

EXHIBIT

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CONFIDENTIAL - FREDERICK E. CHIN
SUPREME COURT OF THE STATE NEW YORK
COUNTY OF NEW YORK

08:38:17

PEOPLE OF THE STATE OF : Index No.
NEW YORK, : 452564/2022
Plaintiff, :
:
v. :
:
DONALD J. TRUMP, et al., :
Defendant. :
----- :

VIDEOTAPE DEPOSITION OF:
FREDERICK E. CHIN
NEW YORK, NEW YORK
WEDNESDAY, JULY 26, 2023

REPORTED BY:
SILVIA P. WAGE, CCR, CRR, RPR

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CONFIDENTIAL - FREDERICK E. CHIN

July 26, 2023

9:40 a.m.

Videotape deposition of FREDERICK E.
CHIN, held at the OFFICE OF THE ATTORNEY GENERAL,
28 Liberty Street, Sheila Abdus-Salaam Conference
Room, 16th Floor, New York, New York, pursuant to
agreement before SILVIA P. WAGE, a Certified
Shorthand Reporter, Certified Realtime Reporter,
Registered Professional Reporter, and Notary
Public for the States of New Jersey, New York and
Pennsylvania.

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1 CONFIDENTIAL - FREDERICK E. CHIN

2 THE VIDEOGRAPHER: Good morning. We 09:40:12
3 are going on the record at 9:40 a.m., on July 26, 09:40:17
4 2023. 09:40:24

5 Please note that the microphones are 09:40:24
6 sensitive and may pick up whispering and private 09:40:27
7 conversations. 09:40:29

8 Please mute your phones at this time. 09:40:30
9 Audio and video recording will continue to take 09:40:34
10 place unless all parties agree to go off the 09:40:36
11 record. 09:40:39

12 This is Media Unit 1 of the video 09:40:39
13 recorded deposition of Frederick Chin in the 09:40:42
14 matter of the people of the State of New York 09:40:45
15 versus Donald J. Trump, et al., filed in the 09:40:48
16 Supreme Court of the State of New York, Index 09:40:54
17 No. 452564/2022. 09:40:57

18 The location of the deposition is the 09:41:05
19 Office of the Attorney General. 09:41:07

20 My name is John DiFilippo 09:41:08
21 representing Veritext and I am the Videographer. 09:41:09

22 The Court Reporter is Silvia P. Wage 09:41:12
23 from the form of Veritext. 09:41:15

24 I am not authorized to administer an 09:41:16
25 oath. I am not related to any party in this 09:41:18

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2 action. Nor am I financially interested in the 09:41:20

3 outcome. 09:41:22

4 If there are any objections to 09:41:23

5 proceeding, please state them at the time of your 09:41:24

6 appearance. 09:41:27

7 Counsel and all present will now 09:41:27

8 state their appearances and affiliations for the 09:41:29

9 record beginning with the noticing attorney. 09:41:31

10 MR. GABER: For the New York State 09:41:33

11 Office of the Attorney General, Assistant 09:41:34

12 Attorney General Sherief Gaber. 09:41:37

13 MR. LADOV: For the Office of the 09:41:41

14 Attorney General, Mark Ladov. 09:41:43

15 SAMANTHA STERN: Samantha Stern, 09:41:45

16 Legal Analyst with the New York State Attorney 09:41:46

17 General. 09:41:49

18 MILES SILVERSTEIN: Miles 09:41:49

19 Silverstein, Intern with the office of the 09:41:50

20 Attorney General. 09:41:51

21 MR. FARINA: Good morning. Michael 09:41:51

22 Farina on behalf of Defendants, Donald Trump, 09:41:52

23 Jr., and Eric Trump. 09:41:54

24 MS. LIBERCHUK: Viktoriya Liberchuk 09:41:56

25 on behalf of Defendants Donald Trump, Jr., and 09:41:57

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2 Eric Trump. 09:42:01

3 MR. MORIAN: Armen Morian, Morian Law 09:42:02

4 PLLC, for President Trump and all the entity 09:42:04

5 Defendants. 09:42:06

6 THE VIDEOGRAPHER: Okay. Will the 09:42:07

7 Court Reporter please swear in the witness and 09:42:08

8 then Counsel may proceed. 09:42:10

9 THE STENOGRAPHER: Sir, if you can
10 please raise your right hand.

11 FREDERICK E. CHIN, CIRA, CTP, CRE, MAI,

12 Ankura, (Home Address) REDACTED

13 REDACTED, after

14 having been duly sworn, was examined and

15 testified as follows: 09:42:16

16 THE STENOGRAPHER: Thank you. 09:42:16

17 You may proceed. 09:42:17

18 MR. FARINA: Just before we start. 09:42:19

19 I'm having with a problem with the realtime. Can 09:42:20

20 we just... 09:42:20

21 (There is a discussion off the 09:42:20

22 record.) 09:42:20

23 EXAMINATION BY MR. GABER: 09:42:40

24 Q. Good morning, Mr. Chin. 09:42:40

25 Can you please state your name and 09:42:41

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2 business address for the record? 09:42:43

3 A. Frederick Elliot Chin. My address is 09:42:44

4 REDACTED 09:42:49

5 REDACTED 09:42:56

6 MR. FARINA: And, Sherief, sorry to 09:42:57

7 interrupt, before we starting the questioning of 09:42:58

8 Mr. Chin... 09:43:01

9 [STIPULATION] In accordance with the 09:43:01

10 other depositions, an objection for one Defendant 09:43:03

11 is an objection for all, correct? 09:43:04

12 MR. GABER: It's fine by me. 09:43:06

13 MR. FARINA: Thank you. 09:43:07

14 Q. Mr. Chin, have you testified under 09:43:08

15 oath before? 09:43:10

16 A. Yes. 09:43:11

17 Q. So I will skip some of the 09:43:11

18 perfunctories in the process. But I will go over 09:43:14

19 some of the general ground rules. 09:43:17

20 In order for us to have a clear 09:43:18

21 record, I'll ask you that you allow me to finish 09:43:20

22 each question before you begin your answer. I 09:43:23

23 will try to make sure that you have finished your 09:43:24

24 answer before I ask my next question. 09:43:26

25 Likewise, I will try to speak slowly 09:43:28

1 CONFIDENTIAL - FREDERICK E. CHIN

2 and clearly for the Court Reporter. I ask that 09:43:33

3 you do the same. No gestures because that 09:43:35

4 doesn't get picked up in the stenographic record. 09:43:36

5 We'll take breaks at reasonable 09:43:39

6 times. I think we can do it on your schedule. 09:43:41

7 If you need to take a break, just let me know and 09:43:46

8 we'll accommodate you. As long as there is no 09:43:49

9 pending question, we can take a break. If there 09:43:52

10 is a pending question, I'll ask that you provide 09:43:54

11 an answer and then we can break. 09:43:56

12 We've premarked two exhibits today, 09:43:58

13 Exhibit 1 is the expert report or Summary of 09:44:02

14 Opinions of Frederick Chin May 26, 2023. 09:44:05

15 (Deposition Exhibit Chin 1, Summary 09:44:05

16 of Opinions of Frederick Chin dated May 26, 2023, 09:44:05

17 was marked for identification.) 09:44:09

18 MR. GABER: Exhibit 2 is the Expert 09:44:09

19 Report Rebuttal of Frederick Chin June 30, 2023. 09:44:11

20 (Deposition Exhibit Chin 2, Expert 09:44:11

21 Report Rebuttal of Frederick Chin dated June 30, 09:44:11

22 2023, was marked for identification.) 09:44:16

23 Q. Mr. Chin, you are familiar with these 09:44:16

24 documents? 09:44:18

25 A. Yes, I am. 09:44:18

1 CONFIDENTIAL - FREDERICK E. CHIN

2 Q. You wrote these documents yourself? 09:44:19

3 A. I did. 09:44:21

4 Q. We'll get into that more but... 09:44:22

5 What did you do to prepare for 09:44:26

6 today's deposition Mr. Chin? 09:44:29

7 A. I read my reports. I read the 09:44:33

8 reports of certain of the Plaintiff's expert 09:44:37

9 witnesses, namely, Mr. Korologos, Mr. Hirsh and 09:44:44

10 Mr. Lewis. I reviewed the original complaint 09:44:50

11 filed by your office. I think I looked at some 09:44:55

12 of the documents that I relied on and that was 09:45:04

13 the extent of my review. 09:45:20

14 Q. Did you review any documents that you 09:45:23

15 had not reviewed in the preparation of your 09:45:25

16 report in preparing for today's deposition? 09:45:26

17 A. No. 09:45:29

18 Q. Did you meet with Counsel for 09:45:31

19 Defendants in preparation for your deposition? 09:45:32

20 MR. FARINA: Just for the record, Mr. 09:45:34

21 Chin, there is an order in place that directs you 09:45:36

22 not to disclose oral or written communications 09:45:37

23 among you, Counsel and other experts. To the 09:45:41

24 extent you can answer the question without 09:45:43

25 running afoul of the order, you're welcome to do 09:45:45

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2 so. 09:45:47

3 A. I did have two occasions to meet with 09:45:48

4 or discuss on the phone with Counsel. 09:45:54

5 Q. When was the first meeting or phone 09:46:00

6 conversation? 09:46:03

7 A. I don't recall the specific date, but 09:46:06

8 it was this past Saturday. 09:46:08

9 Q. Okay. Was anyone there present apart 09:46:10

10 from the attorney -- from Counsel? 09:46:13

11 A. It was a phone call and, I believe, 09:46:16

12 it was only Counsel. 09:46:19

13 Q. Okay. For, approximately, how long 09:46:20

14 did that phone call last? 09:46:23

15 A. Approximately, 45 to 50 minutes. 09:46:26

16 Q. Okay. And what did you discuss 09:46:31

17 during that phone conversation? 09:46:34

18 MR. FARINA: I just object to that. 09:46:35

19 To the extent, again, that the 09:46:37

20 witness -- well, I just caution the witness not 09:46:39

21 to reveal any -- the substance of any 09:46:44

22 communications that he had with Counsel. There 09:46:46

23 is an order in place that directs you not to 09:46:47

24 disclose any oral or written communications that 09:46:49

25 you had with Counsel or any experts. And to the 09:46:51

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2 extent you can answer that question, you know, 09:46:55

3 without running afoul of the order, you're 09:46:56

4 welcome to do so. 09:46:59

5 A. We discussed the general process of 09:47:00

6 how the deposition would take place. Some of the 09:47:04

7 -- 09:47:04

8 MR. FARINA: I'm just going to object 09:47:12

9 to that. I mean, the substance of the 09:47:13

10 conversations that he had with Counsel are 09:47:15

11 privileged. 09:47:16

12 MR. GABER: He's -- I'm sorry. Are 09:47:17

13 you directing him not to answer? 09:47:18

14 MR. FARINA: I'm not directing him 09:47:19

15 not to answer the question. I'm just, again, 09:47:21

16 reminding the witness -- 09:47:22

17 MR. GABER: You made your objection, 09:47:23

18 Mr. Farina, and then he answered. We can let him 09:47:24

19 finish his answer. 09:47:27

20 MR. FARINA: I'm just cautioning the 09:47:27

21 witness not to violate an order. 09:47:28

22 A. Mostly about just the process and 09:47:32

23 procedure of this deposition. 09:47:35

24 Q. Okay. Have you discussed the 09:47:37

25 substance of your deposition testimony with 09:47:39

CONFIDENTIAL - FREDERICK E. CHIN		
1		
2	anyone apart from Counsel?	09:47:41
3	A. No.	09:47:45
4	Q. Oh, I forgot to ask.	09:47:48
5	There was a second meeting or phone	09:47:50
6	call you said.	09:47:52
7	A. Actually, it was this morning.	09:47:52
8	Q. This morning?	09:47:54
9	A. Just getting together before coming	09:47:55
10	here.	09:47:58
11	Q. Okay. Did you -- how long was that	09:47:58
12	meeting?	09:48:03
13	A. It was over breakfast, so it was	09:48:04
14	maybe 45 minutes an hour.	09:48:08
15	Q. What did you have?	09:48:12
16	A. Avocado toast with salmon.	09:48:15
17	Q. Okay.	09:48:18
18	A. Couple poached eggs, I think.	09:48:18
19	Q. Good.	09:48:20
20	So, Mr. Chin, who retained you to	09:48:24
21	serve as an expert witness in this case?	09:48:26
22	A. I was retained by Ankura.	09:48:30
23	Q. And who is Ankura?	09:48:36
24	A. Ankura is a consulting firm that	09:48:38
25	provides, I believe, a variety of advisory	09:48:44

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2 services to various industries. 09:48:49

3 Q. And are you a contractor of Ankura or 09:48:54

4 can you describe your relationship professionally 09:48:59

5 with Ankura? 09:49:01

6 A. I am an independent contractor to 09:49:02

7 Ankura. 09:49:06

8 Excuse me. 09:49:09

9 Q. Individually or through CPG Advisors 09:49:10

10 LLC? 09:49:16

11 A. Through CPG Advisors, which is my 09:49:16

12 company. 09:49:18

13 Q. Your company. 09:49:18

14 How many people are employed by CPG 09:49:19

15 Advisors? 09:49:22

16 A. Just one, myself. 09:49:22

17 Q. Okay. When were you first contacted 09:49:23

18 by Ankura about potentially serving as an expert 09:49:29

19 witness in this case? 09:49:32

20 MR. FARINA: Object to the form. 09:49:35

21 A. I believe I was contacted sometime in 09:49:38

22 February. It might have been March. I don't 09:49:43

23 recall. 09:49:47

24 Q. Do you remember who contacted you? 09:49:47

25 A. Yes. 09:49:49

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2 Q. Can you tell me who that was? 09:49:51

3 A. Michael Criscito at Ankura. 09:49:53

4 Q. Can you just spell his name? Do you 09:50:00
5 know how? 09:50:01

6 A. Certainly; C-R-I-S-C-I-T-O. 09:50:01

7 Q. At what point were you formally 09:50:10
8 retained then? 09:50:12

9 A. I believe I was verbally told I would 09:50:18
10 be retained as an expert before the contract 09:50:25
11 processing part that was done by Ankura. 09:50:32

12 Q. When you were "verbally told" you 09:50:38
13 would be retained as an expert? 09:50:41

14 A. I believe it was sometime in the 09:50:44
15 February or March period. I'm sorry, I don't 09:50:46
16 recall specific date. 09:50:49

17 Q. That's okay. That is enough for me. 09:50:51

18 So Paragraph 20 of your report -- and 09:50:54
19 I'll refer to your May 26, 2023 report as your 09:51:01
20 "report" and the June 30, 2023 rebuttal report as 09:51:06
21 the "rebuttal report," just for shorthand; is 09:51:14
22 that okay? 09:51:17

23 A. Yes. 09:51:17

24 Q. Okay. 09:51:18

25 MR. FARINA: Sherief, so it's clear 09:51:19

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2 for the record, when you refer to the "report" 09:51:21

3 that's Exhibit 1, and when you refer to the 09:51:22

4 "rebuttal report," that's Exhibit 2, correct? 09:51:25

5 MR. GABER: That's correct. Yeah. 09:51:26

6 MR. FARINA: Okay. 09:51:28

7 Q. So, in Paragraph 20, at the bottom of 09:51:33

8 Page 6 in relevant part it says, "Ankura bills 09:51:36

9 fees and expenses in this matter are based on 09:51:38

10 hourly rates and expenses incurred. Ankura is 09:51:41

11 being compensated for my time at a rate of \$850 09:51:43

12 per hour and for the time of other staff members 09:51:47

13 assisting on this engagement at hourly rates 09:51:52

14 ranging from \$395 to \$925." 09:51:54

15 Do you see that? 09:51:58

16 A. Yes. 09:51:59

17 Q. Okay. And how much do you retain 09:52:00

18 from the rate at which Ankura is being 09:52:04

19 compensated for your time? 09:52:07

20 MR. FARINA: Objection to form. 09:52:10

21 A. I am compensated or CPG is 09:52:12

22 compensated at an hourly rate of \$550 an hour. 09:52:17

23 Q. And is that the same rate that you 09:52:22

24 charge for all of your engagements? 09:52:24

25 A. It varies. 09:52:28

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2 Q. Can you describe the ways in which it 09:52:31

3 "varies"? 09:52:35

4 A. Yeah. So, for example, on one 09:52:39

5 assignment, I have worked as a subcontractor to 09:52:43

6 another company where I'm billing out at a 09:52:47

7 certain hourly rate, which is higher but is 09:52:51

8 offset by a retainer, if you will. And, in that 09:52:55

9 particular instance, there was a success fee that 09:53:01

10 I also participated in. So it wasn't a pure 09:53:03

11 hourly rate situation. 09:53:07

12 In another situation, it was the same 09:53:12

13 arrangement where I was on retainer and I billed 09:53:18

14 against, essentially, the retainer at a certain 09:53:24

15 hourly rate and then there was no success fee in 09:53:27

16 that situation. 09:53:30

17 Those are the two most recent 09:53:33

18 examples of contracting work that I have done. 09:53:36

19 Q. Okay. Is there a success fee in your 09:53:41

20 current engagement? 09:53:47

21 A. No. 09:53:49

22 Q. Can you estimate how many hours you 09:53:51

23 spent preparing your expert report? 09:53:53

24 A. I -- I'm not sure. I haven't added 09:53:59

25 it all up. 09:54:04

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2 Q. Roughly? 09:54:05

3 A. Maybe -- probably something north of 09:54:17

4 6 or 700 hours. 09:54:33

5 Q. And have other people worked on your 09:54:36

6 engagement with you? 09:54:45

7 MR. FARINA: Objection to form. 09:54:47

8 A. Yes. 09:54:50

9 Q. Who are they? 09:54:52

10 A. It was an individual from Ankura. I 09:54:57

11 believe his name is Chris Collins or -- I don't 09:55:03

12 recall. I don't -- I only know him through 09:55:12

13 e-mail and I, frankly, haven't paid much 09:55:16

14 attention to his e-mail address and his formal 09:55:19

15 name. 09:55:23

16 Q. What sort of work was Mr. Collins 09:55:29

17 doing with you or for you? I don't know how 09:55:31

18 you'd characterize it. 09:55:35

19 A. He was -- I had asked him to do some 09:55:37

20 research as to building sales information and, I 09:55:40

21 believe, I asked him to put together a map and 09:55:50

22 also compile some information regarding public 09:55:57

23 company financial metrics over a period of time. 09:56:06

24 Q. And do you have a sense of how many 09:56:12

25 hours Mr. Collins spent on the engagement? 09:56:14

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2 A. No, I do not. 09:56:17

3 Q. Is there anybody else that you worked 09:56:20

4 with or worked with you on this engagement? 09:56:22

5 A. No. 09:56:27

6 Q. Okay. Do you know who is referred to 09:56:27

7 in that Paragraph 20 who is -- strike that. 09:56:36

8 Do you know who is billing at a \$925 09:56:41

9 an hour rate, as stated in Paragraph 20 of your 09:56:43

10 report? 09:56:46

11 A. No. 09:56:48

12 Q. Do you know of any other staff 09:56:52

13 members assisting on this engagement billing 09:56:54

14 between 395 to \$925 an hour? 09:56:57

15 A. No, I'm not aware. 09:57:01

16 Q. Have you worked with Ankura before? 09:57:07

17 MR. FARINA: Objection to form. 09:57:13

18 A. Yes, I have. 09:57:14

19 Q. Can you describe your prior 09:57:18

20 engagement or engagements with Ankura? 09:57:22

21 A. It started, I believe, at the 09:57:27

22 beginning of this year, in January. And I was 09:57:31

23 asked to assist them with respect to the 09:57:36

24 evaluation of a few office buildings in my area 09:57:40

25 that were owned by financial institutions that I 09:57:48

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2 believe were having problems with the borrower. 09:57:55

3 Q. Apart from this expert engagement 09:58:05

4 consisting of your report and rebuttal report, 09:58:09

5 are you providing any other services or 09:58:14

6 engagements in connection with this action? 09:58:20

7 MR. FARINA: Objection to form. 09:58:22

8 A. No. 09:58:24

9 Q. And apart from this engagement, have 09:58:28

10 you performed any other work for the Trump 09:58:30

11 Organization or any of the Defendants in this 09:58:32

12 case? 09:58:33

13 A. No. 09:58:34

14 Q. So, I have already shown you what 09:58:39

15 we've marked as Exhibits 1 and 2, copies of your 09:58:42

16 reports and rebuttal report. 09:58:44

17 And I believe you've already told me 09:58:47

18 that you wrote these reports. 09:58:49

19 A. Yes. 09:58:51

20 Q. And you told me that you had 09:58:53

21 assistance in preparing the reports from 09:58:56

22 Mr. Collins at Ankura. 09:58:58

23 Did anybody else at all assist you in 09:59:00

24 the preparation of your reports? 09:59:02

25 A. No. 09:59:03

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2 Q. Okay. So I take it that regardless 09:59:11
3 of any of the assistance that you described 09:59:13
4 provided by Mr. Collins, you fully stand by and 09:59:15
5 are responsible for the analysis and any 09:59:17
6 conclusions in the report? 09:59:20

7 MR. FARINA: Objection to form. 09:59:22

8 A. Yes. 09:59:23

9 Q. Do the reports include all of the 09:59:27
10 facts and opinions to which you would testify at 09:59:32
11 trial? 09:59:35

12 MR. FARINA: Objection to form. 09:59:37

13 A. Yes, unless I'm asked subsequent to 09:59:39
14 this deposition to look at something or 09:59:42
15 investigate something. 09:59:46

16 Q. Did the reports state all of the 09:59:51
17 grounds for your opinions? 09:59:53

18 A. I believe so, yes. 09:59:57

19 Q. Do the reports identify your relevant 09:59:59
20 qualifications? 10:00:02

21 A. Yes. 10:00:03

22 Q. So I'll ask that you look at 10:00:06
23 Paragraph 23 of your report, Exhibit 1. 10:00:08

24 A. (The witness complies.) 10:00:13

25 Q. It says, "In preparing this report, I 10:00:15

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2 considered my knowledge, training and experience 10:00:18

3 as well as the listing of documents and 10:00:20

4 information provided along with this report. 10:00:22

5 Before testifying in this matter, I will continue 10:00:28

6 to review facts and relevant documents and 10:00:30

7 perform additional work that I deem useful and 10:00:33

8 appropriate in supporting my opinions. During my 10:00:35

9 testimony, I also intend to review, analyze and 10:00:39

10 respond to other expert reports as necessary and 10:00:42

11 use selected pages from the documents and 10:00:46

12 information for graphical or illustrative 10:00:48

13 purposes." 10:00:55

14 And, in your report, did you identify 10:00:56

15 the documents that you reviewed and relied on in 10:00:59

16 connection with providing the opinions contained 10:01:01

17 in your report? 10:01:03

18 MR. FARINA: Objection to form. 10:01:05

19 A. I believe so, yes. 10:01:06

20 Q. That's Appendix A on Page 41? 10:01:09

21 A. Correct. 10:01:20

22 Q. And, for the rebuttal report, I 10:01:21

23 believe, there's also an Appendix A; is that 10:01:23

24 correct? 10:01:27

25 A. Correct. 10:01:31

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2 Q. Looking at Exhibit 1, your report, 10:01:35
3 documents cited in the report, the first item in 10:01:39
4 that list is "Attorney General of New York 10:01:43
5 Complaint"; is that correct? 10:01:46

6 A. That's correct. 10:01:52

7 Q. So I'll note that some of the 10:01:53
8 documents that were attached to the Complaint as 10:01:55
9 exhibits are Mr. Trump's Statements of Financial 10:01:58
10 Condition for the years 2011 through and 10:02:02
11 including 2021. 10:02:04

12 Would you agree with that 10:02:09
13 representation? 10:02:11

14 MR. FARINA: Objection to form. 10:02:11

15 A. Yes. 10:02:12

16 THE WITNESS: I'm sorry. 10:02:13

17 MR. FARINA: It's okay. 10:02:13

18 Q. And I'm going to use the shorthand 10:02:14
19 "SOFC" for Statements of Financial Condition to 10:02:17
20 save us an hour or two today; is that alright? 10:02:20

21 A. Yes. 10:02:23

22 Q. Okay. Did you also review the 10:02:24
23 exhibits to the Complaint in this action? 10:02:27

24 A. I did. 10:02:31

25 Q. I ask that because it's not 10:02:36

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2 explicitly listed here. But you can confirm that 10:02:39

3 you reviewed all of the exhibits of the complaint 10:02:42

4 in addition to the text of the complaint? 10:02:45

5 A. I'm not sure if it was considered 10:02:48

6 "all," but whatever was in that -- the two -- I 10:02:51

7 had it as two volumes. 10:02:59

8 Q. Were there any documents or other 10:03:05

9 information that you requested from Defendants or 10:03:07

10 their Counsel in connection with the preparation 10:03:09

11 of your report? 10:03:11

12 MR. FARINA: Objection to form. 10:03:12

13 A. Not that I can recall. 10:03:16

14 Q. And how did you obtain the documents 10:03:19

15 that you cited and considered in preparation of 10:03:24

16 your report and rebuttal report? 10:03:28

17 A. I was provided an overall, I guess, 10:03:39

18 list of documents that had been filed in this 10:03:42

19 matter and I went through certain ones of them 10:03:47

20 and reviewed them to see if they might be 10:03:55

21 relevant or helpful in terms of getting an 10:03:59

22 understanding of the situation. 10:04:03

23 Q. How many entries, roughly, were on 10:04:10

24 that list? 10:04:13

25 A. I don't know. It was thousands. 10:04:15

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2 Q. "Thousands." 10:04:17

3 Was that list provided to you by 10:04:20

4 Counsel or by Ankura or someone else? 10:04:22

5 MR. FARINA: Again, Mr. Chin, I just 10:04:24

6 want to remind you that there's an order in place 10:04:26

7 that directs you not to disclose oral or written 10:04:29

8 communications among you, Counsel and other 10:04:31

9 experts. 10:04:32

10 To the extent that you can answer 10:04:33

11 that question without running afoul of the order, 10:04:34

12 you are welcome to do so. 10:04:36

13 A. That master list was provided by 10:04:37

14 Ankura. 10:04:40

15 Q. And aside from the documents on that 10:04:44

16 list, were you given access to any other 10:04:47

17 databases or indices of relevant or potentially 10:04:52

18 relevant documents? 10:04:58

19 MR. FARINA: Objection to form. 10:05:00

20 A. No, not that I can recall. 10:05:03

21 Q. Can you describe the layout of this 10:05:07

22 list, what sort of -- how a given document was 10:05:09

23 described? 10:05:14

24 A. They were described and listed on an 10:05:18

25 Excel spreadsheet. There was an entry, I 10:05:21

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2 believe, it said DNY or DNAY something with a 10:05:27

3 number. 10:05:34

4 I believe there were different 10:05:37

5 sections of each listing. I don't know if they 10:05:40

6 were volumes. 10:05:45

7 There were several columns that were 10:05:47

8 just blank that didn't have any information. 10:05:49

9 And, in one of the columns -- and it 10:05:52

10 was infrequent -- it would have some sort of 10:05:58

11 general descriptor of what that particular entry 10:06:02

12 was. 10:06:10

13 Q. Were there any hyperlinks within this 10:06:11

14 Excel that would take you directly to a document, 10:06:13

15 or would you ask to see a document that you 10:06:16

16 identified from the spreadsheet? 10:06:19

17 MR. FARINA: Objection to form. 10:06:21

18 A. I don't recall or believe there was a 10:06:26

19 hyperlink. So I had to go to another list and 10:06:29

20 call up that document. 10:06:36

21 Q. "Call up that document," can you 10:06:39

22 elaborate on what you mean by that? 10:06:40

23 A. So, if there was a descriptor -- and 10:06:42

24 I don't know if it was DNAY or something -- and I 10:06:49

25 wanted to see what that was, I would have to 10:06:56

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2 access that through another spreadsheet or 10:06:58

3 database or something. 10:07:04

4 Q. So you had access to a database where 10:07:06

5 you could click on or call up any of the 10:07:08

6 documents in that Excel sheet on your own? 10:07:13

7 MR. FARINA: Objection to form. 10:07:16

8 A. Yeah, from what I recall, it was like 10:07:17

9 some Cloud-based database repository and I would 10:07:22

10 have to go there to cross-reference that with the 10:07:29

11 document ID to then call it up and see what it 10:07:33

12 was. 10:07:37

13 Q. Okay. Was there any time during your 10:07:37

14 review of documents that you identified a 10:07:40

15 document or a potential document that you did not 10:07:46

16 find in that database or did not have access to? 10:07:49

17 A. No, not that I can recall. 10:07:56

18 Q. Were there any documents that you 10:07:57

19 requested to see that you were not provided? 10:08:00

20 A. No. 10:08:08

21 Q. Were there any other documents that 10:08:10

22 you would have liked to see in preparation of 10:08:12

23 your reports that you either did not have access 10:08:15

24 to or did not see? 10:08:20

25 MR. FARINA: Object to form. 10:08:21

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2 A. No, I took it at face value that what 10:08:24

3 was there was there. 10:08:27

4 Q. I just want to note that looking at 10:08:32

5 Paragraph 24 under, "Information Considered" -- 10:08:35

6 this is in Exhibit 1 -- it says, "I reserve the 10:08:39

7 right to supplement and amend my opinions in 10:08:43

8 response to additional information received or to 10:08:45

9 address issues raised by other fact or expert 10:08:48

10 witnesses. My testimony supplements this 10:08:52

11 report." 10:08:54

12 Putting together the rebuttal report 10:08:58

13 that you prepared, did you review anything in 10:09:00

14 addition to the documents cited in Appendix A and 10:09:03

15 the sources identified in your report in 10:09:05

16 connection with any of the opinions expressed in 10:09:09

17 your initial report? 10:09:12

18 MR. FARINA: Objection to form. 10:09:13

19 A. No. 10:09:18

20 Q. Were there documents that you 10:09:19

21 reviewed but chose not to rely on? 10:09:20

22 MR. FARINA: Objection to form. 10:09:26

23 A. I don't recall. 10:09:29

24 Q. And now the rebuttal report -- sorry, 10:09:40

25 strike that. 10:09:43

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2 Moving onto the rebuttal report, you 10:09:43
3 have an Appendix A in that document as well, 10:09:46
4 "Materials Relied On." 10:09:50

5 Was there anything that you reviewed 10:09:52
6 in conjunction with your rebuttal report beyond 10:09:56
7 what's listed on that Appendix A? 10:09:58

8 A. No. 10:10:07

9 Q. Alright. Since the time you issued 10:10:07
10 the rebuttal report, have you reviewed any other 10:10:13
11 documents relating to the matters contained in 10:10:16
12 either your report or rebuttal report? 10:10:20

13 MR. FARINA: Objection to form. 10:10:23

14 A. I did receive a document. It was 10:10:26
15 actually an expert report that was prepared by a 10:10:34
16 Mr., I believe, Moens, M-O-E-N-S. I was provided 10:10:42
17 his report subsequent to my completion of the 10:10:51
18 rebuttal report. 10:10:59

19 Q. And did you read Mr. Moens' report? 10:11:04

20 A. I did. 10:11:07

21 Q. Did anything contained within 10:11:07
22 Mr. Moens' report change any of the opinions that 10:11:11
23 you expressed in your report or rebuttal report? 10:11:15

24 A. No. 10:11:19

25 Q. Would you -- strike that. 10:11:23

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So, in Paragraph 2 of the report, it says, "The purpose of my report is to render various opinions regarding the AGNY's claims involving alleged overstatements of personal net worth contained in the compiled statements of financial condition (SOFC/compilation) prepared for Donald J. Trump or the Donald J. Trump Revokable Trust between 2011 and 2021 in connection with a personal guaranty provided to certain specified financial institutions."

Can you describe the specific assignment that you were given?

MR. FARINA: Objection to form.

A. It was a bit amorphous. It wasn't as clear cut from the standpoint as I want you to do X.

I -- I took it upon myself to read the Complaint that your office had filed and then looked at, from my standpoint, what some of the issues that might arise from that Complaint, from the standpoint of what is all this kind of mean to me. And that is what I presume the assignment was.

