

1 IN THE UNITED STATES COURT OF FEDERAL CLAIMS

2

3 STARR INTERNATIONAL COMPANY,)
4 INC., Individually and on)
5 Behalf of All Others)
6 Similarly Situated,)
7 Plaintiffs,) Case No. 11-779C
8 vs.)
9 UNITED STATES OF AMERICA,)
10 Defendant.)
11 -----)

12

13

Courtroom 4

14

Howard T. Markey National Courts Building

15

717 Madison Place, N.W.

16

Washington, D.C.

17

Wednesday, November 5, 2014

18

9:30 a.m.

19

Trial Volume 27

20

21

BEFORE: THE HONORABLE THOMAS C. WHEELER

22

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25

Susanne Bergling, RMR-CRR-CLR, Reporter

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I N D E X

WITNESS:	DIRECT	CROSS	REDIRECT	RECROSS	VOIR
HUEBNER		6254			
WILLUMSTAD	6328	6450			6450

EXHIBITS	FOR ID	IN EVID
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Plaintiff's

Number197		6300
Number212		6301
Number217		6325
Number227		6281
Number244		6284
Number278		6257
Number288		6306
Number343		6312
Number352		6316
Number384		6319
Number390		6325
Number1645		6323

Defendant's

Number116		6453
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	EXHIBITS	FOR ID	IN EVID
1			
2	Defendant 's		
3	Number178		6347
4	Number196		6363
5	Number207		6351
6	Number209		6354
7	Number222		6354
8	Number227		6364
9	Number228		6372
10	Number939		6448
11	Number1451		6410
12	Number2500		6241

13

14 Joint

15 None

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22 *All exhibits premarked for identification prior to
23 trial.

24 *See full attached list of admitted exhibits following
25 transcript.

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P R O C E E D I N G S

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(Proceeding called to order, 9:45 a.m.)

THE COURT: Good morning.

ALL COUNSEL: Good morning, Your Honor.

THE COURT: Please be seated.

I don't see our witness.

MR. GARDNER: We have a couple of housekeeping matters. That's why.

THE COURT: Before we get started with that, we are on the record this morning for day 27 in the trial of Starr International Company versus the United States. Good morning.

MR. GARDNER: Good morning, Your Honor.

MR. BOIES: Good morning, Your Honor.

MR. GARDNER: I think both sides have very brief housekeeping matters, one of which we thought it appropriate not to have Mr. Huebner on the stand for.

The first is we have made a proper exhibit of the demonstrative, and I wanted to hand those out, if I may.

THE COURT: Sure.

MR. GARDNER: May I approach, Your Honor?

THE COURT: Yes.

MR. GARDNER: Thank you.

1 THE COURT: Thank you.

2 MR. GARDNER: And then the second issue, Your
3 Honor, is as we mentioned yesterday, we have marked as
4 214-A the version of the email, and if I may approach
5 and present that as well.

6 THE COURT: Yes.

7 MR. GARDNER: Thank you.

8 THE COURT: Thanks.

9 MR. GARDNER: And then the third thing, Your
10 Honor, and this is going back a few days now, but I
11 mentioned this to Mr. Boies before we started this
12 morning. You may recall that John Brandow had testified
13 that he had seen an earlier version of the document --
14 of a document, but, you know, that document had not been
15 presented.

16 We went back through the discovery to find the
17 document that we believe he was referring to. I spoke
18 to Mr. Boies about how he wished to handle it, and he
19 felt that the best approach was simply to sticker it as
20 a new exhibit, introduce it, and the Government has no
21 objection to that, so long as it's okay with the Court.

22 THE COURT: Yes, that's fine.

23 MR. GARDNER: And it's been marked as DX 2500.
24 May I approach, Your Honor?

25 THE COURT: Yes, thank you. Without objection,

1 Defendant's Exhibit 2500 is admitted.

2 (Defendant's Exhibit Number 2500 was admitted
3 into evidence.)

4 MR. GARDNER: And then I believe the final thing
5 from the Government's side is the request with respect
6 to the in camera submission of documents that we had
7 discussed yesterday.

8 THE COURT: Yes.

9 MR. GARDNER: And Mr. Mizoguchi is going to
10 address that issue.

11 MR. MIZOGUCHI: Good morning, Your Honor.

12 THE COURT: Good morning.

13 MR. MIZOGUCHI: Your Honor, we have the
14 requested documents unredacted, and I have a transmittal
15 letter, which I can either hand up -- I know the Court
16 has a view about letters -- and a copy to Plaintiffs'
17 counsel or just describe what I'm about to hand you.

18 THE COURT: I think in the case of an in camera
19 submittal, this is a rare instance when a letter may be
20 appropriate.

21 MR. MIZOGUCHI: Then I will circulate the letter
22 and hand it up.

23 THE COURT: All right.

24 MR. GARDNER: And, Your Honor, sorry, to close
25 the loop on the demonstrative, just for the record, what

1 I handed up was marked or identified as DXX 036, just so
2 the record's clear as to what it is, what I just handed
3 up.

4 THE COURT: All right. Defendant's
5 Demonstrative Exhibit 036 is admitted.

6 (Defendant's Exhibit Number DXX 036 previously
7 admitted on 11/3/2014, Vol. 25.)

8 MR. BOIES: The housekeeping I have is a little
9 more complicated, and it relates to the privilege issue
10 that we were confronted with yesterday.

11 Over the evening recess, I have gone back and I
12 have looked at the depositions of the Wachtell witness
13 and Mr. Huebner, and we were precluded from asking any
14 questions about any legal advice, and it was very
15 broadly construed unless on its face the question
16 related to the issue of authority. And counsel for the
17 Government made that very clear on the record in the
18 Wachtell deposition.

19 So, what happened is that we had discovery order
20 six --

21 THE COURT: Was Wachtell representing in some
22 way the agencies on the government side, the Federal
23 Reserve Bank and the Treasury?

24 MR. BOIES: Yes, Your Honor. Yes, Your Honor.

25 THE COURT: Okay.

1 MR. BOIES: And it was a relatively brief
2 representation, but it was a very critical time, because
3 it started on the 16th and ended some days later, but
4 that's obviously a very critical time period for us.

5 THE COURT: Right.

6 MR. BOIES: I mean, for example, we were
7 asked -- we asked questions about who proposed having
8 preferred stock as opposed to warrants. Even a
9 preliminary question like that, we were instructed not
10 to answer or the witness was instructed not to answer.
11 And it's very clear that both we and they interpreted
12 the Court's discovery order number six to be limited to
13 the issue of authority. And so if we didn't
14 specifically, on the face of the question, say "did this
15 involve a question of legal authority," if we were
16 simply asking why did you do it or what were the
17 reasons, the kind of things that the witness testified
18 extensively about yesterday, we were precluded from that
19 examination.

20 Now, I think that it is clearly wrong under the
21 case law for a party to instruct on the basis of
22 privilege and then, on the eve of trial or at trial,
23 waive that privilege and have the witness testify,
24 because we have obviously been precluded from fair
25 discovery. The remedy is much more complicated, and I

1 don't have a clear proposal as to exactly what I think
2 we need to do. We're still doing some research on that,
3 trying to find any comparable situations that we can.

4 I do think there are two things that I think
5 ought to happen right away. First, I think that all of
6 the redactions that they made on privilege with respect
7 to documents that have been marked by either side as
8 exhibits in this case, we ought to be furnished with
9 unredacted copies. There's been a subject matter
10 waiver, it's been very broad, and I think we're entitled
11 at least to see the redacted portions of documents that
12 are sufficiently relevant that they have been marked as
13 an exhibit by one side or the other.

14 We're going to try to furnish the Court, either
15 tonight or tomorrow morning, a brief memorandum setting
16 forth what we think the facts are in the case and what
17 we think some relevant authorities are for the Court's
18 consideration.

19 I don't want to make too big a point of this,
20 because I think the issues about which we are arguing
21 are not at the center of the case, and I think that -- I
22 don't want to disrupt the trial unnecessarily, but I do
23 think it is important that we address -- we address the
24 issue.

25 Davis Polk, for example, did not even give us a

1 privilege log, so we don't have an identification. The
2 argument was they had so many privileged documents that
3 it would be too burdensome to construct a privilege log.
4 So, we know there's a huge amount of written privileged
5 material that goes to the subject matters that the
6 witness was testifying about, but we don't -- we have
7 not had access to that.

8 As I say, how we deal with that I think is
9 something that we all need to think about and maybe we
10 can talk with the other side about it, but I think as a
11 threshold matter we at least ought to get the unredacted
12 copies of all the things that have been marked as
13 exhibits.

14 THE COURT: All right. I have some thoughts.
15 I've been thinking about this subject myself overnight,
16 but I want to let the United States respond first.

17 MR. GARDNER: Thank you, Your Honor.

18 A couple of brief points first. One, it's my
19 understanding that Wachtell Lipton was not representing
20 the New York Fed but may have been providing some work
21 on behalf of the Department of Treasury for a limited
22 period of time. So, I just wanted to clear that up. I
23 think Mr. Boies had said it was both. That's, to my
24 understanding, not correct.

25 The bigger point --

1 THE COURT: Mr. Huebner seemed to be unsure
2 about who Wachtell --

3 MR. GARDNER: That's correct, and to be sure,
4 Your Honor, I'm not here to provide testimony,
5 obviously, you know --

6 THE COURT: I understand.

7 MR. GARDNER: -- but that is my personal
8 understanding, and I could be wrong; it's happened
9 before. There's a much more fundamental point, Your
10 Honor, that Mr. Boies' conception of what witnesses were
11 and were not allowed to testify is demonstrably
12 incorrect, and if the Court wishes, I'm happy to provide
13 the Court with the entire deposition, the 30(b)(6)
14 deposition of Mr. Huebner.

15 The agreement was that Mr. Huebner could testify
16 to any document that, you know, we had produced, and, in
17 fact, Mr. Huebner did testify in great detail about the
18 advice provided as reflected in particular documents.
19 He actually testified at his deposition about the
20 Wachtell meeting and how that came about, about the
21 preferred. So, there's no mystery there and there is no
22 notion that the Government is somehow using privilege as
23 a sword and a shield.

24 The vast majority of the testimony that
25 Mr. Huebner testified to yesterday comes from one of two

1 places. What he said at his deposition, his actual
2 deposition, or, two, the documents that have already
3 been produced in discovery and submitted as evidence in
4 this case.

5 I think the one challenge the Government has
6 or -- has, for lack of a better word -- is that because
7 Mr. Boies has been able to introduce exhibits without
8 really requiring a strict sponsoring witness
9 requirement, as this Court is aware, there have been a
10 number of Marshall Huebner emails and memos and things
11 like that that have already been admitted in evidence.

12 To the extent Mr. Boies is suggesting that
13 somehow we cannot ask Mr. Huebner, the witness on the
14 stand, about exhibits that have already been admitted,
15 the sword and shield argument actually works the other
16 way. It is Plaintiffs who are trying to say, look, you
17 can -- we can put in evidence, but you can't respond to
18 it. And that's, I think, the real big issue there.

19 Beyond that, Your Honor, I would go back to what
20 I said yesterday, because I mean it. If we asked a
21 question of Mr. Huebner on the stand, I am not going to
22 stand up and object and say Mr. Boies cannot ask
23 questions about that testimony. That's not the
24 intention at all, Your Honor. But then when we get to
25 the bigger issue of subject matter waiver, I go back to

1 the question that I asked yesterday. What is the
2 subject matter that he believes has been waived?

3 You know, the issue of discovery order six and
4 the issue of control is obviously at the heart of this
5 case, and those issues about the preferred shares versus
6 the warrants go to that issue, and so to the extent that
7 Mr. Boies believes that somehow that testimony is a
8 subject matter waiver, that is discovery order six, and
9 certainly, as this Court has expanded upon it in the
10 first week of trial, that testimony fits comfortably
11 within there. To the extent there's something else that
12 he believes is a subject matter waiver, I haven't heard
13 what it is that has been waived on a subject matter
14 basis.

15 So, I will obviously -- the Government will
16 respond to whatever it is that Plaintiffs file tomorrow
17 or tonight or whenever it is they file it, but at least
18 as a preliminary matter, that's the Government's
19 thoughts on this.

20 THE COURT: All right. Well, I will give you my
21 tentative observations about this, because I haven't
22 gone back to look at the draft transcript. I do recall
23 basically what happened yesterday, and I think the rules
24 changed dramatically yesterday. You know what our
25 guidelines were up until then, that is, that we had a

1 subject matter waiver on the question of the
2 Government's authority under Section 13(3) of the
3 Federal Reserve Act, but yesterday there were many
4 questions of the witness about what advice did you give
5 on this subject, what legal advice did you give on that
6 subject, and as I indicated yesterday, to me, that takes
7 us beyond the identifying of discrete subject matters
8 that might have been waived as to attorney-client
9 privilege and it gets us more into a question that
10 anything relating to the subject of AIG has been waived.

11 And I think that changes things dramatically,
12 because during the discovery period, those were not the
13 guidelines that were being followed, and I don't know
14 the extent to which the Plaintiff was denied deposition
15 answers and I don't know the extent to which there may
16 be documents identified on a privilege log that should
17 now be disclosed, but I have the impression that any
18 communication involving the law firm of Davis, Polk &
19 Wardwell relating to AIG, that the privilege has been
20 waived, and all of that needs to be made available to
21 the Plaintiff.

22 And normally we separate discovery from trial,
23 and I often say that discovery is over and we're in
24 trial, but the rules of the game have changed because of
25 what happened yesterday, and the Plaintiff was denied in

1 discovery documents that should now be produced as a
2 result of the waiver of the privilege.

3 Now, as we all know, it's the client who
4 normally waives the privilege, and I think, you know, we
5 had no objection -- in fact, the Government assertively
6 raised these issues yesterday, and I know that counsel
7 for the Federal Reserve Bank was in the courtroom
8 yesterday, no objection there. So, this must be
9 something that everybody's in on and there has been a
10 knowing waiver of the privilege. And so we're going to
11 correct this somehow.

12 Normally it would be problematic just to
13 interrupt trial to allow more discovery and I wouldn't
14 do that, but in this case I think we have so many
15 lawyers involved on each side, I don't think it will be
16 a problem to be able to staff it somehow. And I'm sorry
17 that we have to do this, but I think that it's essential
18 that the rules of waiver of privilege be followed here,
19 and that's what I'm thinking about doing.

20 Now, I'll be happy to hear your further views
21 about this and we'll see what the Plaintiff files, but
22 I'd be very much in favor of full production of any
23 document on a privilege log that involves Davis, Polk &
24 Wardwell. If they did not submit any privilege log of
25 their own, well, then, maybe they have a lot of work to

1 do. But that's the way I see it.

2 MR. GARDNER: And, Your Honor, obviously I
3 respect the Court's judgment. I would resist the fact
4 that there may be a subject matter waiver on everything
5 related to AIG. There are obviously a vast amount of
6 topics I could have gone into with Mr. Huebner but I did
7 not. So, I really think that as an initial matter we
8 need to look at it on a subject-by-subject basis to see
9 whether there has been a waiver, and I think the easiest
10 way to do this -- because obviously I want to get
11 Mr. Huebner on and off the stand, get to our next
12 witness -- I think the easiest way to do this frankly is
13 to brief it, and I can show Your Honor, you know,
14 Mr. Huebner's deposition and show what it is that he
15 actually did testify to previously, the production that
16 had been made previously, the fact that many of those
17 exhibits are already in evidence.

18 And so rather than take the Court's time -- and
19 I understand the Court's preliminary ruling, to be
20 clear, but I think that before the Court makes any
21 definitive determination, we would appreciate the
22 opportunity to brief this issue, because I think that
23 there might be a misapprehension here that we hopefully
24 could be able to at least clarify through briefing.

25 THE COURT: Well, to me, there have been so many

1 subjects that have been waived that I don't know how you
2 can do that anymore. The amount of effort that would go
3 into taking a document, for example, that identifies two
4 of your subjects that are waived and three others that
5 you think have not been waived, I think at this point
6 anything AIG has been waived involving Davis Polk.

7 And I don't want to get involved in a long,
8 drawn-out briefing process on this, we're not going to
9 adjourn the trial until January or February. Things are
10 going to keep going, and I want to do something
11 expedient.

12 MR. GARDNER: And we appreciate that, Your
13 Honor. Certainly no one has an interest, I think, in
14 stopping trial, to be sure. The other --

15 THE COURT: So, I am going to maybe cut this in
16 a way that it would be rougher than normal, but we have
17 to get on this right away, and Davis Polk's going to
18 have to snap to it and respond, as well as you all, with
19 their assistance, and we're going to get this done.

20 MR. GARDNER: And I completely hear you, Your
21 Honor. I think the other thing that we're going to need
22 to address -- and, you know, perhaps we can work it out
23 mutually amongst Mr. Boies and myself -- is a time frame
24 as well, and it does relate to subject matter. I mean,
25 to be sure, Mr. Huebner did testify extensively about

1 the, you know, September 16th period to September 23rd
2 period. There was other testimony he gave, you know,
3 the discrete topics about ML III and the Walker
4 litigation that transcend that, although it's not clear
5 to me that there was any subject matter waiver related
6 to that. So, I think that as we are coming up with a
7 solution, time frame is definitely something that is
8 going to be important as well.

9 THE COURT: But I think the approach you're
10 suggesting would require hundreds of hours to figure out
11 what should be produced and what shouldn't, and I just
12 think at this point anything AIG is to be produced.

13 MR. GARDNER: I understand the Court's ruling.

14 THE COURT: That's not a final position, because
15 I want to let you all think about that, and if you
16 believe there's a way to refine the approach and yet do
17 it in a fast way, I'm happy to hear that.

18 MR. GARDNER: Understood. And we will, of
19 course, work collaboratively with Plaintiffs' counsel to
20 come up with a workable solution as well.

21 THE COURT: Sure.

22 MR. GARDNER: Thank you, Your Honor.

23 MR. BOIES: I think we're ready for our witness,
24 Your Honor.

25 THE COURT: All right.

1 Good morning, Mr. Huebner.

2 THE WITNESS: Good morning, Judge.

3 THE COURT: You look somehow refreshed this
4 morning.

5 THE WITNESS: I managed to sleep somewhat. I
6 was excited to hear if I mentioned security agreements
7 and you were in the middle of dismissing the case, so
8 that may be why you see a lot of excitement in my face,
9 but I guess maybe that's not what happened during the
10 break.

11 THE COURT: Well, welcome back. We are
12 confident we will finish your testimony today.

13 And you do understand that you are still under
14 oath?

15 THE WITNESS: I do, Your Honor.

16 THE COURT: All right.

17 MR. BOIES: Your Honor, we now have a Marshall
18 Huebner volume of documents, which the witness has.
19 Whereupon --

20 MARSHALL HUEBNER

21 a witness, called for examination, having previously
22 been duly sworn, was examined and testified further as
23 follows:

24 CROSS EXAMINATION (cont.)

25 BY MR. BOIES:

1 Q. Good morning, Mr. Huebner.

2 A. Good morning, Mr. Boies.

3 Q. At the break yesterday, we were looking at
4 Plaintiffs' Trial Exhibit 148. Do you recall that?

5 A. May I turn to it?

6 Q. Absolutely.

7 And I had directed your attention to the portion
8 at the bottom of the first page where the notes say,
9 "Marshall: Does Fed care who gets benefit of warrant:
10 Fed or Treasury?"

11 Do you see that?

12 A. I do.

13 Q. Now, I want to direct your attention now to
14 another portion on the first page, and that is in the
15 middle of the page where there's a reference to "Tom B."
16 Do you see that?

17 A. I do.

18 Q. And that would be Tom Baxter, correct?

19 A. Yes. I'm sorry, I thought I said yes. Yes, it
20 would.

21 Q. And the last thing that is attributed to him is,
22 "Don't have statutory authority to control." Do you see
23 that?

24 A. I do see that.

25 Q. Now, this was a telephone conference that you

1 participated in on September 18th, 2008, correct?

2 A. As I said yesterday, I certainly would not have
3 remembered a specific call, but I have no reason at all
4 to doubt and I am quite confident based on these notes
5 that I was on this call.

6 Q. And do you recall Mr. Baxter saying on this call
7 that the Federal Reserve did not have statutory
8 authority to control?

9 A. I do not. As I said yesterday before you showed
10 me these notes, I did not remember any of the details of
11 this call.

12 Q. Um-hum. Let me ask you to look at Plaintiffs'
13 Trial Exhibit 278.

14 A. Yes.

15 Q. This is a draft of the trust agreement which you
16 worked on, correct?

17 A. I -- if you tell me it is, I'm sure it is.
18 That's what it appears to be.

19 Q. And this says "Fifth draft, October 3, 2008."
20 Do you see that?

21 A. Yes, I do.

22 Q. And I take it it is the case that the credit
23 facility trust agreement went through a number of
24 drafts?

25 A. Yes. I believe it did.

1 MR. BOIES: Your Honor, I would offer
2 Plaintiffs' Trial Exhibit 278.

3 MR. GARDNER: No objection, Your Honor.

4 THE COURT: Plaintiffs' Trial Exhibit 278 is
5 admitted.

6 (Plaintiffs' Exhibit Number 278 was admitted
7 into evidence.)

8 BY MR. BOIES:

9 Q. Let me direct your attention to page 19 of the
10 exhibit and to Section 6.11.

11 A. I'm sorry. I just want to -- this is not a
12 complete document at all. It goes from the cover page
13 to page 15.

14 Q. Yes. As we explained at the beginning and as
15 your counsel explained -- as counsel for the United
16 States explained, the binders contain excerpts of
17 exhibits. If at any time you would like to see the
18 entire exhibit for context, just say so and we'll
19 furnish it.

20 A. Well, I don't know what you're going to ask.
21 Normally, I would not look at only a couple of pages of
22 a document to understand it.

23 Would it be appropriate to ask for the whole
24 document?

25 THE COURT: Sure.

1 THE WITNESS: I mean, oftentimes there are
2 defined terms that are defined in the "Definitions"
3 section, et cetera.

4 BY MR. BOIES:

5 Q. Now, would you turn to page 19 of the exhibit,
6 Section 6.11.

7 A. Yes.

8 Q. And this is "Perpetuities Savings Language,"
9 correct?

10 A. Yes.

11 Q. And my reason for directing your attention to
12 this is not to give you a test on the rule against
13 perpetuities --

14 A. You mean with the fertile octogenarian? That
15 would go back quite a ways.

16 Q. -- but because at the end of this draft section,
17 there is a comment. DPW provided this language, and the
18 language that is provided is that, at the expiration of
19 the twenty-one years, et cetera, if the trust is still
20 in existence, the property shall be transferred to the
21 Treasury. Do you see that?

22 A. I do see that.

23 Q. And then there is a comment here (as read):
24 "DPW provided this language except that it had the
25 property going to the Federal Reserve Bank of New York."

1 Do you see that?

2 A. I do.

3 Q. And is that -- is that the case, that in the
4 draft that Davis Polk had prepared, the property -- the
5 shares went to the Federal Reserve Bank of New York in
6 this perpetuities savings provision?

7 A. I don't know. I was by no means the draftsman
8 of this document. It was being headed by one of our
9 trust partners, but -- I have no reason to believe this
10 is a false statement, but I have no knowledge or
11 recollection. In particular, the perpetuities savings
12 language would not generally have been the type of thing
13 in which I was involved.

14 THE COURT: Mr. Huebner, if you can keep your
15 voice up again for us, please.

16 BY MR. BOIES:

17 Q. Then it goes on to say, "Not sure why FRBNY and
18 not Treasury (neither of us can take stock so we both
19 have the same problem)." Do you see that?

20 A. I do see that.

21 Q. And were you aware of that comment back from
22 your clients with respect to this draft?

23 A. I was not aware of that, no.

24 Q. You were aware that the -- what has been
25 referred to as the 1:44 p.m. draft of the term sheet,

1 the September 16th term sheet, the one that the Board of
2 Governors considered, would not have given the
3 Government immediate voting control, correct?

4 A. Yes. It contemplated warrants.

5 Q. And as the discussion went on and it was raised
6 whether there would be preferred stock or not, one of
7 the proposals was that there would be preferred stock
8 but that stock would vote with management, correct?

9 A. Well, when you say "as the discussion went on,"
10 what I believe you're referring to is an email from
11 Mr. Baxter that counsel for the Government showed me
12 yesterday where he said that among the things I would
13 like you to consider are warrants where the stock is
14 voted with the Government. So, that was in an email
15 from Mr. -- sorry, voted with management. I just
16 misspoke.

17 That was in an email from Mr. Baxter to me which
18 we looked at yesterday. I believe the Romanette (ii) in
19 that email was to look at the trust structure.

20 Q. Which email are you referring to? Can you be
21 more specific so we can find that?

22 A. I would be in a very different line of work if I
23 could name trial exhibits. There was an email I was
24 asked about yesterday where Mr. Baxter said I'd like you
25 to look into two options. I'm guessing it may have been

1 dated the 17th. I know visually it was sort of at the
2 bottom of the page, but I -- there's no way I could give
3 you a JTX or whatever reference number.

4 Q. Let me ask you to look at Joint Exhibit 88 in
5 the Government's binder --

6 A. The white binder.

7 Q. -- and ask you whether this is the document
8 you're talking about.

9 A. Yes, I believe it is.

10 Q. And this is where, as you say, Mr. Baxter asks
11 Davis Polk to -- after saying, "Of course, control is
12 the key issue. We cannot have control. Someone at
13 Davis Polk might want to think through (a) warrants that
14 are exercisable upon sale and (b) holding shares in a
15 voting trust, where the trustee votes with management."

16 Do you see that?

17 A. I do.

18 Q. And is that what you were referring to a moment
19 ago with respect to the email?

20 A. Yes, which I had slightly mis-described. Thank
21 you for finding it.

22 Q. And if you look at JX-90.

23 A. I'm sorry, back to your book for that?

24 Q. Back to our book for that.

25 A. Oh, this is the same email.

1 Q. Well, it is the same email from Mr. Baxter to
2 you, but it has a different response from you. Do you
3 see?

4 A. Yes. Yeah, this is -- yes.

5 Q. Now, with respect to the holding shares in a
6 voting trust where the trustee votes with management,
7 that would have prevented one of those vulture funds
8 swooping in, as you described it, and taking over the
9 company in a hostile takeover, correct?

10 A. I don't know that that's necessarily true. I
11 think it would depend on the fact pattern.

12 Q. Well, if the trust was going to vote with
13 management and the trust had 79.9 percent of the
14 votes --

15 A. Right.

16 Q. -- management could not be ousted in a hostile
17 takeover. Would you agree with that?

18 A. Well, I mean, hostile to whom? I could
19 certainly envision --

20 Q. Hostile to management.

21 A. Yes. If someone who acquired stock was hostile
22 to management, then presumably management would not be
23 supportive of that. If somebody was hostile to other
24 parties but supportive of management, the type of
25 accusations I think are made not infrequently in the M&A

1 context, you could certainly envision a different
2 scenario. I just don't think it's necessarily true.

3 Q. What advantages, if any, did you tell the
4 Federal Reserve and Treasury that preferred stock with
5 unlimited voting issues had over a voting trust where
6 the trustee votes with management?

7 A. I don't know that I have -- I'm sorry, I
8 shouldn't begin that way.

9 I do not have a precise recollection of
10 comparing that specific alternative against that
11 specific alternative in a conversation six years ago. I
12 can certainly explain to you right now what I believe to
13 be the advantages, and I assume they were generally
14 discussed, but we were, as you saw from yesterday's
15 testimony, considering a whole range of alternatives,
16 and there wasn't a side by side by side by side by side
17 of every possible permutation.

18 But I think I said in one of my emails we looked
19 at yesterday, there are literally endless possible
20 permutations with how to balance control issues with
21 protecting the taxpayer issues. So, it just isn't a
22 simple answer to your question.

23 Q. Let me put the question this way. Did you tell
24 your clients, in words or in substance, that you
25 believed that a voting trust where the trustee votes

1 with management did not provide sufficient control to
2 protect the taxpayers?

3 A. I -- I don't remember phrasing it that way. I
4 don't think I would have phrased it that way.

5 Q. Did you ever tell your clients or either of
6 them, in words or in substance, that you believed that
7 it was desirable for the purpose of protecting the
8 taxpayers that there be greater control than a voting
9 trust where the trustee votes with management?

