 A There's a cert that you submit as an LLC to the
25 state. That's for the Secretary of State, but that's

1 just a one-page.

2 Q Okay. So aside from yourself and the one
3 employee -- and I know that you're not counting yourself
4 as an employee of Nursery Products, but aside from
5 yourself and the one employee, there's no other
6 employees or officers or anyone else who works for
7 Nursery Products?

8 A Correct.

9 Q Okay. And aside from the contractors that we
10 listed a few minutes ago, there's no one else who gets
11 paid by Nursery Products?

12 A Correct.

13 Q Okay.

14 A I didn't put the SBA loan on there. I'm sorry.

15 Q That's okay.

16 A That should be on there too.

17 Q Okay. Now, as far as the -- as Nursery
18 Products' agreement with the County of San Bernardino
19 for the legal fees in this case, is there an agreement
20 between Nursery Products and the County of
21 San Bernardino as to how those fees will be paid?

22 A I'm supposed to pay them.

23 Q Okay. And so hypothetically, if the County of
24 San Bernardino paid us, would you pay the county -- or
25 I'm sorry. Would Nursery Products pay the county?

1 A If that's what's in the -- I don't think that's
2 an option. I'm required to pay it before I go out of
3 business.

4 Q Okay. So --

5 A There's no agreement between me and the county,
6 like they pay, and then I pay them back, if that's what
7 you're -- I think that's what you're asking.

8 Q Uh-huh.

9 A And, no, there's no agreement like that.

10 Q Okay. When does the county require you to pay?
11 Is there a deadline or a time frame or --

12 A I don't think so.

13 Q Okay.

14 A I mean I think it's dictated on what you and I
15 are talking about.

16 Q Okay.

17 A They haven't gotten involved and indicated
18 anything.

19 Q Okay. Let's see. What else?

20 A You want the -- do you want me to just give you
21 things?

22 Q Yeah. Let's look through --

23 A These are the deeds for the two pieces of
24 property. And then -- oh, and then profit and loss also
25 on there.

1 Q Oh, take a look at that. This. Okay.

2 A Yeah. I'm sorry. I should have stapled these.

3 Q That's okay.

4 A There's two, because there's two deeds.

5 MS. FOLEY: So I'm going to mark in the record
6 as Exhibit C the profit and loss statement that Nursery
7 Products has handed me.

8 (Exhibit C marked for identification.)

9 (Discussion was held off the record.)

10 Q (BY MS. FOLEY) Can you explain the basis for
11 this number? And for the purposes of the record, what
12 I'm looking at is the number labeled, "Total income,"
13 and it says \$77,503.

14 A Yeah. I had a -- I had a two-month contract
15 with a client where I took their biosolids. And so I
16 charged them to haul the biosolids, and then I sold the
17 biosolids to a farmer. So that's the difference between
18 the sales and the service.

19 Q Okay. And when you say you, that was Nursery
20 Products -- you were acting under Nursery Products?

21 A Yeah.

22 Q Okay.

23 A Every time I say "we" or "me," it's always
24 Nursery Products.

25 Q All right. How much of that 77,000 do you have

1 left?

2 A 7,000.

3 Q Okay. So the -- this \$77,000 was deposited
4 into the Chase checking account we discussed earlier?

5 A All the money --

6 Q Okay.

7 A -- goes in the one account.

8 Q Can you explain the basis for this number? And
9 what I'm looking at is a number labeled, "Total
10 insurance," and it says \$23,624.

11 A I'm required to have property insurance and
12 liability insurance according to my SBA loan, and the
13 health insurance is for my one employee.

14 Q Okay. Do you have any other types of
15 insurance? And I'm not sure what else you would have.

16 A I have no other insurances.

17 Q Okay. Can you explain the basis for this
18 number which is labeled, "Total professional fees"? And
19 it says \$71,576.

