

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF FLORIDA
FORT LAUDERDALE DIVISION

In re:

Case No. 09-34791-BKC-RBR

Chapter 11

ROTHSTEIN ROSENFELDT ADLER, P.A.,

Debtor.

RULE 2004 EXAMINATION OF
SCOTT W. ROTHSTEIN

Taken on behalf of the Chapter 11 Trustee

DATE TAKEN: December 12, 2011

TIME: 8:30 a.m. - 12:04 p.m.

PLACE: James Lawrence King Federal
Justice Building
99 N.E. Fourth Street
Courtroom 11-3
Miami, Florida 33128

Examination of the witness taken before:
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1 P R O C E E D I N G S

2 - - -

3 MR. LICHTMAN: Everybody hear me?

4 Okay. I guess so.

5 All right. Let the record reflect there
6 is the Rule 2004 exam taken in the case of in
7 re Rothstein, Rosenfeldt & Adler, Case Number
8 093-4791 RBR, pending in the United States
9 Bankruptcy Court for the Southern District of
10 Florida.

11 BY MR. LICHTMAN:

12 Q Good morning, Mr. Rothstein.

13 As you know, I'm Chuck Lichtman, counsel
14 for the trustee.

15 A Good morning, Mr. Lichtman.

16 Q Would you state your name for the record?

17 A Scott W. Rothstein.

18 Q Under these circumstances, I don't think
19 I'll ask you your place of residence right now.

20 A I wouldn't tell you.

21 Q Okay. But I think we can stipulate we
22 know who you are.

23 Let me get right to it.

24 Can I call you Scott?

25 A Yes, sir.

1 Q Okay. You're here under unique
2 circumstances. You have pled guilty to the
3 commission of a massive fraud.

4 You agree with that?

5 A Yes, sir.

6 Q You have received a long-term sentence.
7 As part of your sentence, you stipulated to certain
8 facts in your criminal plea that admitted wrongdoing
9 but -- in connection with the fraud.

10 You agree with that, don't you?

11 A I do.

12 Q Okay. So here we are now, starting today
13 for the next two weeks, and we're going to be asking
14 you a series of questions that require you to tell
15 the truth.

16 And you have been convicted in this
17 massive fraud.

18 I think that it's a fair statement there
19 are many persons that would say you will say
20 anything to reduce your criminal sentence.

21 Why is it that we should believe you?

22 A VOICE: Was he sworn?

23 MR. LICHTMAN: He was sworn, wasn't he?

24 THE COURT REPORTER: No, sir.

25 MR. LICHTMAN: Oh, I'm sorry. That would

1 be useful.

2 A VOICE: Is this your first time, Chuck?

3 MR. LICHTMAN: Second.

4 Whereupon,

5 SCOTT W. ROTHSTEIN

6 acknowledged having been duly sworn to tell the

7 truth and testified upon his oath as follows:

8 THE WITNESS: I do.

9 EXAMINATION (SCOTT W. ROTHSTEIN)

10 BY MR. LICHTMAN:

11 Q Okay. You recall the questions that I
12 asked --

13 A I do.

14 Q -- of you this morning?

15 Those are all the same answers, right?

16 A Those are all the same answers.

17 The answer to your last question is this:

18 I have been sentenced to 50 years in prison. The

19 only chance that I have to be released early, the

20 only chance is I must tell the truth about

21 everything that I know.

22 That's what I have been doing for the last

23 two years since I returned. That's what I'm going

24 to do here the next few days, and that's what I'm

25 going to continue to do until I'm done with my

1 cooperation.

2 Q So those that would be skeptical and say
3 you would still say anything to reduce your
4 sentence, how do you answer those people?

5 A I would be a fool. I would be a fool to
6 lie.

7 Q Okay.

8 A That -- I risk dying in prison if I lie.
9 Okay? I have no intention of dying in prison.

10 Q Now, we know that at the very tail end of
11 the conclusion of the Ponzi scheme, you fled to
12 Morocco.

13 A That's correct.

14 Q Why did you come back?

15 A I would say there were several reasons.
16 The first and foremost was I was not going to leave
17 my family here to deal with the aftermath of my
18 wrong. Just wasn't going to happen.

19 I did have some significant time in
20 Morocco to reflect on my life as a whole, and if
21 there was ever going to be a time for me to change
22 anything and change the course of my history and my
23 family's history, that's when it was going to be.

24 I made a decision to come back and to,
25 probably for one of the very first times in my life,

1 tell the absolute truth about everything that I had
2 done. It was time. I wasn't going to live that
3 way, not anymore.

4 Q Now that you have received a 50-year
5 sentence, are you sorry you came back?

6 A No, sir.

7 Q I'm not going to spend a lot of time on it
8 because everybody that's in the courtroom is here
9 really to focus on the issue of money directly, or
10 indirectly, whether it's paying it or to prevent it
11 from being paid. But I am going to spend a few
12 moments on the Ponzi scheme itself.

13 A All right.

14 Q How did the Ponzi scheme start?

15 A It started not as a Ponzi scheme, but it
16 actually started in the form of borrowing money
17 through what we were calling at the time bridge
18 loans to support the law firm and deficiencies in
19 funds.

20 At some point in time later, as you all
21 know from reading all the documentation in this
22 case, it escalated into fraudulent settlement
23 agreements, the sale of those settlement agreements,
24 and that's really when the Ponzi scheme itself took
25 flight.

1 If you define Ponzi, standard definition,
2 which you all know, is you're paying money to the
3 new investors with -- excuse me -- paying the older
4 investors with new investors' money. Really, even
5 at the time that we were doing those bridge loans,
6 it was technically a Ponzi -- a Ponzi scheme at that
7 point in time. But that's not where our heads were
8 at the moment.

9 **Q Was there something going on, whether it**
10 **was in the law firm or internally with yourself or**
11 **with people you were doing business with, that it**
12 **escalated from the point where you were at one level**
13 **just doing these bridge loans to where the Ponzi was**
14 **full-fledged?**

15 A Greed.

16 **Q Okay. Is there a time frame that you can**
17 **pin that to or a particular event?**

18 A Not at this time, I don't recall.

19 **Q Okay. Why did you do it?**

20 A Greed.

21 **Q How did you grow the Ponzi?**

22 A That's a very broad question.

23 Simply, it took on a life of its own. It
24 grew because, you know, in a Ponzi scheme, if you're
25 not going to go to jail and -- you have to continue.

1 While at various points in time we had
2 pie-in-the-sky expectations to be able to bail
3 ourselves out and pay off all the investors, that
4 was not -- sensible. Hindsight being 20/20, that
5 was not sensible.

6 All Ponzi schemes do the same thing: They
7 explode at the end.

8 **Q Did you have an exit strategy?**

9 A A foolish one, yes.

10 **Q And what was that?**

11 A We had acquired a number of companies that
12 we were using that we were laundering the Ponzi
13 proceeds through, and we believed that ultimately we
14 would be able to sell the Ponzi scheme -- excuse me,
15 sell the businesses, recoup enough money to pay off
16 the investors and shut it down.

17 **Q What businesses were those?**

18 A Q Task, RRA Goal Line, the sports
19 management company, the restaurants, the stake in
20 the Versace mansion. A lot of businesses.

21 I mean, I would think that all of the
22 businesses combined, if you have a list that you can
23 show me, I could tell you which ones we thought were
24 going to be valuable. But we were probably hanging
25 our hat more on Q Task than anything else.

1 Q Did the people at Q Task know that was the
2 premise of you acquiring it?

3 A Did they know there was a Ponzi scheme
4 going on?

5 Q Yes.

6 A I don't believe so, no.

7 Q How about Brian Levy, RRA Goal Line; did
8 he know?

9 A To my knowledge, no.

10 Q Okay. I could spend days going over the
11 rest of the material on the Ponzi scheme, but, as I
12 mentioned, we're here to talk about money.

13 A Rule 2004 exam is intended by a
14 bankruptcy trustee to engage in a widespread
15 interrogation on a whole host of topics that
16 pertain, typically, to trying to recover assets that
17 benefit the estate, or, naturally, the
18 administration of the estate.

19 So we're going to cover a whole host of
20 topics today, and there will be more specific
21 questions on certain cases that will follow when I
22 conclude and Mr. Genovese concludes the Rule 2004
23 exam. Okay?

24 A Yes, sir.

25 (Thereupon, a document was

1 marked as Trustee's Exhibit No. 1 for
2 Identification.)

3 BY MR. LICHTMAN:

4 Q I've just shown you what has been marked
5 as Trustee's Exhibit One for identification
6 purposes. It's titled Confidential Settlement
7 Agreement General Release. This pertains to the
8 Brauser transaction.

9 Are you familiar with this document?

10 A Am I familiar with this specific document?

11 Q Yes.

12 A Yes.

13 Q Okay. Do you recall the circumstances
14 respecting the Brauser settlement?

15 A I do.

16 Q What was it that led to you entering into
17 this settlement agreement with the Brausers?

18 A The Brauser family were investors in the
19 Ponzi scheme through one of our feeder funds, the
20 Banyan people. That's George Levin and Frank Preve.

21 And at some point in time, we were
22 notified -- "we" being me and Frank Preve -- were
23 notified that Brausers wanted their money back.

24 We had specific conversations with the
25 Brausers' attorney, a guy named Grazieski

1 (phonetic), something to that effect.

2 Q Graziadei?

3 A Graziadei.

4 Q Frank Graziadei?

5 A Right. Graziadei.

6 Who advised us that they had a gray market
7 investigation done of our bank accounts. The funds
8 that were supposed to be in the account weren't
9 there. They wanted their money back.

10 Q And what did you do when you heard that
11 from Mr. Graziadei.

12 A Spoke to Mr. Preve about it. We decided
13 that the best course of action was to return the
14 money immediately.

15 The Banyan company did not have the funds
16 available.

17 We pulled the money out of the trust
18 accounts where the Ponzi scheme funds were sitting
19 in our law firm and immediately paid it back to the
20 Brausers in exchange for the release documents you
21 have in front of you.

22 Q You would agree that the transaction,
23 since it was initially documented with Banyan, was
24 not an obligation of Rothstein, Rosenfeldt & Adler,
25 right?

1 A From a legal standpoint I don't know whose
2 obligation it was, but it was a transaction between
3 Banyan and the Brauser people.

4 Q Why did you direct that funds come out of
5 RRA trust accounts to pay for that settlement?

6 A That's where we were taking the money for
7 everything.

8 Q Okay. If -- do you know who drafted the
9 settlement agreement?

10 A I drafted it, along with, I believe, David
11 Boden, but I'm not 100 percent certain about that.

12 Q If you would go to the back of the
13 document, there's signature pages.

14 A Yes.

15 Q That's your signature page at Page 14? Is
16 that your signature? Page 14.

17 A One second.

18 That is my signature.

19 Q Okay. That's March 19, 2009.

20 Do you recognize the signature at the
21 witness line?

22 A The scribbled one at the top looks like
23 Stu's signature, and the one at the bottom, I'm not
24 sure.

25 Q Turn to the next page.

1 A Yes, sir.

2 Q That's a signature page for Stuart
3 Rosenfeldt?

4 A That's correct.

5 Q Do you recognize his signature?

6 A Yes.

7 Q And the witness, is that your -- the top?

8 A The top -- the top one is my signature,
9 and the bottom one looks like the -- I don't know
10 whose signature that is at the bottom.

11 Q Okay. And then look at the next page,
12 Page 16.

13 A Yes.

14 Q That's -- do you recognize that signature?

15 A Yes.

16 Q Whose signature is that?

17 A It's Russ Adler's.

18 Q Describe the circumstances on how you
19 caused to have the signature of Mr. Rosenfeldt and
20 Mr. Adler placed on the document.

21 A I walked into Mr. Rosenfeldt's office with
22 the document, said, We have to give the Brausers
23 back their money, sign this; and he signed it.

24 Q Did he know who the Brausers were?

25 A I don't think he knew who the Brausers

1 were, no.

2 Q Did he question you as to the reason why
3 he was having to sign the settlement agreement that
4 required RRA to pay \$4.2 million to the Brausers?

5 A At this time, I do not recall the specific
6 conversation about it. No.

7 Q Okay. How about with respect to Mr.
8 Adler? What were the circumstances as to his
9 signature getting on the document?

10 A Same circumstances: We got to return a
11 bunch of money to these people. We don't want
12 what's going to happen if we don't get this document
13 back to them. Sign it.

14 Q And you had that conversation with Mr.
15 Adler?

16 A With Mr. Rosenfeldt and Mr. Adler.

17 Q Were they in the room together?

18 A No. Nhu-uh.

19 Q What did Mr. Adler say?

20 A He didn't say anything. He signed the
21 document.

22 Q All right. Well, your question -- your
23 answer to my question appears to suggest that they
24 knew that you were involved in some kind of
25 transaction that would require you to give back

1 **\$4.25 million.**

2 A That's correct.

3 **Q Can you expand on that, please?**

4 A You're asking me a very broad question.

5 If you're asking me if they knew that
6 there were illegal activities going on in the law
7 firm, the answer is yes.

8 If you're asking me did they know about
9 this specific transaction, I doubt it; but I have no
10 idea.

11 **Q When you say that you knew that there were**
12 **illegal activities -- they knew that there were**
13 **illegal activities going on at the law firm, can you**
14 **give me a general statement as to what they knew?**

15 A They knew that we were moving money
16 illegally in and out the of the law firm.

17 At various points in time, they came to
18 know that there was a Ponzi scheme going on,
19 although the word Ponzi was never utilized.

20 **Q That would be both Mr. Rosenfeldt and**
21 **Mr. Adler?**

22 A That's correct.

23 **Q Did they know that you were involved in**
24 **the settlement business?**

25 A Yes.

1 Q Did they know that you were issuing --

2 A Let me just be clear. You're asking me
3 questions without time frames, and so the answers
4 I'm giving you are over the entire time frame of the
5 Ponzi scheme.

6 At some point in time, Mr. Adler knew what
7 was going on, and at some point, in time
8 Mr. Rosenfeldt knew what they were going on, yes.

9 Q Clearly, by March of 2009, they both knew?

10 A Absolutely.

11 Q Do you have a time frame, roughly, as to
12 when Mr. Adler learned?

13 A I don't recall.

14 Q How about Mr. Rosenfeldt?

15 A I don't recall.

16 Q A fair statement it would have been at
17 least a year before that?

18 A Yes.

19 Q Okay. Did you tell them anything to the
20 extent that if they didn't sign the document, that
21 if RRA didn't pay \$4.25 million, that the Ponzi
22 scheme could be exposed and everything would crash?

23 A I did not have specific conversations the
24 way you just delineated it. No.

25 Q Do you remember anything else about your

1 conversation?

2 A No.

3 Q There's no doubt in your mind, though,
4 that that would be Mr. Adler's signature at Page 16?

5 A It's absolutely his signature. I had him
6 sign the document.

7 Q Is there anybody else that you told -- you
8 caused to sign it or that Adler told you that he
9 discussed signing with --

10 A Other than --

11 Q -- on the --

12 A Other than my conversations with the
13 government, no.

14 Q Okay. Were there other lawyers at RRA
15 that knew that the firm was engaged -- excuse me --
16 that you were engaged in the Ponzi scheme?

17 A I need you to clarify the question. As
18 it -- do -- people that knew through me or people
19 that I think knew?

20 Q People that knew through you and
21 participated directly or indirectly?

22 A Yes.

23 Q Who would those be?

24 A Debra Villegas, Marybeth Feiss, Andy
25 Howard, David Boden.

1 You got Stu and you got Russ.
2 Steve Lippman, to a limited extent.
3 Irene Stay, William Boockvor, who you have
4 down as Bill Brock.

5 **Q Uncle Bill?**

6 A Yes.

7 Curtis Renie. Bill Corte.

8 Bear with me a minute. I'm just kind of
9 going around the office.

10 That's all I recall at this moment.

11 **Q Okay. You mentioned --**

12 A Oh, wait. Adeleta Labello, to some
13 extent; that's Stu's paralegal.

14 David Boden's paralegal. And I don't
15 remember her name, although it is on some of these
16 documents someplace.

17 I think -- I just -- I just want to be
18 clear, okay, when you -- I'm sure all of you have a
19 pretty good idea of all the various things that were
20 going on at the law firm. So when you're asking me
21 that kind of question, to me, everything that was
22 going on was integral to this sustenance and
23 movement of the Ponzi scheme. So other people may
24 have been involved on different levels, but that's
25 all I recall at this moment.

1 Q Okay.

2 A If I remember any others as we go, I'll
3 remind you.

4 Q Let me focus on the lawyers for a minute
5 because you --

6 A Okay.

7 Q -- mentioned just a few names. You
8 mentioned David Boden --

9 A Yes.

10 Q -- Stu Rosenfeldt, Russ Adler, Steve
11 Lippman. The rest are nonlawyers?

12 A Correct.

13 Q Okay. So is it a fair statement that the
14 lawyers that you believe knew to different degrees
15 or participated to different degrees would be those
16 four names?

17 A No. Because then you get into sublevels.
18 You have Howard Kusnick, who was involved on a
19 certain level. You have Ken Padowitz, who at the
20 time was just of counsel to the firm. He was
21 involved on a sublevel.

22 Do you by any chance have a firm list?

23 Q I do, and I'm getting into that in a
24 moment, actually.

25 A That would probably be helpful.

1 **Q All right. What was Mr. Padowitz's**
2 **limited involvement?**

3 A Mr. Padowitz drafted a false opinion
4 letter, a legal opinion letter for us in order for
5 us to attract new funding money.

6 **Q Do you know who that was issued to?**

7 A Actually, I don't. I believe that we
8 turned it over to the Banyan people, but I don't
9 know who they issued it to.

10 **Q Were there other lawyers that participated**
11 **in writing, for instance, false orders, court**
12 **orders?**

13 A Are you -- are you going from the opinion
14 letter -- you're talking about just court orders
15 now?

16 **Q What I'm trying to do is segregate into**
17 **two batches: the good lawyers versus the bad**
18 **lawyers.**

19 I want to know, just in the briefest of
20 terms, identify who did -- that lawyer or any lawyer
21 that --

22 A Do you want -- do you want to give me the
23 lawyer list and I'll tell you a good lawyer or bad
24 lawyer?

25 **Q Well, let me try it a different way.**

1 A All right.

2 Q Okay. First off, there was an executive
3 committee at the firm, right?

4 A Yes.

5 Q Okay. And do you recall who the members
6 of that committee were?

7 A Specifically, no.

8 I know that it was me, Stu, Russ, Lippman,
9 Les Striker. I think Mr. Nurik.

10 I don't recall who else was on it.

11 Q Striker had no involvement in the Ponzi
12 scheme, correct?

13 A Correct.

14 Q And Mr. Nurik had no involvement in the
15 Ponzi, correct?

16 A Correct.

17 Q You have no reason to believe that they
18 knew the existence of the Ponzi scheme until after
19 it became public?

20 A Correct.

21 Q Okay. So I'm going to take their names.

22 Now, there were some other lawyers in the
23 firm as well, and tell me if you think that they
24 knew or -- strike that.

