

IN THE CIRCUIT COURT OF THE 17TH
JUDICIAL CIRCUIT IN AND FOR
BROWARD COUNTY, FLORIDA

Case No. 09-062943 (07)

RAZORBACK FUNDING, LLC, et al.,

Plaintiffs,

vs.

SCOTT W. ROTHSTEIN, et al.,

Defendants.

DAY 9 - MORNING SESSION

DEPOSITION OF SCOTT W. ROTHSTEIN

DATE TAKEN: December 22, 2011
TIME: 8:37 a.m. - 12:00 p.m.
PLACE: James Lawrence King Federal
Justice Building
99 N.E. Fourth Street
Courtroom 11-3
Miami, Florida 33128

Examination of the witness taken before:
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IN THE CIRCUIT COURT OF THE 17TH
JUDICIAL CIRCUIT IN AND FOR
BROWARD COUNTY, FLORIDA

Case No. 10-24110 CACE(19)

EDWARD J. MORSE and CAROL A. MORSE,
and MORSE OPERATIONS, INC.

Plaintiffs,

vs.

SCOTT W. ROTHSTEIN, et al.,

Defendants.

Case No. 11-CV-61688-JIC/LSS

AMY ADAMS, et. al,

Plaintiffs,

vs.

SCOTT W. ROTHSTEIN, TD BANK, N.A. and GIBRALTAR
PRIVATE BANK AND TRUST COMPANY,

Defendants.

10-03767-RBR Stettin v. Gibraltar Private
Bank & Trust Co.

10-03802-RBR Stettin v. Centurion Structured
Growth, LLC, et al

11-02368-RBR Stettin v. TD Bank, N.A.

11-02288-RBR Stettin v. Fidelity Charitable Gift Fund

11-02473-RBR Stettin v. Regent Capital
Partners, LLC, et al

11-02604-RBR Stettin v. Maple Leaf Drilling
Partners, et al

11-02605-RBR Stettin v. Don King Productions, Inc.

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1 Thereupon, the following proceedings were had:

2 MR. RASCO: Ready to go?

3 THE WITNESS: I'm ready.

4 You represent who again?

5 MR. RASCO: I represent Frank Preve.

6 MR. CUSICK: Counsel, before you begin,
7 I'm just going to put an objection on the
8 record.

9 On behalf of Emess Capital, as to not
10 being permitted time in this deposition to
11 depose Mr. Rothstein, I object to the counsel
12 for the trustee's violation of the protocol
13 orders, an order permitting Emess to depose
14 Mr. Rothstein at this deposition by trying to
15 shut us out of the deposition.

16 THE COURT REPORTER: I'm having trouble
17 hearing you, sir. Maybe you move closer.

18 MR. CUSICK: We object to counsel for the
19 trustee's violation of the various protocol
20 orders in trying to shut us out of the
21 deposition by refusing us time to depose Mr.
22 Rothstein, by failing to timely send over his
23 exhibits, in accordance with the protocol
24 orders.

25 On the same basis, we move to strike the

1 testimony taken by the Trustee and also the
2 testimony taken by TD Bank, based upon the
3 inability to cross-examine Mr. Rothstein as to
4 that testimony, also the failure to abide by
5 the court order by sending over exhibits
6 timely.

7 We reserve the right to depose
8 Mr. Rothstein at a future date, and we reserve
9 all rights against the Trustee and TD Bank.

10 We further object on behalf of all other
11 entities which are represented by the Law Firm
12 of Kluger Kaplan to the extent that the
13 Trustee served notices of taking deposition
14 that were filed in those cases prior to those
15 entities being served with the complaint; and
16 we move to strike those notices of taking
17 deposition.

18 Thank you very much. Sorry to eat into
19 your time.

20 MR. LICHTMAN: Let the record reflect in
21 the underlying Rothstein, Rosenfeldt & Adler
22 case pending before Judge Cohn, as well as in
23 the protocol orders, neither of them afforded
24 Emess Capital any entitlement whatsoever to
25 take or participate in the questioning of

1 Mr. Rothstein. It was a tightly negotiated
2 order; and, indeed, Emess came late to the
3 table, and as we have told Emess, and numerous
4 other parties, we are hopeful that there will
5 be another round of discrete depositions that
6 don't focus on what we call "the big case" or
7 the other two limited depositions that are
8 commencing today. So I think that the
9 objections are all completely frivolous and
10 baseless and in bad faith.

11 MR. CUSICK: Also let the record reflect
12 that prior to the first date of the
13 deposition, the Court entered an order
14 permitting Emess to depose Mr. Rothstein and
15 that we were not privy to any discussions
16 concerning the protocols that the depositions
17 and --

18 COURT REPORTER: I can't hear you, sir.

19 MR. SCHLESIGNER: Guys, we can do all
20 this during lunch time.

21 MR. LICHTMAN: We can put this on the
22 record later. Let's get going.

23 Whereupon,

24 SCOTT W. ROTHSTEIN,
25 acknowledged having been duly sworn to tell the truth

1 and testified upon his oath as follows:

2 THE WITNESS: I do.

3 MR. NURIK: Counsel, did you send me the
4 documents?

5 MR. RASCO: No. I only have very limited
6 exhibits. I'll bring them up to you -- well,
7 actually, you know what, I'll bring them to
8 you right now. I only have a few, and I'm
9 probably not going to use them. I apologize,
10 Mr. Nurik. Here you go.

11 MR. NURIK: Thank you.

12 MR. RASCO: And I'm not going to even get
13 into those just yet.

14 FURTHER DIRECT EXAMINATION

15 BY MR. RASCO:

16 Q Mr. Rothstein, my name is Ray Rasco. I
17 represent Frank Preve.

18 I, again, state for the record that we don't
19 feel that this is sufficient time to fully depose you
20 based on the amount of contact between you and Frank
21 Preve by email, 7,000 emails, and the seriousness of the
22 statements you have been making in your testimony
23 regarding Mr. Preve over the past eight days.

24 I just want to try and, with the limited time
25 that I have, clarify some of the issues that we

1 discussed on Monday when I first spoke with you about
2 Mr. Preve.

3 The first thing that I want to ask is, you
4 said yesterday in your testimony that one of the things
5 that you learned in this massive crime was that you
6 would keep your co-conspirators in the dark as to who
7 the other co-conspirators were.

8 Does that apply to Mr. Preve?

9 A To a certain extent.

10 Q Can you explain that a little bit more?

11 A People on the -- what I'll call "outer
12 circle," people who were doing very specific things,
13 were isolated from other co-conspirators.

14 I'll give you an example. Frank Preve had a
15 very limited purpose for me. I didn't explain to do him
16 what we were doing; I told him what needed to be done.
17 He did it.

18 I did not ever sit down with Frank and tell
19 him Deb knows what's going on. I did not sit down with
20 Frank and tell him David Boden knows what's going on.
21 That's not the way it worked. Okay.

22 With other people, a guy like Mr. Preve, okay,
23 there was need for him to know about certain people; but
24 there was also need, because I knew he was also having
25 conversations with other people and I didn't now -- you

1 know, it's not like I knew this man for two decade,
2 okay, I tried to limit, as best as I could, given all
3 the vagaries of a crime of this size, people's knowledge
4 to what they needed to know. I didn't always succeed.

5 **Q Well, would that apply to Mr. Preve? You**
6 **tried to limit his knowledge; is that fair to say?**

7 A On certain issues, yes; and the unique thing
8 about Mr. Preve is, is his knowledge grew over time.
9 You can tell by his emails. If read his email traffic,
10 you know it's clear that there was a point in time where
11 he really didn't know what was going on; and there's a
12 point in time where he is clearly committing fraud after
13 fraud after fraud.

14 **Q And that's based on some of the indicators**
15 **that you discussed with me on Monday, from his email**
16 **traffic, as well as certain conversations, for example,**
17 **that you had with Frank Preve?**

18 A You'd have to be more specific with me. I
19 can't remember every word I said on Monday. I'd have to
20 sit and read the transcript.

21 **Q Okay. Well, let me ask you this, then: The**
22 **point at which he began to commit fraud, in your words**
23 **just this morning, when was that?**

24 A You'd have to lay all the email traffic out in
25 front of me, and I would be able to give you an estimate

1 of the date.

2 Q Would it go back to December of 2008 or would
3 it be later, if you recall?

4 A By December of 2008, he was involved.

5 Q By December of 2008 he was involved in what
6 way?

7 A I don't recall. Again, I'd have to see all
8 the email traffic.

9 Q Okay. What was his role? You said yesterday
10 that you tried to limit each co-conspirator's role in
11 the crime; can you explain what you limited Frank's role
12 to be?

13 A I'll have to look at all the email traffic.

14 Q Okay. Okay.

15 A He was in command of a major feeder fund.

16 Q Okay. Was he aware of any other
17 co-conspirators?

18 A To a limited extent, yes.

19 Would you like me to explain?

20 Q Yes, please.

21 A Okay. Let's use -- let's use Jack Simony, as
22 an example.

23 Okay. Jack's involvement was simply, whether
24 he knew there was a fraud going on or not, to lie to our
25 upcoming investor. Frank knew we needed Jack to lie. I

1 knew we needed Jack to lie, and Jack knew he had to lie.
2 That's all Jack, to my knowledge, knew. He may have had
3 other conversations with Frank about what was really
4 going on; I don't know. That's what he was limited to.

5 If you read emails about -- between me and
6 Frank about John Harris, you'll see there are multiple
7 emails from Frank telling me to get control of John,
8 that he was creating problems.

9 So Frank knew that John was doing things for
10 me that were illegal. We had discussed it. The extent
11 of it, I didn't get into it anymore than I needed to.

12 The auditor, Tracy Weintraub, is probably one
13 of the best examples. Frank knew that Tracy was in my
14 pocket. Frank, knowing that, prepared phony
15 balance-sheet audit statements for me, instructed me to
16 scribble on them to make them look like they were
17 real -- and this is all documented in email, okay -- and
18 then to forward them to Tracy.

19 There were other times when Tracy sent in
20 questions. Frank would tell me, in email traffic, that
21 we can't answer these questions, that I needed to rein
22 Tracy in, that I needed to get control of him.

23 Those are examples of control of certain
24 people, control of the flow of information.

25 **Q Well, just going to John Harris, I don't**

1 recall seeing any emails with respect to Mr. Preve
2 asking to you rein John Harris in; but I do recall the
3 email that we discussed on Monday, which is the email
4 where he discussed where there was a \$20-million trust
5 balance in -- for Banyan at Gibraltar Bank.

6 Do you recall that discussion?

7 A Who indicated there was a \$20-million trust
8 balance?

9 Q Mr. Preve emailed John Harris stating --
10 asking for a line of credit requests, enclosing
11 documents, and saying that this was based on a
12 \$21-million trust account that they had, trust account,
13 or trust proceeds that they had at Gibraltar that --

14 A I recall something -- I didn't mean to cut you
15 off. Sorry.

16 Q -- that they were seeking a line of credit?

17 A I remember them seeking a line of credit. I
18 remember there being an issue about the trust balance.
19 I remember Frank being aware, through Mr. Harris, that
20 the money was not there.

21 I don't recall the other specifics of it.
22 You'd have to show me the email traffic around that
23 event.

24 Q Do you recall emailing Mr. Preve and asking
25 him not to further seek a line of credit at Gibraltar

1 because John Harris was asking you for settlement
2 documentation?

3 A It's certainly possible. I don't have a
4 specific recollection of it, but it sounds like
5 something I would do.

6 Q Okay. Moving to Tracy Weintraub, there is the
7 packet of emails that I just handed Mr. Nurik. There is
8 one that's dated January 15th, 2009, 11:05 a.m., and
9 it's Bate number FP 112310-0143388/1.

10 Your email to him -- it begins with your email
11 to him stating: Why is Tracy Weintraub asking for
12 banking data from me, re: Banyan, for your audit. I
13 cannot give him anything from my records, nada, zero,
14 zippo. My law firm's records have nothing to do Banyan
15 and audited financials, other than causing a massive
16 explosion that might -- et cetera, et cetera.

17 And that is --

18 A That's not bad. It says "burn my wee-wee."
19 It's -- actually, it's not only funny, but it's also
20 clear that Frank and I know that: Okay, we want to have
21 as little information floating around as possible
22 because the more information that floats, the more
23 information that is passed between parties, the more
24 likely we will have a detection.

25 Q If Frank knew that, then why does he have over

1 **7,000 emails between you and him? I mean, if Frank knew**
2 **that, there is -- he is --**

3 A Well, I understand what you're asking me.

4 MR. SCHERER: Object to form.

5 THE WITNESS: I'm sorry?

6 MR. SCHERER: I just put an objection to
7 form.

8 A You really have to ask your client, because if
9 you recall my earlier testimony over the last eight
10 days, I was amazed at the level of inculpatory things
11 that Frank would write to me on a regular basis, I mean,
12 right down to the end where he said to me, if he doesn't
13 hear from me, we're going to assume we're on our own.
14 Do you expect us to just sit around and wait to be
15 incarcerated, talking about money missing, talking about
16 the fact that he's given me \$25 million without any
17 paper; I mean, one illegal activity after another.

18 You are going to have to ask him why there is
19 so much email traffic.

20 Q Well, I mean, why would he put so much into
21 email and seek so much information from you and seek so
22 much information from third parties, if he was in on the
23 fraud?

24 A You would have to ask him that question; I
25 would be guessing.

1 Q And if he knew how much money you were making
2 and if he was in on the fraud, why didn't he make so
3 much money? Why didn't he have the same financial
4 results that you had?

5 A I was always --

6 MR. SCHERER: Object to form.

7 A I was under the impression, and this just my
8 opinion, that he was making plenty of money.

9 BY MR. RASCO:

10 Q Making plenty of money through Banyan, you
11 mean?

12 A Him, George, other deals, yes, he seemed, to
13 me, to be very well financially situated, and he
14 benefited from our crime.

15 Q Okay. Going back to the email that we were
16 just discussing about Tracy Weintraub, the -- Frank
17 responds to that email to January 15th, 2009, at
18 11:00 a.m.: The only thing he should be asking is for
19 you to confirm our outstanding receivables, just like
20 last year.

21 A Yes.

22 Q And is that what you did?

23 A Do you want me to explain that?

24 Q Yes, I would like you to explain that, please.

25 A Okay. The year before, Berenfeld Spritzer,

1 through Tracy, tried to get a real significant amount of
2 detailed data from us.

3 Frank knew and I knew that that was a big
4 no-no.

5 I went ahead and met with Tracy, explained to
6 him what I needed to explain to him relative to the fact
7 that we're not turning over these documents; that if he
8 wants to be in this game, he needs to go ahead and
9 simply do as little as possible, okay, and get what we
10 needed out; that if he couldn't do the Banyan audit, we
11 would find someone else to do it. He agreed to do it.

12 So when Frank is here saying, "just like last
13 year," okay, he's telling me: Tracy should be adhering
14 to the deal we established previously, which is a simple
15 confirmation, in letter form, just like last year.
16 That's it, nothing more.

17 **Q And was that a conversation that you had only**
18 **with Tracy or that you later indicated to Frank that you**
19 **had that conversation with Tracy or entered into that**
20 **deal with Tracy?**

21 A I had conversations with both Frank and Tracy
22 about it.

23 **Q Separately?**

24 A Never together.

25 **Q And you indicated that if he did not -- if he**

1 sought too much information, he was not going to have
2 the job next year; is that accurate?

3 A I told him that on more than one occasion: my
4 law firm's business, personal business and the Banyan
5 business, yes.

6 Q Okay. And are you suggesting that Frank at
7 any time submitted false financials to Tracy?

8 A He did.

9 Q Can you explain that?

10 A You'd have to show me all the records.

11 Q Are you saying that they audited -- the -- any
12 of Frank's financial information that he sent to Tracy,
13 some of that was fraudulent?

14 A To my knowledge, yes.

15 Q With Frank's awareness?

16 A To my knowledge, yes.

17 Q And what do you base that knowledge on?

18 A You'd have to show me all the financial data,
19 and I could show it to you.

20 I can give you a good example: He knew there
21 wasn't money in a lot of those accounts, and he was
22 saying that the money existed, and he wanted Tracy to
23 say the money existed. Tracy knew the money didn't
24 exist because he was my accountant.

25 Q He knew in January of 2009 there wasn't money

1 in the trust accounts?

2 A Certain accounts, correct.

3 Q Based on those emails that we discussed on
4 Monday where there were certain mistakes?

5 A Emails and many conversations with him.

6 Q Okay. If you turn further, there's another
7 email on that subject that I handed you, or to
8 Mr. Nurik. It's dated January 26, 2009, the subject is
9 "Level 3 verification."

10 It's an emailed, on the bottom, from Michael
11 Szafranski to Ari Glass, indicating that he had met with
12 you, and then indicating that trust account 5104
13 contained \$178,857.

14 Frank responds to that email saying, Mike, is
15 it 187,000, or 17,000,800 or 178 million.

16 Do you see that?

17 A I do.

18 MR. RABIN: If I could just ask, for the
19 record, are you making these exhibits part of
20 the record and identifying --

21 MR. RASCO: Yes. I'm sorry. This will
22 be -- we had one just now. What number are we
23 at?

24 MR. RABIN: The next exhibit is 272.

25 MR. RASCO: Thanks.

1 (Thereupon, the document was marked as Preve's
2 Exhibit 272 for Identification.)

3 MR. SCHLESIGNER: Sam, just read it out
4 so everybody knows.

5 MR. RABIN: All right. 272 is an email
6 from Preve to Rothstein dated January 15th,
7 2009, at 11:05 a.m.

8 BY MR. RASCO:

9 Q You see the response from Mr. Szafranski
10 stating, I'm sorry, the numbers aren't thousands of
11 dollars, indicating that the proper balance is
12 178 million?

13 A And this will be Exhibit 273.

14 Q Yes.

15 A Okay. I do see that, yes, sir.

16 Q Okay. And are you indicating -- are you
17 saying that that was an indicator that Mr. Preve
18 believed that the money was not in the trust accounts?

19 A Without seeing email traffic on either side of
20 this, I can't tell you for certain. I don't know if
21 Mike wrote that.

22 On occasion Mike would write dollars in
23 thousands, dollars in millions.

24 At this point in time, in January 26, 2009, I
25 don't know what Frank was thinking by reading that. I

1 would really have to see the email traffic going before
2 that; and for some reason, the email traffic that would
3 have been directed to me right around this time is not
4 here. So without that, I really can't tell you.

5 **Q Okay. But you agree that Frank's financial**
6 **statements, to the extent that he produced financial**
7 **statements to you, were accurate, generally?**

8 A I can't say one way or the other.

9 **Q Did you rely on him for accurate financial**
10 **information?**

11 A No. I relied on him to tell me what we were
12 supposed to have in the accounts, minimum. You'll see
13 he sends me a lot of emails, in fact you handed me one,
14 where he's telling me what the minimum balance is.
15 There is no investment that I've ever heard of -- maybe
16 you have and you can tell me what it was -- where the
17 investor tells the person handling all the money how
18 much money he should have.

19 Generally you ask me what the balance is. I
20 tell what the balance is, and if I'm wrong, you pull
21 your investment. That's not how we worked.

22 **Q If there are occasions where the trust**
23 **balances were not reflecting what Mr. Preve thought they**
24 **were -- well, first of all, he was telling you what he**
25 **thought they were based on the deals that you were**

1 **entering into the bank, correct?**

2 A Based on the amount of money he was sending
3 me -- you have got to remember, there came a long period
4 of time where there really was no deal paperwork at all;
5 he was simply relying on that little deal blurb and how
6 much money he was sending me and how much, based upon
7 that little blurb, I was sending him back. So there was
8 a lot of confusion.