20 A They're legal fees for him and Gresham Savage.

21 Q Okay. And have you been making regular
22 payments to both of those law firms?

23 A No.

24 Q Okay. Are you behind in your payments?

25 A Yes.

1 Q Okay. So if I'm understanding this
2 correctly -- and for the record, what I'm looking at is
3 a number labeled, "Net income," and it says negative --
4 a little over 1.4 million. So if I'm understanding that
5 correctly, Nursery Products is \$1.4 million in debt -- a
6 little over \$1.4 million in debt currently?

7 MR. HAYS: I'm not sure that's what that means.

8 THE WITNESS: Well, yeah. It does -- that's
9 how it is. I mean if I'm going to have -- if I'm going
10 to do a service, and there's income, but the amount of
11 expenses exceeds the amount of income, and so from a P
12 and L standpoint, it's going to show a negative number
13 like that, but I'm not in debt that much, no.

14 Q (BY MS. FOLEY) Okay.

15 MR. HAYS: It's not a balance sheet that would
16 include SBA contractors, et cetera.

17 Q (BY MS. FOLEY) Okay. So would it be more
18 accurate to say that this net income number reflects the
19 amount of money Nursery Products currently owes to other
20 businesses?

21 MR. HAYS: I don't think so.

22 THE WITNESS: No.

23 Q (BY MS. FOLEY) No?

24 A No. No. This list is more of what is owed --

25 Q Okay.

1 A -- along with the SBA.

2 Q All right.

3 A It's like an ATM, you know. When you go and
4 you withdraw money from an ATM, the number on the
5 receipt is a snapshot of where it's at at the moment.
6 It doesn't necessarily reflect if you've written checks,
7 and they haven't cleared.

8 Q All right. So now you said you're behind in
9 your payments for the two law firms?

10 A Just one.

11 Q Just Gresham Savage?

12 A (No audible response.)

13 Q How far behind are you?

14 A I really don't know.

15 Q Okay.

16 MR. HAYS: The amount you owe is estimated on
17 the profit and loss statement?

18 THE WITNESS: Yeah. I don't know the --

19 Q (BY MS. FOLEY) So the total professional fees,
20 the total amount you currently -- oh, I'm sorry. I am
21 looking at the wrong one.

22 A No. This is just what I owe them.

23 Q Okay.

24 A And you asked how -- how behind I am. I don't
25 know how behind. I don't know if it's ten days or three

1 months.

2 Q Okay. But you currently owe Gresham Savage a
3 little over 36,000?

4 A (No audible response.)

5 Q Okay. Have -- has Nursery Products consulted
6 with a bankruptcy attorney?

7 A Yes.

8 MR. HAYS: Me.

9 Q (BY MS. FOLEY) How recently have you consulted
10 with that attorney?

11 A Friday.

12 MR. HAYS: Just last week sometime.

13 THE WITNESS: Yeah. Thursday.

14 Q (BY MS. FOLEY) Can you explain this document
15 to me?

16 A Oh, this is part of the grant deed. I just
17 photocopied some of the copies from the grant deed.
18 This was just in with a -- I don't know what it is
19 individually.

20 MR. HAYS: It's a change of ownership form for
21 the county, I believe.

22 THE WITNESS: Actually, I really can't explain
23 it. There's two pieces of property. These are the
24 deeds, and these were some pages that were supporting
25 behind it.

1 Q (BY MS. FOLEY) Okay.

2 A I don't know what they mean. I think we're
3 missing one page too.

4 Q Sorry.

5 A Yeah.

6 Q Okay.

7 MR. HAYS: I believe every time there's a
8 change of ownership, the county requires that form to be
9 filled out in terms of changing the name for the tax
10 assessor records and whether it's exempt or not for
11 reassessment.

