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Starr International Company, Inc. v. the United States. Day 6 Transcript

United States: Courts: Federal Claims

Starr International Company, Inc.

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IN THE UNITED STATES COURT OF FEDERAL CLAIMS

STARR INTERNATIONAL COMPANY,)
INC., Individually and on)
Behalf of All Others)
Similarly Situated,)
Plaintiffs,) Case No. 11-779C
vs.)
UNITED STATES OF AMERICA,)
Defendant.)
-----)

Courtroom 4
Howard T. Markey National Courts Building
717 Madison Place, N.W.
Washington, D.C.
Monday, October 6, 2014
9:30 a.m.
Trial Volume 6

BEFORE: THE HONORABLE THOMAS C. WHEELER

Josett F. Whalen, RMR-CRR, Reporter

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I N D E X

WITNESS:	DIRECT	CROSS	REDIRECT	RECROSS
PAULSON	1197	1243	1252	
MOSSER	1264	1305	1365	

EXHIBITS FOR ID IN EVID

Plaintiffs'

Number23	1279
Number31	1276
Number41	1281
Number42	1285
Number44	1289
Number73	1283
Number89	1213
Number232	1271
Number253	1242
Number423	1209
Number512	1219
Number692	1266
Number1546	1295
Number2727	1275

Starr International Company, Inc. v. USA

	EXHIBITS	FOR ID	IN EVID
1			
2	Defendant 's		
3	Number249		1333
4	Number256		1331
5	Number276		1342
6	Number280		1344
7	Number307		1351
8	Number398		1355

9
10 Joint
11 (none)

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

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

1 APPEARANCES: (continued)

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

2 - - - - -

3 (Proceeding called to order, 9:30 a.m.)

4 THE COURT: We're on the record this morning for
5 day six in the trial of Starr International Company
6 versus the United States.

7 Mr. Boies, I see you have a new witness.

8 MR. BOIES: We do.

9 We call as our next witness Henry Paulson.

10 THE COURT: Good morning, Mr. Paulson.

11 - - - - -

12 Whereupon --

13 HENRY PAULSON

14 a witness, called for examination, having been first duly
15 sworn, was examined and testified as follows:

16 MR. BOIES: With the Court's permission, I will
17 hand up a copy of Mr. Paulson's deposition transcript and
18 our typical witness binder.

19 THE COURT: All right. Thank you very much.

20 - - - - -

21 DIRECT EXAMINATION

22 BY MR. BOIES:

23 Q. Good morning, Mr. Paulson.

24 A. Good morning, Mr. Boies.

25 Q. You have up there with you on the witness stand

1 two binders. One is a binder of the deposition that you
2 gave in this action, and the other is a binder of
3 selected documents that I may reference during my
4 examination of you.

5 One of the documents that I may reference is your
6 book, and I have in the binder a tab -- your book has
7 been marked as Exhibit 706, and I have selected pages
8 that we may reference. I've also given you a copy of
9 your book, both because as an author I know you
10 appreciate actually people buying the book and so that
11 you can see things in context if you wish.

12 Let me begin back before 2008.

13 You had anticipated a crisis in the financial
14 markets prior to August of 2007; correct?

15 A. Correct.

16 Q. And that crisis in the financial markets that you
17 had anticipated arrived in force on August 9, 2007;
18 correct?

19 A. Correct.

20 Q. It came from an area that you had not expected it
21 to come from, which was housing; correct?

22 A. Correct.

23 Q. And the causes of the housing correction were
24 varied. There were a number of causes of that housing
25 correction; correct?

1 A. Correct.

2 Q. One of them is that for many years there had been
3 bad lending practices by banks and financial
4 institutions; correct?

5 A. That is true.

6 Q. And borrowers had been taking out mortgages that
7 they couldn't afford.

8 A. Yes.

9 Q. And interest rates had been held at artificially
10 low levels, which resulted in the overstimulation of the
11 housing market; correct?

12 A. Fair, yes.

13 Q. And people, big financial institutions, began
14 issuing and marketing very complicated securities that no
15 one really understood and indeed people who were
16 marketing them did not understand; correct?

17 A. Yes.

18 Q. And the rating agencies that rated these
19 securities didn't perform well; is that fair?

20 A. It's fair.

21 Q. And the regulators really didn't do their job
22 either; correct?

23 A. Yes.

24 Q. And after 2007, after August of 2007, the
25 financial crisis continued to get worse, maybe not on a

1 straight-line basis, but by January, February, and March,
2 it was worse than it had been in August; correct?

3 A. That's true.

4 Q. And in March, there were certain actions taken by
5 the government, in particular, by the Federal Reserve,
6 to try to provide liquidity for individual companies and
7 to try to preserve functioning financial markets;
8 correct?

9 A. Yes.

10 Q. And one of those steps was a loan and credit
11 facility in connection with JPMorgan's acquisition of
12 Bear Stearns; correct?

13 A. Yes.

14 Q. Prior to March of 2008, had you been familiar
15 with section 13(3) of the Federal Reserve Act, which is a
16 provision that we've talked a lot about in court? But I
17 just wondered whether you in your position were familiar
18 with that before March.

19 A. I don't recall being familiar with it.

20 Q. Did you become familiar with it in March?

21 A. I did, yes.

22 Q. Now, by September, the financial crisis had
23 accelerated; correct?

24 A. Yes.

25 Q. And by the middle of September, right after Lehman

1 failed, the country was plunged into what I think you
2 have referred to as the most wrenching financial crisis
3 since the Great Depression; correct?

4 A. Correct.

5 Q. And the week of September 16, a number of steps
6 were taken by the government to try to provide liquidity
7 for individual companies and again preserve the
8 functioning of financial markets; correct?

9 A. Yes.

10 Q. We're going to talk a lot about AIG, but I want to
11 focus just for a moment on what happened during the seven
12 days beginning on September 16 to provide liquidity to
13 companies other than AIG.

14 A. Yep.

15 Q. And could you identify the ones that you're
16 familiar with.

17 A. Okay. Other than AIG, the Treasury Department
18 used the Exchange Stabilization Fund to guarantee the
19 money markets. We went up to the Congress on the night
20 of the 18th to request emergency authorities, which are,
21 you know, colloquially referred to as the TARP
22 authorities, so we went up on Thursday evening to request
23 those.

24 The Federal Reserve did a number of -- did a
25 number of, you know, unusual things. They also

1 announced, when the commercial paper market was under --
2 under a lot of -- a lot of pressure and the money markets
3 were under pressure, they announced a program to support
4 the commercial paper market, buying bank paper.

5 I can't offhand list all of the -- the unusual
6 measures that the Fed took.

7 The other things that I can think of was over
8 the -- the -- you know, the ensuing weekend, both
9 Morgan Stanley and Goldman Sachs became bank holding
10 companies.

11 I'm just trying to think of what else.

12 I don't remember when WaMu came unhinged and
13 JPMorgan bought that, but it was a waffling maybe that
14 weekend, that weekend period.

15 Q. Now, you mentioned Morgan Stanley and
16 Goldman Sachs.

17 Prior to the weekend of September 19 and 20 when
18 they became bank holding companies, you had had calls
19 from the chief executive officers of both Morgan Stanley
20 and Goldman Sachs expressing concern about the future of
21 their companies; correct?

22 A. Correct.

23 Q. And I'd like you to look at Plaintiffs'
24 Exhibit 175. It is already in evidence.

25 I guess I don't have that in your book. I

1 apologize.

2 A. You've got it on the screen here; right?

3 Q. Yes.

4 A. Okay.

5 Q. And my question really is, this is a document
6 dated Saturday, September 20, 2008.

7 A. Yeah.

8 Q. And it talks about a call from Morgan Stanley to
9 Mr. Geithner --

10 A. Yeah.

11 Q. -- on the previous night?

12 Were you familiar with that call at the time it
13 took place?

14 A. No, I wasn't. But I was familiar with the
15 situation.

16 Q. And what was your knowledge of that situation?

17 A. The situation was that -- that liquidity was
18 drying up very quickly for Morgan Stanley, and they were
19 getting -- getting close to the edge. I never had it
20 expressed to me that they wouldn't be able to open on
21 Monday, but based upon the conversations I'd had
22 throughout the week, that was my fear.

23 Q. And not only for Morgan Stanley, but the
24 liquidity markets generally were freezing up that week;
25 correct?

1 A. They'd been freezing up for a long time, but they
2 really froze up that week.

3 Q. And even companies that were solvent were not able
4 to borrow the liquidity that they needed; correct?

5 A. I think that's true, yes.

6 Q. Now, turning to AIG, you were aware that prior to
7 September, AIG had tried to get some assistance from the
8 federal government.

9 A. Yes.

10 Q. And around August 7 there had been a conversation
11 with -- between Mr. Willumstad and Mr. Geithner that
12 Mr. Geithner had reported to you, where Mr. Geithner was
13 talking to Mr. Willumstad and Mr. Willumstad was asking
14 whether a loan from the Federal Reserve was available and
15 Mr. Geithner, according to what he told you, told
16 Mr. Willumstad no; correct?

17 A. Correct.

18 Q. Now, turning to --

19 A. I had thought that that was about whether they had
20 access to the Fed discount window. I don't recall that
21 as being that they were asking for a loan. But you may
22 be right. I just --

23 Q. I'm not -- I don't have --

24 A. Right.

25 Q. -- my own knowledge about that. I was taking it

1 from Plaintiffs' Trial Exhibit 714, which is in your
2 book. And this has been marked as Plaintiffs' Trial
3 Exhibit 714 for identification.

4 And this is something that you prepared in
5 connection with your book; is that correct?

6 A. Yes. Uh-huh.

7 Q. And I'd like to direct your attention to page 3.

8 Eleven lines down from the top, where you say "Tim
9 also telling me," do you see that?

10 A. Yes.

11 Q. You say "Tim also telling me that around that
12 time" -- which is August 8, 2008; correct?

13 A. Yeah.

14 Q. -- "that Willumstad came in to talk to him
15 generally about some issues and see if the Fed would make
16 a loan to them and he told them no."

17 A. Right.

18 Q. Do you see that?

19 A. Yeah, I do.

20 Q. And access to the discount window would have been
21 a loan. It would have been one form of loan; is that
22 correct?

23 A. It could have resulted in a loan. Yes.

24 Q. Now, going back to September 16, 2008, you
25 concluded at that time that either there was going to be

1 federal assistance for AIG or AIG was going to file for
2 bankruptcy; correct?

3 A. Correct.

4 Q. And you concluded by September 16 that there was
5 no private-sector solution without there at least being
6 some federal assistance; fair?

7 A. Correct.

8 Q. And you also concluded that it would be
9 catastrophic if AIG filed for bankruptcy; correct?

10 A. Sure did, yeah.

11 Q. And indeed, the morning of September 15, you told
12 President Bush that while the system could withstand a
13 Lehman failure, if AIG went down, the country faced a
14 real disaster; correct?

15 A. Yeah. I remember telling him that -- that for
16 sure if AIG went down, the country faced a real
17 disaster.

18 Q. And you told the president that more than almost
19 any financial firm you could think of, AIG was entwined
20 in every part of the global system, touching businesses
21 and consumers alike in many different and critical ways.

22 A. Yes.

23 Q. And you believed that if AIG collapsed, it would
24 have buckled our financial system and wrought economic
25 havoc on the lives of million of our citizens; correct?

1 A. I sure did, yeah.

2 Q. And you believed that in part because the system
3 was as fragile as it was, if AIG had failed, it would
4 have taken down the whole financial system and our
5 economy, it would have been a disaster; correct?

6 A. Yes.

7 Q. There then came a point where you concluded that
8 you could not let AIG fail; correct?

9 A. Yes.

10 Q. And you set about trying to figure out how AIG
11 could be preserved; correct?

12 A. Yes.

13 Q. Now, over those few days, one of the people who
14 tried to contact you and tried to involve himself in the
15 process of saving AIG was Mr. Hank Greenberg; correct?

16 A. Correct.

17 Q. And you had known Mr. Greenberg for some time;
18 correct?

19 A. I had, yes.

20 Q. And you had a high regard for him; correct?

21 A. A very high regard for him.

22 Q. And you believe that probably there wasn't
23 anybody who knew as much about AIG than Mr. Greenberg;
24 correct?

25 A. Well, he sure did, you know, at the time he left

1 the company.

2 Q. He'd left the company about three years before the
3 financial crisis.

4 A. Yes. Right. A lot had changed since he left.

5 Q. Now, you knew that he wanted to talk with you
6 about what could be done with AIG; correct?

7 A. I assumed that's what he wanted to talk to me
8 about.

9 Q. But you declined to talk to him; correct?

10 A. Correct.

11 Q. And do you know whether he also tried to talk to
12 Mr. Geithner at the same time?

13 A. I -- I don't know whether I knew he was trying to
14 talk with Tim Geithner at the same time.

15 Q. Okay. Now, you were aware on or about
16 September 16 that CIC and representatives of the Chinese
17 government were interested in providing liquidity for
18 AIG; correct?

19 A. I have no recollection of that, but I would say
20 this. There's no way I would have encouraged them to
21 come in because I was certain that they would not have
22 done a deal of the size that it took to save AIG without
23 a government guarantee and I couldn't -- couldn't
24 provide one, and the government couldn't provide that
25 assurance.

1 And so the other thing I would say to you about
2 the 16th is, even though I have no recollection of CIC or
3 the Chinese then, that -- that I sure wouldn't have
4 wanted to spook the Chinese knowing what I know now.
5 And -- and -- and I'll tell you, I can only imagine how
6 they would have reacted if I had to air the dirty linen
7 and tell them what we were dealing with at that point in
8 time.

9 Q. Now, let me ask you to look at a few documents.
10 You said in your last answer that you didn't
11 recall the issue of the Chinese proposing to provide
12 liquidity for AIG; is that correct?

13 A. Absolutely.

14 Q. Let me ask you to look first at Plaintiffs'
15 Exhibit 423, which I would offer.

16 A. I've got it.

17 MR. GARDNER: We object on hearsay grounds,
18 Your Honor.

19 THE COURT: I'm sorry?

20 MR. GARDNER: Hearsay grounds, Your Honor. We
21 object on hearsay.

22 THE COURT: I'll overrule the objection.
23 Plaintiffs' Trial Exhibit 423 is admitted.

24 (Plaintiffs' Exhibit Number 423 was admitted into
25 evidence.)

1 BY MR. BOIES:

2 Q. This is a transcript of an interview that you did
3 of Ms. Taiya Smith; correct?

4 A. Correct.

5 Q. And you did this interview on February 10, 2009;
6 correct?

7 A. Yes.

8 Q. And this was in preparation for the book that you
9 ultimately wrote; is that correct?

10 A. Yes, sir.

11 Q. And who was Ms. Taiya Smith?

12 A. She was the -- one of the key policy people
13 working with me on the -- with connection to the
14 strategic economic dialogue with China, so she worked
15 very closely with me on all U.S.-China matters.

16 Q. Now, let me direct your attention to page 14 --
17 page 16, but for the context you may want to look at
18 page 15 as well.

19 A. I've got page -- mine goes 1, 18 to 19. Oh, I
20 see. You're looking at the numbers at the bottom.

21 Q. Yes. And I should have mentioned that before.
22 The exhibits have been marked --

23 A. I've got it.

24 Q. -- with exhibit numbers and page numbers.

25 A. Yep.

1 Q. And when we get to your book, you'll see that the
2 numbers are off by just a couple of pages because we've
3 got your cover page and the like.

4 A. Okay.

5 Q. So I will be referring to the exhibit page
6 numbers, but if you have any confusion, let me know.

7 A. Yeah.

8 Q. On page 16 at line 12 --

9 A. Got it.

10 Q. -- Ms. Smith says, "I was on the plane and got a
11 call from Jeanie" -- how do you pronounce that last name?
12 Do you know?

13 A. It's "Kamski."

14 Q. "Kamski."

15 And who is Jeanie Kamski?

16 A. I know her and I would -- I think she runs or ran
17 a business at the time, may still run it, that -- that is
18 an advisory business on -- with regard to China, working
19 with U.S. -- you know, U.S. clients doing business in
20 China.

21 Q. And Ms. Smith says that Ms. Kamski said that CIC
22 and others are interested in investing in AIG?

23 A. Yeah.

24 Q. And that they were actually willing to put up a
25 little bit more than the total amount of money required

1 for AIG.

2 Do you see that?

3 A. Yeah.

4 Q. And she then goes on to say that she went back to
5 McCormick.

6 Who is McCormick?

7 A. That would be David McCormick, who was the
8 undersecretary for international affairs and, you know,
9 talked regularly with the Chinese as I did during the
10 financial crisis.

11 Q. And did Mr. McCormick work for you?

12 A. Yes. As undersecretary of Treasury.

13 Q. And McCormick said that he had just talked about
14 it with you.

15 Do you see that?

16 A. Yeah, I do.

17 Q. And that you did not want the Chinese coming in at
18 that point in time on AIG.

19 A. I see that.

20 Q. Do you see that?

21 A. Yep. Uh-huh.

22 Q. And do you have any reason to doubt Ms. Smith's
23 report here even though you don't remember it yourself?

24 A. No reason to doubt it.

25 Q. Let me ask you to look at Plaintiffs' Trial

1 Exhibit 89, which is an e-mail from Ms. Smith to
2 Mr. McCormick and others, dated September 16, 2008 --

3 A. Let me find that.

4 Q. -- at 4:25 p.m.

5 And I would offer that document.

6 A. I got it.

7 MR. GARDNER: We object on foundation grounds and
8 hearsay within hearsay.

9 THE COURT: I'm going to overrule the objection.
10 It's a government document and relates to AIG.

11 (Plaintiffs' Exhibit Number 89 was admitted into
12 evidence.)

13 BY MR. BOIES:

14 Q. Did you see a copy of this e-mail at or about the
15 time that it was sent?

16 A. I've sure got no recollection of it, and I
17 didn't -- didn't really do e-mail when I was at
18 Treasury.

19 Q. And I take it you don't have any recollection of
20 either Ms. Smith or Mr. McCormick discussing this with
21 you at the time?

22 A. No.

23 Q. Do you recall that this week you had actually
24 talked to President Bush about possibly getting China to
25 make a liquidity investment in Morgan Stanley?

1 A. I -- I don't think that was a -- they needed a
2 liquidity investment. I think they needed an investment
3 from CIC, but -- but I -- I -- I did talk to
4 President Bush about that. It was a very different set
5 of circumstances, but I talked to him, yes.

6 Q. Right. And I'm not suggesting it was the same
7 circumstances.

8 A. Right.

9 Q. The circumstances with respect to Morgan Stanley,
10 though, were that Morgan Stanley on September 20 badly
11 needed liquidity; correct?

12 A. They did, yes.

13 Q. And you discussed with President Bush the
14 possibility of getting China to make an investment in
15 Morgan Stanley; correct?

16 A. Yeah. I told President Bush that -- that
17 John Mack at -- who was the CEO of Morgan Stanley, had
18 told me that he was in discussions with CIC, who had made
19 an investment in Morgan Stanley earlier. And he had
20 asked if I would say something to Wang Qishan, who was
21 the vice premier of China and my counterpart, about this,
22 would I tell Wang Qishan that I thought that that was --
23 that we would welcome such an investment.

24 And so -- and then I -- I talked to President Bush
25 and talked to Steve Hadley, who was his national security

1 advisor. And we agreed that it wouldn't be appropriate
2 for the president to ask, but if the Chinese were going
3 to make an investment, then the president might be able
4 to call President Hu after the fact and say we
5 appreciated their cooperation.

6 But as it turned out, when I -- when I raised the
7 issue with Wang Qishan, it was clear they didn't have an
8 interest. As I would have suspected, I think they would
9 have looked for, you know, some form of guarantee from
10 the government. The Chinese were very, very nervous
11 during this, this period in time.

12 But again, I would just say, Mr. Boies, that on
13 this one, if -- if the CEO of AIG on the 13th or 14th
14 when we were talking with him or on the 15th had said, We
15 are in discussions with CIC and we're negotiating to make
16 an investment, would you say something to them, I would
17 have said, You betcha.

18 Q. In the conversation that you had with the Chinese
19 about Morgan Stanley, did they ask you for a guarantee of
20 any kind?

21 A. No. They -- they wouldn't have been that blunt.
22 What we -- what we had was a -- I -- my recollection was
23 the staff, you know, as we were getting near the call,
24 the way these calls generally work, is, you know, I would
25 be pretty candid. I'd known Wang Qishan for years and we

1 talked regularly, and these conversations were very, very
2 important during the crisis, but it was important to be
3 quite -- quite clear, and so the staff would talk to his
4 staff beforehand. And I think that my recollection was
5 they were asking what kinds of assurances we might give,
6 et cetera.

7 And so what -- when I said we would welcome an
8 investment and then he started talking about risks, and
9 so on, and then changed the subject, I didn't -- I didn't
10 pursue it.

11 Q. Now, with respect to AIG, did anyone ever tell you
12 that China or CIC was looking for any government
13 guarantee or assurances from the United States in order
14 to make an investment?

15 A. No. I never talked with the Chinese that I can
16 recall about AIG.

17 This comes from -- yeah, just to back up a little
18 bit, I talked with the Chinese continually, as did
19 David McCormick, from, you know, the beginnings in
20 2007 all the way through the toughest times, and so I had
21 a really good feel for -- for the -- their state of mind.
22 And people in State Council were in a state of shock
23 because they'd seen household names, you know, like
24 Morgan Stanley and Merrill Lynch and others had had huge
25 problems.

1 And there was a lot -- after CIC made the
2 Morgan Stanley investment initially, which was only
3 \$5 billion, at the beginning of the crisis, there was a
4 lot of recrimination and how could we be, you know,
5 risking our national treasure, you know, here.

6 And so my biggest concerns, like, for instance, if
7 you would look at my book, on the 17th of September,
8 David McCormick was reassuring the Chinese even at that
9 time during the crisis and trying to make them
10 comfortable keeping their investments in U.S. money
11 market funds and not unloading, you know, corporate
12 securities and other things.

13 So again, it was -- I never ever said to them
14 would you talk to them about an AIG investment. But I
15 just was a hundred percent certain that the Chinese
16 weren't going to come in and do something of the size
17 that would save this company without getting assurances
18 that I couldn't -- that I couldn't give.

19 Q. During that week, were you concerned that the
20 Chinese not lose confidence in the American economy and
21 in the ability of the American government to deal with
22 the financial crisis?

