

COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

88DA0269

THE PEOPLE OF THE STATE OF CALIFORNIA,)
)
 PLAINTIFF-RESPONDENT,)
)
 VS.)
)
 JOE HUNT, AKA JOSEPH HUNT,)
 AKA JOSEPH HENRY GAMSKY,)
)
 DEFENDANT-APPELLANT.)

SUPERIOR COURT
NO. A-090435

OCT 09 1987

APPEAL FROM THE SUPERIOR COURT OF LOS ANGELES COUNTY
 HONORABLE LAURENCE J. RITTENBAND, JUDGE PRESIDING
 REPORTERS' TRANSCRIPT ON APPEAL

APPEARANCES:

FOR PLAINTIFF-RESPONDENT: JOHN K. VAN DE KAMP
 STATE ATTORNEY GENERAL
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FOR DEFENDANT-APPELLANT: IN PROPRIA PERSONA

VOLUME 58 OF 101
(PAGES 8928 TO 9150, INCLUSIVE)

COPY

ROSEMARIE GOODBODY, CSR NO. 932
SALLY YERGER, CSR NO. 2008
OFFICIAL REPORTERS

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

DEPARTMENT WEST C

HON. LAURENCE J. RITTENBAND, JUDGE

THE PEOPLE OF THE STATE OF CALIFORNIA,)

PLAINTIFF,)

VS.)

NO. A-090435

JOSEPH HUNT,)

DEFENDANT.)

REPORTERS' DAILY TRANSCRIPT

MONDAY, MARCH 2, 1987

VOLUME 58

PAGES 8978 TO 9150, INCL.

APPEARANCES:

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AND

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ROSEMARIE GOODBODY, CSR NO. 932
SALLY YERGER, CSR NO. 2008
OFFICIAL REPORTERS

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3 P.M.

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1 SANTA MONICA, CALIFORNIA; MONDAY, MARCH 2, 1987; 10:45 A.M.

2 DEPARTMENT WEST C HON. LAURENCE J. RITTENBAND, JUDGE

3 (APPEARANCES AS NOTED ON TITLE PAGE.)

4
5 THE COURT: GOOD MORNING, LADIES AND GENTLEMEN.

6 CALL YOUR NEXT WITNESS, PLEASE.

7 MR. WAPNER: YES, DR. JULIUS PASKAN.

8 WALK RIGHT AROUND HERE AND STAND RIGHT HERE AND
9 RAISE YOUR RIGHT HAND.

10
11 JULIUS PASKAN,

12 CALLED AS A WITNESS BY THE PEOPLE, WAS SWORN AND TESTIFIED
13 AS FOLLOWS:

14 THE CLERK: IF YOU WOULD RAISE YOUR RIGHT HAND, PLEASE.

15 YOU DO SOLEMNLY SWEAR THAT THE TESTIMONY YOU MAY
16 GIVE IN THE CAUSE NOW PENDING BEFORE THIS COURT SHALL BE THE
17 TRUTH, THE WHOLE TRUTH AND NOTHING BUT THE TRUTH, SO HELP
18 YOU GOD.

19 THE WITNESS: I DO.

20 THE CLERK: WOULD YOU BE SEATED THERE AT THE WITNESS
21 STAND.

22 MR. BARENS: MIGHT WE APPROACH AT THIS JUNCTURE HERE,
23 PLEASE?

24 THE COURT: ALL RIGHT.

25 MR. BARENS: THANK YOU, YOUR HONOR.
26
27
28

1 (THE FOLLOWING PROCEEDINGS WERE HELD AT
2 THE BENCH:)

3 THE COURT: YES?

4 MR. BARENS: GOOD MORNING, YOUR HONOR. YOUR HONOR,
5 MR. WAPNER A MOMENT AGO, HANDED ME A PACKAGE OF EXHIBITS
6 HE PLANS TO GO THROUGH WITH THIS WITNESS. AND MY CONCERN
7 GOES PRIMARILY TO THE RELEVANCY.

8 MOST OF THE DOCUMENTS I WAS SHOWN, GOES THROUGH,
9 STEP BY STEP, THE INVESTMENTS THIS GENTLEMAN MADE WITH MR.
10 HUNT IN THE BBC, STARTING IN FEBRUARY OR SO OF 1984 THROUGH
11 OCTOBER OF 1984. I DON'T SEE HOW THE RELEVANCY OF SHOWING
12 EVERY, SINGLE INVESTMENT THIS GENTLEMAN MADE IN THE BBC --
13 IF WE WERE HERE TRYING A CASE OF MONEY DUE AND OWING OR
14 FRAUD OR CONVERSAION, A CIVIL CONVERSAION OR A MATTER OF
15 THAT NATURE, I COULD SEE IT.

16 BUT I DON'T SEE WHAT THIS DOES TO THE LEVIN CASE.

17 MR. WAPNER: IT IS OFFERED ON THE ISSUE OF MOTIVE.
18 THE OFFER OF PROOF IS THAT THIS WITNESS WILL TESTIFY HOW
19 MUCH HE INVESTED AND WHEN HE INVESTED. PRIMARILY, ALTHOUGH
20 HE STARTED INVESTING IN FEBRUARY, THERE WAS A LETTER SENT
21 OUT IN MAY, SAYING --

22 THE COURT: MAY OF '84?

23 MR. WAPNER: '84, SAYING THINGS ARE GOING SO GREAT
24 THAT YOU BETTER GET IN NOW WHILE THE GETTING IS GOOD BECAUSE
25 WE ARE GOING TO CLOSE THIS OFF.

26 AND PARTLY AS A RESULT OF THAT AND ALSO AS A
27 RESULT OF THE FACT THAT HE HAD BEEN TOLD ALL ALONG HOW WELL
28 THINGS WERE GOING, THAT HE INVESTED CLOSE TO \$200,000 FROM

2

1 THE 1ST OF JUNE THROUGH I BELIEVE, THE 15TH.

2 WE'LL OFFER TESTIMONY LATER TO SHOW THAT THERE
3 WERE INVESTORS WHO WERE PAID OFF AT THE END OR IN THE MIDDLE
4 OF JUNE, SUPPOSEDLY FOR THE "PROFITS" THAT THEY MADE IN MR.
5 HUNT'S SCHEME.

6 THE RECORDS WILL SHOW THAT THERE WERE IN FACT,
7 NO PROFITS, THAT THE MONEY HAD ALL BEEN LOST BY THE END OF
8 MAY AND, THEREFORE, THE MONEY THAT WAS PAID TO THE SUBSEQUENT
9 INVESTORS HAD TO COME AT LEAST IN PART, FROM THE ALMOST
10 \$200,000 THAT THIS MAN GAVE.

11 THEREFORE, TO DEMONSTRATE THAT IN FACT, THIS
12 IS WHAT IS COMMONLY COME TO BE REFERRED TO AS A PONZI
13 SCHEME. THAT IS P-O-N-Z-I.

14 THAT IS THE PURPOSE OF THE TESTIMONY. IT IS
15 ALSO RELEVANT TO SHOW THAT THERE IS MOTIVE IN THE SENSE THAT
16 THESE INVESTORS AS WELL AS OTHERS WHO WILL TESTIFY, HAD BEEN
17 TOLD ALL ALONG BY MR. HUNT THAT THEY WERE IN FACT, MAKING
18 MONEY, WHEN THAT WAS NOT THE CASE.

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1 MR. BARENS: YOUR HONOR --

2 MR. CHIER: MAY I SPEAK TO COUNSEL, YOUR HONOR?

3 MR. BARENS: ALL RIGHT. IF I COULD JUST HAVE A MOMENT.

4 THE COURT: ALL RIGHT.

5 (UNREPORTED COLLOQUY BETWEEN MR. BARENS
6 AND MR. CHIER.)

7 MR. BARENS: YOUR HONOR, AGAIN ASSERTING OUR POINT UNDER
8 352, WE HAVE A MAJOR PROBLEM WITH THIS. WHAT WE ARE INTO
9 IS BAD GUY TYPE OF TESTIMONY THAT HE TAKES MONEY AND TELLS
10 PEOPLE THINGS ARE FINE WHEN THEY AREN'T.

11 IF YOUR HONOR WOULD CONSIDER THE FACT THAT THERE
12 IS A LARGE CORPUS OF MONEY HERE, NOT JUST FROM THIS VENTURE
13 BUT FROM A LOT OF DIFFERENT PEOPLE, THE PEOPLE CAN'T PROVE BY
14 THIS OR ANY OTHER SINGLE WITNESS WHAT THE BALANCES ARE
15 ACCRUING ACROSS THE BOARD IN THE ACCOUNT AT ANY GIVEN TIME
16 AND WHAT WE GET IS MISLEADING. WHAT WE DO IS SAY, BECAUSE
17 THIS GUY INVESTED AT A CERTAIN TIME HIS MONEY MUST HAVE BEEN
18 USED TO PAY PROFITS TO OTHER INVESTORS.

19 WELL, THE THIRD LEG OF THAT, THAT THERE IS NO
20 MONEYS AVAILABLE, THE PEOPLE CAN'T SHOW.

21 WHAT WE DO IS BY PUTTING TWO THINGS TOGETHER,
22 WE TRY TO SAY IT IS NECESSARILY WHAT THAT WAS FOR.

23 I CALL YOUR ATTENTION TO THIS TYPE OF TESTIMONY
24 WITH MR. MAY. MR. MAY SAYS, "BECAUSE I INVESTED AT A CERTAIN
25 TIME AND THEREAFTER FURNITURE IS PURCHASED, THEY MUST HAVE
26 BOUGHT THE FURNITURE WITH MY MONEY," IN TOTAL DISREGARD OF
27 THE POOL OF MONEY THAT WAS OTHERWISE AVAILABLE.

28 UNDER 352, TO PUT THIS WITNESS UP ON THE STAND

2
1 TO SHOW ALLEGEDLY AN ATTEMPT TO SHOW MR. HUNT IS A BAD GUY
2 BECAUSE HE TELLS THINGS ABOUT INVESTMENTS THAT AREN'T TRUE,
3 WHICH IS ALL THIS IS GOING TO ACCOMPLISH, YOU CAN'T PROVE
4 IT FROM THIS WITNESS, WHETHER THEY HAD MONEY OR NOT.

5 JUDGE, ALL YOU CAN PROVE IS THAT HE WAS LIED TO
6 OR MISREPRESENTED TO BUT THAT DOESN'T GO TO ANYTHING IN THIS
7 CASE AND ITS PREJUDICIAL INFLUENCE FAR OUTWEIGHS ITS PROBATIVE
8 VALUE THAT IT HAS, JUDGE.

9 MR. WAPNER: YOUR HONOR, I DON'T HAVE TO PROVE ANY SET
10 OF FACTS JUST WITH ONE WITNESS. THERE ARE WITNESSES WHO ARE
11 GOING TO COME IN FROM THE INVESTMENT HOUSE WHO WILL TESTIFY
12 THAT ALL OF THE MONEY --

13 THE COURT: THE OPERATION OF THE BBC HAS BECOME AN
14 INTEGRAL PART OF THIS ENTIRE CASE AND ALL OF THE CONSEQUENCES
15 WHICH FLOWED FROM THE LACK OF THE MONEY THAT HE HAD AND I
16 WILL PERMIT IT.

17 MR. BARENS: THANK YOU, YOUR HONOR.

F 18 (THE FOLLOWING PROCEEDINGS WERE HELD
19 IN OPEN COURT:)

20 THE CLERK: IF YOU WOULD STATE YOUR NAME FOR THE RECORD,
21 PLEASE.

22 THE WITNESS: JULIUS PASKAN.

23 THE CLERK: AND YOUR LAST NAME IS SPELLED?

24 THE WITNESS: P AS IN PAUL -A-S-K-A-N.

25

26

DIRECT EXAMINATION

27

BY MR. WAPNER:

28

Q DR. PASKAN, WHAT IS YOUR OCCUPATION?

1 A I AM A PHYSICIAN.

2 Q AND YOU ARE LICENSED TO PRACTICE MEDICINE IN THE
3 STATE OF CALIFORNIA?

4 A YES.

5 Q DO YOU HAVE A PRACTICE OF GENERAL MEDICINE?

6 A THAT IS CORRECT.

7 Q AND DO YOU KNOW A PERSON NAMED ALPH GORE?

8 A YES.

9 Q HOW IS HE RELATED TO YOU, IF HE IS AT ALL.

10 A WELL, HE HAS BEEN A PERSONAL FRIEND OF MINE FOR
11 OVER 25 YEARS.

12 Q AND THOROUGH MR. GORE, DID YOU COME TO KNOW A
13 PERSON WHO YOU SEE IN THE COURTROOM RIGHT NOW?

14 A YES.

15 Q WHO IS THAT PERSON?

16 A JOSEPH HUNT.

17 Q WOULD YOU JUST POINT HIM OUT, PLEASE, FOR THE
18 JURY.

19 A THE GENTLEMAN OVER THERE.

20 MR. WAPNER: INDICATING THE DEFENDANT FOR THE RECORD,
21 YOUR HONOR.

22 THE COURT: YES. I SUPPOSE BY NOW WE KNOW WHO HE IS,
23 DON'T WE?

24 MR. WAPNER: I JUST WANT TO MAKE THE RECORD CLEAR.

25 Q AND HOW WAS IT THAT YOU CAME TO KNOW MR. HUNT?

26 A WELL, IT WAS SORT OF A CIRCUITOUS ROUTE.

27 MR. GORE DESCRIBED AN INVESTMENT PLAN TO ME REGARDING

28 ARBITRAGE AND THEN HE BROUGHT OVER TWO OF HIS FRIENDS WHO

1 HAD INVESTED IN IT ALONG WITH HIMSELF, TO MY OFFICE, AND I
2 HEARD THEM OUT AND I FELT IMPRESSED SO I INVESTED.

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1 Q. WHO WERE THE FRIENDS THAT HE BROUGHT OVER TO
2 YOUR OFFICE?

3 A CHESTER BROWN AND STEVE WEISS.

4 Q HAD YOU MET MR. BROWN AND MR. WEISS BEFORE?

5 A NO.

6 Q WHEN MR. BROWN AND MR. WEISS CAME TO YOUR OFFICE,
7 WAS MR. GORE WITH THEM?

8 A YES.

9 Q AND AT THAT TIME, WHAT DID THEY TALK TO YOU ABOUT?

10 MR. BARENS: OBJECTION, YOUR HONOR. OBVIOUSLY, IT
11 IS HEARSAY.

12 MR. WAPNER: WELL, IT IS NOT HEARSAY IF IT IS NOT
13 OFFERED TO PROVE THE TRUTH, BUT ONLY THE EFFECT ON THE
14 LISTENER, THIS WITNESS AND THE REASON THAT HE THEREFORE,
15 ENGAGED IN SUBSEQUENT CONDUCT.

16 THE COURT: ALL RIGHT. THE JURY WILL BE SO INSTRUCTED
17 THAT THE PURPOSE OF THIS TESTIMONY WOULD BE FOR THAT LIMITED
18 PURPOSE.

19 Q BY MR. WAPNER: WHAT DID THEY TELL YOU?

20 A WELL, THEY TOLD ME -- THEY GAVE ME A RUNDOWN
21 OF WHAT ARBITRAGE WAS, THEIR CONCEPT OF IT AND THAT THEY
22 FELT STRONGLY THAT THAT WAS A GOOD THING AND THAT THEY HAD
23 INVESTED THEIR OWN MONEY AND THEY ENCOURAGED ME TO DO LIKEWISE.

24 Q BASED ON TALKING TO THEM, DID YOU MAKE A DECISION
25 TO INVEST SOME MONEY?

26 A YES.

27 Q ALL RIGHT. AND WHEN WAS THAT?

28 A IT WAS THE EARLY PART OF FEBRUARY.

1 Q OF WHAT YEAR?

2 A '84.

3 Q HOW MUCH MONEY DID YOU INVEST?

4 A INITIALLY?

5 Q YES.

6 A I THINK IT WAS FIVE OR TEN THOUSAND.

7 Q ALL RIGHT. AND DID YOU INVEST APPROXIMATELY
8 \$10,000 ON FEBRUARY THE 2ND OF 1984?

9 A YES.

10 Q AND WHAT WAS IT YOUR OPINION THAT YOU WERE
11 INVESTING IN?

12 A AN INVESTMENT PROGRAM THAT PAID HIGH DIVIDENDS.

13 Q WHAT KIND OF INVESTMENT PROGRAM?

14 A THEY SPELLED IT OUT TO ME IN QUITE GREAT DETAIL,
15 WHAT ARBITRAGE WAS SUPPOSED TO REPRESENT.

16 Q WHAT WAS TOLD TO YOU?

17 A WELL, IT WAS IN ESSENCE, A SYSTEM WHEREBY, THEY
18 WOULD BUY AT A CERTAIN PRICE SOME COMMODITIES OR STOCKS OR
19 GOLD OR SILVER OR METALS, PRECIOUS METALS AND THEN THEY WOULD
20 SELL THEM ELSEWHERE, SOME OTHER PART OF THE WORLD AT A HIGHER
21 PRICE AND THE DIFFERENCE SPELLED PROFITS FOR THEM.

22 Q WAS THIS GOING TO BE SOME KIND OF A COMMODITIES
23 INVESTMENT?

24 A THAT WAS MY UNDERSTANDING.

25 Q AND WHO WAS IT YOUR UNDERSTANDING WAS GOING TO
26 DO THE INVESTING?

27 A MR. HUNT.

28 Q AND UP TO THAT POINT, HAD YOU MET HIM?

3

1 A NO.

2 Q WHEN YOU MADE THE DECISION TO MAKE THE INVESTMENT,
3 WHAT DID YOU DO?

4 A WELL, I BASED MY DECISION TO INVEST ON THE
5 OPINIONS OF THESE THREE MEN AND I SIZED THEM UP IN MY OWN
6 MIND AND FELT THAT THEY WERE MEN OF GOOD CHARACTER AND HAD
7 BUSINESS ACUMEN, ESPECIALLY THE TYPE THAT I DIDN'T HAVE.

8 Q WHO DID YOU GIVE THE MONEY TO?

9 A I TOOK THE MONEY PERSONALLY TO THE BBC, TO THEIR
10 OFFICE ON THIRD STREET.

11 Q AND WHEN YOU TOOK THE MONEY TO THE OFFICE ON
12 THIRD STREET, WHO DID YOU GIVE IT TO?

13 A TO THE ATTORNEY OF THE CORPORATION.

14 Q MR. EISENBERG?

15 A I BELIEVE THAT WAS HIS NAME.

16 Q DID YOU GET A RECEIPT FOR THAT?

17 A YES.

18 Q AND AFTER MAKING YOUR INITIAL INVESTMENT, DID
19 YOU SUBSEQUENTLY, ABOUT TWO WEEKS LATER, INVEST SOME MORE
20 MONEY?

21 A YES.

22 Q HOW MUCH MORE MONEY DID YOU INVEST?

23 A I AM NOT SURE. I BROUGHT SOME PAPERS THAT REFLECT
24 THAT.

25 Q OKAY. THOSE ARE BEING REPRODUCED AS WE SPEAK,
26 I TAKE IT?

27 A I BELIEVE SO.

28 Q OKAY. THAT IS FEBRUARY THE 14TH THAT YOU INVESTED

-4
1 ANOTHER \$5,000?

2 A YES.

3 MR. WAPNER: YOUR HONOR, I HAVE A COPY OF A CHECK HERE
4 MADE OUT TO THE ORDER OF JOSEPH HUNT ON SECURITY PACIFIC
5 NATIONAL BANK.

6 IT APPEARS TO BE A CASHIER'S CHECK. IT SAYS
7 AT THE TOP "RE FINANCIAL FUTURES TRADING FROM JULIUS PASKAN,
8 M.D." FOR \$10,000. MAY THAT BE 186 FOR IDENTIFICATION?

9 THE COURT: BE SO MARKED.

10 Q BY MR. WAPNER: DR. PASKAN, SHOWING YOU PEOPLE'S
11 186 FOR IDENTIFICATION, DO YOU RECOGNIZE THAT?

12 A YES.

13 Q WHAT IS IT?

14 A IT IS A CHECK FOR \$10,000 TO THE FINANCIAL TRADING
15 LIMITED, PAY TO THE ORDER OF JOSEPH HUNT ON FEBRUARY 2, 1984.

16 Q AND AFTER YOU MADE THE INVESTMENT, AT SOME POINT,
17 DID YOU GET STATEMENTS OF THE -- RECEIVE STATEMENTS FROM
18 FINANCIAL FUTURES TRADING CORPORATION?

19 A YES.

20 Q AND WHAT DID YOU UNDERSTAND FINANCIAL FUTURES
21 TRADING CORPORATION TO BE?

22 A A TRADING CORPORATION THAT USED A SYSTEM CALLED
23 ARBITRAGE.

24

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1 Q AND THAT HAD TO DO WITH THE TRADING OF COMMODITIES
2 IN SOME FASHION?

3 A YES.

4 MR. WAPNER: YOUR HONOR, I HAVE WHAT APPEARS TO BE
5 A STATEMENT FROM FINANCIAL FUTURES TRADING CORPORATION,
6 NORTH AMERICA, IT IS DATED MARCH THE 1ST AND IT SAYS
7 "MR. AND MRS. JULIUS PASKAN"; MAY IT BE MARKED AS PEOPLE'S
8 187?

9 THE COURT: IT WILL BE SO MARKED.

10 MR. BARENS: COULD WE SEE THAT?

11 MR. WAPNER: I BELIEVE COPIES OF THIS WERE INCLUDED
12 IN DISCOVERY THAT HAD BEEN PROVIDED A LONG TIME AGO.

13 MR. BARENS: I WOULD JUST LIKE TO CONFIRM THAT.

14 Q BY MR. WAPNER: DOCTOR, THOSE STATEMENTS THAT
15 YOU RECEIVED, DID THEY REFLECT THE DATES THAT YOU MADE THE
16 INVESTMENTS AND THE AMOUNT THAT WAS INVESTED?

17 A YES.

18 Q SHOWING YOU 187 FOR IDENTIFICATION, DO YOU
19 RECOGNIZE THAT?

20 A YES.

21 Q WHAT IS IT?

22 A IT IS A QUARTERLY ACCOUNT STATEMENT FROM
23 NOVEMBER 15, 1983, IT SAYS UNTIL FEBRUARY 15, 1984.

24 Q AND WHAT IS THE DATE ON THAT STATEMENT?

25 A MARCH 1, 1984.

26 Q AND DOES THAT STATEMENT INDICATE THE DATE THAT
27 YOU MADE THE SECOND INVESTMENT WITH MR. HUNT?

28 A YES.

2
1 Q WHAT WAS THE DATE OF THE SECOND INVESTMENT?

2 A 2-14-84.

3 Q HOW MUCH WAS IT?

4 A \$5,000.

5 Q AND AFTER YOU MADE THOSE TWO INVESTMENTS, DID
6 YOU RECEIVE ANY --

7 WELL, DID YOU HAVE AN UNDERSTANDING AT THE TIME
8 YOU MADE THE INVESTMENTS AS TO WHAT KIND OF A RETURN YOU WERE
9 GOING TO GET?

10 A WELL, I UNDERSTOOD IT WAS GOING TO BE SOMEWHERE
11 AROUND 30, 40 PERCENT.

12 Q 30, 40 PERCENT OVER WHAT PERIOD OF TIME?

13 A PER YEAR.

14 Q AND WHO TOLD YOU THAT?

15 A THESE THREE GENTLEMEN I DESCRIBED.

16 Q AND DID YOU HAVE SOME UNDERSTANDING ABOUT HOW
17 MR. HUNT WAS GOING TO BE COMPENSATED AS A RESULT OF THIS
18 TRADING?

19 A I DON'T BELIEVE THAT WAS BROUGHT UP.

20 Q DR. PASKAN, I AM HANDING YOU SOME FILES; ARE THOSE
21 THE FILES THAT YOU BROUGHT WITH YOU TO COURT THIS MORNING?

22 A YES, YES.

23 Q AND DO YOU HAVE IN THERE A COPY OF THE SECOND
24 CHECK THAT YOU GAVE TO MR. HUNT?

25 A I AM LOOKING FOR A LIST THAT INCLUDES ALL OF THEM.

26 Q OKAY.

27 A I HAVE BEFORE ME A LIST THAT INCLUDES ALL OF THE
28 MONEYS THAT I INVESTED.

1 Q AND WHAT LIST IS THAT? IS THAT A LIST THAT YOU
2 GOT FROM MR. HUNT?

3 A YES.

4 Q AND WHAT IS THE DATE ON THAT?

5 A JUNE 18, 1984.

6 Q AND WHAT WAS THE SECOND AMOUNT THAT YOU INVESTED
7 WITH MR. HUNT?

8 A WELL, IT STATES HERE THAT I HAD A BALANCE OF
9 \$10,000 ON FEBRUARY 15, 1984.

10 AND THE NEXT DATE IS -- IT STATES HERE THAT ON
11 2-14-84, \$5,000 WAS PUT IN.

12 ON 6-1-84, \$25,000 WAS PUT IN.

13 ON 6-3-84, \$140,107.54 WAS PUT IN.

14 ON 6-16-84, \$25,000 WAS PUT IN.

15 Q WHAT DOES IT SAY -- THERE IS A STATEMENT JUST
16 UNDERNEATH THAT THAT HAS TO DO WITH DISTRIBUTION FOR THE
17 QUARTER.

18 A THAT WAS MY UNDERSTANDING OF THE PROFITS THAT
19 WERE MADE ON THE MONEYS INVESTED IN THAT QUARTER.

20 Q AND HOW MUCH IS THAT?

21 A \$9,969.02.

22 Q THAT IS THE PROFITS FOR WHAT PERIOD?

23 A FOR THE QUARTER ACCOUNT STATEMENT FEBRUARY 15, '84
24 TO MAY 15, '84.

25 Q NOW, DID YOU ACTUALLY GET THAT MONEY?

26 A I REINVESTED IT, I LEFT IT IN.
27
28

1 Q SO THIS IS SOMEBODY'S STATEMENT ON PAPER THAT
2 YOU MADE \$9,969.02?

3 A THAT'S CORRECT.

4 Q DID YOU EVER SEE A CHECK FOR THAT AMOUNT?

5 A NO.

6 Q DID YOU EVER SEE THAT AMOUNT AT ALL?

7 A NO.

8 Q NOW, LET'S GO BACK A LITTLE BIT. I WANT YOU
9 TO LOOK AT THE DOCUMENT WE HAVE MARKED AS 187.

10 SHOWING YOU THIS STATEMENT, THERE IS AN INDICATION
11 THAT YOU RECEIVED SOME MONEY ON FEBRUARY THE 15TH. IS THAT
12 RIGHT?

13 A YES.

14 Q AND YOU HAD INVESTED \$10,000 ON FEBRUARY 2ND,
15 CORRECT?

16 A YES.

17 Q AND ANOTHER \$5,000 ON FEBRUARY THE 14TH?

18 A YES.

19 Q AND WERE YOU PAID SOME PROFIT OR ALLEGED PROFIT
20 ON FEBRUARY THE 15TH OR AT LEAST AFTER THE STATEMENT OF MARCH
21 1ST?

22 A YES.

23 Q HOW MUCH WERE YOU PAID?

24 A \$466.46.

25 Q AND WHAT WAS THAT SUPPOSED TO REPRESENT?

26 A WELL, IT IS LISTED UNDER THE PROFIT AND LOSS
27 COLUMN OF THE NOVEMBER THROUGH FEBRUARY QUARTER. I BELIEVE
28 IT REPRESENTED A PROFIT.

1 Q AND WERE YOU ISSUED A CHECK TO THAT EFFECT BY
2 MR. HUNT?

3 A YES.

4 MR. WAPNER: ALL RIGHT. I HAVE A DOCUMENT I WOULD
5 LIKE TO HAVE MARKED AS 188 FOR IDENTIFICATION, YOUR HONOR.
6 IT IS A COPY OF A CHECK ON FINANCIAL FUTURES TRADING
7 CORPORATION.

8 THE COURT: ALL RIGHT.

9 MR. WAPNER: IT IS FOR \$466.46.

10 THE COURT: SO MARKED.

11 Q BY MR. WAPNER: SHOWING YOU 188 FOR
12 IDENTIFICATION, IS THAT A COPY OF A CHECK THAT YOU HAVE IN
13 FACT, IN YOUR FILES?

14 A YES.

15 Q OR ACTUALLY, A COPY OF THE CHECK? DO YOU HAVE
16 A COPY OF THAT IN YOUR FILES?

17 A YES, SIR.

18 Q AND IS THIS A CHECK THAT WAS WRITTEN TO YOU?

19 A YES, SIR.

20 Q WHO SIGNED THAT CHECK?

21 A JOSEPH HUNT.

22 Q WHAT WAS THE DATE?

23 A MARCH 15, 1984.

24 Q AND IT STATES THAT YOU RECEIVED 187 FOR
25 IDENTIFICATION. DOES IT SAY WHAT THE PERCENTAGE OF PROFIT
26 WAS THAT YOU WERE MAKING AT THAT TIME?

27 A AVERAGE MONTHLY RETURNS, 17.69 PERCENT.

28 Q SO THAT IS AN AVERAGE MONTHLY RETURN, IS THAT

1 CORRECT?

2 A YES.

3 Q SO THAT THAT IS SOMEWHERE AROUND 51 PERCENT FOR
4 THE QUARTER?

5 A I BELIEVE SO.

6 Q ALL RIGHT. AND THAT CHECK THAT YOU RECEIVED
7 FOR \$466 WAS SUPPOSED TO REPRESENT THAT PROFIT, CORRECT?

8 A YES, SIR.

9 Q AND THEN AFTER PAYING ANY ADDITIONAL \$5,000 ON
10 FEBRUARY 14TH, WHY DID YOU PUT IN ADDITIONAL MONEY THAT YOU
11 HAVE TOLD US ABOUT ON JUNE -- WELL, STRIKE THAT.

12 LET ME SEE IF I CAN BACK UP A LITTLE BIT.

13 AFTER YOU MADE THE TWO INITIAL INVESTMENTS OF
14 \$5,000 AND THEN \$10,000 AND YOU GOT THE CHECK BACK FOR \$466,
15 DID YOU TRY TO KEEP TRACK OF YOUR INVESTMENT?

16 A YES.

17 Q HOW DID YOU DO THAT?

18 A THROUGH MY BOOKKEEPER.

19 Q AND DID YOU HAVE ANY COMMUNICATION AT ALL WITH
20 MR. HUNT?

21 A NO.

22 Q DID YOU HAVE A MEETING AT ANY TIME WHERE MR.
23 HUNT WAS PRESENT AND THERE WERE OTHER INVESTORS THERE?

24 A THERE WAS A MEETING HELD AT THE TAIL OF THE COCK
25 RESTAURANT IN THE EARLY PART OF 1984.

26 Q ALL RIGHT. WHAT WAS THE PURPOSE OF THAT MEETING?

27 A TO GET THE INVESTORS ACQUAINTED WITH ONE ANOTHER
28 I BELEIVE AND ALSO FOR HIM TO HAVE A CHANCE TO ADDRESS THE

1 INVESTORS.

2 Q DID EVERYONE EAT A MEAL AT THAT MEETING?

3 A YES.

4 Q AND WHO PAID FOR THE MEAL?

5 A MR. HUNT.

6 Q HOW MANY PEOPLE WERE THERE?

7 A I WOULD ESTIMATE SOMEWHERE BETWEEN 60 AND 75.

8 Q AND AT THAT MEETING, WHAT DID MR. HUNT TELL YOU,
9 IF ANYTHING, ABOUT HOW YOUR INVESTMENT WAS DOING?

10 A WELL, HE WAS VERY OPTIMISTIC ABOUT IT.

11 Q WHAT DID HE SAY?

12 A THAT THE CORPORATION WAS DOING WELL.

13 Q DID HE TALK ABOUT HOW THE COMMODITIES TRADING
14 WAS GOING?

15 A WELL, HE SPOKE IN GENERAL TERMS. I DON'T QUITE
16 RECOLLECT EVERYTHING THAT WAS SAID IN THE MEETING.

17 BUT THE GIST OF THE THING WAS THAT THE INVESTMENTS
18 WERE DOING WELL AND THAT THE FUTURE OF THE CORPORATION WAS
19 VERY GOOD AND IT HAD A BRIGHT FUTURE.

20 Q NOW WHEN YOU LEFT THAT MEETING, WHAT DID YOU
21 FEEL ABOUT YOUR INVESTMENT?

22 A I FELT VERY GOOD.

23 Q AND DID YOU RECEIVE CORRESPONDENCE FROM MR. HUNT
24 AFTER THAT DATE?

25 A YES.

26 Q WHAT DID YOU RECEIVE FROM HIM?

27 A THERE WAS A LETTER STATING THAT THERE WAS A CUT-
28 OFF DATE FOR FUTURE INVESTMENTS.

1 Q AND WHEN WAS THAT, WHAT WAS THE DATE OF THAT
2 LETTER?

3 A DO YOU HAVE IT BEFORE YOU THAT I COULD TESTIFY
4 OFF OF TO SAVE TIME?

5 MR. WAPNER: YOUR HONOR, I HAVE A COPY OF WHAT APPEARS
6 TO BE A LETTER OF MAY 29, CONSISTING OF TWO PAGES. IT IS
7 FROM FINANCIAL FUTURES CORPORATION OF NORTH AMERICA, ON THEIR
8 LETTERHEAD.

9 IT IS JUST TITLED "DEAR INVESTOR."

10 MAY THAT BE MARKED 189?

11 THE COURT: SO MARKED.

12 Q BY MR. WAPNER: SHOWING YOU 189 FOR IDENTIFICATION,
13 DO YOU RECOGNIZE THAT?

14 A YES, I DO.

15 Q WHAT IS IT?

16 A IT IS A LETTER SENT OUT TO THE INVESTORS FROM
17 FINANCIAL FUTURES TRADING CORPORATION DATED MAY 29, 1984.

18 Q DID YOU RECEIVE THAT LETTER AT YOUR OFFICE OR
19 AT YOUR HOME?

20 A YES, I DID.

21 Q AND WHEN YOU GOT THAT LETTER, WHAT DID YOU DO?

22 A WELL, I COMMUNICATED WITH THE THREE GENTLEMEN
23 THAT I DESCRIBED, MR. GORE, BROWN AND WEISS AND AFTER
24 DISCUSSING WITH THEM THAT THEY WERE PUTTING MONEY IN ALSO,
25 I DECIDED TO -- AND THEY PUT IN MORE MONEY THAN I HAD AND
26 WAS CONTEMPLATING -- I FELT MORE SECURE BECAUSE THEY WERE
27 STUDYING THE SITUATION VERY CLOSELY ALL THE TIME AND HAD
28 FAR MORE TIME TO DO THAT THAN I DID.

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1 Q AND WAS IT ALSO IN PART --

2 DID YOU TALK TO MR. WEISS AND MR. GORE AND

3 MR. BROWN AFTER YOU GOT THE LETTER OF MAY THE 29TH?

4 A YES, BUT NOT IN MY OFFICE.

5 I TALKED TO THEM ON THE PHONE.

6 Q WAS THAT FOR THE PURPOSE OF DECIDING WHETHER OR

7 NOT YOU WERE GOING TO INVEST MORE MONEY?

8 A YES.

9 Q AFTER TALKING TO THEM, DID YOU INVEST MORE MONEY?

10 A YES.

11 Q HOW MUCH?

12 A WELL, ON JUNE 1, '84, \$25,000.

13 ON JUNE 3, '84, \$140,107.54.

14 ON JUNE 16, '84, \$25,000.

15 Q WHY THE \$140,107.54?

16 A WELL, I APPLIED FOR A LOAN MORTGAGE ON MY BUILDING

17 AND THAT IS WHAT CAME OUT AFTER ESCROW.

18 Q WHEN YOU GOT THOSE AMOUNTS OF MONEY ON THOSE
19 DATES, WHAT DID YOU DO WITH THEM; DID YOU TAKE THEM DOWN TO
20 THE BBC OFFICES?

21 A YES.

22 Q AND AFTER PUTTING THAT -- AT THE TIME THAT YOU
23 PUT THAT MONEY IN, DID YOU FEEL THAT THE INVESTMENT WAS DOING
24 WELL?

25 A YES.

26 Q WHEN YOU RECEIVED THE LETTER OF MAY THE 29TH,
27 OTHER THAN SAYING THAT THERE WAS GOING TO BE A LIMIT ON
28 FUTURE INVESTMENTS, WHAT DID IT SAY ABOUT HOW THE TRADING

2
1 WAS DOING?

