

1 SUPERIOR COURT OF THE STATE OF CALIFORNIA
2 FOR THE COUNTY OF LOS ANGELES
3 DEPARTMENT 322 HON. CARL J. WEST, JUDGE
4

5 TRUST COMPANY OF THE WEST,)
6)
7) PLAINTIFFS,)
8)
9) VS.) NO. BC 429385
10)
11) JEFFREY GUNDLACH, ET AL,)
12)
13) DEFENDANTS.)
14)

15 REPORTERS' DAILY TRANSCRIPT OF PROCEEDINGS

16 AUGUST 15, 2011

17 APPEARANCES:

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21 STEVEN MADISON, ESQ.
22 DAVID SERGENIAN, ESQ.
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24 SUSAN ESTRICH, ESQ.
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1 CASE NUMBER: BC 429385
2 CASE NAME: TCW VS. GUNDLACH
3 LOS ANGELES, CALIFORNIA AUGUST 15, 2011
4 DEPARTMENT 322 HON. CARL J. WEST, JUDGE
5 APPEARANCES: (AS NOTED ON TITLE PAGE.)
6 REPORTER: RAQUEL A. RODRIGUEZ, CSR
7 TIME: A SESSION; 8:30 A.M.

8
9 --0--

10
11 THE COURT: GOOD MORNING, LADIES AND
12 GENTLEMEN. IN THE TCW, WE'RE OUT OF THE PRESENCE OF
13 THE JURY. COUPLE OF ITEMS THAT CAME UP.

14 FIRST, LET ME JUST SAY THAT THESE 9:00
15 AND 10 O'CLOCK FILINGS THE NIGHT BEFORE WE START,
16 REALLY DON'T DO -- I DON'T SEE THEM TILL FIRST THING IN
17 THE MORNING, BECAUSE I DON'T GET E-MAIL ALERTS; AND
18 QUITE FRANKLY, I DON'T STAY UP THAT LATE.

19 WE'VE GOT TO GET SOME ORDER TO IT. AND
20 THE DEFENDANTS FILING AT 9 O'CLOCK, WHEN WE ADJOURNED
21 ON THURSDAY, AND ALL THESE ISSUES WERE ON THE TABLE,
22 DOESN'T REALLY WORK.

23 I UNDERSTAND PLAINTIFFS' OBJECTION TO
24 IT, JUST AS I UNDERSTAND PLAINTIFFS POSTED ANOTHER 12TH
25 AMENDED EXHIBIT LIST AT 9 O'CLOCK LAST NIGHT. THAT
26 CAN'T KEEP GOING ON.

27 AND I THINK THOSE AMENDED EXHIBIT LISTS
28 OUGHT TO HIGHLIGHT ANY EXHIBITS THAT ARE BEING ADDED

1 THAT WEREN'T ON IT BEFORE, SO SOMEBODY CAN GO THROUGH
2 THIS 40- OR 50-PAGE LIST AND FIND OUT WHAT THE CHANGE
3 IS.

4 AND WE HAD ORDERS IN PLACE TO HAVE
5 EXHIBITS IDENTIFIED. IF WE'RE COMING UP WITH NEW
6 EXHIBITS AT THE LAST MINUTE AGAIN AT 9 O'CLOCK BEFORE
7 WE START AT 8:30 THE NEXT DAY, THAT'S NOT APPROPRIATE.

08:21AM

8 ALL OF THAT SAID, A COUPLE OF THE POINTS
9 RAISED BY THE DEFENDANTS, I'LL TAKE UP VERY QUICKLY.
10 ON THE EVIDENCE THAT CONTRACT CLAIMS, ON THE
11 CROSS-COMPLAINT, IT SEEMS TO ME IN PLAINTIFF'S CASE IN
12 CHIEF, WE SHOULDN'T BE SPENDING TIME ON WHAT ARE
13 ESSENTIALLY DEFENSES TO THE CROSS-COMPLAINT.

08:21AM

14 SO MR. QUINN, DO YOU HAVE ANY THOUGHTS
15 ON THAT?

08:21AM

16 MR. QUINN: I MEAN, YOUR HONOR, THERE WASN'T
17 ANY RULING ON THIS, IN ADVANCE OF TRIAL. AND THE
18 QUESTION THAT WAS RAISED, THAT MR. BRIAN RAISED BEFORE
19 TRIAL, WAS WHETHER WITNESSES COULD BE CALLED ONCE. SO
20 THAT ONE COULD EXCEED THE SCOPE OF THE DIRECT.

08:21AM

21 AND THE COURT SAID NO, WE'RE GOING TO
22 STICK WITH THE TRADITIONAL RULE. COMPLETELY DIFFERENT
23 ISSUE THAN WHETHER WE CAN ADDRESS THE CROSS-COMPLAINT
24 ISSUES IN PLAINTIFF'S CASE.

25 AND WE'VE BEEN DOING THAT. I MEAN, WE
26 DID THAT WITH MR. VILLA. I MEAN, WHOLLY APART FROM THE
27 CONTRACT ISSUES, HE'S TESTIFIED ABOUT THE CALCULATION
28 OF THE PERFORMANCE FEES AND INCENTIVE FEES. THAT ALL

08:22AM

1 HAPPENED WITHOUT OBJECTION. I MEAN, THE CAT'S OUT OF
2 THE BAG ON THAT.

3 WHAT I SAID AT SIDE-BAR, I WASN'T GOING
4 TO ASK HIM ABOUT THE CONTRACT. AND THEN I WAS
5 SURPRISED THAT MR. ALLRED THEN GOT UP AND WENT RIGHT TO
6 THE TERMINATION PROVISION IN THAT CONTRACT AND ASKED
7 HIM ABOUT THAT.

8 I MEAN, THEY -- THEY THEN WENT INTO
9 THAT. SO, ON REDIRECT, I WENT INTO THAT, AS WELL. BUT
10 WE'VE ALREADY DONE IT WITH VILLA AND DONE IT WITH
11 GUNDLACH. AND THERE WAS NO RULING IN ADVANCE OF THE
12 TRIAL. I DON'T -- I THINK THE CAT'S OUT OF THE BAG ON
13 THAT.

14 MR. BRIAN: MAY I BE HEARD?

15 THE COURT: SURE.

16 MR. BRIAN: MAY I APPROACH, YOUR HONOR?

17 I HAVE A TRANSCRIPT OF THE TESTIMONY ON
18 THURSDAY, FOR MR. MADISON'S BENEFIT, THAT IS ACTUALLY A
19 ROUGH TRANSCRIPT, BECAUSE I JUST GOT THE FINAL. BUT I
20 THINK THE JURY'S NOT HERE, I THINK IT'S ACCURATE
21 ENOUGH, YOUR HONOR.

22 I THOUGHT THERE WAS A PRETRIAL RULING,
23 WE MADE A MOTION TO TRY TO GO BEYOND THE SCOPE DURING
24 THE PLAINTIFF'S CASE IN CHIEF IN ORDER TO RAISE THE
25 CROSS-CLAIM.

26 THEY OPPOSED IT.

27 AND YOU SAID WE WOULD PROCEED IN THE
28 TRADITIONAL MANNER. IF YOU LOOK AT PAGE --

1 THE COURT: WHEN I SAID WE'D PROCEED IN THE
2 TRADITIONAL MANNER, I THINK THERE WAS A REQUEST FROM
3 THE DEFENDANTS TO BE ABLE TO PUT CASE IN CHIEF ON
4 FIRST. AND I REJECTED THAT, AND SAID WE'LL GO WITH THE
5 PLAINTIFF, AND THEN THE DEFENSE.

08:23AM

6 MR. BRIAN: NO, THAT'S NOT QUITE RIGHT.

7 WE SAID IN OUR PLEADING ON JULY 3RD, I
8 THINK IT WAS, IT WAS ONE OF THOSE 4TH OF JULY WEEKEND
9 RULINGS.

10 THE COURT: ARE THOSE BAD ONES, THE GROUP YOU
11 KEEP AN EYE ON?

08:23AM

12 MR. BRIAN: SOME WERE GOOD AND SOME NOT AS
13 GOOD. WE TOOK THE POSITION, WE OUGHT TO BE ABLE TO GO
14 BEYOND THE SCOPE AND PUT ON OUR CROSS-CLAIM DURING
15 THEIR CASE IN CHIEF.

08:24AM

16 WE ARGUED THAT BECAUSE OUR -- BECAUSE
17 ESSENTIALLY, THEY WON THE RACE TO THE COURTHOUSE. WE
18 COULD HAVE ASKED THE COURT FOR US TO GO FIRST, BUT WE
19 WERE NOT.

20 AND WE SAID, WE'RE NOT ASKING FOR THAT.

08:24AM

21 THE COURT: OKAY.

22 MR. BRIAN: WE WERE ASKING TO DO THE OTHER,
23 AND YOU SAID NO.

24 SO WHEN MR. QUINN, DURING MR. VILLA'S
25 EXAMINATION, BEGAN GETTING INTO THE FEE PAYMENTS, I
26 ASKED TO APPROACH WITH MR. ALLRED, AND WE DID. THERE'S
27 A COLLOQUY THAT BEGINS ON 2706.

08:24AM

28 AND I SAID -- I ASKED TO APPROACH

1 BECAUSE BEFORE TRIAL, WE DISCUSSED WHETHER WE'D GO INTO
2 OUR CONTRACT CLAIM IN MR. QUINN'S CASE. MR. QUINN
3 OBJECTED, AND IT LOOKS TO ME, HE'S GOING TO DO THAT.

4 AND MR. QUINN SAID, WE ARE GOING INTO
5 THAT. THAT LED TO A BACK-AND-FORTH WHERE THE COURT
6 SAID:

08:24AM

7 YOU OUGHT TO FINISH UP WITH THE
8 GENERAL BACKGROUND INFORMATION.
9 GET INTO THAT, GET INTO WHAT YOU
10 WANT TO GET INTO WITH THIS MAN, AS
11 OPPOSED TO INDIRECTLY ATTACKING THE
12 CONTRACT CLAIM. NOW, I'LL GIVE YOU
13 SOME LEEWAY, YOU KNOW, FOUNDATIONAL
14 BACKGROUND. BUT IF WHAT YOU'RE
15 REALLY DOING IS WHAT THE
16 ARRANGEMENT WAS FOR FEE SHARING
17 WITH MR. GUNDLACH, GO THERE --
18 AND THEN YOU SAY, I SAY AT THE END:
19 THE ONLY THING I WAS PUTTING
20 THE COURT ON NOTICE OF WAS THE
21 INTENT TO GET INTO THE AREA OFF
22 LIMIT, AND WE'RE NOT PREPARED.
23 YOU SAID, THE COURT SAID: HE SAID
24 HE'S NOT GOING TO. WE WON'T HAVE
25 THAT PROBLEM.

08:25AM

08:25AM

08:25AM

08:25AM

26
27 MY UNDERSTANDING, AND MAYBE I WAS SLOW
28 IN THE UPTAKE, BUT MY UNDERSTANDING IS THAT HE WAS

1 MAKING A REPRESENTATION. I INTERPRETED THIS WAY, MAYBE
2 I MISSED IT. BUT I THOUGHT HE WAS REPRESENTING THAT HE
3 THOUGHT IT WAS RELEVANT TO HIS CASE IN CHIEF.

4 HE THEN PROCEEDED TO MAKE -- TO
5 LISTEN -- ELICIT EVIDENCE. WE DID NOT OBJECT TO IT. 08:25AM
6 MR. ALLRED THEN PUT ON THE OTHER PART OF THE DOCUMENT,
7 WHICH IS THE CONTRACT, TO SHOW THE DIFFERENCE BETWEEN
8 ACCRUED AND PAID. AND MR. QUINN GOT UP ON REDIRECT AND
9 SAID, BUT THE CONTRACT'S NOT SIGNED.

10 NOW, HE WANTS TO ARGUE WE'VE OPENED THE 08:26AM
11 DOOR.

12 THE COURT: NO.

13 MR. BRIAN: AND --

14 THE COURT: OKAY.

15 MR. BRIAN: THE PLAINTIFF HAS USED UP 26 HOURS 08:26AM
16 OF THEIR 45 HOURS. I THINK THEY SHOULD FINISH THEIR
17 CASE, AND NOT BE ALLOWED TO ANTICIPATE AND REBUT OUR
18 CLAIM IN THEIR CASE IN CHIEF.

19 WHICH I THINK IS WHAT HE NOW WANTS TO
20 DO. WHICH I DON'T THINK IS FAIR AT THIS POINT; WE 08:26AM
21 DIDN'T PREPARE FOR THAT. WE WOULD HAVE DONE THINGS
22 DIFFERENTLY. I THINK THEY OUGHT TO FINISH THEIR CASE.

23 WE OUGHT TO PUT ON OUR CONTRACT CLAIM
24 AND DO IT AS THE COURT SCRIPTED IT.

25 MR. QUINN: THERE WAS NO SUCH SCRIPT. 08:26AM

26 I RECALL, YOUR HONOR, THE REQUEST THEY
27 MADE PRETRIAL, WAS THAT WITNESSES BE CALLED ONLY ONCE,
28 SO THAT THEY COULD EXCEED THE SCOPE. AND THE COURT

1 SAID NO, WE'RE NOT GOING TO DO THAT.

2 THERE WAS NO RULING. AND MR. BRIAN
3 HASN'T CITED ANY RULING THAT WE COULDN'T GO INTO THE
4 CROSS-COMPLAINT.

5 AND WHAT I SAID AT SIDE-BAR, WE HAD NO
6 INTENTION WITH MR. VILLA OF GOING INTO THE CONTRACT, AS
7 SUCH, BUT WE WERE GOING TO GO INTO THE FEES.

08:26AM

8 WHICH OBVIOUSLY DOES RELATE TO THE
9 CROSS-COMPLAINT; I.E., THE WAGES CLAIM.

10 AND I DID THAT. AND I LIMITED IT TO
11 THAT. I DIDN'T TAKE HIM TO THE CONTRACT. I DIDN'T
12 TALK ABOUT HOW IT WAS UNSIGNED.

08:27AM

13 THEY THEN DID THAT ON THEIR
14 CROSS-EXAMINATION. SO THEN I THOUGHT, THAT'S FAIR
15 GAME. WE'VE DONE THAT WITH MR. SANTA ANA. I ASKED HIM
16 ABOUT WHETHER CONTRACT ISSUES RELATING TO MR. GUNDLACH,
17 MR. GUNDLACH'S ABILITY TO ENTER INTO A CONTRACT ON HIS
18 BEHALF, I ASKED MR. GUNDLACH ABOUT THAT.

08:27AM

19 I MEAN, WE'RE DOWN THE ROAD ON THIS
20 ALREADY. AND I THINK THEY'RE THE ONES TRYING TO CHANGE
21 THE RULES NOW, AFTER WE'VE ALREADY -- THESE SUBJECTS
22 ARE ALREADY OUT THERE.

08:27AM

23 THE COURT: OKAY.

24 I'M NOT GOING TO HAVE A LONG-TERM DEBATE
25 ON THIS TODAY. AT THIS POINT IN TIME, I THINK
26 BASICALLY THE CONTRACT PROVISIONS THAT YOU RELY ON THE
27 EXHIBIT A, IS PART OF YOUR CASE.

08:27AM

28 AND YOU BRING THAT IN, AND YOU WANT TO

1 TALK ABOUT IT. AND WE'VE DONE THAT. AND THEY
2 RESPONDED TO IT. BUT FUNDAMENTALLY, YOU SHOULD NOT BE
3 PUTTING ON A DEFENSE TO THE ORAL CONTRACT CLAIM IN YOUR
4 CASE IN CHIEF. YOUR CASE IN CHIEF IS A BREACH OF
5 FIDUCIARY DUTY, TRADE SECRETS CASE.

08:28AM

6 AND THAT'S WHAT YOU SHOULD BE PUTTING
7 ON. SO I WILL PUT SOME LIMITATIONS ON YOUR EXPLORING
8 ALL AVENUES OF THE BREACH OF AN ORAL CONTRACT CLAIM IN
9 YOUR CASE IN CHIEF.

10 THAT SAID, YOU KNOW THE DEFENDANTS CAN'T
11 HAVE IT BOTH WAYS, AND SO YOU'VE GOT TO CONTROL YOUR
12 DIRECT EXAMINATION OF YOUR OWN WITNESSES THAT ARE BEING
13 CALLED UNDER 776, AND NOT START TO PUT YOUR CASE ON.

08:28AM

14 YOU KNOW THE ALTERNATIVE TO THAT IS JUST
15 TO SAY WE HAVE A FREE-FOR-ALL, ANYBODY CAN PUT ON
16 ANYTHING THEY WANT AT ANY TIME. AND I DON'T THINK
17 THAT'S REALLY WHAT WE SHOULD BE DOING.

08:28AM

18 MR. BRIAN: WE'RE PREPARED TO LIVE BY THAT,
19 YOUR HONOR. I DON'T MEAN TO BELABOR IT, WE DON'T THINK
20 WE DID WHAT MR. QUINN SUGGESTED. MR. VILLA WAS A
21 LITTLE UNDISCIPLINED, MAYBE ON BOTH SIDES IN THE
22 QUESTIONING. I DID NOT THINK MR. QUINN WAS GOING INTO
23 OUR CROSS-CLAIM.

08:29AM

24 I THOUGHT HE BELIEVED IT WAS RELEVANT TO
25 HIS BREACH OF FIDUCIARY CLAIM. WE THOUGHT WE HAD TO
26 RESPOND TO IT.

08:29AM

27 HE'S THE ONE THAT PUT UP THE FACT IT
28 WASN'T SIGNED. WE DIDN'T DO THAT, AND I THINK THAT'S

1 THE END OF IT.

2 AND I THINK WE'RE GOING TO BE MORE
3 VIGILANT IN OBJECTING. WE DON'T THINK THEY SHOULD BE
4 ABLE TO CALL WITNESSES, AS I THINK HE PLANS TOMORROW,
5 FOR EXAMPLE, AND GET INTO WHETHER OR NOT THE
6 NEGOTIATIONS WITH MR. GUNDLACH BACK IN 2007.

08:29AM

7 IN MY JUDGMENT, THAT'S OFF LIMITS. IT'S
8 NOT PART OF HIS CASE IN CHIEF. WE'RE GOING TO OBJECT
9 TO IT.

10 THE COURT: ALL RIGHT.

08:29AM

11 AND TO SOME DEGREE, I THINK THOSE
12 OBJECTIONS ARE WELL-TAKEN. YOU NEED TO PUT YOUR CASE
13 IN CHIEF ON, MR. QUINN, AND MOVE FORWARD. I SAID I'LL
14 GIVE YOU SOME LEEWAY, AND YOU CAN HAVE BACKGROUND
15 INFORMATION.

08:30AM

16 BUT WE'RE NOT BRINGING IN THE EXPERTS
17 AND ALL THE WITNESSES TO TALK ABOUT WHETHER THERE WAS
18 OR WAS NOT AN ORAL AGREEMENT.

19 SO --

20 MR. QUINN: CAN I ASK MR. GUNDLACH ABOUT THAT,
21 ABOUT HIS ACCOUNT OF -- HIS CONTRACTUAL STATUS AS OF
22 2007 AND AS OF 2009?

08:30AM

23 THE COURT: I THINK TO SOME DEGREE THAT -- YOU
24 KNOW A DIRECT QUESTION ON THAT BASIS CALLS FOR A LEGAL
25 CONCLUSION. AND I ALSO THINK IT GOES TO THE
26 AFFIRMATIVE CLAIMS BEING MADE, AND THAT OUGHT TO BE
27 DONE ON YOUR CROSS-EXAMINATION OF MR. GUNDLACH, IF AND
28 WHEN THE DEFENDANTS PUT THAT CLAIM ON IN THIS CASE IN

08:30AM

1 CHIEF.

2 MR. BRIAN: LET ME REPRESENT TO THE COURT AND
3 COUNSEL THAT IF WE LIVE BY THESE RULES, WE WILL CALL
4 MR. GUNDLACH BACK ON THE CONTRACT CLAIMS. SO MR. QUINN
5 WILL GET A SECOND CHANCE TO CROSS-EXAMINE HIM.

08:30AM

6 THE COURT: OF COURSE, HE WILL. I DON'T WANT
7 THAT REALLY COMING IN AT THIS STAGE.

8 I HAD A COUPLE OTHER ISSUES HERE, THE
9 DEFENSE RAISED.

10 WHAT IS THIS HORTON LAWSUIT, AND WHAT
11 DOES IT HAVE TO DO WITH ANYTHING? WE DON'T HAVE TIME
12 TO TAKE 20 MINUTES TO GO THROUGH THESE THINGS. AND I
13 DO BEGRUDGE THE FACT THEY SHOW UP AT 9 O'CLOCK SUNDAY
14 NIGHT, WHEN YOU MUST HAVE HAD THE SAME ISSUES LAST
15 WEEK.

08:31AM

16 MR. HELM: A LOT OF THESE DOCUMENTS WERE
17 PRODUCED ON FRIDAY AND LAST NIGHT, THAT WE ARE NOW
18 REFERRING TO.

19 MR. BRIAN: HAVING SAID THAT, WE TAKE YOUR
20 HONOR'S CRITICISM; WE SHOULD HAVE FILED IT EARLIER.

08:31AM

21 MR. QUINN: THIS WAS AN ISSUE ACTUALLY
22 DISCUSSED PRETRIAL.

23 MR. HORTON WAS AN EMPLOYEE IN THE FIXED
24 INCOME GROUP WHO LEFT, AND WAS SUED BY TCW FOR TAKING
25 TRADE SECRETS. THE SPECIFIC KINDS OF THINGS WHICH ARE
26 THE SUBJECT OF THIS CASE: INFORMATION ABOUT HOW
27 STRATEGIES, HOW INVESTMENTS ARE ANALYZED, INFORMATION
28 ABOUT EMPLOYEES, INFORMATION ABOUT CUSTOMERS; MUCH OF

08:31AM

1 THE SAME INFORMATION WHICH IS THE SUBJECT OF THIS CASE.

2 A LAWSUIT WAS BROUGHT BY TCW FOR THEFT
3 OF TRADE SECRETS. MR. LUCIDO SUBMITTED AN AFFIDAVIT IN
4 SUPPORT OF AN AFFIDAVIT FOR TEMPORARY RESTRAINING
5 ORDERS. HE BASICALLY SAID, THIS IS VERY VALUABLE
6 INFORMATION THIS PERSON HAS TAKEN. MR. GUNDLACH WAS A
7 SUPPORTER OF THE LAWSUIT, AND HE'S AUTHORED E-MAILS ON
8 THIS SUBJECT.

08:32AM

9 AND WE THINK IT'S EXACTLY RELEVANT TO
10 THE CASE WE'RE TRYING NOW, THE POSITIONS THEY TOOK AS
11 TO THE SAME TYPES OF INFORMATION.

08:32AM

12 THE COURT: MR. HELM?

13 MR. HELM: WE HAVE TWO GROUNDS FOR OBJECTION
14 TO IT. THE FIRST IS THAT IT'S 352, IT'S COLLATERAL.
15 THE HORTON LAWSUIT HAD TO DO WITH INFORMATION IN THE
16 CDO BUSINESS, WHICH DOUBLELINE DOES NOT ENGAGE IN.
17 THEY HAVE NO CDO GETTING INTO THAT.

08:32AM

18 HOW IT DOES OR DOESN'T RELATE TO THE
19 INFORMATION IN THE BUSINESS THAT THEY DO PURSUE WOULD
20 BE COLLATERAL. IT WOULD BE --

08:33AM

21 THE COURT: WAIT A MINUTE.

22 IF YOU'RE TALKING ABOUT CLIENT LIST OR
23 PROPRIETARY INFORMATION THAT'S SIMILAR TO THE
24 PROPRIETARY INFORMATION OF THE CLIENT LISTS AT ISSUE
25 HERE, WHY IS IT DIFFERENT?

08:33AM

26 MR. HELM: MOSTLY IT'S NOT ABOUT CLIENT LISTS,
27 YOUR HONOR. MOSTLY IT'S ABOUT THE OVERALL
28 RELATIONSHIPS THEY SAID BETWEEN THE PEOPLE IN THE CDO

1 GROUP. THERE WERE SOME THINGS I BELIEVE ABOUT SYSTEMS
2 AS WELL NOT AT ISSUE HERE.

3 THE SECOND PROBLEM HERE, A LOT OF
4 DOCUMENTS PRODUCED, THEY WERE NOT PRODUCED IN
5 DISCOVERY. THERE'S DOCUMENTS JUST PRODUCED OVER THE
6 WEEKEND, WHICH ARE COMMUNICATIONS, FOR EXAMPLE, BETWEEN
7 MR. GUNDLACH AND COUNSEL.

08:33AM

8 SO WE'VE GOT, SORT OF GOT A SELECTIVE
9 WAIVER ISSUE HERE. THEY DIDN'T PRODUCE ANY OF THE
10 OTHER DOCUMENTS THAT MIGHT BE PRIVILEGED. AND IN FACT,
11 ONE OF THE E-MAILS, IT'S PARTIALLY REDACTED -- ON TWO
12 OF THE E-MAILS, PART OF IT IS REDACTED.

08:33AM

13 SO THERE'S -- IT'S SELECTIVE WAIVER,
14 WITHIN THE SELECTIVE WAIVER. THEY'RE GIVING US THE
15 PARTS OF THE COMMUNICATIONS WITH COUNSEL THAT THEY WANT
16 TO PUT FORWARD, BUT THEY'RE WITHHOLDING THE PARTS OF
17 THE COMMUNICATIONS WITH COUNSEL THAT DON'T SUPPORT IT.
18 SO WE THINK IT'S UNFAIRNESS THERE, AS WELL.

08:34AM

19 THE COURT: TO THE EXTENT THE DOCUMENTS WERE
20 FOR THE FIRST TIME PRODUCED IN THIS EXHIBIT LIST LAST
21 NIGHT AT 9 O'CLOCK, WE'RE NOT USING THEM UNTIL I HAVE A
22 CHANCE TO LOOK AT THEM AND DEAL WITH THESE ISSUES OF
23 LATE-PRODUCED DOCUMENTS NOT BEING PUT ON THE EXHIBIT
24 LIST.

08:34AM

25 THAT SAID, MR. QUINN, YOU SHOULD BE ABLE
26 TO CROSS-EXAMINE WITNESSES FOR PURPOSES OF IMPEACHMENT
27 CONCERNING POSITIONS THAT THEY TOOK IN THE RECENT PAST.

08:34AM

28 BUT I'M NOT GOING TO LET YOU PUT ON A

1 WHOLE LOT OF EVIDENCE ON THE HORTON LAWSUIT GENERALLY.
2 IT'S ON A WITNESS BY WITNESS BASIS. AND IF IT'S
3 SOMETHING THAT'S GERMANE TO IMPEACHMENT OF TESTIMONY
4 THEY GIVE HERE IN COURT, WE'LL LOOK AT IT.

5 AND YOU SHOULD HAVE SOME FLEXIBILITY ON
6 THAT.

08:34AM

7 MR. QUINN: YOUR HONOR, I'M JUST --
8 MR. LUCIDO'S AFFIDAVIT, I'M QUOTING FROM IT. HE SAYS,
9 AS TO THE TYPES OF INFORMATION CONFIDENTIAL AND TRADE
10 SECRET: WHICH TYPES OF MORTGAGES TO GO AFTER.

08:35AM

11 WHICH TYPES OF PRODUCTS TO BASE THEM ON.
12 WHICH CLIENTS TO OFFER RESULTS PRODUCTS
13 TO.

14 HOW TO PRICE THOSE PRODUCTS.
15 HOW TO SPREAD THE RISK TO TCW ASSOCIATED
16 WITH THE DEAL.

08:35AM

17 ALL THESE THINGS ARE HIGHLY CONFIDENTIAL
18 AND PROPRIETARY TO TCW.

19 THE COURT: YOU MAY QUESTION MR. LUCIDO ON
20 THAT, BUT THAT'S NOT FOR MR. GUNDLACH.

08:35AM

21 MR. QUINN: WE GOT AN E-MAIL FROM MR. GUNDLACH
22 BEARING ON -- BEARING ON THIS AS WELL.

23 THE COURT: NOT ON AN AFFIRMATIVE BASIS. YOU
24 MAY USE IT TO IMPEACH THE INDIVIDUAL WITNESSES. BUT
25 THE NOTION OF EVERYBODY TALKING ABOUT E-MAILS THAT ONE
26 ANOTHER SAID -- AND WOULDN'T YOU AGREE WITH THAT?
27 SEEMS TO ME TO GO BEYOND THE APPROPRIATE SCOPE OF
28 DIRECT EXAMINATION.

08:35AM

1 MR. QUINN: I'M TALKING ABOUT MR. GUNDLACH'S
2 E-MAIL.

3 THE COURT: I HAVEN'T SEEN IT. WHEN DID THAT
4 GET SHOWN TO ANYBODY, OR PUT ON YOUR EXHIBIT LIST?

5 MR. QUINN: IT WAS PUT ON THE EXHIBIT LIST
6 OVER THE WEEKEND, YOUR HONOR.

7 THE COURT: 9 O'CLOCK LAST NIGHT?

8 MR. QUINN: NO.

9 THE COURT: WELL, I GOT THE 12TH AMENDED
10 SERVED AT 9 O'CLOCK LAST NIGHT. SO WHEN?

11 MR. QUINN: WE'VE BEEN GIVING THEM HEADS UP.
12 AND BOTH SIDES, LET ME SAY, HAVE BEEN
13 ADDING DOCUMENTS TO THE EXHIBIT LIST.

14 THE COURT: YOU KNOW --

15 MR. QUINN: DURING THE TRIAL.

16 THE COURT: -- WHAT'S GOOD FOR ONE SIDE IS
17 GOOD FOR THE OTHER. I DON'T LIKE IT. YOU NEED TO PUT
18 THINGS ON THE TABLE UP FRONT. LET PEOPLE KNOW WHAT
19 WE'RE DOING. THIS ISN'T TRIAL BY AMBUSH.

20 IF PEOPLE ARE HOLDING BACK AND GAMING
21 THE SYSTEM, IT'S NOT RIGHT. DON'T TAKE IT PERSONALLY.
22 IF THEY'RE DOING IT, TOO. IT'S A BLANKET STATEMENT.

23 MR. QUINN: I DON'T THINK THEY'RE DOING IT,
24 TOO, YOUR HONOR. THIS IS NOT A DOCUMENT THAT WAS THE
25 SUBJECT OF A DISCOVERY REQUEST. WE LOOKED AT THAT.
26 OBVIOUSLY, IF THIS WAS SOMETHING THEY'D ASK FOR IN
27 DISCOVERY, I WOULDN'T BE HERE SAYING WE SHOULD BE ABLE
28 TO USE SOMETHING.

1 IT WAS NOT SOMETHING ASKED FOR IN
2 DISCOVERY, IT'S NOT RESPONSIVE --

3 THE COURT: I HAVEN'T SEEN IT. I DON'T KNOW
4 WHAT IT IS. I DON'T KNOW WHERE IT IS.

5 WE'RE GOING TO GET GOING HERE.

08:36AM

6 LET'S SEE IF I HAD ONE OTHER THING?

7 FINALLY, THE AGREEMENTS RELATED TO
8 GUNDLACH'S PURCHASE AND SALE OF TCW STOCK AND SOCIÉTÉ
9 GÉNÉRALE STOCK, I DON'T SEE ANY RELEVANCE. I DON'T
10 KNOW WHY WE'D BE MESSING WITH THAT AT THIS POINT.

08:37AM

11 MR. QUINN: WELL -- I MEAN, HE'S ALREADY
12 TESTIFIED, YOUR HONOR, ABOUT -- THIS IS WHAT HE MADE
13 FROM THE SALE OF HIS STOCK. THAT'S --

14 THE COURT: I UNDERSTAND.

15 MR. QUINN: AND THOSE -- I DON'T THINK WE'RE
16 ACTUALLY GOING TO NEED THE DOCUMENTS, BECAUSE WE HAVE
17 THE TESTIMONY. YOU KNOW, I TOLD THEM --

08:37AM

18 THE COURT: THEN LET'S NOT GO ANY FURTHER. HE
19 SOLD THE STOCK. BUT I UNDERSTOOD THERE WERE NEW
20 DOCUMENTS REGARDING PURCHASES AND SALES UNRELATED TO
21 WHAT WE ALREADY HAD TESTIMONY ABOUT.

08:37AM

22 MR. QUINN: THAT'S WHAT IT'S ABOUT, NO --

23 THEY HAD THESE DOCUMENTS SOME TIME AGO.

24 THE COURT: HE ALREADY SAID.

25 MR. QUINN: I DO -- NOT USING THESE DOCUMENTS,
26 YOUR HONOR, JUST TO BE CLEAR, I WOULD LIKE TO FOLLOW UP
27 ON AN ANSWER HE GAVE IN THAT REGARD LAST WEEK.

08:37AM

28 THE COURT: I'LL ALLOW YOU SOME LEEWAY.

1 THE OTHER THING IS, I DID GET THE HOURS.
2 WE HAVE 45 HOURS. NOW, IF YOU'RE GOING TO GIVE UP YOUR
3 RIGHT TO CROSS-EXAMINE ANY OF THEIR WITNESSES, AND USE
4 YOUR WHOLE 45 HOURS TO PUT YOUR WHOLE CASE IN CHIEF ON,
5 THERE'S AN ISSUE.

08:38AM

6 ARBITRARY NUMBERS ARE A PROBLEM. AND WE
7 WANT A FAIR TRIAL, BUT YOU ARE APPROACHING THE END --
8 YOU KNOW, SIGNIFICANTLY USING YOUR TIME.

9 AND YOU NEED TO RESERVE TIME FOR
10 CROSS-EXAMINATION OF THEIR WITNESSES, WHICH I ASSUME
11 YOU WANT TO DO.

08:38AM

12 MR. QUINN: INDEED.

13 THE COURT: OKAY.

14 MR. QUINN: I HAVE A COPY OF THIS --

15 THE COURT: PASS IT UP.

08:38AM

16 MR. QUINN: -- OF THE ONE GUNDLACH E-MAIL.

17 YOUR HONOR, ONE OTHER THING.

18 WE'D LIKE TO ASK MR. GUNDLACH QUESTIONS
19 RELATED TO HIS NET WORTH. THE STATUTE ACTUALLY SAYS
20 THAT IN THE ABSENCE OF A MOTION FOR PROTECTIVE ORDER BY
21 THE DEFENDANT, YOU DON'T HAVE TO MAKE OUT A PRIMA FACIE
22 CASE FOR IT.

08:38AM

23 THE COURT: YOU MAY ASK HIM QUESTIONS. DON'T
24 TAKE A LOT OF TIME ON IT.

25 MR. QUINN: OKAY.

08:38AM

26 ONE OTHER THING, IF I MAY APPROACH?

27 THE COURT: YOU SAID ONE OTHER THING.

28 MR. QUINN: OKAY.

1 THE COURT: THIS IS OFF THE RECORD? YOU WANT
2 THIS ON THE RECORD?

3 MR. QUINN: NO.

4 THE COURT: OKAY. WE'LL GO OFF THE RECORD.

08:43AM

5
6 (THE FOLLOWING PROCEEDINGS WERE
7 HELD IN THE PRESENCE OF THE JURY.) +
8

9 THE COURT: GOOD MORNING. IN THE TCW VERSUS
10 GUNDLACH MATTER, ALL MEMBERS OF THE JURY ARE PRESENT,
11 AS ARE ALL COUNSEL.

08:43AM

12 MR. BRIAN: BEFORE WE BEGIN, MAY I ASK
13 PERMISSION TO INTRODUCE TO THE JURY AND YOUR HONOR,
14 MR. PHIL BARACH, ONE OF THE PRINCIPALS AT DOUBLELINE,
15 WITH US TODAY.

08:43AM

16 THE COURT: GOOD MORNING, MR. BARACH.

17 MR. QUINN, YOU WANT TO PROCEED WITH YOUR
18 DIRECT EXAMINATION OF MR. GUNDLACH?

19 MR. QUINN: YES, YOUR HONOR.

20 THE COURT: WE HAVE TO ASK MR. GUNDLACH TO
21 COME UP.

08:43AM

22 WHILE MR. GUNDLACH'S COMING UP, LADIES
23 AND GENTLEMEN, WE HAVE A SCHEDULING ISSUE. ONE OF YOU
24 ASKED A QUESTION ABOUT THE WEEK OF -- ACTUALLY, NEXT
25 WEEK. WE WILL BE DARK ON THE 23RD, WHICH IS TUESDAY,
26 NEXT WEEK, BECAUSE OF A CONFLICT AMONG THOSE INVOLVED
27 IN THE CASE.

08:43AM

28 WE WILL NOT BE ABLE TO ACCOMMODATE THE

1 REQUEST THAT WE BE DARK THAT WHOLE WEEK, AND THAT
2 CANNOT BE DONE. SO WE WILL BE IN SESSION MONDAY,
3 WEDNESDAY AND THURSDAY NEXT WEEK, BUT NOT ON TUESDAY.

4 AND I STILL THINK, JUST TO REASSURE YOU,
5 WE ARE MORE OR LESS ON SCHEDULE OR AHEAD OF SCHEDULE.
6 AND WE SHOULD BE ENDING TOWARD THE END OF THE MONTH, OR
7 THE FIRST WEEK IN SEPTEMBER.

08:44AM

8 AND SO WE WILL BE AHEAD OF THE SCHEDULE
9 WE PROJECTED, IT TAKES TIME, AND WE HAVE TO WORK
10 THROUGH.

08:44AM

11 GOOD MORNING, MR. GUNDLACH.

12 THE WITNESS: GOOD MORNING.

13 THE COURT: YOU HAVE PREVIOUSLY BEEN SWORN,
14 AND YOU ARE UNDER OATH.

15 MR. QUINN, YOU MAY CONTINUE YOUR DIRECT
16 EXAMINATION.

08:44AM

17
18 DIRECT EXAMINATION (CNT'D) +
19

20 BY MR. QUINN:

08:44AM

21 Q THANK YOU, YOUR HONOR.

22 GOOD MORNING, LADIES AND GENTLEMEN.

23 I JUST WANT TO FOLLOW UP ON A COUPLE
24 ISSUES WE TOUCHED ON LAST THURSDAY. ONE WAS RELATED TO
25 THE -- YOUR SALE OF THE SOC-GEN STOCK IN WHICH YOU MADE
26 ON THE TCW SALE, THE TCW STOCK TO SOC-GEN.

08:45AM

27 DO YOU RECALL THAT?

28 A YOU'RE TALKING ABOUT MY SELLING TCW STOCK TO

1 SOC-GEN?

2 Q YES.

3 A YES.

4 Q I THINK YOU GOT SOC-GEN STOCK IN RETURN FOR
5 YOUR TCW STOCK?

08:45AM

6 A RIGHT. IT WAS A SWAP, BASICALLY. THEY
7 SWAPPED THE TCW STOCK AND EXCHANGED SOCIÉTÉ GÉNÉRALE
8 STOCK.

9 Q I THINK YOU TOLD US THAT YOU GOT \$40 MILLION
10 FOR THAT; IS THAT TRUE?

08:45AM

11 A I THINK THAT'S ABOUT RIGHT.

12 MY RECOLLECTION WAS THAT -- THE SALE
13 PRICE OF TCW WAS ABOUT A BILLION TO A BILLION AND A
14 HALF DOLLARS. IT WAS SOMEWHAT CONJECTURAL, BECAUSE IT
15 HAD TO DO WITH HOW PUBLIC THE GROWTH OF TCW WOULD BE
16 POST 2001.

08:45AM

17 BUT AS OF THE DATE OF SALE OF THE FIRST
18 51 PERCENT OF TCW TO SOC-GEN, I BELIEVE THE VALUE OF
19 THE -- OF TCW WAS ABOUT A BILLION TWO OR SO.

20 Q I WAS REALLY FOCUSING ON WHAT YOU GOT FOR THE
21 SALE, ULTIMATELY, OF YOUR TCW STOCK. I THINK YOU TOLD
22 US IT WAS A \$40 MILLION NUMBER?

08:46AM

23 MR. HELM: TCW OR SG STOCK?

24 THE COURT: THERE WAS A SWAP. HE DIDN'T
25 RECEIVE DOLLARS; HE RECEIVED SOC-GEN, IS WHAT HE SAID.

08:46AM

26 THE WITNESS: RIGHT.

27 THE COURT: OKAY.

28 ///

1 BY MR. QUINN:

2 Q YOU ULTIMATELY -- YOU SOLD THAT?

3 A YEAH. I HELD IT FOR A LONG TIME, AND I GOT
4 LUCKY. I HELD IT, AND IT WENT UP A LOT. AND I SOLD A
5 GREAT MAJORITY OF IT RIGHT ON THE TOP OF THE MARKET.

08:46AM

6 Q I THINK YOU TOLD US THAT YOU ULTIMATELY
7 REALIZED 40 MILLION; IS THAT CORRECT?

8 A NO.

9 I REALIZED MORE THAN THAT, BECAUSE THE
10 VALUE OF SG, I TIMED IT RIGHT.

08:46AM

11 Q ALL RIGHT.

12 A IF I HAD OWNED, SAY -- SOLD IT, SAY,
13 IMMEDIATELY, I WOULD HAVE GOTTEN A DIFFERENT VALUE.

14 IT'S -- WHAT I DO WITH SG STOCK WHILE I
15 OWN IT IS NOT THE VALUE I RECEIVE FROM SG, IT'S WHAT
16 I'M DOING WITH MY OWN INVESTMENTS.

08:46AM

17 Q ULTIMATELY, WHAT DID YOU REALIZE FROM THE SALE
18 OF YOUR TCW STOCK? IS IT ABOUT \$60 MILLION?

19 A NO, I THINK IT'S ABOUT 40 MILLION.

20 Q WAS THAT BEFORE OR AFTER TAX, THAT NUMBER
21 YOU'RE TELLING US?

08:47AM

22 A I -- BEFORE TAX, I THINK.

23 Q BEFORE TAX?

24 A I THINK SO. I THINK SO.

25 Q ALL RIGHT.

08:47AM

26 AND HOW MUCH -- YOU HAD SPENT -- YOU
27 HAD -- TO ACQUIRE THAT TCW STOCK, YOU HAD SPENT, WHAT,
28 \$2-1/2 MILLION, SOMETHING LIKE THAT?

1 A I COULDN'T TELL YOU.

2 Q YOU JUST DON'T KNOW WHAT YOU HAD INVESTED IN
3 THE TCW STOCK?

4 A NO. IT WAS A LONG TIME AGO.

5 Q CAN YOU GIVE US AN ESTIMATE?

08:47AM

6 A IT WAS SOMEWHERE AROUND \$1 MILLION, MAYBE \$2
7 MILLION.

8 Q SO YOU SPENT ABOUT \$1 MILLION TO GET TCW
9 STOCK, ON WHICH YOU ULTIMATELY REALIZED, YOU'RE TELLING
10 US, YOUR REPRESENTATION IS \$40 MILLION; IS THAT TRUE?

08:47AM

11 A SOUNDS RIGHT.

12 Q IF I COULD ASK YOU TO TAKE A LOOK, WE HAD
13 QUESTIONS ABOUT WHETHER YOU WERE ELECTED BY THE
14 SHAREHOLDER OF TCW, WHETHER YOU WERE ELECTED BY THE
15 SHAREHOLDER TO BE A DIRECTOR.

08:48AM

16 DO YOU RECALL THOSE QUESTIONS?

17 A I DON'T REMEMBER ANYTHING ABOUT THE
18 SHAREHOLDER, BUT WE TALKED ABOUT BEING ON THE BOARD OF
19 DIRECTORS, YEAH.

20 Q I THINK I'D ASKED YOU WHETHER YOU UNDERSTOOD
21 YOU WERE ELECTED BY THE SHAREHOLDER.

08:48AM

22 DO YOU RECALL?

23 A NO.

24 Q WELL, LET ME ASK YOU, THEN, DID YOU UNDERSTAND
25 THAT YOU WERE ELECTED BY SOCIÉTÉ GÉNÉRALE, A
26 SHAREHOLDER, TO BE A DIRECTOR OF TCW?

08:48AM

27 A I -- I WASN'T SURE. I DID NOT -- I DON'T
28 KNOW. I FELT ONE DAY I WAS TOLD THAT I WAS BEING

1 APPOINTED TO THE BOARD OF DIRECTORS. THAT'S KIND OF
2 ALL I KNEW.

3 Q TAKE A LOOK PLEASE AT EXHIBIT 2241. I'LL ASK
4 YOU TO TAKE A LOOK AT THIS, PLEASE.

5 YOU MIGHT WANT TO LOOK AT THE HARD COPY.
6 IT'S ACTUALLY A MULTI-PAGE DOCUMENT.

7 DO YOU SEE YOUR NAME THERE ON THE SECOND
8 PAGE?

9 A YES.

10 Q ALL RIGHT.

11 AND INFORMATION ABOUT VOTING OF SHARES,
12 DO YOU SEE THAT?

13 A NO.

14 Q IF YOU LOOK AT THE SECOND PAGE --

15 A OH, NUMBER OF SHARES VOTED.

16 Q CORRECT?

17 A YEAH, CORRECT.

18 Q DOES THIS REFRESH YOUR RECOLLECTION THAT YOU
19 WERE ELECTED BY THE SHAREHOLDER, SOCIÉTÉ GÉNÉRALE, TO
20 BE A DIRECTOR OF TCW?

21 A OKAY. I -- I DON'T REMEMBER THIS DOCUMENT,
22 BUT -- OKAY.

23 Q ALL RIGHT.

24 AND SO BEING ELECTED BY THE SHAREHOLDER
25 TO BE A DIRECTOR, YOU UNDERSTOOD THAT IT WAS YOUR JOB,
26 AS A DIRECTOR, TO LOOK OUT FOR THE INTERESTS OF THE
27 SHAREHOLDER AT TCW, ISN'T -- WASN'T THAT YOUR
28 UNDERSTANDING, SIR?

08:48AM

08:49AM

08:49AM

08:49AM

08:49AM

1 A ONE OF MY DUTIES, FOR SURE, WAS TO LOOK OUT
2 FOR THE INTEREST OF TCW AND FOR SG; AND MOST PARAMOUNT,
3 THE INTEREST OF THE CLIENTS.

4 Q AND YOU UNDERSTOOD THAT THE SHAREHOLDER,
5 OBVIOUSLY, WHO HAD ELECTED YOU WAS SOCIÉTÉ GÉNÉRALE?

08:50AM

6 A I KNEW SG OWNED TCW.

7 Q LET ME CHANGE SUBJECTS NOW.

8 DO YOU RECALL THAT BACK IN THE 2007,
9 2008 TIME FRAME, THAT TCW PROMOTED YOU IN THE
10 MARKETPLACE, SPONSORED EVENTS, SPENT MONEY TO PROMOTE
11 YOU AND THE MORTGAGE-BACKED SECURITIES BUSINESS?

08:50AM

12 A I DON'T REALLY THINK WE WERE REALLY PROMOTING
13 MORTGAGE-BACKED SECURITIES BUSINESS, I THINK WE WERE
14 PROMOTING THE FIRST TCW BROADLY.

15 WE DID SEMINARS, AND WE WERE -- AT --
16 MANY PORTFOLIO MANAGERS FROM THE EQUITY GROUP OR THE
17 CORPORATION BOND GROUP OR THE COMMODITY GROUP WERE
18 THERE.

08:50AM

19 BUT I WAS SORT OF THE EMCEE OF THOSE
20 PANELS.

08:50AM

21 Q DO YOU RECALL AN EVENT AT THE ART INSTITUTE OF
22 CHICAGO, FOR EXAMPLE, THAT TCW PAID FOR?

23 A OH -- NO, THAT WAS JUST A RECEPTION FOR --
24 THERE WAS NO PRESENTATION OR ANYTHING. WE -- I WAS
25 NAMED FIXED INCOME MANAGER OF THE YEAR BY MORNING -- BY
26 MORNING STAR.

08:51AM

27 AND THEY DO AN EVENT IN CHICAGO, IT'S A
28 VERY WELL ATTENDED EVENT. AND WE HAD A BOOTH THERE.

1 THERE'S A THOUSAND FIRMS THERE, PROBABLY, THAT HAVE
2 BOOTHES, AND MANY FIRMS HAVE AN EVENT. WE DID ONE --
3 ONE OF THE EVENINGS, WHERE WE INVITED THE BROKERS AND
4 THE FINANCIAL PLANNERS TO JOIN US FOR A LITTLE
5 HORS D'OURVES.

08:51AM

6 Q SIR, I'LL ASK YOU IF YOU WOULD ANSWER FAIRLY
7 MY QUESTIONS ASKED, YES OR NO.

8 WOULD YOU ANSWER IT YES OR NO, FAIRLY?

9 A THAT ONE, I DON'T THINK I COULD FAIRLY ANSWER
10 YES OR NO.

08:51AM

11 Q WAS THERE AN EVENT AT THE METROPOLITAN CLUB IN
12 NEW YORK?

13 A I DON'T KNOW.

14 Q HOW ABOUT -- DO YOU RECALL, THE JONATHAN CLUB
15 2007? AN EVENT THAT WAS SPONSORED?

08:51AM

16 A I -- I THINK IT WAS AT THE JONATHAN CLUB, WE
17 HAD A PANEL EVENT THERE.

18 Q HOW ABOUT THE NEW YORK PALACE HOTEL? DO YOU
19 RECALL THAT?

20 A 2008.

08:52AM

21 WE HAD, YES, QUITE A FEW -- YES.

22 Q THE WALDORF ASTORIA, AS WELL, DO YOU RECALL?

23 A ANOTHER PANEL EVENT WITH A LOT OF TCW
24 MANAGERS, YES.

25 Q THE PIERRE HOTEL?

08:52AM

26 A NO, NEVER AN EVENT AT THE PIERRE. I DON'T
27 RECALL THAT.

28 Q HOW ABOUT THE FAIRMONT HOTEL IN SAN FRANCISCO?

1 DO YOU RECALL THAT?

2 A NO, NEVER AN EVENT AT THE FAIRMONT.

3 Q HOW ABOUT THE FOUR SEASONS IN BOSTON --

4 A I REMEMBER THAT.

5 Q SEPTEMBER 24TH, 2009, DO YOU RECALL THAT?

08:52AM

6 A ANOTHER PANEL EVENT, YEP.

7 Q YOU KIND OF GOT -- YOUR NAME GOT OUT THERE,
8 YOU APPEARED ON CNBC AND A LOT OF DIFFERENT MEDIA; IS
9 THAT TRUE?

10 A I DID CNBC A FEW TIMES. MOSTLY IT WAS CNBC.

08:52AM

11 YEAH, I APPEARED ON CNBC FROM TIME TO
12 TIME.

13 Q DID YOU -- YOU KNOW, LOOKING BACK ON IT, DO
14 YOU THINK THAT THE ATTENTION YOU GOT, AND THE -- THESE
15 PROMOTIONAL EVENTS, DO YOU THINK THEY WENT TO YOUR HEAD
16 AT ALL?

08:53AM

17 A NO.

18 Q LET ME SHOW YOU EXHIBIT 122.

19 IS THIS AN E-MAIL EXCHANGE BETWEEN YOU
20 AND OTHERS AT TCW?

08:53AM

21 A IT STARTS OUT, IT'S AN E-MAIL FROM ME TO
22 ERIN -- FROM ERIN FREEMAN.

23 MR. QUINN: WE'D OFFER THIS, YOUR HONOR.

24 THE COURT: ANY OBJECTION?

25 MR. HELM: NO OBJECTION, YOUR HONOR.

08:53AM

26 THE COURT: IT WILL BE ADMITTED.

27
28 (EXHIBIT 122 ADMITTED.)+

1 MR. QUINN: IF WE CAN START WITH THE BOTTOM
2 E-MAIL IN THE CHAIN, MIKE.

3 THIS IS AN E-MAIL FROM ERIN FREEMAN.
4 SHE WAS HEAD OF COMMUNICATIONS AT THE
5 TIME?

08:53AM

6 A YES.

7 Q AND SHE SAYS: WE'RE GETTING READY TO LAUNCH
8 THE PRE-BRANDED TCW.COM WEBSITE.

9 AND SHE SAYS, ONE OF THE COMMUNICATION
10 VEHICLES WE INTEND TO USE TO DEMONSTRATE INSIGHT ARE PM
11 VIDEOS.

08:54AM

12 PM, THAT'S PORTFOLIO MANAGER?

13 A YES.

14 Q POSTED TO TCW.COM, WE HAVE VIDEOS BEING TAPED
15 FOR THE LAUNCH, BLAIR MCKISSICK AND BRUNSWICK, NOW
16 THOSE ARE FOLKS WHO ARE PORTFOLIO MANAGERS IN DIFFERENT
17 AREAS OF THE COMPANY, CORRECT?

08:54AM

18 A YES.

19 I'M NOT SURE BRUNSWICK WAS A PORTFOLIO
20 MANAGER.

08:54AM

21 Q HE WAS IN REAL ESTATE, RIGHT?

22 A HE WAS -- PART OF THE BUCHANAN STREET REAL
23 ESTATE IN NEWPORT BEACH, YEAH.

24 Q BLAIRE WAS IN ENERGY?

25 A YEAH, HE'S IN THE OIL AND GAS DEPARTMENT.

08:54AM

26 Q AND MC KISSICK WAS IN EQUITIES?

27 A YES.

28 Q SHE SAYS, I UNDERSTAND WHEN WE REACHED OUT TO

1 YOU, WE WERE TOLD VIA NATIONALLY, THAT YOU WOULD NOT BE
2 ABLE TO PARTICIPATE.

3 AND SHE SAYS, KNOWING HOW IMPORTANT OUR
4 FIXED INCOME PLATFORM IS TO THE BRAND, I FEEL LIKE WE
5 WOULD BE LAUNCHING OUR SITE WITHOUT OUR STRONGEST
6 PLAYER. YOU REPRESENTED FRONT AND CENTER, WHICH WOULD
7 BE A MISSED OPPORTUNITY. SHE SAYS, WOULD YOU PLEASE
8 RECONSIDER PARTICIPATING.

9 DO YOU SEE THAT?

10 A YES.

11 Q SO WHAT'S HAPPENING HERE IS, THEY'RE REDOING
12 THE WEBSITE, AND THEY WANT TO HAVE SOME VIDEOS ON
13 WEBSITE WITH INTERVIEWS OF PORTFOLIO MANAGERS.

14 SO THAT SOMEBODY WHO COMES TO THE TCW
15 WEBSITE CAN CLICK AND HEAR AN INTERVIEW OR HEAR A
16 PRESENTATION BY ONE OF THE PORTFOLIO MANAGERS. THAT'S
17 BASICALLY THE IDEA HERE, RIGHT?

18 A THAT'S WHAT IT LOOKS LIKE.

19 Q THEY'RE ASKING FOR YOUR COOPERATION TO
20 PARTICIPATE IN THIS, CORRECT?

21 A YES.

22 Q AND THEY'VE ALREADY DON'T THREE VIDEOS FOR
23 THOSE THREE INDIVIDUALS, RIGHT? THAT'S WHAT SHE SAYS?

24 A I'M NOT SURE -- I SEE THAT THAT, BUT: OKAY.
25 I DON'T THINK THEY'VE BEEN DONE YET, BUT MAYBE THEY
26 HAVE.

27 Q AND, YOUR RESPONSE, IF WE COULD LOOK AT THE
28 RESPONSE THERE, IS:

1 I AM VERY BRAND CONSCIOUS INDEED,
2 THAT IS WHY I'M DECLINING ON THIS.
3 IT IS MY VIEW THAT ANY BRANDING
4 PROJECT THAT DOES NOT REFLECT --
5 MIGHT ELEVATE ITS STATUS FOR MY
6 FIXED INCOME TEAM IN GENERAL AND
7 MYSELF IN PARTICULAR IS DOOMED TO
8 FAILURE.

08:56AM

9 I DON'T LIKE PARTICIPATING IN
10 FAILURES.

08:56AM

11 YOU SAY: FRONT AND CENTER BELOW,
12 BUT AS I UNDERSTAND IT, THE IDEA IS
13 TO HAVE ME FILM A FOURTH VIDEO TO
14 SIT UP THERE WITH THESE OTHERS. I
15 DON'T SEE ANYTHING FRONT AND CENTER
16 AT ALL. SIDE BY SIDE, WOULD BE THE
17 OPERATIVE DESCRIPTOR.

08:56AM

18
19 DO YOU SEE THAT?

20 A YES.

08:56AM

21 Q NOW, AT THE TIME THAT YOU WROTE THAT, YOU WERE
22 THE CHIEF INVESTMENT OFFICER FOR ALL OF TCW, RIGHT?

23 A YES.

24 Q NOT JUST FIXED INCOME, RIGHT?

25 A YES.

08:56AM

26 Q SO AS CHIEF INVESTMENT OFFICER, YOU HAD
27 RESPONSIBILITY FOR BLAIR -- YOU KNOW, THE ENERGY AREA,
28 EQUITIES AREA, REAL ESTATE AREA. YOU WERE CHIEF

1 INVESTMENT OFFICER FOR ALL INVESTMENT STRATEGIES; ISN'T
2 THAT TRUE?

3 A I THINK -- THAT'S A MISLEADING
4 CHARACTERIZATION.

5 I DIDN'T HAVE RESPONSIBILITY FOR BLAIR'S
6 AREA. BLAIR WOULDN'T THINK I WAS RESPONSIBLE FOR HIS
7 AREA --

08:57AM

8 WHAT DO YOU MEAN BY RESPONSIBILITY?

9 Q LET ME ASK THIS: IS IT TRUE YOU WERE CHIEF
10 INVESTMENT OFFICER FOR THE ENTIRE COMPANY?

08:57AM

11 A YES.

12 Q AND USUALLY, IN PROMOTING A COMPANY, WOULD YOU
13 AGREE THAT YOU WOULDN'T WANT TO LEAVE OUT THE BEST PART
14 OF THE COMPANY?

