

Short-Term, High-Cost Lending

Jim Hawkins

University of Houston Law Center
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3rd Annual Southern District of Texas Consumer Bankruptcy Conference



Payday Lending

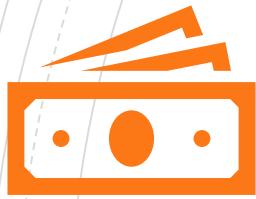
A circular portrait of a man, identified as Lacrae, set against a light gray background. He is wearing a dark blue baseball cap, a dark brown quilted leather jacket over a light-colored shirt, and a gold beaded necklace. He is looking directly at the camera with a neutral expression. The portrait is enclosed in a thick black circle, which is itself centered within a larger white circle.

Lacrae



■ Lacrae + Payday Loans = Pure Joy

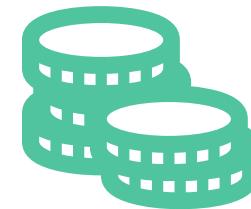
Where are we going?



Payday Lending



Car Title Lending



**Earned Wage
Access**



Goal:

Say things you don't know about these three financial products.



Payday Lending

Payday Lending



Jim Hawkins, *Using Advertisements to Diagnose Behavioral Market Failure in Payday Lending Markets*, 51 WAKE FOREST LAW REV. 57 (2016)

TABLE 1: SUMMARY OF ADVERTISING CONTENT ON LENDERS STOREFRONT SIGNS AND WEBSITES

Advertising Content	Percentage of Storefronts Actually Visited (n=164)	Weighted Percentage of Storefronts (n=463)	Percentage of Websites (n=27)	Weighted Percentage of Websites (n=463)
Speed of Getting Loan	50.00	54.21	96.30	99.78
High Loan Amounts	48.78	47.08	74.07	81.64
Simple Loan Application Process	31.71	43.41	92.59	97.41
Pay Off Other Lenders	28.05	27.00	14.81	2.16
No Credit Check/Bad Credit OK	21.34	20.73	77.78	97.19
Low Prices	15.24	10.58	48.15	36.50
Teaser Rates	12.20	15.77	18.51	17.49
Best Practices/Trade Association	8.54	9.72	22.22	43.63
Exact Price of Loan	6.71	4.32	85.19	87.90
Loans Are for Frivolous Expenses	4.27	6.48	3.70	0.65
Confidential Process	3.66	3.46	59.26	90.93

Payday Lending



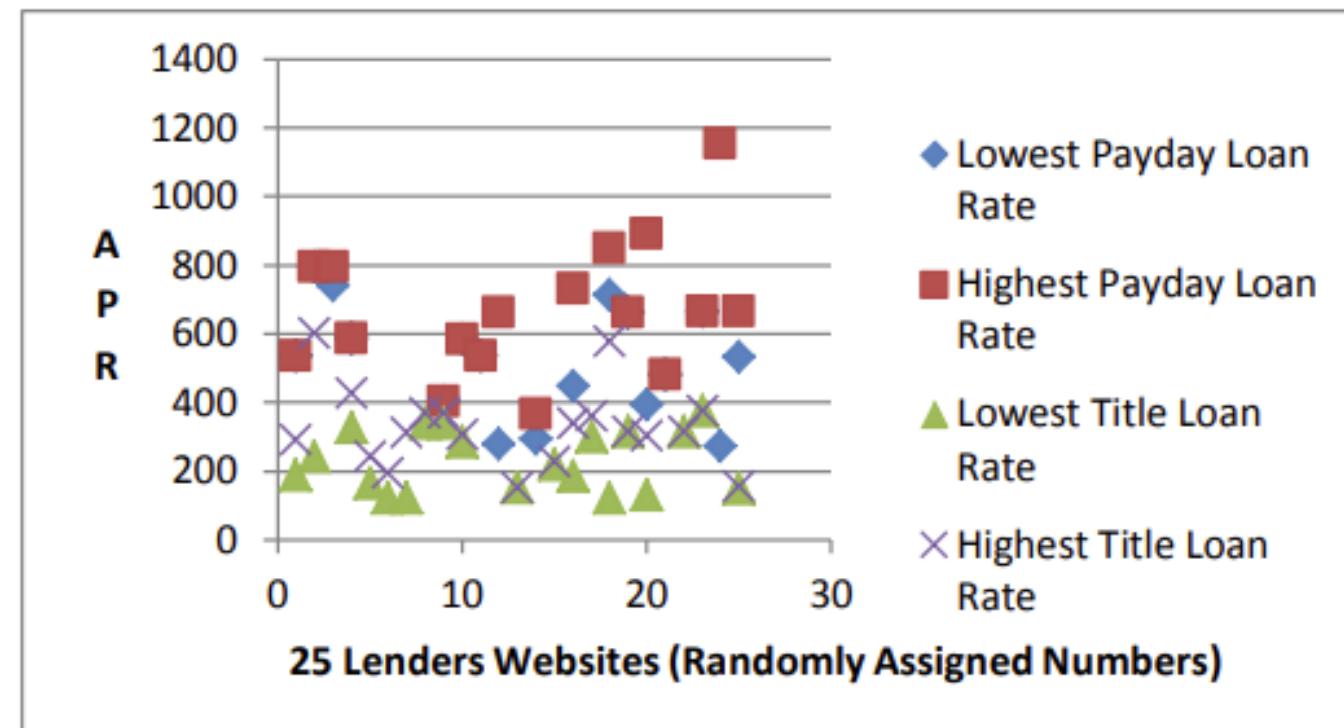
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Payday Lending

Graph 1: Price Differentiation in Houston Payday and Title Lending Markets



Jim Hawkins, *Are Bigger Companies Better for Low-Income Borrowers?: Evidence from Payday and Title Loan Advertisements*, 11 J. OF LAW, ECONOMICS & POLICY 303 (2015)

Auto Title Lending

Kathryn Fritzdixon, Jim Hawkins, & Paige Marta Skiba, *Dude, Where's My Car Title: The Law, Behavior, and Economics of Title Lending Markets*, 2014 U. OF ILLINOIS L. REV. 1013