12 MS. FOLEY: Okay.

13 MR. HAYS: And that's what that looks like to
14 me.

15 Q (BY MS. FOLEY) All right. So the composting
16 facility is opening soon?

17 A Tuesday.

18 Q Very soon. How soon does Nursery Products
19 expect to start making a profit on that facility?

20 A I don't -- I can't answer -- I don't know.

21 Q Do you have an estimate or --

22 A It depends on how much the debt is. I mean --

23 Q Right.

24 A -- if the question is a profit, not for a
25 while, because there's considerable amount of debt for

1 us.

2 Q So it sounds like once the facility starts
3 operating, at least for the first little while it's
4 operating, all of the -- any income that's going to come
5 in is all going to Nursery Products' debts?

6 A Exactly.

7 Q Okay. And do you have an estimate of how long
8 it would take to pay off those debts?

9 A It depends on what the total debts are. That's
10 why we're talking here.

11 Q Okay. Does Nursery Products -- I don't know
12 how to run a composting facility, but I imagine there's
13 a lot of construction equipment, vehicles, things like
14 that.

15 A There's two front-end loaders and a windrow
16 turner and a water truck.

17 Q Okay. Does Nursery Products own the equipment
18 that you just listed?

19 A Well, we own one loader, one water truck, and
20 we'll rent the rest.

21 Q Okay. Do you have the deed or a certificate of
22 title or anything --

23 A No.

24 Q -- for --

25 A For neither of them.

1 Q Okay. When did you buy those?

2 A We didn't buy them. We just swapped compost
3 for equipment back at my old site.

4 Q So you -- so Nursery Products didn't pay money?

5 A We never pay cash for either of them.

6 Q Who did you swap with?

7 A Farmers.

8 Q Okay. Do you have an estimated value for
9 either of those pieces of equipment?

10 A I think they total like 7,000.

11 Q Okay. And then -- I'm sorry. Can we just go
12 back? And can you state the names of that -- of those
13 pieces of equipment again?

14 A Front-end loader, water truck.

15 Q And you said you had two front-end --

16 A I'll need two.

17 Q Okay. And is the front-end loader and the
18 water truck, those are currently located at the
19 composting facility?

20 A Yes.

21 Q Okay. And when you go to purchase the second
22 front-end loader, what's your estimated cost?

23 A I'll rent it.

24 Q What's the rental cost?

25 A 7,000 a month.

1 Q Okay. And do you know who you'll rent it from?

2 A Johnson Machinery, United Rentals. There's a
3 bunch of people that rent them.

4 Q Okay. Are the front-end loader and the water
5 truck -- forgive my ignorance.

6 A That's all right.

7 Q Is it like owning a vehicle where you need --

8 A No, because it never leaves the property.

9 Q Okay.

10 A So I'm assuming you mean do you register it
11 with the state?

12 Q Right, or the DMV --

13 A No.

14 Q -- or anything like that?

15 A There's no license plate. There's no serial
16 numbers.

17 Q Okay. And then aside from the front-end loader
18 and the water truck, was there one other?

19 A I'll need a windrow turner --

20 Q A windrow turner?

21 A -- and a second loader. Those are the two
22 pieces of equipment that we'll rent.

23 Q And the windrow turner, do you have an
24 estimated cost of how much that --

25 A Probably 10,000 a month.

1 Q Are you currently renting any other equipment
2 for the site?

3 A I'm not renting any equipment right now.

4 Q Okay. Does Nursery Products have any Nursery
5 Products vehicles?

6 A No.

7 Q So when you go to and from the site, you just
8 use your own personal --

9 A Correct.

10 Q And the other employee does as well?

11 A It's his vehicle as well.

12 Q Okay. I imagine there's, you know, again,
13 pardon my ignorance, but things like shovels and hoses
14 and a bunch of --

15 A No. It's bigger than -- I mean a shovel would
16 be if I was doing it in the backyard. Because it's a
17 bigger commercial site, that's why I use a front-end
18 loader. Front-end loader is a big shovel, and a water
19 truck is a big hose.

20 Q All right. Is there things like fencing?

21 A Fencing is already up.

22 Q Okay.

23 A That's what Marina Landscape did.

24 Q All right. Do you have an estimate for once
25 the facility starts running, what's going to be the

1 average monthly cost of running a facility?