15 A PROBABLY NOT.

08:57AM

16 Q ALL RIGHT.

17 AND YOU'RE SAYING, THIS IS DOOMED TO
18 FAILURE, IF THIS VIDEO PROJECT TALKS ABOUT THE WHOLE
19 COMPANY, INCLUDING YOU, CORRECT?

20 A THAT'S NOT WHAT I SAID.

08:57AM

21 Q WELL, YOU SAY:

22 IT IS MY VIEW THAT ANY BRANDING
23 PROJECT THAT DOES NOT REFLECT AN
24 ELEVATED STATUS FOR MY FIXED INCOME
25 TEAM IN GENERAL AND MYSELF IN
26 PARTICULAR, IS DOOMED TO FAILURE.

08:58AM

27
28 THAT'S WHAT YOU WROTE, RIGHT?

1 A RIGHT.

2 Q AND YOU DECLINED TO PARTICIPATE, TRUE?

3 A IN THE WAY THAT SHE WAS POSITIONING IT, YES.

4 Q YOU DIDN'T WANT TO BE SIDE BY SIDE WITH THESE
5 OTHER AREAS FOR WHICH YOU HAD RESPONSIBILITY, RIGHT?

08:58AM

6 A I THOUGHT THAT THAT WAS SUBOPTIMAL.

7 IF THE IDEA WAS TO PROMOTE THE FIRM IN
8 THE BEST LIGHT, I DIDN'T THINK IT WAS OPTIMAL TO DO IT
9 THE WAY SHE WAS SUGGESTING.

10 Q YOU DECLINED TO DO IT?

08:58AM

11 A YES.

12 Q IF YOU TAKE A LOOK NOW AT EXHIBIT 118.

13 THEY HAD ACTUALLY APPROACHED YOU ABOUT
14 THIS BEFORE; ISN'T THAT TRUE?

15 A IF YOU SAY SO. I DON'T REMEMBER.

08:58AM

16 Q I'M SORRY. EXHIBIT 1 -- 118, I APOLOGIZE
17 MS. O'CONNOR.

18 THIS IS AN E-MAIL BETWEEN YOU AND LOREN
19 FLECKENSTEIN?

20 A IT LOOKS LIKE IT'S FROM PETER VILES TO
21 LOREN FLECKENSTEIN.

08:58AM

22 Q AND THEN AT THE TOP?

23 A RIGHT.

24 MR. QUINN: I WOULD OFFER THAT.

25 THE COURT: ANY OBJECTION?

08:59AM

26 MR. HELM: NO OBJECTION.

27 THE COURT: IT WILL BE ADMITTED.

28 (EXHIBIT 118 ADMITTED.)+

1 BY MR. QUINN:

2 Q SO THIS IS ABOUT THAT SAME WEBSITE PROJECT?

3 A I'M NOT SURE.

4 Q TAKE A LOOK. IT SAYS THERE: THIS IS ONE OF
5 THE THREE SHORT BRAND PIECES FOR THE NEW TCW.COM
6 WEBSITE.

08:59AM

7 IT SAYS: THE OTHER TWO AREAS BEING
8 HIGHLIGHTED, IN ADDITION TO FIXED INCOME, ARE ENERGY,
9 AND BUCHANAN STREET PARTNERS?

10 DO YOU SEE THAT?

08:59AM

11 A RIGHT.

12 Q AND YOU'RE BEING ASKED ABOUT PARTICIPATING IN
13 THIS PROJECT, CORRECT?

14 A OH, I -- I DON'T SEE THAT.

15 Q WELL, WHAT LOREN FLECKENSTEIN -- HE'S THE
16 COMMUNICATIONS PERSON OR MARKETING PERSON ASSIGNED TO
17 YOUR AREA?

08:59AM

18 A LOREN WORKED IN MY AREA AS -- HELPING FOR
19 COMMUNICATIONS.

20 Q PETER VILES IS IN COMMUNICATIONS, RIGHT?

08:59AM

21 A IT SAYS CORPORATE COMMUNICATIONS ON THE BOTTOM
22 OF THE E-MAIL FOR HIS TITLE.

23 Q MR. VILES SAYS TO LOREN:

24 YOUR COMMUNICATIONS PERSON, I'M

25 HOPING YOU CAN TAKE A LOOK AT THE

09:00AM

26 ATTACHED MARKETING PIECE AND RUN IT

27 BY JEFFREY FOR HIS REVIEW APPROVAL.

28 DO YOU SEE THAT?

1 A YES.

2 Q AND YOUR RESPONSE IS:

3 I HATE THIS. I HATE WHAT IT SAYS.

4 I HATE THE WAY IT SAYS IT. AND I

5 HATE THE PHILOSOPHY UNDERNEATH HIS

6 CREATION.

7 DO YOU SEE THAT?

8 A SOUNDS LIKE I DIDN'T APPROVE OF IT.

9 Q COULD WE AGREE THAT'S NOT, AT LEAST, NOT A

10 VERY PRODUCTIVE DIALOGUE ON HOW TO DO IT BETTER?

11 MR. HELM: ARGUMENTATIVE, YOUR HONOR.

12 THE COURT: SUSTAINED.

13 BY MR. QUINN:

14 Q IF WE COULD TAKE A LOOK AT EXHIBIT 1268.

15 IS THIS ANOTHER E-MAIL EXCHANGE BETWEEN

16 YOU AND OTHERS AT TCW?

17 A IT LOOKS LIKE AN E-MAIL TO ME FROM

18 PATRICIA STUHFF.

19 MR. QUINN: WE'D OFFER THAT.

20 MR. HELM: JUST ONE MOMENT, YOUR HONOR.

21 (PAUSE) +

22 MR. HELM: NO OBJECTION.

23 THE COURT: IT WILL BE ADMITTED.

24

25 (EXHIBIT 1268 ADMITTED.) +

26

27 BY MR. QUINN:

28 Q YOU'RE BEING APPROACHED BY MS. STUHFF ABOUT A

09:00AM

09:00AM

09:00AM

09:01AM

09:01AM

1 MARCH LEADERSHIP CONFERENCE, THE BOTTOM E-MAIL.

2 DO YOU SEE THAT?

3 A YES.

4 Q WHAT SHE INDICATES GOING OVER THE SECOND PAGE
5 IS, WHAT THEY HOPE TO DO IS TO HAVE REPRESENTATIVES
6 SPEAK -- REPRESENTING A VARIETY OF MARKET SEGMENTS.

09:01AM

7 DO YOU SEE THAT, UP ON THE SECOND PAGE?

8 A I'M -- I'M READING THE FIRST PART FIRST.

9 OKAY. FURTHER THE GROUP FEELS
10 STRONGLY -- MARKET SEGMENT SHOULD TAKE PART -- SINCE
11 THE EVENT PROVIDES OPPORTUNITY TO EDUCATE OUR -- SALES
12 FORCE AND OTHER ATTENDEES ABOUT THE PRODUCTS -- TCW IS
13 CURRENTLY SELLING THE PANEL FEATURED YOU ON FIXED
14 INCOME, HASSETT, HIGH YIELD AND BRENDT AND HASAM --
15 DIANE DIVIDEND FOCUSED --

09:02AM

16 Q THEY'RE ASKING --

17 A THEY CHANGED WHAT THEY WANTED, FIRST SOMETHING
18 ELSE -- AND NOW THEY'RE DOING IT MORE BROAD PANEL,
19 LOOKS LIKE.

09:02AM

20 Q THEY WANT TO DO A PANEL FEATURING DIFFERENT
21 PEOPLE FROM DIFFERENT TYPES OF INVESTMENT STRATEGIES,
22 RIGHT?

09:02AM

23 A RIGHT.

24 Q THEY WANT YOU TO PARTICIPATE, CORRECT?

25 A YEAH. BUT THEY CHANGED -- THEY CHANGED IT
26 FROM SOMETHING THEY WERE GOING TO DO BEFORE TO
27 SOMETHING DIFFERENT.

09:02AM

28 Q WELL, SIR.

1 THEY WANTED YOU TO PARTICIPATE IN THIS
2 PANEL AND TO BE THE REPRESENTATIVE FOR FIXED INCOME,
3 NEXT TO THESE OTHER PEOPLE TALKING ABOUT DIFFERENT
4 KINDS OF INVESTMENT STRATEGIES, CORRECT?

5 A THAT'S WHAT IT LOOKS LIKE.

09:02AM

6 Q YOUR RESPONSE, IF WE LOOK AT THE MIDDLE OF THE
7 FIRST PAGE IS:

8 I'M NOT INTERESTED IN DOING SUCH A
9 PANEL. IN FACT, IF THE IDEA IS TO
10 HIGHLIGHT THE FIRM'S DIVERSITY, YOU
11 CAN COUNT ME OUT COMPLETELY. I'M
12 SORRY THAT THIS IS NOT THE ANSWER
13 YOU WANT TO HEAR. GOOD LUCK WITH
14 THE EVENT.

09:03AM

15 RIGHT? THAT'S WHAT YOU WROTE?

09:03AM

16 A RIGHT.

17 Q AND AT THE TIME YOU WROTE THIS E-MAIL, YOU'RE
18 CHIEF INVESTMENT OFFICER FOR THE ENTIRE FIRM, INCLUDING
19 THESE OTHER STRATEGIES, RIGHT?

20 A NO, I'M NOT REALLY IN CHARGE OF THESE OTHER
21 STRATEGIES.

09:03AM

22 Q SIR, YOU'RE CHIEF INVESTMENT OFFICER FOR THE
23 ENTIRE FIRM, CORRECT?

24 A YES. BUT YOU'RE DEFINING IT -- INCORRECTLY,
25 WHAT IT MEANS.

09:03AM

26 Q WAS THERE SOMEONE ELSE, CHIEF INVESTMENT
27 OFFICER FOR HIGH YIELD?

28 A I THINK SO.

1 Q WELL, THERE WAS ONLY ONE CHIEF INVESTMENT
2 OFFICER AT TCW, AND THAT WAS YOU, RIGHT?

3 A I WAS THE FIRM CHIEF INVESTMENT OFFICER OF THE
4 TCW GROUP. WHAT IT MEANT WAS SOMETHING DIFFERENT THAN
5 WHAT YOU SEEM TO BE SUGGESTING.

09:04AM

6 Q SIR, HOW MANY CHIEF INVESTMENT OFFICERS WERE
7 THERE FOR ALL OF TCW AT THE TIME THAT YOU WROTE THIS?

8 A ONE.

9 Q AND THAT WAS YOU, RIGHT?

10 A RIGHT.

09:04AM

11 YOU'RE MISCHARACTERIZING WHAT IT MEANT.

12 Q AND IS IT TRUE, SIR, THAT YOU ACTUALLY KIND OF
13 HAD A PROBLEM SEEING ANYONE ELSE GET ANY CREDIT AT TCW?
14 ISN'T THAT TRUE?

15 MR. HELM: ARGUMENTATIVE, YOUR HONOR.

09:04AM

16 THE COURT: SUSTAINED.

17 BY MR. QUINN:

18 Q WE WILL TAKE A LOOK AT EXHIBIT 104.

19 THIS IS AN E-MAIL EXCHANGE THAT YOU
20 PARTICIPATED IN?

09:04AM

21 A YEAH, I SENT AN E-MAIL TO VINNIE FIORILLO.

22 MR. QUINN: WE WOULD OFFER THAT.

23 MR. HELM: RELEVANCE, YOUR HONOR.

24 THE COURT: SUSTAINED.

25 THIS IS AT A DIFFERENT POINT IN TIME
26 THAN YOU'RE REALLY TALKING?

09:05AM

27 MR. QUINN: I'M SORRY.

28 THE COURT: IT'S A DIFFERENT POINT IN TIME

1 THAN WE'RE REALLY TALKING ABOUT.

2 I'M NOT SURE IT'S UNDERSTANDABLE OF WHAT
3 IT'S TALKING ABOUT.

4 BY MR. QUINN:

5 Q BACK IN 2008, YOU WERE CHIEF INVESTMENT
6 OFFICER, CORRECT?

09:05AM

7 A YES.

8 Q AND MR. FIORILLO WAS ONE OF THE PEOPLE WHO
9 WORKED FOR YOU, ONE OF YOUR LIEUTENANTS?

10 A YES.

09:05AM

11 Q AND THERE WAS A MAN BY NAME OF DAVE DEVITO,
12 THE CHIEF FINANCIAL OFFICER OF THE COMPANY?

13 A YES.

14 Q AND HE GOT SOME RECOGNITION FOR LOCAL
15 PUBLICATION FOR BEING CFO OF THE YEAR?

09:05AM

16 MR. HELM: OBJECTION. RELEVANCE.

17 THE COURT: SUSTAINED.

18 BY MR. QUINN:

19 Q DO YOU RECALL OBJECTING TO SOMEONE
20 CONGRATULATING MR. DEVITO ON BEING RECOGNIZED AS CFO OF
21 THE YEAR?

09:05AM

22 MR. HELM: SAME OBJECTION, YOUR HONOR.

23 THE COURT: SUSTAINED.

24 LET'S MOVE ON, MR. QUINN.

25 BY MR. QUINN:

09:06AM

26 Q LET'S TAKE A LOOK AT EXHIBIT 112.

27 IS THIS AN E-MAIL EXCHANGE YOU
28 PARTICIPATED IN?

1 A YES.

2 MR. QUINN: WE'D OFFER THAT.

3 MR. HELM: OBJECTION. RELEVANCE.

4 THE COURT: JUST A MINUTE.

5 MR. QUINN: I'M HAPPY TO ADDRESS THE
6 RELEVANCE, YOUR HONOR.

7 THE COURT: HOLD ON JUST A MINUTE.

8 (PAUSE) +

9 MR. HELM: 352.

10 THE COURT: SUSTAINED.

11 MR. QUINN: MAY WE APPROACH, YOUR HONOR?

12 THE COURT: YES. COME ON UP.

13

14 (SIDE-BAR CONFERENCE HELD) +

15

16 MR. QUINN: ON ISSUE OF THE CASE, OBVIOUSLY IS
17 WHY HE WAS LET GO. AND PART OF THE REASON FOR THAT IS,
18 HE WAS A DESTRUCTIVE FORCE. HE WAS IMPOSSIBLE TO LIVE
19 WITH. HE TREATED PEOPLE OF ALL LEVELS IN AN OFFENSIVE
20 AND INSULTING WAY. THAT'S WHAT YOU'LL HEAR FROM OTHER
21 WITNESSES.

22 THE COURT: I UNDERSTAND, MR. QUINN.

23 BUT THE ISSUE IS, WE'RE GOING FAR
24 AFIELD. YOU'VE GOT LOTS AND LOTS OF AMMUNITION AND
25 LOTS OF LOTS OF EXAMPLES OF HIS RESPONSE TO REASONABLE
26 REQUESTS RELATED TO HIS WORK.

27 AND I JUST THINK WE'RE DRAGGING IT DOWN
28 INTO A LEVEL THAT'S GOING TO TAKE A LOT OF TIME.

09:06AM

09:07AM

09:07AM

09:07AM

09:07AM

1 NOW, I SUPPOSE AT THE END OF THE DAY, I
2 CAN SAY, OKAY. BUT YOU KNOW, I THINK YOU HAVE THIS
3 SENSE THAT THE LIMIT ON THE TIME THAT YOU HAVE FOR
4 CROSS-EXAMINATION AND YOUR -- IN YOUR DIRECT CASE IS
5 GOING TO GO BY THE WAYSIDE.

09:08AM

6 AND IT ISN'T -- WHAT I'M TRYING TO DO IS
7 PICK THIS UP AND MOVE IT FORWARD A LITTLE BIT, AT A
8 LITTLE BETTER PACE.

9 I THINK YOU NEED TO BE A LITTLE MORE
10 SELECTIVE ON THE EXAMPLES YOU WANT TO USE. YOU HAVE
11 LOTS OF THEM. THERE'S NO QUESTION. THERE'S PLENTY OF
12 STUFF YOU CAN PUT UP.

09:08AM

13 BUT TO GO TO EVERY PIECE OF -- YOU KNOW,
14 EVERY RESPONSE HE HAS TO EVERY E-MAIL HE EVER GOT,
15 ABOUT THE REPLACEMENT OF HIS COMPUTER OR HIS, YOU
16 KNOW -- I DON'T SEE WHERE THAT REALLY ADVANCES THE
17 BALL.

09:08AM

18 AND THAT'S MY VIEW. NOW, I'LL GIVE YOU
19 FLEXIBILITY. AND I'LL LET YOU DO WHAT YOU WANT. BUT
20 REMEMBER, I'M TRYING TO MOVE IT ALONG. AND YOU'VE GOT
21 A LIMIT.

09:08AM

22 MR. QUINN: I UNDERSTAND, YOUR HONOR.

23 THE COURT: ALL RIGHT.

24 SO I'D SAY A LITTLE MORE DISCRETION IN
25 HOW MUCH YOU WANT TO PILE IT ON WOULD PROBABLY BE
26 WELL-ADVISED.

09:09AM

27 MR. QUINN: SO, YOUR HONOR, I THINK I'D JUST
28 LIKE TO MOVE IT INTO EVIDENCE.

1 THE COURT: I'LL LET YOU HAVE THIS ONE.

2 MR. QUINN: AS NEXT --

3 THE COURT: I DON'T KNOW WHAT THE NEXT ONE IS.

4 YOU'RE GOING TO GET THE SAME OBJECTION, AND YOU'LL GET
5 THE SAME RESPONSE FROM ME. AND I WON'T HAVE A SIDE-BAR
6 ON EVERY ONE.

09:09AM

7 MR. QUINN: I UNDERSTAND, YOUR HONOR.

8 JUST SO THE COURT KNOWS I'M CONSCIOUS OF
9 WHAT THE COURT SAYS.

10 AND I'D LIKE TO MOVE IT INTO EVIDENCE.

09:09AM

11 THE COURT: ALL RIGHT.

12

13 (SIDE-BAR CONFERENCE CONCLUDED.) +

14

15 MR. QUINN: SO I'D OFFER THAT, YOUR HONOR.

09:09AM

16 THE COURT: IT WILL BE ADMITTED.

17

18 (EXHIBIT 112 ADMITTED.)+

19

20 MR. QUINN: IF WE CAN SHOW THAT TO THE JURY,
21 SO THE JURY CAN SEE WHAT WE'RE TALKING ABOUT.

09:09AM

22 Q YOU RECEIVED A FORM E-MAIL FROM SOMEBODY IN
23 THE IT DEPARTMENT, WANTING TO UPDATE YOUR COMPUTER?

24 A I RECEIVED AN E-MAIL.

25 Q FROM SOMEBODY IN THE IT DEPARTMENT?

09:10AM

26 A APPARENTLY. I DON'T KNOW WHO THIS MAN IS.

27 Q AND YOUR RESPONSE THERE IS AT THE TOP?

28 A YES.

1 Q THEN IF WE COULD LOOK AT EXHIBIT 118, PLEASE.
2 IS THIS ANOTHER E-MAIL EXCHANGE BETWEEN YOU AND --

3 THE COURT: WAIT. I DON'T THINK WE GOT 118 ON
4 MY SCREEN. WE NEED TO MOVE ON. OR IS THIS THE SAME?

5 MR. QUINN: NO. IT'S DIFFERENT.

09:10AM

6 118, FOR THE COURT.

7 THE COURT: WE WERE LOOKING AT 112.

8 MR. QUINN: WE MOVED ON, YOUR HONOR.

9 THE COURT: OKAY. THANK YOU.

10 BY MR. QUINN:

09:10AM

11 Q ANOTHER E-MAIL EXCHANGE THAT YOU PARTICIPATED
12 IN, 118?

13 A I SEE SEVERAL PAGES. IT DOESN'T START OUT
14 WITH ME. IT'S SOME E-MAILS, THEN CONSULTANT LIAISON
15 GROUP AND MY SECRETARY.

09:10AM

16 Q TOP TWO PAGES. YOU PARTICIPATE IN THE
17 EXCHANGE?

18 MR. HELM: YOUR HONOR, RELEVANCE, 352.

19 THE COURT: OKAY. I DON'T HAVE IT IN FRONT OF
20 ME. AND I CAN'T SEE ALL THE PAGES.

09:11AM

21 DO WE HAVE A NOTEBOOK? MAYBE I DO HAVE
22 THIS ONE. WHAT NUMBER IS IT?

23 MR. QUINN: THIS IS 118.

24 THE COURT: WHICH VOLUME?

25 MR. HELM: VOLUME I, YOUR OPINION.

09:11AM

26 THE COURT: I ONLY HAVE FOUR. 25 PERCENT
27 CHANCE.

28 MR. QUINN: IS 118 NOT ON THE COURT'S MONITOR,

1 YOUR HONOR?

2 THE COURT: WELL, IT'S A FOUR-PAGE DOCUMENT.
3 I ONLY SEE PARTS OF IT.

4 MR. QUINN: OKAY. PERHAPS IF WE COULD JUST
5 PUT THE FIRST PAGE UP, SO THE COURT CAN SEE IT.

09:11AM

6 THE COURT: I HAVE IT.

7 (PAUSE) +

8 MR. QUINN: THIS IS JUST SOMETHING I PROPOSE
9 TO MOVE INTO EVIDENCE, YOUR HONOR.

10 THE COURT: ALL RIGHT. IT WILL BE ADMITTED,
11 OVER DEFENSE OBJECTION.

09:12AM

12
13 (EXHIBIT 118 ADMITTED.)+
14

15 BY MR. QUINN:

09:12AM

16 Q EXHIBIT 171, IF WE LOOK AT THE TOP, ANOTHER
17 E-MAIL EXCHANGE IN WHICH YOU PARTICIPATE?

18 A YES.

19 MR. QUINN: ON THAT, YOUR HONOR.

20 MR. HELM: RELEVANCE 352, YOUR HONOR.

09:13AM

21 THE COURT: SUSTAINED.

22 BY MR. QUINN:

23 Q DO YOU RECALL A TIME WHEN THERE WAS -- THERE'S
24 A BIG SWISS PHARMACEUTICAL COMPANY CALLED NOVARTIS.

25 A I HEARD THE NAME NOVARTIS. I DON'T KNOW WHAT
26 THEY DO.

09:13AM

27 Q DO YOU RECALL A TIME THEY INDICATED -- YOU
28 LEARNED THEY HAD SOME \$300 MILLION TO INVEST, AND THEY

1 WERE LOOKING POTENTIALLY TO DO BUSINESS WITH TCW?

2 MR. HELM: RELEVANCE, 352, YOUR HONOR.

3 THE COURT: YOU KNOW, WE'LL GO BACK TO THIS.
4 YOU KNOW, YOU CAN LAY SOME FOUNDATION. BUT IT'S THE
5 WAY THE CHAINS ARE PUT TOGETHER IN THE EXHIBITS,
6 MR. QUINN.

09:14AM

7 MR. QUINN: YES, YOUR HONOR.

8 THE COURT: IF YOU HAVE SPECIFIC PATTERNS OF
9 ALL OF MR. GUNDLACH'S, OKAY. BUT WHY DON'T YOU ASK THE
10 QUESTIONS. MOVE ON, AND YOU CAN REFER TO THIS WITH
11 HIM.

09:14AM

12 MR. QUINN: ALL RIGHT. I'D OFFER THE FIRST
13 PAGE, THEN, OF EXHIBIT 171, YOUR HONOR.

14 THE COURT: WHY DON'T YOU ASK THE QUESTIONS,
15 AND GO AHEAD.

09:14AM

16 BY MR. QUINN:

17 Q IS THE FIRST PAGE OF EXHIBIT 171 AN E-MAIL
18 EXCHANGE BETWEEN YOU AND MR. BAILEY?

19 A THE TOP IS.

20 Q AND ACTUALLY THERE'S THREE E-MAILS THERE.
21 YOU'RE A PARTY TO ALL THREE OF THEM, CORRECT, ON THE
22 FIRST PAGE?

09:14AM

23 A YES.

24 MR. QUINN: I'D OFFER THE FIRST PAGE, YOUR
25 HONOR.

09:14AM

26 MR. HELM: SAME OBJECTION YOUR HONOR.

27 THE COURT: OVERRULED.

28 PAGE 1 IS ADMITTED.

(EXHIBIT 171 P.1 ADMITTED.) +

BY MR. QUINN:

Q THEY HAD \$3 MILLION TO INVEST, YOU WERE TOLD.

YOUR RESPONSE TO MR. BAILEY WAS:

THESE GUYS ARE A LITTLE TOO SMALL

OF A PROSPECT TO GET AN AUDIENCE

WITH THE POPE.

RIGHT.

A THAT'S WHAT I SAID. THEY'RE LOOKING -- WHAT
THEY WROTE, THOUGH, IS THEY'RE LOOKING TO PLACE 300
MILLION ACROSS THREE OR FOUR MANAGERS.

Q IN THE EVENT YOU WERE ASKED IF YOU COULD SPEND
A HALF HOUR WITH THESE FOLKS, AND YOU INDICATED THEY'RE
A LITTLE TOO SMALL TO GET AN AUDIENCE WITH THE POPE,
CORRECT?

A I DON'T SEE A HALF HOUR --

Q IF YOU TAKE A LOOK AT THE BOTTOM, YOU'LL SEE A
TIME SLOT THERE, 10:30. TO -- JEFFREY FOR CIO OUTLOOK.

DO YOU SEE THAT, AT THE BOTTOM OF THAT
FIRST PAGE?

A YES.

Q AND THEN 11 O'CLOCK TOUR AS NEEDED?

A YES.

Q OKAY.

MOVING ALONG. EXHIBIT 149.

NOW, ON A REGULATED COMPANY LIKE TCW,
COMPLIANCE ISSUES ARE VERY IMPORTANT; WOULD YOU AGREE

1 WITH THAT?

2 A YES.

3 Q AND THIS IS -- EXHIBIT 149 IS AN E-MAIL
4 EXCHANGE RELATING TO A COMPLIANCE PROGRAM AT TCW,
5 CORRECT?

09:16AM

6 A YES.

7 Q AND YOU'RE A PARTY TO THIS E-MAIL EXCHANGE?

8 A YES.

9 MR. QUINN: WE'D OFFER THAT.

10 MR. HELM: CUMULATIVE, RELEVANCE, 352, YOUR
11 HONOR.

09:16AM

12 MR. QUINN: I'M SORRY, YOUR HONOR.

13 THE COURT: I HAVEN'T RULED.

14 DO YOU WANT HIM TO REPEAT HIS OBJECTION?

15 MR. QUINN: NO, YOUR HONOR. I HADN'T HEARD
16 THE COURT.

09:16AM

17 THE COURT: THAT'S ALL RIGHT. I THOUGHT I'D
18 TAKE A LOOK AT IT.

19 (PAUSE) +

20 THE COURT: IT WILL BE ADMITTED, OVER THE
21 DEFENSE OBJECTION.

09:17AM

22
23 (EXHIBIT 149 ADMITTED.)+

24
25 BY MR. QUINN:

09:17AM

26 Q IF WE CAN DISPLAY THAT, THE FOLKS IN THE
27 COMPLIANCE DEPARTMENT WERE INDICATING TO YOU THAT THEY
28 DIDN'T HAVE A RECORD THAT YOU HAD LOGGED IN TO COMPLETE

1 AN ONLINE COMPLIANCE PROGRAM TRAINING, CORRECT?

2 A YEAH. AND I'D DONE IT TWICE.

3 Q AND YOU INDICATE THAT -- I MEAN, THEY INDICATE
4 TO YOU, WE DO NOT HAVE A RECORD THAT YOU LOGGED IN FOR
5 PARTS 3A AND 3B.

09:17AM

6 DO YOU SEE THAT?

7 A I DON'T SEE THE 3A, 3B.

8 Q IN THE E-MAIL, FROM CHRISTINE LARSON, THE
9 SECOND TO THE TOP, SHE SAYS:

10 HOWEVER, I DO NOT HAVE A RECORD

09:18AM

11 THAT YOU LOGGED IN FOR PARTS.

12 3A OR 3B.

13 DO YOU SEE THAT?

14 A YES. IT'S HIGHLIGHTED YES.

15 Q YOU UNDERSTAND THAT THE COMPUTER WOULD CREATE
16 A RECORD, IF YOU LOGGED IN FOR THIS COMPLIANCE PROGRAM,
17 RIGHT?

09:18AM

18 A NO. I TRY TO SHOW YOU THAT I HAD SEEN IT --
19 THAT I HAD CLEARLY SEEN IT, BECAUSE I -- RIGHT,
20 THE WIZ, NEWBIE, BERS, YOLANDO; THOSE WERE PARTS OF THE
21 VIDEO. SO I WAS TRYING TO SAY I'VE DONE IT TWICE.

09:18AM

22 I CAN EVEN TELL YOU WHAT'S IN THE VIDEO.

23 Q SIR, MY QUESTION WAS, YOU UNDERSTAND THAT THE
24 COMPUTER WOULD CREATE A RECORD, IF YOU LOGGED IN.

25 DO YOU UNDERSTAND THAT?

09:18AM

26 A I THINK -- THE COMPUTER -- NO. I DID THE
27 THING TWICE.

28 THE COURT: SIR, JUST ANSWER THE QUESTION.

1 IF YOU DON'T KNOW WHAT THE COMPUTER
2 CREATED, TELL HIM YOU DON'T KNOW.

3 THE WITNESS: I DON'T KNOW.

4 BY MR. QUINN:

5 Q YOUR RESPONSE TO THE QUESTION WAS: YOU'RE
6 WRONG, AND I REFUSE TO DISCUSS THIS FURTHER.

09:18AM

7 RIGHT?

8 A THAT'S RIGHT.

9 Q IF WE CAN LOOK AT 152, HILLARY LORD IS THE
10 CHIEF OF COMPLIANCE AT TCW, RIGHT?

09:18AM

11 A YES.

12 Q AND SHE GOT INVOLVED IN AN E-MAIL WITH YOU ON
13 THE SUBJECT OF YOUR COMPLETING THE COMPLIANCE TRAINING;
14 ISN'T THAT TRUE?

15 A PARDON ME?

09:19AM

16 Q SHE GOT INVOLVED ON THIS ISSUE OF YOUR
17 COMPLETING THE COMPLIANCE TRAINING, CORRECT?

18 A I GUESS SO.

19 MR. QUINN: I'D OFFER EXHIBIT 152.

20 MR. HELM: NO OBJECTION.

09:19AM

21 THE COURT: IT WILL BE ADMITTED.

22
23 (EXHIBIT 152 ADMITTED.)+

24
25 BY MR. QUINN:

09:19AM

26 Q THEY EVEN OFFERED TO GET YOU A COMPLETE COPY
27 OF THE SLIDES. DO YOU SEE THAT?

28 A SHE'S -- SHE'S ASKING CHRISTINE LARSON TO GIVE

1 ME A COMPLETE COPY OF THE SLIDES SO I CAN REVIEW
2 ANYTHING THAT MAY HAVE BEEN MISSED.

3 Q YOUR RESPONSE TO THIS WAS: SO FAR AS I'M
4 CONCERNED, I'M FINISHED WITH THIS, RIGHT?

5 A I READ EACH AND EVERY WORD OF EACH AND EVERY
6 SLIDE, IS WHAT I SAID.

09:19AM

7 Q AND YOU'RE DONE?

8 A THAT'S RIGHT.

9 Q EXHIBIT 361.

10 YOU ALSO REFUSED TO PARTICIPATE IN
11 SEXUAL HARASSMENT TRAINING; ISN'T THAT TRUE?

09:19AM

12 MR. HELM: OBJECTION. RELEVANCE. 352.

13 THE COURT: OVERRULED.

14 THE WITNESS: THIS E-MAIL SAYS I SAT THROUGH
15 IT TWICE ALREADY. PLUS THIS TIME, I WAS QUITE SURE I
16 WAS BEING FIRED, AND I DIDN'T SEE THE POINT OF GOING
17 THROUGH TRAINING CLASSES.

09:20AM

18 MR. QUINN: WE'D OFFER EXHIBIT 361.

19 MR. HELM: SAME OBJECTION, YOUR HONOR.

20 THE COURT: IT WILL BE ADMITTED.

09:20AM

21
22 (EXHIBIT 361 ADMITTED.)+

23
24 BY MR. QUINN:

25 Q AND HR PEOPLE ARE ASKING YOU TO PARTICIPATE IN
26 ONE OF THE MANDATORY TRAINING CLASSES, AND YOU SAY:

09:20AM

27 I'VE SAT THROUGH IT TWICE AND

28 REMEMBER THE WHOLE THING. IF YOU

1 NEED TO ME TO SIGN A PIECE OF PAPER
2 TO FILL UP A FILE, BRING IT DOWN,
3 AND I WILL SIGN IT; BUT I'M NOT
4 SITTING THROUGH THIS AGAIN.
5 DO YOU SEE THAT?

09:20AM

6 A YES.

7 Q I MEAN, DID YOU THINK THAT AS A -- THE
8 DIFFERENT RULES APPLIED TO YOU THAN LOWER LEVEL
9 EMPLOYEES?

09:20AM

10 MR. HELM: ARGUMENTATIVE.

11 THE COURT: SUSTAINED.

12 BY MR. QUINN:

13 Q IF WE COULD TAKE A LOOK AT -- I MEAN, WERE
14 THERE TIMES WHEN YOU JUST -- YOU COULDN'T MAKE TIME
15 AVAILABLE TO COMMUNICATE WITH PEOPLE AT THE
16 SHAREHOLDER, SOCIÉTÉ GÉNÉRALE?

09:21AM

17 MR. HELM: ARGUMENTATIVE.

18 THE COURT: DO YOU UNDERSTAND THE QUESTION,
19 SIR?

20 THE WITNESS: NOT REALLY.

09:21AM

21 BY MR. QUINN:

22 Q DO YOU RECALL TIMES WHEN PEOPLE ASKED IF YOU
23 COULD HAVE A SHORT TELEPHONE CALL WITH PEOPLE AT THE
24 SHAREHOLDER, TO TALK TO THEM, AND YOU SAID, I JUST
25 CAN'T -- JUST DIDN'T HAVE TIME TO DO IT?

09:21AM

26 A I DON'T REMEMBER THAT. BUT IT'S QUITE
27 POSSIBLE THERE WERE TIMES WHEN MY SCHEDULE WAS FULL.

28 Q LET TAKE A LOOK AT EXHIBIT 103.

1 I'D OFFER THIS, YOUR HONOR.

2 MR. HELM: NO OBJECTION.

3 THE COURT: IT WILL BE ADMITTED.

4

5 (EXHIBIT 103 ADMITTED.)+

09:21AM

6

7 Q YOU WERE ASKED BY MR. BURSCHINGER, IF YOU HAD
8 TIME IN THE NEXT WEEK TO HAVE A BRIEF CALL WITH SOCIÉTÉ
9 GÉNÉRALE. AND HE SAID, IF YOU REMEMBER, THIS IS A
10 REGULAR QUARTERLY CALL.

09:21AM

11 DO YOU SEE AT THAT?

12 A YES.

13 Q QUARTERLY MEANS THIS IS A CALL THAT TAKES FOUR
14 TIMES A YEAR, RIGHT?

15 A THAT'S WHAT IT MEANS.

09:22AM

16 I DON'T THINK IT WAS SET UP THAT OFTEN,
17 ACTUALLY.

18 Q YOUR RESPONSE WAS:

19 I HAVE NO TIME, NO AVAILABLE TIME,
20 NONE, UNTIL THE SECOND WEEK OF
21 OCTOBER, FOR ANY NEW MEETINGS
22 WHATSOEVER.

09:22AM

23 SO YOU'RE SAYING MAYBE A MONTH FROM NOW, I CAN
24 HAVE A CALL WITH THE SHAREHOLDER?

25 A MY SCHEDULE IS OVERFLOWING, AS I SAID.

09:22AM

26 Q IF WE COULD LOOK AT EXHIBIT 172.

27 I MEAN, IS THERE SOMETIMES WHERE YOU
28 JUST COULDN'T FIND TIME EVEN TO ATTEND THE BOARD OF

1 DIRECTORS' MEETINGS? DID THAT HAPPEN?

2 MR. HELM: ARGUMENTATIVE, YOUR HONOR.

3 THE WITNESS: I DON'T KNOW WHAT YOU MEAN.

4 THE COURT: SUSTAINED.

5 BY MR. QUINN:

09:22AM

6 Q WERE THERE TIMES YOU DECLINED TO ATTEND BOARD
7 OF DIRECTORS' MEETINGS?

8 A I DON'T THINK SO.

9 Q LET'S TAKE A LOOK AT EXHIBIT 172.

10 THIS IS AN E-MAIL EXCHANGE BETWEEN YOU
11 AND THE THEN CEO, BOB BEYER?

09:22AM

12 A YES.

13 MR. QUINN: OFFER THAT.

14 MR. HELM: NO OBJECTION.

15 THE COURT: IT WILL BE ADMITTED.

09:22AM

16
17 (EXHIBIT 172 ADMITTED.) +
18

19 BY MR. QUINN:

20 Q MR. BEYER WROTE YOU THAT:

09:23AM

21 MICHAEL SAID YOU ARE NOT GOING TO
22 BE AT THE APRIL 21ST BOARD MEETING.
23 THIS IS OUR 4/Q 1/Q DOUBLE MEETING.
24 IT'S PRETTY AWKWARD NOT TO HAVE YOU
25 THERE. IS THAT RIGHT?

09:23AM

26 YOUR ANSWER WAS: YES.

27 CORRECT?

28 A I WAS TRAVELING. I COULDN'T BE AT THE

1 MEETING, BECAUSE I WAS TRAVELING.

2 Q BUT THERE WERE TIMES WHERE YOU DID HAVE -- YOU
3 WOULD MAKE TIME TO PURSUE YOUR OWN EXIT STRATEGY FROM
4 TCW, EVEN IF IT MEANT THAT YOU COULDN'T PARTICIPATE IN
5 A BOARD MEETING, IF THERE WAS A CONFLICT IN YOUR
6 SCHEDULE; ISN'T THAT TRUE?

09:23AM

7 A THAT'S NOT TRUE AT ALL.

8 Q LET'S TAKE A LOOK AT EXHIBIT 229.

9 NOW, DON PUTNAM IS SOMEBODY YOU -- HE
10 WAS AN OUTSIDE PERSON YOU WERE TALKING TO ABOUT HELPING
11 YOU COME UP WITH A POTENTIAL BUYOUT OF TCW, OR SOME
12 TYPE OF EXIT STRATEGY, WHICH MIGHT INCLUDE WAMCO; ISN'T
13 THIS TRUE?

09:23AM

14 A THAT'S MISCHARACTERIZED.

15 Q YOU TALKED TO MR. PUTNAM ABOUT THINGS OUTSIDE
16 OF TCW RELATING TO YOUR FUTURE, TRUE?

09:24AM

17 A I DID.

18 HE BROUGHT IT UP. HE WANTED TO BE
19 INVOLVED.

20 Q AND EXHIBIT 229 IS AN EXCHANGE BETWEEN YOU AND
21 YOUR ASSISTANT?

09:24AM

22 A YEAH -- YES. IT'S HIGHLIGHTED THERE.

23 MR. QUINN: WE'D OFFER THAT.

24 MR. HELM: NO OBJECTION.

25 THE COURT: IT WILL BE ADMITTED.

09:24AM

26
27 (EXHIBIT 229 ADMITTED.)+

28 ///

1 BY MR. QUINN:

2 Q SO YOU'VE SCHEDULED A CALL WITH MR. PUTNAM,
3 WORKING WITH YOU ON THE IDEAS OF DOING SOMETHING
4 OUTSIDE OF TCW, RIGHT?

5 A IT'S WITH MR. PUTNAM.

09:24AM

6 I DON'T AGREE WITH YOUR
7 CHARACTERIZATION.

8 Q YOU TELL YOUR SECRETARY A TIME IS SCHEDULED TO
9 TALK TO HIM -- WELL, YOU TELL YOUR SECRETARY:

10 PLEASE KEEP THIS AS AN OFFERED TIME
11 TO MR. PUTNAM, REGARDLESS OF THE
12 SCHEDULE START TIME FOR THE TCW
13 GROUP BOARD MEETING.

09:24AM

14 THAT'S WHAT YOU WROTE, ISN'T IT?

15 A THAT'S WHAT I WROTE.

09:24AM

16 I DIDN'T MISS THAT BOARD MEETING AT ALL.
17 I WAS THERE.

18 YOU'RE IMPLYING THAT I BLEW OFF THE
19 BOARD MEETING. THAT'S NOT TRUE.

20 Q REGARDLESS OF THE TIME OF THE BOARD MEETING,
21 YOU TOLD HER, I WANT YOU TO KEEP THE SCHEDULED CALL
22 WITH MR. PUTNAM, TRUE?

09:25AM

23 A I WAS THERE FOR THE START OF THE BOARD
24 MEETING.

25 Q SO WE'VE HEARD SOME TESTIMONY ABOUT WAMCO.

09:25AM

26 AND LET'S TURN NOW TO TALK ABOUT WAMCO.

27 WAMCO IS ONE OF TCW'S COMPETITORS?

28 A WAMCO IS A FIXED INCOME FIRM LOCATED IN

1 PASADENA.

2 Q COMPETITOR OF TCW?

3 A IN A CERTAIN SENSE, THERE WAS VERY LITTLE
4 COMPETITION. THEY REALLY DID WITH WAMCO -- THEY ARE
5 OBVIOUSLY IN THE FIXED INCOME BUSINESS, IN A BROAD
6 THING -- YOU WOULD SAY, YES.

09:25AM

7 Q STARTING IN 2009, YOU HAD CONVERSATIONS WITH
8 WAMCO ABOUT POTENTIALLY GOING THERE, TRUE?

9 A YES. THEY CALLED ME IN FEBRUARY OF 2009.

10 Q AND YOU HAD CONVERSATIONS WITH THEM AND
11 MEETINGS WITH THEM OVER THE FOLLOWING SEVERAL MONTHS,
12 TRUE?

09:25AM

13 A TRUE.

14 Q AND I THINK WE HAVE -- WE DO HAVE IN EVIDENCE
15 EXHIBIT 139, WHICH IS AN E-MAIL EXCHANGE BETWEEN YOU
16 AND MS. VANEVERY, WHERE YOU TALK ABOUT POTENTIAL
17 STRUCTURES OF A DEAL WITH WAMCO, CORRECT?

09:26AM

18 A I GAVE -- THIS WAS -- I BELIEVE THIS E-MAIL
19 WAS WRITTEN THE DAY OF MY FIRST CONVERSATION WITH
20 WAMCO. AND THESE WERE VERY PRELIMINARY THOUGHTS OF HOW
21 I THOUGHT THINGS COULD MAYBE GO, YES.

09:26AM

22 Q AND THIS IS THE E-MAIL WHERE YOU TALK ABOUT
23 DOUBLELINE, THIS IS BACK IN FEBRUARY OF 2- -- THIS IS
24 BACK IN FEBRUARY OF 2009, CORRECT?

25 A IT'S IN FEBRUARY OF 2009.

09:26AM

26 Q AND YOU SEE REFERENCES THERE IN THE FIRST
27 E-MAIL TO MS. VANEVERY TO DOUBLELINE, DOUBLELINE HAS
28 HIGHER AVERAGE FEES.

1 DO YOU SEE THAT?

2 A I SEE THAT.

3 Q AND THEN NEXT PAGE, THERE'S ADDITIONAL
4 REFERENCES TO DOUBLELINE, AND THE DOUBLELINE STAFF.

5 DO YOU SEE THAT?

09:27AM

6 A YES.

7 Q AND HERE YOU'RE ALL TALKING ABOUT VARIOUS
8 SCENARIOS OF TYPES OF DEALS, THAT YOU MIGHT DO WITH
9 WAMCO, CORRECT?

10 A NOT REALLY. I -- SORT OF TALKING ABOUT WHAT
11 THE LAY OF THE LAND IS THAT I LEARNED FROM MY
12 CONVERSATION WITH WAMCO.

09:27AM

13 Q YOU TALK ABOUT THAT IN TERMS OF DOUBLELINE,
14 CORRECT?

15 A YEAH.

09:27AM

16 Q SO IF YOU LOOK, PLEASE, AT EXHIBIT 160.
17 YOU ACTUALLY SIGNED A CONFIDENTIALITY
18 AGREEMENT WITH WAMCO; ISN'T THAT TRUE?

19 A IT'S TRUE.

20 Q AND IS THAT WHAT WE'RE LOOKING AT HERE,
21 EXHIBIT 160?

09:27AM

22 A LOOKS LIKE IT.

23 MR. QUINN: OFFER THAT, YOUR HONOR.

24 MR. HELM: NO OBJECTION.

25 THE COURT: IT WILL BE ADMITTED.

09:27AM

26
27 (EXHIBIT 160 ADMITTED.)+

28 ///

1 BY MR. QUINN:

2 Q WE'RE LOOKING AT THE SCREEN HERE AT YOUR
3 SIGNATURE ON THIS AGREEMENT.

4 IF WE COULD LOOK AT THE FIRST PAGE.

5 THIS WAS AN AGREEMENT SO THAT YOU COULD
6 DISCUSS -- THE IDEA WAS THAT YOU COULD DISCUSS
7 CONFIDENTIAL INFORMATION WITH WAMCO, CORRECT?

09:27AM

8 A I DON'T KNOW.

9 THEY SAID IN ORDER TO HAVE A
10 CONVERSATION, THEY WANTED TO SIGN THIS AGREEMENT. AND
11 I SAID -- YOU KNOW, FINE. I DON'T THINK WE EVER
12 DISCUSSED ANY SO-CALLED CONFIDENTIAL INFORMATION.

09:28AM

13 Q WELL, THIS IS -- YOU UNDERSTOOD THIS WAS AND
14 IS A CONFIDENTIALITY AGREEMENT, YOU UNDERSTAND THAT?

15 A YOU KNOW, I -- I GUESS, YEAH. I MEAN -- I'VE
16 HEARD OF CONFIDENTIALITY AGREEMENTS. I'M NOT REALLY
17 FAMILIAR WITH THEM.

09:28AM

18 THEY SAID THEY WANTED ME TO SIGN IT, AND
19 I DID.

20 Q AND SIR, THIS IS A CONFIDENTIALITY AGREEMENT,
21 ISN'T IT? YOU UNDERSTAND THAT?

09:28AM

22 A I'M LOOKING FOR WHERE IT SAYS IT'S A
23 CONFIDENTIALITY AGREEMENT.

24 Q IF YOU LOOK IN THE FIRST PARAGRAPH HERE?
25 THE COURT: LOOK AT THE SCREEN, MR. GUNDLACH.
26 IT'S HIGHLIGHTED.

09:28AM

27 THE WITNESS: THERE IT IS, YES.

28 MR. QUINN: IT SAYS THE SOLE PURPOSE OF THIS

1 LETTER AGREEMENT IS TO PROVIDE A MEANS BY WHICH WE CAN
2 SHARE CERTAIN OF OUR INFORMATION WITH YOU ON A
3 CONFIDENTIAL BASIS.

4 DO YOU SEE THAT?

5 A YEAH. THEY WANTED ME TO SIGN IT, I GUESS,
6 BECAUSE THEY WERE GOING TO SHARE INFORMATION OF THEIRS
7 WITH ME.

8 Q AND ULTIMATELY THEY MADE YOU A WRITTEN
9 PROPOSAL TO YOU, TWO WRITTEN PROPOSALS TO YOU, CORRECT?

10 A WHAT DO YOU MEAN BY PROPOSAL?

11 Q AN IDEA FOR HOW YOU MIGHT JOIN WAMCO, CORRECT?

12 A THEY HAD PUT TOGETHER SOME IDEAS, YEAH.

13 I WOULDN'T CALL IT A PROPOSAL.

14 Q LET'S LOOK AT EXHIBIT 1899.

15 THIS IS A DOCUMENT YOU RECEIVED FROM
16 WAMCO?

17 A YES.

18 MR. QUINN: WE'D OFFER THAT, YOUR HONOR.

19 THE WITNESS: ACTUALLY, I RECEIVED IT FROM
20 SEMLO LABRUSI.

21 MR. QUINN: WE'D OFFER IT.

22 MR. HELM: NO OBJECTION.

23 THE COURT: IT WILL BE ADMITTED.

24
25 (EXHIBIT 1899 ADMITTED.)+

26
27 MR. QUINN: THE FIRST PAGE ON THE SCREEN IS A
28 PROPOSED COMPENSATION ARRANGEMENT BETWEEN YOU AND

1 WAMCO, CORRECT?

2 A THIS WAS THE -- THIS WAS THE WRITE-UP FROM
3 SEMLO LABRUSI, AN IDEA HOW I WOULD GET COMPENSATED IF I
4 POTENTIALLY WORKED AT WAMCO.

5 Q IN CONNECTION WITH THIS, AS BACKGROUND TO
6 THIS, YOU SHARED WITH WAMCO, INFORMATION ABOUT FUNDS
7 YOU WERE MANAGING AT TCW; ISN'T THAT TRUE?

09:30AM

8 A I DON'T THINK SO.

9 I GAVE THEM A SKELETON OUTLINE OF KIND
10 OF WHAT THE BUSINESS WAS.

09:30AM

11 BUT TO SAY I SHARED INFORMATION ABOUT
12 THE FUNDS IS GOING A LITTLE FAR.

13 Q SIR, YOU PROVIDED THEM WITH INFORMATION,
14 INCLUDING REVENUE PROJECTIONS, AND WHAT BUSINESS YOU
15 THOUGHT YOU MIGHT BE ABLE IT BRING OVER; ISN'T THAT
16 TRUE?

09:30AM

17 A IN SUMMARY TERMS, YEAH.

18 Q AND IT SAYS PROJECT ARTWORK THERE.

19 THAT'S A CODE WORD, ARTWORK IS A CODE,
20 CORRECT?

09:30AM

21 A YEAH, JUST LIKE DOUBLELINE WAS A CODE IN MY
22 E-MAIL.

23 Q AND ARTWORK, THAT REFERS TO YOU?

24 A I THINK SO.

25 Q IF WE COULD TAKE A LOOK NOW AT THE SECOND PAGE
26 1899-2.

09:30AM

27 THERE IN THE SECOND BULLET, IT SAYS:
28 BOTH PARTIES UNDERSTAND THAT THE

1 LEVEL OF COMPENSATION DELIVERED
2 SHOULD IN FACT BE REPRESENTATIVE OF
3 THE DEGREE TO WHICH ARTWORK --
4 MEANING YOU -- CONVERTED ASSETS,
5 INCREASED COMPANY REVENUES.
6 RIGHT?

09:31AM

7 A THAT'S WHAT IT SAYS.

8 Q AND CONVERTED ASSETS, THAT REFERS TO ASSETS
9 AND BUSINESS THAT YOU COULD BRING FROM TCW TO WAMCO?
10 RIGHT?

09:31AM

11 A YEAH. THE IDEA WAS THAT TCW WOULD BE PART OF
12 THIS ARRANGEMENT, AND WOULD AGREE THAT WE WOULD --
13 BRING -- BRING STRATEGIES AND -- AND BUSINESS TO WAMCO,
14 AND THAT TCW WOULD PARTICIPATE IN THE ECONOMICS.

15 Q SIR, THE CONVERTED ASSETS, THAT REFERS TO
16 BUSINESS THAT YOU TOLD THEM YOU THOUGHT YOU COULD BRING
17 FROM TCW TO WAMCO, CORRECT?

09:31AM

18 A THAT'S WHAT I JUST SAID.

19 Q IF WE COULD LOOK THEN AT THE NEXT PAGE, DASH
20 THREE. IT SAYS:

09:31AM

21 ARTWORK WILL PARTICIPATE DIRECTLY
22 IN REVENUE FROM DISTRESSED FUNDS
23 FOR THE DURATION OF THESE FUNDS.

24 NOW THE DISTRESSED FUNDS REFER TO THE SPECIAL
25 MORTGAGE CREDIT FUNDS; ISN'T THAT TRUE?

09:32AM

26 A YES.

27 Q AND THOSE WERE SPECIAL MORTGAGE CREDIT FUND
28 ONE AND TWO, WHICH WERE FUNDS THAT HAVE BEEN CREATED AT

1 TCW, RIGHT?

2 A FUNDS THAT I CREATED WHILE I WAS AT TCW,
3 THAT'S RIGHT.

4 Q AND THAT WERE BEING MANAGED AT TCW, CORRECT?

5 A BEING MANAGED BY ME AT TCW, THAT'S RIGHT.

09:32AM

6 Q AND TCW HAD CONTRACTS WITH THE INVESTORS,
7 RIGHT?

8 A YES.

9 Q THESE ARE WHAT ARE CALLED CLOSED FUNDS, RIGHT?

10 A THAT'S A TERM FOR THEM. I'M NOT SURE THEY'RE
11 CALLED THAT, BUT YEAH, THEY HAD A CLOSED, LOCKUP
12 STRUCTURE.

09:33AM

13 Q THAT MEANS THAT THE INVESTORS AGREE, GOING IN,
14 THAT THEY'RE -- THEIR MONEY IS COMMITTED TO THAT FUND
15 FOR A CERTAIN PERIOD OF TIME; IN OTHER WORDS, THEY'RE
16 NOT GOING TO EASILY JUST BE ABLE TO TAKE IT OUT, RIGHT?

09:33AM

17 A THAT'S RIGHT.

18 Q AND THAT'S PURSUANT TO THE CONTRACT THAT THE
19 INVESTORS ENTER INTO WITH TCW, RIGHT?

20 A WITH THE FUND, THAT'S RIGHT.

09:33AM

21 Q AND SO WHAT YOU'RE TALKING ABOUT HERE, IS
22 REVENUE THAT YOU THINK YOU CAN BRING OVER FROM TCW ON
23 THESE DISTRESSED FUNDS, CORRECT?

24 A RIGHT. BECAUSE TCW WOULD, UNDER MY THEORY,
25 AGREE TO HAVE MANAGED WITH MY -- OH, MY TEAM AT WAMCO,
26 AND THEY'D RECEIVE ECONOMICS FOR IT.

09:33AM

27 Q THERE'S NO REFERENCE ANYWHERE IN THIS DOCUMENT
28 OF TCW, IS THERE?

1 MR. HELM: LACKS FOUNDATION.

2 THE COURT: SUSTAINED.

3 BY MR. QUINN:

4 Q HAVE YOU READ THIS DOCUMENT?

5 A NOT FULLY.

09:34AM

6 Q ARE YOU AWARE, SITTING HERE NOW, OF ANY PLACE
7 IN THIS DOCUMENT WHERE THERE'S ANY REFERENCE TO TCW?

8 MR. HELM: LACKS FOUNDATION, YOUR HONOR.

9 THE COURT: SUSTAINED.

10 BY MR. QUINN:

09:34AM

11 Q IT GOES ON TO SAY HERE:

12 ARTWORK AND HIS EXTERNALLY HIRED

13 TEAM --

14 THAT'S GALLERY, THAT REFERS TO THE PEOPLE WHO
15 YOU WOULD CHOOSE TO BRING WITH YOU, RIGHT?

09:34AM

16 MR. HELM: LACKS FOUNDATION, YOUR HONOR.

17 THE COURT: OVERRULED.

18 DO YOU KNOW WHAT THE REFERENCE IS?

19 THE WITNESS: WELL, THEY'RE TALKING ABOUT
20 HIRING ME AND MAYBE SOME PEOPLE, EITHER FROM TCW OR
21 FROM WALL STREET, TO MANAGE MONEY.

09:34AM

22 AND -- THE IDEA WAS, AS WE SAW IN THE
23 E-MAIL PREVIOUSLY, THAT I WROTE ABOUT MY THOUGHTS ABOUT
24 MY FIRST MEETING WITH WAMCO, THE IDEA WAS THAT IT COULD
25 BE A WIN/WIN SITUATION FOR EVERYONE.

09:34AM

26 THAT TCW WOULD GET GOOD ECONOMICS,
27 FRANKLY BETTER THAN WHAT THEY CLAIMED THEY WERE GETTING
28 UNDER OUR DEAL. THAT WAMCO WOULD GET A BENEFIT,

1 BECAUSE THEY WERE HAVING SOME TROUBLE IN THE
2 MORTGAGE-RELATED AREA. AND DID -- I WOULD GET A
3 BENEFIT. SO EVERYBODY WOULD BE AMICABLE AND IN
4 AGREEMENT; AND THAT WAS THE BASIS ON WHICH WE WERE
5 OPERATING.

09:35AM

6 BY MR. QUINN:

7 Q SIR, GALLERY REFERS TO PEOPLE WHO YOU CHOOSE
8 TO BRING WITH YOU, RIGHT?

9 MR. HELM: ASKED AND ANSWERED.

10 THE WITNESS: IT MEANS EXTERNALLY HIRED. IT
11 DOESN'T NECESSARILY MEAN BRING WITH ME -- IT MEANS A
12 GROUP OF PEOPLE THAT WOULD BE HIRED TO SUPPORT THE
13 OPERATION AT WAMCO.

09:35AM

14 BY MR. QUINN:

15 Q LET'S TAKE A DETOUR FOR A MINUTE. LET'S LOOK
16 AT EXHIBIT 213. THIS IS AN E-MAIL EXCHANGE BETWEEN YOU
17 AND MS. VANEVERY ABOUT THE TIME OF THIS PROPOSAL, IN
18 JUNE OF 2009, CORRECT?

