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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

DEPARTMENT 322

HON. CARL J. WEST, JUDGE

TRUST COMPANY OF THE WEST, )

)  
PLAINTIFFS, )

)  
VS. )

) NO. BC 429385

)  
JEFFREY GUNDLACH, ET AL, )

)  
DEFENDANTS. )  
)

**REPORTERS' DAILY TRANSCRIPT OF PROCEEDINGS**

**AUGUST 31, 2011**

**APPEARANCES:**

FOR PLAINTIFF:

QUINN EMANUEL URQUHART & SULLIVAN  
BY: **JOHN QUINN, ESQ.**  
**ERIC J. EMANUEL, ESQ.**  
**STEVEN MADISON, ESQ.**  
**DAVID SERGENIAN, ESQ.**  
**KARA BORDEN, ESQ.**  
**SUSAN ESTRICH, ESQ.**  
**JOHN M. PIERCE, ESQ.**  
**DOMINIC SURPRENANT, ESQ.**  
**DIANE CAFFERATA HUTNYAN, ESQ.**  
**RANDA OSMAN, ESQ.**  
**COURTNEY BALLARD, ESQ.**  
865 SO. FIGUEROA STR. 10TH FLR.  
LOS ANGELES, CA 90017  
213.443.3000

FOR DEFENDANT:

MUNGER, TOLLES & OLSON LLP  
BY: **BRAD D. BRIAN, ESQ.**  
**MARK B. HELM, ESQ.**  
**KEVIN S. ALLRED, ESQ.**  
**LAURA D. SMOWE, ESQ.**  
**ALLISON B. STEIN, ESQ.**  
**JACOB S. KRIELKAMP, ESQ.**  
**GREGORY J. WEINGART, ESQ.**  
355 SO. GRAND AVE. 35TH FLR.  
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**WENDY OILLATAGUERRE, CSR 10978**  
**RAQUEL A. RODRIGUEZ, CSR 9485**  
**OFFICIAL COURT REPORTERS**  
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WITNESSES

LEGEND:

MR. QUINN (Q)                      MR. BRIAN (B)  
MR. MADISON (M)                    MR. HELM (H)  
MS. OSMAN (O)                      MR. WEINGART (W)  
MR. SURPRENANT (S)                MR. ALLRED (A)

<u>PLF'S WITNESSES:</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>
<b>WILLIAM SONNEBORN</b>	6010-Q	6038-H	6051-Q	

D E F E N S E +

<u>DFN'S WITNESSES:</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>
<b>PAUL DEITCH</b>	6055-W			

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(VIDEO DEPOSITION PLAYED OF **ROBERT DAY** 6164)

(VIDEO DEPOSITION RESUMED 6201)

**PETER SULLIVAN**              6203-W

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1 CASE NUMBER: BC 429385  
2 CASE NAME: TCW VS. GUNDLACH  
3 LOS ANGELES, CALIFORNIA AUGUST 31, 2011  
4 DEPARTMENT 322 HON. CARL J. WEST, JUDGE  
5 APPEARANCES: (AS NOTED ON TITLE PAGE.)  
6 REPORTER: RAQUEL A. RODRIGUEZ, CSR  
7 TIME: A SESSION; 8:30 A.M.

8

9

--0--

10

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

12

13 THE COURT: GOOD MORNING, LADIES AND

14 GENTLEMEN.

15

16 IN THE TCW VERSUS GUNDLACH MATTER, WE'RE  
17 OUT OF THE PRESENCE OF THE JURY.

08:27AM

17

18 I UNDERSTAND SOMEBODY WANTS TO TAKE UP A  
19 MATTER.

19

MR. BRIAN: SEVERAL.

20

THE COURT: OKAY. LET'S GO.

08:27AM

21

22 MR. QUINN: YOUR HONOR, OUR LAST WITNESS IS  
23 BILL SONNEBORN. HE WAS HERE YESTERDAY. HE'S HERE  
24 TODAY. HE LIVES UP IN SAN FRANCISCO, AND HE'S GOING TO  
25 BE GOING BACK UP TO SAN FRANCISCO.

25

26 AND WE'D LIKE TO CALL HIM AND COVER THE  
27 CONTRACT ISSUES AT THIS TIME, SO HE DOESN'T HAVE TO  
28 COME BACK.

08:27AM

28

THAT'S NOT SOMETHING THE DEFENDANTS ARE

1 EAGER TO SEE HAPPEN. BUT WE'D LIKE TO AVOID THE  
2 INCONVENIENCE OF BRINGING HIM BACK.

3 MR. BRIAN: WE OBJECT TO THAT. OBVIOUSLY, WE  
4 TALKED ABOUT THIS BEFORE. THE COURT HAS RULED WE'RE  
5 GOING TO PUT ON OUR CONTRACT CLAIM IN OUR CASE.

08:28AM

6 WE DO NOT PRESENTLY INTEND TO CALL  
7 MR. SONNEBORN. WE DISCUSSED THIS YESTERDAY. AND  
8 MR. QUINN PROPOSED WE CALL HIM AS OUR FIRST WITNESS  
9 UNDER 776.

08:28AM

10 THEY WOULD THEN CROSS-EXAMINE HIM. THE  
11 PROBLEM WITH THAT, WE DON'T INTEND TO CALL HIM. WE  
12 INTEND TO CALL PAUL DEITCH AS OUR FIRST WITNESS. IT'S  
13 NOT APPROPRIATE FOR TCW TO DICTATE WHO WE CALL OR IN  
14 WHAT ORDER.

15 IF WE THINK WE CAN ESTABLISH OUR  
16 COMPENSATION CLAIM THROUGH THE WITNESSES WE INTEND TO  
17 CALL, IF THEY CHOOSE TO CALL MR. SONNEBORN IN REBUTTAL,  
18 AND THEY HAVE TIME, SO BE IT. HE SHOULD NOT BE ALLOWED  
19 TO TESTIFY IN THEIR CASE, OR WE SHOULD NOT BE REQUIRED  
20 TO CALL HIM FIRST IN OUR CASE.

08:28AM

21 MR. QUINN: I HAVE --

22 THE COURT: I DON'T NECESSARILY DISAGREE WITH  
23 THAT.

24 MR. QUINN: TECHNICALLY, EVERYTHING MR. BRIAN  
25 SAYS IS RIGHT. BUT WHEN WE TALKED ABOUT THIS, TOO, AT  
26 THE BEGINNING OF THE TRIAL, WE TALKED ABOUT LOOKING TO  
27 SEE IF WE COULD ACCOMMODATE ANY OUT-OF-TOWN WITNESSES.

08:29AM

28 MR. SONNEBORN DOES NOT WORK FOR TCW

1 ANYMORE. HE'S PRESIDENT OF KKR ASSET MANAGEMENT  
2 COMPANY. HE'S GOT A FULL-TIME AND IMPORTANT JOB.

3 HE'LL --

4 THE COURT: I DON'T DOUBT THAT, MR. QUINN. IF  
5 MR. SONNEBORN WANTS -- HE'S OUTSIDE THE SUBPOENA POWER  
6 OF THE COURT. 08:29AM

7 MR. QUINN: NO. HE'S IN CALIFORNIA, SO HE CAN  
8 BE SUBPOENAED.

9 THE COURT: WELL, YOU KNOW, I DON'T SEE -- I  
10 GOT PEOPLE COMING DOWN HERE FROM SAN FRANCISCO EVERY  
11 DAY. AND WE CAN ACCOMMODATE SCHEDULING FOR HIM. IF  
12 YOU WANT TO CALL HIM AS A REBUTTAL WITNESS. 08:29AM

13 IN ALL FAIRNESS. DEFENDANTS OUGHT TO BE  
14 ABLE TO PUT THEIR CASE ON. WE CROSSED THIS BRIDGE  
15 EARLIER ON. THERE WAS ONE SUGGESTION DEFENDANTS SHOULD  
16 GO FIRST ON THEIR CLAIM. WE SAID NO. WE'LL DO IT IN A  
17 TRADITIONAL MANNER. 08:30AM

18 YOU PUT MR. SONNEBORN ON IN YOUR CASE.  
19 HE CAN BE CROSS-EXAMINED, AND IF HE WANT TO BRING HIM  
20 BACK AS A REBUTTAL WITNESS, YOU CAN DO THAT. 08:30AM

21 IT'S NOT A TERRIBLE INCONVENIENCE FOR  
22 PEOPLE TO COMMUNICATE -- TO COMMUTE BETWEEN  
23 SAN FRANCISCO AND LOS ANGELES. IF HE WAS IN NEW YORK,  
24 I MIGHT HAVE A DIFFERENT FEELING ABOUT IT.

25 MR. QUINN: VERY WELL, YOUR HONOR. 08:30AM

26 MR. BRIAN: YESTERDAY WE HAD A DISCUSSION OF  
27 THE MICHAEL CONN DEPOSITION DESIGNATIONS YESTERDAY.  
28 AND YOU RECALL THERE WAS A DISCUSSION ABOUT A

1 PARTICULAR ANSWER. I THINK I INDICATED ON THE RECORD,  
2 I THOUGHT THERE HAD BEEN AN OBJECTION. THEN OFF THE  
3 RECORD, YOUR HONOR NOTICED -- WE BOTH NOTICED,  
4 ACTUALLY -- IT HADN'T BEEN DESIGNATED. I WANTED TO  
5 MAKE SURE IT WAS ON THE RECORD. MY STATEMENT WAS  
6 ACTUALLY INCORRECT.

08:30AM

7 THE COURT: I WENT BACK, AND I LOOKED AT THE  
8 DEPOSITION CLIPS OF MR. CONN'S TESTIMONY THAT HAD BEEN  
9 SUBMITTED AND DESIGNATED AND COUNTER-DESIGNATED. AND  
10 THE INFORMATION THAT MR. MADISON WAS ASKING BE ADDED,  
11 WAS NOT DESIGNATED, WAS NOT RULED ON; AND SO I SAID  
12 WE'D GO FORWARD WITH WHAT HAD BEEN SUBMITTED.

08:31AM

13 MR. BRIAN: I WANTED TO CORRECT MY INACCURATE  
14 STATEMENT ON THE RECORD.

15 MR. MADISON: SINCE HE BROUGHT IT UP, PERHAPS  
16 WE MISSED IT, BUT IT APPEARS WHAT THE DEFENDANTS DID,  
17 THEY DESIGNATED ONLY PART OF AN ANSWER. AND WE JUST  
18 THINK THAT'S WRONG.

08:31AM

19 BUT THE JURY SHOULD HEAR THE ENTIRE  
20 ANSWER.

08:31AM

21 THE COURT: I LOOKED AT IT. AND WHAT I  
22 RECALL, AS I SIT HERE NOW, WITHOUT IT BEFORE ME, IS THE  
23 PORTION THAT WAS NOT INCLUDED SAID, I CAN ONLY  
24 SPECULATE. THEN HE WENT ON TO SAY SOME MORE THINGS.

25 AND SINCE WE DON'T REALLY GENERALLY  
26 ALLOW SPECULATIVE EVIDENCE, I THOUGHT IT WAS  
27 APPROPRIATE THAT IT NOT BE INCLUDED. AND PERHAPS  
28 SOMEBODY ON YOUR TEAM, THAT WAS REVIEWING IT, THOUGHT

08:31AM



1 THE SAME THING, WHEN THEY DIDN'T DESIGNATE IT.

2 WHAT'S DONE IS DONE. WE'VE GOT IT IN  
3 THE RECORD. IT'S BEEN SHOWN. AND WE MOVE FORWARD.

4 MR. MADISON: YES, YOUR HONOR.

5 WE HAD COUPLE ISSUES ALSO, YOUR HONOR. 08:32AM

6 ONE IS, WE DID FILE YESTERDAY A  
7 CUSTODIAL DECLARATION UNDER THE CODE OF MR. BRAINARD  
8 ACTING AS CUSTODIAN OF RECORDS FROM STUDLEY. WE HAVE A  
9 NUMBER OF EXHIBITS WE WOULD MOVE INTO EVIDENCE AS PART  
10 OF THAT. 08:32AM

11 WE DON'T NECESSARILY NEED TO DO THAT  
12 RIGHT NOW, ALTHOUGH WE WILL REST AFTER MR. SONNEBORN.  
13 AND I EXPECT WE WILL REST SUBJECT TO THE ADMISSION OF  
14 OUR -- YOU KNOW, ALL OUR EXHIBITS THAT HAVE BEEN MOVED.

15 I ACTUALLY HAVE ANOTHER LIST OF 08:32AM  
16 EXHIBITS --

17 THE COURT: YOU HAVE THE COURT'S LIST? WE  
18 HAVE ADMITTED EXHIBITS AS THEY'VE BEEN OFFERED. WE  
19 SHOULD BE PRETTY CURRENT ON THAT.

20 AS FAR AS THIS -- STUDLEY DOCUMENTS, I 08:32AM  
21 HAVE THE STACK GIVEN TO ME YESTERDAY AT 3 O'CLOCK. I  
22 HAVEN'T GONE THROUGH THEM.

23 WHAT'S THE DEFENDANT'S VIEW?

24 MR. BRIAN: I WENT THROUGH THEM. WE NEED TO  
25 PUT ON THE RECORD THE EXHIBIT NUMBERS. WE DON'T HAVE 08:32AM  
26 OBJECTION ON BUSINESS RECORDS OR AUTHENTICATION  
27 GROUNDS. OUR ONLY CONCERN AND ONLY OBJECTION IS, THEY  
28 DO SEEM CUMULATIVE, YOUR HONOR.

1 I THINK THE RECORD IS PRETTY CLEAR, AND  
2 WHAT -- OF WHAT DID AND DID NOT HAPPEN WITH RESPECT TO  
3 STUDLEY. THEY'RE CUMULATIVE.

4 I WOULD SUBMIT IT TO THE COURT, IN  
5 REVIEWING THOSE, THEY SHOULD BE ADMITTED, OR SOME OR  
6 ALL SHOULD BE EXCLUDED AS CUMULATIVE.

08:33AM

7 THE COURT: YOU HAVE NO SUBSTANTIVE OBJECTION  
8 TO ANY OF THESE?

9 MR. BRIAN: NO. I DO NOT.

10 THE COURT: I'LL TAKE A LOOK AT THEM. YOU MAY  
11 REST, SUBJECT TO ADMISSION OF ADDITIONAL EXHIBITS,  
12 DOCUMENTS YOU WISH TO OFFER.

08:33AM

13 I'LL TAKE A LOOK AT THEM. MY SENSE,  
14 THEY'LL PROBABLY COME IN. BUT THAT IS NOT -- YOU KNOW,  
15 THAT'S FOCUSED ON THE STUDLEY DOCUMENTS.

08:33AM

16 MR. MADISON: IT IS -- NOW.

17 THE COURT: I'M NOT LOOKING AT OTHER DOCUMENTS  
18 PROPOSED TO BE OFFERED AFTER YOU REST.

19 MR. MADISON: THERE ARE A HANDFUL.

20 THE COURT: HAVE YOU SHARED THEM WITH THE  
21 DEFENDANTS?

08:33AM

22 MR. MADISON: THIS ADDITIONAL HANDFUL, EIGHT  
23 OR TEN? I DON'T BELIEVE I HAVE YET. BUT THESE ARE  
24 ONES DURING THE COURSE OF THE TRIAL SO FAR HAVE BEEN  
25 AUTHENTICATED, IDENTIFIED, IN SOME CASES OFFERED, AND  
26 THE COURT DEFERRED A RULING ON IT.

08:34AM

27 IN SOME CASES, I WOULD THINK THEY WERE  
28 NOT YET EVEN OFFERED.

1 SO I CAN SHARE THAT ALSO.

2 THE COURT: SHARE THAT LIST WITH THEM NOW.  
3 LET PEOPLE LOOK AT IT BEFORE THE END OF THE DAY, SO WE  
4 CAN ADDRESS IT. I DIDN'T WANT A CARTE BLANCHE WHOLE  
5 LOT OF NEW EXHIBITS COMING IN.

08:34AM

6 MR. BRIAN: I HAVE NO OBJECTION TO THAT  
7 PROCEDURE TODAY OF THEM SHOWING ME A LIST OF DOCUMENTS  
8 THAT HAVE BEEN IDENTIFIED SO FAR. I WOULD OBJECT TO  
9 SORT OF A, YOU KNOW, FREE RANGE TO OFFER EXHIBITS NEXT  
10 WEEK.

08:34AM

11 THE COURT: THAT'S WHY I RAISE THE ISSUE.  
12 YOU'LL GET THE LIST OF EIGHT OR TEN. TAKE A LOOK AT  
13 IT.

14 ANYTHING ELSE?

15 MR. WEINGART: THERE'S A CHART THAT'S ON YOUR  
16 SCREEN THERE I INTEND TO USE IT WITH MR. DEITCH. I  
17 UNDERSTAND MR. MADISON DOESN'T HAVE OBJECTION TO IT  
18 BEING SHOWN. I WOULD LIKE TO OFFER IT, BECAUSE IT IS A  
19 SUMMARY OF A NUMBER OF VOLUMINOUS THINGS.

08:34AM

20 SO I DON'T NEED TO GO THROUGH, WITH THIS  
21 WITNESS OR OTHER WITNESSES, INDIVIDUAL CONTRACTS OR THE  
22 LIKE, WITH THESE VENDORS.

08:35AM

23 SO I WOULD LIKE TO OFFER IT INTO  
24 EVIDENCE. I UNDERSTAND MR. MADISON OBJECTS TO THAT.

25 MR. MADISON: THESE ARE DOCUMENTS -- THERE ARE  
26 TWO OTHER VISUALS THEY'VE CREATED FOR MR. DEITCH'S  
27 TESTIMONY. ALL THREE OF THEM WERE TREATED FOR THE  
28 TESTIMONY. THEY WERE NEVER PRODUCED IN DISCOVERY.

08:35AM

1 MY POSITION, I THOUGHT WAS REASONABLE.  
2 USE THEM AS A DEMONSTRATIVE, BUT THEY SHOULDN'T BE  
3 ADMITTED AS SUBSTANTIVE EVIDENCE.

4 FOR SUMMARIES, I BELIEVE THE CODE  
5 REQUIRES THAT ALL OF THE UNDERLYING DOCUMENTS HAVE TO 08:35AM  
6 HAVE BEEN PRODUCED IN DISCOVERY. AND I DON'T THINK  
7 THERE'S A SHOWING OR EVEN AN ATTEMPTED SHOWING THAT  
8 THAT'S THE CASE HERE.

9 THE COURT: WHEN WERE THESE GIVEN TO YOU?

10 MR. MADISON: YESTERDAY. YESTERDAY OR TWO 08:35AM  
11 DAYS AGO.

12 THE COURT: YOU MAY USE THEM FOR -- AS  
13 DEMONSTRATIVE EXHIBITS DURING YOUR QUESTIONING.

14 I'LL PASS FOR NOW ON WHETHER THEY SHOULD  
15 BE ADMITTED OR NOT. 08:35AM

16 MR. WEINGART: FINE, YOUR HONOR. THANK YOU.

17 THE COURT: MR. QUINN?

18 MR. QUINN: COULD I MOVE IN TWO DOCUMENTS?  
19 DOESN'T HAVE TO BE DONE BEFORE THE JURY. MR. HELM WAS  
20 AWARE OF THESE EXHIBITS, 961, 956. 08:36AM

21 961 IS A DEAR COLLEAGUE LETTER, WRITTEN  
22 BY MR. GUNDLACH.

23 956 IS A, WE CALL IT MR. GUNDLACH'S  
24 MANIFESTO. APPEARS TO BE A TAPE-RECORDING OF SOME  
25 COMMENTS THAT MR. GUNDLACH MADE -- 08:36AM

26 THE COURT: ANY OBJECTION?

27 MR. HELM: NO, YOUR HONOR.

28 THE COURT: THEY'LL BE ADMITTED WITHOUT

1 OBJECTION.

2 MR. QUINN: THANK YOU, YOUR HONOR.

3

4 (EXHIBIT 961 & 956 ADMITTED.)+

5

08:36AM

6 THE COURT: 961. AND 956?

7 MR. QUINN: YES, YOUR HONOR.

8 THE COURT: ANYTHING ELSE?

9

LET'S BRING THE JURY IN.

10

(PAUSE) +

08:36AM

11

12 THE COURT: GOOD MORNING. IN THE TCW GUNDLACH  
13 MATTER, WE'RE SET TO CONTINUE THE TRIAL. ALL COUNSEL  
14 ARE PRESENT, AND ALL MEMBERS OF THE JURY.

15

MR. QUINN, YOU MAY CALL YOUR NEXT

08:39AM

16

WITNESS.

17

MR. QUINN: GOOD MORNING.

18

19 TCW CALLS AS ITS LAST WITNESS, IN ITS  
CASE IN CHIEF, BILL SONNEBORN.

20

21

WILLIAM SONNEBORN +

22

23 CALLED AS A WITNESS BY THE PLAINTIFF WAS SWORN AND  
TESTIFIED AS FOLLOWS:

24

25

26 THE CLERK: YOU DO SOLEMNLY STATE THAT THE  
TESTIMONY YOU ARE ABOUT TO GIVE IN THE CAUSE NOW  
27 PENDING BEFORE THIS COURT, SHALL BE THE TRUTH, THE

28

WHOLE TRUTH AND NOTHING BUT THE TRUTH, SO HELP YOU GOD?

1 THE WITNESS: I DO.

2 THE CLERK: THANK YOU. PLEASE BE SEATED.

3 SIR, PLEASE STATE AND SPELL YOUR NAME  
4 FOR THE RECORD.

5 THE WITNESS: WILLIAM SONNEBORN,  
6 W-I-L-L-I-A-M, S-O-N-N-E-B-O-R-N.

08:40AM

7 THE CLERK: THANK YOU.

8 THE COURT: GOOD MORNING, MR. SONNEBORN.

9 THE WITNESS: GOOD MORNING, YOUR HONOR.

10 THE COURT: MR. QUINN, YOU MAY PROCEED.

08:40AM

11

12 DIRECT EXAMINATION +

13 BY MR. QUINN:

14 Q GOOD MORNING, MR. SONNEBORN?

15 A GOOD MORNING, MR. QUINN.

08:40AM

16 Q YOU WERE PREVIOUSLY PRESIDENT OF TRUST COMPANY  
17 OF THE WEST?

18 A YES, I WAS.

19 Q AND IN LATE AUGUST OF 2009, YOU HAD A  
20 CONVERSATION WITH MR. STERN ABOUT MR. GUNDLACH?

08:41AM

21 A YES.

22 Q I WANT TO GET TO THAT.

23 BUT BEFORE WE DO, I'D LIKE TO GET  
24 BACKGROUND ON YOU AND WHAT YOU KNOW ABOUT MR. GUNDLACH,  
25 AND THE BASIS FOR THE ADVICE THAT YOU GAVE TO MR. STERN  
26 AT THAT TIME.

08:41AM

27 WHERE DO YOU PRESENTLY WORK?

28 A I WORK AT KKR, KOHLBERG, KRAVIS, ROBERTS & CO.

1 Q WHAT IS YOUR POSITION THERE?

2 A I'M A PARTNER OF THE FIRM AND CEO OF KKR  
3 ASSEST MANAGER.

4 Q DESCRIBE WHAT IT IS?

5 A AN INVESTMENT FIRM THAT OWNS A VARIETY OF  
6 BUSINESSES, FROM TOYS R US TO ENERGY FUTURE HOLDINGS,  
7 WHICH IS THE LARGEST UTILITY IN TEXAS, TO DOLLAR  
8 GENERAL, THE LARGEST DISCOUNT RETAILER IN THE U.S.

08:41AM

9 AND WE HAVE INVEST IN LEGG MASON, WHICH  
10 IS A PARENT COMPANY OF WAMCO.

08:41AM

11 Q CAN YOU GIVE US, BALLPARK, ABOUT THE TOTAL  
12 REVENUE OR NUMBER OF EMPLOYEES OF ALL DIFFERENT  
13 COMPANIES THAT KKR HAS INVESTMENTS IN?

14 A NUMBERS, TOTAL REVENUES OF THE CONSOLIDATED  
15 PORTFOLIO COMPANY OF THE FIRMS, IS IN THE KIND OF THE  
16 4 BILLION RANGE; AND WE EMPLOY OVER 2.2 MILLION PEOPLE  
17 AROUND THE WORLD.

08:42AM

18 Q YOU ARE PRESIDENT OF KKR ASSET MANAGEMENT?

19 A CEO.

20 Q HOW OLD ARE YOU?

08:42AM

21 A I'M 41.

22 Q NOT TO EMBARRASS YOU, BUT YOU'VE GOTTEN SOME  
23 RECOGNITION FOR BEING ONE OF THE TOP CEO'S IN THE  
24 COUNTRY. I GUESS YOU GOT IT BEFORE YOU WERE 40?

25 A I GUESS, YES, THAT'S ACCURATE.

08:42AM

26 Q JUST TO STEP BACK, SO WE CAN LEARN A BIT ABOUT  
27 WHO YOU ARE AND YOUR BACKGROUND, YOU'RE FROM MONTANA?

28 A I GREW UP IN SOUTHEASTERN MONTANA.

1 Q STAB IN THE DARK, DID YOU GROW UP ON A FARM,  
2 OR?

3 A I GREW UP IN A RANCHING COMMUNITY, WHERE ALL  
4 MY FRIENDS GREW UP ON RANCHES OUTSIDE THE LITTLE  
5 COMMUNITY, YES.

08:42AM

6 Q WHERE DID YOU ATTEND COLLEGE --

7 A I WENT TO COLLEGE IN GEORGETOWN, IN D.C.

8 Q YOU HAD RICH PARENTS THAT WERE ABLE TO PAY THE  
9 BILLS?

10 A I DID NOT. I WENT TO COLLEGE ON A NAVY ROTC  
11 SCHOLARSHIP, WHICH IS THE ONLY WAY I COULD REALLY  
12 AFFORD TO GO.

08:42AM

13 Q I UNDERSTAND YOU WERE SPECIAL FORCES TRAINING?

14 A MY DREAM WAS TO BECOME A SEAL OFFICER IN THE  
15 NAVY IN SPECIAL WARFARE. SO I DID TRAINING DURING MY  
16 SUMMERS WHEN I WAS IN COLLEGE, YES.

08:43AM

17 Q DID YOU DO THAT SWIM THING, WHERE THEY TIE  
18 YOUR HANDS AND FEET YOU HAVE TO SWIM --

19 A DID LOTS OF TORTURE -- YES.

20 MR. HELM: OBJECTION. YOUR HONOR.

08:43AM

21 BY MR. QUINN:

22 Q WHAT DID YOU DO AFTER GRADUATING FROM COLLEGE?

23 A AFTER GRADUATING COLLEGE, AS A RESULT OF THE  
24 FIRST GULF WAR HAD ENDED, THERE WAS AN OPPORTUNITY  
25 WITHIN THE MILITARY TO BUY BACK YOUR SCHOLARSHIP.

08:43AM

26 AND SO I TOOK ADVANTAGE OF THOSE  
27 CUTBACKS IN THE MILITARY IN THE PEACETIME. AND KIND OF  
28 TO EFFECTIVELY DO THAT. AND TAKE ON DEBT TO THE U.S.



1 GOVERNMENT, EQUIVALENT TO TUITION, ROOM AND BOARD, AND  
2 SIPHONS THAT THEY HAD PAID.

3 Q DID YOU GET A JOB TO HELP YOU PAY THAT BACK?

4 A I DID. I GOT A JOB IN INVESTMENT BANK IN  
5 NEW YORK AT GOLDMAN SACHS.

08:43AM

6 Q WHAT WAS YOUR POSITION THERE?

7 A I STARTED OFF AS A FINANCIAL ANALYST IN A  
8 2-YEAR PROGRAM.

9 Q IS THERE, IS THAT A LOT OF COLLEGE GRADUATES  
10 THAT GOLDMAN HIRES ON FOR THESE TWO-YEAR PROGRAMS?

08:44AM

11 A THEY TYPICALLY, AT THE TIME, THERE WERE A  
12 HUNDRED COLLEGE GRADUATES FROM AROUND THE WORLD IN MY  
13 2-YEAR PROGRAM AND WHEN I STARTED AT GOLDMAN.

14 Q DID YOU GET OFFERED A PERMANENT POSITION AFTER  
15 YOUR INTERNSHIP?

08:44AM

16 A IT'S PRETTY RARE. MOST INDIVIDUALS GO BACK TO  
17 BUSINESS SCHOOL AFTER THE 2-YEAR PROGRAM, BUT I WAS  
18 HIRED AS A FULL-TIME EMPLOYEE AFTER THAT.

19 THERE WERE TWO OF US, OUT OF MY CLASS OF  
20 100, THAT WERE GIVEN THAT OPPORTUNITY.

08:44AM

21 Q IT'S PRETTY UNUSUAL TO GET A FULL-TIME JOB  
22 AFTER THAT?

23 A IT WAS PRETTY RARE, NOT TO HAVE TO GO TO  
24 BUSINESS SCHOOL, YES.

25 Q AND HAVE YOU BEEN IN THE BUSINESS WORLD SINCE  
26 THEN?

08:44AM

27 A YES, I HAVE.

28 Q HOW DID YOU HAPPEN TO GET HIRED BY TCW

1       ORIGINALLY?

2           A        IN 1996, TCW STARTED A STRATEGIC REVIEW. NOT  
3        SORT OF SIMILAR FROM THE STRATEGIC REVIEW IT WENT  
4        THROUGH WITH CITIBANK, LOOKING AT A VARIETY OF OPTIONS.

5                        AND AT THAT TIME, TCW ENGAGED  
6        MORGAN STANLEY AND GOLDMAN SACHS AS ADVISORS, AND I  
7        WORKED ON THAT ASSIGNMENT.

08:45AM

8           Q        IN THAT CONNECTION, DID YOU GET TO KNOW THE  
9        FOLKS AT TCW?

10          A        I GOT TO KNOW ALL THE FOLKS AT TCW, FROM THE  
11        MANAGEMENT TEAM TO THE SENIOR PORTFOLIO MANAGERS ACROSS  
12        THE FIRM, YES.

08:45AM

13          Q        AND HOW DID YOU -- DID THEY MAKE YOU A JOB  
14        OFFER?

15          A        IN 1987, AFTER THE COMPLETION OF THE STRATEGIC  
16        REVIEW, I DID RECEIVE A JOB OFFER TO BECOME CHIEF  
17        FINANCIAL OFFICER, IN DECEMBER OF '97.

08:45AM

18          Q        YOU TOOK THE JOB?

19          A        I TALKED ABOUT IT WITH MY WIFE, AND ACCEPTED  
20        THE JOB.

08:45AM

21          Q        HOW OLD WERE YOU WHEN YOU TOOK THE JOB OF CFO  
22        OF TCW?

23          A        I WAS 27.

24          Q        SO YOU MOVED AT THAT POINT FROM NEW YORK TO  
25        CALIFORNIA?

08:45AM

26          A        YES.

27          Q        DID YOU -- WHEN YOU -- THIS AGAIN WAS 1997,  
28        DID YOU SAY?

1           A       YES. 1997. IT STARTED -- I STARTED TCW  
2 FEBRUARY 12TH, '98.

3           Q       '98.

4                        AFTER YOU STARTED AT TCW DID YOU GET TO  
5 KNOW MR. GUNDLACH?

08:46AM

6           A       I KNEW JEFFREY GUNDLACH FROM THE TIME OF THE  
7 STRATEGIC REVIEW. AND I GOT TO KNOW HIM EVEN BETTER  
8 AFTER I STARTED IN FEBRUARY OF 1998, YES.

9           Q       CAN YOU GIVE US SOME IDEA OF THE NATURE OF THE  
10 INTERACTIONS THAT YOU HAD WITH MR. GUNDLACH WHILE AT  
11 TCW?

08:46AM

12          A       YOU KNOW, AT FIRST, INTERACTIONS WITH JEFFREY  
13 WERE A LITTLE INTIMIDATING. BUT OVER TIME, I THINK WE  
14 DEVELOPED A PRETTY GOOD WORKING RELATIONSHIP, DESPITE  
15 SOME OF THE CHALLENGES WORKING WITH HIM EARLY ON, IN  
16 KIND OF THAT '98, '99 TIME PERIOD.

08:46AM

17          Q       DID YOU HAVE ANY IMPRESSION AS TO WHETHER, YOU  
18 KNOW, HOW YOUR WORKING RELATIONSHIP WITH MR. GUNDLACH  
19 COMPARED WITH OTHER MEMBERS OF SENIOR MANAGEMENT?

20          A       AT THE TIME, I BELIEVE I HAD THE BEST WORKING  
21 RELATIONSHIP OF THE MANAGEMENT TEAM WITH JEFFREY, IN  
22 THE CONTEXT OF HAVING HIM DO THINGS THAT MADE SENSE IN  
23 THE CONTEXT OF THE FIRM.

08:46AM

24                        AND HAVING KIND OF A SPIRIT OF  
25 COOPERATION AND UNDERSTANDING OF WHAT WE WERE TRYING TO  
26 DO.

08:47AM

27          Q       I MEAN, WOULD PEOPLE COME TO YOU TO TRY TO  
28 INTERFACE WITH MR. GUNDLACH, TO DELIVER MESSAGES, TO

1 TRY TO GET HIS AGREEMENT TO THINGS?

2 A YES.

3 SO IN NUMEROUS COMPENSATION OR OTHER  
4 BUSINESS ISSUES, I WOULD BE THE PERSON THAT WOULD BE  
5 THE POINT PERSON IN DEALING WITH JEFFREY, YES.

08:47AM

6 Q AND AT SOME POINT, YOU ACTUALLY BECAME  
7 PRESIDENT OF TCW?

8 A IN 2005, I WAS NAMED PRESIDENT OF TCW, YES.

9 Q NOW, DID YOU, AS PRESIDENT OF TCW, AND MAYBE  
10 BEFORE THAT, DID YOU HAVE RESPONSIBILITY FOR  
11 NEGOTIATING THE FINANCIAL TERMS OF DEALS WITH PORTFOLIO  
12 MANAGERS, INCLUDING MR. GUNDLACH?

08:47AM

13 MR. HELM: OBJECTION. BEYOND THE SCOPE OF THE  
14 CASE.

15 MR. QUINN: IT'S JUST THE ONE QUESTION I WAS  
16 GOING TO ASK.

08:47AM

17 THE COURT: AS BACKGROUND. WE'RE NOT GOING  
18 INTO THAT AREA.

19 MR. QUINN: RIGHT. UNDERSTOOD, YOUR HONOR.

20 THE WITNESS: YES, I WAS THE --

08:47AM

21 THE COURT: JUST ANSWER THE QUESTION, SIR.

22 THE WITNESS: YES.

23 THE COURT: THANK YOU.

24 BY MR. QUINN:

25 Q LET ME ASK YOU ABOUT A SPECIFIC ISSUE THAT THE  
26 JURY HAS HEARD ABOUT.

08:48AM

27 AND THAT IS, MR. GUNDLACH'S FEELING THAT  
28 HIS STOCK, HIS STOCK OWNERSHIP IN TCW WAS DILUTED AT

1 SOME POINT.

2 IS THAT SOMETHING THAT HE EVER BROUGHT  
3 UP WITH YOU?

4 A ONLY MUCH LATER.

5 SO, YES, IT WAS PROBABLY AROUND THE 2006  
6 OR -7 TIME PERIOD, YES.

08:48AM

7 Q AND COULD YOU TELL US, THE JURY, WHAT THE  
8 EVENT WAS THAT HAD RESULTED IN DILUTION?

9 A THERE WERE A NUMBER OF TALENTED PORTFOLIO  
10 MANAGERS WITHIN THE FIRM. IN THE CONTEXT OF  
11 NEGOTIATING THEIR COMPENSATION ARRANGEMENTS, THEY  
12 AGREED TO TAKE LESS CASH AND MORE EQUITY AS A FORM OF  
13 COMPENSATION.

08:48AM

14 Q SO THEY -- THE PORTFOLIO MANAGERS BASICALLY  
15 HAD A CHOICE?

08:48AM

16 A PORTFOLIO MANAGERS HAD A CHOICE, YES.

17 Q SOME OF THEM DECIDED TO TAKE LESS CASH, AND  
18 THEY GOT SOME MORE STOCK?

19 A THAT'S CORRECT.

20 Q DID THAT RESULT IN DILUTING THE STOCK HOLDINGS  
21 OF THE OTHER EMPLOYEES, STOCKHOLDERS?

08:49AM

22 A YES, IT DID.

23 BUT IN A WAY THAT, AT LEAST AT THE TIME,  
24 WE FELT WAS CREATIVE TO THE OVERALL VALUE OF THE  
25 ENTERPRISE, BECAUSE THERE WAS LESS ABOVE THE LINE  
26 COMPENSATION EXPENSE.

08:49AM

27 Q IS THAT SOMETHING THAT FOR -- FOR EVERYONE,  
28 THAT IF YOU DIDN'T TAKE THIS DEAL THAT WAS OFFERED,

1 THEN EVERYONE GOT DILUTED, OR WAS MR. GUNDLACH SINGLED  
2 OUT?

3 A EVERYONE WAS DILUTED.

4 Q INCLUDING YOURSELF?

5 A INCLUDING MYSELF.

08:49AM

6 Q DO YOU KNOW WHETHER OR NOT MR. GUNDLACH HAD  
7 BEEN GIVEN THIS OPPORTUNITY TO TAKE LESS CASH  
8 COMPENSATION AND GET MORE STOCK?

9 A YES.

10 MR. HELM: FOUNDATION, YOUR HONOR.

08:49AM

11 THE COURT: I'LL ALLOW THE ANSWER.

12 YOU CAN FOLLOW UP, IF YOU WANT.

13 THE WITNESS: YES, THEY DO.

14 BY MR. QUINN:

15 Q HOW IS IT YOU KNOW THAT MR. GUNDLACH WAS  
16 OFFERED THE OPPORTUNITY TO TAKE LESS CASH COMPENSATION  
17 AND TO BUY MORE STOCK?

08:49AM

18 A BECAUSE I HAD THOSE DISCUSSIONS WITH HIM.

19 Q WHEN WOULD THAT HAVE BEEN?

20 A THAT WAS IN THE 2000, IN THE MID 2000 TIME  
21 PERIOD.

08:49AM

22 Q WHAT WAS HIS RESPONSE TO THAT?

23 A HE DID NOT BELIEVE IN THE VALUE OF THE EQUITY  
24 OF THE FIRM, AND PREFERRED TO HAVE HIGHER CASH  
25 COMPENSATION.

08:50AM

26 Q IS THAT WHAT HE TOLD YOU?

27 A YES.

28 Q WHEN WAS IT THAT HE FIRST RAISED THIS ISSUE

1 WITH YOU THAT HE THOUGHT THIS WAS UNFAIR, OR --

2 A 2005 OR -6, WHERE HE USED IT IN THE CONTEXT OF  
3 A BUSINESS POINT WE WERE ADDRESSING.

4 Q WERE YOU SURPRISED THAT HE BROUGHT IT UP YEARS  
5 LATER?

08:50AM

6 A IT WAS -- THERE WAS A GENERAL VIEW AMONGST A  
7 NUMBER OF PEOPLE CONCERNED ABOUT IT; SO I WAS NOT  
8 PARTICULARLY SURPRISED. NO.

9 Q IS THAT SOMETHING THAT YOU, AT THAT POINT,  
10 EXPLAINED TO HIM, JEFFREY, REMEMBER WHAT HAPPENED,  
11 ET CETERA?

08:50AM

12 A YES, I DID.

13 Q DID HE SEEM SATISFIED WITH THE EXPLANATION AT  
14 THE TIME?

15 A HE SEEMED REASONABLY SATISFIED, YES.

08:50AM

16 Q NOW HE'S TESTIFIED IN THIS TRIAL THAT WHEN HE  
17 LEARNED ABOUT THIS, HE NEVER -- HE SAYS HE LEARNED  
18 ABOUT IT IN 2001.

19 I TAKE YOUR RECOLLECTION IS DIFFERENT?

20 A THAT'S CORRECT. IT WAS VERY TRANSPARENT, THE  
21 ISSUANCE OF EQUITY WITHIN THE FIRM TO THE SHAREHOLDERS.

08:51AM

22 Q HOW WOULD THAT HAVE BEEN TRANSPARENT?

23 A WE SENT MONTHLY FINANCIAL STATEMENTS TO EACH  
24 OF OUR SHAREHOLDERS THAT CLEARLY DELINEATED SHARES  
25 OUTSTANDING. AND EVERYONE KNEW HOW MANY SHARES THEY  
26 OWNED.

08:51AM

27 AND YOU EASILY COULD FIGURE OUT WHAT  
28 PERCENTAGE YOU OWNED, BY DIVIDING THE NUMBER OF SHARES

1 YOU OWNED BY THE SHARES OUTSTANDING IN THE MONTHLY  
2 DISCLOSURES. WE SENT OUT QUARTERLY DISCLOSURES.

3 Q WOULD MR. GUNDLACH, AS SHAREHOLDER, HAVE  
4 RECEIVED THOSE MONTHLY SHAREHOLDERS?

5 A YES.

08:51AM

6 Q MR. GUNDLACH TESTIFIED IN THIS TRIAL THAT WHEN  
7 HE LEARNED ABOUT THIS IN 2001, HE YELLED AT YOU, HE'D  
8 "NEVER YELLED SO MUCH IN MY LIFE."

9 DO YOU HAVE ANY RECOLLECTION OF HIM  
10 YELLING AT YOU --

08:51AM

11 A NO.

12 Q -- ABOUT THIS?

13 A NO, I DO NOT.

14 Q AT ANY TIME, DID HE EVER TELL YOU THAT  
15 MR. STERN HAD PROMISED THAT HIS SHARE OF THE STOCK  
16 HOLDINGS WOULD NEVER BE DILUTED?

08:52AM

17 A NO. HE DID NOT.

18 Q IS THAT SOMETHING THAT MR. STERN WOULD HAVE  
19 THE ABILITY TO DO?

20 A NO.

08:52AM

21 Q WHY NOT?

22 A THE ISSUES ASSOCIATED WITH EQUITY GRANT IN  
23 ULTIMATE COMPENSATION WERE SUBJECT TO COMPENSATION  
24 COMMITTEE OF THE BOARD, WHICH INCLUDED INDEPENDENT  
25 DIRECTORS, APPROVING.

08:52AM

26 Q ALL RIGHT.

27 ANOTHER TIME YOUR NAME CAME UP IN  
28 MR. GUNDLACH'S TESTIMONY WAS, HE SAID THAT HE SPOKE TO



1 YOU ABOUT RESTRUCTURING IDEAS AT THE FIRM, AND THAT  
2 YOUR RECOLLECTION WAS A BLANK STARE.

3 DO YOU RECALL TALKING WITH MR. GUNDLACH  
4 ABOUT HIS IDEAS RESTRUCTURING THE FIRM, ABOUT --

5 A I RECALL HAVING NUMEROUS DISCUSSIONS WITH HIM  
6 ABOUT WHAT THE FUTURE STATE OF TCW SHOULD LOOK LIKE.

08:52AM

7 Q DID HE TELL YOU WHAT HE THOUGHT TCW SHOULD DO,  
8 OR HOW IT SHOULD CHANGE?

9 A HE DID HAVE A SPECIFIC IDEA IN MIND, WHICH HE  
10 RAISED WITH ME, YES.

08:53AM

11 Q WHAT WAS THAT?

12 A HIS IDEA WAS TO TRANSFORM THE FIRM INTO ONLY  
13 KIND OF A HIGH GRADE FIXED INCOME BUSINESS, TO MODEL  
14 AFTER KIND OF THE HERITAGE OF HOW PIMCO OR BLACKROCK OR  
15 WAMCO STARTED.

08:53AM

16 AND FELT THAT WE SHOULD TERMINATE AND  
17 REMOVE ALL OF THE INVESTMENT AREAS OUTSIDE OF HIGH  
18 GRADE FIXED INCOME AND REMOVE THEM FROM THE  
19 ORGANIZATION, AND SHRINK TO GROW --

20 Q DID YOU THINK THAT WAS A GOOD IDEA?

08:53AM

21 A I DID NOT.

22 Q DID YOU TELL HIM THAT?

23 A I DID.

24 Q DID YOU TELL HIM WHY YOU DIDN'T THINK IT WAS A  
25 GOOD IDEA?

08:53AM

26 A I TOLD HIM IN MANY WAYS, I FELT IT WASN'T A  
27 GOOD IDEA, YES.

28 Q WHAT YOU DID HE TELL HIM IN THAT REGARD?

1           A           I EXPLAINED WHERE OUR PROFITS AT THE BUSINESS  
2 WERE COMING IN, WHICH THE MAJORITY OF PROFITS WERE  
3 COMING FROM THE AREAS THAT HE WANTED TO TERMINATE THE  
4 INDIVIDUALS AND REMOVE FROM THE ORGANIZATION.

5                       I EXPLAINED THE VALUE OF THE  
6 DIVERSIFICATION IN THE CONTEXT OF THE GROWTH  
7 OPPORTUNITIES FOR THE FIRM.

08:53AM

8                       AND I ALSO DEMONSTRATED HOW SOME OF  
9 THESE FORMER FIXED INCOME ONLY FIRMS WERE RAPIDLY  
10 NEEDING AND WANTING TO EXPAND INTO EQUITIES AND  
11 ALTERNATIVES, LIKE PIMCO, LIKE BLACKROCK.

08:54AM

12                      AND WE HAD ALREADY ASSEMBLED THAT, SO WE  
13 WERE BETTER OFF THAN WE WERE.

14           Q           WHEN YOU SAY, OTHER FIXED INCOME FIRMS WERE  
15 DIVERSIFYING, WHAT DO YOU MEAN BY THAT?

08:54AM

16           A           WELL, IF YOU LOOK AT KIND OF PIMCO TODAY, OR  
17 BLACKROCK TODAY; BLACKROCK, TEN YEARS AGO, WAS PRETTY  
18 MUCH 100 PERCENT FIXED INCOME. TODAY, IT'S HALF IN  
19 OTHER ALTERNATIVE ASSET CLASSES, WHETHER IT'S EQUITIES,  
20 OR ALTERNATIVES LIKE REAL ESTATE OR PRIVATE EQUITY.

08:54AM

21                      AND THE REASON FOR THAT IS WANTING TO  
22 REACH MORE POCKETS OF YOUR EXISTING INVESTORS' PIE, IF  
23 YOU WILL, OF HOW THEY ALLOCATE CAPITAL, AND ALSO RISK  
24 MANAGEMENT, IN THE CONTEXT OF THE OVERALL BUSINESS.

25                      BECAUSE CERTAIN TIMES, CERTAIN PRODUCTS  
26 DON'T PERFORM PARTICULARLY WELL, NOR ARE DESIROUS OF  
27 INVESTORS, IN TERMS HOW THEY WANT TO ALLOCATE --

08:54AM

28           Q           IN THE INVESTMENT WORLD, ARE -- SOMETIMES

1 BONDS ARE STRONG AND STOCKS OR EQUITIES AREN'T SO  
2 STRONG; AND OTHER TIMES, IT'S REVERSED?

3 A YES. IF YOU LOOK AT THE HISTORY OF TCW, IT'S  
4 A PERFECT EXAMPLE OF THAT PHENOMENON.

5 Q IS IT TYPICAL OR NOT TYPICAL, THAT TCW'S  
6 CLIENTS WOULD HAVE DIVERSIFIED PORTFOLIOS?

08:55AM

7 IN OTHER WORDS, THEY WANT SOME  
8 INVESTMENTS IN EQUITIES, AND SOME MAYBE ALTERNATIVES  
9 AND SOME FIXED INCOME?

10 A YES. THE TYPICAL INVESTOR ALLOCATION OF THE  
11 BULK OF OUR CLIENTS INCLUDED ALLOCATIONS TO ALL THOSE  
12 ASSET CLASSES, AND VARYING PERCENTAGES.

08:55AM

13 Q NOW, WE KNOW FROM EVIDENCE THAT MR. GUNDLACH  
14 BECAME CHIEF INVESTMENT OFFICER OF TCW IN 2005?

15 A YES.

08:55AM

16 Q DID YOU HAVE ANY ROLE IN MR. GUNDLACH BEING  
17 PROMOTED TO CHIEF INVESTMENT OFFICER?

18 A YES, I DID.

19 Q WHAT WAS YOUR ROLE IN THAT REGARD?

20 A I WAS HIGHLY SUPPORTIVE OF IT.

08:56AM

21 I FELT -- CAN I EXPLAIN?

22 Q YES, IF YOU WOULD, PLEASE.

23 A I FELT JEFFREY HAD ELEMENTS OF SKILL AND  
24 TALENT, BOTH AS EXTERNAL SPOKESMAN FOR ALL OF THE FIRM,  
25 AS WELL AS A -- CAPABILITY TO HELP DEVELOP YOUNG  
26 CURRENT INVESTMENT TALENT ACROSS ALL INVESTMENT  
27 PLATFORMS WE HAD AT THE FIRM.

08:56AM

28 AND I FELT BEING ABLE TO CAPTURE THAT

1 INTERNAL AND EXTERNAL CAPABILITY WOULD BE VERY  
2 VALUABLE, AS PART OF THE KIND OF EVOLUTION, IF YOU  
3 WILL, OF THE MANAGEMENT TEAM OF THE FIRM.

4 Q DID YOU TALK TO HIM ABOUT WHAT YOU SAW AS THE  
5 EXTERNAL ROLE, BEING THE FACE OF THE FIRM FOR THE CHIEF  
6 INVESTMENT OFFICER, AS WELL AS THE INTERNAL ROLE, THAT  
7 IS MENTORING AND HELPING OUT MANAGERS IN ALL DIFFERENT  
8 ASSETS CLASSES?

08:56AM

9 A YES, I DID.

10 I EXPLAINED IN A LOT OF DETAIL, WHAT THE  
11 TITLE REALLY MEANT, IN THE CONTEXT OF RESPONSIBILITIES  
12 AS A LEADER OF THE ENTIRE FIRM, NOT JUST THE AREA HE  
13 WAS RESPONSIBLE FOR.

08:56AM

14 Q WHEN YOU FIRST SPOKE TO HIM ABOUT THIS, DID HE  
15 SEEM RECEPTIVE TO THESE IDEAS?

08:57AM

16 A HE WAS VERY RECEPTIVE TO THOSE IDEAS, AND  
17 JUMPED RIGHT IN IN EVERY WAY, SHAPE AND FORM. IT  
18 STARTED OFF IN AN AMAZING WAY.

19 Q AT THE TIME MR. GUNDLACH BECAME CHIEF  
20 INVESTMENT OFFICER IN 2005, WAS HE VERY WELL KNOWN  
21 OUTSIDE THE FIRM, ON WALL STREET AND IN THE INVESTMENT  
22 COMMUNITY?

08:57AM

23 A HE HAD SOME NOTORIETY, BUT VERY LITTLE,  
24 COMPARED TO WHAT HE'S KNOWN FOR TODAY.

25 Q AS PRESIDENT OF THE COMPANY, DID YOU PUT  
26 COMPANY RESOURCES BEHIND MR. GUNDLACH TO PROMOTE HIM  
27 AND MAKE HIM BETTER KNOWN?

