

# EXHIBIT 42

00001

1 IN THE UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA

2

CASE NO. 10-20206-CIV-MARTINEZ/BROWN

3

4 LORRENE DA SILVA FERREIRA and )  
ARLETE DA SILVA FERREIRA, )

5 individually and on behalf of all )  
others similarly situated, )

6 / )  
Plaintiffs, )

7 )

v. )

8 )

EFG CAPITAL INTERNATIONAL CORP. )

9 and EFG BANK f/k/a EFG )

PRIVATE BANK SA, )

10 )

Defendants. )

11 ----- x

12

13 VIDEOTAPED DEPOSITION  
OF

14 LORRENE DA SILVA FERREIRA

15

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2 WITNESS DIRECT CROSS REDIRECT RECROSS  
LORRENE DA SILVA FERREIRA

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1 APPEARANCES:

2 On behalf of the Plaintiffs:

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BY: JASON KELLOGG, ESQ.

6 -and-

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8 BY: KEVIN M. KINNE, ESQ.

9 On behalf of the Defendant EFG Capital:

10 GREENBERG TRAUERIG, P.A.

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12 BY: JOSEPH C. COATES, III, ESQ.

LAUREN WHETSTONE, ESQ.

13

On behalf of the Defendant EFG Bank:

14

HOLLAND & KNIGHT LLP

15 701 Brickell Avenue

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1 PROCEEDINGS

2 THE REPORTER: Will counsel please state  
3 their appearances for the record?

4 MR. COATES: My name is Joe Coates, from  
5 the law firm of Greenberg Traurig, and I  
6 represent defendant, EFG Capital.

7 MR. GARCIA: Michael Garcia, with Holland  
8 & Knight, representing EFG Bank.

9 MR. KINNE: I'm Kevin Kinne, together with  
10 Jason Kellogg, and we represent the plaintiffs.

11 (Thereupon,

12 MARIA CAROLINA PARAVENTI was  
13 sworn to act as interpreter

14 during the taking of the deposition.)

15 (Thereupon, LORRENE DA SILVA  
16 FERREIRA, being by the

17 undersigned Notary Public first

18 duly sworn, was examined and

19 testified as follows:)

20 MR. GARCIA: I just want to place the same  
21 statement on the record from yesterday.

22 On behalf of EFG Bank, EFG Bank has filed  
23 a motion to dismiss based on a forum selection

24 clause and a choice of law clause and because

25 that motion remains pending, EFG Bank has no

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1 choice but to participate in discovery,  
2 including this deposition. But by  
3 participating in this deposition or in any  
4 discovery, EFG Bank does not intend to waive  
5 any of the -- waive the contractual choice of  
6 law or forum selection clause, or any of the  
7 consequences from those agreements or those  
8 provisions in the agreement, including the fact  
9 that the Hague Convention should apply as to it  
10 with respect to discovery.

11 THE INTERPRETER: Do you want me to  
12 summarize this so that I can interpret it for  
13 her?

14 MR. KINNE: No, we don't need to do that.  
15 Thank you.

16 DIRECT EXAMINATION

17 BY MR. COATES:

18 Q Please state your name.

19 A Lorrene Da Silva Ferreira.

20 Q Ms. Ferreira, where do you live?

21 A I live in Uruguay, Montevideo.

22 Q What is your primary address?

23 A Boulevard Artigas, A-R-T-I-G-A-S, 210,

24 Apartment 1001, and that's Punta Carretas.

25 P-U-N-T-A, next word, C-A-R-R-E-T-A-S.

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1 A You mean here in the United States?

2 Q Correct.

3 A Non-resident?

4 Q Yes.

5 A Non-resident. I'm not a resident.

6 Q You have a visa that permits you to visit  
7 the United States?

8 A I have a Portuguese passport.

9 Q What is your country of citizenship?

10 A I am Brazilian.

11 Q Do you hold a Brazilian passport?

12 A I do.

13 Q Do you hold any other passports?

14 A The Portuguese.

15 Q And is your primary language Portuguese?

16 A It's Portuguese.

17 Q Do you understand Spanish?

18 A I do understand Spanish.

19 Q Do you understand Spanish well?

20 A I prefer Portuguese.

21 Q Do you own any property in the United  
22 States?

23 A No.

24 Q Do you rent any property in the United  
25 States?

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1 Q Do you have any other residences?

2 A No.

3 Q Do you speak English?

4 A No.

5 Q Do you understand any English?

6 A The basics.

7 Q Can you read English?

8 A Basic. Basics.

9 Q I understand that a translator is present.

10 To the extent that you understand my question in  
11 English, and that you can answer in English, can you  
12 agree to do so?

13 MR. KINNE: Objection. Before she  
14 answers, I object. She said that she does not  
15 speak English and that she only understands the  
16 basics, so I would ask that you direct all the  
17 questions through the interpreter, please.

18 THE WITNESS: I need the interpreter as a  
19 help, because I'm not able to answer in  
20 English.

21 BY MR. COATES:

22 Q I understand.

23 Are you a U.S. citizen?

24 A No.

25 Q Are you a non-resident alien?

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1 A No.

2 Q Please describe for me your educational  
3 background.

4 A I have completed high school. I graduated  
5 from, also, from university, for social  
6 communications.

7 Q Which university did you graduate from?

8 A The university's name is Estacio De Sa.  
9 E-S-T-A-C-I-O, next word, D-E, next word, S-A.

10 Q In what year did you graduate?

11 A 1997.

12 Q Do you have any additional degrees?

13 A No.

14 Q Do you hold any professional licenses?

15 A No.

16 Q Have you ever held any professional  
17 licenses?

18 A No.

19 Q Have you ever been approved to transact  
20 business in the financial services industry?

21 MR. KINNE: Objection to the form.

22 You can answer.

23 THE WITNESS: No, never.

24 BY MR. COATES:

25 Q Where are you employed?

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Pages 5-8

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1 A I work in an exchange company, which is  
2 called Babilon SA. B-A-B-I-L-O-N.  
3 Q What is the business of the exchange  
4 company?  
5 A Purchase and sale of the foreign  
6 currencies.  
7 Q What do you do at that company?  
8 A I'm a secretary to an exchange operator.  
9 Q How long have you been employed with your  
10 current company?  
11 A For this current company, it's been about  
12 a year. I started in the beginning of 2010.  
13 Q I would like to go back to your employment  
14 history after graduation from university. Where did  
15 you work upon graduation?  
16 A I worked in a company - actually, it was  
17 Made in Brazil, Viagens Turismo Cambio,  
18 V-I-A-G-E-N-S, Turismo, T-U-R-I-S-M-O, and Cambio,  
19 C-A-M-B-I-O.  
20 Actually, I worked there while I was  
21 studying. The company changed names, but I worked  
22 for the company always.  
23 Q When did you start working for the  
24 company?  
25 A For this company, 1991.