23 A. You betcha.

24 That was my primary concern with regard to China
25 throughout this crisis.

1 Q. Let me ask you to look at Plaintiffs' Trial
2 Exhibit 512, which is an interview of you by Mike Carroll
3 on April 30, 2009.

4 A. What page of that?

5 Q. I'm going to particularly go to page 17.

6 But before that, this was an interview that you
7 gave to Mr. Carroll in connection with the preparation of
8 your book; correct?

9 A. Yes.

10 And just by way of background, the first -- the
11 first transcript was, when I left Treasury, I got people
12 together to -- you know, to -- to summarize their
13 thoughts before people scattered to the winds and get
14 down their recollections.

15 And then when Mike Carroll started working with
16 me in April, we had some general discussions where he
17 was looking at these transcripts and talking to me and
18 we were -- and we -- we retained a court recorder just
19 so we would -- I didn't have secretarial help at the
20 time and I just wanted to make sure we got it all down
21 on paper.

22 MR. BOIES: I would offer Plaintiffs' Trial
23 Exhibit 512, Your Honor.

24 MR. GARDNER: We object on hearsay grounds,
25 Your Honor.

1 THE COURT: Overruled. Plaintiffs' Trial
2 Exhibit 512 is admitted.

3 (Plaintiffs' Exhibit Number 512 was admitted into
4 evidence.)

5 BY MR. BOIES:

6 Q. Let me ask you to look at page 2 -- page 17 of
7 this exhibit.

8 And there is a reference there --

9 A. Yeah.

10 Q. -- at lines -- starting at line 13 but continuing
11 to line 16.

12 Do you see that?

13 A. Yep.

14 Q. And it talks about John Thornton coming to you
15 and saying that the Chinese were asking questions and
16 saying is there a way for them to buy AIG or invest in
17 AIG.

18 Do you see that?

19 A. Yeah.

20 Q. When did that happen?

21 A. I tried to place that, and I don't know. I
22 suspect it was after -- I suspect it was after the 16th.
23 And as I've thought about it, I thought it was probably
24 coming from a man named Gao who ran CIC, which reported
25 up to, you know, the State Council, but I don't remember

1 when, when John approached me, but I do remember that.

2 Q. And who was John Thornton?

3 A. John Thornton was a former colleague of mine who
4 had been the president of Goldman Sachs. When he left
5 Goldman Sachs, he became chairman of Brookings Institute.
6 And he was also a professor at Tsinghua University in
7 Beijing, so he was in China frequently, and I consider
8 him to be a China expert.

9 Q. Let me ask you to now, sir, turn your attention to
10 the Board of Governors of the Federal Reserve meeting
11 that took place on September 16.

12 A. Yes.

13 Q. In that connection, just to refresh your
14 recollection, I'll ask you to look at Joint Exhibit 63
15 that is in your book.

16 A. So you'll have to help me again with this.

17 Q. Sure. It's right at the very beginning of your
18 book, of your binder with the --

19 A. Oh, binder.

20 Q. I'm sorry.

21 A. I got it.

22 So I got it.

23 Q. By the way, have you seen these minutes of the
24 Board of Governors meeting before?

25 A. If I have, I sure don't recall it.

1 Q. This shows you as being present at that meeting.

2 Were you in fact present --

3 A. I believe I was.

4 Q. -- by telephone?

5 I'm sorry?

6 A. I said yeah. I believe I was present

7 telephonically for at least part of it.

8 Q. There has been testimony that there was an initial
9 session shortly after noon and then followed by a second
10 session starting after 2:15 or 2:30.

11 Were you present at both sessions or only one of
12 those?

13 A. I -- I don't recall. I -- I had an awful lot
14 going on that day, and so I know I was there for -- for
15 at least part of a -- of the discussion.

16 Q. Were you present for the discussion of the terms
17 of the proposed credit facility that the Federal Reserve
18 was considering making available to AIG?

19 A. I know I had discussions about the terms, and I --
20 with -- at some -- at some call, so I participated, and
21 I'm not sure whether it was at the board call or whether
22 it was at some other call I had that day, but it could
23 well have been the board call.

24 Q. And I want to go through some of the terms and see
25 what you remember being said about them.

1 One of the terms of course of the loan was the
2 interest rate.

3 A. Correct.

4 Q. And as you understood it, how was the proposed
5 interest rate arrived at? If you have a recollection.

6 A. I don't know how any of the terms were arrived at,
7 and I don't remember talking about that, about how they
8 were arrived at. I know what my views were about those
9 and what I was thinking about those terms, but I don't
10 know whether that, you know, was shaped in some way by
11 this discussion. I just -- I just have a very strong
12 recollection of the terms and my views about them, but I
13 don't know how and where they were set.

14 Q. Did you express any views about the terms of this
15 credit facility at the Board of Governors meeting?

16 A. I don't remember. I remember I was -- I was
17 positive about the -- about the loan.

18 Q. That is, you supported the loan.

19 A. I supported the loan, and I remember supporting
20 the terms of the loan, but I don't remember what I said
21 at that meeting.

22 Q. What was said about the interest rate at the
23 Board of Governors meeting and by whom?

24 A. I don't know that.

25 Q. Another one of the terms was the provision of

1 warrants for the purchase of common stock of AIG
2 representing 79.9 percent of the common stock on a fully
3 diluted basis. Do you recall that?

4 A. I see that. Yeah.

5 Q. And what was said about that provision at the
6 Board of Governors meeting?

7 A. I -- as I said, I just don't have any
8 recollection of the discussion of terms at that meeting
9 or --

10 Q. Do you have a recollection that the equity
11 component of this was said to be warrants as opposed to
12 common stock or preferred stock or some other equity
13 form?

14 A. No. My recollection was, I knew that there was an
15 approximately 80 percent interest that the government was
16 getting, but I don't -- don't have a recollection as
17 to -- in terms of the form or the discussion around that.

18 Q. Was there any discussion at the Board of Governors
19 meeting that the equity component of the credit facility
20 would require a shareholder vote or shareholder
21 approval?

22 A. I don't remember that. I just -- as I've said,
23 there's a lot that happened that day, and that was
24 something that I -- I just don't remember or haven't
25 focused on.

1 Q. On page 6 of Joint Exhibit 63, there is a
2 reference to warrants.

3 Do you see that?

4 A. Yeah, I see it.

5 Q. And then right beneath that, there is a reference
6 to periodic commitment fee?

7 Do you see that?

8 A. Yeah, I see it.

9 Q. And opposite "Periodic Commitment Fee" it says
10 "Prior to Shareholder Approval of the increase in
11 authorized shares," and then it goes on and talks about
12 what the various --

13 A. Yep.

14 Q. -- fees will be.

15 Do you see that?

16 A. I sure do.

17 Q. And does that refresh your recollection that at
18 the Board of Governors meeting, it was contemplated that
19 the equity component of the loan would be subject to
20 shareholder approval?

21 A. It doesn't.

22 Q. You just don't have any recollection of that one
23 way or the other; is that correct?

24 A. No.

25 Q. Now, at this Board of Governors meeting, was there

1 any discussion of a trust to hold whatever equity the
2 government got in connection with this loan?

3 A. Yeah. I don't -- I don't remember any of this,
4 this discussion.

5 Q. You are aware that after the Board of Governors
6 meeting and after September 16, there ultimately was a
7 revolving credit agreement that was entered into between
8 the Federal Reserve Bank of New York and AIG; correct?

9 A. Yes.

10 Q. And did you have any discussions with anyone
11 concerning the terms of that credit agreement?

12 A. The -- in terms of the -- the 850 basis points
13 over LIBOR and --

14 Q. Or the -- any of the other issues that were in the
15 credit agreement.

16 I understand that you talked about these issues on
17 September 16.

18 A. Right.

19 Q. But after September 16, did you have continuing
20 discussion with anyone?

21 A. No. After September 16, I was on to the next
22 one. You know, this didn't come back into my frame
23 until the time that the TARP -- we needed to put equity
24 into AIG.

25 Q. Were you aware of any changes in the terms of

1 the credit facility between September 16, when you were
2 at the board meeting, and the signing of the
3 September 22 revolving credit agreement?

4 A. No.

5 Q. Were you aware that the primary collateral for the
6 loan, the primary collateral for the credit facility, was
7 AIG's insurance businesses?

8 A. I sure was.

9 Q. And you believed that these retail insurance
10 businesses of AIG had independent credit ratings;
11 correct?

12 A. Yeah.

13 Q. And that they were the kind of collateral that the
14 Federal Reserve was looking for; correct?

15 A. Yes. Absolutely.

16 Q. And you believed that those insurance subsidiaries
17 were more stable because of the strength of their
18 business and their standalone credit ratings, which were
19 separate from the AIG holding company's ratings and
20 troubles; correct?

21 A. That was a major point as far as I was concerned.

22 Q. And you understood that the Federal Reserve
23 believed that it could make a loan to help AIG, unlike
24 Lehman Brothers, because with AIG you were dealing with a
25 liquidity, not a capital, problem; correct?

1 A. That was clearly my view at the time that loan was
2 made.

3 Q. Now, let me turn to Mr. Ed Liddy.

4 He was someone who you had known before September
5 of 2008; correct?

6 A. Absolutely.

7 Q. And could you just explain briefly for the record
8 how you came to know him.

9 A. Well, I first knew Ed Liddy when he was the
10 treasurer of Sears during a major restructuring there. I
11 then worked with him when he was the chairman and CEO of
12 Allstate. And then most recently I -- when I was
13 chairman and CEO of Goldman Sachs, he was on the board of
14 Goldman Sachs.

15 Q. And the morning of September 16, you began working
16 on finding a new CEO for AIG; correct?

17 A. Yes.

18 Q. And you asked somebody named Ken Wilson to help
19 you with that; correct?

20 A. Correct.

21 Q. And could you identify who Ken Wilson is.

22 A. Ken Wilson at the time was a contractor at
23 Treasury. He was one of my -- one of my senior advisors.
24 And prior to that, he had been a vice chairman of
25 Goldman Sachs. And he was someone that knew the

1 financial services industry because his career had been
2 spent as a banker to bankers and insurance companies.

3 Q. And you asked Mr. Wilson to drop everything that
4 he was doing and help find a CEO for AIG; correct?

5 A. I did, yes.

6 Q. And within a couple of hours he had identified
7 Ed Liddy and told you that he thought you could get
8 Ed Liddy but that you would have to call Liddy; correct?

9 A. I remember that well.

10 Q. And you were actually on your cell phone, walking
11 to another meeting, and you immediately called Ed Liddy
12 and offered him the position of AIG chief on the spot;
13 correct?

14 A. Yes.

15 Q. And you sealed that deal before you removed
16 Willumstad; correct?

17 A. Yes. I -- that's what I said, I sealed the deal.
18 I would say to you I had the -- you know, I think I got
19 done talking with him and he headed to New York to meet
20 with the AIG board. I assumed the board would approve
21 it, but I thought I'd sealed the deal.

22 Q. After speaking with Mr. Liddy on the 16th, did you
23 continue to speak to Mr. Liddy about AIG?

24 A. No.

25 Q. For example, did you have any conversations with

1 Mr. Liddy about AIG between the 16th of September and
2 the 23rd of September when the credit agreement was
3 signed?

4 A. I don't think I -- I can't recall any, any
5 conversations that I had with him. You know, I can't
6 recall any prior to leaving Treasury, so I think I was --
7 as I said, I -- I -- I talked -- I remember talking to
8 Bob Willumstad about it, but I don't remember talking
9 with anybody else about it again.

10 Q. The Sunday after September 16, you went on
11 Meet the Press with Tom Brokaw; correct?

12 A. Yes.

13 Q. And one of the things that you said on that
14 program was that the government planned to liquidate AIG;
15 correct?

16 A. Correct.

17 Q. Let me turn to the subject of the -- of something
18 called the reverse stock split. And this may or may not
19 be something that you are familiar with, but it is an
20 issue in this case.

21 A. Okay.

22 Q. There came a time when AIG, during the time that
23 the government held 79.9 percent of its equity, engaged
24 in what has been referred to as a reverse stock split.
25 And you are familiar with reverse stock splits.

1 A. Yeah. I know what a reverse stock split is.

2 Q. Were you aware that during the time that the
3 government held 79.9 percent of AIG's equity that AIG
4 engaged in a reverse stock split?

5 A. If I was, I don't remember it.

6 Q. In your long experience with financial matters,
7 have you ever been familiar with a reverse stock split
8 that applied to outstanding shares but did not apply to
9 issued shares?

10 A. I can't think of any offhand.

11 Q. Let me turn to the trust that held the preferred
12 shares that were ultimately issued in connection with the
13 credit facility.

14 Even though you don't recall any discussion of the
15 trust prior to September 23, there came a time when you
16 knew there was such a trust; correct?

17 A. Well, if there did, I don't remember it.

18 Q. Do you recall what kind of equity the government
19 ultimately got as a result of the credit facility
20 provided to IBM -- to AIG?

21 A. I don't.

22 Q. You don't recall whether it was warrants or
23 preferred stock or something else?

24 A. I don't, no.

25 Q. You have described the terms of the credit

1 facility with AIG as being punitive terms; correct?

2 A. I have, yes.

3 Q. And indeed, you have said that the initial terms
4 were too punitive; correct?

5 A. Yeah. I said that when we were -- when I was
6 thinking about the need to restructure the loan.

7 Q. And one of the reasons that you thought they were
8 too punitive were that they were actually having a
9 deleterious effect on the company's financial stability;
10 correct?

11 A. That is true.

12 Q. And you have described what happened with AIG as
13 the government nationalizing AIG; correct?

14 A. I have. I have a different definition of
15 "nationalization" than maybe some others do, but my
16 definition is, when the government owns more than
17 50 percent, it's a nationalization.

18 Q. That's not a bad working definition.

19 Did you believe that AIG was treated more
20 punitively than a number of other companies that
21 received government assistance during the financial
22 crisis?

23 A. I certainly believed it was treated on -- on
24 harsher terms than -- than a number of others, than --
25 than the one comparable I would come up with, Citibank.

1 I -- Citicorp. I think that AIG had harsher terms, and I
2 have a -- I have a reason why I think that was
3 appropriate, but I agree with your -- with your
4 statement.

5 Q. The -- let's go through some of that.

6 There were 13(3) loans to approximately or more
7 than 200 companies during the 2008 financial crisis;
8 correct?

9 A. Well, you've got me there. I didn't -- you know,
10 I -- I'm thinking of -- I -- the ones I focused on
11 were -- were -- were Bear Stearns and AIG.

12 Q. But you were aware that during 2008 and 2009 the
13 Federal Reserve System was making government assistance
14 available to, if not more than 200, at least a large
15 number of companies; correct?

16 A. So I guess the -- the -- you're saying it was the
17 primary dealers facility 13(3)?

18 Q. The primary dealer facility was 13(3) and there
19 was a number of other facilities that had been
20 identified.

21 A. Okay.

22 Q. Just in terms of your own knowledge, without
23 trying to pin you to a particular facility, were you
24 aware that pursuant to 13(3), the Federal Reserve was
25 making liquidity assistance available to a significant

1 number of companies?

2 A. I was aware that they were making it. I had
3 focused on, you know, the -- the really extraordinary
4 cases where the companies were going to fail if they
5 didn't get -- if they didn't get a loan.

6 Q. And did you believe that, for example, Citi would
7 have failed if it had not been provided with government
8 assistance?

9 A. I did, yes.

10 Q. And did you believe that Morgan Stanley would have
11 failed if it had not been provided with government
12 assistance?

13 A. I -- you and I may have a difference there because
14 I think that the -- that the key to Morgan Stanley was --
15 was finding a strategic investor and the capital,
16 Mitsubishi, so I think that was the key. I don't -- I
17 don't think the bank holding company was the deciding
18 factor.

19 Q. The bank holding company was not the only
20 government assistance provided to Morgan Stanley;
21 correct?

22 A. You're saying that the -- that the Primary Dealer
23 Credit Facility?

24 Q. Among other things, yes.

25 A. Yeah. I -- yeah, I -- I looked at those,

1 you know, to -- to me, the -- the -- it's a little bit
2 apples and oranges, but -- but I -- I -- you know, I'm
3 not going to argue with your point that -- that there
4 were Fed -- Fed facilities that were available to a range
5 of companies.

6 Q. I mean, for example, at the end of September of
7 2008, the Fed had made certain loans available to AIG,
8 and I take it you don't remember the exact amount, but it
9 was tens of millions of -- tens of billions of dollars;
10 correct?

11 A. To AIG?

12 Q. Yes.

13 A. Yes.

14 Q. And were you also aware that at the end of
15 September the Federal Reserve had made tens of billions
16 of dollars of loans available to Morgan Stanley?

17 A. I was not aware of that.

18 Q. Do you know whether the total loans outstanding to
19 Morgan Stanley at the end of September of 2008 were more
20 or less than the outstanding loans to AIG?

21 A. I -- I don't. But what I -- what I think you're
22 referring to was a -- a -- a facility that let -- let
23 financial institutions bring good collateral in and --
24 and fund it, which I think was just a different -- a
25 totally different situation than a loan to prevent

1 someone from failing.

2 Q. When you say "bring good collateral in," on
3 September 16, do you know what the collateral
4 requirements were for the PDCF?

5 A. You'll have to talk with the Fed about that.

6 Q. Were you aware that on September 14, 2008, the Fed
7 had revised the collateral requirements for the PDCF so
8 that people could post non-investment-grade bonds and
9 equities?

10 A. Yeah, I was.

11 Q. And did you have a judgment one way or another as
12 to whether Morgan Stanley would have failed if the PDCF
13 were terminated?

14 A. I didn't. I had a -- I knew they were on the --
15 you know, that they were near the edge.

16 Q. Even though you don't remember the form the
17 equity took, you are aware that the government got
18 equity as compensation for the 13(3) loan to AIG;
19 correct?

20 A. Of course.

21 Q. And are you also aware that AIG is the only
22 company that has ever been required to surrender equity
23 in order to get a 13(3) loan?

24 A. I can't think of any other -- no, I can't.

25 Q. I just want to be sure the record is clear.

1 I think your answer was that you can't identify
2 any other company --

3 A. Yes, that was my answer.

4 Q. Fine.

5 Prior to September 22, 2008, insofar as you are
6 aware, had either Treasury or the Federal Reserve or in
7 fact anyone in connection with the government undertaken
8 any investigation or analysis or made any findings
9 concerning whether AIG had engaged in any excessive
10 risk-taking or other misconduct?

11 A. No.

12 Q. You are aware that more recently the
13 Department of Justice has investigated a number of
14 financial institutions with respect to their conduct
15 prior to and during the financial crisis; correct?

16 A. Yes.

17 Q. And that the Justice Department has brought
18 claims against a number of companies, including Citi,
19 alleging that these companies had engaged in fraudulent
20 conduct that caused the financial crisis; correct?

21 A. Yes.

22 Q. And you are aware that the Justice Department has
23 made no such claims against AIG; correct?

24 A. I can't think of any.

25 Q. And AIG did not itself originate or package or

1 market subprime backed securities; correct?

2 A. Not that I know of.

3 Q. What AIG did was sometimes purchased those and
4 sometimes offered a kind of protection that we've loosely
5 referred to as insurance or credit default swaps;
6 correct?

7 A. Yes.

8 Q. Now, you said that -- and I don't mean to quote
9 you exactly, but the substance or sense of what you said
10 was that you thought there was a basis for treating AIG
11 more harshly or more punitively than other companies had
12 been treated; correct?

13 A. Correct.

14 Q. Now, first, at the board meeting on September 16,
15 was there any discussion as to whether or to what extent
16 there were -- was a basis to treat AIG more harshly or
17 more punitively than other companies receiving
18 13(3) loans?

19 A. Now, this was -- remember, this was
20 September 16 at the board meeting; right?

21 Q. Yes.

22 A. Yeah, so we had had -- Bear Stearns had been done
23 in March. This is before we'd gone to get TARP. I
24 don't -- as I said, I don't remember the -- the -- the
25 discussion, even the discussion of the terms in the board

1 meeting. To me, the -- you know, the examples I had in
2 my mind up until that time were Bear Stearns and
3 Fannie Mae and Freddie Mac and -- and that was, you know,
4 where we -- Treasury had stepped in in, you know, early
5 September, around September 7, and then this, so I don't
6 remember any, any such discussion.

7 Q. Now, of the examples you gave, the only
8 13(3) example is Bear Stearns; is that right?

9 A. Right. And Bear Stearns was -- was very different
10 because we had a buyer that was coming in in
11 Morgan Stanley and taking the risk, a lot of the risk,
12 you know, and guaranteeing the trading book during the
13 shareholder vote, you know, putting capital under the
14 transaction.

15 Q. And at the time of the Bear Stearns transaction,
16 you believed that there was no risk or no noticeable risk
17 in the Bear Stearns credit; correct?

18 A. Well, I thought there was -- you know, that there
19 was, as I recall -- okay -- generally, that the Fed took
20 a pool of mortgages that they loaned against that was
21 roughly, you know, on the books for \$31 billion and maybe
22 the -- BlackRock valued it at 29 or 29.5 billion, but
23 there was a -- you know, it had a 6 percent yield so that
24 it -- that, you know, it -- it -- you know, I think it
25 was a -- you know, it made real sense.

1 Q. And do I take that last answer to be that you were
2 satisfied that there was no material risk in making that
3 extension of credit --

4 A. Well --

5 Q. -- for the reasons you've indicated?

6 A. Yeah. And again I'm saying that, first of all, I
7 didn't have to be satisfied. It was the Fed that had the
8 judgment.

9 Just in terms of the facts, I think the facts were
10 you had a buyer who guaranteed the trading book, took on
11 the company, and that there was a loan against a pool of
12 mortgages, and the facts were, although there was a small
13 hole in value, there was a positive carry.

14 Q. But the loan that was made was a nonrecourse
15 loan --

16 A. It was nonrecourse, right.

17 Q. So you had this pool of assets against which a
18 loan was being extended, and either that pool of assets
19 would or would not adequately collateralize --

20 A. That's right.

21 Q. -- the loan.

22 A. Absolutely.

23 Q. And you believed at the time that that pool of
24 assets did sufficiently collateralize the loan so there
25 was no material risk; is that fair?

1 A. And the Fed believed that that was -- that that --
2 that they had a basis to make that loan and -- and I
3 certainly didn't disagree with it. That made sense to
4 me.

5 Q. Let me put it this way because this may be not
6 something that I ought to be asking you.

7 Do you have a judgment one way or another as to
8 how much risk, if any, there was in the Bear Stearns
9 credit facility?