08:57AM

28 A YES.

1 Q WHAT -- CAN YOU TELL US SOME OF THE THINGS YOU  
2 DID?

3 A IT WAS PART OF THE EXTERNAL ROLE, SEEING HOW  
4 WITH JEFFREY, WE SAID WE THAT WERE GOING TO INVEST A  
5 LOT OF RESOURCES IN BUILDING THE FIRM'S BRAND, USING  
6 HIM AS THE SPOKESPERSON. 08:57AM

7 SO WE HIRED AND REPLACED AND ADDED TO  
8 OUR COMMUNICATIONS STAFF, OUR P.R. STAFF, DEALING WITH  
9 PUBLIC RELATION AND MEDIA RELATIONS.

10 AND WE PUSHED VERY HEAVILY WITH *MORNING*  
11 *STAR*, IN THE CONTEXT OF TRYING TO GET JEFFREY AND PHIL  
12 TO BE NAMED *MORNING STAR* MANAGER OF THE YEAR. AS WELL  
13 AS GETTING CNBC AND KUDLOW AND KRAMER AND OTHER  
14 TELEVISION NETWORKS TO PICK UP JEFFREY AS SPOKESPERSON  
15 ON THESE MARKETS. 08:58AM

16 Q WERE THESE EFFORTS SUCCESSFUL?

17 A YES, VERY.

18 Q CAN YOU TELL US HOW MR. GUNDLACH DID, FROM  
19 YOUR PERSPECTIVE, AS PRESIDENT, AS CHIEF INVESTMENT  
20 OFFICER? 08:58AM

21 A FOR THE FIRST SIX, SEVEN, EIGHT MONTHS, HE DID  
22 A REALLY, REALLY GREAT JOB. I MEAN, MODEL PERFORMANCE.  
23 HE SPENT TIME WITH SOME OF OUR YOUNGER INVESTMENT  
24 TALENT IN EQUITIES AREA.

25 AND STARTED TO DO THE THINGS THAT WE HAD  
26 TALKED ABOUT HIM DOING, IN TERMS OF DEVELOPING THEM AND  
27 MAKING THEM FEEL LIKE THEY HAD A SENIOR ACCOMPLISHED  
28 MENTOR WITHIN THE FIRM. 08:58AM

1 AS WELL AS EXTERNALLY, HIS  
2 REPRESENTATION WAS VERY BROAD OF TCW'S INVESTMENT  
3 CAPABILITIES.

4 Q DID THERE COME A POINT WHERE THAT REALLY GOOD  
5 PERFORMANCE STARTED TO CHANGE? 08:59AM

6 A YES. AT THE SAME TIME THAT WE WERE STARTING  
7 TO GET A LOT OF SUCCESS IN PUSHING JEFFREY AS  
8 SPOKESPERSON EXTERNALLY, AND HE STARTED TO PICK UP A  
9 LOT OF NOTORIETY, HE STARTED TO BE ON CNBC ON  
10 TELEVISION MORE FREQUENTLY, OR QUOTED IN BLOOMBERG OR  
11 IN THE WALL STREET JOURNAL. 08:59AM

12 AT THE SAME TIME THAT THAT WAS  
13 HAPPENING, HE STARTED TO PULL BACK FROM THOSE INTERNAL  
14 RESPONSIBILITIES AND CAPABILITIES, WHETHER THAT WAS  
15 DEVELOPING PEOPLE, PRESENTING THE OVERALL INVESTMENT  
16 PERFORMANCE OF OUR VARIOUS STRATEGIES TO THE BOARD OR  
17 OF THE FIRM, OR THE MUTUAL FUND BOARD AND THE  
18 INDEPENDENT DIRECTORS THAT REPRESENTED THE MUTUAL FUND  
19 INVESTORS. 08:59AM

20 HE JUST BECAME LESS FOCUSED, LESS  
21 PREPARED. 08:59AM

22 Q DID HE START TO ENGAGE IN SOME BEHAVIOR WHICH  
23 WAS REALLY CONTRARY TO WHAT YOU HAD TOLD HIM YOU HOPED  
24 HE COULD DO INTERNALLY, AS CHIEF INVESTMENT OFFICER?

25 A YES. 09:00AM

26 Q OKAY.

27 A HE STARTED TO NO LONGER DEVELOP AND SERVE AS  
28 MENTOR TO THE YOUNGER TALENT. HE STARTED TO GO MORE

1 DEROGATORY TOWARDS THEM. AND MORE OFF-PUTTING IN  
2 CONVERSATIONS THAT HE'D HAVE, EITHER DIRECTLY OR  
3 INDIRECTLY, ABOUT OTHERS WITHIN THE FIRM.

4 Q WAS IT PART OF HIS JOB AS CHIEF INVESTMENT  
5 OFFICER TO BE A LEADER AND TO TAKE RESPONSIBILITY WHEN  
6 INVESTMENTS DIDN'T COME OUT SO WELL? 09:00AM

7 A YES. AND HE HAD RESPONSIBILITY FOR ALL OF OUR  
8 INVESTMENT PERFORMANCE ACROSS THE FIRM, AS THE C.I.O.  
9 OF THE FIRM.

10 Q WERE THERE OCCASIONS WHERE HE DID -- SIMPLY  
11 DIDN'T TAKE RESPONSIBILITY FOR FAILURES OR PROBLEMS,  
12 INVESTMENTS THAT HAD GONE BAD? 09:00AM

13 A YES.

14 JEFFREY, A NUMBER OF SITUATIONS WHEN --  
15 IN AREAS THAT HE WAS DIRECTLY RESPONSIBLE FOR SUFFERED  
16 FROM PERFORMANCE OR ISSUES, HE WOULD STEP AWAY, AND  
17 POINT HIS FINGER AT SOMEONE ELSE AND BLAME THEM. 09:01AM

18 Q OKAY?

19 A EVEN WITHIN HIS OWN TEAM.

20 Q WITHIN HIS OWN TEAM? 09:01AM

21 A YES.

22 Q CAN YOU GIVE SPECIFIC EXAMPLES?

23 A SURE.

24 ONE EXAMPLE IS APEX MORTGAGE, WHICH IS A  
25 MORTGAGE THAT TCW SERVED AS EXTERNAL MANAGER, OF WHICH  
26 JEFFREY WAS C.I.O. OF, PREVIOUS TO HIM BECOMING C.I.O.  
27 OF THE FIRM. 09:01AM

28 IN THAT PARTICULAR SITUATION, THE

1 PORTFOLIO WAS CONSTRUCTED TO CREATE WHAT'S CALLED  
2 NEGATIVE CONVEXITY --

3 Q I WON'T ASK YOU TO EXPLAIN IT.

4 A -- WHICH MEANS THAT THERE'S A LOT OF INTEREST  
5 RATE RISK, UP OR DOWN. AND WHEN THE STOCK PRICE AND  
6 THE PERFORMANCE OF THAT ENTITY DECLINED, JEFFREY  
7 STEPPED AWAY.

09:01AM

8 AND IT WAS UP TO ME, WORKING WITH OTHER  
9 MEMBERS OF HIS TEAM, TO ULTIMATELY FIX IT.

10 Q WHEN YOU SAY DECLINED, CAN YOU GIVE US SOME  
11 IDEA OF THE MAGNITUDE OF THE ISSUE?

09:02AM

12 A IT WAS PRETTY SEVERE. AND IT WAS PUTTING  
13 REPUTATION RISK, NOT ONLY IN OUR MORTGAGE CAPABILITIES  
14 AS AN INVESTOR AT RISK, BUT THE ENTIRE FIRM'S BRAND AT  
15 RISK, BECAUSE OF ITS PUBLICLY TRADED NATURE IN THE  
16 MARKETPLACE.

09:02AM

17 Q AND WAS THIS SOMETHING ACTUALLY IN THE FIXED  
18 INCOME AREA?

19 A IT WAS IN THE FIXED INCOME AREA.

20 IT WAS 100 PERCENT MORTGAGES, YES.

09:02AM

21 Q DID MR. GUNDLACH BLAME SOMEBODY ELSE FOR THAT?

22 A YES, HE DID.

23 Q WHO DID HE BLAME?

24 A HE BLAMED PHIL BARACH.

25 Q WERE THERE OTHER EXAMPLES OF INVESTMENTS THAT  
26 WENT VERY BAD, THAT HE DIDN'T TAKE RESPONSIBILITY FOR?

09:02AM

27 A YES, IN THE CDO AREA.

28 Q IS THAT SOMETHING ALSO THAT WAS HIS GENERAL



1 AREA?

2 A YES. IT WAS AN AREA THAT HE HAD DIRECT  
3 RESPONSIBILITY FOR, AND REPRESENTED, OUT OF THE  
4 MAJORITY OF HIS COMPENSATION.

5 Q WHO WAS THE PERSON UNDER HIM WHO HAD  
6 RESPONSIBILITY FOR THAT AREA?

09:02AM

7 A LOU LUCIDO.

8 Q CAN YOU GIVE US AN IDEA OF THE MAGNITUDE OF  
9 THE ISSUES WITH CDO'S?

10 A THE ISSUES OF THE CDO'S, THEY WERE BASICALLY  
11 PREDOMINANTLY INVESTED IN CREDIT MORTGAGES. INCLUDING  
12 A VARIETY OF SUBPRIME MORTGAGES, BOTH ON A CASH BASIS  
13 AND SYNTHETIC BASIS.

09:03AM

14 AND IT ALSO INCLUDED CDO'S OF CDO'S. A  
15 NUMBER OF THOSE, IN 2007, STARTED TO SUFFER  
16 SUBSTANTIALLY RESULTING IN THE EQUITY INVESTORS FOR  
17 LOSS OF THEIR CAPITAL.

09:03AM

18 Q ALL THEIR CAPITAL?

19 A YES.

20 Q DID MR. GUNDLACH TAKE RESPONSIBILITY FOR THESE  
21 FAILURES IN THE CDO AREA?

09:03AM

22 A NO.

23 HE HAD NOT HAD HISTORIC EXPERTISE IN  
24 CREDIT MORTGAGES. LOU LUCIDO HAD BEEN THAT EXPERT. HE  
25 BLAMED THAT ON LOU AND ROLAND. AND THEN TRIED TO USE  
26 THE HERITAGE OF THE CDO EFFORT TO BUILD THE SPECIAL  
27 MORTGAGE CREDITS FUNDS.

09:03AM

28 Q ROLAND, WOULD BE WHO?

1           A       ROLAND HO, WHICH WAS THE NO. 2 WORKING FOR  
2 LOU LUCIDO UNDER JEFFREY IN MANAGING CREDIT MORTGAGES.

3           Q       DID SOME OF THESE INVESTMENTS THAT YOU  
4 DESCRIBED FOR US THAT DID VERY POORLY, INVOLVE MORTGAGE  
5 DERIVATIVES LIKE P.O.'S, PRINCIPLE ONLY, INSTRUMENTS,  
6 INTEREST ONLY INSTRUMENTS, INVERSE FLOATERS, THINGS  
7 LIKE THAT?

09:04AM

8           MR. HELM:   RELEVANCE.   I THINK IT'S FAR AFIELD  
9 HERE.

09:04AM

10          THE COURT:   I'LL ALLOW HIM TO ANSWER.

11                    BUT THAT'S IT.

12          THE WITNESS:   YES.

13          MR. QUINN:   ALL RIGHT.

14          Q       ONE LAST QUESTION, YOUR HONOR.

15                    DID THOSE INSTRUMENTS TEND TO BE MORE  
16 VOLATILE?

09:04AM

17          MR. HELM:   SAME OBJECTION, YOUR HONOR.

18          THE COURT:   SUSTAINED.

19 BY MR. QUINN:

20          Q       AT THE TIME WHEN YOU WERE FIRST PRESIDENT,  
21 WHEN YOU BECAME PRESIDENT IN EARLY ON, WAS THERE KIND  
22 OF A PARTNERSHIP BETWEEN MR. GUNDLACH AND MR. BARACH?

09:04AM

23          A       YES.   THERE HISTORICALLY WAS, ALWAYS HAD BEEN  
24 AN EQUAL PARTNERSHIP AMONGST THE TWO OF THEM FOR MANY,  
25 MANY YEARS THAT I WAS AT TCW.

09:05AM

26          Q       DID YOU SEE THAT CHANGE?

27          A       YES.

28          Q       HOW DID THAT CHANGE?

1           A       IT STARTED AROUND THE 2004, 2005 TIME PERIOD,  
2 WHERE JEFFREY STARTED TO FEEL THAT HE WAS ADDING A LOT  
3 MORE VALUE THAN PHIL BARACH'S PARTNER.

4           Q       DID HE TALK TO YOU ABOUT THAT?

5           A       YES, HE DID.

09:05AM

6           Q       WHAT DID HE SAY?

7           A       HE FELT THAT PHIL BARACH SHOULD BE COMPENSATED  
8 A LOT LESS.

9                        AND THAT JEFFREY SHOULD BE COMPENSATED A  
10 LOT MORE.

09:05AM

11           MR. HELM: YOUR HONOR, MOVE TO STRIKE. I  
12 THINK THIS IS RELEVANCE.

13                        AND ALSO, WE'RE GETTING INTO THE OTHER  
14 PART OF THE CASE.

15           THE COURT: WE'RE NOT GOING THERE, MR. QUINN.

09:05AM

16           MR. QUINN: I UNDERSTAND, YOUR HONOR.

17           THE COURT: GO AHEAD.

18           MR. QUINN: THERE HAS BEEN TESTIMONY ABOUT  
19 MR. GUNDLACH'S RELATIONSHIP WITH MR. BARACH.

20                        IT GOES BACK TO, I THINK THE FIRST WEEK  
21 OF THE TRIAL, YOUR HONOR.

09:06AM

22           THE COURT: IF YOU WANT TO TALK ABOUT THE  
23 RELATIONSHIP, THAT'S FINE.

24           MR. QUINN: ALL RIGHT.

25           Q       IN TERMS OF WHAT HE TOLD YOU ABOUT MR. BARACH,  
26 WHAT DID HE TELL YOU?

09:06AM

27           A       HE TOLD ME WHAT I JUST SAID.

28           Q       DID HE MENTION SPECIFIC NUMBERS?

1 A HE DID.

2 Q WHAT DID HE SAY?

3 MR. HELM: OBJECTION, YOUR HONOR.

4 THE COURT: SUSTAINED.

5 BY MR. QUINN:

09:06AM

6 Q WHEN DID YOU LEAVE TCW?

7 A I LEFT TCW IN JULY 2008.

8 Q TO GO TO YOUR PRESENT EMPLOYER, KKR?

9 A YES.

10 Q HOW DID THAT COME ABOUT, THAT YOU LEFT TCW?

09:06AM

11 A KKR HAD APPROACHED TCW IN CONSIDERING  
12 SUPPORTING AN EMPLOYEE BUYOUT OF THE FIRM IN FEBRUARY  
13 OF 2008.

14 AND SO I STARTED TO HAVE A COUPLE OF  
15 MEETINGS AND DISCUSSIONS WITH THEM ON THE TOPIC AROUND  
16 THAT TIME.

09:06AM

17 Q NOW, AT THAT TIME, DID YOU HAVE A CONTRACT  
18 WITH TCW?

19 A I DID NOT. MY CONTRACT HAD EXPIRED AT THE END  
20 OF 2007.

09:07AM

21 Q BUT YOU HAD A COMPENSATION ARRANGEMENT?

22 A I HAD A FORMULAIC COMPENSATION ARRANGEMENT FOR  
23 MY INCENTIVE COMP, YES.

24 Q WHEN YOU FIRST BEGAN TO HAVE -- I TAKE IT YOU  
25 WERE APPROACHED BY KKR -- OR DID THEY APPROACH YOU?

09:07AM

26 A THEY APPROACHED ME, ON THE IDEA OF  
27 FACILITATING AN EMPLOYEE BUYOUT OF TCW FROM SOCIÉTÉ  
28 GÉNÉRALE.

1 Q AND AT SOME POINT, DID THAT CONVERSATION MORPH  
2 INTO, CAN WE PERSUADE YOU, BILL SONNEBORN, TO COME JOIN  
3 US AT KKR?

4 A YES.

5 Q DID YOU ADVISE MR. STERN OR MR. BEYER THAT YOU  
6 HAD THIS CONTACT?

09:07AM

7 A YES. RELATIVELY QUICKLY AFTER THE  
8 CONVERSATIONS TURNED TO THEM WANTING TO HIRE ME, I  
9 DISCLOSED TO, FIRST TO MR. BEYER, AND THEN SECONDLY TO  
10 MR. STERN, THAT I WAS HAVING THIS DIALOGUE WITH KKR.

09:07AM

11 Q AND DID YOU DISCLOSE THAT BEFORE YOU GOT AN  
12 OFFER FROM THEM, OR AFTER?

13 A YES, BEFORE I GOT THE OFFER.

14 Q THAT WAS HOW LONG BEFORE YOU ACTUALLY ENDED UP  
15 LEAVING TCW, THAT YOU DISCLOSED THAT YOU WERE HAVING  
16 THESE DISCUSSIONS?

09:08AM

17 A IT WAS APPROXIMATELY FOUR MONTHS.

18 Q CAN YOU TELL US WHETHER OR NOT THE ISSUES  
19 YOU'VE DESCRIBED WITH MR. GUNDLACH HAD ANYTHING TO DO  
20 WITH YOUR LEAVING TCW?

09:08AM

21 A IN A NUMBER OF WAYS, YES. YOU COULD POINT TO  
22 THEM BEING PARTIALLY RESPONSIBLE --

23 MR. HELM: RELEVANCE.

24 THE COURT: THE ANSWER'S IN.

25 AND YOU CAN GO AHEAD, MR. QUINN.

09:08AM

26 BY MR. QUINN:

27 Q LOOKING BACK ON IT, DO YOU THINK THE DECISION  
28 TO MAKE MR. GUNDLACH CHIEF INVESTMENT OFFICER WAS A

1 GOOD DECISION OR A BAD DECISION?

2 MR. HELM: OBJECTION. RELEVANCE. 352.

3 THE COURT: SUSTAINED.

4 BY MR. QUINN:

5 Q WHAT IS YOUR ASSESSMENT OF HOW MR. GUNDLACH 09:08AM  
6 PERFORMED AS CHIEF INVESTMENT OFFICER.

7 MR. HELM: SAME OBJECTION, YOUR HONOR.

8 THE COURT: AT WHAT POINT IN TIME?

9 MR. QUINN: OVERALL, RIGHT UP TO THE TIME HE  
10 LEFT, IN JULY OF 2000 -- 09:09AM

11 THE COURT: OBJECTION WILL BE OVERRULED.

12 GO AHEAD.

13 THE WITNESS: JEFFREY'S BRILLIANT. VERY  
14 TALENTED GUY.

15 IF YOU COULD DRIVE THAT BRILLIANCE 09:09AM  
16 TOWARDS, YOU KNOW, WHAT ARE OBJECTIVES AS A FIRM WERE  
17 IN ITS ENTIRETY, IT WOULD HAVE BEEN FANTASTICALLY  
18 SUCCESSFUL.

19 BUT UNFORTUNATELY, IT DID NOT WORK.

20 BY MR. QUINN: 09:09AM

21 Q AS YOU OBSERVED THE THINGS YOU DESCRIBED TO  
22 THE JURY, DID YOU TALK TO MR. GUNDLACH ABOUT THE ISSUES  
23 THAT YOU SAW IN HIS PERFORMANCE?

24 A YES.

25 Q DID THAT HAPPEN ONCE, OR MORE THAN ONCE? 09:09AM

26 A MORE THAN ONCE. PARTICULARLY AROUND THE ISSUE  
27 OF ARROGANCE.

28 Q AND THEN AFTER YOU WERE AT KKR -- DOES KKR

1 HAVE SOME RELATIONSHIP WITH WAMCO?

2 A WE HAVE AN INVESTMENT IN LEGG MASON, WHICH IS  
3 100 PERCENT OWNER OF WAMCO.

4 Q AND IN THAT CAPACITY, DID YOU LEARN ABOUT  
5 DISCUSSIONS THAT MR. GUNDLACH WAS HAVING WITH WAMCO IN  
6 2009?

09:09AM

7 A YES.

8 MR. HELM: HEARSAY, YOUR HONOR.

9 THE COURT: HE CAN ANSWER. HE LEARNED OF IT.  
10 I'M NOT SURE WE'RE GOING ANY FURTHER.

09:10AM

11 THE WITNESS: WE HAVE A BOARD --

12 THE COURT: SIR, YOU JUST ANSWER THE QUESTION,  
13 AND THEN THE FOLLOW-UP QUESTION COMES.

14 THE WITNESS: YES, SIR.

15 THE COURT: THANKS.

09:10AM

16 BY MR. QUINN:

17 Q DOES KKR HAVE A BOARD SEAT ON THE BOARD OF  
18 WAMCO?

19 A A BOARD SEAT ON LEGG MASON THE PARENT TO  
20 WAMCO.

09:10AM

21 Q I TAKE IT IN THAT CAPACITY, YOU DID LEARN THAT  
22 MR. GUNDLACH WAS HAVING DISCUSSIONS WITH WAMCO?

23 MR. HELM: OBJECTION. HEARSAY, YOUR HONOR.

24 THE COURT: SUSTAINED.

25 BY MR. QUINN:

09:10AM

26 Q LET'S GO FORWARD, THEN, TO WHERE WE STARTED  
27 OUR DISCUSSION HERE THIS MORNING.

28 YOU TOLD US LATE IN AUGUST, OR THE

1 SECOND HALF OF AUGUST OF 2009, YOU HAD A CONVERSATION  
2 WITH MR. STERN REGARDING MR. GUNDLACH?

3 A YES. SOME --

4 Q CAN YOU TELL US HOW THAT CAME ABOUT?

5 A SOMETIME DURING THE LAST TWO WEEKS OF AUGUST,  
6 2009, I HAD COME DOWN FROM SAN FRANCISCO TO LOS ANGELES  
7 TO MOVE MY FAMILY UP TO THE BAY AREA.

09:11AM

8 AND MR. STERN HAD LEARNED OF MY BEING IN  
9 THE AREA TO FACILITATE THE MOVE WITH MY WIFE AND  
10 CHILDREN, AND ASKED ME TO SPEND SOME TIME WITH HIM.

09:11AM

11 Q AND DID YOU DO THAT?

12 A I DID.

13 Q AND WHERE WAS IT THAT YOU MET WITH HIM?

14 A HE ASKED ME TO COME TO HIS HOUSE.

15 Q AND DID THE SUBJECT OF MR. GUNDLACH COME UP AT  
16 THAT TIME?

09:11AM

17 A YES. HE ASKED ME TO TAKE A WALK WITH HIM, AND  
18 THE SUBJECT OF MR. GUNDLACH DID COME UP.

19 Q DID HE BRING IT UP, OR DID YOU BRING IT UP?

20 A I BROUGHT IT UP.

09:11AM

21 Q WHAT DID YOU SAY TO HIM?

22 A I SUGGESTED BASED UPON WHAT I HAD SEEN DURING  
23 MY TIME AT TCW, AND SINCE LEAVING TCW, OVER THAT 12  
24 MONTHS, THAT HE HAD A -- A REAL AND PRESENT PROBLEM AND  
25 DANGER ON HIS HANDS. AND I ENCOURAGED HIM TO TERMINATE  
26 JEFFREY.

09:12AM

27 Q YOU ENCOURAGED MR. STERN TO DO THAT?

28 A YES.



1 Q DID YOU TELL HIM WHY YOU WERE ENCOURAGING HIM  
2 TO DO THAT?

3 A YES. I FELT THAT JEFFREY HAD GOTTEN TO THE  
4 POINT OF BECOMING A DISEASE OR A CANCER ON THE FIRM.

5 AND I WAS REALLY PROUD OF MY TEN AND A  
6 HALF YEARS AT TCW, AND I DID NOT WANT TO SEE THE  
7 BUSINESS HARMED.

09:12AM

8 Q SINCE YOU LEFT TCW, HAD YOU STAYED IN TOUCH  
9 WITH PEOPLE AT TCW?

10 A YES.

09:12AM

11 Q DID YOU HAVE FRIENDS THERE?

12 A YES.

13 Q DID YOU STAY IN TOUCH WITH MR. BEYER?

14 A YES.

15 Q WHEN YOU MADE THIS RECOMMENDATION TO

09:12AM

16 MR. STERN, IN THAT MR. GUNDLACH WAS A CANCER AND SHOULD  
17 BE TERMINATED, WHAT RESPONSE DID HE MAKE TO YOU?

18 MR. HELM: HEARSAY.

19 MR. QUINN: STATE OF MIND.

20 THE COURT: OVERRULED.

09:12AM

21 THE WITNESS: HE SAID HE COULDN'T DO IT.

22 BY MR. QUINN:

23 Q DID HE SAY WHY?

24 A HE SAID JEFFREY HAD BECOME TOO IMPORTANT. AND  
25 HE COULDN'T. HE DIDN'T KNOW HOW HE COULD DO IT.

09:13AM

26 AND I TOLD HIM, I STILL FELT HE SHOULD.

27 MR. QUINN: NOTHING FURTHER.

28 THE COURT: CROSS-EXAMINATION, MR. HELM?

1 MR. HELM: THANK YOU, YOUR HONOR.

2

3

CROSS-EXAMINATION +

4

BY MR. HELM:

5

Q GOOD MORNING, MR. SONNEBORN?

09:13AM

6

A GOOD MORNING, MR. HELM.

7

Q YOU HAVE A VERY IMPRESSIVE RECORD.

8

YOU MUST BE VERY PROUD OF YOURSELF?

9

A I'VE BEEN VERY FORTUNATE.

10

Q LET ME ASK YOU ABOUT THIS DILUTION QUESTION.

09:13AM

11

I FIRST WANT TO MAKE SURE I UNDERSTAND  
12 WHAT YOU'RE SAYING.

13

THE TIME WHEN YOU SAID THAT THE STOCK  
14 OWNERSHIP BROUGHT -- WAS BROUGHT UP WITH MR. GUNDLACH  
15 WAS WHEN? WHEN DID YOU SAY YOU DISCUSSED IT WITH HIM?

09:13AM

16

A AROUND 2005 OR 2006.

17

AND THE QUESTION OF DILUTION, I THINK,  
18 IF THAT'S THE QUESTION YOU'RE ASKING.

19

Q YES.

20

A YES.

09:14AM

21

Q DID YOU HAVE ANY DISCUSSIONS WITH HIM BEFORE  
22 THAT, ABOUT THE FACT THAT HE WAS BEING DILUTED?

23

A I DID NOT HAVE ANY DIRECT DISCUSSIONS WITH HIM  
24 ABOUT HIM BEING DILUTED, OTHER THAN WHAT I DISCLOSED,  
25 WHICH IS IN THE 2000 TIME PERIOD, OFFERING HIM  
26 ADDITIONAL STOCK, IN A SIMILAR WAY TO HOW THE DILUTION  
27 OCCURRED.

09:14AM

28

Q THAT WAS STOCK FOR COMPENSATION, CORRECT?

1 A YES.

2 Q NOW, WHEN DID YOU UNDERSTAND THE DILUTION  
3 FIRST OCCURRED?

4 A WHEN DID I -- IT OCCURRED IN 2000.

5 Q ALL RIGHT.

09:14AM

6 SO MR. QUINN ASKED YOU ABOUT A  
7 CONVERSATION THAT MR. GUNDLACH TESTIFIED TO ABOUT WHEN  
8 HE LEARNED HE WAS BEING DILUTED.

9 YOUR TESTIMONY IS THAT YOU WEREN'T THE  
10 ONE WHO TOLD HIM ABOUT THE DILUTION; IS THAT TRUE?

09:14AM

11 A THAT IS TRUE.

12 BUT MY TESTIMONY, IT WAS DISCLOSED TO  
13 HIM AT LEAST QUARTERLY.

14 Q DISCLOSED IN THE SENSE OF ANYONE WHO LOOKED AT  
15 THE FINANCIAL RECORDS COULD FIGURE IT OUT?

09:14AM

16 A YES.

17 Q YOU'RE NOT AWARE OF SOMEBODY COMING TO  
18 MR. GUNDLACH, TO SHOW HIM THE COURTESY OF SAYING HIS  
19 STOCK HAD BEEN DILUTED, CORRECT?

20 A NO.

09:15AM

21 Q NOW, YOU DO NOT KNOW WHAT CONVERSATIONS  
22 MR. GUNDLACH DID OR DID NOT HAVE WITH MARC STERN IN THE  
23 LATE 90'S ABOUT WHETHER HE WOULD BE DILUTED, DO YOU?

24 A I DO NOT KNOW OF THOSE CONVERSATIONS.

25 Q SO YOU DO NOT KNOW WHETHER OR NOT MARC STERN  
26 MADE PROMISES TO MR. GUNDLACH AT THAT TIME, THAT HE  
27 WOULD NOT BE DILUTED, DO YOU, SIR?

09:15AM

28 A I DO NOT KNOW FOR SURE.

1 Q NOW, YOU TALKED ABOUT SOME OF THESE  
2 RESTRUCTURING IDEAS THAT MR. GUNDLACH HAD.

3 DO YOU RECALL THAT?

4 A YES.

5 Q AND DISCUSSIONS ABOUT WHETHER THERE SHOULD BE  
6 MORE OR LESS FOCUS ON FIXED INCOME, IS THAT TRUE?

09:15AM

7 A THAT IS TRUE.

8 Q NOW YOU MENTIONED THAT YOU THOUGHT IT WAS NOT  
9 A GOOD IDEA, IN PART BECAUSE THE PROFITS CAME FROM THE  
10 PEOPLE THAT MR. GUNDLACH WANTED TO TERMINATE OR GET RID  
11 OF.

09:16AM

12 DID I HEAR YOU RIGHT ON THAT?

13 A YES.

14 Q NOW YOU UNDERSTOOD THAT MR. GUNDLACH WAS NOT  
15 NECESSARILY ADVOCATING ONLY TERMINATING OR ELIMINATING  
16 PEOPLE IN THE EQUITY WORLD, DIDN'T YOU?

09:16AM

17 A HE MADE IT PRETTY CLEAR THAT THAT'S WHAT HIS  
18 RESTRUCTURING PLAN WAS.

19 Q DIDN'T HE SUGGEST TO YOU, THE POSSIBILITY OF  
20 FORMING TWO DIFFERENT SUBSIDIARIES OF TCW, SO THAT ONE  
21 MIGHT BE A BUSINESS FOCUSED ON FIXED INCOME, AND  
22 ANOTHER MIGHT BE A BUSINESS FOCUSED ON OTHER PRODUCTS?

09:16AM

23 A HE NEVER DISCUSSED THAT PROPOSAL WITH ME.

24 Q NOW, YOU WOULD AGREE WITH ME, WOULDN'T YOU,  
25 THAT THERE ARE A RANGE OF DIFFERENT ASSET MANAGEMENT  
26 COMPANIES, IN TERMS OF HOW FOCUSED THEY ARE IN ONE  
27 AREA, VERSUS HOW DIVERSIFIED THEY ARE, CORRECT?

09:16AM

28 A YES.

1 Q AND THERE ARE SOME BUSINESSES WHICH SEE THE  
2 BENEFITS OF BEING VERY DIVERSIFIED, RIGHT, AND HAVING  
3 LOTS OF DIFFERENT PRODUCTS, TRUE?

4 A TRUE.

5 Q AND THERE ARE OTHER BUSINESSES WHICH DECIDE AS  
6 THEIR BUSINESS MODEL, THEY WANT TO FOCUS ON A  
7 PARTICULAR THING, CORRECT?

8 A YES.

9 Q SO IT'S THE DIFFERENCE BETWEEN STEW AND PEA  
10 SOUP, SOMETIMES. THEY'RE BOTH DELICIOUS, RIGHT, BUT  
11 THEY'RE TOTALLY DIFFERENT. SOME FIRMS ARE FOCUSED ONLY  
12 ON THEIR PEA SOUP. THEY DO ONLY ONE THING, BUT THEY DO  
13 IT WELL.

14 MR. QUINN: I OBJECT TO PEA SOUP, YOUR HONOR.

15 MR. BRIAN: THIS IS ONE OF THE FEW TIMES I  
16 AGREE WITH MR. QUINN, YOUR HONOR.

17 THE COURT: YOU'VE ASKED THE QUESTION.

18 JUST MOVE ON.

19 THE WITNESS: WAS THAT A QUESTION?

20 MR. HELM: I'LL REPHRASE IT.

21 THE COURT: WE'VE BEEN THROUGH FRIED CHICKENS,  
22 LOTS OF FARMS. WE'RE GOING ON.

23 MR. HELM: THEY DON'T LIKE THE PEA SOUP.  
24 WE'LL TRY IT A DIFFERENT WAY.

25 Q SOME FIRMS FOCUS ON ONE PARTICULAR THING, AND  
26 THEY DO DID WELL, CORRECT?

27 A YES.

28 Q THEY CAN BE VERY SUCCESSFUL DOING THAT,

09:17AM

09:17AM

09:17AM

09:17AM

09:17AM

1 CORRECT?

2 A THE BIGGEST AND MOST VALUABLE FIRMS DO MORE  
3 THAN ONE PRODUCT.

4 Q BUT THERE ARE SOME VERY SUCCESSFUL FIRMS THAT  
5 FOCUS, SPECIALIZE IN ONE PRODUCT, CORRECT?

09:18AM

6 A NOT VERY LARGE ONES. BUT, YES.

7 Q ALL RIGHT.

8 SO YOU WOULD, YOU WOULD AGREE WITH ME,  
9 WOULDN'T YOU, THAT THERE COULD BE A LEGITIMATE GROUND  
10 FOR DISAGREEMENT ON WHETHER IT'S BETTER FOR A  
11 PARTICULAR COMPANY TO BE MORE DIVERSIFIED OR TO BE LESS  
12 DIVERSIFIED, CORRECT?

09:18AM

13 A IT'S WORTHY OF A DISCUSSION, ABSOLUTELY.

14 Q NOW YOU MENTIONED HOW SUPPORTIVE TCW WAS OF  
15 MR. GUNDLACH AS A SPOKESMAN.

09:18AM

16 DO YOU RECALL THAT?

17 A YES.

18 Q AND YOU SAID THAT THEY PUT HIM FORWARD, AND  
19 THERE WERE INVESTMENTS IN THE P.R. DEPARTMENT, AND SO  
20 FORTH.

09:18AM

21 THAT'S WHAT YOU TESTIFIED TO, CORRECT?

22 A THAT'S CORRECT.

23 Q YOU'RE NOT SAYING, ARE YOU, SIR, THAT THE ONLY  
24 REASON THAT MR. GUNDLACH GOT PUBLIC ACCLAIM WAS THAT  
25 TCW INVESTED SOME MORE PEOPLE IN THE P.R. DEPARTMENT,  
26 ARE YOU, SIR?

09:18AM

27 A I'M SAYING IT'S NOT THE ONLY REASON, BUT IT  
28 WAS A MAJOR CONTRIBUTING FACTOR.

1 Q DON'T YOU THINK ONE OF THE REASONS  
2 MR. GUNDLACH GOT ACCLAIM WAS BECAUSE OF THE INVESTMENT  
3 PERFORMANCE OF HIS FUNDS?

4 A IT CERTAINLY HELPED, YES.

5 Q AND IT HELPED THAT HE HAD AMAZING INVESTMENT  
6 PERFORMANCE DURING SOME OF THE WORST FINANCIAL  
7 DOWNTURNS OUR COUNTRY EVER EXPERIENCED; ISN'T THAT  
8 TRUE, SIR?

09:19AM

9 A I THINK THAT DEFINITELY WAS A CONTRIBUTING  
10 FACTOR.

09:19AM

11 Q WAS IT ALSO A CONTRIBUTING FACTOR THAT  
12 MR. GUNDLACH MADE SOME FAIRLY PROMINENT AND PRESCIENT  
13 PREDICTIONS ABOUT WHAT WAS GOING TO HAPPEN IN THE U.S.  
14 ECONOMY?

15 DIDN'T THAT CONTRIBUTE TO HIS ACCLAIM,  
16 SIR?

09:19AM

17 A THAT WAS AFTER WE STARTED HIS PROMOTION AND  
18 GETTING HIM ON TV.

19 BUT YES, THAT FURTHER ENHANCED HIS  
20 REPUTATION.

09:19AM

21 Q SO ARE YOU SAYING THAT IF THEY HADN'T INVESTED  
22 IN THOSE P.R., THOSE ADDITIONAL P.R. PEOPLE AT TCW,  
23 THAT THE FACT HE PREDICTED A FEW WEEKS BEFORE IT  
24 HAPPENED, THAT CITI STOCK WOULD BE GOING TO NOTHING.

25 AND IT WOULD NEED A GOVERNMENT BAILOUT,  
26 IF IT WEREN'T FOR THE P.R. INVESTMENTS, THAT WOULDN'T  
27 HAVE GOTTEN HIM ANY ACCLAIM; IS THAT YOUR TESTIMONY?

09:20AM

28 MR. QUINN: ASSUMES FACTS, MISSTATES THE

1 TESTIMONY.

2 THE COURT: SUSTAINED.

3 BY MR. HELM:

4 Q YOU RECALL MR. GUNDLACH MADE A PREDICTION AT A  
5 CONFERENCE ABOUT WHAT WOULD HAPPEN TO CITI STOCK DIDN'T  
6 YOU, SIR? 09:20AM

7 A I DON'T RECALL THAT. NO.

8 Q YOU DON'T RECALL THAT?

9 A NO. I RECALL --

10 THE COURT: SIR, YOU'VE ANSWERED THE QUESTION.  
11 WE'RE TRYING TO MOVE ALONG HERE. 09:20AM

12 BY MR. HELM:

13 Q ALL RIGHT. ON THE -- IN TERMS OF SAYING THAT  
14 YOU THOUGHT MR. GUNDLACH WAS STARTING TO PULL BACK FROM  
15 INTERNAL COMMITMENTS AND MENTORING, AND SO FORTH, WHEN  
16 DID YOU SAY THAT THAT HAPPENED, IN YOUR OBSERVATION? 09:20AM

17 A COINCIDENT WITH HIS FAME EXTERNALLY BUILDING.

18 Q WHAT YEAR ARE WE TALKING?

19 A THAT WOULD HAVE BEEN IN THE '06 -- END OF '05,  
20 '06 TIME PERIOD. 09:21AM

21 Q AND DID YOU THINK THAT IT CONTINUED THEREAFTER  
22 OR --

23 A IT CONTINUED ON THAT SAME TRAJECTORY, YES.

24 Q DID HIS FOCUS ON INTERNAL MATTERS AT ALL  
25 CORRESPOND WITH INCREASED ASSETS UNDER MANAGEMENT THAT  
26 HE HAD? 09:21AM

27 A MOST OF THE ASSETS THAT HAD GROWN AT THAT  
28 PERIOD WERE UNDER LOU'S RESPONSIBILITY, NOT HIS.



1 MR. LUCIDO'S RESPONSIBILITY.

2 Q WELL, FROM -- WHAT WAS THE GROWTH IN THE TOTAL  
3 RETURN BOND FUND FROM 2007 TO 2009? DO YOU KNOW, SIR?

4 A I DON'T KNOW THE NUMBER, NO.

5 Q WELL, FROM 2007 TO 2008, WHEN WERE THERE, DO  
6 YOU RECALL THAT THERE WAS A HUGE INCREASE IN THE ASSETS  
7 UNDER MANAGEMENT AND THE TOTAL RETURN BOND FUND, WHEN  
8 YOU WERE THERE, SIR?

09:21AM

9 A YES. WE MARKETED PRETTY HEAVILY, AND IT GREW  
10 BY APPROXIMATELY A BILLION DOLLARS DURING THE TIME.

09:21AM

11 Q YOU MARKETED IT; BUT IT ALSO HAD AN AMAZING  
12 TRACK RECORD. IT HAD AMAZING PERFORMANCE, RIGHT?

13 YOU'RE NOT CLAIMING THE GROWTH WAS  
14 BECAUSE OF THE MARKETING DEPARTMENT, ARE YOU?

15 A THE FUND HAD AMAZING PERFORMANCE IN 2005, FROM  
16 2004; BUT THEN NO GROWTH --

09:22AM

17 Q HAVING AMAZING PERFORMANCE REQUIRES A LOT OF  
18 FOCUS ON THE INVESTMENTS, DOESN'T IT?

19 A YES. IT DOES.

20 Q AS THERE ARE MORE ASSETS UNDER MANAGEMENT,  
21 THERE ARE MORE INVESTMENTS THAN A PERSON HAS TO MAKE,  
22 AREN'T THERE?

09:22AM

23 A SIR?

24 NO. JUST BUYING MORE OF THE SAME  
25 INVESTMENT.

09:22AM

26 Q I SEE.

27 YOU THINK IT REQUIRES NO ADDITIONAL  
28 FOCUS OR EFFORT AS ASSETS UNDER MANAGEMENT GROW?

1           A       AS THE NUMBERS OF ACCOUNTS GROWS, YES.

2                        BUT MUTUAL FUNDS GROWS, IT'S VERY  
3 MINIMAL ADDITIONAL EFFORT TO DEAL WITH THE SIZE AND  
4 SCALE.

5           Q       DID THE SEPARATE ACCOUNTS GROW DURING THIS  
6 PERIOD, AS WELL, SIR?

09:22AM

7           A       A LITTLE BIT.

8           Q       NOW, YOU MENTIONED THAT HE WAS C.I.O. OF THE  
9 WHOLE COMPANY, BUT HE DIDN'T TAKE RESPONSIBILITY FOR  
10 SOME OF THE FAILURES.

09:23AM

11                       DID I GET THAT RIGHT?

12           A       I THINK THE QUESTION, THE TESTIMONY WAS ON  
13 SPECIFICALLY FAILURES WITHIN HIS TEAM ENOUGH OF AN  
14 AREA -- YES.

15           Q       DID I MISHEAR YOU, YOU WERE NOT CRITICIZING  
16 HIM FOR FAILING TO TAKE RESPONSIBILITY FOR ANY FAILURES  
17 THAT OCCURRED OUTSIDE OF THE M.B.S. GROUP?

09:23AM

18           A       THAT'S CORRECT.

19           Q       THANK YOU FOR CLARIFYING THAT.

20                       YOU AGREE WITH ME THAT EVEN THOUGH, IN  
21 NAME, HE WAS THE CHIEF INVESTMENT OFFICER, THAT TCW WAS  
22 STILL, DURING THE TIME YOU WERE THERE, A CONFEDERATION  
23 OF BOUTIQUES OF DIFFERENT SILOS, CORRECT?

09:23AM

24           A       I WOULD DISAGREE WITH THAT.

25           Q       YOU DISAGREE.

09:23AM

26                       YOU SAY IT'S NOT A CONFEDERATION --

27           A       I DID NOT THINK IT WAS A CONFEDERATION.

28           Q       DID MR. GUNDLACH HAVE AUTHORITY TO TELL DIANE

1 JAFFEE WHETHER TO SELL A STOCK IN HER PORTFOLIO?

2 A HE HAD AUTHORITY TO GIVE HIS ADVICE TO HER.  
3 YES.

4 Q SHE HAD THE AUTHORITY TO DISREGARD IT, IF SHE  
5 SO CHOSE, CORRECT?

09:24AM

6 A YES, JUST LIKE I HAD AUTHORITY TO TELL JEFFREY  
7 NOT TO BUY A MORTGAGE, AND HE DIDN'T NECESSARILY HAVE  
8 TO DO WHAT I SAID.

9 Q NOW, YOU MENTIONED SOME CIRCUMSTANCES IN WHICH  
10 MR. GUNDLACH BLAMED MR. LUCIDO AND MR. HO FOR SOME  
11 INVESTMENTS THAT HAD BEEN MADE, CORRECT?

09:24AM

12 A YES.

13 Q YOU MENTIONED THAT YOU THOUGHT THAT MR. BARACH  
14 AND MR. GUNDLACH WERE EQUALS, AT ONE POINT, BUT THEN  
15 MR. GUNDLACH SORT OF CHANGED HIS APPROACH AT THAT  
16 POINT? CORRECT?

09:24AM

17 A YES.

18 Q WHERE IS MR. LUCIDO CURRENTLY EMPLOYED?

19 A AT DOUBLE LINE.

20 Q WHERE IS MR. BARACH CURRENTLY EMPLOYED?

09:25AM

21 A AT DOUBLE LINE.

22 Q NOW, IN THE -- YOU MENTIONED YOU WERE  
23 INVOLVED, IN FEBRUARY OF 08, WITH RESPECT TO A POSSIBLE  
24 EMPLOYEE BUYOUT.

25 DID I GET THAT RIGHT?

09:25AM

26 A YES. NUMEROUS PRIVATE EQUITY FIRMS CONTACTED  
27 TCW AROUND THAT TIME PERIOD TO SEE IF THERE WAS AN  
28 OPPORTUNITY TO FACILITATE AN EMPLOYEE BUYOUT.

1 Q DID YOU TRAVEL WITH MR. BEYER TO PARIS TO TRY  
2 TO MAKE AN OFFER TO SOCIÉTÉ GÉNÉRALE TO BUY BACK THE  
3 FIRM FROM THE FRENCH?

4 A WE DID TRAVEL THERE TO TALK ABOUT A VARIETY OF  
5 THINGS, THAT BEING ONE OPTION, YES.

09:25AM

6 Q AND THAT EFFORT WAS ULTIMATELY UNSUCCESSFUL,  
7 WASN'T IT?

8 A YES. THE INDIVIDUALS AT SOCIÉTÉ GÉNÉRALE THAT  
9 WE MET WERE -- WERE RELIEVED OF THEIR RESPONSIBILITIES.

09:26AM

10 Q I DIDN'T HEAR THAT -- THE ONES YOU MET WITH  
11 WERE LATER RELIEVED?

12 A YES, WERE IN THE PROCESS OF BEING RELIEVED OF  
13 THEIR RESPONSIBILITIES.

14 Q WHAT DID THAT HAVE TO DO WITH THE OFFER?

15 A WELL, THE DISCUSSIONS ON THE VARIOUS OPTIONS  
16 WE HAD TALKED ABOUT, ONE OF WHICH WAS AN EMPLOYEE  
17 BUYBACK, WERE WITH INDIVIDUALS THAT NO LONGER HAD  
18 AUTHORITY TO CONTINUE THAT DIALOGUE.

09:26AM

19 Q THE EFFORTS THAT YOU MADE IN EARLY 2008 TO BUY  
20 BACK TCW FROM THE FRENCH, THOSE EFFORTS WERE  
21 UNSUCCESSFUL, CORRECT, SIR?

09:26AM

22 A AGAIN, THAT WAS ONE OPTION, OF SEVERAL WE  
23 DISCUSSED.

24 Q YOU WERE ALSO AWARE THERE WAS SOME  
25 DISSATISFACTION OF TCW -- OVER THE FACT THAT SOCIÉTÉ  
26 GÉNÉRALE DID NOT GRANT EQUITY TO THE LEADERS OF THE  
27 FIRM; IS THAT TRUE?

09:26AM

28 A IT HAD GRANTED -- THAT'S NOT TRUE.

1                   THEY HAD GRANTED EQUITY TO LEADERS OF  
2 THE FIRM, BUT NOT AT THE PACE THAT BOB AND I FELT WAS  
3 WARRANTED, IN THE CONTEXT OF BUILDING -- A CONTINUED  
4 KIND OF GROWTH IN THE BUSINESS.

5           Q        AND SO YOU AND MR. BEYER ADVOCATED INCREASED  
6 EQUITY FOR THE PEOPLE AT TCW, CORRECT?                   09:27AM

7           A        THAT WAS ONE OF THE OPTIONS WE DISCUSSED IN  
8 2008.

9           Q        AND DISCUSSED WITH THE FRENCH, CORRECT?

10          A        YES.   09:27AM

11          Q        WE'VE SEEN EVIDENCE THAT MR. GUNDLACH ONCE  
12 DESCRIBED YOU AND MR. BEYER AS BEING A BUFFER BETWEEN  
13 MR. -- BETWEEN THE MANAGEMENT AT TCW AND THE FRENCH.

14                   WOULD YOU SAY THAT'S A FAIR  
15 CHARACTERIZATION?   09:27AM

16          A        I WOULDN'T NECESSARILY CHARACTERIZE IT THAT  
17 WAY.

18          Q        YOU ADVOCATED THE INTEREST OF TCW MANAGEMENT  
19 IN DISCUSSIONS WITH SG, CORRECT?

20          A        WE WERE FOCUSED ON TRYING TO DO WHAT WAS RIGHT  
21 FOR TCW AND ITS EMPLOYEES.                                   09:27AM

22                   JUST LIKE ANY EXECUTIVE OFFICER OR  
23 DIRECTOR OF A BUSINESS WOULD, YES.

24          Q        AND WERE YOU ON ANY SOCIÉTÉ GÉNÉRALE BOARDS  
25 WHILE YOU WERE AT TCW?                                       09:27AM

26          A        I WAS NOT.

27          Q        WERE YOU AN HONORARY COMMANDEUR IN FRANCE?

28          A        I WAS NOT.

1 Q DO YOU KNOW IF MARC STERN, AFTER HE RETURNED,  
2 PARTICIPATED IN ANY EFFORTS TO BUY BACK TCW FROM THE  
3 FRENCH?

4 A I DO NOT KNOW.

5 Q YOU SAID YOU TALKED TO MR. GUNDLACH ABOUT  
6 ARROGANCE ISSUES.

09:28AM

7 DID I GET THAT RIGHT?

8 A YES.

9 Q YOU'VE BEEN IN THE ASSET MANAGEMENT NOW FOR  
10 HOW LONG, MR. SONNEBORN?

09:28AM

11 A FOR AROUND 15 YEARS.

12 Q YOU'VE MET A LOT OF FUND MANAGERS, HAVEN'T  
13 YOU, SIR?

14 A I'VE MET MANY, YES.

15 Q IS MR. GUNDLACH THE ONLY ARROGANT FUND MANAGER  
16 YOU'VE EVER MET?

09:28AM

17 A HE'S THE MOST. NOT THE ONLY --

18 Q THERE'S A LOT?

19 A YES.

20 Q ALSO ONE OF THE MOST BRILLIANT, ISN'T HE?

09:28AM

21 A HE'S A VERY TALENTED INVESTOR.

22 Q BRILLIANT COULD DESCRIBE HIM -- COULDN'T  
23 YOU --

24 A THAT'S YOUR OPINION.

25 I MEAN, I DESCRIBED HIM AS A VERY  
26 UNIQUELY TALENTED INVESTOR IN AN AREA OF FIXED INCOME.

09:28AM

27 Q HAVE YOU EVER USED THE WORD BRILLIANT, TO  
28 DESCRIBE ANYTHING MR. GUNDLACH HAD EVER DONE?

1           A       YES, I HAVE.

2           MR. HELM:  THANK YOU.  NOTHING FURTHER.

3           THE COURT:  REDIRECT, MR. QUINN?

4

5                       REDIRECT EXAMINATION +

09:29AM

6 BY MR. QUINN:

7           Q       MR. HELM POINTED OUT THAT MR. BARACH WENT TO  
8 WORK WITH MR. GUNDLACH AT DOUBLE LINE.

9                       DID YOU EVER TELL MR. BARACH ABOUT THOSE  
10 CONVERSATIONS YOU HAD WITH MR. GUNDLACH, OR  
11 MR. GUNDLACH CAME TO YOU AND SAID HE WANTED TO LOWER  
12 MR. BARACH'S SALARY?

