

EXHIBIT 5

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE NORTHERN DISTRICT OF OKLAHOMA
3 TRANSPORTATION ALLIANCE
4 BANK, INC.,
5 Plaintiff,
6 vs. No. 4:10-CV-00016-GKF-FHM
7 ARROW TRUCKING CO, et al.,
8 Defendants.

9 DEPOSITION OF GARY JONES
10 TAKEN ON BEHALF OF THE PLAINTIFF
11 ON JULY 12, 2011, BEGINNING AT 9:04 A.M.
12 IN TULSA, OKLAHOMA

13 APPEARANCES:
14 Appearing on behalf of the PLAINTIFF:

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(Appearances continued on the following page.)

REPORTED BY: Lacy Antle, CSR, RPR

1 Appearances continued:
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STIPULATIONS

It is hereby stipulated and agreed by and between the parties hereto, through their respective attorneys, that the deposition of GARY JONES may be taken pursuant to subpoena and in accordance with the Federal Rules of Civil Procedure on July 12, 2011, at the offices of Pray Walker, Tulsa, Oklahoma, before Lacy Antle, CSR RPR.

1 WHEREUPON,

2 GARY JONES,

3 after having been first duly sworn, deposes and

4 says in reply to the questions propounded as

5 follows, to-wit:

6 DIRECT EXAMINATION

7 BY MR. ARAMBURU:

8 Q Good morning, Mr. Jones. My name is Troy
9 Aramburu. My partner, Jeff Shields, and I represent
10 Transportation Alliance Bank in the case that you
11 are here to talk to us about today. We are -- for
12 the record, we're at the time and the place for your
13 deposition.

14 You are here pursuant to a subpoena that
15 was served on you; is that correct?

16 A That's correct.

17 Q Mr. Jones, could you state your full name
18 for the record, please?

19 A Gary L. Jones, Gary Lee Jones.

20 Q And can you give us your address, please?

21 A 6009 West Charleston, Broken Arrow,
22 Oklahoma.

23 Q Is that your home address?

24 A Yes.

25 Q Do you have a business address, Mr. Jones?

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1 Bump listed.

2 A No.

3 Q My understanding is that Ms. Bump was the
4 sole shareholder of the entity that owned Arrow
5 Trucking; is that correct?

6 A As far as I know, she was the owner. Now,
7 as far as the shareholders, I -- shares and all that
8 stuff, I have no earthly idea.

9 Q Okay. But as far as you knew, she was the
10 owner of Arrow Trucking?

11 A As far as I knew.

12 Q Okay. And did you also understand that
13 she was the chair of the board of directors?

14 A Yes.

15 Q Now, did you have any contact with Carol
16 during your time as the COO in 2008, 2009?

17 A Very minimal, minimal. She would come in
18 for meetings with Joe and Doug and John Moore and
19 she'd come by my office and say hi, and that would
20 be pretty much the extent of it. I had no idea what
21 they were talking about.

22 Q Okay. How often do you recall that she
23 would come in for those meetings with Mr. Mowry,
24 Doug, and Jonathan Moore?

25 A Well, probably for the first six months I

1 MR. RAY: Object to form.

2 Q (BY MR. ARAMBURU) Let me ask you -- let me
3 break those questions up. Was there any
4 conversation about any guarantee, personal guarantee
5 given by Carol to TAB at that meeting?

6 MR. RAY: Object to form.

7 Q (BY MR. ARAMBURU) You can answer the
8 question, Mr. Jones.

9 A Yeah, I think there was. I'm pretty sure
10 there was. I'm not a hundred percent positive, but
11 I believe there was on both cases.

12 Q Okay. Well, let's start --

13 A Okay.

14 Q -- let's start with just on Carol's case.

15 A Carol.

16 Q You believe that that conversation took
17 place?

18 A I think so.

19 Q Okay. Do you recall at any time during
20 that conversation Carol stating that she had not
21 given the guarantee?

22 MR. RAY: Object to form.

23 Q (BY MR. ARAMBURU) You can answer the
24 question.

25 A No, I don't recall that. It could have

1 happened. I can't -- I don't recall that.

2 Q Okay. Do you recall anyone else at the
3 meeting stating that Carol had not given a guarantee
4 to TAB?

5 MR. RAY: Object to the form.

6 THE WITNESS: No.

7 Q (BY MR. ARAMBURU) Okay. Mr. Jones, you
8 had talked a little bit about the -- what was
9 discussed at the meeting and the magnitude of the
10 debt and the things of that nature, and you
11 testified that you talked a lot -- the meeting --
12 there was a lot of conversation at the meeting about
13 what had happened with respect to TAB. Do you
14 recall that testimony?

