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7 *Attorneys for David M. Carlson, Jane Doe 1,*
8 *Enterprise Focus, Inc., and Clever Capital, LLC*

9 UNITED STATES BANKRUPTCY COURT
10 EASTERN DISTRICT OF WASHINGTON

11 In re:) Case No. 18-03197-FPC11
12)
13 GIGA WATT, INC.,) **Adv. No. 19-80012-FPC**
14)
15 Debtor.) Chapter 11
16) **DEFENDANTS' ANSWER TO**
17) **VERIFIED COMPLAINT**
18)
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25)
MARK D. WALDRON, in his)
capacity as the duly-appointed)
Chapter 11 Trustee,)
Plaintiff,)
v.)
DAVID M. CARLSON and)
JANE DOE 1, individually and)
on behalf of the marital estate;)
ENTERPRISE FOCUS, INC., a)
Washington corporation;)
CLEVER CAPITAL, LLC, a)
Washington limited liability)

DEFENDANTS' ANSWER TO
VERIFIED COMPLAINT- 1



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1 company; JEFFREY FIELD;)
2 ROB TRAVIS; and JANE DOES)
3 2 through 15,)
4)
5 Defendants.)

6 Defendants David M. Carlson (“Defendant Carlson”), Jane Doe 1,
7 Enterprise Focus, Inc. (“Defendant Enterprise Focus”), and Clever
8 Capital, LLC (“Defendant Clever Capital”) (collectively “Defendants”), by
9 and through their attorneys of record, Piskel Yahne Kovarik, PLLC,
10 admit, deny, and allege as follows:

11 **INTRODUCTORY STATEMENT**

12 1. In answer to paragraph 1 of the Verified Complaint, the
13 allegations contained in this paragraph do not require an answer. To the
14 extent an answer is required, Defendants, deny.

15 2. In answer to paragraph 2 of the Verified Complaint,
16 Defendants admit that George Turner, on behalf of Giga Watt, Inc. (“Giga
17 Watt”), executed a document with Defendant Clever Capital that is
18 described as a Commercial Lease dated November 16, 2018, and that
19 such document speaks for itself. To the extent not expressly admitted,
20 Defendants deny the remaining allegations of this paragraph.
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1 3. In answer to paragraph 3 of the Verified Complaint,
2 Defendants admit that George Turner, on behalf of Giga Watt, executed a
3 document with Clever Capital dated November 16, 2018 that is described
4 as a Commercial Lease dated November 16, 2018, and admits to the
5 extent that such document speaks for itself. The term “took possession”
6 is vague as to the conduct alleged such that Defendants are without
7 knowledge or information sufficient to form a belief as to the truth of the
8 allegations of the second sentence of this paragraph and, therefore, deny
9 the same. To the extent not expressly admitted, Defendants deny.
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12 4. In answer to paragraph 4 of the Verified Complaint,
13 Defendants admit that Clever Capital filed a claim in the underlying
14 bankruptcy case, which proof of claim speaks for itself. To the extent not
15 expressly admitted, Defendants deny.
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17 5. In answer to paragraph 5 of the Verified Complaint,
18 Defendants admit that the position has been taken that the Commercial
19 Lease between Giga Watt and Clever Capital had been rejected because it
20 was not assumed within the time required. Defendants deny the
21 remaining allegations contained in this paragraph.
22

23 6. In answer to paragraph 6 of the Verified Complaint,
24 Defendants deny.
25

DEFENDANTS’ ANSWER TO
VERIFIED COMPLAINT- 3



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1 7. In answer to paragraph 7 of the Verified Complaint, the
2 allegations contained in this paragraph do not require an answer. To the
3 extent an answer is required, Defendants admit that the prayer for relief
4 speaks for itself. To the extent not expressly admitted, Defendants deny.
5 Defendants specifically deny the allegation that the Plaintiff is entitled to
6 any relief against them.
7

