

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

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08:35AM

11

12

13

THE COURT: GOOD MORNING, LADIES AND
GENTLEMEN. TCW VERSUS GUNDLACH MATTER. WE'RE SET TO
PROCEED.

14

15

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

08:38AM

16

17

MS. VAN EVERY, PLEASE RECALL YOU ARE
UNDER OATH, AND YOU'VE PREVIOUSLY BEEN SWORN.

18

19

MR. MADISON, YOU MAY CONTINUE WITH YOUR
DIRECT EXAMINATION OF MS. VAN EVERY.

20

21

MR. MADISON: THANK YOU.

08:38AM

22

23

DIRECT EXAMINATION (CONTINUED) +

24

25

BY MR. MADISON:

08:38AM

26

27

28

Q WHEN WE BROKE YESTERDAY, WE WERE TALKING ABOUT
THAT E-MAIL IN FEBRUARY OF 2009 WHERE YOU AND
MR. GUNDLACH WERE TALKING ABOUT WAMCO AND DOUBLELINE.

1 DO YOU RECALL THAT?

2 A YES.

3 Q DO YOU RECALL THAT YESTERDAY WE ALSO TALKED
4 ABOUT THE DISCUSSIONS THAT YOU AND MR. GUNDLACH HAD HAD
5 GOING BACK -- I BELIEVE YOU SAID EVEN A COUPLE YEARS
6 BEFORE THAT ABOUT HOW DOUBLELINE WOULD BE AN
7 INTERESTING NAME AND LOGO FOR A BUSINESS, RIGHT?

08:38AM

8 A YES.

9 Q SO I WANT TO REFER YOU TO A COUPLE OF EXHIBITS
10 IN THE BINDER IN FRONT OF YOU.

08:39AM

11 THE FIRST ONE WE'LL LOOK AT IS
12 EXHIBIT 92. IT'S SOME E-MAIL ATTACHMENT FROM JULY OF
13 2008.

14 I WOULD MOVE 92, YOUR HONOR.

15 THE COURT: ANY OBJECTION?

08:39AM

16 MR. BRIAN: NO OBJECTION.

17 THE COURT: IT WILL BE ADMITTED.

18

19 (EXHIBIT 92 ADMITTED.) +

20

08:39AM

21 MR. MADISON: IF WE DISPLAY 92, WE'LL SEE IN
22 THE FIRST PAGE THERE'S AN E-MAIL. IT STARTS AS THESE
23 THINGS DO, AT THE BOTTOM AND WORKS IT'S WAY UP.

24 THE LOWER E-MAIL IS FROM JULY 10, FROM
25 YOU TO MR. GUNDLACH. IT APPEARS TO ATTACH SOMETHING
26 CALLED DOUBLELINE DRAFTS, CORRECT?

08:40AM

27 A THAT'S WHAT IT SAYS, YES.

28 Q AND THEN IT SAYS DOT PPT..

1 THAT MEANS IT'S A POWER POINT, RIGHT?

2 A YES.

3 Q POWER POINT IS JUST A SLIDE PRESENTATION
4 FORMAT, CORRECT?

5 A YES.

08:40AM

6 Q AND THEN MR. GUNDLACH, ON JULY 27, APPEARS TO
7 FORWARD THAT TO HIMSELF.

8 DO YOU SEE THAT UP AT THE TOP?

9 A YES.

10 Q IF WE LOOK AT THE SECOND PAGE, THE ATTACHMENT,
11 DOES THAT LOOK TO YOU LIKE THE LOGO THAT YOU AND
12 MR. GUNDLACH HAD BEEN DISCUSSING AT LEAST AS EARLY AS
13 JULY, 2008 FOR SOMETHING CALLED DOUBLELINE?

08:40AM

14 A I THINK HE WAS PLAYING AROUND 2008. AND HE
15 LIKED IT, SO IT DOES LOOK LIKE OUR LOGO TODAY. BUT I
16 DON'T THINK THAT WAS THE INTENTION AT THAT TIME.

08:40AM

17 Q OKAY.

18 WELL, YOU GAVE ME A LOT OF INFORMATION
19 THERE. MY QUESTION IS A SIMPLER ONE, MA'AM.

20 WHICH IS, DOES THIS RELATE TO THE
21 DISCUSSIONS THAT YOU TOLD US ABOUT YESTERDAY THAT, AS
22 EARLY AS 2008, OR EVEN BEFORE, YOU AND MR. GUNDLACH
23 WERE TALKING ABOUT A BUSINESS CALLED DOUBLELINE AND A
24 LOGO THAT WOULD GO WITH THAT?

08:41AM

25 A I DON'T THINK WE CALLED IT A BUSINESS AT THE
26 TIME. I THINK IT GOES ALONG WITH THAT LITTLE
27 HANDWRITTEN SCRIBBLE EXAMPLE FROM YESTERDAY, AND HE
28 JUST WANTED ME TO TAKE THAT SCRIBBLE AND TURN IT INTO A

08:41AM

1 POWER POINT SLIDE.

2 Q YOU DIDN'T THINK AT THAT TIME IT RELATED TO A
3 BUSINESS PURPOSE, CORRECT?

4 A NO, I DIDN'T.

5 Q DO YOU KNOW WHAT IT DID RELATE TO, IF NOT
6 BUSINESS?

7 A I THINK HE LIKES MONDRIAN, AND HE WAS THINKING
8 THAT IT WOULD BE A COOL LOGO.

9 Q FOR WHAT, MA'AM?

10 A I THINK HE'S DREAMING -- I DON'T KNOW.

11 Q MY QUESTION WASN'T WHETHER HE WAS DREAMING.
12 OR ANYTHING ELSE RATHER.

13 YOU SAID HE THOUGHT IT WOULD BE A COOL
14 LOGO, RIGHT?

15 A YES.

16 Q SO MY QUESTION IS, A COOL LOGO FOR WHAT?

17 A A COOL LOGO FOR IF HE EVER, I GUESS, HAD A
18 COMPANY.

19 Q SO WE ARE TALKING ABOUT A BUSINESS, THEN?

20 A WELL, WE WEREN'T TALKING ABOUT STARTING A
21 BUSINESS.

22 Q ALL RIGHT.

23 NOW, IF YOU LOOK AT EXHIBIT 17 NINE --
24 719, WHICH IS IN EVIDENCE FROM YESTERDAY.

25 IF I COULD DISPLAY THE FIRST PAGE, AND
26 THEN IF WE COULD DO A SIDE BY SIDE OF 719 AND 92.

27 IT WOULD BE THE SECOND PAGE THERE.

28 PRETTY SELF-EVIDENT THAT THE LOGO DID IN FACT BECOME

08:41AM

08:41AM

08:42AM

08:42AM

08:42AM

1 THE LOGO FOR YOUR NEW BUSINESS WITH MR. GUNDLACH AND
2 THE OTHER DEFENDANTS, DOUBLELINE, CORRECT?

3 A LOOKS THE SAME, YES.

4 Q AND THE MONDRIAN REFERENCE IS THE ARTIST WE
5 TALKED ABOUT YESTERDAY, DOES PAINTINGS AND THE LIKES
6 THAT USE GEOMETRICS, SHAPES AND LINES, RIGHT?

08:42AM

7 A YES, HE ALSO DEVELOPED A STYLE USING
8 DOUBLELINE'S.

9 Q OKAY.

10 AND YOU HAD TALKED TO MR. GUNDLACH, HOW
11 HE THOUGHT THAT WOULD BE A CATCHY NAME FOR SOMEBODY IN
12 THE ASSET MANAGEMENT BUSINESS IN PARTICULAR, RIGHT?

08:43AM

13 A I DON'T THINK THAT I HAD THAT CONVERSATION
14 WITH HIM.

15 Q YOU DON'T RECALL TALKING TO MR. GUNDLACH ABOUT
16 HOW DOUBLELINE WAS A METAPHOR FOR A NUMBER OF DIFFERENT
17 THINGS IN THE ASSET MANAGEMENT BUSINESS AND THAT WAS
18 ONE OF THE REASONS HE THOUGHT IT WAS A COOL LOGO?

08:43AM

19 A AT WHAT TIME?

20 Q ANYTIME, MA'AM.

08:43AM

21 A I THINK WE DID TALK ABOUT THAT IN JANUARY OF
22 2010.

23 Q SO AT THAT TIME YOU DISCUSSED HOW DOUBLELINE
24 COULD RELATE TO THINGS LIKE A DOUBLE LINE IN THE MIDDLE
25 OF THE HIGHWAY AND YOU WEREN'T SUPPOSED TO CROSS IT.
26 AND SO THAT SOMEHOW MIGHT RELATE TO ASSET MANAGEMENT,
27 RIGHT?

08:43AM

28 A IT WAS RELATED TO -- TO RISK MANAGEMENT.

1 Q THERE'S ANOTHER EXHIBIT FROM AROUND THIS SAME
2 TIME PERIOD. IF YOU LOOK AT 1109 -- PARDON ME, 1106.

3 THIS IS AN E-MAIL EXCHANGE FROM THAT
4 SAME TIME PERIOD.

5 I MOVE 1106, YOUR HONOR.

08:44AM

6 MR. BRIAN: MAY I INQUIRE AS TO WHERE THAT ONE
7 IS? IS THAT IN THE NEW BINDER?

8 THE COURT: IT MIGHT BE THE SECOND BINDER.

9 MR. BRIAN: I GOT IT. I'M SORRY.

10 MR. MADISON: WE GAVE MR. BRIAN A NEW BINDER
11 TODAY FOR JUST THE THINGS WE'RE USING TODAY, AND IT'S
12 TAB 1106.

08:44AM

13 MR. BRIAN: NO OBJECTION.

14 THE COURT: IT WILL BE ADMITTED.

15
16 (EXHIBIT 1106 ADMITTED.) +
17

08:44AM

18 BY MR. MADISON:

19 Q SO THIS IS JUST AN E-MAIL FROM -- WELL, THE
20 BOTTOM E-MAIL LOOKS SIMILAR TO THE OTHER E-MAIL WE
21 LOOKED AT, 92.

08:44AM

22 ALTHOUGH THE TIME IS DIFFERENT.

23 THE WITNESS: I'M SORRY -- WHERE IS THAT?

24 MR. MADISON: IT'S 1106.

25 THE WITNESS: IN THE NOTEBOOK FROM TODAY?

08:44AM

26 MR. BRIAN: I THINK IT'S THE BOTTOM, ACTUAL
27 LAST ONE IN THE BINDER.

28 THE COURT: SO WE CAN, MR. MADISON, DO AWAY

1 WITH THE TWO LARGE BINDERS YESTERDAY, AND JUST USE THE
2 NEW ONE ON THE DESK HERE?

3 MR. MADISON: WE GAVE THE WITNESS A NEW ONE AS
4 WELL.

5 CAN I APPROACH? 08:45AM

6 THE COURT: YES.

7 THE WITNESS: I HAVE IT.

8 MR. MADISON: PUT THE OTHER ONE ASIDE,
9 MS. VANEVERY.

10 THE WITNESS: I DID. THANKS. 08:45AM

11 MR. MADISON: THANK YOU.

12 Q IT LOOKS LIKE YOU'RE TALKING ABOUT THE SAME
13 POWER POINT DOUBLELINE DRAFTS, CORRECT?

14 A YES.

15 Q AND MR. GUNDLACH IS JUST GIVING YOU A COMMENT
16 HERE: 08:45AM

17 I THINK WE NEED TO MOVE THE NAME
18 TO THE RIGHT. MAYBE THE LAST
19 LETTER SHOULD BE LIKE
20 THREE-QUARTERS OF AN INCH FROM
21 THE -- FROM THE EDGE. LET'S TRY
22 IT. 08:45AM

23 THIS WAS GUNDLACH GIVING YOU COMMENTS
24 AND EDITS ON THE LOGO, RIGHT?

25 A YES. 08:45AM

26 Q NOW, THERE CAME A TIME AT TCW WHERE YOU AND
27 MR. GUNDLACH ACTUALLY TRIED TO START USING ELEMENTS OF
28 THE NEW DOUBLELINE LOGO WHILE YOU WERE STILL AT TCW,

1 DIDN'T YOU?

2 A NO.

3 Q THAT NEVER HAPPENED?

4 A NOT FROM THE LOGO.

5 Q OKAY.

08:45AM

6 DO YOU RECALL USING ELEMENTS OF
7 MONDRIAN'S LINES IN A NEW BACKDROP THAT YOU WANTED TO
8 ROLL OUT WHILE YOU WERE AT TCW?

9 A WHEN I WAS ASKED TO PUT TOGETHER --

10 Q THAT'S A "YES" OR "NO" QUESTION. IF YOU NEED
11 TO EXPLAIN --

08:46AM

12 THE COURT: YOU'LL GET A CHANCE TO EXPLAIN.
13 JUST ANSWER THE QUESTION.

14 THE WITNESS: THERE WAS A MONDRIAN PAINTING
15 THAT HE WANTED TO USE AS A BACKDROP FOR ONE OF THE
16 WEBCASTS, A DIGITAL IMAGE THAT YOU REPLACE OVER A GREEN
17 SCREEN.

08:46AM

18 BY MR. MADISON:

19 Q EXHIBIT 394, WHICH IS AN E-MAIL FROM YOU TO
20 JENNIFER STAIM FROM OCTOBER 30, 2009.

08:46AM

21 THIS IS NOT IN EVIDENCE YET, YOUR HONOR?

22 THE COURT: THIS IS EXHIBIT 390?

23 MR. MADISON: 394, YOUR HONOR.

24 THE COURT: OKAY.

25 MR. MADISON: I WOULD MOVE 394.

08:46AM

26 MR. BRIAN: NO OBJECTION.

27 THE COURT: IT WILL BE ADMITTED.

28 (EXHIBIT 394 ADMITTED.) +

1 BY MR. MADISON:

2 Q IF WE DISPLAY 394, DO YOU RECALL, IN OCTOBER
3 OF 2009 YOU WERE COMMUNICATING WITH JENNIFER STAIM
4 ABOUT INVITATIONS TO WEBCASTS THAT WOULD USE A NEW
5 BACKDROP FOR MR. GUNDLACH?

08:47AM

6 A I WAS TALKING TO HER ABOUT ONE WEBCAST THAT HE
7 WAS GOING TO BE DOING IN DECEMBER.

8 Q AND SO BY OCTOBER 30 YOU HAD ALREADY LOOKED AT
9 NEW OFFICE SPACE, CORRECT?

10 A YES.

08:47AM

11 Q YOU HAD -- THE COMPANY, ABLE GRAPE, HAD BEEN
12 FORMED, AS WE SAW YESTERDAY, FROM THE CORPORATE
13 DOCUMENTS, RIGHT?

14 A I TOLD YOU YESTERDAY I'M NOT SURE WHEN -- WHEN
15 THE FORMATION OF THAT WAS.

08:47AM

16 Q OKAY.

17 YOU WERE DISCUSSING WITH GREG WARD AND
18 CRIS SANTA ANA AND MR. GUNDLACH THE USE OF THE REALTORS
19 AND THE ARCHITECTS AND THE PROJECT MANAGERS BY THIS
20 TIME, CORRECT?

08:47AM

21 A I BELIEVE --

22 Q AND SO LET'S LOOK AT THE ATTACHMENT, AND WE'LL
23 SEE AGAIN SOME OF THOSE ELEMENTS OF THE DOUBLELINE'S
24 AND THE MONDRIAN, CORRECT, BEHIND MR. GUNDLACH?

25 A YES.

08:48AM

26 Q DID THOSE ELEMENTS -- TRADITIONALLY, TCW USED
27 A TCW BACKDROP FOR THE WEBCASTS WITH MR. GUNDLACH;
28 ISN'T THAT RIGHT?

1 A ACTUALLY, HIS WEBCASTS WERE DONE VIA THE
2 PHONE. SO, WHAT YOU SAW BEHIND HIM ON THE PLAYER
3 SCREEN WAS JUST HIS PHOTO.

4 THIS WAS GOING TO BE A DIFFERENT SORT OF
5 SETUP WHERE HE WASN'T -- HE WOULD BE IN A PRODUCTION
6 STUDIO DOING IT. SO IT WAS THE FIRST TIME TCW WOULD BE
7 INPUTTING A DIGITAL IMAGE.

08:48AM

8 AND I DID ASK JENNIFER TO TCW-IZE IT.
9 THIS IS JUST MY DRAFT I SENT TO THEM SO THEY COULD WORK
10 WITH IT.

08:48AM

11 Q CAN YOU SHOW US WHERE ON THE E-MAIL YOU ASKED
12 HER TO DO THAT, THE TCW PART?

13 A MONDRIAN FEATURE WOULD BE NICE FOR THE INVITE
14 WHILE MAINTAINING THE TCW BRANDING LOOK.

15 Q WHAT WAS IT ABOUT THE LOOK THAT WAS STILL TCW
16 BRANDING?

08:48AM

17 A THIS WAS WHAT I SENT HER SO THAT SHE GOT AN
18 IDEA WHAT I WAS TALKING ABOUT. IT WAS HER JOB TO PUT
19 THE TCW BRANDING LOOK TO IT.

20 Q OKAY.

08:49AM

21 DO YOU RECALL THAT THERE WAS ACTUALLY A
22 TCW LOGO THAT WOULD APPEAR IN THE PICTURES OF
23 MR. GUNDLACH IN THE WEBCASTS?

24 A LIKE I TOLD YOU BEFORE, THE WEBCAST PLAYER IS
25 JUST HIS PHOTO. THERE'S NOTHING BEHIND HIM. SO --

08:49AM

26 Q SO THE ANSWER TO MY QUESTION'S NO?

27 A NO.

28 Q THERE WAS NO TCW LOGO?

1 A NO.

2 Q YOU'RE SURE OF THAT?

3 A IT WAS JUST HIS PHOTO, AS FAR AS I KNOW.

4 Q SO YOU'RE SURE OF THAT?

5 A THAT'S WHAT THE PLAYER LOOKED LIKE, YEAH.

08:49AM

6 Q OKAY.

7 NOW, WHAT YOU WERE TRYING TO DO HERE, IN
8 LATE OCTOBER, WAS BEGIN TO CREATE A BRAND THAT WOULD
9 USE THE ELEMENTS OF THE DOUBLELINE LOGO, WHICH WAS
10 GOING TO BE THE NEW BUSINESS, WASN'T IT?

08:49AM

11 A I THINK THAT HE LOVES MONDRIAN. HE'S A BIG
12 FAN.

13 Q EXCUSE ME, MA'AM?

14 A -- IF HE WORKED IT.

15 THE COURT: ALLOW HER TO ANSWER THE QUESTION.
16 JUST A MINUTE.

08:50AM

17 THE WITNESS: IF HE COULD WORK MONDRIAN IMAGES
18 INTO ANYTHING, HE PROBABLY WOULD HAVE. HE WAS A BIG
19 FAN.

20 BY MR. MADISON:

08:50AM

21 Q HE'D BEEN A BIG FAN OF MONDRIAN FOR YEARS,
22 HADN'T HE?

23 A YES.

24 Q THIS WAS THE FIRST TIME THIS HAD EVER BEEN
25 PROPOSED, RIGHT?

08:50AM

26 A BECAUSE IT'S THE FIRST TIME WHERE HE WAS
27 ACTUALLY GOING TO BE IN A PRODUCTION STUDIO WHERE YOU
28 COULD INPUT DIGITAL IMAGES.

1 Q YES, IT WAS THE FIRST TIME?

2 A YES.

3 Q OKAY.

4 AND -- AND THE ELEMENTS OF THE
5 DOUBLELINE'S THEN WERE ALREADY IN YOUR MIND AND
6 MR. GUNDLACH'S MIND BASED ON YOUR DISCUSSIONS WITH HIM
7 FOR SOMETHING CALLED DOUBLELINE, CORRECT?

08:50AM

8 A I DON'T THINK I EVEN THOUGHT ABOUT IT.

9 Q YOU WEREN'T THINKING ABOUT DOUBLELINE AT THAT
10 TIME?

08:50AM

11 A I JUST THOUGHT HE WANTED THE MONDRIAN IMAGES
12 IN THERE.

13 Q IS THAT YES OR NO, MA'AM?

14 MR. BRIAN: OBJECTION. ARGUMENTATIVE.

15 MR. MADISON: MY QUESTION WAS --

08:50AM

16 THE COURT: JUST A MINUTE.

17 MR. MADISON: -- DOUBLELINE.

18 THE COURT: WHEN WE GET AN OBJECTION, I TRY TO
19 RULE ON IT. WHEN YOU ASK A QUESTION, YOU LET THE
20 WITNESS ANSWER. IT'S A PROCESS THAT WE'LL GO THROUGH
21 HERE.

08:51AM

22 MR. MADISON: I CAN'T RULE ON MY OWN
23 OBJECTIONS, YOUR HONOR.

24 THE COURT: YOU CAN TRY, BUT IT MIGHT NOT
25 WORK.

08:51AM

26 MR. BRIAN: ACTUALLY, IT WAS MINE, AND I'LL
27 RULE.

28 THE COURT: FORGET THE OBJECTION.

1 MR. MADISON: OVERRULED.

2 THE COURT: ASK ANOTHER QUESTION. FORGET THE
3 OBJECTION AND PAUSE FOR A MOMENT.

4 MR. MADISON: I WILL.

5 THE COURT: PAUSE FOR A MOMENT AFTER YOU ASK
6 HER.

7 BY MR. MADISON:

08:51AM

8 Q IN ANY EVENT, DOUBLELINE WASN'T IN YOUR MIND
9 IN LATE OCTOBER 2009 WHEN YOU PROPOSED THIS NEW
10 BACKDROP?

08:51AM

11 A NOT IN RELATION TO THIS IMAGE.

12 Q BUT IT WAS SOMETHING YOU WERE THINKING ABOUT
13 INDEPENDENTLY?

14 A I DIDN'T KNOW DOUBLELINE WAS GOING TO BE WHAT
15 DOUBLELINE ENDED UP BEING.

08:51AM

16 Q THAT WASN'T QUITE MY QUESTION.

17 I ASKED IF YOU WERE THINKING ABOUT IT AT
18 THIS TIME. YOU SAID NO.

19 A NO.

20 Q YOU SAID NOT IN RELATION, BUT I SAID
21 INDEPENDENTLY YOU WERE THINKING ABOUT IT?

08:51AM

22 A NO.

23 Q OKAY.

24 YOU WEREN'T THINKING ABOUT IT AT ALL?

25 A I WASN'T THINKING ABOUT IT IN RELATION TO THIS
26 PICTURE (INDICATING).

08:51AM

27 Q DO YOU RECALL, AND I DON'T KNOW IF YOU WERE
28 HERE WHEN WE HEARD TESTIMONY FROM MR. KALE, ABOUT THE

1 POLICIES AND PROCEDURES AT TCW, WERE YOU HERE FOR THAT
2 TESTIMONY?

3 A NO, I WASN'T.

4 Q LET ME ASK YOU TO LOOK AT EXHIBIT 1003.

5 A I DON'T HAVE A 1003.

08:52AM

6 Q DO YOU HAVE A 1003?

7 A I HAVE 1106. AND NEXT ONE IS 982.

8 THE COURT: YOU DON'T HAVE IT.

9 MR. MADISON: THIS ONE MAY BE IN THE OLD

10 BINDER.

08:52AM

11 THE COURT: IS IT GOING TO BE OFFERED?

12 MR. MADISON: YES.

13 THE COURT: IS THERE ANY OBJECTION?

14 MR. BRIAN: I NEED TO LOOK AT IT, YOUR HONOR.

15 THE COURT: ALL RIGHT.

08:52AM

16 MR. BRIAN: NO OBJECTION TO THIS.

17 THE COURT: IT WILL BE ADMITTED. WE CAN PUT

18 IT UP ON THE SCREEN.

19

20 (EXHIBIT 1003 ADMITTED.) +

08:53AM

21

22 THE COURT: THEN YOU DON'T HAVE TO DIG THROUGH
23 THE BOOK.

24 THE WITNESS: OKAY. THAT WILL BE HELPFUL.

25 MR. MADISON: WE SHOULD BE ABLE TO MOVE

08:53AM

26 THROUGH THESE FAIRLY QUICKLY.

27 Q MS. VAN EVERY, DO YOU RECALL THE POLICY AT TCW
28 WAS THAT EVERY YEAR EMPLOYEES WERE REQUIRED TO GO

1 ONLINE AND CERTIFY THAT THEY WERE FAMILIAR WITH CERTAIN
2 POLICIES AND PROCEDURES AND WERE COMPLYING WITH THOSE?

3 A YES.

4 Q AND DO YOU RECALL THAT YOU, EACH YEAR, IN OR
5 ABOUT JANUARY OF EACH YEAR, YOU WOULD GO ONLINE AND
6 COMPLETE THAT EXERCISE CERTIFYING THOSE THINGS?

08:53AM

7 A YES.

8 Q SO I THINK WE HAVE A SERIES OF THOSE HERE.
9 PAGE 1 OF 1003 IS YOUR CERTIFICATION FROM JANUARY 2009,
10 CORRECT?

08:53AM

11 A YES.

12 Q THEN THE SECOND PAGE IS YOUR CERTIFICATION
13 FROM JANUARY OF 2008, CORRECT?

14 A YES.

15 Q THIRD PAGE IS FROM 2007, YOUR CERTIFICATION,
16 CORRECT?

08:53AM

17 A YES.

18 Q AND ON EACH OF THOSE YOU CHECKED BOTH OF THE
19 BOXES, INDICATING THAT YOU WERE MAKING THE
20 CERTIFICATIONS AND COMPLIANCES THAT WERE INDICATED
21 THERE; ISN'T THAT RIGHT?

08:54AM

22 A YES.

23 Q AND THEN IF WE LOOK AT PAGE 4, THIS IS AN
24 ACKNOWLEDGMENT FROM MARCH 31, 2008 THAT YOU WERE IN
25 RECEIPT OF TCW'S CODE OF ETHICS, CORRECT?

08:54AM

26 A YES.

27 Q THAT'S YOUR SIGNATURE THERE, RIGHT?

28 A YES.

1 Q AND THEN ALSO THE LAST PAGE, PAGE 5 FROM MARCH
2 OF 2009, YOU'RE CERTIFYING YOU RECEIVED THE TCW CODE OF
3 ETHICS, CORRECT?

4 A YES.

5 Q THANK YOU.

08:54AM

6 NOW, DO YOU -- WE HEARD SOME TESTIMONY
7 THE OTHER DAY ABOUT SOMETHING CALLED TRADE TICKETS.

8 ARE YOU GENERALLY AWARE OF WHAT TRADE
9 TICKETS ARE?

10 A THE ORDER TICKETS, YES.

08:54AM

11 Q AND WE HAD IN COURT HERE SOME PARTS OF RED
12 BINDERS, AND YOU RECALL SEEING THE RED TRADE TICKETS IN
13 OR ABOUT THE FLOOR AT TCW, RED TRADE TICKET BINDERS?

14 A YES.

15 Q AND YOU WERE AWARE THAT THOSE WERE RECORDS OF
16 VARIOUS SECURITIES ORDERS GOING BACK, ACTUALLY FOR
17 DECADES, FOR THE MORTGAGE BACK SECURITY GROUP, RIGHT?

08:55AM

18 A YES.

19 Q NOW, THERE CAME A TIME FRAME WHEN YOU LEARNED
20 THAT MR. GUNDLACH HAD ASKED THAT THOSE BE PHOTOCOPIED
21 FOR HIM, RIGHT?

08:55AM

22 A I ACTUALLY LEARNED ABOUT IT BECAUSE I SAW HIM
23 CARRYING THEM. I DIDN'T KNOW HE ORDERED SOMEBODY TO
24 COPY THEM.

25 Q DID YOU FIND OUT AT THAT TIME THAT HE HAD
26 ASKED THAT COPIES OF ALL OF THE TRADE TICKET BINDERS
27 GOING BACK TO 1998 BE MADE FOR HIM?

08:55AM

28 A I THINK -- MAYBE LYDIA OR SOMEBODY TOLD ME

1 THAT.

2 Q IS THAT "YES"?

3 A YES.

4 Q LYDIA'S LYDIA POMPA, THE ASSISTANT HE ASKED TO
5 DO THAT?

08:55AM

6 A I'M NOT SURE HE ASKED HER TO DO THAT.

7 Q YOU UNDERSTOOD SHE WAS MAKING THE COPIES?

8 A I KNEW SHE WAS MAKING THE COPIES, BUT I DON'T
9 KNOW IF HE ASKED HER TO DO THAT.

10 Q AND HE WOULD GET A COUPLE OF THE BINDERS AT A
11 TIME AND THEN TAKE THEM FROM THE TCW DOWNTOWN OFFICE TO
12 THE TCW OFFICE IN SANTA MONICA, THE WATER GARDEN; ISN'T
13 THAT RIGHT?

08:55AM

14 A YES.

15 Q AND YOU AND MR. GUNDLACH ACTUALLY DISCUSSED
16 THE INFORMATION IN THOSE TRADE TICKET BINDERS, DIDN'T
17 YOU?

08:56AM

18 A I'M NOT SURE WHAT WE WOULD HAVE DISCUSSED
19 ABOUT THE INFORMATION IN THERE.

20 Q WELL, DO YOU RECALL THAT YOU AND MR. GUNDLACH
21 DISCUSSED WHETHER IT WOULD BE HELPFUL TO HAVE SOME KIND
22 OF SUMMARY OR SPREADSHEET SUMMARIZING ALL OF THE
23 INFORMATION THAT WAS IN ALL OR SOME OF THOSE TRADE
24 TICKET BINDERS?

08:56AM

25 A I SAW HIM CARRYING THOSE BINDERS OUT, AND I
26 SAID, WHY? WHY ARE YOU DOING THAT? WHY DON'T YOU SEND
27 YOURSELF THE FILE?

08:56AM

28 AND HE SAID, WE DON'T HAVE AN ELECTRONIC

1 COPY OF THESE.

2 AND I SAID, YOU'RE KIDDING?

3 AND HE SAID, NO.

4 AND I SAID, WELL, WE SHOULD MAKE ONE,
5 THEN. SO I SAID, WHY DON'T YOU GIVE THEM TO ME, AND
6 I'LL LOOK AT THEM AND SEE HOW DIFFICULT IT WOULD BE.

08:57AM

7 Q AND YOU ACTUALLY ENDED UP PROPOSING TO
8 MR. GUNDLACH THAT YOUR BROTHER BE USED TO BE THE PERSON
9 TO SUMMARIZE THE INFORMATION IN THE TRADE TICKET
10 BINDERS AND PUT THEM ON A SPREADSHEET, RIGHT?

08:57AM

11 A I ACTUALLY TOOK THEM HOME, AND I WAS -- I
12 WANTED TO SEE WHAT -- WHAT IT ENTAILED AND HOW LONG IT
13 WOULD TAKE. AND MY BROTHER LIVES WITH ME. HE WASN'T
14 WORKING AT THE TIME.

15 AND SO HE SAID, OH, YOU KNOW, DO YOU
16 WANT ME TO HELP YOU?

08:57AM

17 AND I THOUGHT, YOU KNOW, IT WOULD BE A
18 GOOD OPPORTUNITY FOR HIM TO USE, FOR HIM TO HOW LEARN
19 EXCEL, SO I TOOK HIM UP ON THE OFFER.

20 Q THE ANSWER IS YES?

08:57AM

21 A YES, I HAD HIM INPUT SOME OF THE PAGES.

22 Q DID HE COMPLETE THAT PROJECT?

23 A HE DID NOT.

24 Q WHATEVER HAPPENED WITH THE WORK THAT HE DID?

25 A I ENDED UP HAVING AN INTERN AT THE OFFICE
26 START DOING IT. BECAUSE IT WAS TOO DIFFICULT FOR HIM
27 TO DO IT BECAUSE YOU NEED TO HAVE BLOOMBERG AVAILABLE
28 TO YOU, BECAUSE YOU HAVE TO LOOK UP, QUEUE ZIP NUMBERS

08:57AM

1 AND LOOK OF UP SECURITIES. THESE TICKETS ARE SO OLD
2 THEY'RE HARD TO READ. I ENDED UP HAVING AN INTERN DO
3 IT.

4 I WAS GOING TO BRING IN THE SPREADSHEET
5 THAT WE HAD STARTED ON A FLASH DRIVE, AND I WAS FIRED
6 BEFORE I COULD BRING IT IN. 08:58AM

7 SO I TURNED IT IN.

8 Q OKAY. WE COVERED A LOT OF GROUND THERE.

9 YOU WERE ASKING THAT THIS -- YOU AND
10 MR. GUNDLACH WERE DISCUSSING THIS IN MID SEPTEMBER,
11 WEREN'T YOU? 08:58AM

12 A I GUESS. YEAH.

13 Q WELL, IF YOU CAN LOOK AT EXHIBIT 285, IT MIGHT
14 REFRESH YOUR RECOLLECTION. IT'S AN E-MAIL EXCHANGE
15 BETWEEN THE TWO OF YOU. THAT ONE, TOO, I BELIEVE IS IN
16 THE BINDER FROM YESTERDAY. 08:58AM

17 A YES.

18 Q NOT THAT ONE.

19 A I'LL LOOK AT IT ON THE SCREEN.

20 Q WE'RE NOT GOING TO SHOW IT ON THE SCREEN. 08:58AM

21 THE COURT: DON'T PUT IT ON THE SCREEN FOR
22 THE COURT AND COUNSEL.

23 MR. MADISON: ALL RIGHT.

24 THE COURT: GO AHEAD.

25 BY MR. MADISON: 08:59AM

26 Q LOOK DOWN ON THE BOTTOM OF THE FIRST PAGE.
27 YOU'LL SEE -- ACTUALLY, AT THE VERY BOTTOM, YOUR E-MAIL
28 TO MR. GUNDLACH.

1 A YES.

2 Q SECOND PARAGRAPH.

3 DOES THAT REFRESH YOUR RECOLLECTION THAT
4 YOU AND MR. GUNDLACH STARTED DISCUSSING THIS PROJECT
5 ON -- ON OR ABOUT SEPTEMBER 11, 2009?

08:59AM

6 A YES.

7 Q SO, WAS YOUR BROTHER A TCW EMPLOYEE?

8 A NO, HE WAS UNEMPLOYED.

9 Q AND WAS HE COMPENSATED FOR THE WORK THAT HE
10 DID?

08:59AM

11 A HIS UNEMPLOYMENT HAD RUN OUT, AND I WAS
12 BASICALLY SUPPORTING HIM. SO I THINK THAT HE WANTED TO
13 HELP ME SO HE DIDN'T FEEL BAD ABOUT TAKING MONEY FROM
14 ME.

15 Q AND THE DATABASE THAT HE CREATED NEVER MADE
16 ITS WAY TO TCW?

08:59AM

17 A I TURNED IT IN, SO I DON'T -- I IMAGINE THEY
18 GOT IT.

19 Q TURNED IT IN TO WHOM?

20 A TO STROZ FRIEDBERG.

09:00AM

21 Q AT DOUBLELINE?

22 A YES.

23 Q YOU ACTUALLY BROUGHT THE INFORMATION FROM THE
24 TRADE TICKETS TO DOUBLELINE?

25 A YES.

09:00AM

26 Q AND HAD YOU USED THAT INFORMATION AT
27 DOUBLELINE?

28 A NO. I HAD IT ON A FLASH DRIVE, AND I TURNED

1 IN MY FLASH DRIVES ON MY PERSONAL LAPTOP AND A BACKUP
2 DRIVE.

3 Q WHAT WAS THE NAME OF THE INTERN THAT YOU USED
4 TO CONTINUE THAT PROJECT AT TCW?

5 A I HAD ASKED SAM, AND HE ASSIGNED ME TO 09:00AM
6 SUE MEETE (PH) AND SUE MEETE HAD AN INTERN WORKING AT
7 THAT TIME. THEY ONLY WORKED FOR US FOR A COUPLE
8 MONTHS.

9 Q AND THE NAME?

10 A I DON'T KNOW THE PERSON'S NAME. 09:00AM

11 Q MAN OR WOMAN?

12 A I DON'T KNOW.

13 Q DID YOU EVER SPEAK TO THIS INDIVIDUAL --

14 A NO.

15 Q -- IN PERSON? 09:00AM

16 A I TALKED TO SUE MEETE ABOUT IT AND HE
17 EXPLAINED THE PROJECT TO THE INTERN. BECAUSE THE
18 INTERN WORKED FOR HIM.

19 Q WERE YOU THERE WHEN THAT EXPLANATION OCCURRED?

20 A NO, I WAS NOT. 09:00AM

21 Q DID YOU EVER SEE ANY WORK PRODUCT COME OUT OF
22 THAT?

23 A I HAD TALKED TO SUE MEETE COUPLE TIMES ABOUT
24 IT.

25 AND I SAID, YES, I HAVE -- I STARTED 09:01AM
26 COUPLE OF BOOKS AT HOME. I HAVE THE SPREADSHEET. I'LL
27 BRING IT IN AND HE CAN ADD THE PAGES TO THE SHEET HE'S
28 WORKING ON.

1 Q I'M SORRY, MA'AM. MY QUESTION WAS, DID YOU
2 EVER SEE ANY WORK PRODUCT FROM THIS INTERN?

3 A I DIDN'T KNOW. I WAS FIRED BEFORE I COULD --

4 Q YOU NEVER SAW ANY WORK PRODUCT?

5 A NO.

09:01AM

6 Q YOU NEVER BROUGHT THE DATA TO TCW --

7 A NO.

8 Q SO YOU WERE PUT ON LEAVE ON DECEMBER 4TH,
9 CORRECT?

10 A I THOUGHT I WAS FIRED, BUT OKAY.

09:01AM

11 Q YOU LEFT TCW ON DECEMBER 4TH?

12 A YES, I WAS ESCORTED OUT.

13 Q SO, HOW MUCH WORK HAD BEEN DONE BY YOUR
14 BROTHER IN ALMOST THREE MONTHS FROM SEPTEMBER 11 THAT
15 YOU'VE BEEN WORKING ON THE PROJECT. HE WASN'T WORKING
16 ON IT FOR THE FULL TIME.

09:01AM

17 A I THINK HE ONLY SPENT A FEW DAYS, AND I
18 REALIZED IT WAS FUTILE FOR HIM TO CONTINUE BECAUSE YOU
19 HAVE TO HAVE A BLOOMBERG.

20 Q AND THEN WHEN DID YOU HAVE THIS CONVERSATION
21 WITH SAM LAU AND SUE MEETE?

09:01AM

22 A IT WASN'T SAM LAU.

23 Q IT WAS?

24 A IT WAS SAM GARZA.

25 Q PARDON ME?

09:02AM

26 A I DON'T REMEMBER WHEN IT WAS.

27 Q THERE ALSO CAME A TIME WHEN YOU ASKED TCW
28 EMPLOYEES TO CREATE A NEW SPREADSHEET FOR CLIENT

1 INFORMATION, CORRECT?

2 A I DID, YES.

3 Q THAT WAS IN NOVEMBER 2009, RIGHT?

4 A YES.

5 Q AND I'D LIKE YOU TO LOOK AT EXHIBIT 451.

09:02AM

6 DO YOU HAVE THAT IN FRONT OF YOU?

7 A YES.

8 Q THIS IS AN E-MAIL YOU SENT TO NATALIE MORA AND

9 COPIED OTHER TCW EMPLOYEES ON NOVEMBER 17, 2009,

10 CORRECT?

09:02AM

11 A YES.

12 MR. MADISON: I WOULD MOVE 451, YOUR HONOR.

13 THE COURT: ANY OBJECTION?

14 MR. BRIAN: NO OBJECTION.

15 THE COURT: IT WILL BE ADMITTED.

09:03AM

16

17 (EXHIBIT 451 ADMITTED.) +

18

19 BY MR. MADISON:

20 Q HERE, WE SEE THE E-MAIL FROM YOU TO MS. MORA

09:03AM

21 AND COPYING LYDIA POMPA, THE ASSISTANT WE MENTIONED FEW

22 MINUTES AGO.

23 A BOTH ARE ASSISTANTS, YES.

24 Q NATALIE WAS ADMINISTRATIVE ASSISTANT AS WELL?

25 A YES.

09:03AM

26 Q MR. GUNDLACH AND MR. SANTA ANA. IT REFERENCES

27 SOMETHING CALLED CLIENT LISTS DOT XLS. YOU SAY:

28 NATALIE AND LYDIA MADE AN EXCEL

1 SPREADSHEET TEMPLATE FOR CLIENT
2 INFORMATION THAT EVERYONE WILL HAVE
3 ACCESS TO GOING FORWARD. THIS WILL
4 BE HELPFUL.

5 YOU GO ON TO SAY:

09:03AM

6 I THINK THIS WILL BE HELPFUL IN
7 CASE SOMEONE IS TRAVELING OR OUT
8 SICK. BOTH OF YOU WILL BE ABLE TO
9 EASILY ACCESS CLIENT INFORMATION
10 FROM THE SAME CENTRALIZED DATABASE.

09:03AM

11 AND SO LET ME JUST STOP THERE.

12 YOU WANTED THEM TO CREATE, TO FILL IN
13 INFORMATION ONTO THIS SPREADSHEET THAT YOU CREATED FOR
14 CLIENT CONTACT INFORMATION, CORRECT?

15 A I DID.

09:04AM

16 Q AND, ACTUALLY, CLIENT CONTACT INFORMATION WAS
17 ALREADY AVAILABLE ON SARATOGA DATABASE AT TCW, WASN'T
18 IT?

19 A IT WAS.

20 Q LET ME ASK YOU TO LOOK AT EXHIBIT 383. AND
21 THIS IS AN E-MAIL FROM MR. GUNDLACH TO YOU, OCTOBER 27,
22 2009.

09:04AM

23 I'D MOVE 383, YOUR HONOR.

24 MR. BRIAN: NO OBJECTION.

25 THE COURT: IT WILL BE ADMITTED.

09:04AM

26

27 (EXHIBIT 383 ADMITTED.) +

28

1 MR. MADISON: IF WE DISPLAY THIS, WE'LL SEE
2 THERE'S AN E-MAIL AT THE BOTTOM FROM LOU ANN DOLAN TO
3 MR. GUNDLACH, COPYING SOME OTHER FOLKS AND REFERENCING
4 A MEETING WITH ROGERS, CASEY IN DARIEN, CONNECTICUT.

5 DO YOU SEE THAT?

09:04AM

6 A YES.

7 Q ON NOVEMBER 10?

8 A UH-HUH.

9 Q MR. GUNDLACH FORWARDED IT ON TO YOU.

10 ROGERS CASING WAS A CONSULTANT THAT
11 WORKED WITH TCW IN TERMS OF PLACING INVESTMENTS FOR
12 THEIR CLIENTS; ISN'T THAT RIGHT?

09:05AM

13 A YES.

14 Q AND WHAT THIS E-MAIL FROM MS. DOLAN --
15 MS. DOLAN WAS IN MARKETING FOR TCW, CORRECT?

09:05AM

16 A SHE DID CONSULTANT RELATIONS, SO SHE DEALT
17 MOSTLY WITH CONSULTING FIRMS.

18 Q WAS SHE IN MARKETING?

19 A THAT WAS PART OF MARKETING, YES.

20 Q SHE WAS IN MARKETING, AND SHE WAS ARRANGING A
21 MEETING FOR MR. GUNDLACH IN MID NOVEMBER WITH
22 ROGERS CASING, NOVEMBER 10TH, RIGHT?

09:05AM

23 A YES.

24 Q THIS WAS A TRIP, AND WE TOUCHED ON THIS
25 YESTERDAY, BUT YOU HAD BEEN, OBVIOUSLY, PROFESSIONAL
26 COLLEAGUES OF MR. GUNDLACH FOR SOME TIME. AND BY THIS
27 TIME FOR TWO TO THREE YEARS YOU HAD BEEN ROMANTICALLY
28 INVOLVED WITH HIM AS WELL, CORRECT?

09:05AM

1 A I THOUGHT WE WENT OVER THAT YESTERDAY.

2 Q IS THAT "YES"?

3 A YES.

4 Q AND SO THIS TRIP WAS ONE THAT YOU ACTUALLY
5 WERE GOING TO ACCOMPANY MR. GUNDLACH ON, THIS TRIP THAT
6 HE WAS TAKING IN NOVEMBER, CORRECT?

09:06AM

7 A I'M JUST GOING TO REFER BACK TO THE OTHER
8 EXHIBIT FOR THE DATE, BECAUSE I DID ACCOMPANY HIM ON
9 MANY TRIPS, BUT I'M NOT SURE IF I WENT ON THAT ONE.
10 SO...

09:06AM

11 Q IT MIGHT HELP YOU TO LOOK AT 410, WHICH IS, I
12 THINK, IN THAT SAME BINDER. AND THERE'S AN ITINERARY.
13 WE'LL GET TO THAT IN JUST A MOMENT. ITINERARY --

14 A THAT WOULD BE HELPFUL.

15 YES.

09:06AM

16 Q COMING BACK NOW TO 383, THIS WAS A TRIP THAT
17 YOU WERE ACCOMPANYING MR. GUNDLACH ON, CORRECT?

18 A YES.

19 Q AND MR. GUNDLACH'S MESSAGE TO YOU WAS: NO
20 TURNING BACK NOW.

09:06AM

21 HE SENDS THAT MESSAGE TO YOU ON
22 OCTOBER 27, A COUPLE WEEKS BEFORE THE MEETING THAT'S
23 BEING DISCUSSED BY MS. DOLAN, RIGHT?

24 A YES.

25 Q SO, WHAT MR. GUNDLACH -- YOU UNDERSTOOD WHAT
26 MR. GUNDLACH TO BE SAYING WAS THERE'S NO TURNING BACK
27 NOW BECAUSE ON THIS TRIP WE'RE GOING TO BE TALKING
28 ABOUT OUR NEW BUSINESS, RIGHT?

09:07AM

1 MR. BRIAN: CALLS FOR SPECULATION.

2 THE COURT: SUSTAINED.

3 BY MR. MADISON:

4 Q I WANT TO KNOW YOUR STATE OF MIND, MA'AM.

5 WHEN YOU RECEIVED THE E-MAIL FROM
6 MR. GUNDLACH, YOUR PERSONAL AND PROFESSIONAL COLLEAGUE,
7 WHAT DID YOU THINK THERE WAS NO TURNING BACK NOW FROM?

09:07AM

8 A WE WERE GOING ON THE TRIP.

9 Q SO IT WAS JUST NO TURNING BACK NOW WE'RE GOING
10 ON A BUSINESS TRIP, TWO WEEKS FROM NOW?

09:07AM

11 A WELL, YOU'RE SUGGESTING THAT WE WERE GOING TO
12 GO ON THIS TRIP TO TALK ABOUT A NEW BUSINESS. I'M NOT
13 GOING TO DO THAT WITH A MARKETING PERSON.

14 Q WERE YOU ONLY GOING TO SEE MS. DOLAN ON THIS
15 TRIP, MA'AM?

09:07AM

16 A NO.

17 Q OKAY.

18 SO, WHAT DID YOU MEAN, YOU WEREN'T GOING
19 TO TALK ABOUT A NEW BUSINESS WITH A MARKETING PERSON?

20 A THAT WASN'T MY INTENTION WHEN HE SAID NO
21 TURNING BACK. I THOUGHT HE WAS JUST TALKING ABOUT THE
22 TRIP.

09:08AM

23 Q RIGHT, ON THE TRIP YOU WEREN'T JUST GOING TO
24 BE DOING THINGS WITH MS. DOLAN. YOU WERE GOING TO BE
25 DOING THINGS ABOUT THE NEW BUSINESS, WEREN'T YOU?

09:08AM

26 A I THINK THIS IS MOSTLY TCW BUSINESS. IT WAS
27 ALL TCW BUSINESS.

28 Q WELL, MOSTLY? OR ALL? OR SOMETHING ELSE?

1 A ALL.

2 Q ALL TCW BUSINESS?

3 A YES.

4 Q OKAY.

5 THEN LET'S LOOK AT 410, WHICH IS THE
6 ITINERARY MS. MORA SENT TO YOU.

09:08AM

7 I MOVE 410, YOUR HONOR.

8 MR. BRIAN: NO OBJECTION.

9 THE COURT: IT WILL BE ADMITTED.

10

09:08AM

11 (EXHIBIT 410 ADMITTED.) +

12

13 BY MR. MADISON:

14 Q YES. SEE ON THE COVER MS. MORA SENDS SHORT
15 E-MAIL SAYING: HERE IS A ROUGH DRAFT. IT WILL BE
16 FINALIZED IN THE MORNING.

09:08AM

17 SHE'S TALKING JEG ITINERARY DOC.

18 DO YOU SEE THAT?

19 A YES.

20 Q IF WE GO OVER TO THE NEXT PAGE, WE SEE AN
21 ITINERARY, JEFFREY GUNDLACH, SUNDAY, NOVEMBER 8, 2009
22 THROUGH THURSDAY, NOVEMBER 12TH, 2009.

09:08AM

23 AND THERE'S A LIST OF DATES AND TIMES
24 AND APPOINTMENTS, CORRECT?

25 A YES.

09:09AM

26 Q YES, MA'AM?

27 A YES.

28 Q YES.

1 THIS IS THE TRIP THAT YOU ACCOMPANIED
2 MR. GUNDLACH ON, RIGHT?

3 A YES.

4 Q AND SO IF YOU LOOK IN THE MONDAY,
5 NOVEMBER 9TH, THERE'S A MEETING AT TCW NEW YORK OFFICE
6 WITH A NUMBER OF PEOPLE FROM TCW AND WELLS FARGO.

09:09AM

7 DO YOU SEE THAT?

8 A YES.

9 Q THAT WAS TCW BUSINESS, CORRECT?

10 A YES.

09:09AM

11 Q THEN YOU SEE AT THE VERY BOTTOM IT SAYS
12 GOLDMAN SACHS?

13 A YES.

14 Q THAT WAS THE MEETING THAT YOU DESCRIBED
15 YESTERDAY, WHERE YOU AND MR. GUNDLACH AND MR. WARD
16 TALKED WITH GOLDMAN SACHS ABOUT WAYS TO LAUNCH A NEW
17 BUSINESS, RIGHT?

09:09AM

18 A I THINK WE TALKED ABOUT WAYS THAT WE COULD GET
19 TO HELP OUR SITUATION TO --

20 Q HELP?

09:10AM

21 A -- TO, OBVIOUSLY, THE SITUATION AT TCW WAS
22 VERY VOLATILE. WE THOUGHT WE WERE BEING FIRED. WE
23 WERE ASKING THEIR ADVICE ON IF WE COULD NEGOTIATE OUR
24 WAY OUT.

25 AND I THINK AT SOME POINT JEFFREY MAY
26 HAVE ASKED THEM IF HE WERE TO BUY TCW, WOULD THEY HELP
27 HIM FINANCE IT.

09:10AM

28 Q WE HAVE TESTIMONY. IF YOU GO OVER TO THE NEXT

1 PAGE, AT THE TOP OF THE PAGE YOU'LL SEE THE NAME OF THE
2 GOLDMAN SACHS INDIVIDUAL, THOMAS CORNACCHIA?

3 A UH-HUH.

4 Q DO YOU RECALL MR. CORNACCHIA BEING IN THE
5 MEETING?

09:10AM

6 A YES.

7 Q AND MR. OWENS BEING IN THE MEETING AS WELL,
8 ONE OF HIS COLLEAGUES, TODD OWENS?

9 A HE'S THE ONLY ONE I REMEMBER SPECIFICALLY BY
10 NAME.

09:10AM

11 Q WE HAVE TESTIMONY FROM BOTH MR. CORNACCHIA AND
12 MR. OWENS WHAT WAS DISCUSSED IN THE MEETING.

13 IS IT YOUR RECOLLECTION THAT YOU TOLD --
14 OR MR. GUNDLACH OR SOMEONE ELSE SAID THAT YOU WERE
15 GOING TO BE FIRED?

09:11AM

16 A I DON'T REMEMBER -- I DON'T -- I DON'T
17 REMEMBER.

18 Q YOU MENTIONED A NUMBER OF TIMES THAT YOU
19 THOUGHT WE WERE GOING TO BE FIRED. AND BY THAT, DO YOU
20 MEAN THAT JEFFREY WAS GOING TO BE FIRED OR THAT YOU
21 PERSONALLY WERE GOING TO BE FIRED, OR SOMETHING ELSE?

09:11AM

22 A I ASSUMED IF JEFFREY GUNDLACH WERE FIRED, I
23 WOULD BE FIRED, TOO.

24 Q I'M SORRY, MA'AM. I WAS DISTRACTED.

25 YOU THOUGHT HE WAS GOING TO BE FIRED AND
26 YOU WOULD BE FIRED, TOO?

09:11AM

27 A YES.

28 Q ULTIMATELY, THERE WERE PEOPLE TERMINATED FROM

1 TCW, CORRECT?

2 A YES.

3 Q LIKE FOUR PEOPLE, RIGHT?

4 A I DON'T KNOW HOW MANY PEOPLE WERE FIRED.

5 Q OKAY.

09:11AM

6 BUT HAD YOU SEEN ANYTHING IN WRITING
7 INDICATING THAT ANYONE WAS THINKING ABOUT FIRING
8 BARBARA VANEVERY?

9 A I THINK THERE WERE A LOT OF RUMORS. I DON'T
10 THINK THEY'D PUT IN WRITING THAT THEY WERE GOING TO
11 FIRE ME.

09:11AM

12 Q SO THE ANSWER'S NO?

13 A NO.

14 Q AND SO YOU DON'T RECALL IF IN THE MEETING WITH
15 GOLDMAN SACHS ANYBODY SAYING ANYTHING ABOUT BEING
16 FIRED?

09:12AM

17 A I DON'T REMEMBER.

18 Q BUT YOU DO REMEMBER THAT THERE WAS DISCUSSION
19 ABOUT, IF WE HAVE A NEW BUSINESS, HOW CAN WE LAUNCH
20 THIS NEW BUSINESS AND SEPARATE FROM TCW, RIGHT?

09:12AM

21 A I THINK IT WAS HOW COULD WE NEGOTIATE A
22 SETTLEMENT WITH TCW TO RESOLVE OUR ISSUES. I DON'T
23 THINK IT WAS ABOUT A NEW BUSINESS.