15 A Uh-huh.

16 Q Okay. Are you referring -- when you say
17 what had happened with TAB, are you referring to the
18 inflation of invoices that occurred to drive up the
19 debt owed to TAB?

20 A Yes.

21 Q Okay. So you're aware of -- you're aware
22 of the what we've referred to in these other
23 depositions as "the invoice scheme" or "the
24 inflation scheme"?

25 A Yes.

1 Q Okay. When did you first become aware of
2 that scheme?

3 A October.

4 Q So October of '09?

5 A Uh-huh.

6 Q How did -- and how did you become aware of
7 that?

8 A I found it.

9 Q How did you find it?

10 A I had Sara Carter run a run of all of our
11 customers and all of their bills, their invoices,
12 because I wanted to see what each customer was doing
13 and what we were billing them and all that, and when
14 I saw it, I saw these dumb ass amounts standing out
15 in this run. And I took it back to her, and I said,
16 "This is wrong." I said, "This thing's wrong." I
17 said, "Look at all this." And she had kind of a
18 funny look on her face, and I said, "Run it again."
19 And she said, "I don't have to." I said, "Why?"
20 She said, "That's right."

21 Q So --

22 A And I said, "Well, we got a load here from
23 Houston to Louisiana for \$52,000." I said, "Don't
24 you think that's a little bit strange?" She said,
25 "I'm just doing what I'm told." And I said, "Stop

1 it." And I went down and I got Doug and I got Mowry
2 and I said, "You guys get your ass on an airplane
3 and get to Salt Lake City and you get this son of a
4 bitch straightened out." I did not know the
5 magnitude of it, and they assured me then that, "Oh,
6 it was just a few, just a few, just a few." Well,
7 it wasn't, of course. And it had been going on, I
8 guess, for quite some time. I don't know how long,
9 but quite some time. And they said, "No, it will
10 work itself out. It will work itself out."

11 Q During that time or at any time after
12 that, Mr. Jones, did you come to understand at whose
13 direction the invoice scheme took off?

14 A No, I never -- I never was quite sure how
15 it all started, I really wasn't. But you know, he
16 was let go. I mean, the people knew, they knew what
17 was going on.

18 Q And by "they" you mean who?

19 A Doug, Mowry, and Moore.

20 Q Doug, Mowry, and Moore?

21 A They knew it was going on. As far as I
22 was concerned, they did, or they would have stopped
23 it. Somebody would have.

24 Q So in October, when you had the
25 conversation with Sara and then went and talked to

1 Doug and to Joe, did Doug or Joe at that time -- I
2 mean, were they -- did they act surprised that this
3 had been going on? I mean --

4 A Oh, Doug did.

5 Q He acted like he had heard it for the
6 first time when you were telling him?

7 A Uh-huh.

8 Q And what about Joe Mowry?

9 A Mowry said, "Oh," he said, "we knew about
10 it. We knew about it, and we're getting it fixed.
11 You know, we're taking care of it."

12 Q Did you talk to them together at that
13 point?

14 A Together as -- and individually.

15 Q At that time did either one of them tell
16 you, I mean, who was running this scheme or who came
17 up with this scheme?

18 A Well, of course, they blamed it on Moore.

19 Q Go back to the Daimler meeting of
20 December 21st, Mr. Jones. You testified that you
21 spent a large part -- when I say "you," I mean you
22 as a group, that Arrow group, spent a lot of time
23 walking through the new cash flow statement, is that
24 right?

25 A Uh-huh, yes.

1 didn't -- I wasn't real at ease with it.

2 Q Did anyone explain to you why the company
3 was selling its invoices to TAB?

4 A Well, yeah, cash flow.

5 Q So was it your understanding that cash
6 flow was tight?

7 A Yes, very.

8 Q And did you have that understanding --
9 when did you first have that understanding?

10 A Probably about three months after I got
11 there.

12 Q So roughly February of 2009?

13 A Uh-huh.

14 Q How did you come to that understanding?

15 A Well, when we couldn't pay our bills.
16 When I had permit loads stuck because we couldn't
17 get permits, because, you know, nobody would give
18 us -- you know, we was working -- we was basically
19 operating off our credit card, and I just -- I went
20 ballistic, real ballistic.

21 Q And was that -- in your experience, was
22 that cash flow shortage an isolated event, was it a
23 daily occurrence, was it --

24 A Yes.

25 Q So it was a daily occurrence?

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1 A Every day.

2 Q It was a daily occurrence?

3 A Every day, every day, couldn't get trucks
4 out of the shop. We couldn't buy parts. We
5 couldn't buy tires. We couldn't buy fuel. We
6 couldn't buy nothing. I mean, it was just, every
7 day it was just a drain.

