

UNITED STATES BANKRUPTCY COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

IN RE:

ULRICH FELIX ANTON ENGLER;
and PRIVATE COMMERCIAL
OFFICE, INC.,

CASE NO. 9:08-BK-04360-
alp
Chapter 7 case
(Substantively Consolidated)

Debtors.

ROBERT E. TARDIF, as
Chapter 7 Trustee

Volume I of II

Plaintiff(s),

vs.

ADV. PROC. NO. 9:09-AP-1026-ALP

FIDELITY NATIONAL FINANCIAL, INC. ;
and FIDELITY NATIONAL TIMBER
RESOURCES, INC., f/k/a FIDELITY
NATIONAL RANCH PROPERTIES, INC.,

Defendant(s).

DEPOSITION OF DAVID B. DOUGLAS

DATE TAKEN: June 11, 2010

TIME: 9:47 a.m. to 3:30 p.m.

BEHALF OF: The Plaintiff(s)

PLACE TAKEN: Fort Myers Court Reporting
2231 First Street
Fort Myers, Florida

REPORTER: Rebecca L. Crane, RPR
Notary Public
State of Florida at Large

FORT MYERS COURT REPORTING
2231 First Street
Fort Myers, Florida 33901
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A P P E A R A N C E S

ON BEHALF OF THE PLAINTIFF(S):

ROBERT F. ELGIDELY, ESQUIRE
Genovese Joblove & Battista, P.A.
200 East Broward Boulevard, Suite 1110
Fort Lauderdale, FL 33301

ON BEHALF OF THE DEFENDANT(S):

STEVEN M. BERMAN, ESQUIRE
Shumaker, Loop & Kendrick, LLP
101 East Kennedy Boulevard, Suite 2800
Tampa, FL 33602
(Via Skype)

SETH TRAUB, ESQUIRE
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I N D E X

Examination		Page
Direct	By Mr. Elgidely	4
Cross	By Mr. Berman	204
Redirect	By Mr. Elgidely	243
Recross	By Mr. Berman	261

E X H I B I T S

No.		Page
PLAINTIFF'S:		
127	Letter - 04/30/10	4
128	E-Mail with Attachment	6
129	Schedule of Transfers	30
130	Corporate Records for PCO	92
131	Pages from Web Site	112
134	Business Loan Agreements	127
133	Check - 2/28/07	171
134	Promissory Note - 01/01/07	195
135	Collection of E-Mails	197
DEFENDANTS':		
112	Photocopy of Subpoena	206

(Plaintiff's original exhibits retained by Mr. Elgidely.)

1 Thereupon,

2 DAVID DOUGLAS,

3 a witness, having been first duly sworn, was examined and
4 testified as follows:

5 DIRECT EXAMINATION

6 BY MR. ELGIDELY:

7 Q Please state your name for the record.

8 A David Douglas.

9 Q Good morning, Mr. Douglas.

10 A Good morning.

11 Q As you know, my name is Robert Elgidely. I
12 represent the bankruptcy trustee, Robert Tardif in this
13 matter that you're here for today.

14 I would normally ask you, sir, if you've ever
15 had your deposition taken before, but since we were just
16 here on April 28th for your deposition, I won't ask you
17 that question.

18 Sir, I'm going to have the court reporter mark
19 this document as Trustee's 127.

20 (Thereupon, the document was marked for
21 identification as Trustee's Exhibit 127.)

22 BY MR. ELGIDELY:

23 Q I'm going to ask you if you recognize it.

24 A Yes, I do.

25 Q Mr. Douglas, Trustee's 127 purports to be a

1 letter on the Fort Myers Court Reporting letterhead,
2 dated April 30th, 2010, addressed to you concerning the
3 deposition that was conducted of you on April 28th.

4 Did you, in fact, receive this letter?

5 A Yes.

6 Q Did you review this letter after you received
7 it?

8 A Yes.

9 Q Okay. In this letter, it states that your
10 deposition transcript is complete and awaiting your
11 reading and signing.

12 Did you read that on or about April 30th, 2010?

13 A Yes.

14 Q Okay. And in the letter, it says if you have
15 not read and signed the deposition by May 30th, 2010, we
16 shall conclude that the reading and signing have been
17 waived by you.

18 Did you acknowledge that on or about
19 April 30th, 2010?

20 A Yes.

21 Q Okay. Sir, do you -- strike that.

22 When you testified on April 28th, was your
23 testimony truthful and correct to the best of your
24 knowledge and belief?

25 A Yes.

1 Q Do you stand by your testimony on April 28th as
2 transcribed by the court reporter?

3 A Yes.

4 Q Okay. Unfortunately, Mr. Douglas, we do have
5 to retake your deposition today due to a procedural issue
6 and other technicalities, and I'd ask that you bear with
7 me. Even though this is territory that we had covered
8 before, it is necessary for us to go through this process
9 again.

10 A Okay.

11 Q Thank you.

12 Mr. Douglas, you had previously indicated that
13 you will not be available for the hearing the court has
14 scheduled for June 17th because you will be outside of
15 the State of Florida on such date; is that correct?

16 A Yes.

17 Q Okay. And where will you be on June 17th?

18 A I will be in Victor, Idaho.

19 Q Okay. I'm going to have the court reporter
20 mark this document as Trustee's 128 and ask you if you
21 recognize it.

22 A Yes, I recognize it.

23 (Thereupon, the document was marked for
24 identification as Trustee's Exhibit 128.)

25

1 BY MR. ELGIDELY:

2 Q Okay. This document purports to be an e-mail
3 that you had sent to me attaching your flight itinerary
4 for June 16th, departing from Fort Myers and arriving in
5 Jackson, Wyoming, at 6:30 p.m. on the same day.

6 Did I accurately state what you had sent me?

7 A Yes.

8 Q Okay. And is this, in fact, the itinerary that
9 you're going to travel under on June 16th?

10 A Yes, it is.

11 Q Okay. Where is your primary place of
12 residence?

13 A My primary is 91 Southport Cove, Bonita
14 Springs, Florida.

15 Q Okay. And why are you traveling to Idaho on
16 June 16th?

17 A I have a second home there.

18 Q How long had you been planning the return to
19 Idaho on June 16th?

20 A Nine months ago.

21 Q And what, if any, efforts did you make to
22 reschedule your trip to Idaho in light of the June 17th
23 hearing?

24 A I looked at flights, but it was very expensive
25 to change my schedule.

1 Q Okay. Did you receive any offers, either from
2 the trustee or from the defendants, concerning payment of
3 expenses that would be incurred in changing your flight
4 and making hotel reservations and associated
5 accommodations to attend the June 17th hearing?

6 A Not directly, but Sean Moulton, my attorney in
7 Driggs, Idaho, had sent me an e-mail yesterday stating
8 that Fidelity may reimburse me for -- they're thinking
9 about reimbursing me for expenses if I was able to go to
10 the hearing on the 17th.

11 Q Okay. And is that something you had asked
12 Fidelity to do or is that something that Fidelity had
13 offered on their own?

14 MR. BERMAN: Objection. Relevance.

15 THE WITNESS: I had not asked for that. It's
16 just something I got from Sean Moulton.

17 BY MR. ELGIDELY:

18 Q And how did you reply to that offer?

19 A That it would be next to impossible to be able
20 to do that, because I'm traveling with my daughter and
21 two young grandkids.

22 Q Okay. So is it fair to say that you will be
23 unavailable for the hearing on June 17th because of your
24 travel to Idaho on June 16th?

25 A Yes.

1 Q Okay. Sir, you indicated, I believe, that your
2 primary place of residence is 91 Southport Cove, Bonita
3 Springs, Florida?

4 A Yes.

5 Q Okay. And you had indicated that there -- you
6 own another residence or a second home, correct?

7 A Yes.

8 Q Where is that second home located?

9 A That's located at 227 Sorensen Creek Drive,
10 Victor, Idaho.

11 Q Okay. How long have you owned the 91 Southport
12 Cove property?

13 A 11 years.

14 Q So from 1999 through 2010?

15 A Yes.

16 Q Okay. And how about the Sorensen Creek
17 property, how long have you owned that property?

18 A Approximately seven years.

19 Q So about 2004?

20 A Three.

21 Q 2003 to 2010?

22 A Yes.

23 Q Thank you.

24 What is your educational background, sir?

25 A High school and some college classes.

1 Q Where did you attend high school?

2 A Barrington High School.

3 Q Where is Barrington High School located?

4 A Barrington, Illinois.

5 Q What year did you graduate?

6 A 1972.

7 Q You indicated you had some college courses,
8 correct?

9 A Yes.

10 Q And where did you take those college courses?

11 A Harper College.

12 Q Where is Harper College located?

13 A Hoffman Estates, Illinois.

14 Q And what years did you attend Harper College?

15 A '73, '74 and '75.

16 Q What was the nature of the courses that you had
17 taken while attending Harper College?

18 A Computers, business management, various
19 business courses.

20 Q Did you receive any degrees from Harper
21 College?

22 A No.

23 Q Approximately how many business courses would
24 you say you've taken while you were at Harper College?

25 A Five.

1 Q Do you recall the names of those courses?

2 A I don't.

3 Q You said there was a business management course
4 that you had taken?

5 A Yes.

6 Q Was that just one course or several courses?

7 A Two courses.

8 Q Two courses?

9 A (Nodding head.)

10 Q Okay. What is your employment background
11 following your matriculation into Harper College?

12 A I worked for corporate headquarters at
13 ServiceMaster.

14 Q What was your nature of employment with
15 ServiceMaster?

16 A I trained new franchises that bought into a
17 ServiceMaster franchise.

18 Q What is ServiceMaster?

19 A ServiceMaster is a restoration company,
20 insurance restoration company that repairs claims after
21 fires and floods or any claim related to insurance.

22 Q And what years were you employed by
23 ServiceMaster?

24 A '75 until 1980.

25 Q What positions did you hold during your

1 employment with ServiceMaster?

2 A I'm trying to think now. Regional vice
3 president of franchise training.

4 Q That was the only title you held while you were
5 employed with ServiceMaster?

6 A Yes.

7 Q What was your region?

8 A The United States.

9 Q Was that your -- United States your exclusive
10 territory?

11 A No. There were three other people that worked
12 underneath me.

13 Q Okay. After you were employed with
14 ServiceMaster, where were you employed?

15 A I started my own company.

16 Q What was the name of that company?

17 A National Systems.

18 Q What was the nature of that company?

19 A Insurance restoration.

20 Q When you say you started your company, National
21 Systems, did you incorporate that as a business entity?

22 A Yes.

23 Q Okay. Where did you incorporate it?

24 A Illinois.

25 Q Okay. Was that in a corporation, an LLC or

1 some other form of entity?

2 A No, it was a corporation.

3 Q Okay. Who incorporated it for you?

4 A I would have to look at my records, but I -- I
5 do remember Ralph Hardy, attorney in Elgin.

6 Q Okay. Did you own a hundred percent of
7 National Systems or some percentage less than that?

8 A Hundred percent.

9 Q And do you remember what year it was that you
10 formed National Systems?

11 A 1980.

12 Q Okay. And you said that was basically the same
13 type of business as ServiceMaster, correct?

14 A Yes.

15 Q You didn't have a non-compete agreement with
16 ServiceMaster at the time?

17 A No.

18 Q How many employees did you have under your
19 employ at National Systems?

20 A During what time?

21 Q You know, at its height, how many employees did
22 you have?

23 A At its height?

24 Q Yeah.

25 A Between -- independent contractors, everybody

1 that worked under my umbrella?

2 Q Please.

3 A About 160.

4 Q What were the annual revenues of National
5 Systems at its height, if you recall?

6 A 11 million.

7 Q What was your title with National Systems?

8 A President and CEO.

9 Q And what were your duties as president and CEO
10 of National Systems?

11 A Marketing, just overlooking all operations.

12 Q Would it be fair to say that National Systems
13 was in the insurance restoration business doing repairs
14 and cleaning after fires and floods --

15 A Yes.

16 Q -- as well?

17 Okay. And how long did you own National
18 Systems?

19 A 19 years.

20 Q 1999, you sold the business?

21 A Yes.

22 Q Okay. And who did you sell the business to?

23 A To my employees.

24 Q What was -- how was the transaction structured,
25 the sale transaction to the employees?

1 A Money down and structured payments.

2 Q How much did you sell the business for?

3 MR. BERMAN: Objection. Relevance.

4 THE WITNESS: 3 million.

5 BY MR. ELGIDELY:

6 Q Do you recall how much they put down?

7 A A million.

8 Q And the balance was paid over a period of time?

9 A Yes.

10 Q Okay. Did you have any collateral for the sale
11 of your business to the employees?

12 A Did I have any collateral that they inherited?

13 Q No. In terms of did they pledge the stock of
14 the business to you, or did you have UCC-1 financing
15 statements on any of the equipment? How did they
16 collateralize --

17 A They pledged stock and personal guarantees.

18 Q Why was it important for you to have a pledge
19 of stock in connection with the sale of your business?

20 MR. BERMAN: Objection. Relevance.

21 THE WITNESS: To secure my asset.

22 BY MR. ELGIDELY:

23 Q Why was it important for you to have personal
24 guarantees in connection with the sale of your business?

25 MR. BERMAN: Same objection.

1 THE WITNESS: They would perform as I did.

2 BY MR. ELGIDELY:

3 Q I'm sorry?

4 A So they would perform as I trained them to
5 perform.

6 Q Do you know what a personal guarantee is?

7 A Yes.

8 Q What does it mean to you?

9 A You would be personally liable for any and all
10 things related to the business or to the funds due me.

11 Q And at any point in time, did any of the
12 employees default in the payments that were owed to you?

13 A No.

14 Q They paid you in full for that business?

15 A Not yet.

16 Q Okay. There are still payments being made to
17 you --

18 A Yes.

19 Q -- in connection with that business?

20 A Yes.

21 Q Okay. Do you hold any position with that
22 company to this day?

23 A No.

24 Q You don't provide any consulting services of
25 any type?

1 A No.

2 Q Okay. After 1999, how were you employed?

3 A I moved to Florida and started doing
4 development work.

5 Q Where did you start doing development work?

6 A Naples. I was buying and selling real estate.

7 Q What was the first piece of real estate you
8 purchased?

9 A Spanish Pines Condominiums.

10 Q How many condominiums did you purchase?

11 A I believe it was 14.

12 Q And did you purchase those condominiums in your
13 own name personally or in the name of an entity?

14 A In my own name.

15 Q Do you have any partners or was anybody --

16 A No.

17 Q Just by yourself?

18 A Yes.

19 Q Okay. Do you recall who you sold those
20 condominiums to?

21 A Individually? No, I don't recall.

22 Q Okay. How long did you own them before you
23 sold them?

24 A Well, I did rehab on the majority of them. As
25 each one was rehabbed, I would sell it. So I think I had

1 it for two years.

2 Q Two years from start to finish?

3 A Yes.

4 Q Okay. And what was your next venture into
5 buying and selling real estate?

6 A I started -- I took some time off, took time
7 off after the Spanish Pines, and I believe in 2004 I
8 started a development in Punta Gorda.

9 Q Okay. Let's take a step back. When you
10 purchased -- strike that.

11 When you moved to Florida in 1999, where did
12 you reside?

13 A 91 Southport Cove.

14 Q Okay. Do you own any other real estate in
15 terms of single-family residences other than 91 Southport
16 Cove and 227 Sorensen Creek Drive?

17 A Currently, no.

18 Q Okay. Did you at any point in time since 1999
19 to the present?

20 A Yes.

21 Q What other property or properties?

22 A I had a rental piece of property that I bought
23 at 28150 L Burton Fletcher Court.

24 Q And where is that located?

25 A That's in Bonita Springs, Florida.

1 Q Okay. You say as a rental property. Did you
2 rent that out to third parties or did you rent that for
3 your own use?

4 A I lived -- actually, I bought it, and I lived
5 in it for two years, and then rented it out.

6 Q Okay. What years did you live there?

7 A 2006 through 2008, I believe.

8 Q Okay. And did you purchase it in 2006?

9 A Actually, I purchased it late 2005. I think it
10 was like October 2005.

11 Q Okay.

12 A So we moved in the later part of -- of '05.

13 Q Okay. Is that the only other property,
14 single-family residence that you owned between 1999 to
15 the present?

16 A No. I also owned another home, rental piece of
17 property in Estero, Florida.

18 Q What's the address?

19 A 22662 Fountain Lakes Boulevard.

20 Q When did you purchase that property?

21 A 2003.

22 Q And did you just rent it out right after you
23 purchased it, or did you reside in there for a period of
24 time?

25 A I rented it out right after I rehabbed it.

1 Q Okay. 91 Southport Cove, was that in your name
2 personally or in the name of an entity?

3 A My wife and myself's name.

4 Q Okay. How about 227 Sorensen Creek Drive?

5 A My wife and my -- my name.

6 Q Okay. 28150 L Burton Fletcher Court?

7 A My wife and my name.

8 Q Okay. And 2262 Fountain Lakes Boulevard?

9 A My wife and my name.

10 Q Okay. Going back to your development
11 experience, you indicated that there was -- your first
12 project was Spanish Pines Condominiums, correct?

13 A Yes.

14 Q And then you said there was a gap in between to
15 about 2004, when you started developing condos in Punta
16 Gorda?

17 A Yes.

18 Q There were no projects in between the Spanish
19 Pines condos and the Punta Gorda condos in 2004?

20 A The only project was the Fountain Lakes home.
21 I did some major rehabbing in there.

22 Q Okay. That was for your own use, for rental
23 purposes?

24 A Yes.

25 Q Okay. Describe the development activity at

1 Punta Gorda with the Punta Gorda condominiums, please.

2 A I developed 16 condos in Deep Creek, which is
3 located in Punta Gorda. There was 16 brand new condos
4 off Lake Rio. That was in the middle of all the
5 hurricanes that hit Punta Gorda. So we had some major
6 setbacks, but we finished everything, I believe, in two
7 years and sold them all.

8 Q When you say we had major setbacks, who are you
9 referring to as we?

10 A I had a partner in the project that ran the
11 project, and I was the source of funding.

12 Q Okay. What was the name of your partner?

13 A Dennis Harris.

14 Q Okay. Did this development activity occur
15 through just personally on behalf of yourself and
16 Mr. Harris, or was it conducted through an entity?

17 A Through an entity.

18 Q What was the name of the entity?

19 A Deep Creek Development.

20 Q Was that a corporation or an LLC?

21 A LLC.

22 Q You indicated Mr. Harris and you were partners
23 on this project. Did both of your names appear on the
24 corporate records for Deep Creek Development?

25 A Yes.

1 Q Were you both members of the LLC?

2 A Yes.

3 Q You said that you were the source of funding?

4 A Yes.

5 Q What do you mean by that?

6 A I secured all funding for the project through
7 my personal guarantees with banks.

8 Q Okay. Taking a step back in terms of securing
9 the funding. How did you go about to secure funding for
10 the development in Punta Gorda?

11 A I applied for loans and received loans to do
12 the -- to do the project.

13 Q Who did you apply for loans with?

14 A Gold Bank.

15 Q Was there a process that you had to go through
16 with Gold Bank in order to obtain funding for the
17 development project in Punta Gorda?

18 A Yes.

19 Q What was the process?

20 A Normal process, applying for credit and
21 reviewing it, submitting personal financials, tax
22 returns, various things like that.

23 Q Do you know if Gold Bank ran a credit check on
24 you?

25 A Yes.

1 Q Okay. And you indicated you had to apply for
2 the loan, do a loan application?

3 A Yes.

4 Q Okay. What, if any, documents were prepared to
5 reflect the terms and conditions of the loans that you
6 were obtaining from Gold Bank?

7 A From Gold Bank?

8 Q (Nodding head.)

9 A Just the items that they were asking for, like
10 the financial statements, like the tax returns, like the
11 checking accounts, the savings accounts, and a form to
12 fill out for the loan itself.

13 Q Okay. What, if any, documents set forth the
14 time period in which the payments would have to be paid
15 and the loan would mature?

16 A At the time of the closing, there were
17 documents that were signed stating what the conditions
18 were of the loan.

19 Q Okay. Who prepared the preprinted terms of
20 those loan documents?

21 A An attorney for Gold Bank.

22 Q Okay. You indicated that you had to personally
23 guarantee this loan?

24 A Yes.

25 Q That's why you considered yourself as the

1 person providing the funding?

2 A Yes.

3 Q Okay. Did your wife have to co-sign or
4 personally guarantee the loan, as well?

5 A No.

6 Q Okay. Did Mr. Harris sign any of the loan
7 documents?

8 A No.

9 Q Okay. What were your duties, vis-a-vis, this
10 construction project or development project? What were
11 your duties?

12 A Again, secure the financing and have monthly
13 meetings to check on the flow charts of our progression.

14 Q Okay. And what were Mr. Harris' duties?

15 A He was on-site construction manager.

16 Q Okay. When did you sell out the 16 units?

17 A I believe in 2006.

18 Q Okay. Prior to the loan that you had obtained
19 from Gold Bank, had you ever obtained a loan from a
20 financial institution either on behalf of yourself
21 individually or with another person?

22 A Another company?

23 Q Another person. Could be your spouse.

24 MR. ELGIDELY: We lost it.

25 MR. BERMAN: I'll get it back up. Keep going.

1 MR. ELGIDELY: Steve, if you need to take a
2 restroom break, we don't need to bring the camera in
3 there. Just let us know. It equally applies to you
4 as it does to Mr. Douglas.

5 MR. BERMAN: Fair enough. Appreciate it.

6 BY MR. ELGIDELY:

7 Q Mr. Douglas, I meant to say prior to the loan
8 you had obtained from Gold Bank for purposes of
9 developing the Punta Gorda property, had you obtained any
10 loans either individually or with another person or
11 entity prior to that time?

12 A Yes.

13 Q Okay. Approximately how many loans?

14 A Four, maybe five.

15 Q And what was the purpose of those loans?

16 A Well, that would be the homeowner loan on 91
17 Southport Cove.

18 Q What else?

19 A Working line of credit with National Systems.

20 THE WITNESS: Steve's back.

21 MR. BERMAN: Can you see me now?

22 THE WITNESS: Yes.

23 BY MR. ELGIDELY:

24 Q Okay. That's two.

25 A Car loans. This is before 2003, did you say?

1 Q Yeah. Prior to your loan with Gold Bank -- I
2 was just asking how many loans you had obtained as a
3 borrower either yourself or with another person or
4 entity.

5 A There were a couple car loans. And a second
6 home before we bought 91 Southport Cove that we had in
7 Florida for seven years, and that was obtained with --
8 Century Bank, I think it was.

9 Q Okay. What was the address for that other
10 home?

11 A Ascot Bend Court, Pelican Landing in Bonita
12 Springs, and I can't think of the exact physical address.

13 Q Okay. And how long did you own that home for?

14 A Six years.

15 Q What were the years from start to finish?

16 A Would've been 1993 to 1999.

17 Q Okay. And with respect to each of those --
18 well, let me strike that.

19 Are those pretty much the only loans that you
20 recall obtaining prior to the loan with Gold Bank?

21 A Yes.

22 Q Okay. Out of all of those loans, was there,
23 again, a process that had to be followed in order to
24 obtain the loans?

25 A Yes.

1 Q Okay. What was the process?

2 A Application being filled out, items that they
3 had requested to be submitted, i.e., financial
4 statements, tax returns and whatever insurance paperwork,
5 whatever they had requested.

6 Q Okay. Do you know whether these lenders ran a
7 credit check in these instances?

8 A Yes.

9 Q Okay. And were you ultimately notified that
10 the loan was approved in some fashion by these lenders?

11 A Yes.

12 Q And what, if any, documentation reflected the
13 terms and conditions of the loans?

14 A At closing, I received terms and conditions of
15 the loan -- loans.

16 Q And you had indicated that, you know, with
17 respect to the properties, you had owned them personally,
18 correct?

19 A Yes.

20 Q You and your wife?

21 A Yes.

22 Q And so there wouldn't be a need for a personal
23 guarantee in those instances, correct?

24 A Can you repeat the --

25 MR. BERMAN: Objection. Calls for a legal

1 conclusion.

2 MR. ELGIDELY: I'll rephrase.

3 BY MR. ELGIDELY:

4 Q I'll rephrase. You signed those loans
5 personally since you were buying the property for your
6 personal use, correct?

7 A Yes.

8 Q Okay. Who prepared the loan documents that
9 reflected the terms and conditions of the loans?

10 A I believe the attorneys or -- yeah, attorneys
11 for the banks.

12 Q Okay. Did you prepare any of the loan
13 documents for these loans?

14 A No.

15 Q Okay. Were any of these loans funded before
16 the actual closing, when the loan documents were signed?

17 A No.

18 Q Okay. With respect to the loans on the two
19 properties you mentioned, 91 Southport Cove and Ascot
20 Bend, was there any collateral provided to the bank to
21 secure the loans?

22 A The property.

23 Q Did you give the bank a mortgage on those
24 properties in connection with the loans?

25 A Yes.

1 Q Okay. Do you know whether the banks had
2 recorded the mortgages on those properties?

3 A Yes.

4 Q Okay. What about the working line of credit
5 with National Systems, was there any collateral given for
6 that loan?

7 A Personal guarantee.

8 Q Okay. What about the car loan, is there any
9 collateral given for the car loan?

10 A Title of the vehicle.

11 Q Do you know whether the bank or lender's name
12 appeared on the actual certificate of title for the
13 vehicle as a lienor?

14 A Yes.

15 Q Okay. All right. Are you familiar with the
16 name Ulrich Engler?

17 A Yes.

18 Q And when were you first introduced to
19 Mr. Engler?

20 A Sometime in '05.

21 Q Okay. Do you remember the exact date or with
22 better certainty the date that you first met Mr. Engler?

23 A I don't recall it.

24 Q Okay.

25 MR. ELGIDELY: For purposes of context, I'm

1 going to have the court reporter mark this next
2 exhibit as Trustee's 129.

3 (Thereupon, the document was marked for
4 identification as Trustee's Exhibit 129.)

5 BY MR. ELGIDELY:

6 Q Mr. Douglas, I've handed you a document that
7 was prepared by the forensic accountant for the
8 bankruptcy estate that reflects transfers made by Private
9 Commercial Office, Inc., to yourself, personally, in the
10 period April 5th, 2005 through January 2nd, 2007.

11 Does this help refresh your recollection as to
12 the date, approximate date that you first were introduced
13 to Mr. Engler?

14 A Yes.

15 Q What was that date?

16 A April -- well, it was probably April 2nd or 3rd
17 of '05.

18 Q Okay. Why do you say it was probably April 2nd
19 or 3rd of 2005?

20 A Because I believe two days later that he
21 submitted -- to rent my property at 91 Southport Cove, he
22 submitted the \$20,000 that I had requested for him to
23 rent my property.

24 Q Okay. If you turn to the second page of this
25 document, there's a wire transfer from Private Commercial

1 Office, Inc., to Mr. David Douglas at Colonial Bank for
2 \$20,000, and it indicates rent for the month of May and
3 \$10,000 for security deposit.

4 Is that consistent with your recollection of
5 the events on or about that date?

6 A Yes.

7 Q Okay. How did you come to meet Mr. Engler on
8 or about April 2nd or 3rd, 2005?

9 A I had built our house out west, and we wanted
10 to spend the year there, or I should say the winter
11 season. So we decided to rent our house at 91 Southport
12 Cove through a company called VRBO, Vacation Rentals By
13 Owner, and Mr. Engler had called and said he wanted to
14 rent the house for a year, and I told him that it wasn't
15 available for a year, that it was only available for the
16 winter months. And he asked that I copy down his number
17 and think about it and call him back.

18 I spoke to my wife, and she said let's stay out
19 west for a year. Let's rent it to this gentleman for
20 a -- for a year, but let's meet with him and make sure
21 that it's what we want. And we set up a meeting to meet
22 with Mr. Engler.

23 Q Okay. How long had you had the property at 91
24 Southport Cove advertised for rent prior to your first
25 interaction with Mr. Engler?

1 A I believe it was only like 60 days.

2 Q Okay. And what was the length of the rental
3 period you were looking to acquire -- looking for a
4 tenant?

5 A Only for the winter months, from December
6 through May.

7 Q Okay. And what were you going to charge a
8 tenant to rent your property during the winter months per
9 month?

10 A \$15,000 a month.

11 Q Okay. Did you have an agent you were dealing
12 with from Vacation Rentals By Owner with respect to this
13 property?

14 A No.

15 Q Okay. Was this Vacation Rentals By Owner just
16 a -- I guess a marketing tool that you used and you would
17 be the person that actually secured the renter?

18 A Yes.

19 Q Okay. There were no agents that were employed
20 by Vacation Rentals By Owner?

21 A No.

22 Q Okay. Which I guess is why it's called by
23 owner?

24 A By owner.

25 Q Okay. So how did Mr. Engler get in touch with

1 you concerning this property?

2 A He called me on his phone.

3 Q Okay. And what did he say during that first
4 conversation?

5 A He said that he really liked the home and
6 really wants to rent it and would like to rent it for a
7 year, and I told him that it was not available for a
8 year. And, again, he said he really wants it for a year
9 and that I should think about it and call him back.

10 He gave me a telephone number, and I told my
11 wife about it, and she said let's rent it for the year.

12 I called him back and said, you know, we're
13 interested in talking to you, but we need to meet you
14 first and get comfortable with each other.

15 Q Okay. How did Mr. Engler know the property or
16 how was he familiar with the property if he had only seen
17 it on Vacation Rentals By Owner?

18 A He was in Cape Coral, I believe, living in Cape
19 Coral, and had been out to Barefoot Beach, which is the
20 name of our subdivision, and said that he really liked
21 the subdivision a lot.

22 Q Okay. He hadn't visited your property prior to
23 the first conversation you had with him?

24 A No.

25 Q Okay. This is a gated community, correct?

1 A Double gated, yes.

2 Q Okay. How did you know -- do you know how
3 Mr. Engler was able to view the property prior to your
4 telephone conversation when it was a double gated
5 community?

6 MR. BERMAN: Objection. Calls for speculation.

7 THE WITNESS: Through VRBO pictures that we had
8 on the VRBO web site.

9 BY MR. ELGIDELY:

10 Q Okay. Had you heard of Mr. Engler prior to
11 that first phone conversation?

12 A No.

13 Q You had no dealings with him prior to that
14 time?

15 A No.

16 Q What did Mr. Engler tell you about himself
17 during that first phone conversation?

18 A I don't recall what he had said to me, other
19 than he really wanted to rent the house. The first
20 conversation I had with him?

21 Q Yes.

22 A I don't recall.

23 Q Okay. At some point in time, did you meet
24 Mr. Engler prior to renting the property to him?

25 A Yes.

1 Q When did that occur? How long after that first
2 phone conversation?

3 A I think it was like three weeks later that we
4 were scheduled to be back in Florida and we met with him.

5 Q Okay. Just for purposes of context, you
6 indicated your first conversation would've been about
7 April 2nd or 3rd, 2005?

8 A Yes.

9 Q And then you just testified that three weeks
10 later you had met with him before you rented the
11 property?

12 A Yes.

13 Q According to Trustee's Exhibit 129, the \$20,000
14 transfer was on April 5th, 2005 to rent the property.

15 Did he pay you the money before you had agreed
16 to rent it to him or do you want to modify those dates at
17 all?

18 A We probably need to modify the dates. Now that
19 I'm thinking of it, we were at the house in Florida
20 getting ready to go out west, so that would've -- I'm
21 just -- that would've been in March when we -- when we
22 heard from Mr. Engler.

23 Q Okay. And you met him sometime in, I guess,
24 late March, early April?

25 A I would say so, yes.

1 Q Okay. Where did you meet?

2 A At 91 Southport Cove.

3 Q What kind of car was Mr. Engler driving when he
4 arrived?

5 A A brand new Mercedes.

6 Q Okay. And what did Mr. Engler say to you
7 during that first meeting?

8 A How impressed he was with the home, and that he
9 really wanted to rent it for the business that he was
10 involved in and getting started and starting up, and that
11 he thought it would work real well with what he had
12 planned.

13 Q Okay. You said the house would work well for
14 the business he was involved in?

15 A Yes.

16 Q What do you mean by that?

17 A That this -- it was impressive, and it showed
18 good, and he would be having clients to the house.

19 Q Okay. So did -- for entertaining purposes or
20 for business purposes? Do you know?

21 A No --

22 Q Okay.

23 A -- I did not.

24 Q He just said he was going to have clients at
25 the house and the house, because it's impressive, would

1 work well, and I guess portraying a good image?

2 A Yes.

3 Q Okay. And what did he tell you about the
4 business that he was in at that time?

5 A He had said that he was a day trader.

6 Q Okay. What did he say about the day trading
7 business?

8 A Very -- he was very successful.

9 Q Okay. So did you ask him, do you have your own
10 business or are you employed by somebody, you know, the
11 customary things that a landlord would ask --

12 A Sure.

13 Q -- a prospective tenant?

14 What did you ask him? I guess it would be fair
15 to say that you were interviewing him to determine
16 whether he was a suitable tenant for the property?

17 A Yes.

18 Q Okay.

19 MR. BERMAN: Objection to form.

20 BY MR. ELGIDELY:

21 Q What did you ask him?

22 A Just what kind of business he did. He -- you
23 would have to know Mr. Engler to know that he controlled
24 the conversation, and he pretty much told me everything I
25 wanted to hear based upon his conversation. He put me --

1 I was -- my wife and I were very comfortable.

2 Q Okay. What did he tell you?

3 A He was very successful, would not have a
4 problem being able to rent this, but wanted to negotiate
5 on the 15,000. He wanted to get it for ten, plus
6 utilities. I told him I would think about it and get
7 back with him, and he -- we just sat there and talked and
8 just got comfortable with each other.

9 Q Okay. He indicated he was a day trader during
10 that first conversation?

11 A Yes.

12 Q Okay. Now, did he tell you the name of the
13 company he was utilizing for day trading services?

14 A I don't think so.

15 Q Okay. He indicated that he had had some
16 clients that he was going to bring to the house?

17 A Yes.

18 Q Do you know whether those clients were
19 investors or, you know, what -- who those clients would
20 be if he was a day trader?

21 A I wasn't sure.

22 Q Okay. Was he alone during that first meeting?

23 A Yes.

24 Q Okay. Did you run a credit check on Mr. Engler
25 at that time?

1 A No.

2 Q What, if any, applications did Mr. Engler fill
3 out in order to be -- to become a tenant?

4 A He filled out my -- a rental agreement with me.

5 Q Okay. And what information was contained in
6 the rental agreement?

7 A The do's and don'ts of the home and -- a
8 typical rental agreement.

9 Q Okay. Do you maintain a copy of that rental
10 agreement to this day?

11 A Yes.

12 Q You do. Okay. And would it be difficult for
13 you to access a copy of that rental agreement?

14 A No.

15 Q Can you make a note we would request a copy of
16 the rental agreement?

17 A Yes.

18 Q I don't think we obtained it previously. Maybe
19 we didn't ask for it.

20 A You have a copy of it.

21 Q Okay. If you could --

22 A Sure.

23 Q I'm 99.9 percent sure we don't have a copy of
24 it, but if we -- like I said, maybe we didn't ask for it,
25 so if you could make a note to --

1 A That was in that disk that was sent of all the
2 paperwork.

3 Q Right. It wasn't in there.

4 MR. BERMAN: We'd also like a copy as well.
5 Seth can give you my e-mail address or his e-mail
6 address while we're off the record.

7 MR. ELGIDELY: Actually, go ahead. We're off
8 the record.

9 (Off-the-record discussion.)

10 BY MR. ELGIDELY:

11 Q So we were just talking about the rental
12 application. You'll get us a copy of that Mr. Douglas?

13 A Yes, I will.

14 Q Okay. Great. Thank you.

15 How did the meeting with Mr. Engler end on that
16 first occasion that you had met him?

17 A My wife and I were very comfortable with
18 Mr. Engler. He was very confident in himself. We felt,
19 again, very comfortable that he was going to be by
20 himself, no girlfriend, no animals, and that he was --
21 seemed like a very respectable man. We were comfortable
22 and decided to rent to him.

23 Q Okay. Do you recall what questions were on the
24 rental application, what information Mr. Engler had
25 included on that?

1 A It wasn't questions more than it was
2 statements. Like he couldn't park the car on the street
3 at nighttime. He had to be quiet by ten. It was just
4 rules and regulations.

5 Q Okay. When was the next time you had
6 interacted with Mr. Engler?

7 A When he moved in.

8 Q Okay. What happened at that time?

9 A We went to the house, my wife and I, Debbie, to
10 show him how everything works, just everything about the
11 house and its functions.

12 Q Okay. Was Mr. Engler alone during that visit?

13 A Yes.

14 Q Okay. Did you learn any additional information
15 about Mr. Engler during that second meeting?

16 A No.

17 Q How many times did you interact with him
18 subsequent to that second meeting prior to I -- I guess
19 you had referred to Mr. Engler in a prior deposition as
20 your silent partner. Do you recall that?

21 A Yes.

22 Q Okay. So prior to Mr. Engler becoming your
23 silent partner, how many times did you interact with him
24 from the commencement of the rental relationship to that
25 partnership?

1 A Ten times.

2 Q Okay. What were the nature of those
3 interactions?

4 A Just getting to know each other better. There
5 may have been a problem. I came over to fix it. He had
6 questions. Couldn't figure out the TV. You know, just
7 general things.

8 Q Okay. Did you socialize with Mr. Engler during
9 that period prior to him becoming your silent partner?

10 A We may have had dinner and talked.

11 Q Okay. You think it was just a total ten times
12 you interacted with him before he became your silent
13 partner?

14 A You know, I'm not for sure. It may have been
15 more.

16 Q Okay. You had testified in your prior
17 deposition that Mr. Engler made a strange call to you,
18 said come over to my home, I think it was before
19 6:00 a.m. He wanted to show you something on the
20 computer.

21 A Yes.

22 Q Do you recall that testimony?

23 A Yes, I do.

24 Q Okay. What happened? Unfortunately, again, we
25 have to go through this again, but you know what happened

1 at that time.

2 A Mr. Engler asked me to come over to the house
3 because he wanted to talk to me about some business, and
4 I told him I really wasn't interested, that I'd do my
5 development work, and that I'm not interested in doing
6 any business. And he suggested that I at least come over
7 and take a look at what he's doing, because he thought it
8 would be very profitable for me to look at this. So I
9 went over there. It was about five in the morning.

10 Q Did he call you that same early morning hours
11 or was it the day before?

12 A Day before.

13 Q Okay.

14 A Asked me to come over and witness what he did
15 for a living, and I sat in his office and watched him do
16 a day trade. And he was explaining to me that he was a
17 market maker and had -- as I'm looking at this big screen
18 he had in his office, I saw him buy \$25 million worth of
19 stock. And I can't recall the stock. And within 40
20 seconds, 30, 40 seconds, he sold it and made a \$4 million
21 profit.

22 Q 5:00 a.m.?

23 A 5:00 a.m. And he said that's what I do for a
24 living, and that he wanted to do business with me,
25 knowing that I was a developer and wanted to invest money

1 into buying real estate, whether it be in Florida,
2 whether it be out west where our home was. He wanted to
3 diversify his portfolio and felt very comfortable with
4 me.

5 See, the problem with Mr. Engler, he always had
6 a hangup because he had such a heavy German accent that
7 he felt as if he didn't get the respect from American
8 people. So based upon my confidence level and being able
9 to speak English like I do, he really wanted to do
10 business in the United States, but, again, wasn't
11 comfortable without having someone help him in the United
12 States.

13 Q From that first conversation, what were you
14 supposed to help him with? What was your understanding
15 what you were supposed to help him with?

16 A Identify properties is what we discussed.

17 Q And did he gave you like a territory or, you
18 know, parameters that, you know, you had to follow in
19 identifying properties?

20 A No. Just if I see something that is really
21 interesting, that I should contact him. And I did find
22 something very interesting out west.

23 Q Okay. What was that?

24 A Various properties out west.

25 Q Okay. All right. Let's take a step back.

1 You said he had an office at 91 Southport Cove?

2 A Yes.

3 Q And where in the home was the office located?

4 I've never been there, so if you can give me kind of a
5 mental picture of the layout.

6 A There's an office upstairs off of the great
7 room on the -- on the main floor that overlooks the
8 street.

9 Q What did his office look like?

10 A My office or his office, it's about 12 by 15,
11 bookcases built in, big credenza. He had a big computer
12 screen in the credenza that he would do his day trading
13 with. Just a lot of -- a lot of computer gadgets.

14 Q Do you know why he needed a big screen to do
15 the day trading?

16 A So he could see everything that was going on.
17 He had like six different screens on one.

18 Q Was it like a split screen?

19 A Yes.

20 Q So you could see different things --

21 A Yes.

22 Q -- on each -- I'm not a tech guy, so --

23 A I'm not either.

24 Q Okay. So that would just allow him to monitor,
25 I guess, trading?

1 A Yes.

2 Q Would that be fair to say?

3 A Yes.

4 Q Okay. How long after you had rented the
5 property to Mr. Engler did this early morning meeting
6 take place?

7 A I'm going to say about six months. I'm a
8 little foggy on the time, but --

9 Q I'm looking at the schedule of transfers that's
10 Trustee's 129. We see that he rented the property in
11 April of 2005. So you believe it was approximately
12 October 2005 that you had -- this early morning meeting
13 took place?

14 A Yes.

15 Q Okay. How long did you stay at his house that
16 morning?

17 A Oh, I think it was about an hour, listening to
18 him talk, and then we went out for breakfast.

19 Q Okay. Do you know whether it was Mr. Engler's
20 money that would -- you know, was the \$25 million
21 investment that he was making, or whether it was -- he
22 was investing for third parties?

23 A I didn't know.

24 Q Okay. Mr. Engler -- you indicated he
25 identified himself as a day trader, correct?

1 A Yes.

2 Q Do you know whether he was day trading for his
3 own account or for third parties? Was that a business of
4 his or was that just a hobby?

5 A That was business of his.

6 Q Okay. How do you know that?

7 A Because he told me that that's what his
8 business was.

9 Q Okay. Do you know what the name of his
10 business was at that time?

11 A I believe it was Private Commercial Office.

12 Q Why do you believe that was the name of his
13 business?

14 A Because he gave me a business card.

15 Q Okay. Do you recall what it said on the
16 business card, besides his name and Private Commercial
17 Office?

18 A Can I look it up?

19 Q Do you have one with you?

20 A Yes.

21 Q Oh, okay. Absolutely. If you have a Private
22 Commercial Office business card, that would be helpful.

23 MR. BERMAN: If we can copy it and make it an
24 exhibit and have it scanned over to me, I'd
25 appreciate it.

1 THE WITNESS: You know, I just cleaned out my
2 wallet the other day. Nope, I don't have it.

3 BY MR. ELGIDELY:

4 Q Is there somebody at your residence that would
5 be able to fax that here to the court reporter's office?

6 A No. Because I just got a new wallet and I went
7 through and threw out -- you know what? I think -- I can
8 find one at my house.

9 Q Okay.

10 A Would you like me to make a copy of it?

11 Q Yeah, if you can add that to your list. But to
12 the best of your recollection, if you could testify what
13 it said on the business card, other than you testified it
14 said Private Commercial Office, and I assume his name was
15 on there as well?

16 A Yes.

17 Q Okay. Was his title on the business card?

18 A Yes.

19 Q And what was his title on the business card?

20 A President.

21 Q And what address was listed on the business
22 card?

23 A 91 Southport Cove.

24 Q Okay. So that meeting lasted about an hour?

25 A Yes.

1 Q Okay. And what, if anything, did you do that
2 day since there was, I guess, a full day still left
3 concerning that meeting you just had with Mr. Engler?

4 A Oh, I think I played golf, went to play golf,
5 played racquetball, worked out.

6 Q Okay. Just normal --

7 A Normal.

8 Q -- leisurely day?

9 A Normal, leisurely day.

10 Q Okay. Did you tell Mr. Engler during that
11 meeting you needed to get back to him, you needed to
12 think about it --

13 A Yes.

14 Q -- or any decision as to what he was asking you
15 to do in terms of identifying properties?

16 A Yes.

17 Q You did tell him you'd think about it?

18 A I would think about it.

19 Q Okay. My next question in my notes was, are
20 you familiar with the entity by the name of Private
21 Commercial Office?

22 A Yes.

23 Q And you were familiar with it because
24 Mr. Engler -- would it be fair to say that you were
25 familiar with it because Mr. Engler had given you a

1 business card that had the name Private Commercial Office
2 on there?

3 A Yes.

4 Q Okay. What, if anything, else did you know
5 about Private Commercial Office?

6 A They were making their rent payments.

7 Q Okay. Did you find that to be peculiar in any
8 way, that Mr. Engler was making rent payments with funds
9 that were coming from Private Commercial Office, Inc.?

10 A No.

11 Q According to the records of the Florida
12 Division of Corporations, the principal and mailing
13 address for Private Commercial Office, Inc. is at 1217
14 Cape Coral Parkway, Suite 121, Cape Coral, Florida,
15 33904. Have you been to those offices?

16 A No.

17 Q Okay. How would you describe the offices of
18 Private Commercial Office?

19 A At my house?

20 Q Well, you testified that there was an office at
21 your house.

22 A Yes.

23 Q But, you know, in terms of this address that's
24 listed with the secretary of state, have you been to
25 those offices at all?

1 A No.

2 Q You've never been there?

3 MR. BERMAN: Objection. Asked and answered.

4 Foundation.

5 BY MR. ELGIDELY:

6 Q Okay. Did you know anything about that
7 address?

8 A No.

9 Q Have you ever driven by that address?

10 A No.

11 Q Okay. Are you familiar with the name William
12 Richards?

13 A No.

14 Q Bill Richards?

15 A I don't recall.

16 Q Okay. How about Mel Griffin?

17 A No.

18 Q You don't know the name Mel Griffin?

19 A I -- I don't recall it as you say it.

20 Q Okay. Have you ever had occasion to travel
21 with Mr. Engler and Mr. Griffin?

22 A I traveled with Mr. Engler and some associates,
23 but I don't recall their names.

24 Q Okay. Do you know what the purpose of that
25 traveling -- travel was with his associates?

1 A Look at properties.

2 Q Where did you go to look at properties?

3 A Teton County, Idaho. Gillette, Wyoming. Some
4 in Florida. The majority of it was out west.

5 Q Okay. Do you know the name Patrick Hutton?

6 A I don't recognize the name, but it may have
7 been one of Mr. Engler's associates.

8 Q How about the name Bianca Borowski?

9 A Yes.

10 Q And how are you familiar with that name?

11 A That is, was, is Mr. Engler's girlfriend.

12 Q And how do you know that?

13 A I met Bianca.

14 Q Okay. Did you travel at all with Mr. Engler to
15 Salt Lake City, Utah?

16 A Yes.

17 Q Okay. And what was the purpose of that trip?

18 A Looked at a piece of property.

19 Q Okay. And have you traveled to Las Vegas with
20 Mr. Engler?

21 A Yes.

22 Q What was the purpose of that trip?

23 A Look at properties.

24 Q How about the name Johann, J-O-H-A-N-N, Huber,
25 H-U-B-E-R, are you familiar with that name?

1 A It sounds familiar, but I don't recall who he
2 is.

3 Q Okay. Do you know if you traveled with a group
4 of people to Las Vegas with Mr. Engler?

5 A Did he?

6 Q Did you travel with Mr. Engler and a group of
7 people to Las Vegas?

8 A No.

9 Q You've never traveled with Mr. Engler to Las
10 Vegas?

11 A Yes.

12 Q Okay. And what was the purpose of the trip to
13 Las Vegas?

14 A Look at some property.

15 Q Okay. Are you familiar with the name Rolland
16 Renner?

17 A It sounds familiar, but I -- I think you're
18 starting to mention the famous four.

19 Q And what do you mean by the famous four?

20 A Mr. Engler had a large sales staff, and on
21 the -- in this sales staff, he traveled a lot with his
22 most producing salespeople who brought him clients, and
23 he called them the famous four.

24 Q Okay. When you say they brought him clients,
25 what was he -- they bringing him clients for? What

1 purpose?

2 A To raise funds for the day trading.

3 Q Okay. You said, when I mentioned the name
4 Rolland Renner, that I must be talking about the famous
5 four?

6 A Might be.

7 Q Is that just because their names are German or
8 is it because you somewhat recognize the names?

9 A It's because they're German.

10 Q Okay.

11 A They all had funny German names.

12 Q Okay. How about the name Gabriel Balziger
13 (phonetic)?

14 A I don't recall that.

15 Q How about the name William Huber?

16 A I've heard that name before, but I don't recall
17 where.

18 Q Okay. You indicated that Mr. Engler had a
19 large sales staff?

20 A Yes.

21 Q Okay. Were these sales staff also working out
22 of 91 Southport Cove?

23 A No.

24 Q Do you know where they were working from?

25 A Germany.

1 Q Okay. How do you know that?

2 A Because he said that he only dealt with the
3 Germans, and that he would not do business with any
4 Americans.

5 Q Well, if Mr. Engler was going to invest in real
6 estate, as you had indicated during that 5:00 a.m.
7 meeting, wouldn't he be dealing with Americans?

8 A Yes.

9 Q Okay. So did you reconcile those two
10 statements by him in any way? How can you reconcile
11 those two statements?

12 A Well, I think what he meant was he would never
13 take any money from Americans and invest, Americans, that
14 he only had it limited to receiving money from the
15 Germans.

16 Q Okay.

17 A If that makes any sense.

18 Q Okay. So he could -- the money he was
19 obtaining was being obtained from Germans?

20 A Yes.

21 Q Is that how you understood it?

22 A Yes.

23 Q Okay. How did you react to that statement that
24 he was only obtaining money from Germans? Did you have
25 any opinion at the time of that?

1 A You know, I didn't. It was just that he was
2 the most comfortable. And, again, I'm going to refer
3 back to how uncomfortable he appeared when he would deal
4 with people from America on a business level, that I just
5 think he was at more of a comfort level dealing with the
6 Germans.

7 Q Okay. I think your prior deposition you had
8 testified that there was a large sales meeting that you
9 had attended in the Fort Myers area --

10 A Yes.

11 Q -- with Mr. Engler; is that correct?

12 A Yes.

13 Q Okay. Can you describe what took place at that
14 sales meeting or, you know, what you know about it?

15 A I wasn't part of the day trading meeting that
16 took place for two days, but I was part of the activities
17 at nighttime, and he flew out 120 of his sales staff, he
18 referred to them as, and was talking about how he does
19 what he does.

20 He was telling me this at least at dinner. And
21 at the end of the two days, he had a big awards
22 presentation with the 120 people.

23 Q Okay. When you say he flew out, were you
24 referring to Mr. Engler?

25 A Mr. Engler flew out the 120 people, yes.

1 Q Okay. And you indicated that they were sales
2 staff. How is it you know that they were sales staff?

3 A He told me that they all worked for him,
4 creating clients.

5 Q Okay. You said that there was a two-day period
6 that there was a day trading --

7 A Yes.

8 Q -- session, sessions?

9 A Yes.

10 Q Okay. And then there was another period that
11 you had attended?

12 A Yes.

13 Q Okay. Are you familiar with the phrase US Land
14 Banking?

15 A Yes.

16 Q Okay. What do you know about that phrase?

17 A That's a company that Mr. Engler started that
18 he wanted the German investors to invest in projects of
19 land and development in the United States.

20 Q Was that a session at the meeting with the
21 sales force?

22 A Yes.

23 Q Did you attend that session?

24 A Yes.

25 Q Of the US Land Banking session?

1 A Yes.

2 Q Okay. Were you introduced to the attendees as
3 somebody that was associated with Mr. Engler?

4 A Yes.

5 Q How were you introduced?

6 A I was -- Richie and I had partnered up to look
7 at development in the United States.

8 Q And what did Mr. Engler say about the US Land
9 Banking -- about US Land Banking?

10 A Well, he spoke in German the whole time, but he
11 relayed to me what he had said, and that was that there
12 was such a big interest in the United States in
13 developing, especially out west, that a lot of the
14 retirees were looking at living out west part-time and
15 that it was very attractive to invest.

16 Q Okay. How long after the 5:00 a.m. meeting did
17 this meeting with the sales force take place?

18 A Probably nine months later, a year later.

19 Q Oh, okay. Where did the meeting take place?

20 A Fort Myers. I can't think of the hotel. It's
21 one of the taller hotels. I don't recall.

22 Q Okay. Was there a large room for these
23 sessions?

24 A Yes.

25 Q Okay. Can you describe what the facilities

1 were like for these sessions?

2 A Well, it was a typical convention room. I
3 believe that he had two of them for how big the meetings
4 were, how many people were there. Just a typical
5 convention room, lots of food, lots of drinks.

6 Q What, if any, assistance did you provide in
7 securing the facilities for these meetings?

8 A None.

9 Q Okay. What, if any, presentation boards, if
10 you will, if you know what I mean by presentation boards,
11 like demonstrative boards -- I can't think of a better
12 word -- were there at the meeting, were used at the
13 meeting?

14 A Four or five.

15 Q Okay. What did the board say?

16 A They were all in German, but basically the one
17 project that we were pushing was -- that he was pushing
18 was the Teton Creek Resort. They were going to be the
19 first green hotel with -- what is that rating, the
20 highest rating -- I can't think of it, but -- and that
21 this would be known worldwide, this hotel, and he was
22 really, really pushing that, to have this built.

23 It was a platinum through -- I can't think of
24 the name of it, but -- and everybody seemed very
25 interested. The German sales staff did.

1 Q Okay. You said he was pushing. He, was that
2 Mr. Engler?

3 A Yes.

4 Q Okay. Why do you use the phrase pushing, he
5 was pushing it?

6 A He was very anxious to start up another company
7 with the German people that would invest in it. He
8 thought that it was a really good opportunity.

9 Q Okay. You referred to the property as a Teton
10 Creek Resort?

11 A Yes.

12 Q Where is that located?

13 A That's in Driggs, Idaho.

14 Q Okay. And was that a property that had been
15 purchased prior to the meeting with the sales force?

16 A Yes.

17 Q Okay. And who was the party that purchased
18 that property?

19 A Land Investments.

20 Q Okay. The title bore the name Engler Land
21 Investments?

22 A At the time, but it got transferred back to
23 Douglas Investments.

24 Q Okay. Again, I wasn't there, so excuse me if
25 I'm trying to get kind of the fine details here, but when

1 was that property purchased?