24 Q OKAY.

25 WE TALKED ABOUT THAT A LITTLE BIT
26 YESTERDAY, ABOUT WHETHER -- I BELIEVE YOU TESTIFIED
27 YOU'RE NOT AWARE OF ANY INDICATION THAT ANYBODY EVER
28 ACTUALLY WENT TO TCW TO NEGOTIATE, RIGHT?

09:12AM

1 A I THINK THAT MEETING WAS VERY PRELIMINARY, AND
2 THE NEXT STEP WAS FOR JEFFREY TO DO A CALL WITH
3 GOLDMAN SACHS.

4 Q THE MEETING WITH GOLDMAN SACHS WAS
5 PRELIMINARY?

09:12AM

6 A YES.

7 Q SO THEN IF YOU LOOK DOWN AT THE BOTTOM OF
8 PAGE 3 OF 410, THERE'S ANOTHER MEETING ON THAT SAME
9 TRIP WITH MORGAN STANLEY.

10 A YES.

09:13AM

11 Q THE INVESTMENT BANKING DIVISION?

12 A YES.

13 Q AND THEN HERE AGAIN THAT WAS A MEETING TO
14 DISCUSS SOME NEW BUSINESS ARRANGEMENT FOR MR. GUNDLACH
15 AND YOU AND THE OTHERS, SEPARATE FROM TCW, RIGHT?

09:13AM

16 A NO. IT WAS NOT.

17 Q DID IT HAVE ANYTHING TO DO WITH THE SAME
18 SUBJECTS YOU WERE DISCUSSING WITH GOLDMAN SACHS?

19 A NO. IT WAS TO DISCUSS A CLOSED-END FUND THAT
20 WE WERE GOING TO DO WITH MORGAN STANLEY FOR TCW.

09:13AM

21 Q THEN IF YOU LOOK OVER AT THE NEXT PAGE,
22 THERE'S A MEETING INDICATED MERRILL LYNCH WAITING TO
23 HEAR BACK FROM WARD.

24 THAT'S ANOTHER MEETING LIKE THE GOLDMAN
25 SACHS MEETING TO TALK ABOUT THE NEW BUSINESS, RIGHT?

09:13AM

26 A I THINK THAT WAS ABOUT THE CLOSED-END FUND AS
27 WELL.

28 Q THE ONLY MEETING TO TALK ABOUT THE NEW

1 BUSINESS WAS WITH GOLDMAN SACHS.

2 IS THAT YOUR TESTIMONY?

3 A I DON'T THINK WE DISCUSSED A NEW BUSINESS.

4 Q EVEN WITH GOLDMAN SACHS?

5 A I THINK THAT WE WERE JUST DISCUSSING OUR
6 SITUATION AND IF THEY COULD HELP US.

09:13AM

7 Q SO, THE ENTIRE TRIP WAS FOR TCW BUSINESS?

8 A PRETTY MUCH, YES.

9 Q OKAY.

10 AND GOING BACK TO 383, NO TURNING BACK
11 NOW.

09:14AM

12 WASN'T IT YOUR BELIEF WHEN MR. GUNDLACH
13 SAID THAT, THAT HE WASN'T JUST SAYING THERE'S NO
14 TURNING BACK FROM A ROUTINE BUSINESS MEETING OR TRIP;
15 HE WAS SAYING THERE'S NO TURNING BACK BECAUSE WE'RE
16 GOING TO TALK WITH GOLDMAN SACHS ABOUT LAUNCHING OUR
17 NEW BUSINESS?

09:14AM

18 A I REALLY DIDN'T KNOW WHAT THE GOLDMAN SACHS
19 MEETING WAS ABOUT UNTIL I GOT THERE.

20 Q NOW, DO YOU RECALL A TIME IN NOVEMBER, AROUND
21 THIS SAME TIME PERIOD WHERE MR. WARD WAS WORKING ON
22 GETTING SOME FILINGS TOGETHER TO THE SEC FOR THE NEW
23 BUSINESS?

09:14AM

24 A I TOLD YOU I DIDN'T KNOW WHEN THE NEW BUSINESS
25 WAS FORMED. SO I'M NOT SURE WHAT GREG WARD WAS WORKING
26 ON.

09:14AM

27 Q SO DID THERE EVER COME A TIME THAT YOU LEARNED
28 MR. WARD WAS LOOKING FOR INFORMATION TO BE USED IN SOME

1 FILINGS FOR THE NEW BUSINESS?

2 A I THINK MR. WARD ROUTINELY ASKED ME FOR
3 INFORMATION. HE WAS RESPONSIBLE FOR THE SPECIAL
4 MORTGAGE CREDIT FUNDS.

5 Q SO THE ANSWER'S NO? OR YES? 09:15AM

6 A YOU'D HAVE TO SHOW IT TO ME. I DON'T REMEMBER
7 SPECIFICALLY. I DIDN'T ASK HIM.

8 Q OKAY. LET'S LOOK AT 430.

9 A OKAY.

10 THE COURT: HAS THIS BEEN ADMITTED? 09:15AM

11 MR. MADISON: I DON'T BELIEVE IT'S IN
12 EVIDENCE.

13 THE COURT: IT SHOULDN'T BE SHOWN.

14 MR. MADISON: IT IS AN E-MAIL FROM
15 MR. SANTA ANA TO MR. WARD WITH A COPY TO MS. VANEVERY,
16 DATED NOVEMBER 11, 2009. 09:15AM

17 I WOULD MOVE THE EXHIBIT.

18 MR. BRIAN: NO OBJECTION.

19 THE COURT: IT WILL BE ADMITTED.

20 09:15AM

21 (EXHIBIT 430 ADMITTED.) +

22

23 BY MR. MADISON:

24 Q IF WE LOOK HERE, NOVEMBER 11TH, THAT SAME WEEK
25 OF THE TRIP, CORRECT? 09:16AM

26 A YES.

27 Q YOU CAN SEE DOWN AT THE BOTTOM MR. WARD
28 WRITES:

1 DO EITHER OF YOU HAVE
2 COMPREHENSIVE LISTS OF ALL THE
3 ACCOUNTS, SLASH, FUNDS MANAGED BY
4 THE GROUP, IDEALLY A LIST OF ALL
5 THE MUTUAL FUNDS, LP'S, CLOSED-END
6 FUNDS, IT LOOKS LIKE IT SHOULD BE
7 SEPARATE ACCOUNT STRATEGIES -- NOT
8 NECESSARILY INCLUDING CLIENT DETAIL
9 CDO'S, ET CETERA. I NEED TO MAKE
10 SURE I HAVE ALL OUR BASES COVERED
11 FOR THE FILINGS. THANKS.

09:16AM

09:16AM

12 AND SO, DOES THAT REFRESH YOUR
13 RECOLLECTION THAT YOU LEARNED IN NOVEMBER 11, THAT
14 MR. WARD NEEDED INFORMATION FOR SOME FILINGS FOR THE
15 NEW BUSINESS?

09:16AM

16 A I DIDN'T KNOW WHAT FILINGS HE WAS TALKING
17 ABOUT. LIKE I TOLD YOU, HE WORKED ON THE SPECIAL
18 MORTGAGE CREDIT FUNDS, AND HE ASKED ME FOR THIS KIND OF
19 INFORMATION BEFORE, SO...

20 Q YOU BELIEVED THIS E-MAIL RELATED TO TCW
21 BUSINESS; IS THAT YOUR TESTIMONY?

09:16AM

22 A I DIDN'T KNOW WHAT IT WAS RELATED TO. I NEVER
23 ANSWERED IT.

24 Q OKAY.

25 AND I MEAN, YOU'RE AWARE IN YOUR
26 POSITION NOW AND AT TCW THAT REGISTERED INVESTMENT
27 ADVISORS ARE REGULATED BY THE GOVERNMENT?

09:17AM

28 A YES, I KNOW THAT.

1 Q YOU'RE AWARE, TO EVEN DO THE BUSINESS THAT TCW
2 OR DOUBLELINE DO, YOU HAVE TO HAVE TO ACTUALLY REGISTER
3 WITH THE SECURITIES EXCHANGE COMMISSION TO BE A
4 REGISTERED INVESTMENT ADVISOR, CORRECT?

5 A YES.

09:17AM

6 Q AND YOU LEARNED AT DOUBLELINE THAT SOMETIME IN
7 DECEMBER DOUBLELINE RECEIVED ITS REGISTRATION FROM THE
8 SEC TO BEGIN OFFERING REGISTERED INVESTMENT ADVISORY
9 SERVICES TO CLIENTS, CORRECT?

10 A YES, I DID.

09:17AM

11 Q AND YOU KNEW WHEN YOU LEARNED ABOUT THAT, THAT
12 FILINGS HAD TO HAVE BEEN MADE SOMETIME PRIOR TO THAT,
13 WITH THE SEC; IN OTHER WORDS -- FOR THOSE REGISTRATIONS
14 TO BECOME EFFECTIVE, RIGHT?

15 A I THINK EVERYONE WAS REALLY EXCITED AT THAT
16 TIME BECAUSE IT WAS A RECORD FOR THE SEC TO GIVE US
17 THAT IN TEN DAYS. THAT HAD NEVER BEEN DONE BEFORE.

09:18AM

18 Q AND AS YOU LOOK AT THIS E-MAIL NOW, DO YOU SEE
19 ANYTHING ABOUT THIS E-MAIL THAT WOULD RULE OUT THAT
20 MR. WARD WAS PULLING TOGETHER INFORMATION TO GET THE
21 SEC FILINGS READY?

09:18AM

22 MR. BRIAN: OBJECTION. FORM, ARGUMENTATIVE.

23 THE COURT: SUSTAINED.

24 YOU CAN REPHRASE IT.

25 BY MR. MADISON:

09:18AM

26 Q WE HAVE EVIDENCE FROM MR. WARD THAT HE WAS
27 WORKING ON --

28 MR. BRIAN: OBJECTION. FORM.

1 THE COURT: SUSTAINED.

2 BY MR. MADISON:

3 Q YOU DON'T SEE ANYTHING HERE THAT WOULD
4 INDICATE TO YOU, GIVEN YOUR POSITION AND YOUR
5 EXPERTISE, THAT THIS DID NOT RELATE TO SEC FILINGS, DID
6 YOU? 09:18AM

7 A I DO NOT.

8 Q AND, IN FACT, MR. SANTA ANA RESPONDS TO
9 MR. WARD WITH A -- AN ATTACHMENT. HE SAYS: HOW'S
10 THIS? 09:18AM

11 AND THERE'S A LIST OF INFORMATION THERE.
12 DID YOU EVER REVIEW THE INFORMATION
13 THAT'S ATTACHED?

14 A NO, I DID NOT.

15 Q AND I NOTICE THAT MR. SANTA ANA AND
16 MR. WARD -- WELL, MR. SANTA ANA IS USING HIS GMAIL
17 ACCOUNT, AND MR. WARD WAS USING HIS GMAIL ACCOUNT. 09:19AM

18 WAS IT CUSTOMARY FOR TCW EMPLOYEES TO
19 USE THEIR PERSONAL GMAIL ACCOUNTS WHEN TRANSMITTING TCW
20 INFORMATION? 09:19AM

21 A I DON'T KNOW.

22 Q IN FACT, WOULDN'T IT BE EASIER IF YOU WERE
23 DOING TCW BUSINESS, TO JUST TAKE YOUR -- USE YOUR TCW
24 ACCOUNT TO FORWARD THE INFORMATION AND ALL?

25 A I SUPPOSE IT WOULD BE. 09:19AM

26 Q NOT ONLY EASIER, BUT ALSO REQUIRED BY TCW
27 POLICY FOR THE HANDLING OF CLIENT INFORMATION, CORRECT?

28 A I DON'T THINK THIS IS ABOUT CLIENT

1 INFORMATION. HE'S JUST ASKING WHAT STRATEGIES.

2 Q WELL, WHEN WE LOOK AT HIS E-MAIL, HE'S TALKING
3 ABOUT THE LP'S.

4 THOSE ARE LIMITED PARTNERSHIPS, CORRECT?

5 A RIGHT. HE WANTS TO KNOW, ARE WE MANAGING ANY
6 LIMITED PARTNERSHIPS.

09:19AM

7 Q SO NOW YOU BELIEVE YOU KNOW WHAT HE WANTED TO
8 KNOW?

9 A I'M JUST READING IT. IT SAYS: A LIST OF ALL
10 MUTUAL FUNDS, LP'S, CLOSED-END FUNDS.

09:20AM

11 Q RIGHT.

12 AND SEPARATE ACCOUNT STRATEGIES?

13 A IT DOESN'T SAY CLIENTS.

14 Q SO YOU'VE SAID SEVERAL TIMES THAT YOU BELIEVED
15 THAT WE WERE BEING FIRED. BOTH YESTERDAY AND TODAY, I
16 THINK YOU'VE OFFERED THAT STATEMENT, CORRECT?

09:20AM

17 A YES.

18 Q AND, IN FACT, YOU HAD DISCUSSED WITH
19 MR. GUNDLACH RUMORS THAT YOU WERE GOING TO BE FIRED,
20 RIGHT?

09:20AM

21 A YES. I TOLD HIM THAT I HEARD A RUMOR THAT HE
22 WAS BEING FIRED.

23 Q WELL, DO YOU RECALL THAT AFTER DOUBLELINE WAS
24 LAUNCHED ON DECEMBER 8TH, THERE WAS THAT WEBCAST THAT
25 WE TALKED ABOUT YESTERDAY?

09:21AM

26 A YES.

27 Q AND DO YOU RECALL THAT MR. GUNDLACH SPOKE ON
28 DECEMBER 8TH, 2009 ABOUT HIS EXIT FROM TCW?

1 A YOU KNOW, I PUT THE WEBCAST TOGETHER, AND I
2 WAS SO BUSY, I THINK, CONCENTRATING ON MAKING SURE IT
3 WORKED, I WASN'T REALLY PAYING ATTENTION TO EVERY WORD
4 HE SAID.

5 IF YOU SAY THAT HE WAS TALKING ABOUT
6 THAT, I TAKE YOUR WORD FOR IT.

09:21AM

7 Q WOULD IT SURPRISE YOU TO KNOW HE SAID IN THAT
8 WEBCAST THAT HE WAS TERMINATED ON FRIDAY FROM TCW AND
9 THAT THAT CAME AS A GREAT SURPRISE AND SHOCK TO HIM?

10 A I THINK IT WAS.

09:21AM

11 Q SO YOU WERE MAKING PLANS TO OPEN THE NEW
12 BUSINESS BECAUSE YOU THOUGHT YOU WOULD BE FIRED. BUT
13 THEN BEING FIRED CAME AS A GREAT, SURPRISING SHOCK?

14 MR. BRIAN: OBJECTION, ARGUMENTATIVE.

15 THE COURT: SUSTAINED.

09:21AM

16 BY MR. MADISON:

17 Q IS THAT YOUR TESTIMONY?

18 THE COURT: THAT'S NOT HER TESTIMONY. IT'S A
19 STATEMENT YOU ATTRIBUTE TO MR. GUNDLACH.

20 IF YOU WANT TO ASK HER, YOU MAY ASK HER.

09:22AM

21 MR. MADISON: YES, YOUR HONOR.

22 Q WERE YOU ALSO SURPRISED AND SHOCKED?

23 A YES, I WAS.

24 Q LET ME ASK YOU TO LOOK AT EXHIBIT 982 IN THE
25 BINDER.

09:22AM

26 I DON'T THINK THIS IS IN EVIDENCE YET.

27 THE COURT: HAS 982 BEEN ADMITTED?

28 THE CLERK: YES, YOUR HONOR.

1 THE COURT: IT'S IN EVIDENCE.

2 MR. MADISON: THANK YOU.

3 Q THIS IS A STATEMENT THAT WAS PREPARED AT
4 DOUBLELINE. AND WE HAD TESTIMONY YESTERDAY FROM
5 MR. MAYBERRY THAT THE COMMUNICATIONS GROUP, YOUR GROUP,
6 PREPARED THIS STATEMENT; IS THAT ACCURATE? 09:22AM

7 A YES, PROBABLY.

8 Q AND IF WE LOOK AT THAT, THIS IS DOUBLELINE.
9 AND TALKING ABOUT OUR PEOPLE IN THE SECOND PARAGRAPH,
10 IT TALKS ABOUT THE PORTFOLIO MANAGEMENT AND TRADING
11 TEAMS. 09:23AM

12 AND THERE'S A STATEMENT DOWN, JUST AT
13 THE LOWER LEFT CORNER OF THE GRAPHIC THERE, IT BEGINS:

14 OUR PROPRIETARY SYSTEMS PROVIDE
15 A CENTRALIZED PLATFORM TO ENHANCES
16 COMMUNICATIONS -- IT LOOKS LIKE A
17 TYPO THERE; IT SHOULD BE ENHANCE
18 COMMUNICATIONS -- EFFICIENCY AND
19 RISK MANAGEMENT OVERSIGHT IN EVERY
20 ASPECT OF OUR BUSINESS. 09:23AM

21 WE HAVE REBUILT OUR SYSTEMS
22 IMPLEMENTING IMPROVEMENTS AND
23 ENHANCEMENTS THAT ARE A NATURAL
24 EVOLUTION OF OUR TECHNOLOGY.

25 WERE THOSE STATEMENTS TRUE, TO THE BEST
26 OF YOUR KNOWLEDGE, AS DIRECTOR OF COMMUNICATIONS AT THE
27 TIME THEY WERE PREPARED? 09:23AM

28 MR. BRIAN: OBJECTION, NO FOUNDATION AS TO

1 KNOWLEDGE.

2 THE COURT: YOU CAN LAY THE FOUNDATION IF THIS
3 WAS PREPARED.

4 GO AHEAD.

5 BY MR. MADISON:

09:23AM

6 Q YESTERDAY, MA'AM, I ASKED MR. MAYBERRY WHO WAS
7 THE SUPERVISOR OF ONE OF THE SUPERVISORS OF THESE
8 GROUPS, AND HE SAID YOU'D HAVE TO ASK COMMUNICATIONS?

9 MR. BRIAN: OBJECTION, FORM. ARGUMENTATIVE.

10 THE COURT: YOU CAN LAY THE FOUNDATION WITH
11 THIS WITNESS.

09:24AM

12 BY MR. MADISON:

13 Q YOUR GROUP PREPARED THIS STATEMENT, CORRECT,
14 MS. VANEVERY?

15 A YES.

09:24AM

16 Q SO, I WANT TO ASK YOU, AS THE DIRECTOR OF THAT
17 GROUP, COMMUNICATIONS --

18 A YES.

19 Q -- WHETHER THOSE WERE TRUE STATEMENTS.

20 A YES, THEY WERE.

09:24AM

21 I THINK THAT WHAT I WAS REFERRING TO
22 WITH THIS STATEMENT WAS, WE USED THIRD-PARTY VENDORS.
23 AND WE JUST CREATED A SCREEN THAT MADE IT EASY FOR US
24 TO LOOK -- TO LOOK AND IDENTIFY THE DATA.

25 Q WHERE DOES IT SAY THAT?

09:24AM

26 A I DESCRIBED -- TRY TO DESCRIBE IT IN A MORE
27 SOPHISTICATED WAY THERE.

28 Q OKAY.

1 WELL, WHEN YOU SAY REBUILT OUR SYSTEMS,
2 YOU HAD IN MIND SYSTEMS THAT HAD ALREADY EXISTED AND
3 WERE BEING REBUILT, RIGHT?

4 A THIRD-PARTY SYSTEMS THAT ALREADY EXISTED.

5 Q WELL, DO YOU SEE WHERE IT SAYS: IMPLEMENTING
6 IMPROVEMENTS AND ENHANCEMENTS THAT ARE A NATURAL
7 EVOLUTION --

8 A YES, I DO.

9 Q -- OF OUR TECHNOLOGY.

10 SO, EVOLUTION GENERALLY MEANS THAT
11 SOMETHING EXISTS, AND THEN IT'S MOVING FORWARD; IT
12 CHANGES OVER TIME, RIGHT?

13 A YES. IT DOES.

14 Q YOU WERE REFERRING TO SYSTEMS THAT HAD EVOLVED
15 OVER TIME, RIGHT?

16 A I'M ACTUALLY REFERRING TO THE -- WHAT WE DO
17 WITH THESE THIRD-PARTY DATA SYSTEMS IS WE CREATE
18 PARAMETERS ON WHAT WE WANT TO LOOK AT. IF WE WANT TO
19 LOOK AT DIFFERENT LOAN LEVEL DETAIL, WE'LL CHANGE THOSE
20 PARAMETERS.

21 SO, USING THIRD-PARTY SYSTEMS, THE
22 ENHANCEMENT WAS AT THAT TIME IN THE MARKET WE WOULD
23 CHANGE OUR ASSUMPTIONS TO MEET OUR NEEDS.

24 Q WELL, MA'AM, WHEN YOU WERE TALKING ABOUT YOUR
25 TECHNOLOGY EVOLVING, AND BEING IMPROVED AND BEING
26 ENHANCED, DOUBLELINE HAD EXISTED, WHAT, COUPLE WEEKS
27 WHEN YOU WROTE THIS STATEMENT?

28 A I'M TALKING ABOUT INTELLECTUAL CAPITAL AND THE

1 ABILITY TO CHANGE THE ASSUMPTIONS YOU'RE PULLING FROM
2 THIRD-PARTY SYSTEMS.

3 MR. MADISON: MOVE TO STRIKE THAT ANSWER.

4 THE COURT: MOTION WILL BE DENIED.

5 MR. MADISON: OKAY.

09:26AM

6 Q HOW LONG HAD DOUBLELINE BEEN IN EXISTENCE WHEN
7 YOU WROTE THESE STATEMENTS?

8 A NOT VERY LONG.

9 Q SO, WHEN YOU'RE TALKING ABOUT IMPROVING AND
10 ENHANCING AND EVOLVING OUR TECHNOLOGY AND OUR SYSTEMS,
11 THOSE SYSTEMS AND THINGS THAT HAD BEEN IMPROVED AND
12 ENHANCED AND EVOLVING, CLEARLY HAD EXISTED LONGER THAN
13 DOUBLELINE, HADN'T THEY?

09:26AM

14 A YEAH, BLOOMBERG AND IN TEXT HAD EXISTED A LONG
15 TIME. THEY'RE THIRD-PARTY SYSTEMS.

09:26AM

16 Q THOSE THIRD-PARTY SYSTEMS ARE OUR TECHNOLOGY
17 AT DOUBLELINE?

18 A YES. IT'S THE WAY YOU TAKE DATA FROM THOSE
19 THIRD-PARTY SYSTEMS AND YOU CREATE A SCREEN SHOT OF HOW
20 YOU WANT TO LOOK AT IT AND WHAT INFORMATION. THERE'S
21 HUNDREDS OF THOUSANDS OF LOANS IN THERE.

09:27AM

22 I DON'T WANT TO SEE THEM ALL, BUT I
23 MIGHT WANT TO SEE ONE OR TWO. AND I MIGHT WANT TO SEE
24 CERTAIN STATISTICS ON THEM.

25 Q WAS THIS STATEMENT PROVIDED TO CLIENTS OR
26 POTENTIAL CLIENTS AT DOUBLELINE?

09:27AM

27 A I WOULD IMAGINE.

28 Q YOU HAVE TO BE HONEST WHEN YOU TALK TO

1 CLIENTS, CORRECT?

2 A YES. I WOULD ASSUME SO.

3 Q NOW I WANT TO ASK YOU SOME QUESTIONS GOING
4 BACK TO -- I MEAN, YOU CAN'T EXAGGERATE WITH CLIENTS,
5 RIGHT?

09:27AM

6 A I DON'T THINK THERE'S ANYTHING TO EXAGGERATE.

7 Q THAT WASN'T MY QUESTION, MA'AM. YOU CANNOT
8 EXAGGERATE WHEN YOU SPEAK TO CLIENTS, CAN YOU?

9 A I WOULDN'T, NO.

10 Q YOU CAN'T EMBELLISH WHEN YOU SPEAK TO CLIENTS?

09:27AM

11 A I DON'T THINK THEY'D APPRECIATE THAT.

12 Q YOU HAVE TO BE COMPLETELY FORTHCOMING, DON'T
13 YOU?

14 A I WOULD THINK THAT YOU WOULD -- I'M JUST
15 WRITING THE PROCESS HERE.

09:28AM

16 Q NOW I WANT TO GO BACK AND TALK A LITTLE BIT
17 ABOUT SOME ADDITIONAL EVIDENCE REGARDING THE EFFORTS TO
18 FIND THE NEW SPACE IN THE FALL OF 2009.

19 AND I BELIEVE I ASKED YOU YESTERDAY
20 WHETHER OR NOT MR. GUNDLACH HAD PARTICIPATED IN SOME OF
21 THOSE MEETINGS, AND YOU TOLD US THAT HE HAD, CORRECT?

09:28AM

22 A HE WENT ON TOURS.

23 Q SO IF YOU LOOK AT EXHIBIT 470, THIS IS AN
24 E-MAIL EXCHANGE BETWEEN YOU -- WELL, BETWEEN
25 MR. GUNDLACH AND MR. WARD THAT YOU'RE COPIED ON.

09:28AM

26 I'LL MOVE 470.

27 THE COURT: ANY OBJECTION?

28 MR. BRIAN: LET ME TAKE A MOMENT, YOUR HONOR.

1 NO OBJECTION.

2 THE COURT: IT WILL BE ADMITTED.

3

4 (EXHIBIT 470 ADMITTED.) +

5

09:28AM

6 BY MR. MADISON:

7 Q WE'LL DISPLAY 470.

8 YOU SEE HERE IN NOVEMBER 8 -- 19,

9 MR. WARD REPORTS TO MR. GUNDLACH AND COPYING YOU:

10

JEFFREY, I HAD A GOOD MEETING

09:28AM

11

WITH MATT. CAN WE MEET FOR A FEW

12

MINUTES TOMORROW? I HAVE A MEETING

13

TO GO TO, BARBARA, FROM 9:30 TO

14

11:00, BUT I'M OTHERWISE FREE.

15

GREG.

09:29AM

16

FIRST OF ALL, THE MEETING THAT YOU AND

17

GREG WERE GOING TO, GREG WARD WAS ALSO ABOUT THIS NEW

18

SPACE, THE NEW PROJECT, CORRECT?

19

A I DON'T KNOW FROM READING THIS.

20

Q DO YOU RECALL GOING TO ANY OTHER MEETINGS IN

09:29AM

21

NOVEMBER OF 2009, WITH MR. WARD?

22

A I'M NOT SURE.

23

Q THAT DIDN'T RELATE TO THE NEW PROJECT, THE NEW

24

SPACE?

25

A IT COULD HAVE BEEN AN INTERNAL MEETING. I

09:29AM

26

DON'T KNOW.

27

Q OKAY.

28

AND THEN MR. GUNDLACH RESPONDS:

1 LET'S MAKE IT FOR NOON.

2 RESPONDING TO MR. WARD.

3 DID YOU PARTICIPATE IN THEIR MEETING, IF
4 THAT HAPPENED?

5 A I DON'T THINK SO.

09:29AM

6 Q NOW, MR. WARD WAS -- BY THIS TIME MR. WARD WAS
7 VERY INVOLVED IN CERTAIN ASPECTS OF THE PROJECT FOR THE
8 NEW BUSINESS, CORRECT?

9 A I'M NOT SURE.

10 Q I MEAN, HE WAS ATTENDING THE MEETINGS. FOR
11 EXAMPLE, WITH GOLDMAN SACHS, HE ATTENDED THAT MEETING,
12 CORRECT?

09:30AM

13 A YES, HE DID.

14 Q HE WAS COMING OUT TO LOS ANGELES FROM TIME TO
15 TIME? HE LIVED AND WORKED IN NEW YORK, RIGHT?

09:30AM

16 A YES.

17 Q HE WAS COMING OUT TO LOS ANGELES TO ATTEND
18 MEETINGS WITH THE PROJECT MANAGERS AND ARCHITECTS FOR
19 THE NEW SPACE, RIGHT?

20 A I THINK HE ATTENDED A FEW MEETINGS BY PHONE.

09:30AM

21 Q AND YOU WERE WORKING WITH HIM WITH REGARD TO
22 THE NEW SPACE AND THIS NEW THING CALLED ABLE GRAPE,
23 RIGHT?

24 MR. BRIAN: OBJECTION. COMPOUND, YOUR HONOR.

25 THE COURT: OVERRULED.

09:30AM

26 DO YOU UNDERSTAND THE QUESTION?

27 THE WITNESS: I DO. BUT -- IT'S -- PHRASED IN
28 A WAY THAT'S NOT CORRECT.

1 BY MR. MADISON:

2 Q CAN YOU CORRECT US, THEN?

3 A GREG WARD WAS HELPING ME LOOK FOR REAL ESTATE
4 AND WAS HELPING ME WITH THE PROJECT MANAGER.

5 Q AND ON OTHER THINGS RELATED TO THE NEW
6 BUSINESS, WASN'T HE?

09:30AM

7 A I DON'T KNOW WHAT OTHER THINGS YOU'RE
8 REFERRING TO.

9 Q SO YOU CAN'T THINK OF ANYTHING ELSE OTHER THAN
10 THOSE TWO THINGS?

09:31AM

11 MR. BRIAN: OBJECTION. ARGUMENTATIVE.

12 THE COURT: SUSTAINED.

13 BY MR. MADISON:

14 Q ALL RIGHT, LET ME SHOW A CLIP FROM YOUR
15 DEPOSITION. AND YOU TOLD US YESTERDAY THAT YOU WEREN'T
16 ALWAYS FORTHCOMING IN YOUR DEPOSITION SO I WANT TO SHOW
17 YOU A COUPLE OF CLIPS AND ASK YOU ABOUT THAT?

09:31AM

18 THE COURT: MR. MADISON IF YOU'D LIKE TO HAVE
19 THE DEPOSITION -- READ. WE DON'T NEED THE COMMENTARY.

20 MR. MADISON: OF COURSE.

09:31AM

21 THE COURT: PAGE AND LINE.

22 MR. MADISON: I WANT TO FIRST PLAY THE OATH
23 LINES TEN, 14 THROUGH 19 --

24 MR. BRIAN: COULD I GET THE OTHER PAGE.

25 THE COURT: TEN, 14 THROUGH 19 AND THEN WHAT
26 ELSE?

09:31AM

27 MR. MADISON: PAGE 18, LINES 22 THROUGH
28 PAGE 19 LINE 3.

1 PAGE 23, LINES 19 THROUGH 24, LINE 8.

2 THE COURT: 23, 19 THROUGH 24, LINE 8.

3 MR. MADISON: AND THEN ON PAGE 29, LINE 1
4 THROUGH PAGE 30 LINE 5.

5 THE COURT: THESE HAVE ALL -- PREVIOUSLY THESE
6 WERE ALL IN THE CLIPS THAT WERE PREVIOUSLY SUBMITTED TO
7 THE COURT.

09:32AM

8 MR. BRIAN: NO.

9 MR. MADISON: I BELIEVE THEY WERE, YOUR HONOR.

10 MR. BRIAN: NO, THEY'RE NOT.

09:32AM

11 MAY WE APPROACH?

12 THE COURT: YES.

13 MR. MADISON: THERE ARE TWO MORE. WHILE WE'RE
14 HERE.

15 PAGE 40, LINES 8 THROUGH 15.

09:32AM

16 AND PAGE 62, LINE 22 THROUGH 63,
17 LINE 14.

18 MR. BRIAN: I'M SORRY I MISSED THAT ONE.

19 MAY WE APPROACH, YOUR HONOR?

20 THE COURT: YES, JUST A MOMENT.

09:33AM

21
22 (SIDE-BAR CONFERENCE HELD) +

23
24 THE COURT: ARE WE OFFERING ANY DEPOSITION
25 TESTIMONY THAT HAS NOT BEEN DESIGNATED?

09:34AM

26 MR. MADISON: I DIDN'T THINK SO. BUT I WILL
27 TELL YOU, THIS IS NOT AFFIRMATIVE EVIDENCE NOW. THIS
28 IS IMPEACHMENT. THESE ARE FALSE STATEMENTS SHE HAD

1 MADE IN HER DEPOSITION.

2 AND YESTERDAY SHE -- IT WAS VERY CLEVER
3 TO SAY -- OFFER THIS SORT OF -- SHE WAS SAYING, I
4 WASN'T FORTHCOMING.

5 AND I ASKED HER, WERE THERE OTHER PARTS
6 AND THAT WAS OBJECTED TO. 09:34AM

7 I'VE FOUND A HANDFUL OF PARTS WHERE SHE
8 WAS DISHONEST AND I CONFRONTED HER WITH THOSE --

9 MR. BRIAN: YOUR HONOR, THEY DESIGNATED TWO
10 HOURS OF DEPOSITION. WE SPENT HOURS -- 09:34AM

11 THE COURT: I UNDERSTAND THAT.

12 MR. BRIAN: -- HOURS GOING THROUGH THIS. THEY
13 MADE A DECISION AT THE LAST MINUTE, AS THEY'VE
14 BASICALLY DONE EVERY DAY IN THIS TRIAL, TO CUT IT BACK
15 TO ABOUT TEN MINUTES. 09:34AM

16 YESTERDAY THEY PLAYED IT. AND THEY THEN
17 GOT ADMISSIONS FROM HER ON THE STAND SHE WAS LOOKING
18 FOR PROPERTY FOR COMMERCIAL PURPOSES. AT HER
19 DEPOSITION THEY WANT TO SAY SHE SAID SOMETHING
20 DIFFERENT. 09:35AM

21 THE COURT: SO WHAT?

22 MR. BRIAN: IT'S NOT -- THEY BELIEVE THE
23 TESTIMONY NOW THAT SHE WAS LOOKING FOR COMMERCIAL
24 PROPERTY. THEY'RE NOW SEEKING TO USE PORTIONS OF THE
25 DEPO THAT WERE NOT DESIGNATED AND NOT OFFERED FOR
26 IMPEACHMENT PURPOSES, AND THEY'RE GOING BACK WITHOUT
27 ANY NOTICE. IT'S CUMULATIVE. 09:35AM

28 THE COURT: IF THEY OFFER IT FOR IMPEACHMENT,

1 IT DOESN'T HAVE TO HAVE NOTICE. THAT'S MY CONCERN
2 HERE.

3 MR. BRIAN: IT'S NOT OFFERED FOR IMPEACHMENT.

4 MR. MADISON: IT CERTAINLY IS.

5 MR. BRIAN: SHOW ME. THEY'RE ALL FLAT OUT,
6 INTENTIONALLY FALSE STATEMENTS, INTENDED AT THAT
7 TIME -- MR. BRIAN WASN'T THERE, I DON'T THINK IT WOULD
8 HAVE HAPPENED. THAT'S AN EDITORIAL COMMENT, BUT THEY
9 WERE ALL INTENDED TO AVOID RESPONSIBILITY FOR THE
10 UNDERLYING CONDUCT. AND THEY'RE --

11 THE COURT: I'M NOT INTERESTED IN
12 RESPONSIBILITY FOR THE UNDERLYING CONDUCT.

13 BUT I'M -- WHAT I AM INTERESTED IN IS IF
14 THEY ARE PRIOR INCONSISTENT STATEMENTS WITH TESTIMONY
15 THAT HAD BEEN GIVEN HERE AT TRIAL.

16 MR. MADISON: THEY ARE. YES, YOUR HONOR.

17 THE COURT: IT SEEMS TO ME IT'S LEGITIMATE
18 IMPEACHMENT. I'M MILDLY FRUSTRATED. I DON'T THINK WE
19 SHOULD HAVE A MOVING TARGET HERE. I DON'T LIKE GETTING
20 NEW EXHIBITS LIST EVERY DAY.

21 I DON'T LIKE HAVING, YOU KNOW, THE
22 EFFORTS THAT, ALL PARTIES INCLUDED, INCLUDING
23 THE COURT, ARE PUTTING INTO, TO OBJECTIONS TO
24 DESIGNATED TESTIMONY JUST BEING AN EXERCISE WHEN WE'RE
25 NOT USING ANY OF IT.

26 YOU DESIGNATED A LOT OF TESTIMONY THAT
27 YOU INTEND TO USE AT THIS TRIAL IN LIEU OF LIVE
28 TESTIMONY, OR AS DEPOSITION TESTIMONY OF WITNESSES.

1 I'M NOT SEEING MUCH OF IT. YOU'RE PUTTING EVERYBODY
2 THROUGH THE EXERCISE.

3 I'LL ALLOW YOU, IF IT'S LEGITIMATE
4 IMPEACHMENT, I'LL HAVE TO LOOK AT THE TRANSCRIPT. I
5 CAN'T JUST SAY PLAY IT. BUT I HAVEN'T HAD A CHANCE TO
6 LOOK AT ANY OF THIS.

09:36AM

7 MR. MADISON: YES, YOUR HONOR.

8 MR. BRIAN: BUT WHAT HE'S DOING -- THE
9 IMPEACHMENT, AS YOU KNOW, AND MR. MADISON KNOWS, A
10 SPECIFIC ANSWER AT TRIAL, IF IT'S INCONSISTENT, YOU
11 SHOW A SPECIFIC CLIP FROM A DEPOSITION. THAT'S NOT
12 WHAT HE'S DOING.

09:37AM

13 MR. MADISON: THAT'S EXACTLY --

14 THE COURT: NO, YOU DIDN'T WHEN IT WAS ASKED,
15 AND YOU CAN'T DO IT SERIATIM.

09:37AM

16 MR. BRIAN: THAT'S -- THERE ARE MULTIPLE
17 SUBJECTS BEING COVERED. LET ME GIVE YOU EXAMPLE.

18 THE COURT: WE'LL DEFER ANY FURTHER DEPOSITION
19 TESTIMONY UNTIL I HAVE A CHANCE TO LOOK AT WHAT IS
20 BEING OFFERED.

09:37AM

21 SO YOU GO AHEAD AND FINISH YOUR
22 EXAMINATION, AND IF WE HAVE TO HAVE FURTHER DEPOSITION
23 TESTIMONY OF MS. VANEVERY, WE'LL TAKE IT UP IN ANOTHER
24 DAY.

25 MR. BRIAN: THANK YOU.

09:37AM

26 MR. MADISON: WELL -- ANOTHER DAY OR MAYBE
27 AFTER THE BREAK, YOUR HONOR?

28 THE COURT: MAYBE AFTER THE BREAK, NO. IT

1 DEPENDS HOW MUCH I HAVE TO LOOK AT, MR. MADISON.

2 MR. MADISON: I UNDERSTAND. IF I COULD --

3 THE COURT: IF YOU WANT TO IMPEACH A WITNESS,
4 YOU CAN DO IT THE TRADITIONAL WAY. IF YOU ASK A
5 QUESTION, AND IT'S INAPPROPRIATE, THEN YOU CAN SAY, I'D
6 LIKE TO PLAY FROM YOUR DEPOSITION.

09:37AM

7 I'M NOT TAKING A SERIATIM.

8 MR. MADISON: THAT'S FINE. NO, THAT'S FINE.
9 RIGHT NOW WHAT I DID --

10 THE COURT: I DON'T WANT TO DO THE SAME THING
11 OVER.

09:37AM

12 NOW, I HAVE FIVE DIFFERENT CLIPS OF
13 DEPOSITION TESTIMONY THAT YOU PROPOSED TO PLAY. IT
14 CAN'T REFER TO WHAT SHE JUST SAID.

15 MR. MADISON: NO, NO, ALL I WAS DOING THERE
16 WAS TELLING YOU THAT I WAS NOW ENTERING THEM INTO
17 IMPEACHMENT, AND I'LL SET UP EACH OF THE CLIPS. I WAS
18 GIVING YOU ALL THE CLIPS SO YOU HAVE THEM ALL.

09:38AM

19 THE COURT: WE HAVE THEM. YOU CAN QUESTION
20 THE WITNESS AND WE'LL GO ON ABOUT THIS.

09:38AM

21 MR. MADISON: THANK YOU.

22

23 (SIDE-BAR CONFERENCE CONCLUDED.) +

24

25 MR. MADISON: MAY I PROCEED, YOUR HONOR?

09:38AM

26 THE COURT: YES, YOU MAY.

27 BY MR. MADISON:

28 Q MS. VANEVERY, YESTERDAY WE LOOKED AT

1 EXHIBIT 335, WHICH WAS THE CONFIDENTIALITY AND
2 PROPRIETARY INFORMATION AGREEMENT THAT YOU CREATED.

3 THIS IS IN EVIDENCE, YOUR HONOR. CAN I
4 JUST DISPLAY THAT?

5 THE COURT: YES.

09:39AM

6 MR. MADISON: THIS WAS ACTUALLY INTRODUCED
7 UNDER TWO EXHIBITS, OFFERED, BUT IT WAS INTRODUCED AS
8 2065. THAT'S IN EVIDENCE.

9 THE COURT: 2065 IS ADMITTED?

10 THE CLERK: YES.

09:40AM

11 BY MR. MADISON:

12 Q I ASKED YOU SOME QUESTIONS ABOUT THIS
13 AGREEMENT, DO YOU REMEMBER, YESTERDAY?

14 A YES.

15 Q DO YOU REMEMBER IN YOUR DEPOSITION I ASKED YOU
16 QUESTIONS ABOUT WHETHER YOU HAD EVER ENTERED INTO AN
17 AGREEMENT ABOUT CONFIDENTIAL AND PROPRIETARY
18 INFORMATION?

09:40AM

19 A I GUESS. I DON'T REMEMBER.

20 Q OKAY.

09:40AM

21 WELL, WHAT I'D LIKE TO DO NOW IS PLAY
22 THE OATH FROM THE DEPO, AND I'D LIKE TO PLAY PAGE 62,
23 LINE 22 THROUGH 63, LINE 14.

24 MR. BRIAN: I WOULD OBJECT, YOUR HONOR. I
25 DON'T THINK IT'S PROPER IMPEACHMENT.

09:40AM

26 THE COURT: SUSTAINED.

27 GO ON, MR. MADISON.

28 MR. MADISON: I'D LIKE TO MAKE AN OFFER,

1 PERHAPS AT THE BREAK, YOUR HONOR -- THE OTHER ITEMS --
2 THE COURT: YOU CAN MOVE ON.

3 MR. MADISON: LET ME ASK THE OTHER QUESTIONS,
4 THEN.

5 Q DO YOU RECALL IN YOUR DEPOSITION I ASKED YOU
6 ABOUT ABLE GRAPE AS WELL?

09:41AM

7 A YES.

8 MR. MADISON: AND I'D LIKE TO PLAY, YOUR
9 HONOR, PAGE 29, LINES 1 THROUGH PAGE 30, LINE 5.

10 AND, ALSO, IT WOULD BE PAGE 40, LINE 8
11 OVER TO LINE 15.

09:41AM

12 MR. BRIAN: SAME OBJECTION, YOUR HONOR. IT'S
13 NOT PROPER IMPEACHMENT.

14 WHAT WERE THE SECOND PAGES?

15 THE COURT: 29, 1 THROUGH 30 -- LINE 1 THROUGH
16 30, LINE 5.

09:42AM

17 AND 40, LINE 8 -- LINES 8 THROUGH 15.

18 MR. MADISON: YES, YOUR HONOR.

19 MR. BRIAN: OBJECTION, IT'S NOT PROPER
20 IMPEACHMENT, YOUR HONOR.

09:42AM

21 MR. MADISON: IT DOES CONTRADICT THE
22 TESTIMONY.

23 MR. BRIAN: I'M HAPPY TO ARGUE THAT AT
24 SIDE-BAR IF YOU WANT.

25 THE COURT: I DON'T WANT ANY ARGUMENTS. I
26 DON'T WANT ANY COMMENTS. I'D LIKE TO BE ABLE TO READ
27 IT.

09:43AM

28 GIVE ME A MINUTE. LET ME COME UP WITH

1 SOMETHING HERE.

2

3 (PAUSE) +

4

5 THE COURT: ALL RIGHT.

09:45AM

6 MR. MADISON, THERE'S SIGNIFICANT
7 COLLOQUY BETWEEN COUNSEL, OBJECTIONS.

8 MR. MADISON: THAT'S BEEN REDACTED AND EDITED
9 OUT.

10 THE COURT: IT'S NOT WHAT YOU'VE INCLUDED,
11 WHAT YOU TOLD US YOU WANTED TO READ.

09:45AM

12 SO I WOULD SAY I'D OVERRULE THE
13 OBJECTION AS TO PAGE 30, LINE 17 THROUGH 24.

14 AND PAGE 40, LINES 8 THROUGH 15.

15 MR. MADISON: WE MAY NEED A MOMENT TO DO THE
16 EDITS. SO I'LL MOVE ON TO ANOTHER AREA.

09:45AM

17 THE COURT: ALL RIGHT. FINE.

18 BY MR. MADISON:

19 Q LET ME ASK YOU, MS. VANEVERY, I MEAN, AT THE
20 TIME OF YOUR DEPOSITION IN MAY, MAY 28, 2010, YOU KNEW
21 WHAT CONFIDENTIAL AND PROPRIETARY INFORMATION WAS,
22 DIDN'T YOU?

09:46AM

23 A YES.

24 Q AND THAT WAS ONE OF THE AREAS WHERE, AS YOU
25 ADMITTED YESTERDAY, YOU WEREN'T FORTHCOMING IN YOUR
26 DEPOSITION, CORRECT?

09:46AM

27 A MY DEPOSITION WAS REALLY EMOTIONAL FOR ME.

28 Q SO, MA'AM?

1 A BECAUSE --

2 Q PLEASE EXPLAIN. CAN YOU JUST ANSWER YES OR NO
3 AND THEN EXPLAIN?

4 A THE WAY I WAS FIRED BY YOU WAS REALLY
5 INAPPROPRIATE.

09:46AM

6 THE COURT: ALLOW HER TO FINISH HER ANSWER.
7 AND THEN ASK ANOTHER QUESTION.

8 BY MR. MADISON:

9 Q OKAY.

10 A THE WAY I WAS FIRED BY YOU WAS REALLY
11 INAPPROPRIATE AND UNPROFESSIONAL.

09:46AM

12 THE COURT: MA'AM. YOU NEED TO CONFINE YOUR
13 RESPONSE. I'M GIVING YOU THE OPPORTUNITY TO EXPLAIN
14 YOUR ANSWERS, BUT IT MEANS YOU MUST CONFINE YOUR
15 ANSWERS TO THE SUBJECT OF THE QUESTION.

09:46AM

16 THE WITNESS: OKAY.

17 THE COURT: THIS IS NOT AN OPPORTUNITY TO JUST
18 SAY WHATEVER YOU FEEL LIKE SAYING.

19 THE WITNESS: I UNDERSTAND. I'M SORRY.

20 THE COURT: ALL RIGHT.

09:47AM

21 BOTH OF YOU CAN WORK ON THAT BASIS,
22 WE'LL GET ALONG.

23 MR. MADISON: MOVE TO STRIKE THE ANSWER SO WE
24 CAN START WITH A CLEAN STRIKE.

25 THE COURT: I'LL STRIKE THE RESPONSE.

09:47AM

26 GO AHEAD.

27 BY MR. MADISON:

28 Q ALL RIGHT. MY QUESTION IS, MA'AM, IN THE

1 DEPOSITION, ONE OF THE THINGS THAT YOU WERE NOT
2 FORTHCOMING ABOUT WAS YOUR KNOWLEDGE ABOUT PROPRIETARY
3 AND CONFIDENTIAL INFORMATION.

4 TRUE OR FALSE?

5 A THAT'S TRUE. 09:47AM

6 Q AND ANOTHER THING THAT YOU WEREN'T FORTHCOMING
7 ABOUT WAS THE KNOWLEDGE THAT YOU HAD ABOUT MR. WARD'S
8 WORK ON BEHALF OF THE NEW BUSINESS VENTURE IN THE FALL
9 OF 2009, CORRECT?

10 A THAT'S NOT TRUE. 09:47AM

11 Q ALL RIGHT.

12 LET ME PLAY, THEN, YOUR HONOR -- AGAIN,
13 I WOULD LIKE AN OPPORTUNITY TO PLAY THE OATH WITH
14 REGARD TO THE STATEMENT ABOUT BEING FORTHCOMING.

15 MR. BRIAN: I'LL OBJECT TO THAT, YOUR HONOR. 09:47AM

16 MR. MADISON: AND THEN -- AND THEN WE WOULD
17 ASK TO PLAY PAGE 23, LINES 19, OVER TO PAGE 24, LINE 8.

18 THE COURT: ALL RIGHT.

19 YOU MAY PLAY PAGE 10, LINES 14 TO 19.

20 MR. MADISON: YES, YOUR HONOR. 09:48AM

21

22 (VIDEO DEPOSITION PLAYED OF B. VANEVERY.) +

23

24 BY MR. MADISON:

25 Q WHEN YOU TALKED ABOUT -- 09:48AM

26 THE COURT: JUST A MINUTE. HOLD ON.

27 MR. MADISON: PARDON ME, YOUR HONOR.

28 THE COURT: HOLD ON.

1 MR. MADISON: PARDON ME, YOUR HONOR. YES.

2 THE COURT: YOU MAY PLAY 23, 19 THROUGH 24, 8.

3 MR. MADISON: YES, YOUR HONOR.

4

5 (VIDEO DEPOSITION PLAYED OF B. VANEVERY)+

09:49AM

6

7 BY MR. MADISON:

8 Q YOU WEREN'T BEING FORTHCOMING IN THAT
9 TESTIMONY, WERE YOU, MA'AM?

10 A NO, I WAS NOT.

09:50AM

11 Q IN THE OATH WE HEARD THE TRADITIONAL OATH THAT
12 PROBABLY ALL OF US ARE FAMILIAR WITH FROM TV AND
13 MOVIES, BUT THE TRUTH, THE WHOLE TRUTH, AND NOTHING BUT
14 THE TRUTH.

15 WHEN YOU SAID YOU WEREN'T FORTHCOMING,
16 THE WHOLE TRUTH WOULD REQUIRE YOU TO BE FORTHCOMING,
17 WOULDN'T IT?

09:50AM

18 MR. BRIAN: OBJECTION, ARGUMENTATIVE.

19 THE COURT: SUSTAINED.

20 BY MR. MADISON:

09:50AM

21 Q YOU UNDERSTOOD WHEN YOU TOOK THE OATH YOU WERE
22 SWEARING TO TELL THE TRUTH, THE WHOLE TRUTH, AND
23 NOTHING BUT THE TRUTH, CORRECT?

24 A YES.

25 Q NOW, GENSLER WAS THE NAME WE HEARD IN THAT
26 LAST Q AND A. STUDLEY WE HEARD ABOUT, THEY WERE THE
27 REALTORS AND THE PROJECT MANAGERS, CORRECT?

09:50AM

28 A YES.

1 Q AND GENSLER WAS THE ARCHITECTURE FIRM THAT WAS
2 HIRED TO DO THE ARCHITECTURAL WORK ON THE NEW SPACE,
3 CORRECT?

4 A I HAD JUST SPOKEN WITH THE GENSLER PEOPLE.
5 I'M NOT SURE THEY WERE HIRED.

09:50AM

6 Q YOU INTERVIEWED THEM?

7 A I INTERVIEWED THEM, YES.

8 Q REMEMBER, YESTERDAY WE WERE TALKING ABOUT
9 WHETHER OR NOT A LEASE HAD BEEN SIGNED.

10 AND THERE WERE SOME CONTRACTS THAT YOU
11 AND MR. WARD SIGNED, REGARDING THE NEW SPACE, WEREN'T
12 THERE?

09:51AM

13 A NO.

14 Q WELL, DO YOU RECALL, I THINK WE LOOKED AT
15 YESTERDAY THE RETAINER AGREEMENT AND STUDLEY, THE
16 REALTORS.

09:51AM

17 AND SO THAT WAS A CONTRACT THAT YOU
18 SIGNED HIRING THE REALTORS, CORRECT?

19 A YES. IT WAS NOT A LEASE AGREEMENT.

20 Q NO, NO, I DIDN'T SAY A LEASE.

09:51AM

21 NOW I'M TALKING ABOUT CONTRACTS,
22 GENERAL.

23 A I'M SORRY. I THOUGHT THAT'S WHAT YOU SAID
24 EARLIER.

25 Q QUITE ALL RIGHT.

09:51AM

26 THERE WERE CONTRACTS, OTHER THAN THE
27 SUBLEASE, THAT WERE ACTUALLY EXECUTED, CORRECT?

28 A THERE WASN'T A SUBLEASE EXECUTED.

1 Q THAT'S WHY I SAID OTHER THAN A SUBLEASE.

2 A I JUST SIGNED AN AGREEMENT WITH STUDLEY SO
3 THAT THEY COULD REPRESENT ME.

4 Q YOU ALSO KNEW THAT MR. WARD HAD SIGNED AN
5 AGREEMENT MAKING STUDLEY THE PROJECT MANAGERS, CORRECT? 09:51AM

6 A I DID NOT KNOW THAT.

7 Q SO YOU HAVE NOT SEEN THE PROJECT SERVICES
8 ADVISORY AGREEMENT BETWEEN --

9 A NO, I HAVE NOT.

10 Q -- BETWEEN ABLE GRAPE AND STUDLEY? OKAY. 09:52AM

11 LET ME SHOW YOU QUICKLY EXHIBIT 478. IT
12 SHOULD BE IN YOUR BINDER. IT'S AN E-MAIL FROM
13 MR. GUNDLACH TO YOU.

14 A I DON'T HAVE A 478.

15 Q IT SHOULD BE IN THE OTHER BINDER, THEN, THAT 09:52AM
16 YOU HAD WITH YOU.

17 THE COURT: PERHAPS WE COULD LOOK AT IT --

18 MR. MADISON: IT'S AN E-MAIL TO THE WITNESS.
19 I'LL MOVE THE ITEM, YOUR HONOR.

20 THE COURT: JUST A MOMENT. NOBODY'S BEEN ABLE 09:52AM
21 TO LOOK AT IT YET. IS IT A SINGLE PAGE.

22 MR. BRIAN: I THINK IT'S IN THE BINDER FROM
23 YESTERDAY, YOUR HONOR.

24 THE COURT: IF IT'S A SINGLE PAGE, YOU CAN
25 LOOK IT ON THE SCREEN, MS. VANEVERY. 09:52AM

26 IS THERE ANY OBJECTION?

27 MR. BRIAN: NO, YOUR HONOR.

28 THE COURT: ADMITTED. YOU MAY PUBLISH IT.

1 (EXHIBIT 478 ADMITTED.) +

2
3 MR. MADISON: THANK YOU, YOUR HONOR.

