Great American Hoax
OUR LEGAL SYSTEM

Thomas V. Yarnall, Jr.

This book was written for the following types of readers:

- Anyone who is part of our legal system
- Any federal lawmaker
- Any law school professor and student
- Anyone who needs a lawyer

Jeff Foxworthy would say: "When a Ponzi scheme results in a financial gain and the bankruptcy legal system turns it into a huge loss, you might have a legal system that is a hoax."

Definition of hoax = deception, pretense, chicanery.

Colophon

When you order, indicate how you intend to use the book's contents. Its primary use is intended for ethics seminars at law conferences or law school ethics classes because of the issues and situations cited on pages 2, 3, 7, 10, 18, 35, 45, 51, 52, 60, 78, 94, 102, 106, & 108.

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THIS IS A NONFICTION BOOK:

- The definition of libel: any false and malicious written or printed statement, or any sign, picture, or effigy, tending to expose a person to public ridicule, hatred, or contempt or to injure a person's reputation in any way.
    - No statements in this book are false or meant to be malicious.
    - The true statements in this book might tend to expose certain persons to ridicule or even injure their reputations.
    - The true statements describe the questionable behavior of those persons.
    - It is this behavior that makes our rule of law a hoax.
    - Frivolous lawsuits by those persons would be more proof of pretense and chicanery on their part.
    - Perhaps the true statements will encourage them to behave differently. That is the book's intent.

For free shipping, the minimum order quantity is 24. Price includes sales tax. If you order 100 copies, there is a 20% discount. Checks are payable to T. V. Yarnall, Jr.

DiggyPOD does printing on demand.

Preface

Other goals of this book (continued from back cover):

3. Eliminate false declarations in bankruptcy filings
4. Improve the effectiveness of the U. S. Trustee program
5. Help people avoid being Ponzi scheme victims
6. Offer guidance to people who need to hire a lawyer
7. Encourage new attorneys to be honest

Situations attorneys and lawmakers should want to fix:

- When the law allows debtors to deceive and cheat creditors, the "rule of law" needs improvement – see ideas on pages 2 and 3.
- When the legal system treats devious debtors just like any poor hardship debtor, the "rule of law" is not working the way it should.
- When Congress does not include a clear definition of a "bad faith" bankruptcy filing in the law, there will remain a part of the "rule of law" that is a cruel hoax.

Ways the contents of this book can be used:

- Provide case studies for ethics classes at law schools.
- Motivate you to contact Congress about issues in this book.
- Help readers to cope with life's legal challenges.
- Help certain officers of the court to behave more ethically.

Foreword

There were many officers of the court that I met during the events described in this book. Some tried to be helpful, and some did not.

Judge Burns often suggested that I should seek the help of counsel as I appeared before her as a Pro Se litigant. Unfortunately, the ones I asked were unable to help me deal with the pretense and chicanery of officers of the court who were my adversaries.

The ones I asked to help me were “Jumbled Geoff” Steiert, “Befuddled Jack” Luby, “Harried John” Miscione, “Disappointing Dan” Bernardin, “Sadsack Bob” Schneider, “Muscles Marv” Wilenzik, and “Kind Kevin” Anderson.

My adversaries were “Bad Bill” Levy, “Say-No John” Hargrave, “Nubie Bob” Wright, “Crafty Kevin” Hart, “Joltin Joe” Marchand, “Sneaky Steve” Warner, and “BS Bob” Stevens.

You will understand their nicknames as you read this book.

There were two major issues with these adversaries:

1. They enabled the misuse of the word **factoring**.
2. They ignored a very important law. (USC Title 11 Chapter 1 Section 109 Clause b2)

Factoring is a financial transaction whereby a business sells its accounts receivable to a third party (called a factor) at a discount.

United States Code Title 11 Chapter 1 Section 109 Clause b2 describes who cannot file a chapter 7 bankruptcy petition.

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Introduction

Judge Kavanaugh's confirmation hearing in September 2018 to become a Supreme Court Justice was extremely informative.

He explained how important it is for a judge to listen with an open mind to the **arguments** (reasons put forth as proof) from both sides. He said the winner would have the better legal argument. By the phrase, better legal argument, he said it meant how well the reasons put forth by the litigants applied the proper law to an **honest fact pattern**. That meant one could expect that a **clear law** (a statute, a code, or the Constitution) and an **honest fact pattern** must fit together to win at trial.

He stressed that one could expect prior decisions made in other jurisdictions may also be persuasive to courts in subsequent cases involving sufficiently similar facts. These decisions he called **precedent**.

From his explanations, I got the impression that a Judge must know and use the laws applicable to the case. I did not get the impression that it was **completely and solely** up to the litigants to apply the proper law to the facts.

I sensed that a Judge is to use his/her knowledge of the law to accept or reject the plaintiff's explanations, reasons put forth as proof, or reasons that demonstrate truth or falsehood. The Judge uses this knowledge to ask questions during the trial to ensure a proper decision is ordered.

This book's primary focus is:

1. Bankruptcy petition **content** must be without lies
    a. It must contain an **honest fact pattern** (See page 8)
2. Bankruptcy **statutes** must have a minimum of ambiguity
    a. The law must be a **tightly confined statute** (See page 2)
3. Bankruptcy case **decisions** made in other jurisdictions can be used to persuade the court
    a. A **precedent** can be useful (See pages 4 and 5)

Acknowledgments

First, I make no apologies to any officer of the court named in this book for the things I report they did. This entire book is true. The names are real. I carefully documented all key events from October 1996 to August 2007. My boxes of notes, emails, letters, faxes, news articles, and court documents helped my clear recollection of events over eleven years. Nine of those years our legal system tortured my wife and me.

Second, I sincerely apologize to my wife, Polly, for the stress she had to endure as I pursued justice. I know she wanted me to quit many times. When a man retires and has some spare time on his hands, there can be causes that take him away from home repair tasks and even playing golf. It may be very trying for those around him.

Third, I thank a very helpful neighbor, Grace, who was willing to sign many papers so I could have a witness to process many documents required by the Court.

Fourth, I am grateful to an email acquaintance for her ideas and encouragement. Hannah provided the supportive comments I needed. When someone is working solo on something that he believes is right but encounters rejection, discouragement, and criticism regularly, it is tempting to quit. I am just another living example of the need to follow that saying, "When the going gets tough, the tough must get going."

Fifth, I am very grateful to John of PENSCO Pension Services for saving me at least $20,000. He insisted I return my invested $60,000 IRA money for account reconciliation. When an opportunity arose to reinvest, for some reason I asked him to send only $40,000 from my IRA account to Bill Schroeder. Which savior was it that helped me make this decision? Was it God or my wife?

Finally, I am thankful to a very helpful friend, Joanne Forrest. She applied her outstanding wordsmith skills to find and correct many capitalization and punctuation errors.

Hoax List

Bad Faith Bankruptcy Filings Allowed

It is no surprise that someone in August 1998, who claimed they owed money to about 800 people, would file for bankruptcy. The Schroeders hired Say-No John Hargrave for their bankruptcy filing. They hired Bad Bill Levy to represent their company (Macrophage) in a corporate bankruptcy filing.

The surprise is that these bankruptcy petitions were not filed until May 4, 2001. The Schroeders needed time to transfer assets (beach house, bank accounts, and memorabilia) to others.

They did not file for bankruptcy in August or September 1998 because they still had too many assets. If their corporation filed in 1998, their creditors could have pierced the corporate veil, and their assets would have been vulnerable.

After they transferred assets, they had to wait a specific period so the bankruptcy court would not view the transfers as preferred transfers.

These actions prompted me to draft wording for the new bankruptcy statutes debated in Congress in 2003. I sent my ideas to my local representative, James Saxton, and to members of the committees who were crafting the new bankruptcy law (Chris Cannon and Jim Sensenbrenner).

On the next page is what I suggested to Saxton, the house committee chair Cannon, and bill sponsor Sensenbrenner.

The only mention of “bad faith” in existing law was tangentially about multiple or proximate filings, some form of deception, and concealment of an asset. These mentions were too vague; too ambiguous. The bills (HR975 and S256) should have corrected this.

Saxton’s response to me included copies of pages 13 to 36 from the Journal of Bankruptcy Law and Practice. The pages were about “good faith” filings in bankruptcy cases. Page 15 said, “There is no precise test for determining bad faith.” **Yikes!**

My suggested list for a definition of a “bad faith” filing follows:

1. When debts listed in any schedule are incurred due to a civil or a criminal wrongdoing (such as orchestrating a Ponzi scheme).
2. When bankruptcy protection is sought by a business whose principals have exhibited unscrupulous and cunning behavior before filing the petition.
3. When omissions on statements and schedules occur and an honest intent to obtain a fresh start is lacking.
4. When any facts are misrepresented in statements, and schedules in the petition and in any meeting with creditors.
5. When assets are concealed or not listed accurately in the bankruptcy statements and schedules.
6. When the basis for filing is to enable the trustee to assert claims against creditors in adversary proceedings rather than obtain a fresh start.
7. When pre-petition conduct up to five years before filing for bankruptcy includes the dissipation of assets to avoid repaying creditors promptly.
8. When protection is sought to preserve a comfortable standard of living at the expense of creditors, or when the debtor does not need such protection because the debts listed are not the actual debts of the debtor.
9. When there is an unreasonable delay in the bankruptcy process that causes harm to creditors.
10. When clever planning, for five years before filing, puts assets out of reach of creditors.
11. When unexplained transfers take place for up to five years before the filing of the petition, and those transfers result in the absence of assets at the time of filing.
12. When the debtor fails to provide complete schedules, and properly amend them within 30 days of the meeting of the creditors.

We needed a law that contained a definition with a minimum of ambiguity. We still need a clear definition many years later!

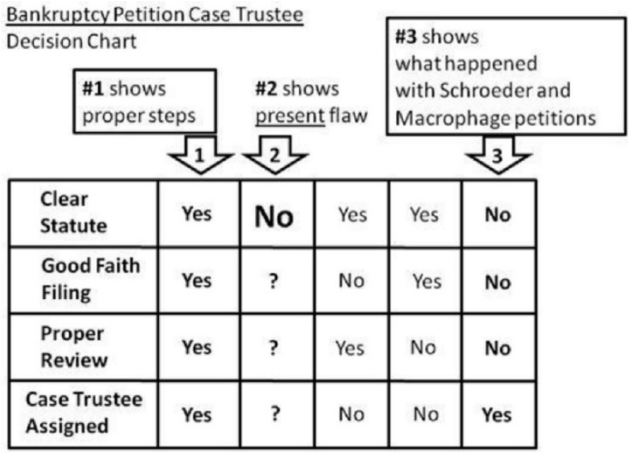
U.S. Trustee Program Not Properly Implemented

I discovered that we needed an improved legal process for assigning case trustees; one that was clear and properly followed. On the next page is my suggestion for improving the process.

A **decision chart** (see below) can be designed to show 3 STEPS of a legal process to assign case trustees to bankruptcy cases.

1. Is there a minimum of ambiguity in the **Federal bankruptcy statute**? (CLEAR STATUTE)
2. Does the **bankruptcy petition** avoid any bad faith definitions in the law? (GOOD FAITH FILING)
3. Does the **U.S. Trustee program** require a rigorous review of a petition to ensure an honest fact pattern? (PROPER REVIEW)

The chart below reveals what happened to me and what is proper. It also shows what must change to be a proper legal process.



Clear Statute	Yes	No	Yes	Yes	No
Good Faith Filing	Yes	?	No	Yes	No
Proper Review	Yes	?	Yes	No	No
Case Trustee Assigned	Yes	?	No	No	Yes

We must move from column 2 to column 1. When U.S. and case trustees **do not** properly evaluate bankruptcy petitions, they deny creditors their proper protection. The creditors suffer in two ways:

1. They do not get paid properly
2. Our legal system can cost them large sums of money

Please review exhibit 11 in the appendix.

Was the Macrophage bankruptcy petition legitimate?

The US Trustee should have stopped this case by applying 11 USC §707 (b). I provided ample encouragement for Sadsack Bob to do this in the Macrophage bankruptcy.

My research turned up 12 cases that I included in a brief to the court when I attempted to get the Macrophage petition dismissed. I applied 11 USC §707(a).

That section of the law stated that a court might dismiss a case under chapter 7 after notice and a hearing for cause including unreasonable delay by the debtor that is prejudicial to the creditors. See the bold phrases in the cases cited below.

1. In Re Charfoos, 979 F.2d 390 (1992) "bankruptcy courts have substantial discretion to dismiss" . . . "use dismissal carefully" . . . "confine [it] to cases that entail concealed or misrepresented assets" . . . "**omissions on statements and schedules are cause"** . . . "bad faith is determined on an ad hoc basis"
2. In Re Zick, 932 F.2d. at 1124 (1991) "**unreasonable delay by the debtor** that is prejudicial to the creditors is cause" . . . "up to the discretion of the judge" . . . "code 707(a) is instructive" . . . "Congress meant to deny Chapter 7 to the **dishonest or non-needy debtor"** . . . "goals of bankruptcy are to provide an honest debtor with a fresh start."
3. In Re Caldwell, 851 F.2d. at 852 (1988) "good faith is an amorphous notion largely defined by factual inquiry" . . . "whether the debtor is attempting to abuse the spirit of the bankruptcy code is a legitimate factor to consider" . . . "**debt incurred through criminal or tortuous behavior** is a factor to be considered"
4. In Re Davidoff, 185 B.R. at 631 (1995) "**pre-petition misconduct** constitutes cause" . . . "fresh start concept [missing]"
5. In Re Setzer, 47 B.R. at 340 (1985) "if the **primary reason for the debtor to file is to assert claims against creditors in adversary proceedings** it could be a basis for dismissal."
6. In Re Jones, 114 B.R. at 917 (1990) "bankruptcy protection was not intended to assist those who despite their misconduct are attempting to preserve a comfortable standard of living at the expense of their creditors" . . . "the good faith requirement" . . . "those seeking relief must **approach the court with clean hands."**

7. In Re Campbell, 124 B.R. at 462 (1991) "**through obvious clever planning placed all assets beyond the reach of creditors"** . . . "case would be dismissed for cause" . . . "debtor has determined to meet personal needs while ignoring those of creditors" . . . "although a debtor perhaps is in technical compliance with the requirements of the code [it is bad faith] to over utilize the protections afforded by bankruptcy to the unconscionable detriment of creditors"
8. In Re Del Rio Development, 35 B.R. at 127 (1983) "bankruptcy filing requires inquiry into any possible abuses . . . and into **whether debtor genuinely needs the liberal protections** afforded."
9. In Re Brown, 88 B.R. at 280 (1988) "bankruptcy is **not a refuge for the unscrupulous or cunning individual.**"
10. In Re Maide, 103 B.R. at 696 (1989) "the debtor has failed in his duty **by filing incomplete schedules and inadequately amending** them"
11. In Re Hammonds, 139 B.R. at 535 (1992) "the debtor provided less than candid, full disclosure and **engaged in procedural gymnastics**" . . . "grounds for bad faith characteristics include . . . improper or unexplained transfers or absence of debtor's pre-petition assets" . . . "good faith is demonstrated by good old belt-tightening to pay creditors."
12. In Re Johnson, 708 F.2d. at 865 (1983) "good faith at the very least **requires the showing of honest intention.**"

I cited all of the above cases because Macrophage's behavior involved everything highlighted in bold.

The New Jersey district had no citations that I could use. My citations were from other districts. Only citations from the same district seemed to be allowed. **We need more uniformity in the application of the law.**

Macrophage claimed it ceased operating in August 1998. According to bank records I obtained, the business activity continued until December 1998. The bankruptcy filing was not until May 2001. There were changes in case trustees, so the Macrophage 341a meeting did not happen until after March 2003. Almost three years (8/98 to 5/01) is an unreasonable delay in my view. How about you? That was plenty of time to hide assets. Five years is worse!

Legal Twilight Zone

Both bankruptcy petitions filed on May 4, 2001, had over 80 pages of false entries of creditors in schedule F. Some notes had incorrect amounts, incorrect dates, and many of the notes listed in the schedule were already repaid.

These false filings were intended to block creditors from filing a suit to recover what they were owed. These filings did not set forth an accurate list of what was owed.

All attorneys, trustees, and judges automatically accepted the schedule F entries as true. Any attempts by me to point out how the entries were false were rejected even with copies of paid notes in my hand.

US Code Title 11 Chapter 1 §109 Ignored

The "legal elephant" never introduced by an attorney in any brief or any courtroom was the **United States Code (USC) Title 11 Chapter 1 Section 109 Clause b2.** It defines what kind of debtor cannot file for Chapter 7 bankruptcy. **It is very clear that small business investment companies cannot file for such a bankruptcy.**

No one seemed to apply this. Not even the bankruptcy Judge, Gloria Burns! All seemed oblivious to this statute! All ignored the statute above and the facts below. Fact one is a petition excerpt. Fact two is a business card on the next page.

18 . Nature, location and name of business

None ☐

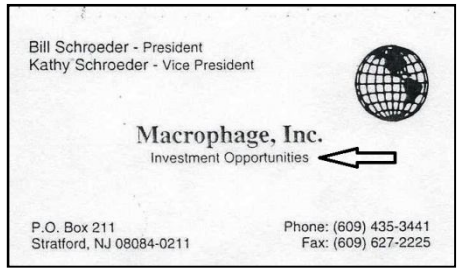
a. If the debtor is an individual, list the names, addresses, taxpayer identification numbers, nature of the businesses, and beginning and ending dates of all businesses in which the debtor was an officer, director, partner, or managing executive of a corporation, partnership, sole proprietorship, or was a self-employed professional within the six years immediately preceding the commencement of this case, or in which the debtor owned 5 percent or more of the voting or equity securities within the six years immediately preceding the commencement of this case.

If the debtor is a partnership, list the names, addresses, taxpayer identification numbers, nature of the businesses, and beginning and ending dates of all businesses in which the debtor was a partner or owned 5 percent or more of the voting or equity securities, within the six years immediately preceding the commencement of this case.

If the debtor is a corporation, list the names, addresses, taxpayer identification numbers, nature of the businesses, and beginning and ending dates of all businesses in which the debtor was a partner or owned 5 percent or more of the voting or equity securities within the six years immediately preceding the commencement of this case.

NAME	TAXPAYER I.D. NUMBER	ADDRESS	NATURE OF BUSINESS	BEGINNING AND ENDING DATES
Macrophage Incorporated	22-3514010	3 Academy Drive Stratford, NJ 08084	Factoring began as sole proprietorship May 1997 - and incorporated 1997	05/97 - 08/98 ⇦

Look at the oval on the prior page! It says they did “factoring.” Macrophage was a small business investment company. Here is their business card.



Attorneys ignored these facts. The Judge did not consider them important either. Bill, Kathy, and their company were not licensed. How about “dirty hands” as a disqualifier for filing for bankruptcy?

The Schroeders and Macrophage did not buy anyone’s receivables at a discount and attempt to collect what was owed to make a profit. That is factoring. **They did not do factoring.**

The Macrophage petition had significant false statements in it, yet no one deemed it a “bad faith” filing. Remember, there was and still is no clear definition of a “bad faith” filing in the Federal statute.

The Schroeders and Macrophage asked people to lend money to Mata and KI Digital. They asked people to invest in these companies! They issued promissory notes to the investors. See the diagram on the book’s back cover.

Here are some questions for this book’s first case study:

1. When did Macrophage claim it stopped doing business?
    a. Was that true?
2. Was Macrophage solvent on that date?
    a. On 10/31/98 did their assets exceed their liabilities?
3. What did Macrophage claim was its business?
    a. What was the business of Macrophage?
4. Does USC Title 11 Chapter 1 §109 allow this petition?
5. Were there any misstatements in the Macrophage petition?

The next pages have the fact pattern that provides the answers.

People invested in three companies – Mata, Macrophage, and KI Digital. See the chart on page 34. Schroeders and their company (Macrophage) collected money with checks payable to Mata and KI Digital. See copies of our checks on pages 29 and 35.

Mata and KAM sent money back to the Schroeders or their company (Macrophage). Then checks were written by Macrophage to the investors to repay the principal and pay the interest on their notes. These checks went to the investors who did not roll over their investments. See the diagram on the book's back cover.

The promissory notes were issued and signed by Mata and KI Digital people. (White ones in the diagram on the book's back cover.) The other promissory notes (blue ones) were issued and signed by Macrophage people.

The Macrophage VP claimed (under oath) they had no debts at the 341a hearing in 2003. Macrophage did borrow money but did not list its debts in schedule F of its bankruptcy petition.

Macrophage 5/4/01 Bankruptcy Petition Summary			Claimed as of 8/98		
Schedules		# of Sheets	Assets	Liabilities	Other
A	Real Property	1	Zero		
B	Personal Property (Assets)	4	$640		
C	Exempt Property	0			
D	Secured Claims	1		Zero	
E	Priority Unsecured Claims	1		Zero	
F	Nonpriority Unsecured Claims	89		$18,022,026	
G	Contracts and Leases	1			
H	Codebtors	2			
I	Individual Debtor Income	0			N/A
J	Individual Debtor Expenses	0			N/A

Over $18 million in debts were in schedule F. There were 89 pages of creditors listed. A total of 423 creditors were in the Macrophage Schedule F even though the VP claimed under oath that all notes (debts) were paid. **Of the listed creditors; 290 were Mata 6% note debts, 37 were McCormick debts, and 82 were Cornerstone debts. There were 14 other entries.**

In the chart above, an arrow points to the schedule B entry as of 8/98? Compare that asset amount to the bank account information as of 10/98 on the next page.

Macrophage Bankruptcy Petition Content should have been			
According to bank records and other research			
	Schedule B		
Checking Account Balance	$ 443,114.63		<< 10/31/1998
Receivable from Schroeder	$ 33,820.00		
Receivable from KI Digital	$ 600,000.00	Receiver's Report (Pgs 10 &11)	
Receivable from Mata	$ 3,700,000.00	Receiver's Report (Pg 12)	
Equipment	$ 1,000.00		
Total Assets	$ 4,777,934.63		<< NOT $640
Macrophage Bankruptcy Petition Content should have been			
8/8/1998	**Schedule F**		
8/8/98 Notes payable	$ -		
Fine owed to NJ	$ 5,000.00		
Restitution Judgment	$ 100,000.00		
Lexus and Honda Lease Debt	$ 9,200.00		
Credit Cards Debt	$ 35,700.00		
Total Liabilities	$ 149,900.00		<< NOT $18 mil

Do you see any misstatements in their petition? Was this a bad faith filing?

With my amended complaint (Case No. 01-14740 GMB) that I filed to dismiss the Macrophage petition, I provided a certificate of service, a signed certification of truth, and a notice of motion. I did this after I sent a letter to the Judge requesting her permission to amend my complaint. See exhibit 7 in the appendix.

In that notice of motion were 12 case law citations, a description of the history of the petition, three major facts, and 11 legal reasons for dismissing the bankruptcy petition.

My case law citations are on pages 4 and 5 of this book.
The three facts were:

1. 32-month delay in filing the petition
2. Misstatements and omissions in the petition
3. Failure to seek a fresh start

The 11 legal reasons were examples of the facts and references to the case law citations with an emphasis on concealment.

Being an unregistered agent selling unregistered securities was concealed. That was a big part of my 11 legal reasons for dismissal.

Prepetition misconduct, improper asset transfers, dishonest debts, and lack of clean hands were also part of my legal reasons.

Two major false declarations in section 18 of the 25 part "statement of financial affairs" fooled the U.S. Trustee and case trustee.

1. **Nature of business was claimed to be factoring**
    a. Factoring is the purchase of accounts receivable at a discount with the hope to be able to collect enough to make a profit
    b. They operated as a small business investment company
    c. As unregistered agents, they issued unregistered securities
    d. Bill falsely claimed to be a licensed loan servicing agent (See page 36)
2. **Ending date was claimed to be 08/98** (See arrow - page 6)
    a. The PNC bank account 80-0577-8723 had deposits made in September through December of 1998
    b. A letter dated 2/1/1999 solicited investors

The unethical attorney (Bad Bill Levy) who represented Macrophage claimed the petition to be true. Factoring was false. I challenged this at the 341 meeting. The US and case trustees ignored my challenge.

Macrophage business activity was taking place in its PNC checking account after 08/98. Over $2 million of the $3.7 million that Mata owed Macrophage (see chart on page 9) came in after the bankruptcy petition's false ending date of 08/98.

An entity named KAM was writing checks to Macrophage in December 1998. KAM check numbers 1013, 1014, 1015, and 1016 for a total of $2,025,000.00 were written. Look at the December deposits (on the next page). It shows they deposited only $3,000. That is over $2 million in unaccountable (probably hidden) funds.

Should this petition have been allowed by a U. S. Trustee?
Should this petition have been allowed by a bankruptcy Judge?
Was it necessary for a creditor to file a complaint to dismiss it?
What statutes would you use to win a dismissal of this petition?
How would you have gotten the U. S. Trustee to take action?

Macrophage Solvency vs Cash Activity				
Dates	Financial Evidence			
9/1/1998	**PNC Beginning Balance**	**$**	**279,147.03**	
	September deposits	$	173,000.00	
	September checks			$ (446,699.50)
	October deposits	$	875,000.00	
	October checks			$ (437,332.90)
10/31/1998	**PNC Balance**	**$**	**443,114.63**	
	November deposits	$	277,228.00	
	November checks			$ (622,478.10)
	December deposits	**$**	**3,000.00**	
	December checks			$ (65,609.28)
		$	723,342.63	$ (688,087.38)
12/30/1998	**December Ending Balance**	**$**	**35,255.25**	Much higher than shown on tax return

NJ Code 2C §20-4 Ignored

The Schroeder bankruptcy petition filed on May 4, 2001, was developed by their attorney (Say-No John Hargrave) long after the end of operations. It contained many false statements (Exhibit 13).

The Schroeders delayed filing their bankruptcy petition until after they transferred assets. In 1998 they owned half of a duplex in Ocean City worth at least $850,000. They had unknown thousands in a checking account. (They were able to pay over $300,000 in fees to attorneys.) They owned expensive memorabilia.

Another investor, Jumbled Geoff Steiert, was an attorney. He suggested that I protect myself from any discharge of any Schroeder debts. He said to file a complaint based on 11 U.S.C. §523(a) (2) (A).

I ran into a childhood friend who was an attorney. We will call him Befuddled Jack Luby. He was stumped. He did not know what to do to recover our investments. I think his specialty was divorce and small claims issues. After looking at a variety of documents (notes, checks, the LSA) he did not suggest NJ Code 2C §20-4.

The Schroeders were not borrowers. They solicited investors and collected the checks written to Mata. Their attorney (Say-No John Hargrave) came up with the idea to file for bankruptcy.

It was a Chapter 7 filing; not Chapter 13. There would not be a repayment plan even though there had been a ruling by Judge Cohen that the Schroeders had to pay a fine and restitution for issuing unregistered securities as unregistered agents.

The Schroeder bankruptcy petition was not a good faith filing. It confused many legal minds.

Only about a dozen creditors attended the Schroeder 341a meeting even though there were about 430 creditors listed in an 80+ page false schedule F. The Schroeders listed the same debts in both petitions; personal and Macrophage petitions. Most debts were Mata debts. Back taxes, credit cards, and leases were their only debts. Ten creditors of over 430 listed might have been their debts.

The filing of these false petitions confused everyone. What debts might they discharge? Would it be my $40,000 6% Mata note? It was not in their petition. Two other 6% Mata notes of mine that were listed had already been paid.

$40,000 was taken from me through fraudulent behavior by Bill Schroeder. He pretended to be a licensed loan servicing agent for KI Digital. The issue was **theft by deception**; not the discharge of a debt.

Theft by deception is a third-degree offense when the value of stolen goods is between $500 and $75,000. There was/is a 5-year statute of limitations to file a complaint.

When I wrongly filed a complaint using 11 U.S.C. §523(a) (2) (A) and §523(a) (4) to prevent the discharge of a debt, **no attorney told me that I should use NJ Code 2C.** Thanks for nothing, Geoff! See the prior page.

NJ Code 2C §20-4 should have been the basis for my complaint to recover the $40,000 theft. That case would have been in the state criminal court system; not in the federal bankruptcy court system.

Even the Bankruptcy Judge did not dismiss my complaint without prejudice when I appeared before her to prevent the discharge of a $40,000 debt! What a pretense. What a hoax.

I discussed the following agreement with two attorneys (Jumbled Geoff and Befuddled Jack) before filing my 523a complaint. Below are two excerpts (top and bottom parts of the page) from the LSA. The LSA is how Bill Schroeder was able to obtain my $40,000.

LENDER SERVICING AGREEMENT

Loan Number: 1 Borrower: K1 Digital, Inc. Security: Promissory Note
Definitions:
"COMPANY" (Loan Servicing Agent) is defined as William R. Schroeder, Jr.
"LENDER" is defined as the undersigned and owner of the note referenced by the Loan Number above.
"NOTE" is the Promissory Note. (May be secured or unsecured).
"DEED OF TRUST" is the security instrument for the Note. (Also applies to mortgages)

In witness whereof, the parties hereto have read, understood and approved this Servicing Agreement and the undersigned hereby acknowledge receipt of a copy of the Agreement.

Date: 1/9/98 Company

Date: 1/9/98 Lenders Signature PENSCO Pension Services, Inc. Custodian, FBO

2C:20-4. Theft by deception

A person is guilty of theft if he purposely obtains property of another by deception. A person deceives if he purposely:

a. Creates or reinforces a false impression, including false impressions as to law, value, intention or other state of mind, and including, but not limited to, a false impression that the person is soliciting or collecting funds for a charitable purpose; but deception as to a person's intention to perform a promise shall not be inferred from the fact alone that he did not subsequently perform the promise;
b. Prevents another from acquiring information which would affect his judgment of a transaction; or
c. Fails to correct a false impression which the deceiver previously created or reinforced, or which the deceiver knows to be influencing another to whom he stands in a fiduciary or confidential relationship.

Notice the ambiguous elements of this law. It is more evidence of how our vaunted “rule of law” is a hoax. The insertion of “stands in a fiduciary (protective) or confidential relationship” narrows the law’s effectiveness. The modification of deception with the words “intention” and “inferred” also narrows the law’s applicability.

The excerpts shown below from the LSA reveal the promise Bill never performed. Read what is inside the box. The false impression Bill gave me was that he was licensed.

This loan servicing agreement is made between "COMPANY" **a licensed loan servicing agent** and the undersigned LENDER.

"LENDER" hereby authorizes and instructs "COMPANY" and "COMPANY" agrees to service the "NOTE" and in that connection to do the following:

Transmit payments of principal and interest, allow inspections, and notify lender of any defaults.

A case study regarding this LSA is on page 35.

After Bill Schroeder obtained $40,000 from me, no attorney advised me to use the theft by deception statute to recover my $40,000. I proceeded with a 523a complaint and attended the 341a meeting.

Case trustee Linda McMakin conducted the 341a meeting for the Schroeder bankruptcy petition. She was about five feet tall, glasses, an accountant, very reserved, and properly prepared.

I was not aware that a US Trustee, Sadsack Bob, attended McMakin's meeting. No one introduced him. He just sat silently in the room.

There were very few questions asked by any creditors. The case trustee was trying to gather a lot of documents and get familiar with the case.

Say-No John failed to bring many documents to the meeting. He knew these documents were needed because he was one of the often-used case trustees in our area. She would ask if he brought an item to the meeting. He would say no. All she got were promises. He said he would send her the required documents. After the meeting, I reviewed my notes. Nothing substantive had taken place.

The 5/4/01 Schroeder bankruptcy petition was eventually determined to be a "no asset" filing. Almost all of the listed debts would be discharged. They were not Schroeder debts! I wanted to be sure my $40,000 note (that was not listed) would not be discharged. I used USC 523a; not NJ 2C.

I objected to any such discharge in a motion filed 9/26/2001. Judge Burns allowed me to modify my motion because I could only (as a Pro Se litigant) represent myself; no corporations like PENSCO and my little company Sales and People.

Elements of the law (11 U.S.C. §523(a) (2) (A) and §523(a) (4)) that were at issue are underlined below. Each had significant ambiguity – see parentheses:

1. Material misrepresentation (no clear definition of "material")
    a. Commonly understood that material could mean work to be done that is not trivial or insignificant
2. Debtor knew misrepresentations were false (debtor could easily claim ignorance)
3. Debtor intended to deceive (intent is virtually impossible to prove)
4. Creditor relied on false representations by the debtor (justifiable or reasonable reliance?)
5. Creditor sustained loss (single event not required; tangential events are allowed?)

The primary basis for the decision by the Judge was the recklessness of the defendant (aka debtor) and commissions received by the defendant (aka debtor) even though neither Schroeder was a debtor.

Does this seem like a hoax to you? By that I mean pretense.

In March 2006 Judge Burns awarded me a judgment of $1,614 on my motion not to allow a discharge of the $40,000 debt. I was stunned. **The award was low because of a brief submitted to Judge Burns by Say-No John.**

Her ruling is memorialized on the Internet at the following URL: http://www.njb.uscourts.gov/opinions/GB/docs/2006/01-1270.pdf.

I filed a motion to reconsider.

Say-No John offered to settle. In his offer, he claimed I had received interest of $38,380. That meant my damages were only $1,620. Say-No John distorted the facts in his brief. I had only received interest of $22,922 on two prior 6% Mata notes for $60,000; not $38,380!

In August 2007 when Judge Burns awarded me $17,421 on a conference call, I almost cried. It was a relief even though it was not appropriate. That order was finally issued on 9/12/2007. (Exhibit 8)

NJ Court Rule 1:21-6 Ignored

I saw many bodies of law during my tussles with the legal system. New Jersey Statutes Annotated (NJSA), New Jersey Court Rules, Federal Court Rules, and NJ Rules of Professional Conduct (RPC) are just a few.

No wonder there is a big potential for conflicts and chances for lawyers to argue about interpretations. It is a great way to make money without working on the primary function of our legal system - seeking justice.

NJ Court Rule 1:21-6 section 2 (required record keeping) says attorneys must keep an appropriate ledger book for their trust accounts.

The ledger must show the source of all funds deposited in trust accounts, the names of all persons for whom the funds are held, the total amount of such funds, a description of all withdrawals, and the names of all persons to whom such funds are disbursed.

BS Bob Stevens (the KI Digital receiver) refused to share the contents of this ledger with me (assuming it even existed). Who will ever know if he kept a ledger as required by the rules? The Judge never made him produce it at any of the status hearings.

NJ Rules of Professional Conduct (RPC) Section 1.15 part b (deals with the safekeeping of property). It says the receiver (any attorney) must upon receipt of funds promptly notify third persons and promptly deliver any funds to the third persons if they are entitled to receive them. BS Bob did not do this!

In the Consent Order, there is a part about the Receiver being "held harmless." I believe such wording spawned his lax behavior.

Talk about flaws in our legal system. This is much worse than a flaw.

In one of his letters to me, BS Bob stated (with firmness) he could not and would not share such information because he was not representing me.

He said such requests by me were forms of seeking legal advice or financial advice. As you can see from exchanges with him (Exhibit 3C), I felt I was seeking status information about the situation. If I had known at the time about NJ Court Rule 1:21-6 section 2 and NJ RPC Section 1.15 part b, I think I might have been able to move things forward.

There was a Macrophage note illegally issued to my wife in August 1998. It violated the June 1998 Consent Order. The order appointed a receiver to monitor the operations of KI Digital.

This receiver established trust accounts to hold money related to a variety of notes. He refused to abide by Section 1.15 part b of the NJ Rules of Professional Conduct. He did not notify persons of his receipt of funds and deliver the funds as required.

Is the "rule of law" a hoax or what? It seems like deception to me.

A second case study in this book deals with trust account ethics. A prospective client in New Jersey comes to you in June 1999. She says a $25,000 note was not repaid on its due date of September 15, 1998. She tells you that funds are held by an attorney in a trust account that has funds for the repayment of his note.

1. What rules are involved?
    a. See pages 16 and 17
2. What documents would you want to review?
    a. See pages 44 and 45
3. What part of the 6/19/1998 Consent Order applies?
    a. See exhibit 1
4. What part of the 9/18/1998 receiver's report applies?
    a. See exhibit 2
5. Is fraud involved?
6. Who would be the defendant?
7. What would be your basis for filing a complaint?
8. What advice would you give to this prospective client?
9. Could you indicate what you will charge your client?

An attempt to get the Receiver to release the funds he held in a trust account was imperative. His account had Polly's money in it. BS Bob was evasive, noncommittal, and uncooperative about the money in his trust account.

You can check his position about this **second transaction** in the Receiver's Report. (Exhibit 2) Take a close look at page 11 of his report. He said one thing to the Court, and he said something else to Polly.

You might have noticed as you reviewed his report how clueless he was about factoring. He was unaware of what factoring was. He used the term freely throughout his report. He was duped by them and would not listen to me.

Because of his behavior, Polly would have to find an attorney to help recover her $25,000. Another case study is on page 45 related to finding an attorney.

Background Information

Some Good News and Some Bad News

I want to give you some good news about our legal system. Back in 1999, the Discovery Channel showed how well Judge Michael S. Hurtado ran his night court in Seattle. The bad news was the tremendous number of cases he had to process was growing so fast there was pressure to dispose of the cases in a hurry.

The good news was that the prosecutors in his Court and the public defenders in his Court were very efficient. The bad news was that dedicated people like this would be in short supply because too many of our citizens do not behave responsibly.

We also got good news about our legal system when the History Channel broadcast specials on the “Rock” and the “Big House” that year. Prisons like Alcatraz and McNeil Island were being closed or improved. The bad news was that we were running out of space for all of our societal misfits. We were also spending entirely too much money providing for the care and feeding of folks who did not care one wit about improving our society.

Then and now too many citizens do not do what it takes to make our society a better society. All of us have to be responsible for our actions. All of us must diligently adhere to the rules of our society as often as we can. It will make our lives better than ever.

Here is more good news. We have basic freedoms; freedom of religion, freedom of speech, freedom of the press, freedom to assemble peaceably, and freedom to petition our government for a redress of grievances.

We can seek justice through our legal system. Can we obtain swift justice through our legal system? Don’t bet on it. It took six years of uncertainty and anguish to achieve a partial remedy to an egregious wrong. It should have taken no more than three months. **Here is some very bad news.** Our legal system has many flaws. The fact that one can read a headline like the following is an indicator that our legal system has flaws that we must not ignore.

