

1 CASE NUMBER: BC429385
2 CASE NAME: TRUST COMPANY OF THE WEST VS. JEFFREY
3 GUNDLACH, ET AL
4 LOS ANGELES, THURSDAY, JULY 28, 2011
5 CALIFORNIA
6 DEPARTMENT 322 HON. CARL J. WEST, JUDGE
7 APPEARANCES: (AS HERETOFORE NOTED.)
8 REPORTER: WENDY OILLATAGUERRE, CSR #10978
9 TIME: 8:00 A.M.

59:42 10
11 THE COURT: GOOD MORNING, LADIES AND GENTLEMEN.

12
13 (ALL COUNSEL RESPONDED "GOOD MORNING, YOUR HONOR.")

11:56 14
15 THE COURT: GOOD MORNING, LADIES AND GENTLEMEN. WE'RE
16 OUT OF THE PRESENCE OF THE JURY.

17 ALL RIGHT. WE HAD ONE MATTER TO TAKE UP RELATED
18 TO THE TESTIMONY OF RACHEL CODY.

12:28 19 MR. MADISON, I HAVE READ THE PAPERS THAT WERE
20 FILED BY THE DEFENDANTS. I DID NOT RECEIVE ANYTHING FROM YOU,
21 BUT YOU CAN TELL ME.

22 MR. MADISON: WE DID HAND UP A BRIEF, 15 OR 20 MINUTES
23 AGO, TO YOUR COURTROOM ASSISTANT, YOUR HONOR. BUT I CAN
24 ADDRESS THE ISSUES. I MEAN, IT WOULD BE GOOD IF YOU HAD IT IN
12:46 25 FRONT OF YOU, BECAUSE THERE ARE A COUPLE OF EXHIBITS.

26 THE COURT: DID YOU GIVE IT TO MS. PIEDRA OR TO
27 MR. SABALBURO?

28 MR. MADISON: ONE MOMENT, YOUR HONOR.

1 THE COURT: ALL RIGHT. I HAVE IT IN FRONT OF ME,
2 MR. MADISON.

3 MR. MADISON: WELL, YOUR HONOR, WHEN WE WENT BACK AND
4 LOOKED AT THE MOTIONS IN LIMINE -- AND FIRST OF ALL, THEY
13:46 5 WEREN'T MOTIONS, THEY WERE JUST THE JOINT STATEMENTS. I MEAN,
6 THE COURT WAS ONLY PROVIDED A COUPLE OF PARAGRAPHS BY EACH
7 SIDE ON THIS ISSUE, AND THE FOCUS WAS ON THREE LINES FROM ONE
8 OF THE CHATS FROM DECEMBER.

9 THE COURT: RIGHT.

14:03 10 MR. MADISON: AND REMEMBER YESTERDAY, I DESCRIBED HOW
11 WE ACTUALLY HAVE THREE DIFFERENT CATEGORIES OF CHATS.

12 THE COURT: YEAH.

13 MR. MADISON: AND I CAN MAKE A DETAILED PROFFER, IF YOU
14 WOULD LIKE. BUT LET ME JUST SHOW ONE CHAT, IF I COULD, TO
14:16 15 YOUR HONOR, AND YOU WILL SEE, I THINK, WHAT OUR POINT IS.

16 IF I COULD HAVE CODY --

17 THE COURT: IS THIS ONE OF THE EXHIBITS YOU'VE GIVEN ME
18 HERE, OR --

19 MR. MADISON: NO, YOUR HONOR, THOSE ARE TRANSCRIPTS.

14:26 20 THE COURT: I HAVE IT IN FRONT OF ME.

21 MR. MADISON: HERE'S THE CHAT THAT WAS NOT THE SUBJECT
22 OF THE MOTION IN LIMINE/JOINT STATEMENT AT ALL. IT'S FROM
23 FEBRUARY OF 2009.

24 AND REMEMBER, THE DEFENDANTS IN THIS CASE CLAIM
14:40 25 THAT THEIR PLANS TO LAUNCH A NEW FIRM AROSE LATER IN THE YEAR,
26 AFTER MR. STERN RETURNED TO TCW AND WAS OUT TO GET
27 MR. GUNDLACH. THIS CHAT DISPROVES THAT KEY ASSERTION IN THIS
28 LAWSUIT.

1 NOW, MS. CODY WAS SEATED ON THE TRADING FLOOR,
2 THE 16TH FLOOR, JUST FEET FROM MR. GUNDLACH, MR. SANTA ANA AND
3 MR. MAYBERRY, THREE OF THE FOUR INDIVIDUAL DEFENDANTS, AS YOU
4 KNOW. SO HERE ON FEBRUARY 11TH, SHE WRITES TO A COWORKER WHO
15:23 5 ACTUALLY SITS RIGHT NEXT TO HER.

6 AND WHAT YOU WILL SEE IN THIS CASE, YOUR HONOR,
7 IS THAT THESE PEOPLE WOULD SIT AT THEIR WORK STATIONS, BUT
8 THEY WOULD COMMUNICATE ELECTRONICALLY, EVEN THOUGH THEY WERE
9 JUST FEET AWAY FROM ONE ANOTHER. THE MILIEU THERE IS LIKE A
10 COURTROOM. IT'S LIKE A SERIES OF TABLES. IF I COULD APPROACH
11 WITH AN EXHIBIT THAT SHOWS US THAT.

12 CAN YOU SEE THAT, YOUR HONOR?

13 THE COURT: IT'S GOING TO FALL THIS WAY IN JUST A
14 MOMENT.

15 MR. MADISON: ONE MINUTE. LET ME JUST HOLD IT, IF I
16 COULD.

17 AND SO MS. CODY WAS SEATED RIGHT HERE, AT A LONG
18 TABLE WITH COMPUTER WORK STATIONS. MR. GUNDLACH WAS MAYBE
19 EIGHT FEET AWAY FROM HER, MR. SANTA ANA WAS FOUR FEET AWAY
16:22 20 FROM HER, MR. MAYBERRY WAS SIX FEET AWAY FROM HER.

21 THE COURT: MR. MADISON?

22 MR. MADISON: YES.

23 THE COURT: THE BOTTOM LINE IS, THESE CHATS APPEAR TO
24 BE, YOU KNOW, KIND OF COMMENTS ABOUT THERE MAY BE RUMORS SHE'S
16:36 25 HEARD. IT MAY BE CONVERSATIONS SHE'S OVERHEARD. YOU MAY
26 INQUIRE OF HER REGARDING SPECIFIC STATEMENTS MADE BY PARTIES
27 THAT COULD BE CONSIDERED AS ADMISSIONS, BUT YOU MAY NOT USE
28 THESE CHATS, ABSENT SOME FURTHER EVIDENCE SHOWING THAT THERE'S

1 A FOUNDATION THAT THEY ARE OTHER THAN RANK HEARSAY OR RUMOR,
2 WHICH IS WHAT THEY APPEAR TO BE.

3 I'VE MADE THE RULINGS. I MADE A RULING ON 7/5.
4 ALBEIT ON THE JOINT STATEMENT, THOSE WERE RULINGS, I SAID THAT
17:08 5 SUBJECT TO AN OFFER OF PROOF.

6 YOU MAY NOT INQUIRE ABOUT THE SPECIFIC CHAT OR
7 PUBLISH IT TO THE JURY, ABSENT SOME FOUNDATIONAL BASIS TO
8 ESTABLISH THAT MS. CODY HAS CREDIBLE INFORMATION, THAT SHE
9 HEARD FROM A PARTY. THE FACT THAT SHE OBSERVED ONGOING
17:30 10 MEETINGS AT DIFFERENT TIMES ISN'T ENOUGH. AND THAT SEEMS TO
11 PERVADE THIS WHOLE LINE OF CHATS.

12 AND I WOULD SAY FURTHER, THAT IT APPEARS THAT
13 THERE'S SUBSTANTIAL ADDITIONAL DIRECT EVIDENCE THAT YOU WILL
14 PRESENT. AND AT THAT LEVEL, THIS BECOMES CUMULATIVE. AND I'M
17:49 15 NOT GOING TO CHANCE LETTING SOMETHING IN THAT IS -- REALLY
16 APPEARS VERY SPECULATIVE.

17 MR. MADISON: WELL, YOUR HONOR, IF I COULD, LET ME JUST
18 MAKE THE PROFFER NOW, THEN, BECAUSE THE FOUNDATION IS HERE,
19 MS. CODY SAYS -- THIS IS RACHEL CODY -- KEEP IT SORT OF QUIET,
18:04 20 BUT THEY TALK ABOUT IT ON THE DESK ALL THE TIME, SO IT'S NOT
21 LIKE WE CAN'T OVERHEAR.

22 AND IF WE GO TO THE NEXT --

23 THE COURT: SO YOU COME UP WITH A SPECIFIC
24 CONVERSATION, AND WE WON'T USE THE CHAT. SHE CAN SAY,
18:19 25 MR. GUNDLACH SAID X, OR MR. MAYBERRY SAID Y, AND I HEARD IT ON
26 THIS DATE AT THIS TIME.

27 MR. MADISON: THERE ARE TWO PROBLEMS WITH THAT, YOUR
28 HONOR. NUMBER ONE, SHE IS A CO-CONSPIRATOR. SHE IS WITH THE

1 DEFENDANTS. SHE WORKS AT DOUBLELINE. SHE IS ALIGNED WITH THE
2 DEFENDANTS.

3 SO WHEN I TOOK HER DEPOSITION, SHE SAID, WELL, I
4 DON'T REMEMBER THAT. AND IF I DID SAY ANY OF THAT, IT WAS ALL
18:45 5 A LIE; WHICH IS FINE.

6 BUT, YOUR HONOR, THE JURY NEEDS TO SEE THIS
7 EVIDENCE TO ASSESS THAT.

8 THE COURT: I DON'T THINK SHE SAID IT WAS ALL A LIE.

9 WHAT I SAW WAS, SHE SAID, I DON'T RECALL, OR IT
18:58 10 MAY HAVE BEEN A RUMOR.

11 IT'S JUST TOO SPECULATIVE. THESE CHATS ARE NOT
12 FROM PEOPLE THAT ARE AT THE HEART OF THIS LAWSUIT. YOU HAVE
13 HARD EVIDENCE OF A NUMBER OF THINGS THAT OCCURRED THROUGHOUT
14 AN EXTENDED PERIOD OF TIME, DIRECT EVIDENCE; AND THAT IS THE
19:14 15 EVIDENCE YOU SHOULD PUT ON.

16 MR. MADISON: BUT, YOUR HONOR, AGAIN, THIS GOES TO A
17 KEY ISSUE IN THE CASE, BECAUSE THIS IS BACK IN FEBRUARY, AT A
18 TIME WHEN THE DEFENDANTS WILL TESTIFY THEY DID NOT HATCH THESE
19 PLANS. AND THIS IS CRITICAL, BECAUSE OF THE ISSUE ABOUT WHEN
19:29 20 MR. STERN CAME BACK AND WHAT THE PARTY'S MOTIVATIONS WERE.
21 THIS IS WHAT THE WHOLE LAWSUIT IS GOING TO BE ABOUT.

22 AND I HAVE A WRITING FROM ONE OF THE DEFENDANT'S
23 COLLEAGUES. AND HERE, YOUR HONOR, YOU NOTICE SHE SAYS, YOU
24 WILL NOTICE NOW, WHEN JEG -- THAT'S MR. GUNDLACH, AND CSA --
19:49 25 THAT'S MR. SANTA ANA, INDIVIDUAL DEFENDANTS. AND JOE --
26 ANOTHER ONE OF THE SENIORS, NOW AT DOUBLELINE, TALK, I NOTICE
27 THINGS ALL THE TIME. AND SHE GOES ON IN THIS CHAT, IN
28 WRITING, TO DESCRIBE THE EXACT PLANS THAT THEY WERE CARRYING

1 OUT.

2 THE COURT: THAT'S THE BALANCE OF WHAT YOU ARE
3 OFFERING?

4 MR. MADISON: YES, YOUR HONOR.

20:09 5 THE COURT: THESE ARE COWORKERS ON THE FLOOR.
6 OBVIOUSLY, THEY TALK ALL THE TIME.

7 MR. MADISON: RIGHT.

8 THE COURT: I DON'T KNOW IF THIS IS HER SPECULATION, IF
9 RUMORS ARE FLYING; BUT THIS CASE IS NOT GOING TO BE BUILT ON
20:19 10 SPECULATION AND RUMORS.

11 MR. MADISON: WELL, IT'S OUR POSITION THAT IT'S NOT
12 SPECULATION. THIS IS CERTAINLY IS AN ISSUE THAT GOES TO
13 WEIGHT --

14 THE COURT: NO, IT GOES TO ADMISSIBILITY. AND I'M NOT
20:30 15 GOING TO ADMIT IT UNLESS THERE'S SOMETHING MORE TO JUSTIFY
16 YOUR USE OF THESE CHATS.

17 YOU MAY INQUIRE OF MS. CODY, AND IF YOU CAN LAY
18 THE FOUNDATION, THEN WE CAN GO FROM THERE, BUT IF SHE DOESN'T
19 HAVE A SPECIFIC RECOLLECTION OF HAVING HEARD AN ADMISSION OR A
20:49 20 STATEMENT BY A PARTY, THEN IT'S RANK HEARSAY. AND IF ALL OF
21 THESE RUMORS AND THESE CHATS CAME FROM THE OFFICE GOSSIP, IT'S
22 NOT ADMISSIBLE.

23 MR. MADISON: WELL, I UNDERSTAND THAT, YOUR HONOR.

24 BUT I THINK THE QUESTION IS, WHEN SHE SAYS IN
25:06 25 THESE VERY CHATS, WHICH IF WE STOP AND THINK ABOUT IT IS
26 REMARKABLE, THAT SHE ACTUALLY LAID THE FOUNDATION HERSELF IN
27 THE CHATS -- SHE SAYS, I HEAR THESE DEFENDANTS. SHE DIDN'T
28 KNOW THEY'D BE DEFENDANTS. I HEAR THEM TALK, AND HERE'S WHAT

1 THEY ARE TALKING ABOUT. WE'RE GOING TO FORM A NEW FIRM.
2 WE'RE GOING TO PULL OUT. WE'RE GOING TO SOCK IT TO TCW.
3 WE'RE ALL GOING TO GO. WE'RE GOING TO STEAL THE WHOLE
4 BUSINESS.

21:31 5 THERE'S NO GROUND UNDER THE LAW TO EXCLUDE THAT
6 SMOKING GUN EVIDENCE. NOW I WILL ASK HER --

7 THE COURT: THERE IS, MR. MADISON. AND IT IS
8 SPECULATIVE. AND I DON'T SEE WHERE -- "I HEAR THEM TALKING,"
9 ISN'T ENOUGH TO OVERCOME A HEARSAY EXCEPTION.

21:50 10 MR. MADISON: YES.

11 THE COURT: AND TO KNOW WHO'S TALKING, WHAT SHE'S
12 HEARING, WHETHER IT'S JUST A RUMOR OR NOT. SO THAT'S THE
13 PROBLEM YOU HAVE.

14 I DON'T THINK IT'S A REAL PROBLEM. I THINK YOU
21:59 15 ARE MAKING MORE OUT OF IT THAN YOU NEED TO. BUT AT THE END OF
16 THE DAY, IF YOU DON'T HAVE AN ADEQUATE FOUNDATION, YOU ARE NOT
17 BRINGING THESE CHATS IN.

18 MR. MADISON: I UNDERSTAND, YOUR HONOR.

19 AND OBVIOUSLY, WHEN I SAID THERE'S NO GROUND; IF
22:12 20 YOU SAY THERE'S A GROUND, THERE'S A GROUND.

21 BUT MY POINT, YOUR HONOR, IS I INTEND TO CALL
22 MS. CODY TODAY, AND TO ASK HER ABOUT THE FACTS THAT SHE WROTE
23 ABOUT.

24 AND I KNOW WHAT SHE'S GOING TO SAY, BECAUSE I
22:27 25 TOOK HER DEPOSITION. SHE'S GOING TO DENY IT. SHE'S GOING TO
26 MINIMIZE IT. SHE'S GOING TO CLAIM IT WAS ALL PUFFERY, AND
27 THAT SHE WAS GOING TO TRY TO MAKE HERSELF SELF-IMPORTANT.

28 AND AT THAT POINT, UNDER THE EVIDENCE CODE, I'M

1 ENTITLED TO IMPEACH HER WITH THESE WRITTEN STATEMENTS TO THE
2 CONTRARY. AND THE JURY SHOULD BE THE ONES TO DECIDE, WAS SHE
3 JUST PUFFING OR WASN'T SHE.

4 THE COURT: THE OTHER ISSUE THAT YOU HAVE THERE, AND
22:52 5 THAT BRINGS IN THE 352 ARGUMENT, IS THAT YOU ARE SEEKING TO
6 IMPEACH YOUR OWN BUSINESS, ALBEIT AN ADVERSE WITNESS,
7 ARGUABLY; BUT YOU CAN'T DO IT.

8 AND THE IMPEACHMENT OF HER CREDIBILITY, IN MY
9 VIEW, IS A COLLATERAL ISSUE WHICH RISKS -- YOU SAY YOU ARE NOT
23:09 10 OFFERING IT FOR THE TRUTH OF THE MATTER, YOU ARE OFFERING THIS
11 AGAINST THE DEFENDANTS, NOT JUST TO IMPEACH MS. CODY, AND
12 THAT'S WHY I'M NOT ALLOWING IT. I THINK THE RISK OF THE JURY
13 TAKING THAT EVIDENCE FOR NOT IMPEACHMENT PURPOSES, OR TO GO TO
14 THE CREDIBILITY OF MS. CODY, IS VERY HIGH. AND THAT'S A RISK
23:29 15 THAT I DON'T THINK WE SHOULD BE TAKING.

16 MR. MADISON: THERE SHOULD BE NO AMBIGUITY ABOUT THIS.
17 MS. CODY WAS TELLING THE TRUTH HERE. I'M NOT IMPEACHING HER
18 IN THE SENSE THAT I WANT TO SHOW THAT SHE'S A DISHONEST
19 PERSON. SHE IS, GIVEN HER SWORN TESTIMONY NOW, DENYING THESE
23:46 20 FACTS.

21 BUT I WANT TO PROVE THE FACTS AS THEY WERE
22 OCCURRING AND EXISTING AT THE TIME.

23 AND YOU KNOW, THERE'S ANOTHER WHOLE GROUND HERE,
24 YOUR HONOR, WHICH IS, THE DEFENDANTS CHALLENGE MR. STERN'S
23:58 25 MOTIVATIONS, WHEN HE DID COME ON THE SCENE IN THE SUMMER, AS
26 BEING SOMEHOW DRIVEN.

27 MR. BRIAN TOLD THE JURY YESTERDAY, MR. STERN
28 HATED MR. GUNDLACH; THAT'S WHAT THIS CASE IS ABOUT. MR. STERN

1 ULTIMATELY WAS HEARING THESE SAME SORTS OF THINGS. AND THE
2 FACT THAT THEY WERE EMANATING FROM THE GROUP THEMSELVES, BACK
3 IN FEBRUARY, IS IMPORTANT EVIDENCE THAT CORROBORATES THAT, THE
4 FACT THAT THEY WERE HAVING THESE CONVERSATIONS.

24:26 5 I MEAN, THESE ARE VERBAL ACTS. WHEN YOU HAVE
6 THIS GROUP HAVING THE CONVERSATIONS ABOUT LEAVING,
7 INDEPENDENTLY OF THE FACT THAT IT SHOWS THEIR INTENT TO LEAVE,
8 WHICH IT DOES, IT'S ALSO AN INDEPENDENTLY RELEVANT FACT THAT
9 THEY WERE EVEN HAVING THESE CONVERSATIONS BACK IN FEBRUARY.

24:44 10 AND WE HAVE A LIMITED AMOUNT OF TIME IN THIS
11 CASE, YOUR HONOR.

12 THE COURT: I KNOW. WE HAVE A LIMITED AMOUNT OF TIME
13 THIS MORNING, TOO. AND WE'RE MOVING RIGHT ALONG.

14 MR. MADISON: I UNDERSTAND.

24:52 15 BUT WE THINK THE JURY SHOULD HEAR ALL THE FACTS,
16 AND LET THE DEFENSE ARGUE, NO, THIS WAS PUFFERY, THIS WAS
17 SPECULATION.

18 THE TRUTH IS, AT THE END OF THE CASE, WE WILL
19 ALL SEE HOW THIS LINES UP PERFECTLY WITH ALL OF THE
20 CORROBORATING EVIDENCE. BUT THAT'S NOT A REASON TO NOT
21 EXCLUDE VERY IMPORTANT WRITTEN EVIDENCE AT THE TIME. IT'S
22 VERY RARE WHEN A CO-CONSPIRATOR WRITES DOWN WHAT SHE'S
23 DOING --

24 THE COURT: MR. MADISON, I GOT YOUR POINT.

25 MR. MADISON: YES, YOUR HONOR.

26 THE COURT: MR. HELM, DO YOU WANT TO BE HEARD ON THIS
27 OR MR. BRIAN?

28 MR. HELM: YOUR HONOR, I THINK WE'VE ALL ARGUED IT

1 BEFORE, IN THE MOTION IN LIMINE. THESE CHATS ARE THE SWIRLING
2 MIASMA OF GOSSIP AND RUMOR AND SPECULATION. AND THERE MAY BE
3 A TIDBIT OF SOMETHING THAT SHE HEARD OR THAT SHE SAW, BUT YOU
4 CAN'T SEPARATE OUT WHAT IS FACT, WHAT IS FICTION, WHAT IS
25:39 5 SIMPLY SPECULATION.

6 I MEAN, WE KNOW, FOR EXAMPLE, IN THE CHAT IN --
7 ON EXHIBIT 983, WHERE THEY ARE TALKING ABOUT THAT THERE WAS A
8 CENTURY CITY LEASE, AND WE'LL PROBABLY LEAVE AFTER THE BONUS,
9 HERE'S WHAT SHE'S SAYING: I SAID CENTURY CITY LEASE,
26:59 10 REFERRING TO THIS CHAT YESTERDAY, PROB MARCH AFTER BONUS,
11 THAT'S NOT TERRIBLE. AUTOBOT, WHICH I THINK IS MR. MAYBERRY,
12 SAYS NO, THAT'S THAT JUST RUMORS. ME, RACHEL CODY, YEAH.
13 AUTOBOT, YEAH, PROBABLY. ME: YEAH, IT'S ALL RUMORS.

14 SO IT'S IN THE DOCUMENTS THAT WHAT SHE'S TALKING
26:18 15 ABOUT ARE RUMORS.

16 AND ONE OF THE THINGS SHE SAID WAS THAT THEY HAD
17 SIGNED A LEASE. WELL, WE KNOW FROM THE FACTS THAT NO LEASE
18 WAS EVER SIGNED. SO THAT'S ALL THIS IS. IT'S SPECULATION.
19 IT'S RUMOR. THERE'S NO FOUNDATION FOR IT. AND THAT'S NOT TO
26:33 20 MENTION THE FACT IT'S RANK HEARSAY.

21 THESE CHATS ARE OUT OF COURT STATEMENTS. HE'S
22 TRYING TO GET THEM IN. HE SAYS, BECAUSE I WANT TO ASK HER,
23 DID YOU MAKE THE STATEMENT, AND THEN IMPEACH HER WITH IT.

24 WELL, WHETHER SHE MADE THE STATEMENT ISN'T
26:46 25 RELEVANT TO ANYTHING. IT'S ONLY IF SHE HAD INFORMATION,
26 FACTUAL INFORMATION, THAT WOULD BE SOMETHING THAT WOULD BE
27 PROPER TESTIMONY. BUT WHETHER, DID YOU MAKE THE STATEMENT,
28 THAT HAS NO BEARING IN THIS CASE, UNLESS THERE'S A FOUNDATION

1 OF KNOWLEDGE, WHICH HASN'T BEEN LAID. SO IT'S HEARSAY. IT
2 LACKS FOUNDATION. AND IT'S 352.

3 MR. MADISON: YOUR HONOR, IF I COULD, JUST ON THAT ONE
4 POINT.

27:06 5 THE COURT: ON WHAT ONE POINT?

6 MR. MADISON: THE POINT THAT MR. HELM MADE ABOUT THE
7 CHAT, WHERE THEY SAID IT'S ALL RUMORS.

8 THE COURT: RIGHT.

9 MR. MADISON: WHAT HE DIDN'T READ TO YOU IS THE PAGE
27:16 10 BEFORE, ON THAT SAME CHAT, WHERE MS. CODY SAYS, UH-OH, MAYBE
11 THEY ARE TRACKING OUR CONVERSATIONS, E-MAILS. I TALKED TO
12 FIFI ON BLOOMBERG CHAT YESTERDAY.

13 AND MAYBERRY SAYS, WELL, I THINK OUR GMAILS ARE
14 OKAY, BECAUSE THEY ARE SECURED. AND MS. CODY GOES ON TO SAY,
27:38 15 BUT BLOOMBERG CHAT, I SAID CENTURY CITY 10-YEAR LEASE PROBABLY
16 MARCH, AFTER BONUS.

17 THE COURT: WHO IS AUTOBOT?

18 MR. MADISON: THAT'S MR. MAYBERRY, ONE OF THE
19 DEFENDANTS.

27:54 20 THE COURT: I UNDERSTAND.

21 MR. MADISON: AND COULD WE GO DOWN TO THE PART, MIKE,
22 WHERE IT SAYS, BUT BLOOMBERG CHAT, IT'S ABOUT MIDWAY THROUGH
23 THE PAGE THERE.

24 SO MS. CODY HERE IS WORRIED. SHE SAYS, I SAID
28:08 25 ON THE CHAT, CENTURY CITY 10-YEAR LEASE PROBABLY MARCH AFTER
26 BONUS. THAT'S NOT TERRIBLE. I'M SURE OTHERS HAVE SAID
27 SIMILAR. AND MR. MAYBERRY SAYS, NAH, THAT'S JUST RUMORS.

28 IN OTHER WORDS, HE'S TRYING TO ASSURE MS. CODY

1 THAT SHE DIDN'T MAKE A MISTAKE BY WRITING DOWN WHAT WAS GOING
2 ON, BECAUSE THEY ARE WORRIED THAT SOMEONE IS WATCHING THEIR
3 GMAILS.

4 THE COURT: I ASKED YOU YESTERDAY, MR. MADISON, TO GIVE
5 ME THE CHATS THAT YOU WERE OFFERING.

6 MR. MADISON: YES, YOUR HONOR.

7 THE COURT: THE ONE INVOLVING MR. MAYBERRY, YOU MAY
8 INQUIRE ABOUT HER, BECAUSE THAT IS HIS.

9 THE ONES THAT HAVE NO REFERENCE, OR DON'T
10 INVOLVE A DEFENDANT, YOU NEED TO LAY A FOUNDATION. AND YOU
11 MAY NOT DO THAT BY ASKING HER, DID YOU WRITE THIS OR DID YOU
12 WRITE THAT. YOU MUST DO IT BY ESTABLISHING THAT SHE HAD
13 KNOWLEDGE OF STATEMENTS MADE TO HER, OR IN HER PRESENCE, BY A
14 PARTY.

15 MR. MADISON: YES, YOUR HONOR.

16 THE COURT: AND IF YOU ESTABLISH THAT FOUNDATION, I'LL
17 PERMIT IT.

18 MR. MADISON: YES, YOUR HONOR.

19 THE COURT: BUT YOU MAY NOT BRING IT IN SIDWAYS. AND
20 YOU KNOW WHAT THE RULING IS.

21 MR. MADISON: YES, YOUR HONOR.

22 THE COURT: SO THAT'S WHERE WE ARE.

23 MR. MADISON: JUST FOR FULL DISCLOSURE, THERE ARE OTHER
24 CHATS WHERE SHE DESCRIBES HER OWN INTENTIONS.

25 THE COURT: HER OWN INTENTIONS HAVE NO RELEVANCE TO
26 ANYTHING ISSUE IN THIS CASE.

27 MR. MADISON: WELL, YOUR HONOR, I BELIEVE THEY DO, IF
28 HER INTENTION IS TO LEAVE TO JOIN MR. GUNDLACH'S FIRM.

1 THE COURT: WELL, THAT'S WHY I ASKED YOU TO GIVE THEM
2 TO ME.

3 MR. MADISON: I BELIEVE WE DID, YOUR HONOR.

4 MAY I SHOW THAT ONE, JUST BECAUSE I DON'T WANT
5 TO HAVE A MISUNDERSTANDING ABOUT THIS?

6 THE COURT: WHICH ONE IS IT?

7 MR. MADISON: WELL, ON --

8 THE COURT: YOU ARE SAYING THIS WAS WITH THIS FILING
9 YOU GAVE ME THIS MORNING?

10 MR. MADISON: I THINK IT'S REFERENCED IN THE FILING.
11 IT'S QUOTED THERE, YOUR HONOR. I CAN JUST PULL IT UP, IF I
12 COULD.

13 THE COURT: YEAH, PUT IT UP.

14 MR. MADISON: PARDON?

15 THE COURT: LET'S SEE IT.

16 MR. MADISON: YES, YOUR HONOR.

17 LET'S GO TO 306, MIKE, IF WE COULD. IF WE COULD
18 GO TO THE SECOND PAGE.

19 CAN WE MAKE THAT ANY LARGER? CAN YOU SEE THAT,
20 YOUR HONOR?

21 THE COURT: I SEE THE BLOWN-UP PART.

22 MR. MADISON: SO THIS IS MS. CODY SPEAKING TO A FRIEND
23 OF HERS WHO HAPPENS TO BE A BOND TRADER IN NEW YORK. AND SHE
24 SAYS, I HAVE TO MOVE TOWARD THE WEST L.A. AREA, BECAUSE WE'RE
25 GOING TO BE MOVING JOBS.

26 THIS IS BACK IN SEPTEMBER, YOUR HONOR, AFTER THE
27 CONFRONTATIONAL MEETING BETWEEN MR. STERN AND MR. GUNDLACH, AT
28 WHICH POINT MR. GUNDLACH FALSELY ASSURES MR. STERN, EVERYTHING

1 IS FINE. WE'RE GOING TO BE ABLE TO WORK THIS OUT. AND THEN
2 THE EVIDENCE WILL SHOW THEY IMMEDIATELY START PLANNING THEIR
3 NEW FIRM.

4 SO HERE ON SEPTEMBER 21ST, MS. CODY SAYS, I HAVE
30:52 5 TO MOVE TO WEST L.A. WE'RE GOING TO BE MOVING JOBS. HER
6 FRIEND SAYS, IS THAT DEF NOW -- DEFINITE NOW? SHE SAYS YEAH.
7 SHE SAYS JANUARY 15TH. WHERE TO? CENTURY CITY OR SANTA
8 MONICA. THE EXACT TWO PLACES THEY WERE LOOKING FOR OFFICE
9 SPACE. OWN? GET? OR MERGING? OUR OWN.

31:11 10 THE COURT: BUT YOU STILL NEED A FOUNDATION FOR THAT.
11 WHERE DID SHE GET THIS INFORMATION? AND IF IT DIDN'T COME
12 FROM SOMEBODY THAT'S IN THIS CASE, AND SHE DOESN'T SAY IT,
13 THEN I'M JUST NOT SURE WHERE THIS COMES FROM.

14 MR. MADISON: WELL, HERE'S THE PROBLEM, YOUR HONOR. WE
31:26 15 KNOW WHERE IT COMES FROM. IT COMES FROM MR. GUNDLACH.
16 BECAUSE IT'S HIS NEW FIRM, WE CAN CORROBORATE ALL OF THAT.

17 BUT I DON'T HAVE A TRUTH SERUM I CAN GIVE
18 MS. CODY. SHE'S GOING TO TRY TO DENY IT, BECAUSE SHE'S
19 ALIGNED WITH THE DEFENDANTS; TO WHICH I SAY, THAT'S FINE.
31:39 20 THAT'S WHY WE HAVE TRIALS.

21 LET'S LET THE JURY DECIDE WHETHER WHAT SHE WROTE
22 TO A FRIEND AT THE TIME, WHEN SHE NEVER KNEW SHE'D BE SITTING
23 IN A COURTROOM, WHETHER THAT WAS TRUE, OR WHAT SHE'S NOW GOING
24 TO GET UP THERE AND SAY.

31:52 25 THE COURT: WELL, LET'S SEE WHAT SHE SAYS. YOU CAN LAY
26 THE FOUNDATION, AND THEN WE'LL CONSIDER IT.

27 MR. MADISON: YES, YOUR HONOR. THANK YOU.

28 THE COURT: THANK YOU.

1 WE'LL BRING THE JURY IN. ARE WE ALL -- ARE THEY
2 ALL HERE?

3 THE CLERK: THEY ARE ALL HERE.

4 THE COURT: THANK YOU.

5
6 (AT 8:35 A.M. THE JURY ENTERED
7 THE COURTROOM, AND THE FOLLOWING
8 PROCEEDINGS WERE HELD:)

9
10 THE COURT: GOOD MORNING, LADIES AND GENTLEMEN. IN THE
11 TRUST COMPANY OF THE WEST VERSUS GUNDLACH MATTER, WE'RE SET TO
12 COMMENCE OUR TRIAL TODAY.

13 I'M GOING TO THANK ALL OF THE MEMBERS OF THE
14 JURY THAT ARRIVED ON TIME. WE WILL WORK VERY HARD TO STAY ON
15 SCHEDULE WITH THIS.

16 AT THIS POINT, LADIES AND GENTLEMEN, I'M GOING
17 TO READ TO YOU A FEW INTRODUCTORY INSTRUCTIONS THAT GIVE YOU A
18 LITTLE BACKGROUND ON YOUR TASK AND HOW YOU SHOULD APPROACH IT.
19 (READING):

20 YOU HAVE NOW BEEN SWORN AS JURORS
21 IN THIS CASE. I WANT TO IMPRESS ON YOU
22 THE SERIOUSNESS AND IMPORTANCE OF SERVING
23 ON A JURY. TRIAL BY JURY IS A FUNDAMENTAL
24 RIGHT IN CALIFORNIA. THE PARTIES HAVE A
25 RIGHT TO A JURY THAT IS SELECTED FAIRLY,
26 THAT COMES TO THE CASE WITHOUT BIAS, AND
27 WILL ATTEMPT TO REACH A VERDICT, BASED ON
28 THE EVIDENCE PRESENTED.

1 BEFORE WE BEGIN, I NEED TO EXPLAIN
2 HOW YOU MUST CONDUCT YOURSELVES DURING THE
3 TRIAL. DO NOT ALLOW ANYTHING THAT HAPPENS
4 OUTSIDE THIS COURTROOM TO AFFECT YOUR
36:34 5 DECISION. DURING THE TRIAL, DO NOT TALK
6 ABOUT THIS CASE TO THE PEOPLE INVOLVED IN
7 IT, OR WITH ANYONE ELSE, INCLUDING FAMILY
8 AND PERSONS LIVING IN YOUR HOUSEHOLDS,
9 FRIENDS AND COWORKERS, SPIRITUAL LEADERS,
36:47 10 ADVISORS OR THERAPISTS.

11 THIS PROHIBITION IS NOT LIMITED TO
12 FACE-TO-FACE CONVERSATIONS. IT IS -- IT
13 ALSO EXTENDS TO ALL FORMS OF ELECTRONIC
14 COMMUNICATIONS. DO NOT USE ANY ELECTRONIC
37:01 15 DEVICE OR MEDIA, SUCH AS CELL PHONES,
16 SMART PHONES, PDAS, COMPUTERS, THE
17 INTERNET, ANY INTERNET SERVICE, ANY TEXTS
18 OR INSTANT MESSAGING SERVICE, ANY INTERNET
19 CHAT ROOM, BLOG OR WEBSITE, INCLUDING
37:17 20 SOCIAL NETWORKING WEBSITES OR ONLINE
21 DIARIES, TO SEND OR RECEIVE ANY
22 INFORMATION TO OR FROM ANYONE ABOUT THIS
23 CASE, OR YOUR EXPERIENCE AS A JUROR,
24 UNTIL AFTER YOU HAVE BEEN DISCHARGED
37:29 25 FROM YOUR JURY DUTY.

26 YOU MAY SAY YOU ARE ON A JURY, AND
27 HOW LONG THE TRIAL MAY TAKE, BUT THAT IS
28 ALL. YOU MUST NOT EVEN TALK ABOUT THE

1 CASE WITH OTHER JURORS, UNTIL I TELL YOU
2 THAT IT IS TIME FOR YOU TO DECIDE THE
3 CASE.

4 DURING THE TRIAL, YOU MUST NOT
37:45 5 LISTEN TO ANYONE ELSE TALK ABOUT THE CASE
6 OR THE PEOPLE INVOLVED IN THE CASE. YOU
7 MUST AVOID ANY CONTACT WITH THE PARTIES,
8 THE LAWYERS, THE WITNESSES, OR ANYONE ELSE
9 WHO MAY HAVE A CONNECTION TO THE CASE.

37:59 10 IF ANYONE TRIES TO TALK TO YOU ABOUT
11 THE CASE, TELL THAT PERSON THAT YOU CANNOT
12 DISCUSS IT BECAUSE YOU ARE A JUROR. IF HE
13 OR SHE KEEPS TALKING TO YOU, SIMPLY WALK
14 AWAY, AND REPORT THE INCIDENT TO THE COURT
38:13 15 ATTENDANT AS SOON AS YOU CAN.

16 AFTER THE TRIAL IS OVER, AND I HAVE
17 RELEASED YOU FROM JURY DUTY, YOU MAY
18 DISCUSS THE CASE WITH ANYONE, BUT YOU ARE
19 NOT REQUIRED TO DO SO.

38:24 20 DURING THE TRIAL, DO NOT READ,
21 LISTEN TO, OR WATCH ANY NEWS REPORTS ABOUT
22 THIS CASE. THIS PROHIBITION EXTENDS TO THE
23 USE OF THE INTERNET IN ANY WAY, INCLUDING
24 READING ANY BLOG ABOUT THE CASE OR ABOUT
38:39 25 ANYONE INVOLVED IN THE CASE, OR USING ANY
26 INTERNET MAPS OR MAPPING PROGRAMS OR ANY
27 OTHER PROGRAMS OR DEVICE TO SEARCH FOR OR
28 TO VIEW ANY PLACE DISCUSSED IN THE

1 TESTIMONY.

2 YOU MUST DECIDE THIS CASE BASED
3 ONLY ON THE EVIDENCE PRESENTED IN THIS
4 TRIAL AND THE INSTRUCTIONS OF LAW THAT I
38:57 5 WILL PROVIDE. NOTHING THAT YOU SEE,
6 HEAR OR LEARN OUTSIDE THE COURTROOM IS
7 EVIDENCE, UNLESS I SPECIFICALLY TELL YOU
8 THAT IT IS.

9 IF YOU RECEIVE ANY INFORMATION
39:08 10 ABOUT THIS CASE FROM ANY SOURCE OUTSIDE
11 THE COURTROOM, PROMPTLY REPORT IT TO THE
12 COURTROOM ATTENDANT.

13 IT IS IMPORTANT THAT ALL OF THE
14 JURORS SEE AND HEAR THE SAME EVIDENCE AT
39:21 15 THE SAME TIME. DO NOT DO ANY RESEARCH
16 ON YOUR OWN OR AS A GROUP. DO NOT USE
17 DICTIONARIES, THE INTERNET OR ANY
18 REFERENCE MATERIALS. DO NOT
19 INVESTIGATE THE CASE OR CONDUCT ANY
39:33 20 EXPERIMENTS. DO NOT CONTACT ANYONE TO
21 ASSIST YOU, SUCH AS A FAMILY
22 ACCOUNTANT, DOCTOR, OR LAWYER. DO NOT
23 VISIT OR VIEW ANY SCENE OR ANY PLACE
24 ABOUT WHICH THE TESTIMONY IS GIVEN.

39:46 25 IT IS IMPORTANT THAT YOU KEEP AN
26 OPEN MIND THROUGHOUT THE TRIAL.
27 EVIDENCE CAN ONLY BE PRESENTED A PIECE
28 AT A TIME.

1 DO NOT FORM OR EXPRESS AN
2 OPINION ABOUT THIS CASE WHILE THE TRIAL
3 IS GOING ON. YOU MUST NOT DECIDE ON A
4 VERDICT UNTIL AFTER YOU HAVE HEARD ALL
40:03 5 OF THE EVIDENCE AND HAVE DISCUSSED IT
6 THOROUGHLY WITH YOUR FELLOW JURORS IN
7 YOUR DELIBERATIONS.

8 DO NOT CONCERN YOURSELF WITH THE
9 REASONS FOR THE RULINGS THAT I MAKE
40:13 10 DURING THE COURSE OF THE TRIAL. DO NOT
11 GUESS WHAT I MAY THINK YOUR VERDICT
12 SHOULD BE FROM ANYTHING THAT I SAY OR
13 DO. WHEN YOU BEGIN YOUR DELIBERATIONS,
14 YOU MAY DISCUSS THE CASE ONLY IN THE JURY
40:26 15 ROOM, AND ONLY WHEN ALL JURORS ARE
16 PRESENT. YOU MUST DECIDE WHAT THE FACTS
17 ARE IN THIS CASE. AND I REPEAT, YOUR
18 VERDICT MUST BE BASED ONLY ON THE EVIDENCE
19 THAT YOU HEAR OR SEE IN THIS COURTROOM.

40:40 20 DO NOT LET ANY BIAS, SYMPATHY,
21 PREJUDICE OR PUBLIC OPINION INFLUENCE
22 YOUR VERDICT. AT THE END OF THE TRIAL I
23 WILL EXPLAIN THE LAW THAT YOU MUST
24 FOLLOW TO REACH YOUR VERDICT. YOU MUST
40:53 25 FOLLOW THAT LAW AS I STATE IT TO YOU,
26 EVEN IF YOU DISAGREE WITH THE LAW.

27 YOU HAVE BEEN OR WILL BE GIVEN
28 NOTEBOOKS, AND YOU MAY TAKE NOTES DURING

1 THE TRIAL. DO NOT TAKE THE NOTEBOOKS
2 OUT OF THE COURTROOM OR JURY ROOM AT
3 ANY TIME DURING THE TRIAL.

4 YOU MAY TAKE YOUR NOTES INTO THE
41:09 5 JURY ROOM DURING YOUR DELIBERATIONS.

6 YOU SHOULD USE YOUR NOTES ONLY TO
7 REMIND YOURSELF OF WHAT HAPPENED DURING
8 THE TRIAL. AND DO NOT LET YOUR NOTE
9 TAKING INTERFERE WITH YOUR ABILITY TO

41:21 10 LISTEN CAREFULLY TO ALL OF THE
11 TESTIMONY AND TO WATCH THE WITNESSES
12 AS THEY TESTIFY. NOR SHOULD YOU ALLOW
13 YOUR IMPRESSION OF A WITNESS OR OTHER
14 EVIDENCE TO BE INFLUENCED BY WHETHER
41:33 15 OR NOT OTHER JURORS ARE TAKING NOTES.

16 YOUR INDEPENDENT RECOLLECTION OF
17 THE EVIDENCE SHOULD GOVERN YOUR VERDICT,
18 AND YOU SHOULD NOT ALLOW YOURSELF TO BE
19 INFLUENCED BY THE NOTES OF OTHER JURORS,
41:44 20 IF THOSE NOTES DIFFER WITH WHAT YOU
21 REMEMBER.

22 THE COURT REPORTER IS MAKING A
23 RECORD OF EVERYTHING THAT IS SAID IN THE
24 COURTROOM. IF, DURING YOUR DELIBERATIONS,
41:53 25 YOU HAVE A QUESTION ABOUT WHAT A WITNESS
26 SAID, YOU SHOULD ASK FOR THE COURT
27 REPORTER'S RECORDS TO BE READ TO YOU.
28 YOU MUST ACCEPT THE COURT REPORTER'S

1 RECORD AS ACCURATE.

2 AT THE END OF THE TRIAL, YOUR
3 NOTES WILL BE COLLECTED AND DESTROYED.

4 THERE ARE FIVE DEFENDANTS IN THIS
42:15 5 TRIAL. YOU WILL BE REQUIRED TO DECIDE
6 THE CASE AS TO EACH DEFENDANT SEPARATELY,
7 AS IF IT WERE A SEPARATE LAWSUIT. EACH
8 DEFENDANT IS ENTITLED TO SEPARATE
9 CONSIDERATION OF HIS OR HER OWN DEFENSES.

42:28 10 TWO CORPORATIONS -- THERE ARE TWO
11 CORPORATIONS IN THIS LAWSUIT, TCW AND
12 DOUBLELINE. EACH IS ENTITLED TO THE SAME
13 FAIR AND IMPARTIAL TREATMENT THAT YOU
14 WOULD GIVE AN INDIVIDUAL. YOU MUST
42:40 15 DECIDE THIS CASE WITH THE SAME FAIRNESS
16 THAT YOU WOULD USE IF YOU WERE DECIDING
17 THE CASE BETWEEN INDIVIDUALS.

18 SWORN TESTIMONY, DOCUMENTS, OR
19 ANYTHING ELSE MAY BE ADMITTED INTO
42:52 20 EVIDENCE. YOU MUST DECIDE WHAT FACTS
21 ARE IN THE CASE FROM THE EVIDENCE YOU SEE
22 OR HEAR DURING THE TRIAL. YOU MAY NOT
23 CONSIDER AS EVIDENCE ANYTHING THAT YOU SEE
24 OR HEAR WHEN COURT IS NOT IN SESSION, EVEN
43:05 25 SOMETHING DONE OR SAID BY ONE OF THE
26 PARTIES, ATTORNEYS, OR WITNESSES.

27 WHAT THE ATTORNEYS SAY DURING TRIAL
28 IS NOT EVIDENCE. IN THEIR OPENING

1 STATEMENTS AND CLOSING ARGUMENTS, THE
2 ATTORNEYS WILL TALK TO YOU ABOUT THE
3 EVIDENCE; AND IN THEIR CLOSING
4 STATEMENTS, ABOUT THE LAW.

43:22 5 WHAT THE LAWYERS SAY MAY HELP YOU
6 UNDERSTAND THE LAW AND THE EVIDENCE, BUT
7 THEIR STATEMENTS AND ARGUMENTS ARE NOT
8 EVIDENCE.

9 THE ATTORNEYS' QUESTIONS ARE NOT
43:32 10 EVIDENCE. ONLY THE WITNESSES' ANSWERS
11 ARE EVIDENCE. YOU SHOULD NOT THINK THAT
12 SOMETHING IS TRUE JUST BECAUSE AN
13 ATTORNEY'S QUESTION SUGGESTS THAT IT IS
14 TRUE.

43:42 15 HOWEVER, THE ATTORNEYS FOR BOTH
16 SIDES CAN AGREE THAT CERTAIN FACTS ARE
17 TRUE. THIS AGREEMENT IS CALLED A
18 STIPULATION. UPON STIPULATION, NO OTHER
19 PROOF IS NEEDED, AND YOU MUST ACCEPT THE
43:55 20 FACTS AS TRUE FOR PURPOSES OF THE TRIAL.

21 I WILL SPECIFICALLY INFORM YOU OF
22 ANY STIPULATIONS.

23 EACH SIDE HAS THE RIGHT TO OBJECT
24 TO EVIDENCE OFFERED BY THE OTHER SIDE.

44:08 25 IF I DO NOT AGREE WITH THE OBJECTION, I
26 WILL SAY OVERRULED. IF I OVERRULE AN
27 OBJECTION, THE WITNESS WILL ANSWER, AND
28 YOU MAY CONSIDER THE EVIDENCE.

1 IF I AGREE WITH THE OBJECTION, I
2 WILL SAY SUSTAINED. IF I SUSTAIN AN
3 OBJECTION, YOU MUST IGNORE THE QUESTION.
4 IF THE WITNESS DID NOT ANSWER, YOU MUST
44:24 5 NOT GUESS WHAT HE OR SHE MIGHT HAVE SAID,
6 OR WHY I SUSTAINED THE OBJECTION.

7 IF THE WITNESS HAS ALREADY
8 ANSWERED, YOU MUST IGNORE THE ANSWER.

9 AN ATTORNEY MAY ALSO MAKE A
44:37 10 MOTION TO STRIKE TESTIMONY THAT YOU HAVE
11 HEARD. IF I GRANT SUCH A MOTION, YOU
12 MUST TOTALLY DISREGARD THAT. YOU MUST
13 TREAT IT AS THOUGH IT DID NOT EXIST.

14 A WITNESS IS A PERSON WHO HAS
44:51 15 KNOWLEDGE RELATED TO THIS CASE. YOU
16 WILL HAVE TO DECIDE WHETHER YOU BELIEVE
17 EACH WITNESS, AND HOW IMPORTANT EACH
18 WITNESS'S TESTIMONY IS TO THE CASE.
19 YOU MAY BELIEVE ALL, PART OR NONE OF A
45:03 20 WITNESS' TESTIMONY.

21 IN DECIDING WHETHER TO BELIEVE A
22 WITNESS'S TESTIMONY, YOU MAY CONSIDER,
23 AMONG OTHER FACTORS, THE FOLLOWING:
24 HOW WELL DID THE WITNESS HEAR, SEE, OR
45:16 25 OTHERWISE SENSE WHAT HE OR SHE DESCRIBED
26 IN COURT. HOW WELL DID THE WITNESS
27 REMEMBER AND DESCRIBE WHAT HAPPENED?
28 HOW DID THE WITNESS LOOK, ACT OR SPEAK

1 WHILE TESTIFYING? AND DID THE WITNESS
2 HAVE ANY REASON TO SAY SOMETHING THAT
3 WAS NOT TRUE? DID THE WITNESS SHOW
4 ANY BIAS OR PREJUDICE? DID THE WITNESS
45:37 5 HAVE A PERSONAL RELATIONSHIP WITH ANY
6 OF THE PARTIES INVOLVED IN THE CASE?
7 AND DOES THE WITNESS HAVE A PERSONAL
8 STAKE IN HOW THIS CASE IS DECIDED?

9 YOU MUST ALSO CONSIDER WHAT WAS
45:48 10 THE WITNESS'S ATTITUDE TOWARD THE CASE,
11 OR TOWARD THE GIVING OF TESTIMONY.
12 SOMETIMES A WITNESS MAY SAY SOMETHING
13 THAT IS NOT CONSISTENT WITH SOMETHING
14 ELSE HE OR SHE SAID. SOMETIMES
46:00 15 DIFFERENT WITNESSES WILL GIVE
16 DIFFERENT VERSIONS OF WHAT HAPPENED.
17 PEOPLE OFTEN FORGET THINGS AND MAKE
18 MISTAKES IN WHAT THEY REMEMBER.

19 ALSO, TWO PEOPLE, MAY SEE THE
46:14 20 SAME EVENT, BUT REMEMBER IT
21 DIFFERENTLY. YOU MAY CONSIDER THESE
22 DIFFERENCES, BUT DO NOT DECIDE THE
23 TESTIMONY IS UNTRUE JUST BECAUSE IT
24 DIFFERS FROM OTHER TESTIMONY.

46:23 25 HOWEVER, IF YOU DECIDE THAT A
26 WITNESS HAS DELIBERATELY TESTIFIED
27 UNTRUTHFULLY ABOUT SOMETHING IMPORTANT,
28 YOU MAY CHOSE NOT TO BELIEVE ANYTHING

1 THAT WITNESS SAYS. ON THE OTHER HAND,
 2 IF YOU THINK THAT THE WITNESS TESTIFIED
 3 UNTRUTHFULLY ABOUT SOME THINGS, BUT TOLD
 4 THE TRUTH ABOUT OTHERS, YOU MAY ACCEPT
 5 THE PART YOU THINK IS TRUE AND IGNORE
 6 THE REST.

7 DO NOT MAKE ANY DECISIONS SIMPLY
 8 BECAUSE THERE ARE MORE WITNESSES ON ONE
 9 SIDE THAN ON THE OTHER. IF YOU BELIEVE IT
 10 IS TRUE, THE TESTIMONY OF A SINGLE WITNESS
 11 IS ENOUGH TO PROVE A FACT.

12 YOU MUST NOT BE BIASED IN FAVOR OF
 13 OR AGAINST ANY WITNESS BECAUSE OF HIS OR
 14 HER DISABILITY, GENDER, RACE, RELIGION,
 15 ETHNICITY, SEXUAL ORIENTATION, AGE,
 16 NATIONAL ORIGIN OR SOCIOECONOMIC STATUS.

17 SOME TESTIMONY WILL BE GIVEN IN
 18 FRENCH. AN INTERPRETER WILL PROVIDE A
 19 TRANSLATION FOR YOU AT THE TIME THE
 20 TESTIMONY IS GIVEN. YOU MUST RELY
 21 SOLELY ON THE TRANSLATION PROVIDED BY
 22 THE INTERPRETER, EVEN IF YOU UNDERSTAND
 23 THE LANGUAGE SPOKEN BY THE WITNESS.

24 DO NOT RETRANSLATE ANY TESTIMONY
 25 FOR OTHER JURORS. IF YOU BELIEVE THE
 26 COURT INTERPRETER TRANSLATED TESTIMONY
 27 INCORRECTLY, YOU SHOULD LET ME KNOW BY
 28 CONTACTING THE COURT ATTENDANT IN A

1 WRITTEN NOTE AND GIVING IT TO THE
2 ATTENDANT.

3 AS ALTERNATE JURORS, YOU ARE
4 BOUND BY THE SAME RULES THAT GOVERN
47:52 5 THE CONDUCT OF THE JURORS WHO ARE
6 SITTING IN THE PANEL. YOU WILL
7 OBSERVE THE SAME TRIAL AND SHOULD
8 PAY ATTENTION TO ALL OF MY
9 INSTRUCTIONS, JUST AS THOUGH YOU WERE
48:02 10 SITTING ON THE PANEL.

11 SOMETIMES A JUROR NEEDS TO BE
12 EXCUSED DURING TRIAL FOR ILLNESS OR
13 FOR SOME OTHER REASON. IF THAT HAPPENS,
14 AN ALTERNATE WILL BE SELECTED TO TAKE
48:12 15 THE JUROR'S PLACE.