10 A. Yeah. I -- based upon what I knew, because I'd
11 never done the analysis, I thought that there was
12 obviously some risk because the markets were
13 deteriorating. And I think at the time that that loan
14 was made there wasn't a lot of risk, so I saw the big
15 risk being what was going to continue to happen in the
16 markets before those loan -- before those mortgages could
17 be sold.

18 So I certainly wouldn't say it was without risk,
19 but yeah, I was pleased that the Fed felt they were able
20 to make that loan.

21 MR. BOIES: May I have just one moment,
22 Your Honor?

23 THE COURT: Sure.

24 BY MR. BOIES:

25 Q. Let me ask you to turn to Plaintiffs' Trial

1 Exhibit 253.

2 A. 253.

3 Q. This is an e-mail dated September 26, 2008 at
4 6:41 a.m.

5 A. I'm looking maybe at the wrong thing. 253?

6 Q. 253.

7 A. An e-mail from -- oh, yeah -- to Dan Jester. I
8 got it.

9 Q. And if you -- and Dan Jester was at Treasury;
10 correct?

11 A. Right.

12 Q. And he attaches an e-mail that was originally
13 addressed to Ed Liddy and some other people?

14 A. Right.

15 Q. From John Studzinski.

16 A. Yeah.

17 Q. Do you see that?

18 A. Yeah.

19 Q. And in the e-mail to Ed Liddy --

20 A. Yeah.

21 Q. -- which is talking about the Chinese remaining
22 interested in making a large investment and writing a
23 large check --

24 A. Right.

25 Q. -- it says, "We need to have Paulson call

1 Vice Premier Wang" --

2 A. That's Wang Qishan.

3 Q. Wang Qishan.

4 A. Yeah.

5 Q. Now, did Mr. Jester, after he received this, raise
6 this issue with you?

7 A. I sure have got no -- no memory of that.

8 MR. BOIES: Your Honor, I would offer
9 Plaintiffs' Trial Exhibit 253.

10 MR. GARDNER: Objection. Foundation.

11 THE COURT: Overruled. I will admit
12 Plaintiffs' Trial Exhibit 253.

13 (Plaintiffs' Exhibit Number 253 was admitted into
14 evidence.)

15 MR. BOIES: Your Honor, I have no more questions.
16 I pass the witness.

17 THE COURT: All right.

18 MR. GARDNER: Your Honor, for the sake of
19 efficiency, could I suggest maybe a five-minute break
20 because I might be able to tighten up a bit and it might
21 be a benefit to the Court.

22 THE COURT: Let me give you even more of a
23 chance. Let's take a morning break. We'll return at
24 11:00 a.m.

25 (Court in recess.)

1 THE COURT: Your witness, Mr. Gardner.

2 MR. GARDNER: Thank you, Your Honor.

3 - - - - -

4 CROSS-EXAMINATION

5 BY MR. GARDNER:

6 Q. Good morning, Secretary Paulson.

7 A. Good morning.

8 Q. Did you support the New York Fed's decision to
9 make a rescue loan to AIG?

10 A. Of course I did, yep.

11 Q. Why?

12 A. Because I felt that if AIG had failed, it would
13 have wreaked havoc on the American economy, it would have
14 taken down the financial system and hurt millions and
15 millions of Americans.

16 Q. Now, you testified earlier that you believe the
17 equity stake was punitive. Do you recall that?

18 A. Yep.

19 Q. What did you mean by the use of the term
20 "punitive"?

21 A. I meant harsh. It -- it did indeed punish the
22 shareholders. I didn't mean that in a vindictive way or
23 a mean-spirited way. I was -- you know, I took no
24 pleasure in the fact that the shareholders were being
25 hurt. That's just the way our system is supposed to

1 work, that when companies fail, the shareholders bear the
2 losses.

3 Q. Did you believe it was important for the terms to
4 be, as you used the term, punitive?

5 A. To me, the most important thing is stability and
6 preventing failure. That -- that trumps everything. But
7 if you -- if -- if we have a rescue that trumps failure
8 and then prevents failure, that, I think is what was
9 important, that the -- that the terms be harsh because
10 I -- you know, I take moral hazard seriously.

11 Q. What's moral hazard?

12 A. The way I think of moral hazard is this. We can
13 never rely totally on regulation to find the problems.
14 It takes market discipline. And if we want healthy,
15 efficient markets, all market participants have got to be
16 very vigilant, you know, the equity shareholders of all
17 of the creditors, the depositors, management, all market
18 participants.

19 And if the government comes in when there's a
20 failure and assumes a loss, then there's a danger of
21 creating an expectation of the government coming in. If
22 the government assumes the losses that normally go to
23 market participants, then there's the danger that the
24 market participants won't continue to be as vigilant and
25 you'll lose market -- the market discipline.

1 Q. Now, I want to ask you some questions -- you
2 referenced the TARP program in your testimony with
3 Mr. Boies?

4 A. Yes.

5 Q. At some point did you become aware that Treasury
6 needed to make a TARP investment in AIG?

7 A. Yes.

8 Q. When was that?

9 A. It was October 22, 2008.

10 Q. Why was the TARP investment in AIG needed?

11 A. Because the situation had deteriorated, the
12 markets had continued to worsen, and I think that the --
13 and people learned more, and the problems at AIG were
14 more severe than we had -- the Fed had expected, the
15 government had expected, maybe than AIG had expected.
16 But the -- through some combination of deteriorating
17 markets and -- and more due diligence, it was learned
18 that the -- that the company was in a worse situation and
19 that the loan couldn't be repaid in two years. They were
20 going to need more money.

21 And I think the important distinction was I think
22 that the view was that there was a capital problem now
23 and they were going to need a capital injection.

24 Q. How large was the initial TARP capital injection?

25 A. \$40 billion.

1 Q. Now, did you have an understanding at the time as
2 to what would have happened to AIG in the absence of that
3 \$40 billion TARP injection?

4 A. Yeah. I thought they would have failed and it
5 would have hurt the American economy and the -- you know,
6 the public.

7 Q. Did you have concerns about investing TARP funds
8 in AIG?

9 A. I did.

10 Q. What were those concerns?

11 A. Well, they were -- they really were less about
12 the substantive need to invest and really more about the
13 fact that at that time AIG, either fairly or unfairly,
14 had become a symbol, had been stigmatized for all that
15 was bad on Wall Street. There had been a number of --
16 you know, the attorney general of New York had had an
17 investigation. There were a number of -- there was a lot
18 of adverse publicity.

19 And so my concern had to do with the fact that we
20 had a TARP, that there was initially \$700 billion
21 allocated. I -- we only had access to the first
22 350 without going back to Congress. A lot of that had
23 been allocated. \$40 billion was a big slug of what was
24 left, and I felt that -- I was worried that \$40 billion
25 more into AIG would so enrage the American public and

1 Congress that it would make it hard for me to get the
2 last 350 if we needed it, and so I was -- that was --
3 that was my biggest concern.

4 But otherwise, the company needed the capital.
5 And fortunately, before we had the TARP, we didn't have
6 the ability to put in capital. After the TARP, we had
7 the ability, and fortunately we had it, because if we
8 hadn't had it, I think they would have gone down.

9 Q. So despite the concerns you just articulated, did
10 you ultimately decide to make a TARP investment in AIG?

11 A. Yes.

12 Q. And why did you reach that decision?

13 A. Because it was what was necessary, and that's why
14 we'd gone to Congress to get the authorities.

15 My -- my initial concerns were -- were just that
16 it was -- that I -- I knew it was going to stigmatize the
17 TARP, or I feared that it would. But I had no doubt we
18 needed to do it and -- and I think it was necessary and I
19 think it was effective.

20 Q. Now, on examination by Mr. Boies, if I understood
21 your testimony correctly, you stated that as of
22 September 16, 2008, you understood that AIG was
23 experiencing a liquidity problem.

24 A. Right.

25 Q. Did there come a point in time when you concluded

1 that AIG might in fact be experiencing a capital
2 problem?

3 A. Yeah. I think that's what I just said, that --
4 that -- that the situation had worsened. They weren't
5 going to be able to pay the loan back in time. There was
6 going to be a rating downgrade, which would cause them to
7 put up -- have to put up more collateral. And it was
8 just -- there was -- and again, I relied -- for this, I
9 relied on -- I had a team at Treasury that was working,
10 but they were relying to a large extent on the
11 New York Fed and Morgan Stanley, who was their financial
12 advisors, and on the conversations they had with the
13 company, with the Fed, with Morgan Stanley and with the
14 rating agencies, but based upon that, I was convinced
15 there was -- there was a capital problem.

16 Q. Now, on examination by Mr. Boies you alluded to
17 a, I believe, Meet the Press interview where you stated
18 that the intention was to liquidate AIG. Do you recall
19 that?

20 A. Yep.

21 Q. And what did you intend to mean by using the term
22 "liquidate"?

23 A. Well, I certainly didn't mean destroy the company.
24 I mean, this was a -- this is financial jargon. But
25 the -- from the beginning, from the first time

1 Bob Willumstad came to us with a proposal, you know, the
2 idea was that the loan was collateralized by insurance
3 company businesses and that these would be sold off to
4 repay the loan.

5 And so I -- when I talked about liquidate the
6 company, the company wasn't going to be propped up in its
7 current form. It was going to be -- parts of it were
8 going to need to be liquidated or sold off to repay the
9 loan because there wasn't going to be -- we weren't
10 relying on -- or the government wasn't relying on,
11 you know, it to be paid off from earnings, and it was
12 going to be paid off largely from selling parts of the
13 company.

14 That's what you call a bridge loan. You know, I
15 call it bridge loan or a liquidating loan.

16 Q. Now, you recall on examination by Mr. Boies he
17 asked you some questions about the Citi rescue?

18 A. Yeah.

19 Q. And I believe you testified or you stated that you
20 thought there were reasons for treating the Citi rescue
21 differently from AIG. Is that right?

22 A. That was something I thought about a lot at the
23 time. You know, we did things based upon the
24 circumstances we faced. And you know, and I make no
25 bones about the fact that I thought that Citi was going

1 to fail without the government coming in despite the fact
2 they had equity the first time that -- and Citi got
3 different terms.

4 We had the TARP. We didn't have the TARP. It was
5 a different point in time, but we had the TARP on the
6 22nd of October when we put money into AIG.

7 But my biggest concern with Citi was Citi was a --
8 a major bank and there were, in my judgment, other banks
9 that were quite vulnerable. And I -- and as the short
10 sellers were driving the stock down on Citi, as they did
11 with AIG, I felt that if the government came in and would
12 have demanded something like -- like -- like the Fed got
13 from AIG, the same thing from Citi, it would have
14 punished, you know, the -- rewarded the short sellers and
15 it would have punished the shareholders.

16 And the -- but then my concern was they would have
17 turned, you know, on the next -- we would have awarded
18 the shorts and they would have turned on the next bank,
19 which very well could have been BofA or then the next
20 one.

21 And so fairness, to the extent you can have
22 fairness, was relevant to me, but by far the most
23 important was stability.

24 And so the Citi terms -- I believe the Fed
25 designed AIG terms that were appropriate for AIG. The

1 Citi terms were appropriate for Citi to, you know,
2 guarantee, you know, to do everything we could to keep
3 Citi from failing.

4 I was very concerned about a Citi failure, and I
5 was concerned about the fact that I still didn't have and
6 didn't right up until I left the last \$350 billion.

7 So as we were looking at Citi, we said, boy, if we
8 do something, even if Citi survives, if we encourage the
9 shorts to go take down the next bank and then the next
10 bank, we might not have the resources to save the
11 financial system.

12 I didn't have that same worry with AIG. I didn't
13 see another insurance company that I thought was
14 vulnerable or was like AIG, you know, with the same
15 systemic importance of the same business model, so
16 that's -- so with Citi, we didn't -- you know, the --
17 I -- I told you that I thought there was a moral hazard
18 that we helped take care of with AIG. We didn't do the
19 same thing with Citi, but that's because to me stability
20 trumped moral hazard.

21 MR. GARDNER: Your Honor, I have no further
22 questions. I pass the witness.

23 THE COURT: All right. Any redirect?

24 MR. BOIES: A little bit, Your Honor.

25 THE COURT: Okay.

1 - - - - -

2 REDIRECT EXAMINATION

3 BY MR. BOIES:

4 Q. Good morning still.

5 A. Thank God it's still morning, yeah.

6 Q. I want to just clear up something that I think I
7 may have garbled in my prior examination.

8 I asked you or I meant to ask you, in your long
9 experience with financial matters, have you ever been
10 familiar with a reverse stock split that applied to
11 issued or outstanding shares but did not apply to
12 authorized shares?

13 A. Issued and outstanding but not authorized but
14 unissued; right?

15 Q. Yes.

16 A. Yeah. I -- you know, I can't -- I never focused
17 on that question before, so I have to tell you, first of
18 all, I have never focused on it and I'm not aware of
19 any.

20 Q. Now, let me turn to the subject matters that you
21 were just asked about.

22 First, as I understand what you testified to, with
23 Citi, you had a situation where there was moral hazard as
24 there was with AIG.

25 A. Right.

1 Q. But you made a decision that stability was more
2 important than moral hazard and that if you punished Citi
3 shareholders, that would send a message to the shorts to
4 maybe attack other --

5 A. Right.

6 Q. -- banks and you might have a domino effect; is
7 that fair?

8 A. That's fair.

9 Q. Now, with respect to Morgan Stanley --

10 A. Yes.

11 Q. -- Morgan Stanley received substantial government
12 assistance in terms of 13(3) loans; correct?

13 A. Yes. You and I have talked about that. I don't
14 view the 13(3) loans from the Primary Dealer Credit
15 Facility as being the same, but I -- but I will say I --
16 that they did receive assistance.

17 Q. And whether you think of the 13(3) loans to the
18 Primary Dealer Credit Facility as the same or not, they
19 nevertheless were essential to Morgan Stanley's survival
20 as of September of 2008; correct?

21 A. Yeah. I don't know the -- you know, the role
22 they played in survival, but they were -- they were a
23 factor.

24 Q. Do you know whether in September, in the seven
25 days after September 16, that in addition to giving bank

1 holding company status to Morgan Stanley, the
2 Federal Reserve also made 13(3) loans to Morgan Stanley's
3 United Kingdom subsidiary?

4 A. I -- you know, you -- I'm not quarreling with
5 that. I wasn't aware of that.

6 Q. Now, you said that AIG was stigmatized I think you
7 said.

8 A. Yeah.

9 Q. And you were talking about AIG at the time of the
10 October TARP discussion; is that correct?

11 A. Uh-huh.

12 Q. Now, even before that, back in
13 September 16 and 17, AIG was incredibly unpopular;
14 correct?

15 A. Before -- before October 22?

16 Q. Yes. I'm talking about back in the period
17 September 16, 17, 18, that period.

18 A. Well, yes, because the American people -- we
19 hadn't even been to Congress yet to get the TARP, so the
20 American people were shocked to see a bailout of that
21 magnitude.

22 Q. And you have I think said that if there was a
23 political scapegoat, it was AIG; correct, sir?

24 A. I believe it became a -- a -- maybe a scapegoat
25 is -- if I used that word, I did. And it certainly was a

1 scapegoat for -- for Wall Street and all the bad
2 practices that people were angry about.

3 Q. And on or about September 18, you were trying to
4 get TARP passed; correct?

5 A. September 18 I was trying to get it passed, yeah,
6 September 18, yeah.

7 Q. I apologize if I misspoke.

8 A. Yeah. And we got it passed on October 3.

9 Q. And when you were trying to get TARP passed, in
10 the middle of September, you were concerned about what
11 the political implications would be of the AIG loan or
12 credit facility; correct?

13 A. I was concerned about political implications
14 throughout the crisis, particularly because it was a key
15 to stability. There was a crash between -- a clash
16 between markets and politics, and if we'd had either
17 presidential candidate at the time or Congress oppose
18 what we were doing, we wouldn't have been able to get the
19 authorities we needed.

20 Q. And you believe that it was important to be seen
21 as being harsh and punitive to the AIG shareholders in
22 order to quell possible political opposition to TARP and
23 other further assistance; correct?

24 A. Yeah, I believe that. As I said, stability came
25 first. But once you got stability, that -- and that was

1 related to stability, the -- being able to -- to
2 minimize, you know, the political opposition to what we
3 were doing.

4 Q. And on or about September 16, you spoke both to
5 John McCain and Barack Obama, who were then the two
6 competing candidates for president of the United States;
7 correct?

8 A. I did.

9 Q. And one of the things you were trying to do was to
10 tell them that they shouldn't be unhappy about the AIG
11 credit because the AIG shareholders were being treated
12 very harshly; correct, sir?

13 A. That was one of the points that I made.

14 Q. And you believe that was an important point in
15 order to keep them from criticizing the deal.

16 A. Yep.

17 MR. BOIES: I have no more questions, Your Honor.

18 THE COURT: All right. Thank you, Mr. Boies.
19 Anything further, Mr. Gardner?

20 MR. GARDNER: No, Your Honor.

21 THE COURT: Secretary Paulson, thank you very
22 much for your testimony in this matter. You are
23 excused.

24 THE WITNESS: Thank you. You've made my day.

25 MR. BOIES: Your Honor, we call as our next

1 witness Mr. Timothy Geithner.

2 THE COURT: All right. Very well.

3 MR. DINTZER: Your Honor, unfortunately,
4 plaintiffs' counsel did not give us the notice that they
5 would be abbreviating their presentation of
6 Secretary Paulson, and so at this moment
7 Secretary Geithner is not available.

8 What we would suggest is that the plaintiffs play
9 the video of Mr. Studzinski, which we had sort of kept in
10 reserve. They said that they may not have it available,
11 but perhaps they can have it put together as quickly as
12 possible and we can use that as sort of a filler.

13 The plaintiffs had allocated six hours for
14 Secretary Paulson and which would have been a full trial
15 day, and based on our conversations with the plaintiffs,
16 we did not anticipate that Secretary Geithner would take
17 the stand till first thing tomorrow morning at the
18 earliest.

19 THE COURT: When will Mr. Geithner be available?

20 MR. DINTZER: We are checking with him and
21 checking to find out.

22 If the Court would have it, we are also looking
23 at Ms. Mosser and Ms. McConnell to see if we can have
24 them. Unfortunately, we have people in New York who --
25 I mean, the witnesses are in New York or the attorneys

1 who had worked with the witnesses are in New York. We
2 are looking at who could take the stand this afternoon,
3 Your Honor, and we will get a name as quickly as we can.
4 But at this time we don't have the next witness.

5 THE COURT: All right. Mr. Boies?

6 MR. BOIES: The examination did go more quickly
7 than I thought, but that was because he gave very direct
8 answers. I think the Court can make his own judgment as
9 to the difference between these answers and the answers
10 that we got last week.

11 What we told them was that we were going to call
12 Mr. Paulson, Mr. Geithner and Mr. Bernanke one right
13 after the other. I did not know that they were not going
14 to have him available today.

15 The Studzinski tape requires being cut, and I
16 don't think that's going to help us today. We'll try to
17 get it cut so we can have it available if this happens
18 again.

19 But I would ask that witnesses be, in response to
20 the trial subpoena, available the day that they are next
21 up in line in the batter's box, so to speak, so that we
22 don't have to try to predict how lengthy or short the
23 answers are going to be to questions.

24 I have basically the same questions, as the Court
25 will have seen, for all these witnesses. Sometimes I get

1 direct answers; sometimes I don't. The faster the
2 answers come, the faster the person gets off.

3 THE COURT: Well, unfortunately we can't make a
4 witness magically appear when he's not here, so how would
5 you like to proceed?

6 MR. BOIES: Well, Your Honor, I think counsel's
7 suggestion is a good one. We could try to get
8 Ms. Mosser back. I believe she was available but the day
9 she was leaving I think on Wednesday or Thursday. That
10 would be a logical thing to do.

11 Ms. McConnell is also somebody who we could put in
12 here.

13 Perhaps we could take an earlier lunch than usual,
14 and perhaps they could have somebody, you know, back by
15 1:30 or whatever -- whenever the Court thinks is
16 appropriate.

17 THE COURT: Let's do this. I'm trusting,
18 Mr. Dintzer, in your ability to have someone here to
19 testify perhaps by 1:30?

20 MR. DINTZER: Your Honor, we're looking at plane
21 schedules to get people down from New York. It's -- I
22 hate to be overly optimistic to the Court. My guess is,
23 is we're looking more like 2:30. But we are reaching out
24 to people, and I don't want to make promises that --
25 based on plane schedules.

1 MR. BOIES: I think Ms. Mosser is in New York --
2 is in Washington, D.C.

3 MR. DINTZER: She is.

4 The attorney who is prepared to present
5 Ms. Mosser is in New York and has been -- I believe
6 we've contacted her to ask her to move with all speed
7 back down to D.C.

8 But -- but, Your Honor, we will put -- we will
9 reach out to all possible witnesses to get a witness here
10 to court as quickly as possible.

11 What we would ask for plaintiffs' counsel is that
12 if -- and Your Honor, this is my nineteenth trial here in
13 the Court of Federal Claims. This is actually the first
14 time this has ever happened. We usually work pretty
15 close with the plaintiffs' counsel to make sure that
16 there's not dead airtime. And if a witness is going to
17 go faster, we usually have a good working relationship
18 where they let us know so that we're in a position to
19 make sure that we absolutely, positively don't waste the
20 Court's time.

21 So we will work closer with the plaintiffs to make
22 sure that this doesn't happen again, and we will reach
23 out to the people in New York and get a witness, some
24 witness, as quickly as we possibly can.

25 THE COURT: All right. Well, let's reconvene at

1 1:30 since I trust in your ability to have someone here,
2 and we'll see where we stand at that time. And just stay
3 in close communication with plaintiffs' counsel.

4 MR. DINTZER: Absolutely, Your Honor.

5 MR. BOIES: Your Honor, could I inquire as to when
6 Mr. Geithner can be here.

7 MR. DINTZER: We are looking at -- I hate to make
8 any representation based on the shuttle, Your Honor,
9 but -- but potentially by 4:00. When we -- when we know
10 that he would be here, we would let the Court know that
11 he could be here, but we've reached out to him to try to
12 do that as quickly as possible.

13 THE COURT: All right. Well, let's see where we
14 are at 1:30 when we reconvene then.

15 MR. DINTZER: Excellent. Thank you, Your Honor.

16 THE COURT: Thank you.

17 (Whereupon, at 11:29 a.m., a lunch recess was
18 taken.)