10 A. I don't think it would have been phrased that
11 way, because, again, the point of the trust was to --

12 Q. The reason -- the reason that I said "in words
13 or in substance" --

14 A. Right.

15 Q. -- was to avoid a situation in which you said I
16 just didn't phrase it exactly that way. Do you
17 understand I'm asking not just did you use those exact
18 words, but whether you conveyed in substance the thought
19 that it was desirable, for the purpose of protecting the
20 taxpayers, that there be greater control than a voting
21 trust where the trustee votes with management would
22 provide?

23 A. Mr. Boies, either way, there was control by
24 someone. The only question is by whom, and the problem
25 is you left a subject out of your sentence. In one

1 scenario, you have management essentially controlling
2 the vote, and in the other scenario you have the
3 trustees essentially controlling the vote. One doesn't
4 have greater necessarily than the other; it's just
5 different fiduciaries who have the control.

6 The Fed doesn't have necessarily more or less
7 control in either fact pattern. You could argue that
8 because the Fed was the lender and AIG needed quite a
9 few waivers, they may have had more control over
10 management if management had the votes. It's just --
11 it's not that simple, no matter how you -- despite your
12 attempt to rephrase it.

13 Q. Mr. Huebner, I wasn't suggesting anything
14 simple, and my question is whether you had conveyed
15 something to your clients. That's yes, no, or I don't
16 know or I don't understand the question.

17 A. All right. We conveyed that the best available
18 structure was the structure on which we -- with which we
19 ended up.

20 Q. That wasn't my question either, sir.

21 A. Well, you said, did you convey something to your
22 client?

23 Q. No, my question was a particular thing. Let me
24 ask you to please listen to my question and try as best
25 you can to respond yes, no, I don't know, or I don't

1 understand the question. And if it's the latter, I will
2 rephrase it, okay?

3 Now, did you convey to your clients, in words or
4 in substance, that you believed that a voting trust
5 where the trustee votes with management did not provide
6 sufficient protection to the taxpayers?

7 A. Yes.

8 Q. Okay. And did you tell them that you believed,
9 in words or in substance, that a voting trust where the
10 trustees were not so limited in what they could vote for
11 would provide more protection for the taxpayers?

12 A. Mr. Boies, I genuinely don't understand your
13 question.

14 Q. Okay.

15 A. Where the trustees were not so limited in what
16 they could vote for? I just don't understand what that
17 means.

18 Q. Well, a voting trust where the trustee votes
19 with management means that the trustees don't have any
20 discretion as to how to vote; they simply have to vote
21 with management, correct?

22 A. Oh, okay. Yes, I'm sorry. Now I understand.

23 Q. And what I'm asking you is whether you conveyed
24 to your clients, or either of them, that you believed
25 that a voting trust where the trustees were not so

1 limited in what they could vote for -- that is, they had
2 discretion -- would provide more protection for the
3 taxpayers.

4 A. The one where they were bound to vote with
5 management? Yes, I believe implicitly that was part of
6 our advice. I don't remember a conversation where I
7 said it in that way, but ultimately we suggested a
8 structure where the trustees were independent
9 fiduciaries with guiding principles, as opposed to
10 mechanistic people bound to choose whatever management
11 selected.

12 Q. And implicit in that advice, as you say, was the
13 advice or principle that the taxpayers would be better
14 protected if decisions were made by these trustees than
15 by management, correct?

16 A. Yes, with respect to voting the stock. I mean,
17 obviously management made many decisions, but when you
18 say "decisions," I assume you mean decisions as the
19 voters of the 79.9 percent of the equity. Yes,
20 management should do its job and representatives of the
21 stockholders should do their job. That's correct.

22 Q. And implicit in that proposition is the idea
23 that the trustees and management have fiduciary duties
24 to different people, correct, or institutions? People
25 or institutions.

1 A. I actually am not sure that that's correct.

2 Q. Okay.

3 A. I mean, I'm not an expert on fiduciary duty law
4 other than in the insolvency context where it does come
5 up, but my general understanding is that the duty of
6 management is to maximize the enterprise, whether it is
7 solvent or insolvent. That mathematically inures to the
8 benefit of equity holders ratably, and I believe that,
9 in general, the job of the trustees was to maximize the
10 value of the equity. So, I'm not sure that there was a
11 misalignment, but perhaps you have something more
12 specific in mind.

13 Q. Well, you -- you had the view that it was better
14 for the trustees to exercise voting control than for
15 management to exercise voting control, in effect by
16 having the trustees have to vote the way management did,
17 correct?

18 A. I mean, that is how --

19 Q. That's yes, no, I don't know, or I don't
20 understand the question.

21 A. Yes. I believe we already discussed this. My
22 testimony is unchanged.

23 Q. Okay. And is that because you believed that the
24 trustees had any different fiduciary duty than
25 management? Yes, no, I don't know, or I don't

1 understand the question.

2 A. I don't believe that was the reason why having
3 the trustees was preferable.

4 Q. What was the reason why you believed trustees
5 were preferable?

6 A. So, in the U.S. corporate system, management and
7 board of directors and stockholders, those functions are
8 separate, and it is I think extraordinarily rare to have
9 management control the vote of the majority equity of a
10 public company. I'm not sure I know of any example
11 where it's taken place, but maybe you have a list of
12 them and I'll be embarrassed.

13 You know, when there -- the thought is that each
14 person should be doing their job to safeguard their
15 responsibilities and carry out their duties. I -- as we
16 discussed a few minutes ago, you know, I could certainly
17 conceive of self-dealing and other situations where you
18 would not want the management of a company essentially
19 voting the majority of its shares when it was not the
20 economic owner of those shares.

21 That's why companies have a board and they have
22 stockholder votes, because the system is built on the
23 basic structure that management ultimately should be
24 overseen by a board that ultimately answers to the
25 economic stakeholders.

1 Q. Is that the only reason that you believe
2 trustees were preferable?

3 A. Again --

4 Q. Yes, no, or I don't understand the question or I
5 don't know.

6 A. Preferable to what?

7 Q. Sir, what were you just answering to the
8 question?

9 A. Well, the question before was compared to
10 management controlling the stock.

11 Q. Yes.

12 A. I just want to make sure that that's still --
13 you mean -- because you did not say it.

14 Q. Yes, that's still --

15 A. Okay. So, I -- I don't recall exactly every
16 component of the thinking that went into -- as I said
17 before, there was never a side-by-side of these two
18 possibilities as the main structures. I think it would
19 be -- I could not, under oath, give more detailed
20 explication of comparing X and Y. As I said, there were
21 many permutations that were being thought about that
22 week, and I can't -- I can't do better than I'm doing.

23 Q. My question was, you said that you thought
24 voting control with the trustees was better than voting
25 control with management. I asked you why. You gave me

1 an answer. And I said, is that the only reason?

2 A. Then I guess the answer would be I don't recall
3 whether there were other reasons discussed then.

4 Q. Okay. Now, you did understand, as a matter of
5 corporate law, that the management of the company had a
6 fiduciary duty to the company and to its shareholders,
7 correct?

8 A. It certainly had a duty to the company.
9 There's -- in general terms, the answer is yes.

10 Q. Okay. I thought that was the easy part of the
11 question.

12 A. It's actually not, and actually this week a new
13 Delaware court case came down once again discussing the
14 fine points of whether, in fact, in the situation of
15 insolvency there is a duty to shareholders and how that
16 gets balanced. It's actually not a simple question in
17 the insolvency context at all --

18 Q. In insolvency.

19 A. Yes. In the zone of insolvency or when
20 corporations are at risk of being insolvent, there is
21 actually quite a bit of case law about, in fact, to whom
22 the duties run. So, I apologize, but, in fact, it is
23 not a simple question.

24 Q. When a company is solvent, the management has
25 fiduciary duties to the company and to its shareholders.

1 Fair?

2 A. Yes.

3 Q. Okay. And if a company is in the zone of
4 insolvency, management will have some fiduciary duties
5 to creditors, and the extent to which they have
6 fiduciary duties to creditors as opposed to shareholders
7 is something the courts are considering. Is that fair?

8 A. Yeah, I would say sort of. In a trio of, I
9 think, 2007 decisions, the Delaware Supreme Court
10 actually said, in general, you should stop thinking
11 about whether the duties run to shareholders or
12 creditors; you should maximize the value of the
13 enterprise, and that's where your duty should run.

14 And they actually did, I think correctly, some
15 violence to the notion that there is a zone of
16 insolvency when duties shift. Rather, what they
17 suggested is continuity, which is your duties always
18 should be to maximize the value of the enterprise, and
19 whoever the appropriate beneficiaries are of that
20 receive its upside.

21 Q. Let me ask what I hope is a simple question.
22 The trustees had a fiduciary duty to the Department of
23 Treasury, correct?

24 A. I think it was actually the U.S. Treasury. I
25 actually don't think it was the Department of Treasury,

1 and that actually may make a difference.

2 Q. The -- as you understand it, in the trust
3 agreement, was the trust agreement drafted so that the
4 trustees would have any fiduciary duties to the common
5 shareholders?

6 A. To all common shareholders or to the 79.9?

7 Q. Well, the 79.9 weren't common shareholders, were
8 they, sir?

9 A. Ah, I'm sorry. I misspoke. That's, of course,
10 totally correct. No, I don't believe they had separate
11 duties to the common shareholders. They were the
12 representative of the owner of the preferred.

13 Q. When you say "separate duties," you mean
14 fiduciary duties there?

15 A. Yes.

16 Q. Okay. Now, with respect to Mr. Baxter's email
17 on September 17th, you have given him two replies, one
18 on JX 88 and one on JX 90. Did you ever provide him
19 with a written reply analyzing the alternative of having
20 a voting trust where the trustee votes with management?

21 A. I don't believe so.

22 Q. Let me turn to another subject. You testified
23 yesterday that your clients and you never had an ability
24 to command what AIG did in its securities filings. You
25 may have made some suggestions, but it was exclusively

1 for AIG to determine what to do with its securities
2 filings. Do you recall that, generally?

3 A. Yes. Those were our marching orders. I'm not
4 saying that we were not listened to carefully, but I
5 don't think there was -- I do not know of a situation
6 where AIG said, "We don't want to take that comment,"
7 and the response was, "You will take that comment." I
8 don't believe that ever happened.

9 Q. Well, let me show you some documents and see how
10 they fit into your formulation. Do you recall there was
11 a time when the -- AIG was prepared to file an 8-K with
12 respect to Maiden Lane III and your client did not want
13 that to be filed?

14 A. Did not want an 8-K to be filed?

15 Q. Yes, at that time.

16 A. Oh, I'm sorry. Are you asking me about the
17 timing of the filing or that they did not want it to be
18 filed?

19 Q. I'm asking you first about the timing.

20 A. Okay. That's not the question I heard. I
21 apologize.

22 Yeah, there were definitely a couple of
23 occasions where people said, you know, "You have T plus
24 four. We need a little bit of more time. Can you file
25 it, you know, Tuesday instead of Monday or Wednesday

1 instead of Monday?" Sometimes that was actually so that
2 the Fed could get its own communications ready and have
3 more information out simultaneously. It's actually
4 exactly what I discussed yesterday with our counsel,
5 which is when you have complex transactions that involve
6 two parties, you very often want their communications
7 rollout to be simultaneous so that people can coordinate
8 and you can get good information out into the market.

9 So, were there occasions where the request was,
10 within the permissible four-day window, can you delay a
11 little bit? Absolutely.

12 Q. Well, sir, let me ask you to look at Plaintiffs'
13 Trial Exhibit 2769. This is a document that you've seen
14 before, correct, sir?

15 A. I'm not there yet. I have seen this document
16 before.

17 MR. BOIES: Your Honor, I would offer
18 Plaintiffs' Trial Exhibit 2769.

19 MR. GARDNER: Your Honor, I'm sorry, we're
20 double-checking here, but I don't believe this is on
21 Plaintiffs' exhibit list, and Mr. Boies can disabuse me
22 of that if I'm wrong, but if it's not, it's not clear to
23 me what would be the basis for allowing this into
24 evidence.

25 MR. BOIES: Your Honor, I think it is directly

1 responsive in terms of both impeachment and rebuttal to
2 what the witness has said.

3 MR. GARDNER: Your Honor, rebuttal and
4 contradiction are two very different things. I don't
5 understand it to be the case that the Plaintiffs can
6 just put it on their -- or not put it on their exhibit
7 list and use documents because they claim the witness
8 said something different on the stand. That's why we
9 have exhibit lists and can lodge objections and things
10 like that.

11 In fact, you know, Your Honor, that's why we
12 have exhibit lists in the first instance so we can do
13 these kind of things. There is surprise about
14 Mr. Huebner's testimony that would have prevented them
15 from putting this on their exhibit list, so we would
16 object on those grounds.

17 Beyond that, I have no additional objections,
18 although, frankly, I haven't had a chance to look at
19 this, because, again, it wasn't on their exhibit list.

20 THE COURT: Well, I think if it's not on the
21 Plaintiffs' exhibit list, I will sustain the objection.

22 MR. GARDNER: And we have confirmed that it is
23 not.

24 THE COURT: All right.

25 MR. BOIES: In that case, Your Honor, I will go

1 to Plaintiffs' Trial Exhibit one sixty -- no --

2 THE WITNESS: I'm sorry, what number/.

3 MR. BOIES: -- 563.

4 THE WITNESS: That's a Plaintiffs' 563?

5 MR. BOIES: Plaintiffs' Trial Exhibit 563, where
6 I think the same email is reproduced in a document that
7 I think is already in evidence.

8 MR. GARDNER: I'm sorry, Mr. Boies, PTX 563?

9 MR. BOIES: Yes. Exhibit 563 at page 24.

10 MR. GARDNER: Ah, got it. Thank you.

11 BY MR. BOIES:

12 Q. This is something that Mr. Geithner prepared in
13 terms of questions for the record to a House committee
14 on January 27th, 2010, and I direct your attention to it
15 because this is a replication of the email that I just
16 showed you that was not on our exhibit list. This is on
17 our exhibit list.

18 A. Yes.

19 Q. And do you see where the House committee says,
20 "AIG and the New York Fed created Maiden Lane III on
21 November 25, 2008. Sarah Dahlgren, a Senior Vice
22 President at the New York Fed in charge of the New York
23 Fed's dealings with AIG, told Davis Polk that she did
24 not want AIG to report the transactions to the SEC that
25 day, saying in an email that 'I really don't want the

1 ML III to go out today...is the company still aiming to
2 try to issue this today?... ' Ethan James, a Davis Polk
3 partner, responded to her email saying, 'We gotcha
4 covered. You only need hear Kathy's pathetic voicemail
5 to understand how well trained she is-at least for
6 now!'" And then the committee goes on to ask, "Is it
7 appropriate for a federal government agency to browbeat
8 and control a financial disclosure officer of a public
9 company to the point where she is 'well trained? ' Is it
10 appropriate for the federal government to dictate the
11 timing of a public company's securities filings solely
12 for its own convenience?"

13 Now, my first question is, did Mr. James tell
14 you, in words or in substance, that Ms. Dahlgren had
15 told him that she really did not want to have the ML III
16 8-K go out on a particular day and that Mr. James had
17 responded, in words or in substance, that he had
18 succeeded in preventing that?

19 A. I was not copied on those email chains that we
20 looked at before, nor do I --

21 Q. My question, sir, is did Mr. James tell you, in
22 words or in substance, that Ms. Dahlgren had told him
23 that she really did not want to have the ML III 8-K go
24 out on a particular day and that Mr. James had
25 responded, in words or in substance, that he had

1 succeeded in preventing that?

2 A. I have a general recollection that the Fed
3 wanted a couple of more days before the ML III
4 disclosure went out so that its disclosure could be
5 ready and that AIG acceded to that request and that the
6 filings were done timely.

7 I don't have -- I don't have knowledge of who
8 asked who and who emailed whom, but my general
9 understanding is that the Fed said, "This is
10 complicated, our communications aren't ready yet, can
11 they be asked to delay a little bit?" And they agreed
12 to delay, it was all filed timely, and the disclosure
13 went out simultaneously.

14 That's the best I can do to answer your
15 question. I was not on these emails. I don't know the
16 pathways of who asked whom, and I certainly winced at
17 this language when I saw it for the first time in my
18 preparation. It's ugly and did not match my experience
19 in our dealings with AIG. It certainly does not change
20 my testimony. In fact, I believe they rejected several
21 of our comments on this very disclosure, proving my
22 point.

23 Q. Now, when you say "proving my point" --

24 A. Or supporting the accuracy of my testimony that
25 AIG -- sorry, occasionally I talk more like a lawyer,

1 and I apologize for that. I believe my testimony, as
2 you might imagine, even were I not under oath, very
3 strongly, which is that we made requests; we made
4 suggestions; they listened to us very respectfully.
5 There were occasions where they were accepted, there
6 were occasions where they were rejected, and this is an
7 occasion where some things were accepted and actually
8 some things were not accepted.

9 Q. You would accept, would you not, that this email
10 exchange is not consistent with your description of the
11 relationship between Davis Polk and the New York Fed on
12 the one hand and AIG on the other?

13 A. I would not. I would say --

14 Q. Okay.

15 A. -- this email is --

16 Q. All I -- sir, if you think this is consistent,
17 that's your testimony.

18 A. I didn't say it was consistent. I said --

19 Q. That's my question. Listen to my question.

20 You would accept, would you not, that this email
21 exchange is not consistent with your description of the
22 relationship between Davis Polk and the New York Fed on
23 the one hand and AIG on the other? Yes, no, I don't
24 know, or I don't understand your question.

25 A. This email is not consistent with my

1 understanding of how the relationship worked and my
2 involvement in that relationship.

3 Q. Okay.

4 A. It is an unattractive email with -- that should
5 not have been phrased that way.

6 Q. Okay. Let me ask you to look at Plaintiffs'
7 Trial Exhibit 227, which I would offer.

8 MR. GARDNER: No objection.

9 THE COURT: Plaintiffs' Trial Exhibit 227 is
10 admitted.

11 (Plaintiffs' Exhibit Number 227 was admitted
12 into evidence.)

13 BY MR. BOIES:

14 Q. Let me ask you to look at page 3.

15 A. Yes.

16 Q. And in the middle of the page there is an email
17 from Kathy Shannon. Do you see that?

18 A. Yes.

19 Q. And six lines down there is a sentence that
20 begins, "As we discussed on Friday..." Do you see that?

21 A. I'm sorry, in the middle paragraph?

22 Q. Yes. And I apologize for the size of this type.

23 A. Yes. This is actually brutal.

24 Q. It is. I have sometimes suspected that they
25 produced them in this size type just so I couldn't read

1 it.

2 A. Could I just see it on the screen for a minute?
3 As you see, I keep taking my glasses on and off, and I
4 just can't read things as small as this.

5 Q. I totally apologize.

6 A. "Thanks, Kathy." Yes, I see it now.

7 Q. It says, "As we discussed on Friday" -- and this
8 is Ms. Shannon writing to you, among other people.

9 A. Yes. I do see it.

10 Q. "As we discussed on Friday, we would like to
11 come up with a framework to share our significant
12 filings and press releases with you and the Federal
13 Reserve prior to filing or issuance. We wish to
14 emphasize that we view the Fed as our partner in this
15 process, and we intend to cooperate fully with their
16 request."

17 Do you see that?

18 A. Yes.

19 Q. And was that consistent with the way that you
20 understand the relationship was between the New York Fed
21 and Davis Polk on the one hand and AIG on the other?

22 A. Absolutely.

23 Q. Now, let me ask you to look at Plaintiffs' Trial
24 Exhibit 244 --

25 A. Just to be fair, Mr. Boies, when it says "their

1 request," she is responding to an email from me that we
2 discussed at some length yesterday. And so I am
3 assuming you understand the context, which is to
4 actually remove from review the vast majority of
5 documents and things that otherwise -- I just don't want
6 to leave a misimpression, because you did focus on the
7 words "their request," but you didn't actually ask me
8 what that meant.

9 Q. No, I didn't actually ask you what it meant,
10 sir.

11 A. Okay. Okay, where should I turn?

12 Q. One of the differences between being a lawyer
13 and being a witness is as a witness you're supposed to
14 answer my questions, and if -- as a lawyer, you get to
15 make arguments. But I would ask you to listen to my
16 questions, try to answer my questions, as opposed to
17 make the points that you think you want to make. Is
18 that fair?

19 A. Yeah. I don't believe I'm trying to make
20 points, sir, but I am just trying to answer as best I
21 can, and I will try to do that.

22 Q. Okay. Let me ask you to look at Plaintiffs'
23 Trial Exhibit 244, which I would offer.

24 MR. GARDNER: Your Honor, I don't see a basis
25 for admitting this exhibit with Mr. Huebner. I don't

1 see Mr. Huebner's name on this email.

2 MR. BOIES: This is an email from his partner,
3 Ethan James. Mr. Huebner has identified himself as the
4 principal Davis Polk partner in charge of this
5 representation.

6 MR. GARDNER: I'm sorry, Your Honor, I actually
7 don't think that last statement is true, and I don't
8 want to testify for Mr. Huebner. I think Mr. Huebner
9 has said there's a number of Davis Polk attorneys who
10 are dealing with discrete topics, securities filings and
11 things like that. In any event, the fact that Mr. James
12 worked closely with Mr. Huebner doesn't provide a
13 foundational basis for this email to come in with
14 Mr. Huebner, because they can, of course, call Mr. James
15 if they wish.

16 THE COURT: Well, it is a Davis Polk email and
17 it is cross examination, so I will admit Plaintiffs'
18 Trial Exhibit 244.

19 (Plaintiffs' Exhibit Number 244 was admitted
20 into evidence.)

21 BY MR. BOIES:

22 Q. Have you had a chance to read this email,
23 Mr. Huebner?

24 A. I'm just finishing. (Document review.) Yes, I
25 have.

1 Q. And did you understand on or about September
2 24th, 2008, which is the date of this email, that this
3 was the basic concepts of the communications protocol
4 that Mr. James was proposing?

5 A. I did not understand that at the time because I
6 was not copied on it, and it was not the protocol, as
7 the lead Davis Polk lawyer on the engagement, that I was
8 working out with the more senior people at AIG.

9 Q. Was Mr. James your partner at this time?

10 A. At that time, yes, he was.

11 Q. And was he authorized to communicate with your
12 client, the New York Fed?

13 A. Absolutely.

14 Q. And was he authorized to communicate with AIG,
15 who is also being copied on this?

16 A. Absolutely.

17 Q. And Mr. James worked under you, correct?

18 A. I wouldn't say under, but I guess -- we're not
19 so hierarchical, but, yes, I was the lead partner on the
20 engagement, so I guess it would be fair to say he worked
21 under me.

22 Q. Did you describe him yesterday as working under
23 you, sir?

24 A. I may well have in the context of this
25 engagement. There were many partners on the case with

1 substantially more seniority than I had, but as I was
2 the lead partner -- I mean, Brad Smith would wince if he
3 ever heard the phrase he worked "under" me, but I'm sure
4 I used it yesterday and I think it's a fair
5 characterization in the context of this assignment. We
6 try to be not so hierarchical, but there were deal
7 leaders, and I was the deal leader on this transaction.

8 Q. Okay. Let me turn to Joint Exhibit 185.

9 A. Yes, I have it open.

10 Q. And in particular to page 7.

11 A. Mr. Boies, I don't need to see the whole
12 document, but can you just tell me what this is so I
13 can -- given that it's missing pages, I would just like
14 to understand. Is this a draft? Is this the final? Is
15 this something else?

16 Q. If you look on the first page, it says it is the
17 "Series C Perpetual, Convertible, Participating
18 Preferred Stock Purchase Agreement."

19 A. I'm just asking whether this is a draft like you
20 showed me before or whether this purports to be the
21 final document, because it's not --

22 Q. Let me hand up the exact document and you can
23 tell us.

24 A. I mean, there's just no signature page in the
25 exhibit, so I just don't know if this was signed.

1 Thank you. I'm happy to take your
2 representation. I was just asking.

3 Q. Well, my problem in giving a representation is I
4 don't know these documents, and I didn't produce these
5 documents.

6 A. I'm guessing you know them. Let me just look
7 for a second. Yes, this doesn't appear to be signed. I
8 mean, I'm happy to answer questions, but I just -- I
9 can't represent either whether this is the definitive
10 final version. I assume that's not my function.

11 Q. Well, let me ask you -- and the answer may very
12 well be that you don't know -- but do you know whether
13 this is the final stock purchase agreement for the
14 Series C preferred?

15 A. Oh, wait, there are some signature pages here,
16 on pages 14 and 15, although there are lots of pages
17 that aren't signature pages. I assume it is, but I
18 don't know.

19 Q. You don't know one way or the other.

20 A. Correct.

21 Q. Okay. Let me direct your attention first to
22 page 7, and this is subsection (c) to Section 6.2,
23 entitled "Shareholder Vote," correct?

24 A. Yes. That's correct.

25 Q. And this is an agreement between the trust and

1 AIG, correct?

2 A. Yes, it is.

3 Q. And one of the things that AIG agrees to with
4 the trust is to file with the SEC a preliminary proxy
5 statement reasonably acceptable to the trust with
6 respect to the special shareholders meeting that the
7 trustees and the company agree will be called, correct?

8 A. I don't believe that I worked on this document,
9 but I'm happy to accept that as being an accurate
10 description. I mean, this is really a securities law
11 document that is not what I do for a living, sort of
12 ever, and I believe Mr. Brandow was the lead draftsman
13 and the architect, and I have -- you don't do a lot of
14 securities instruments in the insolvency world
15 generally, so I had less involvement in things relating
16 to the issuance of the securities than to things like
17 lending.

18 Q. Were you involved in the negotiation or drafting
19 of the stock purchase agreement?

20 A. I do not believe so.

21 Q. Not at all?

22 A. I don't -- I don't think I was.

23 Q. And you were not aware of the terms? Is that
24 your testimony?

25 A. I mean, again, as the -- as we discussed a few

1 minutes ago, I was the team leader. I was generally
2 aware of what was going on, but I don't think I had
3 chapter and verse knowledge of the securities purchase
4 agreement and I don't think I was involved in its
5 drafting. That might not be correct, but I don't
6 remember having involvement in it. It's a quite
7 technical document that is well outside my area of
8 practice.

9 Q. You knew that there was a stock purchase
10 agreement being drafted. Fair?

11 A. You know, we discussed this yesterday. I didn't
12 conceive of it as a purchase agreement. I knew there
13 was a document being drafted. I probably knew at the
14 time what it was called. I was probably copied on
15 emails. I don't doubt that I was, but I don't have a
16 recollection of it because I just would not have been
17 involved in the document.

18 Q. Did you understand in January and February 2009
19 that a stock purchase agreement was being drafted for
20 the Series C preferred stock?

21 A. Probably.

22 Q. Do I understand from that answer that you infer
23 that you would have been, but you do not actually
24 remember being aware that a stock purchase agreement was
25 being drafted?

1 A. I think that's right. I mean, I knew,
2 obviously, that the Series C was being issued and was
3 going to be issued to the trust, and I may well have
4 been copied on emails, as I was often many dozens of
5 times a day, but I don't have a recollection that there
6 was a Series C stock purchase agreement, as I sit here
7 today, in January 2009.

8 Q. Let me ask you to look at Joint Exhibit 156. It
9 is already in evidence. And do you see at the bottom of
10 the page, there is an email from Mr. Brandow to you and
11 some other people, including several representatives of
12 your client?

13 A. Yes. I do see that.

14 Q. And it says, "The issue Marshall was referring
15 to in his email about the AIG board resolutions is that
16 we heard from S&C earlier tonight that the company
17 doesn't want the securities purchase agreement for
18 either the TARP preferred or the convertible preferred
19 to require the board to recommend to shareholders that
20 they vote in favor of the charter amendments."

21 Do you see that?

22 A. I do see that.

23 Q. And does that refresh your recollection that you
24 were involved and knew about the securities purchase
25 agreement for the Series C preferred?

1 A. Yes. I mean, this is November 2008, and, yes,
2 it names the document that's going to be used for the
3 TARP or for the convertible as a securities purchase
4 agreement. As I said a few minutes ago, I'm sure I was
5 on emails where the document was referred to, and I'm
6 totally sure this is a legitimate, accurate email.