4 Q REMEMBER, YESTERDAY WE WERE TALKING ABOUT THIS
5 JUDD PIECE OF ART, AND HERE IS AN E-MAIL FROM YOU TO
6 MR. GUNDLACH. ON NOVEMBER 11 YOU SAY: QUESTION FOR
7 YOU, IF I WERE TO HANG A JUDD STACK, WHAT WOULD THE
8 HEIGHT HAVE TO BE? YOU HAD OTHER QUESTIONS.

09:53AM

9 MR. GUNDLACH RESPONDS TO YOU WITH
10 DETAILS ABOUT HOW MUCH SPACE WOULD BE NEEDED AND ALL
11 FOR THE JUDD STACK SCULPTURE FOR THE NEW OFFICE,
12 CORRECT?

09:53AM

13 A YES.

14 Q DO YOU RECALL YOU WOULD HAVE MEETINGS FROM
15 TIME TO TIME WITH STUDLEY AND OTHERS TO DISCUSS THE NEW
16 PROJECT? REGULAR -- THERE CAME A TIME WHEN YOU STARTED
17 HAVING REGULAR WEEKLY MEETINGS?

09:53AM

18 A I HAD A COUPLE OF MEETINGS WITH
19 WILLIAM ROBERTS AT STUDLEY.

20 Q MR. ROBERTSON?

09:53AM

21 A YES, SORRY.

22 Q DO YOU RECALL THAT ON -- ACTUALLY, ON MONDAY,
23 DECEMBER 9 -- DECEMBER 1ST, 2009, YOU AND MR. WARD
24 ATTENDED A MEETING WITH MR. ROBERTSON, MR. BRAINARD,
25 AND OTHERS FROM STUDLEY AND GENSLER, THE ARCHITECTURAL
26 FIRM?

09:54AM

27 A I REMEMBER SPEAKING WITH GENSLER. I DON'T
28 THINK THERE WAS ANYONE ELSE FROM STUDLEY BESIDES

1 WILLIAM AND MATT.

2 Q OKAY.

3 BUT DO YOU RECALL THAT WAS ON MONDAY,
4 DECEMBER 1ST?

5 A IF YOU SAY SO. I DON'T REMEMBER THE EXACT
6 DATE.

09:54AM

7 Q DO YOU RECALL THAT MEETINGS WERE KEPT OF
8 THOSE -- MINUTES, RATHER, WERE KEPT OF THOSE MEETINGS?

9 A I DON'T KNOW.

10 Q ALL RIGHT.

09:54AM

11 IF YOU COULD LOOK AT EXHIBIT 1959, THAT
12 MAY REFRESH YOUR RECOLLECTION. THAT'S IN THE BINDER
13 FROM YESTERDAY.

14 A OH, OKAY. I SEE.

15 Q DOES THAT REFRESH YOUR RECOLLECTION THAT THERE
16 WAS A MEETING ON DECEMBER 1ST, 2009?

09:54AM

17 A THAT'S WHAT IT SAYS, YEAH. I DON'T -- I DON'T
18 REMEMBER JESSICA BEING THERE, BUT MAYBE SHE WAS.

19 Q DO THESE LOOK TO BE THE MINUTES OF THAT
20 MEETING?

09:55AM

21 A I THINK OF MINUTES AS NOTES. THIS JUST LOOKS
22 LIKE ATTENDEES.

23 Q YOU SEE UP IN THE UPPER LEFT-HAND, IT SAYS
24 ABLE GRAPE LLC MINUTES?

25 A OKAY. YEAH.

09:55AM

26 Q AND THEN YOU GO BACK, DESCRIPTION OF DIFFERENT
27 TASKS AND DISCUSSION POINTS, IF YOU GO TO THE SECOND
28 PAGE, THIRD PAGE.

1 DO YOU SEE THOSE?

2 A YES.

3 Q ARE THOSE THE THINGS DISCUSSED AT THE MEETING
4 ON DECEMBER 1ST, TO YOUR RECOLLECTION? ARE THOSE THE
5 THINGS --

09:55AM

6 A I THINK THESE ARE STUDLEY'S MINUTES. I'M NOT
7 SURE THAT THEY'RE FROM THIS MEETING, BUT I DON'T THINK
8 THAT'S WHAT WE TALKED ABOUT. GENSLER WOULDN'T BE THERE
9 TO TALK ABOUT A LEASE WITH US.

10 Q OKAY.

09:55AM

11 DO YOU RECALL, AT THE END OF THIS
12 MEETING, THE -- THERE WAS ANOTHER MEETING SCHEDULED FOR
13 DECEMBER 8, THE FOLLOWING MONDAY?

14 A I DON'T KNOW.

15 Q IF YOU LOOK AT THE LAST PAGE OF THE EXHIBIT,
16 PAGE 5, SEE IF THAT REFRESHES YOUR RECOLLECTION ABOUT
17 THAT.

09:56AM

18 A OKAY.

19 Q DOES THAT REFRESH YOUR RECOLLECTION THAT
20 ANOTHER MEETING WAS SCHEDULED FOR THE FOLLOWING MONDAY,
21 DECEMBER 8?

09:56AM

22 A IT LOOKS LIKE WILLIAM WAS PLANNING TO SCHEDULE
23 A MEETING, YES.

24 Q SO, AS OF FRIDAY, THE 4TH, EVERYTHING WAS
25 STILL MOVING FORWARD WITH STUDLEY AND WITH GENSLER,
26 CORRECT?

09:56AM

27 A AS OF DECEMBER 4TH, I WASN'T REALLY CONCERNED
28 ABOUT WHETHER THERE WAS MOVING FORWARD OR NOT.

1 Q IT WAS YOUR UNDERSTANDING THAT THINGS WERE
2 STILL MOVING FORWARD AS OF THAT DATE, CORRECT?

3 A YES, I GUESS SO.

4 Q NOW, REMEMBER I ASKED YOU YESTERDAY ABOUT THE
5 WEBCAST THAT WAS HELD THE WEEK OF DECEMBER 7TH AS PART
6 OF THE NEW VENTURE HAVING A GROUP AT TCW? DO YOU HAVE
7 THAT WEBCAST?

8 A YES.

9 Q LET ME SHOW YOU EXHIBIT 588.

10 THIS IS JUST ONE PAGE, YOUR HONOR. IT'S
11 AN E-MAIL FROM THE WITNESS.

12 SO I MOVE 588.

13 THE COURT: ANY OBJECTION?

14 MR. BRIAN: I NEED TO LOOK AT IT, YOUR HONOR.

15 THE COURT: ALL RIGHT.

16 MR. BRIAN: NO OBJECTION.

17 THE COURT: IT WILL BE ADMITTED.

18

19 (EXHIBIT 588 ADMITTED.) +

20

21 BY MR. MADISON:

22 Q THIS IS AN E-MAIL THAT YOU CAUSED TO BE SENT
23 OUT TO CERTAIN INVESTORS AND OTHERS ABOUT A CONFERENCE
24 CALL WITH MR. GUNDLACH, CORRECT?

25 A YES.

26 Q AND YOU SAID -- THAT SECOND SENTENCE SAYS:

27 OVER THE WEEKEND PHIL BARACH AND

28 THE ENTIRE TCW, M.B.S. PORTFOLIO

09:56AM

09:57AM

09:57AM

09:57AM

09:57AM

1 MANAGEMENT TEAM RELATED TO TGLMX
2 INVESTMENT ACTIVITY RESIGNED.

3 THAT WAS NOT A TRUE STATEMENT AT THAT
4 TIME, WAS IT?

5 A I THINK THE PORTFOLIO MANAGEMENT TEAM DID
6 RESIGN.

09:58AM

7 Q WERE THERE PORTFOLIOS MANAGERS THAT STAYED AT
8 TCW AS OF THE DATE THAT YOU SENT THIS OUT?

9 A NOT THAT I'M AWARE.

10 Q YOU BELIEVED IT WAS A TRUE STATEMENT -- YOU
11 BELIEVED IT WAS A TRUE STATEMENT AT THE TIME YOU
12 PREPARED THIS E-MAIL?

09:58AM

13 THE COURT: WE MISSED IT. THAT WAS YOUR
14 QUESTION.

15 AND YOUR ANSWER WAS YES; IS THAT RIGHT?

09:58AM

16 A YES, I DID.

17 Q THE NEXT PARAGRAPH:

18 IN THE INTERIM, WE ADVISE INVESTORS
19 TO LIQUIDATE THEIR HOLDINGS IN THE
20 FUNDS. THIS ADVICE IS NOT A
21 COMMENT ON THE REPLACEMENT TEAM TO
22 WHICH TCW ASSIGNED INVESTMENT
23 ACTIVITY, BUT RATHER A REFLECTION
24 OF OUR OPINION THAT THE PRESENT
25 PORTFOLIO IS WELL-STRUCTURED AND
26 CAN ABSORB MARKET MOVEMENTS IN THE
27 SHORT TO INTERMEDIATE TERM.

09:59AM

28 SO THIS WAS YOU GIVING ADVICE TO TCW

09:59AM

1 INVESTORS ABOUT THEIR TCW INVESTMENTS, CORRECT?

2 A THIS IS ME TELLING PEOPLE, BASICALLY DON'T
3 PANIC, YOUR PORTFOLIO IS FINE. JEFFREY SET IT UP IN A
4 WAY JUST LIKE HE HAD WITH ALL OF HIS PORTFOLIOS, THAT
5 IT COULD HANDLE SOME OF ABSORPTION IF THE MARKET MOVED.

09:59AM

6 Q YOU WERE GIVING ADVICE TO TCW'S CLIENTS ABOUT
7 THE TCW INVESTMENTS?

8 A I THINK IT'S MY OPINION.

9 Q AND THE PART ABOUT NOT BEING A COMMENT ON THE
10 REPLACEMENT TEAM, SO YOU'RE TELLING THEM, LEAVE YOUR
11 MONEY WHERE IT IS, BUT THAT'S NOT A COMMENT OF THE
12 PEOPLE THAT ARE MANAGING THE MONEY, CORRECT?

09:59AM

13 A I'M NOT GOING TO GIVE AN OPINION ON THE
14 REPLACEMENT TEAM.

15 Q NOW, DO YOU RECALL YESTERDAY I ASKED YOU ABOUT
16 WHETHER A CHECK HAD BEEN SENT TO MR. WARD TO HELP GET
17 THE NEW BUSINESS LAUNCHED?

10:00AM

18 A YES.

19 Q AND LET ME SHOW YOU -- YOU SAID YOU DIDN'T
20 BELIEVE THAT HAD HAPPENED?

10:00AM

21 A I SAID I DID NOT SEND A CHECK.

22 Q OKAY.

23 WELL, LET'S LOOK AT EXHIBIT 395, PLEASE.
24 AND THIS IS AN E-MAIL EXCHANGE BETWEEN YOU AND MR. WARD
25 FROM OCTOBER, LATE OCTOBER, 2009.

10:00AM

26 I'D MOVE 395.

27 THE COURT: ANY OBJECTION? IS THIS A
28 MULTI-PAGE EXHIBIT?

1 MR. MADISON: IT'S TWO, YOUR HONOR.

2 MR. BRIAN: I NEED A MOMENT, YOUR HONOR.

3 SORRY.

4 THE COURT: THAT'S FINE.

5 MR. MADISON: I JUST HAVE A FEW MORE

10:01AM

6 QUESTIONS, YOUR HONOR.

7 THE COURT: ALL RIGHT.

8 MR. BRIAN: NO OBJECTION.

9 THE COURT: IT WILL BE ADMITTED.

10

10:01AM

11 (EXHIBIT 395 ADMITTED.) +

12

13 BY MR. MADISON:

14 Q THIS IS IN A DIFFERENT FORMAT, BUT IF WE LOOK

15 AT -- OVER TO THE SECOND PAGE, WE SEE A MESSAGE FROM

10:01AM

16 OCTOBER 26TH, AND IT SAYS:

17 BARB, SENT YOU A FED-EX FOR

18 DELIVERY TOMORROW MORNING. GIVE ME

19 A CALL WHEN YOU GET IT AND I'LL

20 EXPLAIN WHAT I NEED.

10:01AM

21 DO YOU RECALL WHAT IT WAS THAT MR. WARD

22 SENT TO YOU.

23 A HE SENT ME SOME DOCUMENTS.

24 Q WHAT DOCUMENTS?

25 A THEY WERE FROM MR. GUNDLACH. I DIDN'T OPEN

10:01AM

26 THE FED-EX. I JUST GAVE IT TO HIM.

27 Q SO YOU DIDN'T SEE THE DOCUMENTS THAT WERE

28 INSIDE?

1 A I SAW WHEN HE OPENED IT. THERE WAS DOCUMENTS
2 IN THERE. BUT I WASN'T LOOKING AT THEM.

3 Q WHAT DID THE DOCUMENTS RELATE TO?

4 A I WASN'T SURE.

5 Q THEN YOU REPLY, OVER ON THE NEXT PAGE AT THE
6 BOTTOM, OCTOBER 27, 5:54, YOU WRITE:

10:02AM

7 I RECEIVED IT. I'M WAITING FOR
8 THE MAN TO COME LOOK AT THE
9 PAPERWORK. ONCE IT'S LOCKED AND
10 LOADED, I WILL FED-EX BACK TO YOUR
11 HOUSE. AT 120 WEST 21ST STREET. I
12 WILL LET YOU KNOW WHEN IT GOES OUT.

10:02AM

13 SO, I MEAN, DOES THAT REFRESH YOUR
14 RECOLLECTION THAT YOU HAD SOME IDEA WHAT THE
15 INFORMATION WAS IN THE FED-EX THAT MR. WARD SENT TO
16 YOU?

10:02AM

17 A NO.

18 Q SO, WHAT WAS GOING TO BE LOCKED AND LOADED?

19 A I JUST MEANT HE WANTED IT SIGNED.

20 Q WHO WANTED WHAT SIGNED?

10:02AM

21 A GREG WANTED JEFFREY TO SIGN WHATEVER THE
22 PAPERWORK WAS.

23 Q HOW DID YOU KNOW THAT?

24 A BECAUSE THAT'S WHY HE SENT IT TO ME.

25 Q DID IT SAY THAT IN THE MESSAGE SOMEWHERE HERE?

10:02AM

26 A NO. I MUST HAVE TALKED TO HIM.

27 Q YOU'RE RECALLING NOW THAT YOU DID TALK TO
28 MR. WARD, AND THAT THEY WERE DOCUMENTS THAT

1 MR. GUNDLACH WAS SUPPOSED TO SIGN?

2 A YES.

3 Q BUT YOU DIDN'T LOOK AT THE DOCUMENTS?

4 A NO.

5 Q WEREN'T THEY THE DOCUMENTS FORMING ABLE GRAPE? 10:03AM

6 A I DON'T KNOW.

7 Q WELL, THEN HE SAYS -- MR. WARD SAYS:

8 CAN YOU ALSO GET A CHECK FOR

9 \$50,000 PAYABLE TO ABLE GRAPE LLC.

10 PLEASE SEND FIRST PRIORITY SO I'LL 10:03AM

11 HAVE IT EARLY A.M. IF EITHER OF

12 YOU WANT TO DISCUSS ANY OF THE

13 DOCUMENTS, GIVE ME A CALL ON MY

14 CELL. BY THE WAY, THE

15 CERTIFICATE -- THE CERT OF 10:03AM

16 FORMATION IS JUST FOR HIS RECORDS.

17 SO, WHEN HE WROTE THAT, DID YOU

18 UNDERSTAND WHAT HE WAS TALKING ABOUT?

19 A NO.

20 Q AND THEN IT SAYS -- HE SAYS -- HE WROTE BACK: 10:03AM

21 HE SAID: TOMORROW, HE RAN OUT,

22 HE HAS A MEETING --

23 THEN YOU SAY:

24 GREG, I STILL HAVE NOT GOTTEN A

25 CHECK. I KNOW YOU ARE LEAVING 10:03AM

26 TOMORROW, SO WHAT CAN I DO. CAN IT

27 WAIT TILL YOU GET BACK OR SHOULD I

28 SEND IT DIRECTLY TO THE BANK? LET

1 ME KNOW WHAT TO DO.

2 SO, DOES THIS REFRESH YOUR RECOLLECTION
3 THAT YOU WERE DISCUSSING SENDING A CHECK PAYABLE TO
4 ABLE GRAPE TO HELP GET THE BUSINESS LAUNCHED?

5 A I WAS -- HE ASKED ME TO GET A CHECK. 10:04AM

6 I WAS TRYING TO BE HELPFUL AND ASK HIM
7 WHERE YOU WANT ME TO SEND IT, BUT I NEVER GOT ONE. SO
8 I NEVER SENT ANYTHING.

9 Q DO YOU KNOW WHY MR. WARD WAS ASKING THAT YOU
10 SEND -- PARDON ME. 10:04AM

11 DO YOU KNOW WHY YOU WERE SAYING -- AT
12 THE BOTTOM YOU WERE SAYING YOU WOULD SEND IT TO HIS
13 HOUSE INSTEAD OF OFFICE?

14 A HE ASKED ME TO SEND IT THERE. HE HAD TO GIVE
15 ME HIS ADDRESS. HE SAID HE WASN'T GOING TO BE IN THE
16 OFFICE. 10:04AM

17 Q THAT WAS IN THE CONVERSATION, NOT IN THE
18 E-MAIL?

19 A YES.

20 Q AND, WELL, IN FACT YOU DID SEND A CHECK,
21 DIDN'T YOU, MA'AM? 10:04AM

22 A I DID NOT.

23 Q SO, IF MR. WARD RECALLS THAT YOU DID SEND HIM
24 A CHECK, HE'D BE MISTAKEN?

25 A YES. 10:04AM

26 Q I'D LIKE YOU TO LOOK AT EXHIBIT 2133. AND I
27 BELIEVE THAT MAY BE IN THE POCKET OF THE BINDER HERE.

28 DO YOU RECALL, AT TCW THERE WERE

1 RECEIPTS GENERATED FOR ALL THE FED-EXES THAT WENT OUT?

2 A YES.

3 Q THIS IS A FED-EX RECEIPT SHOWING THAT YOU SENT
4 A FED-EX TO MR. WARD AT HIS HOME ADDRESS ON OCTOBER 27,
5 2009, ISN'T IT?

10:05AM

6 A YES.

7 MR. MADISON: I'D MOVE EXHIBIT 2133.

8 MR. BRIAN: NO OBJECTION.

9 THE COURT: IT WILL BE ADMITTED.

10

10:05AM

11 (EXHIBIT 2133 ADMITTED.) +

12

13 BY MR. MADISON:

14 Q BY THE WAY, IF WE CAN JUST DISPLAY THAT, THIS
15 IS JUST THE FED-EX THAT YOU SENT TO MR. WARD AT HIS
16 HOME, CORRECT?

10:05AM

17 A YES.

18 Q NOW, THE E-MAIL ADDRESS THAT YOU HAVE, YOU
19 WERE USING YOUR PERSONAL E-MAIL, IF WE GO BACK TO 395.

20 IT'S B -- BARVAN11@GM.

10:05AM

21 DOES THE 11 HAVE SOME RELATION TO
22 DOUBLELINE? THE TWO LINES LOOKING LIKE AN 11?

23 A I ALWAYS USE THE NO. 11. THERE'S -- I DIDN'T
24 THINK OF IT THAT WAY.

25 Q DID YOU OPEN THAT ACCOUNT SOMETIME THAT FALL,
26 THE GMAIL ACCOUNT?

10:06AM

27 A I DON'T REMEMBER WHEN I OPENED THAT ACCOUNT.

28 Q MR. GUNDLACH ALSO HAD A PERSONAL ACCOUNT THAT

1 USED THE NO. 11, DIDN'T HE?

2 A THAT'S BECAUSE I SET IT UP FOR HIM AFTER WE
3 WERE FIRED IN DECEMBER. SO PEOPLE HAD A WAY TO CONTACT
4 HIM.

5 Q SO YOU WENT DOWN TO THE PHONE STORE OR
6 WHEREVER YOU GO TO DO THAT?

10:06AM

7 A YES.

8 Q -- AND GOT THE ACCOUNT?

9 WAS HE WITH YOU AT THAT TIME?

10 A YES, BECAUSE HE HAD NEVER PURCHASED A PHONE,
11 SO HE WANTED ME TO COME WITH HIM.

10:06AM

12 Q AND YOU WANTED HIM TO HAVE AN 11 IN HIS
13 ADDRESS AS YOU HAD THE 11 IN YOURS?

14 A THEY SAID, WHAT DO YOU WANT FOR AN E-MAIL
15 ADDRESS, AND I JUST THREW IT OUT THERE.

10:06AM

16 Q JGUNDLACH11?

17 A I THINK THAT WAS IT.

18 Q JUST COUPLE MORE EXHIBITS AND THEN I'M DONE,
19 MA'AM.

20 EXHIBIT 192, AN E-MAIL FROM MR. GUNDLACH
21 TO YOU, AND THEN FROM HIM TO YOU.

10:07AM

22 I'D MOVE 192.

23 MR. BRIAN: NO OBJECTION.

24 THE COURT: IT WILL BE ADMITTED.

25

10:07AM

26 (EXHIBIT 192 ADMITTED.) +

27

28 ///

1 BY MR. MADISON:

2 Q THIS IS DATED FRIDAY, MAY 29.

3 YOUR HONOR, IT'S BEEN REDACTED TO OMIT
4 PERSONAL STATEMENTS, SO THERE'S SOME WHITEOUTS HERE.

5 THE PART I WANT TO ASK YOU ABOUT,
6 MS. VANEVERY, IS UP IN THE FIRST PARAGRAPH OF THE TOP
7 E-MAIL, WHERE MR. GUNDLACH IS WRITING TO YOU. IT SAYS:

10:07AM

8 ANOTHER HEAD SPINNER OF A DAY.

9 ATTANASIO AND I WENT AND TALKED TO
10 STERN AND DAY TOGETHER, AND IT
11 WASN'T A HAPPY GROUP.

10:07AM

12 LET ME STOP YOU THERE.

13 MR. STERN WAS THE INCOMING CEO AS OF
14 MAY 29, CORRECT?

15 A YES.

10:08AM

16 Q HE STARTED ON JUNE 1.

17 DO YOU RECALL THAT?

18 A I GUESS, YEAH.

19 Q MR. DAY WAS THE FOUNDER OF THE FIRM AND
20 CHAIRMAN OF THE BOARD, RIGHT?

10:08AM

21 A YES.

22 Q YOU HAD HEARD MR. GUNDLACH REFER TO MR. STERN
23 AND MR. DAY AS DUMB AND DUMBER, HADN'T YOU?

24 A I HEARD DUMB AND DUMBER, BUT I DON'T KNOW IF
25 IT WAS IN REFERENCE TO STERN AND DAY.

10:08AM

26 Q COULD IT BE SOME OTHER TWO PEOPLE?

27 A SURE.

28 Q ANYONE COME TO MIND?

1 A NO ONE IN PARTICULAR.

2 Q THEN HE SAYS:

3 I TOLD STERN AND -- LOOKS LIKE
4 IT SHOULD BE DAY -- THAT I MIGHT
5 POSSIBLY BE ABLE TO WORK WITH THEM,
6 BUT I WON'T WORK FOR THEM IN ANY
7 WAY.

10:08AM

8 MR. GUNDLACH EXPRESSED THAT SAME
9 SENTIMENT TO YOU ORALLY, DIDN'T HE, THERE WAS NO WAY HE
10 WAS GOING TO WORK FOR MARC STERN AS THE CEO.

10:08AM

11 A I THINK HE WAS UNHAPPY ABOUT MARC STERN COMING
12 BACK AND, OBVIOUSLY, MR. ATTANASIO WAS, TOO.

13 Q DID YOU EVER SPEAK TO MR. ATTANASIO ABOUT
14 THAT?

15 A NO. I'M JUST READING THIS E-MAIL.

10:09AM

16 Q YOU DON'T HAVE ANY SORT OF RELATIONSHIP WITH
17 MR. ATTANASIO WHERE YOU WOULD SPEAK EVERY DAY OR WORK
18 TOGETHER OR ANYTHING LIKE THAT?

19 A I DID ACTUALLY WORK WITH MR. ATTANASIO AND HIS
20 GROUP.

10:09AM

21 Q NOW, IN EARLY SEPTEMBER WE HEARD ABOUT A
22 MEETING THAT OCCURRED ON SEPTEMBER 3RD, AND I WANT TO
23 SHOW YOU AN E-MAIL FROM SEPTEMBER 4TH. IT'S
24 EXHIBIT 277.

25 IT'S ONE PAGE, YOUR HONOR, AND IT'S FROM
26 THE WITNESS.

10:09AM

27 SO I'D MOVE 277.

28 THE COURT: THIS IS ALSO AN E-MAIL?

1 MR. MADISON: YES, YOUR HONOR.

2 THE COURT: ANY OBJECTION?

3 MR. BRIAN: NO OBJECTION.

4 THE COURT: IT WILL BE ADMITTED.

5

10:10AM

6 (EXHIBIT 277 ADMITTED.) +

7 BY MR. MADISON:

8 Q SO HERE, ON SEPTEMBER 4, YOU WRITE TO
9 LOREN FLECKENSTEIN, AND HE WAS SOMEONE IN MARKETING FOR
10 TCW, CORRECT?

10:10AM

11 A NO. HE WAS AN ANALYST.

12 Q IN WHAT GROUP?

13 A IN THE MORTGAGE GROUP.

14 Q AND YOU SAY:

15 GOT YOUR MESSAGE. VERY
16 INTERESTING. PERHAPS WE SHOULD GET
17 THE SAME LIST OF INVESTORS. OF
18 COURSE WE COULD ALWAYS SUBPOENA IT.
19 BUT IT SEEMS EASIER TO ASK YOUR
20 CONTACT, OR I CAN ASK RON AND
21 NABIL.

10:10AM

10:10AM

22 YOU'RE REFERRING HERE TO A VOICEMAIL
23 MESSAGE THAT YOU RECEIVED FROM MR. FLECKENSTEIN,
24 CORRECT?

25 A YES.

10:10AM

26 Q IN THAT MESSAGE YOU HAD INDICATED THAT SOMEONE
27 IN MANAGEMENT AT TCW HAD REQUESTED A LIST OF INVESTORS
28 FOR A FUND, CORRECT?

1 A YES. I BELIEVE THAT ERIN FREEMAN, THE HEAD OF
2 COMMUNICATIONS, WAS PREPARING A PRESS RELEASE FOR
3 MR. STERN RELATED TO THE MUTUAL FUND.

4 AND HE WANTED THE MUTUAL FUND INVESTOR
5 LIST IN ORDER TO CONTACT THEM.

10:11AM

6 Q SO YOU WERE SAYING THAT YOU WANTED TO GET THE
7 SAME LIST OF TCW INVESTORS, CORRECT?

8 A YES, I DID.

9 Q AND YOU WERE THINKING ABOUT LEGAL PROCESS AS A
10 WAY TO GET IT WHEN YOU SAID YOU COULD SUBPOENA IT,
11 RIGHT?

10:11AM

12 A I LEARNED THAT I WAS BEING FIRED RIGHT BEFORE
13 THEN. AND I WAS DEFENSIVE, AS ANYONE WOULD BE IF THEY
14 THINK THEY'RE GOING TO LOSE THEIR JOB.

15 AND I WAS DEFENSIVELY SAYING MAYBE WE
16 SHOULD GET THAT LIST, TOO, BECAUSE IF THEY'RE GOING TO
17 BE SENDING OUT A PRESS RELEASE ABOUT US, I WOULD LIKE
18 TO SEND OUT INFORMATION TO THOSE SAME PEOPLE.

10:11AM

19 Q YOU HAD HEARD A RUMOR JUST IN THE LAST COUPLE
20 OF DAYS THAT MR. GUNDLACH MIGHT BE FIRED, CORRECT?

10:11AM

21 A I HAD HEARD THAT WE WERE GOING TO BE FIRED.
22 THAT INCLUDED MR. GUNDLACH.

23 Q AND THAT WAS JUST IN THE LAST COUPLE OF DAYS,
24 RIGHT?

25 A IT WAS THE END OF AUGUST.

10:12AM

26 Q THAT WAS THE FIRST TIME YOU'D HEARD THAT
27 RUMOR, WASN'T IT?

28 A YES.

1 Q THEN YOU GO ON TO SAY:

2 IF YOU CAN GATHER IT FROM YOUR
3 SOURCE, I BELIEVE IT WOULD BE
4 HELPFUL.

5 SO YOU UNDERSTOOD MR. FLECKENSTEIN HAD
6 SOME SOURCE, INSIDE TCW SOMEWHERE, THAT WOULD BE ABLE
7 TO GET THIS TCW INFORMATION? 10:12AM

8 A WHEN I GOT LOREN'S MESSAGE, SOMEONE HAD TOLD
9 HIM THAT THEY WERE COLLECTING THIS LIST. SO THAT WAS
10 THE SOURCE THAT I WAS REFERRING TO. 10:12AM

11 THE TWO NAMES I LISTED HERE, RON WAS
12 PRESIDENT OF THE MUTUAL FUND GROUP, AND NABIL DID THE
13 ACCOUNTING.

14 I NEVER ENDED UP ASKING FOR A LIST, AND
15 I NEVER GOT ONE. 10:12AM

16 Q BUT, YOU WERE -- THAT'S WHAT YOU WERE
17 CONTEMPLATING WHEN YOU MADE THAT STATEMENT TO
18 MR. FLECKENSTEIN?

19 A I WAS THINKING THAT IT WOULD BE HELPFUL.

20 Q SUGGESTING -- 10:12AM

21 A IF THEY PUT OUT A PRESS RELEASE, I WOULD LIKE
22 TO BE ABLE TO RESPOND.

23 Q THE PRESS RELEASE, NOT THE LIST?

24 A THEY WERE REQUESTING THE LIST BECAUSE THEY
25 WERE PREPARING A PRESS RELEASE. 10:13AM

26 Q AND YOU WEREN'T ASKING FOR THAT FOR TCW
27 BUSINESS, WERE YOU, MA'AM?

28 A ASKING FOR WHAT? THE LIST?

1 Q WHATEVER IT WAS YOU WERE ASKING, THE LIST, THE
2 PRESS RELEASE, THE THINGS YOU WERE SAYING WOULD BE GOOD
3 TO GET.

4 A I'M NOT SURE I UNDERSTAND WHAT YOU'RE ASKING.

5 Q YOU SAID PERHAPS WE SHOULD GET THE SAME LIST 10:13AM
6 OF INVESTORS. YOU SAID IF YOU CAN GATHER IT FROM YOUR
7 SOURCE.

8 THOSE THINGS THAT YOU WERE REFERRING TO,
9 YOU WEREN'T TALKING ABOUT GETTING THOSE ITEMS FOR TCW
10 BUSINESS, WERE YOU? 10:13AM

11 A TCW WAS PREPARING A PRESS RELEASE TO FIRE US,
12 SO...

13 Q YOU WANTED TO USE THESE ITEMS FOR YOUR OWN
14 INTERESTS?

15 A I WANTED TO BE ABLE TO CONTACT THE SAME PEOPLE 10:13AM
16 TO LET THEM KNOW.

17 Q OKAY.

18 AND THEN -- THEN YOU SAY:

19 LIKE I TOLD YOU A FEW MONTHS
20 AGO, GATHERING PERTINENT DATA WOULD 10:14AM
21 BE ADVISED.

22 SO YOU HAD TOLD MR. FLECKENSTEIN A FEW
23 MONTHS EARLIER THAT GATHERING PERTINENT DATA WOULD BE
24 ADVISED, RIGHT?

25 A THAT'S WHAT IT SAYS. 10:14AM

26 Q WELL, YOU WROTE IT, RIGHT?

27 A I DID, YES.

28 Q SO YOU HAD JUST HEARD, IN THE LAST COUPLE OF

1 DAYS FOR THE FIRST TIME, A RUMOR THAT YOU WERE GOING TO
2 BE FIRED.

3 BUT A FEW MONTHS EARLIER, YOU HAD
4 ADVISED MR. FLECKENSTEIN TO GATHER PERTINENT DATA,
5 DIDN'T YOU?

10:14AM

6 A THE TWO --

7 Q YOU CAN SAY YES OR NO.

8 A -- THE TWO ARE A LITTLE BIT UNRELATED.

9 Q OKAY.

10 IS THAT YES OR NO?

10:14AM

11 A I HAD SPOKEN WITH HIM AND HAD CONVERSATIONS
12 WITH HIM BECAUSE HE HAD GOTTEN A NEW BOSS THAT HE WAS
13 NOT VERY THRILLED WITH, SO I HAD TOLD HIM MAYBE HE
14 SHOULD SAVE HIS WORK.

15 Q SO YOU'RE GOING BACK TO THAT CONVERSATION WITH
16 MR. FLECKENSTEIN, NOT THE OTHER THINGS THAT WERE ON
17 YOUR MIND MONTHS EARLIER ABOUT WAMCO, DOUBLELINE,
18 U.B.S., AND OTHER -- AND ANY OTHER OPTION.

10:14AM

19 IS THAT YOUR TESTIMONY, MA'AM?

20 A I THINK IT'S JUST A REMINDER OF WHAT OUR
21 CONVERSATION WAS ABOUT.

10:15AM

22 MR. MADISON: SUBJECT TO PLAYING THE OTHER
23 TESTIMONY, I WOULD PASS THE WITNESS, YOUR HONOR.

24 THE COURT: LET'S TAKE OUR MORNING RECESS.

25 LADIES AND GENTLEMEN, WE'LL COME BACK 25
26 MINUTES TO 11:00. THE JURY IS EXCUSED.

10:15AM

27 WE'RE GOING TO COME BACK AT 20 MINUTES
28 TO 11:00. I HAVE COUPLE THINGS TO TALK THE LAWYERS

1 ABOUT. AND THAT WAY EVERYBODY WILL GET THEIR BREAK.

2

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

4

5 THE COURT: WE'RE OUT OF THE PRESENCE OF THE
6 JURY.

10:16AM

7 MR. MADISON, LET ME SAY TWO THINGS HERE.

8 IF YOU WANT TO IMPEACH THE WITNESS WITH
9 SPECIFIC DEPOSITION TESTIMONY, IT SHOULD BE AT THE TIME
10 THAT YOU ELICIT THE TESTIMONY.

10:16AM

11 I'M NOT GOING TO ALLOW YOU KNOW, A
12 SERIATIM SHOW OF CLIPS FROM THE DEPOSITION UNRELATED TO
13 THE TESTIMONY THAT WE JUST HAD, OR GOING BACK OVER
14 YESTERDAY'S TESTIMONY AND TODAY'S TESTIMONY.

15 IT MAY BE EFFECTIVE FROM A, YOU KNOW,
16 PRESENTATION POINT OF VIEW, BUT I DON'T THINK IT SHOULD
17 BE THAT WAY.

10:16AM

18 I ALSO FULLY APPRECIATE, YOU KNOW, THE
19 ART OF CROSS-EXAMINATION AND EFFECTIVE ADVOCACY, BUT
20 YOU NEED TO ALLOW THE WITNESS TO ANSWER. YOU SHOULDN'T
21 BE TESTIFYING. AND THERE SHOULD BE QUESTIONS
22 ASSOCIATED WITH YOUR COMMENTS.

10:16AM

23 THAT SAID, IS IT THE SAME TESTIMONY THAT
24 YOU PREVIOUSLY IDENTIFIED THAT YOU NOW FEEL YOU'VE GONE
25 THROUGH ALL THESE THINGS YOU TALKED ABOUT YESTERDAY AND
26 YOU NOW WANT TO USE TO IMPEACH?

10:17AM

27 MR. MADISON: LET ME MAKE MY OFFER OF PROOF,
28 YOUR HONOR.

1 THE COURT: ALL RIGHT.

2 MR. MADISON: THIS IS A PARTY TO THE ACTION,
3 ONE OF THE DEFENDANTS. ANY STATEMENT THAT SHE MAKES
4 THAT'S RELEVANT TO THE LAWSUIT IS, OF COURSE, AN
5 ADMISSION. AND THERE'S SIMPLY NO OBJECTION BASED ON
6 HEARSAY. 10:17AM

7 WHAT WE HAVE HERE IS SWORN TESTIMONY,
8 SWORN STATEMENTS OF THE WITNESS.

9 COULD THE WITNESS BE EXCUSED, ACTUALLY,
10 YOUR HONOR? 10:17AM

11 THE COURT: YES, MA'AM, YOU MAY STEP TOWN.
12 PLEASE STEP OUT OF THE COURTROOM.

13
14 (PAUSE) +

15
16 MR. MADISON: OKAY. SO MY STATEMENT THAT SHE
17 MAKES THAT'S RELEVANT IS AN ADMISSION. 10:18AM

18 CERTAINLY, SWORN TESTIMONY THAT SHE
19 GIVES IS CERTAINLY AN ADMISSION AND ALSO, IN THIS CASE,
20 WHERE IT DIFFERS FROM HER TRIAL TESTIMONY, IT CAN BE
21 OFFERED TO SHOW THE DIFFERENCES IN THE TESTIMONY. 10:18AM

22 NOW, HERE WHAT WAS DONE WAS VERY CLEVER,
23 YOU KNOW, A BLANKET STATEMENT BY THE WITNESS THE FIRST
24 TIME WE GOT, YESTERDAY, TO A PART OF HER DEPOSITION
25 WHERE SHE NOW WANTS TO CHANGE HER STORY. 10:18AM

26 SHE SAID, YOU KNOW, LET ME APOLOGIZE, I
27 WASN'T FORTHCOMING IN MY DEPO.

28 AND I ASKED, WELL, ARE THERE OTHER

1 PLACES WHERE YOU WEREN'T FORTHCOMING? AND THERE WAS AN
2 OBJECTION WHICH WAS SUSTAINED. WELL TAKEN.

3 THAT WOULD CALL FOR A NARRATIVE. THAT'S
4 TOO MUCH THERE.

5 SO, WHAT I DID LAST NIGHT, I WENT
6 THROUGH THE DEPOSITION TRANSCRIPT, NOW THAT SHE'S
7 ADMITTED THAT SHE WAS GIVING FALSE TESTIMONY IN HER
8 DEPOSITION, AND I WENT THROUGH AND I SELECTED FOUR OR
9 FIVE CLIPS THAT, IN FACT, ARE 180 DEGREES FROM WHAT SHE
10 NOW TESTIFIED TO THIS JURY.

11 AND I BELIEVE THAT, FOR ALL THE REASONS
12 I'VE STATED, I SHOULD BE ALLOWED TO SIMPLY JUST PLAY
13 THOSE. I DON'T THINK THE WITNESS CAN GET OFF BY
14 SAYING, YOU KNOW, I GAVE MY APOLOGY, I SAID I WASN'T
15 FORTHCOMING, AND THAT'S THE END OF THAT.

16 THE COURT: THE APOLOGY WAS LIMITED TO THE
17 JUDD STACK THAT SHE WAS NOT FORTHCOMING ABOUT THAT, AS
18 I RECALL YESTERDAY'S TESTIMONY. I MAY -- YOU MAY HAVE
19 INTERPRETED IT ON A BROADER SCALE. I DIDN'T.

20 THAT SAID, YOU ARE VERY FAMILIAR WITH
21 THIS WITNESS'S TESTIMONY. YOU ARE A VERY THOROUGH AND
22 DETAIL-ORIENTED LAWYER, FOR WHICH I APPLAUD YOU.

23 BUT IF YOU WANT TO IMPEACH A WITNESS,
24 AND I DON'T EXPECT THIS TO HAPPEN WITH EVERY WITNESS,
25 IT'S NOT COMING AT THE END WITH A 15-MINUTE SEGMENT OF
26 AHA, HERE ARE ALL THE THINGS THEY TOLD YOU THAT AREN'T
27 TRUE.

28 YOU CAN DO IT AS YOU QUESTION THE

1 WITNESS .

2 MR. MADISON: IF I COULD, THAT WAS JUST A BIG
3 MISUNDERSTANDING. I GOT TO THE FIRST ONE OF THOSE
4 TODAY, AND THERE WAS AN OBJECTION. AND JUST SO WE
5 WOULDN'T HAVE TO KEEP GOING THROUGH IT, I GAVE THE FOUR
6 OR FIVE CLIPS THAT I WANTED TO PLAY. 10:20AM

7 BUT, AS I THINK I DID WITH THE COUPLE
8 THAT I DID PLAY, I WAS PREPARED TO SET EACH ONE OF THEM
9 UP.

10 IF THE COURT THOUGHT WE WERE JUST GOING
11 TO PLAY, I DID NOT INTEND TO DO THAT. I WANTED TO MAKE
12 SURE WE ALL KNEW. 10:20AM

13 THE COURT: MR. BRIAN.

14 MR. BRIAN: I'LL QUARREL WITH THAT.

15 I'LL ACCEPT MR. MADISON'S
16 REPRESENTATION, BUT THAT'S NOT HOW IT PROCEEDED. 10:20AM

17 THE WAY IT PROCEEDED, LET ME SAY THIS.
18 THE WAY IT SHOULD HAVE PROCEEDED, IF HE HAS A QUESTION,
19 HE ASKS THE QUESTION. IF HE THINKS THERE'S SOMETHING
20 IN THE TRANSCRIPT -- HER TRANSCRIPT, HER PRIOR
21 DEPOSITION TRANSCRIPT THAT IMPEACHES IT, HE SHOULD THEN
22 PLAY THE DEPOSITION. THAT'S NOT WHAT HE DID. 10:20AM

23 HE QUESTIONED HER FOR ABOUT FOUR AND A
24 HALF HOURS AND THEN HE GAVE US SIX OR SEVEN CLIPS AND
25 SAID I NOW WANT TO IMPEACH. 10:20AM

26 NOW, TO SET THAT UP AS IMPEACHMENT, IF
27 HE WAS GOING TO DO IT THAT WAY, HE WOULD HAVE HAD TO
28 REPEAT THE QUESTIONS HE PREVIOUSLY ASKED. THAT IS NOT

1 THE WAY TO DO IT.

2 YOU DON'T SAVE UP YOUR IMPEACHMENT FOR
3 THE END OF THE DEPOSITION AND THEN SORT OF PLAY THIS
4 SPLASH FOR THE JURY.

5 THE COURT: I'VE ALREADY SAID I DON'T WANT TO
6 SEE THAT. 10:21AM

7 MR. BRIAN: THAT'S WHAT HE WAS DOING.

8 THE COURT: OKAY.

9 MR. BRIAN: HE SHOULD HAVE DONE IT YESTERDAY.
10 HE SHOULD HAVE DONE IT EARLY THIS MORNING. THAT'S NOT
11 WHAT HE DID. HE CHOSE TO DO IT A CERTAIN WAY. SO, AT
12 SOME POINT IT BECOMES CUMULATIVE. 10:21AM

13 AND THAT'S -- ON THAT ISSUE, YOUR HONOR
14 HAS TOTAL DISCRETION.

15 NOW, YOU'VE ALLOWED HIM TO PLAY IT, I
16 THINK, THE BULK OF THE CLIPS HE WANTS TO PLAY, AND HE
17 GOT WHATEVER MILEAGE HE GOT OUT OF THAT. 10:21AM

18 I THINK IT'S TIME TO MOVE ON.

19 THE COURT: WELL, THE QUESTION IS, WHAT'S LEFT
20 THAT YOU WANT TO PLAY, AND -- I DON'T EXPECT THIS TO
21 HAPPEN WITH OTHER WITNESSES. I THINK THAT,
22 FUNDAMENTALLY, IF YOU WANT TO USE A DEPOSITION TO
23 IMPEACH, IT SHOULD BE AT OR ABOUT THE SAME TIME THAT
24 YOU ASKED THE QUESTIONS AND GET DIFFERENT ANSWERS IN
25 COURT. 10:21AM

26 I DO NOT WANT THIS AT THE END OF A
27 WITNESS'S TESTIMONY, HERE, AND WE WANT TO OFFER ALL OF
28 THIS. 10:22AM

1 MR. MADISON: I WILL SAY, YOUR HONOR, CLEARLY,
2 YOU HAVE THE SUPERVISORY AUTHORITY OVER THE TRIAL. BUT
3 WHEN WE ARE TALKING ABOUT A PARTY WHO HAS GIVEN SWORN
4 TESTIMONY, I STRENUOUSLY OBJECT TO MR. BRIAN'S TRYING
5 TO STEER THE TIMING AND THE MANNER IN WHICH WE
6 INTRODUCE THAT SWORN TESTIMONY.

10:22AM

7 THE COURT: IF YOU WANTED TO OFFER THE
8 TESTIMONY OF THE WITNESS, WE WENT THROUGH AN ELABORATE
9 PROCESS OF DESIGNATING DEPOSITION CLIPS,
10 COUNTERDESIGNATING.

10:22AM

11 I'VE GONE THROUGH HOURS OF OBJECTIONS ON
12 EACH WITNESS'S TESTIMONY. THAT'S THE PART THAT YOU
13 FELT WAS IMPORTANT TO YOUR CASE IN CHIEF. THAT'S FINE.

14 WE'RE PLAYING THAT. AS IT'S OFFERED.

15 AS FAR AS ADDITIONAL DEPOSITION
16 TESTIMONY THAT YOU WISH TO OFFER TO IMPEACH THE
17 WITNESS'S TESTIMONY HERE IN COURT, YOU CAN OFFER IT,
18 AND WE'LL OFFER IT WHEN THE WITNESS TESTIFIES ABOUT
19 THAT SUBJECT, AND NOT IN A CUMULATIVE OR SUMMARY
20 FASHION AT THE END OF THE WITNESS'S TESTIMONY.

10:22AM

10:23AM

21 MR. MADISON: WELL, ALL I CAN TELL YOU IS THAT
22 WE WERE QUITE SURPRISED TO -- TO HEAR -- A REVIEW OF
23 THE RECORD WOULD MAKE REALLY CLEAR. IT WAS NOT
24 LIMITED.

25 SHE GAVE A SPEECH ABOUT HOW SHE WAS VERY
26 EMOTIONAL, AND SHE REPEATED IT AGAIN TODAY. I WAS VERY
27 EMOTIONALLY -- WASN'T FORTHCOMING, AND I OWE YOU AN
28 APOLOGY, AND ON AND ON AND ON.

10:23AM

1 FRANKLY, I WASN'T PREPARED FOR THAT. I
2 WOULD GIVE HER CREDIT FOR IT, BUT IT DOESN'T DEPRIVE ME
3 OF THE OPPORTUNITY THEN TO PLAY FOR THE JURY THE FALSE
4 TESTIMONY OF THIS WITNESS THAT SHE GAVE. IT'S NOT A
5 PASS --

10:23AM

6 THE COURT: I'M TELLING YOU, I'LL ALLOW YOU TO
7 PLAY WHAT YOU'VE OFFERED, BUT I DON'T WANT TO SEE THIS
8 ON ANOTHER WITNESS.

9 MR. BRIAN: YOUR HONOR --

10 MR. MADISON: YES, YOUR HONOR.

10:23AM

11 THE COURT: I'M NOT GOING THROUGH THIS AGAIN.

12 MR. MADISON: PERHAPS COUNSEL CAN TELL US IF
13 OTHER WITNESSES ARE GOING TO OFFER BLANKET APOLOGIES
14 FOR TESTIMONY --

15 THE COURT: I WANT A LEVEL PLAYING FIELD. I
16 DON'T -- I DON'T LIKE CHEAP SHOTS. I DON'T WANT ANY
17 HOLDING BACK.

10:24AM

18 WE SPENT A LOT OF TIME PREPARING THE
19 CASE. YOU ALL ARE WELL-PREPARED AND YOU KNOW WHAT
20 YOU'RE DOING. IF YOU'RE DOING SOMETHING THAT STRIKES
21 ME AS LESS THAN STRAIGHTFORWARD OR APPROPRIATE, I'M
22 GOING TO LET YOU KNOW.

10:24AM

23 MR. MADISON: YES, YOUR HONOR.

24 THE COURT: OKAY.

25 MR. BRIAN: I DON'T ACCEPT THAT
26 REPRESENTATION. I'M SORRY.

10:24AM

27 THE ITEMS HE'S SEEKING TO IMPEACH WITH
28 DEAL WITH DISCRETE AREAS. FOR EXAMPLE, ABLE GRAPE.

1 YOU ALLOWED HIM TO IMPEACH WITH THAT. I QUARREL WITH
2 THAT. I DON'T THINK YOUR TESTIMONY WAS INCONSISTENT.
3 BUT, NEVERTHELESS, IT WAS IN A SPECIFIC AREA WHERE SHE
4 TESTIFIED YESTERDAY.

5 YESTERDAY SHE SAID WHAT SHE DID OR DID 10:24AM
6 NOT KNOW ABOUT ABLE GRAPE. SHE KNEW THAT IT WAS A
7 PLACEHOLDER. SHE DID NOT KNOW SHE WAS AN OFFICER. SHE
8 GOT THE NAME FROM MR. GREG WARD.

9 YOUR HONOR RULED THAT THE SECTION TODAY
10 IN HER DEPOSITION WAS INCONSISTENT. RIGHT OR WRONG, 10:24AM
11 THAT TESTIMONY WAS OFFERED YESTERDAY. NOT -- IT SHOULD
12 NOT BE DONE NOW, AT THE CLOSE OF HER DEPOSITION, TO
13 HAVE SOME SORT OF CUMULATIVE IMPACT ON THE JURY. THAT
14 IS PRECISELY WHAT MR. MADISON WAS DOING.

15 AND I DON'T KNOW HOW HE CAN SAY HE WAS 10:25AM
16 BLINDSIDED BY HER TESTIMONY ABOUT HOW SHE FELT DURING
17 THE INTERVIEW.

18 WE HAD A DISCUSSION ABOUT THAT THE OTHER
19 DAY, IN THIS VERY COURTROOM, WHEN MR. QUINN MENTIONED
20 THE BASEBALL BAT. I SAID IT'S NOT A BASEBALL BAT, BUT 10:25AM
21 SHE WAS VERY EMOTIONALLY UPSET AT THAT DEPOSITION. SO
22 THAT DID NOT COME -- SHOULD NOT HAVE COME AS A
23 SURPRISE.

24 BUT MY REAL POINT IS, IS, YOUR HONOR'S,
25 THESE ARE SPECIFIC AREAS OF IMPEACHMENT IN RESPONSE TO 10:25AM
26 SPECIFIC ANSWERS. THAT'S NOT WHAT HE'S PURPORTING TO
27 DO.

28 THE COURT: MY SENSE IS, WE HAVE JUST GONE

1 THROUGH EACH OF THOSE EXHIBITS, IN A DIFFERENT MANNER.
2 AND PERHAPS A LITTLE MORE CURSORY FUNCTION -- OR MANNER
3 THAT WE -- THAN WE DID YESTERDAY. BUT THEY ARE FRESH
4 DISCUSSIONS.

5 THE LAST 15 MINUTES OF INQUIRY RELATES 10:26AM
6 TO THE TESTIMONY THAT'S BEING OFFERED, AND SO I'M GOING
7 TO ALLOW HIM TO PLAY IT.

8 MR. BRIAN: I'D LIKE TO GET A PAGE, THEN, AS
9 TO WHICH ONE HE THINKS IS RESPONSIVE TO AN ANSWER WE
10 GOT TODAY. 10:26AM

11 MR. MADISON: I GAVE HIM THE PAGE AND LINE,
12 YOUR HONOR.

13 MR. BRIAN: COULD I GIVE ANOTHER ONE --

14 THE COURT: YOU HAVE THE PAGE AND LINES.

15 MR. BRIAN: AT THIS POINT I LOST TRACK. 10:26AM

16 THE COURT: WE GOT PAGE 18, LINE 22; PAGE 19,
17 LINE 3 -- I'M NOT SPENDING THE WHOLE BREAK GOING OVER
18 THIS WITH YOU.

19 MR. MADISON: WE CAN GIVE IT TO HIM OFF THE
20 RECORD, YOUR HONOR. 10:26AM

21 THE COURT: THE JURY'S COMING BACK AT 20
22 MINUTES TO 11:00. IT'S NOW 27 MINUTES AFTER.
23 EVERYBODY DESERVES A BREAK.

24 MR. BRIAN: TAKE A LOOK AT THIS -- THAT ONE,
25 START THERE, YOUR HONOR. THAT QUESTION ON PAGE 18,
26 LINE 21 DEALS WITH QUESTIONS AND ANSWERS THAT WERE
27 OFFERED YESTERDAY. 10:26AM

28 MR. MADISON: NO, YOUR HONOR, CUMULATIVE MEANS

1 I ALREADY PLAYED THIS TESTIMONY. I HAVEN'T.

2 MR. BRIAN: NO, NO.

3 MR. MADISON: IT'S NOT CUMULATIVE.

4 MR. BRIAN: THE ANSWERS HE'S SEEKING TO
5 IMPEACH WAS GIVEN YESTERDAY. HE ASKED HER WHETHER OR
6 NOT SHE WAS LOOKING FOR OFFICE SPACE FOR A BUSINESS
7 VENTURE. SHE SAID YES. THAT WAS YESTERDAY.

10:27AM

8 HE NOW WANTS TO DO IT NOW TO GET AN
9 IMPACT ON THE JURY AS IF THIS IS CLOSING ARGUMENT.
10 THIS IS CROSS-EXAMINATION, NOT CLOSING ARGUMENT.

10:27AM

11 MR. MADISON: SHE SAYS HERE, IT SAYS IT WAS
12 JUST FOR ME. I'M SORRY.

13 THE COURT: YOU WENT ALL THROUGH THIS WITH HER
14 YESTERDAY. IF YOU WANTED TO IMPEACH HER WITH THIS
15 TESTIMONY, THE POINT IS, AND I'M TELLING YOU, FOR
16 WHATEVER REASONS, YOU CHOSE NOT TO DO IT. I DON'T WANT
17 TO HAVE THIS WITH EVERY WITNESS.