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1 Q What currencies did the company exchange?  
2 A Dollar, Swiss franc, yen. After the euro  
3 became euro, it's also with the euro. Basically,  
4 those were it.  
5 Q Did the company engage in futures  
6 contracts relating to currency?  
7 A I don't know.  
8 Q What was your next position with the  
9 company?  
10 A I always was assistant and secretary to  
11 Mr. Raul Davies.  
12 Q Did your duties change at any point  
13 between 1995 and today?  
14 A No. Basically, the same duties.  
15 Q Did you ever act as a trader in foreign  
16 currencies?  
17 A Not as a trader, no. I would only  
18 finalize the transactions that Mr. Raul would deal  
19 with or the others would deal with.  
20 Q How many employees does the company have?  
21 A The one that I work in now?  
22 Q Well, let's go back to 1995.  
23 Approximately how many employees did the company  
24 have?  
25 A It was more than 10. Maybe 15. I don't

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1 Q And is it the case that you continue  
2 working for the same company through today?  
3 A Yes. Until today, but the partner, the  
4 main partner, he passed away, so one of the  
5 employees who always worked with me, he took over in  
6 the company.  
7 Q But it's been the same company. Correct?  
8 A I work in the same position, but the  
9 owners are not the same.  
10 Q What was your job in 1991, when you  
11 started working for the company?  
12 A Receptionist and telephone operator.  
13 Q And for how long did you act as the  
14 receptionist/telephone operator?  
15 A Until around, more or less, 1995.  
16 Q What was your next position with the  
17 company?  
18 A Then I was promoted as assistant to the  
19 exchange table.  
20 Q What were your duties as the assistant to  
21 the exchange table?  
22 A I continued answering the clients' phone  
23 calls, I would welcome the clients into the office,  
24 and I would note down the final operation of the  
25 exchange.

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1 know how to tell you exactly how many there were,  
2 but there were more than 10 employees.  
3 Q As of 2005, how many employees did the  
4 company have?  
5 A About seven employees. About seven, eight  
6 employees.  
7 Q And where was its office?  
8 A The current one?  
9 Q No. In 2005, where was the office?  
10 A It was - in 2005, it was at the World  
11 Trade Center. The address is R-U-A, Luiz, L-U-I-Z,  
12 next word, A-L-B-E-R-T-O, next word, D-E, Herrera,  
13 H-E-R-R-E-R-A, 1248, Torre, T-O-R-R-E, 1, Sala,  
14 S-A-L-A, 2003, Montevideo, Uruguay.  
15 Q Did the company have any other offices?  
16 A No.  
17 Q Did the company trade in any other  
18 financial instruments besides currencies?  
19 A No. It was only foreign currencies.  
20 Q Did you, personally, take orders from  
21 customers to purchase or sell currencies?  
22 MR. KINNE: Objection to the form.  
23 You can answer.  
24 THE WITNESS: I forgot the question.  
25 MR. COATES: Can you repeat it, please?

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Pages 9-12

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1 (Whereupon, the requested  
2 portion of the record was read  
3 by the reporter.)  
4 THE WITNESS: No. No.  
5 BY MR. COATES:  
6 Q Did you ever advise any customers as to  
7 currency trading?  
8 A No.  
9 Q Did the company sell hedge funds?  
10 THE INTERPRETER: One moment. I'm going  
11 to see if I can get this. Usually they don't  
12 translate that.  
13 (Pause.)  
14 THE WITNESS: I have no idea.  
15 BY MR. COATES:  
16 Q Do you know what a hedge fund is?  
17 A No.  
18 Q Did the company sell mutual funds?  
19 A I don't know.  
20 Q Do you know what a mutual fund is?  
21 A No.  
22 (Whereupon, Defendant's Exhibit  
23 I was marked for  
24 identification.)  
25

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1 We will mark this as Defendant's Exhibit 1.  
2 MR. KINNE: You don't have to translate  
3 that. Thank you.  
4 BY MR. COATES:  
5 Q Please turn to page 2. Is that your  
6 signature at the bottom of the page?  
7 A Yes.  
8 Q And what day did you sign it?  
9 A May 31, 2005.  
10 Q The signature below yours, is that the  
11 signature of your mother?  
12 A It is.  
13 Q And you recognize your mother's signature.  
14 Correct?  
15 A Yes.  
16 Q And please, for the record, will you  
17 please state your mother's name?  
18 A Arlete Da Silva Ferreira.  
19 Q And for the record, I have shown you which  
20 was marked as Defendant's Exhibit 1, "EFG Capital  
21 International Account Application."  
22 A Yes.  
23 Q On the first page of Defendant's Exhibit  
24 I, do you see information that is handwritten?  
25 A Yes.

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1 BY MR. COATES:  
2 Q I would like to show you a document which  
3 we marked as exhibit No. 1.  
4 Please turn to the second page.  
5 MR. KINNE: Can we, just for one second,  
6 for clarification? Do you want to continue the  
7 exhibits throughout the course of the case and  
8 start from where we left off yesterday, or  
9 would you like to have them per deposition?  
10 MR. COATES: I would like to do it as  
11 follows. You will -- you, plaintiffs'  
12 depositions -- may continue 1 through whatever.  
13 The numbers can be carried from one deposition  
14 to the next. I would like to do the same on  
15 the defendant's side. In other words, this  
16 will be Defendant's Exhibit No. 1, and may be  
17 used in subsequent depositions, and we will  
18 continue referring to it as Defendant's Exhibit  
19 No. 1 as opposed to Exhibit 1, 2 or 3, so each  
20 side will have their own designation. I think  
21 it's a little bit clearer that way.  
22 MR. KINNE: No problem.  
23 MR. KELLOGG: I know we had an Exhibit 1  
24 yesterday.  
25 MR. COATES: Let's make it crystal clear.

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1 Q Is that your handwriting?  
2 A No.  
3 Q Do you recognize whose handwriting it is?  
4 A No.  
5 Q At the top of the page there is  
6 information regarding account holder, Lorrene Da  
7 Silva Ferreira.  
8 Do you see that?  
9 A Yes.  
10 Q Is that information accurate?  
11 A It is.  
12 Q So, your country of citizenship was  
13 Brazil. Correct?  
14 A Yes.  
15 Q And the home address that's listed there  
16 is correct?  
17 A At the time, yes.  
18 Q And your home telephone number that's  
19 listed there, is that correct?  
20 A Yes.  
21 Q And your date of birth, May 29, 1971, is  
22 that correct?  
23 A Correct.  
24 Q And under "Occupation," it reads,  
25 "Financial advisor." Is that correct?

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Pages 13-16

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1 A No.  
2 Q To the right of that it reads, "Employer  
3 name, Maprinco." Is that correct?  
4 I will read it into the record.  
5 M-A-P-R-I-N-C-O, SA. Is that correct?  
6 A It is.  
7 Q The information below, under subsection B,  
8 "Joint account holder," this relates to information  
9 regarding your mother, Arlete Ferreira. Correct?  
10 A Yes.  
11 Q Is the handwritten information listed  
12 concerning your mother, correct?  
13 A It is correct.  
14 Q Please turn the page. At the top of page  
15 2 there's a reference to a bank, bank information.  
16 Is it correct that at the time you signed  
17 this document, that your bank was Bank Boston?  
18 A Yes.  
19 Q And in Section 4 on page 2 of this  
20 document, there is a reference to, "Overall  
21 investment objective."  
22 Do you see that?  
23 A Yes, I can note that.  
24 Q And three boxes are checked. "Income,  
25 Capital Appreciation," and "Trading Profits."