TABLE 1: AGE, GENDER, AND RACE OF TITLE LENDING BORROWERS

	Full Sample	Texas		Idaho		Georgia	
		Borrowers	State-wide	Borrowers	State-wide	Borrowers	State-wide
Median Age	40	42.6	33.6	38.6	34.6	43	35.3
Male	41.56%	47.30%	49.60%	39.70%	50.10%	36.89%	48.90%
White	57.78%	42.68%	80.90%	74.87%	93.90%	46.15%	63.20%
Black	17.78%	28.57%	12.20%	0.50%	0.80%	35.58%	31.00%
Hispanic	15.56%	20.41%	38.10%	14.07%	11.50%	11.54%	9.10%
Asian	0.67%	1.36%	4.00%	0.50%	1.30%	0.00%	3.40%
Other	7.56%	6.12%	-	9.55%	-	5.77%	-
Two + races	0.67%	0.68%	1.70%	0.50%	2.10%	0.96%	1.80%

Auto Title Lending

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Median Age	40	42.6	33.6	38.6	34.6	43	35.3
Male	41.56%	47.30%	49.60%	39.70%	50.10%	36.89%	48.90%
White	57.78%	42.68%	80.90%	74.87%	93.90%	46.15%	63.20%
Black	17.78%	28.57%	12.20%	0.50%	0.80%	35.58%	31.00%
Hispanic	15.56%	20.41%	38.10%	14.07%	11.50%	11.54%	9.10%
Asian	0.67%	1.36%	4.00%	0.50%	1.30%	0.00%	3.40%
Other	7.56%	6.12%	-	9.55%	-	5.77%	-
Two + races	0.67%	0.68%	1.70%	0.50%	2.10%	0.96%	1.80%

Auto Title Lending

Jim Hawkins & Tiffany Penner,
*Advertising Injustices: Marketing
Race and Credit in America*, 70
EMORY L.J. 1619 (2021)

*Table 1: Racial Groups Pictured on Websites in 2014 Compared to Texas
Population and Customer Base*

	Percentage of People in Texas Population in 2014 ¹	Percentage of Auto Title Lending Customers ²	Percentage of Payday Lending Customers ³	Percentage of Pictures on Fringe Bank Websites in 2014	Percentage of Pictures on Mainstream Bank Websites in 2014
White	75.20%	57.80%	55.00%	36.40%	54.05%
Latino	38.60%	17.80%	14.00%	28.80%	6.08% ⁴
Black	12.00%	15.60%	23.00%	34.80%	18.24%
Asian	4.30%	0.70%	6.00% ("other")	0.00%	18.24%

Auto Title Lending

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EMORY L.J. 1619 (2021)

Percentage of Total Model Images on Website

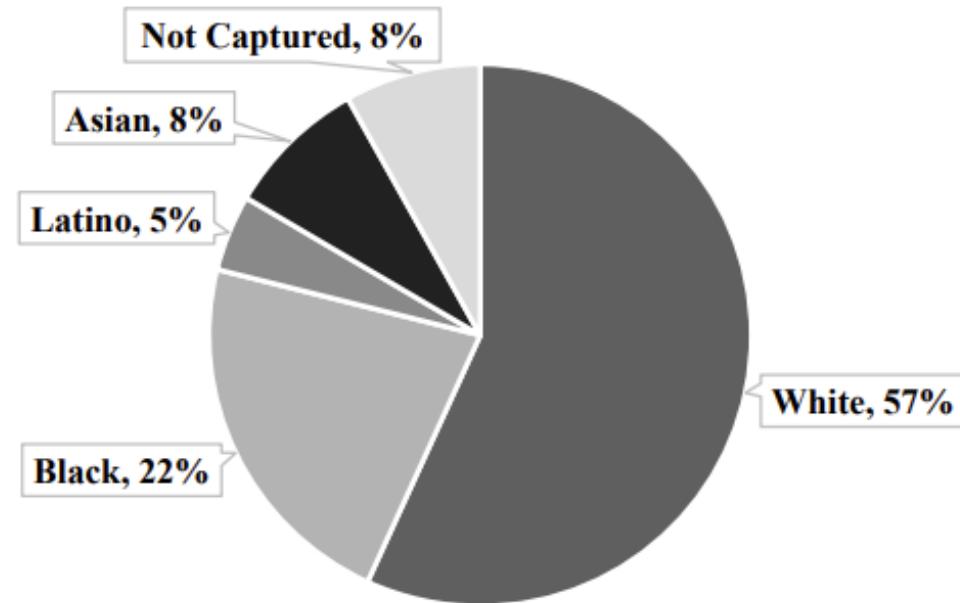


Table 4: Aggregate Racial Group Representation in Mainstream Bank Website Images

Auto Title Lending

Kathryn Fritzdixon, Jim Hawkins, & Paige Marta Skiba, *Dude, Where's My Car Title: The Law, Behavior, and Economics of Title Lending Markets*, 2014 U. OF ILLINOIS L. REV. 1013

TABLE 8: OTHER TRANSPORTATION TO WORK

	Percentage (n=451)
Do not work outside the home	11.97%
Use public transportation	12.86%
Use another vehicle I own	41.24%
Walk to work	10.42%
Get rides from friends/family	15.96%
Buy a new car	4.88%
No other way to work	14.86%

Our results show that, in fact, most workers would have another way to get to work. Table 8 presents these results.¹³⁵ Over 40% of borrowers reported that they would use another car that they or their family owns. Interestingly, 4.88% stated that they would buy another car if they lost the one used to collateralize the loan.¹³⁶ Less than 15% of borrowers stated that they would have no other way to get to work. While not insignificant, this small percentage suggests that the dire consequences that critics predict are unlikely to occur for the vast majority of title borrowers. Rough calculations would place the percentage of title borrowers who lose their jobs as a result of title lending at 1.5%.¹³⁷

