



**What on Earth Happened to Proove Biosciences!  
Presented by Brian Meshkin, Proove Biosciences  
at the 10x Medical Device Conference – San Diego, 2019**

**Brian Meshkin:** They said, “Well, can we collect the documents today?” We said

“Sure, come on in.” They said, “Can we call in a few other FBI agents to help us make all these photocopies?” We said, “Sure.”

About 25 FBI agents show up in our office in about an hour. And then, television cameras come. The local CBS, NBC, and ABC affiliates from Los Angeles show up reporting that our office was being raided by the FBI.

**Note:** The following was auto-transcribed by [otter.ai](https://otter.ai) and got probably 80+ percent correct without edits. Interpret accordingly.

Good evening, everybody. And I can tell you yes, I have lost a lot of money and my wife was really upset. After many years of sacrifice.

So I appreciate Joe’s invitation to come and speak. Let’s give Joe and the team that organized this a big round of applause.

[applause]

It’s a great event, and I look forward to meeting many of you and, hopefully, following up even after this event because I think it will be great opportunities to collaborate.

So the title of my remarks tonight is “What on Earth Happened to Proove Biosciences?” But let me tell you a little bit about what we’ll be discussing tonight.

I'll tell you a little bit about me, so I'll introduce myself. A little about Profound Ventures, which is the early stage venture group that I currently lead. A little bit about Proove Biosciences, which is the tragic story after my seven years of success that I'll be giving you some details and some insights on tonight.

And then, a little bit about what we achieved, where we were in December 2016, what happened next and, then, where do you go from there?

## **About Me**

I've been married – still married after this experience, which is a remarkable achievement – for over 19 years to my best friend Catherine. We just celebrated our 19th anniversary. She's a lawyer and a law professor at Chapman. We have three great kids. They're the ones that sacrificed a lot of time away from dad as we were building the company.

We are very religiously devout. I'm an idealist, even after going through the crap that I went through.

I'm an activist in the community. I volunteer with a lot of things, do a lot of youth coaching, been a PTA president. I've even been a former publicly elected official, and I can tell you what I went through is far worse than anything I ever saw in politics.

And my background professionally, I have been an executive and a social entrepreneur in healthcare for about 20 years. I've been Emerging company CEO of the Year up in Orange County, won lots of different awards for things.

I spent my career either in pharmaceuticals or diagnostics at Eli Lilly, Johnson & Johnson; engaged in digital health before it was called digital health, 20 years ago; and, then, was at Prometheus Laboratories which is where I cut my teeth on diagnostics here in San Diego. And then founded Proove Biosciences.

## **What I'm Doing Now – Profound Ventures**

So with that introduction, let me just tell you a little bit about what I'm doing now. We have an early-stage seed fund called Profound Ventures.

We are minor league investors in the sense of we invest small amounts of money. We look for opportunities where we can act as operating partners to really help grow ventures.

My partners in this include:

- My former chief legal officer at Proove, Laura Hunter, who was the head of Brobecks, co-chair of their life science practice internationally, has done over 75 IPOs, raised over two billion dollars.
- Dr. Felix Frueh, who was the head of genomics at FDA, was Craig Venter's founding CSO here at Human Longevity and was the president of the R&D division for MedCo before Express Groups bought them. He's a scientist on our team.
- And Khanh Nguyen who was my chief technology officer at Proove. He's the technologist on our team.

A little bit about our portfolio. We have several different ventures:

- We have a network of hospital partner laboratories in Revnostics Group;
- IMCS group, which is the nation's largest network of behavioral healthcare therapists in all 50 states, over 1,000 therapists providing support in the workers' comp business;
- Flint Rehab, which is up in Irvine, which is an at-home FDA cleared platform of medical devices for stroke recovery;
- Ceraltum is a new one that we just started. It's a spin-out of the DARPA subnets initiative, with a brain computer interface, both external device and internal device. It has a 510k pathway as well as an IDE pathway;
- We acquired National Toxicology, which is the oldest toxicology laboratory in the United States. Two gentlemen in their eighties who are pioneers in the toxicology business built the U.S. Army's toxicology network of laboratories;
- an associated company, Bennufit Health;
- The Brain Park, which is an initiative of the Society for Brain Mapping and Therapeutics; and,

- we have two plays in the aging space (BlueStar and Eltere Life).

We look at technologies or business models that help solve profound societal problems. That's something core to the mission that we are trying to do. We're currently fairly overwhelmed with what we have, but we're always open to new opportunities for collaboration.

### **What on Earth Happened to Proove Biosciences?**

So, what on Earth happened to Proove Biosciences? Many rockets will blow up on the launch pad. Very few blow up far up into the sky like the Challenger Space Shuttle image that I have here.

Proove Biosciences was not like a start-up that dies in its first year or two or three, but died eight years after its founding.

And so, a little bit about Proove Biosciences. I started the company in December 2009.

Its mission basically was to deliver on the promise of precision medicine in the world's largest and most expensive health condition, which is chronic pain. Bigger than cancer, diabetes and heart disease combined.

We did a lot of great things and were able to achieve a lot. And everyone that was involved with our organization understood our mission.