7 Q. And looking at this email, you are certain --
8 it's not just probably, but you're certain that you were
9 aware that a securities purchase agreement was being
10 prepared for the Series C preferred stock. Is that
11 fair?

12 A. Yes.

13 Q. And, indeed, do I understand that you then
14 forwarded this on to Treasury saying, "Treasury should
15 know about this issue also"? That's your email up at
16 the top, right?

17 A. Yes. "Steve" must be referring to Steve
18 Albrecht, who was an internal lawyer at Treasury. Yes.
19 I didn't write the big email; I just forwarded it. That
20 goes to your point, that I wasn't the guy doing this
21 stuff. I just forwarded it on.

22 Q. But you knew about it, which was the question
23 that I was asking.

24 A. Yes. No, as I said -- yes, absolutely.

25 Q. And did you -- did you understand that under the

1 securities purchase agreement, the company was obligated
2 to get the approval of the trust before filing certain
3 SEC filings?

4 A. I don't think I was aware of that in November of
5 2008. I don't think the document even existed yet. I'm
6 not sure when its drafting even began.

7 Q. Did you understand, under the stock purchase
8 agreement, that the company was obligated to get the
9 approval of the trust before filing certain SEC filings?

10 A. No. I don't think I knew that at the time,
11 although it certainly sounds right, and if it's in the
12 documents, I'm sure it's true.

13 Q. Did you learn that at some time after November
14 of 2008?

15 A. I actually don't have a recollection, back in
16 the 2008, 2009 time frame, of knowing that the trust had
17 approval rights on SEC filings.

18 Q. While we're on this exhibit, 156, which is dated
19 November 19th, 2008, there is a -- there's a reference
20 here to the possibility of the listing, the breakdown
21 and listing of the convertible preferred shares that we
22 talked about a little bit yesterday. Do you recall
23 that?

24 A. We discussed listing the preferred. I don't
25 know what you mean by the "breakdown."

1 Q. This email talks about the breakdown and listing
2 of the convertible preferred shares. Is that right?

3 A. Oh, I haven't read the second page, but yeah.

4 Q. If you look over on the second page, the second
5 full sentence, "With the votes the trust and Treasury
6 control, we can amend the charter to break down the
7 100,000 shares of convertible preferred so that each
8 share carries one vote and is entitled to the same
9 dividends per share as the common stock."

10 Do you see that?

11 A. Yes, I do see that.

12 Q. And you understand that that is a step towards
13 doing the listing of the preferred that is on DXX 036?

14 A. The point of the breakdown, as I understood
15 it --

16 Q. Yes, no, I don't --

17 A. I do not know how breaking down the -- I
18 understand what its purpose was, but I don't know if it
19 was connected to listing them.

20 Q. Okay. Are you aware of anything in writing that
21 talks about either -- and I mean here to use words, not
22 substance -- that talks about either -- either listing
23 the preferred or breaking down the preferred prior to
24 November 19th, 2008?

25 A. I couldn't put a date on it. I could tell you

1 generally what I know about breaking down the preferred,
2 but I couldn't tell you which month I learned it in.

3 Q. My question is simply whether you were aware of
4 anything in writing that uses the words "listing the
5 preferred" or "breaking down the preferred" prior to
6 November 19th, 2008.

7 A. Oh, I -- I don't have knowledge or recollection
8 of a writing on that topic.

9 Q. Let me turn to the ML III negotiations.

10 A. Yes.

11 Q. You said that AIG had been for some time
12 requesting the New York Fed's assistance with respect to
13 counterparty negotiations. Do you recall that?

14 A. I do.

15 Q. Did anyone from AIG ever tell you that?

16 A. No.

17 Q. Did you ever see anything in writing prior to
18 Stasia Kelly's email that was shown you on November 6th,
19 2008?

20 A. I don't have a recollection of seeing a writing
21 on the topic.

22 Q. Let me ask you to look at Plaintiffs' Trial
23 Exhibit 333, which is already in evidence. And on the
24 first page, there is an email to David Herzog on October
25 31, 2008, at 10:40 a.m. Do you see that?

1 A. Yes, I do.

2 Q. And who is Mr. Herzog?

3 A. He was a senior financial officer at AIG.

4 Q. And it is from somebody -- it says Elias. Do
5 you see that?

6 A. Yes.

7 Q. Do you know who that is?

8 A. From his email address @aig.com, I assume he's
9 an internal AIG person. I have a vague recollection of
10 his name. I don't believe we ever met or spoke.

11 Q. Elias writes to Mr. Herzog, "I spoke to Manzari
12 this morning." Do you know who Manzari is?

13 A. Yes. He was an internal Fed business person
14 working on the AIG matter.

15 Q. So, Elias of AIG writes to David Herzog of AIG,
16 "I spoke to Manzari this morning. He asked me to stand
17 down on all discussions with counterparties on tearing
18 up/unwinding CDS trades on the CDO portfolio."

19 Do you see that?

20 A. I do.

21 Q. And were you aware at the time that your client
22 had given that instruction to AIG?

23 A. I don't believe I was.

24 Q. Let me ask you to look at Plaintiffs' Trial
25 Exhibit 341, which is also in evidence. And this is an

1 email from Michael Gibson of the Federal Reserve System
2 to a variety of people, including the vice chairman of
3 the Federal Reserve Board of Governors and the general
4 counsel of the Federal Board of Governors.

5 And the fourth sentence -- fourth paragraph in
6 the middle of the page -- well, let me back up. This
7 is -- this is an email from Michael Gibson to Donald
8 Kohn and Kevin Warsh, and you understood that they were
9 both members or governors of the Federal Reserve System?

10 A. Yes, they are or were at the time.

11 Q. And with copies to Scott Alvarez and others. It
12 says (as read): "On Friday, I promised to find out the
13 answers to two questions you asked related to AIG.

14 "1. You asked who is overseeing the tear-up
15 process on the CDS. You were particularly worried about
16 the negotiation of concessions, and about the
17 negotiations with Goldman Sachs.

18 "Last Friday, the Federal Reserve Bank of New
19 York told AIGFP to stop all conversations with
20 counterparties about tear-ups. The process was
21 proceeding too slowly. New York has decided that the
22 only way to push forward is to get senior management
23 involved, both at the Federal Reserve Bank of New York
24 and the counterparties."

25 Do you see that?

1 A. I do.

2 Q. And were you told this on or about the end of
3 October or early November, that that was why the Federal
4 Reserve Bank of New York had told AIGFP to stop all
5 conversations with counterparties?

6 A. Well, when you say "it," the rationale in here
7 is that the process was proceeding too slowly. My
8 understanding, as I testified about yesterday, was that
9 if AIG did not fully solve the CDS problem by November
10 10th, it would have been downgraded and would have
11 failed cataclysmically and that, therefore, because they
12 AIG had failed and was failing in resolving the
13 situation itself, it had asked for help. So, that --
14 that's how I understand what I understand this to mean.

15 When you say is this right, the process was
16 proceeding too slowly. In other words, with November
17 10th approaching with rapidity and this problem
18 unsolved, the Fed had been enlisted and asked to step
19 in.

20 Q. Now, there's nothing here that says the Fed has
21 been asked to step in by AIG, is there, sir?

22 A. No, there is not.

23 Q. And there wasn't anything about that in the
24 email that we looked at just a moment ago, Plaintiffs'
25 Trial Exhibit 333, where one AIG person is talking to

1 the chief financial officer saying that he's just
2 received this instruction from the Federal Reserve Bank.

3 A. Actually, that is not inconsistent with it.

4 Q. Sir, whether you as a lawyer think it's
5 inconsistent or not --

6 A. No, there is nothing in this email that says
7 that. That's correct.

8 Q. Okay.

9 THE COURT: Shall we take a break, Mr. Boies?

10 MR. BOIES: Yes, Your Honor.

11 THE COURT: Let's reconvene at 11:15.

12 (Court in recess.)

13 THE COURT: Thank you. Please be seated.

14 Let's go ahead.

15 MR. BOIES: Thank you, Your Honor.

16 BY MR. BOIES:

17 Q. Mr. Huebner, would you turn to Plaintiffs' Trial
18 Exhibit 197.

19 A. Yes, I have it.

20 Q. And this is a document that you saw in or about
21 March of 2009. Is that correct?

22 A. I'm sorry. This is a September 21st, 2008,
23 email. Maybe we have the -- maybe I have the incorrect
24 document in my binder.

25 Q. No, you have the right one and I have the wrong

1 one.

2 This is a document that you saw on the evening
3 of September 21, 2008, correct?

4 A. I would certainly not have remembered at the
5 time, but if I'm copied on it, I'm sure I was one of the
6 people that got it.

7 Q. And this is a little after 9:00 in the evening,
8 is that correct, this email?

9 A. No. I think it's 8:15 in the evening.

10 Q. Well, at the very top, do you see an email that
11 is September 21st, 2008, at 2106?

12 A. Oh, yeah. Well, that's just a forward of the
13 email, but, yes, I see that timestamp, also.

14 Q. And then that is forwarding an email that was
15 sent on September 21st, 2008, at 8:15 p.m., correct?

16 A. Yes.

17 Q. And the subject is "AIG Credit Agreement-All
18 Hands Call for 9PM." Do you see that?

19 A. Yes.

20 Q. And it says, "We have scheduled an all-hands
21 call for 9:00 p.m. Eastern this evening to discuss the
22 Credit Agreement." Do you see that?

23 A. Yes.

24 Q. Did you participate in that call?

25 A. I don't imagine that I did. I might have, but

1 it -- I -- I don't have a recollection of it, and I'm
2 guessing I did not, although I might have.

3 Q. Did you learn about the results of that call
4 afterwards?

5 A. I don't -- I don't have a recollection about
6 learning of a specific call in September 2008. It's
7 certainly possible that it was reported to me -- you
8 know, we're close, we're not that close, we have two
9 more issues. I don't have a recollection right now.

10 MR. BOIES: Your Honor, I would offer
11 Plaintiffs' Trial Exhibit 197.

12 MR. GARDNER: No objection, Your Honor.

13 THE COURT: Plaintiffs' Trial Exhibit 197 is
14 admitted.

15 (Plaintiffs' Exhibit Number 197 was admitted
16 into evidence.)

17 BY MR. BOIES:

18 Q. At this meeting or at this call, did people
19 discuss changes to the credit agreement?

20 A. Again, I don't have a recollection of the call.
21 I don't have a recollection of being on it. If there
22 was an all-hands call to discuss the credit agreement, I
23 think it is a very safe assumption that they discussed
24 the credit agreement on the call.

25 Q. And was the credit agreement still being drafted

1 as of 9:00 p.m. on September 21st?

2 A. Probably. If there was an all-hands call, I
3 assume that means there were still issues to be
4 resolved.

5 Q. Do you recall what those issues were?

6 A. No, not at all. I'm not sure I would have even
7 known contemporaneously what they were.

8 Q. Let me ask you to look next at Plaintiffs' Trial
9 Exhibit 212, which I would offer.

10 MR. GARDNER: No objection.

11 THE COURT: All right. Plaintiffs' Trial
12 Exhibit 212 is admitted.

13 (Plaintiffs' Exhibit Number 212 was admitted
14 into evidence.)

15 THE WITNESS: Yes, I see it.

16 BY MR. BOIES:

17 Q. And at the very top there is an email from you
18 on September 22, 2008, at 10:21 a.m., and to whom are
19 you addressing this email?

20 A. This is clearly an AIG person. I believe he was
21 in Asia. I've never met him, and I believe this is the
22 only time I ever spoke to him. I would not have
23 recognized the name at this point in time, but looking
24 below, it says, "Legal counsel, AIG Financial (Hong
25 Kong) Limited." I assume that's who it is.

1 Q. Now, you say to this AIG person, "Please call
2 me." Do you see that?

3 A. I do.

4 Q. What question did you have?

5 A. I apologize. I have no idea what question I
6 had.

7 MR. BOIES: I offer Plaintiffs' Trial Exhibit
8 212.

9 THE COURT: It's already been admitted.

10 MR. BOIES: Oh, I'm sorry, Your Honor.

11 BY MR. BOIES:

12 Q. Let me ask you to look next at Plaintiffs' Trial
13 Exhibit 238.

14 A. I'm sorry, 238? I don't think I have that.

15 Q. We will have to hand that out.

16 A. Okay. Thank you.

17 Q. This is, I believe, an internal AIG email or at
18 least "internal" broadly defined to include AIG
19 consultants. What I meant to say, most importantly, is
20 I don't believe that you saw this email at the time or
21 at least you were not an addressee.

22 A. Yeah. I don't believe I've ever seen it before,
23 period.

24 Q. I want to ask you about the email at the bottom
25 that's from Kathy Shannon, dated September 23, 2008, at

1 10:59 p.m.

2 A. Um-hum.

3 Q. It begins, "Dear all."

4 A. Yes.

5 Q. And --

6 MR. GARDNER: Your Honor, we would object to
7 reading in this exhibit before it is attempted to be
8 moved into evidence.

9 MR. BOIES: I'm not going to read it. I'm going
10 to direct the witness' attention to the first sentence.

11 THE COURT: He is not going to read it.

12 MR. GARDNER: Thank you.

13 BY MR. BOIES:

14 Q. Would you look at the very first sentence
15 there --

16 A. Yes, I see it.

17 Q. -- and read that to yourself.

18 A. I won't read it out loud. I have read it to
19 myself.

20 Q. And were you aware on or about September 23,
21 2008, that any 8-K filing had been delayed by the Fed
22 and their counsel?

23 A. As I testified generally before, that there were
24 occasions where the Fed asked for a couple of more days.
25 I don't specifically have a recollection that this 8-K

1 was asked to be delayed by any specific period of time,
2 but it's not -- it's not inconsistent with what happened
3 a few times over the course of the engagement.

4 Q. As of the evening of September 23, 2008, were
5 the definitive documents relating to the credit
6 agreement finalized?

7 A. I believe they were, but I don't know that for a
8 fact. I believe that -- I believe they were finalized
9 on the 23rd, but I'm not positive.

10 Q. Were you aware on September 23rd of any request
11 by the Federal Reserve or their counsel for a delay in
12 the filing of those definitive documents?

13 A. It's very possible that a request was made for a
14 brief delay, but I don't recall it sitting here. But I
15 have no reason to doubt that it happened.

16 Q. Okay. Let me ask you to look at Plaintiffs'
17 Trial Exhibit 254, which is, again, a document that I
18 need to hand up.

19 A. Okay.

20 Q. This is a Federal Reserve email chain. I don't
21 believe that you are on this, but I would ask you
22 whether you've ever seen this document before.

23 A. I don't believe I have ever seen it before. May
24 I have a moment to read it if you want to ask me about
25 it?

1 Q. Yeah. I particularly -- you can read whatever
2 you want for context. I particularly want to just ask
3 you about the last two lines that deal with the final
4 disposition of the preferred shares.

5 A. Sure. If you don't mind, sir, I would like
6 to -- I have literally never seen it before, so I would
7 like a moment just to read it and see what it is and the
8 like.

9 Q. Certainly.

10 A. (Document review.) Yes, I'm sorry. I've read
11 it now.

12 Q. As of September 26th, 2008, was it the case that
13 the final disposition of the preferred shares
14 representing the 79.9 percent of AIG's equity had not
15 yet been decided?

16 A. Yes. I believe I -- that's correct, I believe
17 it had not yet been decided.

18 Q. Let me ask you to look next at Plaintiffs' Trial
19 Exhibit 288, and, in particular, page 3. And this is a
20 series of emails, a number of which include you, with
21 respect to comments on the fifth draft. Do you see
22 that?

23 A. Yes. I see the "Re" line says "Fifth Draft --
24 Near final?" I assume that's what it's referring to.

25 Q. And what document is this, as you understand it?

1 A. I'm guessing it's the trust agreement, if I
2 could just flip pages for a second. Yes, I think this
3 is the trust agreement.

4 Q. And you were involved in the drafting of the
5 trust agreement, correct?

6 A. Yes, I was involved. I was not the draftsman,
7 but I was involved.

8 MR. BOIES: Your Honor, I would offer
9 Plaintiffs' Trial Exhibit 288.

10 MR. GARDNER: No objection.

11 THE COURT: Plaintiffs' Trial Exhibit 288 is
12 admitted.

13 (Plaintiffs' Exhibit Number 288 was admitted
14 into evidence.)

15 BY MR. BOIES:

16 Q. Let me ask you to look next at Plaintiffs' Trial
17 Exhibit 312. No, I'm sorry, not -- not 312. It's --
18 I'm going to hand up to you Defendant's Exhibit 2500,
19 which is the complete document that was produced this
20 morning.

21 This is a document distributed by Mr. Nowak, who
22 is an associate or was an associate at Davis Polk. Is
23 that correct?

24 A. Yes. He was at Davis Polk.

25 Q. And you are not an addressee on this document,

1 but did you see this at or about the time it was sent?

2 A. I don't -- I don't believe so. I think, if I'm
3 right, this is about the \$40 billion of Treasury TARP,
4 which I actually had relatively little to do with.

5 Q. Let me ask you just to look at the second page.

6 A. Of the document or of the email?

7 Q. Of the document, which -- the email is only one
8 page.

9 A. Okay, I'm sorry. Again, I haven't seen this
10 before. So -- so, the Bates stamp 69306?

11 Q. This is -- this is the preferred stock -- what
12 is on the second page is the certificate of designations
13 of the preferred stock that represented the 79.9 percent
14 of AIG's equity, correct?

15 A. I don't think so, because that was the Series C
16 preferred stock.

17 Q. Sir, do you remember that the Series C preferred
18 stock was originally referred to as the Series A
19 preferred stock?

20 A. I don't, which is why I'm confused for a moment.
21 If you tell me that it was originally called Series A, I
22 am happy to accept that. I actually don't remember that
23 at all. That's why I thought this was the Treasury TARP
24 stock, but if you tell me it's not, I'm totally sure
25 you're right.

1 Q. Let me ask you to look at Defendant's Exhibit
2 706, and that is in our binder.

3 A. I'm sorry, Defendant's 706?

4 Q. Yes. Defendant's Exhibit 706. And because I
5 suspect you will want to see this in context, I am going
6 to hand up the entire document.

7 A. Thank you.

8 Q. Now, Defendant's 706 is a document that you did
9 receive on November 25, 2008, correct?

10 A. I see that I'm on the email chain. I have no
11 reason to believe that I did not receive it, but it is
12 not the type of document I normally would have opened or
13 been involved in. As I said before, securities issuance
14 is quite far from my area of practice. There were a
15 lot -- I don't -- actually don't -- actually, I believe
16 I did not actually read this document at the time.

17 Q. Do you understand that this document relates to
18 the preferred stock that was received in connection with
19 the AIG credit facility?

20 A. Yes.

21 Q. Now, if you turn to the page ending in the Bates
22 number 8271, which is a blackline version of the earlier
23 draft.

24 A. Yes.

25 Q. Do you see where the Series A is changed to

1 Series C?

2 A. I do. I didn't remember that. I'm sorry.

3 Q. That's okay.

4 A. I told you I believed you. I just didn't
5 remember.

6 Q. No, I know. I know you did.

7 Now, I guess if you didn't -- I guess I don't
8 have any more questions if you didn't read this
9 document.

10 A. I don't think I read it at the time.

11 Q. Did you have any discussions with anyone about
12 this document or changes to it?

13 A. Not tethered to the document. I mean, I believe
14 I was kept generally in the loop about, you know, issues
15 in the case, including this, but I don't believe I was
16 tracked to the document.

17 Q. Let me -- let me ask you to just look at the
18 certificate of designations, which -- and in particular,
19 pages 5 and 6 of the -- of the document, which are Bates
20 numbers ending in 8320 and 8321.

21 A. I'm sorry, in mine, 8275 is page 5. I'm sorry,
22 just to -- I'm sorry, what should I turn to? 82 --

23 Q. 8320 and 8321.

24 MR. GARDNER: I'm sorry, are we back on DX 706?

25 MR. BOIES: Yes, DX 706.

1 THE WITNESS: Oh, you've -- this looks like it's
2 a different blackline than the one --

3 BY MR. BOIES:

4 Q. This is the "Series C Convertible Participating
5 Preferred Stock Purchase Agreement."

6 A. Oh, I thought you said certificate of
7 designations. I apologize.

8 Q. If you look at the first page --

9 A. I'm with you.

10 Q. -- if you look at the first page, the cover
11 email says, "Attached please find revised drafts" --

12 A. Yep.

13 Q. -- "of the Purchase Agreement and Certificate of
14 Designations for the Series C Convertible Preferred
15 Stock (and the blacklines of same against the drafts
16 previously provided to you)."

17 A. I understand. Okay, I'm at 8320, if that's
18 where you would like me to be.

19 Q. Yeah. And you understand, from being familiar
20 with blacklines, is that where something is crossed out,
21 that's something that has been eliminated, and when
22 something is underscored, that's something that's been
23 added, correct?

24 A. Yes. That is within the realm of my knowledge.

25 Q. Were you involved in any discussions with

1 respect to the addition of the materials that are added
2 to the "Stockholder Vote" section of this document on
3 pages ending 8320 and 8321?

4 A. Well, I don't believe that I was, because this
5 text is totally unfamiliar and outside my area of
6 expertise, but --

7 Q. Okay.

8 A. -- what I did talk about yesterday, because I'm
9 assuming you do know what the subject matter of this is,
10 we did look at emails yesterday in early January about
11 AIG's -- about discussions about delaying the vote. So,
12 if this is about the vote, I don't want to testify that
13 I wasn't involved, because we saw emails yesterday where
14 AIG said, you know, we're thinking or we've decided not
15 to proceed with the vote, and I discussed that on
16 direct. So, if that's what this is about, then I was
17 generally involved in discussions on the subject matter,
18 but never with respect to this, as you can tell from the
19 nature of the blacklining, extremely corporate,
20 technical securities law drafting.

21 Q. Well, were you involved in discussions in which
22 people talked about changing either the Series C
23 purchase agreement or the Series C certificate of
24 designation in order to adapt to the decision that had
25 been made not to call a special shareholders meeting?

1 A. I don't have any recollection of being involved
2 in that.

3 Q. Let me ask you to turn next to Plaintiffs' Trial
4 Exhibit 343. We talked a little bit yesterday about the
5 Walker litigation. Do you recall that?

6 A. Yes.

7 MR. BOIES: And I would offer Plaintiffs' Trial
8 Exhibit 343.

9 MR. GARDNER: No objection.

10 THE COURT: Plaintiffs' Trial Exhibit 343 is
11 admitted.

12 (Plaintiffs' Exhibit Number 343 was admitted
13 into evidence.)

14 BY MR. BOIES:

15 Q. And this shows you receiving a copy of the
16 Walker complaint on November 5, 2008, correct?

17 A. Yes. It was forwarded to me on November 5.

18 Q. And if you -- if you look on Plaintiffs' Trial
19 Exhibit 344, which is already in evidence, you received
20 a copy again of that complaint as well as a description
21 of that complaint when it went to the AIG board of
22 directors, correct?

23 A. I don't -- oh, yes, I see I'm on there. I would
24 not have recalled this, but I'm copied, and I'm totally
25 sure that it, therefore, came to me, which is sort of

1 funny because I'm the absolute only person from the Fed
2 or the Treasury or Davis Polk copied, which makes me
3 wonder if it was not a mistake, but I don't know. I
4 didn't remember receiving this. It would be very
5 unusual for me to be the only person CC'd on something
6 like this.

7 Q. Do you see where Mr. Hennessy of the Federal
8 Reserve Bank was also getting a copy?

9 A. Oh, I'm sorry. I missed that. Yes. Then I'm
10 not the only one, which makes this more understandable.

11 Q. And Sarah Dahlgren of the New York Fed was also
12 getting a copy?

13 A. It looks like I am going to have to extend my
14 apologies to everybody for too quickly reading the
15 addressees list, and I am sorry and I retract the
16 statement that I was the only one. And I am sorry about
17 that.

18 Q. No problem.

19 May I have just a moment, Your Honor?

20 (Counsel conferring.)

21 BY MR. BOIES:

22 Q. Did you have any discussions with anyone at
23 Davis Polk about this document when you received it,
24 this Walker complaint?

25 A. I believe so.

1 Q. With whom did you have those discussions?

2 A. I believe I would have discussed it with Martine
3 Beamon, who is a litigation partner, who I believe -- I
4 believe I asked to sort of look into this and let me
5 know what was going on. I think as we've all learned,
6 quite painfully, I am not a litigator, and it was not
7 within my area of expertise to analyze a complaint and
8 advise the client on kind of what it meant.

9 Q. Now, if you go back to Plaintiffs' Trial Exhibit
10 343 --

11 A. Yes.

12 Q. -- which we looked at before.

13 A. Yes.

14 Q. Who is the person that sent you this complaint
15 from Davis Polk?

16 A. The aforementioned Martine Beamon.

17 Q. Okay. And what he says is --

18 A. She. She.

19 Q. -- what she says is, "Please find attached a new
20 complaint filed last night against AIG that has some
21 potentially serious ramifications." Do you see that?

22 A. Yes, I do.

23 Q. And did you learn from Ms. Beamon what she
24 concluded the potentially serious ramifications were?

25 A. If the complaint were true, it would have had

1 serious ramifications. I can't say that I -- I mean,
2 Martine, to my recollection, was not generally involved
3 in AIG previously and didn't have a context, so she just
4 wrote --

5 Q. Did you understand my question?

6 A. I'm sorry. Could you reask it?

7 Q. Did you learn from Ms. Beamon what she concluded
8 the potentially serious ramifications were?

9 A. Oh. I don't have a specific recollection of my
10 conversation with her, but I have a strong recollection
11 about what happened as we came to understand the Walker
12 litigation during that time period.

13 Q. Did Ms. Beamon ever provide you or anyone with
14 anything in writing about what the potentially serious
15 ramifications were of the Walker lawsuit?

16 A. I don't believe so. I mean, she may have sent
17 an email at some point summarizing what happened at a
18 hearing that she heard about from Weil Gotshal, but I
19 don't think there was ever a writing or a memo or an
20 analysis. I don't recall one.

21 Q. Just so the record is clear, you do not recall
22 ever learning what she believed the potentially serious
23 ramifications of the Walker lawsuit were, correct?

24 A. That's correct.

25 Q. Okay. Let me ask you to look next at

1 Plaintiffs' Trial Exhibit 352, which I would offer.

2 MR. GARDNER: No objections.

3 THE COURT: Plaintiffs' Trial Exhibit 352 is
4 admitted.

5 (Plaintiffs' Exhibit Number 352 was admitted
6 into evidence.)

7 BY MR. BOIES:

8 Q. I want to direct your attention to the middle
9 email on the first page, the one from you to Stephen
10 Albrecht, copy to Sarah Dahlgren, dated November 6th,
11 2008, at 10:39. Do you see that?

12 A. Yes.

13 Q. And you write, "Ed is upset." That's referring
14 to Mr. Liddy, correct?

15 A. Yes, it is.

16 Q. "Never thought ssfi" -- and what is ssfi?

17 A. I believe it is a reference to -- and I might
18 get the acronym wrong -- systemically significant
19 financial institutions. Would you like to know more or
20 just the acronym?

21 Q. What I'm interested in is the additional part of
22 that sentence, where it says "or yet more would apply."

23 A. Yes. So, I believe the topic was restrictions
24 on compensation.

25 Q. Yes.

1 A. I believe SSFI was a Treasury program that had
2 lots of pieces to it, but one thing that I -- again,
3 sometimes you get mad at me when I explain when I think
4 I'm just trying to help, so that's why I want to make
5 sure you want me to explain this.

6 Q. Well, what I really want is, this was about
7 restrictions on compensation, executive compensation.

8 A. Yes. That's absolutely correct.

9 Q. And there were some restrictions on compensation
10 in SSFI, correct?

11 A. Yes.

12 Q. And then there were additional restrictions on
13 compensation that were planned to be applied to AIG,
14 correct?

15 A. I don't -- I don't remember enough to agree with
16 "planned to be applied."

17 Q. You say "or yet more."

18 A. Right, so I -- may I answer?

19 Q. What I want to know is, when you wrote this, you
20 were talking -- when you say, "Never thought ssfi or yet
21 more would apply," you're talking about apply to AIG,
22 correct?