2 A Well, it depends on how much business is coming
3 in because the more business, then the more people you
4 need. So it could be -- probably 80,000 a month would
5 be at cost.

6 Q Okay. Do you have -- so can you -- and, again,
7 pardon my ignorance, but can you tell me a little bit
8 about how this composting business works? Do you sell
9 compost to other companies?

10 A Sell it to farmers.

11 Q Okay.

12 A But you make your money -- the money is made
13 with the disposal of biosolids.

14 Q So if I'm understanding that correctly, the
15 primary source of income will be taking biosolids from
16 other entities --

17 A Correct.

18 Q -- and disposing --

19 A Correct.

20 Q -- of it at the facility?

21 Do you have contracts set up to take in
22 biosolids?

23 A Yes.

24 Q Can you tell me with who?

25 A City of Corona --

1 Q Okay.

2 A -- city of San Bernardino, Mission Springs,
3 Los Virgenes.

4 Q Okay.

5 A That's all I know right now.

6 Q Sure. What's the value of those --

7 A Big Bear.

8 Q Okay. What's the value of those contracts?

9 A A couple hundred thousand each.

10 Q Each? Okay. Do those contracts -- can you
11 tell me a little bit more about the contracts? I mean
12 do they have terms or is it by amount?

13 A San -- it's terms. So City of Corona is a
14 five-year. Big Bear is a five-year. Corona is a
15 two-year. San Bernardino is a 20-year. Los Virgenes is
16 sporadic. So right now, Los Virgenes isn't running.
17 That's the contract we ran earlier in the year --

18 Q Okay.

19 A -- and that will come up probably again at the
20 end of the year.

21 Q So when you say "value," do you mean the value
22 over the entire life of the contract?

23 A No. Per year.

24 Q Per year. Okay. And do you have any contracts
25 set up to sell to farmers?

1 A No.

2 Q So that's more informal?

3 A They'll never sign contracts.

4 Q Okay. But basically you kind of advertise that
5 service and --

6 A They ask for it.

7 Q So they'll come and pick it up?

8 A Exactly.

9 Q And then they just pay by weight or --

10 A Exactly. Usually what we'll do is ship it to
11 them, and they pay for the trucks.

12 Q Okay.

13 A And then they get the compost for free.

14 Q Okay. And how -- can you give me a sense of
15 how much you can make per month doing that or --

16 A Running the business or selling compost?

17 Q Selling the compost to farmers.

18 A I don't make any money selling the compost to
19 farmers. You make the money off the biosolids.

20 Q Okay.

21 A If I was in Los Angeles, I would make money
22 selling the compost, but you can't truck it down to a
23 market to sell it. And farmers won't pay.

24 Q Okay. Are you trying to set up more agreements
25 for the disposal of biosolids?

1 A Oh, yeah.

2 Q Okay. Once the facility is up and running, is
3 it likely that more cities or towns or counties will
4 kind of come on board with that?

5 A Absolutely.

6 Q Okay.

7 A Can you kick that? Do you mind?

8 Q The phone? Sure.

9 A I mean I'm not going to read it. I just want
10 to -- okay.

11 Q So are those the only two means of business
12 that the facility is going to engage in?

13 A Accepting green waste is the third.

14 Q Okay. And does Nursery Products have contracts
15 set up to do that?

16 A We don't have contracts. We just have the --
17 the Burrtec trash company will just start bringing in
18 excess green waste. It's generated in the high desert
19 once we open, but it's not under a contract.

20 Q Okay. Would it be fair to call it an informal
21 agreement?

22 A Yeah.

23 Q Okay. And is there kind of an estimated -- you
24 know, do you have an estimate of how much you'll make
25 per month doing just that, how much money that would

1 bring in?

