IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA	:	
v.	:	**CRIMINAL No. 15-398-3**
WAYDE MCKELVY,	:	
Defendant	:	

DEFENDANT'S SUMMARY OF EXPECTED TESTIMONY FROM AND EXHIBITS TO BE INTRODUCED BY A MARCUM EXPERT

Defendant Wayde McKelvy, by his attorneys, Walter S. Batty, Jr. and William J. Murray, Jr., submits this Summary of Expected Testimony from and Exhibits to be Introduced by a Marcum Expert, and states as follows:

1. At a telephone conference call with the Court, on September 10, 2018, held concerning the government's Daubert motion, Doc. No. 176, counsel for the defendant represented that the defense would supply the government with copies of its proposed exhibits produced by the forensic accountants at Marcum, as well as with a short summary of the expected testimony of such an accountant.

2. McKelvy expects to move to introduce three charts, authored by the forensic accountants at Marcum, concerning the failure of Mantria Financial, LLC ("MFL"), to meet the $25,000 net worth requirements of the license issued by the Tennessee Department of Financial Institutions ("TDFI") for licensing as a mortgage lender and financial institution in Tennessee.

3. A Marcum witness is expected to testify as follows on this issue.

-- According to the Notes to the Financial Statements dated December 31, 2007, Mantria Financial, LLC was formed in October 31, 2007.

-- According to the balance sheet that was part of the Financial Statements dated December 31, 2007, Mantria met, as of December 31, 2007, the net worth requirement of $25,000, set by the Tennessee Department of Financial Institutions ("TDFI").

-- Mantria Financial's debt exceeded their equity as of December 31, 2007 ($211,478 of inter-company advances, compared to the minimum net worth of $25,000).

-- The Notes to the Financial Statements dated December 31, 2007 state that Mantria Financial was working on obtaining licensing approval as a financing company. Mantria Financial Received a Tennessee License as a mortgage lender on February 5, 2008.

-- A financial statement for Mantria Financial for eight months ended August 31, 2008 prepared by Granoff reflects a loss on operations of $1,861,016.

-- The same financial statement also reflects a $1,860,000 capital contribution, which offsets the loss.

-- A financial statement for Mantria Financial for the year ended December 31, 2008 was prepared by Steven Granoff in May 2009 in connection with Mantria Financial's Tennessee license renewal.

-- All of the funds received by Mantria Financial from investors were in the form of debt ($23,409,953).

-- Mantria Financial's debt exceeded their equity as of December 31, 2008 ($23,571,953 of total liabilities including accounts payable and investor liabilities, compared to equity of $330,411).

-- This financial statement reflects a loss of $4,194,589 for year ended December 31, 2008.

-- In order to achieve equity of $330,411, the financial statement reflects a $4,500,000 capital contribution, which is based on a "stock subscription receivable – Mantria Corp." that offsets the loss. This capital contribution is similar to the capital contribution appearing on Mantria Financial's financial statement for the eight months ended August 31, 2008.

-- There is no documentation to support the existence of a "stock subscription."

-- Additionally, authoritative accounting literature indicates that the Stock Subscription receivable should not have been classified on the balance sheet as a current asset but as a reduction of equity which means that Mantria Financial would not have met the TDFI's minimum net worth requirement.

-- A May 19, 2009 e-mail, from Dan Rink which forwards the financial statements prepared by Granoff to Troy Wragg, states the following:

> **Here is a draft of the MF financials for 2008. In order to have an ending equity in excess of $25,000, we have added a Subscriptions Receivable account for $4.5M. This yields about $300K in equity. Please consider this carefully as we need to do something like this. Without this equity deficit would be something like $4M. . . .**

[The witness will identify and explain] Chart 1, to be marked as a defense exhibit, attached, showing Assets, Liabilities and Equity with the subscription receivable. Equity is positive.

[The witness will identify and explain] Chart 2, to be marked as a defense exhibit, attached, showing Assets, Liabilities and Equity without the subscription receivable. Equity is negative.

[The witness will identify and explain] Chart 3, to be marked as a defense exhibit, attached, showing only Mantria's equity with and without subscription receivable.

Accordingly, Mantria Financial would not have met the TDFI's

requirement of $25,000 in equity without the subscription receivable.