23 A. Yes.

24 Q. And you're talking about executive compensation
25 restrictions, correct?

1 A. Restrictions or limitations, yes.

2 Q. And when you wrote this, what were you referring
3 to when you said "or yet more would apply"?

4 A. Right. So, I don't have an exact recollection,
5 but I can testify generally that there were a series of
6 conversations going on about what compensation for AIG
7 senior executives should be. You know, the TARP
8 limitations were one set, and then there were other
9 conversations that were also going on at the time in
10 light of, you know, a lot of public anger at AIG and
11 otherwise.

12 Q. Let me ask you to look at next Plaintiffs' Trial
13 Exhibit 384, and this is an email that I do not believe
14 that you are on, but it is an email or a series of
15 emails from people at Davis Polk, correct?

16 A. Well, it includes some of the Treasury as well,
17 but I believe the other people on the email are at Davis
18 Polk, are or were at Davis Polk.

19 Q. The author of the two emails is somebody from
20 Davis Polk, correct?

21 A. Yes, absolutely. He was an associate in the
22 securities department.

23 MR. BOIES: Your Honor, I would offer
24 Plaintiffs' Trial Exhibit 384.

25 MR. GARDNER: We would just object on lack of

1 foundation, Your Honor. Mr. Huebner, I believe, just
2 testified that he is not on this exhibit.

3 THE COURT: Yes, but as I said before, this is a
4 Davis Polk email and this is cross examination, so I
5 will admit --

6 MR. GARDNER: I understand.

7 THE COURT: -- Plaintiffs' Trial Exhibit 384.
8 (Plaintiffs' Exhibit Number 384 was admitted
9 into evidence.)

10 BY MR. BOIES:

11 Q. Now, the first line of the top email says,
12 "Bjorn and I spoke with AIG's outside counsel (Weil) and
13 communicated that the ML III 8-K should not be filed
14 today."

15 Do you see that?

16 A. I do.

17 Q. And who is Bjorn?

18 A. Bjorn was a partner at Davis Polk who was, in
19 general, handling some of the documentation for ML III.

20 Q. Okay. Let me ask you to look next at
21 Plaintiffs' Trial Exhibit 619.

22 A. Yes, I have it open.

23 Q. And in this connection, you were, in September
24 of 2008, representing both the Department of Treasury
25 and the Federal Reserve Bank of New York, correct?

1 A. No, that's not correct.

2 Q. That's not correct?

3 A. No. Now I think you probably want me to
4 explain, but I will wait for a question.

5 Q. Well, let me -- let me ask it this way.

6 A. Okay.

7 Q. In September of 2008, did you believe that you
8 were representing both Treasury and the New York Fed?

9 A. Yes, for a brief period or for a period.

10 Q. And, for example, let me ask you to look at
11 Plaintiffs' Trial Exhibit 154, which is already in
12 evidence.

13 A. Yes.

14 Q. And if you go to the email at the bottom of the
15 first page of this exhibit --

16 A. Yes.

17 Q. -- this is an email from you, dated September
18 19th, 2008, at 12:07 a.m., correct?

19 A. Yes.

20 Q. And it's addressed to people at the Department
21 of Treasury and people at the Federal Reserve Bank of
22 New York, correct?

23 A. Yes. And then it begins, "Clients."

24 Q. Yes.

25 A. Yes. Again, in those early days, I was under

1 what turned out to be a mistaken impression, that we
2 were also representing the Treasury Department. We
3 later were formally retained by the Treasury Department
4 or by the Department of the Treasury.

5 Q. Let me be sure I understand your testimony.
6 There came a time when you were representing both the
7 Federal Reserve Bank and the Department of Treasury.

8 A. Yes.

9 Q. When was that?

10 A. I believe it was either October 30th or 31st,
11 2008, and onward.

12 Q. All right. And prior to that time, beginning on
13 September 16th, you were representing the Federal
14 Reserve Bank of New York?

15 A. Yes.

16 Q. And you continued to represent the Federal
17 Reserve Bank of New York after you began representing
18 the Department of Treasury?

19 A. Yes.

20 Q. And in September, certainly including September
21 19th, although you were not yet formally retained by the
22 Department of Treasury, you believed at that time that
23 you were representing the Department of Treasury.

24 A. Yes.

25 Q. Okay. Let me ask you to look next at

1 Plaintiffs' Trial Exhibit 1645.

2 A. Yes.

3 Q. Is this a document that you have seen before?

4 A. Yes. I saw this during preparation for I
5 believe trial testimony. I'm not sure I saw it in
6 preparation for my deposition, but I did see it in the
7 last few weeks. I would not -- well, let me first ask
8 if I'm copied -- I am copied. I would not otherwise
9 have had any recollection of it, but I did -- it was
10 shown to me as part of my preparation for this
11 testimony.

12 Q. In addition to it being shown to you as part of
13 this tes -- preparation for your testimony, this is a
14 document that you received the evening of September 22,
15 correct?

16 A. Well, to be clear, on the first page of it is a
17 series of internal AIG emails that I would not have
18 seen, did not see until very recently. The email from
19 Jason Kyrwood that begins on page 2, that, I believe --
20 I'm certain, as it indicates in its "Re" line and its
21 "CC" line that I was copied on at the time, but only
22 that one email, not the other three.

23 Q. And the email that you're copied on says,
24 "Attached is the revised draft, blacklined against the
25 last draft distributed." We're talking about drafts of

1 the credit agreement, correct?

2 A. Yes. The credit agreement is attached, so that
3 must be the subject of the email.

4 Q. And it says, "We are requesting that all parties
5 review and sign off within the hour (i.e. by 10:30)."

6 Do you see that?

7 A. I do.

8 Q. And this goes to a variety of people who are
9 representing the New York Federal Reserve. It also goes
10 to Mr. Reeder and Mr. Wiseman, who were at Sullivan &
11 Cromwell, correct?

12 A. It went to many people. I believe Mr. DeLaMater
13 was also at Sullivan & Cromwell, as was Mr. Lindauer.
14 There may be others as well that were from S&C. I don't
15 -- I don't recognize all the names on here, but in
16 general terms, yes.

17 Q. And this exhibit is already in evidence.

18 Let me ask you -- oh, this is not in evidence,
19 Your Honor, and I would offer it.

20 MR. GARDNER: No objection.

21 THE COURT: Plaintiffs' Trial Exhibit 1645 is
22 admitted.

23 (Plaintiffs' Exhibit Number 1645 was admitted
24 into evidence.)

25 MR. BOIES: May I have just a moment, Your

1 Honor?

2 (Counsel conferring.)

3 BY MR. BOIES:

4 Q. Let me ask you to look at Plaintiffs' Trial
5 Exhibit 390.

6 A. Yes.

7 Q. The top email from Kathy Shannon goes to a
8 variety of people. Which Davis Polk people does this go
9 to?

10 A. Just looking at the email addresses, there's
11 Joel Pulliam, who was the primary recipient or first
12 recipient, whose name I don't recognize, but based on
13 the trailer I assume he was at Davis Polk and probably a
14 more junior securities associate at the time; Ethan
15 James, we've discussed, was at Davis Polk, as was Bjorn
16 Bjerke.

17 Q. And --

18 A. I believe that's it, but, you know...

19 Q. And the email at the top of the page from Kathy
20 Shannon is responding to an earlier email on December
21 23rd, 2008, at 9:02 a.m., from Joel Pulliam of Davis
22 Polk, correct?

23 A. Yes.

24 MR. BOIES: Your Honor, I would offer
25 Plaintiffs' Trial Exhibit 390.

1 MR. GARDNER: No objection.

2 THE COURT: Plaintiffs' Trial Exhibit 390 is
3 admitted.

4 THE WITNESS: To be clear, I don't think I've
5 ever seen this before. I mean, am I on here, or is that
6 not relevant? I just -- I -- I'm sorry.

7 (Plaintiffs' Exhibit Number 390 was admitted
8 into evidence.)

9 BY MR. BOIES:

10 Q. To answer your question, which I don't usually
11 do, but I -- I don't think you are on it.

12 A. Okay, thank you. Before, when I missed the
13 other addressees, I'm a little bit skittish now.

14 Q. Let me ask you to look at Plaintiffs' Trial
15 Exhibit 217, which I am going to hand up, which I would
16 offer.

17 MR. GARDNER: No objection.

18 THE COURT: Plaintiffs' Trial Exhibit 217 is
19 admitted.

20 (Plaintiffs' Exhibit Number 217 was admitted
21 into evidence.)

22 BY MR. BOIES:

23 Q. And am I correct that this reflects something
24 that you testified about before, which is that once the
25 change was made from warrants to preferred stock, the

1 fees that had been in the original term sheet that were
2 designed to encourage shareholder approval of the
3 issuance of that stock was eliminated because they were
4 no longer required?

5 A. It's definitely true that they were eliminated.
6 I don't know that I would agree that they were no longer
7 necessarily required, but as a factual matter, they were
8 eliminated along with that change.

9 Q. Well, do you see at the top, the email from
10 Bradley Smith of Davis Polk to you?

11 A. Yes.

12 Q. September 22, 2008, at 2258?

13 A. I do.

14 Q. And he's responding to your question about
15 whether the fee is in the credit agreement, the periodic
16 commitment fee, correct?

17 A. Yes.

18 Q. And he answers, "No. When the approval -- when
19 the shareholder approval requirement went away, so did
20 the rationale for this fee."

21 A. Yes, that was his view, but it's -- I'm not sure
22 it's my view. That's the question I was trying to
23 answer.

24 Q. Did you ever tell him you had a different view?

25 A. I don't believe so.

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

2 THE COURT: Thank you, Mr. Boies.

3 Redirect, Mr. Gardner, if any?

4 MR. GARDNER: No, Your Honor.

5 THE WITNESS: Really? I can go home now?

6 THE COURT: Despite your shock and amazement,
7 you are excused. Thank you for your testimony in this
8 matter. I'm going to excuse you subject to being
9 recalled, if necessary, because there are some Davis
10 Polk-related issues that we are working through.

11 THE WITNESS: Thank you, Your Honor. Thank you
12 very much.

13 MR. GARDNER: Your Honor, the Government calls
14 as its next witness, Robert Willumstad.

15 THE COURT: All right.

16 MR. GARDNER: Your Honor, may we have just five
17 minutes to sort of clean up, just a standing break?

18 THE COURT: Yes. Let's go off the record.

19 (Pause in the proceedings.)

20 THE COURT: Please come forward, sir.

21 Please raise your right hand.

22 Whereupon--

23 ROBERT WILLUMSTAD
24 a witness, called for examination, having been first
25 duly sworn, was examined and testified as follows:

1 THE COURT: Please be seated.

2 THE WITNESS: Thank you.

3 THE COURT: Please go ahead, Mr. Roberson.

4 DIRECT EXAMINATION

5 BY MR. ROBERSON:

6 Q. Good afternoon, Mr. Willumstad. Could you
7 please give us a brief description of your education and
8 work history?

9 A. I started in the banking business back in 1967,
10 spent 20 years at Chemical Bank, later went on to work
11 at Commercial Credit. We merged with Citicorp in 1998.
12 I ultimately wound up being president and chief
13 operating officer of Citicorp. I retired in 2005,
14 joined the board of AIG, and in June of 2008, I was
15 asked to be the CEO of AIG.

16 Q. And --

17 A. I have since been in the private equity
18 business.

19 Q. And what year did you join AIG's board?

20 A. In 2006.

21 Q. The beginning of 2006?

22 A. The beginning, yes.

23 Q. Okay. And can you walk us through your time at
24 AIG? You were appointed to the board, and then you
25 became the CEO in June of 2008. Can you sort of walk us

1 through your responsibilities on the board and through
2 that period until June of 2008?

3 A. When I joined the board, they asked me to take
4 over the chair of the finance committee, which I did. I
5 was the chair of the finance committee up through
6 November, December of 2006. I was then asked to take
7 over as chair of the board -- nonexecutive chairman of
8 the board, and I was chair from 2006 -- excuse me,
9 2007 -- the end of 2006, 2007, and until September
10 15th -- 16th of 2008.

11 Q. Okay. Did you have an understanding of AIG's
12 CDS portfolio when you were director of AIG but before
13 you became a CEO in June of 2008?

14 A. I had a minor understanding, yes.

15 Q. Could you describe what you understood about the
16 CDS portfolio?

17 A. Well, it was a large notional dollar amount of
18 exposure in the financial products group and became an
19 issue that came before the board in I'll say September
20 of 2007, when the CDS portfolio started to have -- take
21 some losses.

22 Q. And do you recall roughly the notional amount of
23 the CDS exposure?

24 A. Well, there were several different portfolios in
25 the financial services group. I don't know if you're

1 talking about in total or anything specific.

2 Q. Well, we can do total and then you can break it
3 down, if you would.

4 A. It was probably somewhere in the neighborhood of
5 \$500 billion worth.

6 Q. Okay. And do you recall the subcomponents of
7 that?

8 A. Approximately \$400 billion was against European
9 banks, and there was about \$80 billion of credit default
10 swaps that were written against mortgage-backed
11 securities.

12 Q. And that would have been the multisector super
13 senior --

14 A. That's correct.

15 Q. -- CDS or CDOs in the CDS?

16 And what did you understand about the risk in
17 AIG's CDS portfolio?

18 A. Well, the -- the risks that were described to
19 the board at that time were that as super seniors, there
20 would be a series of losses that would be taken on those
21 portfolios before any exposure would be a responsibility
22 of AIG.

23 Q. Okay. And did you have any other understanding
24 of other types of risks that might be -- that -- you
25 were sort of describing, I believe, credit risk. Were

1 there other risks that you understood or was described
2 to the board in connection with the CDS portfolio?

3 A. No, I don't think so.

4 Q. Okay. And what was your understanding of AIG's
5 securities lending practice when you were director of
6 AIG but before you became the CEO?

7 A. I understood that we had a securities lending
8 portfolio.

9 Q. And in general terms, could you describe what a
10 securities lending portfolio is?

11 A. AIG, as a result of being an insurance company,
12 had a large portfolio of varied securities. It's a
13 fairly common practice for those securities to be lent
14 to Wall Street firms. They would lend the securities to
15 Wall Street firms, and Wall Street firms would -- would
16 give them a like amount of cash in its place.

17 Q. And what would AIG do with the cash that it
18 received as collateral?

19 A. It was typically invested.

20 Q. Okay. And do you recall the sort of investments
21 that the securities lending program undertook during
22 that period?

23 A. Well, I think there was a whole long range of --
24 the securities lending program had been in place for
25 many years at AIG.

1 Q. Okay. And what did you understand about the
2 risks in AIG's securities lending practices?

3 A. The securities lending program certainly, I'll
4 say in the 2006, 2007 time frame, much of that cash was
5 invested in mortgage-backed securities.

6 Q. And did that -- how did that create a risk?

7 A. Well, it -- it was no -- it was a -- wherever
8 that money was invested, it had some risk attached to
9 it, but obviously mortgage-backed securities at the time
10 were thought to be quite secure.

11 Q. Now, let's start with your appointment as CEO,
12 and, again, I believe you said it was in June of 2008.

13 A. June 15th.

14 Q. Okay. And what did you do upon your appointment
15 as CEO to familiarize yourself with the financial
16 condition of the company?

17 A. Well, after I was named the CEO, I met with all
18 the senior staff people, the business leaders, and
19 started to engage them in conversations with the
20 expectation that I would put together a plan over the
21 course of a 90-day period of time that would remove some
22 of the risk of the business at AIG, as well as get the
23 company to refocus more on insurance business and away
24 from some other businesses that were not specifically
25 insurance related.

1 Q. And what companies were you -- do you -- were
2 those that were not insurance-specific?

3 A. Well, we had an aircraft leasing business there,
4 we had a consumer finance business. There were
5 financial products organization or financial services
6 group, which had financial products and several other
7 ancillary businesses that were not directly related to
8 the traditional insurance business that built AIG.

9 Q. Okay. And so you undertook a 90-day -- can we
10 call it a 90-day program?

11 A. It was intended to be 90 days, yes.

12 Q. Right. And was this 90-day program disclosed to
13 investors?

14 A. It was.

15 Q. Okay. And did you notify the rating agencies
16 about this 90-day program?

17 A. Well, my recollection is the following -- I
18 think the -- June 15th was a Sunday. I believe Monday
19 morning I had a call with analysts where I disclosed the
20 strategic review, and I'm sure rating agencies were on
21 the phone at the same time.

22 Q. Okay. Did you have discussions with the rating
23 agencies about the strategic review?

24 A. Well, I had many meetings with rating agencies
25 over that 90-day period.

1 Q. Okay. Did you have a target date on which you
2 would announce the results of the 90-day review?

3 A. Originally I just said 90 days. As we got into
4 it, I'll say I think in mid-July, I think I said towards
5 the end of September. I think there was actually a
6 specific date, but I'm not sure exactly what it was at
7 the moment.

8 Q. Okay. September 25th, 2008?

9 A. It could very well be. I don't recall.

10 Q. Okay. And did you -- well, I think you began to
11 explain. Could you just give some detail -- a little
12 bit more detail about the purpose behind your 90-day
13 review of the company?

14 A. Well, the company was under stress. It had
15 taken several quarters' worth of losses in the billions
16 of dollars, and so my -- my objective was to, as I said,
17 streamline the company, derisk it, if you will, and try
18 to stem the losses.

19 Q. Okay. And I just want to tie down the
20 discussions with the credit rating agencies. Did you
21 have discussions with them separately from your investor
22 conferences?

23 A. Yes.

24 Q. And did you receive any communications from them
25 with respect to the possibility of a downgrade or any of

1 that sort of communication about holding off a downgrade
2 or any of that sort of communication?

3 A. Not related to the strategic review.

4 Q. Okay. And who was responsible for leading the
5 day-to-day actions of the strategic review?

6 A. Brian Schreiber.

7 Q. Okay. Now, as a result of the 90-day review,
8 what, if anything, did you learn about AIG's CDS
9 portfolio?

10 A. Well, the portfolio itself -- I'm not sure I
11 learned a whole lot about the portfolio, other than it
12 was very -- very much tied to the -- to the housing
13 market in the United States.

14 Q. And can you explain that -- that tie?

15 A. Well, these were -- these were bonds that were
16 backed by mortgages, and obviously if -- if there were
17 large defaults in the mortgage market, the value of the
18 bonds would decline substantially.

19 Q. And this is about the CDS portfolio as opposed
20 to the sec lending portfolio?

21 A. Yes.

22 Q. Okay. And what about the securities lending
23 practices during that 90-day review period? What did
24 you learn about that practice?

25 A. Well, I learned that we had a significant

1 exposure to the mortgage-backed market and that those
2 securities had become more illiquid as the housing
3 market deteriorated.

4 Q. And what were the consequences of the
5 illiquidity?

6 A. Well, the consequences were if the -- if the
7 Wall Street firms that had borrowed those securities
8 wanted to return them to us, we would have to come up
9 with the cash to replace those securities, and typically
10 what would be done, the securities that were purchased
11 with the cash would be sold and the cash would be
12 returned to the -- to the firms. But the value of those
13 securities were declining, and our ability to raise that
14 cash was going to be limited.

15 Q. Okay. We want to spend a little time on the
16 second quarter 2008 10-Q, and if you could turn to
17 JX 41.

18 THE COURT: Where would I find that?

19 MR. ROBERSON: It should be in the second
20 binder, Your Honor. And just so that you're aware, the
21 first binder is going to carry up through the early --
22 through DX 1354, and then after that it goes to DX, JX,
23 and PXs in the second binder.

24 THE COURT: All right, thank you.

25 BY MR. ROBERSON:

1 Q. So, we are just going to look at a few data
2 points connected with the CDS and the sec lendings here
3 in this document. Can you turn to page 5 of 141.

4 A. Okay.

5 Q. And here, do you see this is going to give the
6 revenues at the top, it's a chart, and then do you see
7 net income?

8 A. Yes.

9 Q. And can you tell us what the net income was, or
10 loss, during the three months ending June 30th, 2008,
11 and also for the six months ending June 30th, 2008?

12 A. 5,357,000,000 and 13,162,000,000.

13 Q. Okay. And turn to page 47 of 141, and about the
14 fourth paragraph down, there's a description of the
15 amount of money that would need to pay a third-party
16 assumed obligations under FP's super senior CDS
17 portfolio as of June 30th, 2008, and can you tell me
18 what that figure is?

19 A. It says, "Two scenarios illustrated in this
20 process," is that what you're talking about?

21 Q. No. The paragraph that begins, "At June 30,
22 2008, the fair value of AIGFP's" --

23 A. Okay. A net loss of \$26.1 billion.

24 Q. Okay. One moment.

25 All right. If you could turn to page 45 of 141,

1 and if you look at the third full paragraph, in the
2 middle of that paragraph, there is an estimate of the
3 amount of collateral FP would have to post upon a
4 one-step downgrade of AIG. And if you look at that for
5 a moment -- do you see that? And this is upon a
6 one-step downgrade of AIG?

7 A. You're referring to the \$1.2 billion of
8 additional collateral?

9 Q. Well, it says -- that would be a -- wouldn't
10 that be with both Moody's and S&P? It begins "would
11 permit counterparties to make additional calls for up to
12 approximately \$13.3 billion of collateral, while a
13 downgrade to 'A2' by Moody's and 'A' by S&P would permit
14 counterparties to add -- to call for approximately \$1.2
15 billion of additional collateral." So, depending on the
16 steps of the downgrade, one step you're looking at 13.3
17 billion of collateral and then another 1.2 if there's an
18 additional step. Is that a correct reading of that?

19 A. Correct.

20 Q. And that was your understanding at that time?

21 A. Yes.

22 Q. And let's look at a few statements in here about
23 the sec lending program. If you turn to page 120 of
24 141, and toward the bottom of the page, under the
25 heading "Securities Lending Activities," you can take a

1 look at the second paragraph under that heading.

2 Here it says -- to paraphrase -- it says that
3 AIG's -- AIG had an obligation to return \$75.1 billion
4 to the sec lending borrowers, but the fair value of the
5 cash that AIG had received and reinvested had shrunk to
6 \$59.5 billion.

7 Do you see that?

8 A. I do.

9 Q. So, how big was the shortfall then between the
10 fair value of the sec -- when I use the word "sec," it's
11 understood that it's securities. Is that correct?

12 A. Yes.

13 Q. Sort of a common shorthand for it.

14 How big was the shortfall between the fair value
15 of the sec lending investments and the related liability
16 to the sec lending counterparties?

17 A. About \$15 billion.

18 Q. Right. And does that comport with your
19 understanding of the state of the sec lending
20 investments relative to the collateral received in or
21 about the middle of 2008?

22 A. That's correct.

23 Q. Now, if you would turn to page 122 of 141, at
24 the third paragraph of the page, the last two sentences,
25 there's a description of the amount of losses on the

1 invested securities from the sec lending program. Can
2 you please describe the amount of the unrealized and
3 realized losses described here?

4 A. Unrealized losses were \$8.2 billion, and net
5 realized losses were \$3.8 billion and \$6.7 billion,
6 respectively, on the two portfolios.

7 Q. Okay. Now, earlier, in May of 2008, did AIG
8 undertake a capital raise?

9 A. It did.

10 Q. And it received approximately how much money?

11 A. Slightly over \$20 billion, as I recall.

12 Q. Okay. As of June 2008 you had received the
13 money -- because that was in May, you're in June. Did
14 AIG's management believe that its capital position was
15 stronger than it was at the -- at the end of the first
16 quarter, prior to the capital raise?

17 A. I would say yes.

18 Q. Okay. I'm going to step back just for a moment
19 and talk perhaps philosophically for a moment, but would
20 you agree that as a general matter, the rating agencies
21 were the governor of how much capital AIG had and how
22 much capital AIG needed?

23 A. The rating agencies had some influence over it,
24 but I think that was a management decision.

25 Q. Okay. But in terms of ratings downgrades, there

1 were significant effects upon AIG with a rating
2 downgrade, correct?

3 A. Correct.

4 Q. And in that regard, I guess that's the -- the --
5 the context of my question to you. In that regard, the
6 rating agencies did govern how much AIG needed to
7 respond to the effects of credit rating downgrades.

8 A. Correct.

9 Q. I want to talk now about July of 2008, and I
10 want to turn to -- first to your meetings with
11 Mr. Geithner in July of 2008. Do you recall when your
12 first meeting with Mr. Geithner occurred?

13 A. I think it was around the first week of July.

14 Q. Okay. And who initiated that meeting?

15 A. He did.

16 Q. And do you recall why he wanted to meet with
17 you?

18 A. It was never clear to me why he wanted to meet
19 with me, no.

20 Q. Okay. And can you describe the sum and
21 substance of your discussions with Mr. Geithner at that
22 time?

23 A. He -- he came to my office. We had probably a
24 half-hour conversation. We talked about the banking
25 business and his observations as a regulator of the

1 banks. We spoke a little bit about AIG, but I wouldn't
2 say that the focal point of the conversation was AIG.

3 Q. Did you discuss AIG's financial condition?

4 A. I may have. I mean, just relative to whatever
5 was public information.

6 Q. Okay. Anything else you can recall about that
7 discussion?

8 A. No.

9 Q. Okay. Now, you met with Mr. Geithner a second
10 time in July. Is that correct?

11 A. Correct.

12 Q. And do you recall when that was?

13 A. It was at the end of July.

14 Q. Okay. And before we turn to that discussion,
15 were you concerned about potential future liability for
16 AIG in the middle of July, toward late July?

17 A. I'm not sure I understand the question.

18 Q. Were you -- during this period of time, July of
19 2008, were you concerned about a potential liquidity
20 problem arising at AIG in the future?

21 A. Well, as a matter of my responsibilities, I felt
22 it was my responsibility to kind of plan and think about
23 all the options and alternatives that AIG might face
24 over an extended period of time. And, yes, liquidity
25 was one.

1 Q. Were you concerned about a problem at that stage
2 in terms of future liquidity for AIG?

3 A. There was no specific problem at the time.

4 Q. Okay. Now, with respect to the July 29th
5 meeting, who initiated that meeting?

6 A. I did.

7 Q. Okay. And what was the purpose of the meeting
8 from your perspective?

9 A. Well, I wanted to discuss with him, if AIG were
10 ever to be in a liquidity crisis, that -- I wanted to
11 know if we would have the availability of going to the
12 Fed window and borrowing.

13 Q. And can you -- that was your purpose was my
14 question. So, my next question is, what did you
15 actually discuss with Mr. Geithner that you can recall
16 from that meeting?

17 A. Well, I told him I had been doing some planning
18 and doing some stress testing of AIG's portfolios, and
19 one of the conclusions I came to is if there were a
20 liquidity crisis, particularly in the securities lending
21 program, that that would require a lot of liquidity in a
22 short period of time, potentially, and I thought that
23 the New York Fed would be able to provide some support
24 in that area.

25 Q. And what -- do you recall what his -- well, let

1 me ask you this. Did you indicate to Mr. Geithner that
2 AIG was facing serious liquidity issues at that time?

3 A. No.

4 Q. And did you convey or present any evidence
5 concerning an acute or impending liquidity crisis at
6 AIG?

7 A. No.

8 Q. Did you leave Mr. Geithner with any documents at
9 that time?

10 A. I don't believe so.

11 Q. Okay. So, you didn't leave any documentary
12 evidence concerning AIG's liquidity position, potential
13 liquidity needs, exposure of AIG's counterparties to the
14 CDS, or AIG's potential sources of additional capital or
15 funds. Would that be fair?

16 MR. BOIES: Objection. Leading.

17 THE COURT: Sustained.

18 BY MR. ROBERSON:

19 Q. Well, let me just -- you didn't leave any
20 documentary evidence at all?

21 A. No. I just said that.

22 Q. All right, fair enough.

23 Did you make any requests during the meeting
24 that AIG be granted access to the primary dealer credit
25 facility or the discount window?

1 A. I'm sorry. Say that again.

2 Q. Did you make any specific request during the
3 meeting that AIG be granted access to the primary dealer
4 credit facility or the discount window?

5 A. I did.

6 Q. And what specific requests did you make at that
7 time?

8 A. I had asked him that since the Fed had
9 previously allowed nonbanks to have access to the
10 discount window, whether AIG could be one of those
11 institutions that could have access to the discount
12 window.