09:29AM

13           MR. HELM:  OBJECTION, YOUR HONOR.

14           THE COURT:  OVERRULED.

15           THE WITNESS:  NO.

09:29AM

16 BY MR. QUINN:

17           Q       DID YOU EVER TELL MR. BARACH --

18           A       NO.

19           Q       -- WHAT MR. GUNDLACH HAD SAID TO YOU?

20           A       NO.

09:29AM

21           Q       MR. HELM ASKED YOU ABOUT THE PROFITABILITY OF  
22 THE MORTGAGE-BACKED SECURITIES AND THE FIXED INCOME  
23 GROUP.

24                       IN THE GROUP, I THINK AT ONE POINT, YOU  
25 SAID IT WASN'T THE MOST PROFITABLE AREA OF THE FIRM.

09:29AM

26                       COULD YOU EXPLAIN THAT?

27           A       YES.

28                       BECAUSE OF THE HIGH VARIABLE COST OF THE

1 GROUP, INCLUDING THE NUMBER OF EMPLOYEES IN THE AREA,  
2 IT WAS -- TO MY BEST RECOLLECTION, IT WAS THE 7TH MOST  
3 PROFITABLE BUSINESS WITHIN THE FIRM IN 2007.

4 Q 7TH MOST PROFITABLE?

5 A YES.

09:30AM

6 Q THAT'S BECAUSE OF WHAT COSTS?

7 A BECAUSE OF THE COMPENSATION COSTS OF THE TEAM.

8 Q AND DID THE I.T. COST, THE COST FOR THE  
9 TECHNICAL PLATFORM, DID THAT HAVE A PLAY INTO THAT, AS  
10 WELL?

09:30AM

11 A THAT HAD A PLAY INTO THAT AS WELL, YES.

12 Q AND IN TERMS OF USAGE OF I.T. AND TECHNICAL  
13 INVESTMENT, HOW WOULD THE MORTGAGE-BACKED SECURITIES  
14 DEPARTMENT COMPARE TO OTHER DEPARTMENTS WITHIN THE  
15 FIRM?

09:30AM

16 MR. HELM: BEYOND THE SCOPE, YOUR HONOR.

17 THE COURT: OVERRULED.

18 THE WITNESS: IT WAS THE HEAVIEST USER OF  
19 FIRM-WIDE RESOURCES.

20 BY MR. QUINN:

09:30AM

21 Q MR. HELM TALKED TO YOU ABOUT MR. GUNDLACH'S  
22 COMMENTS ABOUT SUBPRIME, AND, YOU KNOW, CITIBANK STOCK.

23 DO YOU RECALL THAT?

24 A HE MENTIONED CITIBANK, YES.

25 Q RIGHT.

09:31AM

26 THESE CDO'S THAT MR. GUNDLACH'S  
27 DEPARTMENT HAD ORGANIZED AND INVESTED IN, DID THESE  
28 HAVE HEAVY INVESTMENTS IN SUBPRIME MORTGAGES?



1 MR. HELM: BEYOND THE SCOPE.

2 THE COURT: SUSTAINED.

3 BY MR. QUINN:

4 Q WELL, THE -- MR. GUNDLACH'S ANNOUNCEMENT  
5 RELATED TO SUBPRIME, CORRECT? DO YOU RECALL READING  
6 ABOUT AN ANNOUNCEMENT HE MADE REGARDING SUBPRIME?

09:31AM

7 MR. HELM: LACKS FOUNDATION, YOUR HONOR.

8 THE COURT: SUSTAINED.

9 MR. QUINN: I THINK THERE'S BEEN EVIDENCE IN  
10 THIS CASE THAT THE DEFENDANTS HAVE INTRODUCED ABOUT  
11 MR. GUNDLACH HAVING MADE A PUBLIC ANNOUNCEMENT THAT THE  
12 SUBPRIME AREA WAS A DISASTER.

09:31AM

13 Q DO YOU RECALL EVER HEARING THAT?

14 MR. HELM: BEYOND THE SCOPE, YOUR HONOR.

15 THE COURT: SUSTAINED. THAT WASN'T PART OF  
16 HIS TESTIMONY.

09:31AM

17 MR. QUINN: NOTHING FURTHER.

18 THE COURT: THANK YOU.

19 NOTHING FURTHER, MR. HELM?

20 MR. HELM: NOTHING FURTHER, YOUR HONOR.

09:32AM

21 THANK YOU.

22 THE COURT: ALL RIGHT.

23 MR. SONNEBORN, THANK YOU FOR YOUR  
24 TESTIMONY.

25 I DO APOLOGIZE FOR THE POSSIBILITY OF  
26 BRINGING YOU BACK.

09:32AM

27 THE WITNESS: I UNDERSTAND.

28 THE COURT: IT'S A PRETTY EASY COMMUTE. I'M

1 SURE YOU'RE ACCUSTOMED TO IT.

2 THE WITNESS: I UNDERSTAND.

3 THANK YOU, YOUR HONOR.

4 THE COURT: THANK YOU.

5 MR. MADISON: TCW RESTS, SUBJECT TO THE  
6 ADMISSION OF EXHIBITS WE DISCUSSED EARLIER, YOUR  
7 HONOR.

09:32AM

8 THE COURT: ALL RIGHT.

9 LADIES AND GENTLEMEN, YOU'VE HEARD THE  
10 PLAINTIFF'S CASE AT THIS POINT.

09:32AM

11 AND NOW THE DEFENSE WILL PUT ON THEIR  
12 CASE.

13 AS YOU KNOW, WE DISCUSSED EARLIER, THE  
14 DEFENDANTS HAVE AN AFFIRMATIVE CLAIM, THEY WILL ALSO  
15 PUT THE EVIDENCE ON ON THAT PORTION OF THEIR CASE.

09:33AM

16 MR. BRIAN, ARE YOU READY TO CALL YOUR  
17 FIRST WITNESS?

18

19 D E F E N S E +

20

09:33AM

21 MR. BRIAN: MR. WEINGART WILL CALL THE FIRST  
22 WITNESS.

23 MR. WEINGART: YOUR HONOR, THE DEFENSE CALLS  
24 PAUL DEITCH.

25 THE CLERK: RAISE YOUR RIGHT HAND TO BE SWORN.

09:33AM

26

27 PAUL DEITCH +

28 CALLED AS A WITNESS BY THE DEFENSE, WAS SWORN AND

1 TESTIFIED AS FOLLOWS:

2

3 THE CLERK: YOU DO SOLEMNLY STATE THAT THE  
4 TESTIMONY YOU ARE ABOUT TO GIVE IN THE CAUSE NOW  
5 PENDING BEFORE THIS COURT, SHALL BE THE TRUTH, THE  
6 WHOLE TRUTH AND NOTHING BUT THE TRUTH, SO HELP YOU GOD?

7

8 THE WITNESS: I DO.

9 THE CLERK: THANK YOU. PLEASE BE SEATED.

10 SIR, PLEASE STATE AND SPELL YOUR NAME  
11 FOR THE RECORD.

09:33AM

12 THE WITNESS: PAUL DEITCH, P-A-U-L,  
13 D-E-I-T-C-H.

14 THE CLERK: THANK YOU.

15 THE COURT: GOOD MORNING, MR. DEITCH.

09:33AM

16 THE WITNESS: GOOD MORNING.

17 THE COURT: YOU MAY PROCEED.

18 MR. WEINGART: THANK YOU, YOUR HONOR.

19

20 DIRECT EXAMINATION +

09:33AM

21 BY MR. WEINGART:

22 Q GOOD MORNING?

23 A GOOD MORNING.

24 Q BY WHOM ARE YOU EMPLOYED?

25 A OAKTREE CAPITAL MANAGEMENT.

09:34AM

26 Q WHAT'S YOUR POSITION AT OAKTREE?

27 A MANAGING DIRECTOR.

28 Q AND WHAT TYPE OF BUSINESS IS OAKTREE CAPITAL

1 MANAGEMENT?

2 A AN INVESTMENT MANAGEMENT FIRM.

3 Q HOW LARGE IS OAK TREE?

4 A WE HAVE ABOUT \$80 BILLION IN ASSETS IN  
5 MANAGEMENT, AND OVER 600 EMPLOYEES WORLDWIDE.

09:34AM

6 Q WHAT TYPE OF ASSETS DOES OAKTREE MANAGE?

7 A WE INVEST IN DISTRESSED DEBT, CORPORATE BONDS,  
8 CONVERTIBLE SECURITIES, REAL ESTATE.

9 Q AND WHERE ARE OAKTREE'S OFFICES?

10 A WE HAVE 14 OFFICES, GLOBALLY HEADQUARTERED IN  
11 LOS ANGELES. WE HAVE OFFICES IN NEW YORK AND STANFORD,  
12 EUROPE AND ASIA.

09:34AM

13 Q WHEN WAS -- DO YOU KNOW WHEN OAKTREE WAS  
14 FOUNDED?

15 A I BELIEVE --

09:34AM

16 Q ABOUT?

17 A I BELIEVE IN 1995.

18 Q DO YOU KNOW WHO FOUNDED IT?

19 A HOWARD MARKS, BRUCE KARSH, SHELDON STONE,  
20 RICHARD MASSON AND LARRY KEELE, I BELIEVE.

09:34AM

21 Q DO YOU KNOW WHERE MR. MARKS AND MR. KARSH  
22 WORKED BEFORE THEY FOUNDED OAKTREE?

23 A AT TRUST COMPANY OF THE WEST.

24 Q I'D LIKE TO TALK A LITTLE BIT ABOUT YOUR  
25 BACKGROUND.

09:35AM

26 CAN YOU BRIEFLY DESCRIBE YOUR  
27 EDUCATIONAL BACKGROUND?

28 A I HAVE A UNDERGRADUATE DEGREE IN BIOLOGY FROM

1 UCL. AND A MASTERS IN BUSINESS ADMINISTRATION FROM  
2 USC.

3 Q AFTER YOU GRADUATED FROM USC, WHAT WAS YOUR  
4 FIRST JOB?

5 A I SPENT MY FIRST DECADE IN BANKING AT SECURITY  
6 PACIFIC, WHICH WAS PURCHASED DURING THAT TIME BY BANK  
7 OF AMERICA.

09:35AM

8 Q AND GENERALLY, HIGH LEVEL, WHAT WERE YOUR JOB  
9 RESPONSIBILITIES DURING THAT TIME?

10 A I WORKED IN SEVERAL CAPACITIES: IN FINANCE,  
11 CUSTOMER SERVICE, PRODUCT MANAGEMENT, PRIMARILY AROUND  
12 BANKING OPERATIONS.

09:35AM

13 I DID SPEND ONE YEAR ALSO IN THE TRUST  
14 COMPANY.

15 Q WHAT WAS YOUR NEXT JOB AFTER THAT?

09:35AM

16 A I THEN WENT TO KPMG.

17 Q WHO'S KPMG?

18 A IS ONE OF THE BIG FOUR GLOBAL AUDIT, TAX  
19 CONSULTING FIRMS.

20 Q WHAT WAS YOUR POSITION THERE?

09:36AM

21 A I WAS A PARTNER.

22 Q DID YOU HAVE A PARTICULAR FOCUS IN YOUR  
23 PRACTICE?

24 A YES. WE FOCUSED THE PRACTICE ON THE WEST  
25 COAST, PRIMARILY IN THE AREA OF FINANCIAL SERVICES  
26 COMPANIES. WE WORKED IN THE AREA OF TECHNOLOGY,  
27 OPERATION, RISK MANAGEMENT, REPORTING.

09:36AM

28 WE FOCUSED ON HELPING COMPANIES, YOU

1 KNOW, ARCHITECT AND DESIGN SOLUTIONS, AND THEN  
2 IMPLEMENT THOSE SOLUTIONS.

3 Q WOULD THOSE INCLUDE TECHNOLOGICAL SOLUTIONS?

4 A SOME WOULD.

5 Q WHAT OTHER KIND OF SOLUTIONS?

09:36AM

6 A PROCESS ENERGY OF OPERATIONS, IMPLEMENTATION  
7 OF COMPLIANCE PROGRAMS. IMPLEMENTATION OF REPORTING.

8 IT WAS VERY BROAD GENERAL MANAGING  
9 CONSULTING PRACTICE.

10 Q HOW LONG WERE YOU AT KPMG?

09:36AM

11 A SEVEN YEARS.

12 Q WHERE DID YOU -- SO JUST TELL US, TIMEWISE,  
13 ARE -- WHERE ARE WE NOW?

14 A WE ARE IN BEGINNING OF 2006.

15 Q WHERE DID YOU WORK NEXT?

09:37AM

16 A I WENT TO RUN TECHNOLOGY AND OPERATIONS FOR  
17 COUNTRYWIDE BANK.

18 Q WHAT DID YOU DO? WHAT DID THE JOB ENTAIL?

19 A I WAS RESPONSIBLE FOR THE I.T. DEPARTMENT, THE  
20 PAYMENT AND DEPOSIT OPERATIONS, LOSS PREVENTION,  
21 BUSINESS CONTINUITY, OUTSOURCING, VENDOR MANAGEMENT,  
22 COMPLIANCE AND RISK MANAGEMENT, PROJECT MANAGEMENT;  
23 THOSE SORTS OF ITEMS.

09:37AM

24 Q HOW MANY PEOPLE REPORTED TO YOU?

25 A BETWEEN 6- AND 700.

09:37AM

26 Q AND DID YOU OVERSEE ANY PROJECTS, WHEN YOU  
27 WERE AT COUNTRYWIDE BANK?

28 A MANY PROJECTS.

1 Q CAN YOU GIVE US AN EXAMPLE OF ONE OF THOSE  
2 PROJECTS?

3 A ONE OF THE PROJECTS INVOLVED OPENING UP OR  
4 DOUBLING THE SIGN OF OUR FINANCIAL CENTERS.

5 IN A PERIOD OF FOUR MONTHS, WE HAD  
6 APPROXIMATELY 100, AND WE ADDED 100 NEW FINANCIAL  
7 CENTERS, IN THE PERIOD OF FOUR MONTHS.

09:37AM

8 Q WHAT WAS YOUR ROLE IN THAT PROJECT?

9 A I OVERSAW THE PROJECT MANAGEMENT TEAM,  
10 TECHNOLOGY TEAM AND OPERATIONS TEAM.

09:38AM

11 Q YOU SAID YOU GOT EVERYTHING DONE IN FOUR  
12 MONTHS?

13 A YES, WE DID.

14 Q AND AT A HIGH LEVEL, HOW IS THAT POSSIBLE TO  
15 GET 100 -- HUNDRED OFFICES OPEN, IN THAT PERIOD OF  
16 TIME?

09:38AM

17 A WE MOBILIZED RESOURCES ACROSS MULTIPLE  
18 DISCIPLINES, WORKED IN PARALLEL.

19 IT WAS VERY ORCHESTRATED, AND WE HAD A  
20 LOT OF INDIVIDUALS WORKING ON THE INITIATIVE, IN ORDER  
21 TO GET THE OFFICES OPENED.

09:38AM

22 Q NOW, AT ONE POINT, I GUESS LATER ON, BANK OF  
23 AMERICA ACQUIRED COUNTRYWIDE; IS THAT CORRECT?

24 A YES, IT DID.

25 Q DID YOU PLAY A ROLE IN THE INTEGRATION OF  
26 THOSE TWO COMPANIES?

09:38AM

27 A I DID. I WAS RESPONSIBLE FOR THE PROGRAM  
28 MANAGEMENT OFFICE, WHICH COORDINATES THE PROJECT

1 MANAGERS INVOLVED IN THE INTEGRATION OF COUNTRYWIDE,  
2 COMPANY ABOUT 50,000 EMPLOYEES, INTO BANK OF AMERICA.

3 SO THERE ARE ABOUT 300 PEOPLE ON THE  
4 PROJECT TEAM. AND IN -- FULL-TIME PEOPLE ON THE  
5 PROJECT TEAM, AND APPROXIMATELY 1600 PEOPLE INVOLVED IN  
6 THE PROJECT. 09:39AM

7 Q WHAT WAS YOUR ROLE IN THAT PROJECT?

8 A I RAN THE PROGRAM MANAGEMENT OFFICE, THE GROUP  
9 OF INDIVIDUALS THAT DOES ALL THE COORDINATION PROJECT  
10 PLANNING AND FACILITATION, ADMINISTRATION, 09:39AM  
11 COORDINATION, TO EXECUTE EACH OF THE DELIVERABLES TO  
12 INTEGRATE THE TWO FIRMS.

13 Q NOW, I'M SORRY.

14 ABOUT HOW MANY PEOPLE WORKED ON THAT  
15 PROJECT? 09:39AM

16 A DURING MY TIME, THERE WERE 300 FULL-TIME AND  
17 1600 PART-TIME.

18 Q NOW, AT SOME POINT, YOU LEFT COUNTRYWIDE?

19 A YES.

20 IN 2008. 09:39AM

21 Q AND AFTER YOU LEFT, WHERE DID YOU GO TO WORK?

22 A OAKTREE CAPITAL MANAGEMENT.

23 Q WHEN DID YOU START AT OAKTREE?

24 A AUGUST 25TH, 2008.

25 Q AND YOU GAVE US YOUR TITLE. 09:40AM

26 YOU'RE MANAGING DIRECTOR, YOU SAID?

27 A YES.

28 Q WHAT ARE YOUR JOB RESPONSIBILITIES AT OAKTREE?



1           A        I'M RESPONSIBLE FOR THE TECHNOLOGY DEPARTMENT,  
2 THE OPERATIONS DEPARTMENT, THE PROJECT MANAGEMENT  
3 DEPARTMENT, AND SEVERAL MARKETING COMPANIES.

4           Q        ABOUT HOW MANY PEOPLE REPORT TO YOU AT  
5 OAKTREE?

09:40AM

6           A        ABOUT 200.

7           Q        AND HAVE YOU BEEN INVOLVED IN ANY SIGNIFICANT  
8 PROJECTS TO OPEN OFFICES FOR OAKTREE?

9           A        YES. WE'VE HAD MULTIPLE PROJECTS SINCE I'VE  
10 BEEN THERE.

09:40AM

11                        WE'VE OPENED SEVERAL OFFICES, PROBABLY  
12 EITHER THREE TO FIVE OFFICES DURING THAT TIME. WE'VE  
13 IMPLEMENTED ACCOUNTING SOFTWARE ON MORE THAN ONE  
14 OCCASION, MULTIPLE INITIATIVES INVOLVING TECHNOLOGY AND  
15 OPERATIONS.

09:40AM

16           Q        NOW, I WANT TO DIRECT YOUR ATTENTION TO  
17 DECEMBER OF 2009, OKAY?

18           A        OKAY.

19           Q        IN DECEMBER OF 2009, DID YOU AND OTHERS AT  
20 OAKTREE PARTICIPATE IN A PROJECT TO HELP GET DOUBLELINE  
21 UP AND RUNNING?

09:41AM

22           A        WE DID.

23           Q        WHEN WERE YOU FIRST INFORMED ABOUT THE  
24 POSSIBILITY OF THIS PROJECT?

25           A        ON DECEMBER 7TH.

09:41AM

26           Q        AND HAD YOU PARTICIPATED IN ANY DISCUSSIONS  
27 ABOUT THIS POSSIBLE PROJECT BEFORE DECEMBER 7?

28           A        NO.

1 Q WELL, FIRST OF ALL, WHAT HAPPENED ON  
2 DECEMBER 7?

3 A I GOT A PHONE CALL FROM MY SUPERVISOR, SAYING  
4 THERE WAS A POSSIBILITY THAT WE WOULD BE ASSISTING IN  
5 BUILDING OUT THIS NEW FIRM. AND THAT WE AGREE TO  
6 COORDINATE A MEETING, AN INTERNAL MEETING, WITH  
7 OAKTREE -- WITHIN OAKTREE ON TUESDAY OF THAT WEEK.

09:41AM

8 I THINK THAT WAS DECEMBER 8.

9 Q AND ABOUT HOW MANY PEOPLE FROM OAKTREE  
10 PARTICIPATED IN THAT DECEMBER 8TH MEETING?

09:41AM

11 A IT WOULD BE BETWEEN TEN AND 20, I WOULD GUESS.

12 Q AND JUST GENERALLY, WHO WERE THESE PEOPLE, AND  
13 WHY WERE THEY AT THE MEETING?

14 A WE HAD PEOPLE IN THE MEETING FROM THE  
15 TECHNOLOGY DEPARTMENT, FROM OUR OPERATIONS DEPARTMENT,  
16 FROM OUR FUND ACCOUNTING, CORPORATE ACCOUNTING, LEGAL,  
17 AND PROBABLY SEVERAL OTHER AREAS.

09:42AM

18 AND THE FOCUS OF THAT MEETING ON TUESDAY  
19 WAS TO BRAINSTORM ABOUT HOW WE, OAKTREE, COULD HELP  
20 THIS NEW COMPANY GET OPERATIONALLY READY FOR BUSINESS.

09:42AM

21 Q NOW, WAS A DECISION EVENTUALLY REACHED ABOUT  
22 WHETHER OAKTREE WOULD PROVIDE ASSISTANCE TO DOUBLELINE  
23 IN STARTING ITS OPERATION?

24 A YES.

25 Q AND WHAT SORT OF ASSISTANCE DID OAKTREE AGREE  
26 TO PROVIDE IN A HIGH LEVEL --

09:42AM

27 A WE PRIMARILY PROVIDED RESOURCES, PEOPLE WHO  
28 WERE INVOLVED IN THE INITIATIVE. WE PROVIDED PROJECT

1 MANAGERS TO HELP ORGANIZE ALL OF THE WORK STREAMS.

2 WE ALSO PROVIDED A LOT OF INTRODUCTIONS  
3 IN SUPPORT, IN ENGAGING VENDORS TO SUPPORT THE  
4 IMPLEMENTATION.

5 Q WHAT WAS YOUR ROLE IN THE PROJECT? 09:43AM

6 A I WAS THE PROJECT SPONSOR FROM -- THE OAKTREE  
7 PROJECT SPONSOR.

8 Q WHEN YOU SAY PROJECT SPONSOR, CAN YOU DESCRIBE  
9 FOR US WHAT THAT MEANS?

10 A RESPONSIBLE FOR PROVIDING OVERSIGHT TO THE 09:43AM  
11 RESOURCES WHO WERE ENGAGED ON THE PROJECT.

12 IN THAT ROLE, YOU WOULD OVERSEE THE  
13 COORDINATION BETWEEN EACH OF THE WORK STREAMS.

14 THERE WERE APPROXIMATELY SIX DIFFERENT  
15 WORK STREAMS THAT WERE HAPPENING SIMULTANEOUSLY TO MAKE 09:43AM  
16 DOUBLELINE OPERATIONALLY READY, TO THE COORDINATION  
17 ISSUE RESOLUTION AND INSURING THERE WERE ADEQUATE  
18 RESOURCES ASSIGNED TO EACH INITIATIVE.

19 Q WHAT WAS IN IT FOR OAKTREE, TO PROVIDE THIS  
20 HELP? 09:43AM

21 A I HEARD WE HAD AN EQUITY STAKE IN THIS NEW  
22 FIRM.

23 Q SO IN RETURN FOR RECEIVING -- BY EQUITY STAKE,  
24 YOU MEAN AN OWNERSHIP INTEREST?

25 A YES. 09:44AM

26 Q AND SO IN RETURN FOR THAT OWNERSHIP INTEREST,  
27 OAKTREE WOULD PROVIDE THE SERVICES YOU DESCRIBED?

28 A YES.

1 Q NOW, LET ME ASK YOU TO TAKE A LOOK AT  
2 EXHIBIT 1620. IT SHOULD BE IN THE BINDER UP THERE.

3 A WHAT NUMBER?

4 Q I'M SORRY, 620.

5 A THANK YOU.

09:44AM

6 Q CAN YOU IDENTIFY 620?

7 A YES. IT'S A TERM SHEET.

8 Q A TERM SHEET BETWEEN WHO AND WHO?

9 A BETWEEN OAKTREE AND DOUBLELINE.

10 Q DATED DECEMBER 13TH, 2009?

09:44AM

11 A YES, IT IS.

12 MR. WEINGART: I WOULD OFFER EXHIBIT 620.

13 THE COURT: ANY OBJECTION?

14 MR. MADISON: NO OBJECTION.

15 THE COURT: IT WILL BE ADMITTED.

09:45AM

16

17 (EXHIBIT 620 ADMITTED.)+

18

19 MR. WEINGART: COULD WE PUT -- BLOW UP JUST

20 THE TOP THERE.

09:45AM

21 Q THERE WAS A TERM SHEET.

22 THESE WOULD BE KIND OF BASIC DEAL TERMS?

23 A YES, THEY WOULD BE.

24 Q AND THIS WAS BETWEEN OAKTREE, ON THE ONE HAND  
25 AND DOUBLELINE, ON THE OTHER?

09:45AM

26 A YES.

27 Q IF WE COULD GO TO PAGE 2, WHERE IT SAYS EQUITY  
28 EXCHANGE.

1 A YES.

2 Q IS THAT WHAT YOU WERE DESCRIBING, IN TERMS OF  
3 THE OWNERSHIP INTEREST THAT OAKTREE WOULD RECEIVE IN  
4 RETURN FOR PROVIDING THESE SERVICES?

5 A YES.

09:45AM

6 Q IF WE COULD GO TO PAGE 9 OF THE EXHIBIT. IT  
7 SAYS EXHIBIT A.

8 WHAT IS EXHIBIT A TO EXHIBIT 620?

9 A EXHIBIT A IS A HIGH LEVEL OUTLINE OF THE TYPE  
10 OF SUPPORT THAT WE WERE PLANNING ON PROVIDING  
11 DOUBLELINE.

09:46AM

12 Q AND THERE ARE -- THERE'S A COLUMN ON THE LEFT,  
13 PROJECT MANAGEMENT, I.T., COMPLIANCE, RESEARCH AND  
14 ANALYTICS TRADING, TRADE SETTLEMENT, AND OTHERS.

15 WHAT DO THOSE FUNCTIONS REPRESENT; WHAT  
16 ARE THOSE?

09:46AM

17 A SO ALONG THE LEFT ARE THE VARIOUS FUNCTIONS  
18 THAT WERE NECESSARY TO CREATE AN OPERATIONALLY READY  
19 BUSINESS. AND SO ALL THE AREAS THAT WE WOULD  
20 POTENTIALLY PROVIDE SUPPORT WERE DOWN ON THE VERY  
21 LEFT-HAND COLUMN.

09:46AM

22 AS YOU MOVE --

23 Q LET ME -- YES.

24 THEN THERE ARE THREE COLUMNS TO THE  
25 RIGHT OF THAT?

09:46AM

26 A YES.

27 Q AND THE FIRST ONE, I REALIZE IT'S A LITTLE  
28 HARD TO READ. IT SAYS: INTERIM OPERATIONAL SUPPORT.

1 DOES IT NOT?

2 TRANSITIONAL SERVICES?

3 A YES, IT DOES.

4 Q WHAT DOES THAT COLUMN REPRESENT?

5 A THAT WAS ONE TYPE OF SUPPORT THAT WE WERE  
6 OFFERING DOUBLELINE, WHICH WAS TO ACTUALLY RUN  
7 COMPONENTS OF THEIR BACK OFFICE OPERATION FOR A  
8 SPECIFIC DURATION.

09:47AM

9 Q AND WE'LL TALK ABOUT THAT A LITTLE BIT MORE IN  
10 A BIT.

09:47AM

11 THE NEXT COLUMN IS ADVISORY SERVICES?

12 A RIGHT.

13 Q WHAT DOES THAT REPRESENT?

14 A THIS WOULD BE THE DURATION OF TIME THAT WE  
15 WOULD ASSIST THEM BY PROVIDING ADVICE OR ACCESS TO OUR  
16 SUBJECT MATTER PROFESSIONALS IN EACH OF THE DISCIPLINES  
17 THAT THEY WOULD NEED TO BE OPERATIONALLY READY.

09:47AM

18 Q THEN THE THIRD COLUMN SAYS: SET UP SERVICES.  
19 WHAT DOES THAT REPRESENT?

20 A THAT REPRESENTS THE ALLOCATION OF TIME, AND  
21 TIME DURATION THAT WE WOULD DEVOTE TO HELPING THEM GET  
22 SET UP TO BE OPERATIONALLY INDEPENDENT FROM OAKTREE.

09:47AM

23 Q WAS THERE A TIME BY WHICH YOU WERE AIMING TO  
24 HAVE DOUBLELINE OPERATIONAL?

25 A WE WERE TARGETING THEM TO BE OPERATIONALLY  
26 READY FOR BUSINESS BY JANUARY 11.

09:48AM

27 Q WHY SO SOON?

28 A IT WAS A NO. 1 PRIORITY FOR OUR FIRM.

1                   AND THEY NEEDED TO BE ABLE TO INVEST, IN  
2 ORDER TO BE IN BUSINESS.

3           Q       FROM WORKING ON THE PROJECT, DID YOU LEARN  
4 WHETHER DOUBLELINE HAD ANY CLIENTS DURING ITS FIRST FEW  
5 WEEKS OF OPERATION?

09:48AM

6           A       THEY DID NOT.

7           Q       AND DID THAT LACK OF CLIENTS MEAN THERE WAS  
8 MORE TIME TO HELP ACCOMPLISH THESE TASKS?

9           A       YES.

10          Q       WHY WAS THAT?

09:48AM

11          A       BECAUSE THERE WERE NO CLIENTS TO SERVE. THERE  
12 WAS NO REAL INVESTING TO BE DONE, AS I UNDERSTAND IT.

13          Q       DID THAT ALSO REINFORCE THE NEED TO GET THE  
14 PROJECT DONE MORE QUICKLY?

15          A       IT DID.

09:48AM

16          Q       NOW, DID YOU -- WE CAN TAKE THAT DOWN. THANK  
17 YOU.

18                   DID YOU PARTICIPATE IN ANY FACE-TO-FACE  
19 MEETINGS WITH ANYBODY FROM DOUBLELINE, AS PART OF THIS  
20 PROJECT?

09:49AM

21          A       I DID.

22          Q       WHEN WAS THE FIRST SUCH MEETING?

23          A       ON WEDNESDAY OF THAT FIRST WEEK. SO I THINK  
24 THAT WOULD BE DECEMBER 9TH.

25          Q       SO THAT WOULD BE THE DAY AFTER YOUR INTERNAL  
26 MEETING ON DECEMBER 8TH?

09:49AM

27          A       EXACTLY.

28          Q       DO YOU RECALL WHO ATTENDED THAT MEETING?

1           A        I REMEMBER PHIL BARACH.  I BELIEVE CRIS SANTA  
2 ANA.  I BELIEVE DAVID KENNEDY.  AND I -- A RUSSIAN  
3 GENTLEMAN, BUT I CAN'T REMEMBER HIS NAME.  VITALLY --  
4 VITALLY.

5           Q        LEIBERMAN VITALLY?

09:49AM

6           A        YES.  THAT'S CORRECT.

7           Q        OAKTREE PEOPLE THERE?

8           A        YES, THERE WERE.

9           Q        WERE THE SAME PEOPLE AT YOUR INTERNAL MEETING  
10 THE DAY BEFORE?

09:49AM

11          A        YES.

12          Q        WAS MR. GUNDLACH THERE?

13          A        NO.

14          Q        HAVE YOU EVER MET MR. GUNDLACH?

15          A        NO.

09:49AM

16          Q        WHO DID MOST OF THE TALKING DURING THIS  
17 MEETING ON THE 9TH?

18          A        MR. BARACH.

19          Q        AND WITHOUT GETTING INTO THE SUBSTANCE OF WHAT  
20 WAS SAID, WHAT WAS THE GENERAL TOPIC OF THE MEETING?

09:50AM

21          A        HE SPOKE ABOUT THEIR INVESTMENT PHILOSOPHY.

22          Q        AND DID YOU FIND THAT STATEMENTS ABOUT THE  
23 INVESTMENT PHILOSOPHY HELPFUL OR NOT HELPFUL TO YOU, IN  
24 THINKING ABOUT HOW TO SET UP DOUBLE LINE AS A BUSINESS?

25          A        THEY WERE NOT HELPFUL.

09:50AM

26          Q        WHY IS THAT?

27          A        BECAUSE THERE ARE -- FROM THE PREVIOUS  
28 EXHIBIT, THERE'S A WHOLE SERIES OF ACTIVITIES THAT NEED



1 TO TAKE PLACE THAT ARE NOT AT ALL INVESTMENT RELATED,  
2 IN ORDER TO GET THE BUSINESS UP AND RUNNING, IN ORDER  
3 TO GET THE SYSTEMS UP AND RUNNING.

4 THE FACILITIES UP AND RUNNING. THE  
5 PEOPLE IN PLACE. THE OPERATIONS IN PLACE.

09:50AM

6 WHICH REALLY WASN'T RELEVANT. THE  
7 DISCUSSION WASN'T RELEVANT TO ANY OF THOSE SUBJECTS.

8 Q DID ANYONE FROM DOUBLELINE SAY ANYTHING DURING  
9 THIS MEETING THAT INDICATED THAT THEY WERE CLOSE TO  
10 BEING READY TO OPEN FOR BUSINESS?

09:51AM

11 A NO. I DIDN'T HEAR ANYTHING OR SEE ANYTHING  
12 THAT WOULD INDICATE THERE WAS ANY PLANS PREPARED TO DO  
13 THE ACTIVITIES TO BE OPERATIONALLY READY.

14 Q DID ANYONE FROM DOUBLELINE TALK ABOUT WHAT  
15 ANALYTICS SYSTEM THEY WANTED TO USE?

09:51AM

16 A NO, THEY DIDN'T.

17 Q DID ANYONE TALK ABOUT WHAT TRADING SYSTEM THEY  
18 WANTED TO USE?

19 A NO.

20 Q DID ANYONE FROM DOUBLELINE TALK ABOUT WHAT  
21 SYSTEM THEY WANTED TO USE TO KEEP TRACK OF CLIENT  
22 HOLDING?

09:51AM

23 A NO.

24 Q DID ANYONE FROM DOUBLELINE TALK ABOUT WHAT  
25 SYSTEMS THEY WANTED TO USE TO TRACK COMPLIANCE WITH  
26 CLIENT INVESTMENT GUIDELINES?

09:51AM

27 A NO.

28 Q DID ANYONE TALK ABOUT ANY DATA OR SYSTEMS FROM

1 TCW THAT THEY WANTED TO USE?

2 A NO.

3 Q AND BASED ON THE MEETING, WHAT DID YOU THINK  
4 ABOUT HOW MUCH OR HOW LITTLE WORK YOUR TEAM HAD TO DO  
5 TO HELP GET DOUBLELINE OPERATIONAL?

09:51AM

6 A WE HAD A LOT OF WORK TO DO.

7 Q NOW, AS PART OF THE DOUBLELINE START UP  
8 PROJECT, DID YOU ASSESS DOUBLELINE'S PROPOSED  
9 ORGANIZATIONAL STRUCTURE?

10 A YES, WE DID.

09:52AM

11 Q AND I USED ORGANIZATIONAL STRUCTURE.

12 CAN YOU JUST DESCRIBE FOR US, WHEN WE  
13 SAY ORGANIZATIONAL STRUCTURE, WHAT WE ARE TALKING  
14 ABOUT?

15 A WHAT I'M TALKING ABOUT IS WHICH PEOPLE REPORT  
16 TO WHICH PEOPLE, WHICH FUNCTIONS THEY'RE RESPONSIBLE  
17 FOR.

09:52AM

18 AND THEN WITHIN THOSE FUNCTIONS, WHAT  
19 ARE THE ACTIVITIES THAT THOSE FUNCTIONS ARE ACCOUNTABLE  
20 FOR.

09:52AM

21 Q AND YOU SAID THAT YOU DID AN ASSESSMENT, AS A  
22 PART OF YOUR OVERSIGHT OF THIS PROJECT, OR YOUR TEAM  
23 DID, OF THAT ORGANIZATIONAL STRUCTURE?

24 A DOUBLELINE PROVIDED A VERY HIGH LEVEL  
25 ORGANIZATIONAL STRUCTURE.

09:52AM

26 BUT AT THE TIME, IT HAD NO CLARITY ABOUT  
27 THE BRIGHT LINES BETWEEN GROUPS AND WHAT ACTIVITIES  
28 WOULD HAPPEN WITHIN EACH GROUP.

1                   SO WE ASSISTED THEM IN THAT PROCESS OF  
2 BRINGING THAT TO CLARITY.

3           Q       WHY DID YOU NEED TO DO THAT?

4           A       BECAUSE EVERYONE NEEDED TO KNOW WHAT THEY'RE  
5 GOING TO DO, IN ORDER TO HAVE AN OPERATIONALLY READY  
6 COMPANY. EACH OF THE DETAILED FUNCTIONS NEEDS TO TAKE  
7 PLACE, AND SOMEONE NEEDS TO BE ACCOUNTABLE AND  
8 RESPONSIBLE FOR IT.

09:53AM

9           Q       TAKE A LOOK AT EXHIBIT 5708. 5708.

10          A       YES.

09:53AM

11          Q       DO YOU HAVE THAT BEFORE YOU, SIR?

12          A       I DO.

13          Q       CAN YOU IDENTIFY EXHIBIT 5708 FOR US?

14          A       WELL, THERE'S A COUPLE OF PIECES OF  
15 INFORMATION HERE.

09:53AM

16                   AND I'LL GO ACTUALLY TO THE SECOND  
17 PAGE -- NO.

18          Q       LET ME STOP YOU, SIR.

19                   WHAT IS THIS DOCUMENT?

20          A       THIS IS HOW WE HELPED THEM DEVELOP THEIR  
21 ORGANIZATION, EACH TOOL.

09:53AM

22          Q       WAS THIS PREPARED AT YOUR DIRECTION, AS PART  
23 OF THIS PROJECT?

24          A       PART OF IT, YES.

25                   MR. WEINGART: YOUR HONOR, I WOULD OFFER 5708?

09:54AM

26                   THE COURT: ANY OBJECTION?

27                   MR. MADISON: NO OBJECTION.

28                   THE COURT: IT WILL BE ADMITTED.

1 (EXHIBIT 5708 ADMITTED.)+

2

3 BY MR. WEINGART:

4 Q IF WE COULD PUT THAT UP. IF WE COULD BLOW UP  
5 JUST THE TOP OF THE FIRST PAGE THERE.

09:54AM

6 WHAT WAS THIS DOCUMENT DESIGNED TO  
7 ACCOMPLISH?

8 A THIS FIRST PAGE OUTLINED HOW WE WERE GOING TO  
9 ACHIEVE BUILDING OUT THAT ORGANIZATIONAL STRUCTURE.

09:54AM

10 IT INCLUDED THE OBJECTIVES, AND  
11 IDENTIFIED THE DOUBLELINE REPRESENTATIVES AND THE  
12 OAKTREE REPRESENTATIVES, WE CALL THEM PAIRING MEETINGS,  
13 THAT WOULD MEET TO TALK ABOUT EACH OF THE DETAILED  
14 FUNCTIONS THAT OAKTREE KNEW NEEDED TO BE IN PLACE.

15 SO THAT DOUBLELINE COULD DECIDE WHERE  
16 WITHIN THEIR ORGANIZATION THOSE FUNCTIONS WOULD RESIDE.

09:54AM

17 Q BY PAIRING, THAT WOULD MEAN, WHO WOULD BE  
18 RESPONSIBLE AT DOUBLELINE FOR IT, AND WHO AT OAKTREE  
19 WOULD HELP WITH THAT FUNCTION?

20 A EXACTLY.

09:55AM

21 Q COULD WE GO TO THE SECOND PAGE?

22 WHAT IS THE SECOND PAGE OF EXHIBIT 5708?

23 A THIS WAS THE ORGANIZATIONAL STRUCTURE  
24 DOUBLELINE PROPOSED, THAT I MENTIONED EARLIER AT A --  
25 IT WAS A VERY HIGH LEVEL, AND DIDN'T PROVIDE CLARITY,  
26 WHAT ACTIVITIES WOULD OCCUR WITHIN THESE FUNCTIONS.

09:55AM

27 Q WHERE IS THIS, IN TERMS OF THE DOUBLELINE  
28 STARTUP PROJECT? IS THIS EARLY ON, LATER ON? WHERE

1 ARE WE?

2 MR. MADISON: OBJECTION. VAGUE. FOUNDATION.

3 THE COURT: SUSTAINED.

4 YOU CAN CLARIFY THAT.

5 THIS WAS -- CLARIFY THE SOURCE OF THIS.

09:55AM

6 BY MR. WEINGART:

7 Q WHERE DID THIS -- WHERE DID THIS PARTICULAR  
8 PAGE COME FROM, SIR?

9 A THIS PAGE CAME FROM DOUBLELINE. I MEAN --  
10 YES, FROM DOUBLELINE. EXCUSE ME.

09:56AM

11 Q AND DO YOU REMEMBER TIMEWISE, IN TERMS OF THE  
12 DOUBLELINE STARTUP PROJECT, APPROXIMATELY WHEN YOU  
13 WOULD HAVE RECEIVED THIS EARLY DRAFT?

14 A WITHIN THE FIRST FEW WEEKS.

15 Q WHAT DID YOU THEN DO, LOOKING AT THIS  
16 ORGANIZATIONAL STRUCTURE, IN YOUR REVIEW AND ANALYSIS  
17 OF IT?

09:56AM

18 A WE THEN DESIGNED THE APPROACH THAT WAS ON THE  
19 PREVIOUS PAGE TO HAVE PAIRING MEETINGS.

20 AND WE SUBSEQUENTLY BEGAN EXECUTING  
21 THOSE PAIRING MEETINGS, TO HELP DOUBLELINE IDENTIFY  
22 WHICH ACTIVITIES WOULD OCCUR WITHIN EACH FUNCTIONAL  
23 AREA.

09:56AM

24 Q SO IF WE GO TO MAYBE GIVE AN EXAMPLE.

25 CAN WE GO TO PAGE 5 OF EXHIBIT 5708.

09:56AM

26 THIS TALKS ABOUT MARKETING AND  
27 COMMUNICATION IN INVESTOR RELATIONS.

28 WHAT DOES THIS REPRESENT?

1           A       THIS IS THE TOOL THAT WE USED TO DEVELOP AND  
2 PLACE EACH OF THOSE FUNCTIONS WITHIN THE ORGANIZATION.

3                   YOU CAN SEE AT THE TOP, DOUBLELINE HAD  
4 IDENTIFIED THAT LOU LUCIDO AND BARBARA VAN EVERY WOULD  
5 RUN THIS FUNCTION; BUT THE DETAILS OF WHAT THEY WOULD  
6 ACTUALLY DO WAS NOT IDENTIFIED.

09:57AM

7                   SO OAKTREE PROVIDED THE CONTENT OF WHAT  
8 HAPPENS IN MARKETING AND VARIOUS FUNCTIONS, TO BEGIN TO  
9 FILL IN HOW THEY WOULD STRUCTURE THEIR ORGANIZATION.

10                   YOU CAN LOOK BELOW, WHERE YOU SEE  
11 MARKETING SALES, CLIENT RELATIONSHIP, SALES  
12 RELATIONSHIP, THAT BEGINS TO DETAIL OUT WHAT TYPES OF  
13 THINGS THAT NEED TO TAKE PLACE IN THAT ORGANIZATION.

09:57AM

14                   AND BRING CLARITY TO WHAT KIND OF PERSON  
15 WOULD NEED TO BE RECRUITED AND PUT IN THE POSITION OF  
16 MARKETING.

09:57AM

17           Q       I TAKE IT FOR OTHER FUNCTIONS -- WE WON'T GO  
18 THROUGH ALL OF THEM -- THERE ARE SIMILAR ANALYSES?

19           A       THERE WERE.

20           Q       COULD WE TURN TO PAGE 9 OF THE EXHIBIT.

09:57AM

21                   THIS SAYS, ADDITIONAL FUNCTIONS DEFINED  
22 BY OAKTREE, NOT CAPTURED WITHIN D.L.'S PROPOSED  
23 ORGANIZED STRUCTURE. O.R.G.

24                   THE DATE OF THIS IS DECEMBER 15TH, 2009;  
25 IS THAT CORRECT?

09:58AM

26           A       YES.

27           Q       WHAT DOES THIS PAGE REPRESENT?

28           A       WE HAD AN INVENTORY OF ALL THE ACTIVITIES THAT

1 NEEDED TO TAKE PLACE WITHIN THE, YOU KNOW, OPERATING  
2 INFRASTRUCTURE OF THE COMPANY.

3 AS OF DECEMBER 15TH, THIS SET OF  
4 ACTIVITIES HAD NOT YET FOUND A HOME ON DOUBLELINE'S  
5 ORGANIZATIONAL CHARTS. SO IT WAS AN ITERATIVE PROCESS  
6 OF MEETINGS, TO FIND THE SPOT FOR EACH FUNCTION THAT  
7 NEEDED TO TAKE PLACE.

09:58AM

8 Q SO, WE'VE GOT, THERE'S VARIOUS TRADING AND  
9 TRADE SETTLEMENT FUNCTIONS. THAT'S THE FIRST COLUMN?

09:58AM

10 A YES, IT IS.

11 Q AND AS OF THE 15TH, DOUBLELINE HAD NOT YET  
12 FIGURED OUT WHERE THOSE FUNCTIONS WOULD BE IN THEIR  
13 ORGANIZATION?

14 A NO.

15 Q I'M SORRY. IS THAT CORRECT OR NOT CORRECT?

09:59AM

16 A THAT'S CORRECT, THEY HAD NOT. THEY HAD NOT.

17 Q IF WE GO -- THERE'S ALSO A COLUMN, TRADE  
18 PROCESSING.

19 THAT WOULD BE THE SAME?

20 A YES. ANYTHING ON THIS PAGE.

09:59AM

21 Q AND THEN THERE'S ALSO A COLUMN: DATA  
22 MANAGEMENT. RIGHT?

23 A YES.

24 Q NOW, YOU CAN TAKE THAT DOWN.

25 I WANT TO GO BACK NOW TO THE  
26 DECEMBER 9TH MEETING WITH MR. BARACH THAT WE WERE  
27 DISCUSSING.

09:59AM

28 A YES.

1 Q AFTER THAT MEETING, WHAT DID YOU AND YOUR TEAM  
2 DO NEXT?

3 A WE SCHEDULED A SERIES OF MEETINGS FOR THE NEXT  
4 DAY BETWEEN DOUBLELINE AND OAKTREE INDIVIDUALS, AND  
5 THEIR AREA OF EXPERTISE, TO START TO DEVELOP WHAT WOULD  
6 BE REQUIRED TO MAKE DOUBLELINE OPERATIONALLY READY.

10:00AM

7 Q DID THE WORK THAT NEEDED TO BE DONE FALL INTO  
8 VARIOUS CATEGORIES?

9 A IT DID.

10 Q AND HAVE YOU HELPED PREPARE A CHART THAT HELPS  
11 TO EXPLAIN THOSE CATEGORIES?

10:00AM

12 A YES.

13 MR. WEINGART: YOUR HONOR, IF WE COULD PUT UP  
14 EXHIBIT 6169. THIS IS JUST A DEMONSTRATIVE.

15 I UNDERSTAND THERE'S NO OBJECTION.

10:00AM

16 THE COURT: IT'S BEEN MARKED FOR  
17 IDENTIFICATION.

18 AND WE HAVE NO OBJECTION TO PUBLISHING  
19 IT TO THE JURY.

20 MR. MADISON: THIS IS A DEMONSTRATIVE ONLY.  
21 WE DISCUSSED THIS THIS MORNING, YOUR HONOR.

10:00AM

22 THE COURT: YES. YOU MAY PUT IT UP.  
23 BY MR. WEINGART:

24 Q SO COULD YOU EXPLAIN TO US WHAT EXHIBIT 6169  
25 REPRESENTS?

10:01AM

26 A THE TOP PORTION OF THE EXHIBIT REPRESENTS  
27 FUNCTIONS AT A VERY HIGH LEVEL THAT EXISTS IN AN  
28 INVESTMENT MANAGEMENT COMPANY.



1                   AND THE BOTTOM SECTION REPRESENTS MORE  
2                   GENERALLY AND ADMINISTRATIVE FUNCTIONS THAT WOULD ALSO  
3                   EXIST.

4                   Q           AND SO THESE WERE THE VARIOUS CATEGORIES THAT  
5                   YOU NEEDED TO ADDRESS, IN TERMS OF THE DOUBLELINE  
6                   STARTUP PROJECT, TO GET THE FIRM OPERATIONAL?

10:01AM

7                   A           YES. ALL OF THESE NEED TO BE IN PLACE, TO BE  
8                   OPERATIONALLY READY.

9                   Q           DID OAKTREE PROVIDE VARYING LEVELS OF  
10                  ASSISTANCE, DEPENDING ON THE PARTICULAR BOX?

10:01AM

11                  A           WE DID.

12                  Q           DID YOU PROVIDE SOME ASSISTANCE WITH REGARD TO  
13                  EACH BOX?

14                  A           WE DID.

15                  Q           SO, SALES -- LET ME JUST -- FIRST OF ALL, LET  
16                  ME ASK, CORE INVESTMENT FUNCTIONS. I THINK YOU SAID  
17                  THOSE ARE FOR WHAT AN INVESTMENT MANAGER NEEDS TO HAVE  
18                  FOR THE INVESTMENT RELATED FUNCTIONS?

10:02AM

19                  A           CORRECT.

20                  Q           AND THEN THE ADMINISTRATIVE FUNCTIONS WOULD BE  
21                  THINGS THAT AN INVESTMENT MANAGER OF MOST OTHER  
22                  BUSINESSES WOULD NEED, RIGHT?

10:02AM

23                  A           EXACTLY.

24                  Q           SO LET'S TALK FIRST ABOUT MAYBE THE  
25                  ADMINISTRATIVE FUNCTIONS, AND THEN WE CAN COME TO THE  
26                  CORE INVESTMENT FUNCTIONS.

10:02AM

27                               HUMAN RESOURCES IS WHAT?

28                  A           HOW THEY MANAGE PEOPLE.

1 Q AND WHAT ASSISTANCE DID OAKTREE PROVIDE WITH  
2 REGARD TO THAT FUNCTION?

3 A WE PROVIDED A SIGNIFICANT AMOUNT OF  
4 ASSISTANCE. WE SUPPORTED FILINGS AND H1 VISAS. WE DID  
5 THEIR PAYROLL, AND WE DID ORGANIZATIONAL -- DEVELOPED  
6 WHAT WAS OUTLINED. AND WE I THINK HELPED THEM RECRUIT  
7 SOMEONE FOR HR.