9 There was also confusion because he would
10 regularly send me money. I would send him payments, and
11 then he would send me half back. Then he would say,
12 just tell me where you apply. Then he would come back
13 and say, tell me what old deals we're going to apply
14 this to or should I have -- great example: Should I
15 have Centurion fund this again, or is that just going to
16 create too much of a headache trying to reverify the
17 plaintiff receiving the money?

18 **Q Are you referring to a specific email there?**

19 A No, not -- that email is in the prior
20 emails --

21 **Q Okay. Not in the ones that I handed you this**
22 **morning?**

23 A No, I didn't see it here.

24 **Q Okay. Didn't you indicate to Mr. Preve**
25 **that -- well, first of all, he was accounting for, on**

1 his end, what he thought the deals were that Banyan had
2 entered into, whether they were funding them
3 specifically or somebody else was funding them?

4 A You'd have to ask him what he was doing. He
5 would send me what he thought needed to be in the
6 accounts, and I would instruct Irene to correct it.

7 On many occasions he would actually write
8 directly to Irene and say these balances are off, fix
9 it.

10 Q If there were instances where there were
11 balances that were less than the minimum requirement, do
12 you recall if you indicated to Mr. Preve that that was
13 as a result of you not having -- that was as a result of
14 you putting the money in the wrong Banyan trust account?

15 A I did that once or twice. I remember that.

16 Q And if the balances sometimes weren't
17 accurate, did you indicate to Mr. Preve that could be
18 because you had not paid experts or you had not taken
19 your attorney's fees out?

20 A On certain occasions I did. You have to look
21 at the timing. You have to look at specific emails,
22 look at the timing, and then look at the emails around
23 it to determine the full extent of Mr. Preve's knowledge
24 at the time because at a point in time when he's fully
25 aware of what's going on. There's a lot of Ponzi-speak

1 there.

2 We are talking about "transferring money," for
3 example. We're not transferring money; we're just
4 changing balances. Okay.

5 We talk about me "putting money someplace."
6 "Putting money someplace," is simply putting the number
7 someplace.

8 Q I understand.

9 The email that I just showed you regarding the
10 178 million, you testified on Monday about an email that
11 indicated that there was a mistake of a billion dollars
12 or about a billion dollars; do you recall that email?

13 A I recall those emails.

14 Q This is not that email, correct?

15 A No.

16 Q The second email in the packet that I just
17 gave you is dated November 18th, 2008, 11:06 a.m. It's
18 from -- the bottom is from Frank to you, and it's
19 subject matter is "stuff."

20 A Okay.

21 Q The third point on that email, it states:
22 Need Commerce balance numbers.

23 And you respond above: See below. And you
24 indicate the responses to the question is right after.

25 Do you agree that those responses behind the

1 **questions are your writing?**

2 A Yes.

3 Q Okay. You indicate that you're going to
4 **provide him the balances in Commerce Bank when you get**
5 **back to the office this afternoon?**

6 A Yes, the fake balance numbers, correct.

7 Q And on number four, it says, do I get to sign
8 **in, quote, unquote, online like milk toast does?**

9 And you respond: Nope, I should not be
10 **showing him; but if you want to stand over his shoulder**
11 **while he and I hold hands --**

12 COURT REPORTER: I need you to slow down:

13 "If you want to stand over his shoulder while
14 he and I hold hands...

15 BY MR. RASCO:

16 Q "-- and sign on, be my guest."

17 Is that your writing there, as well?

18 A Yes.

19 Would you like me to explain that?

20 Q Yes, I would.

21 A Look at the way he writes this: Do I get to
22 sign, and the word "online" is in quotes.

23 The word "online" is in quotes because he
24 knows we're not going online.

25 What Frank was pushing me to do was have

1 Curtis and Bill sets up a fake website for him so that
2 he could use it with investors over at his office.

3 It's my, also, humorous response to him.

4 **Q Well, you're indicating, now, that Frank knew**
5 **that there was a fake website and that he wanted you to**
6 **create a fake website for him?**

7 A I'll answer that with a question: Can you
8 think of any reason why he would put the word "online"
9 in quotes if we were really going online?

10 **Q I'm not sure why he wrote "online" in quotes,**
11 **but I do know that he was seeking verification of trust**
12 **balances from you, not just through this email, but**
13 **through hundreds of emails.**

14 My question is: Was he aware that this --
15 that TD Bank/Commerce Bank website was a fake website?

16 A Yes.

17 **Q How do you know?**

18 A I told him.

19 **Q You told him in a conversation or by email?**

20 A In a conversation.

21 **Q Was anybody else present?**

22 A Never.

23 **Q Do you know if he ever discussed that fact**
24 **with Szafranski?**

25 A I have no idea one way or the other. I doubt

1 it.

2 Q Okay. And you're indicating that by --
3 certainly by this time, November of 2008, he would have
4 known that the trust balances either were nonexistent or
5 not -- were certainly inaccurate?

6 A Yes.

7 Q And he knew that from this time, through the
8 end of the Ponzi in October of 2009, right?

9 A Yes.

10 Q Okay. And we talked about an email on Monday
11 relating to a \$300-million shortage. It was
12 October 30th or 31st. He was asking you exactly the
13 amount that was in the trust balances. You had already
14 left for Morocco.

15 Do you recall that discussion?

16 A I don't. You'd have to show me the email
17 traffic.

18 THE WITNESS: And just -- I don't mean to
19 interrupt you, but just for your own
20 record-keeping and since there is so many days
21 and so many exhibits, you need to mark these.

22 MR. RASCO: Can we mark them on break and
23 in sequential order?

24 UNKNOWN SPEAKER: Yes.

25 THE WITNESS: It's okay with me. I just

1 don't want you to get documents -- because we
2 have a lot of documents floating around here
3 without stickers.

4 MR. LICHTMAN: Does the record clearly
5 indicate what the document is so it can be
6 matched and there's clarity in the record?

7 MR. RASCO: I specifically stated the
8 dates in the emails and the subject each time
9 I've asked about them.

10 COURT REPORTER: Are you going to be
11 marking more documents?

12 MR. RASCO: Maybe one or two.

13 COURT REPORTER: Okay. Because if it
14 gets too far afield, that's how exhibits get
15 out of order.

16 MR. RASCO: I'm almost done with the
17 exhibits.

18 Can you read where I left off?

19 (Whereupon, the requested portion of the
20 record was read back by the court reporter as recorded
21 above.)

22 MR. RASCO: Okay. Thank you.

23 BY MR. RASCO:

24 Q And there was an email -- and I'm not going to
25 go into it now, but I marked it as an exhibit in the

1 composite exhibit binder that I handed you on Monday --
2 stating that Frank was asking you, you know, what's
3 the -- what's the amount -- he had asked you to
4 authorize Debra to give him an account balances.

5 You said you already did.

6 And then you asked -- and then he said, she
7 has, it she doesn't have the authority.

8 He then asked you, what's the shortage, is it
9 300 million, something to that effect.

10 And you said, that's not the shortage. That's
11 the amount of money to repay the investors.

12 Do you recall that?

13 A I do.

14 Q Okay. My question: What do you think he's
15 referring to as the shortage? Do you have an idea?

16 A Without seeing the email, I don't want to
17 render a guess. I would be completely guessing.

18 Q Okay. Do you think it might be shortage in
19 funding; in other words, funding from sources like the
20 Von Allmen Group or the hedge funds?

21 A No. I think the shortage -- and I'm
22 speculating, but I think the shortage he's referring to
23 is, is how much money do we need to put into the trust
24 accounts so that we could pay out everything we were
25 supposed to pay out, had this all been real.

1 Q Did you often indicate --

2 A But I'm guessing.

3 Q Okay.

4 MR. NURIK: Excuse me, Counsel. If you
5 have it there, why don't you show it to him?

6 MR. RASCO: I -- I'm happy to show it,
7 but give me a second. I'm going from memory
8 on this.

9 BY MR. RASCO:

10 Q I'm sorry, I have don't have it in front of
11 me. I don't want to take anymore time, but I'm just
12 asking you, specifically: If you had used the word
13 "shortage" in the past, during the Bar issue, indicating
14 that the hedge funds weren't funding at the same levels
15 that they were before?

16 A I actually -- and I would have to see the
17 email traffic; but I actually don't recall using the
18 word "shortage" to describe money that hadn't been
19 funded by the hedge funds. Normally I would just say
20 "they haven't funded." I wouldn't say there's a
21 shortage in funding.

22 "Shortage," the way Frank is writing it to me
23 is: what is the shortage in the accounts, how much have
24 you stolen, what's missing.

25 But, again, I'm just guessing.

1 Q Okay. You used, on various occasions, with
2 Frank and other parties, starting with the April 2009
3 Bar issue, the fact that the hedge funds weren't funding
4 at previous levels --

5 A Correct.

6 Q -- you used that as an excuse to not pay out
7 to Banyan or to other investors; is that fair?

8 A Correct.

9 Q Okay. And you used that again with the Von
10 Allmen group and Barry Bekkedam's group?

11 A I don't recall that. You'd have to show me
12 that email traffic.

13 Q Okay. I will show you this email.

14 This is the Composite Exhibit 206, which I
15 marked on Monday.

16 A All right. Are you talking about the
17 October 31st, 2009, email --

18 Q Yes.

19 A -- from me to George?

20 Q Correct, from you to George.

21 A Yes. We have talked about this extensively.

22 Q We have. I have a few more questions about
23 it.

24 You indicated that email was a false
25 exculpation of Frank, not of George, right?

1 A Well, I've testified over and over that I'm
2 not sure what George knew. As I sit here today, I still
3 don't know what he knew. So --

4 Q Well, you did indicate.

5 A Hang on.

6 It would clearly be an exculpation of Frank --

7 Q It --

8 A -- and George, if he needed it.

9 Q Okay. It would clearly be a false
10 exculpation?

11 A Yes, a false exculpation.

12 Q Okay. You testified on Monday the latter part
13 of the time about being a liar, thief and scum bag; that
14 was true, in your mind at the time?

15 A Yes.

16 Q Okay. And the part about you either going to
17 jail or dying, that was true or accurate in your mind at
18 the time, as well, right?

19 A Yes.

20 Q Okay. And the -- that email was written, if
21 you recall, in response to an email or various emails
22 from George Levin trying to, quote, unquote, bail you
23 out, trying to help you resolve the issues that you were
24 in, without him fully understanding what was going on?

25 A In part, yes.

1 Q And so the part about him asking you -- about
2 you telling him, don't try to bail me out of this, that
3 was accurate in your mind, as well, wasn't it? You
4 already knew that it would be impossible for him to bail
5 you?

6 A I don't know what was possible or not possible.
7 You'd have to define "bail" me out.

8 If he could get access to a lot of money, he
9 could bail out the financial part; but he certainly
10 wasn't going to bail me out of the fact that I had
11 committed a giant crime.

12 Q So the only part of that email that is untrue
13 is the part about the exculpation; you and George did
14 nothing wrong?

15 A The only part in here that I know for certain
16 that is false is: Frank did nothing wrong. That is
17 false.

18 It is all together possible that to a great
19 extent, George did, in fact, do nothing wrong.

20 Q You've testified that this was the first time
21 in your life that -- or at least the several past years,
22 that you were coming clean, that you were being honest
23 with yourself; is that fair, in this time period?

24 A At this moment? I don't think at this moment
25 I was coming clean with myself. I think I was trying

1 to.

2 Until I made the decision to step foot on a
3 plane and leave a non-extradition country, knowing that
4 I was coming back to go to prison, I don't think until I
5 made that ultimate decision that I had fully reconciled
6 with myself that it was time to completely change the
7 person that I am, to change my life and to do the right
8 thing.

9 **Q And this was the only email that you recall**
10 **that you were falsely exculpating Frank; is that right?**

11 A I don't recall. You'd have to show me the
12 email traffic. I have sent so many emails, I need to
13 see the traffic to tell you one way or the other.

14 **Q Did you -- do you recall falsely exculpating**
15 **anybody else?**

16 A We looked at emails the other day. I don't
17 want to speculate when we have definitive email traffic
18 to establish one way or the other. So I would like to
19 see the emails and answer based upon emails, instead of
20 guessing.

21 **Q Just your independent recollection, anybody**
22 **else that you were trying to falsely exonerate?**

23 A I don't recall. I believe there were, but the
24 names are escaping me right at this moment.

25 **Q Okay. And to your recollection now, as you**

1 sit here, was there anything else that you may have done
2 to falsely exculpate Frank or anybody else?

3 A Oh, wait. I tried -- I falsely exculpated
4 Stu.

5 Q Was that through email?

6 A I'm -- yes, I think there was -- there was an
7 email.

8 Q Okay.

9 A I think -- again, it makes no sense to me to
10 try to have me guess when we have email traffic that
11 establishes definitively one way or the other.

12 Q I'm only asking you because I haven't seen any
13 email traffic that establishes you sending any other
14 emails that would falsely exculpate anybody else.

15 A On, no, I did.

16 Q Okay. And in doing so, when you did do so, do
17 you recall if it was a simple statement like this one
18 with respect to Frank, or was it more detailed?

19 A I would be guessing.

20 Q Okay. And you were aware, by that time, that
21 there were thousands of emails between you and Mr. Preve
22 that indicated that he may have known something was
23 amiss?

24 A You're asking me my opinion?

25 Q Yes.

1 A At that point in time I believed that there
2 were thousands of emails proving clearly that Frank was
3 involved in a major fraud.

4 **Q Then why would you think that such a simple**
5 **statement would be any help to Frank?**

6 A Fortunately for you, you've never had to be in
7 a situation where your mind is as mine was. When a
8 multi-billion-dollar Ponzi scheme is collapsing around
9 you, you're picturing destroying your family and all the
10 people that you love. And coming back to potentially
11 dying in prison. The emotional and actually physical
12 stress that your body goes through at the time is not
13 something that I can describe in words.

14 Why I was doing exactly what I was doing in
15 those final days, I would have to sit and really read
16 all these emails again, carefully. I was trying to do
17 something good --

18 **Q Okay.**

19 A -- that I perceived as good.

20 The truth is, now, as I sit here today, after
21 having made the decision to come clean and admit
22 everything I've done wrong, I don't think that trying to
23 falsely exculpate those people was the right thing.

24 What I should have done was picked up the
25 phone called them, called Mr. Preve and the others that

1 I knew was involved and said, I'm doing the right thing.

2 You need to do the right thing. Turn yourself in.

3 Let's tell everybody what we did. Let's do the right

4 thing.

5 That's what I should have done.

6 **Q Do you remember that both Frank and George**
 7 **were calling you and texting you or emailing you**
 8 **repeatedly?**

9 A Yes. Yes.

10 **Q And you indicated on Monday that you did not**
 11 **want to speak with them?**

12 A Correct.

13 **Q And why was it that you didn't want to speak**
 14 **with them?**

15 A I was very emotionally attached to them. I
 16 was very emotional at the time, okay, and I did not want
 17 to speak to them. I -- I just -- I couldn't bring
 18 myself to do it. I spoke to very limited people while I
 19 was away.

20 **Q Are you suggesting that Frank in any way**
 21 **created fake documents in the Ponzi scheme?**

22 A Yes.

23 **Q Can you explain that?**

24 A You'd have to show me the documents. I could
 25 tell you then whether they were fake or not.

1 **Q Can you give me a time frame?**

2 A From -- I would be guessing. Throughout 2009
3 we created false documents together.

4 **Q You actually sat with Mr. Preve to create**
5 **false documents together?**

6 A No. He created fake things and sent them to
7 me, and I created fake things and sent them to him.
8 Sometimes we were on the phone together.

9 **Q Do you mean agreements or trust balances?**

10 A Trust balances is a good example, but to me
11 that's not creating it, you know. Again, you'd have to
12 define the word "created" for me.

13 If I create the document through Debra or
14 Irene and then I send it to him and he doesn't like the
15 balances and he wants me to change them to a different,
16 false number, by your definition, is that him creating
17 the document?

18 He's giving me false input to help me create
19 the false document, which is what he did; but you've got
20 to be more precise with me.

21 **Q Okay. Well, just to be specific, are you**
22 **talking about only deal documents here? We're not**
23 **talking about anything outside of the deals that you**
24 **were entering into with Banyan?**

25 A Well, sure. Sure I am, because Frank helped

1 me create, at length, fake opinion letters that I then
2 had other lawyers put on their letterhead. People who
3 knew nothing, like Ken Padowitz knew nothing about this
4 type of law, knows nothing about this type of business;
5 he is a criminal defense lawyer. He took a fake opinion
6 letter that we put together -- me, Boden, Preve.

7 We put all this crazy stuff in there, okay,
8 that we needed to perpetrate this scheme and to keep it
9 going and to get people to invest more dollars in the
10 fraud.

11 And then, he knows -- he knows Ken Padowitz is
12 a criminal defense lawyer. I put this thing on -- had
13 Padowitz put it on his letterhead, have Padowitz sign it
14 and then we take it and I give it to Frank. And Frank
15 starts handing it out, and I handed it out.

16 **Q So Frank handed it out, but in addition to**
17 **handing it out, you're saying he actually helped you**
18 **create that document?**

19 **A Absolutely. Yes.**

20 **Q How did he do so?**

21 **A** He gave me language that went in there. I --
22 I wasn't an expert in those areas. I had people who
23 knew banking, people who knew that area of the corporate
24 finance, helping me prepare that letter.

25 **Q What was the letter opining on?**

1 A You'd have to show me the letter.

2 It was on the legal nature of the settlement
3 structure. It was that he had reviewed all these
4 documents, which he hadn't. It was a fake opinion
5 letter. All of the people that gave input into that
6 letter, including Mr. Preve, had never reviewed anything
7 in order to come to the, quote, unquote, legal
8 conclusions that the strategy was legal.

9 **Q Did he provide input verbally or in writing?**

10 A I don't recall whether he did some in writing.
11 You'd have to take a look through the email traffic, but
12 definitely verbally and definitely on paper in some
13 format.

14 **Q Whether it was handwritten or by email or on**
15 **the document itself, you're not clear?**

16 A There were times when Frank and I would sit
17 down and scribble on documents that we had, notes, that
18 type of thing. We were sitting together.

19 If I was sitting in the office and we were
20 doing something nefarious, I don't think he needed to
21 send me an email to confirm what we just discussed. We
22 could do it on paper there; but, again, I would need to
23 see the documents.

24 **Q Any other documents, outside of just the**
25 **settlement funding, that Frank would have been involved**

1 **in falsely creating?**

2 A I just said the opinion letters.

3 **Q Just the opinion, I'm asking beyond the**
4 **opinion letters.**

5 A I have to see all the documents, and then I
6 could tell you one by one whether he had input into it.

7 **Q Were you aware that Banyan --**

8 A Wait a second.

9 He helped put -- with Tracy, he helped put
10 together that audit letter. He had direct input into
11 the contents of the audit letter. As a matter of fact,
12 if you look at the email traffic, one of the things that
13 is completely off the charts with regard to a, quote,
14 unquote, independent audit of books and records, is that
15 Tracy, pursuant to my request, forwarded a copy --
16 provided a copy of the audit letter to Frank Preve for
17 his comments before completing it, which is a big no-no
18 as I understand it in the financial audit world.

19 **Q But what did Frank do that was wrong, as far**
20 **as providing Tracy comments?**

21 A He had added false information, corrected
22 information that would have led potential investors to
23 believe that there was a fraud, cleaned it up so that we
24 wouldn't get in trouble and gave it back to Tracy.
25 Tracy then corrected the document and put it in final

1 form.

2 Q Can you point to specifically anything that he
3 added that was false?

4 A Sure. Show me the letter.

5 Q I don't have it with me today. I'll save that
6 for another day.

7 Are you aware that Banyan was obtaining
8 opinion letters from legal -- from their own legal
9 counsel?

10 A Sure. I helped them formulate certain
11 information that they provided that was false to
12 Greenspoon Marder so that they could get them to write
13 an opinion letter.