16 EACH ONE OF US HAS BIASES ABOUT
17 OR CERTAIN PERCEPTIONS OR STEREOTYPES OF
18 OTHER PEOPLE. WE MAY BE AWARE OF SOME
19 OF OUR BIASES, THOUGH WE MAY NOT SHARE
48:27 20 THEM WITH OTHERS. WE MAY NOT BE FULLY
21 AWARE OF SOME OF OUR OTHER BIASES.

22 OUR BIASES OFTEN AFFECT HOW WE
23 ACT FAVORABLY OR UNFAVORABLY TOWARD
24 SOMEONE. BIASES CAN AFFECT OUR
48:41 25 THOUGHTS, HOW WE REMEMBER, WHAT WE
26 SEE AND HEAR, WHOM WE BELIEVE OR
27 DISBELIEVE, AND HOW WE MAKE IMPORTANT
28 DECISIONS.

1 AS JURORS, YOU ARE BEING
2 ASKED TO MAKE VERY IMPORTANT
3 DECISIONS IN THIS CASE. YOU MUST
4 NOT LET BIAS, PREJUDICE OR PUBLIC
48:56 5 OPINION INFLUENCE YOUR DECISION IN
6 ANY WAY. YOUR VERDICT MUST BE
7 BASED SOLELY ON THE EVIDENCE
8 PRESENTED. YOU MUST CAREFULLY
9 EVALUATE THE EVIDENCE AND RESIST
49:07 10 ANY URGE TO REACH A VERDICT THAT
11 IS INFLUENCED BY BIAS FOR, OR
12 AGAINST, ANY PARTY OR WITNESS.

13 FROM TIME TO TIME DURING THE
14 TRIAL, IT MAY BECOME NECESSARY FOR ME
49:22 15 TO TALK WITH THE ATTORNEYS OUT OF THE
16 HEARING OF THE JURY, EITHER BY HAVING
17 A CONFERENCE AT THE BENCH, WHEN THE
18 JURY IS PRESENT IN THE COURTROOM, OR
19 BY CALLING A RECESS TO DISCUSS MATTERS
49:32 20 OUTSIDE OF YOUR PRESENCE.

21 THE PURPOSE OF THESE CONFERENCES
22 IS NOT TO KEEP RELEVANT INFORMATION FROM
23 YOU, BUT TO DECIDE HOW CERTAIN EVIDENCE
24 IS TO BE TREATED UNDER THE RULES OF
49:42 25 EVIDENCE.

26 DON'T BE CONCERNED ABOUT OUR
27 DISCUSSIONS OR TRY TO GUESS WHAT IS BEING
28 SAID. I MAY NOT ALWAYS GRANT AN

1 ATTORNEY'S REQUEST FOR A CONFERENCE. DO
2 NOT CONSIDER MY GRANTING OR DENYING A
3 REQUEST FOR A CONFERENCE AS ANY
4 INDICATION OF MY OPINION ABOUT THE CASE
50:01 5 OR MY VIEW OF THE EVIDENCE.

6 AS EVIDENCE, IT CAN COME IN MANY
7 FORMS. IT CAN COME -- IT CAN BE BY
8 TESTIMONY ABOUT WHAT SOMEONE SAID OR
9 HEARD OR SMELLED. IT CAN BE AN EXHIBIT
50:21 10 ADMITTED INTO EVIDENCE. AND IT CAN BE
11 SOMEONE'S OPINION. SOME EVIDENCE
12 PROVES A FACT DIRECTLY, SUCH AS
13 TESTIMONY OF A WITNESS WHO SAW A JET
14 PLANE FLYING ACROSS THE SKY. SOME
50:34 15 EVIDENCE PROVES A FACT INDIRECTLY,
16 SUCH AS TESTIMONY OF A WITNESS WHO
17 SAW ONLY THE WHITE TRAIL THAT JET
18 PLANES LEAVE.

19 THIS INDIRECT EVIDENCE IS
50:44 20 SOMETIMES REFERRED TO AS CIRCUMSTANTIAL
21 EVIDENCE. IN EITHER INSTANCE, THE
22 WITNESS'S TESTIMONY IS EVIDENCE THAT A
23 JET PLANE FLEW ACROSS THE SKY.

24 AS FAR AS THE LAW IS CONCERNED,
50:56 25 IT MAKES NO DIFFERENCE WHETHER EVIDENCE
26 IS DIRECT OR INDIRECT. YOU MAY CHOOSE
27 TO BELIEVE OR DISBELIEVE EITHER KIND.
28 WHETHER IT IS DIRECT OR INDIRECT, YOU

1 COULD GIVE EVERY PIECE OF EVIDENCE
2 WHATEVER WEIGHT YOU THINK IT DESERVES.

3 LADIES AND GENTLEMEN, THAT CONCLUDES THE
4 PRELIMINARY INSTRUCTIONS.

51:16 5 AT THIS TIME, WE'RE GOING TO HAVE OPENING
6 STATEMENTS. THIS IS AN OPPORTUNITY FOR THE LAWYERS IN THE
7 CASE TO TELL YOU WHAT THEY BELIEVE THE EVIDENCE WILL SHOW
8 DURING THE COURSE OF THE TRIAL.

9 AS I'VE INDICATED, THE LAWYERS' STATEMENTS ARE
51:27 10 NOT EVIDENCE, BUT THEY MAY PROVIDE YOU WITH A ROADMAP OR A
11 GUIDE THAT WILL ASSIST YOU IN LISTENING TO THE EVIDENCE AND
12 PUTTING THINGS IN PERSPECTIVE DURING THE COURSE OF THE TRIAL.

13 MR. QUINN?

14 MR. QUINN: THANK YOU, YOUR HONOR.

51:40 15 GOOD MORNING, LADIES AND GENTLEMEN.

16 THE JURY: MORNING.

17 MR. QUINN: AS YOU WILL REMEMBER FROM YESTERDAY, MY
18 NAME IS JOHN QUINN. AND IN THIS TRIAL, I SPEAK FOR TRUST
19 COMPANY OF THE WEST.

51:58 20 I INTRODUCED YESTERDAY, TRUST COMPANY OF THE
21 WEST'S REPRESENTATIVE IN THIS TRIAL, RICHARD VILLA, WHO'S THE
22 CHIEF FINANCIAL OFFICER.

23 I WOULD ALSO LIKE TO INTRODUCE A COUPLE OF
24 PEOPLE IN THE AUDIENCE WHO ARE IMPORTANT TO THIS CASE, AND WHO
52:12 25 WILL BE TESTIFYING. ONE IS MARC STERN. MARC, IF YOU WOULDN'T
26 MIND STANDING.

27 MARC IS THE CEO OF TRUST COMPANY OF THE WEST,
28 AND HE WILL BE A WITNESS IN THIS TRIAL.

1 AND ALSO MICHAEL CAHILL. MICHAEL CAHILL IS A
2 CHIEF IN-HOUSE LAWYER AT TCW, AND I BELIEVE HE WILL BE A
3 WITNESS, ALSO.

4 WE ALL KNOW IT'S AGAINST THE LAW TO STEAL. IT'S
52:39 5 AGAINST THE LAW TO STEAL A CAR. IT'S AGAINST THE LAW TO STEAL
6 MONEY. AND IN CALIFORNIA IT'S AGAINST THE LAW TO STEAL
7 CERTAIN KINDS OF CONFIDENTIAL AND PROPRIETARY INFORMATION
8 CALLED TRADE SECRETS.

9 THIS CASE IS ABOUT JEFFREY GUNDLACH, WHO IS
53:00 10 SITTING IN THE SECOND ROW ON THE RIGHT-HAND SIDE, AND HOW HE
11 AND OTHER DEFENDANTS, TOP TRUST COMPANY OF THE WEST EMPLOYEES,
12 TRIED TO STEAL AN ENTIRE BUSINESS FROM TCW, WORTH HUNDREDS OF
13 MILLIONS OF DOLLARS, AND HOW THEY DID, IN FACT, STEAL MASSIVE
14 AMOUNTS OF CONFIDENTIAL PROPRIETARY TRADE SECRET INFORMATION
53:30 15 FROM TCW SO THAT THEY COULD OPEN THE COMPETING BUSINESS FOR
16 THEMSELVES AND DESTROY TCW.

17 THIS WAS AN INSIDE JOB. THESE WERE NOT -- THIS
18 ISN'T LIKE BURGLARS WHO BROKE INTO A COMPANY AND TOOK
19 SOMETHING. THESE PEOPLE WERE INSIDERS, ALL HIGHLY TRUSTED
53:52 20 OFFICERS OF THE COMPANY.

21 MR. GUNDLACH WAS A MEMBER OF THE BOARD OF
22 DIRECTORS OF TCW, THE VERY TOP PEOPLE RESPONSIBLE FOR
23 GOVERNING THE COMPANY AND RESPONSIBLE FOR LOOKING OUT FOR THE
24 SHAREHOLDERS' INTERESTS. HE WAS ALSO PRESIDENT OF THE MOST
54:13 25 IMPORTANT TCW OPERATING COMPANY. AND HE HELD OTHER VERY
26 SENIOR POSITIONS.

27 HE WASN'T TREATED BADLY BY TCW. IN HIS LAST
28 YEAR AT TCW, RIGHT UP UNTIL THE TIME HE WAS PUT ON LEAVE, AND

1 THEN TERMINATED, IN DECEMBER OF 2009, IN THAT LAST YEAR,
2 MR. GUNDLACH WAS PAID \$40 MILLION. HE WAS FAR AND AWAY THE
3 HIGHEST PAID EMPLOYEE AT TCW. EVEN VERY SENIOR PEOPLE, OTHER
4 VERY SENIOR PEOPLE, MADE NOWHERE NEAR WHAT MR. GUNDLACH MADE.
54:54 5 HE HAD BEEN THE HIGHEST PAID PERSON AT THE COMPANY FOR SEVERAL
6 YEARS.

7 BUT EVEN THOUGH HE WAS SO HIGHLY PAID, YOU ARE
8 GOING TO HEAR HE WAS BITTER, HE WAS UNHAPPY, HE WANTED MORE
9 POWER, HE WANTED MORE MONEY. HE WANTED TO BE CEO. HE WANTED
55:18 10 TO BE HEAD OF THE FIRM.

11 WE WILL PROVE TO YOU IN THIS TRIAL THAT THE
12 DEFENDANTS SECRETLY PLOTTED AMONGST THEMSELVES TO LEAVE
13 EN MASSE, TOGETHER, AT ONCE, TAKING AN ENTIRE BUSINESS WITH
14 THEM, AND LEAVING TCW AND ITS CLIENTS IN THE LURCH. WE WILL
55:39 15 PROVE THAT THEY STOLE TRADE SECRETS AND CONFIDENTIAL
16 INFORMATION WHICH, IF YOU PRINTED IT ALL OUT AND STACKED IT
17 UP, WOULD BE HIGHER THAN TWO AND A HALF TIMES THE EMPIRE STATE
18 BUILDING, OVER ELEVEN TIMES THE SIZE OF THIS COURTHOUSE THAT
19 WE'RE IN NOW.

56:04 20 WE WILL PROVE TO YOU THAT THESE HIGHLY PAID
21 PEOPLE, WHO HELD POSITIONS OF TRUST, WHO WERE TO BE LEADERS IN
22 THIS COMPANY, LEADERS OF THE 500 ROUGHLY 50 EMPLOYEES, THAT
23 THEY BREACHED THE DUTIES THEY OWED TO THE COMPANY, THE
24 FIDUCIARY DUTIES, THE DUTIES OF LOYALTY AND FIDELITY, AND THE
56:27 25 DUTY TO DISCLOSE TO TCW THEIR PLANS. THEY DID ALL THIS --
26 THEY DID THESE THINGS WHILE THEY WERE BEING HIGHLY PAID, AND
27 WHILE THE PEOPLE AT TCW TRUSTED THEM.

28 AND THEN AFTERWARDS, WHEN THEY WERE CAUGHT, THEY

1 IMMEDIATELY PUT THEIR SCHEME INTO ACTION AND SET UP
2 DOUBLELINE. AT THAT TIME, THEY APPROACHED TCW CLIENTS WHO HAD
3 CONTRACTS WITH TCW AND ATTEMPTED TO PERSUADE THEM TO BREAK
4 THOSE CONTRACTS. THEY KNEW THEY HAD CONTRACTS, BECAUSE THEY
57:03 5 HAD DESIGNED THOSE CONTRACTS AND THOSE PROGRAMS; BUT IT DIDN'T
6 MATTER TO THEM.

7 AND THEIR WORK, ONE OF THE THINGS THEY DID,
8 HARMED TCW TO THE TUNE OF HUNDREDS OF MILLIONS OF DOLLARS.

9 NOW, YOU HAVE ALSO HEARD THAT MR. GUNDLACH IS
57:21 10 SUING TCW, AS WELL, ON AN ORAL CONTRACT ON WHICH YOU ARE GOING
11 TO HEAR HE CLAIMS HUNDREDS OF MILLION OF DOLLARS.

12 WE WILL PROVE TO YOU THAT TCW OWES MR. GUNDLACH
13 NOTHING; THAT BACK IN 2007, HE WAS OFFERED A WRITTEN CONTRACT
14 TO SIGN. IT WAS PREPARED, IT HAD A SIGNATURE LINE. ALL HE
57:46 15 HAD TO DO WAS SIGN IT.

16 HE REFUSED. HE REFUSED BECAUSE HE WANTED TO BE
17 A FREE AGENT. HE WANTED THE FLEXIBILITY TO SHOP THIS BUSINESS
18 ELSEWHERE; AND AS A RESULT, HE WAS WHAT'S CALLED AN AT-WILL
19 EMPLOYEE. THAT'S WHAT HE WANTED.

58:05 20 AND YOU WILL HEAR THAT MR. GUNDLACH TOLD PEOPLE
21 SEVERAL TIMES HIMSELF THAT HE DID NOT HAVE A CONTRACT WITH
22 TCW. AND WE'LL PROVE TO YOU THAT HE'S ONLY CLAIMING THAT HE
23 HAD A CONTRACT NOW AS A WAY OF MAKING UP FOR ALL OF THE
24 DAMAGES THAT TCW IS SEEKING IN THIS ACTION.

58:25 25 HE WANTS TO BE PAID FOR WORK HE NEVER DID UNDER
26 A CONTRACT HE REFUSED TO SIGN. THAT'S WHAT WE'LL PROVE.

27 SO LET ME STEP BACK NOW AND TELL YOU A LITTLE
28 BIT ABOUT WHO THE PARTIES ARE IN THIS CASE, WHO TCW IS, WHO

1 THE DEFENDANTS ARE. NOW, TCW IS A LOCAL FIRM BASED HERE IN
2 DOWNTOWN LOS ANGELES. IT WAS STARTED HERE IN LOS ANGELES IN
3 1971 BY AN ANGELENO BY THE NAME OF ROBERT DAY. TODAY IT HAS
4 OVER 500 EMPLOYEES.

59:01 5 IN 2001 IT WAS PURCHASED BY A FRENCH COMPANY.
6 YOU WILL HEAR THAT COMPANY, THE FULL NAME IS SOCIETE GENERALE.
7 I'M SURE I BUTCHERED THE FRENCH NAME. THEY ARE SOMETIMES
8 REFERRED TO AS SOC-JEN. THE OWNERSHIP OF THE FIRM IS NOW ALSO
9 DIVIDED AMONG APPROXIMATELY 160 TCW EMPLOYEES.

59:24 10 WE'RE NOT ANY KIND OF BANK, INVESTMENT BANK OR
11 OTHERWISE. WE'RE NOT A MORTGAGE COMPANY. WE DON'T MAKE
12 MORTGAGE LOANS. WE'RE NOT MORTGAGE BROKERS. WE ARE IN THE
13 BUSINESS OF LOOKING AFTER THE INVESTMENT DOLLARS AND
14 HARD-EARNED SAVINGS OF ORGANIZATIONS LIKE PENSION FUNDS,
59:42 15 UNIONS, COLLEGES, HOSPITALS, AND SOME INDIVIDUALS, AS WELL.
16 IT'S OUR JOB TO HELP THESE FOLKS TRY TO EARN EXTRA INCOME AT A
17 HIGHER RATE OF INTEREST, A HIGHER RETURN ON THEIR MONEY, SO
18 THAT THEY CAN, IN TURN, IN THE FUTURE, HAVE THE MONEY THEY
19 NEED TO TAKE CARE OF RETIREES, STUDENTS WHO WILL BE COMING TO
00:07 20 UNIVERSITIES, DECADES FROM NOW, FUTURE NEEDS.

21 THEY COME TO US, THEY ENTRUST THEIR MONEY TO US,
22 TO INVEST IT, SO THAT WHEN THEY NEED IT, THAT MONEY WILL GROW
23 OVER TIME, AND THEY'LL HAVE THE MONEY THAT WILL GENERATE A
24 RETURN.

00:23 25 THEY INVEST THEIR MONEY TO GROW. THEY HAVE NO
26 CHOICE; THAT MONEY HAS TO GROW. WITH INFLATION, THIS MONEY IS
27 BEING SET ASIDE IN PENSIONS, WITH INFLATION, IF YOU CAN'T FIND
28 THE WAY TO GROW THE MONEY, THEN THE ACTUAL AMOUNT OF THE MONEY

1 IS GOING TO BE EATEN AWAY. UNIVERSITIES THAT HAVE TO PLAN
2 AHEAD FOR FUTURE GENERATIONS OF STUDENTS.

3 HOSPITALS THAT WILL SEE THE NEED TO EXPAND, AND
4 THEY ARE GOING TO NEED THE MONEY IN THE FUTURE FOR NEW
00:52 5 FACILITIES, DIFFERENT -- ACTUALLY DIFFERENT TYPES OF
6 ORGANIZATIONS LIKE THAT. THEY NEED TO GROW THEIR MONEY. THEY
7 COME TO PLACES LIKE TCW TO HELP THEM DO THAT.

8 WE'RE PROFESSIONALS AT INVESTING. THE CLIENTS
9 DECIDE ON EXACTLY WHAT TYPE OF INVESTMENTS WHEN THEY COME TO
01:11 10 US, AND WE HAVE A MENU OF CHOICES. THE CLIENTS DECIDE WHAT
11 TYPE OF INVESTMENTS THEY WANT THEIR MONEY TO GO INTO, AND TCW
12 PROVIDES THEM WITH OPTIONS.

13 BROADLY SPEAKING, YOU CAN DIVIDE INVESTMENTS
14 INTO ROUGHLY TWO TYPES OF INVESTMENTS; ON ONE HAND, STOCKS,
01:27 15 AND ON THE OTHER HAND, BONDS. I'M SURE YOU ARE ALL FAMILIAR
16 WITH THESE. AND STOCKS ARE LIKE INTEREST IN A COMPANY LIKE
17 GOOGLE OR APPLE COMPUTER. YOU MIGHT BUY THE STOCK, AND HOPING
18 OVER TIME, THAT IT WILL GROW.

19 BONDS CAN BE A BIT MORE COMPLICATED. A BOND IS
01:45 20 A KIND OF DEBT. IT'S A PROMISE TO PAY BACK MONEY WITH
21 INTEREST. AND WHEN YOU BUY A BOND, YOU GET WHAT'S CALLED A
22 FIXED INCOME. YOU GET A FIXED RETURN, BASICALLY, IT'S IN THE
23 FORMS OF INTEREST PAYMENTS ON THE BONDS.

24 YOU CAN BUY A BOND FROM THE GOVERNMENT OR
02:02 25 VARIOUS TYPES OF GOVERNMENT ENTITIES. TYPICALLY THOSE ARE AT
26 THE LOWEST INTEREST RATES. THE GOVERNMENTS, AT LEAST IN THE
27 PAST, HAVE ALWAYS BEEN PRETTY GOOD AT PAYING OFF THEIR BONDS;
28 AT LEAST IN THE PAST, PERCEIVED TO BE LESS RISK WITH

1 GOVERNMENT BONDS.

2 YOU CAN ALSO BUY BONDS ISSUED BY BIG COMPANIES
3 LIKE BOEING OR GENERAL MOTORS, OR COMPANIES LIKE THAT, AND
4 THAT WILL GIVE YOU A LITTLE BIT HIGHER RATE OF INTEREST.

02:30 5 THIS CASE CONCERNED A VERY SPECIALIZED TYPE OF
6 BOND. IT'S CALLED A MORTGAGE-BACKED BOND, OR A
7 MORTGAGE-BACKED SECURITY.

8 MORTGAGE BONDS ARE BASED ON THEIR -- THEY ARE
9 BASED ON MORTGAGES THAT HAVE BEEN PACKAGED TOGETHER, PACKAGED
02:47 10 TOGETHER AND SOLD OFF BY THE BANKS, YOU KNOW, THAT GAVE THOSE
11 MORTGAGE LOANS, PACKAGED TOGETHER, AND THEN THE BONDS ARE
12 ISSUED, BASED ON THAT PACKAGE.

13 THE INVESTOR GETS A STEADY STREAM OF INCOME,
14 BASED ON THE INTEREST ON THE MONTHLY MORTGAGE PAYMENTS FROM
03:04 15 THE MORTGAGES THAT ARE IN THAT PACKAGE. DO YOU SEE WHAT I'M
16 SAYING?

17 AND THIS KIND OF MORTGAGE BOND IS CALLED A
18 MORTGAGE-BACKED SECURITY. THAT IS THE PART OF TCW'S BUSINESS,
19 PRIMARILY, THAT WE'RE GOING TO BE TALKING ABOUT HERE.

03:19 20 IN 2009, WHICH IS WHEN MOST OF THE EVENTS IN
21 THIS CASE TOOK PLACE, THE MORTGAGE-BACKED SECURITIES BUSINESS
22 WAS THE BIGGEST PART OF TCW'S BUSINESS. IT WAS ROUGHLY OVER
23 HALF THE MONEY THAT TCW MANAGED.

24 AND BY THE WAY, YOU ARE GOING TO HEAR A TERM
03:36 25 AUM, OR ASSETS UNDER MANAGEMENT. AND YOU WILL HEAR MILLIONS
26 OF DOLLARS. THOSE ARE INVESTORS' MONEY THAT'S BEEN ENTRUSTED
27 TO TCW. THAT'S NOT TCW'S MONEY. THAT'S MONEY THAT FOLKS HAVE
28 GIVEN TO US TO INVEST. THAT'S AUM, OR ASSETS UNDER

1 MANAGEMENT.

2 BUT OVER HALF THE ASSETS UNDER MANAGEMENT THAT
3 TCW HAD BACK IN 2009 WAS INVESTED IN THESE MORTGAGE-BACKED
4 SECURITIES, OR ALSO CALLED MBS. AND IT ACCOUNTED AT THAT TIME
04:05 5 FOR ROUGHLY JUST ABOUT HALF THE COMPANY'S ENTIRE REVENUE; SO
6 YOU CAN UNDERSTAND HOW IMPORTANT THIS BUSINESS WAS TO TCW.

7 IF YOU ARE SMART, AND IF YOU ARE CAREFUL, AND IF
8 YOU KNOW WHAT YOU ARE DOING, YOU CAN GET A HIGHER RATE OF
9 RETURN FOR YOUR CLIENTS WHO ENTRUST MONEY TO YOU WITH
04:25 10 MORTGAGE-BACKED SECURITIES, BUT YOU HAVE TO BE VERY, VERY
11 CAREFUL. YOU REALLY HAVE TO KNOW WHAT YOU ARE DOING.

12 AN INVESTOR MIGHT BUY INTO A BOND WHERE THE
13 UNDERLYING MORTGAGES, A LOT OF THEM MIGHT GO INTO DEFAULT OR
14 FORECLOSURE. AND IF YOU DO THAT, IT COULD TURN OUT THAT THE
04:45 15 BONDS COULD BE WORTHLESS.

16 SO HOW DOES TCW DECIDE WHAT BONDS TO BUY?
17 REMEMBER, TCW DOESN'T MAKE THE MORTGAGE LOANS ITSELF. IT
18 DOESN'T HAVE A RELATIONSHIP WITH THE BORROWERS, IT GETS IN
19 AFTER THE FACT, AFTER THE MORTGAGE LOANS HAVE BEEN MADE.
05:02 20 THOSE LOANS HAVE BEEN PUT TOGETHER IN A PACKAGE, AND THEN A
21 BOND IS ISSUED, BASED ON THAT.

22 SO HOW DO INVESTMENT PROFESSIONALS AT TCW AND
23 OTHER PLACES DECIDE WHICH ONES TO BUY? WHICH BONDS TO BUY,
24 HOW DO YOU DECIDE?

05:17 25 THE KEY, IT TURNS OUT, IS GETTING THE RIGHT
26 INFORMATION. AND TCW DEVELOPED SOME REALLY GREAT WAYS OF
27 GETTING THE KIND OF INFORMATION THAT YOU NEED. IT DEVELOPED
28 SOME VERY SPECIALIZED COMPUTER INTERROGATORIES TO ANALYZE

1 THESE PACKAGES OF LOANS.

2 THIS ISN'T THE TYPE OF COMPUTER PROGRAM THAT YOU
3 CAN WALK INTO OFFICE DEPOT AND GET. IT'S HIGHLY
4 SOPHISTICATED. THEY CAN LOOK DOWN INTO THE PACKAGES OF LOANS
05:49 5 AND EVEN LOOK INTO THE INDIVIDUAL LOAN LEVEL. WHO IS THE
6 SERVICER? WHERE IS IT? GET INFORMATION ABOUT REAL ESTATE
7 VALUES. IT'S VERY, VERY COMPLEX. WE'RE TALKING ABOUT
8 PACKAGES OF THOUSANDS OF LOANS.

9 THE DEFENDANTS WILL SAY THAT THERE'S NOTHING
05:59 10 REALLY SPECIAL ABOUT THESE ANALYTICS, THESE PROGRAMS THAT WERE
11 DEVELOPED AT TCW, THAT YOU CAN BUY THESE PROGRAMS OFF THE
12 SHELF. THAT'S SIMPLY NOT TRUE. IT DOESN'T EXIST. WE'LL
13 PROVE THAT TO YOU.

14 YOU'VE GOT THIS TYPE OF HIGHLY SPECIALIZED
06:15 15 COMPUTER CAPABILITY YOU'VE GOT TO BUILD YOURSELF. AND OVER A
16 PERIOD OF MANY YEARS, TCW HAD MANY SMART PEOPLE AND SPENT
17 MILLIONS OF DOLLARS TO DEVELOP THOSE PROGRAMS FOR ANALYZING
18 THESE PACKAGES OF LOANS THAT LAY UNDERNEATH THESE -- THAT
19 SUPPORTED THESE BONDS. IT BOUGHT INFORMATION, IT BUILT ITS
06:37 20 OWN RESEARCH, AND IT BUILT ITS -- AND WE CALL THIS CHECKCHECK.
21 SO YOU MAY HEAR THAT REFERRED TO IN THE CASE.

22 AND THAT'S WHAT WE'RE REALLY TALKING ABOUT.
23 WE'RE TALKING ABOUT SOME HIGHLY COMPLEX COMPUTER PROGRAMS AND
24 CAPABILITIES THAT PERMIT THIS TYPE OF ANALYSIS.

06:53 25 IN FACT, THE FIRST WITNESS WHO WILL TAKE THE
26 STAND TODAY IS A MAN AT TCW BY THE NAME OF DAN KALE, AND HE'LL
27 TALK TO YOU A LITTLE ABOUT THESE PROGRAMS AND WHAT THEY DO,
28 AND AT WHAT EXPENSE AT TCW.

1 BUT THE POINT IS THAT BY USING THESE ANALYTICS,
2 TCW CAN GET MORE INFORMATION, MAKE GOOD DECISIONS ABOUT
3 MORTGAGE-BACKED BONDS, WHICH ONES TO BUY, AND WHAT -- AND MAKE
4 DETERMINATIONS ABOUT WHAT WOULD BE A GOOD PRICE. AND ALSO, DO
07:26 5 THAT IN A QUICK WAY, DO IT IN A TIMELY WAY; BECAUSE THIS IS A
6 COMPETITIVE BUSINESS. THERE'S OTHER PEOPLE TRYING TO DO THE
7 SAME THING. BUT IT'S A TREMENDOUS ADVANTAGE WHEN YOU HAVE
8 THIS TYPE OF INFORMATION. TREMENDOUS. BECAUSE MAKING THAT
9 VERY BEST DECISION -- THAT BEST INVESTMENT DECISION IS ALL
07:45 10 ABOUT HAVING THE RIGHT INFORMATION.

11 AND YOU ARE GOING TO LEARN THAT THE PROGRAM THAT
12 WAS DEVELOPED AT TCW FOR DOING THIS, THE TCW ANALYTICS, WERE
13 JUST ABOUT THE BEST IN THE WORLD. IT TOOK A LONG TIME TO DO
14 THIS: TOOK A LOT OF PEOPLE'S EFFORTS, AND IT COST A LOT OF
08:00 15 MONEY. YOU CAN'T BUY THESE ANYWHERE. THIS IS LIKE THE RECIPE
16 FOR KENTUCKY FRIED CHICKEN. THESE WERE TCW TRADE SECRETS.
17 THEY ARE PROPRIETARY.

18 AND YOU ARE GOING TO LEARN THAT MR. GUNDLACH AND
19 THE OTHER DEFENDANTS STOLE IT. THEY STOLE TCW'S ANALYTICS,
08:22 20 THE ENTIRE SYSTEM. THEY STOLE IT AS PART OF A PLAN THAT THEY
21 HATCHED AND PROMOTED INSIDE TCW WHILE THEY WERE WORKING THERE,
22 TO SABOTAGE TCW, TO GET THEIR OWN BUSINESS UP AND RUNNING LIKE
23 THAT, SO THEY'D BE READY TO GO, AND TCW WOULD BE UNABLE TO
24 COMPETE. THEY BETRAYED TCW AND THE CONFIDENCE AND TRUST THAT
08:47 25 TCW PLACED IN THEM.

26 THERE'S A SECOND TYPE OF CRUCIAL INFORMATION
27 THAT MR. GUNDLACH AND THE OTHER DEFENDANTS STOLE BESIDES THE
28 TCW ANALYTICS. REMEMBER I TOLD YOU ABOUT ALL THE DIFFERENT

1 TYPES OF ORGANIZATIONS, CLIENTS, WHO ENTRUST THEIR MONEY TO
2 TCW, THE PENSION FUNDS, THE COLLEGES AND UNIVERSITIES, THE
3 UNIONS?

4 AS YOU CAN IMAGINE, EACH ONE OF THESE
09:12 5 ORGANIZATIONS HAS THEIR OWN PRIVATE INFORMATION, PRIVATE DATA
6 THAT THEY ENTRUST TO THEIR MONEY MANAGER. THIS INCLUDES
7 PRIVATE INFORMATION ABOUT THEMSELVES, THEIR CONTACT
8 INFORMATION, TAX INFORMATION, BANK ACCOUNT INFORMATION, THEIR
9 INVESTMENT HOLDINGS, THEIR CONTRACT TERMS, ALL THAT TYPE OF
09:29 10 DATA.

11 EACH OF THESE INSTITUTIONS HAVE THEIR OWN
12 SPECIAL WAY OF INVESTING. THEIR OWN PREFERENCES. THEY HAVE
13 THEIR OWN PREFERENCES AND HISTORY ABOUT WHAT TYPES OF STOCKS
14 AND BONDS AND INVESTMENTS THEY MAY LIKE TO MAKE. AND THEY
09:50 15 HAVE THEIR OWN VERY UNIQUE HISTORY AND WHAT THEIR HOLDINGS
16 ARE. THIS IS ALL VERY PRIVATE INFORMATION. AND OVER THE
17 YEARS, TCW DEVELOPED A VERY, VERY LARGE LIBRARY OF THIS TYPE
18 OF INFORMATION ABOUT ITS CLIENTS. WE CALL THIS INFORMATION
19 CLIENT INFORMATION.

10:15 20 WE'RE NOT JUST TALKING HERE ABOUT A FEW PHONE
21 NUMBERS AND A HANDFUL OF CONTACTS. THIS IS A VAST QUANTITY OF
22 VERY, VERY DETAILED INFORMATION. IT'S VERY SECRET STUFF
23 BETWEEN TCW AND ITS CLIENTS, AND PEOPLE AT TCW, INCLUDING TOP
24 LEVEL EMPLOYEES, ARE TRAINED ABOUT THE IMPORTANCE OF
10:35 25 MAINTAINING CONFIDENTIALITY. AND THIS IS CONFIDENTIAL AND
26 PROPRIETARY INFORMATION.

27 AT TCW, IN THE HR DEPARTMENT, OTHER COMPLIANCE
28 DEPARTMENTS, RUN TRAINING PROGRAMS. PEOPLE ARE TAUGHT THIS.

1 IT'S IN THE HANDBOOK. THERE'S NO SURPRISE. THERE'S ANNUAL
2 CERTIFICATIONS THAT EMPLOYEES HAVE TO SIGN SAYING, I
3 UNDERSTAND THIS IS PRIVATE. I NEED TO PROTECT THIS.

4 AS YOU CAN IMAGINE, FOR A NEW FIRM JUST STARTING
11:03 5 OUT, IT WOULD BE IMPOSSIBLE FOR THEM TO GET TO KNOW CLIENTS
6 THAT WELL, TO GET ALL THAT TYPE OF DATA.

7 BUT WHEN DEFENDANTS STARTED THEIR NEW BUSINESS,
8 DOUBLELINE, THEY DIDN'T WANT TO DO ALL THE HARD WORK FOR
9 MONTHS AND MONTHS, TO REINTRODUCE THEMSELVES TO THESE
11:21 10 INSTITUTIONS; IN SOME CASES, INTRODUCE THEMSELVES FOR THE
11 FIRST TIME. THEY DIDN'T WANT TO WAIT MONTHS OR EVEN WEEKS;
12 THEY DIDN'T WANT TO WAIT A SINGLE DAY.

13 AND THEY DIDN'T HAVE TO, BECAUSE THEY STOLE ALL
14 THAT PRIVATE CLIENT INFORMATION. ALL OF IT. THEY STOLE
11:40 15 INFORMATION ON OVER 24,000 CONTACTS, OVER 4,500 CLIENTS. NOT
16 JUST E-MAIL ADDRESSES, PHONE NUMBERS AND NAMES OF CONTACTS.
17 WE'RE TALKING ABOUT KEY CONTACTS, BANK ACCOUNTS, HOLDINGS
18 INFORMATION, INVESTMENT HISTORY. ALL THAT PRIVATE INFORMATION
19 WAS TAKEN. EVERY PIECE OF THE CONFIDENTIAL INFORMATION THAT
12:07 20 CLIENTS HAD ENTRUSTED TO TCW WAS STOLEN, RIGHT DOWN TO THE
21 NOTES OF PRIVATE MEETINGS THAT TCW HAD HAD WITH ITS CLIENTS.

22 MOST -- NOW UNDERSTAND, MOST OF THESE CLIENTS
23 THAT I'M TALKING ABOUT WERE PEOPLE THAT MR. GUNDLACH AND HIS
24 GROUP HAD NEVER EVEN MET. THEY WEREN'T CLIENTS OF THE
12:28 25 MORTGAGED-BACKED SECURITIES GROUP, CLIENTS OF OTHER PARTS OF
26 THE FIRM. THEY TOOK IT ALL, NOT JUST THEIR OWN CLIENTS,
27 PEOPLE WHO HAD NOT INVESTED WITH THEM BEFORE. THESE PEOPLE
28 WERE NOT MR. GUNDLACH AND HIS GROUP'S PARTNERS, THEY WERE

1 TCW'S PARTNERS.

2 BUT THEY DIDN'T CARE. THEY NEEDED THAT
3 INFORMATION FROM DAY ONE, IF THEY WERE GOING TO BE OPEN FOR
4 BUSINESS, AND SEAMLESSLY BE ABLE TO TELL THE WORLD, WE'RE
12:59 5 HERE, AND TCW CAN'T SERVICE THIS BUSINESS. THE
6 MORTGAGE-BACKED SECURITY GROUP OF TCW IS GONE, WHO'S MANAGING
7 YOUR MONEY; BUT WE'RE HERE. WE'RE UP AND RUNNING.

8 IT WAS KEY TO THEIR PLAN THAT THEY HAVE IT ALL
9 AND THEY'D BE ABLE TO BE OPEN FOR BUSINESS IMMEDIATELY. THEIR
13:22 10 PLAN WAS TO LEAVE SUDDENLY, WITH LITTLE OR NO NOTICE THAT THEY
11 WERE GOING. THAT WAS KEY, SO THAT THERE WOULD BE NO ONE AT
12 TCW WHO COULD MANAGE THIS SPECIAL TYPE OF MORTGAGE-BACKED
13 SECURITIES BUSINESS.

14 TCW WOULDN'T BE ABLE TO COMPETE. THE PEOPLE
13:40 15 WITH THIS EXPERTISE WOULD BE GONE. THEY'D BE ACROSS THE
16 STREET. ALL THE BUSINESS WOULD GO TO DOUBLELINE, THEIR NEW
17 COMPANY. THAT WAS THE PLAN.

18 AND THAT'S PART OF WHAT THIS TRIAL IS ABOUT:
19 DEFENDANTS STEALING DATA, MASSIVELY, COMPUTER PROGRAMS, THE
13:58 20 ANALYTICS, AND THE CONFIDENTIAL CLIENT INFORMATION, SO THAT
21 THEY COULD IMMEDIATELY BE IN BUSINESS. THE ANALYTICS, THAT
22 WOULD IMMEDIATELY PERMIT THEM TO ANALYZE AND TRADE THESE
23 MORTGAGE-BACKED SECURITIES, AND THEY CAN TELL THE WORLD THAT
24 THEY DID, WE'VE REPLICATED THE SYSTEM, WE HAVE THE SYSTEM HERE
14:19 25 A DOUBLELINE, AND ALL THE CLIENT INFORMATION, AS WELL.

26 FOLKS, THEY DID THESE THINGS I'M DESCRIBING TO
27 YOU. THEY ALL DID THIS WHILE THEY WERE STILL AT TCW, HOLDING
28 TOP POSITIONS, BEING PAID VERY, VERY WELL. THEY PLOTTED THE

1 DESTRUCTION OF TCW.

2 AND YOU KNOW THEY ENLISTED OTHER TCW EMPLOYEES
3 TO HELP THEM, WITHOUT TELLING THEM -- WITHOUT TELLING THEM
4 THAT THEY WERE BEING ENLISTED TO HELP DEVELOP A PLAN TO ATTACK
14:52 5 THEIR OWN EMPLOYER. THEY'D BETRAYED THE TRUST OF THEIR OWN
6 EMPLOYEES, AS YOU WILL HEAR.

7 LET ME TALK A LITTLE BIT NOW ABOUT MR. GUNDLACH
8 AND THE OTHER INDIVIDUAL DEFENDANTS.

9 MR. GUNDLACH IS A VERY TALENTED BOND EXPERT,
15:13 10 BOND TRADER. THERE'S NO QUESTION ABOUT THAT. HE IS HIGHLY
11 SKILLED. AND HE HAS BEEN VERY SUCCESSFUL, AS YOU'VE HEARD;
12 BUT HE OWES A LOT OF IT, MOST OF IT, TO TCW.

13 MR. GUNDLACH WENT TO DARTMOUTH COLLEGE. HE WENT
14 TO GRADUATE SCHOOL AT YALE. HE WAS WORKING AT A -- 25, 26
15:44 15 YEARS AGO BEFORE HE CAME TO TCW, HE WAS WORKING AT
16 TRANSAMERICA, AN INSURANCE COMPANY, AND HE SAW A TELEVISION
17 SHOW. IT USED TO -- I DON'T THINK IT'S ON ANYMORE. SOME OF
18 YOU MAY REMEMBER IT, THE LIFESTYLES OF THE RICH AND FAMOUS,
19 ROBIN LEACH. HE SAW THIS SHOW AND SAID, THAT'S FOR ME. HOW
16:03 20 DO I GET THERE?

21 AND HE DID SOME RESEARCH AND SAID, INVESTMENT
22 BANKING IS THE BEST WAY TO GET REALLY RICH. AND HE WENT OUT
23 TO THE YELLOW PAGES. AND HE LOOKED FOR INVESTMENT BANKS. AND
24 I GUESS THE INVESTMENT BANKS -- THE GOLDMAN SACHS OF THE WORLD
16:20 25 DON'T LIST THEMSELVES IN THE YELLOW PAGES. BUT HE GOT
26 INVESTMENT ADVISORY FIRMS, AND HE SENT OUT A BUNCH OF LETTERS.
27 AND SOMEBODY TOLD HIM, HEY, AS LONG AS YOU ARE DOING THAT,
28 THERE'S A NICE FIRM IN LOS ANGELES YOU SHOULD CONTACT CALLED

1 TCW. AND HE WROTE THAT LETTER TO TCW, TOO. AND LO AND
2 BEHOLD, HE GOT THE JOB INTERVIEW AT TCW, AND HE GOT A JOB.

3 HIS JOB, WHEN HE STARTED, HE WAS ASKED, DO YOU
4 WANT TO WORK IN EQUITIES OR DEBT? DO YOU WANT TO WORK IN
16:49 5 STOCKS OR BONDS? HE SAYS, WHAT'S THAT? HE DIDN'T KNOW THE
6 DIFFERENCE BETWEEN A STOCK AND A BOND AT TCW.

7 OVER THE NEXT 24 YEARS HE CERTAINLY LEARNED, AND
8 WAS INCREDIBLY SUCCESSFUL WITH THE COMPANY. HE WORKED HIS WAY
9 UP FROM JUST MANAGING FUNDS IN THE FIELD TO BECOMING ONE OF
17:11 10 THE VERY TOP LEADERS IN TCW AS A WHOLE. ALONG THE WAY, THERE
11 WERE SOME TIMES WHEN HE MADE SOME INVESTMENTS THAT DIDN'T TURN
12 OUT SO WELL. LAWSUITS HAPPEN.

13 MR. BRIAN: OBJECTION, YOUR HONOR, 352.

14 THE COURT: OVERRULED.

17:30 15 GO AHEAD.

16 MR. QUINN: TCW, DURING THESE LAWSUITS, STOOD BY HIM,
17 DEFENDED HIM, PROVIDED HIM WITH A LAWYER.

18 BY DECEMBER 4, 2009, WHEN THIS CONSPIRACY WAS
19 DISRUPTED, AND WE CONFRONTED THESE PEOPLE ABOUT THEIR
17:48 20 ACTIVITIES, AT THAT TIME, HE WAS A MEMBER OF THE BOARD OF
21 DIRECTORS OF THE WHOLE COMPANY, RESPONSIBLE TO THE
22 SHAREHOLDERS FOR THE SAFEKEEPING OF THE COMPANY'S ASSETS. HE
23 WAS THE PRESIDENT OF THE MOST IMPORTANT COMPANY, AND HE WAS
24 SOMETHING CALLED THE CHIEF INVESTMENT OFFICER, WHICH AT AN
18:07 25 INVESTMENT COMPANY IS A REALLY BIG DEAL. HE WAS THE CHIEF
26 INVESTMENT OFFICER OF A COMPANY WHOSE SOLE BUSINESS WAS
27 INVESTING.

28 AND AS I TOLD YOU, THIS MORTGAGE-BACKED

1 SECURITIES GROUP THAT WORKED UNDER HIM WAS KEY TO THE WHOLE
2 COMPANY'S BUSINESS. IT ACCOUNTED FOR 60 PERCENT OF THE ASSETS
3 UNDER MANAGEMENT. AGAIN, THAT'S THE CLIENTS' MONEY, NOT TCW
4 MONEY, AND ABOUT 50 PERCENT OF THE REVENUE.

18:36 5 NOW, AS A DIRECTOR, HE'S A FIDUCIARY. AND THAT
6 MEANS, HE'S SUPPOSED TO TREAT THE COMPANY WITH SCRUPULOUS GOOD
7 FAITH. HE OWES SPECIAL DUTIES THAT OTHER EMPLOYEES DON'T OWE
8 TO THE COMPANY.

18:55 9 IT MEANS THAT, CERTAINLY AT A MINIMUM, YOU ARE
10 NOT SUPPOSED TO BE DOING ANYTHING TO HARM THE COMPANY. YOU
11 ARE NOT SUPPOSED TO DO ANYTHING WHICH CAUSES YOU TO PERSONALLY
12 BENEFIT AT THE COMPANY'S EXPENSE, IF YOU ARE A FIDUCIARY.
13 THIS IS BASIC. THESE ARE YOUR DUTIES.

19:13 14 AND OBVIOUSLY, YOU SHOULDN'T BE STEALING THE
15 COMPANY'S TRADE SECRETS OR SECRETLY CREATING A COMPETITOR
16 INSIDE TCW AND PLANNING TO LAUNCH THAT NEW BUSINESS IN A WAY
17 THAT WILL BE DESTRUCTIVE. AND AS LONG AS HE WAS A FIDUCIARY,
18 A TOP OFFICER, A PRESIDENT, CIO, CHIEF INVESTMENT
19 OFFICER/DIRECTOR, HE HAD A DUTY TO DISCLOSE TO THE COMPANY ANY
19:39 20 ACTIVITIES HE WAS ENGAGED IN THAT MIGHT BE HARMFUL TO THE
21 COMPANY. HE COULDN'T JUST KEEP HIS LIPS SEALED.

22 LOWER LEVEL EMPLOYEES, DIFFERENT RULES APPLY.
23 TOP GUY, DIFFERENT RULES APPLY.

24 TCW, I TOLD YOU HE WAS TALENTED. HE WAS GOOD.
19:59 25 MADE MONEY FOR THE COMPANY. MADE MONEY FOR HIMSELF.

26 AND TCW PROMOTED HIM. TCW MADE HIM THE PUBLIC
27 FACE OF THE COMPANY. IT PUT HIM ON TELEVISION, MAGAZINES,
28 WEBCASTS, COMPANY ORGANIZED CONFERENCES ALL AROUND THE UNITED

1 STATES, DIFFERENT CITIES, SOME ABROAD, TO FEATURE HIM, PUT HIM
2 ON PANELS THAT HE WOULD ORGANIZE. SPENT MILLIONS OF DOLLARS
3 PROMOTING MR. GUNDLACH AND THEY PAID HIM VERY, VERY WELL.

4 THAT FIRST JOB, WHEN HE SHOWED UP, HE'D BEEN
20:31 5 WORKING AT TRANSAMERICA AND AFTER SEEING THE ROBIN LEACH
6 SHOW -- HE WAS MAKING \$30,000 A YEAR IN 1985. BY 1999 HE WAS
7 MAKING MORE THAN 10 MILLION A YEAR. HIS LAST FOUR YEARS HE
8 MADE MORE THAN 20 MILLION EVERY YEAR. HIS LAST YEAR, I TOLD
9 YOU, WASN'T A FULL YEAR. HE MADE OVER \$40 MILLION. IN THAT
20:57 10 YEAR IF YOU WORK IT OUT, TCW WAS PAYING HIM ABOUT \$20,000 AN
11 HOUR, BUT IT WASN'T ENOUGH. IT WASN'T ENOUGH. IN THAT SAME
12 YEAR, IN 2009, THAT'S WHEN THEY BEGAN TO STEAL. THAT'S WHEN
13 THEY PUT THIS PLAN IN ACTION.

14 ANOTHER DEFENDANT IS A MAN BY THE NAME OF CHRIS
21:24 15 SANTA ANA. NOW, MR. SANTA ANA WAS ALSO AN OFFICER OF TCW. HE
16 WAS A MANAGING DIRECTOR, ONE OF THE HIGHEST POSITIONS,
17 ACTUALLY. AND HE WAS THE CHIEF OPERATING OFFICER OF THE
18 MORTGAGE-BACKED SECURITIES GROUP, KEY GUY IN THAT GROUP.

19 WHILE HE WAS A MANAGING DIRECTOR, AT
21:41 20 MR. GUNDLACH'S DIRECTION, HE STOLE MASSIVE QUANTITIES OF TCW
21 PROPRIETARY DATA AND SOFTWARE AND DIRECTED HIS SUBORDINATES TO
22 DO THE SAME THING, ENLISTED OTHER PEOPLE, IN OTHER WORDS. HE
23 NOW WORKS AS CHIEF RISK OFFICER AT DOUBLELINE.

24 DEFENDANT BARBARA VANEVERY WAS ALSO AN OFFICER
22:03 25 AT TCW. SHE WAS A SENIOR VICE PRESIDENT. SHE HAD VERY
26 IMPORTANT JOB. WHILE SHE WAS A SENIOR VICE PRESIDENT AT TCW
27 SHE HELPED OTHER DEFENDANTS STEAL CONFIDENTIAL INFORMATION
28 ABOUT TCW'S CLIENTS, YOU WILL HEAR, AND WORKED TO SET UP THEIR

1 OFFICES FOR DOUBLELINE, FOR THE BUSINESS THEY WERE PLANNING.
2 SHE NOW WORKS AT DOUBLELINE AS DIRECTOR OF COMMUNICATIONS.

3 DEFENDANT, JEFF MAYBERRY WAS ALSO AN OFFICER AT
4 TCW, ALSO A FIDUCIARY. HE WAS A SENIOR VICE PRESIDENT. HE
22:41 5 ASSISTED MR. SANTA ANA IN RUNNING THE MORTGAGED-BACKED
6 SECURITIES GROUP WHILE HE WAS A SENIOR VICE PRESIDENT. HE
7 PERSONALLY STOLE MASSIVE AMOUNTS OF PROPRIETARY DATA, TRADE
8 SECRET INFORMATION, AND HELPED OTHERS TO DO LIKEWISE. HE'S
9 NOW A DIRECTOR OF MORTGAGE-BACKED SECURITIES ANALYTIC AT
23:03 10 DOUBLELINE.

11 LET ME BACK UP NOW, AND TALK A LITTLE BIT ABOUT
12 MR. GUNDLACH'S CONTRACTUAL RELATIONSHIP WITH TCW BECAUSE YOU
13 HAVE HEARD ABOUT THIS ORAL CONTRACT THAT'S WORTH HUNDREDS OF
14 MILLIONS OF DOLLARS.

23:19 15 THE FACTS ARE THE FOLLOWING: FROM 1989, ALL THE
16 WAY THROUGH 2007, 18 YEARS, MR. GUNDLACH HAD A SERIES OF
17 WRITTEN CONTRACTS WITH TCW, EACH OF THEM WOULD BE FOR A
18 DEFINED PERIOD OF TIME; THREE YEARS, FOUR YEARS, TWO YEARS,
19 WHATEVER. AND WHEN ONE CONTRACT WAS CLOSE TO LAPSING, HE
23:38 20 WOULD NEGOTIATE A NEW ONE. AND FOR 18 YEARS THAT'S HOW IT
21 WENT, ALWAYS HAD A WRITTEN AGREEMENT.

22 THE LAST ONE THAT HE SIGNED WAS IN 2003 AND IT
23 EXTENDED THROUGH THE END OF 2007; THAT'S WHEN IT WOULD EXPIRE.
24 AND AS THEY HAD IN THE PAST, IN MID 2007 MR. GUNDLACH AND TCW
23:58 25 BEGAN TALKING ABOUT A NEW CONTRACT. AND ON MAY 3RD, 2007
26 TCW'S GENERAL COUNSEL, MICHAEL CAHILL, SENT MR. CONTRACT (SIC)
27 A NEW DRAFT OF THE NEW CONTRACT PROVIDED HE WOULD WORK AT TCW
28 UNTIL DECEMBER 31, 2011. IT WOULD EXPIRE AT THE END OF THIS

1 YEAR. AND IT ALSO SAID, AS SOME OF THE PREVIOUS CONTRACTS HAD
2 SAID, HE COULD ONLY BE TERMINATED FOR GROSS MISCONDUCT. AND
3 THIS CONTRACT ALSO INCLUDED, AS AN EXHIBIT, AN ATTACHMENT TO
4 THE CONTRACT, A NEW COMPENSATION FORM, WHICH WOULD BE VERY
24:36 5 FAVORABLE TO MR. GUNDLACH AND ALSO VERY FAVORABLE TO TCW. YOU
6 WILL SEE BOTH SIDES WERE HAPPY WITH THIS COMPENSATION FORM.

7 MR. CAHILL SENT IT TO MR. GUNDLACH; MR. GUNDLACH
8 DIDN'T SIGN IT; DIDN'T RESPOND AT ALL. SO ON MAY 20TH, ABOUT
9 THREE WEEKS LATER, MR. CAHILL SENT THE CONTRACT TO HIM AGAIN,
24:58 10 HERE'S THE CONTRACT. IT'S GOT THE SIGNATURE LINE AT THE END,
11 AGAIN, IF YOU WANT TO CLOSE THIS UP.

12 THIS TIME MR. GUNDLACH GAVE HIM SOME COMMENTS,
13 SOME SUGGESTIONS, CHANGE IN LANGUAGE, THINGS LIKE THAT. HE
14 HAD SPOKEN TO SOMEONE AND GOTTEN SOME ADVICE. SO MR. CAHILL
25:15 15 PREPARED A REVISED VERSION OF THAT CONTRACT AND SENT IT TO
16 MR. GUNDLACH ON JULY 7TH, 2007. YOU WILL SEE THAT DRAFT.
17 IT'S THE LAST DRAFT THAT WAS DONE. IT'S EXHIBIT 66.

18 THAT CONTRACT, LIKE ALL THE OTHERS, PROVIDED
19 THAT IF YOU WANT TO BE BOUND BY THIS, IF YOU WANT THIS
25:36 20 CONTRACT, YOU NEED TO SIGN IT. IT SAYS IT'S BINDING UPON
21 EXECUTION. HE NEVER DID. MR. GUNDLACH WENT RADIO SILENT. HE
22 DIDN'T WANT TO BE LOCKED IN.

23 I MEAN, THE FACTS, THE EVIDENCE, THE HISTORY
24 WILL SHOW WHY HE REFUSED TO SIGN THAT CONTRACT. THEY NOW SAID
25:55 25 THERE WAS AN ORAL AGREEMENT. BUT WHAT I'M TELLING YOU WILL BE
26 UNDISPUTED IN THE EVIDENCE. WE HAVE TO SIGN A WRITTEN
27 AGREEMENT. HE NEGOTIATED IT; DIDN'T SIGN IT.