8 8. In answer to paragraph 8 of the Verified Complaint, the
9 allegations contained in this paragraph as to what the “*Trustee seeks*” do
10 not require an answer. To the extent an answer is required to such
11 allegation, Defendants deny that the Plaintiff is entitled to any relief. To
12 the extent not expressly admitted, Defendants deny the remaining
13 allegations of this paragraph.
14

15 9. In answer to paragraph 9 of the Verified Complaint, the
16 allegations contained in this paragraph do not require an answer. To the
17 extent an answer is required to the allegation pertaining to what the
18 “*Trustee seeks*,” the prayer for relief in the Verified Complaint speaks for
19 itself and Defendants deny that Plaintiff is entitled to any relief.
20 Defendants specifically deny any “*fraudulent, obstreperous, and*
21 *obstructionist conduct*.” To the extent not expressly admitted,
22 Defendants deny the remaining allegations of this paragraph.
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DEFENDANTS’ ANSWER TO
VERIFIED COMPLAINT- 4



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THE PARTIES

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2 10. In answer to paragraph 10 of the Verified Complaint,
3 Defendants admit that Giga Watt was incorporated under the laws of
4 Washington with a formation/registration date of on or about December
5 15, 2016. To the extent not expressly admitted, Defendants are without
6 knowledge or information sufficient to form a belief as to the truth of the
7 allegations of this paragraph and, therefore, deny the same.
8

9 11. In answer to paragraph 11 of the Verified Complaint,
10 Defendants admit.
11

12 12. In answer to paragraph 12 of the Verified Complaint,
13 Defendants admit that David M. Carlson is a resident of the state of
14 Washington and that he is a shareholder of Defendant Enterprise Focus,
15 Inc. Defendants deny that David M. Carlson is the sole member of
16 Defendant Clever Capital. The last sentence of this paragraph does not
17 require an answer. To the extent an answer is required, Defendants deny
18 the remaining allegations of this paragraph.
19

20 13. In answer to paragraph 13 of the Verified Complaint, the
21 allegations contained in this paragraph state legal conclusions to which
22 no answer is required. To the extent an answer is required, Defendants
23 admit that Defendant Carlson has had the title of Chief Executive Officer
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DEFENDANTS' ANSWER TO
VERIFIED COMPLAINT- 5



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1 of Giga Watt but deny that he has held any such title or position “[a]t all
2 *material times.*” Defendants admit that Defendant Carlson was believed
3 to be or to have been a minority shareholder. Defendants deny the
4 allegations of the last sentence of this paragraph and deny the allegations
5 as to fiduciary duties. To the extent not expressly admitted, Defendants
6 are without knowledge or information sufficient to form a belief as to the
7 truth of the allegations of this paragraph and, therefore, deny the same.
8

9
10 14. In answer to paragraph 14 of the Verified Complaint,
11 Defendants admit that Defendant Enterprise filed an Application for
12 Profit Corporation with the Washington Secretary of State on May 1,
13 2009 and that it was administratively dissolved in October 2018.

14
15 15. In answer to paragraph 15 of the Verified Complaint,
16 Defendants admit that CryptoMatrix Holdings, LLC is a limited liability
17 company formed under the laws of the state of Washington on or about
18 December 2, 2015. Defendants admit that on or about January 30, 2018,
19 CryptoMatrix Holdings, LLC changed its name to Clever Capital LLC
20 according to a filing with the Washington Secretary of State signed by
21 Defendant Carlson. To the extent not expressly admitted, Defendants
22 deny.
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1 21. In answer to paragraph 21 of the Verified Complaint,
2 Defendants admit that business was conducted under the name
3 MegaBigPower. To the extent not expressly admitted, Defendants deny
4 the remaining allegations of this paragraph.
5

6 22. In answer to paragraph 22 of the Verified Complaint, the
7 allegations of this paragraph state a legal conclusion to which no answer
8 is required. To the extent an answer is required, the Bill of Sale and
9 Assignment and Assumption Agreement speaks for itself. To the extent
10 not expressly admitted, Defendants are without knowledge or
11 information sufficient to form a belief as to the truth of the allegations of
12 this paragraph and, therefore, deny the same.
13