2 A Sometime in '06. I believe it was August of
3 '06.

4 Q And it was --

5 A Or July.

6 Q Okay. And who was the seller of the property?

7 A It was two gentlemen. I can't think of their
8 names.

9 Q Okay. Presumably, it would be on the deed?

10 A Yes.

11 Q I'm sure. And who was the buyer of the
12 property, if you recall, when it was first purchased?

13 A Douglas Investments.

14 Q It wasn't Engler Land Investments?

15 A No.

16 Q Okay. So Douglas Investments was the first
17 entity that purchased the Teton Creek Resort property?

18 A Yes.

19 Q Okay. And you believe that was in August of --

20 A '06.

21 Q 2006?

22 A Yes.

23 Q Okay. When was the meeting with the sales
24 force?

25 A Sometime in '06, but it was early '06. I'm

1 getting dates confused here.

2 Q Okay. If I say the trustee has certain records
3 that reflect the date of that sales meeting as
4 November 2006, would you have any reason to dispute that
5 date?

6 MR. BERMAN: Objection. Calls for speculation.

7 THE WITNESS: No, I wouldn't.

8 BY MR. ELGIDELY:

9 Q Based upon your recollection, Mr. Douglas, you
10 had attended part of that sales meeting?

11 A Yes.

12 Q Okay. And based upon your recollection, having
13 attended that meeting, do you believe that the date
14 November 2006 is correct?

15 MR. BERMAN: Objection. Foundation.

16 THE WITNESS: I would say that it is, yes.

17 BY MR. ELGIDELY:

18 Q So the property was purchased in, you said,
19 August 2006?

20 A Yes.

21 Q In the name of Douglas Investments, LLC?

22 A Yes.

23 Q Okay. And then there's a meeting with a sales
24 force in November 2006?

25 A Yes.

1 Q Okay. Between the period August 2006 and
2 November 2006, had the Teton Creek Resort property been
3 transferred to any other parties?

4 A Yes. It was transferred to Engler Land
5 Investments.

6 Q Do you know why it was transferred to Engler
7 Land Investments?

8 A Because Mr. Engler said that the German people
9 wouldn't be comfortable in partaking in this project
10 unless they saw his name on the deed.

11 Q Okay. So it was transferred from the Teton
12 Creek Resort -- the property was transferred from Douglas
13 Investments, LLC, to Engler Land Investments, LLC?

14 A Yes.

15 Q Prior to the sales force meeting, is that your
16 understanding?

17 A Yes.

18 Q Okay. At that meeting, do you recall that
19 Mr. Engler brought up the Teton Creek Resort property?

20 A Yes.

21 Q And what did he say?

22 A Talked about how great of a location it was and
23 what kind of return could be given to the investors,
24 things like that.

25 Q Okay. Was there a board that said US Land

1 Banking --

2 A Yes.

3 Q -- on the board?

4 Okay. And what did you understand was the
5 purpose of that board or the purpose of the name US Land
6 Banking?

7 MR. BERMAN: Objection. Foundation.

8 THE WITNESS: Talking about getting investors
9 from Germany to invest in the land in the United
10 States, you need properties that he would -- he and
11 myself would identify.

12 BY MR. ELGIDELY:

13 Q Okay. You said that the property was then
14 transferred again. I don't recall the name of the entity
15 you said. You said Teton Creek Resort property was
16 transferred from Douglas Investments to Engler Land
17 Investments.

18 A Yes.

19 Q Between August and November 2006 --

20 A Yes.

21 Q -- correct?

22 Was it transferred again to another entity?

23 A Back to Douglas Investments.

24 Q Okay. Do you know why it was transferred back
25 to Douglas Investments?

1 A Because he -- Mr. Engler did not raise the
2 funds that he anticipated to raise, and said let's just
3 put it back to Douglas Investments.

4 Q Okay. That was Mr. Engler's decision?

5 A Yes, it was.

6 Q Okay. You mentioned that there was a prize
7 giveaway or some gifts were given during the sales force
8 meeting?

9 A Yes.

10 Q Okay. What can you tell me about that?

11 A Besides the famous four, the -- whoever had the
12 highest sales, raising funds for Mr. Engler, he would
13 give away Mercedes Benz, he would give away trips. It
14 was -- it was quite an escapade to witness. And after
15 everything was done, he gave everyone a -- handed out an
16 ounce of gold to everybody in the room.

17 Q What was the atmosphere like during that
18 giveaway session, if you'd call it that?

19 A Screaming, yelling, clapping. It was amazing.

20 Q Okay. Do you recall how many vehicles
21 Mr. Engler had given away during that meeting?

22 A Six to eight Mercedes.

23 Q They were all Mercedes?

24 A Equivalency of a Mercedes. Some wanted a
25 Corvette. But whatever the dollar amount he had on it, I

1 think it was 60,000.

2 Q Okay. And do you remember how many vacations
3 or trips were given away?

4 A Three or four.

5 Q Okay. Anything other than the vehicles and the
6 trips?

7 A Not that I recall.

8 Q Okay. What did Mr. Engler tell you about the
9 conclusion of that meeting since you were -- you
10 weren't -- you know, it was spoken in German, the
11 language that was spoken was German, what did he tell you
12 about those sessions?

13 A He said --

14 Q If anything.

15 MR. BERMAN: Objection. Hearsay.

16 You can answer.

17 THE WITNESS: He had said that it was a very
18 successful meeting.

19 BY MR. ELGIDELY:

20 Q Anything else?

21 A No. Just that he was very excited and that
22 things were really looking up for him, for Mr. Engler.

23 MR. BERMAN: You want to let me know when you
24 can get to a stopping point?

25 MR. ELGIDELY: Yeah, sure. I'll let you know.

1 We'll do that shortly, Steve.

2 BY MR. ELGIDELY:

3 Q What role did you play in the US Land Banking
4 session?

5 A Identifying properties.

6 Q What properties did you identify during that
7 meeting?

8 A Well, we had identified Teton Creek Resort, and
9 obviously the Lunas, or 6 North Main Street, but we were
10 also looking at ranches.

11 Q Do you recall the names of the ranches that you
12 were looking at and had discussed during the meeting, the
13 US Land Banking portion of the meeting?

14 A I believe, at that time, the only property that
15 was purchased was Neeley, I believe.

16 Q Okay. Did you discuss the Linderman property
17 that had been put under contract a couple of weeks
18 previously?

19 A Did I discuss it?

20 Q Was that discussed during the US Land Banking
21 portion?

22 A I don't know, because it was all in German.

23 Q Okay. You said you were introduced to the
24 attendees?

25 A Yes.

1 Q Did any of the attendees communicate with you
2 during or after that session?

3 A Yes.

4 Q What did they ask you or what did they say to
5 you?

6 A They were just --

7 MR. BERMAN: Objection. Hearsay.

8 You can answer.

9 THE WITNESS: They were saying that -- how
10 lucky Mr. Engler was to meet someone like me, and
11 that how successful Mr. Engler was, and, you know,
12 this is going to be a great team. And they were
13 very excited about doing business with Mr. Engler at
14 US Land Banking, and the -- the other company.

15 BY MR. ELGIDELY:

16 Q What did they mean by team, this is going to be
17 a great team?

18 A Myself and Mr. Engler.

19 Q Okay. Were there any other members of the
20 team?

21 A No.

22 Q Okay. I want to ask you another question
23 before we take a break for Mr. Berman. He needs a few
24 minutes.

25 How long did Mr. Engler rent the 91 Southport

1 Cove property from you?

2 A Approximately two years.

3 Q Two years. So looking at Trustee's 129, it
4 reflects payments from April 2005 to January 2007, about
5 a year, year and a half.

6 Would that be consistent with your recollection
7 of the time period that Mr. Engler rented the property?

8 A Yes.

9 Q So April '05 through January '07?

10 A Yes.

11 Q Okay.

12 MR. ELGIDELY: And we'll take -- what do you
13 need, five minutes, Steve?

14 MR. BERMAN: Yeah, that should be fine.

15 (A recess was taken at 11:08 a.m. and the
16 proceedings resumed at 11:17 a.m.)

17 BY MR. ELGIDELY:

18 Q When we had taken a break, Mr. Douglas, you had
19 testified that Mr. Engler rented the property that you
20 owned at 91 Southport Cove in Bonita Springs from
21 approximately April 2005 to January 2007, correct?

22 A Yes.

23 Q Okay. During your prior deposition, sir, we
24 had discussed the corporate records of Engler Land
25 Investments that were marked at that time as Trustee's

1 Composite Exhibit 117.

2 Do you recall us discussing that at your prior
3 deposition?

4 A No.

5 Q Okay. I brought with me today the exhibits,
6 the original exhibits from the deposition on April 28th,
7 and I'm going to just take out of the stack Exhibit 117.

8 MR. ELGIDELY: Do you have yours, Seth?

9 MR. TRAUB: I think so.

10 MR. ELGIDELY: Great. I'll give you a moment
11 just to put your finger on that.

12 MR. BERMAN: I'm sorry. What exhibit is this?

13 MR. ELGIDELY: 117, Trustee's 117.

14 MR. TRAUB: Okay.

15 MR. ELGIDELY: It looks like this on the first
16 page, Seth.

17 MR. TRAUB: Yeah. Okay. You can go ahead.

18 MR. ELGIDELY: Okay.

19 MR. TRAUB: As long as Steve's ready.

20 BY MR. ELGIDELY:

21 Q Okay. Mr. Douglas, with your prior deposition,
22 we had marked as Trustee's Composite Exhibit 117 the
23 corporate records for Engler Land Investments.

24 Do you recall testifying concerning Engler Land
25 Investments at the prior deposition?

1 A Yes.

2 Q Okay. And do the documents that make up
3 Trustee's Composite Exhibit 117 represent true and
4 correct copies of those corporate records?

5 A Yes.

6 Q Okay.

7 MR. BERMAN: Objection. Foundation.

8 BY MR. ELGIDELY:

9 Q Mr. Douglas, you were the member of Engler Land
10 Investments?

11 A Yes.

12 Q Were you also the manager of Engler Land
13 Investments?

14 A Yes.

15 Q And the registered agent for Engler Land
16 Investments?

17 A Yes.

18 Q I'd ask you to flip through Trustee's
19 Exhibit 117 and see if you see your signature or anything
20 that purports to be your signature in those documents.

21 If you turn to a page that says statement of
22 change of registered officer, registered agent, and it
23 purports to bear your signature, is that, indeed, your
24 signature?

25 A No.

1 Q It is not.

2 Did you authorize anybody to sign the -- did
3 you authorize anyone to sign your name as the registered
4 agent for Engler Land Investments?

5 A Yes.

6 Q Who would you have authorized?

7 A Brad Freeman.

8 Q Who is Brad Freeman?

9 A My attorney in Chicago.

10 Q Okay. Why did you authorize Mr. Freeman to
11 sign your name as registered agent for Engler Land
12 Investments?

13 A I don't recall why I authorized it, but I gave
14 him power of attorney to sign that, sign my name.

15 Q Okay. Was Mr. Freeman the attorney for Engler
16 Land Investments?

17 A Yes.

18 Q Okay. Attached in these documents is a letter
19 that purports to be from Mr. Freeman to the Florida
20 Division of Corporations, dated April 23rd, 2007, and it
21 says it's carbon copied to you.

22 Do you recall receiving a copy of this letter?

23 A Yes.

24 Q Okay. And, again, do the documents included in
25 Trustee's Composite Exhibit 117 reflect true and correct

1 documents or corporate records for Engler Land
2 Investments?

3 A Yes.

4 Q Mr. Douglas, who made the decision to name this
5 entity Engler Land Investments?

6 A Mr. Engler.

7 Q When did he make that decision?

8 A Before meeting with the sales staff that met
9 November of '06.

10 Q Well, according to the records of the Florida
11 Division of Corporations, this entity, Engler Land
12 Investments, was organized or incorporated on
13 October 23rd, 2006.

14 A Yes.

15 Q Does that refresh your recollection as to the
16 time period it was formed?

17 A Yes.

18 Q Okay. And, again, you indicated that during
19 the meeting the entity, Engler Land Investments, was
20 discussed, during the meeting with the sales force?

21 A Yes.

22 Q Okay. So would it be fair to say that that
23 meeting took place subsequent to October 23rd, 2006?

24 A Yes.

25 Q Okay. And you had also testified that the

1 property at Teton Creek Resorts was transferred from
2 Douglas Investments, LLC, to Engler Land Investments,
3 LLC, prior to the meeting with the sales force, correct?

4 A Yes.

5 Q Okay. So would that conveyance have occurred
6 subsequent to October 23rd, 2006, after Engler Land
7 Investments was formed?

8 A Yes.

9 Q Okay. You said Mr. Engler made the decision to
10 name the entity Engler Land Investments?

11 A Yes.

12 Q How do you know that?

13 A He told me.

14 Q What did he tell you about it?

15 A That he thought it would be very important for
16 his name to be in the title of the LLC because the German
17 investors would be more comfortable.

18 Q Okay. And did you have any objection to that?

19 A No.

20 Q Okay. I notice on the records you're listed as
21 the sole managing member of Engler Land Investments; is
22 that accurate?

23 A Yes.

24 Q Okay. And why wasn't Mr. Engler also named as
25 a member?

1 A Because, again, he had always stated that he
2 was in fear of a double taxation and didn't want to be
3 taxed in the United States --

4 MR. BERMAN: Objection. Hearsay.

5 THE WITNESS: -- and in Germany, is what he
6 told me.

7 MR. ELGIDELY: Counsel had an objection to
8 hearsay, but you can still answer it. So counsel --
9 obviously, you have to wait, please wait, after I
10 ask a question, for counsel to raise his objections.
11 And, obviously, Mr. Berman, I would ask you to wait
12 until the witness answers to make an objection.

13 BY MR. ELGIDELY:

14 Q Mr. Douglas, you said as you said before. When
15 you said as you said before, you had given us some
16 testimony on April 28th, correct?

17 A Yes.

18 Q And I think I told you before this deposition
19 today, it's sort of like deja vu, what we're going go
20 through today.

21 A Uh-huh, yes.

22 Q Because I can't -- even though you told us
23 something on April 28th, unfortunately, you have to
24 explain it again today.

25 A Okay.

1 Q Okay. My question, sir, was why was Mr. Engler
2 not listed as a member of Engler Land Investments, LLC?

3 A Because he had stated that he was --

4 MR. BERMAN: Objection. Hearsay. You can
5 answer the question.

6 THE WITNESS: Because he was in fear of a
7 double taxation through the German government and
8 the United States government.

9 BY MR. ELGIDELY:

10 Q When you say he was in fear of double taxation
11 by the German and the United States government, who are
12 you referring to?

13 A Mr. Engler.

14 Q Okay. What did Mr. Engler tell you about his
15 fear concerning double taxation by the German and United
16 States governments?

17 MR. BERMAN: Objection. Hearsay.

18 THE WITNESS: He had said that the German IRS
19 was a lot different than the United States IRS, and
20 that they took a lot more money than the United
21 States IRS, and that he didn't want to give all of
22 his profits to the German government.

23 BY MR. ELGIDELY:

24 Q Okay. Well, if you were forming a corporation
25 in the United States, would it be the United States

1 government that was going to be subjecting the entity to
2 tax or would it be the German government subjecting the
3 United States entity to German tax?

4 MR. BERMAN: Objection. Calls for a legal
5 conclusion.

6 THE WITNESS: Only --

7 MR. BERMAN: And foundation.
8 Go ahead.

9 THE WITNESS: Only based upon Mr. Engler not
10 being a United States citizen and being a German
11 citizen, I wasn't sure. You know, I didn't -- I
12 didn't dismiss what he said. I -- I agreed -- I
13 agreed with his concerns.

14 BY MR. ELGIDELY:

15 Q Okay. Well, Mr. Engler, you said, told you he
16 was -- what did he tell you again about becoming a
17 member? What was discussed?

18 MR. BERMAN: Objection. Objection. Hearsay.

19 THE WITNESS: That he was concerned about
20 double taxation.

21 BY MR. ELGIDELY:

22 Q Did he say I want to be a member because I'm
23 concerned about double taxation, I don't want to be a
24 member because I'm -- what did he say to you?

25 A I do not want to be a member --

1 MR. BERMAN: Objection. Hearsay.

2 BY MR. ELGIDELY:

3 Q Go ahead.

4 A I do not want to be a member of Engler Land
5 Investments based upon double taxation.

6 Q Okay. What about becoming a manager of Engler
7 Land Investments, did you have any conversation with
8 Mr. Engler concerning that?

9 A He didn't want -- Mr. Engler did not want to be
10 put on any of the paperwork with Engler Land Investments.

11 Q I'm sorry?

12 A Could you repeat the question?

13 Q Yeah. I said, well, what about becoming a
14 manager, was there any discussion concerning Mr. Engler
15 being a manager of Engler Land Investments?

16 A He did not want to be a manager.

17 Q Why do you say that?

18 A I -- I'm -- again, that he was concerned about
19 the double taxation.

20 MR. BERMAN: Objection. Hearsay. And
21 foundation.

22 BY MR. ELGIDELY:

23 Q Okay. In your prior deposition, Mr. Douglas,
24 you mentioned something about ex-spouses, too. Do you
25 recall what that was about, ex-spouses?

1 A Yes.

2 Q What was it?

3 A Mr. Engler had been through two nasty divorces,
4 and didn't want anybody in the future to be able to
5 attach any of his assets based upon him marrying --
6 getting married again.

7 Q Why did he tell you that?

8 A Because he had lost a lot of money.

9 MR. BERMAN: Objection. Foundation. Hearsay.

10 THE WITNESS: Because he had lost a lot of
11 money in previous divorces.

12 BY MR. ELGIDELY:

13 Q Okay. Why did he bring up the issue of his
14 ex-spouses? In what context was that brought up?

15 MR. BERMAN: Objection. Foundation. Hearsay.

16 THE WITNESS: Just that he had lost a lot of
17 money previously.

18 BY MR. ELGIDELY:

19 Q Did the conversation about ex-spouses have
20 anything to do with Mr. Engler becoming a member or
21 manager of Engler Land Investments?

22 MR. BERMAN: Objection. Asked and answered.

23 THE WITNESS: Can you repeat the question?

24 BY MR. ELGIDELY:

25 Q Did Mr. Engler bring up the issue with

1 ex-spouses in connection with any discussion concerning
2 Mr. Engler being a member or manager of Engler Land
3 Investments?

4 A Yes.

5 MR. BERMAN: Objection. Hearsay.

6 THE WITNESS: He said he didn't want anybody to
7 be able to attach to his assets.

8 BY MR. ELGIDELY:

9 Q Okay. What, if any, discussion did you have
10 with Mr. Engler about being the registered agent for
11 Engler Land Investments?

12 MR. BERMAN: Objection. Hearsay.

13 THE WITNESS: I know that he wasn't comfortable
14 in being a registered agent for Engler Land
15 Investments, and that as long as his name appeared
16 on the LLC, that the German people would be
17 comfortable.

18 BY MR. ELGIDELY:

19 Q Okay. Do you know what the duties are of a
20 registered agent?

21 A I don't.

22 Q Okay. Did you recognize, when you became the
23 registered agent for this entity, that you were
24 undertaking certain duties?

25 A Yes.

1 Q What duties did you recognize that you were
2 undertaking as a registered agent?

3 A That I would have to report it on an annual
4 basis, who the members were and whatever else that my CPA
5 took care of for me.

6 Q Okay. According to the records of the Florida
7 Division of Corporations, the address for Engler Land
8 Investments is 1217 Cape Coral Parkway, Unit 161, Cape
9 Coral, Florida.

10 Do you see that?

11 A Yes.

12 Q Okay. Why did you inform the Florida Division
13 of Corporations that the principal and mailing address
14 for Engler Land Investments was at 1217 Cape Coral
15 Parkway, Unit 161?

16 A I think Mr. Engler did that. That was his
17 request.

18 Q I'm sorry?

19 A That was Mr. Engler's request.

20 Q How do you know that?

21 A Because I wouldn't have known this address.

22 But I think -- I'm not supposed to say I think. I think
23 he wanted to relay to -- because it -- his investors knew
24 of this address, that he wanted it to be placed like
25 that.

1 Q Who filled out the paperwork for Engler Land
2 Investments that were to be filed with the Florida
3 Division of Corporations?

4 A I believe that Brad Freeman, maybe myself.
5 I -- is it in here?

6 Q I'm asking you based upon your recollection.

7 A I don't recall.

8 Q Okay. Who would have communicated the name of
9 the entity to the Florida Division of Corporations?

10 A Brad Freeman.

11 Q How would Mr. Freeman have obtained that
12 information?

13 A Information that I gave to him.

14 Q Okay. So would it have been you that told
15 Mr. Freeman to incorporate Engler Land Investments, LLC?

16 A Yes.

17 Q Okay. Who would've told -- who would've
18 furnished the information to the Florida Division of
19 Corporations concerning the principal and mailing address
20 for Engler Land Investments?

21 A I would say that Mr. Engler supplied that to me
22 and I supplied it to Brad Freeman.

23 Q Okay. Okay. Sir, why don't you turn to Page 3
24 of this composite exhibit. It purports to be the
25 electronic articles of organization for Engler Land

1 Investments, LLC.

2 A Okay. Yes.

3 Q Okay. And underneath registered agent, it
4 lists your name, correct?

5 A Yes.

6 Q It also lists the address of 91 Southport Cove,
7 Bonita Springs, Florida?

8 A Yes.

9 Q Okay. Why was your name given with that
10 address on October 23rd, 2006, when Mr. Engler was
11 renting that property from you at that time?

12 MR. BERMAN: Objection. Foundation.

13 THE WITNESS: I don't recall.

14 BY MR. ELGIDELY:

15 Q Sir, you were the one that provided the
16 information to Mr. Freeman for furnishing to the Florida
17 Division of Corporations?

18 A Yes.

19 Q Okay. So you would've told Mr. Freeman that
20 list me as the registered agent, for instance? You
21 would've had some conversation of that nature?

22 A Yes.

23 Q Okay. And you would've said list the Southport
24 Cove property as my address for registered agent?

25 A Yes.

1 Q Okay. My question, again, sir, is if
2 Mr. Engler was renting your property, as you testified,
3 on October 23rd, 2006, why would you have given
4 Mr. Freeman your name and that address as the registered
5 agent when you weren't living there?

6 MR. BERMAN: Objection. Asked and answered.

7 THE WITNESS: Because I believe that to be my
8 domicile.

9 BY MR. ELGIDELY:

10 Q If somebody went to deliver mail to you there
11 or serve process there for Engler Land Investments, you
12 wouldn't have been there, correct?

13 A No.

14 Q Okay. Did you have an office at 91 Southport
15 Cove while Mr. Engler was living there?

16 A No.

17 Q Okay. Did you conduct any business out of 91
18 Southport Cove while Mr. Engler was living there?

19 A No.

20 Q Okay. Turning to Page 2. Again, the Southport
21 Cove property is listed as your address on October 23rd,
22 2006, as the managing member of Engler Land Investment,
23 LLC. What was the reason for that?

24 A I don't recall.

25 Q Okay. What was the amount of your capital

1 contribution to Engler Land Investments, LLC, at the time
2 it was formed?

3 A Zero.

4 Q How much did you contribute to Engler Land
5 Investments after it was formed?

6 A Zero.

7 Q Where did the funds come from for Engler Land
8 Investments' operations?

9 A From Mr. Engler.

10 Q What, if any, factors were considered in
11 determining the location for Engler Land Investments'
12 principal office?

13 A As I had said before, that he was concerned
14 that the addresses match up with the German investors,
15 and they were familiar with that address.

16 Q Okay. And how do you know that?

17 A He told me.

18 Q Okay.

19 MR. BERMAN: Objection. Hearsay.

20 BY MR. ELGIDELY:

21 Q Who was responsible for picking up the mail at
22 Engler Land Investments' offices?

23 MR. BERMAN: Objection. Foundation.

24 Speculation.

25

1 BY MR. ELGIDELY:

2 Q Sir, you were the registered agent for Engler
3 Land Investments?

4 A Yes.

5 Q And you were the member as well as the manager
6 of Engler Land Investments?

7 A Yes.

8 Q Okay. Did Engler Land Investments -- do you
9 believe it received any mail of any nature whatsoever?

10 A Yes.

11 Q Okay. Who was responsible for processing that
12 mail?

13 MR. BERMAN: Same objections.

14 THE WITNESS: I was.

15 BY MR. ELGIDELY:

16 Q Okay. Did you actually go to this 1217 Cape
17 Coral Parkway, Unit 161, in order to retrieve the mail?

18 A No.

19 Q Do you know who did?

20 A I don't think anybody did. The mail that came
21 from Engler Land Investments, I had sent to 227 Sorensen
22 Creek Drive. When I say that, I'm referring to the
23 people that did work for Engler Land Investments.

24 If anything got sent that was registered from
25 the state, I never got it. He may have. Mr. Engler may

1 have, I didn't.

2 Q Okay. Do you know who had a key to Unit 161 at
3 1217 Cape Coral Parkway?

4 A No.

5 Q Okay. Did you have a key to 1217 Cape Coral
6 Parkway, Unit 161?

7 A No.

8 Q Okay. You said that you were responsible for
9 processing the mail for Engler Land Investments, correct?

10 A Yes.

11 Q Is there a reason why you didn't visit the
12 principal office of Engler Land Investments?

13 A No.

14 Q Okay. Is there a reason why you didn't ask for
15 a key to the office to retrieve the mail or --

16 A I thought that everything was going to my house
17 in Victor.

18 Q Okay. Then why didn't you change the principal
19 address for Engler Land Investments to your house in
20 Victor?

21 A I think Mr. Engler, again, wanted to tie in
22 that address for the investors for purposes of raising
23 funds.

24 Q Okay. Sir, you recognize you were taking on
25 some obligation in becoming the member of Engler Land

1 Investments, correct?

2 A Yes.

3 Q Were you curious of the offices that were
4 selected for Engler Land Investments as reported to the
5 Florida Division of Corporations?

6 A No.

7 Q Okay. You just accepted that address at face
8 value?

9 A I accepted it because everything that I did, I
10 dealt with my attorneys on between Sean Moulton and Brad
11 Freeman.

12 Q Okay. But the address that Mr. Engler was
13 asking you to use for a corporation that you were the
14 sole member of, you didn't have any curiosity as to what
15 that office was?

16 A No.

17 Q Okay. During your prior deposition, sir, do
18 you recall discussing a real estate contract between
19 Engler Land Investments, or its assignees, and Fidelity
20 National Timber Resources, Inc.?

21 A Yes.

22 Q Just give me a moment. I'm going to get that
23 contract out.

24 Actually, I didn't mark it at the prior
25 deposition. It was included in Mr. Berman's binder, but

1 I made a copy for today's deposition. It was previously
2 marked as Trustee's Exhibit 13 and Defendants'
3 Exhibit 115. And I'm going to hand Seth a copy, and I'll
4 ask you, sir, to take a look at this copy here.

5 Is this the real estate contract, sir, that
6 you -- actually, I should say we discussed during your
7 prior deposition on April 28th, between Engler Land
8 Investments, LLC, or its assignees, and Fidelity National
9 Timber Resources, Inc.?

10 A Yes.

11 Q Okay. Do you recognize this contract, sir?

12 A I was involved in a lot of contracts, but yes,
13 I -- this looks familiar.

14 Q Okay. Do you recognize any of the initials at
15 the bottom of each page?

16 A Yes.

17 Q Whose initials are they?

18 A Mr. Engler's.

19 Q And on page -- looks like Page 6, the signature
20 block, do you recognize any of the signatures on Page 6?

21 A Yes.

22 Q Whose signatures are there?

23 A Mr. Engler.

24 Q Okay. Do you know what the purpose of this
25 document was?

1 A I believe to purchase a piece of property from
2 Fidelity.

3 Q We had discussed earlier the reasons why
4 Mr. Engler did not become a member and manager of Engler
5 Land Investments, LLC. Do you recall that --

6 A Yes.

7 Q -- discussion?

8 A Yes.

9 Q Okay. Why did Ulrich Engler sign this real
10 estate contract on behalf of Engler Land Investments,
11 LLC, if he was not a member of the entity?

12 MR. BERMAN: Objection. Calls for speculation.
13 Foundation.

14 THE WITNESS: I believe that he had signed this
15 because there was -- he was still trying to raise
16 funds from the German investors in US Land Banking.

17 BY MR. ELGIDELY:

18 Q Okay. So they wanted -- so the reason was
19 because of -- because of what?

20 MR. BERMAN: Objection. Foundation.
21 Speculation.

22 THE WITNESS: To be able to prove that Engler
23 Land Investments was buying properties.

24 BY MR. ELGIDELY:

25 Q Okay. So why didn't you sign this contract,

1 sir, on behalf of Engler Land Investments, LLC?

2 A I believe that this is a document that he was
3 showing the German investors, and that he had said that
4 when we close, we'll close under Douglas Investments, not
5 to worry about it, that this was a document that he
6 wanted to show German investors.

7 Q When did Mr. Engler tell you that, don't worry,
8 when we close, we'll close under Douglas Investments?

9 MR. BERMAN: Objection. Hearsay.

10 THE WITNESS: After he had signed this
11 contract.

12 BY MR. ELGIDELY:

13 Q Okay. Who authorized Mr. Engler to sign this
14 real estate contract on behalf of Engler Land
15 Investments?

16 MR. BERMAN: Objection. Speculation.
17 Foundation.

18 THE WITNESS: I would assume I did.

19 BY MR. ELGIDELY:

20 Q Okay. Do you recall if there was a corporate
21 resolution or some other corporate document that would
22 reflect Mr. Engler's authority to sign this document on
23 behalf of Engler Land Investments?

24 A No.

25 Q You don't recall?

1 A No, there isn't one.

2 Q There's no corporate resolution?

3 A No.

4 Q Okay. What documents would there be to reflect
5 Mr. Engler's authority to sign this contract on behalf of
6 Engler Land Investments?

7 A None.

8 MR. BERMAN: Objection. Asked and answered.

9 THE WITNESS: None.

10 BY MR. ELGIDELY:

11 Q Okay. Sir, underneath Mr. Engler's -- well,
12 underneath Mr. Engler's signature, as you've identified
13 in the signature block, there's an address listed, which
14 is 1217 Cape Coral Parkway, Number 121, Cape Coral,
15 Florida, 33904. Do you see that there?

16 A Yes.

17 Q Okay. We just went over the corporate records
18 for Engler Land Investments, LLC, and the address for
19 that entity is actually Unit 161, is it not, sir?

20 A Yes.

21 Q Okay. Do you know what company was located at
22 Number 121?

23 A No.

24 MR. ELGIDELY: Okay. I'm going to have the
25 court reporter mark this as, I guess, 130.

1 (Thereupon, the document was marked for
2 identification as Trustee's Exhibit 130.)

3 BY MR. ELGIDELY:

4 Q Mr. Douglas, I'm handing you a document from
5 the Florida Division of Corporations that reflects the
6 corporate records for Private Commercial Office, Inc.,
7 and it lists the principal and mailing address for that
8 entity as 1217 Cape Coral Parkway, Suite 121, Cape Coral,
9 Florida, 33904.

10 Is that the same address, sir, that appears
11 underneath Mr. Engler's signature on the real estate
12 contract in the name of Engler Land Investments, LLC?

13 A Are you referring to trustee document 13?

14 Q Yes, sir.

15 A Okay.

16 Q On Page 6, I believe it is. Yeah.

17 A Yes.

18 Q Okay. So the address for Private Commercial
19 Office, Inc., is the address that's given for Engler Land
20 Investments, LLC, on the real estate contract that's
21 marked as Trustee's Exhibit 113?

22 A Yes.

23 Q Do you know why Private Commercial's Office --
24 excuse me. Strike that, please.

25 Do you know why Private Commercial Office,

1 Inc.'s address is listed on the real estate contract
2 marked as Trustee's Exhibit 113 for Engler Land
3 Investments, LLC?

4 MR. BERMAN: Objection. Calls for speculation.

5 THE WITNESS: Again, as I said before, that he
6 wanted to have an address that identified himself
7 with the German investors.

8 BY MR. ELGIDELY:

9 Q He is who?

10 A Mr. Engler.

11 Q Okay. Give me one moment, please.

12 Sir, underneath Mr. Engler's printed name on
13 Page 6 of Trustee's 113, whose telephone number is listed
14 there?

15 A That would be my cell phone.

16 Q Well, there are two numbers listed, correct,
17 sir? There's a phone number and there's a cell number?

18 A Yes.

19 Q Okay. And they're the same numbers, though,
20 right?

21 A Yes.

22 Q They're listed twice?

23 A Yes.

24 Q Okay. And whose number is listed as the phone
25 and cell number?

1 A My cell phone number.

2 Q Okay. Why is your cell phone number listed
3 underneath Mr. Engler's name on this real estate contract
4 that's marked as Trustee's Exhibit 113?

5 A I don't know.

6 MR. BERMAN: Objection. Foundation.

7 THE WITNESS: I don't know.

8 BY MR. ELGIDELY:

9 Q Okay. Did Mr. Engler have a telephone?

10 A Yes.

11 Q Okay. Did you communicate with Mr. Engler by
12 telephone on or about November 9th, 2006?

13 A Did I communicate with him by telephone?

14 Q You guys spoke on the phone --

15 A Yes.

16 Q -- around November 2006, correct?

17 A Yes.

18 Q If you needed to reach him, you could reach him
19 on his phone number?

20 A Yes.

21 Q Okay. His number's not listed on this
22 contract, is it?

23 A No.

24 Q Okay. Turning to the first page of the
25 contract, sir, Paragraph 3, Capital B. It says -- if you

1 look at the contract, it says -- let me point you to the
2 exact place. The print is kind of small here. Right
3 there (indicating). Starting there.

4 Buyer agrees to provide seller, within three
5 business days from the date of acceptance of this
6 agreement by all parties, evidence of sufficient funds
7 and/or proceeds necessary to close transaction.
8 Acceptable documentation includes, but is not limited to
9 a copy of a recent bank or financial statement or
10 contract for the sale of buyer's current residence or
11 other property to be sold.

12 Do you see that there?

13 A Yes, I do.

14 Q Okay. Do you know whether Mr. Engler provided
15 recent bank statements for himself personally to Fidelity
16 National Timber Resources, Inc.?

17 MR. BERMAN: Objection. Relevance.

18 THE WITNESS: He did not provide.

19 BY MR. ELGIDELY:

20 Q Why do you say he did not provide?

21 A Because he was very private about his life, and
22 said that --

23 MR. BERMAN: Objection. Hearsay.

24 THE WITNESS: What he said to me was he would
25 not provide any of that information because it

1 was -- he was a very private person.

2 BY MR. ELGIDELY:

3 Q How did the conversation that you just
4 described come about?

5 A Because the broker for Live Water said that
6 Fidelity wanted more information.

7 MR. BERMAN: Objection. Hearsay.

8 THE WITNESS: And my son-in-law, Brett
9 Borshell, the person representing us, said that this
10 is --

11 MR. BERMAN: Objection. Hearsay.

12 THE WITNESS: This is what they were
13 requesting.

14 BY MR. ELGIDELY:

15 Q Okay. And, again, what did Mr. Engler say
16 about the request?

17 MR. BERMAN: Objection. Hearsay.

18 THE WITNESS: He told me that he would not
19 supply any financial information.

20 BY MR. ELGIDELY:

21 Q He told that to you? He said that to you?

22 A Yes.

23 Q Okay.

24 A And for me to relay that to Brett Borshell.

25 Q Did you?

1 A Yes.

2 Q I'd asked you about recent bank statements.
3 How about recent financial -- how about financial
4 statements for Mr. Engler, do you know whether he
5 provided -- he, being Mr. Engler, provided financial
6 statements for himself personally to Fidelity National
7 Timber Resources, Inc.?

8 MR. BERMAN: Objection. Relevance.

9 THE WITNESS: He told me that he would not
10 produce.

11 MR. BERMAN: Objection. Hearsay.

12 THE WITNESS: He told -- Mr. Engler told me he
13 would not produce any financials to Fidelity.

14 BY MR. ELGIDELY:

15 Q And what did you do with that information?

16 A I let Brett Borshell know that.

17 Q Do you know whether Mr. Engler provided recent
18 bank statements for Engler Land Investments, LLC, to
19 fidelity National Timber Resources, Inc.?

20 A I don't know if he did, but he told me that he
21 wouldn't, so I don't think he did.

22 MR. BERMAN: Objection. Hearsay.

23 BY MR. ELGIDELY:

24 Q Do you know whether Mr. Engler provided
25 financial statements for Engler Land Investments, LLC, to

1 Fidelity National Timber Resources, Inc.?

2 A He did not.

3 Q Did you provide recent bank statements for
4 yourself personally to Fidelity National Timber
5 Resources, Inc.?

6 MR. BERMAN: Objection. Relevance.

7 THE WITNESS: No, I did not.

8 BY MR. ELGIDELY:

9 Q Did you provide financial statements for
10 yourself personally to Fidelity National Timber
11 Resources, Inc.?

12 MR. BERMAN: Objection. Relevance.

13 THE WITNESS: No.

14 BY MR. ELGIDELY:

15 Q Did you provide recent bank statements for
16 Engler Land Investments to Fidelity National Timber
17 Resources, Inc.?

18 A No.

19 Q Did you provide financial statements for Engler
20 Land Investments to Fidelity National Timber Resources,
21 Inc.?

22 A No.

23 Q Did you provide recent bank statements for
24 Douglas Investments, LLC, to Fidelity National Timber
25 Resources, Inc.?

1 A No.

2 Q Did you provide financial statements for
3 Douglas Investments, LLC, to Fidelity National Timber
4 Resources, Inc.?

5 A No.

6 Q If Engler had provided either recent bank
7 statements or financial statements to Fidelity National
8 Timber Resources, would you know about it?

9 MR. BERMAN: Objection. Speculation.
10 Foundation.

11 THE WITNESS: Yes.

12 BY MR. ELGIDELY:

13 Q If you provided them, would you know? Would
14 you know if you did? Would you remember?

15 A Yes.

16 Q Okay. Let's go to Page 13 of the real estate
17 contract, if we can. It's a schedule of payments.

18 A 387?

19 Q Yeah.

20 A I've got it.

21 Q Okay. Sir, I've asked you to look at an
22 attachment to the real estate contract that's marked as
23 Trustee Exhibit 13, and this document purports to reflect
24 a schedule of payments for the purchase price of the
25 property, correct?

1 A Yes.

2 Q Okay. Do you know where Engler Land
3 Investments, LLC, was going to get the money to make the
4 payments that are reflected in this schedule?

5 A From Mr. Engler.

6 Q How do you know that?

7 A Because he said that he was going to make the
8 payments. Mr. Engler said he was going to make the
9 payments.

10 Q Did he say that before or after the date that's
11 on this contract, November 9th, 2006?

12 A Before and after.

13 Q Were you personally going to provide any of the
14 money to make the payments?

15 A No.

16 Q Were you going to provide any of the money to
17 make the payments through a corporation or other entity
18 that you owned?

19 A No.

20 Q Where on this real estate contract, sir, did
21 you sign to obligate yourself personally to make these
22 payments?

23 A Nowhere.

24 Q Where on this real estate contract did you sign
25 to obligate Douglas Investments, LLC, to make the

1 payments?

2 A Nowhere.

3 Q We're done with that exhibit.

4 Okay. Sir, let's turn to Trustee's Exhibit 107
5 from your prior deposition, 107.

6 MR. ELGIDELY: Do you have that, Seth?

7 MR. TRAUB: Yeah, I can get it.

8 MR. ELGIDELY: That's 107. It's the affidavit
9 of Douglas Investments, LLC.

10 BY MR. ELGIDELY:

11 Q Mr. Douglas, do you recognize Trustee's
12 Exhibit 107?

13 A Yes.

14 Q And the document purports to be an affidavit of
15 Douglas Investments, LLC, in opposition to plaintiff's
16 motion for summary judgment, with plaintiff being
17 Fidelity National Timber Resources, Inc.; is that
18 correct?

19 A Yes.

20 Q Okay. Are the statements that are made in this
21 affidavit true and correct to the best of your knowledge
22 and belief?

23 A Yes.

24 Q Okay. Were the statements at the time you
25 signed them true and correct to the best of your

1 knowledge or belief?

2 A Yes.

3 Q Okay. At numbered Paragraph 8 of the
4 affidavit, Mr. Douglas, it states that, Douglas
5 Investments informed plaintiff, again, who is Fidelity
6 National Timber Resources, Inc., that the Chapter 7
7 debtors were the sole source of funds for the payments
8 required under the contract for deed.

9 Did I accurately -- did I read that accurately?

10 A Yes.

11 Q Okay. And you recognize that the contract for
12 deed is the document we had just discussed, the real
13 estate contract marked as Trustee's 113?

14 A Yes.

15 Q Okay. And do you know who the Chapter 7
16 debtors are in this case?

17 A Douglas Investments?

18 Q If I advise you that -- if you look earlier in
19 the affidavit, Paragraph 5, sir, you'll see it says,
20 Douglas Investments obtained the funds for the remaining
21 payments required under the contract for deed from Ulrich
22 Felix Anton Engler and Private Commercial Office, Inc.,
23 hereinafter referred to collectively as the Chapter 7
24 debtors.

25 A Yes.

1 Q Do you recognize, now looking at this
2 paragraph, that -- and then when you signed the
3 affidavit, that Ulrich Engler and Private Commercial
4 Office were the Chapter 7 debtors?

5 A Yes.

6 Q Okay. Let's go back to Paragraph 8, sir. Is
7 Paragraph 8 a truthful statement?

8 MR. BERMAN: Objection. Foundation.

9 THE WITNESS: No.

10 BY MR. ELGIDELY:

11 Q Why is it not true?

12 A Because it doesn't mention Mr. Engler in there
13 or Private Commercial Office.

14 Q Okay. Sir, we just talked about the definition
15 of Chapter 7 debtors that's reflected in Paragraph 5.

16 A Yes.

17 Q Okay. In Paragraph 5, Chapter 7 debtors is
18 defined as Ulrich Engler and Private Commercial Office,
19 Inc.

20 A Yes.

21 Q Do you see that?

22 A Yes.

23 Q Okay. Now, going to Paragraph 8, it's saying,
24 Douglas Investments informed Fidelity National Timber
25 Resources, Inc., who is the plaintiff, that Ulrich Engler

1 and Private Commercial Office, Inc., who is the Chapter 7
2 debtors, were the sole source of funds for the payments
3 required under the contract for deed.

4 Was that a truthful statement at the time you
5 made it?

6 A Yes.

7 MR. BERMAN: Objection. Foundation.

8 BY MR. ELGIDELY:

9 Q Is that a truthful statement today?

10 A Yes, it is.

11 Q Okay.

12 A Now I understand it.

13 Q Okay. After this affidavit was prepared, did
14 you consult with your counsel concerning the statements
15 that were contained in this affidavit?

16 A Yes.

17 Q Okay. And who did you consult with? Not --
18 without telling me what they said to you.

19 A Sean Moulton.

20 Q And did you sign this affidavit before a Notary
21 Public after having reviewed the affidavit and consulted
22 with Mr. Moulton?

23 A Yes.

24 Q Okay. Let's turn to Paragraph 4 of the
25 affidavit, sir. At Paragraph 4 of the affidavit, it

1 states, on November 10, 2006, the Chapter 7 debtors, who
2 are defined as Ulrich Engler and Private Commercial
3 Office, Inc., transferred \$500,000 to Alliance Title and
4 Escrow Corporation for plaintiff's benefit, plaintiff
5 being Fidelity National Timber Resources, as and for the
6 earnest money deposit required under the contract for
7 deed.

8 Is that a truthful statement, sir?

9 A Yes.

10 Q And was it on the date that you signed it?

11 A Yes.

12 Q Okay. At Paragraph 6 of the affidavit, it
13 states that, the Chapter 7 debtors, Ulrich Engler and
14 Private Commercial Office, Inc., were the sole source of
15 funds for the payments required under the contract for
16 deed, and Douglas Investments paid those funds over to
17 Alliance Title and Escrow Corporation for the benefit of
18 Fidelity National Timber Resources in accordance with the
19 contract for deed.

20 Is that a truthful statement?

21 A Yes.

22 Q Was it on the date that you signed it?

23 A Yes.

24 Q Okay. We're done with this affidavit, sir. I
25 just have one more question.

1 Attached to the affidavit, sir, you attached a
2 wire transfer confirmation from Private Commercial
3 Office, Inc., on November 10, 2006, as Exhibit A,
4 correct? Exhibit A?

5 Attached to the affidavit is Exhibit A, sir, if
6 you want to flip back to Exhibit A. I'll help you with
7 that. Exhibit A. You attached a wire transfer in the
8 amount of \$500,000 from Private Commercial Office, Inc.,
9 to Alliance Title as of November 10th, 2006, correct?

10 A Yes.

11 Q Okay. Do you recognize that that was for the
12 earnest money deposit that was owed under the contract
13 that we've discussed as Trustee's 113?

14 A Yes.

15 Q Okay. And attached as Composite Exhibit B,
16 sir, there are several payments to Alliance Title from
17 January -- I'm sorry. Looks like -- oh, yeah.
18 December 21st, 2006 through March 3rd, 2008; is that
19 correct?

20 A Yes.

21 Q And were those payments that were to be made
22 under Trustee's Exhibit 13?

23 A Yes.

24 Q Okay. Where did Douglas Investments get the
25 money to make those payments?

1 A Mr. Engler.

2 Q What, if any, amount of that money was paid by
3 you personally?

4 A Nothing.

5 Q What, if any, portion of those funds originated
6 from Douglas Investments separately from the money that
7 Mr. Engler had provided?

8 A Can you repeat that question?

9 Q Yeah. You indicated that the money that was
10 used to make the payments pursuant to Trustee's
11 Exhibit 13, the real estate contract, came from
12 Mr. Engler, correct?

13 A Yes.

14 Q Okay. Did Douglas Investments have any
15 separate money, any non-Engler money, that could be used
16 to make the payments pursuant to that contract?

17 A No.

18 Q Okay. Were there any other sources of money,
19 other than Engler, to make the payments under the
20 contract for deed?

21 A No.

22 Q Okay. All right. We're done with that
23 exhibit. Let's go to the next one here.

24 Before we do that, I'm going refer you to
25 Trustee's 125 that was marked at your prior deposition.

1 A Got it.

2 Q Okay. Turn to the handwritten page that says
3 Uncle E.

4 A Yes.

5 Q Okay. In this -- well, whose handwriting is
6 this on -- it's a -- Bates stamped Trust 000702 in the
7 upper right-hand corner?

8 A That's my handwriting.

9 Q Okay. Do you recall this document?

10 A Yes.

11 Q Okay. In the second paragraph, it says, The
12 sales meeting we had at the end of November 2006, or '06,
13 it says, we had talked about raising 75 million by
14 April 30th, 2007.

15 Did I read that accurately?

16 A Yes.

17 Q Okay. Does that refresh your recollection as
18 to when the sales meeting that you had described earlier
19 occurred?

20 A Yes.

21 Q Okay. And when did that occur?

22 A November of '06.

23 Q Okay. And it says, as we discussed last week
24 several times, that I feel that your sales force is not
25 capable of meeting our goals. Therefore, I'm seeking

1 other investors as of May 1st, 2007.

2 Did I read that accurately?

3 A Yes.

4 Q Okay. The next paragraph says, I will also
5 close the accounts for Engler Land Investments as of
6 May 1st, 2007 and transfer funds back to Douglas
7 Investments.

8 Do you see that there?

9 A Yes.

10 Q Okay. Is this document discussing the Teton
11 Creek Resort property that we had discussed earlier?

12 A Yes.

13 Q And that's the property that was initially
14 purchased in the name of Douglas Investments which
15 transferred to Engler Land Investments and then
16 transferred back to Douglas Investments?

17 A Yes.

18 Q Okay. In this document, it says that there's
19 funds going to be transferred from Engler Land
20 Investments to Douglas Investments.

21 Do you see that there?

22 A Yes.

23 Q Okay. I really want to see the hotel and
24 village built based upon the high demand in Teton County,
25 Idaho, and then you sign it, correct?

1 A Yes.

2 Q Okay. Why does it say Sun Newspaper with a
3 phone number underneath there?

4 A I don't know.

5 Q Okay. Turning to the next page, there are two
6 account numbers referenced at Key Bank. Do you know
7 whose accounts those are for?

8 A Douglas Investments.

9 Q Okay. Do you know why this was included in a
10 note to Mr. Engler?

11 A No.

12 Q Okay.

13 A Well, no. I think I was asking him to wire
14 \$4 million.

15 Q Okay. Do you know if he did wire \$4 million?

16 A I'd have to look at my records.

17 Q Okay.

18 A I'm sure he did, though.

19 Q Okay. It says, Richie, should we even mention
20 Douglas Investments?

21 A I don't know why I wrote that.

22 Q Okay. But that is your handwriting?

23 A Yes, it is.

24 Q Okay. All right. Let's put that one aside,
25 that exhibit.

1 MR. ELGIDELY: I'll have this next one marked
2 as Trustee's 131.

3 (Thereupon, the document was marked for
4 identification as Trustee's Exhibit 131.)

5 BY MR. ELGIDELY:

6 Q I've handed you a document, sir, that's marked
7 as Trustee's Composite Exhibit 131. It purports to be
8 pages from the web site that Mr. Engler maintained called
9 SystemBrokerage.com.

10 And on the first page, sir, there's an article
11 that says -- underneath day trading, it says, Richie
12 Engler donates 25 homes.

13 A Yes.

14 Q In the first paragraph underneath that --
15 underneath that article, it says, Richie Engler and his
16 business partner, David Douglas, have donated -- have
17 donated 25 homes for hard-working families in Jamaica.

18 Did I read that accurately?

19 A Yes.

20 Q Do you know why you were referred as
21 Mr. Engler's business partner in this article?

22 MR. BERMAN: Objection. Foundation.
23 Speculation and hearsay.

24 THE WITNESS: Because he always referred to me
25 as his business partner.

1 BY MR. ELGIDELY:

2 Q Okay. And is that a picture of you with Father
3 Richard and Mr. Engler?

4 A Yes, it is.

5 Q Okay. All right. So let's turn to the second
6 page, sir. It talks about a new product by the name of
7 US Land Banking.

8 Do you see that there?

9 A Yes.

10 Q Okay. And in the paragraph it says, the
11 conservative business philosophy is based Ulrich Engler
12 by a new product, US Land Banking, acquisition
13 development and utilization of strategically located and
14 not lots developed with huge potential for growth.

15 Do you see that there?

16 A Yes.

17 Q Okay. Do you believe that the properties
18 acquired by Douglas Investments were strategically
19 located and had huge potential for growth?

20 MR. BERMAN: Objection. Hearsay.

21 THE WITNESS: Yes.

22 MR. BERMAN: The objection is directed to the
23 exhibit, for the record.

24 MR. ELGIDELY: Okay. No problem.

25

1 BY MR. ELGIDELY:

2 Q You can answer.

3 A Yes.

4 Q Okay. Was that part of Mr. Engler's strategy
5 as he first discussed with you during that 5:00 a.m.
6 meeting, is that you were to identify strategically
7 located properties with huge potential for growth?

8 A Yes.

9 Q Okay.

10 MR. BERMAN: Objection. Hearsay.

11 BY MR. ELGIDELY:

12 Q Did you understand that to be in connection
13 with the US Land Banking opportunity he was offering to
14 investors in Germany?

15 A Yes.

16 Q Okay. Let's flip a couple more pages to the
17 locations, there's a page called the locations.

18 A Got it.

19 Q Okay. It says, the so-called hotspots include
20 Las Vegas, Nevada, Chicago, Illinois, Phoenix, Arizona
21 and Jackson Hole, Wyoming, the area where the
22 billionaires are at home.

23 Were those areas that you and Mr. Engler
24 targeted for acquisition and development of properties?

25 A Yes.

1 Q Okay. Were those some of the areas that you
2 had flown to with Mr. Engler that we had talked about
3 earlier?

4 A Yes.

5 Q Let's go to the last page. Okay. There's a
6 press release dated January 10, 2007. You're nodding
7 your head, sir.

8 Is that a document that you recognize?

9 A Yes.

10 Q Okay. What do you recognize about it?

11 A Well, the hotel I was trying to think of was
12 the Teton Creek Resort, but I was trying to think of the
13 program, and it was Lead that had the platinum status
14 that was new at the time that a lot of people would've --
15 were very excited about.

16 Q Okay. In the first paragraph, it says, for the
17 design of their two new Teton Creek Resort projects east
18 of Driggs, Engler Land Investments, LLC, has chosen to
19 proceed with Lead.

20 Did I read that accurately?

21 A Yes.

22 Q Okay. Had this property, the Teton Creek
23 Resort, been transferred from Douglas Investments to
24 Engler Investments prior to the date of this press
25 release of January 10, 2007?

1 A Yes.

2 Q Okay. And do you recall when it was
3 transferred back to Douglas Investments?

4 A I'd have to look on my records.

5 Q Okay.

6 A Which I believe is here. Would you like me to
7 look at the records, when it was transferred back?

8 Q Sure.

9 A Transferred back 1/9 of '97, if I'm reading
10 that correctly.

11 Q I'm sorry? Oh, no. You're looking, sir, at
12 the corporate records for Private Commercial Office, Inc.

13 A Okay.

14 Q My question was, do you know when the Teton
15 Creek Resort property was transferred back from Engler
16 Land Investments, LLC, to Douglas Investments, LLC?

17 A I believe it was sometime in October of '06.

18 Q Okay. Just to clarify, I don't think you're
19 understanding my question correctly.

20 You testified earlier that the Teton Creek
21 Resort property was acquired by Douglas Investments, LLC,
22 about August 2006, correct?