28 WELL, EVEN THOUGH HE DIDN'T SIGN THE CONTRACT, I

1 TOLD YOU IT HAD THIS NEW FAVORABLE COMPENSATION FORMULA AND HE
2 WANTED THAT FORMULA TO GO INTO EFFECT IMMEDIATELY, I THINK IN
3 JUNE OR JULY OF THAT YEAR, 2007. SO HE AND TCW AGREED THAT
4 EVEN THOUGH HE HADN'T SIGNED THE CONTRACT, WE'LL PUT THAT NEW
26:24 5 FORMULA INTO EFFECT. AND YOU WILL BE PAID ON THE BASIS OF
6 THAT FORMULA. AND HE WAS. THAT'S THE BASIS ON WHICH HE WAS
7 PAID.

8 AND YOU WILL -- YOU HEARD MR. BRIAN YESTERDAY
9 REFERRING TO, IN HIS COMMENTS, REFERRED TO E-MAILS SAYING, WE
26:41 10 HAVE A DEAL. THAT'S WHAT HE'S TALKING ABOUT. THE EVIDENCE
11 WILL BE THAT MR. BEYER, MR. SONNEBORN, THEN THE CEO AND THE
12 PRESIDENT OF THE COMPANY, AND MR. GUNDLACH, WERE HAPPY WITH
13 THAT COMPENSATION FORMULA. THERE WERE E-MAILS EXCHANGED. WE
14 HAVE A DEAL ON THE COMPENSATION. AND THEY GO FORWARD ON THAT
26:59 15 BASIS. MR. GUNDLACH WANTED TO BE A FREE AGENT. HE WANTED
16 FLEXIBILITY. HIS TIMING SHOWS THAT.

17 THERE'S ANOTHER FIRM THAT DOES THIS WORK IN LOS
18 ANGELES. IT'S BASED IN PASADENA WHERE I LIVE CALLED WESTERN
19 ASSET MANAGEMENT COMPANY OR WAMCO. MR. GUNDLACH, STARTING IN
27:24 20 FEBRUARY 2009, STARTING NEGOTIATING WITH THEM ABOUT TAKING THE
21 ENTIRE BUSINESS FROM TCW TO WAMCO. DIDN'T ACT LIKE HE WAS
22 UNDER SOME CONTRACT TILL THE END OF 2011. HE KNEW EXACTLY
23 WHAT HE WAS DOING. HE WANTED TO BE A FREE AGENT. NOTHING
24 WRONG WITH THAT IN THE ABSTRACT, TO BE A FREE AGENT; THAT'S
27:45 25 NOT MY POINT. MY POINT IS HE DID NOT HAVE AN AGREEMENT, HE
26 DID NOT HAVE A CONTRACT.

27 THE CLEAREST EVIDENCE YOU ARE GOING TO SEE THAT
28 MR. GUNDLACH DID NOT HAVE A CONTRACT COMES FROM MR. GUNDLACH

1 HIMSELF. AND WE'RE GOING TO SHOW YOU AN E-MAIL DATED AUGUST
2 25TH, 2009. AUGUST 25TH, 2009 IS EXHIBIT 248. FOLKS, HE
3 WROTE THIS BEFORE THERE WAS A LAWSUIT, BEFORE LAWYERS WERE
4 INVOLVED. AND THERE WAS A -- LET ME GIVE YOU THE CONTEXT.

28:16 5 THERE WAS AN INQUIRY FROM AN INVESTMENT ADVISOR,
6 A LOT OF -- TCW DEALS WITH A LOT OF INVESTMENT ADVISORS,
7 PEOPLE WHO, THEMSELVES, HAVE CLIENTS. AND THEY ARE ADVISING
8 OTHER CLIENTS. SO THE ADVISORS THEN COME TO US. AND THERE
9 WAS AN INQUIRY FROM AN INVESTMENT ADVISOR WHO SAYS, WE'RE
28:35 10 REALLY CONCERNED ABOUT MR. GUNDLACH. IS HE GOING TO BE THERE?
11 WHAT'S HIS CONTRACTUAL SITUATION AT TCW?

12 SO SOMEBODY SENDS THIS E-MAIL IN TO SOMEBODY AT
13 TCW ASKING WHAT IS MR. GUNDLACH'S CONTRACTUAL STATUS. THAT
14 E-MAIL, IS FORWARDED TO MR. GUNDLACH ON AUGUST 25TH, 2009.
28:51 15 AND LET ME READ TO YOU, THE WORDS THAT MR. GUNDLACH WROTE AT
16 THAT TIME IN RESPONSE. QUOTE, THE TRUTHFUL ANSWER IS THAT
17 JEFFREY GUNDLACH IS NOT UNDER CONTRACT TO TCW.

18 HE TOLD OTHERS THE SAME THING. HE DIDN'T HAVE A
19 CONTRACT BECAUSE HE CHOSE NOT TO HAVE ONE. HE WANTED THE
29:12 20 FLEXIBILITY TO SEE IF HE COULD GET A BETTER DEAL AT THE
21 WAMCO'S OF THE WORLD OR SOMEPLACE ELSE.

22 NOW, I TOLD YOU THAT TCW HAD PROMOTED
23 MR. GUNDLACH AS THE PUBLIC FACE OF TCW TO THE WORLD. HE MADE
24 MORE AND MORE MONEY. HE WAS MORE AND MORE SUCCESSFUL.
29:35 25 DIFFERENT PEOPLE REACT TO THAT IN DIFFERENT WAYS. YOU WILL
26 SEE THAT IN MR. GUNDLACH'S CASE. IT SEEMED TO GO TO HIS HEAD
27 A LITTLE BIT.

28 LET ME -- A FEW SMALL EXAMPLES. ON NOVEMBER

1 13TH, 2008, A PERSON FROM TCW'S I.T. DEPARTMENT SENDS OUT A
2 FORM NOTICE TO PEOPLE SAYING, I'M COMING TO LOOK AT YOUR
3 COMPUTERS AND DO SOME STANDARD UPGRADES TO THE COMPUTERS.
4 JUST A GUY TRYING TO DO HIS JOB IN THE I.T. DEPARTMENT.

30:05 5 MR. GUNDLACH WRITES BACK. THIS IS EXHIBIT 112. (READING):

6 "WHO EXACTLY ARE YOU ANYWAY? CAN
7 YOU PLEASE GIVE ME A CALL ON MONDAY SO I
8 CAN UNDERSTAND WHAT THIS IS ALL ABOUT.
9 AND WHEN YOU DO, I EXPECT YOU TO BE ABLE
30:19 10 TO EXPLAIN YOURSELF REGARDING THIS
11 RATHER UNBELIEVABLY INCOMPETENT E-MAIL.
12 PLEASE MAKE SURE YOU ARE PREPARED FOR
13 THE CALL AS I DON'T HAVE TIME IN MY
14 SCHEDULE FOR FOOLS."

30:32 15 ALL THE GUY WANTED TO DO WAS UPGRADE THE
16 PROGRAMS ON HIS SOFTWARE.

17 IN ITSELF, OKAY. NOT A BIG DEAL. YOU DON'T
18 FIRE SOMEBODY FOR THAT FOR SURE. BUT HIS BEHAVIOR BECAME
19 INCREASINGLY INSULTING TO OTHER PEOPLE IN THE COMPANY AND
30:51 20 ESPECIALLY TO OTHER DEPARTMENTS.

21 NOW, LET ME DRAW A DISTINCTION. PEOPLE IN HIS
22 OWN DEPARTMENT. HE HAD GREAT LOYALTY FROM THE PEOPLE IN HIS
23 OWN DEPARTMENT, OR MOST OF THEM. AND YOU ARE GOING TO HEAR
24 THAT THEY ARE VERY LOYAL TO HIM. BUT OTHER DEPARTMENTS HE SAW
31:09 25 AS COMPETITORS.

26 ONE TIME THE MARKETING OR COMMUNICATIONS
27 DEPARTMENT ASKED HIM, WE'RE DOING SOMETHING -- WE'RE UPDATING
28 THE WEBSITE AND WE WANTED TO HAVE LITTLE VIDEOS FROM THE HEADS

1 OF THE DIFFERENT DEPARTMENTS LIKE, EQUITIES OR LEVERAGE
2 FINANCE, OR WHATEVER, AND YOU FOR FIXED INCOME OR
3 MORTGAGE-BACKED SECURITIES, SO THAT IF SOMEBODY GOES TO OUR
4 WEBSITE THEY CAN CLICK AND SEE AN INTERVIEW WITH EACH OF THESE
31:31 5 PEOPLE. HE REFUSED TO DO IT BECAUSE HE SAID, PRECISELY, IT'S
6 TREATING THESE OTHER PEOPLE EQUAL TO ME. I WILL SHOW YOU THAT
7 E-MAIL IN THE TRIAL.

8 ANOTHER TIME, HE RECEIVED AN E-MAIL REMINDING
9 HIM -- AT TCW THEY HAVE AN ANNUAL FIRM RETREAT, AN OFFSITE
31:51 10 EVENT WHERE THE EMPLOYEES ALL GO TOGETHER AND YOU ARE
11 CONTACTED WHAT TYPE OF EVENTS DO YOU WANT TO PARTICIPATE IN,
12 THINGS LIKE THAT. AND HE GETS THIS E-MAIL, LIKE EVERYBODY
13 ELSE DOES, AND HE RESPONDED BY TELLING THE PERSON WHO'S
14 ORGANIZING IT, YES, I WANT A HOTEL ROOM. I WOULD LIKE A SPOT
32:08 15 IN THE YOGA CLASS, BUT DON'T -- HIS WORDS -- DON'T SIGN ME UP
16 FOR ANY TEAM-BUILDING ACTIVITIES. I DON'T WANT TO -- I WON'T
17 PARTICIPATE IN ANY TEAM-BUILDING ACTIVITIES. PRESIDENT OF THE
18 COMPANY? A LEADER?

19 AGAIN, DON'T MISUNDERSTAND. I'M NOT SAYING YOU
32:28 20 FIRE SOMEBODY FOR BEING LIKE THIS. I'M TRYING TO GIVE YOU AN
21 IDEA OF WHAT PEOPLE -- MR. STERN, WHO CAME BACK IN JUNE OF
22 2009, KIND OF WHAT THEY WERE DEALING WITH. SOME OF HIS
23 BEHAVIOR WAS KIND OF BIZARRE. AT ONE POINT HE TOLD MR. CAHILL
24 THAT HE WAS GOING TO BANKRUPT TCW. AND WITH MR. GUNDLACH IT
32:52 25 WAS SOMETIMES HARD TO TELL WAS HE KIDDING OR NOT KIDDING,
26 BECAUSE HE WOULD MAKE KIND OF OUTRAGEOUS STATEMENTS LIKE THAT.

27 HE TOLD THE HR DEPARTMENT HE REFUSED TO
28 PARTICIPATE IN THE SEXUAL HARASSMENT TRAINING. I'LL SHOW YOU

1 THAT E-MAIL. COMPLIANCE WITH LAWS -- VERY, VERY IMPORTANT AT
2 A REGULATED INVESTMENT FIRM LIKE THIS. WE HAVE A COMPLIANCE
3 DEPARTMENT. YOU ARE GOING TO SEE AN E-MAIL WHERE HE SAYS,
4 I'VE HAD IT. I'M NOT GOING TO COMPLETE THIS COMPLIANCE
5 TRAINING PROGRAM.

6 HE WOULD TELL -- HE UNDERMINED THE OTHER
7 DEPARTMENTS IN THE FIRM. THERE'S OTHER TYPES OF INVESTMENT,
8 AS I TOLD YOU. AND HE WOULD THEN TELL INVESTORS ON INVESTMENT
9 CALLS THEY SHOULD STAY AWAY FROM OTHER TYPES OF INVESTMENTS;
10 FROM EQUITIES, ALTERNATIVES, OR MEZZANINE INVESTMENTS, OTHER
11 DEPARTMENTS AT TCW, HE'S TELLING INVESTORS DON'T GO INTO
12 THESE. DON'T INVEST WITH MY COLLEAGUES. HE WOULD -- IN
13 MEETINGS HE WOULD BELITTLE THE OTHER DEPARTMENTS.

14 THERE'S A WOMAN BY THE NAME OF DIANE JAFFEE WHO
15 IS HEAD OF ONE OF THE BIG EQUITY DEPARTMENTS AT TCW. EQUITIES
16 BEING STOCKS AS OPPOSED TO BONDS. AND ONE DAY IN THE
17 EXECUTIVE LUNCHROOM HE SAID OUT LOUD IN FRONT OF EVERYBODY,
18 DIANE JAFFEE WAS THERE. HE SAID, WHEN ARE DIANE'S ASSETS
19 GOING TO GO TO ZERO? THERE WAS A TIME WHEN THE STOCK
20 MARKET -- THE EQUITIES WERE GOING DOWN, BUT THIS IS THE WAY HE
21 DEALT WITH PEOPLE. SUPPOSED TO BE A LEADER, BUT KIND OF
22 ATTACKING, UNDERMINING, BELITTLING, OTHER GROUPS IN THE FIRM.

23 HE WOULD GO TO MEETINGS AND HE'D MAKE A SHOW OF
24 DOING CROSSWORD PUZZLES. EVEN AT THE TOP MANAGEMENT
25 COMMITTEES MEETINGS TO SHOW HIS DISDAIN FOR WHAT WAS GOING ON.

26 AND YOU COULDN'T TELL WHETHER HE WAS GOING TO
27 COME TO A MEETING OR NOT, THAT WAS ANOTHER PROBLEM. HE DIDN'T
28 CARRY A CELL PHONE OR A BLACKBERRY, WHICH MIGHT BE A BLESSING,

1 BUT HE WOULDN'T CONFIRM THAT HE WOULD BE THERE OR NOT. IF HE
2 SHOWS UP, HE'S DOING CROSSWORD PUZZLES.

3 AT ONE MEETING, WITH THE MANAGEMENT COMMITTEE,
4 HE BECAME ENRAGED AT THE SUGGESTION THAT ANOTHER EXECUTIVE, A
35:03 5 MR. CHAPUS, WOULD WORK ON A REAL ESTATE PROJECT. THE
6 SUGGESTION THAT SOMEBODY ELSE WOULD WORK ON A REAL ESTATE
7 PROJECT. HE GOT OUT OF HIS CHAIR, RED FACED, AND YOU WILL SEE
8 HE'S KIND OF A BIG -- HE'S A BIG MAN. AND ADVANCED TOWARDS
9 THE EXECUTIVE AND SHOUTED AT HIM THAT HE WAS THE ONLY ONE IN
35:18 10 THE FIRM WHO UNDERSTOOD REAL ESTATE. NOBODY COULD BELIEVE
11 THIS. EVEN THERE WAS A FRENCH GUY BACK IN PARIS WHO WAS ON A
12 VIDEO CONFERENCE. NOBODY COULD BELIEVE THIS KIND OF BEHAVIOR.

13 AGAIN, SOME OF THESE THINGS ARE GOING TO SEEM
14 KIND OF SMALL, BUT I'M TRYING TO GIVE YOU A FLAVOR OF WHAT THE
35:38 15 SITUATION WAS LIKE. HE'D CALL HIMSELF THE POPE. YOU KNOW,
16 SOMEBODY WOULD SAY -- THERE WOULD BE -- A COMPANY WAS TRYING
17 TO GET A NEW INVESTMENT FROM A BIG COMPANY CALLED NOVARTIS AND
18 THEY WANT TO INVEST \$400 MILLION. AND SOMEBODY WOULD ASK HIM,
19 WOULD YOU MEET WITH THEM? AND HE WOULD SAY, THIS SOUNDS LIKE
35:58 20 TOO SMALL A GROUP TO HAVE AN AUDIENCE WITH THE POPE.

21 ANOTHER THING HE WOULD CALL HIMSELF WAS THE
22 GODFATHER. HE ASKED PEOPLE TO CALL HIMSELF THE GODFATHER. HE
23 HATED THE LEADERSHIP OF THE FIRM. HE BELITTLED THEM.

24 PRIOR TO MR. STERN, THE PRESIDENT OF THE FIRM
36:13 25 WAS A MR. SONNEBORN, BILL SONNEBORN. HE WILL TESTIFY HE WAS
26 PRESIDENT UNTIL JULY OF 2008. AND THEN A BOB BEYER, WHO WAS
27 CEO UNTIL MAY OF 2009. SO YOU HAVE SONNEBORN AND BEYER.
28 SONNEBORN PRESIDENT, BEYER, CEO. SONNEBORN LEAVES BEFORE

1 BEYER. MR. GUNDLACH DIDN'T LIKE EITHER ONE OF THEM. YOU WILL
2 SEE E-MAILS. BELITTLED BOTH OF THEM.

3 MR. STERN COMES BACK TO THE COMPANY. HE HAD
4 FIVE YEARS BEFORE BEEN THE NUMBER TWO MAN AT TCW. HE COMES
36:49 5 BACK IN JUNE OF 2009 AND HE IS THE CEO. AND THE CHAIRMAN AND
6 FOUNDER THEN IS A BOB DAY. MR. GUNDLACH DIDN'T LIKE THEM
7 EITHER. BELITTLED THEM CONSTANTLY. CALLED THEM DUMB AND
8 DUMBER.

9 AGAIN, THESE ARE IN MANY RESPECTS SMALL THINGS.
37:10 10 AND HE WAS SO SUCCESSFUL AND HE MADE A LOT OF MONEY FOR TCW.
11 SO, I MEAN, THERE WAS A LOT OF REASON TO OVERLOOK THESE
12 THINGS, BECAUSE OF ALL THE GOOD THINGS, FRANKLY, THAT HE DID.
13 BUT MORE SERIOUSLY, HE BEGAN TO START THREATENING TO TAKE HIS
14 MARBLES AND LEAVE. AND WE'RE TALKING AGAIN ABOUT HALF OF THE
37:32 15 BUSINESS OF THE COMPANY.

16 REMEMBER, HE HAD REFUSED TO SIGN A CONTRACT IN
17 2009. HE SAID HE WANTED TO BE A FREE AGENT. A LOT OF THE
18 PEOPLE, OVER 500 EMPLOYEES, WERE DEPENDENT ON THAT COMPANY.
19 AND THE PAYCHECK THEY GOT FROM THE COMPANY. AND THE COMPANY
37:49 20 TRUSTED MR. GUNDLACH TO LOOK AFTER THE COMPANY AND ITS
21 BUSINESS, BUT THERE STARTED TO BE UNCERTAINTY ABOUT WHETHER
22 MR. GUNDLACH WAS COMMITTED AND WHETHER HE WOULD BE AROUND.

23 ON ONE OCCASION ON THE TRADING FLOOR, HE WAIVED
24 AROUND A FEDERAL EXPRESS ENVELOPE IN FRONT OF OTHER PEOPLE IN
38:07 25 HIS GROUP CLAIMING HE HAD AN OFFER TO JOIN ANOTHER COMPANY,
26 WAMCO. AND WORD ABOUT THIS GOT TO MR. BEYER, THE MAN WHO
27 LEAVES AS PRESIDENT AND CEO IN MAY OF 2009. AND HE CONFRONTED
28 MR. GUNDLACH AND SAID, ARE YOU PLANNING TO LEAVE TO GO TO

1 WAMCO AND HE QUAINLY SAYS, WELL, MAYBE I WILL.

2 AS YOU MIGHT UNDERSTAND, PEOPLE WERE NERVOUS
3 ABOUT WHETHER THIS KEY GUY WAS GOING TO BE AROUND.

4 MR. GUNDLACH'S BEHAVIOR AND THE DIFFICULTY OF MANAGING

38:38

5 MR. GUNDLACH WAS ONE OF THE FACTORS THAT CAUSED MR. BEYER TO
6 RESIGN AS CEO IN MAY OF 2009, AND HIS REPLACEMENT WAS
7 MR. STERN, WHO HAD PREVIOUSLY BEEN THE NUMBER TWO MAN FOR MANY
8 YEARS. AND HE HAD LEFT THE DAY-TO-DAY BUSINESS AT THE FIRM
9 ABOUT FIVE YEARS EARLIER. SO HE COMES BACK WHEN MR. BEYER
10 SUDDENLY RESIGNS. AND MR. BEYER COMES BACK JUNE 1ST, 2009.

39:01

11 NOW, LET ME TELL YOU A LITTLE BIT ABOUT

12 MR. STERN. AT THE TIME MR. STERN WAS 65 YEARS OLD. HE GREW
13 UP ON A VEGETABLE FARM, VERY POOR, IN NEW JERSEY. HE IS A
14 VERY, VERY SUCCESSFUL BUSINESSMAN. AND AT THAT TIME HE WAS
15 QUITE WEALTHY. HE DIDN'T NEED TO BE CEO AT THAT TIME IN HIS

39:26

16 LIFE. HE LOVES HIS FAMILY, KIDS, GRAND KIDS. HE WASN'T
17 LOOKING -- HE DIDN'T NEED THE EGO SATISFACTION TO COME TO TCW
18 AND BE CEO. MR. BEYER TOLD HIM, DON'T DO IT. DON'T TAKE THE
19 JOB. IT'S A HUGE HEADACHE. AND HE TOLD HIM, IF YOU TAKE IT
20 THE TOUGHEST PROBLEM YOU ARE GOING TO HAVE TO DEAL WITH IS

39:52

21 JEFFREY GUNDLACH. BUT MR. STERN TOOK THE JOB OUT OF THE SENSE
22 OF LOYALTY TO THE COMPANY HE HAD WORKED FOR AND HELPED BUILD,
23 AND FOR THE EMPLOYEES THERE, WHOSE LIVELIHOOD DEPENDED ON IT.

24 SO THIS -- WHEN HE CAME BACK IN JUNE OF 2009, HE
25 FACED A PRETTY SERIOUS SITUATION. THIS CHIEF INVESTMENT
26 OFFICER OF AN INVESTMENT MANAGEMENT FIRM, DIRECTOR, PRESIDENT,
27 BOARD MEMBER, WHO MANAGED OVER HALF OF THE ASSETS UNDER
28 MANAGEMENT -- AGAIN, CLIENTS MONEY -- WAS BEING DISRUPTIVE,

40:11

1 ERRATIC, HOSTILE TO OTHER DEPARTMENTS THAT DIDN'T ANSWER
2 DIRECTLY TO HIM. AND THERE THE QUESTION WAS IS HE HERE FROM
3 ONE DAY TO THE NEXT? AND A LOT OF PEOPLE YOU ARE GOING TO
4 HEAR TOLD MR. STERN, MR. GUNDLACH'S GOT TO GO. HE'S A CANCER.
40:47 5 THIS WAS AN ISSUE FROM THE VERY FIRST DAY MR. STERN CAME BACK.
6 IN FACT, EVEN BEFORE, AS HE'S PREPARING TO COME BACK, HE'S
7 GETTING THIS ADVICE.

8 YOU ARE GOING TO SEE SOME NOTES FROM A MEETING
9 THAT MR. STERN PREPARED TO HAVE WITH THE FOUNDER ROBERT DAY,
41:09 10 WHEN HE CAME BACK TO DISCUSS ISSUES AND THINGS THAT HE THOUGHT
11 HE HAD TO ADDRESS. AND ONE OF THEM YOU WILL SEE IN THE NOTES
12 IS PROJECT G. AND YES, THAT'S MR. GUNDLACH, PROJECT G. AND
13 THE QUESTION IS: HOW DO YOU DEAL WITH THIS, WITH THE GUNDLACH
14 PROBLEM, SOMETHING EVERYBODY RECOGNIZED, THE UNCERTAINTY OF
41:27 15 HIS COMMITMENT TO THE BUSINESS; WHETHER HE COULD WORK
16 CONSTRUCTIVELY WITH THE OTHERS; WHETHER HALF THE BUSINESS
17 WOULD WALK OUT THE DOOR OVERNIGHT AND WHAT THAT WOULD MEAN.
18 WOULD HE HAVE FIND A REPLACEMENT OVERNIGHT, SOMEBODY ELSE WHO
19 COULD RUN THIS HIGHLY SPECIALIZED BUSINESS.

41:45 20 AND FROM THE TIME HE CAME BACK, MR. STERN ALSO
21 HAD TO FACE THE POSSIBILITY THAT MR. GUNDLACH MIGHT DO
22 SOMETHING SO OVER THE LINE THEY WOULD HAVE TO FIRE HIM. SO
23 THOSE THINGS WERE ALL ON THE TABLE.

42:00 24 AND YOU ARE GOING TO HEAR THAT IN JUNE, JULY,
25 AUGUST, THAT SUMMER OF 2009 AFTER HE RETURNED ON JUNE 1, HE
26 LOOKED AT EVERY OPTION HE COULD. AND HE CAME UP WITH -- TRIED
27 TO COME UP WITH A CONTINGENCY PLAN ABOUT WHAT HE WOULD DO IF
28 MR. GUNDLACH CARRIED OUT ON HIS THREATS TO LEAVE, OR WHAT HE

1 WOULD DO IF MR. GUNDLACH DID SOMETHING SO OUTRAGEOUS THAT HE
2 HAD TO BE FIRED. HE LOOKED AT SEVERAL DIFFERENT OPTIONS.

3 ONE OPTION WAS, AND BY FAR AND AWAY HIS
4 PREFERRED, OPTION WAS TO BRING MR. GUNDLACH BACK INTO THE
42:30 5 FOLD. BECAUSE NO MATTER HOW YOU RAN THE NUMBERS MR. GUNDLACH
6 WAS EXTREMELY SUCCESSFUL, EXTREMELY PROFITABLE FOR THE FIRM.
7 NO MATTER HOW YOU RAN IT, HAVING MR. GUNDLACH THERE FROM A
8 FINANCIAL POINT OF VIEW, WAS BETTER THAN HAVING HIM GONE. YOU
9 COULDN'T JUSTIFY THIS BY ANY TYPE OF COST SAVINGS. YES, HE
42:54 10 WAS EXPENSIVE. IF YOU GOT RID OF HIM, YOU GOT RID OF HIS
11 SALARY, BUT YOU COULDN'T JUSTIFY THAT ON THAT BASIS. THE MORE
12 MONEY MR. GUNDLACH MADE -- HE MADE A LOT OF MONEY -- THE MORE
13 MONEY TCW MADE. HE WAS THAT SUCCESSFUL.

14 THE PROBLEM WAS MR. STERN TRIED TO REACH OUT TO
43:10 15 MR. GUNDLACH. AND WHENEVER HE REACHED OUT TO HIM HE WAS MET
16 ONLY WITH HOSTILITY. THE DAY THAT IT WAS ANNOUNCED THAT
17 MR. STERN WOULD BE THE NEW CEO, HE'D BE COMING BACK AFTER FIVE
18 YEARS AWAY, HE MET WITH MR. STERN AT MR. DAY'S HOUSE, THE
19 FOUNDER. AND MR. GUNDLACH WAS THERE; OTHER PEOPLE WERE THERE;
43:31 20 MR. STERN WAS THERE. AND MR. STERN OFFERED MR. GUNDLACH, SAID
21 HOW WOULD YOU LIKE TO BE PRESIDENT? I'LL BE CEO. YOU BE
22 PRESIDENT, JEFF. THE ANSWER WAS NO. HE SAID NO. THERE WILL
23 BE NO DISPUTE ABOUT THAT.

24 YOU ARE GOING TO HEAR ABOUT A VERY IMPORTANT
43:49 25 MEETING THAT TAKES PLACE LATER, A FEW MONTHS LATER, ON
26 SEPTEMBER 3RD OF 2009. AND IN THAT MEETING, MR. -- IT'S KIND
27 OF A CONFRONTATIONAL MEETING. AND ONE OF THE IDEAS THAT WAS
28 PUT OUT THERE BY MR. STERN WAS, JEFFREY, WOULD YOU LIKE TO BE

1 CO-CEO WITH ME? MR. GUNDLACH'S RESPONSE, NOT WITH YOU. SO HE
2 DID TRY TO REACH OUT TO HIM. MR. GUNDLACH TOLD MR. STERN THAT
3 HE WOULD NEVER WORK FOR HIM. ON MAY 29TH, THE DAY THAT IT WAS
4 ANNOUNCED THAT MR. STERN WAS COMING AS CEO, MR. GUNDLACH WROTE
44:29 5 AN E-MAIL TO DEFENDANT BARBARA VANEVERY WHERE HE SAID, I TOLD
6 STERN AND DAY THAT I MIGHT POSSIBLY BE ABLE TO WORK WITH
7 THEM -- MIGHT POSSIBLY BE ABLE TO WORK WITH THEM -- BUT I
8 WOULDN'T WORK FOR THEM IN ANY WAY.

9 TOP GUY IN THE FIRM SAYING I'M NOT GOING TO
44:50 10 WORK -- I MIGHT POSSIBLY BE ABLE TO WORK WITH YOU, BUT NO WAY
11 AM I WORKING FOR YOU. YOU WILL SEE THAT E-MAIL.

12 YOU KNOW, MR. BRIAN MADE A STATEMENT YESTERDAY
13 THAT MARK STERN HATED JEFFREY GUNDLACH. NOT TRUE. MARK STERN
14 DID NOT HATE JEFFREY GUNDLACH. YOU WILL SEE THAT WHEN
45:14 15 MR. GUNDLACH INSULTED MR. STERN, MR. STERN TURNED THE OTHER
16 CHEEK. HE TRIED TO MAKE PEACE WITH HIM. HE DIDN'T HAVE EGO
17 IN HIM. AT HIS AGE, WITH OTHER THINGS HE HAD TO DO, WANTED TO
18 DO IN HIS LIFE, HE DIDN'T NEED A BATTLE WITH JEFFREY GUNDLACH.
19 IN FACT, HE TOLD THE OWNERS OF THE FIRM AT ONE POINT, HE SAID,
45:34 20 LOOK, IF JEFFREY NEEDS ME TO BE THE SACRIFICIAL LAMB, I'LL
21 LEAVE. I DON'T NEED THIS. MR. STERN DID NOT HATE
22 MR. GUNDLACH.

23 ANOTHER OPTION THAT MR. STERN CONSIDERED WAS
24 TRYING TO REACH OUT TO MR. -- OTHER MEMBERS OF MR. GUNDLACH'S
45:56 25 TEAM TO TRY TO REESTABLISH RELATIONSHIPS WITH THEM. MR. STERN
26 HAD BEEN AT THE COMPANY BEFORE; HE KNEW SOME OF THESE PEOPLE.
27 THE IDEA IS IF MR. GUNDLACH'S GOING TO LEAVE, IF HE CARRIES
28 THROUGH ON HIS THREATS, IF WE HAVE TO FIRE HIM, MAYBE WE CAN

1 PERSUADE SOME OF THE TOP PEOPLE IN THAT DEPARTMENT TO STAY AND
2 RUN IT SO WE CAN STAY IN THIS MBS BUSINESS. AND WE'D HAVE
3 SOMEBODY EXPERIENCED TO RUN IT.

4 AND IN PARTICULAR HE REACHED OUT TO A MAN NAMED
46:25 5 PHIL BARACH. HE WAS THE NUMBER TWO MAN IN THE DEPARTMENT.
6 NUMBER TWO MAN. AND THIS WAS A MAN THAT MR. STERN HAD HAD A
7 RELATIONSHIP WITH IN THE PAST FROM HIS PREVIOUS TIME AT THE
8 COMPANY. MR. STERN HAD KNOWN MR. BARACH, THE NUMBER TWO MAN,
9 FOR MORE THAN 15 YEARS. AND IN FACT, THERE HAD BEEN AN
46:45 10 EPISODE IN THE PAST WHERE THERE HAD BEEN A CHRISTMAS PARTY;
11 MR. BARACH HAD GOTTEN ILL AT THE PARTY; MR. STERN TOOK
12 MR. BARACH TO THE HOSPITAL; STAYED THERE UNTIL HE WAS OKAY;
13 AFTERWARDS MR. BARACH TOLD HIM, YOU TREATED ME LIKE A BROTHER
14 AND WAS VERY GRATEFUL. SO SHORTLY BEFORE MR. STERN CAME BACK
47:04 15 ALSO ON MAY 29TH, HE CALLED MR. BARACH AND HE TOLD MR. BARACH
16 THAT HE'S VALUABLE. HE LOOKED FORWARD TO WORKING WITH HIM
17 AGAIN. AND INVITED HIM TO LUNCH, WHAT YOU'D EXPECT A CEO TO
18 DO, SOMEBODY WHO'S COMING BACK.

19 WHEN MR. GUNDLACH FOUND OUT ABOUT THAT CONTACT
47:28 20 WITH HIS NUMBER TWO MAN, HE DECLARED, THE WAR IS ON.
21 MR. GUNDLACH'S WORDS. THE EXACT WORDS HE USED IN AN E-MAIL TO
22 ANOTHER TCW INVESTMENT MANAGER WHERE, MORE IMPORTANTLY, STERN
23 AND DAY SPENT THE DAY, THE LATE AFTERNOON CALLING MY B TEAM TO
24 TRY TO SWEET TALK THEM. THEY HAVE WRITTEN US OFF AT LEAST IN
47:50 25 AN EXPLORATORY WAY. THEY ARE NOW TRYING TO MOUNT A
26 COUNTEROFFENSIVE. THE WAR IS ON. THAT'S EXHIBIT 188. HE
27 WROTE THAT ON MAY 29TH, 2009.

28 MR. STERN IS COMING BACK ON JUNE 1. THIS IS THE

1 DAY BEFORE. HE'S NOT EVEN BACK, AND ACCORDING TO MR. GUNDLACH
2 THE WAR IS ON, HE'S WRITING BEHIND HIS BACK. THE NOTE THAT HE
3 SAYS, THEY ARE MOUNTING A COUNTEROFFENSIVE. WHAT'S THE
4 OFFENSIVE? TCW'S MOUNTING A COUNTEROFFENSIVE. BUT THINK
48:22 5 ABOUT THIS. NEW CEO COMING BACK DAY BEFORE, REACHES OUT TO A
6 MAN HE'S HAD A RELATIONSHIP WITH, HE'S KNOWN FOR 15 YEARS, AND
7 MR. GUNDLACH'S RESPONSE IS, THIS IS WAR.

8 ANOTHER OPTION THAT PROJECT G -- ANOTHER OPTION
9 THAT MR. STERN LOOKED INTO, WAS WHETHER THEY COULD BRING
48:45 10 SOMEBODY IN FROM OUTSIDE WHO DOES THIS SPECIALIZED KIND OF
11 MORTGAGE-BACKED SECURITY, WHO MIGHT BE THERE IN CASE MR. STERN
12 LEFT -- TO SHORE UP THE MANAGEMENT THERE BECAUSE OF THE
13 UNCERTAINTY OF THE SITUATION. SO HE COLLECTED INFORMATION
14 ABOUT OTHER PORTFOLIO MANAGERS IN THE AREA WHO WORKED WITH
49:04 15 THESE TYPES OF INVESTMENTS. AND ONE WAS A MAN BY THE NAME OF
16 TAD RIVELLE, WHO WORKED FOR A LOCAL COMPANY CALLED METWEST.
17 AND YOU ARE GOING TO HEAR A LOT ABOUT METWEST. BUT -- IT'S
18 ANOTHER LOS ANGELES COMPANY. THEY ALSO WORK IN
19 MORTGAGE-BACKED SECURITIES. THEY HAD A GREAT RECORD. THERE'S
49:21 20 AN INDUSTRY PUBLICATION CALLED *MORNING STAR* THAT HAS GIVEN
21 THEM AN AWARD FOR FIXED INCOME MANAGER OF THE YEAR. THEY HAD
22 BEEN NOMINATED FOR THAT FOR FOUR DIFFERENT TIMES, AND THEY
23 ACTUALLY WON IT IN JANUARY OF 2006. SO MR. STERN HAD PEOPLE
24 RESEARCH WHO ELSE IS OUT THERE, HAD A LIST OF NAMES, ONE NAME
49:39 25 WAS MR. RIVELLE. THERE'S ALL COLLECTING INFORMATION. WHAT
26 IF, POTENTIAL CONTINGENCY PLANS.

27 AND PRIOR TO SEPTEMBER 3, THAT'S AN IMPORTANT
28 MEETING I'M GOING TO TELL YOU ABOUT, DIDN'T MEET WITH

1 MR. RIVELLE. NO ACTION TAKEN. IT WAS ALL IN THE NATURE OF
2 COLLECTING INFORMATION.

3 AGAIN, THERE WERE MANY PEOPLE WHO THOUGHT THAT
4 MR. GUNDLACH SHOULD BE REPLACED FROM THE VERY BEGINNING; THAT
50:06 5 HE WAS DESTABILIZING. THAT HE DIDN'T HAVE THE FIRM'S
6 INTERESTS AT HEART. THEY TOLD MR. STERN, YOU'VE GOT TO BITE
7 THE BULLET. IT'S GOING TO BE LIKE CUTTING OFF YOUR ARM. IT'S
8 GOING TO COST MONEY, BUT HE'S DESTRUCTIVE.

9 ONE MAN THAT'S A MAN -- HE WILL BE A WITNESS IN
50:24 10 THIS CASE BY THE NAME OF GARY SHEDLIN. TCW HIRED CONSULTANTS
11 TO TRY TO GIVE THEM SOME ADVICE ON A STRATEGIC DIRECTION FOR
12 THE COMPANY. AND ONE OF THEM WAS A MR. SHEDLIN, WHO MET WITH
13 MR. GUNDLACH ON JULY 17TH, 2009. AND YOU WILL HEAR FROM
14 MR. SHEDLIN IN THIS TRIAL. IN THAT MEETING, MR. GUNDLACH TOLD
50:47 15 MR. SHEDLIN THAT THE COMPANY SHOULD SIMPLY ELIMINATE THE OTHER
16 DEPARTMENTS AND FOCUS ALL ITS RESOURCES ON HIS DEPARTMENT. HE
17 SAID HE SHOULD BE THE CEO AND SHOULD ANSWER TO NO ONE. AND HE
18 SAID THAT IF TCW'S SHAREHOLDERS TRIED TO SELL ANY OF ITS
19 SHARES, HE WOULD BLOCK THE SALE BY TELLING INVESTORS THAT HE,
51:09 20 JEFFREY GUNDLACH, WOULD LEAVE THE COMPANY AND WOULD DESTROY
21 THE VALUE OF THE COMPANY IN THE PROCESS.

22 AS YOU MIGHT IMAGINE IT'S KIND OF A SURPRISING
23 THING FOR THIS CONSULTANT, MR. SHEDLIN, TO HEAR FROM SUCH A
24 TOP GUY IN THE COMPANY. MR. SHEDLIN WAS CONVINCED THAT
51:26 25 MR. GUNDLACH HAD BECOME A CANCER, AND THE ONLY WAY THE COMPANY
26 WAS GOING TO SURVIVE WAS IF THEY GOT RID OF HIM. AND HE TOLD
27 THAT TO MR. STERN AND HE BEGAN PUSHING, ALONG WITH OTHERS, FOR
28 MR. GUNDLACH'S TERMINATION.

1 WE'RE GOING TO SHOW YOU, FOR EXAMPLE, WE WILL
2 SHOW YOU, SOME NOTES THAT A MAN BY THE NAME OF MICHAEL CONN,
3 C-O-N-N, TOOK AT A MEETING AT THE END OF AUGUST. I THINK
4 AUGUST 27TH, WHERE THE TERMINATION OF MR. GUNDLACH WAS
51:55 5 DISCUSSED, THE POTENTIAL TERMINATION. SOMEONE EVEN SUGGESTED
6 LANGUAGE FOR A PRESS RELEASE. AND THIS IS EXHIBIT 5224. BUT
7 MR. STERN RESISTED. HE RESISTED. HE THOUGHT MR. GUNDLACH WAS
8 TOO IMPORTANT. HE WAS ALWAYS HOPEFUL HE COULD WORK SOMETHING
9 OUT; THOUGHT IT WOULD BE SIMPLY TOO COSTLY FOR THE FIRM.

52:16 10 IN THE MEANTIME THAT SUMMER, MR. GUNDLACH
11 CONTINUED TO PURSUE HIS OWN AGENDA OUTSIDE, WE NOW KNOW, WE
12 DIDN'T KNOW AT THE TIME. HE SAT DOWN WITH -- HE HAD SECRETLY
13 STARTED NEGOTIATING WITH THIS OTHER COMPANY, WAMCO IN
14 FEBRUARY, THAT'S MONTHS BEFORE MR. STERN EVEN COMES BACK ON
52:36 15 JUNE 1. AND THERE WAS TALK OF THIS AMONG HIS CIRCLE, HIS
16 GROUP ON THE TRADING FLOOR.

17 IN JULY, A MONTH AFTER MR. STERN STARTED,
18 MR. GUNDLACH SECRETLY TOLD WAMCO HE WANTED TO HAVE A DEAL TO
19 LEAVE TCW AND JOIN WAMCO WITHIN IN TWO WEEKS. YOU WILL SEE AN
52:55 20 E-MAIL REFLECTING THAT; THAT'S EXHIBIT 223, ALL THE GROUP, ALL
21 THE FEES, THE ENTIRE BUSINESS. AND IN HIS NEGOTIATIONS WITH
22 WAMCO, THEY USED CODE WORDS. ART WORK WAS MR. GUNDLACH;
23 GALLERY WAS HIS TEAM WHO WOULD COME WITH. AND THEY MODELED
24 THE BUSINESS THAT THEY WOULD CONVERT FROM TCW, CONVERT. THE
53:18 25 MODEL WAS, I THINK THEY SHOWED A MINIMUM OF \$175 MILLION WOULD
26 COME IN THE FIRST YEAR OR SOMETHING LIKE THAT. BUT IT TURNED
27 OUT THAT MR. GUNDLACH COULD NOT NEGOTIATE A DEAL THAT WAS
28 SATISFACTORY TO HIM WITH WAMCO. SO MR. GUNDLACH THEN PURSUED

1 ANOTHER OPTION.

2 WHILE HE WAS STILL A DIRECTOR, WHILE HE WAS A
3 SENIOR CORPORATE OFFICER AND LEADER HE DECIDED TO TAKE THAT
4 ENTIRE BUSINESS TCW HAD BUILT OVER THE YEARS, AND TAKE IT TO
53:54 5 HIS OWN COMPANY WHICH HE HAD THEN PERCEIVED TO ORGANIZE. AND
6 THAT HE WOULD DO IT WHILE BEING PAID \$20,000 PER HOUR.

7 YOUR HONOR, MAY WE TAKE A SHORT BREAK?

8 THE COURT: YES. WHY DON'T WE -- WE'LL TAKE AN EARLY
9 MORNING BREAK SINCE WE'RE WITH THE OPENING STATEMENTS. LET'S
54:13 10 TAKE 20 MINUTES. WE'LL COME BACK AT 10:15.

11 LADIES AND GENTLEMEN OF THE JURY, YOU MAY GO
12 OUT. THERE ARE A LOT OF PEOPLE HERE TODAY AND THE HALLS WILL
13 BE CROWDED. IF YOU WOULD LIKE TO USE THE JURY ROOM, YOU MAY
14 COME INTO THE JURY ROOM AND TAKE YOUR BREAK. THERE ARE
54:37 15 FACILITIES THERE, SO YOU HAVE YOUR OPTIONS, WHATEVER YOU
16 CHOOSE. IF YOU WANT TO GO DOWNSTAIRS AND GET SOMETHING,
17 THAT'S FINE, BUT IF YOU WANT TO COME RIGHT AROUND HERE
18 MR. SABALBURO WILL SHOW YOU.

54:50 19
20 (THE CLERK AND THE COURT
21 CONFERRED SOTTO VOCE.)

22
23 THE COURT: OR THE CONFERENCE ROOM I UNDERSTAND IS SET
24 UP ACROSS THE HALL FOR YOU.

25
26 (AT 9:55 A.M. THE JURY EXITED THE COURTROOM.)

27

28 (RECESS TAKEN.)

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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

DEPARTMENT 322

HON. CARL J. WEST, JUDGE

TRUST COMPANY OF THE WEST)

PLAINTIFFS,)

VS.)

NO. BC 429385)

JEFFREY GUNDLACH ET AL,)

DEFENDANTS.)

REPORTER'S DAILY TRANSCRIPT OF PROCEEDINGS
JULY 28, 2011; 10:35 - 12:15

APPEARANCES:

FOR PLAINTIFF:

QUINN EMANUEL URQUHART & SULLIVAN
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27 LOS ANGELES, CALIFORNIA 90005
213.351.8610

1 CASE NUMBER: BC 429385
2 CASE NAME: TCW VS. GUNDLACH
3 LOS ANGELES, CALIFORNIA JULY 28, 2011
4 DEPARTMENT 322 HON. CARL J. WEST, JUDGE
5 APPEARANCES: (AS NOTED ON TITLE PAGE.)
6 REPORTER: RAQUEL A. RODRIGUEZ, CSR
7 TIME: 10:15 A.M.

8

9 --O--

10:18:58 10

11 THE COURT: ALL RIGHT. IN THE TCW VERSUS
12 GUNDLACH MATTER, WE'RE BACK IN SESSION.

13 ALL MEMBERS OF OUR JURY ARE PRESENT, AS
14 ARE ALL COUNSEL.

10:19:05 15

MR. QUINN, YOU MAY CONTINUE.

16

17 PLAINTIFF OPENING STATEMENT +

18

19 MR. QUINN: THANK YOU, YOUR HONOR.

10:19:11 20

21 NOW WE COME TO THAT SEPTEMBER 3 MEETING
I TOLD YOU ABOUT.

22

23 THE MEETING ON SEPTEMBER 3, 2009,
MATTERS REALLY CAME TO A HEAD.

24

25 MR. STERN WAS OUT OF TOWN. HE WAS ON
VACATION IN COLORADO.

10:19:25 26

27

28 AND MR. GUNDLACH CALLED HIM AND SAID,
I'D LIKE TO HAVE A MEETING.

29

AND THIS NEVER HAPPENED BEFORE.

1 MR. GUNDLACH HAD NEVER REACHED THAT TO MR. STERN.

2 AND MR. STERN SAID, SURE. AND THEY MADE
3 AN APPOINTMENT ON SEPTEMBER 3 TO GET TOGETHER. AND,
4 ACTUALLY, MR. STERN CAME BACK EARLY IN ORDER TO HAVE
10:19:51 5 THIS MEETING.

6 AND AT THE APPOINTED TIME, AN HOUR ON
7 SEPTEMBER 3, MR. STERN'S AT HIS DESK, AND THE PHONE
8 RINGS AND IT'S MR. GUNDLACH. AND HE SAYS, WOULD YOU
9 MIND COMING DOWN TO MY OFFICE? HE'S ON A DIFFERENT
10:20:01 10 FLOOR. COME ON DOWN TO MY CONFERENCE ROOM.

11 MR. STERN SAID, SURE. HE DID.

12 AND WENT DOWN TO MR. GUNDLACH'S
13 CONFERENCE ROOM AND WALKED IN. AND THERE, TO HIS
14 SURPRISE, WAS MR. GUNDLACH AND SIX TOP PEOPLE IN HIS
10:20:18 15 DEPARTMENT, ALL AROUND THE TABLE, CONFRONTING
16 MR. STERN.

17 AND MR. GUNDLACH SAID HE HAD HEARD A
18 RUMOR THAT HE WAS GOING TO BE FIRED. ACTUALLY, THAT
19 THE CEO OF SOCIÉTÉ GÉNÉRALE WAS COMING ALL THE WAY FROM
10:20:37 20 PARIS TO FIRE HIM.

21 AND HE TOLD MR. STERN, YOU KNOW, IF I'M
22 FIRED, WE'RE ALL LEAVING TOGETHER. AND HE TURNED TO
23 THE OTHER PEOPLE IN THE ROOM, ALL OF WHOM HE
24 SUPERVISED, TOP PEOPLE IN THE DEPARTMENT, HE SAYS, IF
10:20:53 25 I'M FIRED, OR IF I GO, HOW MANY OF YOU WILL GO WITH ME?

26 THEY ALL RAISE THEIR HANDS. THIS IS
27 WHILE, HE'S A DIRECTOR. HE'S SUPPOSED TO BE A TOP
28 LEADER OF THE COMPANY. HE WANTED TO SEND A MESSAGE TO

1 MR. STERN.

2 THERE WILL BE EVIDENCE THAT THEY HAD MET
3 BEFORE. AND THEY PLOTTED THIS ABOUT THE MESSAGE THEY
4 WANTED TO SEND TO MR. STERN.

10:21:19 5 EVEN THEN, THEY HAD A DIALOGUE:
6 MR. STERN, WHAT ARE YOUR ISSUES? HOW CAN WE ADDRESS
7 THEM? MR. GUNDLACH SAID, YOU KNOW, THERE NEED TO BE
8 CHANGES HERE.

9 THAT'S WHEN MR. STERN SAID, WELL, WOULD
10:21:34 10 YOU LIKE TO BE CO-CEO WITH ME?

11 AND MR. GUNDLACH SAID, NOT WITH YOU.

12 THEY TALKED ABOUT SOME GOVERNESS
13 CHANGES. THERE'S A MANAGEMENT COMMITTEE AT TCW. AND
14 THE IDEA WAS COULD THEY HAVE MORE REPRESENTATIVES IN
10:21:50 15 MR. GUNDLACH'S GROUP SIT ON THIS MANAGEMENT COMMITMENT.

16 AND MR. STERN SAID, YES, THAT'S
17 SOMETHING WE CAN TALK ABOUT.

18 THEY SET UP ANOTHER MEETING WHERE THEY
19 WERE SUPPOSED TO PURSUE THESE ADDITIONAL IDEAS.

10:22:02 20 AND AFTER THAT MEETING, AFTER THAT
21 SEPTEMBER 3 MEETING, THAT VERY DAY, MR. GUNDLACH WENT
22 UP TO MR. STERN'S OFFICE, AND SAID TO HIM, MY GUYS
23 THINK I WAS A LITTLE ROUGH ON YOU. AND SHOOK HIS HAND
24 AND SAID, THAT WAS A GOOD MEETING. I THINK IT WAS
10:22:22 25 PRODUCTIVE. I THINK WE CAN WORK THINGS OUT.

26 AND WE WILL SHOW YOU, WE WILL PROVE TO
27 YOU, LADIES AND GENTLEMEN, THAT HE WAS JUST TRYING AT
28 THAT POINT TO BUY TIME. THAT HE HAD ALREADY SET HIS

1 PLAN IN MOTION. AND HE WAS TRYING TO LULL MR. STERN
2 INTO THINKING THAT EVERYTHING WAS FINE. NOTHING WAS
3 UP. AND THERE WAS NO REASON FOR MR. STERN TO BE
4 SUSPICIOUS.

10:22:47 5 WE WILL SHOW YOU AN E-MAIL EXCHANGE
6 BETWEEN MR. GUNDLACH AND THAT NO. 2 IN HIS DEPARTMENT,
7 MR. BARACH, JUST TWO WEEKS LATER, MR. BARACH HAD SPOKEN
8 THAT DAY, SEPTEMBER 16TH, WITH A REPRESENTATIVE OF
9 SOCIÉTÉ GÉNÉRALE, A MAN NAMED JACQUES RIPOLL.

10:23:09 10 IN THAT MEETING BETWEEN MR. BARACH AND
11 MR. RIPOLL, MR. RIPOLL SAID NICE THINGS ABOUT
12 MR. BARACH, AND MR. STERN CAME INTO THE MEETING AND HAD
13 SHAKEN MR. BARACH'S HAND.

14 AND WE WILL SHOW YOU THE E-MAIL WHERE
10:23:23 15 AFTER THAT MR. BARACH REPORTED TO MR. GUNDLACH THAT HE
16 HAD HAD THIS MEETING, AND MR. STERN HAD SHAKEN HIS HAND
17 AND THAT THEY HAD SAID NICE THINGS TO HIM.

18 AND MR. GUNDLACH RESPONDED IN THAT
19 E-MAIL -- THIS IS EXHIBIT 296: PITIFUL, THE WHOLE
10:23:40 20 THING IS JUST PITIFUL. YOU DESERVE BETTER. I DESERVE
21 BETTER. WE DESERVE BETTER. IT'S REALLY AN EASY
22 DECISION NOW.

23 AND MR. BARACH RESPONDED: I AGREE. BUT
24 AT LEAST NOW WE HAVE THE LUXURY OF TIME TO PLAN AND
10:23:59 25 PREPARE.

26 NOW, THERE'S SOMETHING CALLED A
27 DEPOSITION THAT, IT'S PROBABLY THE DISCOVERY PROCESS
28 WHERE YOU EXCHANGE INFORMATION BEFORE YOU COME TO

1 TRIAL. WE'RE ABLE TO HAVE WITNESSES COME IN AND
2 PARTIES COME IN. THEY TAKE AN OATH TO TELL THE TRUTH.
3 IT'S THE SAME OATH THEY TAKE ON THE WITNESS STAND HERE.

4 THAT'S ALL TAKEN DOWN BY A COURT
10:24:21 5 REPORTER. AND OFTEN IN THIS CASE, I THINK ALL OF THEM,
6 DEPOSITIONS WERE ALSO VIDEOTAPED. SO WE'LL BE ABLE TO
7 SHOW YOU VIDEOTAPE. THAT'S ALL DONE. WE DO THAT SO WE
8 CAN SHOW IT TO YOU.

9 AND THE WITNESSES KNOW IT'S TO BE SHOWN
10:24:32 10 TO YOU, TO THE JURY, WHO'S ULTIMATELY GOING TO SIT IN
11 THIS CASE.

12 AND MR. GUNDLACH'S AT HIS DEPOSITION. I
13 PRESENTED HIM WITH THAT E-MAIL, WHERE THEY SAID: IT'S
14 AN EASY DECISION. NOW AT LEAST WE HAVE THE TIME AND
10:24:46 15 LUXURY TO PLAN AND PREPARE.

16 YOU WILL SEE THIS TESTIMONY. I ASKED
17 MR. GUNDLACH, PLAN AND PREPARE FOR WHAT? WHAT'S AN
18 EASY DECISION? WHAT WERE YOU TALKING ABOUT?

