

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF FLORIDA
FORT LAUDERDALE DIVISION
Case No. 09-34791-RBR
Chapter 11

In Re: ROTHSTEIN ROSENFELDT ADLER, P.A.

 Herb Stettin, Chapter 11 Trustee,

 Plaintiff,

 vs.

 RL Pearson and Associates, Inc., a
 Florida Corporation,

 Defendants.

DEPOSITION OF
SCOTT W. ROTHSTEIN

Volume I of II

Taken on behalf of the Chapter 11 Trustee

DATE TAKEN: December 23, 2011

TIME: 8:32 a.m. - 10:30 a.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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INDEX

CONTINUED DEPOSITION OF SCOTT W. ROTHSTEIN

DIRECT

Mr. Lichtman

CERTIFICATE OF OATH
CERTIFICATE OF REPORTER

TRUSTEE'S EXHIBIT INDEX

NO.	DESCRIPTION	PAGE NO
1	April 14, 2009, Email	64
2	April 17, 2009, Email	66
3	April 29, 2009, Email	75
4	April 24, 2009, Email	77
5	April 30, 2009, Email	83
6	July 6, 2009, Email	85
7	July 22, 2009, Email	93
8	May 6, 2009, Email	98
9	May 13, 2009, Email	99

1 Thereupon, the following proceedings were had:

2 MR. LICHTMAN: Let the record reflect
3 we're moving into the separate deposition
4 transcript that will be incorporated by
5 reference into what we call the big case.

6 This is in the adversary proceeding
7 pending in bankruptcy court, Herbert Stettin
8 versus RL Pearson and Associates, Inc. It's
9 case number 10-03710.

10 Just to be sure --
11 I've lost the witness.

12 MR. NURIK: No. He's just --

13 MR. LICHTMAN: You're still under oath.
14 You're still under oath, you know that, even
15 though you were --

16 THE WITNESS: Yes.

17 MR. LICHTMAN: -- technically sworn for
18 the other case?

19 THE WITNESS: Yes.

20 MR. LICHTMAN: Just re-swear him to be
21 sure.

22 Whereupon,

23 SCOTT W. ROTHSTEIN,
24 acknowledged having been duly sworn to tell the
25 truth and testified upon his oath as follows:

1 THE WITNESS: I do.

2 MR. LICHTMAN: Okay. Let the record
3 reflect, also, that the Trustee has reached a
4 stipulation with Pearson's counsel that the
5 questions that I asked in the 2004 Exam
6 respecting your motivations for telling the
7 truth are deemed incorporated by reference to
8 this transcript so that we don't have to
9 repeat.

10 You agree, Mr. Ferguson?

11 MR. FERGUSON: Yes.

12 DIRECT EXAMINATION

13 BY MR. LICHTMAN:

14 Q Okay. Mr. Rothstein, we're going to be
15 very limited about time, so it's probably going to
16 be a pretty snappy presentation. I have what I see
17 to be about two hours and five minutes of
18 questioning with you. Okay?

19 A I'm ready to go.

20 Q Okay. You have repeatedly over the course
21 of the past two weeks referred to what has been
22 known as the Pearson/Boden sub-Ponzi or
23 Boden/Pearson sub-Ponzi.

24 A Correct.

25 Q Okay. For purposes of today, I'm going

1 to, for the most part, try to refer to it as the
2 sub-Ponzi for brevity's purpose, okay?

3 A That's fine. I'll take that as
4 Pearson/Boden's sub-Ponzi.

5 Q Okay. I want to lay a foundation on some
6 facts before I get into some documents.

7 A Okay.

8 Q How did you meet David Boden?

9 A I met him -- he was the general counsel
10 for a client of mine, National Beverage.

11 Q And I assume that means that you did work
12 with him?

13 A Yes. I represented Nick Caporella and
14 National Beverage, and I met David Boden that way.

15 Q Approximately, what year?

16 A You'd have to go back and look at that.
17 It was litigation against Broward County, and I
18 don't remember the year.

19 Q What were the circumstances that led to
20 you hiring him to come work at RRA?

21 A I had a need for counsel to myself and
22 counsel to the law firm. David had a tremendous
23 amount of corporate practice protocol, governance.

24 I was looking to buy a lot of companies;
25 he had tremendous M&A experience, and he was a great

1 guy.

2 Q When you say you were looking to buy a
3 bunch of companies, are you referring to what has
4 been known in many of the pleadings as the RRA
5 entities, entities such as Georgio and Q Task?

6 A Correct.

7 Q Okay. Bova, et cetera?

8 A Correct.

9 Q In terms of the work in-house, what kind
10 of work did you expect him to do in-house?

11 A Help within in-house manuals, help with
12 governance issues with regard to growing the firm,
13 mostly I wanted him to be a personal adviser to me
14 on financial matters.

15 Q Is it a fair statement that, indeed, from
16 the day that he joined the firm, the vast majority
17 of work that he did was for you, personally, as
18 opposed to legal work for clients in the firm?

19 A Yes. I figure it was about 80 percent to
20 me; 20 percent. We had to be careful having him do
21 legal work for clients because he wasn't licensed to
22 practice in the state. That's not to say he didn't
23 do the work, but...

24 Q And the firm paid for his services,
25 correct?

1 He was technically an RRA employee,
2 received a paycheck from RRA?

3 A Yes.

4 Q Now, you also agree that he was not
5 employed by a law firm for a period of probably at
6 least ten years?

7 A That's correct.

8 Q All right. And he wasn't a Florida
9 lawyer; you just acknowledged that, right?

10 A New York only.

11 Q Okay. Why did you make him RRA's general
12 counsel?

13 A Because he turned out to be a fantastic
14 confidante. I could trust him. He was, within the
15 definitions as previously established over the last
16 nine days, a "player." He was exactly what I needed
17 to be counsel to me.

18 Q Okay. That --

19 A He was more like a conciliary than a
20 general counsel.

21 Q Well, is that the case -- no. I'm not
22 going to go there. I'm not going to talk about
23 Fredo.

24 MR. NURIK: No, it's Tom Hagen.

25 MR. LICHTMAN: Yeah, or Tom Hagen. Okay.

1 THE WITNESS: Several Fredos.

2 BY MR. LICHTMAN:

3 Q In any event, I understand how that was
4 helpful to you.

5 What impact was that? What impact did
6 making him general counsel have on RRA, if any?

7 A In actuality, none.

8 Q Okay. Was the sub-Ponzi scheme Boden's
9 first involvement in illegal activity with you, when
10 he joined the firm?

11 A No.

12 Q What did he do before that?

13 A There were certain parts of the National
14 Beverage litigation that we had talked about where
15 we were, I would say, fudging facts to aid
16 Mr. Caporella.

17 And then there was something else that he
18 was involved in.

19 THE WITNESS: Mr. Lavecchio, can I get
20 into that?

21 MR. LAVECCHIO: Can I have one moment?

22 MR. LICHTMAN: Yes.

23 A And he, also -- on the legal side, he
24 assisted us with certain campaign issues.

25

1 BY MR. LICHTMAN:

2 Q Campaign contributions?

3 A Various types of campaign issues.

4 Q Okay. With respect to the National
5 Beverage litigation, are you saying that he
6 knowingly fudged facts or allowed facts that were
7 untrue to be used in connection with that
8 litigation?

9 A Yes.

10 Q So we can go to the record and find what
11 those could possibly be?

12 A If you give me the record, I could
13 probably, more than likely, than not, point out for
14 you what was created by him and I or what was not.

15 Q Okay. And I'm leaving the political
16 issues alone for right now -- or campaign issues
17 alone for right now.

18 Prior to his being involved in the
19 sub-Ponzi, was he involved in any of your
20 organized-crime activity?

21 A He knew about it; he was not involved in
22 it.

23 Q How about money laundering?

24 A He assisted with bank issues that I had.

25 Q What do you mean by that?

1 A When I was moving money and the like, he
2 assisted me. He knew what was going on. He knew I
3 was having issues with moving money. I discussed it
4 with him. It wasn't in depth, but I sought his
5 counsel.

6 Q If this transcript were part of the
7 previous eight-and-a-half days, I could leave that
8 alone; but because this is an independent
9 transcript, I need you just to delve down a little
10 bit so there's a clear record. Okay?

11 A Okay. When the first --

12 Q When you say "moving money," do you mean
13 that there was a large number accounts at TD Bank,
14 and money was transferred in and among and between
15 the various accounts to suit your purposes, to get
16 money whenever you needed it?

17 A Yes.

18 Q And Mr. Boden assisted you how with
19 respect to those transfers?

20 A Guided me or attempted to guide me on
21 avoiding BSA AML issues. We were never really able
22 to come up with a plan to avoid them, other than to
23 have Mr. Spinosa protect us, because -- just by the
24 sheer velocity.

25 I mean, we basically came to the

1 conclusion, after studying what we studied, that we
2 were going to have to have protection inside the
3 bank because -- just as we had had with Gibraltar
4 Bank, because the high velocity was a dead giveaway:
5 the in and out of accounts, the way money was
6 moving.

7 Q Did he start doing that as soon as he
8 joined the firm and started assisting you?

9 A No. It was over a period of time. It was
10 like everybody else that started engaging in illegal
11 activity with us; it was over time as I was --
12 became more and more certain that he was open to
13 that sort of thing.

14 Q To be sure, the process of him assisting
15 you on these banking issues preceded the sub-Ponzi,
16 though, correct?

17 A Yes.

18 Q Okay. Did he have any involvement in any
19 of the settlement deals that you had been involved
20 with prior to the sub-Ponzi?

21 A Yes. That's how he created the sub-Ponzi.
22 He was assisting me with those deals.

23 Q Do you remember --

24 A Go ahead.

25 Q Do you remember any of the specific deals

1 that he assisted you with?

2 A He is the one -- he brought Richard
3 Pearson to the table.

4 Q Okay. Before Pearson, did he assist you
5 with any actual Ponzi deals, any settlement deals?

6 A I don't remember, specifically, because I
7 remember him, for example, assisting -- well, he
8 brought Florescue in; but Florescue was after
9 Pearson, so I don't recall specific.

10 Q Okay. Did he assist you with any of the
11 documentation issues on any prior settlement deal?

12 A He started to. That's how he understood
13 what was -- what needed to be done for his
14 sub-Ponzi.

15 Q Yeah. I assume there had to be a
16 predicate for him to look up one day and all of a
17 sudden become involved in a running a sub-Ponzi; is
18 that a fair statements?

19 A Well, he had gotten involved in,
20 originally, what he thought were legitimate deals,
21 or at least I thought he thought they were
22 legitimate deals; I don't know what was in his head.

23 And as time went on, like with many of the
24 people who ultimately became involved with the Ponzi
25 scheme, he figured out what was going on and then

1 ultimately developed his own sub-Ponzi with
2 Mr. Pearson.

3 Q Well, indeed, if he was your right hand
4 inside the firm, he would have had access to more
5 data than probably anybody else; is that a fair
6 statement?

7 A I would think the only people that would
8 have had more access to data would have been Debra
9 Villegas, Irene Stay and Stu Rosenfeldt.

10 Q Is it a fair statement --

11 A And myself.

12 Q -- though, in terms of the paperwork, he
13 would have been able to see that there was just a
14 series of blacked-out documents, that there were no
15 real supporting documents to establish that the
16 actual plaintiffs existed in any of the lawsuits?

17 A Well, here's the thing: David and I had
18 conversations early on where he's asking me why
19 aren't any of these cases coming up on conflict
20 searches or why aren't there any files anywhere,
21 that type of questioning.

