

1 Q. At the time you sent the check, you knew
2 there were not funds there to cover the check?

3 A. Yes, and Fairstar was told that.

4 Q. Who told them that?

5 A. I did.

6 Q. Who did you tell?

7 A. I don't recall. There might have even been
8 an email to that effect.

9 Q. That you were sending them a check but that
10 there weren't funds to cover it?

11 A. Correct, because there was conversations
12 that the funds --

13 MR. WRONA: I'm going to object because I
14 think it misstates the testimony. I think that what
15 Mr. Robbins has testified to is the day he wrote the
16 check, the funds he thought were in route. So by the
17 time they got the check, the funds would be there,
18 unless I'm misunderstanding.

19 MR. WAHLQUIST: And I'm finding that
20 inconsistent with what he's saying, but this is his
21 testimony.

22 MR. WRONA: Okay.

23 BY MR. WAHLQUIST:

24 Q. So you say you told them that there weren't
25 funds to cover the check?

1 A. That we were sending the check and that the
2 funds were coming in. That is, the check was written,
3 that the funds were not -- were not in the account, but
4 they were coming into the account.

5 Q. And that's what you think you told them?

6 A. Yes.

7 Q. But you don't remember who you told that
8 to?

9 A. No, but I -- I'm sure there's communication
10 about that.

11 Q. Okay.

12 In fact, there never were funds to cover
13 the check; right?

14 A. They never came in; correct.

15 Q. And the check didn't clear?

16 A. Correct.

17 (Exhibit 10 marked.)

18 BY MR. WAHLQUIST:

19 Q. I'm going to hand you a series of emails,
20 and I'm not so much interested in asking you questions
21 about the content at this point as I am just having you
22 confirm that you sent them, and the date they were sent
23 or received.

24 With respect to Exhibit 10, we have an
25 email chain with two messages on it, first from Kevin

1 Robertson to you, May 15th, 2008. And then there's a
2 second communication from you to Mr. Robinson {sic}
3 responding to Mr. Robertson's email to you.

4 Can you confirm that on May 17, 2008, you
5 sent the email at the top of the Exhibit 10 to
6 Mr. Robertson?

7 A. Yes.

8 (Exhibit 11 marked.)

9 BY MR. WAHLQUIST:

10 Q. I hand you Exhibit 11. This is an email
11 from Mr. Gillon to Mr. Jones on --

12 A. Is your guys' broken? Okay.

13 Q. -- on May 19, 2008. You're not shown as
14 being copied on this. Do you know whether you received
15 a copy of this email?

16 A. I don't recall.

17 Q. Okay.

18 (Exhibit 12 marked.)

19 BY MR. WAHLQUIST:

20 Q. I hand you Exhibit 12 which is another
21 email chain. On the bottom there is an email from you
22 to Ross Gillon dated May 30, 2008. Do you see that?

23 A. At the bottom?

24 Q. Yes.

25 A. Yes.

1 Q. Can you confirm you sent that to Mr. Gillon
2 on that date?

3 MR. WRONA: If you recall, Mark.

4 THE WITNESS: I don't recall this, but it's
5 from my email.

6 BY MR. WAHLQUIST:

7 Q. Do you believe you sent it to Ross Gillon
8 on that day?

9 A. Like I said, I don't recall sending it, but
10 it's -- I presume I did.

11 Q. You reference a Billy Groeneveld,
12 G-R-O-E-N-E-V-E-L-D, at Equity Markets Head Trader; is
13 that correct?

14 A. Correct.

15 Q. Why are you telling Mr. Gillon about
16 Mr. Groeneveld?

17 A. I believe Billy -- and I could be wrong
18 because I wasn't involved with a lot of this, but I
19 believe that Billy was the one transferring the stock
20 back.

21 Q. He didn't have anything to do with the
22 money, did he?

23 A. What do you mean? With?

24 Q. Well, under the settlement agreement there
25 was some stock that was supposed to be transferred

1 back; right?

2 A. Correct.

3 Q. And then the proceeds from the prior sale
4 of some of the stock was also supposed to be sent.

5 A. Correct. I don't recall what Billy
6 specifically -- I know he was involved. I don't
7 remember how.

8 (Exhibit 13 marked.)

9 BY MR. WAHLQUIST:

10 Q. I hand you Exhibit 13. In the middle of
11 this page there is an email from you to Billy; is that
12 correct?

13 A. Correct.

14 Q. It's dated June 3rd, 2008?

15 A. Correct.

16 Q. Did you send it to him?

17 A. I believe so.

18 Q. And you copied Kevin Robertson, among
19 others?

20 A. Correct.

21 Q. And you say in the first sentence, "The
22 cash is sitting in an account awaiting your approval to
23 send the stock."

24 Is that correct, that you said that?

25 A. Correct.

1 Q. The statement is not true as of that date;
2 is that correct?

3 A. "The cash is sitting in an account awaiting
4 your approval."

5 I'm not understanding what I'm saying
6 there. Well, obviously I wrote it. "The cash is
7 sitting in an account awaiting your approval to send
8 the stock."

9 Yeah, I mean, I wrote this.

10 Q. But the statement is not true, is it? The
11 funds were not in an account that could be immediately
12 wired once the stock was transferred?

13 A. Correct.

14 Q. In fact, the funds had been spent?

15 A. Correct.

16 (Exhibit 14 marked.)

17 BY MR. WAHLQUIST:

18 Q. I have handed you Exhibit 14. You notice
19 halfway through the first page and continuing over to
20 the second page is an email from Simon England at
21 Lawton Gillon to you dated June 5th, 2008; is that
22 right?

23 A. Correct.

24 Q. And you received that email and responded
25 to it in the top of the first page of Exhibit 14; is

1 that right?

2 A. Correct.

3 Q. And you sent that email to Mr. England on
4 that day?

5 A. I believe so.

6 Q. And you still didn't have the funds
7 available to pay Fairstar the cash proceeds from the
8 sale of a portion of its stock on that date, did you?

9 A. I was being told that the funds were there.

10 Q. You were being told they were there?

11 A. That I was going to have the funds to be
12 able to send them.

13 Q. Okay. You were told that funds were
14 coming?

15 A. Correct.

16 Q. You weren't told that funds were in your
17 account?

18 A. Correct.

19 Q. Who told you the funds were coming?

20 A. Well, a couple of the people I was working
21 with, but specifically Brian Nord.

22 Q. Okay.
23 Did Brian Nord ever send funds?

24 A. No.
25 (Exhibit 15 marked.)

1 BY MR. WAHLQUIST:

2 Q. I hand you Exhibit 15. Can you confirm
3 that the bottom half of this page is an email from
4 Simon England at Lawton Gillon to you on June 12, 2008?

5 A. Correct.

6 Q. And you received that email and then
7 responded to it on the top part of this exhibit; is
8 that right?

9 A. Correct.

10 Q. And you sent that email to Mr. England on
11 June 13th, 2008?

12 A. Correct.

13 (Exhibit 16 marked.)

14 BY MR. WAHLQUIST:

15 Q. I hand you Exhibit 16. Can you confirm
16 that the bottom third of the first page of Exhibit 16,
17 going over into the second page of Exhibit 16, is an
18 email from Simon England at Lawton Gillon to you on
19 June 23rd, 2008?

20 A. (Witness reviews document.) Correct.

21 Q. Can you confirm that you received that
22 email and responded to it with the email message in the
23 middle of the first page of Exhibit 16?

24 A. Correct.

25 Q. And that you sent that email to Mr. England

1 on June 24th, 2008?

2 A. Correct.

3 (Exhibit 17 marked.)

4 BY MR. WAHLQUIST:

5 Q. I hand you Exhibit 17, which is an email
6 from Jeff Jones to Ross Gillon. Do you recall whether
7 you received a copy of this email?

8 A. No, I don't.

9 Q. Mr. Jones indicates to Mr. Gillon that he
10 was advised by AIP Lending that the very day it had
11 sent a check via FedEx to Fairstar. Did AIP Lending
12 advise Mr. Jones of that issue?

13 A. I assume so.

14 Q. Were you the one at AIP Lending who advised
15 Mr. Jones of that?

16 A. I don't recall specifically, but I'm sure I
17 was.

18 (Exhibit 18 marked.)

19 BY MR. WAHLQUIST:

20 Q. I hand you what's been marked as
21 Exhibit 18, which is a rather lengthy email chain. It
22 starts on the third page of the exhibit in the middle
23 of the page. Can you confirm that you received from
24 Mr. Gillon, on July 8, 2008, the email that shows on
25 the bottom half of page 3 of this exhibit?