And so, speed up now, seven years to December 2016, let me tell you where we were. Right before the destruction happened, we were 278 full-time employees. We occupied those two buildings right there in Irvine Spectrum. We had a 60,00 square foot campus. We operated a CLIA- and CAP-accredited laboratory.

We, in 2016 alone, delivered physician orders of over 354,000 different genetic panels. We had 28 million in cash collective revenue. A little over a million in cash eDub.

We had made the Inc. 500 list a couple years in a row. We were number 16 on the Deloitte Technology Fast 500 as one of the fastest growing technology companies in all of North America.

We had built the world's largest and highest-quality DNA biobank and big data clinical genetic database in chronic pain, with 153,000 patients, where we had

characterized their DNA and had prospective data we collected under IRB, out six to 12 months on all of those patients.

The next closest was Sean Mackey's database up at Stanford called the CHOIR that your tax-payer dollars spent \$10 million to build and which had about 15,000 patients and no genetic information.

We had 15 different panels on the market, and we had lots of great research collaborations, won tons of awards from various different medical societies, had presented a lot of posters, had many peer-reviewed publications, had great relationships with the top brass at CMS including the Chief Medical Officer, Kate Goodrich, and her deputy, Chris Cox, the Chief Data Officer and her deputy, and others at NIH. A really strong Board of Directors, externally audited financials, and we were preparing to file our S-1.

We're in the midst of raising a mezzanine crossover round and getting ready for an IPO. So things sound pretty good for where we were sitting.

And after seven and a half, eight years of sacrificing time away from my kids, pretty stoked with where we were at the time.

Then, we were victimized by something that I didn't really understand at the time.

So Oxford-English Dictionary is, if you will, an authoritative source on the English language. And language, oftentimes, reflects culture.

Well, three years ago, the dictionary chose as its word of the year, post-truth, meaning as a society speaking English, we don't value truth as much as we used to.

Then two years ago, it chose fake news as the word of the year. And last year the word was misinformation.

When you put those three words together, there's a trend happening in this society around lies and their pervasiveness.

Well, we were victimized by fake news and some corporate espionage. Warren Buffet once said it takes twenty years to build a reputation and five minutes to ruin it.

And it was quite a fall from grace, to go from being listed in the newspapers as one of five earthly angels to then being the CEO of a company that was considered corrupt based on some of the media coverage.

We basically had three disgruntled former employees, actually two employees and one consultant, who were trying to compete with us.

We had all of their emails because they stupidly accessed it while they were employed, their personal emails in our Centrix environment. But we knew what their intentions were.

We terminated them. And trying to be nice guys and not sue them and make their lives miserable because they didn't have any money, we just let them go.

But they ended up filing a whistleblower lawsuit against us about six months after their termination.

Well, they didn't have any evidence to back it up, so the government didn't take it. It took them about a year to make that determination.

So they, then, went to a website called Muckrat.com, which you can go to and you can see a listing of all these would-be journalist bloggers that dig into the mud on things. And they shopped it around.

They were able to find a gentleman by the name of Charles Piller, who at the time was writing for Stat News – he had been fired from the Los Angeles Times – and sold him on their story.

And so this reporter, Charles Piller, reached out to me on the Friday before Thanksgiving that year with a bunch of ridiculous questions.

We gave him all the primary sources, and he chose to ignore them. And this was his first article which was published at the end of December.

And then, he published a second article, which was over the top, in February 2017. To give you a sense, he completely ignored primary sources he was given, took quotes completely out of context, and even invented documents.

So if you were to pull up on your phone right now, pull up your Safari browser or your Google Chrome browser and you type in any company's name, and then you

click on the little images hyperlink, what will likely happen is you'll see a bunch of logos for a particular company.

Anybody can pull down the logo of a company and put it on a Word document. And that's exactly what this reporter did to create sources for what he was alleging.

### **The Dangers of a One-Sided Story**

So this image right here, if you were someone like the individual who wrote this article, you may say "Prince William gives onlookers a rude gesture" by looking at that image. A one-sided story.

Now, if you look at the exact same picture from a different angle, it's a very different view. A professional journalist, a real investigative reporter, would maybe look at different sides of an issue to try and understand, maybe substantiate some of the allegations that were stated.

And so a professional journalist would write, "Prince William holds up the number three," which being very different than the previous image. So whether you like Prince William or the royal family or not would likely define how you interpret that photo. Which is something called confirmation bias.

Oftentimes, people will interpret and understand things based upon their preconceived notions.

### **How One Discredited Reporter Fired from the Los Angeles Times Created His Lies**

So, what happened with us? Well, the first thing this reporter did after he heard Bruce Gardner and John Hubbard's accusations was, he then went to some third-party sources, credible folks, and gave them the accusations and said, "What do you think of this?"

So for example, one of those accusations was we had a pure genetic test to predict addiction, which is not true. But he took it to someone and said, "Do you think there could be a pure genetic test for addiction?" And the person said, "No, I think that's hogwash." Which ended up being his first title on his first article.

And so, then, he was able to take that quote and said this particular expert thinks Proove's Technology is hogwash. It's not what was said but that's what was used.