14 Q And you're aware they also obtained opinion
15 letters from Hutchinson Steffen?

16 A I remember at least one or two other firms
17 that they went to, but you have got to remember
18 something: Look at those opinion letters. They, for
19 starters, contain nothing about the payment
20 irregularities that were going on.

21 So just from that small spot of illegality,
22 okay, he was providing false information, because there
23 was all kinds of problems with trust balances not being
24 right and payments being missed and payments being late
25 and documents not being prepared; and then we get these

1 audit letters and opinion letters saying everything is
2 just hunky-dory, everything is beautiful, there is no
3 problems, everything is paid on time, everything is
4 properly papered. That's all based upon false
5 information.

6 **Q You indicated that -- on Monday that one of**
7 **the indicators that you knew Frank was aware of the**
8 **fraud was the fact that he was using money from the**
9 **deals to pay certain bills of Levin's?**

10 A Yes.

11 **Q You're not aware that he was using it for his**
12 **own purposes, other than that?**

13 A I don't know one way or the other what he was
14 doing. I do not know. I just know that he was taking
15 money that was supposed to be investor money and paying
16 Levin's personal bills with it.

17 As a matter of fact, I think there is an email
18 that we looked at yesterday where he says he needs \$10
19 million out of all the money we have to pay George's
20 personal bills.

21 **Q After 2009, essentially, the hedge funds were**
22 **cut off and Banyan was cut off getting the payments that**
23 **they were supposed to receive, at least the scheduled**
24 **payments they were supposed to receive, right?**

25 A April of '09?

1 Q Yes.

2 A Yes.

3 Q And you were indicated that the trust accounts
4 were blocked, right?

5 A Yes.

6 Q Did you tell Frank that because that was
7 occurring and because certain bills were due for Banyan
8 and the Levins, that you were going to bring your own
9 money from New York and pay them out of that money?

10 Yes. I told him I would borrow the money or
11 bring my own money in, which should have been a giant
12 red flag; but money was money to us at that point in
13 time.

14 MR. RASCO: Okay. I'm going to reserve
15 some time and take a break, but I'm done for
16 now.

17 MR. SCHLESIGNER: Can we make sure the
18 record is clear when he mentioned "Frank,"
19 it's not Mr. Spinoso?

20 THE WITNESS: On, no, it's not
21 Mr. Spinoso. All the times during the
22 questioning by Mr. Preve's counsel of me,
23 every time I said "Frank," it was Frank Preve.

24 MR. SCHLESIGNER: Thank you.

25 MR. NURIK: And also for the record, the

1 only exhibit that we have marked is 272. So
2 we have no identification for any of those
3 other emails.

4 MR. RASCO: Let me --

5 MR. NURIK: Excuse me.

6 We don't know what his answers related
7 to.

8 MR. RASCO: Well, I specifically stated
9 what the dates and subjects were of each of
10 the emails.

11 I can mark them in -- they're all in
12 chronological order.

13 (Thereupon, documents were marked as Preve's
14 Exhibits 273 and 274, respectively, for identification.)

15 DIRECT EXAMINATION

16 BY MS. BARZEE-FLORES:

17 Q **Scott Rothstein, you sure fooled a lot of**
18 **people, didn't you?**

19 A Yes.

20 Q **You conned lawyers, right?**

21 A Yes.

22 Q **Greenspoon Marder, correct?**

23 A Well, that con was actually by Mr. Preve, with
24 my assistance.

25 Q **Clifford Chance?**

1 A Yes.

2 Q Morgan Lewis?

3 A Yes.

4 Q In fact, no firm that did a due diligence
5 investigation of you, discovered what you were up to and
6 advised their clients not to invest in you?

7 A I would be guessing as to what they advised
8 their client.

9 Q Didn't you say on December 12th, in the
10 afternoon session, that no firm that did due diligence,
11 as far as you knew, discovered what you were up to and
12 advised the client not to invest in you?

13 A That's the key to your question: As far as I
14 knew, yes.

15 Q You conned innocent lawyers at your firm who
16 didn't know what you were up to?

17 A I did.

18 Q You conned innocent investors, didn't you?

19 A Some, yes, I did.

20 Q You conned politicians, as well, right?

21 MR. LAVECCHIO: You can answer the
22 question without specifics.

23 A Yes.

24 BY MS. BARZEE-FLORES:

25 Q You fooled Senator John McCain?

1 A Yes.

2 Q You fooled United States Senator Mel Martinez?

3 MR. LAVECCHIO: Objection.

4 BY MS. BARZEE-FLORES:

5 Q You fooled United States Senator Joe
6 Lieberman?

7 A Yes.

8 Q You fooled Florida Governor Charlie Crist?

9 MR. LAVECCHIO: Objection.

10 BY MS. BARZEE-FLORES:

11 Q You fooled California Governor Arnold
12 Schwarzenegger?

13 A Yes.

14 Q You fooled presidential candidate Sarah Palin?

15 A Yes.

16 Q You fooled the president, George W. Bush?

17 A Yes.

18 Q You conned the Florida Bar, didn't you?

19 A No, I never got them involved in anything. I
20 utilized the name of the Florida Bar to further my
21 fraud.

22 Q You were on the Florida Bar Grievance
23 Committee, weren't you?

24 A Oh, you mean I fooled them into thinking I was
25 an ethical lawyer?

1 Q Well, tell me: Were you on the Florida Bar
2 Grievance Committee?

3 A I certainly was. We discussed that.

4 Q And what were you supposed to be doing on that
5 committee?

6 A Hearing grievances.

7 Q And what does that mean for the jury? Explain
8 what you were supposed to be doing on that committee.

9 A Judging the ethics of other lawyers.

10 Q You conned the Broward Judicial Nominating
11 Commission, didn't you?

12 MR. LAVECCHIO: Objection.

13 BY MS. BARZEE-FLORES:

14 Q Did you corrupt that process, sir?

15 MR. LAVECCHIO: Without specifics.

16 A Yes.

17 BY MS. BARZEE-FLORES:

18 Q Did people pay you to get on the bench?

19 MR. LAVECCHIO: Objection.

20 BY MS. BARZEE-FLORES:

21 Q What were you supposed to be doing on that
22 commission, Scott Rothstein?

23 A Vetting candidates for the 4th District Court
24 of Appeal to send to the government.

25 Q Who appointed you to that position?

1 A The governor, then-governor, Charlie Crist.

2 Q You conned your own friends, didn't you?

3 A Yes.

4 Q You had a close circle of friends that you
5 often socialized with, right?

6 A Yes, ma'am.

7 Q Some of them knew you were a criminal?

8 A Some did, yes, sir -- yes, yes, ma'am.

9 Q Some of them didn't?

10 A Some didn't, many didn't.

11 Q You conned "your own girl Friday," didn't you?

12 A "Girl Friday," who?

13 Q How do you describe Debra Villegas?

14 A One of my closest friends and confidantes.

15 Q And an employee?

16 A Yes, ma'am.

17 Q Who worked right alongside you?

18 A Yes, ma'am.

19 Q Who learned that you were a criminal?

20 A Yes, ma'am.

21 Q Who participated in your criminal conduct with
22 you?

23 A Yes, ma'am.

24 Q Who you could ask to do just about anything
25 and she would, for you?

1 A Yes, ma'am.

2 Q You conned your own best friend, didn't you?

3 A To some extent.

4 Q You convinced Ted Morse that you had
5 Judge Seltzer in your pocket?

6 A That's true.

7 Q And by the way, when you conned Ted Morse, you
8 were a conning a con, weren't you?

9 ALL PRESENT: Object.

10 A If you mean to say that Ted knew I was
11 committing crimes and participated in some of those
12 crimes, that's correct; and that I also conned him as to
13 certain things, that's correct.

14 BY MS. BARZEE-FLORES:

15 Q You conned the people closest to you in the
16 world?

17 A That's true. I hurt a lot of very innocent,
18 good, decent people.

19 Q You conned your own mother?

20 A I certainly did.

21 I hurt my family terribly.

22 Q She worked at the firm with you, didn't she?

23 A Yes, from time to time my mom worked there.
24 My dad worked there, my sister.

25 Q And she had no idea what her son had become?

1 A No, she didn't.

2 Q You conned your wife?

3 A I certainly did. I hurt a very good person a
4 lot.

5 Q You did the things you did and then crawled
6 into bed with that woman?

7 A That's correct.

8 Q At your sentencing you tried to con the judge,
9 didn't you?

10 A Absolutely not.

11 Q Sir, you wrote him a 12-page letter,
12 typewritten, right?

13 A I hand wrote it and then someone else typed
14 it, yes, ma'am.

15 Q It started off talking about the tough
16 financial times you had growing up, right?

17 A You have to show me the letter, ma'am. I know
18 that I talked about difficult financial times, that kind
19 of thing, yes, ma'am.

20 Q It ended talking about how, very, very sorry
21 you were for all of your crimes?

22 A Yes, ma'am. I am. That's why I turned myself
23 in.

24 Q That letter didn't work, did it,
25 Mr. Rothstein?

1 A It wasn't meant to work. It was meant to be
2 an honest appraisal of myself and my criminality to the
3 judge.

4 Q What sentence did your lawyer ask the judge to
5 impose on you, sir?

6 A Forty years.

7 Q What sentence --

8 A I'm sorry, no, that was the government asked
9 for 40 years; my lawyer asked for 30.

10 Q And what sentence did the judge impose on you?

11 A Fifty years.

12 Q You're good at the con, aren't you?

13 A I was, yes.

14 Q You're not anymore?

15 A No, ma'am.

16 Q Why don't we let the jury be the judge of
17 that.

18 ALL PRESENT: Object to form.

19 BY MS. BARZEE-FLORES:

20 Q Let's talk about the psychological tools that
21 you used to fool people, to con them.

22 First, you're a good salesman, right?

23 A I was.

24 Q You know how to get a sense from people before
25 you do business with them?

1 A That is one of the tools I used to operate,
2 yes, ma'am.

3 Q Some people you wouldn't do business with
4 because you sensed you couldn't trust them?

5 A That's correct.

6 Q You know how to create a perception of power?

7 A That's correct.

8 Q And you know that the perception of power
9 yields actual power?

10 A It does.

11 Q You know how to convince people that you're
12 legit, right?

13 A That's one of the tools I used, yes, ma'am.

14 Q You convinced people that you were legitimate
15 by associating with politicians, right?

16 A I convinced people that I was legitimate by
17 associating with certain legitimate politicians and by
18 corrupting and engaging in corruption with some corrupt
19 politicians.

20 Q You knew how to convince people that you were
21 legit by associating with law enforcement?

22 A I utilized law enforcement to convince people
23 I was legitimate both by associating with legitimate law
24 enforcement and by engaging in corruption with corrupt
25 law enforcement.

1 Q You knew how to convince people you were
2 legitimate by associating with judges?

3 A I convinced people I was legitimate by
4 associating with good and decent legitimate members of
5 the judiciary, and I convinced people I was legitimate
6 by engaging in corruption with corrupt members of the
7 judiciary.

8 Q You knew it was crucial to the success of your
9 criminal scheme to keep an air of legitimacy around you?

10 A Yes, ma'am.

11 Q And you worked hard to make people feel secure
12 in their relationship with you, right?

13 A Yes, ma'am.

14 Q You used the trappings of wealth to give
15 people the impression of your success?

16 A I did.

17 Q And you worked to convince people that there
18 would be real returns, real returns on their
19 investments?

20 A Certain people, yes, ma'am.

21 Q You made large and very public donations to
22 worthy causes, right?

23 A I did.

24 Q And you pretended to be devout in your
25 religion?

1 A I am not going to justify that comment with a
2 response.

3 **Q In 2000 --**

4 A I was -- excuse me.

5 **Q Go ahead.**

6 A Excuse me. Excuse me.

7 MR. NURIK: Hold on. We're not going it
8 to allow any questions concerning his
9 religious beliefs, period.

10 BY MS. BARZEE-FLORES:

11 **Q You made public statements regarding your**
12 **religiosity, haven't you?**

13 A My religion has nothing to do with the fact
14 that I was a very bad person.

15 **Q You manipulated people, didn't you?**

16 A I did.

17 **Q You're good at manipulating them, aren't you?**

18 A I was.

19 **Q You were?**

20 A Yes. I don't need to do that anymore. When
21 you tell the truth, it's very, very simple.

22 **Q You're the tiger who changed his stripes?**

23 ALL PRESENT: Objection to form.

24 A If you're asking me if I am a good example of
25 a changed person and how much you can change, the answer

1 is absolutely yes.

2 BY MS. BARZEE-FLORES:

3 Q On a scale of one to ten, you're a ten at
4 manipulating people?

5 A I was.

6 I have no need manipulate anyone anymore.
7 When you're telling the truth, you don't need to worry
8 about manipulating people.

9 Q You've said that you can spend time with
10 someone and get a feel for what they might be
11 susceptible to?

12 A That's something that I was capable of doing,
13 yes, ma'am.

14 Q And that you could spend time with someone and
15 get a feel for how malleable a person he or she is?

16 A That was something I was capable of doing as
17 well, yes, ma'am.

18 Q You're not capable of getting that sense now?

19 A No, I'm not.

20 Q That --

21 A I don't care.

22 Q You lost your sense to -- to see if somebody
23 is susceptible to BS?

24 A No. I shut it down. I decided it was no
25 longer something that I wanted to be.

1 Do you not believe that people can change?

2 Q You are able to turn off like a switch your
3 ability to determine after meeting with a person how
4 malleable they are?

5 A I have no need to do it anymore. When you're
6 telling the truth, you don't need to do any of those
7 things.

8 Q If you had a need, could you do it, sir?

9 A My body, my psyche, my mind, my beliefs would
10 never allow me to do that again. Ever. That's why I
11 came back and turned myself in knowing I was going to
12 prison.

13 Q That's your pitch?

14 ALL PRESENT: Objection. Form.

15 A That's the truth.

16 BY MS. BARZEE-FLORES:

17 Q During the days of your con, when people
18 questioned you about these deals, you would give them
19 whatever information you thought you needed to give
20 them?

21 A Depending upon whether they were involved in
22 the crime or not.

23 Q All right. Sometimes you lied to them?

24 A Sometimes I lied to them and sometimes I told
25 them the truth. It just depended upon whether they were

1 involved in the crime or not.

2 **Q Sometimes you told them half-truths?**

3 A It's the same answer. Depending upon what
4 level involvement they had in the crime.

5 **Q To some people, you gave as little information**
6 **as possible?**

7 A Depending upon their level of involvement in
8 the crime.

9 **Q And to other folks, you exaggerated?**

10 A Again, it's the same answer. It depended upon
11 the level of the individual's involvement in the fraud.

12 **Q Sometimes you played the attorney-client**
13 **confidentiality card?**

14 A Yes, my co-conspirators and I used that
15 regularly to create a transparency block during the
16 course of the fraud.

17 **Q And you played the confidential settlement**
18 **card?**

19 A The same answer.

20 **Q Meaning yes?**

21 A No. Meaning that my co-conspirators and I
22 used the confidentiality -- all of those things to
23 create a transparency block so people would not be able
24 to detect the fact that we were committing a crime.

25 **Q Sometimes when you were pressed, you played**

1 offense in defense, right?

2 A I'm sorry. I don't understand your question.

3 Q Well, for example, when Ed and Carol Morse
4 would start pressing you and asking too many questions,
5 wasn't it the case that you would respond with what you
6 testified on December 12th was, quote/unquote, the
7 standard, where you rant about: How dare you, you've
8 embarrassed me, I'm making you money, I've done
9 everything right.

10 A Now I understand.

11 Yes. What I would do is, when someone was
12 pushing me on a matter of illegality, if the person
13 was -- if it suited my needs, I would play their
14 emotions to try to get them to stop.

15 Q And you also referred to this technique of
16 yours as using a person's pressure point, right?

17 A Yes.

18 Q Of course, you agreed you don't need to apply
19 pressure to people who are criminals, right?

20 A That's right. Sometimes -- well, that's not
21 true. Sometimes when you have someone who is a -- well,
22 let me give specific examples. When I had people that
23 were co-conspirators of my crime that I needed them to
24 do something outside of the criminality they were
25 currently involved in, I might use pressure points or

1 inducements. I did that frequently with the bankers.
 2 It just depended upon what I required for the crime at
 3 the time. Some people needed more inducement, some
 4 people needed less.

5 Q So, for example, when the innocent fund
 6 investors started asking too many questions about
 7 payments being late, you cooked up a story about having
 8 a Florida Bar grievance?

9 A Correct.

10 MR. SCHERER: Objection to form.

11 BY MS. SPEAKER?:

12 Q You used law enforcement to throw people off,
 13 you said?

14 A I used legitimate law enforcement to do
 15 legitimate things and I used corrupt law enforcement to
 16 do corrupt things.

17 Q You've rewarded the people who were in on your
 18 scheme, didn't you?

19 A Very well.

20 Q You rewarded them with houses, right? Right?

21 A Yes.

22 Q Cars?

23 A Yes.

24 Q Trips?

25 A Yes.

1 Q Women?

2 A Yes.

3 Q Cigars?

4 A Yes.

5 Q Concerts?

6 A Yes.

7 Q Sporting events?

8 A Yes.

9 Q You emailed them a lot?

10 A Some I emailed a lot. Some I emailed a
11 little.

12 Q You gave them nicknames?

13 A Both, people that were involved in the crime
14 and not involved in the crime. Everyone in my world had
15 nicknames.

16 Q And you also gave money and gifts to people
17 who were not in on your schemes?

18 A That's correct.

19 Q You told folks the gospel according Scott?

20 MR. SCHERER: Object to form.

21 A I don't know what -- I'm sorry, I don't know
22 what that means, the gospel according Scott.

23 BY MS. BARZEE-FLORES:

24 Q On December 14th, in the afternoon session,
25 page 886 of the transcript, you didn't testify that you

1 **told people, quote/unquote, the gospel according Scott?**

2
3 MR. NURIK: Actually, what was the
4 question before that answer?

5 BY MS. BARZEE-FLORES:

6 **Q My question is --**

7 MR. NURIK: No. What was the question
8 before? Why don't you say -- ask him what his
9 answer was in response to a particular
10 question so we can identify the record.

11 BY MS. BARZEE-FLORES:

12 **Q Have you ever said that, sir?**

13 A My recollection is, is I was joking around
14 with some people in here when I said "the gospel
15 according to Scott."

16 You'd have to give me the context of it so
17 it's not taken out of context.

18 **Q You used that phrase, sir?**

19 A Yes.

20 **Q On the record?**

21 A Yes.

22 **Q You used other tools, tangible tools to ply**
23 **your trade too, didn't you?**

24 A I don't understand the question.

25 **Q You masterminded the use of phony lawsuits?**

1 A I masterminded -- the way you're asking it,
2 yes, I utilized phony lawsuits to continue to perpetrate
3 the fraud.

4 **Q Phony court orders?**

5 A Yes, ma'am.

6 **Q Phony settlement agreements?**

7 A Yes, ma'am.

8 **Q Phony promissory notes?**

9 A Yes, ma'am.

10 **Q Forged emails?**

11 A Yes, ma'am.

12 **Q Phony case file documents?**

13 A Yes, ma'am.

14 **Q Phony flight manifests?**

15 A No, we didn't phony up flight manifests. We
16 used --

17 **Q You didn't phony up a flight manifest where**
18 **you added Bill Clinton and Prince Andrew and young**
19 **girls' names to a Jeffrey Epstein flight manifest for**
20 **purposes of showing perspective investors how the**
21 **settlement system worked and why important people might**
22 **want confidentiality in exchange for large sums of money**
23 **to be paid to the plaintiff?**

24 A My best recollection is, is we used -- I think
25 I testified to this yesterday or the day before -- we

1 used real flight manifests during that meeting with
2 the -- Mr. Scherer's clients. And I told them about
3 fake flight manifests. I don't recall that we created
4 one. If you have one, you can show it to me, that would
5 refresh my recollection, but I actually don't recall
6 that being a document that I created.