Curiosity Moment

On January 5, 2000, (bottom fold of the second section of our local newspaper) there was this headline: **"NY to pay $8 million to settle Attica suit"** Maybe only a handful of people were alerted to anything by this small headline. Our editor saw it as a minor story based on its placement in our paper. It was probably a filler article. It was an AP release from Rochester, NY in a Cherry Hill, NJ local paper.

News of this kind of strange settlement came on the heels of three legal news doozies.

1. President Clinton lying under oath verdict on 2/12/1999
2. OJ murder trial verdict on 10/3/1995
3. The Love Canal civil suit verdict on 6/22/1994

Had something gone completely awry with our legal system? Where was justice in these verdicts?

The $8 million awarded by the NY Court was to go to 1,280 inmates or their survivors. An additional $4 million of the taxpayers' money was to be paid to the lawyers of these inmates by the State of New York. Something did not seem right.

Inmates kill 11 corrections officers during a revolt in prison and get a cash award. They killed people! The 1,280 inmates should have been severely punished rather than awarded something.

I guess **all** the inmates were not involved in the killings of the corrections officers directly, but **all** of them claimed they were part of a class action suit against the State of NY. **I doubt they did this without some prompting from some lawyers.** In agreeing to settle this litigation, the State of NY did not admit any wrongdoing. No wrongdoing by the state! How about the inmates? There is an award given to 1,280 lawbreakers participating in a riot.

They were originally in Attica because they broke the law. Now they decide to break the law again because they are not happy with their situation. They decide to riot because things are not pleasant enough for them in prison. Is there something wrong here? I believe there is.

We too often cater to members of our society who refuse to live by society's rules. The lawyers that twist the meaning of a person's rights prompt this catering. When a member of our society breaks the law, at the felony level, part of their punishment should be that they forfeit a number of their rights – perhaps all of their rights!

The AP article did not mention any settlement for the relatives of the 11 deceased corrections officers. Newspapers and television rarely report complete clear information, but that is just some more bad news.

So far I have cited a few historical examples of the rule of law not resulting in real justice. All of this was very annoying at the time, but recently I watched FBI Director Comey demonstrate how flawed the "Rule of Law" is in the USA. That prompted me to review the information I had from my tussle with our legal system.

Why Write a Book About Our Legal System?

That small Attica headline was one motivation for this book. The headline happened to coincide with a personal legal experience that no one should ever have to endure. The confluence of these events told me to try to do something to improve our legal system.

More recently the Comey remarks about Hillary's server and emails plus the Katz advice to Chrissy Ford in the Kavanaugh hearings triggered action.

This tale about my legal system experiences is to help others be aware of and be better able to deal with the many flaws in our legal system.

This book is prompted not only by a desire to help others but to help two wiser senior citizens (my wife and I) recover some of the losses that the flawed legal system caused us.

The evidence in the three suits involving Bill Clinton, OJ, and Love Canal seemed to warrant different verdicts. The lawless inmates at Attica Prison received awards after 11 good citizens were murdered. A presidential candidate was allowed to misuse classified information and lie about it without any legal consequence. I contend that there are serious legal system flaws which enable these kinds of events.

Five Flaws of Our Legal System

What might cause these flaws? It is primarily poorly written laws. It also is devious behavior by officers of the court (lawyers).

Here are my nominees for the top five flaws:

Flaw 1: **Truth and honesty are rarely practiced in our legal system.** Officers of the Court (judges and lawyers) too often fail to elicit truth and honesty. They seem to discourage it. The officers of our courts (lawyers) stifle straightforward dialog.

Flaw 2: **A violator of law or the perpetrator of a crime has more protections than the violated person** (the victim).

Flaw 3: **Violated people must have ample resources to try to obtain a remedy for the harm done to them.** If you are harmed and you are without money, you will remain harmed without recourse.

Flaw 4: **Many officers of our courts (lawyers) take control of all communication to build income rather than to get at the truth or to achieve a just result.** The typical advice from a lawyer to a client is “You are to talk only to me and no one else.”

Flaw 5: **Many officers of our courts (lawyers) focus more on the interpretations of conflicting statutes and court procedures than they do on justice being the purpose of any legal process.** The battle of semantics prevails.

Pretty serious accusations! Do I have any proof? You be the Judge as you read this book. I welcome any rebuttal from any law professors, the ABA, or even the folks at the ACLU.

Surely there are many capable and good officers of the court. I’ve had difficulty finding them. They could be the ones who will fix these flaws.

The officers of the court who continue these flaws should get into another line of work or change their ways. Many of these officers of the court are enablers. They enable more and more of our citizens to be irresponsible members of our society.

If we cannot depend on a sound legal system for proper remedies, the use of some weapon will be used more frequently.

What do we need instead of a weapon?

1. Honesty
2. Truth
3. Clear, unambiguous laws
4. Lower costs for remedies
5. Efficiencies in legal processes
6. Quicker revelations of records
7. Judges who know and follow the law take charge in their courtrooms

Think about it as you read this book. Are we headed toward anarchy or do you think these BIG 7 are possible?

Timeline of Events Covered in This Book

10/96	Invested in Mata notes (equipment sales)
6/97	Invested in 6% Mata notes (funding KI Digital)
12/97	End of investments in Mata notes
1/98	Fake licensed loan servicing agent role
4/98	End of investments in 6% Mata notes
6/98	Consent Order - KI Digital Receiver appointed
7/98	Wife invested $25,000 in Macrophage note
9/98	$25,000 Macrophage note not repaid
9/98	Schroeders began transfers of assets
6/99	Wife filed a motion to recover $25,000
1/00	Repaid $25,000 from Receiver's trust account
5/01	Bad faith bankruptcy filings
9/01	Filed a motion to stop a discharge of a $40,000 debt
12/01	Amended the 9/01 motion
1/02	Amended the 12/01 motion
6/02 until 7/02	Court appearances related to the 1/02 motion
10/03	Filed a motion to dismiss Macrophage bankruptcy
12/03	Opinion denied the motion to dismiss (Exhibit 9)
3/06	Opinion regarding the 1/02 motion
3/06	Filed a motion to reconsider
8/07	Opinion regarding the reconsider motion

Dumb and Dumber

Stresses and Pressures

My wife, Polly, loved to invest. Although I majored in economics at Muhlenberg College and she graduated from The Philadelphia Museum School of Art, she is the one who handled our investments. After working two years in her field by working in the advertising department at Seventeen Magazine in NYC and designing displays for Gables department store in Altoona, PA, Polly stayed at home to make sure our children were given the proper care and nurturing. So from 1960 to 1988, she stayed out of the workforce.

Then, as a JC Penney sales associate, she was setting records and winning contests to bring home a whopping $18,000 per year. She had to stand all day at her job. She might get a couple of “sit down” moments if it was a slow day. She was on commission. I don’t know how she did it. It had to be very fatiguing for someone only in their 30s. She was doing it in her 50s. I doubt any of her co-workers thought she was even 40 until this white-haired buzzard (me) showed up at her job to see her now and then.

She liked helping people decide how to decorate their homes. She enjoyed selling draperies and window treatments. She liked getting away from being housebound. She rarely complained about the work environment at JC Penney. What an amazing optimist.

My 1995 pension from Unisys was very modest. Early retirement was forced on me by the continual downsizing at Unisys; a new entity formed by Sperry and Burroughs. The merger was a disaster wrapped in extreme debt and very tight cash flow pressures.

Mike Blumenthal was awarded a prize of 14.5 million dollars as he departed from the wreckage called Unisys. That huge severance sum could have kept a few more people on the payroll if his crony and his replacement, Jim Unruh, had not given such a lavish amount to him.

The sales and profits were not strong enough to sustain the debt burden. Soon Unisys decided not to match the employees’ pension contributions.

Cutting expenses was a “smart” thing to do if you could not increase revenues. Layoffs were a way to cut expenses. Thirty thousand people were gone in five years.

Polly was being paid a tad above the minimum wage at the time Unisys dumped me. At that time our Congress was in a cocoon of fantasy deciding to increase the age of eligibility for Social Security when many companies were downsizing and forcing people to “retire” at an earlier age (63 for me and younger for many of my colleagues).

Congress came up with the idea that 67 would be the “normal” age for retirement as companies were retiring people in their 50s. How our legislators came up with such an unrealistic decision should be examined.

A determined Polly said, “We will manage.” She worked crazy shifts of late nights and weekends. She continued with her investing. I tried to generate some income with a small training business. Thanks to some friends (thanks Bob and Rod) I got some contracts. Things were tight! Stress was significant!

How Do You Spell Relief?

One day in September 1996 Polly came home with more than her usual level of enthusiasm. She had talked to Bruce, a sales associate, in the footwear department. He was investing his pension money in a fantastic investment. He was making close to 20% in 90 days. That is 80% annualized! I listened. I smiled. I thought she had something twisted in the story, but it made for an entertaining dinner discussion.

She gave me a phone number to call. She was too busy to check it out, so I had the assignment. Although I normally would jump into things rather quickly, I was the model procrastinator this time. I had grass to mow. I had weeds to pull. I had some spots to paint. There was always a top priority like playing a round of golf.

After three days she came home with an attitude. Had I called that number yet? Not yet, but I was going to try it tomorrow! I tried the number the next day. I got an answering machine. I left my name and phone number and stated my reason for calling. That evening we did not have a happy time at dinner.

Even though I made the call, too much time had elapsed! She had heard from Bruce that the next deal was in the works. We were going to miss out on this deal because I had not been aggressive enough.

I asked her to have Bruce get me an address and a better phone number so I could get right on it the next day. My “man of action trait” was still in me. Usually, I was seen as a relentless “Type A” personality as many people could attest. This is one time I was actually dragging my feet. It was also a time I did not please my brown-eyed beauty.

The next day (October 4, 1996) Polly called me to give me the number. I called it, and a very upbeat guy named Bill answered. I asked if I could come over and discuss the opportunities for investing. Sure, he said. I got directions and went right over. The directions brought me to his home. It was a split-level in a modest middle-class neighborhood. Bill came to the door and asked me to come in. He was casually dressed. I followed him up the half stairway to a room that had many stacks of papers everywhere. He offered me a seat at the dining room table.

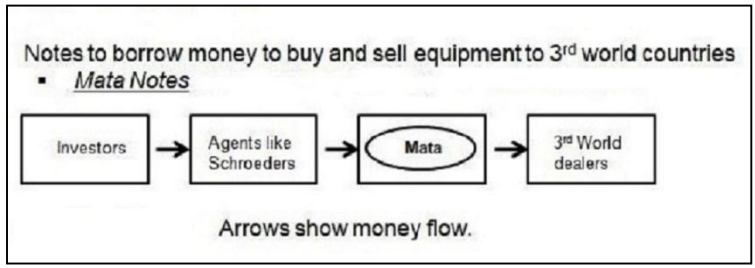
He described who was investing with him. They were his wife’s parents, Basil and Kay, his wife’s minister, old friends from high school, his brother-in-law, Steve, and Steve’s wife, Dawn. He had a calculator that he used with lightning speed. He was talking and keying rapidly at the same time to show me what success his noteholders had experienced.

Bill and his wife, Kathy, were providing these investment opportunities with Mata Services (see their business card) since April 1996.

Chuck McCormick ran Mata Services. They said Chuck was a real go-getter who put these deals together.

Chuck set it up in a unique way that made it safer than **most "factoring" deals**. I did not understand why it was called "**factoring**" because there were no purchases of any accounts receivable.

Promissory notes were issued to lenders who provided money to fund computer equipment sales deals with third world countries!



A very key fact was that Chuck guaranteed a third of the amount invested would be refunded. The risk is minimized.

The dealers who needed the financing did not use banks because the deals had to be set up on a very short cycle and bankers took too long to approve the loans.

Chuck was almost an idol of Bill's. Bill described Chuck's feats with a passion.

Bill showed me a sample Mata note. It had guarantees and reassurances that would make the risk seem like it was all theirs – not mine. On the next page you can see the first note I would get. Take a look at it and see how comforting the wording is.

Read the GUARANTY section closely. How could anything go wrong? "Prompt payment" and "guaranteed until fully paid or discharged." I did not think about what "discharged" might mean other than some eventual repayment.

PROMISSORY NOTE

$ 4,000.00 Dated: **October 8, 1996**
(Principal Amount) at: Stratford, N.J

FOR VALUE RECEIVED, the Undersigned (jointly and severally, if the Undersigned is more than one) promises to pay to Tom Yarnall on order.

The sum of Four Thousand DOLLARS ($_4,000.)
The repayment of this note (including principal and interest) is due on (Approx.) **Nov.13-15 1996**_
ORIGINAL AMOUNT OF $4,000.00
PLUS PROFIT OF $518.00
TOTAL RETURN OF $4,518.00

1. This Note may be prepaid in whole or in part without penalty.
2. In the event of the failure to pay any installment when due, the holder of this installment note may declare the entire principal balance and accrued interest immediately due and payable. In addition, the holder may declare this note immediately due and payable if any of the following occurs:
   (i) The failure of the undersigned to comply with any promises or agreements made in this note or in any security agreement or guaranty given as collateral security for the payment of this note; or
   (ii) The death, dissolution or termination of the existence of any of the undersigned; or
   (iii) The issuance of a garnishment, attachment, levy or execution against any property of any of the undersigned; or
   (iv) The insolvency, business failure, appointment of a receiver of any part of the property of, assignment for the benefit of creditors by, or the commencement of any proceeding under any bankruptcy or insolvency laws by or against, any of the undersigned.
3. All parties to this Note, including the Undersigned and any endorsers or guarantors jointly and severally waive presentment, notice of dishonor and diligence in collecting and all agree to remain fully obligated under the terms of this Note even if, without notice, the time for payment is extended; or the Note is renewed or modified, or one of the parties is released or discharged, or the release or substitution of any collateral given as security for the payment of the Note.
4. If this Note is not paid promptly in accordance with its terms, the Undersigned agrees to pay all costs of collection, including reasonable attorney fees. In the event that any judgment is obtained under this Note, the Undersigned waive, to the extent permissible under law, the benefit of any law exempting their property, or any part of it.

Charles McCormick

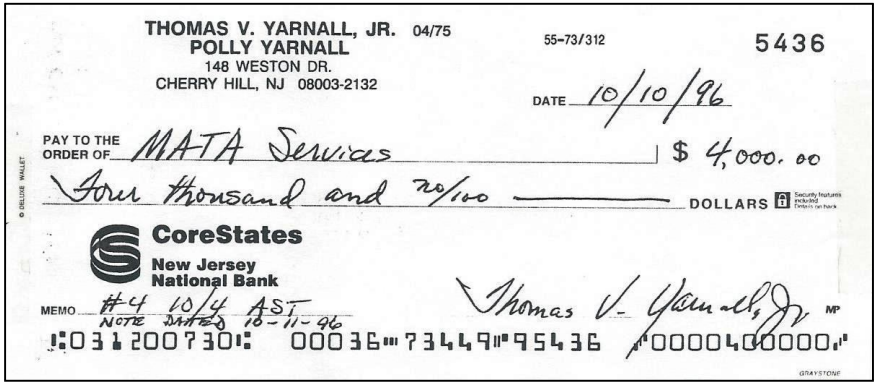
GUARANTY

FOR VALUE RECEIVED, the Undersigned (jointly and severally if more than one) hereby guarantee absolutely and unconditionally prompt payment of the foregoing Promissory Note and agrees to pay all costs of collection and/or enforcement of the Note and the enforcement of this Guaranty. **This Guaranty shall continue in full force and binding upon the Undersigned until the Note has been fully paid and discharged.**

MATA SERVICES

Bill and I had a discussion that went something like this. “If I put my money in today (October 4, 1996) I could make $259 on a $2,000 investment by November 15th. That is just a little over 40 days, and I can make just shy of 13%. That is an annualized rate of about 117%!” Bill helped me get it straight with his rapid use of the calculator.

What would you do? What is the worst thing that could happen? I can get a third of it back if the deal fails for some reason. So I reviewed it again with Bill. “On November 15, 1996, I can get back either $660 (worst case) or $2,259 as planned.” “Yes,” he said. “Can I get in for $4,000?” “Yes,” he said. Polly and I discussed it, and we were prepared to lose $2,680 to see if this was for real. We sent a check.


THOMAS V. YARNALL, JR. 04/75
POLLY YARNALL
148 WESTON DR.
CHERRY HILL, NJ 08003-2132

55-73/312

5436

DATE 10/10/96

PAY TO THE ORDER OF MATA Services $ 4,000.00

Four thousand and no/100 DOLLARS

CoreStates
New Jersey
National Bank

MEMO #4 10/4 AST NOTE DATED 10-11-96

Thomas V. Yarnall, Jr.

⑈031200730⑈ 00036■73449■95436 ⑈0000400000⑈

To be sure about the safety of the deal I thought maybe I could get closer to the operation if I offered to help Bill in some way. Since he had to use the calculator on phone calls and in discussions, maybe he would prefer to use a spreadsheet with a few formulas on a PC near the phone.

He had a PC, but he was not using it to do all the things it could do for him. Since that was my area of expertise, I offered to do some spreadsheet and word processor work (at no charge) for him and his wife, Kathy. It could make their lives easier. It would give me a chance to see what was really happening.

As I did this work for them, I learned how the deals were processed and met some of the people involved. Things looked solid. People were picking up checks from previous deals as I was waiting for our first payout.

I was so impressed with what I saw in the first ten days that I did not wait until November 15th to make our next investment. On October 18th we decided to put $50,000 from my IRA into the next deal. On November 29th we could get back the principal plus $9,240 in interest from that investment.

On November 15th I called Bill and Kathy to see how things went. Bill said my check could be picked up or Kathy would mail it to me. It was for $4,518! How would you feel if this happened to you? Well, that's how we felt.

Polly and I thought we had found new friends - two new best friends in their 30s (roughly the age range of our two older children). Kathy and Bill Schroeder were neat people. Kathy had the added advantage of looking a bit like Markie Post, the actress from the old TV show named Night Court. I'd call that attractive.

They had two young boys (Billy and Tyler) almost the same age (8 and 12) as our daughter's two sons. It was near Thanksgiving. She was visiting us from Van Nuys, CA. She and her boys came to enjoy the holiday with us because she had lost her husband in a fishing boat mishap 80 miles out from Ventura, CA in the Pacific Ocean a little over a year earlier. It was helpful for her to be with us at Thanksgiving.

I decided to take her two boys and the Schroeder boys to the Franklin Institute. I was going to treat them to tickets and lunch. Bill insisted that he give me some money for his boys. He was always generous. He paid for rounds of golf for me.

He even bought Polly and me a color printer. I was treated to hockey games in a luxury box. Life was good. I thought I could become a member of my favorite golf course – Little Mill.

On November 29th I picked up a second check for $59,240. Life had taken a turn for the best. How lucky can you be? I could forget (maybe even forgive) Blumenthal and no longer be concerned about those poor legal verdicts. Pressures were far less now.

How Could It Get to a Lawsuit Level?

Remember now; we are just beginning. This **"factoring"** business of Mata continued all of 1997 and even into 1998. See the timeline on page 23. The deals were not as frequent because the deals got larger and more people were participating.

In early 1997 there was a new business opportunity discussed. Chuck had made tremendous profits from the "**factoring**" deals. It would allow him to invest in some equipment that would do animation and morphing for TV ads and special effects in movies.

I finally met Chuck at a Flyers game in his luxury box at the Core States Center. If I said he was casually attired, that description would be an upgrade. He was a short, curly-haired mid 30s guy with hidden social skills and non-existent conversational skills. His handshake almost wasn't one. It startled me. I met his younger brother and sister too. There was absolutely no indication of genius here. I was anxious to ask Bill and Kathy a few more questions about these folks.

The answers were along the lines that Chuck has always been a good friend since high school days. Bill and Kathy were not sure what Chuck did or how he did it. Bill said he figured the fewer questions he asked Chuck, the better. Things were going well. He and his wife were able to quit their jobs and make more money than ever, so they were happy with Chuck. My estimate is Bill and Kathy might have made well over $600,000 in two years based on the percentage they were paid to get investors and the sizes and number of the deals executed.

After all, I wrote the programs that created their reports, so I knew what was transpiring.

In June of 1997 when there was another investment opportunity offered primarily to those who had been supportive during the "**factoring**" business days. There were no reasons to flinch. The new offer was explained to hundreds of people in a very crowded conference room at a local hotel. Chuck announced this special opportunity after arriving late. It was one of the poorest presentations I have witnessed in my entire life. Here is an excerpt from his 16-page handout.

SERVICES:
SPECIAL FIX FOR VIDEO FILM INDUSTRY, COMMERCIALS, MEDICAL FIELD, INTERACTIVE CD PROGRAMS, CREATE GAMES, MULTIMEDIA CD AUTHORING, CREATING INTERNET WEBSITES FOR MAJOR CORPORATIONS AND BUSINESS.

We have created two divisions under our company name MATA SERVICES, INC. Our KINETIC IMAGES Division will handle all film and special FIX services MATA SERVICES will handle all Multimedia and Internet services. Both divisions are completely owned and operated by MATA SERVICES, INC.

Does it do anything for you? Polly and I were skeptical. It had many grammatical errors. Should we take our profits from those "**factoring**" loans and invest them in this new venture?

This venture was just a bridge loan to initiate the operation of their new company named KI Digital. An IPO for KI Digital was being developed so the loans would be repaid in three months and an opportunity to participate in the IPO would be presented to us then. We decided to do it.

At the end of the three months, I collected my interest of $11,461 on my 6% Mata note of $60,000 and Polly collected her interest from her $50,000 note. In September 1997 the IPO was not ready. If we wanted to reinvest for another three months, it would be the same deal. So in December 1997, I collected another $11,461 on my note and Polly collected her interest on her note. I had just made $22,922 on $60,000 in six months.

When they asked for an extension until January 1998 would you have continued?

Unknown to us, two people that did not participate were Bill and Kathy Schroeder. I found this out about ten months later. This was after everything was falling apart.

In December 1997, my IRA manager, John Beater, required me to return all my funds for a reconciliation of my IRA account. Here was this guy I only knew over the phone with a British accent and a very British attitude telling me I MUST return my investment.

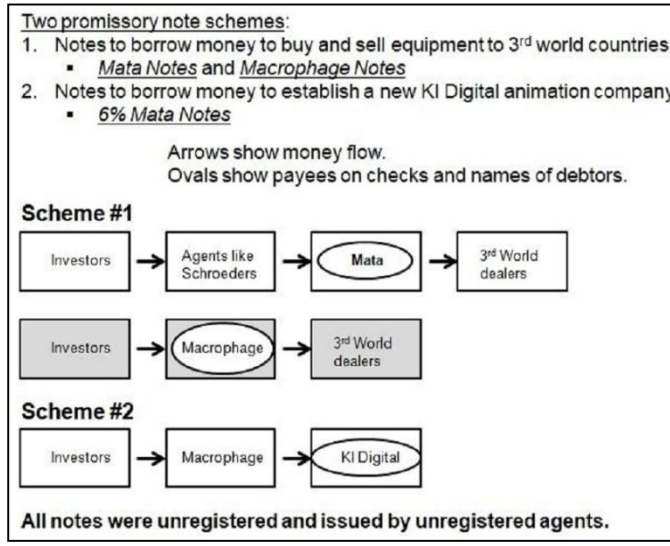
I was very annoyed with him because he was going to cost me about $4,000 in interest while the $60,000 was not invested for those 30 days.

Eventually, Polly and I met John Beater when we took a trip to see the Napa Valley and Sonoma Valley wine country. He was a pleasant chap. He was business-like in his late 40s or early 50s. He became a man to whom I owed a debt of gratitude as well as an apology. Have you ever screwed up like that?

Bill and Kathy were going to continue the "**factoring**" business by forming a new company named Macrophage and also handle the bridge loan investments they would solicit for KI Digital with the 6% Mata notes.

There were multiple investment opportunities now. The old Mata so-called factoring notes were handled by other agents like Cornerstone (the Efflers). The Macrophage notes for so-called factoring were handled by the Schroeders. The new 6% Mata notes were also handled by the Schroeders.

The chart on the next page outlines this.



As Polly and I discussed our investment situation during December 1997, we felt there was something Bill and Kathy were not sharing with us. What was delaying the IPO plans?

In January 1998, Polly said she was going to reduce her exposure. She was going to withdraw all of her investment in the IPO bridge loans and only participate in the "**factoring**" notes. She requested her $50,000 at that time. Kathy Schroeder talked Polly into leaving $10,000 of it with them. To foreshadow what eventually happened, that is what Polly ended up losing when the planned IPO never materialized. So much for "friendly" advice from a new and "trusted" friend!

In January 1998 I made a bold decision to continue. I asked John Beater to send Bill Schroeder only $40,000 of my $60,000 for a 6% Mata note. I was ambivalent about cutting back, so I decided to also roll $17,000 from my little training company into a 6% Mata note in January.

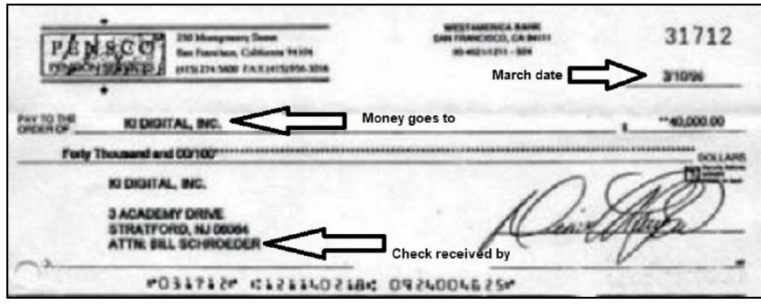
The time seems appropriate for a case study about what law is the right law to use in a note default situation when the note involved was the result of a very strange transaction. A client comes to you on April 14, 1998, with a 6% Mata promissory note and a copy of a $40,000 PENSCO IRA check. The check was payable to **KI Digital** and mailed to Bill Schroeder. The 6% **Mata** promissory note that was payable on April 2nd was not repaid.

1. Does the usury law apply to an interest rate set by the borrower?
2. Is the 6% Mata promissory note a debt of Schroeder when he files for bankruptcy?
3. Should this promissory note be listed in the schedule F of his bankruptcy petition?
4. Is this transaction an example of theft by deception?

The content of the note:

With interest at the rate of six percent (6%) per month, compounded as follows:
The entire principal balance then outstanding plus all accrued and unpaid interest thereon shall be due and payable in full on April 2, 1998.
This note may be prepaid in whole or in part without penalty.
In the event of default in the payment of any installment as provided, time being of the essence of this instrument, the Holder of this Note, without notice or demand, may declare the entire principal sum then unpaid, together with accrued interest thereon, immediately due and payable.
In the event any suit is commenced to enforce payment of the Note, the Maker agrees to pay such additional sum for attorney fees as the court in such action may adjudge reasonable This Note shall be governed by and construed in accordance with the laws of the State of New Jersey.

MATA SERVICES INC.
CHARLES MCCORMICK PRES



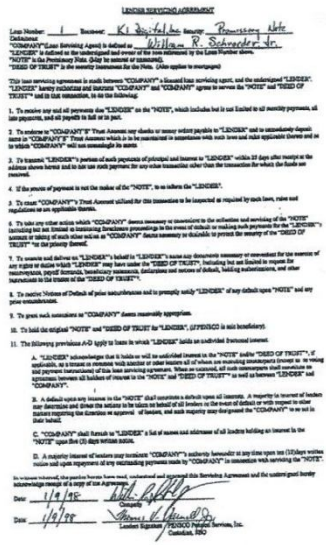
The deadline to invest was 1/15/1998. The first check was lost after it was mailed to Schroeder and this substitute check was accepted after March 10th by Bill Schroeder. He signed a loan servicing agreement with PENSCO shown on the following page.

Below are some excerpts from the body of the agreement shown on the right:

This loan servicing agreement is made between "COMPANY" **a licensed loan servicing agent** and the undersigned LENDER.

"LENDER" hereby authorizes and instructs "COMPANY" and "COMPANY" agrees to service the "NOTE" and in that connection to do the following:

Transmit payments of principal and interest, allow inspections, and notify lender of any defaults.



LENDER SERVICING AGREEMENT

Loan Number: 1 Borrower: KI Digital Inc Security: Promissory Note

Definitions:

"COMPANY" (Loan Servicing Agent) is defined as William R. Schroeder Jr.

"LENDER" is defined as the undersigned and owner of the note referenced by the Loan Number above.

"NOTE" is the Promissory Note. (May be secured or unsecured).

"DEED OF TRUST" is the security instrument for the Note. (Also applies to mortgages)

1. To receive any and all payments due "LENDER" on the "NOTE", which includes but is not limited to all monthly payments, all late payments, and all payoffs in full or in part.

2. To endorse to "COMPANY'S" Trust Account any checks or money orders payable to "LENDER" and to immediately deposit same in "COMPANY'S" Trust Account which is to be maintained in accordance with such laws and rules applicable thereto and in which "COMPANY" will not commingle its assets.

3. To transmit "LENDER'S" portion of such payments of principal and interest to "LENDER" within 10 days after receipt at the address shown hereof and to list any such payment for any other transaction other than the transaction for which the funds are received.

4. If the source of payment is not the maker of the "NOTE", to so inform the "LENDER".

5. To insure "COMPANY'S" Trust Account utilized for this transaction to be inspected as required by such laws, rules and regulations as are applicable thereto.

6. To take any other action which "COMPANY" deems necessary or convenient to the collection and servicing of the "NOTE" including but not limited to instituting foreclosure proceedings in the event of default or making such payments for the "LENDER'S" account or taking of such other action as "COMPANY" deems necessary or desirable to protect the security of the "DEED OF TRUST" in the priority thereof.

7. To execute and deliver on "LENDER'S" behalf to "LENDER'S" name any documents necessary or convenient for the exercise of any rights or duties which "LENDER" may have under the "DEED OF TRUST", including but not limited to request for reconveyance, payoff demands, beneficiary statements, declarations and notices of default, holding authorizations, and other instruments to the trustee of the "DEED OF TRUST".

8. To receive Notices of Default of prior encumbrances and to promptly notify "LENDER" of any default upon "NOTE" and any prior encumbrances.

9. To grant such concessions as "COMPANY" deems reasonably appropriate.

10. To hold the original "NOTE" and "DEED OF TRUST" for "LENDER", (if PENSCO is not beneficiary).

11. The following provisions A-D apply to loans in which "LENDER" holds an undivided fractional interest.

A. "LENDER" acknowledges that it holds or will so undivided interest in the "NOTE" under "DEED OF TRUST", if applicable, as a tenant in common with another or other lenders all of whom are executing counterparts (current as to voting and payment instructions) of this loan servicing agreement. When so executed, all such counterparts shall constitute an agreement between all holders of interest in the "NOTE" and "DEED OF TRUST" as well as between "LENDER" and "COMPANY".

B. A default upon any interest in the "NOTE" shall constitute a default upon all interests. A majority in interest of lenders may determine and direct the action to be taken on behalf of all lenders in the event of default or with respect to other matters requiring the direction or approval of lenders, and such majority may designate the "COMPANY" to so act in their behalf.

C. "COMPANY" shall furnish to "LENDER" a list of names and addresses of all lenders holding an interest in the "NOTE" upon five (5) days written notice.

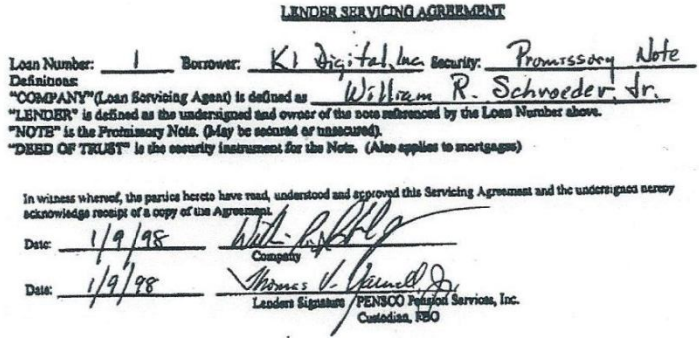
D. A majority interest of lenders may terminate "COMPANY'S" authority hereunder at any time upon ten (10) days written notice and upon repayment of any outstanding payments made by "COMPANY" in connection with servicing the "NOTE".

In witness whereof, the parties hereto have read, understood and approved this Servicing Agreement and the undersigned hereby acknowledge receipt of a copy of the Agreement.

Date: 1/9/98 Company

Date: 1/9/98 Lenders Signature / PENSCO Trust Services, Inc. Custodian, FBO

Below are enlargements of terms used in the agreement.



LENDER SERVICING AGREEMENT

Loan Number: 1 Borrower: KI Digital, Inc. Security: Promissory Note

Definitions:

"COMPANY" (Loan Servicing Agent) is defined as William R. Schroeder Jr.

"LENDER" is defined as the undersigned and owner of the note referenced by the Loan Number above.

"NOTE" is the Promissory Note. (May be secured or unsecured).

"DEED OF TRUST" is the security instrument for the Note. (Also applies to mortgages)

In witness whereof, the parties hereto have read, understood and approved this Servicing Agreement and the undersigned hereby acknowledge receipt of a copy of the Agreement.

Date: 1/9/98 Company

Date: 1/9/98 Lenders Signature / PENSCO Trust Services, Inc. Custodian, FBO

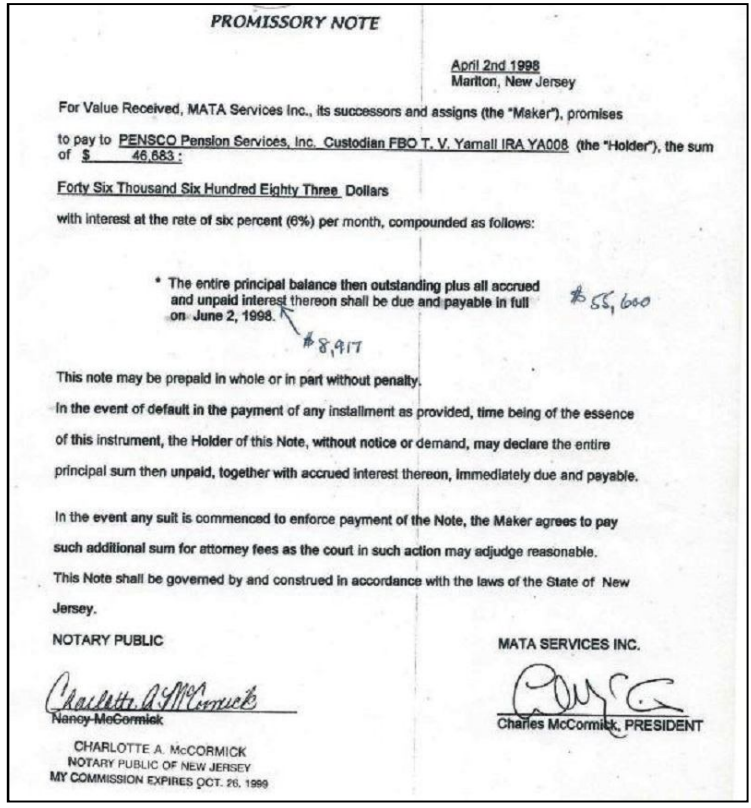
This agreement was sent by PENSCO to define the relationship with any borrower. Schroeder pretended to be a licensed loan servicing agent for KI Digital.

KI Digital was borrowing money to start a new business and had **Macrophage** issuing **Mata** promissory notes. Who is the debtor and who is the creditor?

After this situation, PENSCO changed their agreement for an IRA Unsecured-Note-Investment-Authorization to cover situations where there was no properly registered agent with the state.

Below is the note that was subsequently issued after the January note was not paid.

In mid-April 1998, we received a belatedly issued replacement 6% Mata note. It was due to be paid on June 2, 1998.



PROMISSORY NOTE

April 2nd 1998
Marlton, New Jersey

For Value Received, MATA Services Inc., its successors and assigns (the "Maker"), promises to pay to PENSCO Pension Services, Inc. Custodian FBO T. V. Yarnall IRA YA008 (the "Holder"), the sum of $ 46,683 :

Forty Six Thousand Six Hundred Eighty Three Dollars

with interest at the rate of six percent (6%) per month, compounded as follows:

* The entire principal balance then outstanding plus all accrued and unpaid interest thereon shall be due and payable in full on June 2, 1998. $55,600 $8,917

This note may be prepaid in whole or in part without penalty.

In the event of default in the payment of any installment as provided, time being of the essence of this instrument, the Holder of this Note, without notice or demand, may declare the entire principal sum then unpaid, together with accrued interest thereon, immediately due and payable.

In the event any suit is commenced to enforce payment of the Note, the Maker agrees to pay such additional sum for attorney fees as the court in such action may adjudge reasonable.

This Note shall be governed by and construed in accordance with the laws of the State of New Jersey.

NOTARY PUBLIC

Nancy McCormick

CHARLOTTE A. McCORMICK
NOTARY PUBLIC OF NEW JERSEY
MY COMMISSION EXPIRES OCT. 26, 1999

MATA SERVICES INC.

Charles McCormick, PRESIDENT

This note documents my lost $40,000. The amount was obtained by Bill Schroeder when he pretended to be a licensed loan servicing agent for KI Digital. The note is a Mata Services note! The check was payable to KI Digital!

In April 1998 when payments were due on our 6% Mata notes, Polly decided to withdraw her $10,000, and I decided to withdraw my IRA's $40,000 and my small company's $17,000 from the program. **Bill and Kathy said Chuck told them the SEC had frozen all assets. The SEC delayed the approval of the KI Digital IPO.**

This SEC remark sounded like BS to me. I knew a little bit about the IPO process, and this seemed like a strange remark. I wanted a meeting with Bill Schroeder and his good friend Chuck McCormick.

Mistakes of an Unsuspecting Victim

Their stall was working because of my foolish tendency to trust them. We let them stall until June 23, 1998. We stopped trusting the Schroeders because an article appeared in our local newspaper. The small caption on the article was, **"Cherry Hill firm target of state suit."** It said the court appointed a receiver to preserve KI Digital's assets, audit its records, and make recommendations. I did not know what a receiver did or why they were appointed. Anytime you see the word receiver it is not a good situation. It can be a very bad situation. What is your reaction to this article?