With this demographic information, we have a fuller understanding

Auto Title Lending

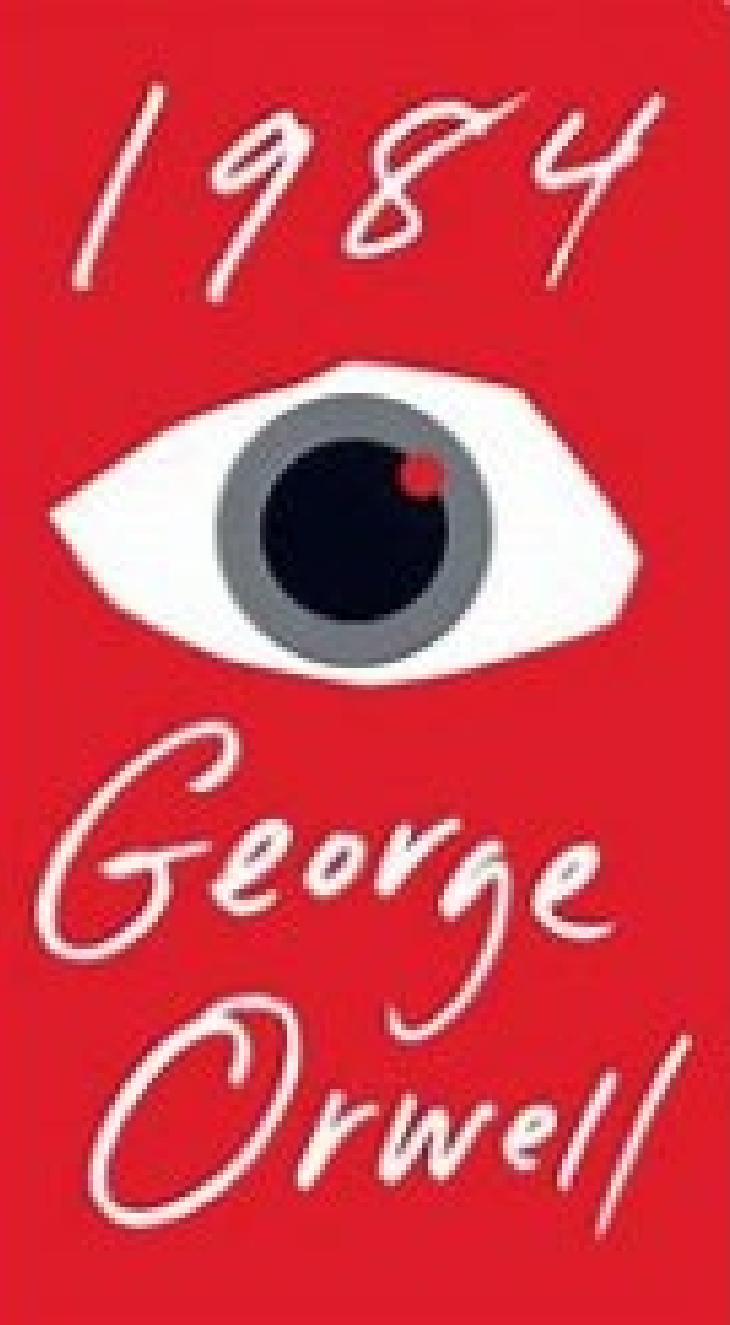
Kathryn Fritzdixon, Jim Hawkins, & Paige Marta Skiba, *Dude, Where's My Car Title: The Law, Behavior, and Economics of Title Lending Markets*, 2014 U. OF ILLINOIS L. REV. 1013

TABLE 9: PREDICTION OF MONTHS TO COMPLETELY PAY OFF THE LOAN

	Borrowers' Predictions in Our Sample	Texas Disclosure of Actual Usage
	Percentage	Percentage
1 month	20.13%	27.00%
2–3 months	37.58%	24.00%
4–5 months	14.09%	13.00%
6+ months	28.19%	36.00%
Total	100%	100%



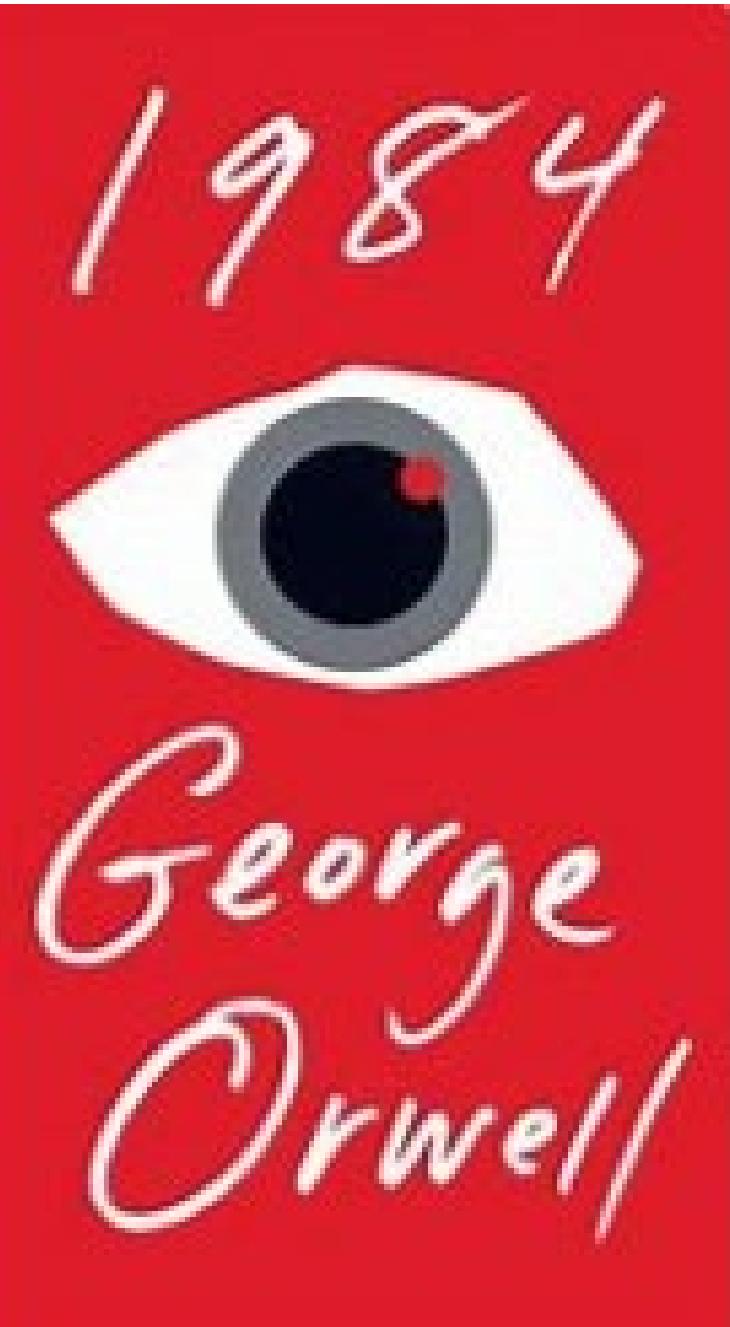
■ Earned Wage Access



Is it credit?