1 A. What's your question?

2 Q. Can you confirm you received that?

3 A. I believe so.

4 Q. In fact, you responded to it on the email

5 that starts at the very bottom of page 2 of the exhibit

6 going over to the top part of page 3; is that right?

7 A. Correct.

8 Q. Mr. Gillon then sent you a responsive

9 email; is that correct?

10 A. Correct.

11 Q. And you, in turn, answered his email with

12 the short message in the middle of page 2; is that

13 correct?

14 A. Correct.

15 Q. And on page 1 at the bottom there is an

16 email from Kevin Robertson to you, July 8, 2008,

17 responding to your prior email; is that correct?

18 A. Correct.

19 Q. And he asks you, over on the top of page 2,

20 "Do you still have the funds? Just yes or no will do."

21 A. Where is that, David?

22 Q. At the top of page 2.

23 A. Okay.

24 Q. He asked you, "Do you still have the funds?

25 Just yes or no will do," did he not?

1 A. Correct.

2 Q. And then you responded to that on July 9,
3 2008, with the email that's in the middle of page 1 of
4 Exhibit 18?

5 A. Correct.

6 Q. And then you received the email from
7 Mr. Gillon at the top of page 1 of Exhibit 18; is that
8 correct?

9 A. Correct.

10 Q. It's addressed to you and Jeff?

11 A. Yes.

12 Q. Okay.

13 Now, was Jeff Jones ever an officer of AIP?

14 MR. WRONA: Objection to the extent it
15 calls for a legal conclusion.

16 Mark, do you understand the question?

17 THE WITNESS: Well, I was going to ask
18 that. Is an agent and an officer? I don't know.

19 BY MR. WAHLQUIST:

20 Q. You don't know?

21 A. No. I'm asking. I don't know. I don't
22 know legally if he was.

23 MR. WRONA: An officer is a president, a
24 vice-president, a treasurer, secretary.

25 THE WITNESS: No.

1 BY MR. WAHLQUIST:

2 Q. All right.

3 Did you ever propose that Mr. Jones become
4 the president of AIP?

5 A. I believe so.

6 MR. WRONA: Hold on here.

7 Objection. Attorney-client privilege. I
8 think that is a privilege if it's a conversation with
9 Jeff Jones. Now, if the question is did you ever talk
10 to other people about that, that's a fair question.

11 MR. WAHLQUIST: Well, and you know, I
12 will -- I would disagree with that, Joe, to the extent
13 that what's being talked about is not legal advice.
14 It's not seeking legal advice. It's offering a
15 position in a company. I don't think that's subject to
16 privilege. Obviously, you can instruct your client how
17 you wish.

18 THE WITNESS: I understand it. I'm okay
19 answering it.

20 MR. WRONA: It's your decision.

21 THE WITNESS: Jeff and I talked about
22 several things over the years.

23 BY MR. WAHLQUIST:

24 Q. Well, did you propose that he become
25 president of the company?

1 A. I believe at one time I did.

2 Q. Okay.

3 You -- did he ever agree to become
4 president of the company?

5 A. I don't think so. I don't recall. He
6 never did, so no.

7 Q. You indicated earlier in your testimony
8 that you talked to Mr. Jones about 20 times a day. Was
9 that mostly in connection with business for you
10 personally or AIP, or its affiliated entities?

11 MR. WRONA: Objection. Attorney-client
12 privilege.

13 THE WITNESS: So do I answer?

14 MR. WRONA: The questions that you have
15 been asked thus far have pertained to a very specific
16 subject. This question is extremely broad. And you
17 previously testified that Mr. Jones had been your
18 attorney for years on a lot of different things. I
19 think you should be very careful about issuing an
20 answer that potentially would waive the attorney-client
21 privilege with regard to all of those other things.

22 THE WITNESS: No. That is attorney -- I'm
23 not going to answer that.

24 BY MR. WAHLQUIST:

25 Q. Okay.

1 Were the discussions that you had with
2 Mr. Jones in connection with his relationship as the
3 attorney for you, AIP and its related entities?

4 A. You're asking me if our communication was
5 with him as my attorney?

6 Q. Yes.

7 A. Yes.

8 Q. That's you personally; correct?

9 A. Correct.

10 Q. AIP; correct?

11 MR. WRONA: Answer out loud.

12 THE WITNESS: Correct. Sorry.

13 BY MR. WAHLQUIST:

14 Q. And entities affiliated with AIP?

15 A. Correct.

16 Q. Or with you?

17 A. Correct.

18 Q. Okay.

19 I'm asking these questions generally
20 because I don't want to invade the specifics of an
21 attorney-client relationship.

22 A. Okay.

23 Q. But I'm -- I do feel like I'm entitled to
24 know the level of Mr. Jones's involvement in the
25 business of your entities.

1 So my question to you is: How would you
2 characterize Mr. Jones's familiarity with the business
3 of AIP and its affiliated entities? I don't want you
4 to tell me the content of the discussions, but I want
5 you to characterize for me how familiar he was with
6 your business operations.

7 A. He was the attorney on all of those
8 entities so I would say pretty well.

9 Q. All right.

10 And Mr. Wrona and I have various clients,
11 and I guess I shouldn't speak for him, but some clients
12 hardly sneeze without talking to me about it and other
13 clients call me on rare occasions, when they think they
14 have something they want specific advice on.

15 A. Sure.

16 Q. What was -- as far as Mr. Jones was
17 concerned, was he more somebody intimately familiar
18 with the business dealings or was he somebody that you
19 would just call on rare occasions when you had specific
20 issues arise?

21 A. Can I answer that?

22 MR. WRONA: Yes.

23 THE WITNESS: I would discuss everything
24 with Jeff.

25 BY MR. WAHLQUIST:

1 Q. Okay.
2 So he knew what deals you had going out
3 there?
4 A. Jeff knew my life better than probably my
5 wife.
6 Q. So he did know the transactions you were
7 working on?
8 A. Correct.
9 Q. Is that right?
10 A. Yes.
11 Q. And generally knew the status of those?
12 A. Jeff knew what I told him.
13 Q. And you said you told him about everything;
14 is that correct?
15 A. Yes.
16 Q. He knew, on May 7, 2008, when the
17 settlement agreement was signed by you, that the
18 proceeds from the sale of Fairstar stock was with
19 Merrill Lynch; is that right?
20 MR. WRONA: If you know, Mark. Don't
21 speculate.
22 THE WITNESS: Can you ask the question
23 again? I'm sorry.
24 BY MR. WAHLQUIST:
25 Q. Sure.

1 Did Jeff Jones know that on the date that
2 the settlement agreement was signed, that the proceeds
3 from the sale of a part of Fairstar's stock was in
4 AIP's account at Merrill Lynch?

5 A. I don't recall, but I mean --

6 Q. You've discussed that with him, have you
7 not?

8 A. Yes.

9 Q. It's in the settlement agreement.

10 A. Yes.

11 Q. He is the one that you said dealt with the
12 language of the settlement agreement on your behalf;
13 right?

14 A. Sure. You're asking me if he knew that;
15 right?

16 Q. Right.

17 A. I can't speculate for Jeff. I assume he
18 did.

19 Q. Well, you'd had those discussions with him,
20 had you not?

21 A. Correct.

22 Q. Okay.

23 Do you know whether he knew that you had
24 the funds wired from Merrill Lynch into AIP's Wells
25 Fargo account?

1 A. I don't recall.

2 Q. Is that a kind of a detail you think you
3 would have shared with him, based on your relationship?

4 MR. WRONA: Objection. Calls for
5 speculation.

6 THE WITNESS: I don't recall. I mean, I
7 don't -- I have no idea.

8 BY MR. WAHLQUIST:

9 Q. Okay.

10 So you -- you don't know whether that's the
11 kind of detail you would have shared with him or not?

12 MR. WRONA: Objection. Asked and answered.

13 THE WITNESS: I answered it. Some things
14 very detailed. Some things not. I mean, we talked
15 about -- there's too much stuff. I mean, I can't
16 answer you. I don't know.

17 BY MR. WAHLQUIST:

18 Q. When was the last time that you spoke with
19 Mr. Cottle?

20 A. Two days ago.

21 Q. Is your relationship amicable?

22 A. Sure.

23 Q. Was Ivy Cities, LLC, ever paid off the
24 obligation that AIP had to it?

25 A. I believe so.

1 Q. Did the \$425,000 that was transferred on
2 May 7, 2008, pay off that obligation?

3 A. I assume. Like I said, I would have to go
4 back through and see everything.

5 Q. Do you know what Seven, LLC, did with the
6 hundred thousand dollars that was transferred to it on
7 May 9th, 2008, out of the Wells Fargo Bank account?

