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SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES

DEPARTMENT 322

HON. CARL J. WEST, JUDGE

TRUST COMPANY OF THE WEST,)
)
 PLAINTIFFS,)
)
 VS.)
)
 JEFFREY GUNDLACH, ET AL.,)
)
 DEFENDANTS.)

CASE NO. BC429385

COPY

REPORTERS' **DAILY** TRANSCRIPT OF PROCEEDINGS
WEDNESDAY, AUGUST 16, 2011

APPEARANCES:

FOR TCW:

QUINN, EMANUEL, URQUHART,
OLIVER & HEDGES
BY: **JOHN B. QUINN**
ERIC EMANUEL
STEVEN G. MADISON
SUSAN ESTRICH
DIANE CAFFERATA HUTNYAN
JOHN PIERCE
DOMINIC SURPRENANT
DAVID SERGENIAN
865 SOUTH FIGUEROA STREET
10TH FLOOR
LOS ANGELES, CALIFORNIA 90017
(213) 443-3000

FOR DOUBLE LINE:

~~MUNGER, TOLLES & COBSON~~
BY: **BRAD D. BRIAN**
MARK B. HELM
ALLISON B. STEIN
KEVIN S. ALLRED
GREGORY J. WEINGART
355 SOUTH GRAND AVENUE, 35TH FLOOR
LOS ANGELES, CALIFORNIA 90071-1560
(213) 683-9280

1 APPEARANCES (CONTINUED):

2
3
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FOR GUNDLACH, ET AL: KELLEY, DRYE, WHITE, O'CONNOR
BY: **LEE S. BRENNER**
EDWARD E. WEIMAN
ANDREW M. WHITE
10100 SANTA MONICA BOULEVARD
23RD FLOOR
LOS ANGELES, CALIFORNIA 90067
(310) 712-6100

WENDY OILLATAGUERRE, CSR 10978
RAQUEL A. RODRIGUEZ, CSR 9485
OFFICIAL COURT REPORTERS
600 SOUTH COMMONWEALTH AVENUE
DEPARTMENT 322 - 17TH FLOOR
LOS ANGELES, CA 90005
(213) 351-8610

1 CASE NUMBER: BC429385
2 CASE NAME: TRUST COMPANY OF THE WEST VS.
3 JEFFREY GUNDLACH, ET AL
4 LOS ANGELES, TUESDAY, AUGUST 16, 2011
5 CALIFORNIA
6 DEPARTMENT 322 HON. CARL J. WEST, JUDGE
7 APPEARANCES: (AS HERETOFORE NOTED.)
8 REPORTER: WENDY OILLATAGUERRE, CSR #10978
9 TIME: 8:35 A.M.

10
11
12 (AT 8:35 A.M. THE JURY ENTERED
13 THE COURTROOM, AND THE FOLLOWING
14 PROCEEDINGS WERE HELD:)

15
16 THE COURT: GOOD MORNING, LADIES AND
17 GENTLEMEN.

18
19 (ALL COUNSEL RESPONDED "GOOD MORNING, YOUR HONOR.")

20
21 THE COURT: IN THE TCW VERSUS GUNDLACH MATTER,
22 WE'RE SET TO CONTINUE WITH THE TRIAL. ALL MEMBERS OF
23 OUR JURY ARE PRESENT, AS ARE ALL COUNSEL.

24 LADIES AND GENTLEMEN OF THE JURY, I HAD
25 A REQUEST MADE TO ME BY THE STAFF THAT ONE OF YOU WOULD
26 LIKE TO TAKE A DAY OFF NEXT WEEK. I THINK YOU ALL
27 APPRECIATE AND UNDERSTAND THAT WE CAN'T JUST LET
28 SOMEBODY NOT BE HERE AND GO ON ABOUT OUR BUSINESS.

08:59AM

08:37AM

08:37AM

1 EITHER WE ALL HAVE TO BE HERE TOGETHER, OR WE CAN'T GO
2 FORWARD. SO I REALLY CAN'T SAY SOMEBODY CAN JUST TAKE
3 A DAY OFF.

4 AND I REALIZE IT'S A HARDSHIP FOR
5 EVERYBODY TO BE COMMITTED TO THE SCHEDULE THAT WE HAVE,
6 BUT WE JUST HAVE TO STICK WITH IT AND KEEP PLUGGING
7 ALONG.

08:37AM

8
9
10 JEFFREY GUNDLACH,
11 THE WITNESS ON THE STAND AT THE TIME OF THE EVENING
12 RECESS, HAVING BEEN PREVIOUSLY SWORN, RESUMED THE
13 STAND AND TESTIFIED FURTHER AS FOLLOWS:

14
15 THE COURT: GOOD MORNING, MR. GUNDLACH.
16 PLEASE RECALL, YOU HAVE BEEN PREVIOUSLY SWORN, AND ARE
17 STILL UNDER OATH.

08:37AM

18 MR. HELM, YOU MAY CONTINUE YOUR
19 CROSS-EXAMINATION OF MR. GUNDLACH.

20 MR. HELM: THANK YOU, YOUR HONOR.

08:37AM

21
22
23 CROSS-EXAMINATION (CONTINUED)
24 BY MR. HELM:

25 Q. GOOD MORNING, MR. GUNDLACH.

08:37AM

26 A. GOOD MORNING, MR. HELM.

27 Q. GOOD MORNING, LADIES AND GENTLEMEN.

28 THE JURY: MORNING.

1 Q. BY MR. HELM: JUST TO LEAVE OFF WHERE WE WERE
2 BEFORE, COULD WE PUT UP 1696, JUST TO ORIENT US.

3 WE WERE DISCUSSING WHAT THE BUSINESS WAS
4 AT TCW BEFORE YOU LEFT.

5 DO YOU RECALL THAT, AND WE TALKED ABOUT
6 THOSE THREE AREAS?

08:38AM

7 A. YES.

8 Q. AND IF WE COULD PUT UP 6100.

9 WE WERE DISCUSSING WHAT THE STATUS OF
10 DOUBLELINE BUSINESS WAS AS OF JANUARY 2010.

08:38AM

11 DO YOU RECALL THAT?

12 A. YES.

13 Q. NOW AT THIS POINT, THERE WAS NO MUTUAL FUND IN
14 EXISTENCE; IS THAT CORRECT?

15 A. THAT'S RIGHT.

08:38AM

16 Q. DID THERE COME A TIME WHEN DOUBLELINE STARTED
17 A MUTUAL FUND?

18 A. YES.

19 Q. WHEN WAS THAT?

20 A. WE LAUNCHED THE FIRST MUTUAL FUNDS APRIL 6TH,
21 2010.

08:38AM

22 Q. AND WHAT WERE THOSE MUTUAL FUNDS CALLED?

23 A. ONE WAS CALLED DOUBLELINE TOTAL RETURN BOND
24 FUND, AND THE OTHER ONE WAS DOUBLELINE EMERGING MARKET
25 BOND FUND.

08:39AM

26 Q. AND HOW DOES ONE GO ABOUT MARKETING A MUTUAL
27 FUND ONCE IT'S OPEN FOR BUSINESS?

28 HOW DID DOUBLELINE GO ABOUT GETTING

1 PEOPLE TO INVEST IN THE MUTUAL FUND?

2 A. WELL, THE MOST IMPORTANT THING WAS TO TALK TO
3 THE BIG BROKERAGE FIRMS THAT HAVE LOTS OF FINANCIAL
4 PLANNERS AND GET THE FUNDS UP ON THEIR PLATFORM SO THEY
5 WOULD TALK TO THEM. TALKED TO MERRILL LYNCH, UBS,
6 WACHOVIA, WELLS FARGO, SMITH BARNEY, THESE TYPES OF
7 ENTITIES, FIDELITY, E*TRADE, AND EXPLAINED TO THEM WHAT
8 IT WAS THAT WE THOUGHT WE COULD DO TO MAKE THEIR
9 INVESTORS MONEY; AND DO MANY, MANY, MANY MEETINGS,
10 PHONE CALLS, WITH PROSPECTIVE INVESTORS.

08:39AM

08:39AM

11 Q. AND THIS IS TO -- WHAT WERE YOU TRYING TO
12 PERSUADE THE BROKERAGE FIRMS TO DO, WHEN YOU HAD THESE
13 MEETINGS?

14 A. WELL, WE HAD AN IDEA OF HOW WE COULD HAVE A
15 VERY STRONG RETURN FOR 2010 AND 2011. WE EXPLAINED TO
16 THEM HOW WE THOUGHT WE COULD DO THAT.

08:39AM

17 Q. AND DO THE -- IF -- WERE YOU TRYING TO
18 PERSUADE THE BROKERAGE FIRMS IN ANY WAY TO LIST THE
19 MUTUAL FUNDS?

20 DO THEY HAVE TO BE PERSUADED TO DO
21 SOMETHING IN ORDER TO OFFER IT TO THE PUBLIC?

08:40AM

22 A. YES. THEY HAVE TO APPROVE THEM, TYPICALLY,
23 WITH THEIR PROCESS AND COMMITTEES, TO SAY THEY'VE DONE
24 THEIR WORK AND LOOKED INTO IT AND APPROVED IT FOR
25 OFFERING TO THEIR CLIENTS.

08:40AM

26 Q. DID YOU PURCHASE ANY DATABASES IN THE EARLY
27 MONTHS OF DOUBLELINE'S EXISTENCE TO GIVE YOU ACCESS TO
28 FINANCIAL ADVISORS OR ANY OTHER PEOPLE THAT MIGHT BE

1 USEFUL IN THE MUTUAL FUND AREA?

2 A. YES, WE DID.

3 Q. WHAT DID YOU PURCHASE?

4 A. WELL, A COUPLE OF DATABASES. ONE OF THEM WAS
5 CALLED THE DISCOVERY DATABASE, I REMEMBER. AND IT HAD
6 TENS OF THOUSANDS OF INVESTORS AND BROKERS AND SO ON
7 LISTED ON IT.

08:40AM

8 Q. WAS THERE ANOTHER ONE?

9 A. I'M NOT SURE. THAT'S SOMETHING THAT RON
10 REDELL, THE PRESIDENT OF MY FUND GROUP, HANDLED.

08:40AM

11 Q. DO YOU KNOW ROUGHLY HOW MUCH A DATABASE OF
12 THIS KIND COSTS?

13 A. ABOUT \$10,000.

14 Q. NOW, DID ANY MUTUAL FUND CUSTOMERS THAT YOU
15 GOT FOR YOUR MUTUAL FUND RESULT FROM ANY CLIENT LISTS
16 THAT WERE TAKEN FROM TCW?

08:41AM

17 A. NO.

18 Q. NOW, I'D LIKE TO PUT UP 6101, IF I COULD.

19 NOW YOU SAID THE MUTUAL FUND STARTED IN
20 EARLY APRIL 2010; IS THAT CORRECT?

08:41AM

21 A. APRIL 6TH, YES.

22 Q. SO BEFORE THAT TIME, I WANTED TO GO THROUGH
23 WHO THE SEPARATE ACCOUNT CLIENTS WERE THAT DOUBLELINE
24 HAD.

25 WE TALKED ABOUT 2B AND RELIANCE IN
26 JANUARY OF 2010.

08:41AM

27 DID YOU GET SEPARATE ACCOUNT CLIENTS IN
28 FEBRUARY OF 2010?

1 A. YES, TWO.

2 Q. WHO WERE THEY?

3 A. ONE IS A BRAND NEW REINSURANCE COMPANY CALLED
4 ATHENE. WE HAD NEVER EVEN HEARD OF THEM PRIOR TO THEM
5 CONTACTING US. AND THEN ORIX CAPITAL MARKETS.

08:41AM

6 Q. NOW, YOU SAY ATHENE WAS NEW, AND YOU HADN'T
7 HEARD OF THEM.

8 WAS ATHENE A CLIENT AT TCW WHEN YOU WERE
9 THERE?

10 A. NO.

08:42AM

11 Q. AND ORIX CAPITAL MARKETS, HOW DID IT COME
12 ABOUT THAT ORIX CAPITAL MARKETS BECAME A CLIENT OF
13 DOUBLELINE WITH A SEPARATE ACCOUNT IN THE FEBRUARY 2010
14 TIME PERIOD?

15 A. ONE OF MY TRADERS, SAM GARZA, HAD A
16 RELATIONSHIP WITH THE SENIOR MANAGER OF ORIX CAPITAL
17 MARKETS.

08:42AM

18 Q. AND THEN IN MARCH 2010, DID DOUBLELINE ACQUIRE
19 ANY NEW SEPARATE ACCOUNT CLIENTS FOR ITS BUSINESS?

20 A. YES.

08:42AM

21 Q. WHO WERE THEY?

22 A. FAIRFAX COUNTY, VIRGINIA, AND -- WHICH IS A
23 PUBLIC PENSION SYSTEM. AND ONE INDIVIDUAL NAMED STEVE
24 HELLER.

25 Q. FAIRFAX COUNTY, HOW DID THAT COME TO BE A
26 CLIENT OF DOUBLELINE WITH A SEPARATE ACCOUNT?

08:42AM

27 A. THEY WERE -- THEY CALLED ME THE FIRST WEEK
28 AFTER I WAS FIRED AND HAD A WHOLE BUNCH OF MEETINGS

1 OVER THE PHONE WITH ME.

2 THEY HAD BEEN -- I HAD MANAGED THEIR
3 MONEY FOR A VERY LONG TIME, AND HAD A STRONG PERSONAL
4 RELATIONSHIP WITH THE SENIOR MEMBERS OF THE INVESTMENT
5 COMMITTEE.

08:43AM

6 Q. AND WHAT ABOUT HELLER, MR. HELLER?

7 A. HELLER WAS MY VERY FIRST CLIENT, EVER.

8 Q. AT TCW?

9 A. YEAH.

10 Q. FROM THE '80S?

08:43AM

11 A. IT'S A VERY SMALL ACCOUNT, JUST HIS PERSONAL
12 MONEY. IT'S THE SMALLEST ACCOUNT I'VE EVER MANAGED.

13 Q. SO DID ANY OF THE SEPARATE ACCOUNT CLIENTS
14 THAT DOUBLELINE ACQUIRED, UP THROUGH THE START OF THE
15 MUTUAL FUND IN APRIL RESULT FROM THE TAKING OF ANY
16 CLIENT LISTS FROM TCW?

08:43AM

17 A. NO.

18 Q. ALL RIGHT. AFTER YOU LEFT TCW, DID YOU HAVE
19 ANY POLICIES AT DOUBLELINE CONCERNING THE USE OF TCW
20 INFORMATION?

08:43AM

21 A. YES.

22 Q. WHAT POLICIES WERE IMPLEMENTED?

23 A. THE VERY FIRST DAY, WE PUT IN A POLICY OF NO
24 USE OF ANY TCW INFORMATION WHATSOEVER.

25 Q. AND YOU PREVIOUSLY LOOKED AT THIS -- IT'S
26 EXHIBIT 5590. COULD WE PUT THAT ONTO THE SCREEN?

08:43AM

27 THIS IS A -- IF WE COULD BLOW UP THE TOP
28 PART OF THE E-MAIL, DENNIS. THANK YOU.

1 WE SAW THIS WAS AN E-MAIL FROM CRIS
2 SANTA ANA DATED MONDAY, DECEMBER THE 14TH, AND IT WAS
3 TO THE PEOPLE SHOWN HERE.

4 WAS THIS AN E-MAIL THAT YOU RECEIVED ON
5 OR ABOUT DECEMBER THE 14TH?

08:44AM

6 A. YES.

7 Q. AND WHERE -- WHERE WAS DECEMBER THE 14TH IN
8 RELATIONSHIP TO THE SIGNING OF THE TERM SHEET WITH
9 OAKTREE?

10 A. IT WAS THE DAY AFTER. DECEMBER 14TH WAS THE
11 DAY THAT DOUBLELINE WAS LAUNCHED.

08:44AM

12 Q. ALL RIGHT. AND IT SAYS THAT I KNOW --
13 (READING) :

14 I KNOW GREG AND I HAVE SPOKE
15 TO YOU, TO ALL OF YOU ABOUT THIS
16 MATTER, BUT I CANNOT STRESS HOW
17 IMPORTANT THIS MESSAGE IS. DO NOT
18 USE ANY FILE THAT WAS CREATED AT
19 TCW, INCLUDING PERSONAL FILES, OR
20 ANY FILES, PROGRAMS THAT YOU
21 CREATED USING TCW RESOURCES OR
22 INFORMATION.

08:44AM

23 AND IT GOES ON FROM THERE.

24 DID YOU EVER SEND ANY E-MAILS RELATED TO
25 THIS SUBJECT OF THE POLICY OF NONUSE OF TCW
26 INFORMATION?

08:45AM

27 A. I THINK SO.

28 Q. IF I COULD SHOW, NOT TO THE JURY, BUT TO THE

1 WITNESS, EXHIBIT 651, PLEASE.

2 DO YOU RECOGNIZE THIS?

3 A. YES.

4 Q. WHAT IS IT?

5 A. IT'S AN E-MAIL THAT I SENT TO ALL DOUBLELINE
6 EMPLOYEES ON DECEMBER 18TH, 2009.

08:45AM

7 MR. HELM: MOVE ADMISSION OF 651, YOUR HONOR.

8 MR. QUINN: HEARSAY.

9 MR. HELM: I'M SORRY, YOUR HONOR?

10 THE COURT: IT IS A HEARSAY OBJECTION.

08:45AM

11 IT WILL BE ADMITTED OVER THE OBJECTION.

12

13 (EXHIBIT 651 ADMITTED.)

14

15 Q. BY MR. HELM: COULD WE SHOW IT TO THE JURY,
16 PLEASE.

08:45AM

17 SO IT SAYS FROM JEFFREY GUNDLACH. THE
18 TO LINE, WHO WERE THE PEOPLE IN THE TO LINE?

19 A. ALL EMPLOYEES OF DOUBLELINE.

20 Q. AND THIS WAS FRIDAY, DECEMBER THE 18TH.

08:46AM

21 THAT'S THE MONDAY AFTER THE
22 DECEMBER 14TH E-MAIL WE PREVIOUSLY SAW?

23 A. YES.

24 Q. AND IT SAYS, (READING):

25 AS WE HAVE BEEN GROWING

08:46AM

26 RAPIDLY, IN TERMS OF HEAD COUNT, I

27 WANT TO MAKE SURE ALL EMPLOYEES

28 UNDERSTAND THAT ALL TCW FILES AND

1 INFORMATION IN POSSESSION OF ANY
2 DOUBLELINE EMPLOYEES ARE TO BE
3 RETURNED TO TCW IMMEDIATELY. ALL
4 COMPUTERS BEING USED AT DOUBLELINE
5 ARE TO BE PURGED OF ANY AND ALL TCW
6 INFORMATION. WE HAVE, OF COURSE,
7 USED NO TCW INFORMATION THUS FAR IN
8 ESTABLISHING DOUBLELINE, AND IT IS
9 IMPERATIVE THAT THIS POLICY
10 CONTINUE TO BE ADHERED TO, WITH NO
11 EXCEPTIONS.

08:46AM

08:46AM

12 WHY DID YOU WRITE THIS E-MAIL AT THAT
13 TIME?

14 A. BECAUSE THE FIRM WAS GROWING IN HEAD COUNT,
15 AND I WANTED TO REITERATE THE MESSAGE THAT WAS SENT ON
16 DECEMBER 14TH, TO MAKE SURE EVERYBODY KNEW WHAT THE
17 POLICY WAS.

08:46AM

18 Q. DID THERE EVER COME A TIME WHEN DOUBLELINE
19 LEARNED THAT THERE WAS A VIOLATION OF THE POLICY THAT
20 HAD BEEN SET FORTH IN THESE E-MAILS AND OTHERWISE?

08:47AM

21 A. YES.

22 Q. AND WHAT DID DOUBLELINE DO, WHEN IT FOUND THAT
23 THERE WERE VIOLATIONS OF THIS POLICY?

24 A. WE GAVE PUNISHMENTS.

25 Q. WHAT WAS -- DO YOU RECALL AN INCIDENT
26 INVOLVING MR. MAYBERRY?

08:47AM

27 A. YES.

28 Q. WOULD YOU DESCRIBE BRIEFLY WHAT THE INCIDENT

1 WAS WITH MR. MAYBERRY RELATING TO COMPLIANCE OR
2 NONCOMPLIANCE WITH THIS POLICY?

3 A. HE WAS LATE IN TURNING IN THE HARD DRIVE, I
4 THINK.

5 Q. AND WHAT WAS YOUR REACTION -- WHEN DID THIS
6 HAPPEN, THAT YOU LEARNED ABOUT THIS?

08:47AM

7 A. I THINK IT WAS LATE JANUARY OR SO.

8 Q. AND WHAT WAS YOUR REACTION WHEN YOU LEARNED
9 THAT HE WAS LATE IN TURNING IN A COMPUTER DEVICE?

10 A. I WAS FURIOUS.

08:47AM

11 Q. AND DID YOU DO ANYTHING AT THAT TIME WITH
12 RESPECT TO TALKING TO DOUBLELINE EMPLOYEES ABOUT IT?

13 A. YES. I HELD AN ALL-HANDS MEETING WHERE I
14 THINK FOR THE ONLY TIME EVER, IN THE HISTORY OF
15 DOUBLELINE, I SORT OF YELLED AT EVERYBODY. AND I
16 TOLD --

08:48AM

17 MR. QUINN: OBJECTION, HEARSAY.

18 THE COURT: I'LL OVERRULE THE OBJECTION. IT'S
19 WHAT HE DID.

20 GO AHEAD.

08:48AM

21 THE WITNESS: AND SO I JUST --

22 THE COURT: I THINK YOU JUST -- DON'T TELL US
23 NECESSARILY WHAT YOU SAID, BUT YOU HELD A MEETING.

24 THE WITNESS: I HELD A MEETING AND REITERATED
25 THAT THE POLICY WAS CRITICALLY IMPORTANT, AND I
26 WOULDN'T TOLERATE ANY EXCEPTIONS TO THE POLICY.

08:48AM

27 Q. BY MR. HELM: AND DID YOU IMPLEMENT ANY
28 WRITTEN DOCUMENTATION CONCERNING THE STATEMENTS YOU

1 MADE ABOUT THE NON-TOLERANCE OF VIOLATIONS?

2 A. I'M NOT SURE WHAT YOU MEAN.

3 Q. WELL, LET ME TO ASK YOU TO LOOK AT -- DISPLAY
4 TO THE WITNESS AND THE COURT, 5782, PLEASE.

5 CAN YOU IDENTIFY THAT?

08:48AM

6 A. IT'S AN E-MAIL TO ALL EMPLOYEES, FEBRUARY 8TH,
7 2010.

8 Q. DOES THAT REFRESH YOUR RECOLLECTION WHEN THE
9 MEETING TOOK PLACE THAT YOU WERE REFERRING TO, THE
10 ALL-HANDS MEETING?

08:49AM

11 A. YES. IT MUST HAVE BEEN FRIDAY, FEBRUARY 5TH.
12 MR. HELM: MOVE ADMISSION OF 5782, YOUR HONOR.
13 MR. QUINN: HEARSAY, YOUR HONOR.
14 THE COURT: WOULD YOU APPROACH FOR A MINUTE.

08:49AM

15
16 (THE FOLLOWING PROCEEDINGS WERE
17 HELD AT SIDEBAR:)

18
19 THE COURT: I THOUGHT WE HAD A STIPULATION AS
20 TO THE AUTHENTICITY AND BUSINESS RECORDS FOUNDATION FOR
21 MOST OF THESE DOCUMENTS.

08:49AM

22 NOW, IT SEEMS TO ME THAT JUST GOING
23 THROUGH THE MOTIONS, AS IF HE HAS TO PUT ON FOR EVERY
24 DOCUMENT, A BUSINESS RECORDS EXCEPTION TO GET IT IN.
25 AND IT MAY, IN FACT, BE HEARSAY, BUT --

08:49AM

26 MR. QUINN: I'M AWARE OF NO SUCH STIPULATION,
27 AND WE'VE HAD A NUMBER OF THINGS KEPT OUT. I DON'T
28 RECALL ANY SUCH STIPULATION.

1 THE COURT: NOT MANY. I WAS JUST WORKING ON
2 THE ASSUMPTION THAT WE HAD -- AND MAYBE IN THE FORMAL
3 STIPULATION, BUT AUTHENTICATION OF THESE DOCUMENTS AS
4 BUSINESS RECORDS IS JUST A FORMALITY. AND WHY ARE WE
5 GOING TO GO THROUGH, ON EVERY DOCUMENT, FOUR QUESTIONS
6 TO QUALIFY IT AS A BUSINESS RECORD?

08:50AM

7 I DON'T BUY IT. I THINK IT TAKES A LOT
8 OF TIME, AND I DON'T KNOW WHY YOU WANT TO DO IT.

9 MR. QUINN: YOUR HONOR, I -- THERE'S NO ISSUE
10 WITH AUTHENTICITY, THAT PART OF THE FOUNDATION.
11 BECAUSE SOMETHING IS WRITTEN DURING THE BUSINESS DAY
12 THAT RELATES TO THE BUSINESS, AND WE HAVE IT ON A
13 COMPANY COMPUTER, I DON'T THINK MAKES IT A BUSINESS
14 RECORD, NECESSARILY.

08:50AM

15 THE COURT: WELL, THEY CAN ESTABLISH THE
16 FOUNDATION FOR IT. IT'S MADE AND PREPARED IN THE
17 ORDINARY COURSE OF BUSINESS. IT'S KEPT IN THE ORDINARY
18 COURSE OF BUSINESS. I JUST THINK WE'RE --

08:50AM

19 MR. QUINN: SOMETHING THAT'S REALLY RELIED ON.

20 THE COURT: NO. ANY KIND OF COMMUNICATION IN
21 THE COURSE OF THE BUSINESS CAN BE SUBJECT TO THE
22 BUSINESS RECORD EXCEPTION. A LETTER SENT. I MEAN IT
23 MIGHT BE A SINGLE LETTER, AND IT GETS ADMITTED ALL THE
24 TIME UNDER BUSINESS RECORDS.

08:51AM

25 MR. QUINN: POTENTIALLY, YOUR HONOR, A
26 BUSINESS COMMUNICATION CAN BE A BUSINESS RECORD; BUT I
27 DON'T THINK EVERY BUSINESS COMMUNICATION IS A BUSINESS
28 RECORD.

08:51AM

1 THIS IS A RUN-OFF STATEMENT. IT'S --
2 FROM OUR POINT OF VIEW, IT'S SELF SERVICE. IT'S NOT
3 SOMETHING THAT'S REFERRED TO.

4 THE COURT: KEEP YOUR VOICE DOWN.

5 MR. QUINN: IT'S NOT SOMETHING THAT'S RELIED
6 ON AFTER IT'S WRITTEN.

08:51AM

7 THE COURT: IT'S A COMMUNICATION OF AN
8 EXISTING POLICY. YOU WANT IT ALL YOUR WAY. AND
9 THEY'VE GOT TO BE ABLE TO PUT BOTH SIDES IN.

10 NOW, IF YOU WANT HIM TO LAY A BUSINESS
11 RECORD EXCEPTION, I'M GOING TO ACCEPT IT, BUT I DON'T
12 THINK -- IT'S JUST GOING TO EXACERBATE, IF THAT'S YOUR
13 POSITION, AND CAN RESERVE YOUR POSITION TO ANY OF THESE
14 DOCUMENTS.

08:51AM

15 MR. QUINN: YOUR HONOR, IF THE COURT IS
16 INDICATING THAT IT FEELS THIS IS A BUSINESS RECORD, SO
17 BE IT.

08:52AM

18 THE COURT: ALL RIGHT.

19 MR. QUINN: BUT I DON'T WANT TO WAIVE THAT
20 OBJECTION.

08:52AM

21 IT'S MY UNDERSTANDING OF THE RULE THAT
22 JUST BECAUSE AN E-MAIL RELATES TO THE BUSINESS, IS
23 WRITTEN DURING THE BUSINESS DAY, THAT THAT DOESN'T
24 NECESSARILY MEAN IT'S A BUSINESS RECORD.

25 MR. BRIAN: IT DOESN'T MATTER WHETHER IT'S A,
26 QUOTE, RUN OFF, AS LONG AS IT'S PREPARED IN THE
27 ORDINARY COURSE OF BUSINESS, PURSUANT TO THE COMPANY
28 BUSINESS, IT IS A BUSINESS RECORD.

08:52AM

1 THE COURT: MAINTAINED IN THE ORDINARY COURSE.

2 I THINK YOU ARE TAKING A VERY NARROW
3 VIEW OF THE BUSINESS RECORDS EXCEPTIONS, AND IF YOU
4 WERE ON THE OTHER SIDE OF IT, YOU WOULD NEVER LET
5 ANYBODY PREVAIL ON THAT.

08:52AM

6 MR. HELM: WE HAVEN'T BEEN OBJECTING TO THEIR
7 E-MAILS ON THAT BASIS.

8 THE COURT: YOU LAY THE FOUNDATION FOR EACH
9 ONE UNTIL HE GETS TIRED OF MAKING THE OBJECTIONS.

10 I HAVEN'T RULED ON THIS ONE. THAT'S WHY I
11 CALLED YOU UP.

08:53AM

12

13 (THE FOLLOWING PROCEEDINGS
14 WERE HELD IN OPEN COURT IN
15 THE PRESENCE OF THE JURY:)

08:53AM

16

17 Q. BY MR. HELM: ALL RIGHT. FIRST, JUST WITH
18 RESPECT TO EXHIBIT 5782, WAS THIS AN E-MAIL THAT YOU
19 CREATED AND MAINTAINED IN THE NORMAL COURSE OF
20 DOUBLELINE'S BUSINESS?

08:53AM

21 A. YES.

22 MR. HELM: I WOULD MOVE ADMISSION OF 5782.

23 THE COURT: IT WILL BE ADMITTED AS A BUSINESS
24 RECORD, OVER THE OBJECTION OF DEFENDANT.

25

26 (EXHIBIT 5782 ADMITTED.)

08:53AM

27

28 Q. BY MR. HELM: AND JUST FOR THE RECORD, 651,

1 THE DECEMBER 18TH E-MAIL THAT WE PREVIOUSLY LOOKED AT,
2 WAS THAT AN E-MAIL THAT YOU CREATED AND MAINTAINED IN
3 THE REGULAR COURSE OF BUSINESS?

4 A. YES.

5 Q. ALL RIGHT.

08:54AM

6 IF WE COULD LOOK AT 5782, PLEASE.
7 THIS WAS FROM YOU, DATED FEBRUARY 8TH;
8 IS THAT CORRECT?

9 A. YES.

10 Q. AND IT SAYS EVERYONE.

08:54AM

11 WAS EVERYONE, SOME KIND OF A MAILING
12 SHORTCUT?

13 A. RIGHT. IT GOES TO EVERYONE AT THE COMPANY.

14 Q. IT SAYS, (READING):

15 AS I MENTIONED IN OUR MEETING
16 ON FRIDAY, IT HAS COME TO OUR
17 ATTENTION THAT NOT EVERY DEVICE
18 CONTAINING TCW INFORMATION WAS
19 TURNED IN TO US MANY WEEKS AGO WHEN
20 WE REQUIRED THAT ALL SUCH DEVICES
21 BE TURNED IN. WE CANNOT TOLERATE
22 FAILURE TO COMPLY WITH THIS
23 REQUIREMENT.

08:54AM

24 NOW, WAS THE DEVICE YOU WERE REFERRING
25 TO, MR. MAYBERRY'S COMPUTER DEVICE THAT YOU REFERRED TO
26 EARLIER?

08:54AM

08:54AM

27 A. YES.

28 Q. AND THEN IT SAYS, (READING):

1 TO BE CLEAR, YOU MUST RETURN
2 IMMEDIATELY ALL --
3 I ASSUME THAT MEANS IMMEDIATELY.
4 DID YOU LEAVE OUT THE I?

5 A. IT LOOKS THAT WAY. 08:54AM

6 Q. (READING):

7 YOU MUST RETURN IMMEDIATELY
8 ALL SUCH DEVICES CONTAINING TCW
9 INFORMATION AND/OR ANY OTHER FORMS
10 OF TCW INFORMATION, E.G., PAPER 08:55AM
11 COPIES OF ANY TCW FILES, ETC. BY
12 TCW INFORMATION, MEANING ANY
13 INFORMATION REGARDING TCW'S
14 BUSINESS THAT YOU HAVE BECAUSE OF
15 YOUR EMPLOYMENT AT TCW, OTHER THAN 08:55AM
16 YOUR PERSONAL HR-RELATED MATERIALS,
17 REGARDLESS OF WHETHER OR NOT IT
18 COULD FAIRLY BE SAID TO BE A TRADE
19 SECRET.

20 IS THAT CONSISTENT WITH WHAT YOU TOLD 08:55AM
21 PEOPLE AT THE FRIDAY MEETING YOU ARE REFERRING TO?

22 A. YES.

23 Q. IT THEN SAYS, (READING):

24 TO BE SURE THAT YOU HAVE
25 COMPLIED WITH THIS DIRECTIVE, YOU 08:55AM
26 SHOULD DILIGENTLY SEARCH FOR ANY
27 SUCH MATERIAL AND CONFIRM YOU HAVE
28 NONE. OR IF ANYTHING ELSE IS

1 DISCOVERED, TURN IT IN NOT LATER
2 THAN WEDNESDAY OF THIS WEEK.

3 WEDNESDAY, IS THAT THE DEADLINE THAT
4 YOU WERE REFERRING TO, DISCUSSING AT THE FRIDAY
5 MEETING?

08:55AM

6 A. YES.

7 Q. AND THEN IT SAYS, (READING):

8 IF YOU HAVE ANY QUESTIONS
9 ABOUT THIS PLEASE, CONTACT GREG
10 WARD OR GREG PATTI.

08:55AM

11 WHO WERE GREG WARD AND GREG PATTI?

12 A. GREG WARD WAS THE CFO AT THE TIME AT
13 DOUBLELINE, AND GREG PATTI WAS OUR LAWYER.

14 Q. IT SAYS, (READING):

15 IF WE LEARN AFTER THE CLOSE OF
16 BUSINESS WEDNESDAY THAT YOU HAVE
17 FAILED TO RETURN ANY DEVICES
18 CONTAINING TCW INFORMATION OR
19 FAILED TO RETURN ANY OTHER TCW
20 INFORMATION IN YOUR POSSESSION, YOU
21 WILL BE SUBJECT TO SERIOUS
22 DISCIPLINARY MEASURES, UP TO AND
23 INCLUDING TERMINATION.

08:56AM

24 DID THERE COME A TIME WHEN MORE SERIOUS
25 DISCIPLINE WAS IMPOSED FOR VIOLATION OF THIS POLICY?

08:56AM

26 A. YES.

27 Q. WHAT WERE THE CIRCUMSTANCES OF THAT?

28 A. ONE OF OUR JUNIOR ANALYSTS, NAMED JP -- WE USE

1 HIS INITIALS -- HAD SOME FILES ON HIS COMPUTER AT HOME,
2 WE FOUND OUT, SOME TCW FILES, AND HE WAS NOT TRUTHFUL
3 WHEN WE ASKED HIM ABOUT IF HE HAD ANY FILES OF TCW.

4 Q. AND WHEN DID THIS HAPPEN, IN RELATION TO THE
5 WEDNESDAY DEADLINE THAT YOU WERE REFERRING TO HERE?

08:57AM

6 A. IT WAS MUCH LATER.

7 Q. AND SO DID DOUBLELINE TAKE ANY STEPS WITH
8 RESPECT TO JP FOR VIOLATION OF THE POLICY?

9 A. YES.

10 Q. WHAT DID YOU DO?

08:57AM

11 A. WE FIRED HIM.

12 Q. AND DO YOU RECALL, ROUGHLY, WHEN THAT
13 OCCURRED?

14 A. I THINK IT WAS IN THE SUMMER.

15 Q. ALL RIGHT.

08:57AM

16 LET'S GO TO JUNE OF 2010, NOW, SIX
17 MONTHS AFTER THE LAST CHART WE WERE TALKING ABOUT.

18 COULD WE PUT UP 6102, PLEASE.

19 HOW MANY SEPARATE ACCOUNT CLIENTS DID
20 DOUBLELINE HAVE, AS OF THE END OF JUNE 2010?

08:57AM

21 A. IT LOOKS LIKE EIGHT.

22 Q. AND ONE OF THOSE IS AN ADVISORY ACCOUNT?

23 A. YES.

24 Q. LET'S LOOK AT 6103.

25 WHAT WAS THE STATUS OF THE MUTUAL FUNDS
26 THAT DOUBLELINE HAD BEGUN IN APRIL AS OF THE END OF
27 JUNE 2010?

08:57AM

28 A. THE TOTAL RETURN BONDS FUND HAD RAISED ABOUT

1 \$1 BILLION. THE EMERGING MARKET FIXED INCOME FUND WAS
2 VERY SMALL. AND WE HAD LAUNCHED A THIRD FUND, CALLED
3 THE CORE FIXED INCOME FUND, JUNE 1ST.

4 Q. ALL RIGHT.

5 WE TALKED ABOUT A THIRD CATEGORY OF
6 FUNDS THAT YOU MANAGED YOURSELF WHILE YOU WERE AT TCW.
7 AND THAT WAS LOCKUP FUNDS OR DISTRESSED FUNDS?

08:58AM

8 A. YES.

9 Q. DID DOUBLELINE HAVE ANY EQUIVALENT FUNDS,
10 LOCKUP FUNDS, HEDGE FUNDS, ANYTHING OF THAT NATURE, AS
11 OF JUNE 2010?

08:58AM

12 A. NO.

13 Q. WELL, HOW WERE YOU FEELING ABOUT YOUR
14 PROSPECTS OF BUSINESS AT THIS POINT, AS OF JUNE 2010?

15 MR. QUINN: OBJECTION. RELEVANCE.

08:58AM

16 THE COURT: SUSTAINED.

17 Q. BY MR. HELM: WERE YOU HERE WHEN YOUR
18 DEPOSITION VIDEOS WERE PLAYED?

19 A. YES.

20 Q. DID YOU NOTICE ANY DIFFERENCE IN YOUR Demeanor
21 AS BETWEEN ANY OF THE DIFFERENT DEPOSITION SESSIONS
22 THAT WERE PLAYED?

08:58AM

23 A. YES.

24 Q. WHEN DID THE FIRST DEPOSITION TAKE PLACE?

25 A. EARLY JUNE 2010.

08:59AM

26 Q. WAS THERE ANYTHING THAT WAS HAPPENING IN YOUR
27 BUSINESS THAT AFFECTED, IN ANY WAY, THE Demeanor THAT
28 YOU HAD DURING THAT FIRST DEPOSITION, IN JUNE 2010?

1 A. YES.

2 Q. WHAT WAS THAT?

3 A. WE WERE LOSING TONS OF MONEY.

4 Q. AND WHAT DID YOU -- HOW DID THE PROSPECTS OF
5 YOUR BUSINESS LOOK AS OF JUNE 2010?

08:59AM

6 A. IT WAS QUITE LIKELY THE BUSINESS WOULD FAIL.

7 Q. AND DID THAT AFFECT IN ANY WAY YOUR -- THE
8 EASE OR WILLINGNESS WITH WHICH YOU WERE ANSWERING
9 QUESTIONS AT THAT DEPOSITION?

10 A. YES.

08:59AM

11 Q. ALL RIGHT.

12 WELL, WHY DON'T WE FAST FORWARD TO THE
13 PRESENT TIME.

14 LET'S LOOK AT EXHIBIT 6110.

15 AS OF THE END OF LAST MONTH,
16 APPROXIMATELY HOW MANY SEPARATE ACCOUNT CLIENTS DID
17 DOUBLELINE HAVE?

08:59AM

18 A. IT LOOKS LIKE 17.

19 Q. AND LET'S LOOK AT 6111.

20 WHAT WAS THE STATUS OF THE MUTUAL FUNDS
21 AS OF THE END OF LAST MONTH?

09:00AM

22 A. THE TOTAL RETURN FUND HAD GROWN TO \$9 BILLION.
23 THE EMERGING MARKET FUND HAD GROWN TO A COUPLE OF
24 HUNDRED MILLION DOLLARS. THE CORE FIXED INCOME FUNDS
25 THAT WE LAUNCHED IN 2010 HAD GROWN TO ABOUT \$300
26 MILLION; AND WE LAUNCHED TWO OTHER FUNDS.

09:00AM

27 Q. WHAT ARE THOSE?

28 A. ONE IS A JOINT VENTURE WITH A FIRM CALLED

1 RIVER NORTH THAT IS IN CHICAGO AND THAT HAD RAISED
2 ABOUT \$300 MILLION. THAT WAS STARTED AT YEAR END 2010.

3 AND WE LAUNCHED, IN THE FIRST QUARTER OF
4 2011, A MULTI-ASSET GROWTH FUND WHICH IS A
5 GO-ANYWHERE-DO-ANYTHING STOCK BOND COMMODITY CURRENCY
6 ANYWHERE CURRENTLY IN THE WORLD TYPE OF FUND.

09:00AM

7 Q. LET'S LOOK AT EXHIBIT 6112, IF WE COULD.

8 NOW, WE MENTIONED THAT YOU HAD SOME
9 DISTRESSED OR LOCKUP FUNDS WHEN YOU WERE AT TCW.

10 TO THIS DAY, DO YOU HAVE ANY WHAT YOU
11 WOULD CALL LOCKUP FUNDS AT DOUBLELINE?

09:01AM

12 A. NO.

13 Q. DO YOU HAVE ANYTHING ELSE THAT SORT OF IS
14 ROUGHLY IN THE FAMILY OF THE KIND OF FUNDS THAT YOU HAD
15 IN THE DISTRESSED DEBT AREA AT TCW?

09:01AM

16 A. YES. WE LAUNCHED AN AGGRESSIVE FUND, A HEDGE
17 FUND, SEPTEMBER 1ST, 2010.

18 Q. AND BRIEFLY, HOW DOES A HEDGE FUND DIFFER FROM
19 A LOCKUP FUND?

20 A. WELL, INVESTORS CAN TAKE THEIR MONEY IN AND
21 OUT PERIODICALLY.

09:01AM

22 IN THE CASE OF THE FUND THAT WE
23 LAUNCHED, THEY CAN DO IT EVERY MONTH, WITH 45 DAYS'
24 NOTICE, SO THEY ARE LOCKED IN FOR 45 DAYS.

25 BUT THEY DO HAVE THE SAME TIME TO GET
26 OUT.

09:01AM

27 Q. AND SO IF WE PUT UP 6113.

28 SO DOES THAT DEPICT THE THREE AREAS OF

1 BUSINESS AND HOW EXTENSIVE THEY WERE, AS OF THE END OF
2 LAST MONTH, AT DOUBLELINE?

3 A. YES.

4 Q. AND WHY DON'T WE PUT UP 6114.

5 SO JUST BY WAY OF COMPARISON, DOES THAT
6 SHOW THE STATUS OF THE -- ON THE TOP LINE, THE STATUS
7 OF THE DIFFERENT LINES OF BUSINESS OR THE DIFFERENT
8 TYPES OF FUNDS YOU HAD AT TCW AT THE TIME YOU WERE
9 FIRED, AND COMPARE IT TO THE STATUS OF THOSE LINES OF
10 BUSINESS OR THOSE TYPES OF FUNDS AT DOUBLELINE AS OF
11 THE END OF LAST MONTH?

09:02AM

09:02AM

12 A. YES.

13 Q. NOW, THERE -- YOU MENTIONED THE TOP THREE WERE
14 THE LINES OF BUSINESS YOU PERSONALLY MANAGED AT
15 DOUBLELINE.

09:02AM

16 DO I REMEMBER THAT CORRECTLY?

17 A. THAT'S RIGHT. THESE WERE THE BUSINESSES THAT
18 I DID THE INVESTMENTS FOR, DID TRADES FOR PERSONALLY,
19 WAS PERSONALLY RESPONSIBLE FOR THE INVESTMENT PROCESS
20 AND STRATEGY.

09:02AM

21 Q. WERE THERE ANY OTHER TYPES OF BUSINESS THAT
22 YOU WERE INVOLVED IN AT TCW IN A SUPERVISORY OR OTHER
23 CAPACITY, THAT ARE NOT LISTED HERE?

24 A. YES.

25 Q. WHAT WOULD THAT BE?

09:03AM

26 A. THERE WAS A BUSINESS CALLED A STRUCTURED
27 FINANCE BUSINESS, OR A CDO BUSINESS.

28 Q. WHAT DOES CDO STAND FOR?

1 A. IT'S STANDARD COLLATERALIZED DEBT OBLIGATION.

2 Q. I DON'T NEED TO GET INTO DETAIL ON THAT, BUT
3 COULD YOU JUST BRIEFLY DESCRIBE WHAT A CDO IS, WHAT
4 KIND OF AN INVESTMENT PRODUCT THAT IS?

5 A. IT'S IN THE CATEGORY OF STRUCTURED FINANCE
6 VEHICLES. IT'S PRETTY SIMPLE. THE PORTFOLIO WAS BUILT
7 UP WITH SECURITIES, AND THE INVESTORS GET CASH FLOWS
8 OFF OF THE SECURITIES THAT ARE IN THAT PORTFOLIO.

09:03AM

9 Q. SO WE COULD HAVE LISTED A FOURTH AREA UP HERE,
10 IF WE WANTED TO?

09:03AM

11 A. YES.

12 Q. DOES DOUBLELINE HAVE ANY CDO BUSINESS AT THE
13 CURRENT TIME?

14 A. NO.

15 Q. THROUGHOUT ITS LIFE, HAS IT EVER HAD ANY CDO
16 BUSINESS?

09:03AM

17 A. NO.

18 Q. DID DOUBLELINE START ANY FASTER THAN IT
19 OTHERWISE WOULD HAVE BECAUSE OF INFORMATION IT TOOK
20 FROM TCW?

09:04AM

21 A. NO.

22 Q. DID IT GET ANY CLIENTS THAT IT OTHERWISE
23 WOULDN'T HAVE GOTTEN, BASED ON INFORMATION IT TOOK FROM
24 TCW?

25 A. NO.

09:04AM

26 Q. YOU IDENTIFIED THAT MET WEST TOOK OVER THE
27 MANAGEMENT OF THE TOTAL RETURN BOND FUND AFTER YOU
28 LEFT; IS THAT CORRECT?

1 A. YES.

2 Q. DO YOU MANAGE ANY FUNDS THAT ARE COMPARABLE TO
3 THE TOTAL RETURN BOND FUND THAT MET WEST TOOK OVER
4 MANAGEMENT OF IN DECEMBER OF 2009?

5 A. YES.

09:04AM

6 Q. IF THE SYSTEMS, THE ANALYTICAL SYSTEMS THAT
7 EXISTED AT TCW, WERE THE KEY TO YOUR PERFORMANCE THERE,
8 WHAT WOULD YOU EXPECT THE RELATIVE PERFORMANCE TO BE,
9 OF THE TCW TOTAL RETURN BOND FUND AND DOUBLELINE TOTAL
10 RETURN BOND FUND?

09:04AM

11 MR. QUINN: SPECULATION. INCOMPLETE
12 HYPOTHETICAL.

13 THE COURT: YOU CAN EXPAND. I'LL SUSTAIN IT.

14 Q. BY MR. HELM: WELL, ARE YOU FAMILIAR WITH THE
15 RELATIVE PERFORMANCE OF THE TWO FUNDS, THE TCW TOTAL
16 RETURN BOND FUND AND THE DOUBLELINE TOTAL RETURN BOND
17 FUND, SINCE THE DOUBLELINE FUND WAS CREATED? ARE YOU
18 FAMILIAR WITH THE PERFORMANCE?

09:05AM

19 A. YES, I AM.

20 Q. AND IF THE TCW FUNDS WERE -- IF YOUR SUCCESS
21 IN MANAGING THOSE FUNDS HAD BEEN RELATED TO THE SYSTEMS
22 THAT YOU WERE USING, I TAKE IT THOSE SYSTEMS ARE STILL
23 AVAILABLE FOR MET WEST TO USE.

09:05AM

24 YOU HAVE NO REASON TO THINK THEY AREN'T,
25 CORRECT?

09:05AM

26 MR. QUINN: COMPOUND, LACKS FOUNDATION.

27 THE COURT: SUSTAINED.

28 Q. BY MR. HELM: WELL, THE MET WEST -- HAVE YOU

1 EVER HEARD ANYONE SAY MET WEST DOESN'T HAVE AVAILABLE,
2 THE ANALYTICAL SYSTEMS YOU PREVIOUSLY USED AT TCW?

3 A. NO. THEY HAVE THOSE SYSTEMS.

4 MR. QUINN: MOVE TO STRIKE EVERYTHING AFTER
5 NO.

09:05AM

6 THE COURT: I'LL STRIKE IT.

7 Q. BY MR. HELM: AND SO ARE YOU AWARE OF THE
8 RELATIVE PERFORMANCE OF THOSE TWO FUNDS, THE DOUBLELINE
9 TOTAL RETURN BOND FUND AND THE TCW TOTAL RETURN BOND
10 FUND, AFTER DECEMBER 2009?

09:06AM

11 A. YES, I AM.

12 Q. AND I'D LIKE TO SHOW YOU AND THE COURT,
13 EXHIBIT 6084.

14 MR. QUINN: YOUR HONOR, WE HAVE AN OBJECTION
15 ON RELEVANCE.

09:06AM

16 THE COURT: OKAY. YOU SHOW IT TO COUNSEL AND
17 THE WITNESS.

18 MR. HELM: WITHOUT DESCRIBING THE CONTENT OF
19 IT, I JUST WANT TO ESTABLISH WHAT THIS IS.

20 Q. IS THIS AN EXHIBIT THAT YOU PREPARED?

09:06AM

21 A. YES.

22 Q. AND HOW DID YOU PREPARE IT?

23 A. I USED THE BLOOMBERG SYSTEM.

24 Q. AND DOES IT REFLECT THE RELATIVE PERFORMANCE
25 BETWEEN THE TWO FUNDS?

09:06AM

26 A. YES, IT DOES.

27 MR. HELM: WE WOULD MOVE ADMISSION OF 6084,
28 YOUR HONOR.

1 MR. QUINN: OBJECTION ON RELEVANCE.

2 THE COURT: I'LL ADMIT IT.

3

4 (EXHIBIT 6084 ADMITTED.)

5

09:07AM

6 Q. BY MR. HELM: WE'LL SHOW IT TO THE JURY.

7 SO WHAT ARE THE TWO LINES -- LET'S TALK
8 ABOUT THE GREEN LINE AT THE BOTTOM?

9 WHAT DOES THE GREEN LINE SHOW?

10 A. THE GREEN LINE SHOWS THE GROWTH OF THE TCW
11 TOTAL RETURN BOND FUND, IN TERMS OF ITS RETURN. IT
12 STARTS AT ZERO AT THE LEFT SIDE.

09:07AM

13 SO WHAT THAT MEANS IS, LET'S SAY YOU PUT
14 IN A HUNDRED DOLLARS. THIS MEANS YOU STILL HAD A
15 HUNDRED DOLLARS ON THAT DAY. AND AS THE GREEN LINE
16 GOES UP, THE INVESTORS ARE MAKING MONEY, AND IF THE
17 GREEN LINE GOES DOWN, THEY ARE LOSING MONEY.

09:07AM

18 Q. AND WHAT'S THE TIME PERIOD THAT YOU LOOKED AT
19 HERE?

20 A. APRIL 6TH, 2010, THE DATE THAT WE STARTED THE
21 DOUBLELINE TOTAL RETURN FUND. SO THE GREEN LINE GOES
22 FROM ZERO UP TO 13 AND A HALF, BASICALLY.

09:07AM

23 SO AN INVESTOR WITH \$100 ENDED UP WITH
24 \$113.50, BASICALLY.

25 Q. AND WHAT DOES THE WHITE LINE ON TOP INDICATE?

09:07AM

26 A. THE WHITE LINE, IT'S THE SAME TYPE OF THING,
27 BUT IT'S FOR DOUBLELINE TOTAL RETURN BOND FUND. SO THE
28 INVESTORS THAT STARTED WITH \$100 HAS \$125.50. SO THE

1 RETURN DIFFERENCE IS ALMOST 12 PERCENT OVER THAT
2 16-MONTH TIME PERIOD.

3 Q. IS THAT A SIGNIFICANT DIFFERENCE IN THE
4 INVESTMENT WORLD?

5 A. IT'S EXTRAORDINARILY LARGE. 09:08AM

6 Q. SO WHATEVER SYSTEMS THAT MET WEST HAS AT ITS
7 DISPOSAL TO ASSIST IT IN MANAGING INVESTMENTS OR MAKING
8 INVESTMENTS, WAS IT ABLE TO ENABLE IT TO MATCH THE
9 PERFORMANCE YOU HAD IN THE DOUBLELINE TOTAL RETURN BOND
10 FUND? 09:08AM

11 MR. QUINN: ASSUMES FACTS NOT IN EVIDENCE.

12 THE COURT: OVERRULED.

13 THE WITNESS: NOT EVEN CLOSE.

14 Q. BY MR. HELM: ALL RIGHT. I'D LIKE TO GO BACK
15 TO WHEN YOU STARTED AT TCW. 09:08AM

16 BUT BEFORE THAT, WHERE WERE YOU BORN?

17 A. BUFFALO, NEW YORK, WHICH IS NEAR NIAGARA
18 FALLS.

19 Q. YOU ARE A VERY WEALTHY MAN TODAY.

20 WERE YOU WEALTHY GROWING UP? 09:08AM

21 A. NO, NOT AT ALL.

22 Q. WHAT WERE YOUR CIRCUMSTANCES GROWING UP?

23 A. WE WERE LOWER MIDDLE CLASS. WE DIDN'T HAVE A
24 LOT OF MONEY.

25 Q. WHERE DID YOU GO TO COLLEGE? 09:09AM

26 A. I WENT TO DARTMOUTH COLLEGE IN NEW HAMPSHIRE.

27 Q. AND HOW DID YOU AFFORD TO GO TO COLLEGE?

28 A. I WORKED AND TOOK OUT A LOT OF LOANS AND HAD A

1 SUBSTANTIAL ACADEMIC SCHOLARSHIP.

2 Q. WHAT DID YOU STUDY WHEN YOU WERE IN COLLEGE?

3 A. MOSTLY MATHEMATICS AND PHILOSOPHY.

4 Q. AND DID YOU GRADUATE?

5 A. YES. I HAD A DEGREE IN BOTH, IN MATHEMATICS
6 AND PHILOSOPHY.

09:09AM

7 Q. WHEN DID YOU GRADUATE?

8 A. 1981.

9 Q. AND DID YOU DO WELL IN COLLEGE?

10 A. I GRADUATED WITH HIGHEST HONORS.

09:09AM

11 Q. AFTER COLLEGE, WHAT DID YOU DO NEXT?

12 A. I GOT A JOB IN AN INSURANCE COMPANY CALLED
13 AETNA.

14 Q. HOW DID YOU LIKE THAT?

15 A. I HATED IT.

09:09AM

16 Q. OKAY.

17 WELL, SO HOW LONG WERE YOU IN THAT JOB?

18 A. NOT VERY LONG.

19 I WAS THERE ABOUT A YEAR.

20 BUT AFTER ABOUT TWO MONTHS, I STARTED TO
21 APPLY TO SCHOOL AGAIN, TO GRADUATE SCHOOL, BECAUSE I
22 HAD LIKED SCHOOL, AND DIDN'T KNOW WHAT ELSE TO DO.

09:09AM

23 Q. SO DID YOU ACCEPT A GRADUATE SCHOOL PLACE
24 AFTER THAT YEAR AT AETNA?

25 A. YEAH. I STARTED A PH.D. PROGRAM IN MATH AT
26 YALE UNIVERSITY.

09:10AM

27 Q. AND DID YOU COMPLETE YOUR PH.D. PROGRAM AT
28 YALE?

1 A. NO.

2 Q. WHY NOT?

3 A. WELL, I WAS THERE A LITTLE OVER A YEAR.

4 AND I'D REALLY GONE THERE BECAUSE I
5 DIDN'T KNOW WHAT ELSE TO DO. AND I WAS GOOD AT SCHOOL,
6 AND I LIKED MATH.

09:10AM

7 BUT WHEN I SAW WHAT -- ALL YOU CAN DO
8 WITH A MATH PH.D. IS BE A COLLEGE PROFESSOR, BASICALLY,
9 OR WORK FOR THE CIA, CRACKING CODE.

09:10AM

10 AND I DIDN'T WANT TO DO EITHER OF THOSE
11 THINGS, ONCE I LEARNED WHAT BEING A PROFESSOR WAS, BY
12 BEING CLOSE TO IT, AS A GRADUATE STUDENT. AND IT WAS
13 REALLY, REALLY HARD. WHICH AREN'T ABOUT BEING A
14 PROFESSOR.

15 THE WORK WAS REALLY, REALLY HARD TO
16 WORK -- IT WAS REALLY HARD. AND IT JUST -- I DIDN'T
17 SEE THE PAYOFF TO WORKING SO HARD WITH NO LIGHT AT THE
18 END OF THE TUNNEL, IN TERMS OF AN ATTRACTIVE JOB
19 PROSPECT.

09:10AM

20 Q. SO AT SOME POINT, DID YOU LEAVE THE PH.D.
21 PROGRAM AT YALE?

09:11AM

22 A. I DID.

23 Q. WHEN WAS THAT?

24 A. 1983, I THINK.

25 Q. AND WHAT DID YOU DO NEXT?

09:11AM

26 A. I MOVED BACK IN WITH MY PARENTS.

27 Q. WHAT DID YOU DO AT THAT POINT?

28 A. I GOT A JOB AS A LABORER FOR A CONSTRUCTION

1 COMPANY, BASICALLY CARRYING MONEY AROUND; TO GET SOME
2 MONEY TOGETHER TO DRIVE TO CALIFORNIA.

3 Q. AND WHAT DID YOU INTEND TO DO IN CALIFORNIA
4 WHEN YOU GOT THERE?

5 A. I WAS GOING TO MAKE A LIVING AS A ROCK AND
6 ROLL DRUMMER. 09:11AM

7 Q. WERE YOU IN A ROCK AND ROLL BAND AT THAT
8 POINT?

9 A. YES, I WAS.

10 Q. AND WHAT KIND OF MUSIC DID YOU PLAY? 09:11AM

11 A. PEOPLE HAVE SAID IT SOUNDED KIND OF LIKE REM.

12 Q. SO I TAKE IT THAT YOU GOT TO CALIFORNIA AND
13 HIT STARDOM IN THE ROCK AND ROLL BUSINESS?

14 A. NOT EXACTLY.

15 Q. WHAT HAPPENED WHEN YOU GOT TO CALIFORNIA? 09:11AM

16 A. WELL, WE STARTED MAKING DEMO TAPES AND STUFF,
17 AND PLAYED AROUND AT CLUBS AND ALL THAT. AND I RAN OUT
18 OF MONEY.

19 Q. SO WHAT DID YOU DO WHEN YOU RAN OUT OF MONEY?

20 A. I GOT A JOB AT AN INSURANCE COMPANY, AGAIN,
21 CALLED TRANSAMERICA, AND WORKING --THIS TIME MORE IN
22 THE FINANCE DEPARTMENT. 09:11AM

23 Q. AND HOW DID YOU LIKE THAT?

24 A. I REALLY LIKED IT. I WAS SURPRISED.

25 Q. AND SO WHAT DID YOU DO NEXT? 09:12AM

26 A. WELL, I DIDN'T REALLY WANT TO WORK FOR AN
27 INSURANCE COMPANY MY WHOLE LIFE, AND SO I STARTED TO
28 THINK ABOUT WHAT ELSE I MIGHT DO.

1 I ACTUALLY THOUGHT ABOUT GOING BACK TO
2 GRADUATE SCHOOL, THIS TIME FOR AN MBA, BUSINESS SCHOOL.
3 I EVEN TOOK THE GMAT TEST YOU HAVE TO TAKE, AND I GOT
4 THE APPLICATIONS, AND ALL THAT, BUT I DECIDED NOT TO DO
5 THAT.

09:12AM

6 Q. WHAT DID YOU DECIDE TO DO?

7 A. I ENDED UP DECIDING TO GO INTO THE INVESTMENT
8 BUSINESS.

9 Q. AND DID YOU -- HOW DID YOU GO ABOUT GETTING
10 INTO THE INVESTMENT BUSINESS?

09:12AM

11 A. WELL, IT WAS -- IT WASN'T VERY DIRECT. I SAW
12 A TV SHOW THAT SAID -- IT WAS CALLED, LIFESTYLES OF THE
13 RICH AND FAMOUS, WITH ROBIN LEACH. AND I WAS SITTING
14 AT HOME WITH MY BLACK AND WHITE TV, AND I THOUGHT I'D
15 WATCH THE SHOW BECAUSE THEY HAD A SPECIAL SHOW THAT WAS
16 THE TOP 10 PAYING PROFESSIONS; SO I FIGURED IT WAS
17 WORTH FIGURING OUT MY LIFE.

09:13AM

18 AND THEY COUNTED THEM DOWN. NUMBER ONE
19 WAS INVESTMENT BANKER. AND I DIDN'T KNOW WHAT THAT
20 WAS. THEY SAID YOU HAVE TO WORK REALLY HARD AND YOU
21 HAVE TO HAVE A KEEN ANALYTIC MIND, AND YOU CAN DO WELL.

09:13AM

22 AND I FIGURED, THAT'S ME. AND SO I GOT
23 OUT THE L.A. YELLOW PAGES FROM THE CLOSET IN MY
24 APARTMENT IN HOLLYWOOD AND I LOOKED UP INVESTMENT
25 BANKER TO -- FOR ADS THAT APPLY TO PEOPLE, BUT THERE
26 WEREN'T ANY ADS FOR INVESTMENT BANKER, BUT THERE WERE
27 ADS FOR INVESTMENT MANAGEMENT.

09:13AM

28 Q. SO WHAT DID YOU DO?

1 A. I FIGURED IT WAS CLOSE ENOUGH.

2 AND I SENT A LETTER TO EVERYBODY WHO HAD
3 A BOLD-FACED AD IN THE YELLOW PAGES.

4 AND WHILE I WAS DOING THAT, A WOMAN THAT
5 I KNEW SAID, YOU KNOW, THESE FIRMS ARE INVESTMENT
6 MANAGEMENT FIRMS.

09:13AM

7 AND I SAID, YEAH. I'M GOING TO BE AN
8 INVESTMENT BANKER. I STILL DON'T HAVE IT TOGETHER.

9 AND SHE SAID IF YOU ARE DOING THAT, I
10 USED TO WORK IN THE BACK OFFICE OF AN INVESTMENT
11 MANAGEMENT FIRM CALLED TCW.

09:14AM

12 AND YOU COULD SENT A RESUME TO GLEN
13 WATERS, WHO WAS ONE OF THE FOUNDERS OR EARLY MEMBERS OF
14 TCW; AND SO I DID.

15 Q. AND AFTER YOU SENT YOUR RESUME TO TCW, WHAT
16 HAPPENED THEN?

09:14AM

17 WERE YOU HIRED?

18 A. YEAH, I GOT A COUPLE OF LETTERS BACK, FROM
19 ABOUT 30 THAT I'D SENT OUT TO THESE BOLD-FACED ADS.

20 AND ONE CAME BACK FROM TCW. AND THROUGH
21 A LONG PROCESS, I ENDED UP GETTING HIRED ON A
22 PROBATIONARY PROCESS FOR 90 DAYS.

09:14AM

23 Q. SO WHAT DID YOU DO WHEN YOU FIRST STARTED AT
24 TCW?

25 A. WELL, FIRST I READ EVERYTHING I COULD POSSIBLY
26 READ.

09:14AM

27 BUT MY JOB DUTIES WERE TO WORK FOR THE
28 HEAD OF FIXED INCOME, WHO WAS AN ECONOMIST. AND

1 REALLY, HE WAS A TRAINED ECONOMIST. AND HE JUST WOULD
2 TRY TO TIME THE MARKET BASED ON HIS ECONOMIC IDEAS.

3 SO I PRODUCED ECONOMIC CHART PACKAGES
4 AND STUFF.

5 Q. AND WHAT PART OF TCW DID YOU START WORKING IN? 09:14AM

6 A. WELL, IT WAS THE FIXED INCOME GROUP. THE
7 FIRM, TCW WAS LIKE TEN BILLION DOLLARS OF ASSETS UNDER
8 MANAGEMENT. IT HAD A VERY STRONG CULTURE OF STOCK
9 MARKET RELATED INVESTMENTS, BUT IT HAD A SMALL BOND
10 DEPARTMENT, AS WELL. 09:15AM

11 AND THEY HIRED ME BECAUSE THEY NEEDED
12 MATH TYPE OF HELP.

13 Q. SO AT SOME POINT, DID YOU START MANAGING
14 MONEY?

15 A. YEAH. SIX MONTHS LATER, AMAZINGLY, AFTER I
16 STARTED THERE, THEY TURNED OVER THE CHRYSLER PENSION
17 PORTFOLIO TO ME. 09:15AM

18 Q. AT THAT POINT, DID ANYONE WORK FOR YOU?

19 A. NO. THE DEPARTMENT WAS ONLY FOUR PEOPLE.

20 Q. WHAT LED TO YOUR NEXT CHANGE IN JOB POSITIONS? 09:15AM

21 A. WELL, JUST SUCCESS AT MANAGING MONEY, I GUESS.

22 I DID REALLY WELL WITH THE CHRYSLER
23 PORTFOLIO. AND THEN I STARTED TO TRY TO MAKE NEW
24 PRODUCTS AND NEW INVESTMENT THINGS TO HELP RAISE MONEY
25 AND ATTRACT CLIENTS. 09:15AM

26 Q. DID YOUR JOB RESPONSIBILITIES INCREASE AT SOME
27 POINT?

28 A. SURE.

1 Q. WHAT HAPPENED? WHAT WAS THE NEXT INCREASE IN
2 YOUR JOB RESPONSIBILITIES?

3 A. I HAD MORE AND MORE INVOLVEMENT IN THE MARKET,
4 BUYING AND SELLING SECURITIES, MORE IMPORTANT ROLE IN
5 THE PROCESS OF STRATEGY, AND ALSO TALKING TO CLIENTS.

09:16AM

6 I LIKED DOING THAT, SO AFTER ONLY ABOUT
7 ONE YEAR, I WAS DOING CLIENT MEETINGS.

8 Q. AT ANY POINT DURING YOUR TIME AT TCW, DID YOU
9 GET ANY OTHER JOB OFFERS?

10 A. YES. PEOPLE OFFERED ME JOBS IN 1987. AND
11 THEN IN 1989 -- 1988 RATHER, GOLDMAN SACHS STARTED AN
12 ASSET MANAGEMENT COMPANY IN NEW YORK.

09:16AM

13 AND THEY ARE A FUN GROUP. THEY JUST
14 CALLED ME UP AND SAID, WE WANT TO YOU RUN -- BE THE
15 CO-HEAD OF FIXED INCOME.

09:16AM

16 THEY WERE TELLING ME, NOT ASKING ME.

17 Q. AND DID THAT LEAD TO ANY CHANGES, THEN, IN
18 YOUR RESPONSIBILITIES AT TCW?

19 A. IT DID.

20 Q. HOW DID THEY CHANGE?

09:17AM

21 A. WELL, I LIKED THE IDEA OF STARTING UP THE
22 GOLDMAN SACHS ASSET MANAGEMENT OPERATIONS.

23 AND I SORT OF TOOK THE JOB, AND WHEN I
24 WENT IN TO SAY THAT I WAS LEAVING, THEY SAID, DON'T
25 LEAVE. WHY DON'T YOU START YOUR OWN DEPARTMENT HERE.

09:17AM

26 Q. AND DID YOU START A DEPARTMENT?

27 A. I DID, WITH PHIL BARACH.

28 HE WAS ALSO -- COINCIDENTALLY, HE HAD

1 BEEN OFFERED A JOB SOMEWHERE ELSE, AND WE STARTED THE
2 MORTGAGE-BACKED SECURITIES INVESTMENT TEAM.

3 Q. AND WHEN DID YOU START THIS NEW DEPARTMENT
4 WITH MR. BARACH?

5 A. 1989.

09:17AM

6 Q. AND HOW SUCCESSFUL WERE YOU IN RAISING MONEY
7 FOR THIS DEPARTMENT?

8 A. WE WERE REALLY LUCKY.

9 IT TURNED OUT THAT THE MORTGAGE-RELATED
10 AREA HAD JUST THEN BECOME SORT OF POPULAR FOR
11 INSTITUTIONAL INVESTORS TO ALLOCATE SOME MONEY TO.

09:17AM

12 AND SO WE WERE LUCKY. AND WE HAD --
13 THAT THE MONEY WAS FLOWING IN THAT DIRECTION. AND WE
14 WERE LUCKY ENOUGH TO HAVE THE BEST PERFORMANCE SO WE
15 RAISED \$10 BILLION IN THREE YEARS.

09:18AM

16 Q. AND AFTER YOU STARTED BEING THE HEAD OF THE
17 MORTGAGE DEPARTMENT, DID YOUR RESPONSIBILITIES AT SOME
18 POINT EXPAND MORE BROADLY TO OTHER FIXED INCOME AREAS?

19 A. YES. I BECAME THE HEAD OF ALL THE FIXED
20 INCOME DIVERSIFIED PORTFOLIOS IN 1995.

09:18AM

21 Q. AND FROM THAT POINT ON, DID YOU TAKE ON ANY
22 ADDITIONAL TITLES AS YOUR CAREER PROGRESSED?

23 A. YEAH. I KEPT GETTING PROMOTED, WHICH WAS
24 BASED UPON ASSET GROWTH OF THE STUFF THAT I MANAGED.

25 AND THE TITLE THAT WAS SORT OF THE TOP
26 OF PORTFOLIO MANAGEMENT WAS MANAGING DIRECTOR. AND
27 THEY EXTENDED THAT FURTHER BECAUSE OF TITLE INFLATION,
28 THEN IT BECAME GROUP MANAGING DIRECTOR.

09:18AM

1 Q. AND WHEN WERE YOU MANAGING DIRECTOR?

2 A. PARDON ME?

3 Q. WHEN WERE YOU MANAGING DIRECTOR AND GROUP
4 MANAGING DIRECTOR, DO YOU RECALL?

5 A. MANAGING DIRECTOR WAS PROBABLY 1991, OR
6 SOMETHING. GROUP MANAGING DIRECTOR, I JUST COULDN'T
7 TELL YOU. IT WAS A FEW YEARS LATER.

09:18AM

8 Q. DID YOU GET ANY OTHER TITLES SUBSEQUENT TO
9 THAT?

10 A. YES. IN 2005, I BECAME -- SOMEWHERE ALONG THE
11 LINE, I WAS NAMED PRESIDENT OF ONE OF THE SUBSIDIARIES.
12 THERE WERE A LOT OF PRESIDENTS AT TCW. THEY HAD A LOT
13 OF SUBSIDIARIES, AND THEY WOULD GIVE TITLES TO PEOPLE.
14 THEY DIDN'T DO ANYTHING; THEY DIDN'T MEAN ANYTHING.

09:19AM

15 BUT I WAS PRESIDENT OF TAMPO (PHONETIC).
16 IT WAS NICE. I GOT TO HAVE A BUSINESS CARD THAT SAID
17 PRESIDENT. OTHER PEOPLE LIKED THAT, TOO.

09:19AM

18 SO THERE WERE A LOT OF BUSINESS CARDS
19 THAT SAID PRESIDENT ON IT.

20 Q. DID YOU GET ANY OTHER TITLES AFTER THAT?

09:19AM

21 A. YEAH. IN 2005 I BECAME THE CHIEF INVESTMENT
22 OFFICER OF TCW GROUP. BUT I WAS STILL RESPONSIBLE ONLY
23 FOR FIXED INCOME, REALLY.

24 Q. AND DID YOU RECEIVE ANY POSITION ON THE BOARD
25 OF DIRECTORS AT SOME POINT?

09:19AM

26 A. SOMEWHERE AROUND THE SAME TIME, AS BECOMING
27 CHIEF INVESTMENT OFFICER, YEAH.

28 Q. AND YOU ARE NOT STILL EMPLOYED AT TCW?

1 A. NO, I'M NOT.

2 Q. NOW, I WANT TO TALK TO YOU A LITTLE BIT ABOUT
3 HOW TCW WAS ORGANIZED, AND HOW IT OPERATED.

4 I TAKE IT THAT'S SOMETHING YOU ARE VERY
5 FAMILIAR WITH?

09:19AM

6 A. EXTREMELY.

7 Q. WOULD IT BE HELPFUL TO USE THE EASEL TO MAKE A
8 DRAWING TO SORT OF SHOW THAT?

9 A. I COULD.

10 MR. HELM: WITH YOUR HONOR'S PERMISSION, MAY
11 MR. GUNDLACH APPROACH THE EASEL AND TO MAKE A DRAWING
12 TO SORT OF SHOW THAT?

09:20AM

13 THE COURT: SURE.

14 Q. BY MR. HELM: WHY DON'T YOU FIRST SHOW US WHAT
15 THE CORE OF TCW WAS, AND LET'S TALK ABOUT THAT FOR A
16 SECOND.

09:20AM

17 A. WELL, IT'S REALLY A HOLDING COMPANY, WHICH IS
18 JUST AN ADMINISTRATIVE THING, TCW GROUP. MY WRITING IS
19 TERRIBLE. I HAVE TO WRITE REALLY SLOW, OR IT'S BAD.

20 AND BASICALLY, THIS IS JUST
21 ADMINISTRATION, AND IT'S SUPPOSEDLY MARKETING. AND --
22 ALTHOUGH IT WASN'T VERY EFFECTIVE. AND ALSO, LEGAL
23 COMPLIANCE AND HUMAN RESOURCES, THAT'S BASICALLY WHAT
24 THEY PROVIDE.

09:20AM

25 Q. SO MARKETING, LEGAL, COMPLIANCE, HUMAN
26 RESOURCES AND --

09:20AM

27 A. TRAVEL DEPARTMENT, THAT TYPE OF STUFF.

28 Q. OKAY.

1 A. AND WHAT REALLY WAS GOING ON, THERE WERE THESE
2 GROUPS THAT HAD ALMOST TOTAL AUTONOMY, IN TERMS OF WHAT
3 THEY DID WITH THEIR INVESTMENTS AND THEIR DIRECT
4 RELATIONSHIPS WITH THE CLIENTS. AND THEY WOULD BE
5 HEADED BY SOMEBODY, OR A PAIR OF PEOPLE.

09:21AM

6 THERE MIGHT BE A FEW MORE, BUT THERE WAS
7 OIL AND GAS, AND THEY CALLED IT BLAIR'S GROUP.

8 Q. THAT REFERS TO BLAIR?

9 A. THOMAS. THAT WAS OIL AND GAS.

10 HE LEFT TCW. HE NEGOTIATED OUT. HE WAS
11 ALLOWED TO.

09:21AM

12 MR. QUINN: EXCUSE ME, YOUR HONOR.

13 THE COURT: MR. GUNDLACH, WE'RE JUST TALKING
14 ABOUT THE ORGANIZATION, WITHOUT THE COMMENTARY.

15 THE WITNESS: OKAY.

09:21AM

16 Q. BY MR. HELM: DID YOU LIST THE OTHER -- WHO
17 WERE THE OTHER PEOPLE AND BUSINESS IN THE OTHER SIDE?

18 A. THAT'S MARK ATTANASIO. HE DID MEZZANINE DEBT
19 AND BANK DEBT STUFF.

20 AND THEN THERE WERE EQUITY PEOPLE.
21 THERE WAS BLUM'S (PHONETIC) GROUP, THERE WAS DIANE'S
22 GROUP.

09:21AM

23 Q. DIANE JAFFEE?

24 A. DIANE JAFFEE, YEAH.

25 THERE WAS MCKISSICK SNYDER'S GROUP, THEY
26 WERE ANOTHER GROUP. A LOT OF THEM COMPETED WITH EACH
27 OTHER, REALLY. SOME OF THEM HAD OVERLAPPING. THERE
28 WAS DON EVENSON'S GROUP. AND THERE WAS BRENTON

09:21AM

1 HUGHSAM'S GROUP.

2 AND LATER ON, THERE WAS A COMMERCIAL
3 REAL ESTATE THING. AND THEN THERE WAS GUNDLACH'S
4 BUSINESS, THEY CALLED IT. SOMETIMES THEY CALLED IT
5 GUNDLACH BARACH'S BUSINESS; BUT THAT'S KIND OF HOW THAT
6 WORKED.

09:22AM

7 Q. ALL RIGHT. WHY DON'T YOU SIT BACK DOWN, JUST
8 SO WE GET THIS RIGHT.

9 MAY I APPROACH, YOUR HONOR?

10 THE COURT: YES, YOU MAY.

09:22AM

11 MR. HELM: THANK YOU.

12 Q. SO THE -- SO G IS REFERRING TO THE FIXED
13 INCOME BUSINESS THAT YOU AND MR. BARACH HAD, OR THE
14 MORTGAGE BUSINESS?

15 A. RIGHT. AND THEN IT WAS ALSO, YOU KNOW, FROM
16 '95 ON, ALL OF THE DIVERSIFIED FIXED INCOME WOULD BE IN
17 THAT, TOO; SO WHAT WE CALL OUR CORE FIXED INCOME.

