

# Exhibit D

IN THE THIRD JUDICIAL DISTRICT COURT  
IN AND FOR SALT LAKE COUNTY, STATE OF UTAH

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FAIRSTAR RESOURCES, LTD, : CIVIL NO. 080916464  
and GOLDLAW PTY, LTD, :  
Plaintiff, : DEPOSITION OF:  
 : MARK ROBBINS  
 :  
v. : TAKEN: April 30, 2010  
 :  
AMERICAN INSTITUTIONAL : Judge Sandra N. Peuler  
PARTNERS, LLC; AIP :  
LENDING, LLC; and MARK :  
ROBBINS, :  
 :  
Defendants. :  
 :  
\_\_\_\_\_ :

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Deposition of MARK ROBBINS, taken on behalf  
of the Plaintiff, at 60 East South Temple, Suite  
1800, Salt Lake City, Utah, before ROCKIE E. DUSTIN,  
Certified Shorthand Reporter for the State of Utah,  
pursuant to Notice.

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A P P E A R A N C E S

For the Plaintiff:

David M. Wahlquist  
Rod N. Andreason  
KIRTON & MCCONKIE  
1800 Eagle Gate Tower  
60 E. South Temple  
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Paul Peters, Esq. (Present Telephonically)

For the Defendant:

Joseph E. Wrona  
WRONA LAW OFFICES  
11650 South State Street  
Suite 103  
Draper, UT 84020

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I N D E X

WITNESS	PAGE
MARK ROBBINS	
Examination by Mr. Wahlquist . . .	5

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INDEX TO EXHIBITS

EXHIBITS		PAGE
No. 1	Stipulation and Order	6
No. 2	4/9/08 Letter to Whom it May Concern from Robbins	11
No. 3	4/15/08 Letter from Robbins	14
No. 4	4/16/08 Letter from Gillon	20
No. 5	4/16/08 Letter from Robbins	23
No. 6	4/21/08 Letter from Gillon	28
No. 7	4/21/08 Letter from Jones	28
No. 8	Settlement Agreement	30
No. 9	Band Account Statement	36
No. 10	5/17/08 Email from Robbins	76
No. 11	5/19/08 Email from Gillon	77
No. 12	5/30/08 Email from Gillon	77
No. 13	6/4/08 Email from Robertson	79
No. 14	6/5/08 Email from Robbins	80
No. 15	6/13/08 Email from Robbins	81
No. 16	6/26/08 Email from England	82
No. 17	7/10/08 Email from Jones	83
No. 18	7/10/08 Email from Gillon	83
No. 19	Agreement Concerning Joint Venture to Acquire The Canyons	174
No. 20	7/15/07 Letter to Bistricer from Robbins	220

1 April 30, 2010

9:31 a.m.

2 P R O C E E D I N G S

3 MARK ROBBINS,

4 called as a witness herein, having been first duly  
5 sworn by the Certified Court Reporter to tell the  
6 truth, was examined and testified as follows:

7 EXAMINATION

8 BY MR. WAHLQUIST:

9 Q. Would you please state your full name.

10 A. Mark Hubbard Robbins.

11 Q. What's your current home address?

12 A. I'm at my parents'. It's 3 Caelin --

13 Q. How is that spelled?

14 A. -- C-A-E-L-I-N, Court, The Woodlands,  
15 Texas, 77382.

16 Q. Mr. Robbins, my name is David Wahlquist.  
17 I'm an attorney with Kirton and McConkie representing  
18 Fairstar Resources, LTD, and Goldlaw PTY, Limited, in  
19 attempts to collect a judgment entered against American  
20 Institutional Partners, LLC, AIP Lending, LLC, and you  
21 personally, in case No. 00809164, filed in the Third  
22 Judicial District Court, Salt Lake County, State of  
23 Utah.

24 We'll mark as Exhibit 1 to your deposition  
25 a joint stipulation and order regarding a bench warrant

1 that has been reached between you and the plaintiffs in  
2 this case.

3 (Exhibit 1 marked.)

4 BY MR. WAHLQUIST:

5 Q. I hand you a copy of Exhibit 1 and ask you  
6 to review it and affirm, if you can, that you signed  
7 that stipulation portion of that document on page 3.

8 A. (Witness reviews document.) I did.

9 Q. Are you appearing today pursuant to this  
10 joint stipulation and order regarding a bench warrant?

11 A. I am.

12 Q. You're aware that previously Judge Peuler  
13 has issued a bench warrant requiring your appearance in  
14 this case?

15 A. Correct.

16 Q. And was it your intent in entering into  
17 this joint stipulation portion of Exhibit 1 to address  
18 issues relating to that bench warrant?

19 A. Yes.

20 Q. Do you understand that you have taken an  
21 oath to tell the truth today?

22 A. Yes.

23 Q. Do you understand we have a court reporter  
24 present?

25 A. Yes.

1 Q. Do you understand the reporter is  
2 transcribing the statements or questions of the  
3 attorneys present as well as your testimony?

4 A. I do.

5 Q. Do you understand the testimony that you  
6 give today may later be presented to a judge or jury?

7 A. I do.

8 Q. Do you understand it's important that your  
9 testimony be as accurate as possible?

10 A. I do.

11 Q. Will you agree that if during the course of  
12 the deposition Mr. Wrona or I ask you any question that  
13 is unclear to you, that you'll ask us to clarify the  
14 question?

15 A. I will.

16 Q. If during the course of the deposition you  
17 have a need for a break for any reason, if you'll let  
18 me know, we'll try and accommodate that.

19 A. Great.

20 Q. I note for the record that participating by  
21 telephone is Mr. Paul Peters in his role as legal  
22 counsel, assisting our office.

23 You have present here today Mr. Joseph  
24 Wrona; is that correct?

25 A. Correct.



1 Q. Have you engaged him as your attorney in  
2 this matter?

3 A. Yes.

4 Q. When did that engagement occur?

5 MR. WRONA: The accurate statement is I  
6 have been engaged to appear at this deposition and that  
7 engagement occurred this morning.

8 BY MR. WAHLQUIST:

9 Q. You and I have exchanged some emails  
10 regarding this deposition; is that right?

11 A. Surely. Correct.

12 Q. We've also exchanged some emails  
13 regarding -- we started some discussions about  
14 potential settlement?

15 A. Correct.

16 Q. And I advised you that in order to talk  
17 with you directly, I would need to either have  
18 permission of your counsel or confirmation from you,  
19 you did not have legal counsel?

20 A. Correct.

21 Q. And you advised me you did not have legal  
22 counsel?

23 A. Correct.

24 Q. So this engagement to appear today on your  
25 behalf for Mr. Wrona was just this morning?

1           A.     It's brand new.

2                     MR. WRONA:  And limited.

3  BY MR. WAHLQUIST:

4           Q.     What is your Social Security number?

5           A.     529-75-9696.

6           Q.     Are you currently married?

7           A.     Yes.

8           Q.     What's your wife's name?

9           A.     Allison.

10          Q.     Where does Allison currently reside?

11          A.     She has been between with me and my parents

12  and also her mom's.  We've been staying at family and

13  friends.

14          Q.     Okay.

15                     Where does her mother live?

16          A.     In Utah.

17          Q.     Do you know where in Utah?

18          A.     In South Jordan.

19          Q.     Do you know what the address is there?

20          A.     I don't.  I can get it for you.

21          Q.     So she has lived some of the time -- say

22  during the past month, where has she been?

23          A.     All -- both places.

24          Q.     So she has been at the 3 Caelin Court

25  address in The Woodlands, Texas, as well as at her

1 mother's place?

2 A. Correct.

3 Q. In South Jordan?

4 A. Correct.

5 Q. What is her mother's name?

6 A. Lindsey.

7 Q. What's her mother's last name?

8 A. Davies.

9 Q. Is Lindsey Davies still married to  
10 Allison's father?

11 A. No. She's single.

12 Q. Okay.

13 Now, the purpose of this deposition is to  
14 explore possible avenues by which our clients may be  
15 able to locate and recover funds to satisfy the  
16 judgment that was entered by the court against all  
17 three defendants in this matter. In order to do that,  
18 I wanted to cover a little bit of background with you  
19 regarding the matter and the contract that gave rise to  
20 that, as well as what happened with funds related to  
21 the matter at that point in time.

22 So I am going to give you some exhibits  
23 about some communications and the settlement agreement  
24 and some bank statements, that kind of thing, but I  
25 want to go through some of these preliminaries first to

1 set a context for the questions that I'm going to ask  
2 you.

3 A. Okay.

4 (Exhibit 2 marked.)

5 MR. WAHLQUIST: I have a series of exhibits  
6 that were introduced in the deposition of Jeffrey M.  
7 Jones taken in this case. We're not going to deal  
8 with -- maybe that won't work. We'll go ahead and  
9 remark those exhibits in this case, but some of those  
10 will have the same numbers they did in Mr. Jones's  
11 deposition and some won't.