8 A. I have no idea. I'm sure you do.

9 Q. I wish I did.

10 MR. WRONA: Your answer is you have no
11 idea?

12 THE WITNESS: Yes. I have no idea. Sorry.

13 BY MR. WAHLQUIST:

14 Q. Who was the manager of Seven, LLC, on
15 May 9th, 2008?

16 A. I don't recall. Jeff Jones would know.

17 Q. Who decided what happened with that money?

18 A. I did.

19 Q. How would one find out what you did with
20 the money?

21 A. Look at the bank accounts.

22 Q. For Seven, LLC?

23 A. Yes.

24 Q. Where did Seven, LLC, bank on May 9th,
25 2008?

1 A. I believe it was Merrill Lynch.

2 Q. Okay.

3 Do you know what Allison did with the
4 \$54,000 that was transferred to her bank account?

5 A. I don't.

6 Q. Do you know what your dad with the 75,000
7 that was transferred to his bank account?

8 A. I do not.

9 Q. I'm interested in the next little while
10 about talking about what you know about assets
11 belonging to various entities that at one time you were
12 affiliated with. I also need to know about you
13 personally.

14 Is there a way that's easiest for you,
15 whether I talk about your assets personally first and
16 then these entities, or are you such that you're going
17 to consider all the entities to be you personally so
18 that you can't distinguish one from another, or can you
19 even answer that question?

20 A. I mean, I don't care what order you go in
21 if that's what you're asking me.

22 Q. Let's talk about you personally.

23 And if you personally own an interest in an
24 entity, then I'll expect you to tell me that you own an
25 interest in an entity as we go through these

1 discussions.

2 A. Okay.

3 Q. And I'll probably raise some of these
4 entities with you maybe to help your recollection.

5 A. Okay.

6 Q. Do you currently own any interest in any
7 real estate?

8 A. No.

9 Q. Do you own any interest in any entity that
10 owns any interest in any real estate?

11 A. No.

12 Q. How long have you been living with your
13 parents in The Woodlands, Texas?

14 A. On and off since October.

15 Q. 2009?

16 A. Yes.

17 Q. You say on and off. During the times when
18 you've been off and not living with them, where have
19 you been living?

20 A. Friends, all over.

21 Q. Prior to October 2, 0009, where were you
22 living?

23 A. With friends.

24 Q. At some point in time were you living at a
25 development I think called Pelican Point or something

1 like that?

2 A. Pelican Hill.

3 Q. Pelican Hill in California?

4 A. Yes.

5 Q. During what period of time did you live in
6 Pelican Hill?

7 A. I don't know the specific period, but I
8 think it was for about three months. May area.

9 Q. May of 2009?

10 A. Yes.

11 Q. Did you have any ownership interest in the
12 property you were living in?

13 A. No.

14 Q. Who owned that property?

15 A. It's a hotel.

16 Q. Did you rent it?

17 A. I didn't.

18 Q. Who did?

19 A. An individual.

20 Q. Named?

21 A. Doug Roberts.

22 Q. What's your relationship to Mr. Roberts?

23 A. Friend.

24 Q. Do you have any ownership interest in any
25 vehicles?

1 A. No.

2 Q. Do you have any ownership interest in any
3 jewelry?

4 A. No -- well, I don't know how to answer
5 that.

6 MR. WRONA: Do you own any jewelry?

7 THE WITNESS: No, but in that lawsuit up in
8 Park City -- I mean, it was stolen. So I guess --

9 BY MR. WAHLQUIST:

10 Q. You had some jewelry but you don't have
11 possession of it any more?

12 A. Correct.

13 Q. Was this jewelry that was kept at your --
14 what used to be your house in Park City?

15 A. Correct.

16 Q. Was that jewelry that was kept in your safe
17 there?

18 A. Yes.

19 Q. And when the safe was opened, it wasn't
20 there any more?

21 A. Correct.

22 Q. So for that reason, you believe it's been
23 stolen?

24 A. Yes.

25 Q. Do you currently have a lawsuit with

1 respect to that jewelry?

2 A. Yes.

3 Q. And where is it?

4 A. In Summit County.

5 Q. Are you a plaintiff in that action?

6 A. I'm not sure if I'm -- they sued, Pinder

7 (phonetic) sued, but then we countersued. I'm not

8 sure.

9 Q. Did you countersue?

10 A. Yes.

11 Q. Personally?

12 A. I can't remember if I did. I know my wife

13 did.

14 Q. Who owned --

15 A. I can give you a copy of the lawsuit.

16 Q. Who owns the jewelry?

17 A. My wife.

18 Q. So it wasn't your jewelry?

19 A. No.

20 Q. It was hers?

21 A. Correct. I had some pieces in there, but

22 the majority was hers.

23 MR. WRONA: Mark, it's very important, in

24 this area of questioning, when you're being asked about

25 your ownership interest, if something belongs to

1 somebody else, you need to delineate that. He's asking
2 about things that you have an ownership interest in.
3 You, Mark Robbins.

4 THE WITNESS: Okay.

5 BY MR. WAHLQUIST:

6 Q. Do you own any stocks?

7 A. No.

8 Q. Do you own any bonds?

9 A. No.

10 Q. Do you own any personal property having a
11 value over \$500?

12 A. No.

13 Q. Do you have a cell phone?

14 A. Yes.

15 Q. Where is it?

16 A. Right here.

17 Q. Okay.

18 Do you have --

19 A. Now, when you say, "Do you have a cell
20 phone," it's not my cell phone but I use it.

21 Q. Whose is it?

22 A. My wife's, if that's what you're talking
23 about.

24 Q. The account is in her name?

25 A. Yes.

1 Q. Do you have any bank accounts?
2 A. No.
3 Q. Are you currently employed?
4 A. I'm not.
5 Q. When was the last time you had any
6 employment?
7 MR. WRONA: By that you mean the last time
8 he was an employee?
9 MR. WAHLQUIST: Yes.
10 THE WITNESS: Over 15 years ago. I mean, a
11 long time ago.
12 BY MR. WAHLQUIST:
13 Q. So since that time, you have done business
14 through various of your entities; is that correct?
15 A. Correct.
16 Q. Are you currently doing business through
17 any entity?
18 A. No.
19 Q. Are you currently doing business yourself?
20 A. No.
21 Q. So what do you do with your time?
22 A. Well, rephrase that last question. I mean,
23 I'm trying to put -- I'm trying to put some stuff
24 together. Is that what you mean?
25 Q. Yes. You're going out and trying to put

1 deals together?

2 A. Sure.

3 Q. What kind of deals are you working on
4 putting together?

5 A. Anything I can. I mean, I'm trying to get
6 people to use my services.

7 Q. What are those services?

8 A. Consulting for business transactions.
9 Basically, business transactions, private equity,
10 capital raising, that kind of stuff.

11 Q. To go locate people that need capital?

12 A. Right now I've been scrambling and trying
13 to do anything I can. I've been calling friends and,
14 you know, trying to do anything I can.

15 Q. Well, I'm not --

16 MR. WRONA: Dave, I know I'm jumping the
17 gun a little bit. We're only about five after 12:00.
18 What's your sense in terms of time, do you think? Are
19 we still a couple of hours away?

20 MR. WAHLQUIST: I would guess.

21 MR. WRONA: Do you mind if we take
22 30 minutes?

23 MR. WAHLQUIST: No. That's fine.

24 MR. WRONA: We can do a real quick lunch,
25 because frankly it will help me. I need to take a walk

1 around the building and then I can clear my cell phone
2 of a little bit of email traffic that I have.

3 MR. WAHLQUIST: How much time do you want?

4 MR. WRONA: Thirty minutes, if there's a
5 place we can grab something real quick.

6 MR. WAHLQUIST: 12:45?

7 MR. WRONA: Yes. Perfect. Let's do that.

8 MR. WAHLQUIST: Can you give me a couple of
9 minutes to finish up this line of questioning?

10 MR. WRONA: Yes. Sure.

11 MR. WAHLQUIST: All right.

12 BY MR. WAHLQUIST:

13 Q. I just asked you what you were trying to
14 do, you know, what kind of consulting business you did,
15 and you told me you were trying to consult regarding
16 raising capital. So --

17 A. I'm trying to consult, get a job. I'm
18 trying to do anything I can to go make some money.

19 Q. Is part of what you do is try to put
20 together people that need money with people that have
21 money?

22 A. Not really. I mean, I never have been like
23 a broker type.

24 Q. So when you say raising capital, what do
25 you mean?

1 A. I'm saying I've done that in the past. If
2 someone -- I'm an entrepreneur. That's what I've done.

3 Q. Okay.

4 A. And, you know, I think I have a skill set
5 with that. And so if someone is starting a new company
6 or something, I mean, I -- you know, I would love to
7 get involved and try to help them type of thing.