22 Q And this preceded the sub-Ponzi, correct?

23 A That preceded the sub-Ponzi.

24 Q Okay. Was he involved in any other
25 money-laundering activities?

1 A He may have been. I don't specifically
2 recall at this moment.

3 Q Any public-corruption issues? Just
4 generally, without getting into the privileged
5 matter.

6 A He knew certain things that were going on.
7 He knew about my ties to law enforcement.

8 Q Okay. Howard Gruverman, was he involved
9 in any illegal activities that you might have
10 engaged in with Howard Gruverman?

11 A Yes.

12 Q Which ones?

13 A There were a couple of instances where
14 Howard was taking kickbacks into -- from insurance
15 companies that were doing business with Edify.

16 There was actually one time where Howard
17 was being investigated for -- I don't remember the
18 exact circumstances, but David knew what was going
19 on. David and I had met on a pretty regular basis
20 with Mr. Gruverman to discuss his problems.

21 He also knew of Mr. Gruverman's
22 involvement in campaign issues inside his own
23 company.

24 Q How about Albert Peter, was he involved in
25 any of the illegal activities that you described

1 earlier on?

2 A I don't recall, specifically, whether he
3 was or not. He may have been.

4 Q Ron Pecou?

5 A I don't recall him having anything to do
6 with Ron Pecou.

7 Q Okay. You have testified about the
8 Rothstein rock-star lifestyle.

9 A Yes.

10 Q To what extent did Boden participate in
11 that?

12 A He participated pretty much at every
13 level. He flew with me to games on private planes.
14 He had access to all of our firm's tickets at all
15 venues.

16 Q Whether it was sports, concerts and the
17 like?

18 A All of it.

19 Q Okay.

20 A He participated with some of the events
21 more than I did. I mean, he would go to the hockey
22 games, go to the basketball games. He went to all
23 the football games, brought his family with him. He
24 traveled with us.

25 He had an open tab, wide open, at Bova --

1 all the Bova restaurants.

2 He was heavily involved down at the
3 Versace mansion and spent a lot of time partying
4 down there, without having to pay anything.

5 He had access to our firm -- to my
6 limousine. He had access to our limousine service,
7 which he utilized frequently, both for himself, and
8 escorts, and with his family.

9 Q You're saying he used escorts with his
10 family?

11 A No, no.

12 Q With his --

13 A That didn't come out right.

14 Q Let's make sure there is some commas in
15 there.

16 A He used the limo service with -- by
17 himself and for -- with friends of his, with his
18 family, comma -- big comma -- and with escorts.

19 Q Approximately how many times with the
20 escorts?

21 A The limos and the escorts or just the
22 escorts?

23 Q Just the escorts.

24 A A dozen.

25 Q You paid for them?

1 A Yes.

2 Q Okay. With regard to the house that he
3 rented from you on Castilla Isle --

4 A Oh, yeah, I forgot about that.

5 Q That was previously owned by Rickie
6 Williams, right?

7 A Yes.

8 Q Describe that transaction. How did that
9 work?

10 A David wanted to -- was looking to move. I
11 was moving out of 2308 to move on to Isla Bahia, and
12 he always said he would love to be able to buy that
13 house, rent the house, whatever.

14 And I rented it to him for drastically
15 under market. I think I rented it to him for
16 \$10,000 a month; and I don't know which months he
17 paid and didn't -- you'd have to take a look at the
18 records -- and we had discussion about it.

19 And, you know, he kept saying to me: Are
20 you sure. You're not asking for a lot of money for
21 it, you know. Thank you.

22 I said, It's good for you. I said, You
23 know you have got to have that perception of having
24 a lot of money. The more money you're perceived to
25 have, the more money we will be able to generate.

1 So it became a tool to him, also, because
2 he could use the house for entertaining and the
3 like. It was prestigious on Seven Isles in Las
4 Olas.

5 Q Why do you think that \$10,000 a month was
6 under market value for rental?

7 A Because the real estate agents that we had
8 talked to previously, Kim and I, about -- before we
9 decided to let the Bodens rent it, they told us we
10 could get more than double that.

11 Q Did he also receive cash, you know, like
12 some of the other people that you have talked about
13 over the course of the last eight, nine days?

14 A Yes.

15 Q Do you know approximately how much?

16 A I do not.

17 Q Was it a regular payment, like whenever he
18 wanted cash, he could come and get it from you?

19 A It wasn't like an open piggy bank, but
20 yeah, he had access to cash when he needed it.

21 Q He closed a number of deals for you on the
22 Rothstein entities?

23 A He closed a large percentage of them.

24 Q Right.

25 At the time that he closed, for instance,

1 Bova, did he know what the source of funds was?

2 A Mr. Lichtman, you have to go back and look
3 and see what level his involvement is, because I
4 don't want to guess. I would be guessing.

5 Q Well, how about Casa Casaurina, because
6 that was closer to the end, do you recall that?

7 A Yes.

8 Q Okay. Did he know what the source of
9 funds was for Casa Casuarina?

10 A Yes. You also have to understand that he
11 knew what the firm's finances were. I mean, he was
12 one of the people that had access to the billing
13 records and, you know, would discuss financial
14 issues with me.

15 You know, it's pretty apparent how much
16 money is coming in from legitimate law office
17 services, and then there's got to be someplace the
18 other money is coming in.

19 And he, of all people, knew that many of
20 our business enterprises at that point in time were
21 losing money or they were in the very early, you
22 know, stage where you had to -- where you are still
23 investing huge sums of money to try to get them off
24 the ground. The restaurants weren't making money.
25 The Q Task wasn't at the stage where it was making

1 money. We were still investing. It was like that a
2 for a lot of our businesses.

3 So he knew there was not only money not
4 coming from the law offices -- from the law office,
5 but that -- also that the businesses I was buying
6 were still in their early incubation stage so they
7 weren't throwing off -- many of them were not
8 throwing of any money.

9 Q Would you agree or disagree with the
10 statement that Mr. Boden knew each time that he
11 closed one of those business transactions for you,
12 that the money was obtained from illegal
13 transactions?

14 A He should have known, yes.

15 We didn't discuss it. We didn't say, hey,
16 this is illegal money going into these transactions;
17 but from the information he had before him, he would
18 have had to have been lying not to know that it had
19 to be coming from someplace other than legitimate
20 activity.

21 And then, of course, once he was running
22 the sub-Ponzi, from the day you determined that
23 sub-Ponzi started, every deal after that, he would
24 have known there was illegitimate money coming to
25 the firm.

1 Q So to boil it down, then, what facts did
2 you know of that would indicate that Boden knew that
3 the settlement transactions you were working on
4 prior to the sub-Ponzi, Boden would have known those
5 were illegal?

6 A There were no plaintiffs; there were no
7 defendants.

8 Q And you say that he knew that?

9 A He knew that.

10 Q Okay.

11 A The paperwork was turning around without
12 the appearance of any plaintiffs or defendants.
13 Literally, we would get a deal. It would be
14 papered; and within hours it would have plaintiff's
15 and defendant's signature on it and be ready for
16 funding.

17 There were no conflict searches. There
18 were no files anywhere. No one ever saw any clients
19 coming in and out. If you look at the sheer number
20 of cases that we were settling, you would think you
21 would see somebody wandering in and out of the
22 offices. There was nobody.

23 He had access to our financials. There
24 was no money ever coming in from any legitimate big
25 defendants sending millions of dollars to us.

1 Q Okay.

2 A That's probably a good start. I'm sure
3 that there's more.

4 Q All right. Now, how did you meet Richard
5 Pearson?

6 A Through David Boden.

7 Q Do you know how?

8 A Although, I think I had met him to say
9 hello previously.

10 Q Do you know how Boden met Pearson?

11 A I'm not sure. I think he met him down at
12 Bova, actually.

13 Q Was RRA paying for Mr. Pearson's suite --
14 I think it was 1870 in the 401 building -- or was
15 Pearson paying that himself?

16 A I think he was paying it himself.

17 Q All right. Do you know --

18 A I don't recall paying that.

19 Q Do you know what the circumstances were of
20 Pearson being located in the same building as you?

21 A I do not.

22 Q All right. Was Pearson's sub-Ponzi
23 involvement the first illegal activity that he had
24 engaged in with you?

25 A Pearson?

1 Q Yes.

2 ALL PRESENT: Objection.

3 A To the best of my recollection, yes.

4 BY MR. LICHTMAN:

5 Q Okay. So to be sure, he did not engage in
6 any of the other types of activity that we talked
7 about over the preceding days, such as money
8 laundering or banking issues or public corruption or
9 any of those type of claims?

10 A With me?

11 Q Yes.

12 A No.

13 Q With somebody else that you know?

14 A I knew Richard Pearson, after talking to
15 David Boden, before I started doing business with
16 him, to be a player. I knew that he had had a --
17 from speaking to him, tax issues and the like.

18 He came from what he had described as a
19 very wealthy family out of Canada, and I later
20 learned things that he had done that were illegal;
21 but that was after he became involved with the
22 Ponzi.

23 Q So the record is clear, what do you mean
24 by "player"?

25 A He was a -- he was a wheeler-and-dealer.

1 He was involved in illegal activity. He was -- it's
2 that phrase I used in the early days of the
3 deposition, it was --

4 Q I know, but this is a separate transcript.

5 A Yes.

6 Greed before morality, okay, and he was --
7 he was in that genre.

8 Q Okay. You made a conclusory statement
9 that you knew he was involved in illegal activity.
10 What facts do you know of that support that
11 statement?

12 A Boden told me. That's how I know -- and I
13 trusted Boden.

14 Q Okay. Did Boden tell you, specifically,
15 what he knew that Pearson was doing?

16 ALL PRESENT: Objection.

17 A He told me that Richard Pearson was a
18 master of the other peoples' money, the OPM deals;
19 that he was very good at convincing people that they
20 should invest in things and give him large
21 percentages of ownership with him putting nothing
22 in.

23 That's the type of thing David would
24 discuss with me.

25

1 BY MR. LICHTMAN:

2 Q As a quick aside, there's an investor in
3 the RRA -- excuse me -- in your Ponzi whose name was
4 "OP Monies." Do you know if the name "OP Monies"
5 comes from "Other People's Money"?

6 I just heard you say "other people's
7 money."

8 A It must have. I don't even know who that
9 is.

10 Q Okay. Was Pearson involved, to any
11 extent, in what you have called your rock-star
12 lifestyle?

13 A To a limited extent. He had his own
14 rock-star lifestyle.

15 Q What did he do with you --

16 MR. HOUSTON: Objection.

17 BY MR. LICHTMAN:

18 Q -- in terms of this rock-star lifestyle.

19 A He went to certain sporting events with
20 us. I had gotten him concert tickets a couple of
21 times. He never went to the Heat games.

22 He didn't travel with us. He went to the
23 strip clubs with us, and he ate at Bova for free on
24 a multitude of occasions, but I can't tell you how
25 many times.

1 Whenever he ate with Boden, he was eating
2 for free.

3 Q After you start -- after he started the
4 sub-Ponzi, was he involved in any other type of
5 illegal activity with you?

6 MR. HOUSTON: Objection.

7 A Directly with me, no. He may have been
8 involved in stuff with Boden. He was really tied to
9 Boden, not to me.

10 BY MR. LICHTMAN:

11 Q Okay. I'm going to give you a list of
12 names and tell me if any of these people were
13 involved in the sub-Ponzi. And if you say yes, tell
14 me what their function was, as briefly as you can.

