

EXHIBIT F

**TRANSCRIPT OF WELDON
FORTENBERRY, III PORTION OF
30(b)(6) DEPOSITION OF DEFENDANT
BRIGHT SOLAR MARKETING LLC**

WELDON FORTENBERRY III
BALES V. BRIGHT SOLAR MKTG

October 13, 2022

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UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF FLORIDA

FLOYD STEVE BALES,
individually, and on behalf
of all other similarly
situated,

Plaintiff,

CASE NO:
5:21-cv-0496-JSM-PRL

vs.

BRIGHT SOLAR MARKETING, LLC,
Defendant.

VIDEOCONFERENCE DEPOSITION OF

WELDON FORTENBERRY, III

BRIGHT SOLAR MARKETING, LLC

October 13, 2022

11:00 a.m.

Remote Proceeding
Foothill Ranch, California

Amanda Colby
Digital Reporter
Commission No. 2408791

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(Exhibits attached to original transcript.)

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1 THE REPORTER: Good morning. My name is
2 Amanda Colby. This is a continuation of the
3 deposition of Bright Solar Marketing, LLC, taken in
4 the matter of Floyd Steve Bales versus Bright Solar
5 Marketing, LLC, Case Number 5:21-cv-0496-JSM-PRL, via
6 virtual remote technology where the witness is in
7 Foothill Ranch, California. We are on the record at
8 11:00 a.m., on Thursday, October 13th, 2022.

9 At this time, would everyone please identify
10 yourself again for the record beginning with the
11 noticing attorney.

12 MR. KAUFMAN: On behalf of the plaintiff this
13 is Avi Kaufman.

14 MR. GOHEEN: Barry Goheen representing the
15 defendant.

16 THE REPORTER: Thank you.

17 I will now swear in the witness.
18 Mr. Fortenberry, can you please raise your right hand.

19 WELDON FORTENBERRY, III,
20 having first been duly sworn, testified as follows:

21 THE REPORTER: Thank you.

22 You may proceed.

23 EXAMINATION

24 BY MR. KAUFMAN:

25 Q. Could you please state your name for the

1 record.

2 A. Weldon Fortenberry, the Third.

3 Q. Where do you live, Mr. Fortenberry?

4 A. Henderson, Nevada.

5 Q. Where do you work?

6 A. I work for Freedom Forever Solar Services.

7 Q. How long have you worked for Freedom Forever
8 Solar Services?

9 A. Since April of 2020.

10 Q. Where did you work before Freedom Forever
11 Solar Services?

12 A. I worked for Tesla.

13 Q. Have you ever worked for Bright Solar
14 Marketing?

15 A. Yes. It's Freedom Forever or Freedom Solar
16 Services d/b/a Bright Solar Marketing.

17 Q. Freedom Forever Solar and Bright Solar
18 Marketing are the same entity or distinct entities?

19 A. It's Freedom Solar Services is what's on my
20 W-2, and we do business as Bright Solar Marketing.

21 Q. Is there any other company that you're aware
22 of that does business as Bright Solar Marketing?

23 A. No.

24 Q. Do you work for the same company as
25 Steve Wysong?

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1 A. No. Steven works for Freedom Forever.

2 Q. So Freedom Forever is different from Freedom
3 Forever Solar Services, if I understand correctly?

4 A. Yeah. I -- it's Freedom Solar Services, I
5 believe is the -- the actual name. It's not Freedom
6 Forever Solar Services. I misspoke. But they're two
7 separate companies, yes.

8 Q. What is your current position at -- is it okay
9 if I refer to Freedom Solar Services as Bright Solar
10 Marketing?

11 A. Yeah, I think that'd be easier.
12 Director of contact centers.

13 Q. How long have you been director of contact
14 centers at Bright Solar?

15 A. Probably about a year and a half.

16 Q. Did you have any roles at Bright Solar before
17 that?

18 A. Yeah. Before that, I was a senior regional
19 manager. It was just over Las Vegas. And then I was
20 promoted to the current role, where at the time, we
21 had a office in Utah and Temecula and Las Vegas.

22 Q. So the only two roles you've had at
23 Bright Solar are director of contact centers and
24 senior regional manager for the Las Vegas region;
25 is that correct?

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1 A. Yeah, that sounds right.

2 Q. What were your responsibilities as senior
3 regional manager of the Las Vegas region?

4 A. I opened up the office there. I was employee
5 number one and basically was to grow the -- the call
6 center as we were looking to grow another location.

7 Q. How many call centers does Bright Solar have?

8 A. Currently today, there's two. There's one in
9 Temecula and one in Las Vegas.

10 Q. Since you've been there -- since you've been
11 there in starting in April 2020, what's the most
12 number of call centers that Bright Solar had at one
13 time?

14 A. Three.

15 Q. When was the third call center operational?

16 A. I don't recall because I wasn't responsible
17 for opening the office, but maybe six to nine months
18 after I started, we opened the Utah location.

19 Q. When did the Utah location close?

20 A. Probably about a year ago, year and a half
21 ago, somewhere in that range. I -- I don't remember
22 the exact date.

23 Q. Do you know why the Utah location closed?

24 A. We just didn't have the need for as many call
25 center agents, and it made sense to reduce it to two

1 locations.

2 Q. Since April 2020, what is the largest number
3 of call center agents employed by Bright Solar at one
4 time?

5 A. I would say north of 300, but I don't know the
6 exact number.

7 Q. Do you know how many currently?

8 A. Currently, agents on the phone, we have
9 between 40 to 50. And then there's, you know, HR,
10 other support groups, things like that. Probably a
11 total of 60 to 70 if I had to guess.

12 Q. Earlier that greater than 300 number, that was
13 just call center agents on the phone or was that all
14 employees?

15 A. That would -- that would include probably all
16 employees. I don't know the exact number on the
17 phone.

18 Q. Aside from opening up the office and trying to
19 grow the call center, did you have any other
20 responsibilities as senior regional manager for
21 Las Vegas?

22 A. No.

23 Q. What did growing the call center entail?

24 A. Like I mentioned, I was the first employee.
25 So the expectation was to try to get to initially

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1 15 to 20, and then over time, as the business
2 expanded, just continued growth, depending on the
3 number of appointments received and whatnot.

4 Q. How many -- what's the largest number of call
5 center agents you had in the Las Vegas call center
6 while you were senior regional manager?

7 A. I would say at our peak somewhere between 125
8 to 140.

9 Q. When was that?

10 A. That would have been the following summer
11 after I started. So maybe July-ish of 2021, June,
12 somewhere in that range.

13 Q. Was going from senior regional manager of
14 Las Vegas to director of contact centers a promotion?

15 A. Yes.

16 Q. What are your responsibilities as director of
17 contact centers?

18 A. There's now been someone who's backfilled my
19 position in Las Vegas, and I'm responsible for
20 currently the two locations.

21 Q. When you say "responsible for," what metrics
22 determine your success in exercising that
23 responsibility?

24 A. I work with staffing levels, making sure that
25 we have enough people available on the phone,

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1 recruiting, monitoring the performance of both call
2 centers, things like that.