7 **Q Phony bank websites?**

8 A Yes.

9 **Q Phony bank statements?**

10 A Yes. Screen shots.

11 **Q Phony opinion letters?**

12 A Yes.

13 **Q Phony audit letters?**

14 A Yes.

15 **Q Fake legal bills?**

16 A Yes.

17 **Q Phony court case bonds?**

18 A Yes.

19 **Q Fake law enforcement investigations?**

20 A Yes.

21 **Q Phony attorney's fees statements?**

22 A Yes.

23 **Q Fictitious loans?**

24 A Yes.

25 **Q And, of course, being a successful con means**

1 you have to be a pretty good actor, right?

2 A I was.

3 Q Let's talk about you and your co-conspirators'
4 acting skills.

5 You orchestrated phony telephonic court
6 hearings, didn't you?

7 A I did.

8 Q Now, a real telephonic court hearing is where
9 a judge allows the participants to participate by
10 telephone, right?

11 A Yes.

12 Q But in your phony telephonic hearings, you
13 would have your firm's lawyers or other lawyers fake
14 like they were the participants in a real hearing,
15 right?

16 A I had Scott Goldstein pretend to be Judge
17 Marra.

18 Q And who, for example, would be attending a
19 fake hearing with a fake Judge Marra?

20 A In this case, one of my co-conspirators, Ted
21 Morse, and his father, who was an innocent, Edward
22 Morse.

23 Q And what part did you play?

24 A The lawyer.

25 Q Other times you used people to play the part

1 of plaintiffs, right?

2 A That's correct.

3 Q Steve Caputi played the plaintiff?

4 A Steve Caputi played the plaintiff, and one of
5 the firm's secretaries played another plaintiff.

6 Q I assume you played the part of an honest
7 attorney?

8 A Yes, ma'am.

9 Q You were acting, of course?

10 A I was.

11 Q Caputi also played the part of a reporter to
12 harass one of your victims, right?

13 A He did.

14 Q Another time Caputi played the banker?

15 A Several times, yes, ma'am.

16 Q And he had to dress up for that part?

17 A I asked him to put on a shirt and tie because
18 he usually dressed in jeans and a t-shirt.

19 Q And you played the honest attorney again?

20 A I did.

21 Q Another time you had Caputi pretend to be the
22 owner of 800 numbers that had sent your firm lots of
23 business?

24 A I did.

25 Q And you had a woman in your office play the

1 part of a Florida Bar official, right?

2 A I did.

3 Q You had other lawyers play the part of a case
4 and client referral sources, right?

5 A Yes.

6 Q And you would participate --

7 A A series of lawyers.

8 Q And you would participate in these little
9 scenarios with them?

10 A You mean the fake due diligence with the
11 lawyers?

12 Q Yes.

13 A Yes. I took them there.

14 Q So you were acting quite a bit during this
15 time?

16 A Myself and my co-conspirators, yes, ma'am.

17 Q And then there were the shows, what you call
18 "the shows," right?

19 A Yes, ma'am.

20 Q Where everybody had a role?

21 A Yes, ma'am.

22 Q And you had lines?

23 A It was a lot of ad lib but, yes, some specific
24 things that needed to be said and done, yes, ma'am.

25 Q These shows were coordinated?

1 A Yes, ma'am.

2 Q And thought out?

3 A Correct.

4 Q You were a master of fraud, weren't you,
5 Mr. Rothstein?

6 A Unfortunately, I was very good at what I was
7 doing, yes, ma'am.

8 Q By the way, before you got caught up in all of
9 this, had you read up on con-artists and the tricks of
10 their trade?

11 A I'm certain that somewhere along the line I
12 had read about cons but if you're asking me if I did
13 research for the role, no, I did not.

14 Q It came naturally?

15 A It's not that it came naturally. It's just I
16 developed, unfortunately, an ability to fool people.
17 That's what I was doing. That's what all my
18 co-conspirators were doing. That's what a fraud is
19 based upon.

20 Q Judge Cohn, after sentencing, described your
21 fraud. Do you remember that?

22 A I certainly do.

23 Q I'm going to read you some of the things Judge
24 Cohn said and ask you if the judge was right. You
25 understand?

1 A I can tell you right now he was right on
2 everything he said. Every single word that he said he
3 was 100 percent correct.

4 Q Judge Cohn said that your case was about
5 selling fake financial products. True?

6 A Yes.

7 Q He said, "The marketing, however, was anything
8 but simple. It was sophisticated, rivaling that of
9 Madison Avenue's advertising elite."

10 A Correct.

11 Q "It was all about image, wealth, power, and
12 influence."

13 A Correct.

14 Q WPI.

15 Is that all true?

16 A I told you two questions ago that every single
17 thing that Judge Cohn said about me and my crimes was
18 100 percent correct.

19 Q Judge Cohn, "The marketing component of the
20 fraud focused on attracting investors with deep
21 pockets."

22 Is that what you did?

23 A Yes, ma'am. That's -- I just testified to
24 that now three questions ago.

25 Q You displayed all the trappings of success:

1 The multi-million dollar homes, the expensive cars, and
2 boats, restaurants and jewelry and a 70-lawyer law firm
3 that appeared to be thriving?

4 A Yes, ma'am.

5 Q You maintained political connections
6 stretching from the Broward Sheriff's office on one end
7 of Broward Boulevard, all the way down to the Fort
8 Lauderdale Police Department on the other end of Broward
9 Boulevard, correct?

10 A Yes, and all the way out to Plantation.

11 Q To the governor's mansion in Tallahassee and
12 all the way to the United States Congress in Washington
13 and down Pennsylvania Avenue to the White House?

14 A I did.

15 Q "The local society page," Judge Cohn, "was
16 constantly adorned with photographs of you and your wife
17 arm-in-arm with sports celebrities, politicians,
18 community leaders, and socialites."

19 Is that right?

20 A That's correct.

21 Q The political contributions, which were
22 funneled through your law firm's attorneys, their wife's
23 and other employees, placed the Rothstein brand in much
24 demand?

25 A That's correct.

1 Q The philanthropy, which included donations to
2 hospitals, religious and charitable organizations
3 endeared you as one of Broward County's most prolific
4 benefactors?

5 A That's correct.

6 Q And the police security details, the dinners
7 with law enforcement, and the trips to sporting events
8 with BSO brass created an appearance of legitimacy?

9 A That's correct.

10 Q Judge Cohn, "But we now know it was all a
11 fraud."

12 A That's correct.

13 Q Let's talk about your various schemes and
14 crimes. Besides the Ponzi scheme, you and Albert Peters
15 embezzled from his employer, Silversea, right?

16 A Correct.

17 Q How much in total did you-all embezzle?

18 A I don't know. I don't recall.

19 Q More than 10 million?

20 A I don't recall.

21 Q More than ten bucks?

22 A Yes.

23 Q You and Ted Morse embezzled from Morse
24 Operations, didn't you?

25 A We did.

1 Q How much?

2 A In excess of \$59 million.

3 Q You laundered money through your law firm?

4 A I did.

5 Q You laundered money for Albert Peters?

6 A I did.

7 Q You laundered money for Ted Morse?

8 A I did.

9 Q You laundered money for the mob?

10 A I did.

11 Q You committed tax fraud?

12 A I committed the wrong kind of tax fraud. I
13 increased my taxes instead of decreasing it. I don't
14 know what you actually call that. It's tax evasion one
15 way. I guess I was tax invasion.

16 Q You lied under penalty of perjury under tax
17 forms, right?

18 A Yes, I did.

19 Q Friends -- your friends called you Robin Hood?

20 A Certain of them, yes.

21 Q And Robin Hood usually means a steal --
22 stealing from the rich to give to the poor, right?

23 A That's normally what it means. I was stealing
24 from the rich to give to the richer.

25 Q Including yourself?

1 A Yes.

2 Q And back to the tax fraud, your participation
3 in tax fraud was not necessarily only, if at all, for
4 your benefit but it was also for other folks' benefits,
5 right?

6 A Right.

7 Q You helped other people commit tax fraud,
8 right?

9 A Yes. My tax fraud was unique to me. I helped
10 other people avoid taxes.

11 Q Evade them?

12 A Avoid, evade, not pay.

13 Q You engaged in public corruption with
14 politicians?

15 A Yes.

16 Q You engage in public corruption with law
17 enforcement?

18 A Yes.

19 Q You participated in the purchase of political
20 positions?

21 A Yes.

22 Q You bribed judges?

23 A Yes.

24 Q You were involved in the --

25 ALL PRESENT: Object. Form.

1 BY MS. SPEAKER?:

2 Q -- manipulation, you say, of the judicial --

3 THE WITNESS: I'm sorry. Can you repeat
4 that?

5 BY MS. BARZEE-FLORES:

6 Q You were involved in the manipulation of the
7 judiciary?

8 A Yes.

9 Q You engaged in mob crime?

10 A I don't know what you mean.

11 MR. LAVECCHIO: Could I have a point of
12 clarification by what you mean by "mob
13 crimes"?

14 BY MS. SPEAKER?:

15 Q Sure. You've already said you laundered money
16 for the mob, right?

17 A Yes.

18 Q Were you involved in extortion?

19 MR. SCHERER: I'm sorry. Would you
20 repeat that? I didn't hear the question.

21 BY MS. BARZEE-FLORES:

22 Q Were you involved in extortion?

23 MR. SCHERER: Thank you.

24 MS. BARZEE-FLORES: You're welcome.

25 MR. LAVECCHIO: As a general crime?

1 A I was involved in extortion as a general
2 crime, yes.

3 BY MS. BARZEE-FLORES:

4 Q Did you extort anybody?

5 You're pausing, Mr. Rothstein.

6 I'm not going to ask you who if Mr. Lavecchio
7 doesn't want me to know that.

8 MR. NURIK: Let -- hold on. Hold on.

9 MR. SCHERER: Objection to form.

10 MR. NURIK: Let the record reflect that
11 the reason he's pausing is because there is
12 the anticipation of a possible objection based
13 on law enforcement privilege, so he's giving
14 the government the opportunity to decide
15 whether or not to interpose that objection.
16 No other reason.

17 MS. BARZEE-FLORES: So noted.

18 BY MS. BARZEE-FLORES:

19 Q And I know that, which is what I meant to
20 suggest to you when I said I'm not going to ask you who
21 you extorted, if Mr. Lavecchio has an objection to that
22 question.

23 But I'm asking you, not who you extorted, but
24 just admit that you did.

25 A I'm waiting to make sure there's no --

1 **Q Okay.**

2 A -- objection.

3 MR. LAVECCHIO: My objection is just
4 point of clarification. You said he
5 participated in extortion. As that is somehow
6 differentiated from extorting people, I don't
7 understand and I don't think he understands
8 it.

9 BY MS. BARZEE-FLORES:

10 **Q Did you threaten somebody that if they didn't**
11 **give you money, you would do something?**

12 THE WITNESS: Go ahead?

13 MR. LAVECCHIO: Yes.

14 A Through other people, yes.

15 BY MS. SPEAKER?:

16 **Q Did you order the people who did it to do it?**

17 A Did I order them?

18 **Q Did you ask them nicely?**

19 ALL PRESENT: Object to the form.

20 A The way that particular -- without getting
21 into any details, the people that I was involved with
22 were happy to do these things, and they did them. I
23 didn't need to order anyone to do anything.

24 I asked. I paid. They did.

25

1 BY MS. BARZEE-FLORES:

2 Q And the "did" that they did, was it in
3 exchange for the money with the threat for physical
4 violence or the threat that some crime would be exposed,
5 or what?

6 MR. LAVECCHIO: That's where I have to
7 object.

8 BY MS. BARZEE-FLORES:

9 Q You were involved in making physical threats,
10 though, were you not?

11 MR. LAVECCHIO: Again, point of
12 clarification, he's previously testified that
13 he was involved in acts that concerned certain
14 acts of violence, but as to his personally
15 participating in those, you can ask that.

16 BY MS. BARZEE-FLORES:

17 Q What did you do to involve yourself in
18 activities including the making of physical threats?

19 MR. LAVECCHIO: I have to object.

20 BY MS. SPEAKER?:

21 Q Did you threaten anybody with physical harm?

22 MR. LAVECCHIO: Personally?

23 THE WITNESS: Personally?

24 BY MS. BARZEE-FLORES:

25 Q Yeah.

1 A I may have said I was going to beat the crap
2 out of someone when they aggravated me but that's not
3 related to the criminality. That's like someone sitting
4 in a bar saying, I would like to sleep with your wife,
5 and me saying, I'll beat the crap out of you if you go
6 near her. It's not the same thing.

7 Q Right. And certainly --

8 A The criminality that I was involved in was
9 through other people. I did not actually get involved
10 in that.

11 Q Sir, as you can understand, I'm really not
12 interested in your bar banter.

13 ALL PRESENT: Objection to form.

14 BY MS. BARZEE-FLORES:

15 Q I'm asking you --

16 MR. SCHERER: Mary, we can't hear you.

17 BY MS. BARZEE-FLORES:

18 Q Did you ever threaten to break anybody's
19 kneecaps, for example?

20 A In conversations with certain people that I
21 was committing crimes with, there was discussion of
22 physical violence.

23 Q What type of violence?

24 MR. LAVECCHIO: Objection.

25

1 BY MS. SPEAKER?:

2 Q How many contacts in the mob did you have?

3 MR. LAVECCHIO: Objection.

4 BY MS. BARZEE-FLORES:

5 Q Let me ask you about Melissa Lewis. Melissa
6 Lewis was a lawyer in your firm, right?

7 A Yes, ma'am.

8 Q And at some point you were sleeping with her?

9 A When she was a student of mine, yes.

10 Q She was Debra Villegas' best friend, right?

11 A She was.

12 Q The same Debra Villegas that would do just
13 about anything for you if you asked her?

14 A Yes. We already discussed that.

15 Q The same Debra Villegas that knew about your
16 crimes or some of them and who participated in them with
17 you?

18 A That's correct.

19 Q At some point Debra Villegas' best friend and
20 then your former lover was murdered?

21 A That's correct. She was.

22 Q She was murdered because she knew too much,
23 right?

24 A Excuse me? Are you attempting to insinuate
25 that I had something to do with that poor girl's death?

1 Have you lost your mind?

2 **Q You would deny that?**

3 A I would deny it?

4 You're disgusting. Everyone knows that I
5 wasn't involved in it. That's disgusting.

6 **Q How about Julie Timmerman?**

7 A No. No. That is disgusting.

8 Okay. I was a criminal involved in
9 white-collar crime, involved in fraud and the like,
10 involved with the mob and corrupt politicians and
11 corrupt law enforcement. I'm paying for that.

12 Melissa Lewis was a good person. She didn't
13 know too much. She was killed by a psychopath.

14 And you're disgusting for doing that.

15 **Q You gave Debra Villegas a house, right?**

16 A Why drag her family through that? They're
17 going to have to read this, for your purposes, to defend
18 John Harris, who's guilty.

19 **Q You gave Debra Villegas a house --**

20 A You should be ashamed.

21 **Q -- right?**

22 THE WITNESS: I want five minutes. You
23 should be ashamed of yourself. You think I
24 should be in jail. You should be ashamed.

25 MS. BARZEE-FLORES: We'll talk about

1 Julie Timmerman when you come back.

2 THE WITNESS: You're a disgusting human
3 being. You're the only one out of this entire
4 group of lawyers. You are truly, truly a
5 disgusting human being.

6 MR. NURIK: Scott, relax.

7 (Thereupon, a recess was taken.)

8 THE WITNESS: Whenever you're ready.

9 BY MS. BARZEE-FLORES:

10 Q When did you say you had stopped manipulating
11 people?

12 A I made a conscious decision to stop being the
13 person that I was during the course of all these crimes
14 on my return from Morocco.

15 Q But you agree that even after you returned
16 from Morocco, you manipulated people?

17 A That is a very vague question that may impinge
18 on the government's privilege. I'm going to need to
19 defer to them.

20 MR. LAVECCHIO: Point of clarification.

21 BY MS. BARZEE-FLORES:

22 Q You acted in an undercover capacity?

23 MR. LAVECCHIO: Objection.

24 MS. BARZEE-FLORES: I believe that was --
25 was that not discussed at the sentencing? I

1 believe it was.

2 MR. RABIN: Absolutely, it was.

3 MS. BARZEE-FLORES: I have the sentencing
4 transcript. Let me just hand it to you, and
5 then I can come back.

6 MR. LAVECCHIO: Is that the end of your
7 question?

8 MS. BARZEE-FLORES: Yes.

9 MR. LAVECCHIO: That's the only question?

10 MS. BARZEE-FLORES: Yeah.

11 MR. LAVECCHIO: Did you participated in
12 undercover --

13 Okay.

14 BY MS. BARZEE-FLORES:

15 Q And I believe it was in your letter,
16 Mr. Rothstein.

17 MR. NURIK: We defer to the government on
18 this.

19 A I'm more than happy to answer it, if the
20 government allows me.

21 MR. LAVECCHIO: We don't have to spend a
22 lot of time on this. You can answer the
23 question yes or no.

24 THE WITNESS: Can you reask the question,
25 please?

1 BY MS. BARZEE-FLORES:

2 Q You acted in an undercover capacity after you
3 came back from Morocco?

4 A Yes.

5 Q Let me ask you about Julie Timmerman.

6 A Yes, ma'am.

7 Q She was your law clerk?

8 A She was.

9 Q And she had been a hostess at a -- or some
10 type of employee at Bova, also?

11 A I believe she was. I don't recall whether she
12 specifically was or not. I think at one point in time
13 she did work at Bova.

14 Q And in the last year --

15 A Yeah, she did. She did.

16 Q And in the last year of the Ponzi scheme, you
17 gave her four \$15,000 payments.

18 A I don't remember specifically whether it was
19 the last year, but there was a point in time when she
20 needed funds to complete law school and we gave her what
21 we had called "student loans" through the firm. It was
22 a decision that Stu Rosenfeldt and I made.

23 Q You were sleeping with her, though, right?

24 A There was a point in time when she and I had a
25 physical relationship. It was prior to her working for

1 me. It didn't continue.

2 Q And Ms. Timmerman, after the Ponzi scheme
3 imploded, is alleged to have committed suicide; is that
4 correct?

5 A It's my understanding that she did commit
6 suicide, yes.

7 Q Your bodyguard was pretty close to you, right?

8 A I believed him to be, yes. Are you talking
9 about Mr. Scandiffio?

10 Q Yes. Big Bob Scandiffio, he was close to you?

11 A That's what I just said, yes, ma'am.

12 Q And he also allegedly committed suicide after
13 the Ponzi imploded, right?

14 A My understanding from conversations with law
15 enforcement was that he did, in fact, commit suicide.

16 Q What did he know about you before he allegedly
17 shot himself in the head?

18 A Specifically, I don't recall everything he
19 knew. He was a confidante of mine who was with me
20 constantly. So I suspect he knew that I was -- well, he
21 did, in fact, know that I was committing crimes. He did
22 know that I was an adulterer.

23 Q You deny having much to do with any one of
24 those three deaths, right?

25 A I didn't have anything to do with those

1 deaths.

2 Q Every day you've been deposed, the morning has
3 started with a discussion of the oath you're taking,
4 right?

5 A A discussion? I'm put under oath each
6 morning.

7 Q Put under oath or somebody asks you are you
8 still under oath, there's always something about the
9 oath before we start questioning you, right?

10 A I think that's standard in a deposition, to
11 make my testimony be sworn testimony.

12 Q And you took an oath to tell the truth, right?

13 A Every day that I've been deposed.

14 Q And the lawyers -- when I mentioned discussion
15 before, the lawyers questioning you over these days have
16 often made a point that you're under oath or reminding
17 you that you're under oath, right?

18 A They made the point, and I made the point.
19 Remember this morning, I asked to be put under oath?

20 Q And you do that because you want folks to
21 believe that since you're taking an oath, you're saying
22 the truth, right?