12 BY MR. WAHLQUIST:

13 Q. Are you familiar with an entity known as  
14 AIP Lending, LLC?

15 A. I am.

16 Q. Are you also familiar with an entity known  
17 as American Institutional Partners, LLC?

18 A. I am.

19 Q. Are those both entities through which you  
20 did business at one point in time?

21 A. Yes.

22 Q. Back in the year 2008, what was AIP  
23 Lending, LLC's business?

24 A. I'm sorry, when?

25 Q. In the beginning of 2008.

1           A.     Stock lending. I think it did some real  
2     estate type loans. I'm not sure exactly what the  
3     specific entity was doing. AIP had a lot of entities,  
4     but those are the general business of AIP.

5           Q.     So the business you've described was the  
6     business of AIP?

7           A.     Correct.

8           Q.     And AIP is American Institutional Partners,  
9     LLC?

10          A.     Correct.

11          Q.     Can we refer to that as just "AIP" in this  
12     deposition?

13          A.     Sure.

14          Q.     At that point in time was AIP Lending, LLC,  
15     a wholly-owned subsidiary of AIP?

16          A.     I believe so. I don't know specifically,  
17     but I believe it was.

18          Q.     Okay.

19                     Do you know specifically what part of the  
20     AIP business you described that AIP Lending did in  
21     2008?

22          A.     I don't. I believe it did do some stock  
23     lending.

24          Q.     What do you mean by the phrase "stock  
25     lending"?

1           A.     Lending against publicly traded securities  
2     or lending to lenders of publicly traded securities.  
3           Q.     So it would be a loan that was provided to  
4     some entity that was secured by publicly traded stock?  
5           A.     Correct.  
6           Q.     AIP Lending would provide the funds, the  
7     loan funds?  
8           A.     Correct.  
9           Q.     And then take a security interest in  
10    publicly traded stocks supposedly owned by the  
11    borrower?  
12          A.     Correct.  
13          Q.     Are you familiar with an Australian entity  
14    known as International Stock Loans?  
15          A.     I believe so.  
16          Q.     In early 2008, did AIP Lending enter into  
17    an agreement with International Stock Loans, which I'll  
18    refer to hereafter as ISL, to loan it some money to be  
19    secured by publicly traded stock owned by ISL?  
20          A.     I don't know if it was -- the contract was  
21    directly with ISL or Fairstar, but I know they were  
22    involved.  
23          Q.     Okay.  
24                    Let me give you a copy of what has been  
25    marked as Exhibit 3.

1 (Exhibit 3 marked.)

2 BY MR. WAHLQUIST:

3 Q. See if that helps refresh your recollection  
4 with respect to the question I just asked you.

5 A. (Witness reviews document.)

6 Q. Have you seen this document before?

7 A. It looks familiar.

8 Q. Can you confirm it's on AIP letterhead?

9 A. Yes.

10 Q. It's dated April 15, 2008?

11 A. Yes.

12 Q. It's addressed to International Stock  
13 Loans?

14 A. Yes.

15 Q. And it's signed by you as managing partner?

16 A. Correct.

17 Q. And you'll note in the first paragraph you  
18 say, "In compliance with the Master Loan Agreement  
19 signed and executed between International Stock Loans,  
20 ISL, and American Institutional Partners, AIP, dated  
21 March 12, 2008, we have requested additional  
22 information to complete this transaction."

23 Did I read that correctly?

24 MR. WRONA: Objection, to the extent it  
25 assumes facts not in evidence. You began the question

1 by saying "you wrote." I don't think you've  
2 established that Mr. Robbins wrote this letter.

3 BY MR. WAHLQUIST:

4 Q. Did I read that correctly?

5 A. Yes.

6 Q. This was a letter that you had sent to  
7 International Stock Loans over your signature?

8 A. Apparently.

9 MR. WRONA: Mr. Robbins, do not speculate.  
10 If you know, you absolutely need to answer. If you  
11 don't know, you need to let the attorney know that you  
12 don't recall.

13 THE WITNESS: Yeah, I signed -- that's my  
14 signature. I signed this letter. I don't know if I  
15 specifically wrote -- if I personally wrote this letter  
16 or someone else did and I signed it.

17 BY MR. WAHLQUIST:

18 Q. Did you read it before you signed it?

19 A. I'm sure I did.

20 Q. And you caused it to be sent?

21 A. Yes. You were asking me if I...

22 Q. Does this -- at the time you wrote this  
23 letter, did you believe the statements in it were true?

24 A. I'm sure I did.

25 MR. WRONA: Do not speculate, Mr. Robbins.



1 THE WITNESS: Yes.

2 BY MR. WAHLQUIST:

3 Q. Does it refresh your recollection at this  
4 point that the parties to the loan agreement were  
5 International Stock Loans, ISL, and American  
6 Institutional Partners, AIP?

7 A. That's what it says here, so, yes.

8 Q. Do you recall that in connection with this  
9 master loan agreement, that ISL made -- forwarded AIP's  
10 account with Merrill Lynch certain stocks?

11 A. Yes.

12 Q. Do you recall ISL signing the document  
13 containing representations and warranties to AIP that  
14 ISL in fact owned that stock?

15 A. I mean, I don't recall but I'm sure we  
16 would have absolutely --

17 MR. WRONA: It sounds to me like your  
18 answer is you don't recall, Mr. Robbins.

19 THE WITNESS: I don't recall.

20 BY MR. WAHLQUIST:

21 Q. Is it your understanding at the time that  
22 ISL owned the stock that it had sent to your account?

23 A. I don't recall.

24 Q. Was it your understanding that under the  
25 master loan agreement, that AIP had the right to have

1 that stock sold?

2 A. Yes.

3 Q. Was, in fact, some of the stock sold?

4 A. Yes.

5 Q. Exhibit 2 that I previously handed to you  
6 is a letter. Can you confirm it's on AIP letterhead?

7 A. Yes.

8 Q. Can you confirm it's dated April 9, 2008?

9 A. Yes.

10 Q. Can you confirm it's addressed to  
11 International Stock Loans?

12 A. Yes.

13 Q. Can you confirm that you signed this letter  
14 as managing partner?

15 A. Yes.

16 Q. Did you cause it to be sent to  
17 International Stock Loans?

18 A. Yes.

19 Q. The first sentence of the first paragraph  
20 of this letter states, "We received a call from Merrill  
21 Lynch today informing us that a chill has been placed  
22 on the GWR shares in our account."

23 Are the GWR shares you're referring to  
24 there the shares that ISL had sent to your Merrill  
25 Lynch account in connection with the loan we've been

1 discussing?

2 A. Yes.

3 Q. Did you, in fact, receive a call from  
4 Merrill Lynch?

5 A. Yes.

6 Q. Did Merrill Lynch explain to you why it was  
7 putting -- why it had put a chill on the GWR shares?

8 A. I don't recall.

9 Q. The second paragraph references to a  
10 closing that is set for Monday the 14th. Was that the  
11 14th of April 2008?

12 A. I mean, I would be assuming so. I don't  
13 recall.

14 Q. You read this letter before you signed it;  
15 right?

16 A. Sure.

17 Q. And your understanding today from reading  
18 that language is that would be the next Monday, the  
19 14th, which you believe would be in April 2008?

20 A. Yes.

21 Q. Do you recall what the closing pertained  
22 to?

23 A. I don't.

24 Q. Was that the closing of the loan to ISL?

25 A. I don't recall.

1 Q. Do you know whether that loan ever did  
2 close?

3 A. I believe it did.

4 Q. Did AIP provide any loan proceeds to ISL?

5 A. The transaction, from my memory, was  
6 suspended due to something to do with what Fairstar and  
7 ISL -- something between those guys.

8 Q. So did it ever close?

9 A. Define "close."

10 Q. Well, usually when a loan closes, then  
11 documents get signed and --

12 A. I believe documents were signed.

13 Q. -- and loan proceeds are disbursed.

14 A. In stock lending, though, you would close  
15 documents and funding would happen after. So when  
16 you're saying close, I believe documents were signed  
17 and closed, but --

18 Q. The funding part never occurred?

19 A. Correct.

20 Q. So part of the closing happened?

21 A. Yes.

22 Q. But the funding didn't happen?

23 A. Correct.

24 Q. Is that correct?

25 A. Correct.

1 (Exhibit 4 marked.)

2 BY MR. WAHLQUIST:

3 Q. I hand you Exhibit 4. This appears to be a  
4 letter dated April 16, 2008, from Lawton Gillon to the  
5 chairman at AIP. And you'll note at the top it  
6 indicates an email address that it's being sent by --  
7 to mrobbins@aipcapital.com. Was that your email  
8 address as of April 16, 2008?

9 A. Yes.

10 Q. Do you recall receiving this letter from  
11 Lawton Gillon?

12 A. I don't remember receiving this  
13 specifically.

14 Q. The first paragraph of the letter says, "We  
15 refer to our recent telephone attendance with you and  
16 confirm that we act for Fairstar."