14 23. In answer to paragraph 23 of the Verified Complaint, the
15 allegations of this paragraph state a legal conclusion to which no answer
16 is required. To the extent an answer is required, Defendants admit that
17 Defendant Carlson and Defendant Enterprise signed a document with the
18 title "Addendum" and deny that Defendant Carlson and Defendant
19 Enterprise signed such document on January 15, 2017; Defendants admit
20 that such document speaks for itself. To the extent not expressly
21 admitted, Defendants deny the remaining allegations of this paragraph.
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1 24. In answer to paragraph 24 of the Verified Complaint,
2 Defendants admit that MegaBigPower ran two crypto-mining facilities
3 including one at Moses Lake, Washington and one—the TNT Facility—
4 located in East Wenatchee, Washington. To the extent not expressly
5 admitted, Defendants are without knowledge or information sufficient to
6 form a belief as to the truth of the allegations of this paragraph and,
7 therefore, deny the same.
8

9 25. In answer to paragraph 25 of the Verified Complaint,
10 Defendants admit that the TNT Facility is comprised of A, B, C, and H.
11 The term “*office*” is vague and ambiguous as used in this allegation;
12 consequently, Defendants are without knowledge or information
13 sufficient to form a belief as to the truth of the remaining allegations of
14 this paragraph and, therefore, deny the same.
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17 26. In answer to paragraph 26 of the Verified Complaint,
18 Defendants admit only that the Sale and Assignment Agreement speaks
19 for itself. To the extent not expressly admitted, Defendants deny the
20 remaining allegations of this paragraph.
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1 27. In answer to paragraph 27 of the Verified Complaint,
2 Defendants admit only that the Sale and Assignment Agreement speaks
3 for itself. To the extent not expressly admitted, Defendants deny the
4 remaining allegations of this paragraph.

5 28. In answer to paragraph 28 of the Verified Complaint,
6 Defendants admit only that the Sale and Assignment Agreement speaks
7 for itself. To the extent not expressly admitted, Defendants deny the
8 remaining allegations of this paragraph.
9

10 29. In answer to paragraph 29 of the Verified Complaint,
11 Defendants admit only that the Sales and Assignment Agreement speaks
12 for itself. To the extent not expressly admitted, Defendants deny the
13 remaining allegations of this paragraph.
14

15 30. In answer to paragraph 30 of the Verified Complaint,
16 Defendants admit only that the Sales and Assignment Agreement speaks
17 for itself. To the extent not expressly admitted, Defendants deny the
18 remaining allegations of this paragraph.
19

20 31. In answer to paragraph 31 of the Verified Complaint,
21 Defendants admit only that the Sales and Assignment Agreement speaks
22 for itself. To the extent not expressly admitted, Defendants deny the
23 remaining allegations of this paragraph.
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DEFENDANTS' ANSWER TO
VERIFIED COMPLAINT- 10



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1 32. In answer to paragraph 32 of the Verified Complaint,
2 Defendants admit only that the Sales and Assignment Agreement speaks
3 for itself. To the extent not expressly admitted, Defendants deny the
4 remaining allegations of this paragraph.
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6 33. In answer to paragraph 33 of the Verified Complaint, the
7 allegations contained in this paragraph state legal conclusions to which
8 no answer is required. To the extent an answer is required, Defendants
9 admit that Defendant Carlson signed written leases for Buildings A, B, C,
10 and H, and admit to the extent that such written leases speak for
11 themselves. Defendants admit that Defendant Carlson and/or Defendant
12 Enterprise had leased the Eller Street House/Office. To the extent not
13 expressly admitted, Defendants deny the remaining allegations of this
14 paragraph.
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17 34. In answer to paragraph 34 of the Verified Complaint,
18 Defendants deny.
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20 35. In answer to paragraph 35 of the Verified Complaint,
21 Defendants admit that, on July 11, 2017, an Annual Report of Defendant
22 Enterprise was filed, which Annual Report speaks for itself. To the extent
23 not expressly admitted, Defendants deny the remaining allegations of
24 this paragraph.
25

DEFENDANTS' ANSWER TO
VERIFIED COMPLAINT- 11



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1 36. In answer to paragraph 36 of the Verified Complaint,
2 Defendants deny.