09:22AM

18 Q. AND B WAS OIL AND GAS? BLAIR THOMAS' GROUP
19 WAS OIL AND GAS?

20 A. YES.

09:22AM

21 Q. MR. ATTANASIO, YOU SAID, WAS MEZZANINE AND --

22 A. JUNK BONDS, LOW QUALITY CORPORATION BONDS.
23 BUT MUCH MORE THAN THAT, IT WAS MEZZANINE FINANCING.

24 Q. IS THAT ANOTHER KIND OF FIXED INCOME?

25 A. SORT OF.

09:23AM

26 IT'S FIXED INCOME BUT A LITTLE MORE
27 EQUITY ORIENTED, TOO.

28 Q. NOW THESE WE'LL LEAVE TO ANOTHER DEPARTMENT.

1 THE B HERE, THE D, THE E, THE MS, THOSE WERE ALL STOCK
2 MARKET STRATEGIES OR EQUITY STRATEGIES?

3 A. YES.

4 Q. AND BH, I FORGOT WHAT BH WAS. THAT WAS EQUITY
5 AS WELL?

09:23AM

6 A. YEAH, THAT WAS BRENTON HUGHSAM.

7 Q. OKAY. SO ONE, TWO, THREE, FOUR, FIVE OF THESE
8 WERE STOCK MARKET STRATEGIES; IS THAT RIGHT?

9 A. YEAH. THIS IS OUT OF 2009.

10 Q. AND THEN BUCHANAN STREET, WHAT KIND OF
11 BUSINESS WAS BUCHANAN STREET?

09:23AM

12 A. IT WAS A SMALL COMMERCIAL REAL ESTATE -- THEY
13 INVEST IN COMMERCIAL REAL ESTATE, THEY WERE PRETTY
14 SMALL.

15 TCW BOUGHT THEM IN 2007. THEY ARE IN
16 NEWPORT BEACH. THEY ARE STILL DOWN THERE.

09:23AM

17 Q. WHAT'S OUR NEXT EXHIBIT NUMBER?

18 UNIDENTIFIED WOMAN: 6131.

19 THE COURT: WAS IT 6731?

20 UNIDENTIFIED WOMAN: 6131.

09:24AM

21 MR. HELM: I WOULD MOVE TO ADMIT 6131, YOUR
22 HONOR.

23 THE COURT: THIS WILL BE MARKED FOR
24 IDENTIFICATION ONLY, AND TAKEN UP LATER.

25 MR. HELM: THANK YOU, YOUR HONOR.

09:24AM

26 Q. ALL RIGHT. NOW, WE TALKED ABOUT THE FUNCTIONS
27 THAT THE TCW GROUP, THAT THE CIRCLE IN THE CENTER, WAS
28 RESPONSIBLE FOR.

1 WHAT WERE THE GROUP MANAGERS OR THE HEAD
2 PORTFOLIO MANAGERS RESPONSIBLE FOR?

3 A. FOR INVESTING, THEIR STRATEGIES. THEY HAD
4 REALLY TOTAL AUTONOMY OVER WHAT THEY WOULD DO, OF
5 COURSE AS LONG AS THEY WERE WITHIN THEIR CLIENTS'
6 GUIDELINES; BUT THEY MADE BUY AND SELL DECISIONS, THEY
7 TALK TO THEIR CLIENTS.

09:24AM

8 THEY TRY TO RAISE MONEY, HOWEVER THEY
9 COULD. AND USING EITHER TCW'S MARKETING DEPARTMENT, OR
10 SOME OF THEM HAD TO HIRE THIRD PARTY MARKETERS BECAUSE
11 THEY WEREN'T SUCCESSFUL OTHERWISE.

09:25AM

12 Q. HAVE YOU EVER HEARD THE TERM, CONFEDERATION OF
13 BOUTIQUES?

14 A. YES.

15 Q. IN WHAT CONNECTION HAVE YOU HEARD THE TERM
16 CONFEDERATION OF BOUTIQUES?

09:25AM

17 A. THAT'S THE WAY TCW DESCRIBED ITSELF TO
18 CLIENTS.

19 Q. AND WHEN IT DESCRIBED ITSELF TO CLIENTS IN
20 THAT WAY, WHAT WOULD IT CONVEY? WHAT DID YOU
21 UNDERSTAND IT TO MEAN?

09:25AM

22 A. IT MEANT THAT IT WAS A BUNCH OF FIRMS GLUED
23 TOGETHER.

24 Q. AND IN YOUR EXPERIENCE, WAS THAT AN ACCURATE
25 DESCRIPTION?

09:25AM

26 A. YES.

27 Q. WHO CAME UP WITH THIS CONFEDERATION OF
28 BOUTIQUES MODEL, THE WAY IT WAS STRUCTURED?

1 A. I THINK IT WAS THE FOUNDER OF THE FIRM, ROBERT
2 DAY.

3 Q. AND WAS THAT MODEL IN EXISTENCE WHEN YOU
4 JOINED TCW?

5 A. YES.

09:25AM

6 Q. NOW, DO YOU HAVE A GENERAL UNDERSTANDING OF
7 HOW THE HEDGE FUND MANAGERS IN THESE VARIOUS SQUARES
8 AROUND THE CIRCLE, ARE PAID? IN WHAT SORT OF -- IN
9 GENERAL TERMS, WHAT THE TERMS WERE.

10 A. EVERYBODY HAS A FEE SHARING ARRANGEMENT. THEY
11 WERE ALL DIFFERENT. NOBODY KNEW WHAT THEY WERE. THEY
12 WOULDN'T TELL YOU WHAT ANYBODY ELSE'S WAS. EVERYONE
13 HAD A FEE SHARING ARRANGEMENT WITH THE CIRCLE IN THE
14 MIDDLE.

09:26AM

15 Q. AND BY FEE SHARING ARRANGEMENT, I THINK WE'VE
16 HEARD THAT TERM USED.

09:26AM

17 BUT WHAT IS A FEE SHARING ARRANGEMENT,
18 AS YOU ARE NOW DESCRIBING IT?

19 A. IT MEANS THAT ONCE YOU GET PAID, THE INDUSTRY
20 PHRASE IS, YOU EAT WHAT YOU KILL.

09:26AM

21 IT MEANS THAT YOU RAISE MONEY, FEES FLOW
22 IN, AND YOU GET PART OF IT, AND THE CIRCLE GETS PART OF
23 IT, WHAT'S SHARED.

24 Q. AND SO IF MARK ATTANASIO'S GROUP HAD A GREAT
25 SUCCESS, DID YOU BENEFIT FINANCIALLY FROM HIS SUCCESS?

09:26AM

26 A. NOT AT ALL, SUBSEQUENT TO 2001.

27 THE ONLY WAY THAT YOU WOULD -- I THINK I
28 HAD FEE SHARING FROM HIS GROUP. I DIDN'T OWN ANYTHING

1 IN THE COMPANY AFTER 2001, SO HIS SUCCESS WAS
2 IRRELEVANT TO ME, AND MINE WAS IRRELEVANT TO HIM.

3 Q. ALL RIGHT. SO YOU ARE DISTINGUISHING 2001.

4 I WANT TO GO BACK TO WHAT HAPPENED IN
5 2001 THAT CHANGED THAT.

09:27AM

6 BUT IN TERMS OF THE FEE SHARING
7 ARRANGEMENTS, IF HE WAS SUCCESSFUL, DID YOU BENEFIT
8 FROM THAT, IN TERMS OF THIS FEE SHARING ARRANGEMENT?

9 A. NO.

10 Q. DID HE BENEFIT FROM FINANCIAL SUCCESS THAT YOU
11 HAD IN YOUR GROUP?

09:27AM

12 A. A LITTLE BIT, BECAUSE I DID -- I WAS -- I DID
13 SOME PRODUCTS, NOT VERY MANY, AND IT WASN'T VERY BIG.
14 BUT THAT INCLUDED SOME OTHER AREAS.

15 I WAS THE ONLY ONE THAT DID THAT AT THE
16 FIRM. NO ONE ELSE DID.

09:27AM

17 SO HE WOULD GET A PIECE OF THE ACTION ON
18 THE ONES THAT WERE COLLABORATIVE; BUT THERE WASN'T A
19 LOT OF THAT, BUT THERE WAS SOME.

20 Q. I SEE.

09:27AM

21 SO ASIDE FROM JOINT PRODUCTS THAT YOU
22 MARKETED, DID OTHER MANAGERS ON THE SQUARES AND AROUND
23 THAT CIRCLE BENEFIT FINANCIALLY FROM YOUR FINANCIAL
24 SUCCESS?

25 A. I'M NOT SURE I UNDERSTAND.

09:28AM

26 Q. OTHER THAN YOU -- YOU SAID THAT THERE WERE
27 SOME SHARED PRODUCTS THAT YOU DID WITH OTHER GROUPS,
28 LIKE WITH MR. ATTANASIO'S GROUP?

1 A. YEAH. THE ONE THAT WAS THE MOST -- THE MOST
2 OF THAT WAS ATTANASIO'S.

3 THE OTHERS, IT WAS ZERO, OR VERY, VERY
4 LITTLE.

5 Q. SO WITH RESPECT TO THE MANAGERS WITH WHOM YOU
6 HAD NO SHARED PRODUCT, DID THEY BENEFIT FROM YOUR
7 FINANCIAL SUCCESS?

09:28AM

8 A. NO.

9 Q. DID YOU BENEFIT FROM THEIR FINANCIAL SUCCESS?

10 A. NO.

09:28AM

11 Q. NOW, YOU SAID THAT SOMETHING CHANGED IN 2001.

12 WAS THERE EVER IN PLACE ANY MECHANISM
13 THAT MADE IT SO THAT THE FUND MANAGERS ON THE OUTER
14 PARTS OF THE CIRCLE BENEFITTED FROM FINANCIAL SUCCESS
15 OF OTHER GROUPS?

09:28AM

16 A. WELL, THERE WAS, WHEN THE FIRM WAS PRIVATELY
17 OWNED, AND FUND MANAGERS, SOME OF THEM HAD OWNERSHIP IN
18 THE FIRM, THEN YOU KNOW, IF THE FIRM -- IF SOME PART OF
19 THE FIRM DID FANTASTICALLY WELL, IF YOU OWNED A PART OF
20 THE FIRM, THE VALUE OF THE FIRM WAS GOING UP. SO IF
21 YOU OWNED A PIECE OF IT, YOU WOULD HAVE, POTENTIALLY,
22 IN THE FUTURE, A BENEFIT, IF THE FIRM WAS EVER SOLD
23 OUT.

09:29AM

24 Q. SO WHEN THERE WAS A TIME WHEN THE FUND
25 MANAGERS, THE GROUP LEADERS, OWNED EQUITY OR OWNED
26 OWNERSHIP, OR HAD STOCK IN THE FIRM, AT THAT POINT,
27 THEY ALL DID BENEFIT FROM THE FINANCIAL SUCCESS OF
28 OTHER PEOPLE; IS THAT TRUE?

09:29AM

1 A. THEY POTENTIALLY COULD, IF THE FIRM WAS EVER
2 SOLD.

3 AND IT WAS.

4 Q. BUT IN 2009, DID THE GROUP LEADERS OWN EQUITY
5 IN TCW?

09:29AM

6 A. NO.

7 Q. DID YOU PARTICIPATE IN ANY DISCUSSIONS WITH
8 TCW ABOUT JUST THIS CONFEDERATION OF BOUTIQUE'S MODEL
9 AND HOW IT WORKED AND HOW IT DIDN'T WORK?

10 A. YES.

09:29AM

11 Q. WHAT TYPE OF DISCUSSIONS DID YOU PARTICIPATE
12 IN?

13 A. WELL, I THOUGHT IT WAS SUBOPTIMAL -- AND IT
14 WAS --

15 MR. QUINN: YOUR HONOR, I DON'T THINK THE
16 WITNESS IS ANSWERING THE QUESTION.

09:30AM

17 THE COURT: YOU CAN -- LISTEN CAREFULLY TO THE
18 QUESTION. JUST TRY AND ANSWER THE QUESTION.

19 Q. BY MR. HELM: WITH WHOM -- LET ME ASK IT THIS
20 WAY: WAS THERE EVER A DISCUSSION YOU PARTICIPATED IN
21 ABOUT WHETHER OR NOT THERE WAS A NEED FOR BALANCE AMONG
22 THE DIFFERENT GROUPS THAT WERE ON THE PERIPHERY OF THAT
23 CIRCLE?

09:30AM

24 A. YES. THE PEOPLE IN THE CENTER, THE TCW GROUP
25 PART, OFTEN TALKED ABOUT HOW THEY WANTED THE FIRM TO BE
26 BALANCED.

09:30AM

27 Q. WHEN YOU SAY BALANCED, WHAT DO YOU MEAN?

28 A. WELL, THEIR DREAM WOULD HAVE BEEN THAT EVERY

1 ONE OF THOSE SQUARES WAS EXACTLY THE SAME SIZE, IN
2 TERMS OF REVENUE.

3 Q. WHO DID YOU HAVE THESE DISCUSSIONS WITH AT
4 TCW?

5 A. ROBERT DAY, MARC STERN, BOB BEYER, BILL
6 SONNEBORN, WHOEVER WAS IN CHARGE AT THE TIME OF THE
7 CIRCLE IN THE MIDDLE, THESE DISCUSSIONS WENT ON
8 THROUGHOUT MY CAREER.

09:30AM

9 Q. ABOUT THE NEED FOR BALANCE BETWEEN THE
10 DIFFERENT GROUPS?

09:31AM

11 A. YES.

12 Q. AND AGAIN BY BALANCE, YOU MEAN SIZE OF
13 REVENUE, OR SUCCESS, OR WHAT DID YOU MEAN BY THAT?

14 A. IT MEANT THAT EVERY ONE OF THEM WERE EQUAL IN
15 TERMS OF THE REVENUE, THE REPUTATION, THE PERCEIVED
16 QUALITY, THE INDUSTRY RENOWN, EVERYTHING. THEY WANTED
17 THEM ALL TO BE THE SAME.

09:31AM

18 Q. NOW, WE SAW WHEN WE WENT THROUGH THAT, THOSE
19 DIFFERENT SQUARES, THAT THERE WERE MANY THAT DEALT WITH
20 STOCK MARKET STRATEGIES OR EQUITY STRATEGIES; IS THAT
21 CORRECT?

09:31AM

22 A. YES. THERE WERE ALWAYS MORE EQUITY STRATEGIES
23 THAN ANYTHING ELSE.

24 Q. WHEN TCW WAS FORMED, DID IT HAVE AN EMPHASIS
25 ON ONE AREA VERSUS THE OTHER -- STOCK MARKET STRATEGIES
26 VERSUS FIXED INCOME STRATEGIES?

09:31AM

27 A. YES. THE EMPHASIS WAS ON STOCK MARKET
28 STRATEGIES.

1 Q. HOW SIGNIFICANT WAS THE FIXED INCOME SIDE OF
2 THE BUSINESS WHEN YOU JOINED?

3 A. IT WAS JUST A SIDESHOW. IT WAS JUST A TINY
4 PIECE OF THINGS.

5 MOST OF THE ACCOUNTS THAT THE FIXED
6 INCOME GROUP HAD WHEN I JOINED WERE WHAT WE CALLED
7 BALANCED ACCOUNTS. THEY WERE REALLY EQUITY ACCOUNTS
8 THAT HAD A SMALL FIXED INCOME ALLOCATION. THAT'S WHY
9 THEY ARE CALLED BALANCED, BECAUSE BOTH STOCKS AND
10 BONDS; AND SO IT WAS REALLY THE STOCKS THAT WERE SOLD
11 TO THEM.

09:32AM

09:32AM

12 THE BONDS WERE AN AFTERTHOUGHT.
13 SOMEBODY HAD TO DO THE BONDS, SO THEY HAD A BOND
14 DEPARTMENT.

15 Q. HOW MANY PEOPLE WERE IN THE BOND DEPARTMENT
16 WHEN YOU JOINED IT?

09:32AM

17 A. FOUR.

18 Q. AND HOW MUCH MONEY WERE IN FUNDS THAT WERE
19 MANAGED IN THE BOND DEPARTMENT?

20 A. ABOUT A BILLION DOLLARS, MAYBE A LITTLE MORE.

09:32AM

21 Q. AS THINGS PROGRESSED, AS YOUR CAREER
22 PROGRESSED, WAS IT YOUR PERCEPTION THAT TCW WAS EQUALLY
23 OPEN TO DEVELOPING BOTH SIDES OF THE BUSINESS, THE
24 FIXED INCOME SIDE OF THE BUSINESS VERSUS THE STOCK
25 MARKET STRATEGY OR EQUITY SIDE OF THE BUSINESS?

09:32AM

26 MR. QUINN: OBJECT TO THE FORM.

27 THE COURT: SUSTAINED.

28 Q. BY MR. HELM: DID YOU EVER HAVE ANY -- LET ME

1 ASK YOU THIS: HOW MANY MORE GROUPS MANAGED STOCK
2 EQUITY STRATEGIES THAN FIXED INCOME STRATEGIES AT TCW?

3 A. THERE WERE ALWAYS MANY MORE STOCK MARKET
4 GROUPS. THERE WAS REALLY ONLY ONE FIXED INCOME GROUP,
5 EVER.

09:33AM

6 Q. DID YOU EVER HAVE ANY DISCUSSIONS WITH ANYONE
7 AT TCW ABOUT HOW IT PERCEIVED THE PROFITABILITY OF THE
8 FIXED INCOME PART OF THE BUSINESS VERSUS THE STOCK
9 MARKET STRATEGY SIDE OF THE BUSINESS?

10 A. FREQUENTLY.

09:33AM

11 Q. WHAT DISCUSSIONS DID YOU HAVE?

12 A. THEY KEPT TELLING ME THAT THE PROFITABILITY OF
13 THE FIXED INCOME BUSINESS WAS TOO LOW. AND THE REASON
14 THEY FAVORED THE STOCK BUSINESS IS IT HAD A MUCH HIGHER
15 PROFIT MARGIN.

09:33AM

16 MR. QUINN: YOUR HONOR, MAY WE HAVE A TIME
17 FRAME FOR THESE DISCUSSIONS?

18 MR. HELM: SURE.

19 Q. WHEN DID THESE DISCUSSIONS TAKE PLACE?

20 A. YEAR AFTER YEAR AFTER YEAR, ALL THE WAY
21 THROUGH 2009.

09:33AM

22 Q. NOW, WAS THERE ANY -- COULD YOU PERCEIVE ANY
23 DIFFERENCE IN EMPHASIS IN MARKETING ON THE WEBSITE OR
24 IN OTHER MARKETING MATERIALS BETWEEN HOW TCW EMPHASIZED
25 THE STOCK MARKET STRATEGIES VERSUS THE FIXED INCOME
26 STRATEGIES, IF THERE WAS A DIFFERENCE?

09:34AM

27 A. YES. THEY ALWAYS EMPHASIZED THE STOCK MARKET
28 STRATEGIES.

1 Q. GIVE ME AN EXAMPLE OF WHAT YOU ARE TALKING
2 ABOUT.

3 A. WELL, ON THE WEBSITE, THEY LISTED EQUITIES
4 FIRST. EVEN THOUGH FIXED INCOME WAS MASSIVELY BIGGER
5 IN 2009, THEY LISTED EQUITIES FIRST.

09:34AM

6 AND THEY USED TO TELL ME THAT IT WAS
7 BECAUSE IT WAS ALPHABETICAL, EQUITY BEFORE FIXED
8 INCOME. BUT THEN THEY HAD ALTERNATIVES NEXT.

9 I USED TO SAY A COMES BEFORE E.

10 ALSO WHEN YOU CLICKED DOWN TO THE FIXED
11 INCOME LINK ON THE WEBSITE, THE SENTENCE WAS TCW WAS
12 FOUNDED AS AN EQUITY FIRM. THAT WAS THE FIRST
13 SENTENCE.

09:34AM

14 Q. FOR ADVERTISING THE FIXED INCOME PART OF THE
15 BUSINESS?

09:34AM

16 A. RIGHT.

17 Q. I SEE.

18 NOW, YOU MENTIONED THE RELATIVE SIZE OF
19 THE BUSINESSES. IN 2009, WHAT WAS THE RELATIVE SIZE OF
20 THE FIXED INCOME SIDE THAT YOU WERE INVOLVED IN VERSUS
21 THE OTHER PARTS OF TCW?

09:35AM

22 A. I THINK FIXED INCOME WAS ABOUT FOUR TIMES
23 BIGGER THAN ALL OF THE EQUITY STRATEGIES PUT TOGETHER.

24 Q. NOW, DID YOU EVER MAKE ANY STATEMENTS THAT
25 CAUSED FRICTION BETWEEN YOUR GROUP AND THE STOCK MARKET
26 STRATEGIES GROUP?

09:35AM

27 A. WELL, THEY HAD THE CONSEQUENCE OF CAUSING
28 FRICTION, YES.

1 Q. WHAT ARE YOU REFERRING TO?

2 A. I WOULD DISCUSS THE MERITS OF SOME OF THE
3 STOCKS THAT THEY OWNED THAT I WOULD KNOW SOMETHING
4 ABOUT.

5 Q. AND DO YOU HAVE A PARTICULAR INCIDENT IN MIND? 09:35AM
6 WHEN DID -- WELL, DO YOU HAVE A PARTICULAR INCIDENT IN
7 MIND?

8 A. WELL, MANY.

9 BUT IT WAS REALLY MOSTLY DURING THE
10 STOCK MARKET CRASH OR RIGHT BEFORE IT, IN 2008. 09:35AM

11 Q. WHEN WAS THAT?

12 A. 2008.

13 Q. AND WHAT COMMENTS DID YOU MAKE THAT LED TO
14 FRICTION?

15 A. WELL, THERE WERE A VARIETY OF FINANCIAL 09:35AM
16 STOCKS, AND THE BANKS ARE REALLY A BUNCH OF LOANS.

17 AND FANNIE MAE IS A FINANCIAL STOCK
18 THAT'S MORTGAGE RELATED. THESE ARE STOCKS, I KNEW A
19 LOT ABOUT. AND I THOUGHT THAT THEY WERE GOING TO GO TO
20 ZERO. 09:36AM

21 AND SOME OF THE EQUITY PORTFOLIO
22 MANAGERS OWNED THESE STOCKS. AND HERE I WAS CIO, AND I
23 THOUGHT THAT I SHOULD TRY TO HELP THEM. SO I WOULD
24 TELL THEM THAT THEY SHOULD SELL THESE STOCKS LIKE
25 CITIGROUP AND FANNIE MAE, AND THEY WOULDN'T LISTEN TO
26 ME. 09:36AM

27 IT WAS ALMOST LIKE IF I TOLD THEM TO
28 SELL THEM, THEY BECAME DOUBLY MORE ENTRENCHED IN THE

1 POSITION. IT WAS LIKE I WAS BEING CRITICAL OF THE
2 OWNERSHIP OF THE STOCK --

3 MR. QUINN: YOUR HONOR, I'LL OBJECT TO THE
4 CHARACTERIZATION.

5 THE COURT: I'LL STRIKE THE WITNESS.

09:36AM

6 JUST KEEP FOCUSED.

7 Q. BY MR. HELM: JUST GO TO ONE THING YOU SAID,
8 JUST SO AGAIN, WE'RE ALL ON THE SAME PAGE. YOU SAID
9 YOU WERE SUPPOSED TO BE THE CIO?

10 WHAT IS THE CIO?

09:36AM

11 A. CHIEF INVESTMENT OFFICER.

12 Q. SO YOUR POSITION WAS CHIEF INVESTMENT OFFICER
13 OF TCW; IS THAT RIGHT?

14 A. YES.

15 Q. SO WHAT OPINION DID YOU EXPRESS -- DID YOU
16 EVER EXPRESS A PARTICULAR OPINION ABOUT CITIGROUP STOCK
17 IN PARTICULAR IN THE 2008 TIME PERIOD?

09:37AM

18 A. YES, I DID.

19 Q. WHEN WAS THAT, AND IN WHAT CONTEXT?

20 A. ONE OF THE WEBCASTS THAT I DID FOR MY TOTAL
21 RETURN BOND FUNDS WAS IN THE EARLY PART OF SEPTEMBER,
22 2008, WHICH WAS RIGHT WHEN THE WORLD STARTED TO REALLY
23 FALL APART.

09:37AM

24 AND ON THE WEBCAST, PEOPLE STARTED
25 ASKING ME QUESTIONS ABOUT THE BANKS, WOULD YOU OWN THE
26 BANKS. AND I SAID, SOME OF THE BANKS, I THINK, ARE
27 OKAY.

09:37AM

28 AND SOMEBODY SAID, WHAT ABOUT CITIGROUP?

1 AND I SAID I WOULD SELL IT IMMEDIATELY. I BELIEVE
2 CITIGROUP IS GOING TO NEED A GOVERNMENT BAILOUT.

3 Q. AND WHAT SUBSEQUENTLY HAPPENED TO CITIGROUP,
4 AFTER YOU MADE THOSE STATEMENTS?

5 A. FIVE WEEKS LATER, THEY WENT TO WASHINGTON FOR
6 A GOVERNMENT BAILOUT.

09:37AM

7 Q. NOW, AFTER YOU MADE THE STATEMENTS, BUT BEFORE
8 THE BAILOUT, DID YOU HAVE ANY DISCUSSIONS WITH ANY OF
9 THE STOCK MARKET STRATEGY MANAGERS ABOUT THAT
10 STATEMENT?

09:38AM

11 A. YES. AFTER I MADE THAT STATEMENT, I WAS
12 INUNDATED WITH PHONE CALLS AND E-MAILS, YELLING AT ME
13 THAT I SHOULDN'T SAY THAT CITIGROUP IS GOING DOWN,
14 BECAUSE DIANE JAFFEE OWNS CITIGROUP.

15 AND I SAID, I'VE BEEN TELLING HER TO
16 SELL IT ALL YEAR; AND THINGS LIKE THAT.

09:38AM

17 Q. BUT YOU WERE THE CHIEF INVESTMENT OFFICER OF
18 TCW.

19 DID THAT MEAN THAT YOU HAD THE AUTHORITY
20 TO DIRECT HER TO SELL STOCKS IF YOU THOUGHT THAT THEY
21 WEREN'T GOOD INVESTMENTS?

09:38AM

22 A. NO. THEY HAD COMPLETE AUTONOMY TO DO WHAT
23 THEY WANTED IN THEIR PORTFOLIOS.

24 CHIEF INVESTMENT OFFICER DIDN'T MEAN
25 THAT I COULD VETO WHAT THEY WERE DOING AT ALL.

09:38AM

26 Q. DID YOU HAVE ANY DISCUSSIONS WITH MR. BEYER
27 ABOUT YOUR STATEMENTS --

28 A. YES.

1 Q. -- WITH RESPECT TO CITIGROUP?

2 A. YES.

3 Q. WHAT DID HE TELL YOU?

4 A. WELL, HE WAS MAD. HE SAID THAT I SHOULDN'T BE
5 SAYING THINGS LIKE THAT. AND THAT THE CEO OF
6 CITIGROUP, VIKRAM PANDIT, CALLED HIM SAYING THAT AS FAR
7 AS HE KNOWS --

09:39AM

8 MR. QUINN: YOUR HONOR, THIS IS HEARSAY.

9 THE COURT: SUSTAINED.

10 WE'RE GETTING INTO HEARSAY ON HEARSAY.

09:39AM

11 MR. HELM: OKAY.

12 Q. WELL, REGARDLESS OF WHAT THE BASIS FOR WHAT
13 MR. BEYER SAID WAS, DID HE EXPRESS DISSATISFACTION TO
14 YOU ABOUT THE COMMENTS THAT YOU HAD MADE?

15 A. YES.

09:39AM

16 AND THE STOCK WENT FROM 20 TO ONE.

17 Q. NOW IN 2009, WHO OWNED TCW?

18 A. SOCIETE GENERALE.

19 Q. AND WHEN DID SOCIETE GENERALE FIRST ACQUIRE
20 TCW?

09:39AM

21 A. THE FIRST 51 PERCENT WAS PURCHASED IN 2001.

22 Q. AND WHO WERE THE TOP EXECUTIVES AT TCW AT THAT
23 TIME?

24 A. ROBERT DAY AND MARC STERN.

25 Q. WHAT WERE THEIR POSITIONS?

09:40AM

26 A. DAY WAS THE CEO AND STERN WAS THE PRESIDENT, I
27 THINK.

28 Q. AND I THINK YOU SAID BEFORE THAT MR. DAY WAS

1 THE FOUNDER OF TCW?

2 A. YES.

3 Q. AND HOW LONG HAD MR. STERN BEEN THERE?

4 A. SINCE THE LATE, LATE '80S.

5 Q. DO YOU KNOW HOW MUCH SOCIETE GENERALE PAID TO
6 ACQUIRE TCW?

09:40AM

7 A. IT'S AROUND -- IT'S HARD TO SAY, BECAUSE IT
8 WAS DONE IN PIECES; BUT IT WAS ABOUT A BILLION TWO,
9 WOULD BE MY ESTIMATE.

10 Q. AND DO YOU KNOW WHO WERE THE OWNERS OF TCW AT
11 THE TIME IT WAS ACQUIRED?

09:40AM

12 A. SOME OF THEM.

13 Q. YOU DIDN'T KNOW ALL THE OWNERS AT THE TIME IN
14 2001 WHEN THE ACQUISITION TOOK PLACE?

15 A. NO. I ASKED OVER AND OVER AGAIN, BUT THEY
16 WOULDN'T TELL ME.

09:40AM

17 Q. DID YOU OWN ANY EQUITY IN TCW OWNERSHIP --
18 STOCK OWNERSHIP IN TCW AT THE TIME IT WAS ACQUIRED?

19 A. YES.

20 Q. HOW MUCH DID YOU OWN?

09:41AM

21 A. A LITTLE LESS THAN THREE PERCENT.

22 Q. DID ANYTHING HAPPEN TO YOUR SHARE OF STOCK
23 OWNERSHIP IN TCW AROUND THE TIME THAT IT WAS ACQUIRED
24 BY SOC-JEN?

25 A. YES.

09:41AM

26 Q. WHAT HAPPENED?

27 A. I WASN'T TOLD UNTIL AFTER THE SALE THAT THEY
28 TOOK SOME OF MY STOCK AND GAVE IT TO OTHER PEOPLE.

1 Q. WHAT DO YOU MEAN, THEY TOOK YOUR STOCK?

2 HOW COULD SOMEBODY TAKE AWAY YOUR STOCK?
3 WAS THAT SOMETHING -- HOW DID THAT HAPPEN?

4 A. THEY HAVE A MAJORITY OF THE VOTES. I ONLY HAD
5 A FOUR PERCENT VOTE.

09:41AM

6 IT TURNED INTO A HIGH TWO'S VOTE BY THEM
7 TAKING STOCK AWAY FROM ME AND GIVING IT TO OTHER
8 PEOPLE.

9 Q. SO YOU HAD A CERTAIN AMOUNT OF -- HOW MUCH DID
10 YOU HAVE BEFORE IT WAS TAKEN AWAY?

09:41AM

11 A. FOUR PERCENT.

12 Q. SO HOW LONG BEFORE THE ACQUISITION, DID YOU
13 HAVE THE FOUR PERCENT?

14 A. YEARS.

15 Q. SO AT THE TIME OF THE ACQUISITION, THE ONE
16 PERCENT OWNERSHIP OF TCW THAT YOU HAD WAS TAKEN AWAY
17 AND REDUCED YOU TO A THREE PERCENT OWNERSHIP SHARE?

09:41AM

18 A. A LITTLE BIT MORE THAN ONE PERCENT, YES.

19 Q. DID YOU EXPECT THIS WOULD HAPPEN, AT THE TIME
20 IT OCCURRED?

09:42AM

21 A. NO.

22 Q. WHY NOT?

23 A. BECAUSE MARC STERN HAD PROMISED ME THAT THAT
24 WOULD NEVER HAPPEN TO ME.

25 Q. GIVE ME THE CIRCUMSTANCES -- WHAT WERE THE
26 CIRCUMSTANCES IN WHICH YOU HAD A DISCUSSION WITH MARC
27 STERN ABOUT WHETHER YOUR STOCK WOULD BE TAKEN AWAY?

09:42AM

28 A. WE WERE -- WE HAD A MEETING WHERE WE WERE

1 TALKING ABOUT MY CONTINUED EMPLOYMENT WITH TCW.

2 AND THIS WAS IN THE LATE '90S.

3 Q. AND WHAT WAS HIS POSITION AT THE TIME?

4 A. PROBABLY PRESIDENT.

5 Q. AND WHAT WAS DISCUSSED?

09:42AM

6 A. I TOLD HIM THAT I THOUGHT I SHOULD HAVE MORE
7 OWNERSHIP OF THE COMPANY BECAUSE MY AREA WAS GROWING,
8 AND I HAD BEEN THERE A LONG TIME.

9 AND HE SAID, THAT'S NOT POSSIBLE RIGHT
10 NOW. I UNDERSTAND WHERE YOU ARE COMING FROM. YOU
11 DESERVE IT. PARTICULARLY IF YOU GROW, YOU SHOULD HAVE
12 MORE OWNERSHIP IN THE COMPANY, BUT I CAN'T DO IT RIGHT
13 NOW.

09:42AM

14 BUT THERE'S ONE PROMISE I CAN MAKE TO
15 YOU. YOU WILL NEVER HAVE THE STOCK TAKEN AWAY FROM
16 YOU, THE SAME YOU HAVE NOW.

09:43AM

17 Q. AND HOW DID YOU LEARN THAT YOUR STOCK -- THAT
18 SOME OF YOUR STOCK WAS BEING TAKEN AWAY AS A RESULT OF
19 THE -- OR AT THE TIME OF THE SOCIETE GENERALE
20 ACQUISITION?

09:43AM

21 A. IT WAS AFTER THE SALE WAS FINALIZED. BILL
22 SONNEBORN CAME TO ME WITH THE BAD NEWS.

23 Q. AND DID YOU EXPRESS ANY REACTION TO THAT?

24 A. I'VE NEVER YELLED SO MUCH IN MY LIFE.

25 Q. AND WHEN DID THIS TAKE PLACE, 2001?

09:43AM

26 A. 2001.

27 Q. WERE THERE ANY CHANGES IN LEADERSHIP AT TCW IN
28 THE 2005 TIME PERIOD?

1 A. YES.

2 Q. WHAT CHANGES TOOK PLACE THEN?

3 A. WITH GREAT FANFARE, TCW ANNOUNCED TO THE WORLD
4 THAT ROBERT DAY WAS STEPPING DOWN AS CEO AND THAT MARC
5 STERN WAS RETIRING AS PRESIDENT AND THAT THE FIRM WAS
6 BEING TURNED OVER TO A NEW GENERATION OF LEADERSHIP,
7 THAT BOB BEYER WOULD BE CEO AND BILL SONNEBORN WOULD BE
8 PRESIDENT, AND I WOULD BE NAMED CHIEF INVESTMENT
9 OFFICER.

09:43AM

09:44AM

10 Q. NOW, YOU SAY IT WAS WITH GREAT FANFARE.

11 HOW WAS IT THAT THERE WAS THIS
12 GENERATIONAL CHANGE THAT WAS HAPPENING?

13 WHAT ARE YOU REFERRING TO? WHAT KINDS
14 OF ANNOUNCEMENTS OR FANFARE TOOK PLACE?

15 A. PRESS RELEASES, LETTERS TO CLIENTS, LETTERS TO
16 CONSULTANTS, INTERNAL MEETINGS. BIG OFF SITES THAT
17 TOOK ALL THE EMPLOYEES TO DISCUSS THIS TRANSFORMATIONAL
18 EVENT.

09:44AM

19 Q. AND WERE YOU PART OF THIS NEW GENERATION OF
20 LEADERSHIP THAT WAS BEING PROMOTED AT THAT TIME?

09:44AM

21 A. YES.

22 Q. AND YOUR POSITION AS OF THIS CHANGE BECAME?

23 A. CHIEF INVESTMENT OFFICER.

24 Q. AND WHAT WAS YOUR REACTION AT THE TIME TO THE
25 ANNOUNCEMENTS TO THE CHANGE IN LEADERSHIP THAT TOOK
26 PLACE IN 2005?

09:44AM

27 A. I WAS THRILLED. I WAS REALLY HAPPY. I
28 THOUGHT IT WAS THE GREATEST THING.

1 AND I GAVE A SPEECH AT THE OFF SITE,
2 SINGING THE PRAISES OF ROBERT DAY.

3 MR. QUINN: YOUR HONOR, OBJECTION. HEARSAY.
4 HE'S NOT ANSWERING THE QUESTION.

5 THE COURT: I THINK HE'S ANSWERED THE
6 QUESTION.

7 MR. QUINN: MOVE TO STRIKE.

8 THE COURT: I'M NOT GOING TO STRIKE IT.

09:45AM

09:45AM

9 MR. GUNDLACH, JUST TRY AND FOCUS ON THE
10 QUESTION, IF YOU CAN.

11 Q. BY MR. HELM: ALL RIGHT. AFTER THE CHANGE IN
12 LEADERSHIP IN 2005, DID MR. SONNEBORN AND MR. BEYER
13 EVER DISCUSS WITH YOU ANY EFFORTS THAT THEY MADE TO TRY
14 TO BUY TCW BACK FROM THE FRENCH?

15 A. YES.

16 Q. WHEN DID THIS TAKE PLACE?

17 A. I BELIEVE IT WAS FEBRUARY 2008.

18 Q. SO THIS IS ABOUT THREE YEARS AFTER THE CHANGE
19 IN LEADERSHIP WAS ANNOUNCED, TWO AND A HALF YEARS?

20 A. ABOUT TWO AND A HALF YEARS.

21 Q. AND WHAT DID THEY TELL YOU AT THAT TIME?

22 A. THEY CALLED ME FROM A CAR.

23 BILL SONNEBORN CALLED ME. AND HE
24 SAID -- I WAS ON THE TRADING DESK. AND HE SAID, IT'S
25 BILL. I'M HERE WITH BOB BEYER. WE'RE DRIVING TO LAX.
26 WE'RE GOING TO PARIS TO BUY BACK THE FIRM.

27 ARE YOU IN?

28 Q. WHAT DID YOU SAY?

09:45AM

09:46AM

09:46AM

1 A. AND I SAID, IN ON WHAT?

2 Q. AND HOW DID THE DISCUSSION PROCEED?

3 A. HE SAID BUYING BACK THE FIRM.

4 Q. AND I SAID, I NEED TO KNOW MORE ABOUT IT THAN
5 THAT.

09:46AM

6 MR. QUINN: YOUR HONOR, OBJECTION TO THE
7 RELEVANCE OF THIS. IT'S HEARSAY, AS WELL.

8 THE COURT: I THINK WE CAN MOVE ALONG.

9 Q. BY MR. HELM: WELL, DID YOU UNDERSTAND THAT
10 THEY SUBSEQUENTLY MADE AN OFFER TO ACQUIRE TCW?

09:46AM

11 MR. QUINN: RELEVANCE.

12 THE COURT: SUSTAINED.

13 MR. HELM: WELL, YOUR HONOR, I THINK WE HAVE
14 IN EVIDENCE THAT AN OFFER WAS MADE IN SEPTEMBER OF
15 2009. I THINK IT IS RELEVANT THAT THERE WERE OTHER
16 OFFERS MADE BEFOREHAND, AND THAT THIS WAS NOT THE ONLY
17 TIME AN OFFER HAD BEEN MADE.

09:47AM

18 THE COURT: I'M GOING TO SUSTAIN THE
19 OBJECTION.

20 GO ON, MR. HELM.

09:47AM

21 MR. HELM: ALL RIGHT.

22 Q. WELL, LET ME ASK YOU THIS: LET ME HAVE YOU
23 LOOK AT AN EXHIBIT THAT IS ALREADY IN EVIDENCE, EXHIBIT
24 132.

25 PAGE 2, PLEASE, DENNIS.

09:47AM

26 AND THE SECOND PARAGRAPH -- YEAH, THAT'S
27 FINE.

28 NOW, THIS WAS --

1 ACTUALLY, I'M SORRY, DENNIS. COULD YOU
2 GO BACK TO THE FIRST PAGE.

3 THIS IS A YEAR LATER, AFTER THE PERIOD
4 WE TALKED ABOUT.

5 COULD YOU -- RIGHT WHERE YOUR ARROW IS,
6 HIGHLIGHT THAT.

09:48AM

7 SO THIS WAS AN E-MAIL THAT YOU SENT ON
8 FEBRUARY 1, 2009; IS THAT TRUE?

9 A. YES.

10 Q. AND SO THIS WAS A YEAR AFTER THE CONVERSATION
11 YOU STARTED TO DESCRIBE WITH MR. BEYER AND
12 MR. SONNEBORN?

09:48AM

13 A. YES.

14 Q. COULD YOU GO TO THE SECOND PAGE, PLEASE,
15 DENNIS. THE TOP TWO PARAGRAPHS.

09:48AM

16 DO YOU SEE IN THE BOTTOM THERE, IT SAYS,
17 TO THIS END, I AM PLANNING ON SENDING A FORMAL LETTER
18 TO MR. OUDEA TO SUGGEST THAT HE CONTINUE WORKING WITH
19 ME DIRECTLY TO REACH AGREEMENT ON THE CURRENT STATUS
20 AND A PLAN FOR THE FUTURE OF TCW.

09:49AM

21 MONSIEUR OUDEA, WHO WAS THAT?

22 A. HE WAS THE HEAD OF SOCIETE GENERALE.

23 Q. ALL RIGHT. AND THEN IT SAYS, I BELIEVE THAT
24 HE AND THE REST OF SG DEEPLY DISLIKE YOU AND BILL.

25 THE YOU IS MR. BEYER?

09:49AM

26 A. YES.

27 Q. FOR THE TIMING AND APPROACH YOU TWO TOOK LAST
28 YEAR ON THE FAILED BUYBACK.

1 WHAT IS THE FAILED BUYBACK REFERRING TO?

2 A. THEY HAD GONE TO PARIS TO TRY TO BUY BACK THE
3 FIRM IN FEBRUARY OF 2008, AND THEY WERE NOT GREETED
4 WITH OPEN ARMS.

5 Q. THE NEXT SENTENCE SAYS, CERTAINLY COLLAS AND
6 CLOT, AND PAGNI ALL TOLD ME THAT REPEATEDLY.

09:49AM

7 WHO IS MR. COLLAS?

8 A. COLLAS, WAS THE MAN RESPONSIBLE FOR BUYING TCW
9 IN THE FIRST PLACE, FROM SG.

10 Q. AND WHO IS MR. CLOT?

09:50AM

11 A. HE WAS THE HEAD OF THE ASSET MANAGEMENT
12 DIVISION IN PARIS OF SOCIETE GENERALE.

13 THEY HAD TRIED TO BUILD UP AN ASSET
14 MANAGEMENT BUSINESS, AND HE WAS THEN IN CHARGE OF IT.

15 Q. AND MR. PAGNI?

09:50AM

16 A. PAGNI WAS A LIAISON FROM PARIS THAT WAS, 50
17 PERCENT TO TCW EMPLOYEES AND 50 PERCENT SG EMPLOYEES.

18 Q. AND HE SAID, THE THREE OF THEM ALL TOLD ME
19 THAT REPEATEDLY.

20 WHAT DID THEY TELL YOU REPEATEDLY?

09:50AM

21 A. THAT THEY DIDN'T LIKE BOB BEYER AND BILL
22 SONNEBORN.

23 THEY DIDN'T LIKE THEM FOR THE TIMING AND
24 THE APPROACH THEY TOOK IN FEBRUARY OF 2008. THEY
25 THOUGHT THEY WERE BEING KICKED WHEN THEY WERE DOWN,
26 THEY SAID.

09:50AM

27 Q. YOU SAID THE TIMING.

28 WHAT WAS IT ABOUT THE TIMING THAT YOU

1 UNDERSTOOD WAS VIEWED IN NEGATIVE TERMS?

2 MR. QUINN: OBJECTION TO THE RELEVANCE, YOUR
3 HONOR.

4 THE COURT: OVERRULED.

5 YOU KNOW, MR. -- EXHIBIT 132 IS OFFERED
6 BY THE PLAINTIFF. AND SO I WILL ALLOW INQUIRY INTO THE
7 SUBSTANCE OF WHAT'S IN 132.

09:51AM

8 MR. HELM, YOU MAY PROCEED.

9 Q. BY MR. HELM: ACTUALLY, IF I COULD DISCUSS ONE
10 THING WITH COUNSEL?

09:51AM

11 THE COURT: YOU MAY.

12

13 (COUNSEL CONFERRED SOTTO VOCE.)

14

15 Q. BY MR. HELM: ALL RIGHT. THERE'S A REFERENCE
16 IN THIS EXHIBIT TO A DEEP DISLIKE FOR THE TIMING AND
17 APPROACH YOU TOOK.

09:51AM

18 WHAT WAS IT ABOUT THE TIMING THAT WAS
19 TOLD TO YOU THAT WAS OBJECTIONABLE TO THE FRENCH?

20 A. THEY WENT TO PARIS TO TRY TO BUY THE FIRM VERY
21 SHORTLY AFTER SG HAD REPORTED A WELL PUBLICIZED \$7
22 BILLION LOSS.

09:51AM

23 Q. AND THEN IT SAID, AND FOR THE TIMING AND THE
24 APPROACH YOU TOOK LAST YEAR ON THE FAILED BUYBACK.

25 WHAT DID COLLAS, CLOT AND PAGNI TELL YOU
26 WAS THE REACTION OF THE FRENCH TO THE FAILED BUYBACK
27 EFFORT?

09:52AM

28 A. THEY SAID IT WAS VERY AMERICAN OF THEM.

1 Q. ALL RIGHT.

2 NOW, WHAT HAPPENED -- THE FAILED
3 BUYBACK -- THIS E-MAIL IS IN 2009, BUT THE FAILED
4 BUYBACK WAS IN EARLY 2008; IS THAT CORRECT?

5 A. YES.

09:52AM

6 Q. AFTER THIS FAILED BUYBACK EFFORT IN 2008, WAS
7 THERE A CHANGE IN MANAGEMENT OF TCW AFTER THAT TIME?

8 A. YES.

9 Q. WHAT HAPPENED?

10 A. JUST A FEW MONTHS LATER, BILL SONNEBORN WAS
11 GONE.

09:53AM

12 Q. WHEN DID HE LEAVE?

13 A. EARLY JULY 2008.

14 Q. AND WHAT WAS YOUR REACTION TO THE FACT THAT
15 MR. SONNEBORN, WHO WAS PART OF THIS NEW GENERATION OF
16 LEADERS, WHO CAME IN IN '05 AND WAS NOW GONE, IN JULY
17 OF '08?

09:53AM

18 A. I THOUGHT IT WAS BAD.

19 Q. WHY?

20 A. BILL SONNEBORN WAS A VERY HARD WORKER. AND
21 BILL SONNEBORN DID ALL THE HEAVY LIFTING OF
22 ADMINISTERING THE FIRM. HE WAS THE ONE THAT WAS REALLY
23 RUNNING THE THINGS: THE HR DEPARTMENT, THE
24 COMMUNICATIONS DEPARTMENT, THE LEGAL DEPARTMENT, THE
25 MARKETING DEPARTMENT. HE WAS THE DAY TO DAY GUY.

09:53AM

26 AND BOB BEYER WAS CEO, BUT BILL WAS
27 DOING ALL THE REAL WORK. THEY ALWAYS DID EVERYTHING --
28 THEY SIGNED ALL THE E-MAILS AND EVERYTHING TOGETHER.

09:53AM

1 IT WAS ALWAYS BILL AND BOB, BUT BILL DID
2 ALL THE WORK.

3 Q. NOW, WHEN HE RESIGNED, HE WAS PRESIDENT, AT
4 THAT TIME, OR CHIEF OPERATING OFFICER?

5 A. HE WAS PRESIDENT. 09:54AM

6 Q. AND AFTER HE LEFT, DID ANYONE COME IN TO
7 REPLACE HIM IN THAT POSITION?

8 A. NO.

9 Q. DID YOU HAVE ANY DISCUSSION WITH MR. BEYER AT
10 THE TIME ABOUT THAT? 09:54AM

11 A. YES.

12 Q. WHAT DID YOU DISCUSS?

13 A. BOB CAME TO ME IN -- SHORTLY AFTER SONNEBORN
14 WAS GONE, AND HE SAID, WE DON'T WANT TO REPLACE HIM
15 RIGHT AWAY. WE NEED TO FIGURE OUT WHERE WE ARE. DON'T
16 WANT TO DO ANYTHING UNDER A CRISIS MODE. 09:54AM

17 I'D LIKE TO JUST SPLIT UP HIS DUTIES
18 AMONG PEOPLE THAT REPORTED TO HIM.

19 AND I THOUGHT IT WAS A GOOD IDEA
20 TEMPORARILY, FOR A TEMPORARY PERIOD. 09:54AM

21 I SAID, I AGREE WITH YOU ON THAT. I
22 SAID, THAT'S RIGHT. WE DON'T WANT TO, IN HASTE, MAKE
23 SOME MAJOR ORGANIZATIONAL HIRING CHANGE.

24 Q. ALL RIGHT. SO WE'RE IN THE -- NOW IN THE JULY
25 2008 TIME PERIOD. 09:54AM

26 I WANT TO SHOW YOU A -- THERE WAS AN
27 EXHIBIT THAT MR. QUINN GAVE TO YOU -- SHOWED YOU,
28 EXHIBIT 100.

1 COULD WE LOOK AT THAT FOR A SECOND,
2 PLEASE, DENNIS.

3 THIS WAS IN AUGUST OF 2008.

4 AND IT'S A LIST OF NAMES.

5 DO YOU SEE THAT?

09:55AM

6 A. YES.

7 Q. DO YOU RECALL WHAT IS IT THAT LED YOU TO
8 CREATE THIS DOCUMENT AT THAT TIME?

9 A. I DON'T KNOW. I CAN ONLY GUESS.

10 Q. WELL, WERE YOU IN ANY ACTIVE DISCUSSIONS WITH
11 ANYONE IN AUGUST OF 2008 ABOUT SELECTING A GROUP OF
12 PEOPLE TO LEAVE THE FIRM AND START SOME NEW FIRM, OR
13 JOIN ANOTHER FIRM?

09:55AM

14 A. I CAN'T BE SURE AS TO DATES. I DON'T REMEMBER
15 AUGUST 2008 BEING TALKED, SPECIFICALLY. I DON'T KNOW.

09:55AM

16 Q. WELL, WHATEVER THE DATE WAS, DO YOU RECALL IN
17 THE SECOND HALF OF 2008, HAVING ACTIVE DISCUSSIONS WITH
18 ANYONE ABOUT TAKING A GROUP OF PEOPLE FROM YOUR GROUP
19 AND GOING SOMEWHERE ELSE?

20 A. WELL, I HAD ONE DISCUSSION ONE DAY WITH UBS.

09:56AM

21 Q. AND WHAT IS UBS?

22 A. IT STANDS FOR, I THINK, UNION BANK OF
23 SWITZERLAND.

24 THEY ARE A BIG MONEY ORIENTED
25 ORGANIZATION BANK OUT OF SWITZERLAND.

09:56AM

26 Q. AND YOU SAY YOU HAD A ONE-DAY DISCUSSION WITH
27 THEM.

28 ARE YOU EVEN SURE WHEN THAT WAS IN

1 RELATION TO THIS?

2 A. I DON'T KNOW WHEN THAT WAS. I'M NOT EVEN SURE
3 WHAT QUARTER IT WAS.

4 Q. SO WHAT -- YOU SAY YOU HAD A ONE-DAY
5 DISCUSSION.

09:56AM

6 WHAT DID YOU DISCUSS WITH UBS WHEN YOU
7 HAD THE DISCUSSION?

8 A. UBS WAS YET ANOTHER MONEY MANAGEMENT OPERATION
9 THAT HAS HAD VERY BAD RESULTS IN '07 AND INTO '08 WITH
10 THE TROUBLES IN THE MARKET. AND I THINK THEY NEEDED
11 HELP, AND THEY WERE LOOKING TO -- IT WAS VERY
12 PRELIMINARY.

09:56AM

13 THEY WERE LOOKING TO SOMEHOW THINK ABOUT
14 CHANGING THEIR OPERATION. AND THEY CALLED ME UP AND
15 SAID, WE'D LIKE TO TALK TO YOU ABOUT WHETHER THERE'S A
16 FIT, OR WHATEVER.

09:57AM

17 Q. AND DID THE DISCUSSIONS GO ANYWHERE?

18 A. NO. THERE WAS NO FIT.

19 Q. NOW, OVER THE YEARS, WERE ANY STATEMENTS MADE
20 BY TCW ABOUT THE INTENTION TO GIVE EQUITY TO TCW
21 EMPLOYEES?

09:57AM

22 A. YES.

23 Q. WHAT STATEMENTS WERE MADE IN THAT REGARD?

24 MR. QUINN: YOUR HONOR, OBJECTION TO THE FORM.

25 WHO? WHEN?

09:57AM

26 THE COURT: SUSTAINED.

27 Q. BY MR. HELM: WELL, AT WHAT POINT -- WOULD YOU
28 PLEASE TELL ME WHO AND WHEN SOMEONE MADE A STATEMENT TO

1 YOU IN THAT REGARD?

2 A. IT BEGAN IN 2001, WITH ROBERT DAY, AND MARC
3 STERN AND SOCIETE GENERALE REPRESENTATIVES, SAYING THAT
4 EMPLOYEES OF TCW WILL ALWAYS OWN 30 PERCENT OF THE
5 STOCK IN SG.

09:58AM

6 Q. AND WERE STATEMENTS MADE --

7 A. -- OF TCW, I MEAN.

8 Q. AND WERE STATEMENTS TO THE EFFECT THAT TCW
9 EMPLOYEES WOULD ALWAYS OWN 30 PERCENT OF TCW MADE AFTER
10 THE 2001 TIME PERIOD?

09:58AM

11 A. CONSTANTLY.

12 Q. NOW, MR. QUINN ASKED IF YOU WERE AWARE OF ANY
13 DOCUMENT THAT CONFIRMED THAT STATEMENTS TO THAT EFFECT
14 WERE MADE.

15 DO YOU RECALL THAT?

09:58AM

16 A. YES.

17 Q. I'D LIKE TO SHOW YOU AND THE COURT, EXHIBIT
18 6124.

19 IS THIS A PROXY STATEMENT FILED BY TCW
20 WITH THE SECURITIES AND EXCHANGE COMMISSION?

09:59AM

21 A. IT SAYS PROXY STATEMENT.

22 IT SAYS THIS PROXY STATEMENT, YES
23 CURRENTLY ACTIVE SERIES TCW -- YES.

24 MR. HELM: MOVE ADMISSION OF 6124, YOUR HONOR.

25 MR. QUINN: NO OBJECTION.

09:59AM

26 THE COURT: IT WILL BE ADMITTED.

27

28 (EXHIBIT 6124 ADMITTED.)

1 Q. BY MR. HELM: I'D LIKE YOU TO LOOK AT PAGE 10
2 OF THAT EXHIBIT, PLEASE.

3 AND UNDER DESCRIPTION OF THE
4 TRANSACTION, WHY DON'T WE HIGHLIGHT THAT.

5 IT SAYS, (READING):

09:59AM

6 ON APRIL 11, 2001, THE TCW
7 GROUP, CERTAIN STOCKHOLDERS OF THE
8 TCW GROUP AND SOCIETE GENERALE, ET
9 CETERA, ENTERED -- AND CERTAIN
10 OTHER PARTIES, ENTERED INTO AN
11 ACQUISITION AGREEMENT AND PLAN OF
12 REORGANIZATION, PURSUANT TO WHICH
13 SGAM WILL ACQUIRE A 70 PERCENT
14 INTEREST IN THE TCW GROUP OVER THE
15 NEXT FIVE YEARS.

09:59AM

10:00AM

16 AS A RESULT OF THIS
17 TRANSACTION, SOCIETE GENERALE WILL
18 CONTROL THE TCW GROUP AND TCW.

19 IT THEN GOES ON, NEXT PARAGRAPH, UNDER
20 THE TERMS OF THE ACQUISITION AGREEMENT, THE TRANSACTION
21 WILL BE COMPLETED IN TWO MAIN STAGES.

10:00AM

22 IF WE COULD GO TO THE NEXT PAGE.
23 TOP HALF OF THE DOCUMENT, PLEASE,
24 DENNIS.

25 THANK YOU.

10:00AM

26 TOP -- IN THE SECOND -- IN A SECOND
27 STAGE, BETWEEN 2003 AND 2006, SGAM HAS THE RIGHT TO
28 ACQUIRE, AND THE TCW GROUP SHAREHOLDERS HAVE A RIGHT TO

1 PUT TO SGAM, AN ADDITIONAL 19 PERCENT OF THE SHARES.
2 AND IT GIVES SOME DETAIL ON THAT.

3 AND THEN IT SAYS, IN THE MIDDLE,
4 (READING):

5 THE REMAINING 30 PERCENT OF
6 THE SHARES OF THE TCW GROUP WILL BE
7 RETAINED BY CURRENT SHAREHOLDERS
8 AND WILL BE AVAILABLE FOR
9 RECIRCULATION TO EMPLOYEES FOR
10 INCENTIVE PURPOSES AS SOCIETE
11 GENERALE REPURCHASES THEM OVER
12 TIME. TCW AND SOCIETE GENERALE
13 BELIEVE THAT THIS RESIDUAL
14 OWNERSHIP CREATES AN ADDITIONAL
15 LONG-TERM INCENTIVE FOR GROWTH,
16 PERFORMANCE AND SERVICE TO TCW
17 CLIENTS.

10:01AM

10:01AM

10:01AM

18 DO YOU SEE THAT?

19 A. YES.

20 Q. IS THIS AN EXAMPLE OF THE KIND OF STATEMENTS
21 THAT WERE MADE BY TCW PUBLICLY ABOUT A 30 PERCENT
22 OWNERSHIP OF TCW SHARES BY TCW EMPLOYEES?

10:01AM

23 A. YES.

24 Q. I'M GOING TO ASK YOU TO ALSO TO LOOK AT AN
25 EXHIBIT THAT WAS PUT INTO EVIDENCE BY PLAINTIFFS. IT'S
26 EXHIBIT 2153.

10:01AM

27 WOULD YOU GO TO PAGE 4 OF THAT EXHIBIT,
28 PLEASE, DENNIS.

1 IN THE MIDDLE BOX, IF YOU COULD
2 HIGHLIGHT THAT BOX. THANK YOU.

3 GO TWO BULLET POINTS DOWN. THE FIRST
4 SUBPART UNDER THAT, IT SAYS, THE -- FIRST OF ALL, THIS
5 WAS, JUST TO ORIENT US, THIS WAS THE PROJECT HIGH LIFE
6 REVIEW OF THE FIRM THAT WAS ADMITTED WITH RESPECT TO
7 MR. SHEDLIN'S TESTIMONY; IS THAT TRUE?

10:02AM

8 A. YES. THIS WAS THE CITIGROUP REPORT.

9 Q. AND THIS WAS DATED JULY 20, 2009?

10 A. I DON'T KNOW.

10:02AM

11 Q. IF WE LOOK AT THE FIRST PAGE, I THINK YOU WILL
12 SEE IT IS.

13 YEAH, THERE IT IS. THANK YOU.

14 IF WE GO BACK TO PAGE 4, IT SAYS,

15 (READING):

10:02AM

16 THOUGH 30 PERCENT EQUITY WAS
17 PROMISED TO HIGH LIFE EMPLOYEES.

18 WHAT WAS HIGH LIFE THERE? WHO WAS HIGH
19 LIFE, IN THIS DOCUMENT?

20 A. THAT'S THEIR CODE NAME FOR TCW.

10:03AM

21 Q. IT SAYS, (READING):

22 ONLY 11 TO 14 PERCENT OF THE
23 FIRM IS CURRENTLY OWNED BY THE
24 EMPLOYEES IN OPTIONS THAT ARE OUT
25 OF THE MONEY.

10:03AM

26 SO FIRST OF ALL, IT SAYS THOUGH 30
27 PERCENT EQUITY WAS PROMISED TO HIGH LIFE EMPLOYEES.

28 IS THAT CONSISTENT WITH YOUR

1 UNDERSTANDING THAT THERE HAD BEEN A PROMISE MADE TO TCW
2 EMPLOYEES THAT THEY WOULD OWN 30 PERCENT OF THE SHARES
3 OF TCW?

4 A. YES.

5 Q. AND THAT'S THE PROMISE GOING BACK TO 2001 YOU
6 TESTIFIED TO?

7 A. THAT'S WHEN IT BEGAN.

8 Q. AND IT THEN SAYS, (READING):

9 ONLY 11 TO 14 PERCENT IS

10 CURRENTLY OWNED BY THE EMPLOYEES IN

11 OPTIONS THAT ARE OUT OF THE MONEY.

12 WHAT IS AN OPTION OUT OF THE MONEY?

13 A. WELL, OPTIONS ARE A TYPE OF FINANCIAL
14 INSTRUMENT. BASICALLY, THEY ARE STRUCK, IT'S CALLED AT
15 A PRICE. AND IF YOU OWN THE OPTION, YOU GET THE GAIN
16 OF A STOCK ABOVE THAT PRICE.

17 SO IF YOU OWN AN OPTION AT THE PRICE OF
18 A HUNDRED, THEN THE STOCK GOES TO 200, YOU GET THE
19 HUNDRED DOLLARS. IF IT GOES TO 90, YOU GET NOTHING,
20 'CAUSE YOU JUST GET THE GAIN OVER A HUNDRED.

21 SO IF YOU HAVE THE OPTION THAT STRUCK AT
22 A HUNDRED, IF IT'S LOWER THAN A HUNDRED, IT'S CALLED
23 OUT OF THE MONEY. IT HAS NO VALUE.

24 Q. AND WHAT WAS THE STATUS OF TCW EMPLOYEES'
25 STOCK OPTIONS AS OF JULY 2009?

26 MR. QUINN: OBJECTION. RELEVANCE.

27 THE COURT: I THINK THIS DOCUMENT STATES IT.
28 I'LL SUSTAIN IT.

10:03AM

10:03AM

10:03AM

10:04AM

10:04AM

1 Q. BY MR. HELM: WELL, TO YOUR KNOWLEDGE, DID ANY
2 TCW EMPLOYEES ACTUALLY OWN ANY TCW STOCK IN JULY 2009?

3 A. NO.

4 Q. DID THERE COME A POINT WHEN YOU UNDERSTOOD
5 THAT EQUITY OR STOCK OWNERSHIP IN TCW WAS FINALLY GOING
6 TO BE GRANTED? 10:05AM

7 A. MANY TIMES. THE MOST -- THE MOST EXTREME ONE
8 WAS IN 2008.

9 Q. WHAT -- DO YOU RECALL WHAT MONTH IN 2008 THAT
10 WAS? 10:05AM

11 A. SEPTEMBER 2008, I THINK IT WAS.

12 Q. AND WHO DID YOU HAVE A CONVERSATION WITH THAT
13 LED YOU TO BELIEVE THAT EQUITY WAS GOING TO BE GRANTED?

14 A. BOB BEYER, DAVE DEVITO HELD MEETINGS WITH THE
15 SENIOR PORTFOLIO MANAGERS AT TCW, SAYING IT'S FINALLY
16 COMING. IT'S REALLY HERE. 10:05AM

17 AND THEY ACTUALLY EVEN HAD DOCUMENTS
18 STARTING TO BE PASSED AROUND TO TALK ABOUT HOW IT WOULD
19 BE DIVVIED UP.

20 Q. AND DID THEY DISCUSS WITH YOU THAT ANY
21 ANNOUNCEMENT WAS GOING TO BE MADE IN THAT REGARD? 10:05AM

22 A. YES.

23 Q. WHAT DID THEY SAY -- WHO DID THEY SAY WAS
24 GOING TO BE MAKING THE ANNOUNCEMENT?

25 A. FREDERIC OUDEA, THE HEAD OF SOCIETE GENERALE. 10:05AM

26 Q. AND WHAT WAS THE EVENT AT WHICH HE WAS -- YOU
27 WERE TOLD HE WAS GOING TO MAKE THIS ANNOUNCEMENT THAT
28 THE STOCK OWNERSHIP WAS NOW GOING TO BE GRANTED TO TCW

1 EMPLOYEES?

2 A. HE WAS -- A MEETING WAS SET UP. MR. OUDEA WAS
3 IN NEW YORK CITY, AND TCW HAD AN OFFICE IN NEW YORK
4 CITY; SO THEY GATHERED TOGETHER THE SENIOR PEOPLE IN
5 THE NEW YORK CITY OFFICE.

10:06AM

6 AND THEY HOOKED IT TOGETHER WITH A VIDEO
7 CONFERENCE THING TO THE LOS ANGELES OFFICE. AND SO WE
8 HAD A LARGE NUMBER OF THE SENIOR PORTFOLIO MANAGERS AND
9 OTHER STAFF AT TCW IN A ROOM, IN LOS ANGELES, AND THERE
10 WERE PEOPLE IN ROOM IN NEW YORK.

10:06AM

11 AND MR. OUDEA WAS SUPPOSED TO COME IN AT
12 1 O'CLOCK PACIFIC TIME AND ANNOUNCE THE STOCK OWNERSHIP
13 THING.

14 BOB BEYER CALLED THE GROUP -- HE WAS IN
15 NEW YORK CITY, AND SAID, I'VE TALKED TO OUDEA THIS
16 MORNING. IT'S A GO. IT'S ALL GOOD. WE'RE GOING TO
17 GET THE STOCK ANNOUNCEMENT THIS AFTERNOON.

10:06AM

18 Q. SO WHAT HAPPENED WHEN 1 O'CLOCK ARRIVED?

19 A. OUDEA DIDN'T SHOW UP.

20 AND WE SAT THERE, AND 1:15 CAME, AND
21 1:30 CAME, AND 1:45 CAME.

10:07AM

22 AND PEOPLE STARTED TO MAKE GALLOWS HUMOR
23 THAT HE WAS DOWN IN WALL STREET, SELLING THE FIRM.

24 Q. DID MR. OUDEA FINALLY SHOW UP AT THE EVENT?

25 A. HE DID, A LITTLE OVER AN HOUR LATE.

10:07AM

26 Q. DID MR. OUDEA MAKE ANY STATEMENTS OF FUTURE
27 INTENTION REGARDING TCW'S STOCK OWNERSHIP?

28 A. NO.

1 Q. DID HE SAY WHETHER -- YES OR NO, WHETHER HE
2 WAS GOING TO BE PROVIDING IT?

3 A. HE DIDN'T EVEN MENTION STOCK OWNERSHIP IN THE
4 MEETING. IT WAS VERY SHORT.

5 Q. WHAT DID HE SAY AT THE MEETING?

10:07AM

6 A. HE SAID THE ASSETS TO MANAGEMENT IS NIS
7 (PHONETIC). I DON'T KNOW IF I EVEN WANT TO BE IN IT.
8 I CAN TAKE IT OR LEAVE IT. I WILL BE DECIDING. AND HE
9 LEFT.

10 Q. WELL, WHAT WAS -- JUST A MINUTE. I WANT TO
11 GET THIS STRAIGHT.

10:08AM

12 SO YOU WERE WITH A GROUP OF PORTFOLIO
13 MANAGERS IN LOS ANGELES, ON A VIDEO CONFERENCE?

14 A. YES.

15 Q. MR. OUDEA WAS IN NEW YORK?

10:08AM

16 A. YES.

17 Q. WHERE WAS MR. BEYER?

18 A. IN NEW YORK CITY.

19 Q. SO AFTER THE CONVERSATION YOU'VE DESCRIBED
20 WITH MR. OUDEA, AND THE MEETING STOPPED, WAS THERE A
21 DISCUSSION AMONG THE PORTFOLIO MANAGER GROUP LEADERS IN
22 LOS ANGELES ABOUT WHAT HAD JUST HAPPENED?

10:08AM

23 A. YES.

24 Q. WHAT WAS DISCUSSED?

25 A. WELL, THEY LINGERED IN THE ROOM, SAYING, WE
26 SHOULD ALL QUIT. SOME OF THEM -- NOT ME. I WAS ALWAYS
27 JUST AN OBSERVER IN THESE TYPES OF THINGS. BUT SOME OF
28 THEM SAID, WE SHOULD ALL PUSH OUR RESIGNATIONS ACROSS

10:08AM

1 THE TABLE.

2 Q. DO YOU RECALL WHO MADE STATEMENTS TO THAT
3 EFFECT?

4 A. MARK ATTANASIO, JEAN-MARC CHAPUS, BLAIR
5 THOMAS, QUITE A FEW PEOPLE.

10:09AM

6 Q. AND DID YOU THEN SUBSEQUENTLY HAVE A
7 CONVERSATION WITH MR. BEYER ABOUT WHAT HAD JUST
8 HAPPENED AT THIS MEETING WITH MR. OUDEA?

9 A. YES. I THINK BEYER CALLED IN, AND HE SAID,
10 I'VE NEVER BEEN THROWN UNDER THE BUS LIKE THAT IN MY
11 LIFE. I'M TELLING YOU, HE TOLD ME THIS VERY MORNING,
12 THAT THE STOCK PLAN WAS COMING.

10:09AM

13 HE SAID, WHEN HE LEFT THE ROOM, I WAS
14 YELLING AT HIS BACK AS HE WAS WALKING DOWN THE HALLWAY,
15 AND WE ENDED UP HAVING A SHOUTING MATCH.

10:09AM

16 THAT'S WHAT HE SAID.

17 Q. WHAT WAS YOUR RESPONSE WHEN, INSTEAD OF
18 HEARING THAT FINALLY THE STOCK OWNERSHIP WAS GOING TO
19 BE GRANTED; INSTEAD, HEARING QUESTIONS ABOUT WHETHER HE
20 WANTED TO BE IN THE BUSINESS?

10:09AM

21 A. IT WAS PRETTY STUNNING.

22 Q. ALL RIGHT.

23 AFTER MR. OUDEA'S COMMENTS AT THE
24 SEPTEMBER 2008 VIDEO CONFERENCE, WHICH YOU ATTENDED,
25 WHAT IS THE NEXT THING YOU LEARNED REGARDING SOCIETE
26 GENERALE'S INTENTION TO STAY IN THE ASSET MANAGEMENT
27 BUSINESS?

10:10AM

28 A. COUPLE OF MONTHS LATER, I LEARNED THAT THEY

1 WERE GETTING OUT OF THE ASSET MANAGEMENT BUSINESS
2 ENTIRELY.

3 Q. HOW DID YOU HEAR THAT?

4 A. BOB BEYER TOLD ME, WAS THE FIRST TIME.

5 Q. WERE THERE ANY -- WHAT'S THE TIME FRAME OF
6 THIS, DO YOU RECALL?

10:10AM

7 A. JANUARY 2009, I THINK.

8 Q. AND WERE THERE ANY PRESS RELEASES ISSUED TO
9 THAT EFFECT?

10 A. RIGHT. I HEARD IT FIRST.

10:10AM

11 BUT THEN ABOUT A WEEK LATER, OUT CAME
12 THE GLOBAL PRESS RELEASE, ANNOUNCING THAT SG WAS
13 GETTING OUT OF THE ASSET MANAGEMENT BUSINESS.

14 Q. SO JUST TO GET THE DATES STRAIGHT, LET'S SHOW
15 THE WITNESS AND THE COURT 5107.

10:11AM

16 DOES THAT REFRESH YOUR RECOLLECTION AS
17 TO WHEN THE GLOBAL PRESS RELEASE REGARDING THE EXIT
18 FROM THE ASSET MANAGEMENT BUSINESS WAS ISSUED?

19 A. JANUARY 26TH, 2009.

20 Q. NOW, YOU SAY THAT YOU GOT A HEADS-UP ON THIS
21 FROM MR. BEYER BEFORE THE ANNOUNCEMENT WAS MADE?

10:11AM

22 A. YEAH, A WEEK OR TWO.

23 Q. SO A WEEK OR TWO BEFORE JANUARY 26TH, 2009,
24 YOU HEARD THAT THIS WAS GOING TO HAPPEN; AND THEN THE
25 ANNOUNCEMENT WAS THE 26TH; IS THAT CORRECT?

10:11AM

26 A. YES.

27 Q. IS EXHIBIT 5107 A COPY OF THE GLOBAL PRESS
28 RELEASE?

1 A. IT'S THE FIRST PAGE THAT I SEE, YES.

2 MR. HELM: I MOVE ADMISSION OF 5107.

3 MR. QUINN: NO OBJECTION.

4 THE COURT: IT WILL BE ADMITTED.

5

10:11AM

6 (EXHIBIT 5107 ADMITTED.)

7

8 Q. BY MR. HELM: WE'LL GO TO THE FIRST PARAGRAPH,
9 ACTUALLY, THE HEADING. THAT'S FINE.

10

IT SAYS CREDIT AGRICOLE --

10:12AM

11

WHAT WAS CREDIT AGRICOLE?

12

A. IT'S ANOTHER HUGE FRENCH BANK.

13

14 Q. -- AND SOCIETE GENERALE HAVE SIGNED A
15 PRELIMINARY AGREEMENT IN ORDER TO COMBINE THEIR ASSET
16 MANAGEMENT OPERATIONS.

10:12AM

16

17 THIS NEW ENTITY WILL COMBINE THE
18 ENTIRETY OF C-A-A-M GROUP.

18

THAT'S CREDIT AGRICOLE GROUP?

19

A. I GUESS SO.

20

21 Q. THE ASSET MANAGEMENT ARM OF CREDIT AGRICOLE
22 AND THE EUROPEAN AND ASIAN ACTIVITIES OF SOCIETE
23 GENERALE'S ASSET MANAGEMENT BUSINESS, SGAM, AS WELL AS
24 20 PERCENT OF TCW, ITS ASSET MANAGEMENT SUBSIDIARY IN
25 THE UNITED STATES.

10:12AM

25

26 SO WHAT WAS YOUR UNDERSTANDING AS TO --
27 20 PERCENT OF TCW WAS SOMEHOW BEING PUT INTO THIS JOINT
28 VENTURE WITH CREDIT AGRICOLE?

10:12AM

28

A. YES, THEY ARE COMBINING THE CAAM GROUP AND THE

1 SGAM GROUP.

2 IT DOESN'T TRANSLATE WELL, BUT THEY WERE
3 BEING PUT INTO THIS ENTITY, AND IT WAS GOING TO GET --
4 IT WAS GOING TO ALSO OWN 20 PERCENT OF TCW.

5 SO SG, I GUESS, WAS GOING TO TRANSFER 20
6 PERCENT OF OWNERSHIP TO THIS JOINT VENTURE.

10:13AM

7 Q. NOW, THERE'S A FOOTNOTE 2.

8 COULD YOU GO TO THE BOTTOM, DENNIS, AND
9 LOOK AT THE FOOTNOTE?

10 WHAT DOES -- FOOTNOTE 2 SAYS, (READING):

10:13AM

11 THE INTENTION IS TO LIST TCW
12 ON A STOCK EXCHANGE IN THE NEXT
13 FIVE YEARS.

14 WHAT DOES THAT MEAN?

15 A. IT MEANS THEY ARE GOING TO SELL IT.

10:13AM

16 Q. NOW, DID THIS ANNOUNCEMENT --

17 MR. HELM: ACTUALLY, YOUR HONOR, IT'S 10:15.

18 I WAS ABOUT TO GO TO A SLIGHTLY
19 DIFFERENT SUBJECT.

20 THE COURT: WE CAN TAKE OUR MORNING RECESS.
21 20 MINUTES, LADIES AND GENTLEMEN.

10:13AM

22
23 (AT 10:14 A.M. THE FOLLOWING
24 PROCEEDINGS WERE HELD IN OPEN
25 COURT OUT OF THE PRESENCE OF
26 THE JURY:)

27
28 THE COURT: ALL RIGHT. WE'RE OUT OF PRESENCE

1 OF THE JURY.

2 ANY MATTERS? ANY QUESTIONS?

3 MR. QUINN: YOUR HONOR, THE SIDEBAR. I MEAN,
4 I GOT THE SENSE THAT PERHAPS THE COURT THOUGHT I WAS
5 BEING UNNECESSARILY OBSTRUCTIONIST OR CREATING
6 UNNECESSARY HURDLES.

10:14AM

7 AND I WANT TO ASSURE THE COURT, THAT
8 THAT'S NOT MY INTENTION. I'M NOT LOOKING FOR DIFFERENT
9 SETS OF RULES.

10 AND I UNDERSTAND THE COURT'S RULING. I
11 DON'T -- MY INTENTION IS NOT TO --

10:14AM

12 THE COURT: I DON'T HAVE A PROBLEM WITH IT.

13 ACTUALLY, THAT'S PAST, MR. QUINN. YOU
14 DON'T NEED TO MAKE ANY EXCUSES.

15 MR. QUINN: AND UNDER SECTION 1271, WITH
16 RESPECT TO BUSINESS RECORDS, THERE IS LANGUAGE ABOUT
17 THE CIRCUMSTANCES OF THE CREATION OF THE DOCUMENT BEING
18 SUFFICIENTLY RELIABLE THAT FOR THE EVENTS REFLECTED,
19 THERE'S REASON TO THINK THAT THEY HAPPENED THEN.