10:02AM

8 WE BASICALLY WERE OPERATING IN THAT  
9 FUNCTION FOR THEM FOR THE FIRST FEW WEEKS.

10 RECRUITING WAS ANOTHER AREA WE SUPPORTED  
11 THEM IN.

10:03AM

12 Q INFORMATION TECHNOLOGY, THAT WOULD BE SYSTEMS,  
13 COMPUTERS AND THE LIKE?

14 MR. MADISON: OBJECTION. LEADING.

15 THE COURT: SUSTAINED.

10:03AM

16 BY MR. WEINGART:

17 Q WHAT DOES INFORMATION TECHNOLOGY REPRESENT?

18 A COMPUTER SYSTEMS AND COMPUTER APPLICATIONS.  
19 NETWORK. TELEPHONE.

20 Q FACILITIES, WHAT DOES THAT REPRESENT?

10:03AM

21 A SPACE. THE WORK SPACE THAT WAS REQUIRED TO  
22 OPERATE IN.

23 Q WHERE WAS DOUBLELINE AT THE BEGINNING OF THIS  
24 PROJECT? WHERE WAS IT LOCATED?

25 A AT THE VERY BEGINNING, THEY WERE IN A  
26 CONFERENCE ROOM ON THE 27TH FLOOR OF OUR BUILDING.

10:03AM

27 AND THEN THEY MOVED TO, I BELIEVE IT WAS  
28 THE 19TH -- 18TH AND 19TH FLOOR, SAME BUILDING AS

1 OAKTREE IN LOS ANGELES.

2 Q WAS THERE A POINT OF TIME WHERE THEY HAD SPACE  
3 IN THE U.S. BANK TOWER?

4 A OH, YEAH. YES. AT THE VERY, VERY BEGINNING.  
5 THAT'S TRUE.

10:04AM

6 Q AND THEN THEY WERE WORKING OUT OF CONFERENCE  
7 ROOMS IN YOUR OFFICES?

8 A YES.

9 Q AND YOU SAID THAT THEY MOVED INTO YOUR  
10 BUILDING, OR THE BUILDING THAT OAKTREE WAS IN.

10:04AM

11 WAS THERE A REASON FOR THAT?

12 A YES. IT WAS HELPFUL THAT THEY MOVED INTO THAT  
13 BUILDING, BECAUSE IT ALLOWED US TO SET UP THE  
14 NETWORKING COMPUTER SYSTEM MUCH MORE RAPIDLY, BECAUSE  
15 WE PROVIDED THEIR DATA CENTER WITHIN OUR DATA CENTER.

10:04AM

16 ALLOWED US TO JUST DRILL FROM OUR DATA  
17 CENTER, DOWN SEVERAL FLIGHTS, TO GET THE CABLING IN.

18 THAT ACCELERATED GETTING THE SYSTEMS UP  
19 AND RUNNING.

20 Q WAS THAT SOMETHING THAT WAS DISCUSSED AMONGST  
21 YOU AND THE DOUBLELINE FOLKS, ABOUT HAVING THEM MOVE  
22 INTO THE BUILDING TO EXPEDITE THE PROCESS?

10:04AM

23 A YES. THE TECHNOLOGY FOLKS CLARIFIED IT WAS  
24 IMPORTANT TO THEM TO GET THE BUSINESS UP AND RUNNING  
25 QUICKLY, THEN THEY WOULD NEED TO BE IN OUR BUILDING.

10:05AM

26 Q LEGAL AND COMPLIANCE, WHAT'S THAT REPRESENT?

27 A LEGAL SUPPORT. AND COMPLIANCE SUPPORT.

28 WE DID VERY LITTLE LEGAL SUPPORT.

1 WE DID SOME COMPLIANCE SUPPORT.

2 Q JUST AT A HIGH LEVEL, COMPLIANCE, IN THIS  
3 CONTEXT, MEANS WHAT?

4 A COMPLIANCE CAN MEAN EITHER COMPLIANCE FOR THE  
5 ORGANIZATION; BUT IT ALSO MEANS PRE-TRADE, COMPLIANCE  
6 WITH PRE-TRADE GUIDELINES. CLIENT ESTABLISHED  
7 PRE-TRADE AND POST TRADE COMPLIANCE RELEASE.

10:05AM

8 Q IN OTHER WORDS, YOU'RE ADHERING TO THE  
9 DIRECTION A CLIENT GIVES?

10 A EXACTLY.

10:05AM

11 Q ACCOUNTING AND FINANCE, I -- I ASSUME THAT'S  
12 ACCOUNTING AND FINANCE?

13 A YES, THAT'S -- THAT CAN BE CORPORATE  
14 ACCOUNTING. AND CORPORATE FINANCE.

15 Q SO, LET'S GO UP NOW TO CORE INVESTMENT  
16 FUNCTIONS. SALES AND INVESTOR RELATIONS.

10:06AM

17 WHAT DOES THAT REPRESENT?

18 A THAT WOULD BE THE MARKETING FUNCTION AND THE  
19 CLIENTS SERVICING FUNCTION, THE ON-BOARDING FUNCTIONS  
20 OF CLIENTS.

10:06AM

21 Q WHEN YOU SAY ON-BOARDING, WHAT DOES THAT MEAN?

22 A CLIENTS, WHEN THEY DECIDE THEY'RE GOING TO USE  
23 AN INVESTMENT MANAGEMENT FIRM, THEY NEED TO BE BROUGHT  
24 ONTO THE SYSTEMS, AND ESTABLISHED AS CLIENTS.

25 SO THAT'S WHAT I MEAN WHEN I SAY  
26 ON-BOARDING.

10:06AM

27 Q AND OAKTREE PROVIDED ASSISTANCE WITH REGARD TO  
28 SALES AND INVESTOR RELATIONS?

1           A       NOT -- NOT SUBSTANTIALLY. WE MAY HAVE  
2 DISCUSSED IT AT THE BEGINNING, BUT I DON'T BELIEVE WE  
3 REALLY DID A SUBSTANTIAL AMOUNT OF WORK IN THAT AREA.

4           Q       PRE-TRADE RESEARCH AND ANALYTICS, WHAT DOES  
5 THAT REPRESENT?

10:06AM

6           A       THAT REPRESENTS THE -- PRIOR TO MAKING A  
7 TRADE, PORTFOLIO MANAGERS ANALYZE SECURITIES, MAKE  
8 SECURITY SELECTION DECISIONS, AND DO RESEARCH.

9                       WE PROVIDED ASSISTANCE IN THAT AREA. WE  
10 PROVIDED --

10:07AM

11           MR. MADISON: OBJECTION. GOING BEYOND THE  
12 SCOPE OF THE QUESTION.

13           MR. WEINGART: I'LL ASK THE NEXT QUESTION.

14           Q       WHAT ASSISTANCE DID YOU PROVIDE?

15           A       WE INTRODUCED DOUBLELINE TO RESEARCH VENDORS,  
16 AS WELL AS TECHNOLOGY VENDORS, TO SUPPORT THEM IN THAT  
17 PROCESS.

10:07AM

18           Q       WE'LL TALK A LITTLE BIT MORE ABOUT THAT IN A  
19 BIT.

20                       TRADE PROCESSING, WHAT DOES THAT  
21 REPRESENT?

10:07AM

22           A       ONCE THE INVESTMENT DECISION IS MADE, THE  
23 INVESTMENT IS INPUT INTO A SYSTEM.

24                       AND SEVERAL STEPS NEED TO TAKE PLACE.  
25 THERE'S REVIEWS, COMPLIANCE REVIEWS, YOU KNOW, ENSURING  
26 IT MEETS WITH -- EXCUSE ME, WITH CLIENT GUIDELINES.

10:07AM

27                       AND THEN PROCESSING THE SETTLEMENT OF  
28 THAT SECURITY, AND THEN PUTTING THAT INFORMATION INTO

1 THE ACCOUNTING SYSTEM, SO THAT YOU CAN MAINTAIN AND  
2 ACCOUNT FOR THAT SECURITY, AND REPORT ON IT OVER ITS  
3 LIFE.

4 Q THAT WOULD INCLUDE REPORTING TO CLIENTS?

5 A YES, BUT -- THAT WOULD HAPPEN IN PORTFOLIO AND  
6 INVESTOR ACCOUNTS.

10:08AM

7 Q LET'S TALK ABOUT THAT ONE.

8 LET ME GO BACK, BEFORE WE DO THAT.

9 AGAIN, A HIGH LEVEL, WHAT ASSISTANCE DID  
10 OAKTREE PROVIDE WITH REGARD TO TRADE PROCESSING?

10:08AM

11 A WE WERE VERY ACTIVE IN BOTH SETTING UP THAT  
12 PROCESS, AND BEGINNING STAGES, WE WERE ACTUALLY  
13 OPERATING THAT PROCESS FOR DOUBLELINE.

14 Q PORTFOLIO AND INVESTOR ACCOUNTING, WHAT DOES  
15 THAT REPRESENT?

10:08AM

16 A THAT REPRESENTS THE ADMINISTRATION.

17 SO ONCE THE SECURITY IS PURCHASED, IT  
18 GETS POSTED TO AN ACCOUNTING SYSTEM, WHERE IT WILL LIVE  
19 FOR ITS LIFE, UNTIL IT'S SOLD.

20 YOU NEED TO ACCOUNT FOR ITS VALUE. AND  
21 YOU NEED TO MAKE CHANGES, IF SOMETHING HAPPENS TO THAT  
22 SECURITY, IF THERE'S A CORPORATE ACTION.

10:08AM

23 ALL OF THAT TAKES PLACE IN THAT  
24 FUNCTION.

25 Q I THINK YOU SAID EARLIER, THAT WOULD INCLUDE  
26 ALSO REPORTING TO INVESTORS?

10:08AM

27 A WE HAVE REPORTING ON A SEPARATE --

28 Q I KEEP SKIPPING AHEAD.

1                   WHAT IS REPORTING AND PRICING?

2           A       REPORTING WOULD INVOLVE REPORTING TO CLIENTS,  
3 STATEMENTS.

4                   PRICING IS, AGAIN, PRICING THOSE  
5 SECURITIES THROUGHOUT THEIR LIFE.

10:09AM

6           Q       AND I GUESS, BOTH FOR PURPOSES OF ANALYZING  
7 THE PORTFOLIO AND ALSO REPORTING TO CLIENTS WHAT THE  
8 VALUE OF HOLDINGS ARE?

9           A       YES.

10          Q       YOU CAN TAKE THAT DOWN.

10:09AM

11                   HOW MANY PEOPLE FROM OAKTREE WORKED ON  
12 THIS PROJECT?

13          A       THERE WERE AT LEAST 57.

14          Q       DO THOSE PEOPLE FALL ROUGHLY INTO CERTAIN  
15 CATEGORIES?

10:09AM

16          A       THEY DO.

17          Q       DID YOU HELP PREPARE A SUMMARY THAT EXPLAINED  
18 THOSE CATEGORIES?

19          A       I DID.

20                   MR. WEINGART: YOUR HONOR, IF I COULD DISPLAY  
21 6170.

10:09AM

22                   AGAIN, THIS IS JUST FOR DEMONSTRATIVE  
23 PURPOSES.

24                   THE COURT: IT WILL BE MARKED FOR  
25 IDENTIFICATION ONLY, AND BE SHOWN TO THE JURY AS A  
26 DEMONSTRATIVE EXHIBIT AT THIS POINT OF THIS WITNESS'S  
27 TESTIMONY.

10:10AM

28                   (EXHIBIT 6170 MARKED FOR I.D.) +

1 MR. WEINGART: CAN WE DISPLAY THAT?

2 Q CAN YOU EXPLAIN TO US WHAT EXHIBIT 6170 IS?

3 A THIS REPRESENTS THE INDIVIDUALS AND THE  
4 DEPARTMENTS THEY CAME FROM THAT WORKED ON THE PROJECT  
5 ON THE LEFT SIDE OF THE CHART.

10:10AM

6 I MENTIONED EARLIER, IT TAKES A LOT  
7 DIFFERENT FUNCTIONS TO SET UP AN INVESTMENT COMPANY.

8 THAT'S A LIST OF THE DEPARTMENTS THAT  
9 WERE INVOLVED IN SETTING UP DOUBLELINE.

10 Q NOW, THERE'S ALSO A COLUMN: TOTAL YEARS OF  
11 EXPERIENCE.

10:10AM

12 WHAT DOES THAT REPRESENT?

13 A WELL, THE TOTAL YEARS OF EXPERIENCE REPRESENTS  
14 THE CUMULATIVE YEARS OF EXPERIENCE THAT THE -- IS  
15 REPRESENTED BY THE HEAD COUNT IN THE PREVIOUS COLUMN.

10:10AM

16 SO THAT, FOR EXAMPLE, IN THE ACCOUNTS  
17 PAYABLE, WE HAD ONE INDIVIDUAL SUPPORTING WORKING ON  
18 THE INITIATIVE, AND SHE HAD 13 YEARS OF EXPERIENCE FOR  
19 INFORMATION TECHNOLOGY --

20 Q IN ACCOUNTS PAYABLE?

10:11AM

21 A YEAH, IN ACCOUNTS PAYABLE.

22 IN INFORMATION TECHNOLOGY, WE HAD 14  
23 INDIVIDUALS WORKING ON THE PROJECT. THEIR CUMULATIVE  
24 YEARS OF EXPERIENCE IN INFORMATION TECHNOLOGY WAS 239  
25 YEARS.

10:11AM

26 Q LET ME PAUSE ON INFORMATION TECHNOLOGY THERE.

27 WAS THERE SOMEBODY WHO LED THAT  
28 PARTICULAR EFFORT?



1           A       YES.  OUR CHIEF INFORMATION OFFICER, BOB  
2 FRANK.

3           Q       WHERE DID MR. FRANK WORK BEFORE HE CAME TO  
4 OAKTREE?

5           A       HE WORKED AT COUNTRYWIDE CAPITAL MARKETS. 10:11AM

6           Q       WHAT IS COUNTRYWIDE CAPITAL MARKETS -- OR WHAT  
7 WAS IT?

8           A       IT WAS A DIVISION OF COUNTRYWIDE THAT WAS  
9 INVOLVED IN MORTGAGE-BACKED SECURITIES.

10          Q       TRADING MORTGAGE-BACKED SECURITIES? 10:11AM

11          A       YES, I BELIEVE SO.

12          Q       THERE WERE 13 OTHER PEOPLE THAT WERE WORKING  
13 WITH HIM?

14          A       YES, THERE WERE.

15          Q       NOW, THERE IS, GOING DOWN A LITTLE BIT,  
16 PROJECT MANAGEMENT. 10:11AM

17                   I ASSUME ONE OF THOSE EIGHT IS YOU?

18          A       I DON'T THINK SO.

19                   I'M NOT SURE THAT I WAS -- I'M -- I'M  
20 NOT SURE I WAS ON THAT CHART, TO BE HONEST WITH YOU. 10:12AM

21          Q       WE MIGHT HAVE 58?

22          A       WE MIGHT HAVE 58.

23                   BUT I DON'T -- I WAS NOT ON THE PROJECT  
24 MANAGEMENT, BECAUSE I KNOW WE HAD EIGHT PROJECT  
25 MANAGERS. 10:12AM

26                   WE PULLED MOST OF THE PROJECT MANAGERS  
27 OFF OF THEIR PROJECTS AND PUT THEM ON THE DOUBLELINE  
28 PROJECT FULL TIME.

1 Q PROJECT MANAGEMENT, WHAT WERE THOSE EIGHT  
2 PEOPLE DOING?

3 A THEY DID THE -- THEY WORKED FULL TIME ON THE  
4 INITIATIVE TO COORDINATE ALL OF THE OTHER EXPERTS, IN  
5 TERMS OF WHAT ACTIVITIES AND DELIVERABLES WERE  
6 NECESSARY IN ORDER TO GET DOUBLELINE OPERATIONALLY  
7 READY.

10:12AM

8 SO THEY WOULD DEVELOP PROJECT PLANS THAT  
9 HAD A SERIES OF TASKS. THEY WOULD MONITOR ALL THOSE  
10 TASKS GOT COMPLETED. IF THERE WERE ISSUES, THEY WOULD  
11 REPORT ON ISSUES.

10:12AM

12 THEY WOULD DEVELOP STATUS REPORTS. THEY  
13 WOULD FACILITATE CROSS-FUNCTIONAL MEETINGS BETWEEN TEAM  
14 MEMBERS, IN ORDER TO ORCHESTRATE AND ORGANIZE WHAT  
15 NEEDED TO BE DONE.

10:13AM

16 BECAUSE ALL THESE DEPARTMENTS NEEDED TO  
17 WORK TOGETHER TO ACCOMPLISH THE END RESULTS.

18 Q THEIR JOB WAS TO MAKE SURE EVERYBODY WAS  
19 ROWING IN THE SAME DIRECTION?

20 A EXACTLY.

10:13AM

21 Q AND WAS GOING TO REACH THE FINISH LINE IN  
22 TIME?

23 A CORRECT.

24 Q HOW MANY PROJECT MANAGERS DOES OAKTREE HAVE?

25 A I WOULD SAY AT THAT TIME, MAYBE TEN OR 12.

10:13AM

26 Q SO THIS IS EIGHT OUT OF THAT TEN OR 12?

27 A YES, IT IS.

28 Q AND DID THOSE EIGHT THAT ARE LISTED HERE, DID

1 THEY CONTINUE TO HAVE OTHER PROJECTS THAT THEY WERE  
2 WORKING ON DURING THIS FIRST MONTH OR SO OF THE  
3 DOUBLELINE STARTUP PROJECT?

4 A NO, NOT DURING THE DURATION OF THE PROJECT  
5 WITH DOUBLELINE.

10:13AM

6 Q WHY WAS THAT?

7 A THEY WERE DEDICATED. WE PULLED THEM OFF OF  
8 THE PROJECTS THEY WERE WORKING ON. WE PAUSED THOSE  
9 PROJECTS, AND PUT THEM ON THE DOUBLELINE PROJECT FULL  
10 TIME.

10:14AM

11 Q WHAT ABOUT ALL THESE OTHER PEOPLE; I ASSUME  
12 THEY HAD OTHER JOB RESPONSIBILITIES?

13 A THEY DID.

14 THERE WERE AT LEAST TWO OTHER FULL-TIME  
15 PEOPLE. ONE WAS IN INFORMATION TECHNOLOGY, AND ONE WAS  
16 IN TRADE PROCESSING AND SETTLEMENT.

10:14AM

17 THE OTHERS WERE ALL WORKING PART TIME,  
18 BUT IT WAS A VERY SIGNIFICANT PORTION OF THEIR OVERALL  
19 TIME.

20 Q WERE THEY GIVEN ANY DIRECTION AS TO THE  
21 PRIORITY OF THE DOUBLELINE STARTUP PROJECT VERSUS THEIR  
22 OTHER WORK?

10:14AM

23 A YES. IT WAS CLEARLY THE NO. 1 PRIORITY OF THE  
24 FIRM AT THAT TIME, NO. 1 PRIORITY OF THE BACK OFFICE OF  
25 THE FIRM.

10:14AM

26 Q TO GET DOUBLELINE UP AND RUNNING?

27 A YES.

28 Q HAD OAKTREE EVER TAKEN EIGHT PROJECT MANAGERS,

1 PUT THEM ON ONE PROJECT LIKE THIS?

2 A NO, NOT BEFORE OR SINCE.

3 Q YOU SAID THEY WERE TAKEN OFF TO DO THAT FOR  
4 ABOUT A MONTH.

5 DID I HAVE THAT RIGHT?

10:15AM

6 A YES, ABOUT APPROXIMATELY A MONTH.

7 Q AND WAS THE WORK ALL COMPLETE IN A MONTH?

8 A NO.

9 Q SO WHO TOOK OVER THE PROJECT MANAGEMENT AT  
10 THAT POINT?

10:15AM

11 A WE WERE BEGINNING, AROUND JANUARY 11TH, OR  
12 THAT NEXT WEEK, TO TRANSITION THE PROJECT MANAGEMENT  
13 RESPONSIBILITIES TO KPMG.

14 Q WHY DID YOU DO THAT?

15 A WE KNEW THAT WE WANTED -- WE DIDN'T WANT TO  
16 STOP ALL OUR PROJECTS FOR THE DURATION TO GET  
17 EVERYTHING FINISHED FOR DOUBLELINE.

10:15AM

18 SO WE HAD AGREED WITH THEM IN ADVANCE,  
19 THAT WE WOULD TRANSITION THAT WORK, SO WE COULD GET OUR  
20 PROJECT MANAGERS BACK TO OUR INITIATIVES AT OAKTREE.

10:15AM

21 THE COURT: OKAY.

22 MR. DEITCH, MR. WEINGART, LET'S TAKE OUR  
23 FIRST MORNING RECESS.

24 WE'LL TAKE 20 MINUTES, LADIES AND  
25 GENTLEMEN.

10:16AM

26  
27 ///

28 ///

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

2

3 THE COURT: WE'RE OUT OF THE PRESENCE.

4 ANY MATTERS ANYBODY WISHES TO ADDRESS?

5 MR. QUINN: NO.

10:16AM

6 THE COURT: ALL RIGHT.

7

8 (RECESS.)

9

10

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12

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28

1 CASE NUMBER: BC429385  
2 CASE NAME: TRUST COMPANY OF THE WEST VS.  
3 JEFFREY GUNDLACH, ET AL  
4 LOS ANGELES, WEDNESDAY, AUGUST 31, 2011  
5 CALIFORNIA  
6 DEPARTMENT 322 HON. CARL J. WEST, JUDGE  
7 APPEARANCES: (AS HERETOFORE NOTED.)  
8 REPORTER: WENDY OILLATAGUERRE, CSR #10978  
9 TIME: 10:38 A.M.

10  
11  
12 (AT 10:38 A.M. THE JURY ENTERED  
13 THE COURTROOM, AND THE FOLLOWING  
14 PROCEEDINGS WERE HELD:)

15  
16 THE COURT: OKAY. IN THE TCW MATTER, ALL  
17 MEMBERS OF OUR JURY ARE PRESENT, AS ARE COUNSEL.

18 MR. WEINGART, YOU MAY CONTINUE YOUR  
19 EXAMINATION OF MR. DEITCH.

20 MR. WEINGART: THANK YOU, YOUR HONOR.

21  
22  
23 DIRECT EXAMINATION (RESUMED)

24  
25 BY MR. WEINGART:

26 Q. I THINK WHEN WE BROKE, WE WERE TALKING ABOUT  
27 THE PROJECT MANAGEMENT BEING TRANSFERRED TO KPMG?

28 A. CORRECT.

10:39AM

10:40AM

1 Q. AND HOW DID THAT COME ABOUT?

2 A. WE DEVELOPED A REQUEST FOR A PROPOSAL EARLY ON  
3 IN THE PROJECT, AND SUBMITTED THAT TO SEVERAL FIRMS,  
4 AND THEN SELECTED KPMG TO PERFORM THAT WORK.

5 Q. SO I TAKE IT THERE WAS STILL WORK TO BE DONE,  
6 AS OF EARLY JANUARY, IN TERMS OF THE STARTUP PROJECT?

10:40AM

7 A. YES. THE JANUARY 11TH DATE WAS DESIGNED TO BE  
8 OPERATIONALLY READY TO BE ABLE TO ON-BOARD CLIENTS,  
9 TRADE SECURITIES, ACCOUNT FOR THOSE SECURITIES.

10 IT WAS NOT NECESSARILY THE FINAL STATE  
11 OF WHERE DOUBLELINE WOULD END UP, OPERATIONALLY.

10:40AM

12 Q. BUT ENOUGH TO BE READY TO START, WITH MORE  
13 STILL TO DO?

14 A. YES.

15 Q. NOW, IN ADDITION TO THESE, I GUESS, 58 PEOPLE,  
16 IF WE INCLUDE YOURSELF, WERE THERE OTHERS WHO HELPED  
17 WITH THE DOUBLELINE STARTUP PROJECT?

10:41AM

18 A. YES. WE UTILIZED VENDORS.

19 Q. AND I TAKE IT THERE WERE ALSO SOME PEOPLE FROM  
20 DOUBLELINE WHO HELPED, AS WELL?

10:41AM

21 A. YES, THERE WERE.

22 Q. NOW, WITH REGARD TO VENDORS, WHAT'S YOUR --  
23 WHEN YOU SAY VENDOR, WHAT DO YOU MEAN?

24 A. THERE WOULD BE SOFTWARE VENDORS, FACILITIES  
25 VENDORS, ACCOUNTING ORGANIZATIONS THAT CAN PERFORM THE  
26 FUND ACCOUNTING AND PORTFOLIO ACCOUNTING ACTIVITIES.

10:41AM

27 THERE'S A WHOLE RANGE OF VENDORS THAT  
28 ARE USED IN THE BUSINESS, TO EXECUTE AND TO IMPLEMENT.

1 Q. SO PEOPLE WHO PROVIDE GOODS AND SERVICES?

2 A. EXACTLY.

3 Q. AND ABOUT HOW MANY VENDORS CONTRIBUTED TO THE  
4 DOUBLELINE STARTUP PROJECT?

5 A. I WOULD SAY ABOUT 50.

10:42AM

6 Q. AND WAS THERE A -- AT LEAST ONE PERSON FROM  
7 EACH OF THOSE VENDORS WHO WAS HELPING?

8 A. YEAH. THERE HAD TO BE A MINIMUM OF ONE, AND  
9 FOR SOME, MORE.

10 Q. AND FOR OTHERS?

10:42AM

11 A. AND FOR OTHERS, THERE WOULD BE MORE THAN --

12 THE COURT: SIR, COULD YOU MOVE THE MICROPHONE  
13 UP SO EVERYBODY CAN HEAR YOU.

14 THE WITNESS: RIGHT.

15 Q. MR. WEINGART: THANK YOU. ACTUALLY, I HAD A  
16 HARD TIME HEARING YOU, TOO.

10:42AM

17 A. FOR EACH VENDOR, THERE WAS A MINIMUM OF ONE  
18 PERSON; AND FOR SOME VENDORS, THERE WOULD HAVE BEEN  
19 MORE THAN ONE PERSON SUPPORTING THE INITIATIVE.

20 Q. SO THAT TAKES US, THEN, UP TO OVER A HUNDRED  
21 PEOPLE THAT WERE HELPING TO HELP GET THE BUSINESS UP  
22 AND RUNNING?

10:42AM

23 A. CORRECT.

24 Q. NOW, STICKING WITH VENDORS, GIVEN THAT OAKTREE  
25 HAS ABOUT 80 BILLION IN ASSETS UNDER MANAGEMENT, DOES  
26 IT ALREADY HAVE RELATIONSHIPS WITH VENDORS WHO SUPPLY  
27 SYSTEMS AND DATA FOR INVESTMENT MANAGERS?

10:43AM

28 A. YES. WE HAVE RELATIONSHIPS -- AND FOR MANY OF



1 THOSE VENDORS, WE ACTUALLY HAVE A INDIVIDUAL  
2 RELATIONSHIP MANAGER THAT WE WORK WITH, BECAUSE OF OUR  
3 SCALE, OUR SIZE.

4 Q. AND I ASSUME YOU HAD THOSE RELATIONSHIPS, IN  
5 DECEMBER OF 2009?

10:43AM

6 A. WE DID.

7 Q. AND DID THOSE RELATIONSHIPS WITH THE VENDORS  
8 HELP WITH REGARD TO THE DOUBLELINE STARTUP PROJECT?

9 A. ABSOLUTELY.

10 THE VENDOR FOR --

10:43AM

11 Q. CAN YOU EXPLAIN TO US WHY.

12 A. THE VENDORS WERE RESPONDING TO -- WELL, WE'RE  
13 80 BILLION NOW, WE WERE 65 BILLION, I BELIEVE, AT THAT  
14 TIME.

15 AND THEY WERE RESPONDING TO A  
16 65-BILLION-DOLLAR FIRM, NOT A START UP COMPANY; ONE  
17 THAT THEY HAD BOTH RELATIONSHIPS WITH AND SIGNIFICANT  
18 REVENUES FROM.

10:43AM

19 SO THEIR RESPONSIVENESS WOULD BE VERY  
20 DIFFERENT FOR A STARTUP ORGANIZATION THAN FOR OAKTREE.

10:43AM

21 Q. DID THAT HELP EXPEDITE CONTRACTING WITH THE  
22 VENDORS?

23 A. YEAH, WHAT HELPED EXPEDITE CONTRACTING IS THAT  
24 WE HAD CONTRACTS WITH THESE VENDORS.

25 AND AS A RESULT, THE INTERACTION WITH  
26 THE VENDOR WAS MORE SIMPLISTIC THAN IT WOULD BE IF WE  
27 WERE A START UP COMPANY. WE COULD REQUEST THAT THE  
28 VENDOR PROVIDE THE SAME TERMS AND PRICING, ET CETERA,

10:44AM

1 FOR DOUBLELINE; AND SO WE EXPEDITED THE CONTRACTING  
2 PROCESS SIGNIFICANTLY BY USING OUR VENDORS.

3 Q. DID THAT AVOID HAVING TO INDIVIDUALLY  
4 NEGOTIATE PRICES WITH THE WHOLE HOST OF VENDORS?

5 A. IN MOST CIRCUMSTANCES, IT ELIMINATED  
6 NEGOTIATING PRICING, AND ALSO MANY LEGAL TERMS THAT ARE  
7 IMBEDDED IN THE CONTRACTS.

10:44AM

8 Q. DID THAT SAVE TIME?

9 A. SIGNIFICANTLY.

10 Q. NOW, HAVE YOU PREPARED A CHART THAT HELPS  
11 EXPLAIN THE VARIOUS VENDORS WHO ASSISTED?

10:44AM

12 A. YES, I HAVE.

13 MR. WEINGART: AND, YOUR HONOR, IF WE COULD  
14 PUT UP 6171.

15 THAT AGAIN IS JUST FOR DEMONSTRATIVE  
16 PURPOSES.

10:45AM

17 THE COURT: IT WILL BE MARKED FOR  
18 IDENTIFICATION ONLY.

19 AND IT MAY BE PUBLISHED TO THE JURY.

10:45AM

21 (MARKED FOR ID: EXHIBIT 6171.)

22

23 Q. BY MR. WEINGART: CAN YOU DESCRIBE FOR US WHAT  
24 6171 IS?

25 A. THIS IS A LIST OF VENDORS THAT WE USED FOR THE  
26 DOUBLELINE IMPLEMENTATION.

10:45AM

27 Q. AND YOU'VE GOT THEM IN FOUR DIFFERENT  
28 CATEGORIES; IS THAT CORRECT?

1           A.     CORRECT.

2           Q.     THE FIRST CATEGORY, TECHNOLOGY, WHAT DOES THAT  
3 REPRESENT?

4           A.     THESE REPRESENT, GENERALLY, SOFTWARE  
5 PROVIDERS -- SYSTEMS PROVIDERS. IN SOME INSTANCES,  
6 THERE ARE ALSO NETWORK AND TELEPHONE PROVIDERS, THAT  
7 WERE USED TO IMPLEMENT THE DOUBLELINE BACK OFFICE.

10:45AM

8           Q.     SO WE'VE HEARD REFERENCE IN THE TRIAL --  
9 THERE'S A BLOOMBERG LISTED AND SOME VARIOUS BLOOMBERG  
10 PRODUCTS.

10:46AM

11                                 JUST GENERALLY SPEAKING, WHAT PURPOSES  
12 WOULD THOSE SERVE?

13           A.     BLOOMBERG IS USED IN SEVERAL INSTANCES. IN  
14 THIS, THE SOFTWARE THEY PROVIDED -- BECAUSE THEY ALSO  
15 PROVIDE TERMINALS WITH THE DATA, WHICH IS IN THE NEXT  
16 COLUMN.

10:46AM

17                                 BUT THE SOFTWARE THAT WE'RE REFERRING TO  
18 IN THE FIRST COLUMN WAS THE TRADE ORDER MANAGEMENT  
19 SYSTEM.

20                                 I EXPLAINED THAT TRADE HAD TO BE  
21 IMPLEMENTED THROUGH THE SYSTEM AND FLOW THROUGH  
22 COMPLIANCE RULES, TO BE APPROVED, AND THEN TRANSMITTED  
23 TO THE ACCOUNTING SYSTEM.

10:46AM

24                                 BLOOMBERG ALSO PROVIDED THE COMPLIANCE  
25 MANAGER. WE SET UP THOSE COMPLIANCE RULES IN  
26 ACCORDANCE WITH THE CLIENT GUIDELINES. AND A GATEWAY  
27 PRODUCT THAT ALLOWED YOU TO EXTRACT INFORMATION OUT OF  
28 THEIR OTHER PRODUCT.

10:46AM

1 Q. WHY WOULD YOU NEED TO EXTRACT THE INFORMATION  
2 OUT OF THEIR PRODUCT?

3 A. MOST INVESTMENT MANAGEMENT FIRMS WILL RETAIN  
4 THE DATA OF THEIR TRADES AND POSITIONS IN HOUSE, SO  
5 THAT THEY CAN DO ANALYTICS WITH THOSE; SO THE GATEWAY  
6 PRODUCT IS A WAY TO GET THAT FOR ANALYTICS.

10:47AM

7 IT'S ALSO A WAY TO GET AT THAT DATA TO  
8 DO RECONCILEMENTS BETWEEN SYSTEMS, TO MAKE SURE THAT  
9 ALL OF YOUR ACCOUNTING IS BALANCED.

10 Q. WHEN YOU SAY RECONCILING BETWEEN SYSTEMS, WHAT  
11 WOULD BE THE SYSTEMS YOU WOULD BE RECONCILING IN  
12 BETWEEN?

10:47AM

13 A. AN EXAMPLE WOULD BE THE NEXT CATEGORY, BANK OF  
14 NEW YORK, MELLON, WHICH DID THE ACCOUNTING FOR THE --  
15 THEY DID THE ACCOUNTING AND ASSET MAINTENANCE AND MANY  
16 FUNCTIONS FOR DOUBLELINE.

10:47AM

17 AND YOU WOULD WANT THE ACCOUNTING SYSTEM  
18 TO HAVE THE SAME INFORMATION THAT YOU HAD IN THE TRADE  
19 ORDER MANAGEMENT SYSTEM.

20 Q. SO WOULD -- AND THAT -- IT'S BNY MELLON. IS  
21 THAT SOMETIMES CALLED BANK OF NEW YORK MELLON, OR BNY?

10:47AM

22 A. EXACTLY.

23 Q. AND THE BNY SYSTEMS, OR TECHNOLOGY, EXCUSE ME,  
24 THAT'S REFERENCED THERE, WHAT ARE THOSE?

25 A. THE IAS IS THE FUND ACCOUNTING SYSTEM. THAT'S  
26 WHERE THE SECURITY LIVES DURING ITS LIFE. THAT'S WHERE  
27 PRICING IS DONE. IF THERE ARE CORPORATE ACTIONS, THEY  
28 ARE APPLIED.

10:48AM

1                   STATEMENTS WOULD BE GENERATED FROM A  
2 SYSTEM SUCH AS THAT, THE WORKBENCH.

3           Q.       WHEN YOU SAY STATEMENTS, THAT WOULD BE CLIENT  
4 STATEMENTS OR PORTFOLIO STATEMENTS?

5           A.       YES.

10:48AM

6           Q.       VIEWS OF HOLDINGS, AND THE LIKE?

7           A.       CORRECT.

8           Q.       AND WHAT'S WORKBENCH?

9           A.       WORKBENCH IS A PRODUCT THAT BANK OF NEW YORK  
10 MELLON OFFERS TO HAVE ACCESS TO THAT INFORMATION, NOT  
11 TOO DISSIMILAR FROM THE GATEWAY PRODUCT.

10:48AM

12          Q.       WHAT IS O-M-G-E-O?

13          A.       OMGEO?

14          Q.       OMGEO.

15          A.       IS USED FOR TRADE COMMUNICATION AND  
16 SETTLEMENT.

10:48AM

17          Q.       WHAT DO YOU MEAN BY THAT?

18          A.       THE TRADE PROCESS, THE SECURITY WILL FLOW  
19 THROUGH A SERIES OF APPROVALS AND COMPLIANCE CHECKS  
20 THAT WE DISCUSSED.

10:49AM

21                   AND THEN THERE'S A JUNCTURE AT WHICH THE  
22 SECURITY NEEDS TO BE SETTLED. MONEY AND THE SECURITY  
23 NEED TO EXCHANGE HANDS, AND THEY NEED TO EXCHANGE HANDS  
24 AT THE SAME TIME. THAT'S THE SETTLEMENT PROCESS.

25                   OMGEO SUPPORTS AND ASSISTS IN THAT  
26 PROCESS.

10:49AM

27          Q.       THE NEXT ONE IS VICHARA.

28                   WHAT IS THAT?

1           A.     VICHARA IS A THIRD PARTY SOFTWARE PROVIDER OF  
2 MORTGAGE ANALYTICS.

3           Q.     DOES OAKTREE USE VICHARA?

4           A.     YES, WE DO.

5           Q.     WHAT DOES OAKTREE USE VICHARA FOR?

10:49AM

6           A.     WE'VE USED THEM ON TWO OCCASIONS.

7                     ONE WAS IN 2009. I BELIEVE IT WAS 2009.

8           MR. MADISON: EXCUSE ME, YOUR HONOR. I  
9 OBJECT. FOUNDATION.

10                    AND I COULD TAKE THE WITNESS ON VOIR  
11 DIRE FROM THE DEPOSITION, IF IT WOULD BE HELPFUL,  
12 BUT --

10:49AM

13           THE COURT: ALL RIGHT. I'LL SUSTAIN THE  
14 OBJECTION.

15                    YOU CAN LAY THE FOUNDATION, OR WE CAN  
16 MOVE ON.

10:49AM

17           Q.     BY MR. WEINGART: ARE YOU FAMILIAR WITH ANY  
18 PURPOSES TO WHICH OAKTREE HAS USED VICHARA?

19           A.     YES, TO BUILD OUT OUR MORTGAGE --

20           MR. MADISON: EXCUSE ME. SAME OBJECTION, YOUR  
21 HONOR.

10:50AM

22           THE COURT: LET ME SEE -- DO YOU HAVE A  
23 REFERENCE?

24           MR. MADISON: I DO, YOUR HONOR.

25           THE COURT: COULDN'T THIS BE COVERED IN  
26 CROSS-EXAMINATION?

10:50AM

27           MR. MADISON: WELL, I OBJECT TO THE WITNESS  
28 TESTIFYING.

1 THE COURT: GIVE ME THE DEPOSITION, AND LET ME  
2 LOOK AT IT.

3 MR. MADISON: YES, YOUR HONOR.

4 THE COURT: DO I HAVE THE WITNESS' DEPOSITION  
5 UP HERE?

10:50AM

6 MR. WEINGART: THIS IS CROSS-EXAMINATION. I  
7 DON'T WANT TO ARGUE IT IN FRONT OF THE JURY.

8 THE COURT: WELL, I DON'T WANT YOU TO, EITHER.  
9 COME ON UP, MR. WEINGART. LET'S FIGURE THIS  
10 OUT.

10:50AM

11  
12 (THE FOLLOWING PROCEEDINGS WERE  
13 HELD AT SIDEBAR OUTSIDE THE  
14 PRESENCE OF THE JURY:)

15  
16 THE COURT: WHAT PAGE?

10:50AM

17 MR. MADISON: IT'S GOING TO BE PAGE 38, YOUR  
18 HONOR.

19 THE COURT: I MAY BE MISSING THE SIGNIFICANCE  
20 OF THIS, MR. MADISON; BUT IT'S A FOUNDATIONAL,  
21 BASICALLY BACKGROUND INFORMATION QUESTION. AND THIS IS  
22 JUST --

10:51AM

23 MR. MADISON: IT'S OBSTREPEROUS.

24 THE COURT: LET ME LOOK AT IT. 38, LINE WHAT?

25 MR. MADISON: WELL, IT STARTS ON THIS POINT  
26 THAT HE'S MAKING NOW, WITH WHAT OAKTREE USED FITCH FOR  
27 LINE 22.

10:51AM

28 THE COURT: ALL RIGHT. LET ME LOOK AT IT.

1 WELL, JUST BECAUSE IT SAYS HE WASN'T INVOLVED  
2 IN IT DOESN'T MEAN HE WAS WASN'T INVOLVED IN IT.

3 MR. MADISON: WELL, THIS IS THE PERSON MOST  
4 KNOWLEDGEABLE THAT -- WHO DESIGNATED OAKTREE.

5 THE COURT: NOT THE DEFENDANT?

10:51AM

6 MR. MADISON: I'M SORRY. YOU ARE RIGHT ON ALL  
7 THESE TOPICS. SO I SAID, WHO SHOULD I TALK TO IF  
8 WANTED TO KNOW ABOUT THESE DISCUSSIONS, AND HE REFERRED  
9 ME TO SOMEBODY ELSE.

10 THE COURT: ALL IT SAYS IS, HE DIDN'T --  
11 WASN'T RESPONSIBLE FOR ACQUISITION. THAT DOESN'T MEAN  
12 HE DOESN'T KNOW WHETHER THEY USED THEM.

10:52AM

13 MR. MADISON: BUT THE NEXT QUESTION IS, WHO  
14 WOULD I TALK TO, IF I WANTED TO KNOW ABOUT THAT.

15 AND HE SAYS, SOMEONE ELSE.

10:52AM

16 THE COURT: SO GO TALK TO BOB FRANK.

17 MR. MADISON: FINE. BUT THEY CAN'T ELICIT  
18 TESTIMONY.

19 THE COURT: YOU ARE MISSING THE POINT.

20 THE QUESTION IS NOT WHETHER YOU WERE  
21 INVOLVED IN THE ACQUISITION OF VICHARA. THE QUESTION  
22 IS, DID OAKTREE USE IT. AND THEY ARE TWO DIFFERENT  
23 THINGS.

10:52AM

24 MR. MADISON: I'LL DO IT ON CROSS, YOUR HONOR.

10:52AM

25  
26 (THE FOLLOWING PROCEEDINGS  
27 WERE HELD IN OPEN COURT IN  
28 THE PRESENCE OF THE JURY:)



1 Q. BY MR. WEINGART: WHAT DOES OAKTREE USE  
2 VICHARA FOR?

3 A. FOR OUR MORTGAGE ANALYTICS, FOR OUR COMMERCIAL  
4 MORTGAGE-BACKED SECURITIES.

5 IT'S A SISTER SECURITY TO THE  
6 RESIDENTIAL MORTGAGE-BACKED SECURITIES AT DOUBLELINE  
7 TRADES.

10:53AM

8 Q. DIFFERENCE BEING WHAT, COMMERCIAL MORTGAGES,  
9 AS OPPOSED TO RESIDENTIAL MORTGAGES?

10 A. CORRECT.

10:53AM

11 Q. AND DO YOU KNOW HOW OAKTREE LEARNED ABOUT  
12 VICHARA?

13 A. FROM OUR CHIEF INFORMATION OFFICER, BOB FRANK.

14 Q. HAD HE USED VICHARA BEFORE?

15 A. YES, HE HAD.

10:53AM

16 Q. AT COUNTRYWIDE?

17 A. YES, COUNTRYWIDE.

18 Q. THEN IT LOOKS LIKE WE'VE GOT NETWORKS,  
19 TELEPHONES, IT INFRASTRUCTURE.

20 I ASSUME THOSE ARE SELF-EXPLANATORY?

10:53AM

21 A. YES.

22 Q. THE NEXT COLUMN IS RESEARCH AND DATA  
23 PROVIDERS.

24 CAN YOU DESCRIBE FOR US WHO THOSE  
25 VENDORS ARE?

10:53AM

26 A. THESE ARE A SERIES OF VENDORS THAT PROVIDE  
27 INFORMATION. SOME OF IT CAN BE INFORMATION ABOUT  
28 SECURITIES. OTHERS CAN BE THE SECURITIES RATINGS; FOR

1 EXAMPLE, SMP AND MOODY'S AND FITCH AT THE BOTTOM; SO  
2 THEY ARE INFORMATION PROVIDERS.

3 Q. THE NEXT IS SPECIALTY PROVIDERS.

4 CAN YOU DESCRIBE FOR US WHAT THAT IS?

5 A. THAT WAS FOR ANYONE ELSE THAT THEY DIDN'T HAVE  
6 A CATEGORY FOR.

10:54AM

7 SO BANK OF NEW YORK MELLON, THEY NOT  
8 ONLY PROVIDED THE SYSTEM, AS I MENTIONED, IN THE FIRST  
9 COLUMN, THEY ACTUALLY PROVIDED THE OUTSOURCED PEOPLE TO  
10 DO THE ADMINISTRATION FUND ACCOUNTING, PRICING,  
11 CORPORATE ACTIONS, FOR DOUBLELINE. SO IT'S A  
12 DIFFERENT --

10:54AM

13 Q. TO BUILD OUT THE SYSTEMS, YOU MEAN?

14 A. NO, TO PERFORM THE FUNCTIONS.

15 PAYROLL VENDORS AND RECRUITING.

10:54AM

16 SO THERE WERE HR VENDORS, THERE WAS AP  
17 AND ACCOUNTING WOULD PROVIDE RESOURCES TO KIND OF LIKE  
18 A TEMPORARY CFO, TO OPERATE THE BUSINESS AND DEVELOP  
19 THE GENERAL LEDGER ACCOUNT.

20 Q. WHAT IS GIPS PERFORMANCE METRICS CONSULTING?

10:55AM

21 A. THE -- THERE ARE RULES ABOUT HOW REPORTING  
22 PERFORMANCE IS GOVERNED. AND THAT'S HOW -- WHAT GIPS  
23 IS USED FOR, I ACTUALLY DON'T KNOW WHAT THE  
24 ABBREVIATION IS FOR, BUT WE INTRODUCED THEM TO THE  
25 PERSON WHO WE GO TO WHEN WE NEED ASSISTANCE IN THAT  
26 AREA, TO DO PERFORMANCE REPORTING AND TRACK RECORD  
27 PERFORMING.

10:55AM

28 Q. AND THAT WOULD BE PERFORMANCE, IN TERMS OF HOW

1 WELL A PORTFOLIO IS DOING?

2 A. CORRECT.

3 Q. AND THEN FACILITIES, I ASSUME THAT THOSE WOULD  
4 BE THINGS RELATED TO THE OFFICE SPACE IN THE BUILD OUT?

5 A. YES.

10:55AM

6 Q. NOW, HOW DID THE VENDOR SELECTION PROCESS  
7 WORK? DID DOUBLELINE SUGGEST THESE NAMES? DID YOU  
8 SUGGEST THESE NAMES? HOW DID THEY GET INTRODUCED INTO  
9 THE MIX?

10 A. WE WENT THROUGH A PROCESS TO START, TO  
11 UNDERSTAND WHAT THE NEEDS WERE OF THE ORGANIZATION, IN  
12 TERMS OF WHAT THEY NEEDED FROM THE BACK OFFICE  
13 OPERATION SYSTEMS.

10:56AM

14 SO THERE WAS DIALOGUE BETWEEN OUR  
15 DEPARTMENTS THAT WE SHARED BEFORE, AND THEIR  
16 INDIVIDUALS, AND CAME TO A CONCLUSION ON WHO WOULD BE  
17 THE RIGHT VENDORS TO ENGAGE WITH.

10:56AM

18 AND THEN WE MADE THESE INTRODUCTIONS,  
19 THROUGH OUR RELATIONSHIP MANAGERS.

20 Q. NOW, I WOULD ASSUME IN SOME INSTANCES, THERE'S  
21 MORE THAN ONE VENDOR THAT PROVIDES THESE SERVICES?

10:56AM

22 A. YES.

23 Q. WAS THERE SOME KIND OF GUIDING PRINCIPLE IN  
24 TERMS OF WHICH VENDOR TO SELECT, IN THOSE  
25 CIRCUMSTANCES?

10:56AM

26 A. WELL, WE GENERALLY WOULD USE VENDORS THAT WE  
27 HAD RELATIONSHIPS WITH, IN ORDER TO EXPEDITE THE  
28 PROCESS.

1                   BUT WE ALSO NEEDED VENDORS THAT COULD  
2 SUPPORT MORTGAGE-BACKED SECURITIES; SO IT WAS REALLY  
3 TWOFOLD.

4           Q.     AND WHEN YOU SAY VENDORS YOU HAD RELATIONSHIPS  
5 WITH, THAT WAS, AGAIN, PART OF TRYING TO EXPEDITE THE  
6 PROCESS? 10:57AM

7           A.     CORRECT.

8           Q.     WE CAN TAKE THAT DOWN. THANK YOU.

9                   NOW, AS OAKTREE WORKED ON THIS STARTUP  
10 PROJECT, WERE THERE VARIOUS DOCUMENTS GENERATED TO KEEP 10:57AM  
11 TRACK OF WHAT THE VARIOUS TEAMS WERE DOING?

12          A.     YES, THERE WERE.

13          Q.     AND I'M NOT GOING TO GO THROUGH ALL OF THOSE.  
14                   BUT JUST TO PICK A COUPLE OF EXAMPLES,  
15 COULD YOU TAKE A LOOK AT EXHIBIT 5573? 10:57AM

16                   DO YOU HAVE THAT BEFORE YOU, SIR?

17          A.     I DO.

18          Q.     CAN YOU IDENTIFY 5573?

19          A.     THIS WAS A DOCUMENT WE USED ON THURSDAY, THE  
20 WEEK THAT WE MET -- THE WEEK WE MET DOUBLELINE; SO THAT 10:58AM  
21 WOULD BE THE 10TH.

22                   AND IT WAS A WAY THAT WE WERE ABLE TO  
23 ORGANIZE ALL OF THE FUNCTIONS THAT NEEDED TO BE SET UP  
24 AND IN PLACE TO RUN AN OPERATION, RUN AN INVESTMENT  
25 COMPANY, AND WHAT TYPE OF SUPPORT OAKTREE WOULD 10:58AM  
26 PROVIDE.

27                   OUR INITIAL THOUGHTS, SORT OF LIKE A  
28 WHITEBOARD OF OUR INITIAL THOUGHTS, WHAT KIND OF

1 SUPPORT MIGHT WE PROVIDE TO DOUBLELINE.

2 Q. SO A MEMORIALIZATION OF YOUR BRAINSTORMING  
3 SESSIONS?

4 A. CORRECT.

5 MR. WEINGART: I WOULD OFFER 5573.

10:58AM

6 THE COURT: ANY OBJECTION?

7 MR. MADISON: NO OBJECTION.

8 THE COURT: IT WILL BE ADMITTED.

9

10 (EXHIBIT 5573 ADMITTED.)

10:58AM

11

12 Q. BY MR. WEINGART: AND EXCUSE ME, SO DOUBLELINE  
13 LAUNCHED CURRENT THINKING AT THE TOP THERE, CORRECT?

14 A. YES.

15 Q. AND THEN THERE ARE CATEGORIES, AND I'M NOT  
16 GOING TO GO THROUGH THEM ALL, BUT WE SEE I.T. HERE, AND  
17 THERE ARE OTHER CATEGORIES AKIN TO THE CHART THAT WE  
18 SAW WITH THE CORE INVESTMENT FUNCTIONS, THROUGH THE  
19 REST OF THIS DOCUMENT?

10:59AM

20 A. RIGHT. THERE ARE 15 PAGES OF ACTIVITIES THAT  
21 NEED TO BE DONE, INVESTMENT MANAGEMENT COMPANY. AND WE  
22 DOCUMENTED THOSE, AND BEGAN DISCUSSING WITH DOUBLELINE  
23 ON THE 10TH, WHAT OAKTREE MIGHT HELP WITH, AND HOW WE  
24 MIGHT SUPPORT THEM IN THOSE THINGS THAT NEEDED TO GET  
25 DONE.