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1 Ms. Mosser wasn't going to go Monday, Tuesday and
2 Wednesday of this week. And with the other witnesses,
3 Your Honor, in the case and the preparation for those
4 other witnesses next week and the weeks thereafter, the
5 effort is being made to prepare each witness so that
6 they're prepared for -- for providing the testimony to
7 the Court.

8 So if -- I mean, we -- we are making every effort
9 to -- to reduce the delay, but -- but we would prefer to
10 have Ms. Acevedo representing the witness.

11 THE COURT: No. I just don't understand why a
12 lawyer would leave town with her witness not having
13 completed the testimony. It doesn't make any sense to
14 me.

15 MR. DINTZER: I'm sorry, Your Honor. And I -- if
16 I'm -- and it's probably my inability to explain it, but
17 we -- based on the representations from the plaintiffs,
18 we were -- we thought we had a clear understanding that
19 it would be -- that Ms. Mosser wouldn't be testifying
20 within the next three days. And they have identified
21 something on the order of fifty witnesses, most of --
22 many of whom are in New York.

23 So I -- we -- we will have her here shortly.

24 THE COURT: All right. We'll stand adjourned.
25 We'll reconvene at 2:00.

1 (Court in recess.)

2 THE COURT: Welcome back, Dr. Mosser. We didn't
3 expect you so soon.

4 THE WITNESS: I didn't expect to be here so soon.

5 THE COURT: You understand that you're still under
6 oath?

7 THE WITNESS: I do.

8 THE COURT: All right. Let's go ahead.

9 MR. BOIES: Thank you, Your Honor.

10 - - - - -

11 Whereupon --

12 PATRICIA MOSSER

13 a witness, called for examination, having been previously
14 duly sworn, was examined and testified further as
15 follows:

16 - - - - -

17 DIRECT EXAMINATION (resumed)

18 BY MR. BOIES:

19 Q. Good afternoon, Dr. Mosser.

20 A. Good afternoon.

21 Q. I'd like to begin by just clearing up something
22 that we touched on briefly when you were last here. And
23 that is, we talked about a number of interest rates,
24 Federal Reserve interest rates. One of them was the
25 target short-term rate. Do you recall that?

1 A. (Witness nodding.)

2 Q. And one was the primary credit rate and one was
3 the secondary credit rate and then we talked about --

4 (Admonition from the court reporter.)

5 When you were last here, we talked about a number
6 of interest rates, the target short-term rate, the
7 primary credit rate, the secondary credit rate and the
8 penalty rates. Do you recall that?

9 A. Yes, I do.

10 Q. And one thing that wasn't clear to me, are the
11 primary credit rates and the secondary credit rates
12 examples of what you call penalty rates?

13 A. The primary credit rate in the United States is an
14 example of a penalty rate, yes.

15 Q. And would the secondary credit rate also be an
16 example of a penalty rate?

17 A. I do not remember how the secondary credit rate is
18 set.

19 Q. The secondary credit rate would be higher than the
20 primary credit rate; correct?

21 A. Actually I don't remember if it is or not or
22 whether it's the same.

23 Q. Let me ask you to look at a document that we've
24 marked as Plaintiffs' Trial Exhibit 692, which I would
25 offer.

1 MS. ACEVEDO: We have no objection, Your Honor.

2 THE COURT: Plaintiffs' Trial Exhibit 692 is
3 admitted.

4 (Plaintiffs' Exhibit Number 692 was admitted into
5 evidence.)

6 BY MR. BOIES:

7 Q. And can you tell from this exhibit, which is a
8 publication of the Federal Reserve Bank of New York,
9 entitled Historical Changes of the Target Federal Funds
10 and Discount Rates, that the secondary rate is always
11 slightly higher or a little bit higher than the primary
12 rate?

13 A. Yes. That's correct.

14 Q. And would that mean that the secondary credit rate
15 would also be a penalty rate?

16 A. Yes.

17 Q. Now, we talked about a variety of Federal Reserve
18 emergency credit facilities pursuant to section 13(3),
19 and I'd like to go through some of the ones that we
20 talked about and perhaps some that we didn't.

21 The first was the PDCF, and we talked about that;
22 correct?

23 A. I don't remember if we spoke about it actually
24 when I was here.

25 Q. Is the PDCF an example of a Federal Reserve

1 emergency credit facility that was in existence in the
2 fourth quarter of 2008?

3 A. Yes, it is.

4 Q. And the next item on Plaintiffs' Trial Exhibit for
5 Identification 5006 is the TSLF.

6 Do you see that?

7 A. Yes, I do.

8 Q. And was that a Federal Reserve emergency credit
9 facility in operation pursuant to section 13(3) in the
10 fourth quarter of 2008?

11 A. Yes, it was.

12 Q. And then there was a money market investor
13 facility; correct?

14 A. Yes.

15 Q. And --

16 A. That's not the name of it, but I believe I
17 understand what you're --

18 Q. Is that the MMIFF?

19 A. The MMIFF was proposed but not implemented.

20 Q. When did that come into effect?

21 A. To the best of my recollection, it was proposed in
22 the fourth quarter of 2008.

23 Q. And did it actually come into effect in the fourth
24 quarter of 2008?

25 A. I'm testing my memory here. It was -- it was

1 proposed, but no funds were ever lent out of it. That, I
2 can say for certain. I'm not sure that it was actually
3 ever implemented.

4 Ever operationalized. Let me pick a different
5 word.

6 Q. So it was proposed, but it was never funded?

7 A. No. By that I mean there was no borrowing ever --
8 it was never operationalized so that there was never any
9 borrowing.

10 Q. There was never any borrowings under the MMIFF.

11 A. Correct.

12 Q. Now, the Commercial Paper Funding Facility or
13 CPFF, did that actually lend money?

14 A. It did.

15 Q. And then of course there were 13(3) facilities for
16 Bear Stearns, for AIG, for Citigroup and for
17 Bank of America; correct?

18 A. Correct.

19 Q. Then there was also -- was there something called
20 the TALF, Term Asset-Backed Securities Loan Facility?

21 A. Yeah. Lending facility, yes.

22 Q. And did that actually lend money?

23 A. It did.

24 Q. When did it begin lending money?

25 A. To the best of my recollection, in March of 2009.

1 Q. And then was there something called the AMLF or
2 asset-backed commercial paper lending facility?

3 A. Yes.

4 Q. And did they actually lend money pursuant to
5 that?

6 A. Yes.

7 Q. When did that start?

8 A. I actually do not remember the start date of
9 that.

10 Q. Do you know whether --

11 A. It was in existence in 2008. I don't remember
12 when it started.

13 Q. That's all I really needed, that it was in 2008.

14 Now, are you familiar with any other
15 Federal Reserve emergency credit facilities pursuant to
16 13(3) that were actually lending money in 2008?

17 A. That appears to be the complete list under
18 section 13(3).

19 Q. Now, am I correct that all of the rates under all
20 the facilities, all the credit facilities listed on
21 PTX 5006, would be what you refer to as penalty rates?

22 A. I -- no. Not all of them.

23 Q. Would you identify for me which of these, going
24 down from top to bottom, would be a penalty rate.

25 A. Excuse me. I've made an error in my previous

1 statement. I was attempting to remember the AMLF.

2 The answer to your question then is: Some of them
3 were. I don't know about all of them.

4 Q. Would you tell me the ones that you identify from
5 your own knowledge as being credit facilities that had a
6 penalty rate.

7 A. To the best of my recollection, the PDCF, the
8 TSLF -- I -- the MMIFF I do not remember because it
9 wasn't implemented -- the commercial paper funding
10 facility, AIG, TALF, and to the best of my recollection,
11 the AMLF.

12 Q. And do I take it from your answer that you simply
13 don't remember one way or the other whether the
14 Bear Stearns, Citigroup and Bank of America credit
15 facilities were or were not penalty rates?

16 A. I do not recall whether they were or not.

17 Q. Now, just before we stopped last time you were
18 here, I was directing your attention to Plaintiffs' Trial
19 Exhibit 232, and would you turn to that, please.

20 A. Yes.

21 Q. And this is an e-mail that you received on
22 September 23, 2008 at 17:32 Eastern Daylight Time;
23 correct?

24 A. Correct.

25 MR. BOIES: I would offer this document.

1 MS. ACEVEDO: Your Honor, we have no objection.

2 THE COURT: Plaintiffs' Trial Exhibit 232 is
3 admitted.

4 (Plaintiffs' Exhibit Number 232 was admitted into
5 evidence.)

6 BY MR. BOIES:

7 Q. Who is the author of this document?

8 A. Ira Selig.

9 Q. And who is he?

10 A. He was a midlevel analyst -- trader analyst is the
11 job title -- in the markets group.

12 Q. And he makes a proposal here.

13 Do you see that?

14 A. A poles?

15 Q. A proposal.

16 A. Correct.

17 Q. And he's talking about the AIG credit facility;
18 correct?

19 A. You're talking about the second paragraph?

20 Q. Yes.

21 A. Yes. Yes.

22 Q. And he says, "The current policy response is to
23 obliterate existing stockholders and AIG's bonds trading
24 at distressed levels because folks now believe every part
25 of the capital structure is behind the \$85 billion

1 Federal Reserve loan."

2 Do you see that?

3 A. I do.

4 Q. Was that your understanding at this time?

5 A. Actually I was not part of the structure of the
6 loan -- the analysis or -- either before or after or the
7 structure of the loan of AIG, so I don't -- this was not
8 my understanding, but honestly, I was not familiar with
9 all the details.

10 Q. The next sentence says, "Fear of getting
11 whipped" -- or "wiped" maybe that's supposed to be --
12 "out by a government intervention is one reason I have
13 heard from some of my equity market contacts as to why
14 the capital markets are slow to invest new funds into
15 financial firms."

16 Do you see that?

17 A. I do.

18 Q. And did you ever have any discussions with
19 Mr. Selig or anyone else about that assertion?

20 A. I received that piece of market intelligence from
21 him. I don't recall whether we had a subsequent
22 discussion.

23 Q. Did you have a discussion about that subject with
24 anyone else other than Mr. Selig?

25 A. I remember it being raised by one other analyst.

1 There are possibly more. My memory of that period is
2 pretty hazy. It was a long time ago.

3 Q. Who was that other analyst, if you recall the
4 name?

5 A. I believe you had one of his e-mails earlier in
6 the documents.

7 Q. Do you remember who that was?

8 A. I do not remember which analyst it was that
9 brought it.

10 Q. Let me ask you to look at Plaintiffs' Trial
11 Exhibit 138, which includes an e-mail from
12 Mr. Scott Sherman, and I would ask you if that is the
13 other analyst.

14 A. This particular e-mail is about lending, not about
15 equity investments. It refers to --

16 Q. This is not the other analyst that you had in
17 mind?

18 A. No.

19 Q. Let me ask you to look at Plaintiffs' Trial
20 Exhibit 119 from Michael Holscher.

21 Is that the other analyst that you had in mind?

22 A. It could have been. I don't remember if it was
23 Michael or not, but this e-mail refers to equity
24 investment.

25 Q. Let me turn to Plaintiffs' Trial Exhibit 2727.

1 And this is an e-mail chain that includes e-mails
2 from you and from Mr. Holscher; correct, sir -- correct,
3 ma'am?

4 A. Yes, that's correct.

5 Q. And did you agree with Mr. Holscher's assertion in
6 the last textual paragraph on this exhibit concerning
7 BAC's loss coupled with Citigroup's loss?

8 A. Yes. My interpretation of that last paragraph is
9 that both Bank of America and Citigroup's capital ratios
10 were low, very low, and that they were in quite dire
11 straits in terms of how much capital they had. And I
12 agreed with that, yes.

13 Q. And he also says that the balance sheets for these
14 two institutions account for roughly 40 percent of the
15 industry's assets.

16 Do you see that?

17 A. Yes.

18 Q. And was that also your understanding?

19 A. I actually don't know if that's factually true at
20 the time or not. They were both very large.

21 Q. Now, you forwarded this e-mail on; correct?

22 A. I did.

23 Q. And you forwarded it on to Brian Peters.

24 Who is he?

25 A. Brian Peters at the time was a senior

1 vice president in bank supervision at the New York Fed.

2 Q. And your first line of your e-mail says, "And
3 there you have it. Nationalization here we come."

4 Do you see that?

5 A. I do.

6 Q. And that was referring to the substance and
7 implications of Mr. Holscher's e-mail to you; correct?

8 A. Yes.

9 MR. BOIES: Your Honor, I would offer
10 Plaintiffs' Trial Exhibit 2727.

11 MS. ACEVEDO: We have no objection, Your Honor.

12 THE COURT: Plaintiffs' Trial Exhibit 2727 is
13 admitted.

14 (Plaintiffs' Exhibit Number 2727 was admitted into
15 evidence.)

16 BY MR. BOIES:

17 Q. Let me turn to another subject.

18 In July 2008, you participated in a
19 Federal Reserve Bank of New York analysis or project
20 called the access to Fed facilities project; correct?

21 A. I participated in the project, yes.

22 Q. And who else participated in that project?

23 A. To the best of my recollection, it was a
24 combination of staff from the Federal Reserve Bank of
25 New York and the Board of Governors of the

1 Federal Reserve.

2 Q. And you were asked, that is, the people
3 participating in this project were asked to develop a
4 set of criteria for large, systemically important
5 financial institutions who in times of crises could be
6 eligible for borrowing from the Federal Reserve liquidity
7 facilities; correct?

8 A. Yes.

9 Q. Let me ask you to look at Plaintiffs' Trial
10 Exhibit 31, which I would offer.

11 MS. ACEVEDO: We have no objection, Your Honor.

12 THE COURT: Plaintiffs' Trial Exhibit 31 is
13 admitted.

14 (Plaintiffs' Exhibit Number 31 was admitted into
15 evidence.)

16 BY MR. BOIES:

17 Q. On page 3 of this exhibit, there is an e-mail on
18 the subject of access to Fed facilities project.

19 Do you see that?

20 A. Yes, I do.

21 Q. And to whom was this e-mail sent and by whom?

22 A. I sent the e-mail. It went to three staff at the
23 Federal Reserve Bank of New York: Lance Auer,
24 Beverly Hirtle and Til Schuermann.

25 Q. And you say: My understanding of our agreed

1 project plan is below. And then you state that your
2 understanding of the goal of the project is to develop
3 criteria and associated list of metrics to help define
4 which large financial institutions, one, are systemically
5 important to the U.S. financial markets and, two, would
6 benefit from being given access to Fed liquidity
7 facilities during a crisis and thus increase the
8 stability of the financial system.

9 Do you see that?

10 A. I do.

11 Q. And I take it that was in fact your understanding
12 of the goal of this project.

13 A. Yes, it was.

14 Q. And am I correct that you believed that the
15 facilities that were currently in place at the time were
16 both overinclusive and underinclusive in terms of
17 achieving this goal?

18 A. That was my personal view, yes.

19 Q. And the facilities that were in place at the time
20 were overinclusive in the sense that it included some
21 institutions, certain primary dealers, for example, that
22 were not systemically important to U.S. financial markets
23 or would not benefit from being given access to
24 Federal Reserve liquidity facilities; correct?

25 A. That was my view, yes.

1 Q. And the facilities currently in place were
2 underinclusive in that there were certain institutions
3 that were systemically important to the U.S. financial
4 markets and would benefit from being given access to Fed
5 liquidity facilities during a crisis and thus increase
6 the stability of the financial system which were not
7 eligible for the existing facilities; correct?

8 A. Actually my view was not consistent with what you
9 said, so I'd have to answer that literally no.

10 Q. Okay. Let me try to pursue that.

11 You believed that the primary dealer status was
12 neither a necessary nor a sufficient criterion for
13 determining systemic importance; correct?

14 A. Correct.

15 Q. You believed that there were financial
16 institutions that were of systemic importance that would
17 not be classified as primary dealers; correct?

18 A. I believed that was possible. I didn't know it
19 was certain.

20 Q. Was part of the purpose of your project to
21 investigate whether or not that was so?

22 A. The purpose of the project was to develop criteria
23 that could be applied to financial institutions to
24 determine if they fit the two goals here.

25 Q. You were of the view that not all primary dealers

1 were systemically important; correct?

2 A. Correct.

3 Q. And did you develop criteria for determining when
4 institutions should be considered systemically important?

5 A. No.

6 Q. Let me ask you to look at Plaintiffs' Trial
7 Exhibit 23, which I would offer.

8 (Pause in the proceedings.)

9 MS. ACEVEDO: Oh, I'm sorry, Your Honor. We have
10 no objection.

11 THE COURT: Plaintiffs' Trial Exhibit 23 is
12 admitted.

13 (Plaintiffs' Exhibit Number 23 was admitted into
14 evidence.)

15 BY MR. BOIES:

16 Q. Can you identify what this document is?

17 A. Yes. It's a series of e-mail and attachments
18 related to the -- to criteria for systemically important
19 financial institutions.

20 Q. And on page 11 of this exhibit you have a section
21 entitled Next Steps.

22 Do you see that?

23 A. Yes.

24 Q. And the fourth and last next step is: Apply
25 criteria to identify other, non-PD financial institutions

1 that are systemically important, e.g., Fannie, Freddie,
2 AIG, perhaps Citadel?

3 Do you see that?

4 A. I do.

5 Q. And when you referred to non-PD financial
6 institutions, you were referring there to non-primary
7 dealer financial institutions; correct?

8 A. Yes.

9 Q. In early March of 2008, domestic funding markets
10 began to be disrupted and began to dry up; correct?

11 A. Yes.

12 Q. And the market distress accelerated in the July to
13 September period; correct?

14 A. The distress abated somewhat until July and then
15 began again. Yes.

16 Q. And the most distress was after the bankruptcy of
17 Lehman Brothers; correct?

18 A. Yes.

19 Q. And at that time very large numbers of financial
20 institutions basically had severe problems borrowing
21 dollars; correct?

22 A. Yes.

23 Q. Let me ask you to look at Plaintiffs' Trial
24 Exhibit 41, which I would offer.

25 MS. ACEVEDO: We have no objection, Your Honor.

1 THE COURT: All right. Plaintiffs' Trial
2 Exhibit 41 is admitted.

3 (Plaintiffs' Exhibit Number 41 was admitted into
4 evidence.)

5 BY MR. BOIES:

6 Q. Can you identify what this document is?

7 A. Yes. It's an e-mail from one of the managers in
8 the markets group, Hayley Boesky.

9 Q. And you are one of the addressees; correct?

10 A. Yes, I am.

11 Q. And can you identify for the record who the other
12 addressees are and what their position was.

13 A. Well, there's a series of e-mails here. If you're
14 referring on page 1, that e-mail list?

15 Q. Yes. The September 11, 2008 at 11:58 p.m. e-mail,
16 the subject of which is Panic.

17 A. Yes.

18 The other recipients are Brian Peters,
19 Debby Perelmuter, James Clark, Matthew Lieber,
20 Matt Rutherford, Meg McConnell, Michael Nelson,
21 Michael Schetzel, Steven Friedman and William Dudley.

22 Q. Other than Ms. McConnell, Mr. Dudley and yourself,
23 who have already been identified, could you identify the
24 positions of the other people.

25 A. Yes.

1 Brian Peters was a senior vice president in the
2 bank supervision group.

3 Debby Perelmuter was a senior vice president in
4 the markets group.

5 James Clark was a midlevel analyst in the markets
6 group.

7 Matthew Lieber was a staff director in the markets
8 group.

9 Matt Rutherford was an employee in domestic
10 finance at U.S. Treasury. I believe at that point he was
11 on detail from the New York Fed.

12 Michael Nelson is an attorney in the legal group
13 at the New York Fed.

14 Michael Schetzel was a vice president in the
15 markets group.

16 Steven Friedman was a vice president in the
17 markets group.

18 Q. And what did you do after receiving this e-mail,
19 if anything?

20 A. I don't remember if I did anything in particular
21 after receiving this e-mail.

22 Q. At the top of the second page of the exhibit,
23 Mr. Boesky writes, "I have spent the past three hours
24 receiving calls from HFs."

25 And those are hedge funds; correct?

1 A. It does.

2 Q. And it says, "On a scale of 1 to 10, where 10 is
3 Bear-Stearns-week-panic, I would put sentiment today at a
4 12. People are expecting full-blown recession."

5 Do you see that?

6 A. Yes.

7 Q. And was that your experience as of September 11 in
8 terms of the information you were receiving other than
9 what you received from Mr. Boesky?

10 A. This was particularly negative, but the level of
11 concern was exceptionally high on the 11th of September,
12 yes.

13 Q. The level of concern throughout the financial
14 markets; is that correct?

15 A. Yes.

16 Q. Let me ask you to look next at Plaintiffs'
17 Exhibit 73, which I would offer.

18 MS. ACEVEDO: We have no objection Your Honor.

19 THE COURT: Plaintiffs' Trial Exhibit 73 is
20 admitted.

21 (Plaintiffs' Exhibit Number 73 was admitted into
22 evidence.)

23 BY MR. BOIES:

24 Q. And this is at the top is another e-mail from
25 Mr. Boesky, dated September 16, 2008 at 7:33 Eastern

1 Daylight Time. And it begins, "Head of Citi FX just
2 called to tell me that unsecured funding market is shut
3 down. Major banks have stopped giving quotes to each
4 other. And some have stopped picking up their phones."

5 Do you see that?

6 A. Yes.

7 Q. And "FX" stands for what?

8 A. Foreign exchange.

9 Q. And was what Mr. Boesky reports here consistent
10 with what your information was as of September 16, 2008?

11 A. Yes.

12 Q. And you have said that there was what you referred
13 to as contagion in funding markets; correct?

14 A. Yes.

15 Q. And can you explain what you mean by "contagion."

16 A. After the bankruptcy of Lehman Brothers and at the
17 worst moments of the funding part of the financial
18 crisis, financial institutions were not -- were refusing
19 to lend to one another, in some cases because they were
20 concerned about the direct financial health of the firm
21 that they were lending to, in some cases because they
22 were concerned that no one else was lending to each
23 other, so why should I lend because I might not get it
24 back. Therefore, there was a sort of round-robin going
25 on.

1 Among some counterparties there were also fire
2 sales going on, which meaning that assets -- some firms
3 were selling assets or attempting to sell assets, which
4 lowered their prices, which then led to even bigger
5 concerns about their asset quality and a concern on the
6 part of their lending counterparties that they
7 effectively didn't want to lend for that reason as well.

8 Q. And did this result in a broad group of firms not
9 being able to fund themselves because of the pullback in
10 liquidity?