2 A Probably 50,000 a month.

3 Q 50,000 a month? Anything else or are those the
4 three?

5 A Those are just the three.

6 Q Okay. All right. So has Nursery Products ever
7 borrowed or taken funds from any other company?

8 A No.

9 Q Okay. So aside from the SBA loan, that's the
10 only loan that --

11 A No. I have individual investors, but they're
12 not companies.

13 Q Okay. All right. So investors. So did these
14 individual investors provide loans or is it --

15 A No. They invested in the business.

16 Q Okay. And how many investors?

17 A Four.

18 Q Four? Okay. Has Nursery Products ever
19 transferred funds between or taken funds in any way
20 from -- I'm sorry if I'm --

21 A I'll just say no. To all of them on that list,
22 no.

23 Q Okay. Have you ever transferred -- has Nursery
24 Products ever transferred funds from Tricilacom Corp?
25 I'm sorry if I'm mispronouncing --

1 A None of them on that list. Tricilacom,
2 Hibiscus, Soil Safe, no transfer.

3 Q Okay. Are you still an employee -- I'm not
4 sure if you would call it an employee, but do you still
5 receive any payment for your services to any of those
6 corporations?

7 A No.

8 Q Are you still the --

9 A Oh, from the operations. Not from Nursery
10 Products, no.

11 Q No. From the other companies listed.

12 A Yeah, from the --

13 MR. HAYS: When you say "you," now you're
14 talking about him individually?

15 MS. FOLEY: Yes.

16 MR. HAYS: I would object. I think it's beyond
17 the scope of this examination.

18 MS. FOLEY: But if the funds go into the
19 Nursery Products account.

20 MR. HAYS: You can ask that.

21 THE WITNESS: Yeah. There's no funds -- they
22 operate independently.

23 Q (BY MS. FOLEY) Okay.

24 A So those other entities -- any funds from those
25 other entities don't have anything to do with Nursery

1 Products.

2 Q Okay. So if you've been paid any money by
3 those entities, it has not gone into the Nursery
4 Products account?

5 A Correct.

6 MS. FOLEY: Okay. All right. Well, maybe we
7 should take a break --

8 THE WITNESS: Okay.

9 MS. FOLEY: -- for a little while, and I'll go
10 over my notes.

11 THE WITNESS: I don't want to lose the room,
12 though. Do you want us to step out or you to step out?

13 MS. FOLEY: Whichever. Whatever works. I just
14 want to go over my notes for ten minutes and --

15 MR. HAYS: We can step out.

16 (A brief recess was taken.)

17 MS. FOLEY: All right. So back on the record.

18 Q (BY MS. FOLEY) Just some follow-up questions.
19 So once the facility starts operating, how many
20 employees are you going to hire?

21 A Five.

22 Q Okay. And are those employees doing the kind
23 of day-to-day manual labor at the site?

24 A Laborers.

25 Q And they're going to be employees of the

1 company?

2 A Correct.

3 Q Okay. With benefits and all that?

4 A Yeah. Yeah. They -- sorry. The clock was
5 wrong.

6 Yes.

7 Q Okay. And you haven't hired those people yet,
8 but you will once --

9 A I have not.

10 Q Okay. So how does delivery at the facility
11 work? Do the entities bring in their own waste, and
12 then Nursery Products unloads it or --

13 A It -- can I back up --

14 Q Sure.

15 A -- to the employee?

16 There's a program in San Bernardino County.
17 For the first six months, the county covers 50 percent
18 of the salaries for any new businesses.

19 Q Okay.

20 A So -- and during that time, they're employees
21 of Nursery Products, but they don't get benefits or
22 anything like that until after the six months --

23 Q Okay.

24 A -- just to give you more detail on that
25 question.

1 Q Sure.

2 A And then to answer the question how biosolids
3 get there, sometimes I'll subcontract the trucking --

4 Q Uh-huh.

5 A -- or sometimes the municipality will deliver
6 the biosolids themselves.

7 Q So if you're subcontracting some of the
8 delivery, does that mean you're basically -- I mean can
9 you explain a little bit more about it?