2 A WELL, IT GAVE A VERY OPTIMISTIC PICTURE OF HOW
3 IT WAS DOING.

4 Q AND AFTER PUTTING IN THAT MONEY, THAT WAS A TOTAL
5 BETWEEN JUNE 1ST AND JUNE 16 OF APPROXIMATELY \$190,000?

6 A YES.

7 Q WHAT HAPPENED AFTER YOU PUT IN THAT MONEY, DID
8 YOU GET THE STATEMENT OF JUNE THE 18TH?

9 A YES.

10 MR. WAPNER: YOUR HONOR, I HAVE WHAT APPEARS TO BE A
11 COPY OF THE STATEMENT OF JUNE THE 18TH, 1984 ON THE FINANCIAL
12 FUTURES TRADING CORPORATION OF NORTH AMERICA LETTERHEAD TO
13 DR. JULIUS PASKAN; MAY THAT BE 190 FOR IDENTIFICATION?

14 THE COURT: IT WILL BE SO MARKED.

15 Q BY MR. WAPNER: SHOWING YOU 190 FOR IDENTIFICATION,
16 WHAT IS THAT?

17 A IT IS A QUARTERLY ACCOUNT STATEMENT OF FINANCIAL
18 FUTURES TRADING CORPORATION DATED JUNE 18, 1984.

19 Q AND THAT IS THE ONE THAT INDICATES THAT YOU MADE
20 ALMOST \$10,000 PROFIT DURING THAT QUARTER?

21 A YES.

22 Q AND THE BULK OF THE MONEY THAT WAS INVESTED DURING
23 THE QUARTER BETWEEN MARCH THE 15TH AND JUNE THE 15TH WAS
24 INVESTED FROM THE 1ST OF JUNE UNTIL THE 15TH OF JUNE; IS THAT
25 CORRECT?

26 A YES.

27 Q AND AT THAT POINT WHEN YOU GOT THAT STATEMENT
28 OF JUNE THE 18TH, DID YOU FEEL THAT YOU WERE -- YOUR INVESTMENT

1 WAS DOING PRETTY WELL?

2 A YES, I DID. THAT IS WHY I REINVESTED THE
3 DISTRIBUTION FOR THE QUARTER.

4 Q INCIDENTALLY, IN TERMS OF REINVESTING THE
5 DISTRIBUTION FOR THE QUARTER, DID YOU, BEFORE THOSE QUARTERLY
6 STATEMENTS CAME OUT, GET RECEIPTS FROM MR. HUNT ABOUT WHAT
7 YOU WANTED TO DO WITH THE PROFITS?

8 A YES.

9 Q DID YOU GET ONE OF THOSE BEFORE THE MARCH QUARTERLY
10 STATEMENT CAME OUT?

11 A I BELIEVE I DID.

12 Q AND AGAIN, ONE SOMETIME BEFORE THE JUNE QUARTERLY
13 STATEMENT CAME OUT?

14 A YES.

15 Q WHAT WOULD THEY SAY?

16 A THEY GAVE ME THE OPTION EITHER TO TAKE IT OUT
17 OR REINVEST IT.

18 Q AND THAT WAS BEFORE ANY PROFITS WERE DISTRIBUTED?

19 A RIGHT.

20 Q AT THE FIRST DISTRIBUTION, WHICH WAS IN MARCH,
21 YOU MADE A DECISION TO TAKE OUT PROFIT WHICH CAME TO ABOUT
22 FOUR HUNDRED SOME ODD DOLLARS?

23 A YES.

24 Q OTHER THAN THE SECOND TIME WHEN YOU GOT THE
25 STATEMENT ASKING WHETHER OR NOT YOU WANTED TO REINVEST OR
26 TO TAKE THE MONEY OUT, YOU DECIDED TO LEAVE THE MONEY IN;
27 IS THAT RIGHT?

28 A YES.

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1 Q AT THE TIME YOU WERE GIVEN THE OPTION OF TAKING
2 THE PROFIT OUT OR ROLLING IT OVER, SO TO SPEAK, WHEN YOU GOT
3 THOSE STATEMENTS FROM MR. HUNT, DID IT SAY THAT YOUR PROFIT
4 FOR THE QUARTER IS X AMOUNT OF DOLLARS, WHAT DID YOU WANT
5 TO DO WITH IT OR DID IT JUST SAY, PLEASE ADVISE ME WHAT YOU
6 WANT TO DO WITH YOUR PROFIT, IF ANY?

7 A WELL, HE GAVE US AN OPTION OF EITHER TAKING IT
8 OUT OR LEAVING IT IN.

9 Q WHEN YOU GOT THE STATEMENT THAT GAVE YOU THE OPTION
10 TO TAKE IT OR LEAVE IT IN, IT DIDN'T HAVE A DOLLAR FIGURE
11 ON IT, DID IT?

12 A I AM NOT SURE.

13 Q AFTER YOU MADE THE DECISION TO LEAVE IN THE
14 \$10,000 OR SO THAT WAS THE ALLEGED PROFIT IN THE MARCH TO
15 JUNE QUARTER, WHAT HAPPENED AFTER THAT?

16 A WE RECEIVED A LETTER, I THINK I MENTIONED THAT
17 EXHIBIT 189 DATED MAY 29, WE RECEIVED THAT LETTER STATING
18 THAT -- MAY I QUOTE A SENTENCE OR TWO FROM IT THAT IMPRESSED
19 ME?

20 Q YES.

21 THIS IS THE LETTER THAT YOU GOT BEFORE YOU PUT
22 IN ALL OF THE MONEY?

23 A YES.

24 Q OKAY.

25 A IT SAID THAT:

26 "AFTER JUNE 15, 1985, THERE WILL BE
27 NO ADDITIONS TO PARTNERSHIP ACCOUNTS.

28 "FURTHER, ALL PROFITS WILL AUTOMATICALLY

5 1 BE DISBURSED TO INVESTORS."

2 Q SO THAT WAS SUPPOSED TO BE A CHANGE IN THE PREVIOUS
3 POLICY; IS THAT RIGHT?

4 A YES.

5 AT THE SECOND PARAGRAPH OF THE SAME LETTER SAYS:

6 "THE PROFITS ON OUR INVESTMENTS OVER
7 THE LAST YEAR HAVE FURTHER SWELLED TRADING CAPITAL.

8 "THIRD, IT APPEARS THAT THE OPTIMUM
9 TRADING ENVIRONMENT EXISTS TO INSURE PROFITABILITY
10 IN THE COMING TRADING QUARTER."

11 AND THEN IT IS THAT THAT WAS VERY ENCOURAGING
12 TO ME, AMONG OTHER THINGS IN THE LETTER, TO CONTINUE TO
13 INVESTMENT WITH THEM.

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1 Q OKAY. INCIDENTALLY, I WANT TO SHOW YOU A DOCUMENT
2 THAT IS ALSO ON FINANCIAL FUTURES TRADING CORPORATION
3 STATIONERY OR LETTERHEAD DATED APRIL 12, 1984.

4 A YES.

5 MR. WAPNER: MAY THAT BE MARKED AS 191 FOR IDENTIFICATION?

6 THE COURT: SO MARKED.

7 Q BY MR. WAPNER: SHOWING YOU A LETTER WE HAVE
8 MARKED AS 191 FOR IDENTIFICATION, DATED APRIL 12, DO YOU
9 RECOGNIZE THAT?

10 A YES.

11 Q WHAT IS IT?

12 A IT IS A LETTER THAT GIVES THE INVESTORS OPTION
13 OF HAVING -- IT STATES, "I WOULD LIKE TO HAVE MY PROFITS
14 MAILED TO ME. I WOULD LIKE TO REINVEST ANY PROFITS. OTHER,
15 PLEASE SPECIFY."

16 Q AND IS THAT LETTER IDENTICAL TO ONE YOU RECEIVED
17 IN APRIL?

18 A YES.

19 Q AND IS THERE ANY DOLLAR AMOUNT AT ALL INDICATED
20 ON THAT LETTER?

21 A NO.

22 Q IT DOESN'T SAY HOW MUCH MONEY YOU WERE TO GET?
23 IT SAYS IF YOU GET ANY PROFITS, DO YOU WANT TO KEEP THEM
24 OR REINVEST THEM? CORRECT?

25 A YES.

26 Q AFTER PUTTING IN THE MONEY ON JUNE THE 12TH,
27 WHAT HAPPENED?

28 A I AM NOT SURE OF THE DATES. BUT I THINK IN A

2
1 MONTH OR TWO, WE WERE GETTING SIGNALS THAT THERE WERE PROBLEMS
2 IN THE CORPORATION.

3 Q AND THERE WAS SUPPOSED TO BE ANOTHER DISTRIBUTION
4 OF PROFITS IN SEPTEMBER, IS THAT RIGHT?

5 A YES.

6 Q AND DID YOU GET A DISTRIBUTION OF PROFITS IN
7 SEPTEMBER?

8 A NO.

9 Q DID YOU CONTINUE TO GET LETTERS FROM MR. HUNT
10 OVER THE SUMMER?

11 A I BELIEVE SO.

12 Q WHEN HE SENT YOU THE LETTER ON MAY 29, IT SAID
13 THAT HE WAS AUTOMATICALLY GOING TO SEND YOU THE PROFIT AT
14 THE END OF THE QUARTER, CORRECT?

15 A YES.

16 Q DID YOU GET ANOTHER LETTER FROM HIM ON JULY THE
17 18TH, THAT KIND OF REVERSED THAT POLICY AND SAID, GUESS WHAT,
18 WE ARE NOT GOING TO HAVE TO AUTOMATICALLY SEND YOU MONEY
19 AT THE END OF THE QUARTER?

20 A I BELIEVE SO.

21 MR. WAPNER: YOUR HONOR, I HAVE ANOTHER DOCUMENT DATED
22 JULY 18. MAY IT BE 192 FOR IDENTIFICATION?

23 MR. BARENS: YOUR HONOR, WE MOVE TO STRIKE COUNSEL'S
24 REMARK "GUESS WHAT". I JUST CAN'T FIND THAT IN THE LETTER.

25 THE COURT: WE'LL STRIKE IT.

26 MR. BARENS: I CAN'T FIND IT IN THE LETTER AT ALL.

27 THE COURT: WE'LL STRIKE IT.

28 MR. BARENS: THANK YOU.

1 Q BY MR. WAPNER: SHOWING YOU 192 FOR IDENTIFICATION,
2 DO YOU RECOGNIZE THAT?

3 A YES.

4 Q DID YOU RECEIVE A COPY OF THAT LETTER FROM MR.
5 HUNT?

6 A YES, SIR.

7 Q WHAT DOES THAT LETTER SAY IN ESSENCE?

8 A (NO AFFIRMATIVE RESPONSE.)

9 Q DOES IT FIRST OF ALL, PUT A MORATORIUM ON FURTHER
10 INVESTMENTS?

11 A YES, IT DOES.

12 Q IS THAT LETTER SIGNED BY MR. HUNT?

13 A YES.

14 Q DOES IT ALSO SAY THAT AUTOMATIC DISTRIBUTIONS
15 OF PROFITS WILL NOT BE MANDATORY AT THE QUARTER'S END, AS
16 HE HAD PREVIOUSLY SAID?

17 A YES.

18 Q AND AFTER GETTING THAT LETTER, DID YOU GET SOME
19 OTHER SIGNALS? YOU GOT SIGNALS THAT YOUR INVESTMENTS WERE
20 NOT DOING WELL?

21 A YES.

22 Q WHAT WERE THOSE?

23 A I THINK THERE WAS A LETTER THAT CAME OUT STATING
24 THAT THERE WOULD BE A MEETING OF ALL OF THE INVESTORS ON
25 A CERTAIN SATURDAY IN SEPTEMBER, IN WHICH THE CORPORATION
26 WOULD DELINEATE TO THE INVESTORS THE PROBLEMS IT WAS FACING.

27 Q AND AFTER YOU GOT THAT LETTER, DID YOU GO TO
28 THE MEETING IN SEPTEMBER?

1 A YES, I DID.

2 Q AND WHEN YOU WENT TO THE MEETING IN SEPTEMBER,
3 WHERE WAS IT HELD?

4 A IT WAS HELD IN BEVERLY HILLS. I AM NOT CERTAIN
5 OF THE ADDRESS.

6 Q WHEN YOU WENT TO THAT MEETING, WHO PRESIDED AT
7 THE MEETING?

8 A MR. HUNT.

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1 Q AND AT THAT TIME, DID YOU FIND OUT THAT YOUR
2 INVESTMENT MIGHT NOT HAVE BEEN DOING AS WELL AS YOU PREVIOUSLY
3 HAD THOUGHT?

4 A YES.

5 Q WHAT WERE YOU TOLD AT THAT TIME?

6 MR. BARENS: I AM PRESUMING THAT WE ARE TALKING ABOUT
7 WHAT MR. HUNT SAID AT THE MEETING? IS THAT THE RESPONSE
8 YOU ARE ELICITING?

9 THE COURT: YES.

10 Q BY MR. WAPNER: WHAT DID MR. HUNT TELL YOU AT
11 THE MEETING?

12 A THAT THERE WERE SOME PROBLEMS IN THE MANNER IN
13 WHICH FUNDS WERE INVESTED AND THAT IN HIS ABSENCE, THE PARTNERS
14 OR ONE OR MORE HAD ISSUED SOME TYPE OF A SIGNAL TO THE
15 COMMODITIES EXCHANGE THAT WAS CONTRARY TO WHAT HE HAD GIVEN.
16 AS A RESULT, THERE WAS A GREAT LOSS.

17 Q HOW GREAT? AS FAR AS YOU WERE CONCERNED, AS
18 FAR AS THE MONEY THAT YOU INVESTED WAS CONCERNED, HOW GREAT
19 WAS THE LOSS?

20 A WELL, I AM NOT SURE HOW TO ANSWER THAT QUESTION
21 HOW GREAT.

22 Q LET ME ASK YOU A DIFFERENT QUESTION. MAYBE I
23 CAN ASK IT A DIFFERENT WAY. DID YOU EVER GET ANY OF THE
24 MONEY BACK THAT YOU INVESTED OTHER THAN \$466?

25 A NO.

26 Q TO THIS DATE, HAVE YOU RECEIVED ANY OF THE MONEY
27 BACK THAT YOU HAVE INVESTED?

28 A NO.

1 Q YOU SAID THAT MR. HUNT MADE THE STATEMENT THAT
2 THERE WERE SOME PROBLEMS WITH SOME OF HIS COLLEAGUES OR
3 ASSOCIATES DOING CERTAIN THINGS?

4 A I BELIEVE SO.

5 Q CAN YOU BE MORE SPECIFIC IN TERMS OF WHAT IT
6 WAS EXACTLY?

7 A WELL, I THINK I ALREADY ANSWERED THAT, DIDN'T
8 I?

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1 Q DID HE ESSENTIALLY SAY THAT BECAUSE OF ERRORS
2 THAT WERE MADE BY HIS ASSOCIATES IN DOING SOME OF THE TRADING
3 THAT THE MONEY WAS LOST?

4 MR. BARENS: OBJECTION. HE IS CHARACTERIZING THE
5 TESTIMONY.

6 THE COURT: SUSTAINED.

7 MR. BARENS: THANK YOU.

8 Q BY MR. WAPNER: WHAT WAS IT THAT HE SAID ABOUT
9 WHAT THESE PEOPLE HAD DONE?

10 MR. BARENS: OBJECTION. ASKED AND ANSWERED BOTH ON
11 THE RECORD AND HE IS TESTIFYING FOR THE RECORD.

12 THE COURT: OVERRULED.

13 YOU MAY ANSWER.

14 THERE HASN'T BEEN ANY DEFINITE ANSWER.

15 DO YOU RECALL WHAT WAS SAID ABOUT WHAT HIS
16 ASSOCIATES HAD DONE?

17 THE WITNESS: WELL, I AM NOT THAT FAMILIAR WITH THAT
18 TYPE OF TRADING.

19 BUT I UNDERSTAND, TO PUT IT IN SIMPLE TERMINOLOGY,
20 SOMEBODY ZIGGED WHEN THEY SHOULD HAVE ZAGGED AND IT MADE THE
21 DIFFERENCE. THEY SHOULD HAVE SOLD WHEN THEY BOUGHT OR THEY
22 SHOULD HAVE BOUGHT WHEN THEY SOLD, PUT IN THAT TYPE OF ORDER
23 AND AS A RESULT THERE WAS A MARKED FINANCIAL LOSS.

24 Q BY MR. WAPNER: WOULD IT BE FAIR TO CHARACTERIZE
25 THAT AS SAYING THAT THE LOSS WAS DUE, ACCORDING TO MR. HUNT,
26 TO THE ACTIONS OF SOMEBODY ELSE THAT HE SUPPOSEDLY ENTRUSTED
27 THIS TO AND NOT TO ANYTHING HE HAD DONE?

28 A YES.

2
1 I UNDERSTAND HE WAS ABSENT FROM THE OFFICE WHEN
2 THAT HAPPENED.

3 Q ACCORDING TO HIS STATEMENT?

4 A YES.

5 Q AND AT THAT MEETING, DID HE -- WELL, LET ME ASK
6 YOU THIS: WHEN YOU FIRST INVESTED WITH HIM, DID YOU SIGN
7 SOME KIND OF A LIMITED PARTNERSHIP AGREEMENT?

8 A YES.

9 Q AND WAS THAT LIMITED PARTNERSHIP AGREEMENT
10 REVISED AT SOME TIME DURING THE TIME THAT YOU WERE TRADING?

11 A YES.

12 Q AND AT THE MEETING THAT YOU HAD IN SEPTEMBER WHERE
13 HE SAID THAT THE MONEY HAD BEEN LOST, DID MR. HUNT DO OR SAY
14 ANYTHING WITH RESPECT TO GIVING YOU YOUR MONEY BACK?

15 A YES, HE DID.

16 Q WHAT DID HE DO?

17 A HE HAD PREPARED STATEMENTS THAT HE -- WE HAVE
18 A COPY OF IT HERE SOMEPLACE -- ENCOURAGING US TO GIVE HIM
19 A BREATHER, A BREATHING SPELL, IN WHICH TO GO OVER THE
20 ACCOUNTS AND THE BALANCE OF THE MONEY THAT WAS THERE, GIVE
21 HIM A CHANCE TO REINVEST IT AND THAT HE WOULD START PAYING
22 US A FEW MONTHS DOWN THE ROAD, A CERTAIN PERCENTAGE OF OUR
23 INVESTMENT.

24 Q AND WHEN HE SAID THAT, WHAT DID YOU DO?

25 A WELL, I TALKED IT OVER WITH SOME OF THESE OTHER
26 INVESTORS AND, OF COURSE, A NUMBER OF THEM WERE AT THAT TIME
27 VERY EMOTIONAL ABOUT THE WHOLE THING, SO I APPROACHED THEM
28 AGAIN A FEW DAYS LATER WHEN EVERYBODY WAS MORE OBJECTIVE ABOUT

1 IT AND SOME SIGNED THE AGREEMENT IMMEDIATELY, I AM NOT SURE
2 WHAT PERCENTAGE. A LOT DIDN'T.

3 AND I THOUGHT I WOULD GO HOME AND DIGEST THE
4 WHOLE SITUATION AND GET SOME COUNSEL AND THEN EVENTUALLY,
5 I SIGNED THE FORM.

6 Q ALL RIGHT. WHERE WAS IT THAT YOU SIGNED THIS
7 FORM?

8 WAS IT AT MR. HUNT'S OFFICE?

9 A YES.

10 Q AND WHY DID YOU SIGN IT?

11 A WELL, I FELT THAT WITH THE REMAINING FUNDS
12 JUDICIOUSLY HANDLED COMPLETELY BY HIM THAT WE HAD A FIGHTING
13 CHANCE TO RECOUP OUR LOSSES.

14 Q SO BASED ON WHAT HE SAID TO YOU AT THE MEETING,
15 YOU BELIEVED IN HIM?

16 A OH, YES.

17 Q AND WHEN YOU WENT BACK TO HIS OFFICE TO SIGN THE
18 AGREEMENT, DID YOU TALK TO HIM IN PERSON?

19 A YES.

20 Q DID YOU BELIEVE HE --
21 DID HE TELL YOU AT THAT TIME WHAT HE WAS GOING
22 TO DO TO TRY AND GET THE MONEY BACK?

23 A IN GENERAL, YES.

24 Q WHAT DID HE SAY?

25 A THAT -- WELL, WE WENT OVER THE AGREEMENT OR
26 CONTRACT, WHATEVER YOU WANT TO CALL IT, IN WHICH HE STATED
27 THAT CERTAIN AMOUNT OF FUNDS WOULD BE RETURNED SOMEWHERE IN
28 THE FIRST PART OF '85 AND THEN FURTHER, IN A FEW MONTHS, AN

4
1 ADDITIONAL AMOUNT WOULD BE RETURNED AND THEN A FEW MONTHS
2 LATER, THE BALANCE WOULD BE RETURNED. I THINK IT WAS IN THREE
3 INSTALLMENTS.

4 Q WHEN HE TOLD YOU THAT, DID YOU BELIEVE HIM?

5 A YES.

6 Q AND THAT WAS IN HIS OFFICE; IS THAT RIGHT?

7 A YES.

8 MR. WAPNER: YOUR HONOR, AS 193 FOR IDENTIFICATION,
9 I HAVE A PROMISSORY NOTE AND GENERAL RELEASE OF ALL CLAIMS;
10 MAY THAT BE MARKED AS 193?

3
11 THE COURT: YES.

12 Q BY MR. WAPNER: SHOWING YOU 193 FOR IDENTIFICATION,
13 DO YOU RECOGNIZE IT?

14 A YES.

15 Q WHAT IS IT?

16 A IT IS A PROMISSORY NOTE AND GENERAL RELEASE OF
17 ALL CLAIMS.

18 Q AND DOES THAT -- PART OF THAT RELEASE MR. HUNT,
19 OR THE LIMITED PARTNERSHIP ON BEHALF OF WHICH HE WAS TRADING,
20 FROM ANY RESPONSIBILITY FOR THE LOSSES THAT OCCURRED BEFORE
21 THE MEETING OF SEPTEMBER THE 21ST OR SO?

22 A I BELIEVE IT DOES.

23 THE COURT: HOW MUCH IS THE PROMISSORY NOTE FOR?

24 THE WITNESS: THE PROMISSORY NOTE IS FOR \$215,076.56.

25 THE COURT: WHO IS IT SIGNED BY?

26 THE WITNESS: IT WAS SIGNED BY JOSEPH HUNT.

27 THE COURT: IN BEHALF OF THE CORPORATION?

28 MR. WAPNER: YOUR HONOR, MAY I SUBSTITUTE ONE --

1 MR. BARENS: INDIVIDUALLY.

2 MR. WAPNER: -- AS 193, A DOCUMENT, IT IS AN IDENTICAL
3 DOCUMENT EXCEPT FOR THE FACT THAT THE FIRST ONE THAT WAS
4 MARKED ONLY HAS THE SIGNATURE OF THIS WITNESS AND THE ONE
5 THAT I AM GOING TO MARK NOW AND SUBSTITUTE WITH THE COURT'S
6 PERMISSION, HAS ALSO THE SIGNATURE OF MR. HUNT ON THE BOTTOM?

7 THE COURT: ALL RIGHT.

8 MR. BARENS: COULD I SEE THAT? I WANT TO MAKE SURE
9 I AM LOOKING AT THE RIGHT COPY. I DIDN'T QUITE FOLLOW WHAT
10 YOU SAID.

11 (UNREPORTED COLLOQUY BETWEEN COUNSEL.)

12 Q BY MR. WAPNER: IS THAT THE RELEASE, 193, THE
13 RELEASE THAT YOU SIGNED AND THAT MR. HUNT SIGNED?

14 A YES, JOSEPH HUNT PERSONALLY, IT SAYS.

15 Q AND WHEN YOU WENT TO THE OFFICE AND YOU SIGNED
16 THAT RELEASE AND MR. HUNT --

17 DID MR. HUNT SIGN THE PROMISSORY NOTE THAT DAY?

18 A THE NEXT DAY --

19 WHICH PROMISSORY NOTE?
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1 Q I AM TALKING ABOUT THE ONE THAT IS MARKED AS
2 193. WHAT WAS THE DATE UNDER HIS SIGNATURE?

3 A OCTOBER 4.

4 Q AND WHEN YOU WENT TO THE OFFICE, WAS THAT ON
5 SEPTEMBER THE 22ND?

6 A I THINK I SIGNED THAT ON SEPTEMBER -- A PROMISSORY
7 NOTE ON SEPTEMBER 22, 1984 IN MY OWN OFFICE AND THEN IT TOOK
8 ME A NUMBER OF DAYS TO GET OVER TO HIS OFFICE WITH IT IN
9 PERSON.

10 Q WHEN DID YOU GO TO HIS OFFICE IN PERSON?

11 A ON OCTOBER 4TH.

12 Q THAT IS THE DATE THAT HE SIGNED THE PROMISSORY
13 NOTE?

14 A YES.

15 Q AND AT THE TIME, DID YOU LOAN HIM SOME MORE MONEY?

16 A YES.

17 Q WHAT WAS THAT ALL ABOUT?

18 MR. BARENS: YOUR HONOR, EXCUSE ME. THE CHARACTERIZATION
19 "LOAN HIM SOME MORE MONEY," I DON'T BELIEVE THAT --

20 THE COURT: DID YOU GIVE HIM SOME MORE MONEY, WHATEVER
21 IT MIGHT HAVE BEEN FOR?

22 THE WITNESS: YES. I GAVE HIM SOME MORE MONEY.

23 Q BY MR. WAPNER: WHAT WAS THAT ABOUT?

24 A WELL, WHILE I WAS WAITING IN THE WAITING ROOM,
25 I OVERHEARD HIS SECRETARY ON THE PHONE, DISCUSSING WITH A
26 FRIEND THE FACT THAT SHE HAD A GOLDEN OPPORTUNITY TO BUY
27 A CAR FOR \$1600 AND SHE WAS UNABLE TO DO SO BECAUSE SHE HAD
28 NOT RECEIVED HER SALARY CHECK.

1 Q AND THEN DID YOU SAY SOMETHING ABOUT THAT TO
2 MR. HUNT?

3 A WELL, I DID. I SAID THAT I KNEW HE WAS PRETTY
4 HARD-STRAPPED AT THE PRESENT TIME AND I'M SORRY TO SEE YOUR
5 SECRETARY UNABLE TO MEET THIS OPPORTUNITY. AND I UNDERSTAND
6 IT IS \$1600, SO I WILL LEND YOU THE MONEY PROVIDED THAT YOU
7 REIMBURSE HER SALARY CHECK.

8 Q AND DID MR. HUNT AGREE TO GIVE YOU A PROMISSORY
9 NOTE FOR THE MONEY YOU WERE GOING TO LEND HIM?

10 A YES.

11 Q HOW MUCH DID YOU LEND HIM?

12 A I LENT HIM \$2,000.

13 Q AND DID HE GIVE YOU A PROMISSORY NOTE FOR THAT?

14 A YES.

15 Q DID YOU BELIEVE THAT MR. HUNT WOULD PAY YOU BACK
16 THE \$2,000?

17 A YES.

18 Q HAS HE PAID YOU BACK THE \$2,000?

19 A NO.

20 MR. WAPNER: I HAVE NOTHING FURTHER.

21 MR. BARENS: MOTION TO STRIKE THAT LAST LITTLE BIT
22 AS FAR AS RELEVANCY, YOUR HONOR.

23 THE COURT: I WILL LET IT STAND.

24 CROSS-EXAMINATION?

25 MR. BARENS: THANK YOU.
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27
28

1 CROSS-EXAMINATION

2 BY MR. BARENS:

3 Q DOCTOR, HAD YOU PREVIOUSLY BEEN AN INVESTOR IN
4 COMMODITIES OR SECURITIES PRIOR TO THE TIME THAT MR. GORE
5 AND MR. WEISS I BELIEVE IT WAS AND MR. BROWN CAME TO SEE
6 YOU?7 A NOT IN COMMODITIES OF THIS NATURE. I BOUGHT
8 STOCKS.

9 Q YOU BOUGHT STOCKS?

10 A THROUGH BROKERS AND --

11 Q SORRY, SIR?

12 A BOUGHT STOCK THROUGH BROKERAGE FIRMS LIKE E.
13 F. HUTTON AND ET CETERA.14 Q AND DID YOU SOMETIMES MAKE MONEY AND SOMETIMES
15 LOSE MONEY ON THOSE TRANSACTIONS?

16 A YES.

17 Q HAVE YOU EVER BEEN AN INVESTOR IN ANY TYPE OF
18 COMMODITIES TRANSACTIONS?

19 A NO.

20 Q DID YOU HAVE A PARTICULAR REASON WHY YOU MIGHT
21 HAVE STAYED AWAY FROM COMMODITIES TRADING PRIOR TO THIS
22 INVESTMENT HEREIN?23 A WELL, I DIDN'T UNDERSTAND THAT TYPE OF INVESTMENT
24 AND I UNDERSTOOD IT WAS A VERY VOLATILE TYPE OF THING.25 Q YOU UNDERSTOOD THAT COMMODITIES INVESTING WAS
26 EVEN MORE SPECULATIVE AS A GENERAL RULE, THAN SECURITIES
27 INVESTING IN THE REGULAR STOCKMARKET, LET'S CALL IT?

28 A YES.

1 Q AND SO YOU KNEW THAT BEFORE YOU HAD EVER DISCUSSED
2 THAT THE FIRST TIME?

3 A YES.

4 Q ALL RIGHT. NOW, IF I UNDERSTAND YOUR TESTIMONY,
5 IS IT TRUE THAT YOU DECIDED TO MAKE AN INVESTMENT IN FINANCIAL
6 FUTURES TRADING COMPANY PRIOR TO THE TIME YOU EVER MET MR.
7 HUNT?

8 A YES.

9 Q SO THE INCENTIVE THAT YOU HAD FOR MAKING YOUR
10 INVESTMENT WAS NOT BASED ON ANYTHING MR. HUNT TOLD YOU
11 INITIALLY, WAS IT?

12 A NO. I DIDN'T MEET HIM UNTIL MARCH AT THAT TAIL
13 OF THE COCK RESTAURANT MEETING.

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1 Q DID YOUR INVESTMENT IN FEBRUARY -- YOU MADE TWO
2 INVESTMENTS, I THINK YOU TESTIFIED OF \$5,000 AND \$10,000.
3 THAT WAS ALL BASED ON INDUCEMENTS PROVIDED YOU BY MESSRS.
4 BROWN AND WEISS AND GORE?

5 A YES. I THINK I MADE A TELEPHONE CALL TO FINANCIAL
6 FUTURES. I THINK THEY CALLED IT BBC AT THAT TIME.

7 Q YES, SIR.

8 A AND I TALKED TO AN ATTORNEY. I AM NOT POSITIVE
9 OF HIS NAME.

10 THE COURT: EISENBERG?

11 THE WITNESS: I BELIEVE SO.

12 THE COURT: ALL RIGHT. WHAT WAS SAID?

13 THE WITNESS: IT --

14 MR. BARENS: ARE WE GOING TO --

15 THE COURT: YES. WHAT WAS SAID?

B 16 THE WITNESS: WELL, I INQUIRED OF HIM AS TO THE NATURE
17 OF THIS CORPORATION AND WHAT IT DID AND HE GAVE ME A RUNDOWN
18 ON ITS ACTIVITIES AND ITS FUTURE POSSIBILITIES AND COUPLING
19 THAT WITH WHAT THESE OTHER GENTLEMEN SAID, I FELT THAT
20 ALTHOUGH IT WAS FRAUGHT WITH CERTAIN RISKS, THAT THE MEN
21 AT THE HELM WERE COMPETENT AND ABLE TO PROCEED, ESPECIALLY
22 WHEN ONE TOLD ME MR. HUNT HAD PREVIOUS EXPERIENCE IN THE
23 CHICAGO COMMODITIES MARKET, WHEN HE LIVED IN CHICAGO.

24 Q BY MR. BARENS: NOW, IT IS YOUR TESTIMONY THAT
25 YOU UNDERSTOOD IRRESPECTIVE OF THE STATEMENTS MADE TO YOU,
26 THAT THERE WERE NO GUARANTEES ON YOUR INVESTMENT?

27 A YES.

28 Q AND THAT YOU UNDERSTOOD YOU WERE INVESTING IN

1 SOMETHING THAT WAS AT BEST, OF A SPECULATIVE TYPE INVESTMENT
2 NATURE?

3 A YES.

4 Q NOW, WHEN THESE GENTLEMEN CAME TO YOU, MESSRS.
5 GORE, WEISS AND BROWN, THEY DIDN'T TELL YOU THAT THEY WORKED
6 FOR MR. HUNT, DID THEY?

7 A NO.

8 Q AND THEY DIDN'T TELL YOU THAT MR. HUNT ASKED
9 THEM TO COME AND SEE YOU, DID THEY?

10 A NO.

11 Q AND THEY DIDN'T TELL YOU THAT THEY WERE AGENTS
12 OR REPRESENTATIVES OF HIM OR OF THE BBC, DID THEY?

13 A NO.

14 Q AND YOU DIDN'T KNOW THEM TO BE ANY SUCH THING,
15 DID YOU?

16 A NO.

17 Q ALL RIGHT. NOW AFTER MAKING YOUR DECISION, YOU
18 MENTIONED THAT YOU HAD A CONTRACT WITH THE BBC CONCERNING
19 YOUR INVESTMENT RELATIONSHIP?

20 A WOULD YOU STATE THAT AGAIN, SIR?

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1 Q YES, SIR.

2 AT A POINT DURING YOUR TESTIMONY, I BELIEVE I
3 HEARD YOU SAY THAT WHEN YOU MADE YOUR INITIAL RELATIONSHIP
4 WITH FINANCIAL FUTURES OR THE BBC, THAT THERE WAS A TYPE OF
5 CONTRACT YOU ENTERED INTO WITH THEM CONCERNING THE TRADING
6 THEY WERE GOING TO DO OR INVESTING THEY WERE GOING TO DO FOR
7 YOU; IS THAT A TRUE STATEMENT?

8 A I THINK SO.

9 Q DO YOU HAVE THAT WITH YOU?
10 HAVE YOU PROVIDED THAT TO MR. WAPNER BY CHANCE,
11 SIR?

12 (UNREPORTED COLLOQUY BETWEEN COUNSEL.)

13 Q BY MR. BARENS: I CAN'T FIND IT. DO YOU HAVE
14 THAT?

15 YOU HAVEN'T BROUGHT THAT WITH YOU, SIR?

16 A WELL, AN INITIAL CONTRACTUAL AGREEMENT?

17 Q YES, WHAT YOU ARE TALKING ABOUT THAT MIGHT HAVE
18 DEFINED THE NATURE OF YOUR RELATIONSHIP AS AN INVESTOR ON
19 THE ONE HAND AND IN BBC ON THE OTHER, SIR.

20 A I BELIEVE THERE WAS SOME KIND OF A CONTRACTUAL
21 ARRANGEMENT INITIALLY AND THEN IT WAS MODIFIED LATER.

22 Q SURE.

23 DO YOU HAVE EITHER ONE OF THOSE WITH YOU,
24 DR. PASKAN?

25 A IF YOU WILL JUST BEAR WITH ME A MINUTE, I WILL
26 TRY TO SEE WHAT I CAN COME UP WITH HERE. I AM SURE I HAD
27 SOMETHING HERE TO THAT EFFECT.

28 I BELIEVE I HAD A BROWN FOLDER.

1 MR. BARENS: MIGHT I APPROACH? I SEE A BROWN FOLDER
2 HERE, YOUR HONOR.

3 THE COURT: WHERE?

4 MR. BARENS: THAT HAS HIS NAME ON IT.

5 MR. WAPNER: THIS IS THE SECOND STUFF. IT IS NOT THE
6 INITIAL.

7 (UNREPORTED COLLOQUY BETWEEN COUNSEL.)

8 MR. BARENS: LET ME SEE IF THIS WILL HELP, JUDGE.

9 (PAUSE IN PROCEEDINGS.)

10 MR. BARENS: WE HAVEN'T BEEN SHOWN THIS. COULD I JUST
11 HAVE A MOMENT ON THIS, YOUR HONOR?

12 THE COURT: YES.

13 MR. BARENS: IF I MIGHT APPROACH THE WITNESS, YOUR HONOR?

14 THE COURT: YES.

15 Q BY MR. BARENS: FROM THAT ENVELOPE THAT HAD YOUR
16 NAME ON THE FRONT, I REMOVED A DOCUMENT, DR. PASKAN, AND IT
17 APPEARS TO BE ENTITLED "LIMITED PARTNERSHIP AGREEMENT OF
18 FORWARD CONTRACT ARBITRAGE LIMITED PARTNERSHIP"?

19 A YES.

20 Q IS THAT THE DOCUMENT THAT FORMED THE BASIS OF
21 THE RELATIONSHIP YOU INITIALLY ENTERED WITH THESE PEOPLE FOR
22 YOUR INVESTMENT, SIR?