19 HIS RESPONSE WAS, I DON'T REMEMBER.

10:24:58 20 YOU'LL HAVE A CHANCE, IT WILL BE YOUR
21 JOB TO DECIDE THE CREDIBILITY OF THE TESTIMONY. BUT IT
22 IS CLEAR -- IT WILL BE CLEAR FROM ALL THE EVIDENCE AND
23 WHAT WE'VE BEEN ABLE TO LEARN IN DISCOVERY BECAUSE WE
24 KNOW SO MUCH MORE NOW THAN BACK THEN.

10:25:13 25 WE DIDN'T KNOW IN THE SUMMER OF 2009
26 ABOUT MR. GUNDLACH'S NEGOTIATIONS THAT SUMMER WITH
27 WAMCO. AND THERE ARE RUMORS ABOUT IT IN THE SPRING
28 BEFORE AND BACK EARLIER. THAT SUMMER WE DIDN'T KNOW

1 ABOUT THE CODE WORDS, ART GALLERY OR ARTWORK AND ART
2 GALLERY, CONVERTING. 175 MILLION.

3 SO WE'LL BE ABLE NOW TO SHOW YOU, AND IT
4 WILL BE CLEAR. IT IS CLEAR FROM THE RECORD WHAT IT WAS
10:25:39 5 THEY WERE TALKING ABOUT. WHAT WAS THE EASY DECISION,
6 AND WHAT THEY NOW HAD THE TIME TO PLAN AND PREPARE.
7 AND THAT WAS TO SET UP FROM WITHIN TCW, USING UNWITTING
8 TCW EMPLOYEES, WHO DIDN'T KNOW THEY WERE BEING USED, TO
9 SET UP A BUSINESS THAT HAD ITS OBJECT TO OPEN OVERNIGHT
10:26:01 10 AND PUT TCW IN A POSITION WHERE IT WOULD NOT BE ABLE TO
11 COMPETE.

12 THERE WOULD BE NOBODY THERE WHO COULD DO
13 THIS KIND OF WORK. THE THEFTS OF INFORMATION BEGAN
14 THAT DAY. SEPTEMBER 3, MR. GUNDLACH, ON THAT DAY, TOLD
10:26:16 15 MR. SANTA ANA TO STEAL EVERY BIT OF INFORMATION THAT
16 THEY WOULD NEED TO SET UP A FIRM TO PUT TCW OUT OF
17 BUSINESS.

18 OVER THE COURSE OF THE NEXT THREE
19 MONTHS, FROM SEPTEMBER 3 FORWARD, TO DECEMBER 4, WHEN
10:26:30 20 THEY WERE CONFRONTED ABOUT WHAT THEY'D BEEN DOING,
21 WORKING TOGETHER, DURING THOSE THREE MONTHS, WORKING
22 WITH OTHER DEFENDANTS AND OTHER TCW EMPLOYEES, THAT'S
23 EXACTLY WHAT MR. SANTA ANA DID. HE FOLLOWED
24 MR. GUNDLACH'S INSTRUCTIONS.

10:26:43 25 HE IMMEDIATELY, ON SEPTEMBER 3, HAD HIS
26 SUBORDINATES BEGIN TO COLLECT AND COPY TCW'S
27 INFORMATION AND TO PREPARE FOR THIS SECRET WAR ON THE
28 COMPANY THEY WERE THEN WORKING FOR. AND BEING PAID

1 FOR.

2 THE CASE OF MR. GUNDLACH, STILL, \$20,000
3 AN HOUR, THEY COLLECTED CLIENT LISTS. THEY BEGAN
4 COLLECTING -- COPYING AND COLLECTING DOZENS OF VOLUMES
10:27:10 5 OF TRADE TICKETS. LET ME TELL YOU WHAT TRADE TICKETS
6 ARE AND WHY THEY'RE IMPORTANT.

7 TRADE TICKETS ARE A RECORD OF EVERY
8 SINGLE TRANSACTION IN THAT FIXED INCOME GROUP, PURCHASE
9 AND SALE. ALL THE TRANSACTIONS OF THESE SECURITIES
10:27:25 10 OVER A PERIOD OF MANY YEARS.

11 AND THE TESTIMONY WAS, WE KNEW THAT
12 MR. GUNDLACH HAD HAD THESE ALL COPIED AND HAD TAKEN
13 THEM OUT OF THE OFFICE AND TAKEN THEM TO A SPECIAL
14 OFFICE THAT TCW HAD GOTTEN FOR HIM ON THE WEST SIDE OF
10:27:42 15 LOS ANGELES.

16 SOMETIMES -- HE LIVES OUT IN THE WEST
17 SIDE. HE DOESN'T LIKE DRIVING ALL THE WAY DOWNTOWN.
18 HE SAID HE'D LIKE TO HAVE AN OFFICE ON THE WEST SIDE,
19 AND TCW LEASED SPACE THERE. HE TOOK DOZENS OF VOLUMES
10:27:54 20 OF THE TRADE TICKETS. HE'D PUT THEM UNDER HIS ARM AND
21 TAKE THEM OUT, HIM PERSONALLY, TWO AT A TIME. DAY
22 AFTER DAY.

23 I ASKED HIM AT DEPOSITION:
24 MR. GUNDLACH, WHY WERE YOU TAKING THESE TRADE TICKETS?
10:28:08 25 WHY WERE YOU TAKING THESE RECORDS?

26 HE ADMITTED HE DID IT. AND HE SAID:
27 WELL, I KIND OF LIKE LOOKING OVER THE OLD TRADES. IT
28 GAVE ME A GOOD FEELING. IT GAVE ME KIND OF -- A WEIRD

1 EMOTIONAL SATISFACTION TO LOOK AT THEM.

2 WELL, DON'T THINK THAT REALLY HOLDS
3 WATER. LET ME TELL YOU WHAT'S MORE IMPORTANT HERE. IF
4 YOU'RE SETTING UP A NEW FIRM, THERE'S ACTUALLY RULES ON
10:28:35 5 WHETHER YOU CAN USE YOUR HISTORICAL TRACK RECORD.

6 YOU'VE SEEN PEOPLE QUOTE OUR TRACK
7 RECORD IS OVER THE LAST TEN YEARS OR FIVE YEARS, WE
8 RETURN 13 PERCENT. 10 PERCENT. 9 PERCENT.

9 THAT'S OUR TRACK RECORD. IT'S IMPORTANT
10:28:47 10 TO INVESTMENT ADVISORS TO BE ABLE TO TELL PEOPLE WHAT
11 THEIR TRACK RECORD WAS. AND THERE ARE RULES ON WHEN
12 YOU CAN USE YOUR TRACK RECORD AT A FORMER JOB.

13 AND THOSE RULES INCLUDE THAT YOU MUST
14 HAVE THE UNDERLYING DATA. YOU MUST ACTUALLY HAVE THOSE
10:29:05 15 TRADE TICKETS, THE TRADE RECORDS, IN ORDER TO BE ABLE
16 TO TELL THE PUBLIC AND TO ADVERTISE THAT TRACK RECORD.

17 DO YOU UNDERSTAND WHAT I'M SAYING? WHAT
18 THEY HAD DONE AT TCW?

19 THEY WOULDN'T ADMIT TO IT, THAT THAT IS
10:29:20 20 CLEARLY WHY THEY WERE TAKING THOSE OUT. AND WHY
21 MR. GUNDLACH PERSONALLY TOOK THEM OUT TWO AT A TIME
22 UNDER HIS ARM.

23 THIS IS IN SEPTEMBER, EARLY ON, SO THEY
24 ALSO STARTED COLLECTING CLIENT CONTRACTS. THEY CAME UP
10:29:33 25 WITH A LIST OF THE CRITICAL PEOPLE, WHO THEY THOUGHT
26 WERE CRITICAL TO THEIR OPERATION.

27 BY THE DAY -- BY DECEMBER 4, WHEN
28 MR. SANTA ANA WAS PUT ON, MR. SANTA ANA'S SITTING OVER

1 HERE, WHEN HE WAS CONFRONTED AND PUT ON ADMINISTRATIVE
2 LEAVE AND ULTIMATELY TERMINATED. THE COMPUTER RECORDS
3 SHOW HE HAD DOWNLOADED TRADE SECRET TCW INFORMATION ON
4 37 SEPARATE DAYS. EACH OF THESE DEFENDANTS PLAYED A
10:30:06 5 PART IN THAT THEFT.

6 ON SEPTEMBER 4, MS. VAN EVERY TOLD
7 MR. GUNDLACH IN AN E-MAIL SHE OBTAINED A LIST OF ALL
8 TCW'S INVESTORS.

9 THREE DAYS LATER, ON SEPTEMBER 7,
10:30:18 10 MR. SANTA ANA COPIED VIRTUALLY ALL THE THOUSANDS OF
11 CLIENT AND PROSPECT CONTACTS TCW HAD ACCUMULATED OVER
12 THE COURSE OF DECADES ONTO AN EXTERNAL COMPUTER DRIVE.
13 SOMETHING THAT HE COULD TAKE. TAKE OUT OF THE
14 BUILDING.

10:30:34 15 THIS DATA INCLUDES THOSE RECORDS OF
16 THOUSANDS OF CLIENTS AND PROSPECTS FOR WHOM
17 MR. SANTA ANA, MR. GUNDLACH, AND THEIR GROUP HAD NEVER
18 EVEN WORKED.

19 DEFENDANT JEFFREY MAYBERRY AND A
10:30:51 20 FORMER -- AND OTHER FORMER TCW EMPLOYEES, INCLUDING
21 JIRAINDIRA PURUSHOTHAMAN, PRACTICE THAT. INDIAN NAME.
22 THEY CALL HIM JP, SO I'LL CALL HIM JP.

23 ANOTHER INDIVIDUAL BY THE NAME
24 CASEY MOORE, WHO WAS IN THE GROUP, COMPUTER PROGRAMMER.
10:31:07 25 YOU'LL HEAR ABOUT HE ALSO WENT TO DOUBLELINE. THEY
26 ADMITTED UNDER OATH THEY KNEW THE INFORMATION THEY WERE
27 TAKING WAS NONPUBLIC AND CONFIDENTIAL.

28 YOU'LL HEAR THAT TESTIMONY. BOTH

1 MR. SANTA ANA AND MR. MAYBERRY CONTINUED DOWNLOADING
2 TRADE SECRET INFORMATION THROUGH THEIR VERY LAST DAY AT
3 TCW, DECEMBER 4. GET THIS: THE LIST OF FILES THAT
4 MR. MAYBERRY DOWNLOADED TO A FLASH DRIVE -- YOU KNOW,
10:31:34 5 THAT'S ONE OF THOSE LITTLE PORTABLE DRIVES THAT YOU SEE
6 PEOPLE USE THAT FITS IN A POCKET, EASIER TO HIDE.

7 THE LIST OF FILES COMPUTER FILES THAT HE
8 DOWNLOADED ON HIS LAST DAY ALONE IS 38 SINGLE-SPACE, 38
9 SINGLE-SPACE PAGES WHEN YOU PRINT IT OUT. THE LIST
10:31:54 10 CONSISTS OF 1,900 SEPARATE COMPUTER FILES.

11 THE DEFENDANTS ALSO HIRED, AS I SAID,
12 TWO OF THE MORTGAGE BACKS SECURITIES GROUP PROGRAMMERS
13 AWAY FROM TCW, CASEY MOORE AND FAN ZHANG. THEY
14 DOWNLOADED ALL THE SOFTWARE THEY WERE WORKING ON AT
10:32:15 15 TCW, FOR THESE ANALYTICS THAT I TALKED ABOUT, AND TOOK
16 THEM TO DOUBLELINE.

17 IN SHORT, THE DEFENDANTS, ALL THE
18 INDIVIDUAL DEFENDANTS, DID EXACTLY WHAT MR. GUNDLACH
19 TOLD THEM TO DO. THEY TOOK EVERY PIECE OF PROPRIETARY
10:32:34 20 AND CONFIDENTIAL INFORMATION THAT THEY NEEDED TO SET UP
21 A RIVAL COMPUTER, INCLUDING ALL THAT PRIVATE CLIENT
22 DATA.

23 MS. VANEVERY TOOK CHARGE OF OBTAINING
24 THE OFFICE SPACE FOR THEIR NEW COMPANY, NEGOTIATING A
10:32:48 25 LEASE, SETTING UP THE OFFICE. AND SHE USED A TCW FORM
26 SHE GOT FROM THE LEGAL DEPARTMENT TO DRAFT A
27 CONFIDENTIALITY AGREEMENT BETWEEN THEM AND THE
28 COMMERCIAL REAL ESTATE BROKER, WHICH THEY USE A FIRM

1 CALLED STUDLEY IN ORDER TO KEEP THEIR DISCUSSIONS
2 SECRET.

3 THEY RETAINED ARCHITECTS. THEY RETAINED
4 PROJECT MANAGERS. THEY GOT A TAX I.D. NUMBER. ALL THE
10:33:12 5 THINGS THAT YOU WOULD NEED TO DO IN ORDER TO START A
6 COMPETING FIRM.

7 YOU'RE EVEN GOING TO SEE E-MAILS TALKING
8 ABOUT WHERE THEY'RE GOING TO HANG THE ART IN THE SPACE,
9 IN PARTICULAR, A DONALD JUDD SCULPTURE. YOU'LL SEE
10:33:25 10 THAT.

11 THEY WERE DISRUPTED. WE CAUGHT THEM AND
12 CONFRONTED THEM BEFORE THEY ACTUALLY SIGNED A LEASE.
13 BUT THERE'S NO QUESTION THEY HAD IDENTIFIED THE SPACE
14 AND THEY WERE PLANNING OUT THAT SPACE.

10:33:36 15 YOU WILL HEAR IN LATE SEPTEMBER OR EARLY
16 OCTOBER, ACCORDING TO GREG WARD, ANOTHER PERSON AT THE
17 TIME WAS PART OF THIS, MR. GUNDLACH TOOK MR. WARD INTO
18 A CONFERENCE ROOM AND SAID: THIS CONVERSATION DOESN'T
19 LEAVE THIS ROOM. HE SAID: WE NEED TO GET REGISTERED.

10:33:56 20 THIS KIND OF BUSINESS, YOU'RE
21 REGISTERED. IT'S A HIGHLY REGULATED BUSINESS.

22 ON OCTOBER 23, MR. GUNDLACH HIRED A
23 MAJOR NEW YORK CITY LAW FIRM, CALLED WALDER,
24 WICKERSHAM & TAFT, TO WORK FOR HIS NEW COMPANY. THAT
10:34:12 25 SAME DAY HE INCORPORATED THE NEW COMPANY IN DELAWARE.
26 THEY INCORPORATED UNDER THE CODE NAME ABLE GRAPE
27 INITIALLY MAND IT NAMED ITS OFFICERS GUNDLACH,
28 VANEVERY, AND MR. SANTA ANA.

1 ON NOVEMBER 17TH, THE REAL ESTATE AGENT
2 CONFIRMED IN A LETTER TO DEFENDANT VANEVERY THAT THE
3 TARGET DATE FOR DOUBLELINE TO BEGIN OPERATING IN ITS
4 NEW OFFICES WAS THE END OF MARCH 2010.

10:34:41 5 I THINK IT'S NO COINCIDENCE THAT BONUSES
6 ARE PAID IN FEBRUARY. AND IT CLEARLY WAS, STAY LONG
7 ENOUGH, GET EVERYTHING UP AND RUNNING, READY TO GO,
8 COLLECT OUR BONUSES, AND WE'LL BE OPEN IN MARCH.

9 THE REAL ESTATE AGENT CONFIRMED. HIS
10:34:56 10 EXACT WORDS WERE IN THE E-MAIL TO VANEVERY: I'M ALSO
11 PROPOSING A PERFORMANCE INCENTIVE IF I'M ABLE TO GET
12 YOU IN BY THE END OF THE MARCH MANDATE.

13 IT'S MANDATORY THEY BE THERE.

14 EXHIBIT 441.

10:35:11 15 THERE'S ALSO A PROJECT TIMELINE, SHOWS
16 THE SPACE ALL BEING BILLED OUT. YOU'LL SEE THAT THERE
17 ARE DISCUSSIONS ABOUT FINANCING. THEY WENT TO
18 GOLDMAN SACHS. THAT'S WHY THE NAME WAS ON THE WITNESS
19 LIST. THEY WENT TO NEW YORK TO MEET WITH GOLDMAN SACHS
10:35:26 20 AND TO SEE IF THEY'D BE INTERESTED IN HELPING RAISE
21 FINANCING OR WHETHER THEY WOULD BE INVESTORS.

22 GOLDMAN SACHS SAID? WAIT A SECOND.
23 THIS IS GOING TO BE MESSY. THIS IS NOT HOW WE DO
24 THINGS. IT NEEDS TO BE COMPLETELY TRANSPARENT TO TCW;
10:35:40 25 OTHERWISE, YOU KNOW, GOLDMAN DOES NOT WANT TO BE
26 INVOLVED IN THIS.

27 OF COURSE, DEFENDANTS DIDN'T -- AS A
28 RESULT OF THAT, DEFENDANTS DIDN'T DISCLOSE ANYTHING TO

1 TCW. THEY PREPARED A FULL, DETAILED BUSINESS PLAN,
2 WHICH WE WILL SHOW YOU, THAT PROJECTED THAT THEY WOULD
3 HAVE \$48 BILLION UNDER MANAGEMENT. 48 BILLION WITHIN
4 NINE MONTHS. \$750 MILLION IN INCOME OVER FIVE YEARS.

10:36:09 5 THIS BUSINESS PLAN IS HIGHLY DETAILED.
6 COSTS, IT'S ALL BASED ON INFORMATION CONCERNING, YOU
7 KNOW, SUBSCRIPTIONS, DATA REQUIRED SALARIES, TECHNOLOGY
8 COST, AND THINGS THEY GOT FROM OTHER TCW EMPLOYEES
9 WITHOUT TELLING THEM, YOU KNOW, THEY WERE DOING THIS
10:36:26 10 ACTUALLY TO DO A SNEAK ATTACK ON THEIR EMPLOYER.

11 THESE BUSINESS PLANS ARE EXHIBIT 950 AND
12 962.

13 THEY ALSO HAVE AN EXTENSIVE TO-DO LIST.
14 THINGS NEEDED TO BE DONE. ONE OF THE ITEMS WAS REBUILD
10:36:42 15 THE PROPRIETARY SYSTEMS SHOWING, OF COURSE, THEY WANTED
16 TO REBUILD THOSE PROPRIETARY SYSTEMS, THOSE TCW
17 ANALYTICS TAKEN -- YES, HAD TAKEN YEARS AND MILLIONS OF
18 DOLLARS.

19 ALSO, WAS AN ITEM CALLED DECIDE ON THE
10:36:58 20 TECHNOLOGY SYSTEM. YOU'LL SEE THAT WAS CHECKED OFF
21 BECAUSE THEY HAD -- THEY KNEW THEY WERE GOING TO BE
22 USING THAT TCW SYSTEM.

23 IT IDENTIFIES DOZENS OF SPECIFIC
24 EMPLOYEES THAT THEY PLAN TO TAKE WITH THEM TO
10:37:10 25 DOUBLELINE.

26 AND YOU'LL HEAR ALONG THE WAY THEY GOT
27 KIND OF EXCITED ABOUT THE PROJECT THAT THEY WERE DOING
28 TOGETHER, AND MR. GUNDLACH, WHO YOU KNOW, AS I TOLD

1 YOU, DIDN'T WANT TO PARTICIPATE IN TEAM BUILDING
2 ACTIVITIES AT TCW, HE WENT TO TCW THAT FALL AND SAID:
3 YOU KNOW, I'D LIKE TO HAVE A TEAM-BUILDING ACTIVITY.
4 I'D LIKE TO TAKE ME AND SIX MEMBERS OF MY GROUP TO
10:37:33 5 MARFA, TEXAS, WHERE THERE'S A MODERN ART MUSEUM. AND
6 I'D LIKE TO CHARTER A JET AND GO FOR A COUPLE OF DAYS
7 AND TAKE THESE PEOPLE AS PART OF A TEAM-BUILDING
8 ACTIVITY.

9 AND HE GOT PERMISSION TO DO THAT. AND
10:37:46 10 HE DID. AND HE TOOK THOSE PEOPLE IN HIS KEY GROUP.
11 AND IT WAS A TEAM-BUILDING ACTIVITY. IT WAS A
12 TEAM-BUILDING ACTIVITY FOR DOUBLELINE.

13 AND HE CHITTED IT ALL IN TO TCW. TCW
14 PAID FOR THAT. MR. GUNDLACH HAD NEVER DONE ANYTHING
10:38:00 15 LIKE THAT BEFORE. AND HE INVITED PEOPLE TO HIS -- OVER
16 TO HIS OFFICE TO SOME OF THE PEOPLE IN HIS GROUP TO
17 SMOKE HAVANA CIGARS, BOTTLES OF WINE WORTH HUNDREDS OF
18 MILLIONS OF DOLLARS -- HUNDREDS OF DOLLARS. HUNDREDS
19 OF DOLLARS. YOU GET CARRIED AWAY.

10:38:21 20 BUT HE WAS CEMENTING HIS GROUP,
21 CEMENTING LOYALTY, AND DOING ACTIVITIES LIKE THAT THAT
22 HE HADN'T DONE BEFORE. AND YOU'LL SEE THE EVIDENCE OF
23 THAT.

24 SO, WHAT ARE YOU GOING TO HEAR? WHAT
10:38:34 25 ARE THE EXCUSES THAT YOU'RE GOING TO HEAR FROM
26 MR. BRIAN AND FROM THE DEFENDANTS?

27 THEY WILL TELL YOU THAT EVERYTHING THEY
28 DID, THEY DID ALL THIS, THESE ACTIVITIES, ONLY BECAUSE

1 THEY THOUGHT THEY WERE GOING TO BE FIRED BY MR. STERN.
2 IT WAS ALL DEFENSIVE.

3 YOU WILL SEE THAT THAT'S FALSE. THAT
4 THAT'S NOT TRUE. I MEAN, FOR ONE THING, HE WAS TALKING
10:38:59 5 ABOUT LEAVING CLEAR BACK IN FEBRUARY TO GO TO WAMCO.
6 THAT'S LONG BEFORE MR. STERN RETURNS ON JUNE 1.

7 YOU WILL ALSO SEE -- YOU'RE GOING TO SEE
8 AN E-MAIL THAT SHOWS THEM ACTUALLY CONCOCTING THIS
9 DEFENSE TO SHOW TO YOU, BACK AT THE TIME. THERE'S AN
10:39:16 10 E-MAIL DATED DECEMBER 9, 2010. THEY WROTE COMMENTING
11 ON A PROPOSED PRESS STATEMENT. BY JANUARY 9, THIS IS
12 JANUARY 9, 2010, THEY'RE OUT OF TCW AT THAT POINT.
13 THEY'RE STARTING A NEW BUSINESS.

14 AND THEY -- THERE'S A COMMENT THAT'S
10:39:35 15 WRITTEN ON A PROPOSED PRESS STATEMENT TO EXPLAIN WHY
16 THEY LEFT AND WHAT'S GOING ON. AND THEIR COMMENT SAID:
17 NEED TO RECONCILE THE STATEMENT THAT I NEVER CONSPIRED
18 TO LEAVE TCW WITH ANY SEPARATION I MIGHT HAVE
19 CONTEMPLATED. PERHAPS SAY: THIS CONTEMPLATION STARTED
10:39:58 20 AFTER I HEARD RUMORS TCW WAS GOING TO FIRE ME.

21 PERHAPS SAY THAT TO THE PUBLIC, AND NOW
22 THEY'RE GOING TO PERHAPS SAY THAT TO YOU, THE JURORS.

23 PERHAPS SAY IT ALL STARTED AFTER I HEARD
24 RUMORS I WAS GOING TO BE FIRED. THAT'S EXHIBIT 764.

10:40:14 25 IT'S A FABRICATION RIGHT BEFORE YOUR
26 EYES. WHAT ELSE ARE YOU GOING TO HEAR? ANOTHER
27 EXCUSE?

28 THEY SAY: HEY, WE CAN WEAVE AND

1 COMPETE. THAT'S THE AMERICAN WAY. THAT'S APPLE PIE.
2 AND WE CAN ALSO PREPARE TO COMPETE BEFORE WE LEAVE.

3 AND WE HAVE NO QUARREL WITH EITHER OF
4 THOSE THINGS. BUT THE EVIDENCE IN THIS CASE IS GOING
10:40:35 5 TO BE VERY, VERY DIFFERENT. THAT WHILE THEY WERE IN
6 VERY TOP POSITIONS AT THE COMPANY, THEY SECRETLY
7 EXECUTED ON A PLAN THAT HAD, AS ITS NECESSARY
8 CONSEQUENCE AND ITS INTENTION, TO INJURE THE COMPANY
9 THAT THEY OWED DUTIES OF LOYALTY AND GOOD FAITH TO.

10:40:53 10 THAT IS SOMETHING DIFFERENT. AND THEY
11 DID IT USING COMPANY RESOURCES, AND THEY DID IT BY
12 STEALING.

13 YOU'RE ALSO GOING TO HEAR THAT -- WELL,
14 WE ALSO INTENDED A NEGOTIATION, PEACEFUL DEPARTURE.
10:41:08 15 THERE WAS ALWAYS GOING TO BE A TIME WHEN THE TIME WAS
16 RIGHT. WE WERE GOING TO CONTACT MR. STERN AND WE WOULD
17 TELL HIM, YOU KNOW, WE'D LIKE TO AND DECIDED NOW WE
18 WOULD LIKE TO LEAVE. AND WE'D LIKE TO NEGOTIATE THE
19 TERMS UNDER WHICH WE WOULD LEAVE.

10:41:22 20 THERE WILL BE NO EVIDENCE TO SUPPORT
21 THAT. EVERY -- EVERYTHING THEY DID, ALL THE STEPS I
22 DESCRIBED TO YOU WERE DONE IN SECRET, AND THEY WERE
23 DELIBERATELY DONE IN SECRET. THEY WEREN'T ABOVE BOARD.
24 THIS WASN'T THE VERY BEST SITUATION WHERE THEY CAME TO
10:41:39 25 MR. STERN -- OR ANYBODY ELSE AT TCW AND SAID, WE WANT
26 TO NEGOTIATE OUR DEPARTURE. THAT WOULD HAVE BEEN EASY
27 TO DO.

28 THEY WANTED TO LEAVE SUDDENLY SO IT

1 WOULD LOOK TO TCW'S CLIENTS AND INVESTORS IN THIS VERY
2 SPECIALIZED TYPE OF MORTGAGE BACK SECURITY THAT TCW
3 COULD NO LONGER HANDLE THIS BUSINESS.

4 BECAUSE THEY WERE ALL GONE. THAT WOULD
10:42:03 5 HAVE DRIVEN CLIENTS AWAY FROM TCW. PEOPLE WOULD BE
6 AFRAID. WHO'S THERE TO RUN THE BUSINESS? MR. GUNDLACH
7 AND HIS TEAM ARE GONE.

8 TCW WOULD HAVE BEEN HELPLESS AT THAT
9 POINT TO COMPETE. AND THAT WAS THE WHOLE POINT.

10:42:16 10 THAT'S HOW YOU CAPTURE IT ALL IF YOU SET IT UP IN A WAY
11 THAT TCW IS A SITTING DUCK. SO THEY'RE PLANNING TO BE
12 EXECUTED OVERNIGHT, TO TCW'S SHOCK AND SURPRISE.

13 THEY HIRE EXPERT WITNESSES. WE HIRE
14 EXPERT WITNESSES TOO. YOU'RE GOING TO HEAR EXPERT
10:42:32 15 TESTIMONY, FOLKS WHO COME IN HERE BECAUSE OF THEIR
16 BACKGROUND AND GIVE YOU OPINIONS. BOTH SIDES HAVE
17 THEM.

18 ONE OF THEIR EXPERTS, STEVE SAMSON,
19 ADMITTED THAT FOLKS AT -- THE DEFENDANTS WOULD HAVE
10:42:46 20 BEEN IN A POSITION TO DICTATE TERMS TO TCW. HOW MUCH
21 OF THE REVENUE THEY MIGHT BE PREPARED TO SHARE?

22 THEY'D BE IN A POSITION TO SAY: WE'RE
23 LEAVING. WE'RE PREPARED TO LEAVE THIS MUCH BEHIND.
24 IT'S TAKE IT OR LEAVE IT. A NEGOTIATED DEPARTURE IS,
10:43:05 25 YOU'LL HEAR IN THE END, IT'S A BUZZ WORD FOR: THIS IS
26 WHAT WE'RE GOING TO DO, THIS IS WHEN WE'RE GOING TO DO
27 IT, AND THIS IS WHAT YOU CAN HAVE, AND YOU'VE GOT 24
28 HOURS TO ACCEPT OR NOT.

1 HALF THE BUSINESS, THE WHOLE COMPANY
2 GONE, 500-PLUS EMPLOYEES LOOKING UP TO THESE LEADERS,
3 FIDUCIARIES, RELYING ON THEM, TRUSTING THEM. THE
4 IMPACT ON THE ENTIRE COMPANY AND ITS POTENTIAL SURVIVAL
10:43:32 5 WOULD HAVE BEEN DEVASTATING.

6 BUT THEY DIDN'T GET TO SPRING THEIR
7 TRICK. LET ME TELL YOU NOW HOW THAT HAPPENED. BECAUSE
8 TCW FOUND OUT ABOUT IT.

9 NOW LET ME GO BACK TO THAT SEPTEMBER 3
10:43:45 10 MEETING. AND I TALKED TO YOU AND TOLD YOU THAT IT WAS
11 CLEAR THAT MR. GUNDLACH WANTED TO SEND A MESSAGE TO
12 MR. STERN. THAT MR. STERN COULDN'T TAKE ANY ACTION
13 REGARDING MR. GUNDLACH WITHOUT DAMAGING TCW. BECAUSE
14 THEY WERE LOCKING ARMS.

10:44:01 15 AND THEN HE WENT UP, I TOLD YOU, TO
16 MR. STERN'S OFFICE, SHOOK HANDS AND SAID: ALL IS WELL.
17 THAT SAME DAY THAT THEY STARTED TO COLLECT INFORMATION.

18 WELL, MARK STERN IS NOBODY'S FOOL. HE
19 WASN'T FOOLED, FOOLED BY MR. GUNDLACH'S ASSURANCES,
10:44:18 20 EVEN THOUGH HE RESISTED ALL ALONG. PEOPLE TOLD HIM
21 THIS MAN'S A -- HAS CANCER. HE NEEDS TO LEAVE. HE NOW
22 REALIZED THE PROBLEMS WERE WORSE WITH MR. GUNDLACH THAN
23 EVEN HE REALIZED.

24 HE NOW REALIZED THAT THERE WAS NO CHANCE
10:44:34 25 THAT HE WOULD BE ABLE TO KEEP MR. BARACH OR OTHER
26 PEOPLE IN THAT DEPARTMENT TO RUN THE BUSINESS IF
27 MR. GUNDLACH LEFT OVERNIGHT. HE SUSPECTED THEY WERE UP
28 TO SOMETHING. DIDN'T KNOW ALL THE DETAILS AT THAT

1 POINT.

2 BUT HE THOUGHT PERHAPS SOMETHING WAS
3 GOING ON, AND THEIR PLANS WERE MORE ADVANCED THAN THEY
4 WERE LETTING ON OR HE HAD ANY REASON TO SUSPECT.

10:44:57 5 SO THIS IS WHAT MR. STERN DID. HE PUT
6 INSTRUCTIONS THAT THEIR COMPUTER ACTIVITY SHOULD BE
7 REVIEWED. NOW, THIS IS VERY IMPORTANT. IN INVESTMENT
8 MANAGEMENT BUSINESS, BY LAW, E-MAILS CAN BE REVIEWED,
9 MUST BE REVIEWED.

10:45:14 10 THERE'S LAW ABOUT THIS. IT'S IN THE
11 HUMAN RESOURCES POLICIES IN THE EMPLOYEE HANDBOOK.
12 PEOPLE ARE SQUARELY TOLD, YOU KNOW, ALL YOUR E-MAILS
13 ARE SUBJECT TO REVIEW. IF YOU USE A TCW COMPUTER AND
14 YOU E-MAIL PEOPLE, IT'S SUBJECT TO REVIEW. IN THE
10:45:34 15 FINANCIAL BUSINESS THAT'S THE WAY IT IS. TCW'S
16 REQUIRED TO KEEP E-MAILS. AND PERIODICALLY THEY HAVE
17 TO BE REVIEWED.

18 YOU WILL NOT HEAR IN THIS CASE ANY CLAIM
19 FROM THE DEFENDANTS THAT THEY HAD SOME EXPECTATION OF
10:45:46 20 PRIVACY IN THE E-MAILS THEY WROTE ON TCW COMPUTERS.
21 THEY COULDN'T. THEY KNEW THEY WERE SUBJECT TO REVIEW.
22 SO MR. STERN GAVE INSTRUCTIONS THAT THEIR E-MAILS --
23 LET'S LOOK AT THEIR E-MAILS. LET'S SEE WHAT'S GOING
24 ON.

10:46:01 25 AND WHAT THEY SAW HAPPENING, STARTING IN
26 MID SEPTEMBER, WAS VERY TROUBLING. THEY SAW IT, THE
27 THINGS I'VE DESCRIBED. THEY SAW THE DEFENDANTS WERE
28 COLLECTING AND COPYING CLIENT LISTS, CONTRACTS, TRADE

1 TICKETS. THE MASSIVE DOWNLOADING I TALKED ABOUT
2 DOESN'T START TILL MUCH LATER. I'LL TALK ABOUT THAT
3 INTO NOVEMBER.

4 BUT STARTING SEPTEMBER, THEY SAW THESE
10:46:24 5 ACTIVITIES. AND WHEN MR. STERN SAW THAT, ANY HOPE HE
6 HAD THAT HE COULD WORK OUT SOME ARRANGEMENT WITH THESE
7 PEOPLE WAS NOW REDUCED TO SOMETHING VERY, VERY SMALL.
8 HE REALIZED THAT THESE PEOPLE WERE UP TO SOMETHING.
9 THEY HAD THE POTENTIAL TO DESTROY THE COMPANY.

10:46:42 10 HE REALIZED MR. GUNDLACH WAS SECRETLY
11 SETTING HIMSELF UP IN BUSINESS FROM WITHIN, BUILDING
12 THAT BUSINESS FROM INSIDE TCW, AND USING TCW EMPLOYEES.

13 MR. STERN DIDN'T KNOW ALL THE DETAILS,
14 BUT HE THOUGHT THE CHANCES WERE VERY HIGH THAT
10:46:59 15 MR. GUNDLACH WAS GOING TO LEAVE.

16 AND HE UNDERSTOOD THAT IF MR. GUNDLACH
17 LEFT, TCW HAD TO HAVE SOMEBODY THERE WHO COULD RUN THIS
18 M B.S. MORTGAGE BANK SECURITY BUSINESS THE DAY AFTER
19 MR. GUNDLACH'S GONE.

10:47:15 20 AND YOU WILL HEAR THAT MR. STERN SET ON
21 A PLAN OF ACTION. AND A LOT OF PEOPLE SPENT A LOT OF
22 TIME AND A LOT OF MONEY TO MAKE SURE THAT THERE WOULD
23 BE SOMEBODY THERE IN ORDER TO PROTECT TCW, TCW'S
24 INVESTORS, AND THE OWNERS OF THE COMPANY.

10:47:32 25 IF THEY HADN'T DONE SOMETHING, TCW WOULD
26 HAVE LOST ALL THAT BUSINESS, 500-PLUS EMPLOYEES
27 POTENTIALLY OUT OF WORK. HE HAD TO ACT. HE COULDN'T
28 AFFORD TO DO NOTHING. IF HE HADN'T DONE SOMETHING.

1 I'LL TALK TO YOU ABOUT WHAT MR. STERN
2 DID.

3 THE DOWNLOADING AT THE END OF
4 NOVEMBER 2009 THIS ACTIVITY OF REVIEWING WHAT WAS GOING
10:47:54 5 ON ON THE DEFENDANTS' COMPUTERS, SHOWED THEY WERE
6 DOWNLOADING MASSIVE QUANTITIES OF TCW CONFIDENTIAL AND
7 PROPRIETARY INFORMATION. BEFORE, THEY HAD SEEN THE
8 INFORMATION ABOUT COLLECTING CONTRACTS, CONTACT
9 INFORMATION, TRADE TICKETS, BUT THIS WAS DIFFERENT.

10:48:08 10 FOR THE FIRST TIME NOW, THEY WERE
11 ACTUALLY MASSIVELY DOWNLOADING LARGE QUANTITIES OF
12 INFORMATION. MR. STERN, IN MID SEPTEMBER AFTER THEY
13 FIRST REVIEWED THOSE E-MAILS -- IF I COULD GO BACK FOR
14 A SECOND -- I TOLD YOU HE REALIZED HE NEEDED TO HAVE
10:48:31 15 SOMEBODY THERE THE DAY AFTER MR. GUNDLACH LEFT.

16 AND HE REACHED OUT TO THAT LOCAL FIRM I
17 TOLD YOU ABOUT EARLIER, MET WEST. REMEMBER, I TOLD YOU
18 IT WAS A TRADE OF THEIR -- A TRADER, TAD RIVELLE. HE
19 WAS POTENTIALLY ON A LIST OF PEOPLE WHO MIGHT -- HE
10:48:48 20 MIGHT BRING IN TO SHORE UP THE MANAGEMENT THERE BECAUSE
21 OF THE RISK MR. GUNDLACH MIGHT LEAVE OR MIGHT HAVE TO
22 BE FIRED.

23 THEN IN SEPTEMBER, AFTER THEY SAW THIS
24 ACTIVITY, HE REACHED OUT TO MET WEST AND WENT TO MEET
10:49:01 25 THESE PEOPLE. AND NOW HE WASN'T JUST TALKING ABOUT
26 REFUTING ONE PERSON, TAD RIVELLE. HE NEVER EVEN MET
27 WITH MR. RIVELLE BEFORE. HE NEVER GOT PAST JUST HAVING
28 A NAME ON A PIECE OF PAPER PRIOR TO SEPTEMBER 3.

1 NOW HE WAS TALKING ABOUT SOLVING THIS
2 PROBLEM OF, IF THESE PEOPLE LEAVE, HOW ARE WE GOING TO
3 RUN THIS BUSINESS. AND HE WAS TALKING ABOUT BRINGING
4 IN THE ENTIRE MET WEST TEAM TO REPLACE MR. GUNDLACH AND
10:49:26 5 POTENTIALLY HIS ENTIRE TEAM. THOSE NEGOTIATIONS BEGAN
6 THEN IN SEPTEMBER.

7 THEY BEGAN IN SEPTEMBER WITH MET WEST,
8 AND THEY WERE ONGOING, SEPTEMBER, OCTOBER, NOVEMBER,
9 RIGHT UP TO DECEMBER 4. ON DECEMBER 4 THE DEAL WAS
10:49:42 10 SIGNED, SO MET WEST TEAM COULD COME INTO TCW AND RUN
11 THAT BUSINESS.

12 IN THE MEANTIME, WHILE THESE
13 NEGOTIATIONS ARE GOING ON TO ACQUIRE THIS OTHER GROUP,
14 THEY'RE WATCHING THE COMPUTER ACTIVITY, AND AT THE END
10:49:57 15 OF NOVEMBER, THEY SEE FOR THE FIRST TIME MASSIVE
16 QUANTITIES OF DATA BEING DOWNLOADED.

17 AS ALARMING AS THIS WAS TO SEE THIS AT
18 THE END OF NOVEMBER, TCW COULDN'T DO ANYTHING UNTIL THE
19 MET WEST ACQUISITION WAS SIGNED UP. IF THEY WENT TO
10:50:15 20 MR. GUNDLACH THEN AND SAID WE'RE ON TO IT, WE SEE WHAT
21 YOU'RE DOING, HE WOULD HAVE BEEN OUT, LIKE THAT.

22 AND YOU KNOW THEY WOULD HAVE BEEN AT
23 RISK. THAT WAS THE PROBLEM. THEY COULDN'T DO IT UNTIL
24 THEY COULD GET -- SIGN A DEAL WITH MET WEST, IF THEY
10:50:30 25 COULD SIGN THE DEAL WITH MET WEST. THOSE NEGOTIATIONS
26 WENT ON.

27 BUT, WITH THESE DISCOVERIES, YOU CAN
28 IMAGINE THE PRESSURE TO CLOSE THAT DEAL WITH MET WEST

1 INCREASED ENORMOUSLY, AND THEY WERE FINALLY ABLE TO
2 CLOSE THE DEAL ON DECEMBER 4.

3 ON THAT SAME DAY THEY -- TCW CONFRONTED
4 THE CONSPIRATOR AND MET WITH MR. GUNDLACH AND TOLD HIM
10:50:50 5 THAT MET WEST WAS COMING IN TO TAKE OVER HIS
6 DEPARTMENT. HE WAS SUSPENDED. THE OTHER INDIVIDUAL
7 DEFENDANTS WERE SUSPENDED AT THAT POINT, PUT ON
8 ADMINISTRATIVE LEAVE INITIALLY.

9 MR. GUNDLACH ANNOUNCED HE REGARDED THIS
10:51:04 10 AS A TERMINATION, AND ON DECEMBER 11TH HIS TERMINATION
11 WAS, IN FACT, PROCESSED ALONG WITH THAT OF THE OTHER
12 INDIVIDUAL DEFENDANTS.

13 THROUGH THEIR LAST DAY OF WORK THEY WERE
14 PAID EVERYTHING THEY WERE OWED. VACATION, THE PRORATED
10:51:17 15 SALARY. I THINK MR. GUNDLACH HAD A PRORATED SALARY,
16 \$500,000 PRORATED THROUGH DECEMBER 4. PAID EVERY DIME
17 THAT THEY WERE OWED, EVEN THOUGH THEY HAD SPENT THOSE
18 LAST FEW MONTHS AT THE COMPANY WORKING AGAINST TCW,
19 RATHER THAN WORKING FOR IT.

10:51:35 20 BUT YOU'RE GOING TO HEAR IN THIS CASE
21 THEY'RE ASKING FOR MONEY, NOT JUST ON THE ORAL
22 CONTRACT, BUT FOR SHARES OF FEES, SO-CALLED PERFORMANCE
23 FEES, INCENTIVE FEES ON THESE FUNDS THAT TCW HADN'T
24 EVEN RECEIVED YET.

10:51:47 25 THEY SAID THAT EVEN THOUGH TCW HADN'T
26 GOTTEN THE MONEY YET, THEY SHOULD HAVE GOTTEN THE MONEY
27 ON DECEMBER 4, EVEN IF THEY WERE FIRED FOR GOOD REASON.
28 BUT YOU WILL ALL HEAR THAT FROM THEM.

1 SO THEY WERE CONFRONTED WITH THE THEFTS
2 ON DECEMBER 4 AND THEN TOLD: WE KNOW WHAT YOU'VE BEEN
3 UP TO; WE'VE SEEN THE COMPUTER ACTIVITY.

4 THEY TRIED TO JUSTIFY THEIR THEFT BY
10:52:12 5 CLAIMING: WELL, AFTER THAT, AT DOUBLELINE WE HIRED
6 EXPERTS, SO-CALLED REMEDIATION EXPERTS, WHO WOULD COME
7 IN AND, YOU KNOW, TRY TO IDENTIFY TCW CONFIDENTIAL
8 INFORMATION AND REMOVE IT FROM COMPUTERS.

9 WHAT YOU'RE GOING TO HEAR IS THAT THEIR
10:52:28 10 SO-CALLED REMEDIATION EXPERTS MADE NO ATTEMPT TO
11 DETERMINE IF DOUBLELINE HAD ALREADY USED THE
12 INFORMATION. THEY DID MAKE NO ATTEMPT TO SEE IF IT HAD
13 BEEN DELETED BEFORE THE REMEDIATION PEOPLE CAME IN.

14 THAT MAN WITH THE INDIAN NAME, JP, HE
10:52:45 15 TESTIFIED THAT HE RECEIVED NO INSTRUCTIONS TO PRESERVE
16 TCW DATA UNTIL SEPTEMBER 24, 2010, MORE THAN NINE
17 MONTHS AFTER THE DEFENDANTS WERE GONE.

18 WHAT THEY WOULD DO IS THEY WOULD TELL
19 PEOPLE AT DOUBLELINE -- THE NUMBER OF TCW'S EMPLOYEES
10:53:04 20 END UP GOING TO DOUBLELINE, THEY WOULD TELL THE
21 EMPLOYEES: THE REMEDIATION PEOPLE ARE COMING. GIVE
22 THEM A HEADS-UP. GIVE THEM AN OPPORTUNITY TO DESTROY
23 THE EVIDENCE.

24 AND THE EVIDENCE WILL BE THAT MASSIVE
10:53:17 25 AMOUNTS OF INFORMATION WAS DELETED RIGHT BEFORE THE
26 REMEDIATION INSPECTION TOOK PLACE.

27 IT WAS A KIND OF AN HONOR SYSTEM. YOU
28 KNOW, IF YOU HAVE TCW DATA, RAISE YOUR HAND, AND YOU

1 KNOW THE EXPERTS WILL ELIMINATE IT. JP IS ONE OF THE
2 PEOPLE WHO STOLE THE MOST INFORMATION. DOUBLELINE'S
3 REMEDIATION CONSULTANTS ASKED HIM IF HE HAD STOLEN
4 INFORMATION ON ANY COMPUTER DEVICES. HE SAID NO, AND
10:53:45 5 THEY TOOK HIS WORD FOR IT. THAT'S WHAT THE SO-CALLED
6 REMEDIATION YOU'RE GOING TO FIND OUT CONSISTED OF.

7 THE TRUTH IS THEY DIDN'T REMEDIATE.
8 THEY DESTROYED DATA AND EVIDENCE. THEY DESTROYED
9 EVIDENCE SO THAT YOU WOULDN'T BE ABLE TO SEE IT BECAUSE
10:54:00 10 THEY SURELY KNEW THIS DAY WAS COMING.

11 LET ME GIVE YOU SOME EXAMPLES.

12 JP HAD A 320 GIGABYTE WESTERN DIGITAL
13 DRIVE WIPED CLEAN. DESTROYING ALL THE EVIDENCE THAT
14 HAD THE TCW DATA ON IT HAD BEEN USED.

10:54:17 15 THIS MAN WAS ASSISTANT VICE PRESIDENT
16 AND ANALYST AT TCW. HE WENT OVER TO DOUBLELINE. HE
17 HAD COPIED, HE HAD COPIED 13,000 TCW DOCUMENTS ONTO
18 THIS EXTERNAL DRIVE.

19 THE COMPUTER RECORDS -- BECAUSE YOU KNOW
10:54:33 20 YOU COULD GO INTO A COMPUTER AND SEE WHEN THINGS WERE
21 ACCESSED AND THE LIKE -- THE COMPUTER RECORDS SHOW HE
22 TOOK IT TO DOUBLELINE AND PLUGGED IT INTO HIS
23 DOUBLELINE LAPTOP AND DESKTOP AND THAT HE OPENED THE
24 TCW DOCUMENTS WHILE HE WAS THERE.

10:54:47 25 BUT WE CAN'T GIVE YOU THE DETAILS OF
26 WHAT USE HE MADE OF IT. LET ME TELL YOU WHAT HE DID.

27 HE E-MAILED THE HARD DRIVE MANUFACTURER
28 IN 2010 AND SAID IT WASN'T MECHANICAL PROBLEMS AND

1 ASKED FOR A REPLACEMENT. AFTER HE GOT THE REPLACEMENT,
2 HE SENT THE OLD DRIVE TO THE MANUFACTURER AND WIPED IT
3 CLEAN AND DESTROYING EVERYTHING ON THE DRIVE. THIS
4 WIPED OUT ALL THE SO-CALLED METADATA ON THE DRIVE. I'M
10:55:13 5 SURE SOME OF YOU HEARD, METADATA IS INFORMATION THAT
6 YOU CAN'T SEE, BUT THE COMPUTER KEEPS. IT SHOWS WHEN
7 DOCUMENTS WERE OPENED, WHEN THEY WERE REVISED, COPIED,
8 MODIFIED, AND THE LIKE. IT'S KIND OF LIKE THE
9 FINGERPRINTS ON A DOCUMENT.

10:55:30 10 AND ALL THE METADATA WAS WIPED OUT.
11 LIKE WIPING OUT FINGERPRINTS. TECHNICIANS CAN RETRIEVE
12 METADATA UNDER SOME CIRCUMSTANCES, BUT THEY CAN'T DO IT
13 WHEN A DRIVE IS WIPED CLEAN LIKE JP'S WAS.

14 DEFENDANTS' OWN COMPUTER EXPERT ADMITTED
10:55:47 15 THAT BY DESTROYING THE METADATA JP DESTROYED THE
16 EVIDENCE OF THE USE HE MADE OF THE 13,000 DOCUMENTS FOR
17 OVER TWO MONTHS. WE WON'T BE ABLE TO SHOW YOU THAT
18 EVIDENCE BECAUSE IT'S GONE.

19 MR. DAMIANI, ANOTHER PRINCIPAL OF
10:56:03 20 DOUBLELINE, WHO LEFT TCW TO GO TO DOUBLELINE, IN
21 FEBRUARY 2010 HE LEARNED HE WOULD HAVE TO BRING HIS
22 PERSONAL LAPTOP IN FOR INSPECTION BY DOUBLELINE'S
23 EXPERTS.

24 BEFORE BRINGING IT IN, HE RAN A PROGRAM
10:56:17 25 ON HIS COMPUTER THE RECORDS -- COMPUTER RECORDS SHOW.
26 IT'S A PROGRAM THAT'S CALLED SECURE DELETION SOFTWARE.
27 HE RAN IT TWICE. AND WHEN YOU RUN THAT TYPE OF
28 PROGRAM, IT MEANS THAT EVEN COMPUTER EXPERTS CAN'T

1 RECOVER WHAT HAS BEEN DESTROYED.

2 TCW'S COMPUTER EXPERT WAS ABLE TO
3 DETERMINE THAT MR. DAMIANI DESTROYED APPROXIMATELY
4 6,000 DOCUMENTS, BUT NOT WHAT THE DOCUMENTS WERE.

10:56:46 5 THAT'S GONE FOREVER. WE CAN'T SHOW YOU THAT.

6 THEY ALSO DESTROYED ALL EVIDENCE OF
7 THEIR SOURCE CODE, PROGRAMMING, COMPUTER CODE, WHICH
8 ARE THE INSTRUCTIONS FOR THE COMPUTER TELLING THE
9 COMPUTER WHAT TO DO.

10:57:00 10 THEY DESTROYED ALL THE SOURCE CODE
11 PROGRAMMING FOR THEIR TECHNICAL PLATFORM.

12 NOW, AS I THINK I MENTIONED BEFORE,
13 DOUBLELINE HIRED COMPUTER PROGRAMMERS FROM TCW, FROM
14 THIS GROUP. ONE OF THEM, A MAN NAMED CASEY MOORE, HE
10:57:18 15 TESTIFIED AT HIS DEPOSITION WHEN THEY GOT TO
16 DOUBLELINE, HE AND ANOTHER PROGRAM WERE WRITING
17 COMPUTER CODE LIKE 20 HOURS A DAY, SEVEN DAYS A WEEK TO
18 GET THIS TECHNICAL PLATFORM THEY NEEDED IN PLACE.

19 THEY STARTED DOING THIS ON
10:57:34 20 DECEMBER 14TH. I MEAN, HAVING THESE ANALYTICAL
21 PLATFORMS AVAILABLE WAS KEY TO THE BUSINESS IF THEY
22 WERE GOING TO TRY TO STEAL BUSINESS FROM TCW.

23 NOW, COMPUTER PROGRAMMERS, WHEN THEY
24 WRITE CODE, USE SOMETHING CALLED REVISION CONTROL TO
10:57:51 25 TRACK ALL THE CHANGES THAT ARE MADE IN THE CODE. IT
26 ACTUALLY KIND OF CREATES A HISTORY OF THE CODE AS
27 YOU'RE CREATING IT.

28 AND THAT'S -- THEY STARTED TO USE A

1 REVISION CONTROL CALLED SOURCE SAVE ONLY, ON
2 JANUARY 8TH, 2010. THAT'S THE DAY AFTER THIS LAWSUIT
3 WAS FILED.

4 SO THEY'RE WORKING 20 HOURS A DAY, SEVEN
10:58:14 5 DAYS A WEEK FROM DECEMBER 14 TO JANUARY 8. THERE IS NO
6 HISTORY OF REVISION CONTROL. THAT'S REALLY ODD.

7 COMPUTER PROGRAMMERS, WHAT WOULD HAPPEN
8 IF THE COMPUTER, THE DRIVE HAD BECOME CORRUPTED OR
9 CRACKED? THEY WOULD HAVE LOST ALL THE WORK. AND
10:58:30 10 SOFTWARE DEVELOPMENT SOMETIMES YOU HAVE TO RETRACE YOUR
11 STEPS TO KIND OF SEE WHERE THINGS WENT WRONG. AND
12 THAT'S WHY YOU NEED A HISTORY. IT'S STANDARD PRACTICE
13 FOR SOMEBODY WHO WRITES SOFTWARE CODE. THEY DIDN'T DO
14 IT.

10:58:44 15 I MEAN, HOW MANY TIMES HAVE YOU HEARD
16 COMPUTER EXPERTS SAY: BACK THINGS UP, BACK THINGS UP.
17 THEY DIDN'T DO IT. THEY SAY THEY DIDN'T DO IT.
18 DOUBLELINE WANTS US TO BELIEVE DURING THE MOST CRITICAL
19 PERIOD WHERE THEY WERE CREATING THEIR ANALYTICAL
10:58:57 20 PLATFORM, WORKING 20 HOURS A DAY, SEVEN DAYS A WEEK,
21 THEY DIDN'T BACK UP ANYTHING.