10 A So, hypothetically, the City of Corona, they'll
11 call, and they'll say, "We have a little biosolid. Come
12 pick it up." I'll call the trucking company. The
13 trucking company goes to the City of Corona, picks up
14 the biosolids, they bring it up to Hawes, and they dump
15 it. I bill the City of Corona for the trucking as well
16 as the disposal. Same with the City of San Bernardino.

17 Q Okay. So --

18 A And the trucking cost is in the contract I have
19 with them.

20 Q Okay. So have you started getting payments
21 under the contracts -- under any of those contracts yet?

22 A Well, some -- I told you earlier in the year, I
23 did, but, no, not yet. I don't have a site to take it
24 yet. Not yet.

25 Q So I'm still a little confused about how the

1 contract works. Is it just a monthly -- we'll take all
2 your biosolids, and you'll pay us this monthly rate?

3 A You'll pay by the ton.

4 Q By the ton. Okay. So the more biosolids you
5 take in, the more you make?

6 A More we charge, right. All the contracts are a
7 per-ton price that I bill them for.

8 Q Okay.

9 A And the per-ton price will be either just
10 receiving the biosolids or trucking and receiving the
11 biosolids. There's no -- the contract isn't a set
12 dollar amount, but in terms of like when you asked about
13 the terms --

14 Q Uh-huh.

15 A -- like Corona being two years --

16 Q Right.

17 A -- so during the two-year time, when they need
18 their biosolids trucked, they'll call -- they'll call me
19 once I open.

20 Q Okay.

21 A Right now they use a different contract.

22 Q All right. So is there currently a security
23 trailer at the -- at the site, at the Hawes facility?

24 A Yes.

25 Q Does Nursery Products own that --

1 A No.

2 Q -- trailer?

3 Is that contracted out to --

4 A It's the contractor's trailer.

5 Q Okay. It's the contractor's trailer. Is there
6 also going to be -- once the site starts operating, is
7 there also going to be a trailer for testing purposes --

8 A No.

9 Q -- or --

10 A There will be an office trailer --

11 Q Right. That's what I mean.

12 A -- but not for testing purposes.

13 Q So there will be an office trailer that Nursery
14 Products owns?

15 A No. We'll rent it.

16 Q Okay. So -- and you'll use that trailer for
17 what exactly?

18 A Storing trucking records, getting out of the
19 heat.

20 Q Okay. Does Nursery Products still own the old
21 site at Adelanto?

22 A No.

23 Q Okay. Did you sell that?

24 A I sold the property.

25 Q Okay. How much did you sell it for?

1 A I don't remember.

2 Q Okay. Can you give me a rough estimate?

3 A I made money on it.

4 Q Okay.

5 A Sorry. I don't remember. Half a million, I
6 think.

7 Q Okay. Who did you sell it to?

8 A I don't remember. I think it was a group of
9 Chinese investors that were buying up a bunch of
10 property in Adelanto at the time and overpaid --

11 Q Okay.

12 A -- a lot.

13 Q When was that, roughly?

14 A 2005, I think, or 2006.

15 Q Okay. Are there currently water tanks at the
16 site?

17 A No, not anymore.

18 Q What happened to those?

19 A They don't need them anymore.

20 Q Okay.

21 A They're with the contractor.

22 Q Okay. So that was part of the --

23 A Construction.

24 Q Okay. So the numbers you gave me included the
25 amount of equipment like that, like the water trucks?

1 A Every -- all the equipment out there right now
2 is Quantum's --

3 Q Okay.

4 A -- except we just brought our loader and water
5 truck, delivered it this week, because we're starting
6 next week, but all the equipment that's been out there
7 is Quantum's equipment --

8 Q Okay.

9 A -- or EC Applications or Marina.

10 Q So this is a multi-part question. Hibiscus
11 Corporation had land in Newberry that it sold?

12 A Correct.

13 Q Did Nursery Products receive any funds from
14 that sale?

15 A No.

16 Q Did you receive any funds from the sale that
17 you put into the Nursery Products account?

18 A No.

19 Q An attorney named Lynda Brothers was at some
20 point an attorney in some capacity for Nursery Products.
21 Does she still act as an attorney for Nursery Products?