25 First, tell me if they were involved in

1 the Ponzi scheme, and then, second, so we can do
2 this quicker, if they knew of the Ponzi scheme, even
3 though they may not have known what was going on.

4 A Let me just -- you got to clarify. I
5 don't mean to be a pain in the butt on this, but you
6 have to clarify Ponzi scheme for me. Because,
7 again, you have multiple levels of criminal activity
8 in the law firm that you may not think was related
9 to the Ponzi scheme, but which you'll see on further
10 investigation was related to the Ponzi scheme.

11 So you want to know what my belief is as
12 to whether or not they were involved at any level?

13 Q Well, how about if I change the question
14 then and say that if they were involved in illegal
15 activity at the firm.

16 A Fair enough.

17 Q Okay?

18 A Yes, sir.

19 Q We will go back and we'll talk about
20 whether or not that any of these people knew and
21 then, third, what they would have done had they
22 known.

23 A Okay.

24 Q So first question is this pertains to
25 lawyers that participated.

1 **Lawrence Barks?**

2 A No.

3 **Q Bill Berger?**

4 A No.

5 **Q Riley Cirulnick?**

6 A No.

7 **Q Jodi Cohen?**

8 A No.

9 **Q Pedro Dijols?**

10 A No.

11 **Q Ben Dishowitz?**

12 A No.

13 **Q Brad Edwards?**

14 A No.

15 **Q Gary Farmer?**

16 A No.

17 **Q Mark Fistos?**

18 A No.

19 **Q Julio Gonzalez?**

20 A No.

21 **Q Seth Lerhman?**

22 A No.

23 **Q Arthur Neiwirth?**

24 A On the periphery, I believe he had some

25 knowledge of illegal activity just because of things

1 he was working on, but he was not directly involved.

2 Q Okay. You mention Mr. Nurik.

3 Barry Stone?

4 A No.

5 Q Osvaldo Torres?

6 A No.

7 Q Weissing? Matthew Weissing?

8 A No.

9 Q Richard Wolfe?

10 A No.

11 Q So that's a fairly substantial number of
12 lawyers that worked at the firm that didn't know
13 about the Ponzi scheme.

14 A I mean, there was a whole section --

15 Q Of those involved, did any of those names
16 that I just mentioned to you, excepting who you
17 identified as being possibly Mr. Neiwirth, did they
18 have any knowledge that you were involved in any
19 illegal activity? Forget the term Ponzi scheme.

20 A To my knowledge, no.

21 Q Okay. Did you believe those were honest
22 lawyers?

23 A For the most part, yes.

24 Q Okay. Each of them had obligations with
25 respect to trust account maintenance under the rules

1 of the Florida Bar.

2 Do you know that, generally, because
3 you're -- you were a Florida lawyer, right?

4 A Correct.

5 Q Did any of those lawyers know about the
6 trust account defalcations that existed at the firm?

7 A Certain people had -- I believe had
8 information to know, but to my knowledge as I sit
9 here today, I don't know who knew out of these
10 people that you just read to me. On those --

11 Q When you say -- can you tell me what you
12 mean when you say they had information to know.

13 A Well, for example, with Mr. Neiwirth,
14 there were times when we would ask for trust checks,
15 and they were delayed for a significant period of
16 time. As a lawyer, you know that there should be no
17 delay in getting a trust check.

18 Irene Stay had a standing order, which I
19 believe was it would take up to 30 days to get a
20 trust check. And that was to facilitate moving the
21 money in and out of the trust account.

22 Q So you're saying that it was a red flag,
23 as an example, for Mr. Neiwirth?

24 A That's my opinion, yes.

25 Q Okay. You never had conversations with

1 him where you admitted to him that you were engaged
2 in any illegal activity, did you?

3 A No.

4 Q Okay. With respect to the lawyers who
5 were already identified as not being complicit in
6 any of the crimes or having knowledge of it, do you
7 have any understanding or belief as to, for
8 instance, we'll take Mr. Berger. Had he learned of
9 the illegal activity, what do you believe he would
10 have done?

11 A I believe he would have reported it.

12 Q And how about with respect to trust
13 account defalcations?

14 A I believe Bill Berger would have reported
15 it.

16 Q Would Mr. Barski have reported it?

17 A Yes.

18 Q Illegal activity?

19 A I believe so.

20 Q Trust account defalcations?

21 A I believe so.

22 Q How about Mr. Cirulnick, would he have
23 reported illegal activity?

24 A I don't know if he would have reported it.
25 He would have gone to Lippman, and then how Lippman

1 would have reacted is your guess.

2 Q How about Jodi Cohen? Do you believe she
3 would have reported it?

4 A She probably would have gone to Lippman
5 also.

6 Q They both, meaning Cirulnick and Jodi,
7 worked for Lippman?

8 A Yes.

9 Q Okay.

10 A And understand, that is just my judgment
11 call, knowing them as I knew them.

12 I don't know that for certain.

13 You're asking me to speculate.

14 Q Pedro Dijols, if he knew of the illegal
15 activity --

16 A He would have reported it.

17 Q And if he had learned of the trust account
18 defalcations, he would have reported it?

19 A Yes.

20 Q How about Ben Dishowitz? Would he have
21 reported illegal activity?

22 A Yes.

23 Q And same with respect to trust account
24 issues?

25 A Yes.

1 Q Brad Edwards, would he have reported
2 illegal activity?

3 A I don't know.

4 Q Would he have reported trust account
5 defalcations?

6 A I don't know.

7 Q How about Gary Farmer, would he have
8 reported it?

9 A Yes.

10 Q Yes, as to both questions?

11 A Yes.

12 Q Mark Fistos?

13 A Yes to both questions.

14 Q Julio Gonzalez.

15 A Yes, as to both.

16 Q Seth Lehrman?

17 A Probably.

18 Q Mr. Nurik?

19 A Absolutely.

20 MR. NURIK: I would have shot you.

21 A Probably.

22 BY MR. LICHTMAN:

23 Q Barry Stone?

24 A Yes. Absolutely.

25 Q Osvaldo Torres?

1 A Yeah. Eventually, he would have. I think
2 he probably would -- he was a very good person. I
3 think he probably would have tried to help us clear
4 up the mess before he reported it, just knowing the
5 way he was. He was just a generally good guy, but
6 if they didn't make things right, I believe he would
7 have reported it, yes.

8 **Q Matthew Weissing?**

9 A Same answer as to Osvaldo.

10 **Q Okay. And Richard Wolfe.**

11 A I don't know what Richard would have done.

12 **Q Did you take affirmative steps to hide the**
13 **illegal activity from the ten or so lawyers that you**
14 **just mentioned that had they known of the commission**
15 **of fraud, would have reported it?**

16 A To a large extent, yes.

17 **Q What did you do?**

18 A We limited access to the information.

19 I mean, in a law firm that size, it's not
20 difficult to hide information. People are -- you
21 know, in the legitimate part of our law firm, people
22 were practicing law. They were interested in
23 practicing law and in properly representing clients,
24 so it wasn't difficult to hide it from them.

25 They did their business, made sure they

1 got their checks, and if they asked questions, you
2 came up with a plausible excuse for the delay and
3 moved on.

4 Q And you tried to hide it from most of the
5 people in the firm, correct?

6 A The bulk, the great number of them, yes.

7 Q Okay. That would include other lawyers
8 who we didn't even talk about, right?

9 A True.

10 Q Okay. So what steps did you take to hide
11 it from them?

12 A Other than lying to them when they asked
13 questions, I mean, we didn't really -- there were no
14 other steps necessary.

15 Q How about the -- what we'll call the inner
16 sanctum, the lockdown of your offices?

17 A Okay. Maybe -- let's clear this up now.
18 The inner sanctum, okay, that only existed -- you
19 have to get the build out information. But for the
20 bulk of the time that we were in business, my office
21 was wide open to everybody. So was Irene Stay's.
22 So was Deb Villegas's.

23 So I -- I don't believe that affirmative
24 steps needed to be taken, I think, to address the
25 nature you're trying to get to, to hide what was

1 going on. Because, again, the people that were
2 practicing law and had faith in the quote, unquote,
3 management of the firm, they were doing well. They
4 did what they needed to do to practice law.

5 The other people that were involved, some
6 people got directly involved; some people had
7 knowledge of what was going on but weren't directly
8 involved. And then there were a group of people
9 that I have reason to believe had knowledge but were
10 doing very well and didn't really care one way or
11 the other.

12 But you have got to remember the best way
13 to look at when that inner sanctum -- as I called it
14 in one email, I believe, sanctum sanctorum. The
15 date that build out was completed should be a matter
16 of record.

17 Until that point in time, there was
18 nothing locked down. Everything was wide up.

19 CFO's office, COO's office, my office,
20 Marybeth Feinstein, Howard, my assistant, we were
21 all wide out in the open. People could come and go
22 as they please.

23 **Q Is it a fair statement that financial**
24 **information in the firm was not distributed to**
25 **lawyers in the firm?**

1 A It was only distributed to certain
2 lawyers.

3 **Q Who received the financial information?**

4 A To the best of my knowledge, Stu
5 Rosenfeldt, Steve Lippman, David Boden. Les
6 Striker, for a period of time was actually heavily
7 involved in our finances, actually trying to keep
8 the lawyers actually producing, but he was not --
9 did not have access to trust information.

10 The other lawyers had access to the ones I
11 just mentioned -- had access to trust accounts.

12 **Q Adler?**

13 A Adler.

14 On --

15 **Q Let me clarify at -- let's clarify --**

16 A To a limited extent.

17 **Q Okay. Adler had access to limited
18 financial information?**

19 A Adler had information about what his group
20 was producing, okay, and what his trust account, the
21 personal injury trust account, had in it.

22 **Q And you would agree that he knew for an
23 extended period of time he had trouble getting
24 checks out of trust as well.**

25 A Yes.

1 Q So in terms of the makeup of the senior
2 leadership of the firm, you had the executive
3 committee. What was their function?

4 A To advise me.

5 Q And did you listen to them?

6 A Sometimes.

7 Q Okay. And your position was technically
8 as CEO?

9 A Correct.

10 Q Okay. So if Mr. Nurik had a suggestion,
11 you would listen to it. If you thought it made
12 sense, would you follow it?

13 A Well, you want me to answer that with him
14 sitting right next to me?

15 Yeah. Well, if it was -- you have got to
16 separate it out. If it's legitimate law firm
17 business and they made a suggestion that I agreed
18 with, I followed it.

19 And as you well know, if they made a
20 suggestion I didn't agree with, I just did whatever
21 I pleased.

22 Q And Striker and Nurik were part of the
23 executive committee, correct?

24 A I -- I'm pretty sure both of them were the
25 entire time it was in existence, yes.

1 Q Okay. Now, were there any other
2 committees that existed within the firm that dealt
3 with management issues?

4 A I'm sure there were, but off the top of my
5 head, I don't recall.

6 Q There were two levels of senior leadership
7 among the partners, what we'll call lawyers that
8 were not "associates" as the term widely used in the
9 legal community. There were partners and
10 shareholders.

11 A Correct.

12 Q Can you advise me, what was the difference
13 between a partner and a shareholder?

14 A It was just a level of -- a different
15 level of recognition within the firm, more perks for
16 the shareholder than the partner.

17 The partner was were you coming up, but
18 there were no other equity positions in the firm,
19 other than myself and Mr. Rosenfeldt.

20 Q Were these more respected lawyers in the
21 firm?

22 A To --

23 Q Be a fair statement, right?

24 A To my way of thinking, yes.

25 Q And many of the partners, slash, or

1 shareholders were some of the names that we
2 mentioned earlier, correct?

3 A Sure.

4 Q Okay. And to be sure, the shareholder was
5 the higher level status, right?

6 A Yes.

7 Q Mr. Berger, was he a partner or
8 shareholder?

9 A I believe that we made him a shareholder,
10 but I don't recall off the top of my head.

11 Q How about Barski?

12 A No, I don't know what Barksy was.

13 Q Cirulnick?

14 A Don't recall.

15 I believe those guys were just associates.

16 Q Pedro Dijols?

17 A You know, I don't remember, Chuck.

18 Q Dishowitz?

19 A Associate, I believe.

20 Q Gary Farmer?

21 A I believe he was a shareholder.

22 Q Fistos?

23 A Don't recall.

24 Q Julio Gonzalez?

25 A I don't recall.

1 Q Seth Lehrman?

2 A I -- I really don't recall.

3 Q Nurik?

4 A Shareholder.

5 Q Barry Stone?

6 A Shareholder.

7 Q Torres?

8 A Don't recall.

9 Q Weissing?

10 A He wasn't an associate. He was either a
11 partner or shareholder.

12 Q Richard Wolfe?

13 A You know, I don't remember what he came in
14 as. It would either have been a partner or
15 shareholder. Probably a shareholder.

16 Q Okay. One second.

17 Just to show you that we're going to just
18 cover a wide range of topics, I'm going to
19 completely switch gears now.

20 A All right.

21 Q We have an adversary proceeding against an
22 entity named SPD Group, Inc., which is, I think, the
23 corporation that owns J.R. Dunn. Okay?

24 I'm not going to ask you many subjective
25 questions about that case because that would be

1 subject to a Rule 7030 deposition that we'll get to
2 at some point in the future, presumably.

3 I do have a couple of questions about
4 jewelry and witnesses, though.

5 A Okay.

6 Q And one other related issue.

7 In J.R. Dunn's initial disclosures,
8 they're required under the bankruptcy rules -- they
9 listed some persons who they thought had knowledge
10 of disposition of your jewelry.

11 I'm pretty sure that we can account for a
12 bunch of your jewelry being seized by the
13 government --

14 A Mhm-mhm.

15 Q -- subject to forfeiture?

16 A Correct.

17 Q And I have a pretty fair understanding
18 that there was a lot of jewelry that you acquired
19 over time that you sold and you converted into cash.

20 A That's correct.

21 Q Okay. So I want to go through these names
22 and tell me what you know about these particular
23 individuals. Patrick Daoud of Daoud's Fine Jewelry,
24 they say that -- meaning SBD says that they have
25 knowledge of disposition of jewelry.

1 A SBD is J.R. Dunn?

2 Q Yes.

3 To the best of your knowledge, what
4 information would Patrick Daoud have respecting
5 knowledge of your disposition of jewelry?

6 A I have no idea.

7 Q How about a Julien Sigler, S-I-G-L-E-R?

8 A Never heard of the name.

9 Q How about Eddie Marin, M-A-R-I-N?

10 A Eddie Marin? Eddie Marin? I met Eddie
11 Marin at Capital Grille. I don't know what business
12 he's in.

13 And I got to tell you, I have no idea what
14 he would know about me or my possessions.

15 Q How about Rappaport USA d/b/a Rafdeck in
16 New York City?

17 A No, I don't know what that is.

18 Q Do you recall selling any of your jewelry
19 to either Patrick Daoud or Julian Sigler or Eddie
20 Marin or Rappaport?

21 A I did not sell my jewelry to any of the
22 people that you listed. That doesn't mean that
23 someone that I did sell my jewelry to didn't
24 ultimately sell it to those people. I don't know.

25 Q Do you recall who you sold your jewelry

1 to?

2 A Specific names, no.

3 There were people that I dealt with. I
4 mean, there were times when I sold jewelry back to
5 people, but none of the names.

6 Q That would be like Levinson's, as an
7 example?

8 A Can you give me a time frame for when
9 you're talking about the dispositions? Are you
10 talking about --

11 Q In the initial disclosures, they don't
12 list a time frame. They just list names --

13 A Okay.

14 Q -- as to people who might have knowledge.

15 A So let me just clarify this for you. From
16 the time that I left the country, at that point in
17 time, I traveled with a number of my watches.

18 Upon returning to the country, the watches
19 were turned over to the government, along with the
20 rest of my things.

21 But from the moment that I left the
22 country, from that moment forward up until today, I
23 never had custody, control, anything to do with any
24 of my possessions, other than signing documents
25 forfeiting everything to the United States

1 government.

2 Q And there is no name that you -- you can
3 recall of persons who you sold jewelry to other than
4 businesses that you had done -- engaged in business
5 with?

6 A Other than people that I was engaged in
7 business with, because I was constantly in need of
8 cash for various things. I would buy jewelry from
9 people and sell it back to them at a discount when I
10 needed cash.

11 Other than that, those people on that
12 list, unless someone else sold them something, I had
13 nothing to do with them.

14 Q The trustee is exploring a claim with
15 respect to a piece of jewelry that was purchased
16 by -- purportedly Steven Greenlaw from Daoud's. It
17 was a diamond ring.

18 Do you know anything about that?

19 A My recollection is that Steven, who was
20 the head of my Florida police detail, borrowed money
21 from us, from me, to purchase an engagement ring.

22 Q When you say borrowed money, did you give
23 him cash or was there a check?

24 A You know, I don't recall, Chuck.

25 Q Do you recall if that got repaid?

1 A I doubt it.

2 Q **Why do you doubt it?**

3 A I don't have specifics.

4 Because my general nature during the
5 entire time this was going on was loans were never
6 meant to be repaid.

7 Q **So that would have been a gift, is that a**
8 **fair statement?**

9 A Yes.

10 Q **Okay.**

11 (Thereupon, a document was
12 marked as Trustee's Exhibit No. 2 for
13 Identification.)

14 BY MR. LICHTMAN:

15 Q Switching gears again, I'm showing you a
16 composite exhibit. For the record, the first part
17 of the exhibit is a stapled document that contains
18 an email from you to Irene Stay and Debra Villegas,
19 subject Barry Lipsitz, February 12th, 2009, and
20 appended to it are a series of check stubs. And
21 then also a promissory note, which is the second set
22 of documents of July 2nd, 2009, with a series of
23 checks appended to that as well.

24 A Okay.

25 Q I'm going to ask questions about this

1 generally. I'm not so much focused necessarily just
2 on the Lipsitz transaction reflected by these
3 documents but by the structure of how you put
4 together certain of these deals so that we can get a
5 sense of it.

6 A Okay.

7 Q The email of February 12th from you to
8 Irene and Debra says very simply at the top, "Fund
9 \$925,000."

10 You agree that that's what the 925K means,
11 right?

12 A Yes.

13 Q Fund \$925,000. ROI 600,000.

14 Would you agree that ROI means return to
15 investment of 600,000?

16 A Correct.

17 Q And it says "Paid in equal payments over
18 seven months."

19 See that?

20 A Yes.

21 Q Okay. We have filed a large number of
22 similarly structured transactions, emails, we'll
23 call them deals, whatever, where some of the
24 paperwork comprises largely of an email just like
25 this. It says fund X amount, ROY, Y amount, paid in

1 equal installments. And the deals were always
2 different, but the structure is the same.