23 A Yes.

24 Q Okay. Then you testified that there was a
25 sales meeting that took place about November 2006?

1 A Yes.

2 Q Okay. Where Ulrich Engler had use of -- was
3 pushing the Teton Creek Resort property to the sales
4 force; is that accurate?

5 A That is correct.

6 Q Okay. And I had asked you, had there been any
7 transfers between August 2006 and November 2006. I
8 believe you testified that Douglas Investments
9 transferred the Teton Creek Resort property to Engler
10 Land Investments prior to that sales meeting.

11 A Yes.

12 Q Okay. And this press release talks about the
13 Teton Creek Resort project of Engler Land Investments as
14 of January 10, 2007, correct?

15 A Yes.

16 Q Do you know whether it was before or after this
17 press release that the property was transferred back
18 again to Douglas Investments, LLC?

19 A I believe it was before.

20 Q Before this press release?

21 A Yes.

22 Q Okay. Did you know that Mr. Engler was
23 advertising the Teton Creek Resort opportunity on his web
24 site to the German investors?

25 A Yes.

1 Q And you knew that it was -- he was advertising
2 in the name of Engler Land Investments, LLC?

3 A Yes.

4 Q Okay. File that one away for now.

5 At your deposition on April 28th, do you recall
6 our discussion concerning the corporate records for
7 Douglas Investments, LLC?

8 A Yes.

9 Q Okay. I'm going to hand you a bunch of them.

10 MR. ELGIDELY: And, Seth, I'm going to hand
11 Mr. Douglas Exhibits 108, 109, and 110. You know
12 what? Take out the originals. I'm sorry. I think
13 you have them in that stack there.

14 THE WITNESS: Okay.

15 BY MR. ELGIDELY:

16 Q Okay. Trustee's Exhibit 108 purports to be the
17 articles of organization for Douglas Investments, LLC, as
18 of June 23rd, 2006. Do you recognize this document?

19 A Yes.

20 Q Is this a true and correct copy of the articles
21 of organization for Douglas Investments, LLC?

22 A Yes, it is.

23 Q And who are the members of Douglas Investments,
24 LLC?

25 A David Douglas.

1 Q Were you the sole member?

2 A Yes.

3 Q Okay. Why wasn't Mr. Engler listed as a member
4 of Douglas Investments, LLC?

5 A Because he was concerned about the double
6 taxation of being a German citizen, as he said to me.

7 Q Okay. During your prior deposition, you said
8 that there were two issues, that one was double taxation
9 and the other was ex-spouses.

10 Do you know whether the ex-spouse issue played
11 any part in his -- in the decision not to name Mr. Engler
12 as a member of Douglas Investments, LLC?

13 MR. BERMAN: Objection. Hearsay.

14 THE WITNESS: Yes, it was a concern of his.

15 BY MR. ELGIDELY:

16 Q How do you know that?

17 A He told me that.

18 Q Okay. What was the amount of your capital
19 contribution to Douglas Investments, LLC, at the time it
20 was formed?

21 MR. BERMAN: Objection. Asked and answered.

22 THE WITNESS: Zero.

23 BY MR. ELGIDELY:

24 Q And how much money did you contribute to
25 Douglas Investments, LLC, after it was formed?

1 MR. BERMAN: Objection. Asked and answered.

2 THE WITNESS: Zero.

3 MR. ELGIDELY: Steve, for clarification, those
4 questions are asked and answered only as to Engler
5 Land Investments. We're now talking about Douglas
6 Investments. So --

7 MR. BERMAN: I don't believe that was the case,
8 but that's fine. The objection is stated on the
9 record.

10 MR. ELGIDELY: Okay.

11 BY MR. ELGIDELY:

12 Q My question, sir, was how much money did you
13 contribute to Douglas Investments, LLC, after it was
14 formed?

15 A Zero.

16 Q Okay. Where did the funds come from for
17 Douglas Investments' operations?

18 A From Mr. Engler.

19 Q Okay. Turning to Trustee's 109. These
20 documents purport to be the certificate of membership
21 interest for Douglas Investments, LLC?

22 A Yes.

23 Q And there's one -- the top one is dated -- this
24 is Trustee's 109 again, dated June 23rd, 2006, and it
25 says that you were the sole member of Douglas

1 Investments, LLC?

2 A Yes.

3 Q Okay. If you turn the page, as of January 1st,
4 2007, your hundred percent interest is reduced to
5 60 percent?

6 A Yes.

7 Q And then the third page, it reflects that Debra
8 Douglas has a 40 percent interest in Douglas Investments
9 as of January 1st, 2007.

10 A Yes.

11 Q Do you know why the percentage interest changed
12 between June 2006 and January 2007?

13 A Yes.

14 Q Why was that?

15 A Mr. Engler was very paranoid that if something
16 happened to me that he wanted my wife to --

17 MR. BERMAN: Objection. Hearsay.

18 THE WITNESS: That he wanted my wife to be able
19 to -- that he wanted my wife to be able to take over
20 operations.

21 BY MR. ELGIDELY:

22 Q Are these membership certificates true and
23 correct copies of the membership certificates?

24 A Yes.

25 Q Okay. Are these maintained in the corporate

1 records for Douglas Investments --

2 A Yes.

3 Q -- LLC?

4 Okay. Let's go to Trustee's 110, if we can.

5 And Trustee's 110 purports to be the operating agreement
6 for Douglas Investments, LLC.

7 A Yes.

8 Q Is this a true and correct copy of the
9 operating agreement?

10 A Yes.

11 Q Okay. Does your signature appear on the second
12 to last page?

13 A Yes.

14 Q Okay. And is this document maintained in the
15 corporate records for Douglas Investments?

16 A Yes.

17 Q Okay. Thank you.

18 MR. ELGIDELY: Go off the record for a second.

19 (Off-the-record discussion.)

20 MR. ELGIDELY: As I had just indicated before
21 we went off the record, I have about an hour left
22 for Mr. Douglas' deposition, and I was offering,
23 obviously, the court reporter and Mr. Douglas to
24 take a half an hour lunch break.

25 I'm certainly prepared, Mr. Berman, to go

1 through without a lunch break. I'm happy to do
2 that, and --

3 MR. BERMAN: I'm not objecting to a lunch
4 break. We can take a lunch break, but I'm going to
5 start the trustee's deposition at 1:00. So we may
6 need to come back to conclude Mr. Douglas after we
7 conclude the trustee.

8 MR. ELGIDELY: Actually, that won't happen,
9 Steve, because the trustee's here, he's willing to
10 go all through the night. I've reserved a room at
11 the Hotel Indigo. If he needs to stay here until
12 midnight, he'll stay here till midnight.

13 MR. BERMAN: We --

14 MR. ELGIDELY: Steve, please don't interrupt
15 me.

16 If we need to continue Mr. Tardif's deposition
17 throughout tomorrow, we're both available all day
18 tomorrow as well. So Mr. Tardif is prepared to
19 start after the conclusion of Mr. Douglas'
20 deposition to go late in the evening tonight, and to
21 start early tomorrow morning and go throughout the
22 day tomorrow morning up to the seven hours as
23 permitted under the federal rules, but I am not
24 going to stop Mr. Douglas' deposition to start
25 Mr. Tardif's deposition.

1 This is a hearing on a motion to substantively
2 consolidate Douglas Investments, LLC. You refused,
3 Steve, to utilize the nine-hour deposition testimony
4 of Mr. Douglas that was conducted on April 28th in
5 lieu of Mr. Douglas having to come here again today
6 to go through those questions and answers again in a
7 fit of deja vu.

8 So I will not permit you to start Mr. Tardif
9 until the conclusion of Mr. Douglas' deposition.

10 MR. BERMAN: With all due respect,
11 Mr. Elgidely, you don't have the right to preclude
12 me from taking a deposition that I've duly noticed
13 now a third time, and I'm going to start my
14 deposition of the trustee promptly at 1:00. You can
15 do whatever you want to do with Mr. Douglas'
16 testimony.

17 MR. ELGIDELY: Mr. Berman, you have not noticed
18 Mr. Tardif's deposition at all for today, at all.
19 There's no deposition notice.

20 MR. TRAUB: That's false.

21 MR. ELGIDELY: For today?

22 MR. TRAUB: Yes. There's a 1:00 notice --

23 MR. BERMAN: That's fine. If you want to take
24 a break, that's fine. We'll come back to
25 Mr. Douglas as you want, but I'm starting my

1 deposition at 1:00.

2 MR. ELGIDELY: Well, that's not going to
3 happen, but I'll continue the deposition. I'll
4 continue. We're not going to stop our deposition
5 for you to start the deposition.

6 MR. BERMAN: Mr. Elgidely, you noticed this
7 deposition after I noticed Mr. Tardif's deposition.
8 You scheduled it as you wanted to without consulting
9 with us. You're welcome to conclude it, but we are
10 going to start as scheduled.

11 MR. ELGIDELY: That's not going to happen, but
12 if you want to call the court, we'll call the court
13 and deal with it in that fashion. It's up to you.

14 MR. BERMAN: No. At 1:00, I'm going to go
15 ahead, and if we need another court reporter, we're
16 going to go ahead and swear Mr. Tardif. I'm not
17 going to start late. This is the third attempt
18 we've made to depose the trustee.

19 MR. ELGIDELY: It's not going to happen, and
20 we'll continue our deposition.

21 All right. Sorry about that, Mr. Douglas.

22 Again, I apologize. You sat here for nine
23 hours on April 28th, and, you know, we both had a
24 full opportunity to take your deposition, and the
25 need for this is only by virtue --

1 MR. BERMAN: Mr. Elgidely, that's
2 argumentative. You never raised the issue of
3 substantive consolidation in the last deposition,
4 and that's why this deposition is being conducted
5 today. Don't mislead the witness or try to curry
6 favor with the witness by misstating the facts of
7 the last deposition.

8 MR. ELGIDELY: Well, that's false, and if we
9 need to address that with the court as well, we
10 will.

11 BY MR. ELGIDELY:

12 Q Okay. Let's, Mr. Douglas, turn to Trustee's
13 Exhibit 100, if we can.

14 A Okay.

15 Q At your last deposition, sir, on April 28th, do
16 you recall our discussion concerning the schedule of
17 transfers from Private Commercial Office, Inc., to
18 Douglas Investments, LLC, that was marked as Trustee's
19 Exhibit 100?

20 A Yes.

21 Q Okay. Sir, do you dispute that Private
22 Commercial Office, Inc., made each of these transfers
23 that's reflected on this schedule to Douglas Investments,
24 LLC?

25 A No.

1 Q Okay. There are a total, it looks like, sir,
2 of 13 transfers in the period August 8th through -- I'm
3 sorry -- August 8, 2006 through July 16, 2007, for a
4 total amount of \$40,815,000, correct?

5 A Yes.

6 Q Okay. What, if any, money did Douglas
7 Investments give to Private Commercial Office, Inc., in
8 exchange for each of these transfers that's reflected on
9 schedule 100?

10 A Zero.

11 Q What, if any, real property did Douglas
12 Investments, LLC, give to Private Commercial Office,
13 Inc., in exchange for each of these transfers that's
14 reflected on Trustee's Exhibit 100?

15 A Zero.

16 Q What, if any, personal property did Douglas
17 Investments, LLC, give to Private Commercial Office,
18 Inc., in exchange for each of the transfers that's
19 reflected on schedule 100?

20 A Nothing.

21 Q Okay. At that time, sir, you had testified
22 that the transfers are reflected by business loan
23 agreements that were prepared in connection with these
24 transactions, correct?

25 A Yes.

1 MR. ELGIDELY: Okay. I'm going to have these
2 documents marked as a composite, the next number.

3 (Thereupon, the document was marked for
4 identification as Trustee's Exhibit 134.)

5 BY MR. ELGIDELY:

6 Q Mr. Douglas, I'm handing you a grouping of
7 documents that are titled Business Loan Agreements, and
8 I'm going to have the court reporter put a sticker on
9 them as a composite exhibit.

10 I'd ask you just to kind of keep these separate
11 so they don't get mixed up in the other ones, and I'm
12 going to ask you to see if you recognize them.

13 A Yes, I do.

14 Q Why don't you go through each one and just, you
15 know, just briefly scan them. I don't have them stapled.
16 I have them paper clipped, but I'll represent to you that
17 I put them in date order, least recent to the most
18 recent.

19 A You want me to go through each and every one of
20 them?

21 Q Yeah. Why don't you just briefly look at them
22 to see are they the business loan agreements that were
23 executed in connection with these transactions.

24 A Yes, they are, from what I see.

25 Q Careful. They're paper clipped. I don't want

1 them to get stuck together.

2 A Yes, they look like the loan agreements.

3 Q Okay. Are those documents true and correct
4 copies of the documents that are entitled Business Loan
5 Agreements?

6 A Yes.

7 Q Do each of the documents bear your initials at
8 the bottom of the page and your signature at the end?

9 A Yes.

10 Q Are those documents maintained in the business
11 records of Douglas Investments, LLC?

12 A Yes.

13 Q Okay. All right. Sir, let's go back to
14 Trustee's 100, if we could.

15 A Okay.

16 Q Entry one reflects a \$535,000 transfer from
17 Private Commercial Office, Inc., to Douglas Investments,
18 LLC, correct?

19 A Yes.

20 Q Okay. What, if any, loan application did you
21 fill out or did Douglas Investments fill out in order to
22 obtain the \$535,000 loan?

23 A We did not.

24 Q Okay. What, if any, personal guarantees were
25 given in connection with the \$535,000 transfer to Douglas

1 Investments, LLC?

2 A None.

3 Q What, if any, collateral was provided in
4 connection with the \$535,000 transfer?

5 A None.

6 Q Let's -- sir, what I indicated to you, and I
7 will represent, I've put these documents that are now
8 composite -- Trustee's Composite 132 in the earliest date
9 to the most recent date, and I'd ask you where the
10 \$535,000 transfer is included or reflected by a business
11 loan agreement.

12 A There isn't one.

13 Q Why isn't there one?

14 A Because we, after we were done with both
15 properties, just incorporated all -- everything together.

16 Q Okay. When you say we were done with both
17 properties, who are you referring to?

18 A Mr. Engler and myself.

19 Q Okay. And what properties are you referring
20 to?

21 A Teton Creek Resort and 6 North Main Street.

22 Q Okay. So which of the transfers, sir, that are
23 reflected on Trustee's Exhibit 100 were grouped together,
24 if you will, to be included on a business loan agreement?

25 A The --

1 MR. BERMAN: Objection to form.

2 THE WITNESS: I believe it to be the first and
3 the second dated 8/8 of '06, the 535,000, the
4 5,300,000.

5 BY MR. ELGIDELY:

6 Q Okay. Well, let's look at the first document,
7 sir, that's been -- on the top of the exhibit, Composite
8 Exhibit 132. It reflects a loan in the amount of
9 \$6,435,000; is that correct?

10 A Yes.

11 Q Okay. If you look at the schedule, the total
12 of the first two transfers is \$5,835,000.

13 A Yes.

14 Q Okay. What is the reason for the discrepancy?

15 A Because Mr. -- we wanted to maintain money in
16 the checking account.

17 Q Okay. Where is the transfer for the difference
18 reflected?

19 A In the Douglas Investments checking account.

20 Q Well, as I've indicated to you, the forensic
21 accountants traced all of the transfers from Private
22 Commercial Office, Inc., to Douglas Investments, LLC, and
23 I don't see here on schedule 100 a transfer for the
24 difference between \$6,435,000 and the two transfers you
25 said were grouped together in the amount of \$5,835,000.

1 Do you know why that is?

2 MR. BERMAN: Objection. Foundation.

3 THE WITNESS: I don't.

4 BY MR. ELGIDELY:

5 Q Okay. Is it your testimony that the difference
6 was provided by Mr. Engler or Private Commercial Office,
7 Inc.?

8 MR. BERMAN: Objection. Foundation.

9 THE WITNESS: It would be reflected in the
10 Trustee 100 exhibit, and I don't know how we came up
11 with that dollar amount. I'm not -- I don't know.

12 BY MR. ELGIDELY:

13 Q Okay. You would agree, would you not, that the
14 two transfers that you say were grouped together that are
15 reflected on Trustee's -- Trustee's 100 do not make up
16 the total that are reflected in Trustee's 132?

17 A Yes.

18 Q Okay. The first two transfers are 5,835,000,
19 whereas, the so-called loan agreement reflects a loan in
20 the amount of \$6,435,000.

21 A Yes.

22 Q You'd agree that that's an inconsistency?

23 A Yes.

24 Q Okay. Who prepared this document that's
25 entitled Business Loan Agreement, 6 North Main, Teton

1 Creek, dated August 3rd, 2006?

2 A Brad Freeman.

3 Q Did Mr. Freeman provide it specifically for
4 this transaction or how did he do it?

5 A He provided it for any and all loans that
6 Mr. Engler was going to give to Douglas Investments.

7 Q Okay. In the loan documents, sir -- let me
8 turn to the provisions. You just testified Mr. Freeman
9 was your attorney?

10 A Yes.

11 Q How many loan transactions have you been
12 involved in where the borrower's attorney prepares the
13 loan documents for the lender?

14 MR. BERMAN: Objection. Relevance.

15 THE WITNESS: None.

16 BY MR. ELGIDELY:

17 Q Okay. This business loan agreement says it's
18 between Ulrich Engler and Douglas Investments, LLC,
19 correct?

20 A Yes.

21 Q And you acknowledge, do you not, that the
22 transfers that are reflected on Trustee's 100 are
23 transfers by the entity Private Commercial Office, Inc.,
24 as opposed to Ulrich Engler personally?

25 A Yes.

1 Q Okay. How many loan transactions have you been
2 involved in where the name of the -- the name of the
3 lender is incorrectly stated on the loan documents?

4 MR. BERMAN: Objection. Mischaracterization
5 and relevance.

6 THE WITNESS: None.

7 BY MR. ELGIDELY:

8 Q Okay. How many loan transactions have you been
9 involved in where the amount of the loan was higher than
10 the actual loan proceeds that were provided?

11 MR. BERMAN: Objection. Relevance.

12 THE WITNESS: None.

13 BY MR. ELGIDELY:

14 Q Okay. Paragraph 10A of this business loan
15 agreement, sir, says that, in the event that the borrower
16 and lender are not able to mutually agree upon future
17 business decisions of the borrower.

18 How many loan transactions have you been
19 involved in where the lender was involved in the business
20 decisions of the borrower?

21 MR. BERMAN: Objection. Relevance.

22 THE WITNESS: None.

23 BY MR. ELGIDELY:

24 Q Okay. This loan document provides for not only
25 repayment of the principal and interest that was

1 allegedly loaned to you, but also provides for Mr. Engler
2 to receive a portion of the profits, correct?

3 A Yes.

4 Q And how many loan transactions have you been
5 involved in where the lender is not only receiving a
6 repayment of principal and interest, but is also
7 receiving a percentage of the profits?

8 A None.

9 Q Okay. Give me one more moment.

10 In Paragraph 10B, sir, it says, there shall be
11 no fixed income or other compensation paid to David
12 Douglas as the single member of the borrower, nor to
13 lender itself for services rendered to the borrower in
14 relation to the management of the business of the
15 borrower.

16 How many loan transactions have you been
17 involved in which the document specified that the lender
18 is not going to receive any compensation for services
19 rendered with respect to the management of the borrower's
20 business?

21 A None.

22 Q Sir, do you know where the original of this
23 document is located?

24 A With Mr. Engler.

25 Q Okay. Sir, there's another document which

1 appears to be identical in all respects, which has some
2 slight variances. It's the next one in order. It's
3 dated August 3rd, 2006, for the same amount, \$6,435,000,
4 and the only difference, as we discussed at your prior
5 deposition, is that the percentage interests that
6 Mr. Engler is entitled to is reduced from 50 percent to
7 10 percent.

8 Do you recall your testimony in that regard at
9 your prior deposition?

10 A Yes, I do.

11 Q Okay. When was the decision made to reduce
12 Mr. Engler's percentage from 50 percent to 10 percent?

13 A Sometime in '07, I believe, that Mr. Engler was
14 concerned that, again, of the double taxation, and that
15 he just wanted --

16 MR. BERMAN: Objection. Hearsay.

17 THE WITNESS: He wanted me to pay all taxes,
18 profits -- or commissions, real estate commissions.
19 He didn't want to do any of it.

20 BY MR. ELGIDELY:

21 Q Okay. And is that why his percentage was
22 reduced from 50 to 10?

23 A Well, 50 percent of the net profit, but it got
24 reduced to 10 percent of the gross profit.

25 Q Okay.

1 A Where I paid everything.

2 Q Okay. Now, the document is dated -- why is the
3 document dated August 3rd, 2006, when that agreement to
4 reduce the profit was made at a later date?

5 A Because we wanted --

6 MR. BERMAN: Objection. Speculation.
7 Foundation.

8 THE WITNESS: Because we wanted to -- it could
9 coincide with the original contract.

10 BY MR. ELGIDELY:

11 Q Okay. Is there a reason why this document was
12 not entitled Amendment to Business Loan Agreement as
13 opposed to the same exact business loan agreement with
14 the one modification?

15 MR. BERMAN: Same objection.

16 THE WITNESS: I think that was done through
17 Brad Freeman, that he had directed us on how to do
18 it.

19 BY MR. ELGIDELY:

20 Q Okay. All right. Let's go to -- we talked
21 about the first and second transfers that are reflected
22 on Trustee's Exhibit 100.

23 Let's talk about the third. It's on
24 August 28th, 2006 for \$3 million. Can you identify for
25 me the -- well, let's take a step back, actually. Excuse

1 me.

2 Let me take -- I'm looking at the stack as I'm
3 asking the question, and there's actually a loan
4 agreement dated August 23rd, 2006 for \$600,000.

5 A Yes.

6 Q Is that accurate?

7 A Yes.

8 Q And at the top, it says land, Punta Gorda.

9 A Yes.

10 Q Okay. Can you tell me, sir, where on the
11 schedule of transfers from Private Commercial Office,
12 Inc., to Douglas Investments, LLC, the \$600,000 transfer
13 is reflected?

14 A No.

15 Q How do you explain that?

16 A It may not have come from Private Commercial
17 Office. I don't know.

18 Q Did Douglas Investments, LLC, receive funds
19 from any other entity that was owned or controlled by
20 Ulrich Engler?

21 A Yes.

22 Q Which entities?

23 A Free Call Technologies, Inc.

24 Q You're flipping through the pile, and you're
25 referring to a separate business loan agreement that says

1 Free Call Technologies, Inc., at the top?

2 A Yes.

3 Q Okay. That document reflects a \$100,000
4 transfer; is that right?

5 A Yes.

6 Q Okay. Now, I'm talking about, sir, the
7 \$600,000 transfer that's reflected on the document that
8 says land, Punta Gorda, at the top, August 23rd, 2006, in
9 the amount of \$600,000.

10 Can you tell me, with certainty, or to the best
11 of your belief, where those funds came from?

12 A Mr. Engler.

13 Q Personally?

14 A Private Commercial Office.

15 Q Okay. If it's Private Commercial Office, do
16 you know why it's not reflected on a schedule of
17 transfers from Private Commercial Office, Inc., to
18 Douglas Investments, LLC?

19 MR. BERMAN: Objection. Foundation.
20 Speculation.

21 THE WITNESS: No, I do not.

22 BY MR. ELGIDELY:

23 Q Okay. All right. Well, let's talk about this
24 document before we move on.

25 Are these true and correct copies of the

1 business loan agreements for the Punta Gorda land?

2 A Yes.

3 Q Okay. And is that your initials at the bottom
4 and your signature at the last page?

5 A Yes.

6 Q Do you recognize the other signature?

7 A Yes. Mr. Engler.

8 Q Okay. What loan application did you have to
9 fill out in order to obtain this loan?

10 A None.

11 Q Do you know what credit check was done of you
12 in order to be approved for this loan?

13 A None.

14 Q What personal guarantee did you have to give in
15 order to obtain this loan?

16 A None.

17 Q What collateral did you give in order to obtain
18 this loan?

19 A None.

20 Q Who prepared the loan document?

21 A I did.

22 Q Okay. And, again, is it your testimony, as to
23 all of these documents, that you've never been involved
24 in a loan transaction prior to your loans from Mr. Engler
25 in which the borrower prepared the loan documents for the

1 lender?

2 A No.

3 MR. BERMAN: Objection. Relevance.

4 BY MR. ELGIDELY:

5 Q Okay. Again, sir, the first document listed
6 reflects an equal split of profits --

7 A Yes.

8 Q -- with Mr. Engler, in addition to the
9 repayment of principal and interest, correct?

10 A Yes.

11 Q Okay. And a second document reflects the
12 reduction of that split from 50 percent to 10 percent,
13 correct?

14 A Yes.

15 Q Okay. And these documents are in the name of
16 Ulrich Engler, correct?

17 A Yes.

18 Q They're not in the name of Private Commercial
19 Office, Inc.?

20 A No.

21 Q Paragraph 10A of each document states that, in
22 the event that the borrower and lender are not able to
23 mutually agree upon future business decisions of the
24 borrower.

25 Did I read that correctly?

1 A Yes.

2 Q Okay. And, again, how many transactions have
3 you been involved in where the lender is involved in the
4 borrower's business decisions?

5 A None.

6 Q Okay. In 10B, I believe it is, it says, there
7 shall be no fixed income or other compensation paid to
8 David B. Douglas as a single member of the borrower, nor
9 to the lender itself for services rendered to the
10 borrower in relation to the management of the business of
11 the borrower.

12 How many loan transactions have you been
13 involved in where the lender or the loan documents
14 specify that the lender is not going to receive
15 compensation for its services in managing the borrower?

16 MR. BERMAN: Objection. Relevance.

17 THE WITNESS: None.

18 BY MR. ELGIDELY:

19 Q Okay. Sir, with respect to the prior document,
20 I think you testified none of it was repaid?

21 A Yes.

22 Q Okay. Same thing with this document as well?

23 A Yes.

24 Q Okay. All right. Let's go to the next set of
25 documents. They purport to be business loan agreements

1 that say condos, Punta Gorda, at the top. August 24,
2 2006, in the amount of \$450,000; is that correct?

3 A Yes.

4 Q Okay. And where, on the schedule that's marked
5 as 100, is the \$450,000 transfer to Douglas Investments,
6 LLC, reflected?

7 A I don't see it.

8 MR. BERMAN: Objection. Foundation.

9 BY MR. ELGIDELY:

10 Q Okay. And, sir, are these documents true and
11 correct copies of the business loan agreements for the
12 condos in Punta Gorda?

13 A Yes.

14 Q Do they bear your initials at the bottom of
15 each page?

16 A Yes.

17 Q And your signature on the last page?

18 A Yes.

19 Q Do you recognize the other signature?

20 A Yes.

21 Q And whose is it?

22 A Mr. Engler's.

23 Q Okay. I'm not -- I'm trying to speed this up a
24 little bit, but each of these documents appear to contain
25 the language that -- let's see here. 10A, in the event

1 that the borrower and lender are not able to mutually
2 agree upon future business decisions of the borrower.

3 Would it be fair to say that that language was
4 carried over into each of these agreements?

5 A Yes.

6 Q Okay. How about in 10B, where it says, there
7 shall be no fixed income or other compensation paid to
8 David Douglas as the single member of the borrower, nor
9 to the lender itself for services rendered to the
10 borrower in relation to the management of the business of
11 the borrower, was that language carried over?

12 MR. BERMAN: Objection. Relevance.

13 BY MR. ELGIDELY:

14 Q Was that language carried over into each of the
15 documents, the agreements?

16 MR. BERMAN: Objection. Relevance.

17 THE WITNESS: Yes.

18 BY MR. ELGIDELY:

19 Q Okay. And then the -- again, these documents
20 reflect a reduction in the 50 percent split of profits to
21 10 percent.

22 A Yes.

23 Q Do you see that there, sir?

24 A Yes.

25 Q Okay. All right. I think we're to the third

1 transfer now, sir. I think that's what you were flipping
2 to earlier.

3 On Trustee's 100, there's a transfer from
4 Private Commercial Office, Inc., to Douglas Investments,
5 LLC, on August 23rd, 2006, in the amount of \$3 million.
6 Is there a corresponding business loan agreement for that
7 transfer?

8 A Yes.

9 Q Okay. And is that the documents that say
10 Neeley -- the document that says Neeley at the top, dated
11 August 24, 2006, in the amount of \$3 million?

12 A Yes.

13 Q Okay. Is this document, sir, a true and
14 correct copy of the document for the \$3 million loan on
15 August 24, 2006?

16 A Yes.

17 Q Does it bear your initials at the bottom of
18 each page?

19 A Yes.

20 Q Does it bear your signature on the last page?

21 A Yes, it does.

22 Q Do you recognize the other signature?

23 A Yes.

24 Q Is this a document that's maintained in the
25 business records of Douglas Investments?

1 A Yes.

2 Q Okay. Sir, how many loan transactions have you
3 been involved in before where the loan proceeds are
4 actually provided before the business loan -- or the loan
5 documents are executed?

6 MR. BERMAN: Objection. Relevance.

7 THE WITNESS: None.

8 BY MR. ELGIDELY:

9 Q Okay. You do see, sir, that this schedule or
10 the Trustee's Exhibit 100 reflects a \$3 million transfer
11 on August 23rd, 2006, that's reflected by the attached --
12 there's a check also attached dated August 23rd, 2006?

13 A Yes.

14 Q In the amount of \$3 million.

15 Would you -- would this be the first loan
16 transaction in which you were involved where the loan
17 proceeds were provided before the loan documents were
18 executed?

19 A Yes.

20 Q Okay. And what credit check did you have to go
21 through in order to obtain this \$3 million loan?

22 A None.

23 Q What personal guarantee did you have to
24 provide?

25 A None.

1 Q Did you have to provide a written loan
2 application in order to get this loan?

3 A No.

4 Q What collateral, if any, did you provide?

5 A None.

6 Q And who prepared the loan documents?

7 A I did.

8 Q Okay. Sir, I noticed that this document
9 reflects the split in the amount of 50 percent between
10 yourself and Mr. Engler, but there wasn't a corresponding
11 document or a document for the reduction to 10 percent.
12 Do you know why that is?

13 A I don't.

14 Q Okay. All right. Let's go to the next one.
15 The next transfer that's reflected is a \$2,500,000
16 transfer on, it looks like, December 12, 2006, from
17 Private Commercial Office, Inc., to Douglas Investments.
18 Can you identify the corresponding loan agreement for
19 that transfer?

20 A No, I cannot.

21 Q Okay. The next document in the order, sir, is
22 a document that's -- says Fidelity loan at the top. It's
23 dated December 22nd, 2006, in the amount of \$1,500,000,
24 correct?

25 A Yes.

1 Q That's actually ten days after the two and a
2 half million dollar transfer from Private Commercial
3 Office to Douglas Investments, LLC, correct?

4 A Yes.

5 MR. BERMAN: Objection. Foundation.

6 BY MR. ELGIDELY:

7 Q Sir, when you testified before, on April 28th,
8 you testified that you did not dispute receiving any of
9 the transfers that are reflected on Trustee's 100,
10 correct?

11 A Correct.

12 MR. BERMAN: Objection. Foundation.

13 BY MR. ELGIDELY:

14 Q And you testified that this document was
15 truthful and correct to the best of your knowledge and
16 belief, correct?

17 MR. BERMAN: Objection. Foundation and
18 hearsay.

19 THE WITNESS: Yes.

20 BY MR. ELGIDELY:

21 Q Okay. Sir, can you explain why, if there was a
22 two and a half million dollar loan on December 12th,
23 2006, that the loan document would only reflect a
24 \$1.5 million loan?

25 MR. BERMAN: Objection. Foundation.

1 Speculation.

2 THE WITNESS: As I review this, it looks like
3 Fidelity and Parkinson were put together.

4 BY MR. ELGIDELY:

5 Q Okay. Let's see here. Well, let's talk about
6 this one first, and we'll get to Parkinson in a second.

7 This one is for one and a half million dollars,
8 correct?

9 A Yes.

10 Q Okay. You testified earlier that you haven't
11 been involved in any loan transactions prior to meeting
12 Mr. Engler where a loan was funded before the documents
13 were signed, correct?

14 A Yes.

15 Q Here, we have a situation where \$1.5 million is
16 reflected on a loan document ten days after two and a
17 half million dollars is transferred by the so-called
18 lender, correct?

19 A Yes.

20 Q Okay. There's no document that's on or about
21 December 12th, 2006, for two and a half million dollars,
22 is there?

23 A No.

24 Q Okay. How many loan transactions have you been
25 involved in, prior to meeting Mr. Engler, where a lender

1 forgot to leave a million dollars of loan proceeds on a
2 loan document?

3 A None.

4 MR. BERMAN: Objection. Relevance.

5 BY MR. ELGIDELY:

6 Q Okay. I believe you indicated that these are
7 your initials at the bottom?

8 A Yes.

9 Q And your signature at the end; is that correct?

10 A Yes.

11 Q Okay. And then Mr. Engler's signature appears
12 as well?

13 A Yes.

14 Q And all of these loan documents that we've
15 previously discussed, sir, Mr. Engler was receiving not
16 only a repayment of principal and interest, but he was
17 also receiving a percentage of the profits, correct?

18 A Yes.

19 Q Okay. All right. Let's go to the next
20 document, sir. You said that, in looking at the Fidelity
21 loan business loan agreement, dated December 22nd, 2006,
22 for \$1.5 million, you believe it was combined with the
23 business loan or the loan proceeds for the Parkinson
24 property. Wasn't that what you surmised or believed?

25 A Yes.

1 Q Okay. And you looked at the Parkinson business
2 loan agreement dated January 5th, 2007, in the amount of
3 \$1.1 million in reaching that belief, correct?

4 A Yes.

5 Q If you look at the schedule, the Trustee's
6 Exhibit 100, you'll see that it reflects a transfer on
7 January 5th, 2007, in the amount of \$1.1 million,
8 correct?

9 A Yes.

10 Q Okay. And that date and amount would
11 correspond with the business loan agreement for the
12 Parkinson property, correct?

13 A Yes.

14 Q So is it -- it's true, is it not, that the
15 Parkinson and Fidelity loans could not have been combined
16 if there's a separate transfer for \$1.1 million on
17 January 5th, 2007?

18 A Yes.

19 MR. BERMAN: Objection. Leading.

20 BY MR. ELGIDELY:

21 Q Okay.

22 MR. BERMAN: Mischaracterization.

23 BY MR. ELGIDELY:

24 Q Sir, where is the \$1 million -- the loan
25 agreement for the other \$1 million that we talked about

1 on December 12th, 2006?

2 A I would have to talk to my CPA about that.

3 Q Okay. But do you see a loan document?

4 A No, I do not.

5 Q Okay. This loan document for Parkinson, dated
6 January 5th, 2007, for \$1.1 million, does it bear your
7 initials at the bottom of each page?

8 A Yes, it does.

9 Q Okay. And does it bear your signature on the
10 last page?

11 A Yes, it does.

12 Q Do you recognize the other signature?

13 A Yes. Mr. Engler.

14 Q Is this document maintained in the corporate
15 records of Douglas Investments?

16 A Yes.

17 Q Okay. This document also provides for a
18 repayment of principal and interest as well as a
19 percentage of the profits to Mr. Engler, correct?

20 A Yes.

21 Q And it also contains those same provisions at
22 Paragraphs 10A and B that we discussed previously -- let
23 me get to there -- about the mutually agreeing to future
24 business decisions of the borrower, correct?

25 A Yes.

1 Q As well as the nonpayment of compensation for
2 management of the borrower's business, correct?

3 A Yes.

4 MR. BERMAN: Can we go off the record for just
5 a minute?

6 MR. ELGIDELY: Depends on what you're going to
7 say, Steve. Sure. Let's start off the record and
8 let's see what you have to say.

9 (A recess was taken at 1:02 p.m. and the
10 proceedings resumed at 1:17 p.m., at which time
11 Robert Tardif entered the room and the
12 following took place:)

13 MR. BERMAN: Off the record, Mr. Elgidely and I
14 discussed how we wanted to conclude the David
15 Douglas deposition.

16 It appears that Mr. Elgidely has about a half
17 an hour. I'm going to try to keep my cross to about
18 a half an hour. And then we will take about a half
19 an hour break for the court reporter.

20 We also spoke with Mr. Tardif off the record,
21 who agreed that, at that time, we would resume his
22 deposition, which was scheduled for 1:00 p.m.
23 Eastern today, and we'll go until we conclude it.

24 My best estimate for him, for how much time I
25 would need to conduct his deposition, was about five

1 hours, and he's agreed to go until we conclude it
2 tonight, if that works for the court reporter.

3 MR. ELGIDELY: Does that work for you?

4 THE REPORTER: That works for me.

5 MR. BERMAN: Mr. Tardif, are we in agreement?

6 MR. ELGIDELY: Yes.

7 MR. TARDIF: Yes.

8 MR. BERMAN: Okay. I appreciate that. Let's
9 go ahead and try to wrap Mr. Douglas up.

10 (Mr. Tardif exited the room at 1:18 p.m.)

11 BY MR. ELGIDELY:

12 Q Mr. Douglas, before we had taken a break, we
13 were talking about Trustee's Exhibit 100, a \$1,100,000
14 transfer from Private Commercial Office to Douglas
15 Investments, LLC, on January 5th 2007, as well as the
16 business loan agreements that purport to reflect that
17 transfer.

18 Sir, I'm going to have you look at these and
19 just see if they bear your initials at the bottom of each
20 page.

21 A Yes, they do.

22 Q Do these documents also bear your signature on
23 the last page?

24 A Yes, it does.

25 Q Okay. Do you recognize the other signature?

1 A Yes. Mr. Engler.

2 Q Okay. And are these documents maintained in
3 the corporate records of Douglas Investments, LLC?

4 A Yes.

5 Q Okay. This document reflects that Mr. Engler's
6 not only entitled to repayment of principal and interest,
7 he's also entitled to a percentage of the profits?

8 A Yes.

9 Q Okay. And they contain the other provisions
10 that we talked about earlier?

11 A Yes.

12 Q 10A and 10B?

13 A Yes.

14 Q Okay. Sir, again, here's an instance where the
15 \$1.1 million was transferred by Private Commercial
16 Office, Inc., but the name of the lender on the document
17 is Ulrich Engler. Do you see that?

18 A Yes.

19 Q Okay. What credit application, sir, did you
20 have to -- well, strike that.

21 What application for approval of this loan did
22 you fill out?

23 A None.

24 Q What credit check process was followed in order
25 for you to get this \$1,100,000 loan?

1 A None.

2 Q What personal guarantee did you sign in
3 connection with this loan?

4 A None.

5 Q What collateral was obtained in connection with
6 this loan?

7 A None.

8 Q And who prepared the loan document?

9 A I did.

10 Q Okay. The next group. The next transfer on
11 here, sir, is on -- also on January 5th, 2007, in the
12 amount of \$2,700,000. Do you see that there on
13 schedule -- or the Exhibit 100 --

14 A Yes.

15 Q -- schedule of transfers?

16 And there appears to be a business loan
17 agreement for that transfer. It says Martineau at the
18 top?

19 A Yes.

20 Q Do your initials appear on the bottom of each
21 page?

22 A Yes.

23 Q And does your signature appear on the last
24 page?

25 A Yes.

1 Q Do you recognize the other signature?

2 A Yes. Mr. Engler.

3 Q Okay. And is this document maintained in the
4 corporate records of Douglas Investments, LLC?

5 A Yes, it is.

6 Q Okay. Sir, you notice in the second document,
7 it's struck through \$2,700,000, and it says \$3 million.

8 A Yes.

9 Q Do you know why that was done?

10 A Because there was 10 percent that was put down
11 on the property at the time the contract was signed.

12 Q So that was -- the 10 percent was added in
13 later?

14 A Yes.

15 Q Okay. And when I say later, I'm not trying to
16 trick you. You had testified earlier that the split of
17 profits was reduced from 50 percent to 10 percent,
18 correct?

19 A Yes.

20 Q And the document where the \$2,700,000 is
21 stricken through is on the document that reflects the
22 later reduction, correct?

23 A Yes.

24 Q Sir, you would agree that the 13 transfers over
25 the course of 11 months in the amount of \$40,815,000 from

1 Private Commercial Office to Douglas Investments was --
2 represented a lot of money, a significant amount of
3 money, would you not?

4 A Yes.

5 Q Okay. Have you ever been involved in a loan
6 transaction where the loan documents were prepared so
7 casually as they were done in this case?

8 A No.

9 MR. BERMAN: Objection. Characterization and
10 relevance.

11 BY MR. ELGIDELY:

12 Q Sir, you would agree that these documents were
13 done pretty casually for such a significant amount of
14 money, would you not?

15 A Yes.

16 MR. BERMAN: Objection. Mischaracterization.

17 BY MR. ELGIDELY:

18 Q Sir?

19 A Yes.

20 Q Am I mischaracterizing anything, in your
21 opinion?

22 A No.

23 Q Okay. Have you ever been involved in a loan
24 transaction in which the blanks are filled in, like a
25 fill-in-the-blank type form?

1 A No.

2 Q Okay. And that's basically what was done here,
3 right? These are fill-in-the-blank forms?

4 A Yes.

5 Q Okay. And these documents -- none of these
6 documents were notarized, correct?

7 A No.

8 Q Let's go to the next transfer, sir. In the
9 schedule, it reflects a transfer in the amount of
10 3 million -- strike that. Strike that. Sorry.

11 Did I ask you, sir -- I don't remember at this
12 point. Did I ask you if you filled out a loan
13 application for this loan?

14 You know what? Why don't I do it this way.
15 For any of the business loans that you obtained from
16 Engler or Private Commercial Office, Inc., did you fill
17 out any loan applications?

18 A No.

19 Q Okay. Did Mr. Engler or anybody associated
20 with Mr. Engler conduct any credit checks on you before
21 you obtained these loans?

22 A No.

23 Q Any of these loans?

24 A No.

25 Q Did you give any personal guarantees in

1 connection with any of these loans?

2 A No.

3 Q Did you give any collateral in connection with
4 any of these loans?

5 A No.

6 Q Would it be fair to say that you, as the
7 borrower, arranged for these loan documents to be
8 prepared?

9 A Yes.

10 Q Okay. Mr. Engler's side of the table didn't
11 prepare any of the loan documents, did they?

12 A No.

13 Q Okay. As the lender?

14 A No.

15 Q All of these loan documents reflect the name of
16 the lender as Ulrich Engler, correct?

17 A Yes.

18 Q And you recognize that the transfers that are
19 reflected on Trustee's Exhibit 100 were all from Private
20 Commercial Office, Inc., correct?

21 A Yes.

22 Q Okay. That should speed things along a little
23 bit.

24 Let's go to the next item, sir. It looks like
25 transfer number seven, which is in the amount of

1 \$3,680,000 from Private Commercial Office, Inc., to
2 Douglas Investments, LLC, also on January 5th, 2007, and
3 there appears to be a business loan agreement that says
4 Neeley at the top for \$3,680,000. Does this document
5 bear your initials at the bottom of each page?

6 A Yes, it does.

7 Q Does it reflect your signature on the last
8 page?

9 A Yes, it does.

10 Q Do you recognize the other signature?

11 A Yes. Mr. Engler.

12 Q Is this document maintained in the corporate
13 records of Douglas Investments, LLC?

14 A Yes.

15 Q I notice, sir, that this document also provides
16 for a 50 percent split of the net profits?

17 A Yes.

18 Q Do you recognize that?

19 The documents that were produced by your
20 counsel do not reflect a separate agreement for the
21 reduction to 10 percent. Do you know why that is?

22 A I do not.

23 Q Going to the next transfer, transfer eight on
24 February 8th, 2007, in the amount of \$4 million from
25 Private Commercial Office, Inc., to Douglas Investments,

1 LLC, there appears to be -- let's see.

2 You know, in fact, there is no business loan
3 agreement for that transfer. Do you know why?

4 A No.

5 MR. BERMAN: Objection. Foundation.

6 BY MR. ELGIDELY:

7 Q Sir, is there a business loan agreement for the
8 \$4 million transfer?

9 A I don't see one.

10 MR. BERMAN: Objection. Foundation.

11 BY MR. ELGIDELY:

12 Q Would you think -- well, strike that.

13 Why isn't there a business loan agreement for
14 the \$4 million transfer on February 8th, 2007?

15 A I would have to check --

16 MR. BERMAN: Objection. Speculation.

17 Foundation.

18 THE WITNESS: I would have to check with my CPA
19 on that.

20 BY MR. ELGIDELY:

21 Q Okay. Sitting here today, can you explain why
22 there's no business loan agreement for the \$4 million
23 transfer?

24 A No.

25 MR. BERMAN: Objection.

1 THE WITNESS: No, I cannot.

2 BY MR. ELGIDELY:

3 Q Mr. Douglas, if you could put on your list, and
4 put a very large star next to this one, any of the
5 documents for which there are no business loan
6 agreements. I think this was the first one. This one
7 was the transfer number eight, February 8th, 2007, from
8 Private Commercial Office, Inc., to Douglas Investments,
9 LLC, for \$4 million.

10 If you could obtain a copy of the loan
11 agreement for that transfer as soon as possible, and by
12 no later than Tuesday, since we have the hearing next
13 week, I'd appreciate that.

14 A I'd be back on Wednesday, and I can take a look
15 at the business agreements and see if I have anything for
16 \$4 million.

17 Q Could you talk to maybe Sean or Joe Whitlock to
18 see if they have anything --

19 A Yes.

20 Q -- in their files? Just to kind of expedite
21 the process.

22 A Yes.

23 Q Okay. All right. But sitting here today, you
24 don't --

25 A No.

1 Q -- see a loan agreement for the \$4 million, do
2 you?

3 A No.

4 Q Okay. Let's go to the next transfer then.
5 It's a few days later, February 12th, 2007, in the amount
6 of also \$4 million.

7 Do you see a business loan agreement for that
8 transfer? These, I will represent to you, are in date
9 order.

10 A No.

11 Q Okay. Do you know why there is no business
12 loan agreement for the second transfer in the amount of
13 \$4 million?

14 A No.

15 Q Okay. Could you also put a -- mark this one,
16 as well? This one is February 12th, 2007.

17 A Okay.

18 Q We do have a -- looks like a business loan
19 agreement on an intervening date here for which there is
20 no corresponding transfer. Let's look at this one, the
21 next one here. It says Arnold Ranch at the top?

22 A Yes.

23 Q And it says March 2nd, 2007. And they're each
24 for \$5 million.

25 Do you know how you reconcile these loan

1 agreements on March 2nd, 2007, with the transfers that
2 are reflected on Trustee's 100?

3 A No.

4 Q Okay. We talked about the two separate
5 transfers, each in the amount of \$4 million, and this --
6 these documents for a \$5 million loan, correct?

7 A Yes.

8 Q Okay. Have you ever been involved in a
9 transaction where a lender just funds a borrower's
10 account and then, at some point in the future, prepares a
11 loan document for that transfer?

12 A No.

13 Q Okay. It does appear here, sir, does it not,
14 or -- that \$8,000 was put into the account of Douglas
15 Investments, LLC, and sitting here today, we don't have a
16 loan agreement for those amounts?

17 A For \$8,000?

18 MR. BERMAN: Objection. Mischaracterization.

19 BY MR. ELGIDELY:

20 Q 8 million. I'm sorry.

21 A No, we do not.

22 Q Okay. In the course of your relationship with
23 Mr. Engler and Private Commercial Office, Inc., would it
24 have been unusual for them to transfer the money to
25 Douglas Investments' account for future expenses that may

1 be incurred?

2 A Could you repeat that question, please?

3 Q Okay. Yes. In the course of your dealings
4 with Mr. Engler and Private Commercial Office, Inc.,
5 would it have been unusual for them to deposit funds into
6 Douglas Investments' account for future expenses that may
7 be incurred?

8 A No, it would not have been unusual.

9 Q Did that occur?

10 A Yes.

11 Q Okay. So -- well, when did that occur?

12 A Well, what I'm saying, we would always look at
13 what was the dollar amount in the checking account, and
14 that's why, if there was \$2 million in the account and
15 all that was due was four, we do the loan -- or five, we
16 do the loan agreement for the dollar amount that was
17 owed, but not what was transferred, if that makes any
18 sense, based upon what was in the account. There was
19 always an ongoing balance.

20 Q Okay. Was there -- is it your testimony that
21 there was a surplus in the account?

22 A Yes.

23 Q Okay. And would there or would there not be a
24 business loan agreement that reflected that surplus?

25 A There would not be a business loan agreement

1 reflecting the surplus.

2 Q Okay. You said we reviewed the bank statements
3 for Douglas Investments. Who are you referring to when
4 you say we?

5 A When did I say that? Just now?

6 Q Yeah. You were saying that we would look at
7 what was owed and what we had in the bank account.

8 A Mr. Engler and myself.

9 Q Okay. And you'll find out about, you know,
10 these two business loan agreements?

11 A Yes.

12 Q Whether there are business loan agreements for
13 these two separate \$4 million transfers, correct?

14 A Yes.

15 Q Okay. All right. So we're looking at the
16 March 2nd, 2007 contracts. They're each for \$5 million,
17 correct?

18 A Yes.

19 Q And this is really for the same deal. This is
20 not 10 million. This is five, correct?

21 A Yes.

22 Q To clarify the record, there was initially one
23 set of business loan agreements that were prepared for
24 the amount of the transfer that provided for a 50 percent
25 split of profits, correct?

1 A Yes.

2 Q And then there was a second set prepared for
3 the same transaction that would reflect just the
4 reduction in the amount of the split to 10 percent,
5 correct?

6 A Yes.

7 Q Okay. And that's what we're dealing with here?

8 A Yes.

9 Q For the Arnold Ranch?

10 A Yes.

11 Q Okay. These are your signatures on the bottom
12 of each page, your initials?

13 A Yes, they are.

14 Q Is that your signature on the last page?

15 A Yes, it is.

16 Q Okay. Do you recognize the other signature?

17 A Yes. That's Mr. Engler's.

18 Q Are these documents maintained in the business
19 records of Douglas Investments, LLC?

20 A Yes, they are.

21 Q Okay. Let's go to the next document. It says
22 Fidelity Ranch at the top. It's dated March 2nd, 2007,
23 for the amount of \$3,039,000. And are those your
24 initials at the bottom of each page?

25 A Yes.

1 Q Is that your signature on the last page?
2 There's no signature page, unfortunately, on this draft.

3 A There is on this one.

4 Q Okay. Is that your signature on that page?

5 A Yes, it is.

6 Q Okay. And do you recognize the other
7 signature?

8 A Yes. Mr. Engler's.

9 Q Okay. The page that has your signature
10 reflects, I think, the 50 percent split of profits,
11 50/50, correct?

12 A Yes.

13 Q Okay. And are these documents maintained in
14 the corporate records of Douglas Investments?

15 A Yes.

16 Q Okay. Where on Trustee's 100 is the \$3,039,000
17 transfer reflected?

18 MR. BERMAN: Objection. Foundation.

19 THE WITNESS: It would not be.

20 BY MR. ELGIDELY:

21 Q Why is it not on Trustee's 100?

22 MR. BERMAN: Objection. Foundation.
23 Speculation.

24 THE WITNESS: As I described before, that there
25 were projects we were doing, like the Teton Creek

1 Resort and the infrastructure, where I would say,
2 well, I need \$400,000 for the infrastructure, plus
3 the payment of 3,039,000. He would just say, okay,
4 I'll send you a form, we'll keep track of it through
5 the ongoing balances in the account.

6 BY MR. ELGIDELY:

7 Q Okay. When you said we again --

8 A Mr. Engler and myself.

9 Q Okay. And he would just transfer 4 million.

10 That was your example.

11 A Yes.

12 Q Who is he?

13 A Mr. Engler would just transfer 4 million.

14 Q Okay. Let's go to the next one.

15 This document, it says Free Call Technologies,
16 Inc., at the top. It's dated March 5th, 2007, in the
17 amount of \$1 million.

18 Can you see where, on Trustee's 100, the \$1
19 million transfer would be reflected?

20 A No.

21 Q Why is that?

22 A Because it came from a separate company that he
23 owned.

24 Q What company did it come from?

25 A Great Call Technologies.

1 Q Okay. Give me one moment.

2 MR. ELGIDELY: Let's have this marked as the
3 next one, please.

4 (Thereupon, the document was marked for
5 identification as Trustee's Exhibit 133.)

6 Q Mr. Douglas, I've handed you a document that's
7 marked as Trustee's Exhibit 133, and it purports to be a
8 check from Free Call Technology on February 28th, 2007,
9 in the amount of \$1 million, with a notation loan in the
10 left-hand corner.

11 A Yes.

12 Q Okay. Is this the check that you received or
13 Douglas Investments received that you indicate is
14 reflected by the business loan agreement that says Free
15 Call Technologies at the top?

16 A Yes.

17 Q Okay. Why, sir, does the business loan
18 agreement reflect the name of the lender as Ulrich
19 Engler, when the funds were derived from Free Call
20 Technologies, Inc.?

21 A Because he -- we just thought it all would be
22 the same. This was a company that he said he owned, that
23 he shut down. This was profits in there that he wanted
24 to transfer over to Douglas Investments.

25 Q What was the purpose of the loan?

1 A To invest in Douglas Investments.

2 Q Mr. Engler was investing in Douglas
3 Investments?

4 A The company that he owned, one of many that he
5 claimed that he owned, that he was shutting this down and
6 this was the profits of the company, and he was
7 transferring over to Douglas Investments for future
8 purchases.

9 Q Okay. So Mr. Engler, just so I understand you
10 correctly, was transferring profits from a company that
11 he owned to Douglas Investments?

12 A Yes.

13 Q Okay. Because he was closing the account for
14 this company?

15 A I believe that's what he said.

16 Q Okay. And, again, this is an instance, sir,
17 where \$1 million is being transferred to Douglas
18 Investments prior to the business loan, the date of the
19 business loan agreement. Do you see that --

20 A Yes.

21 Q -- the difference in dates there?

22 A Yes.

23 Q Can you tell me how many loan transactions
24 you've been involved in where loan proceeds were provided
25 before -- before the loan documents were signed?