15 A To my knowledge.

16 Q To your knowledge, yes.

17 A Because it was literally a separate whole
18 thing, but...

19 Q Curtis Renie?

20 A Yes.

21 Q What was his role?

22 A Well, he had created the fake website, and
23 Mr. Boden used that fake website from time to time.

24 Q How do you know that?

25 A Because I had given him access to my

1 office to use it -- or Deb had to give him access to
2 my office to use it.

3 Q Okay.

4 A It was the only place he could be access.

5 Q How do you know he actually used it?

6 A Because I had to show him how to use it,
7 and he had told me he used it.

8 Q Okay. Bill Corte?

9 A The same answer, Bill was involved at that
10 level.

11 Q Irene Stay?

12 A And also Curtis -- there are times when
13 David needed balances changed, and I was the one who
14 had -- he had -- David would have to tell me, for
15 example, in the -- I don't know -- there were all
16 kinds of Argen --- Exito, all kinds of different
17 company names.

18 Most of their investors were, the
19 Pearson/Boden investors, used separate companies for
20 each investment. So we would constantly have to go
21 in and segregate accounts and change balances.

22 So David would tell me what the balances
23 needed to be, and I would have Curtis or Bill change
24 the balance.

25 Q Okay. Irene Stay?

1 A Yeah. Irene had to have known because she
2 was moving his money; and he would send her emails
3 and Pearson would send her emails, or be copied on
4 the emails, telling her the payments needed to go
5 out and the like.

6 Q When you say "moving money," meaning
7 moving money the same way that Irene Stay did with
8 respect to the settlement transactions that you were
9 working on?

10 MR. HOUSTON: Objection.

11 A Yes. David would -- there would be
12 email -- there's email traffic, Mr. Lichtman, where
13 Pearson or Boden or both of them are cc'ing one
14 another or the like and saying these are the
15 payments that are due today. And that email would
16 eventually be forwarded to Irene Stay.

17 Irene would then have to move money from
18 one of our other main feeder accounts into whatever
19 account the money needed to go out from and then
20 send the money out for the Boden-Pearson sub-Ponzi.

21 Q Is it a fair statement that what you just
22 described in the preceding answer is what would have
23 been meant by the term "moving money"?

24 A Yes.

25 Q Okay. And what accounts did those

1 typically involve?

2 A It was a TD bank account, so I don't know
3 which specific accounts. It would be from 0923 into
4 various trust accounts and then out again.

5 Q The myriad of TD Bank accounts, correct?

6 A Yes. Somewhere between 22 and 28
7 accounts, yes.

8 Q How about Debra Villegas?

9 A Debra was heavily involved with Boden
10 because she did all his paperwork.

11 Q You mean documenting the transactions?

12 A Yes.

13 Q To the same extent that she assisted you
14 on transactions that you affected with other
15 settlements?

16 A Yes.

17 Q Okay. Caputi, Steve Caputi, did he have
18 any involvement in the sub-Ponzi?

19 A I don't recall whether he did or not. I
20 don't think so.

21 Q Andrew Barnet?

22 A Barnet brought in investors; but as I sit
23 here today, still, Mr. Lichtman, I really don't
24 think that Barnet knew with was going on, you know.

25 He may have, because he was so close to

1 Boden. He was constantly in Boden's office; and, of
2 course, if he was observant, he was seeing no
3 clients, no files, no conflict searches.

4 You know, that conflict search is a huge
5 red flag for any lawyer anywhere near this, because
6 you know, as a lawyer, no new case comes in -- you
7 have got to send the plaintiff's name. I don't care
8 how confidential any of this is.

9 First of all, two important keys: The
10 confidentiality one runs to everyone in the law
11 firm, all the lawyers and all the staff,
12 attorney-client privilege. So there's no reason for
13 them not to know who these people are, and the only
14 way to do a conflict search is to send the
15 plaintiff's name and the defendant's name to the
16 entire firm. It was never done.

17 Q Was Andrew Barnet -- excuse me -- an
18 employee of RRA?

19 A Yes, he was.

20 Q In what capacity?

21 A He was my director of corporate
22 development or something. We gave him some fancy
23 title.

24 Q Is he a lawyer?

25 A No.

1 Q Was he paid a fee for any transactions
2 that he brought to the table on the sub-Ponzi?

3 A From me or RRA, you'd have to check the
4 records. I believe he was. But my understanding
5 from speaking to David Boden and Pearson was that he
6 was paid finder's fees by them.

7 Q Did he bring investors to you for any
8 other deals besides the sub-Ponzi deals?

9 A He tried to. I don't remember whether we
10 ever actually closed the deals or not.

11 Q What was the time period that you recall,
12 in number of months, roughly, that he tried to bring
13 you or Boden deals?

14 A It wasn't very long. It was several
15 months. He was only employed by us six, seven,
16 eight months.

17 Q How was it that he came to know that
18 settlement deals even existed within your office?

19 A I told him about it, and Boden told him
20 about it. He saw us doing the deals. He spent a
21 lot of time with David Boden. Boden was heavily
22 involved in papering deals.

23 Q What did you tell him about the deals?

24 A I don't recall whether I told him anything
25 one way or the other.

1 Again, I was very busy with the other
2 Ponzi, the main Ponzi. His interaction was with
3 Boden.

4 I mean, but you literally -- I mean you
5 have been in our offices. You have got to be blind
6 to know that these -- it's just nothing there
7 supporting this.

8 Q Okay. Do you know if he knew whether or
9 not the settlements were real?

10 A I'm sorry?

11 Q Do you know whether or not Barnet knew the
12 settlements were real?

13 A I don't -- I don't think he knew that they
14 were fake.

15 Q Okay. Spinosa, was he involved at all in
16 the sub-Ponzi?

17 A Not directly, no.

18 Q Does that suggest indirectly?

19 A Well, he was protecting the RRA bank
20 accounts from scrutiny, so to that extent, yes.

21 Q Do you have personal knowledge --

22 A But he didn't -- he had no direct
23 knowledge, to my knowledge, of interaction with
24 Boden and Pearson.

25 Q Meaning to your personal knowledge, did he

1 have direct communications with Boden about what
2 Boden was doing in the sub-Ponzi?

3 A I have no recollection of that.

4 Q Do you know whether or not Spinosa was
5 asked to execute any lock letter for sub-Ponzi
6 deals?

7 A He may have been. You would have to check
8 the lock letters. I don't recall one way or the
9 other.

10 Q Okay. How about Ms. Caretsky, did she
11 have any involvement, to the best of your knowledge,
12 in the sub-Ponzi?

13 A No, sir.

14 Q No, sir, meaning you don't know or no, she
15 did not?

16 A To my knowledge -- you said "to my
17 knowledge." To my knowledge, she did not know.

18 Q Okay. Mr. Preve, did he?

19 A You know, I don't know -- remember one way
20 or the other if I discussed it with him. It was
21 unimportant to my dealing with him, because it was
22 just a separate source of funding.

23 Q Let me ask you this. You can see I have a
24 large stack of documents. From a time perspective,
25 I'm not going able to get through them all, so I'm

1 going to ask you about some of the documents --

2 A Go right ahead.

3 Q -- without putting them into the record.

4 I have an email from April 4, 2009, the
5 subject of which is "G380." It's from you to
6 Richard Pearson, and it says to Mr. Pearson: Here's
7 your first case for funding. More to follow today
8 as I review what I pulled from prior funding source,
9 Banyan.

10 Do you recall anything like that?

11 MR. HOUSTON: Objection.

12 A It's certainly possible, but that doesn't
13 mean that Banyan knew because I could have been
14 lying to Pearson about it.

15 BY MR. LICHTMAN:

16 Q Indeed, did you pull funding transactions
17 from Banyan to give to Pearson?

18 A I didn't need to pull anything from
19 anywhere because it was all made up anyways. It
20 didn't need to really be pulled. I would just say,
21 okay, I'm pulling it from here.

22 Q Okay. Do you recall whether or not Banyan
23 or Frank Preve had any involvement in the sub-Ponzi?

24 A I don't recall specifically. You'd have
25 to check the email traffic.

1 Q Did you ever discuss anything about the
2 sub-Ponzi with Preve, to the best of your
3 recollection?

4 A I don't have a specific recollection of
5 discussing it with him, we were so busy running
6 around.

7 Q Okay. John Harris, did he have
8 involvement in the sub-Ponzi?

9 A No.

10 Q Szafranski?

11 A No. Because Boden, strangely enough, was
12 acting as their own verifier. I don't recall them
13 ever using Szafranski to verify. You'd have to
14 check the email traffic.

15 Q I'll get to the verification in a moment.
16 How about the funds?

17 A The hedge funds?

18 Q Yes.

19 A No.

20 Q Bob Kagan?

21 A No. Bob didn't know anything.

22 Q Andrew Glass.

23 A Who's that?

24 Q GNV Asset Management, LLC.

25 A I couldn't even tell you who that is.

1 Q Is there anybody else that you can think
2 of that would have assisted Pearson and/or Boden in
3 the sub-Ponzi?

4 A David Boden's secretary.

5 Q Her name?

6 A I think it was Patricia something, but I
7 don't recall.

8 Q Do you have reason to believe that she
9 knew that Boden was involved in illegal activity?

10 A I would be guessing, but just from the
11 circumstance that I've described over the last nine
12 days, she would have to be blind not to know
13 something was going on. But I don't know one way or
14 the other.

15 Q Patricia, was that her name?

16 A I think so.

17 Just look at the email traffic between him
18 and whoever he sent the deals to.

19 Q Was Barry Florescue -- Florescue,
20 F-L-O-E-S-C-U-E, for the record -- an innocent
21 investors?

22 A My understanding is that Florescue came in
23 through Barnet to the Boden/Pearson group.

24 Q Okay.

25 MR. SCHERER: Was he innocent investor?

1 You didn't get the answer.

2 MR. LICHTMAN: I was asking him the
3 follow-up.

4 MR. SCHERER: Thank you.

5 BY MR. LICHTMAN:

6 Q Was he an innocent investor?

7 A Yes.

8 Q Okay. And why do you say that?

9 A Because I helped fool him; I never told
10 him what was going on.

11 Q All right. How about Dan and Beatrice
12 Brayer?

13 A I don't know who that is.

14 Q All right. How did the sub-Ponzi get
15 started?

16 MR. HOUSTON: Objection.

17 A Originally, Boden/Pearson, or at least
18 Pearson, believed these were real deals. I know
19 that because -- at least I believe he believed that
20 because I convinced him of it. He did very limited
21 due diligence. It was very easy to convince him.

22 BY MR. LICHTMAN:

23 Q What due diligence did he do or not do?

24 A To my knowledge, all he did was talk to me
25 and talk to Boden, looked at some deal documents.

1 It was probably -- other than the people who
2 directly knew about, Mr. Lichtman, he did the least
3 due diligence of anybody.

4 Q When you say "deal documents," do you mean
5 the standard package of blacked-out documents?

6 A Blacked-out document.

7 Q Did he ask to see any other files?

8 You have to answer audibly.

9 A He may have. He may have. I don't have
10 any specific recollection of him doing any real due
11 diligence, other than sitting and talking to me.

12 Q And did he also talk to Boden?

13 A Yes.

14 Q And to the best of your knowledge, when he
15 talked to Boden, did he talk with him about due
16 diligence issues?

17 MR. HOUSTON: Objection.

18 A Some, but Boden did not come back to me
19 very frequently asking me anything. He may have
20 sent me some emails asking me some specific
21 information, but it was, again, very limited due
22 diligence.