11 A. Yes.

12 Q. Let me ask you to look next at Plaintiffs' Trial
13 Exhibit 42, which I would offer.

14 MS. ACEVEDO: We have no objection, Your Honor.

15 THE COURT: All right. Plaintiffs' Trial
16 Exhibit 42 is admitted.

17 (Plaintiffs' Exhibit Number 42 was admitted into
18 evidence.)

19 BY MR. BOIES:

20 Q. And can you identify for the Court what this
21 document is.

22 A. This is an e-mail that I sent in the late
23 afternoon of September 12, 2008.

24 Q. And did this follow a meeting that you and others
25 had with representatives of AIG?

1 A. Yes, it did.

2 Q. And you had been asked by your boss, Bill Dudley,
3 to attend this meeting; correct?

4 A. Yes, I had.

5 Q. And you were now reporting on results of that
6 meeting; correct?

7 A. Yes, correct.

8 Q. And if I can ask you to go down to the third or,
9 depending on how you count, fourth paragraph from the
10 bottom that begins "Some banks."

11 Do you see that?

12 A. Yes.

13 Q. It says, "Some banks are already pulling away,"
14 and what you meant there were some banks were already
15 pulling away from AIG; correct?

16 A. Yes.

17 Q. And you say "some banks are even turning down AIG
18 in the secured (repo) borrowing markets."

19 Do you see that?

20 A. Yes.

21 Q. And that was your understanding at the time;
22 correct?

23 A. That was what the firm told us, the
24 representatives of the firm told us. Yes.

25 Q. And did you have any reason to doubt that?

1 A. No, I did not.

2 Q. At the very end of your e-mail, before you come to
3 what is referred to as AIG meeting notes, that is at the
4 bottom of page 2 of the exhibit?

5 A. Yes.

6 Q. You write, "They" -- and you're referring there to
7 AIG; correct?

8 A. Yes.

9 Q. You say: AIG is very willing to open their books
10 to us and give us better sense of their risk profile, the
11 complexity of their book and detailed liquidity profile
12 as soon as possible (i.e., this weekend).

13 Do you see that?

14 A. Yes.

15 Q. And did AIG in fact open their books to you to
16 allow you to get a better sense of their risk profile,
17 complexity of their book and detailed liquidity profile?

18 A. They did indeed open their books to a number of
19 staff from the New York Fed. Yes.

20 Q. And did any of those staff individually or in
21 combination prepare any analysis of what they believed
22 the value of AIG's assets were, if you know?

23 A. To the best of my recollection, analysis of the
24 solvency of several subsidiaries of AIG was done, yes. I
25 can't say that they did the entire company. I don't

1 remember.

2 Q. Who did the solvency of the particular
3 subsidiaries?

4 A. It was a team of analysts from the bank
5 supervision area of the New York Fed. I believe the work
6 was coordinated by Chris Calabria.

7 Q. And do you know what that group concluded?

8 A. To the best of my recollection, my memory of
9 their analysis was that the property and casualty
10 subsidiaries, insurance subsidiaries of AIG, had a
11 significant amount of excess capital -- although I don't
12 believe the total dollars were particularly large, but
13 the excess was large relative to the size of the
14 companies -- and that there was sufficient capital at the
15 insurance companies but perhaps -- but there were
16 questions about the valuation of the assets held by a
17 number of the life insurance companies and there was a
18 question about whether their quality was -- was that high
19 or was high enough.

20 They were highly illiquid assets in many cases,
21 and there were doubts about what the value of those
22 assets were actually worth.

23 My recollection of the bottom line was that the
24 insurance companies, insurance subsidiaries, were
25 considered solvent.

1 Q. Now, you say there were some questions about the
2 valuations of certain assets.

3 Were those questions ever answered insofar as you
4 know?

5 A. I don't remember.

6 Q. Do you know who had the responsibility of trying
7 to determine the answer to those questions?

8 A. Ultimately, no, I do not.

9 Q. Let me ask you to look at Plaintiffs' Trial
10 Exhibit 44, which I would offer.

11 MS. ACEVEDO: We have no objection, Your Honor.

12 THE COURT: Plaintiffs' Trial Exhibit 44 is
13 admitted.

14 (Plaintiffs' Exhibit Number 44 was admitted into
15 evidence.)

16 BY MR. BOIES:

17 Q. Can you identify for the Court what this document
18 is, please.

19 A. It appears to be an e-mail about a meeting with
20 the Office of Thrift Supervision. Based on the date, it
21 appears to have happened in August 2008.

22 Q. And this is an e-mail to you; correct?

23 A. It was forwarded to me.

24 Q. Yes.

25 There is an e-mail that is written on August 14,

1 2008, and then that is forwarded to you on September 12,
2 2008 at 4:03 p.m.; correct?

3 A. Correct.

4 Q. And you understood that this was being forwarded
5 to you as part of your ongoing responsibilities to look
6 at AIG; correct?

7 A. Actually I don't remember receiving this e-mail,
8 perhaps because it came while I was in the meeting with
9 AIG.

10 Q. Did you see this e-mail after you got out of the
11 meeting with AIG?

12 A. I presume I did, but I don't remember it.

13 Q. Let me ask you to go back to Plaintiffs' Trial
14 Exhibit 42 on page 2.

15 And in the next to last paragraph, the next to
16 last sentence in that paragraph says that one of the
17 challenges AIG is already facing is very aggressive
18 marks from counterparties and strategic unwinding of
19 "in the money" positions.

20 Do you see that?

21 A. Yes, I do.

22 Q. And it says "this will likely accelerate in coming
23 days adding to the cash drain."

24 Do you see that?

25 A. Yes.

1 Q. What did you mean by the reference to very
2 aggressive marks from counterparties?

3 A. The first part of this paragraph describes the
4 large size and complexity of AIG's derivatives book,
5 meaning that it was largely quite illiquid derivatives
6 positions, and each day counterparties, in order to mark
7 those positions, have to agree on a mark unless -- if
8 there's not a price in the marketplace. Therefore, very
9 aggressive marks from their counterparties were
10 counterparties marking down their positions in -- not in
11 AIG's favor.

12 That's my -- what I meant by that.

13 Q. Who were some of these counterparties, as you
14 understood it at the time?

15 A. At the time of this e-mail, I did not know their
16 counterparties, but they told us verbally that they were
17 the large -- many of the largest U.S. bank holding
18 companies and European banks.

19 Q. And did that include large United States
20 investment banks as well?

21 A. Yes. They would have included the large -- the
22 large U.S. dealers as well. Yes.

23 Q. And to go back to when you said "very aggressive
24 marks from counterparties," the fact was that most of
25 these assets did not have, at least at this point in

1 time, a liquid market. That is, there were not
2 transactions in them that you could look to get a price
3 from; correct?

4 A. That's correct.

5 Q. And so it was left up to the subjective positions
6 of the two parties as to how they would mark the "market"
7 price; correct?

8 A. Yes. That's what AIG told us.

9 Q. And that's also what you understood from your own
10 analysis.

11 A. Yes.

12 Q. Now, at the end of the day on September 12, which
13 was a Friday, you sent Mr. Geithner an e-mail saying that
14 AIG, in your view, was facing serious liquidity issues
15 that threatened its survival; correct?

16 A. Yes. That's this e-mail.

17 Q. Now, on Saturday and Sunday, September 13 and 14,
18 among other things, you met several times with
19 Eric Dinallo, the superintendent of the New York State
20 Insurance Department; correct?

21 A. I spoke with him on the telephone.

22 Q. You spoke with him on the telephone more than
23 once; correct?

24 A. To the best of my recollection, it was twice.

25 Q. And you talked about the financial health and

1 capitalization of the AIG insurance subsidiaries;
2 correct?

3 A. Yes.

4 Q. And Mr. Dinallo described the property and
5 casualty companies in New York and in Pennsylvania, that
6 is, the property and casualty insurance subsidiaries of
7 AIG in New York and Pennsylvania, as having very large
8 capital cushions; correct?

9 A. Yes.

10 MS. ACEVEDO: Objection, Your Honor. That calls
11 for hearsay.

12 THE COURT: Mr. Boies?

13 MR. BOIES: It is hearsay, Your Honor. But
14 the -- I think the purpose of the offer is for the state
15 of mind of the New York Fed.

16 I also think that because of the position that
17 Mr. Dinallo had and his relationship to the New York Fed,
18 this would be admissible under 807 because it has the
19 attributes of reliability. There's no reason to believe
20 that Mr. Dinallo is not providing full and accurate
21 information in this governmental context.

22 THE COURT: I'm going to sustain the objection.

23 MS. ACEVEDO: Thank you, Your Honor.

24 BY MR. BOIES:

25 Q. Did you believe, based on your conversations with

1 Mr. Dinallo -- and I'm simply now asking for your
2 belief -- that the AIG property and casualty companies in
3 New York and Pennsylvania had very large capital
4 cushions?

5 MS. ACEVEDO: Your Honor, we're going to object on
6 the grounds that it lacks foundation.

7 THE COURT: Overruled.

8 THE WITNESS: Mr. Dinallo's statement combined
9 with later analysis would -- I believed it at that point.
10 I have a hard time remembering my beliefs between those
11 two items.

12 BY MR. BOIES:

13 Q. Let me put it this way.

14 Did there come a time, based on all the
15 information that you had available to you, including what
16 Mr. Dinallo may have said to you, that you reached that
17 conclusion?

18 A. Yes.

19 Q. Let me ask you just to very quickly look at
20 Joint Exhibit 49, which is already in evidence. And I
21 do really just have one small question to ask you about
22 it.

23 The joint exhibits are at the very beginning of
24 the binder.

25 And I want to direct your attention to the next to

1 last line on the first page, the sentence that says "AIG
2 believes the offer," referring to a private sector offer,
3 "is not realistic -- both from an equity" -- and it says
4 "delusion," but am I correct that that should be
5 "dilution standpoint"?

6 A. Yes, it should be.

7 Sleep deprivation.

8 Q. Let me ask you next to look at Plaintiffs' Trial
9 Exhibit 1546, which I would offer.

10 MS. ACEVEDO: We have no objection, Your Honor.

11 THE COURT: Plaintiffs' Trial Exhibit 1546 is
12 admitted.

13 (Plaintiffs' Exhibit Number 1546 was admitted into
14 evidence.)

15 BY MR. BOIES:

16 Q. Could you explain to the Court what this exhibit
17 is.

18 A. Yes. This is an e-mail exchange between myself
19 and Jamie McAndrews of the New York Fed. The top e-mail
20 is. Below it is a bigger e-mail that Jamie McAndrews
21 sent to a group of individuals about AIG.

22 Q. And one of the things that you were looking at at
23 this time, which is September 14, 2008, is whether AIG
24 could find other credit accommodations because the
25 inability to find other credit accommodations was an

1 issue or was a predicate to a 13(3) credit facility;
2 correct?

3 A. Yes. That's what Jamie has written here.

4 Q. And that's what you understood at the time;
5 correct?

6 A. Jamie believed it was the most important issue for
7 a 13(3) determination. Yes.

8 Q. Let me go back to Joint Exhibit 48 just for a
9 moment.

10 This is an e-mail attaching pros and cons of
11 lending to AIG.

12 At the time of this e-mail, which was
13 September 14, 2002 -- 2008, did this list of pros and
14 cons represent your group's current state of thought
15 concerning the pros and cons of lending to AIG?

16 A. Yes. This is an accumulated list of pros and cons
17 from several work streams related to different aspects of
18 AIG over the course of the previous it looks like two
19 days. I don't know if it includes everything, but it
20 includes input from a number of different analytical work
21 groups.

22 Q. When you were here the other day, I think that we
23 talked about credit that was extended to central banks
24 outside of the United States. Do you recall that
25 generally?

1 A. Yes.

2 Q. That credit that was extended to central banks
3 outside of the United States was not extended pursuant to
4 13(3); correct?

5 A. Correct.

6 Q. You worked on a draft report on systemic risk and
7 bank supervision; correct?

8 A. That -- I don't know how to answer that because
9 I -- that particular title doesn't -- doesn't jog my
10 memory.

11 Q. Let me -- let me ask you to look at Plaintiffs'
12 Trial Exhibit 2742, the first page of which is headed
13 Report on Systemic Risk and Bank Supervision, and in the
14 upper left-hand corner it says "Draft September 10,
15 2009."

16 Do you see that?

17 MS. ACEVEDO: Your Honor, I'm going to object.
18 This is improper to refresh recollection. This is not an
19 exhibit, and he's eliciting testimony on something that
20 is not -- has not been identified as an exhibit.

21 THE COURT: Mr. Boies?

22 MR. BOIES: I asked her whether she had
23 contributed to a draft report on systemic risk and bank
24 supervision. She said she didn't recall. I'm now trying
25 to put this in front of her and see whether this will

1 enable her to recall.

2 MS. ACEVEDO: He can hand it to her and ask her if
3 she wants to look at it and it refreshes her
4 recollection, but publishing information about the
5 document and eliciting testimony on it is improper.
6 That's not proper to refresh recollection.

7 THE COURT: Thus far, I'll overrule the
8 objection.

9 MS. ACEVEDO: Thank you.

10 THE WITNESS: I contributed to one portion of this
11 report. Yes.

12 BY MR. BOIES:

13 Q. And during what period of time did you work on
14 this project?

15 A. To the best of my recollection, it was during the
16 summer of 2009.

17 Q. And who else participated in this project?

18 A. I didn't remember until I looked at the first
19 page, the names of individuals, but it's in the first
20 paragraph of the report.

21 Q. And having looked at the second page of the
22 exhibit, the first page of the actual report or draft
23 report, did that refresh your recollection as to who
24 participated in this project?

25 A. Yes. I contributed to one portion of this report,

1 yes.

2 Q. And then who else contributed to this report? And
3 could you give me the titles as well.

4 A. Yes.

5 Beverly Hirtle, senior vice president in research
6 at the New York Fed.

7 Meg McConnell, senior vice president at the
8 New York Fed.

9 Myself.

10 Marc Saidenberg, who was a senior vice president
11 in bank supervision.

12 Michael Silva, who was a senior vice president at
13 the New York Fed.

14 Kevin Stiroh, at the time a senior vice president
15 at the New York Fed.

16 Til Schuermann, also a senior vice president at
17 the New York Fed in supervision.

18 And Ronald Stroz, who I believe was a
19 vice president in bank supervision at the New York Fed.

20 Q. Now, you said that you contributed to one part of
21 this report; correct?

22 A. Correct.

23 Q. What was the part to which you contributed?

24 A. Starting on the bottom of page 13 of the exhibit,
25 the section on FRC/FSO. And on page 15, financial

1 stability as a mission.

2 Q. And with respect to the section that begins at
3 page 13 under the heading Lesson Learned: FRC/FSO
4 Process, where does the section to which you were
5 contributing end?

6 A. It ends at the top of the next page, at the top
7 of page 14. It ends after the first paragraph on
8 page 14.

9 Q. And then the section to which you contributed
10 that begins at the top of page 15, when does that
11 section end?

12 A. To the best of my recollection, at the top of
13 page 16.

14 Q. Did you receive a copy of this draft either in
15 August or September of 2009, a copy of the entire draft?

16 A. I don't remember.

17 Q. Let me ask you to look at page 3 at the bottom,
18 the paragraph that's number 1, which I'd ask you to read
19 to yourself. That's the paragraph under the heading
20 Some Basic Assumptions Are Wrong.

21 Do you see that?

22 A. Yes.

23 Q. And would you read that to yourself and then when
24 you're finished let me know.

25 (Pause in the proceedings.)

1 A. Yes.

2 Q. Do you agree with that statement there?

3 MS. ACEVEDO: Your Honor, I'm going to object.

4 This is not an exhibit and he shouldn't be eliciting

5 testimony on this, whether or not she agrees with it.

6 That's something she -- she did not identify as something

7 that she contributed to or had any part in. This is

8 absolutely hearsay.

9 THE COURT: Mr. Boies, is this exhibit not on your
10 exhibit list?

11 MR. BOIES: It is not, Your Honor, because we
12 identified it late. But I'm not -- and I'm not for that
13 reason reading the portion in or publishing it, even
14 though I think in a bench trial that wouldn't necessarily
15 be inappropriate. But I am not actually publishing it.
16 I'm asking the witness her views on it.

17 THE COURT: I'm going to sustain the objection.

18 MS. ACEVEDO: Thank you.

19 MR. BOIES: May I -- let me just ask a question.

20 Would it be permissible for me to ask her whether
21 she is aware of anybody making the assertion that is
22 here?

23 In other words, I -- I need -- I want to ask it in
24 an appropriate way, and it seems to me there are two
25 appropriate ways, and I'm not sure which one would be

1 best, you know, suited for what the Court thinks is
2 appropriate. I can either ask her this in words, but
3 that has the effect of me simply paraphrasing something
4 that's in the document, or I can ask her without
5 revealing the words whether this is something that she
6 remembers anybody telling her. It seems to me I'm
7 entitled to ask it one of those two ways.

8 THE COURT: It's my view that you can ask a
9 question on this subject. It's just that we don't want
10 to refer to the exhibit because it's not admissible.

11 MR. BOIES: Let me approach it that way.

12 BY MR. BOIES:

13 Q. Did anyone tell you during 2008 or 2009, anyone
14 within the Federal Reserve or Treasury system that you
15 were -- in which you were working, that they believed
16 that banks' internal risk management and control
17 functions were often ineffective in the run-up to the
18 crisis and were usually trumped by the pressure to do
19 profitable business? Did they say that to you or anyone
20 say that to you in words or in substance?

21 A. I don't remember anyone putting it exactly that
22 way. I remember a concern being expressed about the
23 effectiveness of risk management.

24 Q. What was the concern that you remember being
25 expressed about the effectiveness of risk management?

1 A. Whether their risk management was adequate for
2 truly large events such as the financial crisis.

3 Q. And who expressed that concern?

4 A. I don't remember.

5 Q. Do you remember anything in more detail about the
6 concern that was expressed other than a concern that
7 banks' risk management was not adequate for truly large
8 events such as the financial crisis?

9 A. It might have been. I don't remember.

10 Q. Did I ask you previously whether you recalled
11 receiving a copy of this?

12 A. You did.

13 Q. And what -- could you remind me of what your
14 answer was.

15 A. I said I didn't remember.

16 Q. Okay. Do you remember during 2008 and 2009 people
17 with whom you were working expressing the view that
18 although there was a common expectation that market
19 forces would efficiently price risks and prompt banks to
20 control exposures in a more effective way than
21 regulators, in reality, markets did not control risk
22 until too late in the cycle?

23 A. That was a long question. Would you mind
24 repeating it.

25 Q. Sure.

1 Is it fair to say that there was a view prior to
2 the financial crisis that market forces would efficiently
3 price risks and prompt banks to control exposures in a
4 more effective way than regulators would?

5 A. I certainly had that view expressed to me. Yes.

6 Q. And is it the case that during and after the
7 financial crisis, the view was expressed within the
8 Federal Reserve that in reality, markets did not control
9 risk until it was too late in the cycle?

10 A. I had some express that view to me before the
11 crisis, but yes, it was certainly expressed during the
12 crisis.

13 Q. Who had expressed that view before the crisis?

14 A. I don't remember names. I remember it being
15 topics of conversation.

16 Q. Is it fair to say that it became a much more
17 serious concern during the financial crisis?

18 A. Yes.

19 Q. Were there also people within the Federal Reserve
20 that concluded that bank supervisors set too high a bar
21 for recommending behavioral changes at banks?

22 A. That, I don't know about.

23 Q. Did people, during and after the financial crisis,
24 at the Federal Reserve express the view that bank
25 supervisors paid excessive deference to banks and as a

1 result were less aggressive in finding issues or
2 following up on them as they should be?

3 A. That's a point made in this report, so I assume
4 so, yes.

5 MR. BOIES: May I have just a moment, Your Honor?

6 THE COURT: Sure.

7 (Pause in the proceedings.)

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

9 THE COURT: All right. Before we go to the next
10 round of questioning on cross here, why don't we take an
11 afternoon break. We'll reconvene at 3:25.

12 (Court in recess.)

13 THE COURT: All right. Please go ahead.

14 MS. ACEVEDO: Thank you.

15 - - - - -

16 CROSS-EXAMINATION

17 BY MS. ACEVEDO:

18 Q. Good afternoon, Ms. Mosser.

19 A. Good afternoon.

20 Q. Now, Mr. Boies asked you about some emergency
21 lending programs earlier?

22 A. Yes.

23 Q. And in particular, the PDCF and the TSLF?

24 A. Yes.

25 Q. To whom did those emergency programs lend?

1 A. To the primary dealers.

2 Q. Okay. And why were primary dealers beneficiaries
3 of emergency lending?

4 A. There were two reasons. Both facilities were
5 created just prior to the demise of Bear Stearns, a point
6 at which funding markets were in considerable turmoil and
7 there was a pulling back of willingness to lend across
8 financial institutions.

9 The primary dealers were chosen as a group to
10 par- -- to be eligible to participate in these two
11 facilities first because they were set up on very short
12 notice, the PDCF in fact in a matter of a couple of
13 days; and therefore, the infrastructure, the legal
14 agreements, all of the plumbing, if you like, to do
15 lending existed for those primary dealer counterparties
16 of the markets group of the New York Fed already, and
17 given the speed with which they were set up, we needed to
18 use the pipes and the legal agreements that we had in
19 place.

20 The second reason they were chosen is because, as
21 a class, the primary dealers sit at the core of the
22 financial system. Most of them are very large global
23 financial intermediaries. And therefore, if the point of
24 lending through these facilities was to stabilize
25 financial markets, particularly funding markets, the

1 primary dealers as a group were a good mechanism and a
2 good way to get that liquidity out to the financial
3 system.

4 Q. Thank you.

5 And after the emergency lifted -- you mentioned
6 the Bear Stearns crisis, for example -- did there come a
7 time when the New York Fed considered the possibility of
8 expanding its emergency lending programs to include
9 institutions other than primary dealers?

10 A. The New York Fed considered -- I don't think
11 "expanding" is the correct word, but considering
12 criteria, different criteria other than primary
13 dealership as a way to -- as a place to focus emergency
14 lending.

15 Q. And what was your role, if any, in that effort?

16 A. I was part of a small group that developed a
17 framework, a project plan, a recommendation I believe,
18 that included a recommendation, to do a more systematic
19 development of criteria and metrics in order to identify
20 financially -- systemically important financial
21 institutions and those that had runnable liabilities,
22 therefore, who, if the Fed lent to them, were likely to
23 transmit that additional liquidity to the rest of the
24 financial system.