17 Did I read that correctly?

18 A. Yes, you did.

19 Q. Do you recall having received a telephone  
20 call from someone at Lawton Gillon on or about April  
21 16, 2008, regarding this stock that ISL had transferred  
22 to AIP's account at Merrill Lynch?

23 A. I don't recall specifically.

24 Q. Okay.

25 Do you recall how you first learned about

1 Fairstar Resources?

2 A. I don't remember.

3 Q. Do you recall how you first learned there  
4 was an issue with the stock that ISL had forwarded to  
5 AIP's account?

6 A. I believe I got a call from someone. I  
7 don't know who specifically.

8 Q. Okay.

9 Do you remember anything about the call?

10 A. I remember something about -- that ISL had  
11 done, you know, something or they weren't supposed to  
12 transfer or something. I can't remember specifically.

13 Q. That's what you were told?

14 A. Yes. Something to that effect.

15 Q. At some point in time, did you engage Jeff  
16 Jones, an attorney at Durham, Jones & Pinegar, to help  
17 you in connection with this matter?

18 A. Jeff was AIP's attorney from -- going  
19 before this. So Jeff did all the legal work for AIP  
20 and the AIP entities.

21 Q. Had he been involved prior to this  
22 April 16, 2008, period in doing documentation in  
23 connection with the ISL transaction?

24 A. I believe so.

25 Q. Did AIP engage him at some point to assist

1 in this issue that had arisen with respect to the  
2 Fairstar stock?

3 A. Jeff --

4 MR. WRONA: Let me just lodge this  
5 objection to make sure we're being very specific. I'm  
6 going to object to the extent the question is  
7 ambiguous, and I want you to distinguish between Jeff  
8 Jones and Durham, Jones & Pinegar. When I hear him say  
9 Jeff Jones, he's talking about a human being, not a  
10 firm. Is that fair to say, Dave?

11 MR. WAHLQUIST: That's fair.

12 THE WITNESS: Okay.

13 MR. WRONA: So if it's other attorneys in  
14 Durham, Jones & Pinegar, please let the attorney know  
15 that you're referring to the law firm and not just Jeff  
16 Jones personally.

17 THE WITNESS: Okay.

18 Jeff helped AIP and myself with most all  
19 the stuff that I was working on. So when you say did I  
20 go engage him, he was engaged years before to do -- to  
21 represent all the entities.

22 BY MR. WAHLQUIST:

23 Q. Well, he had done various things for AIP  
24 and its related entities; correct?

25 A. Correct.

1 Q. And he had done it for a number of years?  
2 A. Correct.  
3 Q. And when this issue arose, did you ask for  
4 his help in connection with this issue?  
5 A. I'm sure I did.  
6 Q. Do you recall vis-à-vis this letter that we  
7 have looked at, Exhibit 4, dated April 16, 2008,  
8 whether you had asked him to help with this issue by  
9 that date?  
10 A. I don't recall specifically.  
11 Q. Okay.  
12 (Exhibit 5 marked.)  
13 BY MR. WAHLQUIST:  
14 Q. I hand you what's been marked as Exhibit 5.  
15 Can you confirm that this is a letter on  
16 AIP letterhead?  
17 A. Yes.  
18 Q. Can you confirm it as dated April 16, 2008?  
19 A. Yes.  
20 Q. Can you confirm it's addressed to  
21 International Stock Loans?  
22 A. Yes.  
23 Q. Can you confirm that it's regarding the GWR  
24 loan?  
25 A. Yes.



1 Q. In your correspondence with ISL, this  
2 transaction we've been talking about, where you were  
3 going to make a loan to them secured by stock, you have  
4 referred to it at the GWR loan; is that correct?  
5 A. Correct.  
6 Q. And can you confirm that you signed this  
7 letter as the managing partner of AIP?  
8 A. Yes.  
9 Q. Prior to signing it, did you read it?  
10 A. I don't recall, but...  
11 Q. Is it your practice to read letters before  
12 you sign them?  
13 A. Yes.  
14 Q. Do you believe you read this before you  
15 signed it?  
16 A. I would assume.  
17 Q. In the first paragraph you reference a  
18 telephone call between you and a Mr. Cliff Atkinson and  
19 also a Mr. Robertson from Fairstar Resources.  
20 Do you have any recollection of that  
21 telephone call occurring?  
22 A. I believe that was the call that --  
23 Q. Was Mr. -- excuse me.  
24 A. That's okay.  
25 I -- Mr. Robinson {sic} I know and

1 recognize. Cliff I -- not so much, but I had many  
2 calls with Mr. Robinson, but specifically, I don't know  
3 which call it is, but I remember having calls with  
4 Mr. Robinson.

5 Q. Robertson?

6 A. Robertson. Excuse me.

7 Q. Is Mr. Atkinson with ISL?

8 A. I believe so.

9 Q. So was there a telephone call about the  
10 date of this letter involving you and Mr. Atkinson and  
11 Mr. Robertson?

12 A. I mean, that's what the letter says.

13 Q. Do you believe that to be a true statement?

14 A. I do.

15 Q. You indicate in that first paragraph that  
16 AIP, "Hereby formally cancels the loan transaction  
17 between AIP and International Stock Loans, ISL, dated  
18 March 12, 2008."

19 Did I read that correctly?

20 A. You did.

21 Q. Why was AIP canceling that loan  
22 transaction?

23 A. Because the shares -- somewhere in between  
24 ISL and Fairstar the shares were -- there was  
25 miscommunication and some people on both sides had done

1 things they weren't supposed to do and the shares  
2 weren't supposed to be transferred, according to  
3 Mr. Robertson.

4 Q. Okay.

5 When you say things that were done on both  
6 sides that weren't supposed to be done, who were the  
7 sides you were referring to?

8 A. ISL and Fairstar.

9 Q. What is it you recall Fairstar supposedly  
10 did that it wasn't supposed to do?

11 A. I don't know specifically from them, but  
12 ISL's claim, and who is right or wrong I don't know,  
13 but ISL's claim to us is that Fairstar -- one of the  
14 their board members had transferred the -- had signed  
15 the certificate transferring the shares, giving ISL  
16 authorization to enter into the transaction. And he  
17 knew specifically what was going on.

18 Q. Okay.

19 You indicate in the last paragraph, "We  
20 will be instructing Merrill Lynch to send back all  
21 shares and cash in conjunction with the ISL transaction  
22 to the appropriate parties."

23 Did I read that correctly?

24 A. You did.

25 Q. Was that your intent at that time?

1           A.     Yes.

2           Q.     Now, at that point in time, the proceeds  
3 from the portion of the Fairstar stock that had been  
4 sold was still with Merrill Lynch; is that right?

5           A.     I believe so.

6           Q.     And also, the stock certificates for the  
7 unsold portion of Fairstar stock was with Merrill  
8 Lynch?

9           A.     I believe so.

10          Q.     So what you're saying here is that AIP  
11 would be instructing Merrill Lynch to send those cash  
12 proceeds and the remaining stock back to Fairstar?

13          A.     Would be instructing Merrill Lynch --  
14 Merrill Lynch can't send -- couldn't send cash or  
15 shares directly. It has to go back to AIP and then to  
16 the counterpart. It's through multiple channels, yes.

17          Q.     So you really weren't -- you weren't  
18 intending to say here that you would have Merrill Lynch  
19 send them back directly to Fairstar?

20          A.     The intention was that the transaction  
21 would be -- that is terminated and the shares and cash  
22 would be returned to the appropriate parties.

23          Q.     Through whatever process you needed to go  
24 through?

25          A.     Exactly.

1 Q. Okay.

2 (Exhibit 6 marked.)

3 BY MR. WAHLQUIST:

4 Q. I hand you Exhibit 6, which is a letter  
5 from Lawton Gillon to Jeff Jones at Durham, Jones &  
6 Pinegar, dated April 21st, 2008.

7 I don't know whether you ever received a  
8 copy of this letter. Do you recall whether you did?

9 A. I don't recall.

10 Q. I present it to you only for some context  
11 with respect to the next exhibit.

12 (Exhibit 7 marked.)

13 BY MR. WAHLQUIST:

14 Q. This has been marked as Exhibit 7. It's a  
15 letter from Jeffrey M. Jones at Durham, Jones & Pinegar  
16 to Ian Ross Gillon at Lawton Gillon, also dated  
17 May 21st, 2008. And it shows that a carbon copy was  
18 sent to American Institutional Partners, LLC.

19 Do you believe that you received a copy of  
20 this letter written by Mr. Jones?

21 A. I don't recall.

22 Q. Okay.

23 At this point in time, was Mr. Jones, in  
24 the firm of Durham, Jones & Pinegar, representing AIP  
25 in connection with this matter regarding the Fairstar

1 Resources stock?

2 A. Yes.

3 Q. You notice on the third to the last line of  
4 the first paragraph there is a sentence that starts as  
5 follows: "Once the release has been signed by all  
6 parties, we will issue our letter of instruction to  
7 Merrill Lynch to deliver the remaining GWR shares and  
8 the cash sales proceeds (net of AIP expenses) to  
9 Fairstar."