Respectfully submitted,

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Dated: October 9, 2018

CERTIFICATE OF SERVICE

I hereby certify that I have served by electronic mail a true and correct copy of the foregoing Defendant's Summary of Expected Testimony from and Exhibits to be Introduced by a Marcum Expert, upon Assistant U.S. Attorneys Robert J. Livermore and Sarah Wolfe:

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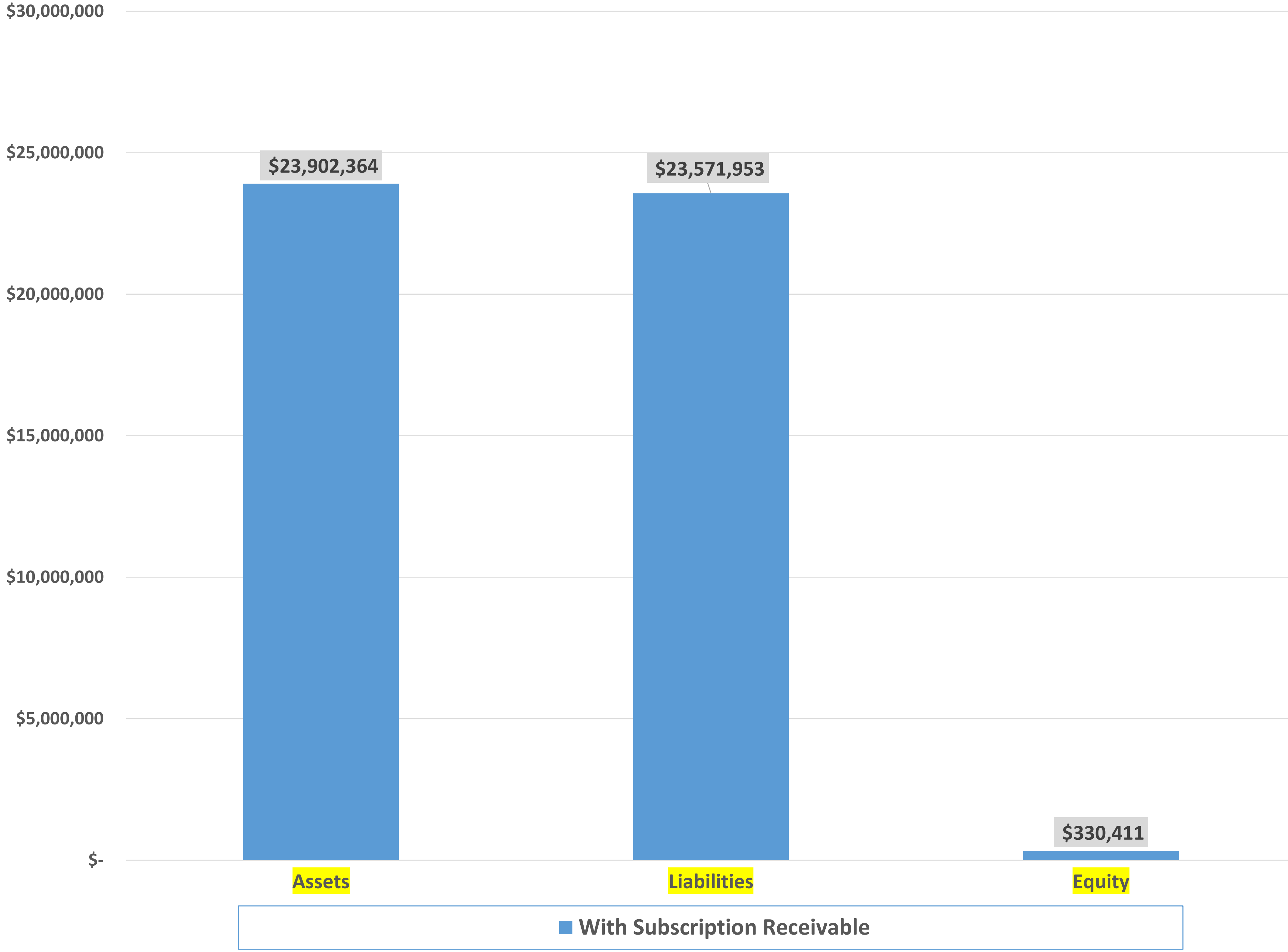
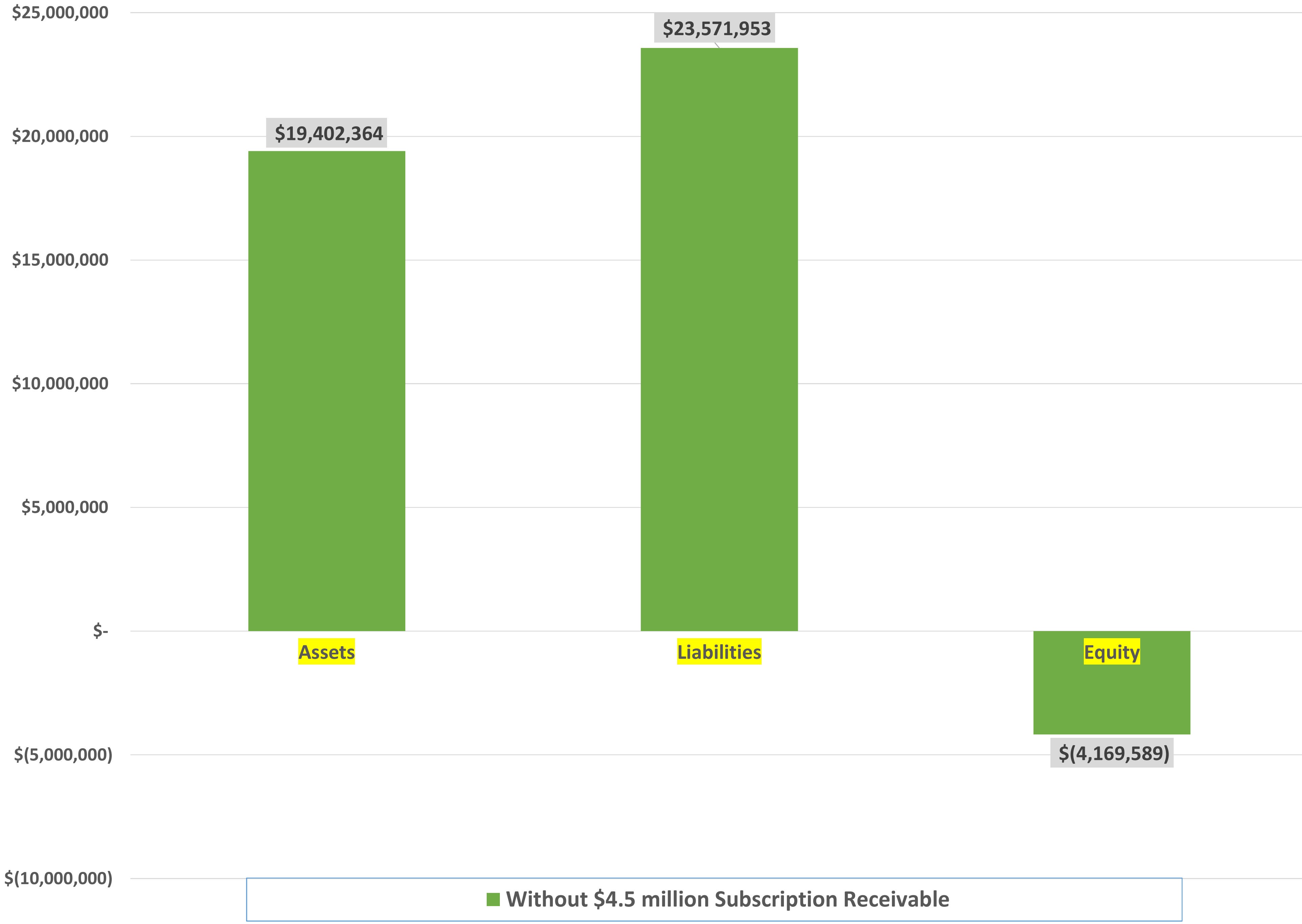
/s/ Walter S. Batty, Jr.
Walter S. Batty, Jr.

Dated: October 9, 2018

Mantria Financial 12/31/2008 Balance Sheet



Mantria Financial 12/31/2008 Balance Sheet - No Subscription Receivable



Mantria Financial Equity at 12/31/2008