23 BY MR. LICHTMAN:

24 Q To be sure, do you view Boden as your
25 co-conspirator?

1 A Do I view -- yes, absolutely I do.

2 Q And you spoke to Boden frequently during
3 the course of the time that he worked with you at
4 RRA, right?

5 A Every day.

6 Q Okay. At least once a day, if not a
7 running dialogue, would be that a fair statement?

8 A Yes.

9 Q You used the term "verifier" a few minutes
10 ago with respect to Boden. What did you mean by
11 that?

12 A Szafranski was the third-party verifier,
13 the person who was supposed to be completely
14 independent coming in and verifying the existence of
15 the plaintiff, existence of the defendant, actual
16 signatures on documents, account balances and wires
17 in and out.

18 Q In connection with the sub-Ponzi, do you
19 know what Boden's role was as a verifier, if any?

20 MR. HOUSTON: Objection.

21 A Boden was, to my knowledge, the main,
22 quote, unquote, third-party verifier for all the
23 Boden/Pearson materials, which never made any sense
24 to me.

25 Q Tell me why that didn't make sense to you.

1 A Because he's not independent. He was not
2 an independent third-party verifier. He was the guy
3 selling the deals. He sold the deals.

4 It would be like me selling the deal to
5 Mr. Damson; and then, when Damson wanted to know if
6 the deal was real, I'm the one who looked and told
7 him it was real.

8 Q Indeed, isn't it correct that Boden knew
9 -- that Boden had access to the TD Bank accounts?

10 A The real TD Bank accounts?

11 Q The real TD Bank accounts.

12 MR. HOUSTON: Objection.

13 A He didn't have access to online. He had
14 access to the statements from Irene.

15 BY MR. LICHTMAN:

16 Q Yes. So he would have had access to
17 understand what dollars were in each account at any
18 point in time, correct?

19 A He needed to have access to that to help
20 me with all the other businesses we were doing. He
21 needed to know what real money was there.

22 Q As an example, when Bova needed money
23 regularly in the course of its operations, he had to
24 know where to get the money to help fund the Bova
25 operations, right?

1 A Sure. And you'll see lots of
2 correspondence with me copied directly between me,
3 him and Irene.

4 Q And Boden had access and knew of the trust
5 account defalcations, correct?

6 MR. HOUSTON: Objection.

7 A Yes. You could see it.

8 BY MR. LICHTMAN:

9 Q When you say "you could see it," what did
10 you mean?

11 A Well, you see all these accounts with no
12 money in them; and then, all of a sudden, you see
13 money go from one trust account, flying into the
14 other one, and then flying right out to an investor.

15 Q Let me rephrase that last question.

16 To the best of your knowledge, what did
17 David Boden know about the trust accounts and the
18 money within them?

19 A He knew that we had accounts that were
20 supposed to have large sums in them that had nothing
21 in them, that were then -- upon the need to fund a
22 Ponzi payment, that suddenly money would be moved
23 from one trust account into that specific,
24 supposedly segregated trust account and then right
25 out to the investor.

1 Q And how do you know he knew that?

2 A Because he actually had to do that himself
3 with Irene. He was the one who handled those
4 transactions as time went on.

5 Q Okay. And within the description that you
6 just gave in your last answers, then, also tell me
7 what you know that he knew respecting the flow of
8 money in and out of TD Bank accounts?

9 MR. HOUSTON: Objection.

10 MR. LICHTMAN: Basis?

11 MR. HOUSTON: Hearsay.

12 A To the best of my knowledge, he could see
13 the sums coming in and out.

14 BY MR. LICHTMAN:

15 Q How do you know?

16 A Because he would talk to Irene about it.

17 Q How do you know?

18 A Because Irene told me. He told me. I was
19 there when they talked, and I was copied on a lot of
20 emails.

21 Q So Boden told you this, then?

22 A Boden told me. Irene told me, and you can
23 see it from the email traffic.

24 Q Okay. You have already described Boden's
25 use of the fake website, correct?

1 MR. HOUSTON: Objection.

2 A Yes.

3 BY MR. LICHTMAN:

4 A Boden told you that he used the fake
5 website, and you observed him using the fake
6 website, correct?

7 MR. HOUSTON: Objection.

8 A Yes.

9 BY MR. LICHTMAN:

10 Q Okay. Tell me your knowledge as to how --
11 I think you have covered it, but just so the record
12 is clear, how do you know that Boden knew there was
13 no real plaintiffs?

14 MR. HOUSTON: Objection.

15 A He didn't see any. He never talked to
16 anyone. There were no conflict searches. There
17 were no files. There were no people. There was
18 nobody to sign anything.

19 BY MR. LICHTMAN:

20 Q To be sure, you used the attorney-client
21 privilege with respect to all business inside the
22 office attached to Boden, didn't you?

23 A Yes.

24 Q Okay. So you indicated, with respect to
25 Mr. Pearson, that you believed that when the

1 sub-Ponzi started, he thought that the settlements
2 were real?

3 MR. HOUSTON: Objection.

4 BY MR. LICHTMAN:

5 Q Is that what you said?

6 A When the sub-Ponzi started -- you're
7 asking me about Pearson?

8 Q Pearson.

9 A Pearson. To the best of my knowledge,
10 Pearson thought they were real.

11 Q Is there a point in time that that
12 changed?

13 MR. HOUSTON: Objection.

14 MR. LICHTMAN: What is the basis?

15 MR. HOUSTON: Could be from hearsay. If
16 he's going to testify that it was from
17 conversations, it's hearsay.

18 MR. LICHTMAN: Okay.

19 MR. HOUSTON: And I'm still not clear what
20 "sub-Ponzi" means.

21 BY MR. LICHTMAN:

22 Q Well, just to make it crystal clear,
23 Scott, Mr. Rothstein, please, what is your
24 understanding of what a "sub-Ponzi" means?

25 A The sub-Ponzi was, as David Boden and

1 Richard Pearson did more deals with us, eventually
2 they broke off from me. They were bringing in their
3 own investors; I was not involved, to any great
4 extent, in doing the presentation to these
5 investors. They picked it. They papered it. They
6 closed it. It was running completely separate.

7 My involvement was to give them the
8 original numbers: The deal is, 800, 200, four
9 months; 700, 300, six months, whatever it might be.

10 Other than that, they would -- everything
11 else, ultimately, was handled by them.

12 They got to a point where they used Deb
13 separately for the papering and for the signatures.

14 That's what I mean by "sub-Ponzi."

15 Q Did --

16 A And they even added things to it that
17 weren't part of my original scheme, so...

18 Q Did they ask your permission to engage in
19 those transactions?

20 A The additional things they did?

21 Q No, no, no, just any of the sub-Ponzi
22 transactions, did they say, we would like to do
23 these? How did that come about?

24 A They just started doing them. They kept
25 asking me for deals, and I would send them. Any

1 source of money was good to me.

2 Q Indeed, they were most active in the time
3 frame of starting around late April of 2009, all the
4 way through the end of when the entire fraud was
5 exploding in the country; is that right?

6 MR. HOUSTON: Objection.

7 A To the best of my recollection, yes.

8 BY MR. LICHTMAN:

9 Q And it was in April that you had the issue
10 with the funds arise that you had an even more
11 critical need to bring in cash; is that correct?

12 MR. HOUSTON: Objection.

13 A Correct.

14 BY MR. LICHTMAN:

15 Q So the extent that the sub-Ponzi went in
16 business, that was a good thing for you because it
17 enabled you to keep cash flow coming in that you
18 were able to use for the purposes of the Ponzi,
19 right?

20 A Correct.

21 MR. HOUSTON: Objection.

22 BY MR. LICHTMAN:

23 Q Just to be clear, so I don't have a
24 problem with the record, describe for me, if you
25 would, the relationship, in time, of how the

1 sub-Ponzi impacted on your conducting the Ponzi
2 scheme.

3 MR. HOUSTON: Objection.

4 A It provided a sizeable amount of
5 additional funds that I utilized to pay old
6 investors. It enabled me to keep the Ponzi scheme
7 alive, especially while we were going and seeking
8 new sources of much more significant funding.

9 BY MR. LICHTMAN:

10 Q Was there a point in time that you came to
11 believe that Mr. Pearson knew that the settlement
12 deals that he was selling in the sub-Ponzi were not
13 legitimate?

14 A Yes.

15 MR. HOUSTON: Objection.

16 MR. LICHTMAN: What is the basis?

17 A There are a lot of --

18 MR. LICHTMAN: Hold on.

19 What is the basis of the objection?

20 MR. HOUSTON: You're leading this witness.

21 You're giving speeches, you're giving
22 arguments, and then you're asking him to say
23 yes. That's your -- he's your witness.

24 MR. LICHTMAN: I asked him if there were
25 facts that he knew of about that.

1 MR. HOUSTON: The objection stands.

2 BY MR. LICHTMAN:

3 Q Okay.

4 A Yes.

5 Q What facts do you know of that existed to
6 establish that Pearson came to learn that the
7 settlements he was selling as the sub-Ponzi were not
8 legitimate transactions?

9 MR. HOUSTON: Objection.

10 A Several things in no particular order.

11 Boden told me that he told him.

12 He would regularly ask me where the
13 plaintiffs and defendants were. I would say, talk
14 to Boden.

15 There were no plaintiffs and defendants
16 coming in and out of our offices, and Pearson was in
17 our offices frequently.

18 There came a point in time when he wanted
19 to see a plaintiff sign documents.

20 Q "He" being Pearson?

21 A Pearson.

22 Q What did you say?

23 A I said, that's impossible, talk to Boden.

24 Q Do you remember which transaction that
25 was?

1 A He asked multiple times. It wasn't just
2 one time.

3 He asked for copies of documentation that
4 we could not provide him, wire documents and the
5 like, more detailed stuff.

6 He wanted to have access to online stuff,
7 since he was providing us with a lot of investors.
8 I would not give it to him.

9 And he was working so closely with Boden,
10 that's what led me to believe that he was involved
11 in all of this. There may be more stuff. I would
12 have to really sit and go through all the emails.

13 Q Is there a point in time that you can
14 focus on that, in your mind, related to the issue of
15 Pearson knowing the settlements were false?

16 A Just prior to a large influx of deals with
17 the Argentinean guys, okay, he asked me about them
18 doing due diligence.

19 Q "He" being who?

20 A Pearson. We were in my office, and --

21 Q What did he ask you, specifically?

22 A He asked --

23 MR. HOUSTON: Objection.

24 A He said that these guys may want to do
25 some significant due diligence, and he wanted to

1 know how to handle it.

2 I said, listen, I'll talk to them briefly.

3 I said, but you have got to do this with Boden. And

4 I made a comment to him, I said: Rich, you know

5 what's going on. Do the best you can with what you

6 can. Don't put yourself too far out there, okay,

7 because a lot of this stuff you're asking for, we

8 can't provide. Talk to Boden.

9 I pushed almost all of it off on Boden.

10 It was their deal. I tried to stay

11 removed; and if you look at the email traffic, other

12 than trying to push them along to close deals when I

13 needed cash, I was uninvolved -- a lot of emails

14 trying to push them, trying to twist them to get

15 them to fund, other than that, I tried to stay away

16 from it.

17 Q Why were you uninvolved, because,

18 typically, what I've come to learn over listening to

19 you over the last eight days is you like to be

20 involved and you like to make sure that you handle

21 things yourself, manipulate it to your liking.