1 A No.

2 MR. BERMAN: Relevance.

3 THE WITNESS: None.

4 MR. ELGIDELY: I had marked 132. What was
5 that?

6 MR. TRAUB: I think that was the --

7 MR. ELGIDELY: Oh, the composite. Okay.
8 Thanks, Seth.

9 BY MR. ELGIDELY:

10 Q Let me ask you a question, sir. This business
11 loan agreement is the same form that you used for all of
12 the other transfers, correct?

13 A Yes.

14 Q If a loan is being made, was there -- I mean,
15 how were you going to split profits on a loan? I mean,
16 what's -- isn't it typical, in your experience, that
17 where a loan is made, you just repay the loan with
18 interest?

19 A Yes.

20 Q Okay. So how were profits going to be derived
21 from a loan?

22 A Profits of sales of any property that we had.

23 Q Okay. So was it your understanding that this
24 \$1 million transfer was going to be used for other
25 purchases of properties?

1 A It may have been for infrastructure, for
2 operating cost of properties, where we had engineers,
3 architects, designers, excavators doing work.

4 Q Okay. Those were all expenses of Douglas
5 Investments, LLC, correct?

6 A Correct.

7 Q Okay. The address that's on the check, is it
8 the same address that Private Commercial Office, Inc.,
9 used?

10 A Yes.

11 Q And is that the address that was listed on the
12 contract with Fidelity National Timber Resources?

13 A Yes.

14 Q Okay. I notice that, again, here we have a
15 situation where the profits were reduced from 50 percent
16 to 10 percent, correct?

17 A Yes.

18 Q All right. And this document also bears your
19 initials at the bottom of each page?

20 A Yes.

21 Q Your signature at the end?

22 A Yes.

23 Q Do you recognize the other signature?

24 A Mr. Engler's.

25 Q And this is maintained in the corporate records

1 for Douglas Investments, LLC?

2 A Yes, it is.

3 Q Okay. All right. Let's go to the next
4 document. It says Fidelity loan at the top, and it's
5 dated April 10, 2007, in the amount of \$4 million.

6 Would that correspond, sir, to entry ten on
7 Trustee's 100 reflecting a \$4 million transfer from
8 Private Commercial Office, Inc., to Douglas Investments,
9 LLC?

10 A Yes.

11 MR. BERMAN: Objection. Foundation.

12 BY MR. ELGIDELY:

13 Q The date of that transfer and the amount of the
14 transfer correspond with this document, do they not?

15 MR. BERMAN: Same objection.

16 THE WITNESS: No, they do not.

17 BY MR. ELGIDELY:

18 Q Well, you see statement clearing date, 4/3/07,
19 and you see amount, \$4 million, correct?

20 A Yes.

21 Q And the business loan agreements are dated
22 April 10, 2007, for 4 million?

23 A Yes.

24 Q Correct?

25 A Yes.

1 Q Okay. These documents all bear your initials
2 at the bottom --

3 A Yes.

4 Q -- of the page?

5 And do they reflect your signature on the last
6 page?

7 A Yes.

8 Q Do you recognize the other signature?

9 A Yes. Mr. Engler.

10 Q Okay. And are these maintained in the business
11 records of Douglas Investments?

12 A Yes.

13 Q Okay. Let's go to the next transfer. Let's
14 see the date of that there. Okay.

15 The next document, Mr. Douglas, is dated
16 June 5th, 2007, in the amount of \$3,680,000, and it says
17 Neeley at the top.

18 A Correct.

19 Q Did I read that accurately?

20 A Yes.

21 Q Are those your initials at the bottom of each
22 page?

23 A Yes.

24 Q Your signature at the end?

25 A Yes.

1 Q Do you recognize the other signature?

2 A Mr. Engler.

3 Q And is this maintained in the corporate records
4 of Douglas Investments?

5 A Yes, it is.

6 Q Okay. Can you correspond this business loan
7 agreement with an entry on Trustee's 100?

8 A No.

9 Q Why not?

10 A Because, again, this was a dollar amount that
11 was due, but there was probably other expenses related,
12 like Nelson Engineering and others, that was rounded off
13 to \$4 million or 2 million, whatever the -- whatever --
14 that 4 million.

15 Q Okay. So was that money on balance, the
16 difference on balance in the Douglas Investments account?

17 A Yes.

18 Q And that money had been provided by Mr. Engler
19 and/or Private Commercial Office?

20 A Yes.

21 Q Okay. Let's go to the next loan agreement.
22 This one's dated June 2nd -- I'm sorry, June 22, 2007, in
23 the amount of \$1,186,000. Are those your initials at the
24 bottom of each page?

25 A Yes.

1 Q Is that your signature on the last page?

2 A Yes.

3 Q And do you recognize the other signature?

4 A Yes. Mr. Engler.

5 Q And is this document maintained in the
6 corporate records for Douglas Investments?

7 A Yes.

8 Q Okay. Does this correspond with any entry on
9 Trustee's 100?

10 A No.

11 Q I hate to ask you this again, but why not? I
12 think I know the answer.

13 MR. BERMAN: Objection. Foundation.
14 Speculation.

15 THE WITNESS: Because at the time that the --
16 we're talking about the last two line items 4
17 million and --

18 BY MR. ELGIDELY:

19 Q No. What I'm talking about is here you have a
20 business loan agreement dated June 22nd, 2007, for
21 \$1,186,000.

22 A Yes.

23 Q And there are no transfers reflected on
24 Trustee's 100 for the months of May and June. So I'm
25 asking you why there are -- why there's no entries for

1 this loan, as you refer to it.

2 A Because it was lumped with the balance of the
3 projects there.

4 Q Is that, again, your testimony that there was
5 sufficient proceeds in the Douglas Investments account to
6 pay for these items such as this 8 Cold Springs Lane?

7 A Yes.

8 Q What is 8 Cold Springs Lane?

9 A That's a residential home in Teton Springs.

10 Q Okay. Who was the home purchased for?

11 A Mr. Engler.

12 Q Whose name was the home put in?

13 A Douglas Investments.

14 Q Why was the home purchased for Mr. Engler and
15 put in the name of Douglas Investments?

16 A Because he didn't want the double taxation
17 ordeal or if he got divorced.

18 Q And how do you know that?

19 A He told me that.

20 MR. BERMAN: Objection. Hearsay.

21 BY MR. ELGIDELY:

22 Q And hearing Mr. Engler say that, you felt
23 comfortable taking title to a home in the name of Douglas
24 Investments even though the property was really for the
25 use of Mr. Engler?

1 A Yes.

2 MR. BERMAN: Objection. Hearsay.

3 THE WITNESS: Yes.

4 BY MR. ELGIDELY:

5 Q Okay. And that's what you did?

6 A That's what I did.

7 Q Okay. Sir, this is a single-family residence,
8 correct?

9 A Yes.

10 Q Okay. That you testified was for Mr. Engler's
11 personal use?

12 A Yes.

13 Q Were there plans to sell that -- to develop
14 that property and to sell it for a profit in the future?

15 A No.

16 Q Okay. So why was a business loan agreement
17 prepared for a residence purchased for Mr. Engler's
18 personal use that provided for a split of profits from
19 the development and resale of the property?

20 A Because I was going to manage the property, and
21 if it was sold for a profit, we were to split the profits
22 for taking care of the home when he wasn't there.

23 Q So it was like a management fee for you?

24 A Yes.

25 Q Okay. How do you know that the property was to

1 be used for Mr. Engler's personal use?

2 A Because he --

3 MR. BERMAN: Objection. Hearsay.

4 THE WITNESS: Because he said that's what he
5 wanted, to get a place in Teton Springs.

6 BY MR. ELGIDELY:

7 Q How often did Mr. Engler stay there?

8 MR. BERMAN: Objection. Hearsay.

9 THE WITNESS: Not very often.

10 BY MR. ELGIDELY:

11 Q Okay. Did he stay there on any occasion with
12 his girlfriend, Bianca Borowski?

13 A Yes.

14 Q Were you a guest in that home?

15 A No. I had my own home.

16 Q No, I meant were you ever invited --

17 A Yes.

18 Q -- on a social occasion --

19 A Yes.

20 Q -- in that home while Mr. Engler and
21 Miss Borowski were there?

22 A Yes.

23 Q Okay. Did Mr. Engler have a computer with a
24 big computer screen in this home?

25 A No.

1 Q Okay. Only at 91 Southport Cove?

2 A Yes.

3 Q Okay. In your last deposition, we talked about
4 a 2006 Hummer H2. Do you recall that testimony?

5 A Yes.

6 Q Okay. What was the purpose of the -- what was
7 the purpose of the purchase of the 2006 Hummer H2?

8 A Mr. Engler wanted a new car for out west.

9 Q For whose use?

10 A For himself.

11 Q Okay. And whose name was the vehicle purchased
12 in?

13 A Douglas -- Douglas Investments.

14 Q Why was a vehicle to be purchased for
15 Mr. Engler's personal use titled in the name of Douglas
16 Investments?

17 A So that I would take care of it and maintain
18 it.

19 Q Okay. Why didn't the vehicle get titled in
20 Mr. Engler's name?

21 A He wasn't comfortable in putting anything in
22 his name.

23 Q Why?

24 MR. BERMAN: Objection. Hearsay.

25 THE WITNESS: Double taxation and in case he

1 got divorced.

2 BY MR. ELGIDELY:

3 Q And you felt comfortable, knowing that he was
4 concerned about double taxation and divorce issues,
5 taking title to property in the name of Douglas
6 Investments when that property was to be used by
7 Mr. Engler personally?

8 A Yes.

9 MR. BERMAN: Same objection.

10 BY MR. ELGIDELY:

11 Q Okay. All right. Let's go to the next
12 transfer. It's on Trustee's 100. It's transfer 11 on
13 July 2nd, 2007, from Private Commercial Office, Inc., to
14 Douglas Investments, LLC, in the amount of \$2 million.
15 Do you know what that transfer was for?

16 A I believe it to be the Cheese Factory.

17 Q Okay. We have a document here entitled Old
18 Cheese Factory. It's dated July 15, 2007, in the amount
19 of \$1,750,000. Are those your initials at the bottom of
20 each page?

21 A Yes, it is.

22 Q Okay. And is that your signature on the last
23 page?

24 A Yes, it is.

25 Q Do you recognize the other signature?

1 A Mr. Engler.

2 Q And is this document maintained in the
3 corporate records of Douglas Investments, LLC?

4 A Yes, it is.

5 Q Do you know why there was a \$2 million transfer
6 that you characterized as a loan when the loan document
7 only says the loan is for \$1,750,000?

8 A It probably was related to other expenses
9 within the -- within Douglas Investments.

10 Q Okay. And just to be clear, you've never been
11 involved in a transaction where a lender either left
12 money off of the loan documents that they were loaning or
13 put a higher amount that they were loaning than was
14 actually loaned?

15 A No.

16 Q Okay.

17 MR. BERMAN: Objection. Relevance.

18 BY MR. ELGIDELY:

19 Q You would agree that there's no -- that this
20 document doesn't say \$2 million loan, correct?

21 A Yes.

22 Q All right. Going to -- there are two final
23 transfers, each on the date of July 16, 2007, each in the
24 amount of \$4 million from Private Commercial Office,
25 Inc., to Douglas Investments, LLC.

1 A Yes.

2 Q Do you have a business loan agreement for those
3 two transfers totaling \$8 million?

4 A No.

5 Q Why not?

6 A Because Mr. Engler transferred those payments
7 for future payments to Fidelity and Arnold, and the
8 operating expenses of Douglas Investments, and at that
9 time, he was -- he was on a sabbatical, that he referred
10 to it as, and he wasn't able to sign the document based
11 upon we couldn't find him.

12 Q Okay. So you know for sure that there is no
13 loan agreements for the two final payments of \$4 million
14 each?

15 A That is correct.

16 Q But you're going to look into the two other
17 payments, each in the amount of \$4 million on
18 February 8th and February 12th, 2007, correct?

19 A Yes.

20 Q Okay. Have you ever been involved in a loan
21 transaction in which loan proceeds were funded to a
22 borrower, and that the lender wasn't available, because
23 of a sabbatical, to sign the loan documents?

24 A No.

25 MR. BERMAN: Objection. Relevance.

1 BY MR. ELGIDELY:

2 Q Have you ever gotten a loan from a lender when
3 the lender just wasn't available?

4 A No.

5 MR. BERMAN: Objection. Relevance.

6 BY MR. ELGIDELY:

7 Q I'm sorry?

8 A No.

9 Q Okay. Did it concern you at all that you were
10 getting \$8 million from a lender that was -- couldn't be
11 found?

12 MR. BERMAN: Objection. Relevance.

13 THE WITNESS: He was in town when he gave me
14 the \$8 million.

15 BY MR. ELGIDELY:

16 Q He was there, but why wouldn't he sign the loan
17 document, is my question?

18 MR. BERMAN: Objection. Speculation.

19 Foundation.

20 THE WITNESS: Because, as I made payments, loan
21 documents were going to be made with the exact
22 dollar amount.

23 BY MR. ELGIDELY:

24 Q You'd agree that getting \$8 million, that's a
25 pretty significant event?

1 A Yes.

2 Q Okay. You didn't have any hesitation
3 whatsoever taking that money when you knew that there
4 wasn't a loan document that reflected the terms and
5 conditions of those loans signed by the lender and you?

6 A No.

7 Q Okay. What if, again, complete hypothetical,
8 Mr. Engler transferred \$8 million to you, was arrested
9 and told creditors that you had stolen the \$8 million?

10 MR. BERMAN: Objection. Speculation. Improper
11 hypothetical. Lack of foundation.

12 THE WITNESS: I would prove that I was not a
13 thief.

14 BY MR. ELGIDELY:

15 Q Okay. But isn't it true that if you had a loan
16 document, that would be easier to prove?

17 A Yes.

18 Q Okay. The last document is a business loan
19 agreement, dated September 5th, 2007, Fidelity -- it says
20 Fidelity at the top, in the amount \$3,144,667. Are those
21 your initials at the bottom of each page?

22 A Yes, it is.

23 Q Okay. Is that your signature on the last page?

24 A Yes, it is.

25 Q Do you recognize the other signature?

1 A Mr. Engler.

2 Q Is this document maintained in the corporate
3 records of Douglas Investments, LLC?

4 A Yes, it is.

5 Q Okay. Was there a business loan agreement for
6 the 2006 Hummer H2?

7 A No.

8 Q Why not?

9 A Because it was all incorporated between the 8
10 Cold Springs Lane, the -- various things that were done.

11 Q Okay. But you testified that the proceeds to
12 purchase the 8 Cold Springs Lane profit was comingled,
13 too, correct?

14 A Yes.

15 Q And there wasn't a -- there was a separate
16 business loan agreement for that property --

17 A Yes.

18 Q -- correct?

19 But there wasn't one for the Hummer?

20 A I think he considered the Hummer to be petty
21 cash.

22 Q Petty cash?

23 A Yeah.

24 Q Okay. Do you recognize the telephone number
25 (239)770-8144?

1 A No.

2 Q You don't know what that number is?

3 A Well, no, I don't.

4 MR. BERMAN: Objection. Foundation.

5 THE WITNESS: I don't recall it now, no.

6 BY MR. ELGIDELY:

7 Q Okay. According to the records of SunTrust
8 Bank, the bank had tried calling Mr. Engler on that
9 telephone number, but, surprisingly, they got ahold of
10 you. That was a phone number that was provided for the
11 account of Private Commercial Office, Inc. Said, tried
12 calling Ulrich Engler, PHN 239-770-8144. Talked to David
13 Douglas. He will have Ulrich call back, on June 12,
14 2006.

15 MR. BERMAN: Objection. Foundation and
16 hearsay.

17 BY MR. ELGIDELY:

18 Q Do you recall that?

19 A Never.

20 Q Never happened?

21 A Never happened.

22 Q Okay.

23 A I think Mr. Engler was lying at that time when
24 he answered it.

25 Q Okay. All right. Let's go to Trustee's 115,

1 which should be in that stack of exhibits.

2 A Did I mix this up?

3 Q 115?

4 A There's 119. 115, right there. Okay.

5 Q You have it, Mr. Douglas?

6 A Yes, I do.

7 Q Okay. This document purports to be a second

8 amendment to the operating agreement of Douglas

9 Investments, LLC. Do you recognize the document?

10 A Yes, I do.

11 Q Is that your signature on Page 2?

12 A Yes, it is.

13 Q Do you recognize the other signatures?

14 A Yes. My wife and Mr. Engler.

15 Q Okay. In this document, it says, in numbered
16 Paragraph 1, if Debra does not survive David, then all of
17 David's membership interests shall be transferred to
18 Engler, subject to the terms and conditions hereinafter
19 set forth.

20 Do you see that?

21 A You said number one?

22 Q Yeah. In paragraph -- numbered Paragraph 1,
23 second -- second --

24 A Second.

25 Q If Debra does not survive David. Do you see

1 where it provides that all of the membership interests in
2 Douglas Investments, LLC, were to go to Ulrich Engler?

3 A Yes.

4 Q Okay. And why did you agree to that?

5 A I believe that my attorney, Brad Freeman,
6 recommended that.

7 Q Okay. And so you did that with the advice of
8 counsel?

9 A That's correct.

10 Q Okay. Numbered Paragraph 2, it says, if David
11 does not survive Debra, then all of Debra's membership
12 interests shall be transferred to Engler subject to the
13 terms and conditions hereinafter set forth.

14 Did I read that correctly?

15 A Yes.

16 Q Is that, again, after consultation with
17 Mr. Freeman?

18 A Yes.

19 Q Okay. And numbered Paragraph 3, it says, once
20 both David and Debra are deceased and Engler owns all of
21 David's membership interests and Debra's membership
22 interests, then Engler shall proceed to liquidate all of
23 the assets of Douglas Investments, LLC.

24 A Yes.

25 Q Okay. Is this document a true and correct copy

1 of the second amendment to the operating agreement of
2 Douglas Investments, LLC?

3 A Yes.

4 Q Is this document maintained in the corporate
5 records of Douglas Investments?

6 A Yes.

7 Q All right. Let's go to 116. 116 purports to
8 be a third amendment to the operating agreement of
9 Douglas Investments, LLC, and it provides that, in the
10 event that both David and Debra are deceased, then Ulrich
11 Engler shall become the sole person in charge to manage
12 the business and affairs of the company.

13 Do you see where it says that?

14 A Yes.

15 Q And in the first paragraph, it defines company
16 as Douglas Investments, LLC?

17 A Yes.

18 Q Okay. Do you know why this document provided
19 for Mr. Engler to become the sole person in charge to
20 manage the business and affairs of Douglas Investments,
21 LLC?

22 A That would've been something I discussed with
23 my attorney.

24 Q Okay. The document also talks about management
25 committee created upon -- if, in the event that yourself,

1 Ms. Douglas and Mr. Engler are all deceased, and it has a
2 column for Douglas and a column for Engler.

3 A Yes.

4 Q Do you know why those columns are there?

5 A I believe that was something discussed with my
6 attorney, Brad Freeman.

7 Q Who selected the individuals underneath the
8 Douglas column?

9 A I did, my wife.

10 Q Who selected the individuals underneath the
11 Engler column?

12 A Mr. Engler.

13 Q Is this document a true and correct copy of the
14 third amendment to the operating agreement of Douglas
15 Investments, LLC?

16 A Yes, it is.

17 Q Okay. And does it bear your signature on the
18 document?

19 A Yes, it does.

20 Q And initials?

21 A Yes.

22 Q Is this maintained in the corporate records of
23 Douglas Investments, LLC?

24 A Yes, it is.

25 Q Okay. On Page 3, it lists three people; Bianca

1 Borowski, sister and/or brother of Mr. Engler, and Lisa
2 Marie Engler. Who put that information on this amendment
3 to the operating agreement of Douglas Investments, LLC?

4 A Mr. Engler did.

5 Q Were you present when he did this?

6 A I don't recall.

7 Q But you discussed this with Mr. Engler?

8 A I don't recall.

9 Q Okay. Thank you.

10 We'll go to Trustee's 120. Document 120
11 purports to be a fourth amendment to the operating
12 agreement of Douglas Investments, LLC, and it provides
13 that, in the event both David and Debra are deceased,
14 then Ulrich Engler shall be in charge of managing the
15 business affairs of the company. In the event that
16 Ulrich Engler shall also be deceased, a management
17 committee shall be established comprised of the following
18 individuals.

19 Did I read that accurately?

20 A Yes.

21 Q Okay. And is that your signature on the
22 document?

23 A Yes, it is.

24 Q Do you recognize the other signatures?

25 A My wife and Mr. Engler.

1 Q Okay. Is this a true and correct copy of the
2 fourth amendment?

3 A Yes, it is.

4 Q And this is maintained in the corporate records
5 of Douglas Investments, LLC?

6 A Yes, it is.

7 Q Okay. Let's go to Trustee's 124.

8 A Okay.

9 Q Okay. The Page DBD 697.

10 A Okay.

11 Q Do you know whose handwriting that is?

12 A Mine.

13 Q It says, Uncle E, I am trying to create a P and
14 L statement to reflect everything.

15 What did you mean by everything?

16 A Reflect all the balances of all the funds that
17 were received, and expenses.

18 Q Okay. It says, do you like this new report?
19 Also, my thoughts if we build on properties.

20 Who were you referring to as we?

21 A Myself and him.

22 Q Okay.

23 A And Mr. Engler.

24 MR. ELGIDELY: Okay. Let's have this one
25 marked as the next in order, please.

1 (Thereupon, the document was marked for
2 identification as Trustee's Exhibit 134.)

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UNITED STATES BANKRUPTCY COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

IN RE:

ULRICH FELIX ANTON ENGLER;
and PRIVATE COMMERCIAL
OFFICE, INC.,

CASE NO. 9:08-BK-04360-
alp
Chapter 7 case
(Substantively Consolidated)

Debtors.

ROBERT E. TARDIF, as
Chapter 7 Trustee

Volume II of II

Plaintiff(s),

vs.

ADV. PROC. NO. 9:09-AP-1026-ALP

FIDELITY NATIONAL FINANCIAL, INC. ;
and FIDELITY NATIONAL TIMBER
RESOURCES, INC., f/k/a FIDELITY
NATIONAL RANCH PROPERTIES, INC.,

Defendant(s).

DEPOSITION OF DAVID B. DOUGLAS

DATE TAKEN: June 11, 2010

TIME: 9:47 a.m. to 3:30 p.m.

BEHALF OF: The Plaintiff(s)

PLACE TAKEN: Fort Myers Court Reporting
2231 First Street
Fort Myers, Florida

REPORTER: Rebecca L. Crane, RPR
Notary Public
State of Florida at Large

FORT MYERS COURT REPORTING
2231 First Street
Fort Myers, Florida 33901
(239) 334-1411
FAX (239) 334-1476

1 CONTINUED DIRECT EXAMINATION

2 BY MR. ELGIDELY:

3 Q Okay. Mr. Douglas, I've had marked as
4 Trustee's --

5 A 134.

6 Q -- 134, a promissory note dated January 1st,
7 2007, in the amount of \$1 million, and it reflects the
8 name of Ulrich Engler as the lender, and yourself and
9 Mrs. Douglas as the borrowers. Do you recognize this
10 note?

11 A Yes.

12 Q Okay. What was the purpose of this loan?

13 A This was for my wife and I to get rid of all of
14 our debt, and then Mr. Engler said he'd give us an
15 advance towards the profits, and only to be paid back
16 with the profits when we sold properties.

17 Q How much money did you give Mr. Engler in
18 repayment of this loan?

19 A Zero.

20 Q How much real property did you give him in
21 exchange for this loan?

22 A Zero.

23 Q How much personal property did you give him in
24 exchange for this loan?

25 A Zero.

1 Q Okay. This actually corresponds with the
2 transfer in the amount of \$1 million on January 2nd,
3 2007. That's on the schedule that I provided to you,
4 correct?

5 A Yes.

6 Q Okay. It also says, which shall be due and
7 payable from time to time as profits are received by the
8 undersigned from either Douglas Investments or Engler
9 Land Investments, LLC.

10 Why were both corporations mentioned in this
11 promissory note?

12 A I don't recall.

13 MR. ELGIDELY: Okay. I'm going to have this
14 marked as a composite exhibit.

15 (Thereupon, the document was marked for
16 identification as Trustee's Exhibit 135.)

17 BY MR. ELGIDELY:

18 Q Mr. Douglas, the court reporter has just marked
19 a collection of e-mails as Trustee's Composite
20 Exhibit 135. I will represent to you that these are
21 e-mails that Mr. Freeman produced in anticipation of his
22 deposition concerning the investigation that was
23 conducted of Mr. Engler.

24 I believe, during your prior deposition, you
25 had testified that before you had engaged in any business

1 with Mr. Engler, you had instructed counsel to conduct a
2 civil, criminal and international background search of
3 Mr. Engler, correct?

4 A No. No. I had asked him only after we started
5 doing business, not before.

6 Q Okay. Let's go back to Trustee's 100, if we
7 can, the schedule of transfers from Private Commercial
8 Office, Inc., to Douglas Investments, LLC.

9 We agreed, did we not, that the transfers were
10 in the 11-month period, August 2006 through July 2007?

11 A Yes.

12 Q Okay. And you'll notice that the earliest
13 e-mail from Mr. Freeman is August 28, 2007, correct?

14 A Yes.

15 Q Okay. So you, in fact, or Douglas Investments,
16 LLC, in fact, received \$40,815,000 from Private
17 Commercial Office, Inc., before any civil, criminal or
18 international investigation was conducted of Mr. Engler,
19 correct?

20 A Yes.

21 MR. BERMAN: Objection. Mischaracterization
22 and lack of foundation.

23 BY MR. ELGIDELY:

24 Q Let me ask it this way, Mr. Douglas. According
25 to the schedule that's marked as Trustee's Exhibit 100,

1 there was a total of \$40,815,000 transferred from Private
2 Commercial Office, Inc., to Douglas Investments, LLC, in
3 the 11-month preceding period, correct?

4 A Yes.

5 Q Okay. Mr. Freeman had produced a collection of
6 e-mails that we've marked as Trustee's Exhibit 135. You
7 would agree that the first page of that e-mail reflects
8 the earliest date as, actually, August 27, 2007, correct?

9 A August 27th.

10 Q Is that correct?

11 A Yes.

12 Q Okay. That would've been after the \$40,815,000
13 was transferred to Douglas Investments, LLC, correct?

14 A Yes.

15 Q Okay. Sir, I ask you to turn to page -- the
16 December 11, 2007, e-mail from Mr. Freeman to Sean
17 Moulton. It looks like you were carbon copied on that
18 e-mail?

19 A Yes.

20 Q Okay. It says, Sean, I'm attaching an e-mail
21 from the private investigator that we hired several
22 months ago to check out Richie Engler. Nothing unusual
23 was discovered before, but this current information makes
24 me wonder if Richie Engler is to be trusted. David has
25 been sent a copy of this and he asked that I forward it

1 to you for your consideration. Thanks, Brad.

2 Do you recall receiving a copy of that e-mail?

3 A Yes.

4 Q Attached to that e-mail is a letter from VTS
5 Investigations that attaches a letter from an
6 investigation company in Germany, correct?

7 A Yes.

8 Q Okay. And in the letter from the company in
9 Germany, it refers to -- let's see here -- a warrant of
10 Mr. Engler's arrest having been issued, correct?

11 A Where? I don't see where.

12 Q Okay. Let's go to page --

13 A I think I'm on the same page you are.

14 Q It says here, for whom a warrant of arrest had
15 been issued --

16 A I see that.

17 Q Okay. Does that refer to a warrant of his
18 arrest being issued?

19 A Yes.

20 Q Okay. The last paragraph, it talks about the
21 raids at the beginning of August, and the order by the
22 Federal Bureau to oversee financial services issued
23 recently thereafter has already met the death blow to
24 Ulrich Engler's system.

25 Do you see that there?

1 A Yes.

2 Q Did you read that at the time it was provided
3 to you by Mr. Freeman?

4 A Yes.

5 Q Okay. And then it refers to, in the '90s,
6 Ulrich Engler, a German citizen, was sentenced to
7 imprisonment and payments on account of fraudulent
8 misusing credit cards, received high three figure
9 millions through many agents, mainly located in Germany.

10 Do you see that there?

11 A Yes.

12 Q Okay. And you received that at the time that
13 Mr. Freeman had forwarded it to you, correct?

14 A Yes.

15 Q Mr. Freeman had forwarded that to you prior to
16 December 11th, 2007, according to his e-mail, correct?

17 A Yes.

18 Q Okay. Let's go to the e-mail dated
19 December 12th, 2007, from Mr. Freeman to you, copying
20 Mr. Moulton.

21 A Got it.

22 Q It says, David, I have read the memo and feel
23 it is well drafted. At this point in time, I would
24 recommend you take no more money from Engler, since it
25 may be considered laundering based on the recently

1 discovered information we got from VTS Investigations.

2 Did you see that e-mail?

3 A Yes.

4 Q On or about December 12th, 2007?

5 A Yes.

6 Q Okay. Sir, according to your affidavit that
7 you filed and we marked as Trustee's 107, there was a
8 \$3,574,036 payment of your -- of Mr. Engler's funds by
9 you to Alliance Title on March 3rd, 2008, correct?

10 A Yes.

11 MR. BERMAN: Objection. Foundation.

12 BY MR. ELGIDELY:

13 Q Sir, attached to your affidavit, as an exhibit,
14 is a wire transfer confirmation for \$3,574,036 of -- that
15 you testified is Engler's funds, to Alliance Title,
16 correct?

17 A Yes.

18 Q Can I ask you, sir, why, after learning of
19 Mr. Engler's arrest warrant and that you -- his proceeds
20 could be considered laundering, would you feel it was
21 okay to utilize Mr. Engler's money to engage in other
22 transactions?

23 A Because I had a commitment -- Mr. Engler gave
24 our company \$8 million before I received this for future
25 payments. As I -- I felt obligated, based upon the

1 suspicions that were occurring with Mr. Engler, that I
2 would be responsible for somebody for the contracts that
3 I entered into and wanted to make sure that I fulfilled
4 my contractual agreements.

5 Q Okay. Well, after learning that Mr. Engler had
6 been accused of fraud and that there was a warrant for
7 his arrest, were you concerned about the source of the
8 funds, the significant funds that were on balance in
9 Douglas Investments' bank account?

10 A Not based upon the obligation that Douglas
11 Investments had, no, I wasn't concerned.

12 Q You felt it was appropriate, despite your
13 counsel telling you that the use of Mr. Engler's money
14 could be considered laundering, utilizing Mr. -- you
15 know, spending Mr. Engler's money?

16 A What I --

17 MR. BERMAN: Objection. Mischaracterization.

18 THE WITNESS: What I got out of this was not to
19 take any more money, not because when -- not to take
20 any more to buy anything else. I had already had
21 the money in the account when I got this.

22 BY MR. ELGIDELY:

23 Q So it wasn't okay to take the money, but it was
24 okay to use the money?

25 A Yes.

1 MR. BERMAN: Objection. Argumentative.

2 THE WITNESS: Yes.

3 BY MR. ELGIDELY:

4 Q Okay. Are you aware of any civil or criminal,
5 or for that matter, international investigation of Engler
6 prior to the first transfer to Douglas Investments, LLC,
7 on August 8th, 2006?

8 A No.

9 Q Are you aware of any transfer -- I'm sorry.
10 Are you aware of any civil, criminal or
11 international background check conducted of Mr. Engler in
12 the period August 2006 through July 2007?

13 A No.

14 MR. ELGIDELY: Okay. Let me check my notes. I
15 think I'm through. We'll go off the record for one
16 moment.

17 I have no further questions at this time.

18 CROSS-EXAMINATION

19 BY MR. BERMAN:

20 Q Mr. Douglas, we've met before. My name's Steve
21 Berman. I represent two defendants in the adversary
22 proceeding, Fidelity National Financial, Inc. and
23 Fidelity National Timber Resources, Inc.

24 Are you okay to continue or do you want to take
25 a brief break?

1 A I'm fine, Steve. Thank you.

2 Q Okay. At the last deposition we took in the
3 end of April, you testified that Mr. Elgidely contacted
4 you and had conversations with you in advance of the
5 deposition to discuss your potential testimony. Do you
6 remember that testimony in April?

7 A Yes.

8 Q And will you remind me again of how long
9 Mr. Elgidely met with you to review documents in advance
10 of your last deposition?

11 A It was approximately a half hour.

12 Q Okay. And did you meet with Mr. Elgidely in
13 advance of today's deposition?

14 A No.

15 Q Okay. Have you spoken with Mr. Elgidely since
16 your April 2010 deposition?

17 A No.

18 Q We learned from Mr. Moulton, your Idaho
19 counsel, of the existence of other situations in which
20 either Mr. Elgidely or his Idaho lawyers have taken your
21 deposition.

22 Can you, for the record, try to walk me through
23 all of the times you've been deposed either by
24 Mr. Elgidely or by his Idaho lawyers?

25 A Yes. I was deposed on the Florida properties

1 by Mr. Elgidely. I don't recall the time. I'd have to
2 look at my records on that, Steve. But it was pertaining
3 only to the Florida properties, the condos and the land.

4 And then I was deposed by a Mr. Crockett
5 concerning all the properties in Idaho.

6 Q Let me stop you for just minute.

7 Do you know if Mr. Crockett's deposition was
8 after Mr. Elgidely's deposition?

9 A Yes, it was after.

10 Q Okay. And what other depositions do you
11 recall, other than the April 28th or so deposition and
12 today's?

13 A That's all I've been involved in.

14 Q Okay. Mr. Elgidely handed you something in
15 advance of today's deposition or at the beginning of
16 today's deposition. Will you take a look at it?

17 MR. BERMAN: And let's go ahead and mark that
18 as, I believe, Defendants' Exhibit 112.

19 MR. ELGIDELY: Steve, we're going to object.
20 It's an original subpoena. So we're not going to
21 have that be retained by the court reporter.

22 MR. BERMAN: That's fine. We'll photocopy it.

23 (Thereupon, the document was marked for
24 identification as Defendants' Exhibit 112.)

25

1 BY MR. ELGIDELY:

2 Q Have you had an opportunity to look at Fidelity
3 Exhibit 112?

4 A Is this Fidelity?

5 MR. TRAUB: Defendants' Exhibit --

6 MR. BERMAN: We are marking that as Fidelity
7 Exhibit --

8 THE WITNESS: Yes, yes, I'm sorry. I've had a
9 chance to look at it.

10 BY MR. BERMAN:

11 Q Okay. What did that subpoena direct you to do?

12 A To appear before the United States Bankruptcy
13 Court at the place, date and time specified below to
14 testify in the above case.

15 Q And what is the date and time?

16 A June 17th, 2010, at 1:30 p.m. Eastern.

17 Q You described Mr. Engler at various times today
18 and in April as your lender or your partner.

19 Can you describe for me how you viewed your
20 business relationship with Mr. Engler?

21 A How I would describe the business relationship?

22 Q Yes.

23 A It was a very different business relationship
24 as -- as we can all see, but there was a lot of trust
25 that was built up there where I felt very comfortable

1 with him, and he felt very comfortable with me, but
2 strange. And I took it that that was just the German way
3 of doing business.

4 Q Did you find anything inappropriate about the
5 relationship when you entered into it? I understand that
6 you may know things now that you didn't know then, but
7 when you entered into the relationship, was there
8 anything that caused you concern?

9 A No.

10 Q When decisions were made with respect to
11 acquisition of properties and approaches with properties,
12 were they made collectively between you and Mr. Engler?

13 A Yes.

14 Q Who identified the properties that were raised
15 as possibilities for investment?

16 A I did.

17 Q And you did that by working with Brett
18 Borshell; is that correct?

19 MR. ELGIDELY: Object to form.

20 THE WITNESS: Yes.

21 BY MR. BERMAN:

22 Q Mr. Engler didn't identify any properties in
23 advance of business opportunities, did he?

24 A Yes.

25 Q Which properties did Mr. Engler identify and

1 which ones did you identify?

2 A He identified Teton Creek Resort and the 6
3 North Main Street. I identified all the others.

4 Q Okay. And how would you describe the relative
5 obligations between you and Mr. Engler in your
6 relationship?

7 A I had my responsibilities and he had his.

8 Q Okay. So what were your responsibilities
9 versus his?

10 A Manage, to entitle the property, to go to the
11 meetings, work with the engineers and everything else,
12 and try to find buyers to buy the property.

13 Q And his role was more of a financial role?

14 A Yes.

15 Q From a funding perspective?

16 A Yes.

17 Q Did you perform services in conjunction with
18 the Douglas Investments, LLC, properties?

19 A Yes.

20 Q You did the entitlement work, the management
21 work, meeting with various professionals like you've
22 described?

23 A Yes.

24 Q And in exchange for those services you
25 provided, you were to receive some participation in the

1 profits, correct?

2 A Yes.

3 Q And Mr. Engler was also going to receive
4 participation?

5 A Yes.

6 Q And when Mr. Engler suggested to you, for
7 instance, that he would -- strike that.

8 Did Mr. Engler indicate to you that he would
9 fully fund the investments that Douglas Investments would
10 embark upon, including the Linderman Ranch property?

11 A Yes.

12 Q Meaning, when the Linderman Ranch property
13 opportunity was on the table, did Mr. Engler tell you
14 that he can make sure that all of the payments are made
15 or did he tell you, in the alternative, that he can make
16 some of the payments, but wasn't sure he could make all
17 the payments?

18 A I don't think that discussion ever came up,
19 just because I was very comfortable with him and didn't
20 want to challenge him on his capabilities.

21 Q Okay. Did you have any reason to believe that
22 he would not fund all of the obligations of the real
23 estate that was acquired by Douglas Investments?

24 A At the time the purchases were done?

25 Q Yes.

1 A No, I didn't.

2 Q Okay. And at some point in time, you learned
3 that the obligations, the financial obligations with
4 respect to the properties couldn't be fully funded; is
5 that correct?

6 A Yes.

7 Q Especially with respect to the Linderman Ranch
8 property, Mr. Engler informed you, at some point in time,
9 that he couldn't make any more payments, right?

10 MR. ELGIDELY: Object to form.

11 THE WITNESS: Yes.

12 BY MR. BERMAN:

13 Q When you entered into the agreements to buy the
14 Linderman Ranch property, did you intend to fully honor
15 the contract for deed with Fidelity?

16 A I don't think that I entered into the contract
17 originally, Steve. I think that Engler Land Investments
18 did. That would've been Mr. Engler that signed that.

19 Q Fair enough.

20 Engler Land Investments was one of the entities
21 that you incorporated; is it not?

22 A Yes.

23 Q Okay. And when the contract -- I think you
24 testified at your April deposition that the agreement for
25 deed that was originally entered into with Engler Land

1 Investments, or its assigns, was eventually assigned to
2 Douglas Investments; is that correct?

3 A Yes.

4 Q And when Douglas Investments took over the sort
5 of contract for deed for the Linderman property, did
6 Douglas Investments intend to honor fully all of the
7 payment obligations to Fidelity?

8 A Yes.

9 Q And did you believe that you were going to be
10 able to make all the payments as a result of Mr. Engler's
11 financial wherewithal?

12 A At the time that we bought the property?

13 Q Yes, at the time of the closing.

14 A Yes.

15 Q Okay. And you testified, when Mr. Elgidely
16 probed the issue of why you funded that last 3 million
17 some odd dollar payment to Fidelity, and one of your
18 answers seemed to indicate that you thought Douglas
19 Investments, LLC, was obligated to make payments under
20 its existing contract; is that correct?

21 A Yes.

22 Q Did you feel like Douglas Investments, LLC, was
23 obligated to Fidelity Timber to make the payments under
24 the contract for deed on the Linderman property?

25 A Yes.

1 Q And that's why you made that last payment; is
2 that correct?

3 A Correct.

4 Q And after the default, after that last \$3
5 million payment was made, the contract for deed went into
6 default; did it not?

7 A Yes.

8 Q And you worked with your lawyer, Sean Moulton,
9 to try to get an extension of time within which to make
10 payments on the contract for deed; is that correct?

11 A Yes.

12 Q And Fidelity gave you some additional time; did
13 it not?

14 A Yes.

15 Q And during that additional time, didn't you try
16 to go out and find some additional lending sources
17 because you knew Mr. Engler was no longer going to lend
18 into that real estate transaction?

19 A Yes.

20 Q You viewed the Douglas Investments, LLC,
21 obligations and opportunities with respect to the
22 Linderman Ranch to be a live real estate deal for Douglas
23 Investments even after Mr. Engler pulled out, correct?

24 MR. ELGIDELY: Object to form.

25 THE WITNESS: Yes.

1 BY MR. BERMAN:

2 Q You were the 100 percent owner of Douglas
3 Investments, LLC, at that time and always, correct?

4 MR. ELGIDELY: Object to form.
5 Mischaracterization.

6 THE WITNESS: Yes.

7 BY MR. BERMAN:

8 Q Did anyone else own an interest in Douglas
9 Investments, LLC?

10 A Only my wife at a certain time.

11 Q Okay. And when Mr. Engler was no longer able
12 to participate in that real estate transaction, you went
13 out to try to get additional lending sources?

14 A Yes.

15 Q If I understand correctly?

16 A Yes.

17 Q You would not have defaulted -- Douglas
18 Investments, LLC, would not have defaulted under its
19 obligations to Fidelity had Mr. Engler not defaulted on
20 his obligations to make loans to Douglas Investments; is
21 that correct?

22 A Yes.

23 Q When you entered into this transaction on
24 behalf of Douglas Investments to buy the Linderman Ranch,
25 did you think that real estate transaction was a viable

1 business deal?

2 A Yes.

3 Q And why?

4 A Because we had identified some beautiful
5 property that we -- we had about 14 miles of canyon
6 frontage that was --

7 Q And did you -- I'm sorry.

8 A It was just a beautiful piece of property.

9 Q Did you undertake to determine what the profit
10 potential was with respect to that development?

11 A Yes.

12 Q Did you believe that it was a profitable
13 venture if all of the funding occurred like Mr. Engler
14 indicated it would?

15 A Yes.

16 Q When you established Douglas Investments, LLC,
17 for purposes of engaging in various real estate
18 investments, did you intend for Douglas Investments, LLC,
19 to be a real active Florida corporation?

20 A Douglas Investments was never a Florida
21 corporation.

22 Q Okay. Where was it incorporated? I apologize.

23 A Idaho.

24 Q Okay. Did you intend for Douglas Investments,
25 LLC, to be a real, viable Idaho corporation?

1 A Yes.

2 Q Did you honor your corporate obligations as
3 best you understood them to maintain Douglas Investments,
4 LLC, as a viable entity?

5 A Yes.

6 Q Did you intend to be sort of a front man for
7 Mr. Engler or a shill for Mr. Engler?

8 A No.

9 Q Did you intend to lend your name to
10 Mr. Engler's financial transactions to hide those
11 transactions from Mr. Engler's creditors?

12 MR. ELGIDELY: Object to form.

13 THE WITNESS: No.

14 BY MR. BERMAN:

15 Q Did you believe that the Douglas Investments,
16 LLC, projects, including the Linderman Ranch, were
17 legally appropriate as best you understood your
18 obligations?

19 A Yes.

20 Q When you began negotiating for the
21 acquisition -- strike that.

22 Were you involved in the negotiation for the
23 Linderman Ranch property?

24 A Yes.

25 Q When you began negotiating for the acquisition

1 of the Linderman property with Fidelity Timber, did you
2 ever disclose to Fidelity Timber that Douglas
3 Investments, LLC, was not a viable business entity?

4 A No.

5 Q Did you ever disclose to Fidelity Timber that
6 if Mr. Engler did not fund -- strike that.

7 Did you ever disclose to Fidelity Timber that
8 if Mr. Engler decided not to go forward with the real
9 estate venture, that you would not go forward with the
10 real estate venture?

11 A I don't recall if I -- if I had that
12 conversation.

13 Q Okay. Have you ever heard of the term alter
14 ego?

15 A Yes.

16 Q And what do you understand that term to mean?

17 A Mr. Engler had an alter ego. He was above
18 everybody else.

19 Q Okay. The term alter ego, as the trustee is
20 using it in conjunction with their motion for substantive
21 consolidation -- I'll give you the definition that I
22 think the trustee is using, then I'll ask you some
23 questions about it. Okay?

24 A Okay.

25 Q The trustee has alleged -- and I'm paraphrasing

1 and restating their allegations in their motion for
2 substantive consolidation -- that you were solely acting
3 on Mr. Engler's behalf, and that you did not have any
4 real stake or real interest in progressing the business
5 ventures of Douglas Investments, and that you were sort
6 of acting as Mr. Engler's front man so that Mr. Engler's
7 investments would not be known to the world.

8 Do you believe that you were Mr. Engler's alter
9 ego or his front man?

10 MR. ELGIDELY: Object. Mischaracterization.
11 Gross mischaracterization.

12 BY MR. BERMAN:

13 Q You can answer the question.

14 A No, I don't.

15 Q You indicated that you attended some sort of
16 sales meeting with Mr. Engler's sales associates who
17 generated various investment monies. Do you remember
18 that testimony?

19 A Yes.

20 Q Do you know, of your own personal knowledge,
21 what Mr. Engler told to his sales associates about how
22 the investment monies were to be used in the United
23 States?

24 A No.

25 Q Do you know what Mr. Engler told his investors

1 about how their monies would be used in the United
2 States?

3 A No.

4 Q Did you ever share with Fidelity Timber that
5 Mr. Engler was raising money from the sales associates
6 who you met in Fort Myers?

7 A No.

8 Q Did you ever tell Fidelity Timber
9 representatives that Mr. Engler was raising money from
10 German nationals, and those monies would be used in the
11 payments for the Linderman Ranch property?

12 A No.

13 Q When you embarked upon your business
14 relationship with Mr. Engler, did you believe that
15 Mr. Engler was involved in a fraud or a crime?

16 A No.

17 Q Did you -- prior to entering into the contract
18 to purchase or prior to closing the contract to purchase
19 the property that is the Linderman Ranch, from Fidelity
20 Timber, did you ever learn that Mr. Engler was involved
21 in a fraud or a crime?

22 A No.

23 Q Did you ever tell anyone from Fidelity Timber
24 that you thought Mr. Engler might be involved in a fraud
25 or a crime?

1 A No.

2 Q At the point in time that your counsel,
3 Mr. Freeman, learned of potential problems with
4 Mr. Engler, did you disclose those potential problems to
5 Fidelity Timber?

6 A No.

7 Q Did you ever tell Fidelity Timber that Douglas
8 Investments, LLC's monies that it used to make payments
9 on account of the Linderman Ranch contract for deed, that
10 those payments might be derived from fraudulent or
11 criminal activity?

12 A That would've been Sean Moulton that would've
13 said that to Paul Dunn. I wouldn't have --

14 Q Do you know when Sean Moulton said that? Has
15 he ever said that to Paul Dunn?

16 A I believe that it was said after we called him
17 to say that the loan was going to go in default.

18 Q Okay. So this was after the payments were
19 made, not before the payments were made, correct?

20 A That's correct.

21 Q Okay. And after you believe Mr. Moulton had a
22 conversation with Mr. Dunn from Fidelity Timber, no
23 further payments were made on the contracts for deed,
24 were they?

25 A No.

1 Q Had you learned the things that you learned
2 from Mr. Freeman about Mr. Engler prior to entering into
3 a business relationship with Mr. Engler, would you have
4 embarked upon your relationship with him?

5 A No.

6 Q Had you learned the things you learned from
7 your lawyer, Mr. Freeman, about Mr. Engler -- strike
8 that.

9 You used the word team, I noted, four times in
10 your direct examination testimony. Who was the team that
11 you were referring to?

12 A The Douglas investment team, the Nelson
13 Engineering, the VLA Landscape Designs, Sean Moulton,
14 Brett Borshell, the excavators. Everybody that worked
15 for the company was part of the team.

16 Q And did those individuals -- strike that.

17 With whom did those entities or individuals
18 have primary contact with respect to Douglas Investments?

19 A Myself.

20 Q Was Mr. Engler part of the team, from your
21 perspective?

22 A In the beginning, yes. At the end -- I mean,
23 he just removed himself, where he relied on me a hundred
24 percent.

25 Q Okay.

1 A In the beginning, yes.

2 Q I'm sorry?

3 A In the beginning, yes.

4 Q After Mr. Engler removed himself from the team,
5 did the team continue to develop the property?

6 A Yes.

7 Q And I'm talking about the Linderman Ranch
8 property.

9 A Yes.

10 Q Okay. When you gave me your answer that the
11 team continued to develop the property, you understood
12 that I was referring to the Linderman Ranch property,
13 correct?

14 A Yes.

15 Q You were asked some questions, Mr. Douglas,
16 about an Exhibit 107. Do you have that in front of you?
17 Trustee's 107. It's an affidavit you signed in
18 conjunction with a state court lawsuit.

19 A Yes.

20 Q Tell me when you've located that.

21 A Okay. I've located it.

22 Q Can you look at the top -- the upper sort of
23 left-hand corner of that document and tell me what it
24 says?

25 A From Madison courts.

1 Q Yes.

2 A The telephone number.

3 Q Okay. Would you read to me what's at the top
4 of that page in the upper left-hand corner?

5 A From Madison courts, (208)356-5425.

6 Q Okay. And can you read the case caption?

7 A Yes. Fidelity National Timber Resources,
8 formerly known as Fidelity National Ranch Properties,
9 Delaware corporation, plaintiff, versus Douglas
10 Investments, an Idaho limited liability company, Robert
11 E. Tardif, as trustee in bankruptcy, State of New York,
12 Felix Anton Engler, Congro Finance, a foreign entity,
13 Primus GMBH, a foreign entity.

14 Q Okay. And does that case style refer to the
15 foreclosure case in Idaho with respect to the Linderman
16 Ranch foreclosure on the contract for deed you closed on
17 behalf of Douglas Investments?

18 A Could you repeat that, Steve?

19 Q Yes. The affidavit that you're holding,
20 Exhibit 107, was filed in a lawsuit in Idaho, correct?

21 A Yes.

22 Q Was that lawsuit the foreclosure that Fidelity
23 brought to foreclose out your rights or Douglas
24 Investments' rights in the Linderman Ranch property?

25 A Yes.

1 Q Okay. And this occurred after the default in
2 the payments on the installment contract, correct?

3 A Yes.

4 Q And Robert Tardif intervened in that state
5 court lawsuit. Did you know that the trustee became a
6 party in that lawsuit?

7 A Yes.

8 Q And who prepared the affidavit that is
9 Exhibit 107? Do you know?

10 A I think it was Sean Moulton.

11 Q Do you know if Sean Moulton prepared it --

12 A I don't know.

13 Q -- of your own personal knowledge?

14 A I don't.

15 Q Okay. You didn't use your own words in that
16 affidavit, did you?

17 A No.

18 Q Someone prepared it and asked you to sign it;
19 is that correct?

20 A Yes.

21 Q Did you make any changes to it?

22 A No, not that I'm aware of. Sean Moulton may
23 have.

24 Q Okay. Do you remember the circumstances under
25 which you were asked to sign that affidavit?

1 A I don't.

2 Q Did it have anything to do with the settlement
3 that you reached with the trustee?

4 A No.

5 Q When did the settlement come with the trustee?

6 A Well after this.

7 Q Okay. Did you understand what would happen if
8 Douglas Investments, LLC, stopped making payments on the
9 installment contract to Fidelity Timber?

10 A Yes.

11 Q What did you think was going to happen?

12 A They would foreclose on the property, take it
13 back.

14 Q Okay. And do you know if Douglas Investments,
15 LLC, has also been sued on the contract for deed?

16 A I don't know that, because I've always been
17 under the impression that Fidelity has always held the
18 deed in escrow.

19 Q Okay. But you remember there was a contract
20 for deed?

21 A Yes.

22 Q That Douglas Investments closed on, correct?

23 A Yes.

24 Q And the contract required Douglas Investments
25 to make payments on that contract?

1 A Yes.

2 Q And you've indicated that Douglas Investments
3 didn't make all the payments, that, at some point in
4 time, it defaulted, correct?

5 A Yes.

6 Q And Douglas Investments, LLC, has now been sued
7 on that contract for deed, correct?

8 A Yes.

9 Q And if there is a deficiency with respect to
10 the foreclosure of the Fidelity Linderman Ranch property,
11 does Douglas Investments, LLC, have any additional
12 remaining assets with which to pay a deficiency claim?

13 A No.

14 Q And why not?

15 A Because our funding has ceased.

16 Q The funding has ceased, and what has Douglas
17 Investments, LLC, done with all of its properties?

18 MR. ELGIDELY: I'm going to object to form.

19 THE WITNESS: Today, what have we done with the
20 properties?

21 BY MR. BERMAN:

22 Q What's the status of all of Douglas -- Douglas
23 Investments, LLC's properties?

24 A I have assigned all the properties back to the
25 trustee.

1 Q Okay. And can you describe for me the lawsuit
2 that you settled resulting in your assignments of all of
3 Douglas Investments, LLC's properties to the trustee?

4 A Can I describe it to you?

5 Q Yes. Were you sued by the trustee?

6 A Yes.

7 Q Okay. Do you understand why you were sued by
8 the trustee?

9 A Absolutely.

10 Q And what was their allegation?

11 A That -- well, they -- that Mr. Engler was
12 fraudulent.

13 Q Okay. And how did that impact on you?

14 A I was part of it only based upon I received the
15 funds.

16 Q Okay. And do you know specifically what the
17 trustee accused you of?

18 A Fraudulent transfers.

19 Q Okay. And how did you -- strike that.

20 Can you describe for me the settlement offer,
21 how the settlement offer came about?

22 MR. ELGIDELY: I'm going to object to form.

23 Those are confidential settlement communications.

24 MR. BERMAN: Section 408 of the evidence code,
25 for the record, only prevents the use of

1 confidential settlement negotiations to prove
2 identity, ownership or liability. We're entitled to
3 inquire as to the settlement negotiations if we're
4 not trying to prove up any of those elements.

5 MR. ELGIDELY: Just note my objection. I'm
6 sorry, Steve, go ahead. Are you done?

7 MR. BERMAN: Yeah. I'm done.

8 MR. ELGIDELY: I was just going to say I note
9 the objection for the record, and if we need to
10 raise it next Thursday, we'll do that, but you're
11 free to answer, Mr. Douglas.