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1 emerging markets?  
2 A No.  
3 Q To the right of that there is a column  
4 regarding annual income.  
5 Was your annual income as of May 2005,  
6 \$60,000?  
7 A It was not that high.  
8 Q Underneath -- well, what was your annual  
9 income in May of 2005?  
10 A The salary itself was about a thousand  
11 dollars, so a year it would be \$12,000, plus the  
12 bonuses that I received. It would come up to about  
13 \$40,000.  
14 Q Underneath the annual income there's a  
15 entry regarding liquid net worth.  
16 Was your liquid net worth \$200,000 as of  
17 May 2005?  
18 A Approximately, it was about 150,000.  
19 Q I notice that this was a joint account  
20 with your mother.  
21 A Yes.  
22 Q What was the purpose of opening up a joint  
23 account with your mother?  
24 A Well, if something would happen to me, I'm  
25 a single woman, then my mother would be my

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1 Is that information correct?  
2 MR. KINNE: Objection to the form.  
3 THE WITNESS: I was not the one who  
4 checked those boxes.  
5 BY MR. COATES:  
6 Q Well, let me ask it this way. Were those  
7 your investment objectives as of May 2005, when you  
8 signed this document?  
9 A My investment objective was to invest in a  
10 fund that was stable, that was guaranteed, and in  
11 long term.  
12 Q There is a column that reads, "Investment  
13 Experience." Please look at that column.  
14 Is it true that as of May 2005, that you  
15 had six years' experience in equities?  
16 A No.  
17 Q Do you know what an equity is?  
18 A No.  
19 Q Do you have six years' investment  
20 experience in fixed income?  
21 A No.  
22 Q Did you have six years' experience in  
23 mutual funds?  
24 A No.  
25 Q Did you have six years' experience in

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1 beneficiary of my -- my assets.  
2 Q You opened up an account at EFG Capital.  
3 Correct?  
4 A Yes.  
5 Q And you invested money through EFG  
6 Capital. Right?  
7 A Yes.  
8 Q And was the money invested in this  
9 account, your money?  
10 A It was my money, only mine.  
11 Q To clear the record on this, did your  
12 mother contribute any of the funds that were used to  
13 invest through EFG Capital?  
14 A No. No.  
15 Q Did your mother have any role, other than  
16 as you mentioned a moment ago to act as beneficiary,  
17 with respect to your EFG Capital account?  
18 A No.  
19 Q Did your mother have any dealings with  
20 anyone at EFG Capital?  
21 MR. KINNE: Objection to form.  
22 THE WITNESS: No.  
23 BY MR. COATES:  
24 Q I'll rephrase the question.  
25 To your knowledge, did your mother have

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Pages 17-20

00021

1 any dealings with anybody at EFG Capital?

2 A Only when she went to sign the papers, but  
3 she never really had any contact with anyone at EFG.

4 Q When you signed this document which we  
5 have marked as Defendant's Exhibit No. 1, was the  
6 information that we spent the last few minutes  
7 discussing regarding the account holders, the  
8 information at the top of page 2, the bank  
9 information and the financial information, was that  
10 filled out on the form before you signed it?

11 A Well, I honestly don't remember checking  
12 anything about years of experience. I do remember  
13 the details such as the address and the personal  
14 data information. But otherwise, I don't remember.

15 Q Well, when you -- let me rephrase the  
16 question.

17 At the time that you signed the document,  
18 did you point out to anyone that the occupation  
19 stating that you were a financial advisor, was  
20 incorrect?

21 A I remember, more or less, when I signed  
22 it, since it was in English and I didn't understand  
23 it totally, Miguel Yannuzzi, Y-A-N-N-U-Z-Z-I, he had  
24 helped me, and Mr. Raul Davies said that it would be  
25 easier to include that title. It would be easier

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00023

1 to the exchange table.

2 Q I understand, but did you tell  
3 Mr. Yannuzzi to put the words, "financial advisor,"  
4 under your occupation?

5 A No. No, I didn't tell him to put that  
6 down.

7 Q At your company, do customers fill out new  
8 account forms?

9 A No.

10 Q Well, in your company, how does a customer  
11 open an account?

12 A We use a partner exchange company, and  
13 there they have these forms. But I don't have  
14 access to these forms.

15 Q Are you involved in the preparation of  
16 those forms?

17 A No. I don't have access to these forms.

18 (Whereupon, Defendant's Exhibit

19 2 was marked for

20 identification.)

21 BY MR. COATES:

22 Q I will hand you what we have marked as  
23 Defendant's Exhibit 2, which is the EFG Capital  
24 International account agreement.

25 On page 4, is that your signature?

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00022

1 for the bank to accept.

2 Q Mr. Davies was your employer?

3 A He was.

4 Q Was Mr. Davies with you when you filed  
5 out -- strike that.

6 Was Mr. Davies with you when you signed  
7 this document?

8 A No, not when I signed it.

9 Q But you had a discussion with Mr. Davies  
10 about whether to keep the occupation as financial  
11 advisor. Right?

12 A Yes. I did comment -- I did comment with  
13 him about that, and since -- but it wasn't financial  
14 advisor. It was a junior advisor, I believe.

15 Q What did Mr. Davies tell you?

16 A Well, he told me to fill it out, but I  
17 really don't remember what else.

18 Q Well, did he tell you to leave the term,  
19 "financial advisor," on the form, because it would  
20 look better to EFG Capital?

21 A It was just to fill out the occupation. I  
22 don't remember anything else.

23 Q Well, did you give this information to  
24 Miguel Yannuzzi?

25 A No. Miguel knew that I was an assistant

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00024

1 A Yes.

2 Q And that is the first signature that  
3 appears on page 4. Correct?

4 A Yes.

5 Q And to the left of your signature there  
6 are initials.

7 Do you see those?

8 A Yes.

9 Q Are they your initials?

10 A Yes.

11 Q And did you write those initials?

12 A No, I don't think so. No.

13 Q Do you know who did?

14 A No.

15 Q Beneath your signature, is that your  
16 mother's signature?

17 A It is.

18 Q And you recognize that as your mother's  
19 signature. Correct?

20 A Yes.

21 Q To the left of her signature appears  
22 initials.

23 Do you see those?

24 A Yes.

25 Q Are those your mother's initials?

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Pages 21-24

00025

1 A They are my mother's initials.

2 Q Do you recognize the initials as your  
3 mother's handwriting?

4 A I don't recognize it as my -- as the  
5 initials.

6 Q Did you read this agreement before you  
7 signed it?

8 A Superficially, I did read it.  
9 Superficially, I did read it.

10 Q Did you understand it?

11 A I don't know, you know, if I had  
12 understood at the time, but I did trust fully the  
13 administrator that asked me to sign it at the time.