3 How did the structure of these deals come
4 about, these type of deals? Do you know in a
5 general sense?

6 A I created it.

7 Q When you say you created it, I mean,
8 obviously, I know this was your set of transactions.

9 I'm focused more on the -- on the issue as
10 to the structure of this. How did you come up with
11 the structure of saying I need X dollars of money to
12 be funded and I'm going to get back Y?

13 A You mean how did I come up with the
14 numbers?

15 Q Yeah, generally.

16 A Generally, it was how much we needed at
17 the time in the law firm.

18 Q And when you say "needed," meaning when
19 you put in the fund of 925, that's how much you
20 calculated that you needed?

21 A Right.

22 The money that we got, this is -- you
23 understand this is like a sublevel of the Ponzi.

24 When I say "sublevel," it's not a
25 full-blown deal packet.

1 And at this point in time in February of
2 2009, we were using full-blown deal packets.

3 **Q Right. I'll get to that.**

4 A And we -- I would find out generally from
5 Irene how much money we needed in the accounts to
6 make payments to the other investors, and then we
7 would go through our base of investors, whether it
8 be the Banyan on Szafranski or whoever it was at the
9 time.

10 In this case, we had a certain number of
11 people that were doing what I call simple deals, and
12 meaning there was no paperwork with them other than
13 a promissory note.

14 **Q Like these?**

15 A Yes.

16 **Q Okay.**

17 A This would just be all part and parcel of
18 how we would get money to pay the investors.

19 **Q Now, was this money typically in your mind**
20 **allocated just to pay other investors or was it also**
21 **going into general bank accounts to be used for**
22 **those firm expense as well -- personal expenses?**

23 A It was going to pay investors, to pay my
24 expenses, Stu's expenses, Russ's expenses, law firm
25 expenses, Adler's expenses. Whatever money needed

1 to be spent, that's where it went.

2 Q And is that why the amounts fluctuate from
3 deal to deal so radically?

4 A I mean, I think that the amounts do two
5 things. One, it's how much money we needed at the
6 time. And I guess that's really it; it's how much
7 money we needed and what the -- I guess more than
8 anything, other than what we needed was what the
9 market would bear.

10 I had a pretty good idea of the
11 individual's financial wherewithal, their ability to
12 invest at various points in time based on
13 conversations I had with them.

14 So if I would have conversations with
15 Barry, and he would say I have, you know, I got -- I
16 have access to about a million to invest. I would
17 give him a deal close to a million.

18 Q And then you would set a return of --
19 return on investment based on what you thought he
20 would be happy with in order to make sure you got
21 the million in?

22 A Yes.

23 Q Which in this case was really 925?

24 A Correct.

25 Q I note that the checks attached are

1 **numbered sequentially: 25974, 2975, etc. And**
2 **they're each for the ninth day of succeeding months**
3 **starting in the month of March 2009.**

4 **Why and how was it set up so that you**
5 **would be issuing checks all at the same time?**

6 A This was very simple. Make a deal with
7 Barry. We would send him: This is what we got.

8 There should be an email to Barry
9 somewhere corresponding to this. Sometimes I did it
10 by phone, but a lot of times I sent him an email.
11 And he would say, aye or nay.

12 The second he said yes, I would say, When
13 are you going to fund? We need funding by
14 tomorrow -- whenever it is. He would say, I am
15 wiring today or tomorrow. I would buzz or ring
16 Irene, just like I did here, and say I need this
17 many checks. Most of the time it was by email, but
18 sometimes I would pick up the phone and say cut
19 these, tell her to cut the checks, and Deb would
20 make sure that they got out in overnight mail.

21 **Q Did you always do promissory notes for**
22 **these kind of deals?**

23 A For these with Barry, I'm pretty sure I
24 always did promissory notes. There may be a couple
25 where they got away.

1 No one was reasonably concerned with
2 getting promissory notes. They were concerned with
3 getting their checks.

4 **Q Why wasn't he concerned with promissory**
5 **notes?**

6 A Because we were a good pay. I mean, he
7 was always receiving his money.

8 **Q Okay. I'm going to move on because we**
9 **will ultimately have a deposition regarding him.**
10 **I'm just getting background right now.**

11 A Okay.

12 **Q You'll see the next transaction is part of**
13 **Composite Exhibit 2. It's a \$900,000 promissory**
14 **note.**

15 A I got a \$600,000 one.

16 **Q For 600. I'm sorry, I misread. Yes,**
17 **600,000 promissory note.**

18 Typically, and this is also for
19 **Mr. Lipsitz, this is July 2, 2009, so this is a deal**
20 **that would be subsequent to the first transaction we**
21 **discussed.**

22 A Right.

23 **Q Who drafted the original form of the**
24 **promissory note?**

25 A I believe I did.

1 **Q Was there anybody that assisted or**
2 **reviewed it?**

3 A Later on, I believe Dave Boden reviewed
4 them and sometimes changed them for his deals. But
5 this promissory note --

6 **Q Meaning his Pearson deals?**

7 A Yes.

8 **Q Okay. We get to that later also.**

9 A This -- I'm 99.9 percent certain I drafted
10 with no one changing it, other than someone to type
11 it.

12 **Q Okay. Who did your typing?**

13 A Any number --

14 **Q I am certain you didn't do the word**
15 **processing.**

16 A No.

17 What I would do is, I would type it in
18 email fashion or Word fashion, more frequently
19 email. I would email it to Deb, Priscilla, Addy,
20 one of the people that I trusted, and they put it
21 into final form and sent it back to him.

22 **Q Okay.**

23 A You should have email traffic in that
24 regard, but...

25 **Q Yeah. Just so you know, we view that --**

1 when we get to each of those cases, that's where
2 we're going to dig down into more detail. Right now
3 I'm trying to get a general framework.

4 A Okay.

5 MR. RABIN: Is there any way when you get
6 an exhibit back, you can reference it back --
7 you can disclose it to us? Your Bates stamps
8 were your exhibit numbers.

9 MR. LICHTMAN: The protocol order did not
10 require us to produce the 204 documents.
11 Indeed, we didn't even finalize it until
12 yesterday.

13 MR. RABIN: So you don't have any of these
14 documents?

15 MR. LICHTMAN: No. No. What we'll do is
16 make a set available to everybody.

17 MR. RABIN: Okay.

18 (Thereupon, a document was
19 marked as Trustee's Exhibit No. 3 for
20 Identification.)

21 BY MR. LICHTMAN:

22 Q Showing you Exhibit 3 for identification
23 purposes --

24 A Mhm-mhm.

25 Q -- this is a document -- it does have a

1 Bates stamping, and it's SW20-00875 through
2 SW20-00911.

3 The cover page says, "Deal ID S124,
4 funder, EMESS" -- E-M-E-S-S, for the record --
5 "date, August 12, 2009; fund 800,000 ROI 550," and
6 some other terms.

7 I'm going to spend a moment here, and to
8 be sure -- this is not for me to discuss the
9 substance of how EMESS got involved, it's really
10 more to talk about the documentation.

11 A Okay.

12 Q So at some point there will be a different
13 day where we deal specifically with EMESS.

14 On the cover page of Exhibit 3, it says
15 "Deal ID S124."

16 How was that number, "S124," determined?

17 A It means Szafranski, and it's the 124th
18 deal.

19 Q And did you have an opportunity to look
20 through the exhibit or at least skim through it?

21 A No. Just give me one second.

22 Q Why don't you do that.

23 A Okay.

24 Q Would you agree this is what a typical
25 settlement package would look like?

1 A Yes. Once the packages were finalized,
2 this is what it would look like, yes.

3 Q Okay. "Funder," we know that would mean
4 that **EMESS** was the party that was buying in on the
5 deal, correct?

6 A Correct.

7 Q Okay. There's a term there in boldface
8 print. It says "Magic of \$1,710,000."

9 Do you see that?

10 A Yes.

11 Q I note that under the structure of this
12 deal, it required payments of \$337,500 times four
13 payments. That was -- that's set forth under the
14 note as part of this deal?

15 A Right.

16 Q Okay. That sum totals 1,350,000?

17 A Correct.

18 Q Okay. So what is the difference of that
19 360,000 that constitutes this figure called "magic"?

20 A The term "magic" is a term that
21 Ms. Villegas came up with because it was a way for
22 her to keep track of the number that she actually
23 was putting.

24 I believe if you look at the first page of
25 this settlement agreement, or the second page -- it

1 should be the first or second -- second page, you'll
2 see that that's the total amount being sent in.

3 So that would be 1,000 -- excuse me --
4 1,000, 1,710,000 coming in; plaintiff's portion,
5 1,350.

6 So the difference would be our attorney's
7 fees and costs.

8 **Q Okay.**

9 A That was simply part of the fraud.

10 **Q The plaintiff's name is listed there as**
11 **David Freeman. Of course, there was no David**
12 **Freeman, right?**

13 A Correct.

14 **Q How were names of plaintiffs chosen?**

15 A In the beginning, my recollection is that
16 I was creating the names. Once the Ponzi scheme got
17 up and running where it was multiple deals on a
18 daily basis, Debra would create names; Amy Howard --
19 I'm not sure if Amy actually created names. I know
20 Marybeth -- I've seen some emails that Marybeth
21 Feiss created a bunch of plaintiffs' and defendants'
22 names.

23 So it was -- if it wasn't a real corporate
24 name -- and using real company names was the
25 exception, as opposed to the rule -- it would either

1 have been created by me and then, later on, by Debra
2 and Marybeth; possibly Amy, but I don't recollect
3 one way or the other.

4 **Q Was there any rhyme or reason as to how**
5 **names were picked, or was it just out of the phone**
6 **book or what?**

7 A Out of our heads, I believe. I don't know
8 if they were looking in the phone book. I think
9 most of time it was just made up.

10 **Q Same with respect the defendants' name?**

11 A Unless we were using a real company, they
12 were just completely made up, yes: a combination of
13 other companies' names, that kind of thing.

14 **Q Okay. Who in the firm knew that you were**
15 **engaged in these settlement deals?**

16 A You need to clarify for me "knew that we
17 were," quote, unquote. In the business of selling
18 settlements or knew that we were engaged in the
19 illegal creation of settlements and sale of that
20 product?

21 **Q Well, let's take --**

22 A You need to differentiate for me.

23 **Q Who knew that you were in the business of**
24 **selling the settlements?**

25 A At some point in time, probably a good

1 percentage of the people that worked in the law
2 firm, because word got around.

3 Other than people that were directly or
4 indirectly involved, I was approached by a number of
5 attorneys that were not involved in the Ponzi
6 directly but that wanted to get on in.

7 Grant Smith is a perfect example. He
8 approached me on numerous occasions that him and his
9 wife, Eliza, wanted to invest.

10 He did not know that it was a Ponzi
11 scheme. To my knowledge, he did not know, and I
12 would not allow him to invest.

13 **Q I didn't -- I didn't see him as an**
14 **investor; is that because you wanted to keep certain**
15 **people out of the investments?**

16 A Specifically with him, I did not want him
17 involved in case it blew up.

18 **Q Why?**

19 A I didn't want him to lose his money.

20 **Q All right. Didn't you also have a rule**
21 **with respect to certain friends you wanted to keep**
22 **out?**

23 A There were people that I did not -- that I
24 did not perceive could withstand the loss, okay, if
25 the thing did explode.

1 I mean, there were obviously people I
2 didn't want to do business with because I was
3 fearful of being discovered.

4 **Q Who were some of those people; do you**
5 **remember?**

6 A They were -- they were more people that I
7 had met along the way that had been introduced to me
8 by, let's say, the hedge funds or the Banyan folks
9 or Szafranski, that, for lack of a better term,
10 linked up with me when I met them, didn't want to do
11 business with them.

12 But for the most part, you know, I -- I
13 would like to say that there was a tried and true
14 formula so I could help you along, Mr. Lichtman; I
15 can't. There were certain people, like Grant Smith,
16 that I just was not going to allow to get involved
17 in this.

18 Bob Kagan and Bonnie Barnett, another
19 example.

20 If you look at the email traffic and what
21 was going on at the time, I had no idea that they
22 were going to invest when they invested, ultimately.
23 But I remember distinctly, because I remember where
24 I was at the time, calling Irene and saying, I don't
25 know what the hell is going on but you need to cut a

1 check for the 500,000 they invested and get it right
2 back to them.

3 Unfortunately, by that point in time, the
4 account was frozen and drained and their checks
5 bounced, but I did not want them involved in it.

6 **Q Let me go back to Mr. Smith for a moment.**
7 **He was also on the executive committee at some**
8 **point, wasn't he?**

9 A Yes.

10 **Q And would you agree he was one of the**
11 **persons that didn't know about the trust account**
12 **defalcations?**

13 A I don't believe he knew, no.

14 **Q Didn't know about the existence of the**
15 **Ponzi?**

16 A No.

17 **Q You believe that had he known, he would**
18 **have reported you?**

19 A No.

20 **Q Okay. You don't believe that?**

21 A No.

22 **Q Okay. Why?**

23 A I believe he would have come to me and
24 told me, Knock it off, make things right, I don't
25 know what the hell you're doing. He would have

1 resigned from the firm.

2 But Grant was a very, very loyal friend,
3 and I don't think he would want this to rain down
4 upon anybody that he had that kind of a relationship
5 with, so...

6 Q So his response would have been to quit on
7 you?

8 A His response either would have been to
9 resign and to tell me to knock it off.

10 Q Okay. You said that there were some other
11 the lawyers that were involved and knew of the
12 illegal business of selling these settlements; who
13 were those lawyers?

14 A That knew specifically we were selling
15 illegal settlements?

16 I want to make sure we are all on the same
17 page.

18 Q Yes.

19 A David Boden, Stuart Rosenfeldt, Russ
20 Adler.

21 Lippman may have known. I really don't
22 recall what the full extent -- he was involved in a
23 lot of other things, as you know, so...

24 As far as my lawyers -- you're talking
25 lawyers only, right?

1 **Q Lawyers only.**

2 A Okay.

3 **Q Because I think you mentioned nonlawyers.**

4 A Me, Adler, Boden, Rosenfeldt. Lippman to
5 a lesser degree.

6 **Q Boden's role tied in mostly with Pearson;
7 is that a fair statement?**

8 A Tied in with Pearson? Yeah. He was
9 running almost like a -- I think someone -- some
10 document called it a subPonzi. I think that's
11 probably the best way to describe it.

12 **Q Okay. How about Stu, what was his
13 involvement?**

14 A Stu was in a unique position. Stu was not
15 directly involved in the Ponzi scheme, other than to
16 live the lifestyle.

17 At some point in time he became aware that
18 we were selling the illegal settlements.

19 He tried at one point in time, to my
20 knowledge, to attempt to bring an investor in.
21 Other than that, you know, he wasn't involved on a
22 daily basis except to reap the rewards from it.

23 **Q He knew that the activity was illegal,
24 though, correct?**

25 A Sure.

1 **Q** Okay. He was a 50-percent shareholder of
2 **the firm?**

3 A Yes.

4 **Q** What was Russ's involvement?

5 A Russ was -- had, I would say, probably the
6 same knowledge as Stu, plus a little bit of --
7 because Russ was involved in a scenario assisting us
8 in putting together fraudulent due diligence for the
9 hedge funds. So he also tried bringing in
10 investors, but he never was able to.

11 And he, of course, also reaped the
12 benefits of the illegal activity.

13 **Q** Let me go back to the documents here.

14 Whose idea was it to set up these and
15 **structure them as they were reflected by the**
16 **documents?**

17 A I got a lot of documents here, not the --

18 **Q** Exhibit 3?

19 A -- not the promissory note.

20 We are talking about Exhibit 3?

21 **Q** Exhibit 3, yeah, the settlement.

22 A That, it was a combination that was me and
23 Frank Preve; and then, later, by this time, Boden
24 had put his two cents in, also. But, excuse me, the
25 main structure would have been me and Frank Preve.

1 Q I assume, then, that because Boden joined
2 the firm later and the Ponzi was already in
3 existence for some time, that, initially, would have
4 been you and Preve?

5 A When it went from promissory notes to the
6 full-deal packets, we'll call them, that was me and
7 Preve.

8 Q Okay. Who drafted these documents; and if
9 there was more than one drafter and if it's on a
10 document-by-document basis, please let me know that.

11 For instance, the fact -- maybe, just so
12 the record is clear, the second document is a letter
13 of August 12, 2009, on an RRA letterhead, and it
14 purports to contain your signature on the bottom,
15 and --

16 A Yeah.

17 Q -- this talks about the assignment, and it
18 confirms that you received the money in the account.

19 Is that a document you would have drafted?

20 A This would have been drafted by someone
21 else and then corrected or updated by me; but
22 combined, it would have been me and Preve, and very
23 possibly, with the unknowing assistance, if it was
24 an innocent investor, of an investor who wanted a
25 letter that said this.

1 You have to understand that some of the
2 documents you will see have inputs -- you can track
3 this through the emails, input from the people that
4 I put in the category of "innocent investors" and
5 some of the not-so-innocent investors, and that is
6 not my signature at the bottom.

7 **Q Forgive me; I am not asking some obvious**
8 **follow-up questions because the big deposition is**
9 **going to start after this, where I suspect there**
10 **will be more detail. I'm just trying to get some**
11 **broad-brush paint strokes here.**

12 A Okay.

13 **Q The next document is the promissory note.**
14 **That's an \$800,000 promissory note. Is that a note**
15 **that would have been prepared similar or the same**
16 **way that you described the Lipsitz note?**

17 A Yes.

18 **Q Okay. And then the next document is an**
19 **employment contract authority represented by the**
20 **firm. It has the names blacked out. Who would have**
21 **initially drafted that document?**

22 A Someone -- this was our regular contract
23 of employment that we use in real cases, so someone
24 in the law firm. It would have been drafted by a
25 lot of different people over time. It would have

1 changed over time.

2 Q And used on a form and went from there?

3 A Yes.

4 Q Did any of the lawyers in the firm see
5 that there were these names blacked out when they
6 were talking to you about doing settlements, or did
7 they never even have access to the settlement
8 documents?

9 A Which lawyers?

10 Q The lawyers that were engaged -- that were
11 not engaged in the Ponzi that knew, generally, that
12 there might have been a settlement deal.

13 A I don't know what they saw. I have no way
14 of knowing because there was such a long period of
15 time that this was all done, quote, unquote, in open
16 offices, not behind, in the -- in the sealed area
17 that we ultimately had. So, I don't know who saw
18 what.

19 Q Typically, did Stu, Russ or Boden ever see
20 these settlement packages --

21 A I believe that --

22 Q -- generally?

23 A -- generally, yes, I believe they saw them
24 at some point in time or another.

25 Q Did they ever ask you why the names were

1 **blacked out?**

2 A No.

3 Q You would agree that the firm's privilege
4 **would have attached to it if they were legitimate**
5 **clients, correct?**

6 A Correct.

7 Q How about the confidential settlement
8 **agreement and general release, who drafted that**
9 **document?**

10 A That would have been originally drafted by
11 a legitimate -- it would have been drafted,
12 initially, in a legitimate settlement, taken, and
13 then any changes that we believe that -- I'm not
14 sure we made any, but we may have made some changes
15 to fit the deal context -- and by "me," meaning me,
16 Preve, Boden on his cases, not Stu and not Russ --
17 they would have been changed.