12 MR. BERMAN: Thank you.

13 THE WITNESS: When I was convinced that
14 Mr. Engler was fraudulent, I didn't want anything to
15 do with the properties. I didn't want anything to
16 do with anything. I want to get back to a simple
17 life, as I had before I met the gentleman, and I
18 thought the best thing to do was to turn all the
19 properties back.

20 I'd like to see the German victims get repaid
21 as quick as possible.

22 BY MR. BERMAN:

23 Q Okay.

24 A That was part of my feelings that I asked Sean
25 to relay to everybody, that I'm just washing my hands of

1 it.

2 Q Okay. And in washing your hands of this
3 situation, you agreed to turn over any Douglas
4 Investments, LLC, properties, whether they're real
5 property or personal property, to the trustee?

6 A Yes.

7 Q And in doing so, you haven't made any
8 accommodation for claims that Douglas Investments, LLC,
9 may owe to Fidelity Timber on account of a deficiency
10 claim on the Linderman Ranch foreclosure; is that
11 correct?

12 A Yes.

13 Q Yes, it's correct, or yes, you've made
14 arrangements?

15 A No. Yes, it's correct.

16 Q Okay. So you wanted to wash your hands of the
17 situation, and in doing so, you turned over all of the
18 Douglas Investments, LLC, properties to the trustee.

19 Did the trustee offer to hold any of that
20 property out to satisfy Douglas Investments, LLC's
21 obligations to other creditors like Fidelity?

22 A No.

23 Q Did you discuss with them what will happen to
24 creditors of Douglas Investments, LLC, like Fidelity, if
25 there's a claim outstanding after the transfer of assets?

1 A No.

2 Q You were asked questions about the Trustee's
3 Composite Exhibit 132. That's the stack of the business
4 loan agreements. Do you have that handy in front of you?

5 A Yes.

6 Q I am looking at the March 2nd, 2007, business
7 loan agreement. Do you see that one?

8 MR. ELGIDELY: I'll get it for Mr. Douglas.

9 MR. BERMAN: For the record, it should have
10 Bates stamps Trust 814.

11 MR. ELGIDELY: You said 814, Steve?

12 MR. BERMAN: Correct. March 2, 2007. It's the
13 \$3,039,000 loan.

14 MR. ELGIDELY: I see it, a 1512 and a 827.
15 What's the first page? What's the Bates stamp on
16 the first page?

17 MR. BERMAN: The Bates stamp on the first
18 page -- or the Bates stamp on the first page says
19 Trust, T-R-U-S-T, 000814, and there's also a stamp
20 at the bottom, BBD 00827.

21 MR. ELGIDELY: Thank you.

22 MR. BERMAN: Alternatively you can look at
23 the --

24 MR. ELGIDELY: We've got it. We've got it.

25 MR. BERMAN: Okay.

1 MR. ELGIDELY: Here you go, Mr. Douglas. This
2 is what Mr. Berman is referring to.

3 BY MR. BERMAN:

4 Q Do you see the business loan agreement that
5 is -- has handwritten at the top Fidelity Ranch?

6 A Yes.

7 Q And whose handwriting is that at the top?

8 A Myself.

9 Q Is this form of the business loan agreement
10 consistent with the form you used for all of Mr. Engler's
11 business loan agreements?

12 A Yes.

13 Q And turn to the second page, and if you'd look
14 at the paragraph marked collateral. Do you see that
15 language?

16 A Yes.

17 Q And when you indicated, on behalf of Douglas
18 Investments, LLC, that to secure and collateralize the
19 prompt payment of lender of all the borrower's
20 obligations, the borrower grants to the lender a
21 continuing security interest in and to that property of
22 borrower, all of the assets of the business.

23 Do you see that language?

24 A Yes.

25 Q So did you -- do I understand this business

1 loan agreement to have contemplated that you were giving
2 Mr. Engler or his entities a lien on all of Douglas
3 Investments, LLC's properties?

4 A Yes.

5 Q Would that have included the Fidelity property,
6 the Linderman Ranch?

7 A Yes.

8 Q And so when Mr. Elgidely asked you questions
9 about you not providing collateral to Mr. Engler on
10 account of these loans, you did intend to provide
11 collateral and you provided for that in these loan
12 agreements, correct?

13 A Yes.

14 Q It was up to Mr. Engler to record whatever
15 paperwork he wanted to record with respect to the
16 security; is that not correct?

17 A Yes.

18 Q Did he ever ask you to give him a mortgage on
19 the real estate at any point in time?

20 A No.

21 Q Did you understand, from your relationship,
22 that Mr. Engler or his funding sources had a lien on the
23 assets of Douglas Investments?

24 A No.

25 Q You didn't understand that they would have a

1 lien on the business assets?

2 A I thought you asked if they had a lien.

3 Q No. Did you understand that you were providing
4 them a lien, you were offering them a lien in those
5 loans?

6 A I thought I understood it based upon what Brad
7 Freeman told me.

8 Q Okay. And was it your intention that
9 Mr. Engler was going to have a lien or his entities would
10 have a lien on the assets of Douglas Investments,
11 including the real estate?

12 A Yes.

13 Q Did you intend to honor that security interest
14 by providing Mr. Engler with whatever he needed to effect
15 his lien on the property?

16 A Would I have provided him with whatever he
17 needed?

18 Q Well, did he -- let me ask the question this
19 way.

20 Did Mr. Engler ever ask you to give him
21 documentation and you refused to give him documentation
22 with respect to his lien on property?

23 A No.

24 Q Okay. Did you ever tell Fidelity Timber's
25 representatives that you really didn't have a real

1 borrower/lender relationship with Mr. Engler?

2 A No.

3 Q In fact, you told Fidelity representatives that
4 Mr. Engler was going to make loans to Douglas
5 Investments, LLC, and that's how Douglas Investments
6 would be making their payments. You disclosed that to
7 Fidelity, didn't you?

8 A I don't recall having that conversation with
9 Fidelity.

10 Q How did you tell Fidelity -- what did you tell
11 Fidelity was going to be the basis for the payments on
12 the Linderman Ranch contract?

13 A I don't know if I even had mentioned that.
14 Just -- I thought we'd be selling some property, so I
15 don't think conversations like that took place.

16 Q Okay. Did you ever tell anyone from Fidelity
17 Timber that you didn't have a real business relationship
18 with Mr. Engler?

19 A No.

20 Q You thought you did have a business
21 relationship with him, correct?

22 A Yes.

23 Q Did you intend to repay the loans that are
24 represented by these business loan agreements you entered
25 into with Mr. Engler from the future development of the

1 properties?

2 A Yes.

3 Q And one of the reasons you weren't able to
4 repay Mr. Engler on these business loans is because
5 development stopped when Mr. Engler stopped funding,
6 correct?

7 A No.

8 Q You were able to pursue development even after
9 Mr. Engler stopped funding?

10 A I'm -- I think that it's the economy that
11 created the lack of being able to sell something.

12 Q Okay. Had you been able to continue the
13 development, you would've been able to fund these
14 business loans --

15 A Yes.

16 Q -- correct?

17 A Yes.

18 Q From your perspective, by giving back all of
19 the Douglas Investments, LLC, properties to the trustee,
20 you've satisfied these business loans to Mr. Engler or to
21 the trustee, correct?

22 A Yes.

23 Q You don't have any further obligation once you
24 give back these properties?

25 A No. I'll take that back, Steve. I do.

1 Q What other obligations?

2 A I am continuously paying attorney bills, moving
3 forward, that I'm personally responsible for.

4 Q Whose attorney's fees are you paying?

5 A Douglas Szabo in Florida.

6 Q Okay.

7 A Sean Moulton.

8 Q Go ahead.

9 A Sean Moulton.

10 Q Okay.

11 A So --

12 Q Beyond your own personal legal fees and Douglas
13 Investments' legal fees, you're not paying anyone else's
14 legal fees, are you?

15 A No.

16 Q Okay. Fidelity Timber did business with
17 respect to the Linderman Ranch contract for deed with you
18 and Douglas Investments, LLC, correct? The contract for
19 deed was entered into and closed with Douglas
20 Investments, LLC, correct?

21 A I'd have to check my records on that, Steve. I
22 think that it was.

23 Q Okay. Do you know who the owner of the
24 contract for deed was?

25 MR. ELGIDELY: Objection. Mischaracterization.

1 If you want to show the witness an exhibit as to who
2 the parties to a particular contract that we've
3 marked during this deposition are, I think you
4 should.

5 MR. BERMAN: I'm just asking the witness if he
6 recalls. If you let me finish my question, then you
7 can interpose an appropriate objection.

8 MR. ELGIDELY: I'm sorry. I thought you did,
9 Steve. You want to rephrase or --

10 BY MR. BERMAN:

11 Q Mr. Douglas, do you know who closed on the sale
12 of the Linderman Ranch contract for deed with Fidelity
13 Timber?

14 A Douglas Investments.

15 Q Okay. And are you aware of -- strike that.

16 The Douglas Investments, LLC, entity, you've
17 indicated that you, and at various points in time, your
18 wife, were the only owners of that entity, correct?

19 A Yes.

20 Q And you were the only managers of that entity
21 as well, correct?

22 A Yes.

23 Q Mr. Engler was not an owner and didn't have any
24 role in the company other than as a lender and your
25 partner, to use your own words, at various times?

1 MR. ELGIDELY: Object to form.

2 Mischaracterization.

3 THE WITNESS: Yes.

4 BY MR. BERMAN:

5 Q And at some point in time, Mr. Engler sort of
6 withdrew from that process and you continued to advance
7 the business goals of Douglas Investments, LLC, with your
8 development team, correct?

9 A Yes.

10 Q I think you've indicated in today's direct
11 examination that you did not guarantee any loans on
12 behalf of Mr. Engler or PCO; is that correct?

13 A Yes.

14 Q And Douglas Investments did not guarantee any
15 Engler or PCO loans, correct?

16 A Yes.

17 Q You've described various real estate assets of
18 Douglas Investments, LLC. Are you aware of whether those
19 assets were combined with Mr. Engler's other business
20 entity assets?

21 A No.

22 Q They were treated separately from your
23 perspective?

24 A Yes.

25 Q And the obligation that Douglas Investments,

1 LLC, owed to various creditors were paid for by Douglas
2 Investments, LLC, correct?

3 A Yes.

4 Q Are you aware whether or not there are any
5 obligations owing by Douglas Investments, LLC, to anyone
6 other than Fidelity Timber at this point?

7 A No.

8 Q You're not aware or you don't know?

9 A I'm not aware.

10 Q Okay. Did Douglas Investments, LLC, share any
11 bank accounts with Mr. Engler or PCO?

12 A No.

13 Q Did Douglas Investments, LLC, share any lawyers
14 or accountants or other staff people with Mr. Engler or
15 PCO?

16 A No.

17 Q You testified earlier on direct examination
18 that you maintain the corporate records for Douglas
19 Investments, LLC; is that correct?

20 A Yes.

21 Q And did you ever maintain records for
22 Mr. Engler personally or for PCO?

23 A No.

24 Q Did --

25 A Well, Steve, can I interrupt on that? Records

1 would -- would financial statements be part of records?

2 Q If you want to further explain your answer, you
3 can certainly do that now. I was talking about corporate
4 records.

5 A Would P and L statements be part of the
6 corporate records?

7 Q Let me ask the question this way.

8 Were there financial statements that you did
9 not maintain for Douglas Investments, LLC?

10 A No.

11 Q You indicated earlier that you might have to
12 ask your accountant about various business loan
13 agreements. Did Douglas Investments, LLC, have an
14 accountant?

15 A Yes.

16 Q And who was that?

17 A Joe Whitlock from Redding Company.

18 Q And did Joe Whitlock also provide accounting
19 services for Mr. Engler and PCO?

20 A No.

21 Q Have you ever seen a combined financial
22 statement, including a balance sheet, income statement,
23 statement of cash flow, with respect to the combination
24 of Mr. Engler or PCO and Douglas Investments, LLC?

25 A No.

1 Q Douglas Investments had its own bank account,
2 correct?

3 A Yes.

4 Q And it didn't share bank accounts with
5 Mr. Engler or PCO, did it?

6 A No.

7 Q Who were the signatories for the Douglas
8 Investments bank account?

9 A Myself only.

10 Q Okay. And did you ever authorize Mr. Engler to
11 have signature authority on that account?

12 A No.

13 Q What was your business goal in establishing
14 Douglas Investments, LLC?

15 A Was there a business goal?

16 Q Yes.

17 A To develop a signature property -- signature
18 properties around the United States.

19 Q Okay. And did you conduct your dealings with
20 third parties with respect to Douglas Investments, LLC,
21 on an arm's length basis, meaning did you deal with
22 people straight up as a business person?

23 A Yes.

24 Q Did you ever intend to use Douglas Investments,
25 LLC, to hide or launder money for Mr. Engler?

1 A Never.

2 Q Did you ever intend to use Douglas Investments,
3 LLC, to conceal a fraud or a crime?

4 A No.

5 Q Did you consult with Mr. Freeman before you
6 began your first actual business deal with Mr. Engler,
7 other than renting your house?

8 A No.

9 Q Did you consult any counsel before you began
10 your business relationship with Mr. Engler?

11 A No.

12 Q At what point in time did you involve
13 Mr. Moulton or Mr. Freeman in conjunction with your
14 dealings with Mr. Engler?

15 A Only after we had put the first two properties
16 under contract, Teton Creek Resort, 6 North Main Street.

17 Q Okay. So after you put those two properties
18 under contract, you engaged counsel?

19 A Yes.

20 Q And who was that?

21 A Sean Moulton and Brad Freeman.

22 Q Okay. And so both of those lawyers had been
23 engaged prior to Douglas Investments or Engler Land
24 Investments executing a contract for the purchase of the
25 Linderman property, correct?

1 A Yes.

2 Q Based upon advice of counsel -- and, again, I
3 don't want to know the substance of that advice, but
4 based upon advice of counsel, were you comfortable in
5 moving forward with the business transaction on the
6 Linderman Ranch property in the name of Douglas
7 Investments?

8 A Yes.

9 Q You've said before that you didn't know
10 Mr. Engler was involved in any sort of crime or fraud.
11 You thought all of your dealings with him were legitimate
12 business deals; is that correct?

13 A Yes.

14 MR. BERMAN: Go off the record for a brief
15 minute. I'll confer with co-counsel and see if we
16 can wrap up.

17 (A recess was taken at 3:10 p.m. and the
18 proceedings resumed at 3:13 p.m.)

19 MR. BERMAN: Mr. Douglas, I appreciate your
20 time again today, and I don't have any further
21 questions at this time.

22 MR. ELGIDELY: I have a few more questions, I'm
23 sorry, on redirect.

24 REDIRECT EXAMINATION

25

1 BY MR. ELGIDELY:

2 Q Mr. Douglas, when you were discussing the
3 November 2006 meeting with the sales agents at some hotel
4 in the Fort Myers area, you had indicated that somebody
5 had approached you afterwards and said, you know, you got
6 a good team, we feel good about this. And I asked you,
7 what did you mean --

8 MR. BERMAN: I'm having trouble hearing you,
9 Bob. Can you pull the speakerphone closer to you?
10 You're cutting in and out.

11 MR. ELGIDELY: I'll start over for your
12 benefit, Steve.

13 BY MR. ELGIDELY:

14 Q Mr. Douglas, when you testified about the
15 November 2006 meeting with the German sales agents that
16 was conducted at a hotel in the Fort Myers area, you had
17 testified that, at the end of the meeting, you had been
18 approached by some of the attendees, and that they had
19 said that you were a good member of the team or that you
20 had a good team in place.

21 I then asked you, what did they mean by team.
22 You said Mr. Engler and me.

23 Do you remember that testimony?

24 A Yes.

25 Q Okay. And when counsel asked you what you

1 meant by team, you said Nelson Engineering, Brett
2 Borshell, Sean Moulton.

3 In that question, you didn't include
4 Mr. Engler, although you did say, at the beginning,
5 Mr. Engler was part of the team, but towards the end, he
6 removed himself. Do you recall that testimony?

7 A Yes.

8 Q Okay. But to be clear, November 2006, in the
9 meeting of the sales agents, your testimony was that team
10 meant you and Mr. Engler?

11 A Yes.

12 Q Okay.

13 MR. BERMAN: Objection. Mischaracterization.

14 BY MR. ELGIDELY:

15 Q Did I mischaracterize anything?

16 A No.

17 Q I did not?

18 A No.

19 Q Okay. Your answer is yes, it did include
20 yourself and Mr. Engler?

21 A Yes.

22 Q Okay. When Mr. Berman asked you why Douglas
23 Investments does not have any more assets, you said
24 because funding has ceased. Do you recall testifying in
25 that fashion?

1 A Yes.

2 Q Okay. What funding were you referring to?

3 A Mr. Engler.

4 Q Okay. Douglas Investments, is it your
5 testimony that Douglas Investments did not have any more
6 assets because it didn't have the money to purchase those
7 assets with Mr. Engler's funds?

8 A Yes.

9 Q Mr. Berman asked you several questions about
10 the settlement with the trustee, and there are a couple
11 of assets listed in the settlement agreement, one of
12 which is a 2005 Lincoln Navigator. Do you recall that
13 vehicle?

14 A Yes.

15 Q Where did that vehicle come from?

16 A Mr. Engler.

17 Q And how did you get that vehicle?

18 A He left it at my house.

19 Q And did he say anything to you when you
20 discovered it at your home?

21 A I was upset with him, because he caused a lot
22 of damage at my home, and he said, happy birthday, I hope
23 this covers the damages in your home, and sent me a
24 title.

25 Q Okay. So did you use any of your own funds or

1 funds of Douglas Investments to acquire the 2005 Lincoln
2 Navigator that's included in the settlement with the
3 trustee?

4 A No.

5 Q Okay. That was, as far as you knew, purchased
6 by Mr. Engler?

7 A Yes.

8 Q Okay. There's also a 2006 Hummer H2 referenced
9 in the settlement agreement. Is that the vehicle you
10 testified Douglas Investments purchased for Mr. Engler's
11 personal use?

12 A Yes.

13 Q Okay. There are two four wheelers referenced
14 in the settlement agreement. Whose funds were used to
15 purchase those four wheelers?

16 A Mr. Engler's.

17 Q There's a property located at 8 Cold Springs
18 Lane, Victor, Idaho. Is that the property you testified
19 Douglas Investments purchased with Mr. Engler's funds?

20 A Yes.

21 Q Okay. There's a property at 6 North Main
22 Street, Victor, Idaho. Whose funds were used to purchase
23 that property?

24 A Mr. Engler's.

25 Q Okay. What, if any, funds did yourself or an

1 entity that you own put to purchase the Main Street
2 property?

3 A None.

4 MR. BERMAN: Objection. Asked and answered.

5 BY MR. ELGIDELY:

6 Q What about the Cold Springs Lane property?

7 A None.

8 MR. BERMAN: Same objection.

9 BY MR. ELGIDELY:

10 Q There's also a property, the Old Cheese Factory
11 in Victor, Idaho. Whose funds were used to purchase that
12 property?

13 A Mr. Engler's.

14 Q What, if any, funds did you deposit or an
15 entity that you own deposit to purchase that property?

16 A None.

17 Q There's a property at the Teton Creek Resort.
18 We talked about that property at length. Whose money was
19 used to purchase that property?

20 A Mr. Engler's.

21 Q Okay. What, if any, funds did you or Douglas
22 Investments or any entity that you owned deposit to
23 purchase that property?

24 A None.

25 Q Okay. There's a Neeley property. Whose funds

1 were used to acquire that property?

2 A Mr. Engler's.

3 Q What, if any, funds that you or an entity that
4 you owned were deposited to purchase that property?

5 A None.

6 Q Martineau Ranch, whose funds were used to
7 purchase that property?

8 A Mr. Engler's.

9 Q And what, if any, funds did you or an entity
10 that you own pay to purchase that property?

11 A None.

12 Q Parkinson property, whose funds were used to
13 purchase the Parkinson property?

14 A Mr. Engler's.

15 Q And what, if any, funds did you or an entity
16 that you own pay to purchase that property?

17 A None.

18 Q There are three condominium units located on
19 Rio de Janeiro Avenue in Punta Gorda. Whose funds were
20 used to purchase those condominiums?

21 A Mr. Engler's.

22 Q What, if any, funds did you or an entity that
23 you own pay to purchase those properties?

24 A None.

25 Q There are also vacant -- there's vacant parcels

1 of property, two lots in Punta Gorda. Whose funds were
2 used to purchase that property?

3 A Mr. Engler's.

4 Q And what, if any, funds did you or Douglas
5 Investments pay to purchase those properties?

6 A None.

7 Q Okay. There's also a reference to a property
8 located at 28150 L Burton Fletcher Court, Bonita Springs,
9 Florida, that's in the name of Bianca Borowski. Whose
10 funds were used to purchase that property?

11 A Mr. Engler's.

12 Q What, if any, funds did you or an entity that
13 you own use to purchase the property at L Burton Fletcher
14 Court when it was in the name of Bianca Borowski?

15 A None.

16 Q Other than the real properties, motor vehicles
17 that we've discussed, what other assets did Douglas
18 Investments, LLC, have?

19 A None.

20 Q Okay. Would it be fair to say that all of the
21 assets that Douglas Investments, LLC, had were acquired
22 with funds supplied by Mr. Engler?

23 A Yes.

24 Q And, in fact, the money that was paid to
25 Fidelity, I believe you testified that that was also

1 Engler's money that went to Fidelity, correct?

2 A Yes.

3 Q Okay. You or none of the entities that you
4 owned put any money in to purchase that property?

5 A No.

6 MR. BERMAN: Objection. Asked and answered.

7 BY MR. ELGIDELY:

8 Q You testified that the reason these properties
9 that were purchased with Engler's funds were conveyed in
10 the form of a settlement with the trustee was because you
11 wanted the German investors to be repaid as soon as
12 possible --

13 A Yes.

14 Q -- is that your testimony?

15 A Yes.

16 Q Okay. Was it your understanding that the
17 properties that Douglas Investments owned, you had later
18 learned were purchased with German investor funds?

19 A I don't know how much of it was profit that
20 Mr. Engler made or how much of it -- I don't know. But
21 we have to assume that the money came from the German
22 investors.

23 MR. BERMAN: Objection. Speculation.

24 BY MR. ELGIDELY:

25 Q Okay. Have you had an opportunity to review

1 the international warrant for Mr. Engler's arrest?

2 A Yes.

3 Q Okay. And have you ever had an opportunity to
4 review the request for extradition and arrest of
5 Mr. Engler?

6 A Yes.

7 Q Is it true that those documents state that
8 Mr. Engler had defrauded German investors in connection
9 with his day trading business?

10 A Yes.

11 MR. BERMAN: Objection. Hearsay.

12 BY MR. ELGIDELY:

13 Q Did you review that before or after you had
14 struck your settlement with the trustee?

15 A After -- before.

16 Q Okay. And at the time of your settlement with
17 the trustee, did it raise concerns in your mind that the
18 money that Douglas Investments had obtained from Engler
19 were funds that had belonged to German investors that had
20 been victimized by Mr. Engler's fraud?

21 MR. BERMAN: Objection. Hearsay. Foundation.

22 THE WITNESS: Could you repeat that again?

23 BY MR. ELGIDELY:

24 Q Yes. When you read the international warrant
25 for Mr. Engler's arrest and the request for extradition

1 and arrest, did you have some concern that the money that
2 Mr. Engler had given or transferred to Douglas
3 Investments was tainted because it had really been money
4 that should've been invested in day trading activities?

5 MR. BERMAN: Objection. Speculation.

6 Foundation. Hearsay.

7 THE WITNESS: Yes, but the contract that
8 Mr. Engler showed me that the Germans signed wasn't
9 limited to day trading only.

10 BY MR. ELGIDELY:

11 Q So there were other uses that he could put the
12 money to?

13 A Yes.

14 Q But you recognize that it was the German
15 investors' money and not Engler's money at the time of
16 the --

17 MR. BERMAN: Objection. Mischaracterization.

18 MR. ELGIDELY: I'll rephrase. Take it easy,
19 Steve.

20 MR. BERMAN: I'm fine.

21 BY MR. ELGIDELY:

22 Q At the time you had read the international
23 warrant for Mr. Engler's arrest and the request for
24 extradition, you recognize that there had been a lot of
25 Germans who had been victimized by Engler's fraud,

1 correct?

2 A Yes.

3 MR. BERMAN: Objection. Hearsay. Foundation.

4 BY MR. ELGIDELY:

5 Q What's your answer, sir?

6 A Yes.

7 Q Okay. And you recognize that these Germans had
8 claimed financial -- significant financial losses as a
9 result of Mr. Engler's fraud, correct?

10 MR. BERMAN: Objection. Hearsay. Foundation.

11 THE WITNESS: Yes.

12 BY MR. ELGIDELY:

13 Q Okay. And you decided to convey the property
14 to the trustees because you wanted these investors to get
15 repaid, correct?

16 A Amongst other things, yes.

17 Q Okay. I think you testified in your April 28th
18 deposition, and I'll try to find the page, that once you
19 learned Mr. Engler was dirty, that you didn't want
20 anything to do with the properties?

21 A That's correct.

22 Q Was that your testimony?

23 A Yes.

24 Q Okay. Would it be fair to say that any of the
25 assets that Douglas Investments owned or obtained were

1 purchased or obtained with Mr. Engler's funds?

2 A Yes.

3 MR. BERMAN: Objection to form.

4 BY MR. ELGIDELY:

5 Q What, if any, creditors did Douglas Investments
6 have before the transfers that are reflected in Trustee's
7 Exhibit 100?

8 MR. BERMAN: Objection. Foundation.

9 MR. ELGIDELY: I'll rephrase the question.

10 BY MR. ELGIDELY:

11 Q Before Mr. Engler made the first financial
12 transfer to Douglas Investments, LLC, what creditors did
13 Douglas Investments have?

14 A None.

15 Q Other than entities with which -- strike that.
16 You testified that Douglas Investments engaged
17 in various transactions with third parties over time,
18 correct?

19 A Yes.

20 Q And one of those parties was Fidelity?

21 A Yes.

22 Q And you testified that Engler's funds are what
23 were used for the payments to Fidelity, correct?

24 A Yes.

25 Q Okay. If Engler had not transferred any money

1 to Douglas Investments for purposes of the Fidelity
2 transaction, would Fidelity be a creditor of Engler -- of
3 Douglas Investments?

4 MR. BERMAN: Would you reread the question?

5 (The requested portion was read back by the
6 court reporter.)

7 THE WITNESS: No.

8 MR. BERMAN: Objection. Calls for a legal
9 conclusion.

10 BY MR. ELGIDELY:

11 Q Your answer is, sir?

12 A No.

13 Q The settlement agreement with the trustee
14 contains a provision that requires you to cooperate with
15 the trustee with respect to claims against third parties,
16 correct?

17 A Yes.

18 Q Let me actually get to the provision. There's
19 a Paragraph 13 of the settlement agreement says, the
20 parties acknowledge and agree that the Douglas parties
21 shall fully cooperate in good faith with the trustee in
22 connection with the investigation, commencement and
23 maintenance of claims against third parties. The Douglas
24 parties shall provide truthful testimony, shall appear
25 for meetings or court appearances at mutually convenient

1 dates and times without the necessity of a subpoena, and
2 shall provide access to and copies of all relevant files,
3 reports, evidence and documents as reasonably required by
4 the trustee.

5 Has the testimony that you've given, both on
6 April 28th and today, been truthful?

7 A Yes.

8 Q Has the trustee asked you to testify in any
9 specific way?

10 A No.

11 Q Has the trustee tried to, in your opinion,
12 influence your testimony in connection with these
13 depositions?

14 A No.

15 Q The meeting that we had on April 27th, the day
16 prior to your deposition, in your last deposition, you
17 had indicated that meeting lasted an hour and a half?

18 A Yes.

19 Q And you had simply reviewed documents to
20 refresh your memory?

21 A Yes.

22 Q Do you think there was anything inappropriate
23 with respect to that meeting?

24 A No.

25 MR. BERMAN: Objection. Relevance.

1 BY MR. ELGIDELY:

2 Q How much did you pay in documentary stamp taxes
3 with respect to the collection of business loan
4 agreements that are marked as -- I guess it's Composite
5 Exhibit 132.

6 MR. BERMAN: Objection. Relevance.

7 BY MR. ELGIDELY:

8 Q 132. How much did you pay in doc stamps in
9 connection with Trustee's Composite Exhibit 132?

10 A I would --

11 MR. BERMAN: Objection. Relevance.

12 THE WITNESS: I don't know.

13 BY MR. ELGIDELY:

14 Q I'm sorry?

15 A I don't know.

16 Q Okay. Mr. Berman had asked you a couple of
17 questions whether you had conveyed certain information to
18 Fidelity. Do you recall those questions?

19 A Yes.

20 Q Okay. And when I had asked you about whether
21 Engler had provided financials and bank statements to
22 Fidelity, you indicated, no, that he refused, and that
23 you communicated that to Mr. Borshell?

24 A Yes.

25 Q Do you know who Mr. Borshell was dealing with

1 on behalf of the Fidelity side of the table?

2 A Alex Maher.

3 Q Who is Alex Maher?

4 A The realtor/broker from Live Water Properties.

5 Q Okay. And was Mr. Borshell communicating with
6 Mr. Maher in connection with that transaction?

7 A Yes.

8 Q Okay. Mr. Berman also asked you about a
9 provision in the document that said that the purported
10 loans could be collateralized. Do you recall those
11 questions?

12 A Yes.

13 Q Okay.

14 MR. BERMAN: Objection. Mischaracterization.

15 BY MR. ELGIDELY:

16 Q How many mortgages did you actually sign in
17 connection with these business loan agreements?

18 A None.

19 Q Okay. Isn't it typical for the borrower to be
20 the one to sign the mortgage?

21 A Yes.

22 Q Okay. Now, Mr. Engler couldn't have recorded a
23 mortgage on the property without you signing it, correct?

24 A Yes.

25 MR. BERMAN: Objection. Calls for a legal

1 conclusion.

2 BY MR. ELGIDELY:

3 Q Sir?

4 A Yes.

5 Q And you never -- you don't recall or you
6 definitely did not sign any mortgages?

7 A I did not.

8 MR. BERMAN: Objection to form.

9 BY MR. ELGIDELY:

10 Q Your answer?

11 A I did not sign any mortgages.

12 Q Okay. How would -- well, strike that.

13 Why do you believe Mr. Engler did not have any
14 mortgages on these properties?

15 MR. BERMAN: Objection. Calls for speculation.

16 Lack of foundation.

17 THE WITNESS: I don't know.

18 BY MR. ELGIDELY:

19 Q You testified earlier that Mr. Engler did not
20 want his name on anything because of a double
21 taxation/ex-spouse issues, correct?

22 A Yes.

23 Q Okay. Do you believe recording a mortgage in
24 the public records of any -- you know, the public records
25 of the government would affect his ability to avoid

1 double taxation and ex-spouses?

2 A Yes.

3 MR. BERMAN: Objection. Speculation.

4 MR. ELGIDELY: I have no further questions,
5 Mr. Douglas.

6 MR. BERMAN: I have a follow-up question.

7 RE-CROSS-EXAMINATION

8 BY MR. BERMAN:

9 Q You indicated that you wanted to see the German
10 creditors get paid and that's one of the reasons that you
11 turned over all of the Douglas Investments, LLC,
12 properties. Do you remember that testimony?

13 A Yes.

14 Q And Mr. Elgidely made a statement that he got
15 you to agree with about Douglas Investments, LLC, not
16 having any additional assets after Mr. Engler stopped
17 funding. Do you remember that testimony?

18 A Yes.

19 Q Douglas Investments, LLC, at the time
20 Mr. Engler stopped funding, still owned all of the real
21 property, correct?

22 A Yes.

23 Q It had acquired real property over the time
24 that you created and ran Douglas Investments, correct?

25 A Yes.

1 Q And that's the real property that you've turned
2 over to the trustee; is that correct?

3 A Yes.

4 Q Did the trustee indicate to you in your
5 settlement negotiations with them that they thought the
6 properties that Douglas Investments, LLC, had amassed had
7 some value?

8 A Did they discuss that with me?

9 Q Yes.

10 A No.

11 Q Why did they ask you to turn over properties to
12 them if they thought the properties were valueless?

13 MR. ELGIDELY: Objection. Calls for
14 speculation.

15 BY MR. BERMAN:

16 Q If you know.

17 A Well, I'm not saying that they said it was
18 valueless, but I don't think we discussed the values of
19 the properties.

20 Q Okay. But did you believe the properties had
21 value, some value when you turned them over to the
22 trustee?

23 A Yes.

24 Q Okay. And you talked a little bit about
25 wanting to make sure that the German creditors got some

1 payments on account of their claims against Mr. Engler.

2 Did you have a similar concern that Fidelity
3 Timber would receive some repayment on its deficiency
4 claims against Douglas Investments, LLC, or had you
5 thought about that?

6 A I did think about it, Steve, and based upon
7 what Fidelity paid for it, and what we had paid for it,
8 them getting the property back, I thought that, you know,
9 there wasn't any harm done to Fidelity.

10 Q Do you know if there's a deficiency claim that
11 is being pursued in the Idaho state court against Douglas
12 Investments?

13 A No.

14 Q You don't know one way or another?

15 A No, I don't know that.

16 Q Okay. Did the trustee, in its settlement with
17 you, agree to indemnify Douglas Investments, LLC, for any
18 deficiency claims that might be entered against Douglas
19 Investments, LLC?

20 A Did they agree to what, Steve?

21 Q Indemnify you. Did they agree to pay any
22 deficiency claims against Douglas Investments if a
23 deficiency claim is entered against Douglas Investments
24 in the foreclosure case?

25 A No.

1 MR. BERMAN: I don't have any further
2 questions.

3 MR. ELGIDELY: Thank you for your time,
4 Mr. Douglas. Hopefully, this will be your last
5 deposition in this case.

6 You have the right, as you did previously, to
7 read or to waive the reading of your deposition
8 transcript, and you -- please, if you could advise
9 the court reporter at this time whether you wish to
10 read or waive.

11 THE WITNESS: I'll waive.

12 - - -

13 (Thereupon, at 3:30 p.m., the deposition
14 was concluded and signature was waived.)

15 - - -

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11 , 2010, and was duly sworn.

REPORTER'S CERTIFICATE WITH ACKNOWLEDGMENT

STATE OF FLORIDA)

COUNTY OF LEE)

I, REBBECCA L. CRANE, Registered Professional Reporter and Notary Public in and for the State of Florida at Large, do hereby certify that I was authorized to and did stenographically report the deposition of DAVID B. DOUGLAS; that a review of the transcript was not requested; and that the foregoing transcript, pages 1 through 264, is a true and complete record of my stenographic notes.

I further certify that I am not a relative, employee, attorney or counsel of any of the parties, nor am I a relative or employee of any of the parties' attorney or counsel connected with the action, nor am I financially interested in the action.

DATED this 14th day of June, 2010.

Rebecca L. Crane, RPR
Fort Myers Court Reporting

A				
ability 260:25	133:21 256:20	advise 103:18	178:20 180:16	americans 55:4,7
able 8:9,19 34:3	acknowledgment	264:8	185:2 187:19	55:13,13
38:4 44:8 48:5	266:1	affairs 192:12,20	188:5,16 190:8	amount 65:25
79:4 80:7 90:22	acquire 32:3 247:1	194:15	192:1,8 193:14	84:25 107:8 108:2
121:18,19 134:16	249:1	affect 260:25	194:3,12 211:24	119:18 127:4
141:22 144:1	acquired 113:18	affidavit 102:8,14	230:7 231:4,9	131:8,25 132:11
185:10 212:10	116:21 210:23	102:21 103:4,19	232:1 246:11	132:20 134:9
214:11 235:3,8,11	250:21 261:23	104:3 105:13,15	247:9,14 256:13	136:3 139:9 143:2
235:12,13	acquisition 113:12	105:20,21,25,25	256:19	145:5,11 146:14
absolutely 47:21	114:24 208:11	106:12,24 107:1,5	agreements 3:16	147:9,23 151:2,7
227:9	216:21,25	202:6,13 222:17	127:23 128:7,22	151:10 156:12
accent 44:6	acting 218:2,6	223:19 224:8,16	129:2,5 140:1	157:25 158:2,13
acceptable 96:8	action 266:16,17	224:25	142:25 143:11	159:9 160:25
acceptance 96:5	active 215:19	agent 32:11 71:15	144:4,15 154:16	161:24 164:5,12
accepted 88:7,9	activities 56:16	71:22 72:4,11	163:6,15 165:1	165:5 166:13,16
access 39:13 257:2	253:4	80:10,14,20,23	167:10,12,23	167:24 168:4,23
accommodation	activity 20:25	81:2 83:3,20,24	175:21 185:13	170:17 171:9
229:8	21:14 220:11	84:5 86:2	203:4 211:13	175:5,13,19
accommodations	actual 28:16 29:12	agents 32:19 201:9	230:4 231:11	176:16 177:10,23
8:5	134:10 242:6	244:3,15 245:9	232:12 234:24	183:14,18 184:13
account 47:3 111:6	add 48:11	ago 7:20 199:22	240:13 258:4	184:24 185:17
131:16,19 165:10	added 157:12	agree 132:13,22	259:17	186:22 187:20
165:14,25 166:6	addition 141:8	134:16 141:23	agrees 96:4	196:7 197:2
166:13,14,18,21	additional 41:14	144:2 157:24	ahead 40:7 70:17	amounts 165:16
167:7 170:5	213:12,15,16	158:12 184:19	77:8 78:3 125:15	animals 40:20
172:13 177:16	214:13 226:11	186:24 191:4	125:16 154:9	annual 14:4 81:3
179:5 189:11	261:16	199:7 256:20	206:17 228:6	answer 66:16 68:8
201:7 203:9,21	address 19:18 26:9	261:15 263:17,20	236:8	75:8 76:5 114:2
220:9 229:9	26:12 40:5,6	263:21	ahold 189:9	178:12 218:13
232:10 241:1,8,11	48:21 50:13,23	agreed 35:15 77:12	alex 259:2,3	222:10 228:11
263:1	51:7,9 81:7,13,21	77:13 153:21	allegation 227:10	240:2 245:19
accountant 30:7	81:24 82:19 83:6	154:1 198:9 229:3	allegations 218:1	254:5 256:11
240:12,14	83:10,24 84:4,21	agreeing 152:23	alleged 217:25	260:10
accountants 131:21	85:15 87:19,22	agreement 13:15	allegedly 135:1	answered 51:3
239:14	88:7,12 92:13,18	39:4,6,8,10,13,16	alliance 106:3,17	79:22 84:6 92:8
accounting 240:18	93:7,10,18,19	96:6 122:5,9	107:9,16 202:9,15	119:21 120:1,4
accounts 23:11,11	94:1,6 126:9	130:11,24 132:19	allow 45:24	189:24 248:4
110:5 111:7	174:7,8,11	132:25 133:17	alter 217:13,17,19	251:6
239:11 241:4	addressed 5:2	134:15 137:3,12	218:8	answers 75:12
accurate 74:22	addresses 85:14	137:13 138:4,25	alternative 210:15	124:6 212:18
117:4 138:6	adv 1:9 197:9	145:6 147:18	alternatively	anticipated 65:2
accurately 7:6	advance 196:15	150:21 151:2,11	230:22	anticipation 197:21
103:9,9 109:15	205:4,9,13 206:15	151:25 154:5	amassed 262:6	anton 1:4 103:22
110:2 112:18	208:23 238:6	156:17 161:3,20	amazing 65:19	197:4 223:12
115:20 176:19	adversary 204:21	162:3,7,13,22	amendment 137:12	anxious 60:6
194:19	advertised 31:24	163:11 164:1,7,12	190:8 192:1,8	anybody 17:15
accused 203:6	advertising 117:23	164:19 165:16	193:14 194:2,11	72:2 79:4 80:6
227:17	118:1	166:16,24,25	195:2	86:20 159:19
acknowledge 5:18	advice 191:7 243:2	171:14,18 172:19	america 56:4	apologize 125:22
	243:3,4	173:11 177:7,21	american 44:7	215:22

appear 21:23 122:11 143:24 156:20,23 165:13 207:12 256:24	207:18 211:24 254:17 257:6,15 architects 174:3 area 56:9 114:21 244:4,16 areas 114:23 115:1	238:17,19,20 245:23 246:6,7,11 250:17,21 254:25 261:16 assigned 212:1 226:24 assignees 88:19 89:8 assignments 227:2 assigns 212:1 assistance 59:6 associated 8:4 58:3 159:19 associates 51:22,25 52:7 218:16,21 219:5 assume 48:14 91:18 251:21 atmosphere 65:17 attach 79:5 80:7 attached 72:18 107:1,1,5,7,15 146:11,12 200:4 202:13 attaches 200:5 attaching 7:3 199:20 attachment 3:12 100:22 attempt 125:17 attend 8:5 10:1,14 57:23 attended 56:9 57:11 62:10,13 218:15 attendees 58:2 67:24 68:1 244:18 attending 10:17 attorney 8:6 13:5 23:21 72:9,14,15 133:9,12 191:5 192:23 193:6 236:2 266:14,16 attorneys 28:10,10 88:10 236:4 attractive 58:15 august 61:2,19 62:19 63:1 64:19 116:22 117:7 127:2,3 133:1	136:3 137:3,24 138:4 139:8 143:1 145:5,11,15 146:11,12 198:10 198:13 199:8,9 200:21 204:7,12 authority 91:22 92:5 241:11 authorize 72:2,3,10 241:10 authorized 72:6,13 91:13 266:8 available 6:13 31:15,15 33:7 123:17 185:22 186:3 avenue 249:19 avoid 260:25 awaiting 5:10 awards 56:21 aware 204:4,9,10 224:22 237:15 238:18 239:4,8,9	195:16 balziger 54:12 bank 22:14,16,23 23:6,7,21 24:19 25:8 26:1,8,20 28:20,23 29:11 31:1 96:9,15 98:2 98:18 99:3,15,23 100:6 111:6 167:2 167:7 189:8,8 203:9 239:11 241:1,4,8 258:21 banking 57:14,25 58:9,9 64:1,6 67:3 67:13,20 68:14 90:16 113:7,12 114:13 bankruptcy 1:1 4:12 30:8 197:1 207:12 223:11 banks 22:7 28:11 29:1 barefoot 33:19 barrington 10:2,3 10:4 based 37:25 44:8 62:9,12 77:9 78:5 79:5 82:6 110:24 113:11 166:18 185:10 201:25 202:25 203:10 227:14 233:6 243:2,4 263:6 basically 13:12 59:16 159:2 basis 81:4 234:11 241:21 bates 109:6 230:10 230:15,17,18 battista 2:4 bbd 230:20 beach 33:19 bear 6:6 71:23 129:7 143:14 145:17,20 152:6,9 154:19,22 161:5 176:1 193:17 bears 174:18 beautiful 215:4,8 becoming 41:22
appearances 256:25	argumentative 126:2 204:1	assume 48:14 91:18 251:21	back 18:9 20:10 22:8 24:25 25:20 31:17 33:9,12 35:4 38:7 44:25 49:11 56:3 60:22 64:23,24 65:3 104:6 107:6 110:6 110:16 116:3,7,9 116:15 117:17 123:6 124:24 129:13 137:25 163:14 189:13 196:15 198:6 225:13 226:24 228:16,19 235:18 235:24,25 256:5 263:8 background 9:24 11:10 198:2 204:11 balance 15:8 166:19 177:15,16 179:2 203:8 240:22 balances 170:5	bankruptcy 1:1 4:12 30:8 197:1 207:12 223:11 banks 22:7 28:11 29:1 barefoot 33:19 barrington 10:2,3 10:4 based 37:25 44:8 62:9,12 77:9 78:5 79:5 82:6 110:24 113:11 166:18 185:10 201:25 202:25 203:10 227:14 233:6 243:2,4 263:6 basically 13:12 59:16 159:2 basis 81:4 234:11 241:21 bates 109:6 230:10 230:15,17,18 battista 2:4 bbd 230:20 beach 33:19 bear 6:6 71:23 129:7 143:14 145:17,20 152:6,9 154:19,22 161:5 176:1 193:17 bears 174:18 beautiful 215:4,8 becoming 41:22

42:9 77:16 78:6 78:13 79:20 87:25 began 216:20,25 242:6,9 beginning 200:21 206:15 221:22 222:1,3 245:4 behalf 1:17 2:2,6 21:15 24:20 90:10 91:1,14,23 92:5 197:17 214:24 218:3 223:17 231:17 238:12 259:1 belief 5:24 102:22 103:1 139:11 148:16 151:3 believe 9:1 17:11 18:7 19:7 21:6 24:17 28:10 30:20 32:1 33:18 46:11 47:11,12 59:3 61:2,19 62:13 67:14,15 82:4 84:7 86:9 90:1,14 91:2 93:16 113:17 116:6,17 117:8,19 120:7 131:2 136:13 142:6 150:6,22 172:15 183:16 191:5 193:5 197:24 206:18 210:21 212:9 215:12 216:15 218:8 219:14 220:16,21 250:25 260:13,23 262:20 believed 150:24 belonged 252:19 bend 26:11 28:20 benefit 106:4,17 244:12 benz 65:13 berman 2:7 3:4,5 8:14 15:3,20,25 24:25 25:5,21 27:25 34:6 37:19 40:4 47:23 51:3 62:6,15 64:7	66:15,23 68:7,23 69:14 70:12 71:7 75:4,11 76:4,17 77:4,7,18 78:1,20 79:9,15,22 80:5 80:12 83:12 84:6 85:19,23 86:13 90:12,20 91:9,16 92:8 94:4 95:6 96:17,23 97:7,11 97:17 98:8,11,22 99:6,12 100:9 104:8 105:7 112:22 113:20,22 114:10 119:13,21 120:1,7 121:17 122:25 123:3,13 124:10,17,23 125:6,14 126:1 131:1 132:2,8 133:14 134:4,11 134:21 136:16 137:6,15 139:19 141:3 142:16 143:8 144:12,16 146:6 148:5,12,17 148:25 150:4 151:19,22 153:4 153:13 154:5,8 158:9,16 162:5,10 162:16,25 165:18 169:18,22 173:2 175:11,15 178:13 179:20 180:2 181:3,8 182:24 183:9 184:17 185:25 186:5,12 186:18 187:10 189:4,15 198:21 202:11 203:17 204:1,19,21 206:17,22 207:6 207:10 208:21 211:12 214:1,7 216:14 218:12 226:21 227:24 228:7,12,22 230:9 230:12,17,22,25 231:2,3 237:5,10 238:4 243:14,19	244:8 245:13,22 246:9 248:4,8 251:6,23 252:11 252:21 253:5,17 253:20 254:3,10 255:3,8 256:4,8 257:25 258:6,11 258:16 259:8,14 259:25 260:8,15 261:3,6,8 262:15 264:1 bermans 88:25 best 5:23 48:12 102:21,25 139:10 148:15 153:24 216:3,17 228:18 better 29:22 42:4 59:11 beyond 236:12 bianca 52:8,13 181:12 193:25 250:9,14 big 43:17 45:11,11 45:14 56:21 58:12 59:3 181:24 bill 51:14 billionaires 114:22 bills 236:2 binder 88:25 birthday 246:22 bit 143:24 160:23 262:24 blanks 158:24 block 89:20 92:13 blow 200:23 board 59:15 63:25 64:3,5 boards 59:9,10,11 bob 244:9 bonita 7:13 9:2 18:25 26:11 69:20 83:7 250:8 bookcases 45:11 bore 60:20 borowski 52:8 181:12,21 194:1 250:9,14 borrower 26:3 134:15,17,20 135:12,13,15	140:25 141:22,24 142:8,10,11,15 144:1,2,8,10,11 152:24 160:7 185:22 231:20,22 234:1 259:19 borrowers 133:12 135:19 142:4 153:2 165:9 196:9 231:19 borshell 97:9,24 98:16 208:18 221:14 245:2 258:23,25 259:5 bottom 89:15 129:8 140:3 143:14 145:17 150:7 152:7 154:19 156:20 161:5 168:11,24 174:19 176:2,21 177:24 183:19 187:21 230:20 bought 11:16 18:22 19:4 26:6 212:12 boulevard 2:4,8,12 19:19 20:8 brad 72:7,8 82:4,10 82:22 88:10 133:2 137:17 191:5 193:6 200:1 233:6 242:21 brand 21:3 36:5 break 25:2 68:23 69:18 122:24 123:1,4,4 124:24 153:19 154:12 204:25 breakfast 46:18 brett 97:8,24 98:16 208:17 221:14 245:1 brief 204:25 243:14 briefly 128:15,21 bring 25:2 38:16 79:13,25 bringing 53:25 broker 97:5 259:4 brother 194:1 brought 53:22,24	63:19 70:5 79:14 223:23 broward 2:4 build 195:19 built 31:9 45:11 59:22 110:24 207:25 bunch 118:9 bureau 200:22 burton 18:23 20:6 250:8,13 business 3:16 10:18 10:19,23 11:3 12:21 13:13 14:13 14:20,22 15:2,11 15:14,19,24 16:10 16:14,19 36:9,14 36:20 37:4,7,10 37:22 43:3,6,24 44:10 47:3,5,8,10 47:13,14,16,22 48:13,17,19,21 50:1 55:3 56:4 68:13 84:17 96:5 112:16,21,25 113:11 127:22 128:7,22 129:4,10 130:10,24 132:25 133:17 134:14,17 134:19 135:14,20 137:12,13 138:25 140:1 141:23 142:4,10,25 143:11 144:2,10 145:6,25 146:4 150:21,23 151:1 151:11 152:24 153:2 154:16 156:16 159:15 161:3 162:2,7,13 162:22 163:5,15 164:7,11,18 166:24,25 167:10 167:12,23 168:18 171:14,17 172:18 172:19 173:10 175:21 176:10 177:6 178:20 180:16 185:2 187:18 188:5,16
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192:12,20 194:15 197:25 198:5 207:20,21,23 208:3,23 215:1 217:3 218:4 219:13 221:3 230:3,6 231:4,9 231:11,22,25 233:1 234:17,20 234:24 235:4,14 235:20 236:16 238:7,19 240:12 241:13,15,22 242:6,10 243:5,12 252:9 258:3 259:17 buy 43:18 203:20 209:12 211:13 214:24 buyer 61:11 96:4 buyers 96:10 209:12 buying 17:6 18:5 28:5 44:1 90:23	81:14 86:16 87:3 87:5 92:14,14 93:8,8 capital 84:25 95:25 119:18 caption 223:6 car 25:25 26:5 29:8 29:9 36:3 41:2 182:8 carbon 72:21 199:17 card 47:14,16,22 48:13,17,19,22 50:1 cards 201:8 care 81:5 180:22 182:17 careful 128:25 carried 144:4,11,14 case 1:3,4 103:16 120:7 158:7 182:25 197:3,4 207:14 223:6,14 223:15 263:24 264:5 cash 188:21,22 240:23 casually 158:7,13 caused 208:8 246:21 ceased 226:15,16 245:24 cell 94:15,17,25 95:1,2 century 26:8 ceo 14:8,9 certain 62:2 80:24 214:10 258:17 certainly 122:25 240:3 certainty 29:22 139:10 certificate 29:12 120:20 266:1 certificates 121:22 121:23 certify 266:7,13 challenge 210:20 chance 207:9 change 7:25 71:22	87:18 changed 121:11 changes 224:21 changing 8:3 chapter 1:4,7 103:6 103:15,23 104:4 104:15,17 105:1 106:1,13 197:4,7 characterization 158:9 characterized 184:6 charge 32:7 192:11 192:19 194:14 charts 24:13 check 3:17 22:23 24:13 27:7 38:24 140:11 146:12,20 155:24 162:15,18 171:8,12 174:7 199:22 204:11,14 236:21 checking 23:11 131:16,19 166:13 checks 159:20 cheese 183:16,18 248:10 chicago 72:9 114:20 chosen 115:18 circumstances 224:24 citizen 77:10,11 119:6 201:6 city 52:15 civil 198:2,17 204:4 204:10 claim 11:21 226:12 229:10,25 263:10 263:23 claimed 172:5 254:8 claims 11:20 229:8 256:15,23 263:1,4 263:18,22 clapping 65:19 clarification 120:3 clarify 116:18 167:22 classes 9:25	cleaned 48:1 cleaning 14:14 clear 184:10 245:8 clearing 175:18 clients 36:18,24 38:16,18,19 53:22 53:24,25 57:4 clipped 128:16,25 close 91:4,4,8,8 96:7 110:5 closed 223:16 225:22 236:19 237:11 closer 244:9 closing 23:16 27:14 28:16 172:13 212:13 219:18 cocounsel 243:15 code 227:24 coincide 137:9 cold 179:6,8 188:10 188:12 247:17 248:6 collateral 15:10,12 28:20 29:5,9 130:3 140:17 147:4 156:5 160:3 231:14 232:9,11 collateralize 15:16 231:18 collateralized 259:10 collection 3:19 197:19 199:5 258:3 collectively 103:23 208:12 college 9:25 10:7 10:10,11,12,14,17 10:21,24 11:11 colonial 31:1 column 193:2,2,8 193:11 columns 193:4 com 112:9 combination 240:23 combined 150:22 151:15 238:19 240:21	come 31:7 42:18 43:2,6,14 85:7 97:4 120:16 123:6 124:5,24 138:16 170:24 225:5 246:15 comfort 56:5 comfortable 33:14 38:1,8 40:17,19 40:21 44:3,11 56:2 63:9 74:17 80:13,17 179:23 182:21 183:3 207:25 208:1 210:19 243:4 coming 50:9 comingled 188:12 commencement 41:24 256:22 commercial 1:4 30:9,25 47:11,16 47:22 48:14 49:21 50:1,5,9,13,18 93:6,18,25 103:22 104:3,13,18 105:1 106:2,14 107:2,8 116:12 126:17,22 127:7,12,17 129:17 131:22 132:6 133:23 138:11,16 139:14 139:15,17 141:18 145:4 147:17 148:2 154:14 155:15 158:1 159:16 160:20 161:1,25 163:8 165:23 166:4 174:8 175:8 177:19 183:13 184:24 189:11 197:4 198:7,17 199:2 commercials 93:23 commissions 136:18,18 commitment 202:23 committee 192:25 194:17
C				
call 31:17 33:9 42:17 43:10 65:18 125:12,12 138:23 139:1 170:15,25 171:8,15,19 189:13 called 31:12,13 32:22 33:2,12 53:23 112:8 114:17 220:16 calling 189:8,12 calls 27:25 34:6 62:6 77:4 90:12 94:4 256:8 259:25 260:15 262:13 camera 25:2 cant 26:12 43:19 58:20 59:11,20,23 61:7 75:22 canyon 215:5 capabilities 210:20 capable 109:25 cape 33:18,18 50:14,14 81:8,8				

communicate 68:1 95:11,13	80:1 82:19 105:14 118:6 126:16	252:8 256:22 257:12 258:9	90:10,25 91:11,14 92:5 93:12,20	199:17
communicated 82:8 258:23	197:22 206:5	259:6,17	94:1 95:3,22,25	copies 71:4 121:23 129:4 139:25 143:11 257:2
communicating 259:5	concerns 77:13 252:17	conservative 113:11	96:1,10 100:17,22 101:11,20,24	copy 31:16 39:9,13 39:15,20,23 40:4 40:12 47:23 48:10 72:22 89:1,3,4 96:9 118:20 122:8 145:14 163:10 191:25 193:13 195:1 199:25 200:2
communications 227:23	conclude 5:16 123:6,7 125:9	consideration 200:1	103:8,11,13,21 105:3 106:6,15,19	copying 201:19
community 33:25 34:5	153:14,23 154:1	considered 23:25 85:10 188:20	107:12 108:11,16 108:20 137:9	coral 33:18,19 50:14,14 81:8,9 81:14 86:17 87:3 87:5 92:14,14 93:8,8
company 11:19,20 12:15,16,18,20	concluded 264:14	201:25 202:20	157:11 174:12	corner 109:7 171:10 222:23 223:4
16:22 24:22 31:12	conclusion 28:1	203:14	211:15,16,23	corporate 3:14 11:12 21:24 69:24 70:23 71:4 73:1 91:20,21 92:2,17 93:6 116:12 118:6 121:25 122:15 152:14 155:3 157:4 161:12 169:14 174:25 177:3 178:6 184:3 188:2 192:4 193:22 195:4 216:2 239:18 240:3,6
38:13 57:17 60:6	66:9 77:5 123:19	consistent 31:4 69:6 231:10	212:5,20,24 213:5 213:10 219:17,18	corporation 12:25 13:2 21:20 76:24 88:13 101:17 106:4,17 215:19 215:21,25 223:9
68:14 92:21	conditions 23:5,17 27:13,14 28:9	consolidate 124:2	220:9 223:16	corporations 50:12 72:20 73:11 81:7 81:13 82:3,9,19 83:17 88:5 93:5 197:10
170:22,24 171:22	187:5 190:18	consolidated 1:4 197:4	224:2 225:9,15,19	correct 5:23 6:15 9:6 10:8 13:13 20:12 27:18,23 28:6 33:25 46:25
172:4,6,10,14	191:13	consolidation 126:3 217:21	225:24,25 226:7	
192:12,15 194:15	condominium 249:18	218:2	234:12 236:17,18	
200:6,8 202:24	condominiums 17:9,10,12,20	construction 24:10 24:15	236:24 237:2,12	
221:15 223:10	20:12 21:1 249:20	consult 105:14,17 242:5,9	242:16,18,24	
237:24 240:17	condos 20:15,19,19 21:2,3 143:1,12	242:5,9	253:7	
compensation 135:11,18 142:7	206:3	consultation 191:16	contractors 13:25	
142:15 144:7	conduct 84:17 153:25 159:20	consulted 105:21	contracts 89:12 167:16 203:2 220:23	
153:1	198:1 241:19	consulting 16:24 125:8	220:23	
complete 5:10 187:7 266:11	conducted 5:3 21:16 124:4 126:4	125:8	contractual 203:4	
composite 70:1,22 71:3 72:25 82:24	197:23 198:18	contact 44:21 221:18	contribute 85:4 119:24 120:13	
107:15 112:7	204:11 244:16	contacted 205:3	contribution 85:1 119:19	
128:2,9 130:8,8	confer 243:15	contain 143:24 155:9	controlled 37:23 138:19	
131:7 173:7	confidence 44:8	contained 39:5 105:15	convenient 256:25	
197:14,19 230:3	confident 40:18	contains 152:21 256:14	convention 59:2,5	
258:4,9	confidential 227:23 228:1	contemplated 232:1	conversation 33:4 33:23 34:4,11,17 34:20 35:2,6 37:24,25 38:10 44:13 78:7 79:19 83:21 97:3 217:12 220:22 234:8	
comprised 194:17	confirmation 107:2 202:14	context 29:25 35:5 79:14	conversations 205:4 234:15	
computer 42:20 45:11,13 181:23	confused 62:1	continue 123:16 125:3,4,20 204:24	convey 254:13	
181:24	congro 223:12	222:5 235:12	conveyance 74:5	
computers 10:18	conjunction 209:17 217:20 222:18	222:11 238:6	conveyed 251:9 258:17	
conceal 242:3	242:13	continuing 231:21	convinced 228:13	
concern 119:14 186:9 208:8 253:1	connected 266:16	continuously 236:2	cooperate 256:14 256:21	
263:2	connection 15:19 15:24 16:19 28:24	contract 67:17 88:18,23 89:5,11	copied 72:21	
concerned 77:19 77:23 78:18 85:13	80:1 114:12			
119:5 136:14	127:23 128:23			
183:4 203:7,11	129:25 130:4			
concerning 5:2 8:2 33:1 49:3 70:24	156:3,5 160:1,3			
76:15 78:8,14				