14 Q And who did you trust?

15 A Miguel Yannuzzi.

16 Q What did he tell you about this account  
17 agreement?

18 A I don't remember specifically what he said  
19 about the agreement. I remember what he said about  
20 the fund. He spoke of the fund mostly, but about  
21 specifics of the agreement, I don't know.

22 Q Well, when you were reviewing this, did  
23 you ask him any questions about the account  
24 agreement?

25 A I don't remember.

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1 of the contract, but like a translation as you are  
2 doing with me right now, no. There was no such  
3 translation.

4 Q How long did you sit with Mr. Davies going  
5 through this agreement?

6 A I don't remember.

7 Q Let me show you what we'll mark as  
8 Defendant's Exhibit No. 3.

9 (Whereupon, Defendant's Exhibit  
10 3 was marked for  
11 identification.)

12 BY MR. COATES:

13 Q Defendant's Exhibit No. 3 is the client  
14 investment authorization.

15 A Okay.

16 Q On page 2, please, is that your signature  
17 at the bottom of the page?

18 A Yes.

19 Q And do you recognize your mother's  
20 signature beneath yours?

21 A Yes.

22 Q It shows here that the date is 5/31/05.

23 Is that your handwriting?

24 A No.

25 Q Do you recall signing this document with

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00026

1 Q Did you ask anyone else regarding  
2 questions you may have had with respect to this  
3 account agreement?

4 A No. I don't remember.

5 Q Did you ask Mr. Raul Davies questions  
6 about this account agreement?

7 A I don't remember.

8 Q Was there anything in the account  
9 agreement that you did not understand at the time  
10 that you signed it?

11 A I don't remember.

12 Q Well, what was the purpose of the account  
13 agreement?

14 A Well, I understood that in order to open  
15 an account, I had to sign this form, this document.  
16 It was an issue of bank procedures.

17 Q So, you understood that in order to open  
18 an account, that you must sign this agreement.  
19 Correct?

20 A Yes.

21 Q Did anyone translate the account agreement  
22 for you, prior to your signature?

23 A A formal translation, no. There was no  
24 formal translation. But I did sit with Mr. Davies,  
25 with Mr. Raul, and he read it out loud, the details

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1 your mother?

2 A No. I did not sign it with my mother. I  
3 signed it first and then my mother signed it later  
4 because, as a matter of fact, we lived in different  
5 countries.

6 Q Did you read this document before you  
7 signed it?

8 A Superficially, as all of the others.

9 Q The first paragraph of this agreement  
10 reads -- and I'd like to read it into the record and  
11 ask you a question about it.

12 "I hereby authorize you, as an agent, when  
13 instructed by me to do so, to make investments  
14 (investments) on my behalf and for my sole account  
15 and risk without any liability on your part for my  
16 selection of these investments."

17 At the time that you opened up your  
18 account at EFG Capital, did you understand that you  
19 were to make the decision as to which investments to  
20 buy or sell?

21 A Yes.

22 Q Did you understand that before EFG Capital  
23 bought or sold any investment, that you first must  
24 approve that purchase or sale?

25 A Yes.

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Pages 25-28

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1 Q On page 2, if you could please turn, in  
2 the first paragraph on page 2 -- and I will read  
3 this into the record and then ask a question.  
4 "I confirm that I have consulted with and  
5 acted upon the advice of my own investment, legal,  
6 tax, accounting or other advisors, and acknowledge  
7 that each investment made hereunder will be made on  
8 the basis of my own judgment or that of my advisors  
9 only, and not in reliance on any information or  
10 advice, whether requested by me or not, furnished by  
11 you, your affiliates or any of their directors,  
12 officers, employees or agents."

13 MR. COATES: Can you please translate  
14 that?

15 (Pause.)

16 BY MR. COATES:

17 Q Do you recall reading that prior to  
18 signing this agreement?

19 A Remember these details? No.

20 Q Well, was that provision I just read to  
21 you, accurate?

22 MR. KINNE: Objection to the form.

23 THE WITNESS: Do I have to answer that?

24 MR. COATES: Yes.

25 MR. KINNE: Yes.

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00031

1 THE WITNESS: I was introduced to a fund  
2 administrator who was competent, and I would  
3 ask guidance from him. I chose a fund that he  
4 introduced to me.

5 BY MR. COATES:

6 Q You reference "he." Is that Mr. Yannuzzi?

7 A Yes, it's Mr. Yannuzzi.

8 Q Did you consult with anyone else besides  
9 Mr. Yannuzzi, regarding any investment that you made  
10 at EFG Capital?

11 A Yes. I asked Mr. Raul Davies if he knew  
12 of any funds, and he said that he knew of Fairfield.

13 Q And what did Mr. Davies say about  
14 Fairfield?

15 A Well, according to the brochures that I  
16 received, he said that it seemed to be a stable  
17 fund.

18 Q Do you know if Mr. Davies invested in  
19 Fairfield?

20 A I don't know of this detail. I don't  
21 know.

22 Q All right. So that I make sure I  
23 understand your testimony then, you relied on  
24 Mr. Davies to give you advice regarding Fairfield.  
25 Correct?

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00030

1 THE WITNESS: If it's precise or not -- I  
2 cannot assess whether it's correct or not.

3 BY MR. COATES:

4 Q Well, when you were dealing with EFG, is  
5 that how you proceeded?

6 MR. KINNE: Objection. Objection.  
7 You can answer.

8 THE WITNESS: Well, basically I invested  
9 in a fund that I hadn't -- that I did not have  
10 to worry about it.

11 MR. COATES: I'm going to repeat the  
12 question.

13 Can you repeat the question?

14 (Whereupon, the requested  
15 portion of the record was read  
16 by the reporter.)

17 MR. KINNE: I repeat the objection.

18 THE WITNESS: In what way?

19 BY MR. COATES:

20 Q In that your investment decisions that you  
21 made were based on your judgment or that of your  
22 advisors, and not on the information or advice  
23 provided by EFG Capital.

24 MR. KINNE: Objection to the form.

25 You may answer.

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1 MR. KINNE: Objection. That's not her  
2 testimony.

3 THE WITNESS: No, I did not. I simply  
4 showed the brochures that Miguel sent me via  
5 E-mail, and I asked him what he thought of this  
6 fund. And according to the graphics of the  
7 fund, it kind of matched my profile.

8 BY MR. COATES:

9 Q And did he tell you it matched your  
10 profile?

11 A He said that it was -- you know, it fit,  
12 that it was according to what I was looking for.

13 Q Did he suggest that you should invest in  
14 it?

15 A No. Basically, what he -- what he did, he  
16 answered, he suggested that I should save, and that  
17 I should, you know -- he didn't tell me specifically  
18 what fund to invest in. What happened is that I had  
19 received some bonus, and so in order for -- to help  
20 me, he suggested that I would save, but not  
21 specifically suggest any type of fund. And what he  
22 wanted was for me to save what I had received  
23 from -- so, he wanted me to save what I had -- the  
24 bonus that I had received, and what he actually did  
25 was to explain to me the graphics that were on the

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Pages 29-32

00033

1 brochure, to explain how these graphics for a  
2 certain fund would work.  
3 MR. KINNE: Can we take a break for a  
4 second?  
5 MR. COATES: Yes, let's take a quick  
6 break.  
7 (Thereupon, a short recess was  
8 taken.)  
9 BY MR. COATES:  
10 Q Ms. Ferreira, before we broke, we were  
11 looking at Defendant's Exhibit No. 3, and with  
12 respect to Defendant's Exhibit No. 3, did you  
13 discuss this document with Mr. Davies?  
14 A About this document? No.  
15 Q Did anyone translate this document for  
16 you, prior to you signing it?  
17 A They read the topics very -- gave a  
18 summary of the topics, but not details, no.  
19 Q Who read the topics?  
20 A Mr. Raul Davies, he helped me with the  
21 translation.  
22 Q Was there anything in this document that  
23 you did not understand at the time you signed it?  
24 MR. KINNE: Objection.  
25 You can answer.