3 37. In answer to paragraph 37 of the Verified Complaint,
4 Defendants deny.

5 38. In answer to paragraph 38 of the Verified Complaint,
6 Defendants admit that, on behalf of Giga Watt, Defendant Carlson signed
7 a contract with the Douglas County Public Utility District No. 1, dated
8 April 30, 2018, and that the Public Utility District No. 1 of Douglas
9 County signed the same, dated May 14, 2018, which document speaks for
10 itself. To the extent not expressly admitted, Defendants deny.
11

12 39. In answer to paragraph 39 of the Verified Complaint,
13 Defendants admit that Defendant Enterprise Focus was administratively
14 dissolved. Defendants deny the remaining allegations of this paragraph.
15

16 40. In answer to paragraph 40 of the Verified Complaint,
17 Defendants admit that Giga Watt's annual report was filed with the
18 Washington Secretary of State on or about October 25, 2018, which
19 report speaks for itself. To the extent not expressly admitted, Defendants
20 deny the remaining allegations of this paragraph.
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1 41. In answer to paragraph 41 of the Verified Complaint,
2 Defendants admit only to the extent that Defendant Clever Capital and
3 Giga Watt entered into a written Commercial Lease dated November 16,
4 2018, which written Commercial Lease speaks for itself. Defendants
5 admit that Defendant Carlson was believed to have been a minority
6 shareholder of Giga Watt. The remaining allegations in this paragraph
7 state a legal conclusion to which no answer is required. To the extent not
8 expressly admitted, Defendants deny the remaining allegations of this
9 paragraph.
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12 42. In answer to paragraph 42 of the Verified Complaint,
13 Defendants admit that November 16, 2018 Commercial Lease speaks for
14 itself. Defendants deny the remaining allegations of this paragraph.
15

16 43. In answer to paragraph 43 of the Verified Complaint,
17 Defendants deny.
18

19 44. In answer to paragraph 44 of the Verified Complaint,
20 Defendants admit an Annual Report of Defendant Clever Capital was
21 filed with the Washington Secretary of State on or about December 21,
22 2018, which report speaks for itself. Defendants deny any allegation or
23 inference that Defendant Clever Capital lacked a real property interest.
24
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1 To the extent not expressly admitted, Defendants deny the remaining
2 allegations of this paragraph.

3 45. In answer to paragraph 45 of the Verified Complaint,
4 Defendants admit that Defendant Clever Capital filed proof of claim
5 number 320-1, asserting a right to payment as set forth in the proof of
6 claim, and admit further to the extent the claim speaks for itself. To the
7 extent not expressly admitted, Defendants deny the remaining
8 allegations of this paragraph.
9

10 46. In answer to paragraph 46 of the Verified Complaint,
11 Defendants admit that Defendant Carlson filed a proof of claim number
12 319-1, asserting a right to payment as set forth in the proof of claim, and
13 admit further to the extent the claim speaks for itself. To the extent not
14 expressly admitted, Defendants deny the remaining allegations of this
15 paragraph.
16

17 47. In answer to paragraph 47 of the Verified Complaint,
18 Defendants admit that Defendant Carlson filed a proof of claim—claim
19 number 318-2—asserting a right to payment as set forth in the proof of
20 claim, and admit further to the extent the claim speaks for itself. To the
21 extent not expressly admitted, Defendants deny the remaining
22 allegations of this paragraph.
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DEFENDANTS' ANSWER TO
VERIFIED COMPLAINT- 14



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JURISDICTION AND VENUE

48. In answer to paragraph 48 of the Verified Complaint, the allegations of this paragraph state a legal conclusion to which no answer is required. To the extent an answer is required, Defendants admit this Court has jurisdiction.

49. In answer to paragraph 49 of the Verified Complaint, the allegations of this paragraph state a legal conclusion to which no answer is required. To the extent an answer is required, Defendants admit venue is appropriate.