3 Q. Who do you report to?

4 A. Brett Bouchy.

5 Q. Can you spell the last name, please?

6 A. I should know the spelling. I'm going to say
7 I believe it's B-O-U-C-H-Y.

8 Q. What's Mr. Bouchy's position at Bright Solar?

9 A. He's the CEO.

10 Q. Do you understand that you've been designated
11 by Bright Solar to testify on its behalf regarding
12 certain topics related to litigation brought by a
13 plaintiff, Mr. Bales in Florida?

14 A. I do.

15 Q. I'm going to show you what's previously been
16 marked as Exhibit 1, which is a notice of taking this
17 deposition and just ask if you've seen this before?

18 A. Could you go to Page 2, please?

19 Q. Absolutely. I'm happy to scroll just
20 directly.

21 A. Yes, this looks familiar.

22 Q. You see that there's a list of Topics 1
23 through 11 on Page 2 that continues 12 through 18 on
24 Page 3?

25 A. Correct.

1 Q. Is it your understanding that you've been
2 designated by Bright Solar to testify on its behalf
3 regarding Topics 2 through 8 and 10 on Page 2?

4 A. That sounds accurate.

5 Q. On Page 3, is it your understanding that
6 you've been designated to testify on Bright Solar's
7 behalf regarding Topics 13, 15 -- 13 and 15?

8 A. Yes.

9 Q. What did you do to prepare for today's
10 deposition?

11 A. We met yesterday and reviewed some of the
12 numbers that you outlined.

13 Q. When you say "we met," are you referring to
14 Mr. Goheen?

15 A. Correct.

16 Q. Aside from your meeting with Mr. -- well, who
17 else was there?

18 A. Brandon Sands and Steven Wysong.

19 Q. Who's Brandon Sands?

20 A. Sands, S-A-N-D-S.

21 Q. Who's Brandon Sands?

22 A. He's our other inside legal.

23 Q. Aside from yesterday's meeting with
24 Mr. Wysong, Mr. Sands, and Mr. Goheen, did you do
25 anything else to prepare for today's deposition?

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1 A. I believe we had two calls, one -- one for
2 certain within the last month or two.

3 Q. Were those involving Mr. Sands and/or
4 Mr. Goheen?

5 A. Yes. I believe they were both there for both
6 calls.

7 Q. Have you had any conversations with anyone
8 else at Bright Solar regarding this lawsuit during
9 which Mr. Goheen or Mr. Sands was not present?

10 A. I don't believe so, no.

11 Q. Have you had any conversations with Mr. Bouchy
12 about this lawsuit?

13 A. No.

14 Q. Have you had any conversations with Mr. Wysong
15 about this lawsuit other than yesterday's meeting?

16 A. No.

17 Q. Have you had any conversations with anyone at
18 High Roller Marketing about this lawsuit?

19 A. Just that I would be attending today.

20 Q. Who did you discuss that with?

21 A. Tyler Eggleston. I'm -- I apologize. Tyler
22 was also present yesterday via a virtual meeting.

23 Q. Was it a Zoom?

24 A. Yeah.

25 Q. Do you know where Tyler is located physically?

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1 A. He's in -- he's near Temecula. I don't know
2 if it's actually Temecula, but that's where our office
3 is located.

4 Q. Does High Roller Marketing supply leads to any
5 companies other than Bright Solar?

6 A. Not that I'm aware of, no.

7 Q. Do you know how long High Roller has supplied
8 leads to Bright Solar?

9 A. I don't. They were the primary supplier when
10 I started in April of 2020. So I know it was prior to
11 that, but I -- I don't know for how long.

12 Q. Since you joined in April of 2020, have all
13 the leads been exclusively from High Roller?

14 A. We also get inquiries from Freedom Forever's
15 website. Those are -- those are the only two.

16 Q. Who is the company prior to High Roller that
17 Bright Solar obtained leads from?

18 A. I'm -- I'm not aware if they had anyone else.
19 It's -- prior to me, I'm -- I'm not familiar with
20 anyone else they used.

21 Q. Do you know when the relationship between
22 Bright Solar and High Roller started?

23 A. I don't know.

24 Q. Do you know how many leads since April of 2020
25 Bright Solar has provided to High Solar? Let me ask

1 that again. Do you know how many leads since
2 April 2020 High Roller has provided to Bright Solar?

3 A. I don't know the exact number, no.

4 Q. Do you know if it's more than 100,000?

5 A. I would expect it to be more than that, yes.

6 Q. Do you know if it's more than 500,000?

7 A. I don't know that, no.

8 Q. How does High Roller obtain the telephone
9 numbers that it provides as leads to Bright Solar?

10 A. My understanding is it's through social media
11 advertising from their affiliates.

12 Q. Let's say hypothetically I'm on Facebook, and
13 I see an ad on Facebook relating to Solar and that's
14 one of High Roller's affiliates and I click it, what
15 happens next?

16 A. They have multiple funnels that I'm aware of.
17 One that I know of is it would take them to either a
18 separate site or they could potentially fill it out in
19 Facebook. I'm not sure how the platform works. And
20 if -- answer some qualifying questions and complete
21 their contact information.

22 Q. When you say "they have multiple funnels,"
23 what do you mean by multiple funnels?

24 A. I just mean that there could be more than
25 what -- what you just asked and I described. I'm just

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1 not familiar with all of their marketing practices or
2 how -- what -- how their affiliates, what their
3 process looks like.

4 Q. Have you seen any websites used by High Roller
5 Marketing to obtain lead data before?

6 A. Not for High Roller, no.

7 MR. KAUFMAN: I'm going to mark as Exhibit
8 9 -- I'm going to share my screen with you -- the
9 documents Bates labeled HRM 143.

10 (Plaintiff's Exhibit 9 was marked for
11 identification.)

12 BY MR. KAUFMAN:

13 Q. Have you ever seen a web page that looked like
14 this before?

15 A. I have not. And the -- the URL is not
16 legible, so I'm -- I'm not really sure what it says.
17 I can't make that out.

18 Q. Do you know what URL High Roller Marketing
19 uses for websites to obtain consumer data that's
20 provided to Bright Solar?

21 A. No. Like I mentioned, I don't believe
22 High Roller has any. It's -- it's through their
23 affiliates, and I'm not familiar with what sites they
24 would use or URL.

25 Q. Do all of the sites that High Roller's

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1 affiliates list Bright Solar as a marketing partner
2 that may contact consumers who provide their lead
3 information?

4 A. Can you zoom in? I'm not -- I'm not sure if I
5 follow your question, and I can't see. I can't read
6 the disclosure there, so I would --

7 Q. You see here on Page 2 of what was produced by
8 High Roller, it says "Matched Solar partners included
9 but not limited to Bright Solar Marketing and
10 Associates." Do you see that?

11 A. I do.

12 Q. Do you know if all of the web pages that
13 High Roller's affiliates use include similar language
14 identifying Bright Solar Marketing as a marketing
15 partner?

16 MR. GOHEEN: Object to the form.

17 You can answer.

18 THE WITNESS: That I'm not -- I don't know,
19 no.

20 BY MR. KAUFMAN:

21 Q. Who at Bright Solar is responsible for
22 determining whether lead forms used by High Roller are
23 compliant with telemarketing laws?

24 A. I would assume that's generally Brandon.

25 Q. Is Brandon general counsel? Is that his

1 title?

2 A. I believe so.

3 Q. You said people would answer a series of
4 qualifying questions in the funnels that you're
5 familiar with used by High Roller Marketing. What
6 would those qualifying questions be?