Q. You've used the term "amorphous" and

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2 you just said, "presume the assignment was." 10:13:26

3 When you had your initial 10:13:29

4 conversations with Ankura about this engagement, 10:13:31

5 did they provide any guidance about what aspects 10:13:34

6 of the Complaint they might want you to opine on? 10:13:37

7 A. I believe it at the time it was 10:13:45

8 general, it was regarding valuations. 10:13:47

9 Q. So they said, you know, Mr. Chin, 10:13:51

10 we'd like you to provide an expert opinion on 10:13:55

11 valuations, as relates to the Complaint, or was 10:13:58

12 there anything more than that? 10:14:00

13 MR. FARINA: Objection to form. 10:14:01

14 A. Actually, I don't believe it was that 10:14:04

15 specific. 10:14:06

16 Q. Okay. 10:14:06

17 A. It was, there is this engagement and 10:14:07

18 we believe your -- you might be qualified to 10:14:13

19 help. It involves real estate and valuations. 10:14:18

20 And that was it from the Ankura side. 10:14:21

21 And then I just said, well, let me 10:14:30

22 see what's here. 10:14:33

23 Q. And through the kind of ongoing 10:14:36

24 engagement process that you described earlier, 10:14:38

25 did you discuss potential opinions with Ankura 10:14:42

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2 after, you know, that initial review that you 10:14:49

3 just described? 10:14:54

4 MR. FARINA: Objection to form. 10:14:54

5 A. I believe I had some just general 10:15:01

6 observations and thoughts from my readings. But, 10:15:05

7 frankly, it was kind of drinking from a firehose 10:15:12

8 because there was so much, I didn't know, 10:15:16

9 particularly, where to start other than the AG's 10:15:21

10 complaint. 10:15:23

11 Q. I can empathize with the feeling 10:15:24

12 "drinking from a firehose." 10:15:27

13 I'll ask you the same questions about 10:15:29

14 your rebuttal report. 10:15:32

15 It says there in Paragraph 2, "The 10:15:34

16 purpose of my report is to render various 10:15:48

17 opinions," again. 10:15:52

18 Can you describe the process by which 10:15:57

19 you were engaged to issue a rebuttal report in 10:16:00

20 this action? 10:16:03

21 A. It was pretty abbreviated. It was 10:16:07

22 the other side, your experts, had submitted their 10:16:13

23 reports. Please read them and review them. 10:16:18

24 Q. So Paragraph 3 says, "I have been 10:16:26

25 asked to review, examine and provide a rebuttal 10:16:29

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2 report to the expert reports prepared by" -- and 10:16:32

3 I'm going to skip some parentheticals -- 10:16:34

4 "Constantine Korologos, Laurence Hirsh and Eric 10:16:38

5 Lewis." 10:16:43

6 Were you provided with any other 10:16:45

7 expert reports submitted by the Office of the 10:16:47

8 Attorney General -- 10:16:52

9 MR. FARINA: Objection. 10:16:52

10 Q. -- in addition to those three? 10:16:52

11 MR. FARINA: Objection to form. 10:16:54

12 A. I believe there was two others, 10:16:55

13 two -- perhaps two. I recall one name was 10:17:03

14 McCarty, I believe. And, I believe, there may 10:17:07

15 have been one other or two others, but I didn't 10:17:12

16 really pay attention to them. 10:17:16

17 Q. So was the election to issue opinions 10:17:19

18 in rebuttal to Hirsh, Lewis and Korologos and not 10:17:23

19 the others your decision, or were you asked to 10:17:26

20 only rebut those three? 10:17:32

21 MR. FARINA: Objection to form. 10:17:35

22 A. It was my decision, in that, you 10:17:38

23 know, those three gentlemen had opinions that 10:17:42

24 were somewhat analogous or tangential to my work. 10:17:47

25 So I felt those were the ones that I could 10:17:56

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2 comment on. 10:17:59

3 Q. Was there any point at which you were 10:18:06

4 asked to consider any other questions in 10:18:08

5 connection with this matter? 10:18:10

6 MR. FARINA: Objection to form. 10:18:14

7 A. Are you referring to outside of these 10:18:17

8 reports? 10:18:19

9 Q. Outside of the opinions expressed in 10:18:20

10 these reports, yes. 10:18:22

11 A. Other than the Moens report that I 10:18:26

12 received subsequent to the rebuttal reports, 10:18:28

13 nothing else. 10:18:32

14 Q. Do you know why you were provided 10:18:34

15 with the Moens report subsequent to your 10:18:36

16 rebuttal? 10:18:37

17 MR. FARINA: Objection to form. 10:18:38

18 A. I don't know why. It was said, 10:18:41

19 please look at this. 10:18:43

20 Q. Okay. Did you consider any other 10:18:47

21 questions or opinions that you could have 10:18:53

22 addressed in connection with this matter other 10:18:55

23 than those in your report and rebuttal report? 10:18:57

24 A. No. 10:19:00

25 Q. Aside from the Moens report that you 10:19:08

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2 mentioned, did you read any other expert reports 10:19:10
3 or rebuttal reports submitted on behalf of 10:19:12
4 Defendants in this action? 10:19:15

5 A. No. 10:19:18

6 Q. So I'm going to, I guess, maybe take 10:19:22
7 a step back and ask you some questions about -- 10:19:24
8 just laying a foundation. And I'm going to ask 10:19:27
9 you some questions about your qualifications. 10:19:29

10 A. Certainly. 10:19:31

11 Q. So your report details a pretty 10:19:32
12 extensive background in real estate and related 10:19:34
13 areas. I just have a few specific questions to 10:19:37
14 try to orient myself within that CV. 10:19:41

15 A. Certainly. 10:19:44

16 Q. Do you have any background in 10:19:45
17 preparing or reviewing personal financial 10:19:47
18 statements? 10:19:50

19 MR. FARINA: Objection to form. 10:19:51

20 A. Yes. 10:19:58

21 Q. Can you describe that experience? 10:19:58

22 A. I had worked as a COO and later as 10:20:04
23 CEO of a private company where the owner of the 10:20:10
24 company was asked to provide certain financial 10:20:14
25 information. And, I guess, at that time, it 10:20:25

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2 would have been an SOFC for lending purposes. 10:20:26

3 Q. Which company is that? 10:20:33

4 A. That would have been Sagebrush 10:20:36

5 Enterprises. 10:20:40

6 Q. Okay. Can you describe your 10:20:40

7 experience in -- strike that. 10:20:47

8 I had asked you if you had any 10:20:50

9 background in preparing or reviewing personal 10:20:55

10 financial statements. 10:20:57

11 In your time at Sagebrush, did you 10:20:58

12 prepare those personal financial statements or 10:21:01

13 SOFCs, as you described them? 10:21:03

14 MR. FARINA: Objection to form. 10:21:05

15 A. I believe, I was involved in the 10:21:08

16 preparation along with the Controller and CFO of 10:21:10

17 the company. 10:21:15

18 Q. Alright. Do you recall your role, 10:21:15

19 more specifically, in the preparation of that 10:21:20

20 SOFC? 10:21:23

21 MR. FARINA: Objection to form. 10:21:25

22 A. I was -- sorry, it's been several 10:21:27

23 years ago. 10:21:33

24 Q. It's alright. 10:21:33

25 A. I believe I was ensuring that the 10:21:34

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2 contents of the report was worded appropriately, 10:21:37

3 at least, in my opinion, and there were several 10:21:48

4 value estimates that were provided in the 10:21:53

5 financial statement as well that I was -- I 10:21:58

6 reviewed or had opinions on. 10:22:03

7 Q. Okay. Did you say ordered 10:22:07

8 appropriately or worded appropriately? 10:22:19

9 A. Worded appropriately. 10:22:22

10 Q. Okay. Can you sort of help me 10:22:23

11 understand what you mean by that? 10:22:27

12 MR. FARINA: Objection to form. 10:22:29

13 A. I believe the Controller and CFO took 10:22:37

14 a first pass at preparing the financial statement 10:22:40

15 and I reviewed it. I think there were wording 10:22:45

16 changes I suggested and, I believe, adding either 10:22:51

17 some additional, if you will, footnotes or 10:22:58

18 commentary that might be helpful with respect to 10:23:01

19 the submission of that financial statement to 10:23:06

20 whoever it was going to. 10:23:10

21 Q. Do you remember the basis of 10:23:15

22 presentation for that financial statement? 10:23:17

23 A. It was internally prepared. I 10:23:24

24 believe it was somewhat in a letter form with 10:23:28

25 various attachments. 10:23:34

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2 Q. But do you remember the basis of 10:23:37
3 presentation, by which I mean the accounting 10:23:40
4 framework under which it was presented? 10:23:43

5 A. I don't believe it was tied to any 10:23:46
6 particular accounting standard or notation. It 10:23:50
7 was our own perspective of the owner's financial 10:23:54
8 condition at the time. 10:24:03

9 Q. You said that, "there were several 10:24:06
10 value estimates that were provided in the 10:24:12
11 financial statement as well that you reviewed or 10:24:14
12 had opinions on." 10:24:17

13 Do you have any specific recollection 10:24:18
14 as to those value opinions that you reviewed or 10:24:21
15 had opinions on? 10:24:25

16 MR. FARINA: Objection to form. 10:24:26

17 A. I don't. The holdings were 10:24:31
18 considerable and I don't recall any particular 10:24:36
19 value estimates. 10:24:42

20 Q. You said that you "added footnotes or 10:24:55
21 commentary" that might be helpful. 10:24:58

22 To whom did you think those footnotes 10:25:02
23 or commentary would be helpful? 10:25:06

24 A. I thought it might be helpful for a 10:25:12
25 reader of the report, in this case a bank, to 10:25:15

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2 have a little context of what we were expressing 10:25:19
3 as a value or what that particular entity or 10:25:25
4 enterprise consisted of. 10:25:30

5 Q. Okay. So you said, it would be 10:25:43
6 "helpful for a reader" in this report, "in this 10:25:45
7 case a bank." 10:25:49

8 And then earlier you said this was 10:25:50
9 being prepared by the CEO of Sagebrush or the 10:25:52
10 owner of the Sagebrush -- was it -- for lending 10:25:56
11 purposes. 10:25:59

12 Do you have any additional 10:26:03
13 recollection as to the transaction or the 10:26:05
14 facility that was -- that the SOFC was being 10:26:10
15 submitted in connection with? 10:26:15

16 MR. FARINA: Objection to form. 10:26:17

17 A. First thing, a couple of things. 10:26:19
18 That was prepared by the CFO, not the CEO. And 10:26:21
19 it was for on behalf of the owner. 10:26:23

20 Q. Okay. 10:26:26

21 A. At the time, I believe, it was for a 10:26:30
22 proposed credit facility that would encumber the 10:26:32
23 company. And this was one of the many requests, 10:26:39
24 the particular institution had wanted as part of 10:26:46
25 the possibility of securing a facility for the 10:26:53

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2 company. 10:26:56

3 Q. So the SOFC was provided to the 10:27:02

4 lending institution in connection with a guaranty 10:27:09

5 of the facility? 10:27:12

6 MR. FARINA: Objection to form. 10:27:15

7 A. I don't believe we were as far along 10:27:17

8 in terms of the guaranty. I believe this was a 10:27:20

9 -- I'm trying to remember where it was in the 10:27:28

10 process. But it seemed like somewhat of an early 10:27:30

11 request among many in terms of the institution 10:27:34

12 trying to understand a little bit better about 10:27:41

13 what was discussed in a meeting and the 10:27:45

14 possibility of providing a credit facility for 10:27:49

15 the organization. 10:27:52

16 Q. Do you remember the lending 10:27:54

17 institution in question? 10:27:55

18 A. At this time, it was Deutsche Bank. 10:27:57

19 Q. It was Deutsche Bank. 10:27:59

20 Do you remember which arm or division 10:28:00

21 of Deutsche Bank was handling it? 10:28:04

22 A. There are many. It's funny. I told 10:28:06

23 the owner, I think, we went to the wrong 10:28:14

24 department. 10:28:16

25 But I think it might have been 10:28:17

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2 syndicated lending. I -- I don't remember. They 10:28:23
3 were -- it was broadly characterized as a capital 10:28:26
4 markets group. But I think it was -- seemed to 10:28:30
5 be, as you dig into a little bit, a bit more 10:28:33
6 specialized in terms of how their facilities were 10:28:38
7 being treated and who was operating them. 10:28:41

8 Q. Did you have any engagement with 10:28:43
9 Deutsche Bank's Private Wealth Management Group 10:28:47
10 during that transaction? 10:28:50

11 A. No, I -- 10:28:50

12 MR. FARINA: Objection to form. 10:28:50

13 THE WITNESS: Sorry. 10:28:52

14 A. I was strictly representing the 10:28:53
15 owner. 10:28:55

16 Q. Okay. You can put that aside for 10:29:01
17 now. 10:29:04

18 So moving on. Again, this question 10:29:04
19 may sound very basic. 10:29:08

20 But do you have any background or 10:29:10
21 experience in valuing real estate for inclusion 10:29:12
22 in personal financial statements? I can caveat 10:29:14
23 that; other than what you described in the 10:29:20
24 Sagebrush example. 10:29:22

25 A. Thank you. 10:29:23

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2 I have. It was during my time at 10:29:24

3 Ernst & Young and -- which was the predecessor -- 10:29:30

4 that was a successor company to Kenneth Leventhal 10:29:34

5 & Company, which was a firm that was merged into 10:29:38

6 Ernst & Young. 10:29:41

7 Q. Anything other than at your time at 10:29:47

8 Ernst & Young and Sagebrush? 10:29:48

9 MR. FARINA: Objection to form. 10:29:50

10 A. Nothing was related to a personal 10:30:05

11 Statement of Financial Condition. 10:30:09

12 Q. Are you familiar with the Financial 10:30:12

13 Accounting Standards Board for FASB? 10:30:16

14 A. Generally. 10:30:17

15 Q. Can you describe your understanding 10:30:19

16 of it? 10:30:20

17 A. Mostly, it's a governing body, kind 10:30:24

18 of authoritative source for accountants. 10:30:27

19 Q. You yourself are not an accountant? 10:30:29

20 A. No, I'm not. 10:30:32

21 Q. Your report does state that you are 10:30:35

22 an MAI; is that correct? 10:30:37

23 A. I am. 10:30:40

24 Q. Okay. So there is different types of 10:30:41

25 members of the Appraisal Institute; is that 10:30:43

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2 right? 10:30:46

3 A. That is my understanding. 10:30:46

4 Q. Okay. Do you know your specific 10:30:47

5 membership or designation within that? 10:30:50

6 A. Well, the Appraisal Institute is the 10:30:55

7 professional organization and then there are 10:30:58

8 specific designations. One is MAI. One is -- I 10:31:01

9 don't even know if they have it now. I think 10:31:07

10 it's SRA. And there may be a few others. But 10:31:09

11 those are the designations that are within the 10:31:13

12 confines of the professional organization that 10:31:18

13 are awarded based upon the accomplishment of 10:31:21

14 certain requirements. 10:31:24

15 Q. And can you describe any experience 10:31:27

16 you have in providing appraisals of value of 10:31:32

17 individual, real or operating properties? 10:31:37

18 A. Yeah; in terms of just overall 10:31:43

19 experience? 10:31:46

20 Q. Yeah. 10:31:48

21 I think -- how many appraisals have 10:31:49

22 you done of real property? 10:31:51

23 A. Over my career, probably thousands. 10:31:56

24 Q. Primarily, within a certain type of 10:32:01

25 property or... 10:32:04

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2 A. I would say it covers the gamut in 10:32:07
3 terms of most are traditional property types; 10:32:13
4 hotel, office, industrial, multi-family, 10:32:17
5 residential, golf courses. There is probability 10:32:21
6 some specialty ones like cemeteries and 10:32:28
7 hospitals. It's between a pretty broad array of 10:32:36
8 them. 10:32:39

9 Q. I can't imagine a valuation report on 10:32:39
10 a cemetery. That must have been a strange 10:32:43
11 engagement but... 10:32:46

12 A. It's a land development. 10:32:46

13 Q. Okay, yeah. 10:32:47

14 Do you have any -- you mentioned 10:32:48
15 experience valuing golf courses. 10:32:50

16 Any experience valuing trophy 10:32:52
17 courses? 10:32:55

18 MR. FARINA: Objection to form. 10:32:55

19 A. I guess it depends on how you would 10:33:00
20 characterize "trophy." Several of the golf 10:33:03
21 courses were in Hawaii, which were probably the 10:33:06
22 top ten and, at least, at the time rated by 10:33:09
23 readers. 10:33:14

24 I had actually owned some as part of 10:33:17
25 restructuring efforts at Lake at Las Vegas, which 10:33:22

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2 at some point in time might have been considered 10:33:25

3 "trophy" for the area. 10:33:28

4 "Trophy" is somewhat a descriptor 10:33:32

5 that have different meanings to different people. 10:33:37

6 Q. Okay. You mentioned hotels. 10:33:39

7 I'll ask you -- understanding that it 10:33:43

8 has different meanings to different people -- 10:33:47

9 whether you have experience valuing trophy 10:33:49

10 hotels? 10:33:51

11 MR. FARINA: Objection to form. 10:33:52

12 A. Yeah, same thing. Several in he -- 10:33:52

13 that were proposed and built along the Kohala 10:33:56

14 Coast in Maui and Lanai. 10:33:59

15 I also owned a Ritz Carlton as part 10:34:02

16 of the Lake at Las Vegas situation. 10:34:06

17 Q. How about experience appraising 10:34:08

18 commercial real estate in New York City? 10:34:14

19 MR. FARINA: Objection to form. 10:34:16

20 A. I believe I've performed certain 10:34:22

21 valuations in New York City of office buildings. 10:34:26

22 Q. Do you recall specifics of those 10:34:30

23 valuations? 10:34:35

24 A. At one time, I did some preliminary 10:34:48

25 valuation work on the old World Trade Center. 10:34:51

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2 That was when the unfortunate incident happened. 10:34:57

3 I believe there were some that were post 9/11 10:35:05

4 that I did some valuation work on. 10:35:13

5 And I also -- if you kind of consider 10:35:17

6 in the valuation more category, I did quite a bit 10:35:22

7 of work for Calpers, C-A-L-P-E-R-S. It's a large 10:35:27

8 public pension fund that that I reviewed 10:35:32

9 quarterly all of their appraisals and many of the 10:35:37

10 buildings were, I believe, in New York City. 10:35:40

11 Q. The experience you described with the 10:35:45

12 old Twin Towers and the post 9/11 valuation work, 10:35:49

13 was that in the context of restructuring or what? 10:35:52

14 You know, if not, could you describe the context? 10:35:55

15 MR. FARINA: Objection to form. 10:35:58

16 A. It was -- 10:35:59

17 THE WITNESS: I'm sorry. 10:36:01

18 A. It was related to the potential 10:36:02

19 damages related to the one occurrence, two 10:36:03

20 occurrence because of the collapse of the 10:36:06

21 building. 10:36:10

22 Q. Was that in connection with a 10:36:13

23 litigation? 10:36:16

24 A. It was intended to be that way, yes. 10:36:16

25 Q. Okay. Who was your client in that? 10:36:18

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2 A. Well, it would have been Silverstein. 10:36:21

3 Unfortunately, it conflicted because at the time 10:36:26

4 Ernst & Young did quite a bit of work for all the 10:36:29

5 reinsurers. So that assignment never name to 10:36:32

6 fruition. 10:36:36

7 Q. Do you have any experience in 10:36:40

8 appraising the value of apartments subject to New 10:36:42

9 York's rent regulation laws? 10:36:46

10 MR. FARINA: Objection to form. 10:36:47

11 A. Not from the standpoint of a direct 10:36:50

12 appraisal. Although I will say that the last 10:36:53

13 company I ran, we had a rent stabilized apartment 10:36:57

14 that we had appraisals that we listed for sale 10:37:04

15 that I was responsible for disposing of. So more 10:37:08

16 hands-on than just an appraiser. 10:37:12

17 Q. What was the company in question, the 10:37:16

18 name of it? 10:37:18

19 A. That was the former company I was the 10:37:19

20 CEO of, which was -- it's called officially 10:37:22

21 Woodbridge Wind Down Entity, also, known as the 10:37:26

22 -- we were doing business as the Viewpoint 10:37:31

23 Collection. 10:37:34

24 Q. And you said, "we had a rent 10:37:34

25 stabilized apartment that we had appraisals that 10:37:38

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2 we listed for sale." 10:37:41

3 Can you explain what you mean by, "we 10:37:43

4 had a rent stabilized apartment"? 10:37:46

5 A. Yeah. So the company owned a rent 10:37:48

6 stabilized unit and I was responsible overall for 10:37:53

7 monetizing its holdings. So -- I'm sorry. 10:38:03

8 Q. No, no, please finish. I'm sorry. 10:38:06

9 A. So we were evaluating the 10:38:09

10 alternatives, understanding that there was a 10:38:14

11 tenant in there that had relatives, family 10:38:18

12 members there and we were trying to understand 10:38:24

13 how to monetize that property. 10:38:26

14 So it was part of it and part of 10:38:30

15 learning the background, there were appraisals of 10:38:33

16 it. I think there was even perhaps litigation 10:38:35

17 that we were pursuing as causes of action against 10:38:38

18 the appraisers and the attorneys who were 10:38:42

19 involved in the original acquisition of that 10:38:46

20 unit. 10:38:49

21 Q. Can you tell me more about that? 10:38:51

22 MR. FARINA: Objection to form. 10:38:54

23 A. When the background of the property, 10:38:57

24 as I learned it to understand what the options 10:39:00

25 were, there was an appraisal conducted by an 10:39:03

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2 individual who did not disclose adequately or 10:39:08

3 else disclose at all that it was rent stabilized. 10:39:16

4 And the company had purchased the property, I 10:39:21

5 believe, on the basis of the appraisal. And when 10:39:25

6 we took over the ownership of it, we later 10:39:29

7 learned that there were all sorts of restrictions 10:39:33

8 on the ability to monetize that. 10:39:37

9 We had quite a bit of internal 10:39:42

10 discussions in terms of evaluating alternatives 10:39:44

11 on how to best dispose of the property while 10:39:47

12 trying to maximize its value and we formulated a 10:39:51

13 plan and then implemented it. 10:39:56

14 Q. Was -- this rent stabilized 10:40:00

15 apartment, was it a condominium conversion; is 10:40:05

16 that the ownership interest that your company had 10:40:08

17 in the condo or -- 10:40:10

18 A. It was a co-op. 10:40:12

19 MR. FARINA: Objection to form. 10:40:11

20 THE WITNESS: Sorry, I forgot. 10:40:13

21 A. It was a co-op and we had certain 10:40:15

22 different rights, because, I believe, we were the 10:40:21

23 owner/dealer of it. I forget what the exact 10:40:25

24 terminology was. But it didn't have to 10:40:30

25 necessarily go through the same procedure as 10:40:33

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2 anybody who owned a co-op there. 10:40:36

3 Q. Do you recall if Woodbridge was the 10:40:39
4 sponsor? 10:40:44

5 A. Yes, that was it. 10:40:45

6 Q. You said that, "I think there was 10:41:04
7 even perhaps some litigation that we were 10:41:06
8 pursuing as causes of action against the 10:41:08
9 appraisers and the attorneys who were involved in 10:41:10
10 the original acquisition." 10:41:12

11 You then described some of the 10:41:14
12 circumstances surrounding the original appraisal. 10:41:17

13 Do you have any knowledge of the 10:41:22
14 litigation, those causes of action or any other 10:41:26
15 information about that dispute? 10:41:30

16 MR. FARINA: Objection to form. 10:41:33

17 A. Well, it surrounded in terms of what 10:41:37
18 the disclosures were and whether the appraiser 10:41:40
19 was knowledgeable or not and who they receive the 10:41:45
20 information that they ended up relying on in 10:41:48
21 their report. 10:41:52

22 We evaluated the pros and cons. We 10:41:57
23 evaluated the potential cost of litigation, the 10:42:00
24 relative recovery relative to what I was charged 10:42:06
25 to do in the company. And I believe we either 10:42:10

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2 settled it or we dismissed the lawsuit. 10:42:16

3 Q. So, in the course of that experience, 10:42:24

4 did you gain any knowledge or understanding about 10:42:31

5 the average percentage of rent stabilized 10:42:36

6 apartments that were removed from rent 10:42:39

7 stabilization in an annual basis in New York 10:42:42

8 City? 10:42:45

9 MR. FARINA: Objection to form. 10:42:45

10 A. In that circumstance, we were not 10:42:49

11 concerned about what the market was doing. We 10:42:51

12 were more concerned about what the specifics of 10:42:53

13 our property was faced with. 10:42:55

14 Q. Okay. 10:43:00

15 A. We understood it was complicated, was 10:43:00

16 time consuming, was in some cases a path of 10:43:04

17 uncertainty, in terms of when a rent stabilized 10:43:09

18 unit could be converted to market. But I wasn't 10:43:14

19 concerned with X percentage because I don't work 10:43:23

20 on averages or that. We had to work on the 10:43:25

21 specifics of what the situation was. 10:43:29

22 Q. Did you ultimately sell that unit? 10:43:33

23 A. We did. 10:43:36

24 Q. With the rent stabilized tenant still 10:43:38

25 in place or... 10:43:40

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2 A. Well, in this particular situation, 10:43:45
3 we had negotiated a buyout with the tenant. And 10:43:47
4 in that buyout, we had specific requirements with 10:43:54
5 respect to how we would buy her out, along with 10:44:03
6 the possibility that she might also be able to 10:44:08
7 participate in certain of the proceeds if we were 10:44:14
8 to attain a certain selling price. 10:44:18

9 Q. Do you recall where this apartment 10:44:30
10 was in the City? 10:44:31

11 MR. FARINA: Object to the form. 10:44:33

12 A. I believe it was in the Upper East 10:44:36
13 Side. I don't remember the address anymore. 10:44:39

14 Q. Okay. Do you recall the amount of 10:44:42
15 the buyout? 10:44:49

16 A. I believe it was, approximately, half 10:44:53
17 a million dollars. 10:44:55

18 Q. What size was the apartment? 10:44:57

19 A. I don't recall the specifics. It may 10:45:03
20 be 13 -- over a thousand square feet. 10:45:06

21 Q. Do you remember how many bedrooms? 10:45:10

22 A. It was a two-bedroom co-op. 10:45:12

23 Q. So, in addition to the, 10:45:21
24 approximately, half a million dollar buyout, you 10:45:24
25 said that the tenant would potentially be 10:45:27

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2 entitled to profit sharing, if the sale price hit 10:45:29

3 a certain point? 10:45:33

4 MR. FARINA: Objection to form. 10:45:34

5 A. Correct. 10:45:35

6 Q. Do you know did it ultimately trigger 10:45:35

7 that condition? 10:45:39

8 A. So I negotiated the original buyout 10:45:42

9 of the tenant and the listing of the property and 10:45:45

10 I left the company. My responsibilities 10:45:52

11 terminated at the end of the year. It was in 10:45:56

12 escrow and it wasn't -- from what I understand, 10:46:02

13 it wasn't until a few months ago when the unit 10:46:05

14 closed. 10:46:08

15 Q. Did you commission any appraisals in 10:46:10

16 conjunction with your activities in trying to 10:46:12

17 dispose of this unit? 10:46:15

18 A. My apologies. I was coughing when I 10:46:16

19 heard your question, so I'm sorry. 10:46:19

20 Q. Did you commission any appraisals of 10:46:20

21 your own in this process? 10:46:22

22 MR. FARINA: Objection to form. 10:46:23

23 A. No. 10:46:24

24 Q. Can you tell me about the time frame, 10:46:33

25 was this over a one year or a number of years? 10:46:37

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2 MR. FARINA: Objection to form. 10:46:40

3 A. Well, we had, essentially, gotten 10:46:41

4 title to the property or the co-op interest 10:46:45

5 sometime in 2019. And it was in many regards one 10:46:49

6 of those assets we had to deal with, but it 10:46:58

7 wasn't a high priority. And it wasn't until 2020 10:47:00

8 -- late 2021, 2022 when we started focusing and 10:47:08

9 evaluating alternatives on how we might proceed 10:47:12

10 with this particular unit. We had considered 10:47:19

11 just selling it as is with the tenant in there 10:47:23

12 and, you know, we looked at the alternatives of 10:47:30

13 the possibility of buying that tenant out. 10:47:32

14 Initially, the ask was way too much 10:47:36

15 relative to what we thought the value of the unit 10:47:40

16 might be unencumbered. And there was some 10:47:44

17 complexities there. 10:47:48

18 The tenant inferred that her grand 10:47:50

19 kids or whoever was going to stay there and, you 10:47:56

20 know, certainly, caused more confusion in terms 10:47:59

21 of what our possibilities were. But we kept 10:48:04

22 proceeding ahead in terms of what the 10:48:07

23 possibilities might be to maximize the value and 10:48:10

24 recovery with respect to that co-op unit. 10:48:13

25 MR. GABER: I think now is a pretty 10:48:22

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2 good time for a break. We've been on the record 10:48:23

3 for what about an hour and change. 10:48:26

4 MR. FARINA: How long do you want to 10:48:28

5 take break for? 10:48:29

6 MR. GABER: Five minutes sound okay? 10:48:30

7 MR. FARINA: That's fine. 10:48:30

8 MR. GABER: Just a quick break. 10:48:31

9 Longer if you... 10:48:33

10 THE VIDEOGRAPHER: Stand by. 10:48:33

11 The time is 10:48 a.m. We are off 10:48:34

12 the record. 10:48:37

13 (Recess taken 10:48 to 11:01 a.m.) 11:01:52

14 THE VIDEOGRAPHER: The time is 11:01:52

15 11:01 p.m. -- I'm sorry, 11:01 a.m. We are back 11:01:53

16 on the record. 11:01:57

17 You may proceed. 11:01:58

18 Q. Okay. Mr. Chin, we are about to move 11:01:59

19 on, but just a couple of more quick questions 11:02:02

20 about your CV. 11:02:04

21 Have you ever worked as a banker? 11:02:05

22 A. No. 11:02:07

23 Q. So have you ever underwritten a loan 11:02:11

24 in any capacity? 11:02:15

25 A. I think earlier in my career we did 11:02:26

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2 serve -- myself and the company was engaged to 11:02:36
3 review real estate deals that might be collateral 11:02:42
4 for lending. 11:02:47

5 Q. Was that a valuation engagement? 11:02:52

6 MR. FARINA: Objection to form. 11:02:56

7 A. Well, it involved valuation, but it 11:02:58
8 was involved in the more impact on capital 11:03:01
9 requirements for financial institutions that 11:03:11
10 related to if a loan were made and then what the 11:03:15
11 capital requirement would be and what the impact 11:03:20
12 and risk would be to the institution. 11:03:22

13 Q. Thank you. 11:03:28

14 Are you a licensed appraisal -- 11:03:28
15 appraiser in any jurisdictions? 11:03:32

16 A. No. 11:03:35

17 Q. Do you hold any other professional 11:03:36
18 licenses or affiliations? 11:03:38

19 A. I hold professional memberships that 11:03:41
20 are listed in my report. 11:03:46

21 Q. Okay. That's fine. 11:03:47

22 So, with that out of the way, I 11:03:49
23 thought we could move into your report, maybe 11:03:55
24 starting with Paragraph 40. 11:03:58

25 A. I'm sorry, which paragraph? 11:04:01

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2 Q. Paragraph 40. 11:04:02

3 A. 40. 11:04:04

4 MR. FARINA: That's Exhibit 1, right, 11:04:20

5 Sherief? 11:04:22

6 MR. GABER: That's Exhibit 1, 11:04:22

7 correct. 11:04:23

8 Q. So, this paragraph is under a 11:04:27

9 heading, "Key Observations." And there's 11:04:30

10 boldface text there, but it's not denominated as 11:04:34

11 one of your numbered opinions. 11:04:40

12 I just wanted to kind of ask how you 11:04:43

13 would characterize this paragraph. 11:04:46

14 MR. FARINA: Objection to form. 11:04:52

15 A. Certainly. 11:04:55

16 So Paragraph 40 in the bold highlight 11:04:56

17 is, if you will, a summarization of all the, I 11:05:01

18 believe, 11 different opinions that I have that I 11:05:08

19 talk about in greater detail. But it's, if you 11:05:11

20 will, kind of the headliner or the summary of all 11:05:16

21 of the opinions I've contained in the report. 11:05:19

22 Q. So would it be fair to say that it's 11:05:24

23 not a separate opinion, but more of a synthetic 11:05:26

24 or synthesis of the report? 11:05:31

25 MR. FARINA: Objection to form. 11:05:33

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2 A. Yes, "synthesis"... 11:05:34

3 Q. Okay. Summary -- you used 11:05:36

4 summarization -- 11:05:37

5 A. Synthesization, that's a little too 11:05:38

6 much glamour for the opinion. 11:05:41

7 Q. Sorry. 11:05:43

8 A. That's okay. It's alright. 11:05:44

9 Q. And towards the bottom of the 11:05:46

10 boldface paragraph there you say, "Although the 11:05:51

11 AGNY has different opinions and perspectives as 11:05:54

12 to the value of certain of the guarantor's 11:05:56

13 assets, these differences do not impact 11:05:59

14 materially the SOFC/compilations' intended 11:06:01

15 purpose and the SOFC/compilations are true and 11:06:06

16 accurate in all material respects." 11:06:09

17 Can you just tell me what these 11:06:16

18 "differences" refers to in this sentences? 11:06:19

19 MR. FARINA: Objection to form. 11:06:23

20 A. From my perspective, in the context 11:06:29

21 of the Complaint filed by your office, there is 11:06:34

22 allegations of overstatements of value and 11:06:39

23 things. So that's what I mean by "there's 11:06:43

24 difference of opinion" between what is proffered 11:06:46

25 in the Complaint versus what's contained in my 11:06:53

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2 reading of the SFCO -- SOFC, sorry. 11:06:57

3 Q. You just said that, "'there's 11:07:10

4 difference of opinion' between what is proffered 11:07:12

5 in the Complaint versus what's contained in my 11:07:14

6 reading of the SOFCs." 11:07:16

7 Is it the case that the "differences" 11:07:21

8 you're referring to here are differences between 11:07:23

9 the allegations in the Complaint and your 11:07:26

10 analysis of the SOFC or "differences" between the 11:07:32

11 allegations in the Complaint and the valuations 11:07:38

12 as presented in the SOFCs? 11:07:46

13 MR. FARINA: Objection to form. 11:07:48

14 Q. Do you understand that question? 11:07:49

15 A. I'll try my best to answer your 11:07:51

16 question. 11:07:54

17 Q. Okay. 11:07:54

18 A. The complaint, I believe, builds 11:07:55

19 somewhat of the argument that there have been 11:07:58

20 overstatements of various assets in terms of 11:08:02

21 their valuation. 11:08:06

22 I'm thinking about it as a relative 11:08:08

23 point of each SOFC as being a pronouncement, if 11:08:11

24 you will, of a value and that compared to what 11:08:19

25 the AG is arguing, that that's the difference. 11:08:24

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2 That there's a gap there between what one person 11:08:29
3 says versus what the AG is alleging. 11:08:33