Cherry Hill firm target of state suit
By MONICA LEWIS Courier-Post Staff

The state's Division of Consumer Affairs' Bureau of Securities has sued a Cherry Hill company that allegedly used the Internet to unlawfully market unregistered securities. The four-count complaint against KI Digital, Inc., located at 15B Kresson Road, was filed in Essex County Superior Court Monday. The complaint states the company, which specializes in computer-animated special effects for the motion picture industry, could *have* defrauded **New Jersey investors** out of millions of dollars.

"There are no allegations of actual loss. We're alleging that the consumer could have lost money. That's why we stepped in," said Genene Wiggins, a spokesman for the Division of Consumer Affairs. **A court-appointed receiver is to preserve KI Digital's assets, audit its records, and make recommendations.**

An injunction has been entered by the state to prevent the company from selling unregistered securities, employing unregistered agents and committing further alleged securities fraud. Phone listings for KI Digital, its owner and president, Charles McCormick, and various subsidiaries, either was disconnected or could not be found.

A message left for KI Digital's lawyer was not immediately returned Monday.
The complaint alleges that in June 1997 the company sold 500 promissory notes nationwide worth more than $11 million, including 300 to New Jersey residents.

The complaint also alleges that KI Digital unlawfully sold unregistered securities over the Internet and represented that **the securities would pay a return of 12 to 22 percent every 35 days**.

The state says the company failed to disclose or misstated relevant information such as:

- Their use of the invested funds
- The risk of the investment
- KI Digital's ability to repay the principal and interest

The state said these activities have the potential of cheating investors, but the state is not saying there were any losses. Wiggins said Stevens has 90 days to submit a report to the court. She added that there was no set hearing date.
The Associated Press contributed to this report.

What would you do after reading this? I faxed a copy of it to Bill and Kathy Schroeder with some questions.

Words like “securities pay 12 to 22% every 35 days” meant the complaint focused on the “**factoring**” notes. Those words were in the article.

Words like 6% per month would indicate a focus on the 6% Mata KI Digital IPO bridge-loan notes. Those words were not in the article.

The only comment I got from Kathy was that their friend Chuck was going to sue the newspaper for putting out such lies. Below is my June 24 fax for your review.

Kathy and Bill:
The above article was in the Courier Post on Tuesday. Since we haven’t heard from you, we thought you might not know about the article, or you are calling your clients (in alphabetical order) to reassure them, or you are sending an explanation in the mail. I guess the best thing for us is to be told the complete facts directly from you because sometimes the press does not have all the facts.

Are you folks (as agents) registered? I never thought to ask that when we first met. Has the lawyer for KI Digital composed a letter for distribution to the brokers and investors as we discussed at the brokers meeting? *<NOTE: This was a meeting held earlier in June before this article appeared>*

Does this mean the amounts that my IRA ($40,000), Polly ($10,000), and Sales & People ($17,000) have invested in KI Digital are in jeopardy? Notice, I do not even include the accrued interest values. Is this suit tied into the factoring notes in any way? Please give us a call.

Tom and Polly

Her terse response about Chuck suing the newspaper was the first hint of any possible fraudulent behavior on their part. Notice at that time I was not using the term Mata because the article was about KI Digital.

All my questions were verbal until I sent this fax. I had always just asked questions and did not think I would need to document my questions and their responses. **Major mistake.**

Always document everything! Get confirmations of verbal remarks in writing. When the person refuses or makes light of such requests, proceed with extreme caution. **Actually - stop proceeding!**

We were anxious to find out if it was too late to get back our $67,000 in the 6% Mata bridge loan notes financing a potential KI Digital IPO. See an example of such a note on page 37. We were anxious to find out if it was too late to get back Polly's $25,000 in a Macrophage note. See an example of such a note on page 44.

The situation at the beginning of August 1998 was this:

1. June 19th receiver appointed to preserve KI Digital's assets
2. June 23rd we saw an alarming article about KI Digital
3. $17,000 invested in a 6% "Mata" note by my little company
4. $40,000 invested in a 6% "Mata" note by my IRA
5. $10,000 invested in a 6% "Mata" note by my wife
6. $25,000 invested in a Macrophage note by my wife

All of the 6% Mata notes were investments in KI Digital; not Mata

Bureau of Securities Questionnaire

On August 3, 1998, Polly and I received questionnaires from the Bureau of Securities of the State of New Jersey with 14 questions for us. See the next page. I completed my questionnaire on August 10, 1998. Polly delayed completing hers. She wanted to talk to the Schroeders first. She was told it was much ado about nothing. There was nothing to worry about, everything would be OK, and this was just a form of harassment by the Bureau of Securities.

KI Digital/Mata Service Questionnaire Instructions:
Please print or type. Please read, date, and sign at the bottom.
If additional space is required for any question you may continue on the reverse side or on an extra sheet of paper.

1. Please provide your complete name, address and the telephone numbers at which you can be contacted.
2. Please provide the names of all persons with whom you had contact in connection with your investment in KI Digital and summarize the nature of your contact with each person.
3. Briefly explain how an investment in KI Digital was described to you before you agreed to invest.
4. What were you told/and by whom about the safety of your investment?
5. Were you given any guarantees or assurances about your investment with KI Digital? If so, please describe the statements made to you, and identify the person who made them to you.
6. What were you told/and by whom about how the money you invested would be used by KI Digital?
7. What were you told/and by whom about KI Digital which led to your decision to invest in that company?
8. What were you told/and by whom about the profitability of KI Digital?
9. What were you told/and by whom about the future business prospects for KI Digital?
10. What were you told/and by whom about any risks that may be associated with an investment in KI Digital?
11. Please list the dates, and amounts for each investment you made in KI Digital.
12. Did you receive any payments from KI Digital as a return of principal or interest on your investment in KI Digital? If so please list the amounts and dates of each such payment and briefly describe the nature of that payment.
13. Did you receive any payment for any other reason from KI Digital at any time? If so please identify the amounts and dates of each such payment and state the nature of each payment.
14. Has anyone spoken to you since June 19, 1998, about the status of your investment in KI Digital? If so, please summarize what you were told and identify the person or persons who made those statements to you.

I hereby certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

Please review the questions carefully. Notice how prominent the words invested, investment, safety, and risk are in the questionnaire. Notice that the word factoring is missing. Checks were never written to investors by KI Digital. See the money flows in the diagram on the back cover of this book.

It would be safe to assume the attorney assigned to be the Receiver for KI Digital would have a copy of this questionnaire. Please remember that point.

Please be aware that the focus was on the 6% Mata notes investments; not the Macrophage notes investments (falsely called factoring notes).

On August 4th, I contacted the Receiver, Robert G. Stevens, to find out what was happening. I did not write to him. I called him because I was in a hurry to find out what was happening. **Major mistake.**

When in a hurry, get responses in writing even from or especially from officers of the court (aka lawyers).

I tried to get the Receiver, BS Bob, to intervene in the August 3, 1998 note transactions on Polly's behalf. I faxed a memo to him on August 18, 1998. Based on the content of the June 19, 1998 Consent Order that we had just read, we felt the note was illegal. We felt the Schroeders were enjoined not to issue the August 3, 1998 note. We had questions to ask BS Bob.

August 18, 1998 FAX
Memo to: Robert G. Stevens – Receiver for KI Digital
Subject: KI Digital Violation of Consent Order

Polly received a call from Kay Cauley in late July acting on behalf of the Schroeders (her daughter and son-in-law). She informed Polly that a firm date had been decided for the next factoring offering and all new investment money needed to be in by August 7th.

Polly wrote a check on July 28th for $25,000 for the new factoring offering. The check was made payable to Macrophage Inc. The check was cashed on August 4th.

We spoke with Kathy Schroeder by phone on August 10th. She said Bill was taking new investor money up to someone at KI Digital. On August 11th we received a fax from Kathy that was a fax of Charles McCormick's August 7th letter to noteholders without any attachments. Have you seen it?

On August 14th we returned from our vacation and gathered our mail. In the mail, we had a packet from KI Digital with the August 7th letter from Charles McCormick with three attachments. The consent order attachment had on page 2 the paragraph that enjoined any agents from issuing and offering securities (promissory notes). The Consent Order was dated June 19th.

At that point, we tried to reach the Schroeders to ask them about this. We sent a fax the next day (August 15th) to get some clarification. We have had no response. We wanted to know why they had offered a new factoring deal when it was not to be done according to the Consent Order.

The $25,000 that was collected on July 28th for an offering of August 7th should not have been collected.

We have three questions:

1. **What process are we to follow or what forms should we complete to recover the $25,000?**
2. **How will you (as the receiver) be able to keep the $25,000 from being made part of the frozen assets of KI Digital?**
3. **What steps will be taken to rectify this violation of the order dated June 19th?**

Tom and Polly Yarnall
KI Digital and Macrophage - Note Holders

Notice my confusion. There were never any KI Digital notes. They were Mata notes. See list on page 40. Our focus with BS Bob was on the Macrophage note of $25,000. **The receiver called me**. That is good news! Now for the bad news - he was not sure the Consent Order applied to the "**factoring**" note.

Please look at exhibit 2. Notice what is on pages 9, 10, and 11 of the Receiver's Report. BS Bob had discussions with other officers of the court on August 12, 1998. **In that meeting, they determined these kinds of notes (factoring notes) were not to be issued.**

Was the Receiver being honest with me when he called me on August 18th? I don't think so. Did he stretch out a chance for a resolution? Absolutely!

BS Bob was gathering billable hours. He was avoiding a quick resolution of some issues. The receiver was held harmless by the document that appointed him. We had no recourse. He could jerk us around all he wanted.

This is a very good example of the "rule of law" at its very worst.

Finding an Attorney

PROMISSORY NOTE

$25,000 Dated: **August 3. 1998**
(Principal Amount) at: Stratford. NJ

FOR VALUE RECEIVED, the undersigned (jointly and severally, if the undersigned is more than one) promises to pay to Polly Yarnall on order, the sum of Twenty Five Thousand Dollars *($25,000).*

The repayment of this note (including principal and interest) is due on (Approx.) September 15, 1998

Original amount: **$25,000**
Plus return of: **$3,063**
SECURED BY MISC. COMPUTER PRODUCTS
Total Due: **$28,063**

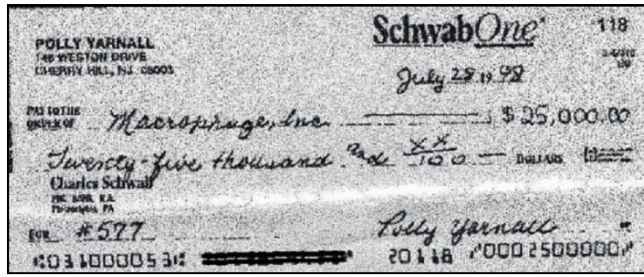
1. This note may be prepaid in whole or in part without penalty
2. In the event of the failure to pay any installment when due, the holder of this installment note may declare the entire principal balance and accrued interest immediately due and payable. In addition, the holder may declare this note immediately due and payable if any of the following occurs:
    - i The failure of the undersigned to comply with any promises or agreements made in this note or in any security agreement or guaranty given as collateral security for the payment of this note; or
    - ii The death, dissolution, or termination of the existence of any of the undersigned; or
    - iii The issuance of garnishment, attachment, levy or execution against any property of any of the undersigned; or
    - iv The insolvency, business failure, appointment of a receiver of any part of the property of, assignment for the benefit of creditors by, or the commencement of any proceeding under any bankruptcy or insolvency laws by or against, any of the undersigned.
3. All parties to this Note, including the undersigned and any endorsers or guarantors jointly and severally waive presentment, notice of dishonor and diligence in collecting and all agree to remain fully obligated under the terms of this Note even if, without notice, the time for payment is extended; or the Note renewed or modified, or one of the parties is released or discharged; or the release or substitution of any collateral given as security for the payment of the Note.
4. **If this Note is not paid promptly in accordance with its terms, the undersigned agrees to pay all costs of collection, including reasonable attorney fees. In the event that any judgment is obtained under this Note, the undersigned waive(s), to the extent permissible under law, the benefit of any law exempting their property, or any part of it.**

GUARANTY

FOR VALUE RECEIVED, the undersigned (jointly and severally if more than one) hereby guarantee absolutely and unconditionally prompt payment of the foregoing Promissory Note and agrees to pay all costs of collection and/or enforcement of the Note and the enforcement of this Guaranty. This Guaranty shall continue in full force and binding upon the undersigned until the Note has been fully paid and discharged.

Bill Schroeder, President

Polly invested $25,000 in a Macrophage "**factoring**" note on July 28, 1998. This August 3, 1998 note was payable on September 15, 1998. This blunder took place because of Polly's trust and friendship with the Schroeders. Polly got a call from Kathy Schroeder's mother about a new "**factoring**" opportunity with **Macrophage** around July 24, 1998. Polly wrote the check on July 28, 1998, for $25,000. I had trouble understanding her rationale, and we had a heated exchange over that event. Here is a copy of her check.


POLLY YARNALL
[illegible] WESTON DRIVE
CHERRY HILL, NJ 08003

SchwabOne 118

July 28 19 98

PAY TO THE ORDER OF Macrophage, Inc. $ 25,000.00

Twenty-five thousand and XX/100 — DOLLARS

Charles Schwab
[illegible] N.A.
[illegible], PA

FOR #577

Polly Yarnall

:031000053: [redacted] 2011 8 "000 2500000"

This debt was not a Mata debt, not a Schroeder debt, and not a KI Digital debt. The KI Digital receiver (BS Bob) collected funds related to these Macrophage notes even though they were not part of KI Digital assets. He had the interest rate wrong (Exhibit 2) on page 10 of his report. Divide $3,063 by $25,000. Do you get 17.5%?

Perhaps a case study should be conducted at this point in the book. How to do an initial conference with a potential client?

A prospective client comes to you in June 1999. She says a $25,000 note that was due on September 15, 1998, has not been paid.

1. What documents would you want to review?
2. What part of the Consent Order applies?
3. What part of the receiver's report applies?
4. Was fraud involved?
5. What would be the basis for filing a complaint?
6. What advice would you give to a prospective client who needs to recover funds that were taken by the issuance of an illegal note?

From August 4, 1998, until June 4, 1999, I thought I could learn the status of our notes without hiring a lawyer.

I asked Bill and Chuck many questions. I made long distance phone calls to the Receiver, the NJ Deputy Attorney General (DAG), and the investigators at the Bureau of Securities. I got nothing.

Eventually, I made trips from Cherry Hill, NJ to Newark, NJ so I could attend the status hearings. I learned very little.

It appeared our $67,000 in the 6% Mata notes that funded KI Digital was gone. No need to get a lawyer to try to recover money that was in hidden accounts. If my friend Jumbled Geoff, an attorney, had not had any success with his efforts after nine months of trying, there was no reason to think I would have a better experience.

Perhaps the $25,000 in the 8/3/98 Macrophage "factoring" note might be different. The Receiver's Report (Exhibit 2 – page 11) indicated there was an account at Commerce Bank with money in it held in trust for the noteholders. As you will see, later this money could have been released by BS Bob Stevens a year sooner than it was. He was not willing. The Receiver's behavior was forcing us to consider spending money on an attorney to try to get some of our $92,000 back.

Who can help us? The phone book had a local reference service listed. I called and found out there was a $35 fee for this service. I carefully described what we were trying to resolve. I should have requested some attorney profiles from her. Of course, I was in a hurry again. What is that old saying? Haste makes waste!

She suggested an attorney who turned out to be a settlement specialist! We were not buying a house! We were trying to get some money back after a default on a promissory note! What a reference service! Even though I described what I was trying to accomplish, this clerk or secretary apparently did not have a clue about which attorney was the most appropriate for our situation. The one she suggested was an attorney registered with them. He qualified because he was registered with them.

Of course, we did not discover this until we got to his office and talked with his secretary. Fortunately, he was about 30 minutes late for our initial conference, so we left without seeing him. We did not have to pay the $35.

Our next thought was to “try” an attorney who did virtually nothing for us in a stolen auto situation. Polly thought Dan Bernardin was a “nice” person. I thought he was inept. I said I would send a fax to him first. I wanted to qualify him for the situation.

Take a look at my fax.

June 4, 1999

Dear Dan,

You may recall that my wife and son needed your services a few years ago to deal with a contract dispute between Classic Auto and them.

Well, my wife has managed to engage in another interesting situation that resulted in a contract dispute. A copy of her promissory note is available. They owe her $28,063 and have dodged paying her since it was due on September 15, 1998.

If we decide to retain an attorney to help us recover this money, we have a few questions:

1. Do you handle such cases?
2. Can a victory in court result in the recovery of the amount she is owed plus any attorney fees and court costs?
3. Does your schedule allow you to undertake this in an expeditious and prompt way?

If the answers to the first three questions are yes, yes, and yes; here are three other questions:

4. What do you need to know to determine if this is a case you can win?
5. How do we avoid getting to a settlement instead of winning a case? (We want the fees and costs paid by the loser, and I am under the impression that settlements do not provide for that.)
6. To win can be interpreted in various ways, how can it be assessed that the money can be obtained from the loser in such a court case prior to the undertaking of the case?

If you feel you have the time to take the case and you feel after receipt of the items specified in your answer to question number four you can win it; there are two other questions:

7. When can we meet to discuss and agree on an approach that will be taken?
8. Is such a meeting a “no-charge” session?

Yours truly,

I tried to pin down what he could do. I tried to be as specific as possible especially with questions 5 and 6.

Did he answer the questions? Take a look.

June 8, 1999
Re: Promissory Note
Dear Mr. Yarnall:

Thank you for your FAX of June 4, 1999, regarding collection on a Promissory Note.

The legal process for enforcing payment on a Promissory Note requires the filing of a Complaint in Superior Court of New Jersey. The case is assigned a litigation case management designation by the Court and the matter proceeds according to the management timetable. Of course, the Obligor on the Promissory Note must file an Answer or will be in Default. If the Obligor defaults, it is only necessary to put forth proofs of the Promissory Note and non-payment in order to gain a Judgment for a specific amount of money from the Court.

The Judgment, however, does not guarantee payment, as it is necessary to exercise further legal process to execute against assets of the Obligor including wage execution, real estate lien, and seizure of personal property including bank accounts or other items of value. If the defaulted Obligor has no assets in which to satisfy the Judgment, the matter can remain unsatisfied. A Judgment lasts twenty years and is renewed for twenty years thereafter.

Regarding attorneys' fees and court costs, the courts will award reasonable attorneys' fees and reasonable court costs if the same is provided for in the Promissory Note in the event of Default.

With regard to paragraph 4 of your FAX, it would be necessary to have an original copy of the Promissory Note, executed by all those to whom you intend to sue. An initial consultation the matter would be charged at a flat rate of $75.00.

If I can be of assistance, please feel free to contact me.

Very truly yours,
BRENNAN & BERNARDIN

No clear answers to 1, 3, and 7. Vague answers to 2 and 4. He did answer question 8. I suggest to anyone reading this that you should avoid anyone who does not answer questions clearly and directly. You will see what can result if the "**initial poor response**" indicator is in play. Did he answer 5 and 6?

Conferences / Filings / Responses

We went to see Disappointing Dan. A good looking smooth talking friendly man about 6 feet tall and well groomed – even handsome. He had a very nice car in his reserved parking space. I heard he also was a local municipal judge. Perhaps his real specialty was traffic court hearings.

This initial $75 consultation was a nightmare for me. Polly was the person with the unpaid note. My “wonder woman” was the one who would be filing the complaint.

Disappointing Dan focused on her comments and questions. **He did not take my comments and questions seriously.** He took no notes when I spoke. He ignored my comments. He seemed to have difficulty grasping the essence of the case.

Even though I provided a list of questions for Polly to use, she was unable or unwilling to use it. Disappointing Dan took charge and went with a standard line of questions and comments to assess a debt default situation and to see if there really was a basis for a complaint.

Here are his comments:

1. Let me see the note (he had said to bring it)
2. Let me see the copy of your check (he did not say to bring it)
3. **The money the receiver has is not really a part of this**
    a. Even if it were, we first have to put pressure on the person who cashed your check

In the initial conference, he jumped to the conclusion it was a pro-forma situation of an unpaid debt. Look at the note on page 44.

About **three months later** it became rather clear Disappointing Dan had never handled a case like this. He eventually agreed the money the receiver had was the primary source for making any recovery.

The complaint he filed had no staying power. Even if we won a judgment, it would not stick because he left out the fraud element.

His next step after our conference was to talk to the Macrophage attorney (Bad Bill Levy) and with the other officers of the court like the receiver (BS Bob Stevens). Those exchanges resulted in no substantial progress but billings of over $300.

Disappointing Dan billed us $200 for an exchange of letters and phone calls to debate issues with me. I was trying to help him understand the unique nature of the situation, and it cost Polly billable time.

My ideas annoyed him. He eventually asked to be permitted to withdraw from the case after four months. That would have meant Polly could go through the cycle of explaining the situation to another attorney for another set of billings. No thank you.

I often wondered how others would have conducted the initial conference differently. That is why the case study was set up on page 45. I hope law professors review this in depth with their students.

As I said, Disappointing Dan left out the fraud element when he drafted and filed Polly's complaint. The billing for this inept service was over $250. There was an additional charge of just over $25 to have the complaint served. It took two months for him to accomplish this.

Because he argued with me that **there was no fraud involved**, I had to send him the statutes and the wording and the description of how the defendant's actions fit the statutes so he could see there was fraud involved. There will be more about this later. An absolutely crazy response to the complaint that Disappointing Dan filed came from the Macrophage attorney, Bad Bill Levy. He had everything in it but the kitchen sink.

There were 17 affirmative defenses.

Here is one of them. "The complaint fails to state a cause of action over which this Court has proper subject matter jurisdiction."

I asked Disappointing Dan (in writing) if he filed with the wrong Court. No response. I looked up the statutes that pertain to this. The complaint was filed in the proper Court. Later I asked Disappointing Dan (in person) why such a frivolous defense was able to be included in Levy's response to the complaint. He said it did not matter because the Court at trial would reject it.

We all need to understand that <u>it did not matter to him because all it did was take more time. Time is money. It is a basis for the billings</u>.

Both attorneys must have been delighted with the frivolous affirmative defense by Bad Bill.

Both would get to submit a larger amount on their billing statement because they would claim the time that was required to draft and review the complaint and to review the wild response.

It did not matter that these frivolous affirmative defenses had nothing to do with justice and the facts. It was a good thing for them. Not good for either client. It does seem like a very good ethics teaching topic for a law school. **What constitutes billable time?**

Here are six more of Bad Bill Levy's most outlandish affirmative defenses and my rebuttals in parentheses for you to evaluate:

1. Defendants deny the existence of any duty to the plaintiff (see the guaranty in the note – page 44),
2. Defendants are immune from suit by virtue of applicable statutes of the State of NJ (attorney Levy was not familiar with Title 49 apparently),
3. Defendants deny a breach of contract (see the payment due date on the note – page 44),
4. Plaintiff's claims are barred under the United States Constitution (say what!),
5. Plaintiff's claims are barred under the New Jersey Constitution (Levy lies again!),
6. Plaintiff's claims are barred by the applicable Statute of Limitations (49:3-71 24g provides for a two-year limitation - it was not yet one year since payment was due when we served the complaint).

Is there any case study potential on these responses? I would say yes. Maybe there should be fines imposed for frivolous defenses.

A typical trick used by almost all lawyers is to request an extension to respond to the complaint. Believe it or not, Disappointing Dan granted it without consulting Polly. Maybe we could have had a default judgment! That would have meant less in fees for both attorneys. No wonder they tend to grant it.

My attorney friend, Jumbled Geoff, told me that not being consulted first by Polly's attorney was no big deal because the Judges tend to avoid default judgments and grant automatic extensions anyway. Somehow I do not feel that makes it OK.

Fortunately, we never got around to doing depositions, and there was no trial. My guess is the billings could have easily reached $5,000 or even exceeded that amount in retrieving Polly's $25,000 (principal only) or $28,063 including interest.

I continued sending letters to the Receiver requesting him to disburse the funds he held in trust. BS Bob held off for a year from when he could have originally released any funds.

Maybe the interest rate on the trust account would be enough to make more money for him to be paid out of the estate. The account had over a million dollars in it.

Polly would never have had to involve an attorney if the Receiver had paid Polly when he first received the funds related to her note. That was in September 1998.

The billable time generated by doing depositions is one of the slickest schemes for attorneys to make money. Its place in our legal system is very strange to me. It appears to be employed to be more a basis for the "semantics battles" that lawyers yearn for during a trial than for getting to the facts.

Often a question is asked at trial, and the response is compared to the response in the transcribed deposition. If the response is not identical, we have a basis for conflict and confusion. That takes more time and results in more billing. Give me a break.

Is this a basic technique that is taught in law schools?

Those transcription services are very expensive too. Interrogatories (questionnaires) could be a better way to get the facts if they were not abused. With more time required (more money billed), we seem to get less honesty and clarity. The chances of undermining justice with confusion are expanded.

I suggest we be allowed to have Complaint Kits for plaintiffs to use when they file suits in simple matters like defaulted notes.

They should include customized questionnaires. Any false or evasive entries should be subject to fines.

I feel that only results should be billable. Why bill for time? It breeds inefficiency and accommodates ineptness.

If we ever get lawyers to work on a piecework basis as I did when I was a teenager laying subfloors at a construction site or when I shingled roofs to get money for my college tuition, I feel it will improve our legal system.

The learning curve for an attorney not skilled in an area he is requested to address is expensive. Why is it considered billable time? If you are an attorney that is not skilled in a topic, do not take the case.

The courts need to take a strong position against frivolous responses to complaints and be more demanding during status hearings. Fines might be necessary to discourage such behavior.

The legal system might benefit from a bidding process. Not one attorney would give us a bid or an estimate of what it would cost to help us get the note shown on page 44 repaid. Were there any not to exceed offers? Not one. When I mentioned the idea, attorneys scoffed at the idea of laying out their approach in advance and putting a price on it.

I realize that a “not to exceed” quote by an attorney is made difficult by the games the officers of the court are allowed to play. That can make a simple situation like an unpaid note very unpredictable.

Suppose you have an unpaid note situation. What could make it complex?

1. Are there unclear laws or statutes?
2. Are there special legal procedural requirements?
3. Are there falsified fact patterns?

Battles with Deception and Evasiveness

On August 27, 1998, a special KI Digital meeting was held for some of the note holders. A summary of what happened at this meeting is provided later in this book. I found out that Bruce, Polly’s friend from JC Penney, took advantage of Chuck’s offer in that meeting to pay back anyone in the room that wanted to get out and stay out. If God tried to tell me something, I was not listening to him that day.

There was some rumor starting about a company named BQC that would have stronger connections with the countries of the Ivory Coast. When I told one of our sons about the project, he said, “Ivory Coast eh, whatever happened to the waterfront property idea in Arizona?” He wanted to make sure his poor old parents were not tempted to believe this beauty! Our bit of hope was shaken by that comment.

Polly and I did not want to give up on the idea that we could still recover our $67,000 in the bridge loans to Mata/KI Digital and her $25,000 “**factoring**” loan to Macrophage. Our main goal at this point was first to recover her $25,000 plus her $3,063 in interest on the 8/3/98 “**factoring**” deal. This might give us a chance to break even overall.

Between the special 8/27/98 meeting with Chuck and the date (9/18/98), the Receiver (BS Bob) was to make his recommendation to the Court we had almost three weeks. It seemed longer. My attempt to get a copy of the report from the Receiver was rejected. Fortunately, the Judge’s clerk gave our son a copy.

BS Bob accused me of misinterpretations and misunderstandings as he avoided answering my questions. (Exhibit 3C) What deception on his part. BS Bob refused to acknowledge he had an account with noteholders’ funds in it. You can easily see at the bottom of page 11 of the Receiver’s Report (Exhibit 2) the phrase “investors’ funds” (the receiver left out the apostrophe). Was there a trust account or not? That was the question.

It was suggested to me by the NJ DAG that there might have to be a trial or hearing to determine if the funds in the receiver’s account were separate from the assets of KI Digital. Pages 8, 9, 10, and 11 of the Receiver’s Report (Exhibit 2) make it very clear. There was a separate trust account for the note holders of the August 3, 1998 notes (known as the second transaction).

BS Bob said he had not received any funds until 1999 so he could not release any funds. Please read the Receiver’s Report (Exhibit 2, Page 11, in the middle paragraph). Notice there were funds ($221,000) in his Commerce Bank account in September 1998. This was a habit of his - he struggled with the truth?

Polly was owed $28,063. It looks like he easily could have written her a check for that amount.

I even met with him in Cherry Hill, NJ in early November 1998 to discuss the payment to Polly. The meeting with him was very frustrating. The “obfuscation king” had a number of excuses for not releasing any funds. It would take him much more time to make that decision. Does time equate to money to you? It does to me.

Later BS Bob would say his problem with releasing any funds was because he had to have all of the funds (that were due) deposited into his account.

Even after more funds came into his trust account in January 1999, he claimed he could not release any funds until he knew their source. The money was wired to him from an unknown source. (I later discovered it was a bank on an offshore island.) He wanted to know if these funds came from real distributors.

All this time, he did not provide any accounting to any third parties (noteholders) who were entitled to these funds held in trust by him. Please review the book’s content on pages 16, 17, and 18 regarding record keeping.

I suggested to other officers of the court that they get the Receiver to do what was proper. The DAG and Disappointing Dan had a glazed look in their eyes as if to say they did not know what my point was. I can almost understand the DAG because I was not his client. I do not think that really should matter when you are trying to get the proper thing to be done. How do you view it?

The reluctance on the part of Disappointing Dan was very baffling. He never wanted to pressure BS Bob. He even suggested that Polly be the one to write any letters to the Receiver to build a record of trying to obtain the funds in case it was needed in the future.

The February 1, 1999 letter from Bill Schroeder said the Receiver (BS Bob) would be distributing the funds soon. The Receiver denied this by phone. I wrote to Bill Schroeder on February 3, 1999, to tell him the Receiver’s position.

The receiver's latest excuse was a need for approval from the State to make any disbursements. After I questioned the NJ DAG about this in my letter on February 3rd to him, I was told in a phone call from him on February 8th that it was up to the Court.

When I questioned Judge Cohen (the Court) in my fax to him on February 8th about this, I got no response. Notice how my inquiries in writing to two attorneys were answered. I received phone calls! There was nothing in writing!

More Burdens for Victims

One day I was searching on the Internet for information at a legal website. I was trying to find out what to expect if Disappointing Dan obtained a judgment.

Here is what I found. Most court judgments are wiped off the slate, or discharged in bankruptcy. A few remain depending on the type of debt for which the judgment was ordered. For example, a judgment arising out of death or personal injury due to a debtor's intoxicated driving cannot be wiped out in bankruptcy.

A judgment based on fraud, embezzlement, or deceit will not be discharged IF:

1. The creditor files a complaint in the bankruptcy court
2. The judge rules the debt should not be discharged

Does there seem to be a bit of a hurdle placed in the way of the victim (the creditor) on the road to justice? I think there is.

The victim has to go to the bankruptcy court. You need to prove fraud. I think the victim is further victimized! Why make it so difficult and expensive to collect what was not repaid?

Notarized documents should suffice; not a court case!

Revictimizing of Victims

In addition, I found this statement during my Internet travels. The parentheses in the statement are not mine. They are part of the exact statement.

> "If your judgment was wiped out in a bankruptcy case (a possibility that is more likely than not) you are forever barred from trying to collect it. If you try, you could be fined."

Amazing! This is adding insult to injury. I think you can understand why I have such empathy for the relatives of the 11 murdered corrections officers at Attica. The cash settlement given to the inmates after they participated in an unlawful riot seems about as strange as a fine being given to someone who still wants to collect what they lost.

I read the complaint that Disappointing Dan filed to get the defendant (Macrophage) to repay Polly. I wanted to see if it had any of the necessary "sticking power" elements included in it.

Did he include the aspects of fraud and deceit that had taken place? After all, I had described those aspects to Disappointing Dan during our initial conference in general terms. I did not know those aspects were essential to include. During that conference, I described events surrounding the existence of the note. As I said earlier, he ignored my comments. Disappointing Dan did not seek any insight into these "sticking power" requirements during our initial conference. He did not ask questions about them. He did not try to make sure we had a solid complaint that would lead to a lasting judgment.

Guess what! His complaint had nothing in it that would enable the complaint to weather bankruptcy court proceedings. Polly was paying an attorney to obtain a judgment that could easily be ignored. The only warning he gave Polly was that there would be no automatic honoring of the judgment. She would still have to go through an effort to collect the judgment. He never indicated how easily the judgment could be wiped off the slate.

The difficulty in collecting issue made us pause. What will be the costs involved in that effort? He mentioned the possible need to hire an investigator to find a bank account or other assets that could have a lien levied against them.

He did not estimate what the investigator would need to do and how much of his time it would take. Polly and I were not sure we could proceed if we had a large unknown additional cost involved.

When I discovered there was a special requirement for a judgment to be a real threat to the defendant, I asked Disappointing Dan to modify the complaint to include the element of fraud and deceit. He challenged me. I told him about my research on the net. If an agent or a broker provides **false or misleading information** that induced Polly to do business with him or her, there is fraud. If there are negligent recommendations; there is deceit.

He abruptly said, "Do you have any proof?" I wondered whose side he was on at that point. He could have at least said, "Well, bring me what you think proves this and we will modify the complaint if it should be modified." So in an attempt to provide him with proof, I sent him an email on 11/4/99 in which I tried to share the results of my research with him.

Take a look at that email. This email is a long one.

Dan:
I got a strange feeling today as we talked. Do I know more about Title 49 of the NJ Statutes than you? It deals with the Sale of Securities. Glad you are going to review it.

Notice section 3-49 (m) defines a security. It says any note - evidence of indebtedness - etc. That is what the Schroeders issued to Polly on 8/3/98. They got a percentage for issuing that note. They did this as unregistered agents for KI Digital.

Let's be sure we agree on what a security is according to NJ Statute 49. I want Polly's attorney to be providing advice based on complete knowledge and experience with this kind of situation. These were unregistered securities they were issuing. It was a jolt to hear you say our promissory note is just as if it had come from a brother-in-law rather than being a security.

You need to be aware that for every promissory note Bill and Kathy Schroeder offered and issued they got a percentage of the interest paid on the note by KI Digital. You need to be aware that they sent us newsletters about the potential for income and solicited rollovers into new notes. You need to be aware they had over 500 people to whom they offered notes on a regular basis. I feel we described this to you. I hope you were listening. That is not a loan to a brother-in-law situation. Let's get rid of that theory.

Kathy and Bill were agents for KI Digital's investment opportunities. After I asked them in writing on 6/25/98 if they were registered, they omitted telling the truth. Any omission or misrepresentation is a fraud due to a knowingly reckless disregard for the truth. Check out 49: 3-49 (e). They disregarded the truth after they were aware of the circumstances that they must be registered. Knowingly means they were aware of circumstances. Reckless means a disregard for a substantial risk. They later offered a note to Polly in late July of 1998. Because of their misleading remarks to her, she went for the offer.

As further evidence of fraud, they could not deliver the merchandise supposedly represented by the factoring notes. They misrepresented how the money raised from the notes was used. There is no proof that the money was ever used to buy and sell computer related items even though they distributed lists that would deceive investors into thinking that was the use.

One time when I asked to buy an item off of one of the lists they could not get the item. When I asked if I could see the items they said everything is packed and usually in transit, but they could get Chuck to get an item from a distributor. When I asked if I could get the name of the distributor they told me they could not get the name for me. Eventually, they just bought me a color printer.

Let's also agree that most court judgments can be wiped off the slate or discharged in bankruptcy unless there is a type of debt arising out of death or personal injury due to the debtor's intoxicated driving OR a type of debt arising out of a judgment based on fraud. We do not want this fraud element missed. It did exist. Be sure about that. We want to recover the money for Polly's note. We want all of what is owed plus all fees and costs. Please review Title 12A dealing with commercial transactions remedies in section 5-111 e. I know you are aware of Title 22A: 2-9 dealing with recovery of costs.

We want the judgment to stand and renewed even if it means a lien exists forever for them. Maybe we will die before we collect. Maybe our kids will collect. We want the phrase in the promissory note about a waiver to allow us to seek a remedy from their real or personal property. We want this complaint to include Kathy. This "BS" from Levy about the interest rate being a form of usury will not be tolerated. They made the offer, and they paid the interest on at least a dozen prior occasions. Precedent had been set. Now Levy wants to apply a different standard to the note that is at issue. Come on! Control this guy! Surely you do not agree with him.

Lastly, I want to get at the issue of the segregation of funds held by Stevens. Have you read the Receiver's Report from September 1998? Do you have a copy? Look at page 11 if you do or call me to get to see it. First paragraph, last sentence, "However, all proceeds, due to KI Digital and the investors, from the second transaction in September 1998 are to be sent to me at KI Digital for deposit into the above-referenced account at Commerce Bank.

(NOTE: The second transaction is described on page 10 of his report. It is the notes with the factoring date of 8/3/98 payable on or about 9/15/98.) Two paragraphs later on page 11, he indicates that the projected profit to KI Digital is "exclusive of the investors' funds" that are to be received by him on the second transaction. The funds are segregated by the receiver's description. It does not require a discretionary call from the attorney general's office according to John Miscione. It is a legal determination that you must make as Polly's attorney, Miscione said. There is no extensive analysis required by you that will cost a lot of time and money because the wording (on pages 10 and 11) is very clear. What is the legal basis for Stevens to claim the source of funds matters? I have found no NJ Statute that applies. Has he quoted one to you? The receiver does not need to know the source of the funds he received. He received the funds. He put them in an account set up for investors' funds.

One example of behavior by an attorney that is deemed to be misconduct is the refusal to give someone money he is holding on their behalf to which that someone is entitled OR will not provide a complete written accounting for that money. Maybe Stevens has to be reported. Maybe he is not abiding by the Rules of Professional Conduct for an attorney.

Stevens has vacillated on whether he has the authority to petition the Court for the distribution of these funds. He has denied having a list of unpaid noteholders for these notes. He has said the AG's Office must make a determination of the source of the funds so the AG's Office would not object to the disbursement application. This sounds like doubletalk. Is he trying to void his statement of segregation in his report to the Court? Is he trying to make sure there are funds available to get himself paid after allowing millions of dollars to be squandered after he was appointed the Custodial Receiver on June 19, 1998?
Tom

The content of this email to Disappointing Dan might make a series of excellent case studies for law students. Different case studies could focus on ethics, usury, attorney's fees, or on fraud.