10:59AM

26 Q. NOW, AFTER YOU KIND OF WHITEBOARDED WHAT IT  
27 WAS YOU WERE GOING TO ACCOMPLISH, DID YOU THEN HAVE A  
28 KICKOFF MEETING?

10:59AM

1 A. WE DID.

2 Q. AND WHAT'S THE POINT OF HAVING A KICKOFF  
3 MEETING?

4 A. TO ORGANIZE ALL OF THE RESOURCES AROUND THE  
5 VARIOUS WORK STREAMS THAT WE WANTED TO OCCUR,  
6 CONCURRENTLY AND PARALLEL, TO GET THE BACK OFFICE UP  
7 AND RUNNING.

10:59AM

8 Q. AND COULD YOU TAKE A LOOK AT EXHIBIT 5580.  
9 CAN YOU IDENTIFY 5580 FOR US?

10 A. THESE ARE THE MATERIALS THAT WERE USED IN THE  
11 KICKOFF MEETING.

11:00AM

12 MR. WEINGART: YOUR HONOR, I WOULD OFFER 5580.

13 MR. MADISON: NO OBJECTION.

14 THE COURT: IT WILL BE ADMITTED.

15

11:00AM

16 (EXHIBIT 5580 ADMITTED.)

17

18 Q. BY MR. WEINGART: SO WAS THIS SOME KIND OF A  
19 HANDOUT THAT WAS USED DURING THE MEETING?

20 A. YES.

11:00AM

21 Q. WHO ATTENDED THIS MEETING?

22 A. WE HAD PROBABLY ABOUT -- I WOULD BE GUESSING,  
23 BUT IT COULD BE 20, MAYBE 30 PEOPLE FROM OAKTREE AND A  
24 HANDFUL OF PEOPLE FROM DOUBLELINE.

25 Q. WHERE DID THE MEETING TAKE PLACE, DO YOU  
26 REMEMBER?

11:00AM

27 A. ON THE 27TH FLOOR OF OUR OFFICE BUILDING.

28 Q. AT THE OAKTREE OFFICES?

1 A. AT THE OAKTREE OFFICES.

2 Q. AND COULD WE GO TO PAGE 3 OF THE DOCUMENT.

3 THIS SAYS, DOUBLELINE IMPLEMENTATION  
4 PROGRAM STRUCTURE OVERVIEW.

5 WHAT DOES THIS REPRESENT?

11:01AM

6 A. I MENTIONED THERE WERE WORK STREAMS, SO THIS  
7 REPRESENTS THE STRUCTURE OF THE PROJECT. THERE WERE  
8 SIX WORK STREAMS, THE FIRST THERE BEING FACILITIES AND  
9 INSURANCE --

10 Q. COULD WE BLOW UP THAT SECOND ROW OF BOXES SO  
11 IT'S A LITTLE EASIER TO SEE?

11:01AM

12 A. WE USED THIS TO OUTLINE THE KEY MEMBERS OF THE  
13 STREAM, AND THEIR RESPONSIBILITIES, IN TERMS OF LEADING  
14 THE WORK STREAMS OR PARTICIPATING IN THE WORK STREAMS,  
15 OR BEING THE PROJECT MANAGER, AS I MENTIONED EARLIER,  
16 FOR THAT WORK STREAM.

11:01AM

17 Q. SO PROGRAM OFFICE THAT'S THERE AT THE TOP, AND  
18 IT LOOKS LIKE IT SAYS OCM SPONSOR.

19 THAT'S OAKTREE CAPITAL MANAGEMENT?

20 A. YES.

11:02AM

21 Q. AND YOUR NAME?

22 A. CORRECT.

23 Q. AND WHO'S THE DOUBLELINE SPONSOR?

24 A. CRIS SANTA ANA.

25 Q. AND THEN AS WE GO ACROSS, FOR FACILITIES  
26 INSURANCE, SYSTEMS TECHNOLOGY, OPERATIONAL READINESS,  
27 AND SO FORTH, THERE'S AN OAKTREE PERSON AND A  
28 DOUBLELINE PERSON?

11:02AM

1           A.     YES.    IN SOME CASES, THERE WOULD BE TWO  
2 CO-SPONSORS.

3           Q.     NOW, THIS MEETING TOOK PLACE THE DAY AFTER  
4 YOUR, I THINK YOU CALLED IT WHITEBOARDING SESSION?

5           A.     CORRECT.

11:02AM

6           Q.     SO WHAT WORK WENT INTO THE WHITEBOARDING  
7 SESSION TO GET IT PREPARED FOR THE KICKOFF MEETING?

8           A.     WE PREPARED THIS DOCUMENT AND HAD THE MEETING.

9                     I'M NOT SURE I UNDERSTAND THE QUESTION.

10          Q.     WELL, DID YOU TAKE THAT -- THE WHITEBOARDING  
11 IDEAS AND DIVIDE THEM INTO WORK STREAMS, TO THEN GET  
12 READY TO --

11:02AM

13          A.     BASED ON WHAT NEEDED TO BE ACCOMPLISHED, THIS  
14 SEEMED LIKE THE MOST LOGICAL ORGANIZATION OF PEOPLE  
15 THAT WOULD WORK IN UNITS TO GET THE THINGS ACCOMPLISHED  
16 THAT WE NEEDED TO BUILD OUT.

11:03AM

17                     WE WERE STILL FORMING IDEAS AROUND WHAT  
18 NEEDED TO TAKE PLACE. WE WERE ONLY, AT THIS JUNCTURE,  
19 ABOUT TWO DAYS IN. SO -- BUT THESE GROUPS WOULD THEN  
20 FIGURE THAT OUT. THEY ALSO HAD TO WORK ACROSS GROUPS.

11:03AM

21          Q.     AND PERSISTENCE IN TECHNOLOGY, IT LOOKS LIKE  
22 THEY'D BE -- THE OAKTREE LEAD, THAT WAS MR. FRANK  
23 AGAIN?

24          A.     CORRECT.

25          Q.     AND AS THE PROJECT WENT ALONG, WERE THERE  
26 UPDATES TO SEE HOW WELL YOU WERE DOING AGAINST GOALS?

11:03AM

27          A.     YES, THERE WAS.

28          Q.     OKAY. I'M NOT GOING TO GO THROUGH ALL OF



1 THESE, BUT LET'S JUST TAKE A LOOK AT EXHIBIT 5620.

2 DO YOU HAVE THAT?

3 A. I DO.

4 Q. AND WHAT IS EXHIBIT 5620?

5 A. THIS WOULD HAVE REPRESENTED THE STATUS REPORT  
6 AS OF DECEMBER 18TH.

11:04AM

7 MR. WEINGART: YOUR HONOR, I WOULD OFFER 5620.

8 MR. MADISON: NO OBJECTION.

9 THE COURT: IT WILL BE ADMITTED.

10

11:04AM

11 (EXHIBIT 5620 ADMITTED.)

12

13 MR. WEINGART: CAN WE PUT THAT UP?

14 Q. IT SAYS DOUBLELINE LLC LAUNCH PROJECT STATUS  
15 UPDATE AS OF DECEMBER 18TH, 2009?

11:04AM

16 A. CORRECT.

17 Q. AND THEN IF WE COULD GO MAYBE TO PAGE 3 OF THE  
18 DOCUMENT, TO GIVE THE JURY AN IDEA.

19 THIS WOULD BE THE SYSTEMS AND TECHNOLOGY  
20 WORK STREAM?

11:04AM

21 A. CORRECT.

22 Q. IN TERMS OF WHAT HAD BEEN ACCOMPLISHED, WHAT  
23 THE TIMELINE WAS, WHAT THE NEXT STEPS WERE, AND SO  
24 FORTH?

25 A. YES.

11:05AM

26 EACH OF THOSE SIX WORK STREAMS PRESENTED  
27 THIS STATUS REPORT AT THOSE STATUS MEETINGS.

28 BENEATH THESE STATUS REPORTS, THEY HAD

1 DETAILED PROJECT PLANS, WITH A LOT OF THE DETAILS THAT  
2 NEEDED TO BE ACCOMPLISHED.

3 BUT ON THE TOP LEFT HERE, THEY WOULD  
4 PRESENT THE ACCOMPLISHMENTS, WHAT'S BEEN DONE. THEY  
5 WOULD PRESENT, AT THE BOTTOM, WHAT DID THEY THINK THE  
6 KEY RISKS WERE TO GETTING ACCOMPLISHED, OR MEETING OUR  
7 TIMELINE.

11:05AM

8 AND TO THE RIGHT WHAT THE KEY MILESTONES  
9 WERE, AND THE TIMELINE.

10 AND TO THE BOTTOM, WHAT THEIR KEY NEXT  
11 STEPS WERE. AND THESE WERE SOMEHOW COORDINATED BETWEEN  
12 GROUPS.

11:05AM

13 AND THERE'S A PROJECT STATUS UP THERE IN  
14 THE TOP RIGHT, GREEN.

15 Q. I ASSUME THE GREEN, YELLOW, RED, DEPENDING ON  
16 WHETHER YOU ARE ON TRACK OR NOT?

11:05AM

17 A. THE LEGEND'S AT THE BOTTOM; SO GREEN IS IN  
18 PROCESS AND ON PLAN.

19 Q. AND YELLOW WOULD BE IF YOU WERE BEHIND, FOR  
20 EXAMPLE?

11:06AM

21 A. YEAH, IF YOU WERE BEHIND -- IF YOU WERE BEHIND  
22 PLAN.

23 Q. AND THE COMPLETION DATE THAT'S TARGETED UP  
24 THERE, THAT'S THE JANUARY 11TH -- THE TOP RIGHT, THAT  
25 YOU TALKED ABOUT BEFORE?

11:06AM

26 A. CORRECT.

27 Q. AND IN ADDITION TO THIS, HOW OFTEN WOULD YOU  
28 DO THESE SORTS OF STATUS UPDATES?

1 A. GENERALLY, WEEKLY.

2 Q. SO THERE'S A SIMILAR DOCUMENT LIKE THIS SORT  
3 OF WEEKLY, AS WE GO ALONG?

4 A. CORRECT.

5 Q. NOW, AS PART OF ITS WORK, DID OAKTREE HELP  
6 DESIGN DOUBLELINE'S INVESTMENT OPERATIONS PROCESS?

11:06AM

7 A. WE HELPED THEM IDENTIFY THE PROCESSES AND THE  
8 SYSTEMS ASSOCIATED WITH RUNNING THEIR INVESTMENT  
9 OPERATIONS.

10 Q. COULD YOU TAKE A LOOK AT EXHIBIT 632.

11:06AM

11 AND CAN YOU IDENTIFY EXHIBIT 632 FOR US?

12 A. YES. THIS IS A DIAGRAM OF THE SYSTEM AND DATA  
13 FLOWS, AS WE WERE THINKING ABOUT THEM ON DECEMBER 16TH.  
14 AND I IDENTIFIED THE PROCESS AND THE PEOPLE INVOLVED TO  
15 PROCESS SECURITY -- TO TRADE AND PROCESS SECURITY AFTER  
16 THE INVESTMENT DECISION WAS MADE.

11:07AM

17 MR. WEINGART: YOUR HONOR, I WOULD OFFER 632.

18 MR. MADISON: NO OBJECTION.

19 THE COURT: IT WILL BE ADMITTED.

20 11:07AM

21 (EXHIBIT 632 ADMITTED.)

22  
23 Q. BY MR. WEINGART: SO BEFORE WE -- AND WE'RE  
24 NOT GOING TO TALK ABOUT ALL THESE BOXES, I GUARANTEE.

25 JUST GENERALLY, THIS HAS A START AND AN  
26 END.

11:07AM

27 WHAT'S STARTING, AND WHAT'S ENDED?

28 A. ONCE THE INVESTMENT DECISION IS MADE, THE

1 SECURITY THAT'S GOING TO BE PURCHASED NEEDS TO BE SET  
2 UP ON THE TRADING SYSTEM; THAT'S THE START, AND THEN  
3 ENTERED INTO THAT TRADING SYSTEM.

4 THE END WOULD BE WHEN ALL OF THE  
5 ACCOUNTING AND STATEMENTS WERE COMPLETED.

11:08AM

6 Q. NOW, IF WE COULD BLOW UP KIND OF THE BOTTOM  
7 LEFT THERE.

8 THERE'S A LIST OF DATA PROVIDERS COMING  
9 IN.

10 ARE THOSE OF THE DATA PROVIDERS THAT WE  
11 TALKED ABOUT WITH REGARD TO THE VENDOR CHART THAT WE  
12 SAW EARLIER?

11:08AM

13 A. YES, IT IS. IT'S THE SAME CONCEPT.

14 I DON'T KNOW IF THEY ARE ALL THE SAME  
15 LIST.

11:08AM

16 Q. AND THEN THERE'S AN ARROW THAT GOES INTO A BOX  
17 THAT SAYS DATA PROVIDERS INTEX LOAN PERFORMANCE, ET AL.

18 DO YOU SEE THAT?

19 A. CORRECT.

20 Q. AND THEN THE ARROW THAT GOES UP, THAT SAYS  
21 VICHARA DATABASE?

11:08AM

22 A. YES.

23 Q. AND THAT'S THE VICHARA PRODUCT THAT YOU WERE  
24 SPEAKING ABOUT EARLIER?

25 A. CORRECT.

11:09AM

26 Q. AND WHAT DOES IT SAY, IN BETWEEN THERE?

27 A. IT SAYS LOAN LEVEL PERFORMANCE DATA BY CUSIP.

28 Q. AND WHAT'S A CUSIP?

1 A. IT'S A SECURITY IDENTIFIER.

2 Q. EACH INDIVIDUAL SECURITY HAS ITS OWN SORT OF  
3 IDENTIFIER, OR CUSIP?

4 A. CORRECT.

5 Q. AND THEN IT -- OUT OF VICHARA, THERE ARE THESE  
6 BOXES.

11:09AM

7 IS THAT REPORTING OF THE DATA OUT OF  
8 VICHARA?

9 A. YEAH. THAT WOULD REPRESENT REPORTING.

10 Q. AND THEN IF WE COULD SORT OF COME BACK UP TO  
11 SEE THE WHOLE DOCUMENT.

11:09AM

12 AND THEN ACTUALLY, CAN WE GO UP A LITTLE  
13 BIT, DENNIS.

14 THEN IT'S A LITTLE HARD TO READ HERE,  
15 BUT THAT WOULD BE SOME OF THE BLOOMBERG, BNY AND OTHER  
16 SYSTEMS THAT YOU TALKED ABOUT IN INTEGRATING THEM  
17 TOGETHER.

11:10AM

18 A. CORRECT. THIS IS AN EARLIER VERSION.

19 THERE'S LATER VERSIONS. WE DID SEVERAL  
20 OF THESE THAT SORT OF START TO CRYSTALIZE EXACTLY WHICH  
21 VENDORS WERE IN WHICH SPOTS.

11:10AM

22 Q. SO TO FOLLOW UP ON A QUESTION I WAS GOING TO  
23 ASK.

24 WAS THIS, ONCE IT WAS SORT OF THOUGHT OF  
25 AS DECEMBER 16TH, WAS THIS SET IN STONE, AS TO HOW THE  
26 TRADING PROCESS WAS GOING TO WORK?

11:10AM

27 A. ON THE 16TH?

28 Q. YES.

1 A. NO.

2 WE EVOLVED THIS PROCESS SEVERAL MORE  
3 TIMES BEFORE WE GOT TO MORE CLARITY ON EXACTLY HOW IT  
4 WAS GOING TO WORK.

5 Q. AS A RESULT OF WORKING WITH THE VARIOUS  
6 VENDORS, AND OTHER SYSTEMS, AND THE LIKE?

11:10AM

7 A. CORRECT.

8 Q. LET ME ASK YOU TO LOOK AT EXHIBIT 798A.

9 CAN YOU IDENTIFY 798A FOR US?

10 A. THIS IS ALSO A SIMILAR DIAGRAM, BUT FROM THE  
11 THINKING AS OF FEBRUARY 3RD.

11:11AM

12 MR. WEINGART: YOUR HONOR, I WOULD OFFER 798A.

13 MR. MADISON: NO OBJECTION.

14 THE COURT: IT WILL BE ADMITTED.

15

11:11AM

16 (EXHIBIT 798A ADMITTED.)

17

18 Q. BY MR. WEINGART: ACTUALLY, IT LOOKS LIKE IT'S  
19 GROWN SOMEWHAT IN COMPLEXITY?

20 A. I GUESS. DEPENDS UPON WHO YOU ASK.

11:11AM

21 Q. AND AGAIN, DOWN IN THE BOTTOM LEFT THERE,  
22 WE'VE GOT THE DATA PROVIDERS AND ANALYTIC TOOLS FROM  
23 VENDORS; IS THAT RIGHT?

24 A. CORRECT.

25 Q. THEN FLOWING INTO THIS VICHARA DATABASE.

11:11AM

26 A. CORRECT.

27 Q. AND THEN INTO SOMETHING CALLED A DOUBLELINE  
28 ANALYTICS?

1 A. YES.

2 Q. AND OUT OF THAT, INTO VARIOUS REPORTS THAT  
3 COULD BE GENERATED OUT OF IT?

4 A. CORRECT.

5 Q. AND THEN I ASSUME THERE WERE ALSO SOME CHANGES  
6 THAT WERE MADE IN BLOOMBERG AND BANK OF NEW YORK MELLON  
7 AND THE LIKE, INTERACTIONS?

11:12AM

8 A. THERE MAY BE.

9 Q. LET ME ASK YOU TO LOOK REAL QUICKLY AT 5747.

10 CAN YOU IDENTIFY THAT FOR US?

11:12AM

11 A. THAT'S THE PROJECT STATUS REPORT AS OF  
12 JANUARY 12TH, 2010.

13 MR. WEINGART: YOUR HONOR, I WOULD OFFER 5747.

14 MR. MADISON: NO OBJECTION.

15 THE COURT: IT WILL BE ADMITTED.

11:13AM

16

17 (EXHIBIT 5747 ADMITTED.)

18

19 Q. BY MR. WEINGART: SO THIS IS LIKE ONE OF THE  
20 DOCUMENTS WE WERE TALKING ABOUT BEFORE; ONLY NOW, WE'RE  
21 A LITTLE FURTHER DOWN THE ROAD?

11:13AM

22 A. CORRECT.

23 Q. SO LET'S GO TO PAGE 4, AND CLIENT ON-BOARDING.

24 IN THE TOP THERE, IT'S ONE CLIENT, FULLY  
25 OPERATIONAL AND ACTIVELY TRADING, AND THEN FOUR  
26 ADDITIONAL CLIENTS IN PROCESS?

11:13AM

27 A. CORRECT.

28 Q. AND THAT WOULD HAVE BEEN THE STATUS AS OF

1 JANUARY 12TH?

2 A. CORRECT.

3 Q. THERE'S BEEN TESTIMONY IN THE CASE THAT IT  
4 TYPICALLY TAKES SIX TO NINE MONTHS TO START AN  
5 INVESTMENT MANAGEMENT BUSINESS.

11:14AM

6 DID IT TAKE OAKTREE THAT LONG TO HELP  
7 DOUBLELINE GET STARTED?

8 A. NO, IT DID NOT.

9 Q. HOW LONG DID IT TAKE?

10 A. ABOUT FOUR OR FIVE WEEKS.

11:14AM

11 Q. AND WHY WERE YOU ABLE TO GET IT DONE SO  
12 QUICKLY?

13 A. WE PUT A LOT OF PEOPLE ON IT FROM OAKTREE, A  
14 LOT OF VENDORS. WE HAD PROJECT MANAGERS, SO THAT WE  
15 COULD WORK SIX DIFFERENT WORK STREAMS SIMULTANEOUSLY.  
16 THE PEOPLE THAT WE PUT ON THE PROJECT HAD YEARS OF  
17 EXPERIENCE, SO THEY KNEW WHAT NEEDED TO BE BUILT.

11:14AM

18 AND THE CONTRACTING WAS RAPIDLY  
19 ACCELERATED, BECAUSE THE TERMS THAT WERE ACCEPTABLE TO  
20 OAKTREE WERE ACCEPTABLE TO DOUBLELINE.

11:14AM

21 SO THERE WAS LIMITED, IF ANY,  
22 NEGOTIATION REQUIRED TO SOLIDIFY THOSE TERMS.

23 ADDITIONALLY --

24 Q. SORRY. WAS THERE SOMETHING ELSE YOU --

25 A. FOR SOME FUNCTIONS, WE PROVIDED THE PEOPLE TO  
26 ACTUALLY PERFORM THE FUNCTIONS, SO THEY DID --  
27 DOUBLELINE DIDN'T ACTUALLY HAVE TO HAVE IT UP AND  
28 RUNNING. WE DID THE WORK.

11:14AM



1 Q. NOW, IN ALL OF YOUR WORK ON THE DOUBLELINE  
2 PROJECT, DID YOU EVER COME INTO CONTACT WITH ANY TCW  
3 INFORMATION?

4 A. NO, I DID NOT.

5 Q. DID YOU EVER LEARN FROM ANYBODY ELSE AT  
6 OAKTREE THAT THEY HAD COME ACROSS ANY OTHER PIECE OF  
7 INFORMATION?

11:15AM

8 MR. MADISON: OBJECTION. HEARSAY.

9 THE COURT: IT'S A YES OR NO ANSWER.

10 OVERRULED.

11:15AM

11 THE WITNESS: CAN YOU ASK THE QUESTION AGAIN?

12 Q. BY MR. WEINGART: DID YOU EVER LEARN FROM  
13 ANYBODY ELSE AT OAKTREE WHETHER THEY HAD COME ACROSS  
14 ANY TCW INFORMATION?

15 A. NO.

11:15AM

16 Q. DID YOU USE ANY TCW INFORMATION TO HELP SET UP  
17 DOUBLELINE SYSTEMS?

18 A. NO.

19 Q. ARE YOU PROUD OF THE WORK THAT YOU DID ON THIS  
20 PROJECT?

11:15AM

21 A. I AM.

22 MR. WEINGART: I HAVE NO FURTHER QUESTIONS,  
23 YOUR HONOR.

24 THE COURT: ALL RIGHT.

25 CROSS-EXAMINATION?

11:15AM

26 MR. MADISON: THANK YOU, YOUR HONOR.

27

28

## CROSS-EXAMINATION

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BY MR. MADISON:

Q. MORNING, MR. DEITCH.

A. MORNING.

11:15AM

MR. MADISON: MAY MS. CONNOR APPROACH WITH  
SOME BINDERS, YOUR HONOR?

THE COURT: YES.

Q. BY MR. MADISON: SO MR. DEITCH, YOU ARE A  
MANAGING DIRECTOR AT OAKTREE, CORRECT?

11:16AM

A. CORRECT.

Q. YOU ARE IN CHARGE OF A NUMBER OF DIFFERENT  
FUNCTIONS AT OAKTREE, INCLUDING ALL OF INFORMATION  
TECHNOLOGY AT OAKTREE, CORRECT?

A. CORRECT.

11:16AM

Q. YOU ARE AWARE THAT OAKTREE OWNS ABOUT 22  
PERCENT OF DOUBLELINE, RIGHT?

A. RIGHT.

Q. AND YOU ARE AWARE, OF COURSE, THAT DOUBLELINE  
IS A PARTY IN THIS LITIGATION?

11:16AM

A. CORRECT.

Q. YOU ARE AWARE THAT TRUST COMPANY OF THE WEST  
IS SUING DOUBLELINE FOR MISAPPROPRIATING THE TRADE  
SECRETS?

A. YES.

11:16AM

Q. AND DO YOU HAVE A GENERAL UNDERSTANDING OF  
WHAT THE TRADE SECRETS ARE THAT TRUST COMPANY OF THE  
WEST HAS ALLEGED DOUBLELINE AND OTHERS MISAPPROPRIATED?

1 A. NOT SPECIFICS, NO.

2 Q. ARE YOU FAMILIAR WITH TRADING ANALYTICS?

3 A. I AM.

4 Q. ARE YOU FAMILIAR WITH PORTFOLIO HOLDINGS?

5 A. YES.

11:17AM

6 Q. ARE YOU FAMILIAR WITH SOFTWARE PROGRAMS THAT  
7 ARE USED TO EXPEDITE AND FACILITATE INVESTMENT  
8 DECISIONS?

9 A. YES.

10 Q. YOU HAVE SOME OF THOSE THINGS, IF NOT ALL OF  
11 THEM, AT OAKTREE, DON'T YOU, SIR?

11:17AM

12 A. CORRECT.

13 Q. SO YOU'VE BEEN TALKING TO US THIS MORNING  
14 ABOUT DIFFERENT SYSTEMS AND SERVICES THAT OAKTREE  
15 HELPED DOUBLELINE WITH, RIGHT?

11:17AM

16 A. RIGHT.

17 Q. SO TELL US WHAT OAKTREE DID TO PROGRAM  
18 ANALYTICS FOR DOUBLELINE?

19 A. THE PRIMARY WORK THAT WE DID WAS TO INTRODUCE  
20 THEM TO VICHARA, WHICH PROVIDES ANALYTIC SOFTWARE.

11:18AM

21 WE DID PROVIDE HARDWARE FOR THEM TO RUN  
22 THEIR SYSTEMS ON, AND NETWORK.

23 AND WE BUILT THE DATABASE TO HOLD THEIR  
24 POSITIONS.

25 Q. BY MR. MADISON: SO ALL OF THOSE THINGS ARE --  
26 LET'S PUT VICHARA ASIDE, FOR A MOMENT, BECAUSE THERE  
27 YOU MADE AN INTRODUCTION, RIGHT?

11:18AM

28 A. CORRECT.

1 Q. AND YOU PERSONALLY WERE INVOLVED IN ONE WEB  
2 CONVERSATION AND THEN ONE FACE-TO-FACE MEETING; AND  
3 AFTER THAT, YOU WEREN'T INVOLVED AT ALL, WERE YOU?

4 A. NO. I WAS INVOLVED IN TWO MEETINGS.

5 Q. AND AFTER THAT, NOT AT ALL?

11:18AM

6 A. CORRECT.

7 Q. AND THOSE WERE PRELIMINARY MEETINGS, TO GET  
8 THAT RELATIONSHIP GOING, RIGHT?

9 A. TO TALK ABOUT WHICH MODULES THEY WOULD BE  
10 BUYING FROM VICHARA.

11:18AM

11 Q. OKAY.

12 AND AFTER THAT YOU WEREN'T INVOLVED?

13 A. RIGHT.

14 Q. SO, OTHER THAN THAT, THE ONLY THINGS THAT  
15 OAKTREE PROVIDED TO DOUBLELINE WERE I.T.  
16 INFRASTRUCTURE, CORRECT?

11:18AM

17 A. CORRECT.

18 Q. NOT ANY PROGRAMMING OF ANY ANALYTICS TO  
19 ACTUALLY BE USED IN MAKING INVESTMENT DECISIONS?

20 A. CORRECT.

11:19AM

21 Q. SO LET ME PUT UP ON THE SCREEN.

22 AND WITH HIS HONOR'S PERMISSION, AN  
23 EXHIBIT THAT'S ALREADY BEEN ADMITTED.

24 IT'S 2141.

25 AND THIS IS THE TRANSCRIPT OF A CALL  
26 THAT JEFFREY GUNDLACH HAD ON BEHALF OF DOUBLELINE ON  
27 DECEMBER 22ND, 2009.

11:19AM

28 AND SO I TAKE IT, FROM YOUR TESTIMONY,

1 BY DECEMBER 22ND, 2009, YOUR EFFORTS AS THE PROJECT  
2 MANAGER AT OAKTREE, WORKING WITH DOUBLELINE, WERE WELL  
3 UNDER WAY, CORRECT?

4 A. CORRECT.

5 Q. AND I THINK WE SAW, AND WE'LL COME BACK TO IT  
6 IN A MOMENT, THERE WAS A TERM SHEET THAT ALREADY HAD  
7 BEEN EXECUTED, BY THAT TIME, CORRECT?

11:19AM

8 A. CORRECT.

9 Q. AND THEN THERE WOULD LATER BE A TRANSITION  
10 SERVICES AGREEMENT, ALSO, RIGHT?

11:20AM

11 A. YES.

12 Q. SO IF WE GO TO PAGE 2141-4, AND WE LOOK DOWN  
13 AT THE VERY LAST FOUR LINES OF THE PAGE --

14 AND LET ME JUST ASK, DID YOU LISTEN IN  
15 TO THIS WEBCAST TO MR. GUNDLACH ON DECEMBER 22ND, 2009?

11:20AM

16 A. NO, I DID NOT.

17 Q. SO THIS IS IN EVIDENCE.

18 AND THIS IS MR. GUNDLACH SPEAKING. HE  
19 SAID, (READING):

20 WE HIRED THE THREE FINEST  
21 PROGRAMMERS IN THE TCW TEAM, AND  
22 THEY ARE HARD AT WORK REBUILDING;  
23 AND BEYOND THAT, IMPROVING THE  
24 TECHNOLOGY PLATFORM THAT WE HAVE IN  
25 PLACE.

11:20AM

26 AND HE GOES ON TO SAY, (READING):

27 IN FACT, I AM TOLD BY THE  
28 CHIEF OPERATING OFFICER, CRIS

11:20AM

1           SANTA ANA, THAT WE EXPECT THAT THE  
2           TECHNOLOGY PLATFORM WILL BE  
3           COMPLETELY REBUILT AND ENHANCED  
4           BEFORE SUCH TIME AS WE RECEIVE A  
5           REGISTRATION FROM THE SEC AS AN  
6           INVESTMENT ADVISOR, WHICH WE EXPECT  
7           TO RECEIVE IN EARLY JANUARY.

11:21AM

8                         SO DOUBLELINE WAS TAKING CARE OF  
9           REBUILDING AND ENHANCING THE TECHNOLOGY PLATFORM, AS  
10          MR. GUNDLACH DESCRIBED, CORRECT?

11:21AM

11          A.       CORRECT.

12          Q.       OAKTREE WASN'T DOING THAT?

13          A.       OAKTREE WAS NOT.

14          Q.       AND YOU ARE AWARE, SIR, AREN'T YOU, THAT IN  
15          THIS LAWSUIT, THE TRADE SECRETS THAT WE ALLEGE THAT  
16          DOUBLELINE MISAPPROPRIATED ARE PART OF THAT TECHNOLOGY  
17          PLATFORM?

11:21AM

18          A.       THAT'S WHAT I HAVE HEARD.

19          Q.       SO YOU CAN'T HELP US UNDERSTAND ANYTHING ABOUT  
20          WHETHER OR NOT DOUBLELINE USED TCW'S INFORMATION TO  
21          REBUILD AND CREATE ANALYTIC SYSTEMS AT DOUBLELINE, CAN  
22          YOU, SIR?

11:21AM

23                         MR. WEINGART:  OBJECTION.  ARGUMENTATIVE.

24                         THE COURT:  OVERRULED.

25                                 THAT MEANS YOU CAN ANSWER, SIR.

11:21AM

26                         THE WITNESS:  NO.  I CANNOT.

27          Q.       BY MR. MADISON:  NOW, MR. GUNDLACH ALSO MADE  
28          SOME STATEMENTS ABOUT OAKTREE IN THIS WEBCAST.

1 IF WE GO TO PAGE 34, DOWN AT THE VERY  
2 BOTTOM, THERE'S A PARAGRAPH.

3 AND IN THIS PART OF THE BROADCAST, IT  
4 APPEARS THAT MR. GUNDLACH IS ANSWERING QUESTIONS.

5 AND HE SAYS, (READING):

11:22AM

6 HERE'S ONE. HOW LONG WILL IT  
7 TAKE FOR YOU TO GET YOUR ANALYTIC  
8 SYSTEMS SO YOU HAVE THE INFORMATION  
9 TO ACTUALLY MANAGE THE PORTFOLIO?  
10 AND THEN IT SAYS, UNINTELLIGIBLE,  
11 ASSUMING IT TAKES A SUBSTANTIAL  
12 AMOUNT OF TIME TO BUILD A BACKBONE.

11:22AM

13 AND MR. GUNDLACH RESPONDS,  
14 (READING):

15 NO, IT DOESN'T. I THINK I  
16 TOUCHED ON THIS, BUT LET ME MAKE IT  
17 CLEAR, BECAUSE IT'S AN IMPORTANT  
18 POINT.

11:22AM

19 WE BELIEVE THAT THE ANALYTIC  
20 PLATFORM WILL BE FULLY IN PLACE,  
21 AND IMPROVED, BEFORE WE GET OUR --  
22 AND IT SAYS ICC REGISTRATION, IN  
23 THE MIDDLE OF JANUARY.

11:22AM

24 I AM CONSTANTLY, ALONG WITH MY  
25 TEAM, IMPROVING THE ANALYTICS IN  
26 THE SYSTEMS AT TCW.

11:23AM

27 SO I WOULD ASK YOU JUST TO STOP  
28 THERE, AND ASK YOU THE SAME QUESTION, SIR; THAT THOSE

1 ANALYTICS AND SYSTEMS THAT MR. GUNDLACH IS TALKING  
2 ABOUT, OAKTREE DID NOT HAVE ANYTHING TO DO WITH THAT,  
3 RIGHT?

4 A. NOTHING BEYOND WHAT I DESCRIBED EARLIER.

5 Q. WELL, IN TERMS OF ACTUALLY BUILDING THE  
6 SOFTWARE PROGRAM AND ENHANCING IT, AND REBUILDING IT?

11:23AM

7 A. JUST THE DATABASE, AND THE INVITATION AT  
8 VICHARA.

9 Q. AND IT SAYS, (READING):

10 BASICALLY, THE TCW SYSTEMS  
11 THAT WE DESIGNED ARE A DATA FILTER,  
12 WHERE WE BUY EVERY DATA POINT KNOWN  
13 TO MAN. AND WE WANT TO GET OUR  
14 HANDS ON THAT, BUT IT'S AN  
15 OVERWHELMING AMOUNT OF DATA.  
16 SO WHAT WE NEED TO DO IS GET  
17 FILTERS AND EXECUTIVE MANAGEMENT  
18 REPORTS AND TRADE REPORTS MADE FROM  
19 THAT DATA TO FACILITATE  
20 DECISION-MAKING. BUT THE DESIGN OF  
21 THOSE REPORTS, AND UNDERSTANDING  
22 WHAT DATA TO USE, IS CONSTANTLY  
23 CHANGING.

11:23AM

11:23AM

11:23AM

24 AND I HAVE AT LEAST THREE  
25 ENHANCEMENTS THAT ARE INCREDIBLY  
26 IMPORTANT, THAT WERE ALREADY KEYED  
27 UP TO BE ACCOMPLISHED IN 2010; BUT  
28 I WAS GOING TO WAIT UNTIL JANUARY

11:24AM



1 TO TALK TO THE I.T. MANAGER ABOUT  
2 IT.

3 SO THERE ARE THREE MAJOR  
4 ENHANCEMENTS ALREADY THAT WILL  
5 CREATE THE DOUBLELINE SYSTEM TO A 11:24AM  
6 SIGNIFICANT ORDER OF MAGNITUDE OF  
7 BETTER RESOURCES THAN WHAT WE HAD  
8 DECEMBER 4TH, WHEN I LEFT TCW.

9 SO I'LL JUST STOP THERE AGAIN.

10 AND THOSE ENHANCEMENTS THAT HE IS 11:24AM  
11 TALKING ABOUT FROM THE TCW SYSTEMS WERE NOT ANYTHING  
12 OAKTREE WORKED ON?

13 A. NO, THEY WERE NOT.

14 Q. AND THEN HE TALKS ABOUT SOME OTHER  
15 ENHANCEMENTS. 11:24AM

16 BUT THEN, DOWN AT THE BOTTOM OF THE PAGE  
17 ENDING IN 36, HE SAYS, (READING):

18 THERE'S A COUPLE MORE  
19 ENHANCEMENTS THAT -- AND I DON'T  
20 WANT TO GET TOO TECHNICAL HERE. 11:24AM

21 JUST REST ASSURED THAT THE SYSTEMS  
22 ARE CONSTANTLY BEING UPGRADED WITH  
23 THE IDEAS OF THE PORTFOLIO  
24 MANAGERS, AND THANKS TO OAKTREE'S  
25 ASSISTANCE, AND THEIR DOMINANT 11:25AM  
26 PLATFORM.

27 SO WAS THAT A TRUE STATEMENT, THAT  
28 OAKTREE WAS ASSISTING IN THE ENHANCEMENTS OF THE

1 SYSTEMS THAT CAME OVER FROM TCW?

2 MR WEINGART: OBJECTION, YOUR HONOR.  
3 MISSTATES -- ASSUMES FACTS.

4 THE COURT: OVERRULED.

5 YOU CAN ANSWER THE QUESTION. 11:25AM

6 THE WITNESS: I THINK -- I DON'T KNOW WHAT  
7 DOMINANT PLATFORM MEANT.

8 BUT IN TERMS OF OUR INFRASTRUCTURE, IF  
9 IT REFERS TO OUR INFRASTRUCTURE, THAT'S THE ONLY THING  
10 I WOULD THINK IT'S ASSOCIATED WITH. 11:25AM

11 Q. THEN IT SAYS, IN FACT, THERE'S DATA THAT  
12 OAKTREE HAD BOUGHT WITH THEIR RELATIONSHIP WITH  
13 COUNTRYWIDE THAT ACTUALLY WASN'T AVAILABLE TO US AT  
14 TCW, BECAUSE OAKTREE HAD A SOMEWHAT EXCLUSIVE  
15 RELATIONSHIP; AND WE'LL BE DATA MINING THAT DATA. 11:25AM

16 NOW, WITH REGARD TO THAT STATEMENT, SIR,  
17 YOU, AS WE ALREADY HEARD, OVERSAW ALL INFORMATION  
18 TECHNOLOGY AT OAKTREE; AND YOU DO TODAY, CORRECT?

19 A. CORRECT.

20 Q. AND YOU PREVIOUSLY HAD BEEN IN INFORMATION  
21 TECHNOLOGY AT COUNTRYWIDE, RIGHT? 11:26AM

22 A. RIGHT.

23 Q. AND THAT STATEMENT THAT MR. GUNDLACH MADE  
24 THERE TO INVESTORS AND OTHERS, WAS SIMPLY NOT TRUE, WAS  
25 IT, SIR? 11:26AM

26 A. I BELIEVE THAT MR. GUNDLACH CONFUSED THE  
27 VICHARA RELATIONSHIP WITH COUNTRYWIDE CAPITAL MARKETS  
28 WITH OAKTREE.

1 Q. WELL, MY QUESTION THOUGH, SIR, IS: TRUE OR  
2 FALSE, DID OAKTREE HAVE SOME EXCLUSIVE RELATIONSHIP  
3 WITH COUNTRYWIDE THAT INVOLVED THE ACQUISITION BY  
4 OAKTREE OF INFORMATION THAT WASN'T AVAILABLE TO ANYBODY  
5 ELSE?

11:26AM

6 A. OAKTREE DID NOT.

7 VICHARA HAD A RELATIONSHIP.

8 Q. AND HOW DO YOU KNOW THAT, SIR?

9 A. BECAUSE MR. FRANK, BOB FRANK, USED VICHARA TO  
10 DO MORTGAGE ANALYTICS WHEN HE WAS AT COUNTRYWIDE  
11 CAPITAL MARKETS.

11:26AM

12 Q. ALL RIGHT.

13 SO YOU BELIEVE THE STATEMENT HERE IS  
14 TRUE; BUT IT SHOULDN'T HAVE SAID OAKTREE, IT SHOULD  
15 HAVE SAID VICHARA?

11:26AM

16 MR WEINGART: OBJECTION. ARGUMENTATIVE.

17 THE COURT: NOW, WAIT A MINUTE. YOU WERE  
18 TALKING, AND WE DIDN'T GET THE ANSWER.

19 I'LL OVERRULE THE OBJECTION, BUT I WANT  
20 TO MAKE SURE WE KNOW WHAT THE ANSWER WAS.

11:27AM

21 THE WITNESS: THAT WOULD BE MY HYPOTHESIS.

22 Q. BY MR. MADISON: BUT THAT'S JUST SPECULATION  
23 ON YOUR PART?

24 MR. WEINGART: OBJECTION.

25 THE COURT: SUSTAINED.

11:27AM

26 Q. BY MR. MADISON: BUT IT'S CERTAINLY NOT TRUE  
27 ABOUT OAKTREE?

28 A. IT'S NOT TRUE ABOUT OAKTREE.

1 Q. OKAY.

2 NOW, WE SAW SOME CHARTS THAT WERE  
3 CREATED, I BELIEVE, FOR YOUR TESTIMONY, THE DIFFERENT  
4 GRAPHICS THAT WE SAW THERE ABOUT THE WORK THAT OAKTREE  
5 DID.

11:27AM

6 WERE THOSE CREATED FOR THE CASE?

7 A. THE -- WHICH ONES?

8 Q. WELL, LET'S LOOK AT, FOR EXAMPLE, 6170.

9 IF WE COULD DISPLAY THAT, YOUR HONOR.

10 IT'S FOR DEMONSTRATIVE ONLY.

11:27AM

11 THE COURT: IT'S ACTUALLY THE CHART ON --

12 THE WITNESS: IN THIS BOOK, NOT THIS BOOK.

13 THE COURT: I THINK IT IS IN THE SMALLER BOOK.

14 Q. BY MR. MADISON: DO YOU SEE THAT, SIR?

15 A. YEAH, I CAN SEE IT.

11:28AM

16 Q. DO YOU KNOW WHO CREATED THAT?

17 A. I CREATED THE INFORMATION, AND A GENTLEMAN  
18 THAT WORKS FOR ME, ANISH PRASAD, CREATED THE SLIDE.

19 Q. OKAY. AND WHEN WAS THAT?

20 A. THAT WAS LAST WEEKEND.

11:28AM

21 Q. SO LAST WEEKEND. IT WAS CREATED, IN ADVANCE  
22 OF YOUR TESTIMONY HERE, RIGHT?

23 A. CORRECT.

24 Q. TO BE USED IN YOUR TESTIMONY?

25 A. CORRECT.

11:28AM

26 Q. SO MY QUESTION IS, IF I WERE TO ASK YOU HOW  
27 MANY OF THESE PEOPLE AT OAKTREE WERE ACTUALLY WRITING  
28 CODE FOR THE ANALYTIC SYSTEMS THAT DOUBLELINE WAS GOING

1 TO BE USED, WHICH CATEGORIES WOULD THOSE BE?

2 A. THE ONLY PEOPLE THAT WROTE CODE TO EXTRACT THE  
3 DATA POSITION FOR ANALYTICS WOULD HAVE BEEN IN  
4 INFORMATION TECHNOLOGY.

5 Q. AND SO OTHER THAN INFORMATION TECHNOLOGY, NONE  
6 OF THE OTHER FOLKS WERE HELPING WITH THE ANALYTIC  
7 SYSTEMS AT ALL, WERE THEY? 11:28AM

8 A. NO, I DON'T BELIEVE SO.

9 Q. AND WITH REGARD TO THE INFORMATION  
10 TECHNOLOGY -- 11:29AM

11 A. WELL, THAT'S ACTUALLY -- THE RESEARCH,  
12 PURCHASING THE RESEARCH WAS REQUIRED TO DO THE  
13 ANALYTICS; SO THAT ALSO WOULD HAVE BEEN INCLUDED, TO  
14 MAKE THAT HAPPEN.

15 Q. SO WHEN I'M TALKING ABOUT ANALYTICS, THOUGH,  
16 I'M TALKING ABOUT WHAT WE WERE TALKING ABOUT BEFORE;  
17 THAT IS THE, ACTUAL SYSTEMS THAT THE DOUBLELINE  
18 PORTFOLIO MANAGERS WOULD USE TO MAKE INVESTMENT  
19 DECISIONS. 11:29AM

20 A. CORRECT. 11:29AM

21 Q. DID ANYONE HERE HELP WRITE THE CODE FOR ANY OF  
22 THOSE?

23 A. ONLY TO EXTRACT THE POSITION DATA FROM THE  
24 BLOOMBERG PRODUCT.

25 Q. AND THEN WHAT WOULD HAPPEN AFTER THAT? 11:29AM

26 A. THAT WOULD GET MERGED WITH THE DATA THAT  
27 VICHARA CREATED, IN ORDER TO DO THE ANALYTICS.

28 Q. ONLY VICHARA?

1 A. ONLY VICHARA.

2 Q. DID DOUBLELINE HAVE ITS OWN PROPRIETARY  
3 SYSTEMS THAT IT WAS ALSO CREATING AS MR. GUNDLACH WAS  
4 TALKING?

5 A. I'M NOT FAMILIAR WITH WHO DID WHAT, BETWEEN 11:29AM  
6 VICHARA AND DOUBLELINE.

7 Q. OKAY.

8 SO IF WE ASK YOU WHAT HAPPENED AFTER THE  
9 DATA WAS EXTRACTED, YOU KNOW THERE WAS SOME  
10 RELATIONSHIP WITH VICHARA; BUT OTHER THAN THAT, YOU 11:30AM  
11 DON'T KNOW WHAT THE ANALYTIC SYSTEMS WERE AT  
12 DOUBLELINE?

13 A. NO.

14 Q. AND IN FACT, IN THE TRANSITION SERVICES  
15 AGREEMENT, IT WAS SPECIFICALLY PROVIDED THAT OAKTREE 11:30AM  
16 WOULD HAVE NO INVOLVEMENT, OTHER THAN I.T.  
17 INFRASTRUCTURE?

18 A. CORRECT.

19 Q. AND THAT WAS BECAUSE OAKTREE DID NOT WANT TO  
20 HAVE ANYTHING TO DO WITH DEVELOPING THE ANALYTIC 11:30AM  
21 TRADING SYSTEMS AT DOUBLELINE, CORRECT?

22 A. IT'S BECAUSE OAKTREE DID NOT HAVE THE RESIDENT  
23 EXPERIENCE WITH AN R.I.T. TEAM TO HELP WITH ANALYTICS.

24 WE USED VICHARA. AND WE KNEW THAT'S  
25 WHAT THEY WOULD DO IN THE SAME SITUATION. 11:30AM

26 Q. LET'S LOOK AT THE AGREEMENT, SIR. IT'S 2620.

27 AND ACTUALLY, THIS IS THE TERM SHEET.

28 AND THEN WE'LL LOOK AT THE TRANSITION

1 SERVICES AGREEMENT AFTER THAT.

2 SO IF WE GO TO THE FIRST PAGE --

3 AND THIS IS IN EVIDENCE, I BELIEVE, YOUR  
4 HONOR, ON DIRECT.

5 SO IF WE COULD JUST HIGHLIGHT THE TOP  
6 THERE, MICHAEL.

11:31AM

7 THIS IS THE TERM SHEET ABOUT PROPOSED  
8 AGREEMENTS BETWEEN OAKTREE AND DOUBLELINE, CORRECT?

9 A. CORRECT.

10 Q. AND THEN WE GO TO PAGE ENDING IN -9, AND  
11 THERE'S AN EXHIBIT A, AND IT OUTLINES CERTAIN FUNCTIONS  
12 AND TIME PERIODS AND THE LIKE.

11:31AM

13 DO YOU RECALL THIS?

14 A. YES, I DO.

15 Q. AND SO THIS WAS AN ATTEMPT TO PREDICT HOW MUCH  
16 TIME OAKTREE WOULD BE SPENDING ON THE VARIOUS TASKS,  
17 RIGHT?

11:31AM

18 A. NO. IT WAS AN ATTEMPT TO GET AGREEMENT ON THE  
19 DURATION FOR THE OPERATIONAL SUPPORT, AND THEN THE  
20 DURATION AND HOURS FOR ADVICE AND SETUP SERVICES.

11:32AM

21 SO IT WAS -- SOME OF IT WAS DURATION  
22 BASED AND SOME OF IT WAS ALLOCATION OF RESOURCE BASED.

23 Q. SO IF WE LOOK AT THE FIRST COLUMN, IT SAYS  
24 FUNCTION.

25 AND YOU HAVE THE DIFFERENT FUNCTIONS  
26 THAT WERE BEING PROVIDED, CORRECT?

11:32AM

27 A. CORRECT.

28 Q. AND THEN THE SECOND COLUMN SAYS, INTERIM

1 OPERATIONAL SUPPORT, TIME PERIOD, TRANSITIONAL  
2 SERVICES.

3 AND THEN IT GOES DOWN AND GIVES  
4 BASICALLY YESES, OR NOES AS TO WHETHER THOSE WERE GOING  
5 TO BE PROVIDED, RIGHT?

11:32AM

6 A. CORRECT.

7 Q. AND THEN WHAT AMOUNT OF TIME WAS BEING  
8 COMMITTED DURING THAT INTERIM OPERATIONAL SUPPORT  
9 PERIOD?

10 A. WHAT AMOUNT OF TIME?

11:32AM

11 Q. YES, SIR.

12 A. IT'S REPRESENTED BY EACH GROUP. IT WAS A  
13 DIFFERENT AMOUNT OF TIME.

14 SO PROJECT MANAGEMENT, WHICH IS THE  
15 FIRST, WOULD BE FOR 30 DAYS, UNTIL WE TRANSITION TO  
16 KPMG, AS AN EXAMPLE.

11:32AM

17 Q. WELL, LET ME GO TO THE NEXT COLUMN, AND THEN  
18 WE'LL COME BACK TO THAT.

19 YOU SEE THE NEXT COLUMN, THAT SAYS  
20 ADVISORY SERVICES?

11:32AM

21 A. CORRECT.

22 Q. AND IT SAYS TIME PERIOD/LIMITS PER WEEK.

23 A. YES.

24 Q. WHAT DID THESE TERMS MEAN?

25 A. HOW MUCH TIME WE WOULD PROVIDE ADVICE TO  
26 DOUBLELINE ON THAT RELATIVE SUBJECT, AND A SENSE OF HOW  
27 MANY HOURS AND E-MAILS WE WOULD BE INTERACTING WITH  
28 THEM ON.

11:33AM



1 Q. PER WEEK?

2 A. YEAH. I THINK EVERYTHING WAS DOCUMENTED PER  
3 WEEK.

4 Q. SO FOR EXAMPLE, IF WE JUST LOOK AT THAT  
5 PROJECT MANAGEMENT, IT SAYS FOUR MONTHS, ONE TO TWO  
6 HOURS, PLUS NOMINAL E-MAILS.

11:33AM

7 AND SO THAT MEANS THAT FOR FOUR MONTHS  
8 OF AN ADVISORY PERIOD, THERE WOULD BE ONE TO TWO HOURS  
9 PER WEEK PROVIDED, RIGHT?

10 A. YEAH.

11:33AM

11 THERE MAY HAVE BEEN INDIVIDUALS LISTED  
12 WHO WOULD BE CONTACTED; SO IT MAY HAVE BEEN MORE. I  
13 WOULD HAVE TO GO AND LOOK.

