IN THE UNITED STATES COURT OF FEDERAL CLAIMS

STARR INTERNATIONAL COMPANY,)
INC., Individually and on)
Behalf of All Others)
Similarly Situated,)
Plaintiffs,) Case No. 11-779C
vs.)
UNITED STATES OF AMERICA,)
Defendant.)
---------------------------------)

Courtroom 4
Howard T. Markey National Courts Building
717 Madison Place, N.W.
Washington, D.C.
Monday, October 27, 2014
9:30 a.m.
Trial Volume 20

BEFORE: THE HONORABLE THOMAS C. WHEELER

Josett F. Whalen, RMR-CRR, Reporter

APPEARANCES:

ON BEHALF OF THE PLAINTIFF:

DAVID BOIES, II, ESQ.
Boies, Schiller & Flexner, LLP
333 Main Street
Armonk, New York 10504
(914) 749-8201
dboies@bsfllp.com

and

AMY J. MAUSER, ESQ.
ABBY L. DENNIS, ESQ.
Boies, Schiller & Flexner, LLP
5301 Wisconsin Avenue, N.W.
Washington, D.C. 20015
(202) 237-2727
amauser@bsfllp.com
adennis@bsfllp.com

APPEARANCES: (continued)

ON BEHALF OF THE PLAINTIFF:

ROBERT J. DWYER, ESQ.
ALANNA C. RUTHERFORD, ESQ.
CRAIG WENNER, ESQ.
Boies, Schiller & Flexner, LLP
575 Lexington Avenue, 7th Floor
New York, New York 10022
(212) 446-2300
rdwyer@bsfllp.com
arutherford@bsfllp.com
cwenner@bsfllp.com
and
JOHN L. GARDINER, ESQ.
Skadden, Arps, Slate, Meagher & Flom LLP
4 Times Square
New York, New York 10036
(212) 735-2442
john.gardiner@skadden.com

APPEARANCES: (continued)

ON BEHALF OF THE DEFENDANT:

BRIAN A. MIZOGUCHI, ESQ.
MATTHEW SCARLATO, ESQ.
SCOTT AUSTIN, ESQ.
JOHN TODOR, ESQ.
KENNETH DINTZER, ESQ.
CLAUDIA BURKE, ESQ.
JOSHUA GARDNER, ESQ.
VINCENT D. PHILLIPS, ESQ.
U.S. Department of Justice - Civil Division
Post Office Box 480
Ben Franklin Station
Washington, D.C. 20044
(202) 305-3319
brian.mizoguchi@usdoj.gov

I N D E X

WITNESS:	DIRECT	CROSS	REDIRECT	RECROSS	VOIR
KOTHARI	4520	4623			4526
	4529				

EXHIBITS	FOR ID	IN EVID
Defendant's		
Number414		4687
Number1475		4731
Joint		
(none)		

P R O C E E D I N G S

\- - - - -

(Proceeding called to order, 9:30 a.m.)

THE COURT: We're on the record this morning for day number 20 in the trial of Starr International Company versus the United States.

Good morning, Mr. Boies.

MR. BOIES: Good morning, Your Honor.

THE COURT: I see we have a new witness.

MR. BOIES: We do, Your Honor.

We call as our next witness to the stand Professor S.P. Kothari.

\- - - - -

Whereupon --

S.P. KOTHARI

a witness, called for examination, having been first duly sworn, was examined and testified as follows:

MR. BOIES: We have, as usual, a witness binder that has exhibits or the excerpts we may use with the witness, and because he's an expert, we have his demonstrative exhibits and his report for the Court's convenience.

THE COURT: Very well. Thank you very much.

\- - - - -

DIRECT EXAMINATION

BY MR. BOIES:

Q. Good morning, Professor.

A. Good morning.

Q. Would you tell the Court what your present position is.

A. I'm Gordon Y. Billard professor of accounting and finance, and I'm deputy dean at MIT's Sloan School of Management.

Q. Can you provide a brief summary of your educational background.

A. I have an undergraduate degree in chemical engineering from Birla Institute of Technology and Science.

I have a master's in business administration from Indian Institute of Management Ahmedabad.

And I did a Ph.D. in accounting at the University of Iowa.

Q. And have you published books?

A. Yes, I have.

Q. Could you briefly describe some of your publications.

A. I have published books and -- two books, as well as a large number of academic publications in leading academic outlets in accounting, finance and in economics.

The two books are Financial Statement Analysis -- it's coedited with Ray Ball -- and Contemporary Accounting Research. That book is also coedited with other editors of Journal of Accounting and Economics, which is a leading academic journal.

And my publications have been in accounting, finance and economics in top-tier academic publications, such as Journal of Financial Economics, Journal of Accounting Research, Journal of Accounting and Economics. The topics have been valuation, financial analysis, investment analysis and -- and executive stock compensation, et cetera.

Q. And have you served as an editor of any publications?

A. I have served as an editor of Journal of Accounting and Economics for the last 17 years. It's a leading academic journal in the field of accounting and economics.

Q. Are you currently involved in academic research?

A. Yes, I am.

Q. What is the focus of that research?

A. The focus of my research is on valuation, on investment analysis, as well as financial reporting issues. As I said, I have also examined issues surrounding corporate uses of derivatives and executive compensation issues.

Those are some of the topics on which I have been conducting research.

Q. Did you say that you had done research on financial derivatives?

A. I have.

Q. Can you briefly describe your expertise in the field of finance.

A. In the field of finance, I have -- first of all, I have a joint appointment in accounting and finance at MIT's Sloan School of Management. I have published extensively in finance. The top-tier academic publications in finance are Journal of Financial Economics and Journal of Finance, and I have published on multiple occasions in both of those journals.

I have taught courses in finance, corporate finance, a case study course. I have also taught to executive education participants on a number of occasions on finance topics. I have served on the thesis committees of several Ph.D. students in finance.

Q. Have you ever worked in the field of finance?

A. Yes, I have.

Q. Can you briefly describe that.

A. I was global head of equity research at Barclays Global Investors, which is a subsidiary of

Barclays Bank, and I had approximately fifty Ph.D. professionals in my team. I supervised them. They were based in San Francisco, in London and in Sydney. And the equity research supported investment in a portfolio that was in excess of $100 billion.

Q. During what period of time were you the global head of equity research at Barclays?

A. I was there from July 2008 till December 2009.

Q. Can you provide a brief summary of the academic positions you have held?

A. Yes.

I was on the faculty of -- at the University of Rochester Simon School of Business from 1986 till '99. Then I moved to MIT, and there I have been head of the accounting group. Then I was head of economics, finance and accounting area. And finally, I have become deputy dean over there.

And over the years, I have been a visiting professor at institutions such as London Business School and Harvard Business School.

Q. What courses have you taught at MIT?

A. I have taught courses to MIT students in their undergraduate program, to their master students, Ph.D. students, and also executive education participants.

I have taught courses in corporate financial reporting, as well as financial statement analysis. And for a number of years I taught a doctoral research seminar course, and on a wide range of topics I have taught executive education participants.

Q. You mentioned that you are now the deputy dean of the Sloan School of Management.

What are your responsibilities as deputy dean?

A. As deputy dean, I'm responsible for faculty affairs. We have approximately 200 faculty, and I oversee all aspects of faculty matters, including their hiring, their performance evaluation, promotion and tenure decisions, their compensation.

MIT Sloan also has six research centers that I oversee, and they have a large number of staff.

Q. Other than this case, have you been retained as an expert consultant?

A. Yes, I have been.

Q. Could you describe your prior consulting in the fields of accounting and finance.

A. Yes.

I have been retained approximately on a dozen occasions. And the reason for retaining me has been generally to focus on valuation issues, to focus on some of the financial reporting issues, bankruptcy prediction or financial analysis issues. And I was also retained in insider training matters.

Q. Can you give the Court some examples of the parties or institutions that have retained you prior to this case.

A. I've been retained by the U.S. Department of Justice.

I have been retained by several large banks in a number of different matters, Deutsche Bank and Credit Suisse, et cetera.

And I have been retained also by the steel industry in International Trade Commission matters.

Those are some of the examples.

Q. Have you previously testified in Court as an expert?

A. Yes, I have.

Q. Approximately how many times?

A. I think about four times.

Q. Are you being compensated for your time working on this case?

A. Yes, I am.

Q. Is your compensation in any way contingent on your testimony in this case or on the result of this case?

A. No, it is not.

MR. BOIES: Your Honor, we would offer

Dr. Kothari as an expert in the fields of accounting and finance.

THE COURT: All right. Mr. Todor, are you taking this witness?

MR. TODOR: Yes, Your Honor.

THE COURT: Would you like some voir dire?

MR. TODOR: Yes. Thank you, Your Honor.

THE COURT: All right.

\- - - - -

VOIR DIRE EXAMINATION

BY MR. TODOR:

Q. Good morning, Dr. Kothari.

A. Good morning.

Q. You are not a lawyer; correct, sir?

A. No, I am not.

Q. And you're not being offered as an expert on legal opinions as to whether something is a taking or an illegal exaction; correct?

A. That's correct.

Q. You are not an expert on lending under section 13(3) of the Federal Reserve Act; correct?

A. That is correct.

Q. You are not being offered as an expert on Federal Reserve policy.

A. Not that I know of.

Q. You're not being offered as an expert on Federal Reserve decision-making.

A. No, I'm not.

Q. You are not an expert on the Primary Dealer Credit Facility; correct?

A. That is correct.

MR. BOIES: Your Honor, he is being offered as an expert on accounting and finance. That is the sole scope of my offer of him as an expert.

THE COURT: Right. I understand.

BY MR. TODOR:

Q. You are not a certified public accountant; correct?

A. That is correct.

Q. You've never been an employee of an accounting firm; correct?

A. That is correct.

Q. Your Ph.D. is in the field of accounting; correct?

A. That is correct.

Q. You are not a Ph.D. in economics; correct?

A. I do not have a Ph.D. in economics.

Q. You are not a Ph.D. in finance; correct?

A. That is correct.

Q. You have never worked as a bankruptcy

restructuring advisor; correct?
A. That is correct.
Q. You are not an expert in bankruptcy; correct?
A. That is -- that -- my expertise in this is for accounting and finance.
Q. You have never worked for an insurance company; correct?
A. I have not.
Q. You are not being offered as an expert in insurance regulation; correct?
A. That is correct.
Q. You have never worked for a credit rating agency; correct?
A. Credit rating analysis I have done, but I have not worked for a credit rating agency.
Q. And in your previous consulting experience, you issued a rebuttal report on behalf of Brookfield Asset Management versus AIG Financial Products Corporation in 2013; correct?
A. That is correct.
Q. And Brookfield was the plaintiff in that case?
A. That is correct.
MR. TODOR: Your Honor, we do not object to Professor Kothari's qualification in the fields of accounting or finance subject to the limitation we've

just discussed.

THE COURT: All right. Thank you, Mr. Todor.

I will accept Dr. Kothari as an expert in the field of accounting and finance.

- - - - -

DIRECT EXAMINATION (resumed)

BY MR. BOIES:

Q. Let me turn now to your opinions in this case.

What were you asked to examine?

A. I was asked to value the claims of shareholder credit agreement and reverse stock split claims.

Q. Were you asked to assume that there was liability for purposes of your valuation analysis?

A. Yes, I was.

Q. That is, you did not form an opinion with respect to liability; is that correct?

A. That is correct.

Q. For the so-called credit agreement class, what were you asked to value?

A. I was asked to value the 79.9 percent equity and voting interests taken by or acquired by defendant on September 22 as of September 22, 2008.

Q. And for the so-called stock split class, what were you asked to value?

A. I was asked to value the right to authorize additional shares and prevent dilution that was denied by the defendant as a result of the reverse stock split.

Q. Are you familiar with the credit agreement between the Federal Reserve Bank of New York and AIG dated as of September 22, 2008?

A. Yes, I am.

Q. Can you describe just the basic summary and financial elements of the credit agreement?

A. Certainly.

The credit agreement had three components.

One is, the credit facility was made available that enabled AIG to draw up to $85 billion against the credit facility over a two-year period.

The second component was that AIG made contractual promises to pay interest, fees and repay the borrowed amount.

The third component of the credit agreement was, the defendant took, the Federal Reserve Board (sic) of New York, took 79.9 percent equity and voting interests in AIG as part of the credit facility.

Q. Did you undertake an analysis of the actual outcome with respect to each of those three elements of the credit facility that you identified?

A. Yes, I did.

Q. With respect to the principal amount of the revolving credit facility, what happened?

A. With respect to the principal amount, you know, AIG drew some against that credit facility, and over time it repaid it in entirety. The final payment of the borrowed amount was in January 2011.

Q. Have you prepared a demonstrative exhibit showing the amount received by AIG from the revolving credit facility and when that was repaid?

A. Yes.

Q. Would you look at Plaintiffs' Trial Exhibit 5200 and tell me whether that is that exhibit.

A. This chart shows on it through time, from the inception of the credit facility to its final conclusion, the amount AIG drew against this facility.

And as can be seen, around October -- from October 22 to 28, that was the maximum amount that AIG drew against the credit facility, $72 billion.

Then in November 2008 there was a substantial amount of repayment using the TARP funding that AIG received.

There was further repayment of the principal in 2009 November where the repayment was with preferred interests offered in AIG subsidiaries.

And eventually the facility was fully paid on January 14, 2011.

Q. Now, you've mentioned that there was TARP funding that AIG received.

And let me ask you, did you prepare a demonstrative exhibit that relates to TARP funding?

A. Yes, I did.

Q. And which exhibit is that?

A. It's PTX 5201.

Q. And can you explain what this exhibit shows.

A. This exhibit combines the amount drawn against the revolving credit facility and the TARP, and TARP funding that AIG received, so as a result, in the previous chart where I showed that there was repayment in November of 2008, that repayment, since it was with TARP funding, it does not show up on this chart.

The chart, as before, goes from the inception of the credit facility, which was September 22, 2008, and all the way to the conclusion in January 2010.

And in November 2009 there was repayment with preferred interest in AIG subsidiaries ALICO and in some others and finally the repayment of the balance of the credit facility and exchange of Series E and F preferred stock for common stock which took place in January of 2011, that recapitalization.

Q. In your last answer, you mentioned January 2011, and earlier you'd mentioned January 2010.

Did you mean to say January 2010 in the first instance?

A. Yes. No, no. I'm sorry. I meant to say both the charts go up to January 2011, and the conclusion in both the charts is in January 2011.

I'm sorry, Your Honor. I misspoke.

Q. Turning back to the credit agreement, you mentioned that AIG had an obligation not only to repay principal but to repay interest and fees.

What was the actual amount of interest and fees that the defendant received as a result of the revolving credit facility?

A. $6.7 billion was the amount received by the defendant.

Q. And what is your basis for that conclusion?

A. This information is available publicly on the Web site, and I believe it is the Federal Reserve Web site that provides this information.

Q. Was the $6.7 billion the total amount that was due from AIG for interest and fees?

A. Yes. Based on the amount that it borrowed and the contractual terms that were in place, $6.7 billion was what was due, and that's the amount that AIG repaid or paid the defendant.

Q. Turning to the final component of the credit

agreement that you identified, which was the 79.9 percent equity and voting interests acquired by defendant, did there come a time when that interest in the form of preferred stock was changed into AIG common stock?
A. Yes, it was.
Q. And when did that occur?
A. That occurred in January 14, 2011.
Q. In January of 2011, what was the value, based on the stock market price of AIG's stock at that time, of the common shares that the defendant received in exchange for the Series C preferred stock?
A. The defendant received common shares on January 14, but they were publicly traded without the warrant that was attached from January 20, 2011, so I valued the common stock on January 20, 2011, and that was $24.3 billion I believe. That is the amount that it was valued at.
Q. Now, how is that $24.3 billion number arrived at?
A. That is arrived at using the what is called market-based approach for valuing equity, so that is number of shares times the traded share price of AIG on January 20, 2011.
Q. Was the share price, the market share price, on January 20, 2011 affected by anything defendant had done?

A. Yes.
Q. Can you give me an example.
A. A couple of examples.
One is that the defendant controlled AIG and as a result that AIG -- the price of AIG was influenced by the manner in which the defendant owned and operated AIG at times to further some objectives that perhaps were not perfectly aligned with the shareholder interest.
And the second is that at the same time, they had also exchanged Series E and F stock, and that exchange took place when less valuable preferred shares were exchanged for more valuable common stock, so all common stock suffered dilution, so that is the manner in which there is some effect on the share prices.
Q. Did the defendant sell the AIG common stock it received in exchange for the Series C preferred stock?
A. Yes.
Q. And what amount of money did defendant receive for the common stock that it received in exchange for the Series C preferred stock?
A. I believe that number is $17.6 billion.
Q. Now, how do you figure that $17.6 billion?
A. That is the amount that is reported in -- by the -- I believe that is also reported by -- well, it has been reported by U.S. government. I cannot remember

if it is Federal Reserve or the Treasury that reported it.

Q. Now, when the federal government reports whatever it is you say they reported, did they report a number of 17.6 or is that something that you calculated?

A. It was reported in -- I believe in three different pieces, and I summed those three numbers to arrive at $17.6 billion.

Q. Would you explain what you did.

A. The government report had details of the amount of stock received in exchange for Series C preferred. And they didn't sell it on one day, they sold it over a period of time, and so the reporting was on the basis of -- the reporting was on the basis of how much stock was sold in each year and how much cash was received. And that's why there were three different numbers, and once you aggregate those three, you get a total of $17.6 billion.

Q. Let me ask you to look at Plaintiffs' Trial Exhibit 685, which is in your documents binder.

A. It's in the witness binder you said, sir?

Q. It is in the -- it is the binder that says "Witness Binder" on it.

A. Okay.

And it is 685?

Q. Yes. The first exhibits are joint exhibits, and then the second group of exhibits are plaintiffs' trial exhibits, so to find the plaintiffs' trial exhibits you've got to skip over the joint exhibits.

A. Okay.

Yes, now I have it, 685. I'm slow.

Q. Is this the report that you were referring to?

A. Yes, I am.

MR. BOIES: Your Honor, I would offer Plaintiffs' Trial Exhibit 685.

MR. TODOR: No objection.

THE COURT: All right. Plaintiffs' Trial Exhibit 685 is admitted.

(Plaintiffs' Exhibit Number 685 was admitted into evidence.)

BY MR. BOIES:

Q. Now, Professor, if you'd turn to pages 89 and 90.

A. Okay.

Q. Is this the report information that you were referring to earlier?

A. Yes, I was.

Q. Does this information allow you to determine how much money the defendant received from the Series C preferred stock?

A. Yes.

Q. How do you do that?

A. The last paragraph on page 89, that is the paragraph that talks about the government liquidating 1.7 billion AIG common shares. Then it breaks out in different years.

Fiscal year 2011, the department sold in open market 200 million shares of AIG common stock held by the general fund and TARP. And we have to take the number for general fund, and the gross proceeds were 5.8 billion, of which the general fund received 2 billion and TARP received 3.8, so I take the 2 billion number from there.

Sales continued in fiscal 2012. And there, those proceeds were $38 billion of which 13 billion were for the general fund, so now we have 13 plus 2, 15 billion in total.

And then during fiscal 2013, the department sold remaining shares. Gross proceeds were 7.6 billion, and general fund received 2.6 billion, so that aggregate is $17.6 billion.

Q. Thank you.

Now, did you investigate as to whether the amount received by the defendant for the Series C preferred stock was affected in any way by the TARP share sales?

A. I know that the exchange of Series E and F preferred stock was exchange of less valued preferred shares for more valuable common shares, and as a result, all the shares suffered economic dilution, so I haven't quantified it, but -- for this purpose I mean, but I know that $17.6 billion amount is understated as a result of the dilution.

Q. As you understand it, were the Series C preferred common shares, that is, the common shares derived from the Series C preferred shares, sold separately from the TARP shares or were they all sold together?

A. My understanding is they were all sold together.

Q. Now, did the defendant have a choice as to when it liquidated the common stock it received in exchange for the Series C preferred stock?

A. Yes. I believe yes.

Q. Did you calculate the value that defendant would have received if it had liquidated that stock at different times?

A. Yes, I did.

Q. And what did you conclude?

A. If the government had chosen to liquidate at the end of 2013, it would have received approximately $28 billion. And if it had waited till just this past September, I think the amount would have been about $30 billion.

Q. Let me turn now to your valuation of the 79.9 percent equity and voting interests received by the defendant in connection with the revolving credit facility.

Did you prepare a demonstrative summarizing your conclusions with respect to that valuation?

A. Yes, I did.

Q. And what -- which exhibit is that?

A. That would be 5202, PTX 5202.

Q. And can you explain what this demonstrative shows.

A. As of September 22, the defendant acquired 79.9 percent voting and -- equity and voting interests in AIG, and I value that as at least $38.852 billion.

Q. Now, before we go into how you reached that valuation, is that amount the amount that would be due to the plaintiffs in this case?

A. No.

Q. Why not?

A. Well, first we have to look at what the credit agreement class is. And the credit agreement class, it includes all persons or entities who held shares of AIG common stock on or before September 16 and who owned those shares as of September 22, 2008, and then excluded are insiders and also equity unit holders.

So there's a number of individuals or entities who are excluded, so that is one adjustment.

Q. And can you adjust it to exclude the so-called equity unit holders?

A. Yes, I can.

Q. And how do you do that, and what do you come up with?

A. Equity unit holders accounted for approximately 9 percent shares. This is before the government taking any equity interest. Of the 100 percent shares that AIG had, approximately 91 percent were owned by common shareholders and about 9 percent were shares reserved for equity unit holders.

So adjusting for those 9 percent equity unit holders, the value of 79.9 percent equity and voting interests acquired by the defendant, that reduces to $35.378 billion.

Q. Now, the $35,378,000,000 number would be the number excluding equity holders but not excluding potential class members who did not opt in; is that correct?

A. That's correct.

THE COURT: Mr. Boies, can I have a question?

MR. BOIES: By all means.

THE COURT: What exactly is an equity unit holder?

THE WITNESS: AIG had issued some debentures and some other equity issues earlier than the date of the event here, September. As part of that issuance of debentures, there were -- securities called equity units were issued. And those equity units obligated the holders of those debentures to buy shares at a later date at prespecified prices.

Since AIG had agreed to sell those shares to those equity unit holders, they set aside 264 million shares reserved for equity unit holders, so there were approximately 2.68 billion common shares and 264 million equity unit shares reserved.

So to be conservative, I'm treating those as if they have been issued and making adjustment for those equity units in calculating the claims of the class.

THE COURT: Thank you.

THE WITNESS: You're welcome.

BY MR. BOIES:

Q. Were you able to further reduce that number so that it only related to the number of plaintiffs that actually opted in here as opposed to the entire potential class?

A. No. I'm not able to make that adjustment. I don't have that information.

Q. And what information would you need to do that?
A. Well, I know how we might be able to calculate and I have described that at the bottom here, so that -- it's pretty straightforward. You take $35.378 billion times the number of shares held by a member of the class and divide that by the total common shares outstanding, so...
Q. So would it be fair to summarize it that you would take the 35,378,000,000 and then adjust that for the percentage of potential class members that actually opted in to this case?
A. That's exactly correct. Thank you. Uh-huh.
Q. Now we turn to how you came to the $38,852,000,000 valuation that you started with.
What approach did you use or what methodology did you use to try to value the 79.9 percent equity and voting control acquired by defendant?
A. I used a market-based valuation approach.
Q. And can you describe what that is.
A. Market-based valuation approach is to use price of the security that is publicly traded in a market that is very liquid. And it's -- using that traded price of the security times the quantity of the security, you can get the market valuation of the interest taken.
Q. Is the market-based methodology that you've

described a methodology that is commonly used by valuation professionals?

A. Yes, it is. Whenever security is traded publicly, that's the methodology that gets used.

Q. In the course of performing your valuation, did you learn that there were other entities that had valued the equity and voting control acquired by defendant at or about the time that that equity and voting control was acquired?