22 MR. HOUSTON: Objection.

23 A Boden had proved himself an excellent

24 confidante. He was running this without a hitch.

25 Other than sometimes slow funding, he was running it

1 without a hitch. People weren't asking a lot of
2 questions.

3 As a matter of fact, there were times that
4 he appeared, to me, to be doing a better job than I
5 was because he wasn't having near the number of
6 due-diligence hiccups that I was having with my
7 feeder funds.

8 BY MR. LICHTMAN:

9 Q So --

10 A He and Pearson ran a very smooth
11 operation.

12 Q Okay. Is what you're suggesting that you
13 felt comfortable with what they were doing, in terms
14 of how they were operating their sub Ponzi?

15 MR. HOUSTON: Objection.

16 BY MR. LICHTMAN:

17 Q How did you feel about them operating the
18 sub-Ponzi?

19 MR. HOUSTON: Same objection.

20 A I felt very comfortable. I mean, look, if
21 I didn't feel comfortable, I would not have them
22 doing this. Okay.

23 MR. LICHTMAN: I assume you're doing a
24 cross-examination?

25 MR. HOUSTON: No.

1 MR. FERGUSON: I am.

2 MR. HOUSTON: He is. I am doing the
3 objections, evidentiary objections.

4 MR. LICHTMAN: I see how that works.

5 MR. HOUSTON: You saw it yesterday, too.

6 A He -- he -- I forget what I was saying.

7 Oh, now I remember.

8 He -- them, Boden and Pearson, were doing
9 an excellent job. I didn't need to be involved.

10 You have got to understand, this is --
11 this was an extremely complicated scheme. Okay. My
12 involvement with them, compared to what I normally
13 had to do to sell one of these deals, was minuscule.
14 I barely had to get involved on any of the selling,
15 and I was minimally involved in due diligence.

16 There is no way on God's green earth that
17 Pearson didn't know what was going on. It's not
18 possible. Boden couldn't have done this by himself.
19 He was handling all those deals. The mechanics call
20 for levels of knowledge that must have existed for
21 these people to get sold. All you have to do is
22 look at the traffic.

23 The problem that you are going to have
24 with questioning me, Mr. Lichtman, just so you're
25 clear, they had their own Ponzi scheme going on. I

1 just took the cash. I wrote the deal out, the
2 terms, gave it to them, they fund it.

3 But they had no access, other than through
4 me, to due-diligence material, unless they were
5 creating it. So they had to have been lying to all
6 these people because there was nothing real to show
7 them.

8 There were instances where investors,
9 innocent investors are saying that they met with
10 plaintiffs. They didn't meet with plaintiffs
11 through me, so they had to have been by -- if -- by
12 powers of deduction, it had to have been through
13 Boden and Pearson. That's why I was comfortable.
14 That's how I knew.

15 MR. HOUSTON: Motion to strike,
16 unresponsive.

17 BY MR. LICHTMAN:

18 Q Are you familiar with how Pearson and
19 Boden made money on the sub-Ponzi?

20 A They --

21 MR. HOUSTON: Objection.

22 A I am.

23 MR. LICHTMAN: What's the objection?

24 MR. HOUSTON: Hearsay.

25 A They had --

1 BY MR. LICHTMAN:

2 Q Are you personally familiar as to how they
3 made money on the sub-Ponzi?

4 A Yes.

5 MR. HOUSTON: Same objection.

6 BY MR. LICHTMAN:

7 Q And tell me what the basis of your
8 knowledge is.

9 A Email traffic and speaking to Mr. Boden
10 and to Mr. Person.

11 Q And what is it that you learned?

12 MR. HOUSTON: Same objection.

13 A Pearson was charging a finder's fee, some
14 sort of commission structure; and then they created
15 this whole big lie about some plaintiffs finder's
16 fee thing where the plaintiff was agreeing to pay
17 them a finder's fee -- of course, there is no real
18 plaintiff, so I don't know how they're agreeing to
19 that.

20 And on top of that, you have them creating
21 all these false letters saying the plaintiff agreed
22 to this finder's fee.

23 And what they were really doing was, if I
24 gave them a deal, for example, that was \$700,000
25 fund, \$300,000 ROI, over a specific period of

1 months, when they sold the deal to their investor,
2 they would bump it, for example, for \$800,000 fund,
3 300,000 ROI. The 100 additional they would take.

4 BY MR. LICHTMAN:

5 Q Okay. And to be sure, you learned that
6 from Mr. Pearson; is that what your testimony was?

7 MR. HOUSTON: Objection.

8 A Mr. Pearson and Mr. Boden.

9 And I actually discovered it -- there was
10 email traffic. There was an email where Rich was
11 asking me for certain amount of money, and then told
12 me that he needed a certain amount of it for Boden.
13 And I went and asked Boden what the heck this money
14 was for.

15 BY MR. LICHTMAN:

16 Q Because of the time, I'm going to kind of
17 go through some documents and not introduce them all
18 in.

19 But I have an email from Scott to -- from
20 you, excuse me, to Pearson, dated April 4th, 2009;
21 and it talks about Pearson reviewing deals, advising
22 as to funding schedules.

23 And then it says, let's meet on Monday to
24 discuss how best to handle. At that time you can
25 have David verify our incoming wires for you.

1 Do you know what that -- what you meant
2 when you wrote to Mr. Pearson that David would
3 verify incoming wires to you?

4 MR. HOUSTON: Objection.

5 A David was going to tell him the money was
6 there.

7 BY MR. LICHTMAN:

8 Q And what was the source of the money
9 supposed to be, putative defendants?

10 A Yes.

11 MR. HOUSTON: Objection.

12 BY MR. LICHTMAN:

13 Q And what putative defendants were there?

14 MR. HOUSTON: Objection.

15 A None.

16 BY MR. LICHTMAN:

17 Q And what payments were there?

18 A None.

19 MR. HOUSTON: Objection.

20 MR. LICHTMAN: If you would like, you can
21 have a standing objection to every question in
22 the deposition.

23 MR. HOUSTON: I prefer to make them.

24 MR. LICHTMAN: Okay.

25 MR. HOUSTON: I'm making them very simply

1 and short. If you want to know the basis, I'll
2 be glad to tell you.

3 BY MR. LICHTMAN:

4 Q Were there payments coming in from
5 defendants on any of these cases?

6 A No.

7 MR. HOUSTON: Objection.

8 BY MR. LICHTMAN:

9 Q There's an email that references, quote,
10 "G deals." What were "G deals"?

11 A "G deals" were George Levin deals.

12 Q And then you had deals that you labeled
13 "RL deals." What were those?

14 A RL Pearson deals.

15 Q There was a point in time that you sent to
16 Mr. Pearson a private placement memorandum from
17 Banyan that had been all marked up; do you remember
18 that?

19 A I do.

20 Q What was the purpose of you doing that?

21 A They were going to do their own PPM.
22 "They" meaning Boden and Pearson.

23 Q And why did you send to them a version
24 that was used by Levin or --

25 A So they --

1 Q -- Preve, excuse me?

2 A So they could expedite the process.

3 Q Did Levin and/or Preve know that you were
4 sending that PPM to Pearson?

5 A I don't know one way or the other.

6 MR. LICHTMAN: I will mark as Exhibit 1 --

7 MR. HOUSTON: Chuck, you didn't provide me
8 any exhibits for this. Do you have a copy for
9 me to look at?

10 MR. LICHTMAN: Actually, we did. We
11 emailed to you guys all the exhibits that you
12 had.

13 MR. HOUSTON: I didn't get them, so if you
14 do you have a copy, or I can just look over
15 your shoulder? I got --

16 MR. LICHTMAN: You waited until this
17 moment to say that you didn't get an email that
18 you had?

19 MR. HOUSTON: This is the first time you
20 have introduced exhibits. I'm just asking to
21 look over your shoulder. Is that unreasonable?

22 MR. LICHTMAN: Well, I have a work product
23 on it. I'll show you this exhibit first.

24 MR. HOUSTON: Thank you.

25 MR. LICHTMAN: And the record should

1 reflect that we have an email trail that shows
2 that we sent these exhibits.

3 MR. HOUSTON: Thank you.

4 (Thereupon, the document was
5 marked as Trustee's Exhibit No. 1 for
6 Identification.)

7 BY MR. LICHTMAN:

8 Q I showing you what's been marked as
9 Exhibit 1. It's from you to Pearson with a copy to
10 Boden, dated April 14th, 2009; subject: "G 401."

11 Do you see that?

12 A I do.

13 Q The first sentence is: This is a deal
14 that is pending funding.

15 Do you know what you meant by that?

16 A I was telling them it was a deal I had
17 sent to Levin that was pending funding that they
18 could have.

19 Q The second line says, please redact
20 whatever you think is necessary for our protection.

21 What did you mean by that?

22 A To the best of my recollection, once I
23 realized that Pearson was involved, I was sending
24 unredacted deals, which you have to take a look at
25 the email traffic to be certain; which is one of the

1 ways I knew he had to have known what was going on.
2 Because you see the plaintiffs' names and you see
3 the defendants' names, it doesn't take a rocket
4 scientist to figure out there is no real people.

5 Q Well, how is that? If you see a name on a
6 document, how is someone supposed to understand that
7 there are no real people involved?

8 A Run the name; they don't exist. The
9 defendant, they don't exist. There is no real
10 connection between the people.

11 Q Were you directing -- you say, please
12 redact. Was that a comment to Pearson or was that a
13 comment to Boden?

14 MR. HOUSTON: Objection.

15 A It was to both of them.

16 BY MR. LICHTMAN:

17 Q Okay.

18 A I wanted them -- they were running their
19 own deals. I wanted them to take off whatever they
20 needed to take off to protect us, don't leave on
21 stuff that is going to hurt us.

22 Q To the best of your recollection, did
23 either party verify the existence of the plaintiff
24 or defendant? Attempt to?

25 A To my knowledge, no.

1 Q Okay. I am showing you what's being
2 marked as Exhibit 2. It's an email from you to
3 Boden and Pearson. It talks about the questions for
4 New York.

5 (Thereupon, the document was
6 marked as Trustee's Exhibit No. 2 for
7 Identification.)

8 MR. HOUSTON: What is the date of that?

9 MR. LICHTMAN: That's April 17, 2009.

10 BY MR. LICHTMAN:

11 Q There's a sentence that says, these are
12 now ready to go to New York. On the second page is
13 a series of questions and answers, apparently.

14 Are you familiar with this document?

15 MR. HOUSTON: Objection.

16 A I recall seeing it at some point in time.

17 BY MR. LICHTMAN:

18 Q Take a look at the second page.

19 A Okay.

20 Q Do you remember that page?

21 A I remember seeing it.

22 MR. HOUSTON: Objection.

23 BY MR. LICHTMAN:

24 Q Do you know who drafted that?

25 A Mr. Boden and Mr. Pearson.

1 Q Did Mr. Pearson ask you if he could ever
2 sit with a plaintiff?

3 A He did.

4 Q And what did you tell him?

5 MR. HOUSTON: Objection.

6 A No.

7 BY MR. LICHTMAN:

8 Q Did you -- what did he say when you said
9 no?

10 MR. HOUSTON: Objection.

11 A Why.

12 BY MR. LICHTMAN:

13 Q And then what did you say?

14 MR. HOUSTON: Objection.

15 A Talk to Boden.

16 BY MR. LICHTMAN:

17 Q And that would be the conversation that
18 you referenced earlier?

19 A Yes.

20 Q Did he ever ask to see a hard file of any
21 of these cases?

22 MR. HOUSTON: Objection.

23 A Yes.

24 BY MR. LICHTMAN:

25 Q And what did you say?

1 A No.

2 MR. HOUSTON: Objection.

3 BY MR. LICHTMAN:

4 Q And what did you say to him after that?

5 MR. HOUSTON: Objection.

6 A Talk to Boden.

7 BY MR. LICHTMAN:

8 Q Okay. Do you know if -- did Pearson talk
9 to you about the questions that are located on page
10 two of this exhibit?