25 Q. You mentioned a recommendation.

1 Can I have you turn to PTX 23 in your binder. It
2 should be the last document.

3 Mr. Boies asked you some questions about this
4 document earlier. I wanted to -- first of all, can you
5 identify this document for the Court?

6 A. Yes. It's an e-mail chain with three attachments
7 having to do with access to Fed liquidity and systemic
8 financial institutions.

9 Q. Okay. And I wanted to direct your attention to
10 the document that starts on page 9.

11 What's this document?

12 A. This is a draft of a work plan framework developed
13 by staff of the Federal Reserve Bank of New York and the
14 Federal Reserve Board to develop criteria and metrics for
15 the topic I just talked about, identifying systemically
16 important financial institutions with runnable
17 liabilities whom the Fed -- who could be eligible for
18 emergency -- access to emergency Fed borrowing
19 facilities.

20 Q. Let me direct you to the first sentence next to
21 the heading Staff Recommendation.

22 Do you see that?

23 A. Yes.

24 Q. And there's a reference there to, if access is
25 expanded, it being limited to systemically important

1 institutions.

2 First of all, why does the sentence have the
3 qualifier if access to Federal Reserve credit facilities
4 is expanded?

5 A. Well, this is a staff recommendation. The
6 decision to -- whether to extend access, particularly
7 under 13(3), was a decision of the Board of Governors of
8 the Federal Reserve.

9 Q. Okay. And there's also a reference there in that
10 sentence to, if it is expanded, limiting it to
11 systemically important institutions.

12 Why did the staff make that recommendation?

13 A. It relates to the comment I made about primary
14 dealers a few moments ago.

15 Systemically important institutions subject to
16 liability runs are those that, A, are likely to have the
17 most impact -- their distress or failure certainly is
18 likely to have the most impact on the financial system.
19 They would -- Federal Reserve lending is likely to help
20 stabilize them and therefore stabilize the financial
21 system if their liabilities are runnable, meaning, if
22 it's easy for counterparties to pull back from funding
23 them.

24 Q. And I'd like you to take a look now at the third
25 sentence there that begins with "Accordingly." There's a

1 reference there to a proposal to develop a set of
2 preliminary criteria.

3 Can you tell us what the staff is proposing here?

4 A. The staff is proposing to do additional work and
5 to form a work team to develop a set of criteria -- by
6 "criteria" here we meant something measurable -- for
7 trying to identify -- or criteria for determining
8 institutions that might fit the description given in the
9 first sentence.

10 Q. And let's take a look at the next sentence there
11 that begins with "We also believe."

12 There's a reference there to oversight on a
13 longer-term basis.

14 Do you see that?

15 A. Yes.

16 Q. Why did the staff recommend oversight on a
17 longer-term basis?

18 A. There was a very strong belief that for a
19 couple -- for several reasons that any firm that was
20 ex ante or before the fact identified as having the
21 potential to have access to Federal Reserve facilities
22 needed also to be subject to oversight by the
23 Federal Reserve. This is for a couple of reasons.

24 First, the Federal Reserve in lending -- in doing
25 lender of last resort is always very concerned that they

1 are lending to solvent institutions. And in addition,
2 they -- and that understanding the solvency on an ongoing
3 basis of financial institutions requires oversight,
4 supervision and regulation of some sort.

5 Q. And before we leave this section, I wanted to ask
6 about the next sentence, which begins "At this stage."

7 There's a reference there to elements upon which
8 these criteria could be based.

9 A. Yes.

10 Q. Do you see that?

11 A. I do.

12 Q. Why did the staff identify those elements as
13 informing criteria for Fed lending access?

14 A. These are criteria basically to define systemic
15 importance as well as whether liabilities are runnable,
16 so it's basically a -- it's criteria that will help
17 define systemically important institutions, and we have
18 four of them.

19 Q. Okay. I want to focus your attention now on the
20 next page, page 10 of the document, and in particular to
21 the heading Issues and Questions.

22 Now, there's a lot of information there, and
23 without reviewing all of that information, can you tell
24 the Court what you're trying to convey here.

25 A. The issues and questions related to some of the

1 complications that staff believed would arise during --
2 in doing the analysis that we were proposing. Some of
3 them were -- some of this was additional background
4 information about bank holding companies, which -- for
5 which there were certain criteria that were already in
6 use by bank supervision. There were several legal
7 complications.

8 In addition, there were complications around moral
9 hazard, in other words, if it was known that certain
10 institutions in an emergency would have access to Fed
11 liquidity, would those institutions have more lax risk
12 management, et cetera, knowing that they would have
13 access to liquidity in a crisis.

14 So they're basically a set of complications that
15 need to be taken into account.

16 Q. And did you have a sense for the time frame
17 pursuant to which it would take to resolve these issues
18 and questions?

19 A. Some of the issues and questions here were policy
20 decisions that only policymakers could determine, and
21 staff would not have control over when policymakers
22 decided to do that.

23 Some of them were more analytical and data
24 questions. They were things that would have been
25 potentially done over the course of several quarters.

1 My estimate is that this kind of work would have
2 taken -- just the analysis alone and the internal staff
3 discussions would have taken I would have guessed the
4 better part of a year.

5 Q. Okay. And looking now at the section that
6 Mr. Boies asked you about, Next Steps, the first bullet
7 point there says, "Refine criteria and develop metrics."

8 Can you just elaborate on what that would entail
9 at the time frame pursuant to which that would be done?

10 A. Right. The first point was basically would --
11 what was needed to take that next step, would have been
12 putting together analytical teams, gathering data on
13 financial institutions, both banking institutions
14 that -- as well as nonbanking institutions, and
15 considering effectively what previous studies on the four
16 criteria we mentioned earlier were, and trying to
17 actually measure them directly as opposed to just state
18 them in words.

19 That work would have taken, my best guess, several
20 months.

21 Q. Okay. And if you could -- if I can just direct
22 your attention to the heading on the top left-hand corner
23 of the document that says "DRAFT" in all capital
24 letters.

25 A. Yes.

1 Q. Did this memorandum ever involve -- ever evolve
2 into a form other than draft, to your knowledge?

3 A. Not to my knowledge, no.

4 Q. And do you know who, if anybody, reviewed this
5 document?

6 A. To the best of my recollection, several senior
7 staff at the Federal Reserve Bank of New York reviewed
8 it, and some additional senior staff at the
9 Board of Governors I believe reviewed it.

10 Q. And did the group ever identify a set of
11 preliminary criteria for developing which financial
12 institutions should be given access to Fed borrowing
13 facilities?

14 A. They did not.

15 Q. And why not?

16 A. Starting in August of 2008, the financial crisis
17 reaccelerated and this project had to be dropped. People
18 were too busy doing other things.

19 MS. ACEVEDO: Your Honor, may I have permission to
20 approach?

21 THE COURT: Sure.

22 BY MS. ACEVEDO:

23 Q. Actually before I do that, let me ask some
24 foundational questions.

25 Did you yourself ever draft your own list

1 identifying institutions who you thought should
2 potentially be considered for access to lending?

3 A. We did some brainstorming on that topic as I
4 recollect. Yes.

5 Q. Okay. I'm going to hand to you what's been marked
6 as PTX 30. If you could just take a look at that for a
7 second.

8 A. Yes.

9 Q. Oh, I'm sorry.

10 (Pause in the proceedings.)

11 Okay. Ms. Mosser, you see there on the first page
12 of the document there's an e-mail from you attaching a
13 list, and if you look on the second page of the document,
14 there's a list there with your name on the upper
15 right-hand corner.

16 Do you see that?

17 A. Yes, I do.

18 Q. Can you tell the Court what's shown here.

19 A. This is the brainstorming list that I mentioned a
20 minute ago. This happens to be the list that I put
21 together.

22 Q. And you say it's a brainstorming list. Why do you
23 say that?

24 A. In order to begin the analytical work that we
25 were speaking about a minute ago, it was helpful to get

1 a range of views of -- from about whom we might want to
2 get data to analyze, both firms that a group of staff
3 felt in their personal views were systemically important
4 and a group that might be. And that's what these lists
5 were for.

6 Q. Okay. And if you look at the "Maybe" with several
7 question marks there, under the heading Maybe, do you see
8 that?

9 A. I do.

10 Q. AIG is listed there.

11 Was there a determination that AIG was systemic at
12 this point?

13 A. No.

14 Q. Okay. I want to switch gears and talk about --

15 THE COURT: Hold on one second.

16 MS. ACEVEDO: Sure.

17 THE COURT: Dr. Mosser, in understanding this list
18 that counsel just asked you about, what category does the
19 word "maybe" apply to? Does it mean those above "maybe"
20 or below?

21 THE WITNESS: Below.

22 THE COURT: Below.

23 THE WITNESS: The list below are maybes.

24 THE COURT: And the ones above are what?

25 THE WITNESS: Those in my personal opinion are I

1 believe -- I believed would fit the criteria of
2 systemically important.

3 THE COURT: All right. Thank you.

4 BY MS. ACEVEDO:

5 Q. And let me just ask a follow-up question. You
6 said you believed would fit the criteria.

7 Had any determination been made at this point as
8 to who was systemically important?

9 A. No.

10 Q. Okay. I want to switch gears now and talk about
11 AIG.

12 And Mr. Boies asked you about a meeting on
13 September 12. Do you recall that?

14 A. Yes.

15 Q. Okay. Was that your first involvement with AIG?

16 A. Yes, it was.

17 Q. Okay. And why don't you tell us about that
18 meeting.

19 I'm sorry. Before we get there, let me ask, did
20 you have an understanding as to why you were asked to
21 attend the meeting as opposed to somebody else?

22 A. Yes. My boss at the time, Bill Dudley, informed
23 me earlier in the day that AIG wished to come in and
24 discuss plans to become a primary dealer. Primary
25 dealers, because I was a senior manager at the open

1 market desk in the markets group at the New York Fed, we
2 regularly met with firms who expressed interest in
3 primary dealership, and AIG was one of the firms. We'd
4 actually had, after the PDCF, a number of firms come in
5 and discuss the potential of becoming primary dealers.

6 Q. You mentioned that after the PDCF was formed, you
7 had a number of firms come in to discuss the potential of
8 being primary dealers.

9 Of those firms that inquired about primary
10 dealership, how many followed through and pursued it?

11 A. I don't remember if it was any at all. If there
12 were one or two, it was a small number. I truthfully
13 don't remember.

14 Q. Okay. Now why don't you tell us about the meeting
15 on September 12.

16 A. Yes.

17 So the meeting on September 12, senior executives
18 from AIG attended -- to the best of my recollection,
19 there were five of them. The exhibit that Mr. Boies
20 showed me earlier had I believe listed their names -- and
21 was attended by myself and Jim Mahoney of bank
22 supervision at the New York Fed and for a few minutes at
23 the beginning by Bill Dudley.

24 The first half of the meeting was indeed a
25 presentation by the executives from AIG about plans to

1 create a broker-dealer subsidiary and expand their
2 fixed-income trading business in order to become a
3 primary dealer.

4 They -- their plans were going to take some
5 months. I don't remember exactly how far, more than six
6 months in any event to come to fruition.

7 After that discussion, they turned to us and
8 proceeded to -- they changed the subject -- excuse me --
9 and proceeded to tell us that they were expecting to be
10 downgraded by at least one rating agency and possibly two
11 over the weekend -- this was a Friday afternoon, so that
12 weekend -- and that as a result of that downgrade that
13 they would have to post a very significant amount of
14 collateral on some of their derivatives transactions
15 starting on either Monday or Tuesday, but early the
16 following week.

17 In addition to that, they noted that their
18 counterparties in commercial paper and even in some repo
19 transactions were beginning to pull back, meaning, not
20 reinvest in very short-term -- in their short-term
21 liabilities. They had already experienced some of that
22 that day, and they were expecting that with a downgrade
23 that would accelerate in the following week.

24 They provided us with a projection, a couple of
25 projections, a sheet of paper with a couple of

1 projections on it. One was of their daily liquidity
2 needs over the course of the next -- it was at least
3 seven days. It may have been ten. I don't remember
4 exactly. And they -- under two different sets of
5 assumptions, one they called a base case and the other
6 one they called a worst-case scenario.

7 In either case, they were -- in the base case,
8 they were likely to be out of funding in, my recollection
9 is, sometime between five and ten days. Under a worst
10 case, it was likely to be on many fewer days, two or
11 three, something like that.

12 At the end of this, they said that given this
13 situation, they were interested in an emergency loan from
14 the Federal Reserve.

15 Q. Okay. So there's a lot of information there, and
16 let's try and unpack that a little bit.

17 A. Sure.

18 Q. You mentioned first of all that they had a
19 presentation with respect to becoming a primary dealer
20 and that there was a reference to several months.

21 Why did it take so long to become a primary
22 dealer?

23 A. In the case of AIG, they literally didn't have the
24 business built, and so their projection in their
25 presentation to us was it was more than six months. I

1 don't remember.

2 In addition to that, though, I also informed them
3 that they -- that typically primary dealership is a
4 long-term -- medium-term process to become a
5 counterparty of the New York Fed for market operations.
6 I believe the shortest time period that's ever been
7 taken for a primary dealer was about nine months, and
8 that was for an institution that had previously been a
9 primary dealer. In most cases, the ramp-up period takes
10 a year or longer.

11 Q. And is there any way the process could be
12 expedited?

13 A. The counterparty performance criteria as well as
14 the -- in particular is something that can't be
15 accelerated, or wouldn't be accelerated is a better way
16 to put it.

17 For policy operations, the New York Fed has a set
18 of criteria that it insists that all of its
19 counterparties perform in all types of market conditions,
20 and effectively there's a sort of trial period for firms
21 to prove that they can do that.

22 Q. Okay. And you mentioned that AIG requested an
23 emergency loan.

24 How much did AIG indicate it wanted to borrow, if
25 at all?

1 A. I don't remember them giving us a number of how
2 much to borrow, that they wanted to borrow, but their
3 liquidity projections implied that over the course of the
4 next week or so that they would need in the neighborhood
5 of 10 to 15 billion dollars.

6 Q. Okay. And you also mentioned a base case and
7 worst case projection.

8 Did you have any understanding as to AIG's funding
9 projection?

10 A. We asked what the assumptions were under their
11 base case and worst case assumptions.

12 Their base case assumptions, in my personal
13 opinion, seemed optimistic at the time. They were
14 assuming that after the ratings downgrade that some of
15 their commercial paper counterparties would continue to
16 lend to them and that not all of their counterparties
17 would demand all of the collateral on their -- that was
18 due -- that might be due on their derivatives
19 transactions. I thought that was optimistic, and I
20 thought the assumptions in what they described as a
21 worst-case scenario were more likely to actually occur if
22 they were downgraded.

23 Q. And did you have an opinion as to when AIG would
24 run out of funding based on the projections that they
25 provided?

1 A. What sticks in my head is that they would likely
2 be short of cash and be -- have a funding hole, shall we
3 say, by Tuesday or Wednesday of the following week.

4 Q. And in terms of funding, are we talking -- we're
5 talking about -- are you familiar with the term
6 "short-term funding" as it's used --

7 A. Yes.

8 Q. -- in connection with liquidity?
9 And why is it important to have short-term
10 funding?

11 A. Most financial institutions typically have some of
12 their liabilities be very short-term so that they can
13 manage purchases and sales of assets, and so forth. And
14 therefore, they -- nearly all of them have a decent
15 amount of liabilities that are -- require relending every
16 day or every few days, and those are basically different
17 types of short-term loans, and that's usually what we
18 mean by "short-term funding."

19 Q. And what, if anything, did AIG indicate that it
20 was doing to alleviate its funding concerns at this
21 time?

22 A. Actually they really didn't tell us anything
23 except coming to the Federal Reserve.

24 Q. Okay. And what time did the meeting begin? Do
25 you recall?

1 A. It was about 3:30 in the afternoon I think.

2 Q. And how long was the meeting?

3 A. Approximately an hour, maybe a little bit longer
4 than that.

5 Q. Okay. And how did the meeting conclude?

6 A. It was clear that the funding strains at AIG were
7 serious. And I noted that the bar for receiving a
8 13(3) loan was very high based on my observation of both
9 the -- my understanding of the legal requirements as
10 well as in practice since it involved a vote of the
11 governors; and therefore, the kind of information that
12 the Fed would request to even consider such a thing
13 would require a lot more information than they had
14 provided to us.

15 They offered to have staff from the New York Fed
16 and the Fed in general to come to AIG and look through
17 their books, funding, solvency, et cetera, and we agreed
18 that that process should start immediately, and so we set
19 up a meeting for later that evening. I don't remember if
20 it was 7:00 or 8:00 p.m.

21 Q. Okay. And what did you do when the meeting was
22 over?

23 A. I went back to my office and made a couple of
24 phone calls relaying the substance of the meeting and
25 wrote the e-mail summary that was shown earlier.

1 Q. Who did you call?

2 A. I called Bill Dudley and relayed at a high level
3 the -- a summary of the meeting, and I called Tim
4 Geithner and told -- gave him a high-level summary of the
5 meeting.

6 Q. Let's turn to DX 256 in your binder.

7 You mentioned that you gave Mr. Dudley and
8 Mr. Geithner a high-level summary.

9 Do you recall with any more specificity what you
10 told either Mr. Dudley or Mr. Geithner at that time?

11 A. To the best of my memory, that AIG was being
12 downgraded over the weekend and could be out of liquidity
13 by early the following week. The telephone calls, to the
14 best of my memory, were not long.

15 Q. Okay. And you mentioned that you made some
16 notes.

17 Can you identify what's shown here on DX 256,
18 please.

19 A. Yes. These are the notes.

20 Q. Okay. And if I can direct you to the second
21 page -- you were asked some questions about these notes
22 earlier.

23 If I can direct you to the second page of the
24 document next to the heading Mobility of Liquidity.

25 Do you see that?

1 A. Yes.

2 Q. Okay. There's a reference there in the second
3 sentence to use subs to upstream liquidity to holding co.

4 Do you see that?

5 A. Yes.

6 Q. What does "upstream liquidity" refer to here?

7 A. In this particular case I was referring to
8 liquidity from the insurance subsidiaries being sent up
9 to the holding company because they could not roll,
10 meaning, they didn't have all their reinvestments in
11 commercial paper, and so the parent company had a
12 liquidity shortfall and in this case the -- my
13 recollection is the insurance subsidiaries had excess
14 liquidity and they sent it to the parent.

15 Q. And let's look at the plans to address liquidity
16 stress. There's a reference there to asset sales.

17 Do you see that?

18 A. Yes.

19 Q. What did AIG tell you about its attempts to sell
20 assets at this time?

21 A. That most of the assets that they had to sell were
22 very illiquid. Many of them were structured credits,
23 mortgage structured credits, products, and the market
24 distress -- for many months there had been market
25 distress in those markets, and it was very difficult to

1 sell those kinds of assets into the market.

2 Q. Let's take a look at the next item there, equity
3 issuance. There's a reference there to not viable at
4 this time.

5 Do you see where I'm referring to?

6 A. Yes.

7 Q. Okay. Did AIG mention why another issuance was
8 not viable?

9 A. Their stock price had fallen very sharply over
10 the course of the previous week, and they felt that
11 the -- that any attempt to issue equity right at the
12 present time would -- or at that time -- excuse me --
13 would simply send the equity price down even lower and
14 lead to both greater delusion and -- or dilution --
15 excuse me -- and also would send such a negative signal
16 that they might not actually be successful in raising
17 very much equity.

18 Q. And let's look at the next item there. It
19 mentions restrictions on Fed-eligible assets that have
20 available prices.

21 A. Yes.

22 Q. First of all, why do you mention available
23 prices?

24 A. The company told us at the time that they had
25 \$12 billion in assets that appeared to fit the criteria

1 for PDCF, the PDCF facility.

2 However, at that time, the PDCF lending facility,
3 while it took structured product and asset-backed
4 securities, it would only take those securities if there
5 was a price available in the market that was published by
6 a third party. And a number of asset-backed securities
7 actually at that point in the crisis did not have prices
8 available, and at this stage those would have not been
9 eligible for -- would not have been eligible for a
10 facility like PDCF.

11 So that qualification is that we were unsure how
12 much of that \$12 billion might actually fit the current
13 criteria for PDCF.

14 Q. And let me -- I think you answered this, but let
15 me just ask it another way to be certain.

16 How would restrictions on assets affect the amount
17 that was Fed eligible?

18 A. Oh, I'm sorry. The -- that comment was to suggest
19 that the number might be smaller than 12 billion.

20 Q. Okay. And now, let's look at the next paragraph
21 beginning with "Unwinding."

22 Do you see that paragraph?

23 A. Yes.

24 Q. There's a reference there to derivatives book,
25 AIG's derivatives book?

1 A. Yes.

2 Q. What did AIG tell you about its derivatives book
3 at this meeting?

4 A. It was obviously very large. It was highly
5 structured, meaning it was not particularly liquid
6 derivatives products, and that the book was not balanced
7 in the sense of they were taking investments or bets in
8 one direction or another using the book. It was not they
9 were long and short. They were -- had bought and sold
10 similar derivatives. They were clearly either buying in
11 one direction or selling in another.

12 Q. When you say that it wasn't balanced, what did AIG
13 say about its book that led you to conclude that it was
14 not balanced?

15 A. That's -- they told us that it was not balanced.
16 They actually didn't size how imbalanced it was. We
17 asked for an estimate and they couldn't provide it.

18 Q. Okay. And do you see the sentence there where
19 you're referring to where it says, "Book is very far from
20 balanced"?

21 A. Yes.

22 Q. There's a reference there to could not give M-to-M
23 value.

24 A. Yes.

25 Q. Why do you note that?

1 A. That was what I just referred to. They could not
2 tell us directionally nor the size of the valuations of
3 their derivatives at that point in time. We didn't know
4 what they were worth.

5 Q. If I could direct your attention back up to the
6 plans to address liquidity stress.

7 Do you see that?

8 There's a reference --

9 A. Yes.

10 Q. -- there to "It is all gone."

11 And next to "capital" --

12 A. Yes.

13 Q. -- it says, "AIG raised \$20 billion in capital.
14 It is all gone"?

15 A. Yes.

16 Q. What did you mean by that?

17 A. We were under the impression that the additional
18 \$20 billion in equity issued by AIG had been used already
19 for or to -- had been used already to cover losses
20 largely on their structured products.

21 MS. ACEVEDO: Okay.

22 Your Honor, I'd like to move for the admission of
23 DX 256.

24 MR. BOIES: No objection, Your Honor.

25 THE COURT: Defendant's Exhibit 256 is admitted.

1 (Defendant's Exhibit Number 256 was admitted into
2 evidence.)