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00035

1 MR. KINNE: I do want -- she's entitled to  
2 hear what goes on in this room, and I'd like  
3 you to please repeat what I said so she  
4 understands it.  
5 MR. COATES: Yes, she's entitled to hear  
6 what's going on in the room. My point is,  
7 however, that speaking objections are not  
8 permitted.  
9 MR. KINNE: Please repeat what I said.  
10 (Whereupon, the requested  
11 portion of the record was read  
12 by the reporter.)  
13 MR. COATES: You need to ask the question  
14 before the objection was made.  
15 (Whereupon, the requested  
16 portion of the record was read  
17 by the reporter.)  
18 THE WITNESS: Well, it's all in English.  
19 I don't know how to answer you.  
20 BY MR. COATES:  
21 Q Had you reviewed this agreement before you  
22 came in to testify today?  
23 A I looked over it.  
24 Q What did you look over?  
25 A I looked over the dates, you know. I

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00034

1 THE WITNESS: I don't remember.  
2 BY MR. COATES:  
3 Q Well, as you sit here today, is there  
4 anything in this document that you do not  
5 understand?  
6 MR. KINNE: Well -- go ahead.  
7 Objection. Joe, if you want to have it  
8 all translated before she answers that  
9 question, then that's the only way we're going  
10 to be able to do it, because she doesn't  
11 understand English. So, I don't think that  
12 question is appropriate, unless it's -- the  
13 entire document is translated to her.  
14 MR. COATES: Well, let me -- I'd like an  
15 answer to my question, and then I'll address  
16 your objection.  
17 MR. KINNE: Can you repeat back so she can  
18 hear what my objection is?  
19 (Whereupon, the requested  
20 portion of the record was read  
21 by the reporter.)  
22 MR. COATES: Counsel, let's keep the  
23 speaking objections to a minimum.  
24 In any event, please ask my question  
25 again.

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1 focused in general -- I'm sorry. I looked over  
2 general information. I did not focus on the details  
3 of the agreement or the opening of the account.  
4 Q What general things did you review in your  
5 look-over that you just described?  
6 A I actually looked over the E-mails I  
7 received from Miguel, my mother's occupation, the  
8 amount that was invested.  
9 I didn't focus on the details of the  
10 contract, in the little letters.  
11 MR. COATES: I move to strike the  
12 testimony.  
13 BY MR. COATES:  
14 Q I asked a specific question about this  
15 document. What did you look over in this document?  
16 A No, not in this document. I didn't look  
17 at this document, which is the account opening  
18 document.  
19 Q I want to make sure the record is crystal  
20 clear. Before you came in to testify this morning,  
21 did you review the client investment authorization  
22 that we marked as Defendant's Exhibit 3?  
23 A Not this specific agreement.  
24 Q Okay. When you were meeting with  
25 Mr. Davies and he was discussing this agreement with

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Pages 33-36

00037

1 you, did you ask him to translate any particular  
2 provision of what we have marked as Defendant's  
3 Exhibit 3?  
4 MR. KINNE: Objection to the form.  
5 You may answer.  
6 THE WITNESS: No.  
7 BY MR. COATES:  
8 Q Did you ask Mr. Yannuzzi to translate any  
9 of the provisions of what has been marked as  
10 Defendant's Exhibit 3?  
11 A No.  
12 Q Was Mr. Yannuzzi with you in person, when  
13 you signed Defendant's Exhibit 3, the client  
14 investment authorization?  
15 A I remember that he went to pick up the  
16 signed document, but at the time when I signed it, I  
17 don't remember if he was there or not.  
18 Q All right. And I have the same question  
19 regarding the account agreement which we had marked  
20 previously as Defendant's Exhibit 2.  
21 Was Mr. Yannuzzi with you, personally, in  
22 person, when you signed this document?  
23 A It's so hard to remember if he was there  
24 at the time that I signed. I know he went to pick  
25 up the document when it was signed.

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00039

1 A No, I had none.  
2 Q And no experience in mutual funds.  
3 Correct?  
4 A None.  
5 Q And no experience in emerging markets?  
6 A No.  
7 Q Prior to you signing this document in May  
8 of 2005, had you ever invested in any financial  
9 instrument of any kind whatsoever?  
10 A No.  
11 Q Had you ever, personally, traded  
12 currencies?  
13 A No.  
14 Q You testified that your salary was  
15 approximately \$1,000 a month. Is that right?  
16 A Yes.  
17 Q And that you received a bonus?  
18 A Yes.  
19 Q And did you receive a bonus every year?  
20 A After I went to Uruguay, he would give an  
21 annual bonus.  
22 Q Now, you testified that you received, if I  
23 recall correctly, a bonus of approximately \$100,000.  
24 Is that right?  
25 MR. KINNE: Objection.

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00038

1 Q And the same question regarding what we  
2 marked as Defendant's Exhibit 1, the account  
3 application.  
4 Did you sign this in Mr. Yannuzzi's  
5 presence? It's Defendant's Exhibit No. 1.  
6 A Yes. He was there. He went to pick up  
7 the documents that were signed. I remember that he  
8 filled out -- he filled this one out.  
9 Q In front of you?  
10 A I sincerely don't remember if it was in  
11 front of me.  
12 Q If we can go back to Defendant's Exhibit  
13 No. 1, please? And go to page 2, please. And I  
14 want to direct your attention back to the column  
15 that reads, "Investment Experience."  
16 A Yes.  
17 Q As of the date that you signed this  
18 document, how many years experience did you have in  
19 equities?  
20 A Zero. I had no experience at all in  
21 this -- for example, equity. None of these topics  
22 that have been checked.  
23 Q Just so we're clear, so you had no  
24 experience as of May 2005, investing in fixed  
25 income. Correct?

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00040

1 THE WITNESS: It was -- it was an award  
2 because I went to Uruguay, and it was more or  
3 less for two years.  
4 BY MR. COATES:  
5 Q All right. Well, was the amount of this  
6 award, \$100,000?  
7 A It was.  
8 Q All right. And when did you receive the  
9 \$100,000?  
10 A In the end of 2004. 2004.  
11 Q Did you receive a bonus in 2005?  
12 A Part of it was in 2004 and then another  
13 part in 2005.  
14 Q Well, you testified that you received an  
15 award of a hundred thousand dollars. Did you  
16 receive any additional bonuses or awards after the  
17 bonus that you just testified to?  
18 A After I received that one, yes, I did.  
19 Q And what was the next bonus that you  
20 received?  
21 A 2006.  
22 Q And how much bonus did you receive in  
23 2006?  
24 A The same amount, a hundred -- fifty to a  
25 hundred -- I think it was a hundred thousand.