11 MR. HOUSTON: Objection.

12 A No. I remember talking to David about it.
13 I may have actually had some input into some of
14 these answers; but, ultimately, it was compiled by
15 and completed by Mr. Boden.

16 BY MR. LICHTMAN:

17 Q Did you say anything to Mr. Pearson about
18 the answers on this page?

19 MR. HOUSTON: Objection.

20 MR. LICHTMAN: What is that objection?

21 MR. HOUSTON: Hearsay.

22 MR. LICHTMAN: What did he say to him.

23 Okay.

24 A Not that I recall one way or the other.

25

1 BY MR. LICHTMAN:

2 Q All right. I have a document that is --
3 is authored by a Nabil Rhazi; do you know who he is?

4 A Wait a second. I don't remember whether
5 it was right at this time, but at some point in time
6 I told Pearson -- I don't remember whether it was
7 this script or another script. We were downstairs
8 at Bova. We were both a little tipsy, but I was
9 furious because I had just heard through Boden that
10 Pearson had represented to investors that we had
11 some big four or six, something like that,
12 accounting firm doing audits.

13 And I told Pearson directly, stick to the
14 script, don't -- you don't need that to sell this
15 product, don't do that because we have no way of
16 substantiating it.

17 MR. HOUSTON: Objection and move to
18 strike, nonresponsive.

19 BY MR. LICHTMAN:

20 Q When you say "stay to the script," and the
21 answer that you just gave, it seems as if your
22 memory was jogged. Does that pertain to the second
23 page of Exhibit 2?

24 MR. HOUSTON: Objection.

25 A Yes. I don't know if it is specifically

1 this page, but it did jog my memory as to the fact
2 that -- what would have been responsive to a number
3 of the questions you had asked me previously is what
4 I just stated, and that is the conversation that I
5 had with Mr. Pearson about sticking to the script
6 and to not exaggerate what was already exaggerated.

7 Q Well, this email says, ready to go to New
8 York. What was New York?

9 MR. HOUSTON: Objection.

10 A There were a couple of different funding
11 sources they were looking at in New York. There was
12 something through Merrill Lynch, some guy named Paul
13 Smith, I think.

14 Again, I don't specifically recall. It
15 was their own little Ponzi scheme, sub-Ponzi. I
16 tried to stay uninvolved, except to guide and to
17 assist, as need be, as little as possible.

18 BY MR. LICHTMAN:

19 Q What was your understanding as to what
20 these questions meant, then? Was that the script?

21 MR. HOUSTON: Objection.

22 A They're due diligence questions that are
23 being asked by an investor.

24 BY MR. LICHTMAN:

25 Q Are those questions that you typically

1 encountered?

2 A Yes.

3 Q And with respect to the answers, what is
4 the relationship of the answers that are typed here,
5 to the questions?

6 MR. HOUSTON: Objection.

7 A They're the same answers we tried to give
8 consistently to all the investors.

9 BY MR. LICHTMAN:

10 Q Including outside the sub-Ponzi, correct?

11 A Sure. From -- I'm meaning to my prior
12 groups of investors.

13 Q Is there anything that you can see, for
14 instance, in the first question, the answer to the
15 first question, that is true or untrue?

16 MR. HOUSTON: Objection.

17 BY MR. LICHTMAN:

18 Q Strike that.

19 Is there anything that you can see in the
20 answer to the first question there, "who negotiates
21 the purchase discount," that is inaccurate?

22 MR. HOUSTON: Objection.

23 A The whole thing is inaccurate. There's
24 not a plaintiff.

25

1 BY MR. LICHTMAN:

2 Q And the -- let's jump down to the third
3 question: "Who controls the settlement escrow
4 account?"

5 MR. HOUSTON: Objection.

6 MR. LICHTMAN: And what would that
7 objection be?

8 MR. HOUSTON: Chuck, this entire email is
9 hearsay. I am objecting to the entire email.
10 Anything you ask from that email is hearsay.

11 MR. LICHTMAN: Then I am taking a standing
12 objection on hearsay.

13 MR. HOUSTON: On this email, I'll be glad
14 to do that; but on everything else, I'll assert
15 them separately.

16 BY MR. LICHTMAN:

17 Q As to this question here, "who controls
18 the settlement escrow account," the answer, you see
19 that?

20 A Yes.

21 Q Do you know whether or not that's true or
22 false?

23 A It can't be true. There was no plaintiff.
24 There was no plaintiff trust account. We commingled
25 everything.

1 Q Boden knew that, right?

2 A Yes.

3 Q Boden, to the best of your recollection,
4 drafted this, right?

5 A To the best of my recollection, yes. I
6 added information or gave them information, but he
7 drafted the document.

8 Q Okay. Okay. Keep going.

9 I was asking you about a Nabil Rhazi; do
10 you know who he is?

11 MR. LICHTMAN: For the record, it's Nabil
12 N-A-B-I-L, last name is R-H-A-Z-I.

13 A He was one of Pearson's salespeople.

14 BY MR. LICHTMAN:

15 Q Did you ever work with -- when you say
16 "salespeople," salespeople doing what, to the best
17 of your knowledge?

18 A Selling Ponzi deals.

19 Q How do you know that?

20 A I watched him do it.

21 Q Who did you see him do it with?

22 A I don't recall who the investors were.

23 They asked me to come down once to Pearson's
24 office -- a couple of times, to answer a couple of
25 quick questions, do a meet-and-greet; and Nabil

1 Rhazi was there pushing the settlement.

2 Q And to the best of your recollection, is
3 there any tie to Exhibit 2 and to what you observed
4 when you went and saw the potential sale to
5 investors?

6 MR. HOUSTON: Objection.

7 A I don't recall one way or the other.

8 BY MR. LICHTMAN:

9 Q How about in terms of the questions and
10 answers?

11 MR. HOUSTON: Objection.

12 A It was always the same thing over and over
13 again, Mr. Lichtman, so it's not jogging my memory.
14 That was consistent throughout my Ponzi scheme and
15 the sub-Ponzi, with the additions that David and
16 Mr. Pearson kept adding to the thing.

17 BY MR. LICHTMAN:

18 Q Do you know anything about, quote, a gold
19 guy?

20 A A what?

21 Q A gold, capital "G," Gold?

22 A It's not ringing a bell for me.

23 Q All right. Are you aware that there were
24 two accounts opened up at TD Bank regarding Pearson?

25 A Say that again.

1 Q That there were two accounts opened up at
2 TD Bank regarding the Pearson transactions?

3 A I remember accounts. I don't remember how
4 many that we opened for Pearson transactions.

5 MR. LICHTMAN: I have an email,
6 April 29th, 2009. I'll mark this as Exhibit 3.

7 (Thereupon, the document was
8 marked as Trustee's Exhibit No. 3 for
9 Identification.)

10 BY MR. LICHTMAN:

11 Q Showing you an email dated April 29th,
12 2009, it's from you to Bill Brock at the top and
13 Irene Stay regarding new accounts needed.

14 Do you see that?

15 A I do.

16 Q If you go to the second page, there's a
17 notation. This is on the Bill Brock portion of the
18 email. It says, please open the following trust
19 accounts.

20 It says Richard Pearson signors will be
21 Scott W. Rothstein, David J. Boden, checks to
22 require dual signatures.

23 Do you see that?

24 A I do.

25 Q Do you see underneath it, it says, RL

1 Pearson signors will be Scott W. Rothstein and
2 Stuart A. Rosenfeldt, checks to require dual
3 signatures?

4 A Yes.

5 Q Okay. Why were there different
6 signatories to the Pearson versus the RL Pearson
7 accounts?

8 MR. HOUSTON: Objection.

9 A I don't recall.

10 BY MR. LICHTMAN:

11 Q Do you know why Rosenfeldt would be on the
12 RL Pearson account at all?

13 MR. HOUSTON: Objection.

14 A I don't remember whether this is one of
15 the deals or was one of the deals where Rosenfeldt
16 actually came in and helped sell the investor. It
17 happened a few times.

18 The whole thing is a little mysterious to
19 me, because, remember, we did wires. This dual
20 signature thing is crazy because we weren't using
21 checks and we weren't using signatures, so it sounds
22 like just more of a scam.

23 Q Well, even if you were doing wires, you
24 would still need an account, wouldn't you?

25 A Oh, no, no, the accounts are real. I'm

1 just -- the whole "requires dual signature," that
2 sounds like something that was being told to
3 investors as a sales technique because we don't
4 require signatures.

5 Q Could anyone besides yourself or Scott or
6 Stuart execute wire transfers on the RL Pearson
7 account, to the best of your knowledge?

8 A Yes.

9 Q Who?

10 A Irene.

11 Q How do you know that?

12 A She did all the wire transfers.

13 Q So if there was an account that was in
14 RRA's name, she was authorized to execute wire
15 transfers on it, right?

16 A Yes.

17 Q Even if she wasn't a signatory?

18 A Yes.

19 Q Okay. So this doesn't refresh your
20 recollection at all as to why there were different
21 names on the accounts?

22 A It does not.

23 MR. LICHTMAN: Okay. Let me show you what
24 is next marked as Exhibit 4.

25 (Thereupon, the document was

1 marked as Trustee's Exhibit No. 4 for
2 Identification.).

3 BY MR. LICHTMAN:

4 Q This is an email from you to Pearson and
5 Boden, dated April 24, 2009. Do you see that?

6 A I do.

7 Q Can you identify it?

8 A Yes. These are the deals I created.

9 Q When you say "created," what do you mean?

10 A Made them up.

11 Q So there were no -- obviously there were
12 no plaintiffs in these deals, right?

13 A No plaintiffs, no defendants, no money.

14 Q Did you --

15 A Other than stolen money.

16 Q How did you come up with the numbers?

17 A I made them up, based upon how much money
18 we needed in house.

19 Q Did you have any discussions, to the best
20 of your recollection, with Boden regarding how you
21 formulated this exhibit?

22 MR. HOUSTON: Objection.

23 A No.

24 BY MR. LICHTMAN:

25 Q Take a look at the second page.

1 A Got it.

2 Q You see a transaction there starting with
3 "fund 890K"?

4 A I do.

5 Q What did that mean?

6 A It means fund \$890,000.

7 Q What does the "ROI 400K" mean?

8 A That means that's their return on
9 investment, \$400,000.

10 Q And what was the time -- and when it says
11 "pay over five months," what does that mean?

12 A That means that they're going to get equal
13 payments over five months.

14 Q In terms of how you operated the Ponzi,
15 what was the relevance to putting out into the
16 marketplace in a deal on April 24th that you wanted
17 to fund under those terms?

18 A It reflected amounts of money that I
19 needed at the time.

20 We were starved for cash at this time, and
21 I put as many deals out as I possibly could hoping
22 they would grab any of them.