A. Yes.

Q. And what methodologies or methodology was or were used by those other entities?

A. They all used market-based approach in addition to some other approach, but they ended up choosing the market-based valuation approach.

Q. Have you prepared a demonstrative exhibit addressed to what other entities valued the Series C preferred acquired by defendant and what those valuations were?

A. Yes.

Q. What demonstrative exhibit is that?

A. That is PTX 5203.

Q. Can you explain what this shows.

A. It shows that there were four entities that contemporaneous with the credit agreement facility, credit facility, they performed a valuation of 79.9 percent equity and voting interests acquired by defendant.

And then there is the fifth, U.S. government, which I will talk about at the end of this discussion. They performed a valuation analysis in September, on September 30, 2009.

All of them, as I said, entertained methods, market-based valuation and some other methods, and their valuation is reported on this slide.

Q. Let me take you through them one line at a time.

A. Okay.

Q. First, the initial valuation on this page is a Deloitte valuation.

Do you see that?

A. I do.

Q. And who was Deloitte?

A. Deloitte was Federal Reserve Bank of New York, their auditor and...

Q. And what valuation date did Deloitte use?

A. They used valuation as of September 16, 2008.

Q. And what valuation did they come up with?

A. Their valuation is $24.5 billion.

Q. And then the second line says "AIG," and when was the AIG valuation done?

A. It was done at the end of October 2008.
Q. And what valuation date did AIG use?
A. Also September 16, 2008.
Q. And the third line says "KPMG," and when was the KPMG analysis done?
A. KPMG were valuation consultants hired by AIG, and their report is dated November 14, 2008.
Q. And what valuation did they come up with?
A. $23 billion as of September 16, 2008.
Q. The fourth line here is PwC, and when did PwC do its or complete its calculation?
A. They completed their valuation analysis by October 31, 2008.
Q. And what valuation date did they use?
A. Valuation as of September 16, 2008.
Q. And what valuation did PwC come up with?
A. PwC, they did their own valuation using Black-Scholes model for valuing, and they did some three scenarios, and they came up with a range of valuation of 28 and 42 billion dollars.
But PwC being auditors, their goal was to conclude whether or not the valuation that AIG was using was reasonable or not. And they concluded that $23 billion is a reasonable valuation. As an auditor, they signed off on that.

Q. Now, the last line on this page says "United States," and when did the United States do a valuation of the Series C preferred stock?
A. They reported a valuation in their financial reports of February 2010, and their valuation is as of September 30, 2009.
Q. Let me ask you to turn in your witness binder to Plaintiffs' Trial Exhibit 2156.
A. Okay. I'm there.
Q. Is this the United States Department of Treasury valuation that you referred to?
A. Yes.
MR. BOIES: Your Honor, I would offer Plaintiffs' Trial Exhibit 2156.
MR. TODOR: No objection, Your Honor.
THE COURT: Plaintiffs' Trial Exhibit 2156 is admitted.
(Plaintiffs' Exhibit Number 2156 was admitted into evidence.)
BY MR. BOIES:
Q. Now, you've mentioned that Deloitte, AIG and KPMG used market-based methodologies to value the Series C preferred stock. Do you recall that?
A. I do.
Q. And did you prepare a demonstrative exhibit that

sets forth the various methodologies used?

A. I do.

Q. And what is that?

A. That is 5204, Your Honor.

Q. And can you explain what this chart shows.

A. What this chart shows is that Deloitte, AIG and KPMG, their valuation of the shares of voting and equity interests acquired by defendant. The valuation is always as of September 16, 2008.

And as you can see, Deloitte, they used the market-based approach, and their valuation is $24.5 billion. What they did was, to value the equity interest as of September 16, they used the opening price of AIG on the 17th, which was $2.29.

Q. Let me stop you there for a moment.

And is it the case that there are two different dates that are relevant here; one is the valuation date, and second is the date that the information that you used to value comes from?

A. That's correct.

Q. Why is that?

A. So they were asked to perform the valuation as of September 16, but information about the credit facility and equity interests, that didn't arrive before the close of business day.

So that information came overnight sometime around 10:00 or 9:00 p.m. or past that, so Deloitte's assumption is that overnight that information was processed by market participants, and that information was reflected in the opening price of AIG on the following business day, which happened to be September 17.

So that is the reason, that is the rationale, in applying the market-based or market-based valuation approach, they have used the price as of September 17, which reflects the relevant information that they were looking for to make -- to perform the valuation as of September 16.

Q. Now, AIG also used a market approach, and as you said earlier, they came up with $24.1 billion, which is a somewhat slightly different number, even though they used the same valuation date.

Do you see that?

A. I do.

Q. And what's the explanation for that?

A. Well, there are two reasons.

First is that AIG chose the close of September 17, so they did not assume that overnight information processing was enough, but they thought that actual trading that takes place and market participants reacting during the business day, that is also needed, so

they used the closing price on September 17.
The second difference is that Deloitte did not adjust for or include equity units, but AIG did.
So that is the -- those are the two reasons why, even though they used the same market-based approach, the valuations are different.
Q. Then the next line here is KPMG, and KPMG comes up with the same valuation, used the same valuation date and also the same closing price that AIG did; is that correct?
A. That is correct.
Q. Now, with respect to both AIG and KPMG, there is a reference here about other market approaches.
Do you see that?
A. Yes.
Q. That is, you say, in quoting AIG, the market approach is "the most direct and least judgmental method," and with respect to KPMG it says "market approaches were the most reliable indicators of value."
Do you see that?
A. I do.
Q. Does that suggest that both AIG and KPMG looked at other valuation approaches other than the market approach?
A. Yes, they did.

Q. And can you give me some examples of those.

A. AIG used three approaches.

One is what is reported, the market-based valuation approach.

Second, they also did analysis using CDS spreads and did some valuation.

And the third, they looked at what KPMG had done.

And based on all three of them, they concluded that the market-based -- and they relied on the KPMG valuation also and they reported, but they chose the market-based approach for valuation.

Q. You say you used a market-based valuation and you come up with $38,852,000,000; correct?

A. Yes, that is correct.

Q. Why is there a difference between your market-based methodology and the market-based methodologies of Deloitte, AIG and KPMG?

A. Identical methodology, but only difference is the date. I performed valuation as of September 22, 2008 using the closing price of September 24, 2008.

Q. If you had used exactly the same methodology that you used to come up with your $38.8 billion number but assumed a valuation date of September 16 rather than September 22, would you have come up with the same number that AIG and KPMG came up with?

A. Yes.
Q. Have you prepared a demonstrative exhibit showing what the market-based results would be using different valuation dates?
A. Yes, I have.
Q. And what is that?
A. It's 5205.
Q. Can you explain what this chart, which is headed Value of Series C Preferred Using AIG Closing Stock Prices from September 17 to September 30, 2008, means.
A. This is a bar chart showing valuation of 79.9 percent equity and voting interests from each business day or trading day from September 17 till 30.
And also let me note that when I use the closing price on 17 September, I obtain a valuation of $24.1 billion, which is identical to what I just showed that AIG and KPMG reported.
So that's first.
Second, I value the equity interest taken as of September 24 in my -- the claims analysis, and that valuation is, as you can see, it is $38.9 billion.
I also report what the average valuation, mean valuation, would be over this period, and that is with the blue dashed line, and that is $39.5 billion, with median in the green dashed line, and that is

$37.9 billion.
Q. I probably ask this question every time I examine an accountant, but can you explain what the difference is between mean and median.
A. Mean is the average, or if you have ten observations and then taking the simple arithmetic average, that number is the mean.
And median is, if you rank those -- I probably should not have used ten numbers. Suppose there are eleven numbers, Your Honor, and if you rank them from lowest to highest, median is the middle number, which would be the sixth number there.
Q. So when you say "mean," that is simply an average of these ten numbers?
A. Yes.
Q. Now, this shows you how you got to your $38.9 billion.
Did you then adjust that for the exclusion of the equity units?
A. I did.
Q. And did you prepare a demonstrative showing that?
A. Yes.
Q. And what is that?
A. And that is the 5206.
Q. And am I correct that this is exactly the same

chart as 5205 except you have excluded the value attributable to equity units?

A. Yes, that is correct.

Q. Now, you said that you valued this as of September 22, 2008. Do you recall that?

A. I do.

Q. And why did you do that?

A. I do that because the credit agreement is -- it became effective as of September 22, and I also note that -- the Court rule that if the taking did take place then, it took place on September 22, so for those reasons.

Q. And when you started this process, did we ask you to assume that September 22 was the right date?

A. Yes.

Q. And did you then check that?

A. Yes.

Q. And how did you check that?

A. I reviewed the chronology of events that had taken place, and based on that review, I thought -- I concluded that September 22 is an appropriate date for the taking and the valuation, however, it is using price of September 24, closing price of September 24.

Q. I want to deal with those two points, that is, the valuation date and the closing price date, separately.

First, did you prepare a demonstrative that set forth some of the reasons why you thought that a September 22 valuation date was appropriate?

A. Yes, I did.

Q. And what is that exhibit?

A. It's 5207.

Q. And can you explain what you're trying to convey in Plaintiffs' Trial Exhibit 5207.

A. While I was asked to assume September 22, I thought it was appropriate for me to undertake an analysis to see the reasonableness of that assumption, so -- and in that process I reviewed some of the documents and prepared the demonstrative here.

Q. Let me go through what you've referenced here one by one.

You say, "The credit agreement did not become effective until September 22, 2008," and you list three reasons.

Can you go through each of those reasons and explain what the significance, if any, of those reasons were to you.

A. I looked at the credit agreement. I thought that was the first step one should do. And sure enough, it is dated September 22, so that's the first subbullet there.

Then I also reviewed some of the documents or depositions or -- and Federal Reserve Board (sic) of New York's general counsel has testified that AIG had no obligation to transfer equity until September 22, so the transfer of equity taking place to the Treasury or to Federal Reserve, that is no sooner than September 22, so...

And finally, as I mentioned --

Q. The next item relates to the Court's ruling, and I'll ask you to skip that because that's an issue that's for the Court.

A. Okay.

Q. The next item that you have here are: "The key terms of the credit facility were not fully disclosed to the market until after the close of the market on September 23, 2008."

And what key terms are you referring to?

A. Yeah.

So this goes to whether there is economic substance, all of the economic substance, was it known as of a particular date, right, because if we are valuing something, then it is based on the economic substance.

And with that in mind, first I note that -- that the change took place from warrants being the form of equity that was contemplated as part of the credit facility to preferred stock being issued as equity and voting interests to the Federal Reserve.

Second, the facility also came with 8.5 percent fee on undrawn funds, and that was -- that became known only after the close of September 23.

And finally, the discussion of or the specific amount of commitment fees and actual interest rate, those also changed over time and the final numbers came out after September 23 close.

Q. The next point that you have on this chart is that the market continued to process information about the terms of the Credit Agreement on September 24, 2008.

And why do you say that?

A. Analysts, they are an important information intermediary in securities market. And several analysts commented that there was news after the close of September 23, and there was indication that they processed that information.

There were also news reports that indicated that some of the items that I have mentioned earlier, those the market learned only after the close of September 23.

I also noticed that -- I also note that the market reacted to that information, that not only just analysts said some of those things, but the stock price of AIG did fall about 33 percent I believe on September 24, so there was market reaction as well.

Q. I want to -- I want to come back and follow up what you just said, but first let me finish what you have on Plaintiffs' Trial Exhibit 5207.

The next thing you say is: "September 16, 2008 is not the proper date to value the Series C preferred stock."

And why do you say that?

A. The economics of that credit facility was not fully known September 16.

First of all, I think the first indication of any information about credit facility, that happened after the close of 16th, so that is first.

But more specifically, defendant understood the term sheet was nonbinding, so the initial term sheet was nonbinding. The term sheet itself says that it is nonbinding.

There were financing provided with demand notes. On 23rd there were demand notes that were issued, but that is not relevant because those are separate contractual documents. They're not the same as the credit agreement. They are independent of the credit agreement.

And they had terms that the demand notes were callable by Federal Reserve. The demand notes were due immediately. In fact, they were due on September 23. And the demand notes had a fixed interest rate of 12 percent, which is different from the interest rate specified in the credit agreement.

So there were material differences, and for all those reasons, September 16 is not the proper date.

Q. Did the demand notes have any equity attached to them?

A. I don't believe there was any equity attached to the demand notes.

Q. Now, let me go back to follow up on what you had said earlier about how the market continued to process information about the terms of the credit agreement on September 24. Do you recall that?

A. Yes.

Q. And have you prepared a demonstrative that deals with that subject?

A. Yes, I have.

Q. And what is that?

A. It's 5208.

Q. And can you explain what points you're making here.

A. I summarize some of the information that rate and how market participants reacted to that information to indicate that they were receiving new information. They were processing that information.

First on September 23 itself, it is at 9:59 there was a report on BusinessWire and which talked about the terms. And the terms that were discussed, that $85 billion revolving credit facility.

And there is reference to final terms disclosed, and they include interest rate based on three-month LIBOR plus 8.5 percent, an initial gross commitment fee of 2 percent, a commitment fee on undrawn amounts of 8.5 percent, and issuance of convertible preferred serial -- I'm sorry -- convertible, participating serial preferred stock with 79.9 percent of dividend and voting rights.

Q. You said that the Bloomberg -- what did you call it, a newswire?

A. BusinessWire.

Q. BusinessWire.

The Bloomberg BusinessWire was at 9:59. Was that a.m. or p.m.?

A. p.m.

Q. Let me ask you to look at Plaintiffs' Trial Exhibit 234.

Is this the BusinessWire that you were referring to?

A. One second.

THE COURT: I don't seem to have it in mine.

THE WITNESS: I don't have it.

MR. BOIES: I apologize, Your Honor.

MR. TODOR: Your Honor, we have it in ours. It's right behind the 236 tab or -- so they're -- the tabs are kind of aligned with one another, but it is in our binder.

MR. BOIES: May I approach the witness, Your Honor?

THE COURT: Sure.

(Pause in the proceedings.)

MR. BOIES: Your Honor, can I hand up a copy of 234?

THE COURT: Sure. Thank you.

MR. BOIES: Apparently yours is the only one that we skipped on, which is the wrong sense of priorities.

THE COURT: Okay. Thank you.

BY MR. BOIES:

Q. Is this the Bloomberg BusinessWire that you're referring to?

A. Yes.

Q. To what extent, if any, is analyzing these kind of published reports a standard part of analyzing market price movements in market valuations?

A. It is pretty routine that one expects a discussion about some news event in news reports such as this or analyst reports and then stock prices move either up or down depending upon the nature of the news that is described in these reports.

Q. And why is it significant, if it is, to your analysis to look at what business publications and analysts were writing following the announcement of the September 22 credit facility?

A. Well, the economic import of some contract such as the credit facility being put in place, unless market participants fully understand what those terms are, they cannot process that information fully, so we have to wait until they have all the relevant information for them to process it, and then the prices will reflect the economic import of the information contained in that contract.

MR. BOIES: Your Honor, we would offer Plaintiffs' Trial Exhibit 234 not for the truth of the matter asserted but for the publication of this information to the market.

MR. TODOR: Your Honor, we have no objection with that understanding.

THE COURT: All right. Plaintiffs' Trial

Exhibit 234 is admitted with the stated restrictions.

(Plaintiffs' Exhibit Number 234 was admitted into evidence.)

BY MR. BOIES:

Q. Let me also ask you to look at Plaintiffs' Trial Exhibit 1658, which you reference in your demonstrative exhibit.

A. Okay.

Q. And would you explain what significance, if any, you attributed to this document.

A. This is on the 24th, and this is -- part of this document is what I have summarized in the demonstrative that I had prepared which was PTX 5208 under Bloomberg.

And in the second paragraph of this Bloomberg report, it talks about how the stock price declined as a result of the marketplace fully understanding what was -- what was happening with the credit facility, and in the first and second paragraph it talks about the stock price falling 34 percent.

And it also discusses the interest rate they are paying is hugely punitive.

So the information is generally about how the investment community perceived the terms to be worse than, more punitive than they had previously anticipated, and also it shows that the stock market reacted in line with those, that adverse reaction and the decline of about 34 percent on that one day.

Q. Let me ask you to look next at Plaintiffs' Trial Exhibit 246, which is also referenced on your demonstrative, and I would ask you what significance, if any, this document had to your analysis.

THE COURT: Mr. Boies, are you offering 1658?

MR. BOIES: I am, Your Honor, not for the truth of the matter asserted but simply to show market reaction.

THE COURT: All right.

MR. TODOR: No objection with that understanding, Your Honor.

THE COURT: All right. Plaintiffs' Trial Exhibit 1658 is admitted with the stated restriction.

(Plaintiffs' Exhibit Number 1658 was admitted into evidence.)

BY MR. BOIES:

Q. And would you turn now to Plaintiffs' Trial Exhibit 246.

A. Yes.

Q. And what significance, if any, did this document have to your analysis?

A. This is an analyst report from Morgan Stanley, one of the leading firms that produces analyst reports very routinely for a large number of firms, a large number of companies.

It also comments on the credit agreement, and it talks about a definitive agreement being signed. It mentions "terms of the offering are more punitive than we originally expected," with interest cost of 8.5 percent plus three-month LIBOR, an initial commitment fee of 2 percent, an 8.5 percent annual commitment fee on the undrawn amounts, and the issue of convertible preferred stock giving the Federal Reserve effective ownership of 79 percent of the company convertible into common stock.

So it is -- an important point that came out on that day was that prior to that, there was some discussion in the marketplace about the warrants being issued, whereas that changed to preferred stock being issued, and the terms -- some of the other terms were being more punitive, and overall impression of market participants as conveyed in this analyst report by Morgan Stanley is negative.

MR. BOIES: Your Honor, I would offer Plaintiffs' Trial Exhibit 246 not for the truth of the matter asserted but simply to show market reaction.

MR. TODOR: No objection with that understanding.

THE COURT: All right. Plaintiffs' Trial Exhibit 246 is admitted subject to the stated restriction.

(Plaintiffs' Exhibit Number 246 was admitted into evidence.)

BY MR. BOIES:

Q. Let me ask you to look next at Plaintiffs' Trial Exhibit 1654, which is another analyst report. And I don't want to spend a lot of time on it, but is this another example of the kind of document that you relied on for the purposes that you've just been describing?

A. Yes.

MR. BOIES: Your Honor, I would offer Plaintiffs' Trial Exhibit 1654 not for the truth of the matter asserted but simply for evidence of market reaction.

MR. TODOR: No objection with that understanding.

THE COURT: All right. Plaintiffs' Trial Exhibit 1654 is admitted with the stated restriction.

(Plaintiffs' Exhibit Number 1654 was admitted into evidence.)

BY MR. BOIES:

Q. And Professor, if you would turn last to Joint Exhibit 114 that is already in evidence.

Is this a document that you relied on in your analysis?

A. Yes.

Q. And in what way?
A. Once again, it corroborates my overall assessment that all the information had not reached market till 24th, and the market participants reacted to that information and the stock price also reacted, so this is part of that collection of information set.
Q. Now, let me ask you to go back to your Demonstratives 5205 and 5206. These are the demonstratives that show the value of the Series C preferred stock using the market valuation methodology, 5205 including equity units and 5206 excluding equity units. And you said that the stock price dropped on September 24.
Do you see that?
A. Yes, I do.
Q. And does this show you the magnitude of that drop?
A. Yes, it does.
Q. And on Plaintiffs' Trial Exhibit 5205, that drop is approximately $20 billion; is that correct?
A. That is correct.
Q. And it's about $18 billion on 5206 after you have excluded equity units?
A. That is correct.
Q. And what conclusions, if any, did you reach as to

the reasons for that drop?
A. My conclusion is that the terms were finally disclosed, and the market had an opportunity to understand what the final terms were, compare those against their expectations and process that surprise, if you will, and have that reflected in the stock price as the shares traded on that date, so that negative information is assimilated into the stock price of AIG as of the closing of September 24.
Q. Now I'd like to turn back to your own valuation.
And did you do your market-based methodology analysis using more than one valuation date?
A. Yes.
Q. And what valuation dates did you use?
A. September 22, 23 and 24.
Q. And why did you use those different dates?
Let's go one by one.
Why did you use September 22?
A. Because that is the date when the credit facility is effective.
Q. And why did you use the 23rd?
A. That is the date when the credit facility was executed or signed.
Q. And why did you use September 24?
A. That is the date when the market participants

learned all the details about the credit facility and had an opportunity to assimilate that information into the stock price of AIG.

Q. When you were talking about the Deloitte and KPMG and AIG analyses, you noted that I think it was Deloitte used the opening price and others used the closing price. Do you recall that?

A. I do.

Q. Which did you use?

A. I used the closing price.

Q. Why did you use the closing price?

A. There was discussion among the investment community as seen from the analyst reports and the news reports that I have described on 24th itself, and the stock market reacted to that information, so it was reasonable for me to draw the conclusion that by the time it is closing, the market had all the information available about the credit facility.

In addition, I might note that that is also a conservative amount, using the closing price.

Q. Why is that?

A. It is -- I have prepared a demonstrative.

Q. Which is that?

A. It is 5209.

Q. Would you turn to that.

A. Uh-huh.

Q. And can you explain what this demonstrative demonstrates.

A. In this chart, I report the traded share price of AIG on September 22, 23 and 24. I report what was the opening price, closing price, as well as intraday low and high share price of AIG on each of those three dates.

And I highlight the fact that $3.31, which was the closing price of AIG on September 24, which is I note as the one on which market had assimilated all the information about the credit facility, I note that that is also the lowest of all the prices, and in that sense it is a conservative amount for the value of the equity and voting interests acquired by the defendant.

Q. Is it the case that the only difference between your September 22 analysis and your September 23 analysis and your September 24 analysis is what closing price is used?

A. Yes.

Q. Everything else remains the same?

A. Yes.

Q. Now, have you prepared a demonstrative that shows what the difference in valuations would be depending on which of those three dates you used?

A. I have.
Q. And what exhibit is that?
A. That will be PTX 5210.
Q. And what does this show?
A. This shows the value of what defendant acquired using closing prices on those three dates, 22nd, 23rd and 24th.
On 22nd and 23rd closing prices, the value of the taking of the acquired shares would be 55 and 58 billion dollars, respectively, and on the 24th it would be $38.9 billion.
Q. And this is a value that includes the so-called equity units; is that correct?
A. That is correct.
Q. And did you prepare one that excluded the equity units?
A. Yes, I have.
Q. And what is that?
A. That is 5211.
Q. And can you just briefly summarize what this exhibit shows.
A. This chart parallels the chart I showed earlier, with the sole difference being that I have adjusted the value of the equity and voting interests acquired by defendant for the equity units, and so it's a roughly

9 percent smaller amount here, and they range from 50 billion, 53 billion to 35 billion on 24th, 35.4 billion.

Q. Now --

THE COURT: Mr. Boies, shall we take a morning break?

MR. BOIES: Yes, Your Honor. Thank you.

THE COURT: Let's come back at 11:15.

(Court in recess.)

THE COURT: Please go ahead.

MR. BOIES: Thank you, Your Honor.

BY MR. BOIES:

Q. Before the break, Professor Kothari, we were looking at your demonstrative exhibits, Plaintiffs' Trial Exhibits 5210 and 5211. And let me go through them just very briefly one by one.

Plaintiffs' Trial Exhibit 5210 shows a valuation based on market methodologies for three closing dates of the AIG stock; correct?

A. That is correct.

Q. And in each case what you're valuing is the value of the Series C preferred stock; is that correct?

A. That is correct.

Q. And for the closing on September 22, that closing price was $4.72; is that correct?

A. That is correct.
Q. And the valuation of the Series C preferred stock based on that closing price was what?
A. $55.4 billion.
Q. And then with respect to using a valuation price of $5.00 a share, which was the September 23, 2008 closing price, that comes up with a valuation of the Series C preferred stock of what?
A. Of $58.7 billion.
Q. And if you use the closing price on September 24, 2008, what do you come up with?
A. I come up with $38.9 billion.
Q. And then with respect to Plaintiffs' Trial Exhibit 5211, am I correct that what you have done is simply reduce those three valuations in each case by excluding an amount attributable to the equity units?
A. Yes.
Q. Now, would you turn to Plaintiffs' Trial Exhibit 5212 and explain what that is.
A. Yes.
Q. Before you do that, before you do that, go back to 5210 and 5211.
You said that you had selected from these three dates the September 24 date as the best date; correct?
A. That is correct.