18 Q Do you recall what the original, first
19 **deal was that used a settlement package?**

20 A At this time I don't recall.

21 Q Do you recall who drafted the very first
22 **of what we will call the illicit settlement**
23 **agreements?**

24 A You're talking full-deal packets now?

25 Q Yes.

1 A It would have been a combination of me and
2 Preve.

3 Q Okay. I'm quite certain that that area
4 will be covered extensively in the later deposition.

5 I'm going to switch gears, again, and now
6 get into some issues respecting Albert Peter, Jewel
7 River Cruises and Tatiana Yoel.

8 As background, the trustee has filed an
9 adversary case against those entities, and they
10 responded, and we have a motion for summary judgment
11 pending. So, the questions that I'm going to focus
12 on now pertain mostly to declarations that we
13 received in response to the summary judgment --

14 A Okay.

15 Q -- so we can establish a record on certain
16 things.

17 First, do you recall who Tatiana Yoel is?

18 A Yes.

19 Q Who was she, to the best of your
20 recollection?

21 A Albert Peter's mistress.

22 Q How do you know that?

23 A I met her. He told me. She told me.

24 Q Okay. Spend time around her?

25 A Yes.

1 Q There was a point in time where \$400,000
2 was sent from Silversea Cruises to an RRA account,
3 and then written out of the RRA account was \$400,000
4 to Mrs. Yoel.

5 A Correct.

6 Q Do you recall the circumstances of how
7 that payment came about?

8 A My best recollection is Albert wished to
9 purchase or assist Tatiana in purchasing a piece of
10 property. He requested that we move the money
11 through the law firm so he could get it out of
12 Silversea; we did.

13 Q Do you know where the property was?

14 A I'm pretty sure -- to my recollection, it
15 was two pieces of property together: one in Miami
16 someplace and one overseas.

17 Q Paris?

18 A It could be. I just remember overseas.
19 So, it was one for one of those.

20 Q You said Albert wanted to move the money
21 out of Silversea; what did you mean by that?

22 A Steal it.

23 Q What was his position at Silversea?

24 A He was the CEO.

25 Q So, when you say "steal it," how was it he

1 **was able, to the best of your knowledge, to direct**
2 **that money could be just sent from Silversea to RRA?**

3 A When the chairman of the board was not
4 present in the country, he had the full ability to
5 do almost anything he wanted with the Silversea bank
6 account, at least that's the way it appeared to me;
7 he seemed to have full reign over it with very
8 little oversight.

9 **Q How do you know that?**

10 A Because I was involved in embezzling money
11 from the company with him.

12 **Q Describe that for me, please.**

13 A That's a really broad question.

14 **Q There are a number of instances that he**
15 **was able, right --**

16 A He --

17 **Q -- a few different ways that he went about**
18 **that, correct?**

19 A Yes. There were circumstances where he
20 needed money and we would send Silversea, attention
21 to him, a bill for services allegedly rendered --
22 obviously not really rendered -- and we would take
23 the money in and then send it back out to wherever
24 he directed.

25 Other times, and sometimes in conjunction

1 with that, where we needed the money, let's say he
2 needed it, \$500,000 for something, we might send a
3 bill for 600,000 or 700,000. We would do what he
4 needed us to do with the 500,000, and we would keep
5 the balance.

6 **Q So, let's go through this kind of piece by**
7 **piece.**

8 **With respect to the inflated legal fee**
9 **bills, how did that work? What were the mechanics**
10 **as to -- from the beginning to the end of how the**
11 **bill would be issued, tendered to Silverseas, get**
12 **paid and participated -- I know it is a compound**
13 **question but...**

14 **A Basically, it just depends on who needed**
15 **the money.**

16 **Regardless of whether it was us needing**
17 **funds or Albert needing funds, we agreed on an**
18 **amount. We would create a false bill -- and when I**
19 **say "we," it depends on who was -- who was working**
20 **on that particular file.**

21 **There were times when, for example, Steve**
22 **Lippman was assisting with matters pertaining to**
23 **Silversea, where Lippman helped us put the bill**
24 **together. I would say --**

25 **Q Meaning a false bill?**

1 A A false bill.

2 I would say, we need \$175,000 worth of
3 work on there. There's about 30,000 in real work.
4 Come up with a bunch of entries.

5 I would come up -- he would give it to me.
6 I would come up with additional entries; and then,
7 at the end of day, we would have a -- we would have
8 a bill.

9 We would send it over there. We would let
10 Albert know ahead of time, it's coming. We would
11 send it over there. Soon thereafter they would pay,
12 and then we would do what we needed to do with the
13 funds.

14 **Q So, when you say what you needed to be**
15 **done with the funds, does that mean that you would**
16 **keep a portion and a portion would be kicked back to**
17 **Albert?**

18 A Those are two of the things that would
19 happen with the money, correct.

20 **Q Were there other things that would happen**
21 **with the money?**

22 A Yes.

23 **Q Including --**

24 A Payment to other individuals.

25 **Q Such as?**

1 A His other mistress, Diane DelValle; to
2 him; and to other people for other illegal activity.

3 **Q Okay. So that was one issue with Albert.**

4 **The second was, was there anything going**
5 **on with any sexual harassment cases that were real**
6 **or not real that involved Silversea?**

7 A Yes. There were real ones, one or two
8 that was -- there was one or two real employment
9 cases out of that and several that were not. I
10 don't remember which were which at the time; if you
11 have case names, I can tell you.

12 But, yes -- and understand, the
13 embezzlement scheme was utilizing fake cases, where
14 we went and had other lawyers outside of our law
15 firm pretend to be suing Silversea, and there would
16 be bills made up with regard to that particular
17 case. There were a whole host of ways that the
18 embezzlement was taking place.

19 **Q And Mr. Peter knew that, as well, that**
20 **there was fake harassment cases?**

21 A Sure. He was an essential part of it
22 because you -- you have to have someone on the
23 inside saying, yes, this case really exists, yes,
24 we're in trouble; otherwise, no one is going to
25 authorize the bill to be paid.

1 **Q And he would authorize the payment of**
2 **bills and direct the flow of money back to RRA,**
3 **correct?**

4 A Correct; and he, also -- so you know,
5 he -- obviously there's oversight. There was
6 oversight. I believe it was to a limited extent;
7 although, they probably -- people in Monaco, where
8 the home office was, probably wanted you to believe
9 it was -- or wanted people to believe it was more
10 significant.

11 But he did have to ultimately send legal
12 bills to Monaco for review by Amerigo Perasso, who
13 was, at the time, I believe, the CFO and ultimately
14 president of the company; and occasionally he sent
15 them to Manfredi Lefebvre, who was the chairman of
16 the board of the company and one of the principal
17 shareholders.

18 **Q What steps did Mr. Peter take to cover up**
19 **his illegal activity; do you recall?**

20 A He had us phony up the bills. We phoned
21 up legal documents from time to time, both in our
22 law firm and through law firms other than our law
23 firm, fake claims law firms -- well, not fake, real
24 plaintiffs law firms with fake documents.

25 **Q I think you misunderstood my question or I**

1 didn't phrase it well.

2 What steps did Mr. Peter take to assure
3 that senior -- other senior management or the owners
4 of the company didn't find out about the illicit
5 transactions?

6 A Two main ways: One, he lied to them about
7 what was going on; and two, he had us assist him in
8 putting together a rather elaborate fraud, actually,
9 to prevent Mr. Lefebvre, who was the chairman of the
10 board/senior shareholder of the company, from
11 entering the United States.

12 Q What did he do?

13 A He and I, with the assistance of an
14 outside third party, put together a scenario where
15 Mr. Lefebvre, who also had been known to engage in
16 illegal activities, put together a situation where
17 he was led to believe that there was an
18 investigation of him going on here in the States,
19 and we used law enforcement to do that.

20 Q And you participated in that?

21 A Yes, sir.

22 Q And that was to assist Mr. Peter from
23 making sure senior management or ownership of the
24 company didn't find out about what he was doing with
25 respect to stealing money from Silversea, correct?

1 A Yes. Albert was in a major panic that
2 Manfredi Lefebvre was going to come in, go through
3 the books and records. Also, during the point in
4 time that Manfredi was over here in the States, he
5 would be unable to embezzle any further funds until
6 he left.

7 Q So, with respect to this Yoel deal, do you
8 know of any event, factor or business reason why she
9 would have been paid \$400,000 by Silverseas,
10 anything reflecting she was actually owed money by
11 Silverseas?

12 A No.

13 Q It was purely to help Albert get the money
14 out of the company, correct?

15 A Yes, it was to help Albert get money on
16 something, yes.

17 Q Okay. I'm going to show you Exhibit Four.

18 (Thereupon, the document was
19 marked as Trustee's Exhibit No. 4 for
20 identification.)

21 BY MR. LICHTMAN:

22 Q I'm showing you what has been marked as
23 Exhibit Four for identification purposes. It's
24 actually Exhibit Two to the response to the
25 Trustee's motion --

1 MR. NURIK: Excuse me, can he write on
2 these or are these --

3 MR. LICHTMAN: Those are for the record.

4 MR. NURIK: Okay.

5 BY MR. LICHTMAN:

6 Q There was a point in time where you
7 represented Mr. Peter -- and if I didn't say it,
8 this is actually Mr. Peter's declaration pursuant to
9 28 USC Section 1746, for the record.

10 There was a point in time where you
11 represented Mr. Lefebvre or assisted him in his
12 departure from Silversea; that's correct?

13 A Mr. Lefebvre?

14 Q I'm sorry, Mr. Peter.

15 A Yes. That was -- Mr. Lippman and I
16 assisted him, correct.

17 Q What happened that created the departure
18 of Mr. Peter from the company?

19 A To the best of my recollection, the
20 company, Mr. Perasso, Mr. Lefebvre, along with
21 other, I believe, financial personnel, discovered
22 the magnitude -- I don't know if they ever
23 discovered the true magnitude but discovered a
24 portion of the embezzling that was going on. They
25 did not know at that point in time, I don't believe,

1 that we were involved.

2 Q Do you know exactly what it was they
3 discovered?

4 A It started out -- to the best of my
5 recollection, it started out as massive misuse of
6 the firm credit card. The investigation expanded
7 into, I believe, things involving him giving cruises
8 to people that he shouldn't have authorized cruises
9 for, that type of stuff.

10 It became kind of far-reaching, but my
11 main recollection is that he was utilizing the
12 company as a piggy bank.

13 Q Did Mr. Lefebvre come to learn that
14 Mr. Peter was involved in this activity intended to
15 keep him out of the country?

16 A I don't know what he learned of that. I
17 don't know when he learned of that. I don't recall
18 him having learned of it while the negotiation with
19 Mr. Peter was going on. He may have had an inkling,
20 but I don't think he knew that until this all blew
21 up.

22 Q You were actually counsel to Silversea in
23 that transaction, right, in getting Mr. Peter out of
24 the company; or were you Mr. Peter's lawyer?

25 A From a legal standpoint or from a --

1 what-was-really-going-on standpoint?

2 Q At the time you were a Florida lawyer,
3 right? So, from a legal standpoint, you were
4 technically counsel to the company, right?

5 A Yes.

6 Q Okay.

7 A I was supposed to be representing the
8 interest of Silversea and Mr. Lefebvre.

9 Q And what happened?

10 You said "or what was really going on," so
11 what was really going on?

12 A We were on both sides of the transaction.
13 Mr. Lippman and I actually traveled overseas to
14 London to facilitate Mr. Peter's exit at the time
15 that we were meeting with Mr. Lefebvre and
16 Mr. Perasso to help orchestrate --

17 At this point in time, just so I can set
18 it up for you, Mr. Peter and Lefebvre and Perasso
19 were not meeting. We were the go-between.

20 Unknown to the people at Silversea,
21 Mr. Lippman and I were also trying to get out with
22 the best deal for a number of reasons, not the least
23 of which being anything bad happening to Albert was
24 something bad happening to us, ultimately.

25 So, Mr. Lippman and I took great care to

1 make sure that we orchestrated a good deal for
2 Mr. Peter and at the same time that we protected --
3 well, let me say the appearance of protecting
4 Silversea.

5 **Q When you just said you didn't want**
6 **anything bad to happen to you, does that pertain to**
7 **the investment that was going to be made in the**
8 **Jewel River Cruise transaction?**

9 A It was twofold. One, we wanted to protect
10 our relationship with Mr. Peter because we wanted
11 the Jewel River Cruise thing to take off and other
12 business things that we had been discussing with
13 him.

14 But I think the overriding concern for
15 Mr. Lippman and I was that we didn't -- if Albert
16 got caught up in this, beyond settling with
17 Silversea, obviously, the ramifications of a deeper
18 investigation would harm Mr. Lippman, myself, and
19 RRA.

20 **Q Because of the money laundering that was**
21 **happening with respect to --**

22 A Because of everything.

23 **Q -- the relationship of the bills and all**
24 **the other related activity, right?**

25 A When you're involved in something of this

1 magnitude, you want to avoid all scrutiny.

2 Q And you had conversations with Mr. Peter
3 about that, as well, so --

4 A Sure.

5 Q -- he knew; and he knew when you went to
6 London what the objective was, correct?

7 A Sure. There was an occasion I remember
8 being in our hotel room with Mr. Peter, where
9 Lippman and I were screaming at him, telling him he
10 just needed to take the deal and walk away or this
11 was going to blow up in all of our faces.

12 Q And the back end of the deal, what would
13 have motivated him to do it was, you would then do
14 the Jewel River Cruises deal, which would have put
15 more money back into his pocket, right?

16 A I'm sorry. Say that again.

17 Q The back end of the deal, for Albert, that
18 was unspoken, was he would have done the Jewel River
19 Cruises deal and that would have been more money
20 back into his pocket, right?

21 A Sure. We made it nice and clean for him
22 to get out. We wanted everyone's cooperation, you
23 know. We made it look good for Silversea and made
24 it look good for Albert.

25 Q Indeed, the Jewel River Cruises did put

1 **money in Albert's pocket, correct?**

2 A Yes, a substantial amount of money.

3 **Q How did that come about?**

4 A Albert put together a deal, along with
5 other people like -- I don't remember their names.
6 He put together the whole idea of Jewel River
7 Cruises. David Boden ultimately vetted it for us,
8 and we came to the determination that was going to
9 be an excellent idea.

10 It was a river cruise but ultra luxury,
11 same thing that Silversea was doing except on
12 rivers; and there was -- all of the river cruises,
13 to our knowledge, based upon what he showed us, were
14 all below luxury level. So, he wanted to do almost
15 like a Silversea but river-cruise-type thing.

16 We invested a substantial amount of the
17 Ponzi proceeds into Jewel River and Albert's stolen
18 money.

19 **Q When you say "we," who is "we"?**

20 A Me, Stuart -- more me and Stuart than
21 anything else and, of course, other people. If you
22 go back and look at the email traffic, you'll see
23 Boden wanted to be involved in those things.

24 **Q Lippman?**

25 A Lippman, yeah, obviously Lippman.

1 Q Okay. You said that he stole the money.
2 How much money did you send of the Ponzi funds to
3 Albert?

4 A I believe it was somewhere between \$5- and
5 \$7-million. I don't know the exact amount. It was
6 sent over a period of time.

7 Q When you say "stole money," I know it
8 seems like it's a self-explanatory comment, but
9 could you expound on that?

10 A It became known to us, as things were
11 moving on, that things weren't as they appeared to
12 be, and we started to investigate that. I had David
13 Boden, specifically, look at it, and we were being
14 thwarted in our attempts to look at the books and
15 records. We asked for access to the bank accounts,
16 those type of things -- and we had a little bit of
17 knowledge with regard to how these things work.
18 Sounds like the pot calling the kettle black,
19 doesn't it?

20 But in any event, he was scamming us. We
21 ultimately never got access to it. The money
22 disappeared. We assume it went overseas. There
23 were some other players.

24 A man called Jacques was his CFO. The
25 president was working with him. He actually,

1 Jacques -- now that I remember this, Jacques
2 actually came to us and told us we needed to look at
3 the books and records because he didn't believe the
4 money we were investing was going where we thought
5 it was going, and that's what kind of got us looking
6 in that direction. But, ultimately, we -- it turned
7 out the money was never invested in anything. It
8 just all disappeared, so I am assuming he took it.

9 Q So, the con-man got conned?

10 A I did.

11 Q Paragraph seven of Mr. Peter's
12 affidavit -- can you take a look at Page 2, please?

13 A Sure.

14 Q The first sentence says, I have conflicts
15 with Silversea's chairman of the board, Manfredi
16 Lefebvre -- for the record, it's L-E-F-E-B-V-R-E --
17 the conflicts were principally management styles; is
18 that a correct statement?

19 A No.

20 Q Would it be a fair statement that the
21 testimony that you gave up to this point, as
22 pertaining to Mr. Peter and Silversea and Jewel
23 River Cruises, is what led to his departure?

24 A Yes.

25 Q Okay. Taking a look at Paragraph 11, if

1 you would -- and if you would read up to the last
2 full sentence on just the first page there, Page 3,
3 you don't need to go in the second paragraph.

4 A Okay. Paragraph 11, was I supposed to
5 read, anything else?

6 Q We'll take them one by one.

7 Paragraph 11 says that you had informed
8 Silversea that in order to secure money to protect
9 it for purposes of employment wage claims, that the
10 company was required to put twice the amount of the
11 debt claimed into your trust account. These monies
12 were held as bond funds.

13 Is the statement that you see in
14 Paragraph 11, as portrayed by Mr. Peter, accurate?

15 A It's accurate as to what Mr. Lefebvre was
16 told. It's not accurate as to what was occurring.

17 Q What was occurring?

18 A We were stealing money.

19 Q With Mr. Peter's help?

20 A Yes. The bond thing was something that we
21 had done previously. We explained to Mr. Peter how
22 it worked. He said go ahead and do it. He vouched
23 for us with the people in Monaco to get the money,
24 and the money was sent to us.

25 Q And then Mr. Peter got a portion of those

1 **proceeds?**

2 A I don't know what happened to those exact
3 proceeds: We may have used them or he may have used
4 them. Both Silversea -- you have got to understand,
5 once this got involved, anything that Mr. Peter
6 wanted, he was, in essence, paying us, using
7 Silversea, for us to assist him in anything he
8 needed with regard to anything he was doing with his
9 mistresses and the like. So we were protecting his
10 interest.