10:15AM

20 AND I'VE THOUGHT -- AND AGAIN, I'M NOT
21 TRYING TO RE-ARGUE IT, BUT I JUST WANT THE COURT TO
22 UNDERSTAND MY THINKING.

10:15AM

23 YOU ARE TALKING ABOUT THE DOCUMENT
24 RELATING TO THE CORE SUBJECT OF THE LAWSUIT, THAT'S
25 WRITTEN A MONTH AFTER THE SUIT'S BEEN FILED.

10:15AM

26 THERE'S A QUESTION, LEGITIMATE QUESTION,
27 THAT CAN BE RAISED AS TO WHETHER THAT IS SUFFICIENTLY
28 RELIABLE, WHETHER THAT'S SOMETHING THAT'S DONE IN THE

1 ORDINARY COURSE OF BUSINESS.

2 THAT'S ALL, YOUR HONOR.

3 THE COURT: I UNDERSTAND THAT.

4 AND LET ME JUST SAY ON ANOTHER COMMENT,
5 THE ISSUE AS TO THE RELEVANCE OF THE BEYER/SONNEBORN
6 OFFER, I DID NOT REALIZE WHEN YOU MADE THE OBJECTION ON
7 RELEVANCE -- AND THIS IS A 2008 OFFER -- THAT YOU HAD
8 PLACED IN EVIDENCE A DOCUMENT THAT SPECIFICALLY
9 IDENTIFIES THAT OFFER AND TALKS ABOUT IT.

10:15AM

10:16AM

10 AND IT WOULD SEEM TO ME, IF THE
11 PLAINTIFF OFFERS EVIDENCE, AND PUTS IT IN THEIR CASE
12 ABOUT A TOPIC, THAT IT'S FAIR GAME FOR
13 CROSS-EXAMINATION. AND SO I WANT TO CLARIFY THAT, TOO.

14 MR. QUINN: I UNDERSTOOD WHAT THE COURT WAS
15 SAYING. AS A GENERAL PROPOSITION, I COULD UNDERSTAND
16 THAT.

10:16AM

17 BUT WHEN YOU'VE GOT AN E-MAIL THAT'S
18 FIVE PAGES LONG, THAT INCLUDES SOME THINGS THAT ARE
19 FAIRLY RELEVANT, AND MAYBE ALSO SOME THINGS THAT AREN'T
20 SO CLEARLY RELEVANT. AND THAT AS TO THE LATTER, IF YOU
21 THEN GO BEYOND THAT AND ASK, WHAT WAS YOUR
22 UNDERSTANDING OF THAT; THERE'S AT LEAST THE ARGUMENT
23 THERE.

10:16AM

24 THE COURT: I DON'T SEE THE ARGUMENT.

25 YOU OFFERED THE WHOLE E-MAIL. TO ME
26 THAT'S IN EVIDENCE. IT'S ALL IN PLAY.

10:16AM

27 AND IF YOU WANT TO BE MORE SELECTIVE
28 ABOUT WHAT YOU OFFER, BECAUSE YOU PUT A LOT OF LENGTHY

1 E-MAILS IN AND ONLY FOCUSED ON THE THINGS YOU LIKE IN
2 THEM; BUT THAT DOESN'T MEAN THAT THE DEFENSE CAN'T LOOK
3 AT THOSE IN THE WHOLE AND ASK QUESTIONS ABOUT THEM.

4 MR. QUINN: I UNDERSTAND THAT, YOUR HONOR.

5 I THINK THE PRACTICE, IN TERMS OF
6 REDACTIONS, HAS BEEN TO REDACT OUT THINGS THAT HAVE
7 BEEN THE SUBJECT OF MOTIONS IN LIMINE. I DON'T THINK
8 ANYBODY HAS GONE THROUGH SOME OF THESE LENGTHY E-MAILS
9 AND TRY TO REDACT OUT IRRELEVANT MATTER.

10:17AM

10 THE COURT: WELL, BUT IF YOU ARE OFFERING THE
11 ENTIRETY OF IT, IT BECOMES RELEVANT, IF IT'S ADMITTED
12 WITHOUT OBJECTION. AT LEAST THAT'S MY VIEW ON IT.

10:17AM

13 MR. QUINN: I UNDERSTAND. I UNDERSTAND.

14 THE COURT: AND TO TAKE A NARROWER VIEW SEEMS
15 TO ME TO BE PARSING OUT THINGS THAT AREN'T APPROPRIATE.

10:17AM

16 MR. QUINN: I HAVE THE MESSAGE, YOUR HONOR. I
17 JUST WANTED THE COURT TO UNDERSTAND.

18 THE COURT: OKAY. THAT'S ALL RIGHT.

19 MR. BRIAN: YOUR HONOR, I HAVE ANOTHER ISSUE,
20 TOO, I'M SORRY, BUT I JUST WANT TO FLAG AN ISSUE THAT I
21 THINK MAY ARISE BETWEEN NOW AND THE NEXT BREAK,
22 ALTHOUGH IT'S POSSIBLE IT WILL BE AFTER THE NEXT BREAK.

10:17AM

23 I'M NOT ASKING FOR A PRE-RULING, BUT I
24 WANTED TO TELL YOU THAT THERE IS GOING TO BE EVIDENCE,
25 I ACTUALLY THOUGHT IT MIGHT COME UP IN THE FORM OF
26 MR. OWEN'S TESTIMONY, BUT HE'S BEEN DEFERRED.

10:17AM

27 YOU'VE HEARD COMMENT ABOUT MEETINGS
28 BETWEEN MR. GUNDLACH AND THE GOLDMAN SACHS PEOPLE; ONE

1 ON NOVEMBER 9TH AND ONE ON DECEMBER 1ST. AND WE DO
2 INTEND TO ELICIT TESTIMONY FROM MR. GUNDLACH, WITH
3 RESPECT TO THOSE CONVERSATIONS. THEY ARE NOT HEARSAY,
4 AND THEY SHOULD BE ADMITTED.

5 YOU HEARD MR. QUINN STATE IN HIS OPENING
6 STATEMENT THAT MR. GUNDLACH'S INTENT, IN THE FALL OF
7 2009, WAS TO LEAVE -- AND I THINK I HAVE A DIRECT
8 QUOTE, TO LEAVE TCW AND ITS INVESTORS IN THE LURCH.

10:18AM

9 THERE WILL BE EVIDENCE OF CONVERSATIONS
10 IN WHICH MR. GUNDLACH SOUGHT THE ADVICE OF GOLDMAN
11 SACHS, WHO MADE RECOMMENDATIONS TO HIM. THOSE
12 RECOMMENDATIONS AND HIS STATEMENTS IN RESPONSE, IN
13 WHICH HE AGREED WITH THEM, ARE RELEVANT TO HIS STATE OF
14 MIND.

10:18AM

15 THE COURT: I'LL ALLOW THAT.

10:18AM

16 MR. BRIAN: THEY ARE NOT OFFERED FOR THE
17 TRUTH, BECAUSE THE RECOMMENDATIONS ARE ALSO PRIOR
18 CONSISTENT STATEMENTS TO REBUT A CHARGE OF RECENT
19 FABRICATION, FOR A WHOLE LOT OF REASONS THEY COME IN,
20 BUT I WANTED TO ALERT THE COURT IT'S COMING.

10:18AM

21 THE COURT: YOU MAY NOT WORK LATE, BUT IN THE
22 RULINGS I PUT OUT ON THE WARD DEPOSITIONS YESTERDAY, I
23 SAW THOSE, AND I REQUIRED SOME REDACTION, BUT I
24 ADMITTED PORTIONS OF IT.

25 WHICH BRINGS ME TO ANOTHER TOPIC; BUT I
26 WANT EVERYBODY TO GET THEIR BREAK.

10:19AM

27 AND THAT IS ON THE ISSUE OF THE
28 COMPARATIVE RETURNS THAT YOU OBJECTED TO, MR. QUINN.

1 MR. QUINN: YES, YOUR HONOR.

2 THE COURT: WHAT CAME BACK TO ME WAS THE
3 NOTION OF THE RECIPES FOR FRIED CHICKEN.

4 MR. QUINN: UH-HUH.

5 THE COURT: AND YOU SUGGESTED THAT IF THEY
6 TAKE THE RECIPE FOR FRIED CHICKEN, THEY SHOULD BE
7 RESPONSIBLE.

10:19AM

8 AND MY SENSE WAS, IN RULING AND
9 OVERRULING YOUR OBJECTION, THAT BASICALLY, IF YOU HAVE
10 BOTH GOT THE SAME FRIED CHICKEN RECIPE, YOU OUGHT TO
11 MAKE THE SAME FRIED CHICKEN. SO IT IS A RELEVANT AREA
12 OF INQUIRY, AND IT'S APPROPRIATE FOR THEM TO HAVE THE
13 EVIDENCE BEFORE THE COURT, GIVEN THE INFERENCES THAT
14 YOU ARE ASKING TO BE DRAWN FROM ALL THAT OCCURRED.

10:19AM

15 SO WE DON'T NEED TO DEBATE IT, BUT I
16 LIKE PEOPLE TO UNDERSTAND WHY I'M DOING WHAT I'M DOING.

10:20AM

17 IF I'M WAY OFF THE MARK, YOU CAN GIVE ME
18 A BRIEF ON IT, AND I'LL RECONSIDER IT.

19 MR. QUINN: I UNDERSTAND, YOUR HONOR.

20 I DON'T KNOW WHETHER WE'LL GET TO
21 RECROSS TODAY, OR WHETHER ANYBODY HAS A SENSE OF THAT.

10:20AM

22 THE COURT: I WOULD EXPECT WE SHALL.

23 MR. QUINN: BUT, YOUR HONOR, THERE ARE THREE
24 DOCUMENTS THAT WE WOULD LIKE TO OFFER, WE SHOWED TO
25 MR. GUNDLACH. THESE ARE THREE DOCUMENTS WHICH HE SAID
26 HE CAN'T RECOGNIZE.

10:20AM

27 THE COURT MAY RECALL DOUBLELINE
28 STIPULATED TO THEIR AUTHENTICITY. ONE'S THE RECORDED

1 CONVERSATION WITH A CLIENT. ONE IS A FORM OF A LETTER.
2 I THINK THE THIRD IS KIND OF A MANIFESTO.

3 IN PRETRIAL DISCOVERY, DOUBLELINE -- THE
4 COURT MAY RECALL, ADMITTED THEIR AUTHENTICITY.

5 MR. GUNDLACH THEN SEPARATELY REPRESENTED HE DID NOT. 10:20AM

6 THE COURT MADE A RULING ON THIS, THAT
7 SAID THAT WE'RE GOING TO HAVE TO TAKE THIS UP AT A TIME
8 OF TRIAL.

9 BUT IN THE RECORDINGS, AT LEAST, THAT'S
10 THE TWO OF THEM THAT WERE RECORDINGS, HAVING EITHER 10:21AM
11 BEEN LOST OR DESTROYED, AND IN VIEW OF DOUBLELINE'S
12 HAVING ADMITTED THE AUTHENTICITY, THEY WILL LIKELY COME
13 IN.

14 WE ARE GOING TO WANT TO OFFER THOSE,
15 YOUR HONOR. 10:21AM

16 THE COURT: WELL, YOU WERE READING FROM THEM
17 WORD FOR WORD YESTERDAY, AND THERE WAS NO OBJECTION; SO
18 I DON'T REALLY SEE THAT AS AN ISSUE, THE TRANSCRIPTS OF
19 THE CALLS.

20 IS THAT AN ISSUE? 10:21AM

21 MR. QUINN: WELL, THOSE ARE -- TWO DIFFERENT
22 THINGS, YOUR HONOR. I THINK THE TRANSCRIPTS OF THE
23 CALLS IN DECEMBER, WE ACTUALLY HAVE CERTIFIED COURT
24 REPORTER PREPARED TRANSCRIPTS OF THOSE, AND I THINK
25 THEY HAVE NO ISSUE AS TO THOSE. 10:21AM

26 THE COURT: WHICH ONES ARE THE ONES --

27 MR. QUINN: I'M TALKING ABOUT EXHIBITS 634,
28 WHICH IS ENTITLED JEG CALL WITH FORMER CLIENT, DATED

1 DECEMBER 16TH, 2009.

2 EXHIBIT 956. JEFFREY GUNDLACH, THE
3 CONVERSATION AT JEFFREY'S HOME ON DECEMBER 20, 2009.

4 BOTH OF THOSE, I BELIEVE, WERE RECORDED,
5 AND THE TAPES ARE NO LONGER AVAILABLE. 10:22AM

6 AND EXHIBIT 961, THE DEAR COLLEAGUES
7 LETTER.

8 THE COURT: WHAT IS IT CALLED?

9 MR. QUINN: DEAR COLLEAGUE.

10 AND THE COURT HAD SAID -- 10:22AM

11 THE COURT: TELL ME WHERE I CAN FIND THOSE
12 THREE, OR GIVE ME THREE COPIES OF THEM, AND LET ME TAKE
13 A LOOK AT THEM; AND WE'LL SEE WHERE WE ARE.

14 MR. QUINN: JUST TO REMIND THE COURT, THE
15 COURT HAD SAID GIVEN THE STIPULATION TO THE 10:22AM
16 AUTHENTICITY OF THE TRANSCRIPTIONS AND DRAFT LETTER,
17 THE DOCUMENTS WILL LIKELY BE ADMISSIBLE.

18 ALSO, THE DESTRUCTION OF THE TAPES FROM
19 WHICH THE TRANSCRIPTIONS WERE MADE, MAY BE AN ISSUE
20 THAT WILL HAVE TO BE DEALT WITH AT THE TIME OF TRIAL. 10:22AM
21 WE'LL GIVE YOU COPIES OF THOSE, YOUR HONOR.

22 MR. MADISON: YOUR HONOR, I JUST WANTED TO BE
23 HEARD.

24 AT SOME POINT, I KNOW THE STAFF AND ALL
25 OF US NEED A BREAK. BUT GOING BACK TO MR. BRIAN'S 10:22AM
26 POINT AT THE BEGINNING, THE ISSUE OF THESE
27 CONVERSATIONS --

28 THE COURT: AT GOLDMAN --

1 MR. MADISON: WITH GOLDMAN, IS A BIT MORE
2 COMPLICATED THAN MR. BRIAN HAS REPRESENTED.

3 THE COURT: I'M SURE THAT I'LL DEAL WITH THE
4 COMPLICATED OBJECTIONS WHEN IT'S OFFERED, AND YOU MAKE
5 THEM. THAT'S THE BEST I CAN DO.

10:23AM

6 MR. MADISON: OKAY.

7 BUT I WANT TO BE CLEAR THAT HE'S NOT
8 GOING USE THE NOTES WITH MR. GUNDLACH. THERE WERE SOME
9 NOTES OF MR. WARD --

10 THE COURT: THE PORTIONS OF THEM, I SAID COULD
11 BE -- I ALLOWED THE TESTIMONY. AND I THINK I EVEN MADE
12 A REFERENCE IN THE RULINGS, TO THE NEED FOR REDACTION.

10:23AM

13 MR. MADISON: YES.

14 AND WE JUST WANT A BRIEF OPPORTUNITY TO
15 BE HEARD, BECAUSE THE NOTES DON'T REFLECT
16 MR. GUNDLACH'S STATEMENTS. THEY REFLECT THE STATEMENTS
17 OF GOLDMAN SACHS.

10:23AM

18 AND MR. OWENS IS AVAILABLE AS A WITNESS,
19 SO WE CAN ASK HIM ABOUT HIS STUFF.

20 THE COURT: WELL, YOU CAN CROSS-EXAMINE HIM.
21 YOU CAN BRING ANOTHER WITNESS TO IMPEACH HIM. BUT IT
22 IS WHAT IT IS. AND THEY'RE MR. WARD'S NOTES, SO IF
23 MR. GUNDLACH HASN'T SEEN THEM, THEY'RE NOT GOING TO BE
24 USED TO BOLSTER HIS TESTIMONY.

10:23AM

25 MR. MADISON: THAT'S ALL I WANTED TO MAKE
26 CLEAR.

10:23AM

27 MR. BRIAN: IT IS ACTUALLY EVEN A LEVEL MORE
28 COMPLICATED THAN THAT.

1 THE COURT: WE'RE GETTING BEYOND THE LEVEL OF
2 COMPLICATION I CAN DEAL WITH IN A 20-MINUTE BREAK.

3 MR. MADISON: I WANT TO DEAL WITH THIS AFTER
4 COURT TODAY, YOUR HONOR.

5 MR. BRIAN: MAYBE NOT. I'LL LEAVE YOU WITH
6 ONE THOUGHT, AND WE CAN TAKE OUR BREAK.

10:24AM

7 THEY PLAYED A VIDEOTAPE OF THE
8 DEPOSITION OF MR. GUNDLACH IN WHICH MR. GUNDLACH REFERS
9 TO THOSE NOTES. SO WHILE IT'S TRUE THAT THEY ARE NOT
10 HIS NOTES, I ACTUALLY THINK MR. GUNDLACH PROBABLY IS
11 ENTITLED TO --

10:24AM

12 THE COURT: WELL, TELL ME WHERE IN THE
13 GUNDLACH TESTIMONY IT WAS PLAYED IN THE VIDEO THAT
14 REFERENCE IS, AND I'LL TAKE A LOOK AT IT.

15 MR. HELM: I CAN GIVE IT TO YOU NOW, YOUR
16 HONOR.

10:24AM

17 THE COURT: ALL RIGHT.

18 MR. HELM: IT'S PAGE 385, LINE 21 TO 386, LINE
19 NINE.

20 MR. MADISON: AND WHO REQUESTED THAT THAT BE
21 PLAYED? WAS THAT A COUNTER-DESIGNATION?

10:24AM

22 MR. BRIAN: I THINK IT WAS A
23 COUNTER-DESIGNATION.

24 MR. MADISON: I DON'T THINK THEY CAN BOOTSTRAP
25 THAT IN BY ASKING THAT SOMETHING BE PLAYED, BUT I MAY
26 HAVE MISSED IT. I'LL LOOK AND SEE.

10:25AM

27 MR. HELM: THANK YOU, YOUR HONOR.

28 THE COURT: WE'LL TAKE AN EXTRA FIVE MINUTES.

1 WE'LL COME BACK AT 20 TO.

2 MR. BRIAN: THANK YOU, YOUR HONOR.

3

4 (RECESS TAKEN.)

5

6 (THE NEXT PAGE NUMBER IS 3401.)

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1 CASE NUMBER: BC 429385
2 CASE NAME: TCW VS. GUNDLACH
3 LOS ANGELES, CALIFORNIA AUGUST 16, 2011
4 DEPARTMENT 322 HON. CARL J. WEST, JUDGE
5 APPEARANCES: (AS NOTED ON TITLE PAGE.)
6 REPORTER: RAQUEL A. RODRIGUEZ, CSR
7 TIME: B SESSION: 10:35 A.M.

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10:42AM

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

13 MR. HELM, YOU MAY CONTINUE YOUR DIRECT
14 EXAMINATION OF MR. GUNDLACH.

15 MR. HELM: THANK YOU, YOUR HONOR.

10:42AM

16

17 DIRECT EXAMINATION (CNT'D) +

18

19 BY MR. HELM:

20 Q MR. GUNDLACH, WE TALKED ABOUT THE CONTINUED
21 BETWEEN YOU LEARNING THAT SOC-GEN WAS GOING TO BE
22 MAKING THIS ANNOUNCEMENT ABOUT GETTING OUT OF THE ASSET
23 MANAGEMENT BUSINESS AND THE ISSUANCE OF THAT
24 ANNOUNCEMENT DO YOU RECALL THAT?

10:42AM

25 A YES.

10:43AM

26 Q I'D LIKE TO DISPLAY TO YOU AND THE COURT
27 EXHIBIT 124 WHICH IS -- IS THIS AN E-MAIL EXCHANGE
28 BETWEEN YOU AND MR. BEYER ON OR ABOUT JANUARY 20, 2009?

1 A YES.

2 MR. HELM: MOVE ADMISSION OF 124, YOUR HONOR.

3 MR. QUINN: JUST ONE MOMENT, YOUR HONOR.

4 THE COURT: OKAY.

5 (PAUSE) +

10:43AM

6 MR. QUINN: NO OBJECTION.

7 THE COURT: IT WILL BE ADMITTED.

8

9 (EXHIBIT 124 ADMITTED.)+

10:43AM

10

11 MR. HELM: THANK YOU, YOUR HONOR. PLEASE SHOW
12 IT TO THE JURY.

13 Q LET'S START WITH THE SECOND PAGE, THE E-MAIL
14 THERE, DENNIS, IF WE COULD.

15 THE BOTTOM PART HERE. WE HAVE THIS
16 AGAIN, HOW'S THAT? THIS IS FROM YOU TO MR. BEYER
17 JANUARY 20TH, IS THAT TRUE?

10:43AM

18 A YES.

19 Q IT SAYS:

20 IT SEEMS TO ME THAT WE SHOULD NOT
21 ACCEPT THIS MAJOR ORGANIZATIONAL
22 UPHEAVAL PASSIVELY.

10:44AM

23 WHAT ORGANIZATION UPHEAVAL ARE YOU REFERRING
24 TO?

25 A THE -- SG'S GETTING OUT OF THE ASSET
26 MANAGEMENT BUSINESS WITH THIS COMBINED ENTITY THING.

10:44AM

27 Q IT SAYS:

28 SINCE ALL PARTS ARE IN MOTION, WE

1 SHOULD USE THIS OPPORTUNITY TO
2 CREATE A CLEAR FUTURE FOR TCW AND
3 ITS EMPLOYEES AND NEGOTIATE
4 PROACTIVELY. I'M HAPPY TO PERFORM
5 THIS ROLE IF IT IS UNCOMFORTABLE
6 FOR YOU, FOR UNDERSTANDABLE
7 REASONS.

10:44AM

8 WHAT DID YOU MEAN BY CREATE A CLEAR FUTURE FOR
9 TCW AND ITS EMPLOYEES?

10 A I WAS THINKING ABOUT BUYING BACK THE FIRM FROM
11 THE FRENCH.

10:45AM

12 Q AND WHAT WAS IT THAT -- HOW WAS THIS RELATED,
13 IF AT ALL, TO THIS ANNOUNCEMENT THAT SG HAD JUST MADE?

14 A IT WAS TOTALLY RELATED TO IT. THIS IS RIGHT
15 AFTER, BEYER MUST HAVE TOLD ME THAT DAY, SHORTLY THERE
16 BEFORE THAT -- WHAT WAS GOING TO HAPPEN.

10:45AM

17 Q DID YOU HAVE ANY CONCERNS WHEN YOU HEARD ABOUT
18 THIS ANNOUNCEMENT OF SOC-GEN GETTING OUT OF THE ASSET
19 MANAGEMENT BUSINESS, ABOUT HOW THIS MIGHT EFFECT YOUR
20 BUSINESS AND YOUR ABILITY TO PERFORM YOUR JOB?

10:45AM

21 A YES.

22 Q WHAT WERE YOU CONCERNED ABOUT?

23 A ORGANIZATIONAL STABILITY IS VERY IMPORTANT TO
24 INVESTORS. THEY DON'T LIKE TO SEE TURN-OVER AND
25 UNKNOWN FUTURE OF AN ORGANIZATION.

10:45AM

26 AND I WAS WORRIED THAT, THAT WE WERE NOW
27 IN A WORLD OF MAXIMUM ORGANIZATIONAL INSTABILITY.

28 Q AND SO AFTER YOU WROTE THIS E-MAIL, MR. BEYER

1 RESPONDED.

2 LET'S SEE IF WE CAN -- IT'S THE CARRY
3 OVER THING, DENNIS. IT STARTS ON THE LEFT THERE.
4 SAYS, BUYER TO GUNDLACH: NOT UNCOMFORTABLE AT ALL.

5 YOU HAD SAID:

10:46AM

6 I'M HAPPY TO PERFORM THIS ROLE IF
7 IT IS UNCOMFORTABLE FOR YOU FOR
8 UNDERSTANDABLE LEGACY REASONS, DID
9 I READ THAT RIGHT.

10 A YES.

10:46AM

11 Q AND SO THEN HE SAYS:

12 NOT UNCOMFORTABLE AT ALL LET ME
13 KNOW WHAT KIND OF CLARITY YOU MEAN.
14 I THINK THEY ARE GIVING US A PATH
15 TO IPO, WHICH FOR EQUITY HOLDERS
16 MEANS VALUE REALIZATION AND
17 INDEPENDENCE. IF WE CAN STRENGTHEN
18 THAT I'M ALL FOR IT.

10:46AM

19 WHEN IT SAYS PATH TO IPO, WHAT DID THAT MEAN
20 TO YOU?

10:47AM

21 A INITIAL PUBLIC OFFERING.

22 Q IS THAT RE -- DOES THAT RELATE IN ANY WAY TO
23 THE LANGUAGE WE SAW IN THE PRESS RELEASE THAT HADN'T
24 BEEN ISSUED YET, BUT THE STATEMENT ABOUT ISSUING IT
25 ON -- PUTTING TCW ON A STOCK EXCHANGE?

10:47AM

26 A YES.

27 Q SO WHAT IS AN INITIAL PUBLIC OFFERING?

28 A IT'S WHEN A PRIVATE COMPANY SELLS ITSELF TO

1 THE PUBLIC BY ISSUING STOCK. SO INVESTORS THEN BUY THE
2 STOCK IN THE PUBLIC.

3 Q ABOVE THAT, YOU THEN SAY AT THE BOTTOM THERE:
4 I MEAN CONTROL TODAY, VALUE TODAY,
5 OWNERSHIP TODAY, INDEPENDENCE
6 TODAY.

10:47AM

7 WHAT WERE YOU REFERRING TO THERE?

8 A BUYING BACK THE FIRM.

9 Q NOW, WERE YOU TALKING ONLY ABOUT YOUR GROUP
10 BEING INDEPENDENT IN SOME WAY?

10:48AM

11 A NO.

12 Q WHAT INDEPENDENCE WERE YOU TALKING ABOUT?

13 A THE EMPLOYEES AND MANAGERS AT TCW WOULD
14 COLLECTIVELY BUY THE FIRM FROM THE FRENCH.

15 Q LET'S GO TO MR. BUYERS RESPONSE IT SAYS:

10:48AM

16 AS YOU KNOW I HAVE TRIED THAT FOR
17 OVER A YEAR. I HAVE HAD NO LUCK
18 WITH FOUR DIFFERENT LEADERS.

19 WHAT DID YOU UNDERSTAND THAT TO REFER TO?

20 A I THINK THAT HE'S REFERRING TO THAT HE'S BEEN
21 TRYING -- HE HAD BEEN TRYING TO GET THE 30 PERCENT
22 EQUITY PROMISE A REALITY VERY HARD DURING 2008.

10:48AM

23 THAT'S WHAT I THINK HE KIND OF MEANT
24 THERE.

25 Q IT SAYS:

10:48AM

26 I GUESS THEY VIEW THE POSSIBILITY OF A
27 WALK-OUT AS STILL PRESERVING ENOUGH VALUE TO REBUILD
28 AND GET OUT AT A HIGHER VALUATION IN THE FUTURE.

1 WHAT DID YOU UNDERSTAND THAT TO REFER
2 TO?

3 A THAT THEY -- THE FRENCH WERE OF THE OPINION
4 THAT EVEN IF ALL THE EMPLOYEES AT TCW LEFT THAT THEY'D
5 STILL HAVE ENOUGH VALUE TO MOVE FORWARD.

10:49AM

6 Q THEN IT SAYS:

7 AS FOR INDEPENDENCE, IF THEY WERE
8 TO SELL TO US FOR \$1 BILLION, I
9 THINK IT WOULD BE RELATIVELY EASY
10 TO GET THE CAPITAL. I'M IN TOUCH
11 WITH SEVERAL VIABLE SOURCES.
12 BUT THE REALITY IS WE WOULD
13 PROBABLY END UP WITH THE SAME 30
14 PERCENT STAKE AND THE SAME
15 FIVE-YEAR HOLDING PERIOD, BUT WE
16 WOULD NOT HAVE A CRITICAL MASS OF
17 ASSETS, ET CETERA.

10:49AM

10:49AM

18 WHAT DID YOU UNDERSTAND THE SAME 30 PERCENT
19 STAKE TO REFER TO?

20 A HE SEEMED TO BE OF THE OPINION THAT IF HE
21 BOUGHT THE FIRM BACK THE PEOPLE THAT WOULD PROVIDE SOME
22 OF THE CAPITAL TO DO THE BUYING WOULD COMMAND 70
23 PERCENT OF THE OWNERSHIP.

10:49AM

24 AND THAT WOULD LEAVE US WITH THE SAME 30
25 THAT HE WAS STILL WORKING ON, UNBELIEVABLY HE SEEMED TO
26 BELIEVE WAS STILL COMING.

10:50AM

27 Q THE 30 PERCENT STAKE IS STILL REFERRING TO THE
28 PROMISE, 30 PERCENT STAKE OF TCW EMPLOYEE STOCK

1 OWNERSHIP OF TCW?

2 MR. QUINN: LEADING, YOUR HONOR.

3 THE COURT: SUSTAINED.

4 BY MR. HELM:

5 Q TO WHAT EXTENT IF AT ALL DOES THAT 30 PERCENT
6 FIGURE RELATE TO THE 30 PERCENT PROMISE THAT YOU
7 TESTIFIED ABOUT EARLIER?

10:50AM

8 A IT LOOKS LIKE IT'S THE SAME THING.

9 Q THEN IT SAYS AT THE BOTTOM:

10 I DO THINK WITH SOLIDARITY, GOOD
11 PERFORMANCE AND SOME LUCK WE CAN
12 BUILD A RELATIVELY QUICK EXIT WITH
13 A LOT OF FUTURE VALUE THIS WAY,
14 THEY WON'T OUT LAST US AS OWNERS.

10:50AM

15 WHAT DID YOU UNDERSTAND HIM TO MEAN BY THAT?

10:50AM

16 A SORT OF IF WE HANG IN THERE TIME WILL BE ON
17 OUR SIDE.

18 Q DID MR. BEYER AS THE CEO OF THE COMPANY, EVER
19 EXPRESS TO YOU ANY CONCERNS THAT TRYING TO FIND A WAY
20 TO GET INDEPENDENCE FROM THE FRENCH OWNERS, WAS SOMEHOW
21 INAPPROPRIATE?

10:50AM

22 A NO --

23 Q I --

24 A NO.

25 NO, I MEAN WE TALKED ABOUT ATTACHMENT AT
26 THIS WITH LENGTH --

10:51AM

27 MR. QUINN: I THINK THE QUESTION WAS ANSWERED.

28 THE COURT: YOU'VE ANSWERED THE QUESTION.

1 MR. HELM: THANK YOU MR. GUNDLACH.

2 THE WITNESS: OKAY.

3 BY MR. HELM:

4 Q ALL RIGHT. I WANT TO TO GO BACK TO
5 EXHIBIT 132, WHICH WE PREVIOUSLY LOOKED AT, IT WAS OUT
6 OF THE CHRONOLOGICAL SEQUENCE. THAT SECOND PAGE. TOP
7 PART.

10:51AM

8 SO YOU SAID:

9 TO THIS END I AM PLANNING ON
10 SENDING A FORMAL LETTER TO
11 MESSIEUR DAY TO SUGGEST HE CONSIDER
12 WORKING WITH ME DIRECTLY TO REACH
13 AGREEMENT ON THE CURRENT STATUS AND
14 A PLAN FOR THE FUTURE OF TCW.

10:51AM

15 I'M SORRY, DENNIS, COULD WE GO BACK TO THE
16 FIRST PAGE SO WE CAN ORIENT WHAT THE DATE IS OF THAT.
17 MOVE THAT UP, AT THE BOTTOM. ALL RIGHT.

10:51AM

18 THIS IS FEBRUARY 1. YOU WERE NOW
19 TALKING TO MR. BEYER ABOUT YOUR PLAN TO TALK TO
20 MR. OUDEA ABOUT A WAY TO TRY TO REACH AGREEMENT FOR A
21 PLAN FOR THE FUTURE OF TCW?

10:52AM

22 A YES.

23 Q DID YOU PROCEED TO APPROACH THE FRENCH ABOUT
24 THE POSSIBILITY OF MAKING SOME KIND OF A DEAL?

25 A YES.

10:52AM

26 Q PLEASE SHOW TO THE WITNESS AND THE COURT
27 EXHIBIT 142, PLEASE.

28 IF YOU LOOK AT THE SECOND PAGE, THE

1 BOTTOM E-MAIL, IS THAT AN E-MAIL FROM YOU TO
2 PATRICK PAGNI, FEBRUARY 1, 2009?

3 A YES.

4 MR. HELM: I MOVE ADMISSION OF EXHIBIT 142.

5 MR. QUINN: NO OBJECTION. 10:53AM

6 THE COURT: IT WILL BE ADMITTED.

7

8 (EXHIBIT 142 ADMITTED.) +

9

10 MR. HELM: PLEASE SHOW IT TO THE JURY. 10:53AM

11 Q REMIND US AGAIN WHO WAS PATRICK PAGNI?

12 A HE WAS THE LIAISON BETWEEN TCW AND SG IN
13 PARIS. HE WAS SORT OF 50 PERCENT TCW EMPLOYEE AND 50
14 PERCENT SG EMPLOYEE.

15 Q NOW, THIS IS AFTER THE GLOBAL PRESS RELEASE,
16 CORRECT? 10:53AM

17 A YES.

18 Q IT SAYS:

19 I AM CONFUSED ABOUT -- IT SAYS
20 NOW -- I ASSUME IT'S ABOUT -- THE 10:53AM
21 SDCA DEAL REGARDING ASSET
22 MANAGEMENT BUSINESSES SPECIFICALLY
23 I CANNOT UNDERSTAND WHY SG WANTS TO
24 HOLD ONTO TCW WHILE SELLING THE
25 REST. 10:53AM

26 WOULDN'T IT BE EASIER TO ALSO SELL
27 TCW? IN THAT REGARD I'M
28 INDEPENDENT IN OFFERING A

1 RESPECTFUL AND CORDIAL PROPOSAL IN
2 THE BEST OF FAITH TO MESSIEUR DAY A
3 SO PERHAPS A CLEAN SOLUTION CAN BE
4 APPROACED UPON THAT MIGHT BENEFIT
5 ALL PARTIES.

10:53AM

6 DID YOU WRITE -- IS THAT WHAT YOU WROTE AT
7 THAT TIME?

8 A YES. YOU MISSED A WORD, BUT YES.

9 Q OKAY. THANK YOU.

10 WHAT WORD DID I MISS?

10:54AM

11 A ALL.

12 Q OKAY. THANK YOU.

13 WHAT DID YOU HAVE IN MIND ABOUT A
14 PROPOSAL YOU'RE DISCUSSING HERE?

15 A I HAD IN MIND PUTTING TOGETHER A PACKAGE TO
16 BUY THE FIRM.

10:54AM

17 Q IT SAYS:

18 COULD YOU PLEASE SEND ME HIS
19 ADDRESS AND E-MAIL INFORMATION AS
20 WELL. COULD YOU GIVE ME A
21 PARAGRAPH EXPLAINING THE LOGIC OF
22 THE DEAL AS IT RELATES TO TCW, SO
23 THAT I CAN MOST PRODUCTIVELY ORIENT
24 MY PROPOSAL, THANKS IN ADVANCE.

10:54AM

25 IS THAT WHAT YOU WROTE?

10:54AM

26 A YES.

27 Q NOW, DID YOU HAVE ANY LATER CONVERSATION
28 REGARDING THE POSSIBILITY OF A PROPOSAL ALONG THESE

1 LINES?

2 A YES.

3 Q WHO DID YOU HAVE A DISCUSSION WITH?

4 A FROM PARIS.

5 Q YES?

10:54AM

6 A JEAN PIERRE MUSTIER.

7 Q DID YOU HAVE ANY DISCUSSION WITH ANYBODY ELSE
8 AT TCW ABOUT A PROPOSAL OF THIS KIND?

9 A YES.

10 Q WHO?

10:55AM

11 A BOB BEYER, MARC ATTANASIO, JEAN-MARC CHAPUS,
12 BLAIR THOMAS, DIANE JAFFEE.

13 Q DID YOU TALK TO THE OTHER PORTFOLIO GROUP
14 LEADERS AND TO MR. BEYER BEFORE YOU SPOKE TO
15 MR. MUSTIER?

10:55AM

16 A I'M NOT SURE.

17 Q WAS IT AROUND THE SAME TIME?

18 A YES.

19 Q WHAT WAS THE OCCASION OF THIS CONVERSATION
20 THAT YOU HAD?

10:55AM

21 A WE ALL SAT DOWN FACE-TO-FACE WITH JEAN PIERRE
22 MUSTIER IN MARCH OF 2009 AT A TCW OFFICE SITE THAT WAS
23 HELD IN THE SAN FERNANDO VALLEY.

24 Q WHAT WAS THE DISCUSSED ABOUT THE POSSIBILITY
25 OF BUYING TCW AT THAT OFF-SITE RETREAT MEETING WITH
26 MR. MUSTIER AND THE OTHERS FROM THE TCW GROUPS?

10:55AM

27 A WE SPENT A COUPLE HOURS TRYING TO FIND A WAY
28 TO GET THEM TO TALK --

1 MR. QUINN: YOUR HONOR, THIS IS HEARSAY.

2 THE COURT: I'LL OVERRULE AND ALLOW THAT
3 ANSWER.

4 BUT LET'S GO ON.

5 THE WITNESS: JUST TO TALK, TRY TO GET HIM TO
6 TALK TO A LEGITIMATE CONVERSATION ABOUT SELLING THE
7 FIRM TO US.

10:56AM

8 BY MR. HELM:

9 Q AND DID YOU SUCCEED IN ENGAGING WITH
10 MR. MUSTIER ON A CONVERSATION ABOUT BUYING THE FIRM?

10:56AM

11 A NO. WE JUST --

12 THE COURT: THAT'S THE ANSWER. THERE WE GO.

13 GOOD. IT'S EASY. MOVE ON.

14 BY MR. HELM:

15 Q SO AFTER THAT, AFTER THE MEETING AT THE
16 OFF-SITE YOU'VE DISCUSSED, DID YOU HAVE ANY FURTHER
17 COMMUNICATIONS WITH MR. MUSTIER ABOUT THE SUBJECT OF
18 THE CONVERSATION YOU HAD?

10:56AM

19 A I DON'T REMEMBER.

20 Q ALL RIGHT. NOW, THIS IS FEBRUARY THE FIRST
21 2009, THE OFF-SITE MEETING THAT YOU WERE TALKING ABOUT
22 WAS THAT LATER IN FEBRUARY?

10:56AM

23 A IT WAS EARLY MARCH.

24 Q ALL RIGHT.

25 MR. QUINN ASKED YOU SOME QUESTIONS ABOUT
26 YOUR DISCUSSIONS WITH WAMCO, WESTERN ASSET MANAGEMENT
27 COMPANY, DO YOU RECALL THAT?

10:57AM

28 A YES.

1 Q WHEN DID YOU FIRST COMMUNICATE WITH WAMCO
2 ABOUT THE POSSIBILITY OF WORKING THERE?

3 A THEY CALLED ME ABOUT ONE WEEK AFTER THIS
4 E-MAIL.

5 Q AND WHAT DID THEY PROPOSE? 10:57AM

6 A GETTING TOGETHER AND TALKING.

7 Q WERE YOU CONSIDERING THE POSSIBILITY THAT YOU
8 MIGHT BE ABLE TO TAKE SOME EXISTING BUSINESS WITH YOU
9 TO WAMCO IF YOU LEFT?

10 A WELL, THE FIRST -- I JUST WANTED TO TALK TO 10:57AM
11 THEM AT FIRST. I THOUGHT THAT MAYBE THEY WOULD WANT TO
12 BUY TCW.

13 Q AND DID YOU PERCEIVE TO HAVE A DISCUSSION WITH
14 SOMEONE AT WAMCO?

15 A YES. 10:57AM

16 Q AND WHAT DID THEY HAVE IN MIND?

17 A THEY -- IT WAS PRETTY QUICK THAT I REALIZED
18 THEY DIDN'T WANT TO BUY TCW; THEY WANTED TO HIRE ME.

19 Q AND AT THAT POINT, DID YOU HAVE AN
20 UNDERSTANDING OF WHAT WERE THE CIRCUMSTANCES, IF ANY,
21 IN WHICH YOU MIGHT BE ABLE TO TAKE EXISTING BUSINESS TO
22 WAMCO? 10:58AM

23 A I FIGURED THAT IF I COULD WORK A DEAL THAT TCW
24 WOULD GET COMPENSATED, THAT THEY WOULD AGREE TO LET ME
25 TAKE BUSINESS TO WAMCO, BECAUSE THEY WOULD CONTINUE TO
26 GET A GOOD DEAL OFF OF IT. 10:58AM

27 THAT I THOUGHT THAT MAYBE THAT COULD
28 WORK.

1 Q DID YOU EVER CONTEMPLATE THE POSSIBILITY OF
2 TAKING EXISTING BUSINESS TO WAMCO WITHOUT REACHING SOME
3 KIND OF AN AGREEMENT TO DO SO FROM TCW?

4 A NO.

5 Q DID YOU TELL ANYONE AT WAMCO THAT YOU WOULD
6 NEED AGREEMENT BY TCW IN ORDER TO BRING OVER BUSINESS?

10:58AM

7 MR. QUINN: HEARSAY.

8 THE COURT: SUSTAINED.

9 BY MR. HELM:

10 Q LET ME ASK YOU TO LOOK AT WHAT'S IN EVIDENCE,
11 EXHIBIT 139 AND START WITH THE BOTTOM PART OF THAT
12 E-MAIL. IF WE COULD. IT CARRIES OVER TO THE NEXT
13 PAGE. YOU MIGHT WANT TO DO BOTH OF THEM SIDE BY SIDE.

10:59AM

14 WE'VE SEEN THIS DOCUMENT BEFORE. THANK
15 YOU. BLOWUP THE ONE ON THE LEFT AT THE BOTTOM, IF YOU
16 COULD. THANK YOU.

10:59AM

17 ALL RIGHT. SO THIS IS AN E-MAIL FROM
18 YOU TO MS. VANEVERY, ON FEBRUARY THE 10TH; IS THAT
19 CORRECT?

20 A YES.

10:59AM

21 Q WHEN WAS THIS IN RELATION TO YOUR FIRST
22 MEETING WITH WAMCO?

23 A SHORTLY AFTER.

24 Q NOW, WE'VE SEEN -- WHAT ESSENTIALLY ARE YOU
25 TALKING ABOUT IN THIS E-MAIL?

11:00AM

26 A I WAS TALKING ABOUT MY PRELIMINARY THOUGHTS,
27 COUPLE WAYS OF THINKING ABOUT HOW MAYBE THE DEAL THAT
28 TCW WOULD AGREE TO IN TERMS OF ME GOING TO

1 WESTERN ASSET COULD WORK.

2 HOW THE ECONOMICS MIGHT MAKE SENSE.

3 Q IF WE COULD LOOK AT THE RIGHT HAND PAGE,
4 DENNIS, AT THE BOTTOM -- WELL, THE WHOLE THING IF YOU
5 COULD BLOWUP THE LEFT PART. THANK YOU.

11:00AM

6 IF YOU SEE IN THE LAST LARGE PARAGRAPH,
7 IT SAYS:

8 I FIGURE I SHOULD GET 20 PERCENT OF
9 THE DOUBLELINE REVENUE.

10 LET ME STOP YOU THERE. WE'VE HEARD REFERENCE
11 TO THIS. DID A COMPANY CALLED DOUBLELINE EXIST AT THIS
12 POINT.

11:00AM

13 A NO.

14 Q WHAT WAS THE REFERENCE TO DOUBLELINE MEANT TO
15 CONVEY?

11:00AM

16 A IT WAS MY CODE NAME TO MYSELF FOR THE BUSINESS
17 THAT I WOULD TAKE TO WESTERN.

18 Q HAD YOU EVER TALKED TO MS. VANEVERY ABOUT THE
19 POSSIBILITY OF USING A NAME DOUBLELINE IN SOME FUTURE
20 SITUATION?

11:01AM

21 A YES.

22 Q ALL RIGHT.

23 SO IT SAYS:

24 I FIGURE I SHOULD GET 20 PERCENT OF
25 THE DOUBLELINE REVENUE.

11:01AM

26 WHAT'S THAT REFERRING TO?

27 A THAT WOULD BE THE REVENUE THAT WAS CREATED
28 FROM, ONE, BUSINESS THAT EXISTED AT TCW THAT WENT WITH

1 ME TO WESTERN; AND TWO, THE NEW BUSINESS THAT WE
2 GENERATED AT WESTERN OFF OF MY STRATEGIES USING THEIR
3 MARKETING.

4 Q ALL RIGHT.

5 IT SAYS:

11:01AM

6 I FIGURE I SHOULD GET 20 PERCENT OF
7 THE DOUBLELINE REVENUE, 46 MILLION
8 AND TEN PERCENT OF THE WESTERN
9 REVENUE, 46 MILLION AS REASONABLE
10 COMP FOR THE DEAL. THAT MAKES 92
11 MILLION DOLLARS A YEAR.

11:01AM

12 IT THEN SAYS: ANOTHER WAY TO THINK
13 ABOUT IT.

14 WAS THE FIRST THING I JUST READ, THAT'S ONE
15 WAY TO THINK ABOUT IT, WHAT DID YOU MEAN?

11:02AM

16 A THAT WAS REALLY THE WAY I THOUGHT ABOUT IT.
17 SORT OF 20 PERCENT OF THE REVENUE OF THE BUSINESS CAME
18 OVER PLUS THE NEW BUSINESS OFF THOSE STRATEGIES.

19 PLUS TEN PERCENT OF WHAT WESTERN WAS
20 RUNNING, BECAUSE THEY NEEDED ME TO HELP THEM SOLVE A
21 PROBLEM.

11:02AM

22 Q WHAT WAS THE PROBLEM YOU UNDERSTOOD THEY
23 WANTED YOU TO SOLVE?

24 A THEY HAD HORRIBLE PERFORMANCE IN THEIR
25 PROFOLIOS DUE TO STEEP LOSSES IN MORTGAGE-BACKED
26 SECURITIES.

11:02AM

27 Q THE NOTION THAT YOU WOULD GET TEN PERCENT OF
28 THE WESTERN REVENUE, WHAT WOULD THAT BE IN RETURN FOR?

1 A FOREGOING AROUND THE WORLD AND TALKING TO
2 THEIR CLIENTS. LITERALLY GOING AROUND THE WORLD AND
3 TALKING TO THEIR CLIENTS ABOUT HOW I WAS GOING TO FIX
4 THE PORTFOLIO.

5 Q THEN IT SAYS:

11:02AM

6 ANOTHER WAY TO THINK ABOUT IT WOULD
7 BE THAT \$92 MILLION WOULD BE 40
8 PERCENT OF THE DOUBLELINE REVENUE,
9 AND NONE OF THE WESTERN REVENUE.
10 THAT WOULD MEAN THAT WESTERN COULD
11 GET 20 PERCENT, DOUBLELINE STAFF
12 COULD GET 20 PERCENT, AND SG COULD
13 GET 20 PERCENT. THIS WAY OF
14 LOOKING AT IT MIGHT MAKE WESTERN
15 FEEL BETTER.

11:02AM

11:03AM

16 THE REFERENCE TO, SG COULD GET 20 PERCENT,
17 WHAT DOES SG REFER TO?

18 A SOCIÉTÉ GÉNÉRALE.

19 Q HOW DID YOU ARRIVE AT THE 20 PERCENT FIGURE?

20 A TCW ALWAYS TOLD ME THAT THE PROFIT MARGIN OF
21 MY BUSINESS WAS UNACCEPTABLY LOW. AND IT WOULD TELL ME
22 IT WAS LESS THAN 20 PERCENT. AFTER ALL EXPENSES, THE
23 NET PROFIT MARGIN. THEY USED TO TELL ME IT WAS 15
24 PERCENT A LOT OF THE TIME.

11:03AM

25 I FIGURED IF I GAVE THEM 20, WITH NO
26 EXPENSES, THEY SHOULD BE HAPPY. I WAS ALSO WILLING, I
27 TOLD JIM HIRSCHMANN THE CEO OF WESTERN, I WOULD GIVE
28 HIM 30 IF I NEEDED TO. 30 PERCENT.

11:03AM

1 Q 20 PERCENT THAT WASN'T THE HIGHEST AMOUNT THAT
2 YOU WERE WILLING TO GIVE SG IF IT WAS NEEDED TO GIVE
3 MORE TO DO THE DEAL?

4 A RIGHT.

5 Q AND I JUST WANT TO MAKE SURE I UNDERSTAND 11:04AM
6 THAT, WE'VE HEARD IN THE TESTIMONY, SOME TESTIMONY,
7 THAT THERE WAS A FEE SHARING ARRANGEMENT WHERE ROUGHLY
8 SPEAKING, 50 PERCENT OF THE REVENUES GENERATED ON YOUR
9 FUNDS WENT TO YOU AND YOUR GROUP AND 50 PERCENT WENT TO
10 TCW, IS THAT ROUGHLY TRUE? 11:04AM

11 A OF THE TOP LINE, YES.

12 Q ALL RIGHT. AND SO WE TALKED, MAY I APPROACH,
13 YOUR HONOR?

14 THE COURT: YES, YOU MAY.

15 BY MR. HELM: 11:04AM

16 Q SO WHEN WE TALKED ABOUT THIS CENTRAL CIRCLE AT
17 TCW, WHAT WERE SOME OF THE FUNCTIONS YOU SAID, TCW
18 PERFORMED IN RELATION TO THESE BUSINESSES?

19 A COMMUNICATIONS, HUMAN RESOURCES, LEGAL,
20 TRAVEL, AND THEY ALSO -- SUBBED OUT TO A THIRD-PARTY 11:04AM
21 ACCOUNTING.

22 Q ALL RIGHT. DID THEY HAVE EXPENSES THAT THEY
23 HAD TO BARE WITH RESPECT TO THOSE FUNCTIONS?

24 A YES.

25 Q AND SO OF THE 50 PERCENT OF THE TOTAL REVENUE 11:05AM
26 THEY RECEIVED, THERE WERE EXPENSES THAT HAD TO BE
27 DEDUCTED FROM THAT?

28 A YES.

1 Q LET'S SEE IF I CAN FIND THIS. WE HAD A CHART
2 WITH MR. VILLA, THAT I WANTED TO SHOW YOU. THERE IT
3 IS. THIS WAS MARKED FOR IDENTIFICATION AS 1220.

4 MR. VILLA TESTIFIED THAT FROM 1991 TO
5 2009, CAN YOU SEE THAT?

11:05AM

6 A YES.

7 Q THAT YOU HAD GENERATED FROM YOUR FUNDS ABOUT
8 \$1.2 BILLION IN TOTAL REVENUE, DOES THAT SOUND ABOUT
9 RIGHT?

10 A YEAH -- IT'S SOMEWHERE IN THE BALLPARK. IT
11 LOOKS LOW. BUT IT'S CERTAINLY IN THE REALM.

11:05AM

12 Q ALL RIGHT. SO THEN HE DEDUCTED COMPENSATION
13 TO YOU, COMPENSATION TO THE TEAM, SALARIES TO THE TEAM
14 AND THEN HE HAD OTHER EXPENSES OF \$100 MILLION ON
15 \$1.2 BILLION, DO YOU SEE THAT?

11:06AM

16 A YES.

17 Q IS THAT CONSISTENT WITH WHAT YOU WERE TOLD BY
18 TCW OVER THE YEARS, WAS THE SHARE OF EXPENSES THAT THEY
19 BORE ON THE BUSINESS THAT YOU GENERATED?

20 A IT'S NOT CLOSE.

11:06AM

21 Q WHAT DID THEY TELL YOU WAS THEIR PROFIT MARGIN
22 ON THE BUSINESS YOU GENERATED?

23 A ABOUT 15 PERCENT.

24 Q MEANING THAT 15 PERCENT OF THE TOTAL REVENUES
25 GENERATED WOULD GO TO THEIR BOTTOM LINE?

11:06AM

26 A YES.

27 Q AND SO ACCORDING TO THIS FIGURE WHAT'S THE
28 PROFIT MARGIN THEY HAD ON YOUR BUSINESS?

1 A IT'S LIKE ALMOST HALF.

2 Q IF IN FACT, THEIR PROFIT MARGIN WAS 15
3 PERCENT, DID YOU THINK IT WAS REASONABLE TO OFFER 20
4 PERCENT AS A FEE SHARING ARRANGEMENT TO THEM, IF THE
5 BUSINESS WERE TO LEAVE?

11:07AM

6 A YES.

7 Q IF THE BUSINESS WERE TO LEAVE, WOULD TCW
8 CONTINUE TO HAVE THE EXPENSES THAT WE TALKED ABOUT IN
9 THAT CENTER CIRCLE ON THIS BUSINESS?

11:07AM

10 A NO.

11 Q NOW, FOR HOW LONG -- I REALIZE THIS IS JUST A
12 PRELIMINARY DISCUSSION AFTER THE FIRST MEETING, BUT-FOR
13 HOW LONG IN YOUR MIND DID YOU CONCEDE YOU WOULD BE
14 WILLING TO GIVE SOCIÉTÉ GÉNÉRALE A 20 PERCENT OR A 30
15 PERCENT SHARE OF THE REVENUES GOING INTO THE FUTURE?

11:07AM

16 A I FIGURED I WOULD GIVE IT TO THEM FOR A FEW
17 YEARS AND THEN HAVE IT DECLINE IN THE -- IN YEARS OUT
18 PAST THAT.

19 Q DID YOU BELIEVE THAT GIVING THEM A SHARE OF
20 BUSINESS FOR FUTURE YEARS, PROVIDED A BENEFIT OF ANY
21 KIND TO TCW?

11:07AM

22 A YES.

23 Q ALL RIGHT.

24 NOW, IF WE CAN GO TO PAGE 1 OF THIS
25 EXHIBIT, 139. AT THE TOP, PLEASE COULD WE GET THE TOP
26 E-MAIL. NOW, THIS IS, AGAIN, BACK FROM YOU -- I'M
27 SORRY, COULD WE JUST GET MS. VANEVERY'S RESPONSE SO WE
28 KNOW WHAT IT'S RESPONDING TO.

11:08AM

1 SHE SAYS IN THE MIDDLE: I WOULD THINK
2 YOU SHOULD GET MORE THAN 20 PERCENT OF DOUBLELINE,
3 THAT'S A MINIMUM.

4 CORRECT.

5 A YES.

11:08AM

6 Q NOW LET'S GO TO THE TOP E-MAIL IF WE COULD,
7 DENNIS.

8 IT SAYS:

9 YEAH, I KNOW WHAT YOU MEAN. BUT
10 ONE OF MY FEW SKILLS THOUGH IS MY
11 ABILITY TO ARGUE FOR THE OTHER
12 SIDE. SO THAT THE ARGUMENT THEY
13 END UP MAKING IS ACTUALLY WEAKER
14 THAN THE ONE I DREAMT UP MYSELF ON
15 THEIR BEHALF.

11:08AM

16 THEN THE NEXT PARAGRAPH DOWN SAYS:

17 I AIN'T NO FOOL. BUT I ALSO
18 SINCERELY WANT EVERYONE TO WIN AND
19 MORE THAN ANYTHING I DON'T WANT ANY
20 AGGRAVATION. SO THAT'S HOW I GOT
21 TO BELOW.

11:09AM

22 WHAT DID YOU MEAN YOU, SINCERELY WANT EVERYONE
23 TO WIN?

24 A I WANTED WESTERN ASSET TO FEEL LIKE THEY GOT A
25 GOOD DEAL.

11:09AM

26 I WANTED TCW AND SG TO FEEL LIKE THEY
27 GOT A GOOD DEAL.

28 AND I WANTED ME AND MY TEAM TO FEEL LIKE

1 WE GOT A GOOD DEAL.

2 Q WHEN IT SAYS: MORE THAN ANYTHING, I DON'T
3 WANT ANY AGGRAVATION.

4 WHAT KIND OF AGGRAVATION WERE YOU
5 REFERRING TO?

11:09AM

6 A CONFLICT.

7 Q WHY DID YOU NOT WANT ANY CONFLICT IN RELATION
8 TO THIS PROPOSED DEAL YOU WERE SKETCHING OUT?

9 A I DON'T LIKE AGGRAVATION. I LIKE MANAGING
10 MONEY NOT FIGHTING WITH PEOPLE.

11:09AM

11 Q HOW LONG WERE YOU CONSIDERING THE POSSIBILITY
12 OF JOINING WAMCO?

13 A FEW MONTHS.

14 Q WHY DID YOU NOT ULTIMATELY JOIN WAMCO?

15 A THE OWNERSHIP STRUCTURE OF WAMCO WAS NOT THAT
16 ATTRACTIVE. AND I WAS TIRED OF HAVING A LOUSY
17 OWNERSHIP STRUCTURE IN THE -- IN THE SITUATION I WAS
18 WORKING IN.

11:10AM

19 Q YOU WERE SHOWN EARLIER A COMPENSATION PROPOSAL
20 THAT YOU SAID YOU WERE SHOWN IN JUNE OF 2009. WHAT WAS
21 YOUR REACTION TO THAT PROPOSAL?

11:10AM

22 A I THOUGHT IT WAS A NON-STARTER.

23 Q AND DID YOU HAVE ANY DISCUSSIONS WITH WAMCO
24 SUBSEQUENT TO THAT POINT, AFTER THEY GAVE YOU A
25 COMPENSATION PROPOSAL THAT YOU THOUGHT WAS A
26 NON-STARTER?

11:10AM

27 A YES.

28 Q WHAT DID YOU -- WHAT KIND OF DISCUSSIONS DID

1 YOU HAVE?

2 A I GAVE THEM A FEW POINTS THAT I SUGGESTED THEY
3 MIGHT CHANGE THEIR OFFER, ALONG THE LINES OF HOW THEY
4 MIGHT WANT TO RETHINK THE OFFER.

5 Q AND DID ANYTHING COME OF THAT. I GOT ANOTHER
6 THING, ABOUT A WEEK LATER, AND I DIDN'T REALLY READ IT
7 BECAUSE IT WAS CLEAR, IT WASN'T REALLY MOVING IN THE
8 RIGHT DIRECTION.

11:10AM

9 Q SO, AT THAT POINT DID YOU HAVE ANY FURTHER
10 SERIOUS DISCUSSIONS WITH WAMCO ABOUT THE POSSIBILITY OF
11 JOINING THEM?

11:11AM

12 A NO.

13 Q DID YOU TALK TO THEM AT ALL FROM JUNE OR JULY
14 OF 2009, TO DECEMBER 2009?

15 A YES.

11:11AM

16 Q WHAT DID YOU TALK ABOUT?

17 A ABOUT -- BY THIS POINT, WE'D BECOME KIND OF
18 FRIENDS. AND WE'RE IN THE SAME BUSINESS, THEY WERE
19 LIKE A BUSINESS CONTACT. AND I MET WITH THEM A COUPLE
20 OF TIMES. JUST TO KEEP THINGS GOING FOR MAYBE WAY DOWN
21 THE ROAD.

11:11AM

22 Q WE DON'T KNOW WHAT WAS IN THEIR MIND WHETHER
23 THEY WERE STILL INTERESTED IN PURSUING A DEAL.

24 FROM YOUR POINT OF VIEW WERE YOU
25 SERIOUSLY CONSIDERING A WAMCO DEAL AT THAT POINT IN THE
26 SECOND HALF OF 2009?

11:11AM

27 MR. QUINN: OBJECT TO THE PREAMBLE.

28 THE COURT: OVERRULED.

1 GO AHEAD.

2 THE WITNESS: NO.

3 BY MR. HELM:

4 Q DID YOU EVER TELL MR. BEYER THAT YOU WERE
5 HAVING DISCUSSIONS WITH WAMCO?

11:12AM

6 A YES.

7 Q WHEN DID THAT HAPPEN?

8 A I'M NOT EXACTLY SURE WHEN, BUT CLEARLY IT HAD
9 TO BE WHILE BEYER WAS AT TCW. AND SO IT WAS PROBABLY
10 IN APRIL OR SO.

11:12AM

11 Q AND HOW DID THE CONVERSATION ARISE?

12 A HE CAME TO ME, AND SAID I HEAR YOU'RE
13 INTERVIEWING AT WAMCO?

14 Q AND WHAT DOES --

15 A I SAID, WELL, I HAVE.

11:12AM

16 Q AND?

17 A HE SAID, ARE YOU LEAVING?

18 AND I SAID, NO.

19 AND I SAID, BUT GIVEN THE FRENCH ARE
20 SELLING THE FIRM I THINK WE'RE ALL GOING TO BE IN A
21 DIFFERENT PLACE IN A FEW YEARS FROM NOW.

11:12AM

22 Q WHAT DID HE SAY?

23 A HE SAID, IF YOU'RE NOT LEAVING LET'S SPEND THE
24 NEXT FEW MONTHS MAKING THE FIRM BETTER, TOGETHER.

25 Q DID MR. --

11:12AM

26 A I SAID, GREAT.

27 Q DID MR. BEYER SAY TO YOU AT THAT POINT THAT HE
28 THOUGHT THERE WAS SOMETHING WRONG ABOUT YOU HAVING

1 DISCUSSIONS WITH ANOTHER FIRM ABOUT POSSIBLY JOINING
2 IT?

3 A NO.

4 Q DID HE TELL YOU AT THAT TIME HE THOUGHT YOU
5 SHOULD HAVE TOLD HIM EARLIER THAT YOU WERE HAVING A JOB
6 INTERVIEW WITH SOMEONE ELSE?

11:13AM

7 A NO.

8 Q DID HE TELL YOU THAT HE THOUGHT YOU NEEDED TO
9 DISCLOSE TO THE BOARD OF DIRECTORS THAT YOU WERE HAVING
10 DISCUSSIONS WITH WAMCO?

11:13AM

11 A NO.

12 Q YOU WERE A MEMBER OF THE BOARD OF DIRECTORS AT
13 THAT TIME, IS THAT TRUE?

14 A YES.

15 Q TO YOUR KNOWLEDGE, DID MR. BEYER EVER DISCLOSE
16 TO THE BOARD THAT YOU WERE HAVING A JOB INTERVIEW WITH
17 ANOTHER POTENTIAL EMPLOYER?

11:13AM

18 A NO.

19 Q LET ME ASK YOU TO LOOK AT EXHIBIT 160 WHICH
20 MR. QUINN WENT OVER WITH YOU. LET'S DOT FIRST FULL
21 PARAGRAPH. AT THE TOP -- PERFECT.

11:13AM

22 THIS WAS THE CONFIDENTIALITY AGREEMENT
23 THAT MR. QUINN ASKED YOU ABOUT, DO YOU RECALL THAT?

24 A YES.

25 Q AND I BELIEVE YOU STATED THAT YOU THOUGHT
26 THAT -- YOU CAN STRIKE THAT.

11:14AM

27 LET ME JUST READ FROM DOWN -- HALFWAY
28 THROUGH IT SAYS:

1 AS WE HAVE DISCUSSED -- THIS IS A
2 LETTER FROM WESTERN ASSET THEIR
3 GENERAL COUNSEL TO YOU IN MARCH,
4 CORRECT?

5 A YES. 11:14AM

6 Q

7 AS WE HAVE DISCUSSED, WE ARE
8 INTERESTED IN YOU BECAUSE OF YOUR
9 PERSONAL TALENT AND PERFORMANCE.
10 ACCORDINGLY, WE HAVE NO INTEREST IN 11:14AM
11 YOUR SHARING WITH US ANY
12 CONFIDENTIAL INFORMATION BELONGING
13 TO YOU OR ANYONE ELSE. INCLUDING
14 WITHOUT LIMITATION YOUR CURRENT
15 EMPLOYER. WE AFFIRMATIVELY REQUEST 11:14AM
16 THAT YOU DO NOT DISCLOSE ANY SUCH
17 INFORMATION DURING THE COURSE OF
18 OUR DISCUSSIONS AND YOU AGREE THAT
19 YOU WILL NOT DO SO.

20 WAS THAT INCLUDED IN THE CONFIDENTIALITY 11:14AM
21 AGREEMENT THAT YOU SIGNED?

22 A YES.

23 Q LET'S MOVE TO ANOTHER TOPIC THEN.

24 DID YOU EVER PROPOSE RESTRUCTURING THE
25 FIRM IN SOME WAY THAT INVOLVED SEPARATING OUT YOUR PART 11:15AM
26 OF THE BUSINESS, THE FIXED INCOME PART?

27 A YES.

28 MR. HELM: MAY I APPROACH, YOUR HONOR.

1 THE COURT: YES, YOU MAY.

2 BY MR. HELM:

3 Q WHY DID YOU MAKE A PROPOSAL TO THAT EFFECT?
4 WHAT DID YOU HAVE IN MIND?

5 A WELL I THOUGHT IT WOULD HELP THE COMPANY. 11:15AM

6 Q WHAT WAS THE PROPOSAL THAT YOU MADE?

7 A THE IDEA WAS TO RESTRUCTURE THE FIRM INTO TWO
8 DIVISIONS OR THREE DIVISIONS MAYBE. WHERE THEY WOULD
9 ALL BE UNDER THE UMBRELLA OF TCW GROUP.

10 BUT THAT IT WOULD HAVE MORE STRATEGIC 11:16AM
11 AUTONOMY. I FIGURED WE SHOULD HAVE AN EQUITY DIVISION,
12 A FIXED INCOME DIVISION, AND MAYBE AN ALTERNATIVES
13 DIVISION. AND THEN I WOULD RUN THE FIXED INCOME
14 DIVISION.

15 AND I THOUGHT MAYBE, OF EVEN RENAMING 11:16AM
16 IT. BUT IT WOULD STILL BE PART OF TCW GROUP.

17 Q WHY DO YOU THINK IT WOULD BE BENEFICIAL TO
18 DIVIDE THE BUSINESS IN THAT WAY? THE PRIMARY REASON
19 WAS THAT IN THE FIXED INCOME MONEY MANAGEMENT BUSINESS,
20 IT'S A COMPETITIVE ADVANTAGE IF THE PERSPECTIVE 11:16AM
21 INVESTORS THINK YOUR HEART AND SOUL OF YOUR
22 ORGANIZATION'S IN FIXED INCOME.

23 MOST OF OUR BIG COMPETITORS, MOST
24 SUCCESSFUL FIXED INCOME FIRMS ARE LARGELY DEDICATED TO
25 FIXED INCOME? 11:16AM

26 Q GIVE ME AN EXAMPLE OF COMPETITORS YOU'RE
27 REFERRING TO?

28 A WESTERN ASSET. PIMCO. METROPOLITAN WEST.

1 Q WERE THEY FOCUSED ON ONE AREA AS OPPOSED TO
2 STRADDLING SEVERAL DIFFERENT AREAS?

3 A YES. THE IDEA WAS -- WHEN WE WENT TO A
4 PRESENTATION FOR NEW BUSINESS YOU GO -- SOMETIMES THE
5 MARKETING PERSON WOULD PUT UP A -- BULLET POINTS OF THE
6 FIRM.

11:17AM

7 AND THE OTHER FIRMS SAY "WE LIVE AND DIE
8 BY FIXED INCOME." WHICH MAKES PEOPLE SMILE WHEN
9 THEY'RE THINKING ABOUT HIRING A FIXED INCOME MANAGER.
10 AND OUR THING WOULD SAY "EQUITIES ARE US." AND PEOPLE
11 WOULD FROWN.

11:17AM

12 Q DID YOU FIND THAT TO BE DISADVANTAGEOUS IN
13 YOUR ABILITY TO SELL THE FIXED INCOME PRODUCTS THAT YOU
14 WERE MANAGING?

15 A YES.

11:17AM

16 Q AND YOU SAY YOU MADE THIS PROPOSAL FOR
17 RESTRUCTURE OF THE FIRM SOMEHOW; WHO DID YOU DISCUSS IT
18 WITH?

19 A MANY PEOPLE OVER THE YEARS INCLUDING
20 MARC STERN, BOB BEYER, BILL SONNEBORN,
21 CHUCK BALDISWIELER, MARC CHIBELLO, GARRETT WALLS.

11:17AM

22 Q OVER WHAT PERIOD OF TIME DID YOU DISCUSS THIS
23 PROPOSAL WITH PEOPLE OF THAT KIND?

24 A FIVE YEARS.

25 Q WHAT WAS THE REACTION WHEN YOU MADE THE
26 PROPOSAL?

11:18AM

27 A BLANK STARE.

28 Q DID ANYONE EVER SEEM TO THINK IT WAS A GOOD

1 IDEA?

2 A NO. I ALSO DISCUSSED IT WITH JACQUES RIPOLL
3 FROM SG.

4 Q WHAT DID HE SAY?

5 A NOT INTERESTED.

11:18AM

6 Q NOW, LET'S SEE, MR. QUINN SHOWED YOU SOME
7 E-MAILS. LET ME SHOW YOU ONE OF THEM, EXHIBIT 122.
8 THIS WAS AN E-MAIL, LET'S SHOW THE -- ON THE LEFT,
9 DENNIS, THE MIDDLE PART. YES. GUNDLACH, THERE DOWN TO
10 THERE.

11:18AM

11 THIS WAS IN RESPONSE TO AN E-MAIL ABOUT
12 A REBRANDED TCW.COM WEBSITE. DO YOU RECALL THAT?

13 A YES.

14 Q DO YOU RECALL HIM ASKING YOU ABOUT A REQUEST
15 THAT WAS MADE TO FILM A VIDEO AND THERE WERE OTHER
16 PEOPLE WHO WERE GOING TO HAVE VIDEOS FILMED, TOO.

11:19AM

17 A YES.

18 Q IF WE LOOK AT YOUR RESPONSE, YOU SAID COUPLE
19 THINGS. IT SAYS YOU SAY:

20 FRONT AND CENTER BELOW. BUT AS I
21 UNDERSTAND IT THE IDEA IS TO HAVE
22 ME FILM A FOURTH VIDEO TO SIT UP
23 THERE WITH THESE OTHERS. I DON'T
24 SEE ANYTHING FRONT AND CENTER IN
25 THAT. SIDE BY SIDE WOULD BE THE
26 OPERATIVE DESCRIPTOR.

11:19AM

27 DO YOU SEE THAT?

28 A YES.

11:19AM

1 Q IT SAYS:

2 I BELIEVE A SIDE BY SIDE VIDEO
3 PRESENTATION PUTTING BRUNSWICK &
4 COMPANY IN A SIMILAR FORMAT/SIMILAR
5 EMPHASIS AS MY ACTIVITIES IS JUST
6 ABOUT AS BRAND DESTROYING A MOVE AS
7 I CAN THINK OF.

11:19AM

8 WHAT DID YOU MEAN BY THAT?

9 A KIND OF WHAT I TALKED ABOUT A MOMENT AGO. IT
10 SHOWS ANYTHING BUT A DEDICATION AND A FOCUS AND A
11 COMMITMENT OF FIXED INCOME.

11:20AM

12 IT COMPARES A \$78 BILLION FIXED INCOME
13 OPERATION TO ABOUT A \$1 BILLION REGIONAL RELATIVELY
14 UNKNOWN COMMERCIAL REAL ESTATE OPERATIONAL -- AS IF
15 THEY'RE EQUALS.

11:20AM

16 Q DID YOU THINK THAT THAT WOULD BE ADVANTAGEOUS
17 OR DISADVANTAGEOUS IN TERMS OF MARKETING TCW AND YOUR
18 MORTGAGE-BACKED SECURITIES BUSINESS?

19 A I THINK IT WOULD DISINCENTIVIZED PROSPECTS
20 THAT CAME TO THE WEBSITE FOR CONSIDERING OUR FIXED
21 INCOME SERVICES.

11:20AM

22 Q EXHIBIT 1118 PLEASE, DENNIS. AND THE TOP
23 PART. IT SAYS, I THINK YOU INDICATED THAT MAYBE YOU
24 WERE SUGGESTING YOU DIDN'T LIKE THIS:

25 I HATE THIS, I HATE WHAT IT SAYS I
26 HATE THE WAY IT SAYS IT. I HATE
27 THE PHILOSOPHY UNDERNEATH ITS
28 CREATION.

11:20AM

1 WHAT WAS IT ABOUT THE PHILOSOPHY UNDERNEATH
2 THE CREATION OF THIS -- THESE SIDE-BY-SIDE VIDEOS THAT
3 YOU DIDN'T LIKE?

4 A SORT OF THE LACK OF STRATEGIC VISION IN THE
5 MANAGEMENT OF THE FIRM.

11:21AM

6 Q AND DID THE PHILOSOPHY -- EXPLAIN WHAT YOU
7 MEAN BY THAT LACK OF STRATEGIC VISION?

8 A IT -- IT'S NOT -- I DIDN'T AGREE, I HAD A
9 LEGITIMATE DISAGREEMENT WITH THE IDEA THAT WE SHOULD
10 SELL ALL THESE SQUARES IN DIFFERENT -- AS TO THEIR
11 MERITS TO PEOPLE.

11:21AM

12 Q HOW DID YOU THINK IT SHOULD BE SOLD OR
13 MARKETED?

14 A I THOUGHT THAT WE SHOULD HIGHLIGHT OUR BEST
15 OFFERINGS.

11:21AM

16 Q LET'S MOVE FORWARD IN TIME NOW TO A LITTLE
17 LATER IN '09. HOW LONG DID MR. BEYER STAY ON AS CEO?

18 A HE -- HE WAS GONE, SOMEWHERE NEAR THE END OF
19 MAY 2009.

20 Q AND HE WAS REPLACED BY WHOM AS CEO?

11:22AM

21 A MARC STERN WAS NAMED INTERIM CEO.

22 Q AND WHEN DID YOU FIRST LEARN ABOUT THE PLAN TO
23 BRING BACK MR. STERN AS CEO?

24 A LATE MAY, 2009.

25 Q DID YOU LEARN ABOUT IT BEFORE IT WAS PUBLICLY
26 ANNOUNCED?

11:22AM

27 A YES.

28 Q HOW DID YOU FIRST LEARN ABOUT IT?

1 A I WAS CALLED TO A MEETING AT ROBERT DAY'S
2 HOUSE.

3 MR. HELM: MAY I APPROACH, YOUR HONOR.

4 THE COURT: YES.

5 BY MR. HELM:

11:22AM

6 Q DO YOU RECALL WHEN THIS WAS WHEN YOU HAD A
7 MEETING AT MR. DAY'S HOUSE?

8 A I THINK IT WAS MAY 26TH, I'M NOT SURE. 2009.

9 Q MY WRITING IS EVEN WORSE, AND I'LL PUT A
10 QUESTION MARK. SINCE YOU SAY YOU'RE NOT SURE.

11:23AM

11 AND SO, WHO ATTENDED THE MEETING AT
12 MR. DAY'S HOUSE?

13 A ROBERT DAY AND MARC STERN AND ME.

14 Q AND WHAT WAS DISCUSSED AT THAT MEETING?

15 A THAT MARC STERN WAS GOING TO COME BACK AS CEO
16 AND ROBERT DAY WAS GOING TO COME BACK AND BE DAY-TO-DAY
17 AGAIN.

11:23AM

18 Q DID YOU EXPRESS ANY REACTION TO THAT PROPOSAL?

19 A I EXPRESSED MY VIEW IT WAS NOT A GOOD IDEA.

20 Q WHAT DID YOU SAY ABOUT WHETHER YOU THOUGHT IT
21 WAS A GOOD IDEA FOR MARC STERN TO NOW BE RETURNING?

11:24AM

22 A I SAID, YOU GUYS LEFT FOUR YEARS AGO. AND
23 TURNED THE FIRM OVER TO A NEW GENERATION OF LEADERSHIP.
24 YOU CAN'T JUST COME BREAZING BACK IN. WE'VE BEEN
25 SUFFERING HERE FOR YEARS.

11:24AM

26 AND THE SITUATION KEEPS GETTING WORSE.
27 AND I'VE BEEN TRYING TO GLUE IT TOGETHER WITH OTHER
28 SENIOR MANAGERS. WE'VE BEEN HERE THIS WHOLE TIME

1 KEEPING THE FIRM GOING DURING A GLOBAL CREDIT PANIC.

2 Q AND DID YOU EXPRESS ANY OTHER VIEWS ON THAT,
3 FOR EXAMPLE, DID YOU MENTION ANYTHING ABOUT THIS
4 DILUTION ISSUE?

5 A YES.

11:24AM

6 Q YOU MENTIONED BEFORE -- WHAT DID YOU DISCUSS
7 ON THE DILUTION ISSUE?

8 A MARC STERN HAD BEEN DISHONEST WITH ME BEFORE I
9 POINTED THAT OUT. IT WAS A BAD SIGN HE WAS COMING
10 BACK.

11:24AM

11 Q YOU SAID HE'D BEEN DISHONEST WITH YOU BEFORE,
12 WHAT WERE YOU REFERRING TO?

13 A THE PROMISE THAT HE MADE THAT I WOULD NEVER
14 HAVE MY REDUCTION, MY OWNERSHIP WITH TCW AND HE TOOK MY
15 STOCK AND GAVE IT TO OTHER PEOPLE.

11:25AM

16 Q DID YOU EXPRESS CONCERN ABOUT THAT EVENT, WHEN
17 YOU HAD THE MEETING WITH MR. DAY AND MR. STERN AT
18 MR. DAY'S HOUSE?