10:27AM

18 MR. MADISON: I APPRECIATE THAT.

19 THE COURT: IT IS NOT AN APPROPRIATE WAY --

20 MR. MADISON: I UNDERSTAND.

10:27AM

21 THE COURT: -- TO OFFER THIS. OFFERING A
22 FIVE- OR TEN-MINUTE, YOU KNOW, VIEW OF THE WITNESS IN
23 MANNERS THAT YOU MAY THINK ARE LESS THAN BECOMING AT
24 THE END OF THE TESTIMONY IS NOT THE WAY TO IMPEACH.

25 MR. MADISON: I UNDERSTAND, YOUR HONOR.

10:28AM

26 MR. BRIAN: I DON'T KNOW OF ANY SPECIFIC
27 TESTIMONY TODAY THAT THIS ANSWER IN THE DEPOSITION
28 IMPEACHES.

1 MR. MADISON: I CAN ADDRESS THAT IF YOU NEED
2 ME TO, YOUR HONOR.

3 THE COURT: I DON'T REALLY WANT YOU TO, BUT
4 YOU CAN TRY.

5 MR. MADISON: I MEAN, HERE SHE SAYS, IN SWORN
6 TESTIMONY IN DEPO:

10:28AM

7 I WAS JUST LOOKING FOR OFFICE
8 SPACE FOR ME.

9 WE SPENT THE WHOLE MORNING GOING THROUGH
10 DOCUMENTS, CONTRACTS, E-MAILS SHOWING THIS WAS A BIG
11 BUSINESS THAT THEY WERE PUTTING TOGETHER. IT DIRECTLY
12 IMPEACHES THAT TESTIMONY. IT'S A FALSE STATEMENT.
13 IT'S PART OF WHAT SHE WAS SAYING YESTERDAY WHEN SHE
14 APOLOGIZED.

10:28AM

15 THE COURT: YOU ASKED HER ALL THESE QUESTIONS
16 ABOUT THIS YESTERDAY.

10:28AM

17 I ALSO WOULD SUGGEST, AND IT'S A MATTER
18 OF YOUR TRIAL STRATEGY, BUT SOME ORDER OR ORGANIZATION
19 TO THE AREAS OF INQUIRY MIGHT BE HELPFUL TO THE JURY.

20 IF IT'S A DISJOINTED AND BACK AND FORTH,
21 MAYBE THERE'S AN ADVANTAGE OR TACTICAL APPROACH, I CAN
22 APPRECIATE THAT.

10:28AM

23 BUT, GENERALLY, IF WE CAN CONFINE
24 INQUIRY TO GENERAL AREAS, PEOPLE CAN FOLLOW IT A LITTLE
25 BETTER.

10:29AM

26 MR. BRIAN: THERE WAS NO --

27 THE COURT: I'LL TAKE A LOOK AT EACH ONE OF
28 THESE SECTIONS, AND WE'LL DECIDE AFTER THE BREAK

1 WHETHER WE NEED ANY MORE TESTIMONY OF THE DEPOSITION
2 SHOWN.

3 MR. MADISON: WE'LL CONVENE BEFORE THE JURY
4 COMES BACK.

5 THE COURT: VERY BRIEFLY.

10:29AM

6 MR. MADISON: VERY WELL.

7

8 (RECESS.)

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

10
11
12 (THE FOLLOWING PROCEEDINGS WERE
13 HELD IN OPEN COURT OUT OF THE
14 PRESENCE OF THE JURY:)

15
16 THE COURT: ALL RIGHT. WE'RE BACK IN SESSION
17 AND OUT OF THE PRESENCE OF THE JURY.

18 MR. MADISON: YOUR HONOR, IF WE'RE GOING TO
19 HAVE A SUBSTANTIVE DISCUSSION ABOUT ANY OF THE
20 TESTIMONY, I WOULD JUST ASK THE WITNESS BE EXCUSED.

21 THE COURT: NO. WE'RE NOT GOING TO HAVE A
22 DISCUSSION. I'VE GONE THROUGH WHAT YOU HAVE OFFERED,
23 AND AS TO THE DEPOSITION CLIPS THAT HAVE YOU PROPOSED,
24 PAGE 18, LINE 22 TO PAGE 19, LINE 3, THE OBJECTION IS
25 OVERRULED. I'LL ALLOW YOU TO PLAY IT.

26 PAGE 23, LINE 19 TO PAGE 24, LINE 8, THE
27 OBJECTION IS SUSTAINED.

28 PAGE 29, LINE 1 TO PAGE 30, LINE 5, IT

10:42AM

10:42AM

10:43AM

1 IS SUSTAINED AS TO 29, LINE 1 TO 30, LINE 5; HOWEVER I
2 WILL PERMIT YOU TO PLAY LINES -- PAGE 30, LINES 16
3 THROUGH 24. IT TAKES OUT THE ARGUMENT AMONG COUNSEL,
4 AND THE COLLOQUY, AND GETS TO THE ESSENCE OF WHAT YOU
5 ARE ASKING TO OFFER.

10:43AM

6 MR. MADISON: PAGE 29, YOUR HONOR, OR PAGE 30?

7 THE COURT: PAGE 30, LINE 16 THROUGH 24 WILL
8 BE PERMITTED.

9 MR. BRIAN: I DIDN'T THINK HE WAS EVEN
10 ASKING --

10:44AM

11 THE COURT: HE DIDN'T ASK FOR THAT, BUT AFTER
12 YOU GOT THROUGH ALL OF THE ARGUMENT AND WHAT WAS GOING
13 ON IN THE PAGES HE ASKED FOR, AND THE BASIC STATEMENT
14 THAT HE WAS LOOKING FOR IS CONTAINED AT PAGE 30, LINES
15 16 TO 24. IF HE WANTS TO PLAY IT, FINE. IF HE DOESN'T
16 WANT TO PLAY IT, HE DOESN'T HAVE TO.

10:44AM

17 PAGE 40, LINES 8 THROUGH 15, THE
18 OBJECTION IS SUSTAINED.

19 AND PAGE 62, LINE 22 TO PAGE 63, LINE
20 14, THE OBJECTION IS SUSTAINED.

10:44AM

21 ALL RIGHT. WE CAN BRING THE JURY BACK
22 IN.

23 MR. MADISON: SO IT'S TWO CLIPS, YOUR HONOR,
24 JUST SO I'M -- I DON'T WANT TO MAKE A MISTAKE.

25 THE COURT: I THINK IT'S TWO CLIPS. SOMEBODY
26 PROBABLY TOOK THOSE DOWN.

10:44AM

27 MR. MADISON: YOUR HONOR, I HAVE ONE EXHIBIT
28 THAT GOES TO THAT TESTIMONY, THAT I'LL OFFER AS PART OF

1 THAT -- AS PART OF THE SETUP.

2 THE COURT: AGAIN, MR. MADISON, I DON'T EXPECT
3 COMMENTARY OR AN EXPLANATION OF WHAT'S BEING SHOWN,
4 WHEN WE'RE SHOWING THE CLIPS.

5 MR. MADISON: I PROMISE YOU, I WON'T. I'M A
6 SLOW LEARNER, BUT ONCE I LEARN.

10:44AM

7 THE COURT: THAT'S ALRIGHT. AND I'M A VERY
8 PATIENT PERSON AND I HAVE A GOOD ATTITUDE, SO WE'LL ALL
9 WORK THIS OUT TOGETHER.

10 MR. BRIAN: INCLUDING AN EXPLANATION OF THE
11 REASONS FOR REDACTION, WHICH I THOUGHT WAS NOT
12 APPROPRIATE.

10:45AM

13 THE COURT: I DON'T THINK WE NEED ANY
14 COMMENTARY.

15 MR. MADISON: WELL, WAIT A MINUTE ON THAT ONE.

10:45AM

16 MR. BRIAN WANTED TO TELL THE JURY WHY WE
17 WERE REDACTING. FOR OTHER PURPOSES HE WANTED TO INFORM
18 THE JURY OF THE OTHER THINGS THAT WERE GOING ON. I WAS
19 JUST TRYING TO, AND I DID THAT VERY SENSITIVELY.

20 THE COURT: ALL WE'RE DOING IS ESTABLISHING
21 GROUND RULES. WE'VE ONLY BEEN TOGETHER FOR TWO OR
22 THREE DAYS. WE'LL GET THIS DOWN. IT WILL WORK OUT
23 FINE.

10:45AM

24

25 (AT 10:45 A.M. THE JURY ENTERED
26 THE COURTROOM, AND THE FOLLOWING
27 PROCEEDINGS WERE HELD:)

28 //

1 THE COURT: ALL RIGHT. ALL MEMBERS OF OUR
2 JURY ARE ONCE AGAIN PRESENT, AS ARE COUNSEL.

3 MR. MADISON, YOU HAVE FURTHER QUESTIONS
4 FOR MS. VANEVERY?

5 MR. MADISON: JUST A COUPLE OF MORE QUESTIONS,
6 YOUR HONOR. THANK YOU VERY MUCH.

10:46AM

7
8 DIRECT EXAMINATION (RESUMED)

9 BY MR. MADISON:

10 Q. MS. VANEVERY, I WANT TO JUST ASK YOU TO
11 LOOK -- THE EASIEST WAY WILL BE TO LOOK AT EXHIBIT 469.
12 I BELIEVE IT'S IN THE BINDER THAT WAS PLACED BEFORE YOU
13 THIS MORNING.

10:46AM

14 AND THIS IS AN E-MAIL TO THE WITNESS,
15 YOUR HONOR, SO I'D MOVE 469 AND AN ATTACHMENT. IT'S
16 MULTIPLE PAGES.

10:47AM

17 MR. BRIAN: NO OBJECTION.

18 THE COURT: IT WILL BE ADMITTED.

19
20 (EXHIBIT 469 ADMITTED.)

10:47AM

21
22 Q. BY MR. MADISON: THIS IS AN E-MAIL FROM --
23 WELL, AT THE TOP, THE E-MAIL TO YOU IS FROM MR. WARD,
24 THURSDAY, NOVEMBER 19, 2009. AND IT ENCLOSES -- OR
25 FORWARDS, RATHER, A REVISED DRAFT COUNTER-PROPOSAL,
26 2000 AVENUE OF THE STARS.

10:47AM

27 AND MR. WARD SAYS, BARBARA HAD A GOOD
28 MEETING WITH MATT. SEE ATTACHED TERM SHEET WITH

1 REVISIONS WE CAN DISCUSS IN THE MORNING.

2 AND DO YOU RECALL RECEIVING THIS?

3 A. I MUST HAVE, YES.

4 Q. AND THEN IF YOU GO OVER TO THE SECOND PAGE,
5 WHAT WE SEE THERE IS A PROPOSAL FOR ABLE GRAPE.

10:48AM

6 IF WE LOOK IN THE FIRST PARAGRAPH, IT'S
7 ACTUALLY A COUNTER-PROPOSAL; SO THERE HAD BEEN SOME
8 PROPOSAL BEFORE THAT, IF YOU LOOK IN THE RE LINE.

9 A. I SEE THAT.

10 Q. AND SAYS IT'S A COUNTER-PROPOSAL FOR TERMS
11 PURSUANT TO WHICH, IN THE FIRST LINE, ABLE GRAPE, LLC,
12 AUTHORIZES A COUNTER-PROPOSAL FOR THE 2000 AVENUE OF
13 THE STARS SPACE, CORRECT?

10:48AM

14 A. YES.

15 Q. AND THE MARGIN NOTES, WHERE WE SEE OVER IN THE
16 BOXES ON THE RIGHT, WERE REVISIONS THAT HAD BEEN MADE
17 TO THE PROPOSAL, CORRECT?

10:48AM

18 A. YES.

19 Q. AND SO THIS WAS FURTHER NEGOTIATION OF THE
20 SUBLEASE FOR THE FIRST LOOK SPACE AT 2000 AVENUE OF THE
21 STARS FOR ABLE GRAPE, LLC, CORRECT?

10:48AM

22 A. THAT'S WHAT THIS DOCUMENT LOOKS LIKE. I --
23 I'M NOT SURE I EVEN LOOKED AT IT.

24 Q. WELL, LET ME NOW JUST PLAY A COUPLE OF SHORT
25 CLIPS FROM YOUR DEPOSITION.

10:49AM

26 THE FIRST IS AT PAGE 18, LINE 22, OVER
27 TO PAGE 19, LINE 3.

28 //

1 (VIDEO DEPOSITION PLAYED OF BARBARA VANEVERY)

2

3 MR. MADISON: AND THEN I'D LIKE TO PLAY PAGE
4 29 -- PARDON ME, PAGE 30, LINES 17 THROUGH 24.

5

10:50AM

6 (VIDEO DEPOSITION PLAYED OF BARBARA VANEVERY)

7

8 Q. BY MR. MADISON: NOW, AS YOU LOOK AT EXHIBIT
9 469, AND OTHER EXHIBITS THAT YOU'VE SEEN YESTERDAY AND
10 TODAY, YOU WERE, IN FACT, AWARE OF ABLE GRAPE, LLC, IN
11 NOVEMBER 2009?

10:50AM

12 A. I WAS AWARE THAT IT WAS A TEMPORARY
13 PLACEHOLDER.

14 Q. AND YOUR TESTIMONY THAT YOU WERE JUST LOOKING
15 FOR OFFICE SPACE FOR YOU, AND THAT YOU NEVER LEARNED
16 ABOUT ABLE GRAPE, LLC, WAS NOT FORTHCOMING IN YOUR
17 DEPOSITION, WAS IT?

10:50AM

18 A. MY TESTIMONY ABOUT ME -- THE OFFICE SPACE
19 BEING FOR ME WAS NOT FORTHCOMING, NO.

20 Q. AND THE FINAL QUESTION, YOU ACTUALLY HAVE A
21 LICENSE TO BE A PARALEGAL, OR A CERTIFICATE TO BE A
22 PARALEGAL, DON'T YOU, MA'AM?

10:51AM

23 A. I DO.

24 MR. MADISON: I HAVE NOTHING FURTHER AT THIS
25 TIME.

10:51AM

26 THE COURT: MR. BRIAN, DO YOU WISH TO EXAMINE
27 THIS WITNESS?

28 MR. BRIAN: WE HAVE A SMALLER BINDER TO PASS

1 OUT.

2

3

CROSS-EXAMINATION

4 BY MR. BRIAN:

5 Q. GOOD MORNING, LADIES AND GENTLEMEN. 10:52AM

6 GOOD MORNING, MS. VANEVERY.

7 A. MORNING.

8 Q. LET ME START WHERE WE ENDED.

9 MR. MADISON SHOWED A COUPLE OF CLIPS
10 FROM YOUR DEPOSITION. 10:52AM

11 DO YOU RECALL THOSE CLIPS THAT WERE JUST
12 SHOWN?

13 A. YES.

14 Q. AND I THINK YOU TOLD THE LADIES AND GENTLEMEN
15 OF THE JURY THAT YOU WERE NOT FORTHCOMING IN RESPONSE 10:52AM
16 TO THE ANSWER ABOUT WHAT -- WHY YOU WERE LOOKING FOR
17 REAL ESTATE, IN THE FALL OF 2009.

18 DO YOU RECALL THAT?

19 MR. MADISON: OBJECTION. LEADING, AND ALSO TO
20 MR. BRIAN'S THOUGHTS ABOUT TESTIMONY. 10:52AM

21 THE COURT: SUSTAINED.

22 Q. BY MR. BRIAN: DO YOU RECALL THE DEPOSITION
23 TESTIMONY ABOUT LOOKING FOR OFFICE SPACE?

24 A. YES.

25 Q. AND DO YOU RECALL THE QUESTIONS ABOUT THAT 10:52AM
26 SUBJECT YESTERDAY?

27 A. YES.

28 Q. NOW, JUST PLEASE TELL THE LADIES AND GENTLEMEN

1 OF THE JURY, WHEN YOU WERE LOOKING FOR REAL ESTATE
2 SPACE AND WORKING WITH STUDLEY IN THE FALL OF 2009, FOR
3 WHAT PURPOSE WERE YOU DOING THAT?

4 A. IN LATE AUGUST, I HEARD THAT WE WERE BEING
5 FIRED. AND I JUST WANTED TO HAVE SOME KIND OF BACKUP
6 PLAN TO LAND, IN CASE THAT HAPPENED. 10:53AM

7 Q. AND WHO QUESTIONED YOU AT YOUR DEPOSITION?

8 A. MR. MADISON.

9 Q. AND WHAT WAS YOUR STATE OF MIND AT YOUR
10 DEPOSITION? 10:53AM

11 MR. MADISON: OBJECTION, NARRATIVE, AND ALSO
12 THE MOTION RULING.

13 THE COURT: SUSTAINED.

14 Q. BY MR. BRIAN: WELL, WHY WERE YOU NOT
15 FORTHCOMING IN RESPONSE TO THE QUESTIONS HE ASKED YOU? 10:53AM

16 MR. MADISON: SAME OBJECTIONS, YOUR HONOR.

17 THE COURT: OVERRULED.

18 THE WITNESS: IT WAS VERY HARD FOR ME TO --
19 MR. MADISON WAS THE ONE THAT FIRED ME ON THE DAY I WAS
20 FIRED, IN A VERY INAPPROPRIATE AND AGGRESSIVE MANNER. 10:53AM

21 Q. BY MR. BRIAN: WHAT DO YOU MEAN BY THAT?

22 MR. MADISON: OBJECTION. THE MOTION RULING,
23 YOUR HONOR.

24 THE COURT: SUSTAINED.

25 MR. BRIAN: MAY WE APPROACH, YOUR HONOR? 10:54AM
26 THERE WAS NO MOTION ON THIS.

27 MR. MADISON: THERE WAS A MOTION, AND HE KNOWS
28 IT.

1 THE COURT: WELL, LET'S NOT HAVE OUR --

2 MR. BRIAN: THAT IS NOT TRUE.

3 THE COURT: MR. BRIAN, YOU MAY GO AHEAD. I'LL
4 SUSTAIN THE OBJECTION AND QUESTION THE WITNESS.

5 BUT WE AREN'T GOING THERE, SO LET'S MOVE
6 ON. 10:54AM

7 Q. BY MR. BRIAN: LET ME START WITH YOUR
8 BACKGROUND, MA'AM.

9 WHERE DID YOU GROW UP?

10 A. I GREW UP IN SAN JOSE, CALIFORNIA. 10:54AM

11 Q. AND DID YOU GO TO HIGH SCHOOL UP THERE?

12 A. YES, I DID. I WENT TO LELAND HIGH SCHOOL.

13 Q. HOW ABOUT COLLEGE? WHERE DID YOU GO TO
14 COLLEGE?

15 A. I WENT TO SAN DIEGO STATE. 10:54AM

16 Q. AND AFTER YOU GRADUATED FROM -- WHAT DID YOU
17 STUDY IN COLLEGE?

18 A. I WAS A POLITICAL SCIENCE MAJOR, WITH A
19 HISTORY MINOR.

20 Q. AND DID YOU GRADUATE FROM THERE? 10:54AM

21 A. YES, I DID.

22 Q. WHAT DID YOU DO AFTER YOU GRADUATED FROM SAN
23 DIEGO STATE?

24 A. I ATTENDED USD, THEIR PARALEGAL PROGRAM, AND
25 GOT MY PARALEGAL CERTIFICATE IN 1992. 10:55AM

26 Q. AND DID YOU EVENTUALLY LAND A JOB WITH AN
27 INSURANCE COMPANY IN THE L.A. AREA?

28 A. I DID.

1 Q. WHERE?

2 A. IT WAS PROVIDENT LIFE AND ACCIDENT INSURANCE.
3 AND THEY WERE BASED IN TORRANCE, THE OFFICE THAT I
4 WORKED AT.

5 Q. HOW LONG DID YOU WORK THERE? 10:55AM

6 A. I WORKED THERE FOR SIX MONTHS.

7 AND THEN THEY DECIDED THEY WERE GOING TO
8 SHUT DOWN ALL THEIR SATELLITE OFFICES, AND THEIR HOME
9 BASE WAS CHATTANOOGA, TENNESSEE. THEY OFFERED ME A JOB
10 THERE. AND I WENT OUT THERE FOR FOUR DAYS, AND DECIDED
11 THAT I COULDN'T LIVE THERE. 10:55AM

12 Q. SO WHAT DID YOU DO?

13 A. BEFORE I HAD LEFT, I HAD MET WITH A HEADHUNTER
14 AND SAID, I'LL BE BACK ON WEDNESDAY. MAYBE YOU CAN SET
15 UP AN INTERVIEW FOR ME ON WEDNESDAY. 10:55AM

16 SO I GOT BACK TUESDAY NIGHT. I
17 INTERVIEWED AT TCW ON WEDNESDAY, AND I GOT THE JOB ON
18 FRIDAY.

19 Q. AND WHEN YOU STARTED AT TCW, THIS WOULD HAVE
20 BEEN IN 1993 OR SO? 10:55AM

21 A. YES.

22 Q. WHAT WAS YOUR POSITION AT TCW WHEN YOU FIRST
23 STARTED?

24 A. I WAS AN ADMINISTRATIVE ASSISTANT.

25 Q. AND WHAT WERE YOUR DUTIES AS AN ADMINISTRATIVE
26 ASSISTANT? 10:56AM

27 A. I DID TRAVEL. I ANSWERED THE PHONES. I DID
28 FILING. I DID EVERYTHING AN ADMINISTRATIVE ASSISTANT

1 WOULD DO.

2 Q. WHO DID YOU WORK FOR WHEN YOU FIRST STARTED?

3 A. I WORKED FOR ERIC ARENTSEN, FRED HORTON,
4 JENNIFER JACOB, JOE GALLIGAN; AND THEN I WAS A BACKUP
5 FOR JEFFREY AND PHIL, WHEN NATALIE WAS GONE.

10:56AM

6 Q. WHEN YOU SAY JEFFREY, YOU MEAN JEFFREY
7 GUNDLACH?

8 A. YES.

9 Q. AND PHIL IS PHIL BARACH?

10 A. YES.

10:56AM

11 Q. AND WHAT WAS YOUR NEXT JOB AT TCW? WERE YOU
12 PROMOTED?

13 A. I GOT PROMOTED A COUPLE OF YEARS LATER TO
14 ANALYST. AND I STARTED WORKING ON PUTTING CLIENT
15 REVIEWS TOGETHER, PUTTING TOGETHER PIE CHARTS FOR
16 CLIENTS ABOUT THEIR HOLDINGS, THAT KIND OF THING.

10:56AM

17 Q. AND AT SOME POINT, WERE YOU PROMOTED TO
18 ASSISTANT VICE PRESIDENT?

19 A. YES.

20 Q. AND WHEN WAS THAT?

10:57AM

21 A. I THINK THAT WAS MAYBE IN '98.

22 Q. AND WHAT WERE YOUR RESPONSIBILITIES AS
23 ASSISTANT VICE PRESIDENT?

24 A. MY RESPONSIBILITIES -- I WAS STILL WORKING
25 WITH THE CLIENT BOOKS, DOING CLIENT RELATIONS, DOING
26 CLIENT REPORTING. ON A REGULAR BASIS THEY WANTED
27 INFORMATION, SO I WAS THEIR CONTACT PERSON.

10:57AM

28 Q. AND WERE YOU NEXT PROMOTED TO VICE PRESIDENT?

1 A. YES.

2 Q. WHEN WAS THAT, ABOUT?

3 A. I THINK THAT WAS FIVE YEARS LATER, WAS
4 PROBABLY 2003.

5 Q. AND WHAT WERE YOUR DUTIES AS VICE PRESIDENT? 10:57AM

6 A. I WAS COORDINATING WITH THE LEGAL GROUP. I
7 WAS WRITING AND DOING MOST OF THE MARKETING MATERIAL
8 FOR THE GROUP. I WAS STILL DOING CLIENT RELATIONS. I
9 JUST HAD MORE RESPONSIBILITY.

10 Q. WHAT WAS YOUR POSITION WHEN YOU WERE FIRED, IN 10:58AM
11 DECEMBER OF 2009?

12 A. I WAS A SENIOR VICE PRESIDENT.

13 Q. AND TELL ME -- TELL THE LADIES AND GENTLEMEN
14 OF THE JURY WHAT YOUR DUTIES WERE IN THAT POSITION?

15 A. BY THEN, I WAS DOING THE MARKETING MATERIALS 10:58AM
16 FOR ALL THE FIXED INCOME. I WAS SETTING UP CONFERENCES
17 WORLDWIDE. I WAS ASKED TO SET UP WEBCASTS.

18 I ALSO WORKED A LOT WITH THE MARKETING
19 GROUP, AND CAME UP WITH A PROCESS TO CENTRALIZE THE
20 COORDINATION OF GETTING MEETINGS AND CALLS, AND 10:58AM
21 ASSIGNING THE CORRECT PERSON FOR THOSE THINGS, SO THAT
22 WE WERE ABLE TO RAISE A LOT OF MONEY.

23 AT THE TIME, TCW WAS VERY BIG ON SHARE
24 POINT SYSTEMS, SO I WAS DEVELOPING ONE WITH THE
25 MARKETING GROUP, WITH THE RFP GROUP, AND WITH THE 10:58AM
26 CLIENT RELATIONS GROUP, TRYING TO CENTRALIZE IT, SO IT
27 WOULD BE EASIER FOR THEM TO GET INFORMATION FROM OUR
28 GROUP.

1 Q. WHEN YOU SAY "OUR GROUP," WHAT WAS "OUR GROUP"
2 YOU ARE REFERRING TO?

3 A. BY "OUR GROUP," I MEAN FIXED INCOME.

4 Q. AND WAS THERE A SEPARATE MARKETING OR CLIENT
5 RELATIONS GROUP, AS WELL?

10:59AM

6 A. YES.

7 Q. HOW WAS -- GENERALLY SPEAKING, HOW WAS TCW
8 ORGANIZED? WERE THERE DIFFERENT GROUPS THAT HANDLED
9 DIFFERENT TYPES OF BUSINESS?

10 A. THERE WAS.

10:59AM

11 THE CLIENT RELATIONS GROUP, FOR EXAMPLE,
12 THEY SERVICED -- TCW HAD 43 DIFFERENT PRODUCTS AT ONE
13 TIME. SO THEY WERE SERVICING ALL KINDS OF CLIENTS,
14 WHETHER THEY HAD STOCKS OR BONDS; SO THERE WASN'T
15 ANYONE THAT REALLY SPECIALIZED IN THE MORTGAGE AREA OR
16 CERTAIN TYPES OF FIXED INCOME INVESTMENTS.

10:59AM

17 SO I WAS RESPONSIBLE FOR WORKING WITH
18 THOSE GROUPS, TO MAKE SURE THAT OUR INFORMATION WAS
19 ACCURATE.

20 Q. WERE YOU INVOLVED IN MAKING ANY OF THE
21 INVESTMENT DECISIONS, WHEN YOU WERE AT TCW?

11:00AM

22 A. NO, I WAS NOT.

23 Q. YOU WORKED ON THE CLIENT SIDE, RATHER THAN THE
24 INVESTMENT SIDE; IS THAT RIGHT?

25 A. I DID, YES.

11:00AM

26 Q. YOU WERE ASKED SOME QUESTIONS ABOUT A COMPANY
27 KNOWN AS WAMCO, OR WESTERN ASSET MANAGEMENT COMPANY.

28 DO YOU RECALL THOSE QUESTIONS,

1 GENERALLY?

2 A. YES.

3 Q. I WANT TO SHOW YOU A DOCUMENT THAT'S BEEN
4 ADMITTED; 139, I THINK IT IS.

5 MR. BRIAN: MAY I HAVE I HAVE A MOMENT, YOUR
6 HONOR, TO GET SOME WATER? 11:00AM

7 THE COURT: YES, YOU MAY.

8 IT'S BEEN ADMITTED.

9 MR. BRIAN: IT'S 139-R.

10 MAY THAT BE PUT UP, YOUR HONOR? 11:00AM

11 IF WE COULD -- YOU WERE ASKED QUESTIONS
12 ABOUT THIS. IT'S A TWO-PAGED DOCUMENT.

13 IF WE COULD JUST EXPAND THE BOTTOM, THE
14 E-MAIL FROM MR. GUNDLACH TO BARBARA VANEVERY AT THE
15 BOTTOM, PLEASE. 11:01AM

16 Q. YOU WERE QUESTIONED ABOUT THAT E-MAIL
17 YESTERDAY, WERE YOU NOT? BIG?

18 A. YES.

19 Q. AND DID THE -- ACTUALLY, THE E-MAIL FROM
20 MR. GUNDLACH TO YOU ACTUALLY CONTINUES ON TO THE NEXT
21 PAGE, DOESN'T IT, OF THAT EXHIBIT? 11:01AM

22 A. YES.

23 Q. SO IF WE COULD PUT UP PAGE 2 OF EXHIBIT 139,
24 PLEASE?

25 AND MAY WE JUST EXPAND THAT, AND MAKE
26 THAT LARGER. 11:01AM

27 I WANT YOU TO FOCUS ON THE LAST MAJOR
28 PARAGRAPH, THAT BEGINS WITH, "I FIGURE I SHOULD GET 20

1 PERCENT OF THE DOUBLELINE REVENUE, 46 MILLION, AND 10
2 PERCENT OF THE WESTERN REVENUE, 46 MILLION, AS
3 REASONABLE COMP FOR THE DEAL. THAT MAKES 92 MILLION A
4 YEAR."

5 THEN IT GOES DOWN TO SAY, THE NEXT LINE,
6 THAT WOULD MEAN THAT WESTERN COULD GET 20 PERCENT,
7 DOUBLELINE STAFF COULD GET 20 PERCENT, AND SG COULD GET
8 20 PERCENT.

9 DO YOU SEE THAT?

10 A. YES.

11 Q. DID YOU UNDERSTAND WHAT MR. GUNDLACH WAS
12 REFERRING TO WHEN HE SAID "SG"?

13 A. HE'S TALKING ABOUT SOCIETE GENERALE. THEY ARE
14 THE PARENT COMPANY OF TCW.

15 Q. SO WHEN HE WAS TALKING ABOUT PERCENTAGES OF
16 THE REVENUE FOR WEST -- WELL, FIRST OF ALL, WESTERN,
17 DID YOU UNDERSTAND THAT TO BE A REFERENCE TO WESTERN
18 ASSETS MANAGEMENT, OR WAMCO?

19 A. YES.

20 Q. AND THEN HE REFERS TO DOUBLELINE.

21 AND THEN 20 PERCENT FOR SOC-GEN, SOCIETE
22 GENERALE?

23 A. YES.

24 Q. WHAT DID YOU UNDERSTAND THAT MR. GUNDLACH WAS
25 REFERRING TO, IN DISCUSSING THESE SHARING OF REVENUES?

26 A. HE'S DISCUSSING THAT AS AN AMICABLE SPLIT,
27 WHERE EVERYONE WINS, EVERYONE GETS A PERCENTAGE,
28 INCLUDING TCW AND SG.

1 Q. IF A DEAL WENT FORWARD?

2 A. YES.

3 Q. AND BY THE WAY, DID MR. GUNDLACH EVER LEAVE
4 TCW AND GO TO WAMCO TO WORK?

5 A. NO, HE DID NOT.

11:03AM

6 Q. AND DID MR. GUNDLACH EVER NEGOTIATE A DEAL
7 WITH WAMCO OF ANY SORT?

8 A. I DON'T BELIEVE SO.

9 Q. NOW, IF WE COULD GO BACK AND SHOW THE FIRST
10 PAGE OF EXHIBIT 139 AGAIN.

11:03AM

11 IF YOU COULD ENLARGE THE E-MAIL AT THE
12 TOP, ANOTHER E-MAIL FROM JEFFREY GUNDLACH TO BARBARA
13 VANEVERY. AND IF WE COULD ENLARGE THE PARAGRAPH
14 STARTING WITH, I AIN'T NO FOOL.

15 I AIN'T NO FOOL, BUT I ALSO SINCERELY
16 WANT EVERYONE TO WIN, IN QUOTES; AND MORE THAN
17 ANYTHING, I DON'T WANT ANY AGGRAVATION. SO THAT'S HOW
18 I GOT TO THE BELOW.

11:04AM

19 WHAT DID YOU UNDERSTAND HE MEANT WHEN HE
20 SAID, "I ALSO SINCERELY WANT EVERYONE TO WIN"?

11:04AM

21 A. I THINK HE WANTED EVERYONE, INCLUDING SOCIETE
22 GENERALE, AND TCW, HIMSELF, AND THIS NEW FIRM THAT HE
23 WAS CONSIDERING LOOKING AT.

24 Q. AND THEN WHEN HE SAID, I DON'T WANT ANY
25 AGGRAVATION, WHAT DID YOU UNDERSTAND HE MEANT BY THAT?

11:04AM

26 MR. MADISON: OBJECTION. SPECULATION. I'M
27 ASKING FOR HER UNDERSTANDING. NOT HIS, HERS.

28 THE COURT: OVERRULED.

1 THE WITNESS: HE DIDN'T WANT TO BE SITTING
2 HERE IN THIS POSITION TODAY. HE DIDN'T WANT TO HAVE
3 ANY PROBLEMS. HE WANTED AN AMICABLE SPLIT, IF THAT WAS
4 HIS CHOICE, TO FIND A NEW JOB.

5 Q. YOU WERE ALSO ASKED -- YOU WERE SHOWN SOME
6 EXHIBITS, SOME DOUBLELINE LOGO EXHIBITS.

11:05AM

7 COULD WE HAVE EXHIBIT 92 DISPLAYED TO
8 THE LADIES AND GENTLEMEN OF THE JURY?

9 IT'S IN EVIDENCE, YOUR HONOR.

10 DO YOU REMEMBER BEING ASKED ABOUT THIS
11 DOCUMENT?

11:05AM

12 A. YES.

13 Q. AND YOU WERE SHOWN SOME E-MAILS WITH THIS FROM
14 THE 2008 TIME PERIOD.

15 DO YOU RECALL THAT?

11:06AM

16 A. YES.

17 Q. DID MR. GUNDLACH, OR ANYONE, TO YOUR
18 KNOWLEDGE, FORM A COMPANY CALLED DOUBLELINE, IN 2008?

19 A. NO.

20 Q. NOW, I WOULD LIKE TO DISPLAY EXHIBIT 394, ALSO
21 IN EVIDENCE, YOUR HONOR. AND IF WE COULD -- THAT'S AN
22 E-MAIL OF AN -- OCTOBER OF 2009 FROM YOU TO A JENNIFER,
23 WHAT'S HER LAST NAME?

11:06AM

24 A. STAME.

25 Q. STAME.

11:06AM

26 COULD WE DISPLAY THE ATTACHMENT TO THAT
27 DOCUMENT? IT WOULD BE THE SECOND PAGE OF THE EXHIBIT.

28 AND COULD WE MAKE THAT A LITTLE LARGER?

1 THAT'S A PICTURE OF MR. GUNDLACH, IS IT
2 NOT?

3 A. YES.

4 Q. AND WAS MR. GUNDLACH THE CHIEF INVESTMENT
5 OFFICER OF TCW IN 2009?

11:07AM

6 A. YES, HE WAS.

7 Q. AND WHAT'S -- WHAT APPEARS RIGHT BELOW THE
8 WORDS, CHIEF INVESTMENT OFFICER?

9 A. THE TCW GROUP, INC.

10 Q. AND WHEN YOU SENT THIS DOCUMENT BY E-MAIL,
11 WHAT WERE YOU INTENDING TO SUGGEST, HOW IT SHOULD BE
12 USED?

11:07AM

13 A. I WAS SENDING IT TO JENNIFER IN COMMUNICATIONS
14 SO SHE COULD TCW-IZE IT. AND WE WERE GOING TO USE IT
15 FOR A WEBCAST WHICH WAS GOING TO BE DONE WITH A LIVE
16 VIDEO FEED, SO YOU COULD ACTUALLY SEE HIM AND THE
17 BACKGROUND, THEY CALL IT A GREEN SCREEN; BUT YOU COULD
18 INSERT ANY DIGITAL IMAGE YOU WANT.

11:07AM

19 Q. AND DO YOU KNOW WHETHER OR NOT IT WAS USED?

20 A. IT WAS NOT.

11:08AM

21 Q. WERE THERE TIMES WHEN TCW PROMOTED
22 MR. GUNDLACH AS THEY FACE UP -- AS A FACE OF THE
23 COMPANY, EITHER ON TELEVISION BROADCASTS OR OTHER
24 MARKETING MATTERS?

25 A. MR. GUNDLACH WAS THE FACE OF TCW.

11:08AM

26 Q. WHY DO YOU SAY THAT?

27 A. HIS GROUP -- PEOPLE WANTED TO HEAR FROM HIM.
28 HE MADE A MARKET CALL IN 2007. HE'S IN CHARGE OF

1 MORTGAGE-BACKED SECURITIES. AND HE MADE A MARKET CALL
2 SAYING, SUBPRIME IS AN UNMITIGATED DISASTER.

3 AND REALLY, WHAT HE TALKED ABOUT, CAME
4 TRUE. IT BECAME AN UNMITIGATED DISASTER. AND BECAUSE
5 HE HAD PREPARED AND REALIZED THAT IT WAS GOING TO HURT
6 THEIR BUSINESS, HE PUT THEM IN A VERY GOOD POSITION.

11:08AM

7 HE MOVED MONEY TO CASH. HE MOVED MONEY
8 TO U.S. TREASURY. AND BECAUSE OF IT, IN 2008, HE WAS
9 ONE OF VERY FEW MANAGERS THAT ACTUALLY HAD A POSITIVE
10 RETURN THAT YEAR.

11:09AM

11 Q. YOU WERE ASKED ABOUT SOME TRADE TICKETS THAT
12 WERE IN THE RED BINDERS, AND SOME WORK THAT YOUR
13 BROTHER DID ON THE SPREADSHEETS.

14 DO YOU RECALL THAT, GENERALLY?

15 A. YES.

11:09AM

16 Q. NOW, I THINK YOU TESTIFIED -- YOU MENTIONED A
17 FIRM CALLED STROZ FRIEDBERG.

18 WHO IS STROZ FRIEDBERG?

19 A. DOUBLELINE SPENT MILLIONS OF DOLLARS BRINGING
20 IN THIS FIRM, TO MAKE SURE THAT WE DID NOT HAVE ANY
21 MATERIAL OR ANYTHING ASSOCIATED WITH TCW.

11:09AM

22 Q. AND YOU SAID THAT YOU TURNED SOMETHING IN TO
23 STROZ FRIEDBERG IN RELATION TO THE TRADE SECRETS.

24 WHAT DID YOU TURN IN TO THEM?

25 A. I TURNED IN A FLASH DRIVE AND A LAPTOP.

11:10AM

26 Q. AND WAS THAT IN RESPONSE TO ANYTHING, OR YOU
27 JUST DID IT ON YOUR OWN?

28 A. THEY ASKED ME TO TURN IN WHATEVER WE HAD THAT

1 WE THOUGHT MIGHT HAVE TCW MATERIAL ON IT; SO I TURNED
2 IN EVERYTHING I HAD.

3 Q. AND IN WHAT MONTH DID YOU DO THAT?

4 A. I THINK IT WAS DECEMBER, EARLY JANUARY.

5 Q. SHORTLY AFTER YOU FORMED THE COMPANY,
6 DOUBLELINE, RIGHT?

11:10AM

7 A. YES.

8 Q. AND DID THAT FLASH DRIVE INCLUDE THIS WORK
9 THAT YOUR BROTHER HAD DONE IN PREPARING SPREADSHEETS OF
10 THESE TRADE TICKETS?

11:10AM

11 A. YES.

12 Q. AND DID YOU MAKE ANY USE OF THAT MATERIAL AT
13 ALL, AFTER YOU WENT TO DOUBLELINE?

14 A. NO.

15 Q. LET ME SHOW YOU EXHIBIT 551.

11:10AM

16 MR. BRIAN: I THINK THAT HAS BEEN ADMITTED IN
17 EVIDENCE.

18 THE COURT: IT IS IN EVIDENCE.

19 MR. BRIAN: YOU MAY DISPLAY THAT.

20 Q. AND IF YOU COULD LOOK -- IF YOU COULD MAYBE
21 SHOW THE NEXT PAGE OF THE ATTACHMENT, PLEASE, THE
22 SECOND PAGE OF THE EXHIBIT.

11:11AM

23 IT'S HARD TO SEE THAT IT'S A LIST, ISN'T
24 IT?

25 A. YES.

11:11AM

26 Q. AND IT'S ATTACHED TO AN E-MAIL THAT YOU SENT
27 IN DECEMBER, ON DECEMBER 6TH, TO MR. GUNDLACH.

28 DO YOU SEE THAT?

1 A. YES.

2 Q. WHY DID YOU SEND IT TO MR. GUNDLACH?

3 A. HE WANTED TO DO A WEBCAST IN EARLY DECEMBER,
4 TO TALK TO HIS INVESTORS. THEY WERE WANTING
5 INFORMATION FROM HIM.

11:12AM

6 AND I HAPPENED TO HAVE A WEBCAST LIST
7 FROM THE LAST WEBCAST WE DID, AS PART OF MY JOB. AND
8 SO I SENT IT TO HIM. THE LIST IS MAINLY BROKERS, YOU
9 KNOW, PEOPLE THAT WOULD GIVE INVESTMENT ADVICE TO OTHER
10 PEOPLE.

11:12AM

11 Q. SO LET ME -- YOU GOT THIS LIST FROM A WEBCAST
12 THAT WAS DONE WHILE YOU WORKED AT TCW; IS THAT RIGHT?

13 A. YES.

14 Q. AND WHEN WAS THAT WEBCAST?

15 A. THAT WAS IN SEPTEMBER.

11:12AM

16 Q. AND TELL ME AGAIN, WHAT TYPES OF PEOPLE ARE ON
17 THIS LIST?

18 A. THE WEBCAST IS FOR THE MUTUAL FUNDS.

19 ANYONE CAN PARTICIPATE. THEY ARE
20 ADVERTISED ON THE WEBSITE. WE SEND OUT INVITATIONS. I
21 DON'T KNOW IF THEY ARE ADVERTISED ON BLOOMBERG, BUT
22 ANYONE CAN PARTICIPATE. WE HAD A LOT OF INDIVIDUALS
23 THAT WERE INTERESTED, AND WE HAD A LOT OF INVESTMENT
24 ADVISORS.

11:12AM

25 Q. AND NOW LET ME SHOW YOU -- DID YOU FORWARD
26 THIS TO MR. GUNDLACH ON DECEMBER 6TH, 2009?

11:13AM

27 A. I DID.

28 Q. AND WERE THE PARTICIPANTS, BACK IN SEPTEMBER,

1 WERE THEY MOSTLY CLIENTS OF THE FIRM, TCW?

2 A. I WOULD NOT CALL THEM CLIENTS.

3 Q. WAS THAT WEBCAST ADVERTISED TO THE PUBLIC?

4 A. YES, IT WAS.

5 Q. HOW SO?

11:13AM

6 A. IT WAS ON THE WEBSITE.

7 Q. AND WERE THERE ADVERTISEMENTS THROUGH
8 BLOOMBERG THAT WERE PUT OUT FOR THE WEBCAST, DO YOU
9 KNOW?

10 A. I THINK THERE MAY HAVE BEEN, YES.

11:13AM

11 Q. DO YOU KNOW HOW MANY PEOPLE RECEIVED THOSE
12 ADVERTISEMENTS?

13 A. I DON'T KNOW.

14 I WILL SAY THAT, YOU KNOW, BLOOMBERG HAS
15 A HUGE SUBSCRIPTION. I THINK IT'S LIKE 600,000 PEOPLE.

11:13AM

16 Q. LET ME NOW SHOW YOU EXHIBIT 588.

17 THIS WAS USED THIS MORNING. IT'S BEEN
18 ADMITTED IN EVIDENCE.

19 THE COURT: YOU MAY DISPLAY IT.

20 Q. BY MR. BRIAN: IF YOU COULD EXPAND --

11:14AM

21 THIS IS AN E-MAIL THAT YOU SENT ON
22 DECEMBER 8TH, IN CONNECTION WITH THE WEBCAST, AFTER YOU
23 WERE FIRED, CORRECT?

24 A. YES.

25 Q. AND WHY DID YOU WANT TO SPEAK WITH THE
26 INVESTORS?

11:14AM

27 A. THEY WERE CALLING US, AND THEY WERE WORRIED
28 ABOUT THEIR PORTFOLIOS. THEY WANTED TO HEAR FROM

1 MR. GUNDLACH.

2 Q. COULD WE ENLARGE THE PARAGRAPH THAT BEGINS, IN
3 THE INTERIM.

4 IN THE INTERIM -- WE'RE HAVING --
5 IN THE INTERIM, WE ADVISE INVESTORS NOT
6 TO LIQUIDATE THEIR HOLDINGS IN THE FUND.

11:15AM

7 DO YOU SEE THAT?

8 A. YES.

9 Q. AND WHY DID YOU SAY THAT?

10 A. BECAUSE WE DIDN'T WANT THEM TO LIQUIDATE.

11:15AM

11 Q. WHY IS THAT?

12 A. THEIR INVESTMENT WAS FINE THE WAY HE HAD LEFT
13 IT, FOR THE SHORT TERM. HE DIDN'T WANT PEOPLE
14 PANICKING. AND THE FACT THAT THEY WERE CALLING HIM,
15 AND CALLING HIM AT HOME, HE THOUGHT --

11:15AM

16 Q. DID YOU MAKE ANY -- SAY ANYTHING IN THIS
17 E-MAIL ABOUT ASKING THOSE INVESTORS TO COME TO
18 DOUBLELINE?

19 A. NO.

20 Q. DID YOU HAVE ANY CLIENTS, ON DECEMBER 8TH OF
21 2009, AT DOUBLELINE?

11:15AM

22 A. I DOUBT IT.

23 Q. HOW MANY CLIENTS DID YOU HAVE, FOR THE FIRST
24 TWO OR THREE MONTHS OF THE OPERATION OF DOUBLELINE?

25 A. I THINK THERE WERE TWO.

11:16AM

26 Q. DO YOU KNOW WHO THEY WERE?

27 A. YES.

28 Q. WHO WERE THEY?

1 A. IT WAS 2B AND RELIANCE.

2 Q. LET ME SHOW YOU A DOCUMENT THAT I DON'T THINK
3 IS IN EVIDENCE. I THINK IT'S IN THE BINDER THAT
4 MS. SMOLOWE GAVE YOU. EXHIBIT 273 -- ACTUALLY, IT MAY
5 BE IN THE FOLDER.

11:16AM

6 DO YOU HAVE 273?

7 A. I CAN LOOK AT IT ON THE SCREEN. I THINK WE
8 ALREADY LOOKED AT IT.

9 THE COURT: MAY WE HAVE IT ON THE SCREEN FOR
10 COURT AND COUNSEL, 273?

11:16AM

11 MR. BRIAN: MAY I HAVE A MOMENT, YOUR HONOR?

12 THE COURT: YES.

13 IT'S IN VOLUME 1 OF YESTERDAY'S BOOK.

14 MR. BRIAN: YES, IT IS.

15 THE COURT: A SINGLE PAGE. WE HAVE IT UP FOR
16 THE COURT AND COUNSEL.

11:17AM

17 YOU MAY QUESTION THE WITNESS.

18 MR. BRIAN: YOUR HONOR, I'M SORRY. I ACTUALLY
19 WANT TO USE EXHIBIT 261.

20 THE COURT: OKAY. 261, THAT'S -- YOU CAN PUT
21 THAT UP ON THE SCREEN FOR COURT AND COUNSEL AND THE
22 WITNESS.

11:17AM

23 MR. BRIAN: I DON'T KNOW IF IT'S IN EVIDENCE
24 YET.

25 COULD YOU DISPLAY IT JUST TO COUNSEL,
26 AND NOT ON THE SCREEN, PLEASE.

11:17AM

27 THE COURT: DO YOU SEE IT UP HERE NOW,
28 MS. VANEVERY?

1 THE WITNESS: YES, I DO.

2 Q. BY MR. BRIAN: 261 IS A SERIES OF E-MAILS, IS
3 IT NOT?

4 A. YES.

5 Q. AND THE BOTTOM ONE, IS THAT AN E-MAIL FROM
6 MR. GUNDLACH TO YOU, DATED SEPTEMBER 2ND?

11:18AM

7 A. YES.

8 Q. AND THE TOP ONE IS YOUR RESPONSE TO
9 MR. GUNDLACH?

10 A. YES.

11:18AM

11 Q. I'LL OFFER EXHIBIT 261, YOUR HONOR.

12 MR. MADISON: OBJECTION. HEARSAY, FROM THE
13 DEFENSE.

14 MR. BRIAN: WE WENT INTO THE AREA, YOUR HONOR.

15 MR. MADISON: I CAN ARGUE IT AT SIDEBAR, IF
16 YOU WOULD LIKE; NOT IN FRONT OF THE JURY.

11:18AM

17 THE COURT: NO. I'LL SUSTAIN THE OBJECTION.

18 YOU MAY ADMIT THE RESPONSE, BUT NOT THE
19 E-MAIL.

11:19AM

20
21 (EXHIBIT 261 ADMITTED.)

22
23 MR. BRIAN: SO, I'M SORRY, WHICH ONE, YOUR
24 HONOR?

25 THE COURT: I'LL SUSTAIN IT AS TO THE BOTTOM
26 HALF OF THE EXHIBIT.

11:19AM

27 I'LL OVERRULE IT AS TO THE TOP HALF.

28 MR. BRIAN: DO WE HAVE THE ABILITY TO

1 DISPLAY --

2 THE COURT: IF WE COULD DO THAT.

3 MR. BRIAN: SO WE'LL DISPLAY ONLY THE TOP
4 PART, YOUR HONOR. WE'LL REDACT THE REST.

5 Q. BY MR. BRIAN: SO THIS IS THE E-MAIL FROM YOU
6 TO MR. GUNDLACH?

11:19AM

7 A. YES.

8 Q. NOW, THIS IS DATED SEPTEMBER 2ND, 2009.

9 DO YOU SEE THAT?

10 A. YES.

11:19AM

11 Q. AND YOU TESTIFIED EARLIER THAT YOU HAD GOT --
12 RUMORS THAT YOU WERE GOING TO BE FIRED; IS THAT RIGHT?

13 A. YES.

14 Q. WHO DID YOU FIRST HEAR THAT FROM?

15 A. I THOUGHT I HEARD IT FROM LOREN FLECKENSTEIN.
16 AND THEN I HEARD IT AGAIN LATER FROM SOMEONE ELSE.

11:20AM

17 Q. AND THIS E-MAIL REFERS TO CLIENTS, IN THE
18 SECOND LINE.

19 DO YOU SEE THAT?

20 A. YES.

11:20AM

21 Q. DID YOU HAVE ANY CONCERNS ABOUT THE INVESTORS
22 OR THE CLIENTS, AS A RESULT OF YOU AND MR. GUNDLACH AND
23 ANYBODY ELSE IN THE GROUP BEING FIRED?

24 A. YES.

25 Q. WHAT WERE THOSE CONCERNS?

11:20AM

26 A. I WAS CONCERNED BECAUSE THEY HAD HIRED
27 MR. GUNDLACH TO MANAGE THEIR MONEY. AND IF HE WERE
28 FIRED, I DIDN'T KNOW WHAT WAS GOING TO HAPPEN TO THEM.

1 Q. SO WHEN YOU SAY THAT YOU SHOULD DEFINITELY
2 CONTACT YOUR ATTORNEY, WHAT WERE YOU CONCERNED ABOUT?

3 A. I WAS CONCERNED FOR THE CLIENTS, AND I THOUGHT
4 THAT HE SHOULD TALK TO HIS ATTORNEY.

5 Q. DID YOU HAVE ANY CONCERN ABOUT WHAT NOTICE
6 WOULD OR WOULD NOT BE GIVEN TO THE CLIENTS?

11:21AM

7 A. YES. I WAS AFRAID THAT THE CLIENTS WOULD NOT
8 BE NOTIFIED, AND THEY WOULDN'T BE ABLE TO PREPARE.

9 Q. AND LET'S NOW FLASH FORWARD TO DECEMBER OF
10 2009, AFTER YOU WERE FIRED.

11:21AM

11 DID YOU HAVE EXACTLY THE SAME CONCERN?

12 A. YES, I DID.

13 Q. AND WHAT DID DO YOU ABOUT IT?

14 A. I PUT TOGETHER A WEBCAST SO THAT WE COULD TALK
15 TO THEM.

11:21AM

16 Q. AND THAT'S THE WEBCAST THAT YOU SAW REFERRED
17 TO IN THE E-MAIL DECEMBER 8TH, 2009?

18 A. YES.

19 Q. AFTER MR. GUNDLACH DID THAT WEBCAST ON
20 DECEMBER 8TH OF 2009, YOU USED THE PARTICIPANTS' LIST
21 YOU HAD FROM THE EARLY WEBCAST BACK IN SEPTEMBER 2009,
22 RIGHT?

11:21AM

23 A. YES. THAT WAS THE ONLY TIME I USED IT.

24 Q. I WAS JUST GOING TO ASK YOU THAT.

25 WHAT DID YOU DO WITH THAT LIST AFTER
26 THAT WEBCAST -- WELL, LET'S FLASH FORWARD TO FEBRUARY
27 OR SO.

11:22AM

28 DID YOU STILL HAVE THAT LIST IN YOUR

1 POSSESSION AS OF EARLY FEBRUARY OF 2010?

2 A. I BELIEVE I DID. I MAY HAVE -- I THINK THAT
3 STROZ WAS IN OUR OFFICE, AND THEY WERE GOING THROUGH
4 EVERYTHING. AND I WANTED TO MAKE SURE THAT WE HAD
5 NOTHING TO DO WITH TCW ANYMORE. I DIDN'T WANT ANY OF
6 THEIR LISTS. I DIDN'T WANT ANY OF OUR DATABASES TO BE
7 TAINED BY ANYTHING, BECAUSE I DIDN'T WANT THIS KIND OF
8 SITUATION.