11 **Q With respect to the bond funds, though, he**
12 **knew that it was an illicit transaction?**

13 A Sure.

14 **Q Okay. Now take a look at Paragraph 12, if**
15 **you would, please.**

16 A Yes.

17 **Q If you would read that?**

18 MR. NURIK: Do you have the exhibits?

19 MR. LICHTMAN: What's that?

20 MR. NURIK: The exhibits to this?

21 MR. LICHTMAN: No.

22 THE WITNESS: Okay.

23 BY MR. LICHTMAN:

24 **Q Paragraph 12 addresses -- it's a statement**
25 **by Mr. Peter that you had required the additional**

1 payment of significant fees in your firm's trust
2 account to contemplate they would be served as a
3 retainer for future fees.

4 You saw that?

5 A Yes.

6 Q And was this also an illicit transaction
7 and a way to launder money that was used for your
8 personal benefit, the firm's benefit or Mr. Peter's
9 benefit?

10 A Yes.

11 Q And he knew that at the time the money was
12 being sent to RRA, correct?

13 A From day one, yes.

14 Q Okay. Paragraph 14, the first full
15 sentence.

16 A First full sentence?

17 Q Yes, in 206.

18 A Mhm-mhm.

19 Q Okay. I think that we've answered that,
20 but you don't know a legitimate reason why \$400,000
21 would have been sent by Silversea to your firm and
22 then from your firm to Ms. Yoel, correct?

23 A There was no legitimate purpose except for
24 the purchase of a piece of property by her and him.

25 Q Paragraph 22?

1 A That's another scam.

2 Q Okay. So, for the record, Paragraph 22
3 references that on November 2006, \$750,000 was
4 transferred from Silversea to RRA. You say that was
5 a scam. Describe what that transaction involved.

6 A I don't remember what the money was for,
7 but all of these things, we had to be -- we couldn't
8 simply always take the money out with regard to
9 bills. There was only so much -- we were billing an
10 extraordinary amount by any stretch of the
11 imagination to begin with in order to help Albert in
12 embezzling money out of company.

13 We had to come up with alternative
14 strategies to continue the embezzlement for the very
15 simple purpose of lining our pockets and also for
16 getting money to Albert and also to protect Albert's
17 interests, so...

18 It was exactly the same as the other scams
19 that we were pulling on Silversea with Albert's
20 assistance.

21 Q Take a look at Paragraph 28. He says, I
22 never participated in Mr. Rothstein's fraudulent
23 Ponzi scheme while employed by Silversea until early
24 2007.

25 You agree that's false, right?

1 A Yes.

2 Q You started doing illegal activity with
3 him as far back as 2006, at least, correct?

4 A From the time that I first met Albert,
5 until the time that we completed our business, even
6 though people introduced us, I was always -- Albert
7 and I always had a relationship that was based upon
8 getting as much money as we could, illegally or
9 legally.

10 Q And you met Mr. Peter through a
11 Mr. Colicchio, correct?

12 A Stanley Colicchio, correct.

13 Q And in return for the benefit of RRA
14 having Silversea as a client, Mr. Colicchio got a
15 car, correct?

16 A Can you restate that?

17 Q Okay. Mr. Colicchio told you that since
18 he delivered Mr. Peter and Silversea as a client to
19 your firm, he wanted a car out of the deal; that's
20 correct?

21 A Correct.

22 Q And, indeed, you bought him a car?

23 A Correct.

24 Q Okay. Showing you what's been marked as
25 Trustee's Exhibit Five; and, indeed, it is Exhibit

1 Three to the Yoel response to the Trustee's motion
2 for summary judgment.

3 (Thereupon, the document was
4 marked as Trustee's Exhibit No. 5 for
5 identification.)

6 A Okay.

7 Q And this is a declaration by Tatiana Yoel.

8 Paragraph 6 of her declaration says that
9 she was never involved in any fraudulent
10 transactions or Ponzi schemes with the law firm of
11 Rothstein, Rosenfeldt & Adler.

12 A I'm sorry, which paragraph?

13 Q Paragraph six.

14 A That's false.

15 Q Tell me how that's false.

16 A I spent a fairly significant amount of
17 time with Mr. Peter and -- what is her last name?

18 Q Yoel?

19 A Yoel.

20 -- and she knew exactly what was going on.
21 I mean, there would be conversations right out in
22 the open where she was, for lack of a better phrase,
23 breaking Albert's chops that they needed to do
24 certain things: cement their relationship, buy
25 property, she needed money for this or that.

1 And he would always say, don't worry,
2 Scott will take care of it. Won't you, Scott?

3 Yes, I'll take care of it. Don't worry
4 about it.

5 **Q And these were conversations that**
6 **reflected her knowledge, because they were right in**
7 **her presence, of money being stolen from Silversea?**

8 A Sure. That's correct.

9 As a matter of fact, I remember one of the
10 conversations actually occurred at a dinner that we
11 had together down in Miami -- I just don't remember
12 where it was -- where we spoke at length about
13 making sure she was getting the money. And any time
14 that Albert was delaying get her money, he always
15 put it off on me and I, you know, gladly became the
16 scapegoat for it, assuring her that money would
17 eventually arrive.

18 **Q Describe the nature of the personal**
19 **relationship you had with Albert until the point in**
20 **time where you realized he had stolen from you the**
21 **money for Jewel River Cruise?**

22 A We -- I considered us to be very good
23 friends. I mean, he was -- you know, he and I were
24 very good friends. I'm sure you should have emails
25 where we called each other "brother" and, you know,

1 we were -- what is the expression, "thick as
2 thieves," something like that.

3 Q Pun intended?

4 A Yes.

5 Q Actually, we will have a deposition in
6 that case where we're going to get into all that.
7 Right now I'm just trying to cover all my bases for
8 the summary judgment motion.

9 A Yes.

10 Q Okay.

11 A Up until the time that all that happened,
12 he and I trusted each other implicitly, if that's
13 what you're trying to get at.

14 Q I'm going to spend a few minutes on Ron
15 Picou right now.

16 For the record, that's P-I-C-O-U.

17 A Just one thing, I don't --

18 Q Yes.

19 A When you were asking me earlier about the
20 monies that we were taking out of Silversea and
21 where it was going --

22 Q Yes.

23 A -- a substantial amount of that money also
24 went to Diane DelValle. I don't know if you think
25 that every penny that came out went to just Albert

1 and to Tatiana, it also went to Diane.

2 Q The other girlfriend?

3 A Yes. We actually had her on our payroll
4 for a substantial period of time as a favor to
5 Albert.

6 Q Did she do any work?

7 A No.

8 Q He was married, too, at the time, wasn't
9 he?

10 A Yes.

11 Q What was his wife's name?

12 A I want to say Ingrid, but I really don't
13 recall. I only met her once or twice.

14 Q Okay. Moving back to Mr. Picou. Tell me,
15 from your experiences with Mr. Picou, who was he?
16 Who was Mr. Picou to you?

17 A Dear friend, owner of Southern Grouts &
18 Mortars.

19 Q When you say "dear friend," how close a
20 friend?

21 A He was in my inner circle of friends.

22 Q And who else was in your inner circle of
23 friends?

24 A My closest friends?

25 Q Yes.

1 A Ted Morris, Mr. Picou, Stu, a gentleman
2 named John Bria, Crockett Heard, Marty Hines, a guy
3 name Jack Hardy, there's a pretty substantial group
4 of guys that were -- that we hung out together for
5 an extended period of time, many years, socialized
6 together, both with the wives and without.

7 **Q Bart Robinson?**

8 A No. He was a friend, but he was --

9 **Q Next tier?**

10 A One of the tiers but not -- maybe the next
11 tier, but not -- he wasn't in the inner circle of
12 our friends. He didn't socialize with us
13 frequently.

14 **Q Okay. Now, with respect to that inner**
15 **circle of friends, that doesn't mean that they all**
16 **knew about the Ponzi?**

17 A No, no, absolutely not.

18 **Q Okay. With respect to Mr. Picou, what**
19 **kind of business did you do with him?**

20 A We represented his company as their
21 general counsel. We did all of their legal work,
22 anything that Southern Grouts & Mortars needed, from
23 having the business people in our firm do -- handle
24 his revolver accounts with Merrill Lynch to
25 lawsuits, to pattern trademark litigation, anything

1 that came up -- workers' comp. issues, lawsuits. I
2 even got involved at one point in time in his
3 divorce proceeding when it went sideways.

4 **Q What did that involvement entail?**

5 A Which?

6 **Q The involvement in the divorce proceeding?**

7 A A nice gentleman by the name -- I think
8 his name was Barry Finkel. Barry Finkel was
9 representing Ron in his divorce from Joyce, and it
10 was going very poorly. Joyce had retained Maurice
11 Kutner, who, if you know, is a rather voracious
12 family lawyer; and he was tearing Ron apart at the
13 seams, and Ron was coming apart at the seams as a
14 result of it.

15 Ron asked me to get involved in it, if I
16 would please assist, take it over, see if I could
17 get the thing settled; and I stepped in.

18 **Q And what was your role when you stepped**
19 **in? What was it you were trying to accomplish?**

20 A To get him out of the divorce with as
21 little damage as possible.

22 **Q Were there issues with respect to his**
23 **financial condition that you had specific knowledge**
24 **of that you were trying to both hide?**

25 A Yes.

1 **Q What did that involve?**

2 A There was significant gambling debts.
3 There was a significant amount of money he was
4 taking out of the company for personal use that he
5 didn't want Joyce to know about.

6 There were several girlfriends that he
7 had. He was moving money out of the company, which
8 Joyce, obviously, as his wife for many, many years,
9 believed she had a right or entitlement to, that he
10 was pulling out to subsidize, pay for the life of --
11 the lifestyle of, at one point in time, one, and at
12 another point in time, two -- two of his
13 girlfriends.

14 **Q Do you have a personal knowledge as to the**
15 **financial statements and related documents that were**
16 **used by Mr. Picou?**

17 A For the purpose of securing his revolving?

18 **Q With respect to his divorce.**

19 A Yes.

20 **Q What is it that you observed about those**
21 **forensics, those financial documents?**

22 A They were false.

23 **Q How do you know they were false?**

24 A Because I know the true state of his
25 financial affairs.

1 **Q Did you counsel with respect to those**
2 **documents?**

3 A To -- to some extent. Most of the
4 documents, I believe, were prepared by Mark Thaw,
5 but I assisted in getting the information from
6 Carlos Flores -- what's a good term -- acting as
7 kind of a sieve. Information would come through our
8 office. We would shake it out and make sure that
9 nothing too bad got to Mark.

10 **Q Was Mr. Thaw knowledgeable of the fact**
11 **that the financials were false?**

12 A You know, I don't know what he knew. I
13 know he knew Ron had a gambling problem, and I know
14 he knew about the girlfriends; but I don't know to
15 the extent that Ron was tied up with our firm in the
16 movement and hiding of money.

17 **Q Mr. Flores, he was the CFO of Southern**
18 **Grouts & Mortars, correct?**

19 A Yes.

20 **Q Did he know the financials were false?**

21 A I would be guessing. I have no idea what
22 he knew. He had -- Mr. Flores was a very loyal
23 worker to Mr. Picou, and, you know, it was protect
24 Ron at all costs. So, I don't know the extent of
25 his knowledge. I would be guessing.

1 **Q Was there ever any instances where you**
2 **helped shelter money or hide money for Mr. Picou?**

3 A Yes.

4 **Q Describe those, please.**

5 A There were -- Ron had a need on a number
6 of different levels, the gambling debts, for his own
7 lifestyle, and for supporting the lifestyle of his
8 two girlfriends. He had the need for cash and other
9 funds.

10 We actually did something very similar,
11 except he's the owner of the company, so he was not
12 hiding it from the owner of the company. It was
13 very similar to what we did at Silversea. We used
14 various scenarios, legal billings, bond money, that
15 type of thing, so that Joyce, in looking at it --
16 and also Merrill Lynch, in looking at it, when they
17 were doing his revolver, so we had actual
18 purposes -- so that the funds that he was pulling
19 down, it would not appear that the money was going
20 to him, and we used a variety of means to get the
21 money.

22 **Q So, were the dummied-up invoices for legal**
23 **fees based on services not performed?**

24 A Yes.

25 **Q And Mr. Picou knew at the time those**

1 **statements were submitted to his company that they**
2 **weren't accurate?**

3 A Yes.

4 **Q And then Mr. Picou paid those bills?**

5 A They ordered them paid, right. His
6 daughter, who was, I believe, executive vice
7 president of the company, Liza McKee, actually is
8 the one who ordered that the checks be cut.

9 **Q And when the money came into RRA, what**
10 **happened to it?**

11 A Various things, a substantial amount of it
12 was used to support our firm and our lifestyles; and
13 portions of it went to pay debts of Mr. Picou.
14 Portions of it were converted into cash for him, and
15 not necessarily --

16 Let's say, for example, we sent over
17 \$100,000 in the form of a legal bill. As you
18 probably know by now, we had substantial cash
19 reserves at the law firm, so if he needed money in
20 cash, I would give it to him. So, we would keep a
21 portion of the money, and he would get a portion of
22 the money.

23 Then we used -- we used another friend of
24 his to get smaller cash payments out to him, also.

25 **Q Who was friend?**

1 A Joseph Santomassino.

2 Q Is he the person that owned the bowling
3 alley --

4 A No.

5 Q -- Santomassino?

6 A No. That was different.

7 He owned a real estate agency, Distinctive
8 Realty, I think.

9 Q Okay. Well, first things first, you said
10 that the firm had large cash deposits inside the
11 firm. Describe that for the record.

12 A Not deposits.

13 Q Cash --

14 A Cash.

15 Q -- yes. Describe that, please.

16 A A substantial amount of our illegal
17 business required access to large amounts of cash,
18 so we had various methodologies of obtaining cash
19 and keeping it in the office so we had ready access
20 to it. It could vary from \$60-, \$70,000 laying
21 around to a few hundred thousand to \$1 million
22 laying around at any point in time.

23 Q Where was it kept?

24 A In my office.

25 Q Where?

1 A Some was kept in Irene's but not that
2 much.

3 **Q In your desk?**

4 A Actually in the credenza behind me.

5 **Q Okay. Now, with respect to**
6 **Mr. Santomassino, let's get back to him.**

7 A Uh-huh.

8 **Q What was his role in getting smaller**
9 **amounts of cash to Mr. Picou?**

10 A What happened was, Ron would say, I need
11 an extra 5 grand, I need an extra 2,500, 3,000. We
12 would then cut a check. I think we were doing it on
13 a monthly basis.

14 You should be able to tell on the ledger.
15 There should be checks to Mr. Santomassino which
16 Mr. Santomassino either then deposited it in cash or
17 cashed, and then that money was given by
18 Mr. Santomassino to Picou.

19 It will say on the ledger "consulting,"
20 but you'll also note that Mr. Santomassino never
21 consulted with us on any -- for anything else.

22 **Q What did Santomassino get out of the deal?**

23 A I don't know. That was between him and
24 Ron, but I know that Ron took very good financial
25 care of Mr. Santomassino.

1 Q Did you assist Mr. Picou in any matters
2 pertaining to his revolving line of credit with
3 Merrill Lynch Business Credit?

4 A Yes.

5 Q What was it that you did for him?

6 A Every one of the audit letters that we
7 did, you know, the audit letters that, I guess, Mark
8 Thaw's company would be sending us in order to do
9 his audited financials to substantiate, increase,
10 sustain, keep going his revolving line of credit
11 with Merrill were fraudulent.

12 Q How do you know that?

13 A Because I did them.

14 Q Who knew they were fraudulent?

15 A Me, I think Irene. I don't think Deb was
16 involved in that.

17 At some point in time David Boden was
18 involved in helping me because I needed some
19 language that pertained more to business things that
20 he would have been more suave in.

21 Who else worked on it -- actually,
22 Mr. Lippman.

23 We dummed up what we needed to in order
24 to -- Irene was definitely involved in it because we
25 had to create fraudulent legal bills in order to

1 inflate the amount he, quote, unquote, owed us in
2 order to offset certain things.

3 We also, at certain points in time,
4 certain of the audit letters put down that he owed
5 us nothing. I remember a specific -- and Mr. Flores
6 also knew about it.

7 I remember an instance --

8 **Q Ron knew about it, also?**

9 A Of course, yes.

10 **Q Of course.**

11 **You said you remember an instance?**

12 A I remember an instance where we had sent
13 over one, quote, unquote -- what do you call these
14 letters that they send us? Are they just audit
15 letters? I don't know what they are.

16 **Q Audit letters.**

17 A They had sent us over an audit letter, and
18 we sent back over something saying that they owed us
19 a few hundred thousand dollars in legal fees.

20 Carlos called me right back and then Liza
21 called me, and they were frantic. They said, we
22 can't submit this like this. You need to drop the
23 amount down to this.

24 And I said, okay, whatever you guys need.

25 And we changed the amount that was in the

1 column and sent it back.

2 Q Did Liza know that the documents were
3 false, also?

4 A That, yeah, that, yeah, she did.

5 Q What was the point of sending these false
6 documents off to Merrill Lynch Business Trading?

7 A Here's the problem, Ron was constantly out
8 of covenant on his revolver. It was certainly
9 obvious there were positive and negative covenants
10 that he had to adhere to, and he was constantly out
11 of whack. I mean, constantly, because I used to
12 field the telephone calls from Merrill threatening
13 to pull his revolver and cancel it.

14 I was involved for months on end at points
15 in time, you know, that he -- cajoling, threatening
16 Merrill to not pull his line and that that would
17 shut his business down because the business, while
18 it was very successful, you know, relied on that
19 revolver because of the way he had to purchase
20 materials and the like, having to do with seasons.

21 So, Ron and Liza made it abundantly clear
22 to me that they could not lose that line and it
23 needed to keep getting extended.

24 Ron, like me, had voracious spending
25 habits, and I needed to do whatever he required to

1 make sure that the revolver did not get pulled. And
2 that's what we did, whether we lied about the amount
3 of money he was taking out, what it was being used
4 for, we covered up the amount of money that was
5 going to, you know, girlfriends, gambling debt,
6 whatever needed to be to done to make sure that that
7 line didn't get pulled and to try to keep them as
8 close to being in covenant as possible.

9 **Q And you did that so that he could keep the**
10 **line of credit and therefore stay in business?**

11 A Yes.

12 **Q And it's your belief if you didn't do**
13 **that, then he would have lost the line from Merrill**
14 **Lynch, correct?**

15 A It's my understanding that if he -- we had
16 not done that -- and they were on the verge -- if
17 you check with Merrill Lynch, I believe they were on
18 the verge of pulling that line on a number of
19 occasions, and had we not done what we did for him,
20 he would have lost the line and his business would
21 have suffered traumatic injury.

22 **Q Their came a point in time that you --**
23 **September of 2008, September 8th of 2008, indeed,**
24 **where the RRA ledger shows that there was a payment**
25 **to Moray (phonetic) Capital, of \$1,303,015 to pay**

1 off a preferred ship mortgage; are you familiar with
2 that transaction?