22 WHY IS THIS SO IMPORTANT? BECAUSE THE
23 EXPERTS WOULD TELL YOU THAT IF THEY WERE BASING THEIR
24 CODE -- THESE ARE THE SAME PROGRAMMERS WHO HAD
10:59:11 25 DEVELOPED THAT ANALYTICAL PLATFORM AT TCW -- EXPERTS
26 WILL TELL YOU THAT IF THEY WERE BASING THAT CODE ON THE
27 CODE THAT THEY DEVELOPED AT TCW, AND WHICH THEY TOOK
28 WITH THEM OVER TO DOUBLELINE, THE CLEAREST SIGNS, THE

1 CLEAREST EVIDENCE OF THAT WOULD HAVE BEEN IN THE
2 EARLIEST SOURCE CODE THAT THEY WROTE.

3 AND DOUBLELINE'S EXPERT ADMITTED THAT
4 NEARLY ALL THE EARLY CRITICAL PROGRAMMING AT DOUBLELINE
10:59:39 5 FROM DECEMBER 14, TO JANUARY 7TH HAS BEEN DESTROYED.
6 BECAUSE OF THAT, WE WON'T BE ABLE TO SHOW YOU THE
7 HISTORY OF THE DEVELOPMENT OF THE DOUBLELINE ANALYTICAL
8 PLATFORM AND THE SOURCE OF THAT CODE.

9 THE EVIDENCE IS CLEAR, NOTWITHSTANDING
10:59:57 10 THE DESTRUCTION OF EVIDENCE AND THINGS THAT WE WON'T BE
11 ABLE TO SHOW YOU. THE EVIDENCE IS CLEAR THAT
12 DEFENDANTS DID USE TCW'S CONFIDENTIAL, PROPRIETARY,
13 TRADE SECRET INFORMATION THAT THEY TOOK WITH THEM.

14 REMEMBER, IT'S ON DECEMBER 4 THEY'RE
11:00:12 15 CONFRONTED, PLACED ON ADMINISTRATIVE LEAVE. ON
16 WEDNESDAY, DECEMBER 9, FIVE DAYS AFTER LEAVING TCW,
17 MR. GUNDLACH USED THE TCW CONTACT INFORMATION THAT HE
18 AND THE OTHER DEFENDANTS HAD TAKEN TO CONTACT OVER 800
19 TCW CLIENTS AND AN INVITATION TO HEAR HIM IN A WEBCAST
11:00:35 20 OR A CONFERENCE CALL.

21 AND YOU'LL SEE BEFORE THAT, ON SUNDAY,
22 DECEMBER 6TH, TWO DAYS AFTER THE LET-GO, DEFENDANT
23 BARBARA VANEVERY SENT AN E-MAIL TO MR. GUNDLACH SAYING:
24 I FOUND WHAT YOU NEEDED.

11:00:48 25 IT'S EXHIBIT 511.

26 ATTACHED TO THAT E-MAIL AND EXHIBIT 511,
27 IS A 57-PAGE LIST OF TCW CLIENT CONTACTS. OBVIOUSLY,
28 IT WOULD HAVE BEEN IMPOSSIBLE FOR THEM TO RECREATE THAT

1 BETWEEN DECEMBER 4 AND DECEMBER 9 WHEN THEY HAD THEIR
2 FIRST CONFERENCE WITH CLIENTS AND INVESTORS.

3 LATER THAT MONTH, YOU WILL SEE THAT
4 MR. GUNDLACH ANNOUNCED TO THE WORLD -- YOU WILL SEE
11:01:19 5 THAT HE HAD A SERIES OF CONFERENCES AND WEBCASTS; WE
6 HAVE THE TRANSCRIPTS AND WE GOT THEM FROM DOUBLELINE --
7 HE ANNOUNCED TO THE WORLD THAT DOUBLELINE MIRACULOUSLY
8 REPLICATED, HIS WORD, REPLICATED THE TCW COMPUTER
9 ANALYTICS LESS THAN A MONTH AFTER HE LEFT.

11:01:34 10 THE SAME SYSTEM THAT TCW HAD SPENT YEARS
11 AND MILLIONS DEVELOPING.

12 WE'RE GOING TO PRESENT TO YOU TESTIMONY
13 FROM COMPUTER FORENSIC EXPERTS PROVING THAT THEY DID,
14 IN FACT, USE INFORMATION THEY TOOK. YOU'RE GOING TO
11:01:48 15 SEE SOME CSI-TYPE EVIDENCE ON THAT, WHICH I WON'T GO
16 INTO NOW.

17 ANOTHER THING STARTED TO HAPPEN RIGHT
18 AFTER THEY LEFT AND THEY GOT -- IMMEDIATELY GOT
19 DOUBLELINE UP AND RUNNING. THEY IMMEDIATELY CHANGED
11:02:02 20 THE NAME FROM ABLE GRAPE. THEY AMEND THE FILING IN
21 DELAWARE, AND THEY ACTIVATE THE BUSINESS. THEY CHANGED
22 IT FROM ABLE GRAPE TO DOUBLELINE.

23 AND MR. GUNDLACH STARTS TO HAVE -- YOU
24 KNOW, HE ADVERTISES AND HAS A SERIES OF WEBCASTS AND
11:02:18 25 CONFERENCE CALLS. AND IN THESE HE STARTS TO DISPARAGE
26 TCW AND THE MET WEST PEOPLE AND ENCOURAGE THE INVESTORS
27 AT TCW TO ACTUALLY BREAK THEIR CONTRACTS WITH TCW. AND
28 WE'VE GOT RECORDS OF THIS. WE'LL SHOW YOU THE

1 TRANSCRIPTS.

2 THEY EVEN DID IT IN INVESTORS IN
3 SO-CALLED CLOSED FUNDS. CLOSED FUNDS ARE -- THEY ARE
4 CERTAIN TYPES OF FUNDS AND INVESTMENTS WHERE YOU MAKE
11:02:45 5 AT TCW, NOT JUST TCW, BUT OTHER MONEY MANAGERS, THAT
6 THE NATURE OF THE INVESTMENT REQUIRES THAT YOUR MONEY
7 NEEDS TO BE TIED UP FOR A CERTAIN PERIOD OF TIME.

8 YOU AGREE THAT YOU'RE GOING TO LEAVE
9 YOUR MONEY THERE FOR A CERTAIN PERIOD OF TIME. THOSE
11:02:58 10 ARE CALLED CLOSED FUNDS. SOME OF THEM HAVE TO BE DONE
11 THIS WAY.

12 AND IN THIS CASE THE CLOSED FUNDS
13 CLIENTS HAD AGREED, SIGNED CONTRACTS, TO KEEP THEIR
14 MONEY WITH TCW IN THESE FUNDS UNTIL SEPTEMBER 2015
11:03:13 15 UNLESS, YOU KNOW, TCW DECIDED TO -- BECAUSE OF
16 PERFORMANCE, TO END THE FUNDS EARLY.

17 BY CONTRACT, THE CLIENTS AGREED TO THIS.
18 AND MR. GUNDLACH KNOWS THIS. THESE ARE PROGRAMS THAT
19 HE CREATED. HE KNEW THAT THE CONTRACTS REQUIRE THIS.

11:03:30 20 BUT AS SOON AS THEY LEFT, THEY STARTED
21 CONTACTING THE CLIENTS AND TELLING THEM AND AGITATING
22 THEM, THE CLIENTS IN THE CLOSED FUNDS, TO BREAK THEIR
23 AGREEMENTS.

24 NOW, I TOLD YOU BEFORE, MS. VANEVERY
11:03:41 25 USED A STOLEN, 57-PAGE LIST OF CLIENT CONTACTS TO DO
26 THIS THREE DAYS AFTER THEY'RE GONE.

27 ON DECEMBER 16TH, YOU'LL SEE A
28 TRANSCRIPT WHERE MR. GUNDLACH BRAGGED THAT HE HAD

1 ALREADY TAKEN THE WHOLE DEPARTMENT -- BASICALLY, TCW
2 WAS NOW DOUBLELINE.

3 HE SAYS -- HIS WORDS: IT'S IMPORTANT
4 FOR US TO UNDERSTAND THAT THE DELIVERABLE IS COMPLETELY
11:04:06 5 INTACT NOW IN DOUBLELINE, HAVING BEEN MOVED FROM TCW IN
6 ACTIONS THAT WERE PRECIPITATED BY TCW ON DECEMBER 4.

7 AND HE TELLS THEM, IN THAT, SUBSEQUENT
8 CALLS -- YOU'LL SEE THE TRANSCRIPT: WE REBUILT THE
9 TECHNICAL PLATFORM. AND HE TELLS THEM: YOU SHOULD
11:04:24 10 FORCE TCW TO LET YOU GET YOUR MONEY OUT OF THESE CLOSED
11 FUNDS. HE SAID -- HIS WORDS WERE: I DON'T CARE WHAT
12 THE DOCUMENTS SAY.

13 MEANING THE CONTRACTS. I DON'T CARE
14 WHAT THEY SAY. AND HE BELITTLED THE TEAM, MET WEST
11:04:45 15 TEAM THAT HAD COME IN. IN ONE CALL HE SAID, AS BEST I
16 KNOW, THE MET WEST TEAM THAT WAS BROUGHT OVER HAD THREE
17 PROFESSIONALS, THE LEAD PROFESSIONAL ON THE MET WEST
18 TEAM IS 34 YEARS OLD.

19 PHIL BARACH AND I WERE MANAGING MORTGAGE
11:05:00 20 PORTFOLIOS OF SOME COMPLEXITY WHEN THAT MAN WAS IN
21 JUNIOR HIGH SCHOOL.

22 THERE'S QUITE A BIT OF DIFFERENCE
23 MANNING A PORTFOLIO OF THIS NATURE APPROPRIATELY AND
24 TRYING TO MANAGE IT ON THE FLY.

11:05:13 25 I SAID: NO ONE'S MANAGING YOUR MONEY.
26 THERE'S NO ONE AT TCW MANAGING YOUR MONEY.

27 HE ALSO SAID: TCW'S TRYING TO
28 CONFISCATE YOUR REVENUE TEAM. TCW IS PUTTING ITSELF IN

1 FRONT OF INVESTORS.

2 CLEARLY TRYING TO ENCOURAGE PEOPLE TO
3 LEAVE TCW, SCARE TCW'S CLIENTS INTO LEAVING. THE
4 STATEMENTS HE'S MAKING FOLKS, WERE NOT TRUE. THEY WERE
11:05:38 5 FALSE. MR. GUNDLACH KNEW THAT TCW WASN'T JUST THREE
6 PEOPLE WHO CAME OVER FROM MET WEST. IT WAS THE ENTIRE
7 MET WEST TEAM.

8 THERE ARE SOME PEOPLE IN THAT MORTGAGE
9 BACK SECURITY GROUP AT TCW WHO HAD STAYED. AND BETWEEN
11:05:52 10 THE MET WEST TEAM AND THE TCW TEAM IN JANUARY OF 2010,
11 THE NUMBERS OF PROFESSIONALS WERE COMPARABLE. THE
12 MET WEST TEAM HAD BEEN MANAGING MORTGAGE BACK
13 SECURITIES FOR MORE THAN 12 YEARS.

14 THEY HAD BEEN NOMINATED FOR THAT MORNING
11:06:09 15 STAR AWARD FOUR TIMES. WON THE AWARD ONCE. YOU KNOW,
16 MR. RIVELLE HAD HAD SIGNIFICANT EXPERIENCE IN NONAGENCY
17 MORTGAGE BACK SECURITIES.

18 BUT THIS ALL HAD AN EFFECT. THIS
19 CAMPAIGN THEY LAUNCHED TO GET PEOPLE TO LEAVE TCW
11:06:26 20 BREACHED THEIR CONTRACT. IT HAD AN EFFECT. AS A
21 RESULT, TO STAY IN THAT BUSINESS, TO KEEP THESE
22 ARRANGEMENTS IN PLACE, TCW HAD TO CUT ITS PRICES, LOWER
23 ITS FEES.

24 THEY LOWERED IT BY 75 PERCENT ABOUT, AS
11:06:40 25 A RESULT OF THIS SMEAR CAMPAIGN. AND IT COST TCW AN
26 ENORMOUS AMOUNT OF MONEY. WE WILL TALK TO THAT, AND
27 PROVE TO YOU THE DAMAGES THAT IT COST.

28 BUT, UNDER LAW, WHEN SOMEBODY HAS A

1 CONTRACT, AND YOU ENCOURAGE SOMEBODY ELSE TO BREAK THAT
2 CONTRACT, THAT'S NOT LEGAL. THAT'S CALLED TORTIOUS
3 INTERFERENCE. AND WE'RE ENTITLED TO -- ENTITLED TO
4 DAMAGES FOR THAT.

11:07:05 5 MR. GUNDLACH WILL TALK ABOUT HIS
6 PERFORMANCE, THAT HE'D BEEN A GREAT BOND MANAGER, AND
7 HIS RECORD IS SPECTACULAR, AND THE LIKE.

8 FOLKS, THIS ISN'T JUST ABOUT DOLLARS AND
9 CENTS, PROFITS, THAT TYPE OF PERFORMANCE. THE MET WEST
11:07:22 10 TEAM HAS DONE FABULOUSLY. THEY GOT THE MORNING STAR
11 NOMINATION FOR THIS LAST YEAR. THIS CASE IS ABOUT
12 OLD-FASHIONED THINGS, LIKE HONESTY, LOYALTY, THINGS
13 LIKE INTEGRITY, CHARACTER. IT'S NOT SIMPLY ABOUT
14 DOLLARS AND CENTS.

11:07:42 15 SO, IN SUMMARY, MR. GUNDLACH -- GUNDLACH
16 WAS MORE THAN JUST A VERY SUCCESSFUL BOND MANAGER AT
17 TCW. HE WAS ONE OF THE TOP PEOPLE AT THE COMPANY. HE
18 HAD RISEN TO THE PINNACLES OF POWER. HE WAS A LEADER,
19 SOMEBODY WHO PEOPLE LOOKED UP TO. HE HAD A POSITION OF
11:08:02 20 TRUST AND RESPONSIBILITY.

21 BUT HE, AND THE OTHERS WHILE THEY WERE
22 IN THOSE POSITIONS, SYSTEMATICALLY SET HIM OUT TO
23 BETRAY THAT TRUST AND VIOLATE THEIR DUTIES. THEY
24 BETRAYED THE TRUST BY MAKING SECRET EFFORTS OVER THE
11:08:19 25 COURSE OF MONTHS TO CREATE A BUSINESS THAT WOULD NOT
26 JUST COMPETE, BUT WOULD POTENTIALLY DESTROY TCW,
27 SECRETLY TARGETING AND SOLICITING TCW EMPLOYEES.

28 STEALING TRADE SECRETS WAS ALL PART OF A

1 PLAN. AND AFTER THEY LEFT, THEY PUT THAT PLAN INTO
2 MOTION AND USED THE STOLEN INFORMATION TO CONTACT
3 CLIENTS, ENCOURAGE THEM TO BREAK THEIR AGREEMENTS, AND
4 ENCOURAGE THEM TO LEAVE TCW, AND ENCOURAGE THEM TO DO
11:08:53 5 THAT BY TELLING THEM FALSEHOODS ABOUT TCW AND WHAT HAD
6 HAPPENED.

7 THIS IS NOT A CASE JUST ABOUT
8 COMPETITION OR ABOUT CREATING A NEW COMPETITOR. IT'S
9 ABOUT THE DEFENDANTS TRYING TO DESTROY TCW THROUGH THE
11:09:09 10 ABUSE OF THEIR OFFICES AND MAKE SURE THAT TCW COULD NOT
11 COMPETE. AND WE WILL PROVE TO YOU THAT THEIR ACTIONS
12 DAMAGED TCW SEVERELY.

13 BEFORE I SIT DOWN, THERE ARE JUST FINAL
14 PIECES OF EVIDENCE I'D LIKE TO SHARE WITH YOU THAT
11:09:26 15 YOU'RE GOING TO HEAR IN THIS CASE.

16 ON DECEMBER 4, AFTER ALL THE DEFENDANTS
17 WERE CONFRONTED WITH THE EVIDENCE THAT THEY HAD STOLEN
18 THE TWO EMPIRE STATE BUILDINGS WORTH OF DATA, TWO OF
19 THOSE FOUR INDIVIDUALS, EVEN AFTER DECEMBER THEY WERE
11:09:44 20 CONFRONTED WITH IT, MANAGED TO GET MORE INFORMATION OUT
21 OF THE COMPANY. THEY ARE MR. SANTA ANA AND
22 MR. JEFF MAYBERRY.

23 MR. SANTA ANA, AFTER HE WAS CONFRONTED
24 AND TOLD HE WAS BEING PUT ON LEAVE, HE HAD AN EXTERNAL
11:10:04 25 HARD DRIVE HE WAS USING TO DOWNLOAD INFORMATION.
26 BECAUSE THE CAPACITY OF THE SMALLER, YOU KNOW, FLASH
27 DRIVES WASN'T ENOUGH FOR EVERYTHING HE WAS TAKING.

28 AND WHEN HE WAS CONFRONTED ON

1 DECEMBER 4, THAT EXTERNAL HARD DRIVE WITH A TON OF TCW
2 DATA ON IT, WAS STILL UNDER HIS DESK AT TCW. AND HE
3 WAS CONFRONTED AND HE WAS GIVEN, BY TCW, A DRAFT OF THE
4 LEGAL COMPLAINT THAT ACCUSED HIM OF WHAT HE HAD DONE,
11:10:32 5 STEALING TRADE SECRET INFORMATION.

6 AND HE LEFT THE BUILDING. AND HE DROVE
7 TO HIS HOME IN MANHATTAN BEACH. AND WHEN HE GOT THERE,
8 HE READ THE COMPLAINT ACCUSING HIM OF THIS TRADE SECRET
9 THEFT, AND HE REALIZED THAT THAT HARD DRIVE WAS STILL
11:10:47 10 SITTING UNDER HIS DESK ON THE FLOOR.

11 AT THAT POINT, HE GOT INTO HIS CAR IN
12 MANHATTAN BEACH AND DROVE ALL THE WAY BACK DOWNTOWN.
13 HE KNEW HE COULDN'T GET INTO THE BUILDING BECAUSE HIS
14 ACCESS CARD HAD BEEN TAKEN.

11:11:03 15 SO HE PARKED HIS CAR ON THE STREET
16 OUTSIDE. AND HE SAW THAT THERE WAS A RESTAURANT
17 DOWNSTAIRS IN THE BUILDING WHERE TCW IS. AND HE SAW
18 FORMER -- A NUMBER OF TCW EMPLOYEES AT THAT RESTAURANT.
19 PEOPLE HE HAD WORKED WITH. THEY WERE HAVING DRINKS
11:11:20 20 THERE. AND MR. SANTA ANA JOINED THEM THERE.

21 AND THEN HE TOLD THEM THAT HE WANTED
22 SOMEONE WHO HAD NOT BEEN SUSPENDED, AS HE HAD BEEN, TO
23 GO BACK UPSTAIRS AND GET THAT HARD DRIVE FROM UNDER HIS
24 DESK. THE STOLEN INFORMATION. TWO FEMALE EMPLOYEES,
11:11:39 25 WHO HAD NOT BEEN INVOLVED, AND, WORSE, HAD NOT BEEN
26 SUSPENDED, DID HIS DIRTY WORK FOR HIM.

27 ONE OF THEM WENT UPSTAIRS, GOT THE
28 EXTERNAL HARD DRIVE. BUT THEN SHE HAD SECOND THOUGHTS.

1 SHE KNEW SHE SHOULDN'T TAKE THE HARD DRIVE. SHE
2 THOUGHT IT HAD TCW INFORMATION ON IT. AT THAT POINT,
3 SHE DIDN'T THINK SHE WANTED TO BE INVOLVED.

4 SO, AS SHE'S STANDING THERE WITH THE
11:12:06 5 HARD DRIVE, TRYING TO DECIDE WHAT TO DO, ANOTHER FEMALE
6 EMPLOYEE FROM THE GROUP SHOWED UP AND ASKED WHAT SHE
7 WAS DOING. AND SHE, ONCE IT WAS EXPLAINED TO HER, SHE
8 SAID: HERE, GIVE IT TO ME.

9 AND SHE STUCK IT IN HER BRASSIERE, AND
11:12:22 10 SHE WENT DOWNSTAIRS AND FOUND MR. SANTA ANA AND SAID TO
11 HIM: I HAVE THE HARD DRIVE. SHE SAID: COME WITH ME.
12 AND SHE WALKED OUT TO THE STREET WHERE HIS CAR WAS. HE
13 OPENED HIS CAR DOOR, AND SHE PULLED OUT THE HARD DRIVE
14 FROM HER BRASSIERE AND PASSED IT TO HIM.

11:12:40 15 AND HE PUT IT IN HIS CAR. HIS WORDS TO
16 HER WERE: YOU HAVE NO IDEA HOW MUCH THIS MEANS TO ME.

17 NONE OF WHAT I TOLD YOU IS DISPUTED.
18 YOU WILL HEAR THE TESTIMONY FROM MR. SANTA ANA AND BOTH
19 THE FEMALE EMPLOYEES ABOUT THESE EVENTS.

11:12:57 20 AND WE WILL PROVE TO YOU THAT
21 MR. SANTA ANA WANTED THAT HARD DRIVE SO HE THOUGHT TCW
22 WOULDN'T HAVE THE EVIDENCE, WOULDN'T DISCOVER IT UNDER
23 HIS DESK, AND WOULD NOT HAVE THAT EVIDENCE OF THE
24 CONSPIRACY.

11:13:13 25 AND HE ALSO WANTED IT BECAUSE HE NEEDED
26 AND WANTED THAT INFORMATION AT DOUBLELINE.

27 SECOND FINAL EPISODE. HOW DEFENDANTS
28 GOT INFORMATION OUT OF TCW EVEN AFTER THEY WERE

1 CONFRONTED. IT INVOLVES A JEFF MAYBERRY. HE'S ALSO AN
2 INDIVIDUAL DEFENDANT. HE'S ALSO CONFRONTED ON
3 DECEMBER 4. AND IT INVOLVES A FLASH DRIVE, ONE OF
4 THOSE PORTABLE DRIVES THAT HE CONCEALED AND SNUCK OUT
11:13:41 5 OF TCW.

6 NOW, MR. MAYBERRY HAD BEEN DOWNLOADING
7 LOTS OF INFORMATION DAY AFTER DAY ON ONE OF THESE
8 LITTLE PORTABLE FLASH DRIVES, WHICH ARE EASY TO HIDE.

9 AND WHEN HE WAS CONFRONTED ON
11:13:55 10 DECEMBER 4, HE ADMITTED HE HAD DONE THIS. AND HE SAID:
11 I'VE GOT A FLASH DRIVE IN MY CAR DOWNSTAIRS. IT'S JUST
12 DOWNSTAIRS IN THE PARKING STRUCTURE. CONTAINS TCW'S
13 INFORMATION.

14 AND YOU WILL HEAR TO THIS EFFECT THAT HE
11:14:10 15 KNEW IT HAD -- THAT HE TOLD THIS. AND HE HAD SAID
16 MR. SANTA ANA KNEW AND INSTRUCTED HIM TO DOWNLOAD THIS
17 INFORMATION TO THE FLASH DRIVE. AND HE SAID: I WILL
18 GO GET IT.

19 AND A RETIRED F.B.I. AGENT, AN
11:14:26 20 INVESTIGATOR, THEN ACCOMPANIED HIM DOWNSTAIRS TO THE
21 PARKING STRUCTURE TO HIS CAR. AND WHEN HE GOT THERE,
22 HE REALIZED THAT HE, MR. MAYBERRY, REALIZED THERE WERE
23 TWO FLASH DRIVES IN HIS CAR, NOT JUST ONE.

24 HE KNEW ONE OF THEM WAS EMPTY. AND HE
11:14:40 25 KNEW THAT ONE OF THEM HAD THE STOLEN TCW INFORMATION ON
26 IT. AND HE HAS SINCE CONFESSED TO IT IN HIS
27 DEPOSITION. HE'S CONFESSED THAT HE TOOK OUT OF THE
28 CONSOLE THE EMPTY FLASH DRIVE AND GAVE IT TO THE

1 RETIRED F.B.I. AGENT.

2 AND HE INTENTIONALLY CHOSE TO KEEP THE
3 OTHER FLASH DRIVE, THE ONE THAT HAD THE STOLEN TCW
4 INFORMATION ON IT IN HIS CAR. AND NOT TELL ANYBODY.

11:15:06 5 HE ADMITTED HE WANTED TO KEEP THAT INFORMATION.

6 THE NEXT MORNING HE DROVE TO HIS
7 PARENTS' HOUSE WITH THAT FLASH DRIVE. AND HE ADMITTED
8 THAT HE WAS AFRAID THAT TCW WOULD SEND ITS
9 INVESTIGATORS TO HIS HOUSE. SO HE DROVE TO HIS

11:15:24 10 PARENTS' HOUSE. AND HE DECIDED HE'D TAKE THE FLASH
11 DRIVE AND MAIL IT TO HIS PARENTS' CAR DEALERSHIP AFTER
12 HE HAD COPIED IT ONTO A COMPUTER.

13 HE DECIDED HE WOULD MAIL IT TO HIS
14 PARENTS CAR DEALERSHIP, AND HE SAID HE DID THIS SO THAT
11:15:40 15 IF HE WAS -- IF THE INVESTIGATORS CALLED HIM, HE COULD
16 TELL THEM, "I DON'T HAVE IT."

17 HE HAD NO PROBLEM LEAVING OUT THE FACT
18 THAT HE HAD ALREADY COPIED THE INFORMATION ONTO THE
19 COMPUTER.

11:15:52 20 WELL, A FUNNY THING HAPPENED. ACCORDING
21 TO MR. MAYBERRY, WHEN THE ENVELOPE CONTAINING THE FLASH
22 DRIVE ARRIVED AT THE CAR DEALERSHIP, THERE WAS A HOLE
23 IN THE ENVELOPE.

24 AND SOMEHOW THE FLASH DRIVE HAD FALLEN
11:16:07 25 OUT. IT WAS, ACCORDING TO MR. MAYBERRY, LOST IN THE
26 MAIL. TCW HAS NEVER RECOVERED THAT. NEVER RECOVERED
27 THAT EVIDENCE.

28 AGAIN, NONE OF THESE FACTS, WHAT I JUST

1 TOLD YOU ABOUT THIS EPISODE WITH MR. MAYBERRY'S FLASH
2 DRIVE, NONE OF THEM ARE DISPUTED.

3 WE'RE GOING TO -- THIS TRIAL'S GOING TO
4 BE A LENGTHY TRIAL, AS YOU'VE HEARD. WE'LL DO OUR
11:16:31 5 LEVEL BEST TO TRY TO GET THE EVIDENCE TO YOU QUICKLY
6 AND MOVE THE CASE ALONG.

7 HIS HONOR HAS DONE US A FAVOR IN THAT
8 REGARD BY GIVING US TIME LIMITS. WE'LL BE KEEPING
9 TRACK OF TIME OF ALL EXAMINATIONS.

11:16:46 10 AT THE END OF THE TRIAL, I HAVE AN
11 OPPORTUNITY STAND HERE AGAIN AND SUMMARIZE THE EVIDENCE
12 AGAIN TO YOU, AND HOW IT'S COME IN AND HOW IT RELATES
13 TO THE LEGAL ISSUES IN THIS CASE. AND THE LEGAL
14 INSTRUCTIONS THAT THE COURT WILL GIVE YOU ALSO.

11:16:59 15 AT THAT TIME, I'LL ASK YOU TO RETURN A
16 VERDICT IN FAVOR OF TCW AND AGAINST DEFENDANT FOR THEIR
17 THEFT OF TRADE SECRETS, FOR THEIR BREACH OF FIDUCIARY
18 DUTY, AND INTERFERENCE WITH TCW CONTRACTS WITH ITS
19 CLIENTS.

11:17:13 20 WE'LL ASK YOU TO RETURN A VERDICT FOR
21 BOTH COMPENSATORY DAMAGES AND PUNITIVE DAMAGES AS WELL.

22 I DO WANT TO TELL YOU I VERY MUCH
23 APPRECIATE YOUR ATTENTION. I KNOW THIS HAS BEEN A
24 LONGISH OPENING STATEMENT ON SOME COMPLEX AND NOT
11:17:30 25 NECESSARILY FASCINATING SUBJECTS. I DO VERY MUCH
26 APPRECIATE THE ATTENTION THAT YOU'VE GIVEN ME AND YOUR
27 TIME.

28 I'M SURE WHEN I SPEAK FOR THE DEFENSE

1 LAWYERS AS WELL WHEN I TELL YOU WE ARE VERY GRATEFUL
2 FOR YOUR JURY SERVICE. AND I'M CONFIDENT THAT AT THE
3 END OF THIS TRIAL, YOU WILL BE VERY PROUD OF THE ROLE
4 THAT YOU'VE BEEN ABLE TO PLAY IN OUR JUSTICE SYSTEM, IN
11:17:54 5 DELIVERING JUSTICE IN THIS CASE.

6 THANK YOU.

7 THE COURT: THANK YOU, MR. QUINN.

8 MR. BRIAN, ARE YOU READY.

9 MR. BRIAN: IS IT POSSIBLE TO TAKE A
11:18:05 10 FIVE-MINUTE BATHROOM BREAK?

11 THE COURT: SURE. WE CAN TAKE A STRETCH
12 BREAK. IF YOU'D LIKE TO STAND AND STRETCH, USE THE
13 FACILITIES, BUT LET'S COME BACK AND START AT 25 AFTER
14 11:00.

11:18:19 15 MR. BRIAN: THANK YOU, YOUR HONOR.

16 THE COURT: IF YOU WANT TO STAY IN PLACE,
17 THAT'S FINE, TOO.

18
19 (RECESS.)

11:24:04 20
21 THE COURT: BACK IN SESSION.

22 ALL MEMBERS OF OUR JURY, ALL ALTERNATES
23 ARE PRESENT.

24 MR. BRIAN, YOU MAY PROCEED WITH YOUR
11:24:12 25 OPENING STATEMENT.

26
27
28 ///

1 D E F E N S E +

2
3 MR. BRIAN: GOOD MORNING.

4 BEFORE I START WHAT I PREPARED TO SAY, I
11:24:21 5 WANT TO RESPOND TO SOMETHING MR. QUINN SAID TOWARD THE
6 END OF HIS REMARKS.

7 HE TOLD YOU AFTER MY CLIENTS WERE FIRED
8 AND THEY WENT TO WORK AT DOUBLELINE, HE SAID THAT
9 JEFFREY GUNDLACH INTERFERED WITH THEIR CLIENTS,
11:24:34 10 INTERFERED WITH THEIR CONTRACTS THEY HAD WITH THEIR
11 INVESTORS. REMEMBER WHAT HE SAID.

12 LET ME TELL YOU WHAT THE EVIDENCE IS
13 GOING TO SHOW IN THAT REGARD.

14 THE EVIDENCE IS GOING TO SHOW, IN TCW'S
11:24:47 15 OWN DOCUMENTS, THEIR OWN DOCUMENTS, THAT WHEN THEY WERE
16 PLANNING TO FIRE MR. GUNDLACH, THEY KNEW AND PREDICTED
17 THAT THEIR CUSTOMERS WOULD LEAVE.

18 THEY PREDICTED THAT THEY WOULD LOSE
19 BUSINESS. YOU'RE GOING TO SEE DOCUMENTS THAT ACTUALLY
11:25:07 20 HAVE THE PERCENTAGE OF BUSINESS THAT THEY PREDICTED
21 WOULD GO AWAY.

22 THEY WERE WILLING TO TAKE THAT RISK
23 BECAUSE, THEY SAID, IN THEIR DOCUMENTS, THAT THE LOST
24 BUSINESS WOULD BE OFFSET BY THE REDUCTION IN THE AMOUNT
11:25:29 25 THEY WOULD OWE TO THE PEOPLE WHO REPLACED MR. GUNDLACH.
26 BECAUSE, REMEMBER, THIS CONTRACT 2007 THAT MR. QUINN
27 WOULD LIKE YOU TO BELIEVE DOESN'T EXIST? I'LL TELL YOU
28 ABOUT THAT CONTRACT.

1 BUT THAT TURNED OUT TO BE, ACTUALLY, TO
2 TCW'S SURPRISE, A VERY FAVORABLE CONTRACT TO
3 MR. GUNDLACH. AND THEY KNEW THEY WERE GOING TO OWE HIM
4 A LOT OF MONEY BECAUSE OF THE WAY THESE FEES ARE PAID
11:25:57 5 IN THE FUTURE WHEN THE FUNDS ARE DISPOSED OF AT A
6 PROFIT.

7 AND SO THEIR DOCUMENTS, THEIR DOCUMENTS
8 OF TCW, AND THE FRENCH BANK WE'LL TALK ABOUT, SHOW THAT
9 THEY KNEW THEY WERE GOING TO LOSE BUSINESS. BECAUSE
11:26:13 10 THOSE CUSTOMERS WERE VERY SATISFIED WITH THE
11 PERFORMANCE BY MR. GUNDLACH IN MANAGING THEIR FUNDS.

12 SO WHEN THEY DID FIRE HIM, THE INVESTORS
13 BEGAN TO COMPLAIN, AND YOU WILL SEE LETTERS AND E-MAILS
14 FROM THE INVESTORS TO TCW COMPLAINING ABOUT THEIR
11:26:38 15 DECISION TO GET RID OF MR. GUNDLACH.

16 YOU WILL HEAR FROM INVESTORS AT THIS
17 TRIAL WHO WILL COME TELL YOU WHY THEY MOVED THEIR MONEY
18 OUT OF TCW.

19 NOW, YOU ALSO HEARD MR. QUINN SAY IT'S
11:26:57 20 AMAZING HOW HE GOT UP AND RUNNING SO FAST. I'LL TALK
21 ABOUT THAT. WE DIDN'T USE THEIR ANALYTICS. YOU'RE
22 GOING TO HEAR TESTIMONY ON THAT FROM OUR PEOPLE AND OUR
23 EXPERTS. THAT'S NOT WHAT HAPPENED.

24 BUT I'LL TELL YOU ONE THING THAT DID
11:27:13 25 HAPPEN, IS THAT WE STRUGGLED TO GET OUR BUSINESS OFF
26 THE GROUND. YOU LISTEN TO MR. QUINN AND YOU WOULD
27 THINK, WOW, WITHIN A WEEK OR SO WE WERE UP AND RUNNING
28 AND HAD ALL THEIR CUSTOMERS AND STOLE ALL THEIR

1 CUSTOMERS.

2 IN FACT, WE HAD NO MORE THAN FOUR OR
3 FIVE CUSTOMERS FOR THE FIRST FOUR MONTHS OF OUR
4 OPERATION. ONE OF THOSE WAS AN ENTIRELY NEW CUSTOMER
11:27:40 5 AND HAD NEVER DONE -- NEVER BEEN A -- USED TCW -- NEVER
6 USED TCW AT ALL.

7 AND TWO WERE CUSTOMERS THAT HAD ACTUALLY
8 WORKED WITH MR. GUNDLACH AND ANOTHER ONE OF HIS
9 COLLEAGUES, LOU LUCIDO, FOR ABOUT 20 YEARS.

11:27:54 10 I WANT TO INTRODUCE MY CLIENTS TO YOU.

11 SITTING AT THE TABLE HERE,
12 CRIS SANTA ANA. MR. SANTA ANA WILL BE HERE FOR MUCH OF
13 THE TRIAL.

14 IN THE BACK IS MR. JEFFREY GUNDLACH YOU
11:28:07 15 CAN STAND PLEASE. AND NEXT TO HIM, BARBARA VANEVERY.

16 AND NEXT TO HER, JEFF MAYBERRY.

17 IN MY BRIEF REMARKS YESTERDAY I TOLD YOU
18 THAT I REPRESENT FOUR INDIVIDUALS WHO HAD DEVOTED
19 ALMOST THEIR ENTIRE PROFESSIONAL LIVES TO TCW. NONE OF
11:28:33 20 THEM WAS BORN RICH. NONE OF THEM CAME INTO TCW AT A
21 HIGH-LEVEL POSITION.

22 EACH OF THEM STARTED AT OR VERY NEAR THE
23 BOTTOM. AND EACH OF THEM, THROUGH SHEER HARD WORK AND
24 TALENT, SUCCEEDED. AND MOVED THEIR WAY UP. AND AS A
11:28:58 25 RESULT OF THEIR EFFORTS, THEY MADE TCW A BOATLOAD OF
26 MONEY. OVER A BILLION DOLLARS THEY MADE FOR TCW DURING
27 THE 24 YEARS THAT JEFFREY GUNDLACH WORKED THERE.

28 SO ALL THIS STUFF YOU HEARD FROM

1 MR. QUINN ABOUT HE DIDN'T WANT TO DO TEAM BUILDING, AND
2 HE WAS CRITICAL FOR SOMEBODY WHO WANTED TO COME TO HIS
3 OFFICE TO UPGRADE A COMPUTER, YOU KNOW, WE'LL TALK
4 ABOUT THAT. AND YOU'LL HEAR A LOT ABOUT MR. GUNDLACH
11:29:31 5 AS A PERSON.

6 BUT IT WAS SURE WORTH IT FOR TCW FOR 24
7 YEARS WHEN THEY REAPED THE BENEFIT OF HIS SKILL.

8 BUT EACH OF MY CLIENTS WAS FIRED BY
9 SURPRISE IN DECEMBER 2009. WHEN YOU LISTEN TO ME TALK
11:29:54 10 AND I TELL YOU THEY MADE OVER A BILLION DOLLARS FOR
11 TCW, YOU ASK, WELL, THEN WHY WERE THEY FIRED?

12 MR. QUINN WOULD HAVE YOU BELIEVE THAT
13 THEY WERE FIRED BECAUSE THEY WERE DOWNLOADING
14 INFORMATION, AND THEY PLANNED TO LEAVE. HE SAID -- I
11:30:15 15 THINK I HAVE IT DOWN EXACTLY -- TO LEAVE EN MASSE, AND
16 LEAVE TCW AND THE INVESTORS IN THE LURCH. THAT'S WHAT
17 HE SAID.

18 I'LL TALK TO YOU IN A FEW MINUTES ABOUT
19 THE DOWNLOADING, AND I'LL EXPLAIN TO YOU WHAT REALLY
11:30:34 20 HAPPENED. AND I'LL EXPLAIN TO YOU HOW TCW HASN'T BEEN
21 HURT ONE IOTA FROM WHAT HAPPENED HERE BECAUSE OF THE
22 REMEDIATION PLAN THAT TOOK PLACE WITHIN DAYS AFTER THEY
23 WERE FIRED.

24 BUT I WANT TO TALK RIGHT NOW ABOUT THE
11:30:50 25 REAL REASON THAT MR. GUNDLACH AND HIS COLLEAGUES WERE
26 FIRED.

27 THE ANSWER TO THAT QUESTION LIES WITH
28 THE FRENCH, AND SPECIFICALLY THE FRENCH BANK, SOCIÉTÉ

1 GÉNÉRALE, WHICH IS IN THE INVESTMENT BANKING BUSINESS.
2 SOCIÉTÉ GÉNÉRALE BOUGHT STOCK IN TCW BEGINNING IN 2001.
3 AND BY 2008 IT OWNED ALL OF THE STOCK OF TCW.

4 AND FOR A WHILE THAT WAS A PRETTY GOOD
11:31:31 5 DEAL FOR THE FRENCH BANK BECAUSE MR. GUNDLACH WAS
6 MAKING A TON OF MONEY. AND THEY WERE REAPING THE
7 BENEFITS. BUT, AS ALL OF US KNOW, 2008, OUR COUNTRY
8 AND THE WORLD SUFFERED A SEVERE ECONOMIC DOWNTURN.

9 THAT AFFECTED THE PRIORITIES OF SOCIÉTÉ
11:31:56 10 GÉNÉRALE. SEE, THEY HAD BOUGHT TCW, NOT BECAUSE THEY
11 WERE REALLY INTERESTED IN THE ASSET MANAGEMENT
12 BUSINESS; THEY HAD PURCHASED IT AS AN INVESTMENT.

13 THEY WERE HOPING TO MAKE MONEY OFF IT,
14 AND MAYBE OVER TIME IT WOULD GROW IN VALUE AND THEY
11:32:15 15 WOULD SELL IT. THAT'S WHAT INVESTMENT BANKS DO. BUT
16 WHEN THEY HAD PROBLEMS BEGINNING 2008, THEY CHANGED
17 THEIR PLAN.

18 AND IN THE WORDS OF THE INVESTMENT
19 BANKERS AND THE OTHER BANKS THAT WERE ADVISING THEM,
11:32:35 20 THEY DECIDED TO -- THEY DECIDED THEY WANTED TO MONETIZE
21 THEIR INVESTMENT. THAT'S A FANCY BANKING TERM MEANING
22 THEY WANTED TO GET CASH OUT OF IT.

23 THEY EITHER WANTED TO SELL IT, SPIN IT
24 OFF, OR DO WHAT'S CALLED AN I.P.O. THESE ARE ALL
11:32:54 25 THINGS YOU'LL SEE IN THEIR DOCUMENTS. I'M NOT MAKING
26 THIS UP. IT WILL BE IN THE DOCUMENTS, YOU'LL SEE IN
27 THIS CASE.

28 THE FRENCH BANK NEEDED SOMEONE TO HELP

1 THEM IMPLEMENT THAT PLAN. THAT PERSON WAS MARK STERN.
2 SITTING RIGHT THERE.

3 THE PROBLEM WITH THAT PLAN WAS THAT
4 MARK STERN HAD RETIRED FROM TCW. HE WAS ONE OF THE TWO
11:33:32 5 TOP SENIOR EXECUTIVES, HE AND ROBERT DAY. THEY BOTH
6 HAD RETIRED FOUR YEARS EARLIER, IN 2005.

7 AND AT THE TIME THEY RETIRED, THEY
8 RETIRED WITH GREAT FANFARE. TCW ANNOUNCED INTERNALLY
9 AND PUBLICLY THAT THIS WOULD BE A GENERATIONAL CHANGE
11:33:55 10 IN LEADERSHIP THAT WOULD ALLOW TCW TO BRING ON THE NEXT
11 GENERATION OF LEADERS.

12 BRINGING MR. STERN BACK IN 2009 WAS
13 HARDLY BRINGING ON A NEW GENERATION. IT WAS GOING BACK
14 TO THE OLD GENERATION. MR. GUNDLACH COMPLAINED ABOUT
11:34:20 15 IT. HE DID NOT LIKE IT. HE DOESN'T -- HE WASN'T THE
16 ONLY PERSON WHO DID NOT LIKE IT.

17 HE AND FOUR OTHER OF THE ASSET MANAGERS
18 WROTE A LETTER TO THE FRENCH, ASKING THEM NOT TO
19 APPOINT MR. STERN AS CEO. THEY ASKED FOR A MANAGEMENT
11:34:46 20 COMMITTEE TO BE SET UP. REMEMBER THE E-MAIL THAT
21 MR. QUINN MENTIONED, WHERE HE SAID THAT
22 JEFFREY GUNDLACH WROTE AN E-MAIL SAYING: I WILL WORK
23 WITH YOU, BUT I WON'T WORK FOR YOU?

24 HE WROTE THAT WHEN THEY WERE HAVING
11:35:02 25 THIS, WHEN THEY MADE THIS PITCH TO THE FRENCH TO SET UP
26 THIS MANAGEMENT COMMITTEE WHICH WAS GOING TO BE, THEY
27 HOPED, A COLLABORATIVE WAY OF RUNNING THE COMPANY.

28 MR. STERN, ROBERT DAY, WHO WAS STILL

1 CHAIRMAN OF THE BOARD, AND SOCIÉTÉ GÉNÉRALE SAID NO.
2 JEFFREY'S COMPLAINTS RUBBED MR. STERN AND MR. DAY AND
3 THE FRENCH THE WRONG WAY.

4 WHAT HAPPENED NEXT IS PROBABLY FAMILIAR
11:35:42 5 WITH A LOT OF YOU. BECAUSE THE POWERFUL PEOPLE THAT
6 WERE RUNNING TCW AND THE FRENCH THOUGHT THAT
7 MR. GUNDLACH HAD JUST GOTTEN JUST A LITTLE TOO BIG FOR
8 HIS BRITCHES, AND THEY DECIDED THEY WERE GOING TO
9 MONETIZE. THEY BROUGHT IN MR. STERN TO DO THAT. AND
11:36:01 10 THEY WERE NOT GOING TO LET MR. GUNDLACH STAND IN THEIR
11 WAY.

12 NOW, MR. STERN HAS TESTIFIED UNDER OATH,
13 AND I PRESUME HE'LL TESTIFY UNDER OATH AGAIN, I
14 PRESUME, THAT HE DIDN'T DECIDE TO FIRE MR. GUNDLACH
11:36:18 15 UNTIL LATE NOVEMBER, OR EVEN EARLY DECEMBER OF 2009.

16 WELL, YOU'LL BE THE JUDGE OF MR. STERN'S
17 CREDIBILITY WHEN HE TESTIFIES, BUT I'M GOING TO TALK A
18 LITTLE BIT LATER ABOUT THE DOCUMENTS YOU'LL SEE,
19 INCLUDING THIS SECRET PROJECT G, IN WHICH THEY STARTED
11:36:39 20 TALKING AS EARLY AS JUNE OF 2009, SIX MONTHS BEFORE
21 THEY ACTUALLY WERE FIRED, ABOUT FINDING REPLACEMENTS.

22 AND THAT PLAN STARTED IN JUNE. YOU WILL
23 SEE E-MAILS FROM THE FRENCH WHO ACTUALLY SAT ON THE TCW
24 BOARD OF DIRECTORS TO THEIR BOSSES BACK IN PARIS
11:37:02 25 TALKING ABOUT: WE NEED TO FORCE OUT MR. GUNDLACH.

26 BUT THEY HAD A BIG PROBLEM. THEIR BIG
27 PROBLEM WAS THAT MR. GUNDLACH AND HIS GROUP CONTROLLED
28 A LOT OF THE BUSINESS. HE HAD BEEN MAKING SO MUCH

1 MONEY FOR TCW PRECISELY BECAUSE HE AND HIS TEAM WERE
2 MANAGING SO MUCH OF THE ASSETS UNDER MANAGEMENT THAT
3 MR. QUINN MENTIONED, THE A.U.M. 60 TO 70 PERCENT OF
4 THOSE ASSETS.

11:37:41 5 AND THEY WERE AFRAID THAT IF THEY JUST
6 FIRED HIM RIGHT AWAY, THEY WOULD LOSE AN AWFUL LOT OF
7 THAT BUSINESS. SO THEY CAME UP WITH THIS SECRET PLAN
8 WHICH THEY CODE-NAMED PROJECT G. IT'S IN THE
9 DOCUMENTS.

11:37:58 10 AND RIGHT FROM THE BEGINNING THEY
11 PLOTTED TO FIND SOMEBODY. TURNED OUT TO BE AN ENTIRE
12 COMPANY THEY HAD TO BRING IN TO REPLACE MR. GUNDLACH,
13 TO TRY TO KEEP AS MANY OF HIS KEY LIEUTENANTS AS THEY
14 COULD AND TO TRY TO KEEP AS MUCH OF THE BUSINESS AS
11:38:19 15 THEY COULD.

16 AND FOR THE NEXT SIX MONTHS MR. STERN
17 AND THE OTHER TOP EXECUTIVES OF TCW LIED TO
18 JEFFREY GUNDLACH AND MISLED HIM EVERY STEP OF THE WAY.
19 YOU WOULD HAVE THOUGHT THAT IF MR. GUNDLACH WERE SO
11:38:45 20 DISAGREEABLE, AS MR. QUINN HAD SAID, OR THEY JUST
21 COULDN'T WORK WITH HIM, THAT THEY WOULD HAVE SAT DOWN
22 AND TALKED TO HIM ABOUT NEGOTIATING SOME SORT OF
23 SEPARATION.

24 YOU'RE GOING TO HEAR EVIDENCE IN THIS
11:39:01 25 CASE THAT THAT'S WHAT OTHERS DID, OTHER PEOPLE WHO WERE
26 DISSATISFIED. THERE WERE FIVE PEOPLE WHO SENT THIS
27 LETTER TO THE FRENCH COMPLAINING ABOUT MR. STERN'S
28 APPOINTMENT. MR. GUNDLACH WAS ONE. THREE OF THE

1 OTHERS LEFT UNDER A NEGOTIATED AGREEMENT.

2 BUT THEY NEVER APPROACHED MR. GUNDLACH
3 ABOUT DOING THAT. AND THE REASON WAS BECAUSE HE
4 CONTROLLED SO MUCH OF THE BUSINESS THAT THEY WERE
11:39:27 5 AFRAID THAT THEY WOULD LOSE SO MUCH. SO THEY CAME UP
6 WITH A STRATEGY, A SCHEME. THERE'S NO OTHER WAY TO SAY
7 IT: TO LIE TO HIM SO THEY COULD TRY TO KEEP AS MUCH OF
8 THAT BUSINESS AS POSSIBLE.

9 I WANT TO TALK LATER ABOUT THIS
11:39:47 10 SEPTEMBER 3RD MEETING. BUT LET ME TELL YOU. THE
11 ACCOUNT YOU HEARD FROM MR. QUINN IS NOT WHAT YOU'RE
12 GOING TO HEAR WHAT THE EVIDENCE IS IN THIS CASE.

13 YES, MR. GUNDLACH DID ASK FOR THAT
14 MEETING. AND AT THAT MEETING HE ASKED MR. STERN: AM I
11:40:04 15 GETTING FIRED?

16 AND MR. STERN SAID NO. EVEN THOUGH ON
17 AUGUST 27 THERE WAS A MEETING IN WHICH A MR. CONN, A
18 MICHAEL CONN, TOOK NOTES -- YOU'LL SEE THE HANDWRITING
19 NOTES IN WHICH WE SAID -- HE WROTE DOWN:
11:40:29 20 UNFORTUNATELY, WE'VE HAD TO TERMINATE JEFFREY GUNDLACH
21 FOR CAUSE.

22 THAT WAS A PRESS RELEASE. THEY WERE
23 WRITING A PRESS RELEASE. THEY DECIDED TO WAIT FOR
24 THREE MONTHS, FOR REASONS I'LL TELL YOU.

11:40:42 25 SO, THREE MONTHS LATER THEY FIRED HIM.
26 THAT WAS IN BREACH OF THEIR CONTRACT, PLAIN AND SIMPLE.
27 THEY FIRED HIM TWO YEARS BEFORE THAT CONTRACT EXPIRED.
28 MR. QUINN SAYS: WELL, BUT HE DIDN'T HAVE -- HE DIDN'T

1 SIGN THE CONTRACT.

2 I'M GOING TO SHOW YOU E-MAILS WRITTEN BY
3 MR. CAHILL, MR. BEYER, WHO IS THE CEO AT THAT TIME,
4 MR. SONNEBORN, WHO IS THE PRESIDENT, AND BY
11:41:14 5 MR. GUNDLACH, SAYING WE HAVE A DEAL.

6 TCW'S OWN DOCUMENTS SHOWED THAT THEY
7 KNEW THAT THE CONTRACT EXPIRATION DATE WAS
8 DECEMBER 31ST, 2011. WE HAVEN'T EVEN GOTTEN THERE YET.
9 THAT'S A DOCUMENT THEY ACTUALLY PREPARED IN 2009.

11:41:38 10 AND THEN THEY DECIDED WHEN THEY SAW THAT
11 DOCUMENT, THEY ACTUALLY CHANGED IT BECAUSE THEY
12 REALIZED IT WAS BAD AND TOOK OUT THE EXPIRATION DATE.

13 THEY BADLY, BADLY MISGAUGED SOMETHING.
14 TCW, MR. STERN, MR. DAY, AND THE FRENCH THOUGHT BECAUSE
11:42:00 15 THEY DIDN'T LIKE MR. GUNDLACH, OTHERS DIDN'T -- MUST
16 NOT LIKE MR. GUNDLACH, EITHER. AND SO IF THEY COULD
17 MANAGE TO FIRE HIM BY SURPRISE, THEY COULD KEEP AS MANY
18 OF THE PEOPLE AS POSSIBLE.

19 THAT DID NOT WORK OUT. THEY WERE WRONG.
11:42:17 20 BECAUSE, IN FACT, MR. GUNDLACH IS A DEMANDING PERSON,
21 THERE'S NO DOUBT ABOUT THAT. AND HE CAN BE CRITICAL AT
22 TIMES. BUT HE ALSO WAS INCREDIBLY FAIR AND GENEROUS TO
23 THE PEOPLE WHO WORKED FOR HIM.

24 AND THOSE PEOPLE WERE LOYAL. THEY LEFT
11:42:33 25 IN DROVES AFTER HE WAS FIRED. 40 PEOPLE LEFT THAT
26 COMPANY, INCLUDING PEOPLE LIKE PHIL BARACH THAT
27 MR. STERN PERSONALLY APPEALED TO TO TRY TO GET HIM TO
28 STAY.

1 THIS IS GOING TO BE A LONG TRIAL. THE
2 EVIDENCE IN THIS CASE IS DISPUTED. WE DON'T AGREE WITH
3 MUCH OF ANYTHING MR. QUINN SAID. AND WE CERTAINLY
4 DON'T AGREE WITH THE INFERENCES HE WANTS YOU TO DRAW
11:43:03 5 FROM THAT.

6 LET ME TELL YOU WHAT REALLY HAPPENED
7 WITH THIS DOWNLOADING THAT HE'S BEEN TALKING ABOUT.

8 IN THE FALL OF 2009 AFTER THIS MEETING
9 ON SEPTEMBER 3RD THAT WE'VE BOTH TALKED ABOUT, THE
11:43:18 10 PEOPLE IN MR. GUNDLACH'S GROUP SIMPLY DID NOT KNOW WHAT
11 WAS GOING ON.

12 THERE WERE RUMORS AROUND THE COMPANY
13 THAT MR. GUNDLACH WAS GOING TO BE FIRED. THEY DIDN'T
14 KNOW IF HE WAS GOING TO BE FIRED. THEY DIDN'T KNOW IF
11:43:35 15 MR. STERN AND THE FRENCH WOULD TRY TO PATCH UP THEIR
16 DIFFERENCES WITH MR. GUNDLACH.

17 THEY DIDN'T KNOW WHETHER MR. GUNDLACH
18 MIGHT TRY TO PUT TOGETHER A COMPANY AND LEAVE PURSUANT
19 TO SOME NEGOTIATED AGREEMENT. I'LL TELL YOU ABOUT SOME
11:43:52 20 DOCUMENTS THAT SAY THAT.