He then took a quote from a key opinion leader who was on a medical advisory board and also misplaced that. He grabs some former employee opinions who had been fired. He took some things from billing practices completely out of context, research practices.

And the fact that one of our ordering clinicians over the previous seven years had been investigated by the DEA for some opioid prescribing behaviors and one of our employees was interviewed as part of the government investigation of that doctor, then became that our employees were now investigated by or interviewed by the FBI.

So he would share this misinformation with experts to get their reaction for the falsehood. He would then quote their reaction to the false information as an opinion of the company and then, voila, he had a credible quote, allegedly about the company, to provide him plausible deniability about fake news, which then protects his freedom of speech to lie.

And that's a tactic oftentimes used in the media. So what were some of those lies? Well the bias was laboratory-developed tests are not credible because they are not approved by the FDA.

For those that don't know, there's a whole cadre of laboratory tests. In fact, most genetic tests on the market today are not approved by the FDA. They fall under laboratory-developed tests, including Genomic Health's tests, a lot of Myriad's tests et cetera.

So with that bias, his lie was there was no scientific evidence supporting our testing and that we were using a loophole in Federal law to exploit the system because our tests were laboratory-developed tests. Where the truth was we had extensive published scientific evidence. We had clinical validity papers, clinical utility papers.

In fact, when we met with the folks at CMS, they said they'd never seen an LDT have that type of data because we could sit down with CMS with 54,326 patients and we could show them we had saved them billions of dollars by pulling the data from the University of Minnesota.



So the truth was very different than the bias or the lies. He suggested laboratories were involved in paying an addiction, usually involved in some type of scheme like kickbacks and those types of things. And so the allegation was we paid docs to order tests.

Well that wasn't true at all either. He used a fraudulent source document where basically someone had pulled down our logo from the internet and created a completely false document.

The reality was our research were all involved with IRB-approved studies, listed on clinicaltrials.gov, approved by many leading institutions like MD Anderson, USC and others. And no doctor was ever paid or financially induced to order testing.

But you could say that if you have a research contract with USC, maybe the reason you're doing that is to hope that, at some point in the future, they're going to order testing. I think that's a little bit of a stretch but that was his approach.

Another bias was that laboratories were corrupt. And any successful lab must be like Theranos. He was big on this Theranos kick. And so he suggested our research was a sham when obviously the truth was very different than that.

And then, he suggests our billing practices were corrupt. Somehow we were engaged in a Medicare fraud when the reality was the coding we had approved by CMS in writing on four different occasions directly with the folks in Woodlawn, we actually under-billed CMS because I'm very conservative about things. And our technology was supported by the top brass at CMS.

### **What Did We Do About It?**

So, then, what did we do about this?

We had these attacks coming in. They started coming in right before Christmas in December with the first article. Then, it was right after Valentine's Day in February 2017.

And so, we consulted legal counsel. Legal counsel's recommendation was, "Ugh. Don't respond. It makes you look defensive."

Our legal counsel reached out to the US Attorney's Office down here in the Southern District in San Diego and the Central District up in Los Angeles. Reached

out to the people in Northern District of Kentucky, which is where that doctor had been investigated. Reached out to the people in D.C. et cetera.

They said, “No, there’s no investigation approved.” And they shared with me something I came to learn – if you are an entrepreneur, a college professor, a CEO of a company, whatever it is, if you are mentioned in the newspaper or any form of media online, social media, as an expert in your field — because I’ve been on the cover of newspapers, and CNBC, and all this type of stuff — you were, then, considered something called a limited-purpose public figure. Which under a Supreme Court case, *New York Times v Sullivan*, means slander and libel laws or defamation laws do not protect you.

It’s one of the reasons why in politics they can say whatever they want to about you and destroy you and you can’t sue them for it. Those are public figures.

Limited-purpose public figures would be like the NCAA coaches that were allegedly investigated by the FBI but they had nothing on them and some of them lost their jobs. It’s because of that law that allows that to happen. Which is a huge, huge risk.

Our Board of Directors recommendation was, the quote that kept getting thrown out to me was, “Never pick a fight with people who buy ink by the barrel.” Which was a Mark Twain quote.

And they said, “We’ve been around for a long time.” We have the former Secretary of Health and Human Services on our Board, the former Head of EY’s Life Science Practice, the former President of Advance PCS, who was an executive with Lilly, the Head of Compliance at Cancer Treatment Centers of America; and they were like, “We’ve been around this for a long time. You’re doing all the right things. Take the high road.”

Mistake. Huge, huge, huge mistake in a world where negative information spreads much faster than positive information; where people can overreact. Where in the legal system it’s innocent till proven guilty, in the court of public opinion it’s guilty till proven innocent. So it’s the inverse.

I was scared and inexperienced. Didn’t know. Honestly, you hear that phrase — too big to fail? I really thought we were too big to fail and that there’s no way people will believe this garbage.

And so I listened to the advice of legal counsel and what I thought was an all-star Board of Directors, and we didn't sue Stat News; we didn't sue Charles Piller. We just said, "No, we're just going to keep going the high road and everything is going to be fine."