14 Q. WHERE WOULD YOU LOOK?

15 A. WHAT?

11:33AM

16 Q. WHERE WOULD YOU LOOK?

17 A. I DON'T KNOW IF IT WAS IN THIS, OR IF IT WAS  
18 IN THE ACTUAL AGREEMENT.

19 Q. WELL, WE'LL LOOK AT THE AGREEMENT IN A MINUTE.

20 A. OKAY.

11:33AM

21 Q. AND THEN THE NEXT PERIOD SAYS, SET UP SERVICE;  
22 THE NEXT COLUMN, TIME PERIOD, LIMITS PER WEEK.

23 THERE AGAIN, THAT'S HOW LONG IT WOULD  
24 LAST, AND HOW MANY HOURS PER WEEK?

25 A. RIGHT.

11:34AM

26 Q. CORRECT?

27 A. WE WOULD PROVIDE SERVICES TO HELP SET UP,  
28 WHICH WAS MORE INVOLVED.

1                   AND THEN, DURING A PERIOD POTENTIALLY  
2 LONGER THAN THAT, WE WOULD PROVIDE ADVICE, ONCE IT WAS  
3 SET UP.

4           Q.     NOW, I NOTICED ON 6170 --

5                   IF WE COULD JUST GO BACK AND SHOW THAT  
6 REAL QUICK, MIKE.

11:34AM

7                   THE GRAPHIC, THERE'S A DESCRIPTION OF  
8 TOTAL YEARS OF EXPERIENCE.

9                   THAT'S THE TOTAL YEARS THE PERSON HAD IN  
10 HIS OR HER JOB, IN TOTAL, RIGHT?

11:34AM

11           A.     IN THEIR DISCIPLINE.

12           Q.     IN THEIR DISCIPLINE.   OKAY.

13                   SO IF WE GO BACK NOW TO 620-9, DID YOU,  
14 OR ANYONE AT YOUR DIRECTION, TRY TO FIGURE OUT HOW MANY  
15 HOURS WERE ACTUALLY SPENT AT OAKTREE?

11:34AM

16           A.     ON PROVIDING SUPPORT TO DOUBLELINE?

17           Q.     YES, SIR.

18           A.     WE ONLY CALCULATED THE ACTUAL --

19           Q.     IT'S A YES OR NO QUESTION.

20           A.     IT'S NOT A YES OR NO ANSWER.

11:34AM

21                   THE COURT:   SO NOW WE'RE AT AN IMPASSE.

22           Q.     BY MR. MADISON:   YOU DIDN'T TELL US YOU WERE A  
23 LAWYER, TOO, MR. DEITCH.

24                   THE COURT:   YOU MAY EXPLAIN YOUR ANSWER.

25                   GO AHEAD.

11:35AM

26                   THE WITNESS:   FOR PEOPLE THAT WERE ON THE  
27 PROJECT FULL TIME, LIKE THE PROJECT MANAGERS, OR AN  
28 INDIVIDUAL FROM THE HELP DESK, OR SOMEONE WHO WAS DOING

1 THE SECURITIES TRADING AND SETTLEMENT, WE TRACKED THEIR  
2 HOURS, AND WE CHARGED DOUBLELINE FOR THEIR TIME.

3 FOR THE OTHERS, WE DID NOT CHARGE  
4 DOUBLELINE FOR THEIR TIME, AND WE DID NOT TRACK THEIR  
5 TIME.

11:35AM

6 Q. SO IF I WANTED TO KNOW HOW YOU DID ON THIS  
7 LAST COLUMN, FOR EXAMPLE, THE SETUP SERVICES, TIME  
8 PERIOD, LIMITS PER WEEK; SO THAT, AGAIN, THAT FIRST BOX  
9 SAYS 90 DAYS, FIVE TO EIGHT HOURS, PLUS NOMINAL  
10 E-MAILS.

11:35AM

11 COULD YOU TELL US, AS YOU SIT HERE,  
12 WHETHER THAT WAS ACTUALLY THE AMOUNT OF TIME THAT WAS  
13 SPENT?

14 A. NO. AND THAT REALLY WASN'T THE INTENTION.

15 Q. DID YOU SAY NO, OR --

11:35AM

16 A. I SAID NO.

17 MR WEINGART: YOUR HONOR, COULD WE FINISH HIS  
18 ANSWER?

19 MR. MADISON: I DIDN'T HEAR THE ANSWER. I'M  
20 SORRY.

11:35AM

21 THE WITNESS: NO. WE DID NOT TRACK THOSE  
22 HOURS.

23 AND THAT WAS NOT THE INTENTION OF THIS  
24 DOCUMENT. IT WAS THE LIMITS PER WEEK.

25 WE DID NOT UNDERSTAND, AT THE TIME, HOW  
26 MUCH DOUBLELINE COULD REQUEST OF US, SO WE ESTABLISHED  
27 LIMITS, THAT SHOULD WE GO BEYOND THAT, WE COULD HAVE  
28 ADDRESSED THE SITUATION.

11:36AM

1 Q. BY MR. MADISON: OKAY.

2 NOW, IF WE GO DOWN TO RESEARCH AND  
3 ANALYTICS, WE SEE IT THERE ON THE HIGHLIGHTED PART  
4 ALREADY, OR THE EXPANDED PART.

5 AND IF WE CAN JUST GO ACROSS THAT ROW,  
6 PLEASE, MIKE. 11:36AM

7 NOW, RESEARCH AND ANALYTICS, THAT'S  
8 WHERE THESE SYSTEMS, PROPRIETARY SYSTEMS, WOULD RESIDE  
9 ON THIS CHART, IN TERMS OF THE PROGRAMS THAT THE  
10 PORTFOLIO MANAGERS WOULD USE TO MAKE INVESTMENT  
11 DECISIONS, CORRECT? 11:36AM

12 A. CORRECT.

13 Q. AND WHAT IT SAYS THERE, OVER ON THE FIRST  
14 COLUMN, IS YES.

15 SO OAKTREE WILL BE PROVIDING INTERIM  
16 OPERATIONAL SUPPORT 180 DAYS, BUT THEN THERE'S AN  
17 ASTERISK THERE, RIGHT? 11:36AM

18 A. CORRECT.

19 Q. AND THE ASTERISK THEN SAYS, INFRASTRUCTURE  
20 SUPPORT ONLY? 11:37AM

21 A. CORRECT.

22 Q. AND ACTUALLY, OAKTREE ASKED THAT THAT BE  
23 INCLUDED, TO MAKE REALLY CLEAR THAT OAKTREE WOULD NOT  
24 HAVE ANYTHING TO DO WITH THE DEVELOPMENT OF THE  
25 PROPRIETARY SYSTEMS TO BE USED TO MANAGE THE TRADING  
26 DECISIONS, CORRECT? 11:37AM

27 A. CORRECT.

28 Q. THAT WAS SOMETHING OAKTREE WANTED TO MAKE VERY

1 CLEAR?

2 A. OAKTREE MADE IT CLEAR THAT WE DID NOT HAVE THE  
3 SKILLS TO DO THAT WORK.

4 Q. WELL, YOU RECALL, WHEN I ASKED YOU ABOUT THAT  
5 IN YOUR DEPOSITION, THAT YOU INDICATED IT WAS BECAUSE  
6 OAKTREE WANTED TO MAKE CLEAR THAT IT WOULD NOT BE  
7 INVOLVED IN THAT?

11:37AM

8 MR WEINGART: OBJECTION, YOUR HONOR.

9 PAGE AND LINE?

10 THE COURT: IF YOU WANT TO READ FROM HIS DEPO?  
11 YOU MAY.

11:37AM

12 MR. MADISON: I DON'T WANT TO TAKE THE TIME  
13 NOW, YOUR HONOR. THANK YOU.

14 THE COURT: YOU MAY.

15 Q. BY MR. MADISON: NOW, LET'S LOOK AT THE  
16 TRANSITION SERVICES AGREEMENTS, IF WE COULD.

11:37AM

17 AND I BELIEVE THAT WAS ALSO JUST  
18 INTRODUCED, AND IT IS EXHIBIT -- IT'S 5641, YOUR HONOR.

19 MR WEINGART: I DIDN'T OFFER IT, BUT I DON'T  
20 HAVE AN OBJECTION.

11:38AM

21 MR. MADISON: WELL, WE'D OFFER IT, THEN, YOUR  
22 HONOR.

23 THE COURT: ALL RIGHT. IT WILL BE ADMITTED.

24

25 (EXHIBIT 5641 ADMITTED.)

11:38AM

26

27 THE COURT: IT IS THE AGREEMENT; IS THAT  
28 RIGHT?

1                   WHAT'S THE TITLE OF THE DOCUMENT?

2           Q.     BY MR. MADISON: LET ME HAVE IT FROM YOU WHEN  
3 I DO THIS.

4           THE COURT: I'VE GOT IT ON THE --

5                   ALL RIGHT. GO AHEAD.

11:38AM

6           MR. MADISON: TRANSITIONAL SERVICES AGREEMENT,  
7 YOUR HONOR?

8           THE COURT: YES.

9           Q.     BY MR. MADISON: SO THIS IS THE AGREEMENT THAT  
10 OAKTREE AND DOUBLELINE ENTERED INTO, MEMORIALIZING THE  
11 RELATIONSHIP THAT WE'VE BEEN DESCRIBING THIS MORNING,  
12 CORRECT?

11:38AM

13          A.     CORRECT.

14          Q.     AND IF WE LOOK AT -- THERE'S AN APPENDIX ON  
15 THIS ONE, AS WELL, IS THERE NOT?

11:39AM

16          A.     CORRECT.

17          Q.     AND IF WE LOOK AT PAGE 1220 -- I'M SORRY, THE  
18 LAST PAGE OF THE EXHIBIT, I BELIEVE.

19                   AND THIS IS ANNEX B CONSULTING SERVICES.

20                   AND HERE AGAIN, IT HAS A LIST OF HOURS  
21 AND THE LIKE; JUST FOR THE CONSULTING, PERIOD, BY THAT  
22 TIME, CORRECT?

11:39AM

23          A.     CORRECT.

24                   AND THE INDIVIDUALS THAT I MENTIONED  
25 EARLIER.

11:39AM

26          Q.     NOW, LET ME MOVE ON TO SOMETHING ELSE, AND ASK  
27 YOU ABOUT WHETHER DOUBLELINE, IN FACT, TO YOUR  
28 KNOWLEDGE, HAD THE THREE PROGRAMMERS THAT MR. GUNDLACH

1 WAS TALKING ABOUT IN THE WEBCAST?

2 A. I HAD HEARD THEY HAD PROGRAMMERS.

3 I DID NOT MEET THEM.

4 Q. AND SO YOU -- IF I WERE TO ASK YOU WHAT THEY  
5 WERE DOING, YOU COULDN'T TELL US THAT?

11:40AM

6 A. NO, I COULD NOT.

7 Q. AND OAKTREE DIDN'T PROVIDE PROGRAMMERS TO WORK  
8 INSIDE DOUBLELINE ON ANY OF THEIR SYSTEMS, CORRECT?

9 A. NOT BEYOND THE EXTRACTION OF THE POSITIONS,  
10 THAT I MENTIONED EARLIER.

11:40AM

11 Q. DID YOU KNOW THAT THE PROGRAMMERS HAD COME  
12 FROM TCW, AS MR. GUNDLACH DESCRIBED?

13 A. NO.

14 Q. NOW, YOU MENTIONED THAT OAKTREE DID NOT COME  
15 INTO CONTACT WITH ANY TCW INFORMATION, RIGHT?

11:40AM

16 A. CORRECT.

17 Q. AND THAT WAS SOMETHING THAT OAKTREE WAS  
18 CONCERNED ABOUT, IN ENTERING INTO ITS AGREEMENT WITH  
19 DOUBLELINE, CORRECT?

20 MR. WEINGART: OBJECTION. FOUNDATION.

11:41AM

21 THE WITNESS: I'M NOT AWARE OF THAT.

22 THE COURT: OVERRULED.

23 I'LL LET IT STAND.

24 Q. BY MR. MADISON: LOOK AT EXHIBIT 624.

25 DO YOU RECOGNIZE THAT E-MAIL FROM THE  
26 GENERAL COUNSEL OF OAKTREE, MR. MOLZ?

11:41AM

27 A. YES.

28 Q. AND IT WAS YOUR POSITION, AS PROJECT MANAGER,

1 THAT OAKTREE SHOULD NOT COME INTO POSSESSION OF ANY TCW  
2 INFORMATION, CORRECT?

3 A. IT'S MY UNDERSTANDING FROM THIS DOCUMENT THAT  
4 THERE SHOULD BE NO SHARING OF INVESTMENT-RELATED  
5 ACTIVITY AROUND SECURITIES, AND THINGS OF THAT NATURE;  
6 THAT WE WERE FREE TO SHARE WITH DOUBLELINE, INFORMATION  
7 ABOUT INFRASTRUCTURE.

11:42AM

8 Q. SO YOU UNDERSTOOD MR. MOLZ' E-MAIL TO  
9 INDICATE, NO OAKTREE CLIENT INFORMATION SHOULD BE  
10 SHARED WITH DOUBLELINE, CORRECT?

11:42AM

11 A. CORRECT.

12 Q. AND DID DOUBLELINE SHARE CLIENT INFORMATION  
13 WITH OAKTREE, AS WELL?

14 A. NO. THE ONLY INFORMATION THAT WE WOULD HAVE  
15 KNOWN WAS WHEN THERE WERE PENDING CLIENTS THAT WE WERE  
16 THINKING MIGHT COME ON BOARD, THAT DIDN'T MATERIALIZE,  
17 WE HAD A LIST OF A FEW NAMES THAT MIGHT COME ON BOARD,  
18 WHEN THEY WOULD BE GETTING THE ON-BOARD CLIENTS.

11:42AM

19 Q. PENDING CLIENTS FOR WHOM?

20 A. FOR DOUBLELINE.

11:42AM

21 Q. AND DID YOU EVER SEE ANY SUCH CLIENTS?

22 A. NO.

23 Q. SO THAT NEVER HAPPENED?

24 A. ONE -- AS I UNDERSTAND, ONE CLIENT, DURING THE  
25 TIME WE WERE SUPPORTING THEM, WAS ON-BOARDED.

11:42AM

26 Q. AND WHO WAS THAT?

27 A. I DON'T KNOW.

28 MR. MADISON: ALL RIGHT. LET ME MOVE 624,



1 YOUR HONOR.

2 THE COURT: ANY OBJECTION?

3 MR. WEINGART: RELEVANCE.

4 THE COURT: I'LL OVERRULE THE OBJECTION, AND  
5 ADMIT THE EXHIBIT.

11:43AM

6

7

(EXHIBIT 624 ADMITTED.)

8

9 Q. BY MR. MADISON: SO IF WE LOOK AT THE MIDDLE  
10 PARAGRAPH THERE, IN THE SECOND E-MAIL, FROM MR. MOLZ TO  
11 ALL OAKTREE STAFF.

11:43AM

12

THE COURT: IT'S ON THE SCREEN.

13

ACTUALLY, IT'S EASIER TO SEE.

14

Q. BY MR. MADISON: (READING):

15

SIMPLY PUT, IT IS IMPERATIVE

11:43AM

16

THAT WE ALL KEEP IN MIND THAT

17

CONFIDENTIAL INFORMATION RELATING

18

TO OAKTREE MANAGED FUNDS AND

19

SEPARATE ACCOUNTS, INCLUDING

20

CONFIDENTIAL INFORMATION RELATING

11:43AM

21

TO THEIR INVESTMENTS AND INVESTMENT

22

ACTIVITY, SHOULD NOT BE SHARED WITH

23

DOUBLELINE OR ITS REPRESENTATIVES.

24

SO THAT WAS THE POLICY WITH OAKTREE,

25

CORRECT?

11:43AM

26

A. CORRECT.

27

Q. NOW, DO YOU RECALL A TIME WHEN THERE WAS A

28

DISCUSSION ABOUT SOME CLIENT INVESTMENT MANAGEMENT

1 AGREEMENTS FROM TCW?

2 A. YES.

3 Q. AND --

4 A. EXCUSE ME.

5 YOU MEAN IMAS?

11:44AM

6 Q. YES. THAT'S THE ACRONYM, CORRECT?

7 A. CORRECT.

8 Q. SO DO YOU RECALL A DISCUSSION ABOUT IMAS FROM  
9 TCW?

10 A. NO, I DON'T. I DON'T RECALL IT BEING A  
11 DISCUSSION ON IMAS FOR TCW.

11:44AM

12 Q. IF YOU COULD LOOK AT 2293 IN THE BOOK BEFORE  
13 YOU, PLEASE.

14 DO YOU RECALL THIS E-MAIL, RECEIVING  
15 THAT FROM MR. PRASAD?

11:44AM

16 A. I DON'T RECALL IT, BUT I HAVE SEEN IT.  
17 MR. MADISON: SO I'D MOVE 2293, YOUR HONOR.  
18 THE COURT: ANY OBJECTION?  
19 MR. WEINGART: NO, YOUR HONOR.  
20 THE COURT: IT WILL BE ADMITTED.

11:44AM

21  
22 (EXHIBIT 2293 ADMITTED.)

23  
24 Q. BY MR. MADISON: SO AT THE TOP, MR. PRASAD IS  
25 FORWARDING TO YOU, ON DECEMBER 17, 2009, AN E-MAIL DOWN  
26 BELOW FROM SOMEBODY NAMED KEVIN BURNETT.

11:44AM

27 DO YOU RECALL THAT?

28 A. I'VE SEEN THE E-MAIL.

1 Q. WHO'S MR. BURNETT?

2 A. MR. BURNETT WORKS IN THE PROJECT MANAGEMENT  
3 OFFICE, OR DID AT THE TIME.

4 Q. AT OAKTREE?

5 A. CORRECT.

11:45AM

6 Q. AND IF YOU LOOK, HE'S TALKING ABOUT A NUMBER  
7 OF DIFFERENT FOLLOW-UPS TO THIS MORNING'S MEETING.

8 AND IF YOU GO DOWN ABOUT MIDWAY, THERE'S  
9 A LINE THAT SAYS, (READING):

10 SELECT KEY CLIENTS AND HAVE  
11 THEM PROVIDE DOUBLELINE WITH THEIR  
12 IMA SO TCW CANNOT CLAIM IT IS  
13 PROPRIETARY. THE CLIENT IMA CAN BE  
14 USED TO EXPEDITE THE NEGOTIATION  
15 PROCESS WITH THE CLIENT.

11:45AM

11:45AM

16 DO YOU RECALL SEEING THAT, WHEN YOU  
17 RECEIVED THIS E-MAIL?

18 A. YES, I DO.

19 Q. AND DO YOU RECALL THE NOTION THAT OAKTREE  
20 WANTED TO MAKE SURE THAT IF DOUBLELINE HAD IMAS BETWEEN  
21 TCW AND TCW CLIENTS, THAT THOSE IMAS NOT HAVE COME FROM  
22 ANYWHERE OTHER THAN THE CLIENT?

11:45AM

23 A. CAN YOU RESTATE THE QUESTION AGAIN?

24 Q. YEAH.

25 I MEAN, DOESN'T THAT TELL US THAT  
26 OAKTREE WANTED TO BE SURE THAT IF THERE WAS AN IMA WITH  
27 A TCW CLIENT IN DOUBLELINE'S POSSESSION, THEY SHOULD  
28 MAKE SURE IT CAME FROM THE CLIENT, NOT FROM ANYWHERE

11:46AM

1 ELSE?

2 A. I ACTUALLY -- I'M NOT SURE WHAT THIS BULLET  
3 SAYS.

4 I WASN'T PART OF THESE CONVERSATIONS, SO  
5 I DON'T KNOW -- IT SOUNDED LIKE THERE WAS SOME  
6 DISCUSSION ABOUT APPROACHES TO HOW TO MOVE FORWARD WITH  
7 THE IMAS.

11:46AM

8 I DON'T ACTUALLY KNOW WHAT TOOK PLACE,  
9 AND I DON'T KNOW IF THAT REPRESENTS OAKTREE'S POSITION.

10 Q. OKAY. IF YOU LOOK AT 798, WHICH WAS  
11 INTRODUCED A BIT AGO, IT'S ONE OF THOSE GRAPHIC FLOW  
12 CHARTS.

11:46AM

13 DO YOU RECALL THIS?

14 I THINK THIS WAS THE SECOND ITERATION  
15 THAT YOU WERE SHOWN.

11:46AM

16 A. YES, I DO.

17 Q. AND IF YOU LOOK -- WELL, BEFORE I DO THAT.

18 YOU KNOW WHAT IMAS ARE, THOUGH, DON'T  
19 YOU?

20 A. INVESTMENTS MANAGEMENT AGREEMENTS.

11:47AM

21 Q. YES, SIR.

22 YOU ARE FAMILIAR WITH THAT DOCUMENT?

23 A. NO, I'M NOT.

24 Q. DO YOU KNOW WHAT THEY -- WHAT PURPOSE THEY  
25 SERVE?

11:47AM

26 A. I KNOW THAT WE NEED THEM WHEN WE AGREE WITH  
27 CLIENTS, AS TO OUR BUSINESS, AND I KNOW THAT MY  
28 OPERATIONS NEED THEM TO SET UP THE INVESTMENT

1 GUIDELINES.

2 AND BEYOND THAT, I'M UNFAMILIAR WITH  
3 THEM.

4 Q. DO YOU KNOW, IF I WERE TO GO TO OAKTREE LATER  
5 TODAY, AND ASK FOR A COPY OF ALL THE CLIENT IMAS,  
6 WHETHER THEY WOULD GIVE THEM TO ME?

11:47AM

7 MR WEINGART: OBJECTION. RELEVANCE,  
8 FOUNDATION.

9 THE COURT: SUSTAINED.

10 Q. BY MR. MADISON: WELL, YOU KNOW IMAS ARE VERY  
11 IMPORTANT CONFIDENTIAL INFORMATION FOR AN ASSET  
12 MANAGEMENT FIRM, DON'T YOU, SIR?

11:47AM

13 MR. WEINGART: OBJECTION. FOUNDATION.

14 THE COURT: I'LL SUSTAIN THE OBJECTION.

15 I'LL STRIKE THE ANSWER.

11:47AM

16 Q. BY MR. MADISON: WELL, IF WE LOOK AT THIS  
17 GRAPHIC NOW, I BELIEVE THIS WAS THE SECOND ITERATION  
18 THAT WE SAW, THE FIRST ONE BEING 632 -- BUT THIS ONE IS  
19 7 -- EXHIBIT 798.

20 AND UP IN THE LEFT-HAND CORNER, I  
21 BELIEVE IT SAYS IT WAS UPDATED AS OF FEBRUARY 3, 2010.

11:47AM

22 AND DO YOU HAVE THE EARLIER ONE THERE  
23 JUST IN YOUR BOOK SOMEWHERE THERE, 632?

24 A. YES, I DO.

25 Q. AND SO 632 WAS DATED DECEMBER 16.

11:48AM

26 AND IF WE GO DOWN TO THE BOTTOM THERE,  
27 THERE'S A CYLINDER THAT SAYS VICHARA THERE, RIGHT  
28 THERE, IT SAYS VICHARA DATABASE?

1 A. CORRECT.

2 Q. THAT WAS ALL IT SAID, AS OF DECEMBER 16, 2009.

3 DO YOU RECALL THAT?

4 THE COURT: THE ONE WE'RE LOOKING AT IS AS OF  
5 FEBRUARY 3RD?

11:48AM

6 MR. MADISON: YOU ARE RIGHT, YOUR HONOR.

7 IF YOU NEED TO CHECK THE OTHER ONE.

8 THE WITNESS: WHICH ONE DO YOU WANT ME TO BE  
9 LOOKING AT?

10 Q. BY MR. MADISON: WELL, YOU CAN BE LOOKING AT  
11 EXHIBIT 632.

11:48AM

12 AND YOU WILL SEE, AT THIS PART OF THE  
13 CHART, IT JUST HAD VICHARA DATABASE AND NOTHING RIGHT  
14 ABOVE THAT, RIGHT?

15 A. CORRECT.

11:49AM

16 Q. NOW ON THIS ONE, FEBRUARY 3RD --

17 IF WE GO UP A BIT, MIKE --

18 WE CAN SEE THERE'S A NEW CYLINDER THERE,  
19 AND IT SAYS DOUBLELINE ANALYTICS -- I CAN'T READ THE  
20 WRITING THERE; BUT COULD YOU READ THAT TO US,  
21 MR. DEITCH?

11:49AM

22 A. DOUBLELINE ANALYTICS POSITION AND TRADES.

23 Q. SO THAT WAS THE SYSTEMS THAT DOUBLELINE HAD  
24 CREATED, INDEPENDENT OF WHAT OAKTREE WAS DOING,  
25 CORRECT?

11:49AM

26 A. ON THE 3RD, THIS WAS A PLANNED ARCHITECTURE.

27 AND WHAT OAKTREE DID WAS BUILD OUT THIS  
28 DATABASE AND PROVIDE AN INTERFACE TO PUT IN POSITIONS.

1                   SO I DON'T KNOW IF THAT'S WHAT  
2 DOUBLELINE ULTIMATELY WAS GOING TO USE IT FOR, BUT THIS  
3 WAS AN ARCHITECTURE OF HOW THE SYSTEMS WOULD FLOW WHEN  
4 THEY WERE BUILT OUT.

5           Q.     AND WHO WOULD BUILD THOSE SYSTEMS INSIDE THAT  
6 CYLINDER THERE, THAT SAYS DOUBLELINE ANALYTICS?                   11:49AM

7           A.     YOU HAVE TO ASK DOUBLELINE.

8           Q.     SO IT WOULD EITHER BE DOUBLELINE OR SOMEONE  
9 WORKING WITH DOUBLELINE, RIGHT?

10          A.     CORRECT.   11:50AM

11          Q.     DO YOU RECALL THAT THERE WAS A CONCERN AT  
12 OAKTREE ABOUT REPUTATION OF RISK RELATED TO THE  
13 TRANSACTION WITH DOUBLELINE?

14          A.     NOT RELATED TO THE TRANSACTION WITH  
15 DOUBLELINE, BUT RELATED TO THINKING ABOUT HAVING AN  
16 OUTSOURCING BUSINESS.   11:50AM

17          Q.     SO THE CONCERN WAS JUST WHETHER IT WOULD  
18 SOMEHOW DIMINISH OAKTREE'S RELATIONSHIP, TO HAVE A  
19 PARTNER OF THIS SORT, WHETHER OR NOT IT WAS DOUBLELINE?

20          A.     NO.   11:50AM

21                   MR. HELM: OBJECTION. MISSTATES THE  
22 TESTIMONY.

23                   THE COURT: SUSTAINED.

24                   YOU HAVE TO REPHRASE THAT, MR. MADISON.

25          Q.     BY MR. MADISON: TELL US WHAT THE PROBLEM WAS  
26 IN YOUR MIND, MR. DEITCH?   11:50AM

27          A.     ON DECEMBER 10TH, WE WERE CONSIDERING MANY  
28 ALTERNATIVES TO HOW WE MIGHT SUPPORT DOUBLELINE.

1                   ONE WAS WHETHER OR NOT OAKTREE WOULD  
2 ESTABLISH AN OUTSOURCING BUSINESS, SORT OF LIKE BANK OF  
3 NEW YORK MELLON, AS THEY HAVE, AND WE OUTLINED EARLIER.

4                   AND AT THAT JUNCTURE, WE ASSESSED  
5 VARIOUS PROS AND CONS AND RISKS WITH BEGINNING A  
6 BUSINESS LIKE THAT. AND THERE WERE MULTIPLE RISKS, ONE  
7 OF WHICH POTENTIALLY COULD BE REPUTATIONAL RISKS.

11:51AM

8                   IT HAS NOTHING TO DO WITH DOUBLELINE.

9           Q.       NOW, LET ME TO ASK YOU TO LOOK AT 6169.

10                   THIS IS ANOTHER ONE OF THE GRAPHICS THAT  
11 WAS DEMONSTRATIVE ONLY.

11:51AM

12                   AND WAS IT YOUR TESTIMONY THAT OAKTREE  
13 WAS ASSISTING DOUBLELINE IN EACH OF THESE FUNCTIONS?

14           A.       IN VARIOUS CAPACITIES, YES.

15           Q.       ON THE ONE THAT'S THE SECOND FROM THE LEFT ON  
16 THE TOP, PRE TRADE RESEARCH AND ANALYTICS, THAT WOULD  
17 INCLUDE LOAN ANALYTICS, CORRECT?

11:51AM

18           A.       THAT BOX WOULD, YES.

19           Q.       BUT THAT WOULD NOT BE ONE OF THE THINGS THAT  
20 OAKTREE WAS ASSISTING DOUBLELINE IN BUILDING, WAS IT,  
21 SIR?

11:51AM

22           A.       I'VE ALREADY EXPLAINED, EXCEPT FOR BUILDING  
23 OUT THE INTERFACE OF POSITIONS AND INTRODUCTION TO  
24 VICHARA AND INTRODUCTION OF THE DATA PROVIDERS FOR  
25 CONTRACTING.

11:52AM

26           Q.       WELL, WOULD YOU DESCRIBE WHAT OAKTREE WAS  
27 DOING WITH REGARD TO THAT BOX AS BEING MARGINAL I.T.  
28 INFRASTRUCTURE SUPPORT?



1 A. YES.

2 Q. AND IN FACT, THE TRANSITIONAL SERVICES  
3 AGREEMENT ACTUALLY CALLED THAT LANGUAGE OUT, IF YOU  
4 RECALL, DIDN'T IT, SIR?

5 A. IT DOES.

11:52AM

6 Q. IF WE CAN LOOK AT EXHIBIT 5641 AGAIN, AND GO  
7 TO PAGE 24.

8 AND YOU WILL SEE DOWN AT THE VERY  
9 BOTTOM, IT SAYS RESEARCH AND ANALYTICS. AND AGAIN,  
10 I.T. INFRASTRUCTURE SUPPORT ONLY.

11:52AM

11 AND THAT WAS OAKTREE'S LANGUAGE,  
12 CORRECT?

13 A. CORRECT.

14 Q. AND THERE'S A NOTE THAT SAYS MARGINAL I.T.  
15 INFRASTRUCTURE SUPPORT, AS NECESSARY. ASSUMPTION THAT  
16 DOUBLELINE PROGRAMMERS WILL BE RESPONSIBLE FOR ANY I.T.  
17 SUPPORT IN THIS FUNCTION.

11:52AM

18 THAT WAS OAKTREE'S CALLOUT, AS WELL,  
19 CORRECT?

20 A. CORRECT.

11:53AM

21 Q. SO DOUBLELINE WAS TO DEVELOP, DESIGN, TEST,  
22 ALL OF THE PROGRAMS THAT WERE BEING USED IN THIS  
23 FUNCTION, EXCEPT FOR THE ONE THAT YOU HAVE ALREADY  
24 MENTIONED, ABOUT EXTRACTING DATA FROM A DATABASE,  
25 RIGHT?

11:53AM

26 A. WELL, TO BUILD, DESIGN AND TEST, OR TO  
27 PURCHASE, OR TO HIRE SOMEONE TO DO THAT FOR THEM.

28 Q. NOW, DID YOU MEET WITH DOUBLELINE'S LAWYERS TO

1 PREPARE TO TESTIFY HERE TODAY, SIR?

2 A. I DID.

3 Q. AND HOW MANY HOURS DID YOU MEET WITH -- WAS IT  
4 THE MUNGER, TOLLES LAWYER?

5 A. YES, IT WAS.

11:53AM

6 Q. HOW MANY HOURS DID YOU MEET WITH THEM?

7 A. WE HAD A FEW MEETINGS.

8 I GUESS THREE OR FOUR MEETINGS, I WOULD  
9 SAY PROBABLY ABOUT TWO HOURS EACH.

10 Q. AND YOU TESTIFIED, I BELIEVE, ABOUT HOW  
11 OAKTREE WAS FOUNDED BY MR. MARKS AND MR. KARSH,  
12 CORRECT?

11:54AM

13 A. CORRECT.

14 Q. AND MR. MARKS AND MR. KARSH HAD ACTUALLY COME  
15 FROM TCW; ISN'T THAT RIGHT?

11:54AM

16 A. THEY DID.

17 Q. SO THERE'S SOME HERITAGE THERE, THAT'S COMMON  
18 WITH TCW AND OAKTREE, IN THAT MR. MARKS AND MR. KARSH  
19 WERE PREVIOUSLY AT TCW, RIGHT?

20 A. I GUESS SO.

11:54AM

21 Q. WELL, MR. MARKS AND MR. KARSH WERE AT TCW  
22 RIGHT BEFORE THEY LEFT AND FOUNDED OAKTREE, CORRECT?

23 A. CORRECT.

24 Q. IN FACT, YOU ARE AWARE, AREN'T YOU, THAT  
25 MR. STERN WAS THE CEO AT TCW AT THAT TIME?

11:54AM

26 A. NO, I WAS NOT.

27 Q. AND DID YOU KNOW THAT MR. MARKS AND MR. KARSH  
28 GAVE 30 DAYS NOTICE THAT THEY WERE LEAVING TO START

1 THEIR OWN NEW FIRM?

2 MR. WEINGART: OBJECTION, FOUNDATION.

3 THE COURT: SUSTAINED.

4 Q. BY MR. MADISON: WELL, DO YOU HAVE ANY  
5 KNOWLEDGE ABOUT THAT, ABOUT THOSE EVENTS?

11:55AM

6 A. NO, I DON'T.

7 Q. NOW, WE SAW IN THE TERM SHEET -- AND WE CAN GO  
8 BACK TO THAT, IF NECESSARY. JUST LET US KNOW.

9 DO YOU RECALL THAT OAKTREE WAS ACQUIRING  
10 22 PERCENT OF DOUBLELINE?

11:55AM

11 A. YES.

12 Q. AND DO YOU RECALL THAT THAT WAS FOR BASICALLY  
13 TWO TYPES OF CONSIDERATION?

14 A. NO.

15 Q. WELL, DO YOU REMEMBER THAT THERE WERE THESE  
16 SERVICES THAT WERE BEING PROVIDED, WHICH I UNDERSTAND  
17 YOU WERE OVERSEEING?

11:55AM

18 A. CORRECT.

19 Q. AND THEN ALSO, OAKTREE WAS PROVIDING THE  
20 PRINCIPALS IN DOUBLELINE WITH A SMALL AMOUNT OF OAKTREE  
21 STOCK?

11:55AM

22 A. I HAD HEARD THAT.

23 Q. AND DID THERE COME A TIME WHEN YOU LEARNED  
24 THAT OAKTREE HAD ACTUALLY PURCHASED BACK THE STOCK THAT  
25 IT HAD GIVEN, IN EXCHANGE FOR THE SHARE OF DOUBLELINE?

11:55AM

26 A. I HEARD THAT, AS WELL.

27 Q. AND DID YOU HEAR THAT THAT WAS FOR \$20  
28 MILLION?

1 A. NO, I DID NOT.

2 Q. DO YOU KNOW -- DOES OAKTREE, TODAY, STILL OWN  
3 THE FULL 22 PERCENT OF DOUBLELINE THAT IT HAD ON DAY  
4 ONE?

5 A. I DON'T KNOW FOR A FACT. 11:56AM

6 Q. DO YOU KNOW WHAT AMOUNT, IF ANY, OAKTREE --  
7 OAKTREE IS STILL AN OWNER, RIGHT?

8 A. I DON'T KNOW WHAT OUR OWNERSHIP PERCENTAGE IS  
9 OF DOUBLELINE.

10 Q. NO ONE HAS EVER TOLD YOU IT WAS DIMINISHED IN 11:56AM  
11 ANY WAY, RIGHT?

12 A. NO. IT HAD NOT BEEN EXPRESSED TO ME.

13 MR. MADISON: NOTHING FURTHER AT THIS TIME.

14 THE COURT: ANY REDIRECT?

15 MR WEINGART: NO, YOUR HONOR. 11:56AM

16 THE COURT: ALL RIGHT.

17 MR. DEITCH, THANK YOU FOR YOUR  
18 TESTIMONY.

19 YOU MAY STEP DOWN.

20 MR. BRIAN: YOUR HONOR, AS THE NEXT WITNESS, 11:56AM  
21 WE WOULD CALL MR. ROBERT DAY, BY VIDEOTAPE DEPOSITION.

22 THE COURT: ALL RIGHT.

23 MR. BRIAN: YOUR HONOR, IT'S ABOUT 35, 36  
24 MINUTES; SO WE'LL -- WITH THE COURT'S PERMISSION, WE'LL  
25 PLAY 15 MINUTES, AND THEN BREAK FOR THE RECESS. 11:57AM

26 THE COURT: THAT'S FINE.

27 MR. BRIAN: AND I'LL JUST ASK OUR OPERATOR TO  
28 FIND A CONVENIENT BREAK AROUND THERE.

1 THE COURT: SOMEONE WILL BE WATCHING THE  
2 CLOCK, I'M SURE.

3  
4 (VIDEOTAPED DEPOSITION OF MR. DAY WAS PLAYED  
5 AT THIS TIME.)

11:57AM

6  
7 MR. BRIAN: PERHAPS WE COULD BREAK IT HERE,  
8 YOUR HONOR.

9 THE COURT: THAT'S FINE.

10 ALL RIGHT, LADIES AND GENTLEMEN. WE'LL  
11 TAKE OUR SECOND RECESS FOR 20 MINUTES.

12:13PM

12  
13 (AT 12:13 P.M. THE FOLLOWING  
14 PROCEEDINGS WERE HELD IN OPEN  
15 COURT OUT OF THE PRESENCE OF  
16 THE JURY:)

17  
18 THE COURT: WE'RE OUT OF THE PRESENCE OF THE  
19 JURY.

20 ANY MATTERS ANYBODY WANTS TO TAKE UP?  
21 I WOULD LIKE TO HAVE AN ACCOUNTING OF  
22 THE HOURS SPENT BY BOTH SIDES, AND LOOK AT THAT.

12:13PM

23 HOW MANY WITNESSES DOES THE DEFENSE --

24 MR. BRIAN: PARDON, YOUR HONOR?

25 THE COURT: HOW MANY WITNESSES DO THE  
26 DEFENDANTS PLAN TO CALL?

12:14PM

27 MR. BRIAN: HOW MANY?

28 THE COURT: I GUESS WHAT IT COMES DOWN TO,

1 THERE'S GOING HAVE TO BE SOME LIMIT ON THE  
2 CROSS-EXAMINATION. AND IF WE HAVE A NUMBER OF  
3 WITNESSES, IN THE AMOUNT OF TIME LEFT, WITH SOME  
4 FLEXIBILITY, UNDERSTANDING THIS ISN'T -- WE'RE NOT  
5 PUTTING OUT WIDGETS HERE. WE'RE TRYING TO GET OUT  
6 JUSTICE. BUT THERE HAS TO BE SOME LIMIT. AND IT CAN'T  
7 JUST KEEP GOING THE WAY IT APPEARS IT'S BEEN GOING ON  
8 BOTH SIDES.

12:14PM

9 SO GIVE ME THAT UPDATE. WE'LL WORK  
10 TOGETHER AND COME UP WITH A PLAN TO MAKE THIS WORK, AND  
11 GET DONE IN THE NEXT WEEK OR SO.

12:14PM

12 MR. BRIAN: PERHAPS I CAN DO THAT AFTER THE --  
13 AT 2 O'CLOCK, YOUR HONOR.

14 THE COURT: THAT'S ALL RIGHT.

15 MR. BRIAN: I WILL TELL YOU, WE ARE  
16 SUBSTANTIALLY PARING DOWN OUR CASE.

12:14PM

17 WE'VE BEEN FILING THE HOURS WEEKLY AT  
18 THE END.

19 THE COURT: I'VE SEEN THEM.

20 MR. BRIAN: AND WE'VE USED --

12:14PM

21 THE COURT: WELL, WE WERE AT 28 AND 16.

22 MR. BRIAN: IT WAS 38 SOMETHING AND 22, AT  
23 SOME POINT.

24 IN ANY EVENT, WE FULLY EXPECT TO CLOSE  
25 OUR CASE BY POSSIBLY AS EARLY AS WEDNESDAY OF NEXT  
26 WEEK.

12:15PM

27 AND OF COURSE, WE'RE OFF ON MONDAY.

28 THE COURT: THAT'S FINE.

1                   AND I THINK WE'RE ON TARGET, BUT I WANT  
2 TO KEEP IT ON TARGET. I WANT TO TELL THESE PEOPLE --  
3 THEY ARE ASKING ME WHAT'S OUR ESTIMATE, ARE WE GOING TO  
4 MEET IT?

5                   I EXPECT TO MEET IT, BUT IT WILL REQUIRE  
6 SOME -- A LITTLE MORE LIMITATIONS THAN WE'VE HAD SO  
7 FAR, TO MAKE IT WORK.

8                   MR. BRIAN: VERY WELL.

9                   THE COURT: ALL RIGHT. THANK YOU.

10  
11                   (RECESS TAKEN.)

12  
13                   (THE NEXT PAGE NUMBER IS 6201.)  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

12:15PM

1 CASE NUMBER: BC 429385  
2 CASE NAME: TCW VS. GUNDLACH  
3 LOS ANGELES, CALIFORNIA AUGUST 31, 2011  
4 DEPARTMENT 322 HON. CARL J. WEST, JUDGE  
5 APPEARANCES: (AS NOTED ON TITLE PAGE.)  
6 REPORTER: RAQUEL A. RODRIGUEZ, CSR  
7 TIME: C SESSION; 12:35 P.M.

8

9

--0--

10

12:41PM

11

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

13

YOU CAN CONTINUE WITH MR. DAY'S  
14 DEPOSITION TESTIMONY.

15

MR. BRIAN: THANK YOU, YOUR HONOR.

12:42PM

16

17

(VIDEO DEPOSITION PLAYED OF ROBERT DAY.) +

18

19

MR. BRIAN: YOUR HONOR, I TALKED TO MR. QUINN.  
20 AND I THINK WE HAVE A STIPULATION. EXHIBIT 5 REFERRED  
21 TO IN THE DEPOSITION IS EXHIBIT 5164 THAT'S BEEN  
22 ADMITTED IN EVIDENCE.

01:03PM

23

AND I WOULD ASK PERMISSION TO PUBLISH  
24 THAT BRIEFLY FOR THE JURY.

25

IT'S A ONE-PAGE DOCUMENT.

01:03PM

26

THE COURT: YES, YOU MAY.

27

IS THAT CORRECT, MR. QUINN?

28

MR. QUINN: YES.



1 THE COURT: EXHIBIT 5 TO THE DEPOSITION,  
2 LADIES AND GENTLEMEN, IS THE SAME AS TRIAL EXHIBIT --  
3 WHAT'S THE NUMBER?

4 MR. BRIAN: 5164. THAT WAS THE EXHIBIT THE  
5 WITNESS WAS SHOWN DURING THE PORTION OF THE DEPOSITION  
6 THAT WAS SHOWN TO THE JURY.

01:04PM

7 THE COURT: RIGHT. 5164 HAS BEEN ADMITTED IN  
8 EVIDENCE.

9 AGAIN, WE'RE GOING TO GIVE YOU A  
10 CROSS-REFERENCE FOR EACH OF THE DEPOSITIONS THAT'S HAD  
11 AN EXHIBIT. WHERE THEY'LL TALK ABOUT EXHIBIT 5 AND IT  
12 WILL SHOW WHAT THE TRIAL EXHIBIT NUMBER IS.

01:04PM

13 MR. BRIAN: THANK YOU, YOUR HONOR.

14 THE COURT: YOU MAY CALL YOUR NEXT WITNESS.

15 MR. HELM: THANK YOU, YOUR HONOR. WE CALL  
16 PETER SULLIVAN.

01:04PM

17 THE CLERK: RAISE YOUR RIGHT HAND TO BE SWORN,  
18 SIR.

19  
20 PETER SULLIVAN +  
21 CALLED AS A WITNESS BY THE DEFENSE WAS SWORN AND  
22 TESTIFIED AS FOLLOWS:

23  
24 THE CLERK: YOU DO SOLEMNLY STATE THAT THE  
25 TESTIMONY YOU ARE ABOUT TO GIVE IN THE CAUSE NOW  
26 PENDING BEFORE THIS COURT, SHALL BE THE TRUTH, THE  
27 WHOLE TRUTH AND NOTHING BUT THE TRUTH, SO HELP YOU GOD?

28 THE WITNESS: I DO.

1 THE CLERK: THANK YOU. PLEASE BE SEATED.

2 SIR, PLEASE STATE AND SPELL YOUR NAME  
3 FOR THE RECORD.

4 THE WITNESS: PETE SULLIVAN, S-U-L-L-I-V-A-N.

5 THE COURT: YOUR FIRST NAME IS PETE OR PETER? 01:05PM

6 THE WITNESS: PETE. FORMALLY PETER.

7 THE COURT: MR. HELM, YOU MAY PROCEED.

8

9 DIRECT EXAMINATION +

10 BY MR. HELM: 01:05PM

11 Q GOOD AFTERNOON.

12 A GOOD AFTERNOON.

13 Q YOU ARE EMPLOYED BY TCW; IS THAT RIGHT?

14 A THAT IS CORRECT.

15 Q YOU WORKED THERE FOR 17 YEARS? 01:05PM

16 A YES.

17 Q YOU HOLD THE POSITION OF VICE PRESIDENT AND  
18 SENIOR FINANCIAL ANALYST IN THE CORPORATE FINANCE  
19 DEPARTMENT, DON'T YOU?

20 A THAT'S CORRECT. 01:05PM

21 MR. BRIAN: YOUR HONOR, I'M HAVING TROUBLE  
22 HEARING THE WITNESS. COULD HE POSSIBLY MOVE UP.

23 THE COURT: SIR, COULD YOU MOVE UP CLOSER TO  
24 THE MICROPHONE.

25 THE WITNESS: SURE. 01:05PM

26 THE COURT: GO AHEAD.

27 MR. HELM: THANK YOU, YOUR HONOR.

28 Q YOU HAVE BEEN A SENIOR VICE PRESIDENT FOR

1 ABOUT FIVE YEARS; IS THAT CORRECT?

2 A FIVE OR SIX, YES.

3 Q AND YOU'VE ALSO BEEN A FINANCIAL ANALYST FOR  
4 TCW FOR THE PAST FIVE YEARS, CORRECT?

5 A AT LEAST.

01:06PM

6 Q AND YOU HANDLE MOST OF THE CORPORATE PROFIT  
7 AND LOSS ANALYSIS, WHICH LEADS TO MOST OF THE  
8 COMPENSATION ANALYSIS FOR TCW, CORRECT?

9 A CORRECT.

01:06PM

10 Q AND AS PART OF YOUR JOB YOU FAMILIARIZE  
11 YOURSELF WITH THE COMPENSATION ARRANGEMENTS WITH  
12 VARIOUS INDIVIDUALS AT TCW, DON'T YOU?

13 A THAT IS CORRECT.

14 Q AND YOU MANAGED THE PORTION OF THE TCW  
15 EMPLOYEE COMPENSATION THAT IS PAID THROUGH THE PAYROLL  
16 DEPARTMENT, CORRECT?

01:06PM

17 A THAT IS CORRECT.

18 Q AND AS PART OF THAT MANAGEMENT ROLE, YOU  
19 OVERSEE THE PAYMENT TO CERTAIN TCW EMPLOYEES OF WHAT  
20 ARE CALLED INCENTIVE FEES, OR CARRIED INTEREST,  
21 CORRECT?

01:06PM

22 A TO THE EXTENT THAT THEY'RE PAID THROUGH  
23 PAYROLL, YES.

24 Q AND JUST -- WE'VE TOUCHED ON THIS, BRIEFLY, SO  
25 WE'RE ALL ON THE SAME PAGE. THERE'S A DIFFERENCE  
26 BETWEEN MANAGEMENT FEES AND INCENTIVE FEES, CORRECT?

01:07PM

27 A THAT IS CORRECT.

28 Q AND MANAGEMENT FEES ARE PAID AS A PERCENTAGE

1 OF ASSETS UNDER MANAGEMENT, CORRECT?

2 A YES.

3 Q AND THEY DON'T DEPEND ON HOW SUCCESSFUL THE  
4 INVESTMENTS ARE, DO THEY?

5 A THE -- IF THE ASSETS GROW, THEN THE MANAGEMENT  
6 FEE WILL GROW SOME, THERE IS SOME SUCCESS THERE.

01:07PM

7 Q GOOD POINT.

8 THEY -- WHAT THEY DEPEND ON ARE, IS THE  
9 AMOUNT OF ASSETS THAT ARE BEING MANAGED, CORRECT?

10 A THAT IS CORRECT.

01:07PM

11 Q IF THE AMOUNT OF ASSETS GO UP, THE FEES GO UP,  
12 CORRECT?

13 A CORRECT.

14 Q IF THE AMOUNT GOES DOWN, THE FEES GO DOWN?

15 A YES.

01:07PM

16 Q NOW, INCENTIVE FEES ARE ALSO SOMETIMES CALLED  
17 PERFORMANCE FEES, AREN'T THEY?

18 A YES.

19 Q INCENTIVE FEES ARE PAID AS A PERCENTAGE OF  
20 PROFITS MADE ON THE INVESTMENTS, CORRECT?

01:07PM

21 A THAT IS CORRECT.

22 Q AND SO, GENERALLY, THERE'S A HURDLE RATE THAT  
23 HAS TO BE SATISFIED FIRST, RIGHT?

24 A CORRECT.

25 Q BUT AFTER THE PROFITS EXCEED A CERTAIN HURDLE  
26 RATE AND AFTER THE INVESTOR'S CAPITAL IS RETURNED, TCW,  
27 WHEN IT SHARES AN INCENTIVE FEE, GETS A PERCENTAGE OF  
28 THE AMOUNT OVER THAT IN PROFITS, RIGHT?

01:08PM

1 A CORRECT.

2 Q NOW, YOU WERE AT TCW IN THE SPRING OF 2007,  
3 CORRECT?

4 A YES.

5 Q AND IN THE SPRING OF 2007, JEFFREY GUNDLACH  
6 HAD AN EMPLOYMENT ARRANGEMENT WITH TCW THAT WAS GOING  
7 TO BE EXPIRING AT THE END OF 2007.

01:08PM

8 DO YOU RECALL THAT?

9 A THAT'S MY UNDERSTANDING.

10 Q AND IN THE SPRING OF 2007, YOU HAD  
11 COMMUNICATIONS WITH MR. GUNDLACH ABOUT POSSIBLE CHANGES  
12 TO HIS COMPENSATION, TRUE?

01:08PM

13 A TRUE.

14 Q AND YOU WERE INVOLVED IN THOSE DISCUSSIONS  
15 WITH OTHER MEMBERS OF TCW MANAGEMENT, CORRECT?

01:09PM

16 A AT SOME LIMITED LEVEL, YES.

17 Q AND SO, SO OTHER PEOPLE AT TCW WHO WERE  
18 INVOLVED IN THESE DISCUSSIONS INCLUDED MR. SONNEBORN,  
19 CORRECT?

20 A CORRECT.

01:09PM

21 Q AND MR. BEYER WAS INVOLVED, WASN'T HE?

22 A PROBABLY, YES.

23 Q AND MR. DEVITO WAS ON SOME OF THE  
24 COMMUNICATIONS, AT LEAST YOU HAD WITH MR. GUNDLACH ON  
25 THIS SUBJECT?

01:09PM

26 A IT'S TRUE.

27 Q AND MR. VILLA, WAS HE INVOLVED IN SOME WAY?

28 A YES.

1 Q NOW, AS PART OF THESE NEGOTIATIONS, SOME  
2 CHANGES WERE MADE IN THE AGREEMENT GOVERNING HOW  
3 MR. GUNDLACH WOULD BE PAID; IS THAT RIGHT?