10 Did I read that correctly?

11 A. You did.

12 Q. And as of April 21st, 2008, was that  
13 consistent with your intent?

14 A. Yes, other than Jeff is wrong with how he  
15 worded that. Broker/dealers can't wire to third  
16 parties.

17 Q. Okay.

18 Again, the concept that Fairstar would get  
19 the cash and the stock was consistent with your intent?

20 A. Yes.

21 Q. But Jeff's language here kind of suggests  
22 that Merrill Lynch is going to send it directly.

23 A. Correct.

24 Q. What you're saying is he was wrong on the  
25 logistics?

1           A.     Correct.

2           Q.     All right.

3                     (Exhibit 8 marked.)

4  BY MR. WAHLQUIST:

5           Q.     You've been handed Exhibit 8, which is a

6  document entitled "Settlement Agreement." I would like

7  to draw your attention to page 8 of the document.

8           A.     (Witness reviews document.)

9           Q.     Can you confirm that on that page --

10          A.     David, I've got multiple page 8s.

11          Q.     Well, you're right. Page 8 is the

12  signature line and there appear to be three of them

13  that have different signatures on them. Although, on

14  all three of the page 8s, there appear to be you

15  signing on behalf of American Institutional Partners,

16  LLC, and AIP Lending, LLC.

17                     I want to ask whether you can confirm that

18  you, in fact, signed this document on all three page 8s

19  as managing member for American Institutional Partners,

20  LLC.

21          A.     I believe so. It looks like my signature.

22          Q.     Did you also sign this document as managing

23  member of AIP Lending, LLC?

24          A.     Yes.

25          Q.     Did you read the settlement agreement

1 before you signed it?

2 A. I don't recall. Jeff usually handled all  
3 of that.

4 Q. Is it your recollection that Jeff or his  
5 firm prepared the agreement?

6 A. I don't know who prepared it, but I -- he  
7 was -- he worked on it. I don't know if their attorney  
8 did or Jeff's attorney did.

9 Q. Were you relying on Jeff and his firm to  
10 negotiate the terms of the agreement?

11 A. As far as the -- can you be more specific  
12 on terms?

13 Q. Sure.

14 Did you negotiate the business terms of the  
15 settlement agreement?

16 A. Yes.

17 Q. Specifically, if you want to turn to  
18 page 3, I want to focus on two of those terms. First  
19 is in paragraph --

20 A. I'm sorry, David. What page?

21 Q. Page 3. Have you located that?

22 A. Yes.

23 Q. Let's focus first on paragraph 1, first  
24 sentence, it says, "AIP, Fairstar and ISL stipulate and  
25 agree to the immediate release and delivery of all of



1 the Remaining Shares currently being held in Lending's  
2 account at Merrill Lynch to the Fairstar accounts  
3 described in Exhibit C attached hereto."

4 Did I read that correctly?

5 A. Correct.

6 Q. Was it your understanding at the time you  
7 signed this document that the remaining shares that had  
8 not yet been sold belonging to Fairstar would be  
9 returned to its account?

10 A. Correct.

11 Q. And that would be done immediately?

12 A. I mean, I would assume.

13 Q. That's what the language here says?

14 A. Sure.

15 Q. Immediate release; right?

16 A. Correct.

17 Q. Is that consistent with your understanding  
18 at the time you signed the document?

19 A. Yes.

20 Q. And then paragraph 2, the first sentence  
21 reads, "AIP, ISL and Fairstar stipulate and agree to  
22 the immediate release and disbursement of all the Cash  
23 Proceeds currently being held in Lending's account at  
24 Merrill Lynch to the Escrow Agent's account described  
25 in Exhibit C attached here."

1                   Did I read that correctly?

2           A.     Yes.

3           Q.     Was it consistent with your understanding

4     at the time you signed this document that the cash

5     proceeds from the sale of a -- of the portion of

6     Fairstar stock that had been sold would be returned to

7     Fairstar?

8           A.     I overlooked that because you can't do

9     that.

10          Q.     Well, was it consistent with your

11     understanding that cash proceeds would be returned to

12     Fairstar?

13          A.     Yes.

14          Q.     And that that would be done immediately?

15          A.     Yes.

16          Q.     Would you conclude from the fact that all

17     three page 8s that have signatures of various parties

18     on them have your signature on behalf of American

19     Institutional Partners, LLC, and AIP Lending, LLC, that

20     you were the first one to sign any of these signature

21     pages?

22          A.     Explain. I'm sorry. The first one out of

23     who? I mean, I don't understand the question.

24          Q.     Okay.

25                   We have signatures -- we have signatures on

1 these documents of American Institutional Partners,  
2 LLC, and AIP Lending, LLC; right?

3 A. Correct.

4 Q. And they show up on all three signature  
5 pages --

6 A. Sure.

7 Q. -- is that right?

8 A. Yes.

9 Q. And if you'll look at the signatures, will  
10 you agree that you didn't sign three separate pages,  
11 but you signed one page that's been copied?

12 A. Sure. I mean, I don't know that, but I  
13 would assume.

14 MR. WRONA: Then if you don't know, then  
15 you need to answer that you don't know.

16 BY MR. WAHLQUIST:

17 Q. Does it look to you like your signatures  
18 are identical and not two separate signatures?

19 A. Yes.

20 Q. Okay.

21 And what's commonly done is documents are  
22 signed sometimes in what they call counterparts, you're  
23 familiar with that practice; right?

24 A. Yes.

25 Q. Where a document gets signed and sent out

1 to various parties and then they each sign it and send  
2 it back?

3 A. Correct.

4 Q. And then you put the various copies of the  
5 signature pages together so that you have a copy signed  
6 by everybody?

7 A. Correct.

8 Q. Does it appear that that's what was done  
9 here?

10 A. Yes.

11 Q. And since your signature shows up on all of  
12 the copies sent to the other two parties who signed,  
13 would that suggest to you that you signed it first  
14 before it was sent to them?

15 A. Yes.

16 Q. Now, you indicated in some of your prior  
17 testimony that Mr. Jones kind of got the logistics  
18 wrong in some of his language as to how the stock and  
19 the funds could be returned out of the Merrill Lynch  
20 account to Fairstar; is that right?

21 A. Correct.

22 Q. And I think you said in one of your answers  
23 that those funds and stock had first to go through AIP  
24 before they could go to Fairstar.

25 A. Cash.

1 Q. Just the cash?  
2 A. Yes.  
3 Q. So the cash had to go from Merrill Lynch to  
4 AIP somehow?  
5 A. Correct.  
6 Q. And then it could go to Fairstar?  
7 A. Correct.  
8 Q. How about the stock?  
9 A. The stock, I believe, can go direct.  
10 Q. So it could go directly from Merrill Lynch  
11 to Fairstar?  
12 A. Correct.  
13 Q. All right.  
14 And did, in fact, AIP direct Merrill Lynch  
15 to send the proceeds from the sale of the Fairstar  
16 stock to an AIP account?  
17 A. The cash proceeds?  
18 Q. Yes.  
19 A. Yes.  
20 Q. And where was that account located?  
21 A. I don't recall, but an AIP account.  
22 Q. Was it at Wells Fargo Bank?  
23 A. I believe so.  
24 Q. All right.  
25 (Exhibit 9 marked.)

1 BY MR. WAHLQUIST:

2 Q. I'd like to hand you Exhibit 9, which is a  
3 bank statement we subpoenaed from Wells Fargo Bank.

4 A. (Witness reviews document.)

5 Q. I believe Mr. Jones has testified it  
6 constitutes the trail of the cash proceeds from the  
7 sale of the Fairstar stock. And I just want to get  
8 your testimony with respect to that.

9 This appears to be a bank statement from  
10 Wells Fargo Bank and American Institutional Partners,  
11 LLC, account. Can you confirm that in May of 2008,  
12 American Institutional Partners, LLC, had a bank  
13 account at Wells Fargo?

14 A. Yes.

15 Q. Was that its primary bank account through  
16 which it did business?

17 A. It was one of the accounts.

18 Q. Did it have other banks with which it did  
19 business at the time, or through which it did business?

20 A. I don't recall specifically.

21 Q. All right.

22 You do recall that American Institutional  
23 Partners, LLC, did do business through Wells Fargo, in  
24 any event?

25 A. Yes.

1 Q. You'll note that on -- in the middle of the  
2 page there is a --

3 A. Of which page?

4 Q. Page 1. I'm sorry. Thank you for asking  
5 for that clarification.

6 On the first page of Exhibit 9, about  
7 halfway through the page, there is a section that's  
8 captioned "Electronic Deposits/Bank Credits."

9 Do you see that?

10 A. I do.

11 Q. You'll notice the first entry is a May 1st  
12 wire transfer in the amount of \$10,000.

13 Do you see that?

14 A. I do.

15 Q. Then you'll note that on May 7th, the same  
16 day as our settlement agreement, there is a wire  
17 transfer into this account in the amount of  
18 \$2,142,457.17.