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Pages 37-40

00041

1 Q And did you receive a bonus in 2007?  
2 A I don't remember.  
3 Q How about 2008?  
4 A 2008, yes, I did. They were annual  
5 bonuses, depending on the -- it depended on the  
6 financial situation of the company. It was like a  
7 share in the profits of the company.  
8 Q What was the amount?  
9 A It was around from about fifty to a  
10 hundred.  
11 Q And how about 2009? What bonus did you  
12 receive in 2009?  
13 A I think it was 50,000.  
14 Q What other employees share in the profits  
15 of the company?  
16 Let me rephrase the question  
17 In the time period between 2004 and 2008,  
18 what other employees shared in the profits?  
19 A I believe that all of the employees that  
20 worked for -- with Mr. Raul Davies, had participated  
21 in the share of the profits.  
22 Q Were there any other assistants as opposed  
23 to traders, who made bonuses similar to the amounts  
24 that you received?  
25 A I don't know.

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00042

1 Q Did you have any responsibility regarding  
2 research regarding currencies?  
3 A No, none.  
4 Q I want to make sure that I fully  
5 understand your duties and responsibilities in 2005.  
6 What precisely did you do in 2005?  
7 A I would answer the clients' calls. I  
8 would transfer the calls to the operators. After  
9 the operators would close the exchange operation,  
10 they would transfer the client's call back to me,  
11 and I would note down the completion of the  
12 operation.  
13 Q What operation?  
14 A Well, the client would, for example, buy  
15 reais.  
16 THE INTERPRETER: Interpreter's note,  
17 Brazilian currency.  
18 THE WITNESS: And they would request that  
19 I deposit it at the bank.  
20 BY MR. COATES:  
21 Q What bank?  
22 A It would depend. If they purchased reais,  
23 Brazilian currency, it would be a deposit in a  
24 Brazilian bank. If it would be dollars, it would be  
25 a deposit in a bank abroad.

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DA SILVA FERREIRA, LORRENE

00043

1 Q Let me make sure I understand. Is it the  
2 case that you are taking orders from customers and  
3 placing currency trades?  
4 MR. KINNE: Objection.  
5 THE WITNESS: No. I would simply note  
6 down the details of the bank accounts.  
7 BY MR. COATES:  
8 Q I'm going to read you something from a  
9 document. I'm going to ask you whether it's true.  
10 "Lorrene worked in Made in Brazil until  
11 1997."  
12 Is that true?  
13 A Yes  
14 Q "And then went on to work for MB  
15 Distribuidora de Titulos Imobiliarios,"  
16 I-M-O-B-I-L-L-A-R-I-O-S, "located in Rio de  
17 Janeiro."  
18 Is that a true statement?  
19 A The only thing that changed was the  
20 company's name, but I had the same boss.  
21 Q But was that a true statement?  
22 A Yes. The name of the company then was MB  
23 Distribuidoras.  
24 Q "Lorrene worked at MB as a trader dealing  
25 with Brazilian financial products until 1999."

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00044

1 Is that a true statement?  
2 MR. KINNE: Objection.  
3 You can answer.  
4 THE WITNESS: I was Mr. Raul Davies'  
5 secretary, and I was an exchange table  
6 assistant.  
7 BY MR. COATES:  
8 Q Is that a true statement that I just read  
9 to you? Yes or no?  
10 MR. KINNE: Objection to form.  
11 THE WITNESS: No.  
12 BY MR. COATES:  
13 Q "She then moved to Bonus Administradora de  
14 Bens Ltda., also as a trader, handling financial  
15 products for the clientele."  
16 Is that a true statement?  
17 A No. I worked -- I continued working in  
18 the same position, sitting in the same desk, in the  
19 same place, having the same boss, the same address.  
20 What changed was the name of the company, and the  
21 bonuses were administrative bonuses that I received.  
22 Q So, the question -- the answer to my  
23 question is no?  
24 MR. KINNE: Could you repeat the question?  
25

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Pages 41-44

00045

1 BY MR. COATES:

2 Q I'll repeat it. Is the following  
3 statement true or false?

4 "She then moved to Bonus Administradora de  
5 Bens Ltda., also as a trader, handling financial  
6 products for the clientele."

7 A It is not true.

8 Q All right.

9 "In 2003, when the owners of Made in  
10 Brazil decided to close their business in Brazil and  
11 move to Montevideo, opening a new company by the  
12 name of Maprinco," M-A-P-R-I-N-C-O, "they asked  
13 Lorrene if she was interested to join them and she  
14 agreed."

15 Is that a true statement?

16 A Relating to what, moving to Montevideo?

17 Yes.

18 Q Is the next statement true?

19 "Lorrene joined Maprinco as a financial  
20 advisor."

21 A No.

22 Q How did you come to open up an account  
23 with EFG Capital?

24 A Well, in 2003, after going to Uruguay, I  
25 started to receive the bonuses, and they were in

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00047

1 the conversation.

2 Q Did you tell him what types of investments  
3 you were looking for?

4 A Well, I said that I wanted something long  
5 term, basically long term, and that I wanted an  
6 investment that would be stable and not volatile.

7 Q Did you discuss with him what type of risk  
8 you were willing to take?

9 MR. KINNE: Objection.

10 You can answer.

11 THE WITNESS: I believe low risk, but I  
12 don't remember him touching on that subject.

13 BY MR. COATES:

14 Q Well, did you express to him what your  
15 risk tolerance was?

16 A I don't remember.

17 Q What type of return were you looking for  
18 when you spoke with Mr. Yannuzzi?

19 A Well, more or less, a return I had in a  
20 savings account in Brazil, and that it be in U.S.  
21 dollars, because also in Brazil you had to take into  
22 consideration the inflation, so it was not  
23 something -- it would fluctuate a lot.

24 Q And what was that rate of return that you  
25 were looking for?

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00046

1 U.S. dollars, so I wanted to open an account abroad  
2 to invest. It was the first big amount that I had  
3 ever received. So I asked Mr. Davies for  
4 suggestions on how to invest.

5 Q And what did he tell you?

6 A Well, he said that he would introduce me  
7 to an old friend of his, Miguel Yannuzzi, and then  
8 Miguel Yannuzzi was going to assist me in the best  
9 way possible:

10 Q Did you call Mr. Yannuzzi?

11 A Mr. Raul Davies called, and after he spoke  
12 with him, I guess for personal issues, he passed the  
13 call on to me. So he explained I was a secretary,  
14 that I had received a bonus, and that I had an  
15 interest in investing.

16 Q What did you tell Mr. Yannuzzi when you  
17 spoke to him?

18 A Well, I believe what I said was that I had  
19 received an amount of money and I was interested in  
20 saving it, and I wanted to know what he had to  
21 offer.