8 MR. WAHLQUIST: All right. Let's go ahead
9 and take that break. See you at 12:45.

10 (Lunch recess taken.)

11 MR. WAHLQUIST: Let's go back on the
12 record.

13 BY MR. WAHLQUIST:

14 Q. I'll return later to some of the activities
15 that you're engaged in currently to try and raise
16 funding, or to try and raise income for you, but I want
17 to talk for just a few minutes about entities. And
18 I'll go through a list and I'll ask you if there's any
19 others, but I'll give you the benefit of the list that
20 we have first. I think it would be hard, at least for
21 me, if I were you, to remember all of these without
22 missing one or two of them.

23 We talked a little bit before about
24 American Institutional Partners, LLC. Have you had an
25 involvement with that company since its formation?

1 A. Yes.

2 Q. Do you remember when it was formed?

3 A. Around 2003 or 2004, I believe.

4 Q. Were you the one that caused it to be

5 formed?

6 A. There was a group of individuals.

7 Q. Who were they?

8 A. I don't recall specifically, but Jeff was

9 the attorney.

10 Q. Steve Norris was one of those?

11 A. No.

12 Q. You don't recall any of the members of the

13 group?

14 A. The very original, no, because there was --

15 I don't know when people were bought out and when they

16 weren't. You know, when it was very first formed in

17 2003, 2004, I can't remember exactly the numbers, but

18 Jeff will have those.

19 MR. WRONA: Hold on. David, can you

20 identify who's present?

21 MR. WAHLQUIST: Sure. Thank you. This is

22 my partner, Rod Andreason.

23 BY MR. WAHLQUIST:

24 Q. Were you --

25 MR. ANDREASON: Hey.

1 THE WITNESS: Hey.

2 BY MR. WAHLQUIST:

3 Q. Were you an original member of American
4 Institutional Partners, LLC?

5 A. Yes.

6 Q. Did there come a time when you became a
7 hundred percent member of that company?

8 A. Yes.

9 Q. And when did that happen?

10 A. Well, actually, I don't know if it was a
11 hundred percent. The only manager, I believe.

12 Q. I'm just talking about membership. Did
13 there come a time when you were the sole member?

14 A. I don't believe so.

15 Q. Okay.

16 Do you believe you're currently a member of
17 American Institutional Partners, LLC?

18 MR. WRONA: Objection to the extent it
19 calls for a legal conclusion, but you can answer, Mark.

20 THE WITNESS: I don't know, because of all
21 the stuff that's gone on.

22 BY MR. WAHLQUIST:

23 Q. Okay.

24 Do you know of any other current members of
25 AIP, LLC?

1 A. I believe my wife owns...

2 Q. In her own name?

3 A. No. Under an entity. And Jeff would have

4 that.

5 Q. You don't know the name of the entity?

6 A. I don't.

7 Q. Do you know what percent she owns?

8 A. I don't.

9 Q. You testified earlier as to the business of

10 American Institutional Partners, LLC; is that correct?

11 A. Correct.

12 Q. Is it currently doing any business?

13 A. No.

14 Q. Does it own any subsidiaries?

15 MR. WRONA: Objection to the extent it

16 calls for a legal conclusion.

17 Do your best to answer these questions,

18 Mark.

19 THE WITNESS: AIP has a lot of entities.

20 BY MR. WAHLQUIST:

21 Q. Has a lot of subsidiary entities?

22 A. LC type things.

23 Q. Are they subsidiary entities?

24 A. I would assume.

25 Q. Okay.

1 Does AIP have any assets aside from its
2 subsidiary entities?
3 A. Explain.
4 Q. I mean, does it own any real property?
5 A. Not that I know of.
6 MR. WRONA: Or personal property.
7 BY MR. WAHLQUIST:
8 Q. Does it own any personal property?
9 A. That's been taken or not? I mean, with all
10 the stuff that's gone on, I don't know what's left in
11 it.
12 Q. Well, the last time that you knew that it
13 had assets, what assets did it have?
14 A. Little Exuma.
15 Q. And its interest in that is through a
16 subsidiary; right?
17 A. Correct.
18 Q. And that would be AIP --
19 A. RD.
20 Q. -- RD, LLC?
21 A. Correct.
22 Q. And we'll talk about that in a minute.
23 Are you aware of any assets it had at that
24 time, other than what interests it might have through
25 AIPRD?

1 A. I don't recall specifically, but I'm sure
2 it did. It's been a long time.

3 Q. Did it own any real estate?

4 A. I think I've already answered that. No.

5 Q. So when you say you think that it had other
6 assets, that would be personal property?

7 A. Sure, or LLC.

8 MR. WRONA: Mark, do you understand that
9 personal means things like office furniture, desks?

10 THE WITNESS: Sure.

11 MR. WRONA: Please include that in your
12 answer.

13 Dave, I hope I'm not infringing.

14 MR. WAHLQUIST: No, you're fine.

15 BY MR. WAHLQUIST:

16 Q. You know what real property is?

17 A. Sure.

18 Q. Personal property is everything else.

19 A. And I answered it yes.

20 Q. What personal property were you aware of
21 that American Institutional Partners, LLC, had the last
22 time that you knew it had assets?

23 A. I don't know specifically. I mean, you can
24 go through all the stuff and look.

25 MR. WRONA: The stuff in the office, Mark?

1 THE WITNESS: Yes, it had all the stuff in
2 the office. It had, you know, computers. It had --
3 BY MR. WAHLQUIST:
4 Q. Did it have things that were not located at
5 its offices?
6 A. No.
7 Q. So all of the personal property that it had
8 was at its office, as best you know?
9 A. I believe so.
10 Q. And you don't know of any real estate that
11 it owned in its own name?
12 A. Correct.
13 Q. You talked about AIP Resort Development,
14 LLC. Do you know whether American Institutional
15 Partners, LLC, owned a hundred percent of the
16 membership interest in that entity?
17 A. I don't. That's a mess.
18 Q. Do you know whether American Institutional
19 Partners, LLC, is a member of that entity?
20 A. I don't.
21 Q. Do you know whether it was at any time in
22 the past?
23 A. I don't. Jeff was really the one that
24 handled all of that stuff.
25 Q. Do you know of any other members in AIP

1 Resort Development, LLC, other than American
2 Institutional Partners, LLC?

3 A. There were -- I don't know what entity they
4 were specifically in, but Rod Rasmussen, Mike Peterson
5 and Alan Cottle.

6 Q. Had some interest in some entity?

7 A. Had some carried interest.

8 Q. Did you buy out Mr. Rasmussen's interest in
9 whatever entity he had an ownership interest in?

10 A. At one point, I bought out those guys.

11 Q. All of them?

12 A. Uh-huh.

13 Q. Is your answer yes?

14 A. Yes.

15 Q. At that point, did they have any further
16 interest in American Institutional Partners, LLC, or
17 AIP Resort Development, LLC?

18 A. They had some type of carried interest.

19 Q. What do you mean by carried interest?

20 A. Carried interest in the island.

21 Q. What do you mean by a "carried interest"?

22 A. It was -- they had some type of equity
23 interest that was a carried interest on the island.

24 Q. And you bought it out?

25 A. No. I didn't buy that out. Part of the

1 buyout, they -- part of the buyout was they got that.
2 Q. But you don't know how? You don't know
3 what the deal was?
4 A. I don't know what the specific deal was,
5 but they got bought out, they got some money and they
6 got a carried interest in the island.
7 Q. The island that we're talking about is
8 Little Exuma; is that right?
9 A. Correct.
10 Q. Would you spell Exuma?
11 A. E-X-U-M-A.
12 Q. And where is it located?
13 A. In the Bahamas.
14 Q. Do you know how big the island is?
15 A. Approximately 14- or 1500 acres.
16 Q. Is the interest that AIP Resort
17 Development, LLC, had with respect to the island the
18 whole island or just a piece of it?
19 A. The majority of the island.
20 Q. But not all of it?
21 A. Correct.
22 Q. When did you first hear about that island?
23 A. Some of the partners that were bought out
24 were working on it and it was a project that was
25 brought to them. And I believe it was in 2005, I

1 believe.