23 A No, actually. I really want to not have to
24 repeat all this testimony again, and if I'm not under
25 oath, the deposition testimony can't be used. I am

1 telling the truth.

2 And yes, I do want people very much to
3 understand that I am, in fact, telling the truth.

4 Q You've violated oaths before, though, haven't
5 you, sir?

6 A In my prior incarnation, I certainly did.

7 Q You violated your oath as an attorney?

8 A I did.

9 Q You lied to judges?

10 A I did.

11 Q You put money, filthy lucre, ahead of your
12 clients' interests?

13 A Filthy lucre?

14 Q Yes. Money?

15 A Yes. I know what "lucre" is. I've just never
16 heard anyone use that in a question before.

17 Q It's in the oath, sir.

18 A I know it is. I remember the oath. I just --
19 "for lucre or malice," I remember that. Yes, I violated
20 that oath.

21 Q Your law firm's motto was passion, integrity
22 and commitment, right?

23 A That's correct.

24 Q That was a lie?

25 A Actually, when -- if you say that like that,

1 you're actually offending a tremendous number of really
2 good decent lawyers because the bulk of the lawyers at
3 RRA believed in passion, integrity and commitment. They
4 were really good and decent people.

5 **Q Not you, though?**

6 A No. I was a very, very bad person. I think
7 we've established that, and I think I've clearly
8 admitted that.

9 **Q You violated the oath of your marriage?**

10 A I definitely did, yes. I already told you
11 that.

12 **Q How many times did you do that?**

13 A Too many to count.

14 **Q You have perjured yourself?**

15 A Prior to returning from Morocco, I certainly
16 did.

17 **Q You have been known as the "Prince of**
18 **Darkness."**

19 A Yes. That was a name given to me back when I
20 was a young lawyer.

21 **Q Mr. Rothstein, during the time of your**
22 **criminal enterprise, you would agree you've been**
23 **charming?**

24 A I think some would say I was charming; I think
25 some would say I was a flaming A-hole.

1 Q How about narcissistic?

2 A I definitely had a narcissistic personality,
3 yes.

4 Q You repeatedly committed criminal acts?

5 A Yes. I'm confident that that's clearly
6 established.

7 Q Repeatedly lied or conned people?

8 A I did.

9 Q You rationalized your having stolen from some
10 people?

11 A I did, along with my co-conspirators,
12 absolutely.

13 Q And you know, sir, that these are the classic
14 clinical symptoms of sociopathy?

15 A I'm sorry. I don't understand your question.

16 Q Have you heard of the word "sociopathy"?

17 A I certainly have.

18 Q You've heard people use the word "sociopath"?

19 A I certainly have.

20 Q And you know that these symptoms that I just
21 went over with you, charming, narcissistic, repeatedly
22 committing criminal acts, repeatedly lying or conning
23 people and rationalizing --

24 A You're asking me to diagnosis myself?

25 Q Well, you're seeing -- you have seen a

1 psychiatrist, have you not, sir?

2 A For acute anxiety disorder.

3 Q You've had this discussion with your
4 psychiatrist, have you not?

5 A I have not.

6 Q You've been prescribed sertraline?

7 A For acute anxiety disorder.

8 Q Do you know it is prescribed for sociopathy,
9 sir?

10 A No, actually, I didn't, until you just told me
11 that.

12 Q How do you know the prison doctor isn't just
13 telling you it's an anxiety disorder to put that in your
14 prison file so the government can use you as a witness?

15 A I've actually never --

16 ALL PRESENT: Objection.

17 A No, no --

18 MR. NURIK: Hold on. First of all, there
19 is a privilege with his doctors.

20 A Without waving any medical privilege, I have
21 never -- the entire time I've been incarcerated -- ever
22 seen a prison psychologist or psychiatrist or an outside
23 psychologist or psychiatrist, ever.

24 BY MS. BARZEE-FLORES:

25 Q You have --

1 A The sertraline was prescribed to me by a
2 medical doctor.

3 **Q For anxiety?**

4 A That's what it's used for, yes. It was
5 actually the only drug, other than Paxil, that ever
6 worked for it.

7 **Q You have no intention of dying in prison?**

8 A I certainly hope not to.

9 **Q You've always had a "plan B," haven't you?**

10 A The only plan that I had is the plan I would
11 suggest your clients and the other people in here who
12 are guilty use, and that is come clean, talk to the
13 government, tell them what you did, pay for your crime,
14 hope that you get out while you still have a life to
15 live and go and be a productive member of society.
16 That's the suggestion I have for all the people that are
17 sticking their heads in the sand, including your
18 clients.

19 **Q Southern Grant -- I'm sorry. Southern Grout**
20 **and Mortar, do you remember that?**

21 A I do.

22 **Q And I think we've heard the story about you**
23 **had a lawyer in your firm that botched some aspect of a**
24 **lawsuit on behalf of the owner of that company.**

25 A Yes.

1 **Q And having had the problem of the botched**
 2 **lawsuit, you had a "plan B," right?**

3 A Well, I don't now if I had a "plan B."

4 **Q You paid off the yacht, right?**

5 MR. NURIK: Well, let him finish.

6 A Let me finish the answer.

7 My "plan B" was the fact that the owner of the
 8 company is a criminal, okay, and it was very easy to fix
 9 what we needed to fix. I paid money to him so that his
 10 ex-wife wouldn't know what was going on and so that his
 11 daughter and his CFO would not know what was going on.

12 It's not a "plan B." When you're doing
 13 business with criminals, you don't need to have a
 14 "plan B"; you just do.

15 BY MS. BARZEE-FLORES:

16 **Q Well, how about in the Morse cases, when Ed**
 17 **and Carol Morse had a lawsuit and there was some problem**
 18 **going down with that, didn't you have a "plan B" where**
 19 **you had to create fake court orders to get out of it?**

20 A You're misstating all of my prior testimony.
 21 It's not a "plan B."

22 I had Ed Morse's son, who is the CEO and
 23 president of the company, Ted Morse, involved in
 24 criminal acts was me, including assisting me in stealing
 25 from his father. I didn't need to have a "plan B." I

1 needed to talk to Ted and figure out what -- for lack of
2 a better phrase, what crime we were going to commit next
3 and do what it was. You call it "plan B"; I call it a
4 continuation of a criminal enterprise.

5 **Q In late 2009, when you were afraid that your**
6 **Ponzi was going to implode without a big infusion of**
7 **cash, wasn't "plan B" to threaten the doctrine of mutual**
8 **destruction?**

9 A Yes, along with other criminals, that's
10 correct. If you want to call it a "plan B" -- you're
11 trying to say that I -- if one thing wasn't working, I
12 tried something else, the answer is yes.

13 **Q All right. And when the Ponzi scheme did**
14 **finally implode, your "plan B," rather than face the**
15 **failure, was to either flee to Morocco or kill yourself?**

16 A It's not a "plan B." I don't think you're
17 listening to my testimony.

18 At some point in time, all these crimes were
19 going to be exposed. I made a conscious decision to
20 find a nonextradition country and flee to it.

21 While I was in the nonextradition country
22 sitting with plenty of money, as well as things that
23 could be sold for plenty of money, I made the
24 then-conscious decision -- maybe one of the only
25 decisions in my life I am truly, truly proud of, I made

1 the decision to return to the United States, despite the
2 fact that I was in a nonextradition country, to turn
3 myself in, knowing that I was going to go to prison.

4 Q Once you were in Morocco --

5 A Something I suggest your clients and the other
6 guilty people do before it's too late.

7 Q Once you were in Morocco, you talked to your
8 lawyer, Mr. Nurik, right?

9 A I'm sorry?

10 Q Once you were in Morocco, you talked to your
11 lawyer, Mr. Nurik?

12 A I think we established on the 30th or the
13 31st, just prior to me deciding to come back, I spoke to
14 Mr. Nurik.

15 Q And you communicated with some of your
16 co-conspirators?

17 A I did.

18 Q By email, correct?

19 A Some by email, some by text.

20 Q What --

21 A Some by phone.

22 Q What email addresses were you using?

23 A I don't recall.

24 Q You had more than the Scott Rothstein law firm
25 email address?

1 A No. You're saying what email addresses I was
2 using. That would mean email addresses I was writing
3 to, as well.

4 I used SRothstein@RRA-law.com.

5 Q You did not write from any other email
6 address?

7 A I don't think I had any other email addresses.

8 Q While you were there, your plan became to come
9 back to the United States, right?

10 A My plan? It was a conscious decision I made
11 to turn myself in.

12 Q But it wasn't just to turn yourself in and do
13 your time, right?

14 A I made a decision to come back, turn myself
15 in, go to prison and tell the government everything I
16 knew about everyone else that had committed crimes.

17 Q Right. So you did --

18 A And everything about my crimes.

19 Q So you didn't just decide to come back and,
20 like a Bernie Madoff, take your sentence and spend the
21 rest of your life in jail --

22 A Are you --

23 Q -- that wasn't your plan?

24 A Whoa, whoa, are you suggesting that Bernie
25 Madoff, who worked to help other people that were in the

1 know get away with his crime, that I'm the same?

2 You're not even close. You're not even close.

3 Mr. Madoff should have taken me, and I'm proud to say
4 this, as an example as to what you do when you want to
5 do the right thing. He did the wrong thing. Because if
6 you think he did that by himself, then you don't know
7 anything about how these crimes work.

8 **Q The point is, Mr. Madoff came back -- I mean,**
9 **Mr. Madoff got his sentence and is serving it; but**
10 **that's not what your plan was, right? Your plan was to**
11 **get a sentence and hopefully reduce it, right?**

12 A At the time that I decided to come back, I had
13 no idea what was going to happen to me. The discussions
14 I had with my wife and other people that I was talking
15 to who were counselling me, revolved around the fact
16 that when I stepped back on U.S. soil, I could very
17 likely die in prison. Despite the fact that I knew that
18 it was a very real possibility, I came back.

19 **Q Before you got on that plane in Morocco to**
20 **return to the United States, you had decided that you**
21 **were going to begin cooperating with the government in**
22 **the hopes of reducing your sentence?**

23 A I had made a decision to come back and tell
24 the truth about everything I was involved in.

25 I had already been -- without getting into

1 anything that would waive attorney-client privilege,
2 okay, and my spousal privilege, okay, I was under the
3 belief that I could die in prison, regardless of what I
4 told anybody.

5 So I made a decision to leave what I believed
6 was a safe haven to come back to this. Okay.

7 Do I now hope that I will get a reduction? Of
8 course I do. Every single person in prison hopes they
9 will get out someday.

10 **Q What sentence did you think you were facing?**

11 A 100 years.

12 **Q Before, before you left Morocco.**

13 A Before I left Morocco?

14 **Q Yes.**

15 A Life.

16 **Q But you believed at that point that you would**
17 **have enough information on other people that your**
18 **sentence might be reduced to a point where you would be**
19 **able to get out of jail?**

20 A I didn't have any conscious decision about
21 that one way or the other. I hoped that my cooperation
22 would yield a reduction in my sentence --

23 **Q At what point did you decide --**

24 A -- but -- but --

25 **Q Oh, go ahead.**

1 A -- but --

2 **Q I apologize.**

3 A -- given the fact that I had practiced law for
4 some time, I also knew that it was a possibility, as I
5 do know sitting here right now, that I could end up
6 dying in prison. That is the fact of the matter.

7 **Q And you don't want that to happen?**

8 A No, ma'am. I do not wish to die in prison.

9 **Q At what point did you decide to start**
10 **assisting the trustee and Mr. Scherer in this case?**

11 A In order to answer that question, I would have
12 to give you attorney-client-privileged information, and
13 I'm going to --

14 THE WITNESS: Do you want to make this
15 objection?

16 MR. NURIK: You already did for me, but
17 that's okay.

18 BY MS. BARZEE-FLORES:

19 **Q At what time --**

20 MR. NURIK: That's your privilege.

21 THE WITNESS: I'm invoking
22 attorney-client privilege. That's your
23 answer.

24 BY MS. BARZEE-FLORES:

25 **Q I'm not asking you what your lawyer told you;**

1 I wouldn't ask you that.

2 I'm asking at what point did you decide to
3 start helping the Trustee and Mr. Scherer? Was it
4 before you left to Morocco?

5 A No.

6 Q It was after that, right?

7 A Well, it would have to be after that
8 because --

9 Q Was it before your sentence --

10 A Hang on. Wait. I'm answering.

11 When I left to Morocco, there was no Trustee;
12 and even when I came back, I didn't know there was going
13 to be a trustee. I had no idea what was going to happen
14 on the civil side of this. It was not something I was
15 thinking about.

16 I had -- I had one goal: come back, tell the
17 government everything I know, make sure the innocent
18 investors got their money back. That was it.

19 Q But then, at some point, you believed or came
20 to believe that if you helped the Trustee and
21 Mr. Scherer, you might get some credit for that for a
22 sentence reduction.

23 A Actually, you're 100 percent wrong.

24 My understanding is that while they're
25 certainly allowed to talk about anything that I've

1 helped happen, that my cooperation is evaluated based
2 upon my cooperation in criminal investigations and
3 criminal prosecutions. I don't think the Rule 35
4 statute says anything about civil anything.

5 My purpose in cooperating with Mr. Scherer and
6 Ms. Van Vliet and Mr. Lichtman and everyone else
7 representing innocent parties, is to make sure that, my
8 wish, that the innocent investors get all their money
9 back, actually comes to fruition.

10 **Q You talked about Ponzi-speak. Let's talk**
11 **about prison-speak, since you're talking about Rule 35.**

12 A I --

13 **Q Now, you know that the government is the one**
14 **that files the Rule 35 motion, right?**

15 MR. SCHERER: Object to form.

16 A Yes.

17 BY MS. BARZEE-FLORES:

18 **Q And, in fact, it did, right?**

19 A Yes.

20 **Q And the Rule 35, as you just suggested, is a**
21 **motion that is filed when the government, in its own**
22 **estimation, has determined that you have provided**
23 **substantial assistance, right?**

24 A I understand that's what the rule says.

25 **Q Right. And that's what you were just trying**

1 to cite to me a minute ago, right, what the rule or the
2 statute says, right?

3 A Cite to you? I was telling you what my -- you
4 asked me what my understanding was. I gave you my
5 understanding.

6 Q Okay. But you know, sir, that once the
7 government has filed the Rule 35 and you get back in
8 front of a judge, anybody can get up and talk about how
9 wonderful you are in the hopes that that might get the
10 judge to reduce your sentence, right?

11 A I believe it's up to the judge.

12 Q Right.

13 And it's up to the judge, just like it was up
14 to the judge the last time you were before him, right?

15 A It is completely in his hands.

16 Q Right.

17 And the last time you were before him,
18 although it was totally in the judge's hands, you had
19 somebody get up and speak on your behalf, did you not?

20 A I'm sorry, who spoke on my behalf, other than
21 me?

22 Q Mr. Nurik spoke on your behalf, did he not?

23 A He's my lawyer.

24 Q Okay. And he was there and he spoke on your
25 behalf, right?

1 MR. NURIK: I would hope so.

2 A If he got up and said things that were not on
3 my behalf, that would have been a little problematic,
4 right? He's my lawyer. His job --

5 BY MS. BARZEE-FLORES:

6 Q And the --

7 A Hang on. I'm answering questions, and I know
8 you want to stay on your roll, but I want to make sure
9 the record is clear.

10 He got up representing me. Okay. And make no
11 mistake about it, Mr. Nurik was furious with me.

12 Q And the reason he got up and argued on your
13 behalf was to attempt to convince the judge that what
14 you deserved was a sentence of 30 years not 40 years
15 like Mr. Lavecchio was asking?

16 A Yes.

17 BY MS. BARZEE-FLORES:

18 Q Okay. And you had a letter from Herb Stettin
19 that was presented to the judge, right?

20 A I don't recall.

21 Q Do you know who Herb Stettin is?

22 A I do.

23 Q And you don't recall him having written Judge
24 Cohn a letter for you?

25 A It's kind of a blur. I remember my mom wrote

1 a letter. My sister wrote a letter. I remember now,
2 because we talked about it earlier in testimony,
3 Mr. Scherer wrote a letter.

4 **Q And the point --**

5 A I remember that there was a really -- now,
6 because I hadn't seen it before -- nasty letter written
7 by Coquina.

8 **Q The point of all those letters, the good and**
9 **the nasty, were to influence the judge in the judge's**
10 **sentencing determination, right?**

11 A I believe the purpose is to properly educate
12 the judge so he can make as informed decision as
13 possible, yes.

14 **Q So, now that the government has filed a**
15 **Rule 35, you'll have another sentencing hearing before**
16 **Judge Cohn, right?**

17 A I don't know. I don't know if there's going
18 to be a hearing or not.

19 I understand it could be done by the Court; it
20 could be done without me there. I don't know what will
21 happen.

22 **Q Do you hope to have a hearing?**

23 A I hope to get a Rule 35 reduction for my
24 substantial assistance --

25 **Q You want somebody to tell the judge what you**

1 **did?**

2 A Why are you cutting me off? Just let me
3 finish, please.

4 I hope to have a Rule 35 substantial
5 assistance reduction. How we get there, that's up to
6 the judge and the government; it's not up to me.

7 **Q Don't you hope that there's a hearing that**
8 **Mr. Lavecchio gets up, asks and tells the judge about**
9 **how much you've done?**

10 A If that is going to help educate the Court,
11 then yes, I hope there's a hearing. If the Court
12 doesn't require that information or to hear from me or
13 to hear from other people, then that's what will happen.

14 **Q And you hope that at such a hearing, your**
15 **lawyer will have an opportunity to tell the judge what**
16 **you've done and how you deserve to have your sentence**
17 **reduced?**

18 A I hope that all the information about
19 everything that I've done since my return from Morocco
20 is presented in full to the Court; and I hope that he's
21 fair with me, that he considers everything that I've
22 done before and after and comes to a fair determination
23 for me. That's my hope.

24 **Q And you hope Herb Stettin provides the judge**
25 **with information that the judge might find favorable to**

1 **you?**

2 A I think I've answered this over and over.

3 I hope that every single person that has
4 something to offer about anything positive that I have
5 done since my return from Morocco is heard so that the
6 judge can make a fair decision based upon everything
7 that he should consider to determine whether or not I'm
8 entitled to a reduction.

9 **Q And you believe that the more the judge hears**
10 **that's favorable about you, the more likely it will be**
11 **that the judge will reduce your sentence?**

12 MR. SCHERER: Object to form.

13 A I don't know that it's like a "more" thing. I
14 think it's the -- an examination of my cooperation. I
15 don't know that it's like you stack all the cooperation
16 up. It's based upon the quality of my cooperation.

17 BY MS. BARZEE-FLORES:

18 **Q Let's talk about that, Mr. Rothstein.**

19 **When you talk about the quality of your**
20 **cooperation and the quantity of your cooperation,**
21 **certainly, if your cooperation entails nothing more than**
22 **advising the government about somebody who had passed a**
23 **fake check once at a bank, you could not expect a**
24 **sentence reduction as large as you might expect if you**
25 **provided information that led to the indictment of five**

1 people, including a politician or a judge, including a
2 lawyer or a doctor, correct?

3 A Or a banker.

4 ALL PRESENT: Object to form.

5 A I believe that that is a fair statement, that
6 the judge -- that the government, first, will evaluate;
7 and then the judge will evaluate it, based upon the
8 quantity, but more importantly, the quality of my
9 cooperation.

10 BY MS. BARZEE-FLORES:

11 Q And certainly, if Judge Stettin (sic) and
12 Mr. Scherer and Mr. Lichtman come in and say to the
13 judge, not only did he help the government, but he
14 helped us, and he helped our clients, who deserve to be
15 helped, that that may help you get your sentence reduced
16 further?