13 Q. And what was Mr. Geithner's response at that
14 time?

15 A. My recollection was he said something to the
16 effect of if I had grant -- if -- if we granted you that
17 opportunity, it may exacerbate the situation we're
18 trying to avoid.

19 Q. Did he explain what he meant by that?

20 A. I don't think he explained, but I think I
21 understood.

22 Q. And what did you understand?

23 A. Well, that -- if you will, a -- I'll use the
24 term "run on the bank," if there was a demand by the
25 securities lending counterparts for all of their cash

1 back at the same time, AIG wouldn't have the
2 capabilities of doing that. And his concern, I think,
3 was that by announcing that we may have significant
4 liquidity needs, that's why we would want access to the
5 window, it may, in fact, trigger the same event we were
6 trying to avoid, which was a run.

7 Q. Okay. Let's jump to August of 2008. Do you
8 recall that at some point in August 2008, AIG received
9 communications from Fitch, the rating agency, indicating
10 that it was planning to downgrade AIG?

11 A. I don't specifically recall whether -- which
12 rating agency it was or -- and I'm not sure what period
13 of time you're talking about.

14 Q. Well, let's turn to DX 178, which will be in the
15 first binder, and if you could describe what this
16 document is.

17 A. Which --

18 Q. DX 178. It's an email with an attachment, so --

19 A. Yeah. It appears to be an email to Teri Watson.

20 Q. Okay. And who was Teri Watson?

21 A. Teri Watson was the person responsible for
22 interfacing or interacting with the rating agencies.

23 Q. And did she report to you?

24 A. She did not.

25 Q. She did not?

1 A. No.

2 Q. Who did she report to?

3 A. I believe Steve Bensinger, but I'm not sure of
4 that.

5 Q. Okay. Were you kept apprised of the rating
6 agencies' concerns with AIG?

7 A. I was.

8 Q. Okay. And a moment ago I asked you about Fitch,
9 and I'm just trying to see if this is going to refresh
10 your recollection, but separately, I suppose, I would
11 like to move into evidence DX 178.

12 MR. BOIES: Objection if it's moved in for the
13 truth of the matter asserted. I don't think that's
14 probably counsel's intention. I think his intention is
15 to move it in for purposes of putting AIG on notice of
16 Fitch's views, and if he offers it for that purpose, I
17 would have no objection, but if he's offering it for the
18 truth of the matter asserted, I would object on hearsay
19 grounds.

20 MR. ROBERSON: Correct. It's for the notice to
21 AIG, Your Honor.

22 THE COURT: All right. Defendant's Exhibit 178
23 is admitted with the stated limitation.

24 (Defendant's Exhibit Number 178 was admitted
25 into evidence.)

1 BY MR. ROBERSON:

2 Q. All right. So, if you look on the second page,
3 it's a draft, obviously, it wasn't complete, and this
4 was a draft where Fitch downgrades AIG debt ratings, and
5 then there's a couple of paragraphs of explanation as to
6 why Fitch was contemplating at that point in time
7 downgrading AIG. And I don't have any further
8 questions. I'm just trying to get it into evidence, so
9 the document says what it says.

10 THE COURT: Why don't we take our lunch break,
11 Mr. Roberson.

12 MR. ROBERSON: Certainly.

13 THE COURT: We will reconvene at 1:45.

14 (Lunch recess, 12:43 p.m. to 1:45 p.m.)

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1 A. I think it was about \$3 1/2 billion.

2 Q. Okay.

3 A. I don't remember the specific purpose.

4 Q. Do you recall whether it was oversubscribed?

5 A. I don't, no.

6 Q. Okay. Did there come a time in the summer of
7 2008 that AIG retained JPMorgan?

8 A. Yes.

9 Q. And can you describe the purpose of that
10 retention?

11 A. As I was working through the strategic planning
12 effort and recognizing what was happening to the housing
13 market, I engaged JPMorgan to both advise us on some
14 strategic issues as well as the possibility of having to
15 raise capital.

16 Q. Okay. And do you recall when in the summer that
17 was?

18 A. My recollection was I met with Jamie Dimon the
19 Thursday before Labor Day weekend.

20 Q. Okay. In late August, did you begin to see
21 changes in the projected liquidity outcomes for AIG for
22 the remainder of 2008?

23 A. Yes.

24 Q. Okay. Let's turn to DX 207, the first binder.
25 Can you describe what this document is?

1 A. I'm sorry?

2 Q. Can you describe what the document is?

3 A. This is a report from Bob Gender, who was the
4 treasurer of AIG, identifying some of the cash needs of
5 AIG.

6 Q. Okay, and it's to Steve Bensinger. Could you
7 describe who he is?

8 A. Steve Bensinger was the CFO at the time.

9 Q. And Bill Dooley?

10 A. Bill Dooley was the senior officer responsible
11 for a series of companies, but mostly the financial
12 products and financial services area.

13 Q. All right.

14 Your Honor, we move to admit DX 207.

15 MR. BOIES: No objection, Your Honor.

16 THE COURT: Defendant's Exhibit 207 is admitted.

17 (Defendant's Exhibit Number 207 was admitted
18 into evidence.)

19 BY MR. ROBERSON:

20 Q. And if you look on the first line, it says,
21 "Attached is a four page liquidity summary I provided
22 Bob this afternoon." Would that be you?

23 A. I -- well, I think so, but I'm not sure.

24 Q. Okay. If you look at the first page of the
25 attachment, there's a basic cash flow. Do you see that?

1 A. Yes.

2 Q. And there's an ending August cash balance and
3 then there's, underneath, an ending September cash
4 balance, about a third of the way down?

5 A. Yes.

6 Q. And can you describe what AIG, the parent
7 company's, ending cash balance was projected to be at
8 that point in time?

9 A. At which point in time?

10 Q. The end of September.

11 A. \$7.749 billion.

12 Q. All right. And then the total -- because
13 there's a subtraction for FP's liquidity needs, I take
14 it. Then the total is what figure?

15 A. 3.48 billion.

16 Q. Okay. And that comports with your understanding
17 of the projection at that point in time?

18 A. I don't remember the number specifically, but it
19 looks like it, yes.

20 THE COURT: Sir, what does MIP stand for in this
21 chart?

22 THE WITNESS: That's a good question.

23 THE COURT: It's one of the columns. I know
24 what FP is, but I was wondering about MIP.

25 THE WITNESS: I'm sorry. Actually, I don't

1 recall at the moment.

2 THE COURT: All right. Thank you.

3 BY MR. ROBERSON:

4 Q. I am going to turn now -- well, let me ask you
5 this. Did there -- you retained JPMorgan, and did you
6 soon thereafter schedule meetings with the larger
7 management team at AIG?

8 A. Yes.

9 Q. Okay. And who was leading the -- do you recall
10 what the project name was for this capital raise?

11 A. I don't.

12 Q. Project Northstar, does that refresh your
13 recollection?

14 A. No.

15 Q. Okay. Let's turn to DX 209. Can you describe
16 what this document is?

17 A. (Document review.) It's -- it's a memorandum to
18 the senior officers at AIG about a meeting in
19 preparation for a review with JPMorgan.

20 Q. And you're CC'd on the document?

21 A. Yes.

22 MR. ROBERSON: Your Honor, we would move to
23 admit DX 209.

24 MR. BOIES: No objection, Your Honor.

25 THE COURT: Defendant's Exhibit 209 is admitted.

1 (Defendant's Exhibit Number 209 was admitted
2 into evidence.)

3 BY MR. ROBERSON:

4 Q. And I see that the memo is from Brian Schreiber.
5 What role did he play with the capital raising project?

6 A. Well, as I think I answered before, he was the
7 head of the strategic planning initiatives that were
8 ongoing, and this was part of that.

9 Q. Okay. Let's turn to DX 222. Can you describe
10 what this document is?

11 A. It appears to be a document that was prepared by
12 JPMorgan.

13 Q. So, it was an email from Brian Schreiber to you,
14 attaching the JPMorgan document?

15 A. Yes.

16 MR. ROBERSON: Your Honor, we move to admit
17 DX 222.

18 MR. BOIES: May I have just a moment, Your
19 Honor?

20 THE COURT: Sure.

21 (Pause in the proceedings.)

22 MR. BOIES: No objection, Your Honor.

23 THE COURT: Defendant's Exhibit 222 is admitted.

24 (Defendant's Exhibit Number 222 was admitted
25 into evidence.)

1 BY MR. ROBERSON:

2 Q. I would just point you to the third page of the
3 attachment. At the top it says "Liquidity scenarios."

4 A. Yes.

5 Q. And I'll just direct your attention to one line
6 here. If you look at "Summary liquidity scenarios," on
7 the right-hand side -- and I know the print is small --
8 it says, "Liquidity case through 12/31/08."

9 I really just want you to look at the bottom of
10 this -- and it has a status quo, a one-notch downgrade,
11 and a stressed scenario at the top. If you look at the
12 third line from the bottom, it says, "Liquidity position
13 at 9/30/08," and here, JPMorgan's projecting what
14 numbers for AIG in the status quo, one-notch downgrade,
15 and stressed scenarios.

16 A. Well, it's a little hard to read. I --

17 Q. I could give you the numbers if it's just a
18 matter of -- of --

19 A. Are we referring to what looks like 13?

20 Q. Yeah, right.

21 A. Yeah.

22 Q. So, in the status quo, JPMorgan's projecting
23 that AIG will have \$13 billion in liquidity by the end
24 of September; and in the one-notch downgrade, 18; and
25 then 16 for the stressed scenarios. So, all positive

1 liquidity scenarios at the end of September of 2008?

2 A. Correct.

3 Q. And one other thing in this document. If you
4 look on the following page, it says, "Capital market
5 capacity." Can you describe what these -- what's being
6 described here in the "Capital market capacity" chart?

7 A. It appears to be a -- the amount of capital that
8 might be raised using different instruments.

9 Q. And if you were to look at the -- do you see
10 there's a maximum capacity -- it has a source on one
11 side, and then there's a maximum capacity, and if you
12 were to add those -- let's say the high numbers
13 together, what did it look like AIG was going to have in
14 terms of capital market capacity at that point in time?

15 A. Well, I'm not sure I can answer that question.

16 Q. Well, let me -- let me -- let me just do this,
17 because it's just a mathematical question. If we were
18 taking the senior debt up to 5 billion, you could
19 either -- you could do the cash-pay convert or the
20 convertible hybrid, but let's say that figure would be
21 up to 12 billion. Public common equity, between 5 and
22 7, and the private common equity, up to 10 billion.

23 If you add those together, just as a matter of
24 math, it would be \$34 billion under this chart, under
25 the capital market capacity.

1 A. I -- I understand the arithmetic.

2 Q. Okay.

3 A. But I just don't know that you can necessarily
4 do all of those.

5 Q. Fair enough.

6 A. One may negate your ability to do something
7 else, so...

8 Q. Right. And I don't want to go into the
9 complexities of it, but this was part of the information
10 that AIG was receiving at this point in time.

11 A. Correct.

12 Q. I want to turn to the September 5th board
13 meeting, which is JX 43, which is in the second binder.
14 And you attended this board meeting?

15 A. I did.

16 Q. Okay. Now, if you look at the first full
17 paragraph on page 2, about the third sentence in on the
18 first major paragraph, it says, "Mr. Willumstad
19 described the liquidity and capital issues facing the
20 organization and advised the members that an additional
21 capital raise will be required and JPMorgan had been
22 engaged as an advisor."

23 Can you describe anything more about what you
24 told the board at that point in time?

25 A. Not beyond what's in the minutes here.

1 Q. Okay. Look at page 3 and look at the top full
2 paragraph, and here the minutes reflect that you
3 informed the board that there "...had been initial
4 discussions with the Federal Reserve on whether the
5 discount window could be made available to AIG..." Do
6 you see that?

7 A. I do.

8 Q. Is this statement a reference specifically and
9 only to your July 29th meeting with Mr. Geithner?

10 A. Yes.

11 Q. And the minutes further reflect that discussions
12 are now focusing on the possibility of AIG establishing
13 a primary dealer, a process that can be completed in two
14 months. Do you see that?

15 A. Yes.

16 Q. And as of September 5th, had you met with
17 Mr. Geithner since July 29th of 2008?

18 A. No.

19 Q. So, the phrase here, "discussions are now
20 focusing on the possibility of AIG establishing a
21 primary dealer," are those referring to internal
22 discussions of AIG and its advisors?

23 A. I'm sorry?

24 Q. The dis -- you have the phrase or the minutes
25 record the phrase that "discussions are now focusing on

1 the possibility of AIG establishing a primary dealer."
2 My question is whether that is referring to discussions
3 within AIG and within -- and with respect to its
4 advisors.

5 A. Yes.

6 Q. Okay. And the minutes also reflect -- well, you
7 tell me. Are there additional levers of capital that
8 are being reflected, ways that AIG could raise capital
9 being reflected in this -- in these minutes?

10 A. Well, there's a reference here to being a member
11 in the Federal Home Loan Bank system for access to
12 liquidity.

13 Q. And would that have been through the insurance
14 subs?

15 A. I don't remember specifically. I think so.

16 Q. And at this point in time, were you considering
17 cutting the dividend as a way to increase capital?

18 A. I don't remember specifically whether it was at
19 this point in time, but yes.

20 Q. Okay. And what about the capacity to raise
21 funds through backup credit lines? Did AIG have that
22 capacity at this time?

23 A. Yes.

24 Q. Now, here you -- the minutes reflect that there
25 was an indication that AIG could establish a primary

1 dealer in two -- about two months. Could you -- do you
2 recall anything about why you believed it could be done
3 in about two months?

4 A. I was advised that.

5 Q. Okay. And just so we have it, here they
6 reflect -- in the last sentence of the first full
7 paragraph, there's the reference to the Federal Home
8 Loan Bank system and "provide liquidity in the life
9 insurance companies, and the approval process is
10 underway in Texas." Was that the reference you were
11 referring to?

12 A. Yes.

13 Q. Right, okay.

14 And in the last paragraph of page 3, the minutes
15 reflect that a capital raise of \$20 billion should be
16 possible and that asset sales and the dividend cut could
17 increase those funds by several billion dollars more.
18 And does that comport with your understanding of the
19 funding mechanisms that you believed AIG had access to
20 as of September 5th?

21 A. That's correct.

22 Q. And just to be clear, as of September 5th, 2008,
23 did you consider AIG to be in a liquidity crisis?

24 A. The answer would be -- if we were downgraded by
25 the rating agencies, yes, we would have been in a

1 liquidity crisis.

2 Q. But at the point in time when you -- you hadn't
3 received, as of the 5th, any indication that there was a
4 downgrade imminent. Is that correct?

5 A. The rating agencies had indicated they were
6 going to -- I believe at that time going to review the
7 ratings of the company, so there was certainly some
8 concern about that.

9 Q. Just going back for a moment to the -- to the
10 primary dealer, which advisors advised AIG that it would
11 take about two months to become a primary dealer?

12 A. Sullivan & Cromwell.

13 Q. Okay. And we talked about the credit rating
14 agencies. Did you at some point in time have
15 discussions with the rating agencies about their waiting
16 until you completed your 90-day review until they would
17 consider making changes to AIG's credit rating?

18 A. Yes.

19 Q. Can you describe that?

20 A. I don't remember the specific period in time,
21 but I had spoken to all the rating agencies and
22 explained to them what we were looking at and what we
23 were doing and gave them some indications of the general
24 direction we were going and asked if they would wait
25 until the plan was completed before they would make any

1 decision about the company's ratings.

2 Q. And what was their response to that?

3 A. Initially, they agreed to it.

4 Q. And when you say "initially," did there come a
5 time when they indicated to you that they were no longer
6 going to abide by that arrangement?

7 A. Well, it was -- and, again, I don't remember the
8 specific dates, but it was at the latter part of August
9 is when they started expressing some concerns about
10 whether they could wait or not.

11 Q. Okay. Let's -- let me just look at a document
12 real quick. If we could just do this, maybe this will
13 tie down what you just mentioned. If we could turn to
14 DX 196, which is in the first binder.

15 THE COURT: My Volume 1 doesn't have that.

16 MR. ROBERSON: You don't have DX 196?

17 THE WITNESS: Nor do I.

18 MR. ROBERSON: My apologies.

19 May I approach?

20 THE COURT: Yes.

21 MR. ROBERSON: Your binder doesn't have it?

22 THE WITNESS: No.

23 MR. ROBERSON: I'm sorry.

24 BY MR. ROBERSON:

25 Q. Can you describe what DX 196 is?

1 A. This is an email from Nick Ashooh, who was at
2 the time head of public relations at AIG.

3 Q. To you, among other executives?

4 A. I'm sorry?

5 Q. To you, among other executives?

6 A. Yes.

7 Q. And it's a -- it says -- the subject matter is,
8 "Rating agency update - confidential," right?

9 A. Yes.

10 MR. ROBERSON: Your Honor, we move to admit
11 DX 196.

12 MR. BOIES: No objection, Your Honor.

13 THE COURT: Defendant's Exhibit 196 is admitted.
14 (Defendant's Exhibit Number 196 was admitted
15 into evidence.)

16 BY MR. ROBERSON:

17 Q. And if you look at the body of the email, of the
18 first email, it's from Teri Watson to you. Do you see
19 that?

20 A. Yes.

21 Q. And the first line is, "We have heard from all
22 four rating agencies this week and they are growing
23 increasingly concerned about the level of uncertainty
24 that exists at this point." Do you see that?

25 A. Yes.

1 Q. Does this comport with what you said a few
2 moments ago, that toward the end of August, there was
3 some --

4 A. Yes.

5 Q. Okay. We'll move on.

6 DX 227. Can you describe what DX 227 is?

7 A. This appears to be a schedule to meet with the
8 rating agencies.

9 Q. And it's dated September 9th, 2008?

10 A. Correct.

11 Q. From Teri Watson, who was the head of the credit
12 rating relationship?

13 A. Yes.

14 Q. To you and other executives?

15 A. Yes.

16 MR. ROBERSON: Your Honor, we move to admit
17 DX 227.

18 MR. BOIES: No objection, Your Honor.

19 THE COURT: Defendant's Exhibit 227 is admitted.

20 (Defendant's Exhibit Number 227 was admitted
21 into evidence.)

22 BY MR. ROBERSON:

23 Q. Now, if you look at the first page of the
24 attachment, there are a schedule of meetings for the
25 week of September 9th.

1 A. Yes.

2 Q. And it says that it's -- well, it says that
3 you've got a meeting -- you had a meeting scheduled with
4 S&P on Tuesday, the 9th; Moody's on Thursday, the 11th;
5 Fitch, also on the 11th; and A.M. Best on September
6 12th. Do you see that?

7 A. Yes.

8 Q. And at the bottom of the page, there's a list of
9 AIG participants.

10 A. Yes.

11 Q. And your name's listed?

12 A. Yep.

13 Q. Do you recall whether these four meetings took
14 place?

15 A. They did.

16 Q. And can you just give us a summary of the sum
17 and substance of your discussions with the rating
18 agencies that week?

19 A. Well --

20 MR. BOIES: Objection, Your Honor. Compound.
21 He's asking for all the rating agencies, and there are
22 four different agencies.

23 MR. ROBERSON: Well, fair enough. I can break
24 it up, Your Honor.

25 THE COURT: Let's break it up.

1 BY MR. ROBERSON:

2 Q. So, you had presentations to the board -- I
3 mean, to these credit rating agencies during the week?

4 A. We had meetings, yes.

5 Q. And essentially was the same communication from
6 AIG basically given to each rating agency during that
7 week?

8 A. I believe so, although A.M. Best is a different
9 type of rating agency, so it might have been different.
10 I don't recall.

11 Q. Right. And just for the record, why don't you
12 describe why A.M. Best is a little bit different than
13 S&P, Moody's, and Fitch.

14 A. A.M. Best basically rates the company on its
15 ability to pay claims versus the other rating agencies
16 rate the -- the total company from its financial
17 position as well as the subsidiaries.

18 Q. A.M. Best is more focused on the insurance side
19 of the business?

20 A. The insurance side, but almost -- principally
21 claims-paying ability.

22 Q. All right. So, if I were to ask you the
23 questions about S&P, Moody's, and Fitch, were there
24 essentially the same sum and substance being
25 communicated in each of those meetings from AIG?

1 A. Correct, yes.

2 Q. So, then I will ask you if you could describe
3 those -- those communications with the rating agencies
4 that week.

5 A. Well, again, I don't -- I don't remember the
6 specifics, but once again, we were trying to update the
7 rating agencies as to the company's financial position,
8 again, with the hope and expectation that they would
9 wait until the end of September.

10 Q. Okay. Do you recall whether there were
11 PowerPoint slides prepared by AIG to assist in the
12 presentation at those meetings?

13 A. I don't recall, but I presume so.

14 Q. And as -- at the beginning of the week of
15 September 9th, what was your view as to whether the
16 capital markets were accessible to AIG?

17 A. I would say while the capital markets were still
18 there, they were getting particularly difficult, not
19 just for AIG but for many financial companies.

20 Q. And that was -- okay.

21 Do you recall receiving any communications from
22 S&P the week of September 12th with respect to a
23 potential change in AIG's credit rating?

24 A. I don't remember specifically S&P, no.

25 Q. Okay. Let's just turn to -- let's see if this

1 helps. Let's turn to the second binder, JX 188, and at
2 page 3, at the bottom of the page, there's a heading,
3 "Rating Agencies." Do you see that?

4 A. Yes.

5 Q. Could you read that and let us know if that
6 refreshes your recollection as to communications from
7 S&P.

8 THE COURT: You can read it to yourself.

9 THE WITNESS: I'm sorry?

10 THE COURT: You can read it to yourself.

11 THE WITNESS: Thank you. (Document review.) It
12 indicates that S&P placed the company on CreditWatch.

13 BY MR. ROBERSON:

14 Q. And do you -- what was your understanding of
15 what -- of "CreditWatch with negative" -- and if you
16 continue to the next page -- "implications"? What was
17 your understanding of that term as a general matter?

18 A. Well, the document states that the rating
19 agencies were going to meet and review the company the
20 following week.

21 Q. Okay. And what was your understanding with
22 respect to the possibility that AIG would face a credit
23 rating downgrade as of September 12th?

24 A. I thought it was highly likely.

25 Q. Okay. Now, do you recall how AIG's stock price

1 fared on Friday, September 12th?

2 A. I don't specifically recall. I assume it
3 declined.

4 Q. Okay. And just to get it into the record, if
5 you look at the second paragraph on this page, under the
6 "Accelerated Capital Raise Attempt" --

7 A. Right.

8 Q. -- it indicates, in the last phrase before the
9 last sentence, that AIG's -- well, it says, "AIG's had a
10 dramatic decline in its common stock price from \$22.76
11 on September 8, 2008 to \$12.14 on September 12, 2008."

12 Do you see that?

13 A. I do.

14 Q. Does that refresh your recollection about
15 roughly the price of AIG's stock on Friday, September
16 12th?

17 A. It does.

18 Q. And how did that decline in AIG's stock price
19 affect AIG's capacity to raise capital?

20 A. Well, by definition, it was -- it declined
21 substantially.

22 Q. Now, during the week of September 8th, did you
23 have another meeting with Mr. Geithner?

24 A. I did.

25 Q. Can you describe -- well, do you remember what

1 day that was?

2 A. I believe it was the 9th.

3 Q. Okay. Can you describe that meeting to us?

4 A. Well, I went to -- I made an appointment to go
5 see him, and it was, I think, sometime in the morning.
6 When I got there, I was told that he was quite busy and
7 he would probably be a little bit late, but I could
8 wait, which I did.

9 When he finally arrived, if you will, we
10 actually just sat in his outer office for a few minutes,
11 and I described to him that the purpose of my meeting
12 was to seek approval to become a primary dealer.

13 Q. And what else do you recall about the
14 conversation?

15 A. He had -- he was obviously in a great bit of
16 hurry. He said to me that he had no experience directly
17 himself, that no primary dealers had been created while
18 he had been the president of the New York Fed, and he
19 would have to look into it to see what was actually
20 involved in it, and he would get back to me.

21 Q. Is there anything else you recall about that
22 meeting?

23 A. No. It was quite short.

24 Q. Okay. When you say "quite short," how long
25 would you characterize the meeting?

1 A. Ten, 15 minutes.

2 Q. Okay. At the end of the meeting, what did you
3 understand about the likelihood of AIG getting access to
4 the discount window based upon your discussion with
5 Mr. Geithner?

6 A. Well, I don't -- I don't recall specifically the
7 discussion about the discount window, other than the
8 expectation, if we were a primary dealer, by definition,
9 we would have access to the discount window.

10 Q. Okay. And at the end of your meeting with
11 Mr. Geithner, did you leave him with a talking points
12 memo?

13 A. I left him with, I recall, two pages.

14 Q. Okay. Can you turn to DX 228 in the first
15 binder? And DX 228 has two emails. The first one is
16 from Alan Pryor to you, dated September 8th, 2008, at
17 7:40 p.m.

18 A. Yes.

19 Q. Do you see that?

20 A. Yes.

21 Q. And it says, "Bob: Attached is the information
22 requested." And it's, "Regards, Alan Pryor." Who was
23 Alan Pryor?

24 A. He -- well, I'm not -- I'm not totally sure.
25 He -- he -- I think he worked in -- for Bill Dooley in

1 the financial products area.

2 MR. ROBERSON: Your Honor, we move to admit

3 DX --

4 BY MR. ROBERSON:

5 Q. Well, let me ask you this. Attached here are
6 the -- the header on the attachment is "Talking Points
7 to the Fed." Do you see that?

8 A. Yes.

9 MR. ROBERSON: Your Honor. We move to admit
10 DX 228.

11 MR. BOIES: No objection, Your Honor.

12 THE COURT: Defendant's Exhibit 228 is admitted.
13 (Defendant's Exhibit Number 228 was admitted
14 into evidence.)

15 BY MR. ROBERSON:

16 Q. Now, if you look at the talking points, there
17 are five bullet points on the first page. Is that
18 correct?

19 A. Correct.

20 Q. And on the fourth bullet point, it says, "Has a
21 robust liquidity plan adequate for our businesses and
22 short term liquidity needs. Nonetheless, the very
23 availability of access to additional liquidity as a
24 primary dealer under various federal reserve programs
25 will add to our liquidity options and prove beneficial."

1 Is that something that you discussed with --
2 with Mr. Geithner?

3 A. I -- I don't believe we discussed it. As I
4 said, it was a very short meeting. He was obviously in
5 a hurry, and I -- I -- I believe I just gave him these
6 two because we didn't get a chance to talk about it.

7 Q. Okay. Did AIG ever put in an application to the
8 Federal Reserve Bank of New York or the Board of
9 Governors to become a primary dealer during your tenure
10 at AIG?

11 A. Not to my knowledge, no.

12 Q. Now, at some point before the end of business on
13 Friday, September 12th, did you instruct that AIG begin
14 steps to prepare for the possibility of a bankruptcy
15 filing?

16 A. I did.

17 Q. And do you recall to whom you gave that
18 instruction and approximately when?

19 A. I'd say Wednesday or Thursday, which would have
20 been the 10th or 11th, to Stasia Kelly.

21 Q. And Stasia Kelly was?

22 A. Chief counsel for the company.

23 Q. Okay. Now, prior to Friday, September 12th,
24 were there any companies that you had reached out to for
25 the purpose of obtaining capital or funds in order to

1 bolster AIG's liquidity?

2 A. Prior to the 12th?

3 Q. Yes.

4 A. I don't recall any specifically. Certainly I
5 did not, but other -- others in the company may have.

6 Q. Well, let me ask you this. Do you recall when
7 you contacted Travelers Insurance about the possibility
8 of --

9 A. I think it was either the 12th or it could have
10 even been the 13th, over the weekend. I don't really
11 remember the specific dates.

12 Q. Okay. And how about J.C. Flowers, do you recall
13 when you reached out to that firm?

14 A. Well, I didn't really reach out, he showed up,
15 but that was on the 12th.

16 Q. Okay. So, we're going to focus now on September
17 12th a bit, which was the Friday. Do you recall
18 contacting Mr. Geithner on the morning of September
19 12th?

20 A. Yes.

21 Q. And what do you recall about that discussion?

22 A. Well, my initial call to him was the fact that
23 he had never responded to me about the primary
24 dealership, and I called him and explained to him that
25 we were anticipating that we were going to have a rating

1 agencies downgrade and that that would require us to
2 generate somewhere in the neighborhood of 13 to 18
3 billion dollars' worth of liquidity.