Q. Why was that?
A. The main reason is that information about the credit facility, the terms of the credit facility and the form of equity interest taken by the defendant, all of that information became known and there was time for the investment community to assimilate that information, process that information, by the close of September 24, and that is the reason for using the close of September 24 as the most appropriate price.
In addition, it also happens to be a conservative number.
Q. And by "conservative" you mean a lower number.
A. Yes.
Q. If you had made a decision to use September 16 as the valuation date, would you want to look at prices beyond September 17?
A. Yes.
Q. Why?
A. Once again, September 16 was the initial time when there was some discussion about a credit facility, but the credit facility, that information reached the market after the close of 16th, so the earliest one could focus on the market having reacted to some of that initial discussion about the credit facility is the 17th.
But as I have discussed earlier, the process of

figuring out exactly what the terms are and assimilating those terms by way of processing the information and reflecting that into security prices, that process didn't come to a conclusion till September 24, and therefore, I would -- one could -- even if one were to value as of September 16, one would choose a date that is later than September 16 and, for reasons I have articulated, as late as September 24.

Q. Ordinarily, when you're doing an analysis of the effect of an event on stock market prices, what period of time do you look at?

A. Normally it is one day. Occasionally it is more than that. But really it is the economic substance that determines what period to focus on.

If the event is snapshot, single event, then all the information reached at that time then for a liquid, publicly traded stock, that same day's closing price would be enough. But if the information has dribbled out, it has trickled over a period of time, then a longer window is called for.

So the determination of the window is a function of the nature of the event rather than any mechanical rule that one has without attention to the nature of the event.

Q. To what extent is the use of a one-day window a function of an assumption that all of the relevant information has already been disclosed to the market prior to that one day?

A. Almost entirely that, unless there is reason to believe that the stock is so illiquid, not traded frequently, that it calls for a longer window.

That certainly wasn't the case in AIG. It was one of the most liquid, highly traded security at the time on New York Stock Exchange.

Q. So if you have a very highly liquid stock, what would be the reason that you would go for a period of longer than a day in terms of looking at the stock prices?

A. The event itself has evolved over time, so the market has learned about it in bits and pieces as opposed to market learning entirely on the day of the initial occurrence of the event.

Q. Thank you.

Now let me ask you to go to Plaintiffs' Trial Exhibit 5212.

A. Okay.

Q. And can you explain what this chart is intended to show.

A. So in this chart I have walked through the steps that I have taken to calculate the value of equity and voting interests taken from common shareholders.

Q. And can you walk through those steps.

A. Sure.

The first step, my goal is to ascertain what is the value of 100 percent of AIG's equity interests, so to do that I begin with the share price of AIG closing of 9-24, which is $3.31.

The number of shares outstanding and equivalents -- and the reason I use the word "equivalents" is because there were equity units and Series C preferred stock in addition to the common shares outstanding, and this -- in aggregate, this number was 14.691 billion.

The product of that with the share price gives me value of 100 percent of AIG's equity interests, which would be $48.626 billion.

Q. And then you apply 79.9 percent of that?

A. So of that 100 percent equity, the defendant took or acquired 79.9 percent equity and there -- equity and voting interests, and therefore, the value of that interest taken or acquired by defendant is $38.852 billion.

Q. And then you further adjust that number to exclude equity units; is that correct?

A. That is correct.

And that adjustment, the number of equity units was roughly 9 percent, so I apply -- 91 percent comes out of the common shareholders and which gives me the value of equity and voting interests taken from common shareholders to be $35.378 billion.

Q. Let me ask you to turn next to Plaintiffs' Trial Exhibit 5213.

A. Okay.

Q. Is this a demonstrative that you prepared?

A. Yes.

Q. And what is the significance, if any, of the information that's shown here?

A. The main takeaway from this slide is that the provision of liquidity enabled AIG to restore its market valuation back to the level before the onset of the liquidity crisis.

Q. And by "the liquidity crisis" you're talking about the crisis in the few days before September 16; is that correct?

A. That is correct.

Q. And can you explain how this chart shows that.

A. Okay.

So let me begin by first what the bars in the chart represent. The bars -- the blue and green portion represent the value of common shareholding and common shares and equity units. The green bar is for the equity units.

The value of AIG until about September 11, it declined to some extent, but it was 50 to 60 billion dollars, and that is -- that is the time period before the onset of liquidity crisis. September 11, after Fannie Mae and Freddie Mac being put under conservatorship, in the overall marketplace, liquidity -- credit markets started to freeze and liquidity became an issue. In particular, it was a severe issue for AIG.

And what you observe is that September 12, 15, 16, market capitalization of AIG dropped precipitously because it was suffering from liquidity crisis. And this is entirely as expected by economic theory. Economic theory suggests that a firm that is facing liquidity crisis, it will have its stock market valuation to go down.

And then after September 16, when the market capitalization of AIG including the equity units was just about $10 billion, then the provision of liquidity started to -- that discussion started to take place. And as I have explained before, that process concluded by September 24, and you can see that the provision of liquidity enabled AIG to restore its market capitalization back to the level that existed prior to the onset of liquidity crisis.

And -- but what happened is that 80 percent of that market value, that restored market capitalization, was taken by the defendant.

Q. And just to orient us in terms of timing, September 12 was the last business day before Lehman went bankrupt; is that correct?

A. That is correct. Lehman went bankrupt on September 15 I believe, so yes.

Q. And it went bankrupt the very early morning of September 15; correct?

A. Yes.

Q. And so the September 15 number is the day after Lehman went bankrupt.

A. Yes.

Q. Or the day that they did --

A. Yes.

Q. -- go bankrupt I guess in the morning. Is that correct?

A. Yes.

Q. Now, did you prepare a chart that has this same information but excluding the equity units?

A. I do.

Q. What chart is that?

A. That is 5214.

Q. Can you explain how you get from the numbers on 5213 to the numbers on 5214.

A. So the only adjustment as I did earlier for equity units, excluding equity units, the same adjustment is made in this chart, so it has a blue portion of the bars representing value of common shareholders and then blue and red after 9-24, which is representing 80 percent equity and voting interests acquired by the federal -- by the defendant.

Q. Going back to Plaintiffs' Trial Exhibit 5213, what has happened to the green portion and the green and red portion as shown on the bar charts on Plaintiffs' Trial Exhibit 5213?

A. 79.9 percent equity interest that was taken, that was taken from both common shares outstanding prior to the taking as well as on the equity unit.

So the green and red striped portion of the bars from 9-24 onwards represent the acquisition of equity and voting interests from equity interests from the equity unit holder, and the sliver of green portion that remains is that is what is left of the ownership of equity unit holders after 9-24.

Q. And turning to Plaintiffs' Trial Exhibit 5214 and particularly the bar that represents September 24, 2008, what is AIG's total market value as you calculate it pursuant to the market methodology?

A. It's about $9 billion.

I'm sorry. The total market value of AIG using is $44.3 billion.

Q. And then the red line representing what the government has acquired is approximately 80 percent of that or 79.9 percent of that; is that correct?

A. That is correct.

Q. Now, did you prepare a demonstrative that addresses the issue that you spoke about a moment ago, which is comparing AIG's market value after liquidity was restored to what it was before liquidity was in as much of a crisis as it was the day before and the day after the Lehman bankruptcy?

A. Yes.

Q. And what chart is that?

A. That is 5215.

Q. And would you explain what Plaintiffs' Trial Exhibit 5215 shows.

A. So this chart shows on two particular dates -- one is September 11, which is before the onset of liquidity crisis, and on the right is after the restoration of market value with the provision of liquidity.

The chart on the left has two ownership interests. One represented by the blue portion of that bar is AIG's common shareholders. And the green portion is represented by the equity unit holders.

So AIG's shareholders had market capitalization of $47.2 billion, and the equity unit holders, their valuation was about $4.6 billion on September 11 for an aggregate market capitalization of $51.8 billion.

Q. And then on September 24?

A. So while AIG went through this wild ride of losing a huge amount of its market capitalization after September 11 because it was facing liquidity crisis, provision of liquidity brought its valuation back to the pre-liquidity crisis levels.

As we can see, the total market valuation of AIG using the market-based approach is $48.626 billion on September 24, but now it has four different shaded bars here.

And the ownership of common shareholders declined from $47.1 billion to only about $8.9 billion afterward. The equity unit holders, theirs was $0.874 billion. And the rest of it, which is 38.852 represented by that bracket there, that 38.852 is the value of equity and voting interests acquired by the defendant.

Q. In your analysis, did you become aware of the extent to which, if any, the market price of AIG's stock on September 11, 2008 was itself a lower price than had prevailed earlier in the year?

A. It -- September 11 price, yeah, it had because of market movements over time. By the time September 11 came, it had gone down some but not hugely so. I mean, over a longer period if you look at it, it had declined. It had declined somewhat from August to September.

Q. And if you look at Plaintiffs' Exhibit 5214 and 5213, does that show the extent of the decline from August?

A. Yes. From August onwards it charts the -- from August 1 onwards, the market value of AIG, which was about 80 billion, 70 to 80 billion dollars. It had gone down to a little over $50 billion by September 11.

Q. Is that a little bit -- it's a little bit more including the equity units; is that right?

You're looking at Plaintiffs' Trial Exhibit 5213?

A. Yes.

So on 9-11 it was a little over $50 billion, $52-53 billion.

Q. And that is down from approximately $80 billion in early August; is that correct?

A. Yes.

Q. And what does Plaintiffs' Trial Exhibit 5216 show?

A. This exhibit is similar to the previous one, Plaintiffs' 5215 I believe, except that I do not have equity units included in the exhibit we are currently looking at.

So on September 11, all of the common shares outstanding were -- I mean, the shareholders owned a hundred percent of AIG if I exclude the equity units, and they had valuation of about $47.2 billion.

While the valuation declined, it rebounded, it returned to its pre-liquidity crisis levels as of September 24 with the provision of liquidity, and as we can see, the valuation is $44.27 billion, except that the red portion of that chart is the value of equity and voting interests acquired by the defendant.

Q. Let me ask you to look next at Plaintiffs' Trial Exhibit 5217.

A. Okay.

Q. And is this something that you prepared to illustrate your testimony?

A. Yes.

Q. And can you explain what the purpose of this chart is.

A. This is to highlight what happened before -- just, you know, before the start of that liquidity provision which was on 16th, ten days before that and ten days after that, including the intervening period when some --

that information about liquidity provision reached the market.

So 9-16, and as you can see, the valuation of AIG, which was a little about $60 billion on September 3, until about September 11 it had dropped some to a little over 50 billion, but then there's a steep decline in its market valuation, which is, as economic theory would suggest, a consequence of liquidity needs being acute for AIG.

And then on 9-24, when liquidity was provided, the market valuation has bounced back to the pre-liquidity crisis levels and it remains -- you know, there are some little bit ups and downs here, but it stays in the 45 to 55 billion dollar range over the next ten trading days.

The big difference of course is that the 80 percent of that restored valuation accrues to the defendant.

Q. And then you have a chart that shows the same information but excluding equity units; is that correct?

A. That is correct.

Q. And that is Plaintiffs' Trial Exhibit 5218; is that correct?

A. That is correct.

Q. Did you make any effort to determine the extent to which the market was expecting AIG to return or not to return to pre-acute crisis levels if liquidity was restored?

A. I have conducted an analysis, yes.

Q. What was that analysis?

A. Well, there is some corroborative analysis I have performed looking at what the analysts were saying at that time about their target prices.

Q. And when you say about that time, what is the time that you're talking about?

A. September 17 onwards till the end of that month.

Q. And what was the purpose of looking at this?

A. The purpose was to see whether or not analysts were offering some corroborative evidence to what I've been saying here, which is that the valuation of AIG after the provision of liquidity has returned to its pre-liquidity crisis levels and then is that just a fluke for those couple days or is that the assessment of market participants at the time.

Q. Were the analysts' reports that you looked at analyst reports that were published after it was known that the government was going to acquire 79.9 percent of the equity?

A. I have looked at all the period September 17 to 29, so many of them had complete information about the government acquiring 80 percent equity interest.

Q. And did you prepare a demonstrative that relates to this analysis?
A. Yes.
Q. What plaintiffs' trial exhibit is that?
A. That is 5219.
Q. And can you explain what this shows.
A. This chart summarizes the target prices that were included in analyst reports, analyst reports that were issued from September 17 to 29.
Q. And what analysts did you look at?
A. There were a number of analysts. This was a period that was -- that can be -- that is characterized by a tremendous amount of information about AIG, significant events taking place, so a large number of analysts reported, provided reports, and they included analysts from Credit Suisse, Wachovia, Citibank, UBS, et cetera, so very prominent firms.
Q. Which number -- which analysts did you identify?
A. I said Credit Suisse, Wachovia, Citibank, UBS, so a number of them are -- analysts are included in this.
Q. What analysts other than Credit Suisse, Wachovia, Citibank and UBS?
A. Societe Generale, FBR Capital Markets, Morgan Stanley, Bernstein Research, and KBW or Keefe, Bruyette & Woods.

Q. And what did you find in terms of the target prices of these analysts?

A. First let me explain what target prices are, if that might help.

Q. Yes.

A. Target prices are analyst estimates of what the firm's price would be, stock price would be, approximately within a twelve-month time frame from the date of issue of the analyst report, so target prices give what does the market or market participants perceive the valuation of the firm would be.

And what I find is that there the average, the mean, is $4.52, which is about 45 percent over the 9-24 closing price that I have used, $3.31, and median is $4.50.

So this is -- this is consistent with -- this is a future price, so naturally it is expected that it would be higher to the extent that market participants thought that provision of liquidity has restored the firm to a state whereby it can perform reasonably.

Q. Using these target prices, what would be the value of the 79.9 percent of AIG's equity acquired by defendant?

A. The mean would be $53.1 billion. Median would be almost the same, $52.8 billion, but there is a fair bit

of range from $29 billion to $76 billion.
Q. And if you then translate that as you have in other instances into how much was lost just by the common shareholders, excluding the equity unit holders, what would those amounts be?
A. Those amounts will drop by about 10 percent, so their mean is $48.3 billion, median is $48 billion, and the range is 26 to 69 billion dollars.
Q. In doing your analysis, did you adjust either for a control premium or a liquidity discount?
A. No, I did not.
Q. Would you explain for the record what a control premium is.
A. I prepared a demonstrative that might help.
Q. What is that?
A. It is 5220.
Q. And can you explain in the context of this demonstrative what a control premium is.
A. Control premium is the additional amount a buyer would pay above the minority equity interest in order to obtain control of a company.
So when someone seeks to acquire another firm, they pay 10, 20, 30 percent more than the prevailing share price, and that is part of the control premium.
Q. And are there academic studies that you're

familiar with that document the fact that buyers typically pay a control premium to buy large amounts of stock or a controlling interest?

A. This is an extensively researched topic in corporate finance and in financial economics, and academics studies offer compelling evidence that there is a significant control premium.

Q. Why, as a matter of theory and academic studies, do buyers typically pay a control premium for a controlling interest?

A. They pay it because by virtue of control then you are able to make decisions for the company. You have control of the management, and you are able to make operating and financing decisions, personnel decisions, all decisions of the company, and that is perceived to be valuable by acquirers, and they are willing to pay that premium to those from whom they're seeking the control.

Q. Now, you also have referenced on this chart the term "liquidity discount."

Do you see that?

A. I do.

Q. And what is a liquidity discount?

A. Liquidity discount is the inability to sell an asset at the time the owner wants, immediately, without selling it at a discount.

Q. Now, without addressing the issue as to whether or not a liquidity discount would be appropriate here, if both a control premium and a liquidity discount were applied to assess the valuation of the 79.9 percent equity and voting interests acquired by defendant, what would the net effect be, if you can say?

A. Scientific evidence in the literature demonstrates that control premium is larger than liquidity discount. In fact, it is -- it swamps liquidity discount. And as a result, if I were to make an adjustment for both, then the net effect would still be that that control premium would be larger than liquidity discount.

Q. Now, you discussed earlier and we discussed valuations conducted by defendant, AIG, Deloitte and KPMG. Do you recall that?

A. I do.

Q. Did any of the valuations done by AIG or Deloitte and KPMG adjust for a control premium or a liquidity discount?

A. No, they did not.

Q. Let me direct your attention to the subject of the stock split class.

A. Okay.

Q. And first, what were you valuing with respect to the stock split class?
A. I was valuing the right to prevent economic dilution that resulted through an increase in authorized shares.
Q. And did you prepare a demonstrative that summarizes your opinion concerning the value of the stock split class claim?
A. I have.
Q. And what is that?
A. Exhibit Number 5221.
Q. And can you explain what this represents.
A. In this I summarize my opinion with regards to the value of stock split class claim.
Q. And how do you value that stock split class claim?
A. The reverse stock split enabled defendant to take shareholders' right to block that dilution of their common shares. I value that right to block dilution of common shares.
Q. And do you do it differently for Series C stock on the one hand and Series E and F on the other?
A. I do.
Q. And why is that?
A. The economic source of value taken from the stock

split that -- with respect to Series C and Series E and F, those economic sources of dilution are different, and that's why I apply different methodologies to value the right that was taken away from common shareholders to block that dilution as a result of Series C vis-à-vis Series E and F.

Q. And what do you calculate is the value of the Series C liquidity to be?

A. That is $339 million.

Q. And what do you calculate the value of what you refer to here as the Series E and F exchange to be?

A. That is $4.329 billion.

Q. And is the value of the exchange a value in addition to a liquidity value?

A. Yes, it is.

Q. Why is that?

A. The two are separate and additive, and therefore, the two add up to a total claim of $4.668 billion.

Q. Now, have you made an adjustment here for the so-called equity unit holders?

A. Yes, I have.

Q. Before continuing with your analysis, let me show you a document that was originally marked as Plaintiffs' Trial Exhibit 5605 and was prepared by Professor Zingales that is here repeated as

Plaintiffs' Trial Exhibit 5222.

Do you see that?

A. Yes, I do.

Q. And I'm told that I said 5605 when it may have originally come as 5065.

But in any event, this is a chart that was prepared by Professor Zingales; correct?

A. And this is a chart that was prepared by Charles River Associates, and they support both Dr. Zingales and me, and so they must have prepared it for Dr. Zingales, but they also prepared it for me.

Q. I see.

MR. TODOR: Your Honor, I apologize. I can't find 5065 in my binder.

THE COURT: That's because it's now 5222 I believe?

MR. BOIES: Yes.

MR. TODOR: I can't find that one either.

MS. RUTHERFORD: It's in your slide binder.

MR. TODOR: In the slide binder?

Thank you.

BY MR. BOIES:

Q. What does this exhibit show?

A. This exhibit summarizes the effect of reverse stock split on the percentage of outstanding shares before and after the stock split.

Q. And can you explain that in a little more detail.

A. Okay. There were five billion authorized shares before the stock split. Three billion of those, approximately three billion, were issued and outstanding, and those are represented by the blue bar.

So there were two billion shares that were authorized but not issued. The reverse stock split was applied only to the shares that were issued and outstanding, so it was applied to that 60 percent portion.

They were reduced from approximately 3 billion to 150 million shares, which is shown as the blue bar, the short blue bar on the right-hand side.

Their percentage out of the five billion authorized shares was reduced from 60 percent to 3 percent.

The number of authorized and unissued shares increased from 2 billion to 4.85 billion. But more importantly, as a relative percentage, the number of authorized and outstanding shares, that shrank dramatically from 60 percent to 3 percent, leaving a lot of room for issuing new shares.

Q. In the absence of a reverse stock split that applied only to issued shares but not authorized shares, would there have been enough existing authorized shares to do the exchange of preferred stock for common stock?

A. No.

Q. Have you prepared a demonstrative that demonstrates how you calculate the value of what was taken with respect to the Series C preferred stock liquidity?

A. Yes, I have.

Q. And what is that?

A. That is Exhibit 5223.

Q. And can you explain what this shows.

A. On this exhibit I value the right that was taken away from common shareholders to prevent dilution by exchanging Series C preferred into common shares.

Q. And can you explain each step in that analysis.

A. Series C preferred, that was near economic equivalent of common stock. It had voting rights. It had same dividend rights.

So using the share price of AIG's publicly traded stock on the date when the reverse stock split took place -- that is the date when I'm calculating the taking claim -- on that date, the share price was $1.16, and the number of shares that preferred -- Series C preferred had, that was 11.68 billion.

So the total value, using AIG's share price, of defendant's Series C preferred interest is $13.549 billion.

Q. And then what do you do?

A. Okay.

So what this exchange did was, that Series C which was less liquid because it was a large block of not publicly traded preferred shares, they were -- the defendant was able to exchange those less liquid, nontraded shares into AIG's common shares which were liquid, publicly listed on New York Stock Exchange and therefore more valuable shares.

So that difference between the valuation of less liquid and more liquid common shares, that difference is 5 percent, which is the liquidity discount I apply to that aggregate valuation of $13.549 billion. That is the amount of benefit received by the defendant by exchanging less liquid preferred shares for highly liquid common shares of AIG. And that amount is $677 million.

Q. Let me see if I understand your analysis so far.

If the defendant's Series C preferred stock had already been converted into common stock, that common stock would have been worth, using this market price, 13,549,000,000; is that right?

A. Yes.

Q. And what you're saying is that the Series C preferred stock was not as liquid as the common stock.

A. That is correct.

Q. And you have attributed a liquidity discount of 5 percent; is that correct?

A. That is correct.

Q. Now, how does a 5 percent liquidity discount comport with what is found in the academic literature and in empirical studies?

A. So that 5 percent, it's a conservative estimate, and let me explain why.

First of all, there's extensive literature on liquidity discount. Okay. Liquidity discount comes from how long you have a restriction on trading and how risky is the stock. Okay.

So there are studies that have looked at -- there used to be restrictions of two years and then the restrictions up to a year and then restriction of six months, so there are studies examining for these different periods, and the range of discount that is reported in these studies is 5 to 25 percent. Okay. Generally it is 10 to 25, but some occasionally it is also at the low end of 5 percent.

Then I conducted my own analysis. In my own analysis I analyzed stocks with restrictions and the liquidity discount, and that also produced results that were similar, and those are reported in my report.

And then I also looked at what Duff & Phelps had estimated the discount.

So based on all of this analysis, I choose 5 percent, which is applicable to a six-month restriction. It's a conservative estimate. It is a at the low end of the distribution of liquidity discounts that have been discussed in the literature, and that's -- that's my choice there.

Q. Now, you referred to a Duff & Phelps study or analysis. Do you recall that?

A. Yes.

Q. Let me ask you to look at Plaintiffs' Trial Exhibit 422.

And I would ask you whether that's what you're referring to.

A. Yes.

Q. And can you explain what this document is.

A. Duff & Phelps were hired by the Congressional Oversight Panel to conduct a valuation report for -- I believe it was for the TARP funding, various TARP funding. And it was in that context that they conducted the valuation for American International Group as well.

Q. Now, this is labeled Valuation Report, Congressional Oversight Panel.

Do you have an understanding of what that refers to?

A. I have a general understanding. This is U.S. government basically.

MR. BOIES: Your Honor, I would offer Plaintiffs' Trial Exhibit 422.

MR. TODOR: No objection for the purposes of illustrating a basis for the witness' opinion.

THE COURT: All right. Plaintiffs' Trial Exhibit 422 is admitted for that purpose.

(Plaintiffs' Exhibit Number 422 was admitted into evidence.)

BY MR. BOIES:

Q. Now, you have then reduced the $677 million benefit that you say defendant achieved from being able to exchange Series C preferred stock for common stock by 50 percent; correct?