And, boy, was that a huge mistake. So the situation went from bad to worse. In May of 2017, I get a phone call from our HIPAA counsel at Sidley Austin in Washington D.C., and she goes, "Brian, do you know there's been a whistleblower lawsuit filed against Proove?" I said, "No, but I'm not surprised after these Piller articles and that something's been done." I gave you obviously some insights before we knew it.

And so, the US Attorney's Office in the Central District of California accidentally put sealed documents on a Federal database that I was unaware of — because I'd never been involved in lawsuits like this beforehand — called PACER which is a public database of court filings. And it accidentally leaked these documents. Hadn't been unsealed but they did it.

And so we found out about it and our lawyers found out about it and so we said, "Okay. Well, let's see if the government will fix it," and to give them a couple of days.

They didn't, so we went ahead and reached out to those US Attorney's Offices down here and up in Los Angeles and just said, "Hey guys. We got this reporter who really hates our guts. You guys accidentally somehow must have leaked this. Could you please reseal it because everything's marked sealed. There's been no court order to unseal it. We really don't want this guy to find out about it because there's going to be another nasty article." And they were like, "Oh my gosh. How did you guys find out about this? It's not supposed to be unsealed."

We're like, "Yeah, we understand that. Can you please do it?" So the letters went back and forth over Memorial Day weekend. And we complied and did all that type of stuff.

And within a week, we came to learn that down here in San Diego at the US Attorney's Office, they had convened a Grand Jury in the court down here to investigate all the big genetic testing companies.

Myriad Genetics up in Salt Lake had received a subpoena. Genoma Health, Natera up in Silicon Valley had received a subpoena. GenomeDx and Biotheranostics down here at San Diego had received subpoenas. And by virtue of the awful allegations that were made about Proove and the Charles Piller articles, June 7th 2017, an FBI

agent shows up at our office at about 7:06 a.m. in the morning and hands us a subpoena for documents.

I was driving up with, at the time, my 10-year-old son to the office, and I turned around and went right back home because I wasn't going to involve William in that.

We were obviously very cooperative. We said, "Sure, we're happy to provide you whatever you'd like." They said, "Well, can we collect the documents today?" We said, "Sure. Come on in."

They said, "Could we call in a few other FBI agents to help us make all these photocopies?" We said, "Sure." About 25 FBI agents showed up in our office in about an hour and, then, television cameras come. The local CBS, NBS and ABC affiliates from Los Angeles showed up, reporting that our office was being raided by the FBI.

A raid usually involves breaking the door down, an arrest, a charge of wrongdoing. These guys bought Papa John's pizza for everybody. They were very, very nice; very professional. Went through the list of everything and we gave them boxes and boxes of photocopies of stuff.

But Charles Piller was very happy to publish that article that the FBI raids the offices of the lab that pays doctors to promote genetic tests. Which was his victory dance to suggest we had done something wrong. The media reports were awful.

Within 60 days of this happening, CMS notified us and shut us off. Said we have to put you on hold during the inquiry. United Healthcare shut us off. It was a disaster.

We went from the previous month 2.5 million in monthly revenue, by July 187,000. We had a 93% reduction in revenue within 60 days.

So where were we 90 days after the subpoena for documents, seven months after the second Piller hit piece? 90% reduction in revenue. Medicare, as I talked about, shut us off as well as United, which were our two largest payers. We had ordering clinicians that were spooked once the "FBI raid" happened.

On the same day they showed up with us, they showed up at nine of our doctors' offices in the Midwest and the Pacific northwest, asking questions.

As senior management, we stopped taking pay at the VP and C-level. And, ultimately, within 60 days we had to fire almost all of our employees.

We were 278 beforehand, we were less than 5. We couldn't cut costs fast enough. We built up an accounts payable about \$3 million, and it was a disaster. An absolute disaster.

All the stuff we had talked about could never happen, happened. Ultimately in August, we put the company into something called a receivership. Which was a way to avoid bankruptcy. At least that's what we were advised on – to restructure.

Ultimately, that ended up being another huge mistake. Don't ever do it if anyone ever tells you to.

I had funded the company myself for the most part. I owned 96% of the outstanding shares, 73% fully deleted with the employee option pool. But once we appointed the receiver, the receiver was in complete control of everything. And after two weeks he decided, "Nah, I think we're just going to liquidate the assets," instead of the restructuring plan we initially agreed to when he was appointed.

And so, in a matter of a couple of months, September 30th, he shut down operations, turned over our buildings to the Irvine Company, told customers to stop ordering, and shut the business down completely.

So, by December 2017, eight years after founding the company, the company shuttered. Really crappy situation.

### **What Was the Result of the Inquiry?**

A lot of other folks had to pay fines. Natera, big publicly traded company, had to pay 11.4 million; Myriad had to pay; GenomeDX down here had to pay almost two million.

A lot of different companies had to pay fines because they did something wrong. We had the autopsy without the benefit of death. We had whatever you want to call it – the rectal exam with steel wool. They went through everything they could think of.

We came down here in San Diego and sat down with this young AUSA who had no healthcare experience who was leading this. And he had all the different scary threats and all that type of stuff.