4 Q. And what else do you recall about that
5 discussion?

6 A. I, at the moment, can't recall much more than
7 that. I just wanted to put him on notice that we -- we
8 were anticipating having a problem.

9 Q. Okay. And did you inform him with respect to
10 your pursuit of private sources of funding at that time?

11 A. I may have. I don't recall.

12 Q. Okay. And did you participate in any additional
13 meetings with the Federal Reserve Bank of New York on
14 the 12th?

15 A. Sometime later in the -- I'll say the late day,
16 early evening, Geithner sent over a number of people to
17 meet with the financial products people.

18 Q. And were they solely at the financial products
19 office?

20 A. Well, they showed up at the corporate
21 headquarters, but we facilitated a meeting with some of
22 the -- both the New York Financial Products people, as
23 well as a call with the team from London.

24 Q. Okay. And just to -- if we can just paint this
25 out, financial products had an office in Greenwich. Is

1 that right?

2 A. Correct.

3 Q. And that was their main office. They also had
4 an office in London. Is that correct?

5 A. Correct.

6 Q. So, their officers were coming down to AIG, to
7 the holding company offices, to have these meetings,
8 correct?

9 A. Correct.

10 Q. And do you recall anything about -- did you
11 participate in those meetings?

12 A. I stayed for a short time.

13 Q. Okay. And what do you recall about the
14 discussion while you were there?

15 A. My recollection was it was nothing more than a
16 description about the business and the exposure.

17 Q. Okay. Meaning liquidity exposure?

18 A. Well, I think that the -- the credit risk
19 exposure, not just the liquidity.

20 Q. Okay. And just to be clear, Mr. Geithner didn't
21 participate in that meeting?

22 A. He did not, right.

23 Q. No, okay.

24 And what was your understanding of the purpose
25 of the meeting?

1 A. I -- it was unclear, but I made the assumption
2 that they were trying to assess themselves how severe
3 the crisis might be, the liquidity crisis might be.

4 Q. Okay. On September 12th, did you reach out to
5 Berkshire Hathaway with respect to the possibility of a
6 transaction with AIG?

7 A. I did.

8 Q. Can you describe that -- your conversation, who
9 it was with and what the sum and substance was?

10 A. I spoke to Warren Buffett late in the afternoon,
11 I think it was, on the 12th and asked him whether he had
12 any interest in investing in AIG and/or whether he was
13 interested in the purchasing of any assets from AIG.

14 Q. And what was his response?

15 A. His initial response was that he -- it was
16 unlikely that he would be willing to invest but he would
17 consider the purchase of some assets of AIG.

18 Q. And did AIG then provide Mr. Buffett with
19 information?

20 A. Yeah. We -- we talked a little bit about his
21 interest in the U.S. property and casualty business. I
22 told him that we would be willing to entertain a
23 transaction, and we sent him, at his request, some
24 information about the U.S. property and casualty
25 business.

1 Q. And did you get a response from Mr. Buffett at a
2 certain point?

3 A. I did.

4 Q. And can you describe what that response was?

5 A. Well, it was later in the evening, and I had
6 indicated to him that I thought the business was worth
7 \$25 billion. He responded basically saying that, you
8 know, that -- that would be too large a transaction for
9 him at this time.

10 Q. Okay. And just to finish up on the 12th, were
11 there any companies, potential investors performing due
12 diligence at AIG in connection with a proposed
13 transaction at that point in time on the 12th?

14 A. So, the aforementioned Travelers, Travelers may
15 have been doing some due diligence on the personal lines
16 property and casualty business, but I don't know. I
17 don't recall that for sure.

18 Q. Okay.

19 A. But other than that, not to my knowledge.

20 Q. Okay. We're going to focus now on Saturday,
21 September 13th, and let's talk about the morning first.
22 During the morning, with whom did you discuss -- meet
23 with to discuss AIG?

24 A. Well, we had assembled, with the help of
25 JPMorgan, a number of potential investors at AIG's

1 headquarters and went through a presentation about the
2 financial components of the company and the financial
3 strength of those lines of business.

4 Q. And how long did that meeting take?

5 A. Those series of meetings ran most of the
6 weekend.

7 Q. Okay. And what was your role and maybe if you
8 could describe some of your colleagues' roles in having
9 discussions with the private entities, if you could just
10 give us a lay of the land on how the discussions went
11 and who was in charge of, for instance, due diligence
12 and things like that.

13 A. Well, again, I think Brian Schreiber was the
14 person who kind of coordinated all of it. As I said, we
15 had a number of potential investors in the company, and
16 I'll say much of the day was devoted to describing all
17 of the assets, the lines of business. It's a very large
18 organization, quite complex, so it took some time.

19 Q. And during the -- this was -- keep focus on the
20 Saturday, on the 13th. Did you indicate the amount of
21 liquidity shortfall that you thought AIG needed to cover
22 its -- its potential liabilities over the next, you
23 know, several weeks?

24 A. Well, again, we were -- we were principally
25 focused on raising what I'll describe as some \$18

1 billion based on a ratings downgrade. We at that time
2 had not anticipated, you know, the destruction, if you
3 will, or the damage to the capital markets based on the
4 Lehman bankruptcy.

5 Q. Did you meet with anyone from the Federal
6 Reserve Bank of New York on Saturday, the 13th?

7 A. We did.

8 Q. And can you describe -- did you have more than
9 one meeting?

10 A. There were -- my recollection is there were two
11 meetings on Saturday.

12 Q. And can you describe those meetings?

13 A. We had a meeting I want to say late in the
14 morning. We were, I'll say, asked by Geithner to come
15 over and update us as to the status of what we were
16 doing about raising capital, which we did do.

17 Q. Can you tell us what you recall about that --
18 about those conversations with Mr. Geithner?

19 A. Well, there was quite a flurry of activity going
20 on at the Fed. We were there and I had with me several
21 lawyers and a lead banker from JPMorgan, and we just
22 explained basically that we had a series of investors,
23 we were going through a strong, conscientious effort
24 about trying to raise capital, and that the New York
25 State Insurance Commissioner had at least initially

1 agreed to free up some collateral inside the insurance
2 companies that could be -- could be used for collateral
3 for a loan.

4 Q. Okay. And did you -- you mentioned a second
5 meeting. At what point in time did you have a second
6 meeting with the Federal Reserve Bank of New York?

7 A. It was probably 5:00, 6:00 that night.

8 Q. Okay. And what do you recall discussing in that
9 meeting?

10 A. Well, we went back and reported that the -- that
11 there was some concern based on what expectations would
12 take place on Monday in the capital markets. Again,
13 there was a lot of discussion and dialogue going on
14 about a Lehman bankruptcy, and at this point in time,
15 the investors, including the New York State Insurance
16 Commissioner, indicated that while they were willing to
17 put capital into the company, they wanted to be assured
18 that the company would be viable after injecting that
19 capital, so that it was -- so that their investments
20 would be protected.

21 And the concern was that if there was
22 significant disruption in the capital markets on Monday,
23 that the value of AIG's assets would go down
24 dramatically and put more liquidity pressure on the
25 company.

1 Q. And when you say you had a discussion with the
2 insurance commissioner, do you recall the name of the
3 commissioner?

4 A. Eric Dinallo.

5 Q. Okay. Anything else that you recall?

6 A. Well, I had indicated at the time that in
7 anticipation of a significant decline in the capital
8 markets, that the only way I could assure those
9 prospective investors is if we had a substantial line of
10 credit, if you will, or access to more liquidity so that
11 the company could withstand a significant decline in the
12 capital markets.

13 Q. Okay.

14 A. And -- and said -- asked for, if you will, once
15 again whether the Fed would be willing to -- or Treasury
16 would be willing to provide a line of credit to the
17 company.

18 Q. And what was the upshot of that conversation?

19 A. Well, it was made very clear to me and I think
20 the others that were there that the Fed and/or Treasury
21 would have no interest in providing any liquidity, line
22 of credit, loan, backstop to the company.

23 Q. And after your discussions with the Government,
24 what did you do with respect to obtaining additional
25 funds for AIG?

1 A. Well, we went back and continued to work on the
2 possibility of either additional asset sales or trying
3 to come up with a construct that would allow us to put
4 some capital in the company in a way that it would
5 continue to be protected.

6 Q. We will discuss -- in a moment we will discuss
7 some of the particular companies that were at AIG with
8 respect to the potential capital raise, but if you would
9 just give us a general view of your view as to whether
10 any of those proposals were actionable.

11 A. Well, I'd say in retrospect, without a
12 substantial line of credit or a source of liquidity,
13 they were not.

14 Q. Okay. So, let's talk about the J.C. Flowers.
15 Do you recall having discussions with J.C. Flowers with
16 respect to a possible transaction to bring funds to AIG?

17 A. Well, he was part -- he was one of the several
18 investors that were there over the weekend, and at some
19 point in time on the weekend -- and I don't remember
20 whether it was Saturday or Sunday -- he met with myself
21 and a couple of the senior officers at AIG, as well as
22 the lead person from JPMorgan, about a -- and he
23 presented me with a letter to -- essentially to acquire
24 the whole company.

25 Q. And what do you recall about that offer?

1 A. I -- I recall that it was not a serious offer.

2 Q. Did he ask for equity in the company?

3 A. No. He wanted to acquire the whole company.

4 Q. Do you recall what the price was?

5 A. I want to say it was a couple of dollars a
6 share, but I don't recall exactly.

7 Q. Okay. Did it have any other sort of
8 requirements or conditions for the deal that you can
9 recall?

10 A. It did.

11 Q. Can you recall -- tell us what those were?

12 A. It required the \$20 billion of securities that
13 the insurance commissioner had agreed to free up. It
14 required a line of credit or a loan from the Fed. And
15 it -- it also indicated that there would be a change of
16 management for the company.

17 Q. And what was -- well, did you consider the offer
18 to be serious?

19 A. No.

20 Q. Okay.

21 A. Nor did the board.

22 Q. Okay. And did you have a sense as to whether
23 Mr. Flowers and his team understood the amount of
24 liquidity AIG would actually need to obtain a viable
25 rescue transaction?

1 A. That would be a guess on my part. I don't know.

2 Q. Okay. Do you recall KKR and TPG discussions?

3 A. They were there, yes.

4 Q. And what do you recall about discussions with
5 KKR?

6 A. I think there were some preliminary indications
7 that they would be willing to invest as much as \$10
8 billion in the company.

9 Q. And how did the discussions progress?

10 A. Well, again, as I stated before, by the end of
11 the day on Saturday, while it was interested in
12 investing in the company, for the reasons I stated, the
13 likelihood of that happening without some assurance that
14 the company would be solvent, if you will, that they
15 were not going to invest on -- on that -- on a basis
16 without being assured that their investment was sound.

17 Q. Were KKR and TPG together or were they separate?

18 A. My perception is that they were together.

19 Q. Okay. Travelers, we mentioned that. Do you
20 recall the upshot on the Travelers discussions?

21 A. Well, I remember having a conversation myself
22 with Jay Fishman sometime I think over the weekend --
23 like I said, it could have been on the 12th -- about
24 their interest in acquiring the personal lines business
25 at AIG.

1 Q. And do you recall what the price on that was
2 going to be?

3 A. I -- I don't specifically. I want to say it was
4 maybe somewhere around \$7 billion.

5 Q. And do you recall the upshot of those
6 discussions?

7 A. The discussion was that the -- was the
8 construct, the structure of the personal lines business
9 at AIG was very complicated and that it would take quite
10 a bit of time to execute the transaction.

11 Q. Can you describe what the complications were in
12 AIG's businesses?

13 A. Well, generally speaking, it was a practice at
14 AIG to often re-insure their risks across many of the
15 AIG distinct entities, and I don't remember the number,
16 but I remember that the personal lines business had been
17 spread across a significant number of entities, which
18 would have required due diligence on all of those
19 entities and a -- a deconstruction of that, which would
20 have been complicated.

21 Q. Okay. Now, between Friday, the 12th, and
22 Monday, the 15th of September, did AIG's estimates of
23 the amount of funds that it would need change?

24 A. From the 12th to the 15th?

25 Q. Yes.

1 A. Yes.

2 Q. Can you describe that progression?

3 A. Well, again -- and I want to be clear that --
4 and it -- the -- there had been a number of comments
5 referenced that we didn't know how much we needed, and
6 there is certainly some truth to that. Again, the
7 specific target that we had started with was this \$18
8 billion on a ratings downgrade.

9 As the weekend wore on, we were increasing that
10 estimate -- and, again, it was also based on what would
11 happen to securities lending, whether counterparties
12 would want their cash back. There was anticipation of
13 what would happen to the mortgage-backed securities
14 portfolio as well as the CDSs, again, in a -- in a
15 freefall with the capital markets because of the concern
16 about the stability of the financial system even in the
17 country.

18 So, that number just kept getting larger as the
19 weekend went on, but I can only say to you that those
20 were estimates and forecasts about what might happen,
21 and I would argue, as large as that number got,
22 ultimately, it turned out to be substantially much lower
23 than what ultimately the company needed because of the
24 severity of what happened to the U.S. economy and the
25 financial system.

1 Q. Right.

2 Now, over the weekend, on that 13th, just to
3 describe a little bit more about JPMorgan's role, can
4 you describe what they were doing during that weekend?

5 A. Well, they were managing the process. They
6 were -- they were the ones who had brought together a
7 number of the investors and really took the
8 responsibility of making sure that material was prepared
9 properly and that the ongoing dialogues with the
10 investors were constructive.

11 Q. Were you aware of any efforts -- well, let me
12 ask you this. Did -- did there come a time where AIG
13 retained Blackstone to work on AIG's behalf over that
14 weekend?

15 A. Yes. Blackstone had done a lot of work for the
16 company over an extended period of time, even long
17 before I became CEO. So, they were very familiar with
18 the company, and as we got more involved in the capital
19 raise, their knowledge of the company became very
20 helpful.

21 Q. And they worked with you on that weekend?

22 A. Yes.

23 Q. And what do you recall their activities -- what
24 their activities were?

25 A. Well, again, I think, you know, similar to -- to

1 JPMorgan, but their specific activities were about
2 trying to help us raise capital.

3 Q. And they had connections with players in the
4 capital markets arena?

5 A. One would assume.

6 Q. And -- well, were you aware of any efforts by
7 JPMorgan or Blackstone to find funds from sovereign
8 wealth funds?

9 A. I can't say that I was specifically, no.

10 Q. Okay. At some point on the 14th, did JPMorgan
11 communicate to you the results of its efforts to raise
12 capital?

13 A. Yes.

14 Q. Can you describe that conversation?

15 A. Well, I think -- I think they had concluded,
16 under the circumstances, about what was -- what was
17 transpiring over the weekend and what the likelihood
18 would be the outcome of -- of the Lehman situation, that
19 it was unlikely we were going to be able to raise any
20 capital --

21 Q. And what --

22 A. -- without a government support.

23 Q. Okay. And on the 14th, which is the Sunday, did
24 you have any meetings with the Federal Reserve Bank of
25 New York that day?

1 A. Yes.

2 Q. And can you describe what that meeting was, when
3 it was, what the sum and substance was?

4 A. It was midday or early afternoon, is my
5 recollection, and basically told them that we had
6 determined that we were going to be unable to raise any
7 capital from -- from investors. And, again, just
8 extended the request for -- for government assistance.

9 Q. And what communication did you receive from the
10 Government at that stage?

11 A. A very stern, "There's no interest and there
12 will be no support from the Fed or the Treasury."

13 Q. When you say "or the Treasury," was the Treasury
14 involved in your discussions on the 14th?

15 A. My recollection was on the 13th, in one of the
16 sessions we had, Hank Paulson was there, and --

17 Q. He was physically at AIG?

18 A. No, he was physically at the Fed's offices.

19 Q. And you were there?

20 A. Yes.

21 Q. Okay.

22 A. On the 14th, I don't believe Paulson was there,
23 but he had a representative there.

24 Q. Okay. So, we're going to now turn to the 15th,
25 and I assume you recall that early in the morning on the

1 15th, Lehman Brothers filed for bankruptcy.

2 A. I do.

3 Q. And how would you describe the effect of
4 Lehman's failure on AIG's capacity to raise funds on the
5 15th of September?

6 A. Well, I -- at that juncture, it was nonexistent.

7 Q. Did there come a time on the 15th when the Fed
8 encouraged private sector lenders to find a solution to
9 AIG's liquidity crisis?

10 A. I received a call from Tim Geithner on the
11 morning of the 15th, explaining that he would ask
12 JPMorgan and Goldman Sachs to lead a syndicate of -- to
13 create a syndicate of banks that would lend money and
14 would I release -- A, was I okay with that, and B, would
15 I release JPMorgan from a potential conflict of
16 interest. And I answered yes to both.

17 Q. Okay. And did you and others from AIG then meet
18 with the Federal Reserve Bank of New York and JPMorgan
19 and Goldman to discuss the possibility of raising
20 liquidity for AIG?

21 A. We were summoned to the Fed, again, at a -- at I
22 believe 11:00 on the 15th to a meeting to organize that
23 effort.

24 Q. And do you recall who was at that meeting?

25 A. There was probably 50 people in the room,

1 representatives from Goldman Sachs, representatives from
2 JPMorgan. Each of them, I believe, had outside counsel.
3 The Fed was there. The Fed was represented by outside
4 counsel. I was there with a JPMorgan banker and several
5 legal counsel of our own.

6 Q. And what do you recall about that meeting?

7 A. Well, we spent 45 minutes or the first hour,
8 again, just bringing everybody else up to date on what
9 had happened over the weekend and where we were and the
10 circumstances that we were facing. Geithner appeared
11 for a short period of time and, again, reiterated that
12 there would be absolutely no government support for AIG
13 and that it was going to have to be a bank/financial
14 industry solution.

15 Q. And then what work then proceeded at that --
16 after that meeting?

17 A. Well, after that meeting ended, many of the
18 advisors and bankers came back to AIG's headquarters,
19 again, to kind of review financials, talk about assets,
20 what would be used for collateral or security in a -- in
21 a loan.

22 Q. And what did you do?

23 A. I -- I was asked to, along with Dan Jester, who
24 was the -- Paulson's representative, at least that was
25 my understanding of his role, to contact the rating

1 agencies and see if we could get them to put off the
2 ratings downgrade or the ratings review, if you will,
3 for a few days.

4 Q. And what was the sum and substance of -- so, you
5 had several conversations?

6 A. Well, we contacted by phone each of the rating
7 agencies, and we got no clear indication other than they
8 would take that information to their committees, that we
9 had asked for that request.

10 Q. And was it your understanding that the
11 Government, like AIG, wanted the credit rating agencies
12 to delay the issuance of the credit rating downgrade?

13 A. Yes.

14 Q. In your conversations with the credit rating
15 agencies, did you remind them that earlier in the
16 summer, they had agreed to wait until September 25th
17 before reconsidering AIG's credit ratings?

18 A. I don't think so.

19 Q. And what did AIG hope to accomplish if it could
20 get a few extra days delay on the credit rating
21 downgrade?

22 A. Well, I think the expectation was that it would
23 take a day or two to -- for this -- to put this
24 syndicate together to raise -- to raise the capital. If
25 we were downgraded on that day, we had 48 hours to post

1 the additional collateral, and that probably wasn't
2 going to be doable, I think was the intent.

3 Q. Okay. Now, did it come to your attention on the
4 15th that JPMorgan and Goldman were failing to obtain a
5 solution to AIG's liquidity problems?

6 A. There was really, at least to me, little or no
7 communication about what was transpiring during the
8 course of the day on the 15th.

9 Q. Okay. What was ultimately the upshot of the
10 attempt by JPMorgan and Goldman to find a privately
11 funded solution for AIG?

12 A. It failed. There was none, no solution.

13 Q. Now, on the 15th, which is a Monday, markets
14 were open again, right?

15 A. Yes.

16 Q. So, we'll talk a little bit about some of the
17 issues that were affecting AIG on the 15th. Do you
18 recall AIG's English subsidiary, ALICO PIB fund?

19 A. Yes.

20 Q. And do you recall that it was facing a run by
21 its depositors on the 15th?

22 A. That was -- that was the report. I don't know
23 how accurate that was or at what point in time that was.

24 Q. Did AIG have to -- well, do you recall I -- the
25 subsidiary ILFC?

1 A. Yes.

2 Q. Was that the airplane leasing company?

3 A. Yes.

4 Q. And AGF, what was that?

5 A. AGF?

6 Q. American General Finance?

7 A. Oh, yes. The consumer finance business.

8 Q. And did they have problems on the 15th with

9 respect to commercial paper roll?

10 A. They did.

11 Q. And can you describe what those were?

12 A. Well, they -- they -- both companies had

13 commercial paper lines, and typically commercial paper

14 is for a relatively short period of time. It gets

15 reviewed periodically when it comes due, and when those

16 maturities came due, the investors had chosen not to

17 renew.

18 Q. And what about on the -- the securities lending

19 program on the 15th, do you recall activity with respect

20 to the securities lending program on the 15th?

21 A. I don't remember specifically.

22 Q. Let me -- let's do this, just to get the

23 recollection. If we look at JX 188 and turn to page 4,

24 if you look under "AIG Attempts to Enter into a

25 Syndicated Secure Lending Facility," do you see that

1 first paragraph?

2 A. I do.

3 Q. And there it talks about the amount of money
4 that was needed for the commercial paper rollover on
5 ILFC and AGF. Do you see where that figure is?

6 A. \$2.2 billion? Is that what you're referring to?

7 Q. Right.

8 And then in the last sentence in that paragraph,
9 there's an amount of money that was needed to go out for
10 return securities on the sec lending program?

11 A. Yes.

12 Q. And do you see what that figure was?

13 A. 5.2 billion.

14 Q. And then if you look at the bottom of this page,
15 there's a heading, "The Private Sector Solution Fails."
16 Do you see that?

17 A. Yes.

18 Q. And if you look at the second sentence of the
19 paragraph under that heading, is it correct here that
20 it's -- that on the 15th, the counterparties began
21 withholding payments from AIG and refusing to transact
22 with AIG, even on a secured, short-term basis?

23 A. Yes.

24 Q. And what was the significance of that?

25 A. AIG did business with many financial

1 institutions, and we had counterparties on many
2 transactions, and -- where they legitimately owed AIG
3 money, and they were refusing to -- to honor those
4 claims.

5 Q. Now, do you recall what AIG's stock price was by
6 the end of the day on Monday, the 15th?

7 A. Only by looking at this sentence, \$4.76.

8 Q. Okay.

9 A. I don't know if that was the end of the day. I
10 assume so.

11 Q. All right. And did there come a time during
12 September 15th, prior to the markets close, that you
13 learned that the credit rating agencies were, in fact,
14 going to downgrade AIG?

15 A. I think that's correct, yes.

16 Q. Okay. And from whom did you learn this?

17 A. I don't remember.

18 Q. And do you recall approximately what time?

19 A. I'm going to say it was later in the afternoon,
20 after we made an attempt to make those phone calls.

21 Q. Okay. And when you learned about the downgrade,
22 what was your understanding of the amount of time AIG
23 would have to raise funds before AIG would lack the
24 funds to meet its obligations as they became due?

25 A. It was my understanding we had 48 hours.

1 Q. So, let's turn to the credit rating agencies for
2 a few moments. After the close of the market, AIG and
3 several of its subsidiaries were downgraded by the
4 credit rating agencies by multiple notches. Is that
5 correct?

6 A. Correct.

7 Q. And would you agree that the initial cause of
8 AIG's sudden and massive liquidity need was the
9 multiple-notch ratings downgrade issued by the credit
10 rating agencies on the 15th?

11 A. Can you -- what was the beginning of your
12 question?

13 Q. Right. Would you agree that the initial cause
14 of AIG's sudden and massive liquidity need was the
15 multiple-notch ratings downgrade issued by the credit
16 rating agencies on the 15th?

17 A. It was, but obviously by the 15th it wasn't the
18 only issue.

19 Q. Right. If you turn to -- we're on JX 180 at
20 page 4, and there's a section called "The Ratings
21 Agencies Downgrade: AIG's Long-Term Debt Ratings," and
22 here there's a description of the multiple notches S&P,
23 Moody's, and Fitch applied to AIG's long-term debt
24 rating, correct?

25 A. Correct.

1 Q. And it also notes the amount that FP estimated
2 it would need in additional funding in order to meet its
3 collateral call obligations over a short term. And can
4 you tell us how much that was?

5 A. It says 20 billion.

6 Q. And does that comport with your recollection?

7 A. I don't remember the specific number, but it's
8 generally in that direction.

9 Q. Okay. Now, if you turn to page 22 of JX 188,
10 under the heading "Credit and Financial Strength
11 Ratings," there's more detail about the credit ratings
12 downgrade, and there is, in addition to S&P, Moody's,
13 and Fitch, a description of A.M. Best's credit rating
14 downgrade. Do you see that? A.M. Best trails over to
15 the -- to page 23.

16 A. Yes.

17 Q. And do you recall when A.M. Best downgraded AIG?

18 A. I don't recall, no.

19 Q. Did you have an understanding that when S&P,
20 Moody's, and Fitch downgraded AIG, that A.M. Best would
21 likely do so as well?

22 A. I can't say that I do.

23 Q. Okay. And just to be clear, when we're looking
24 at JX 188, you understand what this document is, don't
25 you? It's --

1 A. I do.

2 Q. Okay. It's the 2008 10-K.

3 And would you agree that the credit ratings
4 downgrade to a non-negotiable deadline on AIG's efforts
5 to raise capital?

6 A. I'm not sure I could answer a non-negotiable
7 answer. It was -- I was led to believe that the
8 contracts required the collateral to be posted within 48
9 hours of a downgrade and that if we didn't, we would be
10 in default.

11 Q. Okay. And how did the ratings downgrade affect
12 AIG's efforts to raise capital, if you can separate that
13 out?

14 A. After the downgrade?

15 Q. Right.

16 A. Oh, it was impossible.

17 Q. And to be perfectly clear, the Government did
18 not create the deadline on AIG's need for liquidity. Is
19 that -- is that fair?

20 A. No.

21 Q. It's not fair or the Government --

22 A. No, the Government did not.

23 Q. Okay. Now, on the 15th, AIG held a board
24 meeting. Do you recall that?

25 A. I do.

1 Q. And if you would turn to JX 74, which is in the
2 second binder --

3 THE COURT: Did you say the 15th or the 16th?

4 MR. ROBERSON: Well, Your Honor, we can -- we
5 can -- I can understand your concern. If you look at
6 the top heading of the -- of the paragraph -- of the
7 first paragraph on the page -- on the first page, it
8 says it's a meeting on the 16th, and then it continues,
9 at the second sentence, this meeting continued the
10 meeting originally convened on September 14th and --

11 THE COURT: I see.

12 MR. ROBERSON: -- first convened on the 15th
13 before being continued on the 16th, so these minutes
14 reflect the 14th, 15th, and then predominantly the 16th.

15 THE COURT: Thank you.

16 BY MR. ROBERSON:

17 Q. In fact, what I was going to ask you about
18 initially, Mr. Willumstad, is if you look on page 2, at
19 the bottom of the page, do you see where the
20 September -- the second paragraph from the bottom starts
21 to discuss the September 15th portion?

22 A. Yes.

23 Q. And it says it commenced with an update by
24 Mr. Willumstad of that day's activities, and there's a
25 description there of the JPMorgan and Goldman Sachs

1 attempt to put together a syndicate, and here there was
2 an indication that the syndicate would -- was looking
3 for a facility of \$50 billion to \$75 billion to get the
4 corporation through the liquidity crisis. Is -- do you
5 recall those figures?

6 A. I do.

7 Q. Okay. And then it says that you indicated that
8 the expectation is that the banks will ultimately be
9 paid in some form of equity. Do you recall that?

10 A. I actually don't recall saying that.

11 Q. Okay. Do you have any reason to believe that
12 that's not an accurate statement?

13 A. No, I have no reason to believe that.

14 Q. Okay. And then -- and then it goes on to
15 describe collateral calls and commercial paper not
16 rolling, securities lending having problems, which we've
17 discussed, and also the P -- the United Kingdom --
18 strong redemption demand in the United Kingdom on a
19 money market product, and would that be the ALICO PIB
20 fund?