19 Do you see that?

20 A. I do.

21 Q. If you'll look back to -- at page 2 of  
22 Exhibit 8, the settlement agreement, and you'll look  
23 down at recital "I" towards the bottom of the page, it  
24 says, "Lending has maintained control of the cash  
25 proceeds of the sale of \$1,854,730 of the Shares in the

1 net amount of \$2,106,533.11 (net proceeds to Lending of  
2 \$2,142,033.11 less Lending's legal fees in the amount  
3 of \$10,500 and Lending's administrative fee of 25,000),"  
4 then there's the remaining part of the sentence.

5 Did I read that correctly?

6 A. Yes.

7 Q. So you'll note that the proceeds from the  
8 sale were \$2,142,033.11 according to the settlement  
9 agreement; is that right?

10 A. Yes.

11 MR. WRONA: Objection. Net proceeds.

12 MR. WAHLQUIST: Thank you.

13 MR. WRONA: But your answer is yes with  
14 regard to net proceeds; correct?

15 THE WITNESS: Yes.

16 MR. WAHLQUIST: Actually, it is the  
17 proceeds. The net proceeds has some deductions from  
18 it.

19 BY MR. WAHLQUIST:

20 Q. The proceeds of the sale were the  
21 \$2,142,033.11, from which, according to recital I,  
22 10,500 is deducted. An additional 25,000 is deducted  
23 to reach the \$2,106,533.11, which are the net proceeds;  
24 is that right?

25 A. Yes.



1 Q. You'll notice the \$2,142,033.11 referenced  
2 there is not identical, but extremely close to the  
3 \$2,142,457.17 that was wire transferred to the Wells  
4 Fargo Bank account that same day; is that right?

5 A. Yes.

6 Q. Is it your understanding that that wire  
7 transfer was a wire transfer that AIP caused to have  
8 the proceeds from the settlement sent to the Wells  
9 Fargo Bank account in conjunction with the settlement  
10 agreement?

11 A. Yes.

12 Q. And this was the money that was supposed to  
13 go to -- back to Fairstar Resources pursuant to the  
14 settlement agreement?

15 A. Yes.

16 Q. Now, if you'll turn to the next page of  
17 Exhibit 9, it shows a number of wire transfer debits;  
18 is that right?

19 A. Yes.

20 Q. Now, it looks like all but the last three  
21 entries are wire transfer debits. Would you agree with  
22 that?

23 A. (Witness reviews document.) Yes.

24 Q. All right.

25 On the very date that the funds were

1 transferred in, there was \$425,000 that was wire  
2 transferred out to an entity known as Ivy Cities, LLC.

3 Do you see that?

4 A. I do.

5 Q. Now, I want to just advise you, in case you  
6 -- you need to refer to additional pages to answer my  
7 questions, that this bank account statement, two pages  
8 later, starts with the detail of each of these wire  
9 transfers that we're going to talk about. So two pages  
10 later, you'll notice there's the Ivy Cities, LLC,  
11 transfer and the address where that's located.

12 Do you see that?

13 A. Yes.

14 Q. Are you familiar with an entity known as  
15 Ivy Cities, LLC?

16 A. I am.

17 Q. Can you tell me what that entity was as of  
18 May 8 or May 7, 2008?

19 A. I know who owns it. I don't know what it  
20 does.

21 Q. Okay.

22 Tell me what you know about that entity.

23 A. Alan Cottle owns that.

24 Q. And how is his last name spelled?

25 A. C-O-T-T-L-E.

1 Q. How is his first name spelled?  
2 A. A-L-A-N.  
3 Q. So this is an entity that you understand  
4 Alan Cottle owns the beneficial interest in?  
5 A. I don't know if he owns the beneficial  
6 ownership, but I don't know the ownership structure,  
7 but I know it's -- he is related to it, an associated  
8 person to it.  
9 Q. You understood it to be his entity in one  
10 way or another?  
11 A. Yes.  
12 Q. Is that correct?  
13 A. Yes. That he's associated with it. I  
14 don't know what the legal structure of it is.  
15 Q. Did you understand that he controlled it?  
16 A. Yes.  
17 Q. Have you ever had any ownership interest in  
18 Ivy Cities, LLC?  
19 A. No.  
20 Q. Has any entity you're affiliated with, such  
21 as AIP or AIP Lending, or any other entity that you  
22 directly or indirectly have an ownership in, had an  
23 ownership interest in Ivy Cities, LLC?  
24 A. No.  
25 Q. Did AIP direct that this 425,000 wire

1 transfer be sent by Wells Fargo Bank for Ivy Cities,  
2 LLC?

3 A. I'm sure we did.

4 Q. If you'll turn back to the first page,  
5 you'll note that at the start of the month, the  
6 beginning balance on the account was a negative  
7 \$361.26?

8 A. Correct.

9 Q. And the only deposits into the account  
10 during the month of May appear to be the wire transfer  
11 of Fairstar's funds that we've talked about, and then  
12 two additional wire transfers that total \$18,000; is  
13 that correct?

14 A. Correct.

15 Q. So the \$425,000 that was sent to  
16 Mr. Cottle, necessarily -- either was all from  
17 Fairstar's funds or at least all amounts over \$18,000  
18 were from Fairstar's funds; is that right?

19 A. Correct.

20 Q. Do you know why AIP directed Wells Fargo to  
21 send the \$425,000 to Mr. Cottle?

22 A. I don't recall specifically.

23 Q. You don't know what that was for?

24 A. It was a transaction. I don't remember  
25 specifically what it was. I can find that out.

1 Q. How would you find that out?

2 A. I would get the documents from you.

3 Q. What documents are you referring to

4 specifically that you would look at?

5 A. I'm sure there was a transaction.

6 MR. WRONA: Mr. Robbins, is what you're

7 saying is there may be documents that would refresh

8 your memory?

9 THE WITNESS: Correct.

10 MR. WRONA: And you believe that

11 Mr. Wahlquist's client has those documents?

12 THE WITNESS: Yes.

13 MR. WRONA: Is that a fair clarification,

14 David?

15 MR. WAHLQUIST: Thank you. That's fine.

16 BY MR. WAHLQUIST:

17 Q. And you have no recollection at this point

18 of any deal with Mr. Cottle in May of 2008?

19 A. Yes, there was a transaction with him. I

20 don't remember specifically what it was.

21 Q. Do you have any detail at all about the

22 transaction?

23 A. No. Alan and I did a lot of transactions

24 together.

25 Q. Was AIP buying something?

1           A.    No.  I believe it was a loan.

2           Q.    Okay.

3                    So you believe AIP had borrowed some money

4 from Mr. Cottle?

5           A.    I believe so.

6           Q.    And this \$425,000 was being sent to him as

7 a payment on that loan?

8           A.    I don't recall specifically, but I believe

9 so.

10          Q.    Okay.

11                    It looks like the next day after the

12 Fairstar's funds were sent to this Wells Fargo account

13 there was a wire transfer that was sent to Harry B.

14 Sands, Lobosky, L-O-B-O-S-K-Y, & Company, in Nassau the

15 Bahamas; is that correct?

16          A.    Correct.

17          Q.    Do you know who Harry B. Sands, Lobosky &

18 Company are?

19          A.    I believe it's a law firm.

20          Q.    In fact, it's a law firm that AIP had

21 hired, was it not?

22          A.    I believe so.

23          Q.    What was the purpose for which AIP had

24 hired this law firm?

25          A.    To handle litigation down in the Bahamas.

1 Q. Does this have to do with Little Exuma  
2 Island?

3 A. Correct.

4 Q. What did -- describe for me the litigation  
5 this law firm was hired to handle for AIP.

6 A. I mean, there's a dispute. There's a  
7 litigation dispute down there on a lot of different  
8 things.

9 Q. Is there more than one lawsuit that this  
10 company was hired to assist you with?

11 A. I don't know.

12 Q. Who at AIP had primary contact with the law  
13 firm?

14 A. Jeff Jones and Paul Benson.

15 Q. What was Paul Benson's position with AIP at  
16 the time?

17 A. He was helping work on the island.

18 Q. Is he an employee of AIP?

19 A. No.

20 Q. Is he a consultant?

21 A. You could call him that.

22 Q. Was he being paid for his involvement with  
23 the island?

24 A. No.

25 Q. Did he have an ownership interest?

1           A.     No.

2           Q.     How was he being compensated for his  
3 involvement?

4           A.     We were going to work something out.

5           Q.     So the understanding was you were going to  
6 take care of him somehow, but the details hadn't been  
7 resolved yet?

8           A.     Correct.

9           Q.     Do you remember what the litigation was  
10 about that the law firm helped you with?

11          A.     I mean, there's a ton of litigation down  
12 there. I don't -- it was over notes and ownership and,  
13 you know, a lot of different stuff.

14          Q.     Do you know who commenced the lawsuit that  
15 you're talking about?

16          A.     I don't.

17          Q.     Would you believe that Mr. Jones had more  
18 information about the detail of that litigation than  
19 you?