22 A Not anymore.

23 Q Is she owed any money from Nursery Products?

24 A No.

25 Q Have the retention prongs on the property been

1 built?

2 A Built, finished, done, certified.

3 Q So I imagine they were built by one of the
4 contractors, so you're still paying off the cost of
5 building those?

6 A Correct.

7 Q What about a grinder or a tub grinder on the
8 property? Is that a required part of the project?

9 A No. I won't do a tub grinder. We won't grind.

10 Q Right.

11 A They'll bring -- the green waste will arrive
12 already ground.

13 Q Okay. So I think I've already asked this
14 question, but just in case I haven't, your employee --
15 Nursery Products' employee, is being paid through the
16 SBA loan; is that correct?

17 A No. Through the money that I raise from
18 investors.

19 Q Okay. And how much money was that?

20 A Over a million over time.

21 Q And where is that money kept?

22 A Well, it's spent now.

23 Q Okay. So it was kept in the Nursery Products
24 account?

25 A It was kept in the checking account at Chase --

1 Q Okay.

2 A -- in San Clemente.

3 Q So if there's anything left of that money, it's
4 part of the 7,000 something dollars?

5 A Yeah. Whittle it all the way down to right
6 when we're opening.

7 Q So your employee currently gets paid through
8 whatever funds are in the Chase account?

9 A Exactly. Yeah. And that remaining 7- will get
10 me through another month with him.

11 Q Okay.

12 A The SBA pays the contractors direct.

13 Q Okay. So does Nursery Products currently owe
14 attorney's fees to any other attorney or group --

15 A No.

16 Q -- from any legal proceeding?

17 Do you owe 63,000 to -- in attorney's fees to
18 another entity?

19 A No.

20 Q Okay.

21 A What -- what other entity would I owe?

22 Q I'm not sure of the details, but if there's --

23 A If there's 63,000, that must come from
24 somewhere, and I don't know --

25 Q If there's another legal proceeding, and I

1 don't know the details of it, but I believe you might be
2 involved and --

3 A No.

4 Q Not any --

5 A No.

6 Q That's okay.

7 A The only other legal proceeding was the one we
8 already talked about in L.A.

9 Q Okay. All right. So if we could, can we talk
10 about the \$200,000?

11 MR. HAYS: On the record or off the record?

12 MS. FOLEY: On the record, if that's --

13 MR. HAYS: Well, it's settlement negotiation,
14 so I'd rather it not be reduced to a transcript that you
15 might use in future proceedings.

16 MS. FOLEY: Okay. Can I ask about the source
17 of that money?

18 MR. HAYS: Well, again, it would be -- you can
19 ask if Nursery Products has the money, which I think
20 you've already covered.

21 And the answer is Nursery Products doesn't have
22 the 200-, correct?

23 THE WITNESS: Correct.

24 MR. HAYS: Okay. So the 200- would be borrowed
25 money. So I think at this point we should probably go

1 off the record to finish up that discussion.

2 MS. FOLEY: Well, let's stay on the record.

3 Actually, let's go off the record, but not
4 discuss that yet.

5 MR. HAYS: Sure.

6 MS. FOLEY: I just want to go over my notes and
7 see if I have anything else to put on the record.

8 Oh, I'm sorry, Norman. I forgot to ask this.

9 Q (BY MS. FOLEY) The security is being done
10 through a contractor. Is that what you said earlier?

11 A Yes.

12 Q Okay. So is that -- and it's one of the --

13 A It's Quantum.

14 Q It's Quantum. So the costs for hiring the
15 security guard and -- it's all being done through
16 Quantum, and that's part of the debt owed to them?