Consumer Financial Protection Bureau's history

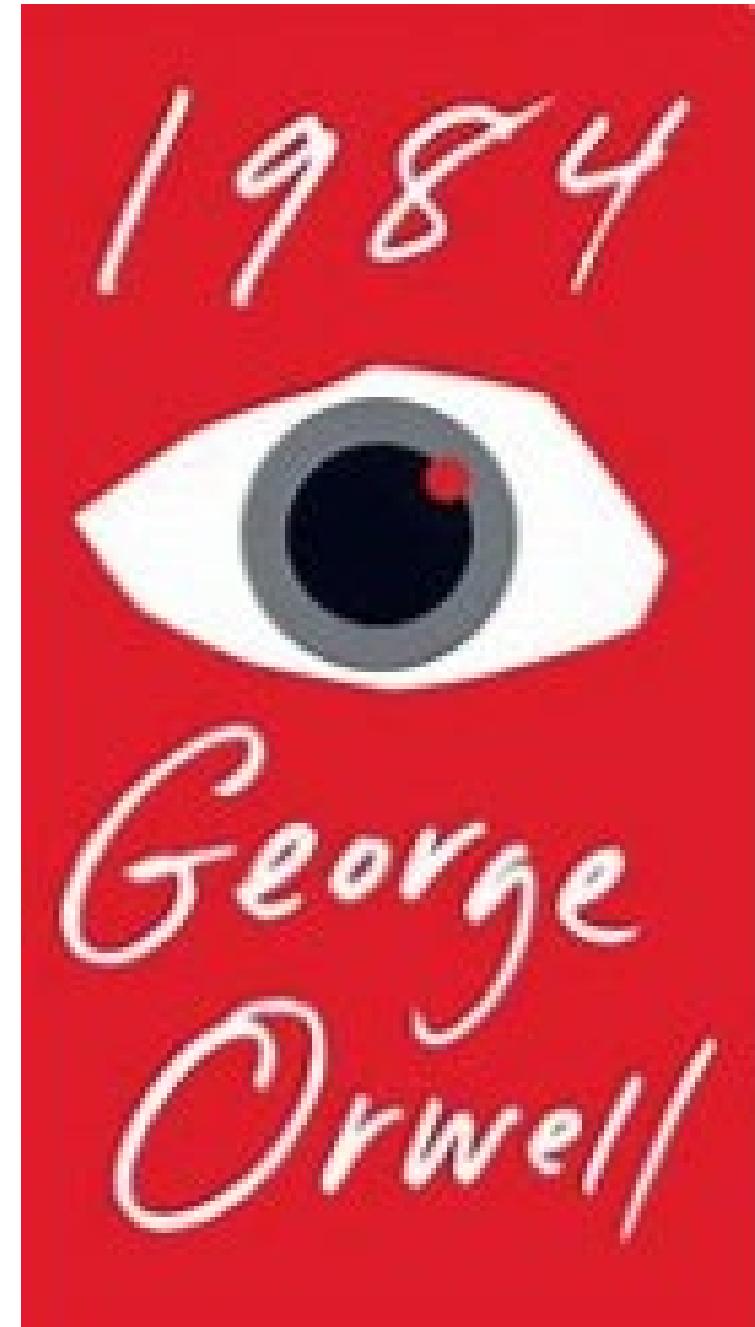
- November 2017: EWA is not credit (excluded from payday lending rule)



Is it credit?

Consumer Financial Protection Bureau's history

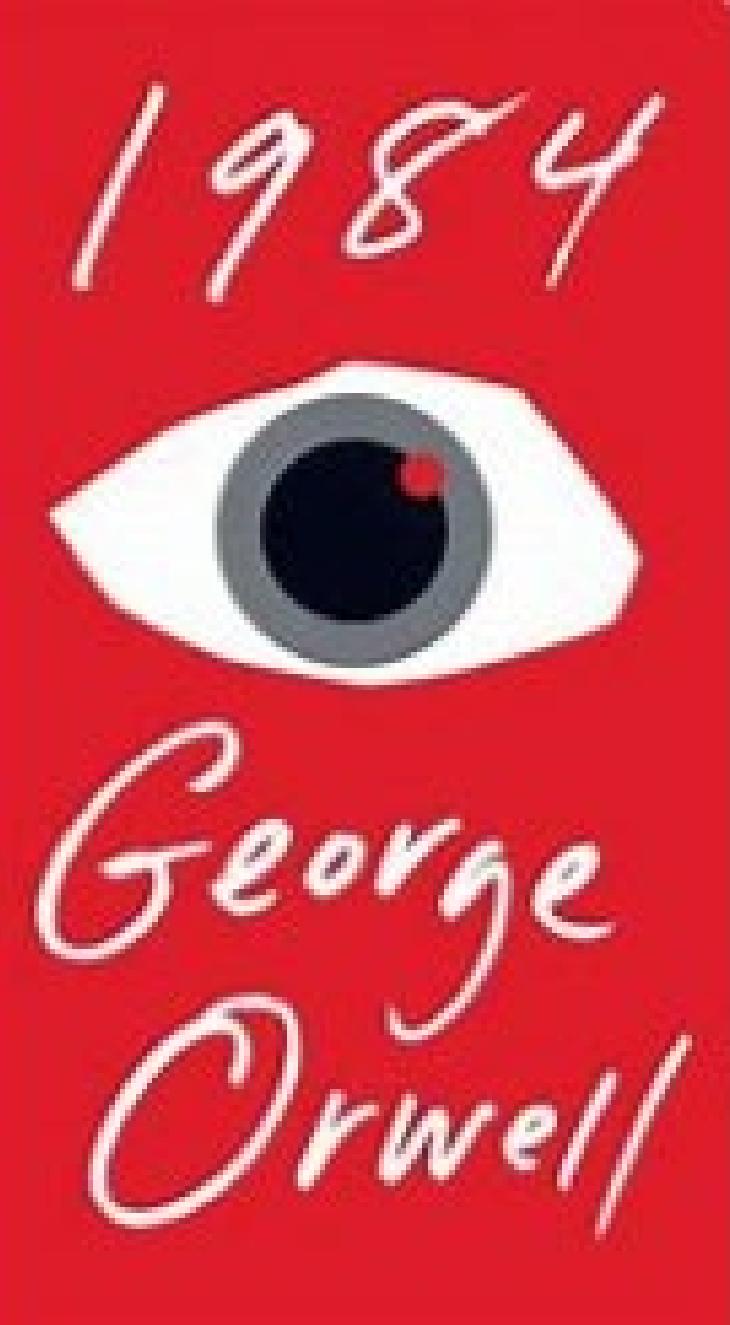
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- 2020: Only some EWA is not credit



Is it credit?