09:35AM

19 A YES.

20 THE COURT: 223?

09:35AM

21 MR. QUINN: WE'D OFFER IT, YOUR HONOR. 213.

22 MR. HELM: YOUR HONOR, MAY I HAVE A SECOND
23 WITH COUNSEL.

24 (PAUSE) +

09:36AM

25
26 MR. QUINN: WE'D OFFER THAT, YOUR HONOR.

27 MR. HELM: NO OBJECTION.

28 THE COURT: IT WILL BE ADMITTED.

(EXHIBIT 213 ADMITTED.)+

BY MR. QUINN:

Q IF WE CAN LOOK AT THE BOTTOM E-MAIL HERE,
YOU'RE E-MAILING WITH MS. VANEVERY HERE ABOUT THE WAMCO
PROPOSAL? CORRECT?

09:36AM

A WELL -- TALKING FIRST ABOUT MEETING WITH STERN
AND MUSTIAI WITH ATTANASIO, CHAPUS AND JAFFEE.

Q LET'S LOOK AT THE NEXT PARAGRAPH.

A AND BAR- -- SIEGLE.

09:36AM

Q WHAT YOU WROTE IS --

A AND THEN SOMETHING ABOUT WESTERN.

Q WHAT YOU WROTE IS:

NOT TOO SURPRISINGLY, THE WESTERN,
WHAT IS THAT WORD? CFO -- TOGETHER
WITH THEIR COMPENSATION CONSULTANT,
PUSHED A PIECE OF PAPER ACROSS THE
TABLE WITH A DEAL THAT IS A TOTAL
NON-STARTER. THE TERMS ARE
BASICALLY THAT THEY WILL GIVE ME
AND WHOEVER I CHOOSE TO BRING OVER,
AN 80 PERCENT SHARE OF WHATEVER
REVENUES WE BRING OVER FOR THE
FIRST 2.5 YEARS.

09:36AM

THEN IT GOES ON, CORRECT?

09:37AM

A YOU READ IT CORRECTLY.

Q AND SO, WHAT YOU UNDERSTOOD WAS, AND WHAT THEY
UNDERSTOOD IN THIS PROPOSAL WAS, THAT GALLERY, REFERS

09:37AM

1 TO PEOPLE THAT, IN YOUR WORDS, YOU WOULD CHOOSE TO
2 BRING OVER, CORRECT?

3 A YEAH. THE IDEA WAS THAT PROBABLY SOME PEOPLE
4 FROM TCW WOULD BE APPROPRIATE HIRES FOR WAMCO. AND
5 PERHAPS SOME PEOPLE AWAY FROM TCW -- WESTERN DIDN'T
6 CARE.

09:37AM

7 THEY WERE INTERESTED IN SOLVING THEIR
8 PROBLEM. AND IF -- AND I FIGURED THAT TCW, SINCE THEY
9 WOULD BE PARTY TO THE DEAL --

10 MR. QUINN: YOUR HONOR --

09:37AM

11 THE WITNESS: -- IT WOULD BE FINE WITH THE
12 IDEA.

13 BY MR. QUINN:

14 Q AS WE GO THROUGH AND LOOK AT THESE PAGES,
15 MR. GUNDLACH, IF YOU SEE ANY REFERENCE TO TCW, WOULD
16 YOU PLEASE BE SURE TO CALL IT OUT TO US? I'LL ASK YOU
17 IF YOU WOULD DO THAT, IF YOU WOULD.

09:37AM

18 A OKAY.

19 Q GREAT.

20 LET'S GO BACK THEN TO EXHIBIT 1899-3,
21 THAT WAMCO PROPOSAL WE WERE LOOKING AT?

09:38AM

22 A CAN WE GO BACK TO THE OTHER E-MAIL, WHERE I
23 MENTIONED SG GETTING MONEY. YOU SAID IF I SEE IT, CALL
24 IT OUT. WE HAD IT IN A PRIOR E-MAIL.

25 Q SIR?

09:38AM

26 A YOU TOLD ME TO CALL IT OUT.

27 THE COURT: OKAY. SIR, LISTEN CAREFULLY TO
28 THE QUESTION.

1 MR. QUINN, JUST ASK QUESTIONS.

2 MR. QUINN: YES.

3 THE COURT: EXHIBIT 1899?

4 THE WITNESS: OKAY.

5 MR. QUINN: EXHIBIT 1899-3.

09:38AM

6 Q THEY WROTE IN THAT SECOND BULLET IS:

7 ARTWORK AND HIS EXTERNALLY HIRED

8 TEAM, GALLERY -- WHICH IS DEFINED

9 AS GALLERY -- RECEIVED 90 PERCENT

10 OF CONVERTED REVENUE IN FISCAL YEAR

09:38AM

11 2010 AND 80 PERCENT OF CONVERTED

12 REVENUE THEREAFTER.

13 RIGHT?

14 A YEAH. I GUESS I HAD IT WRONG IN MY E-MAIL TO
15 MS. VANEVERY.

09:38AM

16 Q AND THEN IF WE GO OVER TO PAGE -6, I'M AFRAID
17 THIS IS GOING TO BE UPSIDE DOWN.

18 OKAY. YOU GOT IT.

19 THERE ARE SOME PROJECTIONS HERE, THAT
20 WAMCO CAME UP WITH, BASED ON INFORMATION THAT YOU HAD
21 PROVIDED THEM ABOUT THE TCW BUSINESS, CORRECT?

09:39AM

22 A NO. I THINK THEY CAME UP WITH THESE PRETTY
23 MUCH ON THEIR OWN -- I WAS WONDERING WHERE THEY CAME UP
24 WITH THEM.

25 Q LET'S TAKE A LOOK THEN AT THE NEXT PAGE, -7.

09:39AM

26 AND THIS IS SOME INFORMATION THEN ABOUT
27 THESE DISTRESSED FUNDS, CORRECT?

28 A RIGHT.

1 Q WITH SOME PROJECTIONS THERE ON A TABLE THERE?

2 A THAT'S WHAT IT LOOKS LIKE.

3 Q AND, BY THE WAY, THIS INDICATES THAT --
4 INDICATES THAT NO PERFORMANCE FEE OR MANAGEMENT FEE WAS
5 EXPECTED ON THE DISTRESSED FUNDS BEFORE 2012, CORRECT?

09:39AM

6 A YEAH. I DISAGREED WITH THAT.

7 Q WELL, IS THERE AN E-MAIL THAT YOU WROTE
8 ANYWHERE WHERE YOU INDICATE THAT YOU DISAGREED WITH
9 THAT?

10 A I DIDN'T SEND ANY SUBSTANTIVE E-MAILS TO WAMCO
11 AT ALL, EVER.

09:40AM

12 Q WE'RE LOOKING AT HERE, IT SAYS: ANNUAL
13 PERFORMANCE FEE OF \$33 MILLION FROM 2012 TO 2017.

14 DO YOU SEE THAT?

15 A YES.

09:40AM

16 Q THEN THE TABLE DOWN AT THE BOTTOM, FOR
17 DISTRESSED FUNDS, IT SAYS: PERFORMANCE FEE.

18 AND FOR 2010 AND 2011, THE NUMBER IS
19 ZERO?

20 RIGHT?

09:40AM

21 A THAT'S THEIR PROJECTIONS, WHICH I THOUGHT WAS
22 WRONG.

23 Q SO AT LEAST AFTER SPEAKING WITH YOU, AFTER
24 ENTERING INTO A CONFIDENTIALITY AGREEMENT AND SPEAKING
25 WITH YOU, THEY WERE UNDER THE UNDERSTANDING THERE WOULD
26 BE NO CARRIED INTEREST, NO PERFORMANCE FEES ON THE
27 GROUND IN 2010 AND 2011, CORRECT?

09:40AM

28 A I DON'T KNOW HOW THEY GOT TO THESE NUMBERS.

1 I DIDN'T AGREE WITH THEM.

2 Q WELL, YOU DID MEET WITH THEM, MULTIPLE TIMES,
3 BEFORE THIS PROPOSAL WAS PUT TOGETHER, CORRECT?

4 A FEW TIMES, YEAH.

5 Q AND THEN IF WE COULD LOOK AT PAGE -10, WHAT
6 THEY'VE WRITTEN HERE IS THAT AN ESTIMATE OF \$115
7 MILLION WOULD CONVERT SOME OF IT ALMOST IMMEDIATELY,
8 RIGHT?

9 A THAT'S WHAT THEY SAID.

10 Q AND THEN THEY HAVE NUMBERS THERE, 60 MILLION
11 IN REVENUE FOR THE DISTRESSED FUNDS, RIGHT?

12 A THAT'S WHAT IT SAYS.

13 Q AND THEN STRATEGIC M.B.S., THEY HAVE 30
14 MILLION IN REVENUE.

15 DO YOU SEE THAT?

16 A THAT'S WHAT IT SAYS.

17 Q NOW, THERE WAS A STRATEGIC M.B.S. FUND AT TCW,
18 CORRECT?

19 A IT WASN'T A FUND.

20 Q WHAT WAS IT THEN?

21 A IT WAS A STRATEGY.

22 Q THERE WAS A STRATEGIC M.B.S. STRATEGY AT TCW,
23 RIGHT?

24 A YES.

25 Q THE THIRD BULLET, THEY SAY: BELIEVE 90
26 PERCENT CONVERSION IS PROBABLE, CONSERVATIVE?

27 A THAT'S WHAT IT SAYS.

28 Q THEN MUTUAL FUND SEPARATE ACCOUNTS AND NUMBERS

09:41AM

09:41AM

09:41AM

09:41AM

09:41AM

1 FOR EACH THESE THINGS, RIGHT?

2 A SAYS MUTUAL FUNDS 15 MILLION IN REVENUE.
3 SEPARATE ACCOUNTS, 10 MILLION IN REVENUE.

4 THAT'S WHAT IT SAYS.

5 Q AND YOUR TESTIMONY IS, SIR, YOU DIDN'T PROVIDE
6 ANY INFORMATION, ANY OF THIS DATA TO WAMCO; IS THAT
7 TRUE?

09:42AM

8 A NO, IT'S NOT MY TESTIMONY.

9 I GAVE THEM SUMMARY INFORMATION, ROUGH
10 NUMBERS, BASICALLY THE DISTRESSED FUNDS WERE \$3 BILLION
11 AT THAT TIME, FEES OF TWO PERCENT.

09:42AM

12 SO THAT'S \$60 MILLION A YEAR IN REVENUE.
13 STRATEGIC M.B.S. HAD ABOUT, I DON'T KNOW, 20, \$30
14 MILLION IN REVENUE. MUTUAL FUND, YOU CAN LOOK IT UP IN
15 THE NEWSPAPER. IT HAD \$5 BILLION AUM, AND 15 MILLION
16 REVENUES.

09:42AM

17 SEPARATE ACCOUNTS WERE A LOT MORE THAN
18 REVENUE THAN 10 MILLION, A LOT MORE REVENUE THAN
19 10 MILLION. I THINK THEY MADE THAT NUMBER UP. THERE'S
20 A LOT MORE REVENUE THAN 15 MILLION.

09:43AM

21 Q YOU'RE SAYING HAVING THESE NEGOTIATIONS ABOUT
22 POTENTIALLY JOINING THEM, AND THEY DID ESTIMATES
23 WITHOUT ANY INPUT FROM YOU, AND YOU THOUGHT THEIR
24 ESTIMATES WERE WRONG, BUT YOU DIDN'T CORRECT THEM; IS
25 THAT WHAT YOU'RE SAYING?

09:43AM

26 A THAT'S WHAT I'M SAYING.

27 MR. HELM: OBJECTION.

28 THE COURT: SUSTAINED, MISCHARACTERIZES.

1 THE WITNESS: IT MISCHARACTERIZES.

2 BY MR. QUINN:

3 Q DID THEY THEN SUBMIT A FOLLOW-UP PROPOSAL TO
4 YOU --

5 A I DID GET ANOTHER PROPOSAL I NEVER READ --
6 WHICH I NEVER READ.

7 Q THAT WOULD BE EXHIBIT 1900?

8 A YEAH IT LOOKS LIKE. YEP.

9 MR. QUINN: WE OFFER EXHIBIT 1900, YOUR HONOR.

10 MR. HELM: OBJECTION. HEARSAY.

11 THE COURT: I'LL SUSTAIN THAT, ABSENT SOME
12 FURTHER FOUNDATION FOR IT.

13 BY MR. QUINN:

14 Q WELL, THE FIRST -- THE PREVIOUS DOCUMENT WE
15 WERE LOOKING AT, EXHIBIT 1899, THAT'S THE PROPOSAL YOU
16 GOT FROM WAMCO DATED JUNE 12TH, CORRECT?

17 A IT SAYS JUNE 12TH ON IT.

18 Q 2009, RIGHT?

19 A THAT'S WHAT IT SAYS.

20 Q AND YOU HAD SOME DISCUSSIONS WITH THEM AFTER
21 THAT, AND THEY SENT YOU A FOLLOW-UP PROPOSAL, CORRECT?

22 A THAT'S WHAT IT LOOKS LIKE.

23 I DON'T KNOW -- I MUST HAVE TOLD THEM
24 THAT THE JUNE 12TH ONE WAS A NON-STARTER.

25 Q AND I THINK WE LOOKED AT THAT FROM
26 MS. VANEVERY, BETWEEN YOU AND MS. VANEVERY, EXHIBIT
27 213, YOU TOLD HER ESSENTIALLY THAT YOU THOUGHT IT WAS A
28 NON-STARTER, RIGHT?

09:43AM

09:43AM

09:44AM

09:44AM

09:44AM

1 A I ALSO REFERENCED GIVING REVENUE TO SG.

2 Q AND THEN BASED ON YOUR RESPONSE TO WAMCO, THEY
3 THEN SUBMITTED TO YOU A REVISED PROPOSAL, AND THAT'S
4 WHAT WE'RE LOOKING AT HERE, JUNE 19TH, 2009, EXHIBIT
5 1900, CORRECT?

09:45AM

6 A DATED JUNE 19TH.

7 Q YOU HAVE NO DOUBT THAT YOU ACTUALLY RECEIVED
8 THIS, CORRECT?

9 A THEY GAVE IT TO ME.

10 I REMEMBER I LOOKED AT IT BRIEFLY. AND
11 I DIDN'T READ IT.

09:45AM

12 MR. QUINN: I'D OFFER THAT, YOUR HONOR.

13 MR. HELM: SAME OBJECTION.

14 THE COURT: IT WILL BE SUSTAINED.

15 GO AHEAD.

09:45AM

16 BY MR. QUINN:

17 Q IF WE CAN JUMP FORWARD IN TIME NOW,
18 MR. GUNDLACH, AFTER DECEMBER 4, 2009, WHEN YOU WERE PUT
19 ON LEAVE, AND THEN EMPLOYMENT WAS TERMINATED, YOU MADE
20 THE STATEMENTS THAT YOU NEVER WANTED TO LEAVE TCW;
21 ISN'T THAT TRUE?

09:45AM

22 A I DON'T -- I -- I'M NOT SURE WHAT YOU'RE
23 REFERRING TO.

24 BUT I NEVER REALLY WANTED TO LEAVE TCW.

25 Q BUT IT'S TRUE, ISN'T IT, THAT YOU RECOGNIZE
26 YOUR HISTORY OF NEGOTIATIONS WITH WAMCO, AND OTHER
27 OPTIONS THAT YOU EXPLORED, WERE -- CREATED KIND OF A
28 PROBLEM, IN SAYING THAT YOU NEVER WANTED TO LEAVE TCW?

09:46AM

1 MR. HELM: ARGUMENTATIVE, YOUR HONOR.

2 THE COURT: SUSTAINED.

3 BY MR. QUINN:

4 Q WELL, YOU RECOGNIZED THAT IT WASN'T
5 CONSISTENT, ISN'T IT TRUE, THAT AFTER DECEMBER 4, YOU
6 RECOGNIZED THAT IT WASN'T CONSISTENT FOR YOU TO BE
7 SAYING, ON THE ONE HAND, THAT YOU NEVER WANTED TO LEAVE
8 TCW, BUT YET YOU HAD EXPLORED THESE POTENTIAL OPTIONS
9 OUTSIDE TCW?

09:46AM

10 IS THAT TRUE?

09:46AM

11 A NO.

12 MR. HELM: ARGUMENTATIVE.

13 THE COURT: OVERRULED.

14 THE WITNESS: NO, IT'S NOT TRUE.

15 YOU HAVE TO PUT THINGS IN CONTEXT.

09:46AM

16 THE COURT: OKAY. I'LL LET HIM FINISH THE
17 ANSWER.

18 MR. QUINN: ALL RIGHT.

19 THE COURT: GO AHEAD.

20 THE WITNESS: THE REASON I WAS -- I EVEN
21 ANSWERED WAMCO'S PHONE CALL IN FEBRUARY OF 2009, WAS
22 ONE WEEK EARLIER, THE OWNER OF TCW, SOCIÉTÉ GÉNÉRALE,
23 PUT OUT A GLOBAL PRESS RELEASE, ANNOUNCING THEY WERE
24 LEAVING THE ASSET MANAGEMENT BUSINESS.

09:46AM

25 AND THE ONLY THING LEFT WAS GOING TO BE
26 TCW, THEY WERE GOING TO SELL. AND SO I THOUGHT THAT
27 THIS WAS AN EXTREMELY DANGEROUS DEVELOPMENT, AND I WAS
28 SCARED. AND I ALSO HAD BEEN THINKING THAT WAMCO HAD A

09:47AM

1 PROBLEM, BECAUSE THEY DID 2008 IN MORTGAGES, AND IT
2 OCCURRED TO ME THAT A MERGER WITH WAMCO COULD BE A
3 GREAT SOLUTION FOR EVERYBODY.

4 BECAUSE SG HAD PUT IT IN WRITING THAT
5 THEY WANTED TO SELL TCW. AND WESTERN CALLED ME SAYING
6 THEY HAD A PROBLEM WITH --

7 MR. QUINN: YOUR HONOR.

8 THE COURT: I'LL LET YOU EXPLAIN YOUR ANSWER.
9 IT ISN'T A CHANCE TO TELL A LIFETIME STORY.

10 THE WITNESS: WILL I EVER GET A CHANCE TO TELL
11 MY LIFETIME STORY?

12 THE COURT: WE DON'T TELL STORIES HERE.

13 I'LL GIVE YOU FLEXIBILITY, BUT DON'T
14 TAKE ADVANTAGE OF IT.

15 MR. QUINN, JUST ASK QUESTIONS.

16 THE WITNESS: I THINK IF WE PUT THINGS IN
17 CONTEXT, IT'S NOT A PROBLEM.

18 THE COURT: OKAY. WE GOT THAT.

19 GO AHEAD.

20 BY MR. QUINN:

21 Q WE LOOKED AT THE LOGOS YOU DEVELOPED 2008.

22 DO YOU RECALL THAT?

23 A YES.

24 Q SO TO THIS DAY, SOCIÉTÉ GÉNÉRALE HAS NOT SOLD
25 TCW; ISN'T THAT TRUE?

26 A THEY CERTAINLY TRIED.

27 Q SIR?

28 A I DON'T THINK THEY SOLD IT.

09:47AM

09:47AM

09:48AM

09:48AM

09:48AM

1 Q IF YOU TAKE A LOOK AT EXHIBIT 764, DO YOU
2 RECOGNIZE THIS E-MAIL?

3 A THAT WAS WRITTEN BY PHIL BARACH'S WIFE.

4 MR. QUINN: I'D OFFER THIS, YOUR HONOR.

5 THE WITNESS: I DIDN'T WRITE THAT E-MAIL. 09:48AM

6 MR. HELM: MAY I TALK TO COUNSEL FOR A SECOND?

7 (PAUSE) +

8 MR. HELM: I --

9 THE COURT: IT DOESN'T APPEAR 764 IS IN THIS
10 BOOK. 09:49AM

11 MR. QUINN: 764? CAN WE PUT IT UP ON THE
12 COURT'S SCREEN?

13 THE COURT: I HAVE 768. ALL I'M SEEING ARE
14 REDACTED PORTION --

15 MR. QUINN: I HAVE A COMPLETE UNREDACTED COPY. 09:49AM

16 THE COURT: WAIT A MINUTE. OKAY. HOLD ON.

17 (PAUSE) +

18 THE COURT: THIS IS AN E-MAIL THAT IS FROM
19 MR. GUNDLACH TO MR. GUNDLACH?

20 MR. QUINN: THAT'S WHAT IT SAYS. 09:50AM

21 THE COURT: WHAT IS IT WE'RE OFFERING? I
22 CAN'T TELL WHAT'S REDACTED AND NOT -- OKAY. HOLD ON A
23 MINUTE.

24 OKAY. I SEE IT. HOLD ON.

25 (PAUSE) + 09:50AM

26 THE COURT: ALL RIGHT. MOVING DOWN TO THE
27 SECOND PAGE, SO I CAN SEE WHAT IS, AND IS NOT REDACTED.
28 AND THE BALANCE OF IT.

1 IS EVERYTHING ELSE THE BALANCE, OTHER
2 THAN THIS ONE PARAGRAPH ON PAGE 1 -- ON PAGE 1
3 REDACTED?

4 MR. QUINN: YES.

5 THE COURT: OKAY.

09:51AM

6 WHAT'S THE OBJECTION?

7 MR. HELM: WE HAVE NO OBJECTION.

8 WE WOULD AGREE TO ITS ADMISSION, SUBJECT
9 TO THE REVIEWING THE REDACTIONS.

10 I BELIEVE WE MAY HAVE REVIEWED THEM AND
11 APPROVED THEM.

09:51AM

12 THE COURT: IT WILL BE ADMITTED AS REDACTED.

13
14 (EXHIBIT 764 ADMITTED.)+

09:51AM

15
16 MR. QUINN: IF WE CAN PUT THAT ON THE SCREEN.

17 Q THIS E-MAIL, I THINK YOU WERE ABOUT TO TELL US
18 THIS WAS NOT WRITTEN BY YOU.

19 THE E-MAIL APPEARS TO SAY IS FROM
20 JEFFREY GUNDLACH TO JEFFREY GUNDLACH, JANUARY 9, 2010:

09:51AM

21 NEED TO RECONCILE STATEMENT, NEVER
22 CONSPIRED TO LEAVE TCW WITH ANY
23 SEPARATION I MIGHT HAVE
24 CONTEMPLATED. PERHAPS SAY, THIS
25 CONTEMPLATION STARTED AFTER I HEARD
26 RUMORS TCW WAS GOING TO FIRE ME.
27 CONSIDERING THE TIME I SERVE, THE
28 SUCCESS OF THE BUSINESS, I NEVER

09:52AM

1 REALLY BELIEVED THEM, BUT IT DID
2 CAUSE ME TO THINK IF THERE WERE TO
3 BE A SEPARATION, HOW IT COULD BE
4 ACHIEVED AMICABLY. UNFORTUNATELY,
5 THE RUMORS WERE TRUE. JUST SOME
6 IDEAS, PHIL.

09:52AM

7 DO YOU SEE THAT?

8 A YOU READ IT CORRECTLY.

9 Q YOU RECOGNIZED AFTER DECEMBER 4 -- LET ME JUST
10 ASK YOU THIS: DID YOU RECOGNIZE SOME INCONSISTENCY
11 AFTER DECEMBER 4 BETWEEN SAYING YOU NEVER WANTED TO
12 LEAVE TCW, BUT YOU -- THERE WAS A RECORD OF YOUR
13 EXPLORING OPTIONS OUTSIDE OF TCW?

09:52AM

14 A NO.

15 Q OKAY. LET ME CHANGE SUBJECTS AGAIN, AND TALK
16 A LITTLE BIT ABOUT THE TYPE OF INFORMATION, PROPRIETARY
17 AND OTHERWISE, THAT EXISTED AT TCW.

09:52AM

18 I MEAN, WOULD YOU AGREE, MR. GUNDLACH,
19 THAT IN THE ASSET MANAGEMENT BUSINESS, THAT WHEN YOU'RE
20 TALKING TO CLIENTS AND PROSPECTS AND SELLING YOUR
21 SERVICES, IT'S REALLY IMPORTANT TO BE SCRUPULOUSLY
22 HONEST AND ACCURATE WHEN YOU DESCRIBE YOUR
23 CAPABILITIES?

09:53AM

24 A OF COURSE.

25 Q YOU WOULD NOT WANT TO EXAGGERATE IN ANY
26 RESPECT IN DESCRIBING WHAT YOUR CAPABILITIES ARE AND
27 WHAT YOU HAVE TO OFFER CLIENTS AND PROSPECTS?

09:53AM

28 TRUE?

1 A I THINK MARKETING HAS A CERTAIN ELEMENTS OF
2 EXAGGERATION IN IT, IF WE'RE ALL HONEST ABOUT IT.

3 Q IN TERMS -- IN TERMS OF SELLING SECURITIES AND
4 WHAT YOU CAN DO IN RECOMMENDING SECURITIES AND ANALYZE
5 SECURITIES, YOU WOULD NOT WANT TO EXAGGERATE TO CLIENTS
6 AND PROSPECTS, TRUE? 09:53AM

7 A I DIDN'T SELL CLIENTS SECURITIES.

8 Q SIR, IN MARKETING YOUR SERVICES, YOU WOULD NOT
9 WANT TO EXAGGERATE TO CLIENTS AND PROSPECTS, CORRECT?

10 A WELL, YOU WANT TO TELL THE TRUTH TO PEOPLE. 09:54AM
11 BUT -- BUT -- THE MARKETING DEPARTMENT AT TCW, WOULD
12 PUT THE HAPPIEST FACE THEY COULD ON THINGS. THAT'S
13 WHAT MARKETING PEOPLE DO.

14 IF -- IS IT -- BUT THEY SHOULD BE
15 HONEST. I AGREE. 09:54AM

16 Q BUT YOU PERSONALLY, SIR, WHEN YOU SPOKE TO
17 CLIENTS AND PROSPECTS AND THE PUBLIC, YOU WOULD NOT
18 EXAGGERATE ABOUT TCW'S CAPABILITIES, TRUE?

19 A NOT -- NOT AS A GENERAL RULE. I USE A LOT OF
20 METAPHORS. 09:54AM

21 Q RIGHT UP TO THE TIME THAT YOU LEFT TCW, YOU
22 REPRESENTED TO -- REPRESENTED TO INVESTORS THAT TCW HAD
23 TECHNICAL CAPABILITIES, TECHNICAL PLATFORM, THAT COULD
24 NOT BE FOUND ANYWHERE ELSE?

25 TRUE? 09:54AM

26 A I DON'T KNOW ABOUT THAT.

27 THE TECHNICAL PLATFORM WE HAD WAS PRETTY
28 STANDARD IN THE INDUSTRY. I DON'T KNOW -- I DON'T KNOW

1 IF IT'S AN ACCURATE STATEMENT TO SAY IT CAN'T BE FOUND
2 ANYWHERE ELSE. IT'S LITERALLY TRUE. EVERY SYSTEM HAS
3 IT'S OWN KIND OF LOOK AND FEEL. THE FUNCTIONALITY
4 WAS -- I WOULD SAY IT WAS, THERE WEREN'T ANY BETTER.

5 Q TRUE?

09:55AM

6 A SYSTEMS. THAT DOESN'T MEAN THAT THERE AREN'T
7 MANY SIMILAR AND AS GOOD.

8 Q ISN'T IT TRUE, RIGHT UP UNTIL THE TIME YOU
9 LEFT TCW, YOU WERE TELLING THE WORLD AND CLIENTS AND
10 PROSPECTS THAT TCW HAD A BETTER TECHNICAL PLATFORM THAN
11 COULD BE FOUND ANYWHERE ELSE; ISN'T THAT TRUE?

09:55AM

12 A I -- I VERY RARELY SPOKE IN TERMS OF SYSTEMS,
13 WHEN I SPOKE TO INVESTORS ABOUT OUR INVESTMENT
14 CAPABILITIES. SO I DON'T -- THAT -- I DON'T REALLY
15 REMEMBER SAYING THOSE THINGS.

09:55AM

16 Q WOULD YOU --

17 A I SPOKE MORE ABOUT WHAT WE WERE DOING, WHAT
18 THE STATE OF THE MARKETS WERE, WHERE THE THINKING WAS,
19 AND HOW TO MAKE MONEY.

20 I DIDN'T TALK ABOUT SYSTEMS VERY MUCH.

09:55AM

21 Q WELL, SIR, ARE YOU DENYING THAT YOU EVER SPOKE
22 ABOUT THE SYSTEMS AT TCW?

23 A I -- I WOULDN'T -- NO, I'M NOT DENYING -- I
24 CERTAINLY MUST HAVE TALKED ABOUT THE SYSTEMS, FROM TIME
25 TO TIME. BUT IT WAS NEVER CENTRAL IN MY MESSAGE TO
26 INVESTORS.

09:56AM

27 Q WHEN YOU SPOKE ABOUT THE SYSTEMS AT TCW, YOU
28 WOULD SPEAK COMPLETELY ACCURATELY, TRUE?

1 A THERE MAY HAVE BEEN SOME PUFF IN THERE ABOUT
2 THE SYSTEMS BEING, YOU KNOW, MORE -- JUST -- SUPER
3 SPECIAL.

4 I DON'T KNOW WHY DON'T YOU SHOW ME SOME
5 DOCUMENTS, AND WE CAN TALK ABOUT IT.

09:56AM

6 Q ARE YOU SAYING THAT NOW, SIR, BECAUSE IT'S IN
7 YOUR INTEREST TO SAY THAT THERE WASN'T ANYTHING
8 PROPRIETARY OR TRADE SECRET AT TCW EXCEPT A RECIPE IN
9 THE DOCUMENT --

10 MR. HELM: ARGUMENTATIVE.

09:56AM

11 THE COURT: MR. QUINN, SUSTAINED.

12 JUST ASK QUESTIONS.

13 MR. QUINN: I'D LIKE TO PLAY A CLIP FROM
14 EXHIBIT 1004. MR. GUNDLACH SPEAKING.

15 THE COURT: HAS THAT BEEN ADMITTED?

09:57AM

16 MR. QUINN: IT HAS NOT BEEN ADMITTED, BUT IT'S
17 BEEN CLEARED WITH BOTH COUNSEL.

18 THE COURT: ANY OBJECTION?

19 MR. HELM: IF I COULD JUST SEE IT.

20 (PAUSE) +

09:57AM

21 MR. HELM: NO OBJECTION, YOUR HONOR.

22 THE COURT: IT WILL BE ADMITTED WITHOUT
23 OBJECTION. YOU MAY PROCEED.

24
25 (EXHIBIT 1004 ADMITTED.) +

09:57AM

26
27 MR. QUINN: BEFORE -- JUST TO EXPLAIN WHAT
28 WE'RE WATCHING HERE, MR. GUNDLACH PARTICIPATED IN A

1 PANEL IN NEW YORK CITY ON APRIL 23RD, 2009, ON THE
2 SUBJECT OF WHICH WAS NAVIGATING THE 2009 CREDIT
3 MARKETS.

4 DO YOU RECALL THAT?

5 A NO, BUT -- IT'S COMPLETELY PLAUSIBLE.

09:58AM

6 MR. QUINN: SO WE'D PLAY THE CLIP, YOUR HONOR.

7
8 (VIDEO CLIP PLAYED OF MR. GUNDLACH, EXHIBIT 1004) +
9

10 BY MR. QUINN:

09:58AM

11 Q IN ADDITION, DID YOU, FROM TIME TO TIME,
12 PARTICIPATE IN CONFERENCE CALLS WHERE YOU MADE
13 PRESENTATIONS TO PEOPLE WHO WOULD CALL IN, OR WEBCASTS?

14 A YEAH, I DID A WEBCAST A FEW TIMES A YEAR,
15 MOSTLY FOR THE MUTUAL FUND INVESTORS.

09:58AM

16 Q AND IF WE COULD LOOK AT EXHIBIT 1131.

17 YOU RECALL YOU PARTICIPATED IN A CALL,
18 ONE OF THESE WEBCASTS OR CONFERENCE CALLS, ON
19 JULY 16TH, 2009?

20 A NO. BUT -- AGAIN IT'S COMPLETELY PLAUSIBLE.

09:59AM

21 Q AND ON THAT CALL, ISN'T IT TRUE THAT YOU TOLD
22 THE LISTENERS -- IF YOU WANT TO FOLLOW UP ALONG PAGE -7
23 AT THE TOP:

24 AND WE ALSO HAVE TREMENDOUS SYSTEM
25 CAPABILITIES AND INVESTMENTS. FOR
26 THOSE OF YOU THAT GET A CHANCE TO
27 COME BY AND SEE A DEMONSTRATION OF
28 OUR SYSTEMS, IT NEVER FAILS TO

09:59AM

1 IMPRESS. SO I THINK PEOPLE WOULD
2 UNEQUIVOCALLY FIND OUR SYSTEMS
3 RELATIVE TO THIS AREA IN TERMS OF
4 TRACKING MARKET AND TRACKING
5 TRADING ACTIVITY, TRACKING OUR OWN
6 SECURITIES, TRACKING SERVICE OR
7 BEHAVIOR, TRACKING LOAN BEHAVIOR,
8 SEVERITY BEHAVIOR, FORECLOSURE
9 BEHAVIOR, IN EVERY WAY YOU CAN
10 THINK OF IT: BY VINTAGE, BY LOAN
11 TYPE, BY GEOGRAPHY, BY ORIGINATOR.
12 IT'S REALLY UNSURPASSED. AND I
13 THINK THE REAL KEY TO GETTING DOWN
14 TO THE GRANULAR LEVEL ON
15 PERFORMANCE ON A SECURITY BASIS, SO
16 THAT'S A BIG PART OF THE PUZZLE.
17 SO DO YOU RECALL SAYING THAT.

18 A NO. BUT I THINK IT'S PRETTY ACCURATE.

19 I'M SAYING HERE, IS WITH ALL THIS DATA
20 CAPABILITIES, IT'S REALLY UNSURPASSED. I THINK A LOT
21 OF OTHER PEOPLE WOULD HAVE MADE THE EXACT SAME
22 STATEMENT, THAT THEY HAD A LOT OF CAPABILITIES THAT
23 WERE UNSURPASSED.

24 Q SIR?

25 A IT DOESN'T MEAN YOU'RE UNIQUELY STANDING OUT
26 AS BETTER THAN EVERYBODY ELSE; IT MEANS IT'S AS GOOD AS
27 EVERYBODY'S ELSE. THERE'S NOBODY'S BETTER, THAT WE'RE
28 AWARE OF.

09:59AM

10:00AM

10:00AM

10:00AM

10:00AM

1 Q SO?

2 A I THINK THAT'S TRUE.

3 Q YOU WERE SPEAKING HONESTLY, WHEN YOU MADE
4 THOSE REMARKS, TRUE?

5 A YES.

10:00AM

6 Q YOU WERE TALKING, AMONG OTHER THINGS, ABOUT
7 THE TECHNICAL PLATFORM THAT EXISTED AT TCW, RIGHT?

8 A YES.

9 Q AND IF YOU TURN TO PAGE -11 IN THIS EXHIBIT,
10 1131-11. YOU SAID:

10:01AM

11 WE HAVE NOT FOUND AN ATTRACTIVE
12 REASON TO HAVE A MINORITY
13 PARTNERSHIP. ONE REASON WOULD BE
14 TO SUPPLEMENT SOME PART OF OUR
15 INFRASTRUCTURE OF INVESTING THAT WE
16 FELT WAS DEFICIENT. WE DO NOT FEEL
17 WE HAVE A DEFICIENT PART OF OUR
18 INVESTMENT INFRASTRUCTURE OUT OF
19 PPIP. AS I SAID EARLIER, WE HAVE
20 BY FAR THE BIGGEST INFRASTRUCTURE
21 IN THE WORLD. WE BUILD IT TO BE
22 COMPREHENSIVE AND FULLY
23 OPERATIONAL, SO WE HAVE NOT FOUND
24 ANY NEED THERE.

10:01AM

10:01AM

25 THAT'S WHAT YOU SAID?

10:01AM

26 A I GUESS SO.

27 MR. QUINN: WE'D OFFER THAT IN EVIDENCE, YOUR
28 HONOR, EXHIBIT 1030 --

1 MR. HELM: NO OBJECTION.

2 THE COURT: NO OBJECTION. IT WILL BE
3 ADMITTED.

4
5 (EXHIBIT 1030 ADMITTED.)+

10:02AM

6
7 BY MR. QUINN:

8 Q HAVEN'T YOU -- DO YOU RECALL USING THE PHRASE,
9 TO DESCRIBE PEOPLE WHO DIDN'T HAVE THESE TYPES OF
10 TECHNICAL PLATFORMS THAT YOU HAD AT TCW, USING THE
11 PHRASE, TWO GUYS IN A BLOOMBERG?

10:02AM

12 A YES.

13 YEAH, OUR INFRASTRUCTURE WASN'T REALLY
14 BIG. IT DOESN'T REFER TO SYSTEMS AT ALL. EXCLUSIVELY,
15 THIS MEANT PEOPLE.

10:02AM

16 Q LET'S TAKE A LOOK AT EXHIBIT 305.

17 THIS IS A PRESENTATION -- A TCW
18 PRESENTATION DATED SEPTEMBER 22ND, 2009 WHILE YOU WERE
19 AT TCW?

20 A I'M NOT FAMILIAR WITH THIS.

10:02AM

21 Q LEGACY SECURITIES, PUBLIC PRIVATE INVESTMENT
22 PROGRAM, TCW SPECIAL MORTGAGE CREDITS FUND III.

23 DO YOU SEE THAT?

24 A I'M NOT FAMILIAR WITH THIS DOCUMENT.

25 Q THAT'S -- SPECIAL MORTGAGE CREDITS FUND III
26 WAS A FUND THAT YOU WERE INVOLVED IN ORGANIZING,
27 CORRECT?

10:03AM

28 A YEAH, I WAS IN CHARGE OF ORGANIZING IT.

1 MR. QUINN: WE'D OFFER IT, YOUR HONOR.

2 MR. HELM: HEARSAY YOUR HONOR.

3 THE COURT: SUSTAINED.

4 BY MR. QUINN:

5 Q DO YOU SEE THERE ON THE FRONT PAGE, THERE'S
6 SOME REFERENCE TO TIAA, AND I CAN'T SEE THE OTHER
7 LETTER, CREF.

10:03AM

8 DO YOU SEE THAT?

9 A I DO.

10 Q DO YOU KNOW WHO THAT IS?

10:03AM

11 A IT'S TIAA CREF.

12 I WASN'T AT THAT MEETING.

13 Q DOES THIS APPEAR TO BE A COPY OF A
14 PRESENTATION THAT WAS MADE TO A TCW CLIENT RELATING TO
15 THE PPIP PROGRAM YOU WERE IN CHARGE OF?

10:03AM

16 A I DON'T REALLY KNOW. I WASN'T AT THE MEETING.

17 I -- IT LOOKS LIKE -- YEAH, IT LOOKS
18 LIKE A BUNCH OF STUFF THAT WAS PREPARED TO TALK TO TIAA
19 CREF ABOUT.

20 Q WERE YOU EVER AT A PRESENTATION WHERE, IN
21 2009, WHERE A -- CLIENTS WERE TOLD TCW HAS STATE OF THE
22 ART ANALYTICS AND TECHNOLOGY PLATFORM?

10:04AM

23 A I DON'T KNOW. I DON'T REMEMBER THAT
24 STATEMENT.

25 I THINK -- I THINK IT'S KIND OF A TRUE
26 STATEMENT, THOUGH.

10:04AM

27 Q AND THAT TCW HAD PROPRIETARY TRADING SYSTEMS?
28 WERE YOU EVER PRESENT IN 2009 WHEN ANY

1 PRESENTATION, WELL, THAT WAS SAID IN A PRESENTATION?

2 A NO.

3 NO, WE DIDN'T REALLY HAVE PROPRIETARY
4 TRADING SYSTEM.

5 Q HOW ABOUT STATEMENT THAT TCW --

10:04AM

6 MR. HELM: YOUR HONOR, I OBJECT TO WHAT HE'S
7 PROCEEDING WITH THE READING OF THIS.

8 THE COURT: THIS EXHIBIT'S NOT BEING ADMITTED.

9 MR. QUINN: UNDERSTOOD, YOUR HONOR.

10 THE COURT: IF YOU WANT TO ASK HIM QUESTIONS,
11 JUST ASK QUESTIONS.

10:04AM

12 MR. QUINN: ALL RIGHT.

13 Q WERE YOU EVER PRESENT IN 2009 WHEN A
14 PRESENTATION WAS MADE TO A CLIENT WHERE IT WAS SAID
15 THAT TCW HAS PROPRIETARY SYSTEMS TO CENTRALIZE AND
16 INTEGRATE DATA?

10:04AM

17 A I DON'T THINK SO.

18 Q OKAY.

19 LET'S TALK ABOUT YOUR MEETING WITH
20 MR. STERN ON SEPTEMBER 3.

10:05AM

21 THE WAY THAT GOT SET UP IS THAT YOU
22 CONTACTED MR. STERN AND SAID THAT YOU'D LIKE TO HAVE A
23 CONVERSATION WITH HIM, CORRECT?

24 A I THINK SO. I'M NOT REAL CLEAR ON IT. BUT --
25 SOUNDS RIGHT.

10:05AM

26 Q DO YOU RECALL THAT YOU CALLED HIM, AND HE WAS
27 OUT OF TOWN AT THE TIME, AND YOU SAID THAT YOU WANTED
28 TO MEET WITH HIM?

1 A I DON'T REMEMBER THAT.

2 Q HOW MANY TIMES BEFORE HAD YOU EVER
3 CONTACTED -- REACHED OUT TO MR. STERN AND SAID YOU
4 WANTED TO HAVE A MEETING WITH HIM?

5 A EVER?

10:05AM

6 Q SAY IN 2009, AFTER HE CAME BACK?

7 A I DON'T KNOW.

8 Q THREE?

9 A THREE?

10 Q CAN YOU RECALL THOSE OTHER TWO TIMES?

10:06AM

11 A WELL, WE HAD A -- A MEETING EVERY OTHER WEEK,
12 MEETING.

13 Q I'M NOT TALKING ABOUT REGULARLY SCHEDULED
14 MEETINGS. I'M TALKING ABOUT TIMES YOU REACHED OUT TO
15 HIM AND SAID YOU WANTED TO HAVE A MEETING WITH HIM.

10:06AM

16 CAN YOU RECALL ANY OTHER TIME THAT YOU
17 CAN TELL US ABOUT, OTHER THAN 2009, THAT YOU DID THAT?

18 A YEAH, I THINK WE DID COUPLE TIMES IN JUNE.

19 Q THAT YOU CONTACTED HIM AND SAID YOU WANTED TO
20 MEET?

10:06AM

21 A WELL, I THINK MARC ATTANASIO SET UP THE
22 MEETINGS, REALLY. BUT THAT WAS TO MEET WITH ME AND
23 MARC ATTANASIO.

24 Q I'M ASKING ABOUT OTHER OCCASIONS, WHERE YOU
25 SAID YOU WANTED TO HAVE A MEETING WITH HIM, AND YOU
26 REACHED OUT TO HIM.

10:06AM

27 DO YOU RECALL ANY OTHERS?

28 A I DON'T REMEMBER.

1 Q AS YOU SIT HERE NOW, THE ONLY ONE YOU CAN
2 THINK OF IS THIS SEPTEMBER 3 OCCASION; IS THAT TRUE?

3 A I GUESS SO.

4 Q AND, WOULD YOU RECALL IF MR. STERN CAME BACK,
5 HE WAS IN HIS OFFICE, AND YOU GAVE HIM A CALL AND ASKED
6 HIM IF HE COULD COME DOWN TO YOUR CONFERENCE ROOM,
7 CORRECT?

10:06AM

8 A I -- I KIND OF REMEMBER IT THE OTHER WAY
9 AROUND. I THOUGHT HE CALLED ME AND HE SAID HE WAS
10 GOING TO COME DOWN.

10:07AM

11 Q SO HE CALLED YOU AND SAID HE WAS GOING TO COME
12 DOWN, IS THAT WHAT YOU'RE SAYING?

13 A THAT'S WHAT I REMEMBER, RIGHT.

14 Q HE CAME DOWN TO YOUR CONFERENCE ROOM, AND YOU
15 WERE THERE, AND SIX OF YOUR LIEUTENANTS WERE THERE?

10:07AM

16 A I DON'T KNOW IF THERE WERE SIX, BUT THERE WERE
17 A FEW.

18 YEAH, IT MAY HAVE BEEN SIX.

19 Q AND YOU HADN'T TOLD MR. STERN THEY WERE GOING
20 TO BE THERE?

10:07AM

21 A I DON'T REMEMBER IF I DID OR DIDN'T.

22 Q AND YOUR PURPOSE, THE PURPOSE THAT YOU HAD IN
23 MIND WAS TO PREVENT HIM FROM DOING SOMETHING THAT YOU
24 THOUGHT HE WAS GOING TO DO THAT YOU THOUGHT WAS REALLY
25 DUMB, RIGHT?

10:07AM

26 A I'M NOT SURE I'D PUT IT THAT WAY.

27 THE REASON I CALLED THE MEETING WAS, I
28 HEARD I WAS BEING FIRED.

1 Q AND YOU THOUGHT THAT WOULD BE REALLY DUMB?

2 A I THOUGHT IT WOULD BE REALLY DUMB.

3 Q YOU WANTED HIM TO KNOW, IF HE FIRED YOU, IT
4 WOULD BE A HUGE MISTAKE, AND HE WOULD LOSE ALL THESE
5 PEOPLE THAT WERE IN THE ROOM WITH YOU, RIGHT?

10:08AM

6 A SORT OF.

7 I WAS TRYING TO GET A VARIETY OF POINTS
8 ACROSS. ONE OF THEM, THOUGH, FOR SURE, WAS IF YOU FIRE
9 ME, YOU'RE GOING TO BLOW UP THE FIRM, BLOW UP THIS
10 BUSINESS. BECAUSE I THOUGHT HIS STRATEGY WAS TO GET
11 RID OF ME AND THINK THE BUSINESS WOULD GO FORWARD. AND
12 I WAS TRYING TO SHOW HIM THAT THAT WAS NOT A GOOD
13 ASSUMPTION.

10:08AM

14 Q AND THERE WAS THAT SHOW OF HANDS, RIGHT?

15 A THAT WAS IMPROMPTU, YEAH.

10:08AM

16 Q THERE'S BEEN MADE REFERENCE TO, YOU TOLD US
17 LAST WEEK, YOU REFERRED TO AN OFFER TO BUY TCW AT THAT
18 TIME?

19 A I DID.

20 Q AND THAT WAS REALLY, REALLY WASN'T A GENUINE
21 OFFER, WAS IT?

10:08AM

22 A IT WAS --

23 MR. HELM: ARGUMENTATIVE.

24 THE COURT: SUSTAINED.

25 BY MR. QUINN:

10:08AM

26 Q WELL, THE OFFER WAS TO BUY 51 PERCENT OF TCW,
27 CORRECT?

28 A YES.

1 Q AT A VALUATION OF THE WHOLE COMPANY OF \$700
2 MILLION? RIGHT?

3 A THAT WAS MY OFFER. THAT'S RIGHT.

4 Q IN OTHER WORDS, YOU'RE OFFERING 51 -- TO BUY
5 51 PERCENT AT VALUATION OF 100 PERCENT OF THE COMPANY
6 AT 700 MILLION, RIGHT?

10:09AM

7 A RIGHT.

8 Q ROUGHLY, YOU'RE OFFERING TO BUY 51 PERCENT OF
9 THE COMPANY FOR ROUGHLY \$350 MILLION?

10 A ABOUT RIGHT.

10:09AM

11 Q AND YOU TOLD HIM THAT THAT WOULD BE ABOUT --
12 YOU'RE WILLING TO PUT UP HALF CASH FOR THAT 350?

13 A THAT WAS MY ONLY OFFER, YES.

14 Q AND THE REMAINDER, YOU WANTED SOC-GEN TO
15 FINANCE?

10:09AM

16 A I THOUGHT THAT WAS A WAY OF STARTING, YES.
17 THAT TYPE OF THING WAS COMMON IN THE
18 INDUSTRY.

19 Q SO IN OTHER WORDS, IF THIS HAPPENED, SOC-GEN
20 WOULD BE YOUR MINORITY PARTNER. THEY WOULD OWN 49
21 PERCENT, YOU'D OWN 50 PERCENT, RIGHT?

10:09AM

22 A 51.

23 Q 51, RIGHT.

24 THEY WOULD BE FINANCING HALF OF YOUR
25 PURCHASE PRICE?

10:09AM

26 A THAT WAS THE ORIGINAL IDEA.

27 IT WOULD HAVE -- I WAS PERFECTLY WILLING
28 TO NEGOTIATE OTHER TIMES. THAT WAS THE STARTING POINT.

1 Q AND YOU THOUGHT THAT THIS WOULD PROBABLY BE
2 WHAT'S CALLED A NONRECOURSE LOAN?

3 A I -- I DIDN'T REALLY HAVE A DEFINITE OPINION
4 ON THAT ISSUE.

5 I WAS TRYING TO, ONCE AGAIN BUY THE 10:10AM
6 FIRM. WE HAD TALKED ABOUT BUYING THE FIRM WITH A GROUP
7 OF PEOPLE AT TCW FOR QUITE SOME TIME.

8 Q SO WE KNOW WHAT WE'RE TALKING ABOUT, A
9 RECOURSE LOAN IS WHERE, IF YOU BORROWED THE MONEY, AND
10 YOU DIDN'T MAKE PAYMENT, THEY COULD COME BACK AGAINST 10:10AM
11 YOU, RIGHT, TO COLLECT? RIGHT?

12 A RIGHT.

13 Q AND NONRECOURSE MEANS THEY CAN'T COME BACK
14 AGAINST YOU PERSONALLY TO COLLECT, RIGHT?

15 A RIGHT. 10:10AM

16 Q AND YOU THOUGHT IT WOULD BE HIGHLY UNUSUAL FOR
17 THIS TO BE A RECOURSE LOAN, RIGHT?

18 A I THINK SO, YEAH.

19 I THINK THAT WOULD BE UNUSUAL.

20 Q IF WE COULD JUST -- DO WE HAVE A MAGIC MARKER 10:10AM
21 UP THERE?

22 WE'LL DO BLUE. THANK YOU.

23 SO THE TERMS OF THE 9-3 OFFER -- 9-3
24 OFFER FOR TCW, YOU WERE OFFERING TO BUY 51 PERCENT,
25 SIR? 10:11AM

26 A THAT'S RIGHT.

27 Q THAT WOULD LEAVE SOC-GEN AS THE MINORITY
28 PARTNER, 49 PERCENT, RIGHT?

1 A OR SOMEBODY ELSE.

2 Q AND THE VALUATION WOULD BE 700 MILLION FOR
3 YOUR PART.

4 YOU WERE GOING TO PAY ROUGHLY 350
5 MILLION?

10:12AM

6 A THAT'S RIGHT.

7 Q AND THAT WOULD BE ONE-HALF CASH, AND ONE-HALF
8 FINANCED BY SOCIÉTÉ GÉNÉRALE, RIGHT?

9 A IF THEY'D AGREE TO IT.

10 IF THEY WOULDN'T, I'D PROBABLY GET
11 SOMEBODY ELSE TO DO IT.

10:12AM

12 Q BUT AT LEAST THIS IS WHAT YOU TOLD MR. STERN
13 IN THAT MEETING, RIGHT?

14 A THAT'S WHERE WE STARTED, YES.

15 Q YOU SAID YOU THOUGHT IT WOULD BE NONRECOURSE,
16 RIGHT?

10:12AM

17 A I DON'T REMEMBER SAYING THAT.

18 Q YOU SAID IT WOULD BE HIGHLY UNUSUAL FOR THIS
19 LOAN, A LOAN LIKE THIS, TO BE RECOURSE, CORRECT?

20 A I THINK I SAID IN RESPONSE TO QUESTIONS ABOUT
21 THIS, YOU KNOW, YEARS LATER.

10:12AM

22 AT THE TIME, WE WEREN'T TALKING ABOUT
23 RECOURSE OR NONRECOURSE.

24 Q NO. BUT TALKING ABOUT THIS YEARS LATER, YOU
25 THOUGHT IT WOULD BE HIGHLY UNUSUAL FOR THIS TO BE A
26 RECOURSE LOAN, CORRECT?

10:12AM

27 A I THINK IT'S HIGHLY UNUSUAL FOR THESE THINGS
28 TO BE RECOURSE LOANS.

1 Q ALL RIGHT.

2 A NON- -- WE DIDN'T TALK ABOUT NONRECOURSE OR
3 RECOURSE, ON SEPTEMBER 3RD.

4 Q I UNDERSTAND.

5 YOU THOUGHT IT WOULD BE HIGHLY UNUSUAL
6 FOR IT TO BE ANYTHING OTHER THAN NONRECOURSE, CORRECT?

10:13AM

7 A IT'S DISINGENUOUS TO BE WRITING NONRECOURSE UP
8 THERE. I DIDN'T MAKE A NONRECOURSE OR RECOURSE OFFER
9 ON SEPTEMBER 3RD.

10 Q I UNDERSTAND, SIR. I UNDERSTAND.

10:13AM

11 BUT YOU THOUGHT IT WOULD BE HIGHLY
12 UNUSUAL FOR THIS LOAN TO BE RECOURSED?

13 THE COURT: EXCUSE ME, MR. QUINN, IT'S AT THE
14 TIME. AND WHAT HE'S SAYING IS LATER --

15 MR. QUINN: RIGHT.

10:13AM

16 THE COURT: -- HE THOUGHT THAT.

17 I'M TRYING TO CLARIFY WHAT WE'RE DOING
18 HERE. BUT GO AHEAD.

19 MR. HELM: MOVE TO STRIKE THE ANSWER.

20 THE COURT: I'LL ALLOW THE RESPONSE WE'VE HAD
21 SO FAR.

10:13AM

22 MOVE ON.

23 BY MR. QUINN:

24 Q WHAT YOU'RE TELLING US, IN THE MEETING, YOU
25 DID NOT DISCUSS WHETHER OR NOT IT WOULD BE RECOURSE,
26 CORRECT?

10:13AM

27 A CORRECT.

28 Q BUT WHEN ASKED ABOUT IT LATER, YOU SAID IT

1 WOULD BE HIGHLY UNUSUAL FOR A LOAN IN THAT CIRCUMSTANCE
2 TO BE RECOURSE, CORRECT?

3 A YES.

4 Q AND OF COURSE, NONRECOURSE, YOU'VE TOLD US
5 MEANS THAT IF YOU DIDN'T PAY, THEY COULDN'T COME,
6 COULDN'T COLLECT FROM YOU PERSONALLY. THAT'S WHAT
7 NONRECOURSE MEANS?

10:14AM

8 A CORRECT.

9 Q YOU'RE AWARE OF THE TESTIMONY OF
10 MR. SANTA ANA, THAT MR. STERN RESPONDED, TCW'S NOT FOR
11 SALE, IN THAT MEETING?

10:14AM

12 A I'M NOT AWARE OF THAT TESTIMONY.

13 THE COURT: JUST A MOMENT. LET'S MARK THIS
14 CHART AS EXHIBIT NEXT IN ORDER.

15 MR. HELM: YOUR HONOR.

10:14AM

16 THE COURT: FOR IDENTIFICATION ONLY.

17 MR. HELM: IDENTIFICATION.

18 THANK YOU, YOUR HONOR.

19 THE COURT: WE'VE MARKED ALL THE OTHER ONES,
20 SO I'LL GET IT OUT OF THE WAY.

10:14AM

21 WHAT'S THE NEXT IN ORDER?

22 (PAUSE) +

23 THE COURT: 2224. MARKED FOR IDENTIFICATION
24 ONLY.

25 (EXHIBIT 2224 MARKED FOR I.D.) +

10:15AM

26
27 THE COURT: WE'LL TAKE OUR MORNING RECESS,
28 LADIES AND GENTLEMEN. WE'LL TAKE 20 MINUTES.

1 (PROCEEDINGS HELD OUTSIDE THE PRESENCE OF THE JURY.) +

2 MR. BRIAN: ONE QUICK ITEM.

3 THE COURT: WHAT'S THAT.

4 MR. HELM: EXHIBIT 1899, THE TWO COMPENSATION
5 PROPOSALS, ONE WAS EXCLUDED BECAUSE HE HAD NEVER
6 DISCUSSED IT, AND THE OTHER ONE WAS LET IN.