22 Q And what did he say in response to your  
23 question about what he had to offer?

24 A Well, he said that he would send me an  
25 E-mail with some suggestions, and did not prolong

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1 A Around 8 percent a year. Nothing that  
2 would be much more than that.

3 Q Did you want to invest in the U.S.  
4 markets?

5 A Well, interest in the American market, not  
6 really. I was interested in saving my money.

7 Q Well, was there any discussion with  
8 Mr. Yannuzzi in this initial call, about potentially  
9 investing in the U.S. markets?

10 A Well, not necessarily discuss it, but he  
11 did say he was going to send me some fund options,  
12 and that after I would review it, to call him.

13 Q All right. You just said that he was  
14 going to send you some fund options. What types of  
15 funds were you expecting to receive information  
16 concerning?

17 A I wanted a long term fund and a safe fund.

18 Q You used the word "fund." What was your  
19 understanding of the types of funds that he was  
20 going to send you information on?

21 A Well, the fund -- a fund, for me, it was  
22 like -- to me it was like a savings account, you  
23 know. It didn't have much meaning other than that.

24 Invest in government funds, in American government  
25 funds, something like that.

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Pages 45-48

00049

1 Q All right. I want to make sure that I  
2 understand what you told Mr. Yannuzzi in this first  
3 call.  
4 Is it your testimony that you told him  
5 that you wanted something safe and stable, that had  
6 low -- safe and stable?  
7 A I believe so. I don't remember exactly  
8 how the conversation went, but I do remember that I  
9 said that I wanted to open an account.  
10 Q I understand you wanted to open an  
11 account, but I want to make sure that I understand  
12 everything that you communicated to Mr. Yannuzzi in  
13 this first call.  
14 A Yes. That's what I know, that I asked for  
15 a long term and stable investment, because I wanted  
16 to apply this money for my future. I wanted to  
17 forget that I had it.  
18 Q And in addition, you indicated that you  
19 were looking for about an 8 percent return. Right?  
20 MR. KINNE: Objection.  
21 THE WITNESS: Well, I was looking for, you  
22 know -- I don't remember exactly the rate, the  
23 return rate that I was looking for. I think it  
24 was around eight. I don't remember.  
25

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00051

1 Q The E-mail address,  
2 Lorrene@competcorp.com -- that's C-O-M-P-E-T-C-O-R-P  
3 dot com -- is that your work E-mail address?  
4 A Yes.  
5 Q All right. So the record is clear, this  
6 is the E-mail then that you received after you spoke  
7 with Mr. Yannuzzi the first time. Right?  
8 A Yes.  
9 Q All right. And I would like for you to  
10 read into the record what Mr. Yannuzzi wrote you.  
11 A "Lorrene, I attach the slides of the  
12 following funds, Fairfield Sentry, Signa and two  
13 Permel," or "Permel funds, which include the  
14 following documents of hedge fund consent and  
15 supplemental risk disclosures, those of which  
16 have -- that you have to read and sign first if you  
17 desire to purchase a hedge fund."  
18 Q Now, before you received this E-mail from  
19 Mr. Yannuzzi, was there any discussion on this call  
20 with him that you would be interested in investing  
21 in hedge funds?  
22 A I don't remember.  
23 Q All right. But after receiving this  
24 E-mail, and their attachments, you understood,  
25 didn't you, that before you would be permitted to

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00050

1 BY MR. COATES:  
2 Q So, the call concluded with the  
3 understanding that Mr. Yannuzzi was going to send  
4 you information on some funds. Right?  
5 A Yes.  
6 Q And did in fact Mr. Yannuzzi E-mail you  
7 information on funds following this telephone call?  
8 A He did.  
9 Q Let me hand you what's been marked as  
10 Defendant's Exhibit 4.  
11 (Whereupon, Defendant's Exhibit  
12 4 was marked for  
13 identification.)  
14 BY MR. COATES:  
15 Q Defendant's Exhibit 4, for the record, is  
16 an E-mail sent from Mr. Yannuzzi to Lorrene dated  
17 Thursday, April 7, 2005.  
18 A Yes.  
19 Q Is that your E-mail address on this  
20 document?  
21 A Yes.  
22 Q Do you recall receiving this E-mail on or  
23 about April 7, 2005?  
24 A Yes, 2005. The exact date I don't  
25 remember, but it was 2005.

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00052

1 invest in a hedge fund, that you needed to sign the  
2 supplemental risk disclosures that were attached?  
3 A Yes.  
4 Q All right. Well, let's go to the  
5 supplemental risk disclosure, which is the last page  
6 of this document.  
7 All right. The last page of this document  
8 is Bates numbered EFG Capital 000919, and I want to  
9 direct your attention to the top of the page, and  
10 really the second paragraph, there are a number of  
11 bullet points.  
12 Do you see those?  
13 A Yes.  
14 Q Okay. And you see the first bullet point  
15 that reads, "Hedge funds are speculative and may  
16 involve a high degree of risk"?  
17 MR. KINNE: Objection. Are you asking her  
18 if she is reading that now?  
19 MR. COATES: Stop this. If you have an  
20 objection to the form, make it. Okay?  
21 MR. KINNE: I'm objecting to the form.  
22 MR. COATES: Thank you.  
23 MR. KINNE: I just want you to clarify.  
24 BY MR. COATES:  
25 Q At the time that you decided to invest in

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Pages 49-52

00053

1 the Fairfield hedge fund, were you aware that the  
2 hedge fund was speculative and had a high degree of  
3 risk?  
4 A No.  
5 Q Did Mr. Yannuzzi tell you that hedge funds  
6 had a high degree of risk?  
7 A No.  
8 Q Did he tell you that the Fairfield Sentry  
9 hedge fund that you invested in, had a high degree  
10 of risk?  
11 A No.  
12 Q Did he tell you that Fairfield Sentry had  
13 low risk?  
14 A No.  
15 Q Did he discuss with you the risk of the  
16 Fairfield Sentry hedge fund at all?  
17 A No. I don't remember this term, "risk."  
18 I don't remember this term used for the Fairfield  
19 hedge fund. I remember him saying to me that it was  
20 stable.  
21 Q Excuse me. It was what?  
22 A Stable.  
23 Q Stable. Did he tell you it was safe?  
24 A Well, stable, if a fund is stable, I would  
25 assume that it is safe.

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00055

1 lose some?  
2 A Yes, it could happen. Yes.  
3 Q How much?  
4 A I have no idea.  
5 Q Did you read the supplemental risk  
6 disclosure information?  
7 A What information?  
8 Q The document that we were looking at with  
9 the number at the bottom, Bates No. EFG Capital  
10 000919.  
11 A No. This page here, I don't remember  
12 having read it.  
13 Q So, even though Mr. Yannuzzi asked you  
14 to -- told you in his E-mail that you needed to look  
15 at that, you just didn't do so?  
16 MR. KINNE: Objection.  
17 THE WITNESS: Well, I -- you know, I read  
18 the graphics, the percentages. I read them  
19 superficially.  
20 You know, I did not read all of it, the  
21 last bullet. I don't remember having read in  
22 detail, in depth.  
23 BY MR. COATES:  
24 Q This E-mail included information on  
25 several hedge funds. Correct?