17 A Correct.

18 Q Okay.

19 A I mean it's their equipment that they're
20 securing.

21 Q Okay. Is Nursery Products required, once the
22 facility opens, to run a 24-hour hotline?

23 A We already have one.

24 Q Oh, okay. So whose -- how is that being
25 funded?

1 A We have a phone.

2 Q Okay.

3 A It's a hotline phone number. When it rings, we
4 answer it.

5 Q Okay. So is there going to be overhead costs
6 there as far as --

7 A The costs of a phone.

8 Q And an employee staffing it?

9 A Yeah. I will.

10 Q Okay.

11 A It's the cost of the phone. 50 bucks a month.

12 Q All right. Let me just go over my notes and
13 see if there's anything I missed.

14 So I just want to verify, for the two parcels
15 of land we discussed earlier, is Nursery Products the
16 only name on the deed?

17 A Yes.

18 Q Okay.

19 A These are the deeds.

20 Q Okay.

21 MR. DIAZ: I got to go.

22 MS. FOLEY: All right. Thanks, Norman.

23 (Mr. Diaz leaves the room at this time.)

24 Q (BY MS. FOLEY) Does Nursery Products have any
25 offshore or foreign-held accounts?

1 A No.

2 Q Okay. I didn't think so, but --

3 A This will probably annoy you, but there's no
4 money anywhere. So I mean there's not even a question
5 of am I asking the right one. I'm telling you there's
6 no other accounts anywhere in the world, universe, or
7 galaxy. There's no other checking accounts or anything
8 like that.

9 Q Okay. Thank you for --

10 A You're welcome.

11 Q -- clarifying.

12 Has the court ever appointed a receiver of
13 Nursery Products project?

14 A No.

15 Q Is Nursery Products currently involved in any
16 joint ventures with any other --

17 A No.

18 Q Is Nursery Products entitled to any money from
19 any state, city, county, or federal government agency or
20 department?

21 MR. HAYS: Other than --

22 Q (BY MS. FOLEY) Other than the contracts. So
23 this might be something like a settlement or is there
24 anything like that?

25 A No.

1 Q Do you have an accountant? Does Nursery
2 Products have an accountant?

3 A Yes.

4 Q Can you state their name?

5 A Her name is Beatriz Porcel.

6 Q Okay. And do you have contact information for
7 her, an address or even a website, if she has a certain
8 company or --

9 A Can I look?

10 Q Sure.

11 A She's an individual, so she doesn't have a
12 website. Ready? Spelling of her name is B-e-a-t-r-i-z.
13 Last name, P-o-r-c-e-l. Her E-Mail is porcelcpa1@Cox --
14 C-o-x -- .net.

15 Q Thank you. Has Nursery Products ever been in
16 bankruptcy before?

17 A No.

18 Q Other than what we've already discussed, are
19 there any other liens or encumbrances on any Nursery
20 Products property?

21 A No.

22 Q Okay.

23 A No. Just the SBA.

24 Q Has Nursery Products ever transferred any funds
25 to your spouse?

1 A No.

2 Q Have you ever -- has Nursery Products ever
3 transferred any funds to you personally?

4 A No.

5 Q Okay. Has Nursery Products ever transferred
6 any funds to your other employee other than just his
7 regular paycheck?

8 A No.

9 Has Nursery Products ever transferred money to
10 an employee other than a paycheck? Is that what you
11 just said?

12 Q Uh-huh.

13 A No. Just pay. No.

14 MS. FOLEY: Okay. All right. I think that's
15 pretty much everything. If you want to talk about the
16 settlement more, we can go off the record.

17 MR. HAYS: Sure. Is the examination concluded?

18 MS. FOLEY: Examination concluded.

19 MR. HAYS: All right. Thank you.

20 MS. FOLEY: Thank you.

21 (Ending time: 10:11 a.m.)

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