19 A YES.

20 Q I'M GOING TO WRITE, ALSO, DAY'S HOUSE.
21 MR. DAY'S HOUSE?

11:25AM

22 Q ALL RIGHT.

23 NOW, AFTER LEARNING ABOUT MR. STERN'S
24 PLAN TO RETURN, DID YOU DISCUSS IT WITH ANY OTHER
25 PORTFOLIO MANAGERS?

11:25AM

26 A YES.

27 Q WHO DID YOU DISCUSS IT WITH?

28 A MOSTLY MARC ATTANASIO.

1 Q AND WHAT WAS THE SUBSTANCE OF YOUR DISCUSSION
2 WITH MR. ATTANASIO, WHAT WAS HIS REACTION TO THE RETURN
3 OF MR. STERN?

4 A AS NEGATIVE AS I WAS ON THE IDEA, HE WAS EVEN
5 MORE NEGATIVE. HE CALLED A MEETING WITH ME SAYING HE
6 WANTED TO NOT ALLOW MARC STERN TO BE CEO.

11:25AM

7 MR. QUINN: YOUR HONOR, HEARSAY.

8 THE COURT: SUSTAINED. I'LL STRIKE THE
9 RESPONSE AS TO WHAT MR. ATTANASIO SAID.

10 BY MR. HELM:

11:26AM

11 Q WHAT WAS -- WAS MR. ATTANASIO AN OFFICIAL AT
12 TCW AT THAT TIME?

13 A YES. HE'S ON THE BOARD OF DIRECTORS.

14 Q THIS IS A STATEMENT THAT HE MADE TO YOU ON THE
15 SUBJECT OF THE BUSINESS OF TCW?

11:26AM

16 A YES.

17 MR. HELM: I'D ASK RECONSIDERATION OF THAT
18 STATEMENT.

19 THE COURT: GO AHEAD JUST FOLLOW-UP.

20 BY MR. HELM:

11:26AM

21 Q I'LL AGAIN SEE WHAT THE RULING IS.

22 WHAT DID MR. ATTANASIO TELL YOU ABOUT
23 THE VIEWS ON THE RETURN OF MR. STERN?

24 A HE SAID WE CAN'T ALLOW MARC STERN TO HAVE THE
25 CEO TITLE WE NEED TO MAKE IT BE INTERIM CEO, OTHERWISE,
26 IT WOULD BE KIND OF CEMENTED. WE NEED IT TO BE
27 TEMPORARY.

11:26AM

28 Q AND DID YOU ARRANGE ANY MEETINGS TO FURTHER

1 DISCUSS THE ISSUES WITH MR. STERN OR WITH MR. DAY?

2 A YES.

3 Q AND WHEN DID -- DID A MEETING TAKE PLACE?

4 A COUPLE MEETINGS AT LEAST.

5 Q WELL, DID YOU MEET WITH MR. STERN AND MR. DAY
6 AT THAT SUBSEQUENT TIME?

11:27AM

7 A YES.

8 Q WHEN?

9 A I KNOW WE MET MARCH 29TH -- MAY 29TH.

10 Q ALL RIGHT. WHO WAS PRESENT FOR THAT MEETING?

11:27AM

11 A ROBERT DAY. MARC STERN. MARC ATTANASIO.
12 THEN ME.

13 Q M.A., J.G..

14 WHERE DID THAT MEETING TAKE PLACE?

15 A IN ROBERT DAY'S OFFICE 865 SOUTH FIGUEROA IN
16 LOS ANGELES.

11:27AM

17 Q THAT WAS AT THE TCW OFFICES?

18 A YES.

19 Q AND NOW DID MR. ATTANASIO HAVE OFFICES AT --
20 DOWNTOWN L.A.?

11:28AM

21 A NO.

22 Q DID HE TRAVEL FROM WEST L.A. TO DOWNTOWN FOR
23 THIS MEETING?

24 A YES.

25 Q AND DO YOU RECALL WHAT POINTS WERE MADE AT
26 THIS MEETING?

11:28AM

27 A MARC -- YES, I DO.

28 Q WHAT WAS DISCUSSED AT THE MEETING?

1 A MARC ATTANASIO LED THE MEETING BY SAYING,
2 YOU'RE NOT THE FUTURE OF THIS FIRM, YOU'VE BEEN HERE
3 THIS WHOLE TIME AND YOU TURNED THE FIRM OVER TO A NEW
4 GENERATION OF LEADERSHIP.

5 AND I SAID, YOU KNOW, OR RATHER
6 ATTANASIO SAID, WE WANT A MANAGEMENT COMMITTEE. NOT A
7 HIERARCHY STRUCTURE WITH STERN AS CEO. WE WANT A
8 MANAGEMENT COMMITTEE TO RUN THE FIRM.

11:28AM

9 Q LET'S MAKE SURE I UNDERSTAND THAT, MR. STERN
10 WAS RETURNING AS CEO. HOW DID A MANAGEMENT COMMITTEE
11 FIT IN TO RETURNING AS CEO?

11:28AM

12 A THE IDEA WAS A MANAGEMENT COMMITTEE WOULD BE
13 RUNNIGH THE FIRM. STERN I GUESS WOULD BE ON THE
14 MANAGEMENT COMMITTEE, BUT NOT HAVE A PARTICULAR
15 AUTHORITY ON THE MANAGEMENT COMMITTEE.

11:29AM

16 Q WAS THE IDEA HE WOULD STILL BE THE CEO WITH
17 ALL AUTHORITY, AND STILL BE CONSULTING A MANAGEMENT
18 COMMITTEE?

19 OR WAS THE IDEA THERE WOULD BE A
20 MANAGEMENT COMMITTEE INSTEAD OF HAVING HIM BE A
21 TRADITIONAL CEO?

11:29AM

22 A INSTEAD OF.

23 Q AND THIS WAS A VIEW THAT MR. ATTANASIO
24 EXPRESSED AT THIS MAY 29TH MEETING AT TCW?

25 A YES.

11:29AM

26 Q WHAT ELSE WAS DISCUSSED BY YOU OR
27 MR. ATTANASIO AT THAT MEETING?

28 A WHEN ARE WE GOING TO GET THE EQUITY WE'VE BEEN

1 PROMISED ALL THIS TIME?

2 Q AND WHAT WAS THE REACTION OF MR. STERN AND
3 MR. DAY AT THIS MEETING?

4 A THEY DIDN'T WANT TO HEAR WHAT WE HAD TO SAY.
5 THEY DIDN'T WANT TO CHANGE THEIR MIND.

11:30AM

6 Q LET'S SEE IF WE CAN LOOK AT EXHIBIT 192. THIS
7 HAS PREVIOUSLY BEEN PUT INTO EVIDENCE. THANK YOU.

8 I THINK MR. QUINN WENT OVER THIS. IT
9 SAID:

11:30AM

10 ANOTHER HEAD SPINNER OF A DAY.

11 ATTANASIO AND I WENT AND --

12 FIRST OF ALL, THE DATE OF THIS IS MAY THE
13 29TH, CORRECT?

14 A YES.

15 Q AND THIS IS IN THE EVENING?

11:30AM

16 A YES.

17 Q WHEN WAS THE MEETING WITH MR. STERN AND
18 MR. DAY AND MR. ATTANASIO?

19 A IN THE AFTERNOON.

20 Q SO IT SAYS:

11:30AM

21 ATTANASIO AND I WENT AND TALKED TO
22 STERN AND DAY TOGETHER. AND IT
23 WASN'T A HAPPY GROUP. I TOLD STERN
24 AND DAY THAT I MIGHT POSSIBLY BE
25 ABLE TO WORK WITH THEM, BUT I WON'T
26 WORK FOR THEM IN ANY WAY.

11:30AM

27 WHAT DID YOU MEAN BY THAT?

28 A I LIKED THE MANAGEMENT COMMITTEE IDEA THAT

1 MARC ATTANASIO HAD. AND THAT WAS THE WAY WE MIGHT BE
2 ABLE TO WORK WITH EACH OTHER.

3 Q SO HOW WAS WORKING WITH EACH OTHER SOMEHOW
4 CONSISTENT WITH A MANAGEMENT COMMITTEE IDEA AS OPPOSED
5 TO WORKING FOR SOMEBODY?

11:31AM

6 A WELL, THE MANAGEMENT COMMITTEE WOULD BE IN
7 CHARGE OF RUNNING THE FIRM AND WE'D HAVE A VOICE IN
8 WHAT THE FIRM WAS DOING, AS OPPOSED TO JUST BEING
9 DICTATED TO.

10 Q SO, ALL RIGHT. IT THEN SAYS, MR. ATTANASIO
11 SAID YOU GUYS ARE NOT THE FUTURE OF THIS FIRM.

11:31AM

12 DID MR. ATTANASIO, IN FACT, EXPRESS A
13 SENTIMENT OF THAT KIND?

14 A YES.

15 Q IT THEN SAYS:

11:31AM

16 I SAID YOU ARE HERE TO STABILIZE
17 THE FIRM AND THEN SELL IT FOR
18 ECONOMIC REWARD AND YOU HAVE TO
19 TELL THE FRENCH THAT MARC AND I AND
20 OTHERS WILL NOT STABILIZE AND GROW
21 THIS FIRM WITHOUT A REWARD.

11:31AM

22 DID YOU SAY SOMETHING TO THAT EFFECT?

23 A SOMETHING LIKE THAT.

24 Q DID MR. ATTANASIO EXPRESS SENTIMENTS SIMILAR
25 TO THAT AT THAT MEETING?

11:32AM

26 A YES.

27 Q NOW, WHO GETS THE ECONOMIC REWARD FROM A SALE
28 OF A FIRM LIKE TCW?

1 A THE ONES THAT OWN THE SHARES OF THE COMPANY.

2 Q DID YOU OWN ANY SHARES IN THE COMPANY IN MAY
3 OF 2009?

4 A NO.

5 Q HOW LONG HAD YOU BEEN PROMISED A SHARE OF
6 OWNERSHIP IN TCW?

7 A EIGHT YEARS.

8 Q BUT YOU STILL DIDN'T HAVE ANY BY MAY 2009?

9 A NO.

10 Q WHEN IT SAYS, MARC AND I AND THE OTHERS WILL
11 NOT STABILIZE AND GROW THIS FIRM WITHOUT A REWARD; WHAT
12 KIND OF REWARD WERE YOU TALKING ABOUT?

13 A WE WERE TALKING ABOUT THEM HONORING THEIR
14 EQUITY COMMITMENT.

15 Q NOW, AGAIN, IT SAYS THAT YOU SAID THIS IS
16 SOMETHING YOU BELIEVE MR. ATTANASIO ALSO EXPRESSED AT
17 THAT MEETING?

18 A HE TALKED MORE THAN I DID. HE SAID IT BETTER
19 THAN I DID.

20 Q NOW, YOU WERE A MEMBER OF THE BOARD OF
21 DIRECTORS AT THIS TIME, IS THAT TRUE?

22 A YES.

23 Q WAS MR. ATTANASIO A MEMBER OF THE BOARD?

24 A YES.

25 Q AND DID YOU THINK THERE WAS ANYTHING ABOUT
26 BEING A MEMBER OF THE BOARD OF DIRECTORS THAT PREVENTED
27 YOU FROM ASKING TO BE PROPERLY REWARDED FOR YOUR WORK
28 IN STABILIZING THE FIRM AND PREPARING IT FOR SALE?

11:32AM

11:32AM

11:32AM

11:33AM

11:33AM

1 A NO. JUST THE OPPOSITE.

2 Q DID YOU THINK THAT PROVIDING PROPER REWARDS
3 FOR PEOPLE WHO DID THE WORK WAS SOMETHING THAT HELPED
4 OR HURT THE INTEREST OF THE ORGANIZATION AS A WHOLE?

5 A OF COURSE IT HELPED. THEY EVEN SAID IT IN
6 THAT PROXY STATEMENT.

11:33AM

7 Q WHY WOULD YOU THINK IT WOULD HELP TO HAVE THE
8 PEOPLE WHO ARE WORKING TO STABILIZE AND GROW THE FIRM
9 SHARE IN THE ECONOMIC REWARDS?

10 A BECAUSE HE KEEPS THEM INCENTIVIZED.

11:33AM

11 Q DID YOU THINK YOU WERE ASKING FOR ANYTHING IN
12 THAT MEETING OR THAT MR. ATTANASIO WAS ASKING FOR
13 ANYTHING THAT -- IN THAT MEETING, BY WAY OF ASKING FOR
14 A REWARD THAT YOU HADN'T ALREADY BEEN PROMISED FOR MANY
15 YEARS BY TCW?

11:34AM

16 A NO.

17 Q NOW, DID YOU HAVE ANY COMMUNICATIONS WITH
18 MR. ATTANASIO AFTER THIS MEETING WITH MR. STERN AND
19 MR. DAY?

20 A YES.

11:34AM

21 Q LET ME ASK YOU TO LOOK AT EXHIBIT 5145. IS
22 THIS NOT AN E-MAIL EXCHANGE BETWEEN YOU AND
23 MR. ATTANASIO AS WELL AS AN EXCHANGE WITH
24 MR. PEKARSKY ON MAY 29TH, 2009?

25 A I SEE ME AND MARC ATTANASIO.

11:35AM

26 MR. HELM: I MOVE ADMISSION OF THIS DOCUMENT,
27 YOUR HONOR.

28 MR. QUINN: NO OBJECTION.

1 THE COURT: IT WILL BE ADMITTED.

2

3 (EXHIBIT 5145 ADMITTED.)+

4

5 BY MR. HELM:

11:35AM

6 Q LET'S START AT THE BOTTOM. ALL RIGHT?

7 THIS IS SENDING TO YOURSELF, AND

8 MR. ATTANASIO AND OTHERS IT SAYS:

9 PLEASE FIND A REVISED DRAFT OF THE

10 PRESS RELEASE. THIS REFLECTS

11:35AM

11 COMMENTS PROVIDED BY MARC STERN AND

12 JEFFREY. I WILL ALSO INCORPORATE

13 LANGUAGE REFLECTING THE FACT THAT

14 MARKS APPOINTMENT IS QUOTE ON AN

15 INTERIM BASIS AND ROBERT'S MESSAGE

11:35AM

16 TO EMPLOYEES, IN ROBERT'S MESSAGE.

17 DO YOU SEE THAT?

18 A YES.

19 Q ABOVE IT IT SAYS TO JOSH PEKARSKY ON THE PRIOR

20 PAGE ON THE PRIOR PAGE IT'S FROM MR. ATTANASIO. I CAN

11:35AM

21 SHARE THAT, WILL YOU TAKE MY WORD FOR IT?

22 A YES, THERE WE GO.

23 MR. QUINN: I WILL.

24 MR. HELM: DENNIS, DOESN'T TAKE MY WORD FOR

25 IT. IT'S FROM ATTANASIO. AT THE TOP IT SAYS:

11:36AM

26 JOSH, I DON'T BELIEVE THIS IS WHAT

27 WE TALKED ABOUT TODAY. WE TALKED

28 ABOUT MARC BEING THE, QUOTE,

1 INTERIM CEO CLOSED QUOTE, JEFFREY
2 AND I EXPECT IT WILL READ THAT WAY.
3 MARC ATTANASIO.

4 DO YOU SEE THAT?

5 A YES.

11:36AM

6 Q LET'S GO THEN TO THE PRIOR ONE. FROM
7 GUNDLACH. THERE WE GO, THAT'S GOOD. THEN GUNDLACH TO
8 ATTANASIO:

9 THINK HOW IMPOSSIBLE IT WOULD BE TO
10 TRY TO ACTUALLY GET AGREEMENT ON AN
11 EVEN MODERATELY CONTROVERSIAL POINT
12 GIVEN THE AGONY ON THIS MINOR ONE.

11:36AM

13 YES, THE ANSWER SHOULD HAVE BEEN, I
14 GET THE IDEA OF COURSE THAT'S RIGHT
15 I'LL HAVE THIS IMPROVEMENT

11:36AM

16 INCORPORATED?

17 IS THAT WHAT YOU WROTE.

18 A YES.

19 Q AND THEN MR. ATTANASIO WRITES BACK:

20 I THINK AGONY WILL REGRETTABLY
21 BECOME ONE OF THE OFF USED WORDS IN
22 OUR LEXICON. I AM REMINDED OF THE
23 WHO SONG, QUOTE, MEET THE NEW BOSS,
24 SAME AS THE OLD BOSS. I KNOW YOU
25 KNOW THE TITLE TO THAT SONG.

11:36AM

26 AND THEN YOU WRITE BACK: OH,
27 INCREDIBLY APPROPRIATE. DON'T GET
28 FOOLED AGAIN.

11:37AM

1 WHAT DID YOU UNDERSTAND
2 MR. ATTANASIO TO MEAN WHEN HE
3 REFERRED TO, MEET THE NEW BOSS,
4 SAME AS THE OLD BOSS WHICH WERE
5 LYRICS FROM A SONG ENTITLED "DON'T
6 GET FOOLED AGAIN"?

11:37AM

7 A HE KNEW I'D BEEN FOOLED BEFORE.

8 Q ALL RIGHT.

9 AFTER THE MEETING WITH MR. STERN AND
10 MR. DAY THAT WE TALKED ABOUT ON THE 29TH, DID YOU LEARN
11 ABOUT ANY COMMUNICATIONS BY TCW UPPER MANAGEMENT WITH
12 ANY OTHER MEMBERS OF YOUR TEAM?

11:37AM

13 A I'M SORRY. CAN YOU ASK ME AGAIN.

14 Q OF COURSE.

15 ON MAY 29, YOU HAD THIS MEETING WITH
16 STERN AND DAY, THAT ATTANASIO ATTENDED, THIS IS AT THE
17 TCW OFFICES, CORRECT?

11:38AM

18 A RIGHT.

19 Q AT SOME POINT IN THAT DAY DID YOU LEARN THAT
20 PEOPLE FROM TCW MANAGEMENT WERE CONTACTING MEMBERS OF
21 YOUR TEAM?

11:38AM

22 A YES.

23 Q WHAT DID YOU LEARN?

24 A I LEARNED THAT THEY WERE CALLING THEM UP AND
25 TELLING THEM HOW IMPORTANT THEY WERE TO THE OPERATION?

11:38AM

26 Q WHO WERE THE PEOPLE WHO YOU LEARNED HAD BEEN
27 CONTACTED?

28 A I THINK IT WAS PHIL BARACH AND BONNIE BAHA.

1 Q WE'VE HEARD WHO MR. BARACH IS.

2 WHO IS BONNIE BAHA?

3 A SHE WAS IN CHARGE OF THE CORPORATION BOND
4 INVESTMENT GROUP. WHICH IS A BIG PART OF FIXED INCOME.

5 Q DID YOU REACH ANY CONCLUSIONS ABOUT WHY IT WAS
6 SUDDENLY ON THIS DAY, MAY THE 29TH AFTER YOU HAD THIS
7 MEETING WITH MR. DAY AND -- WITH MR. STERN, AND
8 MR. DAY, THAT PEOPLE WERE NOW CONTACTING MEMBERS OF
9 YOUR TEAM TELLING THEM HOW WONDERFUL YOU ARE?

11:38AM

10 A YES, I FIGURED THAT THEY WERE WRITING ME OFF.
11 POTENTIALLY. AND TRYING TO CURRY THE FAVOR OF OTHER
12 PEOPLE WHO WERE VERY LOYAL TO ME, BUT TRY TO PRY THEM
13 AWAY.

11:39AM

14 Q LET'S LOOK AT THE EXHIBIT 188, WHICH MR. QUINN
15 WENT OVER WITH YOU.

11:39AM

16 FIRST OF ALL, LET'S -- YES, THANK YOU
17 DENNIS BOTH WOULD BE GREAT. THE BOTTOM ON THE LEFT
18 JUST TO SAY WHO THAT'S FROM, IT'S FROM MR. ATTANASIO TO
19 YOU, 6:00 P.M. ON MAY THE 29TH, CORRECT?

20 A YES. IT'S BROKEN UP IN A FUNNY WAY. BUT I
21 GUESS THAT'S RIGHT.

11:39AM

22 Q IF YOU JUST LOOK AT THE TOP THAT'S THE SEND
23 THAT COMES FROM THE BOTTOM DOWN HERE. AND THEN IT
24 SAYS:

25 JEFFREY I THINK WE SHOULD DO A
26 PRO FORMA, P + L ON WHAT OUR GROUPS
27 LOOK LIKE TOGETHER. WE'VE TALKED
28 ABOUT THIS BEFORE, I'D LIKE TO CALL

11:40AM

1 DEVITO ABOUT IT ON MONDAY WITH YOUR
2 APPROVAL.

3 WHAT DOES P&L STAND FOR?

4 A PROFIT AND LOSS STATEMENT OF A BUSINESS.

5 Q WHAT IS A PRO FORMA P&L?

11:40AM

6 A IT'S PUTTING TOGETHER AN ANALYSIS OF WHAT THE
7 PROFITABILITY IS OF AN ENTERPRISE.

8 Q SO MR. ATTANASIO NOW AGAIN ON MAY THE 29TH, IS
9 WRITING TO YOU TALKING ABOUT A PRO FORMA P&L. ACTUALLY
10 I'LL STOP HERE SINCE I'M DOING THIS. WE HAD AN E-MAIL,
11 "DON'T BE FOOLED AGAIN".

11:41AM

12 A I THINK IT'S "DON'T GET FOOLED AGAIN".

13 Q YOU'RE THE ROCK DRUMBER.

14 "DON'T GET FOOLED AGAIN", YOU'RE RIGHT.

15 NOW, WE HAVE A PRO FORMA P&L. THAT

11:41AM

16 MR. ATTANASIO IS SUGGESTING.

17 IT SAYS YOU'D BEEN DOING IT BEFORE, AS
18 WE'VE DONE BEFORE. WHAT WAS TALKED ABOUT BEFORE ALONG
19 THESE LINES?

20 A MARC ATTANASIO AND JEAN-MARC CHAPUS TALKED
21 ABOUT LEAVING THE FIRM A LOT.

11:41AM

22 Q AND HAD THEY EVER DISCUSSED SOMETHING WITH YOU
23 ABOUT WHAT YOUR GROUPS WOULD LIKE TOGETHER?

24 A NOT SPECIFICALLY, WE JUST -- THEY TALKED ABOUT
25 LEAVING THE FIRM AND MAYBE, MAYBE TRYING TO ENCOURAGE
26 ME TO DO IT WITH THEM.

11:42AM

27 Q IT SAYS:

28 I THINK WE SHOULD DO A PRO FORMA

1 P+L ON WHAT OUR GROUPS LOOK LIKE
2 TOGETHER.

3 WHAT DID YOU UNDERSTAND THAT TO MEAN?

4 A WE WANTED TO TAKE A LOOK AT IT AS PROSPECTS OF
5 A STAND ALONE BUSINESS.

11:42AM

6 Q LET'S GO UP TO THE PRIOR ONE. OR THE
7 SUBSEQUENT E-MAIL, BUT THE ONE ON TOP.

8 NOW, THIS IS FROM YOU TO MR. ATTANASIO;
9 IS THAT CORRECT?

10 A TO MR. ATTANASIO, YES.

11:42AM

11 Q THIS IS NOT TO MR. BARACH; IS THAT CORRECT?

12 A NO, IT'S NOT TO ANYONE ON MY TEAM.

13 Q AND SO IT SAYS:

14 MORE IMPORTANTLY STERN AND DAY
15 SPENT THE LATE AFTERNOON CALLING MY
16 B TEAM TO TRY TO SWEET TALK THEM.
17 THEY HAVE WRITTEN US OFF AT LEAST
18 IN AN EXPLORATORY WAY.

11:42AM

19 WHO'S THE "US" THAT YOU THOUGHT WAS BEING
20 WRITTEN OFF, FOLLOWING THE MEETING YOU HAD WITH
21 MR. DAY, MR. STERN AND MR. ATTANASIO, THAT DAY?

11:43AM

22 A I MEANT MYSELF AND MR. ATTANASIO.

23 Q SO YOU WANTED TO -- WERE YOU INTERPRETING WHAT
24 WAS HAPPENING AS A REACTION TO THE MEETING THAT WAS
25 HELD EARLIER THAT DAY?

11:43AM

26 A YES.

27 Q AND IT SAYS: THEY ARE TRYING TO MOUNT A
28 COUNTER OFFENSIVE.

1 THAT'S A COUNTER OFFENSIVE AGAINST WHOM?

2 A AGAINST MARK ATTANASIO AND ME.

3 Q SO WHEN IT SAYS: THE WAR IS ON.

4 WHAT WERE YOU REFERRING TO?

5 A I THOUGHT THAT WE WERE BEING ATTACKED.

11:43AM

6 Q WHO'S THE "WE" WHO'S BEING ATTACKED?

7 A ME AND MARK ATTANASIO.

8 Q ALL RIGHT.

9 YOU THEN SUGGEST -- WELL GO BACK IF YOU
10 WOULD, DENNIS. YOU THEN SAY:

11:43AM

11 WE SHOULD MEET OVER THE WEEKEND I
12 WOULD BE HAPPY TO HOST YOU AT THE
13 WATER GARDEN TOMORROW AT 1:00 P.M..

14 Q DID YOU HAVE IN FACT HAVE A MEETING THAT NEXT
15 DAY?

11:44AM

16 A YES.

17 Q AND WHERE DID IT TAKE PLACE?

18 A AT MY PRIVATE OFFICE AT THE WATER GARDEN.

19 Q WHEN DID IT TAKE PLACE?

20 A I CAN'T TELL YOU. IT WAS THE NEXT DAY.

11:44AM

21 Q ALL RIGHT. THAT WOULD BE MAY 30TH.

22 WHO ATTENDED THAT MEETING?

23 A ME, AND MARK ATTANASIO AND JEAN-MARC CHAPUS.

24 Q ALL RIGHT.

25 SO THAT'S J.G., M.A. AND J.M.C.. WHAT
26 DID YOU DISCUSS AT THAT MEETING WITH -- MR. CHAPUS WAS
27 MR. ATTANASIO'S BUSINESS PARTNER IN THEIR GROUP?

11:44AM

28 A YES.

1 Q WHAT DID YOU DISCUSS WITH MR. ATTANASIO AND
2 MR. CHAPUS AT THIS MEETING AT THE WATER GARDEN
3 SATURDAY, MAY THE 20TH?

4 A WE TALKED ABOUT TRYING TO MAKE THE PRESS
5 RELEASE ANNOUNCING STERN'S COMING BACK, HAVING THE
6 FRENCH WRITE IT TO SAY INTERIM CEO AS OPPOSED TO CEO.

11:45AM

7 Q WAS THIS YOUR IDEA THAT YOU WERE TRYING TO
8 PERSUADE THEM OF, HOW INVOLVED OR COMMITTED WERE THEY
9 TO THIS IDEA?

10 A IT WAS MARK ATTANASIO'S IDEA. I WASN'T -- I
11 NEVER EVEN THOUGHT OF IT. HE THOUGHT IT UP AND HE GAVE
12 ME A LONG TALK ABOUT WHY IT WAS IMPORTANT TO NOT LET IT
13 GET CEMENTED IN.

11:45AM

14 AND HE CONVINCED ME.

15 Q AND DID THEY ASK YOU TO DO ANYTHING WITH
16 RESPECT TO WHETHER THE PRESS RELEASE SHOULD SAY INTERIM
17 CEO?

11:45AM

18 A YES. THEY WANTED ME TO USE MY POWER AS CHIEF
19 INVESTMENT OFFICER TO INSIST THAT I WOULDN'T PUT MY
20 NAME ON THE PRESS RELEASE UNLESS THE PRESS RELEASE SAID
21 INTERIM CEO INSISTS.

11:46AM

22 Q DID YOU MAKE ANY INQUIRY ABOUT THE
23 APPROPRIATENESS OF WEIGHING IN, IN THAT WAY BEFORE YOU
24 DECIDED WHAT TO DO IN RESPONSE TO THIS REQUEST?

25 A YES.

11:46AM

26 Q WHAT DID YOU DO?

27 A I CALLED MY PERSONAL LAWYER.

28 Q WHAT'S HIS NAME?

1 A IRA GROSS.

2 Q WHEN YOU HAD A CALL WITH MR. GROSS, YOUR
3 LAWYER, WAS IT SIMPLY YOU AND HIM ON THE LINE OR WERE
4 MR. ATTANASIO AND MR. CHAPUS ABLE TO PARTICIPATE IN
5 THAT CALL?

11:46AM

6 A IT WAS, THEY WERE LISTENING IN, IT WAS A
7 SPEAKER PHONE ON THE CONFERENCE ROOM TABLE.

8 Q THIS WAS NOT A CONFIDENTIAL COMMUNICATION
9 BETWEEN YOU AND YOUR LAWYER?

10 A NO.

11:46AM

11 Q ALL RIGHT.

12 YOU CALLED MR. GROSS, WHAT DID YOU ASK
13 HIM ON THAT -- WITH THEM ON THE SPEAKER PHONE?

14 A I WANTED TO KNOW WHAT MY, MY RESPONSIBILITIES
15 WERE AND -- MARK ATTANASIO WANTED TO KNOW AS WELL AS
16 MEMBERS OF THE BOARD OF DIRECTORS -- TOWARDS WANTING TO
17 EFFECT THIS LANGUAGE.

11:46AM

18 Q AND WHAT DID HE SAY?

19 A HE SAID, YOU'RE HELPING THE COMPANY, YOU'RE
20 SERVING YOUR DUTY COMPLETELY, YOU'RE NOT IN THE SAME
21 GALAXY AS BREACHING YOUR DUTY.

11:47AM

22 Q AND SO AFTER THAT CALL WITH MR. GROSS, DID YOU
23 MAKE A CALL TO ANYONE REGARDING THE PRESS RELEASE?

24 A YES.

25 Q WHAT CALL WAS THAT?

11:47AM

26 A I CALLED JEAN PIERRE MUSTIER IN PARIS, THE MAN
27 AT THAT TIME IN CHARGE OF OVERSEEING TCW FOR SG.

28 Q AND DID YOU DO IT FROM THE WATER GARDEN?

1 A YES.

2 Q AND ON THAT ONE WHERE -- WERE CHAPUS AND
3 ATTANASIO ON THE SPEAKER? HOW IF AT ALL DID THEY
4 PARTICIPATE IN THAT CALL?

5 A I DID THE CALL ON A HAND SET. THEY WERE
6 STANDING NEAR ME LISTENING. BUT ONLY COULD HEAR MY
7 SIDE OF THE CONVERSATION.

11:47AM

8 Q SO WHAT DID YOU ASK MR. MUSTIER IF ANYTHING?

9 A I SAID I WANTED THE PRESS RELEASE TO SAY
10 INTERIM CEO, AND IF HE DID THAT THEN HE COULD PUT MY
11 NAME IN AS SUPPORTING IT.

11:48AM

12 Q WHAT DID HE SAY?

13 A HE SAID HE WOULD DO IT.

14 Q AFTER THE MEETING AT THE WATER GARDEN WITH YOU
15 AND MR. CHAPUS AND MR. ATTANASIO, DID MR. ATTANASIO
16 INITIATE ANY OTHER ACTIONS WITH RESPECT TO MR. STERN'S
17 RETURN AS CEO?

11:48AM

18 A YES.

19 Q WHAT DID HE DO?

20 A HE PUT A LETTER TOGETHER THAT HE WROTE AND
21 WANTED ALL OF THE FIVE MEMBERS OF BOB BEYER'S -- BEYER
22 WAS NOT THERE ANYMORE, BUT WHAT USED TO BE BOB BEYER'S
23 SORT OF MANAGEMENT MEETING GROUP.

11:48AM

24 HE WANTED THEM TO SIGN IT SAYING THEY
25 DIDN'T WANT STERN TO COME BACK.

11:48AM

26 Q WHO WERE THE MEMBERS OF THE MANAGEMENT FIRM
27 YOU REFER TO?

28 A ATTANASIO, BLAIR THOMAS, MYSELF, DIANE JAFFEE,

1 AND AT TIMES JEAN-MARC CHAPUS.

2 Q LET ME ASK YOU TO LOOK AT EXHIBIT 5146. WILL
3 YOU SHOW THAT TO THE WITNESS AND TO THE COURT.

4 WHAT IS THIS, MR. GUNDLACH?

5 A IT'S AN E-MAIL FROM MARK ATTANASIO TO JEAN
6 PIERRE MUSTIER.

11:49AM

7 Q WHAT'S THE DATE?

8 A MAY 31ST, 2009.

9 MR. HELM: I MOVE ADMISSION OF 5146.

10 MR. QUINN: NO OBJECTION.

11:49AM

11 THE COURT: IT WILL BE ADMITTED.

12

13 (EXHIBIT 5146 ADMITTED.)+

14

15 MR. HELM: SHOW IT TO THE JURY.

11:49AM

16 Q ALL RIGHT.

17 SO THE FIRST PAGE OF THIS DOCUMENT IS

18 A -- AN E-MAIL TO MUSTIER FROM ATTANASIO COPIES TO

19 CHAPUS, GUNDLACH, JAFFEE, THOMAS AND TO MARC STERN,

20 CORRECT?

11:50AM

21 A YES.

22 Q THIS IS ON MAY THE 31ST?

23 A YES.

24 Q THAT'S A SUNDAY NOW WE'RE TALKING ABOUT?

25 A YES.

11:50AM

26 Q LETTER TO MUSTIER. WHO DRAFTED THE LETTER?

27 A I THINK MARK ATTANASIO.

28 Q DID YOU DRAFT THE LETTER?

1 A NO.

2 Q IT SAYS:

3 ATTACHED TO THIS COVER NOTE IS A
4 LETTER FROM KEY TCW PORTFOLIO
5 MANAGERS WHICH OUTLINES OUR VIEW
6 REGARDING PM PARTICIPATION.

11:50AM

7 WHAT DOES PM REFER TO?

8 A PORTFOLIO MANAGER.

9 Q

10 REGARDING PORTFOLIO MANAGER
11 PARTICIPATION IN A MANAGEMENT
12 COMMITTEE WHICH WOULD GOVERN THE
13 FIRM WHILE WE UNDERSTAND WE ARE
14 GOING FORWARD NAMING MARC AS THE
15 INTERIM CEO WE FEEL THE BASIC
16 TENANTS PRESSED EXPRESSED IN THE
17 LETTER SHOULD BE ADHERED TO.
18 MARC STERN IS COPIED ON THIS
19 DISTRIBUTION PER YOUR REQUEST.

11:50AM

11:51AM

20 IS THAT WHAT ATTANASIO WROTE AT THAT TIME?

11:51AM

21 A YES.

22 Q AND LET'S GO TO THE NEXT PAGE, IS THAT THE
23 ATTACHED LETTER?

24 A YES.

25 Q WHY DON'T WE -- LET'S GO TO THE BOTTOM TWO
26 PARAGRAPHS, DENNIS. YES FROM THERE DOWN. THANK YOU.

11:51AM

27 IT SAYS:

28 WE ARE WRITING THIS LETTER

1 TOGETHER, SO THERE CAN BE NO
2 CONFUSION ABOUT WHERE WE STAND AS A
3 MANAGEMENT TEAM, WE RESPECTFULLY
4 REQUEST THAT YOU DO NOT ISSUE THE
5 PRESS RELEASE ON MONDAY NAMING
6 MARC STERN AS CHIEF EXECUTIVE
7 OFFICER.

11:51AM

8 AS WE SEE IT, THE MOST IMPORTANT
9 OBJECTIVE OUR FIRM FACES, IS TO
10 SHOW STABILITY, UNITY, STRENGTH AND
11 CONTINUITY TO EVERYONE OF OUR
12 CLIENTS AND COLLEAGUES.

11:51AM

13 IS THAT A VIEW YOU SHARED AT THAT TIME?

14 A YES.

15 Q IT SAYS:

11:52AM

16 IN OCTOBER 2005, AN ACTIVE WELL
17 CONSIDERED DECISION, TO MAKE A
18 GENERATIONAL MANAGEMENT CHANGE WAS
19 REACHED AND ANNOUNCED WITH FANFARE
20 IN JULY 2009. WE CONSIDER IT A
21 MAJOR STEP BACKWARD TO BRING AN
22 EXECUTIVE OUT OF RETIREMENT TO
23 "LEAD" THOSE OF US WHO HAVE LABORED
24 TO BUILD THE BUSINESS THROUGH THESE
25 YEARS NO MATTER HOW MUCH WE RESPECT
26 MARC'S ABILITIES, WE REQUEST A
27 MANAGEMENT COMMITTEE BE CREATED
28 WITH RESPONSIBILITY FOR THE

11:52AM

11:52AM

1 OVERSIGHT OF THE FIRM. WE OR YOU
2 CAN SELECT A CHAIR PERSON FOR THAT
3 COMMITTEE.

4 THIS COMMITTEE WOULD REPORT
5 DIRECTLY TO YOU. WE WOULD FIND
6 MARC'S INVOLVEMENT MORE PRODUCTIVE
7 IF HE WERE DESIGNATED A MEMBER OF
8 THIS COMMITTEE INCLUDING AS ITS
9 CHAIR RATHER THAN AS CEO.

11:52AM

10 IS THAT THE PROPOSAL THAT WAS BEING MADE?

11:53AM

11 A YES.

12 Q

13 WE BELIEVE THIS IS AN OPPORTUNITY
14 TO ELIMINATE THE LAYER OF
15 MANAGEMENT THAT EXISTS BETWEEN THE
16 REVENUE PRODUCERS WHO TOUCH OUR
17 CLIENTS EVERY DAY AND OUR CONTROL
18 STAKE HOLDER. WE DO NOT BELIEVE,
19 QUOTE, GOING BACK TO THE FUTURE,
20 CLOSED QUOTE, IS THE CORRECT
21 ANSWER. MOREOVER, COMING OUT OF
22 RETIREMENT MARC WILL BE SEEN AS
23 JUST A TEMPORARY APPOINTEE
24 REGARDLESS OF WHAT TITLE HE IS
25 GIVEN.

11:53AM

11:53AM

11:53AM

26 WAS THAT ALL CONTAINED IN THE LETTER THAT WAS
27 SENT TO MR. MUSTIER?

28 A YES.

1 Q LET'S LOOK AT THE BOTTOM THEN, DENNIS, OF THE
2 THIRD PAGE. THE SIGNATURE LINE IT SAYS, SINCERELY.

3 WHO WERE THE ELECTRONIC SIGNATORS TO
4 THIS LETTER?

5 A MARK ATTANASIO. JEAN-MARC CHAPUS.
6 JEFFREY GUNDLACH. DIANE JAFFEE. BLAIR THOMAS.

11:53AM

7 Q WERE YOU THE INSTIGATOR OF THIS LETTER,
8 MR. GUNDLACH?

9 A NO.

10 Q DID THIS ACCURATELY REFLECT THE VIEWS THAT YOU
11 HAD HEARD THESE PEOPLE EXPRESS BEFORE THIS LETTER WAS
12 SENT?

11:54AM

13 A YES.

14 Q DID SG ULTIMATELY ADOPT A MANAGEMENT COMMITTEE
15 INSTEAD OF A CEO AS THE PORTFOLIO MANAGERS HAD
16 SUGGESTED?

11:54AM

17 A NOT REALLY.

18 Q ALL RIGHT. A PRESS RELEASE WAS ULTIMATELY
19 ISSUED? DO YOU RECALL THAT?

20 A YES.

11:54AM

21 Q WHEN WAS IT ISSUED?

22 A I DON'T KNOW.

23 Q WOULD YOU LOOK AT 5148, PLEASE. DOES THAT
24 REFRESH YOUR RECOLLECTION OF WHEN A PRESS RELEASE WAS
25 ISSUED?

11:54AM

26 A JUNE 1ST, 2009.

27 Q IS THIS THE PRESS RELEASE THAT WAS ISSUED
28 ANNOUNCING MARC STERN'S RETURN?

1 A YES.

2 MR. HELM: I MOVE ADMISSION OF THE DOCUMENT,
3 YOUR HONOR.

4 MR. QUINN: NO OBJECTION.

5 THE COURT: IT WILL BE ADMITTED.

11:55AM

6

7 (EXHIBIT 5148 ADMITTED.) +

8

9 BY MR. HELM:

10 Q AND IT SAYS IN THE FIRST LINE, IT SAID:

11:55AM

11 IT WAS ANNOUNCED THAT MARC STERN

12 HAS BEEN APPOINTED INTERIM CHIEF

13 EXECUTIVE OFFICER.

14 SO AT LEAST THE REQUEST FOR AN INTERIM
15 DESIGNATION, WAS THAT HONORED IN THE PRESS RELEASE?

11:55AM

16 A YES.

17 Q WHAT HAPPENED TO THE REQUEST FOR A MANAGEMENT
18 COMMITTEE THAT, DID THAT FALL BY THE WAYSIDE?

19 A YES.

20 Q NOW, I'D LIKE YOU TO -- WHAT'S OUR NEXT
21 EXHIBIT NUMBER?

11:55AM

22 6132.

23 THANK YOU, JONETTE.

24 MAY WE MARK IT FOR IDENTIFICATION, YOUR
25 HONOR?

11:56AM

26 THE COURT: YES.

27

28 (EXHIBIT 6132 MARKED FOR I.D.) +

1 BY MR. HELM:

2 Q LET ME ASK YOU TO LOOK AT EXHIBIT 6120 IS THIS
3 AN E-MAIL FROM JUDY HERSCH TO YOU, MR. STERN AND OTHERS
4 DATED JUNE THE 3RD?

5 A YES.

11:56AM

6 Q MOVE ADMISSION OF 6120?

7 THE COURT: ANY OBJECTION?

8 MR. QUINN: NO OBJECTION.

9 THE COURT: IT WILL BE ADMITTED.

10

11:57AM

11 (EXHIBIT 6120 ADMITTED.) +

12

13 BY MR. HELM:

14 Q THIS SAYS, THIS TALKS ABOUT A CONVERSATION
15 WITH KANSAS PUBLIC EMPLOYEES RETIREMENT SYSTEM, WHAT'S
16 THAT?

11:57AM

17 A IT'S A LARGE PENSION PLAN THAT SEES OVER THE
18 RETIREMENT MONEYS FOR THE KANSAS PUBLIC EMPLOYEES.

19 Q IT SAYS VINCE WAS INTERESTED... GET DOWN TO
20 THAT REDACTION. IF WE CAN BLOW THAT ALL UP.

11:57AM

21 IT'S REFERRING TO VINCE SMITH THE CHIEF
22 INVESTMENT OFFICER THERE; IS THAT CORRECT?

23 A I DON'T KNOW.

24 Q IT SAYS:

25 VINCE WAS INTERESTED IN TWO POINTS,

11:57AM

26 HOW DOES THE MANAGEMENT CHANGE

27 IMPACT JEFFREY GUNDLACH'S

28 MANAGEMENT OF THIS -- HIS

1 PORTFOLIOS? AND WHAT IS MARC'S
2 PLAN FOR TCW'S STRATEGIC DIRECTION
3 WITH PLANS FOR ULTIMATE OWNERSHIP
4 CHANGE, WHICH SG HAS ALREADY MADE
5 PUBLIC?

11:58AM

6 IT SAYS: MARC TO JEFFREY GUNDLACH,
7 INTELLIGENCE FOR MANAGING HIS
8 PORTFOLIO.

9 HE SAID HE HAS KNOWN JEFFREY FOR MANY YEARS
10 AND ALWAYS ADMIRED AND RESPECTED HIS ABILITIES. AND
11 MARC MENTIONED HE HAS A SIGNIFICANT PERCENTAGE OF HIS
12 PERSONAL LIQUID ASSETS INVESTED WITH JEFFREY.

11:58AM

13 MARC WENT ON TO SAY HIS FIRST AND MOST
14 IMPORTANT JOB AT CEO IS TO MAKE THE TRAINS RUN ON TIME;
15 HE SEES IT HAS HIS RESPONSIBILITY TO SEE ALL TOOLS AND
16 PROCESSES THE PORTFOLIO MANAGERS NEED TO DO THEIR JOBS;
17 WILL CONTINUE TO BE THERE AS THEY NEED THEM IF HE CAN
18 PROVIDE WAYS OF ENHANCING THOSE RESOURCES SO MUCH THE
19 BETTER.

11:58AM

20 WAS THAT PART OF THE E-MAIL SENT TO YOU
21 AT THAT TIME?

11:58AM

22 A YES. APPARENTLY THAT'S TO ANSWER QUESTION
23 ONE, BUT IT DOESN'T DO IT.

24 Q THEN QUESTION TWO. AS TO STRATEGIC DIRECTION
25 MARC STATED, HE DOES NOT HAVE A DIFFERENT STRATEGIC
26 PLAN FOR TCW HOWEVER IN REGARD TO OWNERSHIP CHANGE HE
27 AGREED THAT, YES, SG HAS ALREADY ANNOUNCED THAT THEIR
28 PLANS FOR TCW REVOLVE AROUND AN ULTIMATE I.P.O OR SALE.

11:59AM

1 MARC POINTED OUT THAT HE IS THE ONLY
2 NON-BRANCH MEMBER OF THE SOCIÉTÉ GÉNÉRALE BOARD.
3 THEREFORE, HE BELIEVES HE IS UNIQUELY POSITIONED TO
4 HELP FACILITATE AN OWNERSHIP CHANGE THUS MARC
5 CHARACTERIZED HIS CURRENT ROLE AT TCW MORE AS
6 TRANSITIONAL CEO?

11:59AM

7 IS THAT WHAT WAS WRITTEN AT THAT TIME?

8 A YES.

9 Q AFTER MR. STERN RETURNED, DID A MANAGEMENT
10 COMMITTEE OF SOME KIND CONTINUE TO OPERATE?

11:59AM

11 A WELL, THERE REALLY WASN'T ONE BEFORE HE CAME.

12 Q WELL, YOU REFERRED TO SOME KIND OF A
13 COMMITTEE, WHAT WAS THAT BEFORE?

14 A THERE WAS A BY-WEEKLY COMMITTEE MEETING THAT
15 BOB BEYER STARTED. IT WOULD MEET MONDAY MORNING EVERY
16 OTHER WEEK WITH A BUNCH OF PEOPLE IN IT. IT WAS SORT
17 OF INFORMATION SHARING, MEETING, IT WAS A FIXED
18 INCOME -- A MANAGEMENT MEETING REALLY.

12:00PM

19 Q DID SOME KIND OF A MEETING THEN CONTINUE AFTER
20 MR. STERN RETURNED?

12:00PM

21 A YES.

22 Q AND WHAT WAS -- WHO WERE THE MEMBERS OF THAT
23 MEETING?

24 A IT WAS A SMALLER GROUP. BLAIR THOMAS OPTED
25 OUT. HE HAD BEEN IN THE BEYER GROUP HE DIDN'T WANT
26 ANYTHING ELSE TO DO WITH IT. IT WAS STERN, AND
27 ATTANASIO AND ME AND DIANE JAFFEE.

12:00PM

28 AND THEN FOR THE FIRST TIME, JEAN-MARC

1 CHAPUS WAS PUT ON THE COMMITTEE. HE HAD BEEN ON IT
2 BEFORE.

3 Q DO YOU KNOW A COMPANY CALLED BUCHANAN STREET
4 PARTNERS?

5 A YES. 12:01PM

6 Q WHAT IS IS IT?

7 A IT'S A SMALL COMMERCIAL REAL ESTATE INVESTMENT
8 FIRM OUT OF NEWPORT BEACH TCW PURCHASED 2007.

9 Q NOW, OCTOBER 2007, YOU WERE THE CHIEF
10 INVESTMENT OFFICER OF THE COMPANY? 12:01PM

11 A YES.

12 Q DID YOU FAVOR THE ACQUISITION OF BUCHANAN
13 STREET PARTNERS 2007?

14 A I DID NOT. BUT I WASN'T TOLD ABOUT IT UNTIL
15 AFTER IT HAPPENED. 12:01PM

16 Q SO, WHY DID YOU OPPOSE THE -- SO YOU LEARNED
17 ABOUT IT AFTER THE FACT?

18 A YES.

19 Q YOU WERE NOT CONSULTED AS CHIEF INVESTMENT
20 OFFICER BEFORE THE ACQUISITION? 12:01PM

21 A NO, I WAS NOT CONSULTED.

22 Q ONCE YOU LEARNED OF IT WHAT WAS YOUR VIEW
23 ABOUT THE WISDOM OF THAT ACQUISITION?

24 A I THOUGHT IT WAS REALLY STUPID.

25 Q WHY IS THAT? 12:01PM

26 A BECAUSE IN OCTOBER OF 2007, I THOUGHT THAT THE
27 REAL ESTATE MARKET WAS IN THE PROCESS OF CRASHING. AND
28 THE LAST THING IN THE WORLD THAT ONE WOULD WANT TO DO

1 WOULD BE TO EXPAND THE BUSINESS OPERATION IN THE
2 COMMERCIAL REAL ESTATE OR OTHER REAL ESTATE.

3 Q DID THE TOPIC OF BUCHANAN STREET PARTNERS,
4 WHAT YOU CALL -- IS IT A MANAGEMENT COMMITTEE COME
5 AFTER --

12:02PM

6 A BY-WEEKLY MEETING.

7 Q DID THE TOPIC OF BUCHANAN STREET PARTNERS COME
8 UP AT A BY-WEEKLY MEETING THAT WAS HELD AFTER MR. STERN
9 RETURNED, THIS IS NOW IN 2009, FEW YEARS AFTER THE
10 ACQUISITION?

12:02PM

11 A YES.

12 Q WHEN DID THE TOPIC COME UP AT THE BY-WEEKLY
13 MEETING?

14 A LATE JULY 2009.

15 Q AND HOW DID IT ARISE?

12:02PM

16 A AT THE BY-WEEKLY MEETING, WHICH AGAIN WAS
17 SUPPOSED TO BE SOME SORT OF A MANAGEMENT MEETING, I WAS
18 INFORMED THAT THE DECISION HAD BEEN MADE TO HAVE
19 BUCHANAN STREET PARTNERS REPORT IN TO ATTANASIO AND
20 CHAPUS.

12:02PM

21 Q DID YOU HAVE ANY REACTION TO THAT, FIRST OF
22 ALL, WERE YOU CONSULTED IN ADVANCE ABOUT THAT DECISION?

23 A NO.

24 Q WHAT WAS YOUR REACTION WHEN YOU LEARNED THE
25 ANNOUNCEMENT OF THAT DECISION?

12:03PM

26 A I SERIOUSLY QUESTIONED THE MOTIVES UNDERNEATH
27 THAT MOVE. AND I POINTED THAT OUT AT THE MEETING. I
28 SAID THAT MY TEAM HAD TOLD ME, THAT THIS COMMITTEE,

1 THIS BY-WEEKLY COMMITTEE, BEING SET UP WITH THE
2 STAFFING OF THE MEETING LOADED TO ATTANASIO AND CHAPUS,
3 LOOKED FISHY.

4 DIDN'T LOOK GOOD. WE WERE MANAGING 70
5 PERCENT OF THE FIRM'S ASSETS AND THIS OTHER GROUP, MUCH 12:03PM
6 MUCH SMALLER THAN OURS, WAS OVER REPRESENTED ON THE
7 COMMITTEE. MY PEOPLE SAID THAT DOESN'T LOOK GOOD. SO
8 IN THE MEETING I SAID, YOU KNOW, I'M STARTING TO
9 BELIEVE THERE IS SOMETHING FISHY HERE.

10 AND MAKES NO SENSE FOR THIS REAL ESTATE 12:03PM
11 OPERATION TO BE REPORTING IN TO PEOPLE THAT DO
12 CORPORATION FINANCE. I'M FAIRLY WELL-KNOWN AS AN
13 EXPERT ON REAL ESTATE FINANCE.

14 WHAT IS THIS WITH HAVING THE REAL --
15 THIS COMMERCIAL REAL ESTATE FINANCE GROUP REPORT IN TO 12:04PM
16 A NON-RELATED ENTITY. THEY SHOULD PROBABLY BE
17 REPORTING TO ME.

18 Q IT WAS PART OF YOUR CONCERN -- WAS PART OF
19 YOUR CONCERN THE QUESTION OF WHO THEY WERE REPORTING
20 TO? 12:04PM

21 A YES. IT SEEMED NONSENSICAL.

22 Q AND WAS ANY PART OF YOUR CONCERN THE QUESTION
23 OF WHETHER YOU WERE CONSULTED BEFORE THAT, WHETHER IT
24 WAS DISCUSSED IN THE COMMITTEE OR WHETHER IT WAS
25 ANNOUNCED -- 12:04PM

26 A THAT WAS A BIG PROBLEM, TOO. EVERYTHING ABOUT
27 THAT REVEALED TO ME THAT THIS COMMITTEE WAS A SHAM AND
28 I SAID I THINK MY PEOPLE ARE RIGHT, I'D LIKE TO SEE A

1 COUPLE MORE PEOPLE ON THE COMMITTEE FROM MY GROUP.
2 LIKE PHIL BARACH.

3 Q WERE YOU ANGRY WHEN YOU MADE THESE STATEMENTS?

4 A YES.

5 Q DID YOU RAISE YOUR VOICE?

12:04PM

6 A ABOUT LIKE I'M DOING NOW.

7 Q DID YOU GET IN ANYONE'S FACE, WOULD YOU SAY?

8 A NO. NOR DID I GET OUT OF MY CHAIR.

9 Q SO WHERE WERE THINGS LEFT AT THE END OF THAT
10 MEETING?

12:05PM

11 A LIKE THEY ALWAYS WERE WHEN I'D RAISE A
12 CONCERN, JUST RADIO SILENCE.

13 Q ALL RIGHT.

14 NOW, DURING THE SUMMER OF 2009, AFTER
15 MR. STERN RETURNED, WHAT WAS THE MAIN FUNCTION OF YOUR
16 INTENTION AT TCW?

12:05PM

17 A MAKING MONEY FOR MY CLIENTS.

18 Q AND WHAT WAS HAPPENING TO THE TOTAL RETURN
19 BOND FUND DURING THE SUMMER OF 2009?

20 A IT WAS GROWING VERY RAPIDLY.

12:05PM

21 Q AND DID THAT CREATE ANY WORK FOR YOU, THE FACT
22 THAT FUNDS WERE COMING IN TO THE TOTAL RETURN BOND
23 FUND?

24 A VERY MUCH SO.

25 Q WHY IS THAT? WHAT DO YOU HAVE TO DO WITH THE
26 MONEY ONCE IT COMES IN?

12:05PM

27 A YOU GOT TO INVEST IT AND TALK TO THE CLIENTS,
28 THAT ARE PUTTING THE MONEY IN. I WAS WORKING LIKE A

1 DOG.

2 Q DID ANY OF THE SPECIAL MORTGAGE CREDIT FUNDS
3 OCCUPY ANY OF YOUR INTENTION DURING THE SUMMER OF 2009?

4 A VERY SUBSTANTIALLY.

5 Q AND WHAT WERE YOU DOING ON THOSE SPECIAL
6 MORTGAGE CREDIT FUNDS AT THAT TIME?

12:06PM

7 A WORKING VERY HARD TO MAKE THE INVESTOR'S
8 MONEY.

9 Q DID YOUR WORK EFFORT DECLINE IN ANY WAY AFTER
10 YOU HEARD THAT MARC STERN WAS COMING BACK?

12:06PM

11 A NOT AT ALL.

12 Q DID YOU CONTINUE TO WORK DILIGENTLY IN YOUR
13 JOB DURING THE SUMMER OF 2009?

14 A I NEVER WORKED ANY HARDER.

15 Q DO YOU RECALL THAT A MEETING WAS HELD WITH
16 MR. STERN AND SOME OTHER MEMBERS OF YOUR TEAM ON
17 SEPTEMBER THE 3RD, 2009?

12:06PM

18 A YES.

19 Q WHAT PROMPTED THAT MEETING?

20 A I HEARD THE DAY BEFORE A RUMOR THAT THERE WAS
21 A FLOOR FULL OF LAWYERS THAT WERE AT TCW WORKING ON
22 FIRING ME.

12:06PM

23 Q AND HOW LONG BEFORE THE SEPTEMBER 3RD MEETING
24 WITH MR. STERN DID YOU HEAR THOSE RUMORS?

25 A I THINK THE DAY BEFORE.

12:06PM

26 Q AND HOW DID THE MEETING WITH MR. STERN GET SET
27 UP?

28 A I BELIEVE I ASKED FOR THE MEETING.

1 Q AND DID THE RUMORS YOU HEARD HAVE ANYTHING TO
2 DO WITH YOUR REQUESTING THE MEETING?

3 A EVERYTHING.

4 Q AND SO WHO ATTENDED THAT MEETING?

5 A MYSELF, PHIL BARACH, LOU LUCIDO AND A FEW OF
6 MY OTHER SENIOR PEOPLE IN MY FIXED INCOME GROUP AND
7 MARC STERN.

12:07PM

8 Q DID YOU TELL MR. STERN ANYTHING AT THAT
9 MEETING ABOUT THE RUMORS THAT YOU HAD HEARD?

10 A YES.

12:07PM

11 Q DID YOU ASK HIM ANYTHING ABOUT THOSE RUMORS?

12 A I SAID ARE THEY TRUE?

13 Q WHAT DID HE SAY?

14 A HE SAID THEY'RE NOT TRUE.

15 Q DID YOU SAY ANYTHING ELSE ON THE SUBJECT OF
16 THE POSSIBILITY THAT YOU MIGHT BE BEING FIRED?

12:07PM

17 A I SAID, WE'VE BEEN WORKING VERY HARD AND
18 BRINGING IN A LOT OF CLIENT MONEY. VERY RECENTLY AND
19 IN THE NEAR FUTURE MORE IS LIKELY TO HAPPEN.

20 IF YOU'RE FIRING ME, YOU'RE TELLING ONE
21 HUGE LIE TO THESE PROSPECTIVE INVESTORS. THEY'RE
22 SIGNING UP TO GET A DELIVERABLE THAT YOU, IF YOU'RE
23 FIRING ME, KNOW ISN'T GOING TO BE THERE.

12:07PM

24 THAT'S A FRAUD. I TOLD THEM. AND I'M
25 VERY UNCOMFORTABLE WITH THAT. AND I WANT THIS PLACE TO
26 BE MADE SAFE FOR MY CLIENTS. AND FOR MY TEAM.

12:08PM

27 Q DID YOU THREATEN TO LEAVE AT THAT MEETING?

28 A NO.

1 Q DID YOU ASK FOR SOME KIND OF A SHOW OF HANDS
2 AT THE MEETING?

3 A YES.

4 Q WHAT WAS THAT ALL ABOUT?

5 A I SAID IF -- IF YOUR PLAN IS TO FIRE ME AND
6 KEEP THE TEAM IT'S NOT GOING TO WORK.

12:08PM

7 BECAUSE IF THEY FIRE ME, WHO HERE IN
8 THIS ROOM WOULD RESIGN? AND EVERYBODY RAISED THEIR
9 HAND.

10 Q SO WAS YOUR PURPOSE IN DOING THAT TO THREATEN
11 HIM WITH LEAVING?

12:08PM

12 A NO, THE OPPOSITE.

13 I WAS TRYING TO GET HIM TO UNDERSTAND
14 THAT I WANTED TO STAY. AND IF HE GOT RID OF ME, HE'D
15 BLOWUP THE BUSINESS.

12:08PM

16 Q DID THE SUBJECT OF SOCIÉTÉ GÉNÉRALE'S
17 INTENTIONS OF SELLING THE BUSINESS COME UP AT THIS
18 MEETING?

19 A YES.

20 Q WHAT DID YOU DISCUSS IN THAT REGARD?

12:08PM

21 A I SAID WE'RE HAVING A LOT OF TROUBLE WITH
22 CLIENTS AND PROSPECTS BECAUSE OF ALL THIS NOISE ABOUT
23 TURMOIL AT THE FIRM AND THE SELLING OF THE FIRM BY THE
24 FRENCH.

25 I'D LIKE YOU TO PUT OUT A PRESS RELEASE,
26 HAVE THE FRENCH PUT OUT A PRESS RELEASE THAT SAYS THE
27 FIRM IS NOT FOR SALE. WE WILL NOT EVEN ENTERTAIN A BID
28 FOR THE FIRM UNTIL AT LEAST THE END OF 2010.

12:09PM

1 Q WHY IS IT THAT YOU WANTED THIS STATEMENT TO
2 ISSUE?

3 A BECAUSE THE TURMOIL OVERHANG, THE FIRM ABOUT
4 SALE, WE SAW JUST IN THIS LAST E-MAIL, WAS OF CONCERN
5 TO THE CLIENTS AND THE PROSPECTS AND THE EMPLOYEES OF
6 TCW.

12:09PM

7 AND I WANTED THAT TURMOIL PUT TO REST
8 FOR A WHILE.

9 Q AND WHAT, IF ANYTHING, DID MR. STERN SAY IN
10 RESPONSE TO YOUR REQUEST TO ISSUE A STATEMENT ABOUT THE
11 SALE OF TCW?

12:09PM

12 A HE SAID THEY WOULD DO IT, THAT WAS EASY TO DO.

13 Q AFTER THE MEETING DID TCW OR SOC-GEN EVER
14 ISSUE ANY SUCH STATEMENT?

15 A NO.

12:09PM

16 Q ALL RIGHT.

17 YOU TALKED WITH MR. QUINN A LITTLE BIT
18 ABOUT AN OFFER THAT YOU MADE TO BUY TCW?

19 A YES.

20 Q WHY DID YOU MAKE AN OFFER TO BUY TCW AT THIS
21 TIME?

12:10PM

22 A MARC STERN SAID TO ME, HOW CAN WE MAKE THE
23 PLACE SAFE?

24 AND I SAID, I'LL BUY THE FIRM.

25 Q AND YOU MADE PRIOR EFFORTS TO BUY THE FIRM?

12:10PM

26 A YES.

27 Q WERE PRIOR EFFORTS JUST BY YOURSELF OR IN
28 CONJUNCTION WITH OTHER PEOPLE?

1 A IN CONJUNCTION WITH OTHER PEOPLE.

2 Q NOW, YOU WENT THROUGH THE TERMS OF THE
3 PROPOSAL THAT YOU MADE AND I WON'T GO OVER ALL OF THAT.

4 BUT YOU MENTIONED THAT YOU'D VALUE THE
5 FIRM AT APPROXIMATELY \$700 MILLION. DID I GET THAT
6 RIGHT? 12:10PM

7 A THAT WAS MY OPENING BID.

8 Q AND DID YOU THINK THAT THAT WAS A FAIR
9 VALUATION?

10 A YES. IT MAY HAVE BEEN A LITTLE ON THE LOW
11 END, BUT IT WAS IN THE RANGE AND I WAS WILLING TO PAY
12 MORE. 12:10PM

13 Q DID YOU THINK IT WAS ALSO MENTIONED THAT YOU
14 SUGGESTED THAT SOC-GEN MIGHT FINANCE PART OF THE
15 PURCHASE PRICE. DID YOU BELIEVE THEY MIGHT BE
16 INTERESTED IN DOING SOMETHING LIKE THAT? 12:11PM

17 A CAN'T HURT TO ASK.

18 Q NOW, WAS THE ONLY IDEA YOU WERE WILLING TO
19 CONSIDER BUYING THE WHOLE FIRM AT THAT TIME?

20 A NO. 12:11PM

21 Q WHAT OTHER POSSIBILITIES WERE IN YOUR MIND?

22 A I WAS OPEN-MINDED TO JUST BUYING OUT MY PART
23 OF THE BUSINESS.

24 Q DID YOU PROPOSE THAT AT THAT TIME?

25 A I DON'T THINK SO. 12:11PM

26 Q WELL, WERE YOU SERIOUS ABOUT THIS OFFER ON
27 SEPTEMBER 3RD TO BUY TCW FROM SOC-GEN SERIOUS?

28 A YES.

1 Q WHAT WAS MR. STERN'S REACTION TO YOUR
2 PROPOSAL?

3 A HE TOOK A LITTLE PIECE OF PAPER OUT OF HIS
4 POCKET AND WITH A SMIRK ON HIS FACE LIKE HE WASN'T
5 REALLY GOING TO LISTEN TO ME, WROTE IT DOWN.

12:11PM

6 Q DID HE SAY WHETHER HE WOULD GET BACK TO YOU?

7 A HE SAID HE WOULD GET BACK TO ME.

8 Q DID HE EVER DO SO?

9 A NO.

10 Q I'LL SHOW YOU A DOCUMENT THAT MR. QUINN SHOWED
11 YOU, EXHIBIT 263. WE CAN SHOW THE TOP PART OF THAT,
12 YEAH. FROM THERE DOWN TO HALFWAY DOWN. YES, THAT'S
13 FINE.

12:12PM

14 ALL RIGHT IN THE MIDDLE IT SAYS:

15 LOU LUCIDO TO YOU, SEPTEMBER 3RD
16 5:00 P.M. ... JUST WANT TO BE SURE
17 THAT VINCE IS INCLUDED IN YOUR
18 THINKING OF CRITICAL STAFF.

12:12PM

19 DID MR. LUCIDO WRITE THAT TO YOU?

20 A YES.

12:12PM

21 Q THEN YOUR RESPONSE WAS WHAT?

22 A "IS."

23 Q MEANING?

24 A MEANING, YES, KIND OF, DON'T BOTHER ME. I GOT
25 THINGS TO DO. ONE WORD ANSWER.

12:13PM

26 Q WAS VINCE FIORILLO PRESENT AT THE MEETING ON
27 SEPTEMBER 3RD WITH MR. STERN?

28 A NO.

1 Q DID YOU EVER ENCOUNTER A SITUATION IN YOUR
2 MANAGEMENT OF YOUR OFFICE THAT SOMEONE GOT HIS FEELINGS
3 HURT BECAUSE HE WAS LEFT OUT OF A MEETING?

4 A YES.

5 Q HOW DID YOU UNDERSTAND YOUR STATEMENT, THE
6 STATEMENT BY MR. LUCIDO, JUST WANT TO BE SURE THAT
7 VINCE IS INCLUDED IN YOUR THINKING OF CRITICAL STAFF?

12:13PM

8 A "TELL VINNIE I LOVE HIM."

9 Q WERE YOU IN THE PROCESS AT THAT POINT OF
10 MAKING LISTS OF WHO WOULD LEAVE IF YOU WERE FIRED?

12:13PM

11 A NO.

12 MR. HELM: YOUR HONOR, I'M MOVING TO ANOTHER
13 TOPIC.

14 THE COURT: ALL RIGHT. WE'LL TAKE OUR NEXT
15 RECESS. 20 MINUTES, LADIES AND GENTLEMEN, WE'LL COME
16 BACK AT 25 TILL.

12:13PM

17
18 (PROCEEDINGS HELD OUTSIDE THE PRESENCE OF THE JURY.) +
19

20 THE COURT: ANY MATTER ANYBODY WANTS TO TAKE
21 UP?

12:14PM

22 MR. QUINN: NO.

23 THE COURT: ALL RIGHT.

24 (RECESS.)

12:14PM

25

26

27

28

1 CASE NUMBER: BC 429385
2 CASE NAME: TCW VS. GUNDLACH
3 LOS ANGELES, CALIFORNIA AUGUST 16, 2011
4 DEPARTMENT 322 HON. CARL J. WEST, JUDGE
5 APPEARANCES: (AS NOTED ON TITLE PAGE.)
6 REPORTER: RAQUEL A. RODRIGUEZ, CSR
7 TIME: B SESSION: 10:35 A.M.

8

9

--0--

10

10:42AM

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

13 MR. HELM, YOU MAY CONTINUE YOUR DIRECT
14 EXAMINATION OF MR. GUNDLACH.

15 MR. HELM: THANK YOU, YOUR HONOR.

10:42AM

16

17 DIRECT EXAMINATION (CNT'D) +

18

19 BY MR. HELM:

20 Q MR. GUNDLACH, WE TALKED ABOUT THE CONTINUED
21 BETWEEN YOU LEARNING THAT SOC-GEN WAS GOING TO BE
22 MAKING THIS ANNOUNCEMENT ABOUT GETTING OUT OF THE ASSET
23 MANAGEMENT BUSINESS AND THE ISSUANCE OF THAT
24 ANNOUNCEMENT DO YOU RECALL THAT?

10:42AM

25 A YES.

10:43AM

26 Q I'D LIKE TO DISPLAY TO YOU AND THE COURT
27 EXHIBIT 124 WHICH IS -- IS THIS AN E-MAIL EXCHANGE
28 BETWEEN YOU AND MR. BEYER ON OR ABOUT JANUARY 20, 2009?

1 A YES.

2 MR. HELM: MOVE ADMISSION OF 124, YOUR HONOR.

3 MR. QUINN: JUST ONE MOMENT, YOUR HONOR.

4 THE COURT: OKAY.

5 (PAUSE) +

10:43AM

6 MR. QUINN: NO OBJECTION.

7 THE COURT: IT WILL BE ADMITTED.

8

9 (EXHIBIT 124 ADMITTED.)+

10

10:43AM

11 MR. HELM: THANK YOU, YOUR HONOR. PLEASE SHOW
12 IT TO THE JURY.

13 Q LET'S START WITH THE SECOND PAGE, THE E-MAIL
14 THERE, DENNIS, IF WE COULD.

15 THE BOTTOM PART HERE. WE HAVE THIS
16 AGAIN, HOW'S THAT? THIS IS FROM YOU TO MR. BEYER
17 JANUARY 20TH, IS THAT TRUE?

10:43AM

18 A YES.

19 Q IT SAYS:

20 IT SEEMS TO ME THAT WE SHOULD NOT
21 ACCEPT THIS MAJOR ORGANIZATIONAL
22 UPHEAVAL PASSIVELY.

10:44AM

23 WHAT ORGANIZATION UPHEAVAL ARE YOU REFERRING
24 TO?

25 A THE -- SG'S GETTING OUT OF THE ASSET
26 MANAGEMENT BUSINESS WITH THIS COMBINED ENTITY THING.

10:44AM

27 Q IT SAYS:

28 SINCE ALL PARTS ARE IN MOTION, WE

1 SHOULD USE THIS OPPORTUNITY TO
2 CREATE A CLEAR FUTURE FOR TCW AND
3 ITS EMPLOYEES AND NEGOTIATE
4 PROACTIVELY. I'M HAPPY TO PERFORM
5 THIS ROLE IF IT IS UNCOMFORTABLE
6 FOR YOU, FOR UNDERSTANDABLE
7 REASONS.

10:44AM

8 WHAT DID YOU MEAN BY CREATE A CLEAR FUTURE FOR
9 TCW AND ITS EMPLOYEES?

10 A I WAS THINKING ABOUT BUYING BACK THE FIRM FROM
11 THE FRENCH.

10:45AM

12 Q AND WHAT WAS IT THAT -- HOW WAS THIS RELATED,
13 IF AT ALL, TO THIS ANNOUNCEMENT THAT SG HAD JUST MADE?

14 A IT WAS TOTALLY RELATED TO IT. THIS IS RIGHT
15 AFTER, BEYER MUST HAVE TOLD ME THAT DAY, SHORTLY THERE
16 BEFORE THAT -- WHAT WAS GOING TO HAPPEN.

10:45AM

17 Q DID YOU HAVE ANY CONCERNS WHEN YOU HEARD ABOUT
18 THIS ANNOUNCEMENT OF SOC-GEN GETTING OUT OF THE ASSET
19 MANAGEMENT BUSINESS, ABOUT HOW THIS MIGHT EFFECT YOUR
20 BUSINESS AND YOUR ABILITY TO PERFORM YOUR JOB?

10:45AM

21 A YES.

22 Q WHAT WERE YOU CONCERNED ABOUT?

23 A ORGANIZATIONAL STABILITY IS VERY IMPORTANT TO
24 INVESTORS. THEY DON'T LIKE TO SEE TURN-OVER AND
25 UNKNOWN FUTURE OF AN ORGANIZATION.

10:45AM

26 AND I WAS WORRIED THAT, THAT WE WERE NOW
27 IN A WORLD OF MAXIMUM ORGANIZATIONAL INSTABILITY.

28 Q AND SO AFTER YOU WROTE THIS E-MAIL, MR. BEYER

1 RESPONDED.

2 LET'S SEE IF WE CAN -- IT'S THE CARRY
3 OVER THING, DENNIS. IT STARTS ON THE LEFT THERE.
4 SAYS, BUYER TO GUNDLACH: NOT UNCOMFORTABLE AT ALL.

5 YOU HAD SAID:

10:46AM

6 I'M HAPPY TO PERFORM THIS ROLE IF
7 IT IS UNCOMFORTABLE FOR YOU FOR
8 UNDERSTANDABLE LEGACY REASONS, DID
9 I READ THAT RIGHT.

10 A YES.

10:46AM

11 Q AND SO THEN HE SAYS:

12 NOT UNCOMFORTABLE AT ALL LET ME
13 KNOW WHAT KIND OF CLARITY YOU MEAN.
14 I THINK THEY ARE GIVING US A PATH
15 TO IPO, WHICH FOR EQUITY HOLDERS
16 MEANS VALUE REALIZATION AND
17 INDEPENDENCE. IF WE CAN STRENGTHEN
18 THAT I'M ALL FOR IT.

10:46AM

19 WHEN IT SAYS PATH TO IPO, WHAT DID THAT MEAN
20 TO YOU?

10:47AM

21 A INITIAL PUBLIC OFFERING.

22 Q IS THAT RE -- DOES THAT RELATE IN ANY WAY TO
23 THE LANGUAGE WE SAW IN THE PRESS RELEASE THAT HADN'T
24 BEEN ISSUED YET, BUT THE STATEMENT ABOUT ISSUING IT
25 ON -- PUTTING TCW ON A STOCK EXCHANGE?

10:47AM

26 A YES.

27 Q SO WHAT IS AN INITIAL PUBLIC OFFERING?

28 A IT'S WHEN A PRIVATE COMPANY SELLS ITSELF TO

1 THE PUBLIC BY ISSUING STOCK. SO INVESTORS THEN BUY THE
2 STOCK IN THE PUBLIC.

3 Q ABOVE THAT, YOU THEN SAY AT THE BOTTOM THERE:
4 I MEAN CONTROL TODAY, VALUE TODAY,
5 OWNERSHIP TODAY, INDEPENDENCE
6 TODAY.

10:47AM

7 WHAT WERE YOU REFERRING TO THERE?

8 A BUYING BACK THE FIRM.

9 Q NOW, WERE YOU TALKING ONLY ABOUT YOUR GROUP
10 BEING INDEPENDENT IN SOME WAY?

10:48AM

11 A NO.

12 Q WHAT INDEPENDENCE WERE YOU TALKING ABOUT?

13 A THE EMPLOYEES AND MANAGERS AT TCW WOULD
14 COLLECTIVELY BUY THE FIRM FROM THE FRENCH.

15 Q LET'S GO TO MR. BUYERS RESPONSE IT SAYS:

10:48AM

16 AS YOU KNOW I HAVE TRIED THAT FOR
17 OVER A YEAR. I HAVE HAD NO LUCK
18 WITH FOUR DIFFERENT LEADERS.

19 WHAT DID YOU UNDERSTAND THAT TO REFER TO?

20 A I THINK THAT HE'S REFERRING TO THAT HE'S BEEN
21 TRYING -- HE HAD BEEN TRYING TO GET THE 30 PERCENT
22 EQUITY PROMISE A REALITY VERY HARD DURING 2008.

10:48AM

23 THAT'S WHAT I THINK HE KIND OF MEANT
24 THERE.

25 Q IT SAYS:

10:48AM

26 I GUESS THEY VIEW THE POSSIBILITY OF A
27 WALK-OUT AS STILL PRESERVING ENOUGH VALUE TO REBUILD
28 AND GET OUT AT A HIGHER VALUATION IN THE FUTURE.

1 WHAT DID YOU UNDERSTAND THAT TO REFER
2 TO?

3 A THAT THEY -- THE FRENCH WERE OF THE OPINION
4 THAT EVEN IF ALL THE EMPLOYEES AT TCW LEFT THAT THEY'D
5 STILL HAVE ENOUGH VALUE TO MOVE FORWARD.

10:49AM

6 Q THEN IT SAYS:

7 AS FOR INDEPENDENCE, IF THEY WERE
8 TO SELL TO US FOR \$1 BILLION, I
9 THINK IT WOULD BE RELATIVELY EASY
10 TO GET THE CAPITAL. I'M IN TOUCH
11 WITH SEVERAL VIABLE SOURCES.
12 BUT THE REALITY IS WE WOULD
13 PROBABLY END UP WITH THE SAME 30
14 PERCENT STAKE AND THE SAME
15 FIVE-YEAR HOLDING PERIOD, BUT WE
16 WOULD NOT HAVE A CRITICAL MASS OF
17 ASSETS, ET CETERA.

10:49AM

10:49AM

18 WHAT DID YOU UNDERSTAND THE SAME 30 PERCENT
19 STAKE TO REFER TO?

20 A HE SEEMED TO BE OF THE OPINION THAT IF HE
21 BOUGHT THE FIRM BACK THE PEOPLE THAT WOULD PROVIDE SOME
22 OF THE CAPITAL TO DO THE BUYING WOULD COMMAND 70
23 PERCENT OF THE OWNERSHIP.

10:49AM

24 AND THAT WOULD LEAVE US WITH THE SAME 30
25 THAT HE WAS STILL WORKING ON, UNBELIEVABLY HE SEEMED TO
26 BELIEVE WAS STILL COMING.