7 A. I'm not certain -- certain what the affiliates
8 would use. I just know what we verify in the call
9 center.

10 Q. What do you verify in the call center?

11 A. Generally, it's going to be are you the
12 homeowner, who's your utility, is your power bill over
13 \$100, and do you have good credit.

14 Q. Are you aware of instances where leads called
15 by Bright Solar don't meet those requirements?

16 A. I would -- I wouldn't think they would be
17 called if they don't -- if the questions that they
18 answer through, what you just showed, weren't the
19 answers we were looking for, no.

20 Q. So Bright Solar's understanding is that
21 everyone who's provided as a lead and that it calls
22 have been pre-qualified with respect to the questions
23 you just identified as the questions that the call
24 center asks; is that correct?

25 A. Yes.

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1 Q. Aside from through High Roller's affiliates,
2 is there any other way that Bright Solar attempts to
3 obtain consent to call leads it receives from
4 High Roller?

5 A. Can you repeat the question, please?

6 Q. Aside from the web-based consent that we just
7 discussed, is there any other form of consent that
8 Bright Solar contends that it has to contact leads it
9 obtains from High Roller?

10 A. No. I mean, our agreement with High Roller is
11 our expectation is that they receive expressed written
12 consent before they provide the lead to us to call.

13 Q. Aside from any consent provided by High
14 Roller, Bright Solar doesn't have any independent
15 consent to be calling the High Roller leads;
16 is that correct?

17 MR. GOHEEN: Object to the form.

18 THE WITNESS: Yeah. I'm not sure if I
19 understand your question. I'm sorry.

20 BY MR. KAUFMAN:

21 Q. Do you have an understanding that Bright Solar
22 has another basis for having consent to call any of
23 the people whose numbers they receive as leads from
24 High Roller?

25 A. I'm familiar with a trusted form that's

1 through a website called ActiveProspect, and our
2 expectation is that they get that trusted form as
3 expressed written consent for us to call. I'm not
4 sure if that answers your question, but that's as much
5 detail as I know.

6 Q. So your understanding is, is that the only
7 form of consent that Bright Solar Marketing has to
8 call leads that it receives from High Roller is the
9 web-based consent supported by the active vision
10 report; is that correct?

11 A. Yes.

12 Q. Do Bright Solar's -- when somebody signs up
13 for service through Bright Solar, do they enter --
14 well, let's ask this differently.

15 When somebody agrees to an appointment based
16 on a call from Bright Solar, do they enter into any
17 type of agreement with Bright Solar?

18 A. No.

19 Q. When somebody obtain services from
20 Freedom Forever, do they enter into a contract with
21 Bright Solar?

22 A. No.

23 Q. Do you know if Bright Solar has entered into
24 any arbitration agreements with consumers whose leads
25 it obtained from High Roller?

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1 MR. GOHEEN: Object to the form.

2 You can answer.

3 THE WITNESS: Not that I'm aware of.

4 BY MR. KAUFMAN:

5 Q. Do you know if Bright Solar has an existing
6 business relation with consumers whose leads it
7 obtains from High Roller?

8 MR. GOHEEN: Object to the form, calls for a
9 legal conclusion.

10 THE WITNESS: Yeah, I mean, we don't know
11 prior to speaking to the customer if we've contacted
12 them before. But as I mentioned, we don't have any
13 business relationship with the customer being
14 Bright Solar. It's possible that we've spoken to them
15 in the past and set up an appointment previously, but
16 we won't know that until we speak to them.

17 BY MR. KAUFMAN:

18 Q. But to the extent that you've set them for an
19 appointment previously, that would have been as a
20 result of either them coming in as a lead from
21 High Roller or through the Freedom Forever website
22 inquiry form; is that correct?

23 A. Yes.

24 Q. If someone has already obtained solar
25 installation services from Freedom Forever, is there

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1 any reason they would qualify as a lead to be sent by
2 High Roller to Bright Solar Marketing after receiving
3 those services?

4 MR. GOHEEN: Object to the form, calls for
5 speculation.

6 THE WITNESS: There could be a time where
7 they're -- they still have room on their roof and
8 they're looking to further reduce their bill. But
9 again, we wouldn't know if they were an existing
10 customer until we spoke with them, but we have --
11 it's -- it's not uncommon for someone who already has
12 solar to look for additional panels and see if they
13 qualify, yes.

14 BY MR. KAUFMAN:

15 Q. But to the extent they were an existing
16 customer, they wouldn't be an existing customer of
17 Bright Solar's, correct?

18 A. No.

19 MR. GOHEEN: Object to the form, calls for a
20 legal conclusion.

21 THE WITNESS: No.

22 BY MR. KAUFMAN:

23 Q. When you --

24 (Crosstalk)

25 Q. Sorry.

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1 A. Any relationships with these customers as far
2 as an agreement or anything that you mentioned.

3 Q. Does Bright Solar Marketing sell services to
4 any of the consumers that it calls as leads from
5 High Roller?

6 A. No.

7 Q. Does Bright Solar Marketing enter into any
8 transactions with consumers who leads -- whose leads
9 it obtains from High Roller?

10 A. No.

11 Q. Does Bright Solar Marketing have any
12 visibility into Freedom Forever's client relationship
13 management software when it's making outbound calls to
14 set appointments?

15 A. Not that I'm aware of, no.

16 Q. Are you aware of any employees that are
17 currently employed by both Freedom Forever and
18 Bright Solar?

19 MR. GOHEEN: Object to the form.

20 THE WITNESS: Yeah, can you -- can you maybe
21 clarify the question? I want to make sure I
22 understand.

23 BY MR. KAUFMAN:

24 Q. In your time at Bright Solar, have you been
25 aware of anyone who simultaneously is employed by both

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1 companies Bright Solar and Freedom Forever?

2 MR. GOHEEN: Same objection.

3 You can answer.

4 THE WITNESS: Yeah. I mean, Brett -- Brett's
5 the CEO of both companies. So, I mean, that would
6 qualify, I guess, as employment for both.

7 BY MR. KAUFMAN:

8 Q. Anyone else?

9 MR. GOHEEN: Same objection.

10 THE WITNESS: I -- I wouldn't know off the top
11 of my head, no.

12 BY MR. KAUFMAN:

13 Q. Is Brett employed in any way by High Roller?

14 MR. GOHEEN: Object to the form, outside the
15 scope.

16 THE WITNESS: I don't believe so, no.

17 BY MR. KAUFMAN:

18 Q. Are you familiar with any employees at
19 Bright Solar who are or were simultaneously employed
20 by High Roller?

21 MR. GOHEEN: Object to the form.

22 What does this have to do with any topic on
23 which he's been disclosed?

24 MR. KAUFMAN: He can respond with his personal
25 knowledge. If he doesn't know, he doesn't know.

1 MR. GOHEEN: He doesn't have to respond to
2 anything that it's not a topic that he's been
3 disclosed on.

4 MR. KAUFMAN: We can disagree about that.
5 Are you instructing him not to answer?

6 MR. GOHEEN: I'm not.

7 MR. KAUFMAN: Okay.

8 MR. GOHEEN: But I'd appreciate it if you
9 actually asked questions that you wanted testimony on
10 instead of ranging so far afield.