56:11 62:14 64:21 69:21 71:4 72:25 74:3 75:16 83:4 84:12 87:9 88:1 94:16 95:16 100:25 102:18,21 102:25 107:4,9,19 108:12 110:25 116:22 117:5,14 118:20 121:23 122:8 127:4,24 129:3,18 131:9 133:19 135:2 139:25 141:9,13 141:16 143:2,11 145:14 147:24 148:3,10,11,15,16 149:8,13,18 150:9 150:17 151:3,8,12 152:19,24 153:2 157:18,22 159:6 160:16,20 165:6 167:13,17,20,25 168:5 169:11 173:12 174:5,6,16 175:19,24 176:18 180:8 184:20 185:15,18 188:13 188:18 191:9,25 193:13 195:1 197:4 198:3,13,19 199:3,8,10,13 200:6,10 201:13 201:16 202:9,16 208:18 210:1 211:5 212:2,20 213:2,3,10,23 214:3,21 220:19 220:20 222:13 223:20 224:2,19 225:22 226:4,7 229:11,13,15 230:12 232:12,16 234:21 235:6,16 235:21 236:18,20 237:18,21 238:8 238:12,15 239:2 239:19 241:2 242:25 243:12 251:1 254:1,9,15	254:21 255:18,23 256:16 259:23 260:21 261:21,24 262:2 correctly 116:10,19 141:25 172:10 191:14 214:15 correspond 151:11 175:6,14 177:6 178:8 corresponding 145:6 147:10,18 164:20 corresponds 197:1 corvette 65:25 cosign 24:3 cost 174:2 couldnt 41:2 42:6 185:11 186:10 211:4,9 259:22 counsel 75:7,8,10 105:14 161:20 191:8 198:1 203:13 205:19 220:2 242:9,18 243:2,4 244:25 266:14,16 county 52:3 110:24 266:4 couple 26:5 67:17 114:16 246:10 258:16 course 11:3,6 157:25 165:22 166:3 courses 10:7,10,16 10:19,23 11:1,6,7 11:8 court 1:1,18,23 4:18 5:1 6:2,13,19 18:23 20:6 26:11 30:1 48:5 92:25 122:23 125:12,12 125:15 126:9 128:8 153:19 154:2 197:1,18,23 197:18 206:21 207:13 222:18 224:5 250:8,14 256:6,25 263:11	264:9 266:21 courts 222:25 223:5 cove 7:13 9:2,12 18:13,16 20:1 25:17 26:6 28:19 30:21 31:12,24 36:2 45:1 48:23 54:22 69:1,20 83:6,24 84:15,18 84:21 182:1 covered 6:7 covers 246:23 cpa 81:4 152:2 162:18 crane 1:20 197:20 266:5,20 create 195:13 created 192:25 235:11 261:24 creating 57:4 credenza 45:11,12 credit 22:20,23 25:19 27:7 29:4 38:24 140:11 146:20 155:19,24 159:20 201:8 creditor 256:2 creditors 187:9 216:11 229:21,24 239:1 255:5,12 261:10 262:25 creek 9:9,16 18:16 20:4 21:2,19,24 59:18 60:10 61:17 63:2,12,19 64:15 67:8 74:1 86:22 110:11 115:12,17 115:22 116:15,20 117:3,9,13,23 130:21 133:1 169:25 209:2 242:16 248:17 crime 219:15,21,25 242:3 243:10 criminal 198:2,17 204:4,10 220:11 crockett 206:4 crocketts 206:7 cross 3:4 153:17	crossexamination 204:18 curiosity 88:14 curious 88:3 current 96:10 199:23 currently 18:17 curry 126:5 customary 37:11 cutting 244:10 <hr/> D <hr/> damage 246:22 damages 246:23 date 1:15 6:15 29:21,22 30:12,12 30:15 31:5 62:3,5 62:13 96:5 101:10 106:10,22 115:24 128:17 130:8,9 137:4 151:10 164:8,19 172:18 175:13,18 176:14 184:23 197:15 199:8 207:13,15 dated 5:2 72:20 115:6 120:23,24 131:3 133:1 136:3 137:2,3 138:4 145:10 146:12 147:23 150:21 151:2 152:5 168:22 170:16 175:5,21 176:15 177:22 178:20 183:18 187:19 196:6 201:18 266:18 dates 35:16,18 62:1 172:21 257:1 daughter 8:20 david 1:14 4:2,8 31:1 112:16 118:25 135:11 142:8 144:8 153:14 189:12 190:16,25 191:10 191:20 192:10 194:13 197:14 199:24 201:22	266:9 dauids 190:17 191:21 day 7:5 16:22 37:5 37:6 38:9,13,20 39:10 43:11,12,16 45:12,15 46:25 47:2 48:2 49:2,2,8 49:9 54:2 56:15 57:6 112:11 123:17,22 252:9 253:4,9 257:15 266:18 days 30:20 32:1 56:16,21 96:5 148:1 149:16 164:5 dbd 195:9 de 249:19 deal 56:3 125:13 167:19 213:22 215:1 241:21 242:6 dealing 32:11 55:7 56:5 168:7 258:25 dealings 34:13 166:3 241:19 242:14 243:11 deals 243:12 dealt 55:2 88:10 death 200:23 debbie 41:9 debra 121:7 190:16 190:25 191:11,20 192:10 194:13 debras 191:11,21 debt 196:14 debtors 1:6 103:7 103:16,24 104:4 104:15,17 105:2 106:1,13 197:6 deceased 191:20 192:10 193:1 194:13,16 december 32:5 107:18 147:16,23 148:22 149:21 150:21 152:1 199:16 201:16,19 202:4
--	---	--	--	---

decided 31:11 40:22 217:8 254:13	depose 125:18 deposed 205:23,25 206:4	develop 180:13 222:5,11 241:17	disclosed 234:6 discovered 199:23 202:1 246:20	128:3 131:6 132:24 134:24 135:17,23,25
decision 49:14 65:4 73:4,7 74:9 119:11 136:11	deposit 31:3 106:6 107:12 166:5 248:14,15,22	developed 21:2 113:14	discrepancy 131:14 discuss 67:16,19 205:5 229:23 262:8	137:2,3,11 139:3 139:7,24 140:20 141:5,11,21 142:19,22 145:10 145:13,14,24 147:8,11,11,21,22 148:14,23 149:16 149:20 150:2,20 152:3,5,14,17 155:5,16 156:8 157:3,6,20,21 161:4,12,15 165:11 168:21 170:15 171:4,6 174:18 175:4,14 176:15 178:5 183:17 184:2,6,20 185:10 186:17 187:4,16,18 188:2 190:7,9,15 191:25 192:4,18,24 193:13,18 194:10 194:22 196:1 197:15 206:23 222:23 259:9
decisions 134:17,20 141:23 142:4 144:2 152:24 208:10	deposited 249:4 deposition 1:14 4:15,16 5:3,10,15 6:5 41:19 42:17 56:7 69:23 70:3,6 70:21,25 75:18 78:23 88:17,25 89:1,7 102:5 108:25 118:5 119:7 122:22 123:5,16,20,24,25 124:3,9,12,14,18 124:19 125:1,3,4 125:5,7,7,20,24 126:3,4,7,15 136:5,9 153:15,22 153:25 182:3 197:14,22,24 205:2,5,10,13,16 205:21 206:7,8,11 206:15,16 211:24 237:3 254:18 257:16,16 264:5,7 264:13 266:9	development 17:4 17:5 18:8 20:10 20:25 21:14,19,24 22:10,17 24:10 43:5 57:19 58:7 113:13 114:24 180:19 215:10 234:25 235:5,8,13 238:8	discussed 44:16 67:12,20 69:24 73:20 77:17 89:6 90:3 103:12 107:13 109:23 110:11 114:5 136:4 150:15 152:22 153:14 192:22 193:5 194:7 250:17 262:18	149:20 150:2,20 152:3,5,14,17 155:5,16 156:8 157:3,6,20,21 161:4,12,15 165:11 168:21 170:15 171:4,6 174:18 175:4,14 176:15 178:5 183:17 184:2,6,20 185:10 186:17 187:4,16,18 188:2 190:7,9,15 191:25 192:4,18,24 193:13,18 194:10 194:22 196:1 197:15 206:23 222:23 259:9
deed 61:9 63:10 103:8,12,21 105:3 106:7,16,19 108:20 211:15,25 212:5,24 213:5,10 220:9,23 223:16 225:15,18,20 226:7 236:17,19 236:24 237:12	depositions 206:10 257:13	didn't 13:15 39:19 39:24 44:7 46:23 56:1 75:2 76:21 77:11,12 78:9 79:4 80:6 87:1,11 87:14,18 88:14,24 90:25 136:19 160:10 179:16 182:19 187:2 208:6,22 210:19 211:1 213:15 224:15 226:3 228:14,15 232:25 233:25 234:7,17 237:23 241:4 243:9 245:3 246:6 254:19	discussing 70:2 88:18 110:10 244:2	176:15 178:5 183:17 184:2,6,20 185:10 186:17 187:4,16,18 188:2 190:7,9,15 191:25 192:4,18,24 193:13,18 194:10 194:22 196:1 197:15 206:23 222:23 259:9
default 16:12 213:4 213:6 220:17 224:1	derived 171:19 173:20 220:10	difference 131:17 131:24 132:5 136:4 172:21 177:16	discussion 40:9 78:14 80:1,9 90:7 118:6 122:19 126:16 210:18	192:4,18,24 193:13,18 194:10 194:22 196:1 197:15 206:23 222:23 259:9
defaulted 214:17 214:18,19 226:4	described 97:4 109:18 169:24 207:17 209:22 238:17	different 45:17,20 76:19 207:23	discussion 40:9 78:14 80:1,9 90:7 118:6 122:19 126:16 210:18	192:4,18,24 193:13,18 194:10 194:22 196:1 197:15 206:23 222:23 259:9
defendant 1:13 2:6 197:13	describes 20:25 50:17 56:13 58:25 207:19,21 209:4 227:1,4,20	difficult 39:12	discussing 70:2 88:18 110:10 244:2	192:4,18,24 193:13,18 194:10 194:22 196:1 197:15 206:23 222:23 259:9
defendants 3:21 8:2 89:2 204:21 206:18,24 207:5	designed 115:17 designers 174:3 designs 221:13 despite 203:12 details 60:25 determine 37:15 215:9 determining 85:11	dinner 42:10 56:20 direct 3:4 4:5 196:1 207:11 221:10 238:10 239:17 directed 113:22 137:17 directly 8:6 dirty 254:19 disclose 217:2,5,7 220:4	discussing 70:2 88:18 110:10 244:2	192:4,18,24 193:13,18 194:10 194:22 196:1 197:15 206:23 222:23 259:9
deficiency 226:9,12 229:9 263:3,10,18 263:22,23	despite 203:12	difficult 39:12	discussing 70:2 88:18 110:10 244:2	192:4,18,24 193:13,18 194:10 194:22 196:1 197:15 206:23 222:23 259:9
defined 104:18 106:2	despite 203:12	difficult 39:12	discussing 70:2 88:18 110:10 244:2	192:4,18,24 193:13,18 194:10 194:22 196:1 197:15 206:23 222:23 259:9
defines 192:15	despite 203:12	difficult 39:12	discussing 70:2 88:18 110:10 244:2	192:4,18,24 193:13,18 194:10 194:22 196:1 197:15 206:23 222:23 259:9
definitely 260:6	despite 203:12	difficult 39:12	discussing 70:2 88:18 110:10 244:2	192:4,18,24 193:13,18 194:10 194:22 196:1 197:15 206:23 222:23 259:9
definition 104:14 217:21	despite 203:12	difficult 39:12	discussing 70:2 88:18 110:10 244:2	192:4,18,24 193:13,18 194:10 194:22 196:1 197:15 206:23 222:23 259:9
defrauded 252:8	despite 203:12	difficult 39:12	discussing 70:2 88:18 110:10 244:2	192:4,18,24 193:13,18 194:10 194:22 196:1 197:15 206:23 222:23 259:9
degrees 10:20	despite 203:12	difficult 39:12	discussing 70:2 88:18 110:10 244:2	192:4,18,24 193:13,18 194:10 194:22 196:1 197:15 206:23 222:23 259:9
deja 75:19 124:7	despite 203:12	difficult 39:12	discussing 70:2 88:18 110:10 244:2	192:4,18,24 193:13,18 194:10 194:22 196:1 197:15 206:23 222:23 259:9
delaware 223:9	despite 203:12	difficult 39:12	discussing 70:2 88:18 110:10 244:2	192:4,18,24 193:13,18 194:10 194:22 196:1 197:15 206:23 222:23 259:9
deliver 84:10	despite 203:12	difficult 39:12	discussing 70:2 88:18 110:10 244:2	192:4,18,24 193:13,18 194:10 194:22 196:1 197:15 206:23 222:23 259:9
demand 110:24	despite 203:12	difficult 39:12	discussing 70:2 88:18 110:10 244:2	192:4,18,24 193:13,18 194:10 194:22 196:1 197:15 206:23 222:23 259:9
demonstrative 59:11	despite 203:12	difficult 39:12	discussing 70:2 88:18 110:10 244:2	192:4,18,24 193:13,18 194:10 194:22 196:1 197:15 206:23 222:23 259:9
dennis 21:13	despite 203:12	difficult 39:12	discussing 70:2 88:18 110:10 244:2	192:4,18,24 193:13,18 194:10 194:22 196:1 197:15 206:23 222:23 259:9
departing 7:4	despite 203:12	difficult 39:12	discussing 70:2 88:18 110:10 244:2	192:4,18,24 193:13,18 194:10 194:22 196:1 197:15 206:23 222:23 259:9
depends 153:6	despite 203:12	difficult 39:12	discussing 70:2 88:18 110:10 244:2	192:4,18,24 193:13,18 194:10 194:22 196:1 197:15 206:23 222:23 259:9

163:5 165:6	239:8 243:3,20	148:3 152:15	246:4,5 247:1,10	easy 253:18
168:18 169:13	251:19,20 258:12	153:15 154:9,12	247:19 248:21	economy 235:10
172:25 176:1	258:15 260:5,17	154:14 155:3	250:4,17,21	educational 9:24
184:12 185:23	262:18 263:14,15	157:4 158:1 161:2	251:17 252:18	effect 233:14
186:21 205:9	264:1	161:13,25 163:3,8	253:2 254:25	efforts 7:21
252:7 257:3,19	donts 39:7	165:14,25 166:6	255:5,12,13,16	ego 217:14,17,19
doesnt 104:12	dos 39:7	167:3 168:19	256:1,3,20,23	218:9
184:20	double 34:1,4 75:2	169:14 171:6,13	261:5,11,15,19,24	eight 65:22 161:23
doing 14:13 17:3,5	76:7,10,15 77:20	171:24 172:1,2,7	262:6 263:4,11,17	163:7
43:5,7 68:13	77:23 78:5,19	172:11,17 174:4	263:18,22,23	either 8:1 24:20
169:25 174:3	119:5,8 136:14	175:1,8 176:11,15	264:4 266:9	25:10 26:3 45:23
198:5 208:3 229:7	179:16 182:25	177:4,16 178:6	draft 169:2	100:6 184:11
229:17	183:4 260:20	179:5,13,15,23	drafted 201:23	197:8 205:20,23
dollar 65:25 132:11	261:1	182:13,13,15	driggs 8:7 60:13	electronic 82:25
148:2,22 166:13	douglas 1:14 4:2,8	183:5,14 184:3,9	115:18	elements 228:4
166:16 177:10	4:9,25 6:4,12 25:4	184:25 185:8	drinks 59:5	elgidedly 2:3 3:4,5
186:22 212:17	25:7 30:6 31:1	188:3 189:13	drive 9:9 18:16	3:24 4:6,11,22 7:1
dollars 149:7,17,21	40:12 60:23 61:13	190:5,8 191:2,23	20:4 86:22	8:17 15:5,22 16:2
150:1	61:16 62:9,21	192:2,5,9,16,20	driven 51:9	24:24 25:1,6,23
domicile 84:8	63:12 64:16,23,25	193:1,2,8,14,23	driving 36:3	28:2,3 29:25 30:5
donated 112:16,17	65:3 69:18 70:21	194:3,12 195:5	due 6:5 16:10	34:9 37:20 40:7
donates 112:12	71:9 73:4 74:2	197:14 196:3,9	124:10 166:15	40:10 48:3 51:5
dont 11:2 16:24	75:14 78:23 91:4	197:8,18 198:8,15	177:11 197:6	62:8,17 64:12
17:21 25:2 29:23	91:8 93:4 99:24	198:24 199:2,13	duly 4:3 124:12	66:19,25 67:2
34:18,22 38:14	100:3 101:25	203:9,10 204:6,20	265:11	68:15 69:12,17
39:18,23 48:2	102:9,11,15 103:4	209:18 210:9,23	dunn 220:13,15,22	70:8,10,13,15,18
51:15,18,19,23	103:4,17,20	212:2,4,6,18,22	duties 14:9 24:9,11	70:20 71:8 75:7
52:6 53:1 54:14	104:24 106:16	213:20,22 214:2,8	24:14 80:19,24	75:13 76:9,23
54:16 58:21 64:14	107:24 108:6,14	214:17,20,24	81:1	77:14,21 78:2,22
67:22 72:13 77:23	110:6,14,16,20	215:16,18,20,24		79:12,18,24 80:8
80:21 82:7,23	111:8,20 112:16	216:3,15 217:2	E	80:18 83:14 84:9
83:13 84:24 86:20	113:18 115:23	218:5 220:7	earlier 90:3 103:18	85:20 86:1,15
91:7,25 95:5,7	116:3,16,21 117:8	221:12,18 222:15	109:18 110:11	90:17,24 91:12,19
98:20,21 111:4,21	117:18 118:7,11	223:9,17,23 225:8	115:3 116:20	92:10,24 93:3
116:18 120:7	118:17,21,23,25	225:14,22,24	145:2 149:10	94:8 95:8 96:19
123:14 124:11	119:4,12,19,25	226:2,6,11,16,22	155:10 157:16	97:2,14,20 98:14
126:5 128:11,14	120:5,13,17,21,25	226:22 227:3	239:17 240:11	98:23 99:8,14
128:15,21,25	121:8,8 122:1,6	228:11 229:3,8,18	260:19	100:12 102:6,8,10
131:23 132:3,10	122:15,22,23	229:20,24 230:8	earliest 130:8	104:10 105:8
132:11 138:17	123:6,19,24 124:2	231:1,17 232:2,23	198:12 199:8	112:1,5 113:1,24
143:7 147:13	124:4,5,9,15,25	233:10 234:4,5	early 35:24 43:10	114:1,11 118:10
159:11,14 162:9	125:21 126:12,18	235:19 236:5,12	46:5,12 61:25	118:15 119:15,23
163:24 165:15	126:23 127:6,11	236:18,19 237:11	123:21	120:3,10,11
189:2,3,5 194:6,8	127:16 128:6	237:14,16 238:7	earnest 106:6	121:21 122:18,20
197:12 200:11	129:11,17,21,25	238:14,18,25	107:12	123:8,14 124:11
206:1 210:18	131:19,22 133:6	239:1,5,10,13,18	easier 187:16	124:17,21 125:2,6
211:16 217:11	133:18 135:12	240:9,13,24 241:1	east 2:4,8,12	125:11,19 126:1,8
218:14 224:12,14	138:12,18 139:18	241:7,14,20,24	115:17	126:11 128:1,5
225:1,16 234:8,13	142:8 143:5 144:8	242:2,23 243:6,19	eastern 153:23	131:5 132:4,12
234:15 235:23	145:4,25 147:17	244:2,14 245:22	207:16	133:16 134:7,13

134:23 136:20	202:2	76:2,13,14 77:9	187:8 188:1 189:8	114:4 136:12
137:10,19 139:22	emails 3:19 197:19	77:15 78:4,6,8,9	189:12,23 190:14	143:22 150:11
141:4 142:18	197:21 199:6	78:10,14,15 79:3	190:18 191:2,12	155:5 160:10
143:9 144:13,18	embark 210:10	79:20,21,25 80:2	191:20,22 192:11	168:17 169:8
146:8 148:6,13,20	embarked 219:13	80:2,10,11,14	192:19 193:1,2,11	174:24 180:10,17
149:4 150:5	221:4	81:7,14,16 82:1	193:12 194:1,2,4	181:1 182:15,20
151:20,23 153:6	employ 13:19	82:15,20,21,25	194:7,14,16,25	200:10,24 202:8
153:13,16 154:3,6	employed 11:22	83:10 84:2,11,15	195:23 197:4	202:15,19,21
154:11 158:11,17	12:5,13,14 17:2	84:18,22 85:1,4,7	196:8,14,17 197:8	203:13,15 212:10
162:6,11,20 163:2	32:19 37:10	85:9,11,22 86:2,6	197:23 198:1,3,18	216:10,11 218:3,6
165:19 169:20	employee 266:14	86:8,21,23,25	199:22,24 201:6	218:6,8,16 231:10
170:6 171:2 173:4	266:15	87:9,12,19,21,25	201:24 202:23	238:19 246:7
173:7,9 175:12,17	employees 13:18	88:4,12,19 89:7	203:1,5 204:5,11	247:10,16,19,24
178:18 179:21	13:21 14:23,25	89:23 90:4,4,9,10	207:17,20 208:12	248:13,20 249:2,8
180:4 181:6,10	15:11 16:12	90:22 91:1,7,13	208:22,25 209:5	249:14,21 250:3
183:2,10 184:18	employment 11:10	91:14,23 92:6,18	210:3,6,8,13	250:11 251:1,9
186:1,6,15,23	11:14 12:1	93:12,19 94:2,10	211:8,17,18,20,25	252:1,20,25
187:14 189:6,17	engage 202:21	95:9,11 96:14	213:17,23 214:11	253:15,23,25
195:24 196:2	engaged 197:25	97:15 98:4,5,12	214:19 215:13	254:9 255:1,22
197:13,17 198:23	242:18,23 255:16	98:17,18,24,25	216:7,7 217:6,8	english 44:9
202:12 203:22	engaging 215:17	99:16,19 100:6	217:17 218:21,25	entered 153:11
204:3,14 205:3,9	engineering 177:12	101:2,5,8 103:22	219:5,9,14,15,20	203:3 208:5,7
205:12,15,20,24	221:13 245:1	104:3,12,18,25	219:24 220:4	211:13,16,25
206:1,14,19 207:1	engineers 174:2	106:2,13 108:1,7	221:2,3,7,20	214:23 234:24
208:19 211:10	209:11	108:12,19 110:5	222:4 223:12	236:19 263:18,23
212:15 213:24	engler 1:4 29:16,19	110:15,19 111:10	227:11 228:14	entering 219:17
214:4 216:12	29:22 30:13 31:7	112:8,12,15 113:3	232:2,9,14,22	221:2
218:10 226:18	31:13,22,25 32:25	113:11 114:23	233:9,14,20 234:1	entertaining 36:19
227:22 228:5,8	33:15 34:3,10,16	115:2,18,24	234:4,18,25 235:4	entities 138:22
230:8,11,14,21,24	34:24 35:22 36:3	116:15 117:2,9,13	235:5,9,20 237:23	211:20 221:17
231:1 232:8	36:6 37:23 38:24	117:22 118:2	238:5,12,15	232:2 233:9 251:3
236:25 237:8	39:2 40:15,18,24	119:3,11 120:4,18	239:11,14,22	255:15
238:1 243:22	41:6,12,15,19,22	121:15 130:18	240:19,24 241:5	entitle 209:10
244:1,11,13	42:8,17 43:2 44:5	132:6 133:6,18,24	241:10,25 242:6	entitled 129:4
245:14 248:5,9	46:5,24 49:3,10	135:1,24 136:6,13	242:10,14,23	132:25 136:6
251:7,24 252:12	49:24,25 50:8	138:20 139:12	243:10 244:22	137:12 155:6,7
252:23 253:10,18	51:21,22 52:14,20	140:7,24 141:8,16	245:4,5,10,20	183:17 228:2
253:21 254:4,12	53:4,6,9,20 54:18	147:10 149:12,25	246:3,16 247:6	entitlement 209:20
255:4,9,10 256:10	55:5 56:11,24,25	150:15 152:13,19	250:22 251:20	entity 12:21 13:1
258:1,7,13 259:15	57:17 58:3,8 60:2	155:1,17 157:2	252:5,8,18 253:2	17:13 20:2 21:16
260:2,9,18 261:4	60:20 61:14 63:4	159:16,19,20	253:8 254:19	21:17,18 25:11
261:14 262:13	63:6,8,13,19	160:16 161:11	255:11,25 256:2	26:4 49:20 61:17
264:3	64:16 65:1,12,21	165:23 166:4	258:21 259:22	64:14,22 73:5,11
elgidelys 206:8	66:8,22 68:10,11	167:8 170:8,13	260:13,19 261:16	73:19 74:10 77:1
elgin 13:5	68:13,18,25 69:7	171:19 172:2,9	261:20 263:1	77:3 80:23 82:9
elses 236:13	69:19,24 70:23,24	176:9 177:2,18	englers 46:19 52:7	90:11 92:19 93:8
email 3:12 7:2 8:7	71:9,12,15 72:4	178:4 179:11,14	52:11 65:4 81:19	101:17 133:23
40:5,5 198:13	72:11,15 73:1,5,6	179:22,25 181:7	89:18 91:22 92:5	138:19 216:4
199:7,16,18,20	73:11,19 74:2,6,9	181:20,23 182:8	92:11,12 93:11	217:3 223:12,13
200:2,4 201:16,18	74:10,21,24 76:1	183:7 184:1 185:6	94:12 95:3 112:21	237:16,18,20

238:20 248:1,15 248:22 249:3,9,15 249:22 250:12 entries 178:25 entry 129:16 175:6 177:7 178:8 equal 141:6 equally 25:3 equipment 15:15 equivalency 65:24 escapade 65:14 escrow 106:4,17 225:18 especially 58:13 211:7 esquire 2:3,7,11 established 194:17 215:16 establishing 241:13 estate 17:6,7 18:5 18:14 30:8 44:1 55:6 88:18 89:5 90:10 91:14 93:11 93:20 94:1 95:3 100:16,22 101:20 101:24 103:13 108:11 136:18 210:23 213:18,22 214:12,25 215:17 217:9,10 232:19 233:11 238:17 estates 10:13 estero 19:17 estimate 153:24 evening 123:20 event 134:15 141:22 143:25 186:25 192:10,25 194:13,15 events 31:5 eventually 212:1 everybody 13:25 59:24 65:16 217:18 221:14 228:25 evidence 96:6 227:24 257:3 exact 26:12 29:21 96:2 137:13 186:21	examination 3:2 4:5 196:1 221:10 238:11 239:17 243:24 examined 4:3 example 170:10 excavators 174:3 221:14 exchange 127:8,13 127:18 196:21,24 209:24 excited 66:21 68:13 115:15 exclusive 12:9 excuse 60:24 93:24 137:25 executed 128:23 146:5,18 executing 242:24 exhibit 4:21 6:24 30:2,4 35:13 47:24 70:1,7,12 70:22 71:3,19 72:25 82:24 89:2 89:3 93:2,21 94:2 95:4 100:23 102:3 102:4,12 107:3,4 107:5,6,7,15,22 108:11,23 111:25 112:4,7 113:23 118:16 126:13,19 127:14 128:4,9 130:23 131:7,8 132:10 137:22 146:10 151:6 154:13 156:13 160:19 171:5,7 196:2 197:14,16 197:20 198:25 199:6 202:13 206:18,24 207:3,5 207:7 222:16 223:20 224:9 230:3 237:1 255:7 258:5,9 exhibits 3:24 70:5,6 118:11 190:1 existence 205:19 existing 212:20 exited 154:10	expedite 163:20 expenses 8:3,9 165:25 166:6 174:4 177:11 184:8 185:8 195:17 expensive 7:24 experience 20:11 173:16 explain 75:24 138:15 148:21 162:21 240:2 explaining 43:16 expouse 119:10 260:21 expouses 78:24,25 79:14,19 80:1 119:9 261:1 extension 213:9 extradition 252:4 252:25 253:24	<hr/> F <hr/> face 88:7 facilities 58:25 59:7 fact 5:4 7:8 162:2 198:15,16 234:3 250:24 factors 85:10 factory 183:16,18 248:10 facts 126:6 fair 8:22 14:12 25:5 37:14 46:2 49:24 73:22 144:3 160:6 211:19 250:20 254:24 faith 256:21 false 124:20 126:8 familiar 29:15 33:16 49:20,23,25 51:11 52:10,25 53:1,15,17 57:13 85:15 89:13 families 112:17 famous 53:18,19,23 54:4 65:11 far 247:5 fashion 27:10 125:13 245:25	father 113:2 favor 126:6 fax 1:25 48:5 197:25 fear 75:2 76:6,10 76:15 february 161:24 162:14 163:7 164:5,16 171:8 185:18,18 federal 123:23 200:22 fee 180:23 feel 109:24 201:22 202:20 212:22 244:6 feelings 228:24 fees 236:4,12,13,14 felix 1:4 103:22 197:4 223:12 felt 40:18 44:3,7 179:22 183:3 202:25 203:12 207:25 208:1 fidelity 1:10,11,11 8:8,12,12 88:19 89:8 90:2 96:15 97:6 98:6,13,19 99:1,4,10,16,20 99:24 100:3,7 102:17 103:5 104:24 106:5,18 147:22 149:3 150:20 151:15 168:22 174:12 175:4 185:7 187:19,20 197:10 197:11,11 204:22 204:23 207:2,4,6 211:15 212:7,17 212:23 213:12 214:19 217:1,2,5 217:7 219:4,8,19 219:23 220:5,7,22 223:7,8,22 225:9 225:17 226:10 229:9,21,24 231:5 232:5 233:24 234:3,7,9,10,11 234:16 236:16	237:12 239:6 250:25 251:1 255:20,23 256:1,2 258:18,22 259:1 263:2,7,9 figure 42:6 201:8 file 118:4 filed 82:2 202:7 223:20 files 163:20 257:2 fill 23:12 39:2 129:21,21 140:9 155:22 159:16 filled 27:2 39:4 82:1 158:24 159:12 fillintheblank 158:25 159:3 final 184:22 185:13 finance 223:12 financial 1:10 23:10 24:20 27:3 96:9 97:19 98:3,3 98:5,25 99:9,19 100:2,7 197:10 200:22 204:22 209:13 211:3 212:11 216:10 240:1,8,21 254:8 254:8 255:11 financially 266:17 financials 22:21 98:13 258:21 financing 15:14 24:12 find 44:21 48:8 50:7 167:9 185:11 208:4 209:12 213:16 254:18 fine 60:25 69:14 120:8 124:23,24 205:1 206:22 253:20 finger 70:11 finish 18:2 26:15 237:6 finished 21:6 fires 11:21 14:14 first 1:18,23 4:3 17:7 20:11 29:18
--	---	--	---	--	--

29:22 30:12 31:24 33:3,14,23 34:11 34:17,19 35:1,6 36:7 38:10,22 40:16 44:13 59:19 61:12,16 70:15 95:24 112:10,14 114:5 115:16 131:2,6,12 132:18 137:21 141:5 146:15 149:6 163:6 192:15 197:18,23 199:7 204:6 230:15,16 230:17,18 242:6 242:15 255:11	flown 115:2 foggy 46:8 follow 44:18 followed 26:23 155:24 following 11:11 153:12 194:17 follows 4:4 followup 261:6 food 59:5 force 57:21 58:17 60:15 61:24 62:24 63:15 65:7 73:20 74:3 109:24 117:4 foreclose 223:23 225:12 foreclosure 223:15 223:16,22 226:10 229:10 263:24 foregoing 266:10 foreign 223:12,13 forensic 30:7 131:20 forgot 150:1 form 13:1 23:11 37:19 131:1 158:25 170:4 173:11 208:19 211:10 213:24 214:4 216:12 226:18 227:22 231:9,10 238:1 251:10 255:3 260:8 formed 13:10 73:16 74:7 85:2,5 119:20,25 120:14 formerly 223:8 forming 76:24 forms 159:3 fort 1:2,18,19,23,24 2:5 5:1 7:4 56:9 58:20 197:2,18,19 197:23,24 219:6 244:4,16 266:21 forth 23:13 190:19 191:13 forward 199:25 217:8,9 236:3 243:5	forwarded 201:13 201:15 found 186:11 foundation 51:4 62:15 64:7 71:7 77:7 78:21 79:9 79:15 83:12 85:23 90:13,20 91:17 95:6 100:10 104:8 105:7 112:22 132:2,8 137:7 139:19 143:8 148:5,12,17,25 162:5,10,17 169:18,22 175:11 178:13 186:19 187:11 189:4,15 198:22 202:11 252:21 253:6 254:3,10 255:8 260:16 fountain 19:19 20:8,20 four 25:14 53:18,19 53:23 54:5 59:14 65:11 66:4 166:15 221:9 247:13,15 fourth 194:11 195:2 franchise 11:17 12:3 franchises 11:16 fraud 203:6 219:15 219:21,24 242:3 243:10 252:20 253:25 254:9 fraudulent 201:7 220:10 227:12,18 228:14 free 138:23 139:1 170:15 171:8,14 171:19 228:11 freeman 72:7,8,10 72:15,19 82:4,10 82:11,15,22 83:16 83:19 84:4 88:11 133:2,3,8 137:17 191:5,17 193:6 197:21 198:13 199:5,16 201:3,13	201:15,19 220:3 221:2,7 233:7 242:5,13,21 front 216:6 218:6,9 222:16 230:4 frontage 215:6 fulfilled 203:3 full 16:14 49:2 125:24 fully 210:9 211:4 211:14 212:6 256:21 functions 41:11 fund 210:9,22 217:6 235:13 funded 28:15 149:12 185:21 211:4 212:16 funding 21:11 22:3 22:6,9,9,16 24:1 209:15 215:13 226:15,16 232:22 235:5,9 245:24 246:2 261:17,20 funds 16:10 50:8 54:2 65:2,12 85:7 87:23 90:16 96:6 103:7,20 105:2 106:15,16 108:5 110:6,19 120:16 138:18 139:11 165:9 166:5 171:19 195:16 202:8,15 203:8,8 227:15 246:7,25 247:1,14,19,22,25 248:11,14,21,25 249:3,6,9,12,15 249:19,22 250:1,4 250:10,12,22 251:9,18 252:19 255:1,22 funny 54:11 furnished 82:18 furnishing 83:16 further 204:17 220:23 235:23 240:2 243:20 261:4 264:1 266:13	future 79:4 134:16 141:23 144:2 152:23 165:10,25 166:6 172:7 180:14 185:7 202:24 234:25
G				
fit 124:7 five 10:25 25:14 43:9 59:14 69:13 153:25 166:15 167:20 fix 42:5 fixed 135:11 142:7 144:7 fl 2:5,9,12 fletcher 18:23 20:6 250:8,13 flew 56:17,23,25 flight 7:3 8:3 flights 7:24 flip 71:18 107:6 114:16 flipping 138:24 145:1 floods 11:21 14:14 floor 45:7 florida 1:1,19,21 1:24 6:15 7:14 9:3 17:3 18:11,25 19:17 26:7 35:4 35:19 44:1 50:11 50:14 52:4 72:19 73:10 81:6,9,12 82:2,9,18 83:7,16 88:5 92:15 93:5,9 197:1,19,21,24 205:25 206:3 215:19,20 236:5 250:9 266:3,7 flow 24:13 240:23	gabriel 54:12 gadgets 45:13 gap 20:14 gated 33:25 34:1,4 general 42:7 generated 218:17 genovese 2:4 gentleman 31:19 228:17 gentlemen 61:7 german 44:6 54:7,9 54:11 57:18 58:10 59:16,25 60:7 63:8 66:10,11 67:22 74:16 76:7 76:11,15,18,22 77:2,3,10 80:16 85:14 90:16 91:3 91:6 94:7 117:24 119:6 201:6 208:2 219:10 228:20 244:15 251:11,18 251:21 252:8,19 253:14 261:9 262:25 germans 55:3,15 55:19,24 56:6 253:8,25 254:7 germany 54:25 64:9 75:5 114:14 200:6,9 201:9 getting 35:20 36:10 42:4 62:1 64:8 79:6 186:10,24 263:8 gifts 65:7 gillette 52:3 girlfriend 40:20 52:11 181:12 give 28:23 40:5 45:4 65:13,13 70:10 76:21 88:22			

94:11 127:7,12,17 133:6 135:9 140:14,17 159:25 160:3 171:1 196:14,17,20,23 217:21 232:18 233:20,21 235:24 giveaway 65:7,18 given 29:5,9 49:25 63:23 65:7,21 66:3 75:15 83:9 84:3 93:19 129:25 253:2 257:5 giving 232:1 235:18 gmbh 223:13 go 6:8 8:9 22:9,15 35:20 40:7 42:25 52:2 70:17 75:19 77:8 78:3 86:16 100:16 104:6 108:23 115:5 122:4,18,25 123:10,20,21 124:6 125:14,16 128:14,19 129:13 137:20 142:24 146:20 147:14 150:19 153:4,23 154:1,9 159:8 160:24 164:4 168:21 170:14 175:3 176:13 177:21 183:11 189:25 191:2 192:7 194:10 195:7 198:6 200:12 201:18 204:15 206:17 209:10 213:16 217:8,9 220:17 228:6 231:1 236:8 243:14 goal 241:13,15 goals 109:25 238:7 going 4:18,23 6:19 7:9 20:10 24:25 30:1 32:7 36:24 38:16 40:19 45:16 46:7 55:5 56:2	59:18 68:12,16 70:7 75:19 77:1 87:16 88:22 89:3 92:24 101:3,7,8 101:13,16 104:23 108:24 110:19 118:9,10 123:4,24 124:13 125:2,4,10 125:11,14,16,17 125:19 128:1,8,12 133:6 135:18 142:14 153:6,17 154:18 161:23 173:15,20,24 180:20 184:22 185:16 186:21 197:13 206:19,20 210:3 212:9 213:17 220:17 225:11 226:18 227:22 228:8 233:9 234:4,11 gold 22:14,16,23 23:6,7,21 24:19 25:8 26:1,20 65:16 golf 49:4,4 good 4:9,10 36:18 37:1 60:8 244:6,6 244:19,20 256:21 gorda 18:8 20:16 20:19 21:1,1,3,5 22:10,17 25:9 138:8 139:8 140:1 143:1,12 249:19 250:1 gotten 186:2 government 76:7,8 76:11,22 77:1,2 260:25 governments 76:16 graduate 10:5 grandkids 8:21 grants 231:20 great 40:14 45:6 63:22 68:12,17 70:10 170:25 green 59:19 griffin 51:16,18,21 gross 136:24	218:11 group 53:3,6 156:10 grouped 130:23 131:25 132:14 grouping 128:6 growth 113:14,19 114:7 guarantee 16:6 23:23 24:4 27:23 29:7 140:14 146:23 156:2 238:11,14 guarantees 15:17 15:24 22:7 129:24 159:25 guess 32:16,22 35:23 37:1,14 41:18 45:25 49:2 92:25 258:4 guest 181:14 guy 45:22 guys 95:14 <hr/> H <hr/> h2 182:4,7 188:6 247:8 hadnt 33:22 half 69:5 122:24 148:2,22 149:7,17 149:21 153:16,18 153:18 205:11 257:17 hand 89:3 118:9,10 handed 30:6 65:15 112:6 171:6 206:14 handing 93:4 128:6 hands 228:25 229:2 229:16 handwriting 109:5 109:8 111:22 195:11 231:7 handwritten 109:2 231:5 handy 230:4 hangup 44:6 happen 123:8 125:3,11,19 225:7 225:11 229:23	happened 41:8 42:24,25 121:16 189:20,21 happy 123:1 246:22 hardworking 112:17 hardy 13:5 harm 263:9 harper 10:11,12,14 10:17,20,24 11:11 harris 21:13,16,22 24:6,14 hate 178:11 havent 149:10 229:7 head 11:9 23:8 115:7 headquarters 11:12 hear 37:25 heard 34:10 35:22 54:16 217:13 hearing 6:13 7:23 8:5,10,23 124:1 163:12 179:22 244:8 hearsay 66:15 68:7 75:4,8 76:4,17 77:18 78:1,20 79:9,15 80:5,12 85:19 91:9 96:23 97:7,11,17 98:11 98:22 112:23 113:20 114:10 119:13 121:17 136:16 148:18 179:20 180:2 181:3,8 182:24 189:16 252:11,21 253:6 254:3,10 heavy 44:6 hed 196:14 height 13:21,23 14:5 held 12:4 225:17 hell 123:12 help 30:11 44:11,14 44:15 107:6 helpful 47:22	hereinafter 103:23 190:18 191:13 heres 155:14 hes 43:7 123:9 154:1 155:7 hesitation 187:2 hide 216:10 241:25 high 9:25 10:1,2,3 110:24 201:8 higher 134:9 184:13 highest 59:20 65:12 hired 199:21 hit 21:5 hobby 47:4 hoffman 10:13 hold 11:25 16:21 229:19 holding 223:19 hole 114:21 home 7:17 9:6,8 19:16 20:20 26:6 26:10,13 33:5 36:8 39:7 42:18 44:2 45:3 114:22 179:9,10,12,14,23 180:22 181:14,15 181:20,24 246:20 246:22,23 homeowner 25:16 homes 112:12,17 honor 211:14 212:6 216:2 233:13 hope 246:22 hopefully 264:4 hotel 8:4 58:20 59:19,21 110:23 115:11 123:11 244:3,16 hotels 58:21 hotspots 114:19 hour 46:17 48:24 122:21,24 153:17 153:18,19 205:11 257:17 hours 43:10 123:22 125:23 154:1 house 31:9,11,14 34:19 35:19 36:13 36:18,25,25 38:16
---	--	--	---	---

41:9,11 43:2	ill 24:25 28:2,4	74:15	218:15 226:2	212:6 215:18,24
46:15 48:8 50:19	66:25 70:10 89:3	impossible 8:19	231:17 237:17	216:6,9 232:10
50:21 87:16,19	107:6 112:1 125:3	impressed 36:8	238:10 240:11	233:13 234:23
242:7 246:18	125:3 128:16	impression 225:17	244:4 257:17	241:24 242:2
huber 52:24,25	170:4 217:21,22	impressive 36:17	258:22 261:9	intention 233:8
54:15	230:8 235:25	36:25	indicates 31:2	interact 41:17,23
huge 113:14,19	243:15 244:11	imprisonment	indicating 96:3	interacted 41:6
114:7	253:18 254:18	201:7	indigo 123:11	42:12
hummer 182:4,7	255:9 264:11	improper 187:10	individually 17:21	interaction 31:25
188:6,19,20 247:8	illinois 10:4,13	inappropriate	24:21 25:10	interactions 42:3
hundred 13:6,8	12:24 114:20	208:4 257:22	individuals 193:7	interest 58:12
121:4 221:23	im 4:18,23 6:19	include 114:19	193:10 194:18	120:21 121:4,8,11
hurricanes 21:5	8:20 12:2 16:3	245:3,19	221:16,17	134:25 135:6
hutton 52:5	29:25 35:19,20	included 40:25	influence 257:12	141:9 150:16
hypothetical 187:7	39:23 42:14 43:5	72:24 88:25 111:9	inform 81:12	152:18 155:6
187:11	43:17 45:22,23	130:10,24 232:5	information 39:5	173:18 214:8
	46:7,7,9 56:2	247:2	40:24 41:14 82:12	218:4 231:21
I	60:25 61:11,25	includes 96:8	82:13,18 83:16	233:13
id 6:6 43:4 47:24	70:7,12 77:22,24	including 210:10	96:25 97:6,19	interested 33:13
71:18 98:2 111:16	78:11,18 81:18,22	216:16 233:11	98:15 194:2	43:4,5 59:25
116:4 128:10	82:6 86:22 88:22	240:22	199:23 202:1	266:17
130:9 163:13,14	89:3 92:24 93:4	income 135:11	258:17	interesting 44:21
206:1 228:20	107:17 108:24	142:7 144:7	informed 103:5	44:22
236:21	109:25 111:18	240:22	104:24 211:8	interests 136:5
idaho 6:18 7:15,19	116:9,11 118:9,10	inconsistency	infrastructure	190:17 191:1,12
7:22 8:7,24 9:10	118:12 122:25	132:22	170:1,2 174:1	191:21,22
52:3 60:13 110:25	123:1,3,4 124:13	incorporate 12:21	inherited 15:12	international 198:2
205:18,20,24	124:25 125:14,16	12:23 82:15	initially 110:13	198:18 204:5,11
206:5 215:23,25	127:2 128:1,6,8	incorporated 13:3	167:22	252:1,24 253:22
223:10,15,20	128:11 132:11	73:12 130:15	initials 89:14,17	interpose 237:7
247:18,22 248:11	138:2,2 139:6	188:9 211:21	129:7 140:3	interrupt 123:14
263:11	143:23,23 153:17	215:22	143:14 145:17	239:25
identical 136:1	154:18 157:15	incorrectly 134:3	150:7 152:7	intervened 224:4
identification 4:21	165:20 166:12	incurred 8:3 166:1	154:19 156:20	intervening 164:19
6:24 30:4 93:2	177:22 178:19,24	166:7	161:5 168:12,24	interviewing 37:15
112:4 128:4 171:5	186:7 197:13	indemnify 263:17	174:19 176:1,21	introduced 29:18
196:2 197:16	199:20 200:13	263:21	177:23 183:19	30:12 58:2,5
206:24	204:9,15 205:1	independent 13:25	187:21 193:20	67:23
identified 46:25	207:8 215:7	indicate 171:13	inquire 228:3	invest 43:25 55:5
67:8 92:12 94:6	217:25 222:2,7	210:8 212:18	installment 224:2	55:13 57:18 58:15
208:14 209:2,3	224:22 226:18	262:4	225:9	60:7 64:9 172:1
215:4	227:22 228:5,7,25	indicated 6:12 9:1	instance 83:20	invested 253:4
identify 44:16	235:10 236:3	9:5 10:7 20:11	155:14 172:16	investigation
64:11 67:6 114:6	237:5,8 239:9	21:22 23:1,22	210:7	197:22 198:18
137:24 147:18	243:22 244:8	27:16 35:6 38:9	instances 27:7,23	200:6 204:5
208:22,25 209:1	253:20 258:14	38:15 46:24 54:18	institution 24:20	256:22
identifying 44:19	262:17	55:6 57:1 73:18	instructed 198:1	investigations
49:15 67:5	image 37:1	108:9 122:20	insurance 11:20,21	200:5 202:1
identity 228:2	impact 227:13	130:6 131:20	12:19 14:13 27:4	investigator 199:21
ii 1:7 197:7,7	important 15:18,23	150:6 215:14	intend 211:14	investing 46:22