11:22AM

9 THE COURT: MA'AM, DO YOU REMEMBER WHAT THE
10 QUESTION WAS?

11:22AM

11 I THINK IT WAS, DID YOU HAVE THE LIST IN
12 FEBRUARY.

13 THE WITNESS: YES.

14 THE COURT: IT JUST MAKES IT SIMPLER. JUST
15 ANSWER THE QUESTION.

11:22AM

16 Q. BY MR. BRIAN: TAKE A LOOK AT EXHIBIT 6043, IN
17 THE BLACK BINDER THAT MS. SMOLOWE GAVE YOU THIS
18 MORNING.

19 WHAT IS THAT LIST?

20 A. I THINK THIS IS THE -- OUR DATABASE THAT WE
21 HAD AT DOUBLELINE THAT WE HAD BUILT UP.

11:23AM

22 Q. OKAY. AND THAT'S THE DATABASE THAT WAS BUILT
23 UP AS OF THE FIRST PART OF FEBRUARY OF 2010?

24 A. YES.

25 Q. WHAT MADE UP THAT DATABASE? HOW WAS IT
26 CREATED?

11:23AM

27 A. ANYTIME ANYONE CALLED, I KEPT A LOG WITH THEIR
28 NAME, PHONE NUMBER. ANY TIME WE HAD MEETINGS, PEOPLE

1 HAD TONS OF BUSINESS CARDS. PEOPLE WOULD SEND US
2 BLOOMBERG MESSAGES WITH THEIR INFORMATION. I GOT
3 E-MAILS.

4 WE HAD A TEMPORARY WEBSITE ESTABLISHED
5 THAT HAD A GENERIC WEB ADDRESS FOR PEOPLE TO SEND THEIR
6 INFORMATION. 11:24AM

7 Q. AND WAS THERE ALSO NAMES FROM THAT
8 PARTICIPANTS LIST BACK IN THAT CALL, WAY BACK IN
9 SEPTEMBER OF 2009, AT TCW, THAT WERE ALSO ON THAT LIST?

10 A. AFTER OUR INITIAL WEBCAST THAT WE DID ON
11 DECEMBER 8TH, I PRINTED OUT A NEW LIST FROM THE
12 PARTICIPANTS IN THE DOUBLELINE WEBCAST. AND THOSE WERE
13 THE ONLY NAMES I USED, BECAUSE I THOUGHT THAT IF THEY
14 CHOSE TO PARTICIPATE, THEN IT WAS OKAY TO USE THOSE
15 NAMES. 11:24AM

16 Q. OKAY.

17 AND YOU HAD THAT LIST AS OF THE
18 BEGINNING OF FEBRUARY OF 2010, CORRECT?

19 A. YES.

20 Q. NOW, TAKE A LOOK AT EXHIBIT -- IT'S NOT IN
21 EVIDENCE, BUT IT'S IN YOUR BLACK BINDER. EXHIBIT 796. 11:24AM

22 IS THAT AN E-MAIL THAT YOU SENT ON
23 FEBRUARY 2ND, 2010, TO PHILIP BARACH, JEFFREY GUNDLACH
24 AND JOEL DAMIANI?

25 A. YES. 11:25AM

26 MR. BRIAN: I'LL OFFER 796, YOUR HONOR.

27 THE COURT: IT WILL --

28 MR. MADISON: NO OBJECTION.

1 THE COURT: IT WOULD BE ADMITTED.

2

3 (EXHIBIT 796 ADMITTED.)

4

5 THE COURT: WAS 6043 OFFERED?

11:25AM

6 MR. BRIAN: IT WAS NOT.

7 THE COURT: GO AHEAD.

8 Q. BY MR. BRIAN: FIRST OF ALL, I THINK YOU HAVE

9 TALKED ABOUT -- TELL THE LADIES AND GENTLEMEN OF THE
10 JURY WHO PHIL BARACH IS.

11:25AM

11 A. PHIL BARACH HAS WORKED WITH JEFFREY. THEY'VE
12 BEEN BUSINESS PARTNERS FOR 25 YEARS.

13 HE'S NOW PRESIDENT OF DOUBLELINE
14 CAPITAL.

15 Q. AND WAS HE AT TCW PRIOR TO THE TIME THAT YOU
16 AND MR. GUNDLACH AND OTHERS WERE FIRED, IN DECEMBER OF
17 2009?

11:25AM

18 A. YES.

19 Q. AND DID HE LEAVE TCW TO JOIN DOUBLELINE?

20 A. YES, HE DID.

11:25AM

21 Q. AND WHAT ABOUT MR. JOEL DAMIANI? WHO WAS
22 THAT?

23 A. JOEL DAMIANI WAS ANOTHER PORTFOLIO MANAGER IN
24 THE MBS GROUP.

25 Q. AND DID HE ALSO COMES TO DOUBLELINE FROM TCW?

11:26AM

26 A. YES, HE DID.

27 Q. AND WAS EITHER PHIL BARACH OR JOEL DAMIANI
28 FIRED BY TCW?

1 A. NO.

2 Q. WERE THEY THE ONLY TWO WHO LEFT TCW
3 VOLUNTARILY, AFTER YOU WERE FIRED AND JOINED
4 DOUBLELINE?

5 A. NO. THERE WAS A TOTAL OF 45 PEOPLE THAT QUIT
6 THEIR JOBS.

11:26AM

7 Q. AND CAME TO DOUBLELINE?

8 A. YES.

9 Q. BUT JUST, APPROXIMATELY, WHAT PERCENTAGE WAS
10 THAT OF THE MBS GROUP THAT LEFT, AND CAME TO WORK FOR
11 YOU GUYS?

11:26AM

12 A. I WOULD SAY THAT WAS PROBABLY 80 PERCENT.

13 Q. NOW, IF WE COULD EXPAND THE FIRST PARAGRAPH OF
14 EXHIBIT 796, PLEASE.

15 YOU WROTE, DOUBLELINE MOST LIKELY WILL
16 HAVE TO START REBUILDING OUR CLIENT CONTACT LIST, AT
17 LEAST UNTIL THE ATTORNEYS DECIDE ON THE EXISTING LIST.

11:27AM

18 YOU WROTE THAT, CORRECT?

19 A. YES.

20 Q. NOW WHY DON'T WE ENLARGE THE SECOND PARAGRAPH,
21 PLEASE.

11:27AM

22 THEREFORE, I HAVE STARTED A NEW
23 DATABASE, AND HAVE ENTERED IN THE INDIVIDUALS THAT HAVE
24 CONTACTED ME TODAY.

25 YOU SAY YOU HAVE STARTED A NEW DATABASE.

11:27AM

26 WHAT DID DO YOU WITH THAT DATABASE I
27 JUST SHOWED YOU, 6043?

28 A. IT WAS SENT TO THE ATTORNEYS AND STROZ TOOK

1 IT.

2 Q. AND STROZ FRIEDBERG WAS A FIRM THAT DOUBLELINE
3 HAD HIRED?

4 A. YES.

5 Q. NOW, I USE THE WORD REMEDIATION IN MY OPENING
6 STATEMENT, NOT A WORD I USE ALL THE TIME.

11:27AM

7 WAS THERE TALK ABOUT A REMEDIATION
8 PROGRAM BY STROZ FRIEDBERG AT THAT TIME?

9 A. YES. IT WAS ONGOING FOR A LONG TIME.

10 Q. AND WHAT DID YOU UNDERSTAND REMEDIATION WAS?

11:28AM

11 A. REMEDIATION WAS ANYTHING THAT HAD ANY TCW
12 REFERENCE, THE WORD WAS TAKEN, AND THEY KEPT ALL OF
13 THAT INFORMATION. AND SO WE COULD NOT EVER TRY TO USE
14 IT.

15 Q. DID YOU MAKE ANY MORE USE OF THAT DATABASE,
16 CONTACT DATABASE, 6043 AFTER THAT TIME?

11:28AM

17 A. I DID NOT.

18 MR. BRIAN: I'LL OFFER 6043, YOUR HONOR.

19 THE COURT: I THOUGHT 6043 HAD PREVIOUSLY BEEN
20 ADMITTED.

11:28AM

21 MR. BRIAN: I DON'T THINK I OFFERED IT.

22 YOU ASKED ME IF I HAD, AND I DON'T THINK
23 I DID.

24 THE COURT: 6043 WAS THE DOUBLELINE DATABASE
25 THAT SHE CREATED?

11:28AM

26 MR. BRIAN: YES.

27 THE COURT: ALL RIGHT. SO THAT WILL BE
28 ADMITTED.

1 MR. BRIAN: I'M SORRY, YOUR HONOR?

2 THE COURT: IT WOULD BE -- ANY OBJECTION?

3 MR. MADISON: NO, YOUR HONOR.

4 THE COURT: IT WOULD BE ADMITTED.

5

11:29AM

6 (EXHIBIT 6043 ADMITTED.)

7

8 Q. BY MR. BRIAN: NOW, YOU WERE ALSO SHOWN AN
9 EXHIBIT 982. IF WE COULD SHOW THAT, PLEASE.

10

11:29AM

11 AND IF WE COULD -- MAY I APPROACH THE
12 SCREEN, YOUR HONOR?

12

THE COURT: YES, YOU MAY.

13

14 MR. BRIAN: MAYBE WE COULD ENLARGE THE SECOND
15 PARAGRAPH, PLEASE.

15

11:29AM

16 Q. YOU WERE ASKED ABOUT LANGUAGE IN THERE ABOUT
17 WE'VE REBUILT OUR SYSTEMS.

17

DO YOU RECALL THOSE QUESTIONS?

18

A. YES.

19

20 Q. WERE YOU THE PERSON AT DOUBLELINE RESPONSIBLE
21 FOR CREATING THE SO-CALLED ANALYTICS?

21

11:30AM

A. NO.

22

Q. OR ANYTHING HAVING TO DO WITH A SOURCE CODE?

23

A. NO.

24

25 Q. THE SPECIAL MORTGAGE CREDIT FUNDS, WHAT DOES
26 THAT REFER TO?

26

11:30AM

27 A. SPECIAL MORTGAGE CREDIT FUNDS WERE FUNDS THAT
28 WERE SET UP, THE FIRST ONE -- THEY WERE DISTRESSED
MORTGAGE FUNDS. THEY WERE HEDGE FUNDS.

1 THEY WERE SET UP IN EARLY -- THE FIRST
2 ONE WAS EARLY '08, AND THE SECOND ONE WAS THE SUMMER OF
3 '08. AND I'M NOT SURE WHAT ELSE YOU NEED.

4 Q. AND THEY WERE FORMED BY MR. GUNDLACH?

5 A. YES.

11:30AM

6 Q. NOW, YOU WERE ASKED QUESTIONS ABOUT GETTING A
7 COPY OF THE LIST OF INVESTORS IN THE SPECIAL MORTGAGE
8 CREDIT FUNDS LIMITED PARTNERSHIPS.

9 DO YOU RECALL THOSE QUESTIONS?

10 A. YES.

11:31AM

11 Q. AND DID YOU TAKE A COPY OF THAT LIST WITH YOU
12 WHEN YOU LEFT TCW?

13 A. NO.

14 Q. TO YOUR KNOWLEDGE, DID ANYONE --

15 A. NO.

11:31AM

16 Q. -- THAT WENT FROM TCW TO DOUBLELINE TAKE A
17 COPY OF THAT LIST TO DOUBLELINE?

18 MR. MADISON: OBJECTION. FOUNDATION.

19 THE COURT: WELL, IT'S TO HER KNOWLEDGE.

20 Q. BY MR. BRIAN: DO YOU KNOW OF ANYONE ELSE
21 TAKING A COPY OF THAT LIST FROM TCW TO DOUBLELINE?

11:31AM

22 A. NO.

23 Q. AT SOME POINT, DID YOU GET A COPY OF A LIST?

24 A. YES, I DID.

25 Q. WHO DID YOU GET IT FROM?

11:31AM

26 A. I GOT IT FROM BOB BORDEN, WHO WAS AN INVESTOR
27 IN THOSE FUNDS. AND HE WAS THE HEAD OF THE SOUTH
28 CAROLINA EMPLOYEES.

1 HE WAS ALSO THE ADVISOR TO THE OTHER
2 INVESTORS FOR THOSE FUNDS.

3 Q. NOW, LET ME STOP YOU THERE.

4 WHEN YOU SAY ADVISOR TO THE OTHER
5 INVESTORS, IS THERE A COMMITTEE THAT'S SET UP?

11:31AM

6 A. YES. IT'S AN ADVISORY COMMITTEE.

7 Q. AND WHAT DID THE ADVISORY COMMITTEE DO?

8 A. THEY ARE THERE TO REPRESENT THE INVESTORS TO
9 THE COMPANY, TCW.

10 Q. AND WHAT DID MR. -- DID MR. --

11:32AM

11 LET ME SHOW YOU EXHIBIT 2066 THAT'S IN
12 YOUR BLACK BINDER.

13 DO YOU RECOGNIZE THAT?

14 A. YES.

15 Q. WHAT IS IT?

11:32AM

16 A. THIS IS THE E-MAIL BOB BORDEN SENT ME WITH THE
17 LIST OF INVESTORS.

18 HE WAS TRYING TO -- HE WANTED JEFFREY TO
19 TALK TO THEM. HE WANTED THEIR ADVICE ON WHAT TO DO
20 ABOUT THE FUNDS, BECAUSE THE FUNDS WERE SET UP --

11:32AM

21 MR. MADISON: EXCUSE ME, YOUR HONOR.

22 MOVE TO STRIKE MS. VANEVERY'S
23 SPECULATION.

24 THE COURT: I'LL STRIKE IT AFTER THE E-MAIL --

25 MR. BRIAN: FIRST OF ALL, I'LL OFFER 2066,
26 YOUR HONOR.

11:32AM

27 MR. MADISON: NO OBJECTION TO THAT.

28 THE COURT: IT WILL BE ADMITTED.

1 (EXHIBIT 2066 ADMITTED.)

2

3 Q. MR. BRIAN: NOW, WHAT USE DID YOU MAKE OF THIS
4 LIST THAT'S ATTACHED TO MR. BORDEN'S E-MAIL?

5 A. WELL, IT WAS AN INCOMPLETE LIST. 11:33AM

6 THE E-MAIL ADDRESSES THAT WERE ON THERE,
7 I INVITED THEM TO A WEBCAST.

8 Q. IN DECEMBER OF 2009?

9 A. YES.

10 Q. DID YOU MAKE ANY FURTHER USE OF THESE LISTS? 11:33AM

11 A. THEY WERE ONLY USED FOR WEBCASTS IN RELATION
12 TO THOSE FUNDS, SPECIFICALLY.

13 Q. AND DID YOU USE IT AFTER LATE 2009, EARLY
14 2010?

15 A. NO. 11:33AM

16 Q. DID MR. BORDEN, AS FAR AS YOU KNOW, EVER
17 INVEST IN DOUBLELINE?

18 A. NO.

19 Q. DID HE KEEP HIS MONEY WITH THE SMCF FUNDS AT
20 TCW? 11:33AM

21 A. I DON'T KNOW.

22 Q. BY THE WAY, DO YOU KNOW WHETHER MR. GUNDLACH
23 HIMSELF IS AN INVESTOR IN ANY OF THE SMCF FUNDS WE'RE
24 TALKING ABOUT?

25 A. YEAH. MR. GUNDLACH, AND THERE WERE SEVERAL
26 OTHER EMPLOYEES THAT WORKED AT DOUBLELINE THAT WERE
27 ALSO INVESTORS IN THERE. 11:33AM

28 Q. WHICH ONES DO YOU KNOW OF?

1 A. SUSAN NICHOLS, VINCENT FIORILLO -- I CAN ONLY
2 REMEMBER THOSE TWO.

3 Q. NOW, YOU WERE ASKED ABOUT -- YOU WERE SHOWN A
4 DOCUMENT THAT REFERRED TO A MR. ATTANASIO.

5 I THINK IT'S EXHIBIT 192, IF WE COULD
6 DISPLAY THAT, PLEASE. 11:34AM

7 AND MAYBE IF WE COULD JUST ENLARGE THE
8 FIRST, OH, EIGHT OR NINE LINES OF THAT TOP E-MAIL.

9 MR. BRIAN: LET'S TAKE THAT DOWN FOR JUST A
10 SECOND. MAY I CONSULT WITH MR. MADISON BRIEFLY, YOUR
11 HONOR? 11:35AM

12 THE COURT: YES. PLEASE DO.

13 MR. MADISON: DO I GET A CHOICE IN THE MATTER?

14 THE COURT: TRY TO GET ALONG NOW.

15 MR. BRIAN: MAY I ASK, YOUR HONOR, IF -- 11:35AM

16 THE COURT: IT'S BEEN ADMITTED, 192.

17

18 (EXHIBIT 192 ADMITTED.)

19

20 MR. BRIAN: MAY I ASK THE COOPERATION OF 11:35AM
21 MR. MADISON'S EXPERT, HERE, IF THEY COULD DISPLAY THEIR
22 VERSION HERE, BECAUSE THEY HAVE THE REDACTED VERSION?

23 THE COURT: YEAH.

24 MR. MADISON: THEY GET ALONG, AT LEAST, YOUR
25 HONOR. 11:36AM

26 MR. BRIAN: IT'S ALL HEALTHY ARGUMENT.

27 THE COURT: I'M REALLY ONLY 38, AND I DON'T
28 DESERVE THIS GRAY HAIR. I JUST WORKED WITH THESE

1 PEOPLE FOR A LONG TIME.

2 Q. BY MR. BRIAN: IF WE COULD JUST ENLARGE THE --
3 DO YOU WANT TO ENLARGE WHERE IT SAYS THAT PARAGRAPH,
4 ANOTHER HEAD SPINNER? DO YOU SEE THAT, TO
5 MR. ATTANASIO?

11:36AM

6 A. I DON'T HAVE IT ON MY SCREEN.

7 THE COURT: WE DON'T HAVE IT ON OUR SCREENS UP
8 HERE. SOMEONE NEEDS TO FLIP THE SWITCH.

9 UNIDENTIFIED SPEAKER: THE POWER CORD CAME OUT
10 UNDER HER FEET. IT'S THAT LITTLE BOX.

11:36AM

11 DO YOU WANT ME TO COME UP?

12 MR. BRIAN: DO YOU NOW SEE IT?

13 THE WITNESS: YES.

14 Q. BY MR. BRIAN: THERE'S A REFERENCE TO
15 MR. ATTANASIO.

11:37AM

16 DO YOU SEE THAT?

17 A. YES.

18 Q. WHO IS MR. ATTANASIO?

19 A. MR. ATTANASIO RAN THE HIGH YIELD AND MEZZANINE
20 GROUPS AT TCW.

11:37AM

21 Q. SO HE WAS ANOTHER PORTFOLIO MANAGER?

22 A. YES.

23 Q. AND THIS MAY 29TH, 2009, IS RIGHT AROUND THE
24 TIME -- WELL, WHERE IS IT IN RELATION TO WHEN
25 MR. STERN -- THE ANNOUNCEMENT OF MR. STERN COMING BACK
26 AS INTERIM CEO?

11:37AM

27 A. MR. ATTANASIO AND HIS -- THE OTHER GUY THAT
28 RAN HIS GROUP, JEAN-MARC CHAPUS, SIGNED THAT LETTER AND

1 SENT IT TO SG, SAYING THEY DIDN'T WANT MARC STERN TO
2 COME BACK.

3 Q. AND WAS MR. JEAN-MARC CHAPUS ALSO A PORTFOLIO
4 MANAGER?

5 A. YES.

11:37AM

6 Q. AND DO YOU KNOW WHETHER THEY ARE STILL AT TCW?

7 A. THEY ARE NOT. THEY HAVE NEGOTIATED A DEAL TO
8 LEAVE TCW.

9 Q. AND YOU REFERRED TO A LETTER, WAS THERE ALSO
10 ANOTHER PORTFOLIO MANAGER NAMED BLAIR THOMAS AT TCW AT
11 THAT TIME?

11:38AM

12 A. YES. HE ALSO SIGNED THAT LETTER.

13 Q. AND IS MR. THOMAS STILL AT TCW?

14 A. NO, HE IS NOT, NO. HE ALSO NEGOTIATED A DEAL
15 TO LEAVE.

11:38AM

16 Q. AND WE SHOWED YOU AN E-MAIL EARLIER IN 2009
17 INVOLVING WAMCO.

18 DO YOU REMEMBER THE E-MAIL WITH THE
19 SHARING OF THE FEES?

20 A. YES.

11:38AM

21 Q. DID YOU HAVE DISCUSSIONS -- WELL, STRIKE THAT.
22 WHAT WAS YOUR UNDERSTANDING, IN THE FALL
23 OF 2009, THAT IF MR. GUNDLACH LEFT WITHOUT BEING FIRED,
24 WHAT WAS YOUR UNDERSTANDING OF WHAT HE INTENDED TO DO?

25 MR. MADISON: OBJECTION, FOUNDATION AND
26 HEARSAY.

11:38AM

27 THE COURT: SUSTAINED.

28 YOU CAN LAY SOME FOUNDATION TO THAT.

1 SHE MAY TESTIFY IN THAT AREA.

2 MR. BRIAN: I'M SORRY. I DIDN'T HEAR.

3 THE COURT: I SAID SHE MAY TESTIFY IN THAT
4 AREA. YOU CAN LAY SOME FOUNDATION.

5 Q. BY MR. BRIAN: DID YOU HAVE DISCUSSIONS WITH
6 MR. GUNDLACH IN THE FALL OF 2009, OR ANY TIME BEFORE
7 YOU WERE FIRED, ABOUT WHAT HIS INTENTIONS WERE?

11:39AM

8 A. MR. GUNDLACH --

9 Q. THAT'S JUST A YES OR NO.

10 A. YES.

11:39AM

11 Q. AND AT THAT TIME, HAD YOU HEARD RUMORS THAT
12 YOU MIGHT BE FIRED?

13 A. NO.

14 Q. WELL, IN THE FALL OF 2009?

15 A. YES.

11:39AM

16 Q. OKAY.

17 NOW, DID YOU DISCUSS WITH MR. GUNDLACH,
18 IN THE EVENT YOU WERE NOT FIRED, WHAT HIS INTENTIONS
19 WERE WITH REGARD TO EITHER STAYING AT TCW, LEAVING,
20 NEGOTIATING A SEPARATION, OR ANYTHING ELSE?

11:39AM

21 A. MR. GUNDLACH ALWAYS --

22 MR. MADISON: EXCUSE ME. THAT'S HEARSAY.

23 THE COURT: JUST ANSWER YES OR NO.

24 DID YOU DISCUSS?

25 THE WITNESS: YES.

11:39AM

26 Q. MR. BRIAN: OKAY.

27 WHAT WAS YOUR UNDERSTANDING AS TO HIS
28 INTENTIONS, IF HE WAS NOT FIRED?

1 MR. MADISON: SAME OBJECTION, AND HEARSAY,
2 YOUR HONOR.

3 THE COURT: SUSTAINED.

4 Q. BY MR. BRIAN: WELL, LET ME ASK YOU THIS: DID
5 YOU INTEND TO WALK OUT THE DOOR AND GET SUED BY TCW?

11:40AM

6 A. NEVER.

7 Q. DID YOU INTEND, WHATEVER YOU INTENDED TO DO,
8 WAS IT YOUR HOPE THAT IT WOULD BE AN AMICABLE
9 SEPARATION, OR STAYING AMICABLY AT TCW?

10 A. YES.

11:40AM

11 MR. BRIAN: NOTHING FURTHER.

12 THE COURT: MR. MADISON, ANY REDIRECT?

13 MR. MADISON: I DO HAVE SOME, YOUR HONOR.

14

15 REDIRECT EXAMINATION

11:40AM

16 BY MR. MADISON:

17 Q. LET ME START JUST WITH EXHIBIT 261, WHICH
18 MR. BRIAN SHOWED YOU, WAS INTRODUCED AS TO THE PART --
19 THE PART AT THE TOP. EXCUSE ME.

20 THE COURT: I THINK YOU KICKED OUR CORD AGAIN.

11:41AM

21 NOW WE'RE BACK ON. OKAY. WE'RE GOOD.
22 IT JUST WASN'T UP YET.

23 Q. BY MR. MADISON: SO THIS WAS YOUR STATEMENT TO
24 MR. GUNDLACH, ON SEPTEMBER 2ND, 2009. SO THAT WAS
25 BEFORE THE MEETING WITH MR. STERN AND MR. GUNDLACH ON
26 THE 3RD.

11:41AM

27 AND YOU SAY, IN THE THIRD LINE DOWN, I
28 HEAR YOU ON THE RETIREMENT ISSUE. ALTHOUGH IF THIS IS

1 THE PATH STERN AND THE FRENCH HAVE CHOSEN, I WOULD
2 DEFINITELY MAKE IT MY MISSION TO STICK IT TO THEM.

3 AND IS THAT -- THAT'S NOT AN AMICABLE
4 SITUATION, IS IT, MA'AM?

5 A. I'M NOT SURE WHAT I MEANT BY THAT. 11:42AM

6 Q. WELL, TO STICK IT TO SOMEBODY IS NOT AMICABLE,
7 FRIENDLY, NEGOTIATED, OR ANYTHING, IS IT?

8 A. WELL, I THINK I'M JUST SPEAKING OUT OF ANGER.
9 I MEAN, I THOUGHT WE WERE BEING FIRED. AND IT WAS
10 MUCH -- IT WAS SAID OUT OF ANGER AND FRUSTRATION. 11:42AM

11 Q. SO IF YOU THOUGHT YOU WERE GOING TO BE FIRED,
12 YOU WANTED TO STICK IT TO MR. STERN AND THE FRENCH?

13 A. I'M JUST TALKING. I DIDN'T REALLY MEAN THAT,
14 AND I WOULDN'T DO THAT.

15 SO I REALIZE THAT I PUT IT IN THIS
16 E-MAIL, BUT IT'S NOT SOMETHING THAT I WOULD DO. 11:42AM

17 Q. AND BY "MISSION," YOU MEANT THIS IS SOMETHING
18 WE'RE GOING TO ENDEAVOR TO DO, MAKE IT THE MISSION,
19 RIGHT?

20 A. I'M JUST TALKING. IT DOESN'T MEAN ANYTHING. 11:42AM

21 Q. NOW, MR. BRIAN SHOWED YOU EXHIBIT 139.

22 AND I'D LIKE TO DISPLAY THAT. I BELIEVE
23 IT'S IN EVIDENCE.

24 AND GOING OVER TO THE SECOND PAGE, IF WE
25 COULD. 11:43AM

26 WELL, LET'S START ON THE FIRST PAGE OF
27 139. AND DOWN AT THE BOTTOM, THE E-MAIL FROM
28 MR. GUNDLACH TO YOU.

1 AND SO REMEMBER, HE'S TALKING HERE ABOUT
2 DIVIDING UP THE REVENUE FROM SOMETHING CALLED
3 DOUBLELINE, RIGHT?

4 MR. BRIAN: OBJECTION. MISSTATES THE
5 DOCUMENT. THE DOCUMENT SPEAKS FOR ITSELF.

11:43AM

6 THE COURT: IT'S BEEN ADMITTED.

7 IF YOU WANT TO ASK A QUESTION, ASK A
8 QUESTION.

9 Q. BY MR. MADISON: WELL, MR. BRIAN ASKED YOU
10 SOME QUESTIONS ABOUT WHAT YOUR UNDERSTANDING OF IT WAS.

11:43AM

11 DO YOU SEE, IN THE SECOND PARAGRAPH
12 THERE AT THE BOTTOM, FOR EXAMPLE, HE SAYS -- THE LAST
13 LINE IN THE SECOND PARAGRAPH -- MEANWHILE, WE CAN
14 MARKET THE DOUBLELINE PRODUCTS UP TO 92 BILLION FROM 60
15 BILLION?

11:43AM

16 A. YES, I SEE.

17 Q. SO YOU UNDERSTOOD HE WAS TALKING ABOUT SOME
18 ENTITY CALLED DOUBLELINE, THAT WAS BASED ON THE MBS
19 GROUP AT TCW, CORRECT?

20 A. THERE WAS NO ENTITY CALLED DOUBLELINE AT THIS
21 TIME.

11:44AM

22 HE'S TALKING ABOUT JOINING WESTERN
23 ASSET; SO WHAT HE'S REFERRING TO IS BRINGING OVER
24 CLIENTS THAT WOULD WANT TO COME.

25 Q. TCW CLIENTS?

11:44AM

26 A. THEY ARE JUST CLIENTS, YES.

27 Q. WHAT DO YOU MEAN, "THEY ARE JUST CLIENTS"?

28 A. WELL, I THINK CLIENTS HIRED HIM FOR A

1 PARTICULAR TALENT THAT HE HAD.

2 Q. SO HE'S ASSUMING THAT ALL OF THE CLIENTS OF
3 TCW'S MBS GROUP WOULD COME OVER AS PART OF SOMETHING
4 CALLED DOUBLELINE?

5 A. I THINK HE'S JUST TRYING TO RATIONALIZE HOW IT
6 WOULD WORK TO HIMSELF, IF HE MERGED AND WENT OVER TO
7 WESTERN ASSET. 11:44AM

8 Q. OKAY. AND I DON'T WANT TO GO BACK OVER WHAT
9 WE WENT THROUGH ALREADY; BUT IF YOU GO TO THE NEXT
10 PARAGRAPH, AND HE'S TALKING ABOUT DOUBLELINE HAVING
11 HIGHER AVERAGE FEES, DOUBLELINE AVERAGE FEES, ABOVE
12 THIS AND THAT. 11:44AM

13 AND LET'S TALK ABOUT THE SECOND PAGE
14 NOW, AT THE PARAGRAPH ON -- AT THE END. HE SAYS, I
15 FIGURE I SHOULD GET 20 PERCENT OF THE DOUBLELINE
16 REVENUE, 46 MILLION, AND 10 PERCENT OF THE WESTERN
17 REVENUE, 46 MILLION, AS REASONABLE COMP FOR THE DEAL. 11:45AM

18 SO THAT MEANS, UNDER THIS DEAL,
19 MR. GUNDLACH WOULD GET 92 MILLION DOLLARS A YEAR,
20 RIGHT? 11:45AM

21 A. THAT'S WHAT IT SAYS.

22 Q. AND DID HE TELL YOU WHAT HE WAS EARNING AT
23 TCW?

24 A. HE DID NOT.

25 Q. SO YOU DON'T KNOW WHAT MR. GUNDLACH'S
26 COMPENSATION WAS AT TCW? 11:45AM

27 A. I KNOW THAT MR. GUNDLACH'S COMPENSATION WAS
28 BUILT ON A PERCENTAGE OF THE ASSETS THAT HE WAS

1 MANAGING, AND HE SPLIT THAT. I DON'T KNOW WHAT THE
2 SPLIT IS WITH TCW. AND TCW HAD A GOOD MAJORITY OF
3 THAT.

4 Q. OKAY. SO TCW GOT A MAJORITY OF THE REVENUE
5 FROM THE CLIENTS AND ACCOUNTS THAT MR. GUNDLACH WAS
6 MANAGING, BECAUSE THEY OWN THE FIRM, RIGHT?

11:45AM

7 A. YES.

8 Q. OKAY. SO HERE WHAT MR. GUNDLACH PROPOSES THAT
9 NOW, UNDER THIS DEAL INVOLVING DOUBLELINE, THAT SAME
10 EXACT REVENUE IS GOING TO BE DIVIDED UP DIFFERENTLY,
11 RIGHT?

11:46AM

12 A. HE'S TALKING ABOUT A DEAL WITH WESTERN ASSET,
13 SO THERE IS NO DOUBLELINE. HE'S JUST USING THAT AS A
14 PLACE HOLDER FOR HIS PORTION OF WHAT HE WOULD BRING
15 OVER.

11:46AM

16 Q. WHAT WE'RE SAYING IS THAT THE CLIENTS AND
17 FUNDS FROM TCW WOULD GO OVER TO WESTERN ASSET.

18 AND LET'S -- YOU CAN CALL DOUBLELINE A
19 PLACE HOLDER, BUT THAT'S WHAT WE'RE TALKING ABOUT, THE
20 SAME --

11:46AM

21 A. THAT WOULD BE THE CLIENT'S CHOICE.

22 Q. THAT WASN'T WHAT I ASKED YOU, MA'AM.

23 A. THAT'S WHAT HE'S REFERRING TO.

24 Q. OKAY. THAT'S WHAT HE'S REFERRING TO.

25 AND NOW HE'S SAYING, ANOTHER WAY TO
26 THINK ABOUT IT WOULD BE, 92 MILLION WOULD BE 40 PERCENT
27 OF DOUBLELINE REVENUE AND NONE OF THE WESTERN REVENUE.

11:46AM

28 SO IF YOU ARE JUST FOCUSING ON THAT

1 REVENUE THAT'S GOING TO PICK UP AND LEAVE TCW, AND GO
2 TO WAMCO, JUST THINK OF DOUBLELINE AS THE PLACE HOLDER,
3 NOW, 40 PERCENT OF THAT GOES TO MR. GUNDLACH, 20
4 PERCENT GOES TO WESTERN ASSET, TCW'S COMPETITOR, RIGHT?

5 A. YES. THAT'S WHAT IT SAYS. 11:47AM

6 Q. AND THEN DOUBLELINE STAFF GET 20 PERCENT,
7 RIGHT?

8 A. IT SAYS DOUBLELINE IS JUST A PLACEHOLDER.

9 Q. DOUBLELINE STAFF, MA'AM.

10 DO YOU SEE THAT? 11:47AM

11 A. SORRY. I DIDN'T LOOK AT IT.

12 Q. IT SAYS DOUBLELINE STAFF TO GET --

13 A. YES, I SEE THAT.

14 Q. WHO WAS DOUBLELINE STAFF, BY THE WAY?

15 A. WHOEVER WAS GOING TO BE PART OF THIS DEAL. I
16 DON'T KNOW. 11:47AM

17 Q. WHOEVER LEFT TCW AND WENT WITH MR. GUNDLACH?

18 A. I DON'T KNOW.

19 Q. AND THEN SOC-GEN -- THE OWNER OF TCW, WOULD
20 GET 20 PERCENT, RIGHT? 11:47AM

21 A. YES.

22 Q. SO TCW AND SOC-GEN WOULD GO FROM OWNING THE
23 BUSINESS FROM WHERE THEY GOT THE MAJORITY OF THE
24 REVENUE, AS MOST OWNERS DO, TO GETTING 20 PERCENT?

25 A. BUT ACTUALLY, THE REVENUE WOULD HAVE GONE UP
26 SO MUCH THAT THE 20 PERCENT WOULD HAVE BEEN WORTH MORE
27 THAN WHAT THEY ARE GETTING NOW; SO IT WAS A VERY FAIR
28 AND AMICABLE ANALYSIS THAT THEY MADE HERE. 11:48AM

1 Q. LET ME COME BACK TO THAT IN A MOMENT.

2 BUT DO YOU AGREE WITH ME, IN TERMS OF
3 THE PERCENTAGES, THAT IT WAS A FRACTION?

4 A. NO, I DON'T.

5 Q. SO 20 PERCENT, YOU SAID A MINUTE AGO,
6 YOURSELF, THAT TCW WAS GETTING THE MAJORITY OF THE
7 REVENUE; SO THAT'S MORE THAN 50 PERCENT?

11:48AM

8 A. BUT THAT'S BASED ON A DIFFERENT AUM NUMBER.
9 THAT'S BASED ON WHATEVER HE WAS MANAGING AT THE TIME.

10 WHEN YOU ARE TALKING ABOUT MERGING WITH
11 WESTERN, THEY ALREADY HAD OVER 200 MILLION. THAT'S A
12 LOT MORE THAN WE HAD AT TCW.

11:48AM

13 Q. RIGHT NOW I'M JUST ASKING ABOUT THE
14 PERCENTAGES. AND I PROMISE YOU I'LL ASK YOU ABOUT THE
15 AMOUNTS.

11:48AM

16 A. WELL, I THINK YOU HAVE TO COMPARE THEM
17 CORRECTLY.

18 Q. I WANT TO DO THAT, MA'AM.

19 RIGHT NOW, I'M JUST ASKING ABOUT THE
20 PERCENTAGES THOUGH.

11:49AM

21 AND YOU SEE WHERE IT SAYS -- ANOTHER WAY
22 TO THINK OF IT WOULD BE, 40 PERCENT OF DOUBLELINE
23 REVENUE, AND NONE OF THE WESTERN REVENUE. THEN WESTERN
24 GETS 20 PERCENT, DOUBLELINE GETS 20 PERCENT, AND
25 SOC-GEN GETS 20 PERCENT; AND THAT EQUALS A HUNDRED
26 PERCENT, RIGHT? 40 PLUS 20 PLUS 20 PLUS 20?

11:49AM

27 A. YES.

28 Q. AND THAT'S THE DOUBLELINE REVENUE; SO THAT'S

1 WHATEVER'S COMING FROM TCW, RIGHT?

2 A. HE'S JUST TALKING ABOUT SHARING FEES WITH
3 EVERYONE, SO IT'S A WIN/WIN. SO IF CLIENTS CHOOSE TO
4 COME OVER WITH HIM --

5 Q. YOU AGREE, RIGHT, THAT TCW, UNDER THIS
6 FORMULA, WOULD BE GOING FROM MORE THAN 50 PERCENT DOWN
7 TO 20 PERCENT FOR SOC-GEN?

11:49AM

8 MR. BRIAN: OBJECTION. ARGUMENTATIVE, ASKED
9 AND ANSWERED.

10 THE COURT: SUSTAINED.

11:49AM

11 Q. BY MR. MADISON: I JUST WANT TO UNDERSTAND
12 WHEN YOU WERE TESTIFYING EARLIER ABOUT YOUR
13 UNDERSTANDING OF THIS WIN/WIN.

14 ON THE PERCENTAGES, IT WOULD BE MUCH
15 LESS?

11:50AM

16 MR. BRIAN: OBJECTION. ARGUMENTATIVE, NO
17 FOUNDATION.

18 THE COURT: SUSTAINED.

19 I THINK YOU HAVE TO TAKE THE WHOLE THING
20 IN CONTEXT. YOU WANT TO PUT THE WHOLE THING ON THE
21 BOARD AND TALK ABOUT IT. IT'S IN EVIDENCE.

11:50AM

22 Q. BY MR. MADISON: SO IF WE WANT TO COMPARE THE
23 20 PERCENT THAT SOC-GEN WAS GOING TO GET, AS DESCRIBED
24 HERE, WHAT WOULD WE COMPARE IT TO AT THE TIME? LET'S
25 SAY, IN FEBRUARY OF 2009, WHAT PERCENTAGE, IF ANY, WAS
26 TCW GETTING OF THAT?

11:50AM

27 A. I DON'T KNOW.

28 MR. BRIAN: OBJECTION. FOUNDATION.

1 THE COURT: SUSTAINED.

2 Q. BY MR. MADISON: NOW, YOU BELIEVE THAT THE
3 REVENUE WOULD HAVE GROWN AT WESTERN ASSET?

4 A. YES.

5 Q. AND SO YOU BELIEVE THAT THERE WERE PEOPLE AT
6 WESTERN ASSET THAT WOULD HAVE HELPED MR. GUNDLACH GROW
7 MORE REVENUE?

11:50AM

8 A. I'M TALKING ABOUT THEY ALREADY HAD EXISTING
9 BUSINESS THAT HE WOULD BE TAKING OVER; SO THE AMOUNT OF
10 MONEY THAT HE WOULD BE MANAGING WOULD BE LIKE THREE
11 TIMES THE AMOUNT.

11:50AM

12 Q. YOU WEREN'T SAYING THAT THERE WERE MORE ASSETS
13 THAT COULD BE ADDED TO MR. GUNDLACH'S INVESTMENTS BY
14 VIRTUE OF HIS ASSOCIATION WITH WESTERN --

15 A. I'M ALSO SAYING THAT, TOO, BECAUSE THEY HAD A
16 MUCH BETTER MARKETING GROUP AND EFFORT. THEY HAD MORE
17 CONTACTS.

11:51AM

18 IF YOU HAVE AN EXISTING CLIENT, IT'S
19 EASIER TO TALK THEM INTO ADDING MORE MONEY, OR TO
20 OPENING A NEW ACCOUNT, IF THEY ARE ALREADY COMFORTABLE
21 WITH YOU.

11:51AM

22 Q. AND OF COURSE, FOR SOC-GEN TO AGREE TO ANY
23 REDUCTION IN THEIR PERCENTAGE, OR THEIR REVENUE, THEY'D
24 HAVE TO AGREE, RIGHT?

25 A. I THINK IT WOULD HAVE BEEN -- THIS -- HE IS
26 JUST TALKING, HERE, IN AN E-MAIL.

11:51AM

27 I DON'T EVEN KNOW IF THEY EVER --
28 ANYTHING EVER CAME ABOUT THIS. THIS IS HIM COMING UP

1 WITH A -- WHAT HE THOUGHT WOULD BE FAIR TO EVERYONE.

2 AND I BELIEVE THAT WOULD HAVE BEEN MUCH
3 MORE MONEY FOR SOC-GEN. IT WOULD HAVE BEEN GOOD FOR
4 THEM.

5 Q. NOW, YOU MENTIONED, IN MR. BRIAN'S QUESTIONING
6 ABOUT REMEDIATION, AND LET ME -- REMEDIATION MEANS
7 TRYING TO MAKE SOMETHING RIGHT, DOESN'T IT?

11:52AM

8 A. I GUESS, YEAH.

9 Q. AND YOU TALKED ABOUT A CLIENT LIST THAT WE SAW
10 EARLIER IN EVIDENCE. AND I BELIEVE YOU SAID THAT YOU
11 STILL HAD THAT IN FEBRUARY OF 2010.

11:52AM

12 A. NOT REALLY SURE WHEN THAT WAS REMEDIATED.

13 Q. OKAY. WELL, LET ME SHOW YOU EXHIBIT 2078.

14 MR. MADISON: IT'S NOT IN EVIDENCE, SO I DON'T
15 WANT TO DISPLAY THIS YET, YOUR HONOR.

11:52AM

16 Q. DO YOU RECOGNIZE EXHIBIT 2078?

17 A. IT'S AN E-MAIL.

18 Q. SO YOU RECOGNIZE IT, OR YOU DON'T, MA'AM?

19 A. IT'S SENT FROM ME TO COUNSEL.

20 MR. BRIAN: MAY WE APPROACH, YOUR HONOR.

11:53AM

21 THE COURT: YES, YOU MAY.

22

23 (THE FOLLOWING PROCEEDINGS WERE

24 HELD AT SIDEBAR:)

25

11:53AM

26 MR. BRIAN: THIS WAS THE DISCUSSION WE HAD THE
27 OTHER DAY, YOUR HONOR, EXHIBIT 6043, WHICH IS IN
28 EVIDENCE.

1 I CAN CONFIRM THIS WITH MS. VANEVERY,
2 BUT I BELIEVE IT'S A DIRECT ATTACHMENT TO THIS EXHIBIT.

3 THE COURT: JUST A MINUTE.

4 THAT'S WHY I ASKED EARLIER, IS THIS A
5 COMMUNICATION FROM MS. VANEVERY TO COUNSEL.

11:54AM

6 IT'S TO COUNSEL, SO IT'S PRIVILEGED
7 COMMUNICATION.

8 I'M NOT AWARE OF ANY INDICATION THAT THE
9 PRIVILEGE HAS BEEN WAIVED.

10 THAT SAID, THERE WAS SOME CONFUSION
11 EARLIER ABOUT AN EXHIBIT THAT YOU OFFERED, MR. BRIAN,
12 WHICH MS. VANEVERY SAID SHE PREPARED FROM THE RESPONSE
13 TO THE WEBCAST, AND IT WAS A NEW LIST.

11:54AM

14 MR. BRIAN: RIGHT. AND THAT'S THIS LIST. AND
15 THAT'S 6043.

11:54AM

16 I ELICITED TESTIMONY THAT SHE HAD IT
17 UNTIL EARLY FEBRUARY, PRECISELY BECAUSE OF THE
18 COMMENTS, YOUR HONOR, MADE THE OTHER DAY.

19 THE COURT: WELL, BUT WAIT A MINUTE.

20 THE LIST SHE PREPARED FROM THE
21 DECEMBER 8TH WEBCAST WASN'T A TCW LIST. THERE'S A
22 SEPARATE EXHIBIT, WHICH IS THE LIST THAT SHE USED AS A
23 MAILING OR AN INVITATION FOR THE DECEMBER 8TH WEBCAST.

11:54AM

24 MR. BRIAN: HERE'S WHAT SHE DID.

25 EXHIBIT 551 IS THE WEBCAST LIST FROM
26 SEPTEMBER --

11:55AM

27 THE COURT: RIGHT.

28 MR. BRIAN: -- OF 2009.

1 SHE USES THAT FOR THE WEBCAST ON
2 DECEMBER 8TH. SHE THEN TAKES THE PARTICIPANTS FROM
3 THAT WEBCAST --

4 Q. THE DECEMBER 8TH?

5 MR. BRIAN: -- AND PREPARED --

11:55AM

6 THE COURT: -- A NEW LIST.

7 MR. BRIAN: THAT BECOMES BOTH THE EXHIBIT THAT
8 MR. MADISON --

9 MR. MADISON: NO, THAT'S RIGHT. YOU ARE
10 WRONG, BRAD. THEY ARE DIFFERENT.

11:55AM

11 THE COURT: WELL, MY UNDERSTANDING --

12 MR. BRIAN: WHAT I THOUGHT -- AND ALSO 6043,
13 BECAUSE MY INTENTION -- AND IF I'M WRONG, I APOLOGIZE.
14 BUT MY INTENTION TO ALL OF THIS WAS TO GET OUT OF USING
15 A PRIVILEGED DOCUMENT, AND SIMPLY HAVE AN UNPRIVILEGED
16 DOCUMENT, AND AGREE THAT SHE HAD IT UNTIL FEBRUARY, IN
17 WHICH TIME IT WAS REMEDIATED.

11:55AM

18 MR. MADISON: I CAN MAKE IT EASY. I DON'T
19 WANT TO GO INTO PRIVILEGE. I JUST WANT TO USE IT TO
20 SHOW AND ESTABLISH THAT SHE STILL HAD THE TCW LIST.

11:55AM

21 THE COURT: WELL, BUT IT ISN'T THE TCW LIST.

22 MR. MADISON: IT IS.

23 THE COURT: I HAVEN'T LOOKED AT IT.

24 WE HAVE THE TCW LIST.

25 HER TESTIMONY IS, SHE CREATED THIS NEW
26 LIST, WHICH IS, MY UNDERSTANDING, WAS THE LATER
27 EXHIBIT, AND I DON'T KNOW, 7556, OR WHATEVER IT WAS.

11:55AM

28 MR. BRIAN: 6043.

1 THE COURT: 6043.

2 AND THEN THAT'S SEPARATE.

3 NOW, THESE THINGS ARE IN EVIDENCE. YOU
4 CAN MATCH THEM UP HOWEVER YOU WANT.

5 BUT I'M NOT GOING TO ALLOW THIS E-MAIL
6 WITH COUNSEL.

11:56AM

7 MR. MADISON: I DON'T WANT TO SHOW THAT; I
8 JUST WANT TO USE IT.

9 THE COURT: CLARIFY WHICH LIST IS ATTACHED.

10 MR. MADISON: THEY ARE TOTALLY DIFFERENT
11 LISTS.

11:56AM

12 JUST DON'T ELICIT IT'S AN E-MAIL FROM
13 HER TO US, THEN. SHE ALREADY BLURTED THAT HERSELF.

14 MR. BRIAN: I KNOW.

15 MR. MADISON: ALL I'M GOING TO ESTABLISH --

11:56AM

16 THE COURT: JUST DIRECT HER ATTENTION TO THE
17 ATTACHMENT, WITHOUT REFERENCE TO THE E-MAIL.

18 MR. MADISON: THE PROBLEM WITH THAT, I STILL
19 NEED TO ESTABLISH --

20 THE COURT: IT'S A DATE. WITHOUT REFERENCE TO
21 THE SUBSTANCE OF THE E-MAIL, WOULD YOU TAKE A LOOK AT
22 THE ATTACHMENT; AND THEN YOU CAN ASK QUESTIONS ABOUT
23 THIS.

11:56AM

24 MR. MADISON: SINCE WE'RE ALREADY HERE -- WE
25 CAN TALK ABOUT THIS, I SUPPOSE, AT THE BREAK OR
26 SOMETHING.

11:57AM

27 BUT I'M GOING TO NEED TO GO BACK TO THE
28 INTERVIEW AND -- WELL, NO, HE CREATED -- A TERRIBLE

1 IMPRESSION.

2 MR. BRIAN: TERRIBLE IMPRESSION?

3 THE COURT: JUST A MINUTE. I DON'T NEED TO
4 DEAL WITH THIS NOW. I'LL DEAL WITH IT LATER.

5 THANK YOU.

11:57AM

6 MR. MADISON: BUT I'M GOING TO NEED TO KEEP
7 HER AVAILABLE.

8 THE COURT: HAVE YOU GOT ANOTHER 15 MINUTES?

9 MR. MADISON: I DON'T KNOW. I HOPE NOT.

10 MR. BRIAN: IF HE WANTS TO DO THAT, THEN I
11 WANT TO REOPEN, BECAUSE YOUR HONOR HAS NEVER RULED ON
12 THAT.

11:57AM

13 THEY DID NOT MAKE A MOTION IN LIMINE TO
14 PRECLUDE THAT. HE ANNOUNCED THE OTHER DAY THAT THEY
15 INTENDED TO GET INTO THAT. IF HE INTENDED TO GET INTO
16 THE DEPOSITION, YOU HAVE NEVER EXCLUDED THAT.

11:57AM

17 AND SHE WOULD TESTIFY SHE WAS FURIOUS AT
18 MR. MADISON. WE ARGUED ABOUT WHETHER THAT WAS RIGHT OR
19 WRONG, BUT SHE WAS.

20 THE COURT: BUT THIS GOES INTO THE WHOLE AREA
21 OF BRINGING TRIAL COUNSEL IN AS WITNESSES. AND I
22 THOUGHT WE HAD AN AGREEMENT, AND THAT THERE WAS
23 DISCUSSION OF THIS SOME TIME AGO, THAT WE WEREN'T GOING
24 THERE.

11:57AM

25 MR. BRIAN: THAT WAS BECAUSE WE HAD MOVED TO
26 GET ALL OF THIS OUT. THAT'S WHY I SAID IN COURT THE
27 OTHER DAY, THAT IF WE'RE GOING TO GO THERE --

11:58AM

28 THE COURT: WELL, I KICKED MOST OF IT OUT.

1 MR. MADISON: THIS IS THE BASEBALL BAT YOU
2 WERE WARNING ABOUT. AND HE HIT ME WITH IT BY SAYING I
3 FIRED HER. THAT'S NONSENSE.

4 THE COURT: WE'LL TAKE IT UP LATER. WE DON'T
5 HAVE TIME FOR IT NOW.

11:58AM

6

7 (THE FOLLOWING PROCEEDINGS
8 WERE HELD IN OPEN COURT IN
9 THE PRESENCE OF THE JURY:)

11:58AM

10

11 THE COURT: ALL RIGHT, MR. MADISON. YOU MAY
12 PROCEED.

13 MR. MADISON: THANKS, YOUR HONOR.

14 Q. SO WITHOUT ADDRESSING THE CONTENTS, OR
15 ANYTHING LIKE THAT, YOU HAVE THE EXHIBIT 2078 IN FRONT
16 OF YOU, MA'AM, CORRECT?

11:58AM

17 A. YES.

18 Q. ALL RIGHT. NOW, IF YOU LOOK AT -- DO YOU HAVE
19 A HARD COPY THERE WITH YOU? IT SHOULD BE IN ONE OF THE
20 BINDERS WE PROVIDED TO YOU, EITHER TODAY OR YESTERDAY,
21 I THINK. IT SHOULD BE IN VOLUME 2 FROM YESTERDAY.

11:58AM

22 A. OKAY.

23 Q. ALL RIGHT. AND IF YOU LOOK AT THE ATTACHMENT,
24 YOU CAN SEE, IT'S THE TCW CLIENT LIST THAT WE SAW IN
25 EXHIBIT 551, THAT YOU HAD FOUND AND FORWARDED TO
26 MR. GUNDLACH BACK IN DECEMBER, CORRECT?

11:59AM

27 A. THE CLIENT LIST THAT I FORWARDED TO
28 MR. GUNDLACH BACK IN DECEMBER?

1 Q. YES.

2 A. I DIDN'T FORWARD HIM A CLIENT LIST. I
3 FORWARDED HIM THE 9/09 WEBCAST LIST.

4 Q. THE CONTACT LIST. LET'S CALL IT THAT, SHALL
5 WE?

11:59AM

6 A. IT WAS JUST A WEBCAST LIST.

7 Q. THEY ARE THE SAME, AREN'T THEY?

8 A. THIS IS DIFFERENT THAN THAT.

9 Q. IN WHAT WAY, MA'AM?

10 A. I WOULD HAVE TO COMPARE THEM. I CAN'T BE SURE
11 THAT IT'S THE SAME LIST.

12:00PM

12 Q. YOU STILL HAVE 551?

13 THE COURT: WELL, 551 ISN'T IN THE BOOK --

14 WELL, WAIT. MAYBE IT IS. YES, IT IS.

15 THE WITNESS: THEY DON'T LOOK THE SAME.

12:00PM

16 THE COURT: THEY DON'T APPEAR TO BE THE SAME
17 EXHIBITS, MR. MADISON.

18 MR. MADISON: OKAY. VERY WELL.

19 Q. WELL, IF YOU LOOK AT 2078, JUST TO SAVE TIME,
20 IT'S 212 OR MORE PAGES, CORRECT?

12:01PM

21 MR. BRIAN: WELL, OBJECTION. THAT --

22 THE COURT: 2078 IS AN EXHIBIT, CONSISTING OF
23 215 PAGES.

24 Q. BY MR. MADISON: WELL, LET'S DO IT THIS WAY.

25 DO YOU SEE FROM THE FIRST PAGE, WITHOUT
26 DESCRIBING THE CONTENTS, OR EVEN WHO IT'S TO, THAT YOU
27 E-MAILED THE LIST THAT WAS ATTACHED AS 2078 ON
28 FEBRUARY 2ND, 2010, CORRECT?