10:50AM

27 Q THE 30 PERCENT STAKE IS STILL REFERRING TO THE
28 PROMISE, 30 PERCENT STAKE OF TCW EMPLOYEE STOCK

1 OWNERSHIP OF TCW?

2 MR. QUINN: LEADING, YOUR HONOR.

3 THE COURT: SUSTAINED.

4 BY MR. HELM:

5 Q TO WHAT EXTENT IF AT ALL DOES THAT 30 PERCENT
6 FIGURE RELATE TO THE 30 PERCENT PROMISE THAT YOU
7 TESTIFIED ABOUT EARLIER?

10:50AM

8 A IT LOOKS LIKE IT'S THE SAME THING.

9 Q THEN IT SAYS AT THE BOTTOM:

10 I DO THINK WITH SOLIDARITY, GOOD
11 PERFORMANCE AND SOME LUCK WE CAN
12 BUILD A RELATIVELY QUICK EXIT WITH
13 A LOT OF FUTURE VALUE THIS WAY,
14 THEY WON'T OUT LAST US AS OWNERS.

10:50AM

15 WHAT DID YOU UNDERSTAND HIM TO MEAN BY THAT?

10:50AM

16 A SORT OF IF WE HANG IN THERE TIME WILL BE ON
17 OUR SIDE.

18 Q DID MR. BEYER AS THE CEO OF THE COMPANY, EVER
19 EXPRESS TO YOU ANY CONCERNS THAT TRYING TO FIND A WAY
20 TO GET INDEPENDENCE FROM THE FRENCH OWNERS, WAS SOMEHOW
21 INAPPROPRIATE?

10:50AM

22 A NO --

23 Q I --

24 A NO.

25 NO, I MEAN WE TALKED ABOUT ATTACHMENT AT
26 THIS WITH LENGTH --

10:51AM

27 MR. QUINN: I THINK THE QUESTION WAS ANSWERED.

28 THE COURT: YOU'VE ANSWERED THE QUESTION.

1 MR. HELM: THANK YOU MR. GUNDLACH.

2 THE WITNESS: OKAY.

3 BY MR. HELM:

4 Q ALL RIGHT. I WANT TO TO GO BACK TO
5 EXHIBIT 132, WHICH WE PREVIOUSLY LOOKED AT, IT WAS OUT
6 OF THE CHRONOLOGICAL SEQUENCE. THAT SECOND PAGE. TOP
7 PART.

10:51AM

8 SO YOU SAID:

9 TO THIS END I AM PLANNING ON
10 SENDING A FORMAL LETTER TO
11 MESSIEUR DAY TO SUGGEST HE CONSIDER
12 WORKING WITH ME DIRECTLY TO REACH
13 AGREEMENT ON THE CURRENT STATUS AND
14 A PLAN FOR THE FUTURE OF TCW.

10:51AM

15 I'M SORRY, DENNIS, COULD WE GO BACK TO THE
16 FIRST PAGE SO WE CAN ORIENT WHAT THE DATE IS OF THAT.
17 MOVE THAT UP, AT THE BOTTOM. ALL RIGHT.

10:51AM

18 THIS IS FEBRUARY 1. YOU WERE NOW
19 TALKING TO MR. BEYER ABOUT YOUR PLAN TO TALK TO
20 MR. OUDEA ABOUT A WAY TO TRY TO REACH AGREEMENT FOR A
21 PLAN FOR THE FUTURE OF TCW?

10:52AM

22 A YES.

23 Q DID YOU PROCEED TO APPROACH THE FRENCH ABOUT
24 THE POSSIBILITY OF MAKING SOME KIND OF A DEAL?

25 A YES.

10:52AM

26 Q PLEASE SHOW TO THE WITNESS AND THE COURT
27 EXHIBIT 142, PLEASE.

28 IF YOU LOOK AT THE SECOND PAGE, THE

1 BOTTOM E-MAIL, IS THAT AN E-MAIL FROM YOU TO
2 PATRICK PAGNI, FEBRUARY 1, 2009?

3 A YES.

4 MR. HELM: I MOVE ADMISSION OF EXHIBIT 142.

5 MR. QUINN: NO OBJECTION. 10:53AM

6 THE COURT: IT WILL BE ADMITTED.

7

8 (EXHIBIT 142 ADMITTED.) +

9

10 MR. HELM: PLEASE SHOW IT TO THE JURY. 10:53AM

11 Q REMIND US AGAIN WHO WAS PATRICK PAGNI?

12 A HE WAS THE LIAISON BETWEEN TCW AND SG IN
13 PARIS. HE WAS SORT OF 50 PERCENT TCW EMPLOYEE AND 50
14 PERCENT SG EMPLOYEE.

15 Q NOW, THIS IS AFTER THE GLOBAL PRESS RELEASE,
16 CORRECT? 10:53AM

17 A YES.

18 Q IT SAYS:

19 I AM CONFUSED ABOUT -- IT SAYS
20 NOW -- I ASSUME IT'S ABOUT -- THE
21 SDCA DEAL REGARDING ASSET
22 MANAGEMENT BUSINESSES SPECIFICALLY
23 I CANNOT UNDERSTAND WHY SG WANTS TO
24 HOLD ONTO TCW WHILE SELLING THE
25 REST. 10:53AM

26 WOULDN'T IT BE EASIER TO ALSO SELL
27 TCW? IN THAT REGARD I'M
28 INDEPENDENT IN OFFERING A

1 RESPECTFUL AND CORDIAL PROPOSAL IN
2 THE BEST OF FAITH TO MESSIEUR DAY A
3 SO PERHAPS A CLEAN SOLUTION CAN BE
4 APPROACED UPON THAT MIGHT BENEFIT
5 ALL PARTIES.

10:53AM

6 DID YOU WRITE -- IS THAT WHAT YOU WROTE AT
7 THAT TIME?

8 A YES. YOU MISSED A WORD, BUT YES.

9 Q OKAY. THANK YOU.

10 WHAT WORD DID I MISS?

10:54AM

11 A ALL.

12 Q OKAY. THANK YOU.

13 WHAT DID YOU HAVE IN MIND ABOUT A
14 PROPOSAL YOU'RE DISCUSSING HERE?

15 A I HAD IN MIND PUTTING TOGETHER A PACKAGE TO
16 BUY THE FIRM.

10:54AM

17 Q IT SAYS:

18 COULD YOU PLEASE SEND ME HIS
19 ADDRESS AND E-MAIL INFORMATION AS
20 WELL. COULD YOU GIVE ME A
21 PARAGRAPH EXPLAINING THE LOGIC OF
22 THE DEAL AS IT RELATES TO TCW, SO
23 THAT I CAN MOST PRODUCTIVELY ORIENT
24 MY PROPOSAL, THANKS IN ADVANCE.

10:54AM

25 IS THAT WHAT YOU WROTE?

10:54AM

26 A YES.

27 Q NOW, DID YOU HAVE ANY LATER CONVERSATION
28 REGARDING THE POSSIBILITY OF A PROPOSAL ALONG THESE

1 LINES?

2 A YES.

3 Q WHO DID YOU HAVE A DISCUSSION WITH?

4 A FROM PARIS.

5 Q YES?

10:54AM

6 A JEAN PIERRE MUSTIER.

7 Q DID YOU HAVE ANY DISCUSSION WITH ANYBODY ELSE
8 AT TCW ABOUT A PROPOSAL OF THIS KIND?

9 A YES.

10 Q WHO?

10:55AM

11 A BOB BEYER, MARC ATTANASIO, JEAN-MARC CHAPUS,
12 BLAIR THOMAS, DIANE JAFFEE.

13 Q DID YOU TALK TO THE OTHER PORTFOLIO GROUP
14 LEADERS AND TO MR. BEYER BEFORE YOU SPOKE TO
15 MR. MUSTIER?

10:55AM

16 A I'M NOT SURE.

17 Q WAS IT AROUND THE SAME TIME?

18 A YES.

19 Q WHAT WAS THE OCCASION OF THIS CONVERSATION
20 THAT YOU HAD?

10:55AM

21 A WE ALL SAT DOWN FACE-TO-FACE WITH JEAN PIERRE
22 MUSTIER IN MARCH OF 2009 AT A TCW OFFICE SITE THAT WAS
23 HELD IN THE SAN FERNANDO VALLEY.

24 Q WHAT WAS THE DISCUSSED ABOUT THE POSSIBILITY
25 OF BUYING TCW AT THAT OFF-SITE RETREAT MEETING WITH
26 MR. MUSTIER AND THE OTHERS FROM THE TCW GROUPS?

10:55AM

27 A WE SPENT A COUPLE HOURS TRYING TO FIND A WAY
28 TO GET THEM TO TALK --

1 MR. QUINN: YOUR HONOR, THIS IS HEARSAY.

2 THE COURT: I'LL OVERRULE AND ALLOW THAT
3 ANSWER.

4 BUT LET'S GO ON.

5 THE WITNESS: JUST TO TALK, TRY TO GET HIM TO
6 TALK TO A LEGITIMATE CONVERSATION ABOUT SELLING THE
7 FIRM TO US.

10:56AM

8 BY MR. HELM:

9 Q AND DID YOU SUCCEED IN ENGAGING WITH
10 MR. MUSTIER ON A CONVERSATION ABOUT BUYING THE FIRM?

10:56AM

11 A NO. WE JUST --

12 THE COURT: THAT'S THE ANSWER. THERE WE GO.

13 GOOD. IT'S EASY. MOVE ON.

14 BY MR. HELM:

15 Q SO AFTER THAT, AFTER THE MEETING AT THE
16 OFF-SITE YOU'VE DISCUSSED, DID YOU HAVE ANY FURTHER
17 COMMUNICATIONS WITH MR. MUSTIER ABOUT THE SUBJECT OF
18 THE CONVERSATION YOU HAD?

10:56AM

19 A I DON'T REMEMBER.

20 Q ALL RIGHT. NOW, THIS IS FEBRUARY THE FIRST
21 2009, THE OFF-SITE MEETING THAT YOU WERE TALKING ABOUT
22 WAS THAT LATER IN FEBRUARY?

10:56AM

23 A IT WAS EARLY MARCH.

24 Q ALL RIGHT.

25 MR. QUINN ASKED YOU SOME QUESTIONS ABOUT
26 YOUR DISCUSSIONS WITH WAMCO, WESTERN ASSET MANAGEMENT
27 COMPANY, DO YOU RECALL THAT?

10:57AM

28 A YES.

1 Q WHEN DID YOU FIRST COMMUNICATE WITH WAMCO
2 ABOUT THE POSSIBILITY OF WORKING THERE?

3 A THEY CALLED ME ABOUT ONE WEEK AFTER THIS
4 E-MAIL.

5 Q AND WHAT DID THEY PROPOSE? 10:57AM

6 A GETTING TOGETHER AND TALKING.

7 Q WERE YOU CONSIDERING THE POSSIBILITY THAT YOU
8 MIGHT BE ABLE TO TAKE SOME EXISTING BUSINESS WITH YOU
9 TO WAMCO IF YOU LEFT?

10 A WELL, THE FIRST -- I JUST WANTED TO TALK TO 10:57AM
11 THEM AT FIRST. I THOUGHT THAT MAYBE THEY WOULD WANT TO
12 BUY TCW.

13 Q AND DID YOU PERCEIVE TO HAVE A DISCUSSION WITH
14 SOMEONE AT WAMCO?

15 A YES. 10:57AM

16 Q AND WHAT DID THEY HAVE IN MIND?

17 A THEY -- IT WAS PRETTY QUICK THAT I REALIZED
18 THEY DIDN'T WANT TO BUY TCW; THEY WANTED TO HIRE ME.

19 Q AND AT THAT POINT, DID YOU HAVE AN
20 UNDERSTANDING OF WHAT WERE THE CIRCUMSTANCES, IF ANY,
21 IN WHICH YOU MIGHT BE ABLE TO TAKE EXISTING BUSINESS TO
22 WAMCO? 10:58AM

23 A I FIGURED THAT IF I COULD WORK A DEAL THAT TCW
24 WOULD GET COMPENSATED, THAT THEY WOULD AGREE TO LET ME
25 TAKE BUSINESS TO WAMCO, BECAUSE THEY WOULD CONTINUE TO
26 GET A GOOD DEAL OFF OF IT. 10:58AM

27 THAT I THOUGHT THAT MAYBE THAT COULD
28 WORK.

1 Q DID YOU EVER CONTEMPLATE THE POSSIBILITY OF
2 TAKING EXISTING BUSINESS TO WAMCO WITHOUT REACHING SOME
3 KIND OF AN AGREEMENT TO DO SO FROM TCW?

4 A NO.

5 Q DID YOU TELL ANYONE AT WAMCO THAT YOU WOULD
6 NEED AGREEMENT BY TCW IN ORDER TO BRING OVER BUSINESS?

10:58AM

7 MR. QUINN: HEARSAY.

8 THE COURT: SUSTAINED.

9 BY MR. HELM:

10 Q LET ME ASK YOU TO LOOK AT WHAT'S IN EVIDENCE,
11 EXHIBIT 139 AND START WITH THE BOTTOM PART OF THAT
12 E-MAIL. IF WE COULD. IT CARRIES OVER TO THE NEXT
13 PAGE. YOU MIGHT WANT TO DO BOTH OF THEM SIDE BY SIDE.

10:59AM

14 WE'VE SEEN THIS DOCUMENT BEFORE. THANK
15 YOU. BLOWUP THE ONE ON THE LEFT AT THE BOTTOM, IF YOU
16 COULD. THANK YOU.

10:59AM

17 ALL RIGHT. SO THIS IS AN E-MAIL FROM
18 YOU TO MS. VANEVERY, ON FEBRUARY THE 10TH; IS THAT
19 CORRECT?

20 A YES.

10:59AM

21 Q WHEN WAS THIS IN RELATION TO YOUR FIRST
22 MEETING WITH WAMCO?

23 A SHORTLY AFTER.

24 Q NOW, WE'VE SEEN -- WHAT ESSENTIALLY ARE YOU
25 TALKING ABOUT IN THIS E-MAIL?

11:00AM

26 A I WAS TALKING ABOUT MY PRELIMINARY THOUGHTS,
27 COUPLE WAYS OF THINKING ABOUT HOW MAYBE THE DEAL THAT
28 TCW WOULD AGREE TO IN TERMS OF ME GOING TO

1 WESTERN ASSET COULD WORK.

2 HOW THE ECONOMICS MIGHT MAKE SENSE.

3 Q IF WE COULD LOOK AT THE RIGHT HAND PAGE,
4 DENNIS, AT THE BOTTOM -- WELL, THE WHOLE THING IF YOU
5 COULD BLOWUP THE LEFT PART. THANK YOU.

11:00AM

6 IF YOU SEE IN THE LAST LARGE PARAGRAPH,
7 IT SAYS:

8 I FIGURE I SHOULD GET 20 PERCENT OF
9 THE DOUBLELINE REVENUE.

10 LET ME STOP YOU THERE. WE'VE HEARD REFERENCE
11 TO THIS. DID A COMPANY CALLED DOUBLELINE EXIST AT THIS
12 POINT.

11:00AM

13 A NO.

14 Q WHAT WAS THE REFERENCE TO DOUBLELINE MEANT TO
15 CONVEY?

11:00AM

16 A IT WAS MY CODE NAME TO MYSELF FOR THE BUSINESS
17 THAT I WOULD TAKE TO WESTERN.

18 Q HAD YOU EVER TALKED TO MS. VANEVERY ABOUT THE
19 POSSIBILITY OF USING A NAME DOUBLELINE IN SOME FUTURE
20 SITUATION?

11:01AM

21 A YES.

22 Q ALL RIGHT.

23 SO IT SAYS:

24 I FIGURE I SHOULD GET 20 PERCENT OF
25 THE DOUBLELINE REVENUE.

11:01AM

26 WHAT'S THAT REFERRING TO?

27 A THAT WOULD BE THE REVENUE THAT WAS CREATED
28 FROM, ONE, BUSINESS THAT EXISTED AT TCW THAT WENT WITH

1 ME TO WESTERN; AND TWO, THE NEW BUSINESS THAT WE
2 GENERATED AT WESTERN OFF OF MY STRATEGIES USING THEIR
3 MARKETING.

4 Q ALL RIGHT.

5 IT SAYS:

11:01AM

6 I FIGURE I SHOULD GET 20 PERCENT OF
7 THE DOUBLELINE REVENUE, 46 MILLION
8 AND TEN PERCENT OF THE WESTERN
9 REVENUE, 46 MILLION AS REASONABLE
10 COMP FOR THE DEAL. THAT MAKES 92
11 MILLION DOLLARS A YEAR.

11:01AM

12 IT THEN SAYS: ANOTHER WAY TO THINK
13 ABOUT IT.

14 WAS THE FIRST THING I JUST READ, THAT'S ONE
15 WAY TO THINK ABOUT IT, WHAT DID YOU MEAN?

11:02AM

16 A THAT WAS REALLY THE WAY I THOUGHT ABOUT IT.
17 SORT OF 20 PERCENT OF THE REVENUE OF THE BUSINESS CAME
18 OVER PLUS THE NEW BUSINESS OFF THOSE STRATEGIES.

19 PLUS TEN PERCENT OF WHAT WESTERN WAS
20 RUNNING, BECAUSE THEY NEEDED ME TO HELP THEM SOLVE A
21 PROBLEM.

11:02AM

22 Q WHAT WAS THE PROBLEM YOU UNDERSTOOD THEY
23 WANTED YOU TO SOLVE?

24 A THEY HAD HORRIBLE PERFORMANCE IN THEIR
25 PROFOLIOS DUE TO STEEP LOSSES IN MORTGAGE-BACKED
26 SECURITIES.

11:02AM

27 Q THE NOTION THAT YOU WOULD GET TEN PERCENT OF
28 THE WESTERN REVENUE, WHAT WOULD THAT BE IN RETURN FOR?

1 A FOREGOING AROUND THE WORLD AND TALKING TO
2 THEIR CLIENTS. LITERALLY GOING AROUND THE WORLD AND
3 TALKING TO THEIR CLIENTS ABOUT HOW I WAS GOING TO FIX
4 THE PORTFOLIO.

5 Q THEN IT SAYS:

11:02AM

6 ANOTHER WAY TO THINK ABOUT IT WOULD
7 BE THAT \$92 MILLION WOULD BE 40
8 PERCENT OF THE DOUBLELINE REVENUE,
9 AND NONE OF THE WESTERN REVENUE.
10 THAT WOULD MEAN THAT WESTERN COULD
11 GET 20 PERCENT, DOUBLELINE STAFF
12 COULD GET 20 PERCENT, AND SG COULD
13 GET 20 PERCENT. THIS WAY OF
14 LOOKING AT IT MIGHT MAKE WESTERN
15 FEEL BETTER.

11:02AM

11:03AM

16 THE REFERENCE TO, SG COULD GET 20 PERCENT,
17 WHAT DOES SG REFER TO?

18 A SOCIÉTÉ GÉNÉRALE.

19 Q HOW DID YOU ARRIVE AT THE 20 PERCENT FIGURE?

20 A TCW ALWAYS TOLD ME THAT THE PROFIT MARGIN OF
21 MY BUSINESS WAS UNACCEPTABLY LOW. AND IT WOULD TELL ME
22 IT WAS LESS THAN 20 PERCENT. AFTER ALL EXPENSES, THE
23 NET PROFIT MARGIN. THEY USED TO TELL ME IT WAS 15
24 PERCENT A LOT OF THE TIME.

11:03AM

25 I FIGURED IF I GAVE THEM 20, WITH NO
26 EXPENSES, THEY SHOULD BE HAPPY. I WAS ALSO WILLING, I
27 TOLD JIM HIRSCHMANN THE CEO OF WESTERN, I WOULD GIVE
28 HIM 30 IF I NEEDED TO. 30 PERCENT.

11:03AM

1 Q 20 PERCENT THAT WASN'T THE HIGHEST AMOUNT THAT
2 YOU WERE WILLING TO GIVE SG IF IT WAS NEEDED TO GIVE
3 MORE TO DO THE DEAL?

4 A RIGHT.

5 Q AND I JUST WANT TO MAKE SURE I UNDERSTAND 11:04AM
6 THAT, WE'VE HEARD IN THE TESTIMONY, SOME TESTIMONY,
7 THAT THERE WAS A FEE SHARING ARRANGEMENT WHERE ROUGHLY
8 SPEAKING, 50 PERCENT OF THE REVENUES GENERATED ON YOUR
9 FUNDS WENT TO YOU AND YOUR GROUP AND 50 PERCENT WENT TO
10 TCW, IS THAT ROUGHLY TRUE? 11:04AM

11 A OF THE TOP LINE, YES.

12 Q ALL RIGHT. AND SO WE TALKED, MAY I APPROACH,
13 YOUR HONOR?

14 THE COURT: YES, YOU MAY.

15 BY MR. HELM: 11:04AM

16 Q SO WHEN WE TALKED ABOUT THIS CENTRAL CIRCLE AT
17 TCW, WHAT WERE SOME OF THE FUNCTIONS YOU SAID, TCW
18 PERFORMED IN RELATION TO THESE BUSINESSES?

19 A COMMUNICATIONS, HUMAN RESOURCES, LEGAL,
20 TRAVEL, AND THEY ALSO -- SUBBED OUT TO A THIRD-PARTY 11:04AM
21 ACCOUNTING.

22 Q ALL RIGHT. DID THEY HAVE EXPENSES THAT THEY
23 HAD TO BARE WITH RESPECT TO THOSE FUNCTIONS?

24 A YES.

25 Q AND SO OF THE 50 PERCENT OF THE TOTAL REVENUE 11:05AM
26 THEY RECEIVED, THERE WERE EXPENSES THAT HAD TO BE
27 DEDUCTED FROM THAT?

28 A YES.

1 Q LET'S SEE IF I CAN FIND THIS. WE HAD A CHART
2 WITH MR. VILLA, THAT I WANTED TO SHOW YOU. THERE IT
3 IS. THIS WAS MARKED FOR IDENTIFICATION AS 1220.

4 MR. VILLA TESTIFIED THAT FROM 1991 TO
5 2009, CAN YOU SEE THAT?

11:05AM

6 A YES.

7 Q THAT YOU HAD GENERATED FROM YOUR FUNDS ABOUT
8 \$1.2 BILLION IN TOTAL REVENUE, DOES THAT SOUND ABOUT
9 RIGHT?

10 A YEAH -- IT'S SOMEWHERE IN THE BALLPARK. IT
11 LOOKS LOW. BUT IT'S CERTAINLY IN THE REALM.

11:05AM

12 Q ALL RIGHT. SO THEN HE DEDUCTED COMPENSATION
13 TO YOU, COMPENSATION TO THE TEAM, SALARIES TO THE TEAM
14 AND THEN HE HAD OTHER EXPENSES OF \$100 MILLION ON
15 \$1.2 BILLION, DO YOU SEE THAT?

11:06AM

16 A YES.

17 Q IS THAT CONSISTENT WITH WHAT YOU WERE TOLD BY
18 TCW OVER THE YEARS, WAS THE SHARE OF EXPENSES THAT THEY
19 BORE ON THE BUSINESS THAT YOU GENERATED?

20 A IT'S NOT CLOSE.

11:06AM

21 Q WHAT DID THEY TELL YOU WAS THEIR PROFIT MARGIN
22 ON THE BUSINESS YOU GENERATED?

23 A ABOUT 15 PERCENT.

24 Q MEANING THAT 15 PERCENT OF THE TOTAL REVENUES
25 GENERATED WOULD GO TO THEIR BOTTOM LINE?

11:06AM

26 A YES.

27 Q AND SO ACCORDING TO THIS FIGURE WHAT'S THE
28 PROFIT MARGIN THEY HAD ON YOUR BUSINESS?

1 A IT'S LIKE ALMOST HALF.

2 Q IF IN FACT, THEIR PROFIT MARGIN WAS 15
3 PERCENT, DID YOU THINK IT WAS REASONABLE TO OFFER 20
4 PERCENT AS A FEE SHARING ARRANGEMENT TO THEM, IF THE
5 BUSINESS WERE TO LEAVE?

11:07AM

6 A YES.

7 Q IF THE BUSINESS WERE TO LEAVE, WOULD TCW
8 CONTINUE TO HAVE THE EXPENSES THAT WE TALKED ABOUT IN
9 THAT CENTER CIRCLE ON THIS BUSINESS?

11:07AM

10 A NO.

11 Q NOW, FOR HOW LONG -- I REALIZE THIS IS JUST A
12 PRELIMINARY DISCUSSION AFTER THE FIRST MEETING, BUT-FOR
13 HOW LONG IN YOUR MIND DID YOU CONCEDE YOU WOULD BE
14 WILLING TO GIVE SOCIÉTÉ GÉNÉRALE A 20 PERCENT OR A 30
15 PERCENT SHARE OF THE REVENUES GOING INTO THE FUTURE?

11:07AM

16 A I FIGURED I WOULD GIVE IT TO THEM FOR A FEW
17 YEARS AND THEN HAVE IT DECLINE IN THE -- IN YEARS OUT
18 PAST THAT.

19 Q DID YOU BELIEVE THAT GIVING THEM A SHARE OF
20 BUSINESS FOR FUTURE YEARS, PROVIDED A BENEFIT OF ANY
21 KIND TO TCW?

11:07AM

22 A YES.

23 Q ALL RIGHT.

24 NOW, IF WE CAN GO TO PAGE 1 OF THIS
25 EXHIBIT, 139. AT THE TOP, PLEASE COULD WE GET THE TOP
26 E-MAIL. NOW, THIS IS, AGAIN, BACK FROM YOU -- I'M
27 SORRY, COULD WE JUST GET MS. VANEVERY'S RESPONSE SO WE
28 KNOW WHAT IT'S RESPONDING TO.

11:08AM

1 SHE SAYS IN THE MIDDLE: I WOULD THINK
2 YOU SHOULD GET MORE THAN 20 PERCENT OF DOUBLELINE,
3 THAT'S A MINIMUM.

4 CORRECT.

5 A YES.

11:08AM

6 Q NOW LET'S GO TO THE TOP E-MAIL IF WE COULD,
7 DENNIS.

8 IT SAYS:

9 YEAH, I KNOW WHAT YOU MEAN. BUT
10 ONE OF MY FEW SKILLS THOUGH IS MY
11 ABILITY TO ARGUE FOR THE OTHER
12 SIDE. SO THAT THE ARGUMENT THEY
13 END UP MAKING IS ACTUALLY WEAKER
14 THAN THE ONE I DREAMT UP MYSELF ON
15 THEIR BEHALF.

11:08AM

16 THEN THE NEXT PARAGRAPH DOWN SAYS:

17 I AIN'T NO FOOL. BUT I ALSO
18 SINCERELY WANT EVERYONE TO WIN AND
19 MORE THAN ANYTHING I DON'T WANT ANY
20 AGGRAVATION. SO THAT'S HOW I GOT
21 TO BELOW.

11:09AM

22 WHAT DID YOU MEAN YOU, SINCERELY WANT EVERYONE
23 TO WIN?

24 A I WANTED WESTERN ASSET TO FEEL LIKE THEY GOT A
25 GOOD DEAL.

11:09AM

26 I WANTED TCW AND SG TO FEEL LIKE THEY
27 GOT A GOOD DEAL.

28 AND I WANTED ME AND MY TEAM TO FEEL LIKE

1 WE GOT A GOOD DEAL.

2 Q WHEN IT SAYS: MORE THAN ANYTHING, I DON'T
3 WANT ANY AGGRAVATION.

4 WHAT KIND OF AGGRAVATION WERE YOU
5 REFERRING TO?

11:09AM

6 A CONFLICT.

7 Q WHY DID YOU NOT WANT ANY CONFLICT IN RELATION
8 TO THIS PROPOSED DEAL YOU WERE SKETCHING OUT?

9 A I DON'T LIKE AGGRAVATION. I LIKE MANAGING
10 MONEY NOT FIGHTING WITH PEOPLE.

11:09AM

11 Q HOW LONG WERE YOU CONSIDERING THE POSSIBILITY
12 OF JOINING WAMCO?

13 A FEW MONTHS.

14 Q WHY DID YOU NOT ULTIMATELY JOIN WAMCO?

15 A THE OWNERSHIP STRUCTURE OF WAMCO WAS NOT THAT
16 ATTRACTIVE. AND I WAS TIRED OF HAVING A LOUSY
17 OWNERSHIP STRUCTURE IN THE -- IN THE SITUATION I WAS
18 WORKING IN.

11:10AM

19 Q YOU WERE SHOWN EARLIER A COMPENSATION PROPOSAL
20 THAT YOU SAID YOU WERE SHOWN IN JUNE OF 2009. WHAT WAS
21 YOUR REACTION TO THAT PROPOSAL?

11:10AM

22 A I THOUGHT IT WAS A NON-STARTER.

23 Q AND DID YOU HAVE ANY DISCUSSIONS WITH WAMCO
24 SUBSEQUENT TO THAT POINT, AFTER THEY GAVE YOU A
25 COMPENSATION PROPOSAL THAT YOU THOUGHT WAS A
26 NON-STARTER?

11:10AM

27 A YES.

28 Q WHAT DID YOU -- WHAT KIND OF DISCUSSIONS DID

1 YOU HAVE?

2 A I GAVE THEM A FEW POINTS THAT I SUGGESTED THEY
3 MIGHT CHANGE THEIR OFFER, ALONG THE LINES OF HOW THEY
4 MIGHT WANT TO RETHINK THE OFFER.

5 Q AND DID ANYTHING COME OF THAT. I GOT ANOTHER
6 THING, ABOUT A WEEK LATER, AND I DIDN'T REALLY READ IT
7 BECAUSE IT WAS CLEAR, IT WASN'T REALLY MOVING IN THE
8 RIGHT DIRECTION.

11:10AM

9 Q SO, AT THAT POINT DID YOU HAVE ANY FURTHER
10 SERIOUS DISCUSSIONS WITH WAMCO ABOUT THE POSSIBILITY OF
11 JOINING THEM?

11:11AM

12 A NO.

13 Q DID YOU TALK TO THEM AT ALL FROM JUNE OR JULY
14 OF 2009, TO DECEMBER 2009?

15 A YES.

11:11AM

16 Q WHAT DID YOU TALK ABOUT?

17 A ABOUT -- BY THIS POINT, WE'D BECOME KIND OF
18 FRIENDS. AND WE'RE IN THE SAME BUSINESS, THEY WERE
19 LIKE A BUSINESS CONTACT. AND I MET WITH THEM A COUPLE
20 OF TIMES. JUST TO KEEP THINGS GOING FOR MAYBE WAY DOWN
21 THE ROAD.

11:11AM

22 Q WE DON'T KNOW WHAT WAS IN THEIR MIND WHETHER
23 THEY WERE STILL INTERESTED IN PURSUING A DEAL.

24 FROM YOUR POINT OF VIEW WERE YOU
25 SERIOUSLY CONSIDERING A WAMCO DEAL AT THAT POINT IN THE
26 SECOND HALF OF 2009?

11:11AM

27 MR. QUINN: OBJECT TO THE PREAMBLE.

28 THE COURT: OVERRULED.

1 GO AHEAD.

2 THE WITNESS: NO.

3 BY MR. HELM:

4 Q DID YOU EVER TELL MR. BEYER THAT YOU WERE
5 HAVING DISCUSSIONS WITH WAMCO?

11:12AM

6 A YES.

7 Q WHEN DID THAT HAPPEN?

8 A I'M NOT EXACTLY SURE WHEN, BUT CLEARLY IT HAD
9 TO BE WHILE BEYER WAS AT TCW. AND SO IT WAS PROBABLY
10 IN APRIL OR SO.

11:12AM

11 Q AND HOW DID THE CONVERSATION ARISE?

12 A HE CAME TO ME, AND SAID I HEAR YOU'RE
13 INTERVIEWING AT WAMCO?

14 Q AND WHAT DOES --

15 A I SAID, WELL, I HAVE.

11:12AM

16 Q AND?

17 A HE SAID, ARE YOU LEAVING?

18 AND I SAID, NO.

19 AND I SAID, BUT GIVEN THE FRENCH ARE
20 SELLING THE FIRM I THINK WE'RE ALL GOING TO BE IN A
21 DIFFERENT PLACE IN A FEW YEARS FROM NOW.

11:12AM

22 Q WHAT DID HE SAY?

23 A HE SAID, IF YOU'RE NOT LEAVING LET'S SPEND THE
24 NEXT FEW MONTHS MAKING THE FIRM BETTER, TOGETHER.

25 Q DID MR. --

11:12AM

26 A I SAID, GREAT.

27 Q DID MR. BEYER SAY TO YOU AT THAT POINT THAT HE
28 THOUGHT THERE WAS SOMETHING WRONG ABOUT YOU HAVING

1 DISCUSSIONS WITH ANOTHER FIRM ABOUT POSSIBLY JOINING
2 IT?

3 A NO.

4 Q DID HE TELL YOU AT THAT TIME HE THOUGHT YOU
5 SHOULD HAVE TOLD HIM EARLIER THAT YOU WERE HAVING A JOB
6 INTERVIEW WITH SOMEONE ELSE?

11:13AM

7 A NO.

8 Q DID HE TELL YOU THAT HE THOUGHT YOU NEEDED TO
9 DISCLOSE TO THE BOARD OF DIRECTORS THAT YOU WERE HAVING
10 DISCUSSIONS WITH WAMCO?

11:13AM

11 A NO.

12 Q YOU WERE A MEMBER OF THE BOARD OF DIRECTORS AT
13 THAT TIME, IS THAT TRUE?

14 A YES.

15 Q TO YOUR KNOWLEDGE, DID MR. BEYER EVER DISCLOSE
16 TO THE BOARD THAT YOU WERE HAVING A JOB INTERVIEW WITH
17 ANOTHER POTENTIAL EMPLOYER?

11:13AM

18 A NO.

19 Q LET ME ASK YOU TO LOOK AT EXHIBIT 160 WHICH
20 MR. QUINN WENT OVER WITH YOU. LET'S DOT FIRST FULL
21 PARAGRAPH. AT THE TOP -- PERFECT.

11:13AM

22 THIS WAS THE CONFIDENTIALITY AGREEMENT
23 THAT MR. QUINN ASKED YOU ABOUT, DO YOU RECALL THAT?

24 A YES.

25 Q AND I BELIEVE YOU STATED THAT YOU THOUGHT
26 THAT -- YOU CAN STRIKE THAT.

11:14AM

27 LET ME JUST READ FROM DOWN -- HALFWAY
28 THROUGH IT SAYS:

1 AS WE HAVE DISCUSSED -- THIS IS A
2 LETTER FROM WESTERN ASSET THEIR
3 GENERAL COUNSEL TO YOU IN MARCH,
4 CORRECT?

5 A YES. 11:14AM

6 Q

7 AS WE HAVE DISCUSSED, WE ARE
8 INTERESTED IN YOU BECAUSE OF YOUR
9 PERSONAL TALENT AND PERFORMANCE.
10 ACCORDINGLY, WE HAVE NO INTEREST IN 11:14AM
11 YOUR SHARING WITH US ANY
12 CONFIDENTIAL INFORMATION BELONGING
13 TO YOU OR ANYONE ELSE. INCLUDING
14 WITHOUT LIMITATION YOUR CURRENT
15 EMPLOYER. WE AFFIRMATIVELY REQUEST 11:14AM
16 THAT YOU DO NOT DISCLOSE ANY SUCH
17 INFORMATION DURING THE COURSE OF
18 OUR DISCUSSIONS AND YOU AGREE THAT
19 YOU WILL NOT DO SO.

20 WAS THAT INCLUDED IN THE CONFIDENTIALITY 11:14AM
21 AGREEMENT THAT YOU SIGNED?

22 A YES.

23 Q LET'S MOVE TO ANOTHER TOPIC THEN.

24 DID YOU EVER PROPOSE RESTRUCTURING THE
25 FIRM IN SOME WAY THAT INVOLVED SEPARATING OUT YOUR PART 11:15AM
26 OF THE BUSINESS, THE FIXED INCOME PART?

27 A YES.

28 MR. HELM: MAY I APPROACH, YOUR HONOR.

1 THE COURT: YES, YOU MAY.

2 BY MR. HELM:

3 Q WHY DID YOU MAKE A PROPOSAL TO THAT EFFECT?
4 WHAT DID YOU HAVE IN MIND?

5 A WELL I THOUGHT IT WOULD HELP THE COMPANY. 11:15AM

6 Q WHAT WAS THE PROPOSAL THAT YOU MADE?

7 A THE IDEA WAS TO RESTRUCTURE THE FIRM INTO TWO
8 DIVISIONS OR THREE DIVISIONS MAYBE. WHERE THEY WOULD
9 ALL BE UNDER THE UMBRELLA OF TCW GROUP.

10 BUT THAT IT WOULD HAVE MORE STRATEGIC 11:16AM
11 AUTONOMY. I FIGURED WE SHOULD HAVE AN EQUITY DIVISION,
12 A FIXED INCOME DIVISION, AND MAYBE AN ALTERNATIVES
13 DIVISION. AND THEN I WOULD RUN THE FIXED INCOME
14 DIVISION.

15 AND I THOUGHT MAYBE, OF EVEN RENAMING 11:16AM
16 IT. BUT IT WOULD STILL BE PART OF TCW GROUP.

17 Q WHY DO YOU THINK IT WOULD BE BENEFICIAL TO
18 DIVIDE THE BUSINESS IN THAT WAY? THE PRIMARY REASON
19 WAS THAT IN THE FIXED INCOME MONEY MANAGEMENT BUSINESS,
20 IT'S A COMPETITIVE ADVANTAGE IF THE PERSPECTIVE 11:16AM
21 INVESTORS THINK YOUR HEART AND SOUL OF YOUR
22 ORGANIZATION'S IN FIXED INCOME.

23 MOST OF OUR BIG COMPETITORS, MOST
24 SUCCESSFUL FIXED INCOME FIRMS ARE LARGELY DEDICATED TO
25 FIXED INCOME? 11:16AM

26 Q GIVE ME AN EXAMPLE OF COMPETITORS YOU'RE
27 REFERRING TO?

28 A WESTERN ASSET. PIMCO. METROPOLITAN WEST.

1 Q WERE THEY FOCUSED ON ONE AREA AS OPPOSED TO
2 STRADDLING SEVERAL DIFFERENT AREAS?

3 A YES. THE IDEA WAS -- WHEN WE WENT TO A
4 PRESENTATION FOR NEW BUSINESS YOU GO -- SOMETIMES THE
5 MARKETING PERSON WOULD PUT UP A -- BULLET POINTS OF THE
6 FIRM.

11:17AM

7 AND THE OTHER FIRMS SAY "WE LIVE AND DIE
8 BY FIXED INCOME." WHICH MAKES PEOPLE SMILE WHEN
9 THEY'RE THINKING ABOUT HIRING A FIXED INCOME MANAGER.
10 AND OUR THING WOULD SAY "EQUITIES ARE US." AND PEOPLE
11 WOULD FROWN.

11:17AM

12 Q DID YOU FIND THAT TO BE DISADVANTAGEOUS IN
13 YOUR ABILITY TO SELL THE FIXED INCOME PRODUCTS THAT YOU
14 WERE MANAGING?

15 A YES.

11:17AM

16 Q AND YOU SAY YOU MADE THIS PROPOSAL FOR
17 RESTRUCTURE OF THE FIRM SOMEHOW; WHO DID YOU DISCUSS IT
18 WITH?

19 A MANY PEOPLE OVER THE YEARS INCLUDING
20 MARC STERN, BOB BEYER, BILL SONNEBORN,
21 CHUCK BALDISWIELER, MARC CHIBELLO, GARRETT WALLS.

11:17AM

22 Q OVER WHAT PERIOD OF TIME DID YOU DISCUSS THIS
23 PROPOSAL WITH PEOPLE OF THAT KIND?

24 A FIVE YEARS.

25 Q WHAT WAS THE REACTION WHEN YOU MADE THE
26 PROPOSAL?

11:18AM

27 A BLANK STARE.

28 Q DID ANYONE EVER SEEM TO THINK IT WAS A GOOD

1 IDEA?

2 A NO. I ALSO DISCUSSED IT WITH JACQUES RIPOLL
3 FROM SG.

4 Q WHAT DID HE SAY?

5 A NOT INTERESTED.

11:18AM

6 Q NOW, LET'S SEE, MR. QUINN SHOWED YOU SOME
7 E-MAILS. LET ME SHOW YOU ONE OF THEM, EXHIBIT 122.
8 THIS WAS AN E-MAIL, LET'S SHOW THE -- ON THE LEFT,
9 DENNIS, THE MIDDLE PART. YES. GUNDLACH, THERE DOWN TO
10 THERE.

11:18AM

11 THIS WAS IN RESPONSE TO AN E-MAIL ABOUT
12 A REBRANDED TCW.COM WEBSITE. DO YOU RECALL THAT?

13 A YES.

14 Q DO YOU RECALL HIM ASKING YOU ABOUT A REQUEST
15 THAT WAS MADE TO FILM A VIDEO AND THERE WERE OTHER
16 PEOPLE WHO WERE GOING TO HAVE VIDEOS FILMED, TOO.

11:19AM

17 A YES.

18 Q IF WE LOOK AT YOUR RESPONSE, YOU SAID COUPLE
19 THINGS. IT SAYS YOU SAY:

20 FRONT AND CENTER BELOW. BUT AS I
21 UNDERSTAND IT THE IDEA IS TO HAVE
22 ME FILM A FOURTH VIDEO TO SIT UP
23 THERE WITH THESE OTHERS. I DON'T
24 SEE ANYTHING FRONT AND CENTER IN
25 THAT. SIDE BY SIDE WOULD BE THE
26 OPERATIVE DESCRIPTOR.

11:19AM

27 DO YOU SEE THAT?

28 A YES.

11:19AM

1 Q IT SAYS:

2 I BELIEVE A SIDE BY SIDE VIDEO
3 PRESENTATION PUTTING BRUNSWICK &
4 COMPANY IN A SIMILAR FORMAT/SIMILAR
5 EMPHASIS AS MY ACTIVITIES IS JUST
6 ABOUT AS BRAND DESTROYING A MOVE AS
7 I CAN THINK OF.

11:19AM

8 WHAT DID YOU MEAN BY THAT?

9 A KIND OF WHAT I TALKED ABOUT A MOMENT AGO. IT
10 SHOWS ANYTHING BUT A DEDICATION AND A FOCUS AND A
11 COMMITMENT OF FIXED INCOME.

11:20AM

12 IT COMPARES A \$78 BILLION FIXED INCOME
13 OPERATION TO ABOUT A \$1 BILLION REGIONAL RELATIVELY
14 UNKNOWN COMMERCIAL REAL ESTATE OPERATIONAL -- AS IF
15 THEY'RE EQUALS.

11:20AM

16 Q DID YOU THINK THAT THAT WOULD BE ADVANTAGEOUS
17 OR DISADVANTAGEOUS IN TERMS OF MARKETING TCW AND YOUR
18 MORTGAGE-BACKED SECURITIES BUSINESS?

19 A I THINK IT WOULD DISINCENTIVIZED PROSPECTS
20 THAT CAME TO THE WEBSITE FOR CONSIDERING OUR FIXED
21 INCOME SERVICES.

11:20AM

22 Q EXHIBIT 1118 PLEASE, DENNIS. AND THE TOP
23 PART. IT SAYS, I THINK YOU INDICATED THAT MAYBE YOU
24 WERE SUGGESTING YOU DIDN'T LIKE THIS:

25 I HATE THIS, I HATE WHAT IT SAYS I
26 HATE THE WAY IT SAYS IT. I HATE
27 THE PHILOSOPHY UNDERNEATH ITS
28 CREATION.

11:20AM

1 WHAT WAS IT ABOUT THE PHILOSOPHY UNDERNEATH
2 THE CREATION OF THIS -- THESE SIDE-BY-SIDE VIDEOS THAT
3 YOU DIDN'T LIKE?

4 A SORT OF THE LACK OF STRATEGIC VISION IN THE
5 MANAGEMENT OF THE FIRM.

11:21AM

6 Q AND DID THE PHILOSOPHY -- EXPLAIN WHAT YOU
7 MEAN BY THAT LACK OF STRATEGIC VISION?

8 A IT -- IT'S NOT -- I DIDN'T AGREE, I HAD A
9 LEGITIMATE DISAGREEMENT WITH THE IDEA THAT WE SHOULD
10 SELL ALL THESE SQUARES IN DIFFERENT -- AS TO THEIR
11 MERITS TO PEOPLE.

11:21AM

12 Q HOW DID YOU THINK IT SHOULD BE SOLD OR
13 MARKETED?

14 A I THOUGHT THAT WE SHOULD HIGHLIGHT OUR BEST
15 OFFERINGS.

11:21AM

16 Q LET'S MOVE FORWARD IN TIME NOW TO A LITTLE
17 LATER IN '09. HOW LONG DID MR. BEYER STAY ON AS CEO?

18 A HE -- HE WAS GONE, SOMEWHERE NEAR THE END OF
19 MAY 2009.

20 Q AND HE WAS REPLACED BY WHOM AS CEO?

11:22AM

21 A MARC STERN WAS NAMED INTERIM CEO.

22 Q AND WHEN DID YOU FIRST LEARN ABOUT THE PLAN TO
23 BRING BACK MR. STERN AS CEO?

24 A LATE MAY, 2009.

25 Q DID YOU LEARN ABOUT IT BEFORE IT WAS PUBLICLY
26 ANNOUNCED?

11:22AM

27 A YES.

28 Q HOW DID YOU FIRST LEARN ABOUT IT?

1 A I WAS CALLED TO A MEETING AT ROBERT DAY'S
2 HOUSE.

3 MR. HELM: MAY I APPROACH, YOUR HONOR.

4 THE COURT: YES.

5 BY MR. HELM:

11:22AM

6 Q DO YOU RECALL WHEN THIS WAS WHEN YOU HAD A
7 MEETING AT MR. DAY'S HOUSE?

8 A I THINK IT WAS MAY 26TH, I'M NOT SURE. 2009.

9 Q MY WRITING IS EVEN WORSE, AND I'LL PUT A
10 QUESTION MARK. SINCE YOU SAY YOU'RE NOT SURE.

11:23AM

11 AND SO, WHO ATTENDED THE MEETING AT
12 MR. DAY'S HOUSE?

13 A ROBERT DAY AND MARC STERN AND ME.

14 Q AND WHAT WAS DISCUSSED AT THAT MEETING?

15 A THAT MARC STERN WAS GOING TO COME BACK AS CEO
16 AND ROBERT DAY WAS GOING TO COME BACK AND BE DAY-TO-DAY
17 AGAIN.

11:23AM

18 Q DID YOU EXPRESS ANY REACTION TO THAT PROPOSAL?

19 A I EXPRESSED MY VIEW IT WAS NOT A GOOD IDEA.

20 Q WHAT DID YOU SAY ABOUT WHETHER YOU THOUGHT IT
21 WAS A GOOD IDEA FOR MARC STERN TO NOW BE RETURNING?

11:24AM

22 A I SAID, YOU GUYS LEFT FOUR YEARS AGO. AND
23 TURNED THE FIRM OVER TO A NEW GENERATION OF LEADERSHIP.
24 YOU CAN'T JUST COME BREAZING BACK IN. WE'VE BEEN
25 SUFFERING HERE FOR YEARS.

11:24AM

26 AND THE SITUATION KEEPS GETTING WORSE.
27 AND I'VE BEEN TRYING TO GLUE IT TOGETHER WITH OTHER
28 SENIOR MANAGERS. WE'VE BEEN HERE THIS WHOLE TIME

1 KEEPING THE FIRM GOING DURING A GLOBAL CREDIT PANIC.

2 Q AND DID YOU EXPRESS ANY OTHER VIEWS ON THAT,
3 FOR EXAMPLE, DID YOU MENTION ANYTHING ABOUT THIS
4 DILUTION ISSUE?

5 A YES.

11:24AM

6 Q YOU MENTIONED BEFORE -- WHAT DID YOU DISCUSS
7 ON THE DILUTION ISSUE?

8 A MARC STERN HAD BEEN DISHONEST WITH ME BEFORE I
9 POINTED THAT OUT. IT WAS A BAD SIGN HE WAS COMING
10 BACK.

11:24AM

11 Q YOU SAID HE'D BEEN DISHONEST WITH YOU BEFORE,
12 WHAT WERE YOU REFERRING TO?

13 A THE PROMISE THAT HE MADE THAT I WOULD NEVER
14 HAVE MY REDUCTION, MY OWNERSHIP WITH TCW AND HE TOOK MY
15 STOCK AND GAVE IT TO OTHER PEOPLE.

11:25AM

16 Q DID YOU EXPRESS CONCERN ABOUT THAT EVENT, WHEN
17 YOU HAD THE MEETING WITH MR. DAY AND MR. STERN AT
18 MR. DAY'S HOUSE?

19 A YES.

20 Q I'M GOING TO WRITE, ALSO, DAY'S HOUSE.
21 MR. DAY'S HOUSE?

11:25AM

22 Q ALL RIGHT.

23 NOW, AFTER LEARNING ABOUT MR. STERN'S
24 PLAN TO RETURN, DID YOU DISCUSS IT WITH ANY OTHER
25 PORTFOLIO MANAGERS?

11:25AM

26 A YES.

27 Q WHO DID YOU DISCUSS IT WITH?

28 A MOSTLY MARC ATTANASIO.

1 Q AND WHAT WAS THE SUBSTANCE OF YOUR DISCUSSION
2 WITH MR. ATTANASIO, WHAT WAS HIS REACTION TO THE RETURN
3 OF MR. STERN?

4 A AS NEGATIVE AS I WAS ON THE IDEA, HE WAS EVEN
5 MORE NEGATIVE. HE CALLED A MEETING WITH ME SAYING HE
6 WANTED TO NOT ALLOW MARC STERN TO BE CEO.

11:25AM

7 MR. QUINN: YOUR HONOR, HEARSAY.

8 THE COURT: SUSTAINED. I'LL STRIKE THE
9 RESPONSE AS TO WHAT MR. ATTANASIO SAID.

10 BY MR. HELM:

11:26AM

11 Q WHAT WAS -- WAS MR. ATTANASIO AN OFFICIAL AT
12 TCW AT THAT TIME?

13 A YES. HE'S ON THE BOARD OF DIRECTORS.

14 Q THIS IS A STATEMENT THAT HE MADE TO YOU ON THE
15 SUBJECT OF THE BUSINESS OF TCW?

11:26AM

16 A YES.

17 MR. HELM: I'D ASK RECONSIDERATION OF THAT
18 STATEMENT.

19 THE COURT: GO AHEAD JUST FOLLOW-UP.

20 BY MR. HELM:

11:26AM

21 Q I'LL AGAIN SEE WHAT THE RULING IS.

22 WHAT DID MR. ATTANASIO TELL YOU ABOUT
23 THE VIEWS ON THE RETURN OF MR. STERN?

24 A HE SAID WE CAN'T ALLOW MARC STERN TO HAVE THE
25 CEO TITLE WE NEED TO MAKE IT BE INTERIM CEO, OTHERWISE,
26 IT WOULD BE KIND OF CEMENTED. WE NEED IT TO BE
27 TEMPORARY.

11:26AM

28 Q AND DID YOU ARRANGE ANY MEETINGS TO FURTHER

1 DISCUSS THE ISSUES WITH MR. STERN OR WITH MR. DAY?

2 A YES.

3 Q AND WHEN DID -- DID A MEETING TAKE PLACE?

4 A COUPLE MEETINGS AT LEAST.

5 Q WELL, DID YOU MEET WITH MR. STERN AND MR. DAY
6 AT THAT SUBSEQUENT TIME?

11:27AM

7 A YES.

8 Q WHEN?

9 A I KNOW WE MET MARCH 29TH -- MAY 29TH.

10 Q ALL RIGHT. WHO WAS PRESENT FOR THAT MEETING?

11:27AM

11 A ROBERT DAY. MARC STERN. MARC ATTANASIO.
12 THEN ME.

13 Q M.A., J.G..

14 WHERE DID THAT MEETING TAKE PLACE?

15 A IN ROBERT DAY'S OFFICE 865 SOUTH FIGUEROA IN
16 LOS ANGELES.

11:27AM

17 Q THAT WAS AT THE TCW OFFICES?

18 A YES.

19 Q AND NOW DID MR. ATTANASIO HAVE OFFICES AT --
20 DOWNTOWN L.A.?

11:28AM

21 A NO.

22 Q DID HE TRAVEL FROM WEST L.A. TO DOWNTOWN FOR
23 THIS MEETING?

24 A YES.

25 Q AND DO YOU RECALL WHAT POINTS WERE MADE AT
26 THIS MEETING?

11:28AM

27 A MARC -- YES, I DO.

28 Q WHAT WAS DISCUSSED AT THE MEETING?

1 A MARC ATTANASIO LED THE MEETING BY SAYING,
2 YOU'RE NOT THE FUTURE OF THIS FIRM, YOU'VE BEEN HERE
3 THIS WHOLE TIME AND YOU TURNED THE FIRM OVER TO A NEW
4 GENERATION OF LEADERSHIP.

5 AND I SAID, YOU KNOW, OR RATHER
6 ATTANASIO SAID, WE WANT A MANAGEMENT COMMITTEE. NOT A
7 HIERARCHY STRUCTURE WITH STERN AS CEO. WE WANT A
8 MANAGEMENT COMMITTEE TO RUN THE FIRM.

11:28AM

9 Q LET'S MAKE SURE I UNDERSTAND THAT, MR. STERN
10 WAS RETURNING AS CEO. HOW DID A MANAGEMENT COMMITTEE
11 FIT IN TO RETURNING AS CEO?

11:28AM

12 A THE IDEA WAS A MANAGEMENT COMMITTEE WOULD BE
13 RUNNIGH THE FIRM. STERN I GUESS WOULD BE ON THE
14 MANAGEMENT COMMITTEE, BUT NOT HAVE A PARTICULAR
15 AUTHORITY ON THE MANAGEMENT COMMITTEE.

11:29AM

16 Q WAS THE IDEA HE WOULD STILL BE THE CEO WITH
17 ALL AUTHORITY, AND STILL BE CONSULTING A MANAGEMENT
18 COMMITTEE?

19 OR WAS THE IDEA THERE WOULD BE A
20 MANAGEMENT COMMITTEE INSTEAD OF HAVING HIM BE A
21 TRADITIONAL CEO?

11:29AM

22 A INSTEAD OF.

23 Q AND THIS WAS A VIEW THAT MR. ATTANASIO
24 EXPRESSED AT THIS MAY 29TH MEETING AT TCW?

25 A YES.

11:29AM

26 Q WHAT ELSE WAS DISCUSSED BY YOU OR
27 MR. ATTANASIO AT THAT MEETING?

28 A WHEN ARE WE GOING TO GET THE EQUITY WE'VE BEEN

1 PROMISED ALL THIS TIME?

2 Q AND WHAT WAS THE REACTION OF MR. STERN AND
3 MR. DAY AT THIS MEETING?

4 A THEY DIDN'T WANT TO HEAR WHAT WE HAD TO SAY.
5 THEY DIDN'T WANT TO CHANGE THEIR MIND.

11:30AM

6 Q LET'S SEE IF WE CAN LOOK AT EXHIBIT 192. THIS
7 HAS PREVIOUSLY BEEN PUT INTO EVIDENCE. THANK YOU.

8 I THINK MR. QUINN WENT OVER THIS. IT
9 SAID:

11:30AM

10 ANOTHER HEAD SPINNER OF A DAY.

11 ATTANASIO AND I WENT AND --

12 FIRST OF ALL, THE DATE OF THIS IS MAY THE
13 29TH, CORRECT?

14 A YES.

15 Q AND THIS IS IN THE EVENING?

11:30AM

16 A YES.

17 Q WHEN WAS THE MEETING WITH MR. STERN AND
18 MR. DAY AND MR. ATTANASIO?

19 A IN THE AFTERNOON.

20 Q SO IT SAYS:

11:30AM

21 ATTANASIO AND I WENT AND TALKED TO
22 STERN AND DAY TOGETHER. AND IT
23 WASN'T A HAPPY GROUP. I TOLD STERN
24 AND DAY THAT I MIGHT POSSIBLY BE
25 ABLE TO WORK WITH THEM, BUT I WON'T
26 WORK FOR THEM IN ANY WAY.

11:30AM

27 WHAT DID YOU MEAN BY THAT?

28 A I LIKED THE MANAGEMENT COMMITTEE IDEA THAT

1 MARC ATTANASIO HAD. AND THAT WAS THE WAY WE MIGHT BE
2 ABLE TO WORK WITH EACH OTHER.

3 Q SO HOW WAS WORKING WITH EACH OTHER SOMEHOW
4 CONSISTENT WITH A MANAGEMENT COMMITTEE IDEA AS OPPOSED
5 TO WORKING FOR SOMEBODY?

11:31AM

6 A WELL, THE MANAGEMENT COMMITTEE WOULD BE IN
7 CHARGE OF RUNNING THE FIRM AND WE'D HAVE A VOICE IN
8 WHAT THE FIRM WAS DOING, AS OPPOSED TO JUST BEING
9 DICTATED TO.

10 Q SO, ALL RIGHT. IT THEN SAYS, MR. ATTANASIO
11 SAID YOU GUYS ARE NOT THE FUTURE OF THIS FIRM.

11:31AM

12 DID MR. ATTANASIO, IN FACT, EXPRESS A
13 SENTIMENT OF THAT KIND?

14 A YES.

15 Q IT THEN SAYS:

11:31AM

16 I SAID YOU ARE HERE TO STABILIZE
17 THE FIRM AND THEN SELL IT FOR
18 ECONOMIC REWARD AND YOU HAVE TO
19 TELL THE FRENCH THAT MARC AND I AND
20 OTHERS WILL NOT STABILIZE AND GROW
21 THIS FIRM WITHOUT A REWARD.

11:31AM

22 DID YOU SAY SOMETHING TO THAT EFFECT?

23 A SOMETHING LIKE THAT.

24 Q DID MR. ATTANASIO EXPRESS SENTIMENTS SIMILAR
25 TO THAT AT THAT MEETING?

11:32AM

26 A YES.

27 Q NOW, WHO GETS THE ECONOMIC REWARD FROM A SALE
28 OF A FIRM LIKE TCW?

1 A THE ONES THAT OWN THE SHARES OF THE COMPANY.

2 Q DID YOU OWN ANY SHARES IN THE COMPANY IN MAY
3 OF 2009?

4 A NO.

5 Q HOW LONG HAD YOU BEEN PROMISED A SHARE OF
6 OWNERSHIP IN TCW?

7 A EIGHT YEARS.

8 Q BUT YOU STILL DIDN'T HAVE ANY BY MAY 2009?

9 A NO.

10 Q WHEN IT SAYS, MARC AND I AND THE OTHERS WILL
11 NOT STABILIZE AND GROW THIS FIRM WITHOUT A REWARD; WHAT
12 KIND OF REWARD WERE YOU TALKING ABOUT?

13 A WE WERE TALKING ABOUT THEM HONORING THEIR
14 EQUITY COMMITMENT.

15 Q NOW, AGAIN, IT SAYS THAT YOU SAID THIS IS
16 SOMETHING YOU BELIEVE MR. ATTANASIO ALSO EXPRESSED AT
17 THAT MEETING?

18 A HE TALKED MORE THAN I DID. HE SAID IT BETTER
19 THAN I DID.

20 Q NOW, YOU WERE A MEMBER OF THE BOARD OF
21 DIRECTORS AT THIS TIME, IS THAT TRUE?

22 A YES.

23 Q WAS MR. ATTANASIO A MEMBER OF THE BOARD?

24 A YES.

25 Q AND DID YOU THINK THERE WAS ANYTHING ABOUT
26 BEING A MEMBER OF THE BOARD OF DIRECTORS THAT PREVENTED
27 YOU FROM ASKING TO BE PROPERLY REWARDED FOR YOUR WORK
28 IN STABILIZING THE FIRM AND PREPARING IT FOR SALE?

11:32AM

11:32AM

11:32AM

11:33AM

11:33AM

1 A NO. JUST THE OPPOSITE.

2 Q DID YOU THINK THAT PROVIDING PROPER REWARDS
3 FOR PEOPLE WHO DID THE WORK WAS SOMETHING THAT HELPED
4 OR HURT THE INTEREST OF THE ORGANIZATION AS A WHOLE?

5 A OF COURSE IT HELPED. THEY EVEN SAID IT IN
6 THAT PROXY STATEMENT.

11:33AM

7 Q WHY WOULD YOU THINK IT WOULD HELP TO HAVE THE
8 PEOPLE WHO ARE WORKING TO STABILIZE AND GROW THE FIRM
9 SHARE IN THE ECONOMIC REWARDS?

10 A BECAUSE HE KEEPS THEM INCENTIVIZED.

11:33AM

11 Q DID YOU THINK YOU WERE ASKING FOR ANYTHING IN
12 THAT MEETING OR THAT MR. ATTANASIO WAS ASKING FOR
13 ANYTHING THAT -- IN THAT MEETING, BY WAY OF ASKING FOR
14 A REWARD THAT YOU HADN'T ALREADY BEEN PROMISED FOR MANY
15 YEARS BY TCW?

11:34AM

16 A NO.

17 Q NOW, DID YOU HAVE ANY COMMUNICATIONS WITH
18 MR. ATTANASIO AFTER THIS MEETING WITH MR. STERN AND
19 MR. DAY?

20 A YES.

11:34AM

21 Q LET ME ASK YOU TO LOOK AT EXHIBIT 5145. IS
22 THIS NOT AN E-MAIL EXCHANGE BETWEEN YOU AND
23 MR. ATTANASIO AS WELL AS AN EXCHANGE WITH
24 MR. PEKARSKY ON MAY 29TH, 2009?

25 A I SEE ME AND MARC ATTANASIO.

11:35AM

26 MR. HELM: I MOVE ADMISSION OF THIS DOCUMENT,
27 YOUR HONOR.

28 MR. QUINN: NO OBJECTION.

1 THE COURT: IT WILL BE ADMITTED.

2

3 (EXHIBIT 5145 ADMITTED.)+

4

5 BY MR. HELM:

11:35AM

6 Q LET'S START AT THE BOTTOM. ALL RIGHT?

7 THIS IS SENDING TO YOURSELF, AND

8 MR. ATTANASIO AND OTHERS IT SAYS:

9 PLEASE FIND A REVISED DRAFT OF THE

10 PRESS RELEASE. THIS REFLECTS

11:35AM

11 COMMENTS PROVIDED BY MARC STERN AND

12 JEFFREY. I WILL ALSO INCORPORATE

13 LANGUAGE REFLECTING THE FACT THAT

14 MARKS APPOINTMENT IS QUOTE ON AN

15 INTERIM BASIS AND ROBERT'S MESSAGE

11:35AM

16 TO EMPLOYEES, IN ROBERT'S MESSAGE.

17 DO YOU SEE THAT?

18 A YES.

19 Q ABOVE IT IT SAYS TO JOSH PEKARSKY ON THE PRIOR

20 PAGE ON THE PRIOR PAGE IT'S FROM MR. ATTANASIO. I CAN

11:35AM

21 SHARE THAT, WILL YOU TAKE MY WORD FOR IT?

22 A YES, THERE WE GO.

23 MR. QUINN: I WILL.

24 MR. HELM: DENNIS, DOESN'T TAKE MY WORD FOR

25 IT. IT'S FROM ATTANASIO. AT THE TOP IT SAYS:

11:36AM

26 JOSH, I DON'T BELIEVE THIS IS WHAT

27 WE TALKED ABOUT TODAY. WE TALKED

28 ABOUT MARC BEING THE, QUOTE,

1 INTERIM CEO CLOSED QUOTE, JEFFREY
2 AND I EXPECT IT WILL READ THAT WAY.
3 MARC ATTANASIO.

4 DO YOU SEE THAT?

5 A YES.

11:36AM

6 Q LET'S GO THEN TO THE PRIOR ONE. FROM
7 GUNDLACH. THERE WE GO, THAT'S GOOD. THEN GUNDLACH TO
8 ATTANASIO:

9 THINK HOW IMPOSSIBLE IT WOULD BE TO
10 TRY TO ACTUALLY GET AGREEMENT ON AN
11 EVEN MODERATELY CONTROVERSIAL POINT
12 GIVEN THE AGONY ON THIS MINOR ONE.

11:36AM

13 YES, THE ANSWER SHOULD HAVE BEEN, I
14 GET THE IDEA OF COURSE THAT'S RIGHT
15 I'LL HAVE THIS IMPROVEMENT

11:36AM

16 INCORPORATED?

17 IS THAT WHAT YOU WROTE.

18 A YES.

19 Q AND THEN MR. ATTANASIO WRITES BACK:

20 I THINK AGONY WILL REGRETTABLY
21 BECOME ONE OF THE OFF USED WORDS IN
22 OUR LEXICON. I AM REMINDED OF THE
23 WHO SONG, QUOTE, MEET THE NEW BOSS,
24 SAME AS THE OLD BOSS. I KNOW YOU
25 KNOW THE TITLE TO THAT SONG.

11:36AM

26 AND THEN YOU WRITE BACK: OH,
27 INCREDIBLY APPROPRIATE. DON'T GET
28 FOOLED AGAIN.

11:37AM

1 WHAT DID YOU UNDERSTAND
2 MR. ATTANASIO TO MEAN WHEN HE
3 REFERRED TO, MEET THE NEW BOSS,
4 SAME AS THE OLD BOSS WHICH WERE
5 LYRICS FROM A SONG ENTITLED "DON'T
6 GET FOOLED AGAIN"?

11:37AM

7 A HE KNEW I'D BEEN FOOLED BEFORE.

8 Q ALL RIGHT.

9 AFTER THE MEETING WITH MR. STERN AND
10 MR. DAY THAT WE TALKED ABOUT ON THE 29TH, DID YOU LEARN
11 ABOUT ANY COMMUNICATIONS BY TCW UPPER MANAGEMENT WITH
12 ANY OTHER MEMBERS OF YOUR TEAM?

11:37AM

13 A I'M SORRY. CAN YOU ASK ME AGAIN.

14 Q OF COURSE.

15 ON MAY 29, YOU HAD THIS MEETING WITH
16 STERN AND DAY, THAT ATTANASIO ATTENDED, THIS IS AT THE
17 TCW OFFICES, CORRECT?

11:38AM

18 A RIGHT.

19 Q AT SOME POINT IN THAT DAY DID YOU LEARN THAT
20 PEOPLE FROM TCW MANAGEMENT WERE CONTACTING MEMBERS OF
21 YOUR TEAM?

11:38AM

22 A YES.

23 Q WHAT DID YOU LEARN?

24 A I LEARNED THAT THEY WERE CALLING THEM UP AND
25 TELLING THEM HOW IMPORTANT THEY WERE TO THE OPERATION?

11:38AM

26 Q WHO WERE THE PEOPLE WHO YOU LEARNED HAD BEEN
27 CONTACTED?

28 A I THINK IT WAS PHIL BARACH AND BONNIE BAHA.

1 Q WE'VE HEARD WHO MR. BARACH IS.

2 WHO IS BONNIE BAHA?

3 A SHE WAS IN CHARGE OF THE CORPORATION BOND
4 INVESTMENT GROUP. WHICH IS A BIG PART OF FIXED INCOME.

5 Q DID YOU REACH ANY CONCLUSIONS ABOUT WHY IT WAS
6 SUDDENLY ON THIS DAY, MAY THE 29TH AFTER YOU HAD THIS
7 MEETING WITH MR. DAY AND -- WITH MR. STERN, AND
8 MR. DAY, THAT PEOPLE WERE NOW CONTACTING MEMBERS OF
9 YOUR TEAM TELLING THEM HOW WONDERFUL YOU ARE?

11:38AM

10 A YES, I FIGURED THAT THEY WERE WRITING ME OFF.
11 POTENTIALLY. AND TRYING TO CURRY THE FAVOR OF OTHER
12 PEOPLE WHO WERE VERY LOYAL TO ME, BUT TRY TO PRY THEM
13 AWAY.

11:39AM

14 Q LET'S LOOK AT THE EXHIBIT 188, WHICH MR. QUINN
15 WENT OVER WITH YOU.

11:39AM

16 FIRST OF ALL, LET'S -- YES, THANK YOU
17 DENNIS BOTH WOULD BE GREAT. THE BOTTOM ON THE LEFT
18 JUST TO SAY WHO THAT'S FROM, IT'S FROM MR. ATTANASIO TO
19 YOU, 6:00 P.M. ON MAY THE 29TH, CORRECT?

20 A YES. IT'S BROKEN UP IN A FUNNY WAY. BUT I
21 GUESS THAT'S RIGHT.

11:39AM

22 Q IF YOU JUST LOOK AT THE TOP THAT'S THE SEND
23 THAT COMES FROM THE BOTTOM DOWN HERE. AND THEN IT
24 SAYS:

25 JEFFREY I THINK WE SHOULD DO A
26 PRO FORMA, P + L ON WHAT OUR GROUPS
27 LOOK LIKE TOGETHER. WE'VE TALKED
28 ABOUT THIS BEFORE, I'D LIKE TO CALL

11:40AM

1 DEVITO ABOUT IT ON MONDAY WITH YOUR
2 APPROVAL.

3 WHAT DOES P&L STAND FOR?

4 A PROFIT AND LOSS STATEMENT OF A BUSINESS.

5 Q WHAT IS A PRO FORMA P&L?

11:40AM

6 A IT'S PUTTING TOGETHER AN ANALYSIS OF WHAT THE
7 PROFITABILITY IS OF AN ENTERPRISE.

8 Q SO MR. ATTANASIO NOW AGAIN ON MAY THE 29TH, IS
9 WRITING TO YOU TALKING ABOUT A PRO FORMA P&L. ACTUALLY
10 I'LL STOP HERE SINCE I'M DOING THIS. WE HAD AN E-MAIL,
11 "DON'T BE FOOLED AGAIN".

11:41AM

12 A I THINK IT'S "DON'T GET FOOLED AGAIN".

13 Q YOU'RE THE ROCK DRUMBER.

14 "DON'T GET FOOLED AGAIN", YOU'RE RIGHT.

15 NOW, WE HAVE A PRO FORMA P&L. THAT

11:41AM

16 MR. ATTANASIO IS SUGGESTING.

17 IT SAYS YOU'D BEEN DOING IT BEFORE, AS
18 WE'VE DONE BEFORE. WHAT WAS TALKED ABOUT BEFORE ALONG
19 THESE LINES?

20 A MARC ATTANASIO AND JEAN-MARC CHAPUS TALKED
21 ABOUT LEAVING THE FIRM A LOT.

11:41AM

22 Q AND HAD THEY EVER DISCUSSED SOMETHING WITH YOU
23 ABOUT WHAT YOUR GROUPS WOULD LIKE TOGETHER?

24 A NOT SPECIFICALLY, WE JUST -- THEY TALKED ABOUT
25 LEAVING THE FIRM AND MAYBE, MAYBE TRYING TO ENCOURAGE
26 ME TO DO IT WITH THEM.

11:42AM

27 Q IT SAYS:

28 I THINK WE SHOULD DO A PRO FORMA

1 P+L ON WHAT OUR GROUPS LOOK LIKE
2 TOGETHER.

3 WHAT DID YOU UNDERSTAND THAT TO MEAN?

4 A WE WANTED TO TAKE A LOOK AT IT AS PROSPECTS OF
5 A STAND ALONE BUSINESS.

11:42AM

6 Q LET'S GO UP TO THE PRIOR ONE. OR THE
7 SUBSEQUENT E-MAIL, BUT THE ONE ON TOP.

8 NOW, THIS IS FROM YOU TO MR. ATTANASIO;
9 IS THAT CORRECT?

10 A TO MR. ATTANASIO, YES.

11:42AM

11 Q THIS IS NOT TO MR. BARACH; IS THAT CORRECT?

12 A NO, IT'S NOT TO ANYONE ON MY TEAM.

13 Q AND SO IT SAYS:

14 MORE IMPORTANTLY STERN AND DAY
15 SPENT THE LATE AFTERNOON CALLING MY
16 B TEAM TO TRY TO SWEET TALK THEM.
17 THEY HAVE WRITTEN US OFF AT LEAST
18 IN AN EXPLORATORY WAY.

11:42AM

19 WHO'S THE "US" THAT YOU THOUGHT WAS BEING
20 WRITTEN OFF, FOLLOWING THE MEETING YOU HAD WITH
21 MR. DAY, MR. STERN AND MR. ATTANASIO, THAT DAY?

11:43AM

22 A I MEANT MYSELF AND MR. ATTANASIO.

23 Q SO YOU WANTED TO -- WERE YOU INTERPRETING WHAT
24 WAS HAPPENING AS A REACTION TO THE MEETING THAT WAS
25 HELD EARLIER THAT DAY?

11:43AM

26 A YES.

27 Q AND IT SAYS: THEY ARE TRYING TO MOUNT A
28 COUNTER OFFENSIVE.

1 THAT'S A COUNTER OFFENSIVE AGAINST WHOM?

2 A AGAINST MARK ATTANASIO AND ME.

3 Q SO WHEN IT SAYS: THE WAR IS ON.

4 WHAT WERE YOU REFERRING TO?

5 A I THOUGHT THAT WE WERE BEING ATTACKED.

11:43AM

6 Q WHO'S THE "WE" WHO'S BEING ATTACKED?

7 A ME AND MARK ATTANASIO.

8 Q ALL RIGHT.

9 YOU THEN SUGGEST -- WELL GO BACK IF YOU
10 WOULD, DENNIS. YOU THEN SAY:

11:43AM

11 WE SHOULD MEET OVER THE WEEKEND I
12 WOULD BE HAPPY TO HOST YOU AT THE
13 WATER GARDEN TOMORROW AT 1:00 P.M..

14 Q DID YOU HAVE IN FACT HAVE A MEETING THAT NEXT
15 DAY?

11:44AM

16 A YES.

17 Q AND WHERE DID IT TAKE PLACE?

18 A AT MY PRIVATE OFFICE AT THE WATER GARDEN.

19 Q WHEN DID IT TAKE PLACE?

20 A I CAN'T TELL YOU. IT WAS THE NEXT DAY.

11:44AM

21 Q ALL RIGHT. THAT WOULD BE MAY 30TH.

22 WHO ATTENDED THAT MEETING?

23 A ME, AND MARK ATTANASIO AND JEAN-MARC CHAPUS.

24 Q ALL RIGHT.

25 SO THAT'S J.G., M.A. AND J.M.C.. WHAT
26 DID YOU DISCUSS AT THAT MEETING WITH -- MR. CHAPUS WAS
27 MR. ATTANASIO'S BUSINESS PARTNER IN THEIR GROUP?

11:44AM

28 A YES.

1 Q WHAT DID YOU DISCUSS WITH MR. ATTANASIO AND
2 MR. CHAPUS AT THIS MEETING AT THE WATER GARDEN
3 SATURDAY, MAY THE 20TH?

4 A WE TALKED ABOUT TRYING TO MAKE THE PRESS
5 RELEASE ANNOUNCING STERN'S COMING BACK, HAVING THE
6 FRENCH WRITE IT TO SAY INTERIM CEO AS OPPOSED TO CEO.

11:45AM

7 Q WAS THIS YOUR IDEA THAT YOU WERE TRYING TO
8 PERSUADE THEM OF, HOW INVOLVED OR COMMITTED WERE THEY
9 TO THIS IDEA?

10 A IT WAS MARK ATTANASIO'S IDEA. I WASN'T -- I
11 NEVER EVEN THOUGHT OF IT. HE THOUGHT IT UP AND HE GAVE
12 ME A LONG TALK ABOUT WHY IT WAS IMPORTANT TO NOT LET IT
13 GET CEMENTED IN.

11:45AM

14 AND HE CONVINCED ME.

15 Q AND DID THEY ASK YOU TO DO ANYTHING WITH
16 RESPECT TO WHETHER THE PRESS RELEASE SHOULD SAY INTERIM
17 CEO?

11:45AM

18 A YES. THEY WANTED ME TO USE MY POWER AS CHIEF
19 INVESTMENT OFFICER TO INSIST THAT I WOULDN'T PUT MY
20 NAME ON THE PRESS RELEASE UNLESS THE PRESS RELEASE SAID
21 INTERIM CEO INSISTS.

11:46AM

22 Q DID YOU MAKE ANY INQUIRY ABOUT THE
23 APPROPRIATENESS OF WEIGHING IN, IN THAT WAY BEFORE YOU
24 DECIDED WHAT TO DO IN RESPONSE TO THIS REQUEST?

25 A YES.

11:46AM

26 Q WHAT DID YOU DO?

27 A I CALLED MY PERSONAL LAWYER.

28 Q WHAT'S HIS NAME?

1 A IRA GROSS.

2 Q WHEN YOU HAD A CALL WITH MR. GROSS, YOUR
3 LAWYER, WAS IT SIMPLY YOU AND HIM ON THE LINE OR WERE
4 MR. ATTANASIO AND MR. CHAPUS ABLE TO PARTICIPATE IN
5 THAT CALL?