11 MR. KAUFMAN: Okay.

12 Can you please respond to the question,
13 Mr. Fortenberry?

14 MR. GOHEEN: If you know personally, you can
15 answer. If not --

16 THE WITNESS: I'm -- I'm not aware of during
17 my time. I can't speak to it before I was there.

18 BY MR. KAUFMAN:

19 Q. Are you familiar with a software that
20 Bright Solar uses to make outbound telemarketing
21 calls?

22 A. I'm aware of the software, yes.

23 Q. Okay. Are you familiar with Bright Pattern
24 software?

25 A. No. I'm familiar --

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1 Q. Have you ever --

2 A. I know that we've used a platform. I don't
3 personally operate how it works, so I'm -- I'm not
4 familiar in that regard, no.

5 Q. In preparation for today's deposition, did you
6 do anything to determine how the software Bright
7 Pattern is used to make calls by Bright Solar?

8 A. Can you be more specific?

9 Q. Well, did you do anything to look into how the
10 Bright Pattern telephone system functions?

11 A. To some extent, but not -- not in great detail
12 because it's very complex and that's not one of the
13 things I'm responsible for. No.

14 Q. When you say "to some extent," what did you
15 look into?

16 A. Just the things that we reviewed yesterday, as
17 far as you know, our -- our do not call policy, how
18 that may interact with how that is updated within
19 Xencall, which is now known as Ready Mode, but for the
20 sake of this conversation, Xencall will probably be
21 easier. But -- and Bright Pattern, we used for a very
22 short period of time, and I had very little
23 involvement with that.

24 Q. When was Bright Pattern used?

25 A. From the research that I did, it looked like

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1 we started around April of 2021, and it went until
2 July, possibly August of 2021.

3 Q. Does Bright Solar pay High Roller Marketing on
4 a per lead basis?

5 A. No.

6 Q. How is High Roller compensated for leads sent
7 to Bright Solar?

8 A. I'm -- I'm not sure of all of the details, but
9 I know that it's per sale, basically per customer that
10 moves forward with Freedom Forever. I believe there's
11 some agreement between them, but I don't know the
12 details.

13 Q. Who pays for the leads? Bright Solar or
14 Freedom Forever?

15 A. Bright Solar is who pays for the affiliate.
16 Basically, there's -- it's charged to a Bright Solar
17 credit card I know.

18 MR. KAUFMAN: I'm going to mark as Exhibit 10,
19 I'll share my screen, a document starting at Bates
20 BSM 1673.

21 (Plaintiff's Exhibit 10 was marked for
22 identification.)

23 BY MR. KAUFMAN:

24 Q. Have you seen this document before? I'm happy
25 to scroll down or up.

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1 A. If you could go to the first page.

2 Q. Yeah.

3 A. Yeah, I'm familiar with this document.

4 Q. What is it?

5 A. It's our do not call policy.

6 Q. Is this Bright Solar's current do not call
7 policy?

8 A. To my knowledge, yes.

9 Q. Has this policy been in effect since 20 -- do
10 you know when this policy has been in effect since?

11 A. Based on the footnote, if you can scroll down,
12 I think it says July 2019.

13 Q. Are you familiar with whether Bright Solar
14 ever used prerecorded messages as part of its call
15 center calls to High Roller leads?

16 A. I do know there was a time. I'm not familiar
17 with the window or which platform.

18 Q. Do you know if those call -- the prerecorded
19 calls were left to voice mails when people didn't
20 answer or if they were played when people answered the
21 calls?

22 A. I'm not certain.

23 Q. Do you see in Section 5 it talks about time
24 restrictions?

25 A. Uh-huh.

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1 Q. Do you see it seems -- there seem to be under
2 the redaction stickers time restrictions by state,
3 including restrictions for Florida?

4 A. I see that, yes.

5 Q. What does Bright Solar do to ensure that it's
6 complying with these time restrictions in its do not
7 call policy?

8 A. Again, I'm -- I'm not familiar with the
9 features within Bright Pattern, but I know within
10 Xencall, there's -- I don't know the exact name of
11 the -- the setting, but there's a setting where you
12 can adjust the days and times by state.

13 Q. How is it determined whether any lead that's
14 being called is associated with Florida for purposes
15 of maintaining these time restrictions?

16 A. I'm -- I'm not certain. It could be the area
17 code. I believe that's probably the only way.

18 Q. Who would know what is done to ensure that
19 phone calls to Florida are not made during the
20 restricted hours at Bright Solar?

21 MR. GOHEEN: Object to the form.

22 THE WITNESS: I don't -- I don't know the
23 answer to that.

24 BY MR. KAUFMAN:

25 Q. You've speculated that it's based on area

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1 codes. Who would be able to confirm or disconfirm
2 that?

3 MR. GOHEEN: Object to the form.

4 THE WITNESS: Same, yeah, same answer. I'm
5 not -- I'm not certain.

6 BY MR. KAUFMAN:

7 Q. Who's responsible for configuring the dialer
8 to enforce Bright Solar's telemarketing policies?

9 A. Generally, it would be someone with
10 High Roller Marketing since we partner with them. It
11 could be Tyler, but he has a few folks on his team,
12 and I'm -- I'm not certain who's responsible. They --
13 they might share duties based on time of day and who's
14 available and things like that.

15 Q. Does High Roller Marketing make outbound
16 calls?

17 A. No.

18 Q. Does High Roller Marketing have access to
19 Bright Solar's dialer?

20 A. Yes.

21 Q. Why?

22 MR. GOHEEN: Object to the form.

23 THE WITNESS: When I arrived in 2020, they
24 were managing the dialer, and it's -- it's generally
25 someone within their team.

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1 BY MR. KAUFMAN:

2 Q. What does managing the dialer mean?

3 A. Like you just described, setting up,
4 confirming settings. I'm -- I'm not sure of all
5 the -- how the leads flow in and out. That's
6 something they're responsible for.

7 Q. What's done to ensure that numbers on the
8 national do not call list or any state do not call
9 list aren't called by Bright Solar?

10 A. Again, I -- I think that falls under the --
11 the dialer responsibilities, and I'm not -- I'm not
12 certain.

13 Q. In preparation for today's deposition, did you
14 discuss with anyone what Bright Solar does to ensure
15 compliance with federal and state do not call lists?

16 MR. GOHEEN: Object to the form.

17 THE WITNESS: Not outside of the names I
18 mentioned previously.

19 BY MR. KAUFMAN:

20 Q. See here in Paragraph 7, it's called do not
21 call list?

22 A. Yes.

23 Q. Do you see in the end of Paragraph A, it says
24 "It is the function of the calling system the Company
25 employs to check the DNC list every 30 days and ensure

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1 the numbers on the DNC list are not called by the
2 Company"?

3 A. I do.

4 Q. Does that mean that if a lead comes in from
5 High Roller and the number is on the do not call list,
6 let's say the federal one, that once that 30-day
7 period passes, it should be scrubbed out?

8 MR. GOHEEN: Object to the form.

9 THE WITNESS: Yeah, I'm -- I'm not familiar
10 with their process, but that is our expectation with
11 them, yes.

12 BY MR. KAUFMAN:

13 Q. Do you understand that you were designated to
14 testify on Bright Solar's behalf regarding documents
15 reflecting policies and procedures, practices and
16 protocols, and training protocols Bright Solar
17 maintains concerning outbound telemarketing calls?