But I was confident. I was confident in what we did because I knew everything we did was above board.

And so the government inquiry resulted in no allegations of wrongdoing or charges, no fines, not even one single dollar of a call back to CMS, not even one. Because we actually were under-billing, they actually owed us money. And there were no indictments, no arrests.

So, unfortunately, the only technology that's clinically proven in a peer-reviewed literature to help solve the opioid abuse crisis — I've been able to predict opioid addiction with 96.7% accuracy and help reduce pain — was pulled off the market. Stat News got tons of advertising revenue and Piller even got a new job.

### **Where Do You Go from Here?**

All right, that was kind of a bummer story, wasn't it? But well, you take the lessons you learn from the tragedy and you try to find meaning in it. You try to help others avoid the pain you went through.

So I threw up this orange over here for a second. Because as I've spoken to different groups beforehand, all of us at some point in time in our kitchens have had something like this emerge. Maybe we were traveling a bunch and there were some oranges we left that started to develop some fungus.

And when most of us see something like that, our reaction would be, "Ew." It's not particularly appealing. Pun not intended, but appealing in the sense of wanting to eat it.

However, back in 1928, Alexander Fleming looked at something that had been thrown away in the trash, something most people would consider a disappointment, and looked at it in a different way.

Instead of looking at it and saying, "Yuck," he looked at it and said, "Mm hmm." And by virtue of that was able to discover something that was able to save millions if not billions of lives because up until 1928 the greatest cause of death in the world was infection.

One in every three of us wouldn't have survived to adulthood without antibiotics. And by virtue of that, he was able to discover penicillin. Again, a tragic image, that inspired something to do good. And I think that's an important lesson to learn.

That very awkward picture of me there in the middle was when I was 13 years of age. This was a lesson I learned when I was young and having to deal with tragedy. It's one of the reasons, I guess, why through my faith I've been able to deal with this particular situation.

When I was 13 years of age, a good friend of mine named Chris Kelly was killed when he was riding his bike in front of my house coming over to my home.

And I was one of the first people on the scene. It was one of those things that gets you over that superman complex you have — that invincibility idea you have as a teenager — pretty quickly.

And I wanted to do something to give something that was so incredibly unjust and unfair meaning. At the time, I thought I wanted to be a lawyer. Instead, I just married one.

But at the time I was interested in the law, and so I led an effort when I was 13 years of age to pass the very first bicycle helmet law for children in the United States back in Maryland where I grew up.

And during that time it was pre-internet, obviously. I got contacted by this gentleman who I'd only seen on TV, Dr C. Everett Koop, who was the former surgeon general of the United States, who was creating a non-profit organization called the National SAFE KIDS Campaign out of Children's National Medical Center in Washington D.C.

They wanted me to volunteer and help build this nonprofit, which I did throughout my high school years. And we passed over 300 similar laws across the United States.

And I learned from that experience that you can take something that's an awful situation, tragic, unjust and you can find meaning in it to be able to help others and to be able to make a difference in the world rather than just wallowing in the anger or the frustration because crap happens to everybody.

It's kind of what we signed up for coming down here to earth. It's an awful situation all of us have to go through, whether it's health challenges, financial challenges, family issues, whatever it is.

We're all going to have to deal with our crap. The question is, how do we handle it? And can we help others by virtue of what we go through?

And that's a picture of me and my kids when they were young, with something we did with bicycle helmets to be able to help others.

Actually I think it was the 20th anniversary of the law. We had that picture taken back in Maryland.

### **You Finish the Mission You Started**

The other aspect is, you finish the mission you started. That's a picture of my wife and kids now, a lot older. A lot of their childhood was spent with dad working at Proove and building it up. But you finish the mission you started.

Proove did a lot of things, and I was a keynote speaker at the National Institute of Drug Abuse on Big Data and Personalized Medicine in Dealing with Addiction. Very good friends with a lot of the key opinion leaders in the field. And the mission got derailed by virtue of some people that lied, that made money on spreading the lie, good people in the government that overreacted, did their job but ended up destroying the company in the process.

And so you have to figure out a way to finish that mission.

And so obviously with the things we're doing with Profound right now, we're looking at ways to be able to pick up the pieces of the technology that was left, a lot of the data that's published, a lot of things that can be done.

We've re-built the software, and we've got a new venture coming out to basically be able to address that because all of the key opinion leaders would want us to do so.

And so when you're going through a difficult situation — and all of us will deal with it — hopefully you'll never have to go through something like this, I pray you won't.

I hope as you deal with the challenges, you'll be able to find meaning and purpose in some of those difficult things — whether it's an early stage company, whether it's



a professional challenge in your work, personal challenge, whatever it may be — and find a way to be able to help others, draw strength from that, gain empathy and compassion, and be able to help others that may be going through similar things, or prevent others from having to deal with the tragedy you dealt with.

I am writing a book on the Proove experience. There are a lot of things I learned about the nuances of having to deal with this and this new reputation threat that's emerged in this post-truth, fake news and misinformation world we live in now.

And hopefully that'll be able to help some executives and some entrepreneurs, coaches and athletes and others that are mentioned in the media, because their lives are at risk in light of the world we live in.