8 Q Did you have any conversations with anyone
9 else in management about why cash flow was so short?

10 A Yeah, daily.

11 Q All right.

12 A Doug and Mowry and Moore, "Where the hell
13 is our money going?"

14 Q What were you told?

15 A Well, Doug would be the first one to say
16 "Oh, we can do this. We can do this. Why can't" --
17 and he'd jump on Moore and say "Why aren't you
18 paying this? Why aren't you paying this?" And John
19 would say, "I don't have any money."

20 Q Did any of them tell you where the money
21 was going?

22 A No.

23 Q Do you have any understanding about where
24 the money was going?

25 A It would be speculation on my part, but I

1 you know, Witt probably was prior to me coming
2 there, but I don't know. He was pretty well given a
3 free hand to screw everything up in the operations,
4 but I don't know whether he was in that clique or
5 not, but I know Mowry and Doug were very, very,
6 very, very, very close, and Moore. They
7 personally -- I mean outside the company as well as
8 inside.

9 Q You testified a little bit about how often
10 Carol would come to the Arrow offices --

11 (Cell phone interruption.)

12 THE WITNESS: Nice one, Jeff.

13 MR. ARAMBURU: That's right. For the
14 record, that was Jeff Shields' cell phone, not mine.

15 Q (BY MR. ARAMBURU) You testified a little
16 bit about how often Carol would come to the office,
17 and I think your testimony, you can correct me if
18 I'm wrong, but I think your testimony was she came
19 more often once things started getting hairy, is
20 that a fair assessment?

21 A That's true.

22 Q And I think that you had kind of pegged
23 that about six months or so after you started --

24 A Yeah.

25 Q -- is that right?

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1 A Yeah.

2 Q Okay.

3 A Well, realize she got married in, what was
4 it, January? I started in the end of December,
5 right after Christmas, right at Christmas, and her
6 and Larry got married in January or February and
7 then they went on the honeymoon and then -- so,
8 yeah, I mean, she -- probably there -- probably
9 wasn't any reason for Carol to, you know, be there
10 on a daily basis.

11 Q But when you say that "when things started
12 getting hairy" --

13 A She did come around more often. There was
14 more meetings between her and Doug and Larry and Joe
15 and Jonathan.

16 Q Okay. And what do you mean by "when
17 things started getting hairy"?

18 A After October.

19 Q Okay. And --

20 A Well, prior to October -- about the time
21 Larry -- right before Larry's infusion of money,
22 let's say -- yeah.

23 Q Okay.

24 A Then it was -- I guess they all knew where
25 things stood a hell of a lot better than the rest of

1 A Very fair.

2 Q Okay. When you say you "went ballistic,"
3 could you explain that a little bit, what do you
4 mean? Did you talk to somebody?

5 A I talked -- yeah, I talked to Doug and Joe
6 Mowry in Doug's office and I said, "What in the hell
7 is going on here? How did this happen? How it did
8 this get to this point?" You know, and of course,
9 they were all dumbfounded like, "What do you mean?"
10 "Well, your company is, you know, going down the
11 tubes, boys. So you can either admit it yourself or
12 admit it to me or whatever, but" I said, "we got a
13 problem here." "Yeah, well, yeah, that's why we
14 brought you back." I said, "Well, thanks."

15 Q Did you talk to anybody else about it?

16 A No, I'm not going to do that.

17 Q Nobody else at the company?

18 A No.

19 Q Going back to the December 21st meeting at
20 Daimler, you testified before that there was talk of
21 Carol's guarantee at that meeting, is that right?

22 A Uh-huh.

23 Q And that she'd given that guarantee to
24 TAB, is that right?

25 MR. RAY: Object to form.

1 THE WITNESS: Yeah, well, that's what I
2 assume that, yes, yeah, she had given a guarantee.

3 Q (BY MR. ARAMBURU) Okay.

4 A I didn't -- did I see the guarantee? No.
5 But that's -- I mean, but I knew that -- I heard
6 that she'd given a guarantee to TAB.

7 Q And who did you hear that from?

8 A In the meeting.

9 Q You heard that at the meeting?

10 A In the meeting.

11 Q Okay.

12 A And I heard it from the TAB folks.

13 Q Okay. Do you recall any specific
14 questions at that meeting -- strike that.

15 When you were giving me the list of folks
16 who had attended that meeting --

17 A Uh-huh.

18 Q -- I got everybody on the Arrow side. I
19 think that you mentioned that there were a lot of
20 people from Daimler that you just couldn't remember,
21 is that fair?

22 A Yeah.

23 Q Okay. Let me ask you this, though, do you
24 recall, other than Carol, do you recall any other
25 women being at that meeting?