11:46AM

6 A IT WAS, THEY WERE LISTENING IN, IT WAS A
7 SPEAKER PHONE ON THE CONFERENCE ROOM TABLE.

8 Q THIS WAS NOT A CONFIDENTIAL COMMUNICATION
9 BETWEEN YOU AND YOUR LAWYER?

10 A NO.

11:46AM

11 Q ALL RIGHT.

12 YOU CALLED MR. GROSS, WHAT DID YOU ASK
13 HIM ON THAT -- WITH THEM ON THE SPEAKER PHONE?

14 A I WANTED TO KNOW WHAT MY, MY RESPONSIBILITIES
15 WERE AND -- MARK ATTANASIO WANTED TO KNOW AS WELL AS
16 MEMBERS OF THE BOARD OF DIRECTORS -- TOWARDS WANTING TO
17 EFFECT THIS LANGUAGE.

11:46AM

18 Q AND WHAT DID HE SAY?

19 A HE SAID, YOU'RE HELPING THE COMPANY, YOU'RE
20 SERVING YOUR DUTY COMPLETELY, YOU'RE NOT IN THE SAME
21 GALAXY AS BREACHING YOUR DUTY.

11:47AM

22 Q AND SO AFTER THAT CALL WITH MR. GROSS, DID YOU
23 MAKE A CALL TO ANYONE REGARDING THE PRESS RELEASE?

24 A YES.

25 Q WHAT CALL WAS THAT?

11:47AM

26 A I CALLED JEAN PIERRE MUSTIER IN PARIS, THE MAN
27 AT THAT TIME IN CHARGE OF OVERSEEING TCW FOR SG.

28 Q AND DID YOU DO IT FROM THE WATER GARDEN?

1 A YES.

2 Q AND ON THAT ONE WHERE -- WERE CHAPUS AND
3 ATTANASIO ON THE SPEAKER? HOW IF AT ALL DID THEY
4 PARTICIPATE IN THAT CALL?

5 A I DID THE CALL ON A HAND SET. THEY WERE
6 STANDING NEAR ME LISTENING. BUT ONLY COULD HEAR MY
7 SIDE OF THE CONVERSATION.

11:47AM

8 Q SO WHAT DID YOU ASK MR. MUSTIER IF ANYTHING?

9 A I SAID I WANTED THE PRESS RELEASE TO SAY
10 INTERIM CEO, AND IF HE DID THAT THEN HE COULD PUT MY
11 NAME IN AS SUPPORTING IT.

11:48AM

12 Q WHAT DID HE SAY?

13 A HE SAID HE WOULD DO IT.

14 Q AFTER THE MEETING AT THE WATER GARDEN WITH YOU
15 AND MR. CHAPUS AND MR. ATTANASIO, DID MR. ATTANASIO
16 INITIATE ANY OTHER ACTIONS WITH RESPECT TO MR. STERN'S
17 RETURN AS CEO?

11:48AM

18 A YES.

19 Q WHAT DID HE DO?

20 A HE PUT A LETTER TOGETHER THAT HE WROTE AND
21 WANTED ALL OF THE FIVE MEMBERS OF BOB BEYER'S -- BEYER
22 WAS NOT THERE ANYMORE, BUT WHAT USED TO BE BOB BEYER'S
23 SORT OF MANAGEMENT MEETING GROUP.

11:48AM

24 HE WANTED THEM TO SIGN IT SAYING THEY
25 DIDN'T WANT STERN TO COME BACK.

11:48AM

26 Q WHO WERE THE MEMBERS OF THE MANAGEMENT FIRM
27 YOU REFER TO?

28 A ATTANASIO, BLAIR THOMAS, MYSELF, DIANE JAFFEE,

1 AND AT TIMES JEAN-MARC CHAPUS.

2 Q LET ME ASK YOU TO LOOK AT EXHIBIT 5146. WILL
3 YOU SHOW THAT TO THE WITNESS AND TO THE COURT.

4 WHAT IS THIS, MR. GUNDLACH?

5 A IT'S AN E-MAIL FROM MARK ATTANASIO TO JEAN
6 PIERRE MUSTIER.

11:49AM

7 Q WHAT'S THE DATE?

8 A MAY 31ST, 2009.

9 MR. HELM: I MOVE ADMISSION OF 5146.

10 MR. QUINN: NO OBJECTION.

11:49AM

11 THE COURT: IT WILL BE ADMITTED.

12

13 (EXHIBIT 5146 ADMITTED.)+

14

15 MR. HELM: SHOW IT TO THE JURY.

11:49AM

16 Q ALL RIGHT.

17 SO THE FIRST PAGE OF THIS DOCUMENT IS

18 A -- AN E-MAIL TO MUSTIER FROM ATTANASIO COPIES TO

19 CHAPUS, GUNDLACH, JAFFEE, THOMAS AND TO MARC STERN,

20 CORRECT?

11:50AM

21 A YES.

22 Q THIS IS ON MAY THE 31ST?

23 A YES.

24 Q THAT'S A SUNDAY NOW WE'RE TALKING ABOUT?

25 A YES.

11:50AM

26 Q LETTER TO MUSTIER. WHO DRAFTED THE LETTER?

27 A I THINK MARK ATTANASIO.

28 Q DID YOU DRAFT THE LETTER?

1 A NO.

2 Q IT SAYS:

3 ATTACHED TO THIS COVER NOTE IS A
4 LETTER FROM KEY TCW PORTFOLIO
5 MANAGERS WHICH OUTLINES OUR VIEW
6 REGARDING PM PARTICIPATION.

11:50AM

7 WHAT DOES PM REFER TO?

8 A PORTFOLIO MANAGER.

9 Q

10 REGARDING PORTFOLIO MANAGER
11 PARTICIPATION IN A MANAGEMENT
12 COMMITTEE WHICH WOULD GOVERN THE
13 FIRM WHILE WE UNDERSTAND WE ARE
14 GOING FORWARD NAMING MARC AS THE
15 INTERIM CEO WE FEEL THE BASIC
16 TENANTS PRESSED EXPRESSED IN THE
17 LETTER SHOULD BE ADHERED TO.
18 MARC STERN IS COPIED ON THIS
19 DISTRIBUTION PER YOUR REQUEST.

11:50AM

11:51AM

20 IS THAT WHAT ATTANASIO WROTE AT THAT TIME?

11:51AM

21 A YES.

22 Q AND LET'S GO TO THE NEXT PAGE, IS THAT THE
23 ATTACHED LETTER?

24 A YES.

25 Q WHY DON'T WE -- LET'S GO TO THE BOTTOM TWO
26 PARAGRAPHS, DENNIS. YES FROM THERE DOWN. THANK YOU.

11:51AM

27 IT SAYS:

28 WE ARE WRITING THIS LETTER

1 TOGETHER, SO THERE CAN BE NO
2 CONFUSION ABOUT WHERE WE STAND AS A
3 MANAGEMENT TEAM, WE RESPECTFULLY
4 REQUEST THAT YOU DO NOT ISSUE THE
5 PRESS RELEASE ON MONDAY NAMING
6 MARC STERN AS CHIEF EXECUTIVE
7 OFFICER.

11:51AM

8 AS WE SEE IT, THE MOST IMPORTANT
9 OBJECTIVE OUR FIRM FACES, IS TO
10 SHOW STABILITY, UNITY, STRENGTH AND
11 CONTINUITY TO EVERYONE OF OUR
12 CLIENTS AND COLLEAGUES.

11:51AM

13 IS THAT A VIEW YOU SHARED AT THAT TIME?

14 A YES.

15 Q IT SAYS:

11:52AM

16 IN OCTOBER 2005, AN ACTIVE WELL
17 CONSIDERED DECISION, TO MAKE A
18 GENERATIONAL MANAGEMENT CHANGE WAS
19 REACHED AND ANNOUNCED WITH FANFARE
20 IN JULY 2009. WE CONSIDER IT A
21 MAJOR STEP BACKWARD TO BRING AN
22 EXECUTIVE OUT OF RETIREMENT TO
23 "LEAD" THOSE OF US WHO HAVE LABORED
24 TO BUILD THE BUSINESS THROUGH THESE
25 YEARS NO MATTER HOW MUCH WE RESPECT
26 MARC'S ABILITIES, WE REQUEST A
27 MANAGEMENT COMMITTEE BE CREATED
28 WITH RESPONSIBILITY FOR THE

11:52AM

11:52AM

1 OVERSIGHT OF THE FIRM. WE OR YOU
2 CAN SELECT A CHAIR PERSON FOR THAT
3 COMMITTEE.

4 THIS COMMITTEE WOULD REPORT
5 DIRECTLY TO YOU. WE WOULD FIND
6 MARC'S INVOLVEMENT MORE PRODUCTIVE
7 IF HE WERE DESIGNATED A MEMBER OF
8 THIS COMMITTEE INCLUDING AS ITS
9 CHAIR RATHER THAN AS CEO.

11:52AM

10 IS THAT THE PROPOSAL THAT WAS BEING MADE?

11:53AM

11 A YES.

12 Q

13 WE BELIEVE THIS IS AN OPPORTUNITY
14 TO ELIMINATE THE LAYER OF
15 MANAGEMENT THAT EXISTS BETWEEN THE
16 REVENUE PRODUCERS WHO TOUCH OUR
17 CLIENTS EVERY DAY AND OUR CONTROL
18 STAKE HOLDER. WE DO NOT BELIEVE,
19 QUOTE, GOING BACK TO THE FUTURE,
20 CLOSED QUOTE, IS THE CORRECT
21 ANSWER. MOREOVER, COMING OUT OF
22 RETIREMENT MARC WILL BE SEEN AS
23 JUST A TEMPORARY APPOINTEE
24 REGARDLESS OF WHAT TITLE HE IS
25 GIVEN.

11:53AM

11:53AM

11:53AM

26 WAS THAT ALL CONTAINED IN THE LETTER THAT WAS
27 SENT TO MR. MUSTIER?

28 A YES.

1 Q LET'S LOOK AT THE BOTTOM THEN, DENNIS, OF THE
2 THIRD PAGE. THE SIGNATURE LINE IT SAYS, SINCERELY.

3 WHO WERE THE ELECTRONIC SIGNATORS TO
4 THIS LETTER?

5 A MARK ATTANASIO. JEAN-MARC CHAPUS.
6 JEFFREY GUNDLACH. DIANE JAFFEE. BLAIR THOMAS.

11:53AM

7 Q WERE YOU THE INSTIGATOR OF THIS LETTER,
8 MR. GUNDLACH?

9 A NO.

10 Q DID THIS ACCURATELY REFLECT THE VIEWS THAT YOU
11 HAD HEARD THESE PEOPLE EXPRESS BEFORE THIS LETTER WAS
12 SENT?

11:54AM

13 A YES.

14 Q DID SG ULTIMATELY ADOPT A MANAGEMENT COMMITTEE
15 INSTEAD OF A CEO AS THE PORTFOLIO MANAGERS HAD
16 SUGGESTED?

11:54AM

17 A NOT REALLY.

18 Q ALL RIGHT. A PRESS RELEASE WAS ULTIMATELY
19 ISSUED? DO YOU RECALL THAT?

20 A YES.

11:54AM

21 Q WHEN WAS IT ISSUED?

22 A I DON'T KNOW.

23 Q WOULD YOU LOOK AT 5148, PLEASE. DOES THAT
24 REFRESH YOUR RECOLLECTION OF WHEN A PRESS RELEASE WAS
25 ISSUED?

11:54AM

26 A JUNE 1ST, 2009.

27 Q IS THIS THE PRESS RELEASE THAT WAS ISSUED
28 ANNOUNCING MARC STERN'S RETURN?

1 A YES.

2 MR. HELM: I MOVE ADMISSION OF THE DOCUMENT,
3 YOUR HONOR.

4 MR. QUINN: NO OBJECTION.

5 THE COURT: IT WILL BE ADMITTED.

11:55AM

6

7 (EXHIBIT 5148 ADMITTED.) +

8

9 BY MR. HELM:

10 Q AND IT SAYS IN THE FIRST LINE, IT SAID:

11:55AM

11 IT WAS ANNOUNCED THAT MARC STERN

12 HAS BEEN APPOINTED INTERIM CHIEF

13 EXECUTIVE OFFICER.

14 SO AT LEAST THE REQUEST FOR AN INTERIM
15 DESIGNATION, WAS THAT HONORED IN THE PRESS RELEASE?

11:55AM

16 A YES.

17 Q WHAT HAPPENED TO THE REQUEST FOR A MANAGEMENT
18 COMMITTEE THAT, DID THAT FALL BY THE WAYSIDE?

19 A YES.

20 Q NOW, I'D LIKE YOU TO -- WHAT'S OUR NEXT
21 EXHIBIT NUMBER?

11:55AM

22 6132.

23 THANK YOU, JONETTE.

24 MAY WE MARK IT FOR IDENTIFICATION, YOUR
25 HONOR?

11:56AM

26 THE COURT: YES.

27

28 (EXHIBIT 6132 MARKED FOR I.D.) +

1 BY MR. HELM:

2 Q LET ME ASK YOU TO LOOK AT EXHIBIT 6120 IS THIS
3 AN E-MAIL FROM JUDY HERSCH TO YOU, MR. STERN AND OTHERS
4 DATED JUNE THE 3RD?

5 A YES.

11:56AM

6 Q MOVE ADMISSION OF 6120?

7 THE COURT: ANY OBJECTION?

8 MR. QUINN: NO OBJECTION.

9 THE COURT: IT WILL BE ADMITTED.

10

11:57AM

11 (EXHIBIT 6120 ADMITTED.) +

12

13 BY MR. HELM:

14 Q THIS SAYS, THIS TALKS ABOUT A CONVERSATION
15 WITH KANSAS PUBLIC EMPLOYEES RETIREMENT SYSTEM, WHAT'S
16 THAT?

11:57AM

17 A IT'S A LARGE PENSION PLAN THAT SEES OVER THE
18 RETIREMENT MONEYS FOR THE KANSAS PUBLIC EMPLOYEES.

19 Q IT SAYS VINCE WAS INTERESTED... GET DOWN TO
20 THAT REDACTION. IF WE CAN BLOW THAT ALL UP.

11:57AM

21 IT'S REFERRING TO VINCE SMITH THE CHIEF
22 INVESTMENT OFFICER THERE; IS THAT CORRECT?

23 A I DON'T KNOW.

24 Q IT SAYS:

25 VINCE WAS INTERESTED IN TWO POINTS,

11:57AM

26 HOW DOES THE MANAGEMENT CHANGE

27 IMPACT JEFFREY GUNDLACH'S

28 MANAGEMENT OF THIS -- HIS

1 PORTFOLIOS? AND WHAT IS MARC'S
2 PLAN FOR TCW'S STRATEGIC DIRECTION
3 WITH PLANS FOR ULTIMATE OWNERSHIP
4 CHANGE, WHICH SG HAS ALREADY MADE
5 PUBLIC?

11:58AM

6 IT SAYS: MARC TO JEFFREY GUNDLACH,
7 INTELLIGENCE FOR MANAGING HIS
8 PORTFOLIO.

9 HE SAID HE HAS KNOWN JEFFREY FOR MANY YEARS
10 AND ALWAYS ADMIRE AND RESPECTED HIS ABILITIES. AND
11 MARC MENTIONED HE HAS A SIGNIFICANT PERCENTAGE OF HIS
12 PERSONAL LIQUID ASSETS INVESTED WITH JEFFREY.

11:58AM

13 MARC WENT ON TO SAY HIS FIRST AND MOST
14 IMPORTANT JOB AT CEO IS TO MAKE THE TRAINS RUN ON TIME;
15 HE SEES IT HAS HIS RESPONSIBILITY TO SEE ALL TOOLS AND
16 PROCESSES THE PORTFOLIO MANAGERS NEED TO DO THEIR JOBS;
17 WILL CONTINUE TO BE THERE AS THEY NEED THEM IF HE CAN
18 PROVIDE WAYS OF ENHANCING THOSE RESOURCES SO MUCH THE
19 BETTER.

11:58AM

20 WAS THAT PART OF THE E-MAIL SENT TO YOU
21 AT THAT TIME?

11:58AM

22 A YES. APPARENTLY THAT'S TO ANSWER QUESTION
23 ONE, BUT IT DOESN'T DO IT.

24 Q THEN QUESTION TWO. AS TO STRATEGIC DIRECTION
25 MARC STATED, HE DOES NOT HAVE A DIFFERENT STRATEGIC
26 PLAN FOR TCW HOWEVER IN REGARD TO OWNERSHIP CHANGE HE
27 AGREED THAT, YES, SG HAS ALREADY ANNOUNCED THAT THEIR
28 PLANS FOR TCW REVOLVE AROUND AN ULTIMATE I.P.O OR SALE.

11:59AM

1 MARC POINTED OUT THAT HE IS THE ONLY
2 NON-BRANCH MEMBER OF THE SOCIÉTÉ GÉNÉRALE BOARD.
3 THEREFORE, HE BELIEVES HE IS UNIQUELY POSITIONED TO
4 HELP FACILITATE AN OWNERSHIP CHANGE THUS MARC
5 CHARACTERIZED HIS CURRENT ROLE AT TCW MORE AS
6 TRANSITIONAL CEO?

11:59AM

7 IS THAT WHAT WAS WRITTEN AT THAT TIME?

8 A YES.

9 Q AFTER MR. STERN RETURNED, DID A MANAGEMENT
10 COMMITTEE OF SOME KIND CONTINUE TO OPERATE?

11:59AM

11 A WELL, THERE REALLY WASN'T ONE BEFORE HE CAME.

12 Q WELL, YOU REFERRED TO SOME KIND OF A
13 COMMITTEE, WHAT WAS THAT BEFORE?

14 A THERE WAS A BY-WEEKLY COMMITTEE MEETING THAT
15 BOB BEYER STARTED. IT WOULD MEET MONDAY MORNING EVERY
16 OTHER WEEK WITH A BUNCH OF PEOPLE IN IT. IT WAS SORT
17 OF INFORMATION SHARING, MEETING, IT WAS A FIXED
18 INCOME -- A MANAGEMENT MEETING REALLY.

12:00PM

19 Q DID SOME KIND OF A MEETING THEN CONTINUE AFTER
20 MR. STERN RETURNED?

12:00PM

21 A YES.

22 Q AND WHAT WAS -- WHO WERE THE MEMBERS OF THAT
23 MEETING?

24 A IT WAS A SMALLER GROUP. BLAIR THOMAS OPTED
25 OUT. HE HAD BEEN IN THE BEYER GROUP HE DIDN'T WANT
26 ANYTHING ELSE TO DO WITH IT. IT WAS STERN, AND
27 ATTANASIO AND ME AND DIANE JAFFEE.

12:00PM

28 AND THEN FOR THE FIRST TIME, JEAN-MARC

1 CHAPUS WAS PUT ON THE COMMITTEE. HE HAD BEEN ON IT
2 BEFORE.

3 Q DO YOU KNOW A COMPANY CALLED BUCHANAN STREET
4 PARTNERS?

5 A YES. 12:01PM

6 Q WHAT IS IS IT?

7 A IT'S A SMALL COMMERCIAL REAL ESTATE INVESTMENT
8 FIRM OUT OF NEWPORT BEACH TCW PURCHASED 2007.

9 Q NOW, OCTOBER 2007, YOU WERE THE CHIEF
10 INVESTMENT OFFICER OF THE COMPANY? 12:01PM

11 A YES.

12 Q DID YOU FAVOR THE ACQUISITION OF BUCHANAN
13 STREET PARTNERS 2007?

14 A I DID NOT. BUT I WASN'T TOLD ABOUT IT UNTIL
15 AFTER IT HAPPENED. 12:01PM

16 Q SO, WHY DID YOU OPPOSE THE -- SO YOU LEARNED
17 ABOUT IT AFTER THE FACT?

18 A YES.

19 Q YOU WERE NOT CONSULTED AS CHIEF INVESTMENT
20 OFFICER BEFORE THE ACQUISITION? 12:01PM

21 A NO, I WAS NOT CONSULTED.

22 Q ONCE YOU LEARNED OF IT WHAT WAS YOUR VIEW
23 ABOUT THE WISDOM OF THAT ACQUISITION?

24 A I THOUGHT IT WAS REALLY STUPID.

25 Q WHY IS THAT? 12:01PM

26 A BECAUSE IN OCTOBER OF 2007, I THOUGHT THAT THE
27 REAL ESTATE MARKET WAS IN THE PROCESS OF CRASHING. AND
28 THE LAST THING IN THE WORLD THAT ONE WOULD WANT TO DO

1 WOULD BE TO EXPAND THE BUSINESS OPERATION IN THE
2 COMMERCIAL REAL ESTATE OR OTHER REAL ESTATE.

3 Q DID THE TOPIC OF BUCHANAN STREET PARTNERS,
4 WHAT YOU CALL -- IS IT A MANAGEMENT COMMITTEE COME
5 AFTER --

12:02PM

6 A BY-WEEKLY MEETING.

7 Q DID THE TOPIC OF BUCHANAN STREET PARTNERS COME
8 UP AT A BY-WEEKLY MEETING THAT WAS HELD AFTER MR. STERN
9 RETURNED, THIS IS NOW IN 2009, FEW YEARS AFTER THE
10 ACQUISITION?

12:02PM

11 A YES.

12 Q WHEN DID THE TOPIC COME UP AT THE BY-WEEKLY
13 MEETING?

14 A LATE JULY 2009.

15 Q AND HOW DID IT ARISE?

12:02PM

16 A AT THE BY-WEEKLY MEETING, WHICH AGAIN WAS
17 SUPPOSED TO BE SOME SORT OF A MANAGEMENT MEETING, I WAS
18 INFORMED THAT THE DECISION HAD BEEN MADE TO HAVE
19 BUCHANAN STREET PARTNERS REPORT IN TO ATTANASIO AND
20 CHAPUS.

12:02PM

21 Q DID YOU HAVE ANY REACTION TO THAT, FIRST OF
22 ALL, WERE YOU CONSULTED IN ADVANCE ABOUT THAT DECISION?

23 A NO.

24 Q WHAT WAS YOUR REACTION WHEN YOU LEARNED THE
25 ANNOUNCEMENT OF THAT DECISION?

12:03PM

26 A I SERIOUSLY QUESTIONED THE MOTIVES UNDERNEATH
27 THAT MOVE. AND I POINTED THAT OUT AT THE MEETING. I
28 SAID THAT MY TEAM HAD TOLD ME, THAT THIS COMMITTEE,

1 THIS BY-WEEKLY COMMITTEE, BEING SET UP WITH THE
2 STAFFING OF THE MEETING LOADED TO ATTANASIO AND CHAPUS,
3 LOOKED FISHY.

4 DIDN'T LOOK GOOD. WE WERE MANAGING 70
5 PERCENT OF THE FIRM'S ASSETS AND THIS OTHER GROUP, MUCH 12:03PM
6 MUCH SMALLER THAN OURS, WAS OVER REPRESENTED ON THE
7 COMMITTEE. MY PEOPLE SAID THAT DOESN'T LOOK GOOD. SO
8 IN THE MEETING I SAID, YOU KNOW, I'M STARTING TO
9 BELIEVE THERE IS SOMETHING FISHY HERE.

10 AND MAKES NO SENSE FOR THIS REAL ESTATE 12:03PM
11 OPERATION TO BE REPORTING IN TO PEOPLE THAT DO
12 CORPORATION FINANCE. I'M FAIRLY WELL-KNOWN AS AN
13 EXPERT ON REAL ESTATE FINANCE.

14 WHAT IS THIS WITH HAVING THE REAL --
15 THIS COMMERCIAL REAL ESTATE FINANCE GROUP REPORT IN TO 12:04PM
16 A NON-RELATED ENTITY. THEY SHOULD PROBABLY BE
17 REPORTING TO ME.

18 Q IT WAS PART OF YOUR CONCERN -- WAS PART OF
19 YOUR CONCERN THE QUESTION OF WHO THEY WERE REPORTING
20 TO? 12:04PM

21 A YES. IT SEEMED NONSENSICAL.

22 Q AND WAS ANY PART OF YOUR CONCERN THE QUESTION
23 OF WHETHER YOU WERE CONSULTED BEFORE THAT, WHETHER IT
24 WAS DISCUSSED IN THE COMMITTEE OR WHETHER IT WAS
25 ANNOUNCED -- 12:04PM

26 A THAT WAS A BIG PROBLEM, TOO. EVERYTHING ABOUT
27 THAT REVEALED TO ME THAT THIS COMMITTEE WAS A SHAM AND
28 I SAID I THINK MY PEOPLE ARE RIGHT, I'D LIKE TO SEE A

1 COUPLE MORE PEOPLE ON THE COMMITTEE FROM MY GROUP.
2 LIKE PHIL BARACH.

3 Q WERE YOU ANGRY WHEN YOU MADE THESE STATEMENTS?

4 A YES.

5 Q DID YOU RAISE YOUR VOICE?

12:04PM

6 A ABOUT LIKE I'M DOING NOW.

7 Q DID YOU GET IN ANYONE'S FACE, WOULD YOU SAY?

8 A NO. NOR DID I GET OUT OF MY CHAIR.

9 Q SO WHERE WERE THINGS LEFT AT THE END OF THAT
10 MEETING?

12:05PM

11 A LIKE THEY ALWAYS WERE WHEN I'D RAISE A
12 CONCERN, JUST RADIO SILENCE.

13 Q ALL RIGHT.

14 NOW, DURING THE SUMMER OF 2009, AFTER
15 MR. STERN RETURNED, WHAT WAS THE MAIN FUNCTION OF YOUR
16 INTENTION AT TCW?

12:05PM

17 A MAKING MONEY FOR MY CLIENTS.

18 Q AND WHAT WAS HAPPENING TO THE TOTAL RETURN
19 BOND FUND DURING THE SUMMER OF 2009?

20 A IT WAS GROWING VERY RAPIDLY.

12:05PM

21 Q AND DID THAT CREATE ANY WORK FOR YOU, THE FACT
22 THAT FUNDS WERE COMING IN TO THE TOTAL RETURN BOND
23 FUND?

24 A VERY MUCH SO.

25 Q WHY IS THAT? WHAT DO YOU HAVE TO DO WITH THE
26 MONEY ONCE IT COMES IN?

12:05PM

27 A YOU GOT TO INVEST IT AND TALK TO THE CLIENTS,
28 THAT ARE PUTTING THE MONEY IN. I WAS WORKING LIKE A

1 DOG.

2 Q DID ANY OF THE SPECIAL MORTGAGE CREDIT FUNDS
3 OCCUPY ANY OF YOUR INTENTION DURING THE SUMMER OF 2009?

4 A VERY SUBSTANTIALLY.

5 Q AND WHAT WERE YOU DOING ON THOSE SPECIAL
6 MORTGAGE CREDIT FUNDS AT THAT TIME?

12:06PM

7 A WORKING VERY HARD TO MAKE THE INVESTOR'S
8 MONEY.

9 Q DID YOUR WORK EFFORT DECLINE IN ANY WAY AFTER
10 YOU HEARD THAT MARC STERN WAS COMING BACK?

12:06PM

11 A NOT AT ALL.

12 Q DID YOU CONTINUE TO WORK DILIGENTLY IN YOUR
13 JOB DURING THE SUMMER OF 2009?

14 A I NEVER WORKED ANY HARDER.

15 Q DO YOU RECALL THAT A MEETING WAS HELD WITH
16 MR. STERN AND SOME OTHER MEMBERS OF YOUR TEAM ON
17 SEPTEMBER THE 3RD, 2009?

12:06PM

18 A YES.

19 Q WHAT PROMPTED THAT MEETING?

20 A I HEARD THE DAY BEFORE A RUMOR THAT THERE WAS
21 A FLOOR FULL OF LAWYERS THAT WERE AT TCW WORKING ON
22 FIRING ME.

12:06PM

23 Q AND HOW LONG BEFORE THE SEPTEMBER 3RD MEETING
24 WITH MR. STERN DID YOU HEAR THOSE RUMORS?

25 A I THINK THE DAY BEFORE.

12:06PM

26 Q AND HOW DID THE MEETING WITH MR. STERN GET SET
27 UP?

28 A I BELIEVE I ASKED FOR THE MEETING.

1 Q AND DID THE RUMORS YOU HEARD HAVE ANYTHING TO
2 DO WITH YOUR REQUESTING THE MEETING?

3 A EVERYTHING.

4 Q AND SO WHO ATTENDED THAT MEETING?

5 A MYSELF, PHIL BARACH, LOU LUCIDO AND A FEW OF
6 MY OTHER SENIOR PEOPLE IN MY FIXED INCOME GROUP AND
7 MARC STERN.

12:07PM

8 Q DID YOU TELL MR. STERN ANYTHING AT THAT
9 MEETING ABOUT THE RUMORS THAT YOU HAD HEARD?

10 A YES.

12:07PM

11 Q DID YOU ASK HIM ANYTHING ABOUT THOSE RUMORS?

12 A I SAID ARE THEY TRUE?

13 Q WHAT DID HE SAY?

14 A HE SAID THEY'RE NOT TRUE.

15 Q DID YOU SAY ANYTHING ELSE ON THE SUBJECT OF
16 THE POSSIBILITY THAT YOU MIGHT BE BEING FIRED?

12:07PM

17 A I SAID, WE'VE BEEN WORKING VERY HARD AND
18 BRINGING IN A LOT OF CLIENT MONEY. VERY RECENTLY AND
19 IN THE NEAR FUTURE MORE IS LIKELY TO HAPPEN.

20 IF YOU'RE FIRING ME, YOU'RE TELLING ONE
21 HUGE LIE TO THESE PROSPECTIVE INVESTORS. THEY'RE
22 SIGNING UP TO GET A DELIVERABLE THAT YOU, IF YOU'RE
23 FIRING ME, KNOW ISN'T GOING TO BE THERE.

12:07PM

24 THAT'S A FRAUD. I TOLD THEM. AND I'M
25 VERY UNCOMFORTABLE WITH THAT. AND I WANT THIS PLACE TO
26 BE MADE SAFE FOR MY CLIENTS. AND FOR MY TEAM.

12:08PM

27 Q DID YOU THREATEN TO LEAVE AT THAT MEETING?

28 A NO.

1 Q DID YOU ASK FOR SOME KIND OF A SHOW OF HANDS
2 AT THE MEETING?

3 A YES.

4 Q WHAT WAS THAT ALL ABOUT?

5 A I SAID IF -- IF YOUR PLAN IS TO FIRE ME AND
6 KEEP THE TEAM IT'S NOT GOING TO WORK.

12:08PM

7 BECAUSE IF THEY FIRE ME, WHO HERE IN
8 THIS ROOM WOULD RESIGN? AND EVERYBODY RAISED THEIR
9 HAND.

10 Q SO WAS YOUR PURPOSE IN DOING THAT TO THREATEN
11 HIM WITH LEAVING?

12:08PM

12 A NO, THE OPPOSITE.

13 I WAS TRYING TO GET HIM TO UNDERSTAND
14 THAT I WANTED TO STAY. AND IF HE GOT RID OF ME, HE'D
15 BLOWUP THE BUSINESS.

12:08PM

16 Q DID THE SUBJECT OF SOCIÉTÉ GÉNÉRALE'S
17 INTENTIONS OF SELLING THE BUSINESS COME UP AT THIS
18 MEETING?

19 A YES.

20 Q WHAT DID YOU DISCUSS IN THAT REGARD?

12:08PM

21 A I SAID WE'RE HAVING A LOT OF TROUBLE WITH
22 CLIENTS AND PROSPECTS BECAUSE OF ALL THIS NOISE ABOUT
23 TURMOIL AT THE FIRM AND THE SELLING OF THE FIRM BY THE
24 FRENCH.

25 I'D LIKE YOU TO PUT OUT A PRESS RELEASE,
26 HAVE THE FRENCH PUT OUT A PRESS RELEASE THAT SAYS THE
27 FIRM IS NOT FOR SALE. WE WILL NOT EVEN ENTERTAIN A BID
28 FOR THE FIRM UNTIL AT LEAST THE END OF 2010.

12:09PM

1 Q WHY IS IT THAT YOU WANTED THIS STATEMENT TO
2 ISSUE?

3 A BECAUSE THE TURMOIL OVERHANG, THE FIRM ABOUT
4 SALE, WE SAW JUST IN THIS LAST E-MAIL, WAS OF CONCERN
5 TO THE CLIENTS AND THE PROSPECTS AND THE EMPLOYEES OF
6 TCW.

12:09PM

7 AND I WANTED THAT TURMOIL PUT TO REST
8 FOR A WHILE.

9 Q AND WHAT, IF ANYTHING, DID MR. STERN SAY IN
10 RESPONSE TO YOUR REQUEST TO ISSUE A STATEMENT ABOUT THE
11 SALE OF TCW?

12:09PM

12 A HE SAID THEY WOULD DO IT, THAT WAS EASY TO DO.

13 Q AFTER THE MEETING DID TCW OR SOC-GEN EVER
14 ISSUE ANY SUCH STATEMENT?

15 A NO.

12:09PM

16 Q ALL RIGHT.

17 YOU TALKED WITH MR. QUINN A LITTLE BIT
18 ABOUT AN OFFER THAT YOU MADE TO BUY TCW?

19 A YES.

20 Q WHY DID YOU MAKE AN OFFER TO BUY TCW AT THIS
21 TIME?

12:10PM

22 A MARC STERN SAID TO ME, HOW CAN WE MAKE THE
23 PLACE SAFE?

24 AND I SAID, I'LL BUY THE FIRM.

25 Q AND YOU MADE PRIOR EFFORTS TO BUY THE FIRM?

12:10PM

26 A YES.

27 Q WERE PRIOR EFFORTS JUST BY YOURSELF OR IN
28 CONJUNCTION WITH OTHER PEOPLE?

1 A IN CONJUNCTION WITH OTHER PEOPLE.

2 Q NOW, YOU WENT THROUGH THE TERMS OF THE
3 PROPOSAL THAT YOU MADE AND I WON'T GO OVER ALL OF THAT.

4 BUT YOU MENTIONED THAT YOU'D VALUE THE
5 FIRM AT APPROXIMATELY \$700 MILLION. DID I GET THAT
6 RIGHT? 12:10PM

7 A THAT WAS MY OPENING BID.

8 Q AND DID YOU THINK THAT THAT WAS A FAIR
9 VALUATION?

10 A YES. IT MAY HAVE BEEN A LITTLE ON THE LOW
11 END, BUT IT WAS IN THE RANGE AND I WAS WILLING TO PAY
12 MORE. 12:10PM

13 Q DID YOU THINK IT WAS ALSO MENTIONED THAT YOU
14 SUGGESTED THAT SOC-GEN MIGHT FINANCE PART OF THE
15 PURCHASE PRICE. DID YOU BELIEVE THEY MIGHT BE
16 INTERESTED IN DOING SOMETHING LIKE THAT? 12:11PM

17 A CAN'T HURT TO ASK.

18 Q NOW, WAS THE ONLY IDEA YOU WERE WILLING TO
19 CONSIDER BUYING THE WHOLE FIRM AT THAT TIME?

20 A NO. 12:11PM

21 Q WHAT OTHER POSSIBILITIES WERE IN YOUR MIND?

22 A I WAS OPEN-MINDED TO JUST BUYING OUT MY PART
23 OF THE BUSINESS.

24 Q DID YOU PROPOSE THAT AT THAT TIME?

25 A I DON'T THINK SO. 12:11PM

26 Q WELL, WERE YOU SERIOUS ABOUT THIS OFFER ON
27 SEPTEMBER 3RD TO BUY TCW FROM SOC-GEN SERIOUS?

28 A YES.

1 Q WHAT WAS MR. STERN'S REACTION TO YOUR
2 PROPOSAL?

3 A HE TOOK A LITTLE PIECE OF PAPER OUT OF HIS
4 POCKET AND WITH A SMIRK ON HIS FACE LIKE HE WASN'T
5 REALLY GOING TO LISTEN TO ME, WROTE IT DOWN.

12:11PM

6 Q DID HE SAY WHETHER HE WOULD GET BACK TO YOU?

7 A HE SAID HE WOULD GET BACK TO ME.

8 Q DID HE EVER DO SO?

9 A NO.

10 Q I'LL SHOW YOU A DOCUMENT THAT MR. QUINN SHOWED
11 YOU, EXHIBIT 263. WE CAN SHOW THE TOP PART OF THAT,
12 YEAH. FROM THERE DOWN TO HALFWAY DOWN. YES, THAT'S
13 FINE.

12:12PM

14 ALL RIGHT IN THE MIDDLE IT SAYS:

15 LOU LUCIDO TO YOU, SEPTEMBER 3RD
16 5:00 P.M. ... JUST WANT TO BE SURE
17 THAT VINCE IS INCLUDED IN YOUR
18 THINKING OF CRITICAL STAFF.

12:12PM

19 DID MR. LUCIDO WRITE THAT TO YOU?

20 A YES.

12:12PM

21 Q THEN YOUR RESPONSE WAS WHAT?

22 A "IS."

23 Q MEANING?

24 A MEANING, YES, KIND OF, DON'T BOTHER ME. I GOT
25 THINGS TO DO. ONE WORD ANSWER.

12:13PM

26 Q WAS VINCE FIORILLO PRESENT AT THE MEETING ON
27 SEPTEMBER 3RD WITH MR. STERN?

28 A NO.

1 Q DID YOU EVER ENCOUNTER A SITUATION IN YOUR
2 MANAGEMENT OF YOUR OFFICE THAT SOMEONE GOT HIS FEELINGS
3 HURT BECAUSE HE WAS LEFT OUT OF A MEETING?

4 A YES.

5 Q HOW DID YOU UNDERSTAND YOUR STATEMENT, THE
6 STATEMENT BY MR. LUCIDO, JUST WANT TO BE SURE THAT
7 VINCE IS INCLUDED IN YOUR THINKING OF CRITICAL STAFF?

12:13PM

8 A "TELL VINNIE I LOVE HIM."

9 Q WERE YOU IN THE PROCESS AT THAT POINT OF
10 MAKING LISTS OF WHO WOULD LEAVE IF YOU WERE FIRED?

12:13PM

11 A NO.

12 MR. HELM: YOUR HONOR, I'M MOVING TO ANOTHER
13 TOPIC.

14 THE COURT: ALL RIGHT. WE'LL TAKE OUR NEXT
15 RECESS. 20 MINUTES, LADIES AND GENTLEMEN, WE'LL COME
16 BACK AT 25 TILL.

12:13PM

17
18 (PROCEEDINGS HELD OUTSIDE THE PRESENCE OF THE JURY.) +
19

20 THE COURT: ANY MATTER ANYBODY WANTS TO TAKE
21 UP?

12:14PM

22 MR. QUINN: NO.

23 THE COURT: ALL RIGHT.

24 (RECESS.)

12:14PM

25

26

27

28

1 CASE NUMBER: BC429385
2 CASE NAME: TRUST COMPANY OF THE WEST VS.
3 JEFFREY GUNDLACH, ET AL
4 LOS ANGELES, TUESDAY, AUGUST 16, 2011
5 CALIFORNIA
6 DEPARTMENT 322 HON. CARL J. WEST, JUDGE
7 APPEARANCES: (AS HERETOFORE NOTED.)
8 REPORTER: WENDY OILLATAGUERRE, CSR #10978
9 TIME: 12:39 P.M.

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

14 MR. HELM, YOU MAY CONTINUE.

15 MR. HELM: THANK YOU, YOUR HONOR.

12:40PM

16
17
18 CROSS-EXAMINATION (RESUMED)

19 BY MR. HELM:

20 Q. MR. GUNDLACH, AFTER THE SEPTEMBER 3RD MEETING
21 WITH MR. STERN, WHAT WAS YOUR BELIEF ABOUT WHETHER YOU
22 WERE BEING FIRED?

12:40PM

23 A. I THOUGHT THAT I WAS NOT BEING FIRED.

24 Q. DID LATER EVENTS IN SEPTEMBER AFFECT YOUR VIEW
25 OF THAT?

12:41PM

26 A. YES.

27 Q. WHAT HAPPENED THAT AFFECTED YOUR VIEWS ON
28 WHETHER YOU WERE, IN FACT, BEING FIRED?

1 A. JACQUES PIROLL CAME TO LOS ANGELES FROM PARIS
2 TO MEET WITH PEOPLE.

3 Q. AND HOW DID THAT MEETING -- TELL ME WHAT
4 HAPPENED IN THAT MEETING, OR AS A PART OF THOSE
5 MEETINGS, THAT AFFECTED YOUR VIEW AS TO WHETHER YOU
6 WERE BEING FIRED? 12:41PM

7 A. FIRST, I MET WITH HIM PERSONALLY. AND IT WAS
8 LIKE I WAS VERY CORDIAL, TRYING TO BE HELPFUL TO HIM.

9 AND IT WAS LIKE TALKING TO A PIECE OF
10 CARDBOARD. IT WAS LIKE THE GUY DIDN'T CARE ONE BIT
11 ABOUT WHAT I HAD TO SAY. AND I THOUGHT THAT WAS VERY
12 STRANGE, CONSIDERING I WAS MANAGING 70 PERCENT OF THE
13 FIRM'S ASSETS. 12:41PM

14 SECOND, HE HAD A MEETING WITH PHIL
15 BARACH, WHERE HE PRETTY CLEARLY WAS TRYING TO MAKE A
16 CONNECTION WITH PHIL -- 12:41PM

17 MR. QUINN: YOUR HONOR, I WOULD OBJECT. LACKS
18 FOUNDATION.

19 MR. HELM: WE HAVE AN E-MAIL ON THIS, I
20 BELIEVE, YOUR HONOR. 12:42PM

21 THE COURT: WE CAN GO BACK TO IT.

22 LET'S TRY AND TAKE IT SEQUENTIALLY, ONE
23 THING AT A TIME.

24 MR. HELM: THANK YOU, YOUR HONOR.

25 Q. WELL, YOU FIRST MENTIONED THE MEETING THAT YOU
26 HAD WITH MR. RIPOLL. 12:42PM

27 WHEN DID THAT TAKE PLACE?

28 A. SEPTEMBER, THIRD WEEK MAYBE, 2009.

1 Q. AND WHAT WAS THE OCCASION OF MR. RIPOLL BEING
2 IN LOS ANGELES?

3 A. HE CAME TO MEET WITH PEOPLE FROM TCW.

4 Q. AND SO WHAT WAS IT ABOUT HIS REACTION DURING
5 THAT MEETING THAT YOU THOUGHT WAS UNUSUAL?

12:42PM

6 A. THE FACT THAT HE REALLY WASN'T INTERESTED IN
7 WHAT I HAD TO SAY.

8 Q. WHAT KIND OF TOPICS WERE YOU DISCUSSING WITH
9 HIM?

10 A. I TALKED TO HIM ABOUT DIVIDING THE FIRM INTO
11 TWO DIVISIONS AGAIN, OR THREE DIVISIONS. I TALKED TO
12 HIM ABOUT HOW IT WAS OKAY IF I WASN'T CEO. I DIDN'T
13 EVEN WANT TO BE CEO, AT THAT POINT, OF TCW.

12:42PM

14 HE JUST KEPT TELLING ME, WE ARE GOING TO
15 GO FORWARD WITH PEOPLE THAT WANT TO BE HERE. HE'D SAY
16 STUFF LIKE THAT.

12:43PM

17 AND I'D SAY, I WANT TO BE HERE.

18 AND HE'D SAY, WELL, WE MAY HAVE TO TAKE
19 A STEP BACK TO GO FORWARD, AND STUFF LIKE THAT.

20 YOU'D HAVE THOUGHT HE WOULD WANT TO TALK
21 ABOUT BUSINESS STRATEGY.

12:43PM

22 Q. SO WHAT WAS YOUR TAKE AWAY FROM HIS REACTION?
23 HOW DID THAT AFFECT YOUR VIEW ABOUT
24 WHETHER YOU MIGHT BE BEING FIRED?

25 A. IT MADE ME THINK THAT MAYBE I WAS BEING FIRED,
26 MAYBE THEY WERE PUSHING ME OUT.

12:43PM

27 Q. LET'S LOOK AT EXHIBIT 296. AND GO TO THE
28 BOTTOM.

1 LET'S GO TO THE BOTTOM PART OF THAT, IF
2 WE COULD, DENNIS. THANK YOU.

3 ALL RIGHT. SO THIS STARTS WITH AN
4 E-MAIL FROM MR. BARACH TO YOU, DATED SEPTEMBER 16TH.

5 WAS THAT AROUND THE TIME THAT YOU HAD
6 YOUR MEETING WITH MR. RIPOLL? 12:44PM

7 A. AROUND THE TIME -- I MET WITH HIM FIRST, I
8 KNOW THAT.

9 Q. AND SO IT SAYS -- SUBJECT IS JACQUES.

10 IS THAT JACQUES RIPOLL? 12:44PM

11 A. YES.

12 Q. (READING):

13 JUST FINISHED MEETING WITH
14 HIM. HE IMMEDIATELY TOLD ME HOW
15 GREAT MY REPUTATION WITH THE FRENCH
16 WAS, AND HOW GREAT I AM WITH
17 CLIENTS, AND HOW WONDERFUL A
18 PORTFOLIO MANAGER I AM.

19 CLEARLY, HE IS ATTEMPTING TO CREATE
20 ALLIES, AND IS STARTING THE DIVIDE
21 AND CONQUER STRATEGY I EXPECTED
22 FROM STERN. 12:44PM

23 WAS THIS ONE OF THE WAYS THAT YOU
24 LEARNED FROM MR. BARACH ABOUT WHAT HAPPENED AT HIS
25 MEETING? 12:44PM

26 A. YES.

27 Q. AND SO WHAT WAS YOUR REACTION TO THE PRAISE
28 THAT WAS BEING HEAPED ON MR. BARACH, AND MR. BARACH'S

1 CONCLUSION THAT HE WAS CLEARLY ATTEMPTING TO CREATE
2 ALLIES, AND STARTING THE DIVIDE AND CONQUER STRATEGY?

3 A. I FELT A CRACK OF DOOM.

4 Q. AND WAS THIS IN ADDITION, THEN, TO THE
5 IMPRESSIONS THAT YOU RECEIVED FROM YOUR DISCUSSION WITH
6 MR. RIPOLL? 12:45PM

7 A. THIS MADE MY MEETING WITH RIPOLL MAKE SENSE TO
8 ME.

9 Q. NOW, AT THE TOP, IF WE GO UP A LITTLE BIT, WE
10 HAVE THE THING WHERE YOU SAY, IT SAYS PITIFUL. 12:45PM

11 THE LAST SENTENCE OF THAT IS, IT'S
12 REALLY AN EASY DECISION NOW.

13 SO WHAT WAS IT THAT PROMPTED IT TO BE AN
14 EASY DECISION NOW?

15 A. THE FACT THAT A REPRESENTATIVE, THE PERSON IN
16 CHARGE OF TAKING CARE OF TCW FOR THE FRENCH, CAME TO
17 LOS ANGELES, APPARENTLY FOR REALLY THE REASON OF
18 MEETING WITH PHIL, TO TRY TO PUFF HIM UP AND MAKE HIM
19 FEEL LIKE HE WOULD BE THE NEXT GENERATION OF LEADERSHIP
20 OF MY AREA, TOLD ME THAT HAD BEEN ELEVATED ALL THE WAY
21 TO THE FRENCH LEVEL, AND THAT THE PLAN WAS ON. 12:46PM

22 Q. WERE THERE ANY OTHER EVENTS IN SEPTEMBER THAT
23 AFFECTED YOUR VIEW ABOUT WHETHER YOU WERE BEING FIRED,
24 FOR OR AGAINST BEING FIRED?

25 WHAT ELSE WAS HAPPENING IN SEPTEMBER
26 THAT AFFECTED YOUR VIEWS ON THAT? 12:46PM

27 A. WE WERE ARRANGING THE PPIP WITH THE TREASURY
28 DEPARTMENT.

1 Q. AND AGAIN, THE PPIP IS THE SMCF III FUNDS?

2 IF YOU WOULD JUST BRIEFLY SAY TO THE
3 JURY, SO WE'RE ON THE --

4 A. THAT WAS THE PUBLIC PRIVATE INVESTMENT
5 PARTNERSHIP, WHERE FIRMS WERE GOING TO BE HIRED, ABOUT 12:46PM
6 10 OF THEM, TO RAISE PRIVATE MONEY TO BE MATCHED BY THE
7 TREASURY DEPARTMENT, AS PART OF THE FINANCIAL RESCUE
8 PLANS OF THE GOVERNMENT IN THOSE DAYS.

9 Q. SO WHAT WAS HAPPENING IN THE PPIP PROGRAM IN
10 SEPTEMBER OF 2009? 12:47PM

11 A. I WAS DOING COUNTLESS MEETINGS, PHONE CALLS,
12 AS WAS THE REST OF MY TEAM, WITH PRIVATE INVESTORS.

13 AND SOMEWHERE AROUND THAT TIME, THE
14 TREASURY DEPARTMENT CAME IN TO DO DUE DILIGENCE ON TCW.

15 Q. AND SO WHAT WAS IT ABOUT THE EVENTS IN THE 12:47PM
16 PPIP PROGRAM THAT AFFECTED YOUR VIEW AS TO WHETHER YOU
17 WERE OR WERE NOT BEING FIRED?

18 MR. QUINN: YOUR HONOR, IF WE COULD MAKE
19 CLEAR, FOR STATE OF MIND, THIS IS NOT FOR THE TRUTH OF
20 THE MATTER. 12:47PM

21 THE COURT: THAT'S EXACTLY RIGHT.

22 IT'S HIS IMPRESSION OF WHAT THINGS WERE
23 GOING ON, AND WHAT HIS REACTION TO IT WAS, NOT
24 NECESSARILY THINGS FOR PROOF, IF IT'S STATEMENTS OF
25 OTHERS. 12:47PM

26 GO AHEAD.

27 THE WITNESS: THAT PIECE OF IT MADE ME FEEL,
28 MAYBE I WASN'T BEING FIRED. IT WAS A YIN AND YANG

1 THING.

2 Q. WHY WAS THAT?

3 A. WELL, BECAUSE I FIGURED THAT THEY WOULDN'T
4 FRAUDULENTLY INDUCE THE TREASURY DEPARTMENT INTO COMING
5 IN TO TCW TO MANAGE A PORTFOLIO, KNOWING THAT IT WAS
6 GOING TO NOT BE THAT WAY.

12:48PM

7 MR. QUINN: YOUR HONOR, I MOVE TO STRIKE.
8 LACKS FOUNDATION.

9 THE COURT: OVERRULED.

10 GO AHEAD.

12:48PM

11 Q. BY MR. HELM: DID YOU FINISH YOUR ANSWER?

12 THE COURT: I THINK HE DID.

13 THE WITNESS: I WAS THE KEY MAN.

14 THE COURT: GO AHEAD.

15 Q. BY MR. HELM: SO WE'VE HEARD ONE EVENT IN
16 SEPTEMBER THAT SUGGESTED YOU THOUGHT YOU WERE BEING
17 FIRED, AND ANOTHER ONE THAT SUGGESTED THAT YOU WEREN'T
18 BEING FIRED.

12:48PM

19 WERE YOU OF ONE MIND UNIFORMLY ABOUT
20 WHETHER YOU WERE BEING FIRED?

12:48PM

21 A. NO.

22 I MEAN, I KNEW I WAS, AND YET I KNEW
23 THAT IT DIDN'T SEEM PROBABLE.

24 IT WAS VERY DIFFICULT TO HAVE THESE
25 OPPOSING IDEAS, YIN'G AND YANG'G IN MY HEAD.

12:48PM

26 Q. NOW, DID YOU TAKE ANY STEPS TO PREPARE FOR THE
27 POSSIBILITY THAT YOU MIGHT BE FIRED, OR FOR WHATEVER
28 REASON, MIGHT WANT TO START A NEW BUSINESS?

1 A. YES.

2 Q. COULD YOU JUST LIST THE CATEGORIES NOW OF THE
3 THINGS THAT YOU DID TO PREPARE FOR THE POSSIBILITY OF
4 STARTING A COMPETING BUSINESS?

5 A. I LOOKED FOR COMMERCIAL REAL ESTATE. 12:49PM

6 I HAD GREG WARD START WORKING ON A SHELL
7 CORPORATION THAT ENDED UP BEING ABLE GRAPE. HE NAMED
8 IT THAT.

9 I TOLD CRIS SANTA ANA TO GET ME THE RED
10 BOOKS, SO I WOULD HAVE A COPY OF MY WORK. 12:49PM

11 BY SEPTEMBER 3RD OR SO, I TOLD CRIS
12 SANTA ANA THAT IF WE'RE BEING FIRED, I WANT TO HAVE A
13 CONTACT LIST OF CLIENTS AND A BUNCH OF CLIENT HOLDINGS
14 REPORTS, SO I COULD TALK TO THE CLIENTS AFTER BEING
15 FIRED. 12:49PM

16 I FIGURED IT WAS THE CLIENTS'
17 INFORMATION.

18 Q. WE'LL GET INTO THAT.

19 A. AND I TALKED TO GOLDMAN SACHS.

20 Q. YOU TALKED TO GOLDMAN SACHS, YOU SAID? 12:49PM

21 A. YES, FOR IDEAS ABOUT WHAT TO DO WITH THIS
22 PREDICAMENT.

23 Q. WELL, I'D LIKE TO TALK ABOUT EACH OF THOSE, IN
24 A MINUTE.

25 BUT BEFORE WE DO, LET ME ASK YOU, TO 12:50PM
26 WHAT EXTENT WERE THESE ACTIVITIES THAT YOU HAVE
27 DESCRIBED FOR ME, DEFENSIVE ACTIVITIES, THAT YOU WERE
28 DOING TO PREPARE FOR THE POSSIBILITY THAT YOU MIGHT BE

1 FIRED; AS OPPOSED TO AFFIRMATIVE STEPS THAT YOU MIGHT
2 TAKE IF YOU DECIDED, EVEN IF YOU WEREN'T BEING FIRED,
3 YOU MIGHT WANT TO LEAVE AND START ANOTHER BUSINESS? TO
4 WHAT EXTENT WERE THEY ONE OR THE OTHER?

5 MR. QUINN: OBJECTION. FORM OF THE QUESTION. 12:50PM

6 THE COURT: SUSTAINED.

7 Q. BY MR. HELM: WELL, TO WHAT EXTENT -- WERE
8 YOU, IN PART, MOTIVATED IN UNDERTAKING THE FOUR
9 CATEGORIES OF THINGS THAT YOU DESCRIBED BY A DEFENSIVE
10 DESIRE TO PROTECT AGAINST THE POSSIBILITY OF BEING
11 FIRED? 12:50PM

12 A. THAT WAS THE IMPETUS FOR ME DOING THOSE
13 THINGS. AT THE BEGINNING, REALLY COMPLETELY.

14 Q. AND WERE -- WAS THERE AN EXTENT TO WHICH YOU
15 WERE PURSUING THESE ACTIVITIES, IN PART, BECAUSE EVEN
16 IF YOU WEREN'T FIRED, YOU MIGHT WANT TO NEGOTIATE SOME
17 KIND OF A SEPARATION? 12:50PM

18 MR. QUINN: OBJECTION. LEADING, YOUR HONOR.

19 THE COURT: SUSTAINED.

20 WELL, WAS THERE ANY OTHER ASPECT OF 12:51PM
21 THOSE FOUR ACTIVITIES THAT YOU DESCRIBED, OTHER THAN
22 SIMPLY DEFENSIVELY PREPARING ABOUT THE POSSIBILITY YOU
23 MIGHT BE FIRED?

24 A. AT TIMES, YES.

25 Q. AND WHAT WAS THAT OTHER MOTIVATION? 12:51PM

26 A. THINKING ABOUT MAYBE NEGOTIATING AWAY FROM TCW
27 ON AN AMICABLE BASIS.

28 MY MOTIVATION FOR THAT WAS THE FACT THAT

1 THIS IDEA OF ME BEING FIRED IS EVEN PLAUSIBLE TO ME,
2 MADE ME THINK ABOUT HOW TOXIC THE SITUATION REALLY WAS.

3 Q. OKAY.

4 HAD YOU MADE ANY DECISION TO LEAVE, AT
5 ANY TIME IN THE FALL OF 2009? HAD YOU, IN YOUR MIND
6 DECIDED, I'M LEAVING?

12:51PM

7 A. NEVER.

8 Q. NOW, WHAT WAS YOUR THINKING ON WHETHER YOU
9 SHOULD INITIATE A DEPARTURE, EVEN IF YOU WEREN'T FIRED?

10 A. WELL, I FIGURED THAT NEGOTIATING OUT WAS A WAY
11 OUT OF THIS PREDICAMENT.

12:51PM

12 Q. AT ANY TIME BEFORE DECEMBER 4TH, 2009, DID YOU
13 ACTUALLY CONDUCT A BUSINESS IN COMPETITION WITH TCW?

14 A. NO.

15 Q. AT ANY TIME BEFORE DECEMBER 4TH, 2009, DID YOU
16 ASK A CLIENT OF TCW TO INVEST A FUND RUN -- TO INVEST
17 IN A FUND RUN BY SOME COMPETING BUSINESS?

12:52PM

18 A. NEVER.

19 Q. DID YOU EVER TAKE MONEY FROM A TCW CLIENT TO
20 INVEST IN A COMPETING FUND, DURING THAT TIME?

12:52PM

21 A. NO.

22 Q. BEFORE YOU LEFT TCW, DID YOU EVER SUGGEST THAT
23 A TCW CLIENT WITHHOLD AN INVESTMENT IN A TCW PRODUCT SO
24 IT COULD INVEST IT INSTEAD IN SOME PRODUCT THAT YOU
25 MIGHT DEVELOP IN A FUTURE BUSINESS?

12:53PM

26 A. NEVER.

27 Q. BEFORE LEAVING TCW, DID YOU EVER DIVERT AN
28 INVESTMENT OPPORTUNITY, LIKE A BOND, OR SOME OTHER KIND

1 OF SECURITY THAT YOU WERE THINKING ABOUT BUYING, TO
2 HOLD IT FOR BUYING BY THIS NEW BUSINESS THAT YOU MIGHT
3 CREATE?

4 A. NO.

5 Q. AS LONG AS YOU WORKED AT TCW, DID YOU EVER
6 FAIL TO DEVELOP SOME NEW TCW PRODUCT BECAUSE OF LOYALTY
7 TO SOME OTHER BUSINESS?

12:53PM

8 A. NO.

9 Q. NOW, DID YOU EVER PREPARE FOR THE POSSIBILITY
10 OF STARTING A NEW BUSINESS BEFORE DECEMBER THE 4TH,
11 2009?

12:53PM

12 A. YES.

13 Q. DID YOU DO ANYTHING OTHER THAN PREPARE FOR THE
14 POSSIBILITY OF STARTING A NEW BUSINESS BEFORE
15 DECEMBER 4TH, 2009?

12:53PM

16 A. NO.

17 Q. ALL RIGHT. WELL, LET'S -- YOU MENTIONED
18 SEVERAL THINGS THAT YOU DID. AND LET'S TAKE ONE OF
19 THEM.

20 YOU TALKED ABOUT TALKING TO INVESTMENT
21 BANKERS.

12:53PM

22 DID I GET THAT RIGHT?

23 A. YES.

24 Q. DID YOU HAVE DISCUSSIONS WITH SOME INVESTMENT
25 BANKERS AT SOME POINT BEFORE DECEMBER THE 4TH,
26 CONCERNING THE POSSIBILITY OF LEAVING TCW?

12:54PM

27 A. YES.

28 Q. AND WHEN -- AND WHO WAS IT THAT YOU HAD THE

1 DISCUSSION WITH?

2 A. REPRESENTATIVES OF GOLDMAN SACHS.

3 Q. AND WHEN DID YOU FIRST HAVE A DISCUSSION WITH
4 GOLDMAN SACHS?

5 A. NOVEMBER 2009.

12:54PM

6 Q. AND WAS THAT AN IN-PERSON MEETING, WAS IT A
7 PHONE CALL? WHAT WAS THE FORUM OF THAT COMMUNICATION?

8 A. IT WAS IN PERSON.

9 Q. AND WHO WAS -- WHERE DID IT TAKE PLACE?

10 A. IN GOLDMAN SACHS' OFFICES IN NEW YORK CITY.

12:54PM

11 Q. AND WHO WAS PRESENT AT THE MEETING, FROM YOUR
12 SIDE?

13 A. MYSELF, GREG WARD, AND BARBARA VANEVERY.

14 Q. AND WHO WAS THERE FOR THE GOLDMAN SIDE?

15 A. TOM *KANAKA, I BELIEVE TODD OWENS WAS ON THE
16 PHONE FROM SAN FRANCISCO, A COUPLE OF OTHER PEOPLE
17 WHOSE NAMES I DON'T KNOW.

12:54PM

18 Q. DID YOU MAKE ANY EXPRESSIONS AT THAT TIME
19 ABOUT YOUR INTENTIONS AND FEELINGS ABOUT TCW?

20 MR. QUINN: OBJECTION. HEARSAY, YOUR HONOR.

12:55PM

21 THE COURT: OVERRULED.

22 THE WITNESS: I TOLD THEM OF THE PREDICAMENT I
23 WAS IN, AND I WANTED TO KNOW IF THEY WOULD GIVE ME SOME
24 ADVICE.

25 Q. BY MR. HELM: WHAT DID YOU SAY ABOUT THE
26 PREDICAMENT THAT YOU WERE IN?

12:55PM

27 A. I SAID THAT I WAS -- I TOLD THEM ABOUT THE
28 ORGANIZATIONAL STRUCTURE OF SG, THE FACT THAT EQUITY

1 NEVER SHOWED UP, THE FACT THAT IT WAS VERY DIFFICULT TO
2 RAISE MONEY WITH ALL THIS TURMOIL, ALL THE TURNOVER AT
3 SG RELATIVE TO TCW.

4 IT'S ALL KIND OF VAGUE IN MY MIND, BUT
5 IT WAS JUST SORT OF A LIST OF THINGS THAT WERE
6 TROUBLING ME. 12:55PM

7 Q. AND YOU ALSO SAID -- YOU INDICATED THAT YOU
8 WANTED SOME ADVICE.

9 WHAT ADVICE DID YOU INDICATE YOU WANTED
10 FROM GOLDMAN SACHS? 12:56PM

11 A. I SAID, WHAT SHOULD I DO? I'VE TRIED TO FIND
12 DOORS OUT OF THIS THING. AND THEY ARE ALL LOCKED, IT
13 SEEMS.

14 WHAT ARE THE DOORS OUT OF HERE, THIS
15 PREDICAMENT? 12:56PM

16 Q. AND DID THE PEOPLE AT GOLDMAN SACHS INDICATE
17 AT THAT TIME WHETHER THEY WERE WILLING TO DO ANYTHING?

18 A. THEY SAID, WE'LL GET BACK TO YOU.

19 Q. WELL, WHAT WAS THEN YOUR NEXT DISCUSSION?

20 DO YOU RECALL WHEN IN NOVEMBER THIS
21 MEETING WAS IN NEW YORK AT GOLDMAN SACHS' OFFICES? 12:56PM

22 A. IT WAS AROUND NOVEMBER 14TH.

23 Q. DID YOU HAVE A SUBSEQUENT CONVERSATION WITH
24 SOMEONE FROM GOLDMAN SACHS ON THIS TOPIC?

25 A. YES. 12:56PM

26 Q. AND WHAT WAS THAT?

27 A. I HAD A PHONE CALL A WEEK OR TWO LATER FROM
28 TOM KANAKA.

1 Q. AND WHAT DID MR. KANAKA TELL YOU AT THAT TIME?

2 MR. QUINN: YOUR HONOR, HE WILL TESTIFY.

3 THE COURT: SUSTAINED.

4 Q. BY MR. HELM: WELL, LET'S PUT IT THIS WAY:
5 DID ANYTHING HE SAID -- I DON'T WANT YOU TO SAY WHAT HE
6 SAID; BUT DID ANYTHING HE SAID AFFECT YOUR ATTITUDE
7 ABOUT WHAT YOU WANTED TO DO WITH RESPECT TO TCW?

12:57PM

8 MR. QUINN: THAT'S HEARSAY ALSO, YOUR HONOR.

9 MR. HELM: I'M JUST ASKING WHETHER IT AFFECTED
10 HIS ATTITUDE.

12:57PM

11 THE COURT: THAT'S YES OR NO.

12 THE WITNESS: YES.

13 Q. BY MR. HELM: AFTER SPEAKING WITH MR. KANAKA,
14 AND AGAIN, WITHOUT REVEALING WHAT MR. KANAKA SAID, HOW
15 DID YOUR ATTITUDE OR INTENTIONS CHANGE AS A RESULT OF
16 THAT CONVERSATION?

12:57PM

17 MR. QUINN: SAME OBJECTION.

18 THE COURT: OVERRULED.

19 THE WITNESS: IT'S DIFFICULT TO ANSWER,
20 WITHOUT SAYING WHAT HE SAID.

12:57PM

21 THE COURT: WELL, YOU CAN'T DO THAT. HE'S
22 GOING TO COME AND TESTIFY ABOUT WHAT HE SAID.

23 SO IF YOU CAN'T, THEN YOU CAN'T.

24 GO AHEAD.

25 THE WITNESS: IT MADE ME SURE THAT I WANTED
26 THINGS TO BE AMICABLE BETWEEN ME AND TCW.

12:57PM

27 Q. BY MR. HELM: DID YOU REACH ANY CONCLUSIONS
28 ABOUT ATTITUDES YOU HAD BEFOREHAND, AND FEELINGS ABOUT

1 YOUR PRIOR ATTITUDE?

2 A. YES.

3 Q. WHAT WAS YOUR -- AGAIN, WITHOUT REVEALING
4 ANYTHING HE SAID, WHAT DID YOU CONCLUDE ABOUT PRIOR
5 ATTITUDES YOU HAD OR EXPRESSED?

12:58PM

6 A. I THOUGHT I NEEDED TO SOFTEN MY ATTITUDE.

7 Q. AFTER THE PHONE CALL WITH MR. KANAKA, DID YOU
8 HAVE A SUBSEQUENT COMMUNICATION WITH GOLDMAN SACHS?

9 A. YES.

10 Q. AND WHEN WAS THAT?

12:58PM

11 A. DECEMBER 1ST, 2009.

12 Q. AND WAS THAT AN IN-PERSON MEETING OR WAS IT A
13 PHONE CALL?

14 A. IT WAS A CONFERENCE CALL.

15 Q. AND WHO WAS ON THE CONFERENCE CALL?

12:58PM

16 A. IT WAS MYSELF AND GREG WARD, AND SOME PEOPLE
17 FROM GOLDMAN SACHS.

18 Q. AND WHAT DID THE GOLDMAN PEOPLE SAY AT THAT
19 MEETING WITH RESPECT TO OPTIONS THAT YOU MIGHT HAVE
20 CONCERNING YOUR WORK AT TCW?

12:58PM

21 MR. QUINN: OBJECTION. TWO OF THOSE WITNESSES
22 WILL TESTIFY, YOUR HONOR. IT'S HEARSAY.

23 MR. BRIAN: YOUR HONOR, THAT'S THE ISSUE WE
24 TALKED ABOUT DURING THE BREAK.

25 THE COURT: I UNDERSTAND THAT.

12:59PM

26 I'M NOT GOING TO ALLOW YOU TO INQUIRE OF
27 WHAT HE WAS TOLD, BUT YOU CAN ASK HIM WHAT HE BELIEVED
28 AFTER THAT MEETING, OR WHAT HIS SENSE WAS OF WHAT HIS

1 OPTIONS WERE.

2 MR. BRIAN: MAY I SPEAK WITH MR. HELM, YOUR
3 HONOR?

4 THE COURT: SURE.

5

12:59PM

6 (COUNSEL CONFERRED SOTTO VOCE.)

7

8 Q. BY MR. HELM: DID -- DURING THAT CONVERSATION,
9 DID YOU EXPRESS ANY AGREEMENT WITH ANY CONCEPTS THAT
10 WERE DISCUSSED?

12:59PM

11 MR. QUINN: YOUR HONOR, THIS IS GOING TO BE
12 HEARSAY.

13 MR. HELM: TALKING ONLY ABOUT WHAT HE SAID AND
14 WHAT HE ENDORSED.

15 THE COURT: WELL, WHAT HE SAID IS HEARSAY, IS
16 IT NOT?

01:00PM

17 MR. BRIAN: NO.

18 THE COURT: I'M NOT SURE THAT IT ISN'T. BUT
19 ANYWAY --

20 MR. HELM: IT'S NOT --

01:00PM

21 MR. BRIAN: IT'S NOT FOR THE TRUTH, YOUR
22 HONOR.

23 THE COURT: YOU CAN ANSWER YES OR NO.

24 THE WITNESS: I'M NOT SURE WHAT THE QUESTION
25 IS.

01:00PM

26 Q. BY MR. HELM: THE QUESTION IS, DID YOU EXPRESS
27 ANY AGREEMENT WITH ANY OPTIONS THAT HAD BEEN DISCUSSED
28 AT THAT MEETING?

1 AND YOU HAVE TO ANSWER YES OR NO.

2 A. YES.

3 Q. WHAT DID YOU SAY?

4 MR. QUINN: SO THIS IS HEARSAY, YOUR HONOR.

5 THE COURT: SUSTAINED.

01:00PM

6 MR. BRIAN: YOUR HONOR, CAN WE APPROACH?

7 MR. MADISON: I AGREE WITH MR. QUINN, YOUR

8 HONOR.

9

10 (THE FOLLOWING PROCEEDINGS WERE

01:00PM

11 HELD AT SIDEBAR:)

12

13 MR. BRIAN: YOUR HONOR, IF HE TESTIFIES THAT
14 THEY RECOMMENDED THAT HE'S GOING TO LEAVE, HE NEEDED TO
15 DO AN AMICABLE SEPARATION, THEY HAVE OTHER THINGS --

01:01PM

16 THE COURT: BUT YOU MISSED THE POINT.

17 THE QUESTION HE ASKED, AND HE WENT TO
18 WHAT MR. GUNDLACH WAS SAYING --

19 MR. BRIAN: BECAUSE YOU SUSTAINED THE
20 OBJECTION TO THE FIRST ONE.

01:01PM

21 YOUR HONOR, LET ME FINISH.

22 IT'S NOT OFFERED FOR THE TRUTH. THEY
23 MAKE A RECOMMENDATION THAT IS NOT OFFERED FOR THE
24 TRUTH. IT'S OFFERED FOR THE FACT IT'S MADE. AND WHEN
25 HE THEN SAYS I AGREE WITH IT, IT IS HIS STATEMENT OF
26 HIS STATE OF MIND.

01:01PM

27 MR. QUINN TOLD THE JURY IN OPENING
28 STATEMENT THAT HIS INTENTION IN NOVEMBER AND DECEMBER

1 WAS TO LEAVE THE COMPANY IN THE LURCH. THAT'S WHAT HE
2 SAID. SO THEREFORE, THE FACT THAT HE MAKES ANOTHER
3 STATEMENT IS RELEVANT TO REFUTE -- AS TO HIS STATE OF
4 MIND.

5 IT'S ALSO A PRIOR CONSISTENT STATEMENT
6 TO REBUT A RECENT CHARGE OF FABRICATION.

01:01PM

7 AND FOR THE THIRD REASON WHY IT'S
8 ADMISSIBLE, IT'S A STATEMENT OF FUTURE INTENT.

9 IN LAW SCHOOL, WE LEARNED THAT -- IF YOU
10 SAY, I INTEND TO MEET YOU AT THE CRIPPLE CREEK,
11 WHATEVER IT WAS, THAT IS NOT A HEARSAY STATEMENT. IT'S
12 A STATEMENT OF A FUTURE INTENT.

01:02PM

13 THIS IS SIMPLY NOT HEARSAY.

14 MR. QUINN: HE CAN SAY WHAT HIS INTENT WAS.

15 BUT WHAT HE CAN'T SAY IS WHAT THE
16 GOLDMAN PEOPLE, WHO WERE DEPOSED, ONE OF WHOM WILL
17 TESTIFY LIVE, THE OTHER WILL TESTIFY BY DEPOSITION --
18 WHAT THEY SAID TO HIM.

01:02PM

19 AND THAT QUESTION WAS A BACK DOOR WAY OF
20 TRYING TO ACCOMPLISH JUST THAT, WAS THERE ANYTHING SAID
21 THAT YOU AGREE WITH, AND THEN THEY WOULD HAVE TO ANSWER
22 THAT QUESTION IMPLICITLY.

01:02PM

23 MR. MADISON: MR. BRIAN HAS RAISED THREE OR
24 FOUR MAJOR EVIDENTIARY ISSUES THERE. THIS IS COMPLEX,
25 AND I WOULD JUST LIKE AN OPPORTUNITY TO FILE A SHORT
26 BRIEF --

01:02PM

27 THE COURT: WELL, WE'RE NOT GOING TO HAVE THIS
28 WITNESS -- I GUESS -- THE OTHER WAY WE CAN LOOK AT IT,

1 AND I HAVE TO SAY, I MEAN, I THINK WE ARE ABSOLUTELY
2 DRAGGING THIS ON. WE'VE GOT TO TAKE A BREAK AND GET
3 SOMETHING FRESH IN HERE PRETTY SOON.

4 YOU CAN CALL MR. GUNDLACH IN YOUR CASE
5 IN CHIEF AND PUT MORE INFORMATION ON, BUT WE ARE
6 KILLING THESE PEOPLE WITH MR. GUNDLACH AT THIS POINT.

01:03PM

7 THEY WERE FASCINATED FOR THE FIRST MAYBE
8 10 HOURS. NOW THEY ARE LOSING INTEREST. AND SO I
9 WOULD SUGGEST WE'LL HOLD OFF ON THAT AREA OF INQUIRY,
10 WITHOUT PREJUDICE TO YOUR ABILITY, TO GO BACK THERE
11 LATER, AND WE'LL TAKE A LOOK AT IT.

01:03PM

12 MY SENSE IS THAT AT SOME LEVEL, THEIR
13 RECOMMENDATIONS GET BEFORE THE JURY. AND HIS REACTION
14 TO THOSE RECOMMENDATIONS IS REASONABLE. I MEAN, HE CAN
15 TESTIFY TO THAT.

01:03PM

16 BECAUSE YOU CAN'T HAVE IT ALL ONE WAY.
17 YOU CAN'T ONLY SUGGEST IT'S THE WAY YOU INTERPRET IT
18 AND NOT HAVE ANYTHING ELSE. SO --

19 MR. BRIAN: WE'LL HOLD IT.

20 THE COURT: ALL RIGHT.

01:03PM

21
22 (THE FOLLOWING PROCEEDINGS
23 WERE HELD IN OPEN COURT IN
24 THE PRESENCE OF THE JURY:)

01:04PM

25
26 Q. BY MR. HELM: AFTER THE MEETING --

27 WE MAY COME BACK TO THIS MEETING AT A
28 FUTURE TIME, MR. GUNDLACH.

1 BUT AFTER THE MEETING WAS CONCLUDED,
2 WHERE DID YOU LEAVE THINGS, IN TERMS OF WHEN YOU
3 INTENDED TO GET BACK TO GOLDMAN SACHS?

4 A. I TOLD THEM I MIGHT CALL THEM IN A FEW MONTHS.

5 Q. NOW, WERE YOU SUFFICIENTLY SETTLED, AT ANY
6 POINT BEFORE DECEMBER 4TH, ON EXACTLY WHAT KIND OF AN
7 ARRANGEMENT YOU MIGHT WANT TO PROPOSE TO TCW, IF YOU
8 DID PROPOSE ANY ARRANGEMENT, THAT YOU DECIDED IT WOULD
9 BE APPROPRIATE TO GIVE NOTICE TO TCW OF THAT?

01:04PM

10 A. I DON'T UNDERSTAND.

01:05PM

11 Q. WELL, AT ANY POINT, DID YOU EVER CONSIDER
12 LEAVING TCW WITHOUT NOTICE?

13 A. NO.

14 Q. DID YOU EVER INTEND TO LEAVE TCW IN THE LURCH?

15 A. NO.

01:05PM

16 Q. WHY DID YOU NOT CONSIDER THAT?

17 A. IT WOULD MAKE NO SENSE WHATSOEVER FOR ME OR MY
18 TEAM OR THE CLIENTS OR ANYONE.

19 THERE WAS NO REASON -- IT WOULD NOT
20 BENEFIT ME IN ANY WAY TO DO THAT.

01:05PM

21 Q. WHY DO YOU SAY THAT? WHY WOULDN'T IT BENEFIT
22 YOU?

23 A. WELL, I WAS RUNNING A BIG BUSINESS. I WAS
24 MAKING A LOT OF MONEY. I WAS HAPPY WITH THOSE ASPECTS.

25 I DIDN'T WANT TO JUST END IT. IF I HAD
26 LEFT, JUST LIKE THAT, I WOULDN'T HAVE BEEN MANAGING ANY
27 MONEY.

01:05PM

28 Q. WHY DO YOU SAY YOU WOULDN'T HAVE BEEN MANAGING

1 ANY MONEY, IF YOU JUST SUDDENLY LEFT WITHOUT NOTICE?

2 A. WELL, MOST OF THE FUNDS ARE CONTROLLED. MOST
3 OF THE REVENUES WERE CONTROLLED BY THINGS LIKE THE
4 BOARD OF DIRECTORS FOR MUTUAL FUNDS, THE TOTAL RETURN
5 BOND FUND.

01:06PM

6 THE SPECIAL MORTGAGE CREDIT FUNDS HAD
7 ALL THESE GOVERNING DOCUMENTS. THERE WAS -- I DIDN'T
8 WANT TO GIVE ALL THAT AWAY, LOSE ALL THAT.