Disappointing Dan Bernardin did not take too kindly to my email as you will see later in his next contact with us. He indicated he wanted Polly's permission to withdraw from the case and he would be sending a statement for services rendered.

Ignorance or Bravado

New Jersey statute 49:3-49 contains definitions of various terms. Clause (2m) had the definition of a security. In 49:3-49 (2e) there is a definition of fraud.

Fraud, deceit, and defraud are not limited to common-law fraud or deceit. Fraud, deceit, and defraud in addition to the usual construction placed on these terms and accepted in courts of law and equity, shall include the *following*, provided, however, that any promise, **representation**, misrepresentation or **omission** be made with knowledge and with intent to deceive **OR** with **reckless disregard for the truth** and **results in a detriment to the** purchaser or **client of the investment adviser**.

Look closely at the underscored bold text in the previous convoluted paragraph that was taken word for word from a statute.

Remember the questions in the fax to the Schroeders? Take a look on page 39. That fax went to the Schroeders. They are the officers of Macrophage. They ignored the questions in it. That is an omission. See if that fits the above definition.

Now, did we have an intent to deceive? I have no idea what the defendant's intent was. I will never know because he will never say. I am not a mind reader either.

Was the omission made with knowledge? New Jersey statute 2C: 2-2 tells us this. Knowing means a person is aware of the circumstances. My fax made the client aware of the circumstances. The fax gave him knowledge. He knew of these circumstances.

Did we have a reckless disregard for the truth? Reckless as defined in New Jersey statute 2C: 2-2 (b3) tells us this: reckless means disregards a substantial risk.

My fax made the defendant aware there was a substantial risk on the horizon. My fax sought the truth about the situation, and the defendant told us the newspaper was going to be sued for putting out lies like that. Yes, there was a reckless disregard for the truth!

The business card of the defendant indicated the purpose of his company. It said "investment opportunities" under the title of the company. Please be sure to review page 7.

Polly was a client of theirs for investment opportunities. She lost $25,000. That is a detriment.

We had fraud and deceit for sure. How Disappointing Dan could duck or ignore this is extremely disappointing. Did he not want to be caught in any oversight or an error? We will never know.

At one point as a result of the interaction between Polly's attorney (Disappointing Dan Bernardin) and the defendant's attorney (Bad Bill Levy), they shared each other's views about usury.

Fortunately, I bemoaned this idea to my attorney friend, Jumbled Geoff. He told me the usury laws apply when the "**lender**" sets the rates. In this case, the borrower had set the rates. I informed Polly's attorney (Disappointing Dan) to give him a knowledge boost.

Disappointing Dan told me not to expect to recover court costs and attorney's fees in the judgment. I asked him to review the NJ statute 12A that deals with **commercial transactions**. In section 5-111e it states the court may award costs of action plus reasonable attorney's fees to the prevailing party. I asked him to read the promissory note again. You can look at page 44 and read part 4.

Interestingly enough, Polly was being billed for the time Disappointing Dan spent on the phone with me and for the time he took to read my tips from my research. Ah yes – billable hours.

Time for a Red Line

Four days after my email to Disappointing Dan, he wanted Polly's approval to withdraw from the case. Look at this gem from him.

Dear Mr. and Mrs. Yarnall:

Thank you for your E-mail correspondence of November 4, 1999.

As agreed in our initial meeting in my office on June 21, 1999, my representation was to be limited to pursuing a Judgment against Bill Schroeder. As discussed several times, I have not analyzed the legal aspect as one of securities law but rather a loan represented by a Promissory Note from Polly Ann Yarnall to Bill Schroeder. **NOTE: Client's middle name is misspelled.** (It is Anne)

Again, this was the scope of the representation agreed upon at our initial meeting. We are now well away from that limited representation goal. As matters have developed, it is clear that it will be difficult to maintain that distinction and, in fact, you may require a securities specialist if you wish to engage in allegations of securities fraud, etc.

I am additionally concerned that this matter will not end in a resolution satisfactory to yourselves. The best chance for recovery will be monies held in trust by the Receiver Stevens. I suspect collecting on a Judgment directly from Schroeder will be difficult.

Under the circumstances, I would request authority to withdraw as your attorney in this matter. While we agreed upon the limited representation, I believe it is difficult for you to separate yourselves from the KI Digital litigation and you may well wish to intervene in that litigation. I will be happy to refer you to a securities attorney. However, I will not expand my representation past the agreed goal of a Judgment against Schroeder in the Promissory Note.

Due to the conflict between that limited representation and your desires in this matter, I do not believe my services will be helpful. I will be forwarding a statement for legal services incurred to date for your review and remittance. Please kindly contact me to further discuss.

Thank you for your attention.

Very truly yours,
BRENNAN & BERNARDIN

It looks like we needed a signed agreement after our initial conference. Disappointing Dan claimed we had an agreement limited to the pursuit of a judgment against Bill Schroeder. Disappointing Dan was not listening to me during that conference. Disappointing Dan would be sending a statement for his services to date. What services? What results?

I rejected his request in a letter to him dated 11/14/99. Here it is. It was time to draw a red line.

Daniel A. Bernardin
PO Box 356
Collingswood, NJ 08109

Dear Dan,

Our original goal was to hire you to perform competent legal services to get a judgment against Macrophage and Bill Schroeder. This judgment, we thought, would be one with staying power and we trusted you to do just that in a cost-effective, competent, and expeditious manner. That goal has never changed.

Your request for authority to withdraw from the case seems very inappropriate, yet it seems unavoidable. If you feel you cannot achieve the goal, then withdrawal has happened with or without her authority. Before Polly formally authorizes your withdrawal, there are some unanswered questions we need you to answer. See questions sheet.

The wording in your letter about a conflict between the initially agreed upon limited representation and the (current) desire is somewhat disingenuous. If you desire to withdraw because my questions and suggestions bother you, say so. If you desire to drop her because you feel you cannot do the job, I guess we cannot argue with that. It seems you should have reached that conclusion during our initial consultation.

I do not know where that leaves Polly's complaint. You granted Levy an extension. This caused us not to get a default judgment we could have had. You allowed the case to be set up for a contest and now you want to drop her.

Your refusal to answer my questions about Levy's response made me wonder what was happening. There are 17 affirmative defenses sitting out there. Nine of them appear to be laughable based on my knowledge. The others I asked you to validate or refute, and you ignored me. To save you time, and our money, I only asked for an indication of their validity with a YES or NO next to a number. A brief sharing of your rationale would have been great.

You helped us with “advice” regarding filing a petition to get the receiver to disburse the monies held in trust. **You said it would not be practical.** You indicated there is no summary way to achieve this. You indicated it would be a disputed issue and it would await a decision following a trial. Thank you. I hope it was the correct advice.

In our letter to you on 9/16/99, we alerted you to the need for a written commitment from Stevens that indicated Polly’s entitlement to the funds entrusted to him. To date, we have received nothing in writing from Stevens in this regard. You did get a number of promising verbal comments from him, and you shared them with us. I assume you have received nothing in writing from him confirming his comments.

Your manner on the phone with me on 11/4/99 was abrupt. You grilled me with comments such as “What fraud?” and “What proof do you have?”. I got the impression you were not listening as I responded to those challenges.

You seem to feel Polly is well away from the original “limited representation goal” established in our first meeting about this matter. You seem to feel Polly or me changed the goal. Your 6/22/99 summary of our meeting with you indicated that the rights to the receiver’s funds had to go through Schroeder and Macrophage.

In your letters of 9/14/99 and 11/8/99, you say the best chance for recovery will be from the monies held in trust by the receiver. I told you that during our initial consultation session on 6/21/99. You told me I was not correct. Thanks for seeing it my way after four months. You misled Polly with your original recommendation of how to go about recovering her money. It seems like a modification in approach arose to get the judgment.

Your 11/8/99 letter said you would forward a statement for our review and remittance. I do not feel that is necessary because there are significant indications of competent legal service not being provided for the retainer we paid. See questions sheet.

When I told our son how things were going this weekend, he said he expected it. When I asked, “Why?”, he said you never got his credit record clean when he requested it. He said he paid you $75 to write a letter to accomplish it back around 1993 or 1994 and it did not happen. I asked him why he did not warn us when we told him last June we were thinking of getting your help with this situation. He said he did not want to interfere with his mother’s confidence in you.

Right now I would say her confidence in you seems to be shattered. There are ways to rebuild it, but I sense you are not interested or do not care to do it. Your reaction to this letter will confirm or modify my sense of it.

Yours truly,
Thomas V. Yarnall, Jr.

PS
I tried to reach you just before 6:00 pm Friday after I received your letter. We will be over in Pennsylvania helping Polly’s father on Monday. Hope we can resolve this dilemma sometime this week. Our number is 424-4714.

QUESTIONS SHEET (Enclosed with the letter)

1. Are you aware that the usury laws of NJ allow for a maximum of 50% per annum with a corporate debt obligation? See NJ Statute 2C:21-19.
2. Do you realize Bill Schroeder, President of Macrophage and Kathy Schroeder, Vice President of Macrophage owed Polly $25,000 in principal plus $26,031 in interest as of 8/3/99 and the law will allow Polly at least $25,000 in principal plus $12,500 in interest if the judgment is in her favor? Clock is still running on the interest!
3. Did you inform Levy of this (if your answers to Q1 and Q2 are both YES) when he cited the negative impact the NJ usury law would have on Polly's complaint?
4. What are Polly's options after you withdraw? What happens to the case?
5. Why didn't you modify her complaint to include the fraud aspect?
6. What is your interpretation of the content of item 4 in the promissory note?
7. Why did you say in your letter of 10/18/99 that attorney fees are not recoverable?
8. Why doesn't NJ Statute 12A section 5-111e apply to this transaction?
9. Why did you say your rates were at two different levels to us? Please review your original commitment in your letter of 6/22/99 and the content of your letter of 10/18/99.
10. Why did you give Levy an extension on the deadline to file a response?
11. Why didn't you go for a default judgment on Polly's complaint?
12. Why didn't you answer my questions about the validity of Levy's 17 defenses?
13. Did you ever speak with John Miscione?
14. Did his comments influence your request to withdraw? If so how?
15. What did he say about any concern the state has about the source of funds in the Receiver's account at Commerce Bank?
16. If he didn't say anything, did you ask him or anyone else about what statute applies regarding the source of funds entrusted to a fiduciary as I requested in my 11/4/99 email to you?
17. Has the Receiver sent you anything in writing confirming Polly's entitlement?
18. Have you ever read the Receiver's Report I asked you to read?
19. If you did, what did pages 9, 10, and 11 tell you about the funds for the 8/3/98 notes?
20. Do you agree there is a basis in the Receiver's Report to make a claim for him to disburse funds to Polly?
21. What can happen if he does not? See NJ Statute 14A:14-18 for a clue.
22. Why do you really want to withdraw from this case?
23. How about those Eagles? <They had finally won a game.>

At this point we wanted the complaint modified and a couple of letters sent.

1. One letter was to go to the Receiver, BS Bob Stevens. Have him provide an accounting of the trust account he had.
2. Another letter was to go to the Macrophage attorney, Bad Bill Levy. Tell him the complaint will include fraud and accumulated interest.

Polly had already sent a letter to the receiver requesting clarification of his plans to pay her from his trust account.

Her letter seems pretty clear to me. Is there anything confusing about it to anyone reading this book?

October 20, 1999

Robert G. Stevens, KI Digital Receiver
PO Box 476
Madison, NJ 07940

Dear Mr. Stevens:

To date, I have not been notified by your office of any plan to pay out the August 3rd promissory note I had with Macrophage - (Bill Schroeder). My understanding from Bill Schroeder is you are holding the funds for a payout of this deal.

Does your office have my name and the amount I am owed from these monies?

I would have received my money in a timely fashion had the state not taken over to protect the investors. I made this investment with Macrophage, not with KI-Digital. I have the canceled check to prove this. Do you need a copy of the check I wrote to Macrophage to invest in the **August 3, 1998** factoring deal?

I have initiated a suit against Macrophage and Bill Schroeder for the payment of this note. I have done this because I have not had an acknowledgment from your office that you are holding funds that are owed to me and there is a plan to pay me.

Yours truly,
Polly Yarnall

You might be stunned at the receiver's response. (Next page)

BS Bob took his sweet old time to respond to her 10/20/99 letter.

His 11/12/99 response was not to Polly. He sent a response to Disappointing Dan.

How well did he answer Polly's questions in your view? Was her letter that confusing? Did he have the proper schedule of debtors as a reference? Did he admit he had funds he was holding for those who invested in the August 3, 1998 notes? Why did he ignore the report he sent to the court about the second transaction? Do you understand why I call him BS Bob?

FRUEHLING & STEVENS
66-68 Main Street Post Office Box 476
Madison, New Jersey 07940
Telephone (973)377-0505 Fax (973)377-0591

Brian J. Fruehung
Member of NJ and NY Bar
Robert G. Stevens
Member of NJ and NY Bar
James K. Fruehling
Of Counsel NJ and PA Bar

42 S. 15th Street
Philadelphia, PA 19102

Please reply to New Jersey Office

Daniel Bernardin, Esq.
Brennan & Bernardin
434 Haddon Avenue
P.O. Box 356
Collingswood, New Jersey 08108

RE: KI Digital, Inc.
Dear Mr. Bernardin:

This letter is sent in response to an October 20, 1999 letter from your client, Polly Yarnall, a copy of which had been sent with my October 28, 1999 letter to you. Your client inquired as to whether our office had her name and the amount she is owed from Macrophage and whether we need a copy of the canceled check she wrote to Macrophage for the August 3, 1998 factoring transaction.

In accordance with your client's inquiry, Mrs. Yarnall's name appears on the schedule sent to me by William Levy, Esq., attorney for Macrophage. This reflects that $10,600.00 is owed to her. The specific transaction is not referenced.

Additionally, it would be appreciated if you could have your clients furnish me with a copy of the August 3, 1998 check referenced in the October 20 letter and a copy of the note.

Should you have any further questions, please do not hesitate to contact me.
Robert G. Stevens

How far off the mark was his response? **He has the wrong amount; $10,600 instead of $25,000.**

It was enough evasiveness and dissembling by an attorney to last me a lifetime. I felt compelled to respond. My response was going to have some bite in it because this guy, BS Bob, needed some control.

A copy of my response (shown on the next three pages) went to the Judge to whom he reported and to the DAG of New Jersey.

My response is related to the points stressed on pages 16, 17, and 18 of this book.

November 20, 1999
Robert G. Stevens, KI Digital Receiver
PO Box 476
Madison, NJ 07940

Dear Mr. Stevens:

Based on the response you sent to my wife via Attorney Bernardin, I feel you did not read Polly's letter of 10/20/99, or you are an attorney going outside the rules of professional behavior. My sense is you read her letter, so that leaves me with a very suspicious view.

You know there are two different types of notes. You indicated you knew this in your report to the Court in September 1998. Why did you shift the focus of her questions about her 8/3/98 factoring note to a focus on the KI Digital fundraising notes of June 2, 1997, September 2, 1997, December 2, 1997, January 2, 1998, and April 2, 1998, with your response?

In June of 1997, about 300 of us in New Jersey were offered notes paying 6% per month payable by KI Digital. These were renewable on a quarterly basis until December when there was a one-month renewable note. In January they became renewable on a quarterly basis again.

You indicated KI Digital owes Polly on this type of note. She renewed her KI Digital note in January 1998 for $10,000 at 6% per month until April 1998. The list to which you refer shows you what she would be owed in February 1998 on that note. My wife shared this with the Bureau of Securities in her answer to question 11 of its questionnaire. It is comforting to know that you have documentation about these notes. The principal amount is correct. The interest amount is not correct. **The payment of this type of note depends on the farcical BQC contract.**

During 1996, 1997, 1998, and even into 1999 the factoring notes were offered. The Schroeders and other agents of Mata Services and KI Digital offered and issued these types of notes for periods of about six weeks at interest rates ranging between 12% up to possibly 22% for the period of the note. After your 6/17/98 appointment as Custodial Receiver, your performance of your duties as depicted in the Consent Order failed to preserve the assets and review obligations of KI Digital's affiliates. The factoring notes continued to be offered and issued with unregistered agents.

The last date that Polly paid money to the Schroeders (Macrophage) for a note of this type was on July 28, 1998. She was not informed about the risk. She was not provided a copy of the Consent Order until August 15, 1998. Her check (copy enclosed) was for a note issued to her on August 3, 1998, by the Schroeders who are President and Vice President of Macrophage. Kathy Schroeder told us that Bill Schroeder gave Polly's money to Kevin McCormick for KI Digital to invest as follows.

KI Digital would use the money to finance a distributor who wanted to buy and sell computer related items at a significant markup. The McCormicks and the Schroeders would split about 20% of the profit and pay Polly about 80% of the profit as interest along with paying back the amount borrowed. Your description in your report to the Court indicated the rate for the 8/3/98 notes was 17.5% (See page 10 in the report). Polly's rate was a little above 12% (12.225). **The payment of this type of note depends on your honesty.**

The people who were issued factoring notes by Macrophage on 7/7/98 and 8/14/98 were repaid. You were unable to direct the funds of the 7/7/98 factoring notes to be returned to the Trustee Account that you established at Commerce Bank according to your report to the Court (See page 11). Your 5/26/99 letter to me states that the 8/14/98 factoring note funds were never addressed or disclosed to you.

Polly's funds for the 8/3/98 factoring notes were not returned to the Schroeders. We were told in a letter from the Schroeders dated 2/1/99 the funds were sent to your Trustee Account. You still have these funds. Perhaps you have at least 80% of the expected total. You refused to answer my question about how much was returned to you in my 3/14/99 letter. That is enough to pay the unpaid noteholders without paying the McCormicks and the Schroeders. There are some 8/3/98 noteholders who were paid by one of the McCormicks. Do you have a record of these payments? I alerted you to this phenomenon in my 3/14/99 letter.

You knew the 8/3/98 factoring note was the note in question in my wife's letter to you on 10/20/99. She did not mention any KI Digital note of the 6% variety. The first sentence of her letter is unmistakably clear about this. Why was your 11/12/99 response so devious and useless?

In your report to the Court on pages 10 and 11, you indicated you established a Trust Account at Commerce Bank for the monies involved in the August 3, 1998 notes. You called the monies in that account the "investors funds". I think you meant to say "investors' funds" with an apostrophe.

Have you ever requested a list of the 8/3/98 note holders from Macrophage or any of the other KI Digital agents? Has Macrophage provided you with a list of the 8/3/98 note holders so you can pay them? Aren't you supposed to provide these note holders an accounting of these funds that you hold in trust for them? Don't the rules of professional behavior require you to promptly notify a third person that has an interest in these funds when you receive them?

See RPC 1.15 regarding Safekeeping. Aren't you supposed to deliver Trustee Account funds promptly to such third persons? Review the same attorney professional behavior rule.

You have ignored my questions often in the past. You have not answered many of my questions in an honest and straightforward manner. If you continue to do this, I will have to see what the OAE thinks of an attorney with such behavior.

There is no honest reason for you not to deliver funds from this trustee account to a holder of an unpaid note dated August 3, 1998, from Macrophage. Why don't you write a check for at least $28,063 to Polly Yarnall now? She deserves much more. She is entitled to a straight answer from you instead of a response as ridiculous as the one you sent.

Just write the check and enter it in the ledger you are supposed to keep for such an account. There is no petition to the Court required according to what statutes and rules I've read. I'll bet you cannot cite one that is applicable.

Yours truly,
Thomas V. Yarnall, Jr.
CC: **R. Benjamin Cohen** (the Judge)
John P. Miscione (Deputy Attorney General - DAG)
Daniel A. Bernardin (Polly's attorney)

The <u>evasiveness</u> of the attorney (Robert G. Stevens) performing the duties of Receiver seemed to be extraordinary. His avoidance of a straight answer made President Clinton look like a boy scout. He even makes Hillary look good by comparison.

Fortunately, when Disappointing Dan got a copy of this letter, it might have motivated him to send something worthwhile to the Receiver.

Below is the letter on 12/8/99 from Disappointing Dan to BS Bob.

LAW OFFICES
BRENNAN & BERNARDIN
A PROFESSIONAL CORPORATION
434 HADDON AVENUE
P0. BOX 356
COLLINGSWOOD, NEW JERSEY 08109
609-854-0999

MICHAEL G. BRENNAN **JAMES A. PERRIN OF COUNSEL**
DANIEL A. BERNARDIN December 8, 1999 **FAX.609-858-2191**

Robert G. Stevens$_1$ Esquire
FRUEHLING & STEVENS
66-68 Main Street
Office Box 476
Madison NJ 07940

Re: Verniero v. KI Digital, Inc. and My Client: Pauline Anne Yarnall

Dear Mr. Stevens:
As you are aware, this office represents the interests of Polly Anne Yarnall with regard to investment known as the September 15th factoring notes.

I am in receipt of your recent letter dated November 12, 1999. The letter references a $10,600.00 note. This is in error in that the Promissory Note is in the amount of $25,000.00 dated August 3, 1998, and payable on September 15, 1998.

I have appreciated the opportunity to speak to you by phone on several occasions. I understand that Mrs. Yarnall's $25,000.00 loan is acknowledged as valid and the money due under the Note is in your possession as trustee. I further understand that you are willing to make application to the Judge in the KI Digital securities litigation in order to return funds to the investors. Please advise regarding the status of the attorney general's review of the source of funds. Further, advise whether an application for disbursement to the Court would be viable presently.

Very truly yours,
BRENNAN & BERNARDIN
A Professional Corporation
Daniel A. Bernardin

DAB/jp
cc: Polly Anne Yarnall

I guess the letter from Disappointing Dan would win on technical merit because it is probably the only letter that another attorney would actually read.

I think my letter should get high marks in style points. It was done the day I got "BS Bob's" 11/16 letter on 11/20. Disappointing Dan needed almost three weeks to respond. He received the letter from the receiver probably on the same day we did (11/20) and sent a response on 12/8.

Of course, he was thinking of quitting during this time, but he got back in the saddle on 11/29/99 after we met with him.

We got another vague response from the receiver on 12/13/99. It gives you a sense of how poorly things were going just before Christmas in 1999. Notice he responds only to another attorney.

RE: KI Digital, Inc.
Dear Mr. Bernardin:

I am in receipt of your December 8, 1999 correspondence that references my November 12 letter. In paragraph two of your letter, you indicate that a mistake was made with regard to the amount your client is owed on the August 3, 1998, promissory note. Please accept this letter as clarification of my letter to you.

As previously indicated, **the $10,600.00 amount was obtained through a list provided by William Levy, Esq.,** attorney for Macrophage, Inc. I recently obtained a more accurate note holder list and copies of promissory notes for this specific transaction. These indicate that your client's original investment is $25,000.00.

I do not know the status or details of the State's investigation into this transaction but have only been advised that it continues. Since I have been provided no indication that it will be concluded in a timely fashion, I have taken steps to resolve this particular transaction, which I hope, will result in a payment to those who are owed money. You will be advised directly when it is finalized.

Should you have any further questions, please do not hesitate to contact me.

Sincerely,
Robert G. Stevens

Letter of clarification! How clueless?

Later I will share what transpired during the status hearings during 1999 regarding the Consent Order.

The letter above revealed how BS Bob ignored Judge Cohen's February 1999 request to assemble a list of who was owed what. If I had not sent a copy of my November 1999 letter to the Judge, I wonder when or if BS Bob would have obtained any proper lists.

How about Bad Bill Levy? He helps his clients write a letter about the receiver being ready to disburse the funds in February 1999 and does not provide the correct list of recipients until nine months later. Something tells me he was not really trying to help his clients get the money from the receiver to pay their debts.

How about BS Bob not adhering to the February 1999 request by the Judge? He never bothered to get a correct list of what he had to pay from his trust account on the 8/3/98 notes. Something tells me he was not planning on paying those debts. Now his letter mentions an on-going investigation. How many excuses can he create?

Disappointing Dan did not inform us of the 12/13/99 letter he received from BS Bob until 12/22/99. This is an indication of another flaw in the legal system. Email needs to get wider use in this profession.

BS Bob said he had taken steps that will resolve this transaction. We had a glimmer of hope, but it was not shared with us right away.

There is a saying about it being darkest before dawn. Well, it was very dark at this point. It was not a merry Christmas in 1999.

Success Surprise

To our total surprise, we received a letter dated December 30, 1999, from Bad Bill Levy on January 5, 2000, that offered to pay the amount due on Polly's note.

Happy New Year came a little late in 2000. Bad Bill requested three things:

1. Polly's note marked paid
2. A notarized affidavit
3. A notarized release

Polly was about to get a check. The amount was not stated because it was a form letter to many note holders. It indicated the face amount that was due on the note of August 3, 1998, would be paid. Here is the letter.

LAW OFFICES
LEVY & LEVY, P A
SUITE 309, PLAZA 1000
MAIN STREET
VOORHEES NEW JERSEY 08043-4634
(856) 751 9494

December 30, 1999

S ARTHUR LEVY (1909-1984)
WILLIAM N LEVY

Certified Mail, R.R.R.
To The Noteholders of Macrophage, Inc. Promissory Notes
Re: **Payment of August 3, 1998 Promissory Notes**

Dear Noteholder:

Our office represents Macrophage, Inc. which issued you a Promissory Note on or around August 3, 1998 for certain monies you loaned to Macrophage, Inc., which in turn loaned such monies to Mata Services, Inc. (KI Digital, Inc. and its related companies, all hereinafter referred to as Mata Services, Inc.). Last week I received from the Receiver of Mata Services, Inc., sufficient monies to pay the face amount (the amount set forth on the Promissory Note) of the Macrophage, Inc. Promissory Note to you for which I now have cleared funds in my Trust Account.

The monies I received in my Trust Account are for the payment of the non-paid portion of the August 3, 1998, Promissory Note only, and no other sums for any other Promissory Notes or any other transactions which you may have been involved in with my client,

Macrophage, Inc. If, in fact, you were involved with a Promissory Note dated August 10, 1998, we are still attempting to collect such monies from Mata Services, Inc. Although there appears to be good progress being made, there is no assurance that any such monies will be forthcoming.

In order for my office to disburse to you the August 3, 1998 monies, it is necessary for you to sign and deliver to me the following documents:

1. The original Promissory Note marked paid." (I will not release this original Note back to my clients until I send you my Trust Account check.)
2. An Affidavit signed by you and properly notarized stating certain facts as set forth thereon (enclosed).
3. A Release properly notarized relating to the August 3, 1998, Promissory Note and all matters prior thereto (enclosed).

As soon as you return to me, by certified mail, next day delivery, or any other verified means of delivery, the three items as set forth above, I will immediately send you our Trust Account check by certified mail to the same address to which this letter is addressed, unless you direct me in writing to send it to some other address. My client is very gratified that, even though there has been a long delay which was beyond my client's control, the obligation has finally been paid.

Very truly yours,

BS Bob Stevens never told us what to expect. Disappointing Dan Bernardin did not have a clue this was happening. Disappointing Dan was upset that he did not receive the Bad Bill letter before Polly did. His comments when he returned my message (left on his answering machine) were, “What letter did we receive?” and “Why was it sent to us instead of him?”

What a guy?

I guess it would have made him look like he had done something significant if he had been the one who received the letter first.

Hopefully, he had some subtle impact because we honored the rules to get into the legal pay-to-play game. We coughed up the bucks for one of their club members! We paid an attorney.

I was not about to give Bad Bill Levy the three things he wanted without getting the check first. Here was a great opportunity for a valuable service that Disappointing Dan could perform. A service worth a fee! He could be a middleman. Hold the three requested items until he received the check from Levy. Call us. We pick up the check and cash it.

Bad Bill Levy had one last stunt to perform. He put the wrong spelling of Polly's last name on the check just as he had done in his response to her complaint. What a great way to get in a final insult!

The Rules of Professional Conduct seem to be ignored all too frequently in America by certain officers of the court. How will we ever get common courtesy into our legal system as part of professional conduct?

To me, the term "Rule of Law" in the USA is used as a unique laudatory attribute of our country. It surely is not as pure as many would want us to believe.

The "Rule of Law" depends on honest behavior. Just think about the Attica riot awards, Clinton's lies about Monica, OJ's glove fit, Love Canal secrecy issues, Hillary's lies about the handling of classified information, and these falsified bankruptcy petitions.

These are real examples of how honesty, truth, and justice were missing.

These are strong indications of our society being in moral decline.

A rebirth of strong moral values might allow us to change all of this.

This book's suggestions might help too.

Legal System Myths = Truth and Honesty

Get It in Writing

My August 4, 1998, call with the Receiver, BS Bob, was not a fruitful one. His first responses were very vague. He said he was just getting started and he was hopeful that all would be resolved.

I remember he said he was there to protect against the dissipation of the assets of the company (KI Digital) and therefore to protect the interests of the noteholders.

I should have made tapes of my phone calls with him. I just have notes of these conversations. He later denied he said this. He was quoted over a year later in an interview with our local newspaper that his function was not to protect the noteholders. That article is on the next page.

On August 7, 1998, a fax was sent from KI Digital to all holders of the 6% Mata notes to explain the Consent Order. Take a close look at the fax below.

The first paragraph says a receiver was appointed to maintain the status quo and to protect the interests of all parties including all noteholders.

Compare that to the newspaper article (page 38) and what it said the receiver was to do. That article said he was to preserve the assets of KI Digital, audit records, and make recommendations. **Not a thing about protecting the noteholders!**

KI DIGITAL
9 E. Stow Road - Suite A
Marlton, New Jersey 08053
August 7, 1998

Dear Note Holder:

This letter is being sent to you to advise you regarding the current status of KI Digital and its affiliated companies. On June 19, 1998, the company and the Bureau of Securities of the State of New Jersey jointly applied to the Superior Court, Chancery Division, Essex County, for an Order that imposes certain temporary controls and restraints upon the company. **The Order also appoints a receiver to maintain the status quo and protect the interests of all parties, including all Note Holders.**

Attached is a copy of the Order signed by The Honorable Harry A. Margolis, P.J.C.H. dated June 17, 1998. On the same day, the State Bureau of Securities filed a Verified Complaint against the company. A copy of the Verified Complaint is also attached. The company has filed an Answer to the Verified Complaint in which it has denied any allegations of wrongdoing. A copy of the answer is attached to this letter.

The company has retained Kevin M. Hart, Esquire, of the law firm of Stark & Stark, P.C. as special counsel to represent it in conjunction with the company's general counsel, Kulzer & DiPadova, P.A. KI Digital has also retained the accounting firm of Alloy, Silverstein, Shapiro, Adams, Mulford & Co., who has been instructed to conduct an audit of the company's financial records.

Under the terms of Judge Margolis' Order, Robert G. Stevens, Esquire has been appointed as a receiver. Mr. Stevens is required to report the status of the company to the Court within ninety days of his appointment. The company is hopeful that a proposal will be forthcoming to all noteholders during the same time.

Any questions with respect to this should be directed to the attention of Mr. Hart, his telephone number is (609) 896-9060.
We thank you for your patience, understanding and support.
Sincerely yours, Charles McCormick President/CEO

Here is a newspaper article that I previously referenced.

Investors look to state to get their money back
By CARL A. WINTER Courier-Post Staff
EVESHAM

Hundreds of investors left holding worthless notes from a South Jersey firm are counting on state authorities to recover more than $11 million from the company. But a state official warned against getting hopes too high. The investors, including an estimated 300 New Jersey residents, are seeking money from KI Digital Inc., an Evesham firm that provides computer-based services to the film industry.

A court-appointed receiver has overseen KI Digital's operations since 1998 when the state Bureau of Securities filed a four-count complaint alleging financial wrongdoing by the firm. A judge this week expanded the receiver's powers, allowing him to liquidate KI Digital if he chooses.

Tom Yarnall of Cherry Hill is a disappointed investor. He described KI Digital's securities as short-term, high-interest loans secured by promissory notes. Yarnall, who learned of the unregistered securities from his wife's coworker, said he and others reinvested after KI Digital made good on several loans. "You put more in and put more in," he said. "They kept saying rollover, rollover."

But investors got bad news in June 1998, when Superior Court Judge R. Benjamin Cohen then appointed a receiver to oversee KI Digital. Cohen on Wednesday gave broader powers to the receiver, attorney Robert G. Stevens of Madison, Morris County. Stevens on Thursday said his task is to preserve KI Digital's assets, watch its expenditures and make recommendations. "I have not really focused in on what the next step is," he said. **Stevens said his responsibilities do not include protecting the investors.**

"That's a separate track. But they are far more likely to be able to recover if this business is ongoing than if it is liquidated."

The state can't guarantee investors will see any money, said John P. Miscione, the deputy attorney general handling the case. "We are seeking to right a wrong," he said Thursday. "We want a judgment that says 'Pay everybody back, disgorge any illicit profits and pay all appropriate penalties." "The issue is the company's financial ability to pay."

The state alleges that KI Digital in June 1997 sold 500 promissory notes nationwide worth more than $11 million. It also charges that KI Digital unlawfully sold unregistered securities over the Internet and represented that the securities would return 12 to 22 percent on the investment every 35 days. The state says KI Digital did not properly disclose some information, such as the investment's risks or the firm's ability to repay investors.

"I was lucky," said Yarnall, a retired computer-training entrepreneur. "I got suspicious, so we started to take our money out in the spring (of 1998). But there are hundreds of others who left all their money in. I know of one fellow with almost all his retirement savings in this."

End of article

Polly and I did not find out what the 6/19 Consent Order (Exhibit 1) contained until August 15th. During my August 4th phone conversation with the Receiver, he said he was just getting started. So, more than six weeks after his appointment by a Consent Order the Receiver claims he was just getting started. I took him at his word. **Major mistake.**

Many of my dealings with officers of the court (lawyers) revealed a bad character flaw. I could not take them at their word. Polly and I had two prior sad experiences involving a lawyer (a plumbing leak, and an auto theft). We should have been more cautious.

These promissory notes experiences were further proof of how deceptive lawyers can be. I hope you have been able to see why I say that. It is evident from the legal battles covered in this book.

I also had similar experiences in three of our four mortgage settlement adventures. Always make the lawyers put things in writing. They are reluctant to do this by the way.

If this is what is taught in law school, I think that should be stopped. It really causes the rule of law to be a bad joke.

The Consent Order Hearings

When we received a copy of the Consent Order, I read it and was confused by it. Had I seen it before my August 4th phone call with the Receiver, I am not sure I would have known what else to ask the Receiver.

If you did not read exhibit 1 yet, take a look. See what you think. The parts in bold type are very important.

I believe I still would have asked, “What is your role and what does this mean to our investments?” That is all I knew to ask.

The good news: I know now my focus in the phone call with the Receiver would have been much more on the plans he had to preserve the assets of the company.

The bad news: he would not answer me in a forthright manner even if I had requested it in writing.

BS Bob had some of his “greatest” moments during the Consent Order status hearings with Judge R. Benjamin Cohen. Many of his statements in the status hearings with the Judge were pathetic. Even though there are some small details about these hearings later in this book, I wish you could obtain a transcript of these hearings from the clerk of Judge Cohen’s Court in Newark, NJ.

Judge Cohen is retired, and I do not know if his clerk, Betty Manigo, could retrieve them. She might not be there now.

The Receiver knew very little or at least appeared not to know much about the company to which he was assigned. The issue could have been handled in one hearing in February 1999, yet it took five more hearings. This was caused by the shifty and deceptive behavior of BS Bob Stevens and Crafty Kevin Hart.

The Judge had another hearing in February. He had additional hearings in April, July, September, and November before he made this Custodial Receiver a Permanent or Statutory Receiver. How about that? BS Bob got a promotion for doing virtually nothing. How the Judge could decide to keep this man as the Permanent Receiver was beyond my comprehension.

A receiver is to preserve company assets, protect investor interests, and return monies unlawfully taken.

This receiver allowed almost three million dollars (maybe more) to be wasted during his 17 months on the job. After his first 90 days, the Consent Order directed him to submit a report to the court with a recommendation. Look at exhibit 2 to see his report.

BS Bob refused to share his report to the court with me. Our son had to make a special trip to Newark to obtain a copy of the report from the court clerk. BS Bob was skilled at making it costly and difficult to get information about the situation. Every lawyer involved made it difficult. BS Bob seemed to be the best at it.

After I reviewed the report, I felt the need to write to the Judge about his decision to agree with the Receiver. The letter (Exhibit 3A) was sent to Judge Margolis who was replaced by Judge Cohen. Of course, my observations were ignored.

Status Hearings or Kabuki Dance

I thought I might be able to help justice get back on track by sharing what I knew with the Judge when I went to the hearings; not a snowball's chance.

Kabuki is a Japanese popular drama performed with highly stylized singing and dancing. The status hearings had no music, but there was a form of dancing. All the officers of the court (lawyers) were dancing around the issues. The hearings were dealing with my potential recovery of our $67,000 that we had in the Mata 6% IPO bridge loan notes. They should have been paid in April or June 1998. It was now February 1999.

Polly and I wanted to get the receiver to release funds from his trust account. These hearings were not related to Polly's $28,063 "**factoring**" note of August 3, 1998, that should have been repaid in September 1998. Here we were in February 1999, and our potential loss was still $92,000. The gas and parking costs to go to Newark seemed like a worthwhile investment to try to recover our money. Of course, my time as a retired person is viewed as free. All others at this kabuki were getting paid.

Although the two types of notes were separate, the Receiver was pivotal in both. I wanted to see him again. I wanted to meet some of the other officers of the court too. There needed to be some personal relationships built. I felt some personal contact would enable some heightened concern and compassion. Maybe I could get answers if they felt they "knew" or had met me.

DAG John P. Miscione was a well-dressed, stocky, good-looking guy in his late 50s about 5' 10". Kevin Hart, KI Digital defense attorney, was another fairly good-looking, rather tall guy in his early 40s. Judge Cohen was a balding, short guy in his 50s or 60s. All of them seemed pleasant and cordial.

I had already met the Receiver when we talked the prior November. He tried to avoid me. He almost acted like he did not know me. I forced at least an exchange of hellos. I guess he did not like my letter writing skills. If so, that would be a mutual thing. (Exhibit 3C)

My follow-up letter to the Judge after the hearing might be worthy of a laugh. I went into great detail and had a feeling that it was a total waste of time and energy. Here it is. It is rather long.