20          A.     For sure.

21          Q.     Is this payment, May 8th, to the law firm  
22 in the amount of \$91,138.40 payment of legal fees in  
23 connection with that matter?

24          A.     I believe so.

25          Q.     Did AIP direct Wells Fargo to send that



1 money to the law firm?

2 A. Yes.

3 Q. And again, the money that was sent to this  
4 law firm on May 8 was largely or totally from  
5 Fairstar's funds; is that right?

6 A. Yes.

7 Q. And then on May 9th, it appears there was a  
8 wire transfer from the Wells Fargo account to an  
9 account at Mellon Bank in Pittsburgh; is that correct?

10 A. Correct.

11 Q. Can you tell me what the purpose of this  
12 transfer was?

13 A. I have no idea. (Witness reviews  
14 document.)

15 Q. If you'll look on page 29 of this  
16 statement, it has more detail regarding this particular  
17 transaction. You'll note that there is a notation, it  
18 says, "ORIG to BNF INFO:"

19 Do you see that?

20 A. Yes.

21 Q. And underneath it it says, "For further  
22 credit to seven llc"?

23 A. Correct.

24 Q. Are you familiar with an entity known as  
25 Seven, LLC?

1           A.     I am.

2           Q.     And what is that?

3           A.     That was an old entity that I owned.

4           Q.     What was its business?

5           A.     It was just an LLC that I had.

6           Q.     Do you recall what it did?

7           A.     Not specifically.

8           Q.     So did AIP then direct Wells Fargo to send

9           this hundred thousand dollars from its account to the

10          Seven, LLC, account on May 9th?

11          A.     Yes.

12          Q.     And again, this hundred thousand dollars

13          was either all or mostly from the Fairstar funds?

14          A.     Yes.

15          Q.     Okay.

16                    And then on the same date, another hundred

17          thousand dollars was wire transferred to D & D

18          Aviation; is that correct?

19          A.     Yes.

20          Q.     Did AIP authorize Wells Fargo Bank to make

21          that transfer?

22          A.     Yes.

23          Q.     And that, again, was largely, if not

24          wholly, from Fairstar's funds?

25          A.     Yes.

1 Q. What was the purpose of this transfer?  
2 A. I believe it was a payment, plane payment.  
3 Q. For what?  
4 A. Something to do with aviation, plane  
5 payment.  
6 Q. Did AIP own an airplane?  
7 A. Yes.  
8 Q. Did it purchase it from D&D Aviation?  
9 A. No.  
10 Q. Did D&D Aviation finance the purchase of  
11 that plane?  
12 A. No. They operated it.  
13 Q. So is this a payment for flight services  
14 provided or was it a loan payment on the acquisition of  
15 the plane?  
16 A. I believe flight services.  
17 Q. Okay.  
18 So D&D provided flight services for AIP?  
19 A. Correct.  
20 Q. So did AIP own the plane or did D&D  
21 Aviation own the plane?  
22 A. AIP.  
23 Q. But D&D provided the pilots to fly the  
24 plane?  
25 A. They managed it.

1 Q. Okay.

2 Was the plane owned -- was the plane paid

3 for or was it financed at this point in time?

4 A. Financed.

5 Q. What happened to the plane?

6 A. Eventually, the AIP stopped making the

7 payments and the bank took it.

8 Q. Do you recall what bank had the loan on the

9 airplane?

10 A. I believe it was Regions.

11 Q. How is that spelled?

12 A. R-E-G-I-O-N-S.

13 Q. Do you know when the bank took the plane

14 back?

15 A. And I may be wrong. It's Regions

16 something.

17 Q. Do you know when the bank took the plane

18 back?

19 A. I don't recall. It was -- I don't recall

20 specifically.

21 Q. Do you know what year?

22 A. I don't know. Obviously, we can find out

23 the exact date.

24 Q. You don't remember if it was 2008 or 2009?

25 A. I really don't. It's been a long two

1 years.

2 Q. How would you find out when the bank took  
3 the plane back?

4 A. I would go through the stuff you have or  
5 call the bank.

6 Q. Returning to the second page of the bank  
7 statement, which has been marked as Exhibit 9, it  
8 appears that also on May 9th there was a \$75,000  
9 payment wired to a Douglas Robbins.

10 Do you see that?

11 A. Yes, I do.

12 Q. And the address that shows up on page 31  
13 for Mr. Robbins is Caelin Court, Woodlands, Texas.

14 Is this your father?

15 A. Yes.

16 Q. Okay.

17 This -- did AIP authorize this transfer?

18 A. Yes.

19 Q. Do you know why this money was being  
20 transferred to your father?

21 A. It was for a payment.

22 Q. Payment on what?

23 A. He had invested some funds with me.

24 Q. Did he loan funds or had he invested funds?

25 A. I don't know specifically. He may have

1 invested.

2 Q. What entity had he invested funds with?

3 A. Me personally.

4 Q. What was the amount of his investment?

5 A. I can't remember. I can't recall

6 specifically, but I can definitely get that number from

7 him.

8 Q. Was it more than 75,000?

9 A. Yes.

10 Q. So why were you making this payment to him?

11 Is this a return on his investment?

12 A. Yes.

13 Q. Had you made any money on the investment?

14 A. I don't recall.

15 Q. You don't recall what the investment was?

16 A. No. He did it with me personally.

17 Q. Okay.

18 Well, the obligation we've talked about to

19 Ivy Cities, LLC, that was an AIP obligation; right?

20 A. Correct.

21 Q. And the obligation to Harry B. Sands,

22 Lobosky & Company was an AIP obligation; right?

23 A. Correct.

24 Q. And you indicated that the hundred thousand

25 that was sent to Seven, LLC, that was just money that

1 AIP transferred to one of your LLCs; right?

2 A. AIP owed me a lot of money.

3 Q. Did it own Seven, LLC, a lot of money?

4 A. Yes.

5 Q. So was that a payment on a loan from AIP or

6 from Seven, LLC, to AIP?

7 A. I don't remember specifically what it was,

8 but AIP owed me a lot of money.

9 Q. Did it owe Seven, LLC, a lot of money?

10 A. Yes.

11 Q. Was this payment credited against that

12 obligation?

13 A. I don't know specifically.

14 Q. The obligation to D&D, was that an AIP

15 obligation?

16 A. Yes.

17 Q. Would it be -- payment made to Douglas

18 Robbins was a personal matter, not an AIP matter; is

19 that right?

20 A. No. It could have been AIP. I mean, one

21 of the problems is I was AIP. I mean, I owned it. So

22 there was -- I should have defined a lot better in

23 business what was AIP and what was personal.

24 Q. You kind of just treated them as one and

25 the same?

1 A. Yes.

2 Q. And you didn't do a lot of paperwork and  
3 accounting back and forth?

4 A. I tried to. Not as good as we could have  
5 done.

6 Q. I thought you told me earlier that your  
7 father's investment was with you personally as opposed  
8 to AIP.

9 A. I said that.

10 Q. I thought you did.

11 A. I said I said that.

12 Q. Is that accurate?

13 A. Yes.

14 Q. So the money that's being paid here to your  
15 father is in connection with a personal business  
16 relationship between you and your dad, not between him  
17 and AIP; is that right?

18 A. No. What I just said to you is I would --  
19 a lot of times, personally or AIP was the same thing to  
20 me, because I owned AIP.

21 Q. Okay.

22 So was your dad's deal with AIP or with  
23 you, or do you know?

24 A. I don't know, but I can find out.

25 Q. How would you find that out?



1           A.     I would contact him.

2           Q.     Okay.

3                     Do you believe he would have some documents

4 in that regard?

5           A.     It's my dad. I'm sure there's no

6 documents, but he'll remember.

7           Q.     Do you think he would remember that better

8 than you do?

9           A.     Yes.

10          Q.     It looks like the next wire transfer is

11 also made on May 9th in the amount of \$50,000; is that

12 right?

13          A.     Correct.

14          Q.     If you look on page 32, it has the detail

15 of that transaction. It shows that it was sent to an

16 account for further credit to Allison Robbins; is that

17 right?

18          A.     Correct.

19          Q.     Was your wife?

20          A.     Yes.

21          Q.     And did AIP instruct Wells Fargo to make

22 that wire transfer?

23          A.     Yes.

24          Q.     And that, too, was either all or mostly

25 from Fairstar's funds; is that right?

1           A.     Correct.

2           Q.     And the same is true of the 75,000 that was  
3 sent to your dad?

4           A.     Correct.

5           Q.     Do you recall why AIP was directing Wells  
6 Fargo to send Allison \$50,000 on May 9th?

7           A.     Allison was -- is a creditor of AIP.

8           Q.     Was this a partial repayment of a loan?

9           A.     Payment, sure.

10          Q.     Is there some documentation of that loan?

11          A.     I don't recall.

12          Q.     With respect to all of these wire transfers  
13 we've talked about, and there are six we've talked  
14 about to date, you indicated AIP directed Wells Fargo  
15 to make those.