9 THAT'S WHAT WOULD HAVE HAPPENED IF I
10 WOULD HAVE LEFT. IT NEVER CROSSED MY MIND.

01:06PM

11 Q. DID YOU EVER TELL ANYONE YOU WANTED TO USE THE
12 ELEMENT OF SURPRISE, IN DEALING WITH TCW?

13 A. NO.

14 Q. DOES THAT PHRASE APPEAR IN ANY E-MAILS THAT
15 YOU WROTE DURING THIS TIME PERIOD, THAT YOU WANT TO USE
16 THE ELEMENT OF SURPRISE?

01:06PM

17 A. I DON'T BELIEVE SO.

18 Q. WAS THERE ANY PRECEDENT FOR PEOPLE AT TCW
19 NEGOTIATING SEPARATIONS ON AMICABLE TERMS?

20 A. YES.

01:06PM

21 Q. CAN YOU GIVE ME AN EXAMPLE?

22 MR. QUINN: TIME FRAME, YOUR HONOR.

23 THE COURT: YES. LET'S --

24 MR. HELM: AT ANY POINT.

25 THE COURT: WELL, LET'S PUT IT IN SOME
26 REASONABLE TIME FRAME.

01:07PM

27 Q. BY MR. HELM: WELL, IN THE LAST THREE OR FOUR
28 YEARS, CAN YOU THINK OF ANY TIME EXAMPLES OF PEOPLE

1 NEGOTIATING AMICABLE SEPARATIONS FROM TCW?

2 MR. QUINN: YOUR HONOR, LACKS FOUNDATION,
3 AFTER DECEMBER 2009.

4 THE COURT: OVERRULED.

5 CAN YOU ANSWER THAT QUESTION?

01:07PM

6 THE WITNESS: YES.

7 THE COURT: CAN YOU GIVE ME AN EXAMPLE?

8 THE WITNESS: BLAIR THOMAS NEGOTIATED OUT, IN
9 OCTOBER OF 2009.

10 Q. WHAT'S YOUR UNDERSTANDING OF THE TERMS UNDER
11 WHICH HE NEGOTIATED OUT OF TCW?

01:07PM

12 A. HE --

13 MR. QUINN: LACKS FOUNDATION.

14 THE COURT: SUSTAINED.

15 Q. BY MR. HELM: DID ANYONE EVER TELL YOU IN
16 GENERAL TERMS WHAT THE ARRANGEMENT WAS WITH MR. THOMAS
17 WHEN HE LEFT TCW?

01:07PM

18 MR. QUINN: LACKS FOUNDATION, HEARSAY.

19 THE COURT: SUSTAINED.

20 Q. BY MR. HELM: DO YOU -- WAS ANY ANNOUNCEMENT
21 MADE WHEN MR. THOMAS LEFT TCW?

01:07PM

22 A. I DON'T BELIEVE SO.

23 Q. DID MR. THOMAS EVER TELL YOU ANYTHING ABOUT
24 HIS DEAL?

25 MR. QUINN: THAT WOULD BE HEARSAY.

01:07PM

26 THE COURT: SUSTAINED.

27 Q. BY MR. HELM: ARE THERE ANY OTHER EXAMPLES OF
28 PEOPLE NEGOTIATING OUT OF TCW, THAT YOU ARE AWARE OF?

1 A. YES.

2 Q. WHO?

3 A. MARK ATTANASIO.

4 Q. AND WHEN DID HE NEGOTIATE OUT OF TCW?

5 A. 2010.

01:08PM

6 Q. WERE THERE ANY PUBLIC STATEMENTS TO THAT
7 EFFECT?

8 A. I THINK SO.

9 Q. SO DID YOU HAVE ANY REASON TO THINK THAT YOU
10 WOULD NOT BE ABLE TO NEGOTIATE SOME KIND OF AMICABLE
11 SEPARATION FROM TCW, SHOULD YOU ULTIMATELY DECIDE THAT
12 WAS THE COURSE YOU WANTED TO PURSUE?

01:08PM

13 A. I THOUGHT I COULD.

14 Q. NOW, WE'VE SEEN A DOCUMENT INTRODUCED, IT'S
15 CALLED AN ABLE GRAPE PRO FORMA.

01:08PM

16 WOULD YOU PUT UP EXHIBIT 963.

17 HAVE YOU SEEN THIS DOCUMENT BEFORE?

18 A. I THINK I SAW THIS PAGE, YES.

19 Q. AND WHAT WERE THE CIRCUMSTANCES UNDER WHICH
20 YOU SAW IT?

01:09PM

21 A. CRIS SANTA ANA AND GREG WARD CAME TO ME
22 DECEMBER 4TH, I THINK 2009, THE MORNING OF THE DAY I
23 ENDED UP BEING FIRED, AND SAID, YOU GOT A MINUTE?

24 AND WE SAT DOWN, AND HE SAID HE WORKED
25 ON THIS PRO FORMA THING.

01:09PM

26 Q. AND WHAT DID YOU UNDERSTAND THIS PRO FORMA
27 THING TO BE?

28 A. AN ANALYSIS OF A BUSINESS THAT WOULD BE

1 HELPFUL IN MAYBE ONE DAY, NEGOTIATING AWAY FROM TCW.

2 Q. NOW, THERE'S A LINE NEAR THE TOP THAT SAYS TCW
3 SHARE, 10 PERCENT.

4 DO YOU SEE THAT?

5 A. YES.

01:09PM

6 Q. WHAT DID THAT SIGNIFY TO YOU?

7 A. THAT THIS DOCUMENT CONTEMPLATED NEGOTIATING
8 OUT AND GIVING TCW A SHARE OF THE REVENUE OF THE NEW
9 BUSINESS, SHOULD THERE BE ONE.

10 Q. NOW, IN THE E-MAIL THAT WE SAW BEFORE,
11 CONCERNING THE WAMCO TRANSACTION, WE SAW A 20 PERCENT
12 FIGURE TO SG.

01:10PM

13 DO YOU RECALL THAT?

14 A. YES.

15 Q. THIS FIGURE SAYS 10 PERCENT.

01:10PM

16 HOW DO YOU ACCOUNT FOR THE DISCREPANCY?

17 A. I DIDN'T DO THIS DOCUMENT.

18 Q. DID YOU DISCUSS THE 10 PERCENT FIGURE WITH
19 MR. SANTA ANA BEFORE HE INSERTED IT THERE?

20 A. NO.

01:10PM

21 Q. DO YOU THINK THAT 10 PERCENT WOULD BE A
22 REALISTIC NUMBER FOR GIVING TCW A SHARE OF PART OF A
23 NEGOTIATED SEPARATION?

24 A. IT LOOKS LOW TO ME.

25 Q. NOW, YOU TESTIFIED AT DEPOSITION ABOUT SOME
26 STATEMENTS YOU MADE AROUND THE TIME OF THE
27 SEPTEMBER 3RD MEETING REGARDING INFORMATION THAT MIGHT
28 BE USEFUL IF YOU WERE FIRED.

01:10PM

1 DO YOU RECALL THAT?

2 A. YES.

3 Q. AND WHAT DO YOU RECALL SAYING, IN TERMS OF
4 WHAT INFORMATION YOU THOUGHT MIGHT BE USEFUL IN THE
5 EVENT THAT YOU WERE FIRED?

01:11PM

6 A. I REMEMBER SAYING THAT IF THEY ARE GOING TO
7 FIRE ME, OR FIRE US, WE NEED A PLACE TO GO, OR
8 SOMETHING -- A PLACE TO GO, BASICALLY.

9 AND SO I SAID THAT WE WOULD NEED TO BE
10 ABLE TO TALK TO THE CLIENTS AFTER BEING FIRED. SO I
11 TOLD CRIS SANTA ANA -- BASICALLY, I WAS TALKING TO HIM,
12 ALTHOUGH IT WAS AN OPEN FORUM.

01:11PM

13 I SAID, GET CLIENT CONTACT INFORMATION,
14 GET THE CLIENT HOLDINGS LISTS. I'D LIKE A COPY OF THE
15 RED BOOKS FOR MY RECORD OF MY WORK. AND THAT WAS KIND
16 OF IT.

01:11PM

17 AND THEN I -- I JUST BLURTED THAT OUT.
18 THAT WASN'T ANY KIND OF A THOUGHT-OUT THING.

19 AND THEN I REMEMBER KIND OF LOOKING OFF
20 TO THE SIDE AND SAYING, BUT WAIT. THE CLIENTS COULD
21 GIVE US THEIR STUFF, SO WE DON'T NEED THAT. AND THEN I
22 SORT OF TURNED AROUND AND WENT TO LUNCH.

01:11PM

23 Q. LET'S TAKE THAT IN PIECES.

24 IN TERMS OF WHAT WERE THE ITEMS THAT YOU
25 TALKED ABOUT? YOU MENTIONED CONTACTING CLIENTS,
26 HOLDINGS, THE TRADE BOOKS.

01:12PM

27 A. RIGHT.

28 Q. DO YOU REMEMBER SAYING ANYTHING ABOUT LEGAL

1 DOCUMENTS?

2 A. I DON'T REMEMBER THAT.

3 Q. DO YOU REMEMBER ANYTHING ABOUT BOARD MINUTES?

4 A. NO.

5 Q. SO WHEN MR. QUINN READ TO YOU FROM

01:12PM

6 MR. SANTA ANA'S TESTIMONY, YOU AGREED THAT HE MENTIONED

7 CONTACTS AND THE RED BOOKS AND THE HOLDINGS; IT WAS

8 JUST THE OTHER TWO ITEMS THAT YOU DIDN'T RECALL SAYING?

9 A. I DON'T REMEMBER ANYTHING ABOUT BOARD OF

10 DIRECTORS.

01:12PM

11 I'M NOT REALLY THAT CLEAR ON THE LEGAL

12 THING. THE LEGAL STATEMENTS --

13 Q. IT'S POSSIBLE YOU SAID IT; IT'S POSSIBLE YOU

14 DIDN'T?

15 A. YEAH.

01:12PM

16 Q. BUT THE BOARD CONTACTS, YOU DON'T SPECIFICALLY

17 REMEMBER?

18 A. NO, I DON'T. IT DOESN'T MAKE SENSE TO ME.

19 Q. NOW, YOU SAID THAT IT OCCURRED TO YOU AS YOU

20 WERE LEAVING, WAIT A MINUTE, THE CLIENTS WOULD GIVE US

01:13PM

21 THIS ANYWAY, SOMETHING TO THAT EFFECT?

22 A. YES.

23 Q. IS THAT SOMETHING YOU JUST THOUGHT ABOUT, OR

24 IS THAT SOMETHING YOU BELIEVE YOU SAID?

25 A. I THINK I SAID IT.

01:13PM

26 Q. DID YOU SAY IT IN THE SAME WAY THAT YOU SAID

27 THE OTHER THING?

28 A. NO. I THINK IT WAS MORE OF A STAGE ASIDE.

1 Q. WHAT DO YOU MEAN BY STAGE ASIDE?

2 A. YOU KNOW, IT'S A TERM IN A PLAY, WHERE THERE'S
3 THE DIALOGUE, AND THEN THE PERSON SAYS SOMETHING THAT
4 REALLY, HE'S THINKING OUT LOUD.

5 Q. SO THE STATEMENT ABOUT WHAT NEEDED TO BE
6 COPIED, THAT WAS DIRECTLY -- OR WHAT SHOULD BE
7 AVAILABLE IN THE EVENT THAT YOU LEFT, THAT WAS SAID
8 DIRECTLY TO MR. SANTA ANA?

9 A. YES.

01:13PM

01:13PM

10 Q. AND THIS STATEMENT ABOUT MAYBE WE DON'T NEED
11 IT, THAT WAS NOT SAID DIRECTLY TO HIM, IT WAS MORE AN
12 ASIDE?

13 A. THAT'S KIND OF HOW I REMEMBER IT.

14 Q. AFTER YOU LEFT THAT CONVERSATION WITH
15 MR. SANTA ANA, DID YOU BELIEVE YOU HAD INSTRUCTED HIM
16 TO COMPILE THE INFORMATION THAT YOU REQUESTED?

01:14PM

17 A. YES.

18 Q. WHATEVER YOU SAID WHEN YOU LEFT, WHETHER IT
19 WAS AN ASIDE, OR OTHERWISE, DID YOU BELIEVE THAT
20 MR. SANTA ANA WAS JUSTIFIED IN THINKING THAT YOU HAD
21 GIVEN HIM AN INSTRUCTION?

01:14PM

22 A. YES.

23 Q. NOW, WHEN YOU MADE THAT REQUEST FOR
24 INFORMATION, DID YOU HAVE A MENTAL PICTURE OF WHAT WAS
25 INVOLVED?

01:14PM

26 A. YES.

27 Q. WHAT WAS IN YOUR MIND?

28 A. I PICTURED A STACK OF CLIENTS' STATEMENTS.

1 Q. SO HOW BIG OF A STACK?

2 A. OH, I DON'T KNOW FLOOR TO CEILING HERE, MAYBE.

3 Q. OKAY.

4 DID YOU ENVISION THAT THAT WOULD REQUIRE
5 ANY DOWNLOADING OF INFORMATION?

01:14PM

6 A. NO.

7 Q. NOW THE INFORMATION ABOUT CLIENT HOLDINGS,
8 WERE YOU OF THE VIEW THAT THAT BELONGED TO TCW?

9 A. NO.

10 Q. WHO DID YOU THINK IT BELONGED TO?

01:15PM

11 A. THE CLIENTS.

12 Q. DID YOU INTEND TO MAKE ANY USE OF CLIENT
13 HOLDINGS INFORMATION THAT THE CLIENT DIDN'T WANT YOU TO
14 MAKE USE OF AFTER -- IF YOU WERE FIRED?

15 A. NO.

01:15PM

16 Q. DID YOU INTEND TO SHOW ONE CLIENT'S HOLDING
17 INFORMATION TO SOMEONE OTHER THAN THAT CLIENT?

18 A. NO.

19 Q. DID YOU EVER INSTRUCT ANYONE TO COPY TCW'S
20 ANALYTICAL SYSTEMS?

01:15PM

21 A. NO.

22 Q. NOW LET'S TALK ABOUT THESE, YOU CALL THEM THE
23 RED BOOKS?

24 A. YES.

25 Q. AND THOSE CONTAINED -- THERE'S BEEN SOME
26 DISCUSSION ABOUT WHETHER THEY ARE TRADE TICKETS OR
27 TRADE ORDERS.

01:15PM

28 HOW WOULD YOU DESCRIBE THEM?

1 A. THEY ARE NOT TRADE TICKETS. THEY WERE
2 OFFICIALLY TERMED PORTFOLIO TRADE ORDERS.

3 Q. ALL RIGHT.

4 AND WHAT ARE PORTFOLIO TRADE ORDERS?

5 A. AFTER I DO A TRADE WITH A BROKERAGE FIRM FOR
6 THE CLIENTS, I WRITE UP WHY I DID IT, BASICALLY; SO IN
7 MY HEAD WHAT WAS THE LOGIC FOR DOING IT, WHAT THE
8 RETURN PROSPECTS OF THE SECURITY LOOKED LIKE, WHAT THE
9 PRICE WAS, HOW IT WOULD PERFORM UNDER CERTAIN MARKET
10 CONDITIONS, AND REAL BASIC FACTS ABOUT STATISTICS THAT
11 YOU CAN CALCULATE ON BLOOMBERG. AND THAT'S IT.

01:15PM

01:16PM

12 Q. AND SO ARE THESE HANDWRITTEN NOTES?

13 A. YES.

14 Q. AND SO HOW VOLUMINOUS ARE THEY, ON A TRADE?
15 ARE WE TALKING THREE OR FOUR WORDS? ARE WE TALKING
16 HALF A PAGE? HOW MUCH NOTATION ARE WE TALKING ABOUT?

01:16PM

17 A. WELL, THERE'S A BOX THAT HAS A VARIETY OF
18 ASSUMPTIONS THAT I'M NOT COMMITTED TO. THEY ARE JUST
19 EXPLORATIONS. THERE'S PROBABLY SIX OF THOSE.

20 THREE COLUMNS TO THE RIGHT OF THAT, IF
21 THAT ASSUMPTION HAPPENS, WHAT'S THE YIELD TO MATURITY,
22 AND THE MATURITY OF THE SECURITY. AND THEN RATES UP
23 AND -- INTEREST RATE SCENARIOS, UP AND DOWN,
24 PROJECTION, BASED ON MY JUDGMENT OF WHERE THE PRICE
25 WOULD GO.

01:16PM

26 SO IT FITS ON ONE PAGE, AND MAYBE A
27 THIRD OF THE PAGE.

01:17PM

28 Q. AND YOU SAY IT REFLECTS YOUR THOUGHT PROCESS?

1 A. NOT MY THOUGHT PROCESS. IT'S JUST -- IT'S
2 JUST MY PREDICTION OF MY JUDGMENT OF WHAT THE PRICE
3 WILL CHANGE TO OF THAT SECURITY UNDER A COUPLE OF
4 FORWARD-LOOKING MARKET CONDITIONS.

5 Q. AND DID YOU -- YOU SAY THAT THOSE WERE
6 AMONG -- THE RED BOOKS WERE AMONG THE THINGS THAT YOU
7 ASKED MR. SANTA ANA TO HAVE MADE AVAILABLE? 01:17PM

8 A. YES.

9 Q. AND WHAT DID YOU -- DID HE, IN FACT, ARRANGE
10 TO HAVE COPIES MADE OF THOSE BOOKS? 01:17PM

11 A. YES.

12 Q. WHAT DID YOU DO WITH THE BOOKS, AFTER HE MADE
13 THOSE ARRANGEMENTS?

14 A. I TOOK THEM OVER TO MY PRIVATE OFFICE AT THE
15 WATER GARDEN. 01:17PM

16 Q. THIS IS A PRIVATE OFFICE THAT -- THIS WAS A
17 WORK OFFICE? IT WASN'T A HOME OFFICE?

18 A. NO. I WORKED FROM THERE.

19 Q. AND DID YOU EVER TAKE THE RED BOOKS AND STORE
20 THEM IN SOMEPLACE OTHER THAN EITHER YOUR DOWNTOWN
21 OFFICE OR YOUR WATER GARDEN OFFICE? 01:18PM

22 A. NO.

23 Q. DID YOU EVER TAKE THEM HOME?

24 A. NO.

25 Q. DID YOU EVER TAKE THEM TO THE OFFICES OF
26 WAMCO, OR SOME OTHER ORGANIZATION? 01:18PM

27 A. NO.

28 Q. WHY DID YOU WANT THE RED BOOKS OF THE TRADE

1 ORDERS?

2 A. IT WAS A RECORD OF MY WORK.

3 I LIKED THINKING ABOUT HOW THE MARKET
4 HAD BEEN IN THE PAST. AND THAT WAS A RECORD OF THE
5 STUFF THAT I'D DONE IN THE PAST.

01:18PM

6 Q. DID YOU BELIEVE THAT THESE TRADE ORDERS WERE
7 OF VALUE TO ANYONE OTHER THAN YOU?

8 A. NO.

9 Q. WHY NOT?

10 A. BECAUSE IT'S KIND OF -- IT'S LIKE SOMEONE'S
11 NOTES IN THEIR OWN WAY. OTHER PEOPLE WOULDN'T EVEN
12 KNOW WHAT IT MEANT.

01:18PM

13 Q. IS ANY OF THE INFORMATION CONTAINED IN THE
14 TRADE ORDERS EVER RELEASED PUBLICLY?

15 A. YES.

01:19PM

16 Q. IN WHAT CIRCUMSTANCE IS SUCH INFORMATION MADE
17 AVAILABLE?

18 A. IT'S MADE AVAILABLE ON, SAY, BLOOMBERG, AND
19 ALSO IN ANNUAL REPORTS OF THE FUNDS.

20 Q. DID YOU LATER REACH ANY CONCLUSIONS ABOUT
21 WHETHER THE TRADE ORDERS WOULD BE VALUABLE FOR YOU,
22 WERE YOU TO LEAVE?

01:19PM

23 AFTER YOU INITIALLY STARTED BRINGING
24 THEM OVER, DID YOU REACH ANY CONCLUSION ON THAT?

25 A. YES.

01:19PM

26 Q. WHAT WAS YOUR CONCLUSION?

27 A. THEY'D BE SOMEWHAT VALUABLE TO ME AS A RECORD
28 OF THE PAST.

1 Q. NOW, MR. QUINN DISCUSSED WITH YOU, YOUR
2 EFFORTS TO LOOK AT OFFICE SPACE.

3 DO YOU RECALL THAT?

4 A. YES.

5 Q. DID YOU EVER SIGN A LEASE FOR NEW OFFICE
6 SPACE?

01:19PM

7 A. NOT PRIOR TO 2010.

8 Q. DID YOU HAVE A TIMETABLE TO BE READY TO MOVE
9 IN BY MARCH?

10 A. NO.

01:20PM

11 Q. WAS THERE -- DID YOU UNDERSTAND THAT OTHER
12 PEOPLE MIGHT BE HAVING SOME KIND OF A TIMETABLE THAT
13 THEY WERE IMPOSING OR OPERATING UNDER?

14 A. I DON'T THINK I KNEW THAT.

15 IT WOULDN'T SURPRISE ME IF THEY'D GIVEN
16 ARBITRARY DATES TO PEOPLE, THOUGH.

01:20PM

17 Q. WAS IT YOUR INTENTION TO LEAVE THE FIRM AFTER
18 THE BONUSES WERE ANNOUNCED?

19 A. I DIDN'T THINK ABOUT THAT, EVER.

20 Q. WHY WOULDN'T YOU THINK ABOUT THAT?

01:20PM

21 WOULDN'T THAT MAKE SENSE, THAT YOU WOULD
22 WAIT UNTIL THE BONUSES WERE ANNOUNCED UNTIL YOU LEFT?

23 WHY IS THAT SOMETHING THAT DIDN'T OCCUR
24 TO YOU?

25 A. THE PART OF THE BONUSES WOULD BE PART OF THE
26 NEGOTIATED SEPARATION.

01:20PM

27 Q. IN THE SCHEME OF ISSUES THAT WOULD BE
28 ADDRESSED IN A NEGOTIATED SEPARATION OF A \$70 BILLION

1 BUSINESS, LEAVING TO GO SOMEWHERE ELSE, OR HAVE SOME
2 OTHER KIND OF MANAGEMENT STRUCTURE, HOW IMPORTANT OR
3 UNIMPORTANT DO YOU THINK THE TIMING OF THE BONUS
4 PAYMENT IS IN THAT KIND OF A SCHEME?

5 A. VERY UNIMPORTANT. 01:21PM

6 Q. NOW, WERE YOU AWARE THAT MR. WARD HAD TAKEN
7 STEPS TO FORM A NEW ENTITY IN DELAWARE OF SOME KIND
8 CALLED ABLE GRAPE?

9 A. YES. I KNOW THAT.

10 Q. DID YOU HAVE A DISCUSSION WITH MR. WARD BEFORE 01:21PM
11 HE DID THAT?

12 A. YES.

13 Q. WHAT DID YOU DISCUSS?

14 A. I SAID. I DON'T KNOW ANYTHING ABOUT SETTING
15 UP A COMPANY. I MIGHT BE GETTING FIRED. 01:21PM

16 CAN YOU LOOK INTO WHAT THAT'S ABOUT.
17 STARTING A COMPANY?

18 Q. DO YOU RECALL WHEN YOU HAD THIS DISCUSSION
19 WITH HIM?

20 A. PROBABLY LATE SEPTEMBER 2009. 01:21PM

21 Q. AND WERE YOU FAMILIAR, YOURSELF, AT THAT
22 POINT, WITH ANY LICENSING REQUIREMENTS THAT MIGHT BE
23 RELEVANT TO THE STARTING OF A NEW INVESTMENT BUSINESS?

24 A. NO.

25 Q. WHAT DID YOU TELL MR. WARD ON THE SUBJECT OF 01:21PM
26 WHETHER SOME NEW ENTITY SHOULD BE SET UP?

27 A. I SAID, SET ONE UP.

28 Q. DID ABLE GRAPE ACTUALLY START ANY BUSINESS

1 OPERATIONS BEFORE DECEMBER 4TH, 2009?

2 A. NO.

3 Q. DID IT HAVE ANY EMPLOYEES BEFORE DECEMBER 4TH,
4 2009?

5 A. NO.

01:22PM

6 Q. WAS IT ANYTHING OTHER THAN AN EMPTY LEGAL
7 SHELL, BEFORE DECEMBER 4TH, 2009?

8 A. NO.

9 Q. HAD YOU MADE A FINAL DECISION TO START A NEW
10 BUSINESS, WHEN ABLE GRAPE WAS FORMED?

01:22PM

11 A. NO.

12 Q. WHY WAS IT FORMED?

13 A. TO BE A PLACE HOLDER IN CASE I GOT FIRED.

14 Q. NOW, YOU TESTIFIED AT YOUR DEPOSITION THAT YOU
15 GRAVE GREG WARD \$75,000 AT SOME POINT.

01:22PM

16 DO YOU RECALL THAT?

17 A. YES.

18 Q. DO YOU KNOW HOW MUCH OF THAT AMOUNT HE
19 ACTUALLY SPENT, BEFORE YOU WERE FIRED?

20 A. YES.

01:22PM

21 Q. HOW MUCH?

22 A. \$2,000.

23 Q. WHAT HAPPENED TO THE REST OF THAT MONEY?

24 A. IT ENDED UP BEING INVESTED IN DOUBLELINE.

25 Q. AND THAT WAS AFTER DECEMBER 4TH?

01:23PM

26 A. YES.

27 Q. I'M GOING TO SHOW YOU A DOCUMENT THAT'S BEEN
28 MARKED AS 282-B.

1 DO YOU RECOGNIZE THIS?

2 A. YES.

3 Q. WHAT IS IT?

4 A. IT'S THE FRONT PAGE OF A SLIDE DECK TO A
5 WEBCAST THAT I DID SEPTEMBER 9TH, 2009, ENTITLED, TOO
6 GOOD TO BE TRUE.

01:23PM

7 Q. AND SO THE PAGES THAT FOLLOW -- IF YOU WANT TO
8 SEE THE PAGES, IF YOU LOOK AT 282 IN THE NOTEBOOK,
9 MR. GUNDLACH, MAYBE THAT WOULD BE THE EASIEST.

10 282-B, DO YOU SEE THAT?

01:24PM

11 A. NO.

12 Q. IT SHOULD BE NUMERICAL.

13 MAY I APPROACH, YOUR HONOR?

14 THE COURT: YES, YOU MAY.

15 THE WITNESS: I HAVE IT.

01:24PM

16 Q. BY MR. HELM: WOULD YOU FLIP THROUGH IT,
17 PLEASE.

18 I JUST WANTED YOU TO GET AN IDEA OF
19 WHAT'S IN IT.

20 IS THIS A POWERPOINT PRESENTATION THAT
21 WAS PUBLICLY RELEASED AS PART OF A PRESENTATION YOU
22 GAVE ON OR ABOUT SEPTEMBER 9TH, 2009?

01:24PM

23 A. YES.

24 Q. AND THIS WAS IN CONNECTION WITH SOME KIND OF A
25 CONFERENCE CALL, OR WHAT WAS THE OCCASION OF THIS?

01:25PM

26 A. A WEBCAST.

27 Q. A WEBCAST.

28 AND WHO ATTENDED THE WEBCAST?

1 A. ANYBODY WHO WANTED TO.

2 Q. IS THIS THE SEPTEMBER 9, 2009 WEBCAST WE WERE
3 PREVIOUSLY DISCUSSING?

4 A. YES.

5 Q. NOW, LET ME ASK YOU: THIS IS NOT IN EVIDENCE,
6 I DON'T BELIEVE.

01:25PM

7 BUT TO REFRESH YOUR RECOLLECTION, WOULD
8 YOU PUT ON THE SCREEN FOR MR. GUNDLACH AND THE COURT,
9 EXHIBIT 634, PAGE 4.

10 MR. QUINN ASKED YOU IF YOU RECALLED
11 MAKING STATEMENTS TO THE EFFECT OF, WE DON'T HAVE TO
12 DESIGN IT, WE ALREADY KNOW WHAT IT IS. WE'RE JUST
13 RECODING IT. SO IT'S NOT THAT BIG OF A PROJECT.

01:26PM

14 DO YOU RECALL BEING ASKED THAT?

15 A. SOMETHING LIKE THAT, YEAH.

01:26PM

16 Q. DO YOU SEE THAT ON THE DOCUMENT?

17 A. YES.

18 Q. DOES IT REFRESH YOUR RECOLLECTION -- DOES THIS
19 DOCUMENT REFRESH YOUR RECOLLECTION ABOUT THE TWO
20 SENTENCES THAT YOU SAID BEFORE THE PASSAGE THAT
21 MR. QUINN ASKED YOU ABOUT?

01:26PM

22 A. YES.

23 Q. WHAT DID YOU SAY, IN THE SENTENCES BEFORE
24 MR. QUINN ASKED YOU ABOUT THEM?

25 MR. QUINN: YOUR HONOR, I'D OFFER THE
26 DOCUMENT, BUT OBJECT TO THEIR JUST READING IT.

01:26PM

27 THE COURT: DO YOU WANT TO OFFER THE DOCUMENT?

28 MR. HELM: WE CAN OFFER THE DOCUMENT, YOUR

1 HONOR.

2 THE COURT: IT WOULD BE ADMITTED WITHOUT
3 OBJECTION.

4 THE ENTIRE DOCUMENT?

5 MR. QUINN: YES, SIR. 01:27PM

6 MR. HELM: WELL, HE WAS ABLE TO READ FROM IT.
7 I'M JUST WONDERING WHY WE CAN'T JUST REFRESH HIS
8 RECOLLEC -- I'M JUST TRYING TO USE IT AT THIS POINT TO
9 REFRESH HIS RECOLLECTION.

10 THE COURT: I'M ASKING IF YOU WANT IT
11 ADMITTED. 01:27PM

12 MR. HELM: WELL, FIRST I'M ASKING, MAY I USE
13 IT TO REFRESH HIS RECOLLECTION?

14 THE COURT: GO AHEAD.

15 MR. QUINN: I MEAN, THERE HASN'T BEEN A
16 FAILURE OF RECOLLECTION ESTABLISHED, YOUR HONOR, IF
17 THAT'S THE PURPOSE. 01:27PM

18 THE COURT: WELL, THEN LAY THE FOUNDATION FOR
19 IT.

20 YOU ASKED THE SAME QUESTIONS YESTERDAY,
21 MR. QUINN, SO THAT'S THE ISSUE. 01:27PM

22 GO AHEAD.

23 Q. BY MR. HELM: HE ASKED YOU IF YOU RECALLED
24 SAYING SOMETHING TO THE EFFECT OF WHAT I JUST READ YOU.

25 DO YOU RECALL SAYING, IN ADVANCE OF
26 THAT, SOMETHING TO THE EFFECT OF, (READING): 01:27PM

27 WE DON'T HAVE TO DESIGN THE
28 SYSTEM. WE KNOW WHAT THE SYSTEM

1 IS. ALL IT REALLY IS, ALTHOUGH
2 IT'S VERY, VERY USEFUL, IT'S A DATA
3 MANIPULATION SYSTEM. YOU TAKE IN
4 BLOOMBERG, INTEXT, LOAN
5 PERFORMANCE, AND ALL THESE OTHER
6 THIRD PARTY THINGS, AND BUILD IT
7 INTO THE WAY YOU WANT TO LOOK AT
8 THE DATA.

01:27PM

9 DID YOU SAY THAT RIGHT BEFORE THE
10 PASSAGE THAT MR. QUINN ASKED YOU ABOUT?

01:28PM

11 A. YES.

12 MR. QUINN: SO WE'D OFFER THE DOCUMENT, YOUR
13 HONOR.

14 THE COURT: IT WILL BE ADMITTED.

01:28PM

15
16 (EXHIBIT 634 ADMITTED.)

17
18 Q. BY MR. HELM: NOW, WE'VE HEARD A BIT ABOUT
19 THIS TRIP TO MARFA, TEXAS.

20 DO YOU RECALL THAT?

01:28PM

21 A. YES.

22 Q. NOW, THIS WAS TO GO -- YOU SAW SOME ART WHILE
23 YOU WERE IN TEXAS?

24 A. YES.

25 Q. NOW, YOU MENTIONED EARLIER IN YOUR TESTIMONY
26 THAT THERE WERE SOME TEAM BUILDING ACTIVITIES AT SOME
27 PRIOR OFF SITE THAT YOU WEREN'T SO KEEN ON?

01:28PM

28 A. YES.

1 Q. WHAT WAS THE KIND OF ACTIVITIES THAT YOU HAD
2 BEFORE, THAT YOU REALLY DIDN'T WANT TO REPEAT?

3 A. WELL, THINGS LIKE COLORING PICTURES WITH MAGIC
4 MARKERS.

5 Q. IS LOOKING AT ART SOMETHING THAT IS MORE TO
6 YOUR LIKING, IN TERMS OF A TEAM-BUILDING ACTIVITY?

01:29PM

7 A. YES.

8 Q. NOW, WHEN YOU WENT TO MARFA, TEXAS WITH THIS
9 GROUP, DID YOU PARTICIPATE IN ANY DISCUSSIONS DURING
10 THAT TRIP ABOUT THE POSSIBILITY OF STARTING A NEW
11 BUSINESS?

01:29PM

12 A. NO.

13 Q. DID YOU OBSERVE ANYONE ELSE DISCUSSING THAT
14 SUBJECT WHILE YOU WERE THERE?

15 A. NO.

01:29PM

16 Q. WHAT PROMPTED YOU TO MAKE THE DECISION TO DO
17 THAT TRIP AT THE TIME YOU DID?

18 A. I HAD GONE TO MARFA, TEXAS A FEW WEEKS
19 EARLIER, ON THE WAY BACK FROM A BUSINESS TRIP. AND I
20 WAS OVERWHELMED WITH HOW EXCELLENT IT WAS. AND I
21 WANTED TO SHARE IT WITH PEOPLE WHO HAD SHOWN AN
22 APPRECIATION FOR THE ART OF DONALD JUDD, WHO HAD WORKED
23 FOR ME.

01:29PM

24 Q. WERE THERE ANY MILESTONES IN YOUR LIFE THAT
25 WERE HAPPENING FOR YOU AT THAT POINT?

01:29PM

26 A. YES.

27 Q. WHAT WAS THAT?

28 A. MY 50TH BIRTHDAY.

1 Q. AND DID THAT HAVE ANYTHING TO DO WITH YOU
2 WANTING TO HAVE AN OCCASION LIKE THAT?

3 A. YES.

4 Q. AND WAS THERE ANYTHING THAT HAD HAPPENED AT
5 WORK THAT YOU THOUGHT WOULD JUSTIFY AN AWARD OF THIS
6 KIND FOR THE PEOPLE WHO YOU INVITED?

01:30PM

7 A. YES.

8 Q. WHAT WAS THAT?

9 A. WE HAD MADE IT THROUGH THE CREDIT CRISIS,
10 PROTECTING OUR CLIENTS' CAPITAL, THRIVING, AND NOT JUST
11 SURVIVING.

01:30PM

12 THE MARKETS HAD STARTED TO GET BETTER.
13 IT FELT LIKE WE, YOU KNOW IT WOULD HAVE BEEN FRIVOLOUS
14 TO DO SOMETHING LIKE THAT IN THE TEETH OF THE CRISIS;
15 BUT IT REALLY LOOKED LIKE WE MADE IT TO THE OTHER SIDE.

01:30PM

16 AND THE TOTAL RETURN BOND FUND WENT OVER
17 \$10 BILLION IN ASSETS UNDER MANAGEMENT.

18 Q. WHEN DID THIS PASS \$10 BILLION IN ASSETS UNDER
19 MANAGEMENT?

20 A. EARLY OCTOBER OF 2009.

01:30PM

21 Q. SO DID ALL OF THESE EVENTS THAT YOU HAVE BEEN
22 TALKING ABOUT: YOUR BIRTHDAY, AND THE CREDIT CRISIS,
23 AND THE \$10 MILLION ASSETS UNDER MANAGEMENT MILESTONE,
24 DID THOSE CONTRIBUTE IN ANY WAY TO YOUR DECISION THAT
25 MAYBE AN EVENT LIKE THIS WOULD BE APPROPRIATE?

01:30PM

26 A. YES.

27 Q. DID YOU PARTICIPATE IN ANY OTHER OFF-SITES
28 WHILE YOU WERE AT TCW?

1 A. YES.

2 Q. WHAT WERE SOME OF THE ONES THAT YOU DID?

3 A. WELL, THERE WAS ONE EVERY YEAR, FROM 1989,
4 PRETTY MUCH FORWARD, THAT I PARTICIPATED IN.

5 WE ALSO -- THAT WAS FIRM WIDE. WE ALSO
6 DID THEM FOR THE MORTGAGE GROUP. AND IN, I THINK, '06
7 '07 AND '08, OUT IN PALM DESERT ONE TIME.

01:31PM

8 AND SO -- WE ALSO DID A GOLF, A GOLF
9 OUTING THING, WITH THE -- SOME OF THE GUYS IN THE
10 MORTGAGE GROUP THAT LIKED GOLF. WE WENT TO THE U.S.
11 OPEN AT TORREY PINES.

01:31PM

12 Q. SIR, DID YOU MAKE IT A HABIT OF BOYCOTTING ALL
13 OFF-SITES, OTHER THAN THIS ONE EVENT?

14 A. I NEVER BOYCOTTED AN OFF SITE. ONE OF THEM, I
15 DIDN'T WANT TO DO THE TEAM BUILDING.

01:31PM

16 WE WERE MEETING WITH JEAN-PIERRE MUSTIER
17 ABOUT BUYING THE FIRM, INSTEAD.

18 Q. SO I GET IT STRAIGHT, YOU TESTIFIED EARLIER
19 ABOUT A MEETING THAT YOU HAD WITH SOME OTHER PORTFOLIO
20 MANAGERS IN FEBRUARY OF '09, DISCUSSING WITH
21 MR. MUSTIER, THE POSSIBILITY OF BUYING THE FIRM; IS
22 THAT WHAT YOU ARE REFERRING TO?

01:32PM

23 A. YOU ARE CLOSE. IT WAS MARCH OF '09.

24 Q. THANK YOU.

25 BUT THIS IS WHAT YOU JUST TESTIFIED TO A
26 LITTLE BIT AGO?

01:32PM

27 A. YES.

28 Q. THAT WAS AT AN OFF-SITE?

1 A. YES.

2 AND THAT WAS -- THAT MEETING HAPPENED AT
3 THE SAME TIME AS THE TEAM BUILDING ACTIVITIES.

4 Q. ALL RIGHT.

5 I WANT YOU TO LOOK AT EXHIBIT 83, WHICH
6 HAS BEEN ADMITTED INTO EVIDENCE.

01:32PM

7 THIS WAS ABOUT A -- IT SAYS IN THE FIRST
8 PARAGRAPH, THAT THERE WAS A CALL ABOUT LOCKHEED,
9 SUGGESTING THAT MAYBE A CALL WITH HIM WOULD INCLINE
10 THIS PROSPECT TO INVEST IN A TCW MBS PRODUCT.

01:32PM

11 AND THEN YOU SAID IN THE NEXT ONE, I'M
12 NOT SURPRISED THAT PROSPECTS MIGHT BE PUT OFF IN THEIR
13 DIRECT COMMUNICATIONS WITH ME THESE DAYS.

14 THEN YOU SAID, I'M -- IT WOULD BE
15 UNDERSTANDABLE FOR THEM TO THINK I'M NOT TERRIBLY
16 FOCUSED ON THEIR NEEDS AND DESIRES. AND I ALMOST
17 COULDN'T CARE LESS ABOUT THEM. IN FACT, I DO NOT CARE
18 MUCH ABOUT THEM.

01:33PM

19 THAT WAS READ TO YOU BY MR. QUINN; IS
20 THAT RIGHT?

01:33PM

21 A. YES.

22 Q. NOW, THEN IT SAYS, BUT BEFORE YOU OR THEY GET
23 ALL IN A DITHER ABOUT SUCH A STATEMENT, MAYBE YOU
24 SHOULD REALIZE THAT I AM JUST ABOUT SWEATING OUT MY OWN
25 BLOOD EVERY SINGLE DAY, WATCHING OVER MY EXISTING
26 CLIENTS' INTERESTS.

01:33PM

27 IS THAT WHAT YOU WROTE?

28 A. YES.

1 Q. WERE YOU TRYING TO DRAW A DISTINCTION BETWEEN
2 PROSPECTS, PROSPECTIVE CLIENTS, AND EXISTING CLIENTS?

3 A. YES.

4 Q. WHAT WAS THE POINT YOU WERE TRYING TO MAKE?

5 A. WELL, THE POINT WAS THAT IT WAS A VERY, VERY
6 DIFFICULT PERIOD. AND I WAS REALLY WORKING HARD TO TRY
7 TO TRY TO KEEP MY CLIENTS ABOVE WATER. AND THAT TOOK
8 ALL OF MY ENERGY.

01:34PM

9 Q. THE DATE IS APRIL 1ST, 2008.

10 WHAT WAS HAPPENING IN THE ECONOMY APRIL
11 1ST, 2008?

01:34PM

12 A. THIS WAS THE REAL TURNING POINT IN THE CREDIT
13 CRISIS. ON SAINT PATRICK'S DAY, MARCH 17TH, 2008, BEAR
14 STEARNS WENT OUT OF BUSINESS, WHICH WAS A HUGE EVENT.
15 IT WAS THE FIRST REAL FAILURE OF A BROKERAGE FIRM -- OF
16 A WALL STREET BANK. AND THE MARKET, PARTICULARLY FOR
17 MORTGAGE-BACKED SECURITIES, WAS DISASTROUS.

01:34PM

18 THAT WAS THE MOMENT WHEN THE AMOUNT OF
19 TROUBLE REALLY STARTED TO BECOME APPARENT. AND I
20 CREATED A PHRASE THEN, WE'D BEEN MANAGING MONEY. WE
21 STARTED OUR FIRST DISTRESSED FUND. EVERYTHING SEEMED
22 TO BE RELATIVELY ORDERLY, UNTIL THAT POINT; AND THEN
23 THE BOTTOM FELL OUT.

01:35PM

24 AND I REMEMBER TELLING PEOPLE, WE'RE
25 GOING TO NEED A BIGGER BOAT.

01:35PM

26 Q. WHAT DID YOU MEAN BY THAT?

27 A. THAT THE VOLUME OF SECURITIES THAT'S GOING TO
28 BE FORCED UP FOR SALE IS SO LARGE THAT THE SYSTEM CAN'T

1 HANDLE IT.

2 Q. AND SO, ON APRIL THE 1ST, 2008, WHEN YOU SAY
3 YOU WERE SWEATING OUT YOUR OWN BLOOD OVER YOUR EXISTING
4 CLIENTS' INTERESTS, WERE YOU ATTEMPTING TO SAY YOU WERE
5 NEGLECTING YOUR EXISTING CLIENTS IN ANY WAY?

01:35PM

6 A. JUST THE OPPOSITE.

7 Q. SO TO WHAT EXTENT, IF AT ALL, WOULD YOU SAY
8 YOU WERE NOT INTERESTED IN PROSPECTS AT THAT POINT?

9 A. WELL, FIRST OF ALL, WE WERE PRETTY SATURATED
10 WITH THE WORK WE WERE DOING.

01:35PM

11 BUT ALSO, THAT BIGGER BOAT CONCEPT, I
12 HAD THIS IDEA THEN THAT IT WOULD BE A GOOD IDEA TO TRY
13 TO GET QUICKLY SOME NEW ACCOUNTS FROM BIG INVESTORS
14 THAT COULD ACT QUICKLY, BECAUSE THEY WOULD BE ABLE TO
15 WAVE IN HUGE AMOUNTS OF VERY, VERY, VERY ATTRACTIVE
16 INVESTMENTS, BUT THEY'D HAVE TO ACT QUICKLY.

01:36PM

17 Q. SO HOW DID THAT AFFECT YOUR VIEW ABOUT YOUR
18 CONVERSATION WITH THIS PARTICULAR CLIENT?

19 A. I WANTED THEM -- I WANTED TO TALK TO PEOPLE
20 WHO COULD MAKE A DECISION QUICKLY AND UNDERSTAND THINGS
21 AT A HIGH LEVEL; NOT WORRY ABOUT SEMI-COLONS OR COMMAS.

01:36PM

22 Q. SO WAS THERE SOMETHING IN THAT EXCHANGE YOU
23 HAD WITH THIS PARTICULAR INVESTOR THAT AFFECTED YOU IN
24 THAT REGARD?

25 A. YES.

01:36PM

26 Q. WHAT WAS IT?

27 A. THEY WERE ASKING ME PICKY QUESTIONS ABOUT
28 MINUTIA, WHICH IS THEIR RIGHT, IF THEY WANT TO DO IT.

1 BUT I WANTED TO TALK TO PEOPLE WHO COULD
2 ACT QUICKLY. AND EVERY MINUTE I WAS ON THE PHONE,
3 TALKING TO A PROSPECT, PARTICULARLY IF I FELT THAT I
4 WAS WASTING MY TIME, I WAS MISSING OPPORTUNITIES IN THE
5 MARKET.

01:37PM

6 Q. ALL RIGHT.

7 WE'VE SEEN REFERENCE IN ONE OF THE
8 DOCUMENTS THAT MR. QUINN SHOWED YOU ABOUT SOMEONE BEING
9 TOO SMALL TO GET AN AUDIENCE WITH THE POPE.

10 WHAT'S THE POPE BUSINESS YOU TALKED
11 ABOUT?

01:37PM

12 A. I NEVER CALLED MYSELF THE POPE. THIS WAS A
13 THIRD PARTY TERM, MEANT AS SHORTHAND WITHIN THE GROUP.

14 THE IDEA WAS THAT A LOT OF THESE
15 INVESTORS THOUGHT THEY WANTED TO INVEST WITH ME AND MY
16 TEAM; STARTED MAKING THE STEPS TOWARD IT; WE'D GET
17 CLOSE TO IT, AND MY PEOPLE WOULD COME TO ME AND SAY,
18 WELL, THEY WANT TO DO IT, BUT THEY NEED TO MEET WITH
19 YOU. THEY WANT TO TALK ABOUT THIS, THAT, OR THE OTHER.

01:37PM

20 AND INSTEAD OF GOING THROUGH ALL THIS
21 EXPLANATION, AS TIME WENT BY, THEY JUST SAID THEY NEED
22 AN AUDIENCE WITH THE POPE.

01:37PM

23 Q. SO IF SOMEONE CAME TO YOU AND SAID THEY NEED
24 AN AUDIENCE WITH THE POPE, WHAT DID THAT MEAN?

25 A. THAT MEANT IF YOU MEET WITH THEM, THEY'LL GIVE
26 US THE MONEY. WE'RE ON THE ONE YARD LINE HERE.

01:37PM

27 Q. NOW, THEY SHOWED YOU SOME E-MAILS WHERE YOU
28 MADE SOME COMMENTS ABOUT THE RELATIVE ROLES BETWEEN

1 YOURSELF AND PHIL BARACH.

2 DO YOU RECALL THOSE E-MAILS?

3 A. YES.

4 Q. NOW, BEFORE ASKING QUESTIONS ABOUT THAT TOPIC
5 IN THIS LITIGATION, DID TCW EVER EXPRESS ANY CONCERNS
6 TO YOU ABOUT HOW YOU TREATED PHIL BARACH?

01:38PM

7 A. NO.

8 Q. DID TCW EVER ADMONISH YOU FOR NOT TREATING
9 PHIL BARACH WELL ENOUGH?

10 A. NO.

01:38PM

11 Q. ALL RIGHT. LET'S MOVE TO THE TOPIC OF THE
12 SPECIAL MORTGAGE CREDIT FUNDS AT TCW.

13 WHY DON'T WE PUT UP 6095 AGAIN, JUST SO
14 WE CAN REMIND OURSELVES.

15 ALL RIGHT. SO THESE ARE THE LOCKUP
16 FUNDS, THE DISTRESSED DEBT FUNDS THAT YOU MANAGED WHILE
17 YOU WERE AT TCW; IS THAT TRUE?

01:39PM

18 A. YES.

19 Q. WERE YOU INVOLVED IN ANY OF THE SMCF FUNDS IN
20 ANY WAY OTHER THAN AS MANAGING THE FUNDS?

01:39PM

21 A. YES.

22 Q. WHAT INVOLVEMENT DID YOU HAVE IN ONE OR MORE
23 OF THE SMCF FUNDS IN A CAPACITY OTHER THAN THEIR
24 MANAGER?

25 A. I WAS AN INVESTOR IN THE FUNDS.

01:39PM

26 Q. WHICH FUNDS WERE YOU AN INVESTOR IN?

27 A. SPECIAL MORTGAGE CREDIT FUND I; SPECIAL
28 MORTGAGE CREDIT FUND II; SPECIAL MORTGAGE CREDIT FUND

1 III; CREDIT OPPORTUNITY FUNDS.

2 Q. LET ME ASK YOU TO LOOK AT EXHIBIT 6037,
3 PLEASE.

4 AND DO YOU SEE THE FIRST PAGE OF THAT?

5 A. YES.

01:40PM

6 Q. WHAT IS THIS DOCUMENT?

7 A. IT'S A SUBSCRIPTION AGREEMENT TO SPECIAL
8 MORTGAGE CREDITS MASTER FUND LP.

9 Q. AND IF YOU WOULD LOOK AT PAGE 19 OF THE
10 EXHIBIT, IS THAT YOUR SIGNATURE THERE?

01:40PM

11 A. YES.

12 MR. HELM: MOVE ADMISSION OF 6037.

13 MR. QUINN: NO OBJECTION.

14 THE COURT: IT WILL BE ADMITTED.

15

01:40PM

16 (EXHIBIT 6037 ADMITTED.)

17

18 MR. HELM: PLEASE SHOW IT.

19 Q. SO WE'RE ON PAGE 19 AT -- IT SAYS -- IS THAT
20 YOUR SIGNATURE THERE?

01:40PM

21 A. YES.

22 Q. AND YOU SIGNED IT WHEN?

23 A. JULY 3RD, 2007.

24 Q. AND IT SAYS AMOUNT OF REQUESTED CAPITAL
25 COMMITMENT.

01:40PM

26 WHAT DOES THAT REFER TO?

27 A. THE AMOUNT OF MONEY I WAS INVESTING IN THE
28 FUND.

1 Q. SO YOU INVESTED \$3 MILLION IN SPECIAL MORTGAGE
2 CREDIT FUND I?

3 A. YES.

4 Q. AND DID YOU IT BY VIRTUE OF THIS SUBSCRIPTION
5 AGREEMENT?

01:40PM

6 A. YES.

7 Q. LET ME ASK YOU TO LOOK AT EXHIBIT 5044.

8 WHAT IS THIS?

9 A. IT SAYS TCW SPECIAL MORTGAGE MASTER FUND
10 AMENDED AND RESTATED AMENDED PARTNERSHIP AGREEMENT.

01:41PM

11 Q. IS THIS THE LIMITED PARTNERSHIP AGREEMENT OF
12 SPECIAL MORTGAGE CREDIT FUND I?

13 A. YES.

14 MR. HELM: MOVE ADMISSION OF 5044, YOUR HONOR?

15 MR. QUINN: NO OBJECTION.

01:41PM

16 THE COURT: IT WILL BE ADMITTED.

17

18 (EXHIBIT 5044 ADMITTED.)

19

20 Q. BY MR. HELM: SO JUST SO WE UNDERSTAND, 6037
21 WAS A SUBSCRIPTION AGREEMENT.

01:41PM

22 DID YOU UNDERSTAND YOU WERE, IN ESSENCE,
23 SUBSCRIBING INTO THE FUND FOR WHICH THIS WAS AN LP
24 AGREEMENT?

25 A. YES.

01:41PM

26 Q. LET ME ASK YOU TO LOOK AT EXHIBIT 1110,
27 PLEASE.

28 CAN YOU IDENTIFY THIS DOCUMENT?

1 A. IT'S THE SUBSCRIPTION AGREEMENT TO SPECIAL
2 MORTGAGE CREDIT FUNDS II.

3 Q. AND WOULD YOU LOOK AT PAGE 16, PLEASE?

4 A. YES.

5 Q. IS THAT YOUR SIGNATURE?

01:42PM

6 A. YES.

7 MR. HELM: MOVE ADMISSION OF 1110?

8 THE COURT: ANY OBJECTION?

9 MR. QUINN: NO.

10 THE COURT: IT WOULD BE ADMITTED.

01:42PM

11

12 (EXHIBIT 1110 ADMITTED.)

13

14 MR. HELM: PLEASE SHOW IT TO THE JURY.

15 Q. SO WHILE WE'RE ON THIS PAGE, DID YOU SIGN THIS
16 AGREEMENT ON OR ABOUT SEPTEMBER 30TH, 2008?

01:42PM

17 A. YES.

18 Q. IF WE COULD GO TO PAGE 5 OF THE DOCUMENT,
19 PLEASE.

20 WHAT WAS THE AMOUNT OF YOUR CAPITAL
21 COMMITMENT IN SPECIAL MORTGAGE CREDIT FUND II?

01:42PM

22 A. \$2 MILLION.

23 Q. NOW I'D LIKE YOU TO LOOK AT EXHIBIT 5069.

24 IS THAT THE LIMITED PARTNERSHIP
25 AGREEMENT FOR SPECIAL MORTGAGE CREDIT FUNDS II?

01:43PM

26 A. YES. IT SAYS AMENDED AND RESTATED LIMITED
27 PARTNERSHIP AGREEMENT, SPECIAL MORTGAGE CREDIT FUND II.

28 MR. HELM: MOVE ADMISSION OF 5069.

1 MR. QUINN: NO OBJECTION.

2 THE COURT: IT WILL BE ADMITTED.

3

4 (EXHIBIT 5069 ADMITTED.)

5

01:43PM

6 Q. BY MR. HELM: SHOWING THE FIRST PAGE.

7

8 SO AGAIN, AS WITH THE FIRST, THE LAST
9 DOCUMENT I JUST SHOWED YOU WAS A SUBSCRIPTION AGREEMENT
10 THAT WAS, IN ESSENCE, SUBSCRIBING TO THE FUND FOR WHICH
11 THIS WAS A LIMITED PARTNERSHIP AGREEMENT; IS THAT TRUE?

01:43PM

11

A. YES.

12

13 Q. NOW, ARE THE ASSETS UNDER MANAGEMENT IN THE
14 TCW TOTAL RETURN BOND FUND PUBLICLY REPORTED?

14

A. YES.

15

16 Q. I'D LIKE YOU TO LOOK AT -- LET'S LOOK AT 6096.

01:43PM

16

17 NOW THIS WAS IN THE UPPER RIGHT-HAND
18 CORNER.

18

19 THAT'S THE TOTAL RETURN BOND FUNDS AS IT
20 EXISTED JUST BEFORE YOU WERE FIRED, WITH \$12 BILLION IN
21 ASSETS?

01:44PM

21

A. RIGHT. THE BIG RED RECTANGLE.

22

23 Q. NOW, IS THAT -- AGAIN, JUST TO REMIND US --
24 THIS ONE OF THE FUNDS THAT PEOPLE CAN LEAVE AT ANY
25 TIME, OR THAT THEY ARE LOCKED INTO?

25

A. THEY CAN LEAVE EVERY SINGLE DAY, IF THEY WANT.

01:44PM

26

27 Q. DID YOU KEEP TRACK OF WHAT HAPPENED TO THE
28 ASSETS UNDER MANAGEMENT IN THE TOTAL RETURN BOND FUND
AFTER YOU WERE TERMINATED?

1 A. YES, I DID.

2 Q. WHAT HAPPENED TO THOSE ASSETS?

3 A. MORE THAN HALF OF THE ASSETS WENT OUT THE
4 DOOR.

5 Q. WE LOOK AT EXHIBIT 6116.

01:44PM

6 WHAT DOES THAT SHOW, MR. GUNDLACH?

7 A. IT SHOWS THAT AS OF DECEMBER 4TH, 2009, THE
8 FUND SIZE WAS A LITTLE OVER \$12 BILLION; AND TWO WEEKS
9 LATER, IT WAS UNDER \$7 BILLION; AND AT THE END OF THE
10 MONTH, DECEMBER, IT WAS UNDER SIX AND A HALF BILLION
11 DOLLARS.

01:45PM

12 Q. SO IN LESS THAN A MONTH, HOW MUCH DID THE
13 ASSETS UNDER MANAGEMENT IN THE TOTAL RETURN BOND FUND
14 DROP?

15 A. \$5.7 BILLION.

01:45PM

16 Q. NOW YOU HAD -- AS WE DISCUSSED EARLIER, YOU
17 HAD A CALL WITH PEOPLE INTERESTED IN THE MUTUAL FUND ON
18 DECEMBER 8TH; IS THAT CORRECT?

19 A. YES.

20 Q. LET'S LOOK AT 6118.

01:45PM

21 THAT WAS A CALENDAR THAT WE LOOKED AT.

22 AND I BELIEVE YOU PREVIOUSLY TESTIFIED
23 ABOUT STATEMENTS YOU MADE IN THAT CALL WITH RESPECT TO
24 WHAT INVESTORS SHOULD OR SHOULDN'T DO CONCERNING THEIR
25 INVESTMENT.

01:45PM

26 DO YOU RECALL THAT?

27 A. YES.

28 Q. AND AGAIN, JUST TO LAY THE FOUNDATION, WHAT IS

1 IT THAT YOU TOLD PEOPLE AT THAT TIME WITH RESPECT TO
2 WHETHER THEY SHOULD SELL OUT OF THE FUND?

3 A. I TOLD THEM NOT TO SELL.

4 I TOLD THEM TO STAY IN THE FUND.

5 Q. SO IF WE GO BACK TO 6116; SHOWING THE DROP IN
6 THE ASSETS.

01:46PM

7 CAN YOU ATTRIBUTE ANYTHING IN THE DROP
8 IN AUM IN THE TOTAL RETURN BOND FUND TO STATEMENTS YOU
9 MADE WITH RESPECT TO THAT FUND?

10 A. NO.

01:46PM

11 Q. WHAT DO YOU ATTRIBUTE THE DROP IN, BASED ON
12 YOUR LONG EXPERIENCE WITH THE FUND AND THE INVESTORS IN
13 THAT FUND AND THE INDUSTRY?

14 MR. QUINN: LACKS FOUNDATION.

15 THE COURT: OVERRULED.

01:46PM

16 THE WITNESS: THEY WANTED TO LEAVE BECAUSE THE
17 LEAD PORTFOLIO MANAGER WAS TAKEN AWAY FROM THEM.

18 Q. BY MR. HELM: WERE YOU MANAGING THE FUND WHEN
19 THE INVESTORS HAD SIGNED UP FOR THAT MUTUAL FUND?

20 A. YES.

01:46PM

21 Q. DID THE INCREASE IN ASSETS THAT WE SAW IN '07,
22 '08 AND '09, CORRESPOND WITH INCREASING ATTENTION THAT
23 YOU WERE GETTING IN CONNECTION WITH YOUR MANAGEMENT OF
24 THE FUNDS?

25 A. YES.

01:47PM

26 Q. DID IT SURPRISE YOU THAT INVESTORS PULLED
27 MONEY OUT OF TOTAL RETURN BOND FUND WHEN YOU WERE NO
28 LONGER THERE TO MANAGE IT?

1 MR. QUINN: IRRELEVANT, YOUR HONOR.

2 THE COURT: OVERRULED.

3 THE WITNESS: NOT AT ALL.

4 Q. BY MR. HELM: ALL RIGHT.

5 NOW, LET'S TALK ABOUT THE SMCF FUNDS. 01:47PM

6 THOSE ARE LOCKUP FUNDS, CORRECT?

7 A. YES, THEY WERE.

8 Q. NOW, YOU WERE THE KEY MAN IN THOSE FUNDS; IS
9 THAT CORRECT?

10 A. YES. 01:47PM

11 Q. AND WOULD YOU REMIND US, WHAT DOES THAT MEAN,
12 BEING THE KEY MAN?

13 A. INVESTORS THAT INVEST IN LONG TERM LOCKUP
14 FUNDS WANT TO FEEL LIKE THEY KNOW WHAT THEY ARE GOING
15 TO BE SIGNING UP FOR, SO THEY REQUIRE -- THEY ASK FOR
16 KEY MAN LANGUAGE, SO THAT IF SOMETHING WOULD HAPPEN TO
17 THE KEY MAN, OR PEOPLE ON THE INVESTMENT TEAM, THEY
18 WOULD THEN POTENTIALLY GET SOME RIGHTS TO CHANGE
19 THINGS. 01:47PM

20 Q. AND DO YOU KNOW WHY YOU WERE MADE THE KEY MAN? 01:48PM

21 A. BECAUSE THE INVESTORS DEMANDED IT.

22 Q. DID YOU RECEIVE ANY CALLS FROM INVESTORS IN
23 THE SMCF FUNDS AFTER YOUR TERMINATION, COMPLAINING
24 ABOUT THE FACT THAT YOU WERE NO LONGER THERE?

25 MR. QUINN: OBJECTION. HEARSAY. 01:48PM

26 THE COURT: I'LL OVERRULE IT.

27 JUST ANSWER IT.

28 THE WITNESS: YES.

1 Q. BY MR. HELM: WHEN DID THOSE CALLS START?

2 A. DECEMBER 4TH, 2009.

3 Q. IN THE EARLY WEEKS AFTER YOUR TERMINATION,
4 WERE YOU MOSTLY CALLING INVESTORS IN THE SMCF FUND, OR
5 RECEIVING CALLS FROM INVESTORS?

01:48PM

6 A. THEY WERE CALLING ME.

7 Q. WAS IT YOUR PERCEPTION THAT INVESTORS NEEDED
8 ANY PRODDING BY YOU TO BE STIRRED UP BY WHAT WAS
9 HAPPENING?

01:48PM

10 A. HARDLY.

11 Q. AND WAS THERE AN INVESTOR ADVISORY COMMITTEE
12 FOR SMCF -- THE SMCF FUNDS?

13 A. YES.

14 Q. WHAT WAS THE INVESTOR ADVISORY COMMITTEE?

15 A. IT WAS A SMALL GROUP OF INVESTORS WHOSE -- WHO
16 SIGNED UP TO MONITOR THE FUNDS, THEIR SUCCESS, THEIR
17 GOVERNANCE, AS THEY MOVED FORWARD.

01:49PM

18 Q. DID THE COMMITTEE MAKE ANY REQUESTS TO YOU
19 ABOUT CONTACTING OTHER INVESTORS?

20 A. YES.

01:49PM

21 Q. WHAT DID THEY REQUEST?

22 A. THEY WANTED ME TO TALK TO AS MANY INVESTORS AS
23 POSSIBLE.

24 Q. WHEN DID THEY MAKE THIS REQUEST?

25 A. DURING DECEMBER 2009.

01:49PM

26 Q. DID THEY SAY WHY THEY WANTED YOU TO CONTACT
27 INVESTORS IN THE FUND?

28 A. THEY WERE VERY UNHAPPY WITH WHAT HAD HAPPENED.

1 MR. QUINN: THIS IS HEARSAY.

2 THE COURT: SUSTAINED.

3 MR. QUINN: MOVE TO STRIKE THE RESPONSE.

4 THE COURT: I'LL STRIKE THE RESPONSE.

5 Q. BY MR. HELM: DID MEMBERS OF THE INVESTMENT
6 ADVISORY COMMITTEE PROVIDE YOU WITH ANY INFORMATION
7 ENABLING YOU TO GET IN TOUCH WITH INVESTORS IN THE
8 FUND?

01:49PM

9 A. YES.

10 Q. WHAT DID THEY PROVIDE YOU?

01:49PM

11 A. THEY SENT SOME OF MY PEOPLE A PARTIAL LIST OF
12 INVESTORS CONTACTS.

13 Q. DID YOU BELIEVE THAT INVESTORS HAD A RIGHT TO
14 HEAR YOUR VIEWS ON THE SUBJECT OF WHAT WAS HAPPENING
15 WITH THE SMCF FUNDS?

01:50PM

16 A. YES.

17 Q. WHY IS THAT?

18 A. BECAUSE I KNEW THE MOST ABOUT THE PORTFOLIOS
19 IN THE STATE OF THE MARKET.

20 Q. WERE YOU ALSO AN INVESTOR IN THE FUNDS?

01:50PM

21 A. YES.

22 Q. DID YOU ALSO FEEL THAT YOU HAD A RIGHT TO
23 COMMUNICATE WITH OTHER INVESTORS IN THE FUND, GIVEN
24 THAT YOU WERE AN INVESTOR IN THE FUND?

25 A. YES.

01:50PM

26 Q. LET'S LOOK AT 6119.

27 WE SEE NOW WE'VE GOT INVESTOR CALLS FOR
28 THE SMCF FUNDS ON THE 22ND AND THE 29TH OF DECEMBER; IS

1 THAT CORRECT?

2 A. I THINK SO.

3 Q. IS THAT WHEN YOU HELD CALLS WITH INVESTORS IN
4 THOSE FUNDS?

5 A. I THINK SO.

01:50PM

6 Q. BY THE TIME OF THE FIRST CALL WITH THE SMCF
7 INVESTORS, ON DECEMBER THE 22ND, HAD INVESTORS ALREADY
8 MADE ANY STATEMENTS TO YOU ABOUT WHAT THEY WANTED TO
9 HAPPEN WITH THE FUNDS?

10 DON'T TELL ME WHAT THE STATEMENTS WERE;
11 BUT AT THIS POINT, WHETHER THEY MADE STATEMENTS ABOUT
12 THAT?

01:51PM

13 A. YES.

14 Q. NOW, MR. QUINN ASKED YOU ABOUT SOME STATEMENTS
15 THAT YOU MADE IN SOME OF THESE CALLS.

01:51PM

16 DO YOU RECALL THAT?

17 A. YES.

18 Q. AND HE ASKED YOU ABOUT A STATEMENT, WE DON'T
19 CARE WHAT THE DOCUMENTS SAY, IN SOME SCHEMED WAY TO TRY
20 TO SHANGHAI THE FUNDS.

01:52PM

21 DO YOU RECALL THAT?

22 A. YES.

23 MR. HELM: WELL, TO MAKE IT EASIER, WHY DON'T
24 WE MOVE THE ADMISSION OF 2141, THE TRANSCRIPT OF THAT
25 CALL.

01:52PM

26 MR. QUINN: JOIN.

27 THE COURT: ALL RIGHT. IT WILL BE ADMITTED
28 WITHOUT OBJECTION.

1 (EXHIBIT 2141 ADMITTED.)

2

3 MR. HELM: NOW THIS IS --

4 THE COURT: IT'S CALLED, JUST SO WE HAVE AN
5 IDENTIFICATION, IS THIS DECEMBER 22ND OR 29TH?

01:52PM

6 MR. HELM: DECEMBER 22ND, YOUR HONOR.

7 THE COURT: THANK YOU.

8 Q. BY MR. HELM: WELL, LET'S LOOK AT IT, JUST
9 TO READ A LITTLE BIT.

10 BEFORE WHAT MR. QUINN READ, COULD WE GO
11 TO THE BOTTOM OF PAGE 25 OF THE EXHIBIT, DENNIS. THERE
12 YOU GO.

01:52PM

13 IT SAYS, AND THE INVESTORS SHOULD WRITE
14 LETTERS TO TCW SAYING THAT -- THEY SHOULD WRITE IT AS
15 SAYING THEY HAD IT WITH THEIR NEEDS BEING IGNORED.
16 THEY ARE THE ONES THAT OWN THESE FUNDS, AT THE END OF
17 THE DAY.

01:53PM

18 TCW, IN MY OPINION, IS IN FIDUCIARY
19 BREACH, AND THEREFORE THE LEGAL PREPOSITIONAL PHRASES
20 THEY'VE BEEN TRYING TO HIDE BENEATH HAVE BEEN BLOWN TO
21 HIGH HELL. AND THEREFORE, WE DON'T CARE WHAT THE
22 DOCUMENTS SAY, IN SOME SCHEMED WAY TO TRY TO HIJACK --
23 EXCUSE ME, SHANGHAI THE FUNDS.

01:53PM

24 SO WHY DID YOU THINK THAT TCW WAS IN
25 FIDUCIARY BREACH?

01:53PM

26 A. BECAUSE I WAS AN INVESTOR IN THE FUNDS, AND I
27 THOUGHT THAT I SIGNED UP FOR ME AND MY TEAM TO MANAGE
28 THESE FUNDS, AS AN INVESTOR.

1 AND IT JUST SEEMED THAT TO TAKE THAT
2 AWAY FROM US, WITHOUT ANY INPUT OR REGARD FOR OUR
3 OPINION ON IT, WAS SORT OF A BREACH OF THE CONTRACT
4 THAT WE HAD WITH THEM.

5 Q. DID YOU THINK THAT THIS BREACH OF CONTRACT OR
6 BREACH OF FIDUCIARY DUTY THAT YOU WERE REFERRING TO HAD
7 SOME EFFECT ON THE INVESTORS' CONTINUING ALLEGATIONS
8 UNDER THE FUND?

01:53PM

9 MR. QUINN: AGAIN, YOUR HONOR, THIS IS HIS
10 OPINION.

01:54PM

11 THE COURT: THAT'S WHAT I UNDERSTAND HE'S
12 ASKING.

13 MR. HELM: YES. YES, YOUR HONOR.

14 THE WITNESS: YES.

15 Q. BY MR. HELM: AND AGAIN, WE'RE TALKING ABOUT
16 YOUR OPINION?

01:54PM

17 A. YES.

18 Q. THIS WAS AN OPINION YOU EXPRESSED IN THIS
19 CALL, RIGHT?

20 A. RIGHT.

01:54PM

21 Q. AND IT WAS YOUR OPINION, THEY BREACHED THEIR
22 FIDUCIARY DUTIES, CORRECT?

23 A. YES.

24 Q. SO WHAT I'M TRYING TO GET AT NOW, WHAT WAS
25 YOUR OPINION ABOUT -- I REALIZE YOU ARE NOT A LAWYER.
26 AND WHETHER YOU ARE RIGHT OR NOT, LET'S LEAVE THAT
27 ASIDE.

01:54PM

28 BUT YOUR OPINION WAS THAT THERE WAS SOME

1 RELATIONSHIP BETWEEN THE FIDUCIARY BREACH AND THE FACT
2 THAT THERE WERE NO OBLIGATIONS UNDER THE CONTRACT.

3 WHAT WAS YOUR VIEW ON THAT SUBJECT?

4 A. THAT IT MADE THE CONTRACT INVALID. THEY ARE
5 SUPPOSED TO PUT THEIR DUTIES -- OUR DUTIES AS INVESTORS
6 FIRST.

01:54PM

7 Q. SO WERE YOU ADVOCATING THAT ANYONE BREACHED
8 ANY OBLIGATIONS THAT THEY DID HAVE?

9 A. NO.

10 Q. WERE YOU OFFERING AN OPINION ON WHY YOU
11 THOUGHT THAT SOME OF THEIR OBLIGATIONS MIGHT HAVE BEEN
12 EVAPORATED OR BEEN EXCUSED?

01:55PM

13 MR. QUINN: THIS IS ARGUMENTATIVE, YOUR HONOR.

14 THE COURT: SUSTAINED.

15 MR. QUINN: MOVE TO STRIKE.

01:55PM

16 THE COURT: THE DOCUMENT IS IN EVIDENCE, SO IT
17 IS WHAT IT IS.

18 Q. BY MR. HELM: DID YOU HONESTLY HOLD THE
19 OPINION YOU EXPRESSED HERE?

20 A. YES.

01:55PM

21 Q. DID YOU FEEL YOU HAD AN INTEREST IN EXPRESSING
22 THAT OPINION AS AN INVESTOR IN THE FUNDS?

23 A. I FELT I HAD A RIGHT TO.

24 Q. ALL RIGHT.

25 LET'S LOOK AT 26.

01:55PM

26 AND WE'RE AT THE BOTTOM OF 26.

27 YES, THANKS, DENNIS.

28 LET'S READ THIS. IT SAYS, FIRST OF ALL,

1 IT SAYS ANOTHER QUESTION, HOW DID THESE WORK?

2 WERE THERE QUESTIONS ASKED THAT YOU THEN
3 ANSWERED?

4 A. YES.

5 Q. HOW DID THAT WORK, GENERALLY?

01:55PM

6 A. THEY WOULD TYPE IN A QUESTION. THERE'S A
7 QUESTION AND ANSWER METHODOLOGY ON THESE THINGS.

8 Q. SO IT SAYS ANOTHER QUESTION.

9 TECHNICALLY, CURRENTLY, WHO IS THE
10 MANAGER OF I AND II.

01:56PM

11 THAT'S IN QUESTION MARKS.

12 IS THAT A QUESTION THAT WAS POSED TO
13 YOU?

14 A. THAT'S WHAT IT LOOKS LIKE.

15 Q. ALL RIGHT.

01:56PM

16 AND SO THEN WHAT FOLLOWS, IS THAT AN
17 ANSWER YOU PROVIDED TO THAT QUESTION?

18 A. I THINK SO.

19 Q. AND IT SAYS, (READING):

20 AS FAR AS I'M AWARE, ONLY THE

01:56PM

21 SPECIAL COMMITTEE CAN DICTATE THE

22 DIRECTION OF THE FUNDS. THE

23 MANAGER OF SPECIALIZED CREDITS I

24 AND II APPEARS TO BE NOBODY RIGHT

25 NOW, BECAUSE I THINK THAT WITH THE

01:56PM

26 KEY MAN PROVISION BEING TRIGGERED,

27 THE FUNDS ARE ESSENTIALLY IN SOME

28 SORT OF SUSPENDED PHASE.

1 IS THAT WHAT YOU STATED AT THE TIME?

2 A. YES.

3 Q. SO WHAT WAS YOUR UNDERSTANDING OF HOW THE KEY
4 MAN PROVISION SOMEHOW LED TO THEM BEING IN A SUSPENDED
5 PHASE?

01:56PM

6 A. MY UNDERSTANDING WAS THAT IF THE KEY MAN WAS
7 TRIGGERED, THAT THERE WAS SOME TIME PERIOD OF FREEZING
8 OF THE FUNDS, SO THAT NO TRADING WOULD TAKE PLACE UNTIL
9 SOME DECISION WAS MADE BY THE ADVISORY COMMITTEE.

10 Q. SO WERE YOU EXPRESSING AN OPINION ON WHAT YOU
11 THOUGHT WAS THE EFFECT OF THE KEY MAN PROVISION?

01:57PM

12 A. YES.

13 Q. AND WAS THIS IN RESPONSE TO A QUESTION THAT
14 YOU WERE ASKED?

15 A. YES.

01:57PM

16 Q. WERE YOU -- DID YOU HONESTLY HOLD THE OPINION
17 THAT YOU EXPRESSED?

18 A. YES.

19 Q. DID YOU THINK YOU HAD AN INTEREST IN
20 EXPRESSING THAT OPINION, AS AN INVESTOR IN THE FUNDS?

01:57PM

21 A. YES.

22 Q. NOW, DID YOU MEAN -- WHEN YOU SAID IT APPEARS
23 TO BE NOBODY RIGHT NOW, BECAUSE I THINK THAT WITH THE
24 KEY MAN PROVISION BEING TRIGGERED -- AND IT GOES ON,
25 WHEN YOU SAID IT APPEARS TO BE NOBODY RIGHT NOW, DID
26 YOU MEAN THAT MET WEST WAS SOMEHOW NEGLECTING THEIR
27 DUTIES WITH RESPECT TO THE FIRM?

01:57PM

28 A. NO.

1 Q. SO WERE YOU EXPRESSING AN OPINION ON THE
2 QUALIFICATIONS OF MET WEST, OR EXPRESSING AN OPINION ON
3 THE EFFECT OF THE KEY MAN PROVISION?

4 A. ALL ON THE EFFECT OF THE KEY MAN PROVISION.

5 Q. NOW, THERE'S A STATEMENT ABOUT -- LET'S GO TO
6 THE 29TH, THE TRANSCRIPT. THAT IS 2142.

01:58PM

7 MR. HELM: AND SINCE PORTIONS OF THAT WERE
8 READ, I THINK I'LL JUST MOVE ADMISSION OF 2142.

9 MR. QUINN: JOIN.

10 THE COURT: IT WILL BE ADMITTED.

01:58PM

11

12 (EXHIBIT 2142 ADMITTED.)

13

14 Q. BY MR. HELM: AND IF WE LOOK AT PAGE 28 OF
15 THAT, PLEASE, DENNIS.

01:58PM

16 IT SAYS THERE, (READING):

17 BASICALLY WE HAVE 10 TIMES THE
18 NUMBER OF SEASONED INVESTMENT
19 PROFESSIONALS AND MORTGAGES AT
20 DOUBLELINE THAT ARE NOW EMPLOYED AT
21 TCW FROM THE MET WEST TEAM.

01:59PM

22 DO YOU SEE THAT?

23 A. YES.

24 Q. WHAT DO YOU MEAN BY SEASONED INVESTMENT
25 PROFESSIONALS?

01:59PM

26 IT SAYS, AND MORTGAGES.

27 DOES THAT MEAN IN MORTGAGES?

28 A. I GUESS.

1 Q. WHAT DID YOU MEAN BY SEASONED INVESTMENT
2 PROFESSIONALS IN MORTGAGES?

3 A. I MEANT PEOPLE WHO HAD BEEN IN THE BUSINESS A
4 LONG TIME, FOCUSING PRIMARILY, IF NOT EXCLUSIVELY ON
5 MORTGAGED-BACKED SECURITIES AT A SENIOR LEVEL.