10:15AM

7 COULD THE JURY BE INSTRUCTED, IT'S LET
8 IN, NOT FOR THE TRUTH, BUT SIMPLY THE FACT THE
9 STATEMENT WAS MADE?

10 THAT WAS THE ONLY REASON WE DIDN'T
11 OBJECT TO IT.

10:16AM

12 THE COURT: WELL IT'S ADMITTED FOR WHAT IT IS.
13 HE'S TESTIFIED ABOUT IT. IT WAS A PROPOSAL MADE TO
14 THEM.

15 MR. BRIAN: HE TESTIFIED HE DIDN'T APPROVE THE
16 NUMBERS, THOUGH. THAT'S THE POINT.

10:16AM

17 THE COURT: RIGHT.

18 MR. BRIAN: THEREFORE, IT IF IT COMES IN, IT
19 COMES IN FOR HIS STATE OF MIND, NOT FOR THE TRUTH.

20 THE COURT: RIGHT.

10:16AM

21 MR. BRIAN: UNTIL HE LAYS THE FOUNDATION;
22 WHICH HE DIDN'T DO FOR THIS WITNESS.

23 THE COURT: HE SAID THOSE. I DIDN'T GIVE HIM
24 THE NUMBERS. THAT'S IN EVIDENCE.

25 I'M HAPPY TO GIVE THEM THE ADMONISHMENT
26 IF YOU WANT.

10:16AM

27 MR. QUINN, DO YOU HAVE ANY ISSUE?

28 MR. QUINN: IT'S A DISPUTED POINT ABOUT

1 WHETHER HE SHARED INFORMATION WITH THEM OR NOT. HE
2 SAID HE DID TALK TO THEM ABOUT THE DISTRESSED FUNDS.

3 THE COURT: RIGHT.

4 YOU HAVE NO EVIDENCE AT THIS POINT THEY
5 GAVE THEM THE NUMBERS THAT WERE IN THERE.

10:16AM

6 NOTWITHSTANDING, YOUR CHARACTERIZATION OF THE
7 AGREEMENT, YOUR SUGGESTION THAT HE GAVE THEM AND
8 EVERYTHING ELSE.

9 THERE'S NO EVIDENCE OTHER THAN HE TALKED
10 TO THEM GENERALLY ABOUT WHAT HE WAS DOING.

10:17AM

11 MR. QUINN: HE SAID HE TALKED TO THEM
12 GENERALLY ABOUT THE FUNDS.

13 THE COURT: RIGHT.

14 MR. QUINN: HE SAID HE GAVE THEM SOME
15 INFORMATION ABOUT THE FUNDS. HE SAID HE DID NOT GIVE
16 THEM THOSE NUMBERS.

10:17AM

17 THE COURT: RIGHT.

18 MR. QUINN: I SUPPOSE A LIMITED INSTRUCTION,
19 JUST AS TO THE NUMBERS. I MEAN, I THINK THE JURY'S
20 ENTITLED TO EVALUATE HIS CREDIBILITY ON HIS STATEMENTS.

10:17AM

21 THE COURT: THEY DO THAT.

22 BUT YOU HAVE TO HAVE SOME FOUNDATIONAL
23 EVIDENCE TO ARGUE THAT THOSE NUMBERS CAME FROM HIM, AND
24 YOU HAVE NONE.

25 AND I THINK THE INFERENCE IS PURE
26 SPECULATION, ABSENT BRINGING SOMEBODY IN FROM WAMCO TO
27 TESTIFY.

10:17AM

28 AND MAYBE YOU'RE BRINGING THEM IN.

1 ARE YOU?

2 MR. MADISON: WE ARE, YOUR HONOR.

3 THE COURT: LET'S TAKE WHAT WE GET FROM THE
4 WITNESSES THAT KNOW WHAT THEY'RE TALKING ABOUT. AND
5 QUIT TRYING TO GET EVERYTHING FROM EVERY WITNESS.

10:17AM

6 AT THE END OF THE DAY, I THINK IT WILL
7 BE A MUCH SMOOTHER OPERATION.

8 MR. MADISON: YES, YOUR HONOR.

9 THE COURT: IF YOU'RE BRINGING SOMEBODY FROM
10 WAMCO, LET HIM TESTIFY TO IT. AND WE'LL HOLD OFF ON
11 THE ADMONITION.

10:18AM

12 MR. HELM: THANK YOU, YOUR HONOR.

13 (RECESS.)
14
15
16
17
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28

1 CASE NUMBER: BC429385
2 CASE NAME: TRUST COMPANY OF THE WEST VS.
3 JEFFREY GUNDLACH, ET AL
4 LOS ANGELES, MONDAY, AUGUST 15, 2011
5 CALIFORNIA
6 DEPARTMENT 322 HON. CARL J. WEST, JUDGE
7 APPEARANCES: (AS HERETOFORE NOTED.)
8 REPORTER: WENDY OILLATAGUERRE, CSR #10978
9 TIME: 10:42 A.M.

10
11 THE COURT: ALL RIGHT. ALL MEMBERS OF THE
12 JURY ARE PRESENT, AS ARE COUNSEL.

13 MR. GUNDLACH IS ON THE STAND.

14 BEFORE YOU CONTINUE YOUR DIRECT
15 EXAMINATION, MR. QUINN, I HAD A QUESTION.

16 AND THAT IS, WHAT WILL IT MEAN IN
17 DELIBERATIONS IF AND WHEN WE CONSIDER AN ADMITTED
18 EXHIBIT THAT IS FOR IDENTIFICATION ONLY?

19 THAT'S A MISNOMER. WHEN WE MARK IT FOR
20 IDENTIFICATION ONLY, WE'RE NOT ADMITTING IT.

21 NOW, IT MAY BE SOMETHING THAT YOU SEE
22 HERE IN THE COURTROOM, OR THAT WOULD BE REFERRED TO
23 DURING ARGUMENT, BUT IF A DOCUMENT ISN'T ACTUALLY
24 ADMITTED IN EVIDENCE, THEN IT'S NOT FOR YOUR
25 CONSIDERATION DURING YOUR DELIBERATION.

26 SOME OF THESE THINGS MAY BE ADMITTED
27 ULTIMATELY, AND MADE AVAILABLE TO YOU; BUT THEY ARE
28 REALLY GRAPHICS THAT HELP YOU UNDERSTAND THE TESTIMONY

1 AS WE GO ALONG.

2 ALL RIGHT. MR. QUINN, YOU MAY PROCEED.

3 MR. QUINN: THANK YOU, YOUR HONOR.

6 DIRECT EXAMINATION (RESUMED)

7 BY MR. QUINN:

8 Q. MR. GUNDLACH, ALTHOUGH YOU DIDN'T TELL
9 MR. STERN AT THE TIME, ON SEPTEMBER 3, ABOUT THAT TIME,
10 YOU HAD ACTUALLY RESOLVED TO LEAVE TCW AND START YOUR
11 OWN FIRM; ISN'T THAT TRUE?

10:41AM

12 A. NOT TRUE AT ALL.

13 Q. WELL, LET'S TAKE A LOOK AT EXHIBIT 278. THIS
14 IS AN E-MAIL EXCHANGE BETWEEN AND YOU MS. VANEVERY?

15 A. YES.

10:42AM

16 MR. QUINN: I'D OFFER THAT, YOUR HONOR.

17 THE COURT: ANY OBJECTION?

18 MR. HELM: JUST A MOMENT, YOUR HONOR.

19 NO OBJECTION.

20 THE COURT: IT WILL BE ADMITTED.

10:42AM

22 (EXHIBIT 278 ADMITTED.)

23
24 Q. BY MR. QUINN: SO THIS IS A -- LOOKING AT THE
25 TOP, IS AN E-MAIL THAT YOU WROTE TO MS. VANEVERY ON
26 SEPTEMBER 5, CORRECT?

10:42AM

27 A. YES.

28 Q. AND IF WE COULD LOOK AT THE TWO SENTENCES,

1 BEGINNING WITH "THIS WHOLE FIRE DRILL OF A WEEK," WHAT
2 YOU WROTE IS THAT (READING):

3 THIS WHOLE FIRE DRILL OF A
4 WEEK HELPED ME TO FINALLY SEE THAT
5 I WILL BE FOREVER VULNERABLE AS
6 LONG AS I STAY AT ANY PLACE THAT
7 THINKS IT OWNS AND CONTROLS THE
8 REVENUE STREAM. ELIMINATING THAT
9 VULNERABILITY IS THE GOAL NOW.

10:42AM

10 THAT'S WHAT YOU WROTE, CORRECT, SIR?

10:43AM

11 A. THAT'S WHAT IT SAYS.

12 Q. AND WHEN YOU SAY, I WILL BE FOREVER
13 VULNERABLE, YOU ARE TALKING ABOUT YOURSELF, RIGHT, NOT
14 THE CLIENTS?

15 A. I'M TALKING ABOUT MYSELF, AND ALL THINGS THAT
16 WENT ALONG WITH THE BUSINESS THAT I WAS MANAGING.

10:43AM

17 Q. WELL, I MEANS I, JEFFREY GUNDLACH, CORRECT?

18 A. YOU ARE MAKING A SEMANTIC ARGUMENT.

19 I'M TELLING YOU WHAT I MEANT. I MEANT
20 ME AND THE THINGS I WAS ASSOCIATED WITH.

10:43AM

21 Q. YOU SAY I'M MAKING A SEMANTIC ARGUMENT.

22 SIR, DON'T YOU TAKE A LOT OF PRIDE IN
23 YOUR SKILL WITH WORDS?

24 A. NOT REALLY.

25 Q. WELL, DON'T YOU TAKE A LOT OF PRIDE THAT YOU
26 DO THE NEW YORK TIMES CROSSWORD PUZZLE ONLY ON
27 SATURDAYS AND SUNDAYS, AND YOU DO IT IN INK?

10:43AM

28 A. WHAT YOU JUST SAID ISN'T TRUE.

1 I DO THE SUNDAY; I DO THE SATURDAY
2 NEW YORK TIMES CROSSWORD PUZZLE. I DO THE FRIDAY ONE;
3 SOMETIMES I DO THE SUNDAY ONE; SOMETIMES THE THURSDAY
4 ONE.

5 Q. HAVEN'T YOU SAID THAT YOU ONLY DO THE WEEKEND
6 ONES, BECAUSE THE ONES IN THE MIDDLE OF THE WEEK ARE
7 TOO EASY?

10:44AM

8 A. SOMETHING LIKE THAT.

9 BUT I DON'T LIKE DOING THE ONES THAT ARE
10 JUST NOT FUN. AND SO THE ONES ON MONDAYS AND TUESDAYS
11 AND WEDNESDAY AREN'T FUN.

10:44AM

12 THE COURT: ALL RIGHT.

13 GENTLEMEN, LET'S ABANDON THE CROSSWORD
14 PUZZLES, AND FOCUS ON WHAT WE HAVE TO DEAL WITH.

15 Q. BY MR. QUINN: SO YOU SAY, I WILL BE FOREVER
16 VULNERABLE AS LONG AS I STAY AT ANY PLACE THAT THINKS
17 IT OWNS AND CONTROLS THE REVENUE STREAM.

10:44AM

18 NOW, THE REVENUE STREAM YOU ARE TALKING
19 ABOUT AT THIS POINT IS THE REVENUE STREAM THAT COMES
20 INTO TCW, CORRECT?

10:44AM

21 A. IT'S THE REVENUE STREAM THAT COMES FROM THE
22 CLIENTS WHO WANT TO PAY FOR THE SERVICES OF MY TEAM,
23 AND IT COMES ADMINISTRATIVELY THROUGH TCW.

24 Q. COMES ADMINISTRATIVELY THROUGH TCW, SAYING
25 IT'S NOT TCW'S REVENUE STREAM?

10:45AM

26 A. IT'S A SHARED REVENUE STREAM BETWEEN ME AND
27 TCW.

28 Q. IT'S A REVENUE STREAM THAT COMES INTO TCW,

1 TRUE?

2 MR. HELM: ARGUMENTATIVE. VAGUE.

3 THE COURT: SUSTAINED.

4 GO AHEAD.

5 Q. BY MR. QUINN: WELL, DID CLIENTS SEND IN
6 CHECKS AT THIS TIME TO JEFFREY GUNDLACH, INC.?

10:45AM

7 A. NO.

8 Q. OR TO TCW MORTGAGE-BACKED SECURITIES GROUP,
9 INC.?

10 A. NO.

10:45AM

11 Q. NOW, YOU UNDERSTAND THAT REVENUE IS IMPORTANT
12 TO COMPANIES, ISN'T IT?

13 A. YES.

14 Q. I MEAN, COMPANIES CAN RISE AND FALL, BASED ON
15 REVENUE, NOT JUST PROFITS, RIGHT?

10:45AM

16 A. NO.

17 Q. WELL, AS THE CHIEF INVESTMENT OFFICER OF TCW,
18 WASN'T IT PART OF YOUR JOB TO MAKE SURE THAT TCW OWNED
19 AND GREW ITS REVENUE STREAM?

20 A. NO.

10:46AM

21 Q. WAIT A SECOND.

22 A. IT WASN'T MY RESPONSIBILITY TO MAKE SURE THE
23 REVENUE STREAM GREW.

24 Q. SIR, AS A DIRECTOR OF TCW -- AS ITS CHIEF
25 INVESTMENT OFFICER, AS THE PRESIDENT OF ITS LARGEST
26 SUBSIDIARY, TCW ASSET MANAGEMENT, WASN'T IT IMPORTANT
27 TO YOU, AS PART OF YOUR JOB, TO SEE THAT TCW HOPEFULLY
28 GREW ITS REVENUES AND OWNED ITS REVENUES, CORRECT?

10:46AM

1 A. LOOK, OBVIOUSLY PART OF ANY BUSINESS IS AN
2 ATTEMPT TO BE A SUCCESSFUL BUSINESS. AND MY JOB WAS
3 REALLY TO TAKE CARE OF THE CLIENTS, SO THAT THEY WOULD
4 BE SATISFIED AND THEY WOULD WANT TO KEEP INVESTING, AND
5 OTHER CLIENTS WOULD WANT TO INVEST.

10:46AM

6 AND THAT WAY, TCW WOULD ALSO BENEFIT.

7 Q. AND PART OF YOUR JOB WAS TO GROW AND PROTECT
8 AS A FIDUCIARY.

9 AS A FIDUCIARY, PART OF YOUR JOB WAS TO
10 GROW AND PROTECT TCW'S REVENUE STREAM, TRUE?

10:47AM

11 MR. HELM: CALLS FOR A LEGAL CONCLUSION.

12 THE COURT: OVERRULED.

13 YOU CAN EXPLAIN YOUR ANSWER, IF YOU
14 WANT, MR. GUNDLACH.

15 GO AHEAD.

10:47AM

16 THE WITNESS: AGAIN, MY JOB WAS TO PERFORM
17 DUTIES FOR TCW AS AN OFFICER OF TCW, A MEMBER OF THE
18 BOARD OF DIRECTORS, CHIEF INVESTMENT OFFICER. THAT
19 WOULD MAKE THE BUSINESS STRONGER, AND THAT WAS
20 PRIMARILY THROUGH DOING A GOOD JOB FOR THE CLIENTS AND
21 MAKING SURE THE CLIENTS WERE HAPPY.

10:47AM

22 Q. AND TO GROW AND PROTECT THE REVENUE STREAM,
23 CORRECT?

24 A. NOT NECESSARILY GROW THE REVENUE STREAM.

25 THERE ARE TIMES WHEN YOU DON'T WANT TO
26 GROW A BUSINESS, AND IT'S NOT IN THE BEST INTEREST OF
27 THE BUSINESS TO GROW.

10:47AM

28 Q. WELL, YOU CERTAINLY, AS A FIDUCIARY, AS A

1 DIRECTOR, AS A CHIEF INVESTMENT OFFICER, YOU CERTAINLY
2 WOULDN'T WANT TO DO ANYTHING THAT WOULD TAKE AWAY TCW'S
3 REVENUE STREAM, WOULD YOU?

4 A. I NEVER WANTED TO HURT TCW IN ANY WAY. AND I
5 NEVER TRIED TO. I WANTED TO HELP TCW ALL THE TIME. I
6 WORKED THERE FOR 25 YEARS TRYING TO MAKE THE COMPANY AS
7 GOOD AS IT COULD POSSIBLY BE.

10:48AM

8 Q. AND YOU WOULD NEVER DO ANYTHING TO ELIMINATE
9 OR DIMINISH TCW'S REVENUE STREAM, WHILE YOU WERE AN
10 OFFICER OF TCW'S, CORRECT?

10:48AM

11 A. I WOULD, IF IT MEANT IT WOULD BE BETTER FOR
12 THE COMPANY, IF -- THERE'S ENVIRONMENTS WHERE
13 BUSINESSES NEED TO HUNKER DOWN AND NOT OVEREXTEND
14 THEMSELVES. IN THOSE SITUATIONS, IT'S BETTER FOR THE
15 COMPANY TO BE CONSERVATIVE AND NOT TRY TO PUSH THE
16 REVENUE STREAM AS HIGH AS IT CAN GO.

10:48AM

17 SOMETIMES NOT DOING THAT IN THE SHORT
18 TERM LEADS TO A DISASTER IN THE LONG TERM.

19 Q. SIR, YOU WOULD NEVER, IN ORDINARY SITUATIONS,
20 SURELY YOU WOULD AGREE THAT YOU WOULD NEVER WANT TO
21 SEE -- YOU WOULD NEVER BE A PARTY TO, SEEING THAT THE
22 REVENUE STREAM WAS LOST TO TCW OR WENT SOMEWHERE ELSE,
23 CORRECT?

10:49AM

24 MR. HELM: INCOMPLETE HYPOTHETICAL.

25 THE COURT: SUSTAINED.

10:49AM

26 Q. BY MR. QUINN: DID YOU SEE IT AS PART OF YOUR
27 DUTY, TO INJURE TCW BY DIMINISHING ITS REVENUE STREAM?

28 MR. HELM: ARGUMENTATIVE.

1 THE COURT: SUSTAINED.

2 Q. BY MR. QUINN: WELL, YOU SAY ELIMINATING THE
3 VULNERABILITY.

4 DO YOU SEE THAT? ELIMINATING THE
5 VULNERABILITY. ELIMINATING THAT VULNERABILITY IS THE
6 GOAL NOW? 10:49AM

7 DO YOU SEE THAT?

8 A. YES.

9 Q. AND YOU MEANT ELIMINATING YOUR VULNERABILITY
10 BECAUSE TCW THOUGHT IT OWNED AND CONTROLLED TCW'S
11 REVENUE STREAM, RIGHT? THAT'S WHAT YOU MEAN? 10:49AM

12 A. I DON'T THINK I -- I'M NOT SURE THAT I MEAN
13 THAT.

14 IT SAYS WHAT IT SAYS. I DON'T REMEMBER
15 THIS E-MAIL, BUT IT SAYS WHAT IT SAYS. AND IT'S
16 BASICALLY SAYING THAT THERE'S VULNERABILITY AT A PLACE
17 THAT THINKS IT OWNS AND CONTROLS THE REVENUE STREAM,
18 AND SOMETHING SHOULD BE DONE ABOUT THAT, ONE WAY OR
19 ANOTHER. 10:50AM

20 I DON'T DRAW A CONCLUSION AS TO HOW. 10:50AM

21 Q. WELL, YOU -- WHAT YOU ARE SAYING HERE, AND
22 WHAT YOU ARE TELLING MS. VANEVERY, IS THAT YOU THOUGHT
23 YOU WERE VULNERABLE, RIGHT? YOU WANT TO ELIMINATE A
24 VULNERABILITY.

25 DO YOU SEE THAT? 10:50AM

26 A. IT SAYS ELIMINATING THE VULNERABILITY IS THE
27 GOAL NOW.

28 Q. RIGHT. AND YOU ARE TALKING ABOUT YOUR OWN,

1 WHAT YOU THOUGHT WAS YOUR OWN VULNERABILITY?

2 A. NO. I THINK I'M TALKING ABOUT SOMETHING
3 BIGGER THAN THAT.

4 Q. WELL, THE VULNERABILITY YOU ARE REFERRING TO
5 HERE, YOU SAY I, I WILL BE FOREVER VULNERABLE.

10:50AM

6 THOSE ARE THE WORDS YOU WROTE, CORRECT?

7 A. I'M TELLING YOU THAT I MEANT SOMETHING BIGGER
8 THAN THE NARROW DEFINITION YOU ARE TRYING TO PUT ON
9 THIS. THAT'S WHAT I'M TELLING YOU.

10 Q. SO YOU SAID, I WILL BE FOREVER VULNERABLE; CAN
11 WE AGREE ON THAT MUCH?

10:51AM

12 A. WE CAN AGREE THAT THOSE WORDS ARE THERE.

13 Q. AND YOU WANTED TO ELIMINATE THAT VULNERABILITY
14 WHICH YOU FELT, SIR, CORRECT? ISN'T THAT WHAT YOU
15 WROTE?

10:51AM

16 A. I WROTE THAT THERE'S A VULNERABILITY HERE,
17 BECAUSE THE ENTITY THAT THINKS IT OWNS AND CONTROLS THE
18 REVENUE STREAM IS POTENTIALLY -- WHAT I WAS THINKING
19 IS -- POTENTIALLY NOT GOING TO ACT RATIONALLY.

20 AND IF THEY DON'T ACT RATIONALLY, THEN
21 THERE'S A PROBLEM FOR THE ENTIRE ENTERPRISE I'M
22 INVOLVED WITH. SO I WANT TO ELIMINATE THAT
23 VULNERABILITY.

10:51AM

24 THAT'S WHAT I TAKE AWAY FROM THIS
25 E-MAIL.

10:51AM

26 AGAIN, I DON'T REMEMBER WRITING THIS
27 E-MAIL, BUT THAT'S HOW I -- WHAT I TAKE AWAY FROM THIS
28 E-MAIL.

1 Q. SO THAT BUSINESS THAT YOU JUST TOLD US ABOUT
2 IRRATIONALITY, THAT'S NOWHERE HERE?

3 MR. BRIAN: ARGUMENTATIVE.

4 THE COURT: SUSTAINED.

5 LET'S MOVE ALONG, MR. QUINN.

10:52AM

6 Q. BY MR. QUINN: WELL, THE THOUGHT YOU HAD IN
7 YOUR MIND AT THE TIME WAS THAT YOU WERE GOING TO
8 ELIMINATE WHAT YOU SAW AS YOUR VULNERABILITY BY LEAVING
9 TCW, CORRECT?

10 A. SO -- STRIKE THAT.

10:52AM

11 YOU NOW, HAVING JUST LOOKED SO
12 SPECIFICALLY AT THE WORDS, NOW BRINGING IN WORDS THAT
13 ARE IN THE E-MAIL.

14 NO. I WAS NOT THINKING OF LEAVING TCW
15 IN THAT TIME FRAME.

10:52AM

16 Q. SO HOW WOULD YOU ELIMINATE THE VULNERABILITY,
17 OTHER THAN LEAVING TCW?

18 A. MAYBE BY THE FIRM.

19 Q. ANYTHING ELSE BY THE FIRM?

20 A. BY THE FIRM.

10:52AM

21 Q. ONE WAY OF ELIMINATING THE VULNERABILITY WOULD
22 BE TO LEAVE?

23 MR. HELM: CALLS FOR SPECULATION. LACKS
24 FOUNDATION.

25 THE COURT: SUSTAINED.

10:52AM

26 Q. BY MR. QUINN: ISN'T IT TRUE THAT AT THIS
27 POINT, SIR, YOU WERE, IN YOUR OWN MIND, PLANNING TO
28 SEE -- TO LEAVE, AND TAKE TCW'S REVENUE?

1 A. THAT'S COMPLETELY UNTRUE.

2 MR. BRIAN: ASKED AND ANSWERED.

3 THE WITNESS: THAT IS COMPLETELY UNTRUE.

4 THE COURT: OVERRULED.

5 I'LL ALLOW THE ANSWER TO STAND.

10:53AM

6 Q. BY MR. QUINN: AS OF THIS TIME, ISN'T IT TRUE
7 THAT YOU HAD -- DURING THE TIME YOU WERE AT TCW, YOU
8 HAD RECEIVED ALMOST A QUARTER OF A BILLION DOLLARS
9 YOURSELF OF TCW'S REVENUE STREAM?

10 A. I DIDN'T RECEIVE A QUARTER OF A BILLION
11 DOLLARS IN SEPTEMBER OF 2009, NO.

10:53AM

12 Q. NO. FROM THE TIME YOU FIRST BEGAN WORK AT TCW
13 UP UNTIL DATE OF THIS E-MAIL, ISN'T IT TRUE THAT YOU
14 HAD RECEIVED, APPROXIMATELY, ONE-QUARTER BILLION
15 DOLLARS OF THAT REVENUE STREAM YOURSELF?

10:53AM

16 A. I DON'T KNOW. I HAD A LONG TENURE WITH TCW.
17 I GREW A HUGE BUSINESS FROM ZERO, TOGETHER WITH MY
18 PARTNER, PHIL BARACH, AND THE BUSINESS HAD A VERY
19 LARGE REVENUE STREAM. WE WERE SHARING 50/50 AS
20 PARTNERS AT TCW.

10:53AM

21 IT CAME TO A LOT OF MONEY.

22 Q. SO YOU STARTED OUT AT TCW MAKING \$30,000 A
23 YEAR?

24 A. YES, I DID.

25 Q. AND WHEN YOU STARTED, YOU DIDN'T KNOW THE
26 DIFFERENCE BETWEEN A STOCK AND A BOND?

10:54AM

27 A. I DID, THE DAY I STARTED.

28 Q. OKAY. BECAUSE SOMEBODY ASKED YOU, AND YOU

1 SAID, EXPLAIN TO ME THE DIFFERENCE, RIGHT?

2 A. NO, THAT'S NOT THE WAY IT WENT DOWN.

3 I CAN TELL THE STORY, IF YOU WOULD LIKE.

4 Q. LET ME ASK YOU THIS WAY: BEFORE YOU STARTED
5 THE TCW, YOU DIDN'T KNOW THE DIFFERENCE BETWEEN A STOCK
6 AND A BOND; ISN'T THAT TRUE? 10:54AM

7 A. NO, IT'S NOT TRUE.

8 Q. BUT ANYWAY, YOU STARTED AT 30,000?

9 A. THAT'S RIGHT.

10 Q. AND YOU BECAME RICH AT TCW BEYOND YOUR WILDEST
11 DREAMS? 10:54AM

12 A. I DON'T KNOW. I MADE A LOT OF MONEY AT TCW,
13 AND I MADE A LOT OF MONEY FOR THE CLIENTS, AND I MADE A
14 TON OF MONEY FOR TCW. THAT'S ALL TRUE.

15 Q. DID YOU SEE IT AS -- BACK IN SEPTEMBER OF
16 2009, DID YOU SEE IT AS IN ANY SENSE, KIND OF A
17 PROBLEM, THAT YOU WERE A DIRECTOR, FIDUCIARY,
18 PRESIDENT, CHIEF INVESTMENT OFFICER, AND YOU DIDN'T
19 RECOGNIZE THAT TCW OWNED ITS REVENUE STREAM? 10:54AM

20 MR. HELM: ARGUMENTATIVE. 10:55AM

21 THE COURT: SUSTAINED.

22 Q. BY MR. QUINN: DID YOU THINK THERE WAS ANY
23 INCONSISTENCY IN YOUR DUTIES AS A FIDUCIARY AND SAYING
24 THAT YOU THOUGHT YOU WERE VULNERABLE, AS LONG AS YOU
25 STAYED AT A PLACE THAT THINKS IT OWNS AND CONTROLS ITS
26 REVENUE STREAM? 10:55AM

27 MR. HELM: ARGUMENTATIVE.

28 THE COURT: WELL, I'M GOING TO SUSTAIN THE

1 OBJECTION, ON THE GROUNDS THAT WE HAVE READ THIS A
2 DOZEN TIMES, AND YOU HAVE ASKED THE SAME QUESTION,
3 MR. QUINN.

4 HE'S ANSWERED IT; AND LET'S MOVE ON.

5 MR. QUINN: ALL RIGHT.

10:55AM

6 Q. AFTER THAT MEETING WITH MR. STERN ON SEPTEMBER
7 3, YOU WENT TO HIS OFFICE AND SHOOK HIS HAND; IS THAT
8 TRUE?

9 A. YES.

10 Q. AND YOU WANTED TO -- AND YOU TOLD HIM THAT YOU
11 WERE GOING TO TRY TO BE MORE GENEROUS IN YOUR JUDGMENT
12 OF HIM?

10:56AM

13 A. WHAT I SAID IS, I'M GOING TO TRY TO SEE YOUR
14 PERSONALITY AS MORE HALF FULL.

15 Q. AND THE REASON YOU DID THAT, THAT YOU WENT TO
16 HIS OFFICE, SHOOK HIS HAND, AND SAID WHAT YOU SAID, WAS
17 THAT YOU DIDN'T WANT HIM TO BE SUSPICIOUS ABOUT WHAT
18 YOU WERE PLANNING TO DO; ISN'T THAT TRUE?

10:56AM

19 A. COMPLETELY UNTRUE.

20 Q. ISN'T IT TRUE THAT AT THAT TIME, YOU WANTED
21 THE LUXURY OF TIME, TO PLAN AND PREPARE?

10:56AM

22 A. THAT'S COMPLETELY UNTRUE.

23 I HAD NO INTENTION OF LEAVING TCW WHEN I
24 SHOOK MARC STERN'S HAND. I WASN'T WORKING ON ANYTHING
25 RELATING TO TCW AT ALL.

10:56AM

26 Q. LET'S TAKE A LOOK AT EXHIBIT 296.

27 THIS IS AN E-MAIL EXCHANGE BETWEEN YOU
28 AND MR. BARACH, CORRECT?

1 A. YES.

2 MR. QUINN: I'D OFFER THIS, YOUR HONOR.

3 MR. HELM: NO OBJECTION.

4 THE COURT: IT WILL BE ADMITTED.

5

10:57AM

6 (EXHIBIT 296 ADMITTED.)

7

8 Q. BY MR. QUINN: AND IT STARTS AT THE BOTTOM, IF
9 WE COULD LOOK AT THE BOTTOM OF THIS E-MAIL, MR. BARACH
10 WRITES YOU ON SEPTEMBER 16TH ABOUT A MEETING HE'S JUST
11 HAD WITH A REPRESENTATIVE OF SOCIETE GENERALE BY THE
12 NAME OF JACQUES RIPOLL, CORRECT?

10:57AM

13 A. IT SAYS, THE SUBJECT IS JACQUES, WHICH WOULD
14 MEAN JACQUES RIPOLL.

15 Q. AND HE TELLS YOU HE JUST FINISHED MEETING WITH
16 HIM. HE IMMEDIATELY TOLD ME HOW GREAT MY REPUTATION
17 WITH THE FRENCH -- HOW GREAT WITH THE FRENCH WAS -- HOW
18 GREAT MY REPUTATION WITH THE FRENCH WAS, AND HOW GREAT
19 I AM WITH CLIENTS. AND HOW WONDERFUL A PORTFOLIO
20 MANAGER I AM.

10:57AM

21 CLEARLY, HE IS ATTEMPTING TO CREATE
22 ALLIES, AND IS STARTING THE DIVIDE AND CONQUER STRATEGY
23 I EXPECTED FROM STERN. AS YOU SAID, HE'S NOT GOING TO
24 SELL THE FIRM NOW.

10:58AM

25 THE MOST IMPORTANT THING TO HIM IS A
26 GROUP OF PEOPLE WHO ARE WILLING TO PLAY ALONG.

10:58AM

27 HE REITERATES THAT IF SOMEONE WAS
28 DESTRUCTIVE AND NOT WILLING TO PLAY BALL, HE DIDN'T

1 WANT HIM ON THE TEAM. IF THAT TEMPORARILY COSTS HIM
2 HALF THE ASSETS, HE DIDN'T REALLY CARE, AND WOULDN'T
3 EVEN NOTIFY ODEA OF THAT. SAID HE IS WILLING TO TAKE
4 TWO STEPS BACKWARD IN ORDER TO TAKE ONE STEP FORWARD.

5 THE MEETING WAS VERY CORDIAL. WE TALKED
6 ABOUT FRANCE, HIS FIVE KIDS, ET CETERA. STERN WALKED
7 IN DURING THE MEETING TO SHAKE MY HAND AND SAY HELLO.

10:58AM

8 MY GUESS IS THAT AFTER AN INITIAL FLURRY
9 OF ACTIVITY, HE WILL BECOME LESS ENGAGED AND ULTIMATELY
10 MOVE ON TO SOME OTHER POSITION WITHIN SG.

10:58AM

11 THAT'S WHAT MR. BARACH WROTE TO YOU AT
12 THE TIME?

13 A. YOU READ MOSTLY RIGHT, WITH A STUMBLE AT THE
14 BEGINNING, BUT YES.

15 Q. APOLOGIZE.

10:59AM

16 BUT YOU UNDERSTOOD THAT BARACH WAS
17 TELLING YOU THAT HE HAD THIS MEETING WITH MR. RIPOLL
18 WAS A CANDID MEETING, HE WAS PREPARED TO ACCEPT SOME
19 SHORT TERM LOSS?

20 A. I DON'T SEE HIM SAYING IT'S CANDID.

10:59AM

21 Q. WELL, HE REITERATED THAT SOMEONE WAS
22 DESTRUCTIVE AND NOT WILLING TO PLAY BALL, HE DIDN'T
23 WANT HIM ON THE TEAM.

24 DO YOU SEE THAT?

25 A. I SEE THAT.

10:59AM

26 BUT REALLY, HE'S NOT SAYING IT'S A
27 CANDID MEETING AT ALL. THE MOST IMPORTANT SENTENCE IS
28 WHAT HE THOUGHT ABOUT THE INTENT OF MY ROLE. CLEARLY

1 HE'S ATTEMPTING TO CREATE ALLIES, AND IS STARTING THE
2 DIVIDE AND CONQUER STRATEGY.

3 IF HE WAS CANDID, MR. RIPOLL WOULD HAVE
4 SAID, PHIL, I'M HERE TO DIVIDE AND CONCUR.

5 Q. BUT YOU UNDERSTOOD THAT MR. RIPOLL WAS TELLING
6 MR. BARACH, LOOK, THERE'S A PLACE FOR YOU HERE AT TCW?

10:59AM

7 A. I DON'T SEE HIM SAYING THAT.

8 Q. WELL, YOU UNDERSTOOD THAT THAT'S WHAT HE WAS
9 COMMUNICATING?

10 A. I GUESS SO.

10:59AM

11 Q. AND YOUR RESPONSE TO THIS IS, WHAT AN IDIOT,
12 RIGHT?

13 A. THAT'S RIGHT.

14 Q. AND MR. BARACH SAYS WORSE. HE THINKS I'M AN
15 IDIOT AND WOULD FALL FOR HIS FEEBLE ATTEMPT. IT WAS
16 INSULTING.

11:00AM

17 DO YOU SEE THAT?

18 A. DOESN'T SOUND LIKE HE THOUGHT IT WAS A CANDID
19 MEETING.

20 Q. DO YOU SEE THAT, SIR?

11:00AM

21 A. YES.

22 Q. AND THEN YOUR RESPONSE IS, PITIFUL. THE WHOLE
23 THING IS JUST PITIFUL. YOU DESERVE BETTER. I DESERVE
24 BETTER. WE DESERVE BETTER. IT'S REALLY AN EASY
25 DECISION NOW.

11:00AM

26 THAT'S WHAT YOU WROTE?

27 A. THAT'S RIGHT.

28 Q. AND YOU ARE TALKING HERE, WHEN YOU SAY IT'S

1 REALLY AN EASY DECISION NOW, YOU ARE TALKING ABOUT YOUR
2 DECISION, NOT TCW'S DECISION, CORRECT?

3 A. YES.

4 Q. NOW WHEN YOU SAY, NOW, IT'S REALLY AN EASY
5 DECISION NOW, IT'S CLEAR THAT THIS IS SOMETHING THAT
6 YOU HAD TALKED TO MR. BARACH ABOUT BEFORE, CORRECT?

7 A. I HAD HEARD ON SEPTEMBER 2ND THAT I WAS BEING
8 FIRED. WE TALKED ABOUT WHAT BAD SITUATION THAT MEANT.

9 WHEN I SHOOK MARC STERN'S HAND ON
10 SEPTEMBER 3RD, I DIDN'T THINK I WAS BEING FIRED. I
11 WASN'T BEING DISINGENUOUS. I WASN'T GOING ANYWHERE.

12 WHEN I SAW THIS E-MAIL, I LOOKED AT IT
13 AND I SAID, THEY ARE SENDING PEOPLE IN FROM PARIS NOW
14 TO WORK ON THE DIVIDE AND CONQUER STRATEGY. THEY ARE
15 FIRING ME. IT'S AN EASY DECISION NOW TO START A BACKUP
16 PLAN UNDER THE CONTINGENCY THAT I'M GOING TO BE FIRED.

17 THIS IS WHEN I REALIZED, AFTER THE
18 SEPTEMBER 3RD MEETING, THAT I REALLY WAS BEING FIRED.
19 IN THE SEPTEMBER 3RD MEETING, I THOUGHT THAT IF --
20 STERN TOLD ME I WASN'T BEING FIRED. AND THAT'S WHAT
21 THIS E-MAIL IS ABOUT.

22 Q. MY QUESTION WAS, WHEN YOU SAY IT'S AN EASY
23 DECISION NOW. IT'S TRUE, ISN'T IT, THAT THIS WAS A
24 SUBJECT YOU HAD SPOKEN WITH MR. BARACH ABOUT BEFORE,
25 CORRECT?

26 MR. HELM: VAGUE AND AMBIGUOUS.

27 THE COURT: JUST A MINUTE.

28 I'LL OVERRULE THE OBJECTION.

1 GO AHEAD.

2 THE WITNESS: ON SEPTEMBER 2ND --

3 THE COURT: LET HIM ANSWER THE QUESTION.

4 IF I OVERRULE IT, YOU MAY AS WELL GET AN
5 ANSWER TO IT.

11:02AM

6 THE WITNESS: ON SEPTEMBER 2ND, I TALKED TO
7 PEOPLE ABOUT IF WE'RE GOING TO BE FIRED, WE MIGHT NEED
8 A BACKUP PLAN --

9 THE COURT: ALL RIGHT, MR. GUNDLACH. FOCUS ON
10 THE QUESTION.

11:02AM

11 HAD YOU TALKED WITH PHIL BARACH BEFORE
12 ABOUT THESE TOPICS? THAT'S THE QUESTION. SO --

13 THE WITNESS: I THINK SO, YES.

14 THE COURT: THERE WE GO.

15 Q. BY MR. QUINN: AND WHEN YOU SAY IT'S AN EASY
16 DECISION NOW, WHEN YOU WROTE HIM, YOU CLEARLY EXPECTED
17 THAT HE WOULD KNOW WHAT YOU ARE TALKING ABOUT AS TO
18 WHAT'S THE EASY DECISION?

11:02AM

19 A. I THINK SO.

20 AND THAT'S TO START A BACKUP PLAN UNDER
21 THE CONTINGENCY THAT I'M BEING FIRED, BECAUSE NOW, I
22 REALLY THOUGHT AGAIN, MY GOODNESS, STERN LIED TO ME
23 SEPTEMBER 3RD.

11:02AM

24 MR. QUINN: YOUR HONOR --

25 THE COURT: GO AHEAD.

11:02AM

26 Q. BY MR. QUIN: MR. GUNDLACH, IF MY QUESTION
27 COULD BE FAIRLY ANSWERED YES OR NO, I'D ASK YOU TO DO
28 THAT, OKAY?

1 A. DO YOU HAVE ANOTHER QUESTION?

2 Q. AS OF DECEMBER 23RD, 2010, YOU DIDN'T KNOW
3 WHAT YOU WERE TALKING ABOUT, WHAT YOU WERE REFERRING
4 TO, WHEN YOU SAID IT'S AN EASY DECISION NOW?

5 MR. HELM: THE 23RD?

11:03AM

6 THE COURT: WAIT A MINUTE.

7 Q. BY MR. QUINN: AS OF SEPTEMBER 23RD, 2010,
8 WHEN YOUR DEPOSITION WAS TAKEN, YOU DIDN'T KNOW WHAT
9 YOU WERE REFERRING TO, WHEN YOU SAID IT'S AN EASY
10 DECISION NOW; ISN'T THAT TRUE?

11:03AM

11 A. IN THE COURSE OF PREPARING FOR THIS TRIAL, I
12 WENT AND PUT SOME OF THESE E-MAILS TOGETHER IN A WAY
13 THAT I WAS UNABLE TO DO FOR MY DEPOSITION, AND I
14 REALIZED THAT THE KEY THING TO TRIGGER ME ON THIS DAY
15 WAS THE RIPOLL THING. AND THEN I REMEMBERED.

11:03AM

16 Q. SIR, ISN'T IT TRUE THAT AS OF THE TIME YOUR
17 DEPOSITION WAS TAKEN WHEN YOU WERE ASKED ABOUT THIS, ON
18 SEPTEMBER 23RD, 2010, YOU DIDN'T KNOW WHAT DECISION YOU
19 WERE REFERRING TO; WASN'T THAT YOUR TESTIMONY?

20 A. I THINK SO, BECAUSE I -- IT WASN'T PRESENTED
21 TO ME IN A WAY THAT I COULD UNDERSTAND AND INTERPRET IT
22 PROPERLY, WHICH I'VE BEEN ABLE TO DO SUBSEQUENTLY.

11:04AM

23 Q. SO YOU -- DO YOU BELIEVE THAT YOUR MEMORY IS
24 BETTER NOW, ABOUT WHAT YOU MEANT WHEN YOU SAID IT'S AN
25 EASY DECISION NOW, THAT YOUR MEMORY ABOUT WHAT YOU
26 MEANT IS BETTER NOW THAN WHEN YOUR DEPOSITION WAS TAKEN
27 ON DECEMBER 23RD, 2010?

11:04AM

28 A. YES.

1 Q. AND THEN MR. BARACH RESPONDS, HE SAYS
2 (READING):

3 I AGREE. BUT AT LEAST NOW, WE
4 HAVE THE LUXURY OF TIME TO PLAN AND
5 PREPARE.

11:04AM

6 IS THAT WHAT HE WROTE TO YOU AT THAT
7 TIME?

8 A. YES.

9 Q. SO HE WRITES BACK, I AGREE.

10 DID YOU UNDERSTAND THAT TO MEAN THAT
11 MR. BARACH, AT LEAST AT THE TIME, KNEW WHAT YOU WERE
12 REFERRING TO WHEN YOU SAID, IT'S AN EASY DECISION NOW?

11:04AM

13 A. I THINK HE WAS AGREEING TO YOU DESERVE BETTER.

14 Q. I'M SORRY?

15 A. I THINK HE WAS AGREEING TO THE PHRASE, YOU
16 DESERVE BETTER.

11:05AM

17 Q. WELL, THE LAST THING THAT YOU WROTE IN YOUR
18 E-MAIL IS, IT'S AN EASY DECISION NOW. AND HE SAYS, I
19 AGREE.

20 READING THAT, DON'T YOU UNDERSTAND THAT
21 TO MEAN THAT MR. BARACH KNEW WHAT THE DECISION WAS THAT
22 YOU WERE THEN TALKING ABOUT?

11:05AM

23 MR. HELM: LACKS FOUNDATION.

24 THE COURT: SUSTAINED.

25 Q. BY MR. QUINN: WELL, YOU DIDN'T WRITE BACK TO
26 MR. BARACH, WHAT ARE YOU TALKING ABOUT, DID YOU? WHEN
27 HE SAYS, IT'S AN EASY DECISION NOW, YOU DIDN'T WRITE
28 BACK --

11:05AM

1 A. I DON'T KNOW. THERE COULD HAVE BEEN MORE
2 E-MAILS IN THE CHAIN. I DON'T KNOW.

3 Q. WELL, WE CERTAINLY DON'T SEE THAT HERE, DO WE,
4 WHEN HE SAYS IT'S -- WHEN YOU SAY IT'S REALLY AN EASY
5 DECISION NOW, HE DOESN'T WRITE BACK AND SAY, WHAT ARE
6 YOU TALKING ABOUT, RIGHT? 11:05AM

7 A. HE WRITES, I AGREE, BUT AT LEAST NOW, WE HAVE
8 THE LUXURY OF TIME TO PLAN AND PREPARE IT.

9 THAT'S WHAT HE WRITES BACK.

10 THERE MAY HAVE BEEN MORE CORRESPONDENCE.
11 I DON'T KNOW. 11:06AM

12 Q. BUT HE CERTAINLY, IN HIS RESPONSE, YOU DIDN'T
13 UNDERSTAND HIM TO INDICATE ANY UNCERTAINTY ABOUT WHAT
14 THE DECISION THAT YOU'RE REFERRING TO, CORRECT?

15 A. HE WROTE WHAT HE WROTE. 11:06AM

16 HE SAID, I AGREE, BUT AT LEAST NOW, WE
17 HAVE THE LUXURY OF TIME TO PLAN AND PREPARE.

18 THAT'S WHAT HE WROTE.

19 Q. I'M TALKING ABOUT YOUR UNDERSTANDING, SIR.

20 A. MY UNDERSTANDING WAS THAT -- 11:06AM

21 Q. YOUR UNDERSTANDING WAS THAT HE KNEW WHAT THE
22 DECISION WAS THAT YOU WERE REFERRING TO, CORRECT?

23 MR. HELM: LACKS FOUNDATION.

24 THE COURT: YOU CAN TESTIFY TO WHAT YOU
25 BELIEVED HE MEANT, WHATEVER YOUR UNDERSTANDING WAS. 11:06AM

26 THE WITNESS: I THINK -- WHAT I TOOK TO MEAN
27 WAS, HE'S SAYING AT LEAST WE HAVE TIME TO PLAN AND
28 PREPARE A BACKUP PLAN IN CASE WE'RE FIRED.

1 Q. BY MR. QUINN: WELL, IT WAS THE LUXURY OF --
2 IT WAS SOMETHING THAT INVOLVED THE TIME TO DO
3 SOMETHING, RIGHT, LUXURY OF TIME TO PLAN AND PREPARE TO
4 DO SOMETHING.

5 WOULD YOU AGREE WITH THAT?

11:07AM

6 THE WITNESS: YES.

7 AND I THINK IT WAS TO SET UP A BACKUP
8 PLAN UNDER A CONTINGENCY THAT I WAS BEING FIRED.

9 Q. BY MR. QUINN: TO DO SOMETHING THAT WOULD
10 BENEFIT FROM PLANNING AND PREPARING, CORRECT?

11:07AM

11 A. THE BACKUP PLAN IN CASE I WAS BEING FIRED,
12 WHICH LOOKED LIKE WAS REALLY HAPPENING AGAIN.

13 Q. THE REASON WHY YOU THOUGHT YOU NOW HAD THE
14 LUXURY OF TIME TO PLAN AND PREPARE WAS THAT YOU HAD
15 GONE TO SEE MR. STERN, YOU HAD SHAKEN HIS HAND, AND YOU
16 SAID YOU WERE GOING TO TRY TO SEE HIM MORE IN THE
17 FUTURE AS HIS PERSONALITY MORE OF A GLASS HALF FULL
18 THAN GLASS HALF EMPTY, RIGHT?

11:07AM

19 A. TOTALLY WRONG. THAT HAS NOT SOMETHING TO DO
20 WITH THIS E-MAIL. KATHY STERN'S HAND HAS NOTHING TO
21 DID WITH THIS E-MAIL.

11:07AM

22 Q. YOU WANTED HIM TO THINK THAT THERE WAS NOTHING
23 UP, SO YOU WOULD HAVE THE LUXURY OF TIME TO PLAN AND
24 PREPARE?

25 MR. HELM: ASKED AND ANSWERED, YOUR HONOR.

11:07AM

26 THE COURT: SUSTAINED.

27 Q. BY MR. QUINN: WELL, YOU UNDERSTAND, SIR, THAT
28 SAYING THAT YOU DON'T RECALL WHAT HE WAS REFERRING TO,

1 WHEN YOU ACTUALLY DO RECALL WHAT HE WAS REFERRING TO,
2 IS NOT TESTIFYING TRUTHFULLY?

3 MR. HELM: ARGUMENTATIVE.

4 THE COURT: SUSTAINED.

5 MR. QUINN, IT MISCHARACTERIZES WHAT HE
6 JUST TOLD US. SO JUST ASK THE QUESTIONS AND MOVE ON,
7 PLEASE.

11:08AM

8 Q. BY MR. QUINN: I'D NOW LIKE TO PLAY THE
9 WITNESS' DEPOSITION, YOUR HONOR, FROM ONE OF THE
10 PASSAGES FROM THE ORIGINAL CLIP THAT WE DID NOT PLAY.

11:08AM

11 WE RESERVED IT EXPRESSLY?

12 THE COURT: WHAT PAGE AND LINE, PLEASE?

13 MR. QUINN: THIS IS FROM PAGE 308, LINE 2,
14 THROUGH 310, 2.

15 AND THIS IS A PART OF THE SERIES OF
16 CLIPS THAT WERE APPROVED BY THE COURT.

11:08AM

17 MR. HELM: SAY IT AGAIN.

18 THE COURT: 308, 2 TO 310, 2.

19 MR. QUINN: I'M SORRY, 309 -- 310, 2, YES.
20 310, 2.

11:09AM

21 THE COURT: ALL RIGHT. IF THIS -- CAN YOU
22 JUST CHECK THE RULINGS ON THEM? IF THIS HAS PREVIOUSLY
23 BEEN ADDRESSED, LET'S NOT GO THROUGH --

24 MR. HELM: YOUR HONOR, CUMULATIVE AND
25 NONIMPEACHING.

11:09AM

26 THE COURT: WOULD YOU GO GET THE NOTEBOOK
27 THAT'S ON THE FLOOR ON THE RIGHT SIDE.

28 WHAT IS YOUR OBJECTION, MR. HELM?

1 MR. HELM: CUMULATIVE AND NONIMPEACHING, YOUR
2 HONOR.

3 THE COURT: NOT IMPEACHING, I DON'T THINK IS
4 RELEVANT.

5 EXCUSE ME, LADIES AND GENTLEMEN.

11:10AM

6 MR. HELM: YOUR HONOR, AFTER FURTHER
7 CONSULTATION WITH COUNSEL, WE WITHDRAW THE OBJECTION.

8 THE COURT: WELL, I FOUND THE BOOK.

9 ALL RIGHT. LET'S GO AHEAD.

10 MR. BRIAN: I'LL TAKE THE FALL. WE HAD
11 DISCUSSED THIS PREVIOUSLY, AND I HAD FORGOTTEN.

11:11AM

12 THE COURT: THAT'S ALL RIGHT.

13
14 (VIDEOTAPE OF JEFFREY GUNDLACH'S DEPOSITION PLAYED)

15
16 Q. BY MR. QUINN: MR. GUNDLACH, I'D LIKE TO NOW
17 TALK ABOUT PLANNING AND PREPARING.

11:12AM

18 AND IF YOU WOULD LOOK PLEASE AT EXHIBIT
19 273, I THINK IT'S -- I'M NOT SURE IF THIS IS IN
20 EVIDENCE, YOUR HONOR, 273?

11:13AM

21 THE CLERK: NO, IT'S NOT.

22 MR. QUINN: IS THIS AN E-MAIL THAT
23 MS. VANEVERY WROTE TO YOU?

24 THE WITNESS: THAT'S WHAT IT LOOKS LIKE.

25 MR. QUINN: WE'D OFFER THIS, YOUR HONOR.

11:13AM

26 MR. HELM: NO OBJECTION.

27 THE COURT: IT WILL BE ADMITTED.
28

1 (EXHIBIT 273 ADMITTED.)

2

3 Q. BY MR. QUINN: AND THIS IS THE DAY AFTER THE
4 MEETING WITH MR. STERN OF SEPTEMBER 4, RIGHT?

5 A. YES.

11:13AM

6 Q. AND SHE SAYS (READING):

7 GOT A MESSAGE FROM LOREN THAT

8 ERIN FREEMAN REQUESTED A LIST OF

9 ALL TGLMX INVESTORS THIS WEEK. MAY

10 BE RELATED TO THE CALL, MOST LIKELY

11:13AM

11 NOT. I TOLD HIM TO TRY TO ACQUIRE

12 A COPY OF THE CONTACT LIST, OR I

13 WOULD TRY TO GET IT FROM NABIL.

14 DO YOU SEE THAT?

15 A. YES.

11:13AM

16 Q. AND LOREN, THAT'S LOREN FLECKENSTEIN WE TALKED
17 ABOUT EARLIER TODAY, THE COMMUNICATIONS PERSON IN YOUR
18 GROUP?

19 A. PROBABLY.

20 Q. AND LOREN FLECKENSTEIN IS SOMEONE WHO HAS GONE
21 OVER TO DOUBLELINE, CORRECT?

11:14AM

22 A. LOREN IS AN EMPLOYEE OF DOUBLELINE.

23 Q. AND MS. VANEVERY DID, IN FACT, GET A COPY OF
24 THAT CONTACT LIST; ISN'T THAT TRUE?

25 A. I DON'T KNOW.

11:14AM

26 Q. LET'S TAKE A LOOK AT EXHIBIT 287.

27 NOW, PEOPLE IN YOUR LINE OF WORK, THAT
28 MANAGE ASSETS, LIKE TO TALK ABOUT THEIR TRACK RECORD;

1 ISN'T THAT TRUE?

2 A. I DON'T KNOW IF THEY LIKE TO TALK ABOUT IT.
3 DEPENDS IF IT'S GOOD OR NOT.

4 Q. WELL, FAIR POINT.

5 IF YOU HAVE A GOOD TRACK RECORD, YOU
6 LIKE TO TALK ABOUT IT?

11:14AM

7 A. SOMETIMES THAT'S DANGEROUS, TOO.

8 Q. SIR, YOU HAD A GOOD TRACK RECORD, AND YOU
9 LIKED TO TALK ABOUT YOUR TRACK RECORD, TRUE?

10 A. SURE. YEAH.

11:14AM

11 Q. AND YOU KNOW THAT THERE ARE REQUIREMENTS, IF
12 YOU WERE TO LEAVE TCW, START YOUR OWN BUSINESS, OR GO
13 SOMEPLACE ELSE, THAT IF YOU WANTED TO USE YOUR -- IN
14 YOUR MARKETING, IF YOU WANTED TO USE YOUR TRACK RECORD
15 FROM YOUR TIME AT TCW, YOU KNOW THAT THERE ARE SEC
16 RULES THAT APPLY TO THAT, CORRECT?

11:15AM

17 A. YES AND NO.

18 CERTAINLY MAJOR PARTS OF THE BUSINESS
19 HAVE NO SEC RULES ABOUT TRACK RECORDS.

20 I THINK THERE ARE PROBABLY SEC RULES
21 GOING TO MUTUAL FUNDS. I'M NOT REALLY SURE ABOUT THAT.

11:15AM

22 Q. BUT YOU KNOW THAT THERE ARE SEC RULES THAT SAY
23 IF YOU WANT TO USE YOUR TRACK RECORD, YOU HAVE GOT TO
24 HAVE CERTAIN PAPER REQUIREMENTS IN YOUR POSSESSION,
25 RIGHT?

11:15AM

26 A. I DON'T THINK THAT'S TRUE.

27 Q. I MEAN, YOU HAVE TO HAVE SOME DOCUMENTATION,
28 SOME BACKUP DOCUMENTATION, ABOUT YOUR HISTORY; ISN'T

1 THAT TRUE?

2 A. I DON'T THINK IT'S TRUE. NO.

3 Q. SO YOU -- WHAT YOU ARE TELLING US IS, SO FAR
4 AS YOU ARE AWARE, THAT YOU DON'T HAVE TO HAVE ANY KIND
5 OF RECORDS AT ALL, IN ORDER TO USE YOUR TRACK RECORD AT
6 A NEW EMPLOYER; IS THAT TRUE?

11:16AM

7 A. NO. YOU ARE TALKING ABOUT SEC, IS THE WAY YOU
8 ARE FRAMING THE QUESTION.

9 Q. OKAY.

10 SO WHAT IS THE NATURE OF THE FIRM OR THE
11 ENTITY THAT APPLIES THESE -- ISSUES THESE REQUIREMENTS
12 ABOUT HAVING RECORDS, IF YOU WANT TO USE YOUR TRACK
13 RECORD?

11:16AM

14 A. THEY ARE NOT -- THERE'S A BOARD CALLED GIPS.
15 I'M NOT SURE WHAT GIPS STANDS FOR. IT'S G-I-P-S, AND
16 THEY PUT OUT LOTS OF OPINIONS ABOUT INDUSTRY STANDARDS.

11:16AM

17 Q. SO THAT'S THE GLOBAL INVESTMENT PERFORMANCE
18 STANDARDS?

19 A. IT COULD BE. IT SOUNDS CERTAINLY PLAUSIBLE.

20 Q. ALL RIGHT. SO YOU KNOW THAT UNDER THESE
21 STANDARDS, IF YOU ARE GOING TO USE YOUR TRACK RECORD,
22 THERE ARE CERTAIN RECORDS THAT YOU HAVE TO HAVE IN YOUR
23 POSSESSION, TRUE?

11:16AM

24 A. TO CLAIM GIPS COMPLIANCE, YOU NEED TO BE ABLE
25 TO HAVE THE CLIENTS' STATEMENTS.

11:17AM

26 Q. SIR, YOU KNOW THERE ARE CERTAIN RECORDKEEPING
27 REQUIREMENTS, IF YOU WANT TO USE THE TRACK RECORD;
28 ISN'T THAT TRUE?

1 MR. HELM: ASKED AND ANSWERED.

2 THE COURT: SUSTAINED.

3 Q. BY MR. QUINN: WELL, IF WE LOOK AT THIS
4 EXHIBIT 287, THIS IS AN E-MAIL EXCHANGE BETWEEN AND YOU
5 MS. VANEVERY?

11:17AM

6 A. YES.

7 MR. QUINN: I'D OFFER THAT.

8 MR. HELM: NO OBJECTION.

9 THE COURT: IT WILL BE -- I THOUGHT IT WAS --
10 287 WILL BE ADMITTED.

11:17AM

11 MR. QUINN: 287.

12 THE COURT: I'VE GOT IT.

13

14 (EXHIBIT 287 ADMITTED.)