23 A I BELIEVE SO.

24 Q CALLING YOUR ATTENTION TO THE BOTTOM OF THE SECOND
25 PAGE -- I AM SORRY -- OF THE THIRD PAGE, PARAGRAPH 7.6, I
26 BELIEVE MAKES A REFERENCE TO THE NATURE OF THE INVESTMENT
27 YOU ARE GOING INTO. COULD YOU PLEASE READ, AS IT IS ONLY
28 A SINGLE SENTENCE, THAT SENTENCE THERE AND WHAT IT SAYS TO

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1 YOU AS AN INVESTOR.

2 A YES.

3 "7.6: UNDERSTANDING BY LIMITED PARTNERS
4 AS TO POTENTIAL RISK, THE GENERAL PARTNERS HAS INFORMED
5 THE LIMITED PARTNERS AND THEY ARE AWARE OF IT, THE
6 POTENTIAL RISK INVOLVED IN THIS LIMITED
7 PARTNERSHIP, SAID POTENTIAL RISK
8 INCLUDES BUT IS NOT LIMITED TO COMPLETE LOSS OF
9 THEIR CAPITAL INVESTMENT HEREIN."

10 Q THANK YOU, DOCTOR. I AM GOING TO MAKE REFERENCE
11 TO THAT AGAIN.

12 SO DOCTOR, IN THE THIRD PAGE OF THE FRONT PART
13 OF THE DOCUMENT, BEFORE YOU SIGNED IT -- AND YOU SEE YOU SIGNED
14 IT; IS THAT YOUR SIGNATURE ON THERE?

15 A YES.

16 Q THERE IS SOME ADVISING YOU THAT YOU COULD LOSE
17 YOUR ENTIRE INVESTMENT IN THAT TRANSACTION BY ITS NATURE;
18 IS THAT WHAT YOU JUST READ, SIR?

19 A YES.

20 Q NOW, WAS IT YOUR UNDERSTANDING IN EXECUTING THIS
21 AGREEMENT THAT MR. HUNT, OR ANY OTHER INDIVIDUAL, INSURED
22 OR WAS RESPONSIBLE FOR YOUR INVESTMENT, THAT THEY HAD SAID
23 TO YOU, DOCTOR, I WILL GUARANTEE YOUR INVESTMENT?

24 A NO, NOBODY GUARANTEED IT.

25 MR. BARENS: WE WOULD MARK THIS AS DEFENDANT'S NEXT,
26 WHEREVER WE ARE, YOUR HONOR.

27 THE COURT: ALL RIGHT.

28 MR. BARENS: IT IS A LIMITED PARTNERSHIP AGREEMENT

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1 AS PREVIOUSLY IDENTIFIED CONSISTING OF 14 PAGES.

2 THE COURT: IT WILL BE V.

3 MR. BARENS: I WOULD ASK THE COURT FOR PERMISSION TO
4 INTRODUCE A XEROX OF THIS, IF YOUR CLERK WOULD MAKE IT, AND
5 TO RETURN THE ORIGINAL TO THE WITNESS, YOUR HONOR, SINCE HE
6 PROVIDED IT.

7 THE COURT: ALL RIGHT.

8 MR. BARENS: ALL RIGHT?

9 THE COURT: ALL RIGHT, THAT WILL BE V.

10 MR. BARENS: Z. I WILL HAVE TO COME UP WITH --

11 THE CLERK: V AS IN VICTOR.

12 THE COURT: THAT WILL BE V.

13 MR. BARENS: OH, AS IN VICTOR.

14 Q BY MR. BARENS: NOW, YOU MADE REFERENCE EARLIER
15 THAT THEN YOU RECEIVED A PROFIT STATEMENT OF MARCH 1ST, 1984
16 AND A CHECK IN SOME AMOUNT, FOUR HUNDRED SOME ODD DOLLARS,
17 I BELIEVE, SHOWING YOU WHAT HAPPENED DURING THAT PERIOD.

18 YOU HAD ASKED FOR THAT DISTRIBUTION AT THAT POINT?

19 A YES, I DID.

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1 Q AND THE CHECK WENT THROUGH AND EVERYTHING IN THE
2 NORMAL COURSE OF AFFAIRS?

3 A YES.

4 Q AND AS FAR AS YOU KNOW, WAS THE STATEMENT THAT
5 YOU RECEIVED TRUE AND CORRECT AS FAR AS WHAT YOUR INVESTMENT
6 HAD BEEN AND WHAT YOUR RETURN WAS?

7 A YES.

8 Q AND SO, THERE WAS NOTHING MISREPRESENTING IN THAT,
9 WAS THERE, SIR?

10 MR. WAPNER: OBJECTION, CALLING FOR A CONCLUSION.

11 MR. BARENS: I AM ASKING HIM, TO HIS KNOWLEDGE.

12 THE COURT: UP TO THAT POINT, YOU HAD NOT LOST ANYTHING,
13 IS THAT RIGHT, SUPPOSEDLY?

14 THE WITNESS: THAT'S CORRECT.

15 THE COURT: YOU GOT FOUR HUNDRED-SOME-ODD DOLLARS AND
16 YOU PUT THAT IN THE BANK, DIDN'T YOU?

17 THE WITNESS: YES.

18 Q BY MR. BARENS: WHAT THE DOCUMENT SAID YOUR
19 INVESTMENT HAD BEEN AND WHAT YOUR INVESTMENT WAS, THE DOCUMENT
20 WAS TRUE ON ITS FACE, SIR?

21 A YES.

22 Q NOW, THIS BUSINESS ABOUT GETTING A 30 TO 40 PERCENT
23 PER ANNUM RETURN ON YOUR INVESTED MONEY, THAT IS A STATEMENT
24 THAT WAS MADE TO YOU BY THE THREE GENTLEMEN THAT YOU TOLD
25 THE COURT ABOUT EARLIER, MESSRS. GORE, BROWN AND WEISS?

26 A YES.

27 Q AND YOU DIDN'T SEE -- MR. HUNT NEVER SENT YOU
28 A LETTER OR SENT YOU A REPRESENTATION TO THAT EFFECT, DID

1 HE?

2 A NO.

3 Q SO YOU RELIED IN MAKING THAT ASSUMPTION ABOUT
4 YOUR INVESTMENT -- YOU WERE RELYING AGAIN ON WHAT THESE THREE
5 PEOPLE TOLD YOU?

6 A YES.

7 Q NOW, YOU WERE NOT AWARE AT ANY GIVEN POINT, WERE
8 YOU, SIR, HOW MUCH MONEY THERE WAS INVESTED IN THE BBC OR
9 FINANCIAL FUTURES BY THE ENTIRE POOL OF INVESTORS?

10 A NO.

11 Q THEREFORE, AT ANY GIVEN TIME, YOU COULD NOT HAVE
12 KNOWLEDGE AS TO WHAT THE TOTAL POOL OF MONEYS WERE THAT WERE
13 INVESTED WITH THIS ORGANIZATION?

14 A NO.

15 Q AND YOU WERE NEVER SENT OUT WHAT I AM GOING TO
16 REFER TO AS A CONSOLIDATED STATEMENT, BY THESE PEOPLE, WERE
17 YOU?

18 A NOT TO MY KNOWLEDGE.

19 Q ALL RIGHT. SO THE ONLY THING YOU CAN TESTIFY
20 ABOUT I SUPPOSE, IS WHAT YOU GOT OR DIDN'T GET? BUT YOU CAN'T
21 TESTIFY ABOUT WHAT THE TOTAL POOL CONSISTED OF?

22 A NO.

23 Q IS THAT A CORRECT STATEMENT?

24 A THAT'S CORRECT.

25 Q ALL RIGHT. THANK YOU, SIR.

26 NOW, AT THE MEETING YOU HAD IN MARCH OF 1984 AT
27 THE TAIL OF THE COCK, THE IMPRESSION I GOT FROM YOUR TESTIMONY
28 WAS THAT MR. HUNT SAID THINGS WERE GOING ALONG WELL?

1 A YES.

2 Q AND DO YOU KNOW WHETHER THAT STATEMENT WAS TRUE
3 OR UNTRUE AS OF MARCH OF '84?

4 A WELL, I HAVE HEARD A LOT OF HEARSAY. BUT I DON'T
5 HAVE ANY --

6 Q PERSONAL KNOWLEDGE?

7 A NOTHING TO DOCUMENT IT.

8 Q OKAY. I AM ASKING YOU NOW SIR, DIRECTING YOUR
9 ATTENTION AS TO YOUR STATE OF MIND AND YOUR STATE OF
10 KNOWLEDGE IN MARCH OF 1984. IN MARCH OF 1984, DID YOU KNOW
11 WHETHER THE STATEMENT THAT THINGS WERE GOING ALONG NICELY,
12 WAS TRUE OR NOT, SIR?

13 A AT THAT TIME AT THE TAIL OF THE COCK MEETING,
14 EVERYTHING WAS GOING WELL.

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1 THE COURT: YOU WERE TOLD THEY WERE GOING WELL?

2 THE WITNESS: YES.

3 THE COURT: BUT YOU YOURSELF, DIDN'T KNOW WHETHER THEY
4 WERE OR WEREN'T?

5 THE WITNESS: NO.

6 THE COURT: THAT'S THE ANSWER. GO AHEAD.

7 MR. BARENS: THANK YOU.

8 Q YOU HAVE NEVER SEEN ANY RECORDS HAVE YOU SIR,
9 AS TO THE FINANCIAL CONDITION OF THE OVERALL BUSINESS AS OF
10 MARCH, 1984?

11 A NO.

12 Q NOW, WHEN MR. HUNT TOLD YOU THAT THERE WAS A
13 BRIGHT FUTURE, DID MR. HUNT APPEAR TO BELIEVE THAT WAS TRUE
14 IN MARCH OF 1984, BASED ON HIS DISCUSSION WITH YOU?

15 A YES. I WAS VERY MUCH IMPRESSED.

16 Q AND MR. HUNT SEEMED CONFIDENT?

17 A YES.

18 Q AND HE SEEMED TO HAVE THINGS IN HAND, AS FAR AS
19 HIS KNOWLEDGE OF THE BUSINESS AND HIS PARTICIPATION IN THE
20 BUSINESS AT THAT PARTICULAR TIME?

21 A YES.

22 Q NOW, AT ALL TIMES IN YOUR RELATIONSHIP WITH
23 MR. HUNT, HE WAS THE ONE THAT APPARENTLY TOOK RESPONSIBILITY
24 FOR WHAT WAS GOING ON?

25 A THAT IS WHAT I UNDERSTOOD.

26 Q HE SEEMED TO BE WHAT -- I AM GOING TO USE THE
27 EXPRESSION "OUT FRONT" IN COMMUNICATING WITH YOURSELF AND
28 THE OTHER INVESTORS?

5
1 A YES.

2 Q AND HE DIDN'T APPEAR TO BE HIDING BEHIND SOME
3 OTHER SPOKESMAN WHEN HE GAVE INFORMATION ON THE ACTIVITIES
4 OF THE INVESTMENT, DID HE?

5 A NO.

6 THE COURT: WELL, YOU MEAN EXCEPT FOR THE TIME WHEN
7 HE SAID THAT IT WAS THE RESULT OF-- THINGS WERE GOING BAD
8 BECAUSE THE OTHER ASSOCIATES HAD DONE SOMETHING WRONG?

9 MR. BARENS: IF YOUR HONOR WILL PERMIT ME TO COVER THAT
10 POINT, I WILL COME TO THAT POINT.

11 THE COURT: WELL, GO AHEAD.

12 MR. BARENS: DOES YOUR HONOR, HAVING MADE THE POINT
13 NOW HOWEVER --

14 THE COURT: WELL, THE POINT IS THAT HE HAD TESTIFIED
15 THAT STATEMENTS WERE MADE THAT HE HAD ALWAYS TAKEN THE
16 RESPONSIBILITY AND DONE EVERYTHING HIMSELF.

17 MR. BARENS: I BELIEVE THE STATEMENT THAT HE MADE IS
18 THAT THOSE REPRESENTATIONS WERE MADE BY MR. HUNT, YOUR HONOR,
19 NOT BY SOME OTHER EMPLOYEE.

20 THE COURT: GO AHEAD.

21 Q BY MR. BARENS: MY QUESTION AGAIN, DOCTOR, WAS,
22 YOU WOULD HEAR GOOD NEWS OR BAD NEWS AND MR. HUNT WOULD TELL
23 YOU THE NEWS, WOULDN'T HE?

24 A I HEARD FROM THESE THREE GENTLEMEN WHO SEEMED
25 TO HAVE AN INSIDE TRACK, THAT THINGS WERE NOT GOING WELL.

26 Q ALL RIGHT. NOW, WHEN YOU HEARD THAT THINGS WEREN'T
27 GOING WELL, THAT IS A BIT DOWNSTREAM.

28 I AM TRYING TO FOLLOW YOUR -- I WILL COME TO THAT

1 POINT. BUT I AM TRYING TO FOLLOW IN THE ORDER IN WHICH YOU
2 WENT THROUGH IT WITH MR. WAPNER, DR. PASKAN. I HAVE ONLY
3 REACHED MAY 29 RIGHT NOW. SO, HERE WE NEED TO BE FOR A MOMENT.

4 ON MAY 29, THAT WAS AFTER THE MEETING YOU HAD
5 HAD AT THE TAIL OF THE COCK?

6 A YES.

7 Q ALL RIGHT. AND AGAIN, IN THE MAY 29 LETTER THAT
8 WAS MADE REFERENCE TO, WAS THERE ANYTHING IN THAT LETTER WHERE
9 MR. HUNT ASKED YOU TO INVEST MORE MONEY? IS THERE ANY REQUEST
10 FOR INVESTMENTS IN THAT LETTER?

11 A PERSONALLY?

12 Q YES, SIR.

13 A NO.

14 Q THERE IS NOTHING IN THAT MAY 29 LETTER, THAT SAYS
15 TO SEND MONEY, IS THERE, DOCTOR?

16 A NOT THAT I RECALL.

17 Q ALL RIGHT. IN FACT, TO THE CONTRARY, HE SAYS
18 IN THAT LETTER, THAT AFTER A POINT IN TIME, HE ISN'T GOING
19 TO ACCEPT ANY MORE INVESTMENTS, ISN'T THAT TRUE?

20 A THAT'S CORRECT.

21 Q NOW, THE DECISION YOU MADE TO INVEST MORE MONEY
22 AT THAT PARTICULAR TIME WAS AGAIN --

23 THE COURT: WELL, I DON'T UNDERSTAND. YOU MEAN, THERE
24 WAS A DEADLINE IN THE LETTER OF MAY 29?

25 THE WITNESS: YES.

26 THE COURT: BY WHICH YOU COULD MAKE INVESTMENTS BUT
27 AFTER THAT, YOU COULDN'T MAKE ANY MORE? IS THAT THE IDEA?

28 THE WITNESS: THAT'S CORRECT.

1 THE COURT: ALL RIGHT.

2 Q BY MR. BARENS: BUT AGAIN SIR, THERE IS NOTHING
3 IN THE LETTER THAT REQUESTS ANYBODY TO MAKE AN INVESTMENT,
4 IS THERE?

5 A NO.

6 Q NO?

7 A NO. HE SIMPLY STATED THAT THERE WAS A DEADLINE.
8 AFTER THAT DEADLINE, THEY WOULD NOT ACCEPT ANY MORE
9 INVESTMENTS.

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1 Q BY MR. BARENS: THERE IS NOTHING IN THAT LETTER
2 THAT SAYS THE COMPANY THINKS IT IS A GOOD TIME FOR YOU TO
3 SEND US MONEY OR IT IS A GOOD IDEA YOU SEND US MONEY AT THIS
4 POINT IN TIME, IS THERE?

5 DO YOU WANT TO LOOK AT THE LETTER, DOCTOR?

6 A YEAH, I WOULD LIKE TO TAKE A LOOK AT THE LETTER,
7 IF I MAY.

8 MR. BARENS: I AM NOT SURE WHERE THE COPY IS. IS THE
9 COPY STILL UP THERE?

10 THE COURT: YOU CAN SHOW IT TO HIM AND THEN WE WILL
11 TAKE OUR RECESS AT THIS TIME.

12 LADIES AND GENTLEMEN OF THE JURY, WE WILL TAKE
13 OUR RECESS AT THIS TIME UNTIL 1:30 THIS AFTERNOON.

14 THE SAME ADMONITION I GAVE YOU WOULD STILL APPLY.

15 (AT 12:00 NOON PROCEEDINGS WERE ADJOURNED
16 UNTIL 1:30 P.M. OF THE SAME DAY.)
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1 SANTA MONICA, CALIFORNIA; MONDAY, MARCH 2, 1987; 1:40 P.M.

2 DEPARTMENT WEST C HON. LAURENCE J. RITTENBAND, JUDGE

3 (APPEARANCES AS NOTED ON TITLE PAGE

4 EXCEPT MR. CHIER IS NOT PRESENT.)

5
6 THE CLERK: YOU HAVE BEEN SWORN. YOU ARE STILL UNDER
7 OATH. STATE YOUR NAME ONCE AGAIN FOR THE RECORD.

8 THE WITNESS: YES.

9 THE CLERK: NOW, JUST STATE YOUR NAME.

10 THE COURT: TELL US YOUR NAME.

11 THE WITNESS: JULIUS PASKAN.

12 THE COURT: THANK YOU. YOU MAY CONTINUE.

13
14 JULIUS PASKAN,

15 THE WITNESS ON THE STAND AT THE TIME OF ADJOURNMENT, RESUMED
16 THE STAND AND TESTIFIED AS FOLLOWS:

17
18 CROSS-EXAMINATION (CONTINUED)

19 BY MR. BARENS:

20 Q MR. PASKAN -- DR. PASKAN, WE LEFT OFF AROUND
21 MAY 29TH AND I REALIZE YOU TESTIFIED THAT YOU MADE AN
22 INVESTMENT AFTER MAY THE 29TH. THAT WAS AFTER YOU HAD HAD
23 SOME FURTHER DISCUSSIONS WITH THE THREE GENTLEMEN YOU MADE
24 REFERENCE TO THIS MORNING?

25 A YES.

26 Q AND YOU MENTIONED THAT AS A PART OF THE INVESTMENTS,
27 YOU HAD A CHECK FOR OVER \$100,000 THAT YOU INVESTED THAT
28 WERE THE PROCEEDS FROM A MORTGAGE REFINANCING YOU DID ON

1 A BUILDING YOU OWN?

2 A THAT'S RIGHT.

3 Q AND DR. PASKAN, AT ANY TIME, DID MR. HUNT EVER
4 ASK YOU OR SUGGEST TO YOU THAT YOU MORTGAGE YOUR BUILDING
5 FOR THAT INVESTMENT?

6 A NO.

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-1 1 Q AND YOU DID NOT DISCUSS THAT TYPE OF FINANCING
2 ARRANGEMENT WITH MR. HUNT AT ANY TIME?

3 A NO.

4 Q NOW GOING BACK TO DEFENDANT'S EXHIBIT V, AS IN
5 VICTOR, WHICH WE WERE DISCUSSING PRIOR TO THE BREAK.

6 IF I MIGHT APPROACH THE WITNESS, YOUR HONOR.

7 THE COURT: GO AHEAD.

8 Q BY MR. BARENS: DOCTOR, THAT MAKES REFERENCE IN
9 THE BEGINNING PART, DOES IT NOT, TO CERTAIN INVESTMENT
10 OBJECTIVES OF THE PARTIES TO THIS CONTRACT, SIR, AT PARAGRAPH
11 1.101, SIR?

12 A 1.1 -- 10?

13 Q IT IS CAPTIONED "INVESTMENT OBJECTIVES," SIR.

14 A WHAT IS THE QUESTION AGAIN?

15 Q SIR, ARE THE FIRST TWO WORDS OF THAT PARAGRAPH
16 "INVESTMENT OBJECTIVES"?

17 A INVESTMENT OBJECTIVES, YES, SIR.

18 Q COULD YOU PLEASE READ THAT ONE SENTENCE FOR US,
19 WHAT IT SAYS AFTER THOSE WORDS?

20 A "THE PARTIES JOIN TO POOL THEIR RESOURCES TO
21 INVEST IN ALL RECOGNIZED INVESTMENT VEHICLES, INCLUDING BUT
22 NOT LIMITED TO COMMODITIES AND SECURITIES, FOR THE PROFIT
23 OF THE PARTNERSHIP".

24 Q AND SIR, WAS IT YOUR UNDERSTANDING FROM THAT
25 SENTENCE THAT THE FINANCIAL FUTURES TRADING PEOPLE AND BBC
26 COULD INVEST IN THINGS OTHER THAN JUST COMMODITIES?

27 A YES.

28 Q FURTHER, IN THIS AGREEMENT, SIR, I ADDRESS YOUR

1 ATTENTION TO PAGE 8. AT PAGE 8, PARAGRAPH C, COMMENCING AT
2 THE BOTTOM OF THE PAGE, IF YOU WOULD READ THAT PARAGRAPH,
3 WHICH CONSISTS OF A COUPLE OF SENTENCES, TO YOURSELF, FIRST,
4 SIR, AND THEN I WILL ASK YOU A QUESTION ABOUT IT.

5 (PAUSE IN PROCEEDINGS.)

6 Q DOCTOR, DOES PARAGRAPH 8 SUGGEST TO YOU IN ITS
7 LANGUAGE THAT THE GENERAL PARTNER, IN THIS INSTANCE THE BBC
8 OR FINANCIAL FUTURES, CAN INVEST OR MAKE DEALS ON JOINT
9 VENTURE AGREEMENTS WITH OTHER COMPANIES OR PARTIES?

10 A THAT'S CORRECT.

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1 Q AND THAT IT COULD GO INTO OTHER AREAS IN TERMS
2 OF THOSE INVESTMENTS?

3 A YES.

4 Q THANK YOU, SIR. DOES THE UNDERSTANDING I WOULD
5 HAVE FROM YOUR TESTIMONY ABOUT THIS AGREEMENT -- IS THAT
6 THE GENERAL PARTNER WOULD HAVE A PRETTY FREE HAND TO GO AND
7 DO THINGS OTHER THAN JUST PURELY COMMODITIES TRANSACTIONS,
8 SIR?

9 A YES.

10 Q NOW, ON THE JULY 18TH LETTER THAT YOU MADE REFERENCE
11 TO EARLIER TODAY, YOU INDICATED THERE THAT IN THAT LETTER,
12 THEY ASKED THE INVESTORS TO MAKE A DECISION ABOUT WHAT
13 THEY WANTED TO DO IN TERMS OF EITHER REINVESTING OR
14 LIQUIDATING THEIR POSITIONS. WAS THAT YOUR RECOLLECTION
15 OF THAT DOCUMENT?

16 A I AM SURE ABOUT THE REINVESTMENT PORTION. I
17 AM NOT QUITE CLEAR ON YOUR QUESTION ON LIQUIDATION.

18 MR. BARENS: OKAY. BUT IF I MIGHT APPROACH THE WITNESS?

19 THE COURT: YOU CAN ALWAYS APPROACH WITHOUT ASKING
20 MY PERMISSION HEREAFTER. ALL RIGHT?

21 MR. BARENS: THANK YOU, YOUR HONOR.

22 THE COURT: WE WON'T ENCUMBER THE RECORD.

23 Q BY MR. BARENS: DOCTOR, SHOWING YOU THE EXHIBIT
24 MR. WAPNER SHOWED YOU THIS MORNING, A LETTER ON THE DATE
25 OF JULY 18, 1984 --

26 MR. WAPNER: THAT WOULD BE 192, FOR THE RECORD.

27 THE COURT: YES.

28 Q BY MR. BARENS: AND DIRECTING YOUR ATTENTION

1 TO THE END OF THE VERY FIRST PARAGRAPH, THERE IS A SENTENCE
2 STARTING WITH THE WORD "THUS," DOCTOR.

3 COULD YOU PLEASE READ US THAT SENTENCE?

4 A "THUS, IT REMAINS AT YOUR DISCRETION WHETHER
5 YOU WOULD LIKE TO REINVEST OR RECEIVE A DISTRIBUTION AT
6 QUARTER'S END. PLEASE ADVISE US IN THIS REGARD AS TO YOUR
7 WISHES."

8 Q SO WHEN YOU RECEIVED THIS LETTER, YOU WERE TOLD
9 BY FINANCIAL FUTURES AND THE LETTER IS SIGNED BY JOSEPH
10 HUNT --

11 A YES.

12 Q YOU ARE TOLD THAT IT WAS YOUR DISCRETION WHETHER
13 YOU WISHED TO INVEST, ACCORDING TO THIS LANGUAGE OR RECEIVE
14 A DISTRIBUTION AT QUARTER'S END FOR THAT FINANCIAL QUARTER
15 IN THE SUMMER OF 1984?

16 A YES.

17 Q NOW, YOU MADE A DECISION IN THAT REGARD, DID
18 YOU DOCTOR, AS FAR AS WHAT YOU WISHED TO DO?

19 A YES.

20 Q AND THE DECISION WAS, I BELIEVE YOU TESTIFIED
21 EARLIER, TO LEAVE YOUR MONEY IN THE INVESTMENT RATHER THAN
22 LIQUIDATE IT?

23 THE COURT: YOU MEAN LEAVE THE PROFIT IN THERE? IS
24 THAT WHAT YOU MEAN?

25 MR. BARENS: YES.

26 THE COURT: THAT IS WHAT IT SAYS ABOUT DISTRIBUTION.
27 IT DOESN'T SAY "YOUR MONEY."

28 MR. BARENS: JUST A MOMENT, YOUR HONOR.

1 (PAUSE.)

2 Q BY MR. BARENS: IN THIS SENTENCE, YOU ARE TALKING
3 ABOUT THE PROFIT --

4 THE COURT: IT DOESN'T MEAN YOU GET YOUR MONEY BACK.
5 ALL RIGHT. GO AHEAD.

6 MR. BARENS: I AM NOT SURE OF YOUR HONOR'S POINT.

7 THE COURT: DISTRIBUTION MEANS DISTRIBUTION OF ANY
8 PROFITS FOR THAT PARTICULAR QUARTER.

9 IT DOESN'T MEAN GETTING ALL YOUR MONEY BACK THAT
10 YOU PUT IN.

11 MR. BARENS: RIGHT.

12 Q IN THAT REGARD, DID YOU MAKE A DECISION TO LEAVE
13 YOUR MONEY --

14 A I MADE A DECISION TO LEAVE IT IN.

15 Q ANY PROFITS, ANY MONEY -- PARDON ME?

16 A I MADE A DECISION TO LEAVE IT IN.

17 Q YES. AND BEFORE MAKING THAT DECISION, HAD YOU
18 DISCUSSED THAT DECISION WITH THESE THREE GENTLEMEN YOU MADE
19 REFERENCE TO EARLIER?

20 A I PROBABLY DID.

21 Q AND HAD SOME INFLUENCE ON THE DECISION YOU MADE,
22 SIR?

23 A YES.

24

25

26

27

28

1 Q NOW, IN SEPTEMBER YOU MENTIONED ANOTHER MEETING
2 THAT, I BELIEVE YOU SAID, TOOK PLACE IN BEVERLY HILLS?

3 A YES.

4 Q AND AT THAT TIME, DID MR. HUNT COME OVER TO TELL
5 YOU THAT THERE HAD BEEN THIS BIG LOSS OF THE MONEY?

6 A YES.

7 Q AND HE TOLD THAT TO YOU AND THE OTHER INVESTORS
8 THERE?

9 A YES.

10 Q DID HE SEEM TO BE VOLUNTEERING THAT INFORMATION
11 OR DID IT HAVE TO BE DRAGGED OUT OF HIM SOMEHOW?

12 A OH, HE VOLUNTEERED IT AND HE FIELDERD QUESTIONS.

13 Q I SEE.

14 AND HE DIDN'T TRY TO MAKE ANY SECRET OF THE LOSS
15 OR HIDE IT?

16 A NO.

17 Q AND AT THAT POINT, DID HE START DISCUSSING A
18 WILLINGNESS ON HIS PART TO REPAY THE MONEYS?

19 A YES.

20 Q AT THIS POINT, TO YOUR KNOWLEDGE, DID HE HAVE
21 ANY LEGAL OBLIGATION TO ASSUME THE RESPONSIBILITY TO REPAY
22 THE LOSSES?

23 A WELL, THAT I DON'T KNOW.

24 THE COURT: WELL, YOU ARE NOT A LAWYER. YOU WOULDN'T
25 KNOW THAT, WOULD YOU?

26 THE WITNESS: NO, NO.

27 THE COURT: LET'S GET ON, WILL YOU?

28 Q BY MR. BARENS: DID HE HAVE ANY CONTRACTUAL

1 OBLIGATION TO YOUR KNOWLEDGE, SIR, WHERE HE WAS OBLIGATED
2 TO REPAY OR COVER LOSSES OF YOU AS AN INVESTOR?

3 A WELL, I AM SURE OF A MORAL OBLIGATION BUT OTHER
4 THAN THAT, I AM NOT SURE.

5 Q RIGHT.

6 AT THAT TIME, DID MR. HUNT APPEAR TO BE ADDRESSING
7 WHAT WAS A MORAL OBLIGATION IN YOUR EYES, SIR?

8 A THAT IS THE WAY I INTERPRETED IT.

9 Q DID HE APPEAR IN THAT REGARD TO BE COMMITTED
10 TO COVERING THE LOSSES THAT YOU AND OTHER INVESTORS HAD
11 SUSTAINED?

12 A I THOUGHT SO.

13 Q AND WAS IT IN THAT CONTEXT THAT HE VOLUNTEERED
14 THIS PROMISSORY NOTE TO YOURSELF IN TERMS OF YOUR LOSSES?

15 A YES.

16 Q AND IN THAT REGARD, DID HE TELL YOU THAT HE WAS
17 PERSONALLY SIGNING THE PROMISSORY NOTE TO REPAY YOUR LOSSES?

18 A YES, HE DID.

19 THE COURT: DID YOU EVER KNOW FROM WHAT SOURCE HE WAS
20 GOING TO GET THE MONEY TO PAY YOU BACK THAT MONEY YOU LOST?

21 THE WITNESS: NO, I DIDN'T.

22 THE COURT: OR ANYBODY ELSE THAT LOST MONEY?

23 THE WITNESS: NO, I DIDN'T.

24 THE COURT: DO YOU KNOW WHETHER ANY OF THOSE PROMISSORY
25 NOTES HAVE BEEN PAID?

26 THE WITNESS: NOT TO MY KNOWLEDGE.

27 THE COURT: ALL RIGHT.

28 Q BY MR. BARENS: IN ANY EVENT, SIR, AT THAT MEETING

1 HE HAD DISCUSSED WITH OTHER INVESTORS IN YOUR PRESENCE THE
2 FACT THAT HE WISHED TO COVER THEIR LOSSES AS WELL?

3 A YES.

4 Q AND DID HE OFFER THESE PROMISSORY NOTES TO THE
5 OTHER INVESTORS IN YOUR PRESENCE?

6 A YES, HE DID.

7 Q DID HE APPEAR TO YOU TO HAVE A SENSE OF COMMITMENT
8 ABOUT THESE REPAYMENTS?

9 A YES.

10 Q NOW, LASTLY, IN YOUR TESTIMONY YOU MADE REFERENCE
11 TO A SETTING WHERE YOU WERE AT THE BBC OFFICES AND HEARD
12 A SECRETARY, I BELIEVE YOU MENTIONED A PERSON NAMED LORI
13 LEIS, TALKING ABOUT THE OPPORTUNITY SHE HAD TO PURCHASE A
14 VEHICLE.

15 A YES.

16 Q AND THAT THERE WEREN'T FUNDS AT THE BBC WITH
17 WHICH TO DO THAT, AND I BELIEVE YOU TESTIFIED THAT YOU LOANED
18 MR. HUNT SOME MONEY IN HOPES THAT THAT WOULD ACCOMMODATE
19 THE GIRL TO GET THE CAR?

20 A YES.

21 Q DO YOU KNOW WHETHER SHE GOT THAT MONEY TO PURCHASE
22 THE CAR?

23 A NO, I DON'T.

24 Q YOU DID NOT DISCUSS IT WITH HER LATER, WHETHER
25 SHE EVER GOT THE PROCEEDS OF THE CHECK?

26 A NO.

27 MR. BARENS: THANK YOU, DOCTOR.
28

1
2 REDIRECT EXAMINATION

3 BY MR. WAPNER:

4 Q DR. PASKAN, WHEN YOU GOT THE DISTRIBUTION FOR
5 THE QUARTER THAT ENDED MAY THE 15TH, YOU QUOTE "REINVESTED
6 YOUR PROFITS" UNQUOTE, RIGHT?

7 A YES.

8 Q BUT DO YOU HAVE SOMETHING IN YOUR FILES REGARDING
9 THE LETTER OF JULY THE 18TH AND WHAT YOU DID WITH OR HAD
10 DECIDED TO DO WITH RESPECT TO TAKING THE MONEY AT THAT
11 TIME?12 LET ME JUST DIRECT YOUR ATTENTION TO WHAT APPEARS
13 TO BE A COPY OF A LETTER DATED JULY THE 18TH THAT HAS TO
14 DO WITH WHETHER YOU ARE GOING TO TAKE -- OR WANTED TO TAKE
15 YOUR PROFITS AT THE END OF THE QUARTER THAT WOULD END
16 SEPTEMBER?17 A I DID.
18
19
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28

-1 1 Q YOU DID WHAT?

2 A I SIGNED AN AGREEMENT HERE THAT I WOULD LIKE TO
3 HAVE MY PROFITS MAILED TO ME AT LEAST FOR THIS QUARTER.

4 MR. WAPNER: MAY THAT BE 194 FOR IDENTIFICATION?

5 THE COURT: SO MARKED.

6 Q BY MR. WAPNER: DOCTOR, SO THE JURY KNOWS WHAT
7 THAT IS, IS THAT THE STATEMENT THAT WAS MAILED TO YOU IN BLANK
8 BY THE DEFENDANT ON JULY THE 18TH, 1984, ASKING YOU WHAT YOU
9 WANTED TO DO WITH YOUR PROFITS AT THE NEXT DISTRIBUTION?

10 A YES.

11 Q AND IT SAYS ON THERE, HAS A PLACE FOR YOUR NAME
12 AND THEN IT HAS THREE LINES WHICH SAY, "I WOULD LIKE TO HAVE
13 ANY PROFITS MAILED TO ME. I WOULD LIKE TO REINVEST ANY
14 PROFITS. OTHER. PLEASE SPECIFY," CORRECT?

15 A YES.

16 Q WHAT DID YOU WRITE IN ANY OF THOSE BLANKS?

17 A WHERE IT SAYS, "I WOULD LIKE TO HAVE MY PROFITS
18 MAILED TO ME," I ADDED "AT LEAST THIS QUARTER."

19 Q AND THEN DID YOU SIGN IT JULIUS A. PASKAN, M.D.?

20 A SIR?

21 Q YOU SIGNED IT?

22 A YES.

23 Q WHERE IT SAYS "JULIUS A. PASKAN, M.D." THAT IS
24 YOUR SIGNATURE?

25 A YES, SIR.

26 Q DID YOU GET ANY PROFITS OR ANY OTHER KIND OF MONEY
27 AT THE END OF THAT QUARTER?

28 A I DON'T BELIEVE SO.

-2

1 Q THE MEETING THAT WAS HELD IN SEPTEMBER, THAT WAS
2 ON THE 22ND, THE DAY YOU SIGNED THE PROMISSORY NOTE OR WAS
3 IT THE DAY BEFORE?

4 A I AM NOT ABSOLUTELY CERTAIN. BUT IT WAS VERY
5 CLOSE.

6 Q DID MR. HUNT MAKE ANY STATEMENT AT THAT MEETING
7 THAT HE HAD OBTAINED SOME FUNDS THAT HE HAD INTENDED TO USE
8 TO REPAY THE INVESTORS?

9 A WELL, I DON'T KNOW IF HE HAD OBTAINED FUNDS. BUT
10 HE WAS ASKING FOR TIME.

11 Q AND THE PROMISSORY NOTE THAT WAS SIGNED WAS ALSO
12 A RELEASE OF ANY CLAIMS YOU HAD AGAINST HIM FOR THE PREVIOUS
13 LOSSES, WASN'T IT?

14 A YES.

15 Q SO YOU DIDN'T GET ONE WITHOUT THE OTHER, RIGHT?
16 IN OTHER WORDS, YOU CAN'T GET THE PROMISSORY NOTE
17 WITHOUT SIGNING THE RELEASE FIRST, RIGHT?

18 A THAT'S CORRECT.

19 Q AT THE TIME THAT YOU INVESTED, WAS IT YOUR
20 UNDERSTANDING THAT THE MONEY WAS BEING INVESTED IN COMMODITIES?

21 A WELL, PRINCIPALLY IN COMMODITIES.

22 Q AND WHERE DID YOU GET THAT UNDERSTANDING FROM,
23 AMONG OTHER PLACES?

24 A WELL, FROM THIS TRIO THAT I USED THEIR KNOWLEDGE
25 TO MAKE MY OWN DETERMINATIONS.

26 Q AND AT THE MARCH MEETING AT THE TAIL OF THE COCK
27 WHEN MR. HUNT TALKED ABOUT THE INVESTMENTS GOING WELL, DID
28 HE TALK ABOUT THE FACT THAT THEY WERE INVESTED IN COMMODITIES?