4 Q. And "one person" here is Donald J. 11:08:36
5 Trump? 11:08:39

6 A. Yeah, the Trump entities, correct. 11:08:39

7 Q. Okay. The paragraph also says, 11:08:48
8 "after reviewing the available evidence and 11:08:51
9 analyzing the relevant facts." 11:08:53

10 To what "available evidence" are you 11:08:55
11 referring to in this paragraph? 11:08:59

12 A. From my perspective, it is the 11:09:05
13 documents that I have reviewed and looking at, 11:09:08
14 from my perspective, the validity of the 11:09:13
15 arguments that are made by the Attorney General, 11:09:18
16 as well as my understanding or my perception of 11:09:22
17 why an SOFC, what's the purpose of it and then 11:09:34
18 trying to, if you will, reconcile what those 11:09:38
19 differences might be. 11:09:41

20 And I looked at the Complaint as a 11:09:45
21 starting point. I looked at some of the 11:09:47
22 documents. I looked at the SOFCs and tried to 11:09:51
23 make sense, if you will, of where the differences 11:09:56
24 lie between the two different parties. 11:10:00

25 Q. Can you at a high level explain the 11:10:13

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2 approach or methodology that you used to make 11:10:20

3 those comparisons? 11:10:23

4 MR. FARINA: Objection to form. 11:10:24

5 A. Certainly. 11:10:27

6 My starting point is the SOFC. And I 11:10:28

7 look at that and try to understand what it is, 11:10:36

8 what it isn't, how and why it might be used for 11:10:43

9 and then how it has been evaluated by your office 11:10:51

10 or by whoever has helped the office out with 11:10:59

11 respect to criticisms of the SOFC. So that's 11:11:03

12 kind of the funnel approach I took. 11:11:09

13 Q. Okay. Did you undertake any analysis 11:11:13

14 or independent valuation of any of the individual 11:11:25

15 properties listed on the SOFCs? 11:11:29

16 A. No, I haven't rendered any specific 11:11:34

17 appraisal opinions on the properties. It was 11:11:38

18 really more to focus in the context of the SOFC 11:11:41

19 and then, yeah, their valuation expressions made. 11:11:46

20 But I didn't make any specific estimates of 11:11:51

21 value. 11:11:55

22 Q. Okay. So now I'd like to discuss 11:11:55

23 your Opinion No. 1 and Opinion No. 2 in the 11:12:02

24 report together. So we can go back to Page 7, 11:12:06

25 where they're laid out -- 11:12:13

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2 A. Okay. 11:12:15

3 Q. -- sort of together. 11:12:15

4 A. Thanks. 11:12:16

5 Q. So Opinion No. 1 says, "Relevant 11:12:28

6 authoritative accounting literature does not 11:12:31

7 mandate that the standard value definition 11:12:33

8 applies to the preparation of the 11:12:36

9 SOFC/compilations." 11:12:39

10 To what are you referring when you 11:12:42

11 say, "relevant authoritative accounting 11:12:44

12 literature"? 11:12:46

13 A. I was referring to the documentation 11:12:50

14 or the guidance, I believe, that's proposed by 11:12:54

15 the AICPA or FASB with respect to the preparation 11:12:58

16 of compilation reports. 11:13:02

17 Q. If I represented that that's AR-C 80, 11:13:08

18 would you consider that correct; is that what 11:13:15

19 you're referring to? 11:13:18

20 A. Yes, I believe that's one of the 11:13:19

21 documents. 11:13:20

22 MR. FARINA: Objection to form. 11:13:20

23 THE WITNESS: Sorry. 11:13:21

24 MR. FARINA: It's no problem. Just 11:13:22

25 give me a second to object before you answer -- 11:13:25

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2 THE WITNESS: I will. 11:13:28

3 MR. FARINA: -- if I have any 11:13:28

4 objection. Thank you. 11:13:28

5 (There is a discussion off the 11:13:28

6 record.) 11:13:40

7 Q. So I'm going to -- your report I 11:13:40

8 think also mentioned AR-C 120 compilation of the 11:13:43

9 pro forma financial information. 11:13:48

10 MR. GABER: I'm going to ask the 11:13:51

11 Court Reporter to mark Section 80 and 120 as 11:13:52

12 Exhibits 3 and 4, respectively. 11:13:57

13 (Deposition Exhibit Chin 3, Page 55

14 to Page 88 of Compilation Engagements AR-C

15 Section 80, was marked for identification.)

16 (Deposition Exhibit Chin 4, Page 2627

17 to Page 2637 of Compilation of Pro Forma

18 Financial Information Engagements AR Section 120,

19 was marked for identification.) 11:14:13

20 THE WITNESS: Thank you. 11:14:13

21 MR. FARINA: Do you guys happen to 11:14:27

22 have another copy? If you don't, that's fine. 11:14:28

23 MR. LADOV: I think we may be short a 11:14:32

24 copy, but we'll check. 11:14:35

25 MR. FARINA: Thank you. 11:14:37

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2 (There is a discussion off the 11:14:37

3 record.) 11:14:45

4 Q. Okay. Mr. Chin, so these are the 11:14:45

5 statements on the Standards for Accounting and 11:14:51

6 Review Services promulgated by the American 11:14:53

7 Institute of Certified Public Accountants, 11:14:58

8 Accounting Review Services Committee. 11:14:58

9 Does that representation sound right 11:15:02

10 to you? 11:15:04

11 A. Yes, it does. 11:15:05

12 Q. Okay. So these are standards -- 11:15:06

13 professional standards that CPAs need to follow 11:15:10

14 in rendering their professional services; is that 11:15:12

15 correct? 11:15:15

16 MR. FARINA: Objection to form. 11:15:15

17 Q. Or is that your understanding of 11:15:16

18 these? 11:15:18

19 A. Yeah. I look at these as guidance 11:15:19

20 and authoritative documents that accountants rely 11:15:22

21 on before or approaching an assignment. 11:15:25

22 Q. Okay. So then it's your opinion that 11:15:29

23 these two standards, AR-C 80 and AR-C 120 provide 11:15:35

24 guidance to accountants and set certain standards 11:15:40

25 for the types of engagement described, you know, 11:15:42

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2 in the specific statements, yes? 11:15:48

3 MR. FARINA: Objection to form. 11:15:50

4 A. I'm not sure I followed your 11:15:52

5 question. But, yeah, these generally apply to 11:15:54

6 compilation statements and the guidance that they 11:16:00

7 suggest. 11:16:03

8 Q. Okay. Yeah, that's a fine answer. I 11:16:03

9 understand my question was sort of a convoluted 11:16:06

10 rephrasing of your prior answer. 11:16:09

11 So can we go to Exhibit 4 first, 11:16:11

12 which is AR-C Section 120. It's titled, 11:16:14

13 "Compilation of Pro Forma Financial Information." 11:16:17

14 A. Yes. 11:16:22

15 Q. So, if we look at the definition 11:16:22

16 subsection, it's on the first page, Subsection 11:16:25

17 .04 of... 11:16:27

18 MR. GABER: Is that right? 11:16:35

19 Hold on. Let me look. 11:16:58

20 I'm sorry. Can we go off record for 11:17:24

21 a second. 11:17:27

22 THE VIDEOGRAPHER: The time is 11:17:27

23 11:17 a.m. We are off the record. 11:17:28

24 (Recess taken 11:17 to 11:19 a.m.) 11:19:08

25 THE VIDEOGRAPHER: The time is 11:19 11:19:08

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2 a.m. We're back on the record. 11:19:10

3 You may proceed. 11:19:12

4 Q. Okay. Mr. Chin, I'll direct you 11:19:13

5 actually to .03. It says, "The objective of pro 11:19:18

6 forma financial information is to show what the 11:19:23

7 significant effects on historical financial 11:19:25

8 information might have been had a consummated or 11:19:28

9 proposed transaction (or event) occurred at an 11:19:32

10 earlier date. Pro forma financial information is 11:19:36

11 commonly used to show the effects of transactions 11:19:40

12 such as the following: Business combination, 11:19:43

13 change in capitalization, disposition of a 11:19:46

14 significant portion of the business, change in 11:19:49

15 the form of business organization or status as an 11:19:51

16 autonomous entity, proposed sale of securities 11:19:56

17 and the application of the proceeds." 11:19:58

18 Can you explain given this statement 11:20:01

19 of the objective of pro forma financial 11:20:06

20 information your understanding of this 11:20:09

21 subsection? 11:20:15

22 MR. FARINA: Objection to form. 11:20:18

23 A. Well, in this particular instance, 11:20:23

24 with respect to the compilation, is really 11:20:25

25 reliant on it appears to be the impacts on 11:20:30

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2 historical financial information to be relied on 11:20:33

3 as the basis for the pro forma estimate. 11:20:38

4 Q. Now, is this the same definition or 11:20:41

5 the same characterization of "pro forma financial 11:20:46

6 information" that you used when you used the term 11:20:49

7 "pro forma" in your report and your rebuttal 11:20:52

8 report? 11:20:54

9 A. No, I didn't tie it to, specifically, 11:20:57

10 what the accounting literature is. I am really 11:21:00

11 referring it to what the real estate industry 11:21:04

12 might consider pro forma or anticipated or as if 11:21:07

13 situations. 11:21:11

14 Q. So you used "pro forma" to mean 11:21:13

15 "anticipated" or "as if situations." 11:21:17

16 However, in Section 120, it seems to 11:21:20

17 be might have been situations. 11:21:23

18 A. The citing you have does seem to be 11:21:31

19 with respect to related to historical financial 11:21:34

20 information, as they use it in this compilation. 11:21:40

21 Q. You know, given that do you see 11:21:46

22 anywhere else in Section 120 where it refers to 11:21:51

23 prospective, projected or as if pro forma 11:21:54

24 financial information, as you use it in your 11:22:02

25 report? 11:22:05

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2 A. I'm sorry. Can you repeat the 11:22:09
3 question for me please? 11:22:10

4 Q. Well, so under .03 it says, "The 11:22:12
5 objective pro forma financial information is to 11:22:17
6 show the significant effects on historical 11:22:20
7 financial information," and then it might have 11:22:23
8 been past tense. 11:22:25

9 I'm asking if there's anywhere else 11:22:28
10 in this document that refers to pro forma 11:22:32
11 financial information in the as if and 11:22:35
12 prospective sense that you use it in your report? 11:22:40

13 MR. FARINA: Objection to form. 11:22:43

14 A. Well, not knowing this document 11:22:48
15 verbatim, would you like me to go through it and 11:22:50
16 all and just see? 11:22:52

17 Because we're taking a particular 11:22:55
18 statement here and applying it broadly to the 11:22:59
19 entire document and I'm not sure that may or may 11:23:02
20 not be appropriate. 11:23:05

21 Q. For the moment, you have no present 11:23:08
22 knowledge of whether AR-C Section 120 covers 11:23:13
23 prospective or as if financial information, 11:23:17
24 right? 11:23:21

25 A. Again, without reading this document, 11:23:23

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2 I don't know if I can answer your question. 11:23:25

3 Q. Okay. And here it says, that this is 11:23:27

4 -- what we've talked about in terms of historical 11:23:32

5 financial information, it says that that is the 11:23:34

6 objective of pro forma financial information. 11:23:36

7 Is that also how you read this 11:23:38

8 specific paragraph, putting aside the rest of the 11:23:40

9 document? 11:23:42

10 MR. FARINA: Objection to form. 11:23:43

11 A. Yeah, I think that's correct in terms 11:23:45

12 of how it's laid out here in this particular 11:23:46

13 sentence. 11:23:50

14 Q. Okay. So can you explain why you 11:23:51

15 included AR-C 120 as "relevant authoritative 11:24:06

16 accounting literature," as regards the 11:24:12

17 SOFC/compilations? 11:24:16

18 MR. FARINA: Objection to form. 11:24:18

19 A. Well, I was including it because it 11:24:21

20 deals with compilation reports, in general, and 11:24:26

21 it does provide some guidance to how they may be 11:24:30

22 prepared. 11:24:36

23 But, I think, it's important to me 11:24:38

24 that, you know, there's a fair amount of latitude 11:24:41

25 that's provided in these compilation reports. 11:24:44

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2 And, in general, the perspective is that the 11:24:47
3 compilation reports were written for a broad 11:24:51
4 range of industries and businesses large and 11:24:53
5 small. So it's somewhat of the foundation, but 11:24:56
6 then the application could vary considerably. 11:25:01

7 Q. And, I think, that that's definitely 11:25:06
8 covered in Section 80, which we're going to get 11:25:08
9 to. 11:25:10

10 But Section 120, specifically, this 11:25:11
11 idea of pro forma financial information, what 11:25:13
12 made you include this, specifically, as the part 11:25:16
13 of the authoritative relevant accounting 11:25:23
14 literature? 11:25:26

15 MR. FARINA: Objection to form. 11:25:31

16 A. I think it's -- it demonstrates that 11:25:31
17 there is some sort of guidance or suggestion to 11:25:35
18 look at not only just the historical results, but 11:25:38
19 what might be anticipated or projected that may 11:25:43
20 or may not happen that is provided and then 11:25:47
21 forwarded to accountants. 11:25:52

22 Q. Again, do you know without looking 11:26:01
23 through the document whether AR-C 120 covers 11:26:03
24 anticipated or projected financial information? 11:26:08

25 A. Well, my apologies. I don't know it 11:26:16

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2 verbatim. But my presumption is that there is 11:26:20
3 quite a bit of discussion with respect to 11:26:24
4 projected, anticipated or future, whether or not 11:26:26
5 it, specifically, calls out what if or 11:26:29
6 anticipated. Those are my words relative to how 11:26:35
7 they're used in the real estate industry. And 11:26:40
8 I'm trying to link them with how accountants 11:26:42
9 might be guided in terms of interpreting various 11:26:46
10 situations. 11:26:50

11 Q. Okay. Now, Mr. Chin, as you're not 11:26:53
12 an accountant, how did you come to recognize AR-C 11:26:58
13 120 as relevant to your opinion in this matter? 11:27:02

14 MR. FARINA: Objection to form. 11:27:09

15 A. I believe I did some independent 11:27:10
16 research just to see. I knew about compilations. 11:27:14
17 I knew that there was authoritative sources and I 11:27:18
18 believe this is what I had found. 11:27:22

19 Q. Okay. In your review of the 11:27:25
20 "available evidence," did you identify any 11:27:35
21 instances in the SOFCs referenced in the 11:27:40
22 complaint that included pro forma financial 11:27:43
23 information, as defined as -- in .03 or as 11:27:47
24 described in .03 here, "historical financial 11:27:53
25 information might have been, had it consummated 11:27:56

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2 or proposed transaction or event occurred at an 11:27:58

3 earlier date"? 11:28:01

4 MR. FARINA: Objection to form. 11:28:02

5 A. I did not look, specifically, at this 11:28:07

6 excerpt we're talking about to line those things 11:28:10

7 up. I looked at it in the totality of the 11:28:15

8 compilation reports and the various discussion or 11:28:19

9 footnotes that are included in each of the SOFCs. 11:28:22

10 Q. Okay. Let's go back to Exhibit 3, 11:28:25

11 which is AR-C Section 80. 11:28:31

12 Now, this one, under scope of this 11:28:31

13 section, Subsection .01. It says, "This section 11:28:40

14 applies when the accountant is engaged to perform 11:28:43

15 a compilation of financial statements, 11:28:46

16 perspective financial information, pro forma 11:28:48

17 financial information or other historical 11:28:51

18 financial statement." 11:28:54

19 Sorry, one second. 11:29:01

20 Now, I want to ask you, as opposed to 11:29:09

21 elaborate, in light of the scope of AR-C 11:29:17

22 Section 80, how that leads you to your position 11:29:20

23 in Paragraph 42 of your report that, "the AICPA 11:29:26

24 does not mandate or require reporting as is 11:29:32

25 values in compilation reports. Nor does it 11:29:34

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2 mandate or require that a market value definition 11:29:38

3 be applied"? 11:29:40

4 MR. FARINA: Objection to form. 11:29:50

5 A. Well, when I read through the 11:29:53

6 totality of the compilation engagements and how 11:29:56

7 they're -- they start out, how they're -- who is 11:30:00

8 providing the information, what the accountant 11:30:04

9 does or doesn't do, I look at this as having a 11:30:06

10 fair amount of latitude that is afforded the 11:30:14

11 intended user, which is basically the client, at 11:30:20

12 least, as all this documentation puts forth. 11:30:25

13 So, I believe, it does align to what 11:30:31

14 an owner believes and thinks his property is, 11:30:36

15 generally, in the confines of these documents. 11:30:42

16 Q. So it's your position that the 11:30:45

17 intended user of a compilation of financial 11:30:49

18 statements is the client commissioning the 11:30:55

19 compilation? 11:31:00

20 MR. FARINA: Objection to form. 11:31:01

21 A. Yeah, I believe it is. I mean, it is 11:31:03

22 the work product, if you will, of the client. I 11:31:06

23 believe there are certain areas here we can look 11:31:10

24 through to find it. But there's talking about 11:31:15

25 who the intended user and client is. And it is, 11:31:17

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2 in fact, the client. The client is supplying the 11:31:21
3 information. The accountants are putting it in a 11:31:23
4 reporting format and disclaiming really any 11:31:28
5 knowledge or ownership of those and it is for the 11:31:33
6 benefit of the client. 11:31:37

7 Q. So why would why would an individual 11:31:57
8 or entity have an accountant perform a 11:32:03
9 compilation of their own financial statements if 11:32:05
10 they are the primary user? Don't they already 11:32:12
11 have that information? 11:32:15

12 MR. FARINA: Objection to form. 11:32:19

13 A. They may or may not. It may be in 11:32:21
14 their head. They may know and think about how 11:32:23
15 they look at each of their properties. And with 11:32:28
16 respect to what the compilation is is somewhat of 11:32:34
17 an organized format that accountants use. So it 11:32:38
18 is somewhat standardized in that regard. 11:32:44

19 But the contents are certainly all of 11:32:48
20 the clients and I -- you know, they may have 11:32:52
21 their own specific need to have one done, not 11:32:56
22 everybody does them. And it depends on what 11:33:00
23 maybe the requirements are that necessitates 11:33:06
24 having one done and compiled by an accounting 11:33:09
25 firm. 11:33:13

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2 Q. Okay. I'm sorry. I'm just trying to 11:33:15

3 parse your answer. 11:33:23

4 But don't the clients -- aren't the 11:33:23

5 clients responsible for all the information 11:33:38

6 contained within the compilation report? 11:33:40

7 A. Yes, they are. 11:33:43

8 Q. And the accountant is not providing 11:33:46

9 assurance when they perform a compilation; is 11:33:48

10 that correct? 11:33:51

11 A. You're correct. 11:33:52

12 Q. So the accountant is assisting, I 11:33:53

13 believe, in the presentation of the information 11:33:59

14 provided by an... 11:34:01

15 Well, let me read from Subsection 11:34:08

16 .02. "Because a compilation engagement is not an 11:34:10

17 assurance engagement, a compilation engagement 11:34:13

18 does not require the accountant to verify the 11:34:15

19 accuracy or completeness of the information 11:34:17

20 provided by management or otherwise gather 11:34:20

21 evidence to express an opinion or conclusion on 11:34:22

22 the financial statements"; is that correct? 11:34:25

23 MR. FARINA: Objection to form. 11:34:28

24 A. Yes, that's correct. 11:34:30

25 Q. Then... 11:34:34

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2 So given that, what do you think the 11:34:41
3 added value is for an individual to have an 11:34:42
4 accountant perform a compilation of their own 11:34:46
5 financial statement, if they are the primary 11:34:49
6 intended user? 11:34:51

7 A. Well, it's hard to speak for a lot of 11:34:55
8 owners that do this, but it could be for ego. It 11:35:01
9 could be for a requirement by a financial 11:35:06
10 institution to have somebody prepare a 11:35:12
11 compilation report. It could be a requirement 11:35:15
12 for a loan document or a loan condition such as a 11:35:20
13 personal guaranty. It could be for a variety of 11:35:27
14 reasons. 11:35:33

15 It is somewhat perplexing that the 11:35:34
16 intended user is the client who provides the 11:35:38
17 information and exactly to your question. But 11:35:40
18 those are some possibilities of why one might be 11:35:45
19 required. 11:35:49

20 Q. But you say, "It's perplexing that 11:35:50
21 the intended user is the client who provides the 11:35:53
22 information." 11:35:55

23 You'll forgive me, I don't see that 11:35:56
24 in this document. 11:35:58

25 Can you point me to where it says 11:35:59

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2 that the client is the intended user? 11:36:01

3 MR. FARINA: Objection to form. 11:36:04

4 A. Yeah. I mean, so my reading of this 11:36:10

5 is that it's information provided by management. 11:36:13

6 It's management's own responsibility for its 11:36:16

7 accuracy and its content. 11:36:19

8 So, to me, that's who the intended 11:36:21

9 user is. It wouldn't be the intended user of you 11:36:25

10 or me, because we weren't involved in it. It 11:36:27

11 really isn't for the bank, because they aren't 11:36:31

12 really the one who authorized it. But if they 11:36:33

13 chose to take it, then, you know, they understand 11:36:38

14 -- they're knowledgeable to know what a 11:36:43

15 compilation statement is. 11:36:45

16 Q. You said a bank might require it or a 11:36:49

17 financial institution might -- "it might be a 11:36:52

18 requirement for a loan document or a loan 11:36:53

19 condition such as a personal guaranty." 11:36:55

20 Wouldn't the party requiring the 11:36:57

21 statement be a user of that statement? 11:37:01

22 MR. FARINA: Objection to form. 11:37:06

23 A. They would be a user but not one who 11:37:10

24 was originally set out in the compilation 11:37:12

25 agreement who -- it's for broad disclosure. I 11:37:14

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2 mean, my understanding is that the intended user 11:37:20
3 is the clients. What they choose to do with it, 11:37:23
4 I guess, is not in the control of the accountant, 11:37:27
5 but it doesn't necessarily convey that just 11:37:31
6 because the client is the user that anybody can 11:37:35
7 use it and rely on it. 11:37:38

8 Q. Okay. I'm going to go and ask you 11:37:40
9 again. 11:37:42

10 Can you point me to somewhere in this 11:37:43
11 document that says that the client is the 11:37:46
12 intended user of a compilation of financial 11:37:50
13 statements? 11:37:53

14 A. Certainly. Do you mind giving me a 11:37:53
15 moment so I can go through the document? 11:37:56

16 Q. Please take your time, uh-huh. 11:37:59

17 A. So not to take all the time to search 11:39:21
18 for the words "intended user." 11:39:24

19 Q. Sure. 11:39:26

20 A. I think it is subsumed several times 11:39:29
21 that the accounting firm isn't the intended user, 11:39:31
22 then it's management's responsibility and that is 11:39:37
23 the intended user of this. That it's meaningful 11:39:39
24 to them and really because of a lack of 11:39:43
25 assurances, the disclaimers, basically, the 11:39:47

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2 accounting firm not taking any responsibility for 11:39:52
3 its reliability, accuracy or completeness. It 11:39:54
4 really is -- intended user who can really rely on 11:39:59
5 it is the client. 11:40:03

6 But I apologize I -- 11:40:07

7 Q. No, no. 11:40:08

8 A. -- without doing a complete word 11:40:09
9 search, the word "intended user" may or may not 11:40:11
10 be here. But, to me, it is subsumed with respect 11:40:16
11 to what the parameters are of taking on a 11:40:19
12 compilation assignment by an accountant. 11:40:25

13 Q. Okay. I found one instance of the 11:40:30
14 term "user" here while we were looking. 11:40:34

15 So Subsection .27, it starts by 11:40:37
16 saying, "When reporting on financial statements 11:40:42
17 that omit substantially all disclosures required 11:40:45
18 by the applicable financial reporting framework, 11:40:47
19 the accountant should include a separate 11:40:51
20 paragraph in the accountant's compilation report 11:40:53
21 that includes the following elements." 11:40:55

22 And I'm going to skip to subsection B 11:40:59
23 there. "A statement that if the omitted 11:41:01
24 disclosures in the statement of cash flows is 11:41:03
25 applicable were included in the financial 11:41:06

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2 statements, they might influence the user's 11:41:08
3 conclusions about the entity's financial 11:41:11
4 position, results of operations and cash flows or 11:41:14
5 the equivalent for presentations other than 11:41:17
6 GAAP." 11:41:20

7 Now, here -- so this says, "the 11:41:20
8 user's conclusions" and "the entity's financial 11:41:24
9 position." 11:41:26

10 So, if the entity is the user, is 11:41:27
11 that not circular? 11:41:33

12 MR. FARINA: Objection to form. 11:41:35

13 A. I guess it is. I mean, it is in one 11:41:37
14 regard. 11:41:41

15 And if you read the next sentence, 11:41:41
16 27C, it says, "A statement that accordingly the 11:41:44
17 financial statements are not designed for those 11:41:47
18 who are not informed about such matters." 11:41:49

19 So, in that regard, the only people 11:41:52
20 really informed about that are the client and 11:41:55
21 that distribution of those two other people would 11:41:59
22 not be informed of what the basis of any of the 11:42:03
23 analysis would be. 11:42:08

24 Q. Okay. I just -- I'm having some 11:42:12
25 difficulty with this. 11:42:16

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2 So you worked on preparation of 11:42:17
3 financial statement in your time at Sagebrush, 11:42:21
4 correct? 11:42:23

5 A. Yes. 11:42:23

6 MR. FARINA: Objection to form. 11:42:23

7 A. And -- 11:42:24

8 THE WITNESS: Sorry. 11:42:25

9 A. And also at Ernst & Young and Kenneth 11:42:26
10 Leventhal. 11:42:29

11 Q. Sticking with the Sagebrush example 11:42:29
12 that you raised earlier. 11:42:31

13 That was a statement that a lender 11:42:32
14 had requested be provided in connection with 11:42:35
15 extension of credit to Sagebrush, yes? 11:42:39

16 MR. FARINA: Objection to form. 11:42:44

17 A. It was one of the elements that they 11:42:45
18 had required. So, when we met with that 11:42:49
19 particular lending group, they gave us a long 11:42:52
20 laundry list of information they wanted. So they 11:42:55
21 wanted -- 11:43:00

22 Q. So -- 11:43:00

23 A. I'm sorry. 11:43:01

24 Q. Go ahead. Continue. 11:43:01

25 A. Oh. 11:43:02

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2 They wanted to know who the borrower 11:43:03

3 was, what -- did he have any basis for being 11:43:05

4 someone they might loan to. They requested a 11:43:11

5 significant amount of other information regarding 11:43:15

6 the assets, about the company's organizational 11:43:18

7 structure, management, who was doing what. So it 11:43:22

8 was one piece of many that they had asked for. 11:43:26

9 Q. So, would it be fair to say that the 11:43:30

10 company was providing the statement for the 11:43:33

11 bank's use in the underwriting of the loan? 11:43:35

12 MR. FARINA: Objection to form. 11:43:38

13 A. That along with many other things. 11:43:40

14 Q. Sure. 11:43:42

15 A. So, you know, the credit underwriting 11:43:43

16 process is very extensive and requires lots of 11:43:45

17 information. This was just one piece of it. 11:43:50

18 Q. Understood. 11:43:52

19 But there the bank was the user of 11:43:52

20 the financial statement, correct? 11:43:55

21 A. In this case, we prepared it for the 11:43:57

22 bank. 11:44:00

23 Q. Okay. So is it then the moment that 11:44:00

24 you ask an accountant to compile that financial 11:44:06

25 statement that -- I mean, had you asked -- strike 11:44:09

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2 that. 11:44:13

3 Had you asked an accounting firm to 11:44:13

4 compile the financial statement that you worked 11:44:17

5 on with Sagebrush prior to its presentation to 11:44:19

6 the bank, would the bank no longer be the user? 11:44:23

7 MR. FARINA: Objection to form. 11:44:27

8 A. Well, we would still be the user. We 11:44:28

9 would provide the information to the accounting 11:44:32

10 firm. They would assemble it, put in their 11:44:35

11 format and it would be our work product. So we 11:44:39

12 would have to put out representation letter and 11:44:42

13 everything disclaiming that they aren't providing 11:44:45

14 in a test function or an accuracy or a liability. 11:44:49

15 And it's really our statement to, I guess, do as 11:44:56

16 we please with it. But they're not -- in this 11:44:59

17 case, the bank was not the specific target that 11:45:03

18 the accounting firm was preparing it for. 11:45:06

19 Q. So, I mean, is this a semantic 11:45:19

20 difference like user like you used the financial 11:45:24

21 statement to obtain credit and, therefore, you're 11:45:26

22 the user; is that -- is that what I'm missing? 11:45:29

23 MR. FARINA: Objection to form. 11:45:33

24 A. I apologize for the confusion. 11:45:35

25 Q. No, it's okay. It's probably my 11:45:37

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2 fault. 11:45:39

3 A. Oh, no. 11:45:39

4 When I think of "user," I think of 11:45:40

5 who is going to rely on the information, 11:45:43

6 particularly, with respect to financial records 11:45:45

7 and financial information. So, in that regard, 11:45:48

8 "user" has a meaning to me about the reliability. 11:45:53

9 In this case, the financial 11:45:57

10 statements were prepared for the client, Trump, 11:46:00

11 and what he did with them, those -- I guess you 11:46:04

12 could consider them ad hoc users but not, 11:46:08

13 specifically, users that this report is, 11:46:12

14 specifically, given straight to them or the bank 11:46:16

15 to rely on. It's information that provides 11:46:21

16 context in terms of the financial condition of 11:46:25

17 the borrower, as prepared by the borrower. 11:46:29

18 Q. We found another reference to "user." 11:46:42

19 A. Oh, good. 11:46:44

20 Q. So, on Page 70, Subsection .A24. 11:46:45

21 Yeah, this is -- "The Accountant's Compilation 11:46:53

22 Report," is the title of this. 11:46:54

23 "The accountant's written report may 11:46:56

24 become unattached from the financial statements. 11:47:00

25 To minimize the possibility that a user of the 11:47:02

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2 financial statements may infer an unintended 11:47:05
3 level of reliance on the financial statements, 11:47:08
4 the accountant may request that management 11:47:10
5 include a reference on each page of the financial 11:47:13
6 statements to the accountant's written report." 11:47:16

7 Does that in any way change your 11:47:21
8 opinion of the "user" of financial statement as 11:47:23
9 countenance by this standard? 11:47:34

10 A. No, I don't -- 11:47:35

11 MR. FARINA: Objection to form. 11:47:35

12 A. I don't believe so. I mean, I still 11:47:36
13 have who was intended to rely on it, which would 11:47:41
14 be then the user. And, to me, this is somewhat 11:47:44
15 of a disclaimer that, you know, this -- see the 11:47:48
16 notes, which usually contain fair amounts of 11:47:53
17 disclosures by the accounting firm, what they did 11:47:56
18 or didn't do. 11:47:59

19 Q. But why would -- if the entity is the 11:48:02
20 "user," how would they infer an unintended level 11:48:07
21 of reliance on the financial statement without 11:48:12
22 the accountant's report? 11:48:15

23 They're the user. They prepared it. 11:48:16
24 They know to which degree they can rely on the 11:48:18
25 information contained within it, because the 11:48:21

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2 engagement letters and the standards for the 11:48:23
3 compilation report elsewhere say the entity's 11:48:25
4 responsible for the, you know, the values and the 11:48:28
5 financial information provided. 11:48:33

6 So how does it make sense -- how does 11:48:34
7 this sentence make sense that the entity is also 11:48:40
8 the "user"? 11:48:41

9 MR. FARINA: Objection to form. 11:48:42

10 A. I'm sorry. I'm not really 11:48:48
11 understanding the -- sort of the nuance here of 11:48:49
12 -- 11:48:52

13 Q. You know, "to minimize the 11:48:52
14 possibility," it says -- sorry to cut you off -- 11:48:53
15 "that a user of the financial statements may 11:48:55
16 infer an unintended level of reliance on the 11:48:57
17 financial statements." 11:49:00

18 So I prepare my financial statement. 11:49:02
19 I give it to an accountant. He gives it back to 11:49:09
20 me as the "user." 11:49:11

21 How is it possible that I would then 11:49:12
22 infer an unintended level of reliance on it, when 11:49:14
23 I know exactly what went into it and every detail 11:49:17
24 of it? 11:49:21

25 A. I see. 11:49:21

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2 MR. FARINA: Objection to form. 11:49:22

3 A. I see your point. 11:49:23

4 Q. Yeah. 11:49:24

5 A. So why would you need to put that 11:49:25

6 warning on there. 11:49:27

7 But I believe in this written for 11:49:28

8 somebody other than the client. 11:49:33

9 Q. Yeah. So, I mean, I guess, putting 11:49:37

10 aside some of the discussion we've had so far. 11:49:41

11 Could it not be the case a user of a 11:49:47

12 financial statement is not the client, that there 11:49:50

13 are other users of financial statements, as 11:49:52

14 discussed in AR-C 80? 11:49:54

15 A. Certainly, maybe you can consider 11:50:00

16 them readers of the document. 11:50:02

17 Q. Okay. 11:50:05

18 A. But at the same time, it's with -- 11:50:05

19 you know, the compilation statements are pretty 11:50:10

20 clear, in terms of what they didn't do. So I 11:50:12

21 think, in totality, when one looks at a 11:50:16

22 compilation reports, there could be other users 11:50:19

23 which are clearly warned that, you know, you use 11:50:22

24 these and rely on these at your own risk, because 11:50:28

25 there are many things that were not done that are 11:50:31

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2 subsumed in a compilation report. 11:50:34