21 A. Yes.

22 Q. Right.

23 So, do you recall having these discussions with
24 the board on the 15th?

25 A. I do.

1 Q. Okay. Is there anything else that you'd like to
2 add to that -- to this description of the minutes -- of
3 the discussion?

4 A. For the 15th?

5 Q. Right.

6 A. No.

7 Q. Okay. Given the events on the 15th, when you
8 had discussions with the board on the evening of the
9 15th, did you discuss with the board the possibility of
10 AIG filing for bankruptcy?

11 A. I don't recall. Probably.

12 Q. Okay. Now we're going to turn to September
13 16th, and we're going to go through this in slow motion.

14 A. As opposed to --

15 Q. My apologies.

16 A. -- as opposed to the current?

17 Q. My apologies.

18 So, did there come a time during the morning of
19 the 16th that you became aware that JPMorgan and
20 Goldman's efforts to raise funds for AIG had failed?

21 A. Yes.

22 Q. And roughly when was that?

23 A. I'm going to say first thing in the morning.

24 Q. Okay. And if you look at JX 188 again, at the
25 bottom of page 4, and here it describes the -- under the

1 heading, "The Private Sector Solution Fails," it
2 describes the failure of Goldman and JPMorgan to
3 syndicate a lending facility.

4 Does this description comport with your
5 recollection of the event?

6 A. Yes.

7 Q. Okay. Did you become aware on the 15th or 16th
8 of the amount of funds that JPMorgan -- well, we already
9 discussed that the amount they were trying to raise was
10 50 to 75 billion. Is that right?

11 A. Yes.

12 Q. And did JPMorgan or Goldman ever provide you
13 with an offer for a proposed liquidity raise for AIG?

14 A. No.

15 Q. Did they, to your knowledge, provide an offer to
16 anyone else at AIG or to any of AIG's attorneys?

17 A. Not to my knowledge.

18 Q. Okay. And was there ever any communications
19 from JPMorgan or Goldman to the effect that they were
20 near putting together a liquidity deal for AIG?

21 A. Not to my knowledge.

22 Q. And did you ever receive any communication from
23 JPMorgan or Goldman indicating that they had actually
24 been able to obtain a consortium of fund providers that
25 possessed -- that possessed the capacity to provide AIG

1 with up to \$75 billion?

2 A. No.

3 Q. And were you ever informed of why JPMorgan and
4 Goldman were unsuccessful at raising funds for AIG?

5 A. No.

6 Q. Okay. Let's turn to your discussions with
7 Mr. Geithner on the morning of the 16th. Can you please
8 tell us whether you had any conversations with him on
9 that morning and, if so, what time?

10 A. I called him on the morning of the 16th, and I
11 want to say it was mid -- 9:30, 10:00 is my
12 recollection. I'm not sure exactly when it was. And I
13 informed him that in light of the fact that there was no
14 capital raise and we had had downgrades on the 15th,
15 that we didn't have the liquidity to meet the needs for
16 posting collateral for the credit default swaps and that
17 our only alternative, without support from the
18 Government, was to file bankruptcy.

19 Q. And what was Mr. Geithner's response to that
20 communication?

21 A. I don't remember specifically, because we had a
22 subsequent conversation. I think he -- as I say, I'm
23 not -- I'm not sure exactly what -- what his reaction
24 was. At some point in time in the morning, we had a
25 discussion about taking down the backup lines, and it

1 may have been in that same conversation. I'm not sure.

2 Q. Okay. And what did you discuss about the backup
3 lines, the backup credit lines?

4 A. Well, I told him that, you know, that was going
5 to be my next instruction to the team, was to take down
6 the backup lines, to take whatever liquidity we could
7 from the banks.

8 Q. And what was his response to you after that
9 communication?

10 A. He asked me not to do that.

11 Q. And what did you do then?

12 A. Well, I told him unless he could explain to me
13 why I shouldn't do that, I told him my fiduciary
14 responsibility to the shareholders was to do everything
15 I could to maximize the value of the company, and taking
16 down the bank lines was part of that.

17 Q. And did AIG, in fact -- did you, in fact,
18 instruct AIG to take down credit lines?

19 A. I did.

20 Q. And were credit lines actually taken down?

21 A. They were.

22 Q. And do you recall which companies -- these were
23 at the subsidiary level, I take it?

24 A. We had a number of backup lines across a number
25 of different businesses. I think ILFC was one of them,

1 but I'm not sure specifically where the others were.

2 Q. Okay. And just to tie this down, if you look
3 again at JX 188, at the bottom of page 4, the first
4 paragraph, under "The Private Sector Solution Fails," it
5 says, "To provide liquidity on Tuesday, September 16th,
6 2008, both ILFC and AGF drew down on their existing
7 revolving credit facilities, resulting in borrowings of
8 approximately \$6.5 billion and \$4.6 billion,
9 respectively."

10 Does that comport with your recollection,
11 generally?

12 A. Yes.

13 THE COURT: Mr. Roberson, can we take a break?

14 MR. ROBERSON: Absolutely, Your Honor.

15 THE COURT: All right. Let's come back at 3:30.

16 (Court in recess.)

17 THE COURT: Thank you. Please be seated.

18 Just one thing before we get started. We had
19 some discussions today with our court reporter on what,
20 if any, modifications should be made to yesterday's
21 transcript. We made a couple of modifications about
22 striking part of an answer because there was going to be
23 a possible waiver of a privilege and there was some give
24 and take on that.

25 My determination on this is just to leave

1 everything the way it was in view of everything that
2 transpired. It's just going to all be in there for
3 better or for worse. I just wanted to let you know
4 that.

5 Thank you.

6 MR. BOIES: Thank you, Your Honor.

7 THE COURT: All right. Let's go ahead.

8 BY MR. ROBERSON:

9 Q. Mr. Willumstad, before the break, we were
10 talking for a moment or two about backup credit lines.
11 Can you explain what backup credit lines are and what
12 the significance is and what signaling effects drawing
13 those had?

14 A. Well, backup credit lines are lines arranged by
15 the company with banks in the event there's a short-term
16 need for credit. Historically, when a company is in
17 financial trouble and it accesses its backup lines, the
18 presumption is it has no other source of credit
19 available to them and that they're in serious trouble
20 and oftentimes is the last step before filing
21 bankruptcy.

22 Q. All right. Now, I want to turn to the status of
23 some of AIG's Asian subsidiaries as of the 16th. Can
24 you first, though, briefly describe the nature of AIG's
25 Asian operations and their importance to AIG?

1 A. Well, AIG had a number of different insurance
2 entities in Asia. They were strong, robust businesses
3 that generated a lot of income for the company.

4 Q. Do you have a sense of proportion of -- on the
5 insurance side, of how much of the income AIG would see
6 from the Asian operations?

7 A. I don't.

8 Q. Okay. If you could turn to -- this is in your
9 second binder, DX 1451. Can you describe what that
10 document is?

11 A. It's an email from Edmund Tse to me.

12 Q. And what date is it?

13 A. It's the 16th of September.

14 Q. And the subject of it?

15 A. Not wanting to add more burden to me. It was in
16 preparation for some of the concerns and situation that
17 exists in Asia as it relates to the company.

18 Q. Okay. And could you explain who Mr. Tse is?

19 A. He is or was a long-time employee of AIG, and he
20 was responsible for the Asian operations.

21 Q. Was he also on AIG's board?

22 A. He was.

23 MR. ROBERSON: Your Honor, we move to admit
24 DX 1451.

25 MR. BOIES: No objection, Your Honor.

1 THE COURT: Defendant's Exhibit 1451 is
2 admitted.

3 (Defendant's Exhibit Number 1451 was admitted
4 into evidence.)

5 BY MR. ROBERSON:

6 Q. And the first sentence of his letter or email
7 that's been forwarded to you -- I take it by maybe his
8 secretary, perhaps?

9 A. I have to make that assumption. I don't know
10 who that is.

11 Q. Right. It says, "The attached is just to update
12 you on the situation with our Asia life operations."
13 And if you turn to the facsimile, which is addressed to
14 Mr. Tse, which is at AIGStarr00009300, I just want to
15 ask you a few questions.

16 If you look under the heading "Regulators" --
17 actually, at the beginning, it says, "Ed, below is an
18 update of the key issues and actions from Asia for your
19 info." Then, under "Regulators," can you read that and
20 see if that refreshes your recollection about issues in
21 Asia?

22 A. Yes.

23 Q. Hong Kong and Singapore were having regulatory
24 restrictions on their activities. Is that fair?

25 A. Yes.

1 Q. And on the next page, at the top of the page,
2 Korea regulators placed a person in our office and have
3 demanded we resolve the immediate capital issue as we
4 are below minimum solvency. Do you see that?

5 A. Yes.

6 Q. And if you look at the bottom of that page,
7 "Surrenders/Customers," and there are three bullet
8 points, if you could take a look at those.

9 Countries were having significant inquiries.
10 Singapore saw 1000 surrenders and queues outside on the
11 street, media involvement. CFG in Hong Kong -- was CFG
12 a subsidiary of AIG?

13 A. I don't recall.

14 Q. Right, had some issues and police were involved
15 when it turned negative. CFT had their funding lines
16 dry up with downgrade and cannot pay out deposits.

17 Do these conditions comport with your
18 understanding generally -- I mean, we can get to the
19 details -- but generally with AIG's Asian operations,
20 the difficulties that they were facing as of the 16th?

21 A. Yes.

22 Q. Now, do you recall that AIG possessed an
23 intercompany credit facility?

24 A. Not specifically, no.

25 Q. Okay. At some point during the 16th, did you

1 receive a request from the Fed that AIG send its lawyers
2 to the Federal Reserve Bank of New York?

3 A. Yes.

4 Q. Okay. And what did you do in response to that
5 request?

6 A. Sent lawyers.

7 Q. And who were they?

8 A. I'm not sure. My recollection was Jamie Gamble
9 from Simpson Thacher and Mike Wiseman from Sullivan &
10 Cromwell, and there may have been others.

11 Q. Okay. And what was your understanding of the
12 point of sending the attorneys over to the Federal
13 Reserve Bank of New York?

14 A. At the time we were asked, it was unclear.

15 Q. And did the attorneys that you sent to the
16 Federal Reserve Bank of New York eventually return from
17 that meeting?

18 A. Eventually.

19 Q. And did they provide you with anything?

20 A. I'm sorry?

21 Q. Did they provide you with anything?

22 A. They returned with a document that was purported
23 to be a term sheet.

24 Q. Okay. And can you please describe that
25 document?

1 A. My recollection of it was it was a two-page
2 document, it was kind of a bullet point identification
3 of a number of different terms that would be associated
4 with the Government's requirement for the availability
5 of liquidity.

6 Q. And did you review that document?

7 A. Briefly.

8 Q. Okay. And what is your understanding of what
9 the document was?

10 A. Well, my understanding was that it was the terms
11 and conditions associated with the Government providing
12 us with liquidity.

13 Q. And do you recall what those terms and
14 conditions were?

15 A. Some of them.

16 Q. And what do you recall?

17 A. There was an interest rate that amounted to
18 about 14 percent on money borrowed; there was an
19 interest rate on unused lines of about 8 percent; there
20 was a commitment fee, I think, of 2 or 3 percent; and a
21 requirement that we turn over 79 percent of the company
22 to -- to the Government.

23 Q. And what did you do with that document?

24 A. It was given to me in the midst of a meeting.
25 I'd say there were half a dozen people in the room,

1 maybe more, and I sat and thought about it for a few
2 minutes, and then I left it in the room with the rest of
3 the participants in the meeting. That's my
4 recollection.

5 Q. And what did you do after that?

6 A. I returned to my office.

7 Q. Okay. And did there come a time during the late
8 afternoon of September 16th that you received a call
9 from Mr. Geithner and Mr. Paulson?

10 A. Yes.

11 Q. And who else was on that call?

12 A. From the Government?

13 Q. From AIG or the Government.

14 A. Well, I'm not sure who else was on the phone
15 from the Government. Paulson and Geithner were. My
16 recollection from my office were Dick Beattie, Rodg
17 Cohen, and maybe Mike Wiseman.

18 Q. Okay. And can you describe the sum and
19 substance of that call?

20 A. Geithner had indicated that the terms that had
21 been sent over were the only terms that we were going to
22 get and that he expected us to be prompt in responding
23 to those terms. I think I explained to him we had a
24 board meeting scheduled for 5:00 that day and we would
25 take it up with the board.

1 At that point in time, Hank Paulson got on the
2 line and said one of the conditions was that I would be
3 replaced as CEO.

4 Q. Okay. Do you recall anything else from that
5 conversation?

6 A. I think I asked him who the replacement was or
7 if he could tell me, and he did.

8 Q. And what was the name?

9 A. Ed Liddy.

10 Q. Okay. And do you recall anything else from that
11 conversation?

12 A. I don't think so.

13 Q. Okay. Now, would you agree that by the evening
14 of the 16th, AIG had attempted to find a commitment from
15 a private lender or investor but had been unsuccessful
16 in obtaining sufficient funds to avoid bankruptcy?

17 A. Yes.

18 Q. And did AIG and its advisors explore every
19 reasonable avenue to raise funds?

20 A. I believe --

21 MR. BOIES: Leading, Your Honor.

22 THE COURT: Can you rephrase?

23 BY MR. ROBERSON:

24 Q. What efforts did AIG undertake to raise funds?
25 How would you characterize the effort?

1 A. We spent all weekend. We had two large,
2 top-rate assistance from JPMorgan and Blackstone. I
3 think we pursued it professionally and diligently.

4 Q. And were there any private sector banks or group
5 of firms that were willing to risk lending to AIG as of
6 September 16th?

7 A. As of the 16th? Not to my knowledge.

8 Q. So, we're going to turn now to the board meeting
9 on the 16th, and so first I'd just ask you, did you
10 discuss the terms of the proposed federal facility deal
11 to the -- with the board?

12 A. I mentioned largely the terms I just described
13 to you and then turned it over to counsel to go through
14 the details.

15 Q. And did counsel then go through the details of
16 the deal with the Fed?

17 A. That's my recollection.

18 Q. Okay. And when you were discussing the terms of
19 the proposed deal to the board, how did you do so? Was
20 it written or oral?

21 A. It was oral.

22 Q. And what about when the attorneys were
23 presenting it? What did they -- how did they present
24 it?

25 A. I don't recall.

1 Q. Okay. And when you described the terms of the
2 proposed deal to the board, there were lawyers from
3 Sullivan & Cromwell, Simpson Thacher, and Weil Gotshal
4 in the room. Is that fair?

5 A. Correct.

6 Q. And how would you describe the reputation and
7 skill of those law firms and financial advisors that
8 were counseling you and AIG as of the 16th of September?

9 A. Well, I can attest to their reputations. I
10 think they're first-rate.

11 Q. Let's turn to JX 74, the second binder, which is
12 the minutes. And we've already turned to discuss the
13 September 15th portion. Just generally, do these
14 minutes -- have you seen these minutes recently?

15 A. I have.

16 Q. And are these minutes accurate as far as your
17 recollection is concerned?

18 A. They are.

19 Q. Did the board discuss the value of AIG's assets
20 and its liquidity needs during this board meeting on the
21 16th?

22 A. Yes.

23 Q. Let's turn to page 6, and if you look at the
24 first main paragraph here, the minutes reflect in the
25 first sentence that BlackRock distributed material that

1 they had prepared to the board.

2 THE COURT: You mean Blackstone?

3 MR. ROBERSON: Blackstone. I apologize, Your
4 Honor.

5 BY MR. ROBERSON:

6 Q. And the minutes state that Blackstone -- that
7 the Blackstone material was attached to the minutes as
8 Exhibit A, right? Do you see that?

9 A. Yes.

10 Q. And it says that Mr. Alderson Smith directed the
11 board's attention to page 5 of the presentation. Do you
12 see that?

13 A. Yes.

14 Q. If you look at the back of this JX 74, there is,
15 beginning at page 15 of 24, a document called "AIG
16 Discussion Materials, September 16th, 2008, The
17 Blackstone Group," and if you look at this, is this the
18 document that was distributed to the board by Blackstone
19 during the September 16th meeting?

20 A. Yes.

21 Q. And if you turn to page 5, that's what we were
22 just discussing, and of these -- of this Blackstone
23 document, there's a chart, and you see -- at the bottom
24 of the page, it says page 5.

25 A. Yes.

1 Q. So, that would indicate that this is the slide
2 that was being discussed during the board meeting?

3 A. One of them.

4 Q. And here there are four different valuations of
5 AIG, two by JPMorgan, one by AIG's management, and one
6 was AIG's book value, but you can see, if you look at
7 the top, it's as of March 31st, 2008, correct?

8 A. Correct.

9 Q. Would you agree that that figure of March 31st,
10 2008, as a value would be relatively stale?

11 A. Only based on the date. I don't know -- if your
12 implication -- never mind. Yes.

13 Q. Okay. Now, the Goldman valuations are
14 between -- the JPMorgan and Goldman valuations are
15 between a hundred -- I'm sorry, are between 68 and 88
16 billion dollars. Do you see that at the bottom of
17 the -- of the low and high?

18 A. I do.

19 Q. Okay. And AIG's management's valuation was \$108
20 billion, right?

21 A. Correct.

22 Q. And that book value that we just talked about
23 was \$80 billion. And these valuations were presented to
24 the board, correct?

25 A. Correct.

1 Q. And I just want to ask you one question. If you
2 look in the valuations, under "Financial Services" on
3 the left-hand side, do you see that?

4 A. Yes.

5 Q. FP is -- is indicated to have a value of zero.

6 A. Yes.

7 Q. Do you know why it was set -- FP was set at zero
8 and not as a negative number, given the obligations that
9 it had -- that AIG had to FP?

10 A. I do not.

11 Q. Okay. Now, if you turn to page 6, beginning at
12 the middle of the page -- well, I'm sorry.

13 Going back to page 6 of the minutes, beginning
14 at the middle of the page --

15 A. I'm sorry, page 6?

16 Q. Page 6. The middle of the page, which is the
17 middle of that large paragraph, there is a sentence that
18 starts with, "A lengthy discussion followed..." Do you
19 see that?

20 A. Yes.

21 Q. And that was with respect to the valuations,
22 right?

23 A. Yes.

24 Q. Did the valuations there all assume that AIG was
25 a going concern and, therefore, these were going concern

1 valuations?

2 A. Yes.

3 Q. And do you recall if there was a discussion of
4 what would happen to those valuations if AIG was no
5 longer considered a going concern?

6 A. I don't specifically recall that.

7 Q. Okay. There's language here in the text. Do
8 you have any reason to disagree with the language in the
9 text?

10 A. No.

11 Q. Okay. And to be clear, when the valuation
12 discussion focused on a going concern valuation, it was
13 being set up in contrast to a scenario when -- where AIG
14 is not a going concern but in bankruptcy. Is that fair?

15 A. Yes.

16 Q. And if you look about two-thirds down the center
17 paragraph on page 6, it says, "If you were to sell
18 assets while in bankruptcy, it is highly unlikely that
19 AIG could obtain full value in the sales." Do you see
20 that?

21 A. Yes.

22 Q. Does that comport with your understanding as of
23 the 16th?

24 A. Yes.

25 Q. And it goes on to say that "The fundamental

1 businesses of AIG (insurance and other financial
2 services) will likely erode significantly as a result of
3 bankruptcy." And did you agree with that statement?

4 A. Yes.

5 Q. Now, at page 7 of the minutes here, third full
6 paragraph, there's a statement attributed to Mr. Newman
7 of The Blackstone Group. Do you recall who Mr. Newman
8 was?

9 A. No.

10 Q. Okay. That -- if you look at that third full
11 paragraph, and just to paraphrase, he's stated that the
12 value for all of AIG's assets would go down in a
13 bankruptcy situation. Did you agree with that
14 statement?

15 A. Yes.

16 Q. And he noted the unpredictability of the asset
17 devaluation in bankruptcy. Did you agree with that
18 statement?

19 A. Yes.

20 Q. And he stated that a key consideration is how
21 regulators of the insurance companies would react to a
22 filing by A -- by the AIG parent, and then he gave his
23 view that if the regulators were to seize the insurance
24 companies, the value of those entities to the AIG parent
25 would be drastically reduced, potentially to zero,

1 almost immediately.

2 Do you recall that the board was provided this
3 advice by Mr. Newman during the board meeting?

4 A. I believe so.

5 Q. Continuing on with the discussion of the
6 likelihood of a significant devaluation at the bottom of
7 page 7, trailing over to page 8, the minutes reflect
8 that Mr. Newman stated that the current market
9 volatility makes it impossible to project an amount of
10 that devaluation, and then continuing, says, "The market
11 volatility would surely exacerbate the devaluation
12 rather than making it less severe."

13 Do you see that?

14 A. Yes.

15 Q. And was that advice that Mr. Newman gave to the
16 board?

17 A. Yes.

18 Q. And did you agree with Mr. Newman's analysis of
19 the situation that AIG would face in a potential
20 bankruptcy?

21 A. I'm sorry, the question?

22 Q. Did you agree with Mr. Newman's analysis of the
23 situation that AIG would face in a potential bankruptcy?

24 A. Since I had no personal experience in a
25 bankruptcy, I was taking advice from advisors.

1 Q. Okay. And just to tie down who Mr. Newman was,
2 if you look at the second page of the document, at the
3 top of the page, it's Arthur Newman -- well, there are
4 four -- it's John Studzinski, Martin Alderson Smith,
5 Arthur Newman, and Larry Nath of The Blackstone Group,
6 financial advisors to AIG. So, he was with Blackstone,
7 okay.

8 Let's now turn to page 8 of the minutes, and if
9 you look at the small paragraph in the middle of the
10 page, here, in response to a question from
11 Mr. Feldstein, the minutes reflect that you told the
12 board that if AIG did not receive the Fed funds
13 immediately -- in quotations -- "AIG would be unable to
14 meet its liquidity needs for the following day."

15 Did this statement of yours reflect your
16 understanding on September 16th that without the Fed
17 facility, AIG would face the prospects of bankruptcy on
18 September 17th?

19 A. Face the prospects of default, yes.

20 Q. Okay. Now, turn to page 21 of 24, and we just
21 discussed your statement about the inability to meet the
22 liquidity needs for the following day, but if you look
23 on here, on slide -- this is slide 6 of Blackstone, and
24 if you look at the middle sentence, can you say whether
25 or not you recall whether management indicated to

1 Blackstone that without new sources of funding, it will
2 not have sufficient liquidity to meet obligations on
3 Wednesday, September 17th, 2008?

4 A. Yes.

5 Q. Did this statement further reinforce for the
6 board that AIG would not be able to meet its obligations
7 as they became due on September 17th, 2008?

8 A. I'm sorry? I don't --

9 Q. Did this statement in the Blackstone
10 presentation, did this also reinforce the notion that
11 AIG would not be able to meet its liquidity needs as
12 they became due on the 17th?

13 A. Yes.

14 Q. We're going to turn back to page 8 of the
15 minutes -- oh, one more thing. Let me just do this. If
16 you look here on page 6, the -- there is an estimated
17 consolidated liquidity needs, and this is a JPMorgan/
18 Goldman Sachs estimate. Do you see that?

19 A. Yes.

20 Q. And what was the total liquidity need projected
21 by JPMorgan and Goldman as of the 16th?

22 A. \$93 billion.

23 Q. So, if we turn back to page 8 of the minutes,
24 and I'll ask you to look at the last paragraph, and
25 there's some statements attributed to Mr. Herzog

1 concerning the effect of the default on AIG's
2 operations. Could you take a minute to review those?

3 A. Sure. (Document review.)

4 Q. Yeah, my question is simply whether you agreed
5 with Mr. Herzog's assessment, as described on pages 8
6 and 9, of the effects of a default on AIG's sec lending
7 program and the regulatory oversight of AIG's insurance
8 subsidiaries.

9 A. Yep.

10 Q. Now, as of the 16th, AIG's board understood that
11 if the \$93 billion liquidity need estimate actually held
12 up, that the \$85 billion facility might not be enough
13 money to solve AIG's liquidity needs. Is that a fair
14 assessment? Let me back -- backtrack.

15 So, we -- I showed you the Blackstone estimate,
16 it was a JPMorgan/Goldman estimate, that the liquidity
17 need could be as much as \$93 billion.

18 A. Yes, correct.

19 Q. So, my question is simply if the Fed facility is
20 for \$85 billion, if that \$93 billion estimate held up,
21 wasn't the board -- didn't it have an understanding at
22 that point in time that the \$85 billion facility might
23 not be enough money to solve AIG's liquidity needs?

24 MR. BOIES: Objection. Leading.

25 THE COURT: Sustained.

1 BY MR. ROBERSON:

2 Q. Did you have any understanding of the
3 relationship between that estimate of \$93 billion and
4 the potential -- you know, the Fed facility fund that
5 would have been \$85 billion as of the 16th?

6 A. Again, I don't -- I don't remember the specifics
7 associated with it. I think there was an understanding
8 that these were very subjective estimates based on what
9 would happen in the capital markets. If you go through
10 each of the component pieces, it makes a lot of
11 assumptions about decline in market value securities,
12 and I would argue that at that point in time nobody
13 really knew what would happen.

14 Q. Well, how certain were you, if at all, that the
15 \$85 billion facility would be enough to solve AIG's
16 liquidity needs?

17 A. I was not certain at all. I knew it would solve
18 the short-term needs over the next week or so.

19 Q. Okay. I want to talk a little bit more about
20 what would have happened to AIG in the event of a
21 bankruptcy. If you turn to page 10 of the minutes,
22 there is a highlighted section which reflects advice of
23 AIG's counsel, Mr. Cohen. Do you see that?

24 A. I do.

25 Q. And here the minutes reflect that Mr. Cohen

1 explained that in a bankruptcy, equity holders would
2 receive nothing unless all creditors were paid in full.
3 He also noted that in light of the discussion of the
4 devaluation of the assets in bankruptcy, there was a
5 significant risk that creditors would not be paid in
6 full in a bankruptcy, which is important -- which is an
7 important concern to the board.

8 Now, do you recall having received this advice
9 from counsel?

10 A. I do.

11 Q. Now, if the creditors were likely not to be paid
12 in full in bankruptcy, was it your understanding that it
13 would follow, as a matter of priority, that AIG's
14 shareholders would likely receive nothing in bankruptcy?

15 A. Correct.

16 Q. What was your understanding and the board's
17 understanding, if you can, whether if AIG had entered
18 into bankruptcy there would be a significant risk that
19 AIG's existing shareholders would receive nothing?

20 A. I -- I don't understand the question.

21 Q. Well, fair enough.

22 Was it your understanding -- what was your
23 understanding that -- if AIG entered into bankruptcy,
24 would the shareholders likely have faced in terms of an
25 outcome?

1 A. It was unknown to me.

2 Q. Okay. Now, continuing with the board minutes,
3 let's turn to page 11, and we'll ask you to look at the
4 fifth paragraph, which is a single sentence.

5 A. Yes.

6 Q. And here the minutes reflect that during the
7 board meeting, you asked that each board member express
8 his view. Did the board members then express their
9 views?

10 A. They did.

11 Q. And what do you recall about those
12 communications?

13 A. Well, each of them responded based on what they
14 had heard from the advisors about what they felt would
15 be in the best interests of the company and the
16 stakeholders.

17 Q. And what did they say?

18 A. Well, my recollection is all, with the exception
19 of one person, thought that the government solution was
20 really the only viable alternative.

21 Q. Now, did there come a time when the board asked
22 you to go back to the Federal Reserve Bank of New York
23 and try to negotiate better terms?

24 A. Yes.

25 Q. And can you describe that dynamic?

1 A. I, Rodg Cohen, Dick Beattie, and Mike Wiseman
2 left the board meeting. We called Tim Geithner and
3 asked if there was an opportunity to renegotiate the
4 terms and also -- and this was at the instruction of the
5 board -- renegotiate the terms and whether if, in the
6 interim period, after the Government's capital infusion,
7 if the company could raise money privately, would we be
8 able to pay off the Government.

9 Q. And what was the response to those two queries?

10 A. Geithner said there was no negotiations to be
11 had over the terms.

12 Q. And with respect to the second issue, with
13 respect to the payoff with a private sector --

14 A. He made a comment that said -- I don't know that
15 he really answered the question. My interpretation was
16 he made a comment that we'd be thrilled if the
17 Government didn't have to do this.