3 BY MS. ACEVEDO:

4 Q. Now, after you documented this meeting, what did
5 you do?

6 A. We set up a meeting that evening, as I mentioned,
7 at AIG. In addition to the two of us who attended this
8 meeting, additional staff, one person from the markets
9 group and several people from the bank supervision area,
10 attended that meeting and a -- as did, I believe by
11 telephone, staff from the Board of Governors at the
12 Federal Reserve as well.

13 Q. And just at a very high level, what happened at
14 that meeting?

15 A. That meeting was a larger discussion with many
16 more staff from AIG about getting more details mainly
17 about the issues that are discussed in this -- that were
18 discussed at the afternoon meeting but in substantially
19 more detail.

20 Q. And did you attend that meeting?

21 A. I attended the first part of that meeting. I did
22 not attend the entire meeting.

23 Q. And did you say the meeting was at AIG?

24 A. It was at AIG, yes.

25 Q. Okay. Let me have you turn to DX 249 in your

1 binder.

2 Can you identify this document for the Court?

3 A. Yes. These are notes from the evening meeting.

4 Q. And did you review these at the time?

5 A. I did.

6 Q. And looking at the first paragraph there, can you
7 identify who from the New York Fed attended this
8 meeting?

9 A. I believe those that attended the meeting were
10 those that are in the CC line and myself,
11 Catherine Voigts, Paul Whynott, Jim Mahoney, as well as
12 the author, Alex LaTorre.

13 Q. Okay. I'm sorry. Looking at the first paragraph,
14 can you identify who from the Board of Governors --

15 A. Oh, yes.

16 Q. -- staff participated.

17 A. Yes.

18 Q. My question was wrong. I apologize.

19 A. Scott Alvarez, Deborah Bailey, Jim Clouse,
20 Mike Gibson and Brian Madigan.

21 Q. And if I can just direct you to the first sentence
22 of the second paragraph there beginning "The key take
23 away," do you see that?

24 A. Yes.

25 Q. There's a reference to facing a severe run on

1 liquidity.

2 What did AIG tell you about its liquidity needs at
3 this meeting?

4 A. The number -- the estimated numbers of liquidity
5 needs from this meeting was actually higher than what we
6 had received in the afternoon and it was on the order
7 of -- it was just under \$20 billion --

8 Q. Okay.

9 A. -- as I recall.

10 Q. If I can direct you to the last sentence of that
11 paragraph, there's a reference to estimate they might
12 have to pay out of the 18.6B.

13 A. Yes.

14 Q. How did that number compare to the range that AIG
15 provided at the 3:30 meeting at the Fed?

16 A. It was a larger number.

17 MS. ACEVEDO: Your Honor, I'd like to move for
18 admission of DX 249.

19 MR. BOIES: No objection, Your Honor.

20 THE COURT: Defendant's Exhibit 249 is admitted.

21 (Defendant's Exhibit Number 249 was admitted into
22 evidence.)

23 BY MS. ACEVEDO:

24 Q. Now, I want to switch gears a little bit and talk
25 about Saturday.

Starr International Company, Inc. v. USA

1 What, if anything, did you do with respect to AIG
2 on Saturday?

3 A. There are three things that happened on Saturday,
4 to my recollection.

5 The first was that additional staff from the
6 New York Fed began doing analysis on different aspects of
7 AIG, the size of its liquidity needs, the financial
8 health or solvency of the company, including several
9 various subsidiaries, and -- and additional analysis of
10 collateral. There may have been others in addition to
11 that, but those are the ones I remember.

12 There -- we had a teleconference with senior
13 executives from AIG that included senior staff from the
14 Federal Reserve Board as well as the New York Fed. This
15 was a substantially smaller group of people.

16 And then later in the day I spoke with
17 Eric Dinallo, the New York state insurance supervisor,
18 also about AIG.

19 Q. Okay. And you mentioned first that New York Fed
20 staff did some additional analysis with respect to AIG?

21 A. Yes.

22 Q. Did people from the New York Fed go to AIG on
23 Saturday?

24 A. I believe some did.

25 Q. And did you speak with those people on Saturday?

1 A. I surely -- the people at AIG -- excuse me -- the
2 staff from New York Fed that went to AIG? Yes, I -- one
3 staffer who worked for me went there and I spoke with him.

4 Q. And who was that?

5 A. Alex LaTorre.

6 Q. And what did Mr. LaTorre tell you, if anything,
7 about AIG's funding needs on Saturday?

8 MR. BOIES: Objection. Hearsay.

9 THE COURT: Sustained.

10 MS. ACEVEDO:

11 Q. Did you become aware of AIG's funding -- a change
12 in AIG's funding needs on Saturday?

13 A. I'm sorry. It was a long time ago, and Saturday
14 and Sunday blur together a little bit.

15 Sometime either on Saturday or early on Sunday I
16 had sought estimates of -- new estimates of the liquidity
17 need, and it was closer to --

18 MR. BOIES: Objection, Your Honor. It's hearsay
19 unless there's some foundation.

20 MS. ACEVEDO: I'm attempting to establish the
21 foundation.

22 THE COURT: I'll sustain the objection.

23 You can ask a new question.

24 BY MS. ACEVEDO:

25 Q. Okay. On Saturday, September 13, did you learn

1 any information about AIG's funding needs at that time?

2 A. On the call with Mr. --

3 MR. BOIES: Objection, Your Honor. That's a
4 yes-or-no question that I don't object to, but if the
5 substance is going to come out, it's either got to be
6 with foundation or there's a hearsay objection.

7 THE COURT: Can you answer the question yes or no?

8 THE WITNESS: Yes.

9 BY MS. ACEVEDO:

10 Q. And how did you learn that information?

11 A. I know that I received an estimate from the
12 conversation with Mr. Dinallo. I believe I received the
13 information also from AIG executives, but I don't
14 remember if that was on Saturday or Sunday.

15 Q. And how did the estimate compare to the number
16 that you were provided on Friday evening?

17 MR. BOIES: Objection. Hearsay.

18 THE COURT: Sustained.

19 MS. ACEVEDO: Your Honor, I'm not asking for the
20 truth of the evidence but how it informed her opinion
21 with respect to AIG and the actions that she took
22 relating to it.

23 THE COURT: Well, I think it's all relying upon
24 information that she received from others so far, so
25 that's why it's hearsay.

1 MS. ACEVEDO: Okay. We'll move on.

2 THE COURT: All right.

3 BY MS. ACEVEDO:

4 Q. Now, you mentioned a teleconference with
5 New York Fed staff and the Board of Governors?

6 A. And AIG --

7 Q. Okay.

8 A. -- executives. Yes.

9 Q. Why don't you tell us about that call.

10 MR. BOIES: Objection if she's asking for the
11 substance. If she's asking just who participated, I have
12 no objection, but if she's asking for the substance of
13 the call, I object on hearsay grounds.

14 BY MS. ACEVEDO:

15 Q. Did you participate in that call?

16 A. I did.

17 Q. What was discussed on the call?

18 MR. BOIES: Objection, Your Honor, if she's asking
19 what other people told her. If she's asking what this
20 witness said on the call, I have no objection, but if
21 she's asking what other people said on the call, I object
22 on hearsay grounds.

23 THE COURT: Overruled. I'll take her answer.

24 THE WITNESS: The AIG executives again requested
25 an emergency loan from the Federal Reserve. They, as a

1 part of that request, included an outline I should say, a
2 plan, for selling assets, specifically insurance
3 companies, insurance subsidiaries, if I recall correctly,
4 and getting an agreement from the insurance regulators,
5 the state insurance regulators, to upstream some assets
6 to the parent company that would be collateral for the
7 emergency loan from the Fed.

8 They believed that the sale of the subsidiaries
9 would take some months, and so the request for borrowing
10 was for -- was for quite some time, a year or something
11 along those lines. I -- they used the term "bridge
12 loan."

13 The request was the estimated size of the loan was
14 on the order of I would say 30 or 35 billion dollars.

15 BY MS. ACEVEDO:

16 Q. And how did that number, 30 or 35 billion, compare
17 to the number that you were told at AIG at 8:00 p.m. the
18 night before?

19 A. It was larger.

20 Q. Okay. And how did that call conclude?

21 A. The call concluded with the general counsel of
22 the Board of Governors noting that -- to the AIG
23 executives that they should not base their plans
24 assuming that they would get a loan from -- an emergency
25 loan from the Federal Reserve, that the bar for doing so

1 both legally and in practice was very high, and while
2 they should continue with their contingency planning
3 given the dire liquidity situation that they should not
4 build in or they should not count on access to emergency
5 Fed liquidity as a part of that plan.

6 Q. Did you document that call?

7 A. I did.

8 Q. Let's look at DX 276.

9 Can you identify this document for the Court?

10 A. Yes. The e-mail starting on the bottom half of
11 the page is the -- is the summary of that call.

12 Q. And I'm going to direct you to the first two
13 sentences that are in your e-mail there.

14 You say there that the New York Fed view is AIG's
15 worst case is not worst case, but base case.

16 Do you see where I'm referring to?

17 A. Yes.

18 Q. Why did you write that?

19 A. My view and at least the view of one other person
20 who was on the call with me was that the assumptions that
21 were -- of the amount of liquidity that AIG would receive
22 from certain market participants was or the deference
23 that they would be shown in having to pay out liquidity
24 was too optimistic in their base case, and therefore, we
25 thought their worst case was more likely a reflection of

1 the need.

2 Q. Okay. And if you can just look at the next two
3 paragraphs and read those two yourself and let me know
4 when you're done.

5 (Pause in the proceedings.)

6 THE COURT: Are you at the bottom of the first
7 page?

8 MS. ACEVEDO: Yes. The bottom -- the paragraphs
9 beginning "Medium term plan" and "Such asset sales."

10 You had referenced some of these items, and I
11 wanted to follow up on some of the testimony you gave
12 earlier.

13 THE WITNESS: Yes.

14 BY MS. ACEVEDO:

15 Q. Okay. So you had referenced some of this language
16 previously, but if you can just briefly summarize for the
17 Court the points that are identified herein, that would
18 be great.

19 A. I'm -- I'm sorry. I didn't understand the
20 question.

21 Q. Oh.

22 Can you briefly summarize for the Court the points
23 that are identified in these two paragraphs?

24 A. Oh, yes.

25 AIG put forward a plan to sell -- in this case it

1 says \$40 billion of life insurance subsidiary assets,
2 high-quality assets. And because of the time needed to
3 do that, to make those sales, they requested funding
4 to -- from the Fed facilities for a period that says six
5 to 12 months here while they could arrange for those
6 sales since they could not finance themselves or they
7 felt they couldn't finance themselves elsewhere.

8 Q. And you made a reference to this earlier, but in
9 the third paragraph there, there's a reference to tapping
10 Fed lending facilities for bridge financing?

11 A. Yes.

12 Q. What was your reaction to AIG's tapping Fed
13 lending facilities for bridge financing?

14 A. I mean, that -- any lending to AIG would have been
15 done under section 13(3), which would have required a
16 policy vote by the Board of Governors. And as I noted,
17 that was -- that was very -- it was unusual and rare.

18 Q. And with respect to bridge financing, did you have
19 an opinion as to AIG's need for bridge financing?

20 A. I mean, I had no particular reason to -- that I
21 can remember to think that the round numbers here were
22 incorrect. The fact that they had not -- in the last
23 sentence that they had not approached any private
24 financial institutions is -- is -- was problematic in
25 particular from the standpoint of a 13(3) loan.

1 MS. ACEVEDO: Your Honor, I'd like to move for the
2 admission of DX 276.

3 MR. BOIES: 276?

4 I have no objection, Your Honor.

5 THE COURT: Defendant's Exhibit 276 is admitted.

6 (Defendant's Exhibit Number 276 was admitted into
7 evidence.)

8 BY MS. ACEVEDO:

9 Q. Now, you also mentioned earlier that you had
10 conversations, two that you recall, with
11 Mr. Eric Dinallo?

12 A. (Witness nodding.)

13 Q. What did you talk to Mr. Dinallo about?

14 A. We spoke about actually what became pieces of this
15 proposal or plan that AIG had outlined.

16 In particular, we discussed --

17 MR. BOIES: Your Honor, I'm going to object if
18 she's going to get into the substance because I asked
19 her about Mr. Dinallo's conversation and counsel for the
20 government objected on hearsay, so it's got to be either
21 we're going to get all of it in or none of it in.

22 THE COURT: I think this goes both ways, so I'll
23 sustain the objection.

24 MS. ACEVEDO:

25 Q. Okay. Well, let me ask you this.

1 Did you make notes of your conversations with
2 Mr. Dinallo?

3 A. I did.

4 Q. Okay. And let me direct you then to DX 280.

5 And in particular -- can you identify this
6 document for the Court?

7 A. Yes. The bottom portion of it is an e-mail from
8 me it appears summarizing two different calls, one -- one
9 having to do directly with the conversation with AIG and
10 the bottom one having to do with the conversation with
11 the New York state insurance commissioner, Eric Dinallo.

12 Q. Okay. And you referenced earlier an upstream
13 plan. There's a reference under NYSID to a plan.

14 What plan is being referred to there?

15 A. The plan is the one where AIG would sell over the
16 course of more than six months \$40 billion in insurance
17 subsidiaries and requested bridge financing from the Fed
18 in order to have collateral for that financing as an
19 emergency lending -- this would be an emergency loan from
20 the Fed. They needed additional collateral, and the
21 discussion with Mr. Dinallo was largely about where that
22 collateral would come from, namely, through the insurance
23 subsidiaries.

24 Q. And looking at the next paragraph there, there's a
25 reference to a JD Flowers.

1 Is that a typo?

2 A. Yes.

3 Q. Would that be J.C. Flowers?

4 A. It is.

5 Q. Okay. And did you have an understanding as to
6 what role, if any, J.C. Flowers played in the plan that's
7 referenced at the above paragraph?

8 A. That part of this plan would now include some sort
9 of an equity investment from J.C. Flowers.

10 MS. ACEVEDO: Your Honor, I'd like to move for the
11 admission of DX 280.

12 MR. BOIES: No objection, Your Honor.

13 THE COURT: Defendant's Exhibit 280 is admitted.

14 (Defendant's Exhibit Number 280 was admitted into
15 evidence.)

16 BY MS. ACEVEDO:

17 Q. All right. Let's talk about Sunday.

18 What, if anything, did you do on Sunday with
19 respect to AIG?

20 A. On Sunday, to the best of my recollection, one of
21 the major things that was done was a development of a
22 document on pros and cons of lending to AIG.

23 Q. Okay. If I can direct you to DX 307.

24 First of all, did you -- did you do that list?

25 Did you make a pros and cons list?

1 A. Yes.

2 Q. Okay. Can you identify --

3 A. Can I qualify that answer?

4 Q. Sure.

5 A. A pros and cons list was put together. It was a
6 joint effort of a lot of different individuals. It
7 wasn't just me personally.

8 Q. And what was your role, if any, in that effort?

9 A. It was basically coordinating and pulling together
10 information from the groups that were working on various
11 aspects of it.

12 Q. And did you review the list and contribute to it?

13 A. Yes, I did.

14 Q. Okay. Can you identify for the Court what's shown
15 in DX 307?

16 A. Yes. It's an e-mail with three attachments about
17 pros and cons.

18 Q. Okay. And if I can direct you to the page that
19 ends in 6652.

20 You were asked earlier about a different pros and
21 cons list, JX 48.

22 Do you know how this list compares to the one that
23 was shown in JX 48?

24 A. Not without looking at them, not without comparing
25 them closely, no.

1 Q. If I can just have you look at JX 48 for just a
2 moment.

3 A. Is that from the other binder?

4 Q. Yes.

5 A. Okay. Sorry. One moment.

6 What was the number again? Sorry.

7 Q. JX 48.

8 A. 48. Thank you.

9 Q. And in particular, there's a reference there in
10 the Sent, next to Sent with respect to the date and
11 time.

12 A. One moment.

13 Yes. I don't know if they're the same document,
14 but the one in -- the one in the binder that you have
15 provided to me appears that it was sent a little earlier
16 in the afternoon.

17 Q. I'm sorry. If you look at JX 48, it indicates,
18 next to Sent, Sunday -- Sun Sep 14 2008 14:10, so that
19 would be -- it looks like it's military time, so would
20 that be 2:10 approximately?

21 A. Yes.

22 Q. And then there's a reference there that says "For
23 our meeting at 2:30 p.m."

24 Do you see that?

25 A. Yes.

1 Q. Okay. And then if you take a look at the one --
2 do you recall attending a meeting at 2:30 p.m. on Sunday,
3 September 14, relating to this document?

4 A. Yes. Vaguely I do.

5 Q. And if you take a look at DX 307, the Sent is
6 Sun Sep 14 2008 15:48, so that appears to be at 3:48; is
7 that right?

8 A. Correct.

9 Q. Okay. And is DX 307 a revised version of what's
10 shown in JX 48?

11 A. I assume that it is. If it's not identical, then
12 since it's later, it would have been revised perhaps
13 based on that 2:30 meeting. As I said, I'd have to look
14 at them closely to know if they were the same or not.

15 Q. Okay. That's fine. We'll move on.

16 Let me just direct your attention to the last page
17 of DX 307.

18 A. Yes.

19 Q. It appears to be -- the page begins on 6652 and
20 continues to 6653.

21 A. Yes.

22 Q. It appears to be a list that's labeled Pros and
23 Cons of Lending to AIG.

24 Do you see that?

25 A. Yes, I do.

1 Q. Okay. And I want to focus first on the pros that
2 are here.

3 Does the order in which the pros appear reflect a
4 ranking?

5 A. Not to my recollection, no.

6 Q. And did you believe that any pro should be
7 afforded more or less consideration than another?

8 A. My personal opinion was that the pros associated
9 with potential spillover effects were particularly
10 important, and those would be -- or mitigating the
11 negative effects of not lending is probably the right way
12 to say it. And those would be 1, which had to do with
13 the complexity of the firm; 3, the potential impact of
14 not lending could have on other wholesale funding markets
15 or other financial institutions; and the last two which
16 broadly are -- or particularly 6, which were the impact
17 on derivatives markets.

18 Q. Okay. And now I want to focus your attention to
19 the cons and in particular on number 5.

20 You were asked some questions earlier about the
21 solvency of the subsidiaries, the financial condition of
22 AIG's insurance subsidiaries. And number 5 has a
23 reference to subs do not appear to be sources of
24 strength.

25 Do you see that?

1 A. Yes.

2 Q. Can you tell us what's being referred to there?

3 A. One of the important questions about AIG, the --
4 at the -- the entire company, was whether the insurance
5 companies, which were widely perceived to be solvent,
6 had sufficient excess capital or had large enough
7 capital cushions to make up for what was believed to be
8 a very large capital hole, meaning, undercapitalization
9 in the Financial Products subsidiary.

10 And this analysis that's summarized in 5 is -- was
11 an attempt to assess the size of the excess capital at
12 the insurance companies. It was a negative here, and our
13 question was how big the positive was on the other
14 side (indicating).

15 This particular analysis conclusion suggested that
16 the property and casualty companies were highly solvent
17 and had excess capital. The life insurance companies
18 were -- based on the analysis that I recall, were solvent
19 but might not have particularly large excess capital
20 cushions.

21 Q. Okay. Let's look at the first document in this
22 exhibit. There are three documents. If you look at the
23 first one there, it's titled AIG Subsidiaries: Are They
24 a Source of Strength?

25 Do you see that?

1 A. I do.

2 Q. Okay. What's this document?

3 A. I don't remember all the details in this document.
4 It was a long time ago. But this was at least some of
5 the analysis that informed my opinion from just a moment
6 ago.

7 Q. And was this a presentation?

8 A. Yes, it was.

9 Q. And did you attend that presentation?

10 A. I have a -- I have a vague memory of it. Yes.
11 But I -- it's hard to remember whether it was that or
12 whether I saw the slides before. But to the best of my
13 recollection, I did, yes.

14 Q. Irrespective of whether you attended in person,
15 what was the takeaway -- did you have a takeaway from the
16 presentation?

17 A. Yes.

18 Q. What was it?

19 A. That -- that excess capital at the life insurance
20 companies might not be sufficient to offset the very
21 large capital hole at Financial Products. It was
22 uncertain, but there was a risk that that was the case.

23 MS. ACEVEDO: Your Honor, I'd like to move for the
24 admission of DX 307.

25 MR. BOIES: No objection, Your Honor.

1 THE COURT: Defendant's Exhibit 307 is admitted.
2 (Defendant's Exhibit Number 307 was admitted into
3 evidence.)

4 BY MS. ACEVEDO:

5 Q. Now, we spoke earlier about a plan that -- on
6 Saturday that's referenced in DX 280. Do you recall
7 that?

8 A. Yes.

9 Q. Were there any developments on Sunday with respect
10 to that plan?

11 A. AIG informed me that it was not going to be
12 pursued.

13 Q. Okay. And let's take a look at DX 312. It should
14 be the next document in your binder.

15 This was also shown to you earlier as JX 49. But
16 if the Court would give me a little leeway, my sound and
17 light person is working from a different set of exhibit
18 numbers.

19 Can you tell the Court what's identified here in
20 DX 312?

21 A. Yes. It's my summary of a call with the chief
22 financial officer and vice chairman of AIG.

23 Q. And I want to focus -- and what was he
24 communicating to you?

25 A. The first paragraph describes the previous plan

1 that I had discussed in the two Saturday's calls was not
2 likely to happen because the private equity investor
3 J.C. Flowers had withdrawn, but there might be a new
4 alternative plan on the table.

5 Q. Okay. And let's look at the second paragraph.
6 There's a sentence there -- I believe it's the third
7 sentence -- which says, "The offer is also contingent"?

8 A. Yes.

9 Q. Why did you believe the offer to be contingent on
10 Fed lending?

11 A. Well, that they told me that it was. The -- my
12 understanding from speaking to AIG was that the private
13 equity investors would -- were not willing to make that
14 investment unless AIG could receive a loan from -- an
15 emergency loan from the Federal Reserve.

16 Q. Okay. And you mentioned an alternative plan.

17 To what plan is this contingency referencing?

18 A. The plan that was outlined here was one where AIG
19 would effectively -- or Allianz and Flowers would
20 basically more than -- would take -- effectively take
21 control of the firm. They would issue them sort of more
22 than the existing amount of equity outstanding.