2 Q. Who were the persons that were working on
3 that project when you first heard about it?

4 A. Alan Cottle was really the lead.

5 Q. Okay.
6 Who brought him the opportunity?

7 A. I don't know specifically who contacted him
8 first.

9 Q. At the time, was he a partner in AIP?

10 A. He was.

11 Q. Was the opportunity brought to AIP or to
12 Mr. Cottle?

13 A. I don't know that. He brought it in as an
14 AIP opportunity. I don't know how it was presented to
15 him.

16 Q. So you first heard about it from
17 Mr. Cottle?

18 A. Correct.

19 Q. Sometime in 2005?

20 A. Correct.

21 Q. And what did you understand the opportunity
22 to be?

23 A. That we were going to be a lender on it.

24 Q. Who was, AIP?

25 A. AIP.

1 Q. Would lend who?

2 A. AIP would lend -- AIPRD, or whatever the
3 entity in the -- on the island, however they worked out
4 the entities.

5 Q. Would lend AIPRD money for what?

6 A. To buy out a partner and -- I think to buy
7 out a partner. I'm not sure.

8 Q. Who was the partner?

9 A. It wasn't to buy out a partner. It was
10 actually to replace -- it was to buy out a position, I
11 believe, as a mortgage or something.

12 Q. To buy out a mortgage?

13 A. Yes. The money on the island. You'll have
14 to forgive me. I wasn't involved with this headway at
15 all.

16 Q. Your understanding was that somebody had
17 loaned money, secured by a mortgage on the property?

18 A. Correct. And this was replacing that
19 money.

20 Q. And the deal was for AIP to lend AIPRD or
21 whatever the entity ended up being money to discharge
22 that note and the mortgage; is that correct?

23 A. I don't know what the specifics were, but
24 yes, in general.

25 Q. Do you know who it was that had loaned the

1 money?

2 A. Jack Bistricher. I take that back. It
3 wasn't Jack. It was an entity called Hamby, I believe.

4 Q. How is that spelled?

5 A. H-A-M-B-Y.

6 Q. And you understood that entity to be owned
7 or controlled by Jack Bistricher?

8 A. Correct. I don't know how it's owned, but
9 controlled.

10 Q. By Mr. Bistricher?

11 A. Yes.

12 Q. At the time that Mr. Cottle brought this
13 opportunity to you in 2005, were you familiar with Mr.
14 Bistricher?

15 A. No.

16 Q. You had never met him before?

17 A. No.

18 Q. You have met him -- as of today, you've met
19 him, have you not?

20 A. Sure.

21 Q. So what did you -- when Mr. Cottle brought
22 this deal to you, what did you understand that AIPRD or
23 whatever the entity was to whom the money would be lent
24 was going to get as a result of this opportunity?

25 A. Equity interest and some type of return.

1 Q. In the island project?

2 A. Yes.

3 Q. Did AIP decide to go forward with the deal?

4 A. Yes.

5 Q. Did it create an entity through which this

6 deal was going to be done?

7 A. Yes.

8 Q. Was that entity AIPRD, LLC?

9 A. I believe so.

10 Q. Did AIP lend money to AIPRD in connection

11 with that opportunity?

12 A. Yes.

13 Q. Where did AIP get the money to do that?

14 A. I believe some was AIP money and some was a

15 Colony Bank. I don't know what the entity is called,

16 but it was related to Colony Bank.

17 Q. So AIP borrowed the money?

18 A. Correct.

19 Q. And then it loaned it to AIPRD?

20 A. Correct.

21 Q. And are you aware of whether there is

22 documentation with respect to the loan from AIP to

23 AIPRD?

24 A. Yes.

25 Q. And is there such documentation?

1 A. Yes.

2 Q. Is there a note?

3 A. Yes.

4 Q. Is there a trust deed?

5 A. I don't know about a trust deed.

6 Q. Okay.

7 Do you know how much the principal amount

8 of the note was?

9 A. I don't.

10 Q. Do you know approximately?

11 A. I could give you a -- between 5-

12 and \$10,000,000. I don't know what the principal was.

13 Q. Were the funds actually given to AIPRD?

14 A. Yes.

15 Q. Do you know what AIPRD did with the funds?

16 A. I believe the investment loaned it to

17 the -- loaned it to the island, the entity.

18 Q. So AIPRD loaned it to another entity?

19 A. Yes. It was loaned -- AIP loaned it to

20 AIPRD and AIPRD loaned it to whatever the entity is

21 that did the investment on the island.

22 Q. Are you familiar with an entity known as

23 Hermitage Estates, LLC?

24 A. I think that's the -- I think that's the

25 one I'm talking about.

1 Q. And Hermitage Estates has members; right?
2 A. Correct.
3 Q. Is AIPRD a member of Hermitage Estates?
4 A. I believe so.
5 Q. Do you know what percentage it owns?
6 A. I think -- I believe 50 percent.
7 Q. Okay.
8 And who owns the other 50 percent?
9 A. Hamby owns 25 and then a gentleman that I
10 don't know -- he owns it under an LLC. I don't know
11 what the LLC's name is, but it's a gentleman named
12 Barry Silverton, and then there's the other 25 percent.
13 Q. Did AIPRD cause the formation of Hermitage
14 Estates?
15 A. I don't believe so. I think it was an
16 existing entity.
17 Q. So when AIPRD loaned the money to Hermitage
18 Estates, then it became a member of that entity at that
19 point in time?
20 A. That's my understanding. I could be wrong,
21 but I think I'm right.
22 Q. Okay.
23 So I thought what you told me earlier was
24 that the opportunity was for AIPRD to buy out Hamby's
25 position by discharging a note and a mortgage that

1 Hamby had against the property.

2 A. I said to loan the entity money for an
3 equity interest and to pay that and pay off some of the
4 money with that.

5 Q. Did it buy any of -- did it pay off the
6 Hamby loan?

7 A. I believe that's what it was intended to
8 do.

9 Q. Do you know whether, in fact, it did that?

10 A. I don't, because there's ongoing litigation
11 on that.

12 Q. Well, you were the manager of Hermitage
13 Estates, were you not?

14 A. I don't believe so.

15 Q. Would it surprise you to learn that you
16 are?

17 A. Not now. But you're talking about 2005;
18 correct?

19 Q. Right.

20 A. Yes, that would surprise me.

21 Q. Do you know who the manager was at that
22 time of Hermitage Estates?

23 A. I don't. I assume it was Alan Cottle.
24 Alan Cottle and Mike -- the other partners were really
25 the ones that were heavily involved in doing this

1 transaction. I was very limited.

2 Q. And AIP would have been the one that had
3 them involved as managers; is that right?

4 A. Correct.

5 Q. I want to follow up on what happened in
6 this transaction because I'm not really clear about it.

7 A. Okay.

8 Q. My understanding is that at the time that
9 Mr. Cottle first brought the opportunity to AIP, that
10 Hamby had a mortgage on the property to secure
11 repayment of the loan; is that correct?

12 A. I believe so. You're talking about prior
13 to our involvement?

14 Q. Prior to your involvement.

15 Right?

16 A. That was my understanding.

17 Q. And the purpose of AIPRD coming in was to
18 obtain an equity interest by providing money to pay off
19 that Hamby loan; is that correct?

20 A. I believe so.

21 Q. But you don't know whether the Hamby loan
22 was ever paid off?

23 A. No. There's some -- you know, it's in the
24 lawsuit. I mean, Alan Cottle would be able to give you
25 far better detail, but there's some argument in the

1 lawsuit about whether the first was -- all of that
2 stuff.

3 Q. Okay.

4 Is Mr. Cottle still involved in the
5 project?

6 A. No.

7 Q. Why not?

8 A. Like I said, I bought him out and then he
9 just -- all he had was a carried interest in it. So he
10 wasn't involved anymore.

11 Q. Does he have an interest in Hermitage
12 Estates?

13 A. Not to my knowledge.

14 Q. Does he have an interest in AIPRD?

15 A. I believe a carried interest.

16 Q. Does he have a membership interest?

17 A. I don't know how his interest is defined in
18 that. It would be in the documents, in his buyout.

19 Q. I'm just not familiar with the term carried
20 interest, so I'm not sure what you mean by that.

21 A. He has a membership interest. I don't know
22 if there's a different series of class, you know, class
23 A, class B type thing. He has an interest in the
24 AIPRD.

25 Q. Okay.

1 So is it your best understanding, as you
2 sit here today, is that the Hamby note was not paid
3 off?

4 A. No, that's not my understanding. I mean,
5 my understanding is that was the intention when we did
6 it. And clearly, there's a lawsuit because people
7 dispute what actually happened. And I wasn't closely
8 related enough to know.

9 Q. Okay.

10 So is there some dispute internally with
11 Hermitage Estates because you got Hamby claiming that
12 the note wasn't paid off and AIPRD, and probably Barry
13 Silverton, claiming it was?

14 A. Yes. There's a lawsuit from Hamby. I
15 don't know who the parties are on it.

16 Q. Okay.

17 In any event, at such time as AIPRD
18 purchased its 50 percent interest in Hermitage Estates,
19 it became the manager of that entity; is that right?