A. That's correct.

Q. Why did you do that?

A. Here is a situation where the defendant benefited to the extent of $677 million by exchanging less liquid preferred shares into more liquid, more valuable common shares.

Common shareholders had the right to deny that exchange by refusing to increase the number of authorized shares. As I've said, the reverse stock split took that right away.

Now, if the government were to have acknowledged that right of the shareholders to block that, then it would have been a situation where the government could have paid an inducement to common shareholders to allow an increase in authorized shares so that Series C preferred can be converted into or exchanged for common.

So the defendants took the benefit, some amount. Common shareholders had the right to deny that benefit. Economic theory suggests that under these circumstances, the benefit would be split in the middle. And that's the bargaining outcome, 50 percent to -- and that gives me value of Series C preferred stock, what I call liquidity, to be $339 million.

Q. Now, let me turn to the Series E and F preferred stock.

Did you do a similar analysis for the Series E and F preferred stock?

A. I did.

Q. And were there differences between the E and F stock on the one hand and the Series C preferred stock on the other?

A. Yes.

Q. And can you explain what some of the significant economic differences were.

A. Series E and F, the defendant exchanged less valued Series E and F stock, the fair value -- less fair value E and F stock into more valuable AIG common shares at the liquidation preference value of Series E and F stock. This resulted in economic dilution, and I valued that economic dilution.

Q. The Series C stock was convertible preferred stock; correct?

A. That is correct.

Q. Was the same thing true of the Series E and F?

A. No, it wasn't.

Q. Does that affect the value of the stock?

A. That certainly has some valuation implication. Yes.

Q. Let me go to Plaintiffs' Trial Exhibit 5224.

A. Okay.

Q. And is this a chart that you had prepared?

A. Yes.

Q. And for what reason?

A. It's to show the source of economic dilution from the exchange of Series E and F preferred into common shares arose because the fair value of Series E and F preferred shares was about 23.5 billion less than the liquidation preference value of those shares.

Q. Now, when you say "liquidation preference," what would have to happen in order for the government to receive the value of these shares pursuant to the liquidation preference?

A. They would have to be redeemed at liquidation preference value into common shares.

Q. Did the government have the right to redeem them for the liquidation preference at any time?

A. No. And this is called what is puttable, and the answer is no, they were not puttable.

Q. And does that have economic significance?

A. Yes.

Q. In what way?

A. If it is puttable, then regardless of what the fair value is, you would be able to get the liquidation preference amount. If it is not puttable, then in an arm's length transaction you will only receive fair value.

Q. Now, when you talk about fair value, where does your analysis of fair value come from?

A. It comes from the valuation conducted by Duff & Phelps for the government, the Congressional Oversight Panel.

Q. And is that the -- is that the document -- the same document, Plaintiffs' Trial Exhibit 422, we looked at earlier?

A. Yes.

Q. Let me ask you to look at Plaintiffs' Trial Exhibit 622.

A. Okay.

Q. And I would ask you as an initial matter, is this a document that you have relied on in your analysis?

A. I'm not quite there yet.

Q. Okay.

A. Okay. Yes, I'm there.

Q. And what was the significance, if any, of this document to your analysis?

A. This document is by the U.S. government itself and Department of the Treasury. And they valued the preferred stocks of AIG, and that is on page 9 of that report or page 19 at the bottom. "PTX 622 Page 19 of 114" it says.

And the box there says AIG Investment Program and Estimated Value of Investment as of September 30, 2010 and September 30, 2009, and those values are compared against the liquidation preference valuations.

So there, on September 30, 2009, the fair value -- estimated value is 13.2 billion. The outstanding balance, which is the liquidation preference, would be

$43.2 billion.

Q. Let me see if I understand what you're saying.

You are referring to a table, table 4 in this document; is that correct?

A. That is correct.

Q. And this is a table that deals with TARP; correct?

A. That is correct.

Q. Does this table deal at all with the Series C preferred stock?

A. I don't believe so. No.

Q. Now, with respect to the TARP stock, and what is the relationship to TARP and Series E and F?

A. TARP funding of $40 billion was made available, and that was in exchange -- Series D preferred stock was issued by AIG. And Series D preferred stock was subsequently exchanged into Series E preferred stock.

Series F is a separate facility that came about I believe in April of 2009, in 2009, and that had similar economic characteristics as Series E, but that was -- on the date of reverse stock split it was $1.15 billion liquidation preference value.

Q. And you talked about how Series E was not puttable; that is, there was no right to exchange the stock into common stock.

What was the situation with respect to Series F?
A. It was the same situation.
MR. BOIES: Your Honor, I would offer Plaintiffs' Trial Exhibit 622.
MR. TODOR: No objection, Your Honor.
THE COURT: Plaintiffs' Trial Exhibit 622 is admitted.
(Plaintiffs' Exhibit Number 622 was admitted into evidence.)
BY MR. BOIES:
Q. Now, with respect to the estimated value of the TARP AIG preferred stock as shown on Plaintiffs' Trial Exhibit 622 page 19?
A. Yes.
Q. Am I correct that there are estimated values as of two different dates?
A. Yes.
Q. And the date that you have taken is which date?
A. Neither one of these.
Q. Which date did you take?
A. I used the valuation by Duff & Phelps and which was done I believe in November 2008, and it was for Series D preferred stock.
Q. And let me ask you to turn to Plaintiffs' Trial Exhibit 422 and ask you where in this exhibit that fair

value estimate comes from.

A. We have to look at two numbers here. One is on -- let us start with the valuation summary that appears on page 22 of 149 it says at the bottom.

And in that valuation summary, focus on the row that says "American International Group." And there, the last two low and high numbers, those are 36 percent and 38 percent.

So those numbers -- that was the value of the security as a percentage of the face value as determined by Duff & Phelps.

So if the security had a face value of a million dollars, liquidation preference value of a million dollars, then they estimated that to be 36 to 38 percent, so 360 to 380 thousand dollars.

So that is the first set of numbers that I want to focus.

The second set of numbers comes from page 21 of 149, the previous page. And there, the last paragraph, it says "we applied a discount due to reduced marketability for the TARP Preferred Stocks and TARP Warrants."

So they applied a discount of 5 to 10 percent, as is stated there.

So my valuation ignored this discount, okay, so I have to increase that 36 to 38 percent valuation to 38 to 40 -- 39 to 42 percent. Okay. And I used the high end of that distribution, 42 percent, as the fair value of Series E and F preferred stock, that 42 percent of the liquidation preference value of the Series E and F preferred stock.

Q. And if instead of using a range of 39 to 42 percent you use a range of 36 percent to 38 percent, what would the effect on the estimated fair value of the Series E and F preferred stock have been?

A. The estimated fair value would have been lower if I had used 36 to 38 instead of 39 to 42.

Q. And that would have resulted in what effect on your valuation of what was taken?

A. It would have produced a larger amount of taking.

Q. Now, how does the number that you have arrived at for fair value -- and am I correct that the fair value that you've come up with for the E and F is about 17.6 billion?

A. Yes, it is.

Q. And that's shown on your PTX 5224? Is that correct?

A. Yes, it is.

Q. Now, how does that estimate of fair value for E and F, derived as you have done it from the

Duff & Phelps work, compare to what the Department of Treasury did in Plaintiffs' Trial Exhibit 622?

A. First, I want to note that Duff & Phelps performed that fair valuation of Series D. Series D preferred was similar to Series E, except Series D was cumulative preferred dividend pays. Series E was noncumulative preferred dividend paying and therefore less valuable than Series D.

I have used valuation of Series D as applicable to Series E and F even though Series E and F are less valuable securities.

Q. And if you had made an adjustment for the Series E and F to take into account that they were not cumulative whereas the Series D that Duff & Phelps is looking at was cumulative, what would that affect or how would that have affected your valuation of what was taken from the AIG shareholders?

A. If I had made that adjustment, then I would have produced a claims number that is even greater.

Q. Now, let me ask you to go to Plaintiffs' Trial Exhibit 622, the Treasury report.

A. Okay.

Q. And how does the estimate of the fair value of the TARP Series E and F preferred stock by the Treasury in Plaintiffs' Trial Exhibit 622 compare to what you have estimated based on the Duff & Phelps analysis?

A. As you can see, they have reported these in dollar amount. They haven't reported in percentage, so -- so let us look at the number on September 30, 2009. The fair value -- the estimated value is $13.2 billion, whereas the outstanding balance there is $43 billion.

So that fair value is roughly 26 percent of the total -- the liquidation preference, that $13 billion as a fraction of $43 billion, so that is lower than the estimate that I have used, which is $42 billion.

Q. When you say "$42 billion," what do you mean?

A. I mean 42 percent. I'm sorry.

Whereas, the September 30, 2010, that valuation is $26 billion fair value, and the outstanding balance there is $47.6 billion, so that percentage is -- fortunately, there's a calculator here, which I hope I can use.

(Pause in the proceedings.)

So that is about I think 53 percent, 53-54 percent.

So -- so that is slightly higher than the valuation, so my valuation that I use falls somewhere in between.

Q. Your valuation is of June -- as of June 30, 2009; correct?

A. That is correct.
Q. And the valuation as of September 30, 2009 from the Treasury was 13.2 billion; is that correct?
A. That is correct.
Q. And that is the Treasury's estimate of the fair value of what preferred stock as of September 30, 2009?
A. That is correct.
Q. No. Of what stock? Which stock?
A. That is Series E and F.
Q. E and F.
A. Yeah.
Q. Okay. So in this Department of Treasury report, which says it's for the fiscal year 2010, it estimates that the fair value for the E and F stock as of September 30 was 13.2 billion.
A. Oh.
Q. Is that correct?
A. September 30, 2009, it is $13.2 billion.
Q. Yes.
And for June 30, 2009, you estimated the fair value of the Series E and F preferred stock as what?
A. $17.6 billion.
Q. And that's a difference of $4.2 billion; correct?
A. Yes.
Q. Now, if you'd used the Treasury number instead of

the number that you estimated, how would that have affected your valuation of what was taken from the AIG shareholders?

A. It would have implied that there was greater dilution suffered by common shareholders, and therefore, the value of the claims would have been still higher.

Q. Now, have you done a chart that was comparable to your chart 5223 that you did for the Series C preferred stock to show how you calculated your damages for the Series E and F preferred stock?

A. Yes, I have.

Q. And what is that?

A. That is 5225.

Q. And can you explain what 5225, the demonstrative exhibit that has been marked as Plaintiffs' Trial Exhibit 5225, represents.

A. It represents the amount of dilution that was suffered by common shareholders as a result of exchanging Series E and F preferred stock for more valuable common shares.

Q. And you begin with what you refer to as the liquidation preference in excess of fair value.

Do you see that?

A. I do.

Q. And how did you arrive at that number?

A. This is best seen from the chart on the previous, that is, Exhibit 5224, so if I may use that chart?

Q. Yes.

A. So in this chart, the liquidation preference value of Series E and F preferred stock was $41.15 billion.

Applying fair value to the 42.6 percent or 42 percent, I get the blue and yellow portions of that bar to give $17.6 billion of fair value.

The red portion of the bar is how much the liquidation fair -- excuse me -- liquidation preference value was in excess of the fair value, and that is $23.547 billion, and that is the amount of dilution suffered by -- suffered as a result of the exchange of Series E and F preferred into common.

Q. First, do I understand your testimony that the liquidation preference of the Series E stock was $40 billion?

A. Yes.

Q. And what is the liquidation preference of the Series F stock?

A. $1.15 billion.

Q. So the total liquidation preferences for the Series E and F stock combined is what?

A. $41.15 billion.

Q. And you estimate that the fair value of the Series E stock was what?
A. $17.111 billion.
Q. And what do you estimate the fair value of the Series F stock to be?
A. $492 million.
Q. And both of those fair value estimates are made pursuant to what we just discussed; correct?
A. That is correct.
Q. And am I correct that you take those two estimated fair values or the sum of that and you subtract it from the liquidation preference amount of $41,150,000,000 to arrive at what you refer to as the liquidation preference in excess of fair value?
A. That is correct.
Q. And that is the number that appears on Plaintiffs' Trial Exhibit 5225?
A. That is correct.
Q. Now, you then have a line that says "Adjustment for Dilution by Defendant's Series C Preferred Equity Interest."
Do you see that?
A. I do.
Q. And can you explain what that means.
A. The dilution is $23.5 billion, but the defendant

already owned 80 percent of equity, so -- almost 80 percent, so the share of the remaining shareholders is only 20 percent, and that's -- that's why I multiply it by 20 percent, and I obtained value taken by defendant to be $4.75 billion.

And then I make the same adjustment that I have done before for equity unit, and I get value of Series E and F preferred stock exchange to be 4. -- $4,329,000,000.

Q. Let me see if I understand what you're saying.

Are you understanding that if you just looked at Series E and F preferred stock, the liquidation preference in excess of fair value would be the 23,547,000,000?

A. Yes.

Q. But you reduce that by 79.8 percent -- and at some other time we'll figure out why it's 79.8 as opposed to 79.9, but you reduce it by 79.8 percent because the government already owned that percentage?

A. Yes.

Q. Is that right?

A. Yes. That is exactly right.

Q. And then you come up with 4.754 billion.

A. Yes.

Q. And then you take 91.1 percent of that to take out

the equity holders; is that correct?
A. Equity unit holders. Yes.
Q. Do you know whether the equity unit holders as of June 30, 2009 had a vote?
A. They were not voting as of that date.
Q. Is reducing this by 8.9 percent a conservative step?
A. Yes.
Q. And why is that?
A. Because the -- what I'm measuring is the value of the common shareholders' vote or right to deny an increase in authorized shares.
Equity unit holders did not have a voting right at that time as common shareholders, so therefore, to the extent that the voting right is being valued, I'm including those equity unit holders in spite of the fact that they didn't have the voting right.
Q. Now, as part of your analysis, were you aware of consideration, at the time of the exchange for Series E and F preferred stock, as to whether they should have the same valuation as the Series C stock?
A. Well, Series E and F, they were not economic equivalents of Series C preferred.
Q. Why is that?
A. Series C was convertible, Series C had voting

rights, Series C had same dividend rights; whereas, Series E and F, they were noncumulative, dividend preferred, they didn't have voting rights, and they were not convertible, so these are apples and oranges.

Q. Let me ask you to look at Plaintiffs' Trial Exhibit 2840.

THE COURT: Should we take a lunch break before we do that?

MR. BOIES: Yes, Your Honor.

THE COURT: All right. We'll come back at 1:45.

(Whereupon, at 12:45 p.m., a lunch recess was taken.)

A F T E R N O O N   S E S S I O N

(1:45 p.m.)

THE COURT: You may go ahead.

MR. BOIES: Thank you, Your Honor.

BY MR. BOIES:

Q. Just before the luncheon break, Professor, I had directed your attention to Plaintiffs' Trial Exhibit 2840. Do you recall that?

A. It's -- did you say 2840?

Q. 2-8-4-0.

A. Uh-huh. Okay.

Q. Is this a document that you relied on in terms of your analysis and investigation?

A. Yes.

Q. What significance, if any, did this document have to your work?

A. It shows that there is concern about the conversion of Series E and F preferred stock into common and whether that conversion would be at fair value or not.

Q. As background, what is your understanding of what this document represents?

A. Well, this is a fairness opinion; right? That's what I think this document is about.

Q. This is in fact a draft; is that correct?

A. Yes, it is a draft.
Q. And what is the date of it?
A. It's September -- there are two documents -- no. There is one. That is September 28 -- September 28, 2010.
Q. And let me direct your attention to page 35 of this exhibit at the bottom of the page.
A. Yes.
Q. And does that relate to what you were talking about?
A. It does.
Q. In what way?
A. There's a last bullet point on that page in the -- with reference to Series C, and the last bullet reads, "Status must be clarified before a recapitalization plan may begin." And then it talks about presents a significant overhang potentially restraining AIG common stock price appreciation, and the reason for that is tension concerning value. United States Treasury would prefer a high Series C conversion price of common stock and a low TARP conversion price of common stock.
MR. BOIES: Your Honor, I would offer Plaintiffs' Trial Exhibit 2840.
MR. TODOR: Your Honor, we have no objection insofar as it is admitted for the purposes of

illustrating a basis for the expert's opinion. However, as the document was marked "draft" and was not on plaintiffs' exhibit list, we'd object to it being admitted for purposes beyond that.

MR. BOIES: I'll limit my offer for the time being to that. I think we will come back to this document with other witnesses, but for my present purposes, this is sufficient.

THE COURT: All right. Plaintiffs' Trial Exhibit 2840 is admitted with the stated restriction.

(Plaintiffs' Exhibit Number 2840 was admitted into evidence.)

BY MR. BOIES:

Q. And as counsel properly said, this was a draft, and let me ask you to look at Plaintiffs' Trial Exhibit 2248.

A. Okay.

Q. And is this the final version of that document, dated September 29, 2010?

A. Yes. That's my understanding.

Q. And was this also a document that you relied on in terms of your analysis?

A. Yes.

MR. BOIES: Your Honor, I would offer Plaintiffs' Trial Exhibit 2248.

MR. TODOR: No objection for the purpose of illustrating a basis for the witness' opinion.

MR. BOIES: And I think this, since it is a final document, stands a little bit different, but we can deal with that later.

THE COURT: All right.

MR. BOIES: I'm happy to accept that limitation for purposes of today.

THE COURT: All right. Plaintiffs' Trial Exhibit 2248 is admitted with the stated restriction.

(Plaintiffs' Exhibit Number 2248 was admitted into evidence.)

BY MR. BOIES:

Q. And I have just one more document that I want to direct your attention to. Would you look at Plaintiffs' Trial Exhibit 720.

And I had asked you this morning where the amount of $6.7 billion in interest and fees had come from, and you said it had come from the Federal Reserve Bank public Web site. Do you remember that?

A. Yes.

Q. And is this the document that you were referring to?

A. Yes.

MR. BOIES: Your Honor, I would offer

Plaintiffs' Trial Exhibit 720.

MR. TODOR: No objection, Your Honor.

THE COURT: Plaintiffs' Trial Exhibit 720 is admitted.

(Plaintiffs' Exhibit Number 720 was admitted into evidence.)

MR. BOIES: Your Honor, I pass the witness.

THE COURT: All right. Mr. Todor, cross-examination.

MR. TODOR: Thank you, Your Honor.

\- - - - -

CROSS-EXAMINATION

BY MR. TODOR:

Q. Good afternoon, Dr. Kothari.

Have you received the witness binders we've distributed?

A. Yes, I have. Thank you.

Or I'm still receiving them. Thank you.

Are they the same two?

Q. We have distributed two binders. One should have the title Demonstrative and Additional Exhibits, and the other one I believe is titled Reports.

Do you have one of each?

MS. SEIDEL: No. He has two of the same.

THE WITNESS: Nice try.

(Pause in the proceedings.)
BY MR. TODOR:
Q. Dr. Kothari --
A. I have only one.
MS. SEIDEL: I'm coming to you.
BY MR. TODOR:
Q. Do you have both binders now, sir?
A. Thank you.
Q. Do you have everything now, sir?
A. I do. Thank you.
Q. Is it true that your valuation opinion is based on the assumption that all of the information about the credit facility and the government receiving a 79.9 percent equity interest was internalized into AIG's stock price as of September 24, 2008?
A. Yeah. All the evidence that I have reviewed suggests, yes, that by 24th market participants had all the relevant information and an opportunity to respond to that information. Yes.
Q. And by "relevant information," one of the pieces of information you're talking about is the $85 billion credit facility; correct?
A. That is certainly one of the pieces of information.
Q. And another of the relevant pieces of information

was the 79.9 percent equity interest; correct?

A. The form of it also matters, but 79.9 percent equity interest, yes.

Q. So your valuation of $35.4 billion for the Series C preferred stock is based on the assumption that the market had fully internalized both the $85 billion credit facility and the 79.9 percent equity interest into AIG's stock price; right?

A. This is a standard assumption about this stock is efficient in the sense that it's listed on the New York Stock Exchange. It's heavily traded. This information reached the marketplace.

And following standard economic theory and evidence principles, "evidence" meaning empirical analysis principles, I have assumed that 24th is the date when market had an opportunity to process information and reflect the consequences of these two pieces into the price.

Q. You did not analyze what AIG's stock price would have been on September 24, 2008 if the government had not made any loan at all to AIG; correct?

A. I have not performed an analysis of that counterfactual, yes, you are right.

Q. And that would be the same for any other date for AIG's stock price. You didn't analyze what the stock price would have been on any particular date if the government had not made any loan at all; correct?

A. Yes. I was analyzing the -- what actually happened. And I was asked to perform valuation, so that's what I did.

Q. And you've made no analysis of what would have happened to AIG if the government had not made it a loan; correct?

A. Again, you know, that was not part of the analysis I was asked to do, and it's a counterfactual that I don't think was something that was being entertained by even the senior government officials, so I did not perform any of those hypotheticals.

Q. You do not have any but-for worlds of any kind in your analysis; correct?

A. Again, in my analysis I'm performing the valuation of the three components, the credit facility being made available, was it fully compensated or not, and then value of the equity interest taken by the government. This is the sequence of events that actually took place, and I'm analyzing those and providing to the Court my valuation findings.

Q. And just for clarity of the record, that means that, yes, you did not conduct any but-for world analysis; correct?

A. No, I did not.
Q. Similarly, you did not analyze what would have happened if the government did not demand equity as part of the credit facility agreement; correct?
A. First of all, I was not asked to do that. But that said, your question, that is a -- it's pretty straightforward. If the equity had stayed with the shareholders, if that's what you're asking, what would -- their shares would have been worth four times the price that we observe because they were diluted to the extent of 80 percent, so my analysis speaks to that question.
Q. And all I'm trying to clarify here is, your analysis is an analysis of your valuation of the stock that actually was issued. You were not making a projection as to what would have happened to AIG if the government had not demanded equity; correct?
A. But my analysis, I'm saying that it speaks to exactly that question in the sense that if the government had not taken equity, then the shareholders would have had 100 percent ownership, making an adjustment for equity units. And we know what the valuation is. And in fact, the whole claim is on the basis that if that 80 percent was with common shareholders, they would have had four times as much, or

total valuation would have been five times as much.
Q. You are not offering an expert opinion as to the date of the alleged taking or illegal exaction for the credit agreement claims; correct?
A. I'm assuming the date to be September 22. I have performed analysis to demonstrate the reasonableness of that date. I'm not offering an expert opinion on the date itself.
Q. With respect to the choice of date, do you agree that it is possible that some portion of the information regarding the effect of the $85 billion credit facility on AIG's liquidity needs was known to the market on September 16, 2008?
A. September 16, yes, some portion of the liquidity needs were known to the market. In fact, my testimony shows that starting from September 11, the stock price was adversely influenced because of liquidity needs.
Q. And similarly, it is possible that some portion of the information regarding the effect of the 79.9 percent equity stake was known to the market as of September 16, 2008.
A. So I might have misspoken on the previous question also.
The information about the liquidity provision or credit facility being contemplated, that came only after

the close of 16th, so my understanding would be that stock price of 16th would not reflect any of that information. Stock price of 17th and onwards will begin to start to reflecting some information about credit facility being potentially introduced.

Q. And did the stock prices on September 17 and afterward also potentially reflect information about the 79.9 percent equity stake?

A. The form of equity initially was warrants, so some element of equity ownership by the government, that will start to get factored into the stock price sometime around that time. Yes.

Q. You have not conducted an analysis of what AIG's liquidity needs actually were on September 16, 2008; correct?

A. That is correct.

Q. And you have also not conducted an analysis of what AIG's liquidity needs were on September 24, 2008.

A. No, I have not conducted that analysis.

Q. Nor for any other date; correct?

A. That is correct.

Q. You have not analyzed what the market perceived AIG's liquidity needs to have been in dollar terms; correct?

A. Yes, that is correct.

Q. You did not perform an analysis as to AIG's own expectations of its liquidity needs; correct?

A. I haven't conducted that analysis, nor was I asked to conduct any of that analysis.

Q. You have not analyzed whether the financing offered as part of the credit facility was on better terms than any other source of funding that may or may not have been available to AIG on September 16, 2008; right?