Consumer Financial Protection Bureau's history

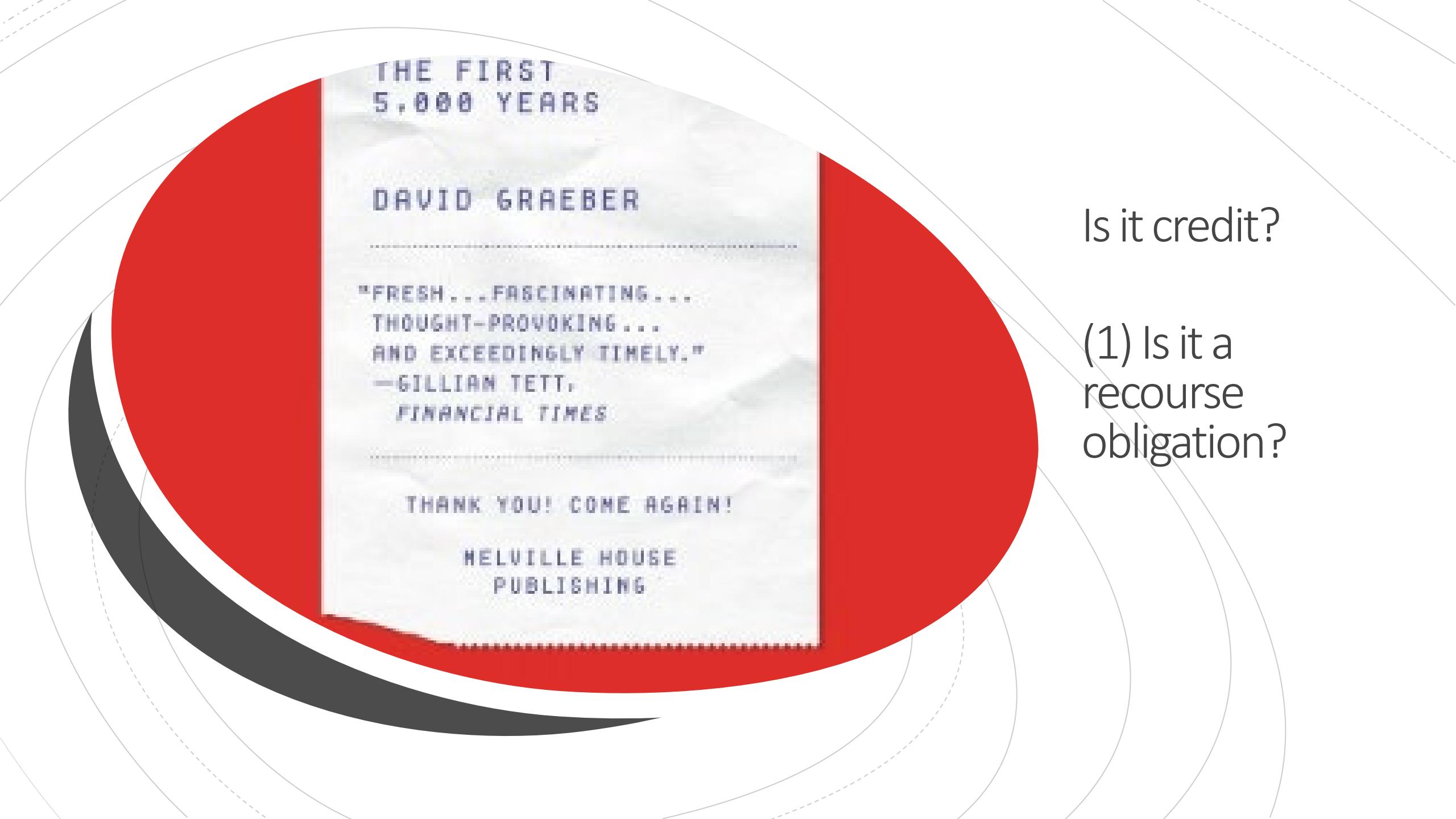
- November 2017: EWA is not credit (excluded from payday lending rule)
- 2020: Only some EWA is not credit
- July 2024: EWA is credit and always has been credit (and we've never been at war with Eurasia)



Is it credit?

Consumer Financial Protection Bureau's history

- November 2017: EWA is not credit (excluded from payday lending rule)
- 2020: Only some EWA is not credit
- July 2024: EWA is credit and always has been credit (and we've never been at war with Eurasia)
- December 23, 2025: EWA is not credit (and we've always been at war with Eurasia)