February 12, 1999
Judge R. Benjamin Cohen
212 Washington Street 8th Floor
Newark, NJ 07101

Dear Judge Cohen,

My visit to your courtroom yesterday for the KI Digital case was one that left me with mixed emotions. Betty Manigo was extremely helpful and is very supportive of you. She is so proud to be working with you and feels the "Cohen courtroom team" is the best.

As I observed your attentiveness toward the attorneys during their remarks, you seemed very patient. Your expression of concern about the noteholders was comforting. Being able to observe the hearing was educational but disturbing.

Your final remarks (as you got up to leave the courtroom) stunned me. **You said the noteholders have "no participation" in this procedure**. Your lament about receiving mail from any of us was very upsetting. Perhaps I am naive about the proceedings of a court. Maybe ignorant would even be appropriate. I did not know what you meant by the word **participation**. I still do not know.

I do know this. At 66 years of age, I am not receptive to the idea that you or anyone can ignore an inquiry from me. I am out $92,000. My letter was an attempt to recover $28,000 of it. On August 4, 1998, I made my initial contact with the receiver to find out if the issuance of a note (dated 8/3) was legal. August 18, 1998, I wrote to the receiver to formalize the inquiry because of the content of the consent order I read on 8/15. I wanted to find out how my wife could get her money returned for a check she wrote on July 28, 1998.

Soon after August 18th, he said he was not sure the June 19, 1998 consent order applied to such a transaction. He had decided that it was not legal on August 12, 1998. He had set up an account to control the proceeds on August 12, 1998. All of this is in the receiver's report on pages 9, 10, and 11. (Exhibit 2) Why was he deceiving me? Later in September 1998, I obtained a copy of the receiver's report thanks to your clerk Patti. This happened after the receiver and the deputy attorney general refused to make it possible for me to see the report. Why did they feel I could not see the report?

I do not feel the receiver has been keeping us properly informed. His lame comment about fielding many phone calls each day from the noteholders is misleading. My 25 phone conversations with him resulted in him telling me virtually nothing. His primary response to me is that he is not at liberty to answer questions and his duty is to report to the court. I am glad you directed him to set a system in place to keep us informed.

Why did he say it is up to the state to determine when and how to distribute the funds from his special account? I called him about four times to see if the money had been sent to him. Each time it was represented to me that he could not write any checks until all of it was received. Why did he not notify me that he had received all of the funds? Why is he concerned about what the source of the funds is? Why is he refusing to set a time and method of distribution? I do not consider these questions legal questions that require an attorney. It seems he could be forthright and explain his intentions. Why the deception? Why has he resisted clarity about what he is doing on our behalf? Is he there on our behalf?

Now you exhibit an unacceptable arrogance as you not only ignored my inquiry, but you disdained that I dared to make the inquiry. The receiver and the deputy attorney general told me it is not up to them to decide. One says it is up to the state. The other says it is up to the court. These comments remind me of a scene from a three stooges' movie, but I can't laugh. It is not funny. It is very frustrating. It should not require a lawyer to get answers.

It is obvious why ours has become such a litigious society. When a person (who has been wronged) watches his assets dwindle under a "pendente receivership" (I think you called it), that person can be unnerved. It also leaves that person alone without any clear answers from people who are professing to have the interests of that person in mind. The receiver and the deputy attorney general have the same basic answer to any question I pose; hire counsel. I can't afford it. Does that mean I cannot get answers from you and others? I hope not. Maybe there is an ethics board somewhere. There must be some alternative way to obtain straight answers to simple questions. There must be a more economical way. There must be someone who will assist a note holder in situations like this.

Even Kevin Hart pretended he had a concern for us. He would not answer my questions on August 12, 1998. He continued to duck a request for full disclosure. His performance was odious.

As you issued your rulings, you overlooked telling Hart to provide full disclosure by 2/19 along with the other items. I may be ignorant when it comes to what you mean by "no participation by noteholders", but I am quite alert when it comes to spotting a charade that belies getting results efficiently.

I took notes during the entire two hours, and I can tell you there were some serious omissions. People failed to do what they should do. There were points not addressed by all of you. It was very disappointing. You said noteholders have no participation in this matter. You are wrong according to the way I define participation. I could expedite all of this, but the receiver has been unwilling to make use of what insight is available.

No one has established how many people KI Digital needs to perform whatever BQC needs. I visited with BQC the day before the hearing, and they do not seem to need any design or engineering talent. They seem to need computer hardware and software. That means KI Digital does not need the expensive staff they have. It means a continued waste of my assets. The payroll costs at KI Digital could be a fraction of what they are now and could have been reduced sooner and more severely last July.

The receiver visited BQC on January 28, 1999. How come he came away without knowing what I found out in 15 minutes? Is he worth his fees if that happens? The receiver indicates he still does not have the note holder claims accurately compiled. I informed him that I put together a database of the investors for the Schroeders. He did not take advantage of my knowledge. Now he claims he needs 30 more days to get it done. Why? Why has the court not given him subpoena power? He could have demanded these records from the agents long before this. He could have gotten this information last July. He could easily have had it yesterday.

With proper subpoena power, he could have put judgments against separate accounts that I told him existed during my phone calls. As late as September 1998 Chuck McCormick was able to spend $418,000 in cash for a new house. Chuck still spends money on a luxury box at the First Union Center. I understand I cannot have any recourse to recover my losses from him. He has not cooperated with the court, and he is left untouched. Why? This letter might probably be construed as contempt toward the court. What in the world has he shown toward the court and the note holders?

All of the hidden funds that Chuck McCormick is using are funds we investors provided. The receiver did not move to take control of his hidden funds. He decided to move last August 12th to take control of funds from an illegal note issuance.

Those funds should be returned to the participating noteholders. He seems to be keeping those funds protected to make sure his fees and the other attorneys' fees can be covered. He should have conserved the operating funds to provide for such expenses.

Rather than a Memo of Understanding at the last minute from Kevin Hart, I think it would have been more convincing if a check for $500,000 from BQC had been presented in the courtroom establishing an initial equity position. More light could have been shed on this aspect of their plan if the court had asked one of the investigators that were present to reveal what he had discovered about the intentions of the Morgan Weinstein funding firm. We would not have to wait until February 19, 1999. Gino told me he felt there was a reason to suspect the Morgan Weinstein participation is not legitimate.

How come you did not request Kevin Hart to produce any evidence of a contract between the general contractor (BQC) and the Ivory Coast before the hearing? Why was it necessary for me to slip the idea for such evidence to John Miscione? Why was no order given to distribute the Memo of Understanding to the note holders for their review during the hearing? Why is Kevin Hart drafting the order? Who will check to see if the order reflects the necessary elements? When must the order be available? Who will get to see it? Will I as a note holder get to see it?

Well, you get the drift. I am glad Betty is so positive. She takes a lot of pride in her job. She has a lot of pride in her four children. She was a breath of fresh air. The opportunity to observe was not. First, the OJ thing. Next, the Clinton joke. Now this fiasco. Rather poor examples of justice in action. It is difficult for me to see how you can take any pride in all of this? You will not get another letter from me. It is not because you do not like it. It is because it seems it is a waste of my time. **Goodbye.**

I got a lot off my chest.

Did it have any positive impact? Later you will see maybe it did because of his request at a subsequent hearing. The Judge and the lawyers continued their dance for four more sessions. It was a huge waste of time and talent.

I checked on the issue of “participation” with a public advocate employed by the State of New Jersey. She told me I would have to file a motion to be heard at a hearing. “What kind of motion?” I said. “I cannot give any legal advice to you,” the advocate said. So you can readily see we have a tight club designed to generate fees for lawyers rather than make good use of citizens or witnesses to get the facts into the record. It sounds mighty inefficient to me. Does it seem flawed to you? A summary of my first visit to these hearings is in a memo I sent to many noteholders and Bill Schroeder. Here it is for you to review.

February 16, 1999
Yesterday, I heard that people were under the impression that the result of the February 11, 1999 hearing was an order not to liquidate. Since I attended the hearing, I am perplexed by such a rumor. Read the following and let me know if you think there is still a possibility of an order to liquidate. Tom Yarnall 424-4714

The final orders by Judge Cohen were as follows:

1. Bob Stevens is to set up a procedure to process claims of noteholders within 30 days. **He is to have an accurate list of people who hold notes** with Mata Services for April 2, 1998. He is to determine how much they are owed.
2. Kevin Hart is to get an assurance in writing from Morgan Weinstein that there will be $500,000 from their company for BQC no later than 3-30-1999. He must have that written assurance to the judge by February 19, 1999.
3. Kevin Hart is to obtain a certified affidavit of what the promise from BQC is to Film East. He is to obtain from BQC a copy of their contract with the Ivory Coast or a clear description of what the contract involves without revealing any confidential information (if there is any). Both are due to the judge by February 19, 1999.
4. Kevin Hart is to describe in writing the form the $500,000 from BQC to Film East is to take. It was directed that he find out if it will be an equity contribution or a loan that will be subordinated to all note holder debts. The court must have it by February 19, 1999.
5. Kevin Hart is to supply the court a list of tasks and skills required of Film East by BQC. This is due February 19, 1999.
6. John Miscione is to change the consent order and other orders to replace the John and Jane Doe annotations with the real names of people to be served in the future. The date to have this done was not clear.
7. Kevin Hart was to write the order of the court reflecting the decisions made during the hearing. The date for its completion was not specified.
8. Noteholders were told they have no participation in this. The judge was expressing his thoughts about the letters he had received. He told Bob Stevens he was to keep the noteholders better informed. Stevens stated he had been handling multiple phone calls daily. He said the company had been sending out newsletters at one time. He said he would set up a process to keep the noteholders informed.

It appeared to me that the **hearing to liquidate was continued** to a new date based on the proper completion of the actions the judge ordered.

If items 2, 3, 4, and 5 are not provided to the court on time and in a satisfactory manner, the motion to appoint a permanent receiver can still be granted. If these items are proper and on time, there will still be another hearing on this no later than April 9, 1999.

The basis for his stay of any action and the carrying of the motion was to provide every chance for the defendants to obtain relief for the note holders. Even though the Memo of Understanding indicated $8,000,000 would be made available to clear the debt to the note holders, it was still not clear what the debt is.

The receiver has been unable to get the records from Chuck McCormick. Some estimates of the principal alone go between $11,000,000 and over $14,000,000. With any interest, the debt would be much greater.

All noteholders were to agree to the Memo of Understanding at some point prior to the contract being signed with BQC. The target date for that is late June 1999.

The Charade Continues

As you can see, my summary described the February 11th orders of Judge Cohen. I did it to explain the results of the hearing. I decided to distribute my hearing notes after I heard there was a meeting for a small group of noteholders held without an invitation to me.

In that meeting at Bill and Kathy Schroeder's house, a distortion was expressed by Chuck when he told the assembled group that Judge Cohen had given an order in the February 11th hearing that KI Digital will not liquidate. Does my summary say that? No. Did Judge Cohen say KI Digital does not have to liquidate? No.

Judge Cohen carried forward the motion (put forth by the DAG) to have a Permanent Receiver appointed. That finally happened at the November hearing. In any future hearing, KI Digital could still be ordered to liquidate.

I am surrounded by liars! BS Bob, Chuck, Crafty Kevin!

The February 11, 1999 status hearing (docket #153-98) was consumed by bickering between Crafty Kevin Hart and Harried John Miscione. The bickering was about a KI Digital contract with BQC. The phrase "memo of understanding" was now in play. Facts were missing.

After eight months BS Bob (the receiver) still did not know how much money KI Digital owed the noteholders. He did not seem to know why and how BQC was going to advance KI Digital $500,000. Whether this advance would be subordinated to the claims of the noteholders was not clear to any officer of the court.

The Court wanted the noteholders to be heard.

Judge Cohen said, "Get their opinions on this memo of understanding." BS Bob never distributed it for our review.

The role of KI Digital in the BQC contract was not clear. I heard through the rumor mill that the cash on hand at KI Digital was now down to $600,000. BS Bob, who was to preserve assets, said he did not know exactly. KI Digital was losing money each month. No one knew how much.

A KI Digital business plan that was due in mid-October 1998 was still not available in February 1999. It was one of the requirements that the Receiver was to obtain from KI Digital to avoid liquidation procedures.

The Judge made some comments about how the Title 49 statute indicates “supreme caution” is to be observed prior to appointing a permanent receiver. **He stressed that noteholders’ interests are primary**.

The Judge wanted the receiver to establish a claims procedure for noteholders in 30 days. It never happened.

The Judge wanted a certification from BQC that their advance would be subordinated to the claims of the noteholders. It never happened.

The Judge wanted the tasks and skills required for executing the contract to be delineated. It never happened.

Maybe the Judge did read my letter, but he was ignored.

The Wall of Silence

You can see how the noteholders were being misled by a wall of silence and by the deceitful nature of the officers of the court. You can also see that most of the Judge’s orders from each hearing were ignored. No wonder Chuck McCormick could lie to us with impunity.

The next hearing I attended was February 26, 1999. I distributed my summary of it to some noteholders. I also sent it to BS Bob Stevens, the Receiver, Harried John Miscione, the DAG, and Crafty Kevin Hart, the KI Digital defense attorney. It was all part of my attempt to break through the “wall of silence” established by the officers of the court.

This wall of silence was a barrier to swift and proper action. Another example of this wall of silence is the lack of any response to the questions sent to Crafty Kevin Hart. I tried twice without success. The first time was after I was invited to contact him if I had any questions about the 8/7/98 cover letter with the legal documents packet. The second time was after we received a 4/20/99 strange status letter from KI Digital that was sent to all noteholders.

You need to be ready for such circumstances if you are trying to remedy a wrong. It is a very serious flaw with our legal system.

As a matter of fact, the “wall” was given some reinforcement by the threatening March 3, 1999 letter to me from the Macrophage attorney, Bad Bill Levy.

It was becoming very clear that no one was going to communicate with me unless I had an attorney. My only hope was to have Polly get an attorney to try to help her accomplish what I was not able to do. BS Bob was forcing us to hire an attorney to get him to release the funds to her from his trust account.

The February 26, 1999 status hearing was consumed by more bickering. There were no facts. There were no written assurances from BQC. The Morgan Weinstein financing assurances were sketchy. New funding for KI Digital was now delayed until March. Contracts were now delayed until June.

Judge Cohen wanted to know if the noteholders had been consulted. BS Bob Stevens said he continued to take their phone calls. What a clever response! He had done nothing to consult with us.

I offered to help arrange a meeting with the noteholders for him. He declined my offer. Here are Judge Cohen’s requests that were ignored by BS Bob.

1. Get specifics of the meaning of paragraph 8 in the memo of understanding
2. Get views of the noteholders
3. Flesh out paragraph 8 with more details

The Judge asked the Receiver if losing operations could be severed from Film East. BS Bob said, “Perhaps.” This never was done.

My note taking for the next three hearings was very thorough. Very little progress was made. These hearings followed the same pattern as the first two. There was always something missing or ignored. These details are very boring, so I will not bore you by sharing any more than I have already.

The Dance is Done in Chambers

The last status hearing on the Consent Order that I attended was in November 1999. There was a motion by the DAG that Judge Cohen granted. A permanent receiver was appointed. The hearing was held in the Judge's chambers.

I have no notes because I sat alone in the courtroom for almost two hours waiting for the officers of the court to join me. After I left, they did come into the courtroom and conduct something for the record. What a system!

The experience of attending these hearings was repulsive. It is difficult to describe how bad it was.

Suffice it to say there was a lot of time wasted by a lot of people. All of them were being paid except me. They were well paid to do virtually nothing.

KI Digital was still allowed to exist. The officers of the court kept doing their thing and building billable hours. BS Bob provided no information to any of us about the status of the situation at KI Digital.

Have I convinced you yet that the rule of law is a myth in the USA? It is a bad joke – a really bad joke!

Twisted Wording and Evasiveness

My contacts with Robert G. Stevens, the lawyer appointed as the KI Digital Custodial Receiver, resulted in more evasiveness than one could ever imagine. His behavior was muddling, confusing, and bewildering. He did not practice truth, clarity, and enlightenment. There was never a real attempt on his part to enable noteholders to know the status of things.

It was difficult to give him a nickname. It was hard to decide. Some appropriate options seemed to be "Baffling Bob" or "Bogus Bob" or "BS Bob". That means he was frustrating or fake or full of it. I decided the last option fit him best.

This rather slender 40-something man was about 5' 10", wore glasses, and looked like a deer in headlights most of the time.

He was dedicated to denying any help to me and withholding as much information as possible to prevent any understanding of what was likely to happen. In February 1999, at one of the status hearings in Newark, the Judge told the receiver to keep the noteholders informed. The receiver lamely said he took every phone call he could. He used that phrase often.

When the Judge suggested he set up a system to get the word out to **all** of the noteholders, the receiver claimed he was trying to save postage to conserve the assets of the company. He never set up a system to keep us informed.

He would rather log billable hours on the phone talking to a few of us on our dime than send out a status report to all of the note holders. He never described what was happening with the situation. How is that for honesty and straightforwardness? I think you can easily understand why I was thinking about making tapes of my phone calls to him.

I used letters or memos primarily. His responses were works of art in avoiding clarity, honesty, and specificity. I provide you with some of our written exchanges in exhibit 3C. How well do you think he did answering questions and providing information to a desperate and worried note holder?

In September 1998 it was clear to me that the Receiver should have recommended KI Digital be closed (liquidated) because of their shabby record keeping and tremendous losses. He did not. He basically seemed to conspire with the officers of KI Digital by not being more diligent.

All of this was no problem for the Receiver because in the Consent Order (Exhibit 1 - Item 11) he is held harmless. I believe that these words are a license to steal. What a system!

I reviewed case law in New Jersey dealing with receivers. My research revealed that it is so difficult to get lawyers to be receivers that they are to be protected in every way (legally) possible.

Most of the lawyers I dealt with during this situation seemed to set truth and honesty aside in the hearings. The only exception to this seemed to be Harried John, the DAG. He almost seemed inept at pushing the case to a conclusion. He appeared more of a victim of the obfuscation of BS Bob Stevens (the receiver) and Crafty Kevin Hart (the defense attorney for KI Digital).

I sent the DAG some information and some suggestions. It is a very long letter (Exhibit 3B). I think it overwhelmed him. It reveals the extent of pretense and subterfuge that pervades our vaunted rule of law. My concerns in the letter are solid evidence that our legal system is a hoax! During a subsequent phone conversation with Harried John, he exclaimed, **"This, believe it or not, is not my only case."**

Being very busy apparently kept him from being able to keep his eye on the ball in this case. The DAG was left "hanging out to dry" often by Judge Cohen. I guess that is the way the game (in court) is played. You get no help in getting at honesty from the Judge. It seemed they listen to what is said and apply some procedural rule to what is said.

There seemed to be no concern about the accuracy of the comments by the attorneys at the hearings. That responsibility seemed to be up to the DAG (not the Judge) to ferret out the muddling and confusing statements by the other officers of the court - Crafty Kevin and BS Bob.

My copious notes at each status hearing reveal that there were directives or orders (maybe they were only requests) issued by the Judge at each hearing. Crafty Kevin Hart volunteered to be the scribe for these. Sometimes he left some out, and other times he did not comply. Instead, he came with excuses, as did BS Bob.

Honesty and truth were really missing on those occasions, and the Judge seemed to be unprepared or suffered from amnesia. He seldom called them to task to provide what he had previously ordered or requested. There were tapes made of the five hearings. If you can obtain the transcripts, you can see for yourself. Note what was requested by the Judge each time and what was not provided at the subsequent hearing.

The End of Unguarded Exchanges

Earlier back on August 27, 1998, Chuck McCormick called a secret meeting for a special group of noteholders. It was considered secret because Chuck, his brother Kevin, a guy named Mike Kelly, and Bill Schroeder told those of us in attendance that nothing that is said in the meeting could leave the room.

The State of New Jersey was not to know what was discussed because KI Digital personnel were not to talk to any noteholders. They were doing us a special favor by sneaking around this dictate. My notes and an email to the Schroeders about that meeting follow. Honesty was missing from the meeting.

Here are my notes:

1. Cannot repeat anything from this meeting
2. Strictly confidential meeting
3. The State lies
4. KI Digital has the opportunity to set up a contract with Ivory Coast for cable networks
    a. Design and engineering work for $18 million ($1.5 per month) for 12 months
    b. M. T. Martin, Julius Erving, Pat Williams are involved
    c. No installation work required – just design and consulting
    d. They like our skilled staff
    e. 14 month payout period is the worst case
5. IPO is still in the distant future
6. Three phases to continue our participation
    a. Questionnaire coming to see who wants to stay with us
    b. Disclosure of all financial details to those who stay
    c. Methods of participating in the profits to be offered
7. Showed three different demos on videotape
8. KI Digital is advertising in ICOM magazine
9. Real pro named Jim Rider has been hired to get motion control work completed more rapidly and more professionally
10. Body scans and motion capture equipment are generating more income
11. 3D animation business is growing
12. We are partnering with Camera Control, Inc and Para Form
    a. Special software development from Para Form for the body scanner
13. Questions about quotas for sales reps were not answered
    a. There are two reps
    b. They have a $17,000 base salary per year
14. Accountants are Alloy Silverstein etc.

Here is my email:

August 28, 1998
Bill and Kathy:
Here is my reaction to a meeting that I cannot say I attended. I abhor being told who I can talk to and what I can say by my wife, so you can imagine how I view it when others presume to be able to tell me how I am to talk or not talk. It is a crude and intimidating technique. It is very unprofessional.

I will keep "the so-called confidence" for the time-being with those that said to us "Nothing can leave this room", (you, Kevin, Chuck, and Mike Kelly) until I discover whether or not the state lied to me when they told me they did not tell Chuck he could not speak to the note holders.

I intend to request the state to send a letter to me that specifically assures me they did not tell Chuck, "Do not talk to your noteholders." My request will be phrased in such a way that it will reflect that I am still trying to get some information about my investment and that Chuck says he cannot tell me because of the state's edict.

If I get that letter from the state that denies they told Chuck that, you do not need to send me a questionnaire. I will request that I get the funds payable to Polly and me as of June 2, 1998, through the three notes we have with KI Digital under the conditions stated in the notes. I will not be a part of the "bright" future of KI Digital.

If the state does not provide me the letter that I seek, I will petition the state for a meeting in which a representative from the state, Chuck, the receiver, and I discuss the situation in a very candid manner. It is not acceptable for me to be kept in the dark about the status of these investments.

I am extremely frustrated by all the secrecy and lack of clarity in the form of distributed written substantiation of various claims and promises. I do not take shorthand, and I cannot have everything be verbal. The mystery about the content of the company books is beginning to border on the level of deceit. **There is no legitimate reason for you not to know the general financial status of KI Digital. Your inability to provide investors or debtors (your clients) with a general idea of profitability, cash flow, and financial status is improper and unnerving.**

Based on the imminent nature of a contract signing with the Ivory Coast, I would expect an announcement with details sometime today. If I got the wrong impression about how soon it was to happen, I would expect to find out when the signing is to happen or what caused a delay with the signing. If this kind of insight is not acceptable to you, then we have a problem

I suspect that a privately held company can take the position that all of the financial information is proprietary and confidential. I also suspect that a cooperative management team will share important facts (not just hopes or promises) with investors. Since we have no historical factual data in writing about what KI Digital has achieved, I have come to the position of being a doubter. It has caused a lack of confidence.
Tom Yarnall

I also contacted Harried John Miscione and asked him why the officers, employees, and affiliated persons of KI Digital were told by the State not to talk to the noteholders. He said he knew of no directive by anyone at the Bureau of Securities, the State, or the Court that would impose such a restriction.

Every time I spoke with this gentleman, he reminded me that he would deny he ever said what he said if I tried to quote what he said. How is that for an example of honesty and truth in action in our legal system? Even the good guys are tinged. Could it be something they teach in law school?

When I challenged Chuck McCormick and Bill Schroeder about the fact that there was no gag rule by the State, they said they meant their attorneys told them this.

Of course, the attorney-client relationship and their discussions are privileged, so there was no way to find out if this was true. The facts were not to be shared honestly and openly with the noteholders. Our ability to get answers about the status of our notes was completely stymied because of the "privileged information" excuse.

Truth and honesty were no longer rare – they were nonexistent.

Bill Schroeder decided to get an attorney in September 1998. Our communications became more limited. Eventually, they ceased. Whatever his attorney said to him caused him to no longer be as open and unguarded with me as he had previously been on rare occasions. He was skilled at being guarded on his own, but now he had an expert at evasiveness helping him sharpen his skills. His attorney, William N. Levy, was this expert.

We can call him Bad Bill Levy because, in a 1999 National Law Journal, US District Judge Denise L. Cote was quoted as saying the following about Levy when attorney Charles J. Hecht represented Levy in an SEC fraud case in New York State. "Attorneys don't always get easy clients to deal with. Mr. Levy may be somewhere on the end of the spectrum toward the more difficult."

Levy was not allowed to practice law before the SEC because of stock manipulation and because he was not registered when selling securities. This was the man I had to deal with in a New Jersey Bureau of Securities investigation of unregistered securities being sold by people who were not registered to sell securities. This man so lacked morals; he was unable to recognize the truth.

Also in September 1998, I told Bill Schroeder our son had obtained a copy of the Receiver's Report (Exhibit 2) from Judge Margolis' office in Newark, NJ. Bill asked me for a copy. Bill said his attorney, Bad Bill Levy needed to review it. I was unaware of the Judge Cote comments and Levy's history at that time. Rather than make them go all the way to Newark to get it because I was still in "nice guy" mode, I let Bill copy it for his attorney.

That was the last time Bill Schroeder and I saw each other except in subsequent court hearings. When I contacted him by phone about a week later, he said very little of any substance and said he had to be careful about what he said to me. This was the advice he got from Bad Bill Levy. Here is one more illustration of how truth and honesty have less chance of occurring once our officers of the court begin to influence people.

Bad Bill Levy went well beyond that bit of advice to his client. He behaved in a rather unethical manner toward me.

1. Levy harassed me by phone by continuously trying to send a fax to my home phone even after he was informed that I did not have a fax capability. A phone company representative made him aware after she traced the source of these mysterious repetitive rings at all hours; 14 in two days.
2. When I called Levy to make it clear to him I had no fax receiving capability; he blurted out in a very abrupt manner, "We know how to deal with your type."
3. Levy sent me a threatening letter in March 1999 after I shared with other noteholders my notes from my first visit to the status hearings in Newark, NJ.

A friendly and cooperative relationship with the Schroeders deteriorated into an adversarial relationship as a result of an officer of the court guiding his client. Any chance of just Bill Schroeder and Tom Yarnall getting at the truth was completely stifled.

There was one very small event that allowed the truth to creep into my dialog with the Schroeders. It involved a phone conversation with Bill's wife, Kathy, early in 1999. She told me how she was trying to save legal costs by typing a letter to the noteholders that was **virtually dictated to her** by her attorney. Who else could that be but Bad Bill Levy?

In his March 1999 letter, he denied dictating the letter. He was unable to tell the truth in any contact with me. As a result of all of this, I felt compelled to report Attorney Levy to the local Attorney Ethics Office.

The ethics committee dismissed my complaint against him. I do not know why. Perhaps they only expect to receive an ethics complaint about an attorney from a client. A complaint from an adversary does not seem to be within their purview.

After my letter that reported him, he no longer sent me any harassing letters. **In a way, I got what I wanted. I muzzled him.**

My one suggestion to anyone reading this book is to be aware of the Rules of Professional Conduct (RPC) for attorneys. You can review these rules at the following website (http://njlawnet.com/nj-rpc/). My guess is there are rules like this in every one of our states in the USA.

LEGAL SYSTEM - Ponzi Scheme

One duty of the case trustee in a bankruptcy proceeding is to collect money from creditors who were paid money and distribute it to those who were not paid money. This is done when fraudulent transfers are made by the debtor. See exhibit 12.

This collection effort involves the case trustee, his/her attorney, and his/her accountant.

They all charge significant fees to do their work. As a result, very little of the collected money is distributed to any creditors who were not paid money in what was clearly seen as a Ponzi scheme implemented by the folks at Mata Services, KI Digital, and Macrophage.

The <u>legal system PONZI</u> took place as follows!

1. **Money was collected by the case trustee**
2. **That money was mostly distributed to the lawyers, trustees, and accountants**
3. **Very little, if any of the money, was distributed to those who were victims of the McCormick Ponzi**

Advantage: Violators

Barriers to Efficiency and Swift Justice

Typical steps in the legal process to recover an unpaid debt run something like this:

1. Those who violate a law (fail to repay a loan) hire attorneys
2. The violators are instructed to no longer speak to anyone other than their attorneys
3. The violated person (aka victim) gets no responses from anyone
4. The violated person is forced to file a complaint (spend significant money) to seek a remedy for the wrongdoing

There are no do-it-yourself kits provided for the victim to file a complaint. There are no automatic court orders to make available all relevant documents. The violated person must hire an attorney to try to overcome all of the deceptive refusals and denials to provide pertinent information.

If one takes a very bold step to do it solo (attempt the Pro Se route), the sharing of information is worse. Officers of the Court ignore a Pro Se plaintiff/victim. The attorneys only talk to each other, and they do it "on the clock" – all billable time. What did Jimmy Durante used to say? "What a revoltin development this is!"

Here is a summary of a victim's plight in a <u>simple unpaid debt</u> case:

1. Are complaint forms available that are easy to file? No
2. Are there any do-it-yourself kits available? No
3. Can a violated person initiate low-cost legal proceedings? No
4. Is there a checklist for victims to use? No

When someone fails to repay a promissory note, it should not require an attorney's involvement. It should be a "no-brainer" situation. For some strange reason, the legal system does not make it easy for a person to seek a remedy to such a straightforward situation.

1. Delays are excessive
2. Costs are virtually prohibitive
3. Rules are intimidating because there is an 89-page document that describes how to comply with court procedures
4. You may also have to cope with a poorly written voluminous United States Code

If our legal system were not a hoax (a pretense), the following steps would suffice:

1. The violated person (lender) brings the relevant documents (checks and promissory notes) to a Claims Court
2. Lender presents them to prove the money was given to someone who must repay it
3. Do this on a date very soon after the debt was to be repaid
4. The borrower could bring documents that show a repayment was made to avoid a judgment if there is a false claim by the lender
5. Once the two sides in the dispute present their documents, the one who is deemed incorrect in the dispute is the one who pays any court costs and related filing fees
6. The Judge rules and an order is issued

It can be a simple, low cost, and efficient process. We should have such a process. We do not have one.

The enforcement of a judgment in the order by the Judge should not require an additional costly step.

The terms of repayment can be determined during the above 6-step process, and the Court (without any need for the unpaid victim to file an additional complaint) should enforce these terms. Any judgment should not be able to be set aside in a bankruptcy proceeding. No property should be protected from any judgment.

The current statutes make it possible for violators of promises to repay what they borrow, to ignore a judgment and live happily ever after. The laws make it very difficult and expensive for the lender to recover any loss from a promise to repay that is not honored.

Let me illustrate what we currently have in place in our society. If I get a thousand people to lend me a $1,000 each and I basically tell them I deny that I owe them the $1,000, I will have one million dollars to hire attorneys who can stall any judgment and I can eventually declare bankruptcy to protect my personal property and my real property unless someone can prove I committed fraud. I can even put everything in my wife's name and never have anything of value that will be subject to a lien. I can avoid repaying those 1000 people victimized by me. **Do you now see why I claim the rule of law in the USA is a hoax?**

Those 1000 people when wronged presently have to spend well over $1,000 for the following:

1. Hire an attorney to file a claim, exchange letters and phone calls with my defense attorney, conduct depositions, prepare for trial, go to trial, and get a judgment that will not necessarily be lasting.
2. Then another cycle using an attorney is required to collect on the judgment at more cost.

What a deceptive system! A hoax!

How many of you would decide to spend over $1,000 to recover $1,000? How many of you would spend a $20 recoverable fee to recover your $1,000? Do you agree we need a change in our legal system? If borrowers knew we had my suggested 6-step legal process in place, would they try their scams as frequently as they do? I don't think so.

Our laws and our legal procedures encourage this unethical, immoral, and improper behavior. Many lawyers that I dealt with fostered and enabled this process to take place.

The Judges are part of the difficulty. Judges do not direct or take charge of the activities in their Courts to result in efficient justice. They act as referees in a contest between two sides. Let's see who presents the various interpretations of unclear and ambiguous laws. Two sides have great latitude in pressing their points about how such a transaction should be viewed. Be sure to look at my drawing on the front cover of this book!

Here are some details about some of the contested issues related to the mere existence of a promissory note. You may find it fascinating, but it seemed unbelievable, if not disgusting, to me. **The plaintiff's attorneys were unable to get the Court to force the violators to turn over records quickly.**

Below is my 4/20/99 letter of disappointment to Judge Kugler. It documents what was happening.

Judge Robert B. Kugler
John F. Gerry Plaza
PO Box 889
Camden, NJ

Dear Judge Kugler:
Thanks for sharing your address with me so I can write to you. This missing funds situation has been very stressful for a number of the noteholders who have notes with Mata Services. My wife and I are "out" $92,000 (principal only) plus owed interest. We have no money to pay a lawyer to do anything so we were hopeful that the legal system would work when Geoff Steiert filed his action. I am 67 and retired. My wife works at JCPenney now for about $9.00 an hour to try to keep us afloat financially. We need the money. If it is gone, we need the judicial system to punish those who took our money.

I just returned from a trip and found out that Geoff Steiert's requested freeze (TRO) was not granted. I was able to watch the proceedings last Tuesday (4/13) before I went on my trip. It looked like things were rather clear that other money was being moved through accounts that were outside of the jurisdiction of your friend Bob Stevens, the Receiver.

Bob Stevens and I have talked often, and there seems to be little he can do. The State of New Jersey has not been able to do much. Now Geoff Steiert cannot do anything. I am most perplexed about the actions of both courts – State and Federal. It seems the courts continue to allow illegal behavior to take place. Neither Judge Cohen nor you have forced the McCormicks, Schroeders, or any relevant business entity to produce any records of the use of the millions of dollars that they have taken from people. They continue to take more money even now, and they threaten to selectively repay only cooperative people from the scheme they have in place.

It is very upsetting that people like the Schroeders who are unemployed can enjoy luxury boxes at First Union, lease expensive cars, take expensive trips, and not have to provide any records to a court or any plaintiff. It is our money they are squandering, and we have no support from the law or the legal system to protect us from their dissipation of the money they have taken from us. The transfers of money from the Schroeders and the McCormicks are concealed without recourse.

The lies and excuses used by the attorneys representing these people have been unnerving. It is tempting to want to take the law into one's own hands after ten months of waiting for the system to work. Everyone says that would not be a good idea, but these folks are continuing to hustle notes to new fools with impunity even though the consent order said they were enjoined from doing so.

No one has ruled they are in contempt of a court order. Why? Is there not a punishment for violating an order of the court? No one seems to be ready, willing, or able to correct his or her behavior. More innocent or stupid people are being hurt. I wish you and Judge Cohen would talk to each other (973-648-2119) and that both of you would talk with Bob Stevens (973-377-0505) to get this under control. There is money out there being misused by these people, and nothing has been done by anyone who should be doing something about it. I have written to John Miscione (Deputy Attorney General), Judge R. Benjamin Cohen, and Bob Stevens about this and I have had no success. Please help us. Thanks for thinking about this. Sure will be good news if the legal system gets on top of the situation and compels the culprits to reveal where the money went. It will even be better if we can get some of it back.

Yours truly,

Judge Kugler did not respond. **He did nothing about ordering the records to be provided to Jumbled Geoff Steiert.**

It took more than a year before any records were able to be obtained and by that time they could not be used in his case because their bankruptcy filing prevented him from proceeding.

The Court opinions were astonishing. The burden on the plaintiff was inordinate. The burden of showing proof was couched in such a way by the Court that the lies by the defendants and the secret banking accounts were allowed to foil the best attempt to show clear trails of money movements. No demand was made by the Court. **There is either a case study opportunity here or good debate situation for use at a law school.**

Lack of Witness Cooperation

Almost all of the people (who were scammed by KI Digital's IPO plan) received the Bureau of Securities questionnaire. See page 41. The Bureau of Securities of the State of New Jersey wanted to explore what had happened. The Bureau needed input to know what to investigate.

Chuck, Bill, and others got the word out that the State was a big threat to any recovery of funds by the noteholders. Their incantation went like this - because the State was now involved, our notes may not be able to be repaid. It is their fault. Because the State was now involved, there was a freeze on all note payments.

It was strange how many people did not complete the questionnaire. Most of the people did not respond. Many wrote letters to complain about what the State was doing to them in terms of damaging their chances of recovery. One investigator told me they only got back 14 completed questionnaires. I believe they mailed 300 to New Jersey residents and possibly a total of 500. That means only 3% to 5% cooperated with a law enforcement effort.

Fear and ignorance were major factors. People did not want to do anything to jeopardize their chance of having their notes repaid. Attorneys were not telling people anything. They kept us in the dark.

The stories that were told in the meetings set up by Bill and presided over by Chuck had a scary message for the noteholders. The State had it in for KI Digital, and we had to be very careful. As a result, the treatment of investigators by many 6% Mata noteholders was belligerent and uncooperative.

Loyalty was another major factor. I tried to get one gentleman to meet with an investigator to discuss what he had endured. He declined. Kathy's Uncle Lew and his wife lost at least $30,000. Lew said he had to live with his relatives and did not want to do anything to ruin that. He did not say it, but it was obvious he was willing to lose at least $30,000 without complaint to maintain the family ties!

Another young couple (Linda and Fred) were very good friends with the Schroeders. They had the money for their daughters' college educations involved. Linda's father had money involved. It seemed like the total was a lot more than Uncle Lew's risk even though the amounts were never revealed. Linda wrote a letter to the Attorney General of New Jersey to seek the disengagement of the State.

Hell, I even held back from being a real "attack dog" because of loyalty until September 1998. Polly and I completed our questionnaires in August. She delayed for over a week because it was very difficult to believe we had been duped. We trusted these people. Another factor was the sheer embarrassment. People were reluctant to disclose how much they had lost.

Chuck told Bill and Kathy that a company in Williamstown, NJ (named BQC) was going to buy out KI Digital eventually. That was supposed to be when all noteholders would get their money back.