23 Q Now, in terms of trying to sell these
24 deals, what was it that the investor was being told
25 in terms of, for instance, this deal: Fund 890,000

1 ROI 400K, paid over five months.

2 MR. HOUSTON: Objection.

3 A Boden and Pearson were selling it. I
4 wasn't involved in the sale.

5 BY MR. LICHTMAN:

6 Q Had you been selling it yourself to a
7 typical investor, what is it that the investor
8 themselves would have been told?

9 MR. HOUSTON: Objection.

10 A We would have come up with what we call
11 the "magic number," how much the total case was
12 selling for. We would have explained what type of
13 case it was.

14 As you can see, we made it up as we went
15 along. None of these say sexual harassment, whistle
16 blower, other employment. We kept it as vague so we
17 could create it as we went.

18 We would sell the entire deal. You're
19 talking about a fairly detailed process of
20 explaining this is how much money the plaintiff is
21 willing to take, that she is willing to take a
22 \$400,000 discount. Paid the money back from the
23 defendant. We had already funded the money into our
24 account over five months.

25 Q You understand I'm making a record now?

1 A I do.

2 Q Okay. So with respect to --

3 A I didn't think you had lost your mind.

4 Q I may have, but that's a different issue.

5 With respect to an investor, then, when an
6 investor was going to be getting into a deal, using
7 this one as an example, 809K, what does that tell
8 that you the investor had expected about that
9 figure, from your experience?

10 MR. HOUSTON: Objection.

11 A That the investor would have to wire
12 \$890,000 to us, to a specific account, usually 0923,
13 and that the investor could expect to get his or her
14 890K plus \$400,000 out to them over five months?

15 BY MR. LICHTMAN:

16 Q And the investor would have affected this
17 transaction with an understanding there was a
18 legitimate plaintiff and putative defendant?

19 A Yes.

20 MR. HOUSTON: Objection.

21 A Unless it was a -- not an innocent
22 investor and all of -- to my recollection, all the
23 Pearson and Boden's investors were all innocent
24 investors -- they were told a whole myriad of lies
25 to get them to invest. That's how you got them to

1 invest, including the things that I told you a
2 moment ago when my memory was jogged, that Pearson
3 had created, I guess, to add impetus to the sale,
4 that we were being audited by big 4 accounting
5 firms.

6 He also told investors, by the way, that
7 he had 24-hour access to our online banking.

8 Q How do you know that?

9 A Because I saw it in an email traffic.

10 Q Did he talk to you about that, also?

11 MR. HOUSTON: Objection.

12 A I don't recall whether he did or David
13 did.

14 BY MR. LICHTMAN:

15 Q What was the shelf life when you had one
16 of these deals out there, you know, in terms of how
17 long you perceived it being good for?

18 MR. HOUSTON: Objection.

19 A Well, that's one of the interesting
20 things. It's one of the, quote, unquote, tells, as
21 to it whether this is real or not.

22 I sent an email out saying immediate
23 funding, and then some of these things get funded
24 months down the road. So from my perspective, the
25 deals were always open because I would take money

1 from any source.

2 MR. LICHTMAN: I'm going to show you
3 what's next marked as Exhibit 5.

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

7 BY MR. LICHTMAN:

8 Q Keep that one open to that page that I
9 showed you.

10 A Okay. Got it.

11 Q This is an email from Richard Pearson to
12 you and Boden dated April 30, 2009. Do you recall
13 this document?

14 MR. HOUSTON: Objection,
15 mischaracterization of the exhibit.

16 A Yes.

17 BY MR. LICHTMAN:

18 Q What is your understanding of what this
19 document is?

20 MR. HOUSTON: Objection.

21 A It's a calculation that either Pearson or
22 Boden did on percentages. It was sample deals that
23 he was -- they were putting together.

24 BY MR. LICHTMAN:

25 Q So these were not deals you were putting

1 together?

2 A No, sir.

3 Q Was it customary, when you put deals out
4 to -- whether it was Szafranski or anybody else,
5 that you would put percentages next to the offer.
6 You'll see like subsection one down at the bottom of
7 the page.

8 MR. HOUSTON: Objection.

9 BY MR. LICHTMAN:

10 Q It say 4M, seven months, 2.95 M,
11 36 percent?

12 A I never did that.

13 Q That wasn't part of your practice as you
14 affected the Ponzi scheme, right?

15 A These must be deals that were created by
16 Boden and Pearson sent to me. They were making
17 these up. This is not my deals. Unless you can
18 show me email traffic showing that this came to me,
19 it looks like they created it and sent it to me for
20 my approval.

21 Q The emails from Pearson to you and Boden,
22 do you notice that?

23 A Yes.

24 MR. LICHTMAN: Okay. Now I'm a going to
25 show you Exhibit 6.

1 (Thereupon, the document was
2 marked as Trustee's Exhibit No. 6 for
3 Identification.).

4 BY MR. LICHTMAN:

5 Q Exhibit 6 is from Boden to you with a copy
6 to Mr. Pearson, July 6, 2009. Do you see that?

7 A I do.

8 Q Okay. The top portion of the email says,
9 deal number five below was sold as follows: fund
10 990K, ROI 300K, fee 100K.

11 Do you see that?

12 A I do.

13 Q Now, if you look at page -- they're not
14 numbered, but it's the third page in.

15 A I'm there.

16 Q It says, fund 890K, ROI 400K.

17 Do you have any understanding what the
18 difference between numbers is that is at the top as
19 to how the deal was sold and the deal, as it was
20 initially portrayed on the April 24th memo that is
21 incorporated as deal five?

22 MR. HOUSTON: Objection.

23 A I do.

24 BY MR. LICHTMAN:

25 Q What is your understanding?

1 A This is the whole scheme that Boden and
2 Pearson came up with to steal additional money from
3 the innocent investors.

4 And this takes it to a completely new
5 level, by the way, because they not only were
6 bumping the funding, but they were reducing the
7 return on investment in these deals.

8 Q And how do you know that?

9 A Then they were instructing me how to paper
10 it, or instructing someone how to paper it; and it
11 looks like telling someone that there was going to
12 be a letter to Pearson giving him 110,000.

13 Q And how do you know that?

14 A Because this is the way that they wrote it
15 to me.

16 Q Did you have discussions with Boden about
17 this?

18 MR. HOUSTON: Objection.

19 A Early on, when they first started doing
20 it -- I don't remember if this is when they first
21 started doing it. Early on, I had a concern with
22 Boden. I sat down and talked to him and said, you
23 know you're taking an additional risk in doing
24 this -- when I realized what they were doing -- I
25 said, because you're changing the terms of the deal.

1 BY MR. LICHTMAN:

2 Q And why would that be additional risk?

3 A Because it created other red flags if
4 people were looking through paperwork.

5 You have got to remember something: It's
6 by even sending me this email -- not that we were
7 bashful about sending emails, but we tried to be
8 careful -- we're taking -- I'm sending him deals
9 that purportedly really exist; and then he's
10 changing the entire term of the deal.

11 Now, it's one thing -- take it step one --
12 he changes the funding amount. Okay. Well, someone
13 could make the argument: Well, he's just bumping it
14 so he could create a greater commission, you know.

15 But then he is reducing the amount of
16 money that is going to the plaintiff. Well, if it
17 was a real plaintiff, what plaintiff in their right
18 mind -- now the plaintiff is giving up their money,
19 too, when you know you don't have a plaintiff.

20 And the other question that I said, I
21 said, who is talking to this plaintiff to negotiate.

22 You'll see that there is email traffic
23 from Mr. Boden to various investors and the like,
24 where he actually says, stand by, I'm negotiating
25 terms with the plaintiff.

1 MR. HOUSTON: Objection, motion to strike.

2 BY MR. LICHTMAN:

3 Q Okay. So that -- oh, what did Mr. Boden
4 say to you in response?

5 MR. HOUSTON: Objection.

6 A That he's got it under control, and he
7 did. I mean, his deals -- Mr. Lichtman, his deals
8 and Pearson's deals went through nice and smooth.

9 BY MR. LICHTMAN:

10 Q Did you discuss this with Pearson, as
11 well?

12 MR. HOUSTON: Objection.

13 A The only conversations that I remember
14 having with Pearson was basically scolding him --

15 BY MR. LICHTMAN:

16 Q About this issue.

17 A Not this -- about this issue, no.

18 Q Okay. Did you discuss with Boden what it
19 meant on the third page in?

20 A No, that's not true. That is not
21 accurate.

22 There was a time when he was -- he started
23 changing the deals even more, and I said to him, I
24 said --

25 Q You said to who?

1 A To Pearson.

2 I have told him, why don't you just
3 increase your finder's fee instead of screwing
4 around with the deal terms; and they -- again, it
5 was basically, we've got it under control.

6 Q Is that what he said, as well? Pearson
7 said, we have it under control?

8 MR. HOUSTON: Objection.

9 A Not using those exact words, but we have
10 got it, we're good.

11 BY MR. LICHTMAN:

12 Q All right. It says on page three, letter
13 to RLP, 110K.

14 What did you understand that to mean?

15 MR. HOUSTON: Objection.

16 A That there would be a plaintiff's finder's
17 fee letter; but I wasn't creating those letters, so
18 I guess that's just the way they notated how much
19 Pearson would be getting.

20 BY MR. LICHTMAN:

21 Q How did you come to learn that?

22 MR. HOUSTON: Objection.

23 A I discovered it in an email. I hadn't
24 seen that letter. I ran across it accidentally.
25 First I ran across the email saying that I think

1 \$45,000 or some amount of money was going to Boden,
2 and I confronted Boden about it. Not that I cared,
3 I just wanted to know if he was getting additional
4 money from someplace. I kind of always had the
5 feeling he was.

6 And then, you have got to remember, if you
7 look at this, it's from David Boden to David Boden
8 and to Scott Rothstein. These are their deals that
9 they're papering. By July 6, 2009, they were doing
10 all their own paper with Deb.

11 Q You note that it also a copies
12 Mr. Pearson?

13 MR. HOUSTON: Objection.

14 A Yes.

15 So this letter to RLP is not something I'm
16 creating for him. It's something that they
17 completely came up with, that whole fake plaintiff
18 letter thing, and that they worked out with Deb. I
19 wasn't involved in that.

20 BY MR. LICHTMAN:

21 Q I want to make sure I understand what you
22 are telling me.

23 So if they are reducing the return on
24 investment, what they're basically saying is that
25 somehow they changed the terms of what the putative

1 plaintiff was going to take, correct?

2 A Yes, if you're assuming that the deal was
3 real --

4 Q Okay.

5 A -- that the plaintiff has agreed to give
6 up even more money.

7 Q Now, you have Exhibit 4 before you?

8 A I do.

9 Q Okay. Keep it back to where it was
10 folded.

11 A Yes, sir.

12 Q We looked at that deal before, fund
13 890,000?

14 A Yes, sir.

15 Q The return of 400,000?

16 A Yes, sir.

17 Q You see that the deal that is marked there
18 as allegedly existing is a deal on April 24th, 2009,
19 that that first deal of 890,000 and each of the next
20 three underneath it are the identical deals that
21 comprise deal five that was being sold in July 6th,
22 2009?

23 MR. HOUSTON: Objection.

24 A That's correct.

25 BY MR. LICHTMAN:

1 Q If these were real deals, in fact, then
2 they would have been opened around April 24th and
3 closed shortly thereafter, correct?

4 A Yes. They should have, actually, almost
5 been done being paid for.

6 Q Yet here you are in July 6th, 2009, and
7 Pearson and Boden are selling the identical deals
8 from two-and-a-half months earlier?