So I'll be around there in the reception, looking forward to getting to know you guys better. Thank you so much for your attention. Hopefully, I didn't bore you.

Thank you so much for the opportunity to present.

[audience clapping]

## Q&A

**Joe Hage:** Well, don't go anywhere. this is the question part. My first question now is, are you a hugger?

**Brian Meshkin:** Am I a hugger? Yes.

**Joe Hage:** I'm really moved by your faith and what you've done with— "Nah, keep the nice pictures up, Emma," and making the best of a really crappy situation.

And I'm sure I'm not alone when you feel this indignation of "But that's so unfair!"

Yes it is. And as I tell my Lucas, "Life's not fair, son." And it's painful for a 15-year-old and it's painful for, well, however old you are.

As a marketer, I can't help but think to myself that you could have a rebirth, and try and **prooves** them wrong.

**Brian Meshkin:** The title of the book is going to be called Proove It. But yes.

**Joe Hage:** Unfortunately, my friend [Laura Nobles](#) is not here in the room tonight. You probably know her.

**Brian Meshkin:** I know Laura very well.

**Joe Hage:** Okay. I think it's as even odds as anything to say, "Hey, everybody. Remember that guy? Well, he was found completely innocent."

Personally, I was moved by your presentation tonight. I'm not going to ask for a show of hands. I'm willing to bet *at least five others* were.

And if we could tell that story through many different media now about why your product, which was the only one that did this thing, was derailed by misinformation and badness, there's really, in my mind, no reason not to come back.

I'm sure this is not the first time you've thought of that.

**Brian Meshkin:** Absolutely, so one of the companies that we've funded with Profound is called Bennufit Health.

The bennu bird was the Egyptian firebird that preceded the great phoenix rising from the ashes. And so with Bennufit what we've basically done is we've rebuilt the technology as a software that we can then license to laboratories.

We bought National Tox so we can actually put it into a laboratory as well and, then, Felix because he's so intimately familiar with genetic testing at the FDA. Since one of the challenges was, "Well, this is not FDA approved."

And so we've already started talks with FDA and that type of thing, and say, "Okay. We'll just 510(k) and then take it out that way."

But without a doubt, we're going to finish the mission. There's a lot to be done in pain.

Unfortunately, with behavioral health in general, there is a stigma. And it's not just in American society. It's in most of Western Europe. It's in Latin American cultures. It's in Asian culture et cetera.

If someone has cancer, they're a victim. But if someone has a behavioral health issue, whether it's chronic pain, depression, anxiety, people think there's something wrong with them.

There's a measure of blame that's apportioned to them, which is unfortunate because chronic pain is a neurological condition and, for those people that have it, it's miserable, it's ubiquitous.

In fact, the government's overreaction to the opioid abuse epidemic, which has basically been to torture chronic pain patients by denying them the medications they need, has now resulted in the fact that 10% of all suicides in the United States are now due to chronic pain. People just kill themselves because it's so bad.

And so there's an absolute need to help these patients, to help these doctors, and that's why I continue to work with the key opinion leaders in the field, the different Presidents of medical societies and those types of things, to give it a rebirth.

I just have to be careful because I know there'll be people that'll be gunning for me. Just by virtue there were some enemies that were made in the Proove process.

**Joe Hage:** That led to the misinformation.

**Brian Meshkin:** Yes, absolutely.

**Joe Hage:** So they'll try again. They haven't gone away. A bully is still a bully.

**Brian Meshkin:** That's right.

**Joe Hage:** Now at least you'll have a story that's reinforced.

So I'm going ask you to raise your hand if you have a question.

My next question is when you put the company in receivership, do you have any ownership over the IP now?

**Brian Meshkin:** Great question. So it's all locked in the receivership. So literally, the biobank for example that we have, the 153,000 DNA specimens and all of that data, the receiver didn't think it was any value in it and just destroyed it.

**Joe Hage:** Smart.

**Brian Meshkin:** Didn't even sell the CLIA license, just turned it back over. I was like, "What are you? An idiot?"

And so I got lawyers and filed things in court and all this type of stuff but receiverships are a bad idea. Don't do them because they are like God and they can be a really dumb God and make some really, really, dumb, dumb decisions. Which is unfortunate because I look back on it and I'm like, "Gosh, we spent \$20 million building that biobank and all of that data. I owned, at the time, 100% of the company."

I could have put that in my pocket if I thought someone was going to trash it. But we were doing it for the common good because we wanted to share it with the researchers and do some crowd-sourcing innovation and that type of stuff, but that all got derailed. It is what it is.

**Joe Hage:** I could do this all day but there's a question. Introduce yourself, stand up.

**Ahmed Ramadan:** Thank you. My name is Ahmed, I'm a medical engineer from New York.

So my question is basically, "So now you're finally with a new company, it seems you did everything in the first time based on all the rules and everything. So do you now think every time you do something, "Oh, I'm not just going to do the minimum required. I'm going to go do beyond that just in case something else comes up in the future"?"