172:2	154:15 155:3	261:11,15,19,24	jackson 7:5 114:21	51:24 52:5,12
investment 46:21	157:4 158:1 161:2	262:6 263:4,12,17	jamaica 112:17	53:3 54:24 55:1
84:22 208:15	161:13,25 163:8	263:19,22,23	janeiro 249:19	56:1,14,14 57:2
218:17,22 221:12	165:15,25 166:6	investor 251:18	january 30:10 69:4	57:16 59:10 63:6
investments 60:19	167:3 168:19	investors 38:19	69:9,21 107:17	64:24 66:10,23,25
60:21,23 61:13,14	169:14 171:13,24	57:18 63:23 64:8	115:6,25 117:14	67:22 68:11 74:12
61:16 62:21 63:5	172:1,3,7,11,18	74:17 81:23 85:14	121:3,9,12 151:2	77:11 80:13,19
63:7,13,13 64:16	174:5 175:1,8	87:22 90:16 91:3	151:7,17 152:6	81:20 85:16 86:19
64:17,23,25 65:3	176:11 177:4,16	91:6 94:7 110:1	154:15 156:11	87:2 89:24 92:21
69:25 70:23,25	178:6 179:5,13,15	114:14 117:24	161:2 196:6 197:2	93:23,25 95:5,7
71:10,13,16 72:4	179:24 182:13,16	218:25 251:11,22	joblove 2:4	96:14 98:4,16,17
72:12,16 73:2,5	183:6,14 184:3,9	252:8,19 253:15	joe 163:17 240:17	98:20,24 100:8,13
73:12,19 74:2,2,7	184:25 185:8	254:14	240:18	100:14 101:2,6
74:10,21 76:2	188:3 190:9 191:2	invited 181:16	johann 52:24,24	103:15 111:4,6,9
78:5,7,10,15	191:23 192:2,5,9	involve 242:12	judgment 102:16	111:15,21 112:20
79:21 80:3,11,15	192:16,20 193:15	involved 36:10,14	july 61:5 127:3	116:14 117:16,22
81:8,14 82:2,15	193:23 194:3,12	89:12 133:12	183:13,18 184:23	118:11 119:10,16
82:20 83:1 84:11	195:5 197:8,9	134:2,9,19,19	198:10 204:12	121:11 125:23
85:1,5,8,11,22	198:8,15 199:2,13	135:5,17 140:23	june 1:15 6:14,17	128:15 132:1,10
86:3,6,8,21,23	203:9,11 204:6	142:3,3,13 146:3	7:4,9,16,19,22 8:5	132:11 135:22
87:9,12,19 88:1,4	209:18 210:9,9,23	146:16 149:11,25	8:23,24 118:18	138:17 139:16
88:19 89:8 90:5	211:17,20 212:1,2	158:5,23 165:8	120:24 121:12	140:11 147:12
90:10,23 91:1,4,8	212:4,6,19,22	172:24 184:11	176:16 177:22,22	157:9 159:14
91:15,23 92:6,18	213:20,23 214:3,9	185:20 206:13	178:20,24 189:13	161:21 162:2,3
93:12,20 94:3	214:18,20,24	216:22 219:15,20	197:15 207:16	164:11,25 167:9
98:18,25 99:16,20	215:16,18,18,20	219:24 243:10	266:18	178:12 179:18
99:24 100:3 101:3	215:24 216:3,15	irs 76:18,19,21		180:25 183:15
101:25 102:9,15	217:3 218:5,7	isnt 92:1 130:12,13	K	184:5 185:12
103:5,17,20	220:8 221:18	162:13 173:16	keep 24:25 128:10	189:2 192:18
104:24 106:16	223:10,17,24	187:15 259:19	153:17 170:4	193:4 195:11
107:24 108:6,14	225:8,14,22,24	issue 6:5 79:13,25	kendrick 2:8,11	203:15 206:7
110:5,7,14,15,16	226:2,6,11,17,23	119:10 126:2	kennedy 2:8,12	208:6,6 218:20,25
110:20,20 111:8	227:3 229:4,8,18	212:16	key 87:2,5,15 111:6	220:14 224:5,9,11
111:20 113:18	229:20,24 231:18	issued 200:10,15,18	kind 36:3 37:22	224:12 225:14,16
115:18,23,24	232:3,23 233:10	200:22	45:4 60:25 63:23	227:16 234:13
116:3,16,16,21	234:5,5 235:19	issues 119:8 183:4	96:2 128:10	227:16 234:13
117:8,10,13,18	236:13,18,20	260:21	163:20	236:23 237:11
118:2,7,17,21,23	237:14,16 238:7	item 160:24	knew 81:23 118:1	239:8 243:3,9
119:4,12,19,25	238:14,18,25	items 23:9 27:2	187:3 213:17	244:5 251:19,20
120:5,6,13,17,21	239:2,5,10,13,19	178:16 179:6	247:5	258:12,15,25
121:1,8 122:1,6	240:9,13,24 241:1	itinerary 7:3,8	know 4:11 13:21	260:17,24 262:16
122:15 124:2	241:8,14,20,24	ive 30:6 45:4 54:16	16:6 22:23 25:3	263:8,10,14,15
126:18,23 127:7	242:2,23,24 243:7	100:20,21 112:6	27:6,16 29:1,11	knowing 43:25
127:12,17 129:11	245:23 246:4,5	123:10 124:12	33:12,15 34:2,2	183:3
129:17,21 130:1	247:1,10,19	130:7 131:20	36:20 37:10,23,23	knowledge 5:24
131:19,22 133:6	248:22 250:5,18	171:6 196:3	38:18,19 42:4,6	102:21 103:1
133:18 138:12,18	250:21 251:17	206:13 207:8	42:14,25 44:18,18	148:15 218:20
139:18 143:5	252:18 253:3	222:21 225:16	45:14 46:19,20,23	224:13
145:4,25 147:17	254:25 255:5,12		47:2,6,9 48:1,7	known 59:21 81:21
148:3 152:15	255:13,16 256:1,3	J	50:4,23 51:6,18	218:7 223:8

L				
lack 187:11 198:22 235:11 260:16	lasted 48:24 257:17	lending 213:16 214:13	193:25	234:5 235:19
lake 21:4 52:15	late 19:9 35:24 123:20 125:17	length 32:2 241:21 248:18	little 46:8 143:24 160:22 262:24	236:18,20 237:16
lakes 19:19 20:8,20	lauderdale 2:5	letter 3:11 5:1,4,6,9 5:14 72:18,22	live 19:6 97:5 213:22 259:4	238:7,18 239:1,2
land 57:13,19,25 58:8,9 60:19,20	laundry 241:25	letterhead 5:1	lived 19:4,4	239:5,10,13,19
61:14 63:4,7,13	laundering 201:25 202:20 203:14	level 44:8 56:4,5	living 33:18 43:15 43:24 58:14 84:5	240:9,13,24
63:25 64:5,9,16	lawsuit 222:18 223:20,22 224:5,6	liability 223:10 228:2	84:15,18	241:14,20,25
67:3,13,20 68:14	227:1	liable 16:9	llc 12:25 21:20,21 22:1 62:21 63:13	242:3 250:18,21
69:24 70:23,24	lawyer 213:8 221:7	lien 232:2,22 233:1 233:2,4,4,9,10,15	63:13 74:2,3,16	255:12 261:11,15
71:9,12,15 72:4	lawyers 205:20,24 239:13 242:22	lienor 29:13	76:2 80:16 82:15	261:19 262:6
72:11,16 73:1,5	layout 45:5	lieu 124:5	83:1 84:23 85:1	263:4,17,19
73:11,19 74:2,6	lead 115:13,19	life 96:21 228:17	89:8 90:5,11 91:1	llcs 220:8 226:23
74:10,21 76:2	leading 151:19	light 7:22	92:18 93:12,20	227:3 229:20
78:4,7,10,15	learn 41:14 219:20	liked 33:5,20	94:3 98:18,25	232:3
79:21 80:2,11,14	learned 205:18 211:2 220:3 221:1	limited 55:14 96:8 223:10 253:9	99:24 100:3 101:3	llp 2:8,11
81:7,14 82:1,15	221:1,6,6 251:18	lincoln 246:12 247:1	101:25 102:9,15	loan 3:16 23:2,2,12
82:20,25 84:11,22	254:19	linderman 67:16 210:10,12 211:7	115:18 116:16,16	23:15,18,20,23
85:1,4,7,11,22	learning 202:18 203:5	211:14 212:5,24	116:21 117:18	24:4,6,18,19 25:7
86:3,6,8,21,23	leave 150:1	213:22 214:24	118:2,7,17,21,24	25:16 26:1,20
87:9,12,19,25	lee 266:4	216:16,23 217:1	119:4,12,19,25	27:10,15 28:8,12
88:4,19 89:7 90:5	left 49:2 122:21 184:11 246:18	219:11,19 220:9	120:13,21 121:1	28:16 29:6,8,9
90:10,16,23 91:1	lefthand 171:10 222:23 223:4	222:7,12 223:15	122:3,6 124:2	127:22 128:7,22
91:14,23 92:6,18	legal 27:25 77:4 236:12,13,14	223:24 226:10	126:18,24 127:12	129:2,4,20,22
93:12,19 94:2	256:8 259:25	229:10 232:6	127:17 129:11,18	130:11,24 131:8
98:18,25 99:16,20	legally 216:17	234:12 236:17	130:1 131:22	132:19,19,25
101:2 110:5,15,19	legitimate 243:11	237:12 242:25	133:18 138:12,18	133:7,11,13,17
113:7,12 114:13	leisurely 49:8,9	243:6	139:18 143:6	134:1,3,8,9,10,14
115:18 116:16	lend 213:17 216:9	line 25:19 29:4 178:16	145:5 148:3	134:18,24 135:4
117:10,13 118:2	lender 133:13 134:3,16,19 135:5	178:16	154:15 155:3	135:16 137:12,13
120:5 138:8 139:8	135:13,17 141:1	liquidate 191:22	157:4 161:2,13	138:3,25 140:1,8
140:1 197:9 206:3	141:22 142:3,9,13	lisa 194:1	162:1 163:9	140:9,12,15,18,20
211:17,20,25	142:14 144:1,9	list 48:11 83:20,23 163:3	165:15 168:19	140:24,25 142:12
242:23	149:18,25 155:16	listed 48:21 50:24 74:20 76:2 84:21	174:5 175:1,9	142:13,25 143:11
landing 26:11	160:13,16 165:9	92:13 94:1,13,16	183:14 184:3,25	145:6,14 146:2,3
landlord 37:11	171:18 184:11	94:22,24 95:2,21	188:3 190:9 191:2	146:4,4,15,16,17
landscape 221:13	185:22 186:2,3,10	119:3 141:5	191:23 192:2,9,16	146:21 147:1,2,6
lane 179:6,8 188:10 188:12 247:18	187:5 196:8	174:11 246:11	192:21 193:15,23	147:18,22 148:22
248:6	207:18 231:19,20	listening 46:17	194:3,12 195:5	148:23,24 149:11
language 66:11 143:25 144:3,11	234:1 237:24	lists 83:4,6 93:7	197:9 198:8,16	149:12,16,24
144:14 231:15,23	lenders 27:6,10 29:11		199:2,13 204:6	150:1,2,14,21,21
large 1:21 53:20 54:19 56:8 58:22			209:18 212:19,22	150:23,23 151:2
163:4 197:21			213:20 214:3,9,18	151:11,24 152:3,5
266:7			215:16,18,25	154:16 155:21,25
las 52:19 53:4,7,9 53:13 114:20			216:4,16 217:3	156:3,6,8,16
			225:8,15 226:6,11	158:5,6,23 159:12
			226:17 229:4,8,18	159:13,17 160:7
			229:24 231:18	160:11,15 161:3
				162:2,7,13,22
				163:5,10 164:1,7
				164:12,18,25
				165:6,11,16

166:15,16,24,25 167:10,12,23 171:9,14,17,25 172:18,19,23,24 172:25 173:11,14 173:15,17,17,21 175:4,21 177:6,21 178:20 179:1 180:16 184:6,6,7 184:12,20 185:2 185:13,20,21,23 186:2,16,20 187:4 187:15,18 188:5 188:16 196:12,18 196:21,24 220:17 230:4,7,13 231:4 231:9,11 232:1,11 234:24 240:12 258:3 259:17	longer 213:17 214:11 look 13:4 43:7,8 45:9 47:18 52:1,2 52:23 53:14 58:6 89:4 96:1 100:21 103:18 111:16 116:4,7 128:21 129:2 131:6,11 151:5 154:18 163:14 164:20 166:12 167:6 185:16 206:2,16 207:2,9 222:22 230:22 231:13 looked 7:24 52:18 151:1 looking 32:3,3 43:17 46:9 58:14 66:22 67:10,12 69:3 104:1 116:11 138:2 150:20 167:15 230:6 looks 70:15 89:13 89:19 107:17 127:1 147:16 149:2 160:24 164:18 199:17 loop 2:8,11 losses 254:8 lost 24:24 79:8,10 79:16 lot 33:21 45:13,13 53:21 58:13 76:19 76:20 79:8,10,16 89:12 115:14 158:2 207:24 246:21 253:24 lots 59:5,5 113:14 250:1 lucky 68:10 lumped 179:2 lunas 67:9 lunch 122:24 123:1 123:3,4 lying 189:23	maher 259:2,3,6 mail 84:10 85:21 86:9,12,17,20 87:9,15 mailing 50:12 81:13 82:19 93:7 main 45:7 67:9 130:21 132:25 209:3 242:16 247:21 248:1 maintain 39:9 131:15 182:17 216:3 239:18,21 240:9 maintained 112:8 121:25 122:14 129:10 145:24 152:14 155:2 157:3 161:12 168:18 169:13 174:25 176:10 177:3 178:5 184:2 188:2 192:4 193:22 195:4 maintenance 256:23 major 20:21 21:5,8 majority 17:24 52:4 maker 43:17 making 8:4 46:21 50:6,8 225:8 234:6 man 40:21 216:6 218:6,9 manage 180:20 192:11,20 209:10 management 10:18 11:3 135:14,19 142:10 144:10 153:2 180:23 192:24 194:16 209:20 manager 24:15 71:12 78:6,14,15 78:16 79:21 80:2 86:5 90:4 managers 237:20 managing 74:21 84:22 142:15	194:14 march 35:21,24 107:18 164:23 165:1 167:16 168:22 170:16 202:9 230:6,12 marie 194:2 mark 4:18 6:20 30:1 88:24 92:25 164:15 206:17 marked 4:20 6:23 30:3 69:25 70:22 89:2 93:1,21 94:2 95:4 100:22 103:13 108:25 112:1,3,6 126:18 128:2,3 143:4 171:2,4,7 173:4 195:25 196:1,3 197:14,15,18 198:25 199:6 202:7 206:23 231:14 237:3 258:4 market 43:17 marketing 14:11 32:16 marking 207:6 married 79:6 marrying 79:5 martineau 156:17 249:6 match 85:14 matriculation 11:11 matter 4:13 204:5 mature 23:15 mean 16:8 22:5 36:16 53:19 59:10 68:16 173:14,15 195:15 217:16 221:22 244:7,21 meaning 210:12 241:21 meant 25:7 55:12 181:16 245:1,10 meet 31:7,20,21 33:13 34:23 36:1 68:10 205:12 meeting 31:21 36:7	38:22 40:15 41:15 41:18 46:5,12 48:24 49:3,11 55:7 56:8,14,15 57:20 58:16,17,19 59:12,13 60:15 61:23 62:3,10,13 62:23 63:15,18 65:8,21 66:9,18 67:7,12,13 73:8 73:19,20,23 74:3 109:12,18,25 114:6 116:25 117:10 149:11,25 209:21 218:16 244:3,15,17 245:9 257:15,17,23 meetings 24:13 59:3,7 209:11 256:25 mel 51:16,18 member 71:9 74:21 74:25 76:2 77:17 77:22,24,25 78:4 79:20 80:2 84:22 86:5 87:25 88:14 90:4,11 119:1,3 119:12 120:25 135:12 142:8 144:8 244:19 members 22:1 68:19 81:4 118:23 membership 120:20 121:22,23 190:17 191:1,11 191:21,21 memo 201:22 memory 257:20 mental 45:5 mention 53:18 104:12 111:19 mentioned 28:19 54:3 65:6 78:24 197:10 234:13 mercedes 36:5 65:13,22,23,24 met 29:22 35:4,10 35:23 40:16 52:13 73:8 200:23 204:20 205:9
166:15,16,24,25 167:10,12,23 171:9,14,17,25 172:18,19,23,24 172:25 173:11,14 173:15,17,17,21 175:4,21 177:6,21 178:20 179:1 180:16 184:6,6,7 184:12,20 185:2 185:13,20,21,23 186:2,16,20 187:4 187:15,18 188:5 188:16 196:12,18 196:21,24 220:17 230:4,7,13 231:4 231:9,11 232:1,11 234:24 240:12 258:3 259:17	longer 213:17 214:11 look 13:4 43:7,8 45:9 47:18 52:1,2 52:23 53:14 58:6 89:4 96:1 100:21 103:18 111:16 116:4,7 128:21 129:2 131:6,11 151:5 154:18 163:14 164:20 166:12 167:6 185:16 206:2,16 207:2,9 222:22 230:22 231:13 looked 7:24 52:18 151:1 looking 32:3,3 43:17 46:9 58:14 66:22 67:10,12 69:3 104:1 116:11 138:2 150:20 167:15 230:6 looks 70:15 89:13 89:19 107:17 127:1 147:16 149:2 160:24 164:18 199:17 loop 2:8,11 losses 254:8 lost 24:24 79:8,10 79:16 lot 33:21 45:13,13 53:21 58:13 76:19 76:20 79:8,10,16 89:12 115:14 158:2 207:24 246:21 253:24 lots 59:5,5 113:14 250:1 lucky 68:10 lumped 179:2 lunas 67:9 lunch 122:24 123:1 123:3,4 lying 189:23	maher 259:2,3,6 mail 84:10 85:21 86:9,12,17,20 87:9,15 mailing 50:12 81:13 82:19 93:7 main 45:7 67:9 130:21 132:25 209:3 242:16 247:21 248:1 maintain 39:9 131:15 182:17 216:3 239:18,21 240:9 maintained 112:8 121:25 122:14 129:10 145:24 152:14 155:2 157:3 161:12 168:18 169:13 174:25 176:10 177:3 178:5 184:2 188:2 192:4 193:22 195:4 maintenance 256:23 major 20:21 21:5,8 majority 17:24 52:4 maker 43:17 making 8:4 46:21 50:6,8 225:8 234:6 man 40:21 216:6 218:6,9 manage 180:20 192:11,20 209:10 management 10:18 11:3 135:14,19 142:10 144:10 153:2 180:23 192:24 194:16 209:20 manager 24:15 71:12 78:6,14,15 78:16 79:21 80:2 86:5 90:4 managers 237:20 managing 74:21 84:22 142:15	194:14 march 35:21,24 107:18 164:23 165:1 167:16 168:22 170:16 202:9 230:6,12 marie 194:2 mark 4:18 6:20 30:1 88:24 92:25 164:15 206:17 marked 4:20 6:23 30:3 69:25 70:22 89:2 93:1,21 94:2 95:4 100:22 103:13 108:25 112:1,3,6 126:18 128:2,3 143:4 171:2,4,7 173:4 195:25 196:1,3 197:14,15,18 198:25 199:6 202:7 206:23 231:14 237:3 258:4 market 43:17 marketing 14:11 32:16 marking 207:6 married 79:6 marrying 79:5 martineau 156:17 249:6 match 85:14 matriculation 11:11 matter 4:13 204:5 mature 23:15 mean 16:8 22:5 36:16 53:19 59:10 68:16 173:14,15 195:15 217:16 221:22 244:7,21 meaning 210:12 241:21 meant 25:7 55:12 181:16 245:1,10 meet 31:7,20,21 33:13 34:23 36:1 68:10 205:12 meeting 31:21 36:7	38:22 40:15 41:15 41:18 46:5,12 48:24 49:3,11 55:7 56:8,14,15 57:20 58:16,17,19 59:12,13 60:15 61:23 62:3,10,13 62:23 63:15,18 65:8,21 66:9,18 67:7,12,13 73:8 73:19,20,23 74:3 109:12,18,25 114:6 116:25 117:10 149:11,25 209:21 218:16 244:3,15,17 245:9 257:15,17,23 meetings 24:13 59:3,7 209:11 256:25 mel 51:16,18 member 71:9 74:21 74:25 76:2 77:17 77:22,24,25 78:4 79:20 80:2 84:22 86:5 87:25 88:14 90:4,11 119:1,3 119:12 120:25 135:12 142:8 144:8 244:19 members 22:1 68:19 81:4 118:23 membership 120:20 121:22,23 190:17 191:1,11 191:21,21 memo 201:22 memory 257:20 mental 45:5 mention 53:18 104:12 111:19 mentioned 28:19 54:3 65:6 78:24 197:10 234:13 mercedes 36:5 65:13,22,23,24 met 29:22 35:4,10 35:23 40:16 52:13 73:8 200:23 204:20 205:9
166:15,16,24,25 167:10,12,23 171:9,14,17,25 172:18,19,23,24 172:25 173:11,14 173:15,17,17,21 175:4,21 177:6,21 178:20 179:1 180:16 184:6,6,7 184:12,20 185:2 185:13,20,21,23 186:2,16,20 187:4 187:15,18 188:5 188:16 196:12,18 196:21,24 220:17 230:4,7,13 231:4 231:9,11 232:1,11 234:24 240:12 258:3 259:17	longer 213:17 214:11 look 13:4 43:7,8 45:9 47:18 52:1,2 52:23 53:14 58:6 89:4 96:1 100:21 103:18 111:16 116:4,7 128:21 129:2 131:6,11 151:5 154:18 163:14 164:20 166:12 167:6 185:16 206:2,16 207:2,9 222:22 230:22 231:13 looked 7:24 52:18 151:1 looking 32:3,3 43:17 46:9 58:14 66:22 67:10,12 69:3 104:1 116:11 138:2 150:20 167:15 230:6 looks 70:15 89:13 89:19 107:17 127:1 147:16 149:2 160:24 164:18 199:17 loop 2:8,11 losses 254:8 lost 24:24 79:8,10 79:16 lot 33:21 45:13,13 53:21 58:13 76:19 76:20 79:8,10,16 89:12 115:14 158:2 207:24 246:21 253:24 lots 59:5,5 113:14 250:1 lucky 68:10 lumped 179:2 lunas 67:9 lunch 122:24 123:1 123:3,4 lying 189:23	maher 259:2,3,6 mail 84:10 85:21 86:9,12,17,20 87:9,15 mailing 50:12 81:13 82:19 93:7 main 45:7 67:9 130:21 132:25 209:3 242:16 247:21 248:1 maintain 39:9 131:15 182:17 216:3 239:18,21 240:9 maintained 112:8 121:25 122:14 129:10 145:24 152:14 155:2 157:3 161:12 168:18 169:13 174:25 176:10 177:3 178:5 184:2 188:2 192:4 193:22 195:4 maintenance 256:23 major 20:21 21:5,8 majority 17:24 52:4 maker 43:17 making 8:4 46:21 50:6,8 225:8 234:6 man 40:21 216:6 218:6,9 manage 180:20 192:11,20 209:10 management 10:18 11:3 135:14,19 142:10 144:10 153:2 180:23 192:24 194:16 209:20 manager 24:15 71:12 78:6,14,15 78:16 79:21 80:2 86:5 90:4 managers 237:20 managing 74:21 84:22 142:15	194:14 march 35:21,24 107:18 164:23 165:1 167:16 168:22 170:16 202:9 230:6,12 marie 194:2 mark 4:18 6:20 30:1 88:24 92:25 164:15 206:17 marked 4:20 6:23 30:3 69:25 70:22 89:2 93:1,21 94:2 95:4 100:22 103:13 108:25 112:1,3,6 126:18 128:2,3 143:4 171:2,4,7 173:4 195:25 196:1,3 197:14,15,18 198:25 199:6 202:7 206:23 231:14 237:3 258:4 market 43:17 marketing 14:11 32:16 marking 207:6 married 79:6 marrying 79:5 martineau 156:17 249:6 match 85:14 matriculation 11:11 matter 4:13 204:5 mature 23:15 mean 16:8 22:5 36:16 53:19 59:10 68:16 173:14,15 195:15 217:16 221:22 244:7,21 meaning 210:12 241:21 meant 25:7 55:12 181:16 245:1,10 meet 31:7,20,21 33:13 34:23 36:1 68:10 205:12 meeting 31:21 36:7	38:22 40:15 41:15 41:18 46:5,12 48:24 49:3,11 55:7 56:8,14,15 57:20 58:16,17,19 59:12,13 60:15 61:23 62:3,10,13 62:23 63:15,18 65:8,21 66:9,18 67:7,12,13 73:8 73:19,20,23 74:3 109:12,18,25 114:6 116:25 117:10 149:11,25 209:21 218:16 244:3,15,17 245:9 257:15,17,23 meetings 24:13 59:3,7 209:11 256:25 mel 51:16,18 member 71:9 74:21 74:25 76:2 77:17 77:22,24,25 78:4 79:20 80:2 84:22 86:5 87:25 88:14 90:4,11 119:1,3 119:12 120:25 135:12 142:8 144:8 244:19 members 22:1 68:19 81:4 118:23 membership 120:20 121:22,23 190:17 191:1,11 191:21,21 memo 201:22 memory 257:20 mental 45:5 mention 53:18 104:12 111:19 mentioned 28:19 54:3 65:6 78:24 197:10 234:13 mercedes 36:5 65:13,22,23,24 met 29:22 35:4,10 35:23 40:16 52:13 73:8 200:23 204:20 205:9
166:15,16,24,25 167:10,12,23 171:9,14,17,25 172:18,19,23,24 172:25 173:11,14 173:15,17,17,21 175:4,21 177:6,21 178:20 179:1 180:16 184:6,6,7 184:12,20 185:2 185:13,20,21,23 186:2,16,20 187:4 187:15,18 188:5 188:16 196:12,18 196:21,24 220:17 230:4,7,13 231:4 231:9,11 232:1,11 234:24 240:12 258:3 259:17	longer 213:17 214:11 look 13:4 43:7,8 45:9 47:18 52:1,2 52:23 53:14 58:6 89:4 96:1 100:21 103:18 111:16 116:4,7 128:21 129:2 131:6,11 151:5 154:18 163:14 164:20 166:12 167:6 185:16 206:2,16 207:2,9 222:22 230:22 231:13 looked 7:24 52:18 151:1 looking 32:3,3 43:17 46:9 58:14 66:22 67:10,12 69:3 104:1 116:11 138:2 150:20 167:15 230:6 looks 70:15 89:13 89:19 107:17 127:1 147:16 149:2 160:24 164:18 199:17 loop 2:8,11 losses 254:8 lost 24:24 79:8,10 79:16 lot 33:21 45:13,13 53:21 58:13 76:19 76:20 79:8,10,16 89:12 115:14 158:2 207:24 246:21 253:24 lots 59:5,5 113:14 250:1 lucky 68:10 lumped 179:2 lunas 67:9 lunch 122:24 123:1 123:3,4 lying 189:23	maher 259:2,3,6 mail 84:10 85:21 86:9,12,17,20 87:9,15 mailing 50:12 81:13 82:19 93:7 main 45:7 67:9 130:21 132:25 209:3 242:16 247:21 248:1 maintain 39:9 131:15 182:17 216:3 239:18,21 240:9 maintained 112:8 121:25 122:14 129:10 145:24 152:14 155:2 157:3 161:12 168:18 169:13 174:25 176:10 177:3 178:5 184:2 188:2 192:4 193:22 195:4 maintenance 256:23 major 20:21 21:5,8 majority 17:24 52:4 maker 43:17 making 8:4 46:21 50:6,8 225:8 234:6 man 40:21 216:6 218:6,9 manage 180:20 192:11,20 209:10 management 10:18 11:3 135:14,19 142:10 144:10 153:2 180:23 192:24 194:16 209:20 manager 24:15 71:12 78:6,14,15 78:16 79:21 80:2 86:5 90:4 managers 237:20 managing 74:21 84:22 142:15	194:14 march 35:21,24 107:18 164:23 165:1 167:16 168:22 170:16 202:9 230:6,12 marie 194:2 mark 4:18 6:20 30:1 88:24 92:25 164:15 206:17 marked 4:20 6:23 30:3 69:25 70:22 89:2 93:1,21 94:2 95:4 100:22 103:13 108:25 112:1,3,6 126:18 128:2,3 143:4 171:2,4,7 173:4 195:25 196:1,3 197:14,15,18 198:25 199:6 202:7 206:23 231:14 237:3 258:4 market 43:17 marketing 14:11 32:16 marking 207:6 married 79:6 marrying 79:5 martineau 156:17 249:6 match 85:14 matriculation 11:11 matter	

219:6 228:17 middle 1:1 21:4 197:1 midnight 123:12 123:12 miles 215:5 million 14:6 15:4,7 43:18,20 46:20 109:13 111:14,15 137:24 145:5,11 145:14 146:10,14 146:21 148:2,22 148:24 149:7,15 149:17,21 150:1 150:22 151:3,7,16 151:24,25 152:6 155:15 157:7 159:10 161:24 162:8,14,22 163:9 163:16 164:1,6,13 164:24 165:5,6,20 166:14 167:13,16 167:20 170:9,13 170:17,19 171:9 172:17 173:24 175:5,7,19,22 177:13,13,14 178:17 183:14 184:5,20,24 185:3 185:13,17 186:10 186:14,24 187:8,9 196:7 197:2 202:24 212:16 213:5 millions 201:9 mind 252:17 mine 195:12 minute 153:5 206:6 243:15 minutes 68:24 69:13 mischaracterizat... 134:4 151:22 158:16 165:18 198:21 203:17 214:5 218:10,11 236:25 238:2 245:13 253:17 259:14 mischaracterize	245:15 mischaracterizing 158:20 mislead 126:5 misstating 126:6 misusing 201:8 mix 190:2 mixed 128:11 modification 137:14 modify 35:16,18 moment 70:10 88:22 94:11 135:9 171:1 204:16 money 15:1 35:15 43:25 46:20 55:13 55:14,18,24 76:20 79:8,11,17 101:3 101:14,16 106:6 107:12,25 108:2,6 108:9,15,15,18 119:24 120:12 127:6 131:15 158:2,3,14 165:24 177:15,18 184:12 187:3 196:17 201:24 202:21 203:13,15,19,21 203:23,24 219:5,9 241:25 246:6 248:18 250:24 251:1,4,21 252:18 253:1,3,12,15,15 255:25 monies 218:17,22 219:1,10 220:8 monitor 45:24 month 31:2 32:9,10 monthly 24:12 months 7:20 31:16 32:5,8 46:7 58:18 157:25 178:24 199:22 morning 4:9,10 43:9,10 46:5,12 46:16 123:21,22 mortgage 28:23 232:18 259:20,23 260:23 mortgages 29:2	259:16 260:6,11 260:14 motion 102:16 124:1 217:20 218:1 motor 250:16 moulton 8:6,16 88:10 105:19,22 199:17 201:20 205:18 213:8 220:12,14,21 221:13 224:10,11 224:22 236:7,9 242:13,21 245:2 move 139:24 moved 17:3 18:11 19:12 41:7 moving 236:2 243:5 mutually 134:16 141:23 144:1 152:23 256:25 myers 1:2,18,19,23 1:24 5:1 7:4 56:9 58:20 197:2,18,19 197:23,24 219:6 244:4,16 266:21 myselfs 20:3 <hr/> N <hr/> name 4:7,11 12:16 17:13,13,14 20:1 20:2,3,5,7,9 21:12 21:18 29:11,16 33:20 38:12 47:9 47:12,16 48:14 49:20 50:1 51:11 51:18 52:5,6,8,10 52:24,25 53:15 54:3,12,15,16 59:24 60:20 62:21 63:10 64:5,14 72:3,11,14 73:4 74:10,16 80:15 82:8 83:4,9 84:4 93:12 94:12 95:3 110:14 113:6 118:2 119:11 134:2,2 141:15,18 155:16 160:15	171:18 179:12,15 179:23 182:11,15 182:20,22 183:5 196:8 216:9 243:6 250:9,14 260:20 named 74:24 names 11:1 21:23 51:23 54:7,8,11 61:8 67:11 204:20 naples 17:6 nasty 79:3 national 1:10,11,12 12:17,20 13:7,10 13:19 14:4,7,10 14:12,17 25:19 29:5 88:20 89:8 96:16 98:6,19 99:1,4,10,16,20 99:24 100:3,7 102:17 103:6 104:24 106:5,18 174:12 197:10,11 197:12 204:22,23 223:7,8 nationals 219:10 nature 10:16 11:14 12:18 42:2 83:21 86:9 navigator 246:12 247:2 necessary 6:8 96:7 necessity 257:1 need 25:1,2 27:22 33:13 35:18 64:10 69:13 123:6,16 125:15,25 126:9 153:25 170:2 228:9 needed 45:14 49:11 49:11 95:18 233:14,17 needs 68:23 123:11 neeley 67:15 145:10,10 161:4 176:17 248:25 negotiate 38:4 negotiating 216:20 216:25 negotiation 216:22 negotiations 228:1	228:3 262:5 nelson 177:12 221:12 245:1 net 136:23 161:16 nevada 114:20 never 45:4 51:2 53:9 55:12 86:25 126:2 140:23 184:10 189:19,20 189:21 215:20 242:1 260:5 new 11:16 21:3 36:5 48:6 113:6 113:12 115:14,17 182:8 195:18 223:11 newspaper 111:2 night 123:10 nighttime 41:3 56:17 nine 7:20 58:18 125:22 ninehour 124:3 nodding 11:9 23:8 115:6 noncompete 13:15 nonengler 108:15 nonpayment 153:1 nope 48:2 normal 22:20 49:6 49:7,9 normally 4:14 north 67:9 130:21 132:25 209:3 242:16 247:21 notarized 159:6 notary 1:20 105:20 197:20 266:6 notation 171:9 note 3:18 39:15,25 111:10 196:6,10 197:11 228:5,8 noted 221:9 notes 49:19 204:14 266:12 notice 74:20 124:19 124:22 157:6 161:15 174:14 198:12 noticed 124:12,17
--	---	---	---	--

125:6,7 147:8	131:1 132:2,8	39:18 55:19 82:11	174:8 175:8	52:14,17,19 53:3
notified 27:9	133:14 134:4,11	103:20 156:5	177:19 183:13	53:12,15,24 54:3
november 62:4,14	134:21 136:16	159:15,21 252:18	184:24 189:11	54:10,12,18,21
62:24 63:2 64:19	137:6,15 139:19	254:25 255:1	197:5 198:8,17	55:1,9,16,18,23
73:9 95:12,16	141:3 142:16	obtaining 23:6	199:2	56:7,13,23 57:1,5
101:11 106:1	143:8 144:12,16	26:20 55:19,24	officer 71:22	57:10,13,16 58:2
107:3,9 109:12,22	146:6 148:5,12,17	obviously 67:9 75:9	offices 50:15,17,25	58:16,19,22,25
116:25 117:7	148:25 150:4	75:11 122:23	85:22 88:3	59:9,15 60:1,4,9
244:3,15 245:8	151:19 158:9,16	occasion 40:16	offtherecord 40:9	60:14,17,20,24
number 31:16	162:5,10,16,25	51:20 181:11,18	122:19	61:6,9,16,19,23
33:10 92:14,22	165:18 169:18,22	occur 21:14 35:1	oh 46:17 47:21 49:4	62:2,12,23 63:1
94:13,17,17,24,25	175:11,15 178:13	109:21 166:9,11	58:19 107:17	63:11,18,25 64:4
95:1,2,19 111:3	179:20 180:2	occurred 74:5	116:11 173:7	64:13,24 65:4,6
128:2 160:25	181:3,8 182:24	109:19 215:13	okay 5:9,14,21 6:4	65:10,20 66:2,5,8
163:7 188:24	183:9 184:17	224:1	6:10,17,19 7:2,8	67:16,23 68:19,22
189:2,9,10 190:21	185:25 186:5,12	occurring 203:1	7:11,15 8:1,11,22	69:11,23 70:5,14
223:2	186:18 187:10	october 19:10	9:1,5,11,16 11:10	70:17,18,21 71:2
numbered 103:3	189:4,15 198:21	46:12 73:13,23	12:13,23,25 13:3	71:6 72:10,15,18
190:15,22 191:10	202:11 203:17	74:6 83:10 84:3	13:6,12 14:17,22	72:24 73:18,22,25
191:19	204:1 228:5,9	84:21 116:17	15:10 16:16,21	74:5,9,18,20,24
numbers 94:16,19	236:25 237:7	odd 212:17	17:2,19,22 18:4,9	75:25 76:1,14,24
95:21 111:6	245:13 248:4,8	offer 8:18 227:20	18:14,18 19:1,6,8	77:15 78:6,23
	251:6,23 252:11	227:21 229:19	19:11,13 20:1,4,6	79:13 80:9,19,22
	252:21 253:5,17	offered 8:13	20:8,10,22,25	81:6,12 82:8,14
O	254:3,10 255:3,8	offering 114:13	21:12,14 22:8	82:17,23,23 83:2
object 206:19	256:8 257:25	122:22 233:4	23:1,4,13,19,22	83:3,9,19,23 84:1
208:19 211:10	258:6,11 259:14	offers 8:1	24:3,6,9,14,16,18	84:14,17,20,25
213:24 214:4	259:25 260:8,15	office 1:5 30:9 31:1	25:13,24 26:9,13	85:16,18 86:8,11
216:12 218:10	261:3 262:13	43:15,18 45:1,3,6	26:17,22 27:1,6,9	86:16 87:2,5,8,14
226:18 227:22	objections 75:10	45:9,10,10 47:11	28:8,12,15,18	87:18,24 88:7,12
238:1	86:13	47:17,22 48:5,14	29:1,4,8,15,21,24	88:17 89:11,14,24
objecting 123:3	obligate 101:21,25	49:21 50:1,5,9,13	30:18,24 31:7,23	90:9,18,25 91:13
objection 8:14 15:3	obligated 202:25	50:18,20 84:14	32:2,7,11,15,19	91:20 92:4,11,17
15:20,25 27:25	212:19,23	85:12 87:12,15	32:22,25 33:3,15	92:21,24 93:15,18
34:6 37:19 51:3	obligation 87:25	88:15 93:6,19,23	33:22,25 34:2,10	94:11,19,24 95:2
62:6,15 64:7	203:10 235:23	93:25 103:22	34:23 35:5,23	95:9,11,21,24
66:15 68:7 71:7	238:25	104:4,13,18 105:1	36:1,6,13,19,22	96:14 97:15,23
74:18 75:4,7,12	obligations 209:5	106:3,14 107:3,8	37:3,6,9,18 38:2,9	100:16,21 101:2
76:4,17 77:4,18	210:22 211:3,3	116:12 126:17,22	38:12,15,22,24	102:4,20,24 103:3
77:18 78:1,20	212:7 213:21	127:7,12,17	39:5,9,12,21	103:11,15 104:6
79:9,15,22 80:5	214:19,20 216:2	129:17 131:22	40:14,23 41:5,8	104:14,17,23
80:12 83:12 84:6	216:18 229:21	132:6 133:23	41:12,14,22 42:2	105:11,13,17,24
85:19,23 90:12,20	231:20 236:1	138:11,17 139:14	42:8,11,16,24	106:12,24 107:11
91:9,16 92:8 94:4	239:5	139:15,17 141:19	43:13 44:23,25	107:15,24 108:14
95:6 96:17,23	obtain 22:16 26:24	145:4 147:17	45:24 46:4,15,19	108:18,22 109:2,5
97:7,11,17 98:8	129:22 140:9,15	148:3 154:14	46:24 47:6,9,15	109:9,11,17,21,23
98:11,22 99:6,12	140:17 146:21	155:16 158:1	47:21 48:9,17,24	110:4,10,18,23
100:9 104:8 105:7	163:10	159:16 160:20	49:1,6,10,19 50:4	111:2,5,9,12,15
112:22 113:20,22	obtained 24:18,19	161:1,25 163:8	50:7,17 51:6,11	111:17,19,22,24
114:10 119:13,21	25:8,9 26:2,7	165:23 166:4	51:16,20,24 52:5	113:2,5,10,17,24
120:1,8 121:17				

114:4,9,16,19	176:1,10,13,14	254:7,13,17,24	ounce 65:16	200:13 223:4
115:1,5,10,16,22	177:6,15,21 178:8	255:25 258:16,20	outside 6:14	230:15,16,18,18
116:2,5,13,18,24	179:10 180:5,7,10	259:5,8,13,19,22	outstanding 229:25	231:13 254:18
117:2,6,12,22	180:16,25 181:11	260:12,23 262:20	overlooking 14:11	pages 3:15 112:8
118:4,9,14,16	181:23 182:1,3,6	262:24 263:16	overlooks 45:7	114:16 266:11
119:3,7,18 120:10	182:11,19 183:11	old 183:17 248:10	oversee 200:22	paid 15:8 16:14
120:16,19 121:3	183:17,22 184:10	once 191:19 235:23	owe 229:9	23:14 106:16
121:25 122:4,11	184:16 185:12,20	254:18	owed 16:12 107:12	108:2 135:11
122:14,17 126:12	186:9 187:2,7,15	ones 128:11 177:22	166:17 167:7	137:1 142:7 144:7
126:14,21 127:1,6	187:18,23 188:5	209:1	239:1	196:15 239:1
127:21 128:1	188:11,24 189:7	ongoing 166:19	owing 239:5	250:24 261:10
129:3,13,15,20,24	189:22,25 190:4,7	170:5	owned 9:11,17	263:7,7
130:16,19,22	190:15 191:4,7,10	onsite 24:15	19:14,16 27:17	paper 128:16,25
131:6,11,14,17	191:19,25 192:18	operating 122:5,9	69:20 101:18	paperwork 27:4
132:5,13,18,24	192:24 193:17,25	174:2 185:8 190:8	138:19 170:23	40:2 78:10 82:1
133:7,17 134:1,8	194:9,21 195:1,7	192:1,8 193:14	171:22 172:4,5,11	232:15
134:14,24 135:9	195:8,9,10,18,22	194:3,11	248:22 249:4	paragraph 95:25
135:25 136:11,21	195:24 196:3,12	operations 14:11	251:4,17 254:25	103:3,19 104:2,6
136:25 137:2,11	197:1,6,13 198:6	85:8 120:17	261:20	104:7,15,17,23
137:20 138:10	198:12,15 199:5	121:20	owner 31:13 32:12	105:24,25 106:12
139:3,6,15,23	199:12,15,20	opinion 55:25	32:15,20,23,24	109:11 110:4
140:3,8,22 141:5	200:8,12,17,20	158:21 257:11	33:17 214:2	112:14 113:10
141:11,15 142:2,6	201:5,12,18 202:6	opportunities	236:23 237:23	115:16 134:14
142:19,22,24	202:21 203:5,23	208:23 213:21	owners 237:18	135:10 141:21
143:4,10,23 144:6	203:24 204:4,14	opportunity 60:8	ownership 228:2	190:16,22,22
144:19,25 145:9	204:24 205:2,12	114:13 117:23	owns 191:20	191:10,19 192:15
145:13 146:2,9,20	205:15 206:10,14	125:24 207:2		200:20 231:14
147:8,14,21	207:11 209:4,8	210:13 251:25	P	256:19
148:21 149:5,10	210:21 211:2,23	252:3	page 3:2,9 30:24	paragraphs 152:22
149:20,24 150:6	212:15 214:11	opposed 133:24	70:16 71:21 82:23	parameters 44:18
150:11,19 151:1	215:22,24 217:13	137:13	84:20 89:15,19,19	paranoid 121:15
151:10,21 152:3,5	217:19,23,24	opposition 102:15	89:20 93:16 94:13	paraphrasing
152:9,17 154:8,25	220:18,21 221:25	ordeal 179:17	95:24 100:16	217:25
155:2,5,9,14,19	222:10,21 223:3,6	order 22:16 26:23	109:2 111:5	parcels 249:25
156:10 157:3,6,15	223:14 224:1,15	39:3 86:17 128:17	112:10 113:6	park 41:2
158:5,23 159:2,5	224:24 225:7,14	129:21 136:2	114:17 115:5	parkinson 149:3,6
159:19 160:10,13	225:19 227:1,7,13	140:9,12,15,17	121:3,7 122:12	150:23 151:1,12
160:22 162:21	227:16,19 228:23	146:21 147:2,21	129:8 140:4	151:15 152:5
163:23 164:4,11	229:2,16 230:25	155:24 164:9	143:15,17 145:18	249:12,13
164:15,17 165:4,8	233:8,24 234:16	195:25 200:21	145:20 152:7,10	parkway 50:14
165:13,22 166:3	235:12 236:6,10	organization 82:25	154:20,23 156:21	81:8,15 86:17
166:11,20,23	236:16,23 237:15	118:17,21	156:24 161:5,8	87:3,6 92:14 93:8
167:2,9,15 168:7	239:10 241:10,19	organized 73:12	168:12,14,24	part 19:12 56:15,16
168:11,16,21	242:17,22 244:25	original 3:24 70:6	169:1,2,4,9	62:10 114:4
169:4,6,9,13,16	245:8,12,19,22	135:22 137:9	174:19 176:4,6,22	119:11 221:15,20
170:3,7,9,14	246:2,4,25 247:5	206:20	177:24 178:1	227:14 228:24
171:1,12,17 172:9	247:8,13,21,25	originally 211:17	183:20,23 187:21	240:1,5 245:5
172:13,16 173:7	248:21,25 250:7	211:25	187:23 190:11	partaking 63:9
173:20,23 174:4,7	250:20 251:3,16	originals 118:12	193:25 195:9	participate 214:12
174:14 175:3	251:25 252:3,16	originated 108:5	199:7,15 200:12	participation

209:25 210:4 particular 237:2 parties 19:2 46:22 47:3 63:3 96:6 237:2 241:20 255:17,20 256:15 256:20,20,23,24 266:14,15 partner 21:10,12 41:20,23 42:9,13 112:16,21,25 207:18 237:25 partnered 58:6 partners 17:15 21:22 partnership 41:25 parttime 58:14 party 60:17 224:6 patrick 52:5 paul 220:13,15 pay 35:15 136:17 179:6 226:12 249:10,16,23 250:5 258:2,8 263:21 payable 197:7 paying 236:2,4,13 payment 8:2 170:3 202:8 212:7,17 213:1,5 231:19 payments 15:1 16:12,16 23:14 50:6,8 69:4 100:17,24 101:4,8 101:9,14,17,22 102:1 103:7,21 105:2 106:15 107:16,21,25 108:10,16,19 185:6,7,13,17 186:20 201:7 202:25 210:14,16 210:17 211:9 212:10,19,23 213:10 219:11 220:8,10,18,19,23 224:2 225:8,25 226:3 234:6,11 255:23 263:1 pco 3:14 238:12,15	239:11,15,22 240:19,24 241:5 peculiar 50:7 pelican 26:11 people 12:11 44:8 53:4,7 56:4,22,25 59:4 60:7 63:8 80:16 86:23 115:14 193:25 239:14 241:22 percent 13:6,8 39:23 121:4,5,8 136:6,7,12,12,23 136:24 141:12,12 144:20,21 147:9 147:11 157:10,12 157:17,17 161:16 161:21 167:24 168:4 169:10 174:15,16 214:2 221:24 percentage 13:7 121:11 135:7 136:5,12,21 150:17 152:19 155:7 perform 16:1,4,5 209:17 period 15:8 19:23 23:14 30:10 32:3 42:9 57:5,10 63:1 69:7 73:16 127:2 198:10 199:3 204:12 permit 124:8 permitted 123:23 person 24:1,21,23 25:10 26:3 32:17 97:1,9 192:11,19 241:22 personal 15:17,23 16:6 22:7,21 27:22 28:6 29:7 127:16 129:24 140:14 146:23 156:2 159:25 180:11,18 181:1 182:15 196:23 218:20 224:13 229:5 236:12	247:11 personally 16:9 17:13 20:2 21:15 23:22 24:4 27:17 28:5 30:9 96:15 98:6 99:4,10 101:13,21 108:3 133:24 139:13 183:7 236:3 239:22 perspective 209:15 221:21 235:18 238:23 pertaining 206:2 petty 188:20,22 philosophy 113:11 phn 189:12 phoenix 114:20 phone 33:2 34:11 34:17 35:2 94:15 94:17,24 95:1,2 95:14,19 111:3 189:10 phonetic 54:13 photocopy 3:22 206:22 phrase 57:13,16 60:4 physical 26:12 picking 85:21 picture 45:5 113:2 pictures 34:7 piece 17:7 18:22 19:16 52:18 90:1 215:8 pile 138:24 pin 17:9 18:7 20:12,19 place 1:18 7:11 9:2 46:6,13 56:13,16 58:17,19 73:23 96:2 116:25 153:12 181:5 197:18 207:13 234:15 244:20 placed 81:24 plaintiff 1:8,17 2:2 102:16 103:5 104:25 106:4 197:8,17 223:9	plaintiffs 3:10,24 102:15 106:4 planned 36:12 planning 7:18 plans 180:13 platinum 59:23 115:13 play 49:4 67:3 played 49:4,5 119:10 please 4:7 14:2 21:1 75:9 93:24 94:11 123:14 166:2 171:3 195:25 264:8 pledge 15:13,18 pledged 15:17 plus 38:5 170:2 point 16:11 18:18 34:23 66:24 96:1 159:12 165:10 201:23 211:2,8 220:2 226:3 232:19 238:5 239:6 242:12 points 237:17 portfolio 44:3 portion 67:13,21 108:5 135:2 256:5 portraying 37:1 position 16:21 positions 11:25 possibilities 208:15 possible 163:11 228:21 251:12 potential 113:14,19 114:7 205:5 215:10 220:3,4 power 72:14 preceding 199:3 preclude 124:11 prepare 28:12 160:11 prepared 23:4,19 28:8 30:7 105:13 122:25 123:18 127:23 132:24 140:20,25 147:6 156:8 158:6 160:8 167:23 168:2	180:17 224:8,11 224:18 prepares 133:12 165:10 preprinted 23:19 present 18:19 19:15 194:5 presentation 56:22 59:9,10 president 12:3 14:8 14:9 48:20 press 115:6,24 117:12,17,20 presumably 61:9 pretty 26:19 37:24 158:13 186:25 prevents 227:25 previous 79:11 previously 6:12 39:18 67:18 79:17 89:1 150:15 152:22 264:6 price 100:24 primary 7:11,13 9:2 221:18 primus 223:13 principal 50:12 81:13 82:19 85:12 87:12,18 93:7 134:25 135:6 141:9 150:16 152:18 155:6 print 96:2 printed 94:12 prior 24:18 25:7,11 26:1,20 31:24 33:22 34:3,10,13 34:24 41:18,19,22 42:9,16 56:7 60:15 63:15 69:23 70:2,21,25 74:3 78:23 88:17,24 89:7 102:5 108:25 115:24 117:10 119:7 136:4,9 140:24 142:19 149:11,25 172:18 197:24 201:15 204:6 219:17,18 221:2 242:23
--	---	--	--	---

257:16	processing 86:11 87:9	130:15,17,19	231:21 232:5	pulled 213:23
private 1:4 30:8,25	produce 98:10,13	173:25 174:2	233:15,22 234:14	punta 18:8 20:15
47:11,16,21 48:14	produced 161:19	195:19 197:12	241:17 242:25	20:19 21:1,1,3,5
49:20 50:1,5,9,13	197:21 199:5	196:16 205:25	243:6 247:17,18	22:10,17 25:9
50:18 93:6,18,23	producing 53:22	206:3,5 208:11,11	247:21,23 248:2,6	138:8 139:8 140:1
93:25 96:21 97:1	product 113:6,12	208:14,22,25	248:10,12,15,17	143:1,12 249:19
103:22 104:3,13	professional 266:5	209:18 211:4	248:18,19,23,25	250:1
104:18 105:1	professionals	223:8 226:17,20	249:1,4,7,10,12	purchase 17:10,12
106:2,14 107:2,8	209:21	226:23,24 227:3	249:13,16 250:1,2	19:8,20 90:1
116:12 126:17,21	profit 43:21 136:23	228:15,19 229:4	250:7,10,13 251:4	100:24 182:7
127:7,12,17	136:24 137:4	229:18 232:3	254:13 259:23	188:12 219:18,18
129:17 131:21	180:14,21 188:12	235:1,19,24	261:21,23 262:1	242:24 246:6
132:6 133:23	215:9 251:19	241:18 242:15,17	263:8	247:15,22 248:1
138:11,16 139:14	profitable 43:8	249:23 250:5,16	prospective 37:13	248:11,15,19,23
139:15,17 141:18	215:12	251:8,17 254:20	prove 90:22 187:12	249:4,7,10,13,16
145:4 147:17	profits 76:22 135:2	259:4 260:14	187:16 228:1,4	249:20,23 250:2,5
148:2 154:14	135:7 136:18	261:12 262:6,11	provide 16:24 59:6	250:10,13 251:4
155:15 158:1	141:6 144:20	262:12,19,20	96:4,18,20,25	purchased 17:8
159:16 160:19	150:17 152:19	property 9:12,17	99:3,9,15,19,23	18:10 19:9,23
161:1,25 163:8	155:7 157:17	9:17 18:21,22	100:2 101:13,16	60:15,17 61:1,12
165:23 166:4	161:16 167:25	19:1,13,17,20	133:3 146:24	61:17 62:18 67:15
174:8 175:8	169:10 171:23	25:9 28:5,22	147:1,4 232:10	110:14 179:10,14
177:19 183:13	172:6,10 173:15	30:21,23 31:23	240:18 256:24	180:17 182:11,14
184:24 189:11	173:20,22 174:15	32:8,13 33:1,15	257:2	247:5,10,19 251:9
197:4 198:7,16	180:18,21 196:15	33:16,22 34:3,24	provided 28:20	251:18 255:1
199:1,21	196:16 197:7	35:11,14 37:16	83:15 96:14 98:5	purchases 172:8
prize 65:6	210:1	46:5,10 52:18	98:5,17,24 100:6	173:25 210:24
probably 30:16,18	program 115:13	53:14 60:9,14,18	100:13 108:7	purport 120:20
35:18 58:18	progressing 218:4	61:1,6,12,17	130:3 132:6 133:5	142:25 154:16
177:11 184:8	progression 24:13	62:18 63:2,12,19	134:10 146:4,17	purported 259:9
probed 212:16	project 20:12,20	64:13,15 67:14,16	167:24 172:24	purports 4:25 7:2
problem 38:4 42:5	21:10,11,23 22:6	69:1,7,19 74:1	177:18 180:18	71:20,23 72:19
44:5 113:24	22:12,17 24:10,10	83:11,24 84:2,21	189:10 192:18	82:24 100:23
problems 220:3,4	59:17 63:9 117:13	90:1 96:11 100:25	197:3 201:2	102:14 112:7
proc 1:9 197:9	projects 20:18	110:11,13 115:22	209:25 232:11	118:16 122:5
procedural 6:5	57:18 115:17	116:15,21 117:3,9	233:16 258:21	171:7 190:7 192:7
proceed 115:19	169:25 179:3	117:17 127:11,16	provides 134:24	194:11
191:22	216:16	150:24 151:12	135:1 152:17	purpose 25:15
proceeding 204:22	promissory 3:18	157:11 173:22	161:15 191:1	51:24 52:17,22
proceedings 69:16	196:6 197:11	179:24 180:14,19	192:9 194:12	53:12 54:1 64:5,5
153:10 243:18	prompt 231:19	180:20,25 183:5,6	providing 24:1	89:24 171:25
proceeds 96:7	promptly 124:14	188:16 196:20,23	232:9 233:3,14	182:6,7 196:12
134:10 146:3,17	properties 1:12	209:10,12 210:10	provision 256:14	purposes 20:23
150:1,23 172:24	18:21 27:17 28:19	210:12 211:8,14	256:18 259:9	25:8 29:25 35:5
179:5 185:21	28:24 29:2 44:16	212:5,12,24 215:5	provisions 133:8	36:19,20 87:22
188:11 202:19	44:19,24 49:15	215:8 216:23	152:21 155:9	215:17 256:1
process 6:8 22:15	52:1,2,23 64:10	217:1 219:11,19	public 1:20 105:21	pursuant 108:10
22:19,20 26:23	67:5,6 90:23	222:5,8,11,12	197:20 260:24,24	108:16
27:1 84:11 155:24	113:17 114:7,24	223:24 225:12	266:6	pursue 235:8
163:21 238:6		226:10 229:5,5,20	pull 244:9	pursued 263:11

pushing 59:17,17
59:22 60:1,4,5
117:3
put 15:6 37:25 65:3
67:17 70:11 78:10
111:24 128:8,17
130:7 149:3
157:10 163:3,4
164:15 165:14
179:12,15 184:13
194:2 242:15,17
248:1 251:4
253:11
putting 182:21