THE FIRST 5,000 YEARS

DAVID GRREBER

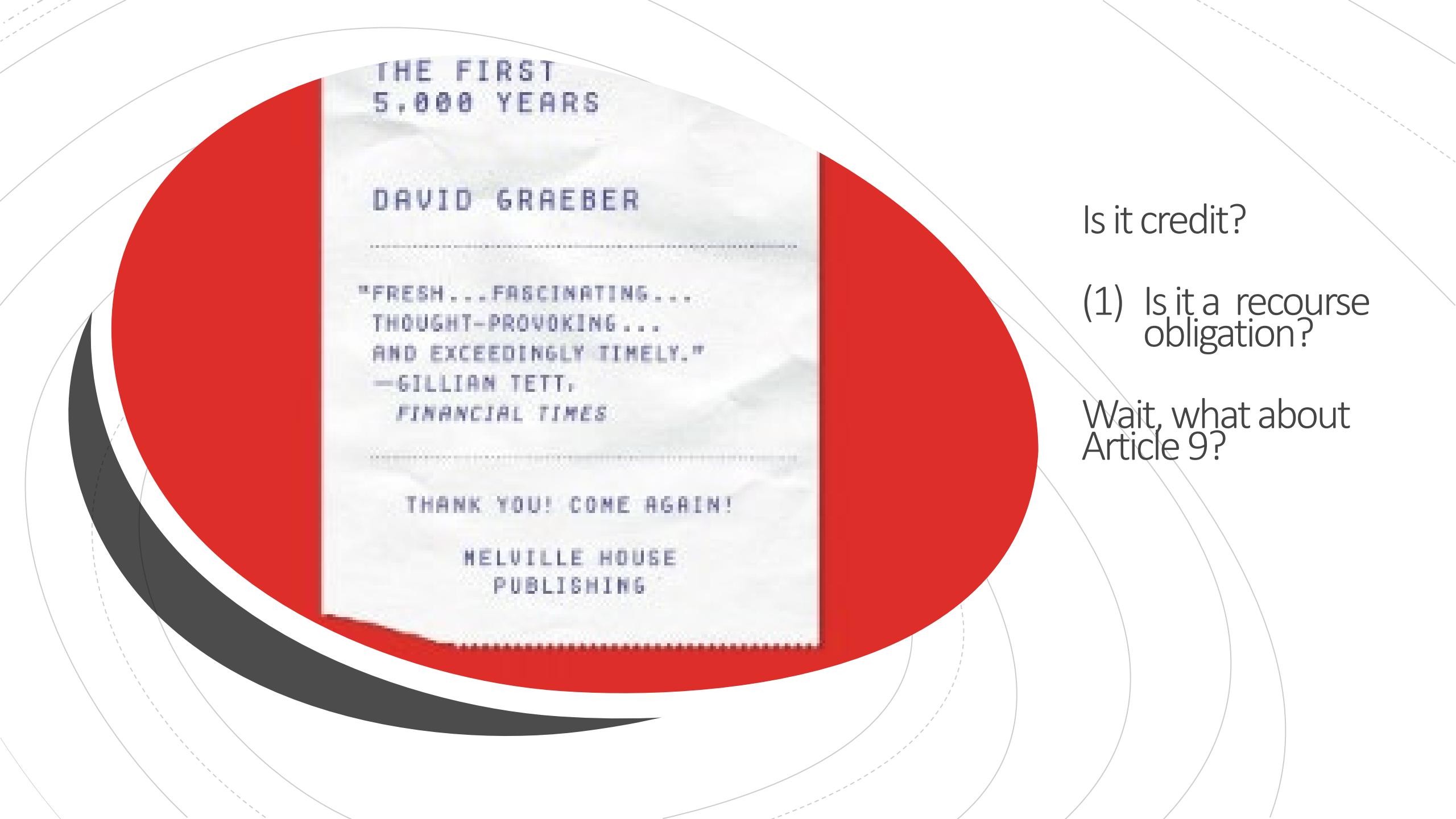
"FRESH...FASCINATING...
THOUGHT-PROVOKING...
AND EXCEEDINGLY TIMELY."
—GILLIAN TETT,
FINANCIAL TIMES

THANK YOU! COME AGAIN!

HELVILLE HOUSE
PUBLISHING

Is it credit?

(1) Is it a
recourse
obligation?



THE FIRST 5,000 YEARS

DAVID GRREBER

"FRESH...FASCINATING...
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Is it credit?

(1) Is it a recourse
obligation?

Wait, what about
Article 9?

Definitions § 9-102(a)

(28) " Debtor " means:

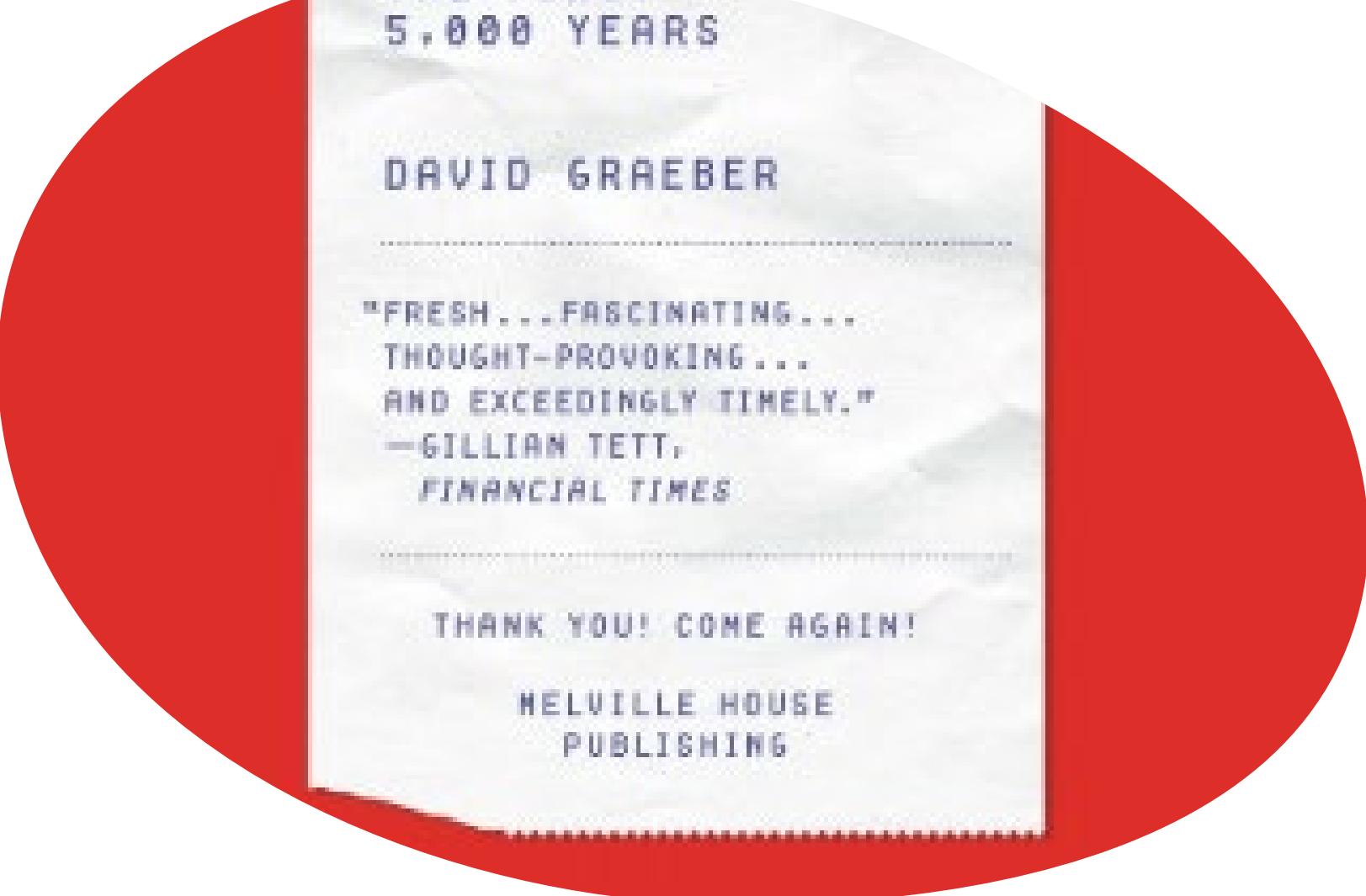
(A) a person having an interest, other than a security interest or other lien, in the collateral, whether or not the person is an obligor;

(59) " Obligor " means a person that, with respect to an obligation secured by a security interest in or an agricultural lien on the collateral, (i) owes payment or other performance of the obligation, (ii) has provided property other than the collateral to secure payment or other performance of the obligation, or (iii) is otherwise accountable in whole or in part for payment or other performance of the obligation. The term does not include issuers or nominated persons under a letter of credit.