3 Q. Okay. So sorry. That was a bit of a 11:50:36

4 digression. But I think I have a better 11:50:40

5 understanding of your perspective at this point 11:50:42

6 now. 11:50:43

7 A. My apologies. 11:50:43

8 Q. No. You should -- you don't have any 11:50:44

9 need to apologize to me. 11:50:48

10 So I guess going back to 11:50:52

11 Paragraph 42. You say that, "The AICPA does not 11:50:55

12 mandate or requiring report as does valuation and 11:50:59

13 compilation reports. Nor does it mandate or 11:51:02

14 require that a market value definition be 11:51:05

15 applied. Accordingly, many of the assets in the 11:51:07

16 SOFCs/compilation reports reflect as if valuation 11:51:10

17 estimates based on the guarantor's understanding 11:51:15

18 and perspective of those assets." 11:51:16

19 So can you describe what you mean by 11:51:22

20 "as if" values in this paragraph? "As if 11:51:32

21 valuation estimates," I think you said, 11:51:37

22 specifically. 11:51:39

23 A. Certainly. 11:51:39

24 MR. FARINA: Objection to form. 11:51:39

25 THE WITNESS: My apologies, Mike. 11:51:41

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2 MR. FARINA: That's okay. 11:51:43

3 A. They are events and conditions that 11:51:45

4 could occur in the future but may or may not. 11:51:49

5 So, in the context of real estate, it might be 11:51:54

6 rent that could be received, sales that might 11:51:59

7 happen, development activities that might occur 11:52:03

8 or actions that might be undertaken that change 11:52:08

9 the characteristics financially, physically or 11:52:13

10 otherwise of the property, but none are fact per 11:52:16

11 se from the standpoint that they are events that 11:52:26

12 could happen, that may or may not happen. 11:52:29

13 Q. In the appraisal world, these are 11:52:33

14 what you call what hypothetical conditions or 11:52:35

15 extraordinary assumptions; is that right? 11:52:38

16 MR. FARINA: Objection to form. 11:52:40

17 A. Some people -- 11:52:41

18 THE WITNESS: Sorry. I stopped 11:52:42

19 myself. 11:52:48

20 A. They are considered either 11:52:48

21 hypotheticals, extraneous conditions or in some 11:52:50

22 context as if. So, "as if" things were built, 11:52:53

23 "as if" things were done, then it would be in the 11:52:57

24 hypothetical. 11:53:01

25 Q. Okay. And kind of one conducting an 11:53:02

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2 appraisal under USPAP, you disclose those, you 11:53:08
3 discount them, you undertake certain steps to 11:53:13
4 make sure that the ultimate outcome of any "as if 11:53:20
5 valuation" is reflected in market value; is that 11:53:24
6 correct? 11:53:27

7 MR. FARINA: Objection to form. 11:53:28

8 A. Not necessarily, no. 11:53:28

9 Q. Okay. So it was my understanding 11:53:33
10 that that's generally how appraisals are 11:53:35
11 presented. 11:53:37

12 In the appraisal context, 11:53:38
13 specifically, can you sort of elaborate on the 11:53:39
14 "not necessarily" that you just gave me? 11:53:45

15 MR. FARINA: Objection to form. 11:53:47

16 A. Certainly. 11:53:47

17 So an appraiser could -- well, start 11:53:48
18 out. 11:53:53

19 There are many different forms of 11:53:54
20 value. There could be market value as is. There 11:53:55
21 could be liquidation value. There could be the 11:53:59
22 hypothetical value assuming something were in 11:54:04
23 place that may not exist now. There is probable 11:54:06
24 selling price. All of those are different 11:54:11
25 concepts of value that could be recorded by an 11:54:15

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2 appraiser. It doesn't necessarily mean as is 11:54:21

3 market value today. 11:54:24

4 So, for instance, if we are listing 11:54:28

5 our co-op for sale, appraisals that we had gotten 11:54:30

6 may give me an idea of what we might be able to 11:54:36

7 achieve. It's not the price that we would 11:54:40

8 necessarily go out and list the property for. 11:54:45

9 And we could engage the same appraiser and ask 11:54:48

10 them, what's your recommendation, based on what 11:54:52

11 you know, about what we should list the property 11:54:56

12 for? 11:54:58

13 And that might be a very distinctive 11:54:59

14 different number. It could be as is. It's based 11:55:03

15 upon their perception of market activity. But it 11:55:07

16 may differ from a market value as is that would 11:55:13

17 be normally conducted for a lending purpose. 11:55:16

18 Most lending sources usually require some as is 11:55:21

19 value and on occasion they may also request an as 11:55:28

20 if value, assuming that, let's say, a project is 11:55:32

21 under construction, as if that property were 11:55:36

22 under construction today, what would it be worth. 11:55:40

23 So there are many dimensions that -- 11:55:44

24 just because it's market value, it doesn't mean 11:55:49

25 that it's as is, but there are different flavors 11:55:50

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2 and shades, if you will, of what that value 11:55:52

3 definition could be. 11:55:55

4 Q. Okay. And, in that example, you'd 11:55:56

5 hope that the appraisal -- appraiser was told 11:56:01

6 that the apartment was rent stabilized in the 11:56:03

7 first place, right? 11:56:05

8 MR. FARINA: Objection to form. 11:56:06

9 A. In that case, absolutely. 11:56:07

10 (There is a discussion off the 11:56:07

11 record.) 11:56:18

12 MR. GABER: So this will be 11:56:18

13 Exhibit 5. I'll get the Court Reporter to mark 11:56:20

14 it. 11:56:23

15 Q. It's a little small but hopefully 11:56:23

16 you'll recognize it. 11:56:25

17 A. It's really small. 11:56:26

18 MR. FARINA: I hope you brought a 11:56:31

19 magnifying glass. 11:56:33

20 Q. Worst case scenario -- I mean, 11:56:33

21 there's not -- thankfully, not too text dense. 11:56:35

22 But if we need to project it on the screen, let 11:56:37

23 me know. 11:56:39

24 (Deposition Exhibit Chin 5, Excel 11:56:39

25 spreadsheet from Mr. Chin's report, was marked 11:56:39

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2 for identification.) 11:56:42

3 Q. So, Mr. Chin, this is a chart that 11:56:42

4 you included in the report even smaller than this 11:56:44

5 but also thankfully attached as an Excel in your 11:56:46

6 supporting data. 11:56:50

7 Can you describe this chart for us? 11:56:51

8 A. Certainly. Thank you for blowing it 11:56:57

9 up. 11:57:00

10 I've tried to characterize the 11:57:00

11 expressions of value that were in the Statement 11:57:04

12 of Financial Condition as being -- this is 11:57:09

13 reflective of conditions today or it's reflective 11:57:13

14 of conditions that could happen that that is the 11:57:17

15 basis for the estimate that's included in the 11:57:20

16 report. 11:57:24

17 Q. And you personally generated this 11:57:27

18 chart? 11:57:30

19 A. Yes. 11:57:30

20 Q. Can you sort of tell me what process 11:57:31

21 you went through in order to decide for a given 11:57:40

22 year and for a given property, as listed along 11:57:44

23 the left side, whether to check it as an "as is" 11:57:48

24 or "as if"? 11:57:51

25 A. If I recall correctly, I started with 11:57:55

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2 the Statement of Financial Condition and, in each 11:58:00

3 description in that report for each year, it 11:58:05

4 talks about a brief synopsis of that property. 11:58:11

5 And to the extent there was a notation in the 11:58:17

6 report that indicated that the number is based on 11:58:23

7 expected earnings or expected build out or 11:58:29

8 assumed something that not necessarily existed as 11:58:34

9 of the moment the report was done, then I put 11:58:37

10 that in the "as if" category. 11:58:41

11 Q. So this was based then on the 11:58:43

12 Statements of Financial Condition, correct? 11:58:48

13 A. Yes, that's what I -- 11:58:51

14 MR. FARINA: Objection. 11:58:52

15 A. -- recall. 11:58:53

16 Q. Did you also use the supporting data 11:58:57

17 spreadsheets that were attached as exhibits to 11:58:59

18 the complaint? 11:59:01

19 MR. FARINA: Objection to form. 11:59:05

20 A. I might have. I think I might have 11:59:05

21 -- I'm trying to go back in my process. 11:59:11

22 I think I went through the reports 11:59:13

23 first, got an idea of it. And, to the extent I 11:59:17

24 wasn't sure, I might have gone and accessed other 11:59:21

25 information. 11:59:25

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2 Q. Okay. So, if you mark "as is" for a 11:59:26
3 property under a given year, it's your opinion 11:59:30
4 that the SOFC presented an estimated current 11:59:33
5 value of that property for that year? 11:59:38

6 A. Correct. It was basically just -- 11:59:41
7 yeah, this is -- there is no hypothetical 11:59:43
8 situation that really was attached to that 11:59:45
9 property. 11:59:48

10 Q. Okay. And so, conversely, just for 11:59:48
11 completion sake, if you marked "as if," it is 11:59:51
12 your opinion that the value presented was an as 11:59:54
13 if value based on, I think, as you described it, 11:59:57
14 forward thinking perspectives or a condition that 12:00:00
15 hadn't been fulfilled yet or an anticipated 12:00:02
16 outcome, correct? 12:00:06

17 A. Correct. 12:00:07

18 MR. FARINA: Objection to form. 12:00:07

19 Q. Do you think if I asked you about 12:00:11
20 some of the specific entries here, you would be 12:00:13
21 able to recall your thinking on it? 12:00:16

22 A. I might not. 12:00:19

23 Q. We'll try. 12:00:20

24 So, if we look at 40 Wall Street, for 12:00:21
25 instance -- and this one you spent some time on. 12:00:26

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2 So maybe this one will be in the recall without 12:00:28
3 going to the documents. 12:00:32

4 Can you tell me what changed between 12:00:32
5 2015 and 2016 for 40 Wall Street that resulted in 12:00:35
6 your moving it from "as is" to "as if"? 12:00:41

7 A. I don't recall. 12:00:47

8 Q. Okay. You also move Trump Palace 12:00:48
9 from "as is" to "as if" between 2014 and 2015. 12:01:00

10 Do you remember why that one used? 12:01:04

11 A. I'm sorry, I don't. 12:01:06

12 Q. It's okay. I'm just asking to be 12:01:07
13 thorough. I understand it's very difficult to 12:01:09
14 remember these things without refreshing 12:01:11
15 sometimes. 12:01:14

16 Trump Tower and Nike Town also have 12:01:15
17 -- they moved from one to the another. 12:01:23

18 Do you have any recollection there? 12:01:25

19 A. My apologies, I don't. 12:01:29

20 Q. Okay. And so is it your contention 12:01:31
21 that the AG's Complaint is incorrect where it 12:01:41
22 looks for an as is current value in the 12:01:48
23 situations where you've marked "as if" because -- 12:01:53
24 strike that. 12:01:59

25 Is it your contention that the AG and 12:02:00

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2 the allegations in the Complaint are wrong for 12:02:05
3 looking for current values, because what Trump is 12:02:09
4 doing is looking as if perspective when he 12:02:12
5 presents his assets in the Statement of Financial 12:02:15
6 Condition? 12:02:17

7 MR. FARINA: Objection to form. 12:02:17

8 A. I think it's a matter of differences 12:02:22
9 of perspective. I understand what the AG's 12:02:24
10 perspective is, I believe, in terms of as is and 12:02:31
11 that's what should be reporting, that's what the 12:02:38
12 appraisers normally do. But I think it's one 12:02:41
13 perspective of others. 12:02:45

14 And then when we come back to the 12:02:47
15 compilation report, who it was prepared for, how 12:02:49
16 they interpret it, there's this divide between 12:02:53
17 perspectives of value. 12:02:58

18 Q. So along the line of kind of divide 12:03:02
19 perspective in value, you'd also disagree with 12:03:06
20 Professor Lewis, one of the AG's proffered 12:03:10
21 experts in this regard, because he gives a 12:03:12
22 standard that's based on estimated current value 12:03:15
23 to the exclusion of as if values, as you describe 12:03:18
24 them; is that right? 12:03:22

25 MR. FARINA: Object to the form. 12:03:23

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2 A. I believe he's one who kind of 12:03:24
3 mandates the code red. It's the as is value and 12:03:27
4 then it's given to appraisers who are confident 12:03:33
5 -- consistently preparing as is appraisal 12:03:38
6 reports. So it's exacerbating and multiplying on 12:03:41
7 that concept. 12:03:46

8 Q. So, in going to your rebuttal report, 12:03:47
9 Exhibit 2/Paragraph 2 -- wait. No sorry, Page 2. 12:03:49
10 Sorry. 12:03:57

11 You coin the term, "Lewis current 12:04:01
12 value mandate." 12:04:05

13 Can you describe what you mean by 12:04:09
14 that defined term? 12:04:10

15 A. I think it was, essentially, setting 12:04:13
16 the stage for the appraisers to look at this as a 12:04:19
17 willing buyer, willing seller, market value 12:04:24
18 context analogous somewhat to fair value, which 12:04:28
19 is an accounting term, which is along those 12:04:33
20 lines. 12:04:36

21 But, in the context of a compilation 12:04:36
22 report, I believe, it has a little broader 12:04:39
23 interpretation. 12:04:44

24 Q. Okay. You said that the current 12:04:44
25 value mandate was "setting the stage." 12:04:50

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2 What do you mean by that? 12:04:53

3 A. Well, there's this inner 12:04:59

4 connectedness of the experts. They seem to 12:05:02

5 relate to Lewis and Lewis is the one who is the 12:05:07

6 one who was interpreting what accounting standard 12:05:12

7 there is. And I believe then that that sets the 12:05:15

8 stage for the appraisal team to give many 12:05:22

9 different value opinions that, well, we're going 12:05:25

10 to estimate market value as we normally do. I 12:05:27

11 believe all their reports indicate that they're 12:05:31

12 using the market value standard. 12:05:34

13 So, I believe, it's Lewis's 12:05:36

14 interpretation that then triggers the use and 12:05:39

15 application by Korologos and Hirsh. 12:05:42

16 Q. Okay. So I guess is it fair to say 12:05:46

17 that your position is that Lewis's application of 12:05:50

18 a current value standard analogous to market 12:05:53

19 value, as you just said, which you've also kind 12:05:58

20 of called it as is standard, that it's not the 12:06:02

21 correct accounting framework and that inclusion 12:06:05

22 of as if values is just as appropriate? 12:06:08

23 MR. FARINA: Objection to form. 12:06:13

24 A. I think in the context of a 12:06:15

25 compilation report that the as if values are a 12:06:17

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2 perspective of value that is proffered by the 12:06:22
3 client and, I think, it is appropriate in that 12:06:25
4 regard. 12:06:28

5 It may not be appropriate in all 12:06:29
6 regards. If it was an audit or if it was some 12:06:32
7 other purpose, then it might not be appropriate. 12:06:35
8 But, in this particular case, in the context of a 12:06:39
9 compilation report, I believe it is appropriate. 12:06:42

10 Q. So is it your opinion that 12:06:48
11 Professor Lewis is wrong? 12:06:50

12 MR. FARINA: Objection to form. 12:06:52

13 A. I believe that the interpretation 12:06:55
14 within a compilation report context has a little 12:06:56
15 broader meaning than what he is defining as a 12:07:00
16 very black-and-white situation. 12:07:04

17 Q. And so then following that, as you 12:07:09
18 mentioned, the "inner connectedness" of the 12:07:10
19 reports, based on what you describe as "Lewis's 12:07:14
20 mandate," which then extends to Mr. Hirsh and 12:07:19
21 Professor Korologos, do you believe that they are 12:07:23
22 wrong as well? 12:07:35

23 MR. FARINA: Objection to form. 12:07:35

24 A. In any appraisal, one of the basic 12:07:39
25 things is definition of value, intended user 12:07:44

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2 definition of value, that then sets the scope. 12:07:48

3 They have perspectives, but it's a 12:07:54

4 different perspective than what the owner here 12:07:57

5 has relative to a compilation report. 12:08:00

6 In the context of a compilation 12:08:04

7 report, I do believe they're wrong. That it does 12:08:06

8 not afford the ability to have other perspectives 12:08:10

9 of value within the confines of a compilation 12:08:15

10 report. So, from that regard, I don't think it 12:08:18

11 has the latitude that's really afforded within a 12:08:22

12 compilation report. 12:08:25

13 Q. So you mention that in an appraisal 12:08:28

14 one of the basic things is the definition of 12:08:31

15 value of the intended user. 12:08:35

16 Who's the intended user in an 12:08:37

17 appraisal? 12:08:39

18 A. Oh, in an appraisal, it could be 12:08:42

19 different. But, typically, in a banking 12:08:44

20 situation, it's ordered by the bank. So the user 12:08:46

21 would be the bank who would rely on it as the 12:08:48

22 primary user. 12:08:51

23 Q. It wouldn't be the owner of the 12:08:52

24 property? 12:08:55

25 MR. FARINA: Objection to form. 12:08:57

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2 A. Not directly. 12:08:57

3 THE WITNESS: I'm sorry, Mike. 12:08:58

4 MR. FARINA: It's okay. 12:09:00

5 Q. Do you see the analogy that I'm 12:09:03

6 trying to draw between what you're saying about 12:09:05

7 the user of a financial statement in a 12:09:08

8 compilation report and the user of an appraisal? 12:09:11

9 MR. FARINA: Objection to form. 12:09:13

10 A. Yeah, I do. You know, I think about 12:09:13

11 it a little differently, as that who is the guy 12:09:17

12 who orders it, who is the one who is the client 12:09:20

13 who has direct contact with the appraiser to 12:09:24

14 engage. 12:09:26

15 A lender would -- I mean, there's 12:09:28

16 federal banking rules that it has to be ordered 12:09:30

17 by the bank. So, in that regard, they are the 12:09:33

18 user. 12:09:36

19 My guess is knowing developers, they 12:09:37

20 get an appraisal and they probably disagree with 12:09:40

21 it 90 percent of the time and, you know, go from 12:09:43

22 there. 12:09:50

23 Q. Yeah. So forgive the digression. 12:09:50

24 But picking back up along the lines of your last 12:09:53

25 answer that you were saying that Mr. Hirsh and 12:10:04

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2 Mr. Korologos have perspectives, "but it's a 12:10:07
3 different perspective than what the owner here 12:10:09
4 has relative to a compilation report. In the 12:10:11
5 context of a compilation report, I do believe 12:10:15
6 they're wrong." And that's in part your last 12:10:17
7 answer. I sort of want to follow up on that. 12:10:23

8 And, I think, if you turn to the back 12:10:25
9 of your rebuttal report on Paragraph 215. You 12:10:28
10 say in the last sentence of that paragraph -- 12:10:38
11 which is effectively a description of Korologos 12:10:41
12 and Hirsh's application of the current value 12:10:49
13 framework -- you say, "These underlying 12:10:52
14 presumptuous and biases distort the original 12:10:54
15 intent and purpose of the SOFC/compilation 12:10:57
16 report." 12:11:01

17 Do you see that? 12:11:02

18 A. Yes. 12:11:03

19 Q. Okay. So can you elaborate on what 12:11:04
20 you mean by "underlying presumptions and biases" 12:11:12
21 here? If you need to read the rest of the 12:11:16
22 paragraph, that's fine. 12:11:20

23 MR. FARINA: Objection to form. 12:11:21

24 A. Well, with respect to Korologos and 12:11:29
25 Hirsh, they're appraisers. They -- I would guess 12:11:34

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2 that 95 percent of their work, to the extent that 12:11:40
3 they're doing practicing appraisals, is market 12:11:43
4 value as is. So that's their machine. That's 12:11:46
5 what they use. That's where -- they're common 12:11:50
6 reporting. 12:11:53

7 And, you know, that was kind of -- I 12:11:54
8 don't think they thought anything else about any 12:12:01
9 other possibilities and how it may even relate to 12:12:03
10 the overall context of the SOFC that -- I mean, 12:12:08
11 they carried out their mission, as they normally 12:12:19
12 would, perhaps in my regard without the context 12:12:22
13 of what is the purpose of all this and where is 12:12:27
14 it going and how does it relate. 12:12:30

15 And the focus to me has always been 12:12:33
16 anchored in the SOFC and what is that and how did 12:12:36
17 this originate. 12:12:41

18 Q. Sorry. I'm just trying to digest 12:12:48
19 that. That was a heady answer. 12:12:50

20 Wait, my realtime. 12:12:57

21 So maybe I could ask you, if you 12:13:11
22 could just tell me more about what you say is 12:13:14
23 "the context [of] what is the purpose of all this 12:13:17
24 and where is it going," as regards the "anchored 12:13:20
25 in the SOFC," as you say? 12:13:23

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2 MR. FARINA: Objection to form. 12:13:26

3 A. So, again, starting with the top 12:13:28

4 level SOFC. What is it? And then, more 12:13:33

5 importantly, what isn't it? 12:13:37

6 And then what purpose does it solve? 12:13:39

7 Which I think your questions were on point, that 12:13:42

8 it may get distributed to other people, who are 12:13:48

9 not involved in its design, or the procedures 12:13:51

10 that were performed. 12:13:59

11 And then what are people supposed to 12:14:01

12 do with it once they get it? 12:14:04

13 Which my perspective is knowledgeable 12:14:06

14 people know that there are several limitations of 12:14:09

15 a compilation report. 12:14:12

16 From the perspective of if you gave 12:14:16

17 that compilation report to appraisers, who if 12:14:19

18 they haven't worked at an accounting firm, look 12:14:22

19 at it and say, well, this doesn't contain much of 12:14:24

20 anything. I need this. They didn't do this, X, 12:14:27

21 Y and Z. There's not these disclosures. There's 12:14:30

22 not these notes. 12:14:33

23 I would fully expect an appraiser 12:14:34

24 given that bias of what they're used to seeing as 12:14:38

25 not finding this report acceptable. 12:14:44

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2 So, to me, there's this disconnect 12:14:46

3 and I'm not sure how to best make the analogy of 12:14:50

4 it. But the disconnect between a kind of, if you 12:14:55

5 will, flimsy documents that gives a general 12:14:57

6 overview of someone's financial condition to 12:15:01

7 people who are used to doing detailed reports as 12:15:03

8 per USPAP and everything, it's going to look 12:15:06

9 grossly inadequate. And the context of why it 12:15:10

10 even exists is lost. 12:15:15

11 Q. One last question about this 12:15:32

12 paragraph. 12:15:34

13 You say, "Korologos and Hirsh rooted 12:15:35

14 in their professionals backgrounds as real estate 12:15:38

15 appraisers" -- first of -- "presume that current 12:15:41

16 value and traditional appraisal approaches based 12:15:44

17 on market value as is standard should serve as 12:15:47

18 the benchmark against which the guarantor's 12:15:51

19 assets should be assessed." 12:15:54

20 So we were just discussing this idea 12:15:56

21 of their -- what you called their sort of 12:15:58

22 rootedness in traditional appraisal thinking. 12:16:01

23 A. Predilections, yeah. 12:16:03

24 Q. "Predilections." 12:16:05

25 A. Predilections. 12:16:06

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2 Q. So you're saying that they are saying 12:16:07
3 that the -- I guess, that "predilection" should 12:16:10
4 serve as the benchmark against which the 12:16:14
5 guarantor's assets should be assessed. 12:16:16

6 Is it your opinion then that the as 12:16:19
7 is -- or as if values, as you've identified them 12:16:24
8 in the SOFCs, are a better benchmark against 12:16:28
9 which DJT's assets should be assessed? 12:16:33

10 MR. FARINA: Objection to form. 12:16:36

11 A. I'm not saying it's better or worse. 12:16:39
12 I'm just saying it's different perspective. 12:16:41

13 Q. Both equally valid? 12:16:43

14 A. It depends on the intent. If the 12:16:46
15 intent was to -- we're going to liquidate the 12:16:50
16 company, neither may be appropriate. 12:16:55

17 If someone is considering 12:16:58
18 hypothetically buying the entirety of the Trump 12:17:02
19 enterprise, they may be more focused on what the 12:17:06
20 possibilities are going ahead, as they are what 12:17:11
21 they think it is today, because they're looking 12:17:14
22 at a longer term basis. 12:17:17

23 So there are many different value 12:17:19
24 perspectives that could exist. I don't know if 12:17:22
25 there's one pure answer. 12:17:26

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2 Korologos and Hirsh are trying to 12:17:30
3 replicate a hypothetical buyer. It doesn't mean 12:17:33
4 that those answers are correct. It depends on 12:17:38
5 the capability and the perspective of each 12:17:41
6 person. 12:17:45

7 Certainly, you can see that I've had 12:17:45
8 objections to many of them. I'm sure they have 12:17:48
9 objections to me. 12:17:51

10 But it really just depends on the 12:17:52
11 circumstances. So I don't know if there is a 12:17:57
12 pure answer. 12:17:59

13 Q. Okay. Maybe let's move to... 12:18:00

14 MR. GABER: But, yeah. So I'm going 12:18:26
15 to ask the Court Reporter to mark this as 12:18:27
16 Exhibit 6. 12:18:30

17 (Deposition Exhibit Chin 6, Expert 12:18:30
18 Report Eric E. Lewis dated May 25, 2023, was 12:18:30
19 marked for identification.) 12:18:36

20 MR. FARINA: Thank you. 12:18:36

21 THE WITNESS: Thanks. 12:18:38

22 (There is a discussion off the 12:18:38
23 record.) 12:19:13

24 Q. So, if you can, this is the expert 12:19:13
25 report of Eric Lewis dated May 26, 2023. 12:19:15

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2 I think you said you've already 12:19:19
3 reviewed this before and you addressed it in your 12:19:21
4 rebuttal report. 12:19:26

5 Can you look at Paragraphs 32 through 12:19:26
6 34 together? This is at the bottom of Page 9. 12:19:31
7 There's a header there that says, "GAAP requires 12:19:37
8 that personal financial statements present their 12:19:39
9 assets at current values and liabilities at their 12:19:41
10 current amounts." 12:19:46

11 A. Okay. 12:19:47

12 Q. Paragraph 32 says, "Accounting 12:19:49
13 standards codification 274 ('ASC Topic 274') 12:19:51
14 addresses how to prepare personal financial 12:19:57
15 statements in accordance with GAAP. Pursuant to 12:20:00
16 ASC Topic 274, personal financial statements are 12:20:02
17 required to present assets at their estimated 12:20:06
18 current values and liabilities under estimated 12:20:09
19 current amounts as of the date of the financial 12:20:13
20 statements." It goes on. 12:20:15

21 But do you know why Professor Lewis 12:20:20
22 is using this as a standard? 12:20:25

23 MR. FARINA: Objection to form. 12:20:26

24 Q. Or what's your understanding of -- 12:20:29

25 A. Well, I think this is taken right out 12:20:32

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2 of -- 12:20:34

3 MR. FARINA: Objection to form. 12:20:35

4 A. This is taken right out of the 12:20:35

5 literature. So there's not much to -- 12:20:37

6 Q. What "literature" is that? 12:20:41

7 A. This accounting literature, the 12:20:43

8 Accounting Standard 274. 12:20:45

9 Q. And so you had cited or you had 12:20:52

10 listed ASC 274 in your opening report under the 12:20:59

11 cited authorities, but I didn't actually find a 12:21:06

12 reference to 274 in the body of your report. 12:21:09

13 Can you explain how ASC 274 factored 12:21:13

14 into your opinion? 12:21:16

15 A. Certainly. 12:21:19

16 I think I looked at that document and 12:21:19

17 saw what it proscribed with respect to values or 12:21:25

18 how values might be interpreted by accountants. 12:21:31

19 And I think the next number, 33, gives somewhat 12:21:35

20 of the ideas or guidance in terms of how current 12:21:42

21 value could be calculated. 12:21:47

22 Q. So -- sorry. I just want to make 12:21:55

23 sure. 12:22:04

24 So do you agree with Professor Lewis 12:22:04

25 here in that pursuant to ASC Topic 274, "personal 12:22:08

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2 financial statements are required to present 12:22:12

3 assets at estimated current values"? 12:22:14

4 A. Yeah, I think that's true and then 12:22:20

5 there's the guidance in terms of how current 12:22:23

6 value could be expressed. 12:22:26

7 Q. But you had said referencing the AR-C 12:22:32

8 80 that there's no requirement for presentation 12:22:38

9 of assets and current value; isn't that right? 12:22:42

10 MR. FARINA: Objection to form. 12:22:47

11 A. Can we go back to what document 12:22:49

12 you're referring to? 12:22:51

13 Q. Yeah. In your report Paragraph 42 12:22:53

14 you said, "The AICPA does not mandate or require 12:22:58

15 reporting as is values in compilation reports." 12:23:01

16 Does that help you in answering my 12:23:11

17 previous question? 12:23:13

18 A. Yes. 12:23:15

19 MR. FARINA: Objection to form. 12:23:15

20 THE WITNESS: Sorry, Mike. 12:23:16

21 MR. FARINA: It's okay. 12:23:18

22 THE WITNESS: I need to stop it. 12:23:19

23 A. It does give some guidance with 12:23:20

24 respect to -- if you look at No. 33 and the five 12:23:23

25 different ways of looking at current value is 12:23:29

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2 passive perspective earnings and capitalization 12:23:34
3 of that that is one element. So I interpret that 12:23:37
4 as looking ahead type of analysis or pro forma or 12:23:40
5 as if, if you will. And then there's other ways 12:23:45
6 of determining valuation. 12:23:48

7 Q. "Other ways of determining valuation" 12:23:55
8 or other methods that may be used to reach 12:23:56
9 estimated current value? 12:24:00

10 A. I'm sorry, "other methods" to be 12:24:02
11 used. Thank you for the clarification. 12:24:04

12 Q. And going up to Paragraph 32 of 12:24:09
13 Professor Lewis's report, since we have it in 12:24:13
14 front of us, it says, "The estimated current 12:24:15
15 value of an asset is defined by FASB as 'the 12:24:19
16 amount with which the item could be exchanged 12:24:23
17 between a buyer and seller, each of whom is well 12:24:25
18 informed and willing and neither of whom is 12:24:28
19 compelled to buy or sell.'" 12:24:31

20 You know, if you'd like -- I'll 12:24:37
21 represent to you that that is the definition 12:24:39
22 within the FASB Master Glossary. If you'd like, 12:24:42
23 I can pull out the document itself. But Counsel 12:24:45
24 would probably object if I was misrepresenting it 12:24:45
25 at this point. 12:24:48

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2 But -- so, "the amount at which the 12:24:50
3 item could be exchanged between a buyer and 12:24:53
4 seller each of whom is well informed and willing 12:24:55
5 and neither of whom is compelled to buy or sell." 12:24:57

6 So, if personal financial statements 12:25:00
7 are required to be presented with assets at 12:25:03
8 estimated current values, which are as defined 12:25:10
9 there, how is the approach that Lewis, Korologos 12:25:13
10 and Hirsh take incorrect to your answer? 12:25:25

11 MR. FARINA: Objection to form. 12:25:28

12 A. I think they actually amplify it by 12:25:31
13 using a market value definition and presuming 12:25:34
14 willing buyer, willing seller, in absence of 12:25:37
15 other possibilities of current value. 12:25:42

16 Q. So you're saying they're using market 12:25:47
17 value definition, willing buyer, willing seller, 12:25:49
18 informed, neither of whom are forced to buy or 12:25:53
19 sell, right, very similar to estimated current 12:25:56
20 value, correct? 12:26:00

21 A. As of the date. But -- and then if 12:26:00
22 you look at the guidance with respect to current 12:26:01
23 value, that isn't the bright line. There's other 12:26:05
24 interpretations, past or prospective current 12:26:08
25 earnings. I mean, that's a possibility under 12:26:12