4 A THAT IS CORRECT.

5 Q AND NOW WE'LL -- I WANT TO GO THROUGH SOME OF  
6 THE BACK AND FORTH ON THE NEGOTIATIONS.

7 BUT JUST SORT OF IN ADVANCE, TO TOUCH ON  
8 THE MAJOR POINTS THAT WERE ADDRESSED, ONE OF THE  
9 CHANGES THAT WAS MADE WAS THAT MR. GUNDLACH WOULD  
10 HENCEFORTH NOW BE PAYING FOR THE SALARIES AND BONUSES  
11 OF THE PEOPLE IN HIS GROUP OUT OF WHAT OTHERWISE WOULD  
12 HAVE BEEN HIS SHARE OF THE FEE SHARING, CORRECT?

13 A HE WOULD BE COVERING THEIR SALARIES AND  
14 BONUSES OUT OF HIS SHARE OF THE FEE SHARING, YES.

15 Q SO, BEFORE THE SPRING OF 2007, TCW MADE SOME  
16 CONTRIBUTIONS TO THE SALARIES AND BONUSES AND OTHER  
17 EXPENSES OF THE M.B.S. GROUP, CORRECT?

18 A TCW COVERED PART OF THOSE COSTS, THAT IS  
19 CORRECT.

20 Q BUT THAT CHANGED, THE LEVEL OF TCW'S  
21 CONTRIBUTION CHANGED IN THE SPRING OF 2007, CORRECT?

22 A CORRECT.

23 Q AND, IN FACT, WE'LL TALK ABOUT THIS A LITTLE  
24 BIT LATER. AT SOME LATER POINT THE TCW CONTRIBUTION  
25 WAS ELIMINATED; IS THAT TRUE?

26 A THAT IS TRUE.

27 Q AT SOME POINT, STARTING AROUND 2008, TCW WAS  
28 MAKING NO CONTRIBUTION FROM ITS SHARE OF FEE SHARING

1 FOR THE SALARIES AND EXPENSES OF THE M.B.S. GROUP,  
2 CORRECT?

3 A CORRECT.

4 Q NOW, WHEN WE TALK ABOUT FEE SHARING, WHAT  
5 WE'RE TALKING ABOUT IS THAT THERE'S A POOL. A POOL IS  
6 CREATED OF A CERTAIN PERCENTAGE OF FEES FROM VARIOUS  
7 FUNDS THAT WERE MANAGED BY MR. GUNDLACH AND HIS GROUP,  
8 CORRECT?

01:11PM

9 A CORRECT.

10 Q AND SO WE WOULD SPECIFY THE PERCENTAGE OF A  
11 PARTICULAR FUND THAT WOULD GO INTO WHAT YOU SOMETIMES  
12 CALL IT, A POOL, CORRECT?

01:11PM

13 A TRUE.

14 Q ONCE THAT POOL WAS THEN CONSTITUTED, IT WOULD  
15 GO TO MR. GUNDLACH AND HE COULD SHARE IT WITH MEMBERS  
16 OF HIS GROUP, CORRECT?

01:11PM

17 A CORRECT.

18 Q AND A SECOND CHANGE THAT WAS MADE IN THE  
19 SPRING OF 2007 WAS THAT YOU ELIMINATED CERTAIN CAPS AND  
20 THRESHOLDS THAT HAD PREVIOUSLY LIMITED THE EXTENT TO  
21 WHICH MR. GUNDLACH'S COMPENSATION COULD GROW, DIDN'T  
22 YOU?

01:12PM

23 A THAT'S CORRECT.

24 Q THERE WERE CERTAIN, IN PRIOR AGREEMENTS THAT  
25 HAD BEEN THRESHOLDS OR GOVERNOR REGULATORS, I DON'T  
26 KNOW, YOU USE DIFFERENT TERMS.

01:12PM

27 BUT THERE WAS SOME LIMITATION SO THAT  
28 THEY WOULD INHIBIT THE EXTENT TO WHICH HIS COMPENSATION

1 COULD GROW IF THE GROUP WERE SUCCESSFUL, CORRECT?

2 A THAT IS CORRECT.

3 Q AND SO IN THE SPRING OF 2007, THOSE THRESHOLDS  
4 OR LIMITATIONS WERE ELIMINATED, CORRECT?

5 A CORRECT.

01:13PM

6 Q ON THE ONE HAND, HE WAS ASSUMING A GREATER  
7 RESPONSIBILITY FOR PAYING THE EXPENSES OF HIS GROUP,  
8 CORRECT?

9 A THAT IS CORRECT.

10 Q SO, IF THINGS DIDN'T WORK OUT WELL, IF THE  
11 GROUP WAS NOT SUCCESSFUL, THAT WOULD BE UNFORTUNATE FOR  
12 MR. GUNDLACH, CORRECT?

01:13PM

13 A CORRECT.

14 Q BUT, AT THE SAME TIME, THEY ALSO REMOVED SOME  
15 LIMITATIONS THAT HAD PREVIOUSLY EXISTED ON THE EXTENT  
16 TO WHICH HIS COMPENSATION COULD GROW, RIGHT?

01:13PM

17 A THAT IS CORRECT.

18 Q AND IF THINGS WERE GOOD, IF HE -- IF HIS GROUP  
19 WAS GENERATING MORE FEES, THEN THAT WOULD BE MORE TO  
20 MR. GUNDLACH'S BENEFIT THAN PREVIOUSLY, CORRECT?

01:13PM

21 A THAT IS CORRECT.

22 Q NOW, YOU ALSO REACHED AGREEMENT IN THE SPRING  
23 OF 2007 ON FEE SHARING FOR INCENTIVE FEES AND  
24 MANAGEMENT FEES FOR THE SPECIAL MORTGAGE CREDIT FUNDS,  
25 CORRECT?

01:14PM

26 A CAN YOU RESTATE THAT?

27 Q YES.

28 YOU'VE HEARD OF FUNDS CALLED THE SPECIAL



1 CREDIT MORTGAGE FUNDS, CORRECT?

2 A CORRECT.

3 Q WE SOMETIMES CALL THOSE SMCF, CORRECT?

4 A CORRECT.

5 Q IN THE SPRING OF 2007 NO SMCF FUNDS HAD  
6 ACTUALLY BEEN CREATED.

01:14PM

7 DO YOU REMEMBER THAT?

8 A I DO NOT RECALL THEIR EXACT CREATION DATE.

9 Q ALL RIGHT.

10 BUT DO YOU RECALL THAT, AS PART OF THE  
11 DISCUSSIONS WITH MR. GUNDLACH, AN AGREEMENT WAS REACHED  
12 ON WHAT FEE SHARING PERCENTAGE HE WOULD GET FROM FEES  
13 THAT WERE GENERATED ON THE SMCF FUNDS? DO YOU RECALL  
14 THAT?

01:14PM

15 A I DO RECALL THAT, YES.

01:14PM

16 Q AND, IT WAS AGREED THAT HE WOULD GET  
17 60 PERCENT OF THE CARRIED INTEREST THAT WAS GENERATED  
18 ON THE SMCF FUNDS.

19 DO YOU RECALL THAT?

20 A I DO.

01:15PM

21 Q AND HE WOULD GET 50 PERCENT OF THE MANAGEMENT  
22 FEES THAT WERE GENERATED ON THE SMCF FUNDS, CORRECT?

23 A CORRECT.

24 Q NOW I WANT TO TALK TO YOU A LITTLE BIT ABOUT  
25 HOW THE NEGOTIATIONS TOOK PLACE IN THE SPRING OF 2007.

01:15PM

26 DURING THAT PERIOD, BOTH YOU AND  
27 MR. GUNDLACH PREPARED SOME SPREADSHEETS WHICH SHOWED  
28 CALCULATIONS UNDER A NEW COMPENSATION ARRANGEMENT,

1 CORRECT?

2 A CORRECT.

3 Q AND YOU CIRCULATED THE SPREADSHEETS BETWEEN  
4 YOURSELF AND OTHER TCW MANAGEMENT, CORRECT?

5 A THAT'S CORRECT. 01:15PM

6 Q AND YOU TWEAKED THOSE SPREADSHEETS AS TIME  
7 WENT ON AND YOU WERE DISCUSSING THINGS, CORRECT?

8 A THAT'S CORRECT.

9 Q ONE SPREADSHEET WOULD BE CIRCULATED AND PEOPLE  
10 WOULD TAKE A LOOK AND SAY, I DON'T LIKE THE WAY THAT  
11 LOOKS. WHY DON'T WE UP THIS PERCENTAGE OR REDUCE THAT  
12 PERCENTAGE. OR CHANGE THIS TERM IN SOME WAY, CORRECT?

13 A THAT WAS COMMON, YES. 01:16PM

14 Q I'D LIKE YOU TO TURN TO EXHIBIT 5031. IT'S IN  
15 YOUR BOOK. 01:16PM

16 THE COURT: LET ME TELL YOU, MR. SULLIVAN,  
17 SOMETIMES YOU CAN LOOK UP ON THE SCREEN. IT'S EASIER  
18 TO FIND THAN LOOKING AT THE BOOK. YOU MAY WANT TO TRY  
19 TO FIND THE ACTUAL COPY.

20 THE WITNESS: OKAY. 01:16PM

21 I'LL TRY.

22 THE COURT: GO AHEAD.

23 BY MR. HELM:

24 Q 5031 IS A -- IT INCLUDES E-MAILS -- IT STARTS  
25 OFF WITH AN E-MAIL THAT YOU SENT TO MR. GUNDLACH  
26 APRIL 25TH, 2007, CORRECT? 01:16PM

27 A AT THE BOTTOM OF THE PAGE, YES.

28 Q THEN WE HAVE A RESPONSE FROM MR. GUNDLACH TO

1 YOU, CORRECT?

2 A NOW I DO, YES.

3 Q AND A RESPONSE FROM MR. SONNEBORN TO YOU,  
4 AMONG OTHER PEOPLE, CORRECT?

5 A CORRECT.

01:17PM

6 MR. HELM: I'D MOVE ADMISSION OF 5031.

7 MR. QUINN: YOUR HONOR, MY ONLY CONCERN IS  
8 PAGES -3, -4 AND --

9 THE COURT: LET ME LOOK AT THEM.

10 MR. QUINN: THIS IS THE --

01:17PM

11 THE COURT: THE ATTACHMENTS.

12 MR. QUINN: YEAH, I DON'T KNOW WHETHER  
13 MR. HELM INTENDS TO USE THOSE. THERE'S COMPENSATION  
14 INFORMATION FOR IDENTIFIED INDIVIDUALS.

15 MR. HELM: I DO INTEND TO USE THEM.

01:17PM

16 THE COURT: ALL RIGHT.

17 TO THE EXTENT THEY'RE GOING TO BE USED,  
18 WE MAY WANT TO HAVE SOME REDACTION JUST FOR THE PRIVACY  
19 RIGHTS OF THOSE INDIVIDUALS.

20 MR. HELM: MAY I PROCEED?

01:18PM

21 THE COURT: WE'LL ADMIT IT SUBJECT TO FURTHER  
22 CONSIDERATION OF THE EXHIBITS.

23

24 (EXHIBIT 5031 ADMITTED.) +

25

01:18PM

26 MR. HELM: THANK YOU, YOUR HONOR.

27 Q NOW, AT THE BOTTOM OF THE CHAIN, ON THE BOTTOM  
28 OF PAGE 2 --

1                   COULD WE FIRST PUBLISH THAT TO THE JURY,  
2 PLEASE. LET'S SHOW PAGE 1. START WITH PAGE 1, PLEASE.

3                   THIS IS WHAT WE'RE LOOKING AT. IF YOU  
4 GO TO PAGE 2, PLEASE. IF YOU LOOK AT THE BOTTOM OF  
5 PAGE 2, THERE'S AN E-MAIL.

01:18PM

6                   THIS IS AN E-MAIL FROM YOU TO  
7 MR. GUNDLACH, MR. SONNEBORN, AND MR. BEYER, CORRECT?

8           A       CORRECT.

9           Q       AND YOU WROTE THIS E-MAIL DURING THE PERIOD  
10 WHEN YOU WERE EXCHANGING SPREADSHEETS WHICH SHOW  
11 CALCULATIONS UNDER THE NEW PROPOSED COMPENSATION  
12 SCHEME, CORRECT?

01:18PM

13          A       THAT IS CORRECT.

14          Q       AND IN THIS E-MAIL YOU WRITE: SEE ATTACHED  
15 FOR ANALYSIS OF EXISTING VERSUS NEW DEAL ECONOMICS,  
16 CORRECT?

01:19PM

17          A       CORRECT.

18          Q       WHAT'S ATTACHED IS AN EXAMPLE OF THE KIND OF  
19 SPREADSHEETS THAT YOU SENT BACK AND FORTH, CORRECT?

20          A       I WOULD ASSUME SO.

01:19PM

21          Q       SO, IF WE LOOK AT THE NEXT PAGE, PAGE 3 OF  
22 EXHIBIT 5031 --

23                   MR. QUINN: COULD I ASK THE FEED BE CUT IF  
24 IT'S GOING TO BE DISPLAYED, YOUR HONOR?

25                   THE COURT: PAGE 3.

01:19PM

26                   MR. QUINN: THE DIGITAL FEED.

27                   THE COURT: PAGE 3, AS I SEE IT --

28                   MR. HELM: I HAVE NO OBJECTION TO THE FEED,

1 YOUR HONOR.

2 THE COURT: LET'S HOLD BACK.

3 LADIES AND GENTLEMEN, MAKE NOTE OF THE  
4 EXHIBIT NUMBER. THERE MAY BE INFORMATION ON HERE  
5 THAT'S PRIVACY PROTECTED FOR OTHER PEOPLE, NOT PARTIES  
6 TO THIS. AND SO WE WOULDN'T WANT TO PUT IT OUT.

01:20PM

7 WE'LL HAVE TO LOOK AT THAT. WE DON'T  
8 HAVE TIME TO DO IT RIGHT NOW.

9 LET'S GO AHEAD AND HOLD OFF. YOU MAY  
10 QUESTION HIM ABOUT IT.

01:20PM

11 MR. HELM: THANK YOU, YOUR HONOR.

12 Q IF WE COULD LOOK AT PAGE 3, DENNIS, PLEASE.

13 IF YOU GO TO THE TOP, IT SAYS: SUMMARY  
14 PRO FORMA COMPARISON OF EXISTING VERSUS NEW DEAL  
15 ECONOMICS, CORRECT? DO YOU SEE THAT?

01:20PM

16 A YES, I DO.

17 Q THIS IS AN EXAMPLE OF A KIND OF SPREADSHEETS  
18 THAT BEING CIRCULATED IN THE SPRING OF 2007; ISN'T THAT  
19 RIGHT?

20 A THAT IS CORRECT.

01:20PM

21 Q SO IF WE LOOK AT THIS PRO FORMA, WE CAN SEE  
22 SOME WAYS THAT THE NEW DEAL DIFFERED FROM THE OLD DEAL,  
23 CORRECT?

24 A CORRECT.

25 Q AND ONE WAY IS THAT THERE ARE DIFFERENT --  
26 WERE DIFFERENT PERCENTAGES FROM PARTICULAR FUND GROUPS  
27 THAT WERE CONTRIBUTED TO THE POOL, CORRECT?

01:20PM

28 A CORRECT. ALTHOUGH YOU DON'T SEE THAT ON THIS

1 PARTICULAR SCHEDULE.

2 Q WELL, LET'S --

3 ACTUALLY, COULD WE TURN TO PAGE 4,  
4 PLEASE, DENNIS. AND IF YOU COULD DO THE TOP PART --  
5 ACTUALLY DO THE TOP HALF.

01:21PM

6 IF YOU SEE --

7 THE COURT: WELL, THIS HAS THE SAME ISSUES,  
8 DOESN'T IT?

9 YES, IT DOES.

10 THE WITNESS: THERE ARE NAMES ON THE LEFT.

01:21PM

11 THE COURT: WE SHOULDN'T BE PUBLISHING IT.

12 MR. HELM: COULD WE PUBLISH THIS TO THE JURY,  
13 YOUR HONOR?

14 THE COURT: NO. I SAID WE SHOULDN'T PUBLISH  
15 THIS.

01:21PM

16 MR. HELM: I'M SORRY. I MISUNDERSTOOD YOU. I  
17 APOLOGIZE.

18 YOUR HONOR, THE PEOPLE WHO ARE SHOWN  
19 HERE, FOR THE MOST PART, ARE AT DOUBLELINE RIGHT NOW.  
20 GUNDLACH, BARACH, GALLIGAN.

01:21PM

21 THE COURT: WE'LL HAVE TO DEAL WITH IT. I  
22 DON'T THINK WE OUGHT TO DEAL WITH IT IN THIS CONTEXT.

23 GO AHEAD.

24 MR. HELM: ALL RIGHT.

25 Q IT SHOULD STILL BE ON YOUR SCREEN, SIR.

01:21PM

26 A YES, I SEE IT.

27 Q DO YOU SEE, UNDER THE M.B.S. LINE, THERE'S A  
28 LINE THAT SAYS 48 PERCENT, SHOWING THE PERSONAL OF FEE

1 SHARING?

2 A YES, I DO.

3 Q AND SO, IT USED TO BE THAT THE FEE SHARING ON  
4 CERTAIN M.B.S. PRODUCTS WAS 45 PERCENT FOR THE FIRST  
5 25 MILLION AND 50 PERCENT AFTER THAT, CORRECT?

01:22PM

6 A THAT IS CORRECT.

7 Q AND IN THE NEW DEAL IT'S CHANGED TO A FLAT  
8 48 PERCENT FOR THE M.B.S. GROUPS, CORRECT?

9 A CORRECT.

10 Q AND THAT'S SHOWN ON PAGE 4 OF THAT EXHIBIT,  
11 CORRECT?

01:22PM

12 A CORRECT.

13 Q AND IF YOU LOOK BACK ON PAGE 3 AT THE GROSS  
14 FEE SHARING LINE NEAR THE TOP, UNDER GROSS FEE SHARING  
15 TOTAL, DO YOU SEE THAT?

01:22PM

16 A YES, I DO.

17 Q IT SAYS: \$113.5 MILLION.

18 CORRECT?

19 A I SEE THAT.

20 Q AND THEN NEXT TO IT -- THAT'S UNDER THE  
21 EXISTING ECONOMICS, CORRECT?

01:22PM

22 A CORRECT.

23 Q BUT TOTAL FEE SHARING FOR THE NEW DEAL  
24 ECONOMICS COLUMN IS: \$109.3 MILLION.

25 CORRECT?

01:23PM

26 A IN GROSS, CORRECT.

27 Q SO THAT'S A NEGATIVE VARIANCE OF 4.2 MILLION,  
28 CORRECT?

1 A CORRECT.

2 Q SO THAT MEANT AT THE LEVEL OF \$222 MILLION IN  
3 REVENUE, WITH CERTAIN ASSUMPTIONS, THAT CHANGES TO THE  
4 COMPENSATION SCHEME RESULTED IN \$4.2 MILLION LESS BEING  
5 PAID TO THE PROFIT SHARING FEE, CORRECT?

01:23PM

6 A THAT IS NOT CORRECT.

7 Q FOR THE GROSS FEE SHARING COMPONENT OF IT?

8 A FOR THE GROSS FEE SHARING COMPONENT OF IT,  
9 YES.

10 Q FAIR POINT.

01:23PM

11 SO THEN THE GROSS AMOUNT THAT WENT IN  
12 WOULD BE LESS, CORRECT?

13 A CORRECT.

14 Q THAT'S BECAUSE THERE WERE CERTAIN ALTERATIONS  
15 AND CERTAIN -- IN CERTAIN FEATURES OF THE SPREADSHEET,  
16 RIGHT?

01:23PM

17 A YES.

18 Q NOW, UNDER THE OLD SCHEME, I THINK, AS WE'VE  
19 DISCUSSED, TCW MADE A CONTRIBUTION BASED ON CERTAIN  
20 PERCENTAGES OF SALARY AND BONUSES FOR CERTAIN EMPLOYEES  
21 IN MR. GUNDLACH'S GROUP, CORRECT?

01:24PM

22 A CORRECT.

23 Q AND UNDER THE NEW SCHEME, THAT CHANGED FROM A  
24 PERCENTAGE OF CERTAIN SALARIES AND WENT TO A FLAT  
25 AMOUNT, CORRECT?

01:24PM

26 A THAT IS CORRECT.

27 Q AND THE ECONOMIC EFFECT OF THIS CHANGE WAS  
28 THAT THE EXPENSES OF SALARIES AND BONUSES WERE NOW



1 BEING PAID OUT OF MR. GUNDLACH'S PART OF THE POOL,  
2 CORRECT?

3 A THAT IS CORRECT.

4 Q AND AS WE SAID, INITIALLY, EVENTUALLY, THE TCW  
5 CONTRIBUTION WAS ELIMINATED ENTIRELY, RIGHT?

01:24PM

6 A CORRECT.

7 Q ALL RIGHT.

8 I'D ASK YOU TO LOOK AT EXHIBIT 5035,  
9 PLEASE.

10 NOW I'D LIKE YOU TO LOOK AT THE BOTTOM  
11 E-MAIL ON PAGE 2.

01:25PM

12 THIS IS AN E-MAIL FROM MR. SONNEBORN TO  
13 YOU, MR. DEVITO, MR. VILLA, AND MR. BEYER, CORRECT?

14 A CORRECT.

15 Q AND IT SEEMS TO BE RESPONDING TO AN E-MAIL  
16 BELOW THAT, WHERE YOU HAD SAID:

01:25PM

17 SEE ATTACHED FOR REVISED  
18 COMPENSATION ANALYSIS.

19 DO YOU SEE THAT?

20 A I DON'T. IT'S PRETTY LONG E-MAIL CHAIN. I'M  
21 NOT FINDING IT.

01:25PM

22 Q DO YOU SEE THE ONE AT THE BOTTOM HALF OF  
23 PAGE 2, SONNEBORN TO SULLIVAN AND OTHERS?

24 A YES.

25 Q AND THEN THE ONE IMMEDIATELY BELOW THAT, IT  
26 SAYS: FROM PETE SULLIVAN. RIGHT AT THE -- RIGHT AT  
27 THE BOTTOM OF PAGE 2. THEN YOU CAN SEE IT'S FROM  
28 SONNEBORN, GUNDLACH, DEVITO.

01:26PM

1 DO YOU SEE THAT?

2 A CORRECT.

3 Q THE FIRST LINE OF THAT IS:

4 JEFFREY, SEE ATTACHED FOR  
5 REVISED COMPENSATION ANALYSIS.

01:26PM

6 A YES.

7 MR. HELM: I'D MOVE ADMISSION OF 5035, YOUR  
8 HONOR.

9 THE COURT: ANY OBJECTION?

10 MR. QUINN: NO OBJECTION.

01:26PM

11 THE COURT: IT WILL BE ADMITTED.

12

13 (EXHIBIT 5035 ADMITTED.) +

14

15 MR. HELM: ALL RIGHT. IF WE COULD PUBLISH  
16 PAGE 2 OF THAT, PLEASE.

01:26PM

17 Q NOW, MR. SONNEBORN WRITES HERE: JUST SAW  
18 THIS.

19 NOW, THIS IS AN E-MAIL FROM HIM TO YOU,  
20 MR. DEVITO, MR. VILLA, AND A COPY TO MR. BEYER,  
21 CORRECT?

01:26PM

22 A CORRECT.

23 Q MR. GUNDLACH IS NOT ON THIS PART OF THE CHAIN,  
24 CORRECT?

25 A THAT'S CORRECT.

01:27PM

26 Q IT SAYS:

27 JUST SAW THIS. THIS LOOKS LIKE  
28 A PRETTY ATTRACTIVE DEAL RELATIVE

1 TO WHERE WE WERE, CORRECT?

2 DO YOU SEE THAT?

3 A I DO.

4 Q THEN IF WE LOOK AT THE TOP E-MAIL ON PAGE 1,  
5 IT SAYS -- THE LAST LINE OF THAT E-MAIL SAYS:

01:27PM

6 I THINK IT'S AWESOME. YOU AND  
7 PETE DID THIS PERFECTLY.

8 DO YOU SEE THAT?

9 A I DO.

10 Q NOW, YOU RECALL TCW MANAGEMENT WAS PLEASED  
11 WITH CERTAIN PROVISIONS OF THE NEW GUNDLACH  
12 COMPENSATION ARRANGEMENT THAT WAS BEING DISCUSSED IN  
13 THIS E-MAIL, CORRECT?

01:27PM

14 A THAT'S CORRECT.

15 Q AND YOU RECALL THAT ONE REASON MANAGEMENT WAS  
16 PLEASED WAS THAT THE NEW DEAL HELPED TO CREATE A STABLE  
17 MARGIN WITHIN THE BUSINESS, CORRECT?

01:27PM

18 A THAT'S CORRECT.

19 Q AND HAVING A STABLE MARGIN WITHIN THE BUSINESS  
20 WAS A VALUE FOR TCW'S DISCUSSIONS WITH ITS PARENT,  
21 SOCIÉTÉ GÉNÉRALE, CORRECT?

01:28PM

22 A CORRECT.

23 Q THAT WAS BECAUSE IT ALLOWED SOCIÉTÉ GÉNÉRALE  
24 TO BE INDIFFERENT TO FLUCTUATIONS IN REVENUE, EITHER  
25 THE UPSIDE OR THE DOWNSIDE, BECAUSE EXPENSES WOULD  
26 FOLLOW IT, RIGHT?

01:28PM

27 A CORRECT.

28 Q NOW, ANOTHER REASON WHY MANAGEMENT WAS PLEASED

1 WITH THE NEW DEAL WAS THAT IT CREATED INDIFFERENCE TO  
2 STAFFING REQUIREMENTS, RIGHT?

3 A THAT'S CORRECT.

4 Q IT DIDN'T MATTER TO TCW HOW MUCH STAFF WAS PUT  
5 INTO THE DEPARTMENT, RIGHT?

01:28PM

6 A IT MATTERS INCREMENTALLY DUE TO OTHER  
7 EXPENSES, BUT IT DIDN'T MATTER DUE TO COMPENSATION  
8 EXPENSES.

9 Q OKAY. FAIR POINT.

10 THE REASON IT DIDN'T MATTER TO THE  
11 COMPENSATION EXPENSE WAS THAT MR. GUNDLACH WAS NOW  
12 PAYING FOR ANY COMPENSATION EXPENSES RESULTING FROM  
13 INCREASED STAFFING IN HIS GROUP, CORRECT?

01:29PM

14 A CORRECT.

15 Q SO THAT PROTECTED TCW AGAINST COMPENSATION  
16 COSTS THAT MIGHT BE INCURRED IF THE GROUP GOT BIGGER,  
17 RIGHT?

01:29PM

18 A YES.

19 Q AND IF WE GO BACK TO THIS E-MAIL, 5035, BOTTOM  
20 OF PAGE 2, RIGHT AFTER WHERE WE HIGHLIGHTED BEFORE,  
21 THIS IS MR. SONNEBORN. IT SAYS:

01:29PM

22 WE HAVE GREATER DOWNSIDE  
23 PROTECTION VERSUS THE CURRENT DEAL.  
24 DO YOU SEE THAT?

25 A I DO.

01:29PM

26 Q AND YOU UNDERSTOOD THAT TO MEAN THAT GREATER  
27 DOWNSIDE PROTECTION WAS THAT IF THINGS WENT BADLY, IF  
28 THE REVENUES DROPPED, SINCE MR. GUNDLACH WAS THE ONE

1 WHO WAS PAYING THE EXPENSES, THAT PROTECTED TCW'S  
2 DOWNSIDE RISK, CORRECT?

3 A THAT'S CORRECT.

4 Q THE NEXT SENTENCE SAYS:

5 WE SAVE SOME MONEY ON THE  
6 CURRENT BOOK OF BUSINESS VERSUS THE  
7 CURRENT DEAL AND ONLY GIVE  
8 ECONOMICS ON THE UPSIDE.

01:30PM

9 DO YOU SEE THAT?

10 A I DO.

01:30PM

11 Q THE TCW SAVE SOME MONEY ON THE CURRENT BOOK OF  
12 BUSINESS VERSUS THE CURRENT DEAL, THAT FIRST LINE, THAT  
13 WAS ACCURATE, WAS IT NOT? IT WAS ASSUMPTIONS OF WHAT  
14 THE CURRENT BUSINESS BOOK OF BUSINESS WOULD BE; TCW DID  
15 ACTUALLY DID BETTER ON THIS ARRANGEMENT, CORRECT?

01:30PM

16 A AT THAT TIME IN TIME, THAT IS CORRECT.

17 Q AND AS FOR THE SECOND PART OF THAT STATEMENT:

18 ONLY GIVE AWAY ECONOMICS ON THE  
19 UPSIDE.

20 THAT WAS BECAUSE WHAT WE TALKED ABOUT  
21 BEFORE, THAT CERTAIN CAPS AND THRESHOLDS WERE  
22 ELIMINATED THAT HAD PREVIOUSLY PREVENTED MR. GUNDLACH'S  
23 COMPENSATION FROM GROWING UNDER CERTAIN SCENARIOS,  
24 CORRECT?

01:31PM

25 A I'M SORRY. COULD YOU RESTATE THAT.

01:31PM

26 Q WHAT IT SAYS: WE ONLY GIVE AWAY ECONOMICS ON  
27 THE UPSIDE.

28 THAT MEANS WHERE YOU WERE -- YOU WERE

1 GETTING SOMETHING IN TERMS OF PROTECTING AGAINST THE  
2 DOWNSIDE, CORRECT? WE JUST TALKED ABOUT DOWNSIDE,  
3 CORRECT?

4 A YES.

5 Q SO, WHAT YOU WERE GIVING, IN OTHER WORDS, A  
6 BENEFIT THAT MR. GUNDLACH WAS GIVING, WAS GIVING AWAY  
7 ECONOMICS ON THE UPSIDE. SO IT MEANT YOU'RE ONLY WORSE  
8 AS AGAINST THE CURRENT DEAL, IF THINGS GET BETTER,  
9 RIGHT?

01:31PM

10 A I JUST DON'T KNOW THAT I WOULD PHRASE IT THAT  
11 WAY.

01:31PM

12 Q HOW WOULD YOU PHRASE IT?

13 A I WOULD SAY THAT THE POOL WAS BETTER OFF TO  
14 THE UPSIDE.

15 Q OKAY.

01:32PM

16 FAIR ENOUGH.

17 MR. SONNEBORN WRITES AFTER THAT:

18 BUT DO SO -- TALKING ABOUT GIVE

19 AWAY ON THE UPSIDE -- BUT DO SO

20 ONLY UNDER THE ASSUMPTION YOU

01:32PM

21 CLEVERLY BUILT IN THAT UNDER THE

22 CURRENT BILL THEY WOULDN'T HIRE

23 ANOTHER 40 PEOPLE WITH TCW PICKING

24 UP 75 PERCENT OF THE TAB.

25 DO YOU SEE THAT?

01:32PM

26 A I DO.

27 Q AND THAT'S A REFERENCE TO WHAT WE TALKED ABOUT  
28 BEFORE, ABOUT TCW IS NOW INDIFFERENT TO STAFFING

1 BECAUSE STAFFING COMPENSATION IS COMING OUT OF THE  
2 POOL, CORRECT?

3 A CORRECT.

4 Q IF WE LOOK AT THE BOTTOM OF THE FIRST PAGE, IT  
5 STARTS -- THE FIRST PAGE, THERE'S AN E-MAIL FROM YOU TO  
6 MR. DEVITO, MR. SONNEBORN, AND IF WE GO TO PAGE 2, WE  
7 CAN SEE IT'S CC'D TO MR. VILLA.

01:32PM

8 DO YOU SEE THERE IT SAYS:

9 JUST OFF THE PHONE WITH JEFFREY,  
10 AND ANSWERED A FEW QUESTIONS FOR  
11 HIM. HE IS COMFORTABLE AT THIS  
12 STAGE WITH THE ANALYSIS AS AM I.

01:33PM

13 DO YOU SEE THAT?

14 A CORRECT.

15 IS THAT MR. SONNEBORN WRITING THAT?

01:33PM

16 Q THIS IS YOU WRITING THAT. LET'S GO BACK TO  
17 THE BOTTOM OF THE FIRST PAGE. JUST SO WE GET IT CLEAR.  
18 THIS IS AN E-MAIL THAT YOU WROTE ON MAY THE 1ST,  
19 CORRECT?

20 A OKAY.

01:33PM

21 Q SO IF WE COULD GO BACK TO PAGE 2, PLEASE.

22 AND THE NEXT SECOND PARAGRAPH SAYS:

23 EVEN THOUGH WE LOSE THE  
24 THRESHOLD ADJUSTMENTS, JEFFREY DOES  
25 SEEM TO HAVE PUT THE INCENTIVES IN  
26 THE RIGHT PLACES.

01:34PM

27 DO YOU SEE THAT?

28 A YES.

1 Q AND THAT ACCURATELY STATED YOUR VIEW AT THE  
2 TIME, DIDN'T IT?

3 A THAT'S CORRECT.

4 Q AND PART OF WHAT YOU MEANT BY THE INCENTIVES  
5 BEING IN THE RIGHT PLACE WAS THAT TCW PREFERRED TO PAY  
6 PEOPLE MORE BASED ON PERFORMANCE, RATHER THAN GIVE THEM  
7 COMPENSATION SIMPLY BECAUSE MANAGEMENT FEES WERE  
8 GROWING, CORRECT?

01:34PM

9 A THAT WOULD BE A BENEFIT OF IT, YES.

10 Q THAT WAS A PREFERENCE THAT TCW GENERALLY HAD  
11 AT THE TIME, NOT JUST WITH RESPECT TO MR. GUNDLACH,  
12 CORRECT?

01:34PM

13 A THAT WAS CONSISTENT WITH THE TCW PRACTICE,  
14 YES.

15 Q AND YOU RECALL GETTING SOMETHING FROM  
16 DAVE DEVITO COMPLIMENTING YOU ON THIS NEW COMPENSATION  
17 ARRANGEMENT FOR MR. GUNDLACH, DON'T YOU?

01:34PM

18 A I DO BELIEVE HE DID.

19 Q NOW IF YOU COULD LOOK AT EXHIBIT 5037.

20 THIS IS THE SAME CHAIN WE WERE LOOKING  
21 AT BEFORE WITH EXHIBIT 5035, BUT ON THE TOP IS A NEW  
22 E-MAIL FROM YOU TO MR. DEVITO DATED MAY 4TH.

01:35PM

23 DO YOU SEE THAT?

24 A I DO.

25 MR. HELM: I'D MOVE ADMISSION OF 5037, YOUR  
26 HONOR.

01:35PM

27 MR. QUINN: NO OBJECTION.

28 THE COURT: IT WILL BE ADMITTED.



1 (EXHIBIT 5037 ADMITTED.) +

2

3 BY MR. HELM:

4 Q NOW, IN THE TOP E-MAIL HERE, IT SAYS:

5 SEE ATTACHED FOR FORECASTED 2007

01:35PM

6 AND GROWTH MODELS FOR 2008 TO 2011

7 FOR THE M.B.S., CMG PROFITS POOL.

8 DO YOU SEE THAT?

9 A I DO.

10 Q THEN IT SAYS:

01:36PM

11 BILL WANTS A FIVE-YEAR FORECAST

12 TO MATCH THE TERM OF JEFFREY'S

13 DEAL.

14 DO YOU SEE THAT?

15 A I DO.

01:36PM

16 Q AND YOU UNDERSTOOD IN MAY OF 2007 THAT THE  
17 TERM OF THE DEAL BEING DISCUSSED WITH MR. GUNDLACH WAS  
18 FOR FIVE YEARS, CORRECT?

19 A I HAD SEEN A COPY OF THE DRAFT, YES.

20 Q AND THAT WAS YOUR UNDERSTANDING AS YOU WERE  
21 CIRCULATING THESE FORECASTS AND RESPONDING TO QUESTIONS  
22 THAT HAD BEEN RAISED, CORRECT?

01:36PM

23 A CORRECT.

24 Q AND THAT'S WHY THE FIVE-YEAR FORECAST THAT  
25 BILL WAS REQUESTING WOULD MATCH THE DEAL, RIGHT?

01:36PM

26 MR. QUINN: CALLS FOR SPECULATION. OBJECT TO  
27 THE FORM.

28 THE COURT: OVERRULED.

1 THE WITNESS: IT WAS GENERALLY TCW'S PRACTICE  
2 TO ATTEMPT TO FORECAST SEVERAL YEARS OUT IN NEGOTIATING  
3 A DEAL.

4 BY MR. HELM:

5 Q BUT IN THIS PARTICULAR CASE, YOU UNDERSTOOD  
6 BILL WANTED A FIVE-YEAR FORECAST TO MATCH THE TERM OF  
7 JEFFREY'S DEAL, DIDN'T YOU, SIR?

01:37PM

8 A I MAY HAVE BEEN ASSUMING THAT.

9 Q BUT THAT WAS YOUR UNDERSTANDING AT THE TIME,  
10 CORRECT?

01:37PM

11 A YES.

12 Q AND YOU PROVIDED SUCH A FIVE-YEAR FORECAST,  
13 DIDN'T YOU, SIR?

14 A I DID.

15 Q AT NO TIME DID YOU EVER INDICATE TO  
16 MR. GUNDLACH THAT THERE WAS A DEAL TERM OTHER THAN FIVE  
17 YEARS THAT WAS BEING DISCUSSED DURING THESE  
18 NEGOTIATIONS, DID YOU, SIR?

01:37PM

19 A I WOULD NOT HAVE DISCUSSED THAT WITH HIM, NO.

20 Q YOU NEVER SAID THAT, DID YOU?

01:37PM

21 A NO.

22 Q AND MR. GUNDLACH NEVER INDICATED TO YOU THAT  
23 HE UNDERSTOOD THAT THERE WAS A DEAL TERM BEING  
24 DISCUSSED, OTHER THAN FOR A FIVE-YEAR TERM, DID HE,  
25 SIR?

01:37PM

26 A I DON'T GENERALLY DISCUSS TERM WITH ANY OF OUR  
27 PORTFOLIO MANAGERS.

28 Q IN THIS PARTICULAR CASE, MR. GUNDLACH NEVER

1 TOLD YOU ANYTHING INCONSISTENT WITH THE VIEW THAT HE  
2 UNDERSTOOD THERE WAS A FIVE-YEAR DEAL TERM, TRUE?

3 A WE NEVER TALKED ABOUT THAT.

4 Q SO THE ANSWER TO MY QUESTION IS YES?

5 A YES.

01:38PM

6 Q NOW, YOU RECALL THAT AN ISSUE AROSE IN MAY  
7 ABOUT WHAT PAYMENT TO MAKE FOR THE FIRST QUARTER OF  
8 2007, DON'T YOU?

9 A I DO.

10 Q NOW, THE PARTIES HAD DISCUSSED MAKING THE TERM  
11 OF THIS DEAL RUN FOR FIVE YEARS, STARTING RETROACTIVELY  
12 AT JANUARY 1 OF THAT YEAR, RIGHT?

01:38PM

13 Q BUT THE PAYMENTS FOR THE --

14 A THAT'S CORRECT.

15 Q BUT THE PAYMENTS FOR THE FIRST QUARTER ARE  
16 ACTUALLY MADE AT THE END OF MAY, GENERALLY SPEAKING;  
17 ISN'T THAT RIGHT?

01:38PM

18 A THAT'S CORRECT.

19 Q SO THE ISSUE AROSE IN MAY OF 2007 WHETHER THE  
20 FIRST QUARTER 2007 PAYMENT SHOULD BE MADE UNDER THE OLD  
21 SCHEME OR THE NEW SCHEME.

01:39PM

22 YOU RECALL THAT?

23 A THAT'S CORRECT.

24 Q LET'S LOOK AT EXHIBIT 61.

25 THE TOP E-MAIL IS FROM MR. CAHILL TO  
26 MR. GUNDLACH WITH COPIES TO YOU AND MR. SONNEBORN,  
27 CORRECT?

01:39PM

28 A CORRECT.

1 Q AND BELOW THAT IS AN E-MAIL FROM MR. GUNDLACH  
2 TO MR. CAHILL, WITH COPIES TO YOU AND MR. SONNEBORN,  
3 CORRECT?

4 A CORRECT.

5 MR. HELM: MOVE ADMISSION OF EXHIBIT 61, YOUR  
6 HONOR.

7 THE COURT: ANY OBJECTION?

8 MR. QUINN: NO OBJECTION.

9 THE COURT: IT WILL BE ADMITTED.

10  
11 (EXHIBIT 61 ADMITTED.) +

12  
13 MR. HELM: IF WE CAN PUBLISH THAT, PLEASE.

14 Q NOW, WHY DON'T WE START -- START AT THE BOTTOM  
15 OF PAGE 1. IT'S FROM MR. CAHILL TO MR. GUNDLACH, DATED  
16 FRIDAY MAY 25TH, CORRECT?

17 A YES.

18 Q LET'S LOOK AT THE BOTTOM SENTENCE THAT CARRIES  
19 OVER. IT SAYS:

20 ALSO, THERE IS A FEE SHARING  
21 PAYMENT COMING UP SOON. AND WE  
22 NEED TO KNOW IF WE GO UNDER THE NEW  
23 ARRANGEMENT.

24 SO FEE SHARING PAYMENT IS COMING UP. WE NEED  
25 TO KNOW IF WE GO UNDER THE NEW ARRANGEMENT. THIS IS  
26 MR. CAHILL TO MR. GUNDLACH:

27 CAN YOU CONFIRM WITH ME THAT YOU  
28 WANT IT PAID OUT ON THE NEW

1 ARRANGEMENT, ASSUMING WE DON'T GET  
2 THIS FINALIZED TUESDAY.  
3 AND THEN IF WE COULD SEE BACK ON THE FIRST  
4 PAGE.

5 THAT'S NOW MR. GUNDLACH TO MR. CAHILL,  
6 WITH COPIES TO YOU AND MR. SONNEBORN. FIRST LINE IS:

01:41PM

7 YES. WE SHOULD GO UNDER THE NEW  
8 ARRANGEMENT. EVERYONE HAS AGREED  
9 TO EVERYTHING IN GOOD FAITH.

10 THAT'S WHAT MR. GUNDLACH SAID ON MAY THE 25TH,  
11 CORRECT?

01:41PM

12 A THAT'S WHAT HE SAID, YES.

13 Q THEN MR. CAHILL RESPONDS -- WE CAN GO TO THE  
14 TOP:

15 THANKS.

01:41PM

16 CORRECT?

17 A I SEE THAT. I DON'T THINK IT'S IN RESPONSE TO  
18 WHAT YOU HIGHLIGHTED, THOUGH.

19 Q NOW, YOU DON'T RECALL MR. SONNEBORN EVER  
20 RESPONDING IN ANY WAY THAT CONTRADICTED THE NOTION THAT  
21 EVERYONE HAD AGREED TO EVERYTHING IN GOOD FAITH, DO  
22 YOU, SIR?

01:42PM

23 MR. QUINN: THAT'S VAGUE AND AMBIGUOUS.

24 THE COURT: SUSTAINED.

25 BY MR. HELM:

01:42PM

26 Q DO YOU RECALL MR. SONNEBORN MAKING ANY COMMENT  
27 WHICH SUGGESTED THAT HE DID NOT THINK THAT EVERYONE HAD  
28 AGREED TO EVERYTHING IN GOOD FAITH?

1 MR. QUINN: EVERYTHING IS VAGUE AND AMBIGUOUS.

2 THE COURT: WELL, I'LL SUSTAIN IT AS TO THIS  
3 WITNESS.

4 YOU CAN ASK A DIRECT QUESTION OF HIM.  
5 OR MAYBE THERE'S ANOTHER WITNESS YOU CAN DEAL WITH ON  
6 THAT.

01:42PM

7 BY MR. HELM:

8 Q THERE'S A STATEMENT IN HERE THAT EVERYONE'S  
9 AGREED TO EVERYTHING IN GOOD FAITH, CORRECT?

10 A THAT'S JEFFREY'S STATEMENT, YES.

01:42PM

11 Q DID YOU HEAR SONNEBORN SAYING ANYTHING  
12 SUGGESTING THAT HE DISAGREED WITH THAT STATEMENT?

13 MR. QUINN: VAGUE AND AMBIGUOUS.

14 THE COURT: OVERRULED.

15 THE WITNESS: I NEVER DISCUSSED THAT WITH  
16 MR. SONNEBORN.

01:42PM

17 BY MR. HELM:

18 Q YOU NEVER HEARD HIM SAY ANYTHING THAT  
19 DISAGREED WITH THAT STATEMENT, THAT'S TRUE, ISN'T IT?

20 A THAT'S TRUE.

01:43PM

21 Q LET'S LOOK AT EXHIBIT 63 IF WE COULD.

22 NOW, THIS STARTS AT THE TOP WITH AN  
23 E-MAIL FROM YOU TO MR. SONNEBORN, DATED MAY THE 30TH,  
24 CORRECT?

25 A YES. I SEE THAT.

01:43PM

26 MR. HELM: MOVE ADMISSION OF EXHIBIT 63, YOUR  
27 HONOR.

28 MR. QUINN: NO OBJECTION.

1 THE COURT: IT WILL BE ADMITTED.

2

3 (EXHIBIT 63 ADMITTED.) +

4

5 BY MR. HELM:

01:43PM

6 Q IF WE LOOK AT THE BOTTOM --

7

LET'S PUBLISH THAT.

8

9 LOOK AT THE BOTTOM E-MAIL. THIS IS FROM  
10 YOU TO MR. SONNEBORN WITH COPIES TO DEVITO, VILLA, AND  
11 CAHILL, CORRECT?

01:43PM

11

A CORRECT.

12

Q MAY THE 30TH OF 2007, CORRECT?

13

A CORRECT.

14

Q AND IT STARTS OFF:

15

BILL, PAYROLL M.B.S., CMG FEE

01:43PM

16

SHARING CHECKS ARE READY TO GO.

17

GUNDLACH SAYS WE HAVE A HANDSHAKE

18

AGREEMENT FOR A NEW DEAL.

19

YOU WROTE THAT, CORRECT, SIR?

20

A I DID.

01:44PM

21

Q NOW, MR. SONNEBORN WRITES BACK ABOVE THAT:

22

NO CONTRACT YET - BUT THESE

23

PAYMENTS TOTAL LESS THAN WHAT WE

24

WOULD HAVE PAID UNDER THE OLD DEAL,

25

SO SHOULDN'T BE A PROBLEM.

01:44PM

26

DO YOU SEE THAT?

27

A YES.

28

Q YOU UNDERSTOOD, BY NO CONTRACT YET, THAT

1 REFERRED TO THE FACT THAT A DOCUMENT THAT HAD BEEN  
2 CIRCULATED HAD NOT YET BEEN SIGNED, CORRECT?

3 A THAT'S CORRECT.

4 Q WHEN HE SAYS: THESE PAYMENTS TOTAL LESS THAN  
5 WHAT WE HAVE PAID UNDER THE OLD DEAL, SO SHOULDN'T BE A  
6 PROBLEM, YOU UNDERSTOOD THAT TO MEAN GO AHEAD AND  
7 PROCEED TO PAY UNDER THE NEW ARRANGEMENT, CORRECT?

01:44PM

8 A ULTIMATELY, YES.

9 Q AND FOLLOWING THESE CONVERSATIONS, THERE CAME  
10 A TIME WHEN YOU UNDERSTOOD THAT MR. SONNEBORN HAD  
11 INSTRUCTED YOU TO MAKE PAYMENTS TO MR. GUNDLACH UNDER  
12 THE NEW SCHEME, CORRECT?

01:45PM

13 A CORRECT.

14 Q AND BEFORE THAT TIME, YOU HAD CONVERSATIONS  
15 WITH ALL OF YOUR SUPERIORS ABOUT MAKING THAT CHANGE,  
16 DIDN'T YOU, SIR?

01:45PM

17 A I DID.

18 Q AND THAT INCLUDED CONVERSATIONS WITH  
19 MR. SONNEBORN, MR. DEVITO, AND MR. VILLA, CORRECT?

20 A THAT'S CORRECT.

01:45PM

21 Q AND ON MAY 31ST, 2007, WHEN TCW PAID ITS FIRST  
22 QUARTER '07 FEE SHARING TO MR. GUNDLACH, TCW BEGAN  
23 PAYING MR. GUNDLACH UNDER THE NEW ECONOMIC ARRANGEMENT,  
24 DIDN'T IT, SIR?

25 A AS WELL AS THE REST OF HIS TEAM, YES.

01:46PM

26 Q AND YOU TOLD MR. SONNEBORN THAT YOU HAD BEGUN  
27 MAKING PAYMENTS TO MR. GUNDLACH UNDER THE NEW SCHEME,  
28 DIDN'T YOU, SIR?



1 A HE WAS AWARE OF THAT, YES.

2 Q HE NEVER VOICED ANY OBJECTION TO YOU ABOUT  
3 MAKING PAYMENTS TO MR. GUNDLACH UNDER THE NEW  
4 COMPENSATION SCHEME, DID HE?

5 A NO, HE DID NOT.

01:46PM

6 Q AND IT IS YOUR BELIEF THAT MR. SONNEBORN  
7 AUTHORIZED YOU TO BEGIN MAKING PAYMENTS UNDER THE NEW  
8 SCHEME, ISN'T IT?

9 A IT IS.

10 Q AND BASED ON YOUR DISCUSSIONS WITH  
11 MR. GUNDLACH, IT WAS YOUR UNDERSTANDING THAT HE, TOO,  
12 THOUGHT HE SHOULD BE PAID UNDER THE NEW ARRANGEMENT;  
13 ISN'T THAT TRUE?

01:46PM

14 A THAT IS CORRECT.

15 Q NOW, IN ORDER TO MAKE THESE PAYMENTS, THERE  
16 WAS NO DOCUMENT SIGNED BY ALL SIDES THAT SET FORTH  
17 THESE TERMS, WAS THERE?

01:46PM

18 A THAT IS CORRECT.

19 Q AND WHEN YOU MADE PAYMENTS UNDER THE NEW  
20 SCHEME, YOU MADE USE OF A DOCUMENT THAT WAS A MODEL OF  
21 THE PAYMENT SCHEME, CORRECT?

01:47PM

22 A THAT'S CORRECT.

23 Q THIS WAS A MODEL THAT YOU HAD BEEN PASSING  
24 AROUND BY E-MAIL TO MR. GUNDLACH AND THE OTHERS WHO  
25 WERE INVOLVED IN THE NEGOTIATIONS, CORRECT?

01:47PM

26 A CORRECT.

27 Q AND YOU USED THE MODEL OR THE SPREADSHEET THAT  
28 WAS THE LAST ONE THAT HAD BEEN MODIFIED AT THE TIME YOU

1 DECIDED TO PAY UNDER THE NEW SCHEME, DIDN'T YOU, SIR?

2 A I USED THE MODEL AS THE BASIS FOR HOW TO GO  
3 ABOUT IT. THERE WAS AN ENTIRELY DIFFERENT STATEMENT  
4 PRESENTED TO HIM WITH HIS CHECK.