18 MR. GOHEEN: Object to the form. He's doing
19 exactly that.

20 THE WITNESS: Yes, I do.

21 BY MR. KAUFMAN:

22 Q. What did you do to prepare yourself to address
23 that topic?

24 MR. GOHEEN: Object to the form, asked and
25 answered. Let's move on.

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1 BY MR. KAUFMAN:

2 Q. You can answer.

3 A. The same as stated previously, in our -- our
4 meeting yesterday.

5 Q. But sitting here now, you're not able to
6 describe for me how the do not call list function
7 identified in Paragraph 7a works, correct?

8 MR. GOHEEN: Object to the form. That is not
9 what he said. Quit harassing the witness. Okay?
10 He's told you what he said. He's told you the
11 knowledge. He's complying --

12 MR. KAUFMAN: Okay. Thank you, Mr. Goheen.
13 I'm not harassing anyone. I'm trying to get testimony
14 here and I appreciate your objection.

15 MR. GOHEEN: I disagree with your assessment.

16 THE WITNESS: I -- I can answer. I mean, I --
17 I want to make sure that I'm answering these questions
18 to the best of my ability, and some of these are very
19 technical that I'm just not as familiar with because
20 it's not within the scope of -- of my duties.

21 MR. GOHEEN: Or the notice.

22 Well, I don't think it's funny, but go ahead.

23 MR. KAUFMAN: I don't think your constant
24 interjections are funny either, Mr. Goheen. I'm
25 laughing because I don't know what else to do --

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1 MR. GOHEEN: You're laughing --

2 MR. KAUFMAN: -- because you seem to want to
3 interject and testify and make all kinds of comments,
4 but --

5 MR. GOHEEN: I haven't done anything.

6 MR. KAUFMAN: -- I don't know if any are
7 appropriate.

8 MR. GOHEEN: I haven't done anything other
9 than try to stop you from badgering the witness.

10 MR. KAUFMAN: Okay. Thank you.

11 MR. GOHEEN: You're welcome.

12 MR. KAUFMAN: I appreciate you.

13 BY MR. KAUFMAN:

14 Q. I'm going down to Paragraph 17. Do you see
15 the recordkeeping policies?

16 A. I do.

17 Q. What sales record 17c would Bright Solar
18 maintain?

19 MR. GOHEEN: Object to the form.

20 What does this respond to? What topic?

21 MR. KAUFMAN: Mr. Goheen, this is Topic 13,
22 all documents reflecting policies, procedures,
23 training protocols, practices, or protocols you
24 maintain concerning outbound telemarketing calls. The
25 name of this document is TCP TSR Do Not Call Policy.

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1 Now we're discussing Paragraph 17 of it.

2 MR. GOHEEN: I don't see recordkeeping on that
3 subject, but to the extent --

4 (Crosstalk)

5 MR. KAUFMAN: Okay. Are you instructing him
6 not to answer?

7 MR. GOHEEN: If you'd let me finish. I told
8 him he could answer based on his personal knowledge.

9 MR. KAUFMAN: Well, clearly, he's not
10 prepared, so he's going to have to answer based on his
11 personal knowledge, and we can take up the issue of
12 his preparation --

13 MR. GOHEEN: I move to strike that. If you
14 don't like it, then terminate the deposition. He's
15 fully prepared.

16 MR. KAUFMAN: I'm not --

17 MR. GOHEEN: You just don't like the
18 question -- you don't like the answers he's giving
19 you. Let's go.

20 MR. KAUFMAN: We're going to agree to
21 disagree, and I'm going to ask you to limit your
22 objections to form.

23 BY MR. KAUFMAN:

24 Q. So going to Paragraph 17c, what sales records
25 is that referring to?

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1 MR. GOHEEN: Object to the form.

2 THE WITNESS: Yeah, I mean, this -- this
3 mentions address of consumer, goods or services
4 purchased, dates goods were ship or provided, and the
5 amount paid. There's no records that we have of -- of
6 that with our customers because there is no agreement
7 between Bright Solar and anyone that we speak to. So
8 I'm -- I'm not sure what that's referring to.

9 BY MR. KAUFMAN:

10 Q. Do you see Paragraph 21 state specific
11 requirements?

12 A. I do.

13 Q. Is that a yes?

14 A. I said yes, I do. I'm sorry.

15 Q. Sorry. I didn't hear you.

16 A. No worries.

17 Q. Do you know what is done by Bright Solar to
18 ensure that it complies with the Florida state
19 specific requirement of not calling a phone number
20 with a Florida area code more than three times in a
21 24-hour period?

22 MR. GOHEEN: Object to the form.

23 THE WITNESS: Again, that's -- that's probably
24 a specific setting within the dialer that the
25 expectation would be -- would be maintained. Outside

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1 of that, I'm not familiar with what Bright Solar would
2 do.

3 MR. KAUFMAN: I'm going to mark as Exhibit 11
4 the document Bates labeled HRM 149.

5 (Plaintiff's Exhibit 11 was marked for
6 identification.)

7 BY MR. KAUFMAN:

8 Q. Have you seen this document before?

9 A. I've not.

10 MR. GOHEEN: Take the blue --

11 BY MR. KAUFMAN:

12 Q. Are you familiar with Lead Locker Room?

13 A. I am familiar with Lead Locker Room, yes.

14 Q. What's Lead Locker Room?

15 A. My understanding is Lead Locker Room is a
16 platform where High Roller and its affiliates would
17 send their leads before they are sent to one of the
18 dialers.

19 Q. When you say "sent to one of the dialers,"
20 what do you mean?

21 A. Again, I -- I don't know the technical term,
22 so I don't want to get it wrong, but my -- I would
23 assume that they go here. And then there's some sort
24 of connection between the Locker Room and either
25 Bright Pattern or Xencall for us to call.

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1 Q. What information -- is there any
2 information -- so you see here at the bottom, there's
3 a row. It says lead ID created on, campaign name,
4 campaign type, and then it's got a series of other
5 information items.

6 A. Can you zoom in a little bit, please?

7 Q. Absolutely. I'll just represent to you the
8 reason these are such bad quality is because whoever
9 produced them, instead of providing screenshots,
10 printed them out and scanned them in so that they
11 wouldn't be searchable. So we received --

12 MR. GOHEEN: Objection to form. Move to
13 strike. That's just silly. I move to strike that.

14 If you have a question ask it, otherwise quit
15 editorializing.

16 MR. KAUFMAN: I've asked the question. He
17 hasn't responded. I'm waiting for a response.

18 (Crosstalk)

19 MR. KAUFMAN: I would ask that you not comment
20 while a question is pending, Mr. Goheen, unless you
21 have an objection, which should be limited to form.

22 MR. GOHEEN: Ask that question -- ask it again
23 because we can't see it.

24 MR. KAUFMAN: You can't see what?

25 MR. GOHEEN: It's blue. We can hardly see the

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1 document.