20 A. Correct.

21 Q. And you believe that Mr. Cottle's the one
22 who probably acted as the manager?

23 A. I don't know who it was at that time. I
24 mean, Alan was the one running everything. So I don't
25 know who was actual manager.

1 Q. When you bought him out, did somebody else
2 become the manager on behalf of AIP?

3 A. I would assume.

4 Q. Do you know who that was?

5 A. I don't.

6 Q. Do you know who in your organization was
7 actively involved in that investment at that point?

8 A. It could have -- it was either myself or
9 Matt Tollis (phonetic) or -- I don't know who it is but
10 my -- I would assume it was either of us.

11 Q. Was the Harry B. Sands, Lobosky & Company
12 law firm you previously identified representing
13 Hermitage Estates in that litigation?

14 A. I don't know if they were representing
15 AIPRD or Hermitage, but yes, they were representing. I
16 just don't know what entity it is.

17 Q. So your best understanding is that Hamby or
18 Jack Bistricher is on the other side of that litigation?

19 A. I believe so.

20 Q. Was payment of the note to Hamby supposed
21 to remove Hamby as a member of Hermitage Estates?

22 A. I don't believe so.

23 Q. Okay.

24 So the 25 percent membership interest of
25 Hamby is in addition to Hamby's interest as a note

1 creditor; is that right?

2 A. I believe so.

3 Q. Have you been involved in any discussions
4 with Mr. Bistricher with respect to settlement of that
5 litigation?

6 A. Alan was really the one that negotiated and
7 handled everything. I have -- since Alan was gone,
8 I've had some discussions with Jack, Mr. Bistricher.

9 Q. When did you buy out Mr. Cottle's interest?

10 A. I can't remember. I can't remember
11 specifically when it was. I want to say 2007.

12 Q. And since that time, then, have you had
13 discussions with Mr. Bistricher about settling that
14 litigation?

15 A. Yes, I have.

16 Q. When was your most recent discussion with
17 him about settling that litigation?

18 A. It's been a while.

19 Q. Were you aware of other litigation with
20 respect to Hermitage Estates' interest in Little Exuma?

21 A. Yes. There's another lawsuit down there.

22 Q. Who is that lawsuit brought by?

23 A. I'm not -- I want to say we're the
24 plaintiffs in it. It's a dispute over the second
25 mortgage.

1 Q. So there is a second mortgage on the
2 property?

3 A. Well, I think that's the dispute, whether
4 there is or there isn't.

5 Q. Okay.
6 The dispute is whether there exists one or
7 not?

8 A. Correct.

9 Q. Do you know who claims to hold the
10 mortgage?

11 A. The second?

12 Q. Yes.

13 A. It's -- I can't remember the entity. It's
14 called the Bow Mortgage, but I'm trying to remember the
15 entity. I can't remember that entity.

16 Q. Can you tell me one of the principals in
17 that entity?

18 A. I believe -- well, I think that's part of
19 the dispute, too, but I don't know who's in that
20 entity. But Eddy Meacham was the individual -- and a
21 gentleman named Herbert Hoyle, who has passed away.
22 He's no longer here.

23 Q. Have you been involved in any discussions
24 with Eddy Meacham or anyone else with respect to
25 settlement of that litigation?

1 A. I have.

2 Q. Have you reached any settlement agreement
3 with them?

4 A. No.

5 Q. Have you reached any settlement agreement
6 with them in concept?

7 A. I mean, no. We talked about doing a lot of
8 things, but no.

9 Q. When was your most recent discussion with
10 Eddy Meacham?

11 A. It's been a while. It's been a long time.

12 Q. Give me some timeframe. That means
13 different things to different people.

14 A. Sure. Last year sometime.

15 Q. Did Mr. Meacham ever advise you that if you
16 would drop the pending lawsuit, that he would pay the
17 Hermitage Estates side of the deal or its principals a
18 sum of \$10 million?

19 A. They proposed a lot of things.

20 Q. Is that one of the proposals?

21 A. But they never kept their word on anything.

22 Q. Was that one of the proposals?

23 A. There was a proposal. I mean, we worked
24 with them on it. That sounds --

25 MR. WRONA: Mark, the question is -- listen

1 to the question and answer the question directly.

2 THE WITNESS: I mean, that sounds like one
3 of them that they proposed.

4 BY MR. WAHLQUIST:

5 Q. Did you agree to the proposal?

6 A. Define that. I mean, we didn't obviously
7 reach an agreement.

8 Q. Well, did they propose to pay you
9 \$10 million conditioned upon dropping this suit against
10 them, number one, and number two, getting -- or
11 prevailing in the Hamby suit?

12 A. We discussed it and never reached any
13 agreement.

14 Q. Why didn't you reach an agreement?

15 A. Because we could never come to terms.

16 Q. What terms about the proposal were not
17 agreed to?

18 A. I don't remember specifically.

19 Q. On the Hermitage Estates' side, who was
20 primarily involved in those negotiations?

21 A. Paul Benson and I believe Jeff Jones.

22 Q. Were you involved in some of those
23 negotiations?

24 A. Might have had a phone call or two, but not
25 much.

1 Q. Who was the decision maker on behalf of
2 Hermitage Estates with respect to those negotiations?
3 Was it Jeff Jones?

4 A. I would have been one of those, but that
5 wasn't the question I understood you asking me. You
6 were asking me who was negotiating, not who was making
7 decisions.

8 Q. So you were the decision maker?

9 A. One of them.

10 Q. Who else?

11 A. I mean, my wife would have been one.

12 Q. Okay.

13 Anybody else?

14 A. No. I mean, we obviously looked to
15 counsel, but no.

16 Q. Would Barry Silverton not have any input
17 into that?

18 A. Oh, sure. I thought you were talking AIP
19 specific. Can you be more specific on some of these?

20 Q. Well, I asked you specifically about
21 Hermitage Estates.

22 A. I'm sorry. I thought you were talking
23 about AIPRD.

24 Q. Was anybody else --

25 A. So, yes, all --

1 Q. -- involved on behalf of Hermitage Estates?
2 A. All of the managers would have had -- would
3 have, at the end of the day, had to sign off.
4 Q. And who were the managers?
5 A. I don't know who was the managers, but the
6 members.
7 Q. And so all the members would have had to
8 sign off?
9 A. Sorry. Yes.
10 Q. So any deal that you had, both Barry
11 Silverton and Hamby would have had to agree to?
12 A. Correct.
13 Q. Did you involve them in the negotiations?
14 A. I don't know if we did because it didn't
15 get to that point.
16 Q. Was your plan to negotiate a deal and then
17 take it to them for their approval?
18 A. Correct.
19 Q. And it got to the point of taking it to
20 them for their approval?
21 A. No.
22 Q. So you deny under oath that there was a
23 deal reached with Eddy Meacham?
24 MR. WRONA: Objection. Vague and
25 ambiguous.

1 BY MR. WAHLQUIST:

2 Q. Do you deny under oath that there was a
3 settlement reached with Eddy Meacham conditioned upon
4 your resolving the Hamby lawsuit?

5 A. I mean, I don't know how to answer that.
6 We were trying to get to terms and we didn't.
7 Therefore, there was obviously no settlement reached.

8 Q. Okay.

9 And that's your testimony?

10 A. Yes.

11 Q. So as far as you're concerned as of today,
12 Hermitage Estates is still on title to this property at
13 Little Exuma?

14 A. Yes.

15 MR. WRONA: Objection to the extent it
16 calls for a legal conclusion.

17 BY MR. WAHLQUIST:

18 Q. And your understanding is there is a
19 lawsuit with respect to the Hamby mortgage; right?

20 A. Yes. Correct.

21 Q. Then there's also this other lawsuit with
22 respect to the Bow Mortgage?

23 A. Correct.

24 Q. Have you, at any time, become aware of any
25 appraisal or valuation of Hermitage Estates' interest

1 in the Little Exuma property?

2 A. We have appraisals on them.

3 Q. What are those appraisals?

4 A. There was a Standard & Poor appraisal at

5 160 million. There was some other company, I can't

6 remember the name of it, that was approximate, same

7 type value.

8 Q. Is that a value as developed or as raw

9 ground?

10 A. I think there was different -- there was

11 different conditions in it. I think there was an as

12 is. There was partial development. I don't

13 specifically remember, but there was like different

14 prices within it.

15 Q. So is the 160 million --

16 A. That wasn't fully developed, definitely no.

17 Q. Was it partially developed or was it raw

18 ground?

19 A. I don't know. I believe it was a -- it

20 wasn't without anything being built on it, I don't

21 believe.

22 Q. You say it was not without anything being

23 built on it?