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FIRST CLAIM FOR RELIEF

50. In answer to paragraph 50 of the Verified Complaint, Defendants incorporate by reference the answers set forth above as if fully set forth herein.

51. In answer to paragraph 51 of the Verified Complaint, the allegations of this paragraph state a legal conclusion to which no answer is required. To the extent an answer is required, the November 16, 2018 Commercial Lease speaks for itself. Defendants specifically deny that the November 16, 2018 Commercial Lease was a transfer of any real property interest to any of the Defendants. To the extent not expressly admitted, Defendants deny the remaining allegations of this paragraph.

1 52. In answer to paragraph 52 of the Verified Complaint,
2 Defendants admit to the extent that the November 16, 2018 Commercial
3 Lease Agreement, to which Giga Watt was a party, speaks for itself.

4 53. In answer to paragraph 53 of the Verified Complaint,
5 Defendants admit to the extent that the November 16, 2018 Commercial
6 Lease Agreement speaks for itself.

7 54. In answer to paragraph 54 of the Verified Complaint,
8 Defendants deny.
9

10 55. In answer to paragraph 55 of the Verified Complaint,
11 Defendants admit.
12

13 56. In answer to paragraph 56 of the Verified Complaint,
14 Defendants deny.
15

16 57. In answer to paragraph 57 of the Verified Complaint,
17 Defendants are without knowledge or information sufficient to form a
18 belief as to the truth of the allegations of this paragraph and, therefore,
19 deny the same.
20

21 58. In answer to paragraph 58 of the Verified Complaint, the
22 allegations of this paragraph state a legal conclusion to which no answer
23 is required and, therefore, Defendants deny.
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1 59. In answer to paragraph 59 of the Verified Complaint, the
2 allegations of this paragraph state a legal conclusion to which no answer
3 is required. To the extent an answer is required, Defendants deny.

4 60. In answer to paragraph 60 of the Verified Complaint,
5 Defendants are without knowledge or information sufficient to form a
6 belief as to the truth of the allegations of this paragraph and, therefore,
7 deny the same.
8

9 61. In answer to paragraph 61 of the Verified Complaint,
10 Defendants deny that Defendant Clever Capital has no real property
11 interest of any kind and deny any allegation or inference that Defendant
12 Clever Capital is not a landlord under the November 16, 2018
13 Commercial Lease with respect to a portion of the TNT Facility.
14 Defendants deny the remaining allegations of this paragraph.
15

16 62. In answer to paragraph 62 of the Verified Complaint,
17 Defendants deny the allegations of the first and second sentences of this
18 paragraph. Defendants admit that Defendant Clever Capital filed Claim
19 Number 320-1, which proof of claim speaks for itself. Defendants deny
20 the remaining allegations of this paragraph.
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1 63. In answer to paragraph 63 of the Verified Complaint,
2 Defendants are without knowledge or information sufficient to form a
3 belief as to the truth of the allegations of this paragraph and, therefore,
4 deny the same.

5 64. In answer to paragraph 64 of the Verified Complaint,
6 Defendants deny.
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8 65. In answer to paragraph 65 of the Verified Complaint,
9 Defendants deny.
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11 66. In answer to paragraph 66 of the Verified Complaint, the
12 allegations of this paragraph state a legal conclusion to which no answer
13 is required. To the extent an answer is required, Defendants admit only
14 that the November 16, 2018 Commercial Lease speaks for itself.
15 Defendants specifically deny that the November 16, 2018 Commercial
16 Lease transferred any interest in real property from Giga Watt to
17 Defendant Clever Capital. To the extent not expressly admitted,
18 Defendants deny the remaining allegations of this paragraph.
19
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21 67. In answer to paragraph 67 of the Verified Complaint, the
22 allegations of this paragraph state a legal conclusion to which no answer
23 is required. The November 16, 2018 Commercial Lease speaks for itself.
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1 To the extent an answer is required, Defendants deny the remaining
2 allegations of this paragraph.