-3

1 A THAT IS WHAT MY IMPRESSION WAS.

2 Q AND YOU WERE NEVER SENT ANY STATEMENTS FROM ANY
3 BROKERAGE HOUSE, WERE YOU, AS FAR AS WHAT WAS HAPPENING IN
4 THE ACCOUNTS THAT MR. HUNT WAS TRADING?

5 A NO.

6 Q SO IF WHEN YOU RECEIVED THE STATEMENTS ON MARCH
7 THE 1ST -- I BELIEVE WE HAVE MARKED THAT AS 187 FOR
8 IDENTIFICATION, THAT WAS 187 FOR IDENTIFICATION THAT WAS
9 SUPPOSED TO TELL YOU THE PROFITS THAT YOU GOT FROM NOVEMBER 15
10 THROUGH FEBRUARY 15 AND YOU WOULDN'T KNOW WHAT ACTUALLY WAS
11 GOING ON, OTHER THAN WHAT MR. HUNT WAS TELLING YOU, RIGHT?

12 A WELL, I DIDN'T HAVE ANY CONVERSATIONS WITH HIM.
13 I RELIED ON THE LETTERS THAT CAME TO ME.

14 Q BUT WHEN YOU GOT THE STATEMENT ON MARCH THE 1ST
15 AND IT SAYS THAT YOU HAVE MADE 17.69 PERCENT A MONTH AVERAGE
16 RETURN, THAT YOUR PROFITS FOR THE QUARTER WAS \$466, YOU HAD
17 TO RELY ON THE STATEMENT THAT WAS MAILED TO YOU BY MR. HUNT,
18 RIGHT?

19 MR. BARENS: OBJECTION. THERE IS ABSOLUTELY NO
20 FOUNDATION AS TO WHO MAILED IT OR PREPARED IT.

21 THE COURT: WELL, WHOSE STATIONERY IS THAT ON?

22 MR. WAPNER: FINANCIAL FUTURES CORPORATION.

23 THE COURT: WELL, IT IS OBVIOUSLY FROM THE CORPORATION.

24 MR. BARENS: THE CORPORATION INDEED, YOUR HONOR.

25 THE COURT: YES.

26 MR. WAPNER: WELL, AS MR. BARENS -- WELL, I WILL
27 REPHRASE IT. I WILL MAKE AN OFFER OF PROOF THAT THERE WILL
28 BE TESTIMONY FROM OTHER WITNESSES AS TO HOW THE DOCUMENTS

1 WERE PREPARED AND WHO PREPARED THEM.

2 MR. BARENS: I SUPPOSE WHEN WE GET THAT TESTIMONY, IT
3 WOULD BE APPROPRIATE TO PROCEED WITH NO FOUNDATION AT THAT
4 POINT.

5 THE COURT: LET'S GET ON, PLEASE.

6 Q BY MR. WAPNER: DR. PASKAN, OTHER THAN GETTING
7 THIS PIECE OF PAPER FROM FINANCIAL FUTURES CORPORATION, YOU
8 DIDN'T KNOW HOW THE MONEY THAT YOU INVESTED WAS DOING, DID
9 YOU?

10 A NO I DIDN'T.

11 Q AND SO, IF IN FACT, RATHER THAN A 17.69 PERCENT
12 PROFIT, MONEY HAD BEEN -- IN FACT, YOUR MONEY HAD BEEN IN
13 A COMMODITIES ACCOUNT THAT HAD LOST APPROXIMATELY A QUARTER
14 OF A MILLION DOLLARS BY THE END OF FEBRUARY, YOU WOULDN'T
15 KNOW THAT, WOULD YOU?

16 A NO.

17 MR. BARENS: WELL, OBJECTION, YOUR HONOR. THE REFERENCE
18 "LOST APPROXIMATELY A QUARTER OF A MILLION DOLLARS," WHERE
19 DOES THAT COME FROM?

20 MR. WAPNER: THE TESTIMONY --

21 THE COURT: WELL, DO YOU INTEND TO CONNECT IT UP?

22 MR. WAPNER: I DO.

23 MR. BARENS: WITH THIS WITNESS?

24 THE COURT: GO AHEAD.
25
26
27
28

1 MR. WAPNER: COUNSEL, DO YOU HAVE THE EXHIBIT THAT
2 IS DEFENDANT'S V?

3 MR. BARENS: V (INDICATING).

4 Q BY MR. WAPNER: DR. PASKAN, THIS LIMITED PARTNER-
5 SHIP AGREEMENT THAT YOU SIGNED THAT IS DEFENSE V, WAS SIGNED
6 ON WHAT DATE?

7 A DATED 3-6-84.

8 Q WAS THERE ANOTHER AGREEMENT THAT YOU HAD WITH
9 HIM EARLIER THAT YOU DON'T SEEM TO HAVE IN YOUR RECORDS?

10 A WELL, I AM NOT SURE. I MAY HAVE HAD ANOTHER
11 AGREEMENT.

12 DOES THIS AGREEMENT ALLUDE TO A FORMER AGREEMENT?

13 Q WELL, WE WILL LET THE DOCUMENT SPEAK FOR ITSELF.
14 WHAT YOU ARE SAYING IS YOU DON'T RECALL AT THIS
15 POINT?

16 A NO.

17 Q WHEN YOU MADE THE INVESTMENT IN FEBRUARY, DO
18 YOU RECALL WHETHER OR NOT YOU HAD ANY AGREEMENT, LIMITED
19 PARTNERSHIP AGREEMENT AT THAT TIME?

20 A I DON'T BELIEVE I DID ON -- ON MY FIRST VISIT,
21 I SIMPLY DEPOSITED MY CHECK WITH THEM.

22 MR. WAPNER: I HAVE NOTHING FURTHER.

23 THE COURT: ALL RIGHT.

24
25 RE-CROSS-EXAMINATION

26 BY MR. BARENS:

27 Q YOU MENTIONED THAT WHEN YOU GOT THE 3-18-84
28 STATEMENT ABOUT YOUR POSITION ON YOUR INVESTMENT THAT ALL

1 YOU KNEW ABOUT IT WAS WHAT THAT PAPER WORK TOLD YOU; IS THAT
2 CORRECT?

3 A WHAT WAS THIS ABOUT A 3-18 --

4 Q ON THE 3-18 EXHIBIT THAT MR. WAPNER JUST MADE
5 REFERENCE TO, I BELIEVE YOUR TESTIMONY WAS THAT THE ONLY
6 THING YOU KNEW ABOUT YOUR POSITION ON THE INVESTMENT AT THAT
7 TIME WAS WHAT THAT DOCUMENT TOLD YOU BY WAY OF A SUMMARY.

8 I BELIEVE IT MAY STILL BE IN FRONT OF YOU.

9 A THIS DOCUMENT?

10 (WITNESS INDICATING.)

11 Q NO. THAT IS V.

12 LET ME FIND THAT, DOCTOR.

13 MR. WAPNER: THE CLERK HAS THAT.

14 MR. BARENS: DO YOU HAVE 187?

15 (DOCUMENT HANDED TO COUNSEL TO MR. BARENS
16 BY THE CLERK.)

17 Q BY MR. BARENS: WITH REFERENCE TO 187 HERE, DOCTOR,
18 THAT SHOWS WHAT YOUR DEPOSITS AND INVESTMENTS HAVE BEEN AND
19 WHAT YOUR PROFIT WAS CALCULATED AS BEING AT THAT DATE, YOU
20 SAY ALL YOU KNEW ABOUT THE INVESTMENT WAS WHAT YOU HAD AT
21 THAT TIME?

22 A THAT IS TO THE BEST OF MY PRESENT RECOLLECTION.

23 Q AND ISN'T IT TRUE THAT ON OTHER INVESTMENTS YOU
24 MADE IN SECURITIES AND WHATNOT THAT YOU WOULD PERIODICALLY
25 GET STATEMENTS OF A SIMILAR NATURE FROM YOUR INVESTMENT
26 BROKERAGE?

27 A YES.

28 Q AND ISN'T IT TRUE THAT ON THOSE OCCASIONS ALL

1 YOU KNEW ABOUT YOUR INVESTMENTS WAS WHAT THOSE PEOPLE TOLD
2 YOU IN A SIMILAR DOCUMENT?

3 A THAT IS TRUE.

4 Q SO THERE HAS TO BE SOME KIND OF AN ACCOUNTING --

5 A SIR --

6 Q -- I SUPPOSE, PERIODICALLY?

7 A YES, YES.

8 Q PERIODICALLY, THERE HAS TO BE A STATEMENT SENT
9 FROM SOMEBODY THAT YOU HAVE GOT TO RELY ON?

10 A RIGHT.

11 Q WHEN I WAS SPEAKING EARLIER ABOUT YOUR RELATIONSHIP
12 IN TERMS OF LOSSES AND WHETHER THE INVESTMENT HOUSE, THIS
13 BEING THE BBC AND FINANCIAL FUTURES, HAD ANY RESPONSIBILITY
14 TO COVER YOUR LOSSES, I BELIEVE YOU INDICATED THAT YOU WEREN'T
15 SURE WHAT THAT RELATIONSHIP WAS?

16 A THAT'S CORRECT.

17 Q CALLING YOUR ATTENTION AGAIN TO EXHIBIT V,
18 PARAGRAPH 6; COULD YOU READ FOR US THE SENTENCE, THE FIRST
19 SENTENCE IN PARAGRAPH 6, SIR?

20 A "EACH LIMITED PARTNER SHALL BEAR 100 PERCENT
21 RESPONSIBILITY AND LIABILITY FOR ALL LOSSES INCURRED BY THEIR
22 CAPITAL ACCOUNTS BASED ON THE OUTCOME OF THE INVESTMENTS
23 OF THE PARTNERSHIP MADE BY THE GENERAL PARTNER."

24 Q NOW, WHEN YOU READ THAT AND WITH THAT TYPE OF
25 KNOWLEDGE, SIR, IS THAT WHY YOU TESTIFIED EARLIER THAT IN
26 SEPTEMBER WHEN HUNT IS SIGNING PROMISSORY NOTES, THAT IT
27 SEEMS TO BE ON THE BASIS OF A MORAL OBLIGATION?

28 A YES.

1 Q THANK YOU, SIR.

2 THE COURT: ALL RIGHT.

3

4 FURTHER REDIRECT EXAMINATION

5 BY MR. WAPNER:

6 Q DR. PASKAN, WHEN YOU SIGNED THAT LIMITED
7 PARTNERSHIP AGREEMENT, DID YOU TAKE IT TO A LAWYER FIRST
8 TO HAVE HIM LOOK AT IT?

9 A I DON'T BELIEVE I DID.

10 Q DID YOU READ IT THROUGH BEFORE YOU SIGNED IT?

11 A YES, I DID.

12 Q AND WHEN YOU SIGNED THAT, DO YOU REMEMBER WHERE
13 IT WAS THAT YOU WERE THAT YOU SIGNED THAT DOCUMENT WHEN YOU
14 SIGNED THAT DOCUMENT?

15 A PROBABLY SIGNED IT IN MY OFFICE.

16 Q AND WAS THAT BEFORE OR AFTER THE MEETING THAT
17 YOU HAD AT THE TAIL OF THE COCK, OR DO YOU KNOW?

18 A I AM NOT SURE. I DON'T SEE ANY DATE ON THE
19 INSTRUMENT, OTHER THAN UNDER 1.1 BUT THAT IS AN INCORRECT
20 DATE, I BELIEVE.

21 IT SAYS "MAY 15, 1983" BUT I THOUGHT THAT THAT
22 WAS JUST A TYPOGRAPHICAL ERROR.

23 IT SHOULD BE "84."

24 MR. WAPNER: MAY I SEE THAT ENVELOPE THAT THAT CAME
25 IN?

26 (WITNESS COMPLIES.)

27 MR. WAPNER: MAY I HAVE JUST A MOMENT, YOUR HONOR?

28 THE COURT: YES.

-1
1 Q AND THAT SAYS MAY OF 1983 BUT YOU HAD NOT INVESTED
2 AT THAT TIME, CORRECT?

3 A NO.

4 Q AND THERE ARE SOME OTHER DOCUMENTS IN THAT
5 ENVELOPE THAT ARE SUBSTITUTIONS OF LIMITED PARTNERS, IS THAT
6 RIGHT?

7 A YES.

8 Q IN THE ENVELOPE WHICH YOU BROUGHT US, THE CONTRACT
9 THAT SAYS MAY 15, 1983, IT REALLY SHOULD BE MAY OF '84?

10 MR. BARENS: OBJECTION. THERE IS NO TESTIMONY.

11 MR. WAPNER: WELL, HE JUST SAID THAT. I WILL ASK HIM
12 AGAIN.

13 THE COURT: THAT IS THE FIRST CONTACT THAT YOU HAD?
14 THIS WAS NOT 1983, BUT IN 1984, FEBRUARY? IS THAT RIGHT?

15 THE WITNESS: FEBRUARY OF '84.

16 THE COURT: YOU HAD NOTHING TO DO WITH THIS BEFORE THAT
17 DATE, DID YOU?

18 THE WITNESS: NO.

19 THE COURT: IT MUST BE A TYPOGRAPHICAL ERROR AS FAR
20 AS HE IS CONCERNED.

21 Q BY MR. WAPNER: DIDN'T YOU JUST TELL US WHEN IT
22 SAID MAY OF '83, YOU BELIEVED IT WAS AN ERROR AND IT SHOULD
23 HAVE BEEN MAY OF '84?

24 A YES.

25 Q AND IN THAT SAME ENVELOPE, WERE THERE TWO
26 AGREEMENTS FOR THE TERMINATION OF THE PREVIOUS AGREEMENT THAT
27 YOU HAD WITH MR. HUNT, WHICH SAYS IT WAS ENTERED INTO IN
28 FEBRUARY OF 1984? LET ME SHOW YOU THE TWO DOCUMENTS THAT

-2
1 ARE TITLED "AGREEMENT FOR TERMINATION OF LIMITED
2 PARTNERSHIP" AND "AGREEMENT FOR SUBSTITUTION OF AN EXISTING
3 LIMITED PARTNER."

4 DO YOU RECOGNIZE THOSE?

5 A YES.

6 Q AND DID THEY COME IN THE SAME ENVELOPE WITH THE
7 DOCUMENT THAT HAS BEEN MARKED AS DEFENDANT'S B?

8 A YES.

9 MR. WAPNER: MAY THEY BE MARKED COLLECTIVELY AS 195?

10 THE COURT: 195. SO MARKED.

5
11 MR. BARENS: YOUR HONOR, MIGHT BE MORE EFFECTIVE IF
12 WE DID THOSE AS SUBPARTS.

13 THE COURT: I THINK IT WOULD BE BETTER. LET'S HAVE
14 ALL OF THE DOCUMENTS THAT CAME IN THAT DOCUMENT MARKED BY
15 THE SAME NUMBER WITH SUBPARTS A, B, C, D AND SO FORTH.

16 MR. WAPNER: NO OBJECTION.

17 MR. BARENS: ACTUALLY, THAT WOULD BE V-1 AND V-2, YOUR
18 HONOR.

19 THE COURT: OKAY.

20 MR. WAPNER: THANK YOU. NOTHING FURTHER.

21 THE COURT: ALL RIGHT. ANYTHING FURTHER?

22 MR. BARENS: I HAVE NOTHING FURTHER.

23 THE COURT: ALL RIGHT. THANK YOU VERY MUCH, DOCTOR.
24 YOU WILL BE EXCUSED.

25 THE WITNESS: THANK YOU.

26 THE COURT: THE WITNESS MAY BE EXCUSED.

27 MR. WAPNER: MAY I HAVE A MOMENT WITH THE WITNESS?

28 (PAUSE.)

-3

1 MR. WAPNER: COUNSEL, MAY WE HAVE AN AGREEMENT ON THESE,
2 AS WE HAD WITH THE OTHER DOCUMENTS, THAT COPIES MAY BE MADE
3 AND ORIGINALS RETURNED TO THE WITNESS?

4 MR. BARENS: YES.

5 (PAUSE.)

6 MR. WAPNER: WE HAD MR. FRIEDMAN ON THE STAND.

7 THE COURT: GET HIM BACK IN.

8
9 JACK FRIEDMAN,

10 CALLED AS A WITNESS BY THE PEOPLE, HAVING BEEN PREVIOUSLY
11 SWORN, RESUMED THE WITNESS STAND AND TESTIFIED FURTHER AS
12 FOLLOWS:

13 THE CLERK: YOU HAVE BEEN PREVIOUSLY SWORN. YOU ARE
14 STILL UNDER OATH. JUST HAVE A SEAT AND STATE YOUR NAME AGAIN
15 FOR THE RECORD.

16 THE WITNESS: JACK FRIEDMAN, F-R-I-E-D-M-A-N.

17
18 CROSS-EXAMINATION (CONTINUED)

19 BY MR. BARENS:

20 Q MR. FRIEDMAN, YOU LEFT OFF I BELIEVE WHEN WE WERE
21 TALKING ABOUT THE EXCHANGES YOU HAD WITH MR. HUNT IN PROVIDING
22 INVESTMENT COUNSELING OR PARTICIPATION IN DECISION-MAKING
23 FOR THE BUSINESS MANAGEMENT OF THE ACCOUNT AT CLAYTON
24 BROKERAGE, IS THAT CORRECT?

25 A YES, SIR.

26
27
28

-1
1 Q AND IN THOSE DISCUSSIONS, WERE YOU GIVING MR. HUNT
2 REAL ADVICE?

3 A THE ADVICE I GAVE HIM PERTAINED TO MONEY MANAGEMENT
4 AND WHAT I THOUGHT ABOUT A PARTICULAR MARKET THAT HE WAS IN
5 OR THINKING OF GETTING INTO.

6 IN OTHER WORDS, I DIDN'T STRAY AWAY FROM ANYTHING
7 THAT HE WASN'T ALREADY IN.

8 THE MARKETS HE WAS IN WAS THE TREASURY BOND
9 MARKET, AND SWISS FRANCS.

10 IF HE WAS THINKING OF BUYING THE BONDS, WE WOULD
11 TALK ABOUT THAT AND SAY, "MAYBE THIS IS NOT A GOOD TIME TO
12 BUY THEM."

13 OR IF HE WAS LONG ON THE BONDS, I WOULD SAY "MAYBE
14 IT IS TIME TO SELL THEM."

15 AND SOMETIMES HE TOOK MY ADVICE. SOMETIMES, HE
16 DIDN'T.

17 BUT MY PARTICULAR -- MY REALLY STRONG ADVICE THAT
18 I GAVE HIM WAS TO THE NATURE OF HIS MONEY MANAGEMENT WHICH
19 WAS -- THE ACCOUNT WAS TREMENDOUSLY OVER-MARGINED MOST OF
20 THE TIME.

21 Q AND WHEN YOU GAVE HIM THE INPUT THAT YOU PROVIDED
22 IN THOSE DIALOGUES, YOU WERE GIVING HIM REAL ADVICE RATHER
23 THAN SIMULATED ADVICE, LET'S SAY?

24 A WELL, IT WAS REAL ADVICE ON SIMULATED MONEY.

25 Q RIGHT.

26 AND THE ADVICE YOU WERE PROVIDING WASN'T SOMETHING
27 YOU WERE MAKING UP. YOU WERE DOING IT TYPICALLY LIKE YOU
28 WOULD HAVE IN ANY ANALOGOUS SETTING, YOU WERE GIVING REAL

1 ADVICE OR REAL WORLD ADVICE, LET'S SAY?

2 A RIGHT. I HAD A REAL INTEREST IN THIS ACCOUNT
3 MAKING MONEY. I DIDN'T WANT TO GO ON TELEVISION AND SAY "WE
4 JUST LOST \$5 MILLION." IF YOU WANT TO TRADE THE MARKET --

5 I DIDN'T THINK THAT THAT WOULD BE IN MY BEST
6 INTEREST SO I WAS PLAYING TO WIN.

7 Q YOU BET.

8 A SO WE COULD GET UP THERE AND SAY THAT WE MADE
9 MONEY TRADING THE MARKET.

10 Q YOU BET.

11 LATER ON, YOU TESTIFIED THAT WHEN THE TRANSACTION
12 CAME TO AN END SOMETIME IN AUGUST OF 1983 THAT HUNT INDICATED
13 TO YOU THAT THE MONEY WAS GOING TO BE INVESTED IN A REAL
14 ESTATE TRANSACTION?

15 A YES.

16 Q DID HE SAY WHERE HE GOT THE INFORMATION OR DID
17 HE JUST SAY THAT?

18 A HE SAID A COUPLE OF DIFFERENT THINGS AT DIFFERENT
19 TIMES.

20 YOU KNOW, I DIDN'T PAY A LOT OF ATTENTION TO IT
21 BECAUSE I MEAN I KNEW THERE WASN'T ANY MONEY TO INVEST.SO
22 IT DIDN'T REALLY MATTER.

23 Q YOU DIDN'T CORRECT HUNT WHEN HE MADE THAT REMARK,
24 DID YOU?

25 A NOT AT THAT TIME.

26 Q SO WHEN HE SAID TO YOU, WHEN HE EXPRESSED A BELIEF
27 THAT THE MONEYS WERE TO BE INVESTED IN REAL ESTATE, YOU JUST
28 SHINED IT ON, MR. FRIEDMAN?

1 A NO.

2 BECAUSE HE WOULD SAY THAT IN CONJUNCTION WITH
3 OTHER THINGS AND I DIDN'T --

4 HE WOULD SAY THAT HE HAD OTHER ACCOUNTS WITH RON
5 LEVIN. HE SAID THAT HE AND RON LEVIN HAD DONE OTHER REAL
6 ESTATE DEALS IN THE PAST.

7 AND HE SAID A LOT OF THINGS THAT, YOU KNOW, BETWEEN
8 THE TWO OF THEM, I REALLY WASN'T SURE WHO WAS SAYING WHAT
9 AND WHAT WAS REAL.

10 Q DID YOU FEEL THERE MIGHT HAVE BEEN A BIT OF PUFFING
11 GOING ON THERE, MR. FREIDMAN?

12 A COULD HAVE BEEN, YES.

13 Q IN ANY EVENT, HE SAID THAT.

14 LATER ON, YOU ARE TESTIFYING ABOUT A PROGRESSIVE
15 SAVINGS AND LOAN CHECK THAT LEVIN DEPOSITED WITH YOU FOLKS?

16 A YES.

17 Q AND THEN YOU HAD SOME PROBLEM CLEARING THE CHECK?

18 A RIGHT.

19 Q AND THEN EVENTUALLY, YOU SAY YOU SENT LEVIN
20 \$50,000?

21 A NO.

22 WHAT I SAID WAS THAT THE CHECK FINALLY CLEARED
23 AFTER, I DON'T KNOW, IT WASN'T RIGHT AWAY, IT WAS THREE, FOUR
24 WEEKS, MAYBE LONGER, MAYBE LESS.

25 Q AND WHAT HAPPENED TO THAT MONEY?

26 A AND THE ACCOUNT WAS IN DEBIT IN THE MINUS FOR
27 \$400 THAT I HAD PAID OUT OF MY OWN POCKET AND WHEN THE CHECK
28 CLEARED, IT CLEARED THAT \$400 AND THE BALANCE OF THE CASH

1 THAT WAS IN THE ACCOUNT -- AND HE CALLED THE HOME OFFICE AND
2 ASKED THEM TO SEND THE BALANCE OF THE ACCOUNT OUT.

3 Q AND HOW MUCH WAS THE BALANCE IN THE ACCOUNT THAT
4 WAS SENT TO RON LEVIN AT THAT POINT IN TIME?

5 A IT WAS \$50,000 MINUS \$400.

6 Q SOMEWHERE OVER \$49,000 WAS ACTUALLY FORWARDED
7 TO LEVIN?

8 A YES.

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1 Q AND ABOUT WHAT POINT IN TIME WAS THAT, SIR?

2 A IT WAS AROUND SEPTEMBER THE 2ND.

3 Q OF 1983?

4 A IT STARTED -- WAS MAYBE ABOUT THREE WEEKS LATER.

5 Q SO, LET'S SAY BY THE BEGINNING OF OCTOBER OR
6 LATE SEPTEMBER OF '83, HE HAD RECEIVED THE FORTY-NINE THOUSAND
7 PLUS DOLLARS FROM YOU FOLKS?

8 A YES.

9 Q HE NEVER CALLED YOU AND SCREAMED WHEN HE DIDN'T
10 GET THAT MONEY, DID HE?

11 A NO. HE NEVER CALLED ME SCREAMING THAT HE DIDN'T
12 GET THE MONEY.

13 Q OKAY. NOW, YOU GOT TO A POINT IN YOUR TESTIMONY
14 WHERE YOU SAID THAT YOU HAD THIS CONVERSATION WITH MR. HUNT,
15 WHERE HE TOLD YOU THAT HE WAS AWARE THAT THE ACCOUNT WAS
16 TO USE HIS HONOR'S TERMS, APOCRYPHAL OR TO USE MY TERMS,
17 FICTIONAL AND HUNT SAID THAT HE KNEW THAT?

18 A YES.

19 Q AND DID HE APPEAR TO BE SAVING FACE WHEN HE
20 SAID THAT TO YOU?

21 A I REALLY COULDN'T SAY. I MEAN TO THIS DAY, I
22 COULDN'T SAY.

23 Q YOU JUST DON'T KNOW?

24 A IF I GO BACK AND THINK ABOUT IT, BACKWARDS AND
25 FORWARDS, I THINK WELL, HE KNEW, HE DIDN'T KNOW. HE KNEW,
26 HE DIDN'T KNOW.

27 Q OKAY. WHAT DID YOU NOTICE AFTER THAT --

28 A ALL I KNOW IS WHAT HE SAID.

1 Q SURE. AFTER THAT, SHORTLY THEREAFTER, LEVIN CALLED
2 YOU UP SCREAMING?

3 A YES. THAT NIGHT.

4 Q AND THAT WAS IN A MATTER OF HOURS OF YOUR
5 DISCUSSION WITH HUNT?

6 A IT WAS ON THE SAME DAY FROM THE AFTERNOON TO
7 THE EVENING. YES.

8 Q AND HE WAS SCREAMING OSTENSIVELY BECAUSE YOU
9 HAD TOLD HUNT THE TRUTH ABOUT THE NATURE OF THE ACCOUNT?

10 A YES.

11 Q AND WHAT WAS HE SAYING TO YOU IN THAT CONVERSATION,
12 SIR?

13 A WHAT HE SAID WAS THAT I HAD NO RIGHT TO VIOLATE
14 HIS CONFIDENTIALITY. THAT IS ALMOST EXACTLY WHAT HE SAID.

15 Q AND THAT IN CONTEXT, HE WAS MAKING REFERENCE
16 TO -- IT WAS YOUR SENSE, TO YOUR HAVING TOLD HUNT THAT THE
17 ACCOUNT WAS LESS THAN WHAT IT APPEARED TO BE?

18 A YES.

19 Q AND HE WAS UPSET WITH YOU BECAUSE YOU HAD DONE
20 THAT?

21 A YES.

22 Q YOU SAY THAT HE THREATENED YOU DURING THAT
23 CONVERSATION?

24 A WELL, HE DIDN'T THREATEN ME PHYSICALLY. HE
25 THREATENED THAT HIS LAWYERS WERE GOING TO COME IN AND HE
26 WAS GOING TO COME AFTER ME FOR VIOLATING HIS CONFIDENTIALITY.

27 Q WAS HE GOING TO FILE A SIMULATED LAWSUIT OR WHAT
28 DID HE SAY?

1 A HE WAS GOING TO FILE SUIT, I GUESS IT WAS BECAUSE
2 I NEVER GOT A SIMULATED SUBPOENA. I DON'T KNOW.

3 Q ONCE AGAIN, JUST DIDN'T HAPPEN, DID IT?

4 A THAT'S RIGHT.

5 MR. BARENS: THANK YOU. NOTHING FURTHER.

6 THE COURT: ALL RIGHT.

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REDIRECT EXAMINATION

9

BY WAPNER:

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 Q MR. FRIEDMAN, SHOWING YOU AGAIN THE DOCUMENT
11 THAT IS PEOPLE'S 83, WERE THERE CERTAIN THINGS ABOUT THIS
12 ACCOUNT THAT SOMEONE KNOWING SOMETHING ABOUT COMMODITIES
13 COULD LOOK AT AND SAY THAT THIS IS NOT REALISTIC?

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 MR. BARENS: COULD WE QUALIFY THAT FOR THE JURY? WHEN
15 YOU SAY SOMEONE WHO KNOWS SOMETHING ABOUT THIS, WHETHER YOU
16 ARE TALKING ABOUT A PROFESSIONAL, AN INVESTOR, A LAYPERSON
17 OR A JUDGE OR WHAT?

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1 THE COURT: FIRST OF ALL, TO YOU AND THE BUSINESS YOU
2 WERE IN, WOULD THAT SEEM TO BE --

3 THE WITNESS: THE TERM I WOULD USE WOULD BE A
4 "SOPHISTICATED TRADER" OR SOPHISTICATED PERSON, SOMEONE WHO
5 IS KNOWLEDGEABLE.

6 I MEAN, KNOWS WHAT YOU ARE TALKING ABOUT.

7 SOMEONE WHO HAS NEVER TRADED OR HAS VERY LITTLE
8 TRADING EXPERIENCE OR IS NOT FAMILIAR WITH CONFIRMS -- THERE
9 ARE PEOPLE WHO ARE EXPERIENCED BUT AREN'T, YOU KNOW, REAL
10 EXPERIENCED IN LOOKING AT CONFIRMS.

11 BUT THERE ARE CERTAIN THINGS THAT ARE I THINK,
12 PRETTY STANDARD. LIKE ONE THING THAT IS VERY STANDARD, IS
13 THE PURPOSE OF A P & S OR PURCHASE AND SELL, IS WHEN IT IS
14 SUPPOSED TO GO OUT PROMPTLY TO GIVE THAT INFORMATION TO THE
15 PERSON.

16 IT IS TO PROTECT THE PERSON, TO INFORM THEM OF THE FACT THAT
17 IT HAS BEEN DONE, WHATEVER THE TRANSACTION IS AND TO PROTECT
18 HIM FROM A BROKER OR TRADER.

19 SO ONE OF THE THINGS ON THE STATEMENT IS THE
20 DATES THAT THEY WENT OUT ARE WAY AFTER SOME OF THE TRADES
21 THAT ARE MADE, NOT THE SAME DAY.

22 Q WHEN YOU SAY "WAY AFTER" WHAT DO YOU MEAN?

23 A LIKE THE FIRST STATMENT I NOTICED, THIS THING
24 WENT OUT JULY 25 -- I MEAN, JULY 5 FOR TRADES THAT WERE DONE
25 ON THE 28TH.

26 Q 28TH OF JUNE?

27 A YEAH.

28 Q AND IS THAT A LONG TIME IN TERMS OF --

1 A YES, IT IS TOO LONG. I MEAN, THE MOST IT SHOULD
2 HAVE BEEN IS THE NEXT DAY. USUALLY IT IS THAT DAY OR THE
3 NEXT DAY.

4 AND THEY HAVE TRANSACTIONS THAT ARE BATCHED ON
5 DAYS THAT ARE -- THESE ARE THE CONFIRMS. AND THE TYPING
6 IS ALL CROOKED AND SLOPPY.

7 Q IS THERE SOMETHING ABOUT THE FACT THAT IT IS
8 TYPING AT ALL, THAT IS UNUSUAL?

9 A YEAH.

10 Q WHAT IS THAT?

11 A WELL, IT LOOKS LIKE IT HAS BEEN TYPED WITH A
12 TYPEWRITER, INSTEAD OF DONE ON THE COMPUTER.

13 Q AND ARE CONFIRMATIONS THAT ARE SENT OUT BY
14 BROKERAGE HOUSES IN A NORMAL COURSE OF BUSINESS, DONE BY
15 COMPUTER?

16 A YES. LIKE THIS ONE IS SENT OUT ON 7-29 FOR A
17 TRANSACTION DONE ON THE 12TH. THEY -- SORRY. THAT IS MONTH-
18 END. THAT IS OKAY. THAT SHOULD BE LIKE THAT.

19 HERE IS FROM THE 28TH FOR A TRANSACTION THAT
20 IS ON THE 20TH. THAT'S OKAY. ABOUT HALF OF THEM LOOK OKAY.
21 HALF OF THEM DON'T.

22 I THINK ONE OF THE OTHER THINGS IN HERE THAT
23 WAS KIND OF -- THERE WERE TWO OTHER THINGS WHEN I WAS THINKING
24 ABOUT THIS.

25 Q THAT MAKE IT SEEM UNREALISTIC?

26 A YES. THAT IT IS NOT COMMON TO HAVE A LARGE SUM
27 OF MONEY SITTING IN AN ACCOUNT NOT EARNING ANY INTEREST.

28 Q IS THAT REFLECTED ON THE STATEMENT?

1 A RIGHT.

2 Q WOULD IT BE REFLECTED IF THERE WAS A PART OF
3 THE ACCUNT --

4 A RIGHT. IT WOULD SHOW MONEY WAS TRANSFERRED TO
5 A MONEY MARKET FUND. IF YOU HAVE AN ACCOUNT THIS SIZE, USUALLY
6 THE FIRST THING THAT WOULD BE DONE IS HALF OF IT WOULD BE
7 TRANSFERRED TO THE MONEY MARKET ACCOUNT AND ABOUT 80 PERCENT
8 OF THE BALANCE WOULD BE PUT IN TREASURY BILLS.

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1 Q WHY IS THAT?

2 A TO EARN -- TO MAXIMIZE THE INTEREST EARNED ON
3 THE CAPITAL AND TO HAVE ALL OF THAT MONEY. I MEAN THE LOSS
4 ON INTEREST ON THAT ACCOUNT WOULD BE ABOUT \$50,000 A MONTH,
5 I THINK.

6 Q IN OTHER WORDS, BECAUSE OF THE POSITIONS BEING
7 IN THE WAY THAT THEY ARE REFLECTED ON THOSE STATEMENTS, THE
8 MONEY IS NOT EARNING INTEREST AND, THEREFORE, HE IS LOSING
9 \$50,000 A MONTH?

10 A RIGHT.

11 Q DID YOU TALK TO MR. HUNT ABOUT THAT WHEN YOU HAD
12 YOUR DISCUSSION ABOUT MONEY MANAGEMENT?

13 A WE TALKED ABOUT IT BUT I CAN'T REMEMBER EXACTLY
14 WHAT HE SAID.

15 I THINK -- I KNOW IT WAS BROUGHT UP BUT IT WASN'T --
16 THERE WAS A LOT OF THINGS THAT WERE BROUGHT UP
17 BUT WE DIDN'T GO INTO A LOT OF DETAIL ABOUT.

18 Q THE FINAL DECISION ON WHAT TO DO WITH THAT AND
19 WHETHER OR NOT TO PUT ANY OF THAT MONEY INTO MONEY MARKET
20 FUNDS WAS UP TO MR. HUNT?

21 A IT WAS UP TO LEVIN AND SO WE DIDN'T DO THAT.

22 AND IF HE WAS WORKING ON ANY KIND OF A PERFORMANCE
23 BASIS, THAT WAS IN HIS BEST INTEREST TO GET THAT MONEY TO
24 EARN, WHICH WE DIDN'T DO.

25 Q IT WAS IN HIS BEST INTEREST?

26 A IT WAS IN HIS BEST INTEREST, IF HE WAS WORKING
27 ON THE PERCENTAGE OF THE PROFIT, THAT WOULD BE IN HIS BEST
28 INTERESTS.

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1 I -- ALSO, IT IS NOT, YOU KNOW, CUSTOMARY WHEN
2 YOU HAVE AN ACCOUNT THIS SIZE TO UTILIZE 100 PERCENT OF IT
3 IN MARGIN.