**Brian Meshkin:** Yeah, great question.

So we actually did do way beyond the minimum required. When I [was growing] up — I'm sure your parents were the same way — my mom [would tell] me, "Everything you do and say and write, make sure it can be on the cover of the New York Times, and you're fine."

I've lived by that. I'm good with that. I mean, we've even sat down with the US Attorney. I said, "I hope you have wiretapped every single phone call I've had since the beginning of Proove. Go through every single email. You can come to my house if you want to. You're not going to find anything."

The challenge is, that's not what you have to worry about. You don't have to worry about whether you're going to do the right thing or not. Hopefully, you're the kind of person that wants to do the right thing.

What you have to prepare for is, what can they lie about? And a lie usually isn't 100% a lie. There's like 5% or 10% that's true and then, they wrap a lie around it and they fall back to that one 5% or 10% to justify the rest.

So yes, there were things I would do differently. For example, we built, for all intents and purposes, a CRO in-house at Proove. We had a clinical operations team; we had a team of research assistants all across the United States. They were all credentialed and certified beyond what you would need to do as an NIH awardee and those types of things.

And so one of the questions we had to answer was, why were you guys investing so much in research? Why did you have this research operation? Was it designed in some way to be sales or that type of thing?

So I wouldn't do something like that again. Our IT team, we did all our software development in-house as well. I didn't know better. It wasn't a regulatory issue or anything like that.

But again what happened with regard to the government investigation, if the IT was different than the lab, which was different than the research, which was different where the IP was held, and was broken up in multiple different companies, I could have just replaced the lab with another and been in business.

Another thing, as an entrepreneur you may think, "Oh gosh, I don't want to raise a bunch of money because I don't want to get deluded or that type of thing."

Huge mistake. Pigs get fat, hogs get slaughtered. Been slaughtered. I didn't want to get deluded. I wanted to try to hold on to as much of the company as I could and so I funded it all myself.

I'm a son of an immigrant. I'm kind of old fashion. You save up and you minimize your debt and all that kind of stuff.

And so we had people offering us money hand over fist. And I didn't take it because I didn't want to get deluded. Big mistake.

Should have had a big war chest nest egg because once you get to a point in time, people are going to come after you. And they're going to come after you in very, very dishonest ways. And they have very powerful lobbyists in D.C., so they can use the levers of the government, which is unlimited resources, to hurt you.

So you've got to be prepared. If you're going to play in the big leagues, you have to put your big boy pants on and do that type of thing. You have to raise that kind of capital to be able to do it.

So there are a lot of mistakes, I look back on all the should've, would've, could've. And hopefully, we'll do a better job moving forward.

**Joe Hage:** When's the book coming out?

**Brian Meshkin:** I have my wife going through it right now because it's something that exposes a lot of the family stuff. So once she's comfortable with it, they'll publish it soon.

**Joe Hage:** Just a quick aside. When I wrote my article, the original title was, "We just lost blank thousand dollars." And, boy, was my wife pissed. She's like, "Really, Joe, do you have to tell them how much you lost?" I was like, "Okay, I'll put a lot of money." So, that's interesting.

If I'm not mistaken, you said that among your lessons learned were you would have outsourced more?

**Brian Meshkin:** Yes. So much of everything we were doing was in-house.

Fortunately, we had legal opinions out the wazoo. Even though we had an internal legal group, we had marquee legal opinions all over the place. Legal review of every single thing we did.

We had a lot of consultants review things and I would say — early stages of entrepreneur — honestly thought consultants were a waste of money. I was like, "Why am I going to pay somebody to tell me something I already know?"

If you ever have to be investigated, it is wonderful to have a third-party expert tell you something you already know. Because the government values that. They say, "Oh. You didn't just make the decision on those billing codes. You had an expert tell you that's what you should do. Fine."

Because they're looking for intent. They're looking to say you've come up with something, that you have intention to do wrong. But if you rely upon a third party, even though you may say, "Oh gosh, it's a waste of money, I already know this," Really, really valuable.

Consultants and experts play a huge role in that, and I definitely would not have everything under one roof because when the legs got taken off, it all crumbled.

**Joe Hage:** Okay.

**Gunjan Bagla:** My name is Gunjan Bagla and I'm a consultant.

A really striking story. I have two questions for you. Number one, at any stage, did your Board or others advise you to hire a crisis PR firm? And number two, do you think things would have turned out differently if it weren't for Theranos and Elizabeth Holmes?

**Brian Meshkin:** Answer to the second question, absolutely yes. Because that created confirmation bias.

Yes, that situation pissed me off so much. That lady raised so much money and never even had one frigging scientific poster to back up what she was doing.

And the nerve of this guy in his first article to suggest we were a Theranos, with all the awards we had won and all the key opinion leaders. How many posters do you want? I've got them coming out of my wazoo with all of the different studies we've done.

But yes, I definitely think that's the case.

With regards to your first question around a crisis communications firm, by the time we actually retained a crisis communication firm, it was too late.

One of the lessons I mention in my book is around planning for the never happened. So when you're going through scenario planning, there are certain situations you put off in a parking lot and say, "Those things will never happen."

The Boy Scout motto of being prepared is really important. We live in a world where things do move much faster than they used to. And we absolutely thought about what would happen if a government investigation happened.