3 A Do I remember the transaction?

4 Q Yes.

5 A Yes.

6 Q Tell me your recollection of that
7 transaction.

8 A Our firm was representing -- this was
9 actually a real lawsuit. We were representing
10 Ron --

11 Q Rolls Royce case?

12 A Yeah. Right.

13 -- in litigation over a boat. It was --
14 there were problems from the engines on his yacht.
15 I believe it was the Enjoy.

16 We were supposed to handle the lawsuit.
17 We were supposed to be suing the company. The
18 lawsuit was turned over to one of our younger
19 partners, Shawn Birkin, to handle.

20 Ultimately, something went awry with the
21 lawsuit, either the statute of limitations was
22 blown. Something happened. We got knocked out on
23 summary judgment.

24 And rather than tell Ron what had gone on,
25 we -- in that one, I believe we paid off the boat.

1 **Q Did you act as if it was a recovery that**
2 **you obtained through --**

3 A We acted as if it was a recovery. I'm
4 trying to think if we paid off something else, also;
5 but I distinctly remember that he got to keep the
6 boat and we paid it off.

7 **Q Did Ron know that Shawn had blown the**
8 **statute of limitations on the Rolls Royce case?**

9 A I don't know. I don't recall at this
10 moment.

11 **Q But he knew that you paid off the boat**
12 **mortgage?**

13 A He knew we paid off the boat mortgage.

14 **Q Okay.**

15 A Liza did not know, though. Liza
16 believed -- I believe there should be emails. Liza
17 believed that we actually got the case settled and
18 got a positive result. It was only Ron that knew
19 that we had actually paid it off.

20 **Q Our forensics show that on August 22nd,**
21 **2008, or roughly two weeks before that payment to**
22 **Morgan Capital occurred, that RRA got \$42,387,164.67**
23 **from Banyan.**

24 A Yes.

25 **Q Do you know, was that Banyan money used to**

1 **pay off -- pay off the ship mortgage?**

2 A I'm certain it was. I don't know for a
3 fact, as I sit here today, but we were probably --
4 generally, when we got money in of that magnitude,
5 we had a lot of things that were getting ready to go
6 out, a lot of investor things, and we were probably
7 somewhere near zero in our accounts -- I am sure you
8 can track that -- but I am certain that that money
9 would have been used to pay it off, that or other
10 Ponzi funds; but more likely that than anything
11 else.

12 Q I'm going to show you what has been marked
13 as **Trustee's Exhibit Six.**

14 (Thereupon, the document was
15 **marked as Trustee's Exhibit No. 6 for**
16 **identification.)**

17 Q This is a portion -- this is a portion of
18 the ledger from RRA's books and records that reflect
19 money in and out of the RRA account for the benefit
20 of Southern Grouts & Mortars. I -- I'm positive you
21 have not seen this document before because we
22 generated it, but what I am going to ask you -- and
23 I'm not sure if you can do this now or if you might
24 be able to do this later -- is from looking at the
25 entries that pertain to Southern Grouts & Mortar by

1 date and by amount, if you would be able to
2 determine which of those transactions were illicit.
3 Is there a way that that can be determined from your
4 memory?

5 A No.

6 Q Okay.

7 A I need to see -- the easiest way to do
8 that, Mr. Lichtman, is for us to look at the emails
9 that are contemporaneous with the transactions and
10 that will tell us.

11 Q Okay. But --

12 A But towards the end --

13 Q Mr. Picou wasn't a big email guy, you
14 know.

15 A What's that?

16 Q Mr. Picou wasn't --

17 A No, he didn't even have a computer.

18 Q Right.

19 A But you still talked to him through email.
20 What you do is you email, depending on the subject
21 matter, you would e-mail either Liza or Carlos and
22 they would relay the message.

23 But Ron and I, I mean, there were points
24 in time where we probably talked five, ten times a
25 day and then saw each other in the evening. So

1 there was plenty of time to talk about business.

2 Q Okay.

3 A But I'm not saying -- just so you
4 understand, there was a substantial amount of
5 legitimate business we did for Southern Grouts &
6 Mortars, more toward the beginning than towards the
7 end. So, you would have to track it through the --
8 track it through the emails and the actual case
9 files.

10 Q So, you think that you could reconstruct a
11 paper trail to establish which of these
12 transactions, which was legal and which was not?

13 A I'm 99 percent sure if you got me all the
14 records pertinent to this, that I could reconstruct
15 it, yes.

16 Q Okay. in the course of the bankruptcy,
17 those who feel that they lost money and were
18 claimants were required to file proof of claims --
19 you know what a bankruptcy proof of claim is, don't
20 you?

21 A Yes.

22 Q Did you ever have the opportunity to
23 review any of the proofs of claim that were
24 submitted in the RRA bankruptcy by Southern Grouts &
25 Mortars?

1 A I don't think I did. I don't really
2 recall. I have looked at so many pieces of paper
3 over the last two years, I would be guessing.

4 Q One of the proofs of claim, it's Claim
5 Number 222 in the amount of \$30,000, the basis for
6 the claim is for legal malpractice and theft by
7 fraud and deceit related to the -- a case called
8 Southern Grouts & Mortars v. Laticrete,
9 L-A-T-I-C-R-E-T-E, International. Do you know
10 anything about that case and why Mr. -- excuse me,
11 why Southern Grouts & Mortars would have a proof of
12 claim for that lawsuits?

13 A No. Laticrete, I believe was a legitimate
14 lawsuit we were handling, the Laticrete lawsuit.

15 Anything -- anything that we did -- see,
16 here's the issue you could have: Laticrete was a
17 legitimate case file going on in the office, but it
18 was also utilized, okay, for fraudulent activity,
19 so --

20 Q How is that?

21 A Same thing we were talking about: If Ron
22 says, I need X amount of dollars, rather than create
23 a new case file with some crazy name, we're going to
24 utilize, for example, maybe a bond -- a bond fraud
25 through the Laticrete fund.

1 Q Okay. So, that would be a paper trail we
2 probably could track down, as well?

3 A Yes.

4 Q There's also --

5 A And, also, you have to remember this, very
6 important, for an extended period of time --

7 Q Was that -- was that one of the cases, in
8 fact, where there was a fictitious filing?

9 A I don't know for certain, but it's ringing
10 a bell -- or it could just be the ringing in my
11 ears; I am not sure.

12 The -- I do remember -- Laticrete, let me
13 think about it for a minute.

14 Q All right. Well, let me go to the next
15 proof of claim, Claim Number 221 --

16 A Wait, here is the point I was going to
17 make, important point.

18 Q Okay.

19 A Over an extended period of time when Ron
20 was going through the divorce, okay, and having all
21 these problems with his revolver, he begged us not
22 to send him any legal bills that he really had to
23 pay, except where it would be utilized for this
24 other stuff.

25 So, you should have -- when you go through

1 this, this you should be able to reconstruct, the
2 legitimate work that was being done on the files, I
3 am fairly certain that there's hundreds of thousands
4 of dollars worth of work that was legitimately done
5 that he received the benefit for that he never paid
6 for it.

7 Q Right.

8 A So, in protecting the interest of the
9 estate, that is something else you should be looking
10 at.

11 Q So, he had receivables, is what you're
12 saying?

13 A Yes.

14 Q Okay. There's a Claim Number 221 in the
15 amount of \$683,335 for money that was allegedly held
16 in the RRA trust account.

17 It's reflected by an auditor's letters
18 that was issued to -- by the company payable -- or I
19 should say the response being owed to Morrison,
20 Brown, Argiz & Farra; do you recall anything about
21 the \$680,000 being involved in the trust?

22 A I recall money being held in trust which
23 was used for illegal activities, but I don't recall
24 that specific amount, no.

25 Q Why would there be such a substantial sum

1 of money held in trust from the time of April 23,
2 2008, through --

3 A In April -- my --

4 Q -- through the end of October --

5 A Go ahead.

6 Q -- 2009?

7 A First of all, the fact that that says we
8 were holding it in trust, you realize, of course,
9 that that doesn't mean that it was in trust?

10 Q Yeah, I get that.

11 A Okay. That has to be a total of checks,
12 wires, whatever it was -- I don't remember how they
13 transferred money to us; I believe it was mostly
14 checks -- that came to us for various illegal
15 purposes, that Ron needed us, at that point in time,
16 to say, for the purposes of keeping his revolver
17 intact for not being in a negative position on his
18 covenants, that we would have been informed to tell
19 the company we were holding this much money in
20 trust.

21 In other words, Carlos would figure out
22 how much money they sent us over that time period;
23 and then he would say, okay, we need to tell Mark
24 Thaw and his accounting firm you're still holding
25 this much because we can claim, as he explained it

1 to me, ownership of those funds, if you're holding
2 it in trust, and it will help keep us in check on
3 the auditing financials and help keep us in check
4 with the Merrill people.

5 Q Okay. Claim 222 filed by Southern
6 Grouts & Mortars, for \$592,335 related to,
7 apparently, money that was to be issued back to
8 them, being back to Southern Grouts, pertaining to
9 that Laticrete lawsuit. Do you have any knowledge
10 about that?

11 A It would be the same thing.

12 Is that also on an audit form that we sent
13 to Morrison Brown?

14 Q No. That was just the statement they say
15 that you owed 592 on the -- on the trust.

16 A "Owed" is an interesting term because
17 anything that they were sending us was being
18 utilized with Mr. Picou's knowledge either as
19 payment to us both for real work and for assisting
20 him and perpetrating his frauds, or money that was
21 coming to us for the purpose of us laundering money
22 out to him or to his girlfriends --

23 Q I have one last question --

24 A -- and for his debts.

25 Q -- on Picou, and then we'll probably be at

1 a good breaking point, remembering this is just a
2 204, not dealing with a lot of substance of other
3 things.

4 A Okay.

5 Q Was there a specific bond deal that you
6 recall where a bond was posted that was fraudulent?

7 A I think there were multiple of them.

8 Q Again, it would have been the same
9 scenario, when you have a company like that, much
10 like the Silversea thing, you have only limited
11 bills you can send out.

12 So, we would simply explain to Ron: This
13 is what we're going to do, and that will get us the
14 amount of money, and we're going to use it for
15 certain of our expenses, and what you need, whether
16 it be a gambling debt or the like, we'll pay for it.

17 MR. LICHTMAN: Okay. I've actually
18 covered the limited topics I needed on my 204
19 exam. I know that my cocounsel has some
20 questions. This might be a good opportunity
21 for a couple-minute break. Does that work? Do
22 you need a break?

23 THE WITNESS: Whatever you ladies and
24 gentlemen want to do.

25 (Thereupon, a recess was had.)

EXAMINATION

BY MR. CIMO:

Q Scott, good morning. I'm David Cimo from Genovese, Joblove & Batista, special litigation counsel to the trustee.

(Court reporter interruption.)

Q Scott, do you recall certain entities that Mr. Szafranski used to provide funds to the Ponzi scheme?

A Yes.

Q Do you recall an entity named ABS Capital Funding?

A ABS. Yes, I do.

Q Alexa Funding?

A Yes, I do.

Q Onyx Capital?

A Yes, I do.

Q And Skis Ventures? S-k-i-s.

A Yes.

Q Do you understand those all to be Szafranski-related entities?

A I do.

Q And who was Michael Szafranski?

In terms of what role he played, if any, in regards to the Ponzi scheme.

1 A That's a very broad question.

2 He was -- to try to put it as succinctly
3 as possible, he was initially what we'll call a
4 third-party verifier brought in by the New York
5 hedge funds, Centurion Platinum and Level Three, to
6 verify the authenticity of the deals. Later HE
7 became a feeder with knowledge of the Ponzi scheme.

8 **Q I have some names of individuals that we**
9 **have identified as investors in certain Szafranski**
10 **feeder funds. And I'll ask you if you know any of**
11 **them personally or if you ever heard their names.**

12 **First one is Adele Mussry. M-U-S-S-R-Y.**

13 A I have heard of her, but only after I
14 began my cooperation.

15 Are you talking about a time frame that I
16 knew who they were prior to today?

17 **Q Yes. At any time prior -- at any time**
18 **prior to the time that you were actually put into**
19 **federal custody?**

20 A Okay. Then, no. I don't know who she is.
21 I did not know who she is back then.

22 **Q How about an entity known as Alepo Corp.**
23 **A-l-e-p-o?**

24 A No.

25 **Q Allen Packer?**

1 A Same answer. If we're dealing with the
2 time frame -- just want to make sure we're clear --
3 if we are dealing with the time frame from pre me
4 returning from Morocco.

5 Q **Correct.**

6 A Okay. No. I did not know.

7 Q **When did you learn about Mr. Packer after**
8 **that? After the fact?**

9 A Actually, I've never heard his name until
10 today.

11 Q **Thank you.**

12 **Amy Caruso? C-a-r-u-s-o.**

13 A No.

14 Q **Aretz Associates? A-r-e-t-z.**

15 A Not ringing any bells.

16 Q **Ary Krivoposk? K-r-i-v-o-p-o-s-k.**

17 A No.

18 Q **Ber Group? B-e-r G-r-o-u-p.**

19 A No.

20 Q **Concentrix Capital?**

21 A No.

22 Q **Craig Howser? H-o-w-s-e-r.**

23 A No.

24 Q **Daniel Courtney?**

25 A Nope.

1 Q David Menchel? M-e-n-c-h-e-l.

2 A No.

3 Q David Neiss? N-e-i-s-s?

4 A I may have heard that name from Mr.
5 Szafranski, but it's not ringing any bell with me.

6 Q DC Capital Connections?

7 A No.

8 Q Diamond Street Equities?

9 A No.

10 Q Edward Godin? G-o-d-i-n.

11 A No.

12 Q Edward Paul. P-a-u-l?

13 A No.

14 Q Eisenberg Family Foundation?

15 A That I may have heard of, again,
16 pre-October of 2009, but not with any specificity.

17 Q So far of the one that I mentioned, you
18 don't recall any direct dealings with any of these
19 entities or individuals, correct?

20 A If I -- I have no recollection of any
21 direct dealings with them.

22 Q EL Equities?

23 A No.

24 Q Harvey Wolinetz? W-o-l-i-n-e-t-z.

25 A That name sounds familiar. I may have met

1 him but nothing specific comes to mind.

2 Q HN Associates?

3 A Nope.

4 Q Howard Weiss?

5 A Nope.

6 Q Joel Sussman. S-u-s-s-m-a-n.

7 A Again, that name sounds familiar to me. I
8 may have met him but I don't have any specific
9 recollection of doing so.

10 Q Jay, that's J-A-Y dash 2 investment?

11 A No. I don't.

12 Q Jay Mussry? M-u-s-s-r-y?

13 A Again, not until after I came back.

14 Q Jacob Szafranski?

15 A No.

16 Q Did Mr. Szafranski ever speak about any of
17 his relatives being investors?

18 A He may have in passing, but he was
19 bringing in a lot of people and he was just running
20 it through his companies. So unless he needed me to
21 meet somebody, and other than Ira Sochet and Barry
22 Damson and those guys, I don't really recall --
23 other than the handshake with someone.

24 It's not to say that I might not have
25 given a presentation to one of these people but I

1 have no specific recollection. It was not our
2 standard dog and pony show.

3 Q Jordan Kavana? K-a-v-a-n-a.

4 A No.

5 Q Landing Rock Monarch?

6 A Monarch rings a bell to me and I don't
7 know why. But the beginning part of it, no.

8 Q Larry Dekelbaum. D-e-k-e-l-b-a-u-m.

9 A That name sounds familiar to me, but I
10 can't be certain that I haven't seen it since coming
11 back.

12 Q Levi Nagel. N-a-g-e-l?

13 A No.

14 Q Menachem Lifshitz?

15 A Menachem? Is that -- is that Mely?

16 Q Don't know.

17 A I know Mely Lifshitz. He was one of the
18 larger investors that Szafranski brought in. And
19 him I did have -- if it's Mel Lifshitz, if that's
20 him and not one of his relatives, if that is, in
21 fact, Mel Lifshitz, then I had substantial contact
22 with him.

23 Q Direct contact?

24 A Substantial direct contact.

25 Q Melina El Ani. E-l, A-n-i.

1 A No, I didn't.

2 **Q Morris Szafranski?**

3 A Sounds like one of Mike's relatives but I
4 have no recollection of meeting him.

5 **Q Nassim Mussry? M-u-s-s-r-y.**

6 A No.

7 **Q Matthew Turetsky?**

8 A Matt I met, yes.

9 **Q And what context?**

10 A I'm sorry?

11 **Q What context did you meet Matt?**

12 A He was doing some kind of business with
13 Mike. Mike was trying to get me to buy a crime
14 fraud policy through him, that Banyan wanted us to
15 put in place and the hedge funds wanted us to put in
16 place. And my recollection, also, is that his wife,
17 Natalie, actually worked for Mike. And he was using
18 her to solicit investors.

19 **Q Do you know whether the Turetsky's ever**
20 **made any direct investments through RRA or was it**
21 **always through Szafranski entity or entities?**

22 A I don't even know if they invested through
23 Szafranski.

24 **Q Was the crime policy ultimately obtained**
25 **through Matthew Turetsky?**

1 A I don't believe so.

2 Q **Park National Capital?**

3 A Nope.

4 Q **Pauline Kopelman? K-o-p-e-l-m-a-n.**

5 A No.

6 Q **Pies Plus Corp. That's P-i-e-s.**

7 A Nope.

8 Q **Scott Morgan?**

9 A Nope.

10 Q **Setvest?**

11 A Nope.

12 Q **Seymor Pinewski? P-i-n-e-w-s-k-i.**

13 A Nope.

14 Q **Simeon Schreiber?**

15 A Nope.

16 Q **Steven Adelsberg?**

17 A Nope.

18 Q **Steven Goldstein?**

19 A Nope.

20 Q **Steven Schraga?**

21 A Nope.

22 Q **Sussco, Inc.?**

23 A Sussco, Inc. rings a bell but I don't know

24 why.

25 Q **An entity known as The Austria Trust?**

1 A No idea.

2 Q Theodore Weinberger?

3 A No.

4 Q Zevi Schick -- I'm sorry. Zevi Schick?

5 S-c-h-i-c-k.

6 A No.

7 Q Do you know whether Mel Lifshitz ever
8 went -- ever used the name Menachen?

9 I have no idea. I always knew him as Mely
10 Lifshitz.

11 Q Do you know whether Mel Lifshitz was
12 related to the Barry Group?

13 A No idea.

14 Q Do you know if he was related to EL
15 Capital?

16 A No idea.

17 Q Sitting here today, you don't recall which
18 entities he either used or controlled?

19 A Off the top of my head, no. I'd have to
20 see. If you got documents that reflect it, that
21 might help. But other than that, no.

22 Q Do you recall Edward Koppelman?

23 K-o-p-p-e-l-m-a-n.

24 A No.

25 Q Also, were there multiple Banyan entities

1 with various Banyan names that were also acting as
2 feeder funds for the Ponzi scheme?