4 USUALLY, YOU PUT 50 PERCENT IN RESERVE AND THEN
5 TRADE THE OTHER HALF.

6 Q WHEN YOU SAY PUT 100 PERCENT IN MARGIN, WHAT DO
7 YOU MEAN?

8 A WELL, WHAT YOU ARE PURCHASING, YOU ARE PURCHASING
9 THINGS ON -- IT WOULD BE EASIER TO JUST USE GOLD AS AN EXAMPLE.

10 Q OKAY.

11 A TREASURY BILLS AND SOME OF THESE INSTRUMENTS ARE
12 A LITTLE COMPLICATED BUT EVERYBODY UNDERSTANDS WHAT GOLD IS.

13 SO GOLD IS PURCHASED IN 100-OUNCE INCREMENTS SO
14 IF ONE-OUNCE OF GOLD TRADES AT \$400 AN OUNCE, A HUNDRED
15 OUNCES WOULD BE WORTH \$40,000 SO THE GOOD FAITH MONEY YOU
16 PUT -- WHAT WE CALL MARGIN MONEY IN THE COMMODITY MARKET
17 IS IF YOU PUT UP, LET'S SAY \$1600 IN THE ACCOUNT AND YOU ARE
18 NOT BUYING \$1600 WORTH OF GOLD, YOU ARE BUYING \$40,000 WORTH
19 OF GOLD SO IF YOU HAVE AN ACCOUNT THAT IS WORTH \$5 MILLION
20 LIKE THIS AND YOU TAKE THE SWISS FRANC -- AND IN THESE FIRST
21 TRANSACTIONS THAT WERE DONE, THERE WERE 1900 CONTRACTS
22 PURCHASED AND THE MARGIN WAS \$2,000. THE ONE CONTRACT OF
23 SWISS FRANCS WAS WORTH ABOUT \$40,000, \$50,000 AND THE MARGIN
24 WAS \$2,000. SO OF THE \$5 MILLION THAT THE ACCOUNT STARTED
25 OUT WITH, ALMOST 4 MILLION OF IT WAS MARGIN JUST FOR THE SWISS
26 FRANC ALONE.

27 THE COURT: IN THE NORMAL COURSE, YOU WOULD NOT DO THAT?

28 THE WITNESS: IN THE NORMAL COURSE NOT ONLY WOULD YOU

1 NOT DO THAT, WOULD YOU NOT USE 50 PERCENT OF THE MONEY FOR
2 A MARGIN ACCOUNT THIS SIZE, YOU WOULDN'T PUT MORE THAN 10
3 OR 20 PERCENT IN ANY ONE PARTICULAR MARKET.

4 Q BY MR. WAPNER: MEANING YOU WOULDN'T PUT MORE
5 THAN 10 TO 20 PERCENT IN SWISS FRANCS AS OPPOSED TO SOMETHING
6 ELSE?

7 A RIGHT.

8 BUT THERE ARE SOME PEOPLE THAT DON'T DO THAT.

9 IT IS CUSTOMARY GOOD MONEY MANAGEMENT AND THESE
10 WERE SOME OF THE THINGS THAT WE DID DISCUSS.

11 Q AND APPARENTLY THAT DISCUSSION FELL ON DEAF EARS?

12 A NO. HE WAS RESPONSIVE.

13 IT PROBABLY SAVED THE ACCOUNT ON THE 20TH WHEN
14 WE LIQUIDATED THE SWISS FRANCS, IT WAS ON THE 15TH AND THE
15 20TH AND THE SWISS FRANCS COLLAPSED RIGHT AFTER THAT. WE
16 STAYED LONG ABOUT 50 CONTRACTS AND IF WE HADN'T DONE THAT,
17 THE ACCOUNT WOULD HAVE BEEN WIPED COMPLETELY OUT BECAUSE IT
18 STARTED OUT AT 5 MILLION AND DROPPED TO UNDER A MILLION.

19 Q IT STARTED OUT WITH 5 MILLION IN THIS ACCOUNT?

20 A YES, AND BY THE END OF JULY THE ACCOUNT HAD
21 ACTUALLY GONE DOWN UNDER A MILLION DOLLARS.

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A-1 . 1 Q IT DROPPED FROM \$5 MILLION TO A MILLION DOLLARS?

2 A AS I WAS LOOKING, IT HAS BEEN A WHILE SINCE I
3 LOOKED AT IT SO I WENT OVER THE STUFF THIS WEEKEND.

4 THE COURT: WHAT DO YOU MEAN, UNDER A MILLION?

5 THE WITNESS: WELL, THE VALUE OF THE ACCOUNT, IT WENT
6 FROM \$5 MILLION TO UNDER A MILLION DOLLARS TO UP TO \$13 MILLION.

7 THE COURT: WHAT DO YOU MEAN UNDER A MILLION, LESS THAN
8 A MILLION?

9 THE WITNESS: YES, LESS THAN A MILLION DOLLARS.

10 IF YOU LIQUIDATED THE ACCOUNT AT CERTAIN POINTS,
11 IT CAME CLOSE TO BEING WIPED OUT COMPLETELY.

12 Q BY MR. WAPNER: AND GOING FROM 5 MILLION -- HOW
13 LONG DID IT TAKE TO GO FROM THE 5 MILLION TO UNDER A MILLION?

14 A I THINK IT WAS RIGHT AROUND THE BEGINNING OF JULY,
15 LET'S SEE, ON JULY 25TH, THE ACCOUNT VALUE WAS -- IT IS HARD
16 TO SAY BECAUSE WE HAD SOME OPTION PREMIUMS -- BUT IT WAS AROUND
17 A MILLION THREE HUNDRED EIGHTY-SIX THOUSAND DOLLARS.

18 Q AND THE ACCOUNT HAD BEEN OPERATING APPROXIMATELY
19 A MONTH THEN AT THAT POINT?

20 A YES.

21 Q BECAUSE IT STARTED ON JUNE 28, RIGHT?

22 A THAT'S CORRECT.

23 AND THEN ON THE 27TH, THE EQUITY WAS ABOUT
24 992,095.

25 Q ON THE 27TH OF JULY?

26 A JULY.

27 Q AND HOW DID IT GO BACK UP FROM THERE UP TO THE
28 13 MILLION?

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1 A AND IT STARTED COMING BACK, I THINK, ON AUGUST
2 THE 2ND, IT WAS \$462,000 -- IT IS A LITTLE MORE THAN THAT,
3 BECAUSE WE HAD SOME OPTION PREMIUMS.

4 WHEN YOU BUY OPTIONS, IT IS NOT COUNTED IN YOUR
5 EQUITY AND THEN HE PUT ON A LOT OF BONDS AND THE ACCOUNT
6 STARTED TO COME BACK.

7 I THINK ABOUT AUGUST THE 11TH, IT WAS WORTH ABOUT
8 2 MILLION AGAIN. THEN FROM AUGUST THE 11TH TO THE 12TH, IT
9 JUMPED FROM 2 MILLION TO 5 MILLION.

10 Q IN ONE DAY?

11 A OVERNIGHT.

12 Q WOULD YOU SAY THAT COMMODITIES ARE FAIRLY
13 VOLATILE; IS IT A FAIRLY VOLATILE MARKET?

14 A IT IS DEFINITELY NOT FOR THE FAINTHEARTED. I MEAN
15 IT IS NOT FOR THE FAINTHEARTED, NO DOUBT ABOUT THAT.

16 AND THEN ON THE 15TH, IT JUMPED TO -- WHICH WAS
17 THE WEEKEND -- I THINK THE 12TH WAS A FRIDAY. IT WENT FROM
18 \$4,899,000 TO \$9 MILLION. IT HAD A BIG JUMP IN THOSE TWO,
19 THREE DAYS.

20 THAT IS WHAT I WAS TRYING TO EXPLAIN WHEN I PUT
21 THOSE POSITIONS ON THE MARKET FOR LEVIN THAT DAY, YOU KNOW,
22 THE NEXT DAY I COULD HAVE BEEN WIPED OUT, YOU KNOW, WITH THAT
23 BAD CHECK.

24 Q YOU ARE NOW USING THE EXAMPLE OF MR. LEVIN?

25 A RIGHT.

26 Q HIS QUOTE, UNQUOTE REAL ACCOUNT?

27 A HIS --

28 Q THE REAL ACCOUNT AT THE END?

1 A HIS REAL ACCOUNT VERSUS THE ACCOUNT THAT WASN'T
2 REAL.

3 Q AS AN EXAMPLE OF WHAT COULD HAVE HAPPENED TO YOU?

4 A THAT'S CORRECT.

5 SO THEN ON THE 16TH, IT WAS \$9,600,000.

6 ON THE 17TH, IT JUMPED TO 15 MILLION.

7 WE HAD A PRETTY GOOD SURGE IN THE MARKET SO IT
8 WENT FROM --

9 I THINK I REMIND HIM OF HIS BROKER.

10 IT WENT FROM 5 MILLION DOWN AND ALL THE WAY BACK
11 AGAIN UP TO THIRTEEN, SO IT WAS A PRETTY WILD SWING.

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1 Q WELL, IF IT HAD GONE TO 15 MILLION AND EVENTUALLY
2 WENT DOWN AGAIN SLIGHTLY AND IT ENDED SLIGHTLY UNDER 14
3 MILLION --

4 A IT WAS WORTH A LITTLE BIT MORE THAN THAT. IT
5 IS HARD TO, YOU KNOW -- IF I HAD A COUPLE OF WEEKS TO JUST
6 SIT DOWN AND GO OVER IT, I COULD PINPOINT IT EXACTLY.

7 BUT I DIDN'T REALIZE THAT YOU WANTED TO GET INTO
8 THAT THAT HEAVILY.

9 Q WAS THERE ANYTHING ABOUT THE TRADES THEMSELVES
10 IN TERMS OF THE VOLUME, THAT FOR THE PERIOD OF TIME 1983,
11 THAT THEY WERE BEING MADE, THAT WAS UNUSUAL?

12 A THE VOLUME?

13 Q IN TERMS OF HOW MANY CONTRACTS OF SWISS FRANCS
14 WERE BOUGHT AND SOLD ON A PARTICULAR DAY?

15 A WELL, LIKE I SAID, IT WAS UNUSUAL TO MARGIN THE
16 ACCOUNT TO THAT EXTENT, USING THAT MUCH OF THE CAPITAL.

17 Q OKAY. BUT IN TERMS OF THE EURO-DOLLARS AND
18 SWISS FRANC MARKET AT THAT TIME, WAS IT A LARGE MARKET,
19 FINANCIAL FUTURES MARKET?

20 A YEAH. WELL, IN THOSE MARKETS IT IS OKAY.

21 I THINK IN THE TREASURY BOND OPTION MARKET, SOME-
22 TIMES WE BOUGHT MORE OPTIONS THAN WERE TRADED IN THE MARKET
23 THAT DAY. WE BOUGHT MORE IN THE ACCOUNT THAN ACTUALLY TRADED
24 THAT DAY.

25 Q WHEN YOU SAY THAT YOU BOUGHT MORE IN THAT ACCOUNT,
26 YOU ARE TALKING ABOUT ACCUMULATED -- THE AMOUNT OF CONTRACTS
27 THAT CAN ACTUALLY BE PURCHASED AS AGAINST THE AMOUNT THAT
28 WERE PURCHASED IN THE ENTIRE COUNTRY ON THAT DAY?

1 A RIGHT. WELL, YEAH, ON THE EXCHANGE.

2 IT IS ONLY TRADED IN ONE PLACE ON THE BOARD,
3 THE BOARD OF TRADE AT THAT TIME.

4 TODAY, THAT ORDER WOULD BE FILLED IN ABOUT FIVE
5 MINUTES.

6 Q ALL RIGHT.

7 A BUT THAT --

8 Q APPEARED IN 1983 WHEN THE ACCOUNT WAS BEING TRADED

9 A IT WAS UNREALISTIC. IT WAS UNREALISTIC TO
10 EXPECT THAT THEY WOULD BE FILLED WHEN WE -- IN THE WALL STREET
11 JOURNAL EVERY DAY, THE WALL STREET JOURNAL PRINTS PRICES
12 AND SHOWS THAT IT PROBABLY SHOULDN'T HAVE BEEN FILLED BECAUSE
13 THE AMOUNT OF TRANSACTIONS THAT DAY WERE LESS THAN WHAT WE
14 BOUGHT.

15 Q COULD YOU GIVE AN EXAMPLE OF THAT ON ANY ONE
16 PARTICULAR DAY?

17 A IT WAS HARD TO GET THE INFORMATION GOING BACK
18 THAT FAR.

19 Q BUT I MEAN, JUST AN EXAMPLE?

20 MR. BARENS: COULD WE MAKE IT CLEAR THAT WE ARE INTO
21 A HYPOTHETICAL?

22 THE COURT: YES, OF COURSE. ALL OF THIS IS HYPOTHETICAL.

23 MR. WAPNER: I DON'T THINK THEY ARE HYPOTHETICAL.

24 MR. BARENS: NOW HE IS SAYING THAT THEY ARE NOT. THE
25 WITNESS IS SAYING THAT HE DOESN'T KNOW WHEN --

26 THE COURT: WHAT DIFFERENCE DOES IT MAKE? LET'S PUT
27 AN END TO ALL OF THIS, NOW, ALL THIS HYPOTHESES.

28 BUT, WHAT DIFFERENCE DOES IT MAKE?

1 MR. WAPNER: WELL, THERE IS SOMETHING AT THIS POINT
2 THAT I WANTED TO MAKE OUT OF ALL OF THIS, THAT I THINK IS
3 IMPORTANT --

4 THE COURT: I THINK THE JURY GETS THE IDEA OF WHAT
5 KIND OF ACCOUNT THIS WAS.

6 MR. WAPNER: I UNDERSTAND THAT.

7 THE COURT: GO AHEAD. GO AHEAD. IF YOU HAVE A FEW
8 MORE QUESTIONS, GO AHEAD.

9 Q BY MR. WAPNER: ON A GIVEN DAY, ARE YOU SAYING
10 THAT THERE WERE MORE CONTRACTS OF TREASURY BILLS PURCHASED
11 BY MR. HUNT FOR MR. LEVIN THAN WERE PURCHASED BY EVERYBODY
12 ELSE IN THE COUNTRY WHO TRADED ON THE CHICAGO BOARD OF TRADE
13 THAT DAY?

14 A OKAY. IN RELATION TO THE TREASURY BILLS, THE
15 ANSWER IS NO. IN TREASURY BOND OPTIONS, THE ANSWER IS YES.

16 MR. BARENS: YOUR HONOR, IF WE COULD APPROACH, THE
17 HYPOTHETICAL IS MISLEADING TO THE JURY. THAT HYPOTHETICAL
18 IS VERY MISLEADING --

19 THE COURT: YOU CAN CROSS-EXAMINE IF YOU WANT TO.

20 Q BY MR. WAPNER: MR. FRIEDMAN, I AM NOT TALKING
21 ABOUT HYPOTHETICALLY. I AM TALKING ABOUT EXCEPT TO THE EXTENT
22 THAT THIS WAS A HYPOTHETICAL ACCOUNT IN THE FIRST PLACE --
23 BUT IN TERMS OF THE REQUEST THAT MR. HUNT MADE TO MAKE THOSE
24 SIMULATED TRADES, DID YOU --

25 MR. BARENS: OBJECTION. MR. HUNT DIDN'T ASK HIM TO
26 MAKE ANY SIMULATED TRADES.

27 THE COURT: WELL, NOW, LOOK. YOU ARE ARGUING. THE
28 JURY KNOWS EXACTLY WHAT KIND OF AN ACCOUNT THIS IS AND HOW
29 MR. HUNT FELT ABOUT THE ACCOUNT.

1 LET'S GET ON, WILL YOU? GO AHEAD.

2 Q BY MR. WAPNER: IN TERMS OF THE REQUEST MR. HUNT
3 MADE TO PURCHASE A CERTAIN NUMBER OF -- DID YOU SAY TREASURY
4 BOND OPTIONS?

5 A YES, TREASURY BOND OPTIONS.

6 Q IF HE ON A GIVEN DAY REQUESTED YOU TO PURCHASE
7 MORE OPTIONS THAN IN FACT, WERE PURCHASED BY EVERYBODY ELSE
8 WHO DID TRADE ON THE CHICAGO BOARD OF TRADE THAT DAY --

9 A YES.

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1 Q SO IF SOMEONE WERE KNOWLEDGEABLE IN THE TRADING
2 OF TREASURY BOND OPTIONS, THEY WOULD LOOK AT THIS ACCOUNT
3 AND SAY MY GOD, THIS IS UNREALISTIC. THERE WEREN'T THAT
4 MANY TRADED IN THE WHOLE COUNTRY ON THAT DAY.

5 A IT WAS DEFINITELY WORTH ASKING A FEW QUESTIONS
6 ABOUT AS TO HOW THAT COULD HAPPEN.

7 Q THE STATEMENTS THAT WERE GENERATED ON THIS ACCOUNT
8 THAT ARE REFLECTED IN PEOPLE'S 83, WOULD YOU EXPLAIN TO US
9 HOW THAT WAS DONE?

10 A YOU MEAN, WHEN THE TRANSACTION WAS DONE? THEY
11 WOULD IN ST. LOUIS, IN THE HOME OFFICE, THEY WOULD TAKE A
12 BLANK PURCHASE AND SALES SHEET AND TYPE THE INFORMATION AND
13 THEY WOULD DO IT EVERY COUPLE OF DAYS AND THEN SEND IT OUT.

14 Q IT WOULD BE SENT TO MR. LEVIN --

15 A TO MR. LEVIN. IT WAS JUST TO MR. LEVIN AND
16 NORMALLY IF THERE IS A THIRD PARTY TRADING IN THE ACCOUNT,
17 THE STATEMENTS WOULD GO TO HIM ALSO ON A THIRD PARTY
18 DISCRETIONARY ACCOUNT. BUT WE DIDN'T DO THAT IN THIS ACCOUNT.

19 Q WHY WAS THAT, DO YOU KNOW?

20 A WE JUST DIDN'T DO IT BECAUSE IT WAS NOT WORTH
21 DOING.

22 I MEAN, IF IT HAD BEEN REAL, WE WOULD HAVE HAD
23 TO HAVE DONE IT. IF SOMEBODY IS TRADING IN THE ACCOUNT,
24 THEY ARE SUPPOSED TO KNOW WHAT THE TRANSACTIONS ARE.

25 THE COURT: MR. HUNTNEVER ASKED YOU FOR COPIES OF THE
26 TRADES IN THE ACCOUNTS THAT HE TRADED WITH YOU?

27 THE WITNESS: NO.

28 THE COURT: AND IT IS CUSTOMARY HOWEVER, TO GIVE IT

1 TO THE ONE WHO IS TRADING?

2 THE WITNESS: YES.

3 THE COURT: HE NEVER ASKED YOU FOR IT?

4 THE WITNESS: NEVER ASKED ME.

5 Q BY MR. WAPNER: AND THE ONE WHO DOES THE TRADING
6 SHOULD HAVE -- WHAT YOU ARE SAYING IS THAT THEY SHOULD HAVE
7 A PURCHASE AND SALES SHEET EVERY DAY SO THEY KNOW WHAT WAS
8 TRADED?

9 A THE CLIENT MUST GET ONE AND THE PERSON MAKING
10 THE DECISIONS MUST GET ONE.

11 Q IF IT IS A REAL ACCOUNT?

12 A YES.

13 MR. WAPNER: NOTHING FURTHER.

14

15 RECROSS-EXAMINATION

16 BY MR. BARENS:

17 Q YOU SAY THAT A SOPHISTICATED PERSON IN LOOKING
18 AT THOSE -- YOU CALL THEM P & S CONFIRMS, CONFIRMATION SHEETS
19 WOULD HAVE AT LEAST SEEN ON SOME OF THE PAGES SOMETHING WAS
20 AMISS?

21 A YES.

22 Q BUT NONE OF THOSE TO YOUR KNOWLEDGE, WERE EVER
23 MAILED TO MR. HUNT?

24 A YES.

25 Q NOW, DID HUNT EVER TELL YOU THAT HE HAD READ
26 THOSE CONFIRMS?

27 A I AM NOT SURE.

28 Q OKAY. DID ANYONE EVER SAY TO YOU THAT SOMETHING

1 HERE APPEARS AMISS ON THOSE CONFIRMS?

2 A DID ANYONE EVER SAY ANYTHING TO ME LIKE THAT?

3 Q YES.

4 A NO.

5 Q AND LEVIN HAD ASKED YOU TO HAVE THOSE CONFIRMS
6 MAILED TO A CERTAIN ADDRESS HE HAD GIVEN YOU?

7 A YES.

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1 Q NOW, WOULD YOU SAY THAT THE MAJORITY OF THOSE
2 PAGES IN THERE LOOKED TOTALLY LEGITIMATE AND CONVENTIONAL
3 IN THEIR APPEARANCE?

4 A NO.

5 Q NOT EVEN THE MAJORITY?

6 A I WOULDN'T SAY THE MAJORITY.

7 I WOULD SAY ABOUT HALF.

8 Q ABOUT HALF, SIR?

9 A YES.

10 Q AND THE OTHER HALF WOULD TAKE A CERTAIN AMOUNT
11 OF SOPHISTICATION BY A PERSON IN A PARALLEL POSITION TO YOURS
12 TO DISCERN THEIR INACCURACY?

13 A YES.

14 Q YOU MENTIONED HOW VOLATILE THE COMMODITIES MARKET
15 IS WHERE IN ONE DAY OR OVERNIGHT OR SOMETHING YOU CAN MAKE
16 A MILLION OR MORE DOLLARS IN AN ACCOUNT OF THIS SIZE, SIR?

17 A YES.

18 Q ALMOST DOUBLE YOUR MONEY?

19 A YES.

20 Q BY THE SAME TOKEN, I SUPPOSE THEN EVEN THE MOST
21 GOOD-FAITH OF INVESTORS WITH PROPRIETY COULD LOSE EVERYTHING
22 OVERNIGHT?

23 A IT HAS HAPPENED.

24 Q SO A PERSON THAT WOULD BE INVESTING THAT WOULD
25 LOSE EVERYTHING OVERNIGHT, HE WOULDN'T NECESSARILY BE A THIEF,
26 WOULD HE?

27 A I DON'T UNDERSTAND WHAT YOU MEAN.

28 Q IF A GUY IS IN THERE AS AN INVESTMENT BROKER,

-2

1 YOU HAVE GOT SOME COMMODITIES BROKER WHO CALLS YOU FROM
2 CHICAGO AND PLACES ORDERS FOR HIS CLIENTS AND HE IS WRONG,
3 THE CLIENT IS WIPED OUT, NO MONEY THERE AT ALL, ZERO, AND
4 THE GUY GAVE YOU A MILLION DOLLARS YOU INVESTED, GUESSED
5 WRONG AND HE IS WIPED OUT, WOULD THAT BE JUST ONE OF THE
6 VAGARIES OF THE MARKET OR ONE OF THE RISKS YOU UNDERTAKE WHEN
7 YOU PLAY THIS GAME?

8 A WELL, THAT IS WHY YOU APPLY SOME OF THE MONEY
9 MANAGEMENT THINGS THAT I TALKED ABOUT.

10 Q SURE.

11 A THAT PRUDENT MONEY MANAGEMENT IS, IT IS VERY
12 UNCOMMON TO WIPE SOMEBODY OUT IN ONE DAY.

13 Q UNCOMMON?

14 A VERY UNCOMMON.

15 Q NOT UNCOMMON, THOUGH, FOR AN INVESTOR TO LOSE
16 EVERYTHING ON A POSITION OVER TIME, IS IT?

17 A WELL, IN EXTREMELY VOLATILE MARKETS, IT IS
18 POSSIBLE IF YOU DON'T HAVE 100 PERCENT OF YOUR MONEY --

19 THERE IS WAYS OF AVOIDING THAT FROM HAPPENING.

20 THERE IS NO PARTICULAR WAY TO KEEP IT FROM EVER
21 HAPPENING BUT THERE IS WAYS OF CHANGING THE ODDS FROM NINE
22 TO ONE TO FROM ONE TO NINE.

23 Q ALL RIGHT. THERE ARE WAYS TO REDUCE RISK, SIR?

24 A YES.

25 Q AND NOT ALL OF THE INVESTORS REDUCE THAT RISK;
26 ARE THERE EVER, DO THEY?

27 A NO.

28 Q THERE ARE SOMETIMES OCCASIONS WHERE AN INVESTOR

1 HAS A MARGIN CALL AND IS WIPED OUT BECAUSE THEY CAN'T COVER?

2 A WELL, THE MARGIN CALL KEEPS THEM FROM GETTING
3 WIPED OUT. THE MARGIN CALL IS THEIR BEST FRIEND, TELLS THEM
4 TO LIQUIDATE.

5 Q WHAT HAPPENS IF YOU CAN'T COVER?

6 A YOU LIQUIDATE THEM, KEEP THEM FROM LOSING MORE
7 MONEY.

8 Q AT THAT POINT, USUALLY AN INVESTOR HAS SUSTAINED
9 A SIGNIFICANT LOSS, AT LEAST BY THEN?

10 A WELL, POSSIBLY.

11 IT DEPENDS ON WHEN THE MARGIN CALL COMES IN.

12 YOU CAN HAVE A MARGIN CALL COMING IN FROM A
13 PROFITABLE POSITION.

14 Q OH, SURE, THAT IS WHEN THEY MAKE IT.

15 AND THE OPPOSITE OF THAT IS WHEN THEY LOSE, SIR?

16 A YES.

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1 Q THIS IS MUCH MORE SPECULATIVE AND VOLATILE, IS
2 IT NOT, SIR, THAN SECURITIES TRADING?

3 A THESE DAYS, I DON'T KNOW.

4 Q THESE ARE GOOD DAYS?

5 A PERSONALLY, I THINK THE SECURITIES MARKET IS MORE
6 VOLATILE TODAY THAN THE TRADITIONAL --

7 Q HOW ABOUT THE TIME FRAME WE ARE REFERENCING?

8 A IN 1983, I THINK LIKE THE BOND MARKET, THE INTEREST
9 RATE MARKETS WERE THE MOST VOLATILE MARKET.

10 Q AND YOU WERE IN INTEREST SENSITIVE INVESTMENTS,
11 WERE YOU NOT, IN THIS AREA?

12 A YES.

13 Q YOU MENTIONED WHEN YOU MADE A MILLION DOLLARS
14 OVER THE WEEKEND OR TWO MILLION, WHATEVER YOU REFERENCED,
15 OR FIVE MILLION OVER A WEEKEND, WHEN HUNT WOULD CALL YOU THAT
16 MONDAY, WOULD HE SEEM HAPPY?

17 A I DON'T REMEMBER.

18 Q YOU DON'T EVEN REMEMBER THAT -- THAT HE WOULD
19 HAVE ANY GLEEFULNESS ABOUT HIM THAT YOU GENTLEMEN HAD DONE
20 WELL?

21 A I RECALL WHEN THE ACCOUNT STARTED COMING BACK
22 THAT HE STARTED FEELING HAPPIER.

23 Q QUITE SO.

24 AS A RESULT OF ALL OF THIS, WE SEE WE HAVE FIVE
25 MILLION AND WE GET DOWN LESS THAN A MILLION DOLLARS AND THEN
26 IN THE LONG RUN, WE END UP SOMEWHERE BETWEEN TWO AND A HALF
27 AND THREE TIMES THE AMOUNT OF THE MONEY, YOU GUYS, ON PAPER
28 IN THIS SIMULATED SETTING, END UP TO PROFIT QUITE HANDSOMELY,

1 DO YOU NOT?

2 A YES.

3 Q WHOSE EFFORTS WERE THAT? IS THAT A RESULT OF
4 HUNT'S TRADING OR YOU OR THE BOTH OF YOU, CAN YOU TELL ME?

5 A HE WOULDN'T HAVE DONE IT WITHOUT ME.

6 Q YOU BET.

7 SO IT WAS KIND OF A COMBINED EFFORT BETWEEN THE
8 TWO OF YOU?

9 A OH, HE WAS TRADING MONEY ELSEWHERE AND THE RESULTS
10 WERE NOT THE SAME.

11 SO IF HE WAS EMPLOYING THE SAME METHODS HE WAS
12 USING IN THIS ACCOUNT AS HE WAS ELSEWHERE -- CANTOR-FITZGERALD
13 SPECIFICALLY IS WHAT I AM TALKING ABOUT -- THEN THAT ACCOUNT
14 WOULD HAVE HAD THE SAME KIND OF TRADING PATTERN.

15 THE COURT: I DON'T UNDERSTAND YOU.

16 THE WITNESS: WELL, HE WAS TRADING REAL MONEY AT ANOTHER
17 FIRM AT THE SAME TIME.

18 THE COURT: WHAT HAPPENED?

19 THE WITNESS: AND THAT ACCOUNT WENT INTO THE HOLE TWO
20 TO FOUR HUNDRED THOUSAND DOLLARS.

21 THE COURT: IN REAL MONEY?

22 THE WITNESS: IN REAL MONEY, IT WENT INTO THE HOLE.

23 I -- I DON'T REMEMBER THE EXACT AMOUNT BECAUSE
24 I REMEMBER CANTOR-FITZGERALD ASKED US WHAT WAS GOING ON.

25 Q BY MR. BARENS: WHY DID THEY ASK YOU, MR. FRIEDMAN?

26 MR. WAPNER: OBJECTION. CALLS FOR SPECULATION AS TO
27 WHY THEY WOULD ASK HIM.

28 THE COURT: OVERRULED. YOU MAY ANSWER IF YOU KNOW.

1 THE WITNESS: I DON'T KNOW.

2 THEY WERE INTERESTED IN DOING AN OVERALL
3 INVESTIGATION. THEY WANTED TO MAKE GOOD ON THE DEFICIT THAT
4 HE HAD RUN, THAT HE HAD INCURRED OVER THERE.

5 Q BY MR. BARENS: DID LEVIN HAVE SOMETHING TO DO
6 WITH OVER THERE AS WELL?

7 A I DON'T KNOW. I DON'T KNOW.

8 Q ALL RIGHT, SIR.

9 A BUT I DO KNOW THAT HE WAS TRADING THE ACCOUNT
10 OVER THRE AND I DO KNOW THAT THAT ACCOUNT LOST MONEY AND THIS
11 ACCOUNT MADE MONEY.

12 THE COURT: YOU MEAN THAT WAS A REAL ACCOUNT?

13 THE WITNESS: THAT WAS A REAL ACCOUNT.

14 SO I DO KNOW ABSOLUTELY IF I HADN'T PARTICIPATED
15 IN THIS ACCOUNT, HE WOULDN'T HAVE MADE THE MONEY.

16 Q BY MR. BARENS: SO THAT IS WHAT I MEANT TO
17 SUGGEST, SIR.

18 A YES, SIR.

19 Q THAT BECAUSE OF YOUR PARTICIPATION, THE TWO OF
20 YOU GUYS MADE ON PAPER A LOT OF MONEY IN THIS DEAL?

21 A THAT'S RIGHT..

22 MR. BARENS: EXCUSE ME A MOMENT, YOUR HONOR.

23 Q DID YOU KNOW WHAT POSITIONS ON SPECIFIC BASES
24 THAT HUNT AND WHOEVER HE WAS TRADING FOR OVER AT CANTOR-
25 FITZGERALD HAD?

26 A I ASSUMED THAT HE HAD THIS SPECIAL TRADING
27 SYSTEM.

28 Q YOU ARE ASSUMING THAT, SIR?

1 A NO, I DON'T. THE ANSWER IS I DON'T KNOW. I DON'T
2 KNOW.

3 Q YOU DON'T KNOW EXACTLY WHETHER HE WAS PARALLELING
4 OVER THERE OR NOT?

5 A NO, I DON'T.

6 Q HE COULD HAVE BEEN INTO A TOTALLY DIFFERENT
7 MANAGEMENT STRATEGY AND INVESTMENT STRATEGY?

8 A COULD HAVE BEEN.

9 Q WHEN YOU CALLED OVER AND TALKED TO HUNT -- I AM
10 SORRY --

11 HUNT CALLED YOU, I SUPPOSE, WOULD HE REVIEW WITH
12 YOU THE PREVIOUS DAY'S ACTIVITIES WHEN HE CALLED THE NEXT
13 DAY?

14 A WHAT DO YOU MEAN BY PREVIOUS DAY'S ACTIVITIES?

15 Q WELL, WOULD HE SAY, DID HE MAKE AN ATTEMPT TO
16 SUMMARIZE WHERE YOU WERE, WE BOUGHT THIS AND WE SOLD THIS,
17 WE GOT THIS, WE DON'T HAVE THAT; DID YOU HAVE THAT KIND OF
18 CONVERSATION?

19 A NO.

20 Q YOU NEVER TRIED TO ASSESS WHERE YOU STOOD?

21 A WELL, HE WOULD ASK ME WHAT THE EQUITY WAS AND
22 I WOULD TELL HIM WHAT THE EQUITY WAS.

23 BUT IN TERMS OF WHEN WE DID THE TRANSACTIONS,
24 HE KNEW WHAT THE TRANSACTIONS WERE VERBALLY BY THE END OF
25 THE TRADING DAY.

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1 Q OKAY. THEREFORE AT THE END OF TRADING DAY, WOULD
2 HE DO WHAT IS KNOWN IN YOUR BUSINESS AS CHECKING OUT AT THE
3 END OF THE DAY?

4 A NO. HE DIDN'T CHECK OUT. HE ASKED WHAT DID I
5 BUY THOSE SWISS FRANCS AT? WHAT DID I DO THIS AT?

6 I GAVE HIM THE PRICE.

7 CHECKING OUT IS WHEN YOU SIT DOWN AND SUMMARIZE
8 THE WHOLE DAY. IT IS A PROCESS YOU DO WITH A BROKER WHO DOES
9 IT WITH A FLOOR BROKER.

10 Q YOU GENTLEMEN --

11 A OR A CLIENT THAT DOES A LOT OF ACTIVITY DURING
12 THE DAY. THIS IS NOT -- THIS WAS NOT LIKE A LOT OF TRADING
13 ON AN INTERDAY BASIS.

14 Q YOU GENTLEMEN DID SOME KIND OF SUBSTITUTE RECAP
15 AT THE END OF THE DAY?

16 A WE MIGHT HAVE RECAPPED IT. I MEAN, I CAN'T SAY
17 WE DIDN'T.

18 BUT I KNOW THAT ON A PROCEDURAL BASIS, WE DIDN'T
19 DO THAT.

20 MR. BARENS: OKAY. A MOMENT, PLEASE.

21 (PAUSE.)

22 MR. BARENS: THANK YOU.

23 Q SIR, YOU TALKED EARLIER ON ABOUT A SETTING IN
24 WHICH IN ONE DAY, YOU TRADED MORE BONDS, I THINK IT WAS, THAN
25 WAS SOLD NATIONALLY IN THE MARKET THAT DAY. IS THAT CORRECT?

26 A IT WAS BOND OPTIONS.

27 Q BOND OPTIONS? ARE YOU TELLING THE JURY THAT HAD
28 YOU PLACED THAT ORDER, IT COULD NOT HAVE BEEN FILLED?

1 A PROBABLY NOT.

2 Q SIR?

3 A PROBABLY NOT HAVE BEEN FILLED.

4 Q IN OTHER WORDS, HAD YOU ATTEMPTED TO MAKE A MARKET
5 IN THAT INSTRUMENT, YOU ARE TELLING ME THAT THE MARKET
6 RESPONSE WOULD HAVE BEEN, MR. FRIEDMAN, WE CAN'T FILL YOUR
7 ORDER?

8 A PROBABLY.

9 Q HOW DO YOU SAY THAT, SIR? HAVE YOU EVER HAD THAT
10 HAPPEN?

11 A SURE.

12 Q HOW OFTEN DOES THAT HAPPEN?

13 A WELL, IT HAPPENS MORE OFTEN IN STOCKS WHEN THE
14 STOCK MARKET -- IT HAPPENS MORE OFTEN THERE THAN IT DOES IN
15 COMMODITIES.

16 Q HOW ABOUT A MARKET ORDER ON BOND OPTIONS? HOW
17 OFTEN HAS THAT HAPPENED TO YOU?

18 A IT HAPPENS ONCE IN A WHILE ON AN ORDER THIS SIZE.
19 THEY MIGHT FILL YOU BUT AT A PRICE THAT WOULD BE WAY ABOVE
20 THE MARKET.

21 Q WELL, I AM NOT ASKING YOU IF THEY FILL YOU HIGH
22 OR LOW.

23 I AM ASKING YOU, AS A REAL WORLD SITUATION, HOW
24 MANY EXPERIENCES HAVE YOU HAD WHERE YOU PLACED AN ORDER FOR
25 BOND OPTIONS WHERE THE MARKET RESPONSE WAS, WE CAN'T FILL
26 THIS ORDER? SEE YOU.

27 A IN BOND OPTIONS AT THAT TIME?

28 Q YES.

A-3 1 A I NEVER HAD ORDERS THAT SIZE. SO I WOULD SAY
2 IT WOULD BE VERY HARD FOR ME TO ANSWER THAT QUESTION.

3 BUT IN THE TYPES OF ORDERS THAT I PUT IN, IT DIDN'T
4 HAPPEN. IT HAS HAPPENED TO ME IN MARKETS WHERE I HAVE PUT
5 IN BIG ORDERS OR THE MARKET HAS A THING CALLED LIMIT UP AND
6 LIMIT DOWN AND A MARKET ORDER WILL NOT GET FILLED.