Lack of Full Disclosure

The Custodial Receiver supposedly was to watch over the BQC situation carefully. He never indicated the BQC scenario was a farce. He kept the noteholders in a state of flux because he would not clarify the contractual terms between KI Digital and BQC. There was a mysterious "Letter of Intent" being shared by the KI Digital defense attorney and the Receiver. I could never get access to it. I recorded parts of it in my status hearing notes, but I do not take shorthand and could not write it all down when it was discussed at the status hearings.

The Letter of Intent was to set forth an agreement for BQC to pay advances to KI Digital and a promise to make use of KI Digital's capabilities. These advances were in the $15 million range. The notes outstanding were at least $14 million if you included interest due. It was this theme of faint hope that kept the noteholders at bay.

With expenses anticipated to be about $7 million to fulfill the contract, there might be $8 million available to repay the holders of the 6% Mata notes. We could still get half of our money back! Let's not rock the boat! Polly and I could get back about half of our missing $67,000. It took us a while to give up on that fantasy.

I decided to visit the office of BQC in Williamstown, NJ. It was two small rooms in a very small office complex. The two men there would not answer any of my questions. It helped me decide we were being told falsehoods by Receiver BS Bob as well as the KI Digital attorney, Crafty Kevin Hart. How do people like this sleep well?

I know one investor who apparently had never taken any interest payments. He just let his investment ride. He did the Schroeder-recommended rollovers. I believe he mentioned he was out $500,000. He was one of the few who really went after recovery and had one futile experience after another as he hired two attorneys during his attempt to recover what KI Digital, Mata Services, the Schroeders, and Macrophage owed him.

Jumbled Geoff, by the way, was an attorney on disability who let his license lapse and had to appear Pro Se after his two hired attorneys never really grasped the concept of the transactions described on the back cover of this book.

As long as the wrongdoers stuck together in their deceit, it was impossible to get clear statements of what happened with our money.

As long as the attorneys maintained a wall of silence, it was impossible to learn the real status of our money.

As long as other noteholders refused to share what their experiences were, it was going to very difficult to bring these violators to justice.

As long as there was a carrot out there about the possibility of a contract with BQC, many noteholders were unable or unwilling to help the investigators.

The Legal System Has Special Rules

To this day I do not understand the rulings of some of the Judges. It may have been because the attorneys representing Jumbled Geoff were inept or unprepared. In any event, my friend Geoff was stymied by the Judges and not listened to by his attorneys. When I asked him why he did not represent himself, he said there is an old saying, “An attorney who represents himself is represented by a fool.” You have to pay to play.

I have to wonder if there is a bias at work on the part of some Judges. If there is no evidence of you paying the legal piper (a lawyer), chances of being treated fairly in court seem slim.

With the backlog in the court schedules, you would think the goal would be to allow people to get into and out of court with less procedural entanglements.

Judges should be clearer about what they expect about the evidence that must be presented. It seems there is too much focus on “arguments” being presented.

Judges should specify the evidence they want presented. Access to this evidence should be expedited by Court Orders.

The goofy Receiver (BS Bob) moaned to me that he had no subpoena power as the Custodial Receiver. Apparently even he was constrained from getting at the facts. It sounded like he would have been greatly limited if he made genuine attempts to get the facts.

You can observe in his report to Judge Cohen (Exhibit 2) how little information he was able to get and how erroneous it was. He had a Consent Order from the court (Exhibit 1), yet he was not able to get it done.

Read that again and see if you could have gotten more facts than he did. I wonder whether it was the system or BS Bob that was the bigger drawback.

Defense attorneys thrive on all of the special procedural rules. These rules are money generators for them. The procedural battles consume a large portion of prep time and court time. The plaintiff's attorneys also benefit. The discussions, letters, research, and court appearances keep the meter running with no results and little if any progress.

There might be an ethical teaching moment here for any law professor.

Judges seem to be extremely concerned about the rights of the violator. They seem far less concerned about the rights of the violated. They seem to have very little control over false allegations and false representations by the defendants and their attorneys.

Judges did not prevent records from being hidden with Court Orders. Records should be readily available. Lock the doors until wrongdoers turn over the books! Issue fines if there is any delay.

The rules that are applied to a situation when someone has not maintained clear records are not adequate. The Judges failed to handle these issues well with their rulings.

The violators and their attorneys were able to avoid detection of their deception very easily.

It seemed that the Judges were reluctant to use some powers they had or <u>should have</u> had. They were relying on procedural rules that allowed attorneys to play games. These rules were impediments to justice.

Getting evidence from defendants was very difficult because they were shielded by devious maneuvers by their attorneys. It was a "battle of wits" game of some sort with rules that were aimed at protecting the defendant from having to disclose any facts. It was amazing to see how ready the Judges were to make decisions that favored the violator.

Semantics Jungle

Conflicts in the Statutes

In April of 1999, I was sitting in the back of a District Courtroom in Camden, NJ observing a hearing in which my friend Jumbled Geoff was trying to get District Court Judge, Robert B. Kugler, to rule on some issues related to his pursuit of recovering the money Mata and KI Digital owed him.

There was a point in the proceedings when Geoff's attorney used the word security. The defense attorney raised a point with the Judge that it was not clear that the promissory notes at issue were securities. Was a promissory note a security or not? This was about ten months after the Bureau of Securities began looking into the business operations of KI Digital.

If you go to the dictionary and look up the word security, you will find these words - "evidence of debt or ownership". If you go to the New Jersey Statutes Annotated (NJSA), you will find these words in 49:3-49 (2m). "A security is any note".

Here is an attorney raising a question about a topic that is already well defined. It was quite clear to me. It should have been quite clear to any officer of the Court; especially a Judge.

There is a New Jersey statute that deals with an equity security. It is 49:5-2. Of course, that statute does not include the concept of a note being a security. **It deals with equity. It deals with ownership.** It does not deal with evidence of indebtedness.

It was also quite clear to me that 49:5-2 did not apply to this case; 49:3-49 (2m) did.

The Judge did not challenge the remark of the defense attorney. The plaintiff's attorney did not challenge the remark either.

Things started to go off on a tangent as a result of that comment by the defense attorney. The Judge did not keep the focus on the main issues. The Judge did not silence the defense attorney or admonish him to stick to the point.

It was one of the aspects of the hearing that caused the proceedings to go nowhere. It was a deception. It was a pretense. It was chicanery. **It was a hoax.**

Diversions Are Rampant

Oh yes, there were other similar moments of distraction and deception that added up to a failure on the part of Geoff's attorney to get the results he needed from the hearing.

Another moment of distraction occurred when the key witnesses were not forced to appear. They did not come to court. The Judge accepted the excuse that they had previous commitments that could not be changed (it was a vacation trip by the way). This is only a small part of the behavior that I observed. It would take too long and be too boring if I cited all of the tricks used by the defense in that hearing.

As I watched this, I got very irritated. It was not a solid legal system at work. The Judge seemed aloof or in some way disengaged. He challenged no one. He demanded nothing. Although he did seem to allow the plaintiff's attorney a couple of extended moments to respond or redirect discussions, he did not keep him on track either.

I thought the Judge should have been more active in guiding the proceedings toward a proper goal and a specific conclusion. It seemed to be solely the burden of the plaintiff's attorney to get there.

So the system does not depend on relevant law and strict rules. It depends on the skill of an attorney to "win" an argument. An argument about a definition! An argument about who needs to appear! That is a hoax.

Trey Gowdy would disagree with my view based on a comment he made on TV on August 13, 2018. Such a Judge would be acting like a deity according to Gowdy.

Seems like a good issue to be explored at a law school.

That hearing was a battle of wits - not a pursuit of justice. I feel it was a battle of “halfwits”. In that courtroom, we had the worst halfwit representing the defendant - Bad Bill Levy.

There seemed to be no constraint placed on the tangents that he could initiate. Maybe some readers would smile and applaud his deception. I find it disgusting.

The primary guidelines from a Judge could be as follows:

1. Provide proof that a debt exists and prove the debt is past due at the hearing
2. Any “no show” (without a verified illness or injury) will lose the decision in favor of the one present
3. The defendant must reveal all assets at the hearing or be fined for failure to do so
4. The Judge decides how and when the debt will be repaid at the hearing
5. Specific penalties are outlined if any Court Order is ignored

Conclusions

Great Education

My wife and I learned to research case law at the Rutgers Law Library in Camden, NJ. We met some very nice people there. Many of them planned to become officers of the court.

I hope they do not succumb to the frailties that I observed in the behaviors of Bad Bill Levy, Disappointing Dan Bernardin, Say-No John Hargrave, Crafty Kevin Hart, Joltin Joe Marchand, Sneaky Steve Warner, Muscles Marv Wilenzik, and especially BS Bob Stevens.

We learned how our representatives in Washington are not receptive to good suggestions and how aloof the Trustees in the US Trustee Program can be.

We learned how inconsistently the law is applied in our legal system and that there are many modifications needed to make our laws better.

I learned how to present a motion to a Court, how to do certifications, certifications of service, interrogatories, answers, briefs, and draft orders.

I learned how to make an appearance as a litigant (movant, plaintiff, respondent, or defendant) in a Court and how to complete the appearance form. (Exhibit 5)

I learned how helpful the support staff at the Federal Court buildings in Camden and Newark could be.

The Exhilaration of Winning at Trial

Maybe relief is a better phrase than exhilaration. There were too many unpredictable surprises during this experience even though I was really well prepared. My stack of paper is over three feet tall.

There were too many unbelievable events allowed by the “rule of law” that never should have been allowed.

My motion to object to a discharge of a debt in the Schroeder bankruptcy case resulted in me being allowed to pursue recovery of part of $40,000 that was stolen from my IRA through the use of a fraudulently executed lender servicing agreement by Bill Schroeder.

Winning the case would not get me the money. It only allowed me to try to get the money. What a hoax!

In 2015 I asked two different lawyers to help me get my 2007 judgment for $17,421 paid. Both refused to take the case. Was the amount too small? **What a hoax!**

Frustrations from Rulings Favoring Wrongdoers

When the lawyers, trustees, and Judges accepted the many distortions and falsehoods in the petitions during the hearings, it was very frustrating.

Promissory notes were claimed not to be securities by attorney Bad Bill Levy. Judge Kugler did not correct that assertion.

Earlier in the book I cited New Jersey Statutes Annotated (NJSA) Title 49 §3-49. Clause (m) defines a security. A security is any note, stock, treasury stock, bond, debenture, evidence of indebtedness, etc. No wonder Judge Cote expressed such a low opinion of Levy. I never met anyone who lied like Bad Bill Levy.

Information from officers of the court was accepted by the Court more readily than information from a Pro Se litigant. That was also very frustrating.

The attorneys (Say-No John Hargrave and Bad Bill Levy) for the wrongdoers (the Schroeders) confused Judge Burns with the phrase Mata "**factoring**" notes.

The notes under discussion were Mata promissory notes that provided operating funds for Mata and KI Digital. Factoring was a lie!

The officers of the court acted like these notes were debts of the Schroeders and Macrophage; not Mata's. They listed these debts in the schedule F section of their bankruptcy petitions. The Court accepted these falsehoods.

Even case trustee Joltin Joe Marchand used this misinformation to his advantage when he assembled his claims of fraudulent transfers (Exhibit 12) against 55 creditors in a bankruptcy filing that never should have been allowed according to clause (b) 2 in §109 in chapter 1 of title 11 USC. (Exhibit 9) That law says small business investment companies are not able to claim protection as a chapter 7 debtor. The nature of the Macrophage business was misstated in the financial statement section of the petition as being a factoring company. The nature of the Macrophage business was an investment company.

Macrophage never bought any discounted accounts receivable from any entity. Macrophage never tried to collect the money for such receivables. There was no factoring being done.

Macrophage collected money to fund the fake operations of Mata Services and KI Digital. Macrophage found investors and issued notes. Attorneys Bad Bill, Say-No John, Sneaky Steve, and Joltin Joe all distorted these facts in Court, and Judge Burns never accepted my challenges to these distortions.

I later learned that clause (b) 2 in §109 in chapter 1 of title 11 USC would have been the statute to be applied to get the Macrophage petition dismissed.

It seems Judge Burns should have known this. It seems the Court should have ruled to dismiss the petition on that basis even without a complaint being filed.

It seems the U. S Trustee (Sadsack Bob Schneider) should have known this. It seems he should have never allowed a case trustee to be appointed for the Macrophage petition.

The petitions listed debts of other entities (Mata & Cornerstone) as being Macrophage and Schroeder debts. My attempts to clarify this were ignored.

The false schedule F contents were not examined thoroughly in the 341a meeting even when it was called to the attention of the case trustee (Joltin Joe Marchand) and the US Trustee (Sadsack Bob Schneider).

It was especially vexing to witness the wrongdoers and the attorneys that pressed ahead with falsified documents to obtain rulings that were obtained with deception, pretense, and chicanery. That is the definition of a hoax! It was very frustrating. The illegal filing of the Macrophage bankruptcy petition resulted in a payment by us of $45,000 to the case trustee.

Joltin Joe Marchand and Sneaky Steve Warner tried to get $174,121 from us. (Exhibit 10) **Be sure to read the last page of that exhibit!** We had to pay $45,000 instead of $174,121. There should never have been any payment because Macrophage did not qualify to file a bankruptcy petition. Please read my letter in exhibit 6.

We also paid more than $20,000 in attorney fees to attorneys who were clueless about clause (b) 2 in §109 in chapter 1 of title 11 USC. We spent this money on attorneys to help battle cases with false claims based on false records. Look at the back cover of this book to see how convoluted the movements of the money were. There were no accurate records available.

Big Question and Possible Answers

After reading this much, maybe you ask this question, **"So what?"** Here are my four responses to that question.

1. There are too many lawyers who do not contribute to our society in a positive way. They rob our society with wasted expenditures. This is why we are short on funds for improving the infrastructure of America. Too much money is going to lawyers instead of bridges, libraries, schools, highways, and other elements of a vibrant society.
    a. I sense that the outlay for lawyers and accountants compared to a century ago is a much greater percentage of all expenditures. Can you see why our buildings were so much better then? A post office of 50 or 70 years ago was stone, and today it is a trailer. Our public funds are greatly misused for litigation.
    b. Just recently I read in the local paper that a ruling said our county had to pay $7.3 million to six men who sued because they were strip-searched after their arrests. What a waste of money!

2. Only let lawyers run for office within the judicial branch. Eliminate the possibility of lawyers being part of the legislative branch and crafting confusing laws that foster expanded work in their profession. Too many laws are not clearly written.
    a. We got rid of job featherbedding on railroads. We should get rid of it in this job category now.
3. Make lawyers submit bids on cases. Only pay for results instead of time. Why should a lawyer get $150 per hour or more to read and write letters or talk on the phone to other lawyers? A lawyer is too often a clerk rather than a knowledgeable resource. The lawyer bills clients as they do research and learn about an issue.
    a. They should have answers based on knowledge from their education and research with an issue. They should tell clients what statutes are involved before taking a case to show they can handle the issue.
4. Write legislation that breaks the procedural grip that lawyers have on our legal system.
    a. The rules of operation in the legal arena cleverly preclude a bright person from participating in legal processes. Due to the complexity of the procedures in our legal system, we often end up paying primarily for navigation of the procedural complications. Let's simplify the procedures.

We can simplify the process in various ways as follows:

1. Simplify most legal processes with do-it-yourself kits.
    a. If we do this, there will be far less need for lawyers to be involved in many issues.
    b. NOTE: QUICKEN software attempted to do this for the writing of wills, and the lawyers modified the laws to foil this effort to make it simpler.
2. Have Judges be much more specific about what facts are required to remedy a wrong.
    a. Most people will provide more clearly what is needed more quickly than lawyers especially if fines are levied on lawyers and clients.
3. Remove the ambiguity in our statutes.
    a. The application of our laws would be far simpler. The waste of time in arguing the semantics and interpretations would fade to very rare occasions.

The time saved and the speeding up of the trials would be substantial. The money saved would be enormous. It could be redirected to real improvements in our society.

If Courts issued more compelling orders to litigants about compliance with clearer statutes, we would have less dawdling and more responsiveness.

Lastly and most important of all - the idea of seeking justice would be embraced more completely. Truth and honesty would be given a chance to return to the system.

Thoughts about Flaws Being Fixed

Realism and pragmatism tell me lawyers will never give us the keys to their playpen.

Do-it-yourself kits are my DREAM. It will be a cold day in Hell before these flaws are fixed.

Since a swift remedy to these situations is not likely to be accomplished, I next want to share what we learned about spotting a PONZI scheme.

I was able to convince our local newspaper to write an article to help people avoid doing what we did. See exhibit 4 in the appendix. Instead of getting tricked by devious persons, I recommend you ask the following questions when an investment opportunity arises:

1. Are the securities, notes, & others registered with the State?
2. Are the investment advisors registered properly?
3. Is there a pro-forma financial statement available?
4. Can you afford to lose what you invest?

NOTE: I only considered the fourth item when we invested with the Schroeders on 10/4/1996.

Final Thoughts

In 2004 my retirement savings were greatly decreased. Did I do it to myself by investing in the Schroeder-McCormick PONZI? Not really because we were about $10,000 on the plus side when the Consent Order was issued in June 1998.

We paid taxes on the $102,000 of interest paid to us, and we had outstanding notes of $92,000 owed to us by Mata/KI Digital and Macrophage in September 1998. Our position was slightly positive.

The legal system did us more harm than our investments in a Ponzi scheme.

We suffered from attorney lies and illegal maneuvers to the extent of $65,000. That was comprised of $45,000 paid to the Macrophage case trustee and $20,000 in attorney fees.

With our gain of $10,000 from the PONZI scheme plus $15,000 from the IRS (taxes returned from reduced investment gains); we were down $40,000 instead of $65,000.

If I ever could recover the $17,421 judgment against the Schroeders, we would have a negative position of about $22,579. Right now it is $40,000. That is the amount the judgment should have been.

Had we not been able to battle the false and exaggerated claims by Sneaky Steve Warner and Joltin Joe Marchand of us having a net gain of $174,121, I shudder to think what the legal system would have done to us.

The Schroeders may have paid their $5,000 fine. I do not know. There has been no indication that they paid a cent in restitution.

The "rule of law" made the wrongdoers (the Schroeders) pay $5,000 and caused victims like us to be out $40,000. What is wrong with this system? Got any ideas?

The Schroeders had a $443,114.63 balance in a bank account at PNC bank on 10/31/98. That is $443 thousand that never was returned to the investors!

At the end of October 1998, they owned a 5-bedroom beachfront property at 5335 Central Avenue in Ocean City, NJ. A realtor estimated he could sell their beachfront half of a duplex for at least $850,000 at that time.

Remember, they hired Bad Bill Levy in September 1998 and delayed the bankruptcy filing until May of 2001.

Sometime prior to filing for “protection” against creditors with their bankruptcy petitions on May 4, 2001, they managed to put the beachfront property back into the ownership of Kathy Schroeder’s parents.

During 1999 the Schroeders enjoyed a leased luxury box at the Flyers games. In 1999 they paid about $300,000 to their attorney Bad Bill Levy according to a letter sent to case trustee McMakin.

Attorney Say-No John Hargrave claimed they never paid him. Section 9 of the Schroeder petition statement of financial condition shows $16,721 was paid to him. More lies by an attorney!

If the ruling on my motion not to discharge the $40,000 debt had been less than $2,500, Say-No John planned to sue me to recover all of his fees for representing the Schroeders in that case. He based it on a bankruptcy rule 7068 (aka rule 68) regarding a failure to respond to an offer to settle a judgment. They made an offer of $2,500, and I was seeking $40,000 that was fraudulently taken from my IRA by Bill Schroeder. $1,614 was the initial ruling by the Judge.

OPINION BY JUDGE BURNS – March 29, 2006

While Mr. Yarnall believed he was receiving interest on his investment, he was, in fact, receiving a portion of others’ investments as part of a Ponzi scheme.

As the parties acknowledge, no profits were actually being earned on the funds he invested with the debtors.

At the end of 1997, Mr. Yarnall requested and received all of the funds the Schroeders owed him. That encompassed all of his principal investments plus $38,386 which had been characterized as interest. **MY NOTE:** They were Mata debts; not Schroeder debts!

It would be inequitable for Mr. Yarnall to profit from these distributions in addition to [a] return of his investment, and not credit those amounts to that which he did not recover. Having credited $38,386 received by Mr. Yarnall to the amount he lost ($40,000), there remains a balance of $1,614.00.

This is the amount of the debt owed to him by the debtors and is the amount determined to be nondischargeable.

A brief submitted by Say-No John Hargrave or his assistant Nubie Bob Wright prompted the following omissions in her logic. These important facts were ignored:

1. My company's 6% Mata note for $17,000 was not repaid, so the loss was $57,000; not $40,000
2. My wife's 6% Mata note for $10,600 was not repaid, so the loss was $67,600; not $40,000
3. Interest from my IRA's investment in two 6% Mata notes for $60,000 was $22,922; not $38,386

My motion to reconsider resulted in an increased judgment of $17,421. **There are other moments I could share, but I think it is clear that our legal system is flawed. The "rule of law" is a hoax.**

The Schroeders' high school friend, Chuck McCormick, pleaded guilty to theft by deception. He was sentenced to eight years on 2/2/2001 and served 18 months. He had to surrender his $418,000 house that he bought with cash. We were never told where the proceeds from that property went. The "rule of law" apparently does not require injured parties to be told.

Chuck no longer has his luxury box at The First Union Center. His thefts amounted to about $11 million. He did not murder anyone, but he ruined over 1000 lives.

His brother Kevin was sentenced to one year and served about three months. I am not aware of either brother paying any restitution to anyone.

Too many parts of the "rule of law" (our legal system) are a hoax. There is too much deception, pretense, and chicanery taking place.

Please note that I have not touched on the illegal immigration issues that our lawmakers ignore.

There are other examples of a badly broken "rule of law" in our daily lives. The "legal farce" of Comey's recommendation in the Clinton email situation and the many voting irregularities are two. They provide more evidence of our legal system being a hoax.

I have great doubts that much will change especially after watching the antics by the Democrat members of the Senate Judiciary Committee with the Kavanaugh hearings!

We have serious legal system flaws because of poorly written laws and unethical behavior by too many officers of the court.

Survey Time

I have a survey for you.

Select one of three possible choices why the Macrophage bankruptcy petition was not dismissed.

1. Tom Yarnall lacked persuasive skills and was not aware of certain laws
2. Unclear laws, procedures, and rules need to be modified because they allow too much loose interpretation and devious arguments to be applied
3. Many attorneys and courts do not care about false statements in bankruptcy petitions, and that allows the misuse of laws and misstated fact patterns – aka deception, pretense, and chicanery

If you picked number one, there is ample evidence to support this view, and he might be all the wiser for it now.

If you picked number two, let your Congressperson and the Director of the US Trustee Program know.

If you picked number three, you probably read, understood, and remembered the content of exhibit 12.

Appendix Table of Contents

Exhibit 1

Consent Order

As you review this document, it is important to be aware of the relationship of the people who were soliciting funds for KI Digital. They acted as agents as shown in the diagram on page 34. It is important to determine if agents are affiliates because “affiliates” is the term frequently used in this document. It is also important to know that promissory notes are securities according to **NJSA 49:3-49 (2m).**

Peter Verniero
ATTORNEY GENERAL OF NEW JERSEY
By: John P. Miscione
Deputy Attorney General
124 Halsey Street-5th Floor
P.O. Box 45029
Newark, New Jersey 07101
(973) 648-4604

SUPERIOR COURT OF NEW JERSEY
CHANCERY DIVISION-GENERAL EQUITY
COUNTY OF ESSEX
DOCKET NO C-153-98

PETER VERNIERO,
ATTORNEY GENERAL OF NEW JERSEY
ON BEHALF OF
FRANKLIN L WIDMANN, CHIEF OF THE
NEW JERSEY BUREAU OF SECURITIES Civil Action
Plaintiff,

CONSENT ORDER APPOINTING RECEIVER

KI DIGITAL, INC.
MATA SERVICES, INC.,
CHARLES McCORMICK,
and
JOHN AND JANE DOE (fictitious names for persons who solicited investments in MATA SERVICES, INC. and/or KI DIGITAL, INC.)
Defendants.

This matter having been presented to the Court on the joint application of Peter Verniero, Attorney General of New Jersey (John P. Miscione, Deputy Attorney General, appearing), on behalf of Franklin L. Widmann, Chief of the New Jersey Bureau of Securities ("Bureau"), and Kevin M. Hart of Stark & Stark, P.C appearing on behalf of defendants KI Digital, Inc., MATA Services, Inc., Charles McCormick, and John and Jane Doe ("collectively referred to as KI Digital"); and the parties having agreed and consented to the entry and issuance of certain controls and restraints to be imposed upon KI Digital; and the parties desiring to maintain the status quo and **protect the interests of the investing public** during the pendency of this action; same controls and restraints being without prejudice to any claims, rights, allegations or defenses that may be asserted by either party in this action; and

IT IS hereby ORDERED on this **19th day of June 1998** that:

1. all persons as defined in N.J.S.A 49:3-49(i), are enjoined from, directly or indirectly, selling or purchasing securities of KI Digital, its successors, subsidiaries and affiliates in, from or within New Jersey unless and until **such securities are registered with the Bureau** or an exemption from registration has been granted by the Bureau;
2. KI Digital, its successors, subsidiaries and affiliates, their officers, directors, shareholders, employees and **agents** and all persons who receive actual or constructive notice of this order are enjoined from, directly or indirectly:

(i) employing unregistered **agents** in, from or within New Jersey;
(ii) acting as **agents** unless and until they are registered with the Bureau in that capacity;
(iii) permitting any individual or entity to offer, sell or purchase its securities in, from or within New Jersey;
(iv) issuing, offering, selling or purchasing any securities in, from or within New Jersey, unless and until such securities are registered with the Bureau or an exemption from registration has been granted by the Bureau;
(v) employing any device, scheme or artifice to defraud; making any untrue statement of material fact; engaging in any act, practice or course of business which operates or would operate as a fraud or deceit upon any person; and
(vi) in any other manner, violating the Law;

3. KI Digital, its successors, subsidiaries and affiliates, their officers, directors, shareholders, employees and all persons who receive actual or constructive notice of this order are enjoined from disposing of, transferring selling, dissipating, or encumbering any asset except that they may pay ordinary and necessary business expenses which have been approved in advance by the receiver described below;

4. KI Digital, its successors, subsidiaries and affiliates, their officers, directors, shareholders, employees and **agents** and all persons who receive actual or constructive notice of this order are enjoined from destroying or concealing any books, records and documents relating in any way to the business and affairs of KI Digital, its successors, subsidiaries or affiliates.

5. Robert G. Stevens, having offices at Madison, NJ, is **appointed receiver**, to serve without bond, who will:

(i) immediately undertake all actions necessary or appropriate to **preserve the assets of KI Digital**, its successors, subsidiaries and affiliates, and to insure, insofar as possible the commercial viability of the enterprises and activities in which they are engaged, such actions to include, without limitation, reviewing and approving all cash receipts and disbursements and all obligations and agreements;

(ii) review the business and affairs of KI Digital its successors, subsidiaries and affiliates, their officers, directors, shareholders, employees, **agents**, attorneys and representatives in whatever capacity they may have acted or are acting, such review to include, without limitation, performing an audit of all books and records and obtaining appraisals of all property and equipment in order to **report to the Court, within 90 days of the date of this order**, as to whether, in the receiver's opinion:

(a) the enterprises and activities engaged in by KI Digital, its successors, subsidiaries and affiliates, are able to continue as going concerns; and

(b) those enterprises and activities should be reorganized and, if so, to recommend to the Court a plan of reorganization;

(c) KI Digital, its successors, subsidiaries and affiliates, should be liquidated and the duties of the receiver expanded, as specified below, pursuant to N.J.S.A 49:3-69, **for the purpose of returning monies to all persons to whom any securities of KI Digital its successors, subsidiaries or affiliates were offered, issued or sold in violation of the Law.**

6. The receiver is granted the power and authority, in order to carry out the duties described above, to hire accounts, appraisers and such other persons whose services he deems necessary or appropriate, including, the power and authority to retain an attorney with the consent of the Court and the Attorney General, and including the power and authority to apply to the Court, after notice to all parties, for such additional power and authority he deems necessary.

7. The **receiver is to be compensated** out of the estate of KI Digital, its successors, subsidiaries and affiliates and his fees approved by the court;
8. In the event that, the receiver determines that KI Digital, its successors, subsidiaries, and affiliates should be liquidated, the receiver shall make application to the Court, with notice to the Attorney General and KI Digital, to expand the scope of his duties pursuant to N.J.S.A 49:3-69, and N.J.S.A 14A:14-2 et.seq.
9. The receiver may at any time be removed by this Court for cause and replaced by a successor with approval of the Attorney General and notice to KI Digital; for cause and replaced by a successor with the approval of the Attorney General and notice to KI Digital;
10. in the event the receiver wishes to resign, he shall give written notice to this Court, the Attorney General, and KI Digital of his intention and that his resignation shall not become effective until this Court has appointed a successor with the approval of the Attorney General;
11. the receiver is to be **held harmless** from and against any liabilities, including costs and expenses of defending claims for which he may become liable or incur by reason of any act or omission to act in the course of performing his duties, except upon finding by this Court of gross negligence or willful failure of the receiver to comply with the terms of this or any other order of this Court, irrespective of the time when such are filed.

By:	By:
Kevin M. Hart, Esq.	John P. Miscione,
Stark & Stark, P.C.	**Deputy Attorney General**
Date: June 17, 1998	**Date: June 17, 1998**

Exhibit 2

Receiver's Report

Throughout this document, the receiver uses the term **factoring**. He was fooled by the debtors. The transactions were not factoring transactions. His 23 pages are condensed into 10 with revised spacing, excerpting, and narrowed pages. I have inserted comments where the Receiver did not state something accurately in his report. He was required to submit a report within 90 days of the date (6/19/1998) of the Consent Order.

Cover Page
SUPERIOR COURT OF NEW JERSEY
CHANCERY DIVISION
COUNTY OF ESSEX
DOCKET NOC-153-98
Civil Action
PETER VERNIERO
ATTORNEY GENERAL OF NEW JERSEY
on behalf of
FRANKLIN L WIDMANN, CHIEF OF THE
NEW JERSEY BUREAU OF SECURITIES
Plaintiffs,
vs
KI DIGITAL, INC.
MATA SERVICES, INC.,
CHARLES McCORMICK, and
JOHN AND JANE DOE (fictitious names for persons who solicited investments in MATA SERVICES, INC and/or KI DIGITAL, INC.)
Defendants
REPORT OF ROBERT G STEVENS, RECEIVER,
TO THE HON HARRY A MARGOLIS
Page 1
REPORT OF ROBERT G STEVENS RECEIVER
PROCEDURAL STATEMENT
On June 19, 1998, the Attorney General of the State of New Jersey filed a Verified Complaint on behalf of Franklin L. Widman, Chief of the New Jersey Bureau of Securities (Bureau), against KI Digital, Inc., Mata Services, Inc., Charles McCormick and John and Jane Doe. This Complaint alleged numerous violations of the Uniform Securities Law, including the Offering and Selling Unregistered Securities in violation of N.J.S.A 49:3-60; Employing Unregistered Agents in violation of N.J.S.A 49:3-56(b); Acting as Agents without Registration by the Bureau in violation of N.J.S.A 49:3-56(a) and Omitting Facts That Were Necessary To Make Statements In Connection With These Offerings Not Misleading in violation of N.J.S.A 49:3-52(b). The Complaint requested various reliefs, including enjoining the above conduct and persons acting on behalf of the defendants until and unless the laws and regulations applied to such conduct are met. The Complaint further requested the appointment of a Receiver (custodial) to oversee the affairs of KI Digital, Inc., its successors, subsidiaries and affiliates.

A joint application was submitted by the Plaintiff and Defendants to the Court requesting the entry of the Order which among other things, appointed a Receiver for KI Digital, Inc. Defendants consented to the entry of the relief

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sought by the Attorney General in the Complaint, and all parties requested that the Court take the necessary actions specified in the statutes, preclude the practices and conduct which the Defendants were alleged to have committed, direct that they comply with all statutes, rules and regulations and appoint a Receiver. The Court executed this Consent Order on June 19, 1998. The Consent Order entered by the Court appointed Robert G. Stevens, Esq. as the Receiver. As a result, I was authorized to act on behalf of the Defendants and specifically to undertake the following actions:

1. Preserve the assets of KI Digital, its successors, subsidiaries and affiliates, review and approve all cash receipts and disbursements and all existing and prepared contracts, obligations and agreements.
2 Review the business and affairs of KI Digital, its successors, subsidiaries and affiliates, officers, directors, shareholders, employees, **agents**, attorneys, and representatives and perform an audit of all banks and records and obtain appraisals of all property and equipment.
3. Prepare a report to the Court, which report should address whether:
    a. The business activities by KI Digital, Inc. are able to continue as going concerns;
    b. The activities of KI Digital, Inc. should be reorganized;
    c. KI Digital, Inc. should be liquidated.

Consistent with the Consent Order entered by the Court and the power and authority vested in me as Receiver, I immediately held a meeting with Counsel and the officers of KI Digital, Inc. This and subsequent meetings were often attended by Counsel for the Defendants and by one or more

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representatives of the Bureau. At the initial conferences, the financial books and records of KI Digital, Inc. and its subsidiaries were reviewed and examined, all bank accounts were identified and secured, the assets of the Company examined, the cash receipts and accounts receivable were reviewed and all contracts and potential contracts were discussed. It was agreed that consistent with the Consent Order, no disbursements of any nature and no agreements and/or contracts, formal or informal, would be entered without my review and approval. In addition, all actions on behalf of KI Digital, Inc. or any of its subsidiaries, even if not financial in nature, would be brought to my attention.

It's noteworthy to state that the Defendants, their agents and employees have generally cooperated from the inception of the Bureau's investigation. I have been informed that they cooperated in seeking a resolution of the legal issues raised by the Bureau which resulted in the filing of the Verified Complaint and as evidenced by the entry of the Consent Judgment. As such and as stated in the Brief of the Attorney General in support of the joint application to the Court, the "Defendants have concurred in the formulation of the general relief which the Bureau deems statutorily appropriate." See Brief of the Attorney General, at page 10. In addition, the

Defendants and the officers of the companies with whom I have met and dealt since my appointment as Receiver have generally been cooperative with me in my duties and in my requests and directives. Certain problems that have occurred will be addressed and discussed below in this Report.

It is important to note that in carrying out my duties and responsibilities as the Receiver, I have not acted as a Special Prosecutor nor as

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an agent of the Attorney General or the Bureau even though numerous joint conferences were held and records and documents exchanged. In addition, although I have exercised financial and other control over KI Digital, Inc. and its subsidiaries and affiliates, in most instances I have not substituted my business judgment over those of its officers when technical decisions had to be made. The business of the companies is extremely sophisticated and requires an expertise that I do not possess and I did not want to make decisions that might not be in the companies' or the investors' best interests. Accordingly, in those areas I have deferred to the Defendants' recommendations and have given my approval to those technical decisions on a case by case basis.

To assist me in my duties as Receiver, the firm of Alloy, Silverstein, Shapiro, Adams, Mulford and Co. (Alloy Silverstein), Certified Public Accountants, of Cherry Hill, New Jersey were retained to conduct an audit of the records of KI Digital, Inc. and its subsidiaries. This audit, under the direction of William B. Jones, CPA, had previously been engaged by Counsel to the Defendants prior to my appointment as Receiver, but subject to my approval. I immediately reviewed the firm's resume and qualifications, ascertained that it had never rendered services to any of the Defendants prior thereto and determined that the services to be provided, opinions to be given and recommendations to be made would be independent. Accordingly, I informed Mr. Jones that the audit should continue and that a report should be issued to me and to the Board of Directors of KI Digital, Inc. This audit and report will be discussed below but is not incorporated herein.

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KI DIGITAL INC.

It is important to recognize and understand the structure of KI Digital, Inc. and its affiliates and subsidiaries in order to evaluate properly the purposes of each and their continued viability. The Audit Report of Alloy, Silverstein reflects that there are significant accounting and financial problems and deficiencies throughout the several entities, each individual company being a wholly owned subsidiary of KI Digital, Inc. having an apparent purpose and objective, although not necessarily followed.

The parent corporation is known as KI Digital, Inc. and was incorporated in New Jersey in July 1996. At the time of its incorporation, it was known as Mata Services, Inc., (not to be confused with a subsidiary subsequently formed as Mata Services, LLC). The sole shareholder is Charles McCormick and KI Digital, Inc. has elected to be taxed as an S Corporation under the Internal Revenue Code. The promissory notes that are the subject of the Verified Complaint have been issued in the name of KI Digital, Inc. Its stated purpose is to distribute all assets and liabilities to applicable subsidiary companies. My review of the records reflects that the only direct business of KI Digital, Inc. is the computer resale transactions, **(<<<WRONG – it had subsidiaries involved in animation projects)** often referred to as "**factoring**" transactions.

Charles McCormick is the President and Chief Executive Officer of all subsidiaries to be described below.

KI Digital, LLC, formed in July 1997, is a Delaware Limited Liability Company and/is wholly owned by KI Digital, Inc. It has no independent operations and exists solely as the parent company of the operational limited

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liability companies that are discussed hereafter.

Iridium Interactive, LLC was formed as a New Jersey Limited Liability Company in January 1998 and is wholly owned by KI Digital, LLC. Its primary business is web site design and development and Interactive (new medium) Development, such as CD ROMS. Although originally established for the higher end web site design and development for sophisticated companies, its business now concentrates on all types of Website design and maintenance, previously done by other companies of KI Digital.

Film East, LLC was formed in July 1997. It is a Delaware Limited Liability Company and is wholly owned by KI Digital, LLC. It has several different centers of development mostly related to the motion picture industry and video medium. Its equipment permits it to provide special effects for television, movies and commercials, animation, broadcast services for television and motion capture. Film East utilizes most of the sophisticated equipment purchased from the proceeds of the sale of the permanent promissory notes of KI Digital, Inc. **(<<<WRONG – there were never any KI Digital notes – they were Mata notes)** This equipment includes the 3-D scanner, the whole body scanner, head scanner, the Milo camera and the Motion Capture equipment.