2 MR. KAUFMAN: No. That's not why you can't
3 see it. You can't see it because of the production.

4 So Mr. --

5 MR. GOHEEN: Be quiet. No, we're --

6 MR. KAUFMAN: Excuse me, sir.

7 MR. GOHEEN: I'm moving -- we're moving --

8 MR. KAUFMAN: Did you just tell me to be
9 quiet?

10 MR. GOHEEN: Yeah, I did.

11 MR. KAUFMAN: Did you think that was
12 appropriate?

13 MR. GOHEEN: Yeah, I do think it's entirely
14 appropriate.

15 MR. KAUFMAN: Okay. Let's take a little break
16 here because I don't think it's appropriate for you to
17 tell me to be quiet.

18 MR. GOHEEN: No, we're fine. We're not
19 taking --

20 MR. KAUFMAN: I don't think it's appropriate
21 for you to be telling me to be quiet, sir. So we're
22 going to take a little break.

23 MR. GOHEEN: I don't think it's
24 appropriate for you to be editorializing --

25 (Crosstalk)

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1 THE REPORTER: Gentlemen, I can't get an
2 accurate record if you're speaking over one another.

3 MR. GOHEEN: It's not appropriate for you to
4 be editorializing. If you don't like it, too bad.

5 MR. KAUFMAN: You're the one who's been
6 editorializing, sir.

7 (Crosstalk)

8 MR. GOHEEN: -- editorializing anything.

9 MR. KAUFMAN: So we're going to take a little
10 break here now. We're going to take a five-minute
11 break and let tempers cool because I'm not going to be
12 told to be quiet when I'm asking questions of a
13 witness.

14 MR. GOHEEN: Well, I think you just were.

15 THE REPORTER: This marks the end of Media
16 Number One. The time is 11:44 a.m. We are off the
17 record.

18 (A recess was taken.)

19 THE REPORTER: This marks the beginning of
20 Media Number Two. The time is 11:49 a.m. We are on
21 the record.

22 BY MR. KAUFMAN:

23 Q. Turning back to Exhibit 11, Mr. Fortenberry,
24 do you see where halfway down the page, there's a
25 black box line and then there's certain information

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1 below it?

2 A. Yes.

3 Q. Is it your understanding that that's
4 information transmitted by High Roller to Bright Solar
5 regarding Mr. Bales?

6 MR. GOHEEN: Object to the form.

7 THE WITNESS: I -- I don't know all the
8 information that is transferred into the phone system,
9 but yes, I would expect some of this.

10 BY MR. KAUFMAN:

11 Q. When you say "you don't know all the
12 information transferred into the phone system," do you
13 think it's possible there's more or less information
14 transferred into the phone system than is visible
15 here?

16 MR. GOHEEN: Object to the form, calls for
17 speculation.

18 THE WITNESS: I'm -- I'm not certain. I'm --
19 I'm not sure if all of these would have any relevance
20 for us to make the call. So there might be some that
21 are excluded.

22 BY MR. KAUFMAN:

23 Q. Aside from the information visible here, is
24 there any other information that High Roller supplies
25 regarding the leads it provides to Bright Solar?

1 MR. GOHEEN: Object to the form.

2 THE WITNESS: Not that I'm aware of, no.

3 MR. KAUFMAN: We'll mark as Exhibit 12, a
4 document starting at Bates number BSM 1699.

5 (Plaintiff's Exhibit 12 was marked for
6 identification.)

7 BY MR. KAUFMAN:

8 Q. Have you seen this document before?

9 A. No, not to my knowledge.

10 Q. Are you familiar with the position at
11 Bright Solar Marketing called prospect specialist?

12 A. Yes.

13 Q. What does a prospect specialist do?

14 A. The prospect specialist would be the folks
15 that are actually speaking to the homeowner.

16 Q. Those would be the call center agents?

17 A. Correct.

18 Q. What's a quality assurance admin?

19 A. Quality assurance admin would be someone who
20 reviews the appointments after they're set to ensure
21 all the questions are answered. They also might
22 assist with some functions within the dialer. Like if
23 there's a DNC request, they might double-check that
24 along with, I believe that role was also responsible
25 for sending the text messages that we send generally

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1 24 hours in advance of the appointment that we set to
2 remind the homeowner.

3 Q. Aside from appointment confirmation text
4 messages, are there any other types of text messages
5 that Bright Solar sends out to consumers?

6 A. No, not that I'm aware of.

7 MR. KAUFMAN: I'll mark as Exhibit 13 the
8 document starting at BSM 1697.

9 (Plaintiff's Exhibit 13 was marked for
10 identification.)

11 BY MR. KAUFMAN:

12 Q. Have you seen this document before?

13 A. I'm sure I've seen it at some point, but it --
14 it might have been a while.

15 Q. Do you know what it is?

16 A. It looks like a job description.

17 Q. Is it a job description for a prospect
18 specialist?

19 A. Yes, for Las Vegas.

20 Q. Do you see in the job duties and
21 responsibilities, there's a series of bullet points?

22 A. Yes.

23 Q. Do you see the third one down says "cold and
24 warm calling to potential clients"?

25 A. I do.

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1 Q. Do you know what the difference between cold
2 and warm calling is?

3 A. In my personal experience, generally cold
4 calling is someone who's not expecting a phone call.

5 Q. Warm calling is?

6 A. Warm calling is generally someone who's
7 expressed interest or requested we contact them.

8 Q. What kind of cold calling do Bright Solar
9 prospect specialists do?

10 A. None.

11 Q. Why would the job duties and responsibilities
12 for a prospect specialist include cold calling?

13 MR. GOHEEN: Object to the form.

14 THE WITNESS: I'm not sure.

15 BY MR. KAUFMAN:

16 Q. When you say people are expecting -- when you
17 suggest that people are expecting Bright Solar's
18 calls, is that because they've completed lead forms?

19 A. Correct. Yeah, they've filled out an inquiry.

20 Q. Where do the inquiries that come into the
21 Freedom Forever website flow to?

22 A. They also flow to the same calling platforms.

23 Q. Do they go through Lead Locker Room?

24 A. No.

25 Q. Is there another repository other than the

1 calling platforms for that information?

2 A. I don't believe so. There was previously a
3 software platform that we used called Podio. It's
4 possible that they could flow to Podio, but again,
5 I'm -- I'm not sure of all the technical software
6 functions.

7 Q. What's Podio used for?

8 A. It was our database of customers. We would --
9 I believe we used that to -- we call it dispatch
10 appointments. Basically find a corresponding
11 salesperson for the area where the homeowner lived and
12 then we would send the appointment to them, the
13 information.

14 Q. For inquiries that came in from the
15 Freedom Forever website, would they be sent out to
16 sales associates without Bright Solar making an
17 outbound call to attempt to set an appointment?

18 A. No.

19 Q. Is Bright Solar able to tell when calling a
20 lead whether the lead it's calling came in from
21 High Roller versus the Freedom Forever website?

22 A. Not prior to the call being made. It's all
23 automated on the back end. Once we connect with the
24 homeowner, they may or may not see, like on a sidebar
25 where we received their information.

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1 Q. But Bright Solar has that information
2 somewhere, even if it's not available to the calling
3 agent at the time of the call, correct?

4 A. I would assume so, yes.

5 Q. When did you first learn about the Florida
6 Telephone Solicitation Act?

7 A. Probably about the time that we were talking
8 about Mr. Bales' situation.

9 Q. Has Bright Solar made any changes to its
10 calling practices as a result of learning of the
11 Florida Telephone Solicitation Act?