7 Q I AM NOT TALKING ABOUT THOSE SETTINGS,
8 MR. FRIEDMAN. I THINK THE ANSWER TO MY QUESTION IS, IF I
9 AM NOT MISTAKEN, SIR, IN TERMS OF BOND OPTIONS, YOU HAD NEVER
10 HAD AN EXPERIENCE WHERE YOU PLACED AN ORDER FOR BOND OPTIONS,
11 WHERE THE MARKET RESPONSE WAS, WE CANNOT FILL YOUR ORDER,
12 GOOD-BY?

13 A I CAN'T REMEMBER THAT HAPPENING.

14 MR. BARENS: THANK YOU.

15 THE COURT: ALL RIGHT. ARE WE FINISHED WITH
16 MR. FRIEDMAN?

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1 MR. WAPNER: I THINK WE ARE FINISHED.

2 THE COURT: ALL RIGHT. THANK YOU VERY MUCH, MR. FRIEDMAN.

3 THE WITNESS: THANK YOU.

4 MR. WAPNER: NABIL ABIFADEL.

5
6 NABIL ABIFADEL,

7 CALLED AS A WITNESS BY THE PEOPLE, WAS SWORN AND TESTIFIED

8 AS FOLLOWS:

9 THE CLERK: YOU DO SOLEMNLY SWEAR THAT THE TESTIMONY
10 YOU MAY GIVE IN THE CAUSE NOW PENDING BEFORE THIS COURT SHALL
11 BE THE TRUTH, THE WHOLE TRUTH, AND NOTHING BUT THE TRUTH,
12 SO HELP YOU GOD.

13 THE WITNESS: YES.

14 THE CLERK: STATE AND SPELL YOUR NAME FOR THE RECORD.

15 THE WITNESS: NABIL ABIFADEL. N-A-B-I-L, A-B-I-F-A-D-E-
16 L.

17
18 DIRECT EXAMINATION

19 BY MR. WAPNER:

20 Q MR. ABIFADEL, IN JUNE OF 1984, WHERE WERE YOU
21 WORKING?

22 A WORLD TRADE BANK.

23 Q WORLD TRADE BANK IN BEVERLY HILLS?

24 A WORLD TRADE BANK, YES.

25 Q WHAT DID YOU DO THERE AT THAT TIME?

26 A I WAS THE OPERATIONS OFFICER.

27 Q AS THE OPERATIONS OFFICER, WHAT WERE YOUR DUTIES?

28 A TO TAKE CARE OF ALL THE OPERATIONS MATTERS FOR

1 THE BANK.

2 Q AND IN THAT REGARD, WERE YOU IN CHARGE OF THE
3 NEWS ACCOUNTS SECTION, ALSO?

4 A YES.

5 Q WERE YOU FAMILIAR WITH HOW THE ACCOUNTS WERE
6 OPENED AT THAT TIME?

7 A YES.

8 Q WHEN A CUSTOMER CAME TO THE BANK TO OPEN AN
9 ACCOUNT, WHAT WOULD HAPPEN?

10 A WELL, I WOULD DIRECT THEM TO THE NEW ACCOUNTS
11 CLERK. AND THEY WOULD HAVE TO PROVIDE AN I.D. TO OPEN THE
12 ACCOUNT OR BYLAWS. IT DEPENDS ON THE TYPE OF ACCOUNT THAT
13 THEY WANTED TO OPEN.

14 Q DO YOU HAVE TO HAVE AN I.D. OR -- WHAT WAS THE
15 OTHER THING THAT YOU SAID?

16 A IF IT IS A CORPORATION, THEY HAVE TO HAVE THE
17 BYLAWS THAT PERMIT THEM TO OPEN AN ACCOUNT AT THE BANK.

18 Q AND ON JUNE THE 7TH OF -- WELL, LET ME GO BACK.
19 DID YOUR BANK HAVE SOME WAY OF COLLECTING CHECKS
20 WRITTEN ON SWISS ACCOUNTS MORE QUICKLY THAN OTHER BANKS AT
21 THAT TIME?

22 A I DON'T THINK SO.

23 Q IN JUNE, ON JUNE 7TH OF 1984, DID SOME PEOPLE
24 COME INTO YOUR BANK TO OPEN AN ACCOUNT WITH THE UNDERSTANDING
25 OR THE IDEA OF NEGOTIATING FOR COLLECTION A LARGE SWISS BANK
26 CHECK?

27 MR. BARENS: YOUR HONOR, NO FOUNDATION FOR THAT
28 QUESTION. IT IS VAGUE AND AMBIGUOUS.

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1 THE COURT: HE IS TRYING TO LAY THE FOUNDATION.

2 MR. BARENS: YOUR HONOR, HE SAYS TO HIM THEY CAME IN
3 WITH THE IDEA IN MIND TO DO THIS AND THAT. WHY DON'T WE BREAK
4 THAT DOWN A BIT AND SEE IF IT IS OR NOT?

5 THE COURT: ALL RIGHT, OVERRULED.

6 GO AHEAD, PLEASE.

7 MR. BARENS: THANK YOU.

8 Q BY MR. WAPNER: WHEN THE ACCOUNTS WERE OPENED
9 AT THAT TIME, DID THE PERSON AT THE NEW ACCOUNTS SECTION
10 PROVIDE THE PERSON OPENING THE ACCOUNT WITH THE CARD?

11 A THE SIGNATURE CARD?

12 Q THE SIGNATURE CARD.

13 A YES.

14 Q AND THAT SIGNATURE CARD WOULD BE FILLED OUT IN
15 THE ORDINARY COURSE OF BUSINESS?

16 A YES.

17 Q LET ME SHOW YOU AN EXHIBIT WE HAVE PREVIOUSLY
18 MARKED AS PEOPLE'S 60 FOR IDENTIFICATION AND ASK YOU IF YOU
19 RECOGNIZE THE FORM DEPICTED BY THAT CARD?

20 A YES, THIS IS THE SIGNATURE CARD WE USED FOR
21 CORPORATIONS.

22 Q AND THAT IS THE TYPE OF SIGNATURE CARD YOU USED
23 FOR CORPORATIONS IN JUNE OF 1984?

24 A YES.

25 Q AND DOES IT INDICATE ON THERE WHO THE NEW ACCOUNTS
26 OFFICER AT THE BANK WAS, WHO WAS RESPONSIBLE FOR OPENING THIS
27 ACCOUNT?

28 A YES.

1 Q WHO WAS THAT?

2 A MYSELF.

3 Q AND WHEN THIS ACCOUNT WAS OPENED, DID YOU PROVIDE
4 THEM WITH THE --

5 WHAT HAPPENED WHEN PEOPLE CAME IN TO OPEN THIS
6 ACCOUNT, DO YOU REMEMBER? DID YOU PROVIDE THEM WITH THIS
7 SIGNATURE CARD, THAT IS PEOPLE'S 60?

8 A I DON'T RECALL.

9 BUT USUALLY WHEN SOMEBODY WALKS IN, YOU KNOW,
10 WE PROVIDE THEM WITH SIGNATURE CARDS AND INTRODUCE THEM TO
11 THE BANK. I --

12 Q THE DATE THAT THE PEOPLE WERE ORIGINALLY IN THE
13 BANK TO OPEN THE ACCOUNT WAS WHAT DATE?

14 A IT WAS JUNE THE 7TH.

15 Q AND WHAT DATE WAS THE ACCOUNT ACTUALLY OPENED?

16 A IT SHOULD BE THE SAME DAY PROCESSED, IF IT IS
17 DATED.

18 Q IS THERE ALSO A JUNE 8TH DAY TO DATE ON THAT CARD?

19 A THERE IS JUNE 8TH.

20 MAYBE JUNE 7TH, IT WAS GIVEN TO COMPLETE AND THEY
21 CAME THE SECOND DAY TO MAKE A DEPOSIT AND WE DATED IT JUNE 8TH.

22 Q IS THAT CARD FILLED OUT IN THE ORDINARY COURSE
23 OF BUSINESS? THAT IS DONE IN THE ORDINARY COURSE OF BUSINESS
24 WHEN AN ACCOUNT IS OPENED?

25 A YES.

26 Q AND IS IT DONE AT OR NEAR THE TIME THAT THE
27 ACCOUNT IS ACTUALLY OPENED?

28 A YES.

29 Q AND IT IS DONE FOR THE PURPOSE OF KEEPING A RECORD

1 THAT IN FACT YOU HAVE THERE; IS THAT RIGHT?

2 A YES.

3 Q WHO WAS THE SIGNERS FOR THE ACCOUNT?

4 WHAT WAS THE NAME OF THE CORPORATION FOR WHICH
5 THIS ACCOUNT WAS OPENED?

6 A MICROGENESIS OF NORTH AMERICA.

7 Q AND WHO WERE THE PEOPLE AUTHORIZED TO SIGN ON
8 THAT ACCOUNT?

9 A FOUR PEOPLE HERE: JOSEPH HUNT, BEN DOSTI, DEAN
10 KARNY, EVAN DICKER.

11 Q AND ON JUNE THE 8TH OF 1984, WAS A CHECK PRESENTED
12 FOR COLLECTION THROUGH THAT ACCOUNT?

13 A BESIDE THE ONE THAT WAS DEPOSITED HERE, THE
14 \$25,000?

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1 Q WELL, YOU ARE NOW REFERRING TO THE INITIAL DEPOSIT
2 IN THE ACCOUNT?

3 A YES.

4 Q HOW MUCH WAS THAT?

5 A \$25,890.

6 Q AND THEN SHOWING YOU A DOCUMENT THAT WE HAVE
7 PREVIOUSLY MARKED AS PEOPLE'S 57 FOR IDENTIFICATION, HAVE
8 YOU EVER SEEN THAT BEFORE?

9 A YES.

10 Q WHAT IS IT?

11 A THAT IS A FOREIGN CHECK.

12 Q AND IS THERE SOME INDICATION ON THAT CHECK THAT
13 IT WAS PRESENTED FOR COLLECTION THROUGH YOUR BANK?

14 A YES.

15 WE MARKED HERE AND THE COLLECTION NUMBER 84-405.

16 Q IS THE CHECK ON THIS BOARD UP HERE ESSENTIALLY
17 A BLOWUP OF THE ONE THAT YOU HAVE?

18 A YES.

19 Q AND THE MARKING THAT YOU REFERRED TO AS YOUR
20 COLLECTION NUMBER --

21 THE COURT: TURN IT AROUND SO THE JURORS CAN SEE IT,
22 IF YOU WANT THEM TO SEE IT.

23 Q BY MR. WAPNER: IS THE MARKING THAT YOU REFERRED
24 TO WITH THE COLLECTION NUMBER IN THE UPPER LEFT-HAND CORNER
25 WHERE IT SAYS "WORLD TRADE BANK, BEVERLY HILLS, CALIFORNIA"
26 AND THEN COLLECTION NUMBER 84-405?

27 A YES, THIS IS THE COLLECTION STAMP THAT WE USE
28 FOR FOREIGN CHECKS.

1 Q AND WHEN YOU ASSIGN THAT NUMBER TO A DOCUMENT
2 FOR COLLECTION, DO YOU ALSO PREPARE CERTAIN OTHER DOCUMENTS
3 TO SEND WITH THAT ITEM FOR COLLECTION?

4 A YES.

5 MR. WAPNER: YOUR HONOR, I HAVE HERE ANOTHER DOCUMENT
6 THAT I WOULD LIKE TO HAVE MARKED AS PEOPLE'S 114 FOR
7 IDENTIFICATION WHICH IS, FOR THE RECORD, ACTUALLY TWO PIECES
8 OF PAPER STAPLED TOGETHER. IT SAYS "WORLD TRADE BANK" ON
9 A GREEN PIECE OF PAPER AND SECONDLY IS A XEROX LETTER DATED
10 JUNE 8TH OF 1984 REQUESTING COLLECTION OF THIS CHECK, ON THE
11 STATIONERY OF THIS WITNESS FROM THE WORLD TRADE BANK; MAY
12 THAT BE 114 FOR IDENTIFICATION?

13 THE COURT: SO MARKED.

14 MR. WAPNER: AND WHILE MR. BARENS IS LOOKING AT THAT,
15 THERE ARE THREE OTHER DOCUMENTS HERE THAT I WOULD LIKE TO
16 HAVE MARKED AS 112, 113 AND 114.

17 112 IS A TELEX THAT WAS RECEIVED FROM A BANK --

18 THE COURT: WAIT A MINUTE NOW. 114 WE HAVE ALREADY
19 MARKED.

20 MR. BARENS: THIS IS 112, JUDGE.

21 THE COURT: 112, 113 AND 114, YOU SAY. WE HAVE TWO
22 114'S.

23 MR. BARENS: THERE ARE TWO PAGES TO 114.

24 MR. WAPNER: NO. MAYBE I SAID THAT WHILE MR. BARENS
25 WAS LOOKING AT 114.

26 THE COURT: YES, 114 WE HAVE GOT ALREADY, HAVEN'T WE?
27 WE HAVE GOT THAT COLLECTION ACCOUNT.

28 MR. WAPNER: NOW I AM TALKING ABOUT 112.

1 THE COURT: YES.

2 MR. WAPNER: 112 IS A TELEX FROM CREDIT SUISSE,
3 S-U-I-S-S-E, IN ZURICH.

4 THE COURT: THAT IS THE BANK?

5 THE WITNESS: YES. THIS IS THE FRENCH SPELLING FOR
6 THE BANK.

7 MR. WAPNER: OKAY. AND THAT IS DATED IN YOUR RESPONSE
8 DATING 15-06-84 AND AS 113 FOR IDENTIFICATION, DOCUMENTS ALSO
9 APPARENTLY FROM CREDIT SUISSE, CONSISTING OF -- ABOUT HALF A PAGE
10 DATED AT ONE POINT 8-6-84 AND STAPLED TO THAT IS A SMALLER PIECE
11 OF PAPER INDICATING WHAT THE CHARGES ARE.

12 AND AS 115, A WORLD TRADE BANK OF NORTH AMERICA
13 ACCOUNT DEBIT, APPARENTLY CHARGING THE CUSTOMER A CERTAIN
14 AMOUNT OF MONEY FOR THE ATTEMPTED COLLECTION OF THE CHECK.

15 THE COURT: ALL RIGHT. AT THIS POINT, I THINK WE CAN
16 TAKE OUR AFTERNOON RECESS.

17 LADIES AND GENTLEMEN OF THE JURY, WE WILL TAKE
18 A 15-MINUTE RECESS AT THIS TIME.

19 THE SAME ADMONITION I GAVE YOU WOULD STILL APPLY.
20 WOULD COUNSEL APPROACH THE BENCH, PLEASE?

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1 (THE FOLLOWING PROCEEDINGS WERE HELD
2 AT THE BENCH:)

3 THE COURT: WHEN I IMPOSE A GAG ORDER, I INTEND FOR
4 ALL COUNSEL, INCLUDING THE DISTRICT ATTORNEY, YOU AND YOUR
5 ASSOCIATE TO ABIDE BY IT. I SAW AN ITEM IN THE TIMES TODAY
6 WHERE YOUR ASSOCIATE -- THIS IS FROM ONE OF THE REPORTERS
7 FROM THE TIMES. THE LAST PARAGRAPH IS:

8 "AFTER SEVERAL DAYS OF TESTIMONY THAT
9 INCLUDED DISCUSSIONS OF CAMUS AND SARTRE, THE
10 MYTH OF PROMETHEUS, BUYING COMMODITIES ON MAR-
11 GIN, SILICA-GRINDING MACHINES THAT WEIGH AS MUCH
12 AS ELEPHANTS AND THE BEST WAY TO DISPOSE OF DEAD
13 BODIES, CO-DEFENSE COUNSEL RICHARD CHIER SHOOK HIS
14 HEAD.

15 "'YOU CAN'T DETERMINE WHAT'S TRUE
16 AND NOT TRUE' FROM THE TESTIMONY SO FAR, HE SAID.
17 'IT'S A QUESTION OF THE KIDS SAYING, "I WAS
18 MESMERIZED THEN, BUT NOW I'M OK." I KNOW EVERYTHING
19 (HUNT SAID) WAS FALSE. EXCEPT THE MURDER, WHICH
20 WAS TRUE.'"

21 HE IS NOT HERE. I WANTED TO DIRECT IT TO HIM.
22 I AM DIRECTING YOU TO TELL HIM THAT THE GAG ORDER APPLIED
23 TO HIM JUST AS MUCH AS IT DID TO YOU AND TO THE DISTRICT
24 ATTORNEY.

25 AND NOW FOR THE RECORD, I WANT YOU TWO TO READ
26 THIS LETTER WHICH I RECEIVED, TOGETHER.

27 (PAUSE.)

28 MR. BARENS: WHO IS THIS PERSON?

1 THE COURT: I DON'T CARE WHO IT IS. I KNOW WHO IT IS.
2 AT THE APPROPRIATE TIME, I WILL HAVE THAT PERSON TESTIFY
3 WITH RESPECT TO THE CONTENTS OF THIS LETTER.

4 SHE HAS BEEN ATTENDING REGULARLY HERE AS ONE
5 OF THE PRESS REPRESENTATIVES OR ONE OF THE ALLEGED PRESS
6 REPRESENTATIVES.

7 NOW YOU UNDERSTAND OF COURSE, MR. WAPNER, BECAUSE
8 I KNOW YOUR FATHER, THAT IS ONE OF THE REASONS THAT I AM
9 RULING THE WAY I AM, THAT YOU CAN'T --

10 MR. BARENS: WELL, I DO NOT BELIEVE IT TO BE TRUE,
11 NOR HAVE I EVER SAID THAT. I HAVE NEVER MADE THAT STATEMENT.

12 THE COURT: YOUR CLERK MADE THAT STATEMENT.

13 MR. WAPNER: YOUR HONOR, SO THE RECORD IS CLEAR, WE
14 DO HAVE A BLACK AND WHITE RECORD. OBVIOUSLY, THAT STATEMENT
15 WAS MADE WITH COMPLETE SARCASM.

16 MR. BARENS: OBVIOUSLY. BUT YOUR HONOR, I NEVER MADE
17 THAT STATEMENT.

18 THE COURT: NOT YOU, YOUR CLERK DID. THAT IS WHAT
19 IT SAYS, YOUR CLERK.

20 THAT IS YOUR JUNIOR, RIGHT THERE. THAT IS YOUR
21 ASSOCIATE. I WILL DEAL WITH HIM TOO, LATER ON.

22 MR. BARENS: YOUR HONOR, I BELIEVE THAT --

23 THE COURT: WOULD YOU COPY THIS INTO THE RECORD, PLEASE?

24 MR. BARENS: I STILL WOULD LIKE TO BE ON THE RECORD,
25 TO SPEAK --

26 THE COURT: YES?

27 MR. BARENS: WELL, THE WRITER OF THIS LETTER YOUR HONOR,
28 IS -- I DON'T KNOW WHETHER HE IS REFERRING TO MR. CHIER OR

1 TO OUR CLERK. WE HAVE A CLERK THAT --

2 THE COURT: SHE IS REFERRING OBVIOUSLY, TO MR. CHIER.

3 MR. BARENS: YOUR HONOR, I CAN ONLY SAY, YOUR HONOR,
4 WE ALSO HAVE A GENTLEMAN NAMED JOHN, WHO WORKS FOR RICHARD,
5 WHO HAS BEEN IN THE FRONT ROW OF THE COURTROOM ON MANY,
6 MANY OCCASIONS.

7 I CAN'T THINK OF JOHN'S LAST NAME, BUT HE WOULD --

8 THE COURT: WELL, I MEAN, IT SAYS THAT WAPNER'S FATHER
9 AND THE JUDGE ARE OLD FRIENDS AND --

10 MR. BARENS: FOR THE SAKE OF CLARITY --

11 THE COURT: I WILL FIND OUT EXACTLY WHO SHE IS REFERRING
12 TO. IT WILL BE ON THE RECORD.

13 MR. BARENS: THANK YOU.

14 (RECESS.)

15 (AS DIRECTED, THE FOLLOWING IS A VERBATIM
16 TRANSCRIPT OF THE LETTER DATED FEBRUARY
17 28, 1987, AS FOLLOWS:)

18 "12025 SALTAIR PLACE

19 LOS ANGELES, CA. 90049

20 FEBRUARY 28, 1987

21 "HON. LAURENCE J. RITTENBAND

22 SUPERIOR COURT, DEPARTMENT C

23 1725 MAIN STREET

24 SANTA MONICA, CA 90401

25 " DEAR JUDGE RITTENBAND,

26 "AFTER MY BRIEF CONVERSATION WITH YOU
27 WEDNESDAY NOON AT THE DOOR TO THE PARKING LOT, I
28 REVIEWED THE NOTES I'VE BEEN KEEPING IN EFFORT

1 (UNSUCCESSFUL) TO OBTAIN AN ASSIGNMENT TO WRITE
2 ON THE TRIAL.

3 "THE STATEMENT I HEARD THE DEFENSE
4 ATTORNEY MAKE TO THE TWO REPORTERS SITTING IN THE
5 FRONT ROW TOOK PLACE AT ABOUT TEN O'CLOCK,
6 WEDNESDAY, 2/4 AS FOLLOWS:

7 "'I WANT TO SUGGEST THAT SOME TIME
8 YOU WRITE ABOUT WHETHER THE DEFENDANT GOT A FAIR
9 TRIAL - WHETHER THE JUDGE IS FAIR. REMEMBER,
10 THE DEFENDANT IS ON TRIAL FOR HIS LIFE ... THIS
11 IS IMPORTANT TO SEE IF THE AMERICAN SYSTEM WORKS -
12 THAT'S MUCH MORE IMPORTANT THAN ANY SINGLE VICTIM.'

13 "A WEEK OR SO AFTER THAT, DURING NOON
14 RECESS, I WAS ENGAGED IN SMALL TALK WITH THE YOUNG
15 MAN WORKING AS CLERK FOR THE DEFENSE. I BELIEVE
16 HE ASSUMED ME TO BE A REPORTER. HE MADE INSINUATIONS
17 BY REMARKING - AMONG OTHER THINGS - 'WELL, WAPNER'S
18 FATHER AND THE JUDGE ARE OLD FRIENDS.'

19 "I WAS GLAD TO LEARN THAT YOU HAVE
20 IMPOSED GAG ORDERS, BECAUSE THIS SORT OF CONDUCT
21 STRIKES ME AS BEING GROSSLY UNETHICAL.

22 "RESPECTFULLY YOURS,

23 "MRS. M. L. WHITMORE"

24 (THE COPYING OF THE LETTER IS CONCLUDED.)

25

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28

1 THE COURT: ALL RIGHT, YOU MAY CONTINUE.

2 Q BY MR. WAPNER: MR. ABIFADEL, WHEN A CHECK IS
3 PRESENTED TO YOU FOR COLLECTION AND IT IS A CHECK ON A FOREIGN
4 BANK, WHAT DO YOU DO?

5 A WE TAKE THE CHECK FOR COLLECTION AND WE GIVE
6 A RECEIPT TO THE CUSTOMER THAT WE HAVE THE CHECK IN OUR
7 POSSESSION THAT WE ARE ATTEMPTING TO COLLECT IT. WHEN IT
8 IS A GOOD FUNDS, THEN WE CREDIT THE CUSTOMER'S ACCOUNT.

9 MR. WAPNER: ALL RIGHT, YOUR HONOR, I HAVE ONE ADDITIONAL
10 ITEM THAT I WOULD LIKE TO MARK AS 109 FOR IDENTIFICATION.
11 IT IS CONTAINED WITHIN A BEVERLY HILLS POLICE DEPARTMENT
12 PROPERTY ENVELOPE THAT BEARS A TAG ON THE FRONT THAT SAYS
13 11-29-84; FROM INSIDE THE ENVELOPE, I AM REMOVING WHAT APPEARS
14 TO BE A WHITE PIECE OF PAPER FROM THE WORLD TRADE BANK DATED
15 JUNE THE 8TH OF 1984 AND IT SAYS "ACKNOWLEDGEMENT" ON IT;
16 MAY THAT BE 109 FOR IDENTIFICATION?

17 THE COURT: SO MARKED. 109?

18 MR. WAPNER: YES.

19 THE COURT: YES.

20 Q BY MR. WAPNER: SHOWING YOU, MR. ABIFADEL, A
21 DOCUMENT THAT WE HAVE NOW MARKED AS 114, CAN YOU TELL ME
22 WHAT THAT IS?

23 A THIS IS OUR FINAL COPIES FROM THE MANIFOLD OR
24 THE COVERING LETTER THAT WE SENT OUT WITH THE CHECK TO THE
25 PAYEE BANK OR TO THE BANK THAT IS GOING TO TRANSMIT THE FUNDS
26 TO US.

27

28

1 Q WHEN YOU GET A CHECK FOR COLLECTION, DO YOU FILL
2 OUT THAT GREEN FORM THAT IS IN FRONT OF YOU?

3 A YES.

4 Q WHO FILLS THAT OUT?

5 A ONE OF THE EMPLOYEES OF THE BANK.

6 Q AND IN WHAT DEPARTMENT?

7 A IT IS IN THE COLLECTION DEPARTMENT.

8 Q ON JUNE THE 8TH OF 1984, WAS THE CHECK THAT IS
9 IN FRONT OF YOU, THAT IS PEOPLE'S 57, PRESENTED TO YOU FOR
10 COLLECTION?

11 A THAT'S THE ONE.

12 Q AND THE DOCUMENT THAT IS IN FRONT OF YOU, THAT
13 IS 114 FOR IDENTIFICATION, WAS THAT FILLED OUT SO THAT THE
14 BANK COULD ATTEMPT TO COLLECT THE CHECK THAT IS IN FRONT
15 OF YOU?

16 A YES.

17 Q AND THE CHECK WAS IN FACT, PRESENTED ON JUNE
18 THE 8TH, IS THAT CORRECT?

19 A WE MADE IT SPECIAL HANDLING TO SWITZERLAND FOR
20 COLLECTION.

21 Q DID YOU SEND A LETTER IN THAT REGARD?

22 A YES I DID ATTACH A PERSONAL LETTER TO THE PERSON
23 IN CHARGE AT THE BANK.

24 Q AND CAN YOU READ THAT TO THE JURY, PLEASE?

25 A (READING:)

26 "PLEASE FIND ENCLOSED OUR COLLECTION
27 LETTER NUMBER 84405 FOR U.S. DOLLARS 1,500,000.

28 "WE ASK YOU TO CREDIT OUR ACCOUNT WITH

1 FIDELITY RESERVE BANK OF SAN FRANCISCO, ACCOUNT
2 NUMBER THROUGH U.S. CORRESPONDENT BANK AND ALSO
3 PLEASE ADVISE US BY TELEX WITHIN THREE DAYS IF
4 THE CHECK IS DISHONORED AND THE REASONS. THANK
5 YOU IN ADVANCE FOR YOUR COOPERATION."

6 Q AND BEFORE YOU SENT THE CHECK OVER TO THE BANK --
7 WHICH BANK WERE YOU SENDING IT TO, BY THE WAY?

8 A I SENT IT TO CREDIT SWISS BANK.

9 Q AND BEFORE YOU SENT IT OVER TO THEM, IT HAS TO
10 BE ENDORSED, IS THAT RIGHT?

11 A YES.

12 Q AND DID YOU DO ANYTHING WITH REGARD TO THE
13 ENDORSEMENT ON THIS CHECK?

14 A YES.

15 Q WHAT DID YOU DO?

16 A I ASKED THE PEOPLE AUTHORIZED AT THE COMPANY
17 TO ENDORSE THE CHECK, SINCE I WAS NOT FAMILIAR WITH THEIR
18 ENDORSEMENT AND I ASKED THEM TO GET A GUARANTEE FROM THEIR
19 PREVIOUS BANK. AND IT WAS GUARANTEED, THE SIGNATURE, BY
20 THE BANK OF AMERICA.

21 Q THAT IS ON THE REVERSE SIDE OF THE CHECK WHERE
22 IT SAYS "SIGNATURE GUARANTEED"? DOES IT SAY THAT ON THE
23 BACK OF YOUR CHECK?

24 A YES.

25 Q AND ABOVE THAT, CAN YOU READ THE SIGNATURE THAT
26 IS THERE?

27 A YES. "SIGNATURE GUARANTEED OF JOSEPH HUNT ONLY,
28 GUARANTEED BANK OF AMERICA." AND THERE IS A SIGNATURE OF

1 AN OFFICER.

2 Q AND WHO WAS IT AT THE BANK WHO HANDLED THIS
3 TRANSACTION WHEN THE CHECK WAS GOING TO BE COLLECTED ON JUNE
4 THE 8TH?

5 A EXCUSE ME? WHO GAVE IT TO US?

6 Q NO. WHO AT THE BANK?

7 A I DID.

8 Q AND WHO DID YOU TALK TO, DO YOU REMEMBER?

9 A I DON'T RECALL.

10 Q OKAY. DO YOU RECOGNIZE MR. HUNT, THE DEFENDANT
11 IN THIS CASE?

12 A YES, I DO.

13 Q ALL RIGHT. DO YOU KNOW IF HE WAS THE ONE THAT
14 YOU TALKED TO?

15 A I CANNOT RECALL. I RECALL THAT TWO PEOPLE CAME
16 WITH THE CHECK. BUT I DON'T RECALL.

17 Q AND WHEN THEY CAME, DID YOU FILL OUT THE DOCUMENT
18 THAT IS THE GREEN COPY OF PEOPLE'S 114?

19 A NO. ONE OF MY PEOPLE DID THAT.

20 Q ALL RIGHT. AFTER YOU WROTE THE LETTER, WHAT
21 DID YOU DO WITH THE CHECK?

22 A I SENT IT TO SWITZERLAND FOR COLLECTION.

23 Q AND DID YOU GET SOME NOTIFICATION FROM SWITZERLAND
24 AS FAR AS WHAT HAPPENED WITH THE CHECK?

25 A YES. LATER ON, I RECEIVED A TELEX THAT THE CHECK
26 WAS NO GOOD.

27 Q AND IS THAT THE DOCUMENT THAT IS MARKED AS 112
28 FOR IDENTIFICATION?

1 A YES. THAT'S THE ONE.

2 Q ALL RIGHT. AND WHEN WAS IT THAT YOU WERE NOTIFIED
3 THAT THE CHECK WAS NO GOOD?

4 A I WAS NOTIFIED ON JUNE 15, 1984.

5 Q AND DID THE BANK IN SWITZERLAND TELL YOU BY THEIR
6 TELEX, WHY IT WAS THE CHECK WAS DISHONORED?

7 A YES. THEY SAID FOR TWO REASONS, INSUFFICIENT
8 FUNDS --

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1 THE COURT: WHAT?

2 THE WITNESS: NOT ENOUGH FUNDS AND SIGNATURE MISSING.

3 THE COURT: AND WHAT?

4 THE WITNESS: SIGNATURE MISSING.

5 THE COURT: SIGNATURE MISSING?

6 THE WITNESS: YES.

7 Q BY MR. WAPNER: WHEN THE PEOPLE WERE IN THE BANK,
8 THE TWO PEOPLE WERE IN THE BANK ON JUNE THE 8TH TO SEND THIS
9 CHECK FOR COLLECTION, DID THEY MAKE ANY REQUESTS ABOUT BEING
10 NOTIFIED WHEN YOU GOT THE TELEX BACK?

11 A YES.

12 Q WHAT WERE THEY REQUESTING?

13 A TO GIVE THEM A CALL IF I HAVE ANY INFORMATION
14 FROM THE BANK REGARDING THE CHECKS PAID OR UNPAID.

15 Q WHEN YOU GOT THE TELEX ON JUNE 15, DID IT COME
16 TO YOU AT THE BANK?

17 A YES.

18 Q WHEN YOU GOT IT, WHAT DID YOU DO WITH IT?

19 A I CALLED THE COMPANY AND I TOLD THEM THAT THE
20 CHECK IS NO GOOD.

21 Q AND DID YOU TELL THEM WHY?

22 A YES, IT STATED THE REASON EXACTLY, SHOWING ON
23 THE TELEX.

24 Q THAT WAS NOT SUFFICIENT FUNDS AND --

25 A MISSING SIGNATURES.

26 Q WHEN DID YOU DO THAT?

27 A SAME DAY.

28 Q JUNE 15?

1 A YES.

2 Q WELL, ON THAT DAY THAT YOU GOT THE TELEX, YOU
3 DIDN'T GET THE CHECK BACK, YET? DID YOU?

4 A NO.

5 Q WHAT HAPPENED AFTER YOU GOT THE TELEX? DID YOU
6 AT SOME POINT, GET THE CHECK RETURNED TO YOU?

7 A YES. WE GET THAT LATER ON, YOU KNOW. THEY SEND
8 IT BY AIR, REGISTERED MAIL, IF I RECALL.

9 Q AND WHEN DID YOU RECEIVE THE CHECK?

10 A I DON'T RECALL, BUT TWO OR THREE OR FOUR WEEKS
11 LATER. IT DEPENDS UPON THE MAIL.

12 Q WAS IT APPROXIMATELY JULY 11, 1984?

13 A IT COULD BE.

14 THE COURT: JULY 11?

15 MR. WAPNER: YES.

16 Q IS THERE ANY INDICATION ON THE CHECK AT ALL AS
17 TO WHEN YOU RECEIVED IT BACK?

18 A NO. THE CHECK, THEY DON'T BECAUSE I BELIEVE
19 THAT IT SHOULD BE ANOTHER INVOICE FROM THE BANK WITH A
20 COVERING LETTER. THERE IS MISSING A COVERING LETTER. WITH
21 THE CHECK SHOULD BE A COVERING LETTER FROM THE BANK.

22 Q AND THIS DOCUMENT THAT WE HAVE MARKED AS 115
23 FOR IDENTIFICATION, WHAT IS THAT?

24 A THIS IS THE COVERING LETTER THAT COMES WITH THE
25 CHECK.

26

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1 Q THAT WAS RETURNED TO THE BANK WITH THE CHECK?

2 A YES.

3 Q THERE IS A SMALL PIECE OF PAPER ON THE TOP, WHAT
4 IS THAT?

5 A THIS IS THEIR -- THE CHARGES IN SWISS BANK,
6 INTERNALLY WHAT THEY DO, THE BANK.

7 Q AND THE OTHER PIECE OF PAPER THAT IT IS A PART
8 OF, I BELIEVE IT IS 113, WHAT IS THAT?

9 A THIS ONE? (WITNESS INDICATING.)

10 Q YES.

11 A THIS IS THE COVERING LETTER, COMES WITH THE CHECK,
12 THE ACTUAL LETTER.

13 Q WHEN IS THAT SENT TO YOU -- WHEN WAS THAT SENT
14 TO YOU?

15 A DOES NOT SHOW THE RECEIVED DATE. BUT IT IS DATED
16 IN SWITZERLAND, JUNE THE 8TH, THAT IS THE SAME DATE THAT --

17 Q OBVIOUSLY, THEY DIDN'T GET IT --

18 A NO. SORRY.

19 IT IS DATED JUNE THE 22ND.

20 THEY ARE REFERRING TO OUR JUNE 8TH COLLECTION,
21 BUT IT IS THEIR DATE, THE INTERNAL DATE IS JUNE 22, '84.

22 Q WHAT DOES IT SAY THEY DID ON JUNE 22ND?

23 A RETURNING THE CHECK TO US FOR THE REASONS THAT
24 THEY SPECIFIED IN THEIR TELEX, NSF AND MISSING SIGNATURE.

25 Q SO THAT IS THE DATE THEY ARE MAILING IT TO YOU?

26 A YES.

27 Q HOW DID YOU SEND THE CHECK OVER TO SWITZERLAND?

28 A I SENT IT THROUGH INTERNATIONAL COURIER.

1 Q HOW LONG DOES THAT TAKE, IF YOU KNOW, NORMALLY?

2 A USUALLY THEY ARE TWO TO THREE DAYS MAX.

3 Q HOW WAS IT SENT BACK TO YOU FROM SWITZERLAND?

4 A IT WAS REGISTERED MAIL.

5 Q REGISTERED MAIL?

6 A REGISTERED MAIL, YES.

7 Q AND THIS DOCUMENT THAT IS 115 FOR IDENTIFICATION,

8 WHAT IS THAT?

9 A THIS IS A DEBIT ADVICE TO THE ACCOUNT OF

10 MICRO--

11 MR. WAPNER: MICROGENESIS.

12 THE COURT: MICROGENESIS.

13 THE WITNESS: MICROGENESIS OF NORTH AMERICA FOR OVERSEAS
14 AND OUR CHARGES, FOR OVERSEAS BANK AND OUR CHARGES.

15 Q BY MR. WAPNER: IS THAT A DOCUMENT THAT YOU
16 PROVIDE TO THE CUSTOMER?

17 A YES -- NO.

18 THIS IS FOR OUR FILE.

19 WE SEND ORIGINAL TO THE CUSTOMER, THE WHITE ONE.

20 Q DO YOU SEND A COPY OF THAT TO THE CUSTOMER?

21 A YES, THE ORIGINAL DOCUMENT SHOULD GO TO THE
22 CUSTOMER.

23 Q ALSO, WHEN THE CUSTOMER GIVES YOU THE CHECK, DOES
24 HE GET A RECEIPT?

25 A YES.

26 Q SHOWING YOU A DOCUMENT THAT WE HAVE MARKED AS
27 109 FOR IDENTIFICATION, DO YOU RECOGNIZE THAT?

28 A YES.

1 Q WHAT IS THAT?

2 A THIS IS THE RECEIPT THAT WE PROVIDE TO THE
3 CUSTOMER.

4 Q FOR THE CHECK?

5 A FOR THE CHECK, YES.

6 MR. WAPNER: MAY I HAVE JUST A MOMENT, YOUR HONOR?

7 THE COURT: UH-HUH, ALL RIGHT.

8 Q BY MR. WAPNER: ON THIS DOCUMENT 115 FOR
9 IDENTIFICATION, WHERE IT SAYS "CORRESPONDENT BANK CHARGE FOR
10 UNPAID CHECK SF," THEN IT SAYS 190 AND 2.36; WHAT IS THAT?