Article 9 makes no sense.

“Behnfeldt borrows money on an unsecured basis. Bruno co-signs the note and grants a security interest in her Honda to secure her obligation. Inasmuch as Behnfeldt does not have a property interest in the Honda, Behnfeldt is not a debtor.”

9-102 cmt. 2(a) ex. 3.



THE FIRST
5,000 YEARS

DAVID GRREBER

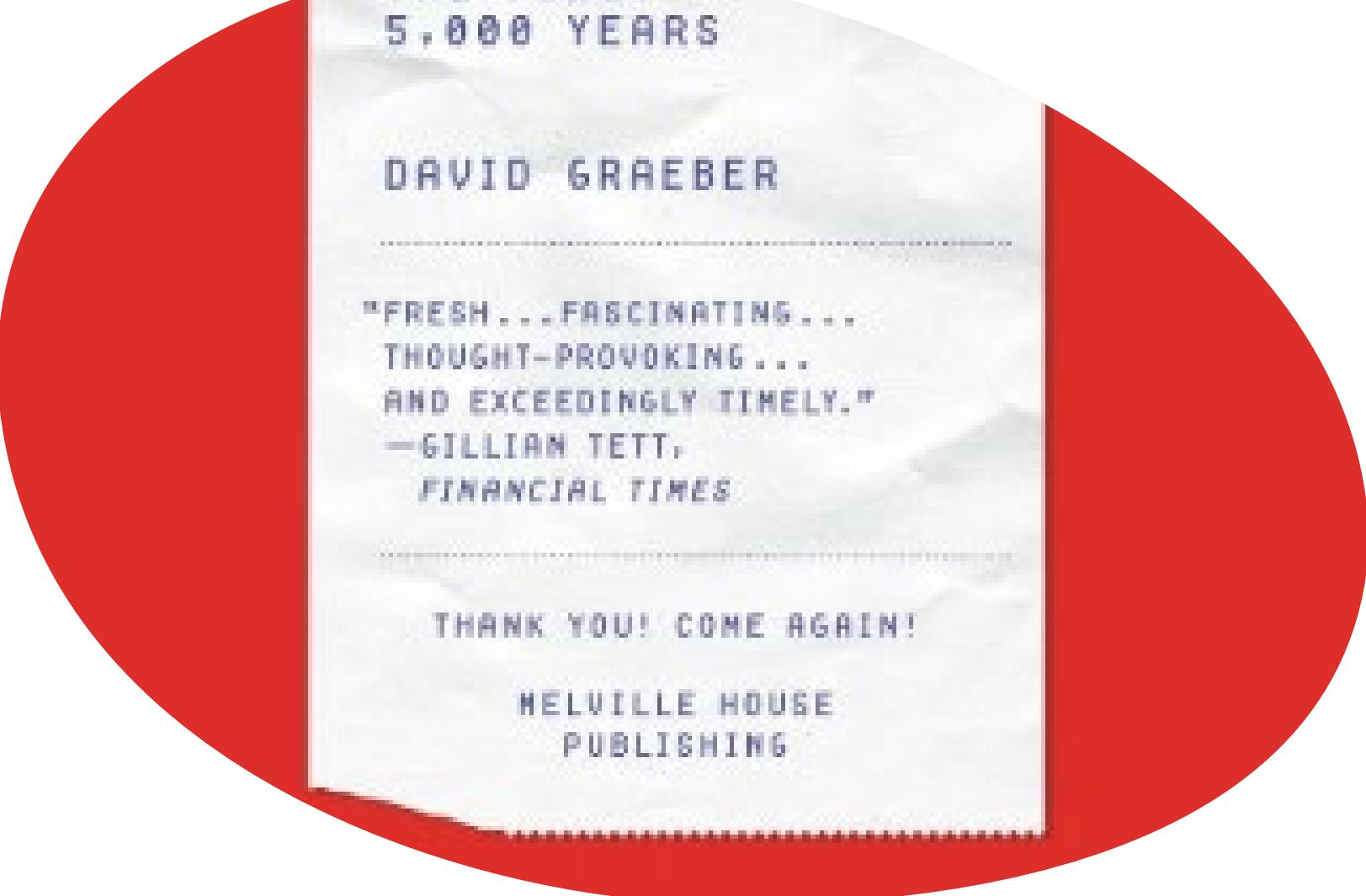
"FRESH...FASCINATING...
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—GILLIAN TETT,
FINANCIAL TIMES

THANK YOU! COME AGAIN!

MELVILLE HOUSE
PUBLISHING

Is it credit?

(2) Does it depend on
creditworthiness?