24 A. Correct.

25 Q. So it presumed some development?

1 A. No, it did not, I believe.

2 Q. So the valuation is assuming no additional
3 development on it?

4 A. Yes. I think it was like selling them as
5 lots, paper-like-type lots. You'll have to look at the
6 appraisal. It breaks it down, I think, very detailed.

7 Q. Is a copy of that appraisal in the
8 materials that are at your office?

9 A. I'm sure we definitely have it.

10 Q. Do you know approximately -- the
11 approximate amount of the Hamby mortgage?

12 A. I don't.

13 Q. You can't give me any range?

14 A. Well, you just said the mortgage, like
15 right now or back then? I'm sorry.

16 Q. Well, if you want to give me --

17 A. Well, part of the dispute is because I
18 thought it was paid; right.

19 Q. Right.

20 Do you know the amount that Hamby claims is
21 owned under its mortgage?

22 A. I don't know how much they claim. I think
23 the mortgage was somewhere in between 5- and
24 \$10,000,000, I think.

25 Q. And that amount supposedly was paid over to

1 them as a result of the AIPRD investment; is that
2 right?

3 A. Correct.

4 Q. So some amount less than that would be what
5 they claim is still owed, or you just don't know?

6 A. I don't know.

7 Q. Do you know the amount of Bow Mortgage?

8 A. I think they claim -- it's a range, but I
9 think it's somewhere around \$3 million or something.

10 Q. So if the property were really worth \$160
11 million, then there would be quite a bit of equity left
12 in it; is that right?

13 A. Sure.

14 Q. Have you made any attempt to find investors
15 to buy out the Bow Mortgage?

16 A. Well, you're asking questions that are
17 involved in the lawsuit, that part of the -- part of
18 the lawsuit down there is something to do with that,
19 that actual money was tendered for them. So I'm
20 stating that they even have a mortgage.

21 Q. Okay.

22 So part of the dispute, as you understand
23 it, is whether or not the mortgage should have already
24 been paid off?

25 A. Correct.

1 Q. Was the Harry B. Sands, Lobosky & Company
2 firm representing Hermitage Estates in that litigation
3 as well?

4 A. I'm not sure. I believe so.

5 Q. Do you know what the status of either
6 pieces of litigation is at present?

7 A. I do not.

8 Q. Well, if there's an asset there that's
9 worth \$160 million, isn't somebody managing that or
10 taking care of it at this point?

11 A. Well, Jeff Jones -- when you're saying
12 before you foreclose on interest? Be more specific.
13 Right now, it was up until Paul Benson and Jeff Jones
14 who communicated with --

15 Q. Up until what time?

16 A. Well, until all of this stuff happened.

17 Q. You mean some time ago, our client
18 foreclosed against AIP's interest in AIPRD?

19 A. Yes.

20 Q. Is that the event you're talking about when
21 you say "up until that time"?

22 A. Correct.

23 Q. So since that time, from your standpoint,
24 nobody has been involved in that relationship?

25 A. No, I -- I would assume not. I think

1 the -- I think the attorneys down there were trying to
2 reach out and contact people.

3 Q. Okay.

4 When was the last time you've talked with
5 Barry Silverton?

6 A. It was a while ago. Probably last year.

7 Q. When was the last time you talked with Jack
8 Bistricher?

9 A. It's been a while. This year.

10 Q. Did you talk with him this year about
11 resolution of the Hamby litigation?

12 A. We talk about a lot of different stuff.

13 Q. Including that?

14 A. I can't remember specifically. I think he
15 was asking me what was going on.

16 Q. Where were you the last time you spoke with
17 Mr. Bistricher?

18 MR. WRONA: If you know.

19 THE WITNESS: Where was I?

20 BY MR. WAHLQUIST:

21 Q. Yes.

22 A. I don't know.

23 Q. Did you do it in person or over the
24 telephone?

25 A. Phone.

1 Q. When was the last time you met with him in
2 person?

3 A. I don't recall.

4 Q. Was it this year?

5 A. I'm trying to think. I don't recall.

6 Q. Is it your understanding that Mr. Bistricher
7 is interested in resolving the Bow litigation as well?

8 MR. WRONA: Objection to the extent it
9 calls for speculation.

10 THE WITNESS: I mean, I don't know his --
11 what his intentions are.

12 BY MR. WAHLQUIST:

13 Q. He has a 25 percent interest in Hermitage
14 Estates; right?

15 A. Sure.

16 Q. And if Hermitage Estates owns a piece of
17 Little Exuma Island, you would anticipate he would have
18 some concern about the Bow litigation, would you not?

19 MR. WRONA: Objection to the extent it
20 calls for speculation. And objection, the question is
21 argumentative.

22 BY MR. WAHLQUIST:

23 Q. You may answer the question.

24 A. I have no idea what Jack's intentions are.

25 Q. I didn't ask you his intentions, I asked --

1 A. You asked my opinion.

2 Q. I was asking you whether he was interested
3 in -- has he expressed to you interest in the outcome
4 of the Bow litigation?

5 A. Not recently.

6 Q. Has he at any time?

7 A. Sure. I mean, at one point I think
8 everybody wanted -- you know, obviously, who has an
9 interest in this wants to turn it into something.
10 Sure.

11 Q. When is the last time you've talked with
12 anybody regarding Little Exuma Island and Hermitage's
13 interest in it?

14 MR. WRONA: And that question does not
15 include conversations with your attorneys.

16 THE WITNESS: I don't recall. I mean, I --
17 you know, I mean, obviously, I would like to see
18 something happen there, you know, so I don't -- I don't
19 recall.

20 BY MR. WAHLQUIST:

21 Q. Do you currently have any legal counsel you
22 have engaged personally to assist you in connection
23 with the Little Exuma Island issue?

24 A. I don't, because Jeff -- I mean, unless --
25 Durham-Jones was always the counsel.

1 Q. Does AIP currently have anybody engaged as
2 legal counsel to help them in connection with that
3 island?
4 A. I don't know.
5 Q. Does AIPRD?
6 A. I don't know.
7 Q. Does Hermitage Estates?
8 A. I don't know.
9 Q. What debts are you aware of that AIPRD has?
10 A. Colony.
11 Q. That's the loan that you talked about
12 whereby funds were obtained in order to lend the money
13 to Hermitage Estates?
14 A. Correct.
15 Q. I thought you told me that AIP was the one
16 that took out that loan and that it loaned the money to
17 AIPRD.
18 A. Correct. I don't know the -- how the money
19 flowed through, but I'm talking about -- however it
20 ended up, that's a debt, the Colony debt.
21 Q. So it may be that AIP is the one that owes
22 the debt and that AIPRD owes AIP?
23 A. Yeah, I don't know legally how that is.
24 Q. Who dealt with the documentation on that?
25 A. Jones. Jeff Jones.

1 Q. Okay.
2 Do you know the amount of that obligation?
3 A. I don't.
4 Q. Do you have an approximate amount of that
5 obligation?
6 A. I think I stated earlier in my testimony.
7 Q. And it was the 5 to 10 million?
8 A. Yes.
9 Q. Has that not been paid back in any part?
10 A. It might have. I don't know what the note
11 is -- I don't know what the total amount owing is.
12 Q. Any other obligations of AIP that you're
13 aware of?
14 A. Yes, to AIP.
15 Q. How much is that debt?
16 A. I don't know.
17 Q. How would one determine that?
18 A. By the documents Jeff did and then by the
19 accounting on what was put in.
20 Q. What do you mean, "what was put in"?
21 A. Like what AIP advanced AIPRD.
22 Q. Was there some kind of ledger that would
23 have that information in it?
24 A. Yes.
25 Q. You've seen the ledger?

1 A. I've seen different accountings of it, yes.
2 Q. Was that accounting kept at the offices of
3 AIP?
4 A. I believe so, yes.
5 Q. Any other debts you're aware of that AIPRD
6 has?
7 A. Not that I'm aware of.
8 Q. Did AIPRD ever have any debt obligations to
9 Durham, Jones & Pinegar?
10 A. Pardon me?
11 Q. Durham, Jones & Pinegar.
12 A. Did you say AIP or AIPRD?
13 Q. I said AIPRD.
14 A. Directly?
15 Q. Yes.
16 A. Sure.
17 Q. So AIPRD hired Durham-Jones?
18 A. They were an attorney for them, yes.
19 Q. Does AIPRD owe Durham-Jones any money?
20 A. They do.
21 Q. How much?
22 A. I don't know.
23 Q. How would we find that out?
24 A. I believe they recorded a lien. You would
25 call Jeff Jones. I'm sure he would provide you with

1 stuff.

2 Q. Does AIPRD owe AD Capital any money?

3 A. No. In my opinion, no.

4 Q. Are you familiar with an entity known as AD
5 Capital?

6 A. I am.

7 Q. Why do you -- I've seen a UCC-1 that Jeff
8 Jones supposedly was involved in that shows some
9 obligation to AD Capital.