5 Q YES. ALL RIGHT. WE'RE DISTINGUISHING NOW AND  
6 WE'LL TALK IN A SECOND ABOUT WHAT WAS GIVEN TO HIM.

01:47PM

7 BUT WHEN YOU CALCULATED THE AMOUNT THAT  
8 WAS TO BE PAID TO MR. GUNDLACH UNDER THIS NEW SCHEME,  
9 WHAT YOU USED WAS THE LAST MODEL THAT HAD BEEN  
10 CIRCULATED AND AGREED TO BY THE PARTIES IN THE  
11 NEGOTIATIONS, DIDN'T YOU?

01:48PM

12 A YES, THE DISTINCTION BEING THE MODEL IS  
13 FORECASTED AND THE STATEMENT AND/OR THE FEE SHARING WAS  
14 ACTUAL FEES WE PAID ON IT.

15 Q BUT THE MODEL CONTAINED ASSUMPTIONS ABOUT WHAT  
16 PERCENTAGES WERE PAID, WHAT OTHER PROVISIONS THERE  
17 WERE, CORRECT?

01:48PM

18 A THAT'S CORRECT.

19 MR. QUINN: I THINK THAT'S VAGUE AND  
20 AMBIGUOUS, YOUR HONOR.

01:48PM

21 THE COURT: DO YOU UNDERSTAND THE QUESTION,  
22 SIR?

23 THE WITNESS: CAN YOU RESTATE THAT FOR ME,  
24 PLEASE.

25 MR. HELM: YES.

01:48PM

26 Q THE MODEL CONTAINED -- IT HAD FORECASTS ABOUT  
27 HOW THE PROVISIONS OF THIS ARRANGEMENT WOULD FUNCTION  
28 IN DIFFERENT REVENUE SCENARIOS, CORRECT?

1           A        THAT IS CORRECT.

2           Q        BUT EMBEDDED INTO THE MODEL WAS A CERTAIN SET  
3 OF ASSUMPTIONS ABOUT WHAT THE PAYMENTS SHOULD BE,  
4 CORRECT? WHAT PERCENTAGE HE GOT FROM VARIOUS FUNDS,  
5 AND SO FORTH?

01:48PM

6           MR. QUINN: VAGUE. COMPOUND. OVERBROAD.

7           THE COURT: SUSTAINED.

8                    YOU'VE GOT TO CLARIFY IT HERE. PUT  
9 SOMETHING IN FRONT OF HIM, WHATEVER YOU WANT TO DO.

10          MR. HELM: I THINK WE CAN GET THERE.

01:49PM

11          Q        THE MODELS THAT YOU CIRCULATED SET FORTH WHAT  
12 PERCENTAGES WENT INTO THE POOL FOR PARTICULAR FUNDS,  
13 CORRECT?

14          MR. QUINN: VAGUE AS TO WHAT MODEL IS BEING  
15 REFERRED TO. BEST EVIDENCE.

01:49PM

16          THE COURT: THAT'S THE POINT. WE'VE HAD  
17 DRAFTS AND WE'VE GOT TWO OR THREE IN EVIDENCE.

18          MR. HELM: YOUR HONOR, I DON'T KNOW IF I CAN  
19 IDENTIFY WHICH ONE IT IS.

20          Q        BUT YOU IDENTIFIED AT THE TIME A MODEL,  
21 CORRECT, THAT YOU THOUGHT WAS THE FINAL MODEL, CORRECT?

01:49PM

22          A        CORRECT.

23          Q        THAT MODEL, LIKE ALL THE OTHER MODELS WE'VE  
24 SEEN, CONTAINED CERTAIN PROVISIONS ABOUT WHAT  
25 PERCENTAGES OF VARIOUS FUNDS WOULD GO INTO THE POOL,  
26 CORRECT?

01:49PM

27          A        AND WHAT EXPENSES TO HOLD AGAINST IT AS WELL,  
28 YES.

1 Q EXACTLY.

2 AND YOU USED THAT INFORMATION FROM THE  
3 FINAL MODEL TO DETERMINE WHAT TO PAY MR. GUNDLACH AT  
4 THE END OF MAY 2007, DIDN'T YOU, SIR?

5 A I DID USE THE MODEL TO DETERMINE WHAT TYPES OF  
6 REVENUES TO PICK UP AND WHAT PERCENTAGE OF REVENUES,  
7 THOSE REVENUES TO PICK UP AS WELL AS WHAT TYPES OF  
8 EXPENSES TO PICK UP.

01:50PM

9 Q PERFECT. THANK YOU --

10 A I DIDN'T PAY OFF OF THE MODEL, THOUGH.

01:50PM

11 Q THANK YOU.

12 MR. QUINN: I DIDN'T HEAR THE LAST PART OF THE  
13 ANSWER.

14 BY MR. HELM:

15 Q MEANING YOU DIDN'T PAY OFF THE MODEL YOU HAD  
16 TO CALCULATE THE ACTUAL REVENUES WERE, NOT THE  
17 REVENUE --

01:50PM

18 A THAT'S CORRECT.

19 Q YOU UNDERSTOOD SOMETIME BEFORE YOU STARTED  
20 PAYING MR. GUNDLACH UNDER THE NEW SCHEME, A DRAFT  
21 AGREEMENT HAD BEEN PROVIDED TO MR. GUNDLACH, CORRECT?

01:50PM

22 A THAT IS CORRECT.

23 Q BUT, ULTIMATELY, YOU WERE INSTRUCTED TO BEGIN  
24 PAYING MR. GUNDLACH UNDER THE NEW ECONOMIC SCHEME, EVEN  
25 THOUGH HE HADN'T SIGNED THAT DOCUMENT, CORRECT?

01:51PM

26 A THAT IS CORRECT.

27 Q AND PUTTING ASIDE ANY PRIVILEGED DISCUSSIONS  
28 WITH TCW COUNSEL, NOBODY TOLD YOU THAT THERE WAS A

1 PROBLEM WITH BEGINNING TO PAY MR. GUNDLACH UNDER THE  
2 NEW ARRANGEMENT, EVEN THOUGH HE HADN'T SIGNED THE  
3 WRITTEN CONTRACT; ISN'T THAT TRUE?

4 A NOBODY TOLD ME THERE WAS A PROBLEM, THAT IS  
5 TRUE.

01:51PM

6 Q I'D LIKE TO DRAW YOUR ATTENTION TO EXHIBIT 41,  
7 PLEASE. WHY DON'T YOU LOOK AT THAT.

8 THIS IS A COPY OF A DRAFT EMPLOYMENT  
9 AGREEMENT THAT WAS PROVIDED TO MR. GUNDLACH IN THE  
10 SPRING OF 2007, CORRECT?

01:52PM

11 MR. QUINN: LACKS FOUNDATION.

12 THE COURT: SUSTAINED.

13 BY MR. HELM:

14 Q WELL, YOU HAD A ROLE IN CREATING EXHIBIT A TO  
15 THIS DOCUMENT, DIDN'T YOU, SIR?

01:52PM

16 MR. QUINN: EXHIBIT 41?

17 THE COURT: WE'RE LOOKING AT EXHIBIT 41.

18 MR. QUINN: I'M SORRY.

19 MR. HELM: YES.

20 IF YOU LOOK AT EXHIBIT 41, PAGE 6, IT  
21 SAYS EXHIBIT A.

01:52PM

22 Q DO YOU SEE THAT?

23 A I DO.

24 Q AND YOU HAD A ROLE IN CREATING THAT DOCUMENT,  
25 DIDN'T YOU, SIR?

01:52PM

26 A I DID.

27 Q YOU WORKED WITH THE LEGAL DEPARTMENT TO GET  
28 THE ECONOMICS IN EXHIBIT A TO MATCH THE MODEL THAT

1 WE'VE BEEN DISCUSSING THAT THE PARTIES AGREED TO,  
2 CORRECT?

3 A THAT WAS COMMON IN OUR NEGOTIATIONS, THAT IS  
4 CORRECT.

5 Q AND YOU DID THAT IN THIS CASE, CORRECT?

01:52PM

6 A YES.

7 MR. HELM: I'D LIKE TO MOVE ADMISSION OF  
8 EXHIBIT 41.

9 MR. QUINN: NO OBJECTION.

10 THE COURT: IT WILL BE ADMITTED.

01:53PM

11

12 (EXHIBIT 41 ADMITTED.) +

13

14 MR. HELM: IF WE COULD JUST LOOK AT THE --  
15 THAT'S WHAT THE FIRST PAGE LOOKS LIKE.

01:53PM

16 Q IF YOU WOULD LOOK AT PAGE 6, PLEASE.

17 DENNIS, COULD WE SHOW THAT.

18 NOW, SUBJECT TO SOME MODIFICATIONS THAT  
19 WERE LATER MADE TO THIS SCHEME, TCW CONTINUED TO PAY  
20 MR. GUNDLACH UNDER THE NEW SCHEME FROM MAY 2007 UNTIL  
21 THE TIME OF HIS TERMINATION IN 2009, CORRECT?

01:53PM

22 A WITH CERTAIN CHANGES, YES.

23 Q AND JUST TO GET THE CHANGES OUT OF THE WAY,  
24 ONE OF THE CHANGES WAS THAT THE CMG ACCOUNT FEE SHARE  
25 WAS INCREASED FROM 52.5 PERCENT, WASN'T IT?

01:53PM

26 A THAT IS CORRECT.

27 Q AND THAT HAPPENED SOMETIME IN 2008, CORRECT?

28 A CORRECT.

1 Q IF WE LOOK AT PAGE 6 HERE, IF YOU SEE CMG IN  
2 THE MIDDLE THERE, THAT BOX, IT SAYS: CMG. RIGHT. IT  
3 SAYS: FEE SHARE RATE 50 PERCENT.

4 A CORRECT.

5 Q THAT WAS LATER CHANGED TO 52.5 PERCENT,  
6 CORRECT?

01:54PM

7 A CORRECT.

8 Q ANOTHER MODIFICATION -- MODIFICATION, I THINK  
9 WE DISCUSSED THIS, WAS TCW'S CONTRIBUTION WAS LATER  
10 ELIMINATED, CORRECT?

01:54PM

11 A THAT IS CORRECT.

12 Q DO YOU RECALL WHEN THAT CHANGE TOOK PLACE?

13 A 2008 AS WELL.

14 Q SO IF WE LOOK AT PAGE 9, EXHIBIT 41, PAGE 9,  
15 IT SAYS: TCW CONTRIBUTION AT THE BOTTOM.

01:54PM

16 DO YOU SEE THAT?

17 A I DO.

18 Q IS THAT THE TERM THAT WAS CHANGED THAT WE'VE  
19 JUST BEEN REFERRING TO?

20 A CORRECT.

01:55PM

21 Q NOW, DURING THE PERIOD OF MORE THAN TWO YEARS  
22 THAT TCW WAS PAYING MR. GUNDLACH UNDER THE TERMS OF THE  
23 NEW SCHEME, YOU NEVER PERCEIVED THERE TO BE ANY PROBLEM  
24 ARISING FROM THE FACT THAT MR. GUNDLACH HADN'T SIGNED A  
25 DOCUMENT, DID YOU?

01:55PM

26 A CORRECT.

27 Q NOW, DURING THIS TIME, QUARTERLY FEE SHARING  
28 PAYMENTS WERE MADE TO MR. GUNDLACH, CORRECT?

1 A CORRECT.

2 Q AND I THINK YOU SAID FROM MAY 2007 UNTIL HE  
3 WAS NO LONGER THERE, HE WAS PAID QUARTERLY UNDER THE  
4 NEW SCHEME, CORRECT?

5 A TO HIM AND HIS TEAM, YES. 01:55PM

6 Q AND MR. GUNDLACH PAID MOST OF THE MEMBERS OF  
7 HIS TEAM THEIR FEE SHARING BONUSES ONCE A YEAR; IS THAT  
8 RIGHT?

9 A MR. GUNDLACH WOULD COVER HIS DIRECT STAFF  
10 MEMBERS' BONUSES PAYABLE AT YEAR END OUT OF HIS FEE  
11 SHARING, YES. 01:56PM

12 Q MOST OF THE PEOPLE ON MR. GUNDLACH'S TEAM  
13 RECEIVED THEIR SHARE OF THE FEE SHARING PAYMENTS AFTER  
14 THE PAYMENT FOR THE FINAL QUARTER OF THE YEAR, CORRECT?

15 A I DON'T KNOW IF I WOULD USE THE WORD "MOST."  
16 BUT A LOT OF PEOPLE DID, YES. 01:56PM

17 Q AND HE WOULD TYPICALLY WORK WITH PHIL BARACH  
18 AND MAYBE SOME OTHER MEMBERS OF HIS TEAM TO DETERMINE  
19 WHAT PEOPLE'S YEAR-END BONUSES SHOULD BE AND THEN  
20 PROVIDE THAT INFORMATION TO YOU AND THE HR DEPARTMENT,  
21 RIGHT? 01:56PM

22 A AS WELL AS LOU LUCIDO AND HIS STAFF, YES.

23 Q AND ALTHOUGH TCW CUT THE ACTUAL CHECKS, THE  
24 MONEY THAT WAS PAID TO ALL THE MEMBERS OF HIS TEAM WAS  
25 DEDUCTED AGAINST THE FEE SHARING POOL THAT OTHERWISE  
26 WENT TO MR. GUNDLACH, RIGHT? 01:57PM

27 A THE RESIDUAL POOL WENT TO MR. GUNDLACH, YES.

28 Q BUT IT'S THE RESIDUAL AFTER THE PAYMENTS TO



1 MEMBERS OF HIS TEAM WAS DEDUCTED, CORRECT?

2 A THOSE WERE THE EXPENSES, YES.

3 Q YOU STARTED WITH A POOL. YOU DEDUCTED THE  
4 AMOUNT THAT WAS PAID TO THE OTHERS. AND WHAT WAS LEFT  
5 OVER WENT TO MR. GUNDLACH, CORRECT?

01:57PM

6 A CORRECT.

7 Q AND YOU CAN'T RECALL ANY CHANGES THAT ANYONE  
8 EVER MADE AT TCW TO THE ALLOCATIONS OF WHAT WENT TO  
9 MEMBERS OF HIS TEAM AFTER MR. GUNDLACH PROVIDED THAT  
10 INFORMATION, TO YOU, DO YOU, SIR?

01:57PM

11 A IT SEEMS KIND OF GENERAL. I'M NOT SURE WHAT  
12 THE QUESTION IS.

13 Q WELL, WE'LL BACK UP.

14 MR. GUNDLACH AT THE END OF THE YEAR WILL  
15 GIVE YOU A LIST, AND HE WOULD SAY, OUT OF THIS POOL I  
16 WANT TO GIVE THIS AMOUNT TO THIS PERSON, AND THIS OTHER  
17 AMOUNT TO SOMEONE ELSE ON HIS TEAM, RIGHT?

01:58PM

18 HE'S GIVEN YOU THAT INFORMATION?

19 A THAT WAS HIS PRACTICE, YES.

20 Q YOU DON'T RECALL ANY INSTANCE WHERE TCW EVER  
21 ALTERED THE ALLOCATIONS THAT MR. GUNDLACH HAD MADE,  
22 CORRECT?

01:58PM

23 A WELL, OTHER THAN THE CONTRIBUTIONS TO THE  
24 LUCIDO POOL THAT WERE CHANGED.

25 Q ALL RIGHT. WHAT ARE YOU REFERRING TO THERE,  
26 SIR?

01:58PM

27 A WELL, JUST AS TCW EVENTUALLY STOPPED  
28 CONTRIBUTING TO THE POOL, THERE WERE SEVERAL MEMBERS OF

1 THE TEAM AS WELL AS TCW THAT CONTRIBUTED TO  
2 LOU LUCIDO'S POOL.

3 JEFFREY WAS ONE OF THOSE.

4 AND SO, EVENTUALLY, THAT DID CHANGE.

5 JEFFREY DID STOP ALLOCATING TO THAT POOL.

01:59PM

6 Q I SEE.

7 BUT IN TERMS -- AND WHY DID HE STOP?

8 A WE CHANGED THE OVERALL SCHEMATIC.

9 Q OTHER THAN -- FAIR POINT.

10 OTHER THAN THE CHANGE THAT WAS MADE OF  
11 THE CONTRIBUTION TO MR. LUCIDO'S GROUP FROM  
12 MR. GUNDLACH'S PART OF THE POOL, WHICH WAS MADE BY  
13 MUTUAL AGREEMENT, I TAKE IT?

01:59PM

14 A YES.

15 Q OTHER THAN THAT, WHENEVER MR. GUNDLACH AT THE  
16 END OF THE YEAR WOULD GIVE YOU A LIST OF WHO GOT WHAT,  
17 BY WAY OF BONUS AT THE END OF THE YEAR FROM HIS FEE  
18 SHARING POOL, NO ONE AT TCW EVER CHANGED THAT, DID  
19 THEY?

01:59PM

20 A YOU'RE ASKING IF MANAGEMENT EVER HAD A HAND IN  
21 CHANGING THAT?

01:59PM

22 Q ARE YOU AWARE OF ANY TIME A NUMBER WAS CHANGED  
23 BY MANAGEMENT?

24 A BY MANAGEMENT? NO.

25 MR. HELM: YOUR HONOR, IT'S 2 O'CLOCK.

01:59PM

26 THE COURT: ALL RIGHT.

27 LADIES AND GENTLEMEN, WE'LL RECESS FOR  
28 THE EVENING.

1 DON'T DISCUSS THE MATTER AMONG YOUR  
2 SELLS OR FORM ANY OPINIONS OR CONCLUSIONS CONCERNING  
3 ANY ASPECT OF THE CASE UNTIL YOU'VE HEARD ALL THE  
4 EVIDENCE.

5 YOU KNOW, SOME OF YOU ARE A LITTLE 02:00PM  
6 SKEPTICAL. I COULD TELL BY YOUR LOOKS, BUT I ASSURE  
7 YOU YOU'LL FINISH ON TIME.

8 I'VE BEEN INFORMED THAT A COUPLE OF YOU  
9 HAVE ISSUES THE WEEK OF THE 26TH OF SEPTEMBER. I FULLY  
10 ANTICIPATE IT WILL BE FINISHED WELL IN ADVANCE OF THAT. 02:00PM

11 IF FOR ANY REASON WE'RE NOT, WE'LL WORK  
12 TO ACCOMMODATE YOU. WE'RE STILL ON TARGET.

13 ALL RIGHT. SEE YOU TOMORROW, 8:30.

14  
15 (PROCEEDINGS HELD OUTSIDE THE PRESENCE OF THE JURY.) + 02:01PM  
16

17 THE COURT: WE'RE OUT OF THE PRESENCE OF THE  
18 JURY.

19 ON THIS EXHIBIT 5031, ARE WE JUST  
20 TALKING ABOUT THE REDACTION OF THE LOWER RIGHT-HAND 02:01PM  
21 PORTION OF PAGE 3, OR IS THERE MORE?

22 I MEAN, I WOULD EXPECT YOU TO WORK THESE  
23 THINGS OUT AND HAVE THE REDACTIONS MADE BEFORE WE GET  
24 IN IT FRONT OF THE JURY AND PUTTING THE EXHIBITS UP.

25 MR. HELM: THE ISSUE WASN'T RAISED BEFORE, AND 02:01PM  
26 MR. QUINN EXPLAINED TO ME HOW IT AROSE --

27 MR. QUINN: I'M CONFIDENT WE CAN WORK IT OUT,  
28 YOUR HONOR.

1 THE COURT: WE CAN REDACT THE EXHIBIT.

2 MR. QUINN: OR NOT.

3 THE COURT: OR NOT. BRING IT TO ME IF THERE'S  
4 A PROBLEM.

5 MR. QUINN: WILL DO. 02:01PM

6 THE COURT: ANYTHING ELSE?

7 MR. BRIAN: HOUSEKEEPING MATTERS.

8 WE LODGED A -- I DON'T KNOW IF WE LODGED  
9 OR FILED. WE DEPO -- THEY WERE DEPO DESIGNATIONS FOR  
10 MR. THOMPSON, I THINK, THAT WAS GIVEN TO YOU YESTERDAY.  
11 VERY SHORT. 02:02PM

12 WE MIGHT GET TO IT TOMORROW.

13 AND WE ALSO LODGED MR. DEVITO LAST  
14 FRIDAY. WE WERE NOT GOING TO GET TO THAT ONE TOMORROW.

15 THE COURT: I HAVE THREE OF THEM ON MY DESK,  
16 DEVITO, THOMPSON, AND ONE OTHER ONE. 02:02PM

17 MR. BRIAN: I DON'T REMEMBER?

18 THE COURT: I WILL DO THE THOMPSON ONE.

19 MR. BRIAN: THOMPSON IS A PRIORITY.

20 THE COURT: THE OTHER TWO, WHATEVER ELSE YOU  
21 GIVE ME, I'LL MAKE SURE I GET DONE OVER THE WEEKEND. 02:02PM

22 MR. BRIAN: IF I MAY APPROACH YOUR CLERK. I  
23 PROVIDED MR. MADISON A COPY OF THIS YESTERDAY. THIS IS  
24 WHAT WE SEE AS THE EXHIBITS TO COME IN IN CONNECTION  
25 WITH THE SOCIÉTÉ GÉNÉRALE AND CABANNES EXHIBIT. 02:02PM

26 I WANT TO MOVE THEM IN BECAUSE WE'LL GET  
27 TO THAT EXCEPTION AND I WANT THEM IN EVIDENCE. I  
28 HIGHLIGHTED SOME OF -- I DON'T THINK I DID THIS ON

1 MR. MADISON'S COPY, BUT I HIGHLIGHTED 5202. YOU  
2 SUSTAINED AN OBJECTION TO THAT.

3 WE'RE WITHDRAWING THAT, AND I  
4 HIGHLIGHTED ONE ON THE SECOND PAGE, WHICH WAS NOT PART  
5 OF THE DEPOSITION, BUT IT WAS PROVIDED TO US AS -- IN  
6 CONNECTION WITH THE BUSINESS RECORDS CUSTODIAN  
7 AFFIDAVIT. WE WOULD OFFER THAT.

02:03PM

8 AND I THINK YOUR HONOR SAID YOU WOULD  
9 REVIEW THAT. THE OTHERS YOU'VE RULED ON.

02:03PM

10 SO I WOULD OFFER IN EVIDENCE FOR THE  
11 RECORD EXHIBITS -- TRIAL EXHIBITS 61- --

12 THE COURT: LET'S GO THROUGH SO WE CAN GET THE  
13 NUMBERS.

14 MR. BRIAN: 6151.

15 5599.

02:03PM

16 5153.

17 5160.

18 5198.

19 5250.

20 5181.

02:03PM

21 5256.

22 5470.

23 5528.

24 5560.

25 AND 5527.

02:03PM

26 THOSE ARE THE ONES THAT YOU'VE RULED ON.

27 WE WOULD ALSO OFFER 5262. AND SUBMIT  
28 THAT FOR THE COURT'S CONSIDERATION.

1 THE COURT: ALL RIGHT.

2 ANY FURTHER OBJECTIONS? I'VE RULED ON  
3 THESE. THEY'LL BE ADMITTED WITH THE EXCEPTION -- WHAT  
4 WAS THE LAST ONE?

5 MR. BRIAN: 5262, THE ONE WITH THE BUSINESS  
6 RECORDS AFFIDAVIT, AND WE ASKED YOU TO CONSIDER IT. WE  
7 DON'T NEED TO ARGUE IT. IT'S COVERED.

02:04PM

8 THE COURT: ANY OBJECTION?

9 MR. MADISON: WE DO OBJECT.

10 THERE'S NO TESTIMONY ABOUT IT AT ALL.  
11 NO FOUNDATION.

02:04PM

12 THE COURT: DO I HAVE IT IN FRONT OF ME? OR  
13 MAY I LOOK AT IT? SOMEBODY HAVE IT HANDY?

14 MR. BRIAN: IT'S PART OF THE BRIEFING.

15 THE COURT: I'VE GOT THAT. I'LL TAKE A LOOK  
16 AT IT AND TRY TO GIVE YOU AN ANSWER TOMORROW. IF IT'S  
17 IN THE EXHIBIT, YOU DON'T NEED TO GIVE ME ANOTHER PIECE  
18 OF PAPER.

02:04PM

19 MR. BRIAN: I LOOKED INTO THE TIME, YOUR  
20 HONOR. WHAT THE PARTIES HAVE DONE AT THE END OF EVERY  
21 WEEK, WE CONFERRED AND REACHED AN AGREEMENT.

02:04PM

22 THE COURT: YOU'VE MADE A FILING. I SAW THE  
23 FILING.

24 MR. BRIAN: WE MADE A FILING.

25 AND WE BASICALLY SHAVED IT. IF THERE  
26 WAS ANY DISAGREEMENT, WE DID IT CONSERVATIVELY TO  
27 REDUCE TIME.

02:05PM

28 AND WE OURSELVES ADDED ON THROUGH

1 MONDAY. SO THE ADDED-ON TIME HAS NOT BEEN AGREED TO.  
2 IT COULD BE AS MUCH AS A COUPLE MINUTES' DIFFERENCE.  
3 THE PLAINTIFFS, THROUGH MONDAY, HAD USED 40 HOURS, 35  
4 MINUTES.

5 WE HAD USED 24 HOURS, 46 MINUTES. 02:05PM

6 SO I WOULD ESTIMATE THAT THROUGH TODAY  
7 THE PLAINTIFFS ARE PROBABLY UP TO ABOUT 44 HOURS. AND  
8 THAT DOES CONCERN US. BECAUSE --

9 THE COURT: WHAT IS YOUR TIME? YOU SAID THEY  
10 HAD 40, 35. 02:05PM

11 MR. BRIAN: WE WERE 24, 46 THROUGH MONDAY. WE  
12 WOULD BE ANOTHER FOUR OR FIVE HOURS. WE'LL BE ABOUT  
13 28, 29.

14 THE COURT: ALL RIGHT.

15 MR. BRIAN: I SAY THAT CONCERNS US, YOUR 02:05PM  
16 HONOR. WE REALLY HAVE BEEN PLANNING OUR SCHEDULE TO  
17 MEET THE 45 HOURS. AND WE ARE -- WE HAVE BEEN AND ARE  
18 CONTINUING TO MAKE DECISIONS BASED ON THAT.

19 AND YOUR HONOR HAS MADE STATEMENTS THAT  
20 HAVE VARIED TO SOME EXTENT ABOUT -- 02:06PM

21 THE COURT: SO, WHAT'S NEW. YOU MUST BE  
22 GETTING USED TO IT AT THIS POINT.

23 MR. BRIAN: I DON'T MEAN TO BE DISRESPECTFUL.  
24 THERE ARE TIMES WHEN YOU SAID IT'S A STRICT 45, AND  
25 THERE ARE TIMES WHEN YOU SAID YOU'LL GIVE SOME LEEWAY. 02:06PM  
26 BUT WE WOULD OBJECT TO ANYTHING MORE THAN A LITTLE TINY  
27 BIT.

28 THE COURT: I EXPECT NO LESS.

1 IF YOU ARE TELLING ME THE TRUTH, THEN,  
2 YOU EXPECT THAT YOU WILL BE ABLE TO REST BY NEXT  
3 WEDNESDAY OR THURSDAY. THEN WE'RE GOING TO GO FAIRLY  
4 QUICKLY THROUGH THIS.

5 I ASKED YOU HOW MANY WITNESSES YOU HAVE. 02:06PM  
6 THEY HAVE FIVE HOURS OF CROSS-EXAMINATION OF THOSE  
7 WITNESSES. AND THERE MAY BE AN ISSUE ON REBUTTAL.

8 I'M NOT HAVING ANY EXTENSIVE REBUTTAL.  
9 BUT IF THERE'S LIMITED AMOUNT, FAIR IS FAIR.

10 I'M GOING TO TRY TO KEEP TO THIS 02:06PM  
11 SCHEDULE. BUT --

12 MR. BRIAN: THEY HAVE ONE HOUR LEFT.

13 THE COURT: I THINK -- THE WORST OF ALL, YOU  
14 DON'T WANT A NONSUIT ON HOURS, DO YOU?

15 MR. BRIAN: I DON'T WANT A NONSUIT, BUT -- 02:06PM

16 THE COURT: I DIDN'T THINK SO.

17 MR. BRIAN: -- HONESTLY, WE'LL MAKE SOME -- WE  
18 NEED TO MAKE SOME DECISIONS.

19 THE COURT: TELL ME HOW MANY WITNESSES YOU'RE  
20 GOING TO CALL. 02:07PM

21 MR. BRIAN: WE HAVE SOMEWHERE, EITHER SIX TO  
22 EIGHT LIVE WITNESSES, AFTER MR. SULLIVAN.

23 AND WE PROBABLY HAVE SIX OR SEVEN  
24 VIDEOS.

25 THE COURT: OKAY. THEN -- 02:07PM

26 MR. BRIAN: THREE OR FOUR, VERY SHORT.

27 THE COURT: -- THEY'RE NOT GOING TO  
28 CROSS-EXAMINE THE VIDEOS.



1 MR. BRIAN: THAT'S NOT AN ISSUE, CORRECT.

2 THE COURT: SIX TO SEVEN --

3 MR. BRIAN: SIX TO EIGHT LIVE.

4 THE COURT: THEY GOT FIVE HOURS LEFT, OR IN  
5 THAT RANGE. LET'S SAY, SO THEY GOT, HALF HOUR, 45  
6 MINUTES PER WITNESS IN THEIR CROSS-EXAMINATION, AND  
7 THAT'S BASICALLY IT.

02:07PM

8 IT WORKS PRETTY SIMPLE.

9 MR. BRIAN: BUT WHEN WE HAD THIS DISCUSSION,  
10 YOUR HONOR, YOU INITIALLY INDICATED THE 45 HOURS WOULD  
11 INCLUDE REBUTTAL.

02:07PM

12 MR. QUINN: WAIT. THAT'S -- THAT'S NOT HOW I  
13 RECALL IT. I'D LIKE TO CHECK THE RECORD ON THAT.

14 THE COURT: I THINK I DID. AS A PRACTICAL  
15 MATTER --

02:07PM

16 MR. QUINN: WELL --

17 THE COURT: -- YOU'VE USED OVER 40 HOURS IN  
18 THE CASE IN CHIEF. THAT'S NOT VERY CONSISTENT WITH THE  
19 LIMITATIONS THAT WAS PLACED ON THE PLAINTIFFS.

20 AGAIN, YOU KNOW, WE'RE NOT TURNING OUT  
21 WIDGETS HERE. WE'RE TRYING TO FIND JUSTICE AND TRYING  
22 TO BE FAIR. I EXPECT TO PUT LIMITATIONS. IF IT  
23 APPEARS TO ME THE PLAINTIFFS ARE PURSUING AN EXTENDED  
24 EXAMINATION OF SOMEBODY, OR COVERING THE SAME GROUND  
25 WE'VE COVERED, I'M GOING TO INTERFERE.

02:08PM

26 AND I'M GOING TO SAY LET'S MOVE IT  
27 ALONG; WE NEED TO WRAP THIS UP. I DON'T THINK YOU WANT  
28 ME SAYING THAT REPEATEDLY. YOU NEED TO GOVERN YOURSELF

02:08PM

1 ACCORDINGLY.

2 I DON'T KNOW WHAT YOU HAVE IN MIND FOR  
3 REBUTTAL, BUT WE'LL SEE WHERE YOU ARE ON YOUR HOURS AT  
4 THAT POINT. AND IT MAY BE VERY ABBREVIATED.

5 MR. BRIAN: THERE'S TWO ISSUES. 02:08PM

6 ONE IS REBUTTAL. AND I WOULD SUBMIT  
7 THERE SHOULD BE NONE.

8 THE COURT: I WOULD EXPECT NO LESS, MR. BRIAN.

9 MR. BRIAN: NO, NO, HEAR ME OUT.

10 THERE'S A DIFFERENCE BETWEEN REBUTTAL 02:08PM  
11 AND A DEFENSE TO OUR CONTRACT CLAIM. THAT'S WHAT I'M  
12 SAYING, AS TO REBUTTAL. THEY'VE CALLED, YOU KNOW,  
13 30-ODD WITNESSES OR SO ON THEIR CLAIM. I THINK THERE'S  
14 A DIFFERENCE. THAT'S MY ONLY POINT WHETHER THERE  
15 SHOULD BE LEEWAY ON REBUTTAL. 02:09PM

16 THE COURT: IT'S NOT JUST REBUTTAL. IF THEY  
17 GET A CHANCE TO PUT ON A DEFENSE IN SOME RESPECTS, I  
18 HELD THEM BACK AT YOUR OBJECTION FROM PUTTING IN  
19 EVIDENCE IN RESPONSE TO YOUR AFFIRMATIVE CLAIM, SO --

20 MR. BRIAN: THAT'S WHY I SAID THERE'S A 02:09PM  
21 DIFFERENCE.

22 THE COURT: OKAY.

23 MR. BRIAN: I WOULD RESPECTFULLY SUBMIT THERE  
24 SHOULD BE NO PURE REBUTTAL.

25 THAT'S MY ONLY POINT. 02:09PM

26 MR. QUINN: AS OF RIGHT NOW, YOUR HONOR, WE  
27 HAVE NO REBUTTAL IN THAT SENSE.

28 THE COURT: LET ME SAY, I'VE TAKEN THE

1 APPROACH THAT I DON'T DEAL WITH PROBLEMS THAT I DON'T  
2 REALLY HAVE. AND UNTIL IT SHOWED UP, I DON'T WANT TO  
3 DEAL WITH IT.

4 MR. BRIAN: WE DO HAVE A PROBLEM. WE'RE GOING  
5 TO GO BACK TO THE OFFICE RIGHT NOW AND MAKE A DECISION  
6 ABOUT WHAT WITNESSES TO CALL. 02:09PM

7 THE COURT: GOOD. THAT'S ALL RIGHT.

8 MR. BRIAN: WE'RE MAKING THE ASSESSMENTS BASED  
9 ON THE COMMENTS YOUR HONOR'S MAKING NOW. WE'RE TRYING  
10 TO DECIDE WHO WE CALL AND WHO WE DON'T CALL. 02:10PM

11 THE COURT: YOU PUT ON YOUR BEST CASE AS  
12 QUICKLY AS YOU CAN.

13 MR. BRIAN: THAT'S WHAT WE'RE DOING.

14 THE COURT: THAT'S ALL I CAN ASK.

15 I'M NOT PASSING JUDGMENT OR PREJUDGING 02:10PM  
16 WHETHER IF YOU SELECT YOUR WITNESSES WITH THE IDEA THAT  
17 THEY WON'T BE OR THERE MAY BE REBUTTAL. I DON'T KNOW  
18 IF THAT'S AN APPROPRIATE CONSIDERATION AT THIS  
19 JUNCTURE.

20 MR. BRIAN: I UNDERSTAND. 02:10PM

21 LAST POINT --

22 THE COURT: I DON'T KNOW IF THAT'S WHAT YOU'RE  
23 ASKING ME ABOUT.

24 MR. BRIAN: THAT IS WHAT I WAS ASKING.

25 THE COURT: IT SEEMED TO ME THAT'S WHERE WE'RE  
26 GOING. YOU'RE NOT GETTING AN ANSWER ON THAT. SO MAYBE  
27 IT'S NOT THE CRITERIA YOU SHOULD USE. 02:10PM

28 MR. BRIAN: NO, I GOT AN ANSWER. IT MAY NOT

1 HAVE BEEN THE ANSWER I WANTED, BUT I GOT AN ANSWER.

2 THE COURT: ALL RIGHT.

3 MR. BRIAN: IT HAPPENS SOMETIMES ON CROSS.

4 LAST POINT, YOUR HONOR.

5 MR. CABANNES, THE SOCIÉTÉ GÉNÉRALE -- 02:10PM

6 WE'VE WATCHED THE DEPOSITION, AND I'VE TALKED TO

7 MR. QUINN. I CAN'T REMEMBER WHETHER I TALKED TO

8 MR. MADISON. I THINK THIS CAME UP OVER THE WEEKEND

9 WHEN HE WAS OTHERWISE ENGAGED.

10 THE DEPOSITION, BECAUSE IT'S ENGLISH TO 02:11PM

11 FRENCH, FROM FRENCH TO ENGLISH, IT TAKES THREE TIMES

12 LONGER TO PLAY IT THROUGH THE TRANSLATOR.

13 WE WOULD PROPOSE I THINK IT'S ACCEPTABLE

14 TO PLAY THE FIRST SEGMENT OF IT, 15 OR 20 MINUTES, SO

15 THE JURY GETS A SENSE OF IT THROUGH THE TRANSLATION. 02:11PM

16 AND AFTER THAT WE'LL DO IT THE OLD-FASHIONED WAY, WHERE

17 WE HAVE SOMEBODY SIT THERE AND PLAY THE WITNESS, I'LL

18 ASK THE QUESTIONS AND ANSWER IT.

19 I THINK IT WILL CUT IT DOWN BY ABOUT

20 50 PERCENT IF WE DO IT THAT WAY. 02:11PM

21 THE COURT: WHAT'S THE TOTAL RUN TIME OF THE

22 CABANNES' TESTIMONY?

23 MR. BRIAN: IF YOU DO IT THROUGH THE

24 TRANSLATION, IT'S ABOUT TWO AND A HALF HOURS.

25 THE COURT: WHATEVER WE CAN DO TO CUT IT DOWN. 02:11PM

26 THE OTHER THING YOU MIGHT CONSIDER IS

27 STIPULATING TO PLACING THE TRANSCRIPT IN AND THEN YOU

28 CAN REFER TO IT AND ARGUE IT AS YOU PLEASE DURING

1 OPENING -- OR CLOSING. BUT WITHOUT GOING THROUGH IT AT  
2 ALL.

3 MR. BRIAN: LET ME LOOK AT IT.

4 THE COURT: ONCE THE JURY WATCHES A HALF HOUR  
5 OF THE TRANSLATIONS, IT WOULD GIVE AN EXPLANATION OF  
6 WHY WE'RE JUST SUBMITTING A TRANSCRIPT OF THESE  
7 PROCEEDINGS AND YOU CAN LOOK AT THEM.

02:12PM

8 MR. BRIAN: LET ME THINK ABOUT IT THAT.

9 THE COURT: TALK TO THEM ABOUT THAT.

10 ANYTHING ELSE?

02:12PM

11 MR. MADISON: YOUR HONOR, I WAS PREDISPOSED  
12 OVER THE WEEKEND, BUT MR. CABANNES WAS MY WITNESS.

13 MR. QUINN: PREDISPOSED. INDISPOSED.

14 THE COURT: HE'S PREDISPOSED NOW.

15 MR. QUINN: NO, IT'S POST-DISPOSED.

02:12PM

16 MR. MADISON: I DO HAVE A PROBLEM WITH PLAYING  
17 PART OF THE VIDEO AND THEN READING THE REST.

18 THE COURT: DID YOU HEAR WHAT I SUGGESTED TO  
19 HIM YOU MIGHT TALK ABOUT?

20 MR. MADISON: YES. WE WOULD PREFER TO GO ONE  
21 DIRECTION OR THE OTHER.

02:12PM

22 I ACTUALLY THINK HE COULD JUST PLAY THE  
23 VIDEO WITH THE ENGLISH Q AND A IF HE WANTED TO DO THAT.  
24 THAT WOULD BE BETTER THAN PLAY-ACTING IT HERE.

25 THE COURT: MY POINT WAS, IF WE SHOW HALF HOUR  
26 OF IT SO THE JURY REALIZES THE TEDIOUSNESS OF GOING  
27 THROUGH THE TRANSLATION AND THEN SAID, INSTEAD OF  
28 SPENDING TWO HOURS WATCHING THIS, WE'RE GOING TO

02:12PM

1 PROVIDE IN EVIDENCE A COPY OF THE TRANSCRIPT OF THE  
2 PORTIONS OF THE DEPOSITIONS THAT WOULD OTHERWISE HAVE  
3 BEEN PLAYED, THEN YOU EACH MAY ARGUE THEM, TALK ABOUT  
4 THEM ALL YOU WANT, AND THE JURY WILL HAVE THEM AND THEY  
5 CAN LOOK AT THEM.

02:13PM

6 IT WOULD BE ADMITTED IN EVIDENCE AND  
7 PROVIDED TO THEM WITH THE OTHER EXHIBITS.

8 THINK ABOUT THAT, YOU KNOW.

9 MR. BRIAN: I THINK ABOUT MR. MADISON'S  
10 SUGGESTION. BECAUSE IT'S GOING TO BE VERY TEDIOUS TO  
11 PLAY IT THROUGH THE TRANSLATOR. IT JUST TAKES FOREVER.

02:13PM

12 THE COURT: I WOULD PREFER NOT TO DO THAT.  
13 AND I THINK IF WE CAN FIND SOME WAY THAT WE CAN AGREE  
14 ON, IT'S A BETTER WAY.

15 MR. MADISON: I DON'T DISAGREE. THEY CAN EDIT  
16 IT SO THEY CAN PLAY THE ENGLISH ONLY FROM THE VIDEO.

02:13PM

17 MR. HELM: BUT THEN YOU'RE JUST SHOWING THE  
18 TRANSLATOR.

19 MR. BRIAN: THAT'S THE PROBLEM.

20 I'M NOT SURE --

02:13PM

21 THE COURT: AGAIN, GIVE THEM THE FLAVOR OF  
22 WHAT'S GOING ON, 15 MINUTES WITH, YOU KNOW, THE  
23 TRANSLATOR AND THE WITNESS, AND THEN SAY, THE BALANCE  
24 WE'RE GOING TO CUT OFF THE TRANSLATION SO THAT ALL YOU  
25 HEAR IS THE TESTIMONY.

02:14PM

26 I MEAN, SOME WAY TO MAKE IT MORE  
27 PALATABLE, BUT SO WE DON'T SPEND TWO AND A HALF HOURS  
28 GOING THROUGH SOMETHING WE DON'T WANT TO.

1 MR. BRIAN: THAT'S WHY I RAISE IT. I  
2 APPRECIATE MR. MADISON'S SUGGESTION AND YOUR HONOR'S.  
3 THERE IS SOME WAY TO DO IT THAT MAKES SENSE.

4 THE COURT: AS LONG AS YOU FIND IT.

5 MR. BRIAN: IN TERMS OF SCHEDULING, I DO THINK  
6 WE REST OUR CASE, POSSIBLY AS EARLY AS NEXT WEDNESDAY,  
7 AND IT MAY RUN INTO THURSDAY. WE WENT A LITTLE SLOWER  
8 TODAY THAN I THOUGHT WE WOULD.

9 THE COURT: THAT'S ALL RIGHT. WE'LL GET IT.

02:14PM

02:14PM

10 MR. BRIAN: THAT DOES RAISE THE ISSUE OF  
11 SCHEDULING CLOSING, AND I HATE TO SUGGEST THIS,  
12 SCHEDULING ANOTHER SESSION TO GO THROUGH JURY  
13 INSTRUCTIONS.

14 THE COURT: I WOULD LIKE TO HAVE, BY FRIDAY,  
15 EITHER A STIPULATED AND AN AGREED VERDICT FORM OR A  
16 VERDICT FORM WITH INSERTS OF YOUR RESPECTIVE  
17 DISAGREEMENTS SO I CAN GO THROUGH IT AND FINALIZE THAT  
18 OVER THE WEEKEND.

02:14PM

19 I WOULD LIKE A SET OF -- COMPLETE SET OF  
20 JURY INSTRUCTIONS BASED ON THE CONFERENCES THAT WE'VE  
21 HAD, FLAGGING WHATEVER ONES REMAIN IN DISPUTE.

02:15PM

22 AND PLACED IN AN ORDER THAT YOU FIND  
23 ACCEPTABLE TO THE PARTIES.

24 AND IF YOU CAN'T AGREE ON THE ORDER,  
25 THEN FLAG THEM. BUT I NEED TO HAVE THAT BIG NOTEBOOK  
26 SO THAT I CAN GO THROUGH IT AND FIND OUT EXACTLY WHAT I  
27 HAVE.

02:15PM

28 I KNOW I RECEIVED A SUPPLEMENTAL SET OF

1 HALF A DOZEN INSTRUCTIONS, SOME OF WHICH APPEAR NEW,  
2 SOME OF WHICH APPEARED IN RESPONSE TO THE COMMENTS  
3 THE COURT HAD GIVEN AT THE CONFERENCE THAT WE HAD LAST  
4 WEEK ON INSTRUCTIONS.

5 BUT IT SEEMS TO ME, MR. EMANUEL AND -- 02:15PM  
6 WHO WAS DOING IT ON YOUR SIDE?

7 MR. BRIAN: MR. HELM AND MS. STEIN.

8 THE COURT: THEY NEED TO GET DOWN -- SIT DOWN  
9 AND PACKAGE IT AND SEE WHAT'S LEFT.

10 I'LL FIND A TIME TO HAVE A CONFERENCE 02:16PM  
11 WITH YOU. IF YOU REST WEDNESDAY OR THURSDAY, WE CAN  
12 MEET THE FRIDAY FOLLOWING. WE STILL MAY HAVE SOME  
13 DEFENSE WITNESSES COMING IN THE FOLLOWING WEEK.

14 BUT WE'LL FIND A TIME TO DO IT.

15 MR. BRIAN: I WAS SHOOTING TO CLOSE, HOPING 02:16PM  
16 WE'D GET DONE IN TIME, EVEN WITH SOME DEFENSE, TO THE  
17 CONTRACT CLAIM. I THINK I CAN ANTICIPATE -- I WAS  
18 HOPING WE WOULD CLOSE ON THE 12TH.

19 THAT'S WHAT I WAS SHOOTING FOR. IT MAY  
20 NOT HAPPEN. I DON'T KNOW. 02:16PM

21 THE COURT: THE 12TH IS MONDAY. YOU WERE  
22 HOPING TO ARGUE ON MONDAY.

23 MR. BRIAN: YES.

24 THE COURT: THE 12TH, YOU'LL HAVE TO TALK TO  
25 MR. MADISON AND MR. QUINN. THEY TOLD ME A WEEK TEN 02:16PM  
26 DAYS AGO THEY WERE GOING TO REST, AND WE JUST FINISHED.

27 YOU KNOW, I CAN'T IMAGINE EVEN IF YOU  
28 RESTED ON WEDNESDAY, YOU THINK ONE DAY IN YOUR DEFENSE



1 ON THE CONTRACT CLAIM?

2 MR. QUINN: I THINK SO. ACTUALLY.

3 THE COURT: IF THAT'S REALISTIC, I'M ALL FOR  
4 IT. I'LL DO WHATEVER I CAN. I'LL STAY IN TOWN THAT  
5 WEEKEND AND WORK ON SATURDAY. WHATEVER IT TAKES.

02:17PM

6 MR. QUINN: THANK YOU, YOUR HONOR.

7 MR. BRIAN: I APPRECIATE IT.

8 THE COURT: ALL RIGHT.

9 MR. MADISON: WE HAD ONE ITEM. THAT WAS THE  
10 STUDLEY RECORDS. IS NOW A GOOD TIME FOR US TO MOVE  
11 THOSE IN?

02:17PM

12 THE COURT: FINE WITH ME.

13 DID YOU TALK ABOUT THEM? WE SAID  
14 EARLIER THIS MORNING WE'D TAKE IT UP LATER.

15 MR. BRIAN: AS I SAID, YOUR HONOR, I HAVE NO  
16 OBJECTION ON FOUNDATION AUTHENTICITY, RELEVANCE.

02:17PM

17 MY ONLY OBJECTION IS A CUMULATIVE ONE  
18 AND I WOULD DEFER TO THE COURT ON THAT.

19 I'LL SUBMIT THAT.

20 THE COURT: HAVE YOU READ THE NUMBERS INTO THE  
21 RECORD OR GIVEN THEM --

02:17PM

22 MR. MADISON: THAT'S WHAT I WANTED TO DO.

23 THE COURT: YOU DIDN'T READ THEM THIS MORNING?

24 MR. MADISON: NO, YOUR HONOR.

25 THE COURT: WHAT ARE THEY?

02:17PM

26 MR. MADISON: 329.

27 1189.

28 1971.

1	369.	
2	1973.	
3	1970.	
4	379.	
5	389.	02:18PM
6	1974.	
7	403.	
8	1966.	
9	2076.	
10	1965.	02:18PM
11	1963.	
12	1962.	
13	1968.	
14	1961.	
15	449.	02:18PM
16	1975.	
17	471.	
18	472.	
19	1844.	
20	488.	02:18PM
21	2077.	
22	2132.	
23	1875.	
24	1204.	
25	315.	02:18PM
26	1852.	
27	1862.	
28	473.	

1 477.

2 MR. WEINGART: EXCUSE ME. 1861?

3 THE COURT: 1862. 473. 477.

4 MR. MADISON: 1868.

5 1872.

02:19PM

6 1938.

7 1205.

8 AND 442.

9 MR. BRIAN: I THINK THERE'S ONE THAT WE MAY  
10 HAVE MISSED.

02:19PM

11 GIVE US A SECOND, YOUR HONOR.

12 MR. WEINGART: I DON'T HAVE AN 1862.

13 MR. BRIAN: WE DON'T HAVE 1862.

14 MR. WEINGART: I HAVE 1861 AND AN 1852.

15 MR. MADISON: I DON'T KNOW WHAT NUMBERS THOSE  
16 WERE AROUND.

02:19PM

17 THE COURT: 1852, THEN YOU SAID 1862.

18 THEN YOU SAID 473.

19 MR. MADISON: I MISSPOKE.

20 IT'S 1861.

02:19PM

21 THE COURT: FOLLOWING 1852.

22 MR. MADISON: YES. THEN 473.

23 THE COURT: DO YOU HAVE THAT?

24 MR. WEINGART: I DO HAVE 1861.

25 I WAS TRYING TO MAKE SURE.

02:20PM

26 THE COURT: ALL RIGHT.

27 LET ME LOOK AT IT. I'LL TELL YOU FOR  
28 SURE IN THE MORNING. I HAVE THE STACK THAT YOU GAVE ME

1 THIS MORNING. I DIDN'T LOOK AT THEM BECAUSE I WAS  
2 HOPING IT WOULD BE RESOLVED. I'LL TAKE A QUICK LOOK AT  
3 THEM.

4 MR. BRIAN: I'LL PROVIDE YOUR CLERK WITH THE  
5 LIST OF SOCIÉTÉ GÉNÉRALE DOCUMENTS SO THOSE CAN BE IN  
6 THERE IN THE EXHIBIT.

02:20PM

7 THE COURT: WE HAVE IT.

8 I HAVE IT.

9 MR. MADISON: WE HAVE OTHERS WE WANT TO MEET  
10 AND CONFER, THE ONES THAT I MENTIONED THIS MORNING, THE  
11 OTHER FINAL BATCH.

02:20PM

12 THE COURT: LET ME KNOW TOMORROW.

13 MR. MADISON: YES, YOUR HONOR.

14 THE COURT: THANK YOU. HAVE A NICE EVENING.

15

02:20PM

16

17 (AT 2:20 P.M., AN ADJOURNMENT WAS  
18 TAKEN UNTIL 9-1-11 AT 8:30 A.M.)

19

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