15

11:17AM

16 Q. BY MR. QUINN: IF WE COULD START AT THE
17 BOTTOM. THIS IS ON SEPTEMBER 11TH MS. VANEVERY WRITES
18 YOU, (READING):

19 MIKE ISN'T DOING ANYTHING ALL
20 DAY.

11:18AM

21 NOW, MIKE IS MS. VANEVERY'S
22 BROTHER, RIGHT?

23 A. YES.

24 Q. (READING):

25 WHAT DO YOU THINK ABOUT ME

11:18AM

26 HAVING HIM START ENTERING THE TRADE

27 TICKETS INTO SPREADSHEETS, AND I

28 WILL JUST PAY HIM? THAT WAY, IT

1 MAY BE PUT TOGETHER, UP AND RUNNING
2 BY JANUARY, RIGHT?

3 A. THAT'S WHAT IT SAYS.

4 Q. NOW, THESE TRADE TICKETS, THOSE WERE IN THOSE
5 RED BINDERS THAT THERE'S BEEN SOME TESTIMONY THAT YOU
6 TOOK OUT OF THE FIGUEROA OFFICE, TWO AT A TIME?

11:18AM

7 A. YES, BUT THEY ARE NOT TRADE TICKETS.

8 Q. TRADE ORDERS?

9 A. PORTFOLIO TRADE ORDERS. THEY ARE NOT TICKETS;
10 THEY ARE TWO DIFFERENT THINGS.

11:18AM

11 AND THOSE ARE THE THINGS THAT YOU TOOK
12 OUT TWO AT A TIME FROM THE FIGUEROA OFFICE?

13 A. SOMETIMES, NOT ALWAYS TWO AT A TIME.

14 Q. AND SHE'S SUGGESTING THAT HER BROTHER MIKE
15 START ENTERING TRADE TICKETS INTO SPREADSHEETS, RIGHT?

11:18AM

16 A. YEAH. BUT THEY ARE NOT TRADE TICKETS.

17 Q. AND YOU RESPOND, (READING):

18 MIKE SOUNDS LIKE A GREAT
19 RESOURCE FOR THIS EXCITING PROJECT
20 THAT CAN OPEN UP NEW BUSINESS LINES
21 FOR TCW AND SG. I APPRECIATE YOUR
22 OFFERING TO GET IT STARTED OVER THE
23 WEEKEND. I WOULD NEVER HAVE DARED
24 ASK, BUT SINCE YOU HAVE OFFERED,
25 YES, LET'S MEET ON SUNDAY TO GET
26 THE PROJECT ROLLING.

11:19AM

27 OF COURSE, IF MONDAY IS BETTER
28 FOR YOU, JUST LET ME KNOW.

11:19AM

1 RIGHT?

2 A. THAT'S WHAT IT SAYS.

3 Q. NOW, THIS PROJECT DIDN'T HAVE ANYTHING TO DO
4 WITH NEW BUSINESS LINES FOR TCW AND SG, DID IT?

5 A. IT HAD THE POTENTIAL -- I THOUGHT IT HAD THE
6 POTENTIAL FOR IT TO BE A BUSINESS LINE, BUT I WAS
7 WRONG.

11:19AM

8 Q. AND ULTIMATELY, WITH THOSE TRADE ORDER BINDERS
9 OVER IN YOUR TCW OFFICE ON THE WEST SIDE IN THE WATER
10 GARDEN, YOU SAID THAT YOU LIKED HAVING THEM BECAUSE OF
11 SOME WEIRD EMOTIONAL ATTACHMENT, CORRECT?

11:19AM

12 A. THAT'S PART OF THE REASON THAT I WANTED THEM.
13 IT WAS A RECORD OF MY WORK. AND I HAD -- IT DID HAVE
14 SATISFACTION TO HAVE A COPY OF MY WORK, AND IT ALSO --
15 IT FELT SOMEWHAT EMPOWERING TO TAKE THOSE BINDERS OVER
16 TO THE WATER GARDEN, BECAUSE I WAS FEELING HELPLESS
17 THAT I WAS BEING FIRED, SO THAT WAS AN EMOTIONAL
18 SATISFACTION.

11:20AM

19 Q. SO YOU ARE TELLING US THAT IT HAD NOTHING
20 WHATSOEVER TO DO WITH THE IDEA OF HAVING BACKUP SO THAT
21 YOU COULD USE YOUR TCW TRACK RECORD AT YOUR NEW FIRM;
22 IS THAT WHAT YOU ARE TELLING US?

11:20AM

23 A. I AM SAYING THAT BECAUSE, LET ME TELL YOU
24 SOMETHING, YOU CANNOT MAKE A TRACK RECORD OUT OF THE
25 DATA IN THOSE BINDERS. IT'S NOT MATHEMATICALLY
26 POSSIBLE. IT CAN'T BE DONE.

11:20AM

27 AND EVEN IF YOU COULD DO IT, IT WOULD
28 NOT BE COMPLIANT WITH INDUSTRY STANDARDS. YOU CANNOT

1 MAKE A TRACK RECORD OUT OF THE INFORMATION IN THOSE
2 BINDERS. IT CAN'T BE DONE.

3 SO IT'S NO POSSIBLE WAY THAT THAT WAS MY
4 MOTIVATION.

5 Q. SO YOUR MOTIVATION WAS THE EMOTIONAL
6 SATISFACTION OF HAVING THEM?

11:21AM

7 A. TWO THINGS. IT WAS EMOTIONALLY SATISFYING TO
8 TAKE THEM OVER THERE, AND I WANTED A RECORD OF MY WORK.

9 THESE ARE BASICALLY NOTES THAT I MAKE
10 WHEN I DO TRADES, AND THEY ARE OF NO VALUE TO ANYBODY
11 BUT ME. ONE OF THE REASONS IS, MY WRITING IS
12 IMPOSSIBLE TO READ. HALF THE TIME, I CAN'T EVEN READ
13 IT.

11:21AM

14 BUT IT ALSO ONLY IS HELPFUL IF YOU KNOW
15 EVERYTHING THAT HAPPENED IN THE MARKETS OVER THAT
16 25-YEAR PERIOD IN CONJUNCTION WITH THE NOTES THAT I
17 TOOK ON THOSE PIECES OF PAPER.

11:21AM

18 Q. MR. GUNDLACH, I'D LIKE TO READ TO YOU FROM THE
19 TRIAL TESTIMONY OF CRIS -- IN THIS TRIAL, CRIS
20 SANTA ANA ON AUGUST 8TH, FROM THE FINAL TRANSCRIPT,
21 PAGES 1832, LINES 16 TO 22.

11:21AM

22 THE COURT: PAGE 1832?

23 MR. QUINN: PAGE 1832, LINES 16 TO 22.

24 AND MY QUESTION TO YOU IS GOING TO BE,
25 WHETHER YOU MADE THIS STATEMENT, YES OR NO.

11:22AM

26 QUESTION TO MR. SANTA ANA, BEING ASKED
27 BY MR. HELM. (READING):

28 "Q SO WHAT INFORMATION DID

1 MR. GUNDLACH SAY HE WANTED TO
2 HAVE AVAILABLE?

3 "A JEFFREY ASKED FOR
4 CONTACTS, CONTRACTS, BOARD OF
5 DIRECTOR CONTACTS, COPIES OF THE 11:22AM
6 RED BOOKS WHICH HAD THE TRADE
7 ORDERS, HOLDINGS. AND I THINK HE
8 MADE A BLANKET STATEMENT,
9 SOMETHING TO THE EFFECT, AND
10 ANYTHING ELSE YOU MIGHT THINK WE 11:22AM
11 WOULD NEED."

12 DID YOU MAKE THAT STATEMENT TO
13 MR. SANTA ANA, SIR? YES OR NO.

14 A. IN ITS TOTALITY, NO.

15 Q. SO MR. SANTA ANA IS JUST MISTAKEN? 11:22AM

16 A. IF YOU WANT TO GO THROUGH THE PIECES OF THAT,
17 IT MIGHT BE HELPFUL FOR THE JURY, BUT I DID NOT MAKE
18 THAT STATEMENT IN ITS TOTALITY.

19 Q. YOU ARE AWARE OF MR. SANTA ANA'S TESTIMONY
20 THAT AFTER THIS LAWSUIT WAS FILED IN JANUARY, BECAUSE 11:23AM
21 OF THINGS YOU SAID OUT ON THE DOUBLELINE TRADING FLOOR,
22 THAT HE FELT HE WAS PUT OUT ON A LIMB?

23 ARE YOU AWARE OF THAT TESTIMONY?

24 A. NO.

25 Q. I'M SORRY? 11:23AM

26 A. NO, I'M NOT.

27 Q. WOULD YOU TAKE A LOOK AT EXHIBIT 551.

28 I BELIEVE THIS IS IN EVIDENCE. IF WE

1 COULD PUT THAT UP ON THE SCREEN.

2 E-MAIL FROM MS. VANEVERY TO YOU DATED
3 DECEMBER 6TH.

4 THIS IS TWO DAYS AFTER YOU WERE PUT ON
5 ADMINISTRATIVE LEAVE, CORRECT?

11:23AM

6 A. TWO DAYS AFTER I WAS FIRED FROM TCW, CORRECT.

7 Q. THAT HAPPENED -- YOU SAY FIRED, WE SAY
8 ADMINISTRATIVE LEAVE, ON THE 4TH.

9 BUT THAT HAPPENED ON DECEMBER 4, A
10 FRIDAY, CORRECT?

11:24AM

11 A. YEAH. I WAS CHASED OUT OF THE BUILDING AND
12 LOCKED OUT. AND THE PRESS ANNOUNCED THAT I WAS FIRED,
13 RIGHT, DECEMBER 4TH.

14 Q. AND ON SUNDAY, TWO DAYS LATER, MS. VANEVERY
15 SENT YOU THIS E-MAIL SAYING, I FOUND WHAT YOU NEEDED.

11:24AM

16 DO YOU SEE THAT?

17 A. YES.

18 Q. AND ATTACHED TO THAT IS A LONG LIST OF CONTACT
19 INFORMATION, CORRECT?

20 A. THERE'S AN ATTACHMENT, IT'S CALLED PARTICIPANT
21 LIST, CONFERENCE CALL AND WEBCAST, GUNDLACH 9-9-09.

11:24AM

22 I SHOULD HAVE KNOWN THAT WAS AN UNLUCKY
23 NUMBER.

24 Q. AND IT GOES FROM PAGE 8686 TO 8743, CORRECT?

25 A. EIGHT WHAT?

11:24AM

26 Q. I'M LOOKING AT THE BATES NUMBERS, DOWN AT THE
27 BOTTOM.

28 8686 THROUGH 8743, CORRECT?

1 THE COURT: LET'S TAKE REFERENCE TO THE TRIAL
2 EXHIBIT PAGES, IF WE COULD DO THAT.

3 MR. QUINN: TRIAL EXHIBIT PAGES ARE 551-1.

4 Q. AND PERHAPS YOU COULD TELL ME, MR. GUNDLACH,
5 WHAT'S THE TRIAL EXHIBIT NUMBER OF THE LAST PAGE OF THE
6 DOCUMENT, 551 DASH?

11:25AM

7 A. 58.

8 Q. SO IT'S 58 PAGES ATTACHED, CORRECT?

9 A. IT PRINTS OUT IN 58 PAGES, YEAH.

10 Q. WOULD YOU TAKE A LOOK AT EXHIBIT 1270.

11:25AM

11 THIS IS UP AT THE TOP, WE HAVE AN E-MAIL
12 THAT YOU WROTE TO A REPORTER.

13 A. IT'S NOT TO A REPORTER.

14 Q. WHO IS ERIC JACOBSON?

15 A. HE'S AN EMPLOYEE OF MORNINGSTAR.

11:26AM

16 MR. QUINN: WE'D OFFER THIS, YOUR HONOR.

17 MR. HELM: JUST A MOMENT, IF I COULD, YOUR
18 HONOR.

19 NO OBJECTION, YOUR HONOR.

20 THE COURT: IT WILL BE ADMITTED.

11:26AM

21
22 (EXHIBIT 1270 ADMITTED.)

23
24 Q. BY MR. QUINN: AND IF WE COULD LOOK UP AT THE
25 E-MAIL AT THE TOP, THIS IS DATED DECEMBER 14TH,
26 CORRECT?

11:26AM

27 A. YES.

28 THAT'S THE DATE WE FOUNDED DOUBLELINE.

1 Q. AND WHAT YOU SAY HERE IN WRITING TO
2 MR. JACOBSON IS, AND I QUOTE, (READING:)

3 AS YOU KNOW, DOUBLELINE HAS NO
4 FILES OR INFORMATION WHATSOEVER
5 THAT TCW CAN CLAIM TO BE ITS OWN.

11:26AM

6 DO YOU SEE THAT?

7 A. YES.

8 Q. AND THAT WAS NOT A TRUE STATEMENT AS OF
9 DECEMBER 14TH, WAS IT?

10 A. I THOUGHT IT WAS TRUE. YES. I THOUGHT IT WAS
11 TRUE.

11:27AM

12 Q. SO YOU THOUGHT IT WAS TRUE.

13 YOU KNOW IT WAS NOT TRUE; ISN'T THAT
14 TRUE?

15 MR. HELM: ASKED AND ANSWERED, YOUR HONOR.

11:27AM

16 THE WITNESS: I KNOW NOW.

17 THE COURT: I'LL ALLOW HIM TO ANSWER.

18 THE WITNESS: I KNOW NOW THAT SOME PEOPLE HAD
19 FILES.

20 BUT WHEN I MADE THAT STATEMENT, I HAD A
21 POLICY IN PLACE OF NONUSE OF TCW INFORMATION, AND I HAD
22 NO FILES.

11:27AM

23 Q. BY MR. QUINN: SO IT CAME AS A COMPLETE
24 SURPRISE TO YOU THAT MR. SANTA ANA, MR. MAYBERRY AND JP
25 HAD TAKEN TCW INFORMATION? THAT CAME AS A COMPLETE
26 SURPRISE TO YOU?

11:27AM

27 MR. HELM: ASSUMES FACTS NOT IN EVIDENCE, YOUR
28 HONOR.

1 THE COURT: SUSTAINED.

2 YOU HAVE GOT -- GO AHEAD, MR. QUINN.

3 Q. BY MR. QUINN: WOULD IT BE -- ARE YOU SAYING
4 THAT AS OF DECEMBER 14, YOU HAD NO IDEA THAT
5 MR. SANTA ANA, MR. MAYBERRY AND JP HAD ANY TCW
6 INFORMATION? IS THAT WHAT YOU ARE TELLING US?

11:27AM

7 MR. HELM: SAME OBJECTION.

8 THE COURT: I'LL ALLOW HIM TO ANSWER THAT.

9 GO AHEAD.

10 THE WITNESS: I DON'T THINK -- I DIDN'T KNOW
11 THAT ANYBODY AT DOUBLELINE HAD ANY TCW INFORMATION ON
12 DECEMBER 14TH.

11:28AM

13 AND I DON'T THINK MR. SANTA ANA HAD ANY
14 TCW INFORMATION ON DECEMBER 14TH.

15 I -- I KNOW NOW THAT JP DID, BUT I
16 DIDN'T KNOW THAT ON DECEMBER 14TH.

11:28AM

17 Q. DID YOU THINK THAT -- DID YOU HAVE AN
18 UNDERSTANDING ONE WAY OR ANOTHER AS TO WHETHER THEY HAD
19 COMPLIED WITH ANY INSTRUCTIONS THAT YOU GAVE THEM AT
20 TCW ABOUT TAKING INFORMATION?

11:28AM

21 A. YES.

22 Q. AND WHAT WAS YOUR UNDERSTANDING ABOUT WHETHER
23 THEY HAD COMPLIED WITH ANY INSTRUCTIONS YOU HAD MADE?

24 A. I KNEW THAT I HAD HAD A COPY OF THE RED BOOKS
25 THAT I'D ASKED CRIS TO GET COPIED FOR ME, BUT I DIDN'T
26 HAVE THEM ON DECEMBER 5TH, LET ALONE DECEMBER 14TH.

11:29AM

27 Q. WAS THAT THE FULL EXTENT OF YOUR KNOWLEDGE
28 ABOUT THEIR COMPLIANCE WITH INSTRUCTIONS THAT YOU HAD

1 GIVEN THEM?

2 A. I DIDN'T KNOW ANYTHING ABOUT JP.

3 CRIS, I THOUGHT HAD GIVEN ALL OF THE
4 WHATEVER INFORMATION THAT HE HAD DOWNLOADED BACK TO
5 TCW, AND I THINK HE HAD.

11:29AM

6 AND MAYBERRY, I DIDN'T KNOW ANYTHING
7 ABOUT.

8 Q. TAKE A LOOK AT EXHIBIT 771, PLEASE.

9 IS THIS AN -- AT THE BOTTOM, WE HAVE A
10 LETTER THAT YOU SENT OUT.

11:29AM

11 IT'S SIGNED BY YOU?

12 A. YES.

13 Q. AND THEN THERE'S A RESPONSE THERE TO YOUR
14 LETTER, CORRECT?

15 A. I'VE NEVER SEEN THIS BEFORE, OKAY.

11:30AM

16 IT WAS SENT TO DOUBLELINE CAPITAL. I'M
17 NOT SURE WHAT THAT IS.

18 Q. IT'S AN E-MAIL RESPONSE TO YOUR LETTER,
19 CORRECT?

20 A. I DON'T KNOW. IT LOOKS LIKE IT.

11:30AM

21 MR. QUINN: I'D OFFER THAT, YOUR HONOR.

22 MR. HELM: THE TOP IS HEARSAY, YOUR HONOR.

23 THE COURT: SUSTAINED. UNLESS THERE'S SOME
24 FOUNDATION.

25 Q. BY MR. QUINN: WELL, YOU SENT OUT A LETTER ON
26 DOUBLELINE LETTERHEAD, RIGHT?

11:30AM

27 A. YES.

28 Q. AND YOU RECEIVED A RESPONSE, DOUBLELINE --

1 DOUBLELINE RECEIVES A RESPONSE FROM KEVIN JOHNSON,
2 RIGHT?

3 A. SOUNDS LIKE A PSEUDONYM TO ME.

4 Q. THIS IS A DOCUMENT, DO YOU SEE THE DOUBLELINE
5 BATES NUMBER IN THE LOWER RIGHT-HAND CORNER, DBL?

11:30AM

6 A. YES.

7 MR. QUINN: I'D OFFER IT, YOUR HONOR.

8 MR. HELM: SAME OBJECTION.

9 THE COURT: SUSTAINED.

10 Q. BY MR. QUINN: DID YOU EVER HEAR THAT ANY
11 RECIPIENT OF YOUR LETTER HAD COMPLAINED THAT DOUBLELINE
12 WAS USING TCW'S E-MAIL LISTS?

11:31AM

13 DID YOU EVER HEAR THAT?

14 MR. HELM: OBJECTION.

15 THE COURT: SUSTAINED.

11:31AM

16 MR. QUINN: HIS STATE OF MIND, YOUR HONOR, HIS
17 KNOWLEDGE.

18 THE COURT: YOU CAN ANSWER IT, YES OR NO, IF
19 YOU EVER HEARD SUCH A STATEMENT.

20 THE WITNESS: I NEVER HEARD SUCH A STATEMENT.
21 MY STATE OF MIND IS THAT I THINK --

11:31AM

22 THE COURT: STICK WITH WHAT YOU ARE -- YOU ARE
23 DOING FINE, WHEN YOU ANSWER, AND WE'LL GO FROM THERE.

24 Q. BY MR. QUINN: LET'S TAKE A LOOK AT EXHIBIT
25 1237.

11:31AM

26 IS THIS AN E-MAIL THAT YOU WROTE TO JEFF
27 MAYBERRY?

28 A. YES.

1 MR. QUINN: I WOULD OFFER THAT.

2 MR. HELM: NO OBJECTION.

3 THE COURT: IT WILL BE ADMITTED.

4

5 (EXHIBIT 1237 ADMITTED.)

11:31AM

6

7 Q. BY MR. QUINN: IT'S AN E-MAIL THAT YOU
8 WROTE --

9 IF WE COULD JUST ENLARGE THE TOP
10 THERE --

11:32AM

11 -- THAT YOU WROTE MR. MAYBERRY ON
12 JANUARY 27TH, 2010.

13 THIS E-MAIL IS WRITTEN AFTER TCW HAD
14 FILED THIS LAWSUIT, CORRECT?

15 A. YES.

11:32AM

16 Q. AND MR. MAYBERRY IS SOMEBODY YOU HAD WORKED
17 WITH FOR HOW MANY YEARS AT TCW?

18 A. I DON'T KNOW. I DON'T KNOW SPECIFICALLY.

19 HE HAD WORKED WITH ME FOR A FEW YEARS,
20 AT LEAST.

11:32AM

21 Q. AND HE HAD NOW COME OVER TO DOUBLELINE?

22 A. JEFFREY MAYBERRY IS NOW AN EMPLOYEE OF
23 DOUBBLELINE.

24 Q. AND AT THE TIME YOU WROTE THIS E-MAIL, YOU
25 KNEW MR. MAYBERRY HAD BEEN NAMED AS A DEFENDANT IN THIS
26 LAWSUIT, CORRECT?

11:32AM

27 A. YES.

28 Q. AND WHAT YOU WROTE HIM IS (READING):

1 MAYBERRY, I'VE NOT TAKEN THE
2 TIME TO SIT DOWN WITH YOU REALLY AT
3 ALL, ONE ON ONE, SINCE DECEMBER 4.

4 I JUST REALIZE THAT NOW, I'M JUST
5 BEING HONEST WITH YOU. I'VE BEEN
6 SO BOGGLED UP IN THIS WHOLE
7 SITUATION. I'VE BEEN GOING FULL
8 OUT TO TRY TO BE DOUBLELINE'S FACE
9 TO THE WORLD, SO THAT CLIENTS AND
10 PROSPECTS WOULD NOT FORGET ABOUT
11 US. I THINK I SUCCEEDED, BUT NOT
12 IN THE WAY I HOPED.

11:32AM

11:33AM

13 I TOLD YOU YEARS AGO THAT I THINK
14 YOU HAVE A TALENT FEW HAVE. YOU
15 CAN MAKE IT IN THIS BUSINESS, AND I
16 WANT TO HELP YOU MAKE IT. I WISH
17 YOU HAD BEEN AT THE MEETING TODAY.
18 CAN YOU MEET WITH ME ONE ON ONE
19 SOMETIME TOMORROW, PLEASE? I OWE
20 YOU AN APOLOGY. I NOW REALIZE AND
21 I'M HOPING THAT YOU CAN ACCEPT IT.

11:33AM

11:33AM

22 DO YOU SEE THAT?

23 A. YOU GOT IT CLOSE, THE WORD "THAT" ISN'T IN THE
24 LAST SENTENCE.

25 Q. I APOLOGIZE.

11:33AM

26 NOW, WERE YOU CONCERNED, AT THIS POINT,
27 THAT MR. MAYBERRY MIGHT TURN ON YOU?

28 A. NO.

1 Q. I MEAN, YOU WOULD AGREE WITH ME, WOULDN'T YOU,
2 THAT IT WOULD BE WRONG, COMPLETELY WRONG, TO LET
3 SOMEONE ELSE TAKE THE BLAME ALONE FOR SOMETHING YOU HAD
4 ASKED THEM TO DO.

5 WOULD YOU AGREE WITH THAT?

11:34AM

6 MR. HELM: ARGUMENTATIVE.

7 THE COURT: SUSTAINED.

8 Q. BY MR. QUINN: HAD YOU EVER WRITTEN AN E-MAIL
9 LIKE THIS TO MR. MAYBERRY BEFORE?

10 A. WHAT DO YOU MEAN, "LIKE THIS"?

11:34AM

11 Q. SAYING, I TOLD YOU YEARS AGO, I TOLD YOU YOU
12 HAVE A TALENT FEW HAVE. YOU CAN MAKE IT IN THIS
13 BUSINESS. I WANT TO HELP YOU MAKE IT.

14 A. I DOUBT I NEVER WROTE HIM THAT IN AN E-MAIL
15 BEFORE.

11:34AM

16 Q. LET ME JUST ASK YOU ABOUT A CONVERSATION LAST
17 WEEK.

18 DID YOU TALK TO A REPORTER FROM THE
19 NEW YORK TIMES LAST WEEK?

20 A. I'M NOT SURE IT WAS LAST WEEK.

11:34AM

21 Q. OR THE WEEK BEFORE?

22 A. YES.

23 Q. AND DID YOU SAY TO THAT REPORTER, WHEN THEY
24 FIRED ME EVERYBODY WAS SCARED TO DEATH, EVERYBODY AT
25 THE FIRM DOWNLOADED ALL THEIR WORK, EVERYBODY.

11:35AM

26 DID YOU SAY THAT TO A NEW YORK TIMES
27 REPORTER?

28 A. NO.

1 Q. SO THAT WOULD BE A MISQUOTE?

2 MR. HELM: OBJECTION. DOCUMENT IS HEARSAY.

3 THE COURT: SUSTAINED.

4 Q. BY MR. QUINN: I MEAN, YOU CERTAINLY, YOU
5 WOULD NOT MEAN TO -- YOU WOULD NOT -- IS IT YOUR VIEW
6 THAT WHAT MR. SANTA ANA AND JP AND MR. MAYBERRY DID WAS
7 NO DIFFERENT THAN WHAT OTHER PEOPLE AT TCW WERE DOING?

11:35AM

8 MR. BRIAN: VAGUE AND AMBIGUOUS ABOUT WHAT HE
9 MEANS.

10 THE COURT: SUSTAINED.

11:35AM

11 Q. BY MR. QUINN: WELL, IN TERMS OF -- I MEAN,
12 YOU ARE AWARE THERE'S BEEN TESTIMONY ABOUT DOWNLOADING
13 OR BACKING UP ONTO PORTABLE DEVICES?

14 YOU ARE AWARE OF THAT, AREN'T YOU?

15 A. YES.

11:36AM

16 Q. AND IS IT YOUR VIEW, ARE YOU TELLING US THAT
17 WHAT WAS DONE IN THAT REGARD IS NO DIFFERENT THAN WHAT
18 EVERYBODY ELSE AT TCW WAS DOING?

19 MR. HELM: ARGUMENTATIVE, VAGUE AND AMBIGUOUS.

20 THE COURT: SUSTAINED.

11:36AM

21 Q. BY MR. QUINN: ARE YOU AWARE OF ANYONE BESIDES
22 MR. -- THOSE INDIVIDUALS WHO DOWNLOADED OR BACKED UP 50
23 GIGABYTES OF INFORMATION ONTO A PORTABLE HARD DRIVE IN
24 THE FALL OF 2009?

25 A. I'M NOT AWARE OF THAT.

11:36AM

26 Q. COULD WE LOOK PLEASE AT EXHIBIT 314.

27 THIS IS AN E-MAIL BETWEEN YOU AND
28 MR. BRAINARD OF STUDLEY.

1 A. IT'S FROM MR. BRAINARD TO ME.

2 MR. QUINN: WE'D OFFER THAT.

3 MR. HELM: NO OBJECTION, YOUR HONOR.

4 THE COURT: IT WILL BE ADMITTED.

5 11:37AM

6 (EXHIBIT 314 ADMITTED.)

7
8 Q. BY MR. QUINN: SO ON SEPTEMBER 29TH,
9 MR. BRAINARD, HE'S THE INDIVIDUAL FROM STUDLEY,
10 CORRECT?

11 11:37AM

12 A. I BELIEVE HE STILL WORKS AT STUDLEY. HE DID
13 THEN.

14 Q. HE WROTE YOU AND SAID, JEFFREY, THANK YOU VERY
15 MUCH FOR REFERRING BARBARA MY WAY, RIGHT?

16 A. THAT'S RIGHT.

17 11:37AM

18 Q. SO YOU REFERRED MS. VANEVERY TO MR. BRAINARD
19 AT STUDLEY ON OR BEFORE SEPTEMBER 29TH, 2009, CORRECT?

20 A. PROBABLY ON, BUT YES.

21 Q. WE LOOK AT EXHIBIT 366.

22 IS THIS THE -- A CERTIFIED COPY OF THE
23 CERTIFICATE OF FORMATION OF ABLE GRAPE?

24 11:37AM

25 A. THAT'S WHAT IT LOOKS LIKE.

26 I'M NOT FAMILIAR WITH THE TYPES OF
27 DOCUMENTS.

28 MR. QUINN: WE'D OFFER THAT, YOUR HONOR.

11:38AM

MR. HELM: NO OBJECTION.

THE COURT: IT WILL BE ADMITTED.

1 (EXHIBIT 366 ADMITTED.)

2

3 Q. BY MR. QUINN: AND THAT IS DATED OCTOBER 23RD,
4 2009?

5 A. YES, 10:59 A.M.

11:38AM

6 Q. AND THEN EXHIBIT 363, I BELIEVE THIS IS
7 ALREADY IN EVIDENCE.

8 SOMEBODY CORRECT ME, PLEASE, IF I'M
9 WRONG, IF IT IS?

10 THE COURT: THREE -- 363 IS IN EVIDENCE.

11:38AM

11 MR. QUINN: YES.

12 Q. AND THIS IS THE OPERATING AGREEMENT OF ABLE
13 GRAPE?

14 A. THAT'S WHAT IT SAYS.

15 Q. IF YOU WOULD LOOK AT THE SECOND PAGE. 363,
16 363-2, YOU ARE IDENTIFIED AS THE SOLE MEMBER OF ABLE
17 GRAPE, CORRECT?

11:38AM

18 A. SOLE MEMBER, RIGHT.

19 Q. AND YOU UNDERSTAND THAT FOR LLC'S, LIMITED
20 LIABILITY COMPANIES, THEY DON'T HAVE SHAREHOLDERS, THEY
21 HAVE WHAT THE LAW CALLS MEMBERS.

11:38AM

22 DO YOU UNDERSTAND THAT?

23 A. IF YOU SAY SO.

24 I'M NOT AN EXPERT ON THIS STUFF.

25 I DIDN'T KNOW THAT, BUT I HAVE NO REASON
26 TO DISBELIEVE YOU.

11:39AM

27 Q. WELL, YOU SIGNED THIS DOCUMENT, DIDN'T YOU?
28 IF WE LOOK AT EXHIBIT 363-6, IS THAT YOUR SIGNATURE

1 THERE?

2 A. I CAN GUARANTEE YOU, I NEVER READ THIS THING.

3 Q. SIR, IS THAT YOUR SIGNATURE AT PAGE 363-6?

4 A. LOOKS LIKE IT.

5 Q. YOU DON'T HAVE ANY DOUBT ABOUT IT, DO YOU?

11:39AM

6 A. IT DOESN'T LOOK LIKE MY SIGNATURE. I PROBABLY
7 SIGNED IT.

8 Q. AND THEN 363-7 LISTS THE OFFICERS: MR. WARD,
9 MS. VANEVERY, MR. SANTA ANA, CORRECT?

10 A. THAT'S WHAT IT SAYS.

11:39AM

11 Q. AND THEN 363-8 SHOWS THAT YOU HAVE A 100
12 PERCENT INTEREST IN ABLE GRAPE?

13 A. THAT'S WHAT IT SAYS.

14 Q. AND THEN YOU ENGAGED A LAW FIRM IN NEW YORK TO
15 HELP GET ABLE GRAPE UP AND RUNNING, CORRECT?

11:39AM

16 A. I KNOW THAT NOW.

17 I DON'T HAVE MUCH RECOLLECTION OF THAT
18 HAPPENING.

19 Q. WELL, TAKE A LOOK AT EXHIBIT 1184.

20 AND I'D ASK YOU IF YOU WOULD TURN TO THE
21 LAST PAGE OF THAT. IT'S 1184 DASH -- WHAT'S THE
22 EXHIBIT NUMBER, THE LAST PAGE?

11:40AM

23 A. SEVEN.

24 Q. 1184-7, IS THAT YOUR SIGNATURE THERE?

25 A. LOOKS LIKE IT.

11:40AM

26 MR. QUINN: I'D OFFER THIS, YOUR HONOR.

27 MR. HELM: NO OBJECTION.

28 THE COURT: IT WILL BE ADMITTED.

(EXHIBIT 1184 ADMITTED.)

Q. BY MR. QUINN: SO IF WE COULD GO BACK TO THE FIRST PAGE, THIS IS A LAW FIRM -- FIRST, IF WE CAN SHOW YOU THE SIGNATURE THERE ON THE LAST PAGE, THIS IS AN ENGAGEMENT LETTER OF A LAW FIRM IN NEW YORK CITY CALLED CADWALADER, SIGNED BY YOU ON OCTOBER 23, 2009, CORRECT?

11:40AM

A. IT'S AN ENGAGEMENT LETTER? I GUESS SO.

Q. WELL, LET'S LOOK -- THAT IS YOUR SIGNATURE?

11:41AM

A. LOOKS LIKE IT.

Q. AND IF WE CAN LOOK AT THE FIRST PAGE, IT SAYS, THANK YOU FOR ENGAGING CADWALADER, WICKERSHAM AND TAFT, LLP, A LIMITED LIABILITY PARTNERSHIP, TO REPRESENT ABLE GRAPE, THE COMPANY, RIGHT?

11:41AM

DO YOU SEE THAT?

A. YES.

Q. AND UNDER SCOPE OF ENGAGEMENT IT SAYS,
(READING):

THE COMPANY HAS ENGAGED
CADWALADER IN CONNECTION WITH THE
COMPANY'S INITIAL LIMITED LIABILITY
COMPANY AGREEMENT AND CERTAIN
REGULATORY FILINGS IN CONNECTION
WITH THE COMPANY'S PROPOSED
BUSINESS.

11:41AM

DO YOU SEE THAT?

A. YES.

11:41AM

1 Q. BY MR. QUINN: AND THOSE REGULATORY FILINGS
2 THAT YOU WERE ENGAGING THE CADWALADER FIRM TO DO, WERE
3 FILINGS WITH THE SEC PURSUANT TO THE INVESTMENT COMPANY
4 ACT OF 1940, SO THAT ABLE GRAPE OR ITS SUCCESSOR COULD
5 ENGAGE IN THE MONEY MANAGEMENT GROUP; IS THAT TRUE?

11:41AM

6 MR. HELM: LACKS FOUNDATION.

7 THE COURT: I'LL SUSTAIN.

8 YOU CAN LAY THE FOUNDATION.

9 Q. BY MR. QUINN: WELL, THESE REGULATORY FILINGS
10 HERE -- MY QUESTION TO YOU IS, THOSE WERE GOING TO BE
11 FILINGS WITH THE SEC IN CONNECTION WITH A MONEY
12 MANAGEMENT BUSINESS, RIGHT?

11:42AM

13 MR. HELM: LACKS FOUNDATION.

14 MR. QUINN: HE SIGNED THE DOCUMENT.

15 THE COURT: OKAY. HE SIGNED IT.

11:42AM

16 BUT ASK HIM WHAT HE KNOWS ABOUT IT.

17 MR. QUINN: I'M ASKING.

18 THE COURT: GO AHEAD.

19 Q. BY MR. QUINN: ISN'T THAT WHAT THOSE FILINGS
20 WERE?

11:42AM

21 A. I DON'T KNOW.

22 Q. SO YOU ARE SAYING THAT YOU JUST DON'T KNOW
23 WHAT FILINGS ARE REFERRED TO HERE?

24 A. RIGHT. I DON'T KNOW.

25 Q. DO YOU KNOW WHETHER OR NOT A MONEY MANAGEMENT
26 BUSINESS HAS TO BE REGISTERED WITH SEC?

11:42AM

27 A. I'M EMBARRASSED TO SAY, I DIDN'T KNOW THAT
28 UNTIL AFTER DECEMBER 4TH, 2009.

1 Q. WELL, TO LOOK AT EXHIBIT 386, THIS IS ANOTHER
2 DOCUMENT SIGNED BY YOU, CORRECT?

3 A. LOOKS LIKE MY SIGNATURE, YES.

4 MR. QUINN: WE'D OFFER THAT.

5 THE COURT: WELL, IT'S NUMBER 386?

11:42AM

6 MR. QUINN: 386.

7 MR. HELM: NO OBJECTION.

8 THE COURT: IT WILL BE ADMITTED.

9
10 (EXHIBIT 386 ADMITTED.)

11:42AM

11
12 Q. BY MR. QUINN: AND THIS IS AN APPLICATION FOR
13 AN EMPLOYER IDENTIFICATION NUMBER WHICH YOU SIGNED ON
14 OCTOBER 27TH, 2009, CORRECT?

15 A. YES.

11:43AM

16 Q. AND THEN IF WE COULD LOOK AT EXHIBIT 377, THIS
17 IS AN E-MAIL BETWEEN YOU AND MS. VANEVERY, DATED
18 OCTOBER 26TH?

19 A. YES.

20 MR. QUINN: WE'D OFFER THAT.

11:43AM

21 MR. HELM: NO OBJECTION.

22 THE COURT: IT WILL BE ADMITTED.

23
24 (EXHIBIT 377 ADMITTED.)

11:43AM

25
26 Q. BY MR. QUINN: THIS RELATES TO VIEWING SPACE
27 FOR ABLE GRAPE, CORRECT?

28 A. MAYBE. FOR MATT BRAINARD.

1 Q. WELL, TO LOOK AT EXHIBIT 386, THIS IS ANOTHER
2 DOCUMENT SIGNED BY YOU, CORRECT?

3 A. LOOKS LIKE MY SIGNATURE, YES.

4 MR. QUINN: WE'D OFFER THAT.

5 THE COURT: WELL, IT'S NUMBER 386?

11:42AM

6 MR. QUINN: 386.

7 MR. HELM: NO OBJECTION.

8 THE COURT: IT WILL BE ADMITTED.

9
10 (EXHIBIT 386 ADMITTED.)

11:42AM

11
12 Q. BY MR. QUINN: AND THIS IS AN APPLICATION FOR
13 AN EMPLOYER IDENTIFICATION NUMBER WHICH YOU SIGNED ON
14 OCTOBER 27TH, 2009, CORRECT?

15 A. YES.

11:43AM

16 Q. AND THEN IF WE COULD LOOK AT EXHIBIT 377, THIS
17 IS AN E-MAIL BETWEEN YOU AND MS. VANEVERY, DATED
18 OCTOBER 26TH?

19 A. YES.

20 MR. QUINN: WE'D OFFER THAT.

11:43AM

21 MR. HELM: NO OBJECTION.

22 THE COURT: IT WILL BE ADMITTED.

23
24 (EXHIBIT 377 ADMITTED.)

11:43AM

25
26 Q. BY MR. QUINN: THIS RELATES TO VIEWING SPACE
27 FOR ABLE GRAPE, CORRECT?

28 A. MAYBE. FOR MATT BRAINARD.

1 I DON'T KNOW WHAT THAT MEANS.

2 WE DID LOOK AT SPACE IN SANTA MONICA.

3 Q. WERE YOU LOOKING FOR ANY COMMERCIAL SPACE
4 OTHER THAN FOR ABLE GRAPE, IN THE OCTOBER 2009 TIME
5 FRAME?

11:43AM

6 A. I WASN'T LOOKING AT IT LIKE FOR ABLE GRAPE. I
7 WAS LOOKING AT SPACE AS A WAY OF INVESTIGATING WHAT IT
8 WOULD TAKE TO SET UP THE FIRM'S -- MY BACKUP PLAN FROM
9 BEING FIRED.

10 Q. WERE YOU LOOKING AT SPACE FOR ANY PURPOSE
11 OTHER THAN THAT?

11:43AM

12 A. NO.

13 Q. AND THEN EXHIBIT 399, THIS IS ANOTHER E-MAIL
14 BETWEEN AND YOU MS. VANEVERY?

15 A. YES.

11:44AM

16 MR. QUINN: AND WE'D OFFER THAT, YOUR HONOR.

17 MR. HELM: JUST A MOMENT.

18 THE COURT: ANY OBJECTION?

19 MR. HELM: WELL, RELEVANCE, YOUR HONOR.

20 MR. QUINN: SECOND LINE.

11:44AM

21 THE WITNESS: HOLD ON.

22 MR. HELM: I SEE.

23 NO OBJECTION, YOUR HONOR.

24 THE COURT: I'LL ADMIT IT.

25
26 (EXHIBIT 399 ADMITTED.)

11:44AM

27
28 MR. QUINN: IF WE COULD PUT THAT UP ON THE

1 SCREEN.

2 Q. THIS IS NOVEMBER 1ST.

3 AND YOU WRITE TO MS. VANEVERY, MATT
4 SHOULD KEEP MOVING FORWARD, FOR SURE.

5 DO YOU SEE THAT?

11:44AM

6 A. YES.

7 Q. AND THAT'S MATT BRAINARD OF THE STUDLEY FIRM,
8 CORRECT?

9 A. VERY LIKELY.

10 Q. IF WE COULD LOOK NOW SWITCH TO 22A,
11 MS. O'CONNOR.

11:45AM

12 IF WE COULD LOOK AT, DURING THIS PROCESS
13 HERE, IN THE FALL OF 2009, YOU FOR THE FIRST TIME,
14 INITIATED WHAT YOU TERMED A TEAM BUILDING EVENT,
15 CORRECT?

11:45AM

16 A. THAT'S NOT CORRECT.

17 Q. WELL, YOU ORGANIZED A TRIP TO MARFA, TEXAS?

18 A. YES, I DID.

19 Q. AND THIS IS THE FIRST TIME YOU HAD -- YOU
20 PERSONALLY HAD INITIATED SOMETHING LIKE THAT, CORRECT?

11:45AM

21 A. I GUESS SO.

22 WE HAD TEAM BUILDING STUFF PREVIOUSLY;
23 BUT THIS ONE, I WAS -- I DIRECTLY ORGANIZED IT MYSELF.

24 Q. AND THAT'S THE FIRST TIME YOU DID THAT?

25 A. I'M NOT SURE ABOUT THAT.

11:45AM

26 Q. THE FIRST TIME YOU INITIATED A TEAM BUILDING
27 EXERCISE LIKE THAT?

28 A. I'M NOT SURE OF THAT.

1 I WORKED AT TCW 25 YEARS. I CAN'T SAY
2 THAT WAS THE FIRST TIME. IT MAY HAVE BEEN THE 10TH. I
3 DON'T KNOW.

4 MR. QUINN: IF WE COULD LOOK AT THE WITNESS'
5 DEPOSITION, YOUR HONOR, PAGE -- IF I CAN JUST HAVE A
6 MOMENT, YOUR HONOR. PAGE 908, LINE 21, THROUGH 909,
7 LINE 1.

8 MR. HELM: NO OBJECTION.

9 THE COURT: YOU MAY PROCEED.

10 ARE YOU GOING TO READ IT, OR ARE WE
11 GOING TO SEE IT?

12 MR. QUINN: I'LL READ IT.

13 THE COURT: ALL RIGHT.

14 Q. BY MR. QUINN: (READING):

15 SO THAT WAS THE FIRST TEAM
16 BUILDING EXERCISE YOU HAD EVER DONE
17 IN 24 YEARS?

18 "A WELL, NO, NOT REALLY,
19 BECAUSE LOU HAD DONE THEM, YOU
20 KNOW, '05, MAYBE '06, MAYBE '07.
21 AND I DON'T KNOW, I -- BUT YEAH,
22 THAT WAS THE FIRST ONE THAT I EVER
23 INITIATED, THAT'S RIGHT.

24 AND IF WE COULD LOOK AT EXHIBIT 327.

25 I'M NOT SURE IF THIS IS IN EVIDENCE,
26 YOUR HONOR.

27 IS THIS AN E-MAIL SENT TO YOU AND OTHER
28 FOLKS THAT WENT ON THE MARFA TRIP?

1 A. I THINK SO, YEAH.

2 MR. QUINN: WE'D OFFER THIS.

3 MR. HELM: NO OBJECTION.

4 THE COURT: IT WILL BE ADMITTED.

5
6 (EXHIBIT 327 ADMITTED.)
7

8 Q. BY MR. QUINN: AND THIS IS AN E-MAIL, THE
9 BOTTOM ONE, DATED SEPTEMBER 29, TO THE FOLKS LISTED
10 THERE, OFFERING THEM TO AN EXPENSE PAID TRIP TO MARFA,
11 TEXAS.

12 DO YOU SEE THAT?

13 A. YES.

14 Q. AND ALL THOSE INDIVIDUALS ENDED UP GOING TO
15 DOUBLELINE. ONE PERSON WAS ONLY THERE FOR A DAY, AND
16 WENT BACK TO TCW, BUT ALL THE OTHER INVITEES THERE
17 ENDED UP AT DOUBLELINE; ISN'T THAT CORRECT?

18 A. YES.

19 Q. AND THIS IS A TRIP THAT YOU CHARGED TO TCW,
20 CORRECT?

21 A. I THINK SO.

22 Q. AND YOU WOULD AGREE, WOULDN'T YOU, THAT
23 BUILDING YOUR OWN PERSONAL TEAM WITHIN TCW, WITH THE
24 IDEA OF TAKING THEM WITH YOU TO START A NEW BUSINESS,
25 AND CHARGING THAT TO TCW, THAT WOULD NOT BE
26 APPROPRIATE.

27 WOULD YOU AGREE WITH THAT?

28 A. YEAH, I THINK I WOULD AGREE WITH THAT.

1 Q. AND IF WE COULD LOOK AT EXHIBIT 1804 IS IN
2 EVIDENCE, YOUR HONOR.

3 THIS IS ON NOVEMBER 15TH, 2009.

4 DO YOU RECALL THAT YOU INVITED
5 MR. SANTA ANA AND MR. MAYBERRY TO YOUR OFFICE ON THE
6 WEST SIDE FOR SOME \$329 OF WARMUP BOTTLES OF WINE,
7 HUNDRED-YEAR-OLD HAVANA CIGARS AND EXOTIC CHEESE,
8 INCLUDING CHEESE WITH TWO MILKINGS, LAYERED MORNING
9 MILKING AND EVENING MILKING?

11:49AM

10 DO YOU RECALL THAT?

11:49AM

11 A. I THINK YOU ARE EXAGGERATING THAT A LOT.

12 BUT IF YOU WANT TO TAKE THEM IN PIECES,
13 WE CAN DO THAT.

14 Q. WELL, IF WE LOOK AT THE FIRST PAGE THERE,
15 NOVEMBER 15TH, YOU WROTE TO THEM, (READING):

11:50AM

16 HOW ABOUT A LITTLE WINE AND
17 CHEESE AND SAUSAGE AND PORT, CUBAN
18 CIGAR. I HAVE THE BEST VINTAGE OF
19 THE 20TH CENTURY, RATED 100 POINTS.

20 DO YOU SEE THAT?

11:50AM

21 A. IT'S STILL UNOPENED.

22 Q. I'M SORRY?

23 A. THE PORT IS STILL UNOPENED, TO THIS DATE.

24 Q. AND UP ON THE TOP, YOU TALK ABOUT THE CHEESES,
25 INCLUDING THE DAY AND EVENING CHEESES, TWO DIFFERENT
26 MILKINGS.

11:50AM

27 DO YOU SEE THAT?

28 A. I SEE THAT ABOUT DAY AND EVENING.

1 I LIKE THAT CHEESE. IT'S GOOD.

2 Q. YOU ARE TREATING THESE -- NOW, MR. SANTA ANA
3 AND MR. MAYBERRY, AT THIS POINT, DID YOU KNOW THAT
4 MR. SANTA ANA WAS, YOU KNOW, BACKING UP OR DOWNLOADING
5 THIS DATA, AT THE TIME THAT YOU INVITED THEM TO THIS?

11:50AM

6 A. NO.

7 Q. HOW MUCH -- THERE'S PETRUS WINE WE'VE HEARD
8 REFERENCE TO, THAT COULD COST THOUSANDS OF DOLLARS A
9 BOTTLE, CORRECT?

10 A. PETRUS WINE?

11:51AM

11 Q. YES.

12 A. WHAT DOES IT HAVE TO DO WITH THIS E-MAIL?

13 Q. PETRUS WINE. YOU'VE HAD PETRUS WINE WITH
14 MR. SANTA ANA AS WELL, CORRECT?

15 MR. HELM: OBJECTION. RELEVANCE.

11:51AM

16 THE COURT: SUSTAINED.

17 LET'S KEEP ON TRACK WITH ONE THING OR
18 THE OTHER.

19 MR. QUINN: ALL RIGHT.

20 Q. ANYWAY, YOU DID HAVE THIS EVENT WITH THESE TWO
21 FOLKS IN THAT TIME PERIOD, CORRECT?

11:51AM

22 A. I DID.

23 WE HAD ONE BOTTLE OF WINE THAT I
24 BROUGHT. IT WAS \$60, ACTUALLY.

25 THERE WAS NO PETRUS. WE DID THE CHEESE.
26 AND I'M NOT SURE IF MAYBERRY BROUGHT SAUSAGE OR NOT.
27 HE PROBABLY DID. WE DIDN'T HAVE ANY CIGARS. AND WE
28 TALKED ABOUT ART. AND WE WENT HOME.

11:51AM

1 Q. AND YOU SAY, BY THE WAY, THIS IS ANYTHING BUT
2 A COME ONE, COME ALL EVENT, SO PLEASE KEEP IT ON THE
3 DOWN LOW.

4 DO YOU SEE THAT?

5 A. THAT'S WHAT IT SAYS.

11:52AM

6 Q. AND MR. SANTA ANA SAID THAT -- HIS TESTIMONY
7 WAS, HE HAD NEVER DONE ANYTHING LIKE THIS WITH YOU
8 BEFORE.

9 WOULD YOU DISAGREE WITH THAT?

10 A. NO, I'D AGREE WITH THAT.

11:52AM

11 Q. AND -- ALL RIGHT. SO LET'S SET THIS ASIDE,
12 CHANGE THE SUBJECT.

13 DID YOU, IN THIS TIME FRAME, ALSO DRINK
14 WITH MR. SANTA ANA, SOME PETRUS WINE?

15 MR. HELM: OBJECTION. RELEVANCE, 352.

11:52AM

16 THE COURT: NO. OVERRULED.

17 YOU CAN ANSWER THE QUESTION, AND THEN
18 WE'LL MOVE ON.

19 THE WITNESS: YEAH, I HAD A GLASS OF PETRUS
20 WINE WITH MR. SANTA ANA, SOMEWHERE IN OCTOBER.

11:52AM

21 Q. BY MR. QUINN: ALL RIGHT. AND IT'S TRUE THAT
22 PETRUS WINE CAN COST THOUSANDS OF DOLLARS A BOTTLE?

23 A. I DON'T KNOW. YOU TELL ME.

24 I THINK IT'S EXPENSIVE WINE. IT'S GONE
25 UP A LOT IN VALUE IN THE LAST TWO YEARS, PARTICULARLY
26 WITH THE DEMAND FROM THE CHINESE.

11:52AM

27 Q. SO YOU JUST DON'T KNOW IF THAT'S TRUE OR NOT?

28 A. I'VE SEEN SALES OF PETRUS WINE TALKED ABOUT ON

1 THE NEWS THAT CAN BE THOUSANDS -- TENS OF THOUSANDS OF
2 DOLLARS. IT'S REALLY EXPENSIVE.

3 Q. BUT NOT HUNDREDS OF MILLIONS?

4 A. NO. YOU WERE SHOWING YOUR HYPERBOLE THERE IN
5 THE OPENING STATEMENT. THERE WAS A LOT OF IT.

11:53AM

6 Q. IF WE CAN LOOK AT EXHIBIT 1120.

7 I MEAN, IN THE PAST, PRIOR TO THIS FALL
8 OF 2009, ISN'T IT TRUE THAT YOU HAD BEEN UNWILLING TO
9 DO TEAM BUILDING EVENTS?

10 A. NOT AS A RULE, NO.

11:53AM

11 Q. LET'S TAKE A LOOK AT EXHIBIT 1120.

12 IS THIS AN E-MAIL BETWEEN YOU AND
13 MS. STUHFF?

14 A. YES.

15 MR. QUINN: WE'D OFFER THAT.

11:53AM

16 MR. HELM: NO OBJECTION, YOUR HONOR.

17 THE COURT: IT WILL BE ADMITTED.

18
19 (EXHIBIT 1120 ADMITTED.)

11:53AM

20
21 Q. BY MR. QUINN: SO SHE'S WRITING YOU AND A
22 WHOLE LIST OF PEOPLE HERE ABOUT AN UPCOMING LEADERSHIP
23 CONFERENCE, AND ASKING THEM ABOUT WHAT EVENTS THEY WANT
24 TO ATTEND?

25 A. THAT'S WHAT IT LOOKS LIKE.

11:54AM

26 Q. AND IF WE COULD LOOK AT YOUR RESPONSE UP AT
27 THE TOP.

28 IT SAYS, YOU SAY, (READING):

1 I HAVE TRIED TO RESPOND, BUT
2 THERE SEEMS TO BE A GLITCH
3 SOMEWHERE IN THE SYSTEM. SO LET ME
4 JUST TELL YOU, I NEED HOTEL
5 ACCOMMODATIONS WEDNESDAY AND
6 THURSDAY NIGHT. I WANT TO SIGN UP
7 FOR THE YOGA CLASS. I AM UNWILLING
8 TO DO ANY TEAM BUILDING ACTIVITIES,
9 SO PLEASE MAKE SURE I'M NOT PLACED
10 ON ANY TEAM IN THIS REGARD.

11:54AM

11 THANKS.

11:54AM

12 IS THAT WHAT YOU WROTE?

13 A. THAT'S WHAT IT SAYS. WE'D HAD TEAM BUILDING
14 THE YEAR BEFORE, IN THE OFFSITE RETREAT. AND IT WAS SO
15 PAINFUL THAT I DIDN'T WANT TO DO IT AGAIN. IT WAS LIKE
16 STUFF YOU WOULD DO IN KINDERGARTEN.

11:54AM

17 YOU HAD THAT WALK AROUND THE PROPERTY
18 AND THEY'D SAY WHAT COLOR IS THE SWINGSET NEXT TO THE
19 POOL THAT'S SHAPED LIKE A CRESCENT MOON. AND THIS KIND
20 OF STUFF. AND I WAS JUST LIKE THIS, TO ME, IS NOT
21 ENJOYABLE, AND I DIDN'T WANT TO DO IT AGAIN.

11:55AM

22 Q. SO AFTER DECEMBER 4TH -- THAT VERY NEXT WEEK,
23 WITH THE ASSISTANCE OF THAT CONTACT LIST THAT
24 MS. VANEVERY FOUND FOR YOU, YOU ORGANIZED A CONFERENCE
25 CALL, CORRECT?

11:55AM

26 A. WE ORGANIZED A CONFERENCE CALL ON
27 DECEMBER 8TH, 2009.

28 Q. AND YOU WERE ABLE TO INVITE ABOUT A THOUSAND

1 PEOPLE?

2 A. OH, WE INVITED PROBABLY A MILLION PEOPLE. WE
3 HAD IT ADVERTISED ON BLOOMBERG, WHICH IS A BIG NEWS
4 SERVICE. AND WE ALSO WANTED TO GET INVITES TO PEOPLE
5 WHO WERE CLAMORING FOR INFORMATION. AND SO WE --
6 BARBARA HAPPENED TO HAVE -- SHE NEVER STOLE ANYTHING
7 LIKE THIS. SHE NEVER STOLE ANYTHING. SHE HAPPENED TO
8 HAVE A WEBCAST FROM 9-9-09, WHO WAS ON THE WEBCAST.
9 AND I FIGURED, LET'S INVITE THOSE PEOPLE.

11:55AM

10 EVERY SINGLE PERSON, IT SEEMS, I HAD
11 INVESTED MONEY FOR, WAS CALLING ME UP, CLAMORING FOR
12 INFORMATION. SO I FIGURED THEY WOULD BENEFIT FROM THE
13 INFORMATION; SO I TOLD HER TO USE THE WEBCAST LIST.

11:56AM

14 Q. AND THERE WAS ABOUT A THOUSAND PEOPLE ON THAT?

15 A. I DON'T KNOW.

11:56AM

16 Q. AND THAT'S A LIST -- THAT WEBCAST LIST IS A
17 LIST THAT ACTUALLY TCW HAS PAID FOR, RIGHT?

18 A. I GUESS SO.

19 Q. AND YOU HAD ANOTHER CALL, THEN, ON
20 DECEMBER 22ND? IS THAT TRUE?

11:56AM

21 A. NOT FOR A MUTUAL FUND, NO.

22 Q. WELL, DID YOU HAVE A CALL WITH INVESTORS ON
23 DECEMBER 22ND?

24 A. I THINK WE DID A CALL FOR THE DISTRESSED FUNDS
25 ON DECEMBER 22ND.

11:57AM

26 Q. AND --

27 A. THE ADVISORY COMMITTEE THAT ADVISED THE
28 DISTRESSED FUND WANTED ME TO HAVE IT.

1 Q. AND ONE OF THE THINGS THAT YOU TOLD FOLKS WITH
2 THAT CALL IS THAT WE HIRED THE THREE FINEST PROGRAMMERS
3 IN THE TCW TEAM, AND THEY ARE HARD AT WORK REBUILDING,
4 AND BEYOND THAT, IMPROVING THE TECHNOLOGY PLATFORM THAT
5 WE HAD IN PLACE.

11:57AM

6 IN FACT, I'M TOLD BY MY CHIEF OPERATING
7 OFFICER, CRIS SANTA ANA, THAT WE EXPECT THAT THE
8 TECHNOLOGY PLATFORM WILL BE COMPLETELY REBUILT AND
9 ENHANCED BEFORE SUCH TIME AS WE RECEIVE THE
10 REGISTRATION FROM THE SEC AS AN INVESTMENT ADVISOR,
11 WHICH WE EXPECT TO RECEIVE IN EARLY JANUARY.