12:01PM

1 THE COURT: I THOUGHT IT WAS FEBRUARY 1. THE
2 DATE OF THE E-MAIL IS FEBRUARY 1.

3 Q. BY MR. MADISON: YOU E-MAILED THAT ON
4 FEBRUARY 1, 2010, DIDN'T YOU?

5 A. YES. 12:01PM

6 Q. SO THAT LIST, WHATEVER IT IS, YOU HAD ACCESS
7 TO THAT LIST YOURSELF, AS OF FEBRUARY 1, 2010, CORRECT?

8 A. YES.

9 Q. AND YOU WERE AWARE THAT THERE WERE ITEMS THAT
10 WERE NOT, QUOTE, UNQUOTE, REMEDIATED; ISN'T THAT RIGHT? 12:02PM

11 A. I THOUGHT EVERYTHING WAS BEING REMEDIATED.

12 Q. YOU NEVER LEARNED, FOR EXAMPLE, THAT
13 MR. MAYBERRY HAD NOT TURNED IN CERTAIN INFORMATION,
14 UNTIL FEBRUARY?

15 A. I DIDN'T LEARN THAT UNTIL HE WAS PUT ON LEAVE. 12:02PM

16 Q. SO AS WE SIT HERE TODAY, YOU KNOW THAT THERE
17 WERE THINGS THAT WEREN'T REMEDIATED, DON'T YOU?

18 A. I KNOW HE WAS PUT ON LEAVE.

19 MR. BRIAN: OBJECTION. MISSTATES THE
20 TESTIMONY. 12:02PM

21 THE COURT: SUSTAINED.

22 MR. MADISON: ALL RIGHT.

23 Q. NOW, LET ME SHOW YOU EXHIBIT 588, WHICH IS A
24 DOCUMENT MR. BRIAN SHOWED YOU, AND IS IN EVIDENCE. I
25 THINK I ASKED YOU SOME QUESTIONS ABOUT IT, AS WELL. 12:02PM

26 A. YES, I'VE SEEN THAT.

27 Q. AND THIS IS THE DOCUMENT WHERE YOU WERE
28 ADVISING, IN THE MIDDLE PARAGRAPH THERE -- IN THE

1 INTERIM, YOU WERE ADVISING THE TCW CLIENTS TO NOT
2 LIQUIDATE THEIR INVESTMENTS.

3 AND MR. BRIAN WAS ASKING YOU ABOUT
4 WHETHER OR NOT YOU WERE ASKING THAT THEY COME TO
5 DOUBLELINE AT THAT TIME.

12:03PM

6 DO YOU RECALL THAT?

7 A. YES.

8 Q. WELL, REMEMBER, I ASKED YOU ABOUT THE
9 REGISTRATION PROCESS FOR DOUBLELINE?

10 A. YES.

12:03PM

11 Q. YOU CAN'T HAVE CLIENTS, AS A REGISTERED
12 INVESTMENT FIRM, UNLESS YOU ARE REGISTERED WITH THE
13 SEC; ISN'T THAT RIGHT?

14 A. I WOULD ASSUME SO, YES.

15 Q. AND REMEMBER, YOU WERE TELLING US THAT IT WAS
16 SOME SORT OF RECORD, THAT ONLY 10 DAYS WENT BY UNTIL
17 THE REGISTRATION ARRIVED AT DOUBLELINE.

12:03PM

18 DO YOU RECALL THAT?

19 A. YES.

20 Q. BUT ON DECEMBER 8, WHICH IS THE TUESDAY AFTER
21 THE FRIDAY THAT YOU LEFT TCW, DOUBLELINE WAS NOT A
22 REGISTERED INVESTMENT FIRM, WAS IT?

12:03PM

23 A. I DON'T BELIEVE SO.

24 Q. AND SO IF THE TCW CLIENTS HAD LIQUIDATED AT
25 THAT TIME, THEY COULD NOT -- DOUBLELINE COULD NOT HAVE
26 ACCEPTED THEIR MONEY, COULD IT?

12:04PM

27 A. NO.

28 Q. AND IF THEY HAD LIQUIDATED AT THAT TIME, THEY

1 WOULD HAVE TAKEN THEIR MONEY, PRESUMABLY, TO SOME OTHER
2 FIRM, LIKE PIMCO, OR WAMCO, OR ANY OTHER OF THE
3 HUNDREDS OF FIRMS THAT OFFERED THE SAME SERVICE?

4 A. YEAH. I THINK IT'S THEIR MONEY, AND THEIR
5 CHOICE AS TO WHERE THEY WANT TO PUT IT.

12:04PM

6 Q. SO YOU DIDN'T WANT THEM TO LIQUIDATE. YOU
7 DIDN'T WANT THE CLIENTS TO LIQUIDATE ANY INVESTMENTS
8 UNTIL DOUBLELINE WAS ACTUALLY IN THE POSITION TO
9 RECEIVE THAT MONEY, DID YOU, MA'AM?

10 A. I'M SAYING THAT, BECAUSE I DON'T WANT THEM TO
11 PANIC, AND I DIDN'T WANT TCW TO SUFFER OUTFLOWS FROM
12 THEIR FUND FROM THEIR INVESTORS PANICKING BECAUSE THEY
13 HAVEN'T GOTTEN ANY INFORMATION.

12:04PM

14 Q. THE REMEDIATION PROCESS WAS BASICALLY AN HONOR
15 SYSTEM, WHERE EACH PERSON, LIKE YOURSELF, DECIDED WHAT
16 TO TURN IN AND WHAT NOT TO TURN IN, CORRECT?

12:04PM

17 MR. BRIAN: OBJECTION. MISSTATES TESTIMONY,
18 ARGUMENTATIVE.

19 THE COURT: SUSTAINED.

20 Q. BY MR. MADISON: WELL, DID SOMEONE ACTUALLY GO
21 AND LOOK IN YOUR DEVICES, YOUR COMPUTER, OR OTHER
22 DEVICES, AS PART OF THE REMEDIATION PROCESS?

12:05PM

23 A. YES.

24 Q. WHO DID THAT?

25 A. THE REMEDIATION COMPANY.

12:05PM

26 Q. HOW DID THEY DO THAT?

27 A. THEY WERE IN OUR OFFICES. THEY WENT THROUGH
28 ALL OF THE DOUBLELINE SYSTEMS.

1 I TURNED IN MY PERSONAL FLASH DRIVES,
2 LAPTOP, BACKUP HARD DRIVE.

3 Q. SO YOU DIDN'T -- IF YOU DIDN'T TURN IT IN,
4 THEY DIDN'T HAVE IT?

5 A. OF COURSE, THEY DID. THEY WENT THROUGH ALL OF
6 THE DOUBLELINE SYSTEMS. THEY WERE IN OUR OFFICES FOR
7 MONTHS.

12:05PM

8 Q. DID THEY GO TO YOUR HOME AND LOOK TO SEE, AT
9 YOUR PERSONAL COMPUTER THERE, YOUR FLASH DRIVES, YOUR
10 EXTERNAL DRIVES THAT YOU HAD AT HOME?

12:05PM

11 A. I TURNED IN EVERYTHING THAT I HAD.

12 Q. AND THEY RELIED ON WHAT YOU WERE TELLING THEM,
13 WHEN YOU SAID HERE'S EVERYTHING, RIGHT?

14 A. WELL, I THINK THROUGH THE REMEDIATION PROCESS,
15 YOU CAN FIGURE OUT IF --

12:05PM

16 THE COURT: MA'AM, JUST ANSWER THE QUESTION,
17 PLEASE.

18 THE WITNESS: OKAY. SORRY.

19 THE COURT: LISTEN CAREFULLY, AND JUST ANSWER,
20 AND WE'LL MOVE ON.

12:06PM

21 THE WITNESS: CAN YOU REPEAT THE QUESTION?

22 MR. MADISON: COULD WE READ THAT BACK, YOUR
23 HONOR.

24 THE COURT: SURE.

12:06PM

26 (RECORD READ AS REQUESTED)

27

28 THE WITNESS: WHEN I TURNED IN MY THINGS, YES.

1 Q. BY MR. MADISON: MAY I JUST HAVE ONE MOMENT
2 HERE, YOUR HONOR, AND --

3 WE WERE SHOWN EXHIBIT 796, COMMUNICATION
4 FROM YOU TO MR. BARACH, MR. GUNDLACH, MR. DAMIANI.

5 IF WE COULD DISPLAY THAT. IT'S IN
6 EVIDENCE, YOUR HONOR.

12:06PM

7 AND WHEN YOU TALKED ABOUT THE ATTORNEYS
8 DECIDING ON THE EXISTING LISTS, THOSE WERE LISTS THAT
9 HAD COME, IN PART, FROM TCW INFORMATION, CORRECT?

10 A. I SENT THEM THE DOUBLELINE -- THE DOUBLELINE
11 DATABASE THAT WE HAD BUILT UP TO THAT TIME.

12:06PM

12 Q. YOU NEVER SENT THEM THE LIST THAT YOU HAD THAT
13 YOU SENT TO MR. GUNDLACH ON -- OVER THE WEEKEND OF
14 DECEMBER 5TH AND 6TH?

15 A. I BELIEVE THAT WAS ALREADY REMEDIATED.

12:07PM

16 Q. SO YOU DID TURN THAT IN, AS WELL?

17 A. YES.

18 Q. AND THE LAWSUIT HAD ALREADY BEEN FILED, AND
19 YOU WERE AWARE OF THAT, BY EARLY FEBRUARY, CORRECT?

20 A. YES.

12:07PM

21 MR. MADISON: SUBJECT TO THE MATTERS THAT WE
22 DISCUSSED, I DON'T HAVE ANYTHING FURTHER, YOUR HONOR.

23 THE COURT: ALL RIGHT.

24 MR. BRIAN, ANY FURTHER EXAMINATION?

25 MR. BRIAN: YEAH, I WANT TO ASK A COUPLE OF
26 QUESTIONS TO MS. VANEVERY, JUST TO CLEAR UP THESE
27 LISTS.

12:07PM

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RECROSS-EXAMINATION

BY MR. BRIAN:

Q. TAKE A LOOK AT 6042 IN YOUR BLACK BINDER.

IT'S NOT IN EVIDENCE YET.

12:07PM

DO YOU SEE 6042?

A. YES.

Q. DO YOU RECOGNIZE THAT?

A. YES.

Q. WHAT IS IT?

12:08PM

A. THIS IS THE LIST THAT I GOT FROM BOB BORDEN.

Q. SO THIS WAS A LIST OF INVESTORS IN THE SMCF

FUNDS, RIGHT?

A. YES.

Q. WAS THIS ALSO REMEDIATED?

12:08PM

A. YES.

Q. AND 6043, THE ONE I SHOWED YOU BEFORE, AGAIN,

WHAT IS THAT LIST?

A. I BELIEVE THIS IS THE DOUBLELINE DATABASE.

Q. AND WAS THAT REMEDIATED?

12:08PM

A. YES.

Q. NOW, THERE WAS A NUMBER OF PAGES IN EXHIBIT

6043.

IF YOU PUT THOSE IN A SCREEN, WOULD SOME
OF THESE PAGES ACTUALLY SHOW SEPARATE COLUMNS ON THE
SAME SPREADSHEET?

12:08PM

A. YES.

Q. SO IT'S WHEN YOU COPY IT, YOU HAVE MORE PAGES

1 THAN WOULD APPEAR ON THE SCREEN; IS THAT RIGHT?

2 A. RIGHT.

3 MR. BRIAN: I WOULD OFFER 6042, YOUR HONOR.

4 MR. MADISON: NO OBJECTION.

5 THE COURT: OKAY. 6042 WAS THE BORDEN E-MAIL
6 LIST, NOT THE ONE WE WERE JUST TALKING ABOUT, RIGHT?

12:08PM

7 MR. BRIAN: WE WERE TALKING ABOUT TWO LISTS.

8 THE COURT: I KNOW. I JUST WANT TO MAKE SURE
9 WE'RE ON THE SAME PAGE.

10 6042, THE WITNESS TESTIFIED, WAS THE
11 BORDEN LIST.

12:09PM

12 MR. BRIAN: CORRECT.

13 THE COURT: AND THAT'S ADMITTED WITHOUT
14 OBJECTION. ALL RIGHT.

15 12:09PM

16 (EXHIBIT 6042 ADMITTED.)

17
18 Q. BY MR. BRIAN: NOW, THERE WERE A LOT OF
19 QUESTIONS ABOUT THIS. I WON'T PUT IT UP AGAIN.

20 THIS EXHIBIT 139, THE E-MAIL BETWEEN AND
21 YOU JEFFREY ABOUT THE FEE SHARING AT WAMCO, DO YOU
22 RECALL THAT?

12:09PM

23 A. YES.

24 Q. AND THEN MR. MADISON ASKED YOU QUESTIONS ABOUT
25 FEE SHARING AT TCW.

12:09PM

26 DO YOU RECALL THOSE QUESTIONS?

27 A. YES.

28 Q. TO YOUR KNOWLEDGE, IS FEE SHARING COMMONPLACE

1 IN THE ASSET MANAGEMENT BUSINESS, FEE SHARING BETWEEN
2 THE COMPANIES AND THEIR PORTFOLIO MANAGERS?

3 MR. MADISON: OBJECTION. FOUNDATION.

4 MR. BRIAN: IF YOU KNOW.

5 THE COURT: OVERRULED. IF YOU KNOW. 12:09PM

6 THE WITNESS: I DON'T THINK SO.

7 MR. BRIAN: PARDON?

8 THE WITNESS: I DON'T KNOW. I DON'T THINK SO.

9 THE COURT: IF YOU DON'T KNOW, MA'AM, TELL US
10 YOU DON'T KNOW, AND THEN YOU SAY SOMETHING. 12:10PM

11 Q. BY MR. BRIAN: SO YOU DON'T KNOW, FOR EXAMPLE,
12 THE SPECIFIC FEE SHARING BETWEEN MR. GUNDLACH AND TCW
13 WHEN HE WAS WORKING AT TCW, WHAT PERCENTAGES THEY GOT,
14 VERSUS MR. GUNDLACH?

15 A. I DON'T KNOW. 12:10PM

16 Q. DO YOU KNOW, FOR EXAMPLE, WHEN MR. ATTANASIO
17 LEFT, WHAT HIS SPECIFIC FEE SHARING ARRANGEMENT WAS, DO
18 YOU KNOW?

19 MR. MADISON: IF ANY, YOUR HONOR. THERE'S NO
20 EVIDENCE OF THAT. 12:10PM

21 THE COURT: IF ANY?

22 MR. BRIAN: IF ANY.

23 THE WITNESS: THE ONLY THING I KNOW WAS,
24 THE -- MR. ATTANASIO'S FIRM WAS PURCHASED BY TCW IN
25 1995. AND I HEARD THAT IT WASN'T A GOOD DEAL FOR TCW.
26 I DON'T KNOW. 12:10PM

27 Q. BY MR. BRIAN: AND THEN THEY LEFT IN 2010; IS
28 THAT RIGHT?

1 A. YES.

2 MR. MADISON: I JUST HAVE ONE QUESTION ABOUT
3 THESE DARN LISTS, YOUR HONOR.

4

5

12:10PM

6

 REDIRECT EXAMINATION (FURTHER)

7

BY MR. MADISON:

8

 Q. WE'LL GO BACK TO THE E-MAIL THAT YOU SAID YOU
9 RECEIVED FROM MR. BORDEN. AND I BELIEVE, IS THAT 1767?

10

 THE COURT: WELL, IT WAS JUST 6042, A MINUTE
11 AGO.

12:11PM

12

 MR. MADISON: WELL, THERE'S THE E-MAIL, AND
13 THEN THERE'S THE LIST.

14

 THE COURT: WELL, THE E-MAIL HAD THE LIST
15 ATTACHED.

12:11PM

16

 6042 WAS AN E-MAIL LIST, IS THE WAY IT
17 WAS DESCRIBED. I HAD IT IN FRONT OF ME. IT DOESN'T
18 HAVE AN E-MAIL, AND IT APPEARS TO BE A LIST.

19

 MR. MADISON: RIGHT. THAT'S WHERE I WANT TO
20 UNDERSTAND WHERE THE E-MAIL IS, THAT WAS FORWARDED TO
21 YOU, AS YOU TESTIFIED, FROM MR. BORDEN.

12:11PM

22

 SO IF YOU LOOK AT 1767 --

23

 MR. BRIAN: NO, IT'S 2066.

24

 MR. MADISON: CAN I CROSS-EXAMINE MR. BRIAN,
25 YOUR HONOR?

12:11PM

26

 THE COURT: WELL, YOU ALL ARE DOING A GOOD JOB
27 OF CONFUSING US, BUT LET'S TRY AND GET IT CLEAR.

28

 MR. BRIAN: YOUR HONOR, THE EXHIBIT I USED,

1 AND IT'S INTRODUCED IN EVIDENCE, IS EXHIBIT 2066.

2 THE COURT: THAT'S NOT THE ONE THAT YOU JUST
3 REFERRED TO.

4 MR. BRIAN: THE E-MAIL IS 2066. THE LIST THAT
5 I REFERRED TO IS 6042. 12:12PM

6 THE COURT: ALL RIGHT.

7 MR. MADISON: ALL RIGHT.

8 Q. NOW CAN I ASK THE WITNESS ABOUT THAT, YOUR
9 HONOR?

10 THE COURT: ABOUT WHAT? 12:12PM

11 Q. BY MR. MADISON: WELL, IS THAT CORRECT? IS
12 THAT EXHIBIT THAT -- THE E-MAIL, THAT IS EXHIBIT 2066?

13 A. YES.

14 Q. OKAY. SO IF YOU LOOK AT 6042 -- IF YOU LOOK
15 AT 2066, THERE IS AN ATTACHMENT THERE, CORRECT? 12:12PM

16 A. I'M SORRY. YOU JUST ASKED ME IF THE E-MAIL
17 WAS FOR -- THE LIST ON 2066?

18 Q. DO YOU SEE THE E-MAIL THAT'S 2066?

19 A. YES.

20 Q. ALL RIGHT. 12:12PM

21 MR. BRIAN JUST SAID THE EXHIBIT 6042 WAS
22 ATTACHED TO EXHIBIT 2066. I THOUGHT THAT'S WHAT HE
23 SAID?

24 THE COURT: I DON'T WANT THE LAWYERS
25 TESTIFYING. AND YOU CAN ASK THE QUESTIONS. 12:12PM

26 THERE'S SOME CONFUSION HERE, AND WE'D
27 LIKE THE JURY TO UNDERSTAND WHAT WE'RE TALKING ABOUT.

28 MR. BRIAN: IF I SAID THAT, I APOLOGIZE. I

1 DID NOT MEAN TO SAY THAT, YOUR HONOR.

2 THE COURT: 2066 APPEARS TO BE AN E-MAIL WITH
3 A NUMBER OF PAGES ATTACHED.

4 MR. MADISON: YES, YOUR HONOR.

5 Q. AND I BELIEVE ON 6042, MS. VANEVERY, DIDN'T
6 YOU TESTIFY THIS WAS SOMETHING MR. BORDEN HAD SENT TO
7 YOU?

12:13PM

8 A. I'M GOING BY 6042, PAGES 3, 4 -- I REMEMBER
9 THE ATTACHMENT THAT MR. BORDEN SENT ME LOOKED LIKE
10 THAT.

12:13PM

11 I DON'T KNOW IF THE OTHER PAGES ARE
12 THOSE. I THINK THE OTHER PAGES ARE THE LIST, AND MAYBE
13 I HAD TAKEN THEM.

14 THE COURT: WHAT LIST?

15 MR. BRIAN: ONE OF THE ONES THAT MR. BORDEN
16 SENT ME.

12:13PM

17 Q. BY MR. MADISON: SO IN WHICH EXHIBIT, MA'AM?

18 A. 6042.

19 Q. SO YOUR TESTIMONY IS, THAT IS WHAT MR. BORDEN
20 SENT TO YOU IN AN E-MAIL?

12:13PM

21 MR. BRIAN: THAT MISSTATES THE TESTIMONY, YOUR
22 HONOR.

23 THE COURT: SUSTAINED.

24 IT INCLUDES IT; IS THAT WHAT YOU ARE
25 TELLING US?

12:14PM

26 THE WITNESS: YES.

27 Q. BY MR. MADISON: SO IF WE GO TO 2066, IS THAT
28 THE E-MAIL THAT YOU BELIEVE THE INFORMATION AT 6042 WAS

1 INCLUDED WITH?

2 A. I BELIEVE THOSE WERE THE ATTACHMENTS.

3 Q. OKAY. NOW, IF WE LOOK AT 2066, WHICH IS IN
4 EVIDENCE, AND WE DISPLAY THAT, WE CAN SEE THAT WHAT
5 HAPPENS IS -- I'LL START AT THE TOP, ACTUALLY, HERE --
6 AND MR. BORDEN SENDS IT TO YOU AT YOUR GMAIL ADDRESS,
7 CORRECT?

12:14PM

8 A. YES.

9 Q. AND THEN RIGHT BELOW THAT, IT LOOKS LIKE
10 MR. BORDEN HAD SENT IT TO HIMSELF, FOR SOME REASON.

12:14PM

11 DO YOU SEE THAT, WHERE IT SAYS FORWARDED
12 MESSAGE?

13 A. YES.

14 Q. AND THEN BELOW THAT, IT LOOKS LIKE MR. WALLS
15 FROM TCW HAD SENT IT TO MR. BORDEN, AND PERHAPS OTHERS?

12:15PM

16 A. YES.

17 Q. AND YOU SEE MR. WALLS SAID SMCF-2 AND THAT'S
18 THE SPECIAL MORTGAGE CREDIT FUND INVESTOR LIST, WITH
19 CONTACT NAME AND ADDRESS, DOT XL, SOME XS, AND THE
20 LIKE.

12:15PM

21 ATTACHED IS THE LIST FOR INVESTORS IN
22 SPECIAL MORTGAGE CREDIT FUND TWO, IN THE EVENT YOU NEED
23 THE INFORMATION. IT IS CONFIDENTIAL, AND ONLY INTENDED
24 FOR USE WITH MATTERS RELATING TO THE FUND. IT SHOULD
25 NOT BE DISTRIBUTED TO ANY OUTSIDE PARTIES.

12:15PM

26 DID YOU SEE THAT INFORMATION, WHEN
27 MR. BORDEN FORWARDED IT TO YOU ON THE 21ST OF OCTOBER,
28 THERE AT THE TOP?

1 A. YES.

2 Q. AND DID YOU UNDERSTAND THAT TCW WAS PROVIDING
3 IT TO MR. BORDEN IN HIS CAPACITY AS A MEMBER OF THE
4 ADVISORY BOARD, AND THAT IT SHOULDN'T BE DIRECTED TO
5 ANY OUTSIDE PARTIES WITHOUT CONSENT?

12:16PM

6 MR. BRIAN: OBJECTION. CALLS FOR LEGAL
7 CONCLUSION.

8 THE COURT: SUSTAINED.

9 Q. MR. MADISON: WELL, WHAT, IF ANYTHING, DID YOU
10 THINK ABOUT THAT LANGUAGE THEN THAT YOU SAW MR. WALLS
11 PROVIDING TO MR. BORDEN ABOUT HOW AND TO WHOM IT SHOULD
12 BE PROVIDED?

12:16PM

13 A. I BELIEVE THAT MR. BORDEN WAS PROVIDING IT TO
14 OTHER INVESTORS IN THE FUND.

15 Q. SO YOU BELIEVED THAT YOU WERE AN INVESTOR IN
16 THE FUND?

12:16PM

17 A. I WAS NOT, BUT OTHER PEOPLE AT DOUBLELINE
18 WERE.

19 Q. AND THAT WAS THE SOLE USE THAT DOUBLELINE
20 INTENDED TO MAKE OF THE INFORMATION, WAS TO -- SO FOR
21 THOSE PEOPLE AT DOUBLELINE WHO WERE INVESTORS, TO HAVE
22 THE INFORMATION?

12:16PM

23 A. NO. MR. BORDEN ASKED MR. GUNDLACH TO ADDRESS
24 THE INVESTORS IN THE FUNDS AND TALK TO THEM ABOUT THEIR
25 INVESTMENTS.

12:16PM

26 Q. AND YOU WERE PRESENT FOR THAT?

27 A. PRESENT FOR?

28 Q. THAT STATEMENT, OR WHATEVER IT IS YOU JUST

1 TESTIFIED ABOUT?

2 A. MR. BORDEN WAS CALLING OUR OFFICE. I WASN'T
3 PRESENT FOR THE EXACT CONVERSATION, BUT THAT'S WHAT I
4 WAS TOLD.

5 Q. YOU WERE TOLD BY SOMEONE ELSE, THAT THAT'S
6 WHAT MR. BORDEN HAD DONE?

7 A. THAT WAS MY UNDERSTANDING.

8 Q. OKAY.

9 AND IF I MAY JUST HAVE ONE MORE MINUTE,
10 YOUR HONOR.

11 IF YOU GO BACK TO 2078, WHICH IS NOT IN
12 EVIDENCE, SO I DON'T WANT TO DISPLAY IT --

13 AND IF YOU CAN LOOK AT THE DOCUMENTS
14 THAT ARE ATTACHED TO YOUR FEBRUARY E-MAIL, WE'LL GO
15 BACK TO THE FIRST PAGE, PLEASE.

16 AND IT SAYS YOU WERE E MAILING SOMETHING
17 CALLED THE SMCF INVESTOR LIST, WITH CONTACT NAME AND
18 ADDRESS, 12/24/09.SLSX, CORRECT?

19 A. YES.

20 THE COURT: WAIT A MINUTE. YOU ARE LOOKING AT
21 2078?

22 MR. MADISON: YES, YOUR HONOR, ON THE E-MAIL,
23 THE FIRST PAGE.

24 THE COURT: I DON'T HAVE ANY --

25 OKAY. I'VE GOT IT.

26 MR. MADISON: SUBJECT TO THE MATTERS WE'VE
27 DISCUSSED, I WOULD HAVE ANYTHING FURTHER AT THIS TIME.

28 MR. BRIAN: NOTHING FURTHER, YOUR HONOR.

12:17PM

12:17PM

12:17PM

12:17PM

12:17PM

1 THE COURT: ALL RIGHT, MS. VANEVERY. THANK
2 YOU. YOU MAY STEP DOWN.

3 YOU MAY REMAIN ON CALL. WE MAY HAVE TO
4 CALL YOU BACK; BUT FOR NOW, YOU ARE EXCUSED.

5 LADIES AND GENTLEMEN, WE'LL TAKE OUR
6 RECESS. WE'RE ABOUT FOUR MINUTES LATE, SO WE'LL COME
7 BACK AT ABOUT 20 MINUTES TO 1:00.

12:18PM

8
9 (AT 12:18 P.M. THE JURY WAS
10 EXCUSED, AND THE FOLLOWING
11 PROCEEDINGS WERE HELD:)

12:18PM

12
13 MR. MADISON: MAY WE EXCUSE THE WITNESS, YOUR
14 HONOR, IF WE'RE GOING TO ADDRESS THE ISSUE NOW?

15 THE COURT: YES, SHE MAY BE EXCUSED.

12:19PM

16 YOU CAN STEP OUT.

17 THE WITNESS: OKAY.

18
19 (WITNESS VANEVERY LEAVES THE COURTROOM)

12:19PM

20
21 MR. BRIAN: YOUR HONOR, THE HISTORY OF THIS,
22 AS I UNDERSTAND IT, IS, WE SOUGHT FOR MONTHS, MONTHS,
23 TO KEEP ANY -- TO PRECLUDE ANY QUESTIONS HAVING TO DO
24 WITH THESE DECEMBER 4TH INTERVIEWS, WHEN WE WENT BACK
25 AND FORTH ON THIS.

12:19PM

26 AND EVENTUALLY, YOU RULED THAT THERE
27 COULD BE QUESTIONS ABOUT WITNESSES ON -- TO THE EXTENT
28 THEY HAD BEEN DEPOSED.

1 I THEN SAID, THE OTHER DAY, THAT IF
2 THAT'S ALLOWED, WE INTEND TO GO INTO THAT, AS TO THEIR
3 STATE OF MIND.

4 MR. QUINN SAID, WELL, WHAT HE INTENDS TO
5 DO WAS TAKE A BASEBALL BAT. AND I SAID, NO, BUT WHAT I
6 DO INTEND TO DO, AND I SAID IT EXPRESSLY, IS TO SAY
7 THAT BARBARA VANEVERY REQUESTED A LAWYER, AND THE
8 INTERVIEW WAS TERMINATED.

12:20PM

9 AND MR. MADISON PROCEEDED TO INTERROGATE
10 HIM. HE THEN SAID, THAT'S NOT TRUE. IN FACT, I TOOK
11 THAT FROM THE MEMO OF INTERVIEW THAT WE RECEIVED FROM
12 THE AGENTS, WHICH DISCUSSES THE FACT THAT SHE ASKED FOR
13 A LAWYER, IT WAS TERMINATED. SHE THEN GOES TO HER
14 CUBICLE. MR. MADISON FOLLOWED HER. AND SHE WAS GOING
15 THROUGH DOCUMENTS, AND HE THEN BEGAN TO QUESTION HER.
16 THAT WAS WHAT I INTENDED TO ELICIT.

12:20PM

12:20PM

17 THAT DID NOT COME OUT. SHE MADE A
18 STATEMENT THAT MR. MADISON FIRED HER. I FRANKLY WAS
19 SURPRISED BY THAT, BUT I UNDERSTAND WHY SHE WOULD SAY
20 IT.

12:21PM

21 I THINK THAT WAS ENTIRELY PROPER, AND
22 THAT'S EXACTLY WHAT I SAID I INTENDED TO DO. AND THE
23 GROUND RULES CHANGED WHEN YOUR HONOR, ALLOWED THIS
24 INFORMATION TO BE ELICITED AT ALL.

25 THE COURT: THE INFORMATION THAT MR. MADISON
26 ELICITED ABOUT WHAT?

12:21PM

27 MR. BRIAN: AS SOON AS YOU'VE ALLOWED EVIDENCE
28 HAVING TO DO WITH THAT INTERVIEW THAT -- TO COME IN.

1 WE'RE ALLOWED TO DO THAT.

2 SECONDLY, WE ASKED --

3 MR. MADISON: WE DIDN'T INTRODUCE THAT
4 EVIDENCE.

5 MR. BRIAN: BUT HE DID ASK HER QUESTIONS ABOUT
6 THE DEPOSITION. 12:21PM

7 MR. MADISON: SIX MONTHS LATER.

8 THE COURT: JUST A MINUTE. JUST RELAX,
9 MR. MADISON.

10 MR. MADISON: I DIDN'T ASK -- 12:21PM

11 THE COURT: LET'S WAIT UNTIL MR. BRIAN IS
12 FINISHED, THEN YOU WILL HAVE AN OPPORTUNITY.

13 MR. BRIAN: HER FRAME OF MIND AT THAT
14 DEPOSITION, YOUR HONOR, IS, SHE WAS PETRIFIED OF
15 MR. MADISON. THERE ARE SECTIONS OF THAT DEPOSITION
16 WHERE SHE COULD NOT LOOK AT HIM. SHE COULD NOT FOCUS
17 ON THE QUESTIONS. AND IT AFFECTED HER TESTIMONY AND
18 HER DEMEANOR. 12:21PM

19 AND HE STARTS ELICITING AT THE -- AND I
20 DON'T -- WE CAN TALK ABOUT THE TACTICS THAT WENT ON
21 ABOUT SAVING THE IMPEACHMENT, BUT HE CLEARLY IS TRYING
22 TO SUGGEST TO THE JURY THAT SHE WAS LYING AT HER
23 DEPOSITION, IN ORDER TO COVER UP INFORMATION. 12:22PM

24 WE'RE ENTITLED TO ELICIT INFORMATION AS
25 TO HER STATE OF MIND AND WHAT CAUSED HER TO DO THAT.
26 AND WHAT CAUSED HER TO DO THAT WAS THE FACT THAT THE
27 LAWYER WHO CONFRONTED HER ON DECEMBER 4TH WAS THE SAME
28 LAWYER QUESTIONING HER. 12:22PM

1 THE COURT: ALL RIGHT.

2 NOW, MR. MADISON, DO YOU HAVE SOMETHING
3 TO SAY?

4 MR. MADISON: I APOLOGIZE, YOUR HONOR. I'M
5 JUST VERY DISAPPOINTED, BECAUSE I DID NOT ASK A SINGLE
6 QUESTION OF MS. VANEVERY ABOUT THE INTERVIEW.

12:22PM

7 AND IT WAS CRYSTAL CLEAR TO US THAT IF
8 WE ASK QUESTIONS ABOUT THE INTERVIEW, THAT THAT MIGHT
9 OPEN A DOOR. BUT FROM YOUR HONOR'S, RULINGS IT WAS
10 ALSO CRYSTAL CLEAR -- AND FRANKLY, AT THE TIME, I
11 THOUGHT MR. QUINN HAD USED A DRAMATIC EXAMPLE, WHEN HE
12 SAID THEY ARE GOING TO MAKE UP A BASEBALL BAT.

12:22PM

13 BUT FRANKLY THIS WAS ABOUT THE SAME.
14 AND THE IDEA THAT SHE WOULD CLAIM SHE WAS LYING IN HER
15 DEPOSITION, SIX MONTHS SUBSEQUENTLY, BECAUSE OF MY
16 Demeanor IN AN INTERVIEW, IT'S JUST -- IT'S SUCH A
17 STRETCH, THAT IT'S NOT CREDIBLE.

12:23PM

18 AND AT A MINIMUM, MR. BRIAN SHOULD HAVE
19 RAISED IT WITH US AHEAD OF TIME, SO WE COULD HAVE THIS
20 DISCUSSION WITHOUT THE JURY HEARING FALSE TESTIMONY
21 THAT I FIRED HER.

12:23PM

22 AND NOW, YOU KNOW, I NEED TO BE ABLE TO
23 CALL THE INVESTIGATORS -- THERE WAS --

24 THE COURT: NO, YOU DON'T NEED TO CALL THE
25 INVESTIGATORS. AND I'M NOT GOING TO PERMIT ANY MORE
26 TESTIMONY ON THIS ISSUE.

12:23PM

27 IT'S DONE. MS. VANEVERY IS FINISHED.
28 AND WE'RE NOT GOING FURTHER IN THIS AREA. IT OPENS A

1 PANDORA'S BOX FOR ALL THE WITNESSES, AND A NUMBER OF
2 DIFFERENT THINGS THAT HAVE OCCURRED HERE.

3 I'VE SAID WE WEREN'T GOING THERE. I'M
4 NOT CONVINCED THAT WE'VE GONE THERE; AND NO MORE.

5 MR. MADISON: WELL, IF I COULD, YOUR HONOR, WE
6 DON'T JUST HAVE AN INVESTIGATOR. WE ALSO HAVE A TCW
7 EMPLOYEE.

12:23PM

8 THE COURT: NO MORE TESTIMONY ON THIS ISSUE.

9 YOU BROUGHT IT UP. YOU WANTED TO GO
10 INTO WHAT SHE WAS THINKING AND HOW SHE WASN'T HONEST
11 WITH YOU.

12:24PM

12 I ALLOWED YOU TO USE SOME OF THE
13 DEPOSITION TESTIMONY. MR. BRIAN'S UPSET, YOU ARE
14 UPSET, I'M HAPPY. I'M DOING FINE. AND WE'RE NOT GOING
15 THERE, SO NEITHER ONE OF YOU ARE GOING THERE ANYMORE
16 WITH MS. VANEVERY.

12:24PM

17 WE CAN TAKE IT UP AT ANOTHER TIME, IF
18 YOU WOULD LIKE, MR. MADISON, BUT NOT NOW. WE'RE GOING
19 TO TAKE OUR RECESS, SO EVERYONE GETS 15 MINUTES.

20 MR. MADISON: WELL, IT'S REALLY UNFAIR TO
21 LEAVE THE JURY WITH THE FALSE TESTIMONY AND THE
22 MISLEADING IMPRESSION.

12:24PM

23 THE COURT: WHAT FALSE TESTIMONY?

24 MR. MADISON: THAT I FIRED MS. VANEVERY.

25 MR. BRIAN, EVEN KNOWS THAT'S FALSE.

12:24PM

26 THE COURT: I'M WILLING TO GIVE AN
27 ADMONISHMENT IF YOU WANT ME TO TELL THEM TO DISREGARD
28 THAT. I DON'T HAVE ANY PROBLEM WITH THAT.

1 CASE NUMBER: BC 429385
2 CASE NAME: TCW VS. GUNDLACH
3 LOS ANGELES, CALIFORNIA AUGUST 3, 2011
4 DEPARTMENT 322 HON. CARL J. WEST, JUDGE
5 APPEARANCES: (AS NOTED ON TITLE PAGE.)
6 REPORTER: RAQUEL A. RODRIGUEZ, CSR
7 TIME: C SESSION 12:40 P.M.

8

9

--0--

10

12:45PM

11

THE COURT: IN THE TCW MATTER ALL MEMBERS OF
12 OUR JURY ARE PRESENT AS ARE ALL COUNSEL.

13

IS TCW READY TO CALL THEIR NEXT WITNESS?

14

MR. QUINN: YES, YOUR HONOR, THE NEXT WITNESS
15 WILL BE EXAMINED BY MY PARTNER, RANDA OSMAN.

12:45PM

16

MS. OSMAN: WE CALL MELISSA CONN.

17

MR. BRIAN: YOUR HONOR, I'D LIKE TO INTRODUCE
18 JO GALLIGAN, HE IS A PRINCIPAL AT DOUBLELINE, SITTING
19 AT COUNSEL TABLE TODAY.

20

THE COURT: NICE TO HAVE YOU WITH US.

12:46PM

21

MS. CONN.

22

MR. MADISON: DID YOU WANT TO MAKE THAT
23 STATEMENT NOW OR LATER THAT WE DISCUSSED OFF THE
24 RECORD?

25

THE COURT: I'LL TAKE CARE OF THAT.

12:46PM

26

MR. MADISON: VERY WELL, THANK YOU.

27

28 ///

1 MELISSA CONN +
2 CALLED AS A WITNESS BY THE PLAINTIFF WAS SWORN AND
3 TESTIFIED AS FOLLOWS:

4
5 THE CLERK: YOU DO SOLEMNLY STATE THAT THE
6 TESTIMONY YOU ARE ABOUT TO GIVE IN THE CAUSE NOW
7 PENDING BEFORE THIS COURT, SHALL BE THE TRUTH, THE
8 WHOLE TRUTH AND NOTHING BUT THE TRUTH, SO HELP YOU GOD?

9 THE WITNESS: I DO.

10 THE CLERK: THANK YOU PLEASE BE SEATED. STATE 12:46PM
11 AND SPELL YOUR NAME FOR THE RECORD.

12 THE WITNESS: MELISSA CONN M-E-L-I-S-S-A,
13 C-O-N-N.

14 THE CLERK: THANK YOU.

15 THE COURT: GOOD AFTERNOON, MS. CON. 12:46PM

16 THE WITNESS: GOOD AFTERNOON.

17 THE COURT: YOU MAY PROCEED, MS. OSMAN.

18 MS. OSMAN: THANK YOU, YOUR HONOR.

19

20 DIRECT EXAMINATION + 12:47PM

21 BY MS. OSMAN:

22 Q WHERE ARE YOU EMPLOYED?

23 A TRUST COMPANY OF THE WEST.

24 Q IS THAT COMMONLY REFERRED TO AS TCW?

25 A YES. 12:47PM

26 Q IF I USE THAT WILL YOU UNDERSTAND WHAT I MEAN?

27 A ABSOLUTELY.

28 Q DO YOU HAVE A BACHELOR OF SCIENCE DEGREE?

1 A YES, THAT'S CORRECT.

2 Q IN WHAT AREA?

3 A IN PLANETARY SCIENCE.

4 Q DID YOU HAVE ANY OTHER DEGREES?

5 A A MASTER OF SCIENCE IN ATMOSPHERIC SCIENCE.

12:47PM

6 Q DO YOU HAVE ANY CERTIFICATES?

7 A I'M CFA CHARTER HOLDER.

8 Q WHAT IS THAT?

9 A CHARTERED FINACIAL ANALYST PROGRAM.

10 Q WHAT DO YOU HAVE TO DO TO BECOME A CHARTERED
11 FINANCIAL ANALYST?

12:47PM

12 A YOU HAVE TO PASS A SUCCESSION OF THREE EXAMS,
13 COMPLETE 48 MONTHS OF RELEVANT WORK EXPERIENCE AND SIGN
14 AN ANNUAL CODE OF CONDUCT.

15 Q AND YOU DID ALL OF THAT?

12:47PM

16 A YES.

17 Q WHEN DID YOU RECEIVE YOUR CHARTER?

18 A I COMPLETED THE FINAL REQUIREMENTS IN JANUARY
19 OF THIS YEAR.

20 Q WHEN WERE YOU HIRED BY TCW?

12:47PM

21 A IN JANUARY OF 2007.

22 Q AND WHAT POSITION WERE YOU HIRED IN?

23 A I WAS HIRED TO BE AN ANALYST IN THE MORTGAGE
24 BACK SECURITIES GROUP.

25 Q ARE YOU STILL IN THAT POSITION?

12:48PM

26 A I'M CURRENTLY A TRADER WITHIN THE MORTGAGE
27 BACK SECURITIES GROUP.

28 Q IN DECEMBER OF 2009, WHAT POSITION DID YOU

1 HOLD AT TCW?

2 A MY TITLE AT THE TIME WAS ASSISTANT
3 VICE-PRESIDENT. AGAIN THAT WAS WORKING AS AN ANALYST
4 IN THE MORTGAGE BACK SECURITIES GROUP.

5 Q IS THAT THE GROUP JEFFREY GUNDLACH AND
6 CRIS SANTA ANA AND OTHERS WORKED IN?

12:48PM

7 A THAT'S CORRECT.

8 Q WHO DID YOU REPORT TO AT THAT TIME?

9 A PRIOR TO DECEMBER 4TH, 2009, I REPORTED
10 DIRECTLY TO JEFF MAYBERRY.

12:48PM

11 Q I TAKE IT YOU'VE HEARD THE NAME MICHAEL CONN?

12 A YES.

13 Q WHO IS MICHAEL CONN?

14 A HE IS MY BROTHER-IN-LAW. HE ALSO IS EMPLOYED
15 AT TCW.

12:48PM

16 Q WHAT IS HIS POSITION?

17 A I BELIEVE HIS TITLE IS HEAD OF CORPORATE
18 STRATEGY AND DEVELOPMENT.

19 Q WHEN YOU APPLIED FOR YOUR POSITION AT TCW, HOW
20 DID YOU GET THAT JOB?

12:48PM

21 A I INITIALLY APPLIED FOR THE POSITION, FOR
22 WHICH I WAS HIRED THROUGH THE UCLA CAREER CENTER
23 WEBSITE. AND THEN I WENT THROUGH A SUCCESSION OF TWO
24 INTERVIEWS.

25 Q I'D LIKE TO TAKE YOU NOW TO DECEMBER 4TH.
26 DOES THAT DATE STAND OUT IN YOUR MIND, DECEMBER 4TH,
27 2009.

12:49PM

28 A YES.

1 Q WERE YOU AT WORK THAT DAY?

2 A YES, I WAS.

3 Q AT SOME POINT ON DECEMBER 4TH, DID YOU LEARN
4 THAT MR. GUNDLACH AND OTHERS HAD BEEN RELIEVED OF THEIR
5 DUTIES?

12:49PM

6 A YES, I DID.

7 Q HOW DID YOU LEARN THAT?

8 A I INITIALLY RECEIVED AN E-MAIL AROUND 1:15 OR
9 1:30 IN THE AFTERNOON INDICATING THAT JEFFREY GUNDLACH
10 HAD BEEN RELIEVED OF HIS DUTIES. AND LATER IN THE
11 AFTERNOON, I HEARD THAT SEVERAL OTHER INDIVIDUALS HAD
12 BEEN PLACED ON ADMINISTRATIVE LEAVE.

12:49PM

13 Q AND DO YOU RECALL WHO THOSE OTHERS WERE THAT
14 WERE PLACED ON LEAVE?

15 A I BELIEVE IT WAS CRIS SANTA ANA,
16 JEFF MAYBERRY, BARBARA VAN EVERY. AND I THINK THERE
17 MAY HAVE BEEN A FEW OTHER INDIVIDUALS WHO WERE PLACED
18 ON LEAVE.

12:49PM

19 Q AT SOME POINT ON DECEMBER 4TH, 2009, DID YOU
20 GO TO SOMETHING CALLED MAGNOLIA'S?

12:49PM

21 A YES, I DID.

22 Q WHAT IS MAGNOLIA'S?

23 A IT'S A BAR AND RESTAURANT LOCATED IN THE
24 COURTYARD OF TCW OFFICE BUILDING.

25 Q WHY DID YOU GO MAGNOLIA'S THAT DAY?

12:50PM

26 A AFTER THE INITIAL E-MAIL CAME OUT ABOUT
27 JEFFREY BEING RELIEVED OF HIS DUTIES A LOT OF PEOPLE
28 FROM OUR GROUP WENT DOWNSTAIRS, TO DISCUSS WHAT WAS

1 GOING ON, BLOW OFF SOME STEAM AND REGROUP.

2 Q AT SOME POINT DID YOU GO FROM MAGNOLIA'S BACK
3 TO YOUR OFFICE AT TCW?

4 A YES, I DID.

5 Q WHY DID YOU DO THAT?

12:50PM

6 A I HAD SPOKEN BRIEFLY WITH MICHAEL CONN EARLIER
7 IN THE DAY. BUT HE WAS VERY BUSY IN THE AFTERNOON AND
8 SO WE HAD SCHEDULED A FOLLOW-UP PHONE CALL FOR AROUND
9 6:00 P.M.. AND SO I WENT TO MY DESK TO TAKE THAT PHONE
10 CALL.

12:50PM

11 Q DID YOU HAVE ANY INTERACTION WITH
12 DOLORES TALAMANTES BEFORE YOU WENT BACK UPSTAIRS?

13 A SHE AND I HAD BEEN TALKING DOWN AT MAGNOLIA'S.

14 Q WHO IS MS. TALAMANTES?

15 A SHE'S ANOTHER MEMBER OF THE MORTGAGE BACK
16 SECURITY TEAM.

12:50PM

17 Q DID DOLORES SAY ANYTHING TO YOU AT MAGNOLIA'S
18 CONCERNING MR. SANTA ANA?

19 MR. BRIAN: OBJECTION. HEARSAY.

20 THE COURT: SUSTAINED.

12:51PM

21 BY MS. OSMAN:

22 Q AT SOME POINT DID YOU TAKE A HARD DRIVE FROM
23 MS. DOLORES TALAMONTES?

24 A ARE --

25 Q I'M SORRY, LET ME BACK UP. AT SOME POINT,
26 MA'AM, DID YOU HAVE MR. SANTA ANA'S HARD DRIVE IN YOUR
27 POSSESSION?

12:51PM

28 MR. BRIAN: OBJECTION. LEADING.

1 THE COURT: SUSTAINED.

2 BY MS. OSMAN:

3 Q WHEN YOU WENT BACK UP TO TCW THAT EVENING, DID
4 YOU SEE MR. SANTA ANA'S HARD DRIVE?

5 A YES, I DID. 12:51PM

6 Q AND WHAT DID YOU DO WITH IT?

7 A I PICKED IT UP FROM ON TOP OF HIS COMPUTER,
8 WHERE IT WAS SITTING. AND PUT IT IN MY PURSE
9 INITIALLY.

10 Q WHY DID YOU DO THAT? 12:51PM

11 MR. BRIAN: OBJECTION. HEARSAY.

12 THE COURT: OVERRULED.

13 YOU CAN'T TELL US WHAT OTHER PEOPLE SAID
14 TO YOU, BUT YOU CAN TELL US WHY YOU DID IT.

15 THE WITNESS: I -- 12:51PM

16 MS. OSMAN: YOUR HONOR, IF I CAN MAKE AN OFFER
17 IT'S NOT ADMITTED FOR HEARSAY. IT'S TO SHOW THE EFFECT
18 ON THE LISTENER AND WHY SHE DID WHAT SHE DID.

19 THE COURT: GO AHEAD, MA'AM.

20 CAN YOU ANSWER THE QUESTION? 12:52PM

21 THE WITNESS: YES.

22 EARLIER IN THE AFTERNOON OR LATE
23 AFTERNOON, WHEN I HAD BEEN AT MAGNOLIA'S SPEAKING WITH
24 DOLORES, SHE INDICATED THAT CRIS WANTED --

25 MR. BRIAN: I'LL OBJECT TO THAT. HEARSAY,
26 YOUR HONOR. 12:52PM

27 THE COURT: I JUST WANT TO TELL YOU -- DID
28 SOMEBODY ELSE TELL YOU TO GO PICK IT UP? OR -- JUST

1 TELL ME WHY YOU PICKED IT UP?

2 THE WITNESS: I ASKED DOLORES IF THERE WAS
3 ANYTHING, ANY PERSONAL EFFECTS SHE THOUGHT CRIS SANTA
4 ANA OR JEFF MAYBERRY MIGHT LIKE TO HAVE FROM THEIR
5 DESKS. AND SHE SAID SHE KNEW CRIS WANTED THE HARD
6 DRIVE. 12:52PM

7 THE COURT: OKAY.

8 GO HEAD.

9 MR. BRIAN: MOVE TO STRIKE.

10 THE COURT: I'LL ALLOW IT. 12:52PM

11 BY MS. OSMAN:

12 Q AND NOW YOU DID GO BACK UPSTAIRS?

13 A YES, I DID.

14 Q DID YOU FIND THE HARD DRIVE?

15 A YES. 12:52PM

16 Q WHERE WAS IT?

17 A IT WAS SITTING ON TOP OF CRIS'S COMPUTER.

18 Q WHAT DID YOU DO WITH IT?

19 A I PUT IT IN MY PURSE.

20 MS. OSMAN: YOUR HONOR, MAY I APPROACH? 12:52PM

21 THE COURT: YES, YOU MAY.

22 MS. OSMAN: I'D LIKE TO SHOW YOU WHAT'S MARKED
23 FOR IDENTIFICATION AS 2119.

24 Q HAVE YOU SEEN THIS BEFORE?

25 A I DON'T RECALL IF THAT'S THE EXACT HARD DRIVE. 12:53PM

26 Q IS THAT A CASE FOR -- SURROUNDING THE HARD
27 DRIVE?

28 A YES, IT DOES APPEAR TO BE.

1 Q CAN YOU OPEN THE CASE. DOES THAT LOOK LIKE
2 THE HARD DRIVE THAT YOU FOUND IN MR. SANTA ANA'S DESK
3 ON DECEMBER 4TH?

4 A I -- I COULDN'T BE EXACTLY SURE IF THIS IS THE
5 SAME ONE, THEY ALL LOOK PRETTY MUCH THE SAME TO ME.

12:53PM

6 Q DO YOU HAVE ANY REASON TO BELIEVE THAT'S NOT
7 THE HARD DRIVE?

8 A NO, I DON'T.

9 Q THANK YOU.

10 AFTER YOU PUT THE HARD DRIVE IN YOUR
11 PURSE, WHAT DID YOU DO, MA'AM?

12:53PM

12 A I SAT DOWN AND I CHATTED BRIEFLY WITH ANOTHER
13 COLLEAGUE WHO WAS SITTING ON THE TRADING DESK.

14 Q THEN WHAT HAPPENED?

15 A I SAW MS. TALAMANTES COME BACK UP TO THE
16 TRADING DESK AND I APPROACHED HER. AND I INDICATED
17 THAT I HAD THE HARD DRIVE, BUT THAT I DIDN'T FEEL
18 COMFORTABLE REMOVING IT FROM THE TRADING DESK.

12:53PM

19 Q WHAT DID MS. TALAMANTES DO?

20 A SHE TOOK THE HARD DRIVE FROM ME AND SHE PUT IT
21 IN HER BLOUSE.

12:54PM

22 Q LET ME BACK UP FOR A SECOND. YOU SAID -- YOU
23 SAID YOU WERE NOT COMFORTABLE TAKING THE HARD DRIVE
24 DOWN, WHY IS THAT?

25 MR. BRIAN: OBJECTION. RELEVANCE 352.

12:54PM

26 THE COURT: SUSTAINED.

27 BY MS. OSMAN:

28 Q DID YOU KNOW WHAT THE CONTENTS WERE OF THE

1 HARD DRIVE?

2 A I WASN'T SURE.

3 Q DID YOU HAVE ANY REASON TO BELIEVE THAT THERE
4 MIGHT BE SOMETHING ON THE HARD DRIVE THAT BELONGED TO
5 TCW?

12:54PM

6 A AS I SAID I WASN'T SURE IF THE CONTENTS WERE
7 OF A PERSONAL OR A PROFESSIONAL NATURE. IF IT WAS
8 CRIS'S PERSONAL PROPERTY OR TCW'S PROPERTY. BUT I
9 SUSPECTED THAT THERE MIGHT HAVE BEEN A COPY OF THE
10 M.B.S. DATA BASE ON IT.

12:54PM

11 Q WHAT IS THE THE M.B.S. DATA BASE?

12 A IT'S A MICROSOFT ACCESS TOOL DEVELOPED
13 IN-HOUSE A NUMBER OF YEARS AGO TO AID IN MANAGING THE
14 PORTFOLIOS.

15 Q WHEN YOU SAY DEVELOPED IN-HOUSE, WHAT DO YOU
16 MEAN BY THAT?

12:55PM

17 A MICROSOFT ACCESS IS OF COURSE A COMMERCIALY
18 AVAILABLE PROGRAM. BUT VARIOUS ANALYSTS WITHIN THE
19 GROUP OVER THE YEARS HAD DEVELOPED DATA BASES AND
20 TABLES AND MODULES AND INQUIRIES WITHIN MICROSOFT
21 ACCESS THAT WERE UNIQUE TO TCW THAT WOULD ALLOW US TO
22 BREAKDOWN THE PORTFOLIOS IN DIFFERENT WAYS TO HELP IN
23 OUR MANAGEMENT.