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2 current value. 12:26:14

3 Q. Notwithstanding the method used to 12:26:19

4 reach a value, isn't the goal of all of these 12:26:21

5 different methods that it says, if recent sales 12:26:23

6 information is unavailable, other methods that 12:26:28

7 may be used -- sorry. 12:26:29

8 MR. GABER: I will speak more slowly. 12:26:35

9 Q. All of these methods listed A through 12:26:39

10 E, aren't they different ways to get at an amount 12:26:41

11 at which an item "could be exchanged between a 12:26:46

12 buyer and seller, each of whom is well informed 12:26:49

13 and willing and neither of whom is compelled to 12:26:53

14 buy or sell"? 12:26:54

15 MR. FARINA: Objection to form. 12:26:55

16 A. Perhaps. 12:26:58

17 Q. At least, according to the face of 12:27:00

18 the FASB document, whether or not we think that 12:27:03

19 it's right, we would be disagreeing with ASC 274 12:27:06

20 at that point, yes? 12:27:10

21 MR. FARINA: Objection to form. 12:27:11

22 A. I think it's -- again, these rules 12:27:13

23 are written for general all sorts of different 12:27:16

24 types of companies. It doesn't tell you 12:27:19

25 specifically how to apply it, in terms of 12:27:22

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2 instances. 12:27:27

3 But I do say that, yeah, this does 12:27:27

4 give you some sort of direction at the accountant 12:27:30

5 that could say, oh, you know, I don't have an 12:27:33

6 appraisal. What am I supposed to do? 12:27:36

7 Well, he's giving me a forecast. 12:27:38

8 Okay, I can -- that's a possibility. It's 12:27:40

9 acceptable. 12:27:43

10 It's not saying, absolutely, no -- 12:27:44

11 under no circumstance it has to be market value. 12:27:47

12 Q. You said, "a forecast." 12:27:52

13 Would "a forecast" represent an 12:27:54

14 amount at which "an item could be exchanged 12:27:57

15 between a buyer and seller, each of whom is 12:27:59

16 informed and willing" and not compelled? 12:28:01

17 A. Perhaps at a future date. It may not 12:28:04

18 be for a current date. 12:28:07

19 (Stenographer clarification.) 12:28:09

20 THE WITNESS: A current date. 12:28:10

21 THE STENOGRAPHER: Thank you. 12:28:10

22 THE WITNESS: Sorry. 12:28:13

23 Q. What would you have to do to forecast 12:28:13

24 to adjust it for "a current date"? 12:28:16

25 MR. FARINA: Objection to form. 12:28:19

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2 A. Normally, if there is a projection of 12:28:22
3 cash flows or things and one wanted to get it to 12:28:25
4 a current date or current value, one would 12:28:29
5 discount it at different discount rates. 12:28:31

6 Q. Okay. So, in order to make a 12:28:34
7 projection comply with current value, one would 12:28:46
8 need to apply a discount rate, yes? 12:28:52

9 MR. FARINA: Objection to form. 12:28:54

10 A. If one were to get it to -- excuse 12:28:57
11 me, I'm sorry -- a current value, one would 12:29:01
12 discount future estimates and projections into a 12:29:05
13 current value. 12:29:09

14 Q. Okay. And I think you said... 12:29:11
15 You said, These rules are written in 12:29:17
16 general for all sorts of different types of 12:29:22
17 companies. 12:29:24

18 But ASC 274, specifically -- and, if 12:29:25
19 you want, we can pull it out. We're going to do 12:29:31
20 it later. But let me know if you want to review 12:29:34
21 the document now -- is guidance for preparation 12:29:36
22 of personal financial statements in accordance 12:29:41
23 with GAAP. 12:29:45

24 So it's fairly specific. It's a not 12:29:46
25 general all types of company, it's personal 12:29:48

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2 financial statements, right? 12:29:50

3 MR. FARINA: Objection to form. 12:29:51

4 A. Yes. 12:29:52

5 Q. Alright. So ASC 274, which is -- 12:29:53

6 would you agree that that is also standard which 12:30:11

7 accountants have to follow and abide by? 12:30:18

8 A. Well, not being an accountant, but I 12:30:22

9 would imagine it's guidance that they would look 12:30:24

10 towards when embarking upon an assignment. 12:30:27

11 Q. So how do you explain -- you say that 12:30:29

12 AR-C 80 by your reading doesn't require as is 12:30:32

13 values in compilation reports. But ASC 274 says 12:30:38

14 that in the preparation of financial statements, 12:30:46

15 whether compilation, audit, review or otherwise 12:30:49

16 in accordance with GAAP, does require estimated 12:30:53

17 current value, which seems to be an as is. 12:30:56

18 How would you explain the discrepancy 12:30:59

19 between those? 12:31:02

20 MR. FARINA: Objection to form. 12:31:03

21 A. Well, when you're talking about GAAP 12:31:06

22 and you're talking about -- again, I'm not an 12:31:11

23 accountant. But when you mention compilation, 12:31:14

24 review, audit, all very different, all very 12:31:18

25 different in scopes, all very different in 12:31:23

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2 assurance levels, all very different in terms of 12:31:26

3 what an accountant is supposed to do. 12:31:28

4 So, to me, it gets a little bit 12:31:31

5 muddled per se, in terms of where the accounting 12:31:34

6 literature starts and ends with respect to 12:31:40

7 compilations and the reporting of current values 12:31:42

8 that, certainly, has some latitude with respect 12:31:46

9 to the methods that are to be used. 12:31:51

10 Q. So maybe it might help. 12:31:56

11 So AR-C 80 governs compilations of 12:32:05

12 financial statements, any types of financial 12:32:10

13 statements. 12:32:13

14 MR. FARINA: Objection to form. 12:32:13

15 Sorry. 12:32:15

16 MR. GABER: It's okay. Just let me 12:32:16

17 get all this out and then you can give one 12:32:18

18 objection. Because I want to try and create a 12:32:20

19 sort of presumption of risk. 12:32:22

20 MR. FARINA: Okay, sounds... 12:32:24

21 Q. So AR-C 80 governs the compilation of 12:32:25

22 financial statements, whether personal, whether 12:32:31

23 institutional or otherwise. 12:32:33

24 ASC 274 governs the preparation of 12:32:34

25 personal financial statements. But it's 12:32:39

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2 irrespective to whether it's a compilation review 12:32:41

3 or audit. 12:32:44

4 So I see these as a Venn diagram 12:32:46

5 where in the middle a compilation of a personal 12:32:49

6 financial statement would be governed by both 12:32:52

7 AR-C 80 and ASC 274. 12:32:54

8 Does that sound reasonable to you? 12:32:56

9 MR. FARINA: Objection to form. 12:32:58

10 A. Well, it's quite a heady comment. So 12:33:04

11 I'm not sure I can get my head around that one. 12:33:06

12 But I'm not sure I necessarily link 12:33:09

13 the two because -- well, I find some of the 12:33:12

14 accounting literature to be kind of confusing and 12:33:19

15 contradictory or not as clear and then when you 12:33:22

16 try to apply it, it becomes even more 12:33:26

17 challenging. 12:33:29

18 So I'm not sure I could summarize it 12:33:30

19 as well as you just did. 12:33:32

20 Q. Okay. 12:33:34

21 A. And I don't whether I agree or 12:33:34

22 disagree with it. 12:33:36

23 Q. I will definitely agree that the 12:33:37

24 accounting literature is challenging. 12:33:40

25 But I do think -- I mean, do you 12:33:41

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2 disagree that ASC 274 -- and can we get that 12:33:44

3 actually. 12:33:47

4 (There is a discussion off the 12:33:47

5 record.) 12:34:06

6 MR. GABER: And I'll ask the Court 12:34:06

7 Reporter to mark it as Exhibit 7. 12:34:07

8 (Deposition Exhibit Chin 7, printout 12:34:07

9 of FASB Authoritative 274-10-000 - General, was 12:34:07

10 marked for identification.) 12:34:16

11 THE WITNESS: Thank you. 12:34:16

12 Q. Okay. So this is a document that you 12:34:42

13 cited in the Appendix A of your report. 12:34:48

14 A. Uh-huh. 12:34:54

15 Q. On Page 2 under "General," it says, 12:34:58

16 this topic addresses -- "This subtopic addresses 12:35:04

17 personal financial statement. Personal financial 12:35:07

18 statements are prepared for individuals either to 12:35:10

19 formally organize and plan their financial 12:35:13

20 affairs in general or for specific purposes such 12:35:15

21 as obtaining of credit, income tax planning, 12:35:18

22 retirement planning, gift and estate planning or 12:35:22

23 public disclosure of their financial affairs. 12:35:24

24 Users of personal financial statements rely on 12:35:27

25 them in determining whether to grant credit in 12:35:30

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2 assessing the financial activities of 12:35:33
3 individuals, in assessing the financial affairs 12:35:36
4 of public officials and candidates for public 12:35:38
5 offers and for similar purposes." 12:35:41

6 (Stenographer clarification.) 12:35:46

7 MR. GABER: "For similar purposes." 12:35:48

8 Q. So, in the first instance, going back 12:35:48
9 to our earlier disclosure about users of personal 12:35:50
10 financial statements, does reading this guidance 12:35:53
11 from FASB, which is authoritative, right, at the 12:35:57
12 top right corner, change your opinion about who 12:36:01
13 is the user of a personal financial statement? 12:36:06

14 MR. FARINA: Objection to form. 12:36:09

15 A. No, not at all. 12:36:11

16 Q. So you deem the user of a personal 12:36:14
17 financial statement to be the individual whose 12:36:17
18 financial information is presented and they would 12:36:23
19 then just following the sentence "rely on their 12:36:26
20 own financial statement in determining whether to 12:36:30
21 grant credit"? 12:36:33

22 MR. FARINA: Objection to form. 12:36:34

23 A. No, I'm -- I see your -- the 12:36:37
24 confusion on it. 12:36:42

25 But I guess I go up another level on 12:36:43

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2 this stuff is that why is a personal financial 12:36:46
3 statement needed, because it's related to a 12:36:50
4 personal guaranty. A personal guaranty is 12:36:52
5 something different than necessarily just 12:36:54
6 extending credit. I mean, it's an add-on to an 12:36:57
7 existing loan. So, therefore -- then that's why, 12:37:02
8 I think, we have a little bit of difference in 12:37:04
9 terms of what "user" is. 12:37:07

10 Q. Well, hold on. 12:37:10

11 But a personal loan -- the financial 12:37:11
12 statement could be the sole basis for extension 12:37:16
13 of credit; isn't that the case? 12:37:18

14 A. Are you talking about an uncured 12:37:21
15 loan? 12:37:24

16 Q. Sure. 12:37:24

17 A. But this is different with respect to 12:37:24
18 we have a real estate loan that's also backed by 12:37:27
19 a personal guaranty. The personal guaranty is 12:37:28
20 requiring Statements of Financial Condition. 12:37:31

21 Q. I mean, I think that's getting ahead 12:37:34
22 of things a bit. 12:37:36

23 Cause this is just, generally, users 12:37:37
24 of personal financial statements. And then it 12:37:39
25 says, "rely on them in determining whether to 12:37:43

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2 grant credit in assessing the financial 12:37:46
3 activities of individuals and in assessing 12:37:49
4 financial affairs of public officials and 12:37:51
5 candidates for public office." 12:37:51

6 I mean, these are all users who would 12:37:54
7 be third parties, right? 12:37:55

8 So I understand your perspective. 12:37:57

9 But do you think that your 12:38:00
10 perspective is the same as the one that's found 12:38:01
11 in this document on who a "user" is? 12:38:04

12 MR. FARINA: Objection to form. 12:38:06

13 A. I think my -- sorry. 12:38:07

14 I think my perspective is appropriate 12:38:10
15 for the circumstances in the specifics of this 12:38:12
16 case. 12:38:15

17 Q. So you think that the definition or 12:38:16
18 the statement about "users" here is consistent 12:38:18
19 with your opinion? 12:38:20

20 A. I think this is general guidance. 12:38:21
21 And then it comes down to the application of how 12:38:24
22 PFC came about, how it's being used, how it's 12:38:29
23 being relied on. 12:38:33

24 Q. Okay. So, again, forgive the 12:38:34
25 digression. I just feel like we are perhaps 12:38:38

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2 talking cross-purposes, which is -- it may be 12:38:41

3 inevitable but... 12:38:43

4 So the next subsection, "Basis of 12:38:45

5 Presentation of Personal Financial Statements." 12:38:52

6 "The primary focus of personal financial 12:38:54

7 statements is a person's assets and liabilities 12:38:57

8 and the primary user's of personal financial 12:38:59

9 statements normally consider estimated current 12:39:02

10 value information to be more relevant for the 12:39:05

11 decisions than historical cost information. 12:39:08

12 Lenders require estimated current value 12:39:11

13 information to assess collateral and most 12:39:13

14 personal loan applications require estimated 12:39:17

15 current value information." And I'll stop there. 12:39:19

16 So is this consistent with your 12:39:24

17 opinion then? 12:39:27

18 MR. FARINA: Objection to form. 12:39:28

19 A. Again, I think this is general 12:39:33

20 guidance to anybody, any accountant who is 12:39:34

21 reading this. But then it comes down to the 12:39:38

22 facts and circumstances of any particular 12:39:41

23 situation. 12:39:44

24 Q. Do as if -- sorry. 12:39:46

25 Do as is values constitute estimated 12:39:50

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2 current value, as described in ASC 274? 12:39:58

3 A. It could. 12:40:05

4 Q. Could as if values be consistent with 12:40:07

5 estimated current value, as described in the ASC 12:40:14

6 274? 12:40:18

7 A. In my opinion, yes, in the context of 12:40:18

8 a compilation report. 12:40:22

9 MR. FARINA: Sherief, we've been 12:40:24

10 going about an hour and 40 minutes. I don't know 12:40:26

11 if you want to -- if you're at a comfortable time 12:40:28

12 to do a lunch break or if you want to go to 12:40:29

13 1 o'clock? I just wanted to check. 12:40:30

14 MR. GABER: Okay. Sorry. 12:40:32

15 Q. Maybe I'll rephrase my last question. 12:40:49

16 So does "as is" reflect estimated 12:40:51

17 current value, in your opinion, as you're using 12:40:53

18 the definition? 12:40:58

19 MR. FARINA: Objection to form. 12:40:59

20 A. I think it could, in the context of a 12:41:05

21 compilation statement. 12:41:09

22 Q. Okay. What do you mean by "it 12:41:10

23 could'? 12:41:13

24 MR. GABER: And, Michael, we'll take 12:41:13

25 a break soon. I just want to get through a 12:41:15

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2 little bit more of this. 12:41:17

3 MR. FARINA: Sure. 12:41:18

4 Q. Can you elaborate on the conditions 12:41:19

5 under which "it could" or couldn't? 12:41:22

6 MR. FARINA: Objection to form. 12:41:24

7 A. In the context of a compilation 12:41:28

8 report, again, going back to it, it's for the 12:41:30

9 user, a person who provided all the information. 12:41:33

10 And should they choose to put valuations as is 12:41:38

11 and current, then I don't find an objection to 12:41:43

12 that. 12:41:46

13 To the extent that they are something 12:41:47

14 different than as is and that it's disclosed in 12:41:50

15 the compilation report as being something a 12:41:54

16 little bit different, then I think that is fair 12:41:56

17 as well, again, in the context of a compilation 12:42:00

18 report. 12:42:03

19 Q. So it's purely a matter of what -- of 12:42:07

20 their choices, whether they choose to put 12:42:11

21 valuations as current or not? 12:42:16

22 MR. FARINA: Objection to form. 12:42:17

23 A. Again, starting with the confines of 12:42:21

24 the compilation report. Again, that to me 12:42:24

25 proscribes a certain amount of context and what 12:42:28

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2 it does and doesn't include. And I find that if 12:42:34

3 it's as is or as if is acceptable. And as if, if 12:42:39

4 there are certain disclosures, which are 12:42:45

5 generally in the Statements of Financial 12:42:46

6 Condition of what they are so... 12:42:49

7 MR. GABER: Okay. A couple of more 12:42:52

8 questions and then we'll take a break. 12:42:54

9 Q. Let's go back to AR-C Section 80, 12:42:57

10 which we had marked as Exhibit 3. 12:43:00

11 A. (The witness complies.) 12:43:20

12 Q. So, if we go to Page 58, Subsection 12:43:21

13 .08(a) -- sorry. Actually, just going back. 12:43:25

14 This is under, "Acceptance and 12:43:36

15 Continuance of Client Relationships and 12:43:38

16 Compilation Engagements." 12:43:40

17 This is saying that, "The accountant 12:43:42

18 should obtain the agreement of management that 12:43:44

19 acknowledges its responsibility." 12:43:46

20 And then (a), "for the preparation 12:43:48

21 and fair presentation of financial statements in 12:43:50

22 accordance with the applicable financial 12:43:54

23 reporting framework and the inclusion of all 12:43:56

24 informative disclosures that are appropriate for 12:44:00

25 the applicable financial reporting framework used 12:44:04

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2 to prepare the entity's financial statements." 12:44:07

3 So do you see that? 12:44:10

4 A. I do. 12:44:12

5 Q. And then below a little further down 12:44:13

6 under, "Agreement on Engagement Terms," there's 12:44:16

7 this .10(e) and it's saying that, "The agreed 12:44:19

8 upon terms of the engagement should be documented 12:44:27

9 in an engagement letter or other suitable form of 12:44:30

10 written agreement between the parties and should 12:44:32

11 include the following." 12:44:35

12 And then sub (e) says, 12:44:36

13 "identification of the applicable financial 12:44:39

14 reporting framework for the preparation of 12:44:40

15 financial statements." 12:44:43

16 Okay. And so, without kind of going 12:44:45

17 through the rest of this document, based on what 12:44:50

18 we just read there together, wouldn't it be fair 12:44:53

19 to say that AR-C 80 requires the accountant and 12:44:58

20 the client agree on a financial reporting 12:45:01

21 framework, which one is being used? 12:45:06

22 MR. FARINA: Objection to form. 12:45:07

23 A. It does seem that way, that there is 12:45:12

24 some sort of, if you will, scope that's agreed 12:45:15

25 upon by the client and then the accountants have 12:45:20

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2 their normal disclosures and descriptors that 12:45:25

3 they need to put on to that as well. 12:45:30

4 Q. And you've read this document, but it 12:45:32

5 may have been a while. I can represent to you 12:45:34

6 that there is requirements in AR-C 80 for the 12:45:35

7 accountant not withstanding the level of 12:45:39

8 assurance to, at least, understand the financial 12:45:41

9 reporting framework being used by the client 12:45:45

10 whether it's GAAP or a special purpose framework 12:45:47

11 to read the financial statements presented by the 12:45:50

12 client in light of that framework and then, you 12:45:53

13 know, even though it's a low level of assurance, 12:45:55

14 if they notice an obvious departure or defect, to 12:45:58

15 either disclose it or seek correction from the 12:46:01

16 client. 12:46:04

17 You know -- you know, would you 12:46:05

18 accept that representation? 12:46:09

19 MR. FARINA: Objection to form. 12:46:10

20 A. Yes, well-stated for a 12:46:11

21 non-accountant. 12:46:15

22 Q. It's been a long process. 12:46:15

23 And so... 12:46:17

24 MR. GABER: Can we get Tab 6? 12:46:26

25 So I'm going to ask the Court 12:46:28

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2 Reporter to mark as Tab 6... 12:46:30

3 It's the engagement letter -- or 12:46:34

4 sorry not Tab 6; Exhibit 8, sorry. We definitely 12:46:38

5 will need a break soon. 12:46:47

6 This is the engagement letter for the 12:46:48

7 2011 Statement of Financial Condition. It bears 12:46:52

8 the Bates No. MAZARS-NYAG-00003112. 12:46:55

9 (Deposition Exhibit Chin 8, 7/20/11

10 engagement letter on WeiserMazars signed by Allen

11 Weisselberg MAZARS-NYAG-00003112 to

12 MAZARS-NYAG-00003116 marked FOIA/FOIL

13 Confidential Treatment Requested, was marked for

14 identification.) 12:47:06

15 Q. It is now with you, Mr. Chin. 12:47:06

16 Have you seen this document before? 12:47:08

17 THE VIDEOGRAPHER: I'm sorry to 12:47:13

18 interrupt. 12:47:13

19 Really quick, Mr. Chin, your 12:47:14

20 microphone fell. 12:47:15

21 THE WITNESS: Oh. 12:47:18

22 MR. FARINA: It fell. 12:47:19

23 A. Oh. It's not worth this thing 12:47:20

24 anyways. 12:47:21

25 Okay. I'm sorry. 12:47:24

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2 Yes, I have seen it. 12:47:25

3 Q. Okay. And did you rely on this 12:47:26
4 document in formulating your opinion? 12:47:28

5 A. Yes. 12:47:30

6 Q. So did you see on the top of the 12:47:31
7 second page of this document it says, "Our" -- 12:47:35
8 and this is on WeiserMazars' letterhead, so "our" 12:47:41
9 is referring to them. 12:47:45

10 "Our accountant's compilation report 12:47:46
11 is expected to include references to the 12:47:47
12 following departures from Generally Accepted 12:47:52
13 Accounting Principles." 12:47:56

14 And then it has a list of departures 12:47:57
15 from Generally Accepted Accounting Principles. 12:48:00

16 So, first off, do you understand 12:48:03
17 "Generally Accepted Accounting Principles" to 12:48:07
18 mean GAAP, as we've been speaking about it so far 12:48:08
19 today? 12:48:12

20 A. Yes. 12:48:12

21 MR. FARINA: Objection to form. 12:48:13

22 Q. So does it -- would you agree that by 12:48:15
23 listing departures from Generally Accepted 12:48:21
24 Accounting Principles or GAAP, that the 12:48:24
25 engagement letter's, basically, saying that other 12:48:27

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2 than those departures, the parties understood 12:48:31

3 that the statements would be prepared under GAAP? 12:48:33

4 MR. FARINA: Objection to form. 12:48:36

5 A. Yeah, I think you're saying it's 12:48:41

6 we're going to conform to GAAP except when we 12:48:44

7 don't conform to GAAP. 12:48:47

8 Q. Yeah, okay. 12:48:48

9 So you agree that what this 12:48:49

10 engagement letter is saying, as you said it, that 12:48:50

11 the financial statement was "going to conform to 12:48:53

12 GAAP except" where the listed disclosures, right? 12:48:57

13 MR. FARINA: Objection to form. 12:49:01

14 A. Correct. 12:49:01

15 (There is a discussion off the 12:49:01

16 record.) 12:49:09

17 MR. GABER: Maybe we'll take a break 12:49:09

18 now, actually, for you. 12:49:11

19 THE VIDEOGRAPHER: The time is 12:49:12

20 12:49 p.m. We are off the record. 12:49:14

21 (Lunch recess taken 12:49 to 1:42

22 p.m.)

23 (Deposition Exhibit Chin 9, 10/6/11

24 letter to WeiserMazars from Allen Weisselberg

25 MAZARS-NYAG-00003117 & MAZARS-NYAG-00003118

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2 marked FOIA/FOIL Confidential Treatment

3 Requested, was marked for identification.) 13:45:40

4 THE VIDEOGRAPHER: The time is 13:45:40

5 1:45 p.m. We're back on the record. 13:45:42

6 You may proceed. 13:45:44

7 Q. Okay. So, before we broke for lunch, 13:45:46

8 we were looking at what we've marked as 13:45:48

9 Exhibit 8, which is the engagement letter for the 13:45:50

10 2011 SOFC. 13:45:55

11 We had discussed -- I had asked you 13:45:58

12 and please correct me if I'm wrong whether you 13:46:06

13 believe that the engagement letter expressed an 13:46:09

14 intent that the statement would be presented in 13:46:13

15 accordance with GAAP except for the referenced 13:46:16

16 departures on Page 2 of the engagement letter. 13:46:19

17 And would you agree with that? 13:46:23

18 A. Yeah, I think that the document 13:46:32

19 speaks for itself. 13:46:33

20 Q. Okay. So I've had the Court Reporter 13:46:35

21 mark as Exhibit 9 a document bearing the Bates 13:46:40

22 No. MAZARS-NYAG-00003117. 13:46:45

23 This is -- I'll represent to you that 13:46:52

24 this is the management representation letter from 13:46:58

25 the Trump Organization to WeiserMazars in 13:47:01

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2 conjunction with the 2011 Statement of Financial 13:47:04

3 Condition. 13:47:07

4 So, Mr. Chin, have you ever seen this 13:47:07

5 document before? 13:47:11

6 A. I don't recall if I did or didn't. 13:47:18

7 Q. Okay. 13:47:20

8 A. I don't think so. 13:47:21

9 Q. Okay. So, Mr. Chin, if I -- does the 13:47:22

10 term "management representation letter," in the 13:47:27

11 context of the compilation engagement, make sense 13:47:29

12 to you? 13:47:32

13 MR. FARINA: Objection to form. 13:47:33

14 A. I'm aware of them in what I've 13:47:37

15 experienced for audited financials, but I don't 13:47:41

16 know about compilation. 13:47:45

17 Q. I guess, in an accounting context, 13:47:46

18 how do you understand a representation letter? 13:47:49

19 A. Well, for what I know when we were 13:47:51

20 doing audited financials, management had to make 13:47:54

21 representations about internal controls and 13:47:57

22 things. But that was related to an audit and we 13:48:00

23 were mainly a public company. 13:48:03

24 Q. So we can look together at the first 13:48:05

25 paragraph here. It says, "We are providing this 13:48:08

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2 letter" -- and "we" here in this case is the 13:48:11

3 Trump Organization -- "in connection with your 13:48:14

4 compilation of the Statement of Financial 13:48:16

5 Condition of Donald J. Trump as of June 30, 2011 13:48:19

6 (this statement). We confirm that we are 13:48:23

7 responsible for the fair presentation in the 13:48:27

8 Statement of Financial Condition in conformity 13:48:30

9 with accounting principles generally accepted in 13:48:33

10 the United States of America." 13:48:36

11 And so you understand that to mean 13:48:39

12 GAAP, yes? 13:48:41

13 MR. FARINA: Objection to form. 13:48:42

14 A. I'm assuming -- well, it says 13:48:45

15 "account principles generally accepted in the 13:48:48

16 United States." I guess, I don't know. I mean, 13:48:52

17 it doesn't, specifically, say "GAAP." 13:48:55

18 Q. Okay. If you like, we can pull up -- 13:49:00

19 there's a Master Glossary that explains the unity 13:49:05

20 between "accounting principles generally 13:49:11

21 accepted" in America are Generally Accepted 13:49:13

22 Accounting Principles, GAAP. 13:49:16

23 But if I made that representation to 13:49:17

24 you, does that seem like a fair representation? 13:49:19

25 MR. FARINA: Objection to the form. 13:49:22

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2 A. Well, I'll presume so. I don't -- I 13:49:26
3 don't know. I mean, this is in a statement that 13:49:30
4 -- it's kind of just reading as normal things 13:49:33
5 rather than, specifically, laying out GAAP. 13:49:37

6 Q. So, if we go down further, I think 13:49:41
7 it's the fifth paragraph there. It's one that 13:49:43
8 starts with, "The statement." 13:49:48

9 It says, "The statement referred to 13:49:49
10 above is fairly presented in conformity with 13:49:51
11 accounting principles generally accepted in the 13:49:54
12 United States of America. All assets are 13:49:57
13 presented at their estimated current values and 13:50:00
14 all liabilities are presented at their estimated 13:50:04
15 current amounts, which have been determined in 13:50:07
16 accordance with the guidelines promulgated by the 13:50:11
17 American Institute of Certified Public 13:50:14
18 Accountants except to the extent noted in the 13:50:18
19 accountant's compilation report, which was 13:50:21
20 annexed to this statement." 13:50:23

21 So, reading this, would you agree 13:50:25
22 that the Trump Organization was representing that 13:50:33
23 the SOFC could be fairly presented in conformity 13:50:37
24 with GAAP? 13:50:46

25 MR. FARINA: Objection to form. 13:50:48

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2 A. Again, there's no specific 13:50:57

3 representation as to GAAP. That's what this 13:50:59

4 fifth paragraph does say in the first sentence. 13:51:04

5 Q. If "accounting principles generally 13:51:06

6 accepted in the United States of America" means 13:51:10

7 GAAP, then could you agree that they are 13:51:13

8 representing that the statement would be 13:51:16

9 presented in accordance with GAAP? 13:51:18

10 MR. FARINA: Objection to form. 13:51:20

11 A. I don't -- I presume so. I mean, it 13:51:26

12 just doesn't say "GAAP." It just says, 13:51:32

13 "generally accepted" in the United States. 13:51:35

14 Q. That's fine. 13:51:37

15 Would you agree then -- or instead -- 13:51:39

16 strike that. 13:51:44

17 Would you agree that the Trump 13:51:45

18 Organization is representing in this paragraph 13:51:50

19 that all assets within the Statement of Financial 13:51:53

20 Condition would be presented at their estimated 13:51:57

21 current values in the Statement of Financial 13:51:59

22 Condition? 13:52:01

23 MR. FARINA: Objection to form. 13:52:01

24 A. It does -- well, based upon this 13:52:08

25 letter, it does seem to infer that. 13:52:16

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2 Q. And if you look at the second page of 13:52:20
3 the letter, do you see a signature at the bottom 13:52:22
4 there? 13:52:25

5 A. Yes. 13:52:26

6 Q. It's the signature of Allen 13:52:27
7 Weisselberg, Chief Financial Officer, it says on 13:52:31
8 there? 13:52:33

9 A. Correct. 13:52:34

10 MR. FARINA: Objection to form. 13:52:34

11 Q. So -- sorry. I lost my realtime. 13:52:46

12 You says, it seems "to infer that." 13:52:49

13 Isn't the case that it just 13:52:56

14 explicitly states that, "all assets are presented 13:52:56

15 at their estimated current values"? 13:52:58

16 MR. FARINA: Objection to form. 13:53:03

17 A. That is Weisselberg's signature, I 13:53:07

18 guess, agreeing to it. 13:53:14

19 Q. And this is the letterhead of the 13:53:16

20 Trump Organization, right, it says at the top? 13:53:20

21 MR. FARINA: Objection to form. 13:53:24

22 A. Yeah, I think the document speaks for 13:53:26

23 itself. I mean, it's to -- signed by 13:53:28

24 Weisselberg. 13:53:33

25 Q. Okay. So this is the representation 13:53:33

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2 -- "We are providing this letter" -- it says at 13:53:36
3 the top -- "in connection with your" -- meaning 13:53:38
4 Mazars, who is the addressee of the letter -- 13:53:41
5 "compilation of the Statement of Financial 13:53:43
6 Condition," and then, you know, onward. 13:53:44

7 So under AR-C 80, as we've discussed, 13:53:49
8 the client is responsible for the presentation 13:53:56
9 and the veracity of the information, the 13:54:00
10 financial information in the financial statement, 13:54:03
11 right? 13:54:05

12 MR. FARINA: Objection to form. 13:54:05

13 A. That's correct. 13:54:11

14 Q. And we discussed that the AR-C 80 13:54:11
15 provides a process by which the accountant is 13:54:15
16 supposed to get agreement on the applicable 13:54:18
17 framework and understand that and obtain 13:54:21
18 representations from the client about the 13:54:24
19 framework and the departures there. 13:54:26

20 Do you remember when we discussed 13:54:28
21 that? 13:54:29

22 MR. FARINA: Objection to form. 13:54:30

23 A. Generally, yes. 13:54:30

24 Q. Okay. And so would you agree that 13:54:32
25 this representation letter or this letter is 13:54:36

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2 providing representations to the accountant about 13:54:40

3 the applicable accounting framework and the basis 13:54:42

4 for presentation of the values in the SOFC? 13:54:47

5 MR. FARINA: Objection to form. 13:54:49

6 A. It does appear that way. I mean, the 13:54:53

7 document pretty much lays out what they're 13:54:56

8 representing. 13:54:58

9 Q. Okay. And so they are representing 13:55:00

10 that the assets in the SOFC are presented at 13:55:01

11 their estimated current values, right? 13:55:06

12 MR. FARINA: Objection to form. 13:55:08

13 A. That along with other exceptions 13:55:09

14 where they could basically... 13:55:13

15 Q. Yeah. It says, "except to the extent 13:55:18

16 noted in the accountant's compilation report, 13:55:20

17 which was annexed to this statement." 13:55:22

18 So isn't it fair to say that unless 13:55:24

19 there is an enumerated exception in the 13:55:28

20 accountant's compilation report annexed to the 13:55:31

21 statement, that any value presented in the 2011 13:55:33

22 Statement of Financial Condition would or, at 13:55:37

23 least, should by virtue of this representation be 13:55:39

24 presented at its estimated current value? 13:55:44

25 MR. FARINA: Objection to form. 13:55:46

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2 A. I think I've lost -- there was a 13:55:47
3 couple of concepts in your question. Could you 13:55:50
4 rephrase it? 13:55:53

5 Q. Maybe we can go to the -- 13:55:53

6 MR. LADOV: I was going to say 13:55:57
7 somebody on the Zoom needs to mute themselves. I 13:55:58
8 think it's -- oh, is that next door. 13:56:01

9 Sorry, apologies. 13:56:04

10 MR. GABER: Sam, can you get me Tab 13:56:09
11 8. 13:56:10

12 So I'll ask the Court Reporter to 13:56:15
13 mark as Exhibit 10. 13:56:18

14 (Deposition Exhibit Chin 10, Donald
15 J. Trump Statement of Financial Condition June
16 30, 2011 MAZARS-NYAG-00003131 to
17 MAZARS-NYAG-00003152 marked FOIA/FOIL
18 Confidential Treatment Requested, was marked for
19 identification.) 13:56:25

20 MR. FARINA: Thank you. 13:56:25

21 MR. GABER: This is a document 13:56:33
22 bearing the Bates No. MAZARS-NYAG-00003131. It 13:56:34
23 is titled, "Donald J. Trump's Statement of 13:56:45
24 Financial Condition June 30, 2011." 13:56:48