17 A Assuming that the Court wishes to consider
18 that, that would be helpful; but I can't guess as to
19 what he's going to consider or not consider.

20 Q But you can tell us --

21 A The only thing I know about --

22 Q -- what you hope.

23 A Yes, I hope he considers everything that I've
24 done, sure.

25 MR. SCHERER: Object to form.

1 BY MS. BARZEE-FLORES:

2 Q Who bought the clothes you've been wearing
3 these last two weeks?

4 UNKNOWN SPEAKER: Object to fashion.

5 A I bought the sneakers. My wife bought me the
6 watch. I bought my underwear. Mr. Nurik loaned me my
7 belt, and he brought me a pair of jeans and this shirt.

8 BY MS. BARZEE-FLORES:

9 Q You've had more than one shirt --

10 MR. NURIK: Which, for the Court, I will
11 add to my bill.

12 BY MS. BARZEE-FLORES:

13 Q You've had more than one shirt; Mr. Nurik
14 bought you the shirts you've been wearing?

15 A Three.

16 MR. NURIK: Target.

17 BY MS. BARZEE-FLORES:

18 Q You said you bought your sneakers; is that
19 with money out of your commissary account?

20 A It's money I earned, actually, in prison,
21 teaching.

22 Q Does anybody put money in your commissary
23 account?

24 A Yes.

25 Q Who?

1 A My wife. My parents. My sister.

2 Q How old are you?

3 A 49.

4 Q And you've been in for a couple of years,
5 right?

6 A Two years this past December 1st.

7 Q Assuming you have the opportunity to get up
8 before Judge Cohn for a resentencing, what do you hope
9 for?

10 A Say this again? I lost you.

11 Q Assuming you have the opportunity to get up
12 before Judge Cohn for resentencing, what do you hope to
13 get?

14 A I don't -- I don't know what a resentencing
15 is. Are you talking about --

16 Q A second sentencing, sir; you've been
17 sentenced once, have you not?

18 A Yeah, but I don't think it works that way. I
19 think that there's a Rule 35 hearing, and then he enters
20 an order on the Rule 35.

21 I don't think -- I've read some of the case
22 law. I don't think you actually go through a
23 resentencing.

24 Q What do you hope the sentence is --

25 A As a matter of fact, I think there's case law

1 that says it's not a resentencing because that would
2 trigger certain other things that they don't want to
3 trigger.

4 **Q What do you hope your sentence is?**

5 A Whatever is fair. I mean, I would love to get
6 out as soon as possible. Prison is a very bad place.
7 Okay. I know there's a lot of talk about where I am and
8 stuff, and I can't talk about that; but make no mistake
9 about it, I'm in prison, okay. It's a very bad place,
10 and I can tell you with 100 percent certainty there is
11 nobody in there that does not want to go home today.

12 I would like to go home today. That is wholly
13 unrealistic. Okay. I would like to go home today.

14 **Q Before your incarceration, you lied for money,**
15 **right?**

16 MR. SCHERER: Object, form.

17 A Yes.

18 BY MS. BARZEE-FLORES:

19 **Q And you used a pitch to get what you wanted?**

20 ALL PRESENT: Object, form.

21 A Yes.

22 BY MS. BARZEE-FLORES:

23 **Q Your hope to get out of prison today is a**
24 **reason for you to lie, isn't it?**

25 MR. SCHERER: Object to form.

1 A You apparently are not paying attention to
2 what Judge Cohn is all about, the magnitude of my crime
3 and what I'm facing. You're -- you've got to pay
4 attention to what's going on. Okay.

5 My hope to get out is solely, solely based
6 upon my telling the truth about everything I know.

7 MR. SCHERER: Withdraw my objection.

8 BY MS. BARZEE-FLORES:

9 **Q You have --**

10 MR. LICHTMAN: We object to that
11 question.

12 BY MS. BARZEE-FLORES:

13 **Q You have at least 50 reasons to lie, don't**
14 **you?**

15 ALL PRESENT: Object to form.

16 A In prison we actually count it by days.

17 BY MS. BARZEE-FLORES:

18 **Q How many days have you got?**

19 A I don't know. A lot. A lot. Over 10,000, I
20 think.

21 **Q So over 10,000 reasons to lie?**

22 MR. SCHERER: Object to form.

23 A No. You, again --

24 MR. NURIK: Just answer.

25 A The answer is no. I have the opposite of what

1 you're saying. Okay. I have every reason,
2 10,000-something reasons, okay, to tell the truth.

3 MS. BARZEE-FLORES: Nothing further.

4 THE WITNESS: Sam, do you mind if we take
5 five minutes?

6 MR. RABIN: No, that's fine.

7 (Whereupon, a recess was had.)

8 MR. SCHERER: This record closes at
9 12:00.

10 MR. NURIK: Let's go. I'm going to ask a
11 few questions at the end just to clarify some
12 points so -- but we -- go ahead.

13 FURTHER DIRECT EXAMINATION

14 BY MR. RABIN:

15 Q Okay. Good morning again, Mr. Rothstein.

16 A Good morning, Mr. Rabin.

17 Q All right. First I just want to pick up on a
18 few points. Then I want to go into a completely new
19 area.

20 You said in response to questions this morning
21 that you were amazed that people would write so many
22 incriminating things in emails, correct?

23 A Yes.

24 Q All right. Was it your conscious desire to
25 try to avoid writing incriminating things in emails?

1 A It was and it wasn't.

2 There were times when I was very careful not
3 to put incriminating things in emails, and looking back
4 on it, there were times when I wrote things I probably
5 shouldn't have written.

6 Q Would it be fair to say that you were
7 conscious of the fact you were trying to leave as few
8 trails as possible of your illegal acts?

9 A At times I was and at times I wasn't.

10 Q The subject of tax fraud has come up at least
11 two or three times in the course of this deposition; and
12 each time, you've said that you committed fraud the
13 wrong way because, I guess, you're suggesting that you
14 paid more taxes than you should have?

15 A I did.

16 Q Okay. Did you include in your taxes all of
17 the cash that you were pulling out in cash and using in
18 your various assorted and sundry matters?

19 A Not by listing it as cash, but I more than
20 accounted for it in the income that I -- that I
21 declared.

22 Q Okay. So you didn't specifically indicate the
23 amount of cash on your tax return that you were -- that
24 you were using or that you had?

25 A I didn't say it was cash. I -- it was more

1 than included.

2 What I did was, so you know, Mr. Rabin, was, I
3 wanted to avoid an audit; or if I got an audit, I wanted
4 them to, as they were going through it, determine that,
5 wait a second, this guy doesn't owe any taxes, if
6 anything we owe him money.

7 So I instructed Tracy Weintraub to inflate my
8 income by tens of millions of dollars, which he did.

9 **Q So, essentially, what you're saying is you**
10 **paid more taxes, but you lied about the manner in which**
11 **you did it?**

12 A Yeah. I'm not -- by no means, Mr. Rabin, I'm
13 not trying to excuse my conduct. I'm not saying I
14 didn't commit fraud on the IRS. I'm just pointing out
15 the fact that I kind of did it in a backwards fashion.

16 **Q Another theme that you've developed through**
17 **the course of this deposition in your answers is that**
18 **you told the people that were involved in your Ponzi**
19 **scheme just what you needed to tell them in order to get**
20 **them to do the things that you needed them to do; is**
21 **that fair to say?**

22 MR. SCHERER: Objection. Form.

23 A Certain people, I told them just what they
24 needed to know. Certain people, I probably told them
25 too little; and certain people I told too much. It just

1 varied.

2 BY MR. RABIN:

3 Q Okay. I want to break these down into groups
4 and try and get your best recollection as to what you
5 told different people in order to engage them in your
6 scheme. And I want to start first with the people in
7 your law firm. Okay?

8 A Sure.

9 Q All right. Russell Adler, you generally
10 described the fact that he helped you round up other
11 lawyers to provide false verifications that they were
12 either sending business or cases to your firm, correct?

13 A That is one of the things that he did, yes.

14 Q And what was the -- what was it that you told
15 him was the reason why you needed those lawyers?

16 First of all, was it honest or a lie and what
17 was the --

18 A No, it was honest.

19 Q Okay. And what -- it was honest, what you
20 told him?

21 A I told Mr. Adler -- to the best of my
22 recollection, I told him that we had the hedge funds
23 coming in town and that in order to convince them to
24 continue to do business with us, that I needed these
25 people to lie about the number of cases we had.

1 Q So, essentially, what you're saying is, you
2 honestly told him aspects of the scheme or he already
3 knew aspects of the scheme and you told him the honest
4 purpose for which you were lining up these lawyers? Is
5 that what you're saying?

6 MR. SCHERER: Object to form.

7 A I don't understand the question but you
8 have --

9 BY MR. RABIN:

10 Q Let me rephrase it.

11 MR. SCHERER: Objection to form.

12 BY MR. RABIN:

13 Q I don't want you to answer a question you
14 don't understand.

15 Is your -- what you just summarized or just
16 testified to is that you told Adler that you needed
17 these lawyers to provide false information?

18 A I told Adler -- yes, I told Adler I needed
19 these lawyers to lie.

20 Q Okay. David Boden, generally what was David
21 Boden's role?

22 A He was my general counsel, and he ran a
23 sub-Ponzi scheme, as we've come to call it.

24 Q All right. And what was the lie that you told
25 or the honest information that you gave David Boden in

1 **order to let him get involved in your scheme?**

2 MR. SCHERER: Object to form.

3 A I would have to see all the email traffic with
4 him to break that down for you, Mr. Rabin.

5 There were things that I told him that were
6 true about the scheme. There were things that I told
7 him that were false about the scheme. There were things
8 he told me that were true about his scheme and things
9 that he told me that were false about his scheme.

10 There was -- David and I were engaged in so
11 much lying back and forth that without seeing that email
12 traffic, there's just no way I can pinpoint that for
13 you.

14 Q So --

15 A It's impossible.

16 Q Well, you wouldn't put lies in an email,
17 though, would you?

18 A Of course I did.

19 Q You did?

20 A I think I've been saying that for now eight
21 days and a couple of hours.

22 Q So without looking at the emails, is it your
23 testimony that you have no independent recollection of
24 anything that you told David Boden regarding what you
25 needed to say to get him to help you?

1 A It's not that I don't have -- I mean, I can
2 sit here and start -- try to think about it, but giving
3 me the emails would refresh my recollection and make it
4 a lot easier on all of us.

5 Q And that also has been a common theme
6 throughout the course of the eight days or nine days;
7 but what I'm asking you for today is your best
8 recollection. Because, as you can appreciate, there may
9 not be email trails as to what you told people in your
10 conversations with them. So I'm asking you what was
11 your best recollection or what is your best recollection
12 regarding what you told Boden.

13 MR. NURIK: Are we talking about in
14 emails or in conversations?

15 BY MR. RABIN:

16 Q No. Conversations.

17 A In conversations, I -- let me do it by way of
18 giving you some examples, and maybe you can ask me
19 questions as follow-up that will get you to where you're
20 trying to go.

21 At one point in time I had to explain to David
22 Boden how to use the fake TD website. I took him in,
23 and I showed him how to utilize it, how to log in, how
24 to avoid going to the wrong places that would actually
25 take him to a real TD website.

1 BY MR. RABIN:

2 Q Did you --

3 A Prior to that a --

4 Q Just let me ask a follow-up question, and then
5 you can continue.

6 A Sure, sure.

7 Q Can you tell him what the purpose of the fake
8 TD Bank website was when you showed him that?

9 A I -- he knew what it was. That's why he
10 wanted to use the fake TD website; he was going to use
11 it to induce his investors.

12 Q Okay. Go ahead.

13 A By the same token, early on, before he knew
14 there was a Ponzi scheme, I told him that these were
15 legitimate investments, so he had heard both. It was
16 much like that with many people who originally thought
17 that what we were doing was legitimate; and as they came
18 to detect red flags, realized that there were crimes
19 going on, and they, themselves, made the decision to get
20 involved, based upon requests that I made of -- for them
21 to do various things.

22 I told him in conversations to be very careful
23 what he wrote to me, that I didn't know whether Curtis
24 or Bill Corte -- and this is a specific conversation,
25 because I remember thinking at some point in time that

1 someone was reading my emails because certain things
2 looked open.

3 And I remember telling him, be careful what
4 you write to me -- this was towards the end, let's say
5 from June, July, until the implosion -- be very careful
6 when he was writing to me because I was afraid that
7 someone might be reading my emails. I was going to try
8 to increase the security level on our email system and
9 the encryption.

10 I told him to be very careful what he told
11 Pearson, Richard Pearson. He told me that I didn't need
12 to worry about Pearson.

13 Do you want to give me some other topics with
14 him and I can give you some additional information,
15 because there's a lot more. I mean, I had a lot of
16 conversations. I consulted at length with him the fraud
17 I was committing with Tracy Weintraub, because David was
18 a very, very bright corporate-paper man.

19 And there was a time -- actually, I had
20 detailed conversations with him on an opinion letter
21 that he was having to prepare. I think it was for Barry
22 Florescu. It might have been for one of his other
23 investors.

24 I had detailed conversations with him -- this
25 was about the fraud -- about how Frank Preve and I and

1 the other people that were involved in putting together
2 prior opinion letters, had placed the false information
3 in there.

4 I had conversations with him about what to
5 show people and what not to show people and how best to
6 sell the product.

7 I gave him extensive one-on-one--- let's call
8 them primers on how to sell product.

9 I mean, David was a confidant. There's a lot
10 that I told him.

11 **Q Okay. Let me move on to yesterday, I believe**
12 **it was, you identified Adelita Cabello as a Stuart**
13 **Rosenfeldt's paralegal and the person that you had act**
14 **the part of a Florida Bar lawyer?**

15 A Correct.

16 **Q How many times did she do that?**

17 A Once.

18 **Q Okay. And was that the only time you had**
19 **somebody pose as a Florida Bar lawyer?**

20 A To the best of my recollection.

21 **Q Okay. And what was it you told Ms. Cabello in**
22 **order to get her to do that?**

23 A I gave her some specific questions that they
24 were going to ask. I briefed her on how to answer them,
25 and I told her that if they asked anything that she

1 couldn't answer or was uncomfortable answering, to
2 simply say that that's Bar privilege or something to
3 that effect, that she couldn't get into that.

4 Q Mr. Rothstein, that wasn't the question I
5 asked you. My question was: What did you tell her was
6 the reason for her --

7 A I'm sorry.

8 Q -- to do that?

9 A I misheard you.

10 Q Okay.

11 A I didn't tell her the reason.

12 Q And you're saying that she didn't ask why she
13 needed to do that?

14 A She may have, but a lot of my people were
15 extremely loyal, and they were, unfortunately, used to
16 being asked to do things that were not appropriate.

17 My opinion is, is that that's the way she
18 perceived this and she wanted to be a good, quote,
19 unquote, soldier, and she just did it.

20 Q Was she given any cash?

21 A She was not.

22 Q Okay. Marybeth Feiss was somebody that was
23 involved in drafting fake documents?

24 A That's correct.

25 Q All right. You have already said that with

1 **Debra Villegas, that the lie that you told her was that**
2 **the Mafia was after you and that's why you needed these**
3 **fake documents, right?**

4 A Yeah. Sometimes in the middle of the scheme,
5 when Debra was getting very concerned about continuing
6 it -- this was in 2009 sometime -- I told Debra that I
7 had to continue it, that the mob was involved. That was
8 a lie.

9 Q **Okay. What was the lie that you told her in**
10 **order for her to start doing it, then?**

11 A I didn't tell her any lie to start doing it.

12 Q **She just -- did she just basically, willingly**
13 **engage in a crime with you without any preconceived**
14 **misconceptions?**

15 A Actually, one of the things you're going to
16 see through -- in the entire thing, this applies to
17 Debra and many others, is that there is a very slow,
18 apparently smooth glide into the criminal activity. It
19 starts with little things and it grows.

20 So, yes, there is nobody that I can think of
21 off the top of my head that was involved in any -- even
22 the tentacles of this massive crime, that I said, hey,
23 we're going to commit a crime or said, I'm going to
24 commit a fraud or even anything of that nature. We just
25 started doing things. You ask people to do things, and

1 you see whether they're going to do it or not. You
2 gauge their response. That's what would happen.
3 That's --

4 Q Okay. Mr. Rothstein, I'm going to try -- and
5 if you can, just focus on my questions, rather than the
6 speeches. It's very narrow. I'm just trying to find
7 out with each of these people, what you told them to get
8 them to work with you. Okay?

9 A All right.

10 Q Thank you.

11 All right. We left off at Marybeth Feiss.
12 What did you tell Marybeth Feiss?

13 A I don't recall telling her anything. I think
14 Deb filled her in.

15 Q So you don't recall any specific conversations
16 with her before she started preparing fake documents?

17 A Other than asking her to hand me documents or
18 make sure I get documents on time, no. I think Deb
19 filled her in on all that.

20 Q Did she leave your firm?

21 A For a period of time, yes.

22 Q Before everything blew up?

23 A Yes. And then she came back, I think.

24 Q When she left your firm, do you know where she
25 went?

1 A I don't. She had told me that she was leaving
2 to go take care of her children, but Debra told me that
3 she was leaving because she was concerned about what was
4 going on with all these documents.

5 Q Were you concerned when she left that she
6 might go to the authorities with the information that
7 she had?

8 A Yes.

9 Q Same question for Melissa Lewis, she left for
10 a period of time, correct?

11 A Melissa had no idea what was going on.

12 Q Okay. You don't -- you know she was best
13 friends with Villegas, right?

14 A Yes.

15 Q And Villegas knew everything that was going
16 on, pretty much?

17 A Debra knew a lot, yes.

18 Q You really can't sit here and say what
19 Villegas told Lewis, could you?

20 A No, but I was never under the impression, in
21 my opinion, that Melissa knew anything.

22 Q Okay. And with respect to Debra Villegas, you
23 said that she started out just doing illegal things; but
24 at some point in time, she kind of like was -- became
25 reluctant. And then you told her, in order to keep her

1 going, about the mob, correct?

2 A She became very concerned. Sometime in 2009
3 she became concerned, and I made up the story about my
4 life being in danger.

5 Q Did you know that her -- at Ms. Villegas'
6 sentencing, that she told the judge that the reason she
7 got involved in this from start to finish was because of
8 your story about the mob?

9 A That would actually be incorrect.

10 Q So she would have lied, then, if she said
11 that?

12 A That would be a false statement, sir. Yes.

13 Q Okay. Steve Goldstein, you identified him as
14 the lawyer who posed as a Judge Marra?

15 A Scott Goldstein.

16 Q I'm sorry. Scott Goldstein.

17 I know Steve Goldstein.

18 A Be careful, you could hurt another lawyer.

19 Q Scott Goldstein.

20 Change that. I'm sorry.

21 He was the lawyer that posed as Judge Marra?

22 A Yes.

23 Q Did he pose as any other judges?

24 A He posed as a circuit court judge once or
25 twice.

1 Q Well, the circuit court judge whose name you
2 forged on the order was a female, wasn't it?

3 A I don't recall.

4 Q Susan Black?

5 A No. Susan Black was an appellate court judge.

6 Q Right.

7 A I'm sorry, Mr. Rabin, state circuit court.

8 Q Okay. So this Scott Goldstein posed as Judge
9 Marra. Do you know who else he posed as?

10 A Whoever the real male judge was in one of the
11 Morse cases.

12 Q Okay. And what -- what did you --

13 A Sorry.

14 Q Did you tell Scott -- is something funny?

15 A Actually, yes. I just remembered Ted Morse
16 saying to me when I said he posed as this other judge,
17 Ted actually said to me at the time that he played -- he
18 had played the circuit judge first; and when he played
19 Judge Marra, Ted actually said to me, you need to get
20 someone else to play one of the other judges because
21 their voices sound the same and my father said something
22 to me about it.