We brought in McDermott Will & Emery. We paid them \$220,000, and we said, "If you spend the next two months and pretend you're government investigators and go through everything just to make sure."

Because when you're 278 employees, you don't really know everything everybody's doing. So, let's just pretend. Let's go through this misery just to see what it was like. Which was a year before this happened because I just wanted to know.

I recommended it to our Board. I said, "I get paranoid about these things. Why don't we pretend?" Which we did.

We didn't prepare for lies. We just prepared that if the government was objective and came in and looked at things and went through all the evidence, would there be any evidence of wrongdoing?

And when there were little tweaks on things like, "Oh, that person said that over an email. That kinda sounds bad." Or like, "Oh, if we can get Hopkins to do a study with us, then maybe they'll use our technology in the future." Oh, bad thing, don't say that in an email.

Even though everyone in the industry thinks that way, you can't say that because then it suggests, if we ever do research with Hopkins, there was intention for an inducement.

So you find these things when you do an investigation into forensics, and we paid McDermott Will & Emery to do that. We did this on a regular basis. But we didn't plan for lies.

And so now, coming to your question, you don't necessarily say, "We don't want to get close to the line." You don't want to say, "We're going to keep distance away from the line."

You want to keep distance away from line, tell the world how far you are away from that line, and then say, "Gosh. What can people do to lie about us?" and, then, prepare for that so in the event something happens, you come back really, really hard.

I don't know what your political persuasion is. I didn't vote for him, but Donald Trump is actually very good at this.

He brings a machine gun to a knife fight every single time. Any time somebody talks crap about him, he is pummeling them publicly, legally, et cetera. Which is why [00:38:24] the accusations that are made around him.



That approach is, in the world of media we live in now, honestly the way you have to do it. You have to bring a machine gun to the knife fight, otherwise you're going to get killed.

**John Eckberg:** In the interest of full disclosure, I was an investigative reporter. I was a former reporter of the newspaper and, man, I'm sorry about what happened to you. I'm John Eckberg.

You've heard the phrase "malice of forethought." Not many people know about that little nuance, but it strikes me, one, you would have won hands down because he fabricated, and two, the deep pockets are the newspaper.

**Brian Meshkin:** Correct. He's visibly the owner of the newspaper who owns the Boston Red Sox. I'd love to own Fenway Park.

**John Eckberg:** Big, deep pockets. But the three-headed question is this, would any of that matter?

**Brian Meshkin:** Yeah, it's a great question.

So I have belabored this because the guy that owns Stat News — his name is John Dorsey — he owns the Boston Red Sox. Statute of Limitation in the state of Massachusetts is three years, so I technically can keep my powder dry for another few months.

And I thought about whether I go after him or not. But it's going to open up a lot of wounds. It's going to bring it all back into my life again. Might have to deal with that. And do I really want to deal with it or not? That's been the question for me.

I should have done it right when it happened. Three years later, do I really want to go through that again? That's the question mark — whether it's worth it or not.

There is a tremendous amount of protection that's given to the media from a slander standpoint. So when you read the articles, he does a nice job of saying, "Well, the company allegedly uses ..." So he pulls himself out as the noun, uses the passive voice.

And then, I think the most disingenuous thing in the world is you give somebody misinformation and you ask them to respond to that and they say, "Oh yeah, if a company is paying doctors to order testing, that's totally unethical."

So this ethics expert at this university says this practice is unethical. Well, we're not doing that practice.

And so, he was able to do enough that we may or may not win the lawsuit, to be honest. So the only reason I would do it is to trigger his liability insurance to see if his liability insurance would just settle.

But in all likelihood, he's going to make me have to zip my mouth and not talk about it, so I'd rather just tell the truth and hold them accountable that way. Since I lost in the court of public opinion, I'm going to appeal in the court of public opinion.

**Joe Hage:** Are there any other questions?

**Brian Meshkin:** And I'm happy to talk with people outside, we don't have to do with microphone.

**Joe Hage:** As I'm sure they will, I'm sure they will come out.

So you've certainly shared a lot of learning and you're still as susceptible to me talking smack about you as soon as we leave this room.

**Brian Meshkin:** Yes.

**Joe Hage:** Is there a defense? Besides saying more bad stuff about me? "Yeah, well he's not credible."

**Brian Meshkin:** Right. There are steps you can take. I outlined it in the book.

I've put all those pieces into place now, for me, so that in the event something like that happens again, I respond much more effectively.

But at the end of the day, unfortunately, we do live in a world where people can do that. And so someone could take pictures of this event and go post it on social media afterwards, and say-

**Joe Hage:** With any caption they want.

**Brian Meshkin:** ... "Meshkin admits to breaking the law." Which I didn't, but they can say it. And then it becomes he-said-she-said. And then, hopefully you guys video recorded, and I would very quickly put it all out there and respond to it rather than saying, "Oh, that's such garbage. I'm not going to respond to it."

**Joe Hage:** If that were to happen, I would prefer if they said, "Hage gets Meshkin."

[laughter]

Ladies and gentlemen, Brian Meshkin.