25 Q. So, Mr. Chin, have you seen this 13:56:51

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2 document before? 13:56:52

3 A. Yes, I have. 13:56:53

4 Q. And did you rely on this document in 13:56:55

5 the formulation of your opinion in your report? 13:56:58

6 A. Yes. 13:57:01

7 Q. Okay. So the second full paragraph 13:57:01

8 on the first page -- second page but Page 1 of 13:57:11

9 the report. It says, "Donald J. Trump is 13:57:14

10 responsible for the preparation and fair 13:57:20

11 presentation of the financial statement in 13:57:22

12 accordance with accounting principles generally 13:57:25

13 accepted in the United States of America and for 13:57:27

14 designing, implementing and maintaining internal 13:57:30

15 control irrelevant to the preparation and fair 13:57:33

16 presentation of the financial statement." 13:57:37

17 I just noticed that this says 13:57:40

18 "irrelevant." 13:57:45

19 MR. LADOV: It was a typo. 13:57:46

20 MR. GABER: I'm doing this a long 13:57:48

21 time and to just notice that typo. 13:57:49

22 Q. But so here, again, on the assumption 13:57:51

23 that "accounting principles generally accepted in 13:57:59

24 the United States of America" are GAAP or are 13:58:02

25 abbreviated as GAAP and that they're one in the 13:58:06

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2 same, isn't this paragraph saying that Donald J. 13:58:09
3 Trump is responsible for the preparation and fair 13:58:11
4 presentation of the financial statement in 13:58:13
5 accordance with GAAP? 13:58:17

6 MR. FARINA: Objection to form. 13:58:17

7 A. Well, first off, I want to make sure 13:58:24
8 because we keep referring to GAAP and then it's, 13:58:26
9 very specifically, laid out "accounting 13:58:28
10 principles generally accepted in the United 13:58:30
11 States," rather than Generally Accepted 13:58:33
12 Accounting Principles. So I'm not an accountant. 13:58:36
13 I don't know if there's a difference there but 13:58:38
14 certainly -- 13:58:41

15 Q. On the assumption that they're all 13:58:44
16 the same -- 13:58:47

17 A. (INAUDIBLE DUE TO CROSS-TALK.) 13:58:47

18 Q. Assuming that the "accounting 13:58:48
19 principles generally accepted in the United 13:58:50
20 States of America" are GAAP, Generally Accepted 13:58:51
21 Accounting Principles, are one in the same, this 13:58:56
22 is saying that the statement is being prepared in 13:58:59
23 accordance with that, correct? 13:59:02

24 MR. FARINA: Objection to form. 13:59:03

25 A. Yeah, just so I'm literal, like, I 13:59:05

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2 mean, it just says "Trump is responsible in 13:59:08
3 accordance with accounting principles generally 13:59:12
4 accepted in the United States of America." 13:59:13

5 Q. So let's move further down to Page -- 13:59:17
6 pardon me. Sorry. 13:59:40

7 Page 4 of the document, this is Bates 13:59:41
8 Number ending 3136. These are the notes to the 13:59:48
9 Statement of Financial Condition. And as we saw 13:59:51
10 earlier, it's asking the reader/user to see 13:59:56
11 independent accountant's compilation report, if 14:00:02
12 you recall our digression to that topic. 14:00:04

13 So, in relevant part, though, under 14:00:09
14 Point 1, "Basis of Presentation," it says, "The 14:00:12
15 accompanying Statement of Financial Condition 14:00:14
16 consists of the assets and liabilities of Donald 14:00:16
17 J. Trump. Assets are stated at their estimated 14:00:19
18 current values and liabilities at their estimated 14:00:22
19 current amounts using various valuation methods." 14:00:25

20 So we discussed that AR-C 80 requires 14:00:29
21 agreement on the basis of a presentation, even if 14:00:35
22 it doesn't specify the basis for presentation. 14:00:37

23 Wouldn't you agree based on what 14:00:42
24 we've just looked at in the representation 14:00:45
25 letter, in the statement here, in the engagement 14:00:47

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2 letter, that the basis for presentation is that 14:00:50
3 assets will be stated at estimated current 14:00:56
4 values? 14:00:58

5 MR. FARINA: Objection to form. 14:00:59

6 A. Well, I think this particular 14:01:05
7 paragraph here, "such valuation methods include," 14:01:08
8 help further define what is being depicted. 14:01:13

9 Q. That second paragraph, yes. 14:01:18

10 And it says that -- that's following 14:01:20
11 where it says that, "Assets are stated at their 14:01:23
12 estimated current values"... "using various 14:01:25
13 valuation methods," "such valuation methods 14:01:29
14 include." 14:01:31

15 So methods include -- but all of 14:01:32
16 those methods are meant to enumerate estimated 14:01:36
17 current value? 14:01:40

18 MR. FARINA: Objection to form. 14:01:41

19 Q. Right? 14:01:42

20 A. Well, I mean, I think, this is a 14:01:47
21 pretty significant paragraph and assuming or -- 14:01:49
22 what it's stating is how they derive and what the 14:01:54
23 methods they use with respect to determining the 14:01:58
24 values that are expressed in the report. 14:02:02

25 Q. Well, determining the "estimated 14:02:04

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2 current values" of the assets. 14:02:05

3 They can't use this to come up with a 14:02:09

4 historical value and present it in the report, 14:02:11

5 because that would contradict what they say in 14:02:13

6 the first paragraph, wouldn't it? 14:02:15

7 MR. FARINA: Objection to form. 14:02:16

8 A. Well, I didn't know we were talking 14:02:19

9 about "historical value." 14:02:21

10 Q. We're not. That's what I'm saying, 14:02:23

11 is that, "assets are stated at their estimated 14:02:24

12 current values" "using various valuation 14:02:27

13 methods." And then it says, "such valuation 14:02:31

14 methods include." 14:02:33

15 You say it's a big paragraph. It 14:02:34

16 lists a bunch of different methods. 14:02:35

17 But all of those methods are in the 14:02:37

18 service of statement of current -- estimated 14:02:40

19 current value, right? 14:02:45

20 MR. FARINA: Object to the form. 14:02:46

21 A. I think it speaks for itself. I 14:02:52

22 mean, there's a lot here which all relate to 14:02:54

23 current value and some indicate that it's 14:02:58

24 anticipated earnings and other information of how 14:03:04

25 it's being derived. 14:03:07

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2 Q. So you're saying that anticipated 14:03:09
3 earnings -- "capitalization of anticipated 14:03:11
4 earnings," as it says it here, is not a method of 14:03:22
5 estimating current value? 14:03:27

6 MR. FARINA: Object to the form. 14:03:29

7 A. No, I didn't say that. It's included 14:03:31
8 in here that "such valuation methods include." 14:03:33
9 What you just said capitalization of earnings. 14:03:37

10 Q. And so those methods -- again, aren't 14:03:39
11 those methods intended to state -- to estimate 14:03:44
12 current value for the assets stated in the 14:03:49
13 report? 14:03:51

14 MR. FARINA: Objection to form. 14:03:51

15 A. I think those are methods. I would 14:03:56
16 just say that the other statement here, 14:03:58
17 "accordingly, the estimates presented here are 14:04:01
18 not necessarily indicative of the amounts that 14:04:03
19 could be realized upon the disposition of the 14:04:06
20 assets or payment of the related liabilities." 14:04:08

21 Q. Okay. I don't think that that -- are 14:04:11
22 you saying that that means that they're not -- 14:04:15
23 that these methods don't estimate current value 14:04:22
24 because of that sentence? 14:04:23

25 MR. FARINA: Objection to form. 14:04:25

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2 A. I think it's just a disclaimer in 14:04:27
3 terms of what they did and how they came up with 14:04:30
4 the numbers that are expressed in the compilation 14:04:34
5 statement. 14:04:36

6 Q. Those numbers which are stated at 14:04:38
7 "estimated current value," right? 14:04:41

8 MR. FARINA: Object to the form. 14:04:44

9 A. I think that, you know, I want to 14:04:52
10 make sure that it's clear that there are 14:04:55
11 different assumptions, different methods that are 14:04:58
12 used to estimate current value. 14:05:01

13 Q. Okay. I am not disagreeing with you 14:05:03
14 there. 14:05:03

15 I wanted you to just acknowledge that 14:05:06
16 those assumptions and methods are all being used 14:05:09
17 to state asset values at their estimated current 14:05:12
18 values and liabilities at their estimated current 14:05:17
19 amount. So you can use various methods. I see 14:05:20
20 that, including but limited to those in the 14:05:22
21 second paragraph there. 14:05:27

22 But you would agree, right, that 14:05:27
23 regardless of which method, whether it's one of 14:05:30
24 the enumerated ones or another one, that those 14:05:32
25 methods should, in order to conform with the 14:05:35

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2 basis of presentation there, state assets at 14:05:39

3 "estimated current values"? 14:05:45

4 MR. FARINA: Objection to form. 14:05:46

5 A. I'm sorry. There was a long question 14:05:49

6 there. Could you repeat it or rephrase it? 14:05:51

7 Q. Maybe I'll just go back and ask my 14:05:55

8 first question. 14:05:57

9 Reading this paragraph here -- 14:05:58

10 A. Which paragraph are you referring to? 14:06:03

11 Q. The first paragraph, "The 14:06:05

12 accompanying statement of financial condition 14:06:05

13 consists of assets and liabilities of Donald J. 14:06:08

14 Trump. Assets are stated at their estimated 14:06:10

15 current values and liabilities at their estimated 14:06:13

16 current amounts using various valuation methods." 14:06:15

17 Reading that do you disagree that the 14:06:19

18 basis of presentation here requires the Statement 14:06:23

19 of Financial Condition to state all assets in it 14:06:27

20 at their estimated current values? 14:06:30

21 MR. FARINA: Objection to form. 14:06:35

22 A. That is what this paragraph has 14:06:37

23 stated, yes. 14:06:40

24 Q. So, in the representation letter, in 14:06:43

25 the notes here, in the engagement letter, there 14:06:50

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2 is references to "estimated current value." 14:06:55

3 If the Statement of Financial 14:06:57

4 Condition would represent -- would state assets 14:07:00

5 at "estimated current value." 14:07:01

6 You criticize Professor Lewis. You 14:07:03

7 called it his "estimated current value mandate." 14:07:06

8 What's the difference between 14:07:07

9 Professor Lewis's "current value mandate" and 14:07:08

10 this sentence here that says, assets are stated 14:07:15

11 at their "estimated current value"? 14:07:18

12 MR. FARINA: Objection to form. 14:07:20

13 A. I'm not sure there's this direct 14:07:26

14 linkage there. It's really what Korologos and 14:07:28

15 Hirsh do with that. 14:07:33

16 Q. It's -- what do they do with that? 14:07:35

17 A. They take it and then they go out do 14:07:37

18 market value estimates as is. 14:07:40

19 Q. But we discussed earlier -- and, I 14:07:42

20 think, you agreed with me and you are free to 14:07:44

21 disagree at this point -- that market value, as 14:07:46

22 you had defined, and "estimated current value," 14:07:50

23 as we have read from the FASB definition, are 14:07:52

24 very much the same thing, right? 14:07:57

25 They're very similar to one another. 14:07:58

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2 Both of them involve a willing buyer 14:08:00

3 and seller, neither of who is compelled, both of 14:08:02

4 them are informed meeting on a price, right? 14:08:05

5 A. They're -- 14:08:08

6 MR. FARINA: Objection to form. 14:08:08

7 A. They're similar. Obviously, they're 14:08:09

8 different descriptors. And then it what is being 14:08:12

9 done and applied by Korologos and Hirsh. 14:08:17

10 Q. Putting aside Korologos and Hirsh for 14:08:23

11 a moment, you say Professor Lewis is wrong for 14:08:26

12 mandating current value. And yet the statement 14:08:43

13 itself says, assets are stated at their 14:08:45

14 "estimated current values." 14:08:48

15 How is it that you maintain 14:08:50

16 Professor Lewis is wrong for effectively 14:08:52

17 repeating what the statement itself says? 14:08:55

18 A. I understood the inference was that 14:09:03

19 it was taken upon them, by Korologos and Hirsh, 14:09:05

20 and I know we're supposed to exclude them, but 14:09:09

21 they, basically, assume it is as is market value 14:09:12

22 and they're all kind of tied together. 14:09:16

23 Q. I don't know if that answers my 14:09:32

24 question. 14:09:33

25 Let me go back to your rebuttal 14:09:39

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2 report. 14:09:41

3 On Page 2 of the report in bold, 14:10:02

4 "Additionally, Professor Lewis's opinion, upon 14:10:08

5 which Korologos relies, mandates the use of a 14:10:11

6 current value definition, the Lewis current value 14:10:15

7 mandate." 14:10:18

8 You see that, right. 14:10:21

9 A. Yes. 14:10:22

10 Q. So I don't think you actually say 14:10:27

11 what a "current value" definition is in your 14:10:33

12 report, do you? 14:10:36

13 A. I don't recall. I don't believe so. 14:10:40

14 Q. Can you say right now what a "current 14:10:44

15 value" definition would be? 14:10:47

16 MR. FARINA: Objection to form. 14:10:51

17 A. Not off the top of my head, no. 14:10:54

18 Q. And so, if you don't know the 14:11:08

19 definition of a "current value" definition or if 14:11:14

20 you can't say what a "current value" definition 14:11:18

21 would be, how is it that your opinion can call it 14:11:20

22 the "current value mandate" and say that it 14:11:25

23 results in misstatements, you know, 14:11:28

24 misrepresentations, distortions and the like? 14:11:32

25 MR. FARINA: Objection to form. 14:11:38

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2 A. My comments are really the 14:11:40
3 application of any interpretation by Korologos 14:11:42
4 and Hirsh. 14:11:44

5 Q. So you're not disagreeing with 14:11:47
6 Professor Lewis that the personal financial 14:11:49
7 statements are required to be presented showing 14:11:52
8 assets in estimated current value? 14:11:55

9 You're just concerned with the 14:11:58
10 application by Korologos and Hirsh of the 14:11:59
11 standard in the ASC 274 and in the Statement of 14:12:02
12 Financial Condition itself, right? 14:12:07

13 MR. FARINA: Objection to form. 14:12:08

14 A. I'm focused on how those individuals 14:12:09
15 applied it -- 14:12:14

16 Q. Okay. So -- 14:12:15

17 A. -- and the interpreted it. 14:12:15

18 Q. To be clear, as we read from 14:12:17
19 Professor Lewis's report, from ASC 274, do you 14:12:19
20 see any difference between those descriptions and 14:12:27
21 definitions of "estimated current value" and 14:12:29
22 what's being used here in the Statement of 14:12:33
23 Financial Condition under "Basis of 14:12:35
24 Presentation"? 14:12:36

25 MR. FARINA: Objection to form. 14:12:38

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2 A. I think my report, basically, shows 14:12:46
3 what the disagreements are. 14:12:49

4 Q. But it doesn't, because you don't 14:12:52
5 actually define what the "current value mandate" 14:12:54
6 is, right? 14:12:57

7 A. I think I am stating what a 14:13:02
8 compilation report and the latitude it affords 14:13:04
9 is. That is my focus. 14:13:09

10 Q. But I'm not talking about the 14:13:11
11 compilation report at this point, actually. 14:13:13

12 I'm just saying this compilation 14:13:14
13 report says, assets are stated at their 14:13:17
14 "estimated current values." 14:13:20

15 I understand that AR-C 80, a 14:13:22
16 compilation report could have a different basis 14:13:25
17 of presentation. But this basis of presentation 14:13:28
18 says, assets are stated at their "estimated 14:13:31
19 current values," right? 14:13:34

20 MR. FARINA: Objection to form. 14:13:35

21 A. That's what the document says. 14:13:36

22 Q. So, then in this case, is there an 14:13:39
23 issue -- or what is your disagreement with 14:13:47
24 Professor Lewis saying that assets are stated at 14:13:50
25 "estimated current values"? 14:13:54

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2 A. I think it's the interpretation of 14:14:02
3 that statement that's being enacted upon by 14:14:05
4 Korologos and Hirsh, because I'm not aware of it. 14:14:10
5 I'm not an accountant about a very defined 14:14:16
6 "current value" definition. 14:14:19

7 Q. We went through that definition 14:14:23
8 already, but I can bring it up again. 14:14:25

9 (There is a discussion off the 14:14:25
10 record.) 14:14:45

11 MR. GABER: I'm going to ask the 14:14:45
12 Court Reporter to mark as Exhibit 11. 14:14:47

13 (Deposition Exhibit Chin 11, printout 14:14:47
14 from FASB Authoritative Master Glossary - 14:14:47
15 Estimated Current Value, was marked for 14:14:47
16 identification.) 14:15:03

17 Q. Okay. So this is the FASB Master 14:15:03
18 Glossary at entry for "estimated current value." 14:15:06

19 "Estimated current value," "For an 14:15:09
20 asset, the amount at which the "item could be 14:15:13
21 exchanged between a buyer and a seller, each of 14:15:16
22 whom is well informed and willing, and neither of 14:15:20
23 whom is compelled to buy or sell." 14:15:24

24 So now you have a definition of 14:15:33
25 "estimated current value." 14:15:36

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2 You say that -- and this is 202, 14:15:46

3 Paragraph 202 of your rebuttal report -- "Even 14:15:52

4 with the flexibility compilation literature it 14:15:55

5 provides, Lewis mandates a strict application of 14:15:57

6 current value that is analogous to market value." 14:16:00

7 So two things there. First off, 14:16:08

8 "Lewis mandates a strict application of current 14:16:10

9 value." 14:16:10

10 Isn't it the case that whether or not 14:16:12

11 "Lewis mandates" anything or says anything about 14:16:14

12 it, the basis of presentation for the financial 14:16:17

13 statement says assets are stated at their 14:16:20

14 "estimated current values"? 14:16:23

15 MR. FARINA: Objection to form. 14:16:24

16 A. I believe that's correct. 14:16:28

17 Q. So the Trump Organization itself has 14:16:29

18 represented in the representation letter and in 14:16:32

19 the notes to the Statement of Financial Condition 14:16:35

20 that it is using "estimated current value" for 14:16:38

21 the presentation of the assets in the financials, 14:16:42

22 right? 14:16:44

23 A. No, not necessarily, because -- well, 14:16:48

24 they're expressing that, but then there's all the 14:16:51

25 disclaimers or exceptions that they're doing in 14:16:56

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2 terms of how it's calculated. 14:16:59

3 Q. Can you point me to "the disclaimers 14:17:00

4 and the exceptions" that they're doing in terms 14:17:05

5 of how it's calculated in this, let's say, 2011 14:17:15

6 Statement of Financial Condition? 14:17:20

7 A. Well, I think on -- where we looked 14:17:27

8 at on Page 4 of this statement, Paragraph 2, 14:17:30

9 which is how they determine this, which is trying 14:17:33

10 to determine estimates of current value, but then 14:17:41

11 the methodologies are something different than 14:17:45

12 what the Korologos and Hirsh did. 14:17:51

13 Q. Mr. Chin, I'm not talking about 14:17:55

14 Mr. Korologos or Mr. Hirsh at this point. 14:17:58

15 You were supposed to be pointing me 14:17:59

16 towards "the disclaimers and exceptions," in 14:18:01

17 terms of how it's calculated. 14:18:04

18 These methods, as we had discussed 14:18:06

19 and I thought agreed, are methods to arrive at 14:18:08

20 estimated current value, by just reading these 14:18:14

21 two paragraphs together. 14:18:17

22 Is that not how you read these two 14:18:19

23 paragraphs? 14:18:21

24 MR. FARINA: Objection to form. 14:18:22

25 A. Yeah, I looked at in totality of the 14:18:23

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2 report. But, yes, you've got the two paragraphs 14:18:25
3 here. But there's also statements all throughout 14:18:28
4 here in terms of how it was, specifically, 14:18:33
5 applied. 14:18:36

6 Q. So, again, point me to anywhere in 14:18:43
7 this report, any specific application, as you had 14:18:51
8 put, it where an asset is not presented at its 14:18:54
9 estimated current value? 14:19:03

10 MR. FARINA: Objection to form. 14:19:04

11 A. So perhaps the confusion is I'm 14:19:11
12 anchored in what Korologos and Hirsh did. So... 14:19:14

13 Q. Then why are you opining about Lewis? 14:19:18

14 A. Well, he was the one who interpreted 14:19:21
15 it for those guys and then they took off and ran 14:19:25
16 with it. 14:19:28

17 Q. I believe that they actually just 14:19:31
18 took the same definition from the FASB Master 14:19:32
19 Glossary based on this in the financial 14:19:36
20 statement. 14:19:42

21 I mean, does Professor Lewis actually 14:19:42
22 add anything? Do you want -- I can -- we can -- 14:19:44
23 I can provide you with their reports. Maybe you 14:19:45
24 can show me where they take Lewis, specifically. 14:19:47
25 Would that help? 14:19:51

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2 A. I guess they could -- 14:19:52

3 MR. FARINA: Objection to form. 14:19:52

4 THE WITNESS: Sorry. 14:19:53

5 A. There is instructions by Korologos 14:19:55

6 that he received and I'm presuming perhaps 14:19:57

7 erroneously that they all took Lewis at -- here's 14:20:03

8 current value, use it and then they went and did 14:20:08

9 their own thing. And everything is anchored with 14:20:10

10 respect to Korologos and Hirsh. 14:20:13

11 Q. Okay. Let me just... 14:20:16

12 Okay. Let's go back to your report, 14:20:56

13 Exhibit 1, Paragraph 25 and 26, Opinions 1 and 2. 14:21:00

14 A. (The witness complies.) 14:21:04

15 Q. You say in the second sentence at 14:21:14

16 Paragraph 25, "Thus the SOFC/compilations 14:21:16

17 appropriately include as if, pro forma or 14:21:20

18 anticipated or projected estimates based on the 14:21:24

19 guarantor's knowledge and the perspective of the 14:21:26

20 assets valued." 14:21:29

21 So maybe it's just semantics. 14:21:30

22 Are the "as if, pro forma or 14:21:39

23 anticipated or projected estimates based on the 14:21:41

24 guarantor's knowledge and perspective of the 14:21:43

25 assets valued," are those estimated current 14:21:46

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2 values? 14:21:51

3 MR. FARINA: Objection to form. 14:21:51

4 A. Those are his perspectives of current 14:21:54

5 value, current value estimates. 14:21:57

6 Q. So, then it's his perspective for an 14:21:58

7 asset of the amount at which the "item could be 14:22:01

8 exchanged between a buyer and a seller, each of 14:22:03

9 whom is well informed and willing and neither of 14:22:05

10 whom is compelled to buy or sell"? 14:22:08

11 MR. FARINA: Objection to form. 14:22:10

12 A. Correct, that is their perspective. 14:22:15

13 Q. Maybe what is the distinction between 14:22:56

14 as if and as is values? 14:23:00

15 MR. FARINA: Objection to form. 14:23:02

16 A. In my mind, "as if" is something that 14:23:05

17 could happen in the future that may or may not. 14:23:08

18 "As is" is its current condition and 14:23:12

19 current situation. 14:23:19

20 Q. So, if something happens in the 14:23:25

21 future -- what about the time value of money, is 14:23:26

22 that relevant to an as if value? 14:23:29

23 A. It depends on who you might be 14:23:31

24 asking. 14:23:33

25 Q. What if you are presenting an as if 14:23:38

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2 value as an estimated current value? 14:23:42

3 MR. FARINA: Objection to form. 14:23:48

4 Q. Can I do that? 14:23:48

5 A. Are you -- well, we just discussed 14:23:50

6 that Trump came up with his estimates and those 14:23:54

7 are his estimates of current value. So I don't 14:23:57

8 want to confuse things here. 14:24:00

9 Q. I mean, so, if my perspective is that 14:24:03

10 I can, you know -- that in a hundred years from 14:24:07

11 now, I can build a space board on my house and it 14:24:14

12 will be worth hundred million dollars, does that 14:24:16

13 mean that I can currently value my house at a 14:24:18

14 hundred million dollars because a hundred years 14:24:20

15 from now I'll be able to build a space board on 14:24:22

16 top of it? 14:24:25

17 MR. FARINA: Objection to form. 14:24:25

18 A. If that your is perspective. 14:24:26

19 Q. So anything that I believe is an 14:24:27

20 acceptable current value? 14:24:30

21 MR. FARINA: Objection to form. 14:24:33

22 A. If there is some reasonable basis for 14:24:35

23 it and that is your expectation, that is relevant 14:24:38

24 to you. 14:24:44

25 Q. Well, a reasonable basis in my 14:24:45

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2 perspective are very different, aren't they? A 14:24:47

3 reasonable basis presumes rationality. It 14:24:50

4 presumes, you know, some sort of -- yeah, you 14:24:52

5 know, outside agreement, doesn't it? 14:24:57

6 MR. FARINA: Objection to form. 14:25:02

7 A. Well, in that situation, it depends 14:25:02

8 on, you know, some of the circumstances. We're 14:25:05

9 talking about a hypothetical. 14:25:07

10 If you've put together plans, you 14:25:08

11 have a unique application that's going to allow 14:25:10

12 you to do that, then maybe that might be more 14:25:13

13 reasonable than if you just said, I saw it in a 14:25:17

14 movie and I'm going to do that. 14:25:20

15 Q. Okay. So, if you were doing an 14:25:21

16 appraisal of an as if scenario, you would, 14:25:25

17 basically, undertake to understand and value the 14:25:30

18 risks involved in time, in, you know, time value 14:25:34

19 of money, you know, the risk of the project, the 14:25:40

20 time it takes to complete it, all of these 14:25:43

21 different assumption and all of these different 14:25:45

22 reasonable bases, you would cost them out, you 14:25:48

23 basically incorporate them into the opinion of 14:25:51

24 value, wouldn't you? 14:25:53

25 A. No, not necessarily. 14:25:54

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2 MR. FARINA: Objection to form. 14:25:53

3 A. Not necessarily. 14:25:55

4 Q. No? 14:25:56

5 A. I would disclose that this is based 14:25:57

6 upon a certain future event, which may or may not 14:26:01

7 occur. I mean, this is how I would do it in that 14:26:04

8 situation. 14:26:06

9 But, you know, with respect to the 14:26:07

10 future's uncertain. But I would make sure that 14:26:12

11 anybody who picked up whatever I wrote would 14:26:16

12 understand that there are certain elements there 14:26:20

13 that may or may not occur. 14:26:23

14 Q. So I can have whatever perspective I 14:26:24

15 want so long as the disclosures are adequate? 14:26:27

16 MR. FARINA: Objection to form. 14:26:30

17 A. No. I believe that if there's some 14:26:30

18 more reasonable basis -- again, if you just said, 14:26:33

19 I saw it on a movie, I want to be on a spaceship, 14:26:37

20 different than you said, I have the intellectual 14:26:41

21 capability, I've got the training, I've got a 14:26:44

22 plan in order to do that, which is very different 14:26:47

23 than just thinking it up. 14:26:50

24 Q. What if I don't disclose some of the 14:27:09

25 assumptions that I've made in presenting my as if 14:27:14

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2 prospective? 14:27:18

3 MR. FARINA: (INAUDIBLE). 14:27:18

4 A. Are we saying this is in the guise in 14:27:21

5 a compilation report? Or how are you -- telling 14:27:25

6 a friend? I mean, what's the context? 14:27:29

7 Q. Well, I think -- no, let's not even 14:27:31

8 call it a "compilation." 14:27:32

9 Let's say where I've said that I'm 14:27:33

10 presenting this information at its estimated 14:27:35

11 current value. And I'm actually presenting an as 14:27:39

12 if prospective scenario and I haven't said that. 14:27:47

13 Is there an issue with that or is 14:27:53

14 that an acceptable presentation of estimated 14:27:56

15 current value? 14:28:00

16 MR. FARINA: Objection to form. 14:28:00

17 A. I think it's depending upon who the 14:28:03

18 reader would be. It's better to disclose what 14:28:07

19 some of the presumptions might be than it might 14:28:11

20 be hypothetical. 14:28:16

21 Q. Better depending on who the reader 14:28:17

22 would be. 14:28:20

23 Is there any situation in which 14:28:20

24 disclosure would not be necessary? 14:28:22

25 A. Well, maybe if you told your wife. 14:28:26

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2 And she said, okay, it's just him. 14:28:28

3 Q. I mean, what if I'm presenting a 14:28:31

4 value of a building where I own certain units and 14:28:36

5 I don't disclose that some of them are subject to 14:28:43

6 rent stabilization? 14:28:46

7 MR. FARINA: Objection to form. 14:28:47

8 Q. Or I value them as free market? 14:28:49

9 MR. FARINA: Objection to form. 14:28:51

10 A. I think that's a pretty significant 14:28:51

11 omission that should be disclosed. 14:28:53

12 Q. Okay. 14:29:03

13 MR. GABER: Maybe we can take five 14:29:07

14 minutes. 14:29:08

15 MR. FARINA: Sure. 14:29:09

16 THE VIDEOGRAPHER: The time is 14:29:11

17 2:29 p.m. We are off the record. 14:29:13

18 (Recess taken 2:29 to 2:47 p.m.) 14:31:33

19 THE VIDEOGRAPHER: The time is 14:47:12

20 2:47 p.m. We're back on the record. 14:47:14

21 You may proceed. 14:47:16

22 MR. GABER: Thank you. 14:47:18

23 Q. So, Mr. Chin, can I direct you to 14:47:23

24 Paragraph 43 of your report, Exhibit 1, the 14:47:27

25 opening report. 14:47:34

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2 A. (The witness complies.) 14:47:36

3 Q. So, the second sentence there says, 14:47:39

4 "'As if' examples could include," and then there 14:47:41

5 is a list, "1) the sum of un-discounted cash 14:47:43

6 flows over an extended period of years; 2) a 14:47:47

7 static analysis reflecting gross sellout, 14:47:50

8 revenues and costs; or 3) discounted cash flows 14:47:53

9 at certain rates of return that differ from 14:47:57

10 market rates." 14:47:59

11 I'm assuming you meant this as an 14:48:01

12 including but not limited to sort of list, right? 14:48:08

13 MR. FARINA: Objection to form. 14:48:11

14 Q. These are just some illustrative 14:48:13

15 examples? 14:48:15

16 A. Yes. 14:48:16

17 Q. Okay. So, "sum of un-discounted cash 14:48:22

18 flows over an extended period of time," in what 14:48:24

19 instance would the sum of un-discounted cash 14:48:29

20 flows over an extended period of years be a 14:48:34

21 useful valuation method? 14:48:37

22 MR. FARINA: Objection to form. 14:48:44

23 A. It would be helpful for potential 14:48:46

24 investors, maybe even lenders, who may have 14:48:52

25 different rates of return and they look to apply 14:48:57

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2 it to this un-discounted stream of income. 14:49:01

3 Q. They wouldn't want to just apply a 14:49:11

4 discount rate appropriate to their rate of 14:49:14

5 return? 14:49:17

6 A. The user may do that. They may be 14:49:18

7 applying their own discount rate or decide how to 14:49:22

8 evaluate and break up those cash flow estimates. 14:49:29

9 Q. Who do you mean by "user," in this 14:49:35

10 case, I'm sorry? 14:49:38

11 A. So I'm aware of specific situations 14:49:39

12 where either private equity investors, investors 14:49:41

13 in CLOs would apply different treatments to 14:49:48

14 un-discounted cash flows for their purpose. 14:49:54

15 Q. Did you identify any instances in the 14:50:01

16 Statements of Financial Condition that you 14:50:07

17 reviewed where a valuation was presented using a 14:50:08

18 sum of un-discounted cash flows over an extended 14:50:16

19 period of time? 14:50:19

20 A. If I recall correctly, I believe, it 14:50:25

21 was -- the Seven Springs was a development 14:50:27

22 project that showed anticipated revenues over a 14:50:32

23 period of time. 14:50:39

24 Q. And un-discounted, right? 14:50:39

25 A. Yes. 14:50:41

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2 Q. Would a sum of un-discounted cash 14:50:45
3 flows over an extended period of years be an 14:50:50
4 estimated current value? 14:50:56

5 A. It could be, yes, in the context of a 14:51:03
6 compilation report. 14:51:07

7 Q. What about in another context, not of 14:51:09
8 a compilation report? 14:51:12

9 A. I'm sorry, it could be -- 14:51:18

10 Q. Putting aside compilation report or 14:51:22
11 not compilation report. 14:51:23

12 A. Yes. 14:51:24

13 Q. Would a sum of un-discounted cash 14:51:25
14 flows over an extended period of time represent 14:51:29
15 the estimated current value of an asset? 14:51:32

16 MR. FARINA: Objection to form. 14:51:35

17 A. The only thing I can think of right 14:51:39
18 now is really in the compilation report arena. 14:51:41

19 (Stenographer clarification.) 14:51:46

20 THE WITNESS: Arena. 14:51:47

21 Q. So the next example of asset 14:51:48
22 valuations is you list is "static analysis 14:51:51
23 reflecting a gross sellout revenues and cost." 14:51:54

24 Can you just explain that to me? 14:51:56

25 A. If a project such as a condominium 14:51:59

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2 project were undergoing a sales process, the 14:52:02
3 aggregate sum of that would be then the amounts 14:52:07
4 that would be collected that would be the 14:52:11
5 aggregate amounts of revenues. 14:52:14

6 Q. So did you identify any instances in 14:52:19
7 the Statements of Financial Condition where this 14:52:20
8 type of analysis was used to value a property? 14:52:25

9 A. Yes. 14:52:30

10 Q. Can you tell me which of those were? 14:52:31

11 A. Going off the -- I believe, it was 14:52:35
12 maybe Trump Tower and I think there were a few 14:52:38
13 others as well. 14:52:44

14 Q. Okay. And, in any of these examples 14:52:45
15 that you reviewed of this type of analysis or 14:52:49
16 this type of valuation, did you confirm whether 14:52:55
17 or not the Defendants used cost in any of this 14:53:01
18 sellout analyses in this SOFCs? 14:53:04

19 MR. FARINA: Objection to form. 14:53:08

20 A. I did not confirm that directly with 14:53:12
21 the company, no. 14:53:14

22 Q. But did you confirm it by reviewing 14:53:15
23 the statements and/or the supporting data 14:53:17
24 spreadsheets? 14:53:20