23 That is what was funny.

24 Q Were both of the roles he played, both of the
25 judges he played, interacted with Mr. Morse, the elder?

1 A Yes.

2 Q Is that what you're saying?

3 A Yes, that was the purpose.

4 Q And what did you tell Scott Goldstein in order
5 to get him to do that?

6 A I told Scott Goldstein that Ted did not want
7 his father involved in anymore litigation and that Ted
8 was going to ultimately fund settlements to get -- he
9 was going to funnel money through us and get back to Ed
10 to make Ed think he won these things so this could all
11 be done with, and this was part and parcel of that plan
12 and we were assisting Ted to do this.

13 Q So you essentially fabricated an entire story
14 for Scott Goldstein in order to get him to play the
15 role --

16 A Yes.

17 Q -- fair enough?

18 A Ted and I did, yes.

19 Q I know you're saying, well, Ted did it. I
20 understand, but I am just asking about what you did.
21 Okay.

22 A I understand that, but what I did was with
23 somebody. So if you're asking me what I did, I'm going
24 to tell you what I did and with whom.

25 Q Okay. Howard Kusnick, he was a lawyer who --

1 **was he with your firm at one point and then left?**

2 A Ted and I -- not Ted and I.

3 Howard and I were partners many years before
4 that. Then we split up, and then he joined my firm.

5 **Q And then he ultimately participated by writing**
6 **fake letters and saying that he sent cases to you, a lot**
7 **of cases to your firm?**

8 A I don't think he was a referral. I don't
9 think he faked the referral thing. He wrote fake
10 letters.

11 **Q Okay. What did you tell him to get him to**
12 **write fake letters?**

13 A I didn't tell him anything.

14 **Q You had to tell him something to get him to**
15 **write a letter. What did you tell him?**

16 A Write this letter.

17 **Q So just it was a command from the head of the**
18 **firm -- write a letter -- with no explanation?**

19 A No. Howard was a criminal from way back; it
20 was not complicated to get him to do that.

21 **Q Okay. Steve Lippman was a lawyer in your**
22 **firm?**

23 A Yes.

24 **Q What generally did he do?**

25 A Commercial litigation.

1 Q What type of -- what was his involvement in
2 your criminal activities?

3 A Massive check kiting, money laundering, lying
4 to clients --

5 Q Okay. And what did you have to tell him to
6 get him to play along?

7 A -- bank fraud.

8 Q What did you have to tell him to get him to
9 play along?

10 A Nothing.

11 Q Nothing? He just was a criminal from way
12 back, as well?

13 A I don't know. He appeared to me to have a --
14 to be what's called loosey-goosey when I first met with
15 him to join in my firm because he wanted me to engage in
16 income tax evasion as part of his compensation package.

17 Q Okay. You mentioned this lawyer, Ken
18 Padowitz, several times during the course of this
19 deposition as somebody who you had, I guess, write a
20 letter?

21 A Opinion letter, yes.

22 Q Okay. And you indicated the opinion letter
23 was about things that you and Preve drafted that you
24 believe Padowitz had absolutely no knowledge about?

25 A To the best of my knowledge, he had no idea

1 what that letter was about, as far as the contents of
2 it. He didn't know the -- understand the intricacies of
3 that area of the law.

4 **Q What was it that you told Mr. Padowitz in**
5 **order to get him to write that letter?**

6 A To best of my recollection, I simply told him,
7 I need this letter, put it on your letterhead, and I
8 paid him for it.

9 **Q How much did you pay him?**

10 A I think five grand. Maybe 2,500, maybe five
11 grand.

12 **Q Check or cash?**

13 A Cash.

14 **Q And I assume there is no witnesses to the**
15 **payment, right?**

16 A No. Adler is a witness to me asking him to do
17 it.

18 **Q That wasn't my question.**

19 **Were there any witnesses to the payment?**

20 A I think I was just thinking out loud,
21 Mr. Rabin. I'm sorry.

22 **Q That's all right.**

23 A I don't believe there were any witnesses to
24 the payment. There may have been.

25 **Q Well, there may have been, that's not --**

1 **doesn't make an absolute answer. Who may have been a**
2 **witness, then?**

3 A I can't give you an absolute answer. There
4 may have been a witness, because I handed him the
5 money -- here's the problem. Where his office was
6 situated, there was a lot of foot traffic, and I simply
7 walked into his office and gave him the money.

8 **Q And did you give him any reason at all why you**
9 **needed the letter?**

10 A I did not tell him why I needed the letter.
11 Mr. Padowitz, I had known, had engaged in substantial
12 amounts of fraud previously. He was -- he's one of
13 those guys that you know, you pay him, he'll put it on a
14 letter, anything for a buck.

15 **Q What other fraud did you know he had engaged**
16 **in?**

17 A Fraud involving his judicial campaign, and he
18 had lied during the course of various cases that he was
19 handling when he was a partner of Russ Adler's.

20 **Q All right. Stuart Rosenfeldt, you talked**
21 **about him a lot during the course of the deposition.**
22 **What is it that you had to tell him in order to get him**
23 **involved in your scheme?**

24 A Nothing.

25 **Q So he knew from the beginning that it was**

1 **criminal and willingly engaged in it?**

2 A At the time he discovered what was going on,
3 which was simply by looking in the accounts and asking
4 me where the money was coming from, yes, he knew I was
5 involved in criminal activity and then he knew he was
6 involved in criminal activity.

7 Q **Irene Stay was your chief financial officer?**

8 A Yes.

9 Q **And she was moving money between and among**
10 **your various accounts, actually doing the transactional**
11 **side of it?**

12 A Yes.

13 Q **Did you ever explain to her what you were**
14 **doing with the movement of money?**

15 A I didn't need to.

16 Q **Why not?**

17 A Because Irene was a -- involved in fraud way
18 back when I first met her when she was the bookkeeper
19 for a law firm called Phillips, Eisinger Koss. It later
20 became Phillips, Eisinger, Koss, Rothstein & Rosenfeldt.
21 She was regularly engaged in fraud with the senior
22 partners of that firm, Gary Phillips and with Dennis
23 Eisinger, involving accounting and tax evasion and the
24 like.

25 Q **How did you know that?**

1 A Because I was part of this.

2 Q You were part of that fraud?

3 A I received money from it.

4 Q Okay. Did you have an intimate relationship
5 with Irene Stay?

6 A I'm sorry?

7 Q Did you have an intimate relationship -- I'm
8 trying to be delicate.

9 A No. I didn't realize when your said
10 "intimate." Nevermind what I thought you said.

11 A No, I did not.

12 Q How about Debra Villegas?

13 A No.

14 Q Okay. And Debra Villegas, you said that --
15 about halfway through, that you mentioned that the mob
16 story to her, correct?

17 A I don't remember if it was halfway. My
18 recollection is it was 2009 some time, when the things
19 were getting really crazy in the office.

20 Q Well, 2009 is more than halfway through,
21 actually, would it be?

22 A That's why I said I don't know that it would
23 be halfway.

24 Q All right. And now I want to talk about TD
25 Bank. I think you identified three different people at

1 the bank who you had interaction with, if I'm not
2 mistaken, Spinoso, Caretsky and Kerstetter, correct?

3 A You are going to have to define "interaction."

4 Q Well, in terms of helping you with any aspects
5 of your scheme, that you were aware of?

6 A Ms. Kerstetter, all she did was hand me an
7 envelope. I do not know anything else about the extent
8 of her knowledge. You'd have to talk to Mr. Boockvor or
9 Ms. Caretsky or Mr. Spinoso.

10 Q Did you have any conversations with
11 Ms. Kerstetter about what she was doing in terms of
12 helping you?

13 A To my recollection, no.

14 Q Okay. With respect to Ms. Caretsky, you
15 testified previously that she was given money and helped
16 you with the switches of statements. What did you tell
17 her to get her involved?

18 A I told her, as I testified previously, that I
19 needed to convince clients of mine that I had more money
20 in the bank than I did in order to get them to give me a
21 substantial increase in my business.

22 Q Okay. And do you recall when you told her
23 that?

24 A I do not.

25 Q Okay. With Mr. Spinoso, you -- he prepared a

1 series of letters that have come to be known as lock
2 letters at your request, correct?

3 A Yes.

4 Q The first one was August 17th; do you recall
5 that?

6 A I don't.

7 Q Well, let's just -- let me ask the question
8 differently, then.

9 A Sure.

10 Q What was it you told Mr. Spinosa in order --
11 when you requested the first letter?

12 A I don't recall, specifically.

13 Q So as you sit here today, you don't recall
14 what explanation you gave him for requesting the letter?

15 A I would have to really sit down and read the
16 email traffic to see what I said and how I said it. I
17 don't recall what reason I gave him for the letters,
18 except to tell him that I needed them.

19 Q You would not have told him some illegal or
20 improper reason; is that fair to say?

21 A I don't know what I told him. I don't know
22 what I told him. I would have to look at the email
23 traffic and see if it refreshes my recollection.

24 Q Is there anybody else at TD Bank that you can
25 recall that you had any interaction with?

1 A Illegal interaction?

2 Q Yes.

3 A No.

4 Q Okay. Gibraltar Bank, the other bank that you
5 testified about, I think you mentioned two different
6 names, Mr. Harris and Mr. Hayworth?

7 A And Ms. Ellis.

8 Q And Ms. Ellis. Okay.

9 Ms. Ellis, generally, what was her role?

10 A She was a bank manager.

11 Q What did she do to help you, if anything?

12 A She kept us apprised of problems with our
13 accounts, helped us move money around. I never had any
14 discussions with her, so the record is clear about
15 criminal activity.

16 Q So you never spoke to her at all?

17 A Oh, I spoke to her a lot.

18 Q About anything related to either criminal
19 activity or reasons to ask her for favors, anything?

20 A The only things that I said to Lisa would be
21 contained in emails, and I don't recall, other than
22 giving her carte blanche to move money around in a
23 manner that was certainly, by my way of thinking,
24 suspicious, I didn't have any conversations about
25 illegality with Ms. Ellis.

1 Q All right. Steve Hayworth, he was president
2 of the bank?

3 A Yes.

4 Q All right. You --

5 A CEO.

6 Q Sorry?

7 A CEO.

8 Q CEO.

9 You ultimately invested in that bank?

10 A I did.

11 Q Did you ever have any conversations with him
12 about what you were doing?

13 A About what I was doing?

14 Q Yes.

15 A No.

16 Q All right.

17 A Only about the BSA.

18 Q I'm sorry?

19 A Only about the BSA AML issue.

20 Q And that conversation, there was one of those?

21 A One or a couple. It was the same
22 conversation, though, very brief.

23 Q And ultimately you invested in the bank,
24 correct?

25 A I did.

1 **Q You never told him the source of the funds**
2 **regarding your investment, did you?**

3 A No. He could see the source of funds.

4 **Q Which were?**

5 A I took it from somebody who had sent money to
6 one of my trust accounts.

7 **Q Essentially you concealed from him any illegal**
8 **activity that you were conducting, correct?**

9 A No, no, no, the whole purpose of my investment
10 was based upon his illegal statement -- what I believe
11 was an illegality, telling me that they don't
12 investigate shareholders of the bank.

13 **Q Okay.**

14 A That was the triggering event.

15 **Q And based upon that claimed conversation, you**
16 **invested in the bank?**

17 A It's not a claimed conversation. It happened.
18 That's why I invested in the bank.

19 **Q When you say that, there is no witnesses to it**
20 **but Scott Rothstein, correct?**

21 A And John Harris.

22 **Q Okay. John Harris, what did he do?**

23 A What did he do in real life or --

24 MR. NURIK: Hold on one second. I'm just
25 a little confused.

1 MR. RABIN: Okay.

2 MR. NURIK: We have been going on, this
3 is the ninth day. We have had multiple
4 parties asking questions concerning Gibraltar.
5 It's my understanding that you represent
6 Mr. Spinoso --

7 MR. RABIN: Correct.

8 MR. NURIK: -- who works for TD Bank.

9 MR. RABIN: Correct.

10 MR. NURIK: We are going over ground that
11 we have gone over before several times. I
12 don't understand why you're asking these
13 questions now concerning Gibraltar officials.

14 MR. RABIN: Actually, really, I'm asking
15 questions about what lies he told to the
16 various people that he was -- that he engaged
17 in his scheme, and that's the context of it,
18 Mr. Nurik; and I appreciate your objection.

19 MR. SCHERER: I am going to object to the
20 form, also.

21 MR. RABIN: Okay.

22 MR. SCHERER: I mean, all of this is
23 really over-the-top repetitive, Sam. I wish
24 you would finish, so there would be a little
25 bit of time left.

1 MR. RABIN: Well, okay, none of these
2 questions have been covered, because I have
3 read the transcripts, as well as sat here; and
4 nobody has asked him any questions about what
5 he specifically told people to get them
6 involved. And if you could point me to the
7 answers in any transcript, then I would be
8 happy to stand down on these questions.

9 BY MR. RABIN:

10 **Q Mr. Rothstein?**

11 A Yes, sir.

12 **Q Regarding Mr. Harris, he was -- what was his**
13 **position at the bank?**

14 A He was a senior or executive vice president,
15 and he was in charge of Fort Lauderdale market. I don't
16 recall what his title was.

17 **Q Did you lie to him at all?**

18 A Yes.

19 **Q About what?**

20 A A whole variety of things. If you show me the
21 email traffic, I can point them out to you.

22 **Q I want your best independent recollection of**
23 **the things you lied to him about.**

24 MR. SCHERER: Object to the form.

25 A I lied to him from time to time about where I

1 was. I lied to him about where certain money was coming
2 for certain business investments I had.

3 I really have to look at the email traffic. I
4 just -- I told John Harris a lot of lies, and I told him
5 a lot of truths. And he and I were involved in a lot of
6 criminal activity together. And I can't do it without
7 the email traffic, because I'm just sitting here
8 guessing because I'm poking in the dark.

9 Q I don't want you to guess. I just want your
10 best recollection. If you don't recall, that's a fair
11 answer: I don't recall.

12 A I just don't recall at this moment.

13 Q Okay. Michael Szafranski is a name that has
14 come up throughout the course of the deposition. He was
15 hired as a, quote, unquote, independent verifier?

16 A Yes.

17 Q All right. What lies did you tell him in
18 order to get him to falsely verify information to his
19 investors?

20 MR. SCHERER: Object to form.

21 A To falsely -- at the time that he became
22 involved in the Ponzi scheme, there were very few lies
23 that I needed to tell him because he was all in.

24 Early on I had told him -- he believed that
25 this whole thing was real. Once he discovered it wasn't

1 real, there was no real reason to lie to him; but I'm
2 certain if you give me the email traffic, I can tell
3 you.

4 Independent recollection, at this moment, I
5 don't recall, and I don't want to guess.

6 Q So, essentially, what you're saying is when he
7 first got involved, he was, what he believed to be,
8 verifying what he thought were legitimate transactions;
9 is that right?

10 ALL PRESENT: Object to form.

11 A You're asking me to get inside his head.

12 It's my opinion that early on he believed
13 that, but after a short period of time, it became clear
14 to him, because I think it would to anyone really
15 looking at stuff, that it was not real. But that's my
16 opinion.

17 BY MR. RABIN:

18 Q Okay. Richard Pearson, Mr. Pearson was who?

19 A He was part of the Boden/Pearson sub-Ponzi
20 scheme.

21 Q Okay. Did you ever meet with him?

22 A I did.

23 Q And did you lie to him?

24 A In the beginning, I did, yes, sir.

25 Q And what lies did you tell him?

1 A I told him whatever was necessary to make him
2 believe that the investment was real.

3 Q So it was along the lines of just telling him
4 things to deceive him into believing it was a legitimate
5 investment when it was not?

6 ALL PRESENT: Objection, form.

7 A Correct.

8 BY MR. RABIN:

9 Q Do you have any specific recollection of lies
10 that you told him, other than that general umbrella of
11 "the investment is legitimate"?

12 A Without seeing the email traffic, I would just
13 be guessing, and I do not want to guess.

14 Q Okay. Frank Preve, when Frank Preve first
15 started investing, did you have to lie to him?

16 MR. SCHERER: Object, form.

17 A Early on, I'm certain that I did lie to him
18 early on and then less and less, depending upon the
19 level of his knowledge.

20 But, again, you know, I want to be precise.
21 If I see the email traffic, I'm certain I could be
22 precise about what lies I told him and what were truths,
23 what lies we concocted together and the like; but
24 without that, I would be guessing, and I don't want to
25 muddy the record.

1 BY MR. RABIN:

2 Q Wasn't Szafranski the guy that you called a
3 "mushroom"?

4 A No, milk toast.

5 Q Well, milk toast and also, I thought,
6 mushroom.

7 A A couple of times we called him a mushroom.

8 MR. SCHERER: Objection.

9 BY MR. RABIN:

10 Q That's what I thought.

11 And when you called him "mushroom," I think
12 you testified it was because, for lack of a more
13 delicate term, you shit on him and kept him in the dark.

14 MR. SCHERER: Object to form.

15 A It was a conversation between either Frank
16 Preve and I or David Boden and I about him. We said
17 that we kept him in the dark and put shit on him, like a
18 mushroom.

19 BY MR. RABIN:

20 Q And that would be -- I assume that's -- the
21 lay way to express it, is that you lied to him and
22 misled him, right?

23 MR. SCHERER: Object to form.

24 A At various points in time I lied to him, and
25 he lied to me. That's what happens in a crime.

1 BY MR. RABIN:

2 Q No honor among thieves, is that what you are
3 saying?

4 ALL PRESENT: Objection.

5 A I have got to tell you, even now more so than
6 ever. I knew there was no honor among thieves when I
7 was in the middle of this horrific thing.

8 But in going back and looking at all this over
9 the last two years, I can assure you that there is no
10 honor among thieves at all.

11 BY MR. RABIN:

12 Q Andrew Barnett, he recruited investors for
13 you?

14 A He did.

15 Q And did you lie and mislead him?

16 A I don't think that he was -- that he knew what
17 was going on.

18 Q What do you mean by that?

19 A I don't think that he was involved in the
20 crime.

21 Q Okay. So -- but did you lie and mislead him?

22 A I did to a limited extent. Most of that, he
23 was really recruited by David Boden, and I don't know
24 what Boden told him; but I was always of the impression
25 that he believed things were real. I don't think that

1 Mr. Barnett was involved in the crime.

2 Q Did you ever have any conversations with him?

3 A I talked to him all the time. He was the son
4 of a very dear friend of mine.

5 Q Did you ever have conversations where you
6 pitched the legitimacy of the investment?

7 A I think only as follow-up questions that he
8 had based upon David Boden's pitch to him.

9 Q So, what you're essentially describing is
10 David Boden did most of the lying to him, and you might
11 have just, you know, played clean up?

12 A I think that's a fair statement.

13 MR. RABIN: There was no objection to
14 form on that one? These guys are sleeping.

15 (Thereupon, a discussion was held off the
16 record.)

17 MR. LICHTMAN: Objection to form.

18 BY MR. RABIN:

19 Q Doug Bates, Doug Bates was an attorney who
20 lied to investors, potential investors about referring
21 business to you?

22 A Doug Bates was a lawyer who was involved in a
23 significant amount of illegal activity with me.

24 Q Okay. I'm sorry?

25 A Some of which I can't get into.

1 Q Okay. Well --

2 A You're about to find out.

3 Q -- for what you can get into, though, you
4 described how he lied to investors in order to lead them
5 to believe he was referring you business, correct?

6 A Him and Wayne Koppel, yes.

7 Q Okay. With regard to Mr. Bates, what did you
8 tell him in order to get him to make those
9 misrepresentations?

10 A I just told him I was bringing people in that
11 I needed him to say this to. I didn't -- again, Doug
12 Bates is one of those people that, for lack of a better
13 word -- do you need me to give you a moment?

14 MR. LICHTMAN: I'm going to board your
15 one question. To be sure, the Doug Bates that
16 you're alluding to is a lawyer in Fort
17 Lauderdale, correct?