3 68. In answer to paragraph 68 of the Verified Complaint, the
4 allegations of this paragraph state a legal conclusion to which no answer
5 is required. To the extent an answer is required, Defendants deny that
6 Doe 1 is an immediate or mediate transferee. Defendants are without
7 knowledge or information sufficient to form a belief as to the truth of the
8 remaining allegations of this paragraph and, therefore, deny the same.
9

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11 69. In answer to paragraph 69 of the Verified Complaint,
12 Defendants deny.

13 **SECOND CLAIM FOR RELIEF**

14 70. In answer to paragraph 70 of the Verified Complaint,
15 Defendants incorporate by reference the answers set forth above as if
16 fully set forth herein.
17

18 71. In answer to paragraph 71 of the Verified Complaint,
19 Defendants deny.
20

21 72. In answer to paragraph 72 of the Verified Complaint,
22 Defendants are without knowledge or information sufficient to form a
23 belief as to the truth of the allegations of this paragraph and, therefore,
24 deny the same.
25

DEFENDANTS' ANSWER TO
VERIFIED COMPLAINT- 19



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1 73. In answer to paragraph 73 of the Verified Complaint,
2 Defendants are without knowledge or information sufficient to form a
3 belief as to the truth of the allegations of this paragraph and, therefore,
4 deny the same.

5
6 74. In answer to paragraph 74 of the Verified Complaint,
7 Defendants admit.

8 75. In answer to paragraph 75 of the Verified Complaint, the
9 allegations of this paragraph state a legal conclusion to which no answer
10 is required. To the extent an answer is required, Defendants admit only
11 that the November 16, 2018 Commercial Lease speaks for itself.
12 Defendants specifically deny that the November 16, 2018 Commercial
13 Lease transferred any interest in real property from Giga Watt to
14 Defendant Clever Capital. To the extent not expressly admitted,
15 Defendants deny the remaining allegations of this paragraph.
16
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18 76. In answer to paragraph 76 of the Verified Complaint, the
19 allegations of this paragraph state a legal conclusion to which no answer
20 is required. The November 16, 2018 Commercial Lease speaks for itself.
21 To the extent an answer is required, Defendants deny the remaining
22 allegations of this paragraph.
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1 88. In answer to paragraph 88 of the Verified Complaint,
2 Defendants are without knowledge or information sufficient to form a
3 belief about the truth of the allegations of this paragraph and, therefore,
4 deny the same.

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6 89. In answer to paragraph 89 of the Verified Complaint,
7 Defendants deny.

8 **FIFTH CLAIM FOR RELIEF**

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10 90. In answer to paragraph 90 of the Verified Complaint,
11 Defendants incorporate by reference the allegations set forth above as if
12 fully set forth herein.

13 91. In answer to paragraph 91 of the Verified Complaint, the
14 allegations of this paragraph state a legal conclusion to which no answer
15 is required and, consequently, to the extent an answer is required,
16 Defendants deny the same.

17
18 92. In answer to paragraph 92 of the Verified Complaint,
19 Defendants admit that some sum of Bitcoin was transferred from some
20 source within a year of the Petition Date. To the extent not expressly
21 admitted, Defendants deny the remaining allegations of this paragraph.
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1 93. In answer to paragraph 93 of the Verified Complaint,
2 Defendants admit that Defendant Carlson was a creditor of Giga Watt
3 and that the transfer of some sum of Bitcoin was for his benefit. To the
4 extent not expressly admitted, Defendants deny the remaining
5 allegations of this paragraph.
6

7 94. In answer to paragraph 94 of the Verified Complaint, the
8 allegations of this paragraph state a legal conclusion to which no answer
9 is required and, consequently, the extent an answer is required,
10 Defendants deny.
11

12 95. In answer to paragraph 95 of the Verified Complaint,
13 Defendants are without knowledge or information sufficient to form a
14 belief as to the truth of the allegations of this paragraph and, therefore,
15 deny the same.
16

17 96. In answer to paragraph 96 of the Verified Complaint,
18 Defendants admit that March 2018 is between ninety days and one year
19 before the Petition Date. To the extent not expressly admitted,
20 Defendants deny the remaining allegations of this paragraph.
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1 97. In answer to paragraph 97 of the Verified Complaint,
2 Defendants are without knowledge or information sufficient to form a
3 belief as to the truth of the allegations of this paragraph and, therefore,
4 deny the same.