12 A. If -- if Bright Solar did again, it would be
13 through the dialer and those expectations that
14 High Roller generally is responsible for or assists
15 with.

16 Q. Do you know if Bright Solar has an account
17 with the FTC or the FCC to be able to download updated
18 do not call lists?

19 MR. GOHEEN: Object to the form.

20 THE WITNESS: Yeah, I don't know that.

21 BY MR. KAUFMAN:

22 Q. Aside from managing the dialer, does
23 High Roller have any other involvement in the making
24 of outbound calls by Bright Solar?

25 A. No.

1 MR. GOHEEN: Object to the form.

2 THE WITNESS: No, not to my knowledge, no.

3 BY MR. KAUFMAN:

4 Q. Does any other company other than Bright Solar
5 or High Roller have any involvement in the outbound
6 calls made by Bright Solar?

7 A. I'm -- I'm not sure I understand the question.
8 Can you maybe restate it?

9 Q. Is there any other company involved in making
10 outbound calls that Bright Solar makes?

11 A. No.

12 Q. Do you have any experience attempting to
13 generate reports using either of the two dialers that
14 Bright Solar used during your time there?

15 A. Very little.

16 Q. What experience do you have?

17 A. I might look to -- maybe for appointments by
18 hour or something along those lines to -- for staffing
19 purposes, but maybe that would probably be about it.

20 Q. Have you ever been involved in making a
21 request on behalf of Bright Solar Marketing to
22 Bright Pattern for information relating to outbound
23 calls?

24 A. I don't believe so. Again, I had very little
25 interaction with Bright Pattern. And if I did, it

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1 would have been more of as we're starting to work with
2 them. To my knowledge, nothing about specific calls
3 or anything, if that's what you're asking about.

4 Q. Who, if anyone, at Bright Solar, would have
5 had responsibility for interfacing with Bright
6 Pattern?

7 A. Generally, the -- the two people at that time
8 would have been Tyler, who was the one who went and
9 found Bright Pattern because we were basically
10 outgrowing Xencall at the time. And then there was
11 another gentleman who -- Cameron, I don't know how to
12 pronounce his last name, Desmarais or something. He's
13 no longer here. They were the two that were basically
14 piloting Bright Pattern. So Cameron might have had
15 some interaction with them, but I don't know to what
16 extent.

17 Q. Why did -- you mentioned that Bright Solar
18 outgrew Xencall resulting in the change to
19 Bright Pattern.

20 A. Uh-huh.

21 Q. What happened resulting in the change from
22 Bright Pattern back to Xencall?

23 A. I think Xencall really wanted our business,
24 and at the time, they weren't able to accommodate
25 the -- the number of folks that we needed on the

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1 phone. Essentially anytime we had more than 100
2 people on the phone, the call quality was -- was not
3 good, and we needed to look for another solution. And
4 that, whatever we were trying to get from Bright
5 Pattern, either it wasn't good enough or Xencall did
6 something to -- to get our business back. I'm not
7 sure exactly.

8 Q. Do you know who would have been involved in
9 the decision of changing platforms from Bright Pattern
10 to Xencall?

11 A. Yeah, that would have been Tyler Eggleston.

12 Q. Is Tyler employed in any way by Bright Solar?

13 A. High Roller Marketing is a subsidiary of
14 Freedom Solar Services, but not by Bright Solar, no.

15 Q. Is Bright Solar a subsidiary of Freedom
16 Forever?

17 A. I'm not certain of how everything is set up.

18 MR. GOHEEN: Object to the form, outside the
19 scope, and calls for a legal conclusion.

20 But if you know, you can answer.

21 THE WITNESS: I -- I don't know how everything
22 is set up between the two companies, no.

23 BY MR. KAUFMAN:

24 Q. You testified earlier that there's an
25 expectation that there's going to be an

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1 ActiveProspect, I think you said, report associated
2 with each lead; is that accurate?

3 A. Yeah. So I'm -- I'm not familiar with all the
4 details, but essentially my understanding is there's a
5 document called a trusted form, which is what
6 documents the expressed written consent, and that, I
7 don't know if you call it a feature or whatnot, is
8 through a website called ActiveProspect. And that's
9 as much as I know.

10 Q. Does Bright Solar have the trusted forms for
11 all of the leads it received from High Roller?

12 A. I'm -- I'm not certain if we housed those or
13 if it's just the expectation that High Roller
14 maintains them and we ask to see them if it comes up.

15 Q. Does Bright Solar have the right to ask
16 High Roller to provide one of those reports if it
17 desires?

18 MR. GOHEEN: Object to the form, legal
19 conclusion, outside the scope.

20 THE WITNESS: I would think so. I personally
21 have not myself, no, but I would think it would be
22 available.

23 BY MR. KAUFMAN:

24 Q. Do you know if somebody asked for that report
25 in connection with Mr. Bales' lead?

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1 A. I don't know.

2 Q. Who's responsible for training employees in
3 the TCPA TSR Do Not Call Policy we looked at before?

4 A. Each location has generally a training
5 position, and it's part of the onboarding process.

6 Q. Does every new employee go through training on
7 the do not call policy?

8 A. Yeah, they receive the document. I believe
9 they also sign the document. The expectation is that
10 if someone requests to be put on the do not call list,
11 that they update the record within the phone system.

12 Q. When somebody is added to the do not call
13 list, how quickly are they removed from the calling
14 queue?

15 A. I don't know if there's a delay within each
16 phone platform, but I mean, the button is pressed and
17 it's dispositioned as such, so I would -- I would
18 assume it could be as soon as instant. I'm not aware
19 of if there's a delay or not.

20 Q. Are you familiar with the entity, Bright Solar
21 Marketing, LLC?

22 A. I -- I didn't catch the first couple of words.
23 I'm sorry.

24 Q. Are you familiar the entity, Bright Solar
25 Marketing, LLC?

1 A. Yes.

2 Q. How is that different than Freedom Solar
3 Services doing business as Bright Solar Marketing?

4 MR. GOHEEN: Object to the form.

5 You can answer.

6 THE WITNESS: I mean, my understanding, it's
7 the same, but I -- I might not -- I could be wrong.

8 MR. KAUFMAN: Let's take a three-minute break.
9 I'm probably done here.

10 THE WITNESS: Okay. Thank you.

11 MR. GOHEEN: Okay.

12 THE REPORTER: Do you want to go off the
13 record for the break?

14 MR. KAUFMAN: Yes, please.

15 MR. GOHEEN: Let's go off the record, but hold
16 on just a second. I want to make sure that, Amanda,
17 that we have something clear and that's on the
18 spelling of Xen.

19 THE REPORTER: Okay.

20 MR. GOHEEN: It's actually, you probably have
21 put down Z-E-N, but it's X-E-N. I just wanted to make
22 sure that as you go through that you make those
23 changes. I just want to make sure I mentioned it
24 before we broke.

25 THE REPORTER: Absolutely. Thank you. I will

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1 make sure that the record reflects that.

2 MR. GOHEEN: Okay. Thank you.

3 THE REPORTER: This marks the end of Media
4 Number Two. The time is 12:07 p.m. We are off the
5 record.

6 (A recess was taken.)