A. I have not performed that analysis.

Q. You did not analyze what would have happened if AIG had declared bankruptcy on or after September 16, 2008.

A. Again, that is a counterfactual that I have not analyzed, but I know that high-ranking government officials had stated on multiple occasions that that was not something that was even contemplated, so that's the sense in which it's a counterfactual that to me does -- is not a relevant counterfactual to focus on.

Q. And Dr. Kothari, I'm not asking what you consider to be a relevant counterfactual; I'm simply asking whether you in fact did conduct such an analysis. And it's correct that you did not perform that analysis; right?

A. I did not. I was offering additional information, but I did not.

Q. You did not analyze whether AIG would have continued to operate as a going concern after September 16, 2008 if it did not secure financing; correct?

A. Once again, I did not perform that counterfactual.

Q. You have not studied whether the government was under any obligation to extend the credit facility to AIG on September 22, 2008; correct?

A. I haven't -- that is beyond the scope of my analysis.

Q. And you have not analyzed what two private parties would have negotiated at the time in terms of terms on the credit facility.

A. Private parties, what they would have negotiated, my understanding is -- well, I haven't analyzed that, no. That is true.

Q. You have not studied whether some other party would have been willing to make a loan to AIG on terms more favorable than the government extended to AIG; correct?

A. I haven't studied that part.

Q. You do not know the circumstances that led AIG to agree to the credit facility; correct?

A. I have a general understanding of what circumstances led to it, but that's not a formal analysis or I'm not offering any opinion on that.

Q. And you have not personally conducted an independent analysis of whether the credit facility was fully secured; correct?

A. On my own I haven't conducted an independent analysis. However, several high-ranking government officials have stated that the secure -- the facility was fully secured.

Q. And I'm not asking about your knowledge of statements of officials. I'm just asking whether you personally have conducted such an analysis.

A. I did not.

Q. And you have not personally conducted an analysis of the specifics of what was and was not included as security under the credit agreement.

A. I have not.

Q. You did no analysis of whether the collateral AIG posted as security for the credit facility would have been worth the same amount if AIG had not received the credit facility.

A. I haven't performed that analysis.

Q. You made reference during your direct examination to a decline in AIG's stock price from September 22 to

September 24, 2008; correct?
A. I believe from September 22 to 23 it rose and then it fell.
Q. You did not conduct an event study as to whether there was a statistically significant rise in AIG's stock price from September 16, 2008 to September 17, 2008; correct?
A. No, I have not conducted an event study analysis for -- I don't believe I have -- that date was included. I have included 22, 23 and 24, but I don't think so.
Q. You did no event study involving the 16th; correct?
A. That's my recollection. Yes.
Q. You have done no analysis of any --
A. So may I --
Q. -- claims brought derivatively on behalf of AIG as opposed to claims belonging to AIG's stockholders; correct?
MR. BOIES: Your Honor, I don't know if the witness had finished his answer before. He started to say something.
THE COURT: Yes. Did you want to add something?
THE WITNESS: So I just want to make sure on your previous question, you said 16th, and I -- what I want to explain is that it was the 17th that I have not, and

16th -- 12th -- 11th, 12th, 15th and 16th I have included, but 17th I don't believe I have included in my event study analysis.

BY MR. TODOR:

Q. And which event study analysis were you referring to when -- in that answer?

A. In the rebuttal report I have conducted an event study in which I show the price impact on AIG's stock on certain dates in the context of showing the effect of liquidity needs on credit spreads and on the stock price of AIG.

Q. But you did not do an event study for the effect of the announcement of the credit agreement on AIG's stock price immediately following September 16, 2008; is that correct?

A. That is correct.

Q. Getting back to my previous question, you did not conduct an analysis of the value of any claims that could have been brought derivatively on behalf of AIG; correct?

A. That is correct.

Q. All you measured was the -- your valuation of the claims belonging to AIG's common stockholders; correct?

A. That is correct.

Q. And you have not done an analysis of whether any

of the claims that are being brought on behalf of AIG's stockholders present damage that is separate and apart from damage -- from claims that could have been brought derivatively on behalf of AIG; correct?
A. So I have not made any distinction. I have focused only on the claims coming from the common shareholders.
Q. But you haven't presented an analysis of what the claims that could have been brought derivatively on behalf of AIG may have been; correct?
A. No, I have not done that.
Q. And you would not have basis to say that the claims that are being brought on behalf of the stockholders are -- present a separate form of damage from claims that could have been brought derivatively on behalf of AIG; correct?
A. I haven't analyzed that, so I'm not commenting on that.
Q. You would agree that the -- AIG's market capitalization is a fair measure of AIG's equity value according to the market.
A. Would you repeat that, please.
Q. You would agree that AIG's market capitalization is a fair measure of AIG's equity value according to the market.

A. So here it will depend upon the definition of "market capitalization," and I -- I want to make sure that all shares that are traded outstanding as well as the share equivalents are included in the market capitalization.

Q. Market capitalization calculated as the stock price multiplied by the number of shares or share equivalents outstanding as of a particular date.

A. Yes.

So in this case, just to be sure, so for clarification and so that there's no misunderstanding, my analysis has included Series C preferred equity interest taken that -- in the calculation of the market capitalization just as equity units are also included.

Q. I believe in your direct you indicated, as of September 16, 2008, there were approximately 2.68 billion shares of AIG common stock outstanding. Correct?

A. Yeah, that is -- well, as of 16th, that is correct. The number might be slightly different, but it is about 2.6 billion shares.

Q. And I'll direct your attention in your report binder to your initial report and paragraph 61 which is on page 41 of the report.

A. Yes.

Q. And there is a chart that states "Computation of

Shares Including Government Shares for Its 79.9 Percent Equity"?

A. I'm sorry. What? This is what?

Q. Page 41 of the document, sir.

A. 41. That's why I was getting it wrong. Okay.

Okay. 41?

Q. Yes.

And line A there says AIG shares outstanding on September 22, 2008 was 2.689 billion shares; correct?

A. You're in paragraph 69?

Q. 61, sir. That's on page 41.

THE COURT: In my version, it seems to be on page 35.

THE WITNESS: Yes, mine also page 35.

BY MR. TODOR:

Q. Okay. Well, have you found the paragraph, sir, that's the chart for page -- for paragraph 61?

A. Yes.

Q. Okay. And what is the number of outstanding shares that -- in your chart?

A. 2.689 billion shares.

Q. Direct your attention to Exhibit IV.B-2 to your initial report and entitled -- and this is an exhibit that you prepared to be an exhibit to your report; correct?

A. IV.B-2, yes.
Q. Yes.
A. This is page 27 of 58 at the bottom.
Q. And this is entitled Summary of AIG Opening, Closing, High, and Low Stock Prices; correct?
A. Yes.
Q. What was AIG's opening stock price on September 16, 2008?
A. September 16 opening price was $1.85.
Q. And if you were to multiply $1.85 times 2.689 billion shares, you would get a market capitalization of roughly $5 billion; correct?
A. Yes.
Q. And if you'd like a calculator, we can have one provided to you.
A. I have one, but I take your word for it.
Q. The low intraday price on September 16, 2008 was $1.25; correct?
A. That is correct.
Q. And the closing price on September 16 was $3.75; correct?
A. That is correct, yes.
Q. You have not analyzed the reason why there the open was $1.85 and it ended up at $3.75 for closing; correct?

A. This was a period characterized by high volatility. I have not analyzed what exactly transpired on that date for the price to --
Q. And it is possible that one reason for the rough doubling in price would be that there had been speculation in the market that AIG would be receiving a loan from the government; correct?
A. It's possible. I cannot say yes or no, but it's possible.
Q. Turning back to the opening price of $1.85, hypothetically, if on -- at that market open on September 16, 2008, if the government rather than making a loan to AIG physically seized four out of five AIG shares in exchange for nothing, you would agree that shareholders would have had a little under $4 billion of value taken from them; correct?
A. Mathematically, yes, that is exactly right.
This is using the open price we're talking about.
Q. On the open price.
A. Uh-huh.
Q. And those are the same shareholders for whom you are calculating a value of $35 billion in your analysis; correct?
A. What do you mean by "same shareholders"?
Q. The same 79.9 percent interest --

A. Okay.
Q. -- being represented by the shareholders as of September 16.
A. Okay. The aggregate market capitalization of the same, that 100 percent ownership ignoring equity units, that at September 24 it was as I have calculated, 45 to 50 billion. That is -- and that is indicative of the restoration of the market value of AIG as a result of liquidity provision.
Q. It's your opinion that the shareholders lost $35 billion on September 24, 2008.
A. These shareholders -- this value was -- on 16th it was adversely influenced as a result of liquidity needs, and once those liquidity needs were provided, then the value of the same shares, the same AIG firm, rebounded to a level that existed prior to liquidity crisis, onset of liquidity crisis on or around September 11. And if the government had not taken four-fifths of the firm, then these shareholders would have had claim to the entire firm, which was worth, as I said, about 45 to 50 billion dollars, and so that's -- that's the valuation analysis that I have conducted.
Q. Certainly you would agree that these shareholders did not have $35 billion of value to lose on September 16, 2008.

A. They had claim on AIG. Their claim on AIG on September 16 was valued at $5 billion. The same shareholders, had the government not taken 80 percent, would have had claim on the value of AIG, and that claim on 24th would have been 45 to 50 billion dollars. It's just that four-fifths of that claim was taken away by the government.

Q. You're saying that the shareholders would have had a claim on 45 to 50 billion dollars on September 24.

They would not have had any such claim if the government had not loaned AIG $85 billion on September 16; correct?

A. I'm not -- I was -- I'm taking facts as they occurred, that liquidity was provided and the value did bounce back. The share -- AIG fully compensated the government for the provision of liquidity. The 80 percent taking was over and above the full compensation for liquidity provision. This is -- this is the valuation numbers that come out of the analysis that I have presented.

Q. You are saying that the shareholders lost almost nine times their market capitalization as of September 16, 2008; correct?

A. The shareholders had full ownership. They would have had continued to have full ownership, which is worth

$45 billion. Eighty percent taken by the government, so that is the amount lost. Whether it is 9 percent -- nine times or whatever it is that number, it's -- that's exactly what happened here.

Q. Now, turning your attention back to Exhibit IV.B-2.

A. Yes.

Q. The opening price on September 17 was $2.29; correct?

A. September 17 opening price is $2.29, yes.

Q. And as you discussed in one of your -- in your demonstrative 5204?

A. My -- do you want me to go to that?

Q. Yes. Refer to your 5204.

A. 5204. Okay. I'm there.

Q. $2.29 is the value -- is the price used by Deloitte in your demonstrative here; correct?

A. Yes. They used the opening price of AIG on September 17.

Q. And that was because Deloitte had concluded that as of market open on September 17, the market had incorporated knowledge of both the $85 billion credit facility and the 79.9 percent equity interest; correct?

A. What Deloitte did, A, they were asked to value as of September 16. Given that they were asked to value it as of September 16, they asked what is the information that came after the close of September 16. And that -- whatever limited information that came out, they assumed that was assimilated in the price by the open of 17th, and they used that price.

Q. The value for AIG in their memo of October 28, 2008 -- you said AIG uses $2.05, which is the September 17, 2008 closing price; correct?

A. Yes.

Q. And again, that was because AIG was of the opinion that as of the market close on September 17, the market had incorporated knowledge of both the $85 billion credit facility and the 79.9 percent equity interest; correct?

A. Again, AIG was performing a valuation as of 16th. They prepared that memo on 28th of October, so all they're doing is -- if you are asked to value it as of 16th, they say that information that came out after the close of 16th is relevant for valuation as of 16th.

So in -- that's the sense in which that valuation does not inform me that they had full knowledge about the credit facility and the equity interest. That is not inferred from that valuation.

Q. Again for clarity, Dr. Kothari, do you agree that AIG was of the opinion that the market had incorporated knowledge of the 79.9 percent and the $85 billion credit facility as of market close on September 17, 2008?

You can give a yes or no and you can give an explanation if you need to. I just need for clarity to know whether you agree with that.

A. I do not agree with that. And it is simply saying the valuation was performed on 16th, as of 16th, and to do that, they had to use information from prices closing on 17th.

Q. Direct your attention in the -- I believe it's the exhibits binder -- the demonstrative and actual exhibits binder we've handed up to JX 137.

A. Okay.

Q. And is this the memo that you were referring to in PTX 5204?

A. There's a lot of documents I have seen. I -- I believe so. Yes.

Q. And I believe at the bottom of 5204 there are citations to exhibits relied upon?

A. Yes.

Q. And item 2 there is JX 137; correct?

A. That is correct.

Q. So you would agree that JX 137 is the AIG valuation report you were referring to in PTX 5204.

A. Yes.

Q. Turning your attention to JX 137, at the bottom of that first page, direct your attention to that last paragraph.

There is the statement that "The final terms are substantially the same as those initially announced on September 16, 2008, issued in a press release announcing it has entered into a credit facility with the New York Fed."

Do you see that?

A. I do.

Q. And turning your attention to the next page, at the top there, there are a summary of terms.

Do you see those?

On page 2 of JX 137, sir.

A. Yeah. Uh-huh.

Q. And do you see that the fourth bullet is "AIG will provide the New York Fed 79.9 percent of equity ownership in AIG"?

A. Yes.

Q. Turning your attention to the heading AIG Common Stock Price Approach?

A. Okay.

Q. First, it states, "AIG views the Preferred Shares for 79.9 percent of AIG provided to the New York Fed are in-substance common shares (from a valuation view) because the Preferred Shares will have all the same rights and benefits as AIG's common shares."

Do you see that?

A. I do.

Q. And your valuation for the purposes of the credit agreement class treats the shares received for the 79.9 percent as equivalent to common shares in terms of value; correct?

A. That is correct.

Q. Next it states, "No additional adjustments were taken for liquidity or control premium"; correct?

A. Yes.

Q. AIG doesn't say it's being conservative by not applying liquidity or control premium here, does it?

A. They haven't stated -- at least -- I haven't read the entire document, but in that particular sentence or immediately afterwards it doesn't say that.

Q. In fact, it says, "AIG cannot reliably estimate nor observe liquidity and control premium, and the impact of these adjustments would be offsetting reducing the net effect on the Preferred Shares valuation"; correct?

A. So I interpret that as saying that they recognize these are -- they recognize they are offsetting, but they don't comment on the net effect.

Q. AIG also states, in the second paragraph, "The closing price of $2.05 on September 17, 2008 (the day after announcement) used in valuing the Preferred Shares will reflect all available information about the Credit Facility and 79.9 percent dilution"; correct?

A. They make that assertion, yes.

Q. But you do not agree with that assertion.

A. You know, first of all, it is not clear -- this is a memo that was prepared on October 28, so to me, it's not clear, just because the terms look somewhat similar, that all of this information was available on the morning or middle of September 17.

For example, warrants were being discussed. I don't think even that AIG's board knew that the warrants would be changed to preferred shares until 21st or 22nd, so it is hard for me to imagine that all of this information was known to AIG and to market participants by 17th. That is the reason for my skepticism.

Q. Okay. All I asked is whether you agreed with the assertion, sir.

A. If you do not want me to explain, I will -- I'm sorry if I -- if I went offering some explanation that goes beyond. I apologize for not answering just yes or no.

Q. For clarity of the record, if you feel the need to explain, please provide a yes or no to my question, but -- before giving any explanation if you feel one is needed for context, but I'd appreciate, if questions can be answered yes or no, to do so to the extent possible, sir.

A. I will. I will work on that.

Q. You rely upon JX 137 in preparation of your opinions as expressed in PTX 5204; correct?

A. Yes.

Q. And you don't say that AIG was wrong in -- when -- in how you present the analysis; correct?

A. I do not say AIG was wrong. What I focus on is did they use market-based approach or not, so my objective in using this particular exhibit is limited to some of the factual parts of what they used, not related to whether all the inferences that were embedded in the construction of this document were in line with my inferences.

Q. AIG wrote this on October 28, 2008; correct?

A. That's correct.

Q. So they were not doing so at a time prior to when the credit agreement's full terms were announced; correct?

A. No.

Q. And nevertheless, they still believed, as is expressed here, that all available information about the credit facility and 79.9 percent dilution was embedded in AIG's stock price as of September 17, 2008; correct?

A. They certainly state that. It is correct that they state that. But I do not agree with their assessment. There are many market participants, analysts. They do not agree with this assessment either.

Q. Turn your attention to page 3 of JX 137.

A. Okay.

Q. Now, I'll turn your attention to the paragraph following the chart at the top of the page.

A. Okay.

Q. First it states, "It would not be appropriate to use the price prior to the announcement as the market did not have any information on the Credit Facility, 79.9 percent dilution, and AIG's ability to continue as a going concern."

Do you see that?

A. I do.

Q. Next it states, "The price movement after September 17th was attributable to external events and headline news not directly available or could be incorporated by both parties in the negotiation."

Do you see that?

A. I do.

Q. Then there's a list of external -- what AIG is characterizing as external events; correct?

A. Well, I haven't studied each and every one of them to comment whether they were entirely external or not, but if you represent they were external, I can work with that assumption.

Q. Well, you relied on this document, sir. I'm just asking your understanding of what AIG is saying here.

A. Yeah.

So my limited purpose of using this document was to demonstrate that market-valued approach is commonly used, is used by AIG, by KPMG and other entities. And from that -- on that stand -- from that standpoint, this document, I'm fully comfortable using it. And these are other elements in this document that -- that wasn't the focus of my analysis.

Q. But you did no analysis of whether any of the external events AIG cites here in JX 137 affected AIG's stock price between September 17 and September 24, 2008; correct?

A. Correct.

Q. Directing your attention back to PTX 5204?

A. Okay.

Q. You also make reference to a valuation done by

KPMG.

Do you see that?

A. I do.

Q. What is your understanding of the purpose of KPMG's valuation?

A. KPMG was valuation consultant of AIG, and my understanding is that AIG wanted to report the valuation of the equity interest taken by the government, so they wanted some valuation estimate for that and they hired KPMG to perform that analysis.

Q. And do you see at the bottom of PTX 5204 you state you are relying on a PTX 375? Do you see that?

A. I do.

Q. I'll turn your attention to PTX 375, which is in your demonstrative and additional exhibits binder.

A. Uh-huh. Okay. Yes.

Q. And this is titled an e-mail from Anthony Valoroso to officials at the Treasury and Federal Reserve Board; correct?

A. Yes.

Q. And Mr. Valoroso also was on JX 137; correct?

A. I didn't pay attention to that, but you know, I believe you.

Q. And if you need to, back on the first page of JX 137 it has a "from" line?

A. JX 137.
Q. Is Mr. Valoroso one of the "from" people?
A. Yes. Okay.
Q. Turning back to PTX 375?
A. Yes.
Q. And this is an e-mail from Mr. Valoroso to Treasury and Federal Reserve officials and the statement is "Attached please find AIG's valuation report on the preferred stock"; correct?
A. Yes.
Q. You cite in PTX 5204 pages 14, 16 and 21 of PTX 375. I'd like to start on page 14.
A. This is page 14 as it says at the bottom of --
Q. Yes -- well, I believe so. Yes, sir.
A. Okay.
Q. And this is titled Key Assumptions; correct?
A. Correct.
Q. KPMG states that their analysis is based on the following key assumptions, and the first of these is valuation date as of September 16, 2008; correct?
A. Yes.
Q. But you do not agree with that assumption.
A. No, I don't. I mean, it --
Q. Second, I'll direct your attention to the fourth bullet point, and there is a statement that the credit

facility provides favorable financing; correct?
A. Correct.
Q. You have not done an analysis of whether the financing that was provided to AIG under the credit facility was favorable compared to other forms of financing that AIG might have been able to acquire; correct?
A. I have not performed that analysis.
Q. The sixth assumption is that the value of the preferred stock is equivalent to the benefit of the government intervention after taking into account payments due under the credit facility; correct?
A. Yes. But this is a typical accounting assumption.
Q. Do you agree that the value of the preferred stock is equivalent to the benefit of the government intervention to AIG?
A. Yeah. A, I do not agree. And the reason is, this is a kind of standard assumption because double-entry bookkeeping in accounting they have to make.
So whenever there is transactions of this sort, it's not uncommon for this kind of an entry being made or assumption being made, because then they can say value taken is equal to value received. It's not like they have done an independent valuation analysis of what is

the value taken versus what is the value given.

Q. Nevertheless, you're relying on this as one of your sources for PTX 5204; correct?

A. I'm relying on this in the limited sense to demonstrate that KPMG used five different valuation methods, but in the end they said the market-based valuation approach is the nonjudgmental, objective, that type of approach, and they use it.

So it is in that sense that I'm relying on this, but to...

Q. You agree that KPMG made the assumptions listed here on page 14 of PTX 375 in conducting its analysis; correct?

A. Yes. Yes.

Q. And changing any of those assumptions could change the valuation number that KPMG generates; correct?

A. Not of the market-based valuation. I don't think there's any wiggle room in that.

Q. KPMG followed several approaches, however; correct?

A. Yes.

Q. And KPMG stated that the methods it ultimately did not apply nevertheless corroborated the market value approach.

A. I'm sorry. What did you say?

Q. KPMG found that its other valuations corroborated the market value approach.

A. Sure. Yes. They -- I mean, I -- sitting here, I cannot recall exactly what they said, but...

Q. Turn your attention to page 16 of PTX 375.

A. PTX 375. Okay. That's where we are; right? Yes. Uh-huh.

Q. This is one of the pages that you relied upon in PTX 5204; correct?

A. Okay. All right.

Q. KPMG states, "To estimate the value of the Preferred Stock, we compared the security to be issued to AIG's publicly traded common stock"; correct?

A. Yes.

Q. KPMG reviewed stock prices several days before and after the transaction date.

A. Okay.

Q. And KPMG, in the second paragraph, determined the closing price of $2.05 on September 17, 2008, the day after announcement, showed adequate trading volume to reflect all available information about the credit facility and 79.9 percent dilution; correct?

A. Yes.

Q. But you reject that assumption.

A. I reject that assumption -- yes, I do reject that assumption, on the basis of new material information that came about. Analysts have commented on that, and stock price also reacted to that, so -- and then the credit agreement itself is dated September 22.

So there's a number of bases for my rejecting the September 16 date. But you know, it is a date that they have chosen and the market value -- valuation they have reported.

Q. And again, KPMG states that it considered additional adjustments for illiquidity and control and determined no further adjustment was required; correct?

A. Correct.

Q. And in fact, no individual shareholder held enough stock of AIG prior to September 16, 2008 to have a control premium on their own; correct?

A. Correct. But from an economic standpoint, that is a false argument. There are so many --

Q. I was not making argument, sir. I was just asking a question.

So is that -- was my question factually correct?

A. I believe so. But let me explain why that misses the economic point, if I may. If you don't want, I will not.

Q. Go ahead.

A. It is routine -- so many takeover transactions take place where the acquirer pays a premium even though the target firm does not have any single shareholder that is controlling, so in that sense, control premium is routinely paid even when the target shareholders individually do not have control, but collectively they do.

So that is the economic point that is applicable here as well.

Q. And KPMG on that regard states, "In addition, the impact of change in control should be reflected in the stock price post-announcement"; correct?

A. The -- well, I think they are wrong in that. In a way they are right in the sense that impact because they have not given the direction, but what is true is that the shares that are traded afterward, those are minority shares, so they cannot reflect control at that stage.

So if --

Q. But KPMG is saying that the market price already reflected any control issues without having to add a control premium on top of what the stock price was; isn't that what they're saying?

A. The previous sentence states that, and I don't know what the sentence means really. You know, this is an ambiguous sentence, "the impact of change in control should be reflected in the stock price post-announcement."

Post-announcement, the traded shares are minority shares, so to the extent there is an impact of change of control, it would be a negative impact because those are minority shares.