10 A. I don't believe it's real.

11 Q. Meaning you don't think Jeff Jones created
12 it?

13 A. No. I don't believe AD Capital -- that
14 it's a real UCC-1 -- UC-1 backed up with real money
15 behind it.

16 Q. Did AD Capital ever loan any money to AIP
17 or AIPRD?

18 A. No.

19 Q. Have they ever given money to AIP or AIPRD?

20 A. I was entered into a transaction with them
21 and we were both putting money into it. And so there
22 were some funds, but not a significant amount.

23 Q. What was the transaction?

24 A. I was going to partner up with this
25 individual and he was bringing us a significant amount

1 of capital into it.

2 Q. What were you partnering up for?

3 A. Just exactly that. He was bringing in --

4 he was going to bring a large number of -- I can't

5 remember, in between 10 and \$15 million into it and

6 become a partner in AIP.

7 Q. In AIP itself?

8 A. I don't know what the entity was, but it's

9 part of the transactions of AIP.

10 Q. What was the project or projects this

11 investment was to be for?

12 A. Exuma was one.

13 Q. Okay.

14 A. It was to start new businesses. It was

15 to -- it was just a venture deal.

16 Q. Okay.

17 You don't remember -- was there a special

18 entity formed to do that?

19 A. I believe there was.

20 Q. Do you remember what it's called?

21 A. Jeff would know. Canvas something.

22 Q. So AD Capital, then, was to put some money

23 in to gain membership interest in this Canvas outfit?

24 A. Correct.

25 Q. And you were putting some money in as well?

1 A. No. I wasn't required to.

2 Q. Okay.

3 So you were going to be a member?

4 A. Yes.

5 Q. And was it you personally or was it AIP?

6 A. I don't know. My wife was going to be a

7 member. I was going to be -- I can't remember

8 specifically, but it was -- you know, I was going to be

9 involved with it.

10 Q. Do you recall approximately how much AD

11 Capital put into that Canvas entity?

12 A. We never actually -- I don't recall. I

13 don't -- we never -- I don't believe the transaction

14 ever consummated because they didn't ever -- he didn't

15 ever raise the money.

16 Q. He certainly never came up with the 5 to 10

17 million; right?

18 A. Ten to fifteen.

19 Q. Ten to fifteen million?

20 A. Right. No.

21 Q. I think at least the documentation I've

22 seen, he seems to claim somewhere in the neighborhood

23 of 500,000 to \$600,000.

24 A. Not even close.

25 Q. Never put that in?

1 A. No. In my opinion, that's completely
2 fraudulent.

3 Q. Do you know how much he put in?

4 A. I don't. I'm sure I can get an accounting
5 of it.

6 Q. What happened to that money?

7 A. That he put in?

8 Q. Yes.

9 A. I think some bills were paid.

10 Q. Do you know for what?

11 A. I don't know specifically.

12 Q. Did the Canvas entity ever do any business?

13 A. No.

14 Q. So what bills did it have that were paid
15 with the AD Capital money?

16 A. I don't know if they were specifically
17 Canvas bills. That's why I said to you I don't believe
18 their claim at all.

19 Q. Okay.

20 However much was put in, it was put in to
21 purchase a membership interest in Canvas; is that
22 right?

23 A. Correct. Well, see, this is where they
24 were supposed to put in the 10 to 15 million.

25 Q. Which they never did?

1 A. Which they never did. That's why I argue
2 that the whole thing -- you know, I've seen that
3 lawsuit. I think it's crap.
4 Q. Is there a lawsuit on that now?
5 A. Yes. Well, I thought. I thought they
6 tried to enforce a -- their UC-1 or whatever, to you.
7 Q. I think I've heard that. I'm not aware
8 of -- okay.
9 A. That's what I'm talking about. I'm sorry.
10 I don't --
11 Q. Okay.
12 There was a recent -- there was some recent
13 lawsuit filed to try and obtain some injunction. Is
14 that kind of what you're talking about?
15 A. Yes.
16 Q. Okay.
17 I'm aware of that suit. But your point is
18 that whatever was -- the money that was put in was to
19 buy a membership interest in the Canvas entity?
20 A. Correct.
21 Q. And they never fully funded what they were
22 supposed to fund?
23 A. No.
24 Q. And Canvas never did any business?
25 A. No.

1 Q. And whatever money they did put in was used
2 to pay some bills of some entity?

3 A. Correct.

4 Q. And you don't think AIPRD had any business
5 transactions with AD Capital; is that correct?

6 A. They were attempting to. That would have
7 been part of the total -- you know, the transaction,
8 the total transaction.

9 Q. That never closed?

10 A. Yes, but it never happened.

11 Q. Do you know of any assets AIPRD has other
12 than its interest in Hermitage Estates?

13 A. I don't.

14 Q. Are you familiar with an entity called 1033
15 QMC, LLC?

16 A. Ten what?

17 Q. 1033 QMW, LLC.

18 A. No. 1033? That sounds like my old address
19 in Park City.

20 Q. But you don't know anything about that
21 entity?

22 A. I may. It doesn't -- not what you're
23 asking me, no.

24 Q. We talked a little bit about AIP Lending,
25 LLC. Does it have any assets that you're aware of?

1 A. I don't know.

2 Q. Are you aware of anybody that owes any
3 money to AIP Lending, LLC?

4 A. Say that again.

5 Q. Are you aware of any person or entity that
6 owes any money to AIP Lending, LLC?

7 A. No.

8 Q. Are you aware of anybody that owes any
9 money to AIP Resort Development, LLC?

10 A. None that I can -- well, I believe
11 Hermitage.

12 Q. Does Hermitage owe money to AIPRD?

13 A. My understanding is that the money that
14 went in is -- went in as a loan.

15 Q. I see.

16 A. And so I believe Hermitage owes AIPRD
17 money.

18 Q. Okay.

19 A. That's my understanding.

20 Q. Besides that, AIPRD received a membership
21 interest for facilitating the loan; is that right?

22 A. Correct.

23 Q. Are you aware of any entity other than
24 Hermitage Estates that owes AIPRD money?

25 A. I'm sorry. Say it again.

1 Q. Are you aware of any person or entity,
2 other than Hermitage Estates, that owes AIPRD money?
3 A. Not that I can think of right now.
4 Q. Are you aware of an entity named AIP
5 Management, LLC?
6 A. Sounds familiar.
7 Q. Do you know what its business is?
8 A. I don't.
9 Q. Do you know whether it's a subsidiary of
10 AIP?
11 A. I don't. I assume it is.
12 Q. Does it have any assets?
13 A. None that I know of. I don't know.
14 Q. Is it doing any business currently?
15 A. No.
16 Q. What did it do when it was in business?
17 A. I don't know.
18 Q. Are you aware of an entity known as AIP
19 Securities, LLC?
20 A. Yes.
21 Q. Is that entity a subsidiary of AIP?
22 A. I believe it is.
23 Q. What was its business?
24 A. I don't know.
25 Q. Do you know whether it has any assets?

1 A. I don't.
2 Q. Are you the manager of that entity?
3 A. I don't know.
4 Q. Do you know of anybody that owes any money
5 to AIP Management, LLC?
6 A. I don't.
7 Q. Do you know anybody that owes any money to
8 AIP Securities, LLC?
9 A. I don't.
10 Q. Are you familiar with an entity known as
11 AIP/EM Development, LLC?
12 A. EM?
13 Q. Yes.
14 A. I'm not.
15 Q. Are you familiar with an entity called
16 MadWagon.com, LLC?
17 A. I am.
18 Q. How are you familiar with that entity?
19 A. I used to be involved with that ten years
20 ago.
21 Q. What was its business?
22 A. Bikes.
23 Q. Pardon?
24 A. Selling bikes.
25 Q. For what?

1 A. College campuses.

2 Q. Just bicycles as opposed to motorcycles?

3 A. Yes.

4 Q. Is its business a largely Internet

5 business?

6 A. A large portion. I was bought out of that

7 entity.

8 Q. By whom?

9 A. Grand Way, USA, I believe.

10 Q. Was this an entity in which you were a

11 member at one time?

12 A. No. I was never part of it.

13 Q. Whose interest was bought out by Grand Way?

14 A. I was either bought out then, I can't

15 remember, it was ten years ago, or the entity

16 controlled by David Spafford.

17 Q. What was it called?

18 A. I can't remember what his entity was

19 called.

20 Q. Did you have an interest in that entity?

21 A. Mad Wagon?

22 Q. You said you didn't have an interest in Mad

23 Wagon; right?

24 A. No, I said I did at one point and I was

25 bought out.