12:55PM

24 Q BY IN-HOUSE YOU MEAN IT WAS DEVELOPED BY TCW?

25 A YES, EXACTLY.

12:55PM

26 Q EMPLOYEES?

27 A YES.

28 Q WHY DID YOU BELIEVE THERE MIGHT BE A COPY OF

1 THE M.B.S. DATA BASE ON THE HARD DRIVE?

2 A WELL, I KNEW THAT J.P. HAD BEEN ASKED TO MAKE
3 A BACKUP OF IT AT SOME POINT DURING THE PREVIOUS
4 MONTHS, JIRAINDIRA PURUSHOTHAMAN, WHO WAS ONE OF MY
5 CO-WORKERS.

12:55PM

6 Q HE'S COMMONLY REFERRED TO AS J.P.?

7 A THAT'S RIGHT.

8 Q HOW DID YOU KNOW J.P. WAS ASKED TO MAKE A COPY
9 OF THE M.B.S. DATA BASE?

10 A HE TOLD ME THAT HE WAS ASKED TO DO THAT.

12:56PM

11 Q DID HE TELL YOU WHO ASKED HIM TO DO THAT?

12 A I BELIEVE AT THE TIME THEY DID, BUT I DON'T
13 RECALL EXACTLY WHO HAD REQUESTED THAT OF HIM.

14 Q DO YOU HAVE A, YOUR EXHIBIT BINDER IN FRONT OF
15 YOU, MA'AM?

12:56PM

16 A YES, I DO.

17 Q IF YOU COULD TURN PLEASE TO TRIAL EXHIBIT 267
18 PAGE 2, I'M JUST GOING TO ASK YOU TO READ IT TO
19 YOURSELF. IF YOU CAN --

20 THE COURT: WHAT IS THE NUMBER AGAIN?

12:56PM

21 MS. OSMAN: 267. SECOND PAGE.

22 THE COURT: I DON'T SHOW THAT IN THIS BOOK.

23 DO YOU HAVE IT IN FRONT OF YOU, MA'AM?

24 THE WITNESS: YES, I DO.

25 THE COURT: MAYBE I HAVE A DIFFERENT BOOK.

12:56PM

26 MS. OSMAN: ONE MOMENT, YOUR HONOR.

27 THE COURT: I DON'T THINK I WAS PROVIDED A
28 BOOK FOR THIS WITNESS.

1 I HAVE IT UP IN FRONT OF ME OVER HERE.

2 MR. QUINN: WE HAVE A HARD COPY. OH, HERE IT
3 IS.

4 THE COURT: WE'VE GOT IT.

5 BY MS. OSMAN:

12:57PM

6 Q IN REVIEWING THIS, DOES THIS REFRESH YOUR
7 RECOLLECTION, MA'AM, AS TO WHO ASKED J.P. TO BACK UP
8 THE M.B.S. DATA BASE?

9 A YES, PER OUR CONVERSATION IT INDICATES THAT
10 JEFF MAYBERRY.

12:57PM

11 MR. BRIAN: OBJECTION.

12 THAT'S A NONRESPONSIVE ANSWER.

13 THE COURT: YES.

14 DOES THIS HELP REFRESH YOUR
15 RECOLLECTION?

12:57PM

16 THE WITNESS: YES, IT DOES.

17 BY MS. OSMAN:

18 Q WHAT IS YOUR RECOLLECTION NOW?

19 A THAT JEFF MAYBERRY WAS THE ONE WHO REQUESTED
20 THAT J.P. BACK UP THE M.B.S. DATA BASE.

12:57PM

21 Q YOU MENTIONED THAT MS. TALAMANTES TOOK THE
22 HARD DRIVE FROM YOU; IS THAT CORRECT?

23 A THAT'S RIGHT.

24 Q WHAT DID SHE DO WITH IT?

25 A SHE PUT IT IN HER BLOUSE.

12:57PM

26 Q DID YOU SEE WHAT SHE DID AFTER THAT?

27 A NO, I LEFT THE TRADING DESK AND THEN
28 SUBSEQUENTLY DEPARTED THE PREMISES.

1 Q AND WHEN IT WAS IN HER BLOUSE WAS IT VISIBLE
2 TO YOU OR --

3 A NO, I DON'T BELIEVE SO.

4 Q IF YOU HAVE THE HARD DRIVE IN FRONT OF YOU
5 WITHOUT BEING TOO GRAPHIC SHOW ME -- WAS IT IN THE
6 CENTER OF HER BLOUSE OR DID SHE STICK IT --

12:58PM

7 A I DON'T RECALL PRECISELY.

8 Q ARE YOU FAMILIAR WITH THE TERM TRADE TICKET
9 BINDERS?

10 A YES, I AM.

12:58PM

11 Q WHAT ARE THOSE?

12 A THOSE ARE A SET OF BINDERS THAT WERE KEPT ON
13 SHELVES ON THE TRADING DESK THAT CONTAINED ALL OF THE
14 HISTORICAL TRADE TICKETS FOR ALL OUR PORTFOLIOS.

15 Q IS THAT SOMETHING THAT IS CONFIDENTIAL TO TCW?

12:58PM

16 A I BELIEVE SO.

17 MR. BRIAN: OBJECTION. FOUNDATION.

18 THE COURT: SUSTAINED.

19 BY MS. OSMAN:

20 Q IN YOUR POSITION AT TCW DO YOU HAVE -- DO YOU
21 DO TRADING?

12:58PM

22 A YES, I DO.

23 Q ARE YOU INVOLVED WITH THE TRADE TICKET BINDERS
24 IN THE COURSE OF YOUR DUTIES?

25 A DURING THE TIME THAT I WAS EMPLOYED AT TCW
26 WHEN WE USED THE TRADE TICKET BINDERS, YES, I HAD
27 OCCASION TO USE THEM.

12:58PM

28 Q DID YOU HAVE AN UNDERSTANDING AS TO THE

1 PURPOSE OF THE TRADE TICKET BINDERS?

2 A IT WAS MY UNDERSTANDING THAT THOSE WERE FOR
3 INTERNAL HISTORICAL REFERENCE.

4 Q DID YOU HAVE AN UNDERSTANDING AS TO WHETHER
5 THEY WERE CONFIDENTIAL OR COULD THEY BE DISCLOSED TO
6 ANYBODY OUTSIDE OF TCW?

12:59PM

7 MR. BRIAN: OBJECTION. FOUNDATION.

8 THE COURT: SUSTAINED.

9 BY MS. OSMAN:

10 Q DO YOU KNOW WHO LYDIA POMPA IS?

12:59PM

11 A YES, AT THE TIME SHE WAS AN ADMINISTRATIVE
12 ASSISTANT FOR OUR TEAM.

13 Q WHO WAS SHE AN ASSISTANT FOR?

14 A SHE ASSISTED ALL OF THE ANALYSTS AND SEVERAL
15 OF THE PORTFOLIO MANAGERS WITHIN THE MORTGAGE BACK
16 SECURITIES GROUP.

12:59PM

17 Q WAS SHE ASSISTANT TO CRIS SANTA ANA?

18 A I BELIEVE SO.

19 Q AT SOME POINT DID YOU SEE MS. POMPA COPYING TO
20 TRADE TICKET BINDERS?

12:59PM

21 A YES, I DID.

22 Q EXPLAIN WHAT YOU SAW?

23 A I SAW HER, OPEN UP SOME OF THE OLDER BINDERS
24 WHICH WOULD HAVE BEEN AN UNCOMMON ACTIVITY. AND TAKE
25 OUT PAGES AND PAGES OF HISTORICAL TRADE TICKETS AND
26 THEN RETURN FROM THE COPY ROOM WITH DUPLICATES AND PUT
27 THEM IN NEW BINDERS.

01:00PM

28 Q WAS THAT A COMMON ACTIVITY AT TCW?

1 A NO.

2 Q HAD YOU EVER SEEN ANYONE DO THAT BEFORE?

3 A I'D NEVER SEEN ANYBODY CREATE A SECOND SET OF
4 TRADE TICKET BINDERS.

5 Q DURING YOUR TIME AT TCW WHEN YOU WERE IN THE
6 MORTGAGE BACK SECURITY GROUP WITH MR. GUNDLACH, DID YOU
7 HEAR MR. GUNDLACH MAKING COMMENTS ON THE TRADING FLOOR?

01:00PM

8 A YES, I DID.

9 Q HOW WOULD YOU DESCRIBE MR. GUNDLACH'S
10 COMMENTS?

01:00PM

11 MR. BRIAN: OBJECTION. CALLS FOR NARRATIVE.

12 THE COURT: SUSTAINED.

13 BY MS. OSMAN:

14 Q DID YOU --

15 THE COURT: I THINK WE FOCUS IT AS TO TIME.

01:00PM

16 MS. OSMAN: SURE.

17 Q FOCUSING NOW IN 2009 -- YOU CAN FOCUS IN THE
18 FALL OF 2009?

19 A UH-HUH.

20 Q DID YOU HEAR MR. GUNDLACH MAKE ANY LOUD
21 COMMENTS ON THE TRADING FLOOR?

01:00PM

22 A HE EXPRESSED DISSATISFACTION WITH THE STATE OF
23 THINGS AT THE FIRM. AND INDICATED THAT HE DIDN'T FEEL
24 MARK WAS AN ADEQUATE CEO. AND THAT HE WANTED MORE
25 CONTROL OVER THE MANAGEMENT OF TCW.

01:01PM

26 Q LET ME BACK UP.

27 WHEN YOU SAID HE INDICATED THAT HE
28 DIDN'T THINK THAT MARC WAS A GOOD CEO WHO IS MARC?

1 A MARC STERN.

2 Q WHEN HE WAS ON THE TRADING FLOOR WERE THERE
3 OTHER PEOPLE AROUND IN THIS AREA?

4 A YES. HE FREQUENTLY HAD AN AUDIENCE FOR HIS
5 DISCUSSIONS AND SOMETIMES RANTS.

01:01PM

6 Q WHAT DO YOU MEAN BY RANTS?

7 A HE WOULD SOMETIMES GO ON AND ON ABOUT HOW HE
8 WAS DISSATISFIED WITH ONE THING OR ANOTHER REGARDING
9 HOW TCW WAS MANAGED OR INTERACTIONS WITH OTHER
10 PORTFOLIO MANAGERS WITHIN THE FIRM.

01:01PM

11 Q WHEN YOU SAID THAT MR. GUNDLACH MADE A COMMENT
12 ABOUT MR. STERN NOT BEING A GOOD FIT FOR CEO WAS HE
13 TALKING SPECIFICALLY TO YOU?

14 A HE WAS SPEAKING IN GENERAL TO EVERYBODY
15 SITTING OUT ON TRADING DESK AT THE TIME.

01:02PM

16 Q EVERYBODY WITHIN EARSHOT OF TRADING DESK FLOOR
17 COULD HEAR THAT?

18 A THAT'S RIGHT.

19 Q WOULD YOU CHARACTERIZE THAT AS LOUD COMMENT?

20 A I WOULD SAY SO.

01:02PM

21 Q DID YOU HEAR MR. GUNDLACH MAKE ANY OTHER
22 NEGATIVE COMMENTS ABOUT MR. STERN?

23 A HE MENTIONED THAT HE FELT LIKE MR. STERN HAD
24 STOLEN MONEY FROM HIM IN RELATION TO SOME TRANSACTIONS
25 WITH SOC-GEN AND FELT THAT HE HAD NOT -- HE SHOULD NOT
26 HAVE BEEN MADE THE PERMANENT CEO OF TCW.

01:02PM

27 Q DID YOU AGAIN -- WERE THESE LOUD COMMENTS THAT
28 WERE MADE FOR THE ENTIRE FLOOR TO HEAR?

1 A YES.

2 Q HE WASN'T SPEAKING SPECIFICALLY TO YOU?

3 A NO.

4 Q WAS THIS A COMMON OCCURRENCE FOR MR. GUNDLACH
5 TO MAKE?

01:03PM

6 MR. BRIAN: I DIDN'T HEAR THE QUESTION.

7 THE COURT: WAS IT A COMMON OCCURRENCE?

8 BY MS. OSMAN:

9 Q DID YOU HEAR THIS FREQUENTLY ON THE TRADING
10 FLOOR?

01:03PM

11 A I WOULD SAY SO.

12 Q DID MR. GUNDLACH MAKE ANY NEGATIVE OR
13 INFLAMMATORY COMMENTS ABOUT OTHER STRATEGIES WITHIN
14 TCW?

15 A HE DID. HE INDICATED THAT HE WAS NOT THRILLED
16 WITH THE PERFORMANCE OF SOME OF THE OTHER MANAGERS
17 WITHIN THE FIRM.

01:03PM

18 Q IS FIXED INCOME CONSIDERED ONE STRATEGY WITHIN
19 TCW?

20 A YEAH. YES.

01:03PM

21 Q IS THERE ANOTHER GROUP MAYBE EQUITIES GROUP?

22 A YES, WITHIN BOTH FIXED AND INCOME EQUITIES
23 THERE ARE FURTHER DIVISIONS INTO OTHER PRODUCT AREAS.

24 Q HAD YOU HEARD MR. GUNDLACH MAKE ANY NEGATIVE
25 COMMENTS ABOUT EQUITIES IN THAT PRODUCT AREA?

01:03PM

26 A YES.

27 Q WHAT DID YOU HEAR MR. GUNDLACH SAY?

28 A I DON'T RECALL THE SPECIFICS BUT IN GENERAL

1 THEY WERE COMMENTS TO THE EFFECT THAT HE FELT THAT THE
2 EQUITIES GROUP WASN'T EARNING THEIR KEEP. AND WAS NOT
3 PERFORMING AS WELL AS FIXED INCOME GROUP.

4 Q AGAIN, WAS HE HAVING THIS CONVERSATION JUST
5 WITH YOU?

01:04PM

6 A NO. NONE OF THESE WERE PERSONAL
7 CONVERSATIONS.

8 Q THIS WAS BEING BROADCAST ON THE TRADING FLOOR
9 BASICALLY?

10 A THAT'S CORRECT.

01:04PM

11 Q AND AT THAT TIME, WAS MR. GUNDLACH'S POSITION
12 CHIEF INVESTMENT OFFICER?

13 A I BELIEVE SO.

14 Q WHAT DID YOU UNDERSTAND THAT TO MEAN?

15 A THAT HE HAD ULTIMATE OVERSIGHT AND REVIEW
16 OVERALL OF THE INVESTMENT PRODUCTS WITHIN TCW.

01:04PM

17 Q WOULD THAT INCLUDE EQUITIES?

18 A I BELIEVE SO.

19 Q DID MR. GUNDLACH TEND TO SPEAK IN GRAPHIC
20 LANGUAGE ON THE TRADING FLOOR?

01:04PM

21 A YES. YOU MIGHT EVEN SAY HYPERBOLE SOMETIMES.

22 Q WHAT'S THE LANGUAGE, WHAT WE CALL COLORFUL?

23 A I WOULD CHARACTERIZE IT THAT WAY, YES.

24 Q HE EXPRESSED STRONG OPINIONS ON THE FLOOR?

25 A YES.

01:05PM

26 Q DID MR. GUNDLACH IN HIS COMMENTS ABOUT
27 MR. STERN ON THE TRADING FLOOR, GIVE AN IMPRESSION ON
28 WHETHER HE WANTED MR. STERN NOT TO BE CEO ANYMORE?

1 MR. BRIAN: OBJECTION. LEADING.

2 THE COURT: SUSTAINED.

3 BY MS. OSMAN:

4 Q DID YOU HAVE AN UNDERSTANDING, MA'AM, AS TO
5 WHAT MR. GUNDLACH WAS SAYING WHEN HE MADE NEGATIVE
6 COMMENTS WITH RESPECT TO MR. STERN'S POSITION AS CEO?

01:05PM

7 A WHEN IT WAS INITIALLY ANNOUNCED THAT
8 MARC STERN WOULD BE NAMED AS INTERIM CEO, JEFFREY IN NO
9 UNCERTAIN TERMS EXPLAINED TO EVERYBODY IN THE GROUP
10 THAT HE DIDN'T FEEL THAT WAS AN APPROPRIATE MOVE.

01:05PM

11 AND I EVEN REMEMBER HIM SAYING THAT HE
12 THOUGHT IT BETTER NOT BE A PERMANENT CHANGE. AND
13 SUBSEQUENTLY WHEN MARC STERN WAS NAMED AS THE PERMANENT
14 CEO.

15 I REMEMBER JEFFREY BEING VERY ANGRY AND
16 SPEAKING ABOUT IT LOUDLY TO ANYBODY WHO WOULD LISTEN
17 THAT HE DIDN'T FEEL THAT IT WAS A GOOD DECISION FOR
18 TCW.

01:05PM

19 Q WHAT WAS THE TIMEFRAME NOW, IS THIS AGAIN IN
20 2009?

01:06PM

21 A I BELIEVE SO, BUT I DON'T RECALL THE
22 SPECIFICS.

23 Q DID YOU EVER HEAR MR. GUNDLACH SAY THAT HE
24 HIMSELF SHOULD BE CEO?

25 A I BELIEVE I HEARD SUCH A STATEMENT FROM
26 JEFFREY.

01:06PM

27 Q WHERE WERE YOU WHEN YOU HEARD THAT STATEMENT?

28 A OUT ON THE TRADING DESK.

1 Q AGAIN WAS THIS A CONVERSATION JUST WITH YOU?

2 A NO.

3 Q WHO WAS HE SPEAKING TO?

4 A I WOULD DESCRIBE IT AS A BROAD AUDIENCE OF
5 EVERYBODY WHO WAS SITTING IN THE AREA.

01:07PM

6 Q HOW COULD YOU CHARACTERIZE HIS VOICE?

7 A JEFFREY TENDS TO SPEAK VERY LOUDLY WHEN HE HAS
8 AN AUDIENCE. AND HE HAS -- TAKES COMMAND OF THE ROOM.

9 Q DO YOU HAVE ANY EXAMPLES?

10 A WELL, OFTENTIMES HE WOULD PACE BACK AND FORTH
11 ACROSS THE TRADING DESK, SO THAT HE WOULD CERTAINLY BE
12 WITHIN EARSHOT OF SEVERAL ROWS OF PEOPLE. AND LOUDLY
13 TALK ABOUT WHATEVER WAS OF INTEREST TO HIM THAT DAY.

01:07PM

14 WHETHER IT WAS RELATED TO MARC BEING CEO
15 OR SOME PIECE OF ART HE FOUND INTERESTING.

01:07PM

16 Q DID PEOPLE LISTEN?

17 A ALWAYS.

18 MS. OSMAN: IF I COULD HAVE ONE MINUTE, YOUR
19 HONOR.

20 (PAUSE) +

01:07PM

21
22 MS. OSMAN: I HAVE NOTHING FURTHER.

23 MR. BRIAN: MAY I HAVE JUST ONE SECOND, YOUR
24 HONOR?

25 (PAUSE) +

01:08PM

26 THE COURT: THANK YOU.

27 MR. BRIAN, YOU DO HAVE
28 CROSS-EXAMINATION?

1 MR. BRIAN: I DO, JUST ONE SECOND, YOUR HONOR.

2

3

CROSS-EXAMINATION +

4

BY MR. BRIAN:

5

Q GOOD AFTERNOON. I'M BRAD BRIAN. WE'VE NEVER
6 MET HAVE WE?

01:08PM

7

A I DON'T BELIEVE SO.

8

Q YOU WERE ASKED AT THE LAST BIT ABOUT A BUNCH
9 OF COMMENTS BY MR. GUNDLACH ON THE TRADING FLOOR, DID
10 YOU EVER REPORT THOSE TO ANYONE, ANY HIGHER-UPS,
11 MR. STERN OR MICHAEL CONN, FOR EXAMPLE?

01:08PM

12

A THE ONLY CONVERSATION -- ONCE -- ONCE
13 MENTIONED TO MICHAEL CONN ONE CONVERSATION.

14

Q DID YOU SAY THAT MR. GUNDLACH SHOULD BE
15 DISCIPLINED?

01:09PM

16

A NO. IT WAS -- IT WAS -- THE COMMENTS WERE NOT
17 OF A NATURE THAT I FELT WERE --

18

Q YOU ALSO MENTIONED THAT YOU OBSERVED SOMEBODY
19 COPYING SOME OF THE TRADE TICKETS FROM THE BINDERS, DO
20 YOU RECALL THAT?

01:09PM

21

A YES, I DO.

22

Q DID YOU REPORT THAT TO ANYONE AS AN ACT OF
23 MISCONDUCT OR INAPPROPRIATE BEHAVIOR?

24

A NO, I DID NOT -- DID NOT.

25

Q YOU CURRENTLY WORK FOR TCW, DO YOU NOT?

01:09PM

26

A THAT IS CORRECT.

27

Q YOU WORKED THERE SINCE ABOUT 2007; IS THAT
28 RIGHT?

1 A THAT'S RIGHT.

2 Q AND IN DECEMBER OF 2009, YOU WERE WORKING IN
3 MR. GUNDLACH'S GROUP AT TCW, WERE YOU NOT?

4 A CORRECT.

5 Q AND YOU WERE AWARE HE WAS FIRED SOME TIME THAT
6 MONTH, CORRECT?

01:09PM

7 A YES.

8 Q NOW, ARE YOU ALSO AWARE THAT AFTER HE WAS
9 FIRED, SOMETHING LIKE 35 OR 40 PEOPLE LEFT TCW TO GO TO
10 WORK AT DOUBLE LINE WITH MR. GUNDLACH, ARE YOU AWARE OF
11 THAT?

01:09PM

12 A YES, I AM.

13 Q YOU DID NOT DO THAT, DID YOU?

14 A THAT'S CORRECT.

15 Q AND DOLORES TALAMONTES ALSO CHOSE TO STAY AT
16 TCW, DID SHE NOT?

01:10PM

17 A YES, SHE DID.

18 Q AND ERIC ARENTSEN ALSO CHOSE TO STAY AT TCW,
19 DID HE NOT?

20 A THAT'S RIGHT.

01:10PM

21 Q NOW, I TAKE IT DECEMBER 4TH, 2009 IS A DAY
22 THAT STICKS OUT IN YOUR MIND, DOESN'T IT?

23 A CORRECT.

24 Q THERE WAS A LOT OF ACTIVITY ON THE TRADING
25 FLOOR AT 1 O'CLOCK OR SO IN THE AFTERNOON, RIGHT?

01:10PM

26 A ABSOLUTELY.

27 Q CAN YOU SPEAK UP JUST A LITTLE BIT?

28 A YES, THERE WAS.

1 Q MR. STERN CAME DOWN AND MADE AN ANNOUNCEMENT
2 DIDN'T HE?

3 A YES.

4 Q THERE WAS A FLURRY OF ACTIVITY AND PEOPLE WERE
5 TAKEN OFF THE FLOORS FOR INTERVIEWS, WERE THEY NOT?

01:10PM

6 A CORRECT.

7 Q AND YOU SAW A NUMBER OF PEOPLE YOU HAD NOT
8 SEEN BEFORE ON THE FLOOR, CORRECT?

9 A YES.

10 Q I TAKE IT YOU WERE NOT ONE OF THE PEOPLE THAT
11 WAS ESCORTED OFF THE FLOOR FOR AN INTERVIEW THAT DAY,
12 WERE YOU?

01:10PM

13 A THAT IS CORRECT.

14 Q NOW, YOU WERE SHOCKED WHEN MR. GUNDLACH WAS
15 FIRED, WEREN'T YOU?

01:10PM

16 A YES.

17 Q AND YOU WERE SHOCKED BECAUSE HE RAN BY FAR THE
18 LARGEST AND MOST PROFITABLE GROUP AT TCW, ISN'T THAT
19 RIGHT?

20 A THAT'S RIGHT.

01:11PM

21 Q NOW, AT SOME POINT ON DECEMBER 4 YOU WENT DOWN
22 TO MAGNOLIA'S, WHICH IS A RESTAURANT BAR AT THE BASE OF
23 THE TCW BUILDING; IS THAT RIGHT?

24 A THAT'S CORRECT.

25 Q WHAT TIME DID YOU GO DOWN THERE ABOUT?

01:11PM

26 A I BELIEVE IT WAS APPROXIMATELY 3:00 P.M. WHEN
27 I WENT DOWNSTAIRS.

28 Q HOW LONG WERE YOU THERE?

1 A I WOULD SAY ABOUT THREE HOURS.

2 Q DID YOU -- SO TILL ABOUT 6 O'CLOCK?

3 A YES, I BELIEVE SO.

4 Q AND DID YOU HAVE YOUR CELL PHONE WITH YOU?

5 A I -- I DON'T RECALL ACTUALLY.

01:11PM

6 Q IF YOU DID HAVE YOUR CELL PHONE YOU COULD HAVE
7 MADE THE CALL TO MICHAEL CONN FROM YOUR CELL PHONE,
8 RIGHT?

9 A WELL, HE WAS GOING TO CALL ME. AND HE WAS
10 PLANNING TO CALL MY TELEPHONE ON THE TRADING DESK.

01:12PM

11 Q MICHAEL CONN IS YOUR BROTHER-IN-LAW, RIGHT?

12 A THAT'S RIGHT.

13 Q HE'S TCW HEAD OF CORPORATE STRATEGY AND
14 DEVELOPING, IS HE NOT?

15 A I BELIEVE THAT'S CURRENTLY HIS TITLE.

01:12PM

16 Q THAT'S A PRETTY HIGH LEVEL JOB, ISN'T IT?

17 A YES.

18 Q DOES HE REPORT DIRECTLY TO MARC STERN?

19 A I BELIEVE SO.

20 Q WHEN YOU WERE AT MAGNOLIA'S, I TAKE IT THAT
21 MR. SANTA ANA DID NOT ASK YOU TO GO GET HIS HARD DRIVE,
22 DID HE?

01:12PM

23 A THAT'S CORRECT.

24 Q SO AT SOME POINT YOU WENT UPSTAIRS TO THE 16TH
25 FLOOR TO TAKE A CALL FROM MICHAEL CONN, RIGHT?

01:12PM

26 A YES.

27 Q FEW MINUTES BEFORE 6 O'CLOCK; IS THAT RIGHT?

28 A YES. AROUND THAT TIME.

1 Q AND DURING -- YOU HAD A CONVERSATION WITH
2 MR. CON, RIGHT?

3 A YES, A BRIEF CONVERSATION.

4 Q AND AS PART OF THAT CONVERSATION HE TOLD YOU
5 THAT CHANGES WERE HAPPENING AT TCW THAT DAY THAT WOULD
6 BE BENEFICIAL TO YOU, DIDN'T HE?

01:13PM

7 MS. OSMAN: HEARSAY BEYOND THE SCOPE.

8 THE COURT: OVERRULED.

9 GO AHEAD.

10 THE WITNESS: HE INDICATED THAT HE FELT THE
11 CHANGES THAT WERE BEING MADE IN TERMS OF THE MANAGEMENT
12 OF THE FIXED INCOME ASSETS, WOULD PRESENT A LOT OF
13 OPPORTUNITIES FOR ME AS A HUNGRY YOUNG PROFESSIONAL.

01:13PM

14 MR. BRIAN: OKAY.

15 Q AND AFTER HE TALKED TO YOU AS A HUNGRY YOUNG
16 PROFESSIONAL IS WHEN YOU GOT UP AND WENT OVER AND GOT
17 MR. SANTA ANA'S HARD DRIVE, RIGHT?

01:13PM

18 A THAT'S RIGHT.

19 Q AND THE HARD DRIVE WAS SITTING ON TOP OF HIS
20 COMPUTER; IS THAT RIGHT?

01:13PM

21 A CORRECT.

22 Q SO BETWEEN ABOUT 1 O'CLOCK WHEN THERE WAS THIS
23 FLURRY OF ACTIVITY WHILE ALL THESE PEOPLE WERE RUNNING
24 AROUND, AND 6 O'CLOCK NOBODY ON BEHALF OF TCW WALKED
25 OVER AND GRABBED THAT HARD DRIVE I GUESS, RIGHT?

01:14PM

26 MS. OSMAN: FOUNDATION.

27 THE COURT: SUSTAINED.

28 ///

1 BY MR. BRIAN:

2 Q IT WAS STILL THERE, WASN'T IT?

3 A YES -- I DON'T, I DON'T KNOW WHAT HAPPENED TO
4 IT BEFORE I TOUCHED.

5 Q DO YOU KNOW WHETHER IT WAS THERE AT 1 O'CLOCK
6 WHEN MR. STERN AND THE OTHER FOLKS CAME ON THE FLOOR?

01:14PM

7 A I DON'T KNOW.

8 Q NOW, AFTER YOU PICKED IT UP, YOU PUT IT IN
9 YOUR PURSE, RIGHT?

10 A THAT'S RIGHT.

01:14PM

11 Q AND BEFORE MS. TALAMANTES CAME OVER YOU HAD A
12 CONVERSATION WITH ERIC ARENTSEN, RIGHT.

13 A THAT'S RIGHT.

14 Q WAS HE ALONE OR WITH SOMEBODY?

15 A HIS SON WAS THERE AS WELL.

01:14PM

16 Q DID YOU TELL HIM THAT YOU'D TAKEN THE HARD
17 DRIVE AND PUT IT IN YOUR PURSE?

18 A NO.

19 Q AND THEN MS. TALAMANTES ARRIVED; IS THAT
20 RIGHT?

01:15PM

21 A THAT'S RIGHT.

22 Q BY -- I THINK I MAY HAVE ASKED YOU THIS;
23 MR. ARENTSEN LIKE YOURSELF IS STILL AT TCW, RIGHT?

24 A THAT'S RIGHT.

25 Q NOW, AT THAT POINT DID YOU INTEND TO GIVE THE
26 HARD DRIVE TO MR. SANTA ANA?

01:15PM

27 A I STARTED TO FEEL UNCERTAIN AS TO WHETHER OR
28 NOT THAT WAS THE APPROPRIATE THING TO DO. I JUST

1 REALLY WASN'T SURE. I TRUSTED CRIS HAVING WORKED WITH
2 HIM FOR A NUMBER OF YEARS AND HAVING A GOOD
3 RELATIONSHIP.

4 BUT AT THE SAME TIME AS I ALREADY
5 INDICATED, I SUSPECTED THAT THERE MIGHT HAVE BEEN TCW
6 PROPERTY ON IT. SO I WASN'T CERTAIN WHAT TO DO AND I
7 GAVE IT TO MS. TALAMANTES.

01:15PM

8 Q AT YOUR DEPOSITION YOU WERE ASKED WHETHER YOU
9 INTENDED TO GIVE MR. SANTA ANA THE EXTERNAL HARD DRIVE,
10 WEREN'T YOU?

01:15PM

11 A YES.

12 Q AND AT YOUR DEPOSITION YOU WERE REPRESENTED BY
13 MR. MADISON, WEREN'T YOU?

14 A YES.

15 Q SAME LAWYER REPRESENTING TCW IN THIS LAWSUIT,
16 RIGHT?

01:15PM

17 A YES.

18 Q AND YOU UNDERSTOOD THAT AT THE TIME, CORRECT?

19 A YES.

20 Q NOW, WHEN YOU WERE ASKED AT YOUR DEPOSITION
21 DID YOU INTEND TO GIVE THE HARD DRIVE --

01:16PM

22 MR. MADISON: DO YOU HAVE PAGE AND LINE?

23 MS. OSMAN: THIS IS HEARSAY ALSO.

24 THE COURT: ARE WE GOING TO READ FROM THE
25 DEPOSITION?

01:16PM

26 MR. BRIAN: NOT YET. NOT ON THIS ONE.

27 THE COURT: GO AHEAD.

28 ///

1 BY MR. BRIAN:

2 Q WHEN YOU WERE ASKED AT YOUR DEPOSITION,
3 WHETHER YOU INTENDED?

4 MS. OSMAN: EXCUSE ME, YOUR HONOR, IT'S
5 IMPROPER FOR HIM TO ASK ABOUT TESTIMONY IN A DEPOSITION
6 WHEN IT'S NOT IMPEACHMENT. AND IT'S NOT BEING OFFERED
7 TO REFRESH RECOLLECTION, HE CAN'T READ FROM IT.

01:16PM

8 THE COURT: LET'S APPROACH IT DIFFERENTLY,
9 MR. BRIAN.

10 MR. BRIAN: I'M NOT GOING TO ASK HER THE
11 ANSWER RIGHT NOW.

01:16PM

12 THE COURT: JUST ASK HER A QUESTION. DON'T
13 ASK HER WHAT SHE DID IN DEPOSITION. IF YOU WANT TO
14 READ FROM THE DEPOSITION GIVE ME THE PAGE AND LINE YOU
15 CAN READ FROM IT.

01:16PM

16 MR. BRIAN: THEN I'LL --

17 THE COURT: YOU HAVE EITHER CHOICE. YOU CAN'T
18 HAVE IT BOTH WAYS.

19 MR. BRIAN: I'M NOT DOING WHAT YOU THINK I'M
20 DOING, YOUR HONOR.

01:16PM

21 Q AT YOUR DEPOSITION --

22 MS. OSMAN: HEARSAY.

23 THE COURT: YOU MAY NOT ASK HER THAT QUESTION.

24 MR. BRIAN: THEN I WOULD ASK TO PLAY THE
25 DEPOSITION PAGE 23 LINE 16 THROUGH 25. THE POINT OF
26 PLAYING IT, YOUR HONOR, IS SO THE JURY CAN OBSERVE THE
27 WITNESS.

01:17PM

28 MS. OSMAN: YOUR HONOR, THAT'S IMPROPER. IT'S

1 NOT BEING OFFERED.

2 THE COURT: HOLD ON JUST A MINUTE.

3 MR. BRIAN: I CAN MAKE AN OFFER OF PROOF AT
4 THE SIDE-BAR, YOUR HONOR.

5 (PAUSE) +

01:17PM

6

7 THE COURT: IF YOU WANT THE QUESTION AND
8 ANSWER READ IT'S ON PAGE 24, 10 THROUGH 14.

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

10 THE COURT: YES, YOU MAY.

01:18PM

11

12 (SIDE-BAR CONFERENCE HELD) +

13

14 MR. BRIAN: THE POINT OF THE EXAMINATION IS
15 THAT WHEN SHE WAS EVER ASKED A QUESTION AT THE
16 DEPOSITION THAT ELICITED A DIFFICULT ANSWER, SHE EITHER
17 ASKED TO CONFER WITH COUNSEL WHILE THE QUESTION WAS
18 PENDING OR SHE LOOKED OVER AT COUNSEL FOR APPROVAL.

01:18PM

19 SHE DID IT REPEATEDLY DURING THE
20 DEPOSITION. AND WE'RE ENTITLED TO DO THAT TO SHOW
21 BIAS. WE THINK THIS WITNESS IS A BIAS WITNESS.

01:18PM

22 MS. OSMAN: HE CAN'T HAVE THIS WITHOUT GETTING
23 INTO ATTORNEY/CLIENT PRIVILEGE, AND THE REASON FOR THE
24 COMMUNICATION AND IF SHE HAD A QUESTION ABOUT PRIVILEGE
25 OR CONFIDENTIALITY AND IT'S NOT APPROPRIATE.

01:18PM

26 THE COURT: THERE'S NO ISSUE AS TO PRIVILEGE.

27 MR. BRIAN: THAT'S NOT THE POINT.

28 MS. OSMAN: SHE'S CONFERRING.

1 THE COURT: SHE'S CONFERRING WITH HIM TO GET
2 AN ANSWER.

3 MS. OSMAN: THAT'S THE ASSUMPTION.

4 MR. MADISON: YOUR HONOR, THIS IS ANOTHER --

5 THE COURT: ARE WE GOING THROUGH MORE OF THIS? 01:19PM

6 MR. BRIAN: THERE ARE TWO EXAMPLES WHERE SHE
7 CONFERS AFTER A QUESTION. AND THEN THERE ARE OTHERS
8 WHERE SHE TURNS AND LOOKS.

9 THE COURT: I'M NOT BRINGING THE DEPOSITION
10 CONDUCT IN. YOU CAN ASK HER THE QUESTION, IF SHE
11 DOESN'T ANSWER IT THE WAY SHE ANSWERED AT THE
12 DEPOSITION, THEN YOU CAN IMPEACH HER WITH IT. 01:19PM

13 OTHERWISE, I'M NOT GETTING INTO THIS
14 COLLOQUY.

15 MR. BRIAN: IT'S NOT COLLOQUY, IT'S NOT THE
16 ANSWER -- 01:19PM

17 THE COURT: I'M NOT GOING INTO THOSE
18 INFERENCES BEING DRAWN. IT'S CLEARLY COLLATERAL. I
19 WON'T LET YOU LET YOU DO IT TO IMPEACH.

20 01:19PM

21 (SIDE-BAR CONFERENCE CONCLUDED.) +

22

23 BY MR. BRIAN:

24 Q SO WHEN MS. TALAMANTES CAME UP, YOU SAY YOU
25 SUSPECTED THAT THERE MIGHT BE SOMETHING FROM THE M.B.S.
26 DATA BASE ON THAT HARD DRIVE? 01:20PM

27 A YES, BUT I WASN'T SURE.

28 Q AND YOU FELT UNCOMFORTABLE ABOUT THAT, IS THAT

1 RIGHT?

2 A I FELT UNCOMFORTABLE AS TO WHETHER OR NOT IT
3 WAS APPROPRIATE TO REMOVE IT FROM THE TRADING DESK.

4 Q AND SO, YOU DECIDED THAT YOU WOULDN'T DO IT
5 BUT IT WAS OKAY TO GIVE IT TO MS. TALAMANTES; IS THAT
6 RIGHT? IS THAT RIGHT? YES OR NO?

01:20PM

7 MS. OSMAN: ARGUMENTATIVE, YOUR HONOR.

8 THE COURT: OVERRULED.

9 THE WITNESS: I WANTED TO.

10 MR. BRIAN: MA'AM --

01:20PM

11 THE COURT: JUST ANSWER THE QUESTION.

12 BY MR. BRIAN:

13 Q IS IT YOUR TESTIMONY YOU THOUGHT IT WAS NOT
14 OKAY FOR YOU TO DO IT, BUT YOU COULD GIVE IT TO
15 SOMEBODY ELSE TO DO IT; IS THAT YOUR TESTIMONY?

01:20PM

16 A YES.

17 Q AND AFTER YOU DID THAT, DID YOU PICKUP THE
18 PHONE AND CALL MICHAEL CONN TO TELL HIM YOU HAD DONE
19 THAT?

20 A NO.

01:21PM

21 Q PARDON ME?

22 A NO.

23 Q DID YOU PICKUP THE PHONE TO CALL MARC STERN TO
24 TELL HIM YOU HAD DONE THAT?

25 A NO.

01:21PM

26 Q DID YOU MENTION IT TO ANY OF THE OTHER FOLKS
27 INVOLVED IN COMPLIANCE AT TCW?

28 A NO. NO, I DID NOT.

1 Q NOW, YOU -- AFTER YOU DID THIS YOU WENT BACK
2 DOWNSTAIRS, DIDN'T YOU?

3 A THAT'S RIGHT.

4 Q AND YOU RAN INTO MR. SANTA ANA, YOU'VE
5 TESTIFIED IN YOUR DEPOSITION, RIGHT?

01:21PM

6 A THAT'S CORRECT, ON MY WAY OUT.

7 Q AND YOU SAY YOU WENT UP TO HIM, AND TOLD HIM
8 THAT YOU HAD GIVEN THE HARD DRIVE TO
9 DOLORES TALAMONTES; IS THAT RIGHT?

10 A I DON'T RECALL EXACTLY HOW I PHRASED IT, BUT I
11 INDICATED THAT DOLORES HAD THE HARD DRIVE IN HER
12 POSSESSION.

01:21PM

13 Q SO, IT WASN'T OKAY FOR YOU TO TAKE IT, BUT YOU
14 THOUGHT IT WAS OKAY FOR YOU TO TELL HIM YOU GAVE IT TO
15 DOLORES TALAMONTES, RIGHT?

01:22PM

16 YOU THOUGHT THAT WAS OKAY?

17 A I INDICATED TO HIM THAT DOLORES HAD THE DRIVE
18 IN HER POSSESSION.

19 Q SO I'M JUST ASKING YOU WERE UNCOMFORTABLE, YOU
20 SAID YOU WERE UNCOMFORTABLE TAKING IT YOURSELF. WERE
21 YOU UNCOMFORTABLE TELLING HIM THAT YOU HAD GIVEN IT TO
22 SOMEBODY ELSE WHO STUCK IT IN THEIR BLOUSE, DID THAT
23 MAKE YOU UNCOMFORTABLE?

01:22PM

24 A NO.

25 Q YOU KNOW A MAN NAMED DAVID LIPPMAN, DON'T YOU?

01:22PM

26 A YES, I DO.

27 Q HE'S ANOTHER SENIOR EXECUTIVE AT TCW, ISN'T
28 HE?

1 A CORRECT.

2 Q AND HE CAME OVER TO TCW AS PART OF WHAT'S
3 CALLED A MET WEST DEAL, RIGHT?

4 A YES.

5 MS. OSMAN: BEYOND THE SCOPE, YOUR HONOR. 01:23PM

6 THE COURT: WHERE ARE WE GOING, MR. BRIAN?

7 MR. BRIAN: IT'S -- THEY HAD A CONVERSATION
8 ABOUT THIS SUBJECT, YOUR HONOR.

9 THE COURT: GO AHEAD.

10 BY MR. BRIAN: 01:23PM

11 Q AND AT SOME POINT AFTER DECEMBER 4TH, YOU HAD
12 A CONVERSATION WITH MR. LIPPMAN ABOUT THE FACT THAT YOU
13 HAD GIVEN THE HARD DRIVE TO MS. TALAMANTES TO GIVE TO
14 MR. SANTA ANA, RIGHT?

15 RIGHT? 01:23PM

16 MS. OSMAN: CALLS FOR HEARSAY.

17 THE COURT: OVERRULED. THE FACT OF THE
18 CONVERSATION IS NOT THE HEARSAY.

19 GO AHEAD.

20 BY MR. BRIAN: 01:23PM

21 Q RIGHT?

22 A YES. HE AND I HAD SUCH A CONVERSATION.

23 Q HE ACTUALLY INITIATED THAT CONVERSATION,
24 DIDN'T HE?

25 A THAT'S CORRECT. 01:23PM

26 Q IN THAT CONVERSATION HE TOLD YOU THAT HE KNEW
27 THAT YOU HAD GIVEN THE HARD DRIVE TO MS. TALAMANTES,
28 DIDN'T YOU?

1 A YES.

2 Q AND HE DIDN'T SAY IN THAT CONVERSATION THAT
3 WHAT YOU DID WAS WRONG, DID HE?

4 A THAT'S CORRECT.

5 Q AND YOU WERE NOT DISCIPLINED AT ALL BY TCW FOR
6 HAVING WALKED OVER TO MR. SANTA ANA'S DESK, 5 HOURS
7 AFTER THERE WAS A FLURRY OF ACTIVITY, PICKED UP THAT
8 HARD DRIVE, AND GIVEN IT TO MS. TALAMANTES; YOU WERE
9 NOT DISCIPLINED FOR THAT, WERE YOU?

01:24PM

10 A THAT'S CORRECT.

01:24PM

11 Q IN FACT, TWO DAYS LATER, ON SUNDAY,
12 DECEMBER 6TH, YOU GOT A CALL AT HOME FROM
13 JOE BURSCHINGER, DIDN'T YOU?

14 A YES, I DID.

15 Q HE'S ANOTHER SENIOR EXECUTIVE AT TCW, ISN'T
16 HE?

01:24PM

17 A YES.

18 Q AND HE TOLD YOU IN THAT CONVERSATION, TWO DAYS
19 AFTER YOU SAY THAT YOU GRABBED THAT HARD DRIVE ON TOP
20 OF THE COMPUTER AND GAVE IT TO MS. TALAMANTES, HE TOLD
21 YOU THERE WOULD BE A PLACE FOR YOU AT TCW, DIDN'T HE?

01:24PM

22 MS. OSMAN: ARGUMENTATIVE. HEARSAY.

23 THE COURT: OVERRULED.

24 THE WITNESS: YES, HE DID.

25 BY MR. BRIAN:

01:25PM

26 Q AND THAT HE HOPED YOU WOULD STAY AT TCW, HE
27 SAID THAT AS WELL, DIDN'T HE?

28 A YES.

1 Q TWO MONTHS LATER, FEBRUARY OF 2010, YOU WERE
2 PROMOTED TO VICE-PRESIDENT, WEREN'T YOU?

3 A YES.

4 MR. BRIAN: NOTHING FURTHER.

5 THE COURT: ANYTHING ELSE?

01:25PM

6 MS. OSMAN: YES, YOUR HONOR.

7
8 REDIRECT EXAMINATION +

9
10 BY MS. OSMAN:

01:25PM

11 Q MS. CONN, AT THE TIME THAT MR. BURSCHINGER
12 CALLED YOU ON DECEMBER 6TH, HAD YOU ALREADY MET WITH
13 MR. LIPPMAN AT THAT POINT ABOUT THE HARD DRIVE?

14 A NO, I HAD NOT.

15 Q DID MR. BURSCHINGER, AS FAR AS YOU KNOW, KNOW
16 ANYTHING ABOUT THE HARD DRIVE, YOU WERE TAKING IT FROM
17 MR. SANTA ANA'S DESK?

01:25PM

18 A I DON'T BELIEVE HE DID.

19 Q AS FAR AS YOU KNOW, DID ANYONE AT TCW, OTHER
20 THAN MS. TALAMANTES, KNOW ON DECEMBER 6TH THAT YOU HAD
21 GONE UPSTAIRS AND PICKED UP THE HARD DRIVE?

01:25PM

22 A I DON'T BELIEVE SO.

23 Q OH, DID MR. SANTA ANA ALSO KNOW?

24 MR. BRIAN: OBJECTION. FORM.

25 THE COURT: SUSTAINED.

01:26PM

26 YOU CAN REPHRASE IT.

27 BY MS. OSMAN:

28 Q IS IT YOUR UNDERSTANDING, MA'AM, THAT THE HARD

1 DRIVE WAS GIVEN TO MR. SANTA ANA?

2 MR. BRIAN: OBJECTION. FOUNDATION, YOUR
3 HONOR.

4 THE COURT: SUSTAINED.

5 BY MS. OSMAN:

01:26PM

6 Q DO YOU HAVE AN UNDERSTANDING ONE WAY OR THE
7 OTHER?

8 A I DON'T KNOW WHAT HAPPENED TO THE HARD DRIVE
9 AFTER I GAVE IT TO DOLORES.

10 Q DID YOU KNOW MR. SANTA ANA?

01:26PM

11 A YES, I DID.

12 Q HOW WOULD YOU CHARACTERIZE YOUR RELATIONSHIP
13 WITH MR. SANTA ANA?

14 A I WOULD SAY THAT CRIS AND I ALSO HAD A VERY
15 GOOD WORKING RELATIONSHIP, AND ALSO A VERY FRIENDLY
16 RELATIONSHIP ON A PERSONAL LEVEL. AND MY HUSBAND AND I
17 EVEN INVITED HIM TO OUR WEDDING.

01:26PM

18 Q DID HE GO?

19 A NO. HE COULDN'T. HE HAD ANOTHER CONFLICT.

20 Q DID YOU TRUST MR. SANTA ANA?

01:27PM

21 A I DID.

22 Q DID YOU EVER PLUG IN THE HARD DRIVE TO BE SURE
23 WHAT WAS ON THE HARD DRIVE?

24 A NO, I DIDN'T.

25 Q SO IT WAS SUSPICION YOU HAD, AS TO WHAT WAS ON
26 IT?

01:27PM

27 A YES. BUT I DIDN'T KNOW ONE WAY OR THE OTHER
28 IF IT WAS PERSONAL OR PROFESSIONAL MATTERS.

1 Q IN RETROSPECT, MA'AM, ARE YOU PROUD YOU TOLD
2 MR. SANTA ANA THAT DOLORES TALAMANTES HAD THE HARD
3 DRIVE?

4 A IN RETROSPECT, I WISHED I HAD NEVER TOUCHED
5 IT.

01:27PM

6 Q ALSO MR. BRIAN ASKED YOU SOME QUESTIONS ABOUT
7 MR. GUNDLACH'S COMMENTS, AND WHETHER YOU REPORTED THEM
8 TO ANYONE; IS THAT CORRECT? DO YOU RECALL THAT?

9 A THAT'S CORRECT.

10 Q AND WAS MR. GUNDLACH YOUR SUPERVISOR?

01:27PM

11 A HE WAS ONE OF THEM.

12 Q WAS HE SOMEBODY YOU WOULD CHARACTERIZE AS
13 DEMANDING LOYALTY AMONG PEOPLE WHO WORKED WITH HIM?

14 A ABSOLUTELY.

15 Q CAN YOU EXPLAIN THAT?

01:28PM

16 A I COULD GIVE AN EXAMPLE.

17 Q OKAY.

18 A FOR INSTANCE, ONE OF THE ANALYSTS WITHIN OUR
19 TEAM CHOSE TO DEPART, ABOUT SIX MONTHS AFTER I JOINED
20 TCW. HE WAS -- HE WAS OFFERED ANOTHER POSITION AT A
21 DIFFERENT FIRM, THAT WOULD HAVE BEEN -- THAT WAS A BIG
22 STEP UP IN HIS CAREER.

01:28PM

23 AND I REMEMBER IMMEDIATELY AFTER HIS
24 DEPARTURE, JEFFREY MAKING NEGATIVE COMMENTS ABOUT HOW
25 HE NEVER SHOULD HAVE LEFT, AND IT WAS A HUGE MISTAKE
26 FOR HIM TO BE GOING SOMEWHERE ELSE.

01:28PM

27 Q DID YOU FEEL THAT IF YOU HAD REPORTED
28 MR. GUNDLACH FOR ANY COMMENTS THAT HE MADE ON THE

1 TRADING ROOM FLOOR, THAT THAT MIGHT AFFECT YOU IN SOME
2 WAY?

3 A YES.

4 Q WHAT DO YOU FEEL?

5 A I WAS CONCERNED ANY PERCEPTION OF DISLOYALTY
6 COULD HAVE RESULTED IN EITHER SLOWER OR BACKWARD CAREER
7 MOVEMENT FOR ME.

01:28PM

8 Q MR. BRIAN ALSO ASKED IF YOU WERE ONE OF THE
9 INDIVIDUALS, ON DECEMBER 4TH, WHO WAS ESCORTED OUT OF
10 THE BUILDING. DO YOU RECALL THAT QUESTION?

01:29PM

11 A I DO.

12 Q MS. CONN, DID YOU DOWNLOAD CONFIDENTIAL TRADE
13 SECRET INFORMATION FROM TCW?

14 A NO, I DID NOT.

15 Q DID YOU BACK UP MILLIONS OF PAGES OF TCW
16 INFORMATION TO USE AT A COMPETING BUSINESS?

01:29PM

17 A NO, I DID NOT.

18 Q DID YOU TRY TO SOLICIT EMPLOYEES TO LEAVE TCW
19 AND COMPETE WITH TCW?

20 A NO, I DID NOT.

01:29PM

21 Q WE'VE HEARD QUESTIONS ABOUT MET WEST.

22 WHAT IS MET WEST?

23 A METROPOLITAN WEST ASSET MANAGEMENT WAS THE
24 NAME OF THE FIRM THAT TCW ACQUIRED IN ORDER TO RESUME
25 MANAGEMENT OF THE FIXED INCOME ASSETS AFTER JEFFREY
26 GUNDLACH WAS RELIEVED OF HIS DUTIES.

01:29PM

27 Q DO YOU KNOW WHY IT WAS NECESSARY TO BRING
28 ANOTHER ASSET MANAGEMENT BUSINESS TO REPLACE

1 MR. GUNDLACH AFTER HE LEFT?

2 A BECAUSE --

3 MR. BRIAN: OBJECTION. FOUNDATION, YOUR
4 HONOR.

5 THE COURT: SUSTAINED.

01:30PM

6 BY MS. OSMAN:

7 Q IF MR. GUNDLACH AND MOST OF THE MEMBERS OF THE
8 MORTGAGE-BACKED SECURITIES TEAM LEFT, WOULD TCW HAVE
9 BEEN ABLE TO CONTINUE SERVICING ITS CLIENTS IN
10 INVESTING FOR ITS CLIENTS?

01:30PM

11 A NOT WITHOUT ANOTHER TEAM IN PLACE TO SHEPHERD
12 THE ASSETS.

13 Q WAS MET WEST THAT TEAM?

14 A YES.

15 Q AND IF I COULD HAVE ONE MINUTE, YOUR HONOR.

01:30PM

16 I JUST WANT TO ASK YOU, MS. CONN, ABOUT
17 THE HARD DRIVE, AND WHERE IT WAS LOCATED WHEN YOU WERE
18 ON THE 16TH FLOOR.

19 A UH-HUH.

20 Q WAS THE COMPUTER ITSELF -- YOU SAID THE HARD
21 DRIVE WAS ON MR. SANTA ANA'S COMPUTER; IS THAT CORRECT?

01:31PM

22 A YES. AND THE COMPUTER WAS UNDER HIS DESK.

23 Q UNDER SANTA ANA'S DESK?

24 A YES.

25 Q YOU HAD TO GO UNDER THE DESK TO GET THAT?

01:31PM

26 A WELL, IT WAS WITHIN ARM'S REACH.

27 MS. OSMAN: NOTHING FURTHER.

28 THE COURT: THANK YOU, MS. OSMAN.

1 MR. BRIAN?

2

3 RECROSS EXAMINATION +

4

5 BY MR. BRIAN:

01:31PM

6 Q ON THAT LAST POINT, WITHIN ARM'S REACH, YOU
7 JUST WALKED UP AND REACHED DOWN, AND IT WAS RIGHT
8 THERE, RIGHT?

9 A YES.

10 Q AND WAS IT COVERED -- WASN'T COVERED UP WITH
11 BLANKETS OR SHEETS OR SOMETHING, WAS IT?

01:31PM

12 A NO.

13 Q MET WEST, DO YOU KNOW WHEN -- YOU TESTIFIED
14 THAT MET WEST NEEDED TO COME IN TO REPLACE THE PEOPLE
15 THAT LEFT.

01:32PM

16 DO YOU KNOW WHEN MARC STERN AND TCW
17 ACTUALLY NEGOTIATED WITH TCW, WHETHER IT WAS BEFORE OR
18 AFTER THE FIRINGS IN DECEMBER?