18 THE WITNESS: A lawyer in Plantation.

19 MR. LICHTMAN: Plantation. Not a Doug
20 Bates that works at Berger Singerman in Miami,
21 right?

22 THE WITNESS: Sorry, Chuck, no, it is not
23 your Doug Bates.

24 MR. SCHERER: I didn't see that on your
25 conflict waiver.

1 BY MR. RABIN:

2 Q So Doug Bates, you just essentially said,
3 listen, I need you to lie to these people and tell them
4 that you send me a lot of business; is that it?

5 A Because of things that I cannot discuss that
6 the government will object to, there was no need to get
7 into much deception with Doug Bates to get him to do
8 anything illegal.

9 Q What else was he doing?

10 MR. LAVECCHIO: Objection.

11 MR. RABIN: Okay. Just making sure
12 you're aware.

13 BY MR. RABIN:

14 Q Steve Caputi, we talked a lot about Steve
15 Caputi. Ms. Barzee did an excellent job summarizing a
16 lot of the illegal roles he played for you. What was
17 the first thing that he did for you? Do you remember
18 the first thing?

19 A I don't know. I go way back with Steve.

20 Q What kind of story do you have to tell
21 somebody to have them play a fake banker or a fake
22 plaintiff? What did you tell him?

23 A None. You have to understand Steve's history
24 to understand who you were dealing with.

25 It would be like talking to -- knowing you're

1 talking to a member of organized crime -- he wasn't a
2 member of organized crime -- but knowing you're talking
3 to a member of organized crime and knowing you don't
4 have to preface anything with any kind of nonsense to
5 get them to engage in criminal activity or to lessen
6 their knowledge.

7 With Steve, you could let him know everything
8 that was going on.

9 **Q With respect to Caputi, is it your testimony,**
10 **then, that you don't recall having to lie to him in**
11 **order to get him to play any of those roles?**

12 A I certainly may have, but I didn't need to
13 tell Steve much. Steve is the kind of guy, and my
14 friendship with him was such, I could pick up the phone
15 and say, Steve, I need you to play a banker. He
16 wouldn't even ask me why. He would just do it --

17 **Q Okay.**

18 A -- you know. All I really needed to say to
19 him, Mr. Rabin was, I'll pay you for it; and he was all
20 good.

21 **Q William Cort.**

22 A Corte.

23 **Q Corte, was one of the -- your computer people,**
24 **correct?**

25 A Yes.

1 Q Okay. He set up a fake TD website?

2 A Yes.

3 Q All right. What did you tell him was the
4 reason you needed a fake TD website?

5 A I didn't need to tell him anything.

6 Q So you just said, I need a fake TD website. I
7 need it to look exactly like the real one; and, boom, he
8 did it?

9 A Yes.

10 Q Same thing for the other computer gentleman,
11 Curtis Renie?

12 A Same answer.

13 Q Okay. And you never gave him any reason?

14 A I gave him money.

15 Q Okay. How much did you give each one of them?

16 A I don't recall.

17 Q Was it in cash?

18 A Yes.

19 Q All right. Any witnesses to the payments?

20 A They were actually witnesses to each other's
21 payments, but other than that, I don't think so.

22 Q All right. Wayne Koppel was another lawyer
23 who falsely claimed to -- according to you, had falsely
24 claimed to refer cases to your firm, correct?

25 A My recollection is vague as to whether or not

1 he was the one who sat in the meetings. I seem to
2 believe that he was the one who actually attended the
3 meetings with the hedge fund guys, so yes.

4 Q All right. And what did you tell him in order
5 to get him to play that role?

6 A I didn't have to lie to him at all. I believe
7 that Doug Bates and Russ Adler handled all that.

8 Q So you never made any false statements to him
9 in order to get him to play that role in your scheme?

10 A As I sit here today, other than telling him
11 what I needed him to say, I recall very little about
12 talking to him about anything having to do with this.
13 Russ Adler and Doug Bates handled that.

14 Q All right. Howard Herskowitz was another
15 lawyer that referred -- according to you, falsely
16 claimed to refer significant cases to you?

17 A Not just according to me, it was according to
18 the people that he made the statements to.

19 Q What did you say to him in order to get him to
20 do that?

21 A I didn't say a word to him. I never talked to
22 the man until I got there and he started lying for me.

23 Q All right. And what you -- are you saying you
24 had to tell him nothing in order to get him to do that?

25 A I had Russ Adler handle it. Russ Adler told

1 him exactly what lies he needed to tell, and when he
2 showed up there, he told all the lies.

3 Q So you had no conversations with him in terms
4 of what he was supposed to do; is that your testimony?

5 A I think, if you recall my prior testimony,
6 when I first walked in there, Mr. Herskowitz is the one
7 who said, it's nice to finally meet you, almost giving
8 me a coronary.

9 So, no, I had no prior conversations with him
10 about what he needed to do. That was handled by, to the
11 best of my knowledge, Mr. Adler.

12 Q All right. Steve Rossi was another lawyer
13 that falsely claimed to refer cases, according your
14 testimony, correct?

15 A Yes.

16 Q All right. Did you have the relationship with
17 him or somebody else?

18 A Mr. Adler.

19 Q Okay. So did you have any conversations with
20 him about why he was to falsely verify that he sent
21 cases to your firm?

22 A Through Mr. Adler.

23 Q Were you witness to the conversations?

24 A One of them.

25 Q Tell me about that one conversation.

1 A I told Mr. Adler to call Steve Rossi and let
2 him know that I would do whatever I could to help him
3 with his political aspirations in exchange for assisting
4 us, and I was present during that conversation.

5 Q All right. Tracy Weintraub, you have talked
6 about him a number of times as preparing -- you talked
7 about him on a number of cases preparing false financial
8 statements?

9 A Yes.

10 Q What is it that you told him why you need the
11 false financial statements?

12 A I told him here's \$75,000; this is what I
13 need.

14 Q And I assume that was cash?

15 A It was.

16 Q I assume there are no witnesses to it, other
17 than you and Mr. Weintraub?

18 A The only person that may be able to verify
19 that was a gentleman who brought me that cash. My
20 recollection is he brought me that cash when I was ready
21 to take it up to him.

22 And I don't know if the government wants me to
23 say the name.

24 MR. LAVECCHIO: Can I have a moment?

25 MR. RABIN: Sure.

1 MR. SCHERER: While we have a break, I
2 would like to --

3 MR. RABIN: We don't have a break.
4 What's going on --

5 MR. SCHERER: Well, I mean, they're just
6 talking, so --

7 MR. RABIN: Don't you want to wait until
8 the lawyers are involved can hear what you're
9 saying.

10 MR. SCHERER: I mean, this is
11 administrative. This is administrative.

12 I understand that the Pearson adversary
13 is going -- I don't know -- next, this
14 afternoon or tomorrow?

15 MR. LICHTMAN: No. Levinson starts
16 immediately after lunch. We'll go the rest of
17 the day.

18 And Pearson starts first thing tomorrow
19 and goes until the conclusion, when we stop at
20 1:00, and then we don't see Scott again.

21 MR. SCHERER: Is it your --

22 THE WITNESS: Hopefully not ever, not see
23 me again.

24 What kind of comment is that?

25 MR. LICHTMAN: Well, in terms of this

1 deposition.

2 MR. RABIN: We'll see you again.

3 MR. LICHTMAN: In the deposition.

4 MR. SCHERER: Here's my issue: I just
5 now have realized that we're anticipating
6 closing this record for my case; and then
7 you're going to start with Pearson, and it
8 will a separate record.

9 MR. LICHTMAN: When we start with
10 Levinson.

11 MR. SCHERER: When you start with
12 Pearson, you intend to have that as a separate
13 record in your adversary?

14 MR. LICHTMAN: Correct.

15 MR. SCHERER: I'm going to request that
16 when you get to Pearson, that this
17 transcript -- my record stays open, because
18 he's a defendant in this my case so that I'm
19 going to urge the Court that whatever you do
20 in that case is a part of my record.

21 MR. LICHTMAN: I don't have any problem
22 with that, but I will not have time for
23 anybody to be questioning on the time allotted
24 that we have, except for me and for
25 Mr. Pearson's counsel.

1 MR. SCHERER: Well --

2 MR. NURIK: I'm going to ask for five
3 minutes at some time, and the basis for that
4 is because people have not complied with the
5 Court's order, as I articulated yesterday, in
6 providing their exhibits to the parties in
7 advance of this deposition in whole, being
8 that Mr. Rothstein is a party and I represent
9 him, and counsel was supposed to receive it, I
10 was denied the opportunity to have it and
11 Mr. Rothstein was denied the opportunity to
12 see it, and as such, I may have some clean-up
13 questions.

14 I will be brief, and in the process
15 Mr. Rothstein may be reviewing some of the
16 documents that were supposed to have been
17 previously provided to him.

18 And as such, I'm going to ask that the
19 record stay open and I have the opportunity
20 for five minutes.

21 MR. RABIN: I'm going to give it to you
22 if we stop --

23 MR. NURIK: The problem, Sam, is I'm not
24 in the position to do that because he's still
25 reviewing them.

1 I got a load last night of things that my
2 secretary was there very late just putting on
3 a disk, which I have now.

4 So, unfortunately, I'm going to ask that
5 at some point, since the record will remain
6 open, that I find five minutes to do that, and
7 I will be brief.

8 MR. RABIN: Well, you know, again, I
9 don't know. The agreement is the agreement.
10 I don't know about keeping the record open
11 past the time limit set by the judge.

12 Mr. Lichtman may be able to speak to that
13 better than I can.

14 MR. LICHTMAN: When do you think you
15 would be best suited to ask those question?

16 MR. NURIK: Ideally, by the end of the
17 day today, but certainly tomorrow morning, no
18 later than tomorrow morning. I'm not going to
19 have much of a chance beyond that.

20 So I'll try -- endeavor to try to do it
21 by the end of the day.

22 MR. LICHTMAN: I'm going to guess -- I
23 don't know -- that most people don't have an
24 interest in hearing the Levinson testimony.
25 Many people may have some interest in hearing

1 the Pearson testimony.

2 If that's the case, I'm happy to yield
3 five minutes when we begin tomorrow at 8:30 so
4 you can start and ask those questions and I
5 can go into Pearson.

6 MR. NURIK: Okay.

7 MR. RABIN: Thank you. Okay. All right.

8 MR. HERTZBERG: On behalf of Platinum and
9 Centurion, this is Gabriel Hertzberg.

10 We have no objection to what Mr. Lichtman
11 just proposed, that Mr. Nurik borrow five
12 minutes from Mr. Lichtman's time tomorrow.

13 There is a Court order that says that
14 this deposition is closed as of noon today.

15 MR. RASCO: 1:00 today.

16 MR. HERTZBERG: 1:00 today.

17 We have staffed this accordingly. We
18 have set travel plans accordingly.

19 We object to any examination of
20 Mr. Rothstein by anyone, other Mr. Nurik for
21 the five minutes just discussed, tomorrow or
22 at any time after 1:00.

23 MR. SCHLESINGER: We join in that
24 objection.

25 MR. SCHNAPP: On behalf of TD Bank, we

1 also join.

2 MR. MULLIN: Likewise on behalf of the
3 Morses.

4 MR. NURIK: That is other than Mr. Nurik?

5 MR. RABIN: Other than Mr. Nurik.

6 MR. HERTZBERG: Other than Mr. Nurik for
7 the five minutes just discussed, we'd do
8 understand up Mr. Nurik and Mr. Scherer have a
9 common-interest relationship, or so they
10 purport; we would object to any examination of
11 Mr. Rothstein by Mr. Nurik as surrogate for
12 Mr. Scherer or for Mr. Lichtman or for anyone
13 else.

14 MR. NURIK: Well, I can assure you -- I
15 can assure you he's not paying my fees.

16 MR. RABIN: All right. Come on.

17 THE WITNESS: Go ahead, Mr. Rabin. I'll
18 just ignore anybody else.

19 You go ahead and ask me questions.

20 MR. RABIN: Thank you. I appreciate
21 that.

22 BY MR. RABIN:

23 **Q Okay. The last -- the question that was**
24 **pending before the government conferred with you and**
25 **all, can you get back to it? I don't remember.**

1 A I can tell you. You were asking me about
2 witnesses --

3 **Q Tracy Weintraub?**

4 A -- to money going to Weintraub.

5 **Q Well, the last question I recall: Did anybody**
6 **witness any of the payment of the 75,000?**

7 A And my answer is someone witnessed me
8 receiving the money and taking it up to Mr. Weintraub.

9 **Q Did anybody witness the payment?**

10 A I don't believe this person was standing there
11 when I -- we only got as far as the door.

12 **Q Other --**

13 A So no.

14 **Q Other than the money that you claim that you**
15 **gave Mr. Weintraub, was there any other conversation**
16 **about what you wanted him to do or why?**

17 A As to what I wanted him to do?

18 **Q Yes.**

19 A Extensive conversation.

20 **Q Okay. And the why?**

21 A The only why that I recall giving him, without
22 seeing the email traffic, is so that he could keep my
23 business and keep the business of Banyan and continue to
24 live well, a nice life.

25 MR. RABIN: All right. If I could have a

1 moment, please.

2 I think --

3 MR. SCHERER: I'm going to object to the
4 question, Sam, unless you can ask the witness
5 to identify who saw him get the cash so he can
6 have a complete answer, since I can't have any
7 more examination.

8 MR. RABIN: I'm happy to ask that
9 question.

10 MR. SCHERER: Thank you.

11 BY MR. RABIN:

12 Q Did you hear Mr. Scherer's question?

13 A I'm sorry, no.

14 Q Who was the person that witnessed you obtain
15 the cash that you claim that you gave to Mr. Weintraub?

16 MR. LAVECCHIO: Objection --

17 MR. RABIN: So much for your question.

18 MR. SCHERER: Take all the joy out of
19 this.

20 MR. LICHTMAN: That seemed like a perfect
21 way to end the transcript.

22 BY MR. RABIN:

23 Q One other area, just real fast, two questions.
24 You remember the Kroll project you discussed with Ken
25 Jenne?

1 A I don't.

2 Q All right. Did Ken Jenne ever propose to you
3 starting a business similar to Kroll's?

4 A Yes.

5 Q And what he -- what -- explain that to us,
6 what he was purposing in that.

7 A We were hiring a lot of retired law
8 enforcement at the time, former ABT agents, FBI agents,
9 IRS agents, and he wanted to put together something to
10 rival Kroll.

11 Q And did that go beyond any discussions?

12 A Other than him and I hiring people to kind of
13 get it started up, no.

14 Q And did Ken Jenne have any role in your
15 illegal activities?

16 A No, sir.

17 Q Other than, perhaps, that one occasion where
18 he carried boxes -- the Epstein boxes into your office
19 that people are claiming that he did?

20 A No, sir. He had no involvement.

21 MR. RABIN: I'm going to cede the balance
22 of my time to Mr. Rasco.

23

24

25

FURTHER DIRECT EXAMINATION

BY MR. RASCO:

Q I have three or five minutes, Mr. Rothstein.

Is it your opinion or belief that Mr. Preve was aware of the fraud, or do you know it for a fact?

MR. SCHERER: Object to form.

A Based upon everything that I've seen and know, it is a fact.

MR. SCHERER: Withdraw my objection.

BY MR. RASCO:

Q Based on any witnesses that you can point to that are aware that Mr. Preve knew of the fraud?

A Mr. Szafranski.

Q Beyond Mr. Szafranski?

A Mr. Boden, Mr. Rosenfeldt.

Q Is that it?

A And me.

Q Okay. Do you remember the email we discussed on Monday where you indicated that, Frank, you were ending it; and he suggested that that was not the solution and he urged you to come back and told you not to run. He told you that he had been through something, like, analogous before and asked you to come back.

Do you remember that?

A Yes, I do.

1 Q If he was criminally involved, why would he do
2 that?

3 A You'd have to ask him.

4 Q Okay. And you indicated earlier today that
5 there were literally hundreds of incriminating emails
6 between -- written by Frank; is that right?

7 A I think there were thousands.

8 Q Okay.

9 A I haven't stopped to count them, but there
10 seemed to be an awful lot.

11 Q If he was aware and involved in the crime, why
12 would he write so many emails that were incriminating?

13 ALL PRESENT: Objection to form.

14 A I told Frank on more than one occasion that I
15 thought he was going a little crazy with certain things
16 he was putting in the emails. It never stopped him.

17 You'd have to ask him why he was doing it.

18 It seemed to me like he had some sort of
19 self-destructive mechanism because he put a lot of very
20 bad stuff in emails.

21 BY MR. RASCO:

22 Q Earlier in your testimony you thought Frank
23 was a very smart person.

24 A Extremely.

25 Q If he was so smart, why would he be writing so

1 **many incriminating emails?**

2 MR. LICHTMAN: Object to form.

3 A I don't know.

4 One thing I have learned over the course of
5 this crime, and since coming back, is that I had the
6 unfortunate experience of dealing with a lot of
7 extremely, extremely bright people who did some very,
8 very stupid things during the commission of a lot of
9 very bad crimes.

10 BY MR. RASCO:

11 **Q You met Frank in August of 2007,**
12 **approximately, right?**

13 A I don't recall when I met him.

14 **Q Was it mid to late 2007, let's say?**

15 A Again, I don't recall the date I met him. All
16 you have got to do is look and see when I started to
17 doing my very first business with George Levin and go
18 back 30 to 60 days. I would have met him in that time
19 frame. We can establish it. It makes no sense to have
20 me guess to it.

21 **Q Are you aware that he had known George for 30**
22 **years?**

23 A I knew that he worked for George many years
24 before. I knew that he left and came back to work for
25 George, yes.

1 **Q And are you aware that he was friends with**
2 **George, not just working with George?**

3 A You know, I have, unfortunately, learned that
4 the word "friend" has a very interesting meaning in
5 criminal circles.

6 So, yeah, I believed that he was truly a
7 friend of George's; but the more I examine everything,
8 the more I come to realize he probably took tremendous
9 advantage of George.

10 **Q And are you aware that he, himself, invested**
11 **his own money and his family's money, not just his**
12 **immediate family's money?**

13 A Yes.

14 **Q And you knew that he knew that George stood to**
15 **lose hundreds of millions of dollars if this was a**
16 **fraud?**

17 A Yes, but his ultimate role was the same as all
18 of ours, just the like Morses and other people, that we
19 all hoped to get our money out.

20 The criminals, the people that are involved,
21 always hope to be able to be the ones recouping and, in
22 fact, gaining by the crime. You don't -- even though
23 you know it could explode, you don't necessarily plan on
24 it.

25 MR. RASCO: Okay. Thank you. No further

1 questions.

2 MR. LICHTMAN: Why don't we then consider
3 the transcript closed, except for Mr. Nurik's.
4 examination?

5 MR. SCHERER: And except for my request
6 to keep it open for the Pearson part of your
7 examination and the cross because I may need
8 it in my case.

9 MR. LICHTMAN: Agreed.

10 MR. HERTZBERG: I just want to note on
11 the record that the funds are relying on the
12 Court's order that the deposition --

13 (Court reporter interruption.)

14 MR. HERTZBERG: The funds are relying on
15 the Court's ordered that the deposition is
16 concluded as of 1:00 p.m. today. The funds
17 will not have representation for any further
18 examination of Mr. Rothstein in reliance on
19 that order. We object to the form of all
20 questions asked by Mr. Nurik and reserve them
21 as such.

22 That's all. Thank you.

23 (Thereupon, at 12:00 a.m., the proceedings
24 were adjourned.)

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THE STATE OF FLORIDA,)
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hereby certify that I was authorized to and did
report the foregoing proceedings and that the
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Dated this 22nd day of December, 2011.

Michele L. Savoy, RPR
Notary Public - State of Florida
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I, Michele L. Savoy, Shorthand Reporter,
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