Screenworks, LLC was formed as a New Jersey Limited Liability Company in July 1997. It is 99% owned by KI Digital, LLC and 1% owned by Film East, LLC. It is a sales company for computer hardware and software and

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also provides consulting services, although it originally was established for Value Added Resales (VARs). It is attempting to enter the systems integration consulting services market for large companies such as banks which still utilize old mainframe computer systems. In essence, the equipment that Film Works, LLC (discussed above) uses, Screenworks sells to the entertainment industry and commercial businesses.

Mata Services, LLC was formed in July 1997 and is a Delaware Limited Liability Company, wholly owned by KI Digital, LLC. It was originally established to provide low end or less sophisticated website sales and internet advertising. That business is now mostly done by Iridium Interactive, LLC. As a practical matter, Mata Services, LLC is presently inactive and has no employees.

KI Management, LLC is a Delaware Limited Liability Company that was established in July 1997. It is 100% owned by KI Digital, LLC. Its sole purpose is to provide management services to the other subsidiaries of KI Digital, Inc. At present KI Management assumes all expenses and liabilities of the other companies and has no independent income.

In addition to the history of the several companies and their formation as set forth herein, it is to be noted that prior to the establishing of Mata Services, Inc. (now KI Digital, Inc.) in 1996, Charles McCormick had operated as a sole proprietorship under the name of Mata Services. When it was

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incorporated in July 1996 there was an improper financial recordation of the transactions occurring prior and subsequent to the incorporation, thereby creating significant accounting problems that continue to date. In addition it is apparent that the assets of the sole proprietorship were transferred in bulk to the newly created corporation but the documentation is incomplete and it cannot be determined how these assets were recorded. There is no record of any liabilities being transferred. This lack of proper accounting continued for almost two years, making any type of Certified Audit of KI Digital, Inc. impossible.

INVESTORS NOTES

It has been determined that there are two types of promissory notes issued to investors by KI Digital, Inc. **(<<<WRONG – Mata Services issued these notes)** The first type are short term personal notes pertaining to the sale and resale of computers, hereafter referred to as the "**factoring business**". **(<<<IMPROPER USE OF TERM – No discounted accounts receivable were purchased for collection)** This appears to be the original business of Charles McCormick when he operated under the name of Mata Services.

The second type of promissory note issued by KI Digital **(<<<WRONG – Mata Services issued these notes)** are the "permanent" notes in the businesses described above, which proceeds have been the main source of revenue for the companies. It appears that many of the note holders in the factoring business have also invested in these KI Digital permanent notes. The interest rate varies but generally exceed fifty *(50%)* percent on an annual basis. It was the issuance of the business permanent notes to investors that precipitated the Bureau's investigation and the instant litigation. These notes were not registered nor were they exempt from

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registration and, with the other violations of the New Jersey Securities Law, resulted in the entering of the Consent Order. No known sales or offers of sale of these permanent notes have occurred subsequent to the entry of the Consent Order or to my appointment as Receiver.

As repeatedly emphasized in the audit conducted by Alloy, Silverstein, there was a lack of internal financial controls in the companies that resulted in an inadequate recording of cash receipts. This has resulted in an inability to determine the amount of funds received from investors from either type of promissory notes. **(Grammar?)** Receipts of funds received from the notes were often not recorded or even deposited in any of the companies' bank accounts but were often endorsed and given directly to third parties for payment of expenses or repayment of loans. As stated in the audit, cash received "could have been diverted for unauthorized uses, lost or otherwise not properly recorded." The balance sheet accounts of KI Digital, Inc. reflect "Loans Payable-Permanent Investors" as of December 31, 1997 to be $14,353,337.00 and "Loans Payable-**Factoring** Investors" as of December 31, 1997 to be $3,458,253.00. The audit, however, could not confirm the accuracy of these amounts or whether they include interest earned on the monies invested.

The notes relating to the **factoring** business/computer resales transactions were initially believed not to be applicable to the prohibitions in the Consent Order signed by the Court on June 19, 1998. However, as a result of my review of records of KI Digital, Inc. interviews conducted of employees and third parties and an absence of or failure to provide information that I had requested, it was soon determined that the

factoring business transactions
Page 10
also violated the Securities Laws and the Court Order. As such, **on August 12, 1998, I ordered, with the concurrence of Counsel for the Defendants and the Bureau that no additional promissory notes of any type were to be issued by KI Digital, Inc., its subsidiaries or affiliates.**

At that time it was represented to me that two **factoring** transactions were outstanding. **(WRONG - these were Macrophage notes; not KI Digital notes)** The first was dated July 7, 1998 with a return date of August 17-19, 1998. The documentation which I reviewed reflected a return to investors of 16.5% with approximately $1,165,388.00 invested. However, this amount may not be accurate due to incomplete records turned over to me.

The second transaction had a factoring date of August 3, 1998 and a return to investors of 17.5%. **(<<<WRONG – See question on page 45)** It was represented that the return date was on or about September 15, 1998. The records provided to me reflected over $1,133,000.00 invested. These records may also be incomplete or inaccurate.

It is to be emphasized that the **factoring business** of KI Digital, Inc. raises funds for the sale/resale of computers by the issuance of promissory notes. As explained to me, these computers are never owned nor possessed by KI Digital, Inc. **An itemized list of the types of computers involved is provided to investors. (UNTRUE) Unknown and unidentified third parties make the sales and pay the investors directly** (**UNTRUE) when the sales are completed.** Based upon these facts, it cannot be determined at this time whether these transactions are legitimate or that even the computers are bought and sold.

Based upon **discussions held on August 12, 1998,** it was determined that the proceeds due to KI Digital, Inc from the July 7, 1998 transaction would be deposited into a special bank account at the Commerce Bank under my
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exclusive control. Since it was represented to me that the proceeds to the investors from these transactions are sent directly to them by third parties and are not forwarded to KI Digital, Inc. or a subsidiary, it was not possible to obtain control of those funds due to the timing. **However, all proceeds, due to KI Digital and the investors, from the second transaction in September 1998 are to be sent to me at KI Digital for deposit into the above referenced account at the Commerce Bank.**

As of this time the amount that has been deposited in this account from the first transactions is approximately $221,000.00 **I anticipate from my review of the records provided to me on the second transaction that over $1,000,000.00 will be deposited by the end of September 1998.**

It has been projected that the profit to KI Digital, Inc. on the **factoring** business through December 1998 will be approximately $1,100,000.00. This amount is exclusive of the investors funds that are to be received by me on the **second transaction**,
Pages 12, 13, 14, and 15 are removed. They contained incomplete information about the following:
ASSETS and EQUIPMENT
AUDIT REPORT
CASH RECEIPTS and ACCOUNTS RECEIVABLES
CURRENT LIABILITIES and EXPENSES

This is only part of Page 16

PROJECTED EXPENSES AND REVENUES

The amount of funds in several bank accounts of the companies is approximately $1.2 million. This does not include monies from the **factoring business** in the special accounts.

Shortly after my review of the financial books and records of the companies and my discussions with William Jones, CPA of Alloy, Silverstein regarding his findings, I requested that a formal schedule be prepared that would set forth the contracts that were in progress from which actual revenues would be generated. I further requested information on the status of the proposals and negotiations in progress and other areas that were being targeted for future business.

A document was provided to me on July 29, 1998. This document

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reflected a list of contracts that had been executed and work that was in progress, a list of outstanding proposals and a list of companies targeted for future business. The executed contracts on July 29 for Iridium Interactive, Film East and Screenworks amounted to $96,998.00. This is broken down by company as follows:

Company	Amount
Iridium Interactive	$20,148.00
Film East	$76,400.00
Screenworks	$450.00
Total	$96,998.00

Most of the revenues from these contracts were previously included in the cash receipts and/or accounts receivable schedule for the period ending August 31, 1998 that appears on page 14 of this Report.

The proposals, that is those matters that were represented to be under formal negotiation but not yet executed contracts create a more problematic situation and is somewhat deceptive. Although the projected contract amounts as reflected total approximately $1,869,000.00, $1.5 million of that amount pertains to negotiations with Golf Magazine on which little progress has been made. Of the remaining proposals, several contracts have been executed, but in some instances in an amount less than anticipated. It is estimated at this time approximately $50,000.00 in additional revenue will be generated from signed contracts on the proposal list. The remaining proposals are in negotiations in various stages.

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Aside from the above referenced schedule of "Projected Revenue" that I had specifically requested, which is in actuality a "wish list" of possible areas that may produce future business, no document exists that in any way establishes a business plan for the future of KI Digital, Inc. and its operating companies. Several requests were made that I be provided with a plan to assist in my review of the companies and for incorporation in this Report. None has been forthcoming although I believe one is being prepared.

Notwithstanding the lack of any formal plan that would address the problems which threaten the continued existence of KI Digital, Inc., I have been made aware of some possible contracts which may generate significant revenues, one of which involves construction in a foreign country. In fact, in August l998 I attended a meeting at which the proposed contract was discussed in detail. It is proposed that Film East, LLC would enter into a subcontract for the telecommunications part of an infrastructure contract.

I was informed at that meeting that a business plan was being finalized that would detail the provisions of the Film East contract, the timing and the projected costs and revenues to be generated. However, although I have been provided continual oral updates, no business plan or proposed contract has been produced for my review. As a result, I am unaware of the potential revenues and the extent of start-up costs that may be required for the project, if it even materializes.

In a similar fashion as previously stated, the high technology equipment has produced little revenues to the companies. While future contracts that would generate revenues commensurate with their costs are always a

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possibility, as presently operated this possibility is not high enough to sustain the companies in their present structure.

In order to improve the visibility of some of this equipment, I have authorized the transfer of the body scanner to Los Angeles, California where its potential can be better realized. The head scanner, presently located in Marlton at the KI Digital offices, is also being sent to California for the same purpose.

KI DIGITAL.INC- FUTURE

This Report has taken into consideration all pertinent financial data from the books, records, bank accounts, the Alloy Silverstein audit and other information that is relevant to KI Digital, Inc., its subsidiary and operating companies. It is important to note that the companies own significant and highly technological equipment which if utilized in the proper manner and in the proper market can generate significant revenues. However, notwithstanding the quality of this equipment, it is difficult to compete with the larger companies in the industry and become known with the location of the office, staff and equipment in Marlton, New Jersey. While the Company can be marketed in the usual places and the staff can attend conventions and shows, the real activity that will generate real revenues to support KI Digital is far away. This is the reason for sending the scanners to Hollywood. They simply are not being utilized in New Jersey and are generating no funds.

In addition, the staff is well qualified and well recognized. However, no matter how highly dedicated, they must be challenged so that the product

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that is being generated can reach new and innovative levels in the industry with new ideas. If the Company cannot go to California or elsewhere, then the staff must be creative in new areas so that the clients will come to Marlton to seek out this innovative company with the "state-of-the-art" technology. This is not being accomplished and based upon its financial condition; KI Digital, Inc. cannot wait to be discovered.

Compounding the problem is the much discussed financial condition which places the existence of the companies **in danger of insolvency**. Due to the lack of revenues as set forth herein there is a significant deficit that can only be remedied by an extraordinary action, such as bringing in outside funding and/or **offering a proposal wherein the noteholders would be offered a buy-out of their interests** or be given an equity interest in KI Digital, Inc. However, without a business plan of operation that would necessitate a restructuring of the companies, there is little incentive for the noteholders to do so although as a practical matter such a proposal may provide a greater return of their investment.

As clearly set forth in the Alloy, Silverstein report, KI Digital cannot remain solvent due to its significant operating deficits and liabilities, the inadequate revenue projections, its investment in assets with little revenue return and its overhead and fixed costs. It is essential that a realistic budget be prepared with an operating business plan that would result in a corporate restructuring. The **factoring businesses** which were KI Digital's largest source of revenues have ended. Its only hope of survival is to generate revenues from its strongest areas of business and to deal directly with its main creditors, the note

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holders.

RECOMMENDATIONS

It is undisputed that KI Digital, Inc. has significant financial problems and its existence as an operating company cannot be sustained. This is reflected in the summary of the assets and liabilities, expenses and revenues in this Report. As a result, it would appear that the recommendation be made consistent with the June 19, 1998 Consent Order that the Corporation cease operations and that liquidation be ordered. **However, it is not my recommendation that this drastic and final step be taken at this time.**

While it is my opinion that KI Digital, Inc. cannot survive for more than a year, I have been informed that its management intends to submit a proposal that will provide a solution to some of the problems directly confronting it. It is my understanding that such a proposal would in part be directed to the noteholders and would address the "Notes-Payable" liabilities and at the same time would result in new funding sources, giving some relief from the liabilities and providing KI Digital, Inc. with monies to supplement its revenues. In addition, there are several negotiations and proposals that are pending that may result in monies that will enhance the value of the Company. These efforts, however, even if successful will not justify the viability of KI Digital, Inc. until and unless a thorough business plan is prepared and implemented, which plan may demand a company restructuring and a change of ownership and management. The present operational approach must be revised and the business reorganized.

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Accordingly, I believe that the following should be ordered:

1. The Defendants will be given 120 days to continue the business operations of KI Digital, Inc., its subsidiaries and affiliates
2. During this period all restraints contained in the Court's June 19, 1998 Consent Order remain in effect.
3. The Defendants are to prepare a Business Plan which should address the liabilities to the note holders, the generation of additional revenues, accounting deficiencies, the restructuring of the Company, excessive expenses and the infusion of new capital.
4. This Business Plan should be submitted to the Receiver not later than 90 days thereafter the Receiver should make a recommendation to the Court not later than 30 days after the receipt of the Business Plan.
5. At any time within the 120 day period referenced above the Receiver may make Application to the Court to liquidate the Company or request other relief if he believes it to be appropriate and warranted.

While the above recommendation may be viewed as delaying an inevitable decision that KI Digital, Inc. may never be a viable company, it allows additional time for potential contracts to be finalized and for the Company's management to submit a plan for reorganization and survival. As set forth above, although the procedures utilized in the raising of capital by

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the issuance of promissory notes were illegal, the Company itself and its businesses are legitimate. As such, I believe that an established and limited period of continued existence with specific requirements to be set by the Court is appropriate.
Respectfully submitted,
Robert G. Stevens, Esq.

Exhibit 3A

Margolis Letter

October 17, 1998

Judge Harry A. Margolis
153 Halsey Street
Newark, NJ 07101
Dear Judge Margolis,

This letter is to thank you for the copy of the receiver's report on KI Digital, Inc.
I read the report. I visited with the CEO and the CFO of KI Digital. I want to challenge the recommendation of the receiver. I need to know how to discuss this with you.

Yesterday I was told that the receiver, Robert G. Stevens, feels noteholders should not have received a copy of the report. After reading the report, I can see why he would be embarrassed or reluctant for any note holder to see the report. It does not reflect a diligent effort to conserve the assets for the noteholders. I was led to understand such is the responsibility of a court-appointed receiver.

The fact that there is no balance sheet or profit and loss statement included in the report makes it impossible for the court to render an opinion on the receiver's recommendation. There should have been a record of the cash flow for every month of operation also included to reflect a trend of the financial health of the company to help the court to make a proper decision to conserve the assets for the noteholders. If the receiver was experiencing difficulty obtaining this information the court should have ordered the company to produce it immediately and indicate the officers would be subject to fines and other punishments if there were any delays or any failure to cooperate fully.

There is no list of the executed contracts or a list of contracts in negotiation with revenue for each shown. Therefore this additional lack of information for the court hinders the ability of the court to render a proper decision on the receiver's recommendation.

The justification included in the report for the decision to move the body scanner to a new location was speculative. There is no rationale to substantiate the claim that New Jersey is not a good location for the body scanner. I can show the court there is a market in the local area that could easily generate at least $1000 per day just for specialty scanning for retail uses. That would be double the hurdle rate for the unit. It might also exceed many of the past months' income from the body scanner.

Finally, I am now aware of the inadequacy of the officers to respond to the business plan recommendation of the receiver. Based on the results of a meeting with the CEO and the CFO, I am positive they are not able to assemble a business plan. They are not even aware of what should be in a business plan and have not begun to assemble the business plan 30 days after the receiver's report was completed.

Again I am grateful to you for your decision to release the report to noteholders. It has helped me a great deal to understand the situation better. It allowed me to take action based on being better informed. I am still perplexed by the attitude of the investigators and the receiver. It does not make any sense that the noteholders are kept in the dark regarding what is known about the company that has been assigned to them.

I have been pursuing every source of information to be able to make an informed decision about the situation. Last April the company and its agents were not forthcoming with information. In May 1998 the company refused to refund money that was requested by some of us. The funds were frozen by the state in June. The assets now are much less than the assets that existed in June. The state has not conserved assets or protected the noteholders. This extension of the receiver assignment is allowing the assets to be eroded even further. I object to the extension.

It is important for the court to be aware of the existence of some secret bank accounts too. I am disappointed that the receiver did not make such a determination and rectify it. I think a more diligent receiver would have been able to do that.

I can clarify and document any claims I have made in this letter in any meeting you and I can arrange. I am only including my phone number to enable us to set up a meeting. I will not discuss any of this over the phone. I prefer that the meeting is held at a mutually convenient place to reduce my travel time and expense.

I look forward to hearing from you.

Yours truly,
Thomas V. Yarnall, Jr.

Exhibit 3B

Miscione Letter

April 27, 1999
John P. Miscione
Deputy Attorney General of New Jersey
124 Halsey Street PO Box 45029
Newark, NJ 07101

Dear Mr. Miscione,

Thank you for alerting me about the time change for the hearing. If Bob Stevens had initiated a system to keep the noteholders informed as Judge Cohen had ordered him to do, I might have known about the change without your kindness.

Listening to the comments made at the hearing was another educational experience. I think I have learned that the judge will do very little that is not requested by you or the other lawyers when it comes to issuing an order from the court. Judge Cohen at least directed Kevin Hart to provide him a status of the progress of the contract between Film East and BQC without prompting from anyone. That should also be something Bob Stevens should let the noteholders know. We should not have to play telephone tag to be informed.

Your inquiry about the disposition of the monthly amount of $1,250,000 that will flow from BQC to Film East prompted Judge Cohen to direct Kevin Hart and Bob Stevens to clarify that. It would seem that 53% ($662,500) will go into an account for the noteholders and 47% ($587,500) will be applied to operations of Film East. They are the ratios of the contract of $15 million with $8 million for the noteholders as stated in the 2/10/99 Memo of Understanding.

You put five additional requests before Judge Cohen, and he virtually denied all but the third one. Your initial request was to carry the motion. He granted it. He did not really come up with any orders of any import.

Complete the claims list without a deadline! What a joke! That was a very weak directive. All Bob Stevens has to do to accomplish the task of getting the word out there will be a meeting of the noteholders, and he would have the claims list. I told him to do this months ago, but he has refused to do it. All the judge has to do is order the brokers (block captains) to submit their lists, but neither you nor Bob has asked him to issue such an order. It seems like you folks either do not think of the ways to get it done, or you are really not into resolving this situation in an expeditious manner.

Your other five requests:

1.	Stevens in charge of negotiations	Not granted
2.	Stevens be a trustee	Not granted
3.	Film East only use the $500,000	Fuzzy certification request
4.	Sell the body scanner	Fuzzy phrase of “encourage it to be done”
5.	Have financial records sent to Bureau	Fuzzy comment about what it will cost

I do not understand why Bob Stevens has not given you copies of Kurt Stroemel's financial reports ever since he started in his role of Receiver. It was rather disturbing that Bob Stevens had to estimate or guess at the monthly property leases expenditures. Assets are being dissipated contrary to what Kevin Hart said at the hearing! Bob Stevens says he is trying to conserve assets by not doing mailings to the note holders. The wasted salaries at Screen Works would cover the most extravagant mailing program easily.

Bob Stevens said he thinks KI Digital made a profit in January. Gary Passanante (former GM) said KI Digital lost $20,000 in January. I do not know who is correct, but this lack of insight and grasp of the facts does not bode well with regard to a person with "conserve the assets" responsibilities. Why doesn't the judge call him to task to be more specific? How much money has the scanner generated since last June? Bob Stevens should know that answer – without notes. Why is everyone so comfortable with vague generalities?

The bait and switch idea put forth by Kevin Hart in the Steiert trial claimed that Film East has no responsibility for any Mata obligations. Why doesn't Bob Stevens contest such a claim by Kevin Hart? All of this is scary for a note holder. No one has shown a real interest in the noteholders by really conserving assets. There has been too much "bafflegab" and too little meaningful action.

The Screen Works people seem to have been forgotten. The Milo equipment is used in their operation. Why didn't Stevens clarify that for the court or for you at the hearing? The Screen Works equipment should be sold, and their people should be terminated from employment. This is a squirrels' nest that Bob Stevens is not controlling well. The Iridium operation (formerly called Web Creations) was discontinued. I hasten to add that I told Bob Stevens the Iridium operation had potential. Gary Passanante took the contracts, contacts, and some of the people into his company and it is a profitable operation right now. Just another example of poorly conserving assets.

A list of tasks that BQC needs from Film East was never provided to the court as requested on February 11th. Kevin Hart was to supply that information by February 19, 1999, my notes reveal. When I asked Kevin why he did not provide this, he said his notes did not show it as a court directive. I gave you a note to ask about it at the 2/26/99 hearing, and you brushed my note aside. It is still not clarified. The new contract seems to call for only the provision of computing and communication equipment. There is no need for the Milo, body scanner, or any other motion capture tasks. None of the highly talented people are involved in any BQC contract existing or anticipated. Why didn't Bob Stevens make that clear at the hearing?

I am glad Bob Stevens was not put in charge of negotiations. I have not seen any indication that he is good enough at paying the required attention to details for such a responsibility. I am clueless about what kind of "conflict of interest" Bob Stevens would have if he were appointed a trustee for the funds that are to go to the noteholders from BQC. He has said he is virtually a trustee for the noteholders in his present capacity. I am glad the request was not granted. I think there are other people who could do that task much better. Are you aware of Bob Stevens' virtual confiscation of the funds he holds under his control for the noteholders of factoring notes payable on September 15, 1998? He has refused to give a copy of the report to those noteholders of the funds he has collected. I thought the rules of professional conduct required lawyers to provide an accounting of funds being held by them.

Bob Stevens has also dodged my questions over the last six months about plans for disbursing these funds. When he said to the judge he has thought about the plans to disburse funds; I almost laughed out loud. I have seen no indication of such thought. He must have meant that the idea crossed his mind that he would have to have a plan.

The judge does not even seem to have enough familiarity with this situation to follow-up on some orders the court has issued or needs to issue. The New Jersey Permanent Statutes Title 2C, section 29, paragraph 9 indicates a person is guilty of contempt if that person disobeys a judicial order.

The June 19, 1998 consent order of the court says Chuck McCormick, Kevin McCormick, Herb Effler, Bill Schroeder, and others should not be offering or issuing any securities. This is covered on pages 2 and 3. At the bottom of page 3, the consent order also says no one should dissipate any assets. On page 4, it says books or records should not be concealed. Chuck McCormick has done all three. What does it take to get a contempt charge from the court? Who has to do it? Is it you? Is it Bob Stevens?

There are over $8 million in funds being handled outside the company books on factoring deals. One deal was payable last September 30th. Geoff Steiert was trying to get those funds frozen. You and Bob Stevens seem to be very concerned about this attempt. It is someone trying to get at all of the money they are hiding from Bob Stevens. I do not think Geoff Steiert would have hired a lawyer to get at this money if Judge Cohen had ordered a freeze on such funds. I do not understand why you or Bob Stevens did not request him to issue such an order.

Why haven't you shut down the factoring operation? Why are they still offering and issuing notes? Who can prevent them from continuing to do this? Isn't this illegal? As late as last month factoring notes were still being illegally offered and issued. Review the testimony of Tom Mazur in the Steiert trial. Even in that trial, the defendants refused to comply when ordered by the court to provide all records. How do we get the court to get the defendants to provide the records we need to find out what happened to the $14,000,000 or more dollars? I think you and Bob Stevens must do it aggressively. It has not been pursued properly. I do not understand why.

I think I heard the judge say there was a meeting scheduled sometime in mid-May for all of you to review this situation. I do not know what that means, but I hope you will share my thoughts at that meeting with the others and reach some useful plan of attack to get this situation resolved.

Yours truly,
Thomas V. Yarnall, Jr.

In case the letter this too long or too confusing:
SUMMARY OF SUGGESTED ACTIONS EMBODIED IN LETTER

1. **Receiver must establish a system to keep note holders informed.**
    - Informed about contracts content and tasks involved in the contracts
    - Informed about Memo of Understanding intentions
    - Informed about funds being held on their behalf
    - Informed about hearing dates
    - Informed about steps taken to conserve assets
    - Informed about KI Digital monthly asset position since assigned as Receiver
    - \Informed about profitability or loss by any KI Digital business unit
    - Informed about what is owed to whom by KI Digital
    - Informed about disbursements to noteholders' plans
    - Informed about where the invested funds went
2. **Court must issue orders and follow-up on orders already issued**
    - Set a deadline for the compilation of the claims against KI Digital
    - Direct that the noteholders be invited to a meeting with the Receiver to establish the list
    - Direct that all brokers provide all records of any notes issued by them
    - Direct that all brokers provide all records of any checks written related to any notes transactions
    - Direct that those who violated the consent order be penalized according to law
        - ✓ For offering and issuing securities since June 19, 1998
        - ✓ For dissipating funds borrowed from not holders
        - ✓ For concealing any bank records of flow of note holder funds
    - Direct that all factoring activities stop
    - Direct that the list of tasks to be performed by Film East be provided to the court
    - Direct that equipment not required for profitable activities be priced for sale
    - Direct that the Receiver disburse the funds payable 9/15/98 to the note holders
    - Direct that any original obligations of Mata, KI Digital, Cornerstone, and Macrophage be viewed as current obligations of any subsequent or evolving business entity such as Film East.
    - Direct that the Receiver support the action of Geoff Steiert to freeze all funds outside of the KI Digital financial structure in KAM, Macrophage, Cornerstone, and other related business entities.
    - Direct that the Receiver share the financial reports of KI Digital and its affiliates such as Film East and Screen Works and others with the State Bureau of Securities and the Deputy Attorney General, John Miscione and any plaintiffs against KI Digital.

Exhibit 3C

Receiver Exchanges (exposes his behavior)

On 2/13/99 I sent him three letters.
(Probably a poor approach, but there was a backlog of topics)

Topic 1 = Keeping noteholders informed

Dear Mr. Stevens:

I observed during the hearing in Judge Cohen's courtroom on Thursday, February 11, 1999, that you are to keep the noteholders informed. It is with that thought in mind that I am making three requests in writing to be better informed. The other two requests are in separate letters that are enclosed.

On August 18, 1998 I sent you a memo with three questions in it that you did not answer in writing or in one of our phone conversations I would appreciate it if you would look in your files and confirm to me in writing whether you received a memo from me with that date If you no longer have it, I can send you a copy.

My notes on my copy of the memo reflect that we discussed the memo, but you did not answer the questions during our phone conversation.

Sometime in September 1998, you refused to give me a copy of the receiver's report when I requested it This caused a delay in my finding out about some aspects that are related to my questions in my 8/18 memo. It was not possible for me to learn what I needed to know until Judge Cohen's clerk gave a copy of the receiver's report to my son who drove up to Newark to pick it up in early October.

During the reading of the receiver's report, I noticed on pages 9, 10, and 11 that you had made some decisions on August 12, 1998, that were related to my questions. It surprised me to learn that you did not share any of this with me when we discussed my August 18, 1998 memo.

If you care to comment on any reason for not sharing that with me when you indicate if you have the memo, I would appreciate it Thank you.

I have attached a copy of a letter dated December 2, 1998. My notes on a copy of this letter indicate you responded to the first paragraph of the letter during a phone conversation on December 10, 1998. My notes reflect that you had not received any money as Chuck had claimed.

Yours truly,

Topic 2 = Receiver has received the funds

Dear Mr. Stevens:

I have a question about the copy of the enclosed letter (2/1/99) I received recently from Bill Schroeder.

Did you tell Bill Levy, Schroeder's attorney, you would be doing what the letter says?

I would appreciate an answer in writing from you that explains what you did say to Bill Levy about this issue.

Yours truly,

Topic 3 = Schroeder fax

Dear Mr. Stevens:

I have a question about the copies of the enclosed fax pages I received from Bill Schroeder.

Did you receive a copy of the second page as indicated by the notation of Chuck McCormick?

I would appreciate an answer in writing from you that explains what your understanding of the meaning of the content of this e-mail was.

Yours truly,

On 2/19/99 the receiver sent the following response. How did he do with clear answers to my questions? What is most troubling is his decision to attack me. He can't even spell my name correctly!

Dear Mr. Yarnell:

I am in receipt of three letters, all dated February 13, 1999, regarding KI Digital, Inc I am responding to each even though, in part, I have previously addressed several issues that you presently raise.

1. Although I have been informed that the Schroeders were represented by an attorney whose last name was Levy, I am unaware whether the "Bill Levy" referenced in your letter is the same person. Notwithstanding, I have never in my position as Receiver had any communication, written or oral, with any attorney representing either William or Kathy Schroeder I therefore have had no communication with William Levy as suggested in your letter.
2. I am in receipt of the November 5, 1998 e-mail from "Microstev" that you have attached to your letter. This was sent in response to my previous letters and memoranda regarding the computer factoring transaction. The purpose of this email will speak for itself and my opinion of its meaning is irrelevant.
3. You are well aware from our numerous telephone conversations that I received the referenced memorandum from you. If I did not address all your questions, my reasons were explained to you at that time. Since you indicate that we discussed that document, you are aware that it was received.

In a similar fashion you are aware of my reasons for not sending a copy of the Receiver's Report when it was initially requested by you Since the Hon. Harry A. Margolis, to whom the report was issued, directed me to send it to him, this document was not filed with the Clerk and therefore was not a matter of public record. It therefore would have been inappropriate for me to release it to anyone without specific authorization from the Court. I have explained this to you on several occasions, including when we met on November 19, 1998. The decision to release the report was not mine, but was a decision that was appropriately made by the Court. In my numerous conversations with the noteholders, I have been careful and precise with my remarks since I do not want them to be misrepresented. In addition I will not disclose information that is proprietary or involves the internal functions or business of the company. If I did not relate certain information to you in the past it was for one of the above reasons or that the specific subject was not addressed.

I will also state that you have misinterpreted and repeated information that I have disclosed to you in an inaccurate manner.

In fact at our November 19 meeting it was necessary that I correct you on two or three instances when you inaccurately restated a comment that I had made only moments before. This concerned me along with your repeated requests that I provide legal and other advice to you. Please refer to my September 25, 1998 letter wherein I had to respond to those requests and comments.

In addition, as set forth in that September 25th letter I have responded to every telephone call that you have made to me however, I will not comment on your requests that I believe are inappropriate nor will I make statements that reflect on the State's position and investigation of KI Digital, Inc as you have often asked me to do.

Should you have any comments about this response to your three February 13, 1999 letters or my other statements set forth herein, please do not hesitate to communicate with me at any time.

Sincerely

On 2/25/99 I tried again. It is time for me to return the attack. His attempt to intimidate me was not going to work. How do his claims that I was seeking legal advice appear to you after reading this letter?

Dear Mr. Stevens:

Thank you for responding to my three letters of February 13th. It was reassuring to hear that you did receive my August 18, 1998 memorandum. You did not indicate if you still have it. Will you please answer the three questions at the end of it? They are not legal advice questions. They are not proprietary business questions. They are receiver procedural questions. Here they are to save you time:

1. What process do we (the noteholders) follow or what forms should we complete to recover our September 15th payout?
2. How will you (as receiver) be able to keep the amount invested from being made part of the frozen assets of KI Digital?
3. What steps will be taken to rectify this violation of the order dated June 19th?

According to the content of the receiver's report (pages 9, 10, and 11), you made some decisions about these funds on August 12, 1998 that related to my August 18, 1998 questions. It seems strange to me that you did not tell me about these decisions when we discussed my memorandum. Your answer to me at that time was you were not sure about these issues. Your latest letter says your reasons were explained at that time. Please answer them now

Thank you for acknowledging your receipt of the e-mail from Microstev. It is good to know that you have read it. The reason I am curious about your opinion of its meaning relates to the purpose of your collection and control of these funds for this factoring deal.

If you feel the e-mail speaks for itself, then here is what it says to me. It shows the funds for this factoring deal are going directly to a receiver. These funds include my wife's funds. The receiver now owes them to my wife.

I often asked you about your plan to distribute these funds after you received them. This was not a legal advice question. This was not a proprietary business question. It has been a simple and straightforward receivership procedural question.

Your early Feb response was, "It is up to the state." John Miscione (the state) told me it was not his decision. He said it might be the court's decision. Judge Cohen did not answer my question about it. The consent order indicates it is the responsibility of the receiver to approve disbursements. I will ask you again. When and how will these funds be returned to the people who invested in this factoring deal? Please answer the question.

Thank you for sharing with me that you have never spoken with or corresponded with William N. Levy. The clarification is helpful. All my questions are seeking clarity.

Yours truly,

PS

There is a paragraph in your Feb 19th letter characterizing exchanges of information in our phone conversations and in our November meeting that was somewhat accusatory and rather alarming. Perhaps you could cite some examples of what you mean.

It might be well for you to remember that there was a witness at our November meeting and his recall of the meeting does not support your accusation of my inclination to misinterpret. The reason I have shifted to a mode of putting things in writing with you is because of your evasiveness and your penchant to distort what I have been seeking.

For brevity, I am going to give you one example of your distortion. My memorandum to you on September 17th requested an indication of the status of our notes so tax estimates could be accurately filed. Your September 25th letter to me stated that I requested tax advice from you. I am not sure where you were headed with such an insinuation in that letter. It strikes me that you were evasive and you distorted the question. Your responses on Sept 25th seemed accusatory just as this paragraph in your February 19th letter.

You have never explained the status of the notes. My request to you was not seeking tax advice. What is the status of the notes? Are they in default? Will they be paid? As the receiver, it seems you are the one who would know. Your answer to my e-mail question in your latest letter is an example of your typical evasiveness.

There are many questions I have had about the preservation of note holder assets during your receivership. There have been questions about the use of appropriate methods to find hidden bank accounts. Your efforts to be sure the best interests of all of the principals were served have been the focus of my questions. Your distortion of my questions by characterizing them as seeking legal advice from you is very disingenuous. Why you have chosen to establish us as having some adversarial relationship is puzzling.

I often wonder why you have not initiated an action that would find Charles McCormick in contempt of the June 19th order. His failure at full disclosure is one basis according to the state statutes. The issuing and offering of new notes is another basis. His transfer and dissipation of funds is a third. Of course, I should not be giving you legal advice because we do not have an attorney/client relationship, but I am interested in the proper pursuit of the quickest and best resolution to this situation. I offer these ideas in that spirit as I have in all of my questions and suggestions.

Why the attitude, Bob? Are we adversaries and I do not know it? That is not seeking legal advice, by the way.

His next response was very slow in coming. I sent him another letter on 3/8/99 that he ignored. Here is his response to my 2/25/99 letter.

Dear Mr. Yarnell: (Do you think the misspelling of my name was intentional or an indication of his inability to be accurate?)

I have received and reviewed your letter, dated February 25, 1999, regarding KI Digital, Inc.

Although we had discussed what has become known as the "September 15 factoring transactions" on many occasions, including our telephone conferences on August 18 (also with your wife), August 24, December 10, 1998, and February 3, 1999, and at our conference in Cherry Hill on November 19, 1998, I will again set forth the status of this particular matter The proceeds from this transaction were due on or about September 15, 1998 and the entire amount was to be deposited in a designated bank account. However, no funds were received until January 15, 1999 when a wire transfer resulted in a credit to that account.

I must interrupt his letter at this point. He had $221,000 in this account according to page 11 of his receiver's report. He had to submit that report within 90 days of 6/19/1998. So he had funds well before 1/15/99.

A second wire transfer was received approximately ten days later. These funds remain in that bank account. However, not all monies that are due from this transaction have been deposited**. (The old "I need all of the funds" excuse)**

Until I receive all requested information on the September 15 transaction, no monies will be distributed to the named entity or individuals listed on the documentation which I have been provided. The funds will remain in the bank account which is under my control. **(An answer at last)**

In addition, the documentation provided me does not reflect that you or your wife are a part of that transaction nor is there a note issued by either KI Digital, Inc. or Mata services to you. The monies are owed to third parties whose identities are reflected on a list that was given to me last August. **(We discovered that Bad Bill Levy sent him a bogus list)**

On February 3, 1999 we had a telephone discussion, a portion of which pertained to this transaction. I do not recall stating that the decision to distribute these funds was the State's decision. I have requested guidance on this matter from several individuals but the recommendation and possibly the ultimate decision is mine. **(An answer at last)**

In addition, I have noted your comments in the post script to your letter. While I do not believe that it serves any purpose to provide a full response, I would note that I am well aware that a third party was present for a portion of our November 19 conference. In fact, during our February 3, 1999 conversation, I requested that you confirm his identity which you did. As for your other comments, there is investigative activity that is outside of my jurisdiction and is ongoing. It would be inappropriate for me to take action on these matters at this time. **(The old "ongoing investigation" dodge)**

Lastly, as we discussed at our November meeting, if you have evidence of secret bank accounts to which you have alluded, please bring this to my or a governmental agency's attention. While I may not have the authority or ability to investigate this allegation, especially if the account is out-of-state as you had indicated, I will ensure that this is brought to the attention of the appropriate federal and/or state agency.

Please do not hesitate to communicate with me if additional information is needed.

Sincerely,

I sent him letters on 3/14/99 and 3/15/99. He did not respond. It took until December 1999 for my wife to be sent the money she deserved. It should have been sent to her in September 1998 without any involvement and cost of an attorney.

This is the kind of behavior that justifies my view that our legal system is a hoax.

Exhibit 4

Article – Investor Warning

Evesham firm is the target of a suit alleging it unlawfully marketed securities

By CARL AWINTER Courier-Post Staff

On Wall Street, times are good. Everybody's making money, it seems so it is understandable why people on Main Street want to share in the prosperity. The problem, state and federal officials warn, is that purveyors of high-risk and even outright fraudulent securities also are trying to cash in on the bull market.