19 MS. OSMAN: FOUNDATION.

20 THE COURT: IF SHE KNOWS.

01:32PM

21 BY MR. BRIAN:

22 Q DO YOU KNOW?

23 A NO, I DON'T KNOW.

24 Q NOW, ASSUMING MS. TALAMANTES DID WHAT YOU
25 EXPECTED OR WANTED HER TO DO, GIVE IT TO
26 MR. SANTA ANA --

01:32PM

27 MS. OSMAN: MISSTATES TESTIMONY.

28 THE COURT: LET'S GET THE QUESTION, AND THEN

1 WE'LL PAUSE.

2 MS. OSMAN: I APOLOGIZE, YOUR HONOR.

3 BY MR. BRIAN:

4 Q ASSUMING MS. TALAMANTES GAVE THE HARD DRIVE TO
5 MR. SANTA ANA, YOU DON'T HAVE ANY IDEA WHAT USE, IF
6 ANY, MR. SANTA ANA MADE OF THAT, DO YOU?

01:32PM

7 A NO, I DON'T.

8 MR. BRIAN: NOTHING FURTHER.

9 THE COURT: MS. OSMAN, ANYTHING ELSE?

10 MS. OSMAN: NOTHING FURTHER.

01:32PM

11 THE COURT: THANK YOU.

12 MS. CONN, YOU MAY BE EXCUSED. YOU MAY
13 STEP DOWN.

14 THE WITNESS: THANK YOU.

15 THE COURT: PLAINTIFFS' NEXT WITNESS?

01:33PM

16 MS. OSMAN: YOUR HONOR, TCW WOULD CALL DOLORES
17 TALAMANTES.

18 THE COURT: OKAY.

19 THE CLERK: PLEASE RAISE YOUR RIGHT HAND TO BE
20 SWORN.

01:34PM

21

22 DOLORES TALAMANTES,
23 CALLED AS A WITNESS BY THE PLAINTIFF, WAS SWORN AND
24 TESTIFIED AS FOLLOWS:

25

26 THE CLERK: YOU DO SOLEMNLY STATE THAT THE
27 TESTIMONY YOU ARE ABOUT TO GIVE IN THE CAUSE NOW
28 PENDING BEFORE THIS COURT, SHALL BE THE TRUTH, THE

1 WHOLE TRUTH AND NOTHING BUT THE TRUTH, SO HELP YOU GOD?

2 THE WITNESS: I DO.

3 THE CLERK: THANK YOU PLEASE BE SEATED.

4 MA'AM PLEASE STATE AND SPELL YOUR NAME
5 FOR THE RECORD.

01:34PM

6 THE WITNESS: DOLORES TALAMANTES,
7 D-O-L-O-R-E-S, T-A-L-A-M-A-N-T-E-S.

8 THE CLERK: THANK YOU.

9

10 DIRECT EXAMINATION +

01:34PM

11

12 BY MS. OSMAN:

13 Q GOOD AFTERNOON.

14 A GOOD AFTERNOON.

15 Q WHERE ARE YOU CURRENTLY EMPLOYED?

01:34PM

16 A TCW.

17 Q WHEN DID YOU START WORKING AT TCW?

18 A NOVEMBER OF 1989.

19 Q AND CAN YOU SPEAK A LITTLE BIT LOUDER, OR MOVE
20 THE MICROPHONE?

01:35PM

21 THE COURT: IF YOU PUSH IT DOWN, AND GET
22 CLOSER TO IT. THERE YOU GO. THANK YOU VERY MUCH.

23 THE WITNESS: OKAY. THANKS. UH-HUH.

24 BY MS. OSMAN:

25 Q IN DECEMBER OF 2009, WHERE WERE YOU?

01:35PM

26 A I'M SORRY?

27 Q IN DECEMBER OF 2009, WHERE WERE YOU EMPLOYED?

28 A TCW.

1 Q WERE YOU WORKING IN THE MORTGAGE-BACKED
2 SECURITY GROUP?

3 A YES, I WAS.

4 Q THAT WAS, AGAIN, MR. GUNDLACH'S GROUP?

5 A CORRECT.

01:35PM

6 Q I'M SORRY?

7 A CORRECT.

8 Q WERE YOU AT WORK ON DECEMBER 4TH OF 2009?

9 A YES, I WAS.

10 Q AT SOME POINT IN DECEMBER 4TH OF 2009, DID YOU
11 LEARN THAT MR. GUNDLACH HAD BEEN RELIEVED OF HIS
12 DUTIES?

01:35PM

13 A YES.

14 Q AND DID YOU LEARN THAT OTHER INDIVIDUALS HAD
15 BEEN PLACED ON LEAVE AS WELL?

01:35PM

16 A YES.

17 Q DID YOU HAVE AN UNDERSTANDING, ON
18 DECEMBER 4TH, IF MR. SANTA ANA WAS ONE OF THE
19 INDIVIDUALS WHO WAS RELIEVED OF HIS DUTIES?

20 A YES.

01:35PM

21 Q HOW DID YOU GET THAT UNDERSTANDING?

22 A I BELIEVE IT WAS IN A MEMO.

23 I ALSO SAW HIM ESCORTED OUT OF THE
24 BUILDING.

25 Q CAN I ASK YOU TO SPEAK A LITTLE LOUDER? WE'RE
26 HAVING TROUBLE HEARING YOU.

01:36PM

27 A IT WAS IN A MEMO, AND I ALSO SAW HIM ESCORTED
28 OUT OF THE BUILDING.

1 Q APPROXIMATELY WHAT TIME DID YOU SEE
2 MR. SANTA ANA LEAVING THE BUILDING?

3 A IT WAS IN THE AFTERNOON. MAYBE 1:30, 2:00.

4 Q AFTER MR. SANTA ANA LEFT THE BUILDING, DID YOU
5 SPEAK TO HIM AGAIN?

01:36PM

6 A I DID.

7 Q WHEN WAS THE NEXT TIME YOU SPOKE TO
8 MR. SANTA ANA THAT DAY?

9 A WHEN HE CALLED INTO THE OFFICE, THE TRADING
10 LINE.

01:36PM

11 Q WHAT IS THE TRADING LINE?

12 A IT'S A GENERAL LINE, THAT PEOPLE WOULD CALL TO
13 SPEAK TO ANY ONE OF THE TRADERS OR ANALYSTS.

14 Q HOW IS IT THAT YOU CAME TO SPEAK TO
15 MR. SANTA ANA?

01:36PM

16 A I HAPPENED TO ANSWER THE PHONE.

17 Q WAS HE ASKING FOR YOU?

18 A NO.

19 Q WHAT DID MR. SANTA ANA SAY?

20 A HE WANTED TO SPEAK WITH JOE GALLIGAN.

01:37PM

21 Q WHO IS JOE GALLIGAN?

22 A JOE GALLIGAN WAS MY IMMEDIATE SUPERVISOR.

23 Q IS MR. GALLIGAN STILL EMPLOYED AT TCW?

24 A HE IS NOT.

25 Q WHERE'S MR. GALLIGAN EMPLOYED?

01:37PM

26 A DOUBLELINE.

27 Q WHAT DID MR. SANTA ANA -- OR WHAT DID YOU TELL
28 MR. SANTA ANA, WHEN HE ASKED FOR MR. GALLIGAN?

1 A HE'S NOT HERE.

2 Q THEN WHAT HAPPENED?

3 A SO HE LEFT A NUMBER, AND I TOLD HIM I WOULD
4 RELAY THE MESSAGE TO JOE.

5 Q MR. SANTA ANA LEFT A NUMBER? 01:37PM

6 A CORRECT.

7 Q IS MR. SANTA ANA CALLING FROM OUTSIDE OF TCW?

8 A HE WAS.

9 Q DID YOU ALSO GO TO MAGNOLIA'S ON
10 SEPTEMBER 4TH? 01:37PM

11 A I DID.

12 Q ABOUT WHAT TIME DID YOU GET TO MAGNOLIA'S?

13 A I BELIEVE IT WAS AFTER 4:00, AFTER MY
14 INTERVIEW.

15 Q AT SOME POINT, DID YOU GO BACK UP TO TCW
16 OFFICES? 01:37PM

17 A I DID.

18 Q WHY DID YOU GO BACK UP TO TCW'S OFFICES?

19 A BECAUSE ONE OF THE -- ONE OF THE GIRLS IN THE
20 DEPARTMENT HANDED ME A FOLDER THAT HAD SOME MEDICAL
21 PAPERS THAT BELONGED TO EMILY DAVIDSON, AND TOLD ME
22 THAT SHE HAD LEFT IT BEHIND. 01:38PM

23 SO RATHER THAN TAKE IT HOME, I DECIDED
24 TO GO BACK UPSTAIRS AND DROP IT OFF.

25 Q WHAT POINT WHEN YOU GOT UPSTAIRS -- WHAT
26 HAPPENED WHEN YOU GOT UPSTAIRS? 01:38PM

27 A I PUT THE FOLDER ON EMILY'S DESK. AND WHEN I
28 TURNED AROUND, MELISSA WAS STANDING AT THE END OF THE

1 ROW IN, AND SHE STARTLED ME.

2 Q WHAT DO YOU MEAN, SHE STARTLED YOU?

3 A I WASN'T EXPECTING ANYONE TO BE UP THERE. I
4 DIDN'T ACTUALLY SEE HER WHEN I WALKED IN. I WENT
5 STRAIGHT TO THE ROW WE SAT IN.

01:38PM

6 Q DID YOU HAVE ANY INTERACTION WITH MS. CONN?

7 A I DID.

8 Q WHAT HAPPENED?

9 A SHE WAS STANDING THERE, AND SHE SAID THAT --
10 MR. BRIAN: OBJECTION. HEARSAY.

01:38PM

11 THE COURT: YOU CAN'T TELL US WHAT SHE SAID.
12 GO AHEAD.

13 THE WITNESS: OKAY. SHE WAS STANDING THERE.
14 SHE OPENED HER PURSE. SHE HAD A HARD DRIVE. SHE SAID
15 SHE WAS AFRAID --

01:39PM

16 THE COURT: MA'AM, WE DON'T WANT TO HEAR WHAT
17 SHE SAID TO YOU.

18 THE WITNESS: OKAY.

19 BY MS. OSMAN:

20 Q IT'S WHAT MS. CONN JUST TESTIFIED TO. IT'S A
21 NONHEARSAY PURPOSE.

01:39PM

22 THE COURT: GO AHEAD.

23 MS. OSMAN: THANK YOU, YOUR HONOR.

24 Q SO AGAIN, MS. TALAMANTES, WHAT DID MS. CONN
25 SAY?

01:39PM

26 A I'M AFRAID TO TAKE THIS DOWNSTAIRS.

27 Q WHAT WAS THIS?

28 A AN EXTERNAL DRIVE.

1 Q NEXT TO YOU, THERE IS A HARD DRIVE. IT'S
2 EXHIBIT 2119.

3 CAN YOU TAKE A LOOK AT THAT, PLEASE?

4 A OKAY.

5 Q DO YOU RECOGNIZE THAT?

01:39PM

6 A WELL, I MEAN, IT'S AN EXTERNAL DRIVE.

7 Q DOES THAT LOOK LIKE THE EXTERNAL DRIVE THAT
8 MS. CONN HAD ON DECEMBER 4TH OF 2009?

9 A I WOULDN'T SWEAR TO IT. IT WAS WRAPPED IN A
10 CORD, SO IT COULD HAVE BEEN.

01:40PM

11 Q DID IT HAVE A CASE?

12 A I DON'T RECALL THE CASE -- I DON'T RECALL A
13 CASE.

14 Q DO YOU HAVE ANY REASON TO BELIEVE THAT'S NOT
15 THE EXTERNAL DRIVE THAT WAS AT TCW ON DECEMBER 4TH, AT
16 MR. SANTA ANA'S DESK?

01:40PM

17 A NO.

18 Q WHAT HAPPENED WHEN MS. CONN SHOWED YOU THE
19 HARD DRIVE, AND SAID SHE WAS AFRAID OR NERVOUS TO TAKE
20 IT DOWNSTAIRS?

01:40PM

21 A I SAID, GIVE IT TO ME.

22 Q THEN WHAT DID YOU DO?

23 A I SHOVED IT IN MY BRA.

24 Q WHY DID YOU PUT IT IN YOUR BRA?

25 A I HAD A SMALL PURSE, AND SO I WAS TRANSPORTING
26 IT, AND I PUT IT IN MY BRA.

01:40PM

27 Q SO INSTEAD OF CARRYING IT YOUR HAND
28 DOWNSTAIRS, YOU STUCK IT IN THE FRONT OF YOUR BLOUSE?

1 A BRA.

2 Q IN THE BRA ITSELF, UNDER YOUR BLOUSE?

3 A YES.

4 Q SO I TAKE IT WAS IT SOMETHING THAT WAS VISIBLE
5 AS YOU WERE WALKING DOWNSTAIRS?

01:40PM

6 A I DON'T THINK SO.

7 Q WHEN YOU TOOK THE HARD DRIVE FROM MS. CONN,
8 WHAT DID YOU DO AFTER THAT, AFTER PUTTING IT IN YOUR
9 BLOUSE AND GOING DOWNSTAIRS?

10 A I WENT BACK DOWN TO MAGNOLIA'S, LOCATED
11 CRIS --

01:41PM

12 Q LET ME STOP.

13 WHEN YOU SAY YOU LOCATED CRIS, WHY DID
14 YOU LOCATE CRIS?

15 A WELL, I WANTED TO GIVE HIM THE HARD DRIVE.
16 EXTERNAL DRIVE. EXCUSE ME.

01:41PM

17 Q DID MS. CONN TELL YOU TO GIVE THAT TO
18 CRIS SANTA ANA?

19 A NOT THAT I RECALL.

20 Q WHY DID YOU THINK THAT THAT BELONGED TO
21 MR. SANTA ANA?

01:41PM

22 A BECAUSE EARLIER IN THE EVENING, OR EARLY
23 EVENING, AFTERNOON, I HAD OVERHEARD THAT CRIS, IF
24 ANYBODY WENT UPSTAIRS, TO GET CRIS'S PHOTOS AND HIS
25 COMPUTER, EXTERNAL DRIVE; YOU KNOW, PERSONAL
26 INFORMATION. I MEAN PERSONAL BELONGINGS.

01:41PM

27 Q AND WHO MADE THOSE STATEMENTS, IF SOMEONE GOES
28 UPSTAIRS, TO GET MR. SANTA ANA'S BELONGINGS?

1 A I THINK THERE WERE SEVERAL PEOPLE. BUT I
2 BELIEVE I HEARD IN THE BACKGROUND, MR. GALLIGAN, SAYING
3 THAT.

4 Q IS THAT JOE GALLIGAN?

5 A YES, IT IS. 01:42PM

6 Q I'M SORRY?

7 A YES, IT IS.

8 Q IS MR. GALLIGAN HERE TODAY IN COURT?

9 A HE IS.

10 Q AND CAN YOU SHOW ME WHO HE IS? 01:42PM

11 A HE'S THREE PEOPLE OVER FROM YOU.

12 MS. OSMAN: HELLO. GOOD AFTERNOON.

13 Q WHEN YOU WERE IN MAGNOLIA, DID YOU GIVE
14 MR. GALLIGAN THE PHONE MESSAGE FROM MR. SANTA ANA?

15 A I DID. 01:42PM

16 Q DID YOU DO THAT BEFORE YOU'D GONE UPSTAIRS?

17 A YES.

18 Q SO BEFORE YOU GOT THE HARD DRIVE, YOU GAVE
19 MR. GALLIGAN THE MESSAGE THAT MR. SANTA ANA CALLED,
20 LOOKING FOR HIM? 01:42PM

21 A YES.

22 Q WAS MR. SANTA ANA AT MAGNOLIA'S?

23 A WHEN?

24 Q AT THIS TIME, ON DECEMBER 4TH, WHEN PEOPLE HAD
25 GATHERED THERE, AND YOU WENT BACK UPSTAIRS TO GET THE
26 HARD DRIVE, WAS MR. SANTA ANA THERE? 01:43PM

27 A LIKE IN THE EVENING? OR AT -- CAN YOU BE MORE
28 SPECIFIC?

1 Q WHEN YOU FIRST WENT TO MAGNOLIA'S, IT WAS
2 ABOUT 4 O'CLOCK IN THE AFTERNOON?

3 A CORRECT.

4 Q AND WHEN YOU CAME BACK DOWN, WAS MR. SANTA ANA
5 THERE?

01:43PM

6 A WHEN I CAME BACK DOWN AT 6:00, 7:00ISH, YES.

7 Q DID YOU SEE MR. SANTA ANA?

8 A I DID.

9 Q DID YOU HAVE ANY INTERACTION WITH
10 MR. SANTA ANA?

01:43PM

11 A YES.

12 Q WHAT WAS THAT?

13 A I WENT UP TO CRIS, AND I SAID, I HAVE
14 SOMETHING FOR YOU.

15 Q WHAT DID MR. SANTA ANA SAY?

01:43PM

16 A LET'S GO TO MY CAR.

17 Q WHERE WAS MR. SANTA ANA'S CAR?

18 A IT WAS PARKED ON 9TH STREET.

19 Q IS THERE A PARKING STRUCTURE IN THE BUILDING
20 OF TCW?

01:44PM

21 A THERE IS.

22 Q WAS MR. SANTA ANA'S CAR IN THAT PARKING
23 STRUCTURE?

24 A IT WAS NOT.

25 Q WHERE WAS IT PARKED?

01:44PM

26 A ON 9TH STREET.

27 Q WHERE IS 9TH STREET IN RELATION TO MAGNOLIA'S?

28 A ADJACENT.

1 Q ABOUT HOW FAR DID YOU WALK TO GET TO
2 MR. SANTA ANA'S CAR?

3 A 50 FEET.

4 Q WHAT DID YOU DO? WHAT HAPPENED WHEN YOU GOT
5 TO MR. SANTA ANA'S CAR?

01:44PM

6 A HE OPENED THE DOOR. I HANDED HIM THE EXTERNAL
7 DRIVE. HE PUT IT INSIDE HIS CAR.

8 LOCKED IT.

9 Q DID MR. SANTA ANA SAY ANYTHING TO YOU?

10 A HE DID.

01:44PM

11 HE SAID, I LOVE YOU. HE GAVE ME A HUG.
12 HE MAY HAVE SAID IT A COUPLE OF TIMES.

13 Q WHEN YOU SAY HE MAY HAVE SAID IT COUPLE OF
14 TIMES, WHAT DID HE SAY A COUPLE TIMES?

15 A HE MAY HAVE SAID I LOVE YOU A COUPLE TIMES.

01:44PM

16 Q AND THEN HE GAVE YOU A HUG?

17 A YES.

18 Q DID HE -- DID HE THANK YOU FOR GIVING HIM THE
19 HARD DRIVE?

20 A I DON'T RECALL THAT.

01:44PM

21 Q MS. TALAMANTES, DO YOU RECALL TELLING
22 MR. BURSCHINGER THAT MR. SANTA ANA, WHEN YOU GAVE HIM
23 THE HARD DRIVE, SAID TO YOU, DOLORES, YOU DON'T KNOW
24 HOW MUCH THIS MEANS TO ME?

25 MR. BRIAN: OBJECTION. HEARSAY, NO
26 FOUNDATION, IMPROPER IMPEACHMENT.

01:45PM

27 THE COURT: SUSTAINED.

28 BY MS. OSMAN:

1 Q MS. TALAMANTES, WHEN MR. SANTA ANA THANKED YOU
2 AND SAID, I LOVE YOU, I LOVE YOU, AND HUGGED YOU, AND
3 WHEN YOU GAVE HIM THE HARD DRIVE, DID HE ALSO TELL YOU,
4 YOU DON'T KNOW HOW MUCH THIS MEANS TO ME?

5 MR. BRIAN: OBJECTION. LEADING. 01:45PM

6 THE COURT: SUSTAINED.

7 THIS IS YOUR WITNESS.

8 MS. OSMAN: I UNDERSTAND THAT.

9 IT'S A YES OR NO QUESTION, IF HE HAD
10 SAID THAT. 01:46PM

11 THE COURT: GO AHEAD.

12 BY MS. OSMAN:

13 Q DO YOU RECALL ANYTHING ELSE THAT MR. SANTA ANA
14 SAID WHEN YOU HANDED HIM THE HARD DRIVE?

15 A I DO NOT. 01:46PM

16 Q IS IT POSSIBLE THAT MR. SANTA ANA ALSO
17 EXPRESSED GRATITUDE FOR THE HARD DRIVE, BUT YOU DON'T
18 RECALL THE EXACT WORDS HE USED?

19 MR. BRIAN: OBJECTION. CALLS FOR -- FORM.

20 THE COURT: SUSTAINED. 01:46PM

21 BY MS. OSMAN:

22 Q WHAT DID YOU DO AFTER WALKING TO
23 MR. SANTA ANA'S CAR AND GIVING HIM THE HARD DRIVE?

24 A I STOPPED BY THE RESTAURANT, AND THEN I WENT
25 HOME. 01:46PM

26 MS. OSMAN: NO FURTHER QUESTIONS, YOUR HONOR.

27 THE COURT: CROSS?

28 MR. BRIAN: YES, YOUR HONOR.

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CROSS-EXAMINATION +

BY MR. BRIAN:

Q REMIND ME NOT TO GO TO MAGNOLIA'S. THERE SEEMS TO BE A LOT GOING ON THERE?

01:47PM

A BUSY PLACE.

Q MS. TALAMANTES, WERE YOU ALSO SHOCKED BY THE FIRING OF MR. GUNDLACH ON DECEMBER 4TH?

A I WAS.

01:47PM

Q AND YOU THOUGHT THAT NEVER IN A MILLION YEARS, TCW WOULD FIRE MR. GUNDLACH; ISN'T THAT RIGHT?

A THAT'S CORRECT.

Q BECAUSE HE REALLY WAS THE STAR IN THE MORTGAGE AREA IN THE FIRM, WASN'T HE?

01:47PM

A HE WAS.

Q I THINK YOU TESTIFIED TO A COUPLE INTERACTIONS WITH MR. SANTA ANA ON DECEMBER 4TH. THE FIRST -- WELL, LET ME START OVER.

YOU -- WERE YOU ON THE FLOOR AT ABOUT 1:00 OR 1:30 WHEN, AS THEY SAY, ALL HELL BROKE LOOSE ON THE FLOOR?

01:47PM

A ABSOLUTELY. YES, I WAS.

Q A LOT OF PEOPLE ON THE FLOOR AT ABOUT THAT TIME, WERE THEY NOT?

01:47PM

A YES.

Q PEOPLE WERE THEN ESCORTED OFF THE FLOOR; IS THAT CORRECT?

1 A YES.

2 Q DID YOU SAY YOU WERE INTERVIEWED?

3 A I WAS.

4 Q THAT DAY?

5 A CORRECT. YES.

01:48PM

6 Q AND WHEN YOU SAW PEOPLE, THE FLURRY OF
7 ACTIVITY ON THE FLOOR, DID YOU NOTICE WHETHER OR NOT,
8 AT THAT TIME, MR. SANTA ANA'S HARD DRIVE WAS IN THE
9 AREA OF HIS DESK OR HIS COMPUTER? DID YOU NOTICE ONE
10 WAY OR THE OTHER?

01:48PM

11 A I DID NOT.

12 Q AND I TAKE IT YOU DIDN'T GO LOOKING FOR IT,
13 DID YOU?

14 A I DID NOT.

15 Q WHEN MR. SANTA ANA CALLED LATER THAT
16 AFTERNOON, AND ASKED FOR MR. GALLIGAN, IS IT FAIR TO
17 SAY, YOU HAD NO SUBSTANTIVE CONVERSATION AT THAT TIME
18 WITH MR. SANTA ANA; IS THAT RIGHT?

01:48PM

19 A YES.

20 Q MR. SANTA ANA, FOR EXAMPLE, DID NOT SAY TO
21 YOU, DOLORES, COULD YOU PLEASE GET MY HARD DRIVE, DID
22 HE?

01:48PM

23 A NO, HE DID NOT.

24 Q AND WHEN YOU WENT DOWN TO MAGNOLIA'S, I THINK
25 YOU SAID YOU OVERHEARD SOME STATEMENTS OF FOLKS SAYING
26 THAT CRIS HAD LEFT SOME PERSONAL EFFECTS UP AT HIS
27 DESK; IS THAT RIGHT?

01:48PM

28 A YES. HE WASN'T ALLOWED TO RETRIEVE THEM,

1 UH-HUH.

2 Q AND MR. SANTA ANA NEVER ASKED YOU TO GO GET
3 HIS HARD DRIVE, DID HE?

4 A HE DID NOT.

5 Q WHEN YOU WENT UP THERE, YOU WENT UP THERE FOR
6 THE PURPOSE OF DELIVERING SOME MEDICAL PAPERS FOR A
7 MS. EMILY DAVIDSON; IS THAT RIGHT?

01:49PM

8 A CORRECT.

9 Q WERE THEY IN A FOLDER OR SOMETHING?

10 A YEAH. THERE WAS A RED FOLDER. ONE OF THE
11 GIRLS HANDED ME THIS FOLDER AND SAID, EMILY LEFT THESE
12 PAPERS HERE, AND OTHER MEDICAL PAPERS. I THINK THEY'RE
13 IMPORTANT.

01:49PM

14 Q YOU WENT UPSTAIRS, AND YOU WERE NOT EXPECTING
15 ANYBODY TO HAND YOU A HARD DRIVE AND SAY, TAKE THIS
16 DOWNSTAIRS TO ANYBODY?

01:49PM

17 A NO. I WASN'T EXPECTING ANYBODY TO BE THERE,
18 NO.

19 Q YOU WERE SURPRISED TO SEE MELISSA CONN, RIGHT?

20 A I WAS, YES.

01:49PM

21 Q AND DID SHE TELL YOU WHERE SHE'D GOTTEN THE
22 HARD DRIVE?

23 A NO.

24 Q DID SHE TELL YOU WHETHER ANYONE HAD TOLD HER
25 TO GET IT?

01:50PM

26 A NO.

27 Q DID SHE TELL YOU WHETHER ANYONE FROM TCW'S
28 MANAGEMENT HAD TOLD HER TO GET IT?

1 A NO.

2 Q DID SHE TELL YOU WHETHER SHE HAD JUST HAD A
3 CONVERSATION WITH HER BROTHER-IN-LAW, MICHAEL CONN,
4 BEFORE SHE WENT OVER AND PICKED UP THE HARD DRIVE?

5 A NO.

01:50PM

6 Q NOW I MAY BE GETTING INTO AN AREA THAT'S
7 BROAD. I DON'T WANT TO TREAD TOO MUCH INFORMATION, BUT
8 DO YOU SOMETIMES CARRY SOME THINGS IN YOUR BRA?

9 A ACTUALLY, PRETTY MUCH EVERY DAY, THERE'S
10 SOMETHING IN THERE.

01:50PM

11 Q THAT'S THE ONE THING WE COULD PROBABLY
12 ALL -- BUT -- I KNOW THIS -- I KNOW I DON'T MEAN TO BE
13 LIGHTEARTED ABOUT IT.

14 IT'S A FACT, IS IT NOT -- I DIDN'T KNOW
15 THIS UNTIL THIS CASE, WHEN I STARTED ASKING PEOPLE
16 THIS; IT'S A FACT THAT YOU SOMETIMES DO TRANSPORT
17 THINGS THAT SIZE IN YOUR BRA, RIGHT?

01:51PM

18 A EVERY DAY.

19 Q OKAY.

20 NO ONE -- MR. SANTA ANA OR MR. GALLIGAN,
21 OR NOBODY ON THIS SIDE OF THE ROOM, SO TO SPEAK, ASKED
22 YOU TO PUT A HARD DRIVE IN YOUR BRA, DID THEY?

01:51PM

23 A NO.

24 Q OKAY.

25 AND WHEN YOU -- AFTER YOU GAVE IT TO
26 MR. SANTA ANA DOWNSTAIRS, I TAKE IT IT'S FAIR TO SAY
27 THAT YOU DON'T HAVE ANY IDEA WHETHER WHEN MR. SANTA ANA
28 WENT TO DOUBLELINE, HE MADE ANY USE OF THAT HARD DRIVE

01:51PM

1 OR THAT DATABASE AT ALL, DO YOU?

2 A I HAVE NO IDEA.

3 MR. BRIAN: NOTHING FURTHER.

4 MS. OSMAN: VERY BRIEFLY, YOUR HONOR.

5 THE COURT: MS. OSMAN.

01:51PM

6

7 ///

8 REDIRECT EXAMINATION +

9

10 BY MS. OSMAN:

01:52PM

11 Q MS. TALAMANTES, MR. BRIAN ASKED IF YOU WERE
12 INTERVIEWED ON DECEMBER 4TH. DO YOU RECALL THAT?

13 A I DO.

14 Q DURING THAT INTERVIEW, DID THE ISSUE OF THE
15 HARD DRIVE COME UP?

01:52PM

16 A NO.

17 Q DID ANYBODY ASK YOU ABOUT MR. SANTA ANA'S HARD
18 DRIVE?

19 A NO.

20 Q AND -- YOU WENT TO PICK UP THE HARD DRIVE,
21 TAKING UP EMILY DAVIDSON'S MEDICAL FILES, WAS
22 MR. SANTA ANA ALREADY AT MAGNOLIA'S?

01:52PM

23 A YOU KNOW, I DON'T RECALL.

24 Q DID HE GET THERE IN THE EVENING?

25 A I SAW HIM LATER ON, YES.

01:52PM

26 Q HAD YOU TALKED TO HIM AT MAGNOLIA'S BEFORE YOU
27 WENT UP TO GET HARD DRIVE?

28 A WELL, I DIDN'T GO UP THERE TO GET THE HARD

1 DRIVE.

2 Q I APOLOGIZE.

3 BEFORE YOU WENT UP TO TCW, HAD YOU HAD A
4 CONVERSATION WITH MR. SANTA ANA AT MAGNOLIA'S?

5 A NO.

01:52PM

6 Q AND MR. BRIAN HAD ALSO SAID SOMETHING ABOUT
7 MS. CONN ASKING YOU TO TAKE THE HARD DRIVE BACK TO
8 MAGNOLIA'S.

9 DID MS. CONN EVER ASK YOU TO TAKE THE
10 HARD DRIVE TO MR. SANTA ANA, OR TO TAKE IT TO
11 MAGNOLIA'S?

01:53PM

12 A NO.

13 Q HOW WAS IT THAT YOU TOOK THE HARD DRIVE?

14 A I VOLUNTEERED TO TAKE IT.

15 MS. OSMAN: YOUR HONOR, MAY WE HAVE A BRIEF
16 SIDE-BAR?

01:53PM

17 THE COURT: SURE.

18

19 (SIDE-BAR CONFERENCE HELD) +

20

01:54PM

21 THE COURT: I REALLY DON'T LIKE SIDE-BARS.
22 AND I'M TRYING TO BE NICE TO EVERYBODY, BUT I DON'T
23 WANT YOU UP HERE EVERY MINUTE FOR EVERY WITNESS.

24 MR. MADISON: WE'RE GOING TO LET HER SHOW --

25 THE COURT: WHAT'S THE ISSUE?

01:54PM

26 MR. MADISON: SHE MADE A STATEMENT TO
27 JOE BURSCHINGER AT TCW THAT MR. SANTA ANA SAID, WHEN
28 SHE HANDED HIM THE HARD DRIVE, SHE SAID, GOD, I LOVE

1 YOU. YOU HAVE NO IDEA HOW MUCH THIS MEANS TO --

2 THE COURT: THAT'S TOO MUCH. YOU CAN'T LEAD
3 HER. YOU CAN'T PUT THE QUESTION OUT THERE.

4 MR. MADISON: MY OFFER IS, WE ARE ENTITLED TO
5 IMPEACH HER, OUR OWN WITNESS.

01:54PM

6 THE COURT: I WON'T ALLOW IT.

7 YOU KNOW, YOU'RE FOCUSING ON ISSUES THAT
8 ARE NOT AT THE HEART OF THE CASE. WE'VE JUST GOT TO
9 MOVE ALONG. SHE DIDN'T -- YOU KNOW, YOU ASKED THE
10 QUESTIONS. I'M NOT GOING BACK.

01:54PM

11 MR. MADISON: WE WEREN'T ALLOWED TO ASK HER IF
12 SHE REMEMBERED MAKING THAT STATEMENT TO
13 MR. BURSCHINGER. AND IT WOULD BE A PRIOR INCONSISTENT
14 STATEMENT TO TODAY'S TESTIMONY.

15 THE COURT: WELL, I'M NOT -- I DON'T HAVE
16 ANYTHING -- DID YOU TAKE HER DEPO? IS IT IN A
17 DEPOSITION TRANSCRIPT? IS IT ANYWHERE?

01:54PM

18 MR. MADISON: WE DID ASK HER IN THE DEPO, AND
19 SHE SAID SHE DIDN'T RECALL, OR SHE THOUGHT IT WAS
20 POSSIBLE SHE DID SAY THAT.

01:55PM

21 THE COURT: YOU'RE NOT GETTING IT THAT WAY.
22 BRING MR. BURSCHINGER IN, AND SEE WHAT
23 YOU CAN --

24 MR. MADISON: I DIDN'T WANT TO LET HER GO AND
25 HAVE THIS ISSUE COME UP.

01:55PM

26 THE COURT: OKAY.

27 (SIDE-BAR CONFERENCE CONCLUDED.) +

28

1 THE COURT: THAT CONCLUDES YOUR TESTIMONY,
2 MS. TALAMANTES.

3 YOU ARE EXCUSED. YOU MAY STEP DOWN.

4 THE WITNESS: THANK YOU.

5 MR. QUINN: NEXT UP, WE WERE GOING TO PLAY
6 SOME OF THE DEPOSITION OF CRIS SANTA ANA.

01:55PM

7 THE COURT: HOW MUCH OF IT DO WE HAVE?

8 MR. QUINN: I THINK THE TOTAL IS LIKE 14
9 MINUTES.

10 THE COURT: LET'S GET FIVE MINUTES OF IT, AND
11 WE'LL PICK UP THE REST IN THE MORNING. OKAY.

01:55PM

12 OR IF IT'S LESS, IF WE GET DONE BY 10:00
13 AFTER, WE'LL DO THAT.

14 MR. BRIAN: MAY I BE EXCUSED?

15 THE COURT: YES, YOU MAY.

01:56PM

16 *(VIDEO DEPO OF CRIS SANTA ANA PLAYED) +.

17
18 THE COURT: COULD WE STOP THAT?

19 I TOLD YOU I WON'T KEEP YOU LATE. YOU
20 GOT TO PICK UP YOUR CHILDREN, MR. AVAKIAN.

02:06PM

21 REMEMBER THE ADMONITION NOT TO DISCUSS
22 THE MATTER AMONG YOURSELVES, OR ANY CONCLUSIONS
23 CONCERNING THE CASE, UNTIL YOU HAVE HEARD ALL THE
24 EVIDENCE.

25 HAVE A NICE EVENING.

02:06PM

26
27 (PROCEEDINGS HELD OUTSIDE THE PRESENCE OF THE JURY.) +
28

1 THE COURT: WE'RE OUT OF THE PRESENCE -- WE'RE
2 NOW OUT OF THE PRESENCE OF THE JURY.

3 MR. MADISON, I DO HAVE WRITTEN DOWN
4 HERE, THE ADMONISHMENT TO DISREGARD THE COMMENT ABOUT
5 YOUR INVOLVEMENT WITH MS. VANEVERY DURING MS. CONN'S
6 TESTIMONY. AND I WILL TO THAT.

02:07PM

7 I APOLOGIZE. I MEANT TO DO IT. I WILL
8 DO THAT.

9 IT WAS DURING MS. VANEVERY'S TESTIMONY?

10 MR. MADISON: VANEVERY, YES.

02:08PM

11 MR. BRIAN: YES.

12 THE COURT: I HAVE AN ADMONISHMENT REGARDING
13 SOME CONFUSION ON 2104.

14 BY REFERENCE, DURING THE COURSE OF THE
15 TRIAL WE REFERRED TO 2014. IT SHOULD HAVE BEEN 2104.
16 IT IS THE CODE OF ETHICS. I'LL ADMONISH THEM ON THAT.

02:08PM

17 ANY OTHER MATTERS ANYBODY WISHES TO
18 DISCUSS?

19 MR. MADISON: TWO REAL QUICK ONES, IF I COULD.

20 YOUR HONOR WILL RECALL THE ISSUE ABOUT
21 THE DISCOVERY FOR FINANCIAL INFORMATION FROM THE
22 INDIVIDUAL DEFENDANTS. AND WE DID GET A SUPPLEMENTAL
23 PRODUCTION FROM THE DEFENSE, IN PARTICULAR
24 MR. GUNDLACH.

02:08PM

25 AND YOU MAY RECALL THAT WHEN WE CAME TO
26 YOU FIRST ON THIS, WE HAD ONLY RECEIVED ONE HANDWRITTEN
27 PAGE, THAT HAD BEEN DONE THE MORNING OF MR. GUNDLACH'S
28 DEPOSITION.

02:08PM

1 WE THEN ALSO GOT, WHAT LOOKS TO BE LIKE
2 A ONE-PAGE TYPED WRITTEN CALCULATION, AND THERE'S QUITE
3 A DIFFERENCE BETWEEN THE TWO OF THEM.

4 AND IN DEPOSITION, MR. GUNDLACH
5 TESTIFIED THAT HE DID HAVE A DECLARATION OF ASSETS AND
6 LIABILITIES THAT HE HAD PREPARED DURING THE TIME OF
7 THIS LITIGATION, FOR PURPOSES OF A FAMILY LAW
8 PROCEEDING.

9 AND I WOULD ASK THAT WE BE PROVIDED WITH
10 THAT. AND PERHAPS THAT WILL BE, YOU KNOW, SOMEWHERE IN
11 THE MIDDLE, OR IT WILL BE NEW INFORMATION THAT WE CAN
12 USE TO RECONCILE THESE TWO DIFFERENT STATEMENTS.

13 THE COURT: IS THE NEW NUMBER HIGHER OR LOWER?

14 MR. MADISON: THE NEW NUMBER IS HIGHER, YOUR
15 HONOR.

16 THE COURT: OKAY.

17 MR. HELM: AS FOR THE NET WORTH STATEMENT THAT
18 WAS PROVIDED IN CONNECTION WITH HIS DIVORCE PROCEEDING,
19 HE NO LONGER HAS THE SAME NET WORTH THAT HE HAD BEFORE
20 HIS DIVORCE.

21 THE COURT: MOST PEOPLE DON'T.

22 MR. HELM: BEFORE IT WAS COMPLETED.

23 SO THE TERMS OF THE DIVORCE SETTLEMENT
24 ARE SENSITIVE, AND THEY'RE PERSONAL. AND HE'S PROVIDED
25 WHAT HE'S WORTH AFTER THE DIVORCE IS COMPLETED, WHICH
26 IS WHAT WE THINK THEY'RE ENTITLED TO. AND MR. GUNDLACH
27 DOES OBJECT TO PROVIDING WHAT IT WAS BEFORE THE
28 DIVORCE.

1 THE COURT: DOES HE HAVE ANY CONVENTIONAL
2 FINANCIAL STATEMENTS, OR STATEMENTS OF ASSETS? RATHER
3 THAN WHAT APPEARS TO BE, YOU KNOW, A VERY SIMPLE
4 CREATION, SUCH AS WHAT HE'S SCRIBBLED OUT AT HIS
5 DEPOSITION. AND WHAT THIS ONE MAY BE -- I HAVEN'T SEEN
6 ANY OF IT NOW.

02:10PM

7 BUT IT WOULD SEEM TO ME, A MAN OF HIS
8 STATURE, OR INVOLVEMENT IN DIFFERENT THINGS, WOULD HAVE
9 SOME KIND OF A FINANCIAL STATEMENT THAT HE COULD
10 PRODUCE.

02:10PM

11 MR. HELM: YOUR HONOR, WE PUT THAT QUESTION TO
12 HIM, AND HE SAYS HE DOES NOT. HE HAS NOTHING --

13 THE COURT: PUT IT TO HIM AGAIN, AND SEE WHAT
14 HE SAYS.

15 MR. HELM: IT WAS --

02:10PM

16 THE COURT: ULTIMATELY, THERE'S GOT TO BE A
17 LITTLE MORE SUBSTANCE THAN ONE PAGE WITH A NUMBER ON
18 IT. I DON'T KNOW WHAT WE HAVE. I CAN LOOK AT IT.

19 MR. HELM: IT WAS PROVIDED -- HE HAD AN
20 ACCOUNTANT ASSIST HIM AND PUT THIS TOGETHER. AND HE
21 PROVIDED INFORMATION RELEVANT TO IT. IT IS ONE PAGE.
22 BUT HE BELIEVES IT ACCURATELY DESCRIBES HIS NET WORTH,
23 AND ASSETS -- WE HAVE ASKED HIM.

02:10PM

24 AND HE SAYS, SINCE THE DIVORCE, HE HAS
25 NO OTHER NET WORTH STATEMENTS THAT HAVE BEEN PRODUCED.
26 HE PRODUCED THIS ONE FOR THIS PURPOSE.

02:11PM

27 MR. MADISON: IF I COULD, THIS SHOULD BE
28 SIMPLE. THE DIVORCE PROCEEDING WAS DURING THE PENDENCY

1 OF THE LITIGATION, SO THE TIME PERIOD IS THE SAME.

2 THE DECLARATION -- I DON'T KNOW IF YOUR
3 HONOR'S EVER SAT IN FAMILY LAW, BUT THERE IS A VERY
4 SIMPLE DECLARATION, ONLY OF ASSETS AND LIABILITIES. IT
5 DOESN'T GO --

02:11PM

6 THE COURT: IT'S PUBLIC RECORD. WHY DON'T YOU
7 SEND SOMEBODY DOWN AND MAKE A COPY OF IT?

8 MR. MADISON: IT'S NOT. IT'S FILED UNDER SEAL
9 OR NOTICE OF THE DECLARATION. IT'S SERVED ON THE OTHER
10 SPOUSE, BUT IT'S NOT FILED PUBLICLY. BUT IT IS
11 EXECUTED BY THE WITNESS, BY MR. GUNDLACH, IN THIS CASE,
12 UNDER PENALTY OF PERJURY.

02:11PM

13 WE JUST THINK IT WOULD BE VERY SIMPLE,
14 AND WE COULD LIVE WITH AN ORDER UNDER THE PROTECTIVE
15 ORDER OR SOMETHING. BUT IT'S AN EXISTING STATEMENT.

02:11PM

16 THE COURT: IF WE WERE TO USE IT, WOULD WE
17 ADMONISH HIM, HE'S ONLY GOT 40 PERCENT OF THIS NOW?

18 MR. MADISON: I'M SURE WE'LL HEAR ABOUT IT.
19 BUT LESS --

20 THE COURT: I DON'T KNOW?

02:12PM

21 WHY DON'T YOU HAVE HIM PULL THOSE,
22 SUBMIT THEM, AND I'LL TAKE A LOOK AT IT IN CAMERA, AND
23 WE'LL GO FROM THERE.

24 HAVE I SEEN WHAT WE'VE GOT? WHAT HAS HE
25 PRODUCED?

02:12PM

26 MR. MADISON: I CAN APPROACH AND GIVE IT TO
27 YOU.

28 THE COURT: LET ME SEE WHAT HE'S PRODUCED.

1 RECENTLY PROVIDED THAT HAS DETAIL, ISN'T IT?

2 MR. MADISON: IT CONCERNS ME THERE'S SUCH A
3 WIDE SWING.

4 THE COURT: THAT'S WHY I'LL TAKE A LOOK. YOU
5 CAN DEAL WITH IT.

02:14PM

6 MR. MADISON: THAT ONE IS EXECUTED UNDER
7 PENALTY OF PERJURY, AND THESE ARE JUST STATEMENTS.

8 THE COURT: I UNDERSTAND.

9 MR. MADISON: THE ONLY OTHER ISSUE, YOUR
10 HONOR, WE HAVE A WITNESS, MR. HIRSCHMANN FROM WESTERN
11 ASSET, THE CEO, HAD A NUMBER OF MEETINGS WITH
12 MR. GUNDLACH. YOU HEARD EVIDENCE ABOUT THAT ALREADY.
13 HE'S UNDER SUBPOENA, AND HE -- WE AGREED TO GIVE HIM 48
14 HOURS' NOTICE OF HIS APPEARANCE.

02:14PM

15 HE -- LAST NIGHT, WE ASKED THAT HE BE
16 HERE TOMORROW, BECAUSE WE'RE MOVING -- THIS WILL SOUND
17 HARD TO BELIEVE -- BUT IN A WAY, WE'RE MOVING MORE
18 QUICKLY THROUGH THE CASE.

02:14PM

19 THE COURT: I FELT WE HAVE, TOO. I THINK
20 WE'RE GOING GREAT PACE. I'M SURE AT THE END OF THE
21 DAY, IT'S NOT GOING TO TAKE ALL THE TIME WE THOUGHT IT
22 MIGHT.

02:15PM

23 MR. MADISON: THAT'S OUR GOAL.

24 THE COURT: IT'S HIRSCHMANN?

25 MR. MADISON: JIM HIRSCHMANN, YOUR HONOR.

02:15PM

26 WHAT'S HAPPENING, OUR SIDE -- WELL, THE
27 DEFENSE IS DOING A BETTER JOB OF CONSERVING THEIR TIME
28 AT THIS POINT, SO WE'RE MOVING MORE QUICKLY THROUGH OUR

1 LIST OF WITNESSES.

2 SO WE AGREED TO 48 HOURS. I GUESS IF WE
3 GOT A CALCULATOR OUT, WE GAVE HIM, LAST NIGHT, NOTICE
4 OF THURSDAY. WHICH WOULD BE 40 HOURS OR SOMETHING,
5 DEPENDING ON WHAT TIME.

02:15PM

6 BUT HE'S RESPONDED THAT HE DOESN'T
7 INTEND TO BE HERE ON THURSDAY.

8 NOW, HE WAS REPRESENTED UNTIL TODAY, AS
9 FAR AS I KNOW, BY THE MUNGER FIRM. IT'S NOT AN ISSUE.
10 WE'RE NOT MAKING THAT AN ISSUE.

02:15PM

11 BUT TODAY, WE'RE TOLD NOW HE'S GOT A NEW
12 LAWYER REPRESENTING HIM, NOT AT THE MUNGER FIRM. AND
13 WE'RE BEING TOLD HE'S GOING TO BE OUT ALL NEXT WEEK.

14 THE COURT: HE'S AT WAMCO, YOU SAID?

15 MR. MADISON: WAMCO, YES.

02:15PM

16 YOU KNOW, OUR VIEW, WE WANT HIM
17 TOMORROW, OR WE WANT HIM HERE MONDAY MORNING.

18 BUT WE SORT OF CAN'T BE TOLD, YOU MISSED
19 THE 48 HOURS BY A FEW HOURS, AND THAT MEANS YOU CAN'T
20 HAVE HIM FOR TEN DAYS.

02:16PM

21 THE COURT: IS HE UNDER SUBPOENA?

22 MR. MADISON: HE IS.

23 THE COURT: HE OUGHT TO SHOW UP.

24 MR. MADISON: OKAY.

25 THE COURT: IF HE CAN'T COME TOMORROW, HAVE
26 ANOTHER WITNESS AVAILABLE. BUT HE CAN'T TELL US, I
27 CAN'T COME FOR 10 OR 15 DAYS. THAT JUST DOESN'T WORK.

02:16PM

28 MR. MADISON: YES, YOUR HONOR.

1 THE COURT: WE WANT TO ACCOMMODATE PEOPLE.

2 IS HE A SENIOR EXECUTIVE AT WAMCO?

3 MR. MADISON: HE'S THE CEO.

4 IN FACT, WE WANT TO ACCOMMODATE HIM.
5 PART OF OUR GOAL IN DECIDING WHO TO ADVANCE TO CALL
6 TOMORROW WOULD BE THE IDEA TO ACCOMMODATE HIS TRAVEL
7 SCHEDULE. WE'D GET HIM ON AND OFF TOMORROW.

02:16PM

8 THE COURT: YOU CAN OFFER THAT. IF HE CAN'T
9 MAKE IT, WE CAN HAVE OTHER WITNESSES. YOU NEED TO LET
10 THEM KNOW.

02:16PM

11 DO YOU HAVE ANY INSIGHT?

12 MR. BRIAN: I DON'T. I FOUND OUT LAST NIGHT
13 THEY WANTED TO PROPOSE, TO CALL HIM. AND I FOUND OUT
14 THIS MORNING FROM MR. MADISON, HE SAYS HE'S NOT
15 AVAILABLE. I DON'T KNOW.

02:16PM

16 FOR OBVIOUS REASONS, WE RECOMMENDED THAT
17 HE GET SEPARATE COUNSEL FOR PURPOSES OF THE TRIAL. I'M
18 HAPPY TO FOLLOW UP.

19 THE COURT: EVERYBODY OUGHT TO BE TRYING TO
20 COOPERATE, AS SHOULD MR. HIRSCHMANN. IF HE CAN'T COME
21 TOMORROW, YOU'LL HAVE TO HAVE OTHER WITNESSES.

02:17PM

22 BUT IF HE'S UNDER SUBPOENA, AND HE'S
23 AGREED TO 48 HOURS' NOTICE, HE CAN'T JUST TELL US, I
24 CAN'T COME UNTIL SEPTEMBER 15TH. DOESN'T WORK.

25 MR. MADISON: YES, YOUR HONOR.

02:17PM

26 MR. BRIAN: I DON'T HAVE ANY CONTROL OVER HIM
27 AT ALL, BUT I WILL PASS ON THE MESSAGE.

28 THE COURT: HE OUGHT TO BE ABLE TO COME IN ONE

1 DAY NEXT WEEK, OR TOMORROW AFTERNOON.

2 HOW LONG'S HIS TESTIMONY?

3 MR. MADISON: I THINK AN HOUR OR LESS.

4 REALLY --

5 THE COURT: IF HE HAS TO TRAVEL, HE CAN COME
6 TOMORROW. IF HE NEEDS TO COME NEXT WEEK --

02:17PM

7 MR. BRIAN: MAY I ASK IF HE'S ON VACATION OR
8 BUSINESS TRAVEL -- I WAS ASKING --

9 THE COURT: I DON'T HAVE A CLUE.

10 MR. BRIAN: I'M USED TO ASKING THROUGH

02:17PM

11 THE COURT --

12 MR. MADISON: HE SHOULD ASK HIS PARTNER, WHO
13 REPRESENTED HIM --

14 THE COURT: I'M GLAD YOU ALL ARE KEEPING A
15 SENSE OF HUMOR.

02:17PM

16 THE COURT: I'LL SEE YOU IN THE MORNING.

17 8:30.

18 MR. QUINN: IF WE CAN GET YOU ZHANG AND MOORE
19 TRANSCRIPTS THIS AFTERNOON, WOULD THE COURT BE ABLE TO
20 RULE ON THOSE, SO THAT WE CAN PLAY THOSE TOMORROW?

02:18PM

21 THE COURT: I'LL DO MY BEST. IT JUST DEPENDS
22 HOW MUCH IS IN THEM. IF THEY'RE FAIRLY --

23 MR. QUINN: I DON'T THINK EITHER ONE OF THEM
24 ARE VERY LONG. THEY'RE PRETTY SHORT.

25 THE COURT: BY THE TIME, IF YOU GET THINGS IN
26 HERE BY 3 O'CLOCK, OR 3:30. --

02:18PM

27 MR. QUINN: IS THAT KIND OF THE OUTSIDE?

28 THE COURT: WHAT TIME ARE YOU TALKING ABOUT

1 GETTING HERE?

2 MR. QUINN: WE'RE WORKING WITH THE FOLKS OVER
3 AT MUNGER TOLLES TO TRY TO GET THEM DONE.

4 THE COURT: I WOULD LIKE TO GET A LITTLE AHEAD
5 OF THE CURVE HERE, WHILE WE'RE ALL WORKING. IF YOU ALL
6 WANT TO BRING THINGS IN AT THE CLOSE OF BUSINESS, I
7 WILL TRY TO DO THEM.

02:18PM

8 IF YOU DON'T BRING THEM IN TILL 4:00 OR
9 5 O'CLOCK, 6 O'CLOCK, IT'S NOT AS CONVENIENT TO ME.

10 MR. QUINN: UNDERSTOOD.

02:18PM

11 THE COURT: I'LL DO THE BEST I CAN FOR YOU.

12 MR. QUINN: WE'LL DO OUR BEST.

13 THE COURT: GET THEM IN. LET'S GET A LITTLE
14 AHEAD OF IT. IT SHOULDN'T BE ON A CRISIS, DAY-TO-DAY
15 BASIS.

02:19PM

16 IF WE CAN RAMP UP THE PROCESS, AND GET
17 TWO OR THREE AHEAD, IT WOULD PROBABLY BE EASIER FOR ME.

18 MAYBE I CAN HELP YOU THIS WEEKEND BY
19 GETTING AHEAD, IF YOU GIVE ME TWO OR THREE.

20 MR. QUINN: ITS CONSUMMATION DEVOUTLY TO BE
21 WISHED. WE'RE TRYING TO GET AHEAD ON THE TRANSCRIPTS.

02:19PM

22 THE COURT: IF THINGS CAN BE RUN ON AN
23 ORGANIZED BASE, AND EFFICIENTLY.

24 MR. QUINN: THANK YOU.

25 THE COURT: I WAS DISABUSED OF THAT.

02:19PM

26 THANK YOU.

27 SEE YOU IN THE MORNING.

28

(AT 2:20 P.M., AN ADJOURNMENT WAS
TAKEN UNTIL AUGUST 4, 2011 AT 8:30 A.M.)

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