7 THE REPORTER: This marks the beginning of
8 Media Number Three. The time is 12:11 p.m. We are on
9 the record.

10 BY MR. KAUFMAN:

11 Q. Are you aware of any complaints made to
12 Bright Solar Marketing regarding its outbound calling?

13 MR. GOHEEN: Object to the form.

14 You can answer.

15 THE WITNESS: Can you define a complaint?

16 BY MR. KAUFMAN:

17 Q. Somebody saying I didn't want to be called and
18 I was called.

19 A. I mean, there might be a time where someone
20 would call back and say I want to make sure I'm not
21 being called, to that extent. Personally, I've never
22 spoken to, like, an escalated customer, if that's what
23 you're asking.

24 Q. Escalated customer, what's that?

25 A. What you were just saying as far as a

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1 complaint. I would consider a complaint, someone who
2 says I want to speak to your supervisor, something
3 like that. Is that what you're referring to?

4 Q. Let's talk about that. So how frequently does
5 an escalated customer occur?

6 A. That's what I'm saying. I -- I personally
7 have never spoken to one.

8 Q. Do you know how frequently an escalated
9 customer occurs at Bright Solar?

10 A. I -- I don't. I don't hear of it very often.

11 Q. Are you aware of whether Bright Solar has ever
12 received any consumer complaints about outbound calls
13 in writing?

14 A. If there have been, I haven't seen them, no.

15 Q. To prepare for today's deposition, did you do
16 anything to determine whether anyone had ever
17 complained about outbound calls to Bright Solar in
18 writing?

19 A. I mean, internally, yes, but I didn't go seek
20 out websites or something, if that -- I'm not -- I'm
21 not sure if I understand your question.

22 Q. What did you do internally?

23 A. I confirmed if we had received anything, if
24 there were any emails to our customer service team or
25 anything like that, or customer service email, I

1 should say.

2 Q. Who did you confirm with?

3 A. There's the -- the group that you mentioned --
4 or the document you showed previously. If it was --
5 that -- that inbox is monitored by the admin team.

6 Q. What inbox?

7 A. The -- like I said, the -- there's, like, a
8 customer support at Bright Solar. It's on our
9 website. I'm not sure of it. I don't know it off the
10 top of my head.

11 Q. Okay. So when did you ask somebody who
12 manages that email whether or not they were aware of
13 any complaints?

14 A. It would have been maybe within the last week.
15 I don't know the exact date.

16 Q. Who was the person that you spoke to?

17 A. Her name is Taylor Tilbey.

18 Q. What did Ms. Tilbey say in response to your
19 inquiry?

20 A. She said she didn't find anything in the
21 inbox. I'm not -- I'm -- I'll be honest. I'm not
22 sure where it points to, but I'm assuming it's within
23 her team. It doesn't come -- I don't have access to
24 that.

25 Q. What about mail, mailed complaints? Did you

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1 check with anyone regarding whether anyone has mailed
2 a complaint to Bright Solar regarding its outbound
3 telemarketing?

4 A. No.

5 Q. Aside from this lawsuit by Mr. Bales, do you
6 know if Bright Solar has ever been sued regarding its
7 outbound telemarketing?

8 MR. GOHEEN: Object to the form.

9 THE WITNESS: Not that I'm aware of, no.

10 BY MR. KAUFMAN:

11 Q. Do you know if Bright Solar has ever paid any
12 money to resolve a perspective claim relating to its
13 outbound telemarketing?

14 MR. GOHEEN: Object to the form.

15 THE WITNESS: Same. Not that I'm aware of,
16 no.

17 BY MR. KAUFMAN:

18 Q. Did you do anything to determine in
19 preparation for today's deposition whether
20 Bright Solar has ever paid anybody to resolve a
21 potential claim relating to its outbound
22 telemarketing?

23 MR. GOHEEN: Object to the form, beyond the
24 scope.

25 You can answer.

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1 THE WITNESS: No.

2 BY MR. KAUFMAN:

3 Q. Aside from the TCPA TSR Do Not Call Policy we
4 reviewed earlier, are there any other documents that
5 you're aware of that Bright Solar maintains that
6 reflect policies and procedures for complying with
7 telemarketing laws?

8 A. No.

9 MR. KAUFMAN: Okay. Thank you,
10 Mr. Fortenberry. I don't have any additional
11 questions unless Mr. Goheen asks you some
12 cross-examination questions.

13 MR. GOHEEN: I have no questions. Thank you.

14 MR. KAUFMAN: I assume you'll read this one as
15 well?

16 MR. GOHEEN: We will. Thank you for reminding
17 me.

18 MR. KAUFMAN: Good, very good. Thank you,
19 both.

20 THE REPORTER: With that, let me go ahead and
21 take orders for transcripts while we're still on the
22 record.

23 I have an expedited copy within five business
24 dates for Mr. Kaufman.

25 Mr. Goheen, would you like to make an order

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1 for a transcript?

2 MR. GOHEEN: Regular delivery is fine with us.

3 THE REPORTER: Okay. Thank you.

4 With that, this marks the end of Media Number
5 Three. The time is 12:16 p.m. We are off the record.

6 (The deposition concluded at 12:16 p.m.)

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1 CERTIFICATE OF DIGITAL REPORTER

2
3 I, AMANDA COLBY, a Digital Reporter and
4 Notary Public in and for the State of California, do
5 hereby certify:

6
7 That the foregoing witness was by me duly
8 sworn; that the proceeding took place before me at the
9 time and place herein set forth; that the testimony
10 and proceedings were accurately captured with
11 annotations by me during the proceeding.

12
13 I further certify that I am not related to
14 any of the parties to this action by blood or marriage
15 and that I am in no way interested in the outcome of
16 this matter.

17
18 IN WITNESS THEREOF, I have hereunto set my
19 hand this 18th day of October, 2022.

20
21 *Amanda Colby*

22 _____
23 Amanda Colby
24 Notary Commission California 2408791
25 Commission Expires: June 23, 2026

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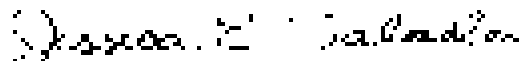
CERTIFICATE OF TRANSCRIPTIONIST

I, Jessica E. Salada, Registered Professional Reporter, do hereby certify:

That the foregoing is a complete and true transcription of the original digital audio recording of the testimony and proceedings captured in the above-entitled matter. As the transcriptionist, I have reviewed and transcribed the entirety of the original digital audio recording of the proceeding to ensure a verbatim record to the best of my ability.

I further certify that I am neither attorney for nor a relative or employee of any of the parties to the action; further, that I am not a relative or employee of any attorney employed by the parties hereto, nor financially or otherwise interested in the outcome of this matter.

IN WITNESS THEREOF, I have hereunto set my hand this 18th day of October 2022.



Jessica E. Salada, RPR

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DEPOSITION ERRATA SHEET

Assignment No. J8741667

Case Caption: Floyd Steve Bales vs. Bright Solar
Marketing, LLC

DECLARATION UNDER PENALTY OF PERJURY

I declare under penalty of perjury that I have read
the entire transcript of my deposition taken in the
above-captioned matter or the same has been read to
me, and the same is true and accurate, save and except
for changes and/or corrections, if any, as indicated
by me on the DEPOSITION ERRATA SHEET hereof, with the
understanding that I offer these changes as if still
under oath.

Signed on the _____ day of _____, 20__.

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