3 A My understanding is, is that there were
4 multiple Banyan names. How they all interrelated to
5 each other, I'm not sure I recall.

6 Q Very briefly, we're going to ask you about
7 the 1030-32 investors and see if you know any of
8 them.

9 Abel Zalcborg? Z-a-l-c-b-e-r-g.

10 A Let me make sure we are on the same page.

11 Again, this is -- did I know anything
12 about them prior to October of 2009?

13 Q Correct.

14 A Okay.

15 Q Abel Zalcborg? Z-a-l-c-b-e-r-g?

16 A Nope.

17 Q Anthony Palladino?

18 A No.

19 Q Barry Bekkedam?

20 A Yes.

21 Q Tell you what you knew about
22 Mr. Bekkedam's involvement in any fund raising or
23 activities with you directly.

24 A You have a few hours?

25 Q Thirty words or less.

1 A Let's see how to do this most concisely
2 for you.

3 At a point in time when the Ponzi scheme,
4 and it's related scheme were running extremely low
5 on cash, and we had run aground with regard to the
6 hedge funds and the like, in addition to having Mr.
7 Szafranski going out and getting us new investors,
8 Banyan was in an extremely -- let's call it a
9 voracious search for new money.

10 And somewhere along the line I was
11 introduced to Barry as a potential source of huge
12 amounts of money, meaning in the hundreds of
13 millions of dollars.

14 I don't -- I have recollection, by the
15 way, of meeting Barry at some point in time in Fort
16 Lauderdale. I believe he was dating a woman that
17 worked for another partner of mine in another
18 company. He was dating -- Diane something who
19 worked for Howard Groverman, who was another company
20 we invested in and he was also a very close friend.

21 So I recall meeting him there.

22 But the main thing that Barry did was
23 Barry -- and I'm saying allegedly -- brought us,
24 because there was massive confusion as to who was
25 actually taking credit for a certain large group of

1 investors. And when I say that group I'm talking
2 about the A.J. Discala, Doug Von Allmen, some other
3 people associated with them, the related group folks
4 and that whole group. There was a massive bone of
5 contention between Banyan and A.J. and Von Allmen
6 and Barry about who actually generated these
7 dollars.

8 But Barry was representing to me to be,
9 quote, unquote, number one, a player.

10 And, two, that he had access to huge
11 portfolios of money, including public funds through
12 pensions and the like.

13 That's the initial knowledge of him.

14 **Q Who represented you to him as being a**
15 **player?**

16 A George Levin and Howard Gruverman.

17 **Q And what did you learn about --**

18 A And Frank Preve.

19 **Q What did you learn about a company called**
20 **Ballamor?**

21 A That it was his investment company. I was
22 originally told by Mr. Preve that Ballamor was a
23 very successful, big money operation.

24 I later learned that -- I don't know how
25 successful it was, but that Barry was very short on

1 personal cash. And the whole way the whole player
2 thing came up to me was that we could count on
3 Barry -- I was told this by Frank Preve and by
4 George Levin on a couple of occasions, but more by
5 Preve, that we could count on Barry to do the right
6 thing by us, meaning bring as many investors to the
7 table with as little scrutiny as possible. Because
8 two things: One, he needed to borrow money from
9 Mr. Levin to pay his personal bills. I believed he
10 borrowed a million dollars.

11 And he was also looking for a large
12 infusion of capital into a bank of which he was the
13 chairman, Nova Bank, I believe Pennsylvania.

14 He was looking for a large infusion of
15 cash, again, I believe \$5 million.

16 And there was a quid pro quo going on.

17 And Mr. Levin and Mr. Preve both told me
18 that -- not to worry about Barry, that they had him
19 in their pocket, and that he needed them for
20 financial activity for the -- for his bank and for
21 him personally and so he was going to do the right
22 thing by the Ponzi scheme -- without using the words
23 Ponzi scheme. By the way, we never actually -- none
24 of the people ever used that word in discussing the
25 activity.

1 **Q Did you ever reach any conclusion as to**
2 **weather Mr. Bekkedam knew there was a Ponzi scheme**
3 **before November of --**

4 A He was never told by me.

5 I do not know whether or not he knew.

6 All I can tell you is that he knew that we
7 were funding a lot of deals with no paperwork and
8 that is the extent of my actual knowledge about what
9 he knows.

10 **Q Brook Eaton, do you know that person?**

11 A Who?

12 **Q Brook Eaton? E-A-T-O-N.**

13 A No.

14 **Q CBM Capital?**

15 A No.

16 **Q Chad Labonte?**

17 A I heard the name "Labonte" somewhere, but
18 I don't remember, again, whether it was before or
19 after the October date.

20 **Q D&L Partner.**

21 A D&L Partners. Yes. I believe that was
22 Doug and Linda Von Allmen.

23 **Q Thank you.**

24 **DGG Investments.**

25 A I'm sorry. Say that again.

1 Q **DGG Investments.**

2 A I don't know whether that was a Von Allmen
3 entity or not. The name is not ringing a bell.

4 Q **Robert Levin? Dr. Robert Levin?**

5 A Robert Levin?

6 Q **Yes.**

7 A No.

8 Q **Dr Robert?**

9 A No. Nhu-uh.

10 Q **Chantal Preve?**

11 A Yes.

12 Q **And what relation was she to Frank Preve?**

13 A His wife.

14 Q **Ed Brown?**

15 A No.

16 Q **Erin Rossitto? R-o-s-s-i-t-t-o.**

17 A No.

18 Q **Fay Culbertson?**

19 A You faded out on your lean.

20 Q **Fay Culbertson.**

21 A No.

22 Q **FCS Advisors?**

23 A No.

24 Q **Florence Green?**

25 A No.

1 Q Gerald Brauser?

2 A Yes.

3 Q You spoke earlier --

4 A Yes.

5 Q -- with Mr. Lichtman.

6 Gibraltar Capital?

7 A I'm sorry?

8 Q Gibraltar Capital?

9 A Yes.

10 Q And what information do you have about
11 direct dealings with them?

12 A My recollection is that Gibraltar was
13 brought in through the New York hedge funds, the
14 Centurion Platinum. I'll phrase it for you as the
15 Murray Huberfeld Group. Because to me, Centurion
16 Platinum and Level 3 were all the same people, just
17 different names.

18 Q And you learned that before November of
19 2009?

20 A Before November now? October?

21 Q Before October-November of 2009, you
22 learned this?

23 A Yes.

24 Q Growth Enterprise Fund.

25 A No.

1 Q HRB?

2 A No.

3 Q Jean Wetterau? W-e-t-t-e-r-a-u.

4 A Nope.

5 Q Joseph DeSilva?

6 A That name rings a bell. I've seen it on
7 some documents, but I don't know whether it was
8 before or after.

9 Q Kenneth Rogers.

10 A No.

11 Q The Lebonte Family Dynasty Trust, that's
12 the Lebonte family entity?

13 A Could be.

14 Q Larry Pogust? P-o-g-u-s-t.

15 A No.

16 Q Leon Brauser?

17 A That's the Brauser family.

18 Q Lorna -- Lorna Denicoff and Irwin
19 Denicoff?

20 A No.

21 Q McKenzie Finch SA?

22 A No.

23 Q Mildred and Soll Selko?

24 A No.

25 Q Pavano Dynasty Trust?

1 A Pavano I remember hearing about through
2 the A.J. Group, but just in passing.

3 Q **A.J. Group is controlled by who?**

4 A I couldn't tell you who. That's the
5 Clockwork, Levin, Barry, Von Allmen.

6 Q **Renee Zonenshine? Z-o-n-e-n-s-h-i-n-e.**

7 A Nope.

8 Q **Robert Bruno?**

9 A Nope.

10 Q **Richard Polidoro -- Polidori?**

11 A Nhu-uh. No.

12 Q **Robert Palmer?**

13 A No.

14 Q **Todd Merrimen?**

15 A No.

16 Q **William White?**

17 A No.

18 Q **Or Patricia White?**

19 A No.

20 Q **Next questions relate to Banyan Income**
21 **Fund and Investors Net Enterprise and see if you**
22 **know any of them directly.**

23 A I got the bit part. What was the second
24 part?

25 Q **Whether you know any of them directly as**

1 **opposed to the --**

2 A Was there a second name after Banyan
3 Investment Firm?

4 Q **Banyan Income Fund is this one we have**
5 **called it for purposes of today.**

6 A Okay.

7 Q **Alfonse D'Amato?**

8 A No.

9 Q **Do you know who is he though?**

10 A Yes.

11 Q **You never dealt with him in regards to the**
12 **scheme?**

13 A No.

14 Q **Or the Ponzi matter?**

15 A Nope.

16 Q **Brent Ware, W-a-r-e.**

17 A No.

18 Q **Edward Carlisle?**

19 A No.

20 Q **Cooper Management?**

21 A I recall hearing the name but I don't
22 believe I ever dealt with them.

23 Q **D&L Partners?**

24 A D&L, yes.

25 Q **Do you know who they're related to?**

1 A The Von Allmens.

2 Q Thank you.

3 David and Elizabeth McFadzen?

4 M-c-f-a-d-z-e-n.

5 A Nope.

6 Q Dean Kretschmar?

7 A The Von Allmens. Doug's stepson.

8 Q No direct communications or indirect
9 communications with --

10 A With Dean?

11 Oh. Sure. He was A.J.'s partner.

12 Q Thank you.

13 Donald Travis?

14 A No.

15 Q Linda Stokes, Chester Stokes?

16 A No.

17 Q Paul Rowe?

18 A No.

19 Q Susan Adams?

20 A No.

21 Q John Thompson?

22 A No.

23 Q Kim Tuski?

24 A No.

25 Q Martha Snider?

1 A No.

2 Q Mazzeo Song & Bradham?

3 A No.

4 Q M-a-z-z-e-o?

5 A No.

6 Q Michael Orndorff?

7 A No.

8 Q North American DG?

9 A No.

10 Q Paul Wyche?

11 A No.

12 Q Peter Benedict?

13 A Peter who?

14 Q Benedict.

15 A No.

16 Q Scott Ware?

17 A No.

18 Q Stacy Salverne?

19 A No.

20 Q Steven Paley?

21 A No.

22 Q Susan Signorney Weaver? I think the

23 actress?

24 A No.

25 Q Did you know you had an actress that had

1 **invested through Banyan Income Fund?**

2 A I'm finding that out right now.

3 **Q Thomas McClure?**

4 A Nope.

5 **Q My next set of questions of relate to the**
6 **Levy Family.**

7 **What direct relations or communications**
8 **did you have with Ovadia Levy? And that, again, is**
9 **a general question; give me a general answer.**

10 A As a general question?

11 **Q Yes.**

12 A I talked to him every day.

13 **Q And what -- how would you describe your**
14 **relationship with Ovadia Levy?**

15 A He was like a brother to me.

16 **Q How long have you known him?**

17 A I don't know even know. Several years.

18 **Q And are you aware of him and his family**
19 **making investments directly through RRA?**

20 A Yes.

21 **Q Was there any -- at any time any feeder**
22 **fund that acted as a go-between between RRA and the**
23 **investors?**

24 A Not to my knowledge, no.

25 **Q Okay. And were there certain other**

1 individuals in entities related to Mr. Ovadia Levy
2 and his family that invested through RRA?

3 A I believe they were. They did their deals
4 very similarly to the way Mr. Lipsitz and Mr.
5 Tadachi did their deals.

6 Q When you say the deals were similar, in
7 what context do you mean?

8 A There was no paperwork.

9 Q You ultimately asked for paperwork --

10 A When I say no paperwork, I mean no --
11 nothing other than a promissory note.

12 Q And at any time did you ask for paperwork
13 after the fact in regard to any of these deals?

14 A For the Levys?

15 Q Yes.

16 A No.

17 Q Okay.

18 A Wait. There may have been another
19 document that they did. Sometimes they had some
20 other guarantee of payment or something, saying it
21 was going to pay -- a second sheet of paper. But
22 when I say no documentation, it was basically a no
23 documentation exchange of money.

24 Q I'm going to ask you the names of some
25 entities and other individuals.

1 **Did you ever recall --**

2 A By the way, I just want to make clear, all
3 these people that you asked me, out of the dozens of
4 people, doesn't mean I did not meet them. I just
5 have no present recollection of having met them
6 prior to October of 2009.

7 **Q Yes.**

8 **Ovadia Levy is in a special category where**
9 **he was a close friend of yours?**

10 A Yes.

11 **Q Do you know whether Mr. Levy and you ever**
12 **discussed whether you were conducting a Ponzi scheme**
13 **through RRA?**

14 A Whether we? When you say "Mr. Levy," you
15 mean Ovadia, not Shimon?

16 **Q Yes. Ovi.**

17 A Ovi came to my office on one of many
18 occasions and directly asked me if we were
19 conducting a Ponzi.

20 **Q And do you recall when that was in -- in**
21 **relation to October of 2009?**

22 A No. No. I don't even remember answering.

23 **Q And did you give any body language or**
24 **other indication that would provide a nonverbal**
25 **response?**

1 A I have no independent recollection to how
2 I responded to that.

3 Q Did you consider a person that ultimately,
4 irrespective of you telling him, in this case you
5 didn't tell him -- did you consider a person who
6 knew --

7 A I don't know what I told him. I just -- I
8 have no independent -- I remember that's a fairly
9 bold question for someone to be asking you,
10 especially when you are in the middle of one.

11 Q Yes.

12 A So you -- you get asked the question, but
13 I have no independent recollection of giving him a
14 response one way or the other.

15 Q Is that the only time you recall talking
16 to Ovadia Levy where the concept of a Ponzi scheme
17 had come up?

18 A Well, as I sit here today, that's all I
19 remember.

20 Q And after that conversation do you know
21 whether there were any other investments either
22 directly or indirectly by Mr. Levy and his family or
23 affiliates?

24 A Oh, yeah. No. They kept going.

25 Q Do you know whether or not the 2009 Ovadia

1 **Levy Revocable Trust ever invested in structured**
2 **settlements?**

3 A I don't even know what that is.

4 I think they have.

5 **Q How about Shimon Levy?**

6 A He invested, yes.

7 **Q Rachel Levy?**

8 A Yes.

9 **Q Daniel Minkowitz?**

10 A Yes.

11 **Q Jubot, J-u-b-o-t, LLC?**

12 A Ovi would come and give me a bunch of
13 names or Shimon would come and give me a bunch of
14 names, usually on a sheet of paper saying: This
15 much this one, this much this one; this much this
16 one. And those were the people.

17 So if it was on that list of people, yeah.
18 But I don't have an independent recollection of
19 Jubot or whatever you want to call him.

20 **Q How about Mr. Mordechi Bar Adon?**

21 A Yes.

22 **Q And Ben Zion Varon?**

23 A Vague recollection of him being on one of
24 the lists or multiple lists.

25 **Q Do you recall the kind of rates or returns**

1 **that the Levy Family enjoyed by investing with RRA?**

2 A As good as I was offering.

3 **Q What was the best that you were offering?**

4 A I -- I never sat down to calculate the
5 returns.

6 **Q If I told you 600 percent, would that be a
7 number that would surprise you?**

8 A It wouldn't surprise me in the least.

9 **Q And you do you know what kind of return
10 Banyan was giving its investors?**

11 **Did you ever come to learn that before
12 October of 2009?**

13 A Way down the road I did learn -- I can't
14 say way down the road. Sometime in the middle of
15 everything, I came to learn that Banyan was paying
16 a -- well, it wasn't a small return in the scheme of
17 a legitimate investment, but it was a small return
18 in the scheme of how much they were making.

19 **Q What did you learn that return rate was?**

20 A I believe Mr. Preve told me it was about
21 20 percent and I subsequently saw it in some kind of
22 memorandum or something that they had shown me.

23 **Q And other than that, did you learn
24 anything more about what the Banyan investors were
25 being paid?**

1 **Other than the 20 percent, did you ever**
2 **learn any other numbers?**

3 A I'm sure I learned some during
4 conversations but I don't have an independent
5 recollection of it.

6 **Q Did you know what the Banyan entities were**
7 **earning on the deals?**

8 A I knew -- at some point in time I learned
9 that they were paying a substantial rate to the --
10 I'll call them the Huberfeld Group. Again, all
11 those hedge funds. Somewhere in the neighborhood of
12 50 percent or something it worked out to be -- is
13 the interest rate. But I knew that they were making
14 a lot of money.

15 **Q When you say "a lot of money" the Banyan**
16 **entities were making a greater rate of return than**
17 **was greater than 20 percent?**

18 A Hundreds of percent was my understanding.
19 Yes.

20 **Q Let's talk about the Szafranski entities.**
21 **Do you ever have come to learn what these**
22 **entities were making on the -- I'm sorry, what they**
23 **were giving to their investors on their investment?**

24 A Let me clear this up for you. The only
25 time I ever saw rates of return was when someone

1 either wrote it to me just to write it to me, or
2 someone wrote it to me -- I remember Preve writing
3 to me on several occasions telling me that this deal
4 is paltry. It's only got a -- you know, 80 percent
5 return on investment or something like that. And I
6 made some smartass comment back to him about it.

7 But I don't remember having discussions
8 about the rate of return, unless I was in one of my
9 rants, which now I think have become famous, my
10 e-mail rants. Or I may have said, you know, you're
11 making hundreds of percent on your money. Shut up.

12 **Q Yes.**

13 A Other than that, there were no specific
14 discussions about it.

15 **Q And I just want to get it straight, when**
16 **you say you didn't really know, you're talking about**
17 **you don't know what rate of return Szafranski was**
18 **paying his investors through the four entities that**
19 **you recall?**

20 A What he was paying? No.

21 **Q Yes.**

22 A If I saw a document, I may have looked at
23 it at some point in time. But not only don't I have
24 a recollection, but I -- at that stage, I could not
25 have cared less.

1 Q At some point did you come to learn that
2 Szafranski was verifying in addition to paying rates
3 of return to investors within his entities?

4 In other words, did you know that
5 Szafranski was acting as a verifier and also was
6 acting as a feeder fund at the same time?

7 A He was always -- sure. He made that
8 arrangement with me.

9 Q And this was something you knew about?

10 In other words, you knew -- he was
11 directly investing at the same time he was
12 verifying?

13 A At some point in time, Szafranski -- it
14 was at the time that -- it actually was at the time,
15 if I remember correctly, when the hedge funds had
16 basically cut us off.

17 Mike said to me directly, if the hedge
18 funds aren't going to fund because I believe he had
19 some kind of prohibition about or he believed there
20 was some kind of conflict about bringing in
21 investors while they were still actively investing,
22 although I do believe they were still investing.
23 But I guess he got their permission to bring in
24 people, because he said to me, dead out. If they're
25 not going to be bringing in new investors, I'll

1 bring in my people.

2 And my response to him was, I mean, Mike
3 you know there's no plaintiffs; you still want to
4 bring people in? He goes, yeah, everybody is making
5 a lot of money. I'll bring people in. And he did.