16                 Are you the one at AIP who directed those  
17 payments to be made?

18          A.     I believe so.

19          Q.     Did you do any accounting on AIP's book or  
20 records at all with respect to these transfers?

21          A.     No.

22          Q.     You just knew the money was in the Wells  
23 Fargo account and told Wells Fargo to wire transfer  
24 these amounts to the places we've discussed?

25          A.     Correct.

1 Q. The next transfer is on May 13th in the  
2 amount of \$800,000, and it's to the Durham Jones Trust  
3 Account; is that right?  
4 A. Correct.  
5 Q. Did you instruct Wells Fargo to do that  
6 wire transfer?  
7 A. I believe so.  
8 Q. That \$800,000 was either all or almost all  
9 from Fairstar's money deposited into the Wells Fargo  
10 account; is that right?  
11 A. Correct.  
12 Q. What was your purpose in directing Wells  
13 Fargo to send this \$800,000 to the Durham Jones Trust  
14 Account?  
15 A. I believe it was for a settlement with my  
16 ex-wife.  
17 Q. What was her name?  
18 A. Brook.  
19 Q. Brook what?  
20 A. Bishop.  
21 Q. She had sued you, had she not?  
22 A. Yes.  
23 Q. She had gotten a judgment against you?  
24 A. Yes.  
25 Q. And this money was sent to the trust

1 account in order to try and deal with that judgment?  
2 A. Yes.  
3 Q. And then I note on the 19th, there was  
4 \$250,000 that was sent to Durham, Jones & Pinegar's  
5 Trust Account as well; is that correct?  
6 A. Correct.  
7 Q. And did you direct Wells Fargo to make that  
8 wire transfer?  
9 A. Yes.  
10 Q. What was the purpose for your directing  
11 Wells Fargo to make that wire transfer?  
12 A. I believe, I'm not sure, but I believe for  
13 the same thing.  
14 Q. All right.  
15 Same thing as the hundred thousand dollars?  
16 A. I believe so.  
17 Q. Was the \$250,000 either all or almost all  
18 from Fairstar's funds?  
19 A. Yes.  
20 Q. To the best of your knowledge, was this  
21 \$1,050,000 that was transferred for Durham Jones Trust  
22 Account ultimately used to settle the judgment that  
23 Brook Bishop had obtained against you?  
24 A. I believe so.  
25 Q. The judgment was against you personally;

1 right?

2 A. Correct.

3 Q. It wasn't a judgment against AIP?

4 A. No.

5 MR. WRONA: Mr. Wahlquist, I apologize for  
6 interrupting, but I just want to clarify a statement by  
7 Mr. Robbins because I have some involvement in that  
8 case. The question I heard you ask was, was the money  
9 used to settle that matter? I think the most accurate  
10 answer is it was applied towards the settlement of the  
11 matter, but the matter has not settled.

12 MR. WAHLQUIST: All right.

13 BY MR. WAHLQUIST:

14 Q. Is that consistent with your understanding?

15 A. Yes.

16 Q. Okay.

17 So the million fifty thousand dollars was  
18 applied to the Brook Bishop judgment against you  
19 personally?

20 A. Correct.

21 Q. And again, almost all or all of those  
22 amounts were from Fairstar's funds?

23 A. Yes.

24 Q. Did you ever talk with Brook about the  
25 source of funds being used to apply to the judgment?

1           A.     No.

2           Q.     Did you have any discussion with Mr. Jones  
3     or anybody at his firm regarding the source of funds,  
4     this \$1,050,000?

5                   MR. WRONA:  Objection.  Attorney-client  
6     privilege.

7                   I don't want you to answer the question at  
8     this time.  Mr. Wahlquist may want to have a discussion  
9     with me as to why he thinks that's an appropriate  
10    question.  I prefer that we do it off record.  Is this  
11    a good time to have that conversation?

12                   MR. WAHLQUIST:  Yes, that's fine.  I'm  
13    there and I expect an answer to the question.

14                   MR. WRONA:  Let's go off record.

15                   (Recess taken.)

16  BY MR. WAHLQUIST:

17           Q.     Let's go back on the record.

18                   I previously asked you a question about  
19    your communications with Mr. Jones with respect to the  
20    source of the funds that were wire transferred to the  
21    Durham Jones Trust Account.  Your attorney has made an  
22    objection and instructed you not to answer the  
23    question.  We've had some conversation off the record,  
24    both myself and Mr. Wrona, and then Mr. Wrona has had a  
25    subsequent conversation with you; is that correct?

1           A.     Correct.

2           Q.     I want to give you an opportunity to  
3 respond to my question regardless of your counsel's  
4 objection. I think that Mr. Jones has already given  
5 testimony regarding the content of your conversations.

6                     The account that we're talking about is an  
7 AIP account. To the extent your discussions were had  
8 with Mr. Jones on behalf of AIP, as AIP's attorney, I  
9 don't know at this point in time you have the right to  
10 assert attorney-client privilege on behalf of AIP,  
11 given where the ownership of that entity is at this  
12 point.

13                    I further suggest that as Mr. Jones noted  
14 in his preface to responding to my questions about that  
15 testimony, that he considered the communications that  
16 you and he had to be in furtherance of fraud. And that  
17 that, then, vitiated the attorney-client privilege and  
18 allowed him to answer the questions, which he has done  
19 in his deposition.

20                    Nevertheless, you're here with counsel and  
21 counsel has asserted the instruction. You have him  
22 here for a reason and it's up to you whether or not  
23 you're going to follow that instruction. I do want you  
24 to know that I think that the court has ordered you to  
25 be here, that you have stipulated that you would be

1 here and you're here, for which we thank you.

2           And you have also stipulated that you would  
3 answer appropriate questions. I think under the  
4 circumstances of the testimony we have from Mr. Jones,  
5 this is an appropriate question. Should you choose not  
6 to respond at this point in time, which is your  
7 decision, we will then ask for further relief from the  
8 court that may require you to appear again in order to  
9 respond to the questions that I'm asking in this  
10 regard.

11           I think this issue is an important one, as  
12 it has ramifications of where we go to collect on our  
13 judgment. And I assume your attorney may have already  
14 talked with you about that and you don't need to  
15 respond to that point.

16           So I'm going to ask you again some  
17 foundational questions and then I'll ask you content.  
18 I don't think the foundational questions are protected  
19 by the privilege, but your counsel is here to make that  
20 determination himself.

21           MR. WRONA: David, I apologize for  
22 interrupting. We're discussing a sensitive area and I  
23 actually -- I would like to use this opportunity to  
24 make sure that the record reflects a few things.

25           Mr. Robbins, you and I talked in private.



1 I don't want you to disclose the contents of our  
2 conversation, but I objected to a question that was  
3 asked of you on the basis that it asks you to divulge  
4 communication with an attorney. You understand that;  
5 correct?

6 THE WITNESS: Correct.

7 MR. WRONA: You understand that you're the  
8 person who holds that privilege, not Mr. Jones, not  
9 Mr. Wahlquist, not Fairstar, not me. And you have the  
10 right and you are the one person who has the right to  
11 choose whether to divulge communications that you had  
12 with your attorney. Do you understand that?

13 THE WITNESS: I do.

14 MR. WRONA: Okay.

15 The question that was asked of you before  
16 the break, which really had to do with whether you told  
17 Mr. Jones anything about the source of these two  
18 payments, the \$800,000 payment and the \$250,000  
19 payment, you understood the question; correct?

20 THE WITNESS: Correct.

21 MR. WRONA: And that it's your decision  
22 whether to answer that question or not; correct?

23 THE WITNESS: Correct.

24 MR. WRONA: Now, you've heard all the  
25 things that Mr. Wahlquist has said to you, and I'm not

1 agreeing or disagreeing with Mr. Wahlquist, nor do I  
2 want you to agree or disagree with Mr. Wahlquist on  
3 those points. Do you understand that?

4 THE WITNESS: Yes.

5 MR. WRONA: At least with regard to the  
6 question that was asked of you prior to the break, are  
7 you willing to answer that question?

8 THE WITNESS: I believe so.

9 Can you say the question again? It's been  
10 so long, I honestly don't remember.

11 MR. WAHLQUIST: Okay.

12 (Whereupon the record was read by the  
13 reporter as follows:

14 QUESTION: Did you have any discussion with  
15 Mr. Jones or anybody at his firm regarding the source  
16 of funds, this \$1,050,000?)

17 THE WITNESS: Can I answer that?

18 BY MR. WAHLQUIST:

19 Q. Yes.

20 A. I never told Jeff where the source of the  
21 funds were coming from.

22 Q. In Mr. Jones's deposition he said the  
23 following, with respect to funds you were obtaining to  
24 settle the judgment issue with Brook, quote, "I asked  
25 him where he was going to get the money. He told me in

1 response that he had made arrangements with Brian Nord,  
2 a business associate, and that Nord was going to loan  
3 him the money."

4 Do you agree or disagree with that  
5 statement?

6 A. Brian was an individual that I was working  
7 with on a different transaction. I don't recall  
8 specifically saying that to Jeff.