9 A Yes, but when you're running a fraudulent
10 investment scheme, "immediate" means whenever you
11 can get the money.

12 Q Did you have any discussions with Boden or
13 Pearson about the fact that they were selling the
14 same deals now that you had offered two-and-a-half
15 months earlier?

16 MR. HOUSTON: Objection.

17 A No. I did not. I couldn't have cared
18 less.

19 BY MR. LICHTMAN:

20 Q You acknowledge that they're the same
21 deals?

22 MR. HOUSTON: Objection.

23 A Yes, they are.

24 BY MR. LICHTMAN:

25 Q Now, keep that document open right to

1 where you have it.

2 A Okay.

3 Q One second.

4 Showing you Exhibit 7, it's an email from

5 Boden to Boden and yourself dated July 22, 2009.

6 That's at the top entry.

7 (Thereupon, the document was

8 marked as Trustee's Exhibit No. 7 for

9 Identification.).

10 A Yes.

11 BY MR. LICHTMAN:

12 Q There's some other emails that predate

13 that, as well.

14 A Okay.

15 Q Do you recall this document?

16 A Yes.

17 Q Okay. You'll see that at the top of the

18 email, it says it is deal five below.

19 You see that?

20 A I do.

21 Q You have Exhibit 4 in front of you?

22 A I do.

23 Q You still have that page open?

24 A I do.

25 Q Do you see that -- is that the same deal

1 five that was offered before?

2 MR. HOUSTON: Objection.

3 A Yes.

4 BY MR. LICHTMAN:

5 Q Okay. You see Exhibit 6, it talks about
6 deal five?

7 A Yes.

8 Q Those numbers are the same as between deal
9 four -- excuse me, document four -- Exhibit 4 and
10 Exhibit 6, right?

11 MR. HOUSTON: Objection.

12 A That's correct.

13 BY MR. LICHTMAN:

14 Q Now, you see in Exhibit 7, it says: Deal
15 was funded to 990,000.

16 A Correct.

17 MR. HOUSTON: Objection.

18 BY MR. LICHTMAN:

19 Q Is your understanding of what the 100,000
20 is there --

21 MR. HOUSTON: Objection.

22 BY MR. LICHTMAN:

23 Q -- the 100,000 difference?

24 A Money that Pearson and Boden were stealing
25 from the investment.

1 Q How do you know that?

2 A Because they tell the -- I'm preparing the
3 deal at 890.

4 If this was a real deal, they are then
5 lying to their investor and saying the deal needs to
6 be funded at 990.

7 At the same time, if this was a real
8 plaintiff, they would have contacted the plaintiff
9 and negotiated the plaintiff to give up money on the
10 other side on the ROI.

11 Q Of course, that couldn't happen because
12 there was no real plaintiff?

13 A That's correct.

14 Q Do you know who Marcelo is?

15 A I do.

16 Q Who is Marcelo?

17 A He was one of the Argentinean fellows that
18 they were doing business with.

19 Q So the same deal that you had offered up
20 on April 24th was then resold, again, pursuant to
21 Exhibit 6, on July 6, correct?

22 MR. HOUSTON: Objection.

23 A Yes.

24 BY MR. LICHTMAN:

25 Q And then it was resold a second time on

1 July 22nd as represented by Exhibit 7, correct?

2 MR. HOUSTON: Objection.

3 A I'd have to see the deal paperwork to make
4 certain; but, yes, that's what it certainly appears
5 to be.

6 BY MR. LICHTMAN:

7 Q Okay. You'll see that pages starting --
8 go to page four of Exhibit 7.

9 A Yes, sir.

10 Q That's a cut-and-paste or a copy of the
11 contents of Exhibit 4, correct?

12 A Yes.

13 MR. HOUSTON: Objection.

14 BY MR. LICHTMAN:

15 Q Including, if you go to the third to last
16 page --

17 A Yes, sir.

18 Q -- that's the same language that we showed
19 you before as to Exhibit 4, correct?

20 MR. HOUSTON: Objection.

21 A That's correct. It's exactly the same.

22 BY MR. LICHTMAN:

23 Q Okay. Put those away.

24 I'm going back in time a little bit now,
25 and I'm going to do this -- I got still a lot of

1 stuff I need to cover.

2 On May 6, 2009, you indicated to Boden
3 that you were -- in an email to him -- tired of
4 Rich's promises that never seem to happen, and you
5 say he's starting off just as the hedge-fund guys
6 ended: Leaving me in a very bad position with
7 client.

8 A Yes.

9 Q Do you have --

10 MR. HOUSTON: Objection.

11 BY MR. LICHTMAN:

12 Q Did you have issues with Richard Pearson
13 around May 6th?

14 A I remember having continuing issues with
15 Pearson.

16 He really loved the deals. He was making
17 a lot of money. He wanted to take deals, but he
18 would promise funding and then not deliver.

19 Q What did you mean when you wrote: He is
20 starting off just as the hedge-fund guys ended,
21 leaving me in a very bad position with clients?

22 MR. HOUSTON: Objection.

23 A That what the hedge funds did was they
24 kept telling me they were going to fund and then it
25 never funded.

1 The client thing is just nonsense because
2 there are no clients. That was the impetus I always
3 used with everybody.

4 BY MR. LICHTMAN:

5 Q When you say -- you also wrote: Let's
6 talk about the bank issue. I learned something late
7 night that gives me pause.

8 Do you know what you meant there?

9 MR. HOUSTON: Objection.

10 A I don't recall.

11 MR. LICHTMAN: You know, I'm just for the
12 sake of it, going to try to get as many of
13 these marked as exhibits and deal with the time
14 problem.

15 I'm going to mark this as Exhibit 8.

16 (Thereupon, the document was
17 marked as Trustee's Exhibit 8 for
18 Identification.).

19 MR. FERGUSON: Chuck, is that the email
20 you were just using, the July 6th email?

21 MR. LICHTMAN: Yeah.

22 MR. NURIK: If you want to mark the whole
23 thing as a composite and put it in front of
24 him...

25 MR. LICHTMAN: Pardon?

1 MR. NURIK: If you want to mark the whole
2 thing as a composite, he may be able to take a
3 look at it and speed it up for you.

4 BY MR. LICHTMAN:

5 Q Ask you to take a look at that last
6 sentence: Let's talk about this bank issue.

7 Does that refresh your recollection?

8 MR. HOUSTON: Objection.

9 A I would be guessing. I don't want to
10 guess, Mr. Lichtman.

11 BY MR. LICHTMAN:

12 Q Okay. Nor do I want you to.

13 A Got it.

14 Q Showing you Exhibit 9, it's an email from
15 you to Boden dated May 13th, 2009, and it
16 incorporates an email down below from Boden to you
17 and to himself.

18 (Thereupon, the document was
19 marked as Trustee's Exhibit No. 9 for
20 Identification.).

21 BY MR. LICHTMAN:

22 Q You see that bottom portion?

23 A I do.

24 Q It says: Here are the questions and my
25 answers.

1 I'd ask you to take a look at this
2 document, if you would.

3 A I remember this.

4 Q What is it you recall about the document?

5 MR. HOUSTON: Objection.

6 MR. LICHTMAN: Hearsay, I assume?

7 MR. HOUSTON: Obviously.

8 MR. LICHTMAN: All right.

9 A It's questions from investors that Boden
10 and Pearson were working with, Armoyan Verege and
11 Barry Ward.

12 I don't know if Barry was a lawyer
13 involved with Verege or what it was, because he was
14 involved with Verege.

15 Q If you would take a look at the fourth
16 page in --

17 A Yes, sir.

18 Q -- the dotted line across the top of it,
19 and then there's questions with answers.

20 A Yes.

21 Q Do you know who drafted that?

22 A It would have been either David or -- no,
23 it would have to be either David Pearson, Ward, or
24 Armoyan. It wasn't me.

25 Q Take a look at page three.

1 A It looks -- actually, I'm reading it.

2 It looks like David responding to someone
3 else's questions.

4 Q Take a look at page three.

5 A Yes, sir.

6 Q There's an email from Barry Ward. Do you
7 know who Barry Ward is?

8 A He was associated with Verege. I don't
9 remember whether he was an investment counsel or a
10 part of his investment or his lawyer, but he was
11 involved with him.

12 Q All right. As you take a look through
13 that portion, through the email, does that give you
14 any -- does that refresh your recollection?

15 A Yes, he was --

16 MR. HOUSTON: Objection.

17 A Yes. It's the guy who was assisting
18 Verege Armoyan with due diligence.

19 BY MR. LICHTMAN:

20 Q And who is Armoyan?

21 A Armoyan was a large investor that Pearson
22 brought to the table.

23 Q You had some issues with Armoyan, didn't
24 you, some problems with Armoyan?

25 A I did.

1 Q What were those problems that you had, if
2 you can recall?

3 A Out of all the people that Pearson brought
4 to the table, he was the most voracious with regard
5 to due diligence.

6 And, ultimately, Boden got me in a trick
7 box with him where I ended up having to provide this
8 guy with mortgages on properties I owned, all kinds
9 of stuff. I was starving for the funds for the
10 Ponzi scheme, so I was willing to give him anything
11 and everything to get the guy to fund.

12 Q Okay.

13 A It was always something else. I mean,
14 Boden was constantly drafting and redrafting
15 documents.

16 Q How did it come to pass, then, that you
17 agreed?

18 It was a mortgage on one of the properties
19 on Castilla Isle, wasn't it?

20 A I thought it was my empty property across
21 from Isla Bahia, from third. I think was the big
22 empty lot on the water. I could be mistaken.

23 Q How did it come to pass that he understood
24 that you had properties to possibly mortgage; do you
25 know?

1 A Boden told him, and then I confirmed it,
2 and they did all kinds of title searches.

3 Q What role did Pearson have in you
4 providing that mortgage, if any?

5 A Just asking me to do it.

6 Q And you did it because you needed to get
7 the money in?

8 A I needed the money.

9 Pearson was also telling me that he was
10 investing in this deal. So there would have been
11 additional capital, but I don't recall him investing
12 in it.

13 Q Do you recall if Pearson invested in any
14 of the deals.

15 A As I sit here today, I have no knowledge
16 of him ever actually putting a penny into the deals.

17 Q Did he tell you that he did?

18 A Yes.

19 MR. HOUSTON: Objection.

20 BY MR. LICHTMAN:

21 Q Did Boden tell you that Pearson had
22 invested?

23 MR. HOUSTON: Objection.

24 A I don't remember whether he told me he did
25 or didn't.

1 Pearson kept telling me he was going to
2 invest, that he was putting money in with other
3 investors; but, again, as I sit here today, I
4 haven't seen any proof of him investing one penny.

5 Q Did Boden ever invest in any of your
6 deals?

7 A To my knowledge, no, sir.

8 Q Did you ever ask him to?

9 A No. I -- I don't recall ever asking Boden
10 to invest.

11 Q Did he ever ask to?

12 A I don't recall him ever asking me to
13 invest.

14 MR. LICHTMAN: Showing you Exhibit 10 --
15 we're going to take a two-minute break so they
16 can switch court reporters.

17 (Thereupon, a recess was taken.)

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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 23rd day of December, 2011.

Michele L. Savoy, RPR
Notary Public - State of Florida
My Commission No. EE 113173
Expires August 6, 2015

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 deposition in stenotype; and that the foregoing pages, numbered from 1 to 106, inclusive, are a true and correct transcription of my shorthand notes of said deposition.

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 23rd day of December, 2011.

Michele L. Savoy, RPR
Notary Public - State of Florida
My Commission No. EE 113173
Expires August 6, 2015