5
6 **SIXTH CLAIM FOR RELIEF**

7 98. In answer to paragraph 98 of the Verified Complaint,
8 Defendants incorporate by reference the answers set forth above as if
9 fully set forth herein.

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11 99. In answer to paragraph 99 of the Verified Complaint, the
12 allegations of this paragraph state a legal conclusion to which no answer
13 is required. To the extent an answer is required, Defendants admit that
14 Defendant Carlson was believed to have been a minority shareholder of
15 Giga Watt. To the extent not expressly admitted, Defendants deny.

16
17 100. In answer to paragraph 100 of the Verified Complaint, the
18 allegations of this paragraph state legal conclusion to which no answer is
19 required. To the extent an answer is required, Defendants deny.

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21 101. In answer to paragraph 101 of the Verified Complaint,
22 Defendants deny.

23 102. In answer to paragraph 102 of the Verified Complaint,
24 Defendants deny.
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SEVENTH CLAIM FOR RELIEF

103. In answer to paragraph 103 of the Verified Complaint, Defendants incorporate by reference the answers above as if fully set forth herein.

104. In answer to paragraph 104 of the Verified Complaint, the allegations of this paragraph state a legal conclusion to which no answer is required. To the extent an answer is required, Defendants admit only that the Sale and Assignment Agreement speaks for itself. To the extent not expressly admitted, Defendant deny.

105. In answer to paragraph 105 of the Verified Complaint, Defendants deny.

106. In answer to paragraph 106 of the Verified Complaint, Defendants deny.

107. In answer to paragraph 107 of the Verified Complaint, Defendants deny.

EIGHTH CLAIM FOR RELIEF

108. In answer to paragraph 108 of the Verified Complaint, Defendants incorporate by reference the answers set forth above as if fully set forth herein.

1 109. In answer to paragraph 109 of the Verified Complaint,
2 Defendants deny.

3 110. In answer to paragraph 110 of the Verified Complaint,
4 Defendants deny.

5 111. In answer to paragraph 111 of the Verified Complaint,
6 Defendants deny.

7 112. In answer to paragraph 112 of the Verified Complaint,
8 Defendants deny.
9

10 **OBJECTION TO CLAIM NO. 318**

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12 113. In answer to paragraph 113 of the Verified Complaint, such
13 allegation does not require an answer. To the extent an answer is
14 required, the answers set forth above are incorporated by reference as if
15 fully set forth herein.
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17 114. In answer to paragraph 114 of the Verified Complaint, such
18 allegation does not require an answer. To the extent an answer is
19 required, such allegation is denied.
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21 115. In answer to paragraph 115 of the Verified Complaint, such
22 allegation does not require an answer. To the extent an answer is
23 required, such allegation is denied.
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OBJECTION TO CLAIM NO. 319

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116. In answer to paragraph 116 of the Verified Complaint, such allegation does not require an answer. To the extent an answer is required, the answers set forth above are incorporated by reference as if fully set forth herein.

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117. In answer to paragraph 117 of the Verified Complaint, such allegations do not require an answer. To the extent an answer is required, such allegations are denied.

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OBJECTION TO CLAIM NO. 320

118. In answer to paragraph 118 of the Verified Complaint, such allegation does not require an answer. To the extent an answer is required, the answers set forth above are incorporated by reference as if fully set forth herein.

119. In answer to paragraph 119 of the Verified Complaint, such allegations do not require an answer. To the extent an answer is required, such allegations are denied.

120. In answer to paragraph 120 of the Verified Complaint, such allegations do not require an answer. To the extent an answer is required, such allegations are denied.