11:57AM

12 THAT'S WHAT YOU SAID ON DECEMBER 22ND?

13 A. I THINK SO.

14 STRANGELY, WE GOT THE SEC REGISTRATION
15 THE VERY NEXT DAY. SO I WAS WRONG IN THAT PREDICTION.

11:57AM

16 AND WE DID HAVE A LOT -- SOME OF THE
17 FUNCTIONALITY -- MOST OF THE FUNCTIONALITY OF THE
18 SYSTEMS IN PLACE AT DOUBLELINE IN JANUARY WEREN'T VERY
19 USER FRIENDLY, AND THE FUNCTIONALITY WAS THERE.

20 Q. ANOTHER THING YOU TOLD PEOPLE WAS THAT THE
21 ENTIRE TCW MORTGAGE TEAM IS NOW AT DOUBLELINE, EXCEPT
22 FOR A COUPLE OF INDIVIDUALS THAT HAVE GREEN CARD ISSUES
23 AND A COUPLE OF INDIVIDUALS WHO WERE TAKING THIS
24 OPPORTUNITY TO CULL OUT OF THE STAFF, FOR BASICALLY
25 LACK OF ADEQUATE PERFORMANCE.

11:58AM

26 SOME OF THE HIRES DIDN'T WORK OUT. I
27 THINK WE'VE EXPERIENCED THAT. WE'VE ALL EXPERIENCED
28 THAT IN OUR OWN OPERATIONS.

11:58AM

1 YOU SAID THAT, DIDN'T YOU?

2 A. I THINK I DID, YEAH.

3 Q. AND THAT SIMPLY WASN'T TRUE.

4 I MEAN, THERE WAS ERIC ARENTSEN, FOR
5 EXAMPLE, HE DIDN'T HAVE ANY GREEN CARD ISSUES, DID HE?

11:58AM

6 A. ERIC ARENTSEN IS SOMEBODY YOU MIGHT WANT TO
7 CULL OUT.

8 Q. I'M SORRY?

9 A. ERIC ARENTSEN IS SOMEBODY YOU MIGHT WANT TO
10 CULL OUT FROM THE GROUP.

11:58AM

11 Q. BUT HE RECEIVED AN OFFER FROM DOUBLELINE,
12 DIDN'T HE?

13 A. NOT FROM ME.

14 Q. YOU KNOW HE WAS APPROACHED BY ONE OF YOUR
15 COLLEAGUES, AND ASKED TO COME TO WORK AT DOUBLELINE;
16 ISN'T THAT TRUE?

11:59AM

17 A. I FOUND OUT ABOUT THAT LATER.

18 ERIC ARENTSEN HAD NOTHING DO WITH
19 MORTGAGE-BACKED SECURITIES AT ALL. HE WAS NOT AN
20 ANALYST. HE WAS NOT A TRADER. HE WAS NOT A PORTFOLIO
21 MANAGER. HE DID SPECIAL PROJECTS FOR THE GROUP.

11:59AM

22 HIS MOST RECENT PROJECT WAS REDESIGNING
23 THE TRADING ROOM. HE WAS NOT AN INVESTMENT PERSON.

24 Q. SO YOU ARE SAYING THAT HE HAD RECEIVED AN
25 OFFER, BUT THAT'S SOMETHING THAT WAS NOT AUTHORIZED BY
26 YOU; IS THAT WHAT YOU ARE SAYING?

11:59AM

27 A. THAT'S RIGHT.

28 Q. AND THERE WERE A NUMBER OF OTHER PEOPLE AT TCW

1 WHO RECEIVED OFFERS WHO DID NOT END UP GOING TO
2 DOUBLELINE; ISN'T THAT TRUE?

3 A. NOT VERY MANY.

4 THE ONLY TWO THAT I CAN REMEMBER IS
5 CLAUDE EARP (PHONETIC), WHO JOINED DOUBLELINE AND THEN
6 LEFT THREE TIMES; NOT ONCE, THREE TIMES.

11:59AM

7 AND MARK SIEGEL, WHO RAN KIND OF THE
8 ADMINISTRATION OF THE TREASURY BOND PORTFOLIOS.

9 THOSE ARE THE ONLY TWO.

10 Q. WELL, YOU SAID YOU DIDN'T KNOW THAT
11 MR. ARENTSEN HAD BEEN OFFERED A JOB BY ONE OF YOUR
12 COLLEAGUES; YOU DIDN'T KNOW THAT?

12:00PM

13 A. THAT'S RIGHT.

14 Q. SO IS IT POSSIBLE THERE WERE OTHER PEOPLE AT
15 TCW WHO WERE OFFERED JOBS AND YOU DIDN'T KNOW ABOUT?

12:00PM

16 A. IT'S POSSIBLE.

17 WE CAN GO THROUGH THE ORGANIZATIONAL
18 CHART AND TALK ABOUT IT, IF YOU WOULD LIKE.

19 Q. WAS DAN KALE OFFERED A JOB AT DOUBLELINE?

20 A. NO.

12:00PM

21 Q. AT LEAST SO FAR AS YOU KNOW?

22 A. I'M PRETTY SURE HE WASN'T, BECAUSE I REMEMBER
23 TALKING ABOUT IT.

24 Q. MELISSA CONN WAS OFFERED A JOB AT DOUBLELINE?

25 A. NO.

12:00PM

26 Q. JONATHAN MARCUS WAS OFFERED A JOB AT
27 DOUBLELINE?

28 A. NO.

1 Q. DAVID BROOKER OFFERED AT JOB AT DOUBLELINE?

2 A. I NEVER HEARD OF DAVID BROOKER.

3 Q. DUKE HEGER?

4 A. DUKE HEGER?

5 Q. OFFERED A JOB AT DOUBLELINE?

12:00PM

6 A. DUKE HEGER HAD NOTHING TO DO WITH THE FIXED
7 INCOME DEPARTMENT. YOU ARE BRINGING UP RANDOM NAMES OF
8 PEOPLE THAT AREN'T EVEN INVOLVED IN THE FIXED INCOME
9 BUSINESS.

10 Q. SO YOU ARE SAYING NONE OF THESE PEOPLE I'VE
11 IDENTIFIED WERE OFFERED JOBS AT DOUBLELINE?

12:00PM

12 A. NOR WAS MARC STERN.

13 YOU ARE BRINGING UP RANDOM NAMES OF
14 PEOPLE FROM TCW.

15 THESE ARE THE MORTGAGE GROUP. DUKE
16 HEGER WASN'T IN THE MORTGAGE GROUP.

12:01PM

17 I DON'T KNOW WHO DAVID BOOKER IS.

18 Q. SIR, SO FAR AS YOU KNOW, NONE OF THESE PEOPLE
19 WERE OFFERED JOBS AT DOUBLELINE; IS THAT TRUE?

20 A. YES.

12:01PM

21 Q. WHO WERE THE PEOPLE WITH GREEN CARD ISSUES
22 THAT YOU TOLD FOLKS YOU WERE LEAVING BEHIND
23 DELIBERATELY?

24 A. IT WASN'T DELIBERATELY.

25 THEY COULDN'T LEAVE. THEY HAD GREEN
26 CARD TIE-IN WITH TCW. AND THE ONES INTERESTED -- WHO I
27 WOULD HAVE FIRST OFFERED A JOB TO WAS THAT MR. YI.

12:01PM

28 Q. YOU TOLD -- YOU REFERRED TO MET WEST IN THIS

1 CALL ON DECEMBER 22ND AS BEING A RANDOMLY CHOSEN FIRM;
2 ISN'T THAT TRUE?

3 A. YES.

4 Q. AND YOU SAID THAT MULTIPLE TIMES, THEY ARE A
5 RANDOMLY CHOSEN FIRM?

12:02PM

6 A. I DON'T THINK MULTIPLE TIMES.

7 I CERTAINLY SAID IT, THOUGH.

8 Q. AND WHEN YOU SAID THAT, YOU KNEW THEY HAD BEEN
9 A MORNINGSTAR FIXED INCOME MANAGER FIRM OF THE YEAR
10 PREVIOUSLY?

12:02PM

11 A. YES, BUT THEIR EXPERTISE WAS IN OTHER AREAS
12 OTHER THAN MORTGAGES.

13 Q. BUT THEY WON IT THE YEAR YOU WERE A RUNNER UP,
14 CORRECT?

15 A. WELL, I WAS NOMINATED FOR THE MORNINGSTAR
16 FIXED INCOME MANAGER OF THE YEAR, OR HONORABLE MENTION,
17 IN 2004, 2005, 2006, 2007, 2008, AND 2009.

12:02PM

18 MET WEST WON THE AWARD IN 2005. I WON
19 IT IN 2006.

20 Q. SIR, YOU KNEW THAT THEY WERE ALSO AN
21 AWARD-WINNING FIRM, THIS FIRM THAT YOU REFERRED TO AS
22 BEING A RANDOMLY CHOSEN FIRM; YOU KNEW THEY WERE AN
23 AWARD-WINNING FIRM?

12:02PM

24 A. NOT IN MORTGAGES.

25 Q. YOU KNEW IN FIXED INCOME THEY WERE AN
26 AWARD-WINNING FIRM?

12:02PM

27 A. IN THE MORTGAGE BUSINESS, THEY HAD NO STATED
28 COMPETENCY IN MORTGAGES ANYWHERE ON THEIR WEBSITE.

1 NOWHERE ON THEIR WEBSITE DID THEY SAY THEY HAD MORTGAGE
2 EXPERTISE.

3 THEY HAD FIXED INCOME EXPERTISE IN OTHER
4 AREAS.

5 Q. SIR --

12:03PM

6 A. I EVEN THOUGHT OF BRINGING MET WEST TO MERGE
7 WITH TCW IN 2008 AND '9 AS A STRATEGIC IDEA, BECAUSE
8 THEIR SKILL SET WAS SO COMPLEMENTARY WITH OUR SKILL
9 SET.

10 THEY WERE WEAK IN MORTGAGES, WE WERE
11 STRONG IN MORTGAGES. THEY WERE STRONG IN OTHER AREAS
12 OF THE BOND MARKET, PARTICULARLY AIRCRAFT, BUT THEY
13 WERE -- RELATIVE TO A MORTGAGE OPERATION, THEY WERE A
14 RANDOM CHOICE.

12:03PM

15 Q. AND DID JP -- WHEN JP CAME OVER DID HE HAVE
16 SOME GREEN CARD ISSUES? WAS THAT SOMETHING YOU HAD TO
17 WORK OUT SO HE COULD COME OVER?

12:03PM

18 A. I DON'T KNOW.

19 Q. DID YOU ALSO TELL THE FOLKS LISTENING ON YOUR
20 CALL ON THE 22ND, THAT THE ENTIRE MET WEST TEAM IS 27
21 PEOPLE, HALF THE SIZE OF THE DOUBLELINE TEAM?

12:03PM

22 A. I DON'T KNOW. I MIGHT HAVE. IF I -- THE 27
23 NUMBER WOULD HAVE TO COME FROM SOMEWHERE; PROBABLY
24 THEIR WEBSITE.

25 Q. WELL, WOULD YOU TAKE A LOOK AT -- IF WE COULD
26 TAKE A LOOK AT EXHIBIT 2141-24, AND JUST AT PAGES --
27 LINES 16 TO 17.

12:04PM

28 DO YOU HAVE THAT BEFORE YOU, SIR?

1 A. YES.

2 Q. DOES THAT REFRESH YOUR RECOLLECTION THAT YOU
3 SAID THAT THE -- YOU TOLD THE WORLD THAT THE ENTIRE
4 DOUBLELINE TEAM IS ONLY 27 PEOPLE?

5 DO YOU SEE THAT?

12:04PM

6 A. I SEE IT.

7 IT DIDN'T -- YOU HAVE JUST MISSPOKEN.
8 DOUBLELINE TEAM WAS NOT 27 PEOPLE.

9 Q. RIGHT.

10 ISN'T IT TRUE, THAT WHEN YOU COMBINED
11 THE DOUBLELINE PEOPLE WHO CAME OVER PLUS THE TCW PEOPLE
12 WHO STAYED BEHIND, THAT THERE WAS A TOTAL OF 63 PEOPLE
13 THERE?

12:04PM

14 A. YOU ARE BEING VERY GENEROUS WITH THE WAY YOU
15 COUNT THEM.

12:05PM

16 THE INVESTMENT PEOPLE WHO STAYED BEHIND
17 WERE ZERO. THERE WERE NO TRADERS OF SIGNIFICANCE, OR
18 PORTFOLIO MANAGERS OR SIGNIFICANT ANALYSTS, THAT STAYED
19 AT TCW.

20 Q. I THINK I MISSPOKE, SIR.

12:05PM

21 ISN'T IT TRUE THAT THE ENTIRE MET WEST
22 TEAM, PLUS THE TCW TEAM WHO STAYED BEHIND, WAS A TOTAL
23 OF 63 PEOPLE; MORE THAN DOUBLELINE HAD AT THE TIME;
24 ISN'T THAT TRUE?

25 A. I DOUBT IT'S TRUE.

12:05PM

26 Q. IN THIS CALL, DIDN'T YOU TELL PEOPLE THAT IT
27 WAS IMPORTANT TO APPLY PRESSURE ON TCW?

28 A. I MIGHT HAVE.

1 Q. AND DIDN'T YOU TELL PEOPLE THAT YOU THOUGHT
2 TCW WAS IN BREACH OF ITS FIDUCIARY DUTY? IT WAS
3 BREACHING ITS FIDUCIARY DUTIES?

4 A. WELL, WHAT I REMEMBER IS I WAS A SIGNIFICANT
5 INVESTOR IN THESE FUNDS, AND I KNOW THAT I FELT --

12:06PM

6 Q. SIR?

7 A. -- THAT I --- MY CONTRACT AS AN INVESTOR HAD
8 BEEN BREACHED. AND I WAS GIVING MY OPINION, AS AN
9 INVESTOR IN THE FUNDS. AND I THOUGHT THAT I HAD BEEN
10 BAITED AND SWITCHED. AND I THOUGHT THAT THAT BLEW THE
11 CONTRACTS BASICALLY INTO WORTHLESSNESS.

12:06PM

12 Q. SIR, DIDN'T YOU SAY THAT TCW WAS BLATANTLY
13 PUTTING THEIR INTERESTS AHEAD OF THEIR CLIENTS'
14 INTERESTS?

15 A. I THINK THAT'S WHAT THEY WERE DOING.

12:06PM

16 Q. AND YOU ALSO SAID, DIDN'T YOU, THAT --

17 A. MANY OF THE CLIENTS CALLED ME AND TOLD ME
18 THAT, TOO, THAT THEY FELT THE SAME WAY. ALMOST ALL THE
19 CLIENTS CALLED AND SAID THAT.

20 Q. WITH RESPECT TO THE -- THESE SMCF FUNDS, THE
21 CLOSED FUNDS, DIDN'T YOU SAY, WE DON'T CARE WHAT THE
22 DOCUMENTS SAY, IN SOME SCHEMED WAY, TO TRY TO SHANGHAI
23 THE FUNDS?

12:06PM

24 DID YOU SAY THAT?

25 A. YES. I THOUGHT THEY HAD BREACHED THEIR
26 CONTRACT WITH BEING AN INVESTOR. THEY WERE HIDING
27 UNDERNEATH LEGAL PREPOSITIONAL PHRASES, WHEN THEY HAD
28 DISREGARDED THE INTERESTS OF ME, AN INVESTOR, AND

12:07PM

1 OTHERS LIKE ME. AND I FELT THE CONTRACT HAD TO BE
2 INVALID, GIVEN THAT THEY HAD -- IN MY -- I'M NO LAWYER,
3 BUT I SURE FELT AS AN INVESTOR, I HAD BEEN VIOLATED,
4 AND THE CONTRACTS COULDN'T BE VALID.

5 Q. ISN'T IT TRUE THAT TCW HAD CONTRACTS WITH
6 THESE INVESTORS, THESE WERE CLOSED FUNDS, AND THE
7 INVESTORS HAD AGREED THAT THE MONEY WOULD STAY IN THESE
8 FUNDS FOR A PERIOD OF TIME; ISN'T THAT TRUE?

12:07PM

9 A. AND I WAS ONE OF THOSE INVESTORS. AND I HAD A
10 CONTRACT WITH THE FUNDS, TOO.

12:07PM

11 AND THE OTHER INVESTORS WHO HAD
12 CONTRACTS ALL FELT OF ONE MIND, SIMILAR TO MYSELF, THAT
13 WE'D BEEN VIOLATED.

14 Q. BECAUSE YOUR EMPLOYMENT HAD BEEN TERMINATED?

15 A. BECAUSE THESE FUNDS HAD BEEN SET UP IN A
16 DIFFICULT INVESTMENT CATEGORY AT A DIFFICULT TIME; SO
17 THAT THE ONLY REASON PEOPLE WERE COMFORTABLE INVESTING
18 WAS THE EXPERIENCE, KNOW-HOW AND RECORD OF THE TEAM.

12:08PM

19 BUT IT WAS A HUGE BAIT AND SWITCH. THEY
20 WERE SOLD THIS, AND WITHOUT THEIR CONSENT, WERE
21 DELIVERED THAT; AND THAT WAS A LOT WORSE THAN THIS.

12:08PM

22 Q. SIR, ISN'T IT TRUE THAT YOU TOLD INVESTORS,
23 THERE IS NOBODY MANAGING THE FUNDS RIGHT NOW?

24 A. I SAID THAT BECAUSE IT WAS TRUE. THERE WAS A
25 CLAUSE IN THE DOCUMENT THAT SAID, IF ANYTHING WOULD
26 HAPPEN TO ME, BECAUSE I WAS NAMED AS THE SO-CALLED KEY
27 MAN IN THESE FUNDS, THAT THERE WERE CONSEQUENCES IF
28 SOMETHING HAPPENED TO THE KEY MAN.

12:08PM

1 ONE OF THOSE CONSEQUENCES WAS THAT THE
2 FUNDS WOULD BE FROZEN FROM THE INVESTMENT ACTIVITY
3 UNTIL SUCH TIME AS THE ADVISORY COMMITTEE WOULD MAKE A
4 DECISION ON WHAT TO DO.

5 SO THE FUNDS WERE NOT BEING MANAGED.
6 IT'S TRUE. THEY WERE FROZEN.

12:09PM

7 Q. NOW, THAT'S ABSOLUTELY FALSE, ISN'T IT?

8 MR. HELM: ARGUMENTATIVE.

9 THE WITNESS: WELL, I THINK IT'S TRUE.

10 THAT'S MY UNDERSTANDING.

12:09PM

11 THE COURT: YOU THINK IT'S TRUE, YOU THINK
12 IT'S FALSE. ASK ANOTHER QUESTION, OR BRING A DOCUMENT
13 UP, OR DO SOMETHING; BUT LET'S NOT JUST DEBATE BACK AND
14 FORTH.

15 Q. BY MR. QUINN: ISN'T IT TRUE THAT UNDER THE
16 KEY MAN CLAUSE, IF YOU, THE KEY MAN, OR THE OTHER KEY
17 MAN LEFT, THAT THEY WOULD NOT HAVE TO STOP INVESTING
18 UNLESS THE ADVISORY COMMITTEE DID NOT APPROVE THE
19 REPLACEMENT FIRM; AND IN ADDITION, 66 AND TWO-THIRDS OF
20 THE INVESTORS VOTED TO STOP THE INVESTMENT PERIOD;
21 ISN'T THAT TRUE?

12:09PM

22 A. LOOK, I'M NOT GOING TO ARGUE SCRIPTURE WITH A
23 NUN.

24 BUT WHAT I'M SAYING IS MY UNDERSTANDING
25 WAS THAT THE KEY MAN CLAUSE BEING TRIGGERED MEANT THAT
26 THE FUNDS WERE FROZEN. AND I DIDN'T HAVE A COPY OF THE
27 DOCUMENT, BECAUSE WHEN I WAS FIRED, TCW TOOK ALL MY
28 STUFF. I DIDN'T EVEN HAVE A COPY OF THE DOCUMENT TO

12:10PM

1 REFER TO.

2 SO WHAT I WAS DOING WAS PROVIDING PEOPLE
3 WITH MY BEST UNDERSTANDING.

4 Q. SO YOU WOULDN'T WANT TO LEAVE THE JURY WITH
5 THE IMPRESSION THAT WHAT YOU -- THAT YOUR UNDERSTANDING
6 OF THE LEGAL CONSEQUENCES OF YOU LEAVING WAS THAT THE
7 FUNDS WERE FROZEN, BECAUSE YOU JUST DON'T KNOW,
8 CORRECT?

12:10PM

9 A. I STRONGLY BELIEVE THAT MY TERMINATION
10 TRIGGERED THE KEY MAN CLAUSE. AND I STRONGLY BELIEVE
11 THAT TRIGGERING THE KEY MAN CLAUSE PUT THE FUNDS IN A
12 NO-TRADE MODE.

12:10PM

13 THAT'S WHAT I BELIEVE.

14 Q. WELL, DO YOU DISPUTE WHAT I SAID, THAT UNDER
15 THAT KEY MAN CLAUSE, IT DIDN'T MEAN -- IF YOU LEFT IT
16 DIDN'T MEAN THAT THEY STOPPED INVESTING; THAT WOULD
17 ONLY HAPPEN IF THE ADVISORY COMMITTEE DID NOT APPROVE
18 THE REPLACEMENT, AND 66 AND TWO-THIRDS OF THE INVESTORS
19 VOTED TO STOP THE INVESTMENT PERIOD?

12:10PM

20 DO YOU KNOW WHETHER OR NOT THAT'S TRUE?

12:11PM

21 A. WE'RE GOING TO HAVE TO AGREE TO DISAGREE.

22 Q. SIR, DO YOU KNOW WHETHER WHAT I SAID IS TRUE?

23 A. NO.

24 Q. SO WASN'T IT KIND OF RECKLESS FOR YOU TO BE
25 TELLING THE WORLD AND INVESTORS THAT NOBODY IS MANAGING
26 THE FUNDS RIGHT NOW, WHEN YOU DIDN'T KNOW WHAT THE
27 LEGAL CONSEQUENCES WERE OF YOUR BEING REPLACED AS KEY
28 MAN?

12:11PM

1 A. I DIDN'T THINK THAT.

2 MR. HELM: ARGUMENTATIVE, YOUR HONOR.

3 THE COURT: SUSTAINED.

4 MR. HELM: MOVE TO STRIKE THE ANSWER.

5 THE COURT: I'LL STRIKE THE PORTION OF THE
6 ANSWER.

12:11PM

7 Q. BY MR. QUINN: DID YOU TELL INVESTORS THAT IN
8 YOUR CALL -- YOU HAD ANOTHER CALL ON DECEMBER 29TH,
9 CORRECT?

10 A. I THINK SO.

12:11PM

11 Q. AND DID YOU TELL THEM THAT MET WEST CONSISTED
12 SOLELY OF THREE PROFESSIONALS?

13 A. NO.

14 Q. WHY DON'T YOU TAKE A LOOK AT EXHIBIT 2142-4,
15 LINES 11 TO 12.

12:12PM

16 AND MY QUESTION TO YOU WOULD BE: SEEING
17 THIS, DOES IT REFRESH YOUR RECOLLECTION THAT YOU SAID
18 THAT THE MET WEST TEAM THAT WAS BROUGHT OVER HAD THREE
19 PROFESSIONALS?

20 A. WE HAVE TO PUT IT IN CONTEXT.

12:12PM

21 WE'RE TALKING ABOUT TOP MORTGAGE
22 PROFESSIONALS, IS WHAT I WAS REFERRING TO. MORTGAGE
23 PORTFOLIO MANAGERS. DOUBLELINE HAD MORE THAN 30
24 PROFESSIONALS THAT WERE FULLY MORTGAGE-BACKED ORIENTED
25 ON THE TEAM, WORKING ON PORTFOLIOS, AS BEST I KNOW.

12:12PM

26 MET WEST TEAM HAS THREE PROFESSIONALS.
27 I'M COMPARING THE THREE TO THE SENIOR MEMBERS OF OUR
28 TEAM. AND MY UNDERSTANDING WAS THAT THEY HAD, AT MOST,

1 THREE SENIOR MORTGAGE PROFESSIONALS.

2 Q. THERE WERE 63 PEOPLE THAT CAME -- THAT WERE
3 THERE FROM MET WEST AND TCW COMBINED, CORRECT?

4 A. NO. YOU ARE TREMENDOUSLY EXAGGERATING AND
5 BEING DISINGENUOUS IN THE WAY THAT YOU ARE FRAMING IT. 12:12PM

6 Q. DO YOU RECALL THAT THERE CAME A POINT, ON
7 DECEMBER 29, WHEN YOU TURNED THE CALL OVER TO CRIS
8 SANTA ANA TO TALK ABOUT THE PROPRIETARY SYSTEMS,
9 DOUBLELINE'S PROPRIETARY SYSTEMS?

10 A. NO. 12:13PM

11 Q. WELL, TAKE A LOOK AT EXHIBIT 2142-24.

12 THE COURT: WHILE YOU ARE LOOKING AT THAT,
13 LET'S TAKE OUR BREAK, AND WE'LL COME BACK IN 20
14 MINUTES.

15
16 (THE JURY WAS EXCUSED, AND
17 THE FOLLOWING PROCEEDINGS
18 WERE HELD:)

19
20 THE COURT: ALL RIGHT. WE'RE OUT OF THE
21 PRESENCE OF THE JURY. 12:13PM

22 ANY MATTERS ANYBODY WANTS TO ADDRESS?
23 ALL RIGHT. 20 MINUTES.

24
25 (RECESS TAKEN.)

26
27 (THE NEXT PAGE NUMBER IS 3201.)
28

1 CASE NUMBER: BC 429385
2 CASE NAME: TCW VS. GUNDLACH
3 LOS ANGELES, CALIFORNIA AUGUST 15, 2011
4 DEPARTMENT 322 HON. CARL J. WEST, JUDGE
5 APPEARANCES: (AS NOTED ON TITLE PAGE.)
6 REPORTER: RAQUEL A. RODRIGUEZ, CSR
7 TIME: C SESSION; 12:35 P.M.

8
9 --0--

10
11 THE COURT: IN THE TCW GUNDLACH MATTER, ALL
12 MEMBERS OF THE JURY ARE PRESENT, AS ARE COUNSEL.

13 MR. QUINN, YOU MAY CONTINUE YOUR DIRECT
14 EXAMINATION.

15 MR. QUINN: THANK YOU, YOUR HONOR.

16
17 DIRECT EXAMINATION (CONTINUED) +
18 (CROSS-EXAMINATION UNDER 776)

19
20 BY MR. QUINN:

21 Q MR. GUNDLACH, ON THE DECEMBER 29 CALL, DO YOU
22 RECALL TALKING ABOUT THE PROPRIETARY SYSTEMS THAT YOU
23 ALREADY HAD AT DOUBLELINE?

24 A NO.

25 Q DO YOU RECALL SAYING, IT'S LIKE WRITING A
26 GREAT AMERICAN NOVEL, *THE SUN ALSO RISES*, IF YOU'VE
27 WRITTEN IT ONCE, YOU CAN WRITE IT AGAIN WORD FOR WORD?
28 DO YOU RECALL THAT?

1 A I DIDN'T SAY THAT AT ALL. I DIDN'T SAY WORD
2 FOR WORD. I DIDN'T CALL IT THE GREAT AMERICAN NOVEL.

3 I MADE A LOOSE METAPHOR BETWEEN THE
4 WRITING OF A NOVEL AND -- AND REDOING AN ACTIVITY OF
5 ANOTHER TYPE. AND I DID USE HEMINGWAY'S *SUN ALSO RISES*
6 AS A METAPHOR.

12:38PM

7 Q THE OTHER ACTIVITY WAS CREATED A TECHNICAL
8 PLATFORM, RIGHT?

9 A IT WAS BUILDING DATA SYSTEMS.

10 Q ALL RIGHT.

12:39PM

11 IF YOU'D TAKE A LOOK AT EXHIBIT 2142-35,
12 BEGINNING LINE 13, DIDN'T YOU SAY: IT'S MUCH EASIER
13 TO, LET'S JUST SAY YOU WANT TO WRITE THE GREAT AMERICAN
14 NOVEL, AND SO YOU SET OUT TO WRITE *THE SUN ALSO RISES*.

15 WELL, IT WOULD BE REALLY PRETTY HARD TO
16 WRITE *THE SUN ALSO RISES* THE FIRST TIME. ONCE YOU'VE
17 WRITTEN IT ONCE, TO REWRITE IT ISN'T THAT HARD. IN
18 FACT, I COULD REWRITE *THE SUN ALSO RISES* RIGHT NOW.

12:39PM

19 SIT DOWN AT MY TYPEWRITER AND IMITATE IT
20 WORD FOR WORD. ONCE YOU KNOW THE FORMULA OF *THE SUN*
21 *ALSO RISES* AND THE PLOT LINE AND THE LOGIC AND THE
22 LANGUAGE, AND THE TONE, IT'S EASIER TO REWRITE?

12:39PM

23 BY ANALOGY, IT'S VERY EASY TO REBUILD A
24 TECHNOLOGY SYSTEM, ONCE YOU KNOW WHAT ALL THE
25 COMPONENTS ARE WHEN YOU BUILD IT IN THE FIRST PLACE.

12:39PM

26 WERE THOSE YOUR WORDS ON SEPTEMBER --
27 DECEMBER 29TH, MR. GUNDLACH?

28 A I -- I TRUST THIS IS AN ACCURATE TRANSCRIPT.

1 I REALLY DIDN'T REMEMBER THE WORD FOR WORD, GREAT
2 AMERICAN NOVEL. I REMEMBER USING *THE SUN ALSO RISES*
3 METAPHOR. I THINK IT'S A GOOD METAPHOR FOR REDOING
4 SOMETHING.

5 THE IDEA -- WOULD YOU LIKE ME TO
6 EXPLAIN?

12:40PM

7 Q SIR, WERE THOSE YOUR WORDS, WHAT I JUST READ?

8 A I DON'T KNOW.

9 Q DO WE HAVE A STIPULATION THIS IS A CERTIFIED
10 TRANSCRIPT?

12:40PM

11 THE WITNESS: I DON'T THINK --

12 THE COURT: DO WE HAVE SUCH A STIPULATION?

13 MR. HELM: WE'VE AGREED IT COULD BE ADMITTED.

14 THE COURT: IF THERE'S A STIPULATION, WE NEED
15 TO INFORM THE JURY. WE'VE NOT DONE THAT, SO ...

12:40PM

16 MR. HELM: I DON'T KNOW IF WE STIPULATED TO
17 THE ACCURACY. WE STIPULATED WE WOULDN'T OPPOSE
18 ADMITTING IT, YOUR HONOR.

19 THE COURT: VERY WELL.
20 BY MR. QUINN:

12:40PM

21 Q DID YOU ALSO, SIR, ON -- IN THIS CALL ON THE
22 29TH, REFER TO TCW AS A SINKING SHIP?

23 A I MIGHT HAVE. BLAIR THOMAS, AND
24 MARC ATTANASIO CALLED IT THAT WHEN I TALKED TO THEM
25 OR -- AROUND THAT TIME.

12:41PM

26 Q SIR, DID YOU CALL IT THAT IN THAT CALL?

27 A I MIGHT HAVE.

28 I HEARD OTHER PEOPLE EXPLAIN IT THAT

1 WAY, SO IT SEEMED LIKE KIND OF CONSENSUS VIEWPOINT.

2 Q DID YOU WRITE THAT:

3 OUR TRANSPLANTED ANALYTIC STAFF
4 HAVE ALREADY REBUILT THE INTERNAL
5 INFORMATION SYSTEM UNIQUE TO OUR
6 FIXED INCOME SOLUTION.

12:41PM

7 IS THAT ANOTHER THING YOU WROTE AROUND
8 THIS TIME FRAME?

9 A I DON'T REMEMBER.

10 Q TAKE A LOOK AT EXHIBIT 961-1. I'LL CALL YOUR
11 ATTENTION TO THE SECOND PARAGRAPH ON THE FIRST PAGE.

12:41PM

12 THE LAST SENTENCE OF THAT SECOND
13 PARAGRAPH, DOES THAT REFRESH YOUR RECOLLECTION?

14 A NO.

15 Q ISN'T IT TRUE, SIR, THAT YOU WROTE:

12:42PM

16 OUR TRANSPLANTED ANALYTIC STAFF,
17 I'M PROUD TO SAY, HAVE ALREADY
18 REBUILT THE INTERNAL INFORMATION
19 SYSTEMS UNIQUE TO OUR FIXED INCOME
20 SOLUTION WITH SIGNIFICANT
21 ENHANCEMENTS.

12:42PM

22 DID YOU WRITE THAT, SIR?

23 A NO.

24 Q DID YOU SAY THAT?

25 A NO. I THINK LOREN FLECKENSTEIN WROTE THIS.

12:42PM

26 Q SO, THESE ARE NOT YOUR WORDS; IS THAT WHAT
27 YOU'RE SAYING?

28 A RIGHT.

1 Q AND SO YOU WOULD DENY THAT THAT'S -- THAT'S
2 TRUE?

3 A I DON'T KNOW -- IT SEEMS, IT SEEMS REASONABLY
4 ACCURATE. JUST NOT THE WAY I WOULD EXPLAIN THINGS.

5 Q SO IT'S ACCURATE?

12:42PM

6 A NOT ALL OF IT. I DON'T LIKE THE FULLY KNOWN
7 ONLY TO DOUBLELINE PART. IT DOESN'T MAKE SENSE TO ME.

8 Q DID YOU WRITE, SIR, THAT BECAUSE OF THIS
9 SUPPORT YOU HAD FROM OAK TREE, YOU EXPECTED TO BE ABLE
10 TO REBUILD THE TECHNOLOGY PLATFORM IN ONE WEEK BY YEAR
11 END?

12:43PM

12 A I DON'T REMEMBER THAT.

13 Q I'M SORRY?

14 A I DON'T REMEMBER THAT.

15 Q DID YOU SAY:

12:43PM

16 BECAUSE OF OAK TREE'S SYSTEM
17 SUPPORT AND OTHER HELP WE'RE
18 GETTING, MY GUYS ARE TELLING ME
19 THEY CAN GET IT DONE IN A WEEK,
20 WHICH I FIND HARD TO BELIEVE. I
21 TOLD THEM JUST GET IT DONE BY YEAR
22 END.

12:43PM

23 DID YOU WRITE THAT?

24 A I DON'T REMEMBER. BUT -- I -- I DON'T
25 REMEMBER WRITING THAT. BUT IT DOESN'T SOUND ALL THAT
26 STRANGE TO ME.

12:43PM

27 Q WOULD THAT BE AN ACCURATE STATEMENT?

28 A WOULD WHAT BE AN ACCURATE STATEMENT.

1 Q WHAT I JUST READ.

2 A WHAT PART OF IT?

3 Q THE WHOLE THING.

4 A I DON'T KNOW.

5 THE -- THE OAK -- THE OAK TREE'S HELP
6 WITH BEING -- WOULD BE BENEFICIAL IS CERTAINLY
7 ACCURATE.

12:43PM

8 Q SIR, DID YOU -- DID YOU SAY: WE DON'T HAVE TO
9 DESIGN IT; WE ALREADY KNOW WHAT IT IS?

10 REFERRING TO THE TECHNOLOGY PLATFORM:
11 WE'RE JUST RECODING IT.

12:44PM

12 DID YOU SAY THAT?

13 A I DON'T KNOW. IT SOUNDS KIND OF TRUE TO ME,
14 THOUGH.

15 LOOK, THESE ARE DATA SYSTEMS. YOU BUY
16 THE DATA. IT'S ALL ABOUT KNOWING WHAT DATA YOU WANT TO
17 LOOK AT. AND YOU BUY THE DATA. TCW NEVER CREATED ANY
18 DATA. THEY JUST BOUGHT DATA. YOU BUY IT FROM VENDORS.
19 YOU PAY THEM MONEY AND YOU -- YOU GET THE DATA.

12:44PM

20 ALL IT IS IS GETTING REPORT WRITERS AND
21 FORMATTING IT. I DON'T KNOW HOW LONG THAT STUFF TAKES.
22 I DON'T KNOW MUCH ABOUT SYSTEMS AND DATA. BUT, IF MY
23 GUYS SAY THAT IT'S NOT A BIG PROJECT, THEN I BELIEVE
24 THEM.

12:44PM

25 Q SIR, IS THAT WHAT YOU SAID AT TCW, DID YOU
26 TELL CLIENTS IN PRESENTATIONS, WHEN YOU WERE TRYING TO
27 GET THEIR ENGAGEMENTS, THAT, YOU KNOW, WE ONLY -- WE
28 DON'T HAVE ANYTHING PROPRIETARY; WE JUST HAVE

12:44PM

1 SUBSCRIPTIONS TO DATA, AND THAT'S ALL IT IS?

2 DID YOU TELL THAT TO CLIENTS?

3 A BROADLY, YES.

4 Q SO, YOUR TESTIMONY WOULD BE YOU NEVER TALKED
5 TO CLIENTS ABOUT THESE PROPRIETARY, WORLD-CLASS
6 TECHNOLOGY PLATFORMS THAT HAVE BEEN DEVELOPED AT TCW?

12:45PM

7 WOULD THAT BE YOUR TESTIMONY?

8 A I TALKED ABOUT OUR SYSTEMS BEING AT THE LEVEL
9 OF QUALITY THAT WAS AT THE TOP LEVEL OF THE INDUSTRY.

10 THAT WAS KIND OF THE WAY I TALKED ABOUT
11 IT. KIND OF LIKE WHEN YOU GO TO A HOTEL AND THEY SAY
12 WE, HAVE A WORLD0CLASS SPA -- THEY ALL SAY THAT,
13 WORLD-CLASS SPA. EVERY HOTEL SAYS THAT.

12:45PM

14 I THINK ALL REASONABLE PROFESSIONAL
15 MONEY MANAGEMENT FIRMS HAVE COMPARABLE WORLD-CLASS
16 SYSTEMS TO BE CREDIBLE AND TOP-TIER FIRMS. I THINK
17 THEY ALL HAVE THEM. WE DID TOO. WE WOULD TELL PEOPLE
18 WE HAVE THEM BECAUSE WE DID.

12:45PM

19 Q AT TCW YOU WOULD TELL CLIENTS, WE HAVE THE
20 SAME SYSTEM THAT OTHER TOP FIRMS HAVE?

12:45PM

21 A SOMETIMES I WOULD TELL THEM THAT, YES.

22 Q AND THERE'S NOTHING SPECIAL ABOUT OUR SYSTEM?

23 A SOMETIMES I WOULD -- I DON'T KNOW IF I PUT IT
24 IN THOSE WORDS.

25 WE'RE NOT TRYING TO DISCOURAGE
26 INVESTORS. WE'RE TRYING TO BE HONEST ABOUT THE FACT WE
27 HAVE DATA SYSTEMS, AND THE FACT THAT THEY SUPPORT THE
28 FUNCTION AS THEY NEED TO, AND THE FACT THAT IF WE COULD

12:46PM

1 MAKE THEM BETTER, WE'D MAKE THEM BETTER. AND WE DON'T
2 KNOW OF ANYTHING BETTER; IF WE DID, WE'D MAKE THEM
3 BETTER.

4 Q DID YOU SAY WE'RE JUST RECODING THE SYSTEM WE
5 HAVE AT TCW?

12:46PM

6 A I DON'T KNOW.

7 Q TAKE A LOOK AT EXHIBIT 634-4.

8 MY QUESTION TO YOU IS: DID YOU SAY, WE
9 DON'T HAVE TO DESIGN IT. WE ALREADY KNOW WHAT IT IS;
10 WE'RE JUST RECODING IT?

12:46PM

11 DID YOU SAY THAT?

12 A I DON'T KNOW. I MEAN, THIS IS -- THIS SAYS
13 JEG CALL WITH FORMER CLIENT 12-16-09.

14 I MEAN, I DON'T HAVE NOTES WHEN I'M
15 TALKING TO THESE CLIENTS. I'M JUST TALKING TO THEM OFF
16 THE TOP OF MY HEAD, AND SOMETIMES THE WORDS COME OUT IN
17 WAYS THAT ARE NOT WHAT I WOULD WANT.

12:46PM

18 BUT, I COULD EASILY HAVE SAID WE DON'T
19 HAVE TO DESIGN IT. WE ALREADY KNOW WHAT IT IS; WE'RE
20 JUST RECODING IT. IT'S TRUE.

12:47PM

21 IT'S TRUE. I KNOW WHAT -- WE KNOW WHAT
22 DATA WE NEED. WE KNOW WHERE TO GET IT FROM. WE KNOW
23 WHO SELLS IT. AND WE KNOW HOW FAMILIAR WE ARE WITH IT.
24 WE'RE GOING TO BUY IT AGAIN AND CODE IT BACK UP, AND
25 WE'LL BE UP AND RUNNING. AND WE WERE BY JANUARY. FROM
26 A FUNCTIONALITY STANDPOINT, IT WASN'T USER-FRIENDLY,
27 BUT IT'S NOT THAT HARD TO DO.

12:47PM

28 Q SIR, THIS EXHIBIT 34, THERE WAS A RECORDING

1 MADE OF THAT CALL.

2 YOU KNOW THAT, DON'T YOU?

3 MR. HELM: LACKS FOUNDATION.

4 THE COURT: SUSTAINED.

5 BY MR. QUINN:

12:47PM

6 Q DO YOU KNOW WHETHER OR NOT A RECORDING WAS
7 MADE OF THAT CALL?

8 A NO.

9 THE COURT: WHAT CALL ARE WE TALKING ABOUT?

10 MR. QUINN: 634. JG CALL WITH FORMER CLIENT,
11 DECEMBER 16TH, 2009.

12:47PM

12 Q DO YOU KNOW WHETHER MR. FLECKENSTEIN HAD A
13 RECORDING OF THAT CALL, THE WORDS YOU USED?

14 A NO.

15 Q TAKE A LOOK, PLEASE, AT EXHIBIT 687.

12:47PM

16 IS THIS, AT THE TOP HERE, AN E-MAIL FROM
17 YOU TO MR. LUCIDO?

18 A YES.

19 Q DATED DECEMBER 28TH, 2009?

20 A YES.

12:48PM

21 MR. QUINN: WE'D OFFER THAT, YOUR HONOR.

22 MR. HELM: NO OBJECTION.

23 THE COURT: IT WILL BE ADMITTED.

24

25 (EXHIBIT 687 ADMITTED.)+

12:48PM

26

27 BY MR. QUINN:

28 Q WHAT WE HAVE HERE IS A -- AN E-MAIL. AT THE

1 TOP OF THE CHAIN YOU WRITE TO MR. LUCIDO:

2 PLEASE KEEP CONSTANTLY REACHING
3 OUT TO SMCF INVESTORS IN BOTH I AND
4 II.

5 CORRECT?

12:49PM

6 A YES.

7 Q ONE AND TWO, THOSE ARE THE TWO DISTRESSED
8 FUNDS, SMCF I AND SMCF II, CORRECT?

9 A WELL, THERE WERE OTHERS. BUT THOSE WERE TWO
10 OF THEM.

12:49PM

11 Q THOSE WERE THE TWO CLOSED FUNDS WE'VE REFERRED
12 TO, RIGHT?

13 A THERE WERE MORE THAN TWO CLOSED FUNDS, BUT
14 THESE TWO WERE TWO CLOSED FUNDS.

15 Q YOU WERE URGING MR. LUCIDO TO KEEP REACHING
16 OUT TO THOSE INVESTORS?

12:49PM

17 A IT SAYS: PLEASE KEEP CONSTANTLY REACHING OUT
18 TO SMCF IN BOTH I AND II.

19 Q THOSE TWO CALLS THAT WE LOOKED AT, YOU KNOW,
20 ONE ON DECEMBER 22ND AND DECEMBER 29, THOSE WERE FOR --
21 YOU ADDRESSED THE SPECIAL MORTGAGE CREDIT FUNDS IN
22 THOSE CALLS; THOSE WERE FOR THOSE INVESTORS, CORRECT?

12:49PM

23 A YES.

24 Q WHERE YOU SAID THESE VARIOUS THINGS, LIKE:
25 MET WEST ONLY HAS THREE PROFESSIONALS;
26 TCW IS A SINKING SHIP;
27 THERE IS NO ONE MANAGING YOUR FUNDS
28 RIGHT NOW;

12:50PM

1 TCW IS IN BREACH OF FIDUCIARY DUTY;
2 PUT PRESSURE ON TCW.

3 YOU SAID ALL THOSE THINGS IN THOSE
4 CALLS, DIDN'T YOU, SIR?

5 A I'M NOT SURE, BUT I SAID A LOT MORE THINGS
6 THAN THAT THAT YOU'RE NOT BRINGING UP.

12:50PM

7 Q TAKE A LOOK AT EXHIBIT 722. THIS IS AN E-MAIL
8 FROM MS. VANEVRY TO YOU, ATTACHING A FORM LETTER TO
9 SMCF II INVESTORS, CORRECT?

10 A THERE'S AN ATTACHMENT. IT'S LABELED SMCF I
11 AND II. MAILED LETTER V1.DOCX.

12:50PM

12 MR. QUINN: WE'LL OFFER THIS, YOUR HONOR.

13 MR. HELM: NO OBJECTION.

14 THE COURT: IT WILL BE ADMITTED.

15 12:50PM

16 (EXHIBIT 722 ADMITTED.)+

17

18 BY MR. QUINN:

19 Q AND THEN EXHIBIT 1234.

20 THIS IS A LETTER SIGNED BY YOU,
21 MR. BARACH, AND MR. LUCIDO, DATED JANUARY 6TH, 2010,
22 ENTITLED TC SPECIAL MORTGAGE CREDIT FUNDS I AND II,
23 CORRECT?

12:51PM

24 A ENTITLED TCW SPECIAL MORTGAGE CREDIT FUNDS I
25 AND II.

12:51PM

26 MR. QUINN: RIGHT. WE'D OFFER THAT, YOUR
27 HONOR.

28 MR. HELM: NO OBJECTION.

1 THE COURT: IT WILL BE ADMITTED.

2 (EXHIBIT 1234 ADMITTED.)+

3

4 BY MR. QUINN:

5 Q THEN, IF YOU WOULD PLEASE LOOK AT
6 EXHIBIT 3001.

12:51PM

7 NOW, THERE WAS A MR. HORTON WHO WAS
8 PREVIOUSLY EMPLOYED AT TCW?

9 A YES.

10 Q HE WAS IN THE FIXED INCOME GROUP?

12:51PM

11 A SORT OF. HE WAS MORE MARKETING PERSON.

12 Q BUT HE ENDED UP LEAVING TCW, AND HE WAS SUED
13 BY TCW FOR MISAPPROPRIATION OF TRADE SECRETS, AMONG
14 OTHER THINGS, CORRECT?

15 MR. HELM: RELEVANCE, 352, YOUR HONOR.

12:52PM

16 THE COURT: I'LL ALLOW HIM TO ANSWER THAT.
17 WE'RE NOT GOING DOWN THIS PATH MUCH FURTHER.

18 MR. QUINN: ALL RIGHT.

19 THE COURT: YOU CAN ANSWER THE QUESTION JUST
20 YES OR NO.

12:52PM

21 THE WITNESS: YES.

22 BY MR. QUINN:

23 Q THIS IS A LETTER YOU WROTE ON THAT SUBJECT.

24 MR. HELM: OBJECTION, YOUR HONOR.

25 THE COURT: IT APPEARS TO BE AN E-MAIL.

12:52PM

26 MR. QUINN: I JUST WANT TO MOVE IT IN, THAT'S
27 ALL, YOUR HONOR.

28 THE COURT: I'LL RESERVE RULING.

1 IS THERE AN OBJECTION TO IT?

2 MR. HELM: YES, YOUR HONOR.

3 THE COURT: I'LL RESERVE RULING ON IT.

4 GO ON TO SOMETHING ELSE. WE'LL TAKE IT
5 UP LATER.

12:52PM

6 MR. QUINN: CAN I LAY THE FOUNDATION? IT'S AN
7 E-MAIL HE WROTE, YOUR HONOR.

8 THE COURT: YEAH, WITHOUT GOING INTO DETAIL.

9 MR. QUINN: UNDERSTOOD.

10 Q THIS IS AN E-MAIL YOU WROTE, SIR?

12:52PM

11 A I DON'T REMEMBER.

12 Q IF YOU TAKE A LOOK AT IT, TAKE A MOMENT, DO
13 YOU HAVE ANY REASON TO BELIEVE IT'S NOT AN E-MAIL THAT
14 YOU WROTE?

15 A I DON'T REMEMBER THIS AT ALL.

12:52PM

16 Q LOOKING AT IT, DO YOU HAVE ANY REASON TO
17 BELIEVE IT'S NOT AN E-MAIL YOU WROTE?

18 A NO.

19 Q WHAT WERE DOUBLELINE'S TOTAL REVENUES IN 2010?

20 A REVENUES? I DON'T KNOW.

12:53PM

21 I COULDN'T TELL YOU. I COULD DO A
22 QUICKEST.

23 Q IF YOU WOULD, PLEASE.

24 A 2010?

25 Q LAST YEAR.

12:53PM

26 A IT'S GOING TO TAKE A LITTLE WHILE. YOU HAVE
27 TO BE PATIENT, MR. QUINN.

28 LET'S SEE. WE STARTED OUT AT ZERO.

1 MIDYEAR WE WERE ABOUT TWO BILLION.
2 YEAR END WE'RE ABOUT SIX BILLION.
3 AND THAT MEANS THE AVERAGE FOR THE YEAR
4 WAS ABOUT THREE BILLION.

5 SO REVENUE WAS PROBABLY AROUND
6 \$10 MILLION.

12:53PM

7 Q THAT WOULD BE ALL THE REVENUE FROM FEES?

8 A ALL THE REVENUE.

9 Q ALL RIGHT.

10 WHAT HAVE DOUBLELINE'S REVENUES BEEN
11 THIS FAR THIS YEAR?

12:53PM

12 A LET'S SEE. IT STARTED THE YEAR AT SEVEN
13 BILLION. WE'RE AT ABOUT 14 BILLION. AVERAGE IS ABOUT
14 TEN.

15 SO -- FOUR -- PROBABLY 25 MILLION.

12:54PM

16 Q DO YOU HAVE ANY PROJECTIONS ABOUT WHAT
17 DOUBLELINE'S REVENUE WILL BE FOR THE YEAR?

18 A TIME WILL TELL.

19 Q HAVE YOU DONE ANY PROJECTIONS IS MY QUESTION?

20 A NO.

12:54PM

21 Q HAVE YOU DONE ANY PROJECTIONS FOR YEARS IN THE
22 FUTURE? NEXT YEAR? YEAR AFTER?

23 A I'M NOT A -- BIG ON COUNTING CHICKENS BEFORE
24 THEY HATCH.

25 Q I TAKE IT THE ANSWER'S NO, YOU HAVEN'T DONE
26 PROJECTIONS?

12:54PM

27 A NOT FORMALLY.

28 Q INFORMALLY, HAVE YOU DONE ANY PROJECTIONS?

1 A I'M DOING RIGHT NOW. IF OUR AUM GROWS TO
2 25 BILLION, ON AVERAGE NEXT YEAR WE'LL HAVE ABOUT
3 100 MILLION IN REVENUE; IF IT DOESN'T, WE'LL HAVE LESS.
4 I DON'T KNOW.

5 Q MY QUESTION -- YOU SAID YOU HAVEN'T DONE
6 FORMAL PROJECTIONS -- HAVE YOU DONE ANY INFORMAL
7 PROJECTIONS FOR THE FUTURE ON REVENUE?

12:54PM

8 A I JUST DID.

9 Q WELL, BEFORE THIS MOMENT.

10 A NO.

12:55PM

11 Q HAD YOU PUT ANYTHING IN WRITING --

12 A NO.

13 Q -- ON PROJECTIONS FOR THE FUTURE?

14 A NOPE.

15 Q YOU'VE INDICATED THAT YOU'VE EARNED ROUGHLY A
16 QUARTER OF A BILLION DOLLARS DURING THE TIME EMPLOYED
17 BY TCW.

12:55PM

18 A YOU INDICATED THAT. IT SEEMS BELIEVABLE IF
19 YOUR NUMBERS ARE CORRECT.

20 Q WHAT IS YOUR NET WORTH TODAY?

12:55PM

21 A I DON'T KNOW.

22 Q COULD YOU GIVE US AN ESTIMATE, PLEASE.

23 A I DON'T KNOW. MAYBE \$90 MILLION.

24 Q ROUGHLY 90 MILLION?

25 A I DON'T SIT AROUND DOING ESTIMATES OF MY NET
26 WORTH.

12:55PM

27 MR. QUINN: NOTHING FURTHER. THANK YOU.

28 THE COURT: ALL RIGHT.

1 CROSS-EXAMINATION.

2 MR. HELM: THANK YOU, YOUR HONOR.

3 ACTUALLY, IT'S DIRECT EXAMINATION.

4

5 DIRECT EXAMINATION +

12:57PM

6 BY MR. HELM:

7 Q GOOD AFTERNOON, MR. GUNDLACH.

8 A GOOD AFTERNOON, MR. HELM.

9 Q GOOD AFTERNOON, LADIES AND GENTLEMEN.

10 CAN YOU DESCRIBE FOR ME IN GENERAL TERMS
11 WHAT AN ASSET MANAGEMENT COMPANY DOES.

12:57PM

12 A ASSET MANAGEMENT COMPANIES RECEIVE DEPOSITS
13 FROM INVESTORS AND RAISE MONEY FROM INVESTORS, OF ALL
14 TYPES: INDIVIDUALS, INSTITUTIONS, BANKS, FOREIGN
15 GOVERNMENTS, ALL THESE THINGS.

12:57PM

16 AND DEVELOP STRATEGIES FOR MANAGING THAT
17 MONEY PROFITABLY AND TRYING TO MAKE A HIGH RETURN,
18 PARTICULARLY RELATIVE TO THE RISK BEING TAKEN FOR THOSE
19 INVESTORS.

20 Q WHAT CATEGORIES OF INVESTMENTS DO ASSET
21 MANAGEMENT COMPANIES TYPICALLY INVEST?

12:58PM

22 A USUALLY DIVIDE THEMSELVES INTO THREE
23 CATEGORIES:

24 FIRST IS STOCKS;

25 SECOND IS BONDS;

12:58PM

26 AND THE THIRD IS KIND OF ALL OTHER,
27 WHICH THEY USUALLY CALL ALTERNATIVES.

28 Q AND WHAT KIND OF INVESTMENTS DO YOU SPECIALIZE

1 IN?

2 A MOSTLY IN FIXED INCOME. AND WITHIN FIXED
3 INCOME, A LOT OF MORTGAGE-BACKED SECURITIES.

4 Q SO FIXED INCOME IS THE SAME AS BONDS?

5 A YES.

12:58PM

6 Q THAT -- IN THAT CATEGORY YOU GAVE?

7 A RIGHT.

8 Q AND, WHAT ARE MORTGAGE-BACKED SECURITIES?

9 A WHEN, WHILE THEY'RE PACKAGES OF MORTGAGE
10 LOANS, THAT GET -- PUT INTO A SECURITY STRUCTURE AND
11 THEN ARE TRADED.

12:58PM

12 THE WAY IT WORKS IS THAT BANKS ORIGINATE
13 MORTGAGES -- I THINK MOST OF US ARE FAMILIAR WITH
14 THAT -- SO THE PEOPLE CAN BORROW MONEY TO BUY A HOME.

15 AND THEN THEY TAKE THE MORTGAGES AND,
16 STARTING IN THE 1970'S, IN THE EARLY '80'S, THEY
17 BUNDLED SIMILAR MORTGAGES TOGETHER INTO WHAT THEY CALL
18 A POOL.

12:58PM

19 SO THERE MIGHT BE A THOUSAND MORTGAGES
20 PUT TOGETHER. THEY'RE ALL LARGELY THE SAME. THE
21 HOMEOWNERS PAYING THE SAME INTEREST RATE, TAKEN OUT AT
22 ROUGHLY THE SAME TIME. A LOT OF CHARACTERISTICS ARE
23 THE SAME.

12:59PM

24 AND THEY GET PUT TOGETHER IN ONE LARGE
25 SECURITY. IN THE EARLY DAYS THEY WERE ALL GUARANTEED
26 BY GINNIE MAE, FANNIE MAE, AND FREDDIE MAC, WHICH ARE
27 PARTS OF THE U.S. GOVERNMENT.

12:59PM

28 IN THAT WAY, INVESTORS WERE COMFORTABLE

1 BUYING THEM BECAUSE THEY FELT THERE WAS NO RISK OF
2 DEFAULT, THAT THE GOVERNMENT WOULD BE BACKING THEM.

3 SO THAT IT CREATED LOWER INTEREST RATES
4 FOR HOMEOWNERS, WHICH MANY PEOPLE THOUGHT WAS A GOOD
5 IDEA TO HELP WITH, YOU KNOW, THE AMERICAN DREAM OF
6 OWNING A HOME.

12:59PM

7 THESE GET PACKAGED TOGETHER. TO GIVE
8 YOU A SENSE, THE GINNIE MAE/FANNIE MAE MARKET TODAY IS
9 ABOUT EIGHT TRILLION DOLLARS IN SIZE. IT'S REALLY BIG.

10 AND IN RECENT YEARS, THEY ALSO PACKAGED
11 UP MORTGAGES THAT WEREN'T GUARANTEED. AND THOSE CAUSE
12 PROBLEMS FOR THE FINANCIAL SYSTEMS. ALL THESE THINGS
13 ARE MORTGAGE-BACKED SECURITIES.