25 A. Yes. 14:53:21

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2 Q. You did. 14:53:21

3 Which properties -- strike that. 14:53:22

4 Can you tell me which properties 14:53:34

5 using "the static analysis reflecting gross 14:53:37

6 sellout revenues and costs" represented costs in 14:53:40

7 the SOFCs? 14:53:44

8 A. I don't recall. 14:53:47

9 Q. And then maybe, more generally, what 14:53:53

10 do you mean by "costs" in this context? 14:53:56

11 MR. FARINA: Objection to form. 14:53:59

12 A. Could be selling expenses, 14:54:02

13 construction costs, taxes, insurance. It could 14:54:04

14 be development cost. 14:54:10

15 Q. Marketing costs? 14:54:13

16 A. It could be marketing costs. 14:54:14

17 Q. Commissions? 14:54:16

18 A. Could be. 14:54:17

19 Q. If there was a build-out period, 14:54:21

20 would you want to factor in the time value of 14:54:22

21 money into this? 14:54:25

22 A. It depends. It depends on, again, 14:54:26

23 the expression that's being used. So, if it's 14:54:30

24 estimated current value, then -- in a compilation 14:54:33

25 report, then maybe okay. 14:54:36

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2 Q. So, if construction cost, taxes, 14:54:42
3 insurance, development costs, marketing cost, 14:54:46
4 commissions, any of the things that you would 14:54:49
5 consider "cost" was not disclosed or represented 14:54:52
6 in the SOFC, would that still be an appropriate 14:54:57
7 as if value under your framework? 14:55:03

8 MR. FARINA: Objection to form. 14:55:05

9 A. I would just say it's the owner's -- 14:55:08
10 in this case Trump's -- expression of what he 14:55:12
11 believes costs are, in the context of this 14:55:15
12 compilation report. 14:55:18

13 Q. And if he says costs are zero, is 14:55:19
14 that appropriate or reasonable, as you used the 14:55:22
15 word previously? 14:55:26

16 A. Other people may not agree with it. 14:55:27
17 That's his perspective of it. 14:55:30

18 Q. Is that an appropriate perspective to 14:55:32
19 have? 14:55:34

20 A. Again, I think, it depends on how you 14:55:37
21 want to look at it. From his perspective, that's 14:55:40
22 reasonable. From other perspectives, it may not 14:55:42
23 be. 14:55:46

24 Q. Going back to my preposterous example 14:55:47
25 of earlier. I'm sorry about this. 14:55:50

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2 But when I'm going to build a space 14:55:52
3 board on top of my house a hundred years from now 14:55:54
4 -- I mean, that space board is going to be worth 14:55:56
5 a lot of money, you know, \$1 trillion I'm going 14:55:59
6 to say. 14:56:03

7 So, if I put that as the value, but I 14:56:03
8 don't put the fact that it's going to cost me 14:56:05
9 \$2 trillion to construct it, is that just my 14:56:07
10 perspective, that I'm listing it as a \$1 trillion 14:56:11
11 asset, even though it cost me 2 trillion to 14:56:14
12 build? 14:56:17

13 MR. FARINA: Objection. 14:56:17

14 Q. Or it will cost me 2 trillion to 14:56:17
15 build. 14:56:21

16 A. I think it just depends on who is 14:56:21
17 receiving that information and the basis that 14:56:23
18 they want to understand it and what sort of 14:56:25
19 diligence they would apply to the reasonableness 14:56:28
20 of your hypothesis. 14:56:31

21 Q. The last example you listed is 14:56:40
22 "discounted cash flows at certain rates of return 14:56:50
23 that differ from market rates." 14:56:52

24 Can you explain what you mean by 14:56:54
25 that? 14:56:57

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2 A. There are, certainly, different ways 14:57:01
3 of formulating a discount rate and a -- for 14:57:05
4 instance, a bond investor may look at a different 14:57:14
5 opportunity of return cost than somebody who is 14:57:17
6 perhaps more opportunistic such as maybe a hedge 14:57:22
7 fund. They may have a different return profile 14:57:26
8 than another party, which may view risk and the 14:57:30
9 receipts of certain proceeds differently. 14:57:38

10 Q. Forgive my lack of knowledge in this 14:57:42
11 area. 14:57:45

12 But isn't different appetite for risk 14:57:46
13 by a party, is that usually reflected in choosing 14:57:52
14 a discount rate or is that just reflected 14:57:55
15 elsewhere within the transaction? I thought 14:57:58
16 discount rates were, generally, just meant to 14:58:00
17 reflect the risk of the development, not the 14:58:02
18 appetite for risk of the party, you know, kind of 14:58:05
19 seeking the development. 14:58:10

20 MR. FARINA: Objection to form. 14:58:11

21 A. The way I think about it is, first, 14:58:12
22 who is the most probable party for any particular 14:58:15
23 asset that has risk. If you ask different 14:58:21
24 people, they may have different risk thresholds. 14:58:25
25 So, I think, it really depends. If you ask a 14:58:28

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2 banker, they may have a different risk profile 14:58:36
3 than someone who is an opportunistic-type of 14:58:38
4 investor. The discount rate in those situations 14:58:42
5 could be very different. 14:58:48

6 Q. So is it fair to say, that basically, 14:58:50
7 what unifies these and maybe other as if 14:58:53
8 valuations is they are the matter of the 14:58:57
9 perspective of the person presenting them? 14:58:59

10 A. I believe it's one element of it. 14:59:05
11 And then the forecast of what is to happen so... 14:59:07

12 (Stenographer clarification.) 14:59:12

13 THE WITNESS: What is to happen. 14:59:13

14 Q. And is it your opinion that the 14:59:16
15 compilation report format is more permissive 14:59:22
16 towards the inclusion of as if values based on an 14:59:27
17 individual's perspective of their assets than 14:59:31
18 other formats maybe? 14:59:35

19 MR. FARINA: Objection to form. 14:59:36

20 A. Well, staying with the compilation 14:59:39
21 report and considering it is the product of the 14:59:41
22 client who is providing the information, I think, 14:59:46
23 it is appropriate in their mind. They may have 14:59:48
24 other interpretations by other people. 14:59:53

25 Q. So is it your opinion that a 14:59:56

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2 compilation report allows the presenter of the 14:59:58
3 financial statements to make statements and 15:00:03
4 present values in ways that it wouldn't otherwise 15:00:06
5 be allowed to do? 15:00:08

6 A. I'm not saying that. I'm just saying 15:00:11
7 for purposes of a compilation report, there is to 15:00:14
8 be, at least, some sort of basis that the client 15:00:17
9 is using to estimate their current value. 15:00:23

10 Q. Okay. So shifting gears. 15:00:29

11 You do -- you discuss the 40 Wall 15:00:38
12 Street ground lease in your opening report, 15:00:43
13 correct? 15:00:45

14 A. Yes. 15:00:45

15 Q. Okay. Did you do an analysis of the 15:00:48
16 value of that ground lease? 15:00:50

17 A. No, I reviewed the information that 15:00:53
18 was presented in the appraisal report. 15:00:56

19 Q. Which "appraisal report" are you 15:00:59
20 referring to? 15:01:01

21 A. I believe, it was the 2011 or 2012 15:01:02
22 report. 15:01:06

23 Q. But you called, I believe -- I'm 15:01:07
24 sorry. I have to find it. 15:01:11

25 But I believe you called it a 15:01:12

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2 beneficial ground lease or said that its terms 15:01:14

3 were beneficial. 15:01:17

4 Does that sound correct? 15:01:18

5 A. Yes. 15:01:19

6 Q. And so is that just from your review 15:01:20

7 of the Cushman & Wakefield appraisal that you 15:01:22

8 made that conclusion? 15:01:29

9 A. It's from their analysis of it, but 15:01:30

10 also then looking at the terms of the ground 15:01:34

11 lease is how I rendered the opinion that it is a 15:01:37

12 beneficial ground lease. 15:01:41

13 Q. Which term, specifically, do you 15:01:42

14 think render it a "beneficial ground lease"? 15:01:44

15 A. No. 1, the conditions or the term 15:01:49

16 that the ground lease could go to, which I 15:01:54

17 believe is 2206 or something around that area. 15:01:57

18 That's a really protracted period. Then 15:02:01

19 compounded by the fact that it's a stepped-type 15:02:05

20 of ground lease. While there are other resets 15:02:09

21 every 25 years, the reset only affects that one 15:02:12

22 year and it's flat for that period of time. So 15:02:17

23 those two factors make it very unusual to me with 15:02:21

24 respect to a ground leasehold position. 15:02:28

25 Q. But about the "reset," couldn't the 15:02:35

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2 ground rent number go up pretty significantly 15:02:36

3 based on an appraised value on the reset? 15:02:39

4 A. There are conditions with respect to 15:02:44

5 this particular ground lease, in terms of how 15:02:46

6 it's to be valued per se. There is that increase 15:02:49

7 in value that could -- or rent that would occur 15:02:53

8 with a reset. But that amount in the end is 15:02:57

9 flat. And before that period of time, the ground 15:03:02

10 rent payment is very favorable in favor of the 15:03:05

11 ground lessee, who is, essentially, underpaying 15:03:09

12 considerably for some period of time. 15:03:13

13 Q. "Underpaying" relative to? 15:03:15

14 A. What the market would be. 15:03:17

15 Q. The market for a fee interest or 15:03:18

16 for... 15:03:21

17 A. For a ground rent payment. 15:03:22

18 Q. For a ground rent payment. 15:03:23

19 And what did you base your assessment 15:03:25

20 of the market for a ground rent payment on? 15:03:29

21 A. Well, looking at the particular 15:03:34

22 Cushman appraisal, I believe that the reset 15:03:36

23 amount was 6 percent. So, if that is at the time 15:03:39

24 the fair market rent for the ground lease, when 15:03:44

25 one looks at the current ground rent that's being 15:03:50

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2 paid and then compare that to the estimated value 15:03:53
3 of the property as vacant, which Cushman had 15:03:56
4 done, that rate is very low compared to what the 15:04:00
5 market rate would be at the reset. 15:04:03

6 Q. So you did do some analysis of the 15:04:08
7 value of the ground lease it sounds like. 15:04:10

8 A. Well, I read the information. I 15:04:13
9 looked at it. And, you know, one -- first, when 15:04:15
10 you're looking at certain things, you look at it 15:04:20
11 and say, favorable or unfavorable ground lease 15:04:24
12 so -- in order to determine that there was enough 15:04:27
13 information in the appraisals to, at least, make 15:04:28
14 that conclusion. 15:04:30

15 Q. But aside from the -- what you are 15:04:33
16 deeming a "favorable ground rent amount" even at 15:04:37
17 reset, I mean doesn't ground lease -- it's 15:04:40
18 different than a fee interest property, correct? 15:04:44

19 A. Correct. 15:04:46

20 Q. And you don't own the property, you 15:04:47
21 are ultimately renting it, notwithstanding the 15:04:49
22 term of the lease, right? 15:04:51

23 A. But the term of the lease is very 15:04:53
24 important. 15:04:55

25 Q. Okay. How is it important? 15:05:00

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2 A. Well, in the case of a fee simple, 15:05:05
3 it's in perpetuity. With respect to a ground 15:05:07
4 lease, it has a bearing on the financeability 15:05:12
5 oftentimes of developers getting financing. So a 15:05:15
6 shorter term ground lease with frequent rent 15:05:20
7 resets that might reset more frequently to market 15:05:25
8 is very unfavorable, because it provides or 15:05:29
9 causes uncertainty with respect to both the 15:05:33
10 ground lessee and the ground lessor with respect 15:05:37
11 to how much the rent might be and what might -- 15:05:40
12 how that might impact the overall economics of a 15:05:44
13 property. 15:05:47

14 Q. Is it important, though, to 15:05:53
15 understand how even a longer term ground lease 15:06:07
16 may still create uncertainty or impact the value 15:06:15
17 of a property as compared to fee ownership? 15:06:20

18 A. As a general sense, it is an element 15:06:28
19 that is less than fee simple, so that there is 15:06:31
20 some uncertainty with that. But, in terms of the 15:06:34
21 practical aspects of it, as a ground lessor, one 15:06:37
22 is looking at pretty much being tied up by a 15:06:42
23 property with a fixed rental payment for a very 15:06:46
24 extended period of time. And the uncertainty 15:06:49
25 there is how much the rent may or may not be many 15:06:52

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2 years forward. 15:06:56

3 So there is the uncertainty from the 15:06:58

4 ground lessees's perspective about what the rent 15:07:01

5 might be, which is offset by a flat or stepped 15:07:04

6 nature and the long-term aspects of the ground 15:07:08

7 lease, which are potentially favorable. 15:07:14

8 Q. You say, "potentially favorable." 15:07:19

9 Would a ground lease that contained 15:07:21

10 restrictions in the ability of the lessee to 15:07:24

11 develop the lease premises impact the value of 15:07:26

12 the interest? 15:07:31

13 A. It might. But it might be a benefit. 15:07:32

14 Because in one regard, it takes away some of the 15:07:34

15 uncertainty as to how a property might be valued. 15:07:37

16 In my experience, I've done lots of 15:07:41

17 ground lease resets and when it's not specific in 15:07:44

18 terms of what a highest and best use or what 15:07:47

19 could be developed on a property is, it causes 15:07:51

20 tremendous consternation and disagreement between 15:07:54

21 the parties when it's ground leased. 15:07:57

22 Q. I'm going to give you a hypothetical 15:08:02

23 example, if that's alright. Sorry, again, for my 15:08:03

24 hypotheticals. 15:08:06

25 But I have two properties side by 15:08:06

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2 side identical. Both of them are subject to 15:08:09
3 ground leases. One of them the ground lease 15:08:13
4 contains no restrictions on the ability to 15:08:14
5 develop on the parcel. The other one says that 15:08:19
6 it can only be used for a single-story candy 15:08:22
7 store, right next door to each other. 15:08:25

8 Do you think that the restrictions 15:08:30
9 within their respective leases would impact the 15:08:34
10 value of one of the parcels as compared to the 15:08:37
11 other? 15:08:40

12 MR. FARINA: Objection to form. 15:08:41

13 A. It may. It really depends on all the 15:08:45
14 other factors considered, in terms of the ground 15:08:47
15 lease term, the amount of rent resets that exist 15:08:49
16 within those ground leases. 15:08:56

17 Q. But all other things being equal, a 15:08:58
18 restriction on the ability to develop anything 15:09:01
19 other than a candy store versus you can build 15:09:03
20 tower to the stratosphere or whatever else you 15:09:06
21 want to do on this property, the candy store 15:09:10
22 restriction doesn't that demonstrate a diminution 15:09:13
23 of value of the owned interest -- 15:09:17

24 MR. FARINA: Object to form. 15:09:17

25 Q. -- as compared to its neighbor? 15:09:18

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2 A. It very well could be. 15:09:22

3 Q. You're not willing to say that it is? 15:09:26

4 A. Well, I guess it really depends on, 15:09:28

5 you know, more specifics. If you said the ground 15:09:31

6 lease resets in 25 years and it's going be based 15:09:35

7 on market -- it's going to be based on market 15:09:38

8 based upon what that property can be used for. 15:09:40

9 So having unlimited ability to 15:09:43

10 develop anything on it would have a very 15:09:46

11 different rental rate than with something that is 15:09:49

12 more restrictive in use. 15:09:53

13 Q. Yeah, I don't know that we're in 15:09:56

14 disagreement on that last point. But I'm 15:09:58

15 positing for the purposes of the hypothetical 15:10:01

16 that two parcels with identical -- in all ways 15:10:03

17 identical ground leases but for one of them 15:10:08

18 contains a significant restriction on the 15:10:10

19 lessees's ability to develop on that parcel 15:10:14

20 through the full term of the lease let's say. 15:10:17

21 A. So assuming -- 15:10:20

22 MR. FARINA: Objection to form. 15:10:21

23 A. -- in that scenario, that would be a 15:10:22

24 significant restriction of the highest and best 15:10:24

25 use and that would impact value. 15:10:27

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2 Q. Okay, great. Thank you. 15:10:28

3 Here can we go to Page 31 of your 15:10:30

4 opening report, Exhibit 1. 15:10:45

5 A. (The witness complies.) 15:10:50

6 (There is a discussion off the 15:10:50

7 record.) 15:11:02

8 Q. So there's a table here titled, 15:11:02

9 "Seven Springs Development Timeline." 15:11:05

10 Mr. Chin, did you create this table? 15:11:09

11 A. Yes. 15:11:13

12 Q. Okay. What documents did you rely on 15:11:13

13 for the creation of the table? 15:11:19

14 A. I recall I went through meeting 15:11:22

15 minutes of the town and tried to assemble this. 15:11:24

16 Q. Okay. Looking a little further down 15:11:29

17 on Paragraph 86 here, you note that the Trump 15:11:33

18 Organization's profitability analysis, quote, 15:11:38

19 "presumed the development of the property at 15:11:41

20 Seven Springs, projecting revenues expected to be 15:11:46

21 received, the estimated costs, and the net 15:11:49

22 profits realized and that this was the basis for 15:11:53

23 presentation of value of Seven Springs between 15:11:55

24 2011 to 2014"; is that correct? 15:11:58

25 MR. FARINA: Objection to form. 15:12:01

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2 A. Yes. 15:12:02

3 Q. Okay. So then a little further down 15:12:05

4 on Paragraph 89 you note that, "The AGNY 15:12:10

5 allegations failed to recognize that proposed 15:12:18

6 developments go through iterations before 15:12:20

7 becoming a reality." 15:12:23

8 Can you point to any specific 15:12:25

9 allegations in the complaint that you refer to as 15:12:28

10 the failure "to recognize that proposed 15:12:31

11 developments go through iterations before 15:12:35

12 becoming a reality"? 15:12:37

13 A. I believe it was really in the 15:12:40

14 context of the as is valuations that were being 15:12:42

15 put forth, that there was not the discounting. 15:12:47

16 There was not the time considered in looking at 15:12:50

17 this development. 15:12:54

18 Q. Were the allegations in the Complaint 15:12:56

19 about the Nature Conservancy lawsuit and the 15:13:00

20 restrictions imposed on the development of the 15:13:04

21 Seven Springs property as a result of the Nature 15:13:06

22 Conservancy litigation? Is that something that 15:13:09

23 you would include as a failure "to recognize that 15:13:12

24 proposed developments go through iterations"? 15:13:16

25 A. I don't recall those specific 15:13:19

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2 allegations in the Complaint. 15:13:21

3 Q. Okay. Did you review any documents 15:13:23

4 regarding the Trump Organization's dispute with 15:13:26

5 the Nature Conservancy or -- and the restrictions 15:13:29

6 that they had imposed on the property? 15:13:33

7 MR. FARINA: Objection to form. 15:13:35

8 A. I don't recall if I did. 15:13:37

9 Q. Did you review the allegations in the 15:13:38

10 complaint where the Office of the Attorney 15:13:52

11 General alleges that the valuations for Seven 15:13:56

12 Springs from 2011 to 2016 were made with 15:14:01

13 incomplete information? 15:14:03

14 A. I don't recall that specific 15:14:08

15 statement. 15:14:09

16 Q. Okay. And would it change your 15:14:14

17 opinion about Seven Springs as presented here in 15:14:16

18 this report to know that Donald J. Trump himself 15:14:21

19 claimed to have adjusted the value down in the 15:14:26

20 2015 SOFC or directed that the value be adjusted 15:14:29

21 down because he thought \$291 million valuation 15:14:33

22 was, quote, "too high"? 15:14:38

23 A. No, it wouldn't change my opinion. I 15:14:42

24 was really trying to express that as if is and 15:14:44

25 the way that was being originally calculated was 15:14:48

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2 something that developers do. 15:14:51

3 (Stenographer clarification.) 15:14:54

4 THE WITNESS: That developers do. 15:14:57

5 Sorry. 15:14:57

6 THE STENOGRAPHER: That's okay. I'm 15:14:57

7 sorry. 15:14:57

8 THE WITNESS: It's alright. 15:15:01

9 Q. But if you thought it was too high 15:15:01

10 and then decided that it should be marked down 15:15:03

11 from 291 million to 56 million, even under what 15:15:05

12 you've kind of put forth, that's a pretty 15:15:11

13 significant change in perspective, no? 15:15:13

14 A. I think you're correct. It was a 15:15:17

15 "change in perspective." I believe that's when 15:15:19

16 the conservation easement issue came about. 15:15:21

17 There was the appraisals -- or the appraisal that 15:15:25

18 was done by Cushman to value the conservation 15:15:27

19 easement. 15:15:29

20 Q. I mean, but would it simply... 15:15:30

21 Do you know if that change in 15:15:42

22 perspective was based on any of the restrictions 15:15:44

23 or constraints in the development of the site, 15:15:48

24 other than in the ultimate decision to apply a 15:15:51

25 conservation easement? 15:15:56

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2 MR. FARINA: Objection to form. 15:15:57

3 A. I don't know factually or otherwise. 15:15:59

4 Q. Do you think that a developer would 15:16:04

5 change their perspective to diminish the value of 15:16:07

6 a property in their perspective by 80 percent 15:16:12

7 without some sort of external constraint or 15:16:17

8 restriction that they recognized to be a reason 15:16:23

9 for doing so? 15:16:26

10 A. I think they would reset the value 15:16:28

11 based upon a change in concept or use, which 15:16:31

12 oftentimes happens in development that are 15:16:36

13 evolving. There are situations where, you know, 15:16:38

14 it's possible that the cost to develop are too 15:16:43

15 great or there was too much loss of use for -- 15:16:47

16 because of neighborhood or otherwise opposition 15:16:51

17 and that could all impacted and a developer could 15:16:55

18 essentially decide to throw in the towel and 15:16:59

19 change the intent of the property. So resetting 15:17:01

20 a value isn't uncommon in kind of an evolving 15:17:05

21 situation. 15:17:10

22 Q. So, in Paragraph 92, you note, "The 15:17:12

23 AGNY argues that the 2015 Cushman property 15:17:20

24 appraisal is overstated and fraudulent. That 15:17:23

25 appraisal valued the property at \$56.5 million. 15:17:28

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2 Coincidentally, the 2015 value is generally 15:17:32
3 consistent with, if not lower than the projected 15:17:36
4 value based on appreciation rates indicated by 15:17:38
5 the 2002 and 2006 appraisals." 15:17:42

6 You already mentioned that you had 15:17:46
7 not reviewed the allegations in the complaint 15:17:48
8 about information that was withheld for that 15:17:52
9 appraisal, correct? 15:17:58

10 MR. FARINA: Objection to form. 15:17:59

11 A. I don't recall that. 15:18:00

12 Q. Do you recall reviewing the 15:18:02
13 allegations in the complaint about the 2016 15:18:05
14 Cushman & Wakefield appraisal that provided that 15:18:11
15 2015 valuation? 15:18:13

16 A. No, I don't recall that. 15:18:16

17 Q. Okay. You note that, "Coincidentally, 15:18:20
18 the 2015 value is [generally] consistent" with 15:18:22
19 the projected value of the other appraisals. 15:18:25

20 Did you investigate that coincidence? 15:18:28

21 MR. FARINA: Objection to form. 15:18:30

22 A. I'm sorry. I'm not sure what you're 15:18:32
23 referring to. 15:18:34

24 Q. I'm just -- I'll admit I was not 15:18:35
25 expecting to see coincidence in a report and 15:18:40

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2 while coincidences do happen, I'm wondering if 15:18:44
3 you undertook any analysis to kind of either 15:18:48
4 review the appraisal or the allegations in the 15:18:52
5 Complaint to understand if this was pure 15:18:55
6 coincidence or if there were some other reason 15:18:58
7 for the valuation to hit that number. 15:19:01

8 MR. FARINA: Objection to form. 15:19:06

9 A. Just so I'm clear, are you referring 15:19:09
10 to when Trump lowered the number? Is that the 15:19:11
11 reference point we're talking about? 15:19:16

12 Q. I would say that when the number went 15:19:17
13 from -- not withstanding whether Mr. Trump 15:19:20
14 himself lowered it; when the value of Seven 15:19:22
15 Springs changed from 291 million to 56 million in 15:19:27
16 the next year. 15:19:32

17 A. Well, from my perspective, I saw the 15:19:36
18 appraisal. I thought it was a reasonable basis 15:19:39
19 for estimating the value of the conservation 15:19:43
20 easement. 15:19:45

21 I thought I had read something that 15:19:46
22 there was a consideration of the property being 15:19:50
23 listed for sale and, you know, it just seemed 15:19:52
24 perhaps coincidental, as you indicated 15:20:00
25 (INAUDIBLE) . 15:20:02

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2 Q. Okay. And if the Trump Organization 15:20:02
3 had, as alleged in the complaint, withheld from 15:20:05
4 the appraisers information relevant to valuing 15:20:10
5 the property and the easement, would that change 15:20:14
6 your opinion? 15:20:20

7 MR. FARINA: Objection to form. 15:20:21

8 A. I guess it depends on what may or may 15:20:22
9 not have been "withheld." 15:20:25

10 Excuse me. 15:20:30

11 Q. Let's move to -- let's go back to 15:20:32
12 your chart here that we marked as Exhibit... 15:20:37

13 A. Five. 15:20:51

14 Q. Five, yes. 15:20:51

15 So, under Nike Town, you note that 15:20:58
16 the value's presented between 2011 and 2013 were 15:21:04
17 as is values. 15:21:08

18 Is it your opinion that those values 15:21:11
19 were appropriately presented in the 2011 and 2013 15:21:14
20 Statements of Financial Condition? 15:21:21

21 A. I believe that's what Trump believed 15:21:24
22 they were worth, his perception of value. 15:21:28

23 Q. But do you believe that they were 15:21:30
24 presented appropriately? 15:21:34

25 MR. FARINA: Objection to form. 15:21:36

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2 A. I'm not rendering any opinion in 15:21:39
3 terms of the amount. I'm just stating that it 15:21:41
4 seemed applicable for its purpose at the time. 15:21:46

5 Q. Okay. In Paragraph 3 of your report, 15:21:52
6 you note among other things that "the 15:21:57
7 SOFCs/compilations are true and accurate in all 15:22:01
8 material aspects." 15:22:04

9 So would it be fair to say that the 15:22:06
10 valuations presented for Nike Town between 2011 15:22:09
11 and 2013 are consistent with that, that you 15:22:12
12 believe that they are "true and accurate in all 15:22:15
13 material aspects"? 15:22:18

14 MR. FARINA: Objection to form. 15:22:19

15 A. My opinion relates to the entirety of 15:22:21
16 the Statement of Financial Condition related to 15:22:23
17 the personal guaranty that required a Statement 15:22:28
18 of Financial Condition. So that's what my 15:22:33
19 meaning is in terms of being "material" with 15:22:36
20 respect to the totality of that and the rationale 15:22:39
21 for having the Statement of Financial Condition. 15:22:46

22 Q. So, under that, what does it mean to 15:22:51
23 be "true and accurate in all material aspects," 15:22:53
24 in terms of the "totality," as you described it? 15:22:57

25 MR. FARINA: Objection to form. 15:23:00

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2 A. That the presentation that's embodied 15:23:02
3 in the Statement of Financial Condition, which is 15:23:07
4 a requirement, as I understood, of the personal 15:23:10
5 guaranty, that it fairly stated his overall 15:23:15
6 position and value of the properties. 15:23:21

7 Q. You said -- 15:23:21

8 A. And it was related to the personal 15:23:24
9 guaranty. 15:23:26

10 Q. Sorry to interrupt you. 15:23:26

11 A. Sorry. 15:23:28

12 Q. You said you're not offering an 15:23:28
13 opinion as to the amounts or to the values of the 15:23:30
14 assets listed in the Statement of Financial 15:23:33
15 Condition. 15:23:35

16 Isn't -- wouldn't you have to do that 15:23:35
17 in order to understand the "overall position and 15:23:39
18 value of the properties," as you said? 15:23:43

19 MR. FARINA: Objection to form. 15:23:46

20 A. Not the way I approached it. So I 15:23:48
21 look at it as what is material with respect to 15:23:51
22 the Statement of Financial Condition relative to 15:23:55
23 the personal guaranty and that it shows his 15:23:57
24 financial condition. It shows his liquidity. It 15:24:03
25 shows what he believed the assets were and that, 15:24:05

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2 in totality, it represents what he believed he 15:24:09
3 thought his properties and everything was worth 15:24:15
4 and that it was a reasonable basis. And, I 15:24:18
5 believe, it was based upon his understanding of 15:24:24
6 his own assets. 15:24:28

7 Q. Sorry, one moment. 15:24:34

8 So... 15:25:01

9 If the individual values of all the 15:25:06
10 assets were within the SOFC were misstated, 15:25:13
11 wouldn't the SOFC be misstated in totality? 15:25:16

12 MR. FARINA: Objection to form. 15:25:22

13 A. Again, I believe it's the intent and 15:25:24
14 purpose of the SOFC that determines whether or 15:25:27
15 not it's material and whether it's true and 15:25:34
16 correct. 15:25:38

17 Q. The intent determines the truth and 15:25:47
18 rectitude of the statements contained within? 15:25:51

19 A. I don't believe I said that. 15:25:55

20 Q. You said, "I believe it's the intent 15:25:57
21 and purpose of the SOFC that determines whether 15:26:00
22 or not it's material and whether it's true and 15:26:02
23 correct." At least, that's what I have from the 15:26:04
24 Stenographer. 15:26:09

25 A. Okay. 15:26:10

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2 Q. Do you want to qualify that 15:26:11

3 statement? 15:26:13

4 A. No. 15:26:13

5 Q. So is the truth and correctness of 15:26:14

6 the SOFC a question of the intent of the preparer 15:26:19

7 of the statement? 15:26:24

8 A. I think it's his representation for 15:26:29

9 the purpose of providing a personal guaranty that 15:26:30

10 I believe is true and correct. 15:26:36

11 Q. So are you saying that as long as he 15:26:38

12 believed it to be true, it is correct? 15:26:41

13 A. I'm saying for the purpose of 15:26:48

14 satisfying a personal guaranty covenant, that it 15:26:50

15 fairly represents his financial condition. 15:26:58

16 Q. How do you get to "fairly 15:27:02

17 representing financial condition" without 15:27:04

18 undertaking any analysis of whether the values of 15:27:06

19 the assets presented in it were themselves 15:27:09

20 reflected of the actual values of those assets? 15:27:12

21 A. So, in one of my opinions, I look at 15:27:19

22 considerations of asset value and liquidity and 15:27:22

23 how that fares in the context of the existing 15:27:25

24 loans. So, when I look at that, I notice -- and 15:27:30

25 I compare that to other, if you will, public 15:27:35

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2 companies of equal or larger size. And I look at 15:27:38
3 their liquidity and I look at it and say, if 15:27:43
4 there is a difference of opinion with respect to 15:27:48
5 valuation, how does that impact the overall 15:27:53
6 presentation of financial statement relative to 15:27:57
7 the guaranty relative to the loans. 15:28:00

8 So I look at it and said, it doesn't 15:28:03
9 have that impact. 15:28:06

10 Q. Isn't that a question of magnitude of 15:28:10
11 the difference? 15:28:13

12 MR. FARINA: Objection to form. 15:28:16

13 A. So, I guess, what I did is I took all 15:28:17
14 the valuations or whatever was purported by Trump 15:28:22
15 and took a haircut and then look at the ratios 15:28:26
16 and said, what impact does it have on his overall 15:28:30
17 financial statement relative to the requirement 15:28:33
18 that he needs to provide a personal guaranty that 15:28:36
19 secures certain loans or back stops certain 15:28:41
20 loans. 15:28:45

21 Q. So you're referring to the minimum 15:28:47
22 net worth covenant that was put in place by 15:28:49
23 Deutsche Bank? 15:28:52

24 (Stenographer clarification.) 15:28:56

25 MR. GABER: By Deutsche Bank. 15:28:59

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2 A. I'm referring to -- yes. There is a 15:28:59
3 minimum net worth covenant, as well as them 15:29:02
4 looking at it low level deeper in terms of assets 15:29:05
5 and liquidity. 15:29:10

6 Q. But -- and, I think, this is the 15:29:11
7 table in Paragraph 110 of your report that you're 15:29:14
8 referring to right now; is that correct? 15:29:18

9 A. Actually, really narrowing it down is 15:29:36
10 more on 114. 15:29:40

11 Q. Okay. 15:29:41

12 A. It's where I look at and break down 15:29:42
13 the Statement of Financial Condition and see how 15:29:45
14 it is impacted, if estimated current values were 15:29:51
15 different and what impact it may have on 15:29:57
16 liquidity, which to me is very important for 15:30:01
17 existing loans and to fulfill the personal 15:30:07
18 guaranty requirement. 15:30:10

19 Q. How would you compare the analysis 15:30:14
20 that you undertook here to the analysis and the 15:30:16
21 key ratio analysis undertaken by Deutsche Bank in 15:30:23
22 their underwriting of the loans that are subject 15:30:26
23 to this complaint? 15:30:30

24 A. I think mine is more higher level 15:30:33
25 relative to looking at it from industry 15:30:36

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2 competitors to compare his financial health, 15:30:39