11 A THIS IS THE CORRESPONDENCE BANK CHARGES.
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1 Q WHAT DOES THAT LANGUAGE MEAN?

2 A SF?

3 Q YES.

4 A SF, SWISS FRANC. THIS IS FOREIGN CURRENCY AND
5 THE RATE OF FOREIGN EXCHANGE CONVERTED TO THE DOLLAR CAME
6 UP TO \$80.51.

7 THE COURT: HOW MUCH?

8 THE WITNESS: \$80.51.

9 Q BY MR. WAPNER: IS THIS WHAT YOU WERE CHARGING
10 THEM --

11 A YES.

12 Q -- FOR ATTEMPTING TO CASH THE CHECK?

13 A CORRESPONDENCE CHARGES.

14 Q ONCE THE CHECK WAS MAILED BACK TO YOU FROM
15 SWITZERLAND, REGISTERED MAIL, DID IT REMAIN IN THE BANK?

16 A I DON'T RECALL.

17 BUT USUALLY, WHEN WE HAVE A CHECK LIKE THIS COMING
18 BACK WE CALL THE CUSTOMER. EITHER THEY WILL SAY HOLD IT,
19 YOU KNOW, IN MY FILE, I WILL STOP BY AND PICK IT UP OR MAIL
20 IT.

21 BUT I DON'T RECALL WHAT HAPPENED HERE.

22 Q AT THE TIME THAT ALL OF THIS WAS HAPPENING, DID
23 YOU HAVE A PERSON AT THE BANK NAMED CLAUDIO MARINELLI?

24 A YES.

25 Q WHEN DID YOU LEAVE THE EMPLOY OF THE WORLD BANK
26 OF BEVERLY HILLS?

27 A IN OCTOBER.

28 Q OF 1984?

-5
1 A OF '84, YES.

2 MR. WAPNER: I DON'T HAVE ANY FURTHER QUESTIONS, SIR.

3 THE COURT: ALL RIGHT.

4

5

CROSS-EXAMINATION

6

BY MR. BARENS:

7

Q SIR, YOU MENTIONED EARLY ON THAT THIS WAS NOT
8 THE FIRST CHECK IN THE ACCOUNT THAT WAS OPENED AT YOUR BANK?

9

A NO.

10

Q THERE WAS SOME TRANSACTION PRECEDING THIS?

11

A YES.

12

Q WHAT WAS THAT ABOUT?

13

A THE ONLY ONE REALLY I RECALL NOW WAS FROM THE
14 SIGNATURE CARD, THERE WAS ONE CHECK BEFORE FOR THAT INITIAL
15 DEPOSIT, \$25,890.

16

Q WHO MADE THAT DEPOSIT?

17

A I CANNOT RECALL.

18

Q WAS IT THE SAME GROUP OF PEOPLE?

19

A SAME GROUP, YES.

20

Q HOW MANY PEOPLE CAME IN WITH THAT DEPOSIT?

21

A I CANNOT RECALL, SIR.

22

Q WHAT DATE WAS THAT?

23

A ACCORDING TO THE SIGNATURE CARD, IT WILL BE
24 JUNE THE 8TH.

25

Q JUNE THE 8TH THE CHECK FOR \$25,000 WAS DEPOSITED?

26

A YES.

27

Q DO YOU KNOW WHOSE CHECK THAT WAS?

28

A NO, SIR.

1 Q WAS THAT CHECK GOOD?

2 A YES.

3 Q AND THAT WASN'T RETURNED TO THE CUSTOMER --

4 A NO.

5 Q -- ANY OF THAT SORT OF THING?

6 A NO.

7 Q OKAY, NOW YOU SAY TWO PEOPLE CAME IN WITH THIS
8 CHECK, WITH THE MILLION-FIVE CHECK; DID YOU SAY THAT WAS TWO
9 PEOPLE?

10 A YES.

11 Q WERE THEY BOTH WHITE PEOPLE?

12 A I DON'T RECALL. I RECALL THAT THEY CAME INTO
13 MY OFFICE AND I BELIEVE SO, YES.

14 Q THAT WAS ON WHAT DATE THAT THEY CAME IN WITH THIS
15 CHECK?

16 A JUNE THE 8TH.

17 Q SO THE CHECK FOR A MILLION-FIVE AND THE CHECK
18 FOR THE \$25,000 PLUS ARRIVED THE SAME DAY?

19 A I DON'T RECALL EXACTLY, SIR.

F 20

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1 THE COURT: DID YOU SAY SOMETHING ABOUT JUNE 7?

2 THE WITNESS: YES. IT COULD BE JUNE 7. BECAUSE WE
3 PREPARED THE WHOLE DOCUMENT ON JUNE 7. IT COULD BE THAT
4 WE HAD IT AT THE SAME TIME THEY GAVE US THE CHECK AND WE
5 PROCESSED IT AND THEN THEY --

6 THE COURT: THAT WAS FOR \$25,000?

7 THE WITNESS: YES.

8 THE COURT: JUNE 8TH, THE SAME AS THE OTHER ONE?

9 THE WITNESS: JUNE 8TH. THEY CAME WITH THE OTHER CHECK.
10 IT COULD BE -- USUALLY, YOU KNOW, AT THE SAME TIME WE PREPARE
11 THE DOCUMENT AND OPEN THE ACCOUNT, WE DATE IT.

12 THE COURT: ALL RIGHT.

13 Q BY MR. BARENS: ARE YOU SAYING THAT YOU ARE SURE
14 OF THAT, SIR OR ARE YOU SAYING IT COULD BE?

15 A IT COULD BE. I AM NOT POSITIVE BECAUSE IT IS
16 TOO OLD. I CANNOT REMEMBER THAT.

17 Q OKAY. IN ANY EVENT, THE DOCUMENTATION YOU SENT
18 OUT TO THE SWISS BANK, ET CETERA, ET CETERA, THAT YOU HAVE
19 REFERENCED COMPRISING SEVERAL PIECES OF PAPER, IS THAT STANDARD
20 OPERATING PROCEDURE FOR YOU?

21 A NO. IT IS NOT UNLESS THE CUSTOMER REQUESTS ITS
22 SPECIAL ATTENTION.

23 Q AND IN THIS INSTANCE, WAS THAT THE REQUEST OF
24 THE CUSTOMER?

25 A YES.

26 Q AND THEY ALSO ASKED YOU TO NOTIFY THEM WHAT THE
27 RESPONSE WAS?

28 A YES.

1 Q AND THE REST OF THE PROCEDURES THAT YOU FOLLOWED,
2 HAD YOU EVER DONE SOMETHING LIKE THIS TO COLLECT A FOREIGN
3 CHECK BEFORE?

4 A FOR THE LAST 19 YEARS.

5 Q OKAY. SO YOU HAD DONE THIS KIND OF PAPER WORK
6 AND THIS KIND OF ACTIVITY IN THIS CONJUNCTION ?

7 A YES.

8 Q SO IT WAS NOTHING PARTICULAR UNUSUAL ABOUT THE
9 PAPER WORK THAT YOU HAD SHOWN US HERE, IS THERE?

10 A NO, FOR CUSTOMERS WHO ASK FOR SPECIAL ATTENTION
11 WHEN IT IS LARGE AMOUNTS, THAT HAPPENS ALWAYS. IT IS NOT
12 A \$10 CHECK.

13 Q YOU BET. AND WITH THE CUSTOMER ASKING YOU TO
14 TELL THEM WHAT HAPPENED, YOU KNOW, LET US KNOW WHAT THE BANK
15 ON THE OTHER END SAID, WHETHER THE CHECK WAS GOOD OR BAD,
16 WAS ANYTHING UNUSUAL ABOUT THAT?

17 A NO.

18 Q OKAY. NOW, THESE DOCUMENTS YOU REFERRED TO,
19 THE COLLECTION LETTER YOU SENT TO CREDIT SUISSE AND THEIR
20 TELEX BACK TO YOU AND THEIR COVER LETTER THINGS AND WHATNOT,
21 DO YOU SHOW THOSE THINGS TO THE CUSTOMER OR DO YOU JUST TELL
22 THEM ABOUT THOSE THINGS?

23 A MOST OF THEM ACCEPT THE TELEX BECAUSE IF THE
24 CUSTOMER WERE REQUESTING TO SEE A COPY OF THE TELEX, WE PROVIDE
25 THEM.

26 Q AND WHAT HAPPENED IN THIS INSTANCE, DO YOU KNOW?

27 A I WAS NOT ASKED TO SHOW A COPY OF THE TELEX.

28 Q OKAY. THE CUSTOMER NEVER ASKED FOR THAT?

1 A NO.

2 Q OKAY. HOW ABOUT THOSE TRANSMITTAL DOCUMENTS
3 YOU SENT OVER TO CREDIT SUISSE ON THE COLLECTION END BEFORE
4 IT WAS RETURNED? DID YOU SHOW THOSE TO THE CUSTOMER?

5 A YES. I GAVE HIM A COPY.

6 Q RIGHT. ALL THAT SHOWS ON THERE IS THAT YOU HAVE
7 ASKED FOR CREDIT WHEN IT CLEARS EVENTUALLY?

8 A YES.

9 Q NOW, THE SIGNATURE CARD THAT WAS MADE OUT BY
10 THE PEOPLE THAT CAME IN, AUTHORIZED FOUR PEOPLE TO SIGN ON
11 THE ACCOUNT?

12 A YES.

13 Q COULD ANY ONE OF THEM HAVE SIGNED?

14 A SIGNED WHAT, SIR?

15 Q SIGNED A CHECK ON THE ACCOUNT?

16 A YES, BECAUSE IT IS STATED HERE "NUMBER OF
17 SIGNATURES REQUIRED: 1."

18 Q SO EITHER ACTING ALONE ON THEIR OWN, MR. DICKER
19 OR MR. DOSTI OR MR. KARNY OR MR. HUNT, COULD HAVE INDIVIDUALLY
20 SIGNED THE CHECK ON THAT ACCOUNT?

21 A YES.

22 Q NOW LATER ON, YOU TOLD US THAT YOU RECEIVED A
23 TELEX FROM THE 15TH OF JUNE? THAT WAS PEOPLE'S 112?

24 A UH-HUH.

25 Q AND THAT TELEX STATED A COUPLE OF REASONS WHY
26 THE CHECK WAS NOT GOOD?

27 A YES.

28 Q AND COULD YOU READ US THOSE TWO REASONS?

1 A YES.

2 THE COURT: HE TOLD US THAT THERE IS NO SIGNATURE AND
3 HE TOLD US THAT THERE WAS INSUFFICIENT FUNDS. HE TOLD US
4 TWICE ALREADY.

5 MR. BARENS: I WOULD LIKE THE WORDS, IF WE MIGHT.

6 THE COURT: GIVE HIM THE WORDS, WILL YOU PLEASE?

7 THE WITNESS: INSUFFICIENT FUNDS AND SIGNATURE MISSING.
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1 MR. BARENS: OKAY.

2 Q SO AT THAT POINT ON THE 15TH, YOU CALLED SOMEBODY
3 WITH THAT INFORMATION?

4 A YES.

5 Q DO YOU KNOW WHO YOU CALLED?

6 A NO. I DON'T RECALL.

7 Q OKAY. YOU CALLED SOMEBODY AT THE CUSTOMER'S
8 ADDRESS?

9 A AT THE CUSTOMER'S OFFICE, YES, THE PHONE THAT
10 I HAVE ON THE SIGNATURE CARD.

11 Q THAT IS THE TELEPHONE --

12 THE COURT: IS THERE A TELEPHONE NUMBER ON THERE FOR
13 IT?

14 THE WITNESS: YES. THEY HAVE A PHONE NUMBER.

15 Q BY MR. BARENS: AND AT THAT CUSTOMER'S PHONE
16 NUMBER, DID YOU READ THEM THE WORDS OF THE TELEX YOU JUST
17 READ ME?

18 A YES.

19 Q OKAY. SO YOU GAVE THEM THE SAME LANGUAGE?

20 A EXACTLY.

21 Q THAT YOU GAVE ME?

22 A EXACTLY.

23 Q AND IN THAT INSTANCE, THEN, WAS THE CUSTOMER
24 BEING TOLD ACCORDING TO WHAT YOU CONCLUDED, THERE WAS NO
25 MONEY TO BACK THAT CHECK?

26 A EXACTLY.

27 Q AND THAT WAS YOUR STATE OF MIND?

28 A NO MONEY AND NO SIGNATURE. THAT IS WHAT THEY

1 STATED EXACTLY ON THE CHECK.

2 Q AND AS A BANKER, WOULD IT BE A FAIR STATEMENT
3 THAT IRRESPECTIVE OF THE SIGNATURE, THERE SIMPLY WAS NO MONEY
4 TO COVER THE CHECK?

5 A IT COULD BE SEVERAL REASONS, YOU KNOW, BEHIND
6 IT. LIKE --

7 Q SURE. BUT EVEN IF THE SIGNATURE IS APPROPRIATE,
8 IF THERE IS NO MONEY, THE CHECK IS NOT GOING TO GO THROUGH?

9 A THAT IS TRUE.

10 Q OKAY. AND THERE WAS CLEARLY -- IT WAS KNOWN
11 TO THE CUSTOMER, ONCE YOU HAVE TOLD THEM, THERE IS NO MONEY
12 FOR THE CHECK?

13 A YES.

14 Q IS THAT TRUE?

15 A IT IS TRUE.

16 MR. BARENS: OKAY. THANK YOU.

17

18 REDIRECT EXAMINATION

19 BY MR. WAPNER:

20 Q WHAT IS THE PHONE NUMBER THEY PUT ON THE SIGNATURE
21 CARD THAT YOU USED TO CALL THEM BACK?

22 A AREA CODE 213, 655-6391.

23 Q AND ON THE CARD, DOES IT HAVE A BOX THAT SAYS
24 "ACCOUNT OPENING DATE?"

25 A YES.

26 Q AND WHAT IS THAT DATE?

27 A 6-8-84.

28 Q ALL RIGHT. SO, IS IT BASED ON THE FACT THAT

1 IT SAYS OPENING DATE, 6-8? IS IT LIKELY THAT THE \$25,000
2 WAS ALSO PUT IN ON 6-8?

3 A NO. I BELIEVE YOU KNOW, THEY COULD MAKE -- BECAUSE
4 HERE THE DATE IS TYPED ON THE CHECK. USUALLY WE RECEIVE
5 THE DOCUMENTATION. BUT IT WAS RETURNED THE NEXT DAY AND
6 MAYBE THEY DATED IT WRONG.

7 IT COULD BE ALSO THE CHECK ARRIVED, YOU KNOW,
8 THE NEXT DAY, TOO.

9 Q OR IT COULD BE THAT HE CAME AND PICKED UP THE
10 CARD ON THE 7TH AND THEN BROUGHT IT BACK THE NEXT DAY AND
11 FILLED IT OUT?

12 A YES. IT COULD BE.

13 MR. WAPNER: NO FURTHER QUESTIONS.

14 THE COURT: ALL RIGHT. THERE ARE FOUR SIGNATURES ON
15 THAT OPENING THE ACCOUNT, RIGHT?

16 THE WITNESS: YES.

17 THE COURT: AND WHAT DOES IT SAY THERE? CAN YOU READ
18 IT?

19 THE WITNESS: THEIR TITLES?

20 THE COURT: YES.

21 THE WITNESS: "JOSEPH HUNT, CHIEF EXECUTIVE OFFICER" --

22 THE COURT: HE SIGNED IT?

23 THE WITNESS: HE SIGNED ALSO.

24 THE COURT: NEXT?

25 THE WITNESS: NEXT IS BEN DOSTI, DIRECTOR. HE ALSO
26 SIGNED. THEN DEAN KARNY, DIRECTOR. HE ALSO SIGNED. THEN
27 EVAN DICKER, SECRETARY. HE ALSO SIGNED.

28 THE COURT: OKAY.

-1

1 Q BY MR. WAPNER: WHAT IS THE EFFECT OF THE FACT
2 THAT THERE IS THIS JULY 11 DATE ON PEOPLE'S 115 FOR
3 IDENTIFICATION, WHICH IS THE ACCOUNT DEBIT DOCUMENT?

4 A THIS IS WHEN WE RECEIVED THE CHECK BACK, THE
5 PHYSICAL CHECK, THE ACTUAL CHECK WITH THAT COVERING LETTER.

6 Q YES.

7 A AND WE DEBITED THE CUSTOMER.

8 THOSE THREE SHOULD GO TOGETHER, THAT IS THE WAY
9 (WITNESS INDICATING).

10 Q SO WHEN DID YOU GET THE CHECK BACK THEN IN RELATION
11 TO THE JULY 11 DATE WHEN YOU MADE THE DEBIT?

12 A COULD BE JULY THE 10TH.

13 WE PROCESSED IT THE 11TH, IT COULD BE THE 11TH
14 AND WE PROCESSED IT THE SAME DAY.

15 BUT NOT MORE THAN 24 HOURS FROM THAT DATE.

16 Q AND WHEN YOU FILLED OUT THE YELLOW FORM THAT IS
17 THE ACCOUNT DEBIT, YOU SAID THERE WAS ANOTHER DUPLICATE OF
18 THAT THAT IS ALSO MADE THAT IS A WHITE COPY?

19 A ORIGINAL.

20 Q IS THAT SENT TO THE CUSTOMER?

21 A SHOULD BE ATTACHED WITH THE CHECK.

22 Q AND SENT TO THE CUSTOMER?

23 A YES.

24 Q AND IF IT WASN'T ATTACHED WITH THE CHECK, WOULD
25 IT BE SENT TO THE CUSTOMER INDEPENDENTLY?

26 A COULD BE.

27 Q AND IT WOULD BE MAILED OUT IN THE ORDINARY COURSE
28 OF BUSINESS ON WHAT DATE IN RELATION TO WHEN IT WAS PREPARED?

37 °
1 A THE SAME DATE, JULY 11.

2 MR. WAPNER: THANK YOU. I HAVE NOTHING FURTHER.

3 THE COURT: GO AHEAD.

4

5 RECROSS-EXAMINATION

6 BY MR. BARENS:

7 Q SIR, DID THE CUSTOMER EVER COME BACK AND ASK FOR
8 THE RETURN OF THAT CHECK?

9 A I DON'T RECALL THAT THEY ASKED FOR THAT CHECK.

10 Q YOU DON'T RECALL ANYBODY EVER COMING BACK IN THERE
11 AND SAYING THEY WANTED THAT CHECK BACK, DO YOU?

12 A NO.

13 MR. BARENS: THANK YOU.

14 THE COURT: DID YOU SEND THE CHECK BACK?

15 THE WITNESS: I DON'T RECALL, YOUR HONOR.

16 THE COURT: WELL, YOU HAVE IT BEFORE YOU THERE.

17 YOU DIDN'T PRODUCE THAT CHECK, DID YOU?

18 THE WITNESS: NO, WE DIDN'T.

19 MR. BARENS: I BELIEVE WE HAVE A STIPULATION ON IT,
20 YOUR HONOR.

21 MR. WAPNER: I BELIEVE WE HAVE A STIPULATION AS TO HOW
22 THE CHECK CAME TO BE IN THE COURTROOM.

23 THE COURT: ALL RIGHT, THANK YOU. YOU MAY STEP DOWN.

24 THIS WITNESS MAY BE EXCUSED?

25 MR. WAPNER: I HAVE NO OBJECTION.

26 MR. BARENS: WHILE WE ARE ON THE SUBJECT, WHY DON'T
27 WE DO THE STIPULATION NOW ON HOW THE CHECK GOT HERE?

28 THE COURT: GO AHEAD.

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1 MR. WAPNER: I WAS ABOUT TO DO THAT. THANK YOU.

2 THE COURT: ALL RIGHT, THANK YOU VERY MUCH.

3 MR. WAPNER: COUNSEL, MAY IT BE STIPULATED THAT A
4 MR. CLAUDIO MARINELLI, THAT IS SPELLED M-A-R-I-N-E-L-L-I,
5 BE DEEMED CALLED, SWORN AND TESTIFIED THAT HE BROUGHT THIS
6 CHECK TO -- HE WAS EMPLOYED BY THE WORLD TRADE BANK IN
7 DECEMBER OF 1984 AND AT A COURT HEARING, BROUGHT THAT CHECK
8 IN FROM THE RECORDS OF THE BANK AND LEFT IT WITH THE CLERK
9 OF THE COURT AT THE BEVERLY HILLS MUNICIPAL COURT.

10 AND FURTHER, THAT THAT CHECK IN THE NORMAL COURSE
11 OF COURT BUSINESS WAS THEN TRANSFERRED FROM THE BEVERLY HILLS
12 COURT TO THIS COURT WHERE IT HAS BEEN SINCE THAT DATE.

13 THE COURT: SO STIPULATED?

14 MR. BARENS: YES.

15 AND I WILL STIPULATE THAT THIS IS THE SAME
16 MARINELLI HE TESTIFIED, THIS FELLOW TESTIFIED WAS AN EMPLOYEE
17 OF THE BANK.

18 THE COURT: ALL RIGHT. SO STIPULATED.

19 MR. BARENS: THANK YOU.

20 THE COURT: ALL RIGHT, THE JURY WILL ACCEPT THAT
21 STIPULATION.

22 YES?

23 MR. WAPNER: STEVE WEISS.

24 MR. BARENS: YOUR HONOR, MAY WE APPROACH THE BENCH PRIOR
25 TO THE WITNESS?

26 THE COURT: YES.

27 (THE FOLLOWING PROCEEDINGS WERE HELD
28 AT THE BENCH:)

3300 1 MR. BARENS: A COUPLE OF POINTS, YOUR HONOR.

2 I WOULD LOOK AT THIS WITNESS, AGAIN, AS A
3 POTENTIAL LOOSE CANNON IN THE COURTROOM. THIS IS A GENTLEMAN
4 THAT IS EXCITABLE AND HOSTILE ABOUT MR. HUNT AND POSSIBLY
5 RIGHTFULLY SO, AS HE HAS A BELIEF SYSTEM THAT HE SAYS HE LOST
6 A LOT OF MONEY BECAUSE OF MR. HUNT'S CONDUCT.

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1 I WOULD LIKE YOUR HONOR TO REQUEST THE PEOPLE
2 TO CAUTION THE WITNESS ABOUT GRATUITOUS REMARKS CONCERNING
3 MR. HUNT'S CHARACTER, BECAUSE I DON'T BELIEVE IT IS PROPER
4 FOR THE PEOPLE TO INTRODUCE A CHARACTER WITNESS AT THIS
5 JUNCTURE. THIS IS THE FIRST POINT I AM MAKING.

6 THE SECOND POINT I AM MAKING IS THAT AGAIN, WE
7 ARE GOING TO HAVE A WITNESS HERE WHO, I BELIEVE, WHOSE
8 PRIMARY FUNCTION IS TO TELL THE JURY THAT MR. HUNT IN HIS
9 OPINION SWINDLED HIM OUT OF MONEY.

10 THE RELEVANCE OF WHETHER HE WAS SWINDLED OR NOT
11 SWINDLED, I DO NOT BELIEVE GOES TO PROVE ANYTHING RELEVANT
12 TO THIS TRIAL.

13 NOW I ANTICIPATE THAT THE PEOPLE WILL SAY THIS
14 TENDS TO PROVE THAT THE BBC HAD A CERTAIN AMOUNT OF MONEY
15 OR DID NOT HAVE A CERTAIN AMOUNT OF MONEY AT A POINT IN TIME.

16 THE PREVIOUS WITNESS HAS ESTABLISHED THAT NOBODY,
17 TO HIS KNOWLEDGE, WAS PAID ANY MONEY BACK BUT, RATHER, A
18 SERIES OF PROMISSORY NOTES WERE ISSUED BECAUSE HUNT CAME FORWARD
19 AND TOLD THE INVESTORS THERE WAS NO MONEY TO PAY THEM WITH,
20 AT LEAST BY SEPTEMBER 22ND.

21 ON THOSE GROUNDS, IF WE ARE SIMPLY PRODUCING THIS
22 WITNESS TO FURTHER MAKE CHARACTER TESTIMONY ABOUT MR. HUNT
23 THAT HE WAS A SWINDLER, A BAD GUY AS AN INVESTMENT COUNSELOR,
24 THAT HE MISREPRESENTED TO PEOPLE WHEN THEY MADE INVESTMENTS
25 AS TO WHAT WOULD HAPPEN TO THEIR MONEY OR THE RESULT OF THEIR
26 MONEY, I DON'T THINK IT IS PROPER TESTIMONY. IT IS NEITHER
27 RELEVANT NOR IS IT INCLUDABLE UNDER 352, SO IT WOULD BE TO
28 YOUR HONOR'S DISCRETION.

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1 MR. WAPNER: YOUR HONOR, IT IS RELEVANT ON THE ISSUE
2 OF MOTIVE.

3 THIS ISN'T CHARACTER EVIDENCE.

4 IT IS EVIDENCE OF MOTIVE, BECAUSE IT GOES TO SHOW
5 THE SCHEME THAT WAS BEING UNDERTAKEN BY MR. HUNT TO TAKE MONEY
6 FROM INVESTORS, TO TELL THEM CONTINUALLY THAT THEY WERE
7 MAKING A GOOD RETURN AND CONTINUE TO DO THIS, EVEN AFTER HE
8 KNEW THAT THE MONEY WAS LOST.

9 AND FURTHER, ESPECIALLY WITH THIS WITNESS, IT
10 GOES TO SHOW THE NATURE OF THE SCHEME, BECAUSE AS WE HEARD
11 FROM THE PREVIOUS WITNESS, THIS WITNESS IS ONE OF THOSE THREE
12 PEOPLE WHOM HE REFERRED TO AS THE TRIO, UPON WHOM HE RELIED.

13 AS AN OFFER OF PROOF, THIS WITNESS WILL SAY THAT
14 HE MET MR. HUNT THROUGH HIS DAUGHTER AND BECAUSE OF THE FACT
15 THAT THIS WITNESS WAS SO IMPRESSED WITH MR. HUNT, HE SPREAD
16 THE WORD THROUGH HIS FRIENDS AND HIS RELATIVES AND, THEREFORE,
17 IT BECAME IN THE NATURE OF A PYRAMID SCHEME WHERE ONE TOLD
18 ANOTHER, HE TOLD ANOTHER AND EVERYBODY CAME TO INVEST AND
19 THAT THEY WERE BEING TOLD THAT THEY WERE MAKING LOTS OF MONEY,
20 WHEN IN FACT OTHER EVIDENCE WILL SHOW THAT WAS NOT THE CASE.

21 MR. BARENS: YOUR HONOR -- I AM SORRY, YOUR HONOR WAS
22 GOING TO SPEAK?

23 THE COURT: HIS TESTIMONY IS RELEVANT IN THIS PARTICULAR
24 CASE BECAUSE OF YOUR CROSS-EXAMINATION OF THE OTHER WITNESSES
25 WITH RESPECT TO "WHO TOLD YOU" AND IF HE TOOK ANY ADVICE,
26 ET CETERA, AND IT MIGHT APPEAR THAT WEISS AND THE OTHER PEOPLE
27 WERE THE ONES GIVING THE ADVICE TO THE DOCTOR TO MAKE THE
28 INVESTMENTS.

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COUNSEL WANTS TO SHOW WHAT THE SOURCE OF ALL THAT INFORMATION WAS, IT WASN'T REALLY THESE THREE PEOPLE, BUT IT WAS HUNT HIMSELF WHO WAS DOING ALL OF THE TALKING AND ALL OF THE ADVISING AND ALL OF THE NEGOTIATING.

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1 MR. BARENS: YOUR HONOR --

2 THE COURT: ALL HE WANTS TO DO IS MAKE SURE THAT YOU
3 ASK QUESTIONS WHICH IN ANY WAY, WON'T BRING OUT THIS MAN'S
4 RESENTMENT OR ANGER AGAINST THE DEFENDANT BECAUSE OF THE
5 FACT THAT HE LOST MONEY. YOU DO THE BEST YOU CAN.

6 MR. BARENS: COULD YOUR HONOR ASK THAT THE PEOPLE INSTRUCT
7 THE WITNESS NOT TO MAKE CHARACTER ASSESSMENTS OF MR. HUNT
8 WHEN HE SAYS THINGS LIKE THAT HE IS A GOOD GUY OR A BAD GUY
9 OR HE IS A THIEF OR A CROOK?

10 THE COURT: WELL, I WILL ADMONISH HIM ALSO IF HE DOES.

11 THE BARENS: I'D APPRECIATE IT.

12 (THE FOLLOWING PROCEEDINGS WERE HELD IN
13 OPEN COURT:)

14 THE CLERK: RAISE YOUR RIGHT HAND TO BE SWORN.

15 YOU DO SOLEMNLY SWEAR THAT THE TESTIMONY YOU
16 MAY GIVE IN THE CAUSE NOW PENDING BEFORE THIS COURT SHALL
17 BE THE TRUTH, THE WHOLE TRUTH, AND NOTHING BUT THE TRUTH,
18 SO HELP YOU GOD.

19 THE WITNESS: YES, I DO.

20 THE CLERK: PLEASE BE SEATED AT THE WITNESS STAND.
21 STATE AND SPELL YOUR NAME FOR THE RECORD.

22 THE WITNESS: STEVEN WEISS, W-E-I-S-S.

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STEVE WEISS,

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26 CALLED AS A WITNESS BY THE PEOPLE, WAS SWORN AND TESTIFIED
27 AS FOLLOWS:

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1 DIRECT EXAMINATION

2 BY MR. WAPNER:

3 Q DO YOU KNOW THE DEFENDANT IN THIS CASE?

4 A YES, I DO.

5 Q WHERE DID YOU FIRST MEET MR. HUNT?

6 A I MET HIM OUTSIDE OF CANTOR-FITZGERALD BROKERAGE
7 OFFICE ON CANNON DRIVE IN BEVERLY HILLS.

8 Q WHEN WAS THAT?

9 A THE EARLY PART OF MAY, 1983.

10 Q HOW WAS IT THAT YOU CAME TO MEET HIM THERE? YOU
11 WEREN'T JUST WALKING DOWN THE STREET, I TAKE IT?12 A NO. ONE OF MY DAUGHTERS HAD GONE TO WEST LAKE
13 SCHOOL AND KNEW OF JOE AND SOME FELLOWS WHO HAD GONE OR HAD
14 BEEN GOING TO HARVARD SCHOOL.15 AND THERE WAS SOME KIND OF SOCIAL INTERACTION
16 BETWEEN THE TWO SCHOOLS. AND SHE HAD MENTIONED JOE'S NAME
17 TO ME.18 Q WAS IT QUITE A FEW YEARS BEFORE MAY OF 1983,
19 I TAKE IT?

20 A WHEN THEY HAD GONE TO SCHOOL, YES.

21 Q YES. ALL RIGHT. WHAT IS YOUR DAUGHTER'S NAME?

22 A ALLISON.

23 Q DURING 1983 OR THEREABOUTS, DID ALLISON BECOME
24 REACQUAINTED WITH MR. HUNT?25 A THAT I DON'T KNOW. I THINK THERE MAY HAVE BEEN
26 SOME GENERAL SOCIALIZING AFTER GRADUATION FROM WEST LAKE
27 AND POSSIBLY SOME PARTICIPATION WHILE SHE WAS GOING TO UCLA.

28 Q IN 1983, HOW OLD WAS YOUR DAUGHTER, ALLISON?

1 A IN HER EARLY 20'S.

2 Q AND DID SHE TALK TO YOU AT THAT TIME IN 1983,
3 ABOUT JOE HUNT?

4 A YES. SHE CAME TO ME ONE DAY AND SHE SAID --
5 MR. BARENS: EXCUSE ME, YOUR HONOR. IT APPEARS TO
6 THE DEFENSE THAT THOSE CONVERSATIONS WOULD BE HEARSAY AND
7 ARE BEING OFFERED FOR THE TRUTH OF WHAT THE STATEMENTS ARE.

8 MR. WAPNER: AGAIN, YOUR HONOR, THEY ARE ONLY OFFERED
9 TO EXPLAIN WHAT THIS WITNESS DID IN RESPONSE TO THEM. BECAUSE
10 OTHERWISE, IT WON'T MAKE ANY SENSE TO THE JURY. IT IS NOT
11 OFFERED TO PROVE THE TRUTH.

12 THE COURT: THE JURY WILL BE SO INSTRUCTED.

13 Q BY MR. WAPNER: WHAT DID SHE SAY TO YOU?

14 A SHE SAID TO ME THAT SHE KNEW THIS YOUNG FELLOW,
15 WHO WAS MAKING A LOT OF MONEY IN THE STOCK MARKET FOR PEOPLE
16 TWICE HIS AGE, SOME INVESTMENT BROKERS THEMSELVES AND SHE
17 THOUGHT THAT IT MIGHT BE A GOOD IDEA IF I HAD ANY EXTRA CASH,
18 TO INVEST IN WHATEVER HE WAS INVESTING IN.

19 Q DID YOU DECIDE THAT BECAUSE OF WHAT SHE TOLD
20 YOU, YOU WANTED TO TALK TO HIM?

21 A YES.

22 Q DID YOU SET UP A MEETING WITH HIM?

23 A YES, I DID.

24 Q AND WHERE WAS THAT MEETING SUPPOSED TO BE?

25 A THAT WAS IN FRONT OF CANTOR-FITZGERALD ON CANNON
26 DRIVE.

27 Q THE FIRST MEETING THAT YOU HAD WITH HIM, WHAT
28 HAPPENED?

1 A I TOLD HIM THAT I HAD ABOUT \$5,000 THAT I WOULD
2 LIKE TO INVEST IN WHATEVER HE WAS DEALING IN, BASED ON HIS
3 RECOMMENDATION.

4 AND I SAID I WAS PLANNING TO GO TO EUROPE IN
5 1983, THE SUMMER OF 1983 AND THAT I HAD ALL THE MONEY NECESSARY
6 FOR THAT TRIP. IT WAS PAID FOR AND THAT FOR THE FUN OF IT,
7 IT WOULD SEEM TO ME THAT I WOULD LIKE TO GET ABOUT ANOTHER
8 \$5,000 OR \$6,000 TO TAKE ANOTHER TRIP TO EUROPE IN '84.

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1 Q WHAT DID HE SAY?

2 A HE SAID THAT THERE WOULD BE NO PROBLEM, IT COULD
3 EASILY BE DONE.

4 Q NOW, I JUST WANT TO DIGRESS FOR ONE SECOND. THAT
5 WAS ON THE SIDEWALK?

6 A THIS WAS ON THE SIDEWALK.

7 Q YOU WEREN'T INSIDE CANTOR-FITZGERALD?

8 A NO.

9 Q DID YOU KNOW AT THAT TIME WHY IT WAS THAT YOU
10 WERE MEETING HIM ON THE SIDEWALK AND NOT INSIDE THE BROKERAGE
11 HOUSE?

12 A I HAD NO IDEA.

13 Q WHEN YOU --

14 THE COURT: PARDON ME. YOU SET UP THE APPOINTMENT?
15 DID YOU?

16 THE WITNESS: I MEAN, WE MADE THE ARRANGEMENT. YES.

17 THE COURT: WHO SUGGESTED THE PLACE TO MEET?

18 THE WITNESS: JOE.

19 THE COURT: ALL RIGHT.

20 Q BY MR. WAPNER: WAS THE PLACE TO MEET SUPPOSED
21 TO BE THE SIDEWALK OR CANTOR-FITZGERALD?

22 A IT WAS OUTSIDE CANTOR-FITZGERALD. THAT IS WHERE
23 HE DECIDED WE SHOULD MEET.

24 Q AND WHEN YOU SAID TO HIM THAT HE WANTED -- YOU
25 HAD \$5,000 TO INVEST AND IT WAS TO MAKE MONEY FOR A TRIP
26 THE FOLLOWING YEAR, WHAT DID HE SAY?