21 THEY ALSO DIDN'T KNOW WHO ACTUALLY OWNED
22 THE INFORMATION. AFTER ALL, THEY HAD BEEN WORKING IN
23 THE GROUP FOR YEARS. THEY HAD BEEN SERVICING THE
24 CUSTOMERS. AND YOU'RE GOING TO HEAR TESTIMONY FROM THE
11:44:08 25 PEOPLE THAT THEY DID NOT KNOW WHETHER THEY ACTUALLY HAD
26 A RIGHT TO THE INFORMATION OR NOT.

27 AND SO THERE WAS DOWNLOADING OF
28 INFORMATION IN THE FALL OF 2000 AND -9. THERE'S NO

1 DOUBT ABOUT IT. WE DON'T DISPUTE THAT AT ALL.

2 YOU'RE GOING TO HEAR THAT THEY DIDN'T
3 KNOW WHETHER THEY COULD USE IT, WHAT THEY COULD USE.
4 THEY DID NOT KNOW, AND THEY HAD NOT MADE A DECISION.

11:44:35 5 BUT, BECAUSE THERE WAS SO MUCH
6 UNCERTAINTY, THEY DECIDED TO GET THE INFORMATION SO
7 THAT THEY COULD BE PREPARED AND THAT SOMEBODY ELSE
8 DECIDE -- LET SOMEBODY ELSE DECIDE LATER ON WHETHER IN
9 FACT THEY COULD USE IT.

11:44:49 10 AFTER THEY WERE FIRED AND THEY OPENED
11 THE DOORS AT DOUBLELINE, THEY VERY QUICKLY, WITHIN
12 DAYS, DECIDED THEY SHOULD NOT USE ANYTHING THAT WAS
13 CONCEIVABLY A TRADE SECRET. TWO REASONS. VERY SIMPLE.
14 TCW THREATENED TO SUE THEM.

11:45:09 15 THEY HANDED THEM A COMPLAINT SAYING:
16 WE'RE GOING TO SUE YOU. AND THEY DIDN'T WANT TO BE
17 SUED. APPARENTLY, THEIR WISHES WERE NOT FULFILLED
18 BECAUSE WE'RE NOW HERE. THEY DIDN'T WANT TO BE SUED.

19 AND THE SECOND THING IS, THEY DIDN'T
11:45:24 20 NEED THE INFORMATION.

21 MR. GUNDLACH IS ONE OF THE NATION'S, ONE
22 OF THE WORLD'S BEST BOND MANAGERS. AND HE DIDN'T GET
23 TO BE ONE OF THE WORLD'S BEST MANAGERS OF BONDS BECAUSE
24 OF INFORMATION THAT WAS ON A FLASH DRIVE.

11:45:48 25 HE GOT TO BE THAT BECAUSE OF HIS
26 INTELLIGENCE. HE IS A BRILLIANT GUY. HE'S A BRILLIANT
27 MATHEMATICIAN. AND BECAUSE OF HIS JUDGMENT THAT'S WHAT
28 MADE HIM SO GREAT.

1 AND THEY DECIDED THEY DIDN'T NEED IT.
2 SO, WHAT THEY DID IS THEY HIRED A FIRM OF FORMER
3 FEDERAL PROSECUTORS AND FORMER F.B.I. AGENTS, AND THEY
4 BROUGHT THEM IN AND SAID: REMEDiate, REMEDiate. WE
11:46:18 5 DON'T WANT TO HAVE A PROBLEM HERE.

6 MR. QUINN TOLD YOU THAT MR. SANTA ANA
7 TOOK THIS HARD DRIVE. HE TURNED THAT IN WITHIN TWO OR
8 THREE DAYS AFTER HE GOT IT FROM THE WOMAN ON
9 DECEMBER 4TH.

11:46:36 10 HE TOLD YOU THAT MR. MAYBERRY, TOOK A
11 FLASH DRIVE AND IT WAS LOST.

12 WHAT HE DIDN'T TELL YOU WAS THAT HE HAD
13 ACTUALLY BACKED THAT UP ON HIS PARENTS' LAPTOP. HE'S
14 DIVORCED AND HAS TWO KIDS, AND HE SPENDS A LOT OF TIME
11:46:53 15 WITH HIS PARENTS BECAUSE OF CHILD CARE NEEDS. HE WAS
16 WITH HIS PARENTS AND HE BACKED IT UP ON THEIR LAPTOP.

17 WITHIN DAYS -- ACTUALLY, I'M SORRY. HE
18 ACTUALLY WAITED A LITTLE LONGER. HE FORGOT ABOUT IT.
19 BUT A MONTH LATER HE TURNED THAT LAPTOP IN AS PART OF
11:47:08 20 THE REMEDIATION EFFORT.

21 MR. QUINN SORT OF HINTED AT SOMETHING,
22 BUT DIDN'T QUITE SAY IT. YOU'RE GOING TO HEAR VERY
23 LITTLE EVIDENCE AND TESTIMONY FROM THEIR SIDE THAT
24 ANYBODY AT DOUBLELINE ACTUALLY USED ANY TRADE SECRETS,
11:47:27 25 ANYTHING.

26 ANYTHING THEY CLAIM CAME FROM THEM. HE
27 SAID TO YOU: WELL, WE REALLY CAN'T PROVE THAT BECAUSE
28 PEOPLE DELETED INFORMATION. HE SAID THERE WAS A

1 REVISION CODE THAT DIDN'T EXIST.

2 THE REVISION CODE DOESN'T EXIST BECAUSE
3 IT WASN'T USED. THEY DIDN'T USE IT. THEY DIDN'T HAVE
4 TIME.

11:47:48 5 HE REFERRED TO MR. DAMIANI AND SAID HE
6 WIPED HIS COMPUTER, SUGGESTING THAT THAT'S SOMEHOW WAS
7 AN ATTEMPT TO DESTROY EVIDENCE. ATTEMPT TO DESTROY
8 EVIDENCE. YOU'LL HEAR FROM MR. DAMIANI, IT'S
9 EMBARRASSING, HE HAD EMBARRASSING INFORMATION ON HIS
11:48:04 10 LAPTOP.

11 AND HE WIPED IT BEFORE HE TURNED IT IN
12 AS PART OF THE REMEDIATION. HE DID NOT WANT PEOPLE TO
13 SEE THAT. WE WISH HE HADN'T DONE THAT, BUT IT'S
14 UNDERSTANDABLE. HE DIDN'T WANT PEOPLE TO SEE WHAT HE
11:48:17 15 WAS LOOKING AT.

16 LET ME TELL YOU ABOUT MY CLIENTS.

17 MR. GUNDLACH IS A WHIZ WITH NUMBERS. HE
18 GREW UP REALLY LOVING TWO THINGS: MATHEMATICS AND
19 DRUMMING.

11:48:36 20 AND THERE ARE PEOPLE ACTUALLY -- I READ
21 AN ARTICLE ABOUT THIS RECENTLY -- PEOPLE THINK THERE'S
22 A CONNECTION BETWEEN PEOPLE WHO UNDERSTAND THE RHYTHM
23 OF DRUMMING AND PEOPLE WHO ARE ACTUALLY GOOD WITH
24 NUMBERS. I'M NOT SURE THAT'S RIGHT, BUT IT TURNS OUT
11:48:49 25 THAT MR. GUNDLACH REALLY IS A GENIUS WITH NUMBERS.

26 HE WENT TO SCHOOL BACK EAST AND THEN
27 WENT INTO A PH.D. PROGRAM AT YALE IN MATHEMATICS. HE
28 DROPPED OUT AFTER A YEAR AND TOOK A JOB AS A

1 CONSTRUCTION WORKER IN BUFFALO.

2 HE SAVED ENOUGH MONEY LITERALLY TO PAY
3 FOR TRANSPORTATION FROM BUFFALO TO LOS ANGELES. HE
4 CAME OUT TO LOS ANGELES, AND HE INITIALLY TRIED TO WORK
11:49:20 5 AS A DRUMMER. HE DID THAT FOR A WHILE AND, LIKE MANY
6 PEOPLE WHO ASPIRE TO BE MUSICIANS, IT WAS A TOUGH GO,
7 AND HE DECIDED HE NEEDED TO DO SOMETHING ELSE.

8 SO HE GOT A JOB AT TRANSAMERICA
9 INSURANCE COMPANY, WHICH HE DID NOT LIKE. AND HE
11:49:38 10 STARTED LOOKING AROUND FOR OTHER JOBS. AND HE REALIZED
11 HIS SKILL IN MATH WOULD HELP HIM, AND SOMEBODY
12 SUGGESTED HE LOOK INTO INVESTMENT BANKING.

13 MR. QUINN WAS RIGHT ABOUT THAT. HE
14 ACTUALLY DID GO TO THE YELLOW PAGES AND HE LOOKED UP
11:49:54 15 INVESTMENT BANKING.

16 HE DID NOT FIND ANY INVESTMENT BANKING
17 FIRMS IN LOS ANGELES. BUT HE SAW INVESTMENT
18 MANAGEMENT. AND THAT SEEMED SIMILAR. HE ACTUALLY DID
19 NOT KNOW THE DIFFERENCE. HE WAS, IN FACT, VERY NAIVE,
11:50:10 20 AND VERY UNEDUCATED IN THE WORLD OF FINANCE.

21 SOMEONE SUGGESTED THAT HE SEND A RESUMÉ
22 TO TCW AND HE DID. HE WAS INTERVIEWED. AND HE GOT A
23 JOB PAYING \$30,000 A YEAR. HE WAS ON A 90-DAY
24 PROBATIONARY PERIOD. HE WAS CALLED A RESEARCH ANALYST.
11:50:31 25 IT SOUNDS LIKE A FANCY TITLE, BUT IT WASN'T. HE DIDN'T
26 HAVE A SECRETARY AND NOBODY REPORTED TO HIM. HE
27 ANSWERED HIS OWN PHONE. HE WORKED INCREDIBLY HARD.

28 HE GOT TO WORK BY 6:30 IN THE MORNING,

1 USUALLY STAYED TILL 6:30 AT NIGHT, SOMETIMES AS LATE AS
2 10:00 OR 11:00 P.M. AT NIGHT. HE TOOK THE BUS BACK AND
3 FORTH. HE WORKED VERY HARD.

4 AND HE IMPRESSED PEOPLE WITH HIS SKILL.
11:51:01 5 HE WAS TALENTED. HE WAS PROMOTED SOON. AND HE WAS
6 GIVEN MORE RESPONSIBILITY TO ACTUALLY ANALYZE AND
7 ADVISE AND CAME UP WITH NEW PRODUCTS.

8 HE HAS A -- ALMOST A LASER FOCUS WHEN IT
9 COMES TO NUMBERS. THERE ARE PEOPLE THAT SAY
11:51:23 10 MR. GUNDLACH CAN SEE A SET OF NUMBERS AND SEE PATTERNS
11 THAT NO ONE ELSE SEES, THAT YOU AND I WOULD NEVER SEE.

12 BUT IT'S THAT SAME LASER FOCUS THAT
13 MAKES HIM A LITTLE DISTANT AT TIMES.

14 HE CAN BE -- I'LL BE HONEST -- HE CAN BE
11:51:42 15 OFF-PUTTING, AND HE'S ECCENTRIC. I THINK ALL OF YOU
16 KNOW PEOPLE LIKE THIS, WHO ARE INCREDIBLY TALENTED IN
17 SOME WAY, BUT AT TIMES CAN BE A LITTLE AWKWARD. AND HE
18 CAN BE CRITICAL. YOU'LL SEE SOME OF THAT. AND YOU
19 HEARD SOME OF THAT FROM MR. QUINN.

11:51:58 20 TCW KNEW THAT. THEY ACCEPTED THAT THAT
21 WAS THE PERSON, THE COMBINATION OF PERSON THEY HAD.
22 SOMEONE WHO WAS AN ABSOLUTE GENIUS, MADE THEM MORE THAN
23 A BILLION DOLLARS, BUT COULD BE AWKWARD IN MEETINGS,
24 COULD BE CRITICAL, OCCASIONALLY DID DO A SUDOKU PUZZLE
11:52:19 25 WHILE PEOPLE WERE DOING MEETINGS.

26 THAT'S THE KIND OF PERSON HE WAS.
27 THAT'S THE KIND OF PERSON HE IS. AND TCW UNDERSTOOD
28 THAT THAT MIGHT BE ODD COMPARED TO SOME PEOPLE, BUT IT

1 REAPED -- THEY REAPED INCREDIBLE FINANCIAL REWARDS.

2 IN 1987 HE WAS APPOINTED TO A POSITION
3 OF ASSISTANT VICE-PRESIDENT. AND IN THAT POSITION HE
4 BEGAN MANAGING THE CHRYSLER PENSION FUND.

11:52:50 5 HE DIDN'T STOP. HE KEPT WORKING,
6 WORKING, WORKING, AND WORKED HIS WAY UP THE LADDER
7 UNTIL FINALLY, IN 2005, HE WAS APPOINTED AS THE CHIEF
8 INVESTMENT OFFICER OF THE COMPANY. THAT IS THE MOST
9 SENIOR POSITION IN TERMS OF MANAGING THE INVESTMENTS OF
11:53:10 10 THE COMPANY.

11 HE MANAGED MORE MONEY THAN ANYBODY ELSE.
12 WHEN HE STARTED WORKING AT TCW IN 1985, TCW HAD
13 \$9.2 BILLION OF THESE ASSETS UNDER MANAGEMENT. NOW,
14 THAT PROBABLY SOUNDS LIKE A LOT OF MONEY TO ALL OF US.
11:53:31 15 BUT WHEN HE WAS FIRED IN 2009, THEY HAD \$110 BILLION OF
16 ASSETS UNDER MANAGEMENT.

17 THEY HAD ADDED \$100 BILLION DURING THE
18 YEARS HE WAS THERE. AND HE WAS MANAGING ALMOST 70 --
19 HE AND HIS GROUP WERE MANAGING ALMOST 70 PERCENT OF
11:53:53 20 THAT. HE WAS A STAR AT TCW, AND HE'S A STAR IN THE
21 INDUSTRY.

22 MR. QUINN MENTIONED THIS MORNING STAR,
23 WHICH IS A PUBLICATION THAT GIVES AWARD. HE WAS
24 RECOGNIZED IN 2006. I THINK IT WAS AS THE MORNING STAR
11:54:14 25 FIXED INCOME MANAGER OF THE YEAR.

26 HE WAS LATER ONE OF THE FINALISTS FOR
27 FIXED INCOME MANAGER OF THE DECADE.

28 LET ME TELL YOU ABOUT THE HISTORY OF MY

1 OTHER CLIENTS. LET ME START WITH MR. SANTA ANA.

2 HE WAS RAISED IN SALINAS, CALIFORNIA, UP
3 NORTH. HIS FATHER WAS A FARM WORKER, A MACHINIST, AND
4 A MECHANIC. HIS MOTHER WORKED 25 YEARS IN THE
11:54:42 5 GRAVEYARD SHIFT IN THE ASSEMBLY LINE AT SMUCKER'S UP IN
6 THE SALINAS AREA.

7 AFTER HIGH SCHOOL HE WENT TO A COMMUNITY
8 COLLEGE IN THE SALINAS AREA AND WAS ABLE TO TRANSFER TO
9 UCLA. HE WAS THE FIRST PERSON IN HIS FAMILY TO GO TO A
11:54:58 10 COLLEGE. AND HE GRADUATED FROM UCLA WITH A DEGREE IN
11 ECONOMICS.

12 HE MADE IT THROUGH UCLA BY WORKING AT
13 SOMETIMES AS MANY 30 HOURS A WEEK, GETTING SCHOLARSHIPS
14 AND TAKING OUT LOANS.

11:55:13 15 HE'D BEEN WORKING FOR TCW FOR ABOUT 15
16 YEARS WHEN HE WAS FIRED. HE STARTED AT THE LOWEST
17 LEVELS AND WORKED HIS WAY UP TO A POSITION OF MANAGING
18 DIRECTOR OF MR. GUNDLACH'S GROUP. THAT'S A --
19 ESSENTIALLY, THE CHIEF OPERATIONS OFFICER. HE WAS THE
11:55:31 20 GUY THAT MADE THE BUSINESS DECISIONS.

21 ROBERT VAN -- BARBARA VANEVERY. SHE
22 WORKED FOR TCW FOR ABOUT 16 YEARS BEFORE SHE WAS FIRED.
23 SHE GREW UP IN SAN JOSE. WENT TO COLLEGE IN SAN DIEGO.
24 TOOK A JOB AT AN INSURANCE COMPANY, DIFFERENT --
11:55:50 25 DIFFERENT THAN TRANSAMERICA, IN LOS ANGELES.

26 IT'S AN INTERESTING STORY. THEY THEN
27 WANTED TO TRANSFER HER BACK TO CHATTANOOGA AND SHE WENT
28 BACK THERE FOR FOUR DAYS AND HATED IT AND CAME BACK

1 HERE. AND A HEADHUNTER FOUND HER A JOB AT TCW.

2 HER FIRST JOB AT TCW WAS REALLY AS A --
3 SOME SORT OF SECRETARIAL ASSISTANT. AND SHE WORKED HER
4 WAY ALL THE WAY UP, SO SHE BECAME THE SENIOR VICE
11:56:18 5 PRESIDENT FOR CLIENT RELATIONS WITHIN MR. GUNDLACH'S
6 GROUP.

7 SHE WAS THE HEAD PERSON IN THAT GROUP,
8 RESPONSIBLE FOR CLIENT RELATIONS.

9 MR. MAYBERRY, WHO'S A LITTLE YOUNGER,
11:56:28 10 BUT HE ALSO SPENT HIS ENTIRE PROFESSIONAL LIFE AT TCW
11 BEFORE HE WAS FIRED.

12 HE WENT TO COLLEGE OUT AT HARVEY MUDD
13 OUT IN POMONA, AND GOT A MASTER'S DEGREE OUT THERE AND
14 IMMEDIATELY WENT TO WORK AT AN ENTRY-LEVEL POSITION AT
11:56:46 15 TCW. AND BY THE TIME HE WAS FIRED, HE WAS A SENIOR
16 VICE PRESIDENT IN CHARGE OF RISK MANAGEMENT.

17 NOW, OVER THE YEARS OF MR. GUNDLACH'S
18 EMPLOYMENT AT TCW, HIS EMPLOYMENT CONTRACT DIDN'T
19 REALLY CHANGE UNTIL 2007. DURING -- UNDER HIS
11:57:06 20 EMPLOYMENT CONTRACT, HE WOULD GET ABOUT HALF OF THE
21 FEES THAT TCW WAS PAID FOR MANAGING MONEY.

22 THERE ARE TWO TYPES OF FEES IN THIS
23 INDUSTRY, AND THEY'RE IMPORTANT TO REALIZE THE
24 DIFFERENCES BETWEEN THE TWO.

11:57:21 25 ONE IS CALLED A MANAGEMENT FEE. AND
26 THAT IS SIMPLY A PERCENTAGE OF THE ASSETS UNDER
27 MANAGEMENT. SO, IF A PENSION FUND GIVES \$100 MILLION
28 TO TCW TO MANAGE, AND THE MANAGEMENT FEE IS 1 PERCENT,

1 THEN TCW WILL MAKE \$1 MILLION A YEAR ON THAT FOR
2 MANAGING THAT MONEY.

3 AND UNDER MR. GUNDLACH'S CONTRACTS, HE
4 AND HIS GROUP WOULD GET ABOUT HALF OF THAT.

11:57:50 5 NOW, I SAY HIS GROUP BECAUSE HE WAS
6 RESPONSIBLE FOR DIVVYING IT UP BETWEEN HIMSELF AND THE
7 REST OF THE GROUP.

8 THERE WERE TWO OTHER FEATURES OF HIS
9 CONTRACTS FOR YEARS THAT ARE IMPORTANT.

11:58:03 10 ONE, HE COULD NOT BE FIRED, EXCEPT FOR
11 GROSS MISCONDUCT OR OTHER SEVERE BEHAVIOR, LIKE, YOU
12 KNOW, HE'S CONVICTED OF A FELONY.

13 BUT GROSS MISCONDUCT IS THE MAIN WORD.

14 AND, SECONDLY, IF HE EVER WAS TERMINATED
11:58:22 15 FOR GROSS MISCONDUCT, HE HAD TO BE PAID ALL THE FEES
16 THAT HAD ACCRUED, WHETHER OR NOT TCW HAD ACTUALLY BEEN
17 PAID. AND THE REASON THAT'S IMPORTANT IN THIS INDUSTRY
18 IS YOU DO THE WORK AND YOU -- AND YOU INVEST THE MONEY,
19 BUT THE RETURNS DON'T ALWAYS COME IN. SO TCW, IN ITS
11:58:45 20 OWN RECORDS, KEEPS TRACK OF WHAT THE ACCRUED FEES ARE.

21 AND SO ONE OF OUR CLAIMS FOR DAMAGES
22 HERE IS TO BE PAID ALL THE FEES THAT HAD ACCRUED UP
23 UNTIL THE TIME THAT HE WAS FIRED. AND OUR EXPERT WILL
24 TESTIFY BASED ON TCW'S OWN DOCUMENTS THAT THAT WAS
11:59:06 25 ABOUT 62- TO \$65 MILLION.

26 THERE'S A SECOND KIND OF FEE, IT'S
27 CALLED AN INCENTIVE FEE MOR A PERFORMANCE FEE. THE
28 DIFFERENCE IS, REMEMBER IN THE MANAGEMENT FEE TCW GETS

1 PAID JUST A PERCENTAGE OF A TOTAL ASSETS UNDER
2 MANAGEMENT. HERE IS WHAT A PERFORMANCE FEE IS. THEY
3 GET PAID A PERCENTAGE OF THE PROFIT THAT THEY MAKE.
4 SO, IF TCW DOES A GOOD JOB AND THE ASSETS OF THE
11:59:39 5 CALIFORNIA TEACHERS ASSOCIATION GO UP FROM \$100 MILLION
6 TO 150 MILLION, THEN TCW GETS A SHARE OF THAT
7 \$50 MILLION INCREASE. THAT'S -- THAT'S THE PERFORMANCE
8 FEE. AND THOSE WERE BIGGER PERCENTAGES. THOSE COULD
9 BE AS MUCH AS 20 PERCENT.

11:59:58 10 AND THE REASON FOR THAT IS TO GIVE THEM
11 AN INCENTIVE TO DO A GOOD JOB.

12 HERE IS WHAT HAPPENED IN 2007, AND THIS
13 IS A BIG REASON WHY WE'RE HERE TODAY AND WHY
14 MR. GUNDLACH WAS FIRED.

12:00:14 15 WHAT HAPPENED IN 2007 IS THAT
16 MR. GUNDLACH CAME UP WITH AN IDEA. HE SAID: I'M GOING
17 TO DEVELOP A FUND. I'LL TAKE PEOPLE'S MONEY, AND I'M
18 GOING TO INVEST IT IN WHAT ARE CALLED DISTRESSED
19 ASSETS. WE'VE GONE THROUGH SOME HARD ECONOMIC TIMES.
12:00:33 20 SO A LOT OF THE ASSETS HAVE GONE DOWN IN VALUE. AND HE
21 THOUGHT HE COULD TAKE PEOPLE'S INVESTMENTS, PURCHASE
22 THOSE AT A CHEAP PRICE AND OVER TIME THEY WOULD
23 INCREASE IN VALUE.

24 AND HE CREATED SOMETHING CALLED THE
12:00:50 25 SPECIAL MORTGAGE CREDIT FUNDS. AND THEY WOULD PAY
26 INCENTIVE FEES BASED ON THE PROFIT, THE AMOUNT THAT
27 THOSE INCREASED IN VALUE, OVER THE FOUR, FIVE, SIX
28 YEARS OF THOSE FUNDS.

1 IT WAS DURING THIS SAME TIME THAT
2 MR. GUNDLACH WAS NEGOTIATING A NEW CONTRACT. HE
3 NEGOTIATED IT WITH MR. BEYER, THE CEO, AND
4 MR. SONNEBORN, THE PRESIDENT.

12:01:20 5 AND UNDER THE 2007 ARRANGEMENT THAT THEY
6 ENTERED INTO, HE WOULD CONTINUE TO GET FOR HIS GROUP
7 ABOUT HALF OF THESE MANAGEMENT FEES BUT EVEN MORE THAN
8 HALF OF THESE PERFORMANCE OR INCENTIVE FEES.

9 AND REMEMBER, THOSE FEES ARE A LOT
12:01:38 10 HIGHER. TCW GETS A LOT HIGHER AMOUNT THAN THEY GET ON
11 THE MANAGEMENT FEES.

12 MR. GUNDLACH NEGOTIATED THAT HE WAS
13 GOING TO GET ABOUT 55, 60 PERCENT FOR HIS GROUP. AND
14 THEN HE WOULD BE RESPONSIBLE FOR DIVVYING THAT UP.

12:01:56 15 NOW, COUPLE THINGS ARE VERY INTERESTING
16 ABOUT THAT AGREEMENT.

17 FIRST, MR. GUNDLACH WAS SO CONFIDENT IN
18 HIS ABILITY TO MAKE MONEY ON THESE FUNDS THAT HE AGREED
19 HE WOULD COVER THE COST, THE OVERHEAD EXPENSE OF
12:02:17 20 RUNNING THESE FUNDS. OKAY.

21 THAT MEANT THAT IF THEY DIDN'T WORK OUT,
22 HE TOOK OUT -- HE TOOK ALL THE DOWNSIDE RISK, AND TCW
23 WOULD BE PROTECTED. THE DOCUMENTS THAT YOU WILL SEE
24 SHOW THAT TCW LOVED THIS ARRANGEMENT BECAUSE THEY
12:02:34 25 WEREN'T TAKING THE RISK. TRIAL EXHIBIT 5035, 5,035 IS
26 AN E-MAIL FROM BILL SONNEBORN, THE PRESIDENT, TO A
27 MR. DEVITO, ONE OF THE OTHER NEGOTIATORS OF THE
28 CONTRACT, IN WHICH HE SAYS, QUOTE: I THINK IT'S

1 AWESOME, YOU AND PETER, PETER SULLIVAN, ANOTHER
2 NEGOTIATOR, -- DID THIS PERFECTLY.

3 BECAUSE THEY WEREN'T TAKING THE RISK.
4 MR. GUNDLACH WAS TAKING THE RISK.

12:03:03 5 THERE'S ANOTHER E-MAIL THAT SAME DAY,
6 THAT'S TRIAL EXHIBIT 5036 FROM BOB BEYER. THAT'S A
7 MAY 1ST, 2007 E-MAIL TO MR. GUNDLACH. HERE IS WHAT HE
8 SAYS, AND I'M QUOTING: I JUST WANT YOU TO KNOW HOW
9 GOOD I FEEL ABOUT THE NEW DEAL. ESPECIALLY YOUR
12:03:27 10 APPROACH TO THE PRESENTATION AND YOUR REALISTIC AND
11 CONSIDERATE WAY OF TRYING TO MAKE IT A WIN, WIN.

12 WHAT HE MEANS BY THAT WIN, WIN IS HE'S
13 AGREEING TO PROTECT TCW ON THE DOWNSIDE IF IT DOESN'T
14 WORK OUT. THAT'S THE WIN FOR TCW.

12:03:48 15 BUT HE GETS A BIG UPSIDE IF IT ACTUALLY
16 SUCCEEDS. THAT'S THE WIN FOR MR. GUNDLACH AND HIS
17 GROUP.

18 NOW, MR. QUINN TOLD YOU HE WAS RIGHT
19 THAT MR. GUNDLACH DID NOT SIGN THE CONTRACT, AND HE
12:04:04 20 SAYS: AHA, THEREFORE, THERE WAS NO CONTRACT.

21 WHAT DO WE KNOW ABOUT THAT? FIRST, WE
22 KNOW ON MAY 1ST THE PRESIDENT AND CEO SAID: WE HAVE A
23 DEAL.

24 THEN WE KNOW THAT THREE WEEKS LATER
12:04:21 25 JEFFREY GUNDLACH SENT AN E-MAIL, EXHIBIT 61, TO
26 MICHAEL CAHILL, THE TOP LAWYER, SAYING: YES, WE SHOULD
27 GO UNDER THE NEW ARRANGEMENT. EVERYONE HAS AGREED TO
28 IT IN GOOD FAITH.

1 ON MAY 30TH, EXHIBIT 63, ONE OF THE
2 OTHER TCW EXECUTIVES WHO WORKED ON THE AGREEMENT, WROTE
3 AN E-MAIL INSTRUCTING THE PAYROLL DEPARTMENT TO PAY
4 MR. GUNDLACH AND HIS GROUP IN ACCORDANCE WITH THE TERMS
12:04:55 5 THEY HAD NEGOTIATED IN THIS AGREEMENT.

6 AND HE WAS, IN FACT, PAID PRECISELY BY
7 THOSE TERMS FROM THAT MOMENT ON UNTIL THE DAY HE WAS --
8 UNTIL THE QUARTER BEFORE HE WAS FIRED. THEY ACTUALLY
9 DIDN'T PAY HIM FOR THAT LAST QUARTER.

12:05:14 10 WHY IN THE WORLD WOULD THEY PAY HIM
11 UNDER THOSE TERMS IF THEY DIDN'T THINK THEY HAD A
12 CONTRACT?

13 THEY THOUGHT THEY HAD A CONTRACT.
14 MR. GUNDLACH SAID WE HAD A CONTRACT. THE E-MAIL THAT
12:05:30 15 WENT TO THE PAYROLL DEPARTMENT SAID WE HAVE A HANDSHAKE
16 DEAL.

17 THAT, LADIES AND GENTLEMEN, IS A BINDING
18 ORAL CONTRACT.

19 THEY DIDN'T NEED ANYTHING ELSE. THEY
12:05:44 20 HAD THE -- THEY HAD AN UNDERSTANDING HE COULD ONLY BE
21 FIRED FOR GROSS MISCONDUCT. THEY HAD THIS
22 UNDERSTANDING ABOUT BEING PAID BASED ON THE FEES THAT
23 HAD BEEN ACCRUED. AND THEY HAD AN UNDERSTANDING ABOUT
24 THE TERMS OF THE COMPENSATION.

12:05:57 25 THE AGREEMENT WAS PRESENTED TO THE BOARD
26 OF DIRECTORS OF TCW GROUP. IT FIRST WENT TO THE
27 COMPENSATION COMMITTEE AT A MEETING IN JULY OF 2007
28 THAT MR. STERN, AMONG OTHERS, ATTENDED.

1 YOU'RE GOING TO SEE THE MINUTES.
2 MINUTES ARE TYPED-UP, SINGLE-SPACED, FIVE OR SIX PAGES
3 OF MINUTES OF THAT MEETING.

4 MR. SONNEBORN, THE PRESIDENT OF THE
12:06:26 5 COMPANY, PRESENTED THAT EMPLOYMENT ARRANGEMENT AND
6 RECOMMENDED THAT IT BE RATIFIED, APPROVED, AND
7 CONFIRMED.

8 AND IT WAS. IT WAS A RESOLUTION FROM
9 THE COMPENSATION COMMITTEE THAT RATIFIES, APPROVES, AND
12:06:42 10 CONFIRMS IT. THAT WAS THEN PRESENTED TO THE BOARD.

11 NOW, TWO VERY IMPORTANT THINGS HAPPENED
12 IN 2009. THE FIRST OF THOSE WAS THAT IN EARLY 2009
13 SOCIÉTÉ GÉNÉRALE ANNOUNCED AN AGREEMENT.

14 IT WAS A JOINT VENTURE BETWEEN SOCIÉTÉ
12:07:10 15 GÉNÉRALE AND ANOTHER FRENCH BANK TO COMBINE THE ASSET
16 MANAGEMENT BUSINESSES. AND WHEN THEY ANNOUNCED THIS,
17 THEY SAID THAT THEY INTENDED TO SPIN OFF TCW IN FIVE
18 YEARS. SELL IT. MAKE IT ITS OWN COMPANY.

19 THEY HADN'T TALKED TO MR. GUNDLACH ABOUT
12:07:31 20 THAT. AND WHEN HE SAW THIS ANNOUNCEMENT, HE THOUGHT:
21 MY GOD, THEY'RE GOING TO GET RID OF THE ASSET
22 MANAGEMENT BUSINESS THAT I HAVE HELPED TO BUILD.

23 HE WENT TO THE MANAGEMENT AT TCW, AND HE
24 ASKED FOR ASSURANCES THAT THAT'S NOT WHAT YOU'RE GOING
12:07:51 25 TO DO. THEY REFUSED TO GIVE THOSE ASSURANCES.

26 THE SECOND THING THAT HAPPENED IN 2009
27 IS THAT BOB BEYER, THE CEO, RESIGNED.

28 AND THAT'S WHEN THE FRENCH ANNOUNCED

1 THAT MR. STERN WOULD COME IN TO REPLACE HIM.

2 AND REMEMBER, AS I SAID EARLIER, THIS
3 COMES FOUR YEARS AFTER THEY HAD PUBLICLY AND INTERNALLY
4 ANNOUNCED THAT WHEN MR. BEYER CAME IN AND WAS REPLACING
12:08:27 5 ROBERT DAY, MR. SONNEBORN WAS REPLACING MR. STERN; THAT
6 THIS WAS A GENERATIONAL CHANGE.

7 NOW, TCW IS NOT THE ONLY COMPANY THAT'S
8 GONE THROUGH GENERATIONAL CHANGES IN LEADERSHIPS.
9 THERE ARE MANY COMPANIES THAT HAVE LEADERS WHO HAVE
12:08:44 10 BEEN AROUND A LONG, LONG TIME. AND AT SOME POINT YOU
11 HAVE TO PASS ON THE REINS TO THE NEXT GENERATION.

12 AND THAT'S WHAT THEY HAD ANNOUNCED THEY
13 WERE GOING TO DO IN 2005. AND SO WHEN MR. STERN WAS
14 ANNOUNCED -- WHEN THEY ANNOUNCED THAT MR. STERN WAS
12:09:02 15 COMING BACK IN 2009, THIS DIDN'T LOOK LIKE A
16 GENERATIONAL CHANGE.

17 YOU'RE GOING TO SEE AN EXHIBIT, TRIAL
18 EXHIBIT 5146. IT'S AN E-MAIL AND A LETTER. THE E-MAIL
19 COMES -- THE E-PAYMENT COMES FROM A MAN NAMED
12:09:21 20 MARK ATTANASIO. HE'S A SENIOR ASSET MANAGEMENT AT TCW.

21 HE ATTACHES A LETTER SIGNED BY
22 ATTANASIO, MR. CHAPUS, WHO MR. QUINN MENTIONED TO YOU,
23 MR. GUNDLACH, A MAN NAMED BLAIR THOMAS, AND
24 DIANE JAFFEE.

12:09:38 25 TOGETHER, THEY COMPLAINED TO THE FRENCH
26 AND ASKED THAT MR. STERN NOT BE APPOINTED AS CEO AND,
27 INSTEAD, THEY SET UP A MANAGEMENT COMMITTEE.

28 THE DECISION WAS MADE TO MAKE MR. STERN

1 THE INTERIM CEO. I'M NOT SURE WHAT THAT MEANS. I
2 THINK HE STILL IS CEO, SO I'M NOT SURE HOW INTERIM IT
3 WAS.

4 OF THOSE FIVE PEOPLE THAT SIGNED THAT
12:10:10 5 LETTER, THREE OF THEM ENDED UP LEAVING PURSUANT TO
6 NEGOTIATED SEPARATIONS.

7 NOW, IN THIS BUSINESS THAT HAPPENS. ONE
8 OF THE THINGS YOU'LL SEE FROM THE DOCUMENTS, YOU'RE
9 GOING TO SEE THAT PEOPLE DESCRIBE TCW AS A COMPANY OF
12:10:28 10 SILOS. IN OTHER WORDS, THERE WERE INDIVIDUAL MANAGERS
11 THAT MANAGED THEIR OWN ASSETS, THEIR OWN PORTFOLIOS AND
12 THEIR OWN SPECIALTIES.

13 AND WHEN THERE WAS FRICTION, AS THERE
14 WAS, SOME OF THOSE ASSET MANAGERS NEGOTIATED A
12:10:46 15 SEPARATION WHEREBY THEY WOULD TAKE SOME BUSINESS AND
16 THEY WOULD AGREE ESSENTIALLY ON SOME SORT OF
17 FEE-SHARING ARRANGEMENT, OR SOMETIMES, IN THE CASE OF
18 MR. ATTANASIO, MR. CHAPUS ALSO, SOME SORT OF JOINT
19 BUSINESS OPERATION, WHERE BOTH WOULD BENEFIT.

12:11:04 20 MR. THOMAS LEFT IN 2009.

21 MR. CHAPUS AND MR. ATTANASIO LEFT IN
22 2010, UNDER NEGOTIATED SEPARATIONS.

23 THE ONLY ONE OF THOSE FIVE THAT WAS
24 FIRED WAS MR. GUNDLACH.

12:11:23 25 DIANE JAFFEE IS STILL THERE.

26 THE OTHER THREE LEFT UNDER NEGOTIATED
27 AGREEMENTS.

28 BUT MR. GUNDLACH WAS FIRED.

1 MR. DAY ABOUT THIS MEETING, JUST A MEETING OF THE TWO
2 OF THEM IN WHICH THEY TALKED ABOUT PROJECT G.
3 MR. STERN ADMITTED, AS HE REALLY HAD TO, THAT THE G
4 STOOD FOR GUNDLACH.

12:13:44 5 OTHER THAN THAT, HE AND MR. DAY REALLY
6 COULDN'T REMEMBER MUCH ABOUT THE MEETING OR ABOUT WHAT
7 THEY WERE PLANNING.

8 BUT YOU REALLY DON'T HAVE TO GET THEIR
9 TESTIMONY BECAUSE YOU CAN FIGURE IT OUT FROM THE
12:13:59 10 DOCUMENT. IT'S NOT A LONG DOCUMENT. IT'S A ONE-PAGE
11 AGENDA OF SORTS.

12 AND IT HAS, FOR EXAMPLE, ONE OF THE
13 ENTRIES ON THE AGENDA IS ALTERNATIVE MANAGERS. THIS IS
14 JUNE 29TH. MR. QUINN TOLD YOU THAT THEY DIDN'T START
12:14:17 15 LOOKING OR NEGOTIATING WITH SOMEONE TO REPLACE
16 MR. GUNDLACH UNTIL AFTER THE SEPTEMBER 3RD MEETING.

17 WELL, IN FACT, THIS DOCUMENT, THESE
18 JUNE 29, 2009 NOTES DEMONSTRATE WITHOUT A DOUBT THAT
19 THAT EARLY THEY WERE DISCUSSING GOING OUT AND LOOKING
12:14:38 20 FOR ALTERNATIVE MANAGERS.

21 THEY HIRED CITIGROUP IN PART TO DO JUST
22 THAT. AND THEY HIRED THEM IN JULY OF 2009. NOT
23 SEPTEMBER. NOT OCTOBER. THEY HIRED HIM IN THE SUMMER
24 OF 2009.

12:14:57 25 THE COURT: MR. BRIAN, WOULD NOW BE AN
26 APPROPRIATE TIME TO TAKE A BREAK?

27 MR. BRIAN: SURE, YOUR HONOR.

28 THE COURT: OUR NORMAL TIME. WE'LL TAKE 20

1 MINUTES, LADIES AND GENTLEMEN, AND WE'LL RETURN AT
2 12:35, AND WE'LL CONTINUE TILL 2 O'CLOCK.

3 THANK YOU.

4

12:15:11 5 (AT 12:15 P.M. A RECESS WAS TAKEN.)

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1 CASE NUMBER: BC429385
 2 CASE NAME: TRUST COMPANY OF THE WEST VS.
 3 JEFFREY GUNDLACH, ET AL
 4 LOS ANGELES, WEDNESDAY, JULY 28, 2011
 5 CALIFORNIA
 6 DEPARTMENT 322 HON. CARL J. WEST, JUDGE
 7 APPEARANCES: (AS HERETOFORE NOTED.)
 8 REPORTER: WENDY OILLATAGUERRE, CSR #10978
 9 TIME: 12:50 P.M.

08:59AM

10
 11 THE COURT: GOOD AFTERNOON, LADIES AND
 12 GENTLEMEN.

13
 14 (ALL COUNSEL RESPONDED "GOOD AFTERNOON, YOUR HONOR.")

12:45PM

15
 16 THE COURT: ALL RIGHT. IN THE TCW MATTER,
 17 WE'RE BACK ON THE RECORD.

18 ALL OF THE MEMBERS OF THE JURY ARE BACK
 19 EXCEPT JUROR NO. 5, MR. JOHNSON. MR. JOHNSON HAS HAD A
 20 MEDICAL EMERGENCY AND A CONDITION WHICH IS GOING TO
 21 PRECLUDE HIM FROM CONTINUING TO SERVE WITH US. SO THE
 22 COURT IS GOING TO EXCUSE MR. JOHNSON, AND I WILL SEAT
 23 MR. MATTHEW LANE AS JUROR NO. 5, ALTERNATE NUMBER 1.

12:45PM

24 THE COURT: ALL RIGHT.

25 MR. BRIAN, YOU MAY CONTINUE.

12:45PM

26 MR. BRIAN: FIRST OF ALL, CONGRATULATIONS.

27 JUROR NO. 5: THANK YOU.

28 MR. BRIAN: I THINK I WAS IN THE MIDDLE OF THE

1 VERY FIRST MEETING, IN WHICH THEY DISCUSSED PROJECT G,
2 ON JUNE 29TH, 2009. AND I THINK I TOLD YOU THAT
3 ESSENTIALLY IT'S A ONE-PAGE AGENDA OF SORTS. AND
4 THEY'VE GOT, I THINK, FOUR OR FIVE KINDS OF ROMAN
5 NUMERAL HEADINGS. AND ONE OF THEM IS PROJECT G.

12:46PM

6 AND ONE OF THE ENTRIES UNDER THERE TALKS
7 ABOUT ALTERNATIVE MANAGERS. AND THERE'S A REFERENCE TO
8 A MR. GAMSIN, G-A-M-S-I-N. HE WAS A FRIEND OF
9 MR. STERN, AND HE WAS SOMEBODY THAT THEY WENT TO AS
10 EARLY AS LATE JUNE, JULY, TO GET IDEAS ON WHO WOULD
11 REPLACE MR. GUNDLACH.

12:46PM

12 ANOTHER ENTRY SAYS, CONTACT WITH
13 LIEUTENANTS. NOW THAT SUGGESTS, WE THINK, THAT RIGHT
14 FROM THE BEGINNING, THEY KNEW THAT THEY WANTED TO TALK
15 TO THE OTHER KEY PEOPLE IN MR. GUNDLACH'S GROUP, TO TRY
16 TO PERSUADE THEM TO STAY.

12:46PM

17 NOW, I THINK I MENTIONED EARLIER THAT
18 MR. STERN HAS TESTIFIED THAT HE DOESN'T DECIDE TO FIRE
19 MR. GUNDLACH UNTIL LATE NOVEMBER OR EARLY DECEMBER OF
20 2009. WELL, THERE ARE DOCUMENTS THAT ARE GOING TO BEAR
21 UPON YOUR VIEW OF THE CREDIBILITY OF THAT TESTIMONY.

12:47PM

22 ONE OF THEM, TRIAL EXHIBIT 5153, IS A
23 JUNE 6TH, 2009 E-MAIL, EVEN BEFORE THIS MEETING CALLED
24 PROJECT G. AND IT'S FROM ONE OF THE SOCIETE GENERALE
25 MEMBERS, JEAN-PIERRE MOSTIER. AND HE SAYS RIGHT THERE,
26 ROBERT DAY THINKS WE NEED TO FORCE OUT MR. GUNDLACH.
27 MR. MOSTIER WRITES AN ALMOST IDENTICAL E-MAIL A MONTH
28 LATER, TRIAL EXHIBIT 5198, IN WHICH HE SAYS, THIS TIME

12:47PM

1 THE PROBABLE CONCLUSION -- AND THESE ARE IN FRENCH, SO
2 I'M GIVING YOU THE ENGLISH TRANSLATION -- THE PROBABLE
3 CONCLUSION IS THAT WE HAVE TO SEVER AND REMOVE
4 MR. GUNDLACH NO LATER THAN AUGUST 5TH OF 2009.

5 MR. STERN SET UP ANOTHER MEETING, THIS 12:48PM
6 TIME NOT JUST WITH ROBERT DAY, BUT WITH THE OTHER --
7 THE TOP EXECUTIVES AT TCW, TO TALK ABOUT THE NEXT STEPS
8 OF PROJECT G. THAT MEETING GOT SCHEDULED FOR AUGUST
9 17TH, AND THEN, BECAUSE OF MR. STERN'S SCHEDULE GOT
10 MOVED TO AUGUST 27TH. 12:48PM

11 ONE OF THE KEY DOCUMENTS IN THIS ENTIRE
12 CASE IS TRIAL EXHIBIT 5224. THESE ARE MICHAEL CONN'S
13 HANDWRITTEN NOTES OF THAT MEETING.

14 NOW, WHY IS THAT SO CRITICAL? IT'S SO
15 CRITICAL BECAUSE MR. CONN RECORDS IN THOSE NOTES, 12:48PM
16 "UNFORTUNATELY, WE'VE HAD TO TERMINATE MR. GUNDLACH FOR
17 CAUSE."

18 WHY IS THAT SO IMPORTANT? BECAUSE
19 EVERYTHING UP TO THAT POINT, EVERYTHING, THE DOCUMENTS
20 FROM THE FRENCH, THESE NOTES, THE PROJECT G, ALL OF 12:49PM
21 WHICH PUT IN PLACE A SECRET PLAN TO GET RID OF
22 MR. GUNDLACH, TAKES PLACE BEFORE THERE'S ANY OF THIS
23 DOWNLOADING OF INFORMATION THAT MR. QUINN TALKS SO MUCH
24 ABOUT. AND THE AUGUST 27TH MEETING IS SEVEN DAYS
25 BEFORE THIS SEPTEMBER 3RD MEETING THAT MR. GUNDLACH 12:49PM
26 CALLED.

27 AND MR. GUNDLACH DID NOT THREATEN TO
28 LEAVE AT THAT MEETING. THAT'S NOT WHAT HIS PURPOSE

1 WAS, AND THAT'S NOT WHAT HE DID. HE WAS TRYING TO
2 CONVINCED MR. STERN NOT TO FIRE HIM. AND HE SAID, "ARE
3 YOU GOING TO FIRE ME?" ANSWER WAS "NO." AND HE SAID
4 -- HE THEN DID SAY, "IF I'M FIRED, WHO WOULD LEAVE WITH
5 ME?" AND THE PEOPLE RAISED THEIR HANDS.

12:50PM

6 THAT WASN'T A THREAT. THAT WAS A
7 STATEMENT TO MR. STERN, "IF YOU FIRE ME, YOU ARE GOING
8 TO TEAR THIS FIRM APART. DON'T DO THAT."

9 THERE WAS ONE OTHER THING THAT HAPPENED
10 AT THAT MEETING THAT MR. QUINN DID NOT TELL YOU ABOUT,
11 AND THAT IS THAT MR. GUNDLACH OFFERED TO BUY THE
12 COMPANY. HE OFFERED TO BUY TCW.

12:50PM

13 MR. GUNDLACH IS A WEALTHY MAN; THERE'S
14 NO DOUBT ABOUT THAT. HE'S MADE A LOT OF MONEY BY
15 MAKING TCW A LOT OF MONEY. HE HAS ALSO MADE A LOT OF
16 MONEY FOR HIMSELF.

12:50PM

17 AND WHAT HE TOLD MR. STERN AT THE
18 MEETING IS, IF SOCIETE GENERALE COULD FINANCE HALF OF
19 IT, IF THEY WOULD LOAN HIM HALF OF THE MONEY, HE COULD
20 PUT TOGETHER, HIMSELF AND OTHER INVESTORS, \$700
21 MILLION, AND BUY TCW, AND SOLVE THE PROBLEM.

12:50PM

22 MR. STERN SAID, "I'LL GET BACK TO YOU."
23 DID HE? NO, HE DIDN'T. WHAT HE DID INSTEAD WAS -- HE
24 REALLY DID THREE THINGS, FOLLOWING THAT MEETING WITH
25 MR. STERN: FIRST, HE STEPPED UP THEIR EFFORTS TO FIND
26 A REPLACEMENT FOR MR. GUNDLACH.

12:51PM

27 SECOND, HE AND OTHERS TALKED ABOUT WAYS
28 TO FIRE MR. GUNDLACH AND TRY TO KEEP AS MANY OF HIS

1 LIEUTENANTS WITH HIM. BECAUSE WHILE THEY HOPED TO
2 NEGOTIATE AN AGREEMENT, AND FINALLY DID, WITH MET WEST,
3 AND BROUGHT THEM IN TO RUN THE BUSINESS, THEY ALSO
4 RECOGNIZED IT WOULD BE HELPFUL TO KEEP AS MANY OF
5 MR. GUNDLACH'S KEY LIEUTENANTS AROUND AS POSSIBLE.

12:51PM

6 AND YOU WILL SEE THEIR E-MAILS AFTER THE
7 SEPTEMBER 3RD MEETING IN WHICH THEY THOUGHT THEY HAD
8 BEEN ABLE TO DIVIDE AND CONQUER. MR. STERN THOUGHT ONE
9 OF THE GOOD THINGS COMING OUT OF THAT MEETING WAS NOW
10 HE COULD TALK DIRECTLY, DIRECTLY TO THE LIEUTENANTS, AS
11 A WAY OF DRIVING A WEDGE BETWEEN THEM AND MR. GUNDLACH.
12 AND THEY SET UP A PLAN TO SECRETLY MONITOR
13 MR. GUNDLACH'S COMPUTER AND HIS E-MAILS, AND THOSE OF
14 -- SOME OF THE OTHERS.

12:52PM

15 NOW, YOU ARE GOING TO -- I'VE TALKED
16 ALREADY ABOUT THE MATERIAL. YOU ARE GOING TO HEAR FROM
17 OUR PEOPLE ABOUT WHAT IT WAS. YOU ARE GOING TO HEAR
18 ABOUT THE STEPS THEY TOOK, AFTER THEY FORMED
19 DOUBLELINE, TO TURN STUFF IN. YOU ARE GOING TO HEAR
20 PEOPLE WHO ACTUALLY BUILT THE SYSTEMS AT DOUBLELINE,
21 AND THEY ARE GOING TO TELL YOU THEY DID NOT USE THE TCW
22 ANALYTICS TO DO THAT.

12:52PM

12:52PM

23 THEY DID IT WITH THEIR OWN BRAINPOWER,
24 AND BY PURCHASING SYSTEMS THAT ARE NOW AVAILABLE FROM
25 THIRD PARTY VENDORS. YOU WILL BE ABLE TO SEE THAT
26 TESTIMONY.

12:53PM

27 BUT THE ONE POINT I WANT TO MAKE THAT I
28 HAVEN'T MADE THIS MORNING IS ON THIS POINT: MR. QUINN

1 TOLD YOU THAT WITHIN A FEW WEEKS IN SEPTEMBER, THEY
2 BEGAN TO LEARN THAT SOMETHING WAS UP, THAT THEY WERE
3 COPYING MATERIALS THEY WERE DOWNLOADING. AND YET THEY
4 DID NOTHING ABOUT IT, NOTHING ABOUT IT, UNTIL THEY
5 FIRED HIM ON DECEMBER 4.

12:53PM

6 ASK YOURSELVES IF THEY THOUGHT, REALLY
7 THOUGHT THAT MR. GUNDLACH AND HIS TEAM WERE GOING TO
8 WALK OUT EN MASSE AND LEAVE THEM AND THE INVESTORS IN
9 THE LURCH, IS WHAT MR. QUINN SAID. WITH ALL THIS
10 SECRET KENTUCKY FRIED CHICKEN FORMULA, WOULDN'T THEY
11 HAVE DONE SOMETHING ABOUT IT? WOULDN'T THEY HAVE GONE
12 TO THE PEOPLE AND SAID, STOP IT? THEY HAD NO
13 INFORMATION THAT MR. GUNDLACH WAS DOWNLOADING. THEY
14 HAD INFORMATION THAT SOME OTHERS ON HIS TEAM WERE.
15 WOULDN'T THEY HAVE GONE TO MR. GUNDLACH, AND SAID, "WHY
16 ARE YOUR PEOPLE DOWNLOADING? GO TALK TO THEM."

12:53PM

12:54PM

17 THEY DIDN'T DO THAT. AND I WOULD
18 SUGGEST TO YOU, THEY DIDN'T DO THAT BECAUSE, ONE, THEY
19 DIDN'T WANT TO BLOW THEIR COVER ON THIS SECRET
20 PROJECT G. AND TWO, THIS STUFF ISN'T THAT IMPORTANT.
21 AND YOU ARE GOING TO HEAR TESTIMONY ON THAT, THAT THE
22 STUFF THAT WAS ON THIS THING THAT WAS DOWNLOADED, THAT
23 MR. SANTA ANA ACTUALLY RETURNED IT. IT TURNED OUT THE
24 NEXT DAY AFTER THIS WOMAN GAVE IT TO HIM AT THE CAR, HE
25 TURNED IT IN THE NEXT DAY. YOU ARE GOING TO SEE THAT
26 THE ONLY EVIDENCE OF THAT -- OF ANYTHING THAT WAS USED,
27 JUST ISN'T THAT IMPORTANT.

12:54PM

12:54PM

28 YOU ARE ALSO GOING TO SEE ANOTHER NOTE.

1 ACTUALLY, LET ME MOVE TO A DIFFERENT
2 TOPIC. WHAT DID MR. GUNDLACH DO AFTER THIS SEPTEMBER
3 3RD MEETING? WELL, WHAT YOU HEARD FROM MR. QUINN WAS
4 THAT HE WAS MAKING PLANS TO TAKE HIS WHOLE BUSINESS AND
5 MOVE.