So they haven't specified the sign, the direction of the impact here, so that's why I'm giving them ambiguity as the reason. I'm not saying they're wrong. At least it's not -- to me, it is ambiguous.

Q. Isn't it true that a shareholder can't lose a control premium if they don't have it?

A. Once again, that is -- economically it misses the point because, as I said, if there are shareholders and individually they are -- they do not have control, but someone who acquires control would pay a control premium.

Q. KPMG is assuming or is concluding that the change in control should be reflected in the stock price post-announcement; right?

A. Yeah. That's what it is saying, yes.

Q. And turning your attention to the mechanics here in method A, the number of shares outstanding is now 14.697 billion; correct?

A. Yes.

Q. That's a lot more than the 2.689 billion we were discussing previously?
A. Yes.
Q. And that reflects an imputed additional number of shares for the 79.9 percent interest; correct?
A. That is correct.
Q. And the share price, that number is multiplied by $2.05 per share to come up with the 24.07 billion number; correct?
A. That is correct.
Q. After the 79.9 percent interest is taken into account.
A. Yes.
Q. Isn't it true that KPMG in its calculation is making the assumption that the additional 79.9 percent shares are not reducing the AIG's share price?
A. I don't think they have conducted any analysis to conclude one way or other.
Q. They're not saying what the share price would have been in the absence of any portion of the transaction here. They're just measuring the stock price as of that date with an implied number of shares; correct?
A. That is correct.
Q. Turn your attention to the next page to method B.
A. Yes.

Q. And this is not a page that you relied upon in your analysis; correct?
A. In my report --
Q. In PTX 5204.
A. Yes.
Q. Did you review this method of KPMG in preparation of your report?
A. Yes.
Q. And here, it states that KPMG estimates the value of the preferred stock based on the increase in value of AIG's market capitalization as a result of the government intervention; correct?
A. That is correct.
Q. And do you agree that the government intervention increased AIG's market capitalization?
A. So the analysis and explanation that I have offered throughout is the following, that provision of liquidity by the government enabled AIG to restore its valuation to its pre-liquidity crisis level.
So that's the sense in which the liquidity provision did bring the valuation back. And depending upon which point to which point you measure, there will be an increase or there will be a decrease here.
Q. Do you -- and I'm just trying to, for the clarity of the record, get your understanding on this question.

Do you agree that the government intervention increased AIG's market capitalization?
A. So the government intervention here is implying liquidity provision.
Q. Liquidity provision, yes. And -- yes.
A. And it resulted in a change in -- or increase in the overall market capitalization of AIG. Sorry. Yes.
Q. And in the way AIG does its calculation, it takes the closing price on September 16 and applies that to a base of 2.954 billion shares to come up with a market cap of roughly $11 billion; correct?
A. That is correct.
Q. And it compares that to a closing share price of $2.29 applied to a share base of 14.697 billion; correct?
A. That is correct.
Q. And KPMG still finds that there's an incremental increase in AIG's market cap, even after accounting for the 79.9 percent dilution; correct?
A. That is correct, yes.
Q. Turning your attention to method C, which is on page 18 of PTX 375.
A. Yes.
Q. This is -- states that method C is based on an income approach to value the favorable financing

received in the exchange for the preferred stock; correct?

A. Yes.

Q. And KPMG states, "AIG provided consideration in the form of Preferred Stock for the below market rate credit facility"; correct?

A. Yes.

Q. You haven't made any opinion as to whether -- well, have you made an opinion as to whether -- do you agree with that statement?

A. No. I disagree with that.

Q. KPMG states that this approach corroborates its market value approach.

A. Yes, it does say that.

Q. Further down, there is -- KPMG is doing an analysis of the credit facility using AIG's closing CDS; correct?

A. Yes.

Q. Is this the CDS spread?

A. Yes.

Q. Could you explain the use of CDS spreads in this context?

A. In valuation?

Q. Yes.

A. CDS spreads are -- they're credit default swap spreads. They refer to the amount of premium someone is willing to pay to insure against default of a debt security in one year.

So if you have 4,331.8 as the CDS spread implies that someone is willing to pay a premium of 43 percent to insure against default in one year.

Q. And here is KPMG referring to an analysis of the value of the $85 billion credit facility?

A. That's what they are attempting to do. I think it's a completely wrong analysis.

Q. I'm just asking your understanding of what KPMG was doing at this point.

A. Yes.

Q. So KPMG -- in this transaction, the government sends $85 billion in cash to AIG, and then in return, AIG is expected to pay it back; correct?

A. Are you stating that as what actually happened or are you asking me to assume that that's what happened?

Q. I'm asking you to give your interpretation of what KPMG is analyzing here.

A. Let me read that then fully because I -- my...

(Pause in the proceedings.)

Yes. Okay.

So they are assuming a loan of $85 billion for two years and interest and other things. Yes.

Q. And then KPMG then uses CDS to come up with an FV.
Is that fair value?
A. Yes, FV would be fair value.
Q. So as of 9-16, KPMG estimates the fair value of the credit facility as $51.58 billion; correct?
A. That's what they report. Yes.
Q. And that would be the value of what the government is getting back from AIG in exchange for the $85 billion credit facility; correct?
A. Well, they're doing the same analysis two days, so that's -- on 16th they're assuming that and the same thing they're assuming 17th. Okay.
Q. And then on the 17th, they're calculating a fair value of 75 billion for the same credit facility; correct?
A. That is right.
Q. And that is based on an improvement in AIG's CDS spread; correct?
A. That is correct.
Q. And KPMG is concluding that the improvement in the CDS spread is due to the credit facility; correct?
A. That's what these are -- these are -- mind you, the reason I say the analysis is wrong is because, first of all, these are for unsecured loan. CDS spreads are for unsecured loan. And if you apply a discount rate for

a secured facility using an unsecured rate, you're not going to get right valuation. That's number one.

Number two, it matters what date you use, so they are using those two dates and they are getting those answers, so I disagree with the choice of date as well.

Q. And you don't have a basis to disagree with KPMG if you assume those dates; correct?

A. So -- so that would imply that is the mathematics correct or the algebra or whatever that they have used, and I would agree with that, that I doubt that they have made a mistake in applying the algebra. But from an economic standpoint, valuation standpoint, I do disagree with it.

Q. So for PTX 5204, you cite favorably KPMG's use of the market value approach in its method A; correct?

A. Not only that I cite that, but they themselves, of the five, they place stock in the market-valued approach, so they themselves say that the other three are subjective, they're not as objective.

Q. You don't dispute that these are valuation methods that are used in the accounting industry.

A. I do not disagree with that.

Q. But KPMG stated that methods B and C corroborated its market value approach method A; correct?

A. It did. That's what they say, yes.

Q. Turning your attention back to PTX 5200.
A. 5200.
Q. You titled this AIG Revolving Credit Facility Outstanding Principal Due; correct?
A. Let me just make sure that I'm in -- yes. Yes.
Q. And you state, in your first box there, that the maximum amount received on the credit facility was $72 billion; correct?
A. Yes, I do.
Q. Next you have repayment with TARP funding; correct?
A. That's correct.
Q. And that TARP repayment was roughly $35 billion; correct?
A. Yes. My recollection somehow was 40 billion, but it might be $35 billion.
Q. And if you need clarification, you can turn to PTX 1648.
A. 1648.
Q. Is this the data you relied upon in preparation of PTX 5200?
A. This is in my same 16 -- oh, yes, I have it.
Q. 1648.
A. Sorry. Yes.
Yes, that's right. My staff did this, so I --

I -- looks like AIG revolving credit facility data, yeah. Okay.

Q. And turn your attention to the row for November 25, 2008.

A. Okay.

Q. And there, the principal balance goes from 69,250,000,000 to 34,250,000,000; correct?

A. Yes.

Q. And the interest rate also goes from 12.553 percent to 7.053 percent; correct?

A. Yes.

Q. And both of those changes were as a part of AIG's November 2008 restructuring of the credit agreement with the Federal Reserve; correct?

A. Yes.

Q. You do not offer an opinion as to what the balance on the revolving credit facility would have been if AIG had not done the restructuring in November of 2008; correct?

A. I think I did use a chart in which I do add back the TARP funding and show what the amount drawn is that is inclusive of the credit facility and TARP funding.

Q. Are you referring there to PTX 5201, sir?

A. Let me see. I think so, but let me confirm it.

Yes.

Q. And just for clarity, PTX 5201, you are adding back the TARP --
A. Yes.
Q. -- funds?
A. Yes.
Q. You do not take back the reduction in interest rate from November of 2008 in PTX 5201; correct?
A. I don't understand the question.
Q. Okay. We talked about in 1648 there were two changes to the terms?
A. Yes.
Q. There was the repayment of principal and then there was the reduction in the interest rate.
A. Right.
Q. So in 5201, you are showing what would happen without the TARP, but you are not reversing the reduction in interest rate.
A. My understanding is the interest rate applies prospectively, and from that date onwards, the balance would reflect the fact that the interest rate is lower. And if the interest is not paid, then that gets added to the principal balance, so -- so unless I am missing something, my understanding is this would take into account the fact that interest rate did decline.
Q. And that's what I'm saying. You are not giving a

hypothetical for what the balance would have been if there had been no TARP funding and if there had been no reduction in interest rate.

A. Yes.

Q. There were other changes as part of the November 2008 restructuring in addition to the TARP funding and the reduction in interest rate; correct?

A. Series D preferred stock, or is that what you are referring to?

Q. I'm referring to the series of transactions known as the November 2008 restructuring of the credit agreement.

A. Okay.

Q. So this would include, for example, Maiden Lane II and Maiden Lane III.

A. Yes.

Q. You do not in any of your calculations say what the principal balance would have been if there had been no Maiden Lane II or Maiden Lane III.

A. Yes, I did not. But for the following reason.

My focus was to analyze the credit facility and ask -- do the valuation analysis as of September 22 and then do the valuation for the stock split claims as of June 19 -- June 30, 2009, so -- so I did not include many of those -- some of those other things, but I don't think those were central to the analysis that I was performing.

Q. In PTX 5200, you're taking things from September 23 all the way out to December 2010; correct?

A. I would think it is January 14, 2011, but --

Q. The last date is there, so you take it out through January 2011.

A. Yeah.

Q. You do not give an opinion as to what the balance would have been if there had not been Maiden Lane II and Maiden Lane III.

A. I do not offer an opinion, no.

Q. And similarly, there was another round of restructuring of the credit agreement in March of 2009; correct?

A. Was it April 17, 2009?

Q. We can look at your PTX 1648.

A. Yeah, but --

Q. The -- do you recall that there was an amendment to the credit agreement announced in March of 2009 that closed on April 17, 2009?

A. Yeah. April -- my recollection is Series F began in April 2009, but --

Q. And Series F was a backstop facility; correct?

A. Yes. Some $25 billion or some amount and they could withdraw, so Series F was a backstop.

Q. And there were also some reductions to the interest rate, for example, the removal of the LIBOR floor in the March 2009 restructuring; correct?

A. I do not recall all the -- that level of granularity and details.

Q. And just for these purposes, again, you do not give an opinion here in PTX 5200 as to what the balance on the credit facility would have been if there had not been the other changes in the March 2009 restructuring apart from the repayment with preferred interest in AIG's subsidiaries that you point to here in PTX 5200.

A. Yeah, that is correct.

Q. Similarly, you do not give an opinion as to what AIG's credit ratings might have been in the period between September 24, 2008 and June 30, 2009 in the absence of either the November 2008 restructuring or the March 2009 restructuring; correct?

A. Yeah, I do not do that.

Q. Would you agree that if there had been a reduction in AIG's credit rating, that might have caused AIG's liquidity needs to increase?

A. Yeah. A, I have not analyzed. B, it's not relevant to the question, the valuation analysis that I was performing. These are future events. Some of those can be favorable compared to where we started. Some of them can be unfavorable to where we started. That is part of risk. My analysis was focused on valuation as of September 22.

Q. If AIG had gone bankrupt between September 24, 2008 and June 30, 2009, wouldn't that negatively affect the value of the stock split claims?

A. The -- but again, you know, I'm analyzing stock split claims as the world we witnessed on that date, so that's -- that day, the stock split enabled the government to exchange less valuable preferred shares for more valuable common shares. This is what actually happened, and I'm analyzing the value consequences of that, dilution consequences of that.

Q. And you're not giving any analysis as to what AIG's financial condition would have been on June 30, 2009 if there had not been the November 2008 restructuring or the March 2009 restructuring; correct?

A. That is correct.

Q. Now, turn your attention to PTX 5201 since you mentioned it.

A. Okay.

Q. This is showing at several points in time that AIG had a net total amount received from revolving credit facility and TARP of over $80 billion; correct?

A. Yes.
Q. And you have not analyzed what that balance would have been if there had not been a TARP loan.
A. In this, see, the TARP funding was used to retire some of the debt and preferred -- Series D preferred was issued; right?
So in that sense, this is a bit of a hypothetical, this issuing that what it would be if I just add TARP funding to this; right?
Q. So you're not doing the hypothetical that you just described.
A. I'm just showing that in November with the TARP funding that was received, they paid down some debt and used to issue some Series D preferred stock, so I'm here taking that as if they borrowed additional amount. Okay.
Q. Turn your attention to PTX 5203.
A. Okay.
Q. Actually to 5202.
This is your summary of your opinion regarding the value of the equity and voting interests; correct?
A. Yes.
Q. You were asked questions in your direct about the 35.378 billion figure; correct?
A. Yes.
Q. And that would be the figure if you had all of the

shares of stock as part of the class; correct?
A. Yes.
Q. And you do not know how many of those shares actually are a part of the class.
A. No. I don't claim that I do, no. No, I do not know that.
Q. In your report -- and then you were asked about a calculation you had performed to figure out how much money was actually due; correct?
A. Yes.
Q. In your report, you state that this calculation would translate to $13.16 per share; correct?
A. That is correct.
Q. And that is roughly four times the closing price from September 24 you use of $3.31 per share; correct?
A. That is, yes.
Q. And that's over seven times the opening on September 16 of $1.85; correct?
A. So let me -- in terms of the --
Q. Well, could you say yes or no first before you give your explanation, sir.
A. So please repeat the question so that -- I'm sorry.
Q. And that is over seven times the opening price on September 16 of $1.85 per share.

A. Yes. And let me explain, you know.

So if you take 80 percent, mathematically, this is exactly what you would get, that you are left with $3.00, and four times as much is taken from you. And that's what this -- this analysis is very simple, and this is exactly what one would expect to observe, and that is the basis of the claim also, that you observe the value is 100, 80 is taken by the defendant, 20 is left with the original shareholders, so what is taken is four times what is left.

THE COURT: Shall we take an afternoon break, Mr. Todor?

MR. TODOR: Thank you, Your Honor.

THE COURT: All right. Let's come back at 3:30.

(Court in recess.)

THE COURT: You may go ahead.

MR. TODOR: Thank you, Your Honor.

BY MR. TODOR:

Q. Dr. Kothari, before the break, you stated that this analysis is very simple, and this is exactly what one would expect to observe, and that is the basis of the claim also, that you observe the value is 100, 80 is taken by defendant, 20 is left with the original shareholders, so what is taken is four times what is left, just to orient you.

My question is, is the value of 100 that you are talking about in that answer -- is that a value that incorporates the value of the credit facility to AIG?
A. So that simple analysis does factor in the value of AIG after the liquidity provision enabled AIG to restore its value to its pre-crisis level.
Q. Turning your attention to PTX 5216?
A. Yes.
Q. Is this the illustration of that concept in your demonstratives?
A. Yes.
Q. And here you start with a September 11, 2008 with a market value of $47 billion; correct?
A. Yes.
Q. But as we discussed earlier, as of the market open an September 16, that market value was only about $5 billion; correct?
A. Yes.
Q. And then on September 24, the total value was $44.278 billion according to your calculations?
A. Yes.
Q. So the provision of the liquidity facility by the government increased AIG's market capitalization from roughly $5 billion to approximately $44 billion; correct?

A. There's no doubt that liquidity provision increased the valuation of the stock. The point to recognize is, the valuation on September 16 was depressed or adversely affected by lack of liquidity, so the intrinsic value of AIG is the September 11, and provision of liquidity enabled AIG to bring its value back to its intrinsic level.

And second point from the valuation analysis that I have conducted is that the credit facility was fully compensated, so the payment of interest, principal repayment, fees, those compensated for the provision of liquidity, and the equity portion was over and above that, so that is the analysis that I have conducted.

Q. And just for clarity, my question only dealt with whether the increase from 5 billion to 44.278 billion, was that a result of the provision of liquidity under the credit facility.

A. Well, I haven't done any causal analysis to answer that question yes or no, but it certainly is associated with the timing of provision of liquidity and the restoration of value of AIG back to its intrinsic level.

Q. In fact, it's your opinion that it was the removal of those liquidity problems for AIG that caused the increase in market cap back up to 44 billion;

correct?
    A. Yes.
    Q. And the thing that removed the liquidity problems was the credit facility; right?
    A. True.
    Q. The market value you calculate for the common shares, the blue bar, on September 24, 2008 is 8.9 billion; correct?
    A. Yes.
    Q. And that's 3.31 billion times the number of outstanding common shares, so 2.689 billion?
    A. Yeah. $3.31 times 2.689 billion shares.
    Q. And that $3.31 per share value is more, mathematically, than the $1.85 per share that those same shares were worth at the opening of the market on September 16, 2008; correct?
    A. Yeah. The key there is "mathematically," yes.
    Q. So the person's stockholdings would be worth more on a dollar basis on September 24, 2008 than they were on September 16, 2008; correct?
    A. Yes. Except that --
    Q. Okay. Thank you.
        Turning back to --
    A. May I --
    Q. -- the red bar on 5216, you are saying that the

value taken --

MR. BOIES: Your Honor, could he be permitted to finish his explanation?

THE COURT: If you want to give an explanation, that's fine.

THE WITNESS: Thank you.

THE COURT: Go ahead.

THE WITNESS: Thank you, Your Honor.

It is the same share; however, it is the same share with the dilution after September 24.

So it is -- it's -- suppose someone has the 20 shares before and afterwards also 20 shares, but someone has added 80 shares. Of course, the person, even though mathematically you have the same 20 shares, the existence of additional 80 shares results in an economic loss, dilution, to the existing 20 shares.

So in that sense, the economic analysis here is to recognize that even though there is -- on a per-share basis there is an appearance of appreciation from whatever $1.85 to $3.31, the economic import of what happened is that the shareholders lost four times that $3.31, which is the valuation I have calculated.

BY MR. TODOR:

Q. Are you familiar with the term "accretion" in accounting?

A. Yes.
Q. What is an accretive transaction?
A. An accretive transaction generally is referred to in the context of increase in earnings per share as a result of a transaction.
Q. Is it possible for a transaction to be dilutive on a percentage ownership basis but accretive on an earnings basis?
A. Yeah, it is possible.
Q. And here, the shares may have been diluted in terms of percentage ownership of AIG, but the transaction was accretive to the existing shareholders insofar as their shares are more valuable on a dollar basis on the 24th than they were on the 16th; correct?
A. Yes, that is correct, except the point to remember here is that the credit facility was fully compensated for as my analysis shows.
Q. That didn't have anything to do with my question, did it, sir?
A. Again, if we are looking at the economics, it had everything to do with your question, but if you are asking only the mathematical part, it didn't have.
Q. Turn your attention back to PTX 5207.
It states -- this demonstrative is your examples of received that the appropriate valuation date is

September 22, 2008 or later; correct?

A. Yes.

Q. And the first item that you mention is that the credit agreement did not become effective until September 22, 2008; correct?

A. Yes.

Q. You stated in your direct that in valuation, the relevant factor is what is known to the market; correct?

A. Yes. If there is no uncertainty, if it is known to the market, yes, that is relevant to valuation.

Q. So the actual effective date of the agreement wasn't as relevant to the market as whether the market felt it knew what the terms of the agreement were going to be; correct?

A. And whether the facility would be in place at all.

Q. And was that a yes to the first part of my -- to my question as well as the "and"?

A. The first part, yes, but, I mean, you -- if there is uncertainty about whether the credit facility would be in place or the terms of it, then knowing part of the information is helpful but not sufficient.

Q. And next you state that FRBNY's general counsel testified that AIG had no obligation to transfer equity until September 22.

Do you see that?
A. I do.
Q. And you're referring to Mr. Baxter's testimony in this lawsuit here this month; correct?
A. Yes.
Q. So absent a time warp, that wasn't going to affect the market's perception of the deal in September of 2008; correct?
A. It's -- it's only in the sense that I'm assuming that the counsel here was testifying about his knowledge at the time, so it's not as if I'm asking the market to have foresight about what the counsel is going -- was to say in this trial here.
Q. But you are not citing statements by Mr. Baxter regarding AIG having no obligation to transfer equity until September 22 that were made back in September 2008; correct?
A. I'm presuming that's what it is, but I do not cite explicitly that, yes.
Q. And again, you refer to a court ruling.
Obviously, the court -- this lawsuit had not been filed in September of 2008; correct?
A. That's a legal -- or it's a matter for the Court.
Q. As a matter of fact, this lawsuit had not been filed in September of 2008; correct?

A. Fine.
Q. Next you state, "Key terms of the Credit Facility were not fully disclosed to the market until after the close of the market on September 23, 2008, including" three items; correct?
A. Yes.
Q. Now, the first you state is a change from warrants to preferred stock?
A. Yes.
Q. I'd like to direct your attention in your binder to JX 79. And it should be in your --
A. Is it?
Q. -- demonstrative and additional exhibits binder.
A. I have 83 and 84, but -- did you say 79?
Q. I said 79, sir.
A. Yes.
I will need assistance because I don't seem to find it.
Q. It is actually in your expert reports and exhibits binder. My apologies.
A. 0079; right?
Q. Yes.
A. Okay.
Q. This is Joint Exhibit 79.
Do you recognize this as the AIG statement on the

announcement by Federal Reserve Board of $85 billion secured revolving credit facility?

A. I don't have a specific recollection of this, but --

Q. And direct your attention to page 2, sir.

A. Okay.

Q. Is this a document you relied upon in preparation for your opinions in this case?

A. As I said, I -- I reviewed a large number of documents. I don't have a specific recollection, but I can take a look at it.

Q. And you stated in your direct that you believe that initial information regarding the lending facility reached the market on September 16, 2008 between 9:00 and 10:00 p.m. Was I correct on that?

A. Yes.

Q. And on the first page, the time stamp of that document is roughly 10:23 p.m.?

A. Yes.

Q. So this is one of the documents that you're saying gave initial information to the market about the lending facility; correct?

A. So I take it this was press release, so yes. Okay.

Q. The first paragraph of that document states "the

Federal Reserve Bank of New York is providing a two-year, $85 billion secured revolving credit facility to AIG that will ensure the company can meet its liquidity needs."

Do you see that?

A. Yes.

Q. So you agree that AIG is telling the market on September 16, 2008 at roughly 10:23 p.m. that it is receiving the $85 billion credit facility.

A. Yes.

Q. And turning your attention to the second paragraph and to the last sentence in that paragraph, there's a statement where AIG states (as read): In return for providing this essential support, American taxpayers will receive a substantial majority ownership in AIG.

Do you see that?

A. Yes.

Q. And that's what AIG is telling the market on September 16 about the terms of the facility; correct?

A. Yes.

Q. AIG is not qualifying that the form of the equity would be only in warrants here; correct?

A. Here, there isn't any qualification to that extent. Yes, you are right.

Q. Direct your attention to DX 414. It is the first document in your demonstrative and additional exhibits binder.

A. Okay.

Q. And is this another document you relied upon in preparation of your opinions in this case?

A. Yes.

Q. This is a Federal Reserve press release of September 16, 2008; correct?

A. Yes.

Q. And turning your attention to the fourth paragraph of this document, there's a statement that AIG will be permitted to draw up to $85 billion under the facility; correct?

A. Yes.

Q. And turning your attention to the last paragraph of the document, to the last sentence in that paragraph, the Federal Reserve is stating, "The U.S. government will receive a 79.9 percent equity interest in AIG and has the right to veto the payment of dividends to common and preferred shareholders"; correct?