12:59PM

14 Q TO BE CLEAR, WHEN YOU INVEST IN THEM, YOU
15 DON'T MAKE THE LOANS, I TAKE IT?

01:00PM

16 A NO.

17 Q SO THE LOANS HAVE ALREADY BEEN MADE. THEY'RE
18 POOLED TOGETHER. AND AT THAT POINT YOU DECIDE WHETHER
19 YOU WANT TO BUY IT AND AT WHAT PRICE.

20 IS THAT HOW IT WORKS?

01:00PM

21 A RIGHT. THE GINNIE MAES WILL TYPICALLY HAVE AN
22 INTEREST RATE ON THEM. PEOPLE BORROW MONEY AND THEY
23 HAVE TO PAY INTEREST. IN THE OLD DAYS IT WAS
24 10 PERCENT AND 8 PERCENT, AND THESE DAYS IT'S MORE LIKE
25 4 PERCENT OR EVEN LOWER. OR 5 PERCENT OR EVEN LOWER.

01:00PM

26 IF THEY HAVE 5 PERCENT, WELL THEN YOU'LL
27 GET YOUR MONEY BACK OVER TIME.

28 WITH MORTGAGES, IT CAN BE SHORT TIME, IF

1 THEY REFINANCE, IN WHICH CASE YOU GET PAID BACK QUICK.
2 OR IT CAN BE OVER ABOUT 10- OR 12-YEAR AVERAGE TIME
3 FRAME.

4 Q IN YOUR EXPERIENCE, WHAT MAKES A SUCCESSFUL
5 INVESTOR IN MORTGAGE-BACKED SECURITIES?

01:00PM

6 A IT'S KIND OF TWO ANSWERS.

7 SUCCESSFUL INVESTORS IN ANYTHING SHARE
8 ATTRIBUTES, AND I THINK THAT IS TRYING -- TRYING --
9 AVOIDING GETTING CAUGHT UP IN FEAR AND GREED. BUY LOW,
10 SELL HIGH. IT SOUNDS EASY, BUT IT'S HARD TO DO. WHEN
11 IT'S DOWN, IT FEELS BAD. AND IT'S SCARY.

01:01PM

12 WHEN IT'S UP, IT FEELS GOOD, BUT IT'S
13 HIGH. SO INVESTORS NEED TO FIGHT THE EMOTIONS OF
14 SELLING LOW AND BUYING HIGH, AND IT'S HARD TO DO.

15 IN MORTGAGE IN PARTICULAR, THOUGH, THE
16 KEY TO SUCCESS IS RISK AVOIDANCE. THERE ARE TWO HUGE
17 RISKS THAT MORTGAGES HAVE.

01:01PM

18 THE FIRST IS THEY CAN PAY OFF AT ANY
19 TIME. PEOPLE CAN REFINANCE AT ANY TIME. IF YOU LISTEN
20 TO THE RADIO, DRIVING HOME TONIGHT YOU'LL HEAR AN AD
21 FOR REFINANCING. IF YOU LISTEN TO KNX, LIKE IN OTHER
22 WORDS, LIKE ME, DO LISTEN TO THE NEWS SHOW --

01:01PM

23 MR. QUINN: YOUR HONOR, I THINK THIS IS A
24 NARRATIVE.

25 THE COURT: I THINK IT IS.

01:01PM

26 THE WITNESS: THE QUESTION IS, WHAT MAKES AN
27 INVESTOR GOOD RISK AVOIDANCE.

28 ///

1 BY MR. HELM:

2 Q JUST TO FOCUS, YOU WERE SAYING ONE OF THE
3 RISKS THAT YOU NEED TO LOOK AT IS --

4 A EARLY PAYBACK.

5 Q EARLY FINANCING. EXPLAIN THE REFINANCING RISK
6 YOU'RE REFERRING TO.

01:01PM

7 A RIGHT. WHEN YOU BUY A POOL OF MORTGAGE-BACKS
8 THE RATE YOU'RE GETTING PAID IN THE OLD DAYS WAS
9 10 PERCENT. WHEN RATES GO DOWN SO PEOPLE CAN BORROW AT
10 FIVE, YOU WANT TO KEEP GETTING THE TEN, YOU DON'T WANT
11 THE TEN TO GO AWAY. IF IT DOES, YOU HAVE TO INVEST AT
12 A FIVE. THAT'S BAD.

01:02PM

13 IT ALSO CREATES A LOSS IN THE MARKET
14 WHEN THAT HAPPENS. YOUR SECURITY THAT HAS THE RATE OF
15 TEN MIGHT BE TRADING AT A PRICE OF 130. WHEN YOU GET
16 PAID OFF, YOU GET 100. SO IF YOU'RE AT 130 AND YOU GET
17 PAID OFF AT 100 TOMORROW, YOU LOSE A LOT. THAT'S A
18 RISK.

01:02PM

19 Q YOU SAID THERE WAS ANOTHER RISK.

20 WHAT'S THE OTHER RISK?

01:02PM

21 A NONGUARANTEED SECURITIES, THEY MAY DEFAULT,
22 THEY -- WHEN YOU LEND SOMEBODY MONEY AND THEY DON'T PAY
23 YOU BACK, IT'S NOT A GOOD THING, THEY MIGHT NOT PAY YOU
24 BACK.

25 Q CAN YOU GIVE EXAMPLE OF INSIGHTS YOU'VE HAD
26 THAT HAS HELPED YOU MAKE MONEY FOR YOUR INVESTORS IN
27 THE MORTGAGE-BACKED SECURITIES FIELD?

01:02PM

28 A ONE, IN THE FIRST ONE IN THE '80'S GINNIE MAE

1 MARKET. CONVENTIONAL WISDOM HELD REFINANCING WOULD
2 NEVER HAPPEN AT A VERY HIGH RATE. EVEN IF THERE WAS A
3 GOOD INCENTIVE FOR HOMEOWNERS TO DO IT, THEY
4 HISTORICALLY NEVER DONE IT AT ALL MUCH.

5 I REMEMBER MY GRANDMOTHER WOULDN'T
6 REFINANCE HER LOAN. SHE FELT IT WAS AGAINST THE
7 INTEREST THAT SHE'D AGREED TO KEEP THE LOAN, EVEN
8 THOUGH YOU DON'T HAVE TO.

01:03PM

9 Q IF THAT WAS THE COMMON KNOWLEDGE THEN, WHAT --

10 A IN THE '80'S PEOPLE THOUGHT THEY WOULDN'T PAY
11 BACK FAST. AND I LOOKED INTO IT, AND PHIL AND I
12 STARTED CALLING MORTGAGE BROKERS IN THE '80'S AND
13 SAYING, IS THIS REALLY TRUE?

01:03PM

14 WE THINK THAT PEOPLE WILL PROBABLY
15 REFINANCE A LOT IF THEY GET THE OPPORTUNITY. AND WE
16 FOUND OUT THAT THE CONVENTIONAL WISDOM WAS FLAWED.

01:03PM

17 AND SO WE AVOIDED ALL OF THAT LOSS
18 EXPOSURE THAT PLAGUED THE MARKET IN THE '80'S AND INTO
19 THE '90'S WHERE PEOPLE LOST A LOT OF MONEY ON RE --
20 FIXED INCOME. IT WAS IN THE GINNIE MAE MARKET.

01:03PM

21 Q THIS WAS INSIGHT THAT YOU HAD THAT DIDN'T FIND
22 SOMETHING THAT WAS WORTH A LOT, BUT FOUND SOMETHING
23 THAT WAS DANGEROUS THAT YOU STAYED OUT OF.

24 IS THAT HOW IT WORKED?

25 A YES. I REALLY THINK YOUR QUESTION WAS, WHAT
26 MAKES SOMEONE SUCCESSFUL?

01:03PM

27 I REALLY THINK IT'S AVOIDING THE DANGERS
28 IS THE BIGGEST THING THAT MAKES US SUCCESSFUL. WHEN

1 THE MARKET'S GOING -- GOING UP, IT'S EASY TO GO UP.
2 THE DANGER IS THERE AND YOU HAVE TO WATCH OUT.

3 ANOTHER INSIGHT.

4 THE COURT: OKAY.

5 BY MR. HELM:

01:04PM

6 Q WHAT WAS THE OTHER --

7 THE COURT: LET'S TRY NOT TO HAVE -- A
8 DISCUSSION HERE. IT'S GOT TO BE A QUESTION AND ANSWER.

9 THE WITNESS: OKAY.

10 THE COURT: I APPRECIATE IT.

01:04PM

11 JUST LISTEN TO THE QUESTION AND TRY TO
12 ANSWER THAT. AND WAIT FOR ANOTHER QUESTION.

13 THE WITNESS: OKAY.

14 BY MR. HELM:

15 Q CAN YOU GIVE ME AN EXAMPLE, SUMMARIZE BRIEFLY
16 ANOTHER EXAMPLE OF INSIGHT THAT YOU HAD THAT HELPED YOU
17 MAKE MONEY FOR YOUR INVESTORS IN THE MORTGAGE-BACKED
18 SECURITIES FEES?

01:04PM

19 A IT WAS MOSTLY AVOIDING LOSSES, RATHER THAN
20 MAKING MONEY. THAT WAS IN 2007 AND -8.

01:04PM

21 Q WHAT WAS THAT?

22 A IT WAS CLEAR THAT THERE WERE PROBLEMS IN THE
23 HOUSING MARKET AND THAT THERE WOULD BE DOWNWARD PRICE
24 MOVEMENTS.

25 SO --

01:04PM

26 Q HOW DID YOU ANALYZE IT AT THAT TIME?

27 A PEOPLE STARTED TO WORRY ABOUT DEFAULTS. AND
28 THEY -- THE CONVENTIONAL WISDOM WAS THAT, IF YOU HAD A

1 DEFAULT ON A MORTGAGE, THEY WOULD SELL OUT THE PROPERTY
2 THROUGH THE FORECLOSURE PROCESS AND MAYBE GET BACK 75
3 CENTS ON EVERY DOLLAR.

4 Q THAT WAS THE COMMON --

5 A THAT WAS THE COMMON KNOWLEDGE THAT EVERYBODY
6 USED. AND I LOOKED INTO IT AND SPENT A LOT OF TIME,
7 AND I REALIZED IT WAS WAY WRONG. THAT YOU PROBABLY GET
8 MORE BACK LIKE 30 CENTS.

01:05PM

9 Q HOW DID YOU REALIZE THAT?

10 A I TALKED TO SERVICING, MORTGAGE SERVICING AND
11 FORECLOSURE COMPANIES, AND HAD THEM EXPLAIN TO ME THEIR
12 COSTS STRUCTURES. AND HOW THAT WOULD BE. AND IT WAS
13 PRETTY MUCH UNDENIABLE.

01:05PM

14 YOU'LL GET 30 CENTS AND NOT 75 CENTS
15 BACK. THAT CAUSED A HUGE DIFFERENCE IN THE VALUE OF
16 THESE ASSETS.

01:05PM

17 Q HOW WAS THE MARKET GENERALLY VALUING THE
18 RETURN THAT WOULD HAPPEN TO INVESTORS IN THE EVENT
19 THERE WAS DEFAULT --

20 A THE MARKET THOUGHT YOU WOULD GET 75 CENTS
21 BACK, BUT IT LOOKED LIKE IT WAS GOING TO BE MORE LIKE
22 30.

01:05PM

23 AND SO WHEN WE WERE TALKING ABOUT VERY
24 HIGH DEFAULT ENVIRONMENT, WE WERE GOING TO LOSE A TON
25 OF MONEY VERSUS THE 75-CENT ASSUMPTION, AND SO THE
26 PRICES WERE TRADING AROUND AT WHAT SEEMED TO BE LOW
27 LEVELS, BUT THEY WENT MUCH, MUCH, MUCH LOWER WHEN THIS
28 FACT REVEALED ITSELF BROADLY TO INVESTORS THROUGH THE

01:05PM

1 PASSAGE OF TIME.

2 Q SO, AGAIN, THE WAY YOU MADE MONEY FOR YOUR
3 INVESTORS WAS BY NOT PUTTING THEM INTO SECURITIES THAT
4 IT TURNED OUT WERE NOT WORTH AS MUCH AS THE MARKET
5 THOUGHT THEY WERE?

01:06PM

6 A I'D SAY THAT WAS ONE OF THE BIGGEST THINGS WE
7 DID THAT OUR INVESTORS BENEFITED FROM, WAS NOT BUYING
8 TOO SOON.

9 Q DO YOU MAKE THE SAME KIND OF INVESTMENTS FOR
10 ALL THE FUNDS YOU MANAGE?

01:06PM

11 A NO.

12 Q DO YOU HAVE DIFFERENT STRATEGIES FOR DIFFERENT
13 KINDS OF INVESTORS?

14 A YES. SOME INVESTORS ARE LOW RISK. SOME WANT
15 NO -- NO DOWNWARD EVER. THEREFORE, THEY DON'T GET MUCH
16 RETURN.

01:06PM

17 Q CAN YOU GIVE ME AN EXAMPLE OF ONE OF THE KIND
18 OF FUNDS YOU HAVE THAT CATERS TO A PARTICULAR RISK
19 CATEGORY?

20 A WELL, THE LOW RISK CATEGORY WOULD BE SHORT
21 TERM BOND FUND.

01:06PM

22 Q WHAT IS THAT?

23 A IT JUST MEANS THAT YOU'RE BUYING SECURITIES
24 THAT THEY'RE PAYBACK DATE IS VERY SOON.

25 SO, SINCE YOU'RE GETTING PAID BACK VERY
26 SOON, THE VALUE DOESN'T CHANGE VERY MUCH. THE LONGER
27 IT IS UNTIL YOU'RE PAID BACK, THE MORE PRICE MOVEMENTS
28 THERE ARE IN BONDS.

01:06PM

1 Q CAN YOU GIVE THEN AN EXAMPLE OF A RISKIER KIND
2 OF INVESTMENT, OTHER THAN SHORT TERM YOU DESCRIBED?

3 A MOST OF THE BOND STRATEGIES, WHAT WE CALL
4 INTERMEDIATE TERM, THEY INVEST OUT FIVE TO SEVEN YEARS.
5 SO THAT'S INTERMEDIATE TERM. AND OTHERS LONG TERM,
6 THAT MIGHT INVEST OUT, BELIEVE IT OR NOT, AS LONG AS
7 100 YEARS.

01:07PM

8 AND THOSE CAN HAVE VARIOUS SIGNIFICANT
9 PRICE MOVEMENTS.

10 Q FOR THE INTERMEDIATE TERM INVESTMENTS, THE
11 SORT OF MIDDLE LEVEL RISK, IS THERE A TERM THAT YOU'VE
12 USED TO DESCRIBE THE KIND OF FUNDS THAT EMPLOY THAT
13 KIND OF STRATEGY?

01:07PM

14 A YES. I AND OTHERS IN THE INDUSTRY TYPICALLY
15 USE TWO TERMS FOR THOSE:

01:07PM

16 CORE FUNDS, WHICH MEANS THEY'RE KIND OF
17 STANDARD CORE HOLDING FOR INVESTORS.

18 OR THEY'RE CALLED TOTAL RETURN BOND
19 FUNDS. THAT -- IT'S JUST A FANCY WORD FOR INTERMEDIATE
20 TERM BOND FUND LOOKING TO HAVE HIGH TOTAL RETURNS.

01:07PM

21 Q FOR THE RISKIER INVESTMENTS, DO YOU USE A TERM
22 IN YOUR VERNACULAR TO DESCRIBE THAT KIND OF A FUND?

23 A USUALLY YOU CALL THEM OPPORTUNISTIC FUNDS.

24 Q WHAT DETERMINES WHICH INVESTORS PUT THEIR
25 MONEY INTO WHICH STRATEGIES?

01:08PM

26 A THE INVESTORS.

27 Q ACCORDING TO THE RISK THEY WANT?

28 A YEAH. SOMETIMES THEY GET ADVICE FROM

1 THIRD-PARTY CONSULTING FIRMS, AND OTHER INFLUENCES,
2 LIKE BROKERS THAT HELP THEM TRY TO DETERMINE WHAT
3 THEY'RE COMFORTABLE WORTH IN TERMS OF RISK. THE MORE
4 RISK YOU TAKE, HOPEFULLY OVER TIME THE HIGHER RETURN
5 YOU GET.

01:08PM

6 BUT THE RISK DOES SHOW ITSELF OVER
7 SOMETIMES, AND THAT MAKES PEOPLE SCARED ENOUGH TO MATCH
8 UP THE TOLERANCE FOR RISK WITH THE IN -- WITH THE
9 PROFILE OF THE STRATEGY.

10 Q LET'S GO BACK. WHEN YOU WERE AT TCW, WAS
11 THERE ONLY ONE KIND OF INVESTMENT VEHICLE YOU USED WITH
12 YOUR INVESTORS AT TCW?

01:08PM

13 A NO. THERE WERE A FEW DIFFERENT ONES.

14 Q WOULD YOU JUST DESCRIBE THE NAMES OF THE
15 DIFFERENT TYPES OF INVESTMENT VEHICLES YOU INVESTED IN
16 WHILE AT TCW.

01:08PM

17 A WE OFFER TO CLIENTS -- THE MOST COMMON ONE WE
18 CALL A SEPARATE ACCOUNT. WHAT THAT MEANS IS THAT A
19 CLIENT COMES TO US DIRECTLY. THEY'RE USUALLY QUITE
20 LARGE. THESE WOULD BE 50- TO 100- MAYBE A BILLION
21 DOLLARS PORTFOLIO SIZES.

01:09PM

22 Q WHY DON'T WE TALK ABOUT SEPARATE ACCOUNTS,
23 THEN.

24 A OKAY.

25 Q SO, YOU SAY THE SIZE WAS HOW BIG FOR A
26 SEPARATE ACCOUNT?

01:09PM

27 A WELL, I HAD ONE \$1 MILLION. THAT WAS UNUSUAL.
28 MOST WERE 500 MILLION TO 200 MILLION. THE BIGGEST ONE

1 WAS \$6 BILLION. ONE PORTFOLIO. THIS WAS JUST ONE HUGE
2 BANK.

3 AND WHEN YOU HAVE THAT KIND OF MONEY,
4 THESE INSTITUTIONS WILL USUALLY CREATE THEIR OWN
5 SEPARATE ACCOUNT, THEY CALL IT, WHERE THEY HAVE
6 GUIDELINES AND RULES THAT THEY NEED TO FOLLOW, THAT ARE
7 CUSTOM MADE FOR THEIR NEEDS.

01:09PM

8 Q LET'S TALK ABOUT THOSE GUIDELINES.

9 WHERE DO THE GUIDELINES APPEAR? YOU'RE
10 TALKING ABOUT THE GUIDELINES THAT GOVERN INVESTMENTS IN
11 SEPARATE ACCOUNT?

01:09PM

12 A USUALLY AN ATTACHMENT TO INVESTMENT MANAGEMENT
13 CONTRACT.

14 Q SO INVESTMENT MANAGEMENT CONTRACT WOULD
15 CONTAIN THESE GUIDELINES HOW THE FUNDS WILL BE
16 INVESTED?

01:09PM

17 A ALMOST ALWAYS.

18 Q WHO DETERMINES WHAT THE GUIDELINES ARE?

19 A WELL, IT'S THE CLIENT, ULTIMATELY. BUT
20 USUALLY STARTS WITH A, SAY, DO YOU HAVE ANYTHING
21 DOING -- DOING THAT'S KIND OF LIKE THIS. IF YOU DO,
22 CAN YOU GIVE ME A TEMPLATE FOR WHAT THE GUIDELINES ARE
23 THAT OTHERS ARE USING.

01:10PM

24 Q WHAT WOULD BE SOME EXAMPLES OF GUIDELINES OF
25 HOW A SEPARATE ACCOUNT WOULD BE INVESTED?

01:10PM

26 A THEY WOULD SAY:

27 YOU'RE NOT ALLOWED TO OWN MORE THAN 10
28 PERCENT CASH;

1 YOU'RE NOT ALLOWED TO OWN MORE THAN
2 50 PERCENT IN MORTGAGE-BACKED SECURITIES;

3 YOU'RE NOT ALLOWED TO OWN SECURITIES
4 THAT ARE RATED BELOW SOMETHING;

5 YOU'RE NOT ALLOWED TO HAVE A MATURITY
6 STRUCTURE DIFFERENT THAN THIS.

01:10PM

7 Q NOW, IN THE SEPARATE ACCOUNTS, DO THE CLIENTS
8 COMMIT TO HAVE THEIR MONEY WITH TCW FOR A PERIOD OF
9 TIME? CAN THEY TAKE THEIR MONEY OUT AT ANY TIME? WHAT
10 GOVERNS THAT?

01:10PM

11 A WELL, IT'S GOVERNED BY THE INVESTMENT
12 MANAGEMENT CONTRACT. BUT BY FAR THE MOST COMMON CASE,
13 THEY CAN TAKE ALL MONEY OUT IMMEDIATELY, THEIR MONEY.

14 Q YOU WOULD HAVE THE MONEY FOR AS LONG AS THE
15 CLIENT WANTED TO, BUT THEY CAN REMOVE IT. SO, IN A
16 SEPARATE ACCOUNT, THE CLIENTS COULD TAKE THEIR MONEY
17 OUT WHENEVER THEY WANTED TO; IS THAT CORRECT?

01:10PM

18 A RIGHT. SOMETIMES THERE WAS A 30-DAY NOTICE
19 PERIOD.

20 SOMETIMES THERE WAS NO NOTICE PERIOD.

01:11PM

21 AND THEY CAN ADD MONEY, TAKE IT OUT OR
22 JUST FIRE US. THEY CAN JUST SAY, WE DON'T WANT TO USE
23 YOU ANYMORE. THAT'S THE END OF IT.

24 Q HOW DID TCW GET PAID ON THE INVESTMENTS IT
25 MADE IN SEPARATE ACCOUNTS?

01:11PM

26 A ALMOST ALWAYS IT WAS A FLAT FEE.

27 WHICH MEANS THAT IT WOULD BE A
28 PERCENTAGE OF THE ASSETS UNDER MANAGEMENT, AND IT WAS

1 PAID UNDER -- OVER TIME. IT WAS QUOTED ON A CALENDAR
2 BASIS.

3 IF SOMEBODY HAD \$100 MILLION SEPARATE
4 ACCOUNT, WE WOULD USUALLY GET A FEE OF ABOUT .2
5 PERCENTAGE FOR THE ASSETS FOR THE YEAR, WHICH MEANT
6 ABOUT \$200,000 FOR THE YEAR.

01:11PM

7 Q SO FOR A FIXED AMOUNT OF ASSETS UNDER
8 MANAGEMENT, IT WOULD BE A PERCENTAGE OF THOSE ASSETS
9 FOR A WHOLE YEAR; IS THAT TRUE?

10 A YEAH. YOU'D CALCULATE IT. WE CALCULATED IT
11 MONTHLY OR, MOST COMMONLY, QUARTERLY. THE VALUE OF THE
12 PORTFOLIO, TIMES THE ANNUAL FEE RATE, DIVIDED BY FOUR
13 FOR THE QUARTER. SOME ACCOUNTS HAD INCENTIVE OR
14 PERFORMANCE-BASED FEES. NOT VERY MANY.

01:11PM

15 Q WHAT IS INCENTIVE OR PERFORMANCE-BASED FEE?

01:12PM

16 A IT MEANS YOU RECEIVE A PERCENTAGE OF THE
17 PROFITS. THOSE WOULD USUALLY HAVE A VERY LOW BASE FEE.
18 ALMOST ZERO.

19 SO THE ONLY WAY YOU GOT PAID WAS IF YOU
20 HAD PROFITS. AND GENERALLY YOU WOULD GET 15 PERCENT,
21 20 PERCENT OF THE PROFITS.

01:12PM

22 Q AT TCW, IN THE SEPARATE ACCOUNTS, WHAT
23 PERCENTAGE OF THEM HAD ONLY MANAGEMENT FEES OR BASE
24 FEES WITHOUT ANY KIND OF INCENTIVE OR PERFORMANCE FEE?

25 A MORE THAN 90 PERCENT.

01:12PM

26 Q NOW, HOW MANY CLIENTS DID YOU HAVE WITH
27 SEPARATE ACCOUNTS AT TCW WHEN YOU LEFT IN DECEMBER
28 2009?

1 A WHEN I WAS FIRED IN 2009, I THINK ABOUT 100
2 ACCOUNTS, SEPARATE ACCOUNTS.

3 Q I'D LIKE TO SHOW A GRAPHIC THAT'S BEEN SHOWN
4 TO COUNSEL, EXHIBIT 6092.

5 WE CAN DISPLAY IT TO THE JURY.

01:13PM

6 SO, WHAT DOES THAT REPRESENT,
7 MR. GUNDLACH?

8 A WELL, EACH RECTANGLE HERE IS KIND OF THE
9 PLACEHOLDER FOR A SEPARATE ACCOUNT. SO I THINK THIS IS
10 6 BY 16, SO IT REPRESENTS 96 SEPARATE ACCOUNTS. EACH
11 RECTANGLE BEING A SEPARATE ONE.

01:13PM

12 Q WHAT KIND OF ORGANIZATIONS OR INSTITUTIONS HAD
13 SEPARATE ACCOUNTS AT TCW, JUST THE KINDS OF
14 INSTITUTIONS?

15 A MOSTLY PENSION PLANS. A LOT OF PUBLIC PENSION
16 PLANS. MONEY FOR MANY STATES OF THE UNION.

01:13PM

17 ALSO BANKS, INSURANCE COMPANIES, COLLEGE
18 ENDOWMENTS, CHARITABLE FOUNDATIONS, AND VERY WEALTHY
19 PEOPLE. CENTRAL BANKS AS WELL AROUND THE WORLD.

20 Q SO, FOR THE CLIENTS WHO HAD SEPARATE ACCOUNTS
21 AT TCW, HOW LONG DID YOU KNOW SOME OF THESE CLIENTS?

01:13PM

22 A OVER 20 YEARS.

23 Q DID YOU PERSONALLY MEET WITH ANY OF THE
24 CLIENTS WHO HAD SEPARATE ACCOUNTS AT TCW?

25 A OH, PROBABLY ALMOST ALL OF THEM.

01:13PM

26 Q HOW MANY WOULD YOU MEET WITH IN THE COURSE OF
27 A YEAR, ON AVERAGE? I REALIZE IT MAY NOT BE THE SAME
28 EVERY YEAR.

1 A DOZEN AND DOZENS.

2 Q WHAT ABOUT OTHER MEMBERS OF YOUR TEAM, DID
3 THEY ALSO KNOW AND MEET WITH CLIENTS WHO HAD SEPARATE
4 ACCOUNTS AT TCW?

5 A ABSOLUTELY. CLIENTS -- SEPARATE ACCOUNT
6 CLIENTS WOULD ALMOST ALWAYS STOP BY WHEN THEY WERE IN
7 TOWN. AND IF THEY WANTED TO STOP BY AND GET UPDATED ON
8 WHAT'S GOING ON, THEY WOULD ALWAYS GET A MEETING WITH
9 SOMEBODY ON MY STAFF, OR FOR THE ONES I HAD A LONG
10 RELATIONSHIP WITH, WITH ME.

01:14PM

01:14PM

11 Q AND HOW MUCH MONEY IN TOTAL, ROUGHLY SPEAKING,
12 WAS INVESTED IN SEPARATE ACCOUNTS IN THE TCW FUNDS THAT
13 YOU WERE MANAGING AS OF DECEMBER 4TH, 2009?

14 A PROBABLY 30 OR 40 BILLION.

15 Q NOW, YOU MENTIONED THERE WAS A SECOND KIND OF
16 INVESTMENT VEHICLE YOU USED AT TCW.

01:14PM

17 WHAT WAS THAT?

18 A WELL, THOSE WOULD HAVE BEEN LOCKUP FUNDS.
19 THAT HAVE A -- THEY'RE CLOSED. YOU SET THEM UP AND
20 THEY HAVE ARRANGEMENT PERIOD, AND THEY'RE GOING TO HAVE
21 A TERM FOR MULTIPLE YEARS, AND THE INVESTORS CAN'T GET
22 OUT OF THEM.

01:14PM

23 SOMETIMES LOCKUP FUNDS WOULD HAVE
24 PERIODIC TIMES WHEN INVESTORS COULD GET IN AND OUT, BUT
25 MANY OF THEM, THEY WERE BASICALLY STUCK IN IT FOR
26 MULTIPLE YEARS.

01:15PM

27 Q THE THIRD KIND WAS WHAT?

28 A THE MUTUAL FUNDS, WHICH ARE WHAT WE CALL

1 OPEN-END FUNDS. THESE PEOPLE CAN COME IN EVERY SINGLE
2 DAY. THEY PRICE EVERY DAY. QUOTED IN NEWSPAPER WHAT
3 THE VALUE IS EVERY DAY.

4 AND INVESTORS CAN PUT IN OR TAKE OUT
5 MONEY ANY DAY THEY WANT.

01:15PM

6 Q LET'S TALK ABOUT MUTUAL FUNDS.

7 WHO CAN INVEST IN A MUTUAL FUND? IS
8 THAT SOMETHING ANYBODY CAN BUY?

9 A JUST ABOUT ANYBODY.

10 Q AND IS THERE A MINIMUM INVESTMENT IN A MUTUAL
11 FUND THAT YOU MANAGED AT TCW?

01:15PM

12 A MOST MUTUAL FUNDS HAVE MINIMUM INVESTMENT
13 RULES.

14 AT TCW THEY WERE PRETTY SMALL FOR THE --
15 WHAT WE CALL RETAIL SHARE CLASS, LIKE \$2,000.

01:15PM

16 Q AND HOW WOULD YOU GO ABOUT INVESTING IN --
17 STRIKE THAT.

18 HOW WAS TCW PAID ON A MUTUAL FUND? HOW
19 DOES IT MAKE MONEY FOR MANAGING MUTUAL FUND?

20 A IT'S A FLAT FEE THING, THE SAME AS THE FLAT
21 FEES ON THE SEPARATE ACCOUNTS.

01:16PM

22 Q SO, WHAT WOULD BE THE BASIS POINTS YOU MIGHT
23 GET FOR FEES AND EXPENSES FOR MUTUAL FUNDS?

24 A TOTAL RETURN BOND FUND, BY FAR THE BIGGEST
25 FUND AT TCW, HAD A TOTAL FEE, WHICH INCLUDES A LOT OF
26 EXPENSES THAT ARE ADMINISTRATIVE, OF .49 PERCENT, WHICH
27 WE CALL 49 BASIS POINTS, AND ABOUT 30 OF THE 49 WAS FOR
28 INVESTMENT MANAGEMENT FEES.

01:16PM

1 Q IF WE COULD PUT UP ANOTHER GRAPHIC, 6093.

2 THERE'S INDICATION HERE FOR TOTAL RETURN
3 BOND FUND.

4 WHAT WAS IT AT TCW?

5 A THAT WAS OUR FLAGSHIP, INTERMEDIATE TERM BOND
6 FUND. THE MOST POPULAR TYPES OF BOND FUNDS IN THE
7 UNITED STATES. AND OURS WAS INVESTED PRETTY MUCH
8 EXCLUSIVELY IN MORTGAGE-BACKED SECURITIES.

01:16PM

9 Q AND IT LOOKS LIKE THERE ARE FEW OTHER FUNDS:

10 SHORT TERM BOND FUND;

01:16PM

11 AND A TSI FUND CLOSED.

12 WERE THOSE OTHER KINDS OF MUTUAL FUNDS
13 YOU HAD A TCW?

14 A YES. THESE ARE -- THERE ARE OTHER FUNDS AT
15 TCW, BUT THESE ARE ONES I WAS IN CHARGE OF. THE MUTUAL
16 FUNDS THAT I WAS IN CHARGE OF.

01:17PM

17 Q IT LOOKS LIKE THE TOTAL RETURN BOND FUND WAS A
18 MUCH LARGER FUND THAN THE OTHERS; IS THAT TRUE?

19 A NO DOUBT. YEAH.

20 Q WHAT INVESTMENT STRATEGY DID THE TOTAL RETURN
21 BOND PURSUE? WAS THIS THAT INTERMEDIATE STRATEGY?

01:17PM

22 A YEAH. INTERMEDIATE, YEAH. PEOPLE WANT TO GET
23 RETURNS, BUT THEY DON'T WANT TO TAKE A LOT OF RISK,
24 PARTICULARLY IN INTERMEDIATE BOND FUNDS.

25 IF YOU LOOKED AT THE RETURN LINE, IT
26 WOULDN'T BE ALL THAT SQUIGGLY. STOCKS GO LIKE THIS,
27 YOU KNOW; AND MONEY MARKET FUNDS GO LIKE THAT
28 (INDICATING).

01:17PM

1 THE INTERMEDIATE BOND FUNDS ARE NOT THAT
2 SQUIGGLY OF A LINE. A BIG MOVEMENT, MAYBE 5 PERCENT.

3 Q WHAT WERE THE ASSETS UNDER MANAGEMENT IN THE
4 TOTAL RETURN BOND FUND AS OF THE TIME YOU WERE FIRED
5 FROM TCW?

01:17PM

6 A IT WAS OUR BIGGEST PORTFOLIO AT THE FIRM. IT
7 WAS OVER \$12 BILLION.

8 Q AND I'D LIKE TO LOOK AT EXHIBIT 6094 IF WE
9 COULD.

10 WHAT DOES THIS SHOW IN TERMS OF THE
11 GROWTH OF THE TOTAL RETURN BOND FUND?

01:18PM

12 A THE TOTAL RETURN BOND FUND WAS LAUNCHED IN
13 1993.

14 AND THE GRAPHIC SHOWS HOW BIG THE FUND
15 WAS IN TERMS OF ASSETS EACH YEAR END, I GUESS.

01:18PM

16 AND YOU CAN SEE IT WAS PRETTY
17 INCONSEQUENTIAL UNTIL REALLY THE MIDDLE OF THE 'OO'S,
18 AND THEN IT JUST EXPLODED HERE IN 2009. AND IT WENT
19 STRAIGHT UP IN TERMS OF ITS ASSETS UNDER MANAGEMENT.

20 Q WHAT WERE THE ASSETS UNDER MANAGEMENT? YOU
21 SAY IT STARTED IN 1993?

01:18PM

22 A YES.

23 Q WHAT WERE THE ASSETS UNDER MANAGEMENT,
24 APPROXIMATELY, AT THE END OF 2007?

25 A ABOUT A BILLION DOLLARS.

01:18PM

26 Q AND AT THE END OF 2008?

27 A ABOUT TWO BILLION DOLLARS.

28 Q AND THEN END OF 2009, OR AT LEAST AS OF

1 DECEMBER 4TH, 2009, YOU SAID ABOUT \$12 BILLION?

2 A \$12 BILLION.

3 Q IS THAT RAPID GROWTH FOR A MUTUAL FUND, THE
4 GROWTH THAT WAS SHOWN IN THE '07 OR '08-09 TIME PERIOD?

5 A YES.

01:19PM

6 Q TO WHAT DID YOU ATTRIBUTE THE RAPID GROWTH --
7 THE TOTAL RETURN BOND FUND DURING THAT PERIOD?

8 A IT WAS SO HIGH BECAUSE OF THE PERFORMANCE WAS
9 SO GOOD VERSUS ALL COMPETITORS. PARTICULARLY IN 2007
10 AND -8.

01:19PM

11 MOST BOND FUNDS WERE HAVING A REALLY
12 HARD TIME. LOST A LOT OF MONEY, WHICH WERE POSITIVE
13 BOTH YEARS, AND THE ONES THAT LOST THE MOST MONEY WERE
14 MORTGAGE FUNDS AND -- AND YET OURS WAS POSITIVE BOTH
15 YEARS.

01:19PM

16 Q DURING '07-08 TIME PERIOD, I'M SURE PEOPLE
17 REMEMBER, BUT SO WE'RE ALL ON THE SAME PAGE, REMIND US
18 WHAT WAS HAPPENING IN THE ECONOMY IN --

19 A GLOBAL BANKING PANIC THAT BROUGHT STOCK PRICES
20 DOWN BY OVER 50 PERCENT. MAJOR FIRMS WENT OUT OF
21 BUSINESS. THERE WERE GOVERNMENT BAILOUTS ALL OVER THE
22 PLACE, TO TRY TO KEEP THINGS GLUED TOGETHER.

01:19PM

23 AND THE INVESTMENT MARKETS WERE WHAT WE
24 CALL TANKING. THAT'S A PHRASE FOR GOING DOWN A LOT.

25 Q IS THAT A TECHNICAL TERM?

01:19PM

26 A NOT THAT TECHNICAL. IT'S TANKING.

27 Q SO, WHAT WAS THE -- HOW DID THE TOTAL RETURN
28 BOND FUNDS PERFORMANCE COMPARE TO OTHER FUNDS DURING

1 THE TIME OF THIS GLOBAL CRISIS?

2 A IT WAS THE BEST.

3 FOR THE ENTIRE DECADE OF THE 'OO'S, MY
4 FUND WAS THE TOP-PERFORMING FUND IN THE ENTIRE DATABASE
5 WITH BOTTOM 10 PERCENT RISK. SO THAT'S WHY PEOPLE
6 LIKED IT.

01:20PM

7 Q WERE THERE ANY -- WAS THERE ANY MARKET
8 COMMENTARY YOU PROVIDED FOR THIS TIME THAT DREW ANY
9 ATTENTION DURING THIS PERIOD?

10 A YES.

01:20PM

11 I STARTED OUT IN 2006, LATE IN THE YEAR,
12 TALKING ABOUT COMING TROUBLE IN THE FINANCIAL MARKETS.

13 AND THEN IN 2007, JUNE, I GAVE A BIG
14 SPEECH AT A HUGE INDUSTRY GATHERING AT *MORNING STAR*,
15 THE BIG MUTUAL FUND CENTER OF INFLUENCE.

01:20PM

16 AND I SAID, IN JUNE OF '07, SUB PRIME IS
17 A TOTAL, UNMITIGATED DISASTER, AND IT'S GOING TO GET
18 WORSE.

19 THAT GOT PICKED UP ON FIVE CONTINENTS IN
20 THE MEDIA, AND PEOPLE STARTED TO REALIZE WHAT I WAS
21 SAYING WAS TRUE, AND THEY STARTED TO WANT TO HEAR FROM
22 ME ABOUT FINANCIAL MARKETS.

01:21PM

23 Q YOU SAID SUB PRIME. WHAT DOES THAT REFER TO?

24 A SUB PRIME IS PART OF THE MORTGAGE MARKET. SUB
25 PRIME IS THE -- DEFINED AS LOANS MADE TO PEOPLE WHO
26 HAVE HAD BAD CREDIT HISTORY IN THE PAST.

01:21PM

27 Q WHAT HAPPENED TO THE SUB PRIME MARKET AFTER
28 YOU MADE THOSE COMMENTS?

1 A IT TANKED.

2 Q HOW LONG AFTER YOU MADE THOSE COMMENTS?

3 A ABOUT, OH, FOUR WEEKS LATER.

4 Q DID YOU RECEIVE ANY ATTENTION AS A RESULT OF
5 HAVING PREDICTED THIS OUTCOME?

01:21PM

6 A YES.

7 A LOT OF PEOPLE SUDDENLY WANTED TO KNOW
8 WHAT I WAS THINKING ABOUT THINGS.

9 AND THEN I -- I TALKED TO PEOPLE TO GET
10 OUT OF THE STOCK MARKET. I SAID THE STOCK MARKET, I
11 THOUGHT, WOULD TAKE UP LOWS OF 2000, WHICH PEOPLE
12 THOUGHT WAS PRETTY CRAZY STATEMENT, BUT IT
13 UNFORTUNATELY ENDED UP HAPPENING.

01:21PM

14 Q WE'LL GET TO THE STOCK MARKET COMMENTS IN A
15 MOMENT. THAT'S MUTUAL FUNDS.

01:21PM

16 YOU SAID THERE WAS A THIRD CATEGORY,
17 LOCKUP FUNDS.

18 IS THAT THE THIRD INVESTMENT VEHICLE
19 THAT YOU HAD WHILE YOU WERE AT TCW?

20 A RIGHT.

01:22PM

21 THEY WERE FUNDS THAT WERE SET UP DURING
22 ARRANGEMENT PERIOD, AND WEREN'T AS OPEN, SO THE
23 INVESTORS WOULD SIGN UP FOR A LONG TIME PERIOD IN MOST
24 CASES WITH THOSE FUNDS.

25 Q SO, UNLIKE THE SEPARATE ACCOUNTS OR MUTUAL
26 FUNDS, INVESTORS JUST COULDN'T TAKE THEIR MONEY OUT
27 WHENEVER THEY WANTED TO?

01:22PM

28 A NO, THEY COULDN'T. THERE WERE COUPLE FUNDS IN

1 THAT AREA WHERE THEY HAD SOME ABILITY TO GET IN AND
2 OUT, BUT IT WAS LIMITED.

3 THE BIGGEST PART OF THAT BUSINESS,
4 THOUGH, WAS CLOSED. THEY COULDN'T GET OUT.

5 Q WAS THERE A MINIMUM INVESTMENT SIZE IN THESE
6 LOCKUP FUNDS?

01:22PM

7 A I THINK THERE WAS. I THINK IT WAS ABOUT
8 \$1 MILLION. SO IT WAS ONLY FOR INSTITUTIONS AND VERY
9 WEALTHY PEOPLE.

10 Q THESE WERE NOT PEOPLE OFF THE STREET.
11 COULDN'T JUST GO TO THE SHOP AND BUY --

01:22PM

12 A NO.

13 Q -- A SHARE OF DISTRESSED DEBT LOCKUP FUND?

14 A NO.

15 Q AND WHEN YOU MENTIONED THERE WERE THINGS THAT
16 HAVE KEY MAN PROVISIONS, ARE THE KEY MAN PROVISION AS
17 APPLICABLE IN THIS KIND OF INVESTMENT VEHICLE?

01:22PM

18 A YES. BECAUSE THE INVESTORS ARE COMMITTING FOR
19 A LONG-TERM PERIOD. THEY WANT TO FEEL LIKE WHAT
20 THEY'RE SIGNING UP FOR IS GOING TO BE THERE FOR THE
21 LONG-TERM PERIOD.

01:23PM

22 AND SO THEY DEMAND SOMETHING CALLED A
23 KEY MAN PROVISION. IN MANY CASES THEY WOULD GET
24 RIGHTS, IF SOMETHING HAPPENS TO THE PEOPLE THEY SIGNED
25 UP TO INVEST THE MONEY WITH.

01:23PM

26 Q NOW, HOW DID TCW GET PAID ON THE LOCKUP FUNDS
27 THAT WE'VE BEEN TALKING ABOUT?

28 A THAT WAS A PERFORMANCE FEE STRUCTURE, PLUS A

1 BASE FEE. IT WAS REALLY, THEY WERE INTERESTING BECAUSE
2 THERE WAS A PERCENTAGE OF THE PROFITS THAT MADE THEM
3 POTENTIALLY VERY LUCRATIVE.

4 Q THE PERFORMANCE FEE, THAT WAS --

5 A OVER 20 PERCENT OF THE PROFITS.

01:23PM

6 Q AND WAS THERE ALSO, THEN, A BASE FEE THAT WAS
7 APPLICABLE TO THE LOCKUP FUNDS?

8 A YES. THE IDEA WAS THAT WE ONLY STARTED LOCKUP
9 FUNDS WHEN WE THOUGHT THERE WAS UNUSUALLY HIGH
10 POTENTIAL INVESTMENT OPPORTUNITY.

01:23PM

11 AND WE THOUGHT THE RETURNS COULD BE VERY
12 HIGH. SO THE BASE FEE WAS QUITE HIGH. IT WAS
13 2 PERCENT OF THE ASSETS. SO THAT'S HIGH.

14 AND THEN IN ADDITION TO THAT, 20 PERCENT
15 OF THE PROFITS BECAUSE WE WERE HOPING TO DOUBLE AND
16 TRIPLE PEOPLE'S MONEY IN THESE INVESTMENTS.

01:24PM

17 Q LET'S LOOK AT EXHIBIT 6095, ANOTHER GRAPHIC.

18 WHAT DOES THIS SHOW, MR. GUNDLACH?

19 A THAT SHOWS THE ASSETS UNDER MANAGEMENT IN
20 ABOUT EIGHT OF THE LOCKUP FUNDS AS OF NOVEMBER 2009.

01:24PM

21 Q ALL RIGHT.

22 THE TOP ONE SAYS SMCF I.

23 THAT STANDS FOR SPECIAL MORTGAGE CREDIT
24 FUND I?

25 A YES. THE REAL NAME DIDN'T HAVE A ONE NEXT TO
26 IT. WE JUST CALLED IT SPECIAL MORTGAGE CREDIT FUND.
27 WE DIDN'T KNOW THERE WAS GOING TO BE ANOTHER ONE WHEN
28 WE DID THE FIRST ONE. WE LAUNCHED THAT ONE IN JULY

01:24PM

1 OF '07.

2 Q HOW MUCH WAS INVESTED IN THAT FUND AS OF THE
3 TIME THAT YOU LEFT TCW?

4 A \$1-1/2 BILLION OF CAPITAL.

5 Q THEN BELOW SMCF II, WHEN WAS THE SPECIAL
6 MORTGAGE CREDIT FUND II CREATED?

01:24PM

7 A IN THE MIDDLE OF '08. MIDDLE PART OF '08.

8 Q AND AT THE TIME THAT YOU LEFT TCW, HOW MUCH
9 WAS INVESTED IN SPECIAL MORTGAGE CREDIT FUND II?

10 A ABOUT A BILLION AND THREE-QUARTERS.

01:25PM

11 Q THERE'S A REFERENCE THEN. IT SAYS SMCF II SD.
12 THAT'S A SMALLER ONE. THAT'S --

13 A THAT WAS A ONE OFF FOR ONE SPECIFIC CLIENT
14 THAT, FOR REASONS THAT AREN'T ALL THAT INTERESTING,
15 WANTED TO DO IT ON THEIR OWN. THAT WAS ABOUT
16 \$200 MILLION.

01:25PM

17 Q THEN SMCF III, WHAT DOES THAT REFER TO?

18 A THAT WAS A PORTFOLIO THAT WAS PATTERNED AFTER
19 THE SPECIAL MORTGAGE CREDIT I AND II PROGRAM, BUT IN
20 CONJUNCTION WITH THE U.S. TREASURY DEPARTMENT.

01:25PM

21 Q WAS THERE A SPECIAL NAME FOR THIS FUND?

22 A WELL, THE TREASURY DEPARTMENT CALLED IT THE
23 PPIP.

24 Q WHAT DOES THAT STAND FOR?

25 A PUBLIC PRIVATE INVESTMENT PARTNERSHIP.

01:25PM

26 Q HOW WAS -- WHY WAS IT THAT THE U.S. TREASURY
27 DEPARTMENT WAS SOMEHOW INVOLVED IN THIS SPECIAL
28 MORTGAGE CREDIT FUND III OR THIS PPIP?

1 A IT'S A VERY LONG STORY. TO KEEP IT SHORT, THE
2 PRICES OF THESE NONGUARANTEED MORTGAGES WERE IN
3 FREEFALL, AND IT WAS CAUSING A LOT OF PROBLEMS WITH
4 BANKS BEING BANKRUPT BECAUSE THEY OWNED A LOT OF LOANS.
5 BANKS MAKE A LOT OF LOANS. IF THE VALUE OF LOANS IS
6 GOING INTO THE TANK, THAT MEANS THAT BANKS ARE OUT OF
7 BUSINESS.

01:26PM

8 Q DID THE TREASURY DEPARTMENT TAKE STEPS TO TRY
9 TO ADDRESS THAT THROUGH SOME INVESTMENT PROGRAM?

10 A YES. THEY ACTUALLY CALLED ME IN EARLY '09 TO
11 TALK ABOUT WAYS OF DESIGNING A PROGRAM WHERE THE
12 GOVERNMENT COULD USE SOME OF THE -- ALL THESE STIMULUS
13 MONEYS THAT CONGRESS APPROPRIATED TO HELP SHORE UP THE
14 MARKET.

01:26PM

15 ONE OF THE IDEAS WAS IF YOU CAN RAISE A
16 BILLION DOLLARS FROM PRIVATE INVESTORS, WE, THE
17 TREASURY DEPARTMENT, WILL MATCH IT DOLLAR FOR DOLLAR.
18 SO THEY WOULD THEN INVEST ALSO A BILLION DOLLARS, AND
19 ON TOP OF THAT THE U.S. TREASURY WOULD THEN LEND THE
20 FUND \$2 BILLION AND IN THAT WAY CREATE \$4 BILLION OF
21 BUYING POWER USING THE COMBINATION OF \$1 BILLION MONEY
22 THAT WE WOULD RAISE FROM PRIVATE INVESTORS, PLUS A
23 BILLION DOLLARS PUT IN BY THE TREASURY, PLUS THE
24 BORROWING.

01:26PM

25 THEY DID THIS WITH TEN DIFFERENT
26 MANAGERS. THAT WAS THEIR TARGET. THEY WOULD CREATE
27 \$40 BILLION OF BUYING POWER, THE IDEA OF BEING TO STOP
28 MARKET FROM CONTINUING TO TANK.

01:27PM

01:27PM

1 Q LET ME STOP YOU THERE.

2 SO, ONCE THE MONEY WAS ACCUMULATED IN
3 ONE THESE FUNDS, WHAT KIND OF INVESTMENT WAS
4 CONTEMPLATED THAT WOULD BE MADE WITH IT?

5 A WELL, IT WAS VERY SPECIFIC. THE TREASURY
6 DEPARTMENT SET IT UP THAT THE ONLY ELIGIBLE INVESTMENTS
7 WERE MORTGAGE-BACKED SECURITIES THAT WERE ISSUED PRIOR
8 TO 2009, THAT WERE ORIGINALLY RATED TRIPLE A BY THE
9 RATING AGENCIES, WHICH, YOU KNOW, THAT'S BEEN IN THE
10 NEWS LATELY ON THIS RATING STUFF.

01:27PM

01:27PM

11 IT'S BEEN A LONG SAGA. IT WAS TRIPLE A
12 WHEN THEY WERE ORIGINATED. TRIPLE A INVESTMENTS
13 USUALLY DON'T GO DOWN, AND PEOPLE THAT BUY THEM ARE LOW
14 RISK PEOPLE.

15 THE TRIPLE A INVESTMENTS DROPPED DOWN
16 50, 60, 70 PERCENT. AND SO INVESTORS WERE HAVING A
17 VERY HARD TIME WITH THEIR LOSSES. AND SO THEY CONFINED
18 IT TO THE -- ONCE IT STARTED OUT LIFE AS TRIPLE A --

01:28PM

19 Q TRIPLE A MORTGAGE-BACKED SECURITIES?

20 A YES, ONLY.

01:28PM

21 Q YOU SAID THEY CONCEIVED THERE WOULD BE ONLY
22 TEN DIFFERENT FUNDS; IS THAT TRUE?

23 A YES. THEY ENDED UP DOING NINE BECAUSE ONE OF
24 THE MANAGERS DROPPED OUT AT THE LAST MINUTE.

25 Q WAS THERE A SELECTION PROCESS THAT WAS GONE
26 THROUGH TO SELECT THE MANAGERS FOR THE PPIP FUNDS?

01:28PM

27 A VERY RIGOROUS SELECTION PROCESS. THEY PUT OUT
28 AN ANNOUNCEMENT THAT THEY WERE TAKING APPLICATIONS,

1 FROM INVESTMENT FIRMS TO TOUT THEIR EXPERTISE IN THIS
2 AREA AND MAKE A CASE FOR -- THIS SHOULD BE AN INCLUDED
3 INVESTOR IN THAT PROGRAM.

4 Q DID TCW APPLY?

5 A YES.

01:28PM

6 Q OH, WAS IT COLLECTED?

7 A YES.

8 Q DID METADATA WEST APPLY TO BE A PPIP?

9 MR. QUINN: LACKS FOUNDATION.

10 THE WITNESS: YES.

01:28PM

11 THE COURT: JUST A MINUTE. THERE'S AN
12 OBJECTION. JUST PAUSE.

13 I'LL OVERRULE THE OBJECTION. HE OBVIOUSLY
14 KNOWS THE ANSWER.

15 MR. HELM: THANK YOU, YOUR HONOR.

01:29PM

16 Q WAS MET WEST SELECTED AS PPIP MANAGER?

17 A NO. THEY DIDN'T EVEN MAKE THE SHORT LIST.

18 THE COURT: SIR. JUST -- SIR, JUST ANSWER THE
19 QUESTIONS. WE DON'T NEED THE COMMENTARY. OKAY.

20 THE WITNESS: OKAY.

01:29PM

21 THE COURT: BOTH SIDES HERE, ALL-AROUND.

22 GO AHEAD.

23 BY MR. HELM:

24 Q NOW, WHEN WAS THE TCW PPIP FUND ESTABLISHED?

25 A THE FIRST --

01:29PM

26 Q LET ME BACK UP. YOU SAID THE TCW, AND YOUR
27 GROUP WAS SELECTED.

28 WHEN WERE YOU SELECTED TO BE A PPIP

1 MANAGER?

2 A I THINK OFFICIALLY IN SEPTEMBER OF '09. THE
3 PROCESS WENT -- WAS A FEW MONTHS IN THE MAKING, THOUGH.
4 I DON'T KNOW EXACTLY WHEN THE BELL REALLY RANG
5 OFFICIALLY. WE HAD OUR FIRST CLOSING, WHICH IS WHEN
6 THE FUND REALLY IS BORN, IN LATE SEPTEMBER OF 2009.

01:29PM

7 Q OF 2009?

8 A YES.

9 Q AND WAS THEN THERE A FURTHER CLOSING DURING
10 2009 BEFORE YOU WERE FIRED?

01:29PM

11 A YES. ABOUT TWO WEEKS BEFORE I WAS FIRED.

12 Q AND HOW MUCH MONEY WAS INVESTED IN THE PPIP
13 PROGRAM AS OF THE TIME YOU LEFT TCW?

14 A ALTOGETHER, IT WAS ABOUT 800 MILLION. THE
15 GRAPHIC SHOWS ABOUT 5- OR 600. I'M INCLUDING SOME OF
16 THE BORROWING MONEY. THIS WAS THE SO-CALLED CAPITAL
17 THAT WAS CALLED FROM THE TREASURY DEPARTMENT, PLUS THE
18 PRIVATE INVESTORS.

01:30PM

19 Q ALL RIGHT.

20 I'M MOST INTERESTED IN THE ONES WE
21 TALKED ABOUT BRIEFLY. THEY WERE ALSO OTHER LOCKUP
22 FUNDS AT TCW THAT YOU HAD THAT SAYS COF.

01:30PM

23 WHAT DID THAT REFER TO?

24 A CREDIT OPPORTUNITY FUND.

25 THIS WAS A COLLABORATIVE DEAL BETWEEN ME
26 AND COUPLE OTHER INVESTMENT UNITS AT TCW TO OFFER A
27 DISTRESSED BUY-LOW OPPORTUNITY, NOT JUST IN MORTGAGES,
28 CERTAINLY INCLUDING MORTGAGE-BACKED SECURITIES, BUT

01:30PM

1 ALSO CORPORATION BONDS AND OTHER FORMS OF CORPORATE
2 DEBT.

3 Q WHAT WERE THE ASSETS UNDER MANAGEMENT IN THE
4 CREDIT OPPORTUNITIES FUND AS OF DECEMBER 4TH, 2009?

5 A ABOUT A HALF -- HALF A BILLION DOLLARS.

01:30PM

6 Q AND THEN IT SAYS COF1-B.

7 IS THAT ANOTHER VARIANT OF A CREDIT
8 OPPORTUNITY FUND?

9 A EXACTLY. IT WAS JUST LAUNCHED A LITTLE BIT
10 LATER THAN THE FIRST ONE.

01:31PM

11 Q IT HAD ASSETS OF HOW MUCH?

12 A 250 MILLION, 200 MILLION, SOMETHING LIKE THAT.

13 Q IT SAYS NAV B IN RELIANCE.

14 WHAT DOES THAT REFER TO?

15 A ONE OFF LITTLE ULTRA-DISTRESSED FUNDS. WE
16 CALLED THEM THE ODD LOT FUNDS. ODD LOT MEANS TINY
17 LITTLE SECURITY PIECES, LIKE \$30,000. THEY WERE SO
18 CHEAP. BECAUSE NO ONE COULD EVEN SELL THE STUFF TO BIG
19 INSTITUTIONS AND NO INSTITUTION IS GOING TO CARE ABOUT
20 \$30,000.

01:31PM

21 WE WERE ABLE TO BUY THEM SO LOW. AND
22 MADE HUNDREDS AND HUNDREDS OF PERCENT RETURN.

23 Q IF WE COULD PUT UP 6096.

24 SO THAT, JUST TO SUMMARIZE, WERE THOSE
25 THE THREE PARTS OF THE BUSINESS THAT YOU HAD AT TCW AS
26 OF DECEMBER 4TH, 2009, THE SEPARATE ACCOUNTS UP IN THE
27 UPPER LEFT, THE MUTUAL FUNDS IN THE RIGHT, AND THEN THE
28 DISTRESSED DEBT OR LOCKUP FUNDS AT THE BOTTOM?