12:55PM

6 HERE'S WHAT HE, IN FACT, DID: HE WASN'T
7 SURE, JUST LIKE HIS GROUP WASN'T SURE, WHAT WAS GOING
8 TO HAPPEN. HE DIDN'T KNOW. FRANKLY, HE DIDN'T TRUST
9 MR. STERN, HE DIDN'T. LET'S BE BLUNT ABOUT IT, HE
10 DIDN'T TRUST HIM. HE THOUGHT HE MIGHT GET FIRED. AND
11 HE ALSO THOUGHT HE MIGHT NOT BE ABLE TO WORK IT OUT AT
12 TCW, AND HE WANTED TO BE READY IN THE EVENT HE WAS
13 FIRED, OR IN THE EVENT THEY SIMPLY COULDN'T WORK OUT A
14 RESOLUTION AND THEY WOULD NEGOTIATE A SEPARATION.

12:55PM

15 NOW, HOW DO WE KNOW THAT THAT'S WHAT
16 HE -- AND HE TOOK STEPS TO REGISTER A NAME OF A
17 COMPANY. AND HE ASKED BARBARA VANEVERY TO BEGIN TO
18 LOOK FOR OFFICE SPACE. YES, HE DID THAT.

12:55PM

19 BUT HOW DO WE KNOW THAT HE WAS NOT
20 PLANNING TO JUST LEAVE THE COMPANY IN THE LURCH? YOU
21 ARE GOING TO SEE DOCUMENTS THAT BEAR ON THAT QUESTION.

12:56PM

22 MR. QUINN TOLD YOU THAT MR. GUNDLACH MET
23 WITH SOME ADVISORS AT GOLDMAN SACHS IN NEW YORK. HE
24 DID. YOU ARE GOING TO SEE NOTES OF THAT MEETING.
25 THAT'S TRIAL EXHIBIT 506. AND YOU ARE GOING TO SEE
26 WHAT THEY TALKED ABOUT.

12:56PM

27 AND THEY TALKED ABOUT THREE
28 ALTERNATIVES. ONE, QUOTE, "WORK WITHIN CONSTRUCT TODAY

1 WITH IMPROVED GOVERNANCE AND ECONOMICS." WHAT THAT
2 MEANS IS, ONE OF THE OPTIONS WAS TO TRY TO WORK WITH
3 MR. STERN AND THE OTHER SENIOR LEADERSHIP, STAY AT TCW,
4 AND TRY TO MAKE THIS MANAGEMENT COMMITTEE, THIS
5 COLLABORATIVE EFFORT, WORK. THAT WAS ONE OPTION.

12:57PM

6 THE SECOND OPTION WAS, QUOTE, "WORK
7 TOGETHER WITH TCW TO EXPEDITE SEPARATION FROM SG."
8 THAT'S SOC-JEN, SOCIETE GENERALE. IN OTHER WORDS, WORK
9 WITH THE AMERICANS AND TRY TO BECOME FREE OF THE
10 FRENCH. GO BACK TO WHAT IT WAS 10 YEARS AGO. SEPARATE
11 OURSELVES FROM THE FRENCH.

12:57PM

12 AND THE THIRD OPTION, AND I QUOTE, IS
13 "NEGOTIATED SEPARATION." IN OTHER WORDS, NEGOTIATE AN
14 AGREEMENT, LIKE THE OTHER ASSET MANAGERS DID, TO FORM A
15 BUSINESS AND SHARE SOME OF THE FEES WITH TCW.

12:57PM

16 NOW, WHAT'S THE SECOND DOCUMENT THAT
17 SHOWS THAT THAT'S WHAT THE INTENT WAS, AND THAT THE
18 INTENT WAS NOT TO LEAVE THEM IN THE LURCH?
19 MR. GUNDLACH ASKED MR. SANTA ANA TO PREPARE WHAT'S
20 CALLED A PRO FORMA FINANCIAL STATEMENT. AND THAT'S
21 A -- YOU ARE MAKING A PROJECTION OF WHAT YOUR COSTS ARE
22 GOING TO BE, WHAT YOUR REVENUE IS GOING TO BE, AND WHAT
23 YOUR INCOME IS GOING TO BE, AND WHAT THE SALARIES MIGHT
24 BE LIKE.

12:58PM

25 AND YOU WILL SEE A NUMBER OF THESE PRO
26 FORMAS. BUT THERE'S A CRITICAL ENTRY ON EACH ONE OF
27 THESE PRO FORMAS. AND WHAT IT SAYS IS, TCW SHARE, 10
28 PERCENT. THAT'S WHAT IT SAYS, TCW SHARE, 10 PERCENT.

12:58PM

1 THIS IS NOT A PLAN TO LEAVE THEM IN THE
2 LURCH. AND THIS WAS ONE OF THREE OPTIONS DISCUSSED
3 WITH GOLDMAN SACHS.

4 THERE'S NO FOURTH OPTION BEING DISCUSSED
5 IN THESE DOCUMENTS. THERE'S NO FOURTH OPTION IN THE
6 NOTES OF THE MEETING WITH GOLDMAN SACHS WHICH IS, WE'RE
7 GOING TO LEAVE THEM HIGH AND DRY. THE OPTIONS ARE TO
8 WORK IT OUT WITH TCW, EITHER WITH THE FRENCH OR
9 SEPARATING FROM THE FRENCH; OR IF WE CAN'T DO THOSE,
10 THEN NEGOTIATE A SEPARATION AGREEMENT WHERE WE WOULD
11 THEN GIVE A PORTION OF OUR FEES BACK TO TCW.

12 THEY DIDN'T GET THE CHANCE TO DO THAT,
13 BECAUSE TCW FIRED THEM. AND AT THE TIME THEY FIRED
14 THEM, THEY DIDN'T PAY THEM THE MONEY THEY OWED THEM.

15 I HEARD MR. QUINN SAY -- AND I MUST SAY,
16 I ALMOST FELL OFF MY CHAIR. I HEARD HIM SAY THAT THEY
17 PAID MY CLIENTS EVERY DOLLAR THAT THEY WERE OWED.
18 THAT'S JUST NOT TRUE. THAT IS NOT TRUE.

19 UNDER MR. GUNDLACH'S CONTRACT, HE WAS
20 ENTITLED TO BE PAID ALL THE FEES THAT HAD ACCRUED UP
21 UNTIL THE TIME THAT HE WAS FIRED. TCW KEEPS TRACK OF
22 ACCRUED FEES. WE'LL SHOW YOU THE RECORDS. OUR EXPERT
23 WILL TESTIFY, BASED ON THOSE RECORDS, WHAT FEES HAD
24 ACCRUED; AND THOSE FEES WERE NOT PAID.

25 BUT THE BIGGER CHUNK, AND PART OF WHY HE
26 WAS FIRED, PART OF WHY HE WAS FIRED, WERE THESE
27 INCENTIVE FEES.

28 REMEMBER I TOLD YOU THIS MORNING, THERE

12:58PM

12:59PM

12:59PM

12:59PM

01:00PM

1 ARE TWO KINDS OF FEES: A MANAGEMENT FEE, WHICH IS A
2 SMALLER CHUNK, A NICE NUMBER, BUT IT'S A SMALLER
3 PERCENTAGE. AND THE INCENTIVE FEE, WHICH IT COULD BE
4 AS HIGH AS 20 PERCENT OF THE GROWTH, THE INCREASE IN
5 VALUE OF THE FUND.

01:00PM

6 THE SPECIAL MORTGAGE CREDIT FUNDS THAT
7 MR. GUNDLACH HAD INVESTED IN BACK IN 2007, THEY'VE GONE
8 THROUGH THE ROOF, 20 PERCENT INCREASES. AND TCW AND
9 THE FRENCH KNEW THEY WERE GOING TO OWE MR. GUNDLACH AND
10 HIS TEAM, HUNDREDS OF MILLIONS OF DOLLARS. THAT WAS
11 THE UPSIDE.

01:01PM

12 REMEMBER I SAID THERE WAS A DOCUMENT
13 THAT SAYS THE WIN-WIN. ONE OF THE TWO EXECUTIVES, I
14 THINK IT WAS MR. BEYER, WROTE THE E-MAIL TO
15 MR. GUNDLACH, THANKING HIM FOR HIS APPROACH, HIS
16 REALISTIC APPROACH TO ACHIEVE THE WIN-WIN.

01:01PM

17 ONCE AGAIN, TCW WAS EXCITED BECAUSE
18 MR. GUNDLACH PROMISED TO PROTECT THEM ON THE DOWNSIDE.
19 HE COVERED -- HE AGREED TO COVER THE OVERHEAD EXPENSES.
20 BUT THE WIN FOR HIM WAS THE UPSIDE. FRANKLY, WHEN HE
21 DID THIS IN 2007, THE TCW GUYS THAT NEGOTIATED, THEY
22 DIDN'T EXPECT IT. THEY DIDN'T EXPECT THAT BIG UPSIDE.

01:01PM

23 MR. GUNDLACH DID. HE WAS CONFIDENT THAT
24 HE COULD MAKE THESE FUNDS GROW, AND HE AND HIS TEAM
25 WOULD MAKE A LOT OF MONEY. THE TCW GUYS LIKED IT
26 BECAUSE THEY WERE PROTECTED, BUT WHEN IT LOOKS LIKE HE
27 WAS GOING TO GET THAT MONEY, THE DOCUMENTS SHOW THAT
28 TCW AND THE FRENCH BANK DECIDED THEY WANTED TO REDUCE

01:02PM

1 THOSE COSTS UNDER THE CONTRACT AND BRING IN A CHEAPER
2 REPLACEMENT. SO THEY KEPT THE COMPENSATION.

3 ONE FINAL DOCUMENT, TRIAL EXHIBIT 5382.

4 THESE ARE CALLED MARC'S NOTES, TYPED UP
5 BY MICHAEL CONN, THE SAME GUY THAT WROTE THE
6 HANDWRITTEN NOTES. HE'S GOING TO BE A VERY IMPORTANT
7 WITNESS, AS YOU MIGHT EXPECT.

01:02PM

8 YOU WILL HAVE TO EVALUATE HIS
9 CREDIBILITY. WE'RE LOOKING FORWARD TO HIM SHOWING UP
10 HERE. HE PREPARED THESE NOTES FOR MR. STERN'S MEETING
11 WITH THE FRENCH ON OCTOBER 18TH. MR. STERN FLEW TO
12 PARIS, MET WITH THE FRENCH TO PUT THE FINISHING TOUCHES
13 ON PROJECT G AND THEIR PLAN TO GET RID OF MR. GUNDLACH.

01:02PM

14 AND WHAT THEY DECIDED TO DO, AND IT'S
15 RIGHT THERE, IS TO BE PROACTIVE AND TO USE THE ELEMENT
16 OF SURPRISE. THEY WANTED TO SURPRISE MR. GUNDLACH.
17 THEY WANTED TO SURPRISE HIM, TO PREVENT HIM FROM
18 GETTING A BUSINESS UP AND RUNNING AND COMPETING.
19 THAT'S WHY THEY WANTED THE ELEMENT OF SURPRISE.

01:03PM

20 AND ON THE DAY AFTER DECEMBER 4TH, ON
21 DECEMBER 5TH OF 2009, ONE OF THE FRENCHMEN SENT AN
22 E-MAIL BACK TO HIS BOSSES IN WHICH HE SAYS THAT THE
23 IDEAL WOULD BE TO NEGOTIATE AN AGREEMENT WHERE
24 MR. GUNDLACH WOULD SIGN A NONCOMPETE, VALID FOR ONE
25 YEAR. THEY WANTED TO KEEP HIM AWAY AND KEEP HIM FROM
26 COMPETING WHEN HE GOT UP AND RUNNING. WE'LL EXPLAIN
27 HOW HE DID THAT. THIS LAWSUIT WAS FILED.

01:03PM

01:03PM

28 I WANT TO ECHO SOMETHING MR. QUINN SAID.

1 WE DON'T AGREE ON A LOT, BUT WE DO AGREE ON OUR
2 APPRECIATION FOR WHAT YOU'VE DONE SO FAR AND WHAT YOU
3 ARE GOING TO DO THE REST OF THIS TRIAL. WE ARE GOING
4 TO TRY TO MOVE THINGS ALONG, AND HOPEFULLY WE'LL BE
5 FASTER THAN YOU WERE TOLD THE OTHER DAY. WE'RE
6 ACTUALLY OPTIMISTIC THAT WE'LL GO A LITTLE MORE
7 QUICKLY. BUT IT IS AN INTERESTING CASE, AND WE
8 APPRECIATE YOUR COMMITMENT TO JURY SERVICE.

01:04PM

9 I THINK I MENTIONED YESTERDAY HOW
10 IMPORTANT JURY SERVICE IS TO ALL OF US, AND FRANKLY, TO
11 THE DEMOCRACY WE LIVE IN. IT'S A WONDERFUL THING, AND
12 I THINK YOU WILL ENJOY IT.

01:04PM

13 I WILL HAVE A CHANCE TO SPEAK WITH YOU
14 AGAIN AT THE END OF THE CASE. AND I'LL SPEAK TO YOU
15 ABOUT OUR LAWSUIT AGAINST TCW, IN WHICH WE'RE GOING TO
16 ASK YOU TO AWARD OUR CLIENTS A LOT OF MONEY, THE MONEY
17 THEY WERE OWED FOR THE WORK THEY PERFORMED UNTIL THE
18 TIME -- UP UNTIL THE TIME THEY WERE FIRED, AND THE
19 MONEY THEY WERE OWED FOR THE REMAINING TWO YEARS, BASED
20 ON THIS INCREASED VALUE OF THE INCENTIVE FEES.

01:05PM

21 AND WE'RE GOING TO ASK YOU TO AWARD
22 NOTHING TO TCW, BECAUSE THERE'S -- WE DON'T THINK
23 THERE'S LIABILITY. AND BECAUSE OF ALL THE THINGS WE
24 DID TO REMEDIATE, TO TURN IN THE STUFF, WE DON'T THINK
25 THERE WILL BE ANY EVIDENCE THAT THEY'VE BEEN DAMAGED.
26 THANK YOU VERY MUCH.

01:05PM

27 THE COURT: ALL RIGHT. THANK YOU, MR. BRIAN.

01:05PM

28 MR. QUINN, ARE YOU PREPARED TO CALL YOUR

1 FIRST WITNESS?

2 MR. QUINN: YES, WE ARE, YOUR HONOR.

3 MR. MADISON WILL BE HANDLING THIS
4 WITNESS.

5 THE COURT: MR. MADISON?

01:05PM

6 MR. MADISON: WE'RE GOING TO CALL RACHEL CODY,
7 YOUR HONOR.

8 THE COURT: ALL RIGHT.

9 MR. HELM: YOUR HONOR, JUST ONE MOMENT.

10 DURING OPENING MR. QUINN STATED THEY
11 WERE GOING TO PUT MR. KALE ON FIRST.

01:06PM

12 THE COURT: WHAT HAPPENED TO MR. KALE?

13 MR. QUINN: MR. KALE IS HERE.

14 THE COURT: I THINK YOU TOLD US MR. KALE AND
15 THEN MS. CODY.

01:06PM

16 MR. QUINN: WELL, IT'S A QUESTION OF WHETHER
17 OR NOT WE COULD GET THROUGH THE TWO WITNESSES IN THE
18 AMOUNT OF TIME, IS THE ISSUE THAT WE TALKED ABOUT.

19 THE COURT: ALL RIGHT.

20 MR. QUINN: WE HOPE TO DO BOTH, YOUR HONOR.
21 THAT'S OUR INTENTION.

01:07PM

22 MR. MADISON: YOUR HONOR, I DON'T KNOW IF IT
23 WOULD MAKE A DIFFERENCE, BUT GIVEN WE'RE GOING TO START
24 WITH TESTIMONY, WOULD YOU LIKE THE ALTERNATES TO MOVE
25 CLOSER TO THE WITNESS, OR SHOULD THEY REMAIN WHERE THEY
26 ARE SEATED?

01:07PM

27 THE COURT: WHERE THEY ARE SEATED. OR IF THEY
28 WANT TO SIT IN THE BACK ROW, WHEREVER IS COMFORTABLE

1 WITH YOU. WE'RE NOT GOING TO OUTSIDE THE BOX.

2 THE CLERK: MA'AM, PLEASE RAISE YOUR RIGHT
3 HAND TO BE SWORN.

4

5 RACHEL CODY,
6 CALLED AS A WITNESS BY THE PLAINTIFF, WAS SWORN AND
7 TESTIFIED AS FOLLOWS:

8

9 THE CLERK: YOU DO SOLEMNLY SWEAR THAT THE
10 TESTIMONY YOU ARE ABOUT TO GIVE IN THE CAUSE NOW
11 PENDING BEFORE THIS COURT, SHALL BE THE TRUTH, THE
12 WHOLE TRUTH AND NOTHING BUT THE TRUTH, SO HELP YOU GOD?

13 THE WITNESS: I DO.

14 THE CLERK: THANK YOU.

15 PLEASE BE SEATED ON THE WITNESS STAND.

01:07PM

16 THE COURT: GOOD AFTERNOON, MA'AM.

17 THE WITNESS: GOOD AFTERNOON.

18 THE CLERK: MA'AM, PLEASE STATE AND SPELL YOUR
19 NAME FOR THE RECORD.

20 THE WITNESS: RACHEL CODY, R-A-C-H-E-L,
21 C-O-D-Y.

01:08PM

22 THE COURT: ALL RIGHT, MR. MADISON. YOU MAY
23 PROCEED.

24

25 DIRECT EXAMINATION +

01:08PM

26

27 BY MR. MADISON:

28 Q ARE YOU EMPLOYED?

1 A I CURRENTLY WORK AT DOUBLELINE CAPITAL.

2 Q HOW LONG HAVE YOU WORKED AT DOUBLELINE
3 CAPITAL?

4 A I HAVE BEEN THERE SINCE JANUARY 2010.

5 Q JANUARY 2010.

01:08PM

6 COULD YOU PULL THE MICROPHONE CLOSER,
7 PLEASE?

8 THE COURT: WE'RE GOING TO HAVE TO -- WOULD
9 YOU SLIDE THAT OVER AND SEE, WE MAY NEED TO GET ANOTHER
10 TABLE OVER HERE.

01:08PM

11 MR. MADISON: OKAY.

12 Q SO YOU BEGAN WORKING AT DOUBLELINE CAPITAL IN
13 JANUARY OF 2010, CORRECT?

14 A CORRECT. THAT'S CORRECT.

15 Q AND AGAIN, PULL THE MICROPHONE CLOSER TO YOU,
16 IF YOU COULD, SO EVERYONE CAN HEAR YOU. THANK YOU.

01:09PM

17 AND AT DOUBLELINE CAPITAL, YOU WORKED
18 WITH THE DEFENDANTS, SOME OF WHOM ARE HERE IN THE
19 COURTROOM, MR. SANTA ANA, CORRECT?

20 A CORRECT.

01:09PM

21 Q AND MR. GUNDLACH, WHO'S IN THE SECOND ROW,
22 LOOKING DOWN, CORRECT?

23 A THAT'S CORRECT.

24 Q AND TO MR. GUNDLACH'S RIGHT IS MS. VANEVERY,
25 CORRECT?

01:09PM

26 A YES.

27 Q AND THEN MR. MAYBERRY NEXT TO MS. VANEVERY?

28 A CORRECT.

1 Q NOW, BEFORE YOU WORKED AT DOUBLELINE CAPITAL,
2 YOU WORKED WITH THE FOUR DEFENDANTS THAT WE JUST
3 IDENTIFIED AT TRUST COMPANY OF THE WEST, DIDN'T YOU?

4 A I DID.

5 Q WHEN DID YOU GO TO WORK AT TRUST COMPANY OF
6 THE WEST?

01:09PM

7 A I STARTED THERE IN MARCH OF 2007.

8 Q WAS THAT YOUR FIRST JOB OUT OF COLLEGE?

9 A NO, IT WAS NOT.

10 Q AND HOW LONG HAD YOU BEEN OUT OF COLLEGE WHEN
11 YOU WENT TO WORK AT TCW?

01:10PM

12 A ABOUT A YEAR, A YEAR AND A FEW MONTHS.

13 Q NOW, WHAT POSITION DID YOU HAVE AT TCW IN
14 2009?

15 A IN 2009, I WAS WORKING AS AN ANALYST,
16 BASICALLY WRITING COMMENTARIES, WHICH ARE BASIC
17 MARKETING PIECES FOR CLIENTS.

01:10PM

18 Q COULD YOU TELL US WHAT AN ANALYST IS, PLEASE?

19 A ANALYST DOES ALL DIFFERENT TYPES OF ROLES.
20 SOME DO ACCOUNT WORK FOR THE SPECIFIC CLIENTS.

01:10PM

21 I, LIKE I SAID, DID THE COMMENTARIES. I
22 WOULD WRITE WHAT THE MARKET DID FOR THE MONTH, KIND OF
23 GIVE AN OUTLOOK; AND THAT WOULD GO TO THE CLIENTS AND
24 AS A MARKETING PIECE ON THE WEBSITE.

25 Q WHO DID YOU REPORT TO AT TCW IN 2009?

01:10PM

26 A IN 2009, I WAS REPORTING TO BARBARA VANEVERY.

27 Q AND PRIOR TO THAT, HAD YOU REPORTED TO SOMEONE
28 ELSE AT TCW?

1 A I DID.

2 Q WHO?

3 A JOE GALLIGAN.

4 Q WHEN DID YOU BEGAN REPORTING TO MS. VANEVERY?

5 A I BELIEVE THAT WAS THE SUMMER OF 2009.

01:11PM

6 Q NOW, YOU WERE PART OF THE MBS GROUP AT TCW,
7 CORRECT?

8 A CORRECT.

9 Q AND THAT'S THE GROUP THAT WAS OVERSEEN BY
10 MR. GUNDLACH, CORRECT?

01:11PM

11 A CORRECT.

12 Q AND MR. SANTA ANA AS ALSO A MANAGER OF THAT
13 GROUP, RIGHT?

14 A CORRECT.

15 Q YOU WERE IN THE GROUP THAT MANAGES WHAT ARE
16 CALLED MORTGAGE-BACKED SECURITIES, RIGHT?

01:11PM

17 A CORRECT.

18 Q AND YOU WORKED ON THE 16TH FLOOR AT TCW?

19 A I DID.

20 Q NOW, I HAVE A BINDER OF EXHIBITS IN FRONT OF
21 YOU. THE FIRST ONE I WOULD LIKE YOU TO LOOK AT IS
22 NUMBER 373. AND THIS IS A FLOOR PLAN OF THE 16TH FLOOR
23 AT TCW IN 2009.

01:11PM

24 DO YOU HAVE A BINDER, YOUR HONOR?

25 THE COURT: I'M GETTING IT.

01:11PM

26 Q BY MR. MADISON: DO YOU HAVE EXHIBIT 373 IN
27 FRONT OF YOU, MA'AM?

28 THE COURT: DID YOU HAVE A NOTEBOOK FOR THE

1 WITNESS?

2 MR. QUINN: WE DID, YOUR HONOR, AND FOR, YOUR
3 HONOR AS WELL.

4 THE COURT: WE JUST PULLED OUT THE VOLUME.

5 MR. QUINN: OH, NO. YOU SHOULD HAVE ONE THAT
6 IS WITNESS SPECIFIC.

7 MAY I APPROACH?

8 THE COURT: THAT'S WHAT I WOULD LIKE. THANK
9 YOU.

10 MR. MADISON: MAY I APPROACH?

11 THE COURT: YES. THANK YOU.

12

13 (DISCUSSION OUT OF HEARING)

14

15 THE COURT: ALL RIGHT. YOU CAN GO AHEAD.

16 WHAT EXHIBIT ARE YOU LOOKING AT?

17 MR. MADISON: 373, YOUR HONOR.

18 Q EXHIBIT 373 IS A SCHEMATIC OF THE 16TH FLOOR
19 WHERE THE MBS GROUP WAS AT TCW IN 2009, CORRECT?

20 A I BELIEVE SO.

21 MR. MADISON: SO I'D MOVE 373 INTO EVIDENCE,
22 YOUR HONOR.

23 THE COURT: ANY OBJECTION?

24 MR. BRIAN: NO OBJECTION.

25 MR. MADISON: SO IF WE COULD DISPLAY IT ON THE
26 SCREEN.

27 THE COURT: ANY OBJECTION?

28 MR. HELM: NO OBJECTION.

01:12PM

01:12PM

01:13PM

01:13PM

01:13PM

1 BY MR. MADISON:

2 Q SO IF WE COULD DISPLAY IT ON THE SCREEN.

3 AND PARTICULARLY, MS. CODY, I WOULD LIKE
4 TO GO THROUGH THIS WITH YOU. WE'RE LOOKING AT A-ONE
5 PAGE EXHIBIT THAT HAS THE SCHEMATIC OF THE 16TH FLOOR.
6 AND WE CAN SEE ON THE BOTTOM HALF OF THE SPACE, WHAT
7 LOOKS TO BE A SERIES OF TABLES WITH NAMES NEXT TO THEM.

01:13PM

8 DO YOU SEE THOSE?

9 A I DO.

10 Q CAN YOU TELL US WHAT THAT WAS?

01:14PM

11 A IT WAS THE SEATING CHART OF THE TRADING DESK.

12 Q SO THIS WAS THE MORTGAGE-BACKED SECURITY GROUP
13 THAT REPORTED ULTIMATELY TO MR. GUNDLACH?

14 A AMONG OTHERS. THERE'S OTHER GROUPS INCLUDED
15 IN THIS.

01:14PM

16 Q WELL, AS WE GO THROUGH THEM, IF I IDENTIFY
17 SOMEBODY THAT WASN'T IN THE MBS GROUP, PLEASE POINT
18 THAT OUT.

19 BUT IF WE LOOK AT YOUR WORK SPACE, IT
20 WAS THE THIRD TABLE FROM THE LEFT, AT THE END OF THE
21 TABLE THERE, WHERE IT SAYS CODY, CORRECT?

01:14PM

22 A THAT'S CORRECT.

23 Q I'M GOING TO ASK THAT WE HIGHLIGHT THAT ON THE
24 SCREEN, YOUR HONOR.

25 AND THEN CAN YOU TELL US WHO WAS WORKING
26 AROUND YOU IN THAT WORK SPACE IN 2009?

01:14PM

27 A ACROSS THE TABLE FROM ME IS JOE GALLIGAN.

28 Q SO THAT'S JUST ON THE OTHER SIDE?

1 A YES, THAT'S CORRECT.

2 Q AND WHO WAS MR. GALLIGAN?

3 A HE WAS THE MANAGING DIRECTOR.

4 Q WHICH IS A SENIOR POSITION?

5 A A SENIOR POSITION.

01:14PM

6 Q OKAY.

7 A TO MY RIGHT WAS FIFI WONG.

8 Q THAT'S THE SPACE ON THE SPECIFIC -- THAT'S
9 JUST BELOW, CORRECT?

10 A THAT'S CORRECT.

01:15PM

11 Q AND WHAT DID MS. WONG DO?

12 A SHE WAS AN ANALYST, LIKE MYSELF.

13 Q AND THEN RIGHT ACROSS FROM MS. WONG WE SEE, IS
14 THAT MR. SANTA ANA THERE?

15 A THAT IS.

01:15PM

16 Q AND IF WE COULD HIGHLIGHT MR. SANTA ANA.

17 AND THEN RIGHT TO HIS LEFT, BECAUSE ON
18 THE OTHER SIDE, THEY ARE FACING TOWARD YOU, CORRECT?

19 A CORRECT.

20 Q AND THAT WOULD BE MR. MAYBERRY, THE DEFENDANT,
21 JEFF MAYBERRY, CORRECT?

01:15PM

22 A THAT'S CORRECT.

23 Q AND ACROSS TO THE NEXT TABLE, WAS THAT
24 MR. GUNDLACH'S WORK SPACE?

25 A THAT WAS.

01:15PM

26 Q OKAY. AND THEN MR. BARACH WAS NEAR
27 MR. GUNDLACH, AS WELL?

28 A TO HIS RIGHT.

1 Q SO RIGHT THERE.

2 AND DURING THE WORKDAY -- AND THERE ARE
3 OTHERS, BUT LET ME JUST STOP THERE.

4 DURING THE WORKDAY, SOME OF THESE
5 INDIVIDUALS HAVE OFFICES OR CUBICLES ELSEWHERE ON THE
6 FLOOR, CORRECT? 01:15PM

7 A THAT'S CORRECT.

8 Q SO IF WE GO BACK TO THE FULL EXHIBIT,
9 MR. GUNDLACH HAD A LARGE OFFICE NOT FAR FROM THE
10 TRADING FLOOR IN THIS LOCATION; IS THAT RIGHT? 01:16PM

11 A YES.

12 Q AND MS. VANEVERY HAD A CUBICLE ON THE OTHER
13 SIDE OF THE FLOOR UP HERE, RIGHT?

14 A YES.

15 Q IF WE COULD HIGHLIGHT THOSE AS I GO, MIKE,
16 PLEASE. 01:16PM

17 AND MR. MAYBERRY HAD AN OFFICE SOMEWHERE
18 IN HERE, CORRECT?

19 A ACCORDING TO THIS, YES. I DON'T REMEMBER
20 THAT. 01:16PM

21 Q YOU DON'T RECALL HIM HAVING THAT OFFICE?

22 A NO.

23 Q OKAY.

24 AND SOME OF THE PEOPLE THAT HAD WORK
25 SPACE ON THE FLOOR AND IN THE OFFICES OR CUBICLES, THEY
26 WOULD GO BACK AND FORTH DURING THE WORKDAY, WOULDN'T
27 THEY? 01:16PM

28 A SOMETIMES.

1 Q NOW, I HAVE SOME PHOTOGRAPHS OF THE FLOOR, AND
2 I BELIEVE THOSE ARE IN YOUR BINDER. DO YOU SEE -- THEY
3 MAY BE THE NEXT EXHIBIT.

4 A NO, THERE'S NOTHING BEHIND THIS PAGE.

5 MR. MADISON: MAY I APPROACH, YOUR HONOR? I
6 DON'T THINK THESE ARE IN THE BINDER.

01:17PM

7 THE COURT: HAVE THEY BEEN MARKED?

8 MR. MADISON: YES, YOUR HONOR. THIS IS
9 EXHIBIT 2092. I HAVE A COPY FOR YOUR HONOR, AS WELL.

10 THE COURT: ALL RIGHT.

01:17PM

11 BY MR. MADISON:

12 Q CAN YOU LOOK AT THOSE PHOTOGRAPHS, AND TELL US
13 IF YOU RECOGNIZE THEM.

14 A IT APPEARS TO BE THE TRADING DESK.

15 Q I'D MOVE 2092, 1 THROUGH 4, YOUR HONOR.

01:17PM

16 THE COURT: ANY OBJECTION?

17 MR. HELM: NO OBJECTION, YOUR HONOR.

18 THE COURT: THEY WOULD BE ADMITTED.

19 BY MR. MADISON:

20 Q IF WE COULD JUST DISPLAY THE PHOTOGRAPHS, THEY
21 MAY BE HELPFUL.

01:18PM

22 SO THE FIRST PAGE SHOWS ONE OF THOSE
23 DESKS THAT WE SAW IN THE SCHEMATIC, CORRECT, MS. CODY?

24 A YES.

25 Q AND IN FACT, WE PUT YOUR NAME NEXT TO THE
26 SPACE THAT YOU OCCUPIED, RIGHT?

01:18PM

27 A I CAN'T BE SURE THAT WAS WHERE I WAS SITTING.

28 Q THAT DOESN'T LOOK TO BE THE SPACE WHERE YOU

1 WERE SITTING?

2 A YEAH. IT WILL -- FROM THIS PICTURE.

3 Q DO YOU HAVE THE SCHEMATIC, EXHIBIT 373?

4 A YES.

5 Q IF YOU CAN LOOK AND TELL US, CAN YOU SEE THE
6 WINDOWS TO THE OFFICE ON THE FAR SIDE OF THE
7 PHOTOGRAPH?

01:18PM

8 A YEAH.

9 Q SO ARE WE AT LEAST AT THE RIGHT END OF ONE OF
10 THE TABLES?

01:18PM

11 A YES.

12 Q AND THEN IF THAT WERE YOUR WORK STATION, THEN
13 MR. GALLIGAN WOULD BE THERE WHERE HIS NAME APPEARS,
14 RIGHT?

15 A CORRECT.

01:18PM

16 Q AND MR. SANTA ANA, MR. MAYBERRY, MS. WONG AND
17 MR. GUNDLACH, CORRECT?

18 A THAT'S RIGHT.

19 Q SO MR. GUNDLACH WOULD BE CLOSER TO YOUR WORK
20 SPACE IF HE WAS SEATED CLOSER.

01:19PM

21 THAT PERSON IN THE PICTURE IS NOT HIM,
22 BUT THERE'S SOMEONE SEATED THERE IN THE PHOTOGRAPH. HE
23 WOULD BE CLOSER TO YOU THAN I AM TO YOU NOW, RIGHT?

24 A YES.

25 Q PROBABLY CLOSER, EVEN, THAN MAYBE SOME OF THE
26 JURORS, RIGHT?

01:19PM

27 A HE WOULD BE CLOSER, YES, THAN THE FAR JURORS,
28 YES.

1 Q AND YOU WOULD OVERHEAR CONVERSATIONS THAT
2 MR. GUNDLACH AND MR. SANTA ANA AND OTHERS WOULD HAVE
3 DURING THE WORKDAY, WOULDN'T YOU?

4 A SOMETIMES.

5 Q AND IT WAS NOT UNCOMMON FOR YOU TO OVERHEAR
6 WHAT THEY WERE TALKING ABOUT, RIGHT?

01:19PM

7 A CORRECT.

8 Q AND SOMETIMES YOU WOULD TALK WITH OTHERS AT
9 TCW ABOUT WHAT YOU HAD OVERHEARD THEM TALKING ABOUT,
10 RIGHT?

01:19PM

11 A THAT'S CORRECT.

12 Q NOW, WE SEE SOME COMPUTER SCREENS ON THESE
13 DESKS. AND IS THAT WHAT YOU RECALL, FROM YOUR TIME AT
14 TCW, HAVING AN ARRAY OF COMPUTER SCREENS UP ON YOUR
15 DESK?

01:20PM

16 A YES.

17 Q WHY WOULD ANYBODY HAVE FOUR? IT LOOKS TO ME
18 LIKE AT THE FIRST SPACE WITH YOUR NAME ON IT, THERE ARE
19 FOUR DIFFERENT SCREENS.

20 WHY WOULD ANYONE NEED FOUR COMPUTER
21 SCREENS?

01:20PM

22 A WELL, THAT MIGHT BE EXCESSIVE FOR ME. A LOT
23 OF PEOPLE HAD BLOOMBERG SCREENS UP FOR TRADING, SO YOU
24 COULD LOOK AT THE MARKET MOVEMENTS. AND YOU HAVE YOUR
25 OWN SPREADSHEETS OR YOUR OWN ARTICLES UP, E-MAIL UP; SO
26 THERE'S VARIOUS DIFFERENT WAYS TO USE IT.

01:20PM

27 Q BLOOMBERG IS THE SOURCE OF RESEARCH ABOUT --
28 INFORMATION THAT IS ABOUT THE MARKET?

1 A ONE OF THEM, YES.

2 Q AND THERE WERE ALSO SYSTEMS THAT TCW HAD
3 DEVELOPED AND OWNED THAT WOULD BE USED BY THE DIFFERENT
4 PEOPLE WORKING AT THE DESK?

5 MR. HELM: OBJECTION TO FORM, YOUR HONOR,
6 LACKS FOUNDATION.

01:20PM

7 THE COURT: OVERRULED.

8 YOU CAN EXPLAIN, IF YOU HAVE AN ANSWER
9 TO THAT QUESTION. GO AHEAD.

10 THE WITNESS: CAN YOU REPEAT IT?

01:20PM

11 BY MR. MADISON:

12 Q MY QUESTION WAS, IF THERE WERE COMPUTER
13 SYSTEMS THAT PEOPLE THAT WORKED AT THESE STATIONS USED,
14 THAT TCW OWNED, TO DO THEIR JOB?

15 A I WOULD ASSUME THERE ARE SOME.

01:21PM

16 THE COURT: WELL, MA'AM, WE DON'T WANT YOU TO
17 SPECULATE OR MAKE ASSUMPTIONS.

18 IF YOU KNOW SOMETHING, YOU TELL US, TELL
19 US WHAT YOU KNOW. AND IF YOU DON'T KNOW, YOU TELL US
20 YOU DON'T KNOW. ALL RIGHT?

01:21PM

21 THE WITNESS: ALL RIGHT.

22 THE COURT: GO AHEAD.

23 Q BY MR. MADISON: NOW, YOU HAVE TOLD US THAT
24 YOU WENT TO WORK FOR DOUBLELINE IN JANUARY OF 2010.

25 A CORRECT.

01:21PM

26 Q AND YOU UNDERSTOOD AT THAT TIME THAT THAT WAS
27 JEFFREY GUNDLACH'S COMPANY, CORRECT?

28 A YES.

1 Q WHEN DID YOU FIRST THINK ABOUT GOING TO WORK
2 FOR A COMPANY THAT JEFF GUNDLACH WOULD OWN?

3 A I ALWAYS WOULD HOPE TO WORK FOR ANY COMPANY
4 THAT JEFFREY GUNDLACH WOULD OWN OR MANAGE.

5 Q I UNDERSTAND.

01:21PM

6 BUT MY QUESTION IS SLIGHTLY DIFFERENT;
7 NOT WHETHER YOU WOULD ALWAYS HAVE A HOPE, OR IF YOU
8 WERE ASKED TO THINK ABOUT IT, WHAT YOU MIGHT FEEL; BUT
9 RATHER, WHEN WAS THE FIRST TIME, AS YOU SIT HERE TODAY,
10 THAT YOU RECALL THINKING ABOUT ACTUALLY LEAVING TCW AND
11 GOING TO A FIRM THAT JEFFREY GUNDLACH WOULD OWN?

01:22PM

12 MR. HELM: OBJECTION. RELEVANCE. 352.

13 THE COURT: OVERRULED.

14 THE WITNESS: PROBABLY 2009.

15 Q BY MR. MADISON: WHEN IN 2009?

01:22PM

16 A EARLY 2009.

17 Q SO YOU RECALL, DON'T YOU, THAT MR. STERN CAME
18 BACK TO TCW IN JUNE OF 2009 TO BE CEO?

19 A I DON'T REMEMBER THE DATE WHEN HE CAME BACK,
20 NO.

01:22PM

21 Q DO YOU RECALL A TIME IN 2009 WHEN MR. STERN
22 CAME TO THE FIRM AS CEO?

23 A I DO.

24 Q SO WHEN YOU SAY EARLY 2009 WAS THE FIRST TIME
25 YOU WERE THINKING ABOUT GOING TO WORK AT A NEW FIRM
26 THAT MR. GUNDLACH WOULD OWN, IT WAS BEFORE MR. STERN
27 HAD COME BACK, WASN'T IT?

01:22PM

28 A THAT'S CORRECT.

1 Q IN FACT, IT WAS AT LEAST AS EARLY AS FEBRUARY
2 2009 WHEN YOU WERE THINKING ACTIVELY ABOUT GOING TO
3 WORK AT A FIRM THAT WOULD BE OWNED BY JEFF GUNDLACH,
4 RIGHT?

5 A THAT'S CORRECT. 01:23PM

6 Q AND YOU TALKED TO PEOPLE ABOUT THAT PROSPECT,
7 AT LEAST BEGINNING BACK IN FEBRUARY OF 2009, DIDN'T
8 YOU?

9 A I DID.

10 Q AND YOU TOLD THE PEOPLE THAT YOU TALKED TO
11 THAT THERE WAS A PLAN, DIDN'T YOU? 01:23PM

12 MR. HELM: OBJECTION. FOUNDATION, YOUR HONOR.

13 THE COURT: OVERRULED.

14 YOU KNOW THE PARAMETERS.

15 MR. MADISON: I'M PROCEEDING AT PACE, YOUR
16 HONOR. 01:23PM

17 Q YOU TOLD THE PEOPLE THAT YOU COMMUNICATED WITH
18 BACK IN FEBRUARY OF 2009, THAT THERE WAS A PLAN WHEREBY
19 MR. GUNDLACH AND THE ENTIRE MBS GROUP WOULD LEAVE TO GO
20 TO WORK AT A FIRM TO BE FORMED BY MR. GUNDLACH, RIGHT? 01:23PM

21 MR. HELM: SAME OBJECTION, YOUR HONOR.

22 THE COURT: MR. MADISON, I THINK YOU ARE
23 APPROACHING THIS THE WAY WE SAID WE WOULDN'T APPROACH
24 IT; SO WHY DON'T YOU GO BACK THE WAY WE SAID WE WOULD.

25 MR. MADISON: OKAY. 01:24PM

26 Q LET'S GO BACK IN TIME TO THE TIME IN FEBRUARY
27 WHERE YOU WERE ACTIVELY THINKING ABOUT IT.

28 LET ME ASK: AT FIRST, WAS IT SOMETHING

1 YOU HAD OVERHEARD DISCUSSED ON THE FLOOR, AS WE TALKED
2 ABOUT A FEW MINUTES AGO?

3 MR. HELM: VAGUE AND AMBIGUOUS.

4 THE COURT: OVERRULED.

5 YOU CAN ANSWER THAT.

01:24PM

6 THE WITNESS: THERE ARE THINGS THAT I HAD
7 HEARD ON THE FLOOR.

8 Q BY MR. MADISON: ON THE FLOOR, YOU HAD HEARD
9 MR. GUNDLACH AND MR. SANTA ANA AND OTHERS TALKING ABOUT
10 FORMING A NEW FIRM, HADN'T YOU?

01:24PM

11 A NOT THAT SPECIFICALLY.

12 Q WELL, TELL US WHAT YOU DID HEAR.

13 A I HEARD THERE WERE THINGS ABOUT MEETINGS
14 HAPPENING. AND THEN I FORMED MY OWN OPINIONS ABOUT WHY
15 THOSE MEETINGS MAY BE HAPPENING. AND THAT'S WHAT I
16 DICTATED TO MY COLLEAGUES.

01:24PM

17 Q WELL, DO YOU RECALL AT WHAT POINT YOU,
18 YOURSELF, BEGAN TO ACTIVELY THINK OF YOURSELF AS BEING
19 SOMEONE WHO WOULD GO TO WORK AT THE NEW FIRM?

20 MR. HELM: RELEVANCE, YOUR HONOR.

01:25PM

21 THE COURT: OVERRULED.

22 THE WITNESS: I THINK I WAS ALWAYS THINKING
23 THAT I'D BE SOMEONE IN THAT ROLE.

24 Q BY MR. MADISON: SO FROM THE FIRST TIME YOU
25 OVERHEARD THEM TALKING ABOUT IT, YOU THOUGHT OF
26 YOURSELF AS BEING SOMEONE THAT WOULD WANT TO GO WORK AT
27 THE NEW FIRM?

01:25PM

28 A OVERHEARD TALKING ABOUT WHAT, EXACTLY?

1 Q I'M SORRY. I WAS JUST TRYING TO FOLLOW YOU.

2 I WAS ASKING IF YOU RECALL WHEN THE
3 FIRST TIME WAS THAT YOU BEGAN THINKING ABOUT GOING TO
4 THE NEW FIRM AND WHETHER IT WAS WHEN YOU OVERHEARD THEM
5 TALKING ABOUT THAT?

01:25PM

6 MR. HELM: ASSUMES FACTS NOT IN EVIDENCE, YOUR
7 HONOR.

8 THE COURT: OVERRULED.

9 YOU NEED TO CLARIFY. AND THE GENERIC
10 REFERENCE TO "THEM" AND "PEOPLE" DOESN'T CUT IT FOR
11 YOUR FOUNDATION.

01:25PM

12 MR. MADISON: YES, YOUR HONOR. OF COURSE.

13 Q SO I'M TALKING APPROXIMATELY NOW ABOUT MAINLY
14 MR. GUNDLACH, BUT ALSO THE OTHER DEFENDANTS:
15 MS. VANEVERY, MR. SANTA ANA, MR. MAYBERRY.

01:25PM

16 AT THE FIRST TIME, DID YOU OVERHEAR THE
17 FOUR OF THEM TALKING ABOUT THINGS THAT WOULD RELATE TO
18 A NEW FIRM?

19 A YES.

20 Q AND DID THAT ALL BEGIN BACK IN FEBRUARY OF
21 2009, OR BEFORE THAT?

01:26PM

22 MR. HELM: COMPOUND, YOUR HONOR.

23 THE COURT: OVERRULED.

24 THE WITNESS: I DON'T KNOW WHEN I HEARD ALL OF
25 THAT.

01:26PM

26 Q BY MR. MADISON: OKAY.

27 LET ME ASK YOU TO JUST LOOK, YOURSELF,
28 AT EXHIBIT 140, IS IT UP THERE?

1 JUST FOR THE RECORD, IT'S A CHAT FROM
2 FEBRUARY 2009.

3 MR. HELM: 140?

4 THE COURT: WITHOUT PUBLISHING IT TO THE JURY,
5 CAN WE PUT IT ON OUR SCREENS?

01:26PM

6 MR. MADISON: NO, I'M SORRY, YOUR HONOR. WE
7 CAN WORK ON THAT.

8 THE COURT: WE'LL HAVE THAT ARRANGED BY
9 MONDAY, I WOULD HOPE.

10 MR. MADISON: YES.

01:26PM

11 THE COURT: OKAY.

12 IS THIS IN YOUR BOOK? IT'S 140.

13 MR. MADISON: YES, YOUR HONOR.

14 Q DO YOU HAVE 140 BEFORE YOU?

15 A ARE YOU ASKING ME?

01:27PM

16 Q YES.

17 A YES, I DO.

18 Q AND DOES THIS REFRESH YOUR RECOLLECTION THAT
19 AT LEAST AS OF FEBRUARY 11, 2009, YOU HAD BEGUN TO
20 THINK ABOUT JOINING A FIRM WITH THE DEFENDANTS, BASED
21 ON WHAT YOU OVERHEARD?

01:27PM

22 MR. HELM: NO FOUNDATION, YOUR HONOR.

23 THE COURT: ALL HE'S ASKED IS IF IT REFRESHES
24 HER RECOLLECTION.

25 GO AHEAD.

01:27PM

26 THE WITNESS: YES, IT REFRESHES MY
27 RECOLLECTION.

28 BY MR. MADISON:

1 Q SO WOULD IT HAVE BEEN BY AT LEAST FEBRUARY 11,
2 2009, YOU HAD OVERHEARD THOSE THINGS THAT CAUSED YOU TO
3 HAVE THOSE THOUGHTS?

4 A I DON'T KNOW.

5 Q WELL, DO YOU SEE -- WELL, LET ME JUST ASK YOU
6 THIS: DO YOU RECALL TELLING OTHERS THAT THEY NEEDED TO
7 KEEP IT QUIET?

8 MR. HELM: OBJECTION, YOUR HONOR.

9 THE COURT: SUSTAINED.

10 BY MR. MADISON:

11 Q WELL, DOES IT REFRESH -- I WANT TO REFER YOU
12 TO PART OF THIS CHAT THAT TALKS ABOUT WHETHER OTHERS
13 SHOULD TALK ABOUT THIS OR NOT.

14 DO YOU HAVE THAT IN FRONT OF YOU?

15 THE COURT: YOU NEED TO ESTABLISH THE
16 FOUNDATION, TO MAKE REFERENCE TO THE SPECIFIC CONTENT
17 OF THIS, AND YOU HAVE NOT DONE THAT.

18 MR. MADISON: OKAY.

19 Q WELL, I MEAN, DID THEY TALK ABOUT IT ON THE
20 DESK ALL THE TIME, AS OF FEBRUARY 2009?

21 MR. HELM: VAGUE AS TO WHO IT IS, AND HEARSAY.

22 THE COURT: SUSTAINED.

23 MR. MADISON: OKAY.

24 Q WELL, LET ME ASK YOU ABOUT THE MEETINGS YOU
25 TOLD US ABOUT.

26 DO YOU RECALL SPECIFICALLY WHAT MEETINGS
27 YOU OVERHEARD MR. GUNDLACH WAS HAVING?

28 A YES.

01:27PM

01:27PM

01:28PM

01:28PM

01:28PM

1 Q AND WHAT DO YOU RECALL ABOUT THAT?

2 A I REMEMBER THERE WAS A MEETING WITH THE
3 COMPANY CALLED WAMCO, WESTERN ASSET MANAGEMENT COMPANY;
4 AND I BELIEVE THERE WAS ONE WITH UBS.

5 Q AND DOES EXHIBIT 140 REFRESH YOUR RECOLLECTION
6 AS TO WHETHER OR NOT YOU HAD OVERHEARD THINGS ABOUT
7 MR. GUNDLACH MEETING WITH THOSE FIRMS AS OF FEBRUARY
8 11, 2009?

01:28PM

9 MR. HELM: OBJECTION. FOUNDATION, YOUR HONOR.

10 THE COURT: THE QUESTION IS, WHO DID SHE
11 OVERHEAR DISCUSSING THESE THINGS.

01:29PM

12 MR. MADISON: VERY WELL.

13 Q YOU OVERHEARD THE DEFENDANTS TALKING ABOUT
14 THAT, RIGHT?

15 A NO.

01:29PM

16 Q WHO DID YOU OVERHEAR?

17 A THE WAY I KNEW ABOUT THE MEETINGS WAS FROM
18 NATALIE MORA, WHO IS JEFFREY GUNDLACH'S ASSISTANT, WHO
19 HAD SCHEDULED THE MEETINGS.

20 Q OKAY.

01:29PM

21 SO YOU HEARD FROM MR. GUNDLACH'S
22 ASSISTANT, WHO SCHEDULED THE MEETINGS, THAT THOSE
23 MEETINGS WOULD HAPPEN?

24 A YES.

25 Q OKAY.

01:29PM

26 DID THAT HAPPEN IN FEBRUARY 2009?

27 A WHETHER SHE TOLD ME THAT THE MEETINGS WERE
28 HAPPENING?

1 Q YES.

2 A I DON'T REMEMBER.

3 Q ALL RIGHT.

4 IF YOU COULD LOOK AT THE EXHIBIT, AND
5 PARTICULARLY THE SECOND HALF OF THE FIRST PAGE, AND
6 THEN TELL US IF THAT REFRESHES YOUR RECOLLECTION ABOUT
7 THAT.

01:29PM

8 A NO. I DON'T KNOW WHEN SHE TOLD ME.

9 Q WELL, DID YOU TELL OTHERS THAT MR. GUNDLACH
10 HAD A MEETING WITH WAMCO THAT SAME WEEK, FEBRUARY 11TH,
11 2009?

01:29PM

12 MR. HELM: HEARSAY, YOUR HONOR.

13 THE COURT: SUSTAINED.

14 MR. MADISON: WELL --

15 THE COURT: MA'AM, YOU KNOW THE DATE OF WHAT
16 YOU ARE LOOKING AT.

01:30PM

17 THE WITNESS: I KNOW.

18 THE COURT: YOU SAID IT REFRESHES YOUR
19 RECOLLECTION.

20 THE WITNESS: YES, IT DOES.

01:30PM

21 THE COURT: SO YOU WERE TOLD SOMETHING ABOUT
22 THESE THINGS BEFORE THAT DATE?

23 THE WITNESS: YES.

24 THE COURT: OKAY.

25 GO AHEAD.

01:30PM

26 Q BY MR. MADISON: AND DOES IT REFRESH YOUR
27 RECOLLECTION AS TO WHO TALKED ABOUT IT ON THE DESK?
28 I'D REFER YOU TO THE LAST LINE OF THE CHAT, ON THE

1 FIRST PAGE.

2 A YES.

3 Q WHO TALKED ABOUT IT ON THE DESK?

4 A JEFFREY.

5 Q JEFFREY GUNDLACH TALKED ABOUT IT.

01:30PM

6 SO IT WASN'T JUST THAT YOU HAD TALKED TO
7 MS. MORA, HIS SECRETARY, IT WAS ALSO MR. GUNDLACH
8 HIMSELF THAT TALKED ABOUT COMPETING WITH WAMCO YES?

9 A ACCORDING TO THIS CHAT, YES.

10 Q WELL, BUT YOU WROTE THE CHAT, RIGHT, MA'AM?

01:30PM

11 A YES, BUT I DON'T REMEMBER SPECIFICALLY WHAT I
12 HEARD IN FEBRUARY OF 2009.

13 Q ALL RIGHT. BUT THE FACT THAT YOU WROTE IT
14 REFRESHES YOUR RECOLLECTION THAT YOU MUST HAVE HEARD IT
15 AT THAT TIME, RIGHT?

01:31PM

16 A IT REFRESHED MY RECOLLECTION, THAT YES, THERE
17 WERE MEETINGS AT THAT TIME.

18 Q OKAY.

19 AND IF YOU GO OVER TO THE SECOND PAGE,
20 ACTUALLY WHAT YOU HAD OVERHEARD WAS THAT MR. GUNDLACH
21 WAS TALKING ABOUT IT WITH MR. SANTA ANA AND
22 MR. GALLIGAN, CORRECT?

01:31PM

23 A CORRECT.

24 Q NOW, WITH REGARD TO UB -- LET ME GO BACK A
25 STEP.

01:31PM

26 DO YOU KNOW WHO WAMCO IS?

27 A WHAT DO YOU MEAN BY THAT?

28 Q DO YOU KNOW WHAT WAMCO REFERS TO, THE COMPANY?

1 A WESTERN ASSET MANAGEMENT COMPANY.

2 Q AND WESTERN ASSET IS A LARGE COMPETITOR OF
3 TRUST COMPANY OF THE WEST'S, CORRECT?

4 A CORRECT.

5 Q AND THEY ARE IN THE SAME BUSINESS AS TRUST
6 COMPANY OF THE WEST?

01:31PM

7 A I BELIEVE SO. I KNOW THEY HAVE A MORTGAGE
8 GROUP, BUT I DON'T KNOW WHAT ELSE THEY DO.

9 Q OKAY.

10 AND WHO IS UBS?

01:31PM

11 A THE BANK.

12 Q AND ARE THEY ALSO, IN PART OR IN WHOLE, IN THE
13 BUSINESS THAT TCW IS IN?

14 A I BELIEVE SO.

15 Q AND MR. GALLIGAN IS ALSO NOW WITH DOUBLELINE,
16 CORRECT? I MAY NOT HAVE ASKED YOU THAT BEFORE.

01:32PM

17 A HE IS.

18 Q OKAY.

19 AND IT WAS YOUR UNDERSTANDING, WASN'T
20 IT, THAT AS YOU OVERHEARD THESE CONVERSATIONS AMONG THE
21 DEFENDANTS AND OTHERS, THAT THE ENTIRE MBS GROUP WOULD
22 BE INVITED, OR WOULD GO WITH MR. GUNDLACH?