18 Q. So, let's discuss in a little detail your
19 understanding of the terms of the deal with the
20 Government, the Federal Reserve Bank of New York, in
21 connection with the Fed facility. Can you describe what
22 you understood to be the key material terms of the deal?

23 A. Well, I think, as I described them before, it
24 was the cost of the loan, interest rate, both for the
25 used -- used line as well as the unused lines, and --

1 and the Government taking possession of 79.9 percent of
2 the company's common stock.

3 Q. And was the board fully apprised of these terms
4 during the board meeting?

5 A. They were.

6 Q. And how long did the board discuss the terms of
7 the deal? Do you recall?

8 A. My recollection was that the board meeting
9 lasted for about two hours before we were asked to go
10 and call Geithner and then probably another 20 minutes
11 or half hour afterwards. I -- my recollection was that
12 the board meeting ended somewhere close to 8:00.

13 Q. Okay. Did you believe that the board understood
14 that every effort had been made to deal with the
15 liquidity needs through the private sector?

16 A. Yes.

17 Q. And did the board conclude freely and
18 voluntarily that the Fed facility was a superior choice?

19 MR. BOIES: Objection. Leading, Your Honor.

20 THE COURT: Sustained.

21 BY MR. ROBERSON:

22 Q. There were -- there was -- the federal facility
23 was discussed during the board meeting, correct?

24 A. Correct.

25 Q. And a decision was made by the board with

1 respect to that facility, correct?

2 A. Correct.

3 Q. Can you describe whether the board entered into
4 that or agreed to that facility freely and voluntarily?

5 A. I'm not sure what you mean by "freely," but I'll
6 say voluntarily, yes.

7 Q. Okay. What about the best interests of AIG?
8 Did the board take the best interests of AIG into
9 consideration in agreeing to the deal?

10 A. I would describe that the board took into
11 consideration the best interests of all the stakeholders
12 of AIG.

13 Q. And what do you mean by that?

14 A. Shareholders, the creditors, the customers.

15 Q. Employees?

16 A. Employees.

17 Q. Now we'll look at the specific resolution that
18 was passed during the board meeting, if you would turn
19 to page 13. And because of its importance, I'll ask you
20 to read it into the record, what the first resolution of
21 the board was.

22 A. I'm sorry, you're on page 13?

23 Q. Page 13.

24 A. Starting with "Resolved"?

25 Q. Yes.

1 A. You want me to read it out loud?

2 Q. If I could be indulged on that, I would
3 appreciate it.

4 A. I don't have a choice, I assume.

5 Q. Well, you do.

6 A. "Resolved, that the Corporation be, and hereby
7 is, authorized to enter into a transaction with the
8 Federal Reserve Bank of New York (the 'Lender') to
9 provide a revolving credit facility of up to \$85 billion
10 on terms consistent with those described at this
11 meeting, including equity participation equivalent to
12 79.9 percent of the common stock of the Corporation on a
13 fully-diluted basis (the 'Credit Facility')."

14 Q. And what -- let's talk about the equity
15 participation. What does the resolution say with
16 respect to the equity participation? The same thing you
17 just read.

18 A. Yeah. Well, just the terms consistent with
19 those described at this meeting, including equity
20 participation equivalent to 79.9 percent of the common
21 stock.

22 Q. What did the board understand the alternative
23 was to accepting the Fed facility?

24 A. Bankruptcy.

25 Q. If you turn to the top -- turn to page 5, the

1 top paragraph, the minutes reflect a statement by
2 Mr. Cohen to the board. And if you look at the third
3 sentence, the first half of that sentence, the minutes
4 reflect that Mr. Cohen stated that "...a part of the
5 Government Facility was expected to involve warrants or
6 other instruments that would give the Federal Government
7 an interest in AIG equal to 79.9 percent of its total
8 equity..."

9 Do you see that?

10 A. I do.

11 Q. Is this statement consistent with your
12 understanding that the form of equity -- about the form
13 of the equity at that point in time, as of the 16th?

14 A. I'm sorry. Your question is?

15 Q. Is this statement consistent with your
16 understanding of the form of the equity as of the 16th?

17 A. I don't have any particular recollection about
18 the form of the equity.

19 Q. And if you turn to page 12 -- well, let me
20 just -- we will just move on from that, then.

21 Page 13, the second resolution. Would you agree
22 that in the second resolution, AIG's board authorized
23 AIG's CEO and other officers to execute and deliver all
24 documents, contracts, and instruments evidencing or
25 representing the credit facility and any arrangements

1 related thereto?

2 A. Yes.

3 Q. Did the board vote to accept the September 16th
4 rescue agreement?

5 MR. BOIES: Objection, Your Honor. Leading, and
6 I think those kind of words, they ought to come from the
7 witness, not from the lawyer.

8 THE COURT: Yes. Let's rephrase.

9 BY MR. ROBERSON:

10 Q. How did the vote -- the board vote with respect
11 to the resolutions?

12 A. My recollection was that all but one board
13 member voted in favor of --

14 Q. And who voted -- to your recollection, who voted
15 against it?

16 A. Steve Bollenbach.

17 Q. To your knowledge, were any of the board members
18 affiliated with FRBNY or the United States Government?

19 A. Not to my knowledge.

20 Q. Were any of AIG's board members under any
21 obligation to accept the FRBNY's offer?

22 A. No.

23 Q. And did you vote to accept the Fed facility
24 deal?

25 A. I did.

1 Q. And did you do so of your own free will?

2 A. I did.

3 Q. And is it your understanding that AIG's board
4 acted of its own free will?

5 A. Yes.

6 Q. Were you coerced by the Government into
7 accepting the Fed facility?

8 A. No.

9 Q. And is it your understanding that AIG's board
10 did not believe that it was being coerced into accepting
11 the Fed facility?

12 A. I don't -- I don't know that I can speak for the
13 whole board on that.

14 Q. Is it your understanding that AIG's board
15 believed that by agreeing to the terms of the Fed
16 facility on September 16th, they had committed AIG to
17 issue a 79.9 percent equity interest in exchange for the
18 support FRBNY provided beginning that night?

19 MR. BOIES: Objection if he's calling for a
20 legal conclusion, Your Honor, and if he's not calling
21 for a legal conclusion, I think the question is unclear.
22 I'd object on that basis.

23 THE COURT: Mr. Roberson, would you like to
24 rephrase or respond?

25 MR. ROBERSON: I'd like a response, actually.

1 THE COURT: Well, can you respond to the
2 objection?

3 MR. ROBERSON: Oh, I see.

4 Your Honor, I -- to the degree there's legal
5 conclusions, that's, in effect, something for Your Honor
6 to sort out. We can't debate that issue here, I don't
7 think. My under -- my point is simply whether his
8 understanding -- and you can take it as a legal matter
9 or not -- is whether or not he believed that by agreeing
10 to the terms of the Fed facility, certain obligations
11 followed.

12 THE COURT: Well, I think you're kind of asking
13 him the obvious, but I'll overrule the objection and
14 take his answer.

15 THE WITNESS: Yes.

16 BY MR. ROBERSON:

17 Q. Okay. And just -- you say yes. Can you just
18 clarify that since we have had a break?

19 A. Well, I think you asked me whether the board
20 knew that it had the obligation to meet the requirements
21 of the terms.

22 Q. Including the issuance of the 79.9 percent
23 equity piece?

24 A. Yes, yes.

25 Q. Yes, okay.

1 Now, do you recall that on the evening of
2 September 16th, you signed a document in which you
3 agreed and accepted the summary of terms for the senior
4 bridge facility presented to AIG by the Federal Reserve
5 Bank of New York?

6 A. I signed a document, yes.

7 Q. If we turn to DX 955, it will be in the first
8 binder.

9 A. I'm sorry, what are we looking for?

10 Q. DX 955. Did I say the first binder? I
11 apologize. It's the second binder. No, it is the first
12 binder, unless you have got different binders than me.
13 It's DX 955. It's in order. Do you have it?

14 A. I have it.

15 Q. Okay, I apologize.

16 If you look at the last page of this document,
17 is this the statement that you signed?

18 A. Yes.

19 Q. And that's your signature?

20 A. That is.

21 Q. Do you recall what you did with this page after
22 you signed it?

23 A. My recollection is it was presented to me by --
24 by one of the lawyers, and I was asked to sign it.

25 Q. And then what did you do with it?

1 A. I handed it back to the lawyer.

2 Q. Okay. And were you aware that this acceptance
3 page was faxed to the Federal Reserve Bank of New York?

4 A. I -- no.

5 Q. Okay. If you look at the first page of DX 955,
6 in the introductory statements, it says, "This summary
7 of terms is not intended to be legally binding on any
8 person or entity." Do you see that?

9 A. Yes.

10 Q. When did you first see this document?

11 A. I don't recall. I would say -- I don't know
12 that I ever saw the document while I was CEO.

13 Q. Okay. So, you saw it sometime --

14 A. I believe in preparation.

15 Q. Okay. Did you understand, as of September 16th,
16 that AIG had entered into an overall deal with the Fed,
17 irrespective of the language on the term sheet stating
18 that the document was not legally binding?

19 A. I am not aware of that.

20 Q. You are not what?

21 A. I wasn't aware of that, if that's -- I'm sorry,
22 what's your question?

23 Q. You're not aware of the language that's in this
24 claim.

25 A. Yes.

1 Q. Okay, I see.

2 Did you believe that the Fed began performing in
3 terms of an overall deal with the Fed when it wired \$14
4 billion to AIG on the evening of the 16th?

5 A. Yes.

6 Q. Now, do you recall on the evening of September
7 16th, AIG issued a press release describing the FRBNY
8 rescue transaction?

9 A. Say again?

10 Q. Do you recall on the evening of September 16th
11 that AIG issued a press release describing the FRBNY --
12 Federal Reserve Bank of New York -- rescue transaction?

13 MR. BOIES: Object to the form of the question,
14 Your Honor. The same basis as earlier.

15 THE COURT: Overruled. I'll take his answer.

16 THE WITNESS: Yes.

17 BY MR. ROBERSON:

18 Q. Okay. And if you turn to JX 79, that would be
19 in the second binder.

20 Oh, I'm sorry, can we move into evidence DX 955?

21 MR. BOIES: Objection, Your Honor. This is a
22 document that the witness has just said he didn't think
23 he saw while he was CEO. It has subsequently had
24 stapled to it or attached to it a two-page -- two pages
25 at the end, which is the signature page that the witness

1 did sign and the fax cover sheet by which it was sent to
2 the Fed, but this witness never signed this document,
3 never saw this document. It's not an authentic
4 document. There is no foundation or basis for it. We
5 object to it.

6 THE COURT: Mr. Roberson?

7 MR. ROBERSON: Your Honor, there -- there is a
8 signature on the last page --

9 THE COURT: Which is already in evidence via
10 another exhibit. Isn't that right?

11 MR. BOIES: Yes, Your Honor.

12 MR. ROBERSON: Okay. And the summary of terms
13 for a senior bridge facility is a document that
14 describes the terms of the deal -- I don't want to go
15 too far and -- I don't want to go --

16 THE COURT: The problem is that the signature
17 doesn't, on its face, go with the document.

18 MR. ROBERSON: It -- it may be, and I think that
19 perhaps later we will have an explanation.

20 Do you know how these two documents, the summary
21 of -- the bridge facility summary became attached or
22 your signature page was connected to it?

23 THE WITNESS: Well, again, my recollection is I
24 was asked to sign that signature page on the advice of
25 one of the lawyers who had presented it to me, that it

1 was necessary for approval of the transaction, and
2 that's -- I -- I can't say that I ever saw it -- the
3 rest of the document.

4 THE COURT: So, I'll sustain the objection. The
5 document does not come in.

6 MR. ROBERSON: Just -- can I just try one
7 more -- the signature page does say that "accepts the
8 summary of terms for the senior bridge facility
9 presented to AIG," so --

10 THE COURT: Understood.

11 MR. ROBERSON: Okay.

12 THE COURT: But I think at this point in the
13 trial, we know that there were various versions of this
14 all dated September 16th, and who is to say whether this
15 version goes with the signature?

16 MR. ROBERSON: Understood, Your Honor.

17 THE COURT: All right.

18 MR. ROBERSON: Yep.

19 BY MR. ROBERSON:

20 Q. So, we were -- I'm sorry, we had a break, but we
21 were going to go to JX 79. Excuse me. Can you describe
22 what JX 79 is?

23 A. It's a press release.

24 Q. And did you review the wording in this press
25 release before it was issued?

1 A. I believe I did.

2 Q. Okay. And the press release states, in the
3 first paragraph, that AIG's board was issuing a
4 statement, which is then set forth in the second
5 paragraph. Is that a fair characterization?

6 A. Correct.

7 Q. And in the first sentence, it says, "The AIG
8 Board has approved this transaction based on its
9 determination that this is the best alternative for all
10 of AIG's constituencies, including policyholders,
11 customers, creditors, counterparties, employees, and
12 shareholders."

13 Did you agree with that statement?

14 A. Yes.

15 Q. And in the last paragraph -- I mean the last
16 sentence of the second paragraph, it says that, "In
17 return for providing this essential support, American
18 taxpayers will receive a substantial majority ownership
19 interest in AIG."

20 That statement was unqualified, correct?

21 A. I don't know what that means.

22 Q. Well, there was no contingency expressed there
23 about American taxpayers potentially receiving a
24 substantial majority ownership interest. Is that fair?

25 A. That's fair, but it doesn't state how much.

1 THE COURT: Sir, do you know who drafted this
2 press release?

3 THE WITNESS: Nick Ashooh, who was the head of
4 public relations, is the one who presented it to me.
5 So, I'm not exactly sure who drafted it.

6 THE COURT: Okay, thanks.

7 BY MR. ROBERSON:

8 Q. And you reviewed it and you agreed with the
9 communication?

10 A. Yes.

11 Q. Now, after the 16th, did the board -- September
12 16th, did the board accept your resignation?

13 A. I'm sorry, when?

14 Q. After September 16th, did the board accept your
15 resignation at some point in time?

16 A. Yes.

17 Q. And do you recall when?

18 A. Officially it was on the 18th, I believe.

19 Q. Okay. I want to ask you -- we're sort of
20 through with the 16th. We're actually going to go back
21 in time and just talk about a few documents real quick.

22 If you turn to DX 937, it should be in the first
23 binder. Is it not there?

24 THE COURT: I have it.

25 MR. ROBERSON: You do?

1 THE COURT: DX 937?

2 MR. ROBERSON: Yes. Here we go. I'm sorry.

3 BY MR. ROBERSON:

4 Q. And can you tell me what DX 937 is, sir?

5 A. It says it's a 10-K for fiscal year ended
6 December 31st, 2005.

7 Q. Okay. And if you look -- let me direct you to
8 the right page. If you look at page 260 of 274 -- and
9 that's in the upper right-hand corner of the pages where
10 that pagination exists -- your name appears there?

11 A. It does.

12 Q. Okay. And so you would have reviewed this
13 before it went out?

14 A. Yes.

15 MR. ROBERSON: Your Honor, we move into evidence
16 DX 937.

17 MR. BOIES: Objection, Your Honor. Relevance.
18 This is a 2005 --

19 THE COURT: What is the relevance here,
20 Mr. Roberson?

21 MR. ROBERSON: Well, Your Honor, there are a
22 number of issues in this document. I didn't want to
23 spend a lot of time, but I can alert you to page 26 of
24 274, and here there are a series of bullet points or,
25 I'm sorry, darkened -- bolded text, and here it's

1 just -- let me just ask you.

2 BY MR. ROBERSON:

3 Q. Do you recall that there was a downgrade --
4 obviously, this occurred in 2005 -- a downgrade in AIG's
5 credit rating --

6 A. Yes.

7 Q. -- before you arrived at AIG?

8 A. Yes.

9 Q. And that had an effect on collateral calls at
10 that time. Do you recall that?

11 A. That, I don't recall.

12 Q. Well, I would just alert you to the fourth
13 bullet point down or bolded text, indicating that as a
14 result of the downgrades of AIG's long-term senior debt
15 ratings, AIG is required to post approximately \$1.16
16 billion in collateral with counterparties to municipal
17 guaranteed investment contracts and financial
18 derivatives transactions.

19 And that just comports with your understanding
20 of the business structure, for instance, at FP, where
21 downgrades would result in collateral calls?

22 A. Yes.

23 MR. ROBERSON: And that's the relevance, Your
24 Honor.

25 THE COURT: But it seems to be a bit removed

1 from the relevant time periods in this case. I don't
2 see -- it's sort of a "who cares" fact to me.

3 MR. ROBERSON: It was merely to note that this
4 was a dynamic that was embedded in AIG's structure, Your
5 Honor.

6 THE COURT: I'll sustain the objection.

7 BY MR. ROBERSON:

8 Q. DX 939. Do you have DX 939?

9 A. Yeah.

10 Q. Okay.

11 A. Do you want to borrow mine?

12 Q. I wish I -- yeah.

13 THE COURT: I have it.

14 BY MR. ROBERSON:

15 Q. DX 939 is what, sir? Can you describe that?

16 A. It is a 10-K for fiscal year ended December
17 31st, 2007.

18 Q. And you're a signator to this document. Is that
19 right?

20 A. Yes.

21 MR. ROBERSON: Your Honor, we move to admit
22 DX 939.

23 MR. BOIES: No objection, Your Honor.

24 THE COURT: All right. Defendant's Exhibit 939
25 is admitted.

1 (Defendant's Exhibit Number 939 was admitted
2 into evidence.)

3 BY MR. ROBERSON:

4 Q. We talked about the complexity of AIG's business
5 structures and subsidiaries earlier. If you could turn
6 to page 215 of this document, and there's a -- are you
7 there?

8 A. Yeah.

9 Q. There's a list of four, five pages of
10 subsidiaries, major subsidiaries?

11 A. Yes.

12 Q. Jurisdictions all over the world?

13 A. Yes.

14 Q. And if you look at some of these at the bottom
15 of page 219, there's a list of co-ownership of various
16 subs by other subs. Is that a fair characterization?

17 A. Yes.

18 Q. Is this just sort of a tip-of-the-iceberg piece
19 of evidence of the complexity of AIG?

20 A. I don't know what you mean by "tip of the
21 iceberg."

22 Q. Well, AIG had more than the subsidiaries that
23 are listed here, correct?

24 A. It was my understanding that there were over
25 4000 legal vehicles inside the company.

1 Q. Right. And you worked at Citibank. How would
2 you compare the complexity of AIG to Citibank?

3 A. Citibank was, in absolute terms, about three
4 times larger in terms of its balance sheet, number of
5 employees, and so forth, but I would say AIG's every bit
6 as complex as Citi.

7 Q. Okay. Turning to page 179, I'll just ask you to
8 look at the lower right-hand side where it says
9 "Guarantees." Do you see that?

10 A. Yes.

11 Q. In the second paragraph, it says, "AIG has
12 issued unconditional guarantees with respect to the
13 prompt payment, when due, of all present and future
14 payment obligations and liabilities of AIGFP arising
15 from transactions entered into by AIGFP."

16 And did you understand that obligation to exist
17 while you were at AIG?

18 A. I can't say that I did, no.

19 Q. Okay, page 162. If you look under "AIGFP," the
20 second sentence of that section, it says, "In most
21 cases, AIGFP does not hedge its exposures related to the
22 credit default swaps it has written." Do you see that?

23 A. Yes.

24 Q. And do you know why AIG undertook to disclose
25 that FP did not hedge its exposures related to the CDS

1 it had written?

2 A. Why they did disclose it?

3 Q. Right.

4 A. I don't know.

5 Q. DX 125, it's in the first binder.

6 A. I'm sorry. What are we looking at?

7 Q. First binder, DX 125. This -- can you describe
8 what this document is?

9 A. It's headed "Fitch Discusses Rating Rationale
10 Behind AIG Downgrade."

11 Q. Okay. And you would have been on the board, you
12 would have been -- you were on the board at this stage,
13 not in the management, correct?

14 A. Yes.

15 Q. Would you have been apprised or seen credit
16 rating documents such as these?

17 A. I think so.

18 MR. ROBERSON: Your Honor, we move to admit
19 DX 125.

20 MR. BOIES: May I ask a few questions on voir
21 dire?

22 THE COURT: Sure.

23 VOIR DIRE EXAMINATION

24 BY MR. BOIES:

25 Q. Good afternoon, Mr. Willumstad.

1 Do you know who prepared this document?

2 A. I don't.

3 Q. Do you know the purpose for which it was
4 prepared, other than just reading it?

5 A. No.

6 Q. Do you remember ever seeing this document
7 before?

8 A. No, I do not.

9 MR. BOIES: Objection, Your Honor.

10 THE COURT: I'll sustain the objection.

11 DIRECT EXAMINATION (cont.)

12 BY MR. ROBERSON:

13 Q. Do you recall that AIG was downgraded in May of
14 2008?

15 A. Yes.

16 Q. And do you recall whether it was downgraded by
17 Fitch?

18 A. I honestly don't remember which rating agencies
19 or whether it was all of them.

20 Q. Okay. Did you have an understanding of the
21 difference between AIG's -- AIGFP's collateral call
22 obligations relative to the CDS that monoline insurance
23 companies wrote specifically with respect to collateral
24 call obligations?

25 A. Could you restate that?

1 Q. So, FP, we've already discussed, had collateral
2 call obligations with respect to its counterparties,
3 correct?

4 A. Correct.

5 Q. Do you recall or did you know what the monoline
6 insurance companies' obligations were with respect to
7 posting collateral on their CDS?

8 A. What monoline insurance companies are you
9 referring to?

10 Q. Well, I'm just using generally the notion of
11 monolines, and do you understand what a monoline is?

12 A. I think I do. I'm not sure --

13 Q. Okay.

14 A. -- in what context you're using it.

15 Q. Well, in the context of underwriting CDS.

16 A. I'm sorry. I just don't understand.

17 Q. I apologize. Fair enough. We'll just move on.
18 I'll move to DX 116 and --

19 A. I'm sorry. What are we looking at?

20 Q. DX 116.

21 A. 116, okay.

22 Q. And can you tell me what this document is?

23 A. It's titled "Finance Committee Meeting Agenda,
24 April 17, 2008."

25 Q. And earlier I believe you mentioned that you

1 were on the finance committee?

2 A. No, I -- I said that I was the chair of the
3 finance committee when I first joined the board. I
4 am -- I was -- as chairman, I was ex officio on all of
5 the committees.

6 Q. Okay. So, if you look at -- I'll just -- if you
7 look at the -- what is it, the -- one, two, three -- the
8 fourth page of the document, there are minutes --

9 A. Yes.

10 Q. -- of the finance committee held on December
11 13th, 2007, and it indicates that you attended ex
12 officio?

13 A. Yes.

14 MR. ROBERSON: Your Honor, we move to admit
15 DX 116.

16 MR. BOIES: No objection, Your Honor.

17 THE COURT: Defendant's Exhibit 116 is admitted.
18 (Defendant's Exhibit Number 116 was admitted
19 into evidence.)

20 BY MR. ROBERSON:

21 Q. Now, I want to just ask you briefly, if you look
22 at the board minutes for the -- for December 13th, 2007,
23 if you go down to the -- to page 6 -- and you will have
24 to look on the left-hand side. The pages are turned
25 sideways, and you'll see --

1 A. I'm sorry. You said board minutes?

2 Q. Yes -- no, I mean the finance committee minutes.
3 I'm sorry.

4 A. Okay. What are we looking for?

5 Q. Page 6. Looking -- you are going to have to
6 turn it sideways and look at the minutes, the numbers.

7 A. Okay.

8 Q. And the first statement here is that
9 Mr. Cassano -- do you recall who Mr. Cassano was?

10 A. Yes.

11 Q. Who was he?

12 A. He was the head of FP.

13 Q. Okay. And here it says, "Mr. Cassano described
14 the models used to determine the super senior attachment
15 points and noted that AIGFP never relies on the rating
16 agencies analysis."

17 Do you recall that statement?

18 A. I can't say that I do, no.

19 Q. Okay. And there's a phrase here, "Mr. Cassano
20 described the stress test applied to AIGFP portfolio,
21 and explained why the portfolio includes some 2006 and
22 2007 vintages where the managers could continue to buy
23 and substitute."

24 Do you know what that refers to?

25 A. I don't.

1 Q. Okay. And you asked -- here it says that you
2 asked Mr. Cassano to describe other scenarios, and
3 Mr. Cassano assured the committee that even in the worst
4 possible situation, the AIGFP exposure is limited. Do
5 you recall Mr. Cassano making statements to that effect?

6 A. I do recall him making those types of
7 statements. I don't know that it was specifically at
8 this meeting, but...

9 Q. Okay.
10 If I may, Your Honor?

11 THE COURT: Sure.
12 (Counsel conferring.)

13 BY MR. ROBERSON:

14 Q. I think we just need to clear up one part
15 apparently with -- let me just try to clear it up. I
16 won't describe it.

17 If we could turn back to JX 74, which are the
18 board minutes, and if you would turn to page 8, I had
19 asked you about statements by Mr. Herzog with respect to
20 the securities lending program and insurance regulators
21 in the context of potential defaults the next day. Do
22 you see that?

23 A. Yes.

24 Q. And do you recall having looked at that earlier
25 today?

1 A. Yes.

2 Q. Did you agree with Mr. Herzog's assessment of
3 the likely effects on AIG from a potential default,
4 specifically with respect to what insurance regulators
5 would do and with respect to the effect on the sec
6 lending programs?

7 A. I agreed with -- with the understanding that if
8 AIG didn't provide the funds, that the securities
9 lending program would go into default. I'm not sure
10 what the rest of your question is.

11 Q. Well, if you look at the third paragraph --
12 second full paragraph on page 9, it says, "Mr. Bensinger
13 added that the New York Department of Insurance stated
14 that it would seize the New York insurance companies if
15 AIG went into bankruptcy. Mr. Herzog agreed and stated
16 that based on his discussions, other insurance
17 commissioners would likely do the same."

18 So, my question is, did you agree with the
19 statement of Mr. Herzog here with respect to what
20 insurance regulators would do?

21 A. I -- I -- I was not qualified to -- to make that
22 judgment. I thought that that was both a regulatory and
23 a legal issue, which I didn't have any experience with.

24 Q. You had no reason to disagree with Mr. Herzog.
25 Would that be fair?

1 A. Well, I had no reason to disagree with him, yes.

2 Q. Okay.

3 Your Honor, I think that's -- I think that's
4 our -- I'll pass the witness.

5 THE COURT: All right, thank you.

6 Mr. Boies, would you like to start fresh in the
7 morning?

8 MR. BOIES: That would be fine, Your Honor.

9 THE COURT: All right. Let's adjourn for today,
10 and we will reconvene at 9:30 tomorrow morning.

11 (Whereupon, at 4:44 p.m., the proceedings were
12 adjourned.)

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CERTIFICATE OF TRANSCRIBER

I, Susanne Bergling, 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: 11/6/2014

SUSANNE BERGLING, RMR-CRR-CLR

1	ADMITTED EXHIBITS		
2	PX	PAGE	DESCRIPTION
3	197	6300	Email (9/21/2008 9:06 pm) From: Helen Mucciolo
4			To: Sarah Dahlgren, Jeremiah Norton re: Fw:
5			AIG Credit Agreement - All Hands Call for at 9
6			PM
7	212	6301	Email (9/22/2008) From: Marshall Huebner
8			To: Ted Yau, cc: Christopher Seymour re: RE:
9			Press Release
10	217	6325	Email (9/22/2008) From: Bradley Smith
11			To: Marshall Huebner, Ethan James, Joyce
12			Hansen re: RE: Periodic Commitment Fee
13	227	6281	Email (9/23/2008 10:48 am) From: Ethan James
14			To: James Hennessy, cc: Arthur Long, Bradley
15			Smith, Brett Philips, Denley Chew, Marshall
16			Huebner, Michel Beshara, Robert Heckart, Yue
17			Li re: Meeting follow-up
18	244	6284	Email (9/24/2008) From: Ethan James
19			To: James Hennessy, Victoria Zaydman, Suzanne
20			Folsom, cc: Yue Li, Michel Beshara re:
21			Communications Protocols
22	278	6257	October 2, 2008 Draft of AIG Credit Facility
23			Trust Agreement
24			
25			