01:59PM

6 Q. AND HOW MANY OF THOSE PEOPLE DID YOU
7 UNDERSTAND MET WEST TO HAVE?

8 A. TWO OR THREE.

9 Q. ARE YOU DRAWING A DISTINCTION BETWEEN SOMEONE
10 WITH EXPERIENCE IN MORTGAGES, SPECIFICALLY, VERSUS MORE
11 GENERAL EXPERIENCE IN FIXED INCOME?

01:59PM

12 A. YES.

13 Q. WHAT -- DID YOU UNDERSTAND MET WEST TO HAVE
14 EXPERIENCE MORE GENERALLY IN FIXED INCOME?

15 A. YES.

02:00PM

16 Q. NOW, YOU MENTIONED EARLIER, IN QUESTIONING BY
17 MR. QUINN, THAT AT ONE POINT, YOU CONSIDERED THE
18 POSSIBILITY OF A COMBINATION BETWEEN MET WEST AND TCW?

19 A. YES, I DID.

20 Q. WHEN DID YOU THINK ABOUT THAT?

02:00PM

21 A. 2008 AND PART OF 2009.

22 Q. AND SO WHAT WAS YOUR THINKING AS TO WHY THAT
23 MIGHT BE A GOOD IDEA?

24 A. I THOUGHT THAT THERE WOULD BE A GOOD
25 COMPLEMENTARY MERGER, POTENTIALLY, BETWEEN THE TWO
26 FIRMS, BECAUSE THE SKILL SETS DID NOT OVERLAP VERY
27 SUBSTANTIALLY.

02:00PM

28 Q. WHAT -- HOW DID THE SKILL SETS NOT OVERLAP?

1 A. TCW WAS BEST KNOWN FOR MORTGAGE-BACKED
2 SECURITIES. AND MORE THAN HALF OF OUR FIXED INCOME
3 TEAM, WELL OVER HALF, WAS SEASONED PROFESSIONALS IN
4 MORTGAGE-BACKED SECURITIES.

5 AND AT MET WEST, THEY DIDN'T SEEM TO
6 HAVE PARTICULAR EXPERTISE IN MORTGAGE-BACKED
7 SECURITIES. THEIR WEBSITE DIDN'T SPEAK OF ANY.

02:00PM

8 THEIR RECORDS IN A COUPLE OF FUNDS WERE
9 BAD, BAD IN MORTGAGE-BACKED SECURITIES.

10 AND THEY HAD SKILL IN CORPORATION BONDS,
11 PARTICULARLY LOWER-RATED STUFF OR MID-RATED STUFF IN
12 SOME ESOTERIC ASSET BACK SECURITIES THERE CALLED
13 AIRCRAFT LEASES AND STUFF, THAT FRANKLY, WE DIDN'T EVEN
14 DO VERY MUCH OF AT TCW; SO I FIGURED THE COMBINATION
15 COULD BE POWERFUL.

02:01PM

16 Q. SO YOU DID NOT DOUBT, OR DID YOU DOUBT, THEIR
17 ABILITY, GENERALLY, IN CERTAIN ASPECTS OF FIXED INCOME?

18 A. I NEVER THOUGHT THAT MET WEST WAS AN
19 INCOMPETENT FIRM IN FIXED INCOME.

02:01PM

20 Q. BUT WHAT WAS YOUR VIEW WITH RESPECT TO THEIR
21 SKILL IN MORTGAGE-BACKED SECURITIES, SPECIFICALLY?

02:01PM

22 A. I THOUGHT THEY WERE MEDIOCRE.

23 Q. AND DID YOU HONESTLY HOLD THAT OPINION?

24 A. YES.

25 Q. AND DID YOU EXPRESS THAT OPINION TO THE PEOPLE
26 DURING THIS CONFERENCE CALL?

02:01PM

27 A. I DON'T KNOW.

28 THE COURT: WE'LL RECESS FOR THE DAY.

1 LADIES AND GENTLEMEN, WE'LL RETURN
2 TOMORROW AT 8:30.

3 PLEASE REMEMBER THE ADMONITION NOT TO
4 DISCUSS THE CASE AMONG YOURSELVES, WITH ANYONE ELSE, OR
5 FORM ANY OPINIONS OR CONCLUSIONS CONCERNING ANY ASPECTS
6 OF THE CASE UNTIL YOU HAVE HEARD ALL OF THE EVIDENCE,
7 AND IT'S BEEN SUBMITTED TO YOU.

02:02PM

8 HAVE A NICE EVENING, AND WE'LL SEE YOU
9 IN THE MORNING.

02:02PM

10
11 (AT 2:02 P.M. THE JURY WAS
12 EXCUSED, AND THE FOLLOWING
13 PROCEEDINGS WERE HELD:)

14
15 THE COURT: ALL RIGHT. WE'RE OUT OF THE
16 PRESENCE OF THE JURY.

02:03PM

17 ON THIS ISSUE OF THE NOTES TAKEN BY
18 MR. WARD, IS IT THE INTENT OF TCW TO OFFER EXHIBIT 30
19 TO THE DEPOSITION.

20 MR. MADISON: NO, YOUR HONOR.

02:03PM

21 THE COURT: BECAUSE IT'S REFERENCED, AND IT'S
22 PART OF THE INQUIRY THAT WAS DESIGNATED BY BOTH SIDES.

23 MR. MADISON: I THOUGHT THAT WAS THE --

24 THE COURT: IT SAYS COUNTER-DESIGNATION BY THE
25 DEFENDANTS, BUT I BELIEVE IT WAS REFERRED TO IN OTHER
26 PARTS OF THE DESIGNATED TESTIMONY.

02:03PM

27 MR. MADISON: I DON'T BELIEVE SO.

28 AND IF SO, THAT WOULD BE IN ERROR.

1 BUT IN ANY EVENT, IT WOULD NOT BE OUR
2 INTENT. IT'S JUST RANK HEARSAY.

3 AND JUST SO WE'RE CLEAR, AS MR. QUINN
4 MENTIONED EARLIER, WE HAVE THE TESTIMONY FROM THE TWO
5 GOLDMAN SACHS GENTLEMEN. AND THE NOTES ARE ACTUALLY
6 THE NOTES OF MR. WARD.

02:03PM

7 THE COURT: I UNDERSTAND THAT.

8 MR. MADISON: BUT HE'S RECORDING WHAT ONE OF
9 THE GOLDMAN SACHS GUYS IS SAYING. AND THAT'S
10 MR. OWENS. AND WE HAVE MR. OWENS' TESTIMONY.

02:04PM

11 AND IF I COULD JUST GIVE A LITTLE MORE
12 CONTEXT TO THIS, YOUR HONOR. AS WE HEARD THIS
13 AFTERNOON, THERE WAS A NOVEMBER 9 MEETING AND THE COURT
14 MAY RECALL, WE SAW AN ITINERARY EARLIER IN THE CASE
15 WHERE THEY WENT TO NEW YORK. AND THIS WAS ONE OF THE
16 MEETINGS THAT THEY ATTENDED.

02:04PM

17 THE COURT: BUT THE NOTES I DON'T THINK ARE OF
18 THE ACTUAL MEETING, THEY WERE THE CONFERENCE CALL.

19 MR. MADISON: CORRECT. BUT I WANT TO EXPLAIN
20 THE SIGNIFICANCE OF THIS.

02:04PM

21 IN THE NOVEMBER 9 MEETING, ACCORDING TO
22 GOLDMAN SACHS, MR. GUNDLACH SAID, I'M GOING TO FORM A
23 NEW FIRM, AND I WANT YOU GUYS TO HELP ME DO IT.

24 AND THEIR REACTION WAS, WELL, WAIT A
25 MINUTE. YOU ARE AT TCW. WE WORK WITH TCW. WE HAVE A
26 RELATIONSHIP --

02:04PM

27 THE COURT: I'VE HEARD THAT.

28 AND HE HAS TO GO BACK AND TALK TO THEM.

1 AND WHEN YOU CAN COME --

2 MR. BRIAN: THAT'S NOT WHAT HIS TESTIMONY WAS.

3 THE COURT: IT WAS SOMETHING TO THAT EFFECT.

4 I'VE HEARD THE DISCUSSION OF THAT.

5 MR. MADISON: SO THEN THEY SCHEDULE THIS CALL. 02:05PM

6 AND IN THE CALL, GOLDMAN SACHS SAYS,
7 WE'RE NOT GOING TO BE INVOLVED IN THIS. AND OUR ADVICE
8 TO YOU, WE HAVE THIS RELATIONSHIP WITH TCW, IT'S A
9 CONFLICT HERE. BUT OUR ADVICE TO YOU IS, IF YOU WERE
10 GOING TO LEAVE, YOU SHOULD DO IT LIKE THIS -- IN OTHER 02:05PM
11 WORDS, DO IT THE RIGHT WAY.

12 AND MR. GUNDLACH SAYS, I AGREE. THAT'S
13 WHAT I'LL DO. AND THAT'S THE END OF THAT.

14 SO TO US, IT'S RANK HEARSAY. AND IF WE
15 COULD, IF WE HAD OVERNIGHT TO -- 02:05PM

16 THE COURT: AND THAT'S WHY I SAID IT WOULD
17 HAVE TO BE REDACTED.

18 BUT WHAT WAS RECOMMENDED, SEEMS TO ME,
19 YOU ALL COME UP WITH THIS ARGUMENT, WHEN IT'S SOMETHING
20 YOU WANT, THAT IT GOES TO STATE OF MIND, AS OPPOSED TO 02:05PM
21 BEING RANK HEARSAY.

22 AND THE BOTTOM LINE IS, IF THAT'S WHAT
23 THEY RECOMMENDED, AND THAT'S WHAT HE WAS THINKING
24 ABOUT, THEN THAT SEEMS TO ME TO BE APPROPRIATE.

25 MR. MADISON: FAIR ENOUGH. 02:06PM

26 BUT MR. WARD WAS IN NEW YORK AND TAKING
27 THOSE NOTES.

28 THE COURT: RIGHT.

1 MR. MADISON: THESE WERE NOT MR. GUNDLACH'S
2 NOTES. HE DIDN'T SEE THE NOTES.

3 THE WITNESSES CAN THEN COME IN AND
4 TESTIFY, AND I THINK THIS IS WHAT MR. QUINN WAS
5 ARTICULATING EARLIER, BUT THE WITNESSES CAN COME IN AND 02:06PM
6 TESTIFY, WE MADE THIS RECOMMENDATION. BUT THEY CAN DO
7 IT IN THE CONTEXT OF, WE WERE TELLING THEM, HEY, WE
8 HAVE A RELATIONSHIP WITH TCW. WE'RE NOT EVEN GOING TO
9 BE INVOLVED IN THIS. AND IF YOU WANT TO DO SOMETHING
10 LIKE THIS, HERE'S WHAT YOU BETTER DO. 02:06PM

11 THE COURT: I DON'T THINK THAT -- MY
12 UNDERSTANDING, AND I'VE READ A LOT OF DIFFERENT CLIPS
13 FROM DEPOSITIONS, IT WASN'T LIKE WE WON'T BE INVOLVED;
14 BUT IF YOU WANT US INVOLVED, YOU NEED TO GO BACK AND
15 YOU NEGOTIATE YOUR ARRANGEMENT. AND HERE ARE OUR IDEAS 02:06PM
16 OF HOW IT COULD BE DONE. AND THEN COME BACK TO US.

17 MR. MADISON: WE'RE NOT GOING TO HELP YOU SET
18 UP A NEW FIRM. IF YOU WANT TO NEGOTIATE WITH TCW,
19 HERE'S HOW DO YOU IT.

20 BUT THE DISCRETE POINT RIGHT NOW, YOUR 02:06PM
21 HONOR, IS THESE NOTES, JUST THE PIECE OF PAPER ITSELF
22 ARE HEARSAY, AND THERE'S ABSOLUTELY NO HEARSAY
23 EXCEPTION.

24 MR. BRIAN: MAY I BE HEARD AT SOME POINT, YOUR
25 HONOR? 02:07PM

26 THE COURT: YES, YOU MAY.

27 MR. MADISON IS NOT QUITE FINISHED YET.

28 MR. MADISON: IT'S HARD FOR ME TO SIT ALL DAY

1 AND NOT TALK, THIS IS MY CHANCE.

2 THE COURT: I UNDERSTAND. YOU'VE ALL BEEN
3 DOING VERY WELL.

4 MR. MADISON: ALL I'M SAYING IS, IT'S ABOUT
5 TWO OR THREE TIMES HEARSAY, TWICE OR THIRD REMOVED --

02:07PM

6 THE COURT: IT'S MR. WARD'S NOTES OF --

7 MR. MADISON: -- OF SOMETHING MR. OWENS IS
8 SAYING ON A PHONE CONFERENCE. AND MR. GUNDLACH, I
9 THINK, WAS HERE IN L.A.

02:07PM

10 THE COURT: WELL, THERE IS A REFERENCE IN
11 MR. GUNDLACH'S TESTIMONY TO THE NOTES, HIS HAVING
12 REVIEWED THEM OR -- AND SAID THE BEST RECORD OF WHAT WE
13 DISCUSSED IS IN THE NOTES.

14 AND I THINK THAT'S WHAT HE SAID IN HIS
15 DEPO, OR SOMETHING LIKE THAT.

02:07PM

16 MR. MADISON: AND I'M SO GLAD YOU ASKED THAT,
17 BECAUSE I FORGOT ABOUT IT. HERE'S THE QUESTION THAT
18 MR. QUINN ASKED IN THE DEPO.

19 MR. QUINN SAID, (READING):

20 MY QUESTION TO YOU NOW IS
21 WHETHER THERE'S ANYTHING ELSE THAT
22 YOU CONTEMPLATED THAT YOU WOULD
23 LIKE TO GET TCW'S AGREEMENT TO AS
24 PART OF SUCH A NEGOTIATION.

02:07PM

25 ANSWER, I THINK THE BEST WAY
26 TO LOOK INTO THAT IS TO TAKE -- I
27 MEAN, THERE'S -- THERE'S AN
28 EXCELLENT REPRESENTATION OF MY

02:08PM

1 THINKING IN THE FIRST FOUR DAYS OF
2 DECEMBER, WHICH WERE MEETING NOTES.

3 AND HE GOES ON TO THEN TALK ABOUT THE
4 MEETING. BUT OUT OF THE BLUE, HE REFERENCES MR. WARD'S
5 NOTES IN RESPONSE TO A QUESTION BY MR. QUINN ABOUT HIS
6 OWN STATE OF MIND. 02:08PM

7 MR. QUINN IMMEDIATELY MOVED TO STRIKE
8 THAT PART OF THE ANSWER AS BEING NONRESPONSIVE.

9 THE COURT: OKAY. NOW, MR. BRIAN.

10 MR. BRIAN: WE'RE MERGING A BUNCH OF CONCEPTS,
11 YOUR HONOR. 02:08PM

12 THE ISSUE WE DISCUSSED AT SIDEBAR WAS
13 NOT THE NOTES, IT WAS THE CONVERSATION.

14 AND WITH ALL RESPECT TO MY ESTEEMED
15 COLLEAGUE, THE QUESTION ON HEARSAY IS NOT WHETHER
16 MR. OWENS WILL BE COMING TO TESTIFY. 02:08PM

17 THIS CONVERSATION THAT MR. GUNDLACH HAS
18 WITH GOLDMAN SACHS IS SIMPLY NOT HEARSAY. WHEN -- AND
19 MR. MADISON, MAYBE BY SIMPLIFYING, HAS SOMEWHAT
20 MISSTATED THE CONVERSATION. 02:09PM

21 MR. OWENS WOULD TESTIFY, AND HAS
22 TESTIFIED AT HIS DEPOSITION, AND I THINK IS GOING TO BE
23 HERE LIVE TO TESTIFY -- THAT THERE WERE TWO
24 CONVERSATIONS, THAT MR. GUNDLACH WENT TO HIM ON
25 NOVEMBER 9TH. MR. OWENS PARTICIPATED BY PHONE, THOUGH
26 THE MEETING WAS IN PERSON. 02:09PM

27 MR. OWENS SAID THAT MR. GUNDLACH
28 PRESENTED HIM WITH A PROBLEM, AS MR. GUNDLACH

1 TESTIFIED, WANTED THEIR ADVICE IN SOLVING THE PROBLEM;
2 PRESENTED SOME OPTIONS, INCLUDING LEAVING, INCLUDING
3 NEGOTIATING A SEPARATION, INCLUDING STAYING.

4 HE THEN SAID, "HE" BEING MR. OWENS, OR
5 SOMEONE ELSE AT GOLDMAN SACHS SAID, WE WILL CONSIDER IT
6 AND GET BACK TO YOU. 02:09PM

7 THEY GOT BACK TO HIM IN A PHONE CALL ON
8 DECEMBER 1ST, IN WHICH THEY RECOMMENDED THE OPTIONS
9 THAT ARE SET FORTH AND MEMORIALIZED IN MR. WARD'S
10 NOTES. AND IN THOSE RECOMMENDATIONS INCLUDE, IF YOU
11 INTEND TO LEAVE, YOU NEED TO NEGOTIATE A SEPARATION. 02:10PM

12 MR. GUNDLACH AGREES WITH THAT. THAT
13 CONVERSATION -- THOSE CONVERSATIONS COME IN IN THEIR
14 ENTIRETY.

15 FIRST OF ALL, THEY ARE NOT HEARSAY AT
16 ALL. 02:10PM

17 THE COURT: WELL, I ALLOWED THEM IN THE --
18 LOOKING AT THE WARD TESTIMONY.

19 MR. BRIAN: BUT YOU DIDN'T ALLOW IT WHEN
20 MR. GUNDLACH TESTIFIED. THAT'S WHAT YOU CUT OFF AND
21 TOLD US TO BRIEF, WHICH WE'RE HAPPY TO DO. BUT MY
22 POINT IS -- AND WE'LL PUT THAT IN A BRIEF. 02:10PM

23 THE COURT: THAT'S WHY I ASK FOR HAVING THOSE
24 NOTES OFFERED AS PART OF THE EXAMINATION OF MR. WARD,
25 WHICH I'VE ALLOWED. AND I SAID THEY HAD TO BE CUT OFF,
26 BECAUSE THEY GO INTO A LOT OF ESOTERIC VARIOUS EXAMPLES
27 AND THINGS THAT I DON'T THINK HAVE ANYTHING TO DO WITH
28 ANYTHING. 02:10PM

1 BUT THE THREE RECOMMENDATIONS SEEM TO BE
2 SOMETHING YOU COULD HAVE.

3 MR. HELM: AND WE AGREE AND WE VIEWED THAT AS
4 A RULING. MR. MADISON DIDN'T ACCEPT IT, AND WANTS TO
5 ARGUE IT AGAIN. WE VIEWED THAT AS A RULING.

02:10PM

6 THE COURT: IT IS A RULING, AND YOU GOT IT.

7 MR. HELM: WE AGREE.

8 SO THE QUESTION ON THE TABLE NOW WAS THE
9 TESTIMONY OF MR. GUNDLACH, AS TO THE CONVERSATIONS.
10 AND THAT'S THE ISSUE THAT I THOUGHT WE AGREED AT
11 SIDEBAR WE'LL BRIEF.

02:11PM

12 I WOULD PROPOSE WE BRIEF IT
13 SIMULTANEOUSLY, ON THURSDAY OR FRIDAY.

14 THE COURT: I CAN TAKE A LOOK AT IT.

15 LET ME JUST SAY, MR. GUNDLACH WILL COME
16 BACK. WE NEED TO FINISH UP AND MOVE THIS ALONG.

02:11PM

17 I HAVE TO TELL YOU THAT MOST OF THE DAY
18 WAS SPENT GOING OVER EXACTLY WHAT WE DID YESTERDAY,
19 REREADING THE SAME EXHIBITS, DOING THE SAME THING, AND
20 IT IS TAKING ITS TOLL ON THE JURY. AND SO WE NEED TO
21 WRAP UP THE DIRECT.

02:11PM

22 I DON'T KNOW HOW MUCH RECROSS WE'RE
23 GOING TO HAVE, BUT WE'LL HAVE IT.

24 AND THEN IF YOU WANT TO BRIEF THIS
25 ISSUE, YOU CAN TAKE IT UP AND BRING MR. GUNDLACH BACK
26 IN YOUR CASE IN CHIEF. BUT YOU ARE BORING THE DEATH
27 OUT OF SOME OF THESE JURORS. AND WE NEED TO PICK IT UP
28 AND GET THEIR ATTENTION BACK WITH SOME NEW WITNESSES.

02:11PM

1 MR. BRIAN: THAT'S FINE, YOUR HONOR.

2 TWO OTHER THINGS.

3 MR. MADISON: WELL, WAIT ONE SECOND. IF I
4 COULD JUST REPLY TO MR. BRIAN.

5 FIRST OF ALL, BOTH SIDES HAVE ASKED TO
6 BE HEARD ON THE MANY, MANY RULINGS THAT YOUR HONOR
7 MAKES ON THE DEPOSITIONS. AND WE BOTH APPRECIATE THAT.

02:12PM

8 BUT THERE WAS NOTHING UNTOWARD ABOUT MY
9 RAISING THIS, AND I DID RAISE IT THIS MORNING. THE
10 NOTES ARE TRIPLE HEARSAY. IN OTHER WORDS --

02:12PM

11 THE COURT: THEY ARE NOT, AS TO MR. WARD'S
12 DEPOSITION. HE'S AUTHENTICATED THEM. THEY ARE
13 HEARSAY, BUT THEY ARE HIS NOTES OF THE MEETING. MAYBE
14 SUBJECT TO SOME EXCEPTION. I DON'T KNOW.

15 BUT YOU SAID YOU WANTED TO BRIEF IT, SO
16 I'M GOING TO LET YOU BRIEF IT.

02:12PM

17 AND MR. BRIAN IS HAPPY TO BRIEF IT. YOU
18 LOVE TO BRIEF THINGS, SO WE'LL GET A BRIEF.

19 MR. MADISON: I WASN'T QUIBBLING WITH YOUR
20 HONOR'S RULING THAT THE CONVERSATIONS MIGHT COME IN, AT
21 LEAST AS TO THE RECOMMENDATIONS OF GOLDMAN SACHS.

02:12PM

22 THE COURT: RIGHT.

23 MR. MADISON: BUT THE HANDWRITTEN NOTES OF
24 MR. WARD, IT'S NOT A BUSINESS RECORD. IT'S NOT HIS
25 INTENT, IT'S NOT AT ISSUE, NONE OF THOSE EXCEPTIONS
26 APPLY TO THAT PIECE OF PAPER.

02:12PM

27 AND THEN WE CAN -- SO WE CAN BRIEF THAT,
28 IF WE NEED TO.

1 MR. BRIAN: I'M NOT PROPOSING TO BRIEF IT,
2 YOUR HONOR. I BELIEVE YOUR HONOR HAS RULED.

3 MR. MADISON WANTS TO --

4 THE COURT: I DIDN'T RULE THAT THE EXHIBIT
5 WOULD BE ADMITTED. I SAID IF IT'S OFFERED.

02:13PM

6 MR. BRIAN: WE OFFER IT.

7 MR. MADISON: I OBJECT.

8 THE COURT: BUT IT WOULD HAVE TO HAVE THE
9 REDACTIONS.

10 MR. BRIAN: WE'LL OFFER IT AS REDACTED.

02:13PM

11 MR. MADISON: IN FACT, YOUR HONOR ASKED ME IF
12 I'M OFFERING IT. I'M NOT OFFERING IT.

13 THE COURT: WELL, THEY ARE OFFERING IT.

14 AND MY SENSE IS THAT THE PORTION THAT I
15 SAID WOULD NOT BE REDACTED WOULD PROBABLY COME IN UNDER
16 SOME EXCEPTION TO THE HEARSAY RULE OR THE DEPONENT'S
17 TESTIMONY.

02:13PM

18 AND MR. WARD IS NOT A PARTY. BUT IT
19 WOULD SEEM TO ME THAT IT IS SOME FAST RECOLLECTION
20 REPORTED, OR RECORDING OF AN EVENT AT OR ABOUT THE TIME
21 IT OCCURRED.

02:13PM

22 WE CAN GO THROUGH -- YOU ALL ARE A LOT
23 SHARPER THAN I AM, BUT IT SEEMS TO ME THAT THAT
24 UNREDACTED PORTION THAT REFLECTS THE RECOMMENDATIONS
25 WOULD COME IN.

02:13PM

26 AND IT WILL BE EVEN MORE PROBABLE THAT
27 IT WOULD COME IN IF THE TESTIMONY OF MR. OWENS OR
28 MR. GUNDLACH OR THE OTHER GOLDMAN SACHS PERSON WERE

1 INCONSISTENT WITH THAT.

2 MR. MADISON: WHICH I UNDERSTAND.

3 AND WE DON'T THINK IT WILL BE
4 INCONSISTENT. WE JUST THINK IT WILL BE IN CONTEXT.

5 THE COURT: THEN WE MAY NOT EVEN NEED IT. 02:14PM

6 MR. MADISON: SO WE'LL FILE A SHORT POCKET
7 BRIEF ON IT, YOUR HONOR.

8 MR. BRIAN: CAN I ASK WHEN COUNSEL WILL DO
9 THAT, SO WE CAN RESPOND TO IT, YOUR HONOR.

10 BECAUSE WE'RE GOING FIRST ON THE 02:14PM
11 CABANNES ISSUE, POSSIBLY MR. MADISON CAN GO FIRST ON
12 THIS ONE.

13 THE COURT: ALL I ASK IS YOU GET EVERYTHING
14 DONE THAT NEEDS TO BE DONE BY, I WOULD SAY, 4 O'CLOCK
15 ON FRIDAY, SO AT LEAST I HAVE IT OVER THE WEEKEND. I 02:14PM
16 DON'T WANT IT SHOWING UP -- THE WEEKS TEND TO BE FAIRLY
17 BUSY.

18 MR. BRIAN: YOUR HONOR, WE'RE FILING A SHORT
19 BRIEF, AS WE TALKED YESTERDAY, ON THE EXHIBITS IN THE
20 CABANNES -- WE'RE GOING TO GET THAT FILED BY CLOSE OF 02:14PM
21 BUSINESS TOMORROW.

22 AND I UNDERSTOOD THAT MR. MADISON WAS
23 GOING TO FILE A RESPONSE TO THAT SOMETIME FRIDAY?

24 MR. MADISON: YES.

25 THE COURT: AND WHAT'S THE ISSUE ON THAT? 02:14PM

26 MR. BRIAN: THE E-MAILS FROM THE FRENCH TO THE
27 FRENCH.

28 I THINK THEY'VE OBJECTED ON HEARSAY

1 GROUND. WE DON'T THINK THEY ARE, SO WE'RE GOING TO
2 BRIEF THAT TOMORROW.

3 I -- OUR BRIEF WILL BE A LITTLE LONGER
4 THAN THE FIVE PAGES I WAS HOPING FOR, BUT WE'RE STILL
5 GOING TO KEEP IT SHORT.

02:15PM

6 MR. MADISON: AND THEN, YOUR HONOR, I HAD ONE
7 OTHER MATTER. SO WE'LL FILE OUR BRIEF TOMORROW, IF
8 THAT'S OKAY. IT'S THE SAME TIMETABLE AS CABANNES.

9 THE COURT: THAT'S FINE.

10 YOU CAN JUST HAVE FLIP SIDE AND GET YOUR
11 RESPONSES IN BY FRIDAY.

02:15PM

12 MR. MADISON: AND THEN I HAVE ONE ANOTHER
13 MATTER ON THE DEPOSITION DESIGNATIONS.

14 WE ARE CALLING A WITNESS NAMED MICHAEL
15 CONN AND --

02:15PM

16 THE COURT: I DON'T KNOW WHO MICHAEL CONN IS.

17 CONN NOTES? THOSE ARE A BIG ISSUE.

18 THE OTHER THING IS, WE HAD ALL THESE
19 BATTLES OVER THESE TRANSCRIPTS, AND YOU GUYS ARE
20 FIGHTING LIKE HELL TO KEEP THEM OUT; AND THEN YOU OFFER
21 THEM, AND THEY DON'T OBJECT.

02:15PM

22 MR. BRIAN: I'M -- THESE ARE THESE CALL
23 STATEMENTS. REMEMBER? WE HAD A BIG BATTLE OVER THAT
24 EARLIER ON.

25 AND WE CAN'T LET THOSE IN. THEY ARE
26 HEARSAY. WE LOST THE TAPES.

02:15PM

27 MR. HELM: NO, NO. IT'S A DIFFERENT
28 TRANSCRIPT, YOUR HONOR.

1 THE TRANSCRIPT OF THE LOST TAPES WAS A
2 DIFFERENT TRANSCRIPT.

3 THE COURT: WELL, I THOUGHT WE HAD THEM OF ALL
4 THESE, BUT GO AHEAD.

5 MR. MADISON: SO WITH REGARD TO MR. CONN,
6 WE'RE CALLING HIM AS A WITNESS IN OUR CASE IN CHIEF. I
7 DON'T KNOW WHAT THE TIMING IS GOING TO BE, BUT IT WELL
8 COULD BE THIS WEEK.

02:16PM

9 AND WHAT THE DEFENSE HAS NOW DONE IS,
10 THEY'VE PROPOSED DESIGNATIONS OF HIS DEPOSITION FOR
11 THEIR CASE IN CHIEF NEXT WEEK, OR WHENEVER WE GET TO
12 IT.

02:16PM

13 AND WHAT THE DEFENSE WANTS TO DO IS,
14 THEY WANT US TO DO OUR COUNTER-DESIGNATIONS AND DO ALL
15 OF THE OBJECTIONS BACK AND FORTH.

02:16PM

16 AND THEY ARE ACTUALLY PRESSURING US TO
17 GET THOSE TO YOUR HONOR, TO GET RULINGS FROM YOUR
18 HONOR.

19 AND WE THINK THAT'S A BAD IDEA BECAUSE
20 OF THE RULE THAT YOUR HONOR INSTITUTED EARLY ON IN THE
21 CASE, EVEN BEFORE TRIAL, THAT WE WEREN'T GOING TO CALL
22 WITNESSES LIVE, DO THEIR EXAM, AND THEN DO BIG DEPO
23 DESIGNATIONS OF CUMULATIVE TESTIMONY.

02:16PM

24 SO THE WAY I WOULD LIKE TO PROCEED WITH
25 THIS WITNESS, AND THERE MAY BE OTHER CASES. ALTHOUGH I
26 DON'T THINK SO. I THINK THIS IS UNIQUELY A PROBLEM
27 THAT COMES AT THE POINT WHERE THE TWO CASES SORT OF
28 OVERLAP, IS LET'S SEE HOW HIS TESTIMONY COMES ALIVE.

02:16PM

1 LET'S SEE WHAT WE ASK. LET'S SEE WHAT THEY ASK.

2 THEN WE CAN GET, YOUR HONOR, BY FRIDAY,
3 IF HE TESTIFIES THIS WEEK, WE CAN DEFINITELY DO IT
4 FRIDAY, OUR DESIGNATIONS AND COUNTER-DESIGNATIONS.

5 IF ANYTHING, I DON'T SEE ANY REASON WHY
6 PEOPLE CAN'T JUST EXAMINE THE WITNESS, AND IF THEY WANT
7 TO IMPEACH, THAT'S A DIFFERENT MATTER.

02:17PM

8 THE COURT: ALL RIGHT.

9 MR. BRIAN?

10 MR. BRIAN: I'M CHUCKLING. I FRANKLY, TO BE
11 HONEST, WAS STUNNED TO SEE MR. CONN ON THEIR WITNESS
12 LIST. I WAS GLEEFULLY STUNNED, TO BE HONEST WITH YOU.
13 SO I'M LOOKING FORWARD TO MR. CONN'S TESTIMONY THEIR
14 CASE IN CHIEF.

02:17PM

15 WE GAVE HIM VERY SHORT DESIGNATIONS FOR
16 MR. CONN. I DON'T REALLY KNOW WHAT MR. MADISON IS
17 OBJECTING ABOUT. WE CAN OFFER THEM AS ADMISSION
18 AGAINST A PARTY -- WE CAN OFFER THEM TO IMPEACH. THEY
19 ARE ADMISSIBLE.

02:17PM

20 THE COURT: WHY DON'T YOU USE THEM DURING THE
21 COURSE OF YOUR EXAMINATION OF HIM FOR IMPEACHMENT OR
22 OTHERWISE. AND IF YOU DON'T NEED THEM, YOU DON'T HAVE
23 TO HAVE THEM.

02:17PM

24 MR. BRIAN: I'M FINE WITH THAT. BUT I THINK
25 WHAT MR. MADISON IS SAYING I'M SOMEHOW -- FOR THE FIRST
26 TIME IN THIS TRIAL, I SHOULD BE FORBIDDEN TO USE THE
27 DEPOSITION AGAINST A WITNESS WHOSE CREDIBILITY, FROM
28 OUR JUDGMENT, IS MOST AT ISSUE IN THIS CASE. MOST AT

02:18PM

1 ISSUE.

2 THE COURT: WELL, I DON'T HAVE A PROBLEM.

3 MR. BRIAN: AND WE INTEND TO USE IT.

4 THE COURT: YOU CAN USE IT. AND YOU CAN USE
5 IT DURING THE COURSE OF YOUR CROSS-EXAMINATION. AND
6 YOU CAN USE IT TO IMPEACH HIM IF IT'S APPROPRIATE.

02:18PM

7 AND AT A LATER DATE, YOU SAY YOU WANT
8 TO -- IT DOESN'T SEEM TO ME LIKE THE DEPOSITION
9 TESTIMONY IS GOING TO BE NECESSARY. THIS ISN'T A
10 WITNESS THAT'S UNAVAILABLE, OR A WITNESS THAT WE'RE
11 OFFERING VIA DEPOSITION TESTIMONY; IT'S A WITNESS
12 THAT'S HERE TESTIFYING.

02:18PM

13 AND OTHER THAN THE ACTUAL PARTIES,
14 THERE'S REALLY NO REASON TO BE SHOWING CONSOLIDATED
15 DESIGNATIONS AND COUNTER-DESIGNATIONS OF THE WITNESS'
16 TESTIMONY.

02:18PM

17 MR. MADISON: THAT'S OUR POSITION.

18 THE COURT: JUST HOLD ON.

19 MR. BRIAN: YOUR HONOR, THEY PLAYED AN HOUR
20 AND A HALF OF MR. GUNDLACH --

02:18PM

21 THE COURT: I KNOW.

22 MR. BRIAN: -- BEFORE THEY PUT HIM ON THE
23 STAND FOR FOUR HOURS.

24 SO WE'RE TALKING ABOUT 20 MINUTES FROM A
25 MAN WHO WE THINK IS NOT TELLING THE TRUTH.

02:19PM

26 THE COURT: ARE YOU ASKING TO USE THAT, AND
27 HAVE IT SHOWN IN YOUR CASE IN CHIEF?

28 MR. BRIAN: WHAT I WAS GOING TO DO, BECAUSE I

1 DID NOT THINK THEY WERE CALLING MR. CONN, WAS I WAS
2 GOING TO USE IT IN OUR CASE IN CHIEF.

3 AND THEN VERY SHORT, MUCH SHORTER THAN
4 THEY DID WITH MR. GUNDLACH, BUT ALONG THE SAME THEORY,
5 APPLYING THE SHORT EXCERPT OF HIS DEPOSITION AND
6 CALLING HIS BLUFF.

02:19PM

7 NOW, THEY ARE CHOOSING TO CALL HIM IN
8 THEIR CASE IN CHIEF. I'M ENTITLED TO USE THAT
9 DEPOSITION AND AN ADMISSION OFFERED AGAINST A PARTY
10 OPPONENT. I'M NOT LIMITED TO IMPEACHMENT.

02:19PM

11 THE COURT: YOU CAN USE IT FOR WHATEVER YOU
12 WANT. BUT YOU CROSS-EXAMINE HIM, AND THEN IF YOU WANT
13 TO PUT ON MORE OF HIS DEPOSITION TESTIMONY AT A LATER
14 TIME IN YOUR CASE IN CHIEF, YOU CAN DO THAT.

15 MR. HELM: BUT I CAN DO IT NOW. I CAN DO IT
16 WHEN HE'S ON THE STAND. I DON'T HAVE TO WAIT UNTIL MY
17 CASE IN CHIEF. HE'S ON THE STAND. HE'S THERE TO
18 ANSWER QUESTIONS. IF I WANT TO CONFRONT HIM WITH A
19 STATEMENT HE'S MADE, HE'S A PARTY OPPONENT.

02:19PM

20 THE COURT: THAT'S FINE.

02:20PM

21 MR. MADISON: WELL, NO, YOUR HONOR. BUT THE
22 PROBLEM WITH THAT IS, IF MR. CONN GETS ON THE WITNESS
23 STAND, AND TESTIFIES THE TRAFFIC LIGHT WAS GREEN, WHAT
24 MR. BRIAN WANTS TO THEN DO IS PLAY A DEPO OF HIS EXACT
25 SAME TESTIMONY; THAT THE TRAFFIC LIGHT WAS GREEN.

02:20PM

26 THAT'S EXACTLY WHAT YOU SAID WE COULDN'T
27 DO.

28 THE COURT: YOU CAN USE IT IF IT'S

1 CORROBORATIVE AND CUMULATIVE.

2 MR. MADISON: RIGHT.

3 THE COURT: BUT IF IT'S IN ANY WAY, YOU KNOW,
4 DIFFERENT THAN WHAT HE TESTIFIES, YOU CAN USE IT.

5 MR. BRIAN: IT'S NOT THE ISSUE -- THEY WANT TO
6 HAVE IT BOTH WAYS, YOUR HONOR. THEY DO EXACTLY THE
7 SAME THING.

02:20PM

8 THE COURT: I'M NOT SURPRISED, BUT THAT
9 HAPPENS ON BOTH SIDES AROUND HERE.

10 MR. BRIAN: THEY DID IT EXACTLY THIS WAY
11 AGAINST US.

02:20PM

12 EVERY ONE OF OUR WITNESSES, THEY PLAYED
13 A DEPO CLIP. THEY THEN -- MR. GUNDLACH'S A CLASSIC
14 EXAMPLE. THEY PLAYED AN HOUR AND A HALF, AND THEN
15 ASKED HIM THE SAME QUESTIONS, BECAUSE THEY WANTED THE
16 JURY TO SEE HIS Demeanor AND THE WAY HE ANSWERED THE
17 QUESTIONS. WE ALL KNOW THAT'S WHY THEY DID IT.

02:20PM

18 MR. CONN IS THE GENTLEMAN WHO WROTE THE
19 NOTES OF THE AUGUST 25TH MEETING THAT FIVE PEOPLE UNDER
20 OATH FROM TCW SAID THEY COULDN'T RECALL. BECAUSE HE
21 TOOK NOTES, SAYING, UNFORTUNATELY, WE'VE HAD TO
22 TERMINATE MR. GUNDLACH FOR CAUSE.

02:21PM

23 WE INTEND TO PLAY THAT VIDEOTAPE OF HIS
24 ANSWERING THOSE QUESTION ABOUT THIS NOTE. AND WE ARE
25 NOT REQUIRED TO WAIT FOR OUR CASE TO DO THAT, IF THEY
26 CHOOSE TO PUT HIM ON THE STAND OR NOT.

02:21PM

27 MR. MADISON: THAT'S THE THING, YOUR HONOR.
28 WE DID THOSE THINGS IN OUR CASE. MR. BRIAN CAN PRESENT

1 HIS CASE. HE DOESN'T GET TO INTERRUPT OUR CASE TO PLAY
2 20 MINUTES OF VIDEO THAT HE SHOULD PLAY IN HIS CASE.

3 MR. BRIAN: IF I HAVE A WITNESS ON THE STAND.
4 AND HE'S A PARTY OPPONENT AS THIS MAN IS, HE'S A SENIOR
5 OFFICER, I CAN INTRODUCE A RELEVANT STATEMENT AGAINST
6 HIM, PERIOD. THERE'S NO RULE OF EVIDENCE THAT --

02:21PM

7 THE COURT: AGAINST HIM. BUT IF IT'S THE SAME
8 STATEMENT THAT HE GIVES ON THE STAND, THEN WHY ARE WE
9 GOING TO WATCH VIDEOS OF IT?

10 MR. BRIAN: BECAUSE HE'S LYING. BECAUSE HE'S
11 NOT TRUTHFUL. AND THE JURY IS ENTITLED TO SEE THAT.

02:21PM

12 JUST LIKE THEY THOUGHT THAT OUR
13 WITNESSES WERE NOT CREDIBLE, AND THEY CHOSE TO DO THE
14 SAME THING. WHAT'S GOOD FOR THE GOOSE IS GOOD FOR THE
15 GANDER, YOUR HONOR.

02:22PM

16 MR. MADISON: AND THAT'S IN HIS CASE, YOUR
17 HONOR. IN HIS CASE IN CHIEF, IF HE WANTS TO USE HIS
18 TIME LIKE THAT, FINE. BUT THE JURY CAN EVALUATE IF THE
19 WITNESS SAYS THE TRAFFIC LIGHT WAS GREEN AND HE SAID IT
20 ON THE VIDEO --

02:22PM

21 THE COURT: WELL, I HAVEN'T SEEN ANY OF
22 MR. CONN'S DEPOSITION CLIPS, SO I DON'T HAVE ANY SENSE
23 OF WHAT WE'RE TALKING ABOUT.

24 MR. BRIAN: IT'S SHORT.

25 THE COURT: I WOULD SAY, GET THE FOLDER IN
26 HERE WITH THE DEPOSITION CLIPS THAT YOU INTEND TO USE.

02:22PM

27 YOU HAVE DONE YOUR COUNTER-DESIGNATIONS,
28 HAVEN'T YOU, MR. MADISON?

1 MR. MADISON: I THINK WE HAVE. I HAVE NOT --

2 THE COURT: WELL, THEY WERE SUPPOSED TO HAVE
3 BEEN DONE TWO MONTHS AGO, AND I KIND OF TURNED THE
4 OTHER WAY AND SAID YOU GUYS GET IT ORGANIZED. BUT
5 LETTING THINGS GO TO THE 11TH HOUR DOESN'T WORK.

02:22PM

6 MR. BRIAN: WE GOT THEM, MR. CONN'S, DAYS AGO.
7 UNLESS SOMEONE IS DRAGGING THEIR FEET, I DON'T THINK
8 THEY ARE, THE CONN DEPOSITION --

9 THE COURT: IT'S SO SHORT. JUST GIVE IT TO ME
10 WITHOUT ALL YOUR ANNOTATED OBJECTIONS, AND LET ME AT
11 LEAST LOOK AT IT, SO I HAVE A SENSE OF WHAT WE'RE
12 TALKING ABOUT.

02:22PM

13 BECAUSE RIGHT NOW, I'M A LITTLE BIT AT A
14 LOSS. IT SEEMS TO ME YOU WANT IT USE IT DURING
15 CROSS-EXAMINATION TO IMPEACH, OR OTHERWISE, THAT'S
16 FINE. IF YOU THINK -- AND FOR IMPEACHMENT, MAYBE
17 THERE'S SOME ARGUMENT THAT JUST THE TESTIMONY OF THE
18 WITNESS TESTIFYING COULD BE IMPEACHING, EVEN IF IT'S A
19 CONSISTENT STATEMENT.

02:23PM

20 MR. BRIAN: CORRECT.

02:23PM

21 THE COURT: AND I'M WILLING TO KEEP AN OPEN
22 MIND ON THIS, BUT I DON'T HAVE IT, I HAVEN'T SEEN IT.

23 AND UNTIL I SEE IT, I'M NOT GOING TO GET
24 A FINAL RULING ON IT.

25 MR. BRIAN: WE'RE GOING TO GET IT TO YOU
26 TOMORROW.

02:23PM

27 MR. MADISON: EXCUSE ME. I JUST WANT TO
28 ADDRESS THIS, BECAUSE IT'S REALLY IMPORTANT.

1 WHAT MR. BRIAN IS SAYING IS, IT'S
2 IMPEACHMENT. AND YOU KNOW WHAT? IT MAY BE. BUT HE'S
3 NOT ALLOWED TO INTRODUCE ANY FORM OF IMPEACHMENT
4 EVIDENCE WHILE I HAVE A WITNESS ON THE STAND. HE
5 COULDN'T CALL A CHARACTER WITNESS TO IMPEACH HIS
6 CREDIBILITY.

02:23PM

7 THE COURT: WELL, HE CAN DO IT DURING HIS
8 CROSS-EXAMINATION.

9 MR. MADISON: HE CAN, BUT HE CAN'T JUST
10 CUMULATIVELY PLAY THE EXACT SAME TESTIMONY THE WITNESS
11 ALREADY GAVE.

02:23PM

12 THE COURT: I'M SAYING YOU CAN SAY IT OVER
13 AGAIN, AND HE CAN SAY WHAT HE WANTS TO SAY AGAIN. AND
14 THREE OR FOUR TIMES, I MIGHT GET IT, IF THAT'S THE WAY
15 YOU THINK IT TAKES.

02:24PM

16 BUT I NEED TO LOOK AT THE TESTIMONY; GET
17 ME THE NOTEBOOK, AND LET'S GO FROM THERE.

18 MR. BRIAN: I'M GOING TO GO BACK AND LOOK AT
19 THE EARLIER TRANSCRIPTS, BECAUSE I THINK MR. MADISON
20 WAS ARGUING THE POSITION I TOOK EARLIER, WHICH WE LOST.

02:24PM

21 MR. MADISON: WELL, IT'S DIFFERENT WITH THE
22 PLAINTIFF, BECAUSE WE GO FIRST. AND THAT'S
23 UNFORTUNATE, BUT THAT'S THE RULES.

24 MR. BRIAN: IT'S ACTUALLY NOT THE RULE. I
25 WOULD JUST ASK THE COURT TO ASK MR. MADISON TO SITE A
26 SINGLE RULE OF EVIDENCE THAT SAYS I CAN'T USE A SHORT
27 CLIP, AN ADMISSION AGAINST A PARTY OPPONENT FOR
28 IMPEACHMENT OR OTHERWISE, WHEN HE PUT THEM ON THE

02:24PM

1 STAND.

2 I KNOW OF NO RULE OF EVIDENCE THAT SAYS
3 THAT.

4 BUT THERE'S ACTUALLY ONE ISSUE WITH
5 MR. MADISON I AGREE ON, AND THAT'S EXHIBIT 5339, WHICH 02:24PM
6 WAS AN EXHIBIT THAT WAS IDENTIFIED, YOUR HONOR, DURING
7 MR. SHEDLIN'S TESTIMONY. HE WAS THE MAN FROM
8 CITIGROUP. I FORGOT TO OFFER IT IN EVIDENCE.

9 I WOULD SO OFFER IT. I DON'T THINK
10 THERE'S AN OBJECTION TO IT. 02:24PM

11 MR. MADISON: AND WE AGREED, YOUR HONOR, ON
12 THAT.

13 THE COURT: ALL RIGHT. SO IT WILL BE
14 ADMITTED.

15 MR. BRIAN: 5339. 02:25PM

16 THE COURT: AND THAT IS THE CITIBANK PROPOSAL?

17 MR. BRIAN: REMEMBER SHEDLIN WAS THE
18 CITIGROUP --

19 THE COURT: THE STUDY THEY DID.

20 MR. BRIAN: NO, IT ACTUALLY WAS THE E-MAIL HE 02:25PM
21 SENT TO MR. RIPOLL, WHICH MR. MADISON INTRODUCED. I
22 THEN OFFERED, AND WAS INTRODUCED, THE RIPOLL RESPONSE,
23 I THEN HAD HIM IDENTIFY THE FORWARDING OF THE E-MAIL TO
24 MR. STERN.

25 THAT'S THE EXHIBIT 5339 I FORGOT TO 02:25PM
26 OFFER.

27 THE COURT: THAT'S FINE. IT'S ADMITTED
28 WITHOUT OBJECTION.

1 (EXHIBIT 5339 ADMITTED.)

2

3 THE COURT: ANYTHING ELSE?

4 MR. QUINN, YOU'VE BEEN SO PATIENT.

5 MR. QUINN: THANKS, YOUR HONOR.

02:25PM

6 WE THINK THAT THEY'VE OPENED THE DOOR ON
7 THESE DOCUMENTS RELATING TO THE TERMINATION OF JP.

8 MR. GUNDLACH TESTIFIED THAT HE THOUGHT
9 HE WAS TERMINATED IN THE SUMMER. THAT'S NOT WHAT THE
10 DOCUMENTS REFLECT. THE DOCUMENTS REFLECT THAT HE --

02:25PM

11 THE COURT: HE SAID JUNE OR JULY, DIDN'T HE?

12 MR. QUINN: SOMETHING LIKE THAT.

13 BUT THE AGREEMENT RECITES THAT HIS
14 EMPLOYMENT ENDED NOVEMBER 8TH, 2010, IS WHAT THE
15 AGREEMENT RECITES. AND IT RECITES THAT HE'S BEING PAID
16 \$20,000 BY DOUBLELINE. THERE'S A CONTINUING
17 INDEMNIFICATION UNDER THE LABOR CODE SECTION.

02:26PM

18 THE COURT: WELL, BUT HE ALSO HAD A WRONGFUL
19 TERMINATION CLAIM AND THE \$20,000 PAYMENT, OSTENSIBLY
20 WITHOUT AN ADMISSION BY EITHER PARTY. AND DOUBLELINE
21 LIABILITY WAS TO BUY THEIR PEACE.

02:26PM

22 MR. MADISON: WE DON'T HAVE THAT, YOUR HONOR.

23 MR. BRIAN: COULD WE ASK ONE LAWYER TO ARGUE,
24 PLEASE.

25 THE COURT: YEAH.

02:26PM

26 MR. QUINN: WE HAVEN'T SEEN ANY SUCH CLAIM.
27 THAT'S NEWS TO US, YOUR HONOR.

28 THE COURT: WELL, I THOUGHT THERE WERE

1 RECITALS IN THIS THING I LOOK AT THAT TALKED ABOUT
2 DISPUTED CLAIM, NO ADMISSIONS.

3 I'M JUST VAGUELY -- YOU ONLY READ WHAT
4 YOU WANT TO READ SOMETIMES, MR. QUINN. AND I DON'T
5 KNOW WHAT'S IN THERE.

02:26PM

6 I'M JUST KIDDING. YOU DON'T TAKE IT TOO
7 SERIOUSLY. KEEP YOUR SENSE OF HUMOR, EVEN IF IT'S
8 HARD.

9 MR. QUINN: IT RECITES THAT THE -- THIS
10 LAWSUIT REFERS TO, IT SAYS THAT HE ALLEGEDLY IMPROPERLY
11 COPIED PURPORTED TRADE SECRETS OF THE TRUST COMPANY OF
12 THE WEST. THAT'S PART OF THE REASON HE'S BEING FIRED,
13 APPARENTLY.

02:27PM

14 THE COURT: RIGHT.

15 MR. QUINN: AND THIS IS ALL DOCUMENTED HERE.

02:27PM

16 AND WHAT MR. GUNDLACH HAS TOLD THEM IS
17 THAT, YOU KNOW, WE CAUGHT HIM, WE FIRED HIM IN THE
18 SUMMER.

19 HE WASN'T FIRED UNTIL AFTER HIS
20 DEPOSITION WAS COMPLETED, FOR SOME REASON, UNTIL THE
21 FOLLOWING NOVEMBER.

02:27PM

22 THE COURT: WHEN WAS HIS DEPO TAKEN?

23 MR. QUINN: SEPTEMBER 23RD.

24 MR. MADISON: THERE WERE TWO DATES. ONE WAS
25 IN JUNE.

02:27PM

26 THE COURT: ANYWAY, I DON'T THINK WE'RE GOING
27 TO GO THERE. BUT AGAIN, AGREEMENTS, I HAVE THAT
28 AGREEMENT IN CHAMBERS.

1 MR. QUINN: AND THERE'S ALSO NOTHING ABOUT THE
2 REMEDICATION IN HERE, AS WELL, WHICH IS WHAT
3 MR. GUNDLACH SAID.

4 HIS TESTIMONY WAS THAT WE REMEDIATED ALL
5 THIS. THERE WAS NO REFERENCE TO ANY OF THAT IN THESE
6 DOCUMENTS.

02:27PM

7 THE COURT: WELL, I DON'T THINK THEY
8 NECESSARILY NEED TO BE IN THESE SETTLEMENT DOCUMENTS,
9 OR THE SETTLEMENT DOCUMENTS ARE THE EVIDENCE OF THE
10 FAILURE TO DO IT.

02:28PM

11 IF YOU WANT TO BRING QUESTIONS TO
12 DISCUSS THE ISSUES, THAT'S FINE.

13 AND WE'VE HAD TESTIMONY ABOUT JP.

14 IS HE THE ONE THAT RETURNED THE THING TO
15 WESTERN DIGITAL?

02:28PM

16 MR. QUINN: YES.

17 THE COURT: THE 500 GIGABYTE HARD DRIVE, OR
18 320 GIGABYTE?

19 MR. QUINN: YEAH, EXACTLY YOUR HONOR. THAT IS
20 HIM.

02:28PM

21 THE COURT: WELL, THEY'VE HEARD IT ALL.

22 MR. QUINN: BUT HERE'S A CONTEMPORANEOUS --

23 MR. BRIAN: THERE'S NO ADMISSION IN THIS
24 DOCUMENT.

25 THE COURT: I DON'T THINK THERE'S
26 CONTEMPORANEOUS -- AND I TEND TO AGREE WITH MR. BRIAN
27 AT THIS POINT. I'LL GO BACK AND LOOK AT IT AGAIN.

02:28PM

28 I DON'T THINK THERE'S ANY ADMISSION IN

1 THIS DOCUMENT OR THAT YOU CAN USE THIS DOCUMENT TO MAKE
2 THOSE ARGUMENTS. THE EVIDENCE IS THERE, AND THEY MAY
3 INFER THAT HE USED IT, OR DID SOMETHING WITH IT, OR
4 COPIED IT.

5 MR. MADISON: WELL, YOUR HONOR, MAY I BE HEARD
6 ON THIS AS WELL? 02:28PM

7 THE COURT: SURE.

8 MR. BRIAN: I'M GOING TO ASK FOR BACKUP WHEN
9 HE'S DONE. THAT HE'S DONE A NUMBER OF TIMES.

10 MR. MADISON: THERE WAS A BIG POT-KETTLE ISSUE
11 WHEN -- 02:28PM

12 MR. BRIAN: I'M THE ONLY ONE TALKING IN THIS
13 SINCE WE STARTED.

14 MR. MADISON: YOUR HONOR, THIS DIRECTLY
15 CONTRADICTS MR. GUNDLACH'S TESTIMONY. AND WHAT IT SAYS
16 IS THAT MONEY IS BEING PAID TO THE FORMER EMPLOYEE. 02:29PM
17 MR. GUNDLACH'S SAID IT WAS BECAUSE HE DIDN'T REMEDIATE.
18 THE AGREEMENT MAKES ZERO REFERENCE TO THAT.

19 AND WHAT'S INTERESTING IS, MR. GUNDLACH
20 SAYS HE WAS FIRED IN THE SUMMER. THE DEPOSITION WAS AT
21 THE END OF THE SUMMER. AND THEN THEY DOCUMENT THIS
22 AFTERWARDS, AND A PAYMENT IS MADE. 02:29PM

23 AND I THINK THE JURY IS ENTITLED TO KNOW
24 ABOUT THIS, WHEN THEY EVALUATE THE TESTIMONY THROUGH
25 DEPOSITION OF JP. AND THE GUY WHO WAS DOING ALL THE
26 DOWNLOADING, AS WELL AS THE TESTIMONY OF MR. GUNDLACH. 02:29PM

27 MR. HELM: IF HE HAD BEEN PAID --

28 THE COURT: IF WE MADE A DEAL TODAY, AND THIS

1 ALL WENT AWAY, AND YOU ENTERED INTO AN AGREEMENT AND IT
2 WAS DATED TODAY, WOULD THAT MEAN THAT THE LAWSUIT
3 WASN'T FILED IN JANUARY OF 2010, OR THAT IT WASN'T
4 PENDING, OR THAT THERE WASN'T -- I WASN'T FIRED IN
5 DECEMBER 4TH OF 2004?

02:30PM

6 I DON'T KNOW WHAT THIS RECITES, IN TERMS
7 OF THE DATE OF TERMINATION AND OTHER THINGS. AND I
8 DON'T HAVE IT IN FRONT OF ME, SO I'LL HAVE TO LOOK AT
9 IT.

02:30PM

10 BUT DOES IT SAY HE WAS EFFECTIVELY
11 TERMINATED ON NOVEMBER 4TH?

12 MR. MADISON: IT SAYS HIS EMPLOYMENT ENDED ON
13 NOVEMBER 8TH, 2010.

14 THE COURT: OKAY.

15 MR. MADISON: MR. GUNDLACH SAID HE WAS
16 TERMINATED IN THE SUMMER.

02:30PM

17 THE COURT: HE THOUGHT IT WAS IN THE SUMMER.

18 MR. MADISON: RIGHT. AND THEN THERE'S A
19 PAYMENT FROM THE COMPANY TO THE WITNESS. AND THEN IT
20 RECITES THE ALLEGATIONS IN THE LAWSUIT ABOUT THE
21 DOWNLOADING, AS BEING A RELEVANT MATTER. AND THERE'S
22 NO MENTION --

02:30PM

23 THE COURT: ALLEGATIONS IN THIS LAWSUIT OR
24 JP'S LAWSUIT?

25 MR. MADISON: IN THIS LAWSUIT.

02:30PM

26 THE COURT: I THOUGHT THERE WAS A JP LAWSUIT
27 OR CLAIM ASSERTED AGAINST DOUBLELINE.

28 MR. MADISON: WE WERE TOLD THAT, BUT WE'VE

1 NEVER BEEN PROVIDED ANY EVIDENCE, YOUR HONOR.

2 MR. BRIAN: THAT'S WHY THEY SETTLED.

3 MR. MADISON: CAN WE SEE IT?

4 MR. BRIAN: TAKE THE -- WHAT HE JUST SAID.

5 THE FACT THAT THERE'S A PAYMENT MADE TO JP AFTER HE WAS
6 DEPOSED, WHAT IS THAT POSSIBLY RELEVANT TO?

02:30PM

7 IF HE HAD BEEN PAID PRIOR TO HIS
8 TESTIMONY, THAT'S ONE THING. HE'S PAID AFTER, TO
9 SETTLE A CLAIM HE HAS MADE. THERE'S NOTHING IN HERE
10 THAT'S AN ADMISSION BY THE COMPANY IN ANY WAY. THERE'S
11 NOTHING IN HERE THAT'S RELEVANT TO JP'S CREDIBILITY OR
12 BIAS DURING HIS DEPOSITION, WHICH THEY HAVE SAID, THEY
13 ARE GOING TO USE, BUT HAVE YET TO OFFER; AND SO THERE'S
14 NOTHING IN IT.

02:31PM

15 THE ONLY THING THEY CITE TO NOW IS THAT
16 MR. GUNDLACH SAID HE THOUGHT HE WAS TERMINATED IN THE
17 SUMMER, AND THE DOCUMENT SAYS NOVEMBER. THAT'S -- THAT
18 IS IT. AND THAT IS COMPLETELY, I WOULD SUBMIT,
19 IMMATERIAL.

02:31PM

20 YOU KNOW, YOUR HONOR, OUR POSITION, IS
21 THIS ALL GOES TO WEIGHT, NOT ADMISSIBILITY.

02:31PM

22 THE COURT: IT'S A GOOD ARGUMENT, MR. MADISON,
23 AND I'LL GIVE IT A SHOT. I'M GOING TO GO BACK AND LOOK
24 AT THE AGREEMENT. YOU ARE READING IT THERE.

25 I THOUGHT WHEN I LOOKED AT IT THE OTHER
26 DAY, THERE WERE MORE RECITALS AND THAT THERE WAS A
27 NONADMISSION OF LIABILITY, AND SOME OTHER THINGS IN IT.

02:31PM

28 BUT I KIND OF RECALL, AND I WOULDN'T

1 EXPECT YOU TO HIGHLIGHT FOR ME, BUT THAT MIGHT BE
2 THERE. LET ME TAKE A LOOK AT IT.

3 FROM MY PERSPECTIVE, THE JP TESTIMONY IS
4 IN. IT CAME IN THROUGH DEPOSITION. IT'S REALLY NOT
5 DISPUTED. AND WHETHER THIS FIRED IN JUNE VERSUS FIRED
6 IN NOVEMBER IS A RELEVANT ISSUE, OR THERE'S A 352 ISSUE
7 ON WHY WE SHOULDN'T BOTHER WITH IT, MY GUT REACTION IS,
8 YOU'VE GOT AN UPHILL BATTLE, PULLING THOSE PAGES APART
9 AND WAVING THEM AT ME, BECAUSE I'M NOT LIKELY TO LET
10 THEM IN.

02:32PM

02:32PM

11 MR. MADISON: ALL I WANT TO DO, I DO WANT TO
12 TELL YOUR HONOR WHAT THE EXHIBIT NUMBERS ARE. WE CAN
13 GO AHEAD AND MARK THEM.

14 THE COURT: WHAT EXHIBITS?

15 MR. MADISON: THESE DOCUMENTS. WE MARKED THEM
16 FOR IDENTIFICATION, JUST SO WE'D HAVE A RECORD. AND IF
17 I GIVE YOU THE NUMBERS, YOU WILL HAVE THEM AT YOUR
18 FINGERTIPS.

02:32PM

19 THE COURT: THIS IS THE SETTLEMENT AGREEMENT.

20 MR. MADISON: WELL, THERE ARE TWO DOCUMENTS.
21 LET ME JUST READ WHAT THEY ARE INTO THE RECORD.

02:32PM

22 THE COURT: LET ME WRITE IT DOWN, SO THEY ARE
23 MARKED FOR IDENTIFICATION.

24 MR. MADISON: YES, YOUR HONOR.

25 THE FIRST ONE IS EXHIBIT 2238.

02:33PM

26 THE COURT: WHAT IS IT? IS THAT THE
27 SETTLEMENT AGREEMENT?

28 MR. MADISON: NO, YOUR HONOR. THAT'S A

1 DOCUMENT ENTITLED UNDERTAKING REGARDING ADVANCEMENT OF
2 EXPENSES. AND THIS IS WHERE THE REFERENCE IS TO THE --

3 THE COURT: I DON'T WANT TO KNOW. DON'T GIVE
4 ME THE COMMENTARY, JUST GIVE ME THE EXHIBIT NUMBER.

5 AND THE SECOND ONE IS WHAT?

02:33PM

6 MR. MADISON: THE SECOND ONE IS EXHIBIT 2239,
7 AND THAT'S ENTITLED --

8 THE COURT: THAT'S --

9 MR. MADISON: SEVERANCE AGREEMENT AND RELEASE.

10 THE ONLY THING THAT'S REALLY IMPORTANT,
11 YOUR HONOR, IS THERE IS A COOPERATION PROVISION HERE.
12 WE WERE TOLD THAT THERE WASN'T, OR THAT IT WAS
13 AMBIGUOUS.

02:33PM

14 I WOULD JUST ASK YOUR HONOR TO READ THE
15 DOCUMENT, AND YOU WILL SEE THAT IF DOUBLELINE WANTED
16 MR. JP TO COME INTO THIS COURTROOM AND TESTIFY, HE HAS
17 AGREED THAT HE'LL DO THAT.

02:33PM

18 THE COURT: IT WASN'T CLEAR TO ME THAT IT WAS
19 QUITE THE WAY YOU PRESENT IT. THERE WAS SOME KIND OF
20 SOFT LANGUAGE ON -- I'LL GO BACK AND LOOK AT IT.

02:34PM

21 MR. MADISON: WELL, THE \$20,000 THEY PAID HIM
22 WASN'T SOFT, IT WAS HARD.

23 THE COURT: AND HE HAD A CLAIM, SO.

24 MR. MADISON: MAY WE SEE THAT?

25 THEY SAY HE HAD A CLAIM, BUT WE'VE NEVER
26 SEEN THAT.

02:34PM

27 MR. BRIAN: THIS IS THE THIRD TIME WE'VE
28 ARGUED ABOUT IT. THE SECOND TIME MR. MADISON WAS

1 HERE --

2 THE COURT: YOU ARGUED IT LAST TIME BECAUSE
3 THEY DID LOSE --

4 IS HE DOING A BETTER JOB THIS TIME?

5 MR. BRIAN: IN MY JUDGMENT, NO.

02:34PM

6 BUT I DO WANT TO SAY, HE'S
7 MISREPRESENTED IN PARAGRAPH SIX. IT'S NOT --

8 THE COURT: LET ME LOOK AT IT. YOU GUYS SIT
9 HERE READING IT. I DON'T HAVE IT IN FRONT OF ME. I'LL
10 GO LOOK AT IT RIGHT NOW.

02:34PM

11 MR. BRIAN: IT IS AN INDEMNIFICATION CLAUSE,
12 YOUR HONOR, IN THE EVENT HE DOES CERTAIN THINGS --

13 THE COURT: THESE TWO DOCUMENTS ARE MARKED FOR
14 IDENTIFICATION ONLY.

02:34PM

15
16 (EXHIBITS 2238 AND 2239 MARKED FOR IDENTIFICATION.)

17
18 THE COURT: IF THERE'S ANYTHING ELSE ON A NEW
19 TOPIC SOMEBODY WANTS TO TALK ABOUT, I'M HAPPY TO TALK
20 ABOUT IT.

02:34PM

21 MR. QUINN: THERE'S THAT HORTON LAWSUIT
22 DOCUMENT E-MAIL WITH MR. GUNDLACH'S E-MAIL ON IT. I
23 LAID THE FOUNDATION --

24 THE COURT: I SAID NO.

25 MR. QUINN: THE COURT WANTED TO THINK ABOUT
26 IT.

02:34PM

27 THE COURT: AND THE HORTON LAWSUIT WAS THE
28 PRIOR --

1 MR. QUINN: THAT'S THE ONE WHERE THIS VERY
2 GROUP, ONE OF THEIR MEMBERS, LEFT AND TOOK -- WE
3 BELIEVE MR. LUCIDO'S DECLARATION REFLECTS THE VERY SAME
4 KINDS OF THINGS THAT WERE TAKEN HERE. AND THEY TOOK
5 THE POSITION THAT THIS WAS OUTRAGEOUS.

02:35PM

6 MR. LUCIDO SIGNED THE DECLARATION
7 SAYING, THIS IS VERY VALUABLE, UNIQUE TO TCW. THIS IS
8 TRADE SECRET INFORMATION.

02:35PM

9 I MEAN, IT'S THE SAME TYPES OF
10 INFORMATION, YOUR HONOR. AND THEY WERE ON -- THIS IS
11 NO SURPRISE. WHEN WE TOOK MR. LUCIDO'S DEPOSITION, WE
12 QUESTIONED HIM ABOUT THIS.

13 THE COURT: I KNOW, AND CAN IT COME IN?

14 MR. QUINN: WE THINK IT SHOULD; BUT MR. LUCIDO
15 WILL TESTIFY.

02:35PM

16 THE COURT: ALL RIGHT. SO YOU'LL GET IT THAT
17 WAY.

18 I GUESS MY SENSE IS, A PRIOR LAWSUIT,
19 PRIOR TRADE SECRET LAWSUIT, AND WHATEVER POSITION WAS
20 TAKEN OR DONE AT THAT TIME IS NOT REALLY DETERMINATIVE
21 OF WHETHER ONE -- WHAT WAS TAKEN, THERE'S VERY LITTLE
22 QUESTION HERE. NOBODY IS DISPUTING, LOTS OF MATERIALS
23 WERE DOWNLOADED, SOME OF WHICH WERE TRADE SECRET, THE
24 ISSUE MAY BE USE, OR SOMETHING ELSE.

02:35PM

25 MR. QUINN: EXCEPT --

02:36PM

26 THE COURT: IT MAY GO TO FIDUCIARY DUTY CLAIMS
27 YOU'VE GOT. BUT I DON'T SEE THE HORTON LAWSUIT AS
28 NECESSARILY BEING PROBATIVE EVIDENCE OF WHETHER OR NOT

1 WHAT THESE GUYS DID, WHICH ISN'T DISPUTED, OR ISN'T
2 REALLY ARGUED.

3 MR. QUINN: EXCEPT THEY ARGUE IT'S NOT
4 VALUABLE.

5 BEFORE, THEY SAID IT WAS VALUABLE. THEY 02:36PM
6 ARGUE IT'S NOT PROPRIETARY, AND IT'S AVAILABLE
7 EVERYWHERE. THERE, THEY SAID SOMETHING ELSE.

8 THEIR POSITION AS TO THE VALUE AND SOME
9 OF THE ELEMENTS OF WHAT'S A TRADE SECRET IS
10 DIAMETRICALLY OPPOSITE. 02:36PM

11 THE COURT: WELL, IT SEEMS TO ME, MOST OF
12 THESE WITNESSES HAVE CONCEDED IN THEIR TESTIMONY --

13 MR. QUINN: NOT MR. GUNDLACH. MR. GUNDLACH IS
14 SAYING THERE IS NOTHING PROPRIETARY EXCEPT AN ALPHA
15 PRODUCT AND MAYBE A RECIPE -- 02:37PM

16 THE COURT: AND WHAT IS GUNDLACH'S CONNECTION
17 TO THE HORTON LAWSUIT?

18 MR. QUINN: WELL, AMONG OTHER THINGS, THE
19 E-MAIL I GAVE THE COURT YESTERDAY, EXHIBIT 3001 --

20 HE WAS A CHEERLEADER FOR THE LAWSUIT, 02:37PM
21 SAID WHAT THIS GUY TOOK IS OUTRAGEOUS.

22 THE COURT: IS IT FROM GUNDLACH TO SOMEONE
23 ELSE?

24 MR. QUINN: YES, GUNDLACH TO VARIOUS --

25 MR. MADISON: WE PUT IT ON THE SCREEN, YOUR 02:37PM
26 HONOR.

27 THE COURT: FROM JG TO WHO?

28 MR. QUINN: CAHILL, STERN, SUN, SONNEBORN.

1 MR. HELM: IS THIS THE ONE THAT WAS PRODUCED
2 FRIDAY?

3 MR. QUINN: AND I'D POINT OUT, EXCEPT FOR SUN,
4 THESE PEOPLE ARE ALL GOING TO BE WITNESSES IN THE CASE.

5 MR. HELM: YOUR HONOR, IF I MAY. THIS IS A
6 TOTALLY COLLATERAL ISSUE.

02:37PM

7 THE HORTON LAWSUIT INVOLVED SYSTEMS THAT
8 WERE FOR THE CDO GROUP, WHICH WAS MR. LUCIDO'S GROUP.
9 THAT WAS THE GROUP THAT WASN'T LISTED. WHEN WE TALKED
10 ABOUT MR. GUNDLACH'S BUSINESS THE CDO GROUP WAS NOT
11 LISTED. IT WAS A DIFFERENT SET OF SYSTEMS, IT'S A
12 DIFFERENT PRODUCT. IT WAS FIVE YEARS AGO.

02:37PM

13 AND THE DOCUMENTS THAT THEY ARE TRYING
14 TO GET IN, WERE DOCUMENTS THAT WERE NOT PRODUCED DURING
15 DISCOVERY, MANY OF THEM ARE PRIVILEGED, SO WE ARE
16 SEEING PARTIAL WAIVERS OF THE PRIVILEGE NOW. IT WAS
17 PRODUCED FRIDAY.

02:38PM

18 SOME OF THE DOCUMENTS THAT ARE PRODUCED
19 ARE PARTIALLY REDACTED, SO WE'VE GOT SELECTIVE WAIVER
20 UPON SELECTIVE WAIVER WITH THESE DOCUMENTS.

02:38PM

21 AND SO WE THINK THAT WITH ALL OF THOSE
22 CIRCUMSTANCES, THIS STUFF JUST SHOULDN'T COME IN. IT'S
23 A COLLATERAL ISSUE. WE SHOULDN'T BE HAVING A TRIAL
24 WITHIN A TRIAL, OVER WHETHER OTHER STUFF IN 2005 --

25 THE COURT: I'M NOT INCLINED TO DO THAT.

02:38PM

26 AND I DON'T THINK IT'S GOING TO COME IN,
27 BUT I'LL TAKE A LOOK AGAIN.

28 MR. QUINN: JUST TO RESPOND TO THAT, YOUR

1 HONOR, THERE IS NO SEPARATE SET OF TECHNICAL PLATFORMS.

2 THE COURT: WHEN DID YOU PRODUCE THIS
3 DOCUMENT?

4 MR. QUINN: THIS DOCUMENT WAS PRODUCED LAST
5 WEEK.

02:38PM

6 THE COURT: WAS IT OTHERWISE IDENTIFIED AND
7 SUBJECT TO A CLAIM OF PRIVILEGE AT EARLIER DATES IN THE
8 LAWSUIT?

9 MR. QUINN: NO.

10 THE COURT: WHY WASN'T IT PRODUCED.

02:39PM

11 MR. QUINN: IT WAS NEVER REQUESTED. WE DID
12 OUR RESEARCH. IT WAS NOT COVERED BY ANY DOCUMENT
13 REQUEST IN THE CASE.

14 NOW, MR. LUCIDO'S DECLARATION WAS
15 PRODUCED, AND WITNESSES WERE QUESTIONED ABOUT IT. BUT
16 I WOULD SAY BOTH SIDES DURING THIS TRIAL, EVERY NIGHT,
17 YOU CAN -- WE ALL TURN ON OUR COMPUTERS TO SEE WHAT NEW
18 DOCUMENT THE OTHER SIDE HAS ADDED TO THEIR --

02:39PM

19 MR. BRIAN: ACTUALLY, I TURN ON MY COMPUTER TO
20 SEE WHAT E-MAILS I GET FROM MR. QUINN.

02:39PM

21 MR. QUINN: SO THERE'S NOTHING NEW, UNUSUAL OR
22 STRANGE ABOUT THE FACT THAT PREVIOUSLY UNREQUESTED
23 DOCUMENTS ARE BEING USED.

24 WHEN WE SAW SOME OF THEM TODAY WITH
25 MR. GUNDLACH. AND THIS DOCUMENT, THERE'S NO REDACTIONS
26 ON IT. IT'S A SELF-CONTAINED DOCUMENT.

02:39PM

27 MR. HELM: THE OTHER TWO THAT WERE PRODUCED ON
28 SATURDAY OR SUNDAY WERE PARTIALLY REDACTED.

1 BUT, YOUR HONOR, FIRST OF ALL, THESE
2 WERE DOCUMENTS THAT CAME FROM TCW THAT WE DON'T HAVE.
3 PUTTING A PROXY STATEMENT THAT WAS FILED WITH SEC THAT
4 WAS FILED BY TCW, PUTTING THAT ON THE EXHIBIT LIST. I
5 THINK IS A FAR CRY FROM PRODUCING FOR THE FIRST TIME A
6 DOCUMENT WE HAVE NEVER SEEN DURING THE COURSE --

02:39PM

7 THE COURT: DID YOU EVER ASK FOR IT?

8 HE SAYS YOU NEVER ASKED FOR IT.

9 MR. HELM: WELL, I CAN'T CONFIRM WHETHER IT
10 HAS BEEN ASKED FOR, BUT IF IT WASN'T, IT'S BECAUSE IT'S
11 ON A COLLATERAL ISSUE THAT SHOULDN'T BE PART OF THE
12 LAWSUIT.

02:40PM

13 THE COURT: OKAY. WELL, BUT IF YOU DIDN'T ASK
14 FOR IT, YOU CAN'T BE HEARD TO COMPLAIN ABOUT THE FACT,
15 YOU DIDN'T GET IT.

02:40PM

16 AND WHY IT WASN'T ON THE EXHIBIT LIST
17 ORIGINALLY, IF YOU KNEW YOU HAD IT IS ANOTHER ISSUE.

18 WHO IS IT IMPEACHING?

19 MR. MADISON: MR. GUNDLACH.

20 MR. QUINN: AND, YOUR HONOR, THEY KNEW ABOUT
21 OUR POSITION WITH RESPECT TO MR. LUCIDO'S DECLARATION
22 IN THE HORTON LAWSUIT. THEY NEVER SENT US A DOCUMENT
23 REQUEST FOR ANYTHING RELATING TO IT.

02:40PM

24 THE COURT: ALL RIGHT. WE'LL TAKE IT UP. LET
25 ME LOOK AT IT.

02:40PM

26 ACTUALLY, I HAVE IT RIGHT IN FRONT OF
27 ME. SO -- ALL RIGHT. THANK YOU.

28 MR. MADISON: THANKS FOR YOUR TIME, YOUR

1 HONOR.

2 MR. BRIAN: THANK YOU, YOUR HONOR.

3 MR. QUINN: THANK YOU, YOUR HONOR.

4

5 (AT 2:41 P.M. AN ADJOURNMENT
6 WAS TAKEN UNTIL THURSDAY,
7 AUGUST 17, 2011 AT 8:30 A.M.)

02:40PM

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