01:32PM

23 MR. HELM: LACKS FOUNDATION, RELEVANCE.

24 THE COURT: OVERRULED.

25 THIS IS YOUR UNDERSTANDING.

01:32PM

26 THE WITNESS: CAN YOU REPEAT THAT AGAIN?

27 Q BY MR. MADISON: YES.

28 IT WAS YOUR UNDERSTANDING, WHEN YOU

1 OVERHEARD THE DEFENDANTS AND OTHERS TALKING ABOUT THESE
2 POSSIBLE MOVES, THAT THE ENTIRE MBS GROUP AT TCW WOULD
3 EITHER GO OR BE INVITED TO GO, RIGHT?

4 A IT WAS MY ASSUMPTION, BASED ON CONVERSATION.
5 BUT I'M NOT REALLY SURE WHAT YOU ARE ASKING, EXACTLY.

01:32PM

6 Q WELL, WHAT YOU THOUGHT AT THAT TIME, BASED ON
7 WHAT YOU HAD OVERHEARD THEM TALKING ABOUT, WAS THAT
8 EVERYONE AT TCW'S MBS GROUP WOULD HAVE THE OPTION, BUT
9 THE WHOLE GROUP WOULD BE INVITED OR GOING?

10 MR. HELM: SAME OBJECTION, YOUR HONOR.

01:33PM

11 THE COURT: OVERRULED.

12 THE WITNESS: YES.

13 Q BY MR. MADISON: AND AGAIN, YOU BASE THAT, IF
14 YOU LOOK AT THE BOTTOM OF PAGE 2 OF EXHIBIT 140, ON THE
15 FACT THAT WHEN MR. GUNDLACH WOULD WALK IN, YOU WERE
16 PAYING ATTENTION TO WHAT HE WAS TALKING ABOUT WITH
17 MR. SANTA ANA, MR. BARACH AND OTHERS, RIGHT?

01:33PM

18 A YES.

19 Q IN FACT, YOU COULD PICK SOMETHING UP EVERY DAY
20 BACK IN FEBRUARY OF 2009, IF YOU LOOK OVER AT THE THIRD
21 PAGE, CORRECT?

01:33PM

22 A WHERE IS THAT?

23 Q TOP OF THE THIRD PAGE.

24 MR. HELM: YOUR HONOR, I OBJECT TO THE WAY
25 THIS IS PROCEEDING.

01:33PM

26 THE COURT: THAT'S OKAY. IT'S OVERRULED.

27 GO AHEAD.

28 MR. MADISON: THANK YOU.

1 THE WITNESS: YES, THAT'S WHAT I WROTE.

2 Q BY MR. MADISON: YOU COULD PICK SOMETHING UP
3 EVERY DAY, IF YOU LISTENED TO WHAT THE DEFENDANTS ARE
4 TALKING ABOUT?

5 A CORRECT, THAT'S WHAT I WROTE.

01:34PM

6 Q AND YOU ACTUALLY HAD FOUND OUT ABOUT IT BACK
7 IN OCTOBER OF 2008 FOR THE FIRST TIME, HADN'T YOU?

8 A I HEARD RUMORS IN 2008.

9 Q WELL, IS IT TRUE THAT IT HAD BEEN GOING ON
10 SINCE OCTOBER, WHICH WAS WHEN YOU FOUND OUT ABOUT IT?

01:34PM

11 MR. HELM: LACKS FOUNDATION.

12 THE COURT: SUSTAINED.

13 Q BY MR. MADISON: WELL, WHEN YOU SAY YOU HEARD
14 RUMORS, WOULD YOU SAY THAT YOU FOUND OUT ABOUT IT IN
15 OCTOBER OF 2008?

01:34PM

16 MR. HELM: LACKS FOUNDATION.

17 THE COURT: SUSTAINED. WE'RE NOT INTO RUMORS.

18 MR. MADISON: WELL, I UNDERSTAND.

19 Q APART FROM RUMORS, DID YOU FORM THE BELIEF
20 THAT YOU HAD FOUND OUT ABOUT WHAT THEY WERE TALKING
21 ABOUT IN FEBRUARY, BACK IN 2008?

01:34PM

22 MR. HELM: SAME OBJECTION, YOUR HONOR.

23 THE COURT: SUSTAINED.

24 Q BY MR. MADISON: NOW, YOU WOULD CHAT WITH
25 PEOPLE AT TCW, EVEN THOUGH YOU ALL WORKED -- IF WE
26 COULD BRING UP ONE OF THE PHOTOS AGAIN -- AND I DON'T
27 THINK WE PUBLISHED THE OTHER PHOTOS. I THINK WE COULD
28 DO THAT NOW, AS WELL.

01:34PM

1 SO EVEN THOUGH YOU WOULD -- YOU WERE
2 WORKING VERY CLOSE TO EACH OTHER, YOU WOULD CHAT, AS A
3 FORM OF COMMUNICATING WITH THE PEOPLE THAT WERE WORKING
4 AROUND YOU, RIGHT?

5 A YES.

01:35PM

6 Q AND ONE OF THE PERSONS THAT YOU WOULD CHAT
7 WITH FROM TIME TO TIME WAS MR. MAYBERRY?

8 A THAT'S CORRECT.

9 Q NOW, YOU AND MR. MAYBERRY, IN 2009, YOU WERE
10 GOOD FRIENDS, RIGHT?

01:35PM

11 A THAT'S CORRECT.

12 Q AND YOU SOCIALIZED TOGETHER AT TIMES, RIGHT?

13 A YES.

14 Q PREVIOUSLY, THE PRIOR YEAR, YOU HAD BEEN
15 DATING, IN A ROMANTIC RELATIONSHIP, RIGHT?

01:35PM

16 MR. BRIAN: OBJECTION, YOUR HONOR. 352, YOUR
17 HONOR.

18 THE COURT: OVERRULED.

19 GO AHEAD.

20 THE WITNESS: YES.

01:35PM

21 BY MR. MADISON:

22 Q BUT YOU REMAINED FRIENDS EVEN AFTER YOU WERE
23 NO LONGER DATING, CORRECT?

24 A YES.

25 Q AND DO YOU RECALL, ON DECEMBER 4, 2009,
26 EXCHANGING CHATS WITH THE DEFENDANT, MR. MAYBERRY?

01:35PM

27 A YES.

28 Q AND DO YOU -- WELL, LET ME REFER YOU TO THOSE

1 IN YOUR BINDER.

2 I THINK THE FIRST ONE WOULD BE 983.

3 DO YOU HAVE THAT?

4 A I DO.

5 THE COURT: THERE'S NOTHING FOR 983 IN THIS
6 BINDER.

01:36PM

7 MR. MADISON: PARDON ME, YOUR HONOR?

8 THE COURT: I HAVE NOTHING FOR 983 IN THIS
9 BINDER.

10 DO YOU HAVE IT IN YOUR BOOK? DO YOU
11 HAVE SOMETHING THERE?

01:36PM

12 THE WITNESS: YEAH, I HAVE IT.

13 THE COURT: OKAY.

14 MR. MADISON: MAY WE APPROACH, YOUR HONOR?

15 THE COURT: IF YOU JUST PASS UP A COPY, I CAN
16 TAKE A LOOK AT IT.

01:36PM

17 MR. MADISON: YES, YOUR HONOR.

18 THE COURT: THANK YOU.

19 ALL RIGHT. YOU MAY PROCEED.

20 Q BY MR. MADISON: EXHIBIT 983 IS ACTUALLY ONE
21 OF THOSE CHATS THAT YOU AND MR. MAYBERRY EXCHANGED ON
22 DECEMBER 4 OF 2009, CORRECT?

01:37PM

23 A YES.

24 MR. MADISON: I'D MOVE IN 983, YOUR HONOR.

25 THE COURT: ANY OBJECTION?

01:37PM

26 MR. HELM: YES, YOUR HONOR. AT LEAST TO PARTS
27 OF IT.

28 THE COURT: ALL RIGHT. JUST A MINUTE.

1 MR. HELM: WITH REDACTIONS WE COULD DO IT.
2 THE PARTS I READ TO YOUR HONOR THIS MORNING, ON PAGE
3 THREE OF THAT EXHIBIT.

4 THE COURT: ON PAGE THREE?

5 MR. HELM: YES, YOUR HONOR; SECOND HALF. 01:38PM

6 THE COURT: THE OBJECTION WILL BE OVERRULED.
7 IT WILL BE ADMITTED.

8
9 (MARKED FOR ID: PLAINTIFF'S 983.)

10
11 MR. MADISON: IF WE COULD DISPLAY THEN 983. 01:38PM

12 AND IF WE GO AND LET ME JUST --

13 Q MS. CODY, IF WE COULD SET THIS UP FOR THE
14 JURORS, SO THEY CAN SEE WHAT IT IS.

15 THIS IS A PRINTOUT OF A CHAT THAT YOU 01:38PM
16 HAD WITH MR. MAYBERRY. AND IT'S LIKE A REALTIME
17 MESSAGING SYSTEM, WHERE YOU ARE SENDING MESSAGES, AND
18 HE'S RESPONDING, AND SO FORTH AND SO ON, RIGHT?

19 A YES. IT'S GCHAT ON GMAIL.

20 Q AND THIS WAS WHILE YOU WERE AT WORK AT TCW, 01:38PM
21 FROM YOUR WORK STATION TO WHEREVER MR. MAYBERRY WAS,
22 CORRECT?

23 A CORRECT.

24 Q DO YOU RECALL THAT MORNING -- THIS IS, I
25 BELIEVE WE HAVE THE TIME OVER ON THE TOP THERE. IT 01:38PM
26 SAYS 8:49 A.M. ON FRIDAY.

27 WERE YOU BOTH AT YOUR DESKS THAT
28 MORNING, ON DECEMBER 4TH?

1 A LET ME FIND -- I BELIEVE SO, BUT I CAN'T BE
2 SURE I WAS AT MY DESK.

3 Q AND I MEAN, DECEMBER 4TH IS A MEMORABLE DAY TO
4 YOU, RIGHT?

5 A YES. 01:39PM

6 Q DO YOU REMEMBER THAT THAT AFTERNOON, THERE WAS
7 A CONFRONTATION, AND YOU WERE INTERVIEWED, AND PEOPLE
8 WERE PUT ON LEAVE, AND ALL THE REST?

9 A YES.

10 Q OKAY. 01:39PM

11 SO THIS IS THAT MORNING, AND THIS CHAT
12 IS FROM YOUR ACCOUNT; SO YOU ARE THE ONE THAT'S NAMED
13 HERE AS ME, CORRECT?

14 A YES.

15 Q AND YOUR NICKNAME FOR MR. MAYBERRY, AT LEAST
16 ONE THAT YOU USED WHEN CHATTING, WAS AUTOBOT; SO THAT
17 REFERS TO MR. MAYBERRY, CORRECT? 01:39PM

18 A THAT'S CORRECT.

19 Q SO IF WE GO OVER TO THIS SECOND PAGE OF THIS
20 EXHIBIT, WE SEE MR. -- OR RATHER, YOU SAYING AT
21 8:53 A.M. WE START THERE. 01:39PM

22 YOU SAY, "SO SOMETHING IS HAPPENING
23 TODAY -- I JUST DON'T KNOW WHY HE SAID FOR ME TO SAY I
24 KNOW NOTHING. THATS THE WEIRD PART."

25 LET ME JUST STOP THERE. THAT REFERS TO
26 A CONVERSATION YOU HAD HAD WITH ANOTHER SENIOR PERSON
27 AT TCW WHO HAD TOLD YOU NOT TO SAY ANYTHING IF YOU WERE
28 ASKED, RIGHT? 01:40PM

1 A IT REFERS TO AN E-MAIL I RECEIVED FROM A
2 MR. TOM MCKISSICK.

3 THE COURT: WHAT WAS THE NAME?

4 THE WITNESS: TOM MCKISSICK.

5 THE COURT: OKAY.

01:40PM

6 THE WITNESS: HE WAS THE MANAGING PARTNER IN
7 OUR EQUITY GROUP, WHICH IS OUTSIDE THE MORTGAGE GROUP.

8 Q BY MR. MADISON: AND TO THE EFFECT THAT I JUST
9 DESCRIBED, IF YOU WERE ASKED ABOUT ANYTHING, JUST SAY
10 YOU DIDN'T KNOW ANYTHING, RIGHT?

01:40PM

11 A THAT WAS IN THE E-MAIL.

12 Q AND THEN MR. MAYBERRY SAYS, AND CSA JUST ASKED
13 ME ABOUT PRINTING. HE'S WORRIED ABOUT THEM HAVING
14 ACCESS TO A SPREADSHEET THAT HE WANTS TO PRINT OUT, AND
15 HAVING IT COME BACK TO HIM.

01:40PM

16 LET ME JUST STOP. FIRST, CSA IS
17 MR. SANTA ANA, CORRECT?

18 A YES.

19 Q AND SO YOU UNDERSTOOD MR. MAYBERRY TO BE
20 SAYING TO YOU, MR. SANTA ANA IS WORRIED ABOUT SOMEONE
21 HAVING ACCESS TO A SPREADSHEET THAT MR. SANTA ANA
22 WANTED TO PRINT OUT, RIGHT?

01:41PM

23 A YES.

24 Q AND THE "THEM" WAS TCW, RIGHT?

25 A YES.

01:41PM

26 Q AND THEN IT SAYS THAT HE WANTS TO PRINT OUT
27 AND HAVING IT COME BACK TO HIM.

28 NOW, WE HEARD TODAY ABOUT A PRO FORMA

1 FOR THE NEW BUSINESS.

2 DO YOU KNOW WHAT THE SPREADSHEET WAS
3 THAT MR. MAYBERRY WAS REFERRING TO?

4 A NO, I DO NOT.

5 Q OKAY.

01:41PM

6 AND THEN THERE'S A SENTENCE BY
7 MR. MAYBERRY, "YEAH, BECAUSE JEG HAD BLOOMBERG WHEN I
8 WAS AT HIS OFFICE"?

9 AND THAT'S A REFERENCE TO THE FACT THAT
10 THE BLOOMBERG SUBSCRIPTION FOR MR. GUNDLACH'S
11 SANTA MONICA TCW OFFICE HAD BEEN CANCELED THAT DAY,
12 RIGHT?

01:41PM

13 A I DON'T KNOW WHEN IT WAS CANCELED, BUT, YES.

14 Q BUT EARLIER, YOU AND MR. MAYBERRY HAD BEEN
15 WONDERING WHY MR. GUNDLACH'S TCW BLOOMBERG SUBSCRIPTION
16 FOR HIS SANTA MONICA TCW OFFICE HAD BEEN CANCELED,
17 RIGHT?

01:42PM

18 A I DON'T THINK I WAS REALLY CONCERNED ABOUT IT.

19 Q YOU DON'T RECALL THAT?

20 A I DON'T REMEMBER BEING CONCERNED OR --

01:42PM

21 Q AND JEG IS MR. GUNDLACH, THAT'S HIS INITIALS,
22 CORRECT?

23 A RIGHT.

24 Q AND YOUR RESPONSE IS, "UHOH, MAYBE THEY ARE
25 TRACKING OUR CONVERSATIONS ETC E-MAILS."

01:42PM

26 LET ME JUST STOP THERE. SO WHY UH-OH?

27 A PROBABLY BECAUSE I WAS TALKING RUMORS TO MY
28 FRIEND FIFI, AND CHATTING ABOUT OTHER THINGS, PERSONAL

1 THINGS, THAT I WOULDN'T WANT OTHER PEOPLE READING.

2 Q WELL, WASN'T IT, MS. CODY, THE FACT THAT YOU
3 WERE TALKING ABOUT THE PLANS TO GO WORK AT A NEW
4 BUSINESS FORMED BY MR. GUNDLACH?

5 A I WAS TELLING FIFI THINGS, YES. 01:43PM

6 Q MY QUESTION IS: THE REASON YOU SAID UH-OH,
7 WHEN YOU THOUGHT THAT TCW MIGHT BE READING YOUR E-MAILS
8 OR YOUR CHATS, WAS BECAUSE YOU HAD BEEN TALKING ON
9 THOSE MEDIA ABOUT THE PLANS TO GO TO A NEW FIRM,
10 CORRECT? 01:43PM

11 MR. HELM: OBJECTION, YOUR HONOR. HEARSAY,
12 RELEVANCE.

13 THE COURT: SUSTAINED.

14 Q BY MR. MADISON: I JUST WANT TO KNOW YOUR
15 STATE OF MIND, MS. CODY. 01:43PM

16 WHEN YOU SAID UH-OH, WHAT YOU WERE
17 WORRIED ABOUT WAS TCW FINDING OUT THE THINGS THAT YOU
18 HAD SAID ABOUT THE NEW FIRM, CORRECT?

19 MR. HELM: SAME OBJECTION.

20 THE COURT: SUSTAINED. 01:43PM

21 YOU CAN ASK HER WHAT SHE WAS THINKING
22 ABOUT, BUT YOU CAN'T SUGGEST THE ANSWER.

23 MR. MADISON: OKAY.

24 Q YOU TOLD US IT WAS ABOUT PERSONAL THINGS.

25 DID IT HAVE ANYTHING TO DO WITH THE
26 PLANS TO OPEN A NEW FIRM AND LEAVE TCW? 01:43PM

27 MR. HELM: FOUNDATION, YOUR HONOR.

28 THE COURT: OVERRULED.

1 THE WITNESS: YEP.

2 MR. MADISON: OKAY.

3 Q AND THEN YOU SAY ILL, OR I-L-L, TALKED TO FIFI
4 ON BBG CHAT YESTERDAY.

5 AND WHAT YOU WERE REFERRING TO THERE WAS
6 A CHAT THAT YOU HAD THE DAY BEFORE ON DECEMBER 3RD,
7 WITH YOUR CO-WORKER FIFI WONG, ABOUT THE SUBJECT OF THE
8 NEW FIRM.

01:44PM

9 MR. HELM: OBJECTION, YOUR HONOR. HEARSAY,
10 FOUNDATION.

01:44PM

11 THE COURT: OVERRULED.

12 IS THAT WHAT YOU WERE REFERRING TO?

13 THE WITNESS: YES.

14 Q BY MR. MADISON: AND MR. MAYBERRY SAYS, "I
15 THINK OUR GMAILS ARE OKAY, BECAUSE THEY ARE SECURED."

01:44PM

16 AND IF WE GO OVER TO THE NEXT PAGE, OR
17 TO THE REST OF THAT PAGE, IF IT'S ON -- IT'S GOING TO
18 BE DOWN ABOUT HALFWAY, MR. MAYBERRY SAYS, "I THINK OUR
19 GMAILS ARE OKAY, BECAUSE THEY ARE SECURED."

20 AND YOU SAID, "YA," AGREEING WITH
21 MR. MAYBERRY, RIGHT?

01:44PM

22 A YES.

23 Q AND THEN YOU SAY, "BUT BBG CHAT -- I SAID
24 CENTURY CITY 10-YEAR LEASE PROB MARCH AFTER BONUS."

25 LET ME JUST STOP YOU THERE.

01:45PM

26 WHAT YOU WERE REFERRING TO THERE WAS,
27 AGAIN, GOING BACK TO YOUR STATEMENT, UH-OH, YOU WERE
28 CONCERNED THAT TCW COULD FIND OUT THAT YOU HAD SAID

1 SOMETHING ABOUT A CENTURY CITY 10-YEAR LEASE, AND THAT
2 SOMETHING WAS GOING TO HAPPEN IN MARCH AFTER BONUSES
3 WERE PAID?

4 MR. HELM: OBJECTION. LACKS FOUNDATION,
5 HEARSAY 352.

01:45PM

6 THE COURT: OVERRULED.

7 THE WITNESS: SORRY. COULD YOU REPEAT IT?

8 Q BY MR. MADISON: YES.

9 WHAT YOU WERE CONCERNED ABOUT WAS THAT
10 TCW WOULD FIND OUT THAT YOU HAD SAID IN A CHAT, THE DAY
11 BEFORE, SOMETHING ABOUT A CENTURY CITY 10-YEAR LEASE,
12 AND SOMETHING HAPPENING PROBABLY MARCH, AFTER BONUSES,
13 CORRECT?

01:45PM

14 A YES.

15 Q AND TCW DOES PAY BONUSES AT THE END OF
16 FEBRUARY, CORRECT?

01:45PM

17 A YES.

18 Q AND WHAT THAT REFERS TO IS, IN YOUR MIND, YOU
19 BELIEVED THAT THE PLAN WAS TO LEAVE TCW IN MARCH, AFTER
20 BONUSES WERE PAID, RIGHT?

01:45PM

21 MR. HELM: LACKS FOUNDATION, YOUR HONOR.

22 THE COURT: SUSTAINED.

23 Q BY MR. MADISON: I JUST WANT TO KNOW WHAT WAS
24 IN YOUR MIND, WHAT IT WAS THAT YOU WERE WORRIED
25 ABOUT --

01:46PM

26 THE COURT: WELL, WHAT'S THE BASIS FOR WHAT'S
27 IN HER MIND?

28 MR. MADISON: I CAN ADDRESS THAT, YOUR HONOR.

1 Q THE BASIS WAS WHAT YOU TOLD US BEFORE, YOU
2 WERE OVERHEARING CONVERSATIONS WITH MR. GUNDLACH AND
3 MR. SANTA ANA AND MR. MAYBERRY AND OTHERS, CORRECT?

4 MR. HELM: IT LACKS FOUNDATION.

5 THE COURT: OVERRULED.

01:46PM

6 THE WITNESS: YES.

7 Q BY MR. MADISON: OKAY.

8 AND YOU WERE TALKING TO MR. MAYBERRY
9 ABOUT THIS. YOU KNEW THAT HE ALREADY KNEW THESE
10 THINGS, RIGHT?

01:46PM

11 A NO.

12 Q SO YOU THOUGHT YOU WERE GIVING HIM NEW
13 INFORMATION ABOUT THE NEW BUSINESS?

14 A YES.

15 Q AND THEN YOU SAID, THAT'S NOT TERRIBLE. I'M
16 SURE OTHERS HAVE SAID SIMILAR.

01:46PM

17 WHAT OTHERS?

18 A LIKE I SAID PREVIOUSLY, THERE WERE RUMORS
19 GOING AROUND THROUGHOUT THE WHOLE COMPANY, AND EVEN
20 OUTSIDE THE COMPANY.

01:46PM

21 Q OKAY.

22 AND THEN MR. MAYBERRY, SAYS "NAH, THAT'S
23 JUST RUMORS."

24 AND YOU SAID, "YA."

25 AND HE SAID, "YA PROBABLY." AND THEN HE
26 SAYS, YEAH, IT'S ALL RUMORS.

01:46PM

27 AND I BELIEVE THAT'S THE END OF THAT --
28 OH, NO, EXCUSE ME. THERE'S ANOTHER PAGE. ONE MORE.

1 IF WE GO OVER TO THE NEXT PAGE.

2 AND AGAIN, THESE OVERLAP, DON'T THEY,
3 MS. CODY? SO WE'RE SEEING THE SAME WORDS TWICE,
4 BECAUSE OF THE WAY THEY ARE PRINTED OUT, RIGHT?

5 A YES.

01:47PM

6 Q SO THERE YOU SAY, "YA, IT'S ALL RUMORS, SO YOU
7 CANT GET IN TROUBLE FOR THAT."

8 LET ME JUST STOP. DID YOU THINK YOU
9 COULD GET IN TROUBLE IF YOU ACTUALLY HAD KNOWLEDGE
10 ABOUT THE NEW FIRM?

01:47PM

11 A I WAS TALKING ABOUT GETTING IN TROUBLE FOR
12 SPREADING RUMORS AND TALKING TO MY COLLEAGUE ABOUT
13 RUMORS.

14 Q SO YOU THOUGHT, WHEN YOU SAID, YEAH, IT'S ALL
15 RUMORS, SO YOU CAN'T GET IN TROUBLE FOR THAT, YOU MEANT
16 YOU COULDN'T GET IN TROUBLE FOR RUMORS?

01:47PM

17 A I'M CONFUSED BY WHAT YOU ARE SAYING.

18 Q WELL, THE REASON YOU WERE SAYING YOU COULDN'T
19 GET IN TROUBLE FOR RUMORS IS, YOU WERE WORRIED THAT YOU
20 COULD GET IN TROUBLE BECAUSE YOU ACTUALLY HAD
21 INFORMATION THAT YOU HAD OVERHEARD ABOUT THE NEW FIRM,
22 RIGHT?

01:47PM

23 A NO.

24 Q I MEAN, YOU KNEW THAT THE PEOPLE THAT YOU HAD
25 OVERHEARD DID NOT WANT TCW TO KNOW WHAT WAS BEING
26 PLANNED, RIGHT?

01:48PM

27 A NO.

28 Q AND THEN MR. MAYBERRY SAYS, I DOUBT THEY ARE

1 CHECKING YOURS OR FIFI'S STUFF, MAYBE JEG AND CSA AND
2 PAB -- AND I'LL STOP THERE. THAT'S MR. GUNDLACH, JEG,
3 MR. SANTA ANA, CSA, AND PAB IS PHIL BARACH, ANOTHER
4 MANAGING PERSON IN YOUR GROUP?

5 A YES.

01:48PM

6 Q AND HE SAYS, "YA, TOTALLY JUST RUMORS."
7 AND YOU SAY, "I'M NOT THAT IMPORTANT,
8 HA."

9 AND THEN MR. MAYBERRY SAYS, "IF THEY
10 ONLY KNEW THE TRUTH."

01:48PM

11 AND THE "THEY," AGAIN, IS TCW, RIGHT?

12 A I DON'T KNOW.

13 Q NOW, YOU HAD ANOTHER CHAT THAT SAME DAY, LATER
14 THAT DAY, WITH MR. MAYBERRY.

15 DO YOU RECALL THAT?

01:48PM

16 A NOT PARTICULARLY. IS IT IN HERE?

17 Q IT IS. I BELIEVE IT WILL BE THE NEXT EXHIBIT
18 IN YOUR BINDER.

19 MR. QUINN: DO YOU HAVE IT, YOUR HONOR?

20 THE COURT: WHAT NUMBER ARE WE TALKING ABOUT?

01:49PM

21 MR. MADISON: I'M SORRY. IT SHOULD BE 940,
22 YOUR HONOR.

23 THE COURT: WE DO HAVE IT.

24 MR. MADISON: ACTUALLY, YOUR HONOR, FORGIVE
25 ME.

01:49PM

26 COULD WE JUST GO BACK REAL QUICKLY TO
27 THAT LAST EXHIBIT? I WANT TO GO BACK TO 983, TO THE
28 VERY FIRST PAGE.

1 AND IF WE JUST CAN EXPAND THAT SO WE CAN
2 SEE IT.

3 Q AND SEE UP AT THE TOP THERE, IT SAYS, AFTER IT
4 SAYS "8:49," MR. MAYBERRY SAYS, "YOU KNOW WHAT ELSE IS
5 ODD, YESTERDAY AND TODAY, CSA HAS BEEN GOING TO WORK IN
6 HIS CUBICLE WITH HIS LAPTOP. HE NEVER DOES THAT."

01:50PM

7 AND YOU SAID, "INTERESTING. YA, I'M
8 CURIOUS TO SEE WHAT IS GOING ON."

9 WHAT WERE YOU REFERRING TO THERE?

10 A WITH THE "WHAT IS GOING ON"? IS THAT WHAT YOU
11 ARE ASKING?

01:50PM

12 Q THE ENTIRE EXCHANGE THERE.

13 LET ME WITHDRAW IT AND ASK YOU THIS:
14 WAS IT UNUSUAL FOR MR. SANTA ANA TO GO INTO HIS CUBICLE
15 WITH HIS LAPTOP?

01:50PM

16 A YES.

17 Q AND THAT'S WHY YOU SAID, "INTERESTING"?

18 A YES.

19 Q AND DID YOU HAVE ANY INFORMATION THAT
20 MR. SANTA ANA WAS DOWNLOADING INFORMATION DURING THAT
21 TIME?

01:50PM

22 A NO.

23 Q NOW IT SAYS, INTERESTING. YEAH, I'M CURIOUS
24 TO SEE WHAT'S GOING ON.

25 AND MR. MAYBERRY SAYS, YEAH, TAKE NOTES
26 FOR ME IF I'M GONE, PLEASE, PRETTY PLEASE.

01:50PM

27 LET'S GO TO THE NEXT EXHIBIT THEN,
28 EXHIBIT 940.

1 AND YOU RECOGNIZE THAT TO BE ANOTHER
2 CHAT THAT YOU AND MR. MAYBERRY HAD LATER ON DECEMBER
3 4TH?

4 THE COURT: THIS HAS A DIFFERENT NAME, UNLESS
5 -- YOU NEED TO LAY A LITTLE FOUNDATION.

01:51PM

6 Q BY MR. MADISON: WELL, WHEN MR. MAYBERRY WOULD
7 CHAT WITH YOU FROM HIS ACCOUNT, THERE WAS A NICKNAME
8 THAT HE WOULD USE IN THE CHATS FOR YOU, CALLED BELUGA,
9 CORRECT?

10 A CORRECT.

01:51PM

11 Q AND IF YOU LOOK AT THE CONTENT OF THAT, DO YOU
12 RECOGNIZE THAT TO BE THE CHAT FROM LATER THAT DAY THAT
13 YOU AND MR. MAYBERRY HAD?

14 A YES.

15 MR. MADISON: I'D MOVE EXHIBIT 940, YOUR
16 HONOR.

01:51PM

17 THE COURT: ANY OBJECTION?

18 MR. HELM: NO OBJECTION, YOUR HONOR.

19 THE COURT: IT WILL BE ADMITTED.

01:52PM

20
21 (MARKED FOR ID: PLAINTIFF'S 940.)

22
23 THE COURT: WHAT IS THE DATE OF THIS?

24 MR. MADISON: IT'S DECEMBER 4TH, 2009, YOUR
25 HONOR.

01:52PM

26 THE COURT: OKAY. THANK YOU.

27 Q BY MR. MADISON: OKAY.

28 AND AGAIN, THIS APPEARS IN A SLIGHTLY

1 DIFFERENT FORMAT, SO WE'LL EXPAND THIS SO WE CAN SEE ON
2 THE FIRST PAGE.

3 AND YOU MAKE A COMMENT THERE --

4 MR. MADISON: AND IF WE CAN MOVE THAT OBJECT
5 OUT OF THE WAY. I DON'T KNOW IF THAT'S POSSIBLE.

01:52PM

6 Q WELL, IT SAYS, MR. MAYBERRY SAYS, "IM UPDATED
7 MY STUFF, THEN IM GOING" -- AND IN THE HARD COPY IT
8 SAYS -- YOU HAVE THE HARD COPY IN FRONT OF YOU,
9 CORRECT?

10 A I DO.

01:52PM

11 Q IN THE HARD COPY IT SAYS, "THEN I'M GOING TO
12 GO TO MY CAR BEFORE LUNCH AND LEAVE MY FLASH DRIVE IN
13 THERE.

14 DO YOU NEED A DRIVE? I HAVE TWO."

15 LET ME JUST STOP THERE.

01:53PM

16 SO DID YOU KNOW WHAT FLASH DRIVE
17 MR. MAYBERRY WAS REFERRING TO?

18 A NO.

19 Q DID YOU KNOW WHAT -- WHY HE WAS ASKING YOU IF
20 YOU NEEDED A DRIVE?

01:53PM

21 A HE WAS ASKING ME SO IF I NEEDED TO DOWNLOAD
22 THINGS TO THE DRIVE.

23 Q OKAY.

24 AND SO HAD YOU AND HE BEEN DOWNLOADING
25 THINGS TOGETHER BEFORE THIS?

01:53PM

26 A NO.

27 Q SO JUST OUT THE BLUE, HE SAID, DO YOU NEED A
28 DRIVE?

1 A YES.

2 Q YOU DON'T KNOW ANY REASON WHY HE WOULD SAY
3 THAT AT THAT TIME?

4 A WELL, I BELIEVE HE SAID IT -- I DON'T KNOW
5 WHY. I CAN'T SAY FOR HIM. BUT I BELIEVE HE SAID IT
6 BECAUSE AFTER I RECEIVED THAT E-MAIL FROM MR. MCKISSICK
7 ABOUT SOMETHING GOING ON, I THINK HE BEGAN TO DOWNLOAD
8 THINGS ONTO A FLASH DRIVE.

01:53PM

9 Q YOU THOUGHT THAT'S WHEN MR. MAYBERRY BEGAN TO
10 DOWNLOAD THINGS?

01:53PM

11 A I BELIEVE SO.

12 Q WELL, WE'LL ASK MR. MAYBERRY ABOUT THAT.

13 BUT MY QUESTION FOR YOU IS: YOU THEN
14 RESPOND, "CAN THEY SEE THAT WE DO THAT"?

15 AND AGAIN, THE "THEY" IS TCW, CORRECT?

01:54PM

16 A THAT'S CORRECT.

17 Q SO YOU ARE TALKING TO MR. MAYBERRY ABOUT
18 DOWNLOADING THINGS, AND YOU WANT TO KNOW IF TCW CAN SEE
19 IF YOU ARE DOING IT?

20 A THAT'S CORRECT.

01:54PM

21 Q AND THEN HE SAYS, "I COPY TO MY HARD DRIVE,
22 THEN THE FLASH DRIVE." GO OVER TO THE NEXT PAGE --
23 "SHOULD BE OKAY. I JUST WOULDN'T E-MAIL MYSELF" -- "I
24 COPY TO MY HARD DRIVE, THEN THE FLASH DRIVE. SHOULD BE
25 OKAY. I JUST WOULDN'T E-MAIL MYSELF BUT THAT MIGHT BE
26 OKAY IF IT WAS PERSONAL."

01:54PM

27 AND YOU SAID "I DID THAT" -- "I DID BUT
28 THAT WAS LIKE SIX WEEKS AGO."

1 SO IF YOU JUST BEGAN DOWNLOADING AFTER
2 THAT EARLIER E-MAIL, WHAT WERE YOU REFERRING TO HERE
3 ABOUT SIX WEEKS AGO?

4 A WELL, I DIDN'T DOWNLOAD AFTER THAT EARLIER
5 E-MAIL, TO BEGIN.

01:55PM

6 AND THE SIX WEEKS AGO COMMENT WAS
7 REFERRING TO E-MAILING MYSELF. PERSONAL E-MAILS FROM
8 -- I HAD A PERSONAL FILE ON MY COMPUTER THAT CONTAINED
9 JOKES, PICTURES, FUNNY STORIES; SO I E-MAIL MYSELF ALL
10 OF THE PERSONAL FILES.

01:55PM

11 Q SO YOU WERE JUST THINKING ABOUT PERSONAL
12 THINGS THAT YOU MIGHT WANT, OR PERSONAL THINGS THAT YOU
13 HAD E-MAILED TO YOURSELF, AT THE TIME OF THIS CHAT?

14 A YES.

15 Q IF WE GO OVER TO THE NEXT PAGE, THEN, IT SAYS,
16 MR. MAYBERRY SAYS, "YA THAT'LL BE FINE. HA."

01:55PM

17 AND THEN YOU SAY, "YA."

18 AND THEN HE SAYS, "NEED ANYTHING SAVED
19 THATS ON THE G DRIVE?"

20 AND YOU SAY, "COMMENTARIES I GUESS. I
21 MEAN NOTHING VITAL, BUT YA THAT WOULD BE GOO"?

01:55PM

22 BUT IT LOOKS LIKE YOU MEANT GOOD,
23 PERHAPS?

24 A YES.

25 Q SO YOU WERE TALKING ABOUT DOWNLOADING PERSONAL
26 THINGS BEFORE; BUT NOW YOU ARE TALKING ABOUT
27 DOWNLOADING THE COMMENTARIES YOU PREPARED AT TCW?

01:55PM

28 A I WAS TALKING ABOUT E-MAILING MYSELF PERSONAL

1 E-MAILS BEFORE.

2 Q OKAY.

3 SO WHEN HE SAID, NEED ANYTHING SAVED
4 THAT'S ON THE G DRIVE, AND YOU SAID, COMMENTARIES, I
5 GUESS, YOU WERE TALKING ABOUT E-MAILING?

01:56PM

6 A NO. YOU WERE MISTAKEN IN YOUR QUESTION.

7 SIX WEEKS PRIOR, I HAD E-MAILED MYSELF
8 PERSONAL E-MAILS.

9 THIS IS SPEAKING TO THE G-DRIVE AND
10 COMMENTARIES. IT'S DIFFERENT THAN WHAT WE WERE
11 REFERRING TO SIX WEEKS AGO.

01:56PM

12 Q SO YOU WERE ASKING HIM TO SAVE COMMENTARIES
13 FOR YOU ON THE G-DRIVE?

14 A I DID.

15 Q AND THEN YOU SAID "NOTHING VITAL."

01:56PM

16 NOTHING VITAL TO WHAT?

17 A THERE WAS NOTHING VITAL TO BE SAVED IN THE
18 G-DRIVE.

19 Q VITAL TO BE SAVED FOR WHAT REASON?

20 A NOTHING IMPORTANT, THAT COULDN'T BE FOUND ON
21 THE TCW WEBSITE.

01:56PM

22 Q WEREN'T YOU TALKING ABOUT WHETHER YOU NEEDED
23 ANYTHING VITAL, IN CASE YOU WOULD BE LEAVING TCW, AND
24 THAT YOU WOULD USE AT THE NEW FIRM?

25 A YES. YES.

01:56PM

26 Q YOU WERE.

27 AND YOU DIDN'T HAVE PERMISSION FROM TCW
28 TO COPY OR DOWNLOAD ANYTHING TO BE USED AT ANY OTHER

1 COMPANY, DID YOU, MA'AM?

2 A NO.

3 Q AND IF WE GO ON TO THE NEXT PAGE, WE CAN SEE
4 THAT IT SAYS, HE SAYS, "JUST EVERYTHING IN RACHEL?
5 HA."

01:57PM

6 AND YOU SAY "HA, SURE, WHY NOT".

7 RACHEL WAS A DIRECTORY OF INFORMATION
8 THAT YOU KEPT?

9 A IT WAS A FOLDER IN THAT G-DRIVE, OR FILE. I'M
10 NOT SURE WHICH WAY TO PUT IT.

01:57PM

11 Q AND THEN HE SAYS, "YA, OKAY".

12 AND KEEP GOING. YOU SAY "HA, SURE, WHY
13 NOT."

14 AND HE SAYS, "YA, OKAY."

15 YOU SAY, "OH I GUESS WE AREN'T BEING
16 FIRED, HA."

01:57PM

17 SO -- PARDON ME. HE SAYS, "OH, I GUESS
18 WE AREN'T BEING FIRED, HA.

19 AND YOU SAY, "WHY"?

20 A I DON'T SEE THAT. WHAT PAGE IS IT?

01:58PM

21 Q ON YOUR EXHIBIT, IT SHOULD BE PAGE 7 -- EXCUSE
22 ME. ONE SECOND.

23 THE COURT: NO, THAT ISN'T IT.

24 MR. MADISON: PAGE 8, EXCUSE ME.

25 Q DO YOU SEE IT NOW?

01:58PM

26 A I DO.

27 Q OKAY.

28 SO MR. MAYBERRY SAYS, "I GUESS WE AREN'T

1 BEING FIRED, HA." AND YOU SAY, "WHY"?

2 AND I THINK A BIG PART OF THE PROBLEM,
3 YOUR HONOR, IS THESE MIGHT BE A LITTLE BIT OUT OF
4 ORDER, IN THE SEQUENCE THE WAY THEY WERE COPIED. BUT
5 LET'S JUST GO TO THE NEXT LINE.

01:58PM

6 THE COURT: THAT'S THE LAST PAGE WE HAVE HERE,
7 19-8?

8 MR. MADISON: AGAIN, I THINK IF YOU READ THE
9 TEXT, YOUR HONOR, YOU WILL SEE THAT -- WELL, THIS IS
10 PAGE SIX.

01:59PM

11 Q LET ME ASK YOU ABOUT WHAT IS ON THIS PAGE.

12 IT SAYS -- YOU SAY, "OK, SO WHAT DOES
13 THAT MEAN"?

14 AND HE SAYS "THAT THEY HAVE NO KNOWLEDGE
15 OF US LEAVING."

01:59PM

16 LET ME JUST STOP THERE.

17 DID YOU KNOW WHAT MR. MAYBERRY WAS
18 REFERRING TO WHEN HE SAID "NO KNOWLEDGE OF US LEAVING"?

19 A CAN YOU ASK THAT AGAIN?

20 Q YES.

01:59PM

21 HE SAID, "THEY HAVE NO KNOWLEDGE OF US
22 LEAVING."

23 THAT WAS THE MBS GROUP LEAVING TO GO TO
24 THE NEW FIRM THAT MR. GUNDLACH HAD FORMED TO COMPETE
25 WITH TCW, WASN'T IT?

01:59PM

26 MR. HELM: YOUR HONOR, I'M A LITTLE CONFUSED
27 ABOUT WHERE --

28 THE COURT: WE'RE LOOKING AT TX940-6, AND IT

1 ALSO HAS A NOTATION THAT SAYS 19-6.

2 MR. HELM: I'M TRYING TO FIGURE OUT WHAT COMES
3 BEFORE, "SO WHAT DOES THAT MEAN?" IS THAT ON THE PRIOR
4 PAGE? I DON'T SEE IT THERE.

5 THE COURT: IT MAY BE OUT OF ORDER, BUT THIS
6 IS A CHAT IN WHICH "ME" IS MR. MAYBERRY AND "BELUGA" IS
7 MS. CODY.

01:59PM

8 MR. HELM: I'M JUST TRYING TO UNDERSTAND, WHAT
9 DOES THAT MEAN, WHAT THE REFERENCE IS. AND I'M HAVING
10 A LITTLE TROUBLE FIGURING IT OUT.

02:00PM

11 MR. MADISON: WELL, IF YOU GO BACK.

12 Q USE THE PAGES IN YOUR BOOK THERE, MS. CODY.
13 YOU WILL FIND ON PAGE 8 IT SAYS, "OH, I GUESS WE AREN'T
14 BEING FIRED, HA."

15 AND YOU SAY, "WHY".

02:00PM

16 AND THEN THERE'S A STATEMENT, "TCW HAD
17 TO SIGN SOMETHING TWO WEEKS AGO FOR THE UST THAT SAID
18 THERE'S NOTHING THAT WOULD HURT US FROM MANAGING THE
19 P". AND THEN --

20 THE COURT: WHAT ARE YOU TELLING US? WHAT'S
21 THE NEXT PAGE AFTER THAT?

02:00PM

22 MR. MADISON: WELL, THE QUESTION I WANT TO
23 ASK IS ABOUT MR. MAYBERRY'S STATEMENT ABOUT US LEAVING.
24 IT'S JUST ABOUT THAT STATEMENT.

25 Q IF WE GO TO PAGE 6, IT SAYS, "THEY HAVE NO
26 KNOWLEDGE OF US LEAVING OR AS OF TWO WEEKS AGO THEY HAD
27 NO PLANS OF GETTING RID OF THE MORTGAGE GROUP".

02:00PM

28 AND YOU SAY, "TCW? INTERESTING. WHO

1 KNOWS WHAT THIS IS ALL ABOUT"?

2 SO DID YOU UNDERSTAND MR. MAYBERRY TO BE
3 REFERRING TO THE PART ABOUT THEY HAVE NO KNOWLEDGE OF
4 US LEAVING, WAS TCW, MUST NOT KNOW THAT WE ARE ALL
5 PLANNING ON LEAVE TO GO TO THIS NEW FIRM?

02:01PM

6 A YES.

7 Q AND YOU, IN FACT, HAD BEEN TELLING --

8 THE COURT: MR. MADISON.

9 MR. MADISON: I'M SORRY, YOUR HONOR. NOW IS A
10 GOOD TIME?

02:01PM

11 THE COURT: WE'RE GOING TO RECESS.

12 MS. CODY, I'LL SEE YOU BACK 8:30 MONDAY
13 MORNING.

14 THANK YOU VERY MUCH.

15 THE WITNESS: THANK YOU.

02:01PM

16 THE COURT: LADIES AND GENTLEMEN, WE'RE GOING
17 TO RECESS FOR THE DAY.

18 PLEASE RECALL MY EARLIER ADMONITION.
19 YOU ARE NOT TO DISCUSS THE CASE AMONG YOURSELVES OR
20 WITH ANYONE ELSE, OR FORM ANY OPINIONS OR CONCLUSIONS
21 CONCERNING ANY ASPECT OF THIS CASE UNTIL YOU HAVE HEARD
22 ALL OF THE EVIDENCE, AND IT'S BEEN SUBMITTED TO YOU.

02:01PM

23 WE'LL RECONVENE AT 8:30 ON MONDAY
24 MORNING.

25 MS. PIEDRA IS GOING TO ASK YOU -- I
26 UNDERSTAND THAT 8:30 TO 2:00 IS A LONG HAUL, AND I
27 THINK IT'S IMPORTANT THAT WE HAVE SOME SNACKS FOR YOU,
28 AND SOME WATER, AND DIFFERENT THINGS, SO YOU DON'T HAVE

02:01PM

1 TO RUN DOWNSTAIRS. WE HAVE 20-MINUTE BREAKS.

2 SO IF THERE'S SOMETHING PARTICULAR YOU
3 WOULD LIKE AS JUST A SNACK AT THE BREAKS, THE 20-MINUTE
4 BREAKS, YOU LET MS. PIEDRA KNOW, AND WE'LL SEE WHAT WE
5 CAN DO TO HAVE IT IN THE ROOM WE RESERVED FOR YOU
6 ACROSS THE HALL.

02:02PM

7 SO HAVE A NICE WEEKEND. WE'LL SEE YOU
8 MONDAY.

9 LEAVE YOUR NOTEBOOKS ON YOUR SEATS.

02:02PM

10
11 (AT 2:02 P.M. THE JURY WAS
12 EXCUSED, AND THE FOLLOWING
13 PROCEEDINGS WERE HELD:)

14
15 THE COURT: ALL RIGHT. WE'RE OUT OF THE
16 PRESENCE OF THE JURY.

02:03PM

17 MR. BRIAN, DO YOU HAVE SOMETHING?

18 MR. BRIAN: I JUST WANTED TO PUT ON THE
19 RECORD, YOUR HONOR, MR. QUINN AND I HAD TALKED, AND
20 WE'D AGREED THAT THERE WOULD NOT BE A WITNESS EXCLUSION
21 ORDER IN THIS CASE. WE BOTH DECIDED IT'S PROBABLY
22 EASIER TO MANAGE IT WITHOUT IT.

02:03PM

23 AND I JUST WANTED TO PUT THAT ON THE
24 RECORD AND GET HIS AGREEMENT.

25 MR. QUINN: YES.

02:03PM

26 THE COURT: THERE HAD PREVIOUSLY BEEN A MOTION
27 IN LIMINE; I THINK I SAID I'D GO ALONG WITH THAT, SO
28 NOW WE'RE NOT GOING TO HAVE A WITNESS EXCLUSION ORDER?

1 MR. BRIAN: WE'RE NOT, YOUR HONOR. IT'S
2 EASIER TO MANAGE WITHOUT IT, FRANKLY.

3 THE COURT: ALL RIGHT.

4 MR. MADISON: YOUR HONOR, I HAVE ONE THING,
5 ALSO, WHEN YOU HAVE A MOMENT.

02:03PM

6 THE COURT: MR. MADISON?

7 MR. MADISON: MINE IS JUST ARTS AND CRAFTS.

8 WOULD YOU LIKE US, EVERY AFTERNOON, TO
9 MEET WITH MR. SABALBURO TO CONFIRM WHAT'S IN EVIDENCE
10 AND WHAT IS NOT, OR WOULD YOU LIKE US TO CONFIRM IT IN
11 SOME OTHER WAY? WE'RE GOING TO HAVE QUITE A FEW
12 EXHIBITS.

02:03PM

13 THE COURT: YEAH. AND WE'RE NOTING IT AS THEY
14 ARE ADMITTED.

15 I WOULD SAY YOU NEED NOT MEET EVERY
16 AFTERNOON; BUT IF YOU WANT TO GIVE US AN EXHIBIT
17 SUMMARY AT THE BEGINNING OF EVERY MORNING, WE'LL MATCH
18 IT UP.

02:04PM

19 ARE YOU MAINTAINING THE EXHIBIT LIST ON
20 THE COMPUTER?

02:04PM

21 THE CLERK: YES.

22 THE COURT: WE COULD ALSO POST THE COURT'S
23 EXHIBIT LIST AT THE END OF EACH DAY, AND THEN YOU CAN
24 COMPARE IT; AND IF WE'VE MISSED SOMETHING, YOU LET US
25 KNOW.

02:04PM

26 I THINK THAT'S THE EASIEST WAY. WE'LL
27 SERVE OUR LIST ON LEXISNEXIS EVERY DAY, AT THE END OF
28 THE DAY, IF THERE'S SOMETHING MISSING, LET US KNOW.

1 MR. MADISON: WE SHOULD MAKE IT EASIER FOR
2 YOU. I DIDN'T MEAN THAT MR. SABALBURO SHOULD MAKES IT
3 EASY FOR US.

4 THE COURT: WELL, WE MAINTAIN IT.

5 MR. MADISON: YES, YOUR HONOR.

02:04PM

6 THE COURT: ANY OTHER MATTERS?

7 I WOULD LIKE SOME LEVEL OF COOPERATION
8 HERE. I WAS SERIOUS ABOUT IT THAT THE 8:30 TO 2:00 IS
9 A LONG STRETCH. WE ONLY HAVE TWO 20-MINUTE BREAKS.

10 IT WOULD BE NICE IF YOU COULD WORK
11 TOGETHER TO BRING IN A COUPLE OF CASES OF BOTTLED
12 WATER, AND MAYBE SOME MISCELLANEOUS SNACKS. I SUGGEST
13 YOU BRING THEM TO US, AND THEN WE WILL MAKE THEM
14 AVAILABLE TO THE JURORS IN THE ROOM WE'VE RESERVED FOR
15 THEM ACROSS THE HALL.

02:04PM

16 MR. QUINN: BEERS ON THURSDAYS?

17 THE COURT: DONUTS ON THURSDAYS.

18 MR. QUINN: SHOULD WE ASK THEM WHAT THEY'D
19 LIKE?

20 THE COURT: WELL, WE'RE CHECKING ON THAT.

02:05PM

21 MR. QUINN: OKAY.

22 THE COURT: I ASKED CYNTHIA TO CHECK WITH THEM
23 AS THEY LEFT, SO IF THEY GIVE US ANYTHING IN PARTICULAR
24 -- I'M JUST THINKING GRANOLA BARS AND BOTTLED WATER,
25 SOMETHING SIMPLE SO THEY DON'T HAVE TO GO DOWNSTAIRS
26 AND WAIT IN LINE. DO WHATEVER. YOU ALL HAVE PLENTY OF
27 BOTTLED WATER.

02:05PM

28 MR. BRIAN: I AM HAPPY TO DO IT.

1 I WAS HOPING THAT MR. QUINN MIGHT BRING
2 ONE OF THOSE HUNDRED-MILLION-DOLLAR BOTTLES OF WINE.

3 MR. MADISON: YOUR HONOR, JUST TIME
4 MANAGEMENT, IN TERMS OF THE CHESS CLOCK?

5 THE COURT: THE COURT REPORTERS ARE
6 TIMESTAMPING THE WITNESSES, SO YOU WILL GET THE
7 TRANSCRIPTS ON A DAILY BASIS. YOU MAY PREPARE, AND
8 EACH SIDE CAN DO IT, AND WE'LL SEE IF THEY HAPPEN TO
9 COME OUT THE SAME. THEY SHOULD.

02:05PM

10 YOUR OWN LOG, AND SUBMIT IT TO ME EVERY
11 COUPLE OF DAYS, AND WE'LL JUST COMPARE IT.

02:05PM

12 MR. QUINN: DOES THE STAMP APPEAR ONLY AT THE
13 BEGINNING AND THE END OF THE EXAM OR IS IT GOING TO BE
14 ON EVERY PAGE OF THE TRANSCRIPT?

15 THE REPORTER: THE TIME GETS STAMPED EVERY 5TH
16 LINE.

02:06PM

17 THE COURT: I WILL SAY WE CAN GO OFF THE
18 RECORD, AND WE'RE FINISHED.

19

20 (AT 2:02 P.M. AN ADJOURNMENT

21 WAS TAKEN UNTIL MONDAY,

22 AUGUST 1, AT 8:30 A.M.)

23

24 (THE NEXT PAGE NUMBER IS 601.)

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I N D E X

THURSDAY, JULY 28, 2011

INDEX OF WITNESSES

LEGEND: M = MR. MADISON
B = MR. BRIAN

PLAINTIFF'S
WITNESSES: DIRECT CROSS REDIRECT RECROSS

CODY, RACHEL 514-M

DEFENSE
WITNESSES: DIRECT CROSS REDIRECT RECROSS

(NONE WERE PRESENTED IN THIS VOLUME)

I N D E X

THURSDAY, JULY 28, 2011

EXHIBITS

<u>PLAINTIFF'S</u>				
<u>EXHIBITS</u>		<u>FOR I.D.</u>	<u>IN EVD</u>	<u>WITHDRAWN</u>

983 - PRINTOUT OF CHAT	537			
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940 - PRINTOUT OF CHAT	547			
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<u>DEFENSE</u>				
<u>EXHIBITS</u>		<u>FOR I.D.</u>	<u>IN EVD</u>	<u>WITHDRAWN</u>

(NONE WERE PRESENTED IN THIS VOLUME.)