THE FIRST
5,000 YEARS

DAVID GRREBER

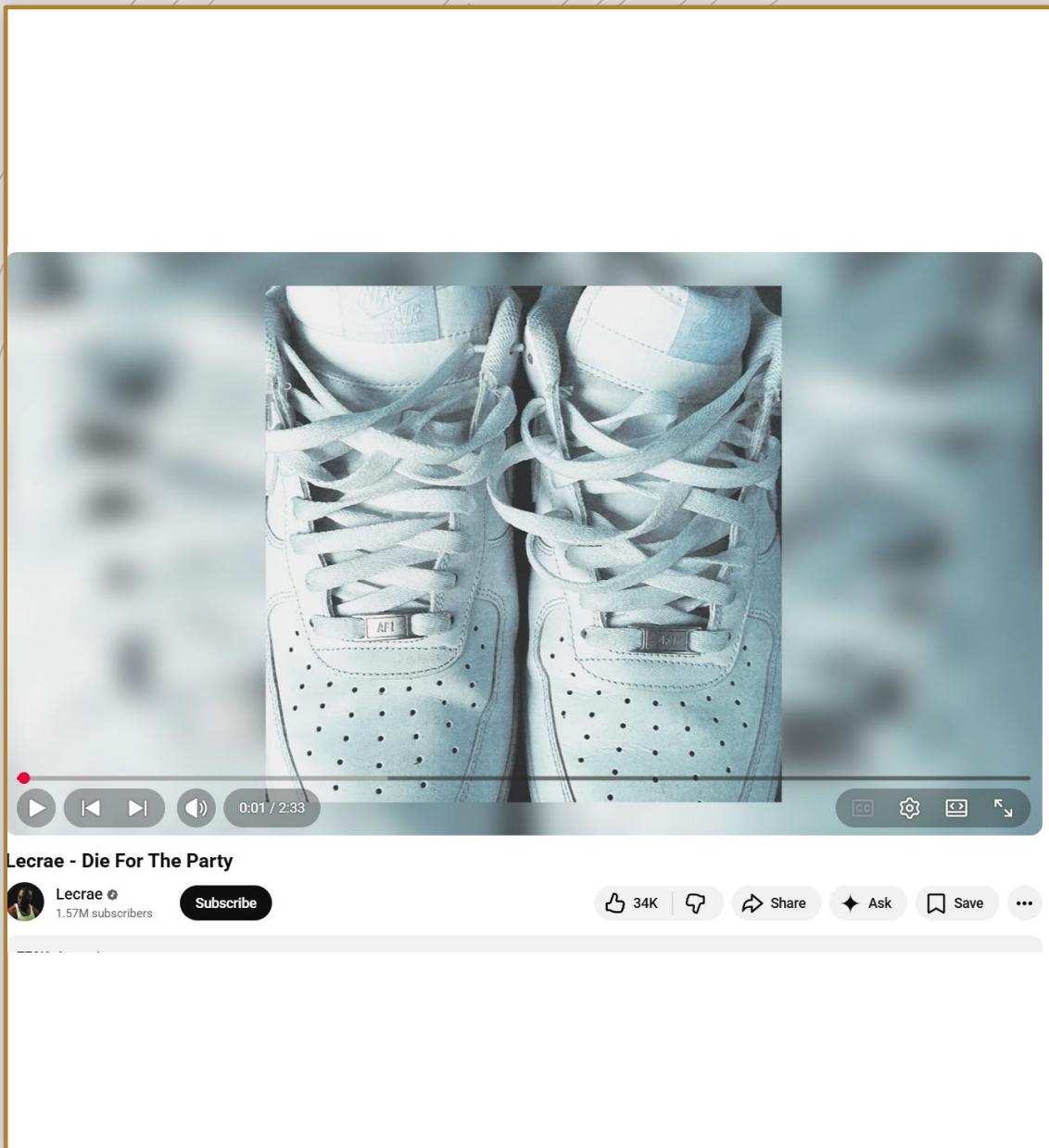
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FINANCIAL TIMES

THANK YOU! COME AGAIN!

HELVILLE HOUSE
PUBLISHING

Is it credit?

(3) Does it cost money?

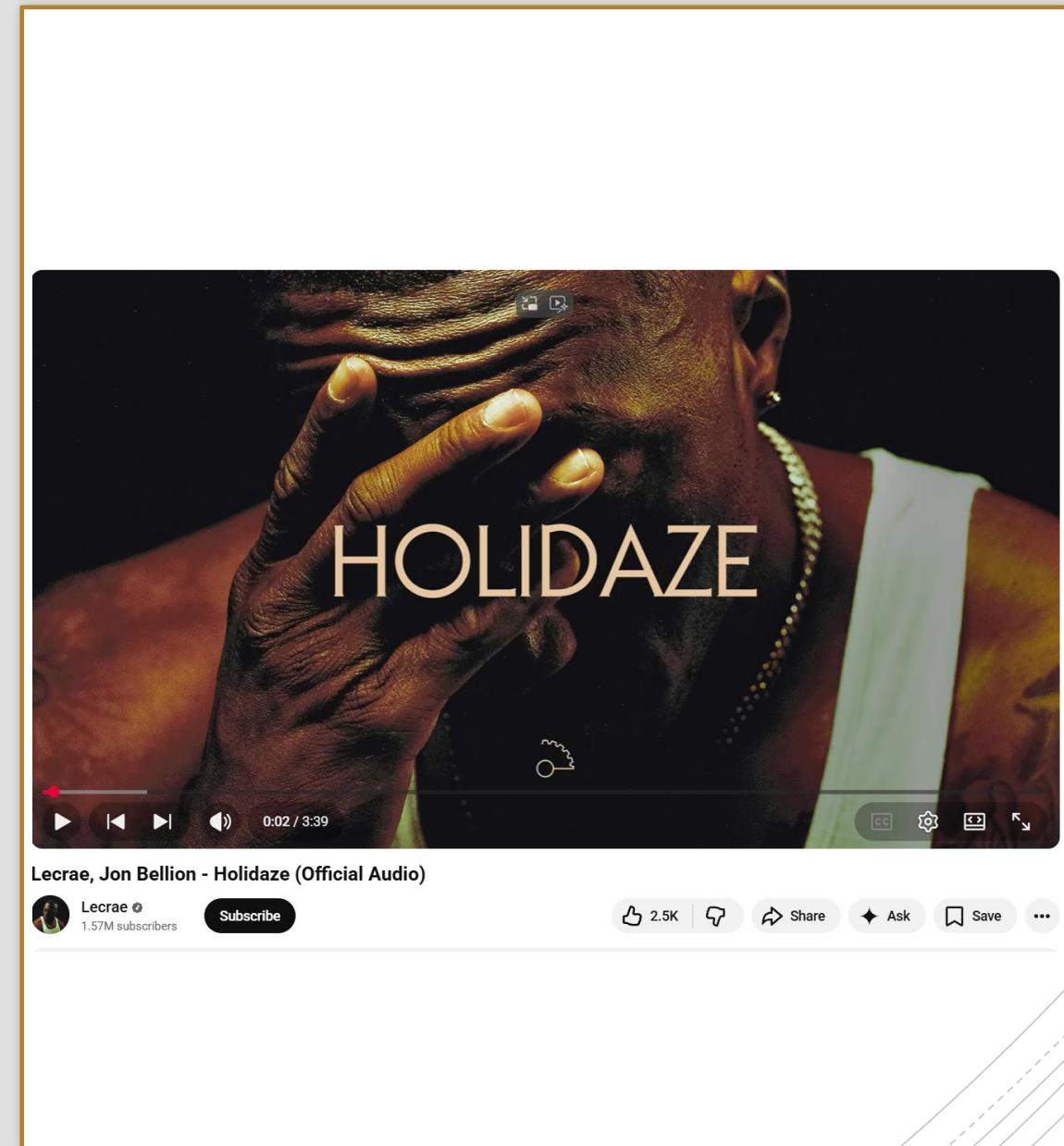


Lecrae - Die For The Party

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