27 A HE SAID THAT IT WOULD BE NO PROBLEM.

28 Q AND AFTER HE TOLD YOU THAT, WHAT HAPPENED?

1 A WE MET AGAIN.

2 Q WHERE WAS THAT MEETING?

3 A WE MET INSIDE CANTOR-FITZGERALD IN THE VESTIBULE.
4 AND HE CAME DOWNSTAIRS FROM WHATEVER THERE WAS UP ON THE
5 SECOND FLOOR AND WE TRANSACTED OUR BUSINESS.

6 Q KIND OF STANDING IN THE LOBBY?

7 A UH-HUH, YES.

8 Q AND WHEN YOU TALKED TO HIM, WHEN YOU WERE STANDING
9 IN THE LOBBY, DID YOU TALK FURTHER ABOUT THE INVESTMENT?

10 A WELL, WE TALKED ABOUT THE INVESTMENT IN TERMS
11 OF MY INVESTING \$5,000.

12 AND I WAS CERTAINLY LOOKING FORWARD TO SEEING
13 THE RETURN ON MY MONEY AND IT WAS DISCRETIONARY INCOME THAT
14 I COULD TAKE A RISK ON.

15 Q DID HE TELL YOU WHAT HE WAS INVESTING IN?

16 A YES. I ASKED HIM WHAT HE WAS INVESTING IN AND
17 HE SAID IT WAS IN COMMODITIES, THE KIND OF COMMODITIES THAT
18 WERE FINANCIAL, GOVERNMENT INSTRUMENTS.

19 Q DID HE TELL YOU THAT HE HAD ANY PARTICULAR SYSTEM
20 FOR MAKING MONEY AND TRADING COMMODITIES?

21 A WELL, HE SAID THAT HE HAD A SYSTEM BUT THERE
22 WAS NO WAY THAT HE WAS GOING TO REVEAL WHAT THAT SYSTEM WAS.
23 IT WAS A HIGHLY KEPT SECRET.

24 Q AND DID YOU KNOW ANYTHING AT ALL ABOUT TRADING
25 COMMODITIES?

26 A NO.

27 Q SO EVEN IF HE HAD TOLD YOU THIS HIGHLY KEPT SECRET,
28 DO YOU THINK YOU WOULD HAVE KNOWN WHAT HE WAS TALKING ABOUT?

1 A NOT REALLY, NO.

2 Q DID HE TELL YOU WHAT KIND OF RETURN YOU COULD
3 EXPECT ON YOUR MONEY?

4 A APPROXIMATELY 18 PERCENT PER MONTH ON MY MONEY.

5 Q DID HE TELL YOU WHAT IF ANY PERCENTAGE, HOW HE
6 WAS GOING TO MAKE MONEY OFF OF THIS?

7 A YES. HIS PROFIT WOULD BE 50 PERCENT. HIS SIDE
8 OF THE TRANSACTIONS, THE PROFIT WOULD BE 50 PERCENT AND WHAT-
9 EVER ELSE HE MADE, THAT WOULD BE COMING TO ME.

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35 1 Q THE 18 PERCENT THAT YOU WERE TO BE GETTING, WAS
2 THAT AFTER HE GOT HIS CUT?

3 A YES.

4 Q SO IN ORDER TO GET YOUR 18 PERCENT, HE HAD TO
5 MAKE 36?

6 A YES.

7 Q DID HE TELL YOU AT THAT TIME WHAT KIND OF A RISK
8 YOU COULD EXPECT?

9 A HE DIDN'T TELL ME AT THAT TIME WHAT THE RISK WAS.
10 THAT CAME LATER.

11 Q WHEN DID HE TELL YOU THAT?

12 A ON THIRD STREET IN HIS OFFICES, HE EXPLAINED THAT
13 THERE WAS A FAIL-SAFE SYSTEM BUILT IN TO THESE TRANSACTIONS
14 AND THAT ONE WAY OR ANOTHER, THERE WOULD BE A TRIGGERING,
15 MATHEMATICAL TRIGGERING, THAT IF SOMETHING HAPPENED IN THE
16 MARKET AND IT TURNED DOWN, THERE WOULD BE NO MORE THAN A
17 MAXIMUM LOSS OF 15 PERCENT ON ANY INVESTMENT.

18 Q THAT YOU COULDN'T LOSE MORE THAN 15 PERCENT?

19 A RIGHT.

20 Q AND AT SOME POINT, DID YOU GIVE HIM SOME MONEY?

21 A I HAD GIVEN HIM A CHECK FOR \$5,000, YES.

22 Q WHEN DID YOU DO THAT?

23 A I BELIEVE IT WAS THE SECOND MEETING.

24 Q AND THAT WAS WHEN?

25 A IN MAY OF -- THAT WAS TOWARDS THE END OF MAY,
26 SOMEWHERE AROUND MEMORIAL DAY, JUST BEFORE MEMORIAL DAY OF
27 '83.

28 Q ALL RIGHT. AND AFTER YOU GAVE HIM THE CHECK FOR

1 \$5,000 --

2 A YES.

3 Q -- DID YOU GET ANYTHING BACK?

4 A TOWARDS THE END OF JUNE, I GOT A RETURN ON MY
5 MONEY, A CHECK OF \$4,000 SIGNED BY A PERSON I HAD NEVER HEARD
6 OF BEFORE.

7 IT WAS NOT A CHECK FROM JOE HUNT.

8 Q IT WAS A SECOND-PARTY CHECK?

9 A YES.

10 Q WHO GAVE YOU THE CHECK?

11 A JOE.

12 Q WHAT DID HE SAY TO YOU THAT THAT CHECK
13 REPRESENTED?

14 A THAT WAS A RETURN ON INVESTMENT PROFIT.

15 Q HOW LONG HAD YOUR \$5,000 BEEN IN?

16 A SINCE THE LATTER PART OF MAY, THE SAME YEAR, '83.

17 Q NOW YOU WERE GETTING THIS AT THE LATTER PART OF?

18 A JUNE '83.

19 Q SO YOU HAD YOUR MONEY, \$5,000 IN FOR A MONTH AND
20 YOU GOT \$4,000 BACK?

21 A YES.

22 Q PRETTY GOOD?

23 A VERY GOOD.

24 MR. BARENS: YOUR HONOR, IS THAT RELEVANT THAT IT IS
25 PRETTY GOOD OR PRETTY BAD?

26 THE COURT: IT SEEMED -- WHY DON'T YOU ASK YOUR QUESTION
27 OF HIM: DID IT SEEM LIKE A GOOD RETURN TO YOU AT THAT TIME?

28 THE WITNESS: I FELT IT WAS A GOOD RETURN ON MY

5-3

1 INVESTMENT, YES.

2 THE COURT: LET HIM DO THE TESTIFYING, WILL YOU?

3 Q BY MR. WAPNER: WHEN HE GAVE YOU THE \$4,000 BACK,
4 BESIDES THINKING THAT IT WAS A GOOD RETURN ON YOUR INVESTMENT,
5 I MEAN, WHAT DID IT MAKE YOU THINK IN TERMS OF WHETHER YOU
6 WANTED TO INVEST MORE MONEY?

7 A I WANTED TO INVEST MORE MONEY.

8 Q WHY?

9 A BECAUSE THERE WAS AN OPPORTUNITY TO MAKE EXTRA
10 MONEY WITHOUT HAVING TO WORK FOR IT.

11 Q AND DID YOU INVEST SOME MORE MONEY?

12 A YES, I DID.

13 Q HOW MUCH MORE DID YOU INVEST?

14 A \$15,000, TOWARDS THE END OF JUNE.

15 Q AND AT THAT TIME WHEN YOU GAVE HIM THE FIRST CHECK,
16 WHO WAS IT MADE OUT TO?

17 A JOE HUNT.

18 Q AND THE CHECK THAT YOU GOT BACK FOR \$4,000 WAS
19 ON --

20 A SOMEBODY ELSE.

21 Q SIGNED BY SOMEBODY ELSE?

22 A SOMEBODY ELSE'S NAME.

23 Q YOU HADN'T HEARD OF?

24 A I NEVER HEARD OF.

25 Q IT WAS ON A COMPANY ACCOUNT YOU HADN'T HEARD OF?

26 A IT WAS A PERSON'S NAME.

27 IT WAS NOT A COMMERCIAL CHECK AND IT WASN'T A
28 COMPANY.

1 IT WAS SOMEBODY ELSE'S NAME.

2 THE COURT: TO WHOSE ORDER WAS THAT CHECK?

3 THE WITNESS: THE CHECK?

4 THE COURT: THE CHECK FOR \$4,000?

5 THE WITNESS: TO ME.

6 THE COURT: MADE PAYABLE TO YOU?

7 THE WITNESS: YES.

8 THE COURT: SOME THIRD PARTY YOU DIDN'T KNOW ABOUT MADE
9 OUT THE CHECK?

10 THE WITNESS: YES. NEVER SAW THAT NAME BEFORE.

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1 Q BY MR. WAPNER: AFTER YOU INVESTED THE ADDITIONAL
2 \$15,000 --

3 WHEN DID YOU INVEST THAT ADDITIONAL \$15,000 IN
4 RELATION TO WHEN HE SAID THIS WAS FAIL-SAFE; DID HE TELL YOU
5 IT WAS FAIL-SAFE BEFORE YOU INVESTED THE ADDITIONAL MONEY?

6 A YES.

7 Q AND AFTER INVESTING THE ADDITIONAL \$15,000, WHAT
8 HAPPENED?

9 A THEN I MENTIONED MY GOOD FORTUNE TO A FRIEND
10 OF MINE.

11 Q WHAT IS THAT PERSON'S NAME?

12 A LEONARD KAUFMAN.

13 Q AND WHY DID YOU TELL MR. KAUFMAN ABOUT IT?

14 A AGAIN, BECAUSE IT SEEMED LIKE A VERY EASY WAY
15 TO MAKE MONEY IN A REASONABLE MANNER.

16 Q WHAT DID YOU SAY TO MR. KAUFMAN?

17 A I SAID THAT I HAD MET THIS YOUNG FELLOW --
18 MR. BARENS: YOUR HONOR, WE HAVE AN OBJECTION.

19 THE COURT: YOU HAVE THE SAME OBJECTION?

20 MR. BARENS: YOUR HONOR, I HAVE AN OBJECTION BOTH AS
21 TO HEARSAY AND WE HAVE A RELEVANCY OBJECTION, YOUR HONOR.

22 THE COURT: ALL RIGHT, THANK YOU. THE OBJECTION WILL
23 BE OVERRULED.

24 MR. WAPNER: I WILL BE HAPPY TO MAKE AN OFFER OF PROOF
25 IF THE COURT WANTS.

26 THE COURT: YOU DON'T HAVE TO.

27 Q BY MR. WAPNER: WHAT DID YOU SAY TO MR. KAUFMAN?

28 A I SAID THAT I HAD THIS GOOD FORTUNE OF MEETING

1 THIS YOUNG MAN WHO DEMONSTRATED KNOW-HOW IN TRADING AND I
2 WAS PLEASED AND I WAS CONSIDERING INVESTING AS MUCH MONEY
3 AS I COULD WITHIN REASON TO MAKE A GREATER RETURN ON MY MONEY.

4 Q AND WHAT WAS MR. KAUFMAN'S RESPONSE?

5 A HE WAS INTERESTED.

6 MR. BARENS: HEARSAY AS TO MR. KAUFMAN, YOUR HONOR.

7 THE COURT: ALL RIGHT, OVERRULED, SUBJECT TO YOUR
8 OBJECTION.

9 MR. BARENS: THANK YOU.

10 Q BY MR. WAPNER: DID MR. KAUFMAN AT SOME POINT
11 INVEST MONEY WITH MR. HUNT?

12 A YES.

13 Q WHEN WAS THAT IN RELATION TO WHEN YOU TOLD HIM
14 ABOUT THIS?

15 A SOMETIME IN THE EARLY PART OF JULY, 1983.

16 Q HOW MUCH DID HE INVEST?

17 A I AM NOT SURE.

18 Q DO YOU KNOW APPROXIMATELY?

19 MR. BARENS: YOUR HONOR, THE SOURCE OF THIS KNOWLEDGE
20 WOULD BE HEARSAY AND NOW THIS IS BEING OFFERED FOR WHAT?
21 NOT THE TRUTHFULNESS OF THE STATEMENT.

22 THE COURT: IF YOU WANT IT ON THE RECORD, GIVE ME AN
23 OFFER OF PROOF ON THE RECORD, WILL YOU, PLEASE?

24 MR. BARENS: AS LONG AS HE CAN RESPOND, YOUR HONOR.

25 THE COURT: COUNSEL IS OBJECTING TO IT. GO AHEAD.

26 MR. WAPNER: THE OFFER OF PROOF IS THAT MR. KAUFMAN
27 INVESTED MONEY BASICALLY AFTER TALKING TO MR. WEISS AND BEING
28 TOLD THAT THIS WAS SUCH A GOOD INVESTMENT.

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1 MR. BARENS: I SUPPOSE I UNDERSTAND.

2 THE COURT: ALL RIGHT, GO AHEAD.

3 Q BY MR. WAPNER: DO YOU KNOW WHEN IT WAS
4 APPROXIMATELY THAT MR. KAUFMAN INVESTED MONEY?

5 A THE EARLY PART OF JULY '83.

6 Q INCIDENTALLY, WHEN YOU MET MR. HUNT AT CANTOR-
7 FITZGERALD, DID HE TALK TO YOU ABOUT COMMODITIES AND HIS
8 TRADING APPROACH, THINGS LIKE THAT?

9 A IF NOT EXACTLY AT THAT TIME, IT WAS CERTAINLY
10 THE SECOND OR THIRD MEETING THAT WE MET AND THAT HAD TO DO
11 WITH SOME KIND OF A SYSTEM CALLED DOUBLE BUTTERFLIES AND SOME
12 LINE, THERE WAS A NAME FOR THE LINE THAT HE HAD MENTIONED
13 BUT I DON'T REMEMBER THAT.

14 Q I AM NOT ASKING YOU TO EXPLAIN THE SYSTEM.

15 A YES.

16 Q WHEN YOU MET HIM THE FIRST TIME, DID HE IMPRESS
17 YOU?

18 A YES.

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1 MR. BARENS: OBJECTION. IS THAT RELEVANT?

2 THE COURT: HE ALREADY ANSWERED IT YES. GO AHEAD.

3 Q BY MR. WAPNER: DID HE SEEM TO KNOW WHAT HE WAS
4 TALKING ABOUT, ABOUT COMMODITIES?

5 A WELL, FROM MY LIMITED POINT OF VIEW, YES.

6 Q DID HE SEEM TO YOU TO BE CONFIDENT IN WHAT HE
7 WAS TALKING ABOUT?

8 A NO QUESTION ABOUT HIS SEEMING TO BE CONFIDENT.

9 Q DID YOU AFTER TALKING WITH HIM THESE FIRST FEW
10 TIMES, HAVE CONFIDENCE THAT HE COULD DO WHAT HE SAID HE WAS
11 DOING?

12 A YES.

13 MR. BARENS: WITHDRAW THE OBJECTION MADE, THE LAST
14 OBJECTION, JUDGE.

15 THE COURT: ALL RIGHT.

16 MR. BARENS: THANK YOU.

17 Q BY MR. WAPNER: AND AFTER TALKING TO MR. KAUFMAN,
18 DID YOU TELL ANYBODY ELSE ABOUT THIS GOOD FORTTUNE THAT YOU
19 WERE HAVING?

20 A YES. I WOULD GET TOGETHER WITH MY RELATIVES
21 AND SOME OF MY CLOSE FRIENDS. YES, I DID.

22 Q AND WHAT WAS THE PURPOSE OF TELLING THEM ABOUT
23 IT?

24 A I LIKED TO SHARE GOOD FORTUNE AND --

25 Q GO AHEAD.

26 A I LIKE TO SHARE GOOD FORTUNE WITH PEOPLE WHO
27 ARE NEAR AND DEAR AND CLOSE TO ME.

28 Q DID SOME OF YOUR OTHER FRIENDS AND RELATIVES

1 COME TO INVEST WITH MR. HUNT?

2 A YES, THEY DID.

3 Q OVER A PERIOD OF TIME, APPROXIMATELY HOW MANY
4 OF THEM?

5 A I WOULD SAY MY CLOSEST RELATIVES AND CLOSE
6 FRIENDS, IN AN AMOUNT OF ABOUT 30 OR 40 PEOPLE.

7 Q AND IS THERE ANY WAY FOR YOU TO KNOW -- WELL,
8 WHO WAS THE FIRST PERSON YOU TOLD AFTER MR. KAUFMAN ABOUT
9 THIS?

10 A I MENTIONED IT TO MY CLOSEST COUSIN, CHESTER
11 BROWN.

12 Q AND DID MR. BROWN -- WHEN WAS IT THAT YOU MENTIONED
13 IT TO MR. BROWN?

14 A SOON AFTER I HAD MENTIONED IT TO LEONARD KAUFMAN.

15 Q AND WAS MR. BROWN A PERSON WHO HAD BEEN SUCCESSFUL
16 IN BUSINESS IN HIS OWN RIGHT BEFORE THIS TIME?

17 A VERY SUCCESSFUL.

18 Q DID YOU, WHEN YOU MENTIONED YOUR GOOD FORTUNE
19 IN THIS INVESTMENT TO PEOPLE, DIDN'T YOU -- WHAT DID YOU
20 DO WITH RESPECT TO JOE HUNT? DID YOU EVER SET UP MEETINGS
21 OR DID YOU TELL THESE PEOPLE THAT YOU WOULD TAKE THEIR MONEY?
22 HOW DID THAT WORK?

23 A THERE WERE IN THE BEGINNING -- WHAT I TRIED TO
24 DO, WAS TO INTRODUCE THEM TO JOE HUNT, HAVE THEM LISTEN TO
25 WHAT HE HAD TO SAY AND THEY COULD COME TO THEIR OWN CONCLUSIONS
26 ON THE BASIS OF THEIR OWN, ADULT EXPERIENCE AND MAKE UP THEIR
27 OWN MINDS WITH REGARD TO THEIR INVESTMENT PROCEDURES.

28 Q DID YOU INTRODUCE YOUR COUSIN, CHESTER BROWN,

1 TO MR. HUNT?

2 A YES, I DID.

3 Q TO YOUR KNOWLEDGE, DID MR. BROWN INVEST MONEY
4 WITH MR. HUNT?

5 A HE AND HIS WIFE INVESTED MONEY, YES.

6 Q AND OVER THE PERIOD OF TIME, HOW MUCH MONEY TO
7 YOUR KNOWLEDGE, DID MR. BROWN INVEST WITH MR. HUNT?

8 MR. BARENS: YOUR HONOR, WOULD THAT NOT CALL FOR HEARSAY?

9 THE COURT: I WILL SUSTAIN THE OBJECTION.

10 Q BY MR. WAPNER: DID YOU REACH SOME ARRANGEMENT
11 WITH MR. HUNT IN TERMS OF GETTING STATEMENTS FROM HIM REGARDING
12 THE PEOPLE WHO HAD INVESTED THROUGH YOU?

13 A YOU MEAN RECEIPTS FOR MONEY THAT WAS BROUGHT
14 TO HIM?

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1 Q RECEIPTS AND MONTHLY STATEMENTS?

2 A WELL, I ASSUMED AT THE TIME, THAT THE ADMINISTRATIVE
3 BROKERAGE PROCEDURES WOULD BE COMPARABLE TO ANY OTHER
4 BROKERAGE FIRM'S PROCEDURES AND --

5 Q DID THERE COME TO BE SOMETHING KNOWN AS -- LET
6 ME START THAT OVER AGAIN.

7 WAS THERE SOMETHING AT THE BBC OFFICES THAT CAME
8 TO BE KNOWN AS THE STEVE WEISS FAMILY ACCOUNT?

9 A YES.

10 Q WHAT IS THAT?

11 A IT REPRESENTS ALL MY CLOSEST FRIENDS AND CLOSE
12 RELATIVES WHOM I INTRODUCED TO JOE HUNT AND ON THEIR
13 DECEISIONS, THEY DECIDED TO INVEST.

14 AND I WANTED TO PLACE MYSELF AS AN OMBUDSMAN,
15 SOMEONE REPRESENTATIVE OF THESE PEOPLE, SO THAT THEY WOULD
16 BE TAKEN CARE OF IN A PROPER AND REASONABLE ADMINISTRATIVE
17 WAY.

18 IF THEY WOULD HAVE ACCESS TO JOE HUNT, THEY NEEDED
19 TO TALK TO HIM AND THAT RECOGNIZING FOR A NUMBER OF THESE
20 PEOPLE, THE MONEY THAT THEY WERE INVESTING WAS A LARGE
21 PROPORTION OF THEIR SAVINGS, THAT IN ANY WAY THAT I COULD
22 CONTRIBUTE TO LIMITING THEIR ANXIETY OR CONCERN ABOUT HOW
23 THE MONEY WAS BEING INVESTED AND HOW HE WAS TREATING THEM,
24 THAT WOULD BE A BENEFIT TO THEM AND TO ME AS FAR AS MY
25 RESPONSIBILITY.

26 Q DID YOU HAVE SOME FINANCIAL ARRANGEMENT WITH
27 MR. HUNT IN THAT REGARD?

28 A ANY FINANCIAL ARRANGEMENT I HAD WITH MR. HUNT,

1 HAD NOTHING TO DO WITH THE INVESTORS. IT HAD TO DO WITH
2 A CONVERSATION THAT HE AND I HAD GOTTEN INTO AT ROUGHLY,
3 THIS SAME TIME IN TERMS OF HOW BOTH OF US VIEWED LIFE AND
4 HOW BOTH OF US VIEWED SOCIETY.

5 MR. BARENS: WHAT TIME ARE WE AT?

6 THE COURT: WHEN ARE YOU TALKING ABOUT? WHEN?

7 THE WITNESS: THIS IS BEFORE I WENT TO EUROPE. IT
8 WOULD BE BEFORE AUGUST OF 1983.

9 THE COURT: ALL RIGHT. GO AHEAD.

10 Q BY MR. WAPNER: AND WHAT WAS THE DISCUSSION THAT
11 YOU HAD WITH HIM?

12 A THE DISCUSSION WAS THAT FOR THE FIRST TIME IN
13 MY LIFE, AFTER HAVING WORKED FOR SO MANY YEARS, THAT HERE
14 WAS AN OPPORTUNITY FOR ME TO EXPRESS BEHAVIORALLY HOW I FELT
15 ABOUT MONEY AND WHAT WAS MY POINT OF VIEW ABOUT MONEY.

16 MR. BARENS: PARDON ME, SIR. RELEVANCE, YOUR HONOR?

17 THE COURT: THIS IS A CONVERSATION HE HAD WITH THE
18 DEFENDANT.

19 MR. BARENS: ANY CONVERSATION WITH THE DEFENDANT?

20 THE COURT: ANY CONVERSATION.

21 MR. BARENS: IS RELEVANT?

22 THE COURT: YES. GO AHEAD.

23 THE WITNESS: AND HERE WAS AN OPPORTUNITY TO USE MONEY
24 IN A BENEFICIAL WAY. AND LO AND BEHOLD, JOE HUNT SEEMED
25 TO ESPOUSE THE SAME POINT OF VIEW. THAT IN SOME WAY, WE
26 COULD TAKE A PROPORTION OF THE MONEY AND USE IT AS A FUND,
27 USE IT AS A TRUST SO THAT PEOPLE IN NEED, PEOPLE WHO WERE
28 NOT WELL, IN ILL HEALTH, YOU COULD TAKE A PROPORTION OF THAT

1 MONEY AND CONTRIBUTE IT TO THEIR BETTERMENT.

2 Q AND DID --

3 A AND WE HAD A LOOSE, VERBAL AGREEMENT AND HE
4 VOLUNTEERED.

5 AND I WAS IMPRESSED BECAUSE I AM MUCH OLDER THAN
6 HE, COMING FROM ANOTHER GENERATION, AND --

7 Q TELL ME WHAT THE AGREEMENT WAS THAT YOU HAD:

8 A THE AGREEMENT WAS THAT AT HIS DISCRETION, WHEN
9 HE WANTED TO TAKE A PERCENTAGE OF HIS PROFITS AND GIVE IT
10 TO ME TO DISPENSE, THAT THAT WOULD TAKE PLACE. THERE WAS
11 NO GUARANTEE. IT WOULD HAVE TO DO WITH HOW MUCH PROFIT WAS
12 BEING MADE.

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1 Q AND DID HE SEND YOU STATEMENTS --

2 WELL, DID YOU CONTINUE TO INVEST MONEY WITH HIM?

3 A CONTINUED TO INVEST MONEY WITH HIM, YES.

4 Q AND DID HE SEND YOU STATEMENTS INDICATING HOW
5 MUCH MONEY YOU WERE MAKING, IN ESSENCE?

6 A YES.

7 Q AND DO YOU KNOW, OTHER THAN THE STATEMENTS THAT
8 HE SENT YOU, DID YOU GET ANY OTHER RECORDS FROM ANY BROKERAGE
9 HOUSES OF THE MONEY THAT WAS BEING MADE?

10 A NEVER.

11 Q AND WAS IT YOUR UNDERSTANDING THAT THE MONEY THAT
12 YOU INVESTED WITH HIM WAS ALL BEING INVESTED IN THE
13 COMMODITIES MARKET?

14 A ABSOLUTELY, YES.

15 MR. WAPNER: SHOWING YOU A DOCUMENT -- YOUR HONOR, THAT
16 I WOULD LIKE TO HAVE MARKED AS PEOPLE'S NEXT IN ORDER, I
17 BELIEVE IT WOULD BE 195 FOR IDENTIFICATION.

18 THE COURT: IT WILL BE SO MARKED.

19 MR. BARENS: MAY I SEE IT?

20 (A DOCUMENT WAS HANDED TO MR. BARENS
21 BY MR. WAPNER.)

22 Q BY MR. WAPNER: MR. WEISS, I WILL ASK YOU ANOTHER
23 QUESTION WHILE THEY ARE LOOKING AT THIS.

24 DID THE STEVE WEISS FAMILY ACCOUNT HAVE IN FACT
25 MORE PEOPLE IN IT THAN JUST THE 30 OR 40 THAT YOU SAY WERE
26 YOUR RELATIVES AND CLOSE FRIENDS?

27 A YES.

28 Q AND DO YOU KNOW HOW THOSE PEOPLE CAME TO BE

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1 INVOLVED IN THAT ACCOUNT?

2 A IT CAME TO PASS THAT PEOPLE WHO HAD INVESTED
3 MENTIONED THEIR OPPORTUNITIES TO THEIR FRIENDS AND EVIDENTLY
4 THEIR FRIENDS DECIDED THAT THEY WANTED TO INVEST ALSO.

5 Q SO IN THAT GROUP OF PEOPLE, IT WAS EITHER YOUR
6 FRIENDS AND RELATIVES OR FRIENDS AND RELATIVES OF YOUR
7 FRIENDS AND RELATIVES?

8 A YES.

9 Q WHAT IS THIS DOCUMENT THAT WE HAVE MARKED AS 195
10 FOR IDENTIFICATION?

11 A THIS IS A QUARTERLY ACCOUNT STATEMENT FROM
12 NOVEMBER 15, '83 TO FEBRUARY 15, '84.

13 Q AND WHAT DOES THAT REFLECT?

14 A IT DEMONSTRATES INVESTMENTS, DISTRIBUTION OF PROFITS
15 AND FEES OR COMMISSIONS THAT WERE GIVEN TO ME.

16 Q AND THE FEES OR COMMISSIONS, WHAT ARE THOSE?

17 A THOSE ARE THE DESCRIPTIONS OF THE RELATIONSHIP
18 THAT JOE AND I HAD AGREED UPON WITH HIS SHARING A PORTION
19 OF HIS 50 PERCENT PROFIT AND WHY IT SAYS FEES SOMETIMES AND
20 COMMISSIONS AT OTHER TIMES IS BECAUSE WE COULD NEVER IN '83
21 DETERMINE WHAT WE ACTUALLY WANTED TO CALL THE SHARING OF HIS
22 PROFITS.

23 Q AND WHAT DID YOU DO WITH THE MONEY THAT WAS GIVEN
24 TO YOU AS FEES AND/OR COMMISSIONS?

25 A SOME, I REINVESTED AND THE ONE THAT STANDS OUT
26 IN MY MIND MORE THAN THE OTHERS IS THE LARGER AMOUNT OF
27 \$60,000 WHERE I HAD THEN DISTRIBUTED \$35,000 OF THAT AMOUNT
28 TO PEOPLE WHO HAD NOT INVESTED.

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1 TO EXPLAIN THAT A LITTLE FURTHER, IN RECEIVING
2 THE CHECK, I WOULD TURN AROUND THEN AND WRITE CHECKS TO THE
3 BBC OR TO JOE HUNT, REINVESTING THE MONEY I HAD JUST RECEIVED.

4 Q AND WAS THAT REINVESTED FOR YOU OR SOME OTHER
5 PEOPLE?

6 A FOR OTHER PEOPLE.

7 Q AND WHO WERE THOSE OTHER PEOPLE?

8 A MY EX-WIFE WAS ONE. MY CHILDREN WERE ANOTHER,
9 THEY WERE GOING TO COLLEGE.

10 A WOMAN, A NURSE WHO WAS A FRIEND OF MINE IN
11 SANTA MONICA, WHO HAD HURT HERSELF WHILE BEING A NURSE AND
12 COULDN'T WORK ANY MORE.

13 Q AND WHO ELSE?

14 A AND AN EX-RELATIVE IN ENGLAND.

15 Q WHAT ARE THE AMOUNTS THAT YOU IN FACT INVESTED?

16 A FOR THESE PEOPLE?

17 Q NO.

18 FOR YOURSELF.

19 A THE AMOUNTS THAT I INVESTED FOR MYSELF ARE
20 ESSENTIALLY \$5,000 IN MAY OF '83. \$15,000 IN JUNE. \$10,000
21 IN NOVEMBER OF '83.

22 AND THEN I REFINANCED MY HOUSE.

23 Q WHEN WAS THAT?

24 A PARDON ME?

25 Q WHEN DID YOU REFINANCE YOUR HOUSE?

26 A IN THE EARLY PART OF '84.

27 Q WHY?

28 A BECAUSE I FELT AGAIN THERE WAS AN OPPORTUNITY

1 TO INCREASE MY FINANCIAL POSITION AND MY --

2 MR. BARENS: OBJECTION. RELEVANCY, YOUR HONOR.

3 THE COURT: OVERRULED. GO AHEAD.

4 Q BY MR. WAPNER: GO AHEAD AND FINISH.

5 A MY POINT OF VIEW HAD CHANGED WITH REGARD TO MYSELF
6 BECAUSE AS I WAS GETTING OLDER, I COULD SEE THERE WERE A
7 NUMBER OF THINGS I COULD DO IN SEMI-RETIREMENT AND WITH
8 AMASSING OF THIS KIND OF MONEY, THEN I COULD DO THE THINGS
9 THAT I HOPED TO DO FOR AND THOUGHT ABOUT FOR MANY YEARS.

10 Q HAD YOU BEEN TOLD BY JOE HUNT THAT THE INVESTMENTS
11 WERE GOING WELL AT THAT POINT?

12 A YES.

13 Q AND SO IT WAS IN JANUARY OF 1984 THAT YOU MADE
14 ANOTHER INVESTMENT BASED ON REFINANCING YOUR HOUSE?

15 A \$50,000 ON THE HOUSE REFINANCE, YES.

16 Q AND WHAT WAS THE NEXT AMOUNT THAT YOU INVESTED?

17 A THE NEXT AMOUNT WAS SEPARATE AND DISTINCT FROM
18 THE USUAL INVESTMENTS.

19 MY COUSIN CHESTER CALLED ME AND SAID THAT HE HAD
20 TALKED TO JOE AND JOE HAD SUGGESTED --

21 MR. BARENS: YOUR HONOR, WE ARE INTO COMPOUND HEARSAY.

22 MR. WAPNER: I WILL ASK HIM A DIFFERENT, MORE SPECIFIC
23 QUESTION: DID YOU INVEST SOME MORE MONEY WITH MR. HUNT?

24 A YES, I DID.

25 Q WAS THAT TO GO INTO COMMODITIES?

26 A IF GOLD IS CONSIDERED COMMODITIES, THE ANSWER
27 IS YES.

28 BUT IT HAD NOTHING TO DO WITH MY EXISTING ACCOUNT.

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1 IT WAS A SEPARATE INVESTMENT, A SEPARATE ACCOUNT.

2 Q HOW MUCH DID YOU GIVE MR. HUNT FOR THAT?

3 A \$35,000.

4 Q DID YOU GET ANY OF THAT BACK?

5 A \$21,000.

6 Q AND HOW MUCH ELSE DID YOU INVEST?

7 A THAT WAS THE END OF MY INVESTING BECAUSE SOON
8 AFTER, I WENT TO EUROPE.

9 Q AND WHAT IS THE TOTAL AMOUNT THAT YOU INVESTED
10 THEN WITH MR. HUNT?

11 A I WOULD SAY OVER A HUNDRED THOUSAND DOLLARS, A
12 HUNDRED TWENTY THOUSAND DOLLARS APPROXIMATELY.

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1 Q AND HOW MUCH WERE YOU PAID BACK BY HIM?

2 A SOMEWHERE AROUND \$70,000.

3 Q OF THAT MONEY THAT YOU WERE PAID BACK, DID YOU
4 KEEP ALL OF THAT? OR IS PART OF THAT \$70,000 THE MONEY THAT
5 YOU REINVESTED FOR OTHER PEOPLE?

6 A I WOULD HAVE TO DO A MATHEMATICAL CALCULATION.
7 BUT THE MONEY THAT I RECEIVED WAS IN THE NEIGHBORHOOD OF
8 \$70,000 AND I BELIEVE MY TOTAL INVESTMENT WAS ABOUT \$130,000,
9 SO WHATEVER THAT SEPARATION IS.

10 THE COURT: THE MONEY THAT YOU GOT BACK, IS THAT
11 SUPPOSED TO REPRESENT PROFITS THAT WERE MADE?

12 THE WITNESS: YES.

13 THE COURT: THAT IS NOT A RETURN OF PRINCIPAL, WAS
14 IT?

15 THE WITNESS: NO.

16 Q BY MR. WAPNER: DID YOU RECEIVE THE STATEMENT
17 THAT IS IN FRONT OF YOU, THAT IS 195? WHAT IS THE DATE ON
18 THAT?

19 A MARCH 1ST, 1984.

20 Q AND IS THAT A PORTION OF THE STATEMENT THAT
21 INDICATES THE AVERAGE MONTHLY RETURN THAT YOU MADE FOR THE
22 QUARTER INDICATED IN THAT STATEMENT?

23 A YES. 17.69 PERCENT.

24 Q PER MONTH?

25 A PER MONTH.

26 Q AND THAT IS THE QUARTER THAT WENT FROM NOVEMBER
27 15, 1983 TO FEBRUARY 15, 1984?

28 A YES.

1 Q AND DOES IT INDICATE HOW MUCH PROFITS YOU MADE
2 DURING THAT PERIOD?

3 A YES, \$22,273.54.

4 Q WAS THAT ACTUALLY DISTRIBUTED TO YOU?

5 A NOT THAT I KNOW OF, NO.

6 Q IT INDICATES ON THE FORM THAT IT WAS?

7 A YES. BUT IT SAYS "REINVESTED."

8 AND THERE WAS A TEMPTATION ON MY PART, TO REINVEST
9 THE MONEY THAT WOULD COME TO ME. SO ACTUALLY, I DIDN'T SEE
10 THAT MONEY.

11 I HAD A CHOICE AS THE OTHERS DID, EITHER TO TAKE
12 A CERTAIN PERCENTAGE OF THAT RETURN OF INVESTMENT OR REINVEST
13 THE AMOUNT OF MONEY THAT WAS STATED.

14 AND I REINVESTED THAT AMOUNT OF \$22,000.

15 Q SO --

16 A I NEVER HAD THAT MONEY IN MY HAND. I NEVER SPENT
17 THAT MONEY.

18 Q AND OTHER THAN WHAT IT SAYS ON THAT PAPER, YOU
19 DON'T KNOW IF MR. HUNT EVER HAD THAT MONEY IN HIS HAND, EITHER?

20 A I HAVE NO IDEA.

21 MR. WAPNER: MIGHT THIS BE AN APPROPRIATE TIME TO
22 BREAK?

23 THE COURT: SURE. LADIES AND GENTLEMEN, WE WILL TAKE
24 AN ADJOURNMENT NOW UNTIL TOMORROW MORNING AT 10:30, THE USUAL
25 TIME.

26 THE SAME ADMONITION THAT I HAVE GIVEN YOU STILL
27 APPLIES. GOOD NIGHT.

28 (AT 4:20 AN ADJOURNMENT WAS TAKEN UNTIL
10:30 A.M. OF THE FOLLOWING DAY.)