A. Yes.

Q. So the Federal Reserve is disclosing on September 16 that there would be an $85 billion credit facility; correct?

A. Yes.

Q. And it is also disclosing that there will be a 79.9 percent equity interest in AIG; correct?
A. Yes. 79.9 percent equity interest, yes.
MR. TODOR: Your Honor, it appears from our records that DX 414 may not be in evidence. I don't know if another form of it has been -- already been made a JX, but we would move to admit for the purposes of illustrating a basis for the expert's opinion.
MR. BOIES: If it's not in, we have no objection, Your Honor.
THE COURT: All right. Defendant's Exhibit 414 is admitted.
(Defendant's Exhibit Number 414 was admitted into evidence.)
BY MR. TODOR:
Q. Again, in DX 414, there is no qualification that the form of equity will be warrants; correct?
A. In this document there isn't.
Q. Direct your attention to JX 96.
A. Which binder is it in?
Q. I believe it's not, but I'll have to distribute.
Your Honor, may I approach?
THE COURT: Yes.
BY MR. TODOR:
Q. This document is JX 96, which is evidence. It's

marked as an SEC Form 8-K filed by AIG with the date of report of September 16 -- date of report of September 16, 2008.

Do you see that?

A. I do.

Q. Is this a document you relied upon in preparation of your opinions?

A. I know I have seen 8-K, but again, I have seen a lot of documents, so I don't have specific recollection of all the details.

Q. And on page 2 of JX 96, there's an item 1.01 Entry into a Material Definitive Agreement.

Do you see that?

A. Yes.

Q. Do you have an understanding of what it means to say in a securities filing that there's been an entry into a definitive material agreement?

A. I have a general understanding of these things in the sense it refers to material meaning something that would influence people's decisions. That's the sense in which that term gets used. I don't know whether specifically it has the same meaning over here.

Q. And by "definitive," what do you understand that to mean?

A. I take that as just an English language word.

"Definitive" means certain, that type of connotation it has.

Q. And turning your attention to the text, there's a statement in the first sentence of the second paragraph that "Under the terms of the revolving credit facility, AIG may borrow up to $85 billion from the New York Reserve Bank. AIG's borrowings under the revolving credit facility bear interest, for each day, at a rate per annum equal to three-month LIBOR plus 8.5 percent"; correct?

A. Yes.

Q. So AIG is telling the market that there is an $85 billion credit facility; correct?

A. Yes.

Q. In the next paragraph, there is a statement that "In connection with the revolving credit facility, AIG issued a warrant to the Board of Governors of the Federal Reserve that permits the Federal Reserve, subject to shareholder approval, to obtain up to 79.9 percent of the outstanding common stock of AIG (after taking into account the exercise of the warrant)"; correct?

A. Yes.

Q. Now, as a matter of fact, AIG had not issued a warrant as of September 18, 2008; correct?

A. Well, as I said, that's -- this is -- this is exactly what was contributing to my assessment that there was uncertainty. My understanding is, AIG board also understood that they would be issuing warrants. And subsequently, two, three, four days later, after that 17th, they realized that the form of equity being given is preferred shares.

Q. And I --

A. So that's the sense in which there is uncertainty surrounding, and the form of equity, notwithstanding some other statement, the totality of the picture that was being created was that there might be warrants issued here. And that's my understanding of what transpired during that period of time.

Q. Given your understanding, I'd just ask you to focus on my question.

My question was simply that as a matter of fact, AIG had not issued a warrant as of September 18, 2008. Is my understanding of that fact inconsistent with your understanding?

A. Did you say September 18?

Q. Yes, sir.

A. Yeah. As a matter of fact, I -- yes, that warrants weren't actually issued.

Q. And the reason I'm referring to September 18, sir, is, on page 3 of the document, the filing itself is dated

as of September 18, 2008.
A. Right.
Q. You agree that this was the filing that AIG would have made on September 18, 2008; correct?
A. Yes.
Q. Turn your attention to JX 99. Or we may need to distribute it.
Your Honor, may we approach?
THE COURT: Sure.
BY MR. TODOR:
Q. You've been presented with JX 99, which is marked as a Form 8-K/A filed by AIG with a date of report of September 16, 2008.
Do you see that?
A. Yes.
Q. And on page 3 you'll see that the date of the actual filing is September 19, 2008; correct?
A. Yes.
Q. Turning your attention back to page 2 of JX 99, there's a statement in the second paragraph that "This Form 8-K/A filing corrects certain errors in, and supersedes, yesterday's filing"; correct?
A. Yes.
Q. Then the fourth paragraph states, "The summary of terms also provides for a 79.9 percent equity interest in

AIG. The corporate approvals and formalities necessary to create this equity interest will depend upon its form."

Do you see that?

A. I do.

Q. And this is AIG telling the market on September 19, 2008 that the form of equity had yet to be determined; correct?

A. Yes.

Q. But your analysis in 5207 states that the change from warrants to preferred stock was not disclosed to the market until after the close of the market on September 23, 2008.

A. Well, this does not rule out the possibility that it would eventually be warrants. They did not say that it won't be warrants.

They also -- I mean, you know, look, this also doesn't say 8.5 percent undrawn amount on that, that that will be charged, so some of the things were missing, and that's the point I'm making in my exhibit.

Q. I just don't want us to get ahead of each other, sir.

You say in your demonstrative that key terms such as the change from warrants to preferred stock were not fully disclosed to the market until after the close of

the market on September 23, 2008. That's what you're saying in PTX 5207; correct?
A. And I stand by that.
Q. And AIG disclosed in an 8-K/A on September 19, 2008, correcting its filing from the 18th saying that the form would be warrants or that it already had issued a warrant, that the form had yet to be determined. AIG said that on the 19th; correct?
A. True. But it did not --
Q. During -- okay.
A. Okay. Sorry.
Q. Turning your attention to the second bullet on PTX 5207, the second item you mention is an 8.5 percent fee on undrawn funds; correct?
A. Yes.
Q. Is your understanding that that would be a negative effect on AIG's common stock if the market had no knowledge of that term prior to September 23, 2008?
A. It depends what was market expecting.
Q. Do you have an understanding as to whether the market perceived the 8.5 percent fee on undrawn funds to have a negative effect on AIG's stock price when it was disclosed?
A. Well, the effect on stock price depends on what the market was anticipating, so there --

Q. Do you have an understanding as to whether the market was anticipating an 8.5 percent fee on undrawn funds prior to its announcement on September 23, 2008?

A. I believe on 24th the market reacted negatively in part because some of the analysts have commented that the terms were more punitive, and one of the terms that was disclosed or confirmed on 24th was 8.5 percent on undrawn -- 8.5 percent fee on undrawn amounts.

Q. Is it your understanding that that was one of the items that was deemed to be more punitive than expected by the market?

A. Yes.

Q. Second, there is a statement that "The commitment fees and actual interest rate."

Is it your understanding that the market perceived the commitment fees and actual interest rate would be more punitive than expected when upon their announcement on September 23, 2008?

A. That, I don't have a strong opinion one way or other, but to the -- I'm providing the overall assessment. It is not parsing through each and every subpiece about it, but my understanding is that 8.5 percent, that seems unambiguously more punitive than the market expected.

Q. In your analysis, you do not disaggregate the effect of any of these three items from the other information about AIG in terms of its effect on AIG's stock price on September 24, 2008; correct?

A. That is correct.

Q. Turning your attention to PTX 5209.

A. Okay.

Q. You were asked in your direct about the movements in AIG's stock price between the 22nd and the 24th of September of 2008; correct?

A. Yes.

Q. And you note that the closing price for AIG was lower on the 24th than on the 23rd.

A. Yes.

Q. You have not isolated whether the change in stock price would be in reaction to the change that you described from warrants to preferred stock as opposed to the 8.5 percent fee on undrawn funds or the commitment fees and actual interest rate; correct?

A. I haven't disaggregated that, no.

Q. Turning your attention back to PTX 5207 -- with respect to 5209, the closing share price was $3.31 on the 24th; correct?

A. Yes.

Q. And that is still higher than the -- say, the 2.29 that was the open on the 17th?

A. That is self-evident. Yes.
Q. And it's higher than the 2.05 that was the closing on the 17th; correct?
A. These are different shares, but the answer is the traded price on AIG's share, yes, but these are shares that have suffered that dilution as I talked about earlier.
Q. And as we discussed earlier, it was the basis of the calculation by KPMG and AIG and Deloitte that the shares from the 17th on would reflect the 79.9 percent dilution; correct?
A. Well, even I also assumed the same thing. There's no question that they do reflect and that there are more shares now out there, to be precise, 79.9 percent reflecting 79.9 percent equity interest.
Q. And for all of that, the share price has gone up from 2.05 on the 17th to 3.31 on the 24th; correct?
A. In terms of the traded price, yes, it has gone up and, as I have said, that it is the liquidity provision enabled AIG to restore its market value to its pre-liquidity crisis level, so this is reflecting the price with now additional shares, and still it has gone up, but 80 percent is now in the hands of the defendant.
Q. The same 80 percent you're talking about was implicit in the calculations that Deloitte, AIG and KPMG

did as of the 17th; correct?
A. As of the 17th, they -- they have that -- those number of shares, yes. And they are reflected in that.
Q. But there's still some reason that the shares went from 2.05 to 3.31, an increase of over 50 percent; correct?
A. That calculation is accurate.
Q. And you haven't done an analysis of what other news about AIG could have led to the increase from 2.05 to 3.31.
A. I haven't performed an analysis of that.
The analysis that I show is that information about the credit facility started to trickle into the market sometime after 16th, and that process continued till 24th. And by 24th, all the information was embedded in prices. Analysts had processed it. They had communicated it. Prices seemed to have assimilated it. That is the picture that I'm taking, and there, I show that the value taken by the government is $35.4 billion.
Q. But, Dr. Kothari, the three items you list in PTX 5207 as things that were not fully disclosed until the September 23, 2008 all seem to be things that one would expect to have a negative effect on the stock price under your analysis; correct?

A. Yes.
Q. But even though the only items you mention are things that you believe would have a negative effect, the actual stock price on the 24th was over 50 percent higher than it was on the 17th when AIG, Deloitte and KPMG said that their assumption was that the market had already incorporated knowledge of the 85 billion and the 79.9 percent; correct?
A. Well, that's what they claim. Yes.
Q. You believe it is possible that some information regarding the terms of the credit agreement had already reached the market as of the 17th and continued to trickle, per your formulation, between the 17th and the 24th; correct?
A. Yes.
Q. And you haven't done an analysis of what information was in the market on the 17th as opposed to the 18th, and so on; correct?
A. I have provided a description of some chronology of events and described some of those events in my report.
Q. You don't ascribe a specific impact on the market on AIG's stock for any other date other than September 24, 2008; correct?
A. That is correct.

Q. AIG also valued the preferred stock as part of its financial reporting; correct?

A. Yes, it did.

Q. I ask you to turn your attention to the document marked JX 188 in your expert reports and exhibits binder, please.

A. Yes.

Q. Do you recognize this as AIG's Form 10-K for the year 2008, sir?

A. Yes.

Q. Is this a document you relied upon as part of your analysis in the case?

A. Yeah. Once again, there were a large number of documents and --

Q. Do you agree that a 10-K is an important document to review with respect to the finances of a company?

A. Let me agree wholeheartedly with you on that.

Q. And this is an excerpt from the document. If you need more context, please let us know.

A. Okay.

Q. I'm directing you to what is page 293 of the document.

A. Okay.

Q. And this is part of a note on consolidated financial statements, and there's a description of the

Series C perpetual, convertible, participating preferred stock.

Do you see that?

A. Yes.

Q. And in that first paragraph, there's a statement that as partial consideration for the Fed credit agreement, AIG agreed to issue 100,000 shares of Series C preferred stock to the trust; correct?

A. Yes.

Q. There's a statement that AIG recorded the $23 billion fair value of the Series C preferred stock not yet issued as a prepaid commitment fee asset and an increase to additional paid-in capital; correct?

A. Yes.

Q. What does it mean from an accounting standpoint to record something as a prepaid commitment fee?

A. So this is nothing but debits have to equal credits, so they knew that they have issued equity, additional paid-in capital, so preferred stock, and they had valued it at $23 billion. It was based on KPMG as valuation consultant, $2.00 share price, number of shares received, so on, so forth, and they valued it at $23 billion.

Now, what would be the debit. That is a credit, as we say, additional paid-in capital.

So debit -- normally when you issue additional paid-in capital, normally you receive cash, so the debit is cash. Okay?

Here, they didn't receive any cash. They received the credit facility that they had borrowed that was an obligation, the cash was received, and they were obligated to pay that; right?

Q. And you said they didn't receive any cash.

Didn't they receive a facility where they could up to borrow up to $85 billion, Dr. Kothari?

MR. BOIES: Your Honor, I don't think he's finished his answer.

MR. TODOR: But he's also asking his own questions.

THE COURT: You may continue, sir.

THE WITNESS: So they received cash against -- as a loan they received it, and that cash was debit. But that doesn't balance the $23 billion additional paid-in capital. The additional paid-in capital is extra credit entry on the balance sheet, so they had to create a debit entry. And what -- prepaid is an asset which means that over time it will get used.

So, for example, I will pay rent in advance. That is called prepaid rent as an asset.

So here it is prepaid commitment fee, just the commitment that they received from the government to offer this facility, that, they deemed as worth an asset $23 billion, which would be amortized over a one or two-year period over the life of that credit facility. Nothing -- no cash, nothing they received for this $23 billion.

BY MR. TODOR:

Q. Isn't it true that AIG received the right to borrow up to $85 billion and that AIG described this prepaid commitment fee as partial consideration for that credit facility?

A. Sir, that's what I said, that this is the right to borrow, the privilege to borrow, if you will. Right? Because you are obligated to pay back what you borrowed. But just to have the honor of borrowing, this is $23 billion. This is exactly the accounting entry that they have made. Okay. And two years the thing borrowing that facility expires. This asset will be worth zero in two years.

Q. And actually the term of the facility was extended from two years to five years as part of the November 2008 restructuring; correct?

A. So in any -- in accounting, if subsequently terms change, then you have to make an adjustment to reflect the change in the thing. But at the time, they didn't know that this was going to be extended. At the time, this was for two-year period.

So it happens all the time these things, that contracts change, and then you have to make an adjustment to reflect new terms of the contract. But the --

Q. Isn't it true that the extension from two years to five years made it easier for AIG to repay the credit facility?

A. Not on the date of the preparation of the financial statement. They didn't know that that would happen. At least I -- reading of the information that I have seen, they didn't know at the time this entry was made sometime in September of 2003, and it was included in the financial statements at the end of -- I'm sorry. Not 2003, 2008 -- and it was included in the financial statements prepared for the period ending December 31, 2008.

Q. And as of December 31, 2008, the November 2008 restructuring that included the extension from two to five years had already occurred; correct?

A. Sir, I'm saying the entry was made in September. It was included in the financial statement. Okay?

If they thought that this would last for five years because of the change, then in November they can make a change and footnote that saying that this was changed.

Maybe it -- you know, I don't know one way or other whether they did that or not, but what I do know is, at the time they prepared the entry, it was for the privilege of borrowing up to $85 billion. They created an asset that is appearing on the balance sheet equal to $23 billion, which would be amortized over the life of that credit facility, which it was expected at the time to last for two years.

That's the interpretation of that. You asked me, and I'm giving you a detailed answer.

Q. Okay. And there's also a statement that it would be treated as an increase in paid-in capital.

A. Yes.

Q. And is that the 23 billion figure that's being referred to in AIG's financial reporting as an increase in paid-in capital?

A. Of course. Of course.

Q. And what is the accounting reason for that?

A. Well, so with -- the way accounting works is you have a balancing, so you have to put -- what you put on the debit side, you have to put an equal amount on the credit side. There is economic logic behind that. It's not like it is pulled out of a hat.

But in this particular case, you issued preferred stock. And preferred stock is part of capital, equity, owner's equity as it is said.

So paid-in capital is a classification of that owner's equity, so it is reported as $23 billion you received equity. Now, what did you receive for that ownership claim? They have nothing to show other than this commitment fee, so it is -- it's sort of -- well, I explained what the commitment fee is.

Q. AIG disclosed a figure of 23 billion in its financial reporting for what it valued the Series C preferred stock to be; correct?

A. Yes.

Q. And your valuation of 35 billion is almost 50 percent greater than that.

A. Yes. The dates are different.

Q. But you're not giving an opinion that AIG misstated its financial results here.

A. Of course not. They stated all the information I presume, so there are some footnotes which explain the date on which this valuation was made, and it was reported, and so that would be -- it's not misleading people.

Q. And then turning your attention to page 294 of JX 188.

A. 294.
Q. And it's actually a paragraph that --
A. I'm not there.
Q. -- begins at --
A. I'm not there. I'm sorry.
Q. -- the bottom of 293 if you wish to read for context, sir.
A. Where is it? I'm sorry.
Q. It's on page 294 of JX 188. It's in that --
A. Oh, we are in the same. I see. Okay. I'm sorry. I was looking -- okay. All right.
What do you want me to read?
Q. The paragraph that begins at the very bottom of page 293 and continues to the top of page 294.
A. Okay.
Q. There's a statement that the $23 billion initial fair value of the Series C preferred stock was determined by AIG primarily based on the implied value of the common stock into which the Series C preferred stock will be convertible as indicated by AIG's common stock immediately after the terms of the credit agreement were publicly announced; correct?
A. I'm sorry. You're on page 294, the last paragraph?
Q. It's the last paragraph on 293 and the very top

of --
A. Oh, 293. Okay. Yes.
Okay.
Q. Do you agree that that is what AIG was saying there?
A. Yes.
Q. And then there are three bullet points where -- which AIG describes as significant assumptions utilized in the valuation; correct?
A. Yes.
Q. And the first is that the valuation date for the Series C preferred stock was September 16, 2008, the date AIG received the New York Fed's commitment to enter into the Fed credit agreement.
A. Yes.
Q. You agree that AIG is saying in its financial reporting that the valuation date is September 16, 2008; correct?
A. The valuation date was September 16, 2008, yes.
Q. And you also agree that AIG is stating in its financial reporting that AIG received the New York Fed's commitment to enter into the Fed credit agreement on September 16, 2008.
A. Yeah, that, you know, it received the commitment, and it's not -- that is not the same as the date of the

agreement. That's number one.

Number two, evidence did show that there was a lot of back-and-forth and other things that changed. But anyway, that's what they state here.

Q. Next there's a statement that the Series C preferred stock will be economically equivalent to the common stock, will have voting rights commensurate with the common stock, and will be convertible into shares of common stock; correct?

A. They state that, but I don't think this information was available on September 16.

Q. In your calculations, you treat the Series C preferred stock as economically equivalent to common stock for the purposes of your valuation of the credit agreement claims; correct?

A. Yes.

Q. And that's the same thing that AIG is telling people in its financial reporting here in JX 188; correct?

A. Yes. The point I'm making is that on September 16, they were thinking they were going to be issuing warrants, and in that sense I don't think this information -- in hindsight, this might be available, but on 16th I don't think this was quite available.

Q. The third bullet states that the price of AIG's

common stock the date after the announcement of the New York Fed's commitment to enter into the Fed credit agreement provided the most observable market evidence of the value of the Series C preferred stock; correct?
A. Yes.
Q. And the price AIG is referring to there is the September 17 date, not the September 24 date you've used; correct?
A. Well, once again, you know, they are -- I'm offering evidence of what actually transpired between 16th and 24th to provide a basis for my use of September 24 as the price to be used to value the credit agreement and the taking on September -- or as of September 22.
Here, they have not offered. They're just offering their rationale for 16th without going into whether all the information was available thereafter, did it change or not.
Q. Isn't it AIG's obligation to provide all material information in its 10-K filings?
A. So preparation of financial statement, generally this amount of latitude they have in terms of that they are providing -- disclosing all the information for that date. Now, subsequently the valuation changed. These are fair value estimates anyway, so they are not

misleading anybody. And in that sense, this information, if I were to look at it, you know, even though I personally think that it is 22nd and they should have used the price closing of 24th, but for disclosure purposes, this -- this -- this doesn't strike me as unreasonable, in my humble opinion, even though I'm not an expert on -- a CPA type of expert.

Q. And by saying that this doesn't strike you as unreasonable, what you're referring to is AIG's $23 billion valuation, isn't it?

A. No. This disclosure I'm saying. This kind of disclosure, which gives the date, and this is the transaction that took place because -- let me explain why I say that. Okay?

When you say that, well, we are -- this would be near economic equivalent security would be issued, people don't look at financial statement to draw the inference about valuation. They look at the stock market, because it is publicly traded.

So therefore, so long as all the information as to when they valued it, how they valued it, that is provided, that would not be thought of as misleading. That's the limited sense in which I would say that this disclosure seems, you know, okay.

Q. AIG doesn't put any number in there other than

23 billion; correct?
A. Yeah. They put the date, though. I mean, that makes all the difference, sir.
Q. Let's talk about dates.
PTX 5208, please.
A. I'm sorry. What number?
Q. PTX 5208.
A. Okay. So my -- all right.
Q. And here, you state that final terms of the credit agreement were disclosed after the market closed on September 23, 2008; correct?
A. Yes.
Q. And here, you cite what would appear to be three analyst reports?
A. Yes.
Q. You also reviewed analyst reports of the period from September 16 to September 24 as part of your analysis in this case; correct?
A. Yes.
Q. Direct your attention to the document marked as PTX 1588.
A. PTX 1588. It's which --
Q. It is in your demonstrative and additional exhibits binder.
A. Okay. PTX 1588, yes.

Q. And is this a document you relied upon as part of your analysis in this case?
A. Yes. I took target price estimates and part of that -- I reviewed it as part of that, yes.
MR. TODOR: Your Honor, we move the admission of PTX 1588 for the purpose of illustrating the basis of the expert's opinion.
MR. BOIES: No objection, Your Honor.
THE COURT: All right. Plaintiffs' Trial Exhibit 1588 is admitted.
(Plaintiffs' Exhibit Number 1588 was admitted into evidence.)
BY MR. TODOR:
Q. Dr. Kothari, this is marked as an analyst report, equity research from Credit Suisse; correct?
A. That is correct.
Q. Are you familiar with the reputation of Credit Suisse in the field of finance?
A. Yeah.
Q. And what is your understanding of their reputation in the field of finance, sir?
A. Well, it's a very well-known firm.
Q. And you said you were looking at the target prices as part of your analysis; correct?
A. Yes.

Q. And what was their target price as of September 17, 2008, the date of this analysis?
A. I will have to --
Q. I believe it's on the first page, sir --
A. Okay.
Q. -- in the left margin.
Do you see there the target price is $3.00?
A. Yes, on the top. $3.00, yes.
Q. And that's actually lower than the value of the shares on September 24, 2008; correct?
A. That is correct.
Q. And if you turn your attention to the text, the first bullet states, "Last night after the close, the Federal Reserve announced that it was lending up to $85 billion to AIG, due mainly to the fact that the Federal Reserve Board determined that a disorderly failure of AIG would create too much turmoil to the global financial markets"; correct?
A. Yes.
Q. And that is, Credit Suisse is telling investors that there would be an $85 billion facility; correct?
A. And in that sense, it's lending up to $85 billion, yes.
Q. And turning your attention to the second bullet point, about halfway down, there's a statement that

"Also, in exchange for providing the loan, the U.S. government will also receive an 80 percent interest in AIG and has the right to veto the payment of dividends to common and preferred shareholders"; correct?

A. Yes.

Q. Credit Suisse is not qualifying the form of equity as saying it would be warrants; correct?

A. It's not qualifying it as warrants, yes.

Q. Turning your attention to the point 1 under the third bullet point, there's a statement: "The size of the credit facility suggests that the liquidity/capital needs at AIG may be substantially greater" --

A. I'm sorry. Where are you?

Q. The third bullet point has a subbullet 1 under it. It's still on the first page of PTX 1588.

A. Yes. Subbullet 1 you are saying.

Q. Yes.

A. Okay.

Q. And that states, "The size of the credit facility suggests that the liquidity/capital needs at AIG may be substantially greater than we had estimated, implying that a considerable amount of the total value of AIG's businesses may not go to current debt or equity holders, but rather to repay the Fed's term loan"; correct?