23 MS. ACEVEDO: Your Honor, I'd like to move for the
24 admission of DX 312.

25 THE COURT: Well, you told me this is the same

1 as --

2 MS. ACEVEDO: I believe it is, yeah. I haven't
3 done a page-by-page comparison, but we can compare it and
4 then move for it at a later time if it's not.

5 THE COURT: It's only one page. It's two
6 paragraphs.

7 What is the JX number?

8 MS. ACEVEDO: JX 48 -- 49. Pardon me. 49.

9 THE COURT: All right. Well, we'll use
10 JX 49 then.

11 MS. ACEVEDO: Okay.

12 THE COURT: Defendant's Exhibit 312 is not
13 admitted.

14 BY MS. ACEVEDO:

15 Q. Now, I want to talk about Monday, move to Monday.

16 What, if anything, did you do on Monday with
17 respect to AIG?

18 A. We received a request from President Geithner to
19 put together a document that to the best of staff's
20 ability would outline some of the -- outline consequences
21 of an AIG bankruptcy.

22 Q. And who made that request?

23 A. President Geithner.

24 Q. And did you do that?

25 A. Yes, we did.

1 Q. Okay. If you can look at DX 398 in your binder,
2 it should be the next tab.

3 Could you identify this document for the Court?

4 A. Yes. This seems to be the summary document from
5 that analysis.

6 Q. Okay. If I can direct your attention to the
7 numbered document attached here.

8 Systemic Impact of AIG Bankruptcy is the title?

9 A. Yes.

10 Q. And in particular to bullet point number 2, How
11 the Bankruptcy Process Might Unfold.

12 There are two italicized headings there, one for
13 impact on unregulated subsidiaries and one for impact on
14 regulated subsidiaries.

15 Do you see that?

16 A. I do.

17 Q. And under the impact on regulated subsidiaries
18 there are two numbered I guess lists there. One says "if
19 the insurance subsidiaries are financially healthy," the
20 other "if the insurance subsidiaries are not financially
21 healthy."

22 A. Yes.

23 Q. Was there a question at this time as to how -- as
24 to the health of the subsidiaries?

25 A. There was a question about the health of some of

1 the life insurance subsidiaries based on the analysis
2 that I mentioned earlier.

3 MS. ACEVEDO: Your Honor, I'd like to move for the
4 admission of DX 398.

5 MR. BOIES: No objection, Your Honor.

6 THE COURT: Defendant's Exhibit 398 is admitted.

7 (Defendant's Exhibit Number 398 was admitted into
8 evidence.)

9 BY MS. ACEVEDO:

10 Q. Now, how did this document come about?

11 A. As I said, the request came from Tim Geithner. In
12 addition to pulling together analysis and that was
13 included in the pros and cons document as well as
14 additional work that had been done over the course of the
15 subsequent day, there was a request for a consideration
16 of some of the more global aspects of AIG's business, its
17 impact on retail customers, meaning households,
18 policyholders.

19 And also the analysis of how a bankruptcy process
20 might unfold was sort of additional work that was
21 requested to go into this memo. Some of it includes
22 information that was pulled together previously.

23 Q. Looking at the first page of the document, there's
24 an e-mail from Mr. LaTorre to Tim Geithner, yourself and
25 Mr. Rutledge. And it says, "Tim, Attached is a document

1 that summarizes some of our discussion earlier." There's
2 a reference to an earlier discussion.

3 Do you see that?

4 A. Yes.

5 Q. Did you participate in that discussion?

6 A. Yes, I did.

7 Q. And when was that discussion?

8 A. To the best of my memory, in the very early
9 morning hours Tuesday morning. I don't remember if it
10 was 1:00 or 2:00 in the morning, but something along
11 those lines.

12 Q. And how did that discussion proceed?

13 A. It was very free-form debate policy discussion.
14 It included obviously information from several groups
15 that had been doing different sort of analysis across the
16 bank.

17 The -- to the best of my memory, there was a
18 preliminary version of this document that was then
19 revised after that meeting to be reflected in what is
20 here.

21 And what was different about that debate than most
22 of the analytical conversations prior was a discussion of
23 the -- some of the global and retail impacts of an AIG
24 bankruptcy and whether those might have spillover
25 effects. That, to my knowledge, had not been part of the

1 analysis until this particular note. And my best
2 recollection is that not all the conversation, but a
3 decent amount of the conversation around the room
4 discussed that at the time.

5 But it was very -- it was a very wide-ranging
6 policy debate about potential impact.

7 Q. When you say "potential impact," are you referring
8 to --

9 A. Of a bankruptcy. Of a bankruptcy. Excuse me.

10 Q. Okay. And approximately how long was the call?
11 Do you recall?

12 A. I would have guessed about an hour, but, you know,
13 it was the middle of the night a long time ago.

14 Q. Okay. And did you express a view on the call as
15 to whether the New York Fed should loan to AIG?

16 A. My own personal view? Yes, I formed a personal
17 view.

18 Q. And what was that view?

19 A. My personal view at the time was that I was very
20 concerned that the entire company was insolvent, that the
21 insurance subsidiaries, which were, based on the
22 information I had received, were solvent, but the size of
23 their capital, excess capital, was likely insufficient,
24 in my personal view, compared to the capital losses at
25 the Financial Products subsidiary.

1 And I proposed that -- my view was that splitting
2 the company and allowing the Financial Products
3 subsidiary and therefore the parent to fail and, if you
4 like, separating the insurance companies, which appeared
5 to be solvent, and, if needed, providing liquidity --
6 emergency liquidity to those subsidiaries seemed a better
7 option at the time to me than lending to the entire
8 company.

9 Q. Do you still have that opinion?

10 A. I don't actually.

11 Q. And why not?

12 A. Because I didn't realize at the time that this
13 split was actually not possible given all the
14 cross-default clauses and intercompany guarantees that
15 were in place at the time.

16 Q. Did other people on the call express an opinion
17 similar to yours with respect to whether or not the
18 New York Fed should lend to AIG?

19 A. One or two did, but a very wide variety of
20 opinions were expressed at that meeting, very wide
21 variety of opinions and across the full range.

22 Q. Okay. And did you have a sense at the end of the
23 call as to whether or not the Fed would lend?

24 A. No, I did not.

25 Q. Okay. Now, we're on Tuesday. It's the wee hours

1 of Tuesday morning.

2 What else, if anything, did you do on Tuesday with
3 respect to AIG?

4 A. I don't actually remember doing anything else with
5 respect to AIG. After Tuesday, I effectively stopped
6 working on AIG analysis.

7 Q. Okay. And why is that?

8 A. I was -- my boss at the time came and told me on
9 Tuesday, during the day sometime, that I needed to --
10 given the very dire circumstances in global financial
11 markets and the responsibilities I had in managing both
12 other liquidity facilities as well as the market
13 analysis and market information gathering that needed to
14 be done, particularly during a period like that, that I
15 needed to focus on those responsibilities rather than
16 the work that I had been doing on coordinating analysis
17 at AIG, and so I stopped working on AIG-related issues on
18 Tuesday.

19 Q. Okay. Well, I want to go back to an earlier
20 answer that you gave me with respect to the systemic
21 impact, referencing DX 398.

22 You mentioned a retail impact. Do you recall
23 that?

24 A. Yes.

25 Q. What did you mean by that?

1 A. AIG had a large number of retail customers in a
2 wide variety of financial products, annuities,
3 policyholders, and so forth, some of them providing
4 relatively -- some of whom had the ability to withdraw
5 from AIG, particularly should the parent go into
6 bankruptcy, and there was concern, particularly outside
7 the United States, where there was even less
8 understanding of the financial crisis going on, and that
9 was particularly concentrated in the U.S. at that point,
10 there was concern that there would be effectively a run
11 by customers away from even the healthy insurance
12 subsidiaries, which could cause the -- that remaining
13 part of the company distress.

14 And the concern about that contagion effect was
15 what -- one of the things that was discussed and written
16 up in this memo.

17 Q. Okay. And you were asked some questions earlier
18 about some e-mails that were written after the decision
19 to lend, expressing opinions --

20 A. Uh-huh.

21 Q. -- about the terms?

22 Before we move on, Your Honor, I just can't
23 remember if I moved DX 398 in or not.

24 THE COURT: Yes, you did.

25 MS. ACEVEDO: I did. Okay.

1 THE COURT: It's in evidence.

2 MS. ACEVEDO: Thank you.

3 BY MS. ACEVEDO:

4 Q. And one of the e-mails you were asked about was an
5 e-mail from Mr. Holscher. Do you recall that?

6 A. Yes.

7 Q. What involvement, if any, did he have in the
8 decision regarding to -- in the decision to lend to AIG?
9 Do you know?

10 A. I don't believe he had any involvement at all.

11 Q. And you were also asked about an e-mail from
12 Scott Sherman. Do you recall that?

13 A. I do.

14 Q. And what involvement, if any, did he have in the
15 decision to lend?

16 A. None.

17 Q. Okay. And you were also asked about penalty
18 rates?

19 A. Yes.

20 Q. Do you recall that?

21 What responsibility, if any, do you have for
22 setting penalty rates?

23 A. I did not have responsibility for setting penalty
24 rates. In a couple of the facilities that I had direct
25 responsibility for, I was asked for recommendations on

1 penalty rates, some of which were taken and some of which
2 were not. Not AIG.

3 Q. I'm looking for a piece of paper.

4 Your Honor, if I can just have a moment. I'm
5 sorry.

6 THE COURT: Sure.

7 MS. ACEVEDO: I'm looking for a piece of paper
8 that I can't find.

9 (Pause in the proceedings.)

10 I found it. I found it.

11 Thank you. I'm sorry. A lot of paper. There's a
12 lot of paper.

13 BY MS. ACEVEDO:

14 Q. Earlier when you were asked -- you were asked some
15 questions about whether systemically -- who would benefit
16 from access to Fed lending. Do you recall that?

17 A. Yes.

18 Q. In the context of systemically important
19 institutions?

20 What did you mean by "benefit from access"?

21 A. By "benefit from access," that's a referral to
22 whether they had runnable or very -- or short-term
23 liabilities.

24 A financial institution that doesn't have
25 short-term liabilities and therefore isn't runnable

1 doesn't benefit much from lender of last resort. And
2 therefore, the Fed lending through a systemically
3 important institution to an institution like that, it
4 will have very little impact on their behavior and
5 therefore on the rest of the financial system, so the
6 benefit is more would that be useful to them and
7 therefore would help them behave in a way that would
8 stabilize the rest of the financial system.

9 MS. ACEVEDO: Your Honor, may I have a moment?

10 THE COURT: Sure.

11 (Pause in the proceedings.)

12 BY MS. ACEVEDO:

13 Q. You just spoke about runnable liabilities.
14 Did AIG have runnable liabilities?

15 A. It did.

16 Q. Was that -- what -- can you elaborate on that?

17 A. It had -- it -- some of its liabilities included
18 commercial paper, which were basically unsecured
19 short-term loans. They used repo funding or repurchase
20 agreement funding.

21 And the insurance companies had a very sizable
22 securities lending -- very sizable securities lending,
23 which involved also reinvesting in -- it required
24 reinvestments in short-term liabilities, and so they,
25 too, had -- they, too, had short-term -- excuse me --

1 they, too, had short-term and therefore runnable
2 liabilities through securities lending.

3 Q. And you mentioned, with respect to your opinion
4 as to whether or not the Fed should lend to AIG, you
5 talked about an opinion that you expressed in the early
6 morning hours of Tuesday, September 16. Do you recall
7 that?

8 A. Yes.

9 Q. And I asked you if you had a different opinion,
10 and you said yes and you referenced cross-guarantees. Do
11 you recall that?

12 A. I do.

13 Q. Can you explain what you meant by
14 "cross-guarantees"?

15 A. Effectively that the cross-guarantees and
16 cross-default clauses meant that the failure to perform,
17 for example, in a bankruptcy in a subsidiary such as
18 Financial Products would require support, capital
19 liquidity support from other parts of the company, and
20 therefore, the sort of split that I had suggested was not
21 possible to do.

22 MS. ACEVEDO: Your Honor, I'm going to pass the
23 witness.

24 THE COURT: All right. Thank you very much.

25 Any redirect, Mr. Boies?

1 MR. BOIES: Yes, Your Honor.

2 THE COURT: All right.

3 - - - - -

4 REDIRECT EXAMINATION

5 BY MR. BOIES:

6 Q. Good afternoon, Dr. Mosser.

7 A. Good afternoon.

8 Q. Let me just pick up where counsel left off with
9 these cross-guarantees.

10 Your opinion expressed as to why the company
11 ought to be split was that you were saying that the
12 insurance companies ought to be split off and supported
13 and FP and the parent ought to be left to fail; correct?

14 A. Yes. That was the view I expressed at the time,
15 yes.

16 Q. Now, you then said you changed your mind because
17 you found out about cross-default provisions and
18 intercompany guarantees and cross-guarantees?

19 A. Well, I was told that what I had proposed was not
20 possible.

21 Q. Who told you that?

22 A. Oh. I don't remember.

23 Q. Was it your understanding that there were
24 cross-default provisions between the insurance companies
25 on the one hand and FP and the parent on the other?

1 A. Actually I didn't have any understanding of the
2 cross-default provisions at all. I was simply told that
3 they existed without any specifics.

4 Q. But were you told that there were cross-default
5 provisions between the insurance companies on the one
6 hand and FP and the parent on the other?

7 A. I don't remember if anybody gave me anything that
8 specific at all. I was simply told that what I had
9 proposed was not possible.

10 Q. And you don't remember who told you that?

11 A. And I don't, I don't remember.

12 Q. Let me go to the question that you were asked
13 about your responsibility for penalty rates.

14 And you said that for the facilities that you had
15 a direct responsibility for, you were asked for a
16 recommendation, and sometimes it was taken and sometimes
17 it was not. Do you remember that?

18 A. Yes.

19 Q. Which of the facilities did you have a direct
20 responsibility for?

21 A. The Term Securities Lending Facility.

22 TALF, T-A-L-F.

23 Q. Any others?

24 A. The -- I briefly had -- or my opinion was asked
25 regarding the Commercial Paper Funding Facility. I

1 didn't -- that had sort of joint responsibilities, a
2 little hard to explain.

3 And then a facility -- one facility that was not
4 13(3), which were the central bank lines.

5 Q. Let me ask you about the facilities that are
6 13(3).

7 The TSLF, what recommendation for a penalty rate
8 did you give?

9 A. Actually the original recommendation for TSLF was
10 that it be an auction price and that it be set in the
11 market each day, that the minimum rate start at a penalty
12 rate but that the rate could be higher than that
13 depending on what the auction was.

14 Q. What was the minimum penalty rate that you
15 proposed?

16 A. My recollection was that the recommendation I made
17 was about 50 basis points to start, half a percent to
18 start.

19 Q. Half a percentage point above --

20 A. Excuse me. Pardon me. Yes. Half a percentage
21 point above the target policy rate.

22 Q. And was your recommendation accepted?

23 A. My memory is that it was -- there were -- part
24 of -- at the beginning, some TSLF was in fact an
25 auction. I don't remember whether it was ever changed

1 away from that auction. I think the starting price,
2 though, was more like a 25 basis point penalty over the
3 target rate, if I recall correctly. I -- I -- my memory
4 could be faulty on that.

5 Q. The second facility that you had enough
6 responsibility for to make a recommendation as to what
7 the penalty rate should be was the CPFF.

8 A. Uh-huh.

9 Q. And what was your recommendation there?

10 A. The -- my recommendation was for a significantly
11 larger penalty rate. I don't remember if I -- the number
12 I gave was the one they used or not, but simply that it
13 be higher because of the risks associated with that
14 facility. I believe in the end they settled on 300 basis
15 points.

16 Q. And was that consistent with your recommendation?

17 A. Roughly. I don't remember if it's exactly the
18 number.

19 Q. And the reason that you recommended a higher
20 penalty rate for the CPFF than for the TSLF was that you
21 believed there was greater risk with respect to the CPFF;
22 is that correct?

23 A. Yes.

24 Q. And then the TALF, what was your recommendation
25 there?

1 A. The TALF is a different kind of facility. My
2 recollection was a hundred basis points, but the base
3 rate was not the policy rate, was not the target policy
4 rate. The TALF was a longer-term lending and had a
5 different base rate, if I recall correctly.

6 Q. What was the base rate for the TALF?

7 A. I believe -- that's what I'm -- it was a
8 longer-term rate because it was a longer-term loan, and
9 I -- and my memory fails me as to specifically what it
10 was.

11 Q. And was your recommendation accepted?

12 A. My memory was that I -- that I -- that in that
13 particular case I may have actually argued for a higher
14 penalty rate than what was put in.

15 Q. And you'd argued for a slightly higher penalty
16 rate with respect to the TSLF; correct?

17 A. Yes.

18 Q. You told counsel that 13(3) loans were unusual and
19 rare. Do you recall that?

20 A. Yes.

21 Q. At the end of 2008, what was the total outstanding
22 balance in 13(3) loans?

23 A. I don't remember that number.

24 Q. Approximately.

25 A. I -- I truly don't know. The size varied quite a

1 lot. But it would have been -- it would have been
2 hundreds of billions.

3 Q. Do you know what percentage of the total
4 13(3) loans outstanding at any given point in time was
5 represented by the 13(3) loans to AIG?

6 A. I don't remember that.

7 Q. Do you remember approximately what it was?

8 A. No, I don't.

9 Q. Was it less than 10 percent?

10 A. I don't remember.

11 Q. You said that you believed that the retail impact
12 of a bankruptcy on insurance companies that were AIG
13 subsidiaries might be particularly significant overseas.
14 Do you recall that?

15 A. That was not my view. That was the view expressed
16 at the meeting.

17 Q. That was a view that somebody expressed at the
18 meeting, but it was not your view.

19 A. Right. I actually knew very little about the
20 international side of AIG.

21 Q. Do you know who expressed that view?

22 A. I don't remember.

23 Q. Do you know whether the person who expressed that
24 view knew whether the AIG brand was extensively used
25 overseas or not?

1 A. My recollection is that someone made that. I
2 don't remember if -- that someone said that, but I don't
3 know if they -- remember if they were the same individual
4 or individuals who were concerned about the retail
5 impact.

6 Q. Let me ask you about the life insurance subs and
7 the property and casualty insurance subs that you talked
8 about.

9 Insofar as you are aware, did anyone make an
10 estimate of what the fair market value was of either the
11 life insurance subs or the property and casualty subs or
12 both?

13 A. The only analysis I recall seeing is the analysis
14 that was included in the previous exhibit, which was an
15 assessment of source of strength having to do with excess
16 capital.

17 Q. Now, that --

18 A. I don't remember anything on market value.

19 Q. What you referenced before had to do with excess
20 capital and didn't have to do with what the market value
21 of the subs were; correct?

22 A. Correct.

23 Q. And were you aware of anyone who looked at or
24 analyzed what the market value of the AIG insurance subs
25 were?

1 A. I don't remember.

2 Q. Now, you referred to the property and casualty
3 subs as -- and I want to get the -- I want to get the
4 words right, but it was -- having a very large capital
5 cushion. Do you recall that?

6 A. Yes.

7 Q. Was any estimate made of the size of this very
8 large capital cushion that the property and casualty
9 insurance subs of AIG had?

10 A. My recollection is the analysis, the source of
11 strength analysis that was referenced earlier, includes
12 some analysis of that. That's my best recollection.

13 Q. Have you seen any analysis of that other than
14 what's contained in the documents that have been gone
15 over with you?

16 A. Not to my recollection.

17 Q. And by "gone over with you" I mean gone over with
18 you in court.

19 A. I don't remember seeing that analysis.

20 Q. You don't remember seeing anything else.

21 A. No, I don't remember seeing anything else.

22 Q. Did you say that it was your understanding that
23 after you stopped working on AIG, someone else did a
24 further analysis of the valuation or estimated valuation
25 of the AIG insurance subs?

1 A. I don't know if they did or not.

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

3 A. I do not.

4 THE COURT: Mr. Boies, I'm afraid we're going to
5 have to adjourn --

6 MR. BOIES: Yes, Your Honor.

7 THE COURT: -- for today.

8 We'll reconvene tomorrow at 9:30 a.m.

9 (Whereupon, at 5:01 p.m., the proceedings were
10 adjourned.)

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CERTIFICATE OF TRANSCRIBER

I, Josett F. Whalen, court-approved transcriber,
certify that the foregoing is a correct transcription
from the official digital sound recording of the
proceedings in the above-titled matter.

DATED: OCTOBER 7, 2014

JOSETT F. WHALEN, COURT REPORTER

1	ADMITTED EXHIBITS		
2	PX	PAGE	DESCRIPTION
3	23	1279	Email (8/1/2008 11:48 am) From: Patricia
4			Mosser To: Brian Peters, cc: Lance Auer
5			re: Re: Fw: Access to Fed facilities v 3
6			and attached Criteria for DW access,
7			Appendix_Criteria used to select LFIs
8			and LCBOs, and Primary Delaer
9			alternatives
10	31	1276	Email (8/20/2008 3:29 pm) From: Patricia
11			Mosser To: Rick Weaver, et al. Re: Re:
12			Access to Fed facilities project
13			and attached Project outline - Fed
14			facilities access
15	41	1281	Email (9/12/2008) From: Brian Peters
16			To: Arthur Angulo, Sarah Dahlgren,
17			William Rutledge, Dianne Dobbeck,
18			Clinton Lively, Jim Mahoney re: Fw:
19			Panic
20	42	1285	Email (9/12/2008 5:47 pm) From: Patricia
21			Mosser To: Timothy Geithner, et al.
22			re: AIG meeting this afternoon and
23			attached meeting notes
24			
25			

1 ADRIAN, WILLIAM WALSH, CATHERINE VOIGTS,
2 TIMOTHY GEITHNER, MICHAEL SILVA, MEG
3 MCCONNELL, WILLIAM DUDLEY, WILLIAM
4 RUTLEDGE, TERRENCE CHECKI, SUSAN STIEHM,
5 ARTHUR ANGULO, CC TANSHEL POINTER, RE:
6 PROS AND CONS ON AIG LENDING, CONTAINS
7 DOCUMENT AIG SUBSIDIARIES ARE: THEY A
8 SOURCE OF STRENGTH, REFERENCING
9 ATTACHMENTS PROS AND CONS OF LENDING TO
10 AIG, COUNTERPARTY EXPOSURE: REPORT, AIG
11 SUBSIDIARIES
12 398 1355 EMAIL FROM TIMOTHY GEITHNER TO CALVIN
13 MITCHELL RE: FW: SUMMARY OF AIG
14 BANKRUPTCY IMPACT
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