9 Q. At the time, May 7th, 2008, did you make  
10 any transfers into the Durham Jones Trust Account from  
11 any source other than the Fairstar funds?

12 A. I don't know.

13 Q. Do you recall any transfer to Durham Jones  
14 Trust Account in any amount over 25,000 at any time in  
15 the year 2008, other than from the Fairstar funds?

16 A. I --

17 MR. WRONA: Hold on.

18 I just want to object on the grounds that  
19 the question is ambiguous to me. When you say "the  
20 Fairstar funds," are you referring to the May 13 wire  
21 transfer of \$800,000, the May 19 wire transfer of  
22 \$250,000?

23 MR. WAHLQUIST: Yes. Yes, I am.

24 MR. WRONA: Dave, my only concern is the  
25 questioning before the break was that the majority of

1 those appear to be from the -- what you're referring to  
2 as the Fairstar funds, but there were three deposits in  
3 May. And so there are some at least -- I don't know  
4 how you can really segregated, you know, between those  
5 three funds.

6 MR. WAHLQUIST: There was a total of  
7 \$18,000 from other sources. Part of that original  
8 \$10,000 probably went to offset the \$361.26 balance.  
9 So all my questions in that regard, the only possible  
10 amounts for -- of the wire transfers out that could  
11 have come from sources other than the Fairstar funds on  
12 the May 2008 bank account is \$18,000.

13 THE WITNESS: Can you ask me the question  
14 again?

15 BY MR. WAHLQUIST:

16 Q. During the year 2008, do you recall any  
17 transfers of funds to Durham, Jones & Pinegar Trust  
18 Account funds, other than the million fifty thousand  
19 dollars that was sent of Fairstar's money from AIP's  
20 Wells Fargo Bank account?

21 A. I don't recall specifically, but there were  
22 many wires to Durham Jones Trust Account over the  
23 course of AIP business.

24 Q. But you can't tell me of any in 2008?

25 A. Not specifically, but I mean, I'm sure Jeff

1 has an accounting.

2 Q. I've looked at Jeff's accounting and he  
3 doesn't show any. You would trust his accounting?

4 A. I would.

5 Let me be specific on that, too. Are you  
6 talking specifically for an AIP trust, or Jeff's trust  
7 in total?

8 Q. I'm just talking about the firm's trust  
9 account.

10 A. That's surprising to me.

11 Q. Okay.

12 In any event, you don't recall ever having  
13 a conversation with Mr. Jones about the source of the  
14 million fifty thousand dollars that you directed Wells  
15 Fargo to wire transfer on May 13th and May 19th, 2008,  
16 into the Durham, Jones & Pinegar Trust Account; is that  
17 correct?

18 A. Not specifically. Jeff and I talked 20  
19 times a day, you know, for four or five years.

20 Q. But you don't recall any such discussion?

21 A. No.

22 Q. And you don't recall telling him that those  
23 funds were going to come from Brian Nord or any other  
24 source?

25 A. Not specifically.

1           Q.     I asked Mr. Jones later in his deposition  
2 whether he ever -- well, my question to him was:

3                     "Have you had any discussions with Mr.  
4 Robbins about why he told you that the funds being  
5 transferred into your account were coming from a loan  
6 from Brian Nord when in fact they weren't?" That was  
7 my question.

8                     And he said, "Yes."

9                     I asked him how many conversations he'd  
10 had, he said one or two. I asked when they occurred  
11 and he said he thought in the latter part of July.  
12 Then he said the mid to latter part of July 2008.

13                    And then I asked him about the content of  
14 those communications and he took a break and came back  
15 in and made a statement on the record that he felt he  
16 was entitled to testify about it under the  
17 circumstances.

18                    He says, "At some point, I, in this time  
19 period, as I previously testified, I had a conversation  
20 with Mark. I said to him essentially that what he was  
21 saying about what he was doing appeared to me to be  
22 inconsistent. It was clear that Fairstar found it  
23 inconsistent. I pressed him to tell me what was  
24 actually going on. He told me then that he had taken  
25 Fairstar's money and used it to pay various debts and

1 obligations that he had, and that he did it in  
2 anticipation of several other events or transactions,  
3 one of which he reiterated again would be a loan from  
4 Brian Nord.

5 "He expected that he thought he would have  
6 it and he anticipated using that money actually to fund  
7 the settlement and pay Fairstar its money. That loan  
8 didn't close." This says, "That loan hadn't closed.  
9 He told me he was continuing to work on it."

10 Do you recall having had any such  
11 discussion with Mr. Jones where he confronted you with  
12 the issue of what had happened to Fairstar's money?

13 MR. WRONA: Objection. Attorney-client  
14 privilege.

15 You recall the things I've said to you  
16 during our break and then the questions that I asked  
17 you, and the decision is yours, Mark.

18 Before you answer the question, David, if  
19 you wouldn't mind, it might be helpful I think to have  
20 Mark actually read the quoted testimony.

21 And then, Mark, you can make your decision.

22 MR. WAHLQUIST: It starts on page 82 with  
23 line 18 and goes over to page 83 at line 8.

24 THE WITNESS: (Witness reviews document.)  
25 Can I ask you guys a question off the record, not

1 related to this?

2 MR. WRONA: No, you can ask me a question  
3 in private if you'd like.

4 THE WITNESS: It's not private. I -- can I  
5 get in trouble -- I mean --

6 MR. WRONA: No, no. No, no. You need to  
7 talk -- ask me that question in private.

8 MR. WAHLQUIST: That's one for your  
9 attorney.

10 MR. WRONA: We're going to read this, we're  
11 going to go off the record for a moment. We're going  
12 to go outside and then you can ask me your question,  
13 Mark.

14 (Discussion off the record.)

15 MR. WAHLQUIST: Back on the record. We  
16 have a pending question.

17 MR. WRONA: Can you repeat the question?

18 (Whereupon the record was read by the  
19 reporter as follows:

20 QUESTION: Do you recall having had any  
21 such discussion with Mr. Jones where he confronted you  
22 with the issue of what had happened to Fairstar's  
23 money?)

24 MR. WRONA: So just answer that question  
25 and then it's your decision, Mark, whether to answer



1 that question. Do you agree?

2 THE WITNESS: Yes.

3 MR. WRONA: Is that your answer to  
4 Mr. Wahlquist?

5 THE WITNESS: Yes.

6 BY MR. WAHLQUIST:

7 Q. What do you remember the content of your  
8 discussion with Mr. Jones to be in that regard?

9 A. I remember it being similar to what he was  
10 saying about I was working on multiple transactions and  
11 I thought they were all happening and they didn't come  
12 in. It didn't happen.

13 Q. Did you tell him that you had taken the  
14 Fairstar money and used it to pay other debts?

15 A. I don't remember that specifically. I  
16 remember telling him that the Fairstar money was used  
17 in anticipation of this other money coming in and I  
18 was, you know, obviously hugely concerned and  
19 frustrated.

20 Q. Did you tell him you had taken Fairstar's  
21 money and used it to pay various debts and obligations  
22 that you had?

23 A. I don't recall saying that specifically.

24 Q. You do recall telling him that you had  
25 several other events or transactions going on that you

1 thought would generate some money?

2 A. In general, yes.

3 Q. Did you explain to him that the Fairstar  
4 money wasn't there anymore?

5 A. At some point, yes.

6 Q. Is it fair to characterize what happened as  
7 that you had the Fairstar money come into the Wells  
8 Fargo account; correct?

9 A. Correct.

10 Q. You used the Fairstar money to pay other  
11 debts or obligations that you had, as we've described?

12 A. Correct.

13 Q. Those are outlined in Exhibit 9, the wire  
14 transfers; is that correct?

15 A. Correct.

16 Q. That you don't recall having any discussion  
17 with Mr. Jones around the time of the money going into  
18 his trust account as to the source?

19 A. Correct.

20 Q. That you had a discussion with him sometime  
21 later wherein he asked you what had happened to the  
22 Fairstar money; is that right?

23 A. I don't remember if I -- if he asked me or  
24 if I told him. I remember having a conversation.

25 Q. Okay. And you told him at that time that

1 the Fairstar money had been spent; right?

2 A. Correct.

3 Q. And you told him that you had anticipated  
4 money coming in from other sources that you would then  
5 have used to pay off the Fairstar obligation?

6 A. I don't recall specifically saying that,  
7 but --

8 Q. But that's in fact what happened?

9 A. Correct.

10 Q. And that money didn't come in?

11 A. Correct.

12 Q. And so you couldn't pay the Fairstar  
13 obligation?

14 A. Correct.

15 Q. Do you recall having sent a check to  
16 Fairstar for payment of its obligation?

17 A. I do.

18 Q. And that was drawn on an AIP account?

19 A. Correct.

20 Q. And there weren't funds there to pay that  
21 check; is that correct?

22 A. Correct. I remember telling them that the  
23 funds were coming in, and that's why we weren't doing a  
24 wire. And we had anticipated funds coming in and they  
25 didn't.