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RESERVATION OF RIGHTS

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121. In answer to paragraph 121 of the Verified Complaint, such allegations do not require an answer. To the extent an answer is required, Defendants deny.

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DENIAL OF PRAYER FOR RELIEF

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Defendants deny that Plaintiff is entitled to any of the requested relief.

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DEFENSES

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Without waiving any denials or defenses, and without assuming the burden of proof on any issues, and reserving the right to amend or delete defenses as information becomes available through investigation and discovery, Defendants raise the following defenses, including affirmative defenses:

1. Failure to state a claim upon which relief may be granted, Federal Rules of Civil Procedure 12(b)(6) and 9(b), made applicable by virtue of Federal Rule of Bankruptcy Procedure 7009 and 7012;

2. Failure to join a party under Federal Rule of Civil Procedure 19, as provided under Federal Rule of Civil Procedure 12(b)(7), made applicable by virtue of Federal Rule of Bankruptcy Procedure 7012 and 7019;

- 1 3. Failure to mitigate damages;
- 2 4. Setoff, offset, and/or recoupment;
- 3 5. Waiver;
- 4 6. Estoppel;
- 5 7. Laches;
- 6 8. Unclean hands;
- 7 9. Unjust enrichment;
- 8 10. Consent;
- 9 11. Ratification;
- 10 12. Business judgment rule;
- 11 13. Material breach/default;
- 12 14. The time within which the Chapter 11 Trustee was required to
- 13 have assumed executory contracts has expired and, therefore, the same
- 14 have been rejected by operation of law;
- 15 15. Good faith transferee for value, under, without limitation, 11
- 16 U.S.C. 548(c), RCW 19.40.081;
- 17 16. Any property recovered under 11 U.S.C. § 550(a) is subject to
- 18 a lien to the extent of the cost of any improvement or any increase in the
- 19 value as a result of such improvement, as authorized under, without
- 20 limitation, 11 U.S.C. § 550(e);
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DEFENDANTS' ANSWER TO
VERIFIED COMPLAINT- 30



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1 17. Ordinary course of business and financial affairs, and
2 according to ordinary business terms under, without limitation, 11 U.S.C.
3 § 547(c)(2);

4 18. New value; including contemporaneous exchange and/or
5 subsequent advance, under, without limitation, 11 USC § 547(c)(1),
6 547(c)(4);

7 19. Not an insider transaction, arms length transaction;

8 20. One or more of the Plaintiff's claims are barred because, and
9
10 to extent that, any alleged transfer was not of an interest of the Debtor;

11 21. Plaintiff is not entitled to turnover of property that is not
12 property of estate;

13 22. Plaintiff is not entitled to turnover of property absent
14 adequate protection;

15 23. No fraud or inequitable/wrongful conduct by Defendants;
16 actions and/or omissions of Defendants were in good faith;

17 24. A constructive trust in favor of Plaintiff would be inequitable;

18 25. One or more of Plaintiff's claims for relief are barred, in
19 whole or in part, due to the actions and omissions of the Plaintiff and/or
20 Debtor; and
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1 26. Any damages to which Plaintiff alleges to be entitled were
2 caused by individuals and/or entities other than Defendants.
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6 **RESERVATION OF RIGHTS**

7 Defendants reserve the right to amend their Answer and Defenses
8 including, but not limited to, amendment to include additional defenses
9 or to delete defenses as investigation and discovery proceed.
10 Furthermore, Defendant Clever Capital and Defendant Carlson reserve
11 their rights to amend their proofs of claim including, but not limited to,
12 amendment to assert any other and further amounts and basis for such
13 claims, whether at law or in equity, and to assert an entitlement to an
14 administrative expense for amounts included in the proofs of claim.
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17 **STATEMENT UNDER FRBP 7012**

18 Defendants consent to entry of final orders or judgment by the
19 Bankruptcy Court.
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21 **PRAYER FOR RELIEF**

22 WHEREFORE, Defendants respectfully pray for relief as follows:

- 23 1. That Plaintiff's Verified Complaint be dismissed with
24 prejudice and that the Plaintiff take nothing by way of it;
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