That's how the state Bureau of Securities describes promissory notes issued by KI Digital Inc., an Evesham firm that provides computer-based services to the film industry KI Digital has stayed in business, but under a court-appointed receiver since June 1998 That's when the state Bureau of Securities filed a four-count complaint alleging financial wrongdoing by the firm The state says KI Digital in June 1997 sold 500 promissory notes nationwide worth more than $11 million including 300 to New Jersey residents It also charges that KI Digital unlawfully sold unregistered securities over the Internet and represented that the securities would return 12 to 22 percent on the investment every 35 days The state says KI Digital did not properly disclose some information, such as the investment's risks or the firm's ability to repay investors.

Investor Theodore G Miller of Wenonah blames busybody state authorities for disrupting KI Digital's operations and the financial well-being of investors "I think these guys were reaching for the stars, and they just might have made it," Miller said.

But another investor, Tom Yarnall of Cherry Hill, said this reaction is born out of desperation "First of all, it's embarrassing Hundreds of people don't want to be identified," he said "Many investors are refusing to cooperate with the investigation because they live in hope that the company will come through for them because he did so many times before," Yarnall said “They don't want to recognize it's all sweet talk and promises."

Miller said he went into the deal with his eyes open He said he invested $5,000 he received from a worker's compensation claim And then every time the note came due, he reinvested both interest and principal "This was money I never knew I had It was like going down to the casino and putting it on the red or black,” he said “I knew there was no security.” But Miller added, he was never told that some of his fellow investors also were acting as brokers for KI Digital.

Yarnall said he had a lot more than Miller at stake He became suspicious in the spring of 1998 and reduced his exposure, he said, although he still has more than $25,000 tied up in litigation. That's when state regulators stepped in, charging KI Digital, then located in Cherry Hill, with failing to inform or misinforming its investors of the true risks they were taking, including the company's ability to repay the loans. It also said the company misstated the use of the proceeds.

Miller and Yarnall said they were told the loans were to finance transactions in computer hardware "We put up the money, and they line up their customers and split the profits with us," Miller said “The loans were supposed to return 6 percent a month,” he added (Miller had the 12 to 22 % 35-day factoring notes confused with the 6% per month KI Digital bridge-loan notes or he was misquoted.) KI Digital's lawyer, Kevin M Hart, did not respond to repeated telephone messages.

But unsophisticated investors must be on guard against the blandishments of fast money, the federal Securities and Exchange Commission warns "Investors must be aware that their first line of defense against securities fraud is their own diligence and skepticism," the SEC says especially when a proposal is not registered with them "The SEC is particularly concerned about promoters of fraudulent telecommunications technology ventures targeting retirement funds," a Web page statement said.

KI Digital representatives referred retirees to a West Coast brokerage that could open IRA accounts that would include KI Digital's notes as an acceptable investment.

The impression is that securities fraud is a particular hazard on the Internet, said SEC spokesman John Heine "People have been using the telephone, the mail, and face-to-face conversations for illicit purposes long before there was an Internet - and they still do," Heine said.

The federal agency suggests being alert for these red flags:

- Predictions of enormous profits in a short time.
- An urgent timetable "invest now or lose the opportunity of a lifetime" is a typical pitch.
- Claims that investments have "IRS approval" for use in IRA accounts The SEC says the tax agency does not make such approvals.
- Structuring the investment as a partnership or a limited liability company". Promoters often falsely state that investments in the ventures are not subject to federal securities laws."
- If a proposed investment is into a "prime bank" note, the SEC warns that no such instrument exists

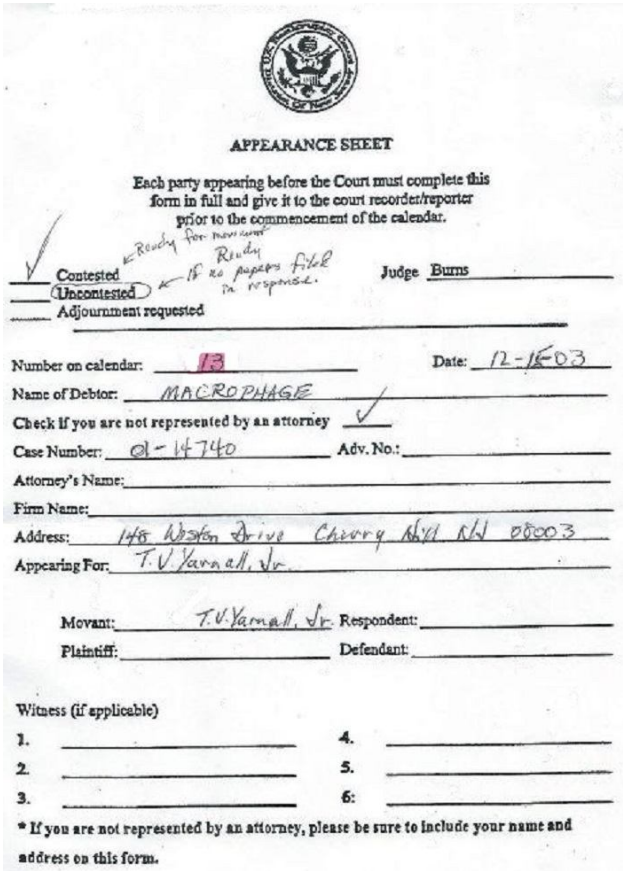
The KI Digital story is not over Last week a judge expanded Stevens' (the receiver) powers, allowing him to replace executives or liquidate KI Digital, if he chooses. Meanwhile investors wait and hope – and fume. "Now all the assets are in the hands of the state, and the money is all going to the lawyers," Miller said.

The Securities and Exchange Commission, the federal agency charged with keeping investing aboveboard, suggests that investors get answers to these questions before spending money.

- Is this investment registered with the SEC and the state securities agency? Are you registered with the state?
- What training or experience do you have in investing? Describe your typical client and your investment philosophy Can you give me names and numbers of long-term clients?
- Why is this investment suitable for me?
- What must happen for this idea to make money? How will profits be realized - through dividends, interest, or capital gains?
- How easy would it be to sell this investment if I needed my money right away? Is there a market or only a single buyer-seller?
- How long has the company been in business? What is the track record of its management?
- What are the risks in the investment? Is there a limit on my losses? What happens if interest rates rise, the economy slips into recession, or inflation erupts?
- How are you (the broker) compensated? Are you taking part in a sales contest?
- You've told me the price to buy; what would I get if I sell it today?

Exhibit 5

Sample Appearance Sheet



APPEARANCE SHEET

Each party appearing before the Court must complete this form in full and give it to the court recorder/reporter prior to the commencement of the calendar.

Ready for movant
Ready if no papers filed in response.

✓ Contested
Uncontested
Adjournment requested

Judge Burns

Number on calendar: 13 Date: 12-16-03

Name of Debtor: MACROPHAGE

Check if you are not represented by an attorney ✓

Case Number: 01-14740 Adv. No.:

Attorney's Name:

Firm Name:

Address: 145 Wilson Drive Cherry Hill NJ 08003

Appearing For: T.V. Yarnall, Jr.

Movant: T.V. Yarnall, Jr. Respondent:

Plaintiff: Defendant:

Witness (if applicable)

1. 4.
2. 5.
3. 6:

* If you are not represented by an attorney, please be sure to include your name and address on this form.

My attempt to dismiss the Macrophage bankruptcy petition was denied for a violation of Rule 9011.

Federal Rules of Bankruptcy - Procedure 9011 deals with the signing of papers and representations to the Court.

So a technical issue had more weight than a bad faith bankruptcy filing. Please repeat after me. The rule of law in the USA is a hoax.

Exhibit 6

Challenge to Judge Regarding Dismissal

How could any judge, trustee, or attorney (our legal system) allow the bankruptcy petition filings of the Schroeders and Macrophage to proceed with such “unclean hands” and such deception?

Here is my letter to the Judge who denied my motion to dismiss the Macrophage bankruptcy petition. It also documents many flaws in our legal system.

148 Weston Drive
Cherry Hill, NJ 08003
December 16, 2003

Judge Gloria M. Burns
US Bankruptcy Court - District of New Jersey
PO Box 2067
Camden, NJ 08101

Dear Judge Burns,

Thank you for your advice about getting legal representation. If I could afford it, I would. After losing two motions, I am now forced to settle for some amount that I do not feel is justified.

I must accept your rulings on these motions because I was not able to convince you on my own and because of my inability to condense all of the facts into the compressed timeframe of the hearing. You may have noticed I had two binders of research and evidence yesterday that I did not get to present.

Perhaps my brief was inadequate also. It is my understanding that you read all briefs. In my brief were case citations of why a dozen petitions were dismissed. All (cases) were dismissed for different reasons. The Macrophage petition had multiple elements that matched the cases I cited. I will not list them here because they are in the brief.

Lack of honest intention was the common thread in all of the petition dismissals. Pre-petition misconduct and debts incurred through civil wrongdoing that I offered were apparently not acceptable yesterday. This jolted me. Also, the aspect of not having much time to discuss other elements at the hearing was unnerving. I had many reasons ready for discussion that I thought you knew about from my brief.

My only reason for writing now is to help someone in the future.

I will have $40,000 to $50,000 “extorted” from me because of a very aggressive case trustee who is using the wrong calculations. With only $100,000 in retirement savings, this will be devastating. To retain an attorney to take the complaint to trial will cost about $30,000 I am told. This forces me to seek a settlement; terrible system.

There is something missing in a legal system that allows cunning and unscrupulous debtors to avoid paying creditors when they have the assets as Macrophage did in October 1998. To dissipate the assets through preferential transfers to insiders as they delayed filing a petition enabled them to avoid paying creditors. It is astounding that misrepresentations in the filing were ignored without any challenge from the trustees (US and case) and the Court.

When you go to your next professional conference, perhaps these issues can be topics that are addressed. What has been allowed to transpire in this instance should be explored, and remedies should be considered to make the legal system better.

Schroeders (aka Macrophage) were able to hide millions from creditors. Now I am being made to return any profit based on checks written by Macrophage. I am being accused of being a perpetrator of a Ponzi in the case trustee’s brief. This is a serious miscarriage of justice.

Because I cannot afford to pay $30,000 to an attorney, I will be victimized again by this situation. I got the impression you were confused by remarks made by the case trustee’s attorney about whether I was a creditor and whether I was due any money.

In the Schroeder bankruptcy, they were trying to discharge $67,000 of **Mata** debts (not theirs). I was in Court to show why the Schroeders should not discharge another entity’s debts.

I wanted to be able to file Proofs of Claim on these debts. That is the only reason I ever tried to appear in your Court in the first place. Those debts should never have been in their petition. They are also in the Macrophage petition and they should not be. This is why I thought it would be deemed a bad faith petition, and why honest intent did not exist.

I filed Proofs of Claim with the Mata Receiver (aka KI Digital) to try to recover some of the $67,000 and was told my documentation was not adequate. When I asked what was required besides checks and notes, I never got a response.

Because of the multiple layers of notes involved, I believe no one understands the situation as well as I. My wife and I were “good faith” investors in Mata and Macrophage notes. There is no such thing as a KI Digital note.

Polly and I made these investments along with investments in Microsoft and Lucent in 1996 through 1998. All of these investments were providing similar returns. It was in the 100% range per year. We had no way to suspect the Mata operation because it seemed to fit returns of other investments. It was not out of the ordinary.

We did not deal with Mata. The Schroeders were acting as promoters (gatherers of money) for Mata. I do not think they knew Mata was not real. When an article appeared in the Courier Post in June of 1998, I questioned the Schroeders. I also stopped investing. My wife foolishly invested in one more Macrophage note because she thought the article was describing the danger of “KI Digital” notes only.

Overall Polly and I made more than we lost, so our net position (because we took the interest regularly) was positive. Although we lost big with Mata ($67,000), we were ahead with Macrophage. Perhaps the net gain was about $20,000 to $30,000 after taxes. We did not keep tabs to know the exact amount. This should help clear up the confusion you seemed to show when the attorney for the case trustee was describing the situation to you. I do not want the Schroeders to discharge a debt that is not theirs to discharge. I do not want them to block me from trying to recover what Mata owes me.

I spent $3000 just trying to explain all of this to an attorney, and he still does not understand what transpired well enough to represent me. He can only act as an agent for me to reach a settlement. I had to do the math to enable him to engage in discussions with the case trustee’s attorney. This is nothing more than a simple math calculation by reviewing checks written by the various parties.

Because the Schroeders (aka Macrophage) commingled funds, the case trustee has inflated what Macrophage supposedly paid to me and my wife. Because Mata funds owed to us were repaid with Macrophage checks, the case trustee did not view that explanation as valid.

In the petition Macrophage falsely lists 423 creditors to give the impression there was over $18,000,000 in debt with only $640 in assets. The case trustee and the US Trustee view the petition as acceptable. It is akin to the emperor having no clothes, and no one will admit it.

290 debts listed in the Macrophage petition are Mata debts ("KI Digital" in the listing) 37 other debts are McCormick debts, and 82 other debts are disputed as being Cornerstone debts. That is 409 debts that are not Macrophage debts. The clever ploy used to get it past the trustees is to mark an "X" or make a notation of "disputed".

I carefully tabulated 4 examples I wanted to use to persuade the Court that the amounts did not have to be indicated as unliquidated or disputed. I also prepared copies of each type of note so the Court could see that none of them were contingent because no notes were cosigned by Macrophage. This took me about 8 days to do. There was no time to present this in the hearing.

I also reviewed the 71 entries and documentation in the Claims Register. It took 2 days, as Mary knows, because I tied up a terminal near the clerk's window. Maybe 10 Proofs of Claim have adequate documentation for a total of $75,000. Looks like the case trustee and his professionals have had a successful "asset hunt" with $125,000 in settlements collected plus more to come because it would be too expensive for me to continue to fight this by using an attorney.

Of the 14 other debts listed in the schedule F, one is a fine, one is restitution, two are auto leases, and the others are credit cards. Some of these credit cards are not likely to be corporate debts because they are names like Boscovs, Kohls, Strawbridges, and Sears. Amex and Discovery might be corporate debts. Only Amex filed a Proof of Claim. The Mata Receiver (KI Digital) filed claim #65 for an outrageous amount ($736,795) when he is only entitled to $100,000 for restitution. <u>This seems like a conflict of some type.</u> It also seems like a source of income for the various attorneys involved and not a real opportunity to reimburse damaged creditors.

<u>The false statements in the Macrophage petition about the date when they ended their business and the type of business are not considered serious by anyone.</u> The listing of debts that belong to another entity is not considered abuse or an indication of bad faith. **This is all very bewildering.**

Assets were available in October 1998 to pay many creditors something. I have enclosed an example of what it was like at that time for Macrophage. That would have been the time for a "good faith" filing if any filing was even necessary. That would have really been the time for Macrophage to show an honest intention to repay creditors. Because Macrophage transferred those assets to the Schroeders and did not file a petition for 32 months,

the creditors who never got paid in 1998 are now to be paid with money "extorted" from people like me who did not just rollover every investment. The Schroeders keep their commissions. The case trustee alleges Macrophage orchestrated a Ponzi and I am pursued to pay back a "fraudulent" transfer.

The case trustee or the US Trustee should always be charged with the responsibility to assess this pre-petition behavior. I understand that the Chapter 7 (liquidation) filing does not enable a corporation to discharge debts. This petition was not filed for that kind of protection. The filing was done to give the case trustee a "hunting license". This is another issue that I hope can be explored by you and your peers at professional conferences. The oversight or review of petitions has to be done better.

If Macrophage principals were found to have violated the criminal code as Mata principals were, there would be factual evidence of Macrophage being the orchestrator of a Ponzi. Such is not the case. I do not understand how a complaint can be filed using a basis to assert something that is not a fact. A reasonable inquiry would reveal such a fact, and that would establish whether it could be used as a basis for any allegations in the complaint. Somehow complaints should be reviewed to see if there is any basis in fact before a Court can entertain the complaint. This might be a third issue for your professional conferences.

For example, if someone wanted to use the **fact** that Macrophage orchestrated a Ponzi as a basis for a complaint against someone that had received transfers in that circumstance, the Court would be able to rule on whether the basis used to make the complaint was valid. This should be a requirement for complaints. It would reduce complaints without merit.

Right now the vagueness of the basis for a complaint is too loose. If anyone files a complaint, they should have to cite proof in the statement of facts section to justify the validity of the complaint. Then the litigation arguments would be focused on the facts of whether or not transfers were made that were fraudulent. As it stands now a false premise can be stated, and allegations can be stated based on that false premise.

It has been an interesting retirement experience. Once again I thank you for your patience with me. I thank your team for their helpfulness. I hope my observations will be helpful in improving the system. It is obviously too late to help me. **Merry Christmas**

Exhibit 7

Request to Amend Complaint

148 Weston Drive, Cherry Hill, NJ 08003
November 23, 2001

Judge Gloria M. Burns
US Bankruptcy Court District of New Jersey
PO Box 2067 Camden, NJ 08101

RE: Bankruptcy case 01-14748/GMB
and Adversarial complaint 01-1270/GMB

Dear Judge Bums:

Please read my letter. This letter is in lieu of a formal motion because I do not want to delay anything. If you prefer a formal motion with its attendant components of a certification of mailing, a notice of motion, a certification of points, and an order, I will prepare them.

My research indicates the formal approach will require more time of my adversaries' attorney and delay getting to a trial. I am trying to be ready for the December 3, 2001, pre-trial hearing and end any further delays. If you prefer a formal approach, please set a new court date to allow enough time for me to properly serve all interested parties and for my adversary to respond before we next appear. Please have your deputy notify me of your preference. Chris can reach me at 424-4714.

I did as you directed me to do on November 19, 2001. I tried to obtain counsel for my next appearance in your court on December 3rd. The three attorneys I contacted said it would not be cost effective for me to have them represent me.

They suggested I ask permission of the court to amend my complaint. Each was conservatively encouraging in saying my case seemed meritorious. I have a summary of their ideas:

1. Substitute your name for the corporation's as a single plaintiff
2. Make your amended complaint retroactive to the date of the original complaint
3. Explain to the court PENSCO was never really involved as a party
4. Forget about Sales and People, Inc as a party entirely - let that go

5. Do not limit yourself to the defendants' choice of listed creditors
6. You have a claim even though you do not have a note
7. The fraud is between the defendants and you

The debts arose from dealings between the defendants and me. The defendants solicited funds from me. I gave the defendants money. They accepted my money. I entrusted my money to them for a specific purpose, and they did not use the money for that purpose. They gave my money to Mata Services or Charles McCormick.

The Schroeders refer to these debts as KI Digital notes issued by Mata Services or Charles McCormick in schedule F of their petition. The Schroeders are a creditor of Mata Services or Charles McCormick. I am a creditor of the Schroeders. Their petition is inaccurate.

Your honor, my PENSCO account is a self-directed IRA. PENSCO is a custodian with no responsibility and no authorization to make decisions. I am the aggrieved party - not PENSCO.

I possess a document signed by one of the defendants and me as part of my work product. It provides the five elements of proof required for the count dealing with 523(a) (2) (A) in my complaint. I have enclosed a revised complaint with the hope that you will allow it.

My work product is complete. Interrogatories are ready for mailing. My evidence binder, my testimony, and my outline for a direct examination of the defendant (who would be my only other witness - albeit a hostile one) are all prepared. I am ready for trial after the interrogatories. It should require less than two hours for me to prove my case. I do not require any depositions. I made good use of the 341a meetings and inspections of the documents given to the trustee.

Your honor, if you permit my request to amend my complaint, it will enable me to appear as a pro se litigant in your court. It will also allow me to have a fair hearing of my complaint. If you permit me to use the informal approach, I will send a copy of this letter to the interested parties.

Although the attorneys I contacted were not in agreement that I should drop counts 2, 3, 4, and 5 in my complaint, I feel it would just take up unnecessary time of the court even though I have strong evidence to win the 727 items. The trustee can pursue 727 issues if she wishes.

There is a significant flaw in a legal system that prohibits a person (who is wronged) from having a fair chance to seek relief from the damage done by a wrongdoer because the costs are too great. If you grant my request, it will prove our justice system is not one that allows only the person with the most money to win. It will afford an opportunity for a person with the proper proof to be heard and possibly obtain proper relief. I hope you agree.

Yours truly

Judge Burns allowed me to amend my complaint. Eventually the debt was not discharged. I won a judgment. (Exhibit 8)

Exhibit 8

Uncollectable Judgment (against Schroeders)

UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF NEW JERSEY

IN RE:	:	
WILLIAM R. SCHROEDER. JR. and KATHLEEN A. SCHROEDER,	:	CHAPTER 7
Debtors.	:	CASE NO. 01-14748 (GMB)
	:	ADVERSARY NO. 01-1270 (GMB)
THOMAS V. YARNALL, Plaintiff,	:	
v.	:	
WILLIAM R. SCHROEDER, JR. and KATHLEEN A. SCHROEDER,	:	
Defendants.	:	

AMENDED JUDGMENT

The relief set forth on the following pages, numbered two (2) through 2 is hereby **ORDERED**.

DATED: 9/12/2007

Honorable Gloria M Burns
United States Bankruptcy Court Judge

I hereby certify that the foregoing is a TRUE COPY of the original on file in the office of the Clerk of the United States Bankruptcy Court
Deputy.

This matter having been brought before the Court upon the filing of an adversary complaint by Plaintiff, Thomas V. Yarnall, Jr. seeking nondischargeability of a debt in the principal amount of $40,000 pursuant to 11 U.S.C. §§ 523(a)(2)(A) and 523(a)(4). For the reasons set forth in accordance with the oral opinion given on the record on August 31,2007;

It is hereby ORDERED this 31st day of August, 2007, that the judgment entered in this matter on March 29th, 2006 is amended. The amount of the judgment shall be $17,421.00.

It has been impossible to collect this because no attorney will pursue it. Perhaps the amount is too small. How about that for the "rule of law" in the USA?

Exhibit 9

Motion to Dismiss – Denied

Unfortunately for me, I had not yet discovered **United States Code Title 11 Chapter 1 Section 109 Clause (b) 2**.

Section 109 indicates the Macrophage petition should never have been filed because Macrophage was an investment company. No attorney ever suggested to me that 109 was the appropriate statute to apply to my motion to dismiss. They were fooled by the false entries in the petition.

1. Factoring was not the business of Macrophage
2. Investment solicitation was its business
3. Macrophage was an investment company

In February 2003 a bankruptcy attorney in Pittsburgh, PA, Robert S. Bernstein, who specialized in defending against preference claims posted the following on the Internet:

> "As a creditor, you could receive a notice from someone representing the debtor's bankrupt estate demanding you return a payment you already received."

Such a claim in this notice is sent to you because you received a preferential payment or transfer prior to the date the debtor filed for bankruptcy.

Bernstein also posted the following:

> "There are a lot of aggressive bankruptcy representatives sending these letters without a lot of research. Unwary creditors are giving back money that is rightfully theirs. You need to make sure the bankruptcy trustee has the right to make the demand." **To understand this, read exhibit 12.**

Bernstein explained the conditions that should exist when a return of transfers could be demanded:

1. Debtor had to be insolvent when payment was made
2. Payment was made within 90 days of the date of the bankruptcy petition (USC Title 11 §548 says 1 year)
3. Creditor received more than would have been received if there was a liquidation of the debtor's bankruptcy estate

Money does not have to be returned if that payment was in the ordinary course of business.

Here is a summary of our situation:

1. Macrophage was solvent in 1997-98 when payments were made to us on Mata debts. See facts in exhibit 12.
2. May 4, 2001, Macrophage illegally filed for bankruptcy.
3. All payments to any named defendant were made 32 months before filing; not within 90 days or even within one year.
4. Macrophage notes were claimed to have been repaid by the vice president in the 341a meeting under oath.
5. No liquidation was necessary.
6. The payments made to any named defendant by Macrophage were reimbursed by KAM or Mata in the ordinary course of business.

The attorney for the Macrophage trustee, Sneaky Steve Warner, claimed delay was not factually and legally supportable. I showed a delay from April 1999 (last business action) until May 2001 (petition filed) and a further delay until March 2003 (first 341 meeting). These were very significant delays. That is a lot of time for a debtor to hide assets. Two years is bad. Four years is very bad.

The omissions, misrepresentations, and concealments that were in the Macrophage petition were claimed to be factually and legally unsupportable by the case trustee's attorney, Sneaky Steve Warner.

The reasons for my dismissal motion were:

1. **Omission:** Macrophage did not list their dishonest debts (the Consent Order prohibited Macrophage from issuing notes)
2. **Misrepresentation:** The petition listed creditors who were not Macrophage creditors and they lied about the nature of their business – factoring business instead of investment business
3. **Misrepresentation:** They did not end their business in August 1998 as was indicated in the petition's papers
4. **Concealment:** The officers of Macrophage did not reveal they were unlicensed and that their notes were not registered

How Judge Burns did not accept my reasons with the proof that I provided and the cases I cited is bewildering. **I believe a Judge is required to know what statutes are in play and should watch for a fact pattern that fits those statutes. That is how Judge Kavanaugh would rule. Judge Burns did not.**

Exhibit 10

Objection to Resolve on Papers

The attorney for the Macrophage trustee filed a motion that was the ultimate hoax. The motion to collect $174,121 from me with "facts" that were falsehoods. It caused me to write to the Judge.

148 Weston Drive, Cherry Hill, NJ 08003
June 24, 2003

Judge Gloria M. Burns
US Bankruptcy Court District of New Jersey
PO Box 2067 Camden, NJ 08101

RE: Bankruptcy case 01-14748/GMB
and Adversarial complaint 03-1708/GMB

Dear Judge Bums:

The Fed Ex package that we received from Steven K. Warner yesterday requested his **motion be resolved on the papers or telephonically**. I disagree. I am submitting a motion for an evidentiary hearing because the trustee and his attorney are either unaware of or distorting the facts. The papers in the package are filled with distortions. Attorneys should have to certify the truthfulness of the content of such papers.

Close to 50% of the "statement of facts" section is incorrect. The many citations in the brief are supportive of allegations that are completely off the mark with regard to any facts. An even more egregious fabrication by Mr. Warner is the statement on page 5 and again on page 21 that my motion to dismiss failed to raise even a single pleading deficiency.

I have attached excerpts to show how the first two counts were completely deficient. I must apologize for the scattered appearance of how I raised these pleading deficiencies in my motion. Perhaps I should have grouped them according to Count to aid clarity.

Mr. Warner's outrageous exaggeration at the bottom of page 20 in his papers about my little one-man company being formed as an investment vehicle is not factual.

I formed Sales and People in 1991 to provide sales education materials and programs. When I reached 70 years of age in 2002, I was no longer in demand as a sales trainer. I dissolved the company because I could not get any more contracts.

On page 18 Mr. Warner says the Trustee reasonably believes that Sales and People merely exists now as a "shell" corporation and the ill-begotten Ponzi profits were used to enrich its sole principal. This kind of provocative wording comes across as an attempt to intimidate and ignores any facts.

The request that the Trustee be permitted leave to amend his complaint is a very telling statement. That is why I submitted my motion to dismiss. They had to beat a deadline, so they threw stuff together without reasonable inquiry.

The declaration that a Ponzi was executed by Macrophage was referenced at least 12 times in his 22 pages. Repetition does not make such an allegation a fact. Macrophage obtained notes subscribers for Mata. It is possible that Mata victimized Macrophage through a Ponzi, but the facts show Macrophage did not perform a Ponzi. As you know very well from the many trial days during which you had to endure the examination of witnesses regarding the Mata related proceedings, Ponzi has never been an issue. This is a fabrication to develop a scenario that all transfers by Macrophage were fraudulent

Macrophage was a promoter tasked by Mata to find subscribers, clients, people who wanted to invest. There are depositions and testimony that show how the Schroeders were money gatherers who were reckless.

Macrophage and the Schroeders made false representations and caused people to fall victim to the theft by deception of Charles McCormick.

The Trustee is not seeking to reimburse any unsecured creditors. He is trying to find folks who will cringe and give up what they might have earned in the normal course of business when there was a good faith belief in the opportunities portrayed by the Schroeders.

The Trustee will use the priority of payments rules to pay the accountants and lawyers he hired plus take a percentage. He has strategically ignored real preferences and fraudulent transfers. There were payments of $300,000 and $135,000 to the Macrophage attorney, Mr. Levy.

We need an evidentiary hearing to focus on the facts rather than the multitude of misleading statements and the legal citations gathered to try to justify such statements in "the papers".

Frivolous complaints need to be prevented. The profession should be held to a higher ethical standard. The requirement for reasonable inquiry before filing a complaint should be the standard. I hope and pray you agree.
Yours truly

Attorney Warner needs a nickname. He was friendly in a false, calculating way. That qualifies him to be called Sneaky Steve.

The exaggerated claim that we (my company, my wife, one of our sons, my IRA, and me) collected fraudulent transfers of $174,121 was proof that Sneaky Steve and Joltin Joe (the trustee) had no accurate knowledge of the promissory note investments. They used the false information that Bad Bill Levy put in the illegal Macrophage bankruptcy petition.

These two aggressive guys with their exaggerations were scary; review exhibit 9. We had to get a legal firm to deal with these two! We hired Marvin Wilenzik on the suggestion of a relative.

Marv assigned the case to attorney Kevin Anderson. Both of them believed the nature of the Macrophage business was factoring. They failed to apply **United States Code Title 11 Chapter 1 Section 109**. As I have explained many times, it defines who may be a debtor that can file for Chapter 7 bankruptcy. The statute is very clear in Clause (b) 2 that small business investment companies cannot file for such a bankruptcy.

Kind Kevin and Muscles Marv felt my research and ideas were bothersome. Their main focus was to get to a settlement. They did not check for applicable statutes or challenge the abnormal aspects of how this bankruptcy trustee was performing his duties. They ignored my view that we were dealing with dishonest attorneys.

They seemed to believe that if the situation got this far in the proceedings, it was time to seek a settlement! If anything were amiss, it would have been addressed by now. Stop obsessing over the case! Focus on being glad you got what you got! Do not send us any more emails! These are comments in a long letter from Muscles Marv. I nicknamed attorney Wilenzik Muscles Marv because he strong-armed me into agreeing to a settlement.

He was proud of taking a $174,121 false claim down to a $45,000 settlement in a bankruptcy petition that never should have existed.

He charged us $15,000 for this service.

Exhibit 11

U. S. Trustee Farce

The Federal Trustee Program website had the address, phone number, and fax number for the home office in Washington DC. In bold letters, there is a statement that encourages a person to contact the U. S. Trustee Program (USTP) office near you if you have any questions.

The administration of bankruptcy cases involves extensive codes about procedures for and responsibilities of trustees in USC Title 28. Section 586 is very clear and quite explicit about all duties. There is also code that deals with the various types of bankruptcies. It covers Chapter 7 (liquidations), Chapter 9 (municipalities), Chapter 11 (business reorganizations), Chapter 12 (farmers), and Chapter 13 (individuals seeking a manageable repayment arrangement).

The duties of the case trustees are defined in various statutes for the different chapter filings. The case trustees' duties for Chapter 9 are missing or well hidden. Within these statutes, there are sections from 341 to 350 that specify the rules for a variety of topics.

§341 = meetings of creditors. §343 = examinations of the debtors.

A US Trustee is to attend a 341 meeting. The case trustee will conduct the meeting. According to §343, the case trustee must do a thorough examination of the debtor.

I call the attorney who represented the Schroeders Say-No John. Attorney Hargrave was a short (about 5' 8") intense 50 something guy who specialized in bankruptcy cases. He seemed rushed and not too well organized. He was not warm and fuzzy. He was a staunch defender of his clients – the Schroeders. My label for him was chosen because he denied everything asserted in my motions, certifications, briefs, and courtroom remarks.

Because of the many false entries in their bankruptcy documents, I decided to get in touch with the "local" US Trustee office during the series of Macrophage related events in 2001. That local office was in Newark, NJ. It was not very local for a resident of Cherry Hill, NJ. The Philadelphia office was in another federal district of Region 3.

A long, long futile story made short goes like this. Robert J. Schneider, Jr. (US Trustee) attended the 341a meetings. When I asked him about the false statements and erroneous schedules, he said he needed a letter to initiate an investigation into the filing of false bankruptcy statements. I sent him a letter. He said he felt the filings were OK. For this and other reasons, I call this attorney Sadsack Bob.

I contacted the office of Clifford J. White, the director of the federal program. No response.

Next, I sent requests for an investigation to the Region 3 Director Kelly B. Stapleton and the Field Office Managing Trustee Martha Hildebrandt (Schneider's superior). Hildebrandt was the only person to respond. She thought I was trying to get a ruling reversed and declined to get involved.

I was trying to get them to do more thorough future investigations of bankruptcy filings and to check more closely for fraud and abuse. They did not want to do this for some reason.

I was seeking their help:

1. To stop "bad faith" filings
2. To modify the existing statutes

I wanted the bad debt laws changed to be:

1. Easier to apply in specific circumstances
2. Without "wiggle room"
3. Less dependent on attorneys
4. More precise when stating debtor wrongdoings
5. Less likely to cause "disputes" in many situations

As you can see on page 3 of my book, I tried to suggest a better approach to assigning case trustees.

The Federal Trustee Program is just another part of our legal system that is a hoax. In 2001 it was a pretense that the petitions were scrutinized properly before being assigned to a case trustee. I think it might still be that way.

Exhibit 12

Uniform Fraudulent Transfer Act

The purpose of the act (11 USC §548 and NJSA 25:20) is to prevent defendants (debtors) from divesting themselves of assets while claims are pending, or in anticipation of future claims.

UFTA QUESTIONS (Transfers of assets)

1) Was reasonable equivalent value exchanged?
2) Was a transfer made in good faith?
3) Did any transfer cause insolvency of the debtor?
4) Was the debtor insolvent at the time of any transfer?
5) Did any transfer occur prior to any claim?
6) Was a transfer made to an insider?
7) Was a transfer a gift?

UFTA FACTUAL ANSWERS (In the Macrophage bankruptcy)

1) Promissory note was returned in exchange for payment
2) Done in the normal course of business
3) No (see fact 1 below)
4) No (see facts 2 and 3 below)
5) Yes (see fact 4 below)
6) No, made to a client
7) No, made in exchange for a promissory note

FACTS

1) Transfers to investors were all made prior to 8/30/98
2) Macrophage assets on 10/31/98 = $443,114.63
3) Macrophage liabilities on 10/31/98 = $175,000.00
4) Claims were made after 5/4/01; the date of the Macrophage bankruptcy petition

A debtor (**Mata; not Macrophage**) made transfers of money to Macrophage, so Macrophage could make transfers to investors in the normal course of business with no actual intent to hinder, delay, or defraud any other creditor. These transfers were not concealed – see yellow shapes on the book's back cover. These transfers were not an obligation of Macrophage; therefore the 4-year reach back for transfers under §4(a)(2) was not appropriate. These transfers did not cause any Macrophage insolvency.

On page 1 of this book, I mentioned preferred transfers in the fourth paragraph. A preferred transfer of an asset made to a relative (an insider) was the $850,000 half duplex property in Ocean City, NJ. **That is how the 4-year reach back should have been used.**

Instead, Sneaky Steve Warner fooled the Court when he applied the UFTA to the illegal Macrophage bankruptcy petition to recover funds from creditors of Mata like me.

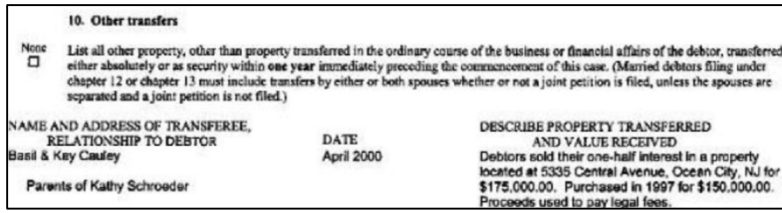
The illegal bankruptcy petition created a pretense of claims against a solvent Macrophage. The only possible Macrophage creditors were Lexis and Honda leases and some credit cards. The extensive list of fake debts was an absolute hoax! See exhibit 13.

This hoax cost my wife and me $60,000; $45,000 to the case trustee and $15,000 to the attorney who told me to stop sending him emails and to not be obsessive over the situation.

Exhibit 13

False Statements in Schroeder Petition

This beachfront property was valued at $850,000 by a realtor that I interviewed in 2000. They transferred it to parents for $175,000.



10. Other transfers

None ☐ List all other property, other than property transferred in the ordinary course of the business or financial affairs of the debtor, transferred either absolutely or as security within **one year** immediately preceding the commencement of this case. (Married debtors filing under chapter 12 or chapter 13 must include transfers by either or both spouses whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed.)

NAME AND ADDRESS OF TRANSFEREE, RELATIONSHIP TO DEBTOR	DATE	DESCRIBE PROPERTY TRANSFERRED AND VALUE RECEIVED
Basil & Kay Caufey Parents of Kathy Schroeder	April 2000	Debtors sold their one-half interest in a property located at 5335 Central Avenue, Ocean City, NJ for $175,000.00. Purchased in 1997 for $150,000.00. Proceeds used to pay legal fees.

Credit cards with AMEX, Discover, and VISA had a total of over $35,000 of unpaid charges. These were listed as both Macrophage and personal Schroeder debts in the two bankruptcy petitions.

Lexus and Honda automobile leases for a total of $9,200 were listed in both petitions.

Boscovs, Kohls, Sears, and Strawbridges credit card debts were listed in both petitions.

The Receiver filed a motion for $100,000 in restitution. That debt was shown in both petitions. It was a judgment ordered by Judge Cohen against the Schroeders.

The Schroeders were agents of Mata Services from April 1996 until they started Macrophage in June 1997. In the petitions, they claimed they ended their business in August 1998.

The Schroeders solicited investors for Mata in 1996 and 1997 and issued Mata Services promissory notes. They claimed the nature of their business was factoring. They did not buy anyone’s receivables.

On the next page is their business card for 1996 and 1997.

No reach back was attempted by any attorney to recover the transfer of the beachfront property to an insider – a relative.

No challenge was made by any attorney regarding the double listing of the credit card debts and the lease debts in both bankruptcy petitions.

The U.S. Trustee did not insist that the case trustee correct the date of their ending business activity.

The U.S. Trustee did not insist that the nature of the business shown in the petition be corrected even when reminded by me.

Do you remember the definition of a hoax on the title page of this book? It is deception, pretense, and chicanery.