A. Yes.

Q. This is Credit Suisse expressing surprise at the size of AIG's liquidity needs; correct?
A. Yes.
Q. Turning your attention to PTX 1587.
A. 1587.
Q. It's the previous document, sir.
A. Okay.
Okay.
Q. Is this a -- actually, why don't we start with PTX 1589.
And do you recognize this as a document you relied upon in preparation of your opinions in this matter?
A. Yes. It is one of those that is included. You know, we reviewed all the analyst report in this period, so yeah, this would be one of them I would imagine, but I don't have a specific recollection of seeing this on 17 September, you know, so yeah.
Q. If you need to refer to your appendix of your report to -- you have a list of documents relied upon. You can do that if you need to, sir.
A. Yeah. I take your word. If you are representing that way, that's fine by me.
MR. TODOR: Your Honor, we move the admission of PTX 1589 for the purpose of illustrating the basis for

the expert's opinion.

MR. BOIES: No objection, Your Honor.

THE COURT: All right. Plaintiffs' Trial Exhibit 1589 is admitted with the stated restriction.

(Plaintiffs' Exhibit Number 1589 was admitted into evidence.)

BY MR. TODOR:

Q. And this document states that as of September 17, 2008, Keefe, Bruyette & Woods has a target price for AIG of $2.50 per share; correct?

A. Yes.

Q. And that again is lower than the $3.31 per share as of September 24, 2008; correct?

A. Yes. I have in my report given the range of target prices and 2.50 was the lowest and this must be it.

Q. And the way your calculation works, if it had been a lower share price, that would actually mean less that you would say is due in exchange for the 80 percent; correct?

So you take four times the existing share price more or less to come up with how much you say is due for the 80 percent; correct?

A. Yes.

Q. And if the share price had been $2.50 instead of

$3.31, that would mean four times that would only be $10.00 instead of $13.16; correct?

A. Yes. I mean, this is one estimate by one of the analysts. And as research shows, that analysts in general or on average, they provide an indication of what's happening, but individually they're not -- they don't have clairvoyance of predicting what would happen.

Q. And in fact, all those analysts that you're talking -- that you gave summaries on on PTX 5219, they are -- you have target prices ranging from $2.50 to $6.50 per share; correct?

A. Yes.

Q. That was all dramatically too high compared to what the share price was at the time of June 30, 2009, for example; correct?

A. Well, I suppose there is uncertainty, so sometimes things turn out to be worse than expected, sometimes they are better than expected.

Q. Turning your attention back to PTX 1589, the target price of $2.50, that includes Keefe, Bruyette & Woods' assessment of both the effect of the $85 billion credit facility and the 79.9 percent equity interest; correct?

A. Yes.

Q. And in the first sentence of the document, the analyst states, "The U.S. has thrown AIG a lifeline in the form of an $85 billion loan. Shareholders will be massively diluted as the U.S. takes 80 percent ownership."

They say that; correct?

A. They do.

Q. And there's no qualification in here as to the form being warrants; correct?

A. In this there isn't, so...

Q. Turn your attention to PTX 1590.

This is an analysis by Morgan Stanley?

A. Yes.

Q. And it's -- the analyst listed is Nigel Dally?

A. Yes.

Q. And you stated in your direct that Morgan Stanley you believe is a leading firm in terms of giving stock analyst reports?

A. Yes.

Q. And this document -- and Your Honor, we -- did you rely upon this document in preparation of your opinions in this matter?

A. Yes. And my recollection is I excluded this one.

Q. Well, let's take a look at your --

A. No, no. In the brief analysis that I provided, the target price here is $25.00. Okay? And so I decided that this one was -- there was something else that was going on here. It wasn't in line with -- I mean, you know, we all have to exercise some judgment, and this one in particular seemed too out of line that share price is $3.75 and then price target is $25.00. I didn't know what was going on, so I -- this was an outlier.

Q. Just for purposes of clarity, in your documents considered, you can refer to PTX 2494 in your expert reports and exhibits binder.

A. Okay. 2494 you said?

Q. Yes.

A. How come I don't have it?

Q. It's in the expert reports and exhibits binder.

A. Okay. This is still your binder, is it, or --

Q. It is one of our binders. It's the second document in our binder that is marked Expert Reports and Exhibits.

Let me know when you've reached the document, sir.

A. It's a slow process.

2494; right?

Q. Yes, sir.

A. Okay. I have it.

Q. I'll direct your attention to page 12.

A. Page 12. Okay.
Q. And this states that this is your documents relied upon in preparation of your report; correct?
A. Yes.
Q. I'll ask you to turn to page 15 of 2494.
A. Okay.
Q. And there is a heading at the very bottom of the page of Analyst Reports.
Do you see that?
A. Yes.
Q. And the first one listed is Morgan Stanley, Quick Comment: First Take on Government Bailout, September 17, 2008; correct?
A. Yes.
Q. And that's the same document that we were looking at as PTX 1590; correct?
A. All I'm -- you know, so -- as I said, I looked at a large number of documents. All I'm trying to say is that I know I have summarized the range of target prices, and they are from $2.50 to $6.50. And somehow, unless there is some adjustment to that $25.00 target price, my recollection is that at least in that part of my analysis I didn't include it. But I'm happy to answer questions you might have on this.
MR. TODOR: Okay. Your Honor, we move the

admission of PTX 1590 for the purpose of illustrating a basis for the expert's opinion.

MR. BOIES: No objection, Your Honor, given the witness' explanation on the record.

THE COURT: All right. Plaintiffs' Trial Exhibit 1590 is admitted for the stated purpose.

(Plaintiffs' Exhibit Number 1590 was admitted into evidence.)

BY MR. TODOR:

Q. And Dr. Kothari, you mentioned some disagreements with the price target that Morgan Stanley used in PTX 1590.

Whether their target price is in your opinion accurate doesn't affect what the market would have learned from reading the analyst report; correct?

A. Well, it depends upon what is said in that.

Q. So if Morgan Stanley is disclosing terms of the agreement, whether you agree with the target price doesn't affect that the market would have been informed of whatever terms Morgan Stanley was disclosing as part of its analyst report; correct?

A. Yeah. The two are unrelated in that sense or largely unrelated if not entirely.

Q. And turning your attention to the first paragraph of PTX 1590, it states, in the first sentence, "What's New: Last night it was announced that the Fed was stepping in to bail out AIG through providing the company with a two-year revolving credit facility up to $85 billion, fully secured by AIG assets including virtually all of its insurance subsidiaries"; correct?

A. Yes.

Q. And next, Morgan Stanley states, "In providing this facility, it will receive a 79.9 percent stake in the company and receive interest on the outstanding balance at a rate of three-month LIBOR plus 850 basis points"; correct?

A. Yes.

Q. Again, Morgan Stanley is not qualifying the term -- the form of equity as being warrants as opposed to some other form; correct?

A. Not in this report.

Q. Next I'll ask you to turn your attention to PTX 1591.

A. Same binder?

Q. Yes, sir.

A. Yes, it's right there. Okay.

Q. And this is marked as a UBS Investment Research, Global Equity Research, first read on AIG, dated September 17, 2008; correct?

A. Yes.

Q. And is this a document you relied upon as part of your analysis in your report?

A. Yes.

MR. TODOR: Your Honor, we move the admission of PTX 1591 for the purpose of illustrating the basis for the expert's opinion.

MR. BOIES: No objection, Your Honor.

THE COURT: Plaintiffs' Trial Exhibit 1591 is admitted for the stated purpose.

(Plaintiffs' Exhibit Number 1591 was admitted into evidence.)

BY MR. TODOR:

Q. And this document's subtitle is "$85 billion Fed loan facility for 80 percent equity stake"; correct?

A. Yes.

Q. And the second bullet -- and the first bullet states, "U.S. Federal Reserve agreed to $85 billion secured loan facility"; correct?

A. Yes.

Q. And it discloses the interest rate in that paragraph?

A. Three-month LIBOR or 11.4 percent, 850 plus three-month LIBOR. Yes.

Q. The second bullet states, "U.S. government gets 79.9 percent equity stake in exchange"; correct?

A. Yes.
Q. No qualification as to the form being warrants; correct?
A. No.
Q. The third bullet states -- okay.
Do you disagree that -- with my statement that there's no qualification as to the form being warrants?
A. I do not disagree.
Q. I just want to make sure our yeses and nos are meeting each other.
The third bullet --
A. I do want to point out one thing, that the term with respect to LIBOR plus that 850 basis point, that eventually they made -- it's 350 -- you know, LIBOR of 350 basis points plus 850 basis points to make it total of 12 percent interest, so eventually it ended up being higher than that. It's not 11.4 percent in the final.
Q. The third bullet states "Highly dilutive, but better than the alternative"; correct?
A. Yes.
Q. It states, "The deal is highly dilutive, but frees AIG from liquidity pressures as it reinvents itself"; correct?
A. Yes.
Q. And this is UBS saying that it is the credit

facility that frees AIG from liquidity pressures; correct?

A. Yes.

Q. They don't refer to anything else that would be freeing AIG from liquidity pressures other than the Fed facility; correct?

A. No. In this, at least my reading is that it talks about the Fed facility, not anything else here.

Q. And turning your attention to the second bullet, the second sentence states, "And, the government can veto common and preferred shareholder dividends, which we anticipate"; correct?

A. Which bullet are you?

Q. The second bullet, sir.

A. Yes. Yes. The second sentence says that, yep.

Q. Isn't it true that if the government had the ability from its equity stake to veto dividends that it would be anticipated that the form would be something other than warrants?

A. Well, you could have a separate provision included. If you are giving so many warrants, then you could attach some provision that accepting this facility gives you the right to agree to this or that. And in fact, in lending agreements, it's not at all uncommon to have a covenant that proscribes payment of dividends, so that's not uncommon at all.

Q. But at least here, UBS is referring to the vetoing of dividends under its description of the equity stake as opposed to some covenant of the loan agreement; correct?

A. I agree that they are doing that, so I'm not disputing that.

All I'm saying is that this is a once-in-a-lifetime type of unusual event that took place, and whether some provision was attached about denying the payment of dividends, that's entirely possible? That -- in my opinion, that does not negate whether this was warrant or something else. That does not speak to the form of equity being not warrant or not something else. That's the only limited point I was making.

Q. Turn your attention to PTX 1592, please.

A. Okay.

Q. This is titled Wachovia Equity Research on American International Group, dated September 17, 2008; correct?

A. Yes.

Q. Is this a document you relied upon in preparation of your opinions in this case?

A. Again, you know, I don't have specific recollection, but it looks like it was a report issued on 17 September, so I would have -- likely I considered it.

Q. And if you need to refresh your recollection -- I'm not saying you need to -- it is I believe listed as an item saying "Wachovia, AIG: Averts Bankruptcy; Shareholders Diluted But Not to Zero, September 17, 2008" as item 2 under Analyst Reports in PTX 2494 at page 16.

Do you accept my representation on that?

A. I do.

MR. TODOR: Your Honor, we move the admission of PTX 1592 for the purposes of illustrating the basis for the expert's opinion.

MR. BOIES: No objection, Your Honor.

THE COURT: Plaintiffs' Trial Exhibit 1592 is admitted for the stated purpose.

(Plaintiffs' Exhibit Number 1592 was admitted into evidence.)

BY MR. TODOR:

Q. And the first paragraph --

A. Just one second. Let me get some water.

Q. Please do, sir.

A. Thank you.

Q. And directing your attention to the first bullet here on page 1, 1592.

A. Okay.
Q. There is a statement: "The Federal Reserve announced that it had reached a historic agreement with AIG to offer the company an $85 billion line of credit with a two-year term. The size and length of the facility, which is priced at 850 basis points over three-month LIBOR, should provide the company with enough liquidity and time to orchestrate an orderly sale process of certain of its businesses"; correct?
A. Yes.
Q. And the second bullet states, in the second sentence, "In consideration of establishing the facility, the U.S. government will receive a 79.9 percent equity interest in AIG and can restrict common and preferred dividend payments"; correct?
A. Yes.
Q. And again, Wachovia is stating that -- is not placing any qualifications as to the form of equity being warrants?
A. Yes.
Q. And Wachovia is not placing any qualification as to the obligation to lend.
A. Are you talking about the 85 billion?
Q. Yes, the $85 billion credit facility.
A. So it states that it had reached an agreement,

yes.
Q. Yes.
A. Okay.
Q. Now, all of the analysis that we've -- analyst reports we've just read with the 17th, all of them were saying that the $85 billion loan and the 79.9 percent equity interest were relevant information to AIG's stock price as of September 17, 2008; correct?
A. Yes.
Q. And all -- and several of the ones we looked at also discussed the interest rate of three-month LIBOR plus 850 basis points; correct?
Turn your attention, please, to DX 1475, which --
A. This is not PTX. This is -- which binder is it?
Q. Oh, I'm sorry, sir. The record might not have picked up -- my previous question was that several of the analyst reports we just looked at also discussed the interest rate of three-month LIBOR plus 850 basis points; correct? Could I have your answer to that again, please.
A. Yes.
Q. Okay. I ask you to turn your attention to DX 1475. It is the second document in your demonstrative and additional exhibits binder.
A. PTX you are --
Q. It's a DX, so those would be at the front of the

binder.
A. Oh. I'm sorry. Okay.
DX 1475; right?
Q. Yes, sir.
A. Okay.
Q. And this is marked as an analysis by Morgan Stanley?
A. Uh-huh.
Q. Dated September 18, 2008?
A. Yes.
Q. And is this the same Nigel Dally who was the author of the Morgan Stanley report from September 17, to your knowledge?
A. Yes. He has been busy, hasn't he?
Q. And Dr. Kothari, I do not see this document listed in your documents relied upon, but do you agree that analysis by Morgan Stanley by the same analyst is relevant market information from the period between September 17 and September 24, 2008?
A. So I can't recall if there were -- if I excluded some because they were multiple. I don't believe so, but I -- sitting here, I cannot offer you an explanation as to why it does not appear. I would have to come back to you with an explanation at a later date. I don't know what the process is for that, but if there is a

process, I will offer an explanation subsequently.

Q. You stated that you relied upon a Morgan Stanley analyst report from September 17, 2008 just now, and in your direct you discussed a Morgan Stanley analyst report from September 24, 2008; correct?

A. I seem to recall that. Yes.

Q. You have no basis as you are sitting here now to say that Morgan Stanley analyst reports from the 17th and the 24th would be relevant information to rely upon, but a Morgan Stanley report from the 18th would not; correct?

A. Yeah. As I said, you know, unless it was repeat of that information, I don't know what was the reason. I will have to go back and look into it.

MR. TODOR: Your Honor, we move the admission of DX 1475 not for the truth of the matter but to illustrate the basis for the expert's opinion and for its effect on the market.

MR. BOIES: No objection, Your Honor.

THE COURT: Defendant's Exhibit 1475 is admitted for the stated purpose.

(Defendant's Exhibit Number 1475 was admitted into evidence.)

BY MR. TODOR:

Q. And I'll turn your attention to the "What's new" paragraph on page 1 of DX 1475.

A. Yeah. May I say something here? I seem to observe that the price target is not given here, NA, and that might be the reason why I did not include it.

Q. And as we discussed earlier, your assessment of the accuracy of price targets has no bearing on whether information in the analyst reports would be known to the market; correct?

A. Yes.

Q. Turn your attention to the "What's new" paragraph.

Again, there is the statement that "It was announced that the Fed was stepping in to bail out AIG by providing the company with a two-year revolving credit facility up to $85 billion, fully secured by AIG assets, including a stake in virtually all of its insurance subsidiaries"; correct?

A. Yes.

Q. And next Morgan Stanley states, "In providing this facility, it will receive a 79.9 percent equity ownership in the company and receive interest on the outstanding balance at a rate of three-month LIBOR plus 850 basis points"; correct?

A. Yes.

Q. You agree that this is what Morgan Stanley is telling the market about the terms of the facility as of

September 18.
A. That is correct.
Q. Let's turn your attention next to the second page of that document.
A. Okay.
Q. Under paragraph 1 titled How is the Fed Loan and Ownership Stake Structured?
A. Okay.
Q. Next there is a statement, in the fourth sentence of that paragraph, "Further, the Fed will receive warrants that effectively give it control of 79.9 percent of the company. While details of the warrants were not provided, we believe they are similar in nature to prior bailouts -- the strike price is a fraction of a penny, and the life is very long at around 20 years. So for all intents and purposes, the Federal Reserve is now the majority owner of AIG."
Do you see that?
A. That's what it states.
Q. And this is September 18. This was the day that AIG had issued the 8-K we had earlier seen in JX 96; correct?
A. I'm sorry. What was the question?
Q. AIG had issued an 8-K on September 18, 2008; correct?

A. Yes. This is their -- this analyst's assessment of what might be the terms, so they -- they -- as it turns out, the analyst was wrong on multiple dimensions.

Q. And Dr. Kothari, I just want to make sure our questions and answers are meeting.

All I was asking you about in terms of timing, the date of this analyst report, September 18, 2008, was the date of the initial AIG 8-K that we had discussed a little while ago; correct?

A. It is. It was also 18th.

Q. And at least according to what Morgan Stanley is saying here, the warrants effectively give control of 79.9 percent of the company to the Federal Reserve as of September 18, 2008; correct?

A. It says that, but I don't think that is quite accurate because generally warrants are not mooting, so I don't see how they can get control that easily, so I -- I -- this is what is stated, but it doesn't comport with my economic understanding of how these things work.

Q. And apart from your understanding of whether Morgan Stanley's statement is correct in terms of economic substance, in terms of what Morgan Stanley is saying to the market, Morgan Stanley is not drawing a distinction between warrants and stock in terms of the effect of the 79.9 percent equity stake; correct?

A. It appears that they are not making -- drawing a distinction. At the same time, the market doesn't blindly follow everything that is said by individual analysts.
Q. Turning your attention to Morgan Stanley's statements later, you cite on PTX 5208 a Morgan Stanley analyst report from September 24, 2008 saying that "The terms of the offering are more punitive than we originally expected"; correct?
A. Yes.
Q. And then turn your attention, please, I believe to PTX 246.
A. This is from my binder?
Q. It may be.
A. You seem almost as confident as Morgan Stanley analysts.
Q. Yes.
I believe a copy may also be in your --
A. Okay. So what is the number?
Q. The demonstrative and additional exhibits binder we handed you also has PTX 246. It is also in your binder marked S.P. Kothari Materials.
A. 246, yes, I have it in front of me.
Q. Yes.
A. Okay.

Q. And this is again Morgan Stanley, same Nigel Dally; correct?
A. Yes.
Q. In this report Morgan Stanley states, in the "What's new" paragraph, "AIG announced that it has signed a definitive agreement with the Federal Reserve Bank under which it has secured an $85 billion, two-year line of credit"; correct?
A. Yes.
Q. Next it states, "The terms of the offering are more punitive than we originally expected, with (1) an interest cost of 8.5 percent plus three-month LIBOR on the outstanding balance" -- that's the same interest rate that had been discussed previously, though; correct?
A. Yes.
Q. Second item is an additional commitment fee of 2 percent on the total facility.
Now, that's a new item; correct?
A. I believe so. I mean, I -- you know, we have seen so many now, so what was --
Q. You cited this as a new item in 5207; correct?
A. Uh-huh.
Q. And item 3 is an 8.5 percent annual commitment fee on the undrawn amounts; correct?
A. Yes.

Q. And that also is one you described as a new item in 5207; correct?

A. Yes.

Q. Item 4 is the issue of convertible preferred stock giving the Federal Reserve effective ownership of 79.9 percent of the company, convertible into common stock following a special shareholder meeting; correct?

A. Yes.

Q. Now, Mr. Dally said on September 18 that the Federal Reserve had effective control even if it was warrants as of September 18; correct?

A. Yes.

Q. So at least from Mr. Dally's analysis here, item 4 is not a new item in terms of whether the Federal Reserve would have effective control, in Morgan Stanley's opinion.

A. I don't know what was going on in the mind of Mr. Dally from that date to this date in terms of over time, the analysis. He might have done more, thought more about it. He might have -- the market's expectation is not his expectation anymore but his revised expectation based on information that transpired between 18th and 24th, so I cannot -- we can say that -- we can compare Morgan Stanley report on 19th or 18th versus 24th, but that is not the same thing as this being more punitive than what was expected.

Q. And apart from whether it's more punitive, Morgan Stanley isn't saying that there's any more effective control on the 24th than it was saying on the 18th; correct?

A. I haven't compared and so, you know, help me understand, you know, where does -- here it says control.

THE COURT: Mr. Todor, shall we break here for the day?

MR. TODOR: If the witness can -- I won't have any more questions. If the witness is finished his answer, then yes. If he hasn't finished his answer, I'd ask he be permitted to finish his answer.

THE WITNESS: I will do whatever you ask me, Your Honor.

THE COURT: In that event, you can revisit this tomorrow if you like, but I think we'll go ahead and break.

MR. TODOR: Thank you, Your Honor.

THE COURT: We'll reconvene at 9:30 tomorrow morning.

(Whereupon, at 5:01 p.m., the proceedings were adjourned.)

CERTIFICATE OF TRANSCRIBER

I, Josett F. Whalen, court-approved transcriber, certify that the foregoing is a correct transcription from the official digital sound recording of the proceedings in the above-titled matter.

DATED: OCTOBER 28, 2014

____

JOSETT F. WHALEN, COURT REPORTER

ADMITTED EXHIBITS

PX	PAGE	DESCRIPTION
234	4563	BusinessWire, "AIG Signs Definitive Agreement with Federal Reserve Bank of New York for $85 Billion Credit Facility," (September 23, 2008)
246	4566	Morgan Stanley Analyst Report "American Int'l Grp: Quick Comment: Staying on the Sidelines after Release of Fed Credit Line Details" (September 24, 2008)
422	4601	Duff & Phelps Valuation Report Congressional Oversight Panel (February 4, 2009)
622	4607	Office of Financial Stability - Agency Financial Report for Fiscal Year 2010
685	4537	The Department of the Treasury: Agency Financial Report for the Fiscal Year 2013
720	4623	FRBNY Website - "Actions Related to AIG Financial Information: New York Fed Financial Assistance to AIG"
1588	4712	Credit Suisse Analyst Report, "Fed Lifeline for AIG to Result in Auction of Many (if not all) Businesses" (September 17, 2008)
1589	4716	Keefe, Bruyette & Woods Analyst Report, “AIG Rescued” (September 17, 2008)

1590	4721	Morgan Stanley Analyst Report, “Quick Comment: First Take on Government Bailout” (September 17, 2008)
1591	4723	UBS Analyst Report, “$85B Fed Loan Facility for 80% Equity Stake” (September 17, 2008)
1592	4727	Wachovia Analyst Report, "AIG: Averts Bankruptcy; Shareholders Diluted But Not to Zero" (September 17, 2008)
1654	4566	FBR Capital Markets Analyst Report, “AIG Fed Loan Update” (September 24, 2008)
1658	4564	“AIG Falls on Concern Government Loan Will Force Liquidation,” Bloomberg (9/24/2008)
2156	4547	Financial Report of the U.S. Government for 2009
2248	4622	Citi Slide Deck: Project Independence: Board of Directors Presentation (September 29, 2010)
2840	4621	September 28, 2010 Fairness Opinion Draft

DX	PAGE	DESCRIPTION
414	4687	FEDERAL RESERVE TO LEND UP TO $85 BILLION TO AIG, FEDERAL RESERVE PRESS RELEASE, SEPTEMBER 16, 2008
1475	4731	MORGAN STANLY ANALYST REPORT, "THE DISMANTLING OF AIG KEY QUESTIONS FROM INVESTORS," 9/18/08