01:31PM

1 A THESE WERE THE THREE MAIN CATEGORIES OF
2 INVESTMENT BUSINESSES THAT I PERSONALLY DID THE
3 INVESTING FOR.

4 Q ALL RIGHT.

5 NOW, WHAT I'D LIKE TO SHIFT TO IS WHAT
6 THE BUSINESS WAS LIKE AT DOUBLELINE WHEN YOU FIRST
7 STARTED DOUBLELINE.

01:32PM

8 NOW, YOU WERE TERMINATED?

9 A DECEMBER 4TH, 2009.

10 Q WHEN YOU WERE TERMINATED, DID YOU KNOW
11 IMMEDIATELY WHAT YOU WANTED TO DO?

01:32PM

12 A NO.

13 Q WHAT DID YOU CONSIDER DOING AT THAT TIME?

14 A I BASICALLY THOUGHT ABOUT THREE THINGS.

15 I SAID I COULD EITHER GET MYSELF HIRED
16 AT ANOTHER FIRM AS A PORTFOLIO MANAGER INVESTOR.

01:32PM

17 I COULD MAYBE JOINT VENTURE WITH ANOTHER
18 FIRM AND BE A SUBSIDIARY OF THEM.

19 OR I MIGHT START MY OWN FIRM IF I COULD
20 FIND SOMEBODY TO HELP ME GET IT GOING.

01:32PM

21 Q AND WHO DID YOU DISCUSS THE ISSUE WITH, THE
22 ISSUE OF WHAT YOU SHOULD DO AFTER YOU LEFT TCW?

23 A MY TEAM MOSTLY.

24 AND A FELLOW AT GOLDMAN SACHS CALLED ME
25 DECEMBER 5TH, WHO I WAS FRIENDS WITH. AND HE SAID, I
26 CAN'T BELIEVE WHAT THEY --

01:33PM

27 MR. QUINN: OBJECTION. HEARSAY.

28 THE COURT: SUSTAINED.

1 YOU CAN'T TALK ABOUT WHAT OTHER PEOPLE
2 SAID TO YOU, SIR.

3 THE WITNESS: OKAY.
4 BY MR. HELM:

5 Q LET'S TALK -- FIRST, YOU SAID YOU TALKED TO
6 YOUR TEAM.

01:33PM

7 DID YOU HAVE A MEETING WITH MEMBERS OF
8 THE TCW MORTGAGE-BACKED SECURITIES GROUP SHORTLY AFTER
9 DECEMBER 4TH, 2009?

10 A RIGHT.

01:33PM

11 WHEN I GOT HOME DECEMBER 4TH, AFTER
12 BEING FIRED, I HAD LIKE 200 PHONE MAIL MESSAGES. I
13 DIDN'T HAVE A CELL PHONE. ALL I HAD WAS MY HOME
14 PHONE --

15 MR. QUINN: OBJECTION, NONRESPONSIVE.

01:33PM

16 THE WITNESS: -- PEOPLE WERE CALLING.

17 THE COURT: TRY TO FOCUS ON THE QUESTION, AND
18 ANSWER. YOU'LL GET A CHANCE TO ANSWER ALL YOUR STORY
19 HERE.

20 THE WITNESS: OKAY.

01:33PM

21 BY MR. HELM:

22 Q WHEN DID YOU HAVE A MEETING WITH MEMBERS OF
23 YOUR TEAM, IF AT ALL, AFTER YOU --

24 A SATURDAY, DECEMBER 5TH.

25 Q ON SATURDAY, DECEMBER 5TH WHERE DID YOU MEET?

01:34PM

26 A AT MY HOUSE.

27 Q WHO DID YOU MEET WITH ON DECEMBER 5TH AT YOUR
28 HOUSE?

1 A OH, ABOUT TEN OR 12 PEOPLE WHO HAD BEEN
2 WORKING FOR ME CAME OVER. PHIL BARACH, LOU LUCIDO,
3 JOE GALLIGAN, VINNIE FIORILLO -- THERE WERE PROBABLY
4 EIGHT MORE. I DON'T REMEMBER EXACTLY.

5 Q DID YOU HAVE ANY DISCUSSION ABOUT WHAT YOU
6 SHOULD DO AT THAT POINT?

01:34PM

7 A SORT OF. PHIL SAID --

8 MR. QUINN: OBJECTION, YOUR HONOR.

9 THE COURT: SUSTAINED.

10 DID YOU HAVE ANY IDEA WHAT YOU WOULD DO?
11 THAT IS YOUR TESTIMONY. NOT WHAT PEOPLE SAID.

01:34PM

12 THE WITNESS: ALL I KIND OF KNEW IS WE WANTED
13 TO STAY TOGETHER AS A GROUP.

14 BY MR. HELM:

15 Q WAS ANY DECISION MADE AT THAT MEETING ABOUT
16 WHAT WOULD HAPPEN NEXT?

01:34PM

17 A A LITTLE BIT.

18 WE DECIDED TO TAKE TEMPORARY OFFICE
19 SPACE. AND BUY SOME LAPTOPS. AND THEN TO MEET AT THE
20 TEMPORARY OFFICE SPACE MONDAY OR TUESDAY, WHENEVER WE
21 GET IT SET UP. AND WE DECIDED THAT PHIL AND JOEL
22 SHOULD COME OVER TO MY HOUSE MONDAY MORNING, AND WE
23 COULD CALL THE CLIENTS TO TELL THEM WHAT HAD HAPPENED.

01:34PM

24 Q ALL RIGHT.

25 DID YOU OBSERVE MR. BARACH OR
26 MR. DAMIANI OR ANY OF THE OTHERS WHO JOINED YOU ON
27 MONDAY -- WHO JOINED YOU ON MONDAY -- TAKE ANY ACTION
28 WITH RESPECT TO THEIR EMPLOYMENT AT TCW?

01:35PM

1 WERE THEY STILL TCW EMPLOYEES ONCE YOU
2 STARTED WORKING WITH THEM ON MONDAY?

3 A NO.

4 ON SATURDAY, BECAUSE WE WERE -- WANTED
5 TO WORK TOGETHER, THEY DECIDED THEY WOULD RESIGN.

01:35PM

6 Q AND SO YOU THEN TOOK TEMPORARY OFFICE SPACE
7 STARTING DECEMBER THE 7TH; IS THAT TRUE?

8 A MAYBE THE 8TH. I'M NOT SURE.

9 Q SO SOMETIME EARLY THAT WEEK.

10 WHERE WAS THE TEMPORARY OFFICE SPACE?

01:35PM

11 A DOWNTOWN LOS ANGELES IN THE U.S. BANK TOWER.

12 Q AND DID YOU START CONTACTING CLIENTS AT THAT
13 TIME EARLY IN THAT WEEK, DECEMBER THE 7TH?

14 A YES.

15 WE STARTED TO CALL THE CLIENTS THAT
16 WE -- WE KNEW FIRST THING MONDAY MORNING, 5 O'CLOCK IN
17 THE MORNING.

01:35PM

18 Q HOW DID YOU GET CONTACT INFORMATION FOR THESE
19 CLIENTS THAT YOU WERE CONTACTING?

20 A WE GOOGLED THEM.

01:36PM

21 Q DID YOU HAVE THE M.B.S. DATABASE AVAILABLE TO
22 YOU THAT WEEK IN DECEMBER WHEN YOU WERE CALLING
23 CLIENTS?

24 A NO.

25 Q DID YOU NEED A LIST TO KNOW WHO YOUR MAJOR
26 CLIENTS WERE FROM TCW?

01:36PM

27 A NO.

28 Q WHY NOT?

1 A BECAUSE WE KNEW WHO THEY WERE. WE'VE BEEN
2 WORKING WITH THEM FOR YEARS AND YEARS.

3 Q NOW, SOMETIME A LITTLE LATER IN THAT WEEK, DID
4 YOU SET UP A CONFERENCE CALL OF SOME KIND?

5 A YES. FOR TUESDAY, DECEMBER 8TH.

01:36PM

6 Q AND WHY DID YOU SET UP THAT CALL?

7 A I WAS GETTING BOMBARDED WITH PHONE CALLS FROM
8 INVESTORS. BOMBARDED. WHEN I WAS ON ONE CALL, ANOTHER
9 CALL WAITING WOULD COME IN. IT'S NONSTOP.

10 AND I FIGURED INVESTORS WANT TO HEAR
11 FROM ME, AND I THINK THEY DESERVE TO KNOW WHAT'S GOING
12 ON.

01:36PM

13 Q AND SO HOW DID YOU SET UP THE CALL?

14 A I TOLD BARBARA VANEVERY TO SET UP A CONFERENCE
15 CALL, TO HIRE A COMPANY THAT DOES CONFERENCE CALLS.

01:37PM

16 Q AND YOU MENTIONED, IN YOUR ANSWERING SOME
17 QUESTIONS FROM MR. QUINN, SOMETHING ABOUT ADVERTISING A
18 CALL ON BLOOMBERG.

19 WHAT IS BLOOMBERG?

20 A BLOOMBERG IS A COMPUTER TERMINAL KIND OF
21 TECHNOLOGY THAT -- JUST ABOUT LITERALLY EVERY SINGLE
22 PERSON THAT DOES SOMETHING LIKE MY JOB USES. IT'S VERY
23 COMMONPLACE.

01:37PM

24 AND THEY HAVE A NEWS SERVICE, SO THERE'S
25 NEWS STORIES THAT COME ON THE BLOOMBERG.

01:37PM

26 Q AND SO DID YOU MAKE SOME USE OF BLOOMBERG TO
27 TRY TO ADVERTISE THIS CONFERENCE CALL THAT YOU WANTED
28 TO HAVE ON DECEMBER THE 8TH?

1 A YES, I DID.

2 THE REPORTER CALLED ME AND WANTED TO
3 KNOW WHAT WAS GOING ON, AND I SAID I'LL HOLD THE CALL
4 FOR INVESTORS.

5 MR. QUINN: OBJECTION. HEARSAY.
6 NONRESPONSIVE.

01:37PM

7 THE COURT: I'LL SUSTAIN THE OBJECTION.
8 STRIKE THE RESPONSE.

9 LISTEN CAREFULLY TO THE QUESTION AND
10 JUST ANSWER THE QUESTION. OKAY.

01:37PM

11 BY MR. HELM:

12 Q DID YOU ARRANGE TO HAVE THE CALL ADVERTISED ON
13 BLOOMBERG?

14 A YES.

15 Q AND SO WHAT ARRANGEMENTS DID YOU MAKE? HOW
16 WAS IT ADVERTISED ON BLOOMBERG?

01:38PM

17 A THEY PUT IT UP AS A NEWS STORY.

18 Q AND I BELIEVE WE ALSO TALKED ABOUT
19 EXHIBIT 551.

20 IT'S ADMITTED IN EVIDENCE.

01:38PM

21 MAY WE PUT IT UP?

22 THIS WAS THE PARTICIPANTS' LIST THAT
23 MR. QUINN WAS ASKING YOU ABOUT?

24 A YES.

25 Q AND SO WHERE DID THIS LIST COME FROM?

01:38PM

26 A BARBARA VANEVERY HAD IT ON HER LAPTOP AT HOME.

27 Q AND DID YOU MAKE SOME USE OF THIS LIST TO TRY
28 TO INVITE PEOPLE TO THE CONFERENCE CALL ON DECEMBER THE

1 8TH?

2 A YES.

3 Q HOW DID YOU DO THAT?

4 A WE PRINTED IT OUT. AND I HAD JOEL DAMIANI GO
5 THROUGH AND MAKE SURE WE SENT AN E-MAIL TO EVERY FIRM
6 THAT WAS ON THE LIST.

01:38PM

7 THERE WERE MANY FIRMS THAT HAD MULTIPLE
8 PEOPLE THAT LISTENED TO MY PRIOR WEBCAST. WE DIDN'T
9 HAVE TIME FOR THAT. SO WE USED A SUBSET TO INVITE THEM
10 TO GET THE INFORMATION THEY WERE LOOKING FOR.

01:38PM

11 Q COULD WE ALSO PUT UP EXHIBIT 588.

12 ALSO IN EVIDENCE, I BELIEVE.

13 AND THIS WAS TESTIFIED ABOUT EARLIER.
14 IS THIS AN E-MAIL THAT WAS SENT TO PEOPLE ON THAT
15 PARTICIPANT'S LIST, INVITING THEM TO ATTEND THE CALL?

01:39PM

16 A YES.

17 Q AND IT SAYS, AT THE TOP OF THE SECOND
18 PARAGRAPH:

19 IN THE INTERIM WE ADVISE
20 INVESTORS NOT TO LIQUIDATE THEIR
21 HOLDINGS IN THE FUND. THIS ADVICE
22 IS NOT A COMMENT ON THE REPLACEMENT
23 TEAM TO WHICH TCW ASSIGNED
24 INVESTMENT ACTIVITY, BUT RATHER A
25 REFLECTION OF OUR OPINION THAT THE
26 PRESENT PORTFOLIO IS WELL
27 STRUCTURED AND CAN ABSORB MARKET
28 MOVEMENTS IN THE SHORT TO

01:39PM

01:39PM

1 INTERMEDIATE TERM.

2 WAS THAT ONE MESSAGE YOU WERE INTENDING
3 TO CONVEY TO PEOPLE INVITED TO THIS CALL?

4 A YES.

5 Q WERE YOU TELLING OTHER PEOPLE THE SAME THING
6 WHEN YOU WERE HAVING ORAL CONVERSATIONS WITH MUTUAL
7 FUND INVESTORS WHO CALLED YOU?

01:39PM

8 A YES.

9 Q IS THERE ANY SOLICITATION OF BUSINESS IN THIS
10 E-MAIL THAT WAS SENT TO YOU, ANYTHING IN THERE THAT
11 SAYS WE WANT YOU TO INVEST WITH DOUBLELINE?

01:40PM

12 A NO.

13 MR. QUINN: OBJECTION.

14 BEST EVIDENCE. MOVE TO STRIKE.

15 THE COURT: I'LL ALLOW THE QUESTION.

01:40PM

16 GO AHEAD.

17 THE WITNESS: NO.

18 BY MR. HELM:

19 Q WAS DOUBLELINE EVEN FORMED AS OF DECEMBER
20 THE 8TH, 2009?

01:40PM

21 A NO.

22 Q NOW, IF WE COULD SHOW GRAPHIC 6118.

23 AND THIS IS JUST IS A CALENDAR HERE THAT
24 THE CALL TOOK PLACE ON DECEMBER THE 8TH; IS THAT TRUE?

25 A YES.

01:40PM

26 Q AND NOW, DID YOU INITIATE CALLS TO THE
27 PARTICIPANTS IN THE CONVERSATION CALL?

28 A NO.

1 Q HOW DID PEOPLE HOOK UP WITH THE CONFERENCE
2 CALL IN SOME WAY SO THEY CAN PARTICIPATE?

3 A THEY HAD TO DIAL IN BY THEMSELVES.

4 Q SO, WHAT YOU DID IS YOU SENT OUT E-MAILS AND
5 YOU PUT AN ADVERTISEMENT ON BLOOMBERG; IS THAT RIGHT?

01:40PM

6 MR. QUINN: OBJECTION LEADING.

7 THE COURT: SUSTAINED.

8 BY MR. HELM:

9 Q OTHER THAN SENDING OUT E-MAIL INVITATIONS AND
10 THE ADVERTISEMENT ON BLOOMBERG AND ANY INDIVIDUAL
11 CONVERSATIONS YOU HAD WITH PEOPLE, DID YOU DO ANYTHING
12 ELSE TO SET UP PEOPLE CALLING IN TO THIS NUMBER?

01:41PM

13 A NO.

14 Q AND YOUR UNDERSTANDING, THEY HAD TO INITIATE
15 THE CALL RATHER THAN YOU CALLING THEM; IS THAT TRUE?

01:41PM

16 A YES.

17 Q NOW, JUST IN GENERAL TERMS, WHAT DID YOU SAY
18 ON THE CALL WITH RESPECT TO THEIR INVESTMENT IN THE
19 MUTUAL FUND TOTAL RETURN BOND FUND?

20 MR. QUINN: OBJECTION. HEARSAY.

01:41PM

21 THE COURT: THIS IS WHAT DID HE SAY? I THINK
22 IT CALLS FOR A NARRATIVE. I'D RATHER HAVE IT MORE
23 FOCUSED.

24 MR. HELM: ALL RIGHT.

25 Q DID YOU -- WE SAW ON THE E-MAIL THAT YOU TOLD
26 THE INVESTORS THAT YOU DIDN'T THINK THERE WAS ANY
27 REASON TO WORRY ABOUT THE MUTUAL FUND.

01:41PM

28 DID YOU CONVEY IN SIMILAR TERMS THAT

1 SAME CONCEPT DURING THE CONFERENCE CALL?

2 A YES.

3 Q NOW, DID YOU END UP GETTING ASSISTANCE FROM
4 ANY OTHER ORGANIZATION IN STARTING DOUBLELINE?

5 A YES.

01:42PM

6 Q WHO HELPED YOU?

7 A IT'S A FIRM CALLED OAK TREE CAPITAL.

8 Q WHO IS OAK TREE CAPITAL?

9 A IT'S A LARGE, PRIVATELY HELD INVESTMENT
10 MANAGEMENT COMPANY DOMICILED IN LOS ANGELES.

01:42PM

11 Q AND HOW DID THE IDEA OF CONTACTING OAK TREE
12 FIRST ARISE?

13 A I WAS GIVEN THE IDEA, DECEMBER 7TH, BY
14 GOLDMAN SACHS.

15 Q AND HOW DID THAT IDEA GET COMMUNICATED TO YOU?

01:42PM

16 A I RECEIVED A PHONE CALL EARLY ON IN THE
17 MORNING OF DECEMBER 7TH WHERE THE FELLOW FROM GOLDMAN
18 SAID --

19 MR. QUINN: OBJECTION, HEARSAY.

20 THE COURT: SUSTAINED.

01:42PM

21 YOU CAN'T TELL US WHAT THEY SAID.

22 MR. QUINN: MOVE TO STRIKE.

23 BY MR. HELM:

24 Q DID YOU HAVE A CONVERSATION WITH SOMEONE ON
25 DECEMBER THE 7TH FROM GOLDMAN SACHS?

01:42PM

26 A YES.

27 Q WHO DID YOU TALK TO?

28 A TOM CORNACCHIA.

1 Q AFTER YOUR CONVERSATION WITH MR. CORNACCHIA,
2 DID YOU HAVE ANY IDEAS ABOUT WHO YOU MIGHT CONTACT TO
3 GET ASSISTANCE IN TERMS OF STARTING A NEW BUSINESS?

4 A YES.

5 Q WHEN THE IDEA OF OAK TREE FIRST CAME INTO YOUR
6 MIND, WHAT DID YOU THINK ABOUT IT?

01:43PM

7 A I LOVED THE IDEA.

8 Q WHY'S THAT?

9 A IT FIT ALL THE CRITERIA THAT WERE IMPORTANT TO
10 ME.

01:43PM

11 Q WHAT WERE THOSE CRITERIA?

12 A ABILITY TO ACT QUICKLY WITHOUT A LONG
13 GET-TO-KNOW-YOUR-PROCESS. BECAUSE I'D KNOWN OAK TREE'S
14 PRINCIPALS FOR TEN YEARS. THEY ACTUALLY WORKED AT TCW.
15 AND LEFT IN 1995.

01:43PM

16 Q SO, WHEN YOU STARTED -- YOU STARTED WORK --
17 WE'LL GET TO YOUR BACKGROUND AT TCW IN A MINUTE -- BUT
18 YOU STARTED WORK AT TCW WHAT YEAR?

19 A 1985.

20 Q AND SO THE PRINCIPALS FROM OAK TREE LEFT TCW
21 IN 1995, YOU SAID?

01:43PM

22 A YES. TEN YEARS LATER.

23 Q DID YOU HAVE ANY CHANCE TO WORK WITH ANY OF
24 THE OAK TREE PRINCIPALS WHEN THEY WERE AT TCW?

25 A YES.

01:43PM

26 Q AND SO DID YOU PROCEED TO CONTACT OAK TREE --
27 LET'S PUT BACK UP THAT CALENDAR THAT WE
28 HAD, DENNIS, 6118.

1 DID YOU PROCEED TO CONTACT ANYONE AT
2 OAK TREE?

3 A YES.

4 Q AND WHO DID YOU -- WELL, FIRST OF ALL, WHEN
5 YOU SAY -- WHEN DID YOU CONTACT THEM?

01:44PM

6 A I'M NOT SURE. DECEMBER 7TH, OR DECEMBER 8TH.

7 Q BEFORE YOU CALLED THEM ON DECEMBER THE 7TH OR
8 THE 8TH, OR AT ANY TIME BEFORE DECEMBER 4TH, DID YOU
9 HAVE ANY CONVERSATIONS WITH ANYONE AT OAK TREE CAPITAL
10 ON THE SUBJECT OF STARTING A NEW BUSINESS?

01:44PM

11 A NEVER.

12 Q ALL RIGHT.

13 SO WHEN YOU MADE THE FIRST CALL TO
14 OAK TREE, WHO DID YOU CALL?

15 A I DON'T REMEMBER. MAYBE PHIL CALLED THEM
16 EVEN. I'M NOT SURE.

01:44PM

17 BUT WE ENDED UP MEETING WITH JOHN FRANK
18 AND BRUCE KARSH ON DECEMBER 9TH.

19 Q WEDNESDAY, DECEMBER 9TH.

20 WHERE WAS THAT MEETING?

01:44PM

21 A AT OAK TREE'S OFFICES.

22 Q ALL RIGHT.

23 WHAT HAPPENED AT THAT MEETING?

24 A BRUCE KARSH SAID, YOU SHOULD HAVE YOUR OWN --
25 MR. QUINN: OBJECTION, HEARSAY.

01:44PM

26 THE COURT: SUSTAINED.

27 I'LL STRIKE THE RESPONSE.

28 ///

1 BY MR. HELM:

2 Q DID YOU HAVE A -- AFTER -- DID YOU HAVE A
3 DISCUSSION, WITHOUT SAYING WHAT THE OAK TREE PEOPLE
4 SAID AT THAT MEETING?

5 A YES.

01:45PM

6 Q DID YOU TELL THEM YOU WERE INTERESTED IN
7 POSSIBLY CONSIDERING SOME NEW FORM OF A BUSINESS?

8 MR. QUINN: OBJECTION. HEARSAY.

9 THE COURT: SUSTAINED.

10 BY MR. HELM:

01:45PM

11 Q WELL, AFTER THE COMMUNICATION THAT YOU HAD
12 WITH MR. KARSH AND MR. FRANK AT OAK TREE, DID YOU MAKE
13 ANY DECISIONS TO HAVE FURTHER DISCUSSIONS?

14 A YES.

15 Q WHAT WAS THE STATUS OF YOUR NEGOTIATIONS WITH
16 OAK TREE AT THIS POINT, HAD YOU RESOLVED TO DO
17 ANYTHING?

01:45PM

18 A WE WERE ENCOURAGED THAT THERE WOULD BE A WAY
19 THAT THIS WOULD WORK OUT, THAT THEY COULD INVEST IN A
20 NEW FIRM THAT PHIL AND I WOULD FOUND.

01:45PM

21 Q DID YOU HAVE A LATER MEETING TO DISCUSS
22 POSSIBLE TERMS?

23 A YES. WE MET AGAIN ON DECEMBER 10TH AND SHOOK
24 HANDS ON A DEAL.

25 Q THAT WAS ON THURSDAY, DECEMBER 10TH?

01:45PM

26 A YES.

27 Q WHAT WAS THE -- WHAT WERE THE TERMS OF THE
28 DEAL THAT YOU SHOOK HANDS ON ON THURSDAY,

1 DECEMBER 10TH?

2 A OAK TREE --

3 MR. QUINN: OBJECTION, RELEVANCE.

4 THE COURT: OVERRULED.

5 THE WITNESS: OAK TREE WOULD GET 15 PERCENT
6 OWNERSHIP STAKE IN THE NEW FIRM. SIMPLY FOR HELPING US
7 FAST-TRACK THE LOGISTICS OF THE BUSINESS. LIKE SPACE,
8 COPY MACHINES, TRAVEL DEPARTMENT, COMPUTER HARDWARE,
9 ALL THE -- ALL THE NITTY-GRITTY.

01:46PM

10 AND THEN THEY WANTED TO BUY ABOUT
11 ANOTHER 5 PERCENT OF THE FIRM FOR -- WE AGREED TO THAT.
12 BY MR. HELM:

01:46PM

13 Q DID YOU PROCEED TO DOCUMENT A TERM SHEET
14 REFLECTING THAT AGREEMENT?

15 A YES.

01:46PM

16 Q WHEN WAS THAT TERM SHEET EXECUTED?

17 A DECEMBER 13TH.

18 Q THAT'S SUNDAY, DECEMBER THE 13TH?

19 A YES.

20 Q AND --

01:46PM

21 A YES.

22 Q -- WERE THE TERMS IN THAT TERM SHEET
23 CONSISTENT WITH WHAT YOU JUST SAID, THEY GOT A SHARE
24 IN -- OWNERSHIP SHARE IN DOUBLELINE?

25 A YES.

01:46PM

26 Q AND WHAT WAS THE OWNERSHIP SHARE THAT OAK TREE
27 RECEIVED AS PART OF THIS DEAL?

28 A IN THE END, 20 PERCENT.

1 Q AND YOU MENTIONED THAT THERE WAS A STOCK SWAP
2 OF SOME KIND, OR THERE WAS STOCK OWNERSHIP.

3 WHAT WAS THE TERM IN THAT REGARD?

4 A THAT WAS HOW WE SET IT UP DECEMBER 13TH.
5 SUBSEQUENTLY, WE CHANGED IT IN APRIL OF 2010 TO A CASH
6 DEAL.

01:47PM

7 Q AND WAS THERE ANY PROMISE BY OAK TREE AS PART
8 OF THEM GETTING 20 PERCENT OF THE FIRM FOR THEM TO
9 PROVIDE SOME KIND OF SERVICE?

10 A YES. THEY PUT 45 PROFESSIONALS ON THE PROJECT
11 FULL TIME FOR MULTIPLE WEEKS.

01:47PM

12 Q SO, WHY DON'T YOU DESCRIBE THE KIND OF
13 ASSISTANCE -- WELL, DID OAK TREE, IN FACT, AFTER
14 DECEMBER THE 13TH, BEGIN TO PROVIDE ASSISTANCE TO YOU
15 IN SETTING UP YOUR NEW BUSINESS?

01:47PM

16 A YES. STARTING DECEMBER 14TH.

17 Q WHAT ASSISTANCE DID OAK TREE PROVIDE?

18 A PUTTING TOGETHER A HUGE WORK FLOW PLAN, HOW WE
19 WOULD GET ALL THE INFRASTRUCTURE NEEDS ACCOMPLISHED
20 OVER AN -- ABOUT A MULTI-WEEK PERIOD.

01:47PM

21 SO IT'S -- IT'S, LIKE I SAY, SIMPLE
22 THINGS, REFRIGERATORS, COFFEE MACHINES, WIRING,
23 CARPETING, PAINTING, OFFICE SPACE, COMPUTER STUFF, ALL
24 THAT STUFF. TRAVEL DEPARTMENT.

25 Q ANY OTHER FUNCTIONS IN HUMAN RESOURCES OR ANY
26 OTHER --

01:48PM

27 A HUMAN RESOURCES, EVERYTHING. NONINVESTMENT
28 STRATEGY BASICALLY.

1 Q OVER WHAT PERIOD OF TIME DID OAK TREE PROVIDE
2 ASSISTANCE TO YOU IN GETTING YOUR COMPANY UP AND
3 RUNNING?

4 A MONTHS.

5 Q HOW HELPFUL WAS OAK TREE IN GETTING YOU OPENED
6 FOR BUSINESS?

7 A EXTREMELY HELPFUL.

8 Q WHY DO YOU SAY THAT?

9 A I DIDN'T KNOW HOW TO DO ANY OF THAT STUFF.
10 THEY KNEW HOW BECAUSE THEY STARTED A COMPANY.

11 Q ALL RIGHT.

12 NOW, THERE'S BEEN DISCUSSIONS ABOUT
13 ANALYTIC SYSTEMS THAT TCW HAD WHEN YOU WERE THERE.

14 DO YOU RECALL DISCUSSING THAT IN
15 TESTIMONY?

16 A THE DATA SYSTEMS, YES.

17 Q WHAT DID THOSE DATA SYSTEMS DO?

18 A THEY GOT LOAN DATA RELATED TO MORTGAGES IN THE
19 UNITED STATES FROM THIRD-PARTY SOURCES, MOSTLY FIRMS
20 CALLED LOAN PERFORMANCE, IN TEXT, AND BLOOMBERG.

21 AND THEY GOT DATA FEEDS THAT WOULD GET
22 YOU ALL THE FACTS ABOUT THE MORTGAGES:

23 WHERE THEY WERE;

24 HOW BIG THEY WERE;

25 WHEN THEY WERE TAKEN OUT;

26 WHAT THE FICO SCORE WAS AT THE BORROWER;

27 HOW MUCH DOCUMENT THEY HAD;

28 WHAT DOWN PAYMENT WAS.

01:48PM

01:48PM

01:48PM

01:49PM

01:49PM

1 ALL THESE TYPES OF THINGS.

2 AND THAT WAS THE DATA.

3 AND THE SYSTEMS SIMPLY SORTED THE DATA
4 SO THAT WE COULD LOOK AT IT IN A SUMMARY FORMAT.

5 Q HOW DID YOU DETERMINE WHICH DATA YOU WANTED TO
6 LOOK AT WITH RESPECT TO THESE LOAN POOLS?

01:49PM

7 A WE FIGURED IT OUT OVER YEARS OF LEARNING ABOUT
8 THE MARKET. WHAT DATA WAS IMPORTANT TO INVESTORS,
9 TRADERS. AND THAT MIGHT HAVE A BEARING ON INVESTMENT
10 SUCCESS.

01:49PM

11 ALSO, THERE WERE HUNDREDS OF FIRMS THAT
12 DID THIS SORT OF THING WITH RESEARCH REPORTS FROM WALL
13 STREET.

14 Q BASED ON RESEARCH REPORTS YOU HAD SEEN OVER
15 THE YEARS FROM WALL STREET THAT DISCUSSED DATA ABOUT
16 MORTGAGE-BACKED SECURITIES POOLS, DID YOU HAVE ANY
17 UNDERSTANDING ABOUT WHETHER THE DATA THAT YOU WERE
18 LOOKING AT IN THESE MORTGAGE POOLS WAS THE SAME AS OR
19 DIFFERENT FROM THE KIND OF DATA THAT EVERYBODY ELSE WAS
20 LOOKING AT?

01:49PM

01:50PM

21 A IT WAS THE SAME DATA THAT EVERYBODY ELSE
22 LOOKED AT.

23 Q DID THE SYSTEMS AT TCW DETERMINE WHAT
24 INFORMATION WAS IMPORTANT TO LOOK AT, OR DID YOU
25 DETERMINE WHAT INFORMATION WAS IMPORTANT TO LOOK AT?

01:50PM

26 A WE DETERMINED WHAT WE WANTED TO LOOK AT, NOT
27 THE SYSTEMS.

28 Q HOW MUCH DID YOU PERSONALLY ACTUALLY USE THE

1 TCW DATA SYSTEMS YOURSELF?

2 A I DIDN'T EVEN HAVE THEM INSTALLED IN MY WORK
3 STATION.

4 Q WHY WAS THAT?

5 A I DIDN'T NEED THEM.

01:50PM

6 Q WHAT DID YOU USE, IF NOT THE TCW DATA SYSTEMS
7 WHEN YOU WERE TRADING BONDS?

8 A I USED BLOOMBERG. AND I WOULD HAVE PEOPLE ON
9 MY STAFF SEND ME SUMMARY REPORTS OF THE DATA WHEN IT
10 WAS SORTED.

01:50PM

11 Q I SEE.

12 SO THERE WERE PEOPLE ON YOUR STAFF WHO
13 MADE USE OF THESE DATA SYSTEMS THAT TCW HAD?

14 A YES. THEY WOULD SEND ME THE DATA. BUT THE
15 SYSTEM NEVER DEVELOPED A PRICE FOR ANYTHING OR
16 PROJECTION OF LOSSES OR PROJECTION OF RETURN AT ALL.

01:51PM

17 Q ALL RIGHT.

18 WHAT KIND OF DATA WAS PRESENTED TO YOU
19 WHEN THEY WOULD E-MAIL DATA THAT THEY HAD GOTTEN FROM
20 THESE DATA SYSTEMS, AND YOU WOULD THEN LOOK AT IT AND
21 MAKE DECISIONS, WHAT KIND OF DATA ARE WE TALKING ABOUT?

01:51PM

22 A WHAT PERCENTAGE OF THE HOMEOWNERS WERE NOT
23 MAKING PAYMENTS.

24 WHAT PERCENTAGE OF THE HOMEOWNERS HAD A
25 VALUE OF THE PROPERTY THAT APPEARED TO BE GREATER THAN
26 THE LOAN SIZE.

01:51PM

27 WHAT PERCENTAGE OF THE BORROWERS HAD
28 FULL DOCUMENTATION.

1 WHAT PERCENTAGES OF THE BORROWERS HAD
2 LOANS BIGGER THAN THE CERTAIN SIZE.

3 WHERE THEY WERE LOCATED. THOSE TYPES OF
4 THINGS.

5 HOW MUCH HAD BEEN SOLD OUT THROUGH
6 FORECLOSURE.

01:51PM

7 AND WHAT THE -- WHAT THEY'D RECOVERED ON
8 THOSE FORECLOSURE SALES.

9 Q WHEN THE TCW DATA SYSTEMS PULLED THIS DATA
10 TOGETHER, DID IT MAKE A RECOMMENDATION, YOU KNOW,
11 THUMBS UP, THUMBS DOWN, LIKE IT, DON'T LIKE IT, BUY,
12 DON'T BUY?

01:51PM

13 A NO.

14 Q WHO MADE THE DECISION, AFTER LOOKING AT THAT
15 DATA, WHEN TO BUY A SECURITY OR HOW MUCH TO PAY FOR IT?

01:52PM

16 A OUR PORTFOLIO MANAGERS DID.

17 Q THERE WAS A DISCUSSION ABOUT SOME COMMENTS YOU
18 MAKE ABOUT *THE SUN ALSO RISES*.

19 DO YOU RECALL THAT?

20 A YES.

01:52PM

21 Q WHAT DID YOU MEAN BY THE COMMENTARY YOU MADE
22 ABOUT -- OR THE ANALOGY YOU DREW TO IF YOU WERE
23 REWRITING *THE SUN ALSO RISES*?

24 A I KIND OF THOUGHT IF YOU WERE ERNEST HEMINGWAY
25 AND YOU HAD WRITTEN *THE SUN ALSO RISES* AND YOU LOST THE
26 MANUSCRIPT, THAT YOU WOULD NOT HAVE THAT HARD OF A TIME
27 RECREATING THE STORY.

01:52PM

28 YOU KNEW WHO THE CHARACTERS WERE. YOU

1 KNEW KIND OF WHAT THEY DID AND HOW THEY INTERACTED WITH
2 EACH OTHER. YOU KNEW THE MAJOR PLOT LINES YOU WERE
3 TRYING TO DO.

4 YOU'D JUST HAVE TO REWRITE IT.

5 THE METAPHOR WAS, WE KNEW WHAT DATA WE
6 WANTED. WE KNEW WHO SOLD IT. WE KNEW HOW THE INDUSTRY
7 LIKED TO SORT IT. AND SO WE COULD GO AND BUY THE DATA
8 AND GET -- AND GET IT -- WE ENDED UP BUYING A
9 THIRD-PARTY SYSTEM TO DO THE SORTING THAT WAS FOR SALE
10 AS WELL AT THAT TIME IN 2009.

11 WHICH HADN'T BEEN THE CASE TEN YEARS
12 EARLIER WHEN THE INDUSTRY WAS NEWER.

13 Q LET'S PAUSE ON THAT.

14 WHAT IS THE THIRD-PARTY SYSTEM THAT YOU
15 JUST REFERRED TO THAT DOUBLELINE USED THAT YOU SAID WAS
16 NOT AVAILABLE PREVIOUSLY?

17 A TCW EXPLAINED THAT IT'S CALLED THE VICHARA.
18 IT WAS DEMOED TO US WHILE WORKING AT TCW. IT WAS A
19 BUNCH OF COMPUTER GUYS OUT OF COUNTRYWIDE MORTGAGE, THE
20 HUGE MORTGAGE ORIGINATOR, THE BIGGEST IN THE COUNTRY.
21 WHEN COUNTRYWIDE MORTGAGE WENT UNDER, THESE FELLOWS
22 STARTED THE VICHARA.

23 THE VICHARA WAS A COMPUTER SYSTEM TO DO
24 THESE TYPES OF DATA SORTS. WHEN WE WERE AT TCW, WE
25 SAID THANKS, BUT NO THANKS. IT WAS REDUNDANT FOR WHAT
26 WE HAD.

27 FOR DOUBLELINE IT WAS PERFECT. IT WAS
28 REDUNDANT AT TCW.

1 Q WHEN YOU SAY THESE DATA SORTS, I KNOW YOU'RE
2 NOT A TECHNICAL PERSON NECESSARILY, BUT AT A HIGH
3 LEVEL, WHAT WERE THE KIND OF DATA SORTS THAT THE
4 VICHARA PRODUCT DID THAT SATISFIED A FUNCTION THAT WAS
5 OTHERWISE PERFORMED AT TCW?

01:54PM

6 A IT SORTED INTO THOSE SUMMARIES.

7 WHAT PERCENTAGE OF THE HOMEOWNERS NOT
8 MAKING PAYMENTS.

9 WHAT PERCENTAGE OF THE HOMEOWNERS HAVE
10 LOANS THAT ARE BIGGER IN SIZE THAN THE NOW LOWER VALUE
11 OF THE PROPERTY.

01:54PM

12 WHAT PERCENTAGE OF THE HOMEOWNERS HAD
13 DOCUMENTATION THAT WAS FULL OR LIMITED WHERE THEY WERE.

14 WHAT THE LOAN SIZES WERE.

15 ALL OF IT.

01:54PM

16 Q SO DID -- DID THE VICHARA ACTUALLY PROVIDE THE
17 DATA, OR WAS IT MORE OF A WAY OF LOOKING INTO THE DATA
18 SOURCES THAT YOU SAID YOU COULD BUY?

19 A WE HAD TO -- THEY DID NOT PROVIDE THE DATA, AS
20 BEST AS I UNDERSTAND. WE HAD TO BUY IT FROM LOAN
21 PERFORMANCE, BLOOMBERG, AND IN TEXT.

01:54PM

22 Q NOW, GETTING BACK TO *THE SUN ALSO RISES*, IN
23 YOUR MIND WHEN YOU WERE MAKING THOSE STATEMENTS, WAS
24 THERE A DIFFERENCE FROM YOUR POINT OF VIEW BETWEEN
25 REWRITING *THE SUN ALSO RISES* AND COPYING *THE SUN ALSO*
26 *RISES*?

01:54PM

27 A YES. A BIG DIFFERENCE.

28 Q WHAT DID YOU THINK YOU WERE DOING BY WAY OF

1 ANALOGY ON REWRITING VERSUS COPYING?

2 A REWRITING.

3 Q NOW, THERE ALSO WAS A STATEMENT THAT MR. QUINN
4 MENTIONED ABOUT THE TECHNOLOGY PLATFORM WOULD BE
5 COMPLETELY REBUILT AND ENHANCED BEFORE SUCH TIME AS WE
6 RECEIVE REGISTRATION FROM THE SEC, WHICH YOU EXPECTED
7 IN EARLY JANUARY.

01:55PM

8 DO YOU RECALL THAT QUESTIONING?

9 A YES.

10 Q DID YOU GIVE A DIRECTIVE TO YOUR PEOPLE AT
11 THAT TIME THAT YOU WANTED THAT DONE?

01:55PM

12 A YES.

13 Q AND HOW SUCCESSFUL WERE THEY IN GETTING
14 TECHNOLOGY PLATFORM REBUILT AND UP AND RUNNING?

15 A WELL, PRETTY SUCCESSFUL. BY JANUARY WE HAD
16 FUNCTIONALITY IN PLACE. IT WAS NOT USER-FRIENDLY. IT
17 WASN'T PRETTY.

01:55PM

18 WE DIDN'T NEED PRETTY. WE HAD NO --
19 NOTHING HARDLY TO MANAGE, AND WE HAD THIS HUGE TEAM OF
20 PEOPLE. WE HAD LOTS OF TIME ON OUR HANDS TO DEAL WITH
21 NOT -- NOT-THAT-USER-FRIENDLY FUNCTIONALITY. IT WASN'T
22 REALLY FINISHED IN TERMS OF USER-FRIENDLINESS IN
23 PROBABLY MARCH.

01:55PM

24 Q LET'S TALK ABOUT THE STATUS OF DOUBLELINE'S
25 BUSINESS WAS IN JANUARY, THE MONTH AFTER YOU WERE FIRED
26 FROM TCW.

01:56PM

27 WE TALKED ABOUT SEPARATE ACCOUNTS.

28 WHY DON'T WE PUT UP 6097.

1 WE TALKED ABOUT THE SEPARATE ACCOUNTS
2 THAT YOU HAD AT TCW.

3 AS OF THE END OF JANUARY 2010, HOW MANY
4 SEPARATE ACCOUNTS DID DOUBLELINE HAVE?

5 A TWO.

01:56PM

6 Q AND WHO WERE THE CLIENTS THAT YOU HAD AT THAT
7 TIME?

8 A ONE WAS A VERY LONG-STANDING INSURANCE COMPANY
9 CLIENT I'VE BEEN MANAGING MONEY FOR 20 YEARS. AND THEY
10 SET UP WHAT'S CALLED ADVISORY WE. COULDN'T EVEN DO THE
11 TRADING FOR THEM. THAT'S WHAT ADVISORY MEANS. IT
12 MEANS --

01:56PM

13 Q ALL RIGHT. LET'S TALK ABOUT THAT.

14 ONE OF THESE IS ADVISORY.

15 WHAT'S THE DIFFERENCE BETWEEN ADVISORY
16 ACCOUNT AND A REGULAR SEPARATE ACCOUNT?

01:56PM

17 A REGULAR SEPARATE ACCOUNT, WE HAVE FULL
18 AUTHORITY TO DO THE TRADES, AND THE CONTRACT LETS US
19 TELL THE BANK TO PAY FOR THE TRADES AND TAKE THE
20 SECURITIES IN.

01:56PM

21 AND AN ADVISORY, WE CAN'T DO THE TRADES.
22 ALL WE CAN DO IS TELL THE CLIENT THIS OR THAT ADVICE,
23 AND THEY'LL DO THE TRADING OR EITHER NOT DO THE TRADE.
24 IF THEY WANT TO DO THE TRADE, THEY HAVE TO DO IT
25 THEMSELVES.

01:57PM

26 Q AND DID YOU GET PAID DIFFERENTLY ON ADVISORY
27 ACCOUNT VERSUS SEPARATE ACCOUNT?

28 A YES.

1 Q HOW DIFFERENT?

2 A LESS.

3 Q WHO WAS THE ADVISORY CLIENT THAT DOUBLELINE
4 HAD AS OF THE END OF JANUARY 2 --

5 A IT WAS RELIANCE STANDARD LIFE INSURANCE
6 COMPANY.

01:57PM

7 Q HOW DID IT COME ABOUT THAT RELIANCE BECAME A
8 CLIENT OF DOUBLELINE?

9 A THEY CALLED ME AT HOME DECEMBER 5TH.

10 Q AND DID ANYONE WITH DOUBLELINE HAVE A PRIOR
11 RELATIONSHIP WITH RELIANCE?

01:57PM

12 A I DID.

13 Q DID RELIANCE BECOMING AN ADVISORY CLIENT OF
14 DOUBLELINE IN JANUARY, BY JANUARY 2010, RESULT FROM THE
15 USE OF ANY CLIENT LISTS TAKEN FROM TCW?

01:57PM

16 A NO.

17 Q NOW, THEN, THERE'S ANOTHER BAR FOR A
18 NONADVISORY CLIENT.

19 WHAT DOES THAT REFER TO?

20 A REFERS TO A SMALL ACCOUNT THAT WE CALLED
21 TO-BE.

01:57PM

22 Q HOW DID IT HAPPEN TO BE BECAME A CLIENT OF
23 DOUBLELINE'S WITH A SEPARATE ACCOUNT?

24 A THEY HAD A RELATIONSHIP WITH JOEL DAMIANI, AND
25 THEY CALLED HIM ASKING IF WE WOULD CONTINUE TO MANAGE
26 THEIR MONEY.

01:58PM

27 Q DID THE HIRING OF DOUBLELINE BY TO-BE, TO BE A
28 SEPARATE ACCOUNT AT DOUBLELINE, RESULT FROM THE USE OF

1 ANY CLIENT LIST TAKEN FROM TCW?

2 A NO.

3 Q ALL RIGHT.

4 NOW, YOU MENTIONED THAT YOU -- THE
5 SYSTEMS THAT YOU HAD IN JANUARY WERE YOU HAD THE
6 FUNCTIONS, BUT THEY WEREN'T USER-FRIENDLY.

01:58PM

7 IS THAT WHAT YOU SAID?

8 A YES.

9 Q HOW MANY TRADES DID YOU MAKE AT DOUBLELINE
10 FROM THE TIME IT STARTED TO THE END OF JANUARY 2010.

01:58PM

11 A ONE.

12 Q AND --

13 A ONE.

14 Q -- WHAT SYSTEMS DID YOU NEED TO MAKE THAT
15 TRADE?

01:58PM

16 A BLOOMBERG.

17 Q YOU MENTIONED THAT YOU HAD WHAT, ABOUT 40
18 PEOPLE AT DOUBLELINE AT THAT POINT?

19 A YES.

20 Q DID THEY HAVE A LOT OF TIME ON THEIR HANDS
21 WITH ONLY TWO CLIENTS AND ONE TRADE TO MAKE IT AT THAT
22 POINT?

01:58PM

23 A YES.

24 Q HOW WAS IT IMPORTANT TO YOUR GROUP AT THAT
25 TIME TO HAVE IN PLACE SYSTEMS THAT SAVED A LOT OF TIME?

01:59PM

26 A TOTALLY UNNECESSARY.

27 Q WERE YOU ABLE TO FUNCTION WITH A LESS ROBUST
28 SYSTEM AT THAT POINT, GIVEN THE AMOUNT OF TRADING THAT

1 YOU WERE DOING?

2 A YES. PLUS THE TRADE THAT WE DID WAS IN
3 GINNIE MAES. AND IN GINNIE MAES ALL I EVER USED WAS
4 BLOOMBERG. I NEVER USED ANYTHING RELATING TO THE
5 SO-CALLED TCW DATA PLATFORM FOR GINNIE MAE TRADES, IT
6 WAS ONLY FOR THE NONGUARANTEED STUFF.

01:59PM

7 MR. HELM: ALL RIGHT.

8 YOUR HONOR, I'M ABOUT TO GO TO ANOTHER
9 TOPIC. I SEE IT IS 2:00.

10 THE COURT: WE'LL RECESS.

01:59PM

11 I KNOW IT'S BEEN VERY WARM IN HERE
12 TODAY. WE'LL WORK ON THAT.

13 SOMETIMES FOLLOWING THE WEEKEND TO GET
14 GEARED UP IN HERE TAKES AHILE. MY APOLOGIES TO YOU.

15 DON'T DISCUSS THE CASE AMONG YOURSELVES
16 OR WITH ANYONE ELSE OR FORM ANY OPINIONS OR CONCLUSIONS
17 UNTIL YOU'VE HEARD ALL THE EVIDENCE.

01:59PM

18 SEE YOU TOMORROW MORNING AT 8:30.

19 MS. SITELIS, AND MR. PALAYO, IF YOU
20 REMAIN FOR JUST A MOMENT, I'LL TALK TO YOU ABOUT
21 QUESTIONS YOU'VE ASKED.

02:00PM

22 THE WITNESS: YOUR HONOR, CAN I STEP DOWN?

23 THE COURT: YES, YOU MAY. THANK YOU,
24 MR. GUNDLACH.

02:00PM

26 (PROCEEDINGS HELD OUTSIDE THE PRESENCE OF THE JURY.) +

27

28 THE COURT: I WANT TO LET YOU KNOW YOU'RE

1 NOT -- WE'RE NOT GOING TO BE ABLE TO EXCUSE YOU FROM
2 YOUR JURY SERVICE. YOU NEED TO CONTINUE TO WORK WITH
3 YOUR EMPLOYER.

4 IF THEY'RE NOT WILLING TO DISCUSS WITH
5 YOU AN ARRANGEMENT THAT GIVES YOU A CHANCE TO WORK SOME
6 MORE, I'M HAPPY TO MAKE MORE CALLS FOR YOU. 02:00PM

7 LET US KNOW IF YOU NEED MORE INPUT, BUT
8 WE CAN'T LET YOU GO.

9 MR. PALAYO: ALTHOUGH WE HAVE THREE
10 ALTERNATES, I STILL CAN'T GO? 02:01PM

11 THE COURT: WE ALSO HAVE THREE MORE WEEKS,
12 AND MAYBE FOUR WEEKS. AND WE DON'T KNOW HOW MANY
13 ALTERNATES WE'RE GOING TO HAVE TO USE, AND WE CAN'T
14 TAKE A CHANCE OF HAVING THIS TRIAL, WITH ALL THE EFFORT
15 AND ALL THE TIME THAT YOU PUT INTO IT, NOT COME TO A
16 CONCLUSION. 02:01PM

17 AND I APPRECIATE YOUR PROBLEM. IT MAY
18 BE THAT AS WE GET CLOSER TO THE END, WE'LL HAVE A
19 LITTLE MORE FLEXIBILITY.

20 BUT RIGHT NOW IT'S JUST TOO BIG A RISK. 02:01PM

21 ALL RIGHT, SIR. KEEP COMING IN. I'LL
22 LOOK AT THIS ISSUE AT THE END OF EACH WEEK. AS WE GET
23 CLOSER TO THE END, WE'LL SEE WHAT WE CAN DO.

24 JUROR PALAYO: ALL RIGHT.

25 THE COURT: MS. SITELIS, YOU ASKED ABOUT NEXT
26 WEEK. WE WILL BE DARK ON TUESDAY. WE CANNOT SHUT DOWN
27 ON MONDAY. I UNDERSTAND YOUR NIECE IS COMING IN. 02:01PM

28 IF THERE'S ANY WAY THAT SOMETHING CAN BE

1 DONE TO ACCOMMODATE OR ASSIST YOU, WE'D BE -- THE
2 PARTIES ARE WILLING COLLECTIVELY, NO PARTY IN
3 PARTICULAR, TO DO WHAT WE CAN TO HELP YOU.

4 YOU UNDERSTAND. YOU LOOK AT THE NUMBER
5 OF PEOPLE HERE, AND THE COMMITMENT WE HAVE TO SHUT DOWN
6 FOR THE DAY, WE CAN'T DO IT.

02:02PM

7 MS. SITELIS: I WASN'T, YOU KNOW, REQUESTING
8 THAT --

9 THE COURT: YOU SUGGESTED PICK UP AT
10 9 O'CLOCK, AND YOU SAID YOU COULD BE HERE AT NOON. WE
11 THOUGHT ABOUT, CAN WE GO TO 4:00 OR 4:30, BUT THEN WE
12 HAVE OTHER JURORS.

02:02PM

13 MS. SITELIS: I ALSO INDICATED I'D BE HAPPY TO
14 REARRANGE AND, YOU KNOW, GET A TICKET FOR HER TO COME
15 IN ON SUNDAY INSTEAD OF MONDAY.

02:02PM

16 THE COURT: IF YOU COULD DO THAT, THAT WOULD
17 BE GREAT. I WANT TO GET BACK TO YOU.

18 MS. SITELIS: IT WILL INCUR MORE COST, BUT I'M
19 HAPPY TO DO.

20 THE COURT: THE MESSAGE I RECEIVED, YOU WANTED
21 US TO GO DARK ON MONDAY SO YOU CAN PICK HER UP MONDAY
22 MORNING. WE'LL LOSE A DAY NEXT WEEK ANYWAY. WE'VE GOT
23 COMPETING INTERESTS.

02:02PM

24 MS. SITELIS: RIGHT. I UNDERSTAND.

25 THE COURT: MANY OF THE JURORS WANT THIS OVER
26 AS SOON AS --

02:03PM

27 MS. SITELIS: RIGHT. I MADE THESE PLANS A
28 LOT -- LONG --

1 THE COURT: I UNDERSTAND.

2 DO THE BEST YOU CAN. WE APPRECIATE IT.
3 I'M GLAD WE'RE GOING TO BE DARK TUESDAY. SO PART OF
4 THAT WEEK YOU HAVE TUESDAY AND FRIDAY.

5 MS. SITELIS: YES. OKAY. THANK YOU SO MUCH. 02:03PM

6 THE COURT: THANK YOU VERY MUCH.

7 (PAUSE) +

8

9 (PROCEEDINGS HELD OUTSIDE THE PRESENCE OF THE JURY.) +

10

02:03PM

11 THE COURT: ANY MATTERS?

12 I HAVE ONE FOR YOU. I RECEIVED ANOTHER
13 MEDIA REQUEST. THIS ONE FROM THE DAILY JOURNAL. IT IS
14 ONLY ASKING FOR A STILL -- STILL PHOTOGRAPHS OF
15 MR. BRIAN AND MR. QUINN. 02:03PM

16 PERHAPS THE TWO OF YOU COULD GET
17 TOGETHER AND MAYBE MEET OUT IN FRONT A LITTLE LATER AND
18 CALL THEM. AND THEY CAN TAKE CARE OF THAT.

19 MR. QUINN: DO I HAVE TO STAND NEXT TO HIM?

20 THE COURT: I WANT YOUR ARM AROUND HIM. 02:04PM

21 MR. BRIAN: ONLY IF MR. QUINN PUTS HIS COAT
22 ON.

23 THE COURT: I DON'T ALLOW STILL PHOTOGRAPHY IN
24 THE COURTROOM. WE'LL DENY IT. MAYBE HAVE YOUR
25 DEPARTMENTS, WHOEVER'S IN CHARGE OF THAT, SEND THEM A
26 PHOTO. 02:04PM

27 WHAT ELSE?

28 MR. QUINN: NOTHING ELSE.

1 MR. SURPRENANT: SMALL HOUSEKEEPING MATTER.

2 THIS IS THE DEMONSTRATIVE I DID WITH
3 MR. HICKS. WE WERE ABLE TO RETRIEVE IT. I WANTED TO
4 GIVE IT AN EXHIBIT NUMBER. I BELIEVE 2225?

5 THE COURT: OKAY.

02:04PM

6 MR. HELM: I WASN'T THE ONE DOING HICKS.

7 THE COURT: IT'S MARKED FOR IDENTIFICATION.

8 MR. HELM: OH, JUST FOR IDENTIFICATION, FINE.
9 NO PROBLEM WITH THAT.

10 02:04PM

11 (EXHIBIT 2225 MARKED FOR I.D.) +

12

13 MR. QUINN: THERE WAS ANOTHER ONE.

14 WHAT ABOUT THE BLUE CIRCLES, THE OTHER
15 ONE YOU DID?

16 THE COURT: HE WASN'T AS HAPPY WITH THAT ONE.

17 MR. QUINN: WE CAN TAKE THIS UP LATER.

18 THE COURT: IF YOU FIND IT, LET ME KNOW.

19 MR. BRIAN: YOUR HONOR, THERE WAS ONE OTHER
20 ISSUE.

21 SO WE DON'T GET A QUESTION OF SURPRISE

22 BRIEFING, WE'RE GOING TO BE LODGING A DEPOSITION

23 TRANSCRIPT FOR MR. CABANNES, ONE OF THE SOCIÉTÉ

24 GÉNÉRALE EXECUTIVES. AND THERE'S AN OBJECTION TO SOME
25 DOCUMENTS, AND I TALKED TO MR. MADISON. I THINK WE'LL
26 WANT TO DO A VERY SHORT BRIEF.

27 I PROPOSE SIMULTANEOUS. I THINK THEY
28 WOULD RATHER HAVE US FILE FIRST, AND THEN HAVE A

02:05PM

1 RESPONSE. WE'LL PROBABLY BE PREPARED TO FILE THE
2 TRANSCRIPT, I THINK BY WEDNESDAY, I BELIEVE.

3 THE COURT: THIS IS THE SAME CABANNES WE HAD
4 THE LAST ISSUE ABOUT THE INTERPRETER?

5 YES, WHATEVER YOU WANT.

02:05PM

6 MR. BRIAN: YES. IF THEY'D RATHER HAVE
7 NONSIMULTANEOUS, WE CAN FILE WEDNESDAY. I DON'T WANT
8 TO DELAY IT, THOUGH.

9 THE COURT: NO. MY PHILOSOPHY, LET'S GET IT
10 ON THE TABLE SOONER THAN LATER. WHATEVER YOU PUT OFF,
11 YOU DON'T NO WHAT PROBLEMS YOU GOT WHEN YOU GET TO IT.

02:05PM

12 YES.

13 MR. BRIAN: WE'LL WORK IT OUT.

14 THE COURT: FILE YOUR BRIEF AND GET IT TO ME
15 BY -- IF YOU FILE WEDNESDAY AND THEY FILE THURSDAY OR
16 FRIDAY, IT GIVES ME SOMETHING TO DO ON THE WEEKEND.

02:06PM

17 MR. BRIAN: WE'LL FIGURE IT OUT.

18 COULD WE HAVE JUST TWO MINUTES IN
19 CHAMBERS?

20 THE COURT: SURE.

02:06PM

21 THANK YOU.

22
23
24 (AT 2:06 P.M., AN ADJOURNMENT WAS
25 TAKEN UNTIL 8-16-11 AT 8:30 A.M.)
26
27
28