3 compared to companies of similar size. I believe 15:30:44

4 Deutsche Bank does a much deeper dive with 15:30:48

5 respect to evaluating specifics of liquidity, 15:30:51

6 coverage ratios and risk factors that they 15:31:00

7 consider in terms of Trump's Statement of 15:31:03

8 Financial Condition and other considerations as 15:31:09

9 well. 15:31:11

10 Q. Okay. 15:31:22

11 MR. GABER: I'm sorry I mumbled. 15:31:22

12 Q. Let's go back to Nike Town, if that's 15:31:23

13 okay. 15:31:28

14 How did you determine that Nike Town 15:31:35

15 was presented on an as is basis for 2011 to 2013? 15:31:38

16 A. That I don't recall. 15:31:47

17 Q. If you looked at the 2011 SOFC, would 15:31:51

18 that potentially refresh your recollection? 15:31:57

19 A. It might. 15:32:00

20 Q. Would you like to do that? It's... 15:32:01

21 A. Sure; Exhibit 10. 15:32:04

22 Q. There you go. I actually -- it's 15:32:36

23 simply not in front of me. So I was just going 15:32:39

24 to read off the -- 15:32:41

25 A. That's the way he gave me the answer 15:32:42

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2 key. 15:32:44

3 Q. So Nike Town is on Page 6, right? 15:32:57

4 A. Yes. 15:33:00

5 Q. Take your time and read it and it 15:33:00

6 refreshes your recollection, you can answer my 15:33:02

7 question. 15:33:05

8 A. Okay. 15:33:43

9 Q. So does this narrative here provide a 15:33:45

10 basis for determining that Nike Town was 15:33:49

11 presented on an as is basis? 15:33:51

12 MR. FARINA: Objection to form. 15:33:55

13 A. I believe so. 15:33:58

14 Q. Can you speak to why you "believe 15:33:59

15 so"? 15:34:02

16 A. The existing lease in place. 15:34:04

17 Q. This is the third paragraph that 15:34:15

18 you're reading from, or can you be more specific? 15:34:17

19 I'm sorry. 15:34:20

20 A. I was just reading from the 15:34:29

21 standpoint, "as property is leased to Nike retail 15:34:31

22 for a term that will end on May" 13 -- or "May 15:34:33

23 31st, 2017." 15:34:40

24 Q. What about the last paragraph there, 15:34:43

25 "The current value of 263,700,000 reflects the 15:34:56

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2 net proceeds, which Mr. Trump in conjunction with 15:35:01
3 his associates and outside professionals expect 15:35:04
4 to be derived from rental activities pursuant to 15:35:07
5 the lease described above, as well as the 15:35:10
6 residual value of the property"? 15:35:12

7 A. Yeah, that's -- I believe it's 15:35:19
8 looking at the recovery of it all. One might put 15:35:21
9 this in the as if because it's an event that 15:35:27
10 could occur later on. I checked the box as is. 15:35:32

11 Q. Why did you do that if it's a 15:35:36
12 prospective event? 15:35:38

13 A. I think when I was going through 15:35:40
14 this, I believed at the time it was as is. 15:35:42

15 (There is a discussion off the 15:35:42
16 record.) 15:35:42

17 MR. GABER: Let me ask the Reporter 15:36:08
18 to mark Exhibit 12. This is the supporting data 15:36:09
19 spreadsheet for the 2011 Statement of Financial 15:36:17
20 Condition. 15:36:21

21 (Deposition Exhibit Chin 12, Excel 15:36:21
22 worksheets titled, Donald J. Trump Statement of 15:36:21
23 Financial Condition as of June 30, 2011 15:36:21
24 MAZARS-NYAG-00003154, was marked for 15:36:21
25 identification.) 15:36:28

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2 MR. FARINA: Thank you. 15:36:28

3 THE WITNESS: Thank you. 15:36:29

4 Q. So, before we get into the supporting 15:36:40

5 data, I just want to -- I mean, is it -- do you 15:36:43

6 still believe sitting here today that your 15:36:52

7 determination that Nike Town was presented on an 15:36:55

8 as is basis is correct? 15:36:59

9 Do you stand by that portion of your 15:37:02

10 opinion? 15:37:04

11 A. I think it could be as if in its 15:37:05

12 future, as opposed to as is. 15:37:09

13 Q. So do you believe that based on what 15:37:11

14 is in the narrative portion here presented that 15:37:13

15 it's as if presentation of value? 15:37:16

16 A. Yes. 15:37:18

17 MR. FARINA: Objection to form. 15:37:18

18 Q. So, if we go, though, to the listing 15:37:20

19 of Nike Town within the SOFC supporting data, 15:37:27

20 which is at row -- sorry. I lost what row it 15:37:33

21 is -- Page 3 of the document. I overshot it. 15:37:39

22 Do you want to take a look at the 15:37:49

23 basis of valuation for Nike Town on this page and 15:37:58

24 just let me know when you've had a chance to take 15:38:05

25 a look at it? 15:38:07

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2 Have you read this before, this 15:38:08

3 document? 15:38:10

4 A. I did spend some time. 15:38:11

5 Q. Okay. So please take some time to 15:38:13

6 familiarize yourself. 15:38:15

7 A. Okay. 15:38:59

8 Q. Is this basis for deriving a value of 15:39:00

9 Nike Town the same as the one in the SOFC that we 15:39:08

10 just looked at? 15:39:12

11 A. It appears the numbers are the same. 15:39:39

12 Q. The numbers are the same, but is the 15:39:41

13 basis the same? 15:39:43

14 I can just read them side by side. 15:39:55

15 The statement says, "The current value of 15:39:57

16 263,700,000 reflects the net proceeds, which Mr. 15:39:59

17 Trump in conjunction with his associates and 15:40:03

18 outside professionals expect to be derived from 15:40:05

19 rental activities pursuant to the lease described 15:40:09

20 above, as well as the residual value of the 15:40:11

21 property." 15:40:14

22 The supporting data says, "Valuation 15:40:14

23 is based on the par value of the bonds which were 15:40:16

24 issued as part of a Section 144A securitization 15:40:19

25 in November 1995." 15:40:23

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2 To me that seems quite different, but 15:40:30

3 I would ask you again, do you agree that this is 15:40:36

4 a different basis for derivation of value for 15:40:40

5 Nike Town? 15:40:44

6 MR. FARINA: Objection to form. 15:40:45

7 A. You mean -- the difference, are you 15:40:48

8 talking about in terms of what's written versus 15:40:51

9 what's calculated? 15:40:54

10 Q. I am not disputing that they reach 15:40:56

11 the same number in the end. 15:40:59

12 A. Sure. 15:41:01

13 Q. But one of them is based on net 15:41:01

14 proceeds expected to be derived from rental 15:41:06

15 activities. The other one is based on par value 15:41:08

16 bonds issued pursuant to securitization. 15:41:11

17 Those are, to my understanding, 15:41:14

18 completely different, correct? 15:41:16

19 MR. FARINA: Objection to form. 15:41:20

20 A. Right. But I believe the methodology 15:41:21

21 here is that he's looking at his equity above and 15:41:23

22 beyond over the loan to value ratio and then 15:41:25

23 increasing that over time then with the sale of 15:41:30

24 that to generate the 263.7. I don't have my 15:41:33

25 calculator, but I think that's what looks like 15:41:39

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2 being done here. 15:41:42

3 He said he's calculated the excess 15:41:44

4 over the bond amount that is presumed to be his 15:41:46

5 equity. 15:41:50

6 Q. Is this calculation an as is or as 15:41:50

7 if? 15:41:55

8 A. It's... 15:41:59

9 MR. FARINA: Objection to form. 15:41:59

10 A. It could actually be a little of 15:42:06

11 both. It's re-calculating and solving for what 15:42:09

12 he could sell it for and what his equity value 15:42:17

13 is. 15:42:20

14 Q. Is there any prospective valuation 15:42:20

15 here? It looks like to me like the increase in 15:42:23

16 value per year terminates in 2011, which is 15:42:26

17 contemporaneous with the statement. 15:42:28

18 MR. FARINA: Objection to form. 15:42:32

19 A. So, just to correct, I know I said, 15:42:33

20 "as if." I mean, looking at these calculations, 15:42:36

21 it refreshes my memory. This looks like it's 15:42:40

22 really done on a current basis. He's, basically, 15:42:43

23 trying to value his equity in the property 15:42:46

24 without future proceeds. But he is looking at it 15:42:48

25 from the standpoint of using 1995 as the 15:42:53

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2 reference point and then assuming his equity 15:42:56

3 increases every year up to that point in time. 15:42:59

4 Q. But is he doing that, or is he doing 15:43:02

5 it on a prospective basis to reflect the net 15:43:05

6 proceeds that he expects be derived from rental 15:43:07

7 activities in the future, as it says in the 15:43:12

8 statement? 15:43:16

9 I mean, I think you've corrected 15:43:16

10 yourself. 15:43:18

11 But is it not the case that these are 15:43:19

12 two contradictory values, one of them as is, one 15:43:23

13 of them as if? 15:43:27

14 MR. FARINA: Objection -- 15:43:27

15 Q. Or not contradictory balance, two 15:43:27

16 contradictory valuations. One of them is as is. 15:43:30

17 One of them is as if. They reach the same number 15:43:31

18 but are otherwise... 15:43:34

19 MR. FARINA: Objection to form. 15:43:36

20 A. The statement here on the SOFC 15:43:37

21 doesn't, basically, foot with what was done here 15:43:42

22 in this calculation. 15:43:46

23 Q. It doesn't seem to at all, does it? 15:43:47

24 A. Very kind of different aspects. 15:43:49

25 Q. Do you think that this is -- I mean, 15:43:54

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2 isn't a failure to accurately describe the actual 15:43:59
3 valuation technique that they went through and 15:44:02
4 instead saying that it's based on net proceeds 15:44:04
5 that they expect to be derived -- I mean, do you 15:44:07
6 think that that's misleading? 15:44:12

7 MR. FARINA: Objection to form. 15:44:13

8 A. Well, there is a disconnect between 15:44:14
9 the explanation and what they did. This would 15:44:17
10 not have been, I guess, surfaced until discovery 15:44:20
11 and everything else. So this would have been 15:44:24
12 within the accountant's purview to look at this, 15:44:26
13 understand it and then write it, whatever, 15:44:30
14 disclaimer or notation there should be. 15:44:34

15 (Stenographer clarification.) 15:44:40

16 THE WITNESS: Notation there should 15:44:40
17 be. 15:44:40

18 Q. But the presentation of the values 15:44:40
19 and the notes to the statement are the 15:44:45
20 responsibility not of the accountant under the 15:44:47
21 compilation requirements but of the individual. 15:44:49

22 So is it the accountant's failure or 15:44:54
23 is it the failure of Mr. Trump for misstating the 15:44:56
24 method they used to calculate the value of Nike 15:45:02
25 Town here? 15:45:05

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2 MR. FARINA: Objection to form. 15:45:05

3 A. Yeah, I don't know. I don't know 15:45:09

4 what came first. Usually, the accountants 15:45:10

5 prepare their analysis and their report and then 15:45:14

6 submit it for review and then -- I mean, I'm 15:45:19

7 speculating here, but that's the process that I'm 15:45:23

8 familiar with. And then the client comments and 15:45:25

9 if it's okay, then oftentimes it's issued. Or if 15:45:30

10 the accountant believes that's the disclosure 15:45:35

11 should be, then that's what they do. 15:45:37

12 I don't know. I wasn't -- don't know 15:45:40

13 exactly how the process unfolded. 15:45:42

14 Q. Putting aside any responsibilities 15:45:44

15 that may have been the accountant, which I'll 15:45:46

16 represent to you under compilation agreement as 15:45:46

17 we both saw are pretty minimal. 15:45:51

18 The client is responsible for the 15:45:53

19 fair presentation of the values in this 15:45:57

20 statement. The client is responsible for the 15:45:59

21 supporting data and the client is responsible for 15:46:00

22 the notes and the veracity of those. 15:46:03

23 So, within an explicit discrepancy 15:46:06

24 like this, is it -- is this a fair presentation 15:46:12

25 in the statement of the actual valuation and the 15:46:18

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2 actual perspective of the client misrepresenting 15:46:22

3 the supporting data? 15:46:24

4 MR. FARINA: Objection to form. 15:46:26

5 A. Well, I don't know if I'm necessarily 15:46:29

6 judge of it. I mean, I've looked at it in the 15:46:32

7 totality of the Statement of Financial Condition, 15:46:34

8 as opposed to per se the excerpts in it. There 15:46:37

9 does seem to be a disconnect between the 15:46:40

10 statement in the SOFC versus what the work paper 15:46:44

11 is showing. 15:46:48

12 But as in terms of, you know, my 15:46:49

13 analysis and my report really is based upon the 15:46:54

14 totality of it. So I wasn't looking specifically 15:46:57

15 at that. 15:47:01

16 Q. One last question do you think this 15:47:02

17 is consistent with your opinions about the 15:47:06

18 presentation of as if values? 15:47:08

19 A. Well, are you talking about Nike Town 15:47:14

20 or just in general? 15:47:16

21 Q. Nike Town. 15:47:17

22 A. Nike Town is -- in terms of the 15:47:18

23 calculation, it does seem like it's as is, 15:47:21

24 whereas this would infer more as if. 15:47:24

25 Q. Okay. I'm going to move on. I'm 15:47:40

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2 trying to get us out of here shortly. Thank you. 15:47:43

3 So let's go to Paragraphs 102, 103 of 15:47:46

4 your report. So you mention that triplex at 15:47:50

5 Trump Tower once between your two reports, in 15:48:03

6 these two paragraphs, which is actually under the 15:48:06

7 section for Trump Park Avenue. 15:48:10

8 I think that's just maybe a miss 15:48:15

9 heading or something like that; is that right? 15:48:18

10 MR. FARINA: Objection to form. 15:48:20

11 A. I'm sorry. What number are you at? 15:48:24

12 Q. Paragraphs 102 and 103. 15:48:24

13 A. Thank you. 15:48:27

14 So, looking at these two paragraphs, 15:48:39

15 you do acknowledge that the value of the triplex 15:48:41

16 at Trump Tower was overstated from 2011 to 2016 15:48:43

17 based on an overstatement of the square footage, 15:48:48

18 correct? 15:48:51

19 MR. FARINA: Objection to form. 15:48:51

20 A. Yes. 15:48:52

21 Q. You state that the, quote, "The 15:48:53

22 correct square footage should have been used to 15:48:56

23 accurately reflect the apartment's worth," 15:48:59

24 correct? 15:49:03

25 A. Yes. 15:49:03

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2 Q. Okay. But then you go on to dismiss 15:49:06
3 that overstatement. You say that, "In any event 15:49:09
4 and like the Trump Park Avenue value 15:49:16
5 differentials, the error noted for Trump Tower 15:49:19
6 does not impact the overall SOFC/compilation 15:49:23
7 intent, which provides a comprehensive view of 15:49:24
8 the guarantor's financial position. The 15:49:28
9 SOFC/compilation should be taken as a whole and 15:49:33
10 not focused on specific asset valuation 15:49:34
11 differences that do not materially affect the 15:49:37
12 guarantor's financial representation." 15:49:39

13 So putting aside for the moment 15:49:45
14 taking the SOFC/compilations as a whole, isn't it 15:49:49
15 a misstatement like this material to the value of 15:49:54
16 the asset? 15:49:59

17 A. In an isolated situation for the 15:50:00
18 particular asset, it's wrong. 15:50:03

19 Q. By a factor of three, yes, at least? 15:50:04

20 A. Correct. 15:50:09

21 Q. Assuming that there's no other 15:50:09
22 misstatements or otherwise? 15:50:11

23 A. Again, in isolation. 15:50:13

24 Q. Yeah, in isolation. 15:50:15

25 Now, Professor Korologos puts in his 15:50:16

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2 report that the value of the triplex was 15:50:26
3 overstated by 84 million to 267 million for the 15:50:30
4 years of the incorrect square footage. 15:50:34

5 And so, just assuming just for the 15:50:37
6 sake of this question that those numbers are 15:50:39
7 correct, is it your opinion that a \$267 million 15:50:42
8 overstatement wouldn't overact -- impact the, 15:50:48
9 quote, "overall SOFC/compilation intent, which 15:50:53
10 provides a comprehensive view of the guarantor's 15:50:57
11 financial position"? 15:50:59

12 MR. FARINA: Objection to form. 15:51:00

13 A. Yeah, I'm viewing that from the 15:51:03
14 context of the entirety of the enterprise. So I 15:51:05
15 don't believe that is material relative to a 15:51:09
16 personal guaranty and the purpose on a fulfilled 15:51:15
17 personal guaranty, which is the covenant of net 15:51:19
18 worth. 15:51:24

19 Q. What's the purpose of a personal 15:51:24
20 guaranty or of a bank, why does a bank obtain a 15:51:29
21 personal guaranty on a loan in your 15:51:33
22 understanding? 15:51:36

23 MR. FARINA: Objection to form. 15:51:36

24 A. It's a backstop to assure the bank 15:51:38
25 that in the event of the default -- of a default, 15:51:46

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2 there was a responsible party who would cover and 15:51:51

3 make whole that default. 15:51:58

4 Q. So the bank wants to make sure that 15:52:04

5 if there's a default on the loan that the 15:52:11

6 guarantor has enough money to make them whole; is 15:52:14

7 that a fair characterization? 15:52:18

8 MR. FARINA: Objection to form. 15:52:20

9 A. Yeah, it's one of the methods banks 15:52:22

10 use, to my knowledge, based on my experience, to 15:52:25

11 ensure that payments will be made on time for the 15:52:29

12 loan that they extended. It's another layer of 15:52:33

13 insurance, if you will, that they use and a tool 15:52:36

14 they use to ensure that payments will be made 15:52:42

15 promptly. 15:52:45

16 Q. And say that a bank had to execute on 15:52:47

17 a personal guaranty in the event of a significant 15:52:52

18 default and had to reach through to the guarantor 15:52:55

19 to obtain the money they loaned. 15:52:58

20 Wouldn't the -- would it be as is or 15:53:02

21 as if values of assets supporting the guaranty 15:53:08

22 that would be relevant to the bank obtaining the 15:53:12

23 money it needed to repay the default? 15:53:17

24 MR. FARINA: Objection to form. 15:53:21

25 A. In my perspective, it would be 15:53:24

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2 neither. It's important more about liquidity. 15:53:27

3 So, when one looks at the overall Statement of 15:53:30

4 Financial Condition, one element of that is cash, 15:53:35

5 cash on hand relative to the amount of the loan. 15:53:37

6 To the extent that certain amounts of that cash 15:53:43

7 available is locked up in the institution gives 15:53:48

8 even further assurances to the financial 15:53:51

9 institution that they'll be fine, if there is, in 15:53:54

10 fact, a default. 15:53:58

11 Q. So, if there's insufficient cash or 15:53:59

12 liquidity, though, the bank would reach to other 15:54:01

13 assets. 15:54:05

14 It would seek to liquidate those, 15:54:05

15 right, in order to get its money? 15:54:08

16 A. Yeah, in that hypothetical, if there 15:54:09

17 was no liquidity, then they would have to make 15:54:12

18 ways to try to find monetizing assets or having 15:54:14

19 the borrower leverage other assets that are 15:54:20

20 unencumbered to, basically, provide for the 15:54:23

21 payment of debt obligations. 15:54:26

22 Q. It seems like a bank is not 15:54:28

23 necessarily concerned with as is or as if. The 15:54:30

24 bank is concerned with the liquidation basis, 15:54:34

25 something even less than both probably, right? 15:54:36

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2 A. Well, I think the add-on to that is 15:54:40
3 really their -- their first aspect is, are there 15:54:45
4 sufficient assets there, but then, more 15:54:47
5 importantly, does the borrower have liquidity. 15:54:49

6 Liquidity is more important, because 15:54:53
7 going through a process of liquidating assets, 15:54:55
8 fighting over values, fighting over a lot of that 15:54:58
9 is really subordinate and really, I think, more 15:55:02
10 of their last resort in terms of calling a 15:55:05
11 personal guaranty, as opposed to having the 15:55:09
12 ability to access cash quickly that might be 15:55:11
13 available. 15:55:16

14 Q. But, for the sake of my hypothetical, 15:55:17
15 such as it is, if there were not sufficient 15:55:21
16 liquidity to repay the owed amount and the bank 15:55:24
17 had to seek recourse from the other assets, let's 15:55:31
18 say, within the guarantor's ownership, they would 15:55:35
19 not be concerned with the as is or as if values, 15:55:39
20 it wouldn't help a bank if you could build 15:55:47
21 condominiums on this in ten years, if they need 15:55:49
22 their money today? It would be -- if they did 15:55:51
23 have to liquidate assets, they would be doing so 15:55:54
24 at a pretty significantly haircut basis, right? 15:55:57

25 MR. FARINA: Objection to form. 15:56:02

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2 A. Well, there's certain ways that banks 15:56:03
3 would probably work with a borrower, to the 15:56:05
4 extent that there was a liquidity squeeze, if you 15:56:08
5 will, if there was insufficient liquidity to pay 15:56:13
6 loans. They might ask for additional collateral. 15:56:15

7 So, to the extent that instead of 15:56:18
8 foreclosing, as you may be suggesting or 15:56:20
9 liquidating, they may ask the borrower to 15:56:24
10 contribute additional assets that did have value 15:56:28
11 to, basically, secure their position. 15:56:31

12 Q. But that would be like a 15:56:34
13 renegotiation or refinancing, right, the existing 15:56:36
14 guaranty or, you know -- that would be as an 15:56:39
15 alternative to executing on the guaranty? 15:56:42

16 A. Yeah, anytime there is a default, it 15:56:44
17 causes a conversation to be had about 15:56:46
18 restructuring the loan, accelerating it, coming 15:56:50
19 up with additional collateral, potentially 15:56:55
20 liquidating assets, refinancing assets. 15:56:58

21 I mean, there is a whole variety of 15:57:02
22 ways that, at least, on a Statement of Financial 15:57:04
23 Condition they can say, well, there's other 15:57:08
24 assets here that are unencumbered. Assuming that 15:57:10
25 all this is based upon that there's insufficient 15:57:13

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2 liquidity with the borrower and the bank doesn't 15:57:16
3 have any cash locked up of the borrower's that 15:57:19
4 could be used to repay a loan. 15:57:22

5 Q. Okay. That makes sense. 15:57:24

6 (There is a discussion off the 15:57:24
7 record.) 15:57:24

8 Q. So I'm now going to ask the Court 15:57:46
9 Reporter on mark as Exhibit 13 a document that 15:57:48
10 you had provided as Exhibit 1 with your rebuttal 15:57:50
11 report. 15:57:53

12 (Deposition Exhibit Chin 13, Exhibit 15:57:53
13 1 to Mr. Chin's report 6/19/23 letter to Eric 15:57:53
14 Trump from Adam Hochfelder of Turks Capital 15:57:53
15 Partners marked Confidential, was marked for 15:57:53
16 identification.) 15:58:08

17 Q. This is a letter addressed -- dated 15:58:08
18 June 19, 2023 addressed to Mr. Eric Trump at the 15:58:12
19 Trump Organization. It's on the letterhead of 15:58:15
20 Turks Capital Partners. It's signed by Adam 15:58:20
21 Hochfelder. It's in regard to Trump National 15:58:24
22 Doral Miami. 15:58:31

23 So you, Mr. Chin, attach this as 15:58:33
24 Exhibit 1 to your rebuttal report. 15:58:37

25 Can you tell me how you came into 15:58:39

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2 possession of this document? 15:58:42

3 A. This was provided to me. 15:58:46

4 Q. And who provided this to you? 15:58:47

5 A. I believe the -- I received it from 15:58:52

6 my colleagues. 15:58:56

7 Q. At Ankura? 15:58:56

8 A. At Ankura. 15:59:01

9 Q. Did they give you any context to this 15:59:01
10 letter? 15:59:04

11 A. No, I think they just sent it to me 15:59:06
12 and said this is information to look at. 15:59:08

13 Q. Okay. Do you rely on this document 15:59:12
14 in the formation of your opinion? 15:59:14

15 A. No. I think I use it as an example 15:59:16
16 in terms of an expression of interest for the 15:59:23
17 property of Doral. 15:59:27

18 Q. Let me just actually go to -- where 15:59:34
19 is that? 15:59:37

20 Paragraph 198, I think, of your 15:59:40
21 rebuttal report is where you mention it. 15:59:41

22 You say, "Recently, the Trump 15:59:56

23 Organization received a letter of intent to 16:00:01

24 purchase Trump Doral with a starting bid of 16:00:03

25 \$1.5 billion. Although this offer was not 16:00:05

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2 finalized, it serves as an indicative measure of 16:00:09
3 the property's perceived value by a qualified 16:00:12
4 market participant." 16:00:15

5 And then at the end you say something 16:00:19
6 to the effect that this -- "underscoring the 16:00:23
7 potential underestimation of this multi-faceted 16:00:25
8 property's true market worth." 16:00:29

9 So it seems like you are opining on 16:00:30
10 more than just the letter as an expression of 16:00:37
11 interest in Doral. 16:00:40

12 You are saying that it is "an 16:00:41
13 indicative measure of the property's perceived 16:00:45
14 value by a qualified market participant." 16:00:48

15 So do you want to qualify your 16:00:50
16 previous answer? 16:00:52

17 A. Yeah. 16:00:53

18 MR. FARINA: Objection to form. 16:00:53

19 A. Correct. I mean, I did rely on it to 16:00:54
20 the extent of what my statement is in my report. 16:00:57

21 In terms of relying on it that it's 16:01:01
22 the number, I'm not doing that part. So my 16:01:04
23 apologies. That was a misstatement on my part. 16:01:07
24 But I can -- 16:01:10

25 Q. No, no, I appreciate it. 16:01:10

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2 A. -- rely on it to, basically, state it 16:01:11
3 existed and it is -- it is some indication as to 16:01:14
4 what the property might be worth. 16:01:18

5 Q. Can you explain the term "qualified 16:01:20
6 market participant" to me? Is that a term of art 16:01:23
7 or... 16:01:26

8 A. Yeah, from my standpoint, it's 16:01:27
9 somebody who has executed, who -- of other 16:01:29
10 transactions who may have a financial wherewithal 16:01:33
11 to do it, as opposed to -- you know, I've run 16:01:36
12 companies where I get letters of interest or I 16:01:41
13 want to buy your property and they are not 16:01:46
14 qualified. 16:01:48

15 I don't know what they've done. I 16:01:49
16 look at them and find out they've never done a 16:01:51
17 transaction or it was miniscule in terms of what 16:01:54
18 they're trying to acquire from myself. 16:01:58

19 Q. And can you walk me through what sort 16:02:02
20 of review or analysis you undertook to determine 16:02:05
21 that Mr. Hochfelder and/or Turks Capital Partners 16:02:09
22 were "qualified market participants"? 16:02:13

23 A. My scope, I believe, was somewhat 16:02:16
24 limited. But I believe I went to some of their 16:02:21
25 websites, looked at some of their transactions. 16:02:24

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2 I think I might have even looked up a transaction 16:02:27
3 or two to see if there was validity to them 16:02:29
4 acquiring a property. Sometimes it's hard 16:02:33
5 because they take it in different entity names. 16:02:36
6 But I believe that what they stated here in terms 16:02:39
7 of what they've acquired didn't seem like it was 16:02:44
8 unreasonable. 16:02:47

9 Q. Okay. You say, "although this offer 16:02:50
10 was not finalized," is your understanding that by 16:02:53
11 use of the past tense that this is -- this 16:02:59
12 transaction is no longer going forward? 16:03:05

13 MR. FARINA: Objection to form. 16:03:08

14 A. I don't know the exact status. I 16:03:09
15 believe it was something that was provided to me 16:03:12
16 and I think the comment was, it wasn't -- there 16:03:17
17 was no intent to sell. But I don't know the 16:03:21
18 exact status of whether it died. I just 16:03:24
19 determined that I didn't have further documents 16:03:30
20 beyond this that indicated it was going to go 16:03:32
21 forward. 16:03:35

22 Q. And it was Ankura who told you that 16:03:36
23 there was no intent to sell Doral? 16:03:38

24 A. I believe so. I don't recall. 16:03:41

25 Q. Okay. You note that the first 16:03:43

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2 sentence there says, "Thank you for working with 16:03:48
3 us on our potential acquisition on the above 16:03:50
4 referenced property." 16:03:53

5 A. I see that. 16:03:54

6 Q. Yeah. Do you think that -- do you 16:03:55
7 have any understanding about what work the Trump 16:03:59
8 Organization had done with Turks Capital Partners 16:04:03
9 up to that point? 16:04:05

10 A. No, I don't. 16:04:06

11 Q. Do you recall who at Ankura told you 16:04:10
12 that there was no intent to sell? 16:04:15

13 A. I think it might have been Scott 16:04:18
14 Fowler. 16:04:21

15 (There is a discussion off the 16:04:21
16 record.) 16:04:38

17 MR. GABER: Yeah. Can we go off the 16:04:38
18 record real quick. 16:04:40

19 MR. FARINA: Sure. 16:04:41

20 THE VIDEOGRAPHER: The time is 16:04:42
21 4:04 p.m. We are off the record. 16:04:43

22 (Recess taken 4:04 to 4:14 p.m.) 16:14:34

23 THE VIDEOGRAPHER: The time is 16:14:34
24 4:14 p.m. We are back on the record. 16:14:35

25 You may proceed. 16:14:37

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2 Q. Mr. Chin, thank you for your time. 16:14:38

3 I have no further questions for you. 16:14:40

4 A. Oh, thank you. Pleasure. 16:14:42

5 MR. FARINA: Thank you. 16:14:44

6 MR. GABER: We can go off. 16:14:46

7 THE VIDEOGRAPHER: I have permission 16:14:46

8 to wrap us for the day? 16:14:46

9 MR. GABER: Yes please. 16:14:48

10 MR. FARINA: Yes. 16:14:49

11 THE VIDEOGRAPHER: Okay. We are off 16:14:49

12 the record at 4:14 p.m. This concludes today's 16:14:49

13 testimony given by Frederick Chin. 16:14:52

14 (Time noted: 4:14 p.m.)

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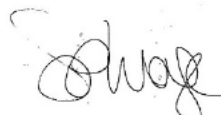
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C E R T I F I C A T E

I, SILVIA P. WAGE, a Notary Public for the State of New York, Certified New Jersey Court Reporter, Certified Realtime Reporter and Registered Professional Reporter, do hereby certify that prior to the commencement of the examination, FREDERICK E. CHIN, was duly sworn by me to testify the truth, the whole truth and nothing but the truth.

I DO FURTHER CERTIFY that the foregoing is a true and accurate transcript of the testimony as taken stenographically by and before me at the time, place and on the date hereinbefore set forth.

I DO FURTHER CERTIFY that I am neither a relative nor employee nor attorney nor counsel of any of the parties to this action, and that I am neither a relative nor employee of such attorney or counsel, and that I am not financially interested in the action.



Notary Public of the State of New York

My Commission expires November 29, 2026

Dated: August 2, 2023

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1 Michael Farina, Esq.
2 Mfarina@robertlaw.com

3 August 2, 2023

4 RE: People v. Trump, Donald J.
5 7/26/2023, Frederick Chin (#6002196)

6 The above-referenced transcript is available for
7 review.

8 Within the applicable timeframe, the witness should
9 read the testimony to verify its accuracy. If there are
10 any changes, the witness should note those with the
11 reason, on the attached Errata Sheet.

12 The witness should sign the Acknowledgment of
13 Deponent and Errata and return to the deposing attorney.
14 Copies should be sent to all counsel, and to Veritext at
15 cs-ny@veritext.com

16
17 Return completed errata within 30 days from
18 receipt of testimony.

19 If the witness fails to do so within the time
20 allotted, the transcript may be used as if signed.

21

22 Yours,

23 Veritext Legal Solutions

24

25

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1 People v. Trump, Donald J.

2 Frederick Chin (#6002196)

3 E R R A T A S H E E T

4 PAGE _____ LINE _____ CHANGE _____

5 _____

6 REASON _____

7 PAGE _____ LINE _____ CHANGE _____

8 _____

9 REASON _____

10 PAGE _____ LINE _____ CHANGE _____

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12 REASON _____

13 PAGE _____ LINE _____ CHANGE _____

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15 REASON _____

16 PAGE _____ LINE _____ CHANGE _____

17 _____

18 REASON _____

19 PAGE _____ LINE _____ CHANGE _____

20 _____

21 REASON _____

22 _____

23 _____

24 Frederick Chin Date

25 _____

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1 People v. Trump, Donald J.

2 Frederick Chin (#6002196)

3 ACKNOWLEDGEMENT OF DEPONENT

4 I, Frederick Chin, do hereby declare that I
5 have read the foregoing transcript, I have made any
6 corrections, additions, or changes I deemed necessary as
7 noted above to be appended hereto, and that the same is
8 a true, correct and complete transcript of the testimony
9 given by me.

10
11 _____
12 Frederick Chin

_____ Date

13 *If notary is required

14 SUBSCRIBED AND SWORN TO BEFORE ME THIS

15 _____ DAY OF _____, 20____.

16
17
18 _____
19 NOTARY PUBLIC

[& - 2021]

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Article 31 Disclosure, Section 3116

(a) Signing. The deposition shall be submitted to the witness for examination and shall be read to or by him or her, and any changes in form or substance which the witness desires to make shall be entered at the end of the deposition with a statement of the reasons given by the witness for making them. The deposition shall then be signed by the witness before any officer authorized to administer an oath. If the witness fails to sign and return the deposition within sixty days, it may be used as fully as though signed. No changes to the transcript may be made by the witness more than sixty days after submission to the witness for examination.

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