6 **Q And was this time period where the funds,**
7 **as you stated stopped providing cash, do you recall**
8 **when that was?**

9 A Say that again.

10 **Q When you say the funds were not providing**
11 **any more capital, do you recall --**

12 A Anymore? No. I remember some distinct
13 times when things were slowing down. But I don't
14 remember when they finally stopped.

15 I'm not sure they ever -- I guess they did
16 cut us off completely at some point in time.

17 But you got to remember that I'm dealing
18 with them on a somewhat basis individually, but more
19 especially on the financial side through Preve.

20 **Q Yes.**

21 A When I say "Preve," it's Preve and Levin.
22 You know it's Banyan, but my main interaction was
23 with Preve on behalf of the Banyan group.

24 And so most of the financial stuff would
25 have been. So it's very possible that they invested

1 right up until the end.

2 I know they were trying desperately to get
3 all their money out. So they may have been
4 investing small amounts with us, you know,
5 reinvesting money in order to keep us happy. But
6 the large influx of money stopped pre-April of '09,
7 before that.

8 **Q And what happened pre-April of '09, where**
9 **it stopped?**

10 A There were number of different things
11 going on.

12 **Q Was there anything in particular relating**
13 **to --**

14 A Financial markets were cracking. I
15 believe we had the -- I don't remember the dates of
16 anything. We had Madoff, we had Petters, we had
17 Dreier.

18 I believe the people inside -- within
19 their company were close to the increase in our deal
20 flow were getting -- I don't know. I guess
21 suspicious or concerned about what was going on.
22 They came to do some more due diligence. There was
23 a lot going on at that point in time.

24 I think it was really divided.

25 You know, you got to understand this those

1 companies, there was a lot going on inside of them,
2 because they were trying very hard to maintain a
3 wall as if Platinum, Centurion, and Level 3 were
4 different entities when in reality, they were all
5 being run by the same guy and decisions were all
6 being made by the same person.

7 So I couldn't tell where money was coming
8 from because one group would cut us off and then
9 Huberfeld would come up with another group and
10 they'd invest. So it was crazy all over place.

11 But, again, when you're trying to keep a
12 Ponzi scheme from exploding, you don't really care
13 who is putting the money in so long as you're
14 getting the money so you can keep the enterprise
15 alive.

16 **Q And there's some final names I would like**
17 **to discuss with you, and then I'm going to ask Mr.**
18 **Lichtman to finish up.**

19 **Intracoastal Asset Group?**

20 A I think that was -- I think that was the
21 thing we set up way down the road with Dr. Bode
22 Rosenblat and Ari Glass from Platinum Centurion,
23 Level 3.

24 **Q And did you ever have direct dealings with**
25 **that entity through RRA?**

1 A No. They were a feeder. If I'm
2 remembering correctly, they were a feeder.

3 **Q SFS Funding, who controlled that entity,**
4 **if you know?**

5 A SFS, that was one of the side -- it was
6 called a one off company that Frank Preve had put
7 together with somebody.

8 I believe that was the one we had with
9 Murray Huberfeld.

10 **Q Was that acting as a feeder fund to the**
11 **RRA Ponzi scheme?**

12 A When you say feeder fund, I don't know
13 what they were doing. But they were sending us
14 money. I don't know if it was their money,
15 Mr. Huberfeld's money, Mr. Preve's money or someone
16 else's money.

17 **Q And what involvement did you have with Don**
18 **King Production before October of 2009?**

19 A I was approached through somebody -- I
20 don't remember who brought him to me. He was
21 looking for investors for a fight he was going to
22 promote. And I ended up meeting with him.

23 We hit it off and I ended up, I think,
24 investing around \$700,000 to put up a bunch of our
25 company's -- through a fight that he was putting on

1 at the Bank Atlantic Center.

2 Q One moment.

3 An entity called Scorh, S-c-o-r-h?

4 What do you recall about that entity?

5 A I recall seeing the name and I definitely
6 saw the name pre-October 2009, but I don't remember
7 what it was related to.

8 Q Okay. And Georgio Spirits, what
9 involvement did you have with that entity?

10 A That was one of the legitimate companies
11 we were investing in.

12 Q Never was an investor in the Ponzi scheme?

13 A No.

14 Q And were payments made to Mayor's Jewelers
15 from a personal bank account. Was that jewelry
16 purchases?

17 A Yes.

18 Q Did anyone at Mayors ever make any
19 investment through RRA?

20 A Through RRA? Not to my knowledge. No.

21 Q So Mayor's was just a third-party vendor
22 that you dealt with to buy jewelry?

23 A Yes.

24 MR. CIMO: Give me one moment. I am going
25 to confer with my cocounsel.

1 I yield to Mr. Lichtman at this time.

2 Thank you.

3 FURTHER EXAMINATION

4 BY MR. LICHTMAN:

5 Q I just have a few quick points.

6 A Okay.

7 Q Earlier in my discussion with you, you
8 mentioned some of the lawyers at RRA who knew about
9 or were complicit in varying degrees in the
10 commission of the Ponzi scheme.

11 A In commission of illegal activity.

12 Q Illegal activity.

13 A Yes.

14 Q Yes.

15 You mentioned Mr. Adler.

16 A Yes.

17 Q What was Mr. Adler's role?

18 A Several.

19 Let me give you his key roles and see if
20 they lead to other things.

21 Probably the most significant thing he did
22 for us in helping perpetuate and really save the
23 Ponzi from exploding was the New York hedge funds
24 wanted to come down and do additional due diligence
25 on our investment.

1 There were back and forth between me and
2 the hedge funds and me and the Banyan people trying
3 to facilitate the due diligence they wanted to do.

4 What ended up happening was Brian Jedwab,
5 who was probably one of the more, I guess observant
6 people in that group, decided it would be a good
7 idea to give him -- and probably Gil Colter also,
8 also in the category of more observant people within
9 Murray Huberfeld's groups, decided that this -- the
10 deal flow that we were saying existed was
11 suspicious, highly unusual, possibly impossible,
12 things of that nature is what we were hearing from
13 up north and back to us. And we needed to put on a
14 dog and pony show for them if this thing were going
15 to survive. Because if we can't show the deal flow,
16 one of two things is going to happen: Either
17 they're just going to cut us off or they're going to
18 cut us off and the thing is going to explode.

19 Obviously, we couldn't allow that to
20 happen.

21 So initially what happened was they just
22 wanted to talk to some of our referring groups. So
23 I sent out an email to the entire firm -- I think it
24 was the entire firm -- at least to the shareholders
25 and partners. But it may have been to the all the

1 lawyers saying, We need people that refer us
2 labor/employment cases to answer a couple of simple
3 questions. And I think I outlined the questions and
4 specifically said, These are the questions that are
5 going to be asked: Do you refer us business --
6 labor employment business, and are you happy?

7 Then it got to the point where they agreed
8 to that. Then they unagreed to that. And it was
9 clear that they wanted to come down. After a
10 certain point in time, it became clear that the due
11 diligence was going beyond that.

12 Before that, when I sent out the firm-wide
13 email, I had gotten back a couple of people. Russ
14 had sent me people and I think Stu sent me some
15 people. Maybe a couple other people sent me --
16 possible referring lawyers who would vouch for us.

17 When it got to the point that -- that then
18 went by the wayside, because it became clear through
19 speaking to Mr. Preve and speaking to Jack Simony,
20 who was for lack of a better term one of our
21 confidants, one of the people who we were closer to
22 at the Murray Huberfeld group of hedge funds, that
23 they wanted to do significant due diligence and
24 actually meet with the people that were sending us
25 cases, that, of course, was a huge problem for us

1 because no one was sending us cases.

2 I went to Russ and so -- and I don't
3 recall going to Lippman. But to Russ and to Stu.
4 And said, Listen: We need to get some people
5 together. These guys want to come down. The hedge
6 funds are going to cut us off. This will destroy
7 us. We need to get some people together.

8 Russ jumped right into the breach and
9 said, I got some people.

10 I said okay. Are these people you trust?

11 Yes.

12 All right. This is what we're going to
13 need them to do, and I laid it out for him. I told
14 him very specifically, We need them to say that they
15 sent us in the hundreds of cases on a monthly basis
16 and --

17 **Q And that would have been an untrue**
18 **statement, correct?**

19 A Yeah. Everything that I'm telling you
20 right now, we -- they needed to lie.

21 Okay.

22 **Q And these are lawyers that you're alluding**
23 **to?**

24 A Yes.

25 **Q Outside of the firm?**

1 A Yeah. I'll tell you who they are.

2 Q **Yes.**

3 A These people needed to lie to the hedge
4 fund due diligence people to substantiate our deal
5 flow.

6 That's the conversation Russ and I had.
7 We had to specifically say they sent us hundreds of
8 cases, which would have been false.

9 They needed to say that these cases were
10 big dollar cases, in the millions of dollars, which
11 was false.

12 And they needed to say that we sent them
13 huge dollar referral fees; also false.

14 Huge dollars meaning hundreds of thousands
15 if not million of dollars in referral feels.

16 So there were three main false components.

17 What Russ did to find the people, I don't
18 know. I'm sure he had conversations with them
19 because they needed to be instructed on which lies
20 to tell and how to handle this.

21 Q **And indeed lawyers stepped into the role
22 to perform for you and lie, correct?**

23 A Yes.

24 What ended up happening was I got one
25 legal -- legal group to do it, mutual friends of

1 Russ's and mine, people that I was very close to,
2 Doug Bates and Wayne Koppel. They had a lawyer firm
3 together. I had known Doug Bates for many, many
4 years, and he falls into the category of being a
5 player. And he stepped up.

6 I explained to him and Wayne what they
7 needed to do.

8 I believe -- I don't remember which one of
9 them.

10 My recollection is that Wayne actually is
11 the person that was there. But one or the both of
12 them actually sat in the meeting and just blatantly
13 lied in the fashion that we asked them to about
14 those three items.

15 Russ got us --

16 **Q And you didn't -- you didn't prepare those**
17 **persons, to the best of your knowledge? Russ**
18 **prepared them?**

19 A Bates - Bates and Koppel, I believe I
20 prepared them and Russ may have.

21 **Q Okay.**

22 A I don't have an independent recollection,
23 actually.

24 **Q Were there others?**

25 A Yes. Steve Rossi and Howard Herskowitz.

1 Both played the role of major sources for
2 us.

3 I brought Brian Jedwab and Ari Glass who
4 also worked under the Huberfeld group to meet with
5 these folks.

6 Ari may have dropped out before one of the
7 meetings, I don't remember, but he went to at least
8 one or two of them. But Brian was at all of them.

9 And all the groups of lawyers, the ones
10 that we set up together through Bates and Koppel and
11 the Rossi-Herskowitz groups, lied to the due
12 diligence people. Actually giving them tremendous
13 comfort and saving the Ponzi scheme.

14 **Q Is it a fair statement that you didn't**
15 **prepare Rossi and Herskowitz, but Adler did?**

16 A Yes. I didn't prepare them at all.

17 **Q In return for --**

18 A As a matter of fact, I don't even -- I
19 don't believe I ever met Herskowitz except maybe in
20 passing some place. And if I met Rossi, I met him
21 in passing also at the restaurant or political
22 function.

23 **Q In return for their playing this role for**
24 **you, we'll call it this acting role, what did they**
25 **receive, if anything?**

1 A They received money but I do not recall
2 how much.

3 **Q How do you know they received money?**

4 A Because I gave Russ the money to give
5 them.

6 **Q Cash?**

7 A Yes.

8 **Q And Russ was responsible for delivering
9 the cash?**

10 A Yes.

11 **Q What did Russ get for his assisting in
12 this process and for other issues that were going on
13 or activity that was going on?**

14 A You're going to find as you question me,
15 there is a very large category of people that fell
16 within the -- what we fondly refer to as living the
17 rock star or the Rothstein lifestyle. And that is,
18 in fact, the way we paid off a substantial number of
19 the people that we were ultimately, for lack of a
20 better term, bribing to do our dirty work.

21 And Russ had basically unfettered access
22 to money and to a lifestyle that he would not
23 otherwise have been able to achieve.

24 **Q Do you recall the circumstances behind a
25 bank account that was maintained by Steve Lippman**

1 **prior firm that has been commonly referred to the**
2 **nest egg account?**

3 A Yes.

4 **Q What was the purpose of that account?**

5 A Filtering money. It was two-fold. One
6 purpose was to filter money out of the law firm so
7 that we could -- me, Steve Lippman and Stu
8 Rosenfeldt -- could take funds out of the law firm
9 through that entity.

10 **Q Launder it?**

11 A Yeah. In essence laundering it. Avoiding
12 taxes and the like.

13 And the other thing that it was used
14 for -- probably more than anything that was a
15 secondary benefit to us -- the main thing it was
16 used to was for a check kiting scheme.

17 When we were low on -- it started way back
18 when we were low on cash in the firm and stuff, we
19 needed to float checks. Steve would write checks
20 and we would do the whole kiting exchange and we
21 would float the checks.

22 **Q Did you discuss that with him, for the**
23 **purpose of the account?**

24 A With Steve Lippman?

25 **Q Yes.**

1 A Sure.

2 **Q Who else knew about that?**

3 A Stu Rosenfeldt.

4 **Q What did Steve get in return for?**

5 A Massive amounts of money. He got money
6 out of that. He had basically unfettered access to
7 us paying his American Express bill. He was getting
8 us huge set amount of money every month for expenses
9 that were not really attributable to real expenses.
10 He got an inordinate salary. He got a
11 vehicle.

12 **Q And a home addition?**

13 A With that -- that all kind of falls for
14 under the whole expense thing. I mean, we paid --
15 you know, we paid for a -- again, quote, unquote,
16 rock star lifestyle for him.

17 **Q Lifestyle of the Rich and Rothstein?**

18 A Rich and Rothstein. Yeah. You don't want
19 the lifestyle I have now.

20 **Q I'm sure. Okay.**

21 **Gilbert Spencer got a loan for \$442,500.**

22 **Do you know what that was for?**

23 A He was broke. Austin Foreman had
24 approached me, along with some other of our friends
25 and said, Listen, we're trying to help keep this guy

1 afloat.

2 Austin was particularly interested in
3 keeping him afloat because we were going to try to
4 purchase from him or assist him in doing the deal.
5 I believe it was in the Dominican Republic, but I
6 can't -- it might it may have been in some other
7 country.

8 It was a whole land development, very
9 similar to other things that Austin had done in the
10 past.

11 Q Was that part --

12 A Excavations.

13 Q Was that part of the Ponzi or was it just
14 a front?

15 A No. No. It was a loan. It was a loan.

16 Q Okay.

17 A It was the -- for lack of a better term,
18 it was the business quid pro quo. We were going to
19 help Gilbert to survive and Gilbert was going to
20 allow us, Austin and I, access into this potential
21 investment.

22 Q Vinnie Barba -- I have been trying to
23 trace transactions to Vinnie Barba. And I have a
24 name that I can't locate. But it's called County
25 Soda?

1 A County Soda. Sure.

2 Q **What is there about County Soda that had**
3 **involvement with Vinnie Barba --**

4 A Vinnie owns.

5 Q **-- the RRA firm?**

6 A Vinnie owns County Soda.

7 Q **What is County Soda?**

8 A They sell what's commonly termed bag in
9 the box. Off brand drink mixes. It does a lot of
10 business. Very profitable company.

11 Q **Assume that I wish to pursue this and see**
12 **if there's money in it for the estate, where I would**
13 **look; what am I looking for?**

14 A Under Vinnie's mattress.

15 Vinnie had huge -- you got to remember
16 something: In that business, you're selling --
17 instead of a -- whether it be a gentlemen's club or
18 nightclub or restaurant chain or an independent
19 restaurant or the like or a bar or nightclub, rather
20 than use Coca Cola or Pepsi, they're using County
21 Soda. They have whatever they call their Coke
22 product and their Sprite product and their juices
23 and that kind of stuff.

24 What happens is, is they go in, they put
25 this bag in the box stuff, and CO2 --

1 Q Let me see if I can get you focused. In
2 terms of RRA, what is RRA looking for in money flow
3 in and out? Is there anything that I --

4 A Specifically?

5 Q Yeah.

6 A Yeah. He laundered half a million
7 dollars. I actually laundered -- I laundered half a
8 million dollar for him, cash, turning into real
9 money. \$500,000 that I needed for the Ponzi scheme.

10 Actually, to make my -- to leave the
11 country.

12 Q Was that the transaction --

13 A Yes.

14 Q Okay -- and then his checked bounced or
15 was held back or something?

16 A I don't think so. I think that --
17 initially, at least one of them cleared.

18 Q Okay.

19 A Because I remember him telling me -- maybe
20 someone called it back. But basically I needed
21 cash. I wanted to have a substantial amount of cash
22 with me when I left the country.

23 He had a substantial amount of cash that
24 he had been pulling out of the business. He needed
25 it laundered. We had laundered substantial amounts

1 of money for him before through the firm.

2 He gives us the money; I give him back a
3 law firm check; it's clean.

4 Q With respect to the Gilbert Spencer
5 transaction that you referenced, do you recall what
6 the name of the transaction was so I can go back to
7 our books and look for it?

8 A I don't.

9 Q Okay.

10 A I did see it on here. I'll check in the
11 documents that I have access to. I did see it
12 recently, but I just don't have any independent
13 recollection of the name.

14 MR. LICHTMAN: We're really trying to work
15 hard by staying on schedule. So I'm going to
16 rap it up now and deem this the conclusion of
17 the trustee's Rule 2004 exam, possibly to be
18 continued at some future date.

19 THE WITNESS: Okay.

20 (Thereupon, at 12:04 p.m. the
21 proceedings were adjourned.)

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C E R T I F I C A T E

THE STATE OF FLORIDA,)
COUNTY OF BROWARD.)

I, Michele L. Savoy, Shorthand Reporter do
hereby certify that I was authorized to and did
report the foregoing proceedings and that the
transcript is a true record.

Dated this 12th day of December 2011.

Michele L. Savoy, RPR
Notary Public - State of Florida
My Commission No. EE 113173
Expires August 6, 2015

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C E R T I F I C A T E

THE STATE OF FLORIDA,)
COUNTY OF BROWARD.)

I, Michele L. Savoy, Shorthand Reporter, do hereby certify that I was authorized to and did report said 2004 Examination in stenotype; and that the foregoing pages, numbered from 1 to 166, inclusive, are a true and correct transcription of my shorthand notes of said 2004 Examination.

I further certify that I am not an attorney or counsel of any of the parties, nor am I a relative or employee of any attorney or counsel or party connected with the action, nor am I financially interested in the action.

The foregoing certification of this transcript does not apply to any reproduction of the same by any means unless under the direct control and/or direction of the certifying reporter.

Dated this 12th day of December 2011.

Michele L. Savoy, RPR
Notary Public - State of Florida
My Commission No. EE 113173
Expires August 6, 2015

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