Q

question 4:17
49:19 68:22 75:10
76:1,5 78:12
79:23 84:1 106:25
108:8 116:14,19
120:12 138:3
166:2 173:10
186:17 218:13
233:18 237:6
240:7 245:3 255:9
256:4 261:6
questions 40:23
41:1 42:6 120:4
124:6 204:17
217:23 222:15
230:2 232:8
243:21,22 246:9
258:17,18 259:11
261:4 264:2
quick 228:21
quiet 41:3
quite 65:14

R

racquetball 49:5
raids 200:21
raise 54:2 65:1,2
75:10 90:15
228:10 252:17
raised 126:2
208:14
raising 65:12 87:22
109:13 219:5,9
ralph 13:5

ran 21:10 22:23
27:6 261:24
ranch 1:12 164:21
168:9,22 197:12
210:10,12 211:7
211:14 213:22
214:24 216:16,23
219:11,19 220:9
222:7,12 223:8,16
223:24 226:10
229:10 231:5
232:6 234:12
236:17 237:12
243:6 249:6
ranches 67:10,11
rating 59:19,20
reach 95:18,18
reached 225:3
reaching 151:3
react 55:23
read 5:12,15 103:9
109:15 110:2
112:18 115:20
141:25 176:19
191:14 194:19
201:2,22 223:3,6
252:24 253:22
256:5 264:7,10
reading 5:11,16
116:9 264:7
ready 35:20 70:19
real 17:6,7 18:5,14
36:11 44:1 55:5
88:18 89:5 90:9
91:14 93:11,20
94:1 95:3 100:16
100:22 101:20,24
103:12 108:11
127:11 136:18
196:20 210:22
213:18,22 214:12
214:25 215:17,19
215:25 217:8,10
218:4,4 229:4
232:19 233:11,25
234:17 238:17
250:16 261:20,23
262:1
really 33:5,6,8,20
34:19 36:9 43:4

44:9,20 59:22,22
60:8 66:22 110:23
167:19 179:24
233:25 253:3
realtor 259:4
reason 62:4 84:23
87:11,14 90:18
131:14 137:11
210:21 251:8
reasonably 257:3
reasons 90:3 235:3
261:10
rebecca 1:20
197:20 266:5,20
recall 11:1 14:5
15:6 17:19,21
26:20 29:23 34:18
34:22 40:23 41:20
42:22 43:19 47:15
51:15,19,23 53:1
54:14,16 58:21
61:12 63:18 64:14
65:20 66:7 67:11
70:2,24 72:13,22
78:25 82:7 83:13
84:24 88:18 90:5
91:20,25 109:9
116:2 118:5
126:16 136:8
182:4 189:5,18
194:6,8 197:12
200:2 206:1,11
217:11 234:8
245:6,24 246:12
258:18 259:10
260:5
recalls 237:6
receive 5:4 8:1
10:20 135:2,18
138:18 142:14
209:25 210:3
263:3
received 5:6 22:11
27:14 86:9 171:12
171:13 195:17
197:7 198:16
201:8,12 202:24
227:14
receiving 55:14
72:22 135:5,7

148:8 150:15,17
200:2
recess 69:15 153:9
243:17
recognize 4:23 6:21
6:22 52:6 54:8
80:22 81:1 87:24
89:11,14,20
102:11 103:11
104:1 107:11
115:8,10 118:18
128:12 140:6
143:19 145:22
152:12 154:25
157:1 160:18
161:10,18 168:16
169:6 174:23
176:8 177:1 178:3
183:25 187:25
188:24 190:9,13
194:24 196:9
253:14,24 254:7
recollection 30:11
31:4 48:12 62:9
62:12 69:6 73:15
82:6 109:17
recommend 201:24
recommended
191:6
reconcile 55:9,10
164:25
record 4:7 40:6,8
113:23 120:9
122:18,21 153:4,7
153:13,20 167:22
204:15 205:22
227:25 228:9
230:9 232:14,15
243:14 266:12
recorded 29:2
259:22
recording 260:23
records 3:14 13:4
21:24 50:11 62:2
69:24 70:23 71:4
73:1,10 74:20
81:6 92:17 93:6
111:16 116:4,7,12
118:6 122:1,15
129:11 145:25

152:15 155:3
157:4 161:13
168:19 169:14
174:25 176:11
177:3 178:6 184:3
188:3 189:7 192:5
193:22 195:4
206:2 236:21
239:18,21,25
240:1,4,6 260:24
260:24
recross 3:5
recrossexaminati...
261:7
redding 240:17
redirect 3:5 243:23
243:24
reduce 136:11
137:4
reduced 121:4
136:6,22,24
157:17 174:15
reduction 141:12
144:20 147:11
157:22 161:21
168:4
refer 56:2 108:24
179:1 200:17
223:14
reference 250:7
referenced 111:6
247:8,13
referred 41:19
56:18 60:9 103:23
112:20,24 185:9
referring 21:9
56:24 76:12 86:22
93:13 130:17,19
138:25 167:3
195:20 221:11
222:12 231:2
246:2
refers 200:9 201:5
reflect 23:5 62:3
72:25 91:22 92:4
100:23 144:20
148:23 154:16
160:15 161:7,20
168:3 171:18
176:5 195:14,16

reflected 27:12 28:9 101:4 104:15 126:23 127:8,14 127:19,22 130:10 130:23 131:18 132:9,15,16 133:22 137:21 138:13 139:7,16 143:6 146:11 147:15 148:9 149:16 160:19 165:2 166:24 169:17 170:19 171:14 178:23 187:4 255:6	relationship 41:24 165:22 207:20,21 207:23 208:5,7 209:6 219:14 221:3,4 232:21 234:1,17,21 242:10 relative 209:4 266:13,15 relay 81:23 97:24 228:25 relayed 58:11 release 115:6,25 117:12,17,20 relevance 8:14 15:3 15:20 96:17 98:8 99:6,12 133:14 134:5,11,21 141:3 142:16 144:12,16 146:6 150:4 158:10 173:2 184:17 185:25 186:5,12 257:25 258:6,11 relevant 257:2 relied 221:23 remaining 103:20 226:12 remember 13:5,9 29:21 66:2 100:14 159:11 205:6 218:17 224:24 225:19 244:23 261:12,17 remind 205:8 removed 221:23 222:4 245:6 rendered 135:13 135:19 142:9 144:9 renner 53:16 54:4 rent 19:2,2,22 30:21,23 31:2,11 31:14,19,24 32:8 33:6,6,11 34:19 35:14,16 36:9 38:4 40:22 50:6,8 68:25 rental 18:22 19:1 19:16 20:22 32:2	39:4,6,8,9,13,16 40:11,24 41:24 rentals 31:12 32:12 32:15,20 33:17 rented 19:5,25 35:10 46:4,10 69:7,19 renter 32:17 renting 34:24 83:11 84:2 242:7 repaid 142:20 228:20 251:11 254:15 repairs 11:20 14:13 repay 173:17 234:23 235:4 repayment 134:25 135:6 141:9 150:16 152:18 155:6 196:18 263:3 repeat 27:24 78:12 79:23 108:8 166:2 223:18 252:22 rephrase 28:2,4 237:9 253:18 255:9 reply 8:18 report 81:3 195:18 266:8 reported 88:4 reporter 1:20 4:18 6:2,19 30:1 92:25 122:23 125:15 128:8 153:19 154:2,4 197:20,18 206:21 256:6 264:9 266:6 reporters 48:5 266:1 reporting 1:18,23 5:1 197:18,23 266:21 reports 257:3 represent 4:12 71:3 128:16 130:7 164:8 197:20 204:21 representatives 219:9 233:25	234:3 represented 158:2 234:24 representing 97:9 request 39:15 81:17,19 97:16 252:4,25 253:23 requested 27:3,5 30:22 256:5 266:10 requesting 97:13 required 103:8,21 105:3 106:6,15 225:24 257:3 requires 256:14 reread 256:4 resale 180:19 reschedule 7:22 reservations 8:4 reserved 123:10 reside 18:12 19:23 residence 7:12 9:2 9:6 19:14 48:4 96:10 180:7,17 residences 18:15 residential 179:9 resolution 91:21 92:2 resort 59:18 60:10 61:17 63:2,12,19 64:15 67:8 110:11 115:12,17,23 116:15,21 117:3,9 117:13,23 130:21 170:1 209:2 242:16 248:17 resorts 74:1 resources 1:11 88:20 89:9 96:16 98:7,19 99:1,5,11 99:17,20,25 100:4 100:8 102:17 103:6 104:25 106:5,18 174:12 197:11 204:23 223:7 respect 26:17 27:17 28:18 32:12 44:7 124:10 135:19 142:19 208:10	211:4,7 213:21 215:10 221:18 223:15 226:9 232:15 233:22 236:17 240:23 241:20 256:15 257:23 258:3 respectable 40:21 respects 136:1 responsibilities 209:7,8 responsible 85:21 86:11 87:8 203:2 236:3 restating 218:1 restoration 11:19 11:20 12:19 14:13 restroom 25:2 result 212:10 254:9 resulting 227:2 resume 153:21 resumed 69:16 153:10 243:18 retained 3:24 206:21 retake 6:5 retirees 58:14 retrieve 86:17 87:15 return 7:18 63:23 returns 22:22 23:10 27:4 revenues 14:4 review 5:6 149:2 205:9 251:25 252:4,13 266:9 reviewed 105:21 167:2 257:19 reviewing 22:21 richard 113:3 richards 51:12,14 richie 58:6 111:19 112:11,15 199:22 199:24 rid 196:13 right 19:22,25 29:15 40:3 44:25 94:20 96:2 108:22 111:24 113:5 124:11 125:21
--	--	---	---	--

129:13 137:20	satisfy 229:20	105:19 163:17	231:23 243:15	settlement 225:2,5
139:4,23 142:24	savings 23:11	199:16,20 213:8	261:9	227:20,21,23
144:25 147:14	saw 43:18 63:10	220:12,14 221:13	seeking 109:25	228:1,3 246:10,11
150:19 159:3	saying 68:9 104:23	224:10,11,22	seen 33:16 240:21	247:2,9,14 251:10
163:23 167:15	166:12 167:6	228:24 236:7,9	selected 88:4 193:7	252:14,16 256:13
174:18 175:3	262:17	242:21 245:2	193:10	256:19 262:5
183:11 184:22	says 5:14 71:21	search 198:2	sell 14:22 15:2	263:16
189:25 190:4	72:21 95:25 96:1	season 31:11	17:25 24:16	seven 9:18 26:7
192:7 211:9 264:6	103:19 109:2,11	second 7:17 9:6,8	180:13,14 235:11	123:22 160:25
righthand 109:7	109:13,23 110:4	26:5 30:24 41:15	seller 61:6 96:4	share 219:4 239:10
rights 223:23,24	110:18 111:19	41:18 109:11	selling 17:6 18:5	239:13 241:4
rio 21:4 249:19	112:11,11,15	113:5 122:11,18	234:14	sheet 240:22
robert 1:7 2:3 4:11	113:10 114:19	131:3 137:21	send 170:4	skill 216:7
4:12 153:11 197:7	115:16 120:25	141:11 149:6	sense 55:17 166:18	shortly 67:1
223:10 224:4	133:17 134:15	157:6 164:12	sent 7:3,6 8:7 40:1	shouldve 253:4
role 67:3 209:13,13	135:10 138:8,25	168:2 190:7,23,23	86:21,24 199:25	show 41:10 42:19
237:24	139:8 142:6 144:6	190:24 192:1	246:23	91:6 237:1
rolland 53:15 54:4	145:10 147:22	231:13	sentenced 201:6	showed 36:17
room 45:7 58:22	156:17 157:7	seconds 43:20,20	separate 108:15	253:8
59:2,5 65:16	161:3 164:21,23	secretary 50:24	128:10 138:25	showing 91:3
123:10 153:11	168:21 170:15	section 227:24	151:16 161:20	shumaker 2:8,11
154:10	171:14 175:4	secure 15:21 22:9	165:4 167:13	shut 171:23
rounded 177:12	176:16 184:7	24:12 28:21	170:22 188:15	shutting 172:5
rpr 1:20 197:20	187:19 190:15	231:18	separately 108:6	side 160:10 259:1
266:20	191:10,19 192:13	secured 22:6 32:17	238:22	sign 24:6 72:2,3,11
rules 41:4 123:23	195:13,18 197:6	securing 22:8 59:7	september 187:19	72:14,14 90:9,25
run 38:24	199:20 200:14	security 31:3	serve 84:11	91:13,22 92:5
	201:22 222:24	231:21 232:16	servicemaster	101:21,24 105:20
S	230:18 256:19	233:13	11:13,15,17,18,19	110:25 156:2
sabbatical 185:9,23	scan 128:15	see 25:21 44:5,20	11:23 12:1,5,14	185:10,23 186:16
sale 14:25 15:10,19	scanned 47:24	45:16,20 46:10	13:13,16	224:18,25 259:16
15:24 96:10	schedule 3:13 7:25	71:19,19 81:10	services 16:24	259:20 260:6,11
237:11	46:9 100:17,24	92:15 96:12	38:13 135:13,18	signatories 241:7
sales 53:20,21	101:4 126:16,23	103:19 104:21	142:9,15 144:9	signature 71:19,20
54:19,21 56:8,14	127:9,19 131:11	110:8,21,23 113:8	200:22 209:17,24	71:23,24 89:19
56:17 57:1,2,21	131:23 138:11	113:15 128:12,22	240:19	92:12,13 93:11
58:17 59:25 60:15	139:16 143:4	128:24 131:23	session 57:8,20,23	122:11 129:8
61:23 62:3,10,23	146:9 151:5	143:7,25 144:23	57:25 65:18 67:4	140:4,6 143:17,19
63:15 65:7,12	156:13,15 159:9	146:9 149:5 151:6	68:2	145:20,22 150:9
73:8,20 74:3	197:3 198:7,25	152:3 153:8	sessions 57:8 58:23	150:11 152:9,12
109:12,18,24	scheduled 6:14	154:19 155:17	59:1 66:12	154:22,25 156:23
116:25 117:3,10	35:4 125:8,10	156:12 162:1,9	set 23:13 31:21	157:1 161:7,10
173:22 218:16,16	153:22	163:15,18 164:1,7	142:24 167:23	168:14,16 169:1,2
218:21 219:5	school 9:25 10:1,2	170:18 172:19	168:2 190:19	169:4,7,9 174:21
244:3,15 245:9	10:3	175:18,19 176:14	191:13	174:23 176:5,8,24
salespeople 53:22	screaming 65:19	190:20,25 192:13	setbacks 21:6,8	177:1 178:1,3
salt 52:15	screen 43:17 45:12	200:9,11,16,25	seth 2:11 40:5 70:8	183:22,25 187:23
sat 38:7 43:15	45:14,18 181:24	201:10 202:2	70:16 89:3 102:6	187:25 190:11
125:22	screens 45:17	207:24 228:20	118:10 173:8	193:17 194:21
satisfied 235:20	sean 8:6,16 88:10	230:7,14 231:4,14	settled 227:2	241:11,17,17

264:14	150:15,20 151:24	165:20 177:22	split 45:18 141:6,12	120:8 134:3
signatures 89:20	154:18 155:14,19	186:7 204:9 207:8	144:20 147:9	statement 55:23
89:22 168:11	156:11 157:6,24	215:7 222:2 228:6	157:16 161:16	71:21 96:9 104:7
190:13 194:24	158:12,18 159:8	237:8 243:23	167:25 168:4	105:4,9 106:8,20
signed 5:15 23:17	159:11 160:24	258:14	169:10 173:15	175:18 195:14
28:4,16 90:14	161:15 162:7	sort 75:19 212:4	180:18,21	240:22,22,23
91:10 102:25	165:13 171:17	216:6 218:5,15	spoke 31:18 58:10	261:14
104:2 106:10,22	172:16 173:10	222:22 238:5	95:14 153:20	statements 15:15
149:13 157:11	175:6 180:7	243:10	spoken 66:10,11	23:10 27:4 41:2
172:25 187:5	199:15 202:6,13	sounds 53:1,17	205:15	55:10,11 96:15
211:18 222:17	202:18 254:5	source 21:11 22:3	spouse 24:23	98:2,4,6,18,25
253:8	256:11 260:3	103:7 105:2	springs 7:14 9:3	99:3,9,15,19,23
significant 158:2	sister 194:1	106:14 203:7	18:25 26:12 69:20	100:2,7,7 102:20
158:13 186:25	site 3:15 34:8 112:8	sources 108:18	83:7 179:6,8,9	102:24 105:14
203:8 254:8	117:24	213:16 214:13	181:5 188:10,12	167:2 240:1,5,8
signing 5:11,16	sitting 162:21	232:22	247:17 248:6	258:21
259:23	163:23 165:15	southport 7:13 9:2	250:8	states 1:1 5:9 12:8
silent 41:20,23 42:9	situation 149:15	9:11 18:13,15	stack 70:7 118:13	12:9 44:10,12
42:12	174:15 229:3,17	20:1 25:17 26:6	138:2 190:1 230:3	57:19 58:7,12
similar 263:2	situations 205:19	28:19 30:21 31:11	staff 53:20,21	64:10 75:3 76:8
simple 228:16	six 26:14 45:17	31:24 36:2 45:1	54:19,21 56:17	76:11,16,19,21,25
simply 257:19	46:7 65:22	48:23 54:22 68:25	57:2,2 59:25 73:8	76:25 77:3,10
single 135:12 142:8	skype 2:9	69:20 83:6,23	239:14	103:4 106:1,13
144:8	slight 136:2	84:14,18,20 182:1	stake 218:4	141:21 197:1
singlefamily 18:15	small 96:2	spanish 17:9 18:7	stamp 230:15,17,18	207:12 218:23
19:14 180:7	socalled 114:19	20:12,18	230:19 258:2	219:2 241:18
sir 4:14,18 5:21 9:1	132:19 149:17	speak 44:9	stamped 109:6	stating 8:7 23:17
9:24 69:23 76:1	social 181:18	speakerphone	stamps 230:10	status 115:13
82:23 83:15 84:1	socialize 42:8	244:9	258:8	226:22
86:2 87:24 88:17	sold 14:20 17:19,23	specific 257:9	stand 6:1	stay 31:18 46:15
89:4,5,11 91:1	21:7 43:20 96:11	specifically 133:3	stapled 128:15	123:11,12 181:7
92:11,19 93:10,14	180:21 196:16	227:16	star 163:4	181:11
94:12,17 95:25	sole 74:21 88:14	specified 135:17	start 17:5 18:2	stenographic
100:21 101:20	103:7 105:2	207:13	26:15 60:6 123:5	266:12
102:4 103:19	106:14 119:1	specify 142:14	123:19,21,24	stenographically
104:6,14 105:25	120:25 192:11,19	speculation 34:6	124:8,13 125:5,10	266:8
106:8,24 107:1,5	solely 218:2	62:6 85:24 90:12	125:17 153:7	step 18:9 22:8
107:16 112:6,10	somebody 37:10	90:21 91:16 94:4	244:11	44:25 137:25
113:6 115:7	48:4 58:3 84:10	100:9 112:23	started 12:15,20	steve 25:1 67:1
116:11 120:12	203:2 244:4	137:6 139:20	17:3 18:6,8 20:15	69:13 120:3 123:9
126:15,21 127:1	somewhat 54:8	149:1 162:16	36:10 57:17 198:4	123:14 124:3
127:21 129:13	soninlaw 97:8	169:23 178:14	starting 36:10	153:7 204:20
130:6,22 131:7	soon 163:11 251:11	186:18 187:10	53:18 96:3 124:25	205:1 206:2,19
133:7 134:15	sorensen 9:9,16	251:23 253:5	state 1:21 4:7 6:15	211:17 223:18
135:10,22,25	18:16 20:4 86:21	260:15 261:3	7:6 50:24 86:25	228:6 230:11
138:10 139:6	sorry 16:3 70:12	262:14	197:21 222:18	235:25 236:21
141:5 142:19	78:11 81:18	speed 143:23	223:11 224:4	237:9 239:25
143:10 144:23	107:17 116:11	160:22	252:7 263:11	244:12 253:19
145:1,13 146:2,9	118:12 125:21	spend 31:10	266:3,6	263:6,20
147:8,21 148:7,21	127:3 159:10	spending 203:15	stated 75:1 76:3	steven 2:7

steves 25:20 70:19	substance 243:3	table 160:10	tax 22:21 23:10	territory 6:7 12:10
sticker 128:8	substantive 126:3	210:13 259:1	27:4 77:2,3	44:17
stock 15:13,17,19	217:20 218:2	tainted 253:3	taxation 75:2 76:7	testified 4:4 5:22
43:19,19	substantively 1:4	take 10:10 18:9	76:10,15 77:20,23	35:9 42:16 48:13
stolen 187:9	124:1 197:4	25:1 43:7 44:25	78:5,19 119:6,8	50:20 56:8 69:19
stop 123:24 125:4	successful 37:8	46:6 55:13 58:17	136:14 179:16	73:25 84:2 116:20
206:6	38:3 66:18 68:11	58:19 68:23 69:12	182:25 183:4	116:24 117:8
stopped 225:8	sued 225:15 226:6	70:7 89:4 118:12	260:21 261:1	127:21 133:8
235:5,5,9 261:16	227:5,7	121:19 122:24	taxed 75:3	142:20 148:7,8,14
261:20	sufficient 96:6	123:4 124:23	taxes 136:17 258:2	149:10 157:16
stopping 66:24	179:5	125:24 137:25	team 68:12,16,17	180:10 188:11
straight 241:22	suggested 43:6	138:2 153:18	68:20 221:9,10,12	197:25 202:15
strange 42:17	210:6	163:14 182:17	221:15,20 222:4,5	205:3 211:24
208:2	suitable 37:16	201:24 203:19,19	222:11 238:8	212:15 239:17
strategically	suite 2:4,8,12 50:14	203:23 204:24	244:6,19,20,21	244:14,17 247:10
113:13,18 114:6	93:8	206:16 225:12	245:1,5,9	247:18 250:25
strategy 114:4	summary 102:16	235:25 253:18	tech 45:22	251:8 254:17
street 1:18,23 41:2	sun 111:2	taken 1:15,18 4:15	technicalities 6:6	255:16,22 260:19
45:8 67:9 130:21	suntrust 189:7	10:17,24 11:4	technologies	testify 48:12
197:18,23 209:3	supplied 82:21,22	69:15,18 153:9	138:23 139:1	207:14 257:8
242:16 247:22	250:22	154:12 197:15,18	170:15,25 171:15	testifying 70:24
248:1	supply 97:19	205:20 243:17	171:20	245:24
stricken 157:21	supposed 44:14,15	talk 43:3 46:18	technology 171:8	testimony 5:23 6:1
strike 5:21 18:10	81:22	137:23 139:23	telephone 33:10	42:22 75:16 124:3
26:18 93:24	sure 31:20 37:12	149:5 152:2	34:4 94:13 95:9	124:16 132:5
155:20 159:10,10	38:21 39:22,23	163:17	95:12,13 188:24	136:8 140:22
162:12 210:7	42:14 61:11 66:25	talked 38:7 42:10	189:9 223:2	166:20 179:4
216:21 217:6	77:11 111:18	63:22 104:14	tell 34:16 37:3 38:2	182:4 205:5,6
221:7,16 227:19	116:8 153:7	109:13 115:2	38:12 49:10,17	218:18 221:10
237:15 255:15	185:12 203:3	137:20 151:25	65:10 66:8,11	244:23 245:6,9
260:12	210:14,16 262:25	155:10 165:4	74:14 76:14 77:16	246:5 251:14
struck 157:7	surmised 150:24	182:3 189:12	79:7 91:7 138:10	254:22 256:24
252:14	surplus 166:21,24	248:18 262:24	139:10 172:23	257:5,12 261:12
structured 14:24	167:1	talking 33:13 40:11	210:13,15 219:8	261:17
15:1	surprisingly 189:9	54:4 56:18 64:8	219:23 220:7	teton 52:3 59:18
stuck 129:1	survive 190:16,25	120:5 139:6	222:20,23 233:24	60:9 61:17 63:2
style 223:14	191:11	154:13 178:16,19	234:10,10,16	63:11,19 64:15
subdivision 33:20	suspicious 203:1	222:7 240:3	telling 56:20	67:8 74:1 110:10
33:21	swear 125:16	talks 113:6 117:12	105:18 203:13	110:24 115:12,17
subject 190:18	sworn 4:3 265:11	192:24 200:20	ten 38:5 41:3 42:1	115:22 116:14,20
191:12	system 200:24	taller 58:21	42:11 148:1	117:3,9,13,23
subjecting 77:1,2	systembrokerage	tampa 2:9,12	149:16 175:6	130:21 132:25
submitted 27:3	112:9	tardif 1:7 4:12	tenant 32:4,8 37:13	169:25 179:9
30:21,22	systems 12:17,21	123:18 124:8	37:16 39:3	181:5 209:2
submitting 22:21	13:7,10,19 14:5,7	125:16 153:11,20	term 217:13,16,19	242:16 248:17
subpoena 3:22	14:10,12,18 25:19	154:5,7,10 197:7	terms 15:13 18:15	thank 6:11 9:23
206:20 207:11	29:5	223:11 224:4	22:8 23:5,19	40:14 122:17
257:1	szabo 236:5	tardifs 123:16,25	27:13,14 28:9	194:9 205:1
subsequent 41:18		124:18 125:7	49:15 50:23 187:4	228:12 230:21
73:23 74:6	T	targeted 114:24	190:18 191:13	264:3

thanks 173:8 200:1	228:18	thoughts 195:19	252:16 253:15,22	231:5,7
thats 9:9 18:25	things 16:10 22:22	three 9:20 12:11	255:17 261:19,23	total 42:11 127:1,4
23:25 25:24 43:23	37:11 42:7 45:20	35:3,9 66:4 96:4	264:3,9	131:11 132:16
46:9 47:7 50:23	63:24 66:22	193:25 201:8	times 41:17,23 42:1	199:1
57:17 60:13 93:19	160:22 188:10	249:18	42:11 109:24	totaling 185:3
93:20 95:4 100:22	208:6 221:1,6	threw 48:7	205:23 207:17	touch 32:25
101:10 102:8	254:16	thursday 228:10	221:9 237:25	town 186:13
104:15 109:8	think 12:2 17:25	tie 87:21	257:1	traced 131:21
110:13 112:6	19:9 26:8,12	till 123:12	title 12:4 14:7	track 170:4
120:8 124:20,23	31:17 33:9 35:3	timber 1:11 88:20	29:10,12 48:17,19	trade 43:16
124:24 125:2,11	38:6,14 39:18	89:9 96:16 98:7	60:20 74:16 106:3	trader 37:5 38:9,20
126:1,4,8,23	42:11,18 46:17	98:19 99:1,4,10	106:17 107:9,16	46:25
127:8,13,18 131:7	48:7 49:4,12,17	99:16,20,24 100:3	179:23 183:5	trading 37:6 38:13
132:22,24 139:7	49:18 53:17 55:12	100:8 102:17	202:9,15 246:24	45:12,15,25 47:2
143:4 145:1,24	56:5,7 58:20	103:6 104:24	titled 128:7 182:15	54:2 56:15 57:6
146:11 147:15,22	59:11,20,23 61:7	106:5,18 174:12	182:19	112:11 252:9
148:1 149:20	66:1 70:9 75:18	197:11 204:23	today 4:13 6:5 70:5	253:4,9
159:2 166:14	81:16,22,22,22	212:23 217:1,2,5	75:19,20,24 105:9	trained 11:16 16:4
168:7,17 171:6	86:20 87:21 98:21	217:7 219:4,8,20	124:5,18,21 126:5	training 12:3
172:15 174:7	111:13 115:11,12	219:23 220:5,7,22	153:23 162:21	transaction 14:24
179:9 180:5,6	116:18 118:12	223:7 225:9 229:9	163:23 165:15	14:25 96:7 133:4
181:4 186:24	137:16 142:20	234:17 236:16	207:17 226:19	140:24 146:16
191:9 197:3	144:25 145:1	237:13 239:6	243:20 257:6	158:6,24 165:9
198:25 206:13,22	162:12 163:6	263:3	today's 89:1 205:13	168:3 184:11
213:1 220:20	169:10 173:6	timbers 233:24	206:12,15,16	185:21 213:18
230:3 234:5 247:2	178:12 188:20	time 1:16 13:16,20	238:10	214:12,23,25
250:9 254:21	189:23 200:13	15:8 16:11 18:6,6	told 31:14 33:7,10	243:5 256:2 259:6
261:10 262:1	204:15 210:18	18:18 19:24 23:14	37:24 38:6 43:4	transactions
theres 30:25 45:6	211:16,17,23	23:16 25:11 34:14	47:7 57:3 74:13	127:24 128:23
62:23 92:2,13	214:25 217:22	34:23 37:4 38:25	75:6,18,22 77:15	133:11 134:1,8,18
94:17,17 110:18	224:10 225:11	41:5,8 43:1 46:8	82:14,17 83:19	135:4,16 142:2,12
112:10 114:17	234:15 235:10	47:10 55:25 58:10	85:17 97:18,21	146:2 149:11,24
115:5 120:23	236:22 237:3	60:22 67:14 69:7	98:9,12,12,20	172:23 202:22
124:19,22 135:25	238:10 254:17	69:25 73:16 83:11	119:17 179:19	216:10,11 255:17
138:3 145:3	257:22 262:18	85:1 102:24 105:4	187:9 218:21,25	transcribed 6:2
146:12 149:20	263:6	115:14 119:19	233:7 234:3	transcript 5:10
151:16 162:22	thinking 8:8 35:19	124:13 127:21	tomorrow 123:17	264:8 266:10,11
169:2 178:25	third 19:2 46:22	153:10,21,24	123:18,21,22	transfer 30:25
184:19 190:4	47:3 121:7 124:13	157:11 178:15	tonight 123:20	35:14 107:2,7
229:25 230:19	125:17 137:23	185:9 189:23	154:2	110:6 129:16,25
247:8,17,21	144:25 192:8	197:16,7,7 201:2	tool 32:16	130:4,10 131:17
248:10,17,25	193:14 241:20	201:12,23 204:17	top 120:23 131:7	131:23 138:12
249:25 250:7	255:17 256:15,23	206:1 207:13,15	138:8 139:1,8	139:4,7 143:5
256:18 263:10	thought 36:11 43:7	210:24 211:2,8	143:1 145:10	145:1,3,7 146:10
theyre 8:8 54:9	60:8 74:15 87:16	212:12,13 213:9	147:22 156:18	147:15,16,19
94:19,22 128:25	171:21 212:18	213:12,15 214:3	161:4 164:21	148:2 151:6,16
141:18 164:23	219:24 228:18	214:10 220:2	168:22 170:16	154:14,17 156:10
167:16 229:4	233:2,6 234:14,20	226:4 232:19	171:15 175:4	156:17 159:8,9
thief 187:13	237:8 243:11	237:17 238:5	176:17 187:20	160:25 161:23,23
thing 142:22	262:5,12 263:5,8	242:12 243:20,21	222:22 223:3	162:3,8,14,23

163:7,11 164:4,8 164:12,20 165:11 165:24 167:24 169:17 170:9,13 170:19 171:24 173:24 175:7,13 175:14 176:13 183:12,12,15 184:5 197:2 202:14 204:6,9 229:25 255:12 transferred 60:22 63:3,4,6,11,12 64:14,16,22,24 74:1 106:3 110:15 110:16,19 115:23 116:3,7,9,15 117:9,17 149:17 155:15 166:17 172:17 185:6 187:8 190:17 191:12 199:1,13 253:2 255:25 transferring 172:7 172:10 transfers 3:13 30:8 46:9 117:7 126:17 126:22 127:2,8,13 127:18,22 130:22 131:12,21,24 132:14,18 133:22 133:23 137:21 138:11 139:17 148:9 156:15 157:24 160:18 165:1,5 167:13 173:12 178:23 184:23 185:3 198:7,9 227:18 255:6 traub 2:11 70:9,14 70:17,19 102:7 124:20,22 173:6 207:5 travel 7:9 8:24 51:20,25 52:14 53:6 traveled 51:22 52:19 53:3,9,21 traveling 7:15 8:20	51:25 treated 238:22 trick 157:16 tried 189:8,11 257:11 trip 7:22 52:17,22 53:12 trips 65:13 66:3,6 trouble 244:8 true 71:3 72:25 102:21,25 104:11 118:20 121:22 122:8 129:3 139:25 143:10 145:13 151:14 187:15 191:25 193:13 195:1 252:7 266:11 trust 109:6 207:24 230:10,19,19 trusted 199:24 trustee 1:7 4:12 8:2 62:2 93:13 100:23 123:7 124:14 125:18 132:10 197:7 217:19,22 217:25 223:11 224:5 225:3,5 226:25 227:3,5,8 227:17 229:5,18 229:19 235:19,21 246:10 247:3 251:10 252:14,17 256:13,15,21 257:4,8,11 262:2 262:4,22 263:16 trustees 4:19,21,25 6:20,24 30:2,4 35:13 46:10 69:3 69:25 70:13,22 71:3,18 72:25 89:2 93:2,21 94:2 94:13 95:4 102:4 102:11 103:13 107:13,22 108:10 108:25 112:2,4,7 118:16 120:19,24 122:4,5 123:5,9 126:12,18 127:14 128:4 129:14	130:8,23 132:15 132:15,16 133:22 137:22 145:3 146:10 148:9 151:5 154:13 160:19 165:2 169:16,21 170:18 171:5,7 175:7 177:7 178:9,24 183:12 189:25 194:10 195:7 196:2,4 197:16,19 198:6,25 199:6 202:7 222:17 230:2 254:14 255:6 258:9 truthful 5:23 104:7 105:4,9 106:8,20 148:15 256:24 257:6 try 126:5 153:17 154:9 205:22 209:12 213:9,15 214:13 254:18 trying 12:2 60:25 90:15 115:11,12 143:23 157:15 195:13 228:4 tuesday 163:12 turn 30:24 71:21 82:23 102:4 105:24 109:2 113:5 121:3 126:12 133:8 199:15 228:18 229:3 231:13 262:11 turned 229:17 261:11 262:1,21 turning 84:20 95:24 111:5 120:19 tv 42:6 twice 94:22 two 8:21 11:7,8 18:1,2 19:5 21:6 25:24 28:18 30:20 55:9,11 56:16,21 59:3 61:7 69:2,3 79:3 94:16 111:5	115:17 119:8 131:12,24 132:14 132:18 148:1,22 149:16,21 165:4 167:10,13 178:16 184:22 185:3,13 185:16 204:21 242:15,17 247:13 250:1 twoday 57:5 type 13:13 16:25 158:25 typical 39:8 59:2,4 173:16 259:19 <hr/> U <hr/> ucc1 15:14 uhhuh 75:21 ulrich 1:4 29:16 90:9 103:21 104:3 104:18,25 106:2 106:13 113:11 117:2 133:18,24 138:20 141:16 155:17 160:16 171:18 189:12,13 191:2 192:10 194:14,16 197:4 196:8 200:24 201:6 ultimately 27:9 umbrella 14:1 unavailable 8:23 uncle 109:3 195:13 uncomfortable 56:3 underneath 12:12 83:3 92:11,12 93:11 94:12 95:3 111:3 112:11,14 112:15 193:7,10 undersigned 197:8 understand 64:4 105:12 114:12 172:9 208:5 214:15 217:16 225:7 227:7 231:25 232:21,25 233:3 understanding	44:14 63:16 116:19 173:23 251:16 understood 55:21 216:3,17 222:11 233:6 undertake 215:9 undertaking 80:24 81:2 unfortunately 6:4 42:24 75:23 169:2 unit 81:8,15 86:17 87:2,6 92:19 united 1:1 12:8,9 44:10,11 57:19 58:7,12 64:9 75:3 76:8,11,15,19,20 76:25,25 77:3,10 197:1 207:12 218:22 219:1 241:18 units 24:16 249:18 unusual 165:24 166:5,8 199:22 upper 109:7 222:22 223:4 upset 246:21 upstairs 45:6 use 19:3 20:22 28:6 60:4 88:13 117:2 179:25 180:11,18 181:1 182:9,15 203:13,24 224:15 227:25 237:25 241:24 242:2 246:25 247:11 250:13 uses 253:11 utah 52:15 utilities 38:6 utilization 113:13 utilize 124:3 202:21 utilizing 38:13 203:14 <hr/> V <hr/> vacant 249:25,25 vacation 31:12 32:12,15,20 33:17
--	--	--	---	--

vacations 66:2	<hr/> W <hr/>	185:10,22 186:3	willing 123:9	word 59:12 221:9
value 88:8 262:7,21 262:21	wait 75:9,9,11	187:4 188:15,19	winter 31:10,16 32:5,8	words 224:15 237:25
valueless 262:12,18	waive 264:7,10,11	203:11,23 210:16	wire 30:25 107:2,7 111:13,15 202:14	work 17:4,5 36:11 36:13 37:1 43:5 86:23 154:3 174:3 209:11,20,21
values 262:18	waived 5:17 264:14	253:8 263:9	wish 264:9	worked 11:12 12:11 14:1 49:5 57:3 213:8 221:14
variances 136:2	walk 205:22	watched 43:15	withdrew 238:6	working 25:19 29:4 54:21,24 208:17
various 10:18 22:22 44:24 188:10 207:17 209:21 215:17 218:17 237:17,25 238:17 239:1 240:12 255:17	wallet 48:2,6	water 97:5 259:4	witness 4:3 8:15 15:4,21 16:1 25:20,22 34:7 43:14 48:1 62:7 62:16 64:8 65:14 66:17 68:9 75:5 75:12 76:6,18 77:6,9,19 79:10 79:16,23 80:6,13 83:13 84:7 86:14 90:14,22 91:10,18 92:9 94:5 95:7 96:18,24 97:8,12 97:18 98:9,12 99:7,13 100:11 104:9 112:24 113:21 118:14 119:14,22 120:2 121:18 126:5,6 131:2 132:3,9 133:15 134:6,12 134:22 136:17 137:8,16 139:21 142:17 144:17 146:7 148:19 149:2 162:18 163:1 169:19,24 173:3 175:16 178:15 180:3 181:4,9 182:25 186:13,20 187:12 189:5 203:18 204:2 207:8 208:20 211:11 213:25 214:6 216:13 226:19 228:13 237:1,5 238:3 252:22 253:7 254:11 256:7 258:12 260:17 264:11	works 41:10 154:2 154:4
vegas 52:19 53:4,7 53:10,13 114:20	want 31:21 35:16 66:23 68:22 75:2 76:21 77:22,23,25 78:4,9,9,16 79:4 80:6 107:6 110:23 124:15,23,25 125:12 128:19,25 136:19 179:16 204:24 210:20 228:14,15,16 237:1,9 240:2 243:3 254:19 260:20	way 50:8 55:10 159:14 198:24 208:2 233:19 240:7 257:9 263:14	wouldnt 27:22 55:7 62:7 63:9 81:21 84:12 98:21 186:16 220:13	world 218:7
vehicle 29:10,13 182:11,14,19 246:13,15,17 247:9	wanted 31:9,13 34:19 36:9 37:25 38:4,5 42:19 43:3 43:24,25 44:2,9 57:18 65:24 81:23 81:24 87:21 90:18 91:6 94:6 97:6 121:16,18,19 125:8 131:15 136:15,17 137:5,8 153:14 171:23 181:5 182:8 203:3 229:16 232:15 251:11 254:14 261:9	web 3:15 34:8 112:8 117:23	wouldve 26:16 35:6 35:20,21 82:17,17 83:19,21,23 115:14 192:22 199:12 211:18 220:12,12 235:13	worldwide 59:21
vehicles 65:20 66:5 250:16	wed 40:4 234:14	wednesday 163:14	wraps 154:9 243:16	worry 91:5,7
venture 18:4 215:13 217:9,10	week 109:23 163:13	weeks 35:3,9 67:17	written 147:1	worth 43:18
ventures 218:5	welcome 125:9	welcome 125:9	wrote 111:21	wouldnt 27:22 55:7 62:7 63:9 81:21 84:12 98:21 186:16 220:13
versus 209:9 223:9	went 41:9 43:9 46:18 48:6 49:4 84:10 92:17 122:21 213:5 214:12 251:1	went 41:9 43:9 46:18 48:6 49:4 84:10 92:17 122:21 213:5 214:12 251:1	wyoming 7:5 52:3 114:21	<hr/> X <hr/>
viable 214:25 215:25 216:4 217:3	west 31:9,19 35:20 44:2,22,24 52:4 58:13,14 182:8	west 31:9,19 35:20 44:2,22,24 52:4 58:13,14 182:8	<hr/> Y <hr/>	yeah 13:24 26:1 28:10 48:11 66:25 69:14 70:17 78:13 93:16 100:19 102:7 107:17 108:9 128:21 167:6 188:23 190:22 228:7
vice 12:2	weve 107:13 125:18 150:14 199:6 204:20 230:24,24 237:2 250:17	weve 107:13 125:18 150:14 199:6 204:20 230:24,24 237:2 250:17	year 10:5 13:9 31:10,14,15,19,20 33:7,8,8,11 58:18 69:5,5	years 9:13,18 10:14
victim 252:20 253:25	whats 19:18 173:16 223:3 226:22 230:15,15 254:5	whats 19:18 173:16 223:3 226:22 230:15,15 254:5		
victims 228:20	whatsoever 86:9 187:3	whatsoever 86:9 187:3		
victor 6:18 9:10 87:17,20 247:18 247:22 248:11	wheelers 247:13,15	wheelers 247:13,15		
view 34:3	wherewithal 212:11	wherewithal 212:11		
viewed 207:19 213:20	whitlock 163:17 240:17,18	whitlock 163:17 240:17,18		
village 110:24	wife 20:3,5,7,9 24:3 27:20 31:18 33:11 38:1 40:17 41:9 121:16,18,19 190:14 193:9 194:25 196:13 214:10 237:18	wife 20:3,5,7,9 24:3 27:20 31:18 33:11 38:1 40:17 41:9 121:16,18,19 190:14 193:9 194:25 196:13 214:10 237:18		
virtue 125:25	william 51:11 54:15	william 51:11 54:15		
visavis 24:9				
visit 41:12 87:11				
visited 33:22				
vla 221:13				
volume 1:7 197:7				
vrbo 31:12 34:7,8				
vs 1:9 197:9				
vts 200:4 202:1				
vu 75:19 124:7				

11:22 14:19 18:1 18:2 19:5,6 21:7 26:7,14,15 69:2,3 yelling 65:19 yesterday 8:7 york 223:11 you 49:17 65:18 132:22 186:24 231:13 youll 40:12 103:19 151:6 167:9 198:12 young 8:21 youre 4:13 7:9 53:17 74:20 115:6 116:11,18 125:9 138:24,24 153:6 185:16 223:19 228:10 236:13 239:8 244:10 youve 4:14 10:24 51:2 53:9 92:12 140:23 172:24 184:10 205:23 209:21 222:20 226:2 229:13 235:20 237:16 238:10,17 243:9 257:5 262:1	147:15,23 154:13 155:25 156:12 157:7,20,25 161:1 161:4 165:14,17 168:23 169:16 170:2,3 176:16 177:23 178:21 183:19 184:7 198:16 199:1,12 230:13 000702 109:6 000814 230:19 00827 230:20 01 3:18,18 02 153:9 036 202:8,14 039 168:23 169:16 170:3 230:13 04 3:11 05 19:12 29:20 30:17 69:9 06 61:2,3,20,25,25 73:9 109:12,22 116:17 131:3 07 3:17,18 69:9 136:13 175:18 08 69:15 08bk04360alp 1:3 197:3 09ap1026alp 1:9 197:9	107:3 115:6,25 117:14 136:7,12 136:22,24 141:12 144:21 147:11 157:10,12,17 161:21 167:20 168:4 174:16 175:5,22 243:17 100 126:13,19 127:9,14,19 129:14 130:23 131:23 132:10,15 133:22 137:22 139:3 143:5 145:3 146:10 148:9 151:6 154:13,13 155:25 156:13 160:19 165:2 169:16,21 170:18 175:7 177:7 178:9 178:24 183:12 198:6,25 214:2 255:7 101 2:8,12 107 102:4,5,8,12 202:7 222:16,17 223:20 224:9 108 118:11,16 109 118:11 120:19 120:24 10a 134:14 141:21 143:25 152:22 155:12 10b 135:10 142:6 144:6 155:12 10th 107:9 11 1:15 9:13 14:6 69:15,16 157:25 183:12 197:15 199:16 110 118:11 122:4,5 1110 2:4 112 3:15,22 206:18 206:24 207:3 113 93:21 94:2,13 95:4 103:13 107:13 115 89:3 189:25 190:3,4 116 192:7,7	117 70:1,7,13,13,22 71:3,19 72:25 119 190:4 11month 198:10 199:3 11th 201:16 12 45:10 147:16 189:13 120 56:17,22,25 194:10,10 121 50:14 92:14,22 93:8 1217 50:13 81:8,14 86:16 87:3,5 92:14 93:8 124 195:7 125 108:25 127 3:11,16 4:19,21 4:25 128 3:12 6:20,24 129 3:13 30:2,4 35:13 46:10 69:3 12th 148:22 149:21 152:1 164:5,16 185:18 201:19 202:4 13 89:2 93:13 100:16,23 107:22 108:11 127:2 157:24 243:18 256:19 130 3:14 92:25 93:2 131 3:15 112:2,4,7 132 130:8 131:8 132:16 173:4 230:3 258:5,8,9 133 3:17 171:5,7 134 3:16,18 128:4 196:2,5,6 135 3:19 197:16,20 199:6 14 17:11 215:5 144 187:20 14th 266:18 15 32:10 38:5 45:10 183:18 1512 230:14 16 21:2,3 24:16 127:3 184:23 160 14:3	161 81:8,15 86:17 87:2,6 92:19 16th 7:4,9,16,19 8:24 17 69:16 153:10 171 3:17 17th 6:14,17 7:22 8:5,10,23 207:16 18 154:10 186 177:23 178:21 19 14:19 195 3:18 197 3:19 1972 10:6 1980 11:24 13:11 1993 26:16 1999 9:14 14:20 17:2 18:11,18 19:14 26:16 1st 110:1,6 121:3,9 196:6
<hr/> Z <hr/> zero 85:3,6 119:22 120:2,15 127:10 127:15 196:19,22 196:25	<hr/> 1 <hr/> 1 116:9 123:5 124:14,22 125:1 125:14 147:23 148:24 149:15 150:22 151:3,3,7 151:7,16,16,24,25 152:6,6 153:9,10 153:22 154:10,13 155:15,15,25 170:17,18 171:9 172:17 173:24 177:23 178:21 183:19 184:7 190:16,22 196:7 197:2 207:16 266:11 10 3:11 31:3 106:1	<hr/> 0 <hr/> 00 42:19 43:22,23 55:6 58:16 114:5 123:5 124:14,22 125:1,14 153:22 000 30:22 31:2,3 32:10 35:13 38:5 66:1 106:3 107:8 127:4 129:16,22 129:25 130:4,10 131:3,4,9,12,24 131:25 132:18,20 136:3 138:4,12 139:3,7,9 143:2,5	<hr/> 2 <hr/> 2 3:17 84:20 147:15 156:12 157:7,20 166:14 177:13 183:14 184:5,20 190:11 191:10 230:12 20 30:22 31:2 35:13 200 2:4 2003 9:21 19:21 25:25 2004 9:19 18:7 20:15,19 2005 19:9,10 30:10 30:19 31:8 35:7 35:14 46:11,12 69:4,21 246:12 247:1 2006 19:7,8 24:17 61:21 62:4,14,19 62:24 63:1,2 64:19 73:13,23 74:6 83:10 84:3 84:22 95:12,16 101:11 106:1 107:3,9,18 109:12 116:22,25 117:7,7 118:18 120:24	

121:12 127:3	22nd 147:23	243:17,18 264:13	164:24 165:6	127:3 131:3,3
133:1 136:3 137:3	150:21 178:20	30 1:16 3:11,13 7:5	167:16	165:14,17,20
137:24 138:4	239 1:24,25 188:25	43:20 197:16	50 136:6,12,22,23	179:6,8 185:3
139:8 143:2 145:5	197:24,25	207:16 264:13	141:12 144:20	186:10,14,24
145:11,15 146:11	2397708144 189:12	300 131:4	147:9 157:17	187:8,9 188:9,12
146:12 147:16,23	23rd 72:20 73:13	30th 5:2,12,15,19	161:16 167:24	202:24 247:17
148:23 149:21	73:23 74:6 83:10	109:14	169:10,11,11	814 230:10,11
150:21 152:1	84:3,21 118:18	33301 2:5	174:15	815 127:4 157:25
182:4,7 188:6	120:24 138:4	3341411 1:24	500 106:3 107:8	198:16 199:1,12
189:14 198:10	139:8 145:5	197:24	147:15,23	827 230:14
204:7,12 244:3,15	146:11,12	3341476 1:25	535 129:16,22,25	835 131:12,25
245:8 247:8	24 143:1 145:11,15	197:25	130:4,10 131:3	132:18
2007 30:10 69:4,21	243 3:5	33602 2:9,12	574 202:8,14	8th 127:2 161:24
72:20 109:14	25 43:18 46:20	33901 1:24 197:24	5th 30:10 35:14	162:14 163:7
110:1,6 115:6,25	112:12,17	33904 50:15 92:15	151:2,7,17 152:6	185:18 204:7
117:14 121:4,9,12	261 3:5	93:9	154:15 156:11	<hr/>
127:3 151:2,7,17	264 266:11	3565425 223:5	161:2 170:16	9
152:6 154:15	27 199:8	387 100:18	176:16 187:19	<hr/>
156:11 161:2,24	27th 199:9 257:15	3rd 30:16,19 31:8	<hr/>	9 1:3,9,16 39:23
162:14 163:7	28 3:17 198:13	35:7 107:18 133:1	6	116:9 197:3,9,16
164:5,16,23 165:1	2800 2:8,12	136:3 137:3 202:9	<hr/>	90s 201:5
167:16 168:22	28150 18:23 20:6	<hr/>	6 3:12 7:5 42:19	91 7:13 9:2,11
170:16 171:8	250:8	4	67:9 89:19,20	18:13,15 20:1
175:5,22 176:16	28th 4:16 5:3,22	4 3:4,11 43:20	93:16 94:13	25:16 26:6 28:19
177:22 178:20	6:1 70:6 75:16,23	105:24,25 111:14	106:12 130:21	30:21 31:11,23
183:13,18 184:23	89:7 118:5 124:4	111:15 161:24	131:9,24 132:20	36:2 45:1 48:23
185:18 187:19	125:23 126:15	162:8,14,22 163:9	132:25 136:3	54:22 68:25 69:20
196:7 197:3	137:24 148:7	163:16 164:1,6,13	209:2 242:16	83:6 84:14,17
198:10,13 199:8	171:8 206:11	165:5 167:13	247:21	182:1
199:16 201:16,19	254:17 257:6	170:9,13 175:5,7	60 32:1 66:1 121:5	92 3:14
202:4 204:12	2nd 30:10,16,18	175:18,19,22	600 138:4,12 139:7	97 116:9
230:6,12	31:8 35:7 164:23	177:13,14 178:16	139:9	99 39:23
2008 19:7 107:18	165:1 167:16	184:24 185:13,17	667 187:20	9th 95:12 101:11
202:9	168:22 177:22	40 43:19,20 121:8	680 161:1,4 176:16	
2010 1:15 5:2,12,15	183:13 197:2	127:4 157:25	697 195:9	
5:19 9:14,21	230:6	198:16 199:1,12	<hr/>	
197:15 205:16	<hr/>	400 170:2	7	
207:16 265:11	3	408 227:24	<hr/>	
266:18	3 1:16 15:4 82:23	435 131:9,24	7 1:4,7 103:6,15,23	
204 3:4	95:25 137:24	132:20 136:3	104:4,15,17 105:1	
206 3:22	145:5,11,14	450 143:2,5	106:1,13 197:4,7	
208 223:5	146:10,14,21	47 1:16 197:16	700 156:12 157:7	
21st 107:18	157:7 159:10	<hr/>	157:20	
22 177:22	161:1,4 168:23	5	73 10:15	
2231 1:18,23	169:16 170:3	5 43:22,23 55:6	74 10:15	
197:18,23	175:18 176:16	58:16 103:19	75 10:15 11:24	
2262 20:8	187:20 191:19	104:15,17 114:5	109:13	
22662 19:19	193:25 197:16	131:4,12,25	750 183:19 184:7	
227 9:9 18:16 20:4	202:8,14 212:16	132:18 148:24	7708144 188:25	
86:21	213:4 230:13	149:15 150:22	<hr/>	
			8	
			<hr/>	
			8 103:3 104:6,7,23	