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00054

1 Q Well, at the time, I want to understand  
2 what you believed. You used the word, "stable."  
3 So, at the time that you invested in  
4 Fairfield, did you believe that it was a safe  
5 investment?  
6 A From the moment that Miguel told me that  
7 it was a stable fund, I believed it was a safe fund.  
8 Q And just so we're clear, your definition  
9 of "stable" means that it would not lose money.  
10 Right?  
11 MR. KINNE: Objection.  
12 BY MR. COATES:  
13 Q Let me rephrase that.  
14 What was your definition -- what was your  
15 understanding -- you've used the word "stable"  
16 several times this morning. What does that mean?  
17 A There's not that much variation.  
18 Q Variation in what?  
19 A Of the gains and losses.  
20 Q Did you understand -- was your  
21 understanding of the word "stable," that it would  
22 not lose money?  
23 A That I was not going to lose all of the  
24 money that I invested.  
25 Q Was it your understanding that you could

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00056

1 A Correct.  
2 Q And did you -- and what did you review?  
3 A Well, I read the first pages and, you  
4 know, I read the performance of the funds.  
5 Q All right. Well, let's go to page 2 of  
6 that E-mail, for the Fairfield Sentry, Limited, and  
7 what did you review, if anything, on this page?  
8 A I don't understand very much about funds.  
9 I don't understand anything about funds.  
10 Q What, if anything, did you review on this  
11 page?  
12 A No, I didn't read anything on this page.  
13 Q All right. How about the next page?  
14 A I don't remember.  
15 Q How about the next page, which is the -- a  
16 hedge fund customer consent form?  
17 A I don't remember either.  
18 Q And the next page, the Permel Investment  
19 Holdings, N.V.?  
20 A You know, I just read the general  
21 information that the fund had.  
22 Q On this page, what general information did  
23 you read?  
24 A The minimum to invest, the origin of the  
25 fund.

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Pages 53-56

00057

1 Q On this page, where does it reference the  
 2 origin of the fund?  
 3 A Well, that I can remember, what I read  
 4 basically -- well, I expressed myself incorrectly,  
 5 the origin. What I meant was when did the fund  
 6 started. I sincerely don't remember the specific  
 7 points that I read.  
 8 Q Why was it important to you to look at the  
 9 date the fund started?  
 10 A It was just, you know, an additional  
 11 detail.  
 12 Q For what purpose?  
 13 A There's no why. There's no purpose.  
 14 Q Did you look at the performance history?  
 15 A Yes, I did.  
 16 Q And how do you know -- how did you know  
 17 how to analyze the performance history?  
 18 A Well, you analyze the history by the  
 19 numbers that are here.  
 20 Q And you were able to understand that even  
 21 though it's written in English?  
 22 MR. KINNE: Objection.  
 23 THE WITNESS: Well, I focused more on the  
 24 numbers, not on the writings.  
 25

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00059

1 think about it. I didn't give him an answer right  
 2 away.  
 3 Q Did you discuss it with Mr. Davies?  
 4 A Yes. I showed him the E-mail that  
 5 Yannuzzi sent me, and he said that whatever Yannuzzi  
 6 would introduce to me, I could trust.  
 7 Q Well, he sent you several different hedge  
 8 funds. Was there any one in particular that you  
 9 discussed with Mr. Davies?  
 10 A No.  
 11 Q Was Mr. Davies, to your knowledge,  
 12 familiar with any of these hedge funds?  
 13 A I think he did have some knowledge, but I  
 14 don't know the degree of his knowledge. He knew the  
 15 name of the funds.  
 16 Q Did he know the names of all the funds?  
 17 A I don't remember.  
 18 Q Did he suggest any one of these funds in  
 19 particular that you should look closely at?  
 20 A No.  
 21 Q Let me show you an E-mail from the next  
 22 day.  
 23 (Whereupon, Defendant's Exhibit  
 24 5 was marked for  
 25 identification.)

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00058

1 BY MR. COATES:  
 2 Q Well, let's go to -- we were on the Pernel  
 3 Investment Holdings document.  
 4 MR. KINNE: Can you just refer to the  
 5 Bates number, please?  
 6 MR. COATES: The Bates number is 913.  
 7 BY MR. COATES:  
 8 Q And go to the next page, Bates No. 914.  
 9 Tell me what you were looking at on this page that  
 10 related to the performance.  
 11 A The numbers that refer -- relate to the  
 12 return.  
 13 Q Can you point to that, please? Can you  
 14 show the videographer? Okay.  
 15 Did you look up at the top, at the column  
 16 that read "Statistics"?  
 17 A I don't remember.  
 18 Q And how about the chart beneath that,  
 19 "Investment Performance"?  
 20 A The graphic, yes.  
 21 Q And underneath that, "Asset Allocation"?  
 22 A I don't remember.  
 23 Q All right. What did you do when you --  
 24 after you received this E-mail?  
 25 A I looked at it and I said that I would

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00060

1 MR. KINNE: Joe, before we get to this  
 2 document, it's almost one. Do you want to stop  
 3 for lunch now?  
 4 MR. COATES: Yes. Why don't we do that?  
 5 It's a good idea.  
 6 (Thereupon, at 12:52 p.m., a  
 7 lunch recess was taken.)  
 8 -----  
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Pages 57-60

00061

1 AFTERNOON SESSION  
2 2:08 P.M.  
3 BY MR. COATES:  
4 Q Ms. Ferreira, before we broke for lunch I  
5 handed you what we had marked as Defendant's Exhibit  
6 No. 5. It's an E-mail from Mr. Yannuzzi to you,  
7 dated April 8, 2005.  
8 Do you recall receiving this E-mail from  
9 Mr. Yannuzzi?  
10 A Yes.  
11 Q Now, if you notice, the subject of this is  
12 short term agency.  
13 Do you see that?  
14 A Yes.  
15 Q What is a short term agency?  
16 A I don't know.  
17 Q Well, take a minute to read this E-mail.  
18 MR. KINNE: Do you want her to read it out  
19 loud?  
20 MR. COATES: No. Read it to yourself.  
21 (Pause.)  
22 THE WITNESS: Okay.  
23 BY MR. COATES:  
24 Q Thank you. You understand Spanish.  
25 Correct?

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00063

1 Q And what did you tell him? Can you please  
2 read what you responded?  
3 A That I was going to study the applications  
4 and I would answer back.  
5 Q Now, what study were you going to  
6 undertake?  
7 A I was going to read about the funds and  
8 think about it.  
9 Q Well, it was -- the E-mail discussed a  
10 Federal Home Loan Bank bond, not a fund. Right?  
11 A Yes.  
12 Q So, with that clarification, what were you  
13 going to review?  
14 A Well, I was going to check what he had  
15 sent with what I had gotten before.  
16 MR. COATES: Let's mark this as the next  
17 exhibit, No. 7.  
18 (Whereupon, Defendant's Exhibit  
19 7 was marked for  
20 identification.)  
21 BY MR. COATES:  
22 Q Did you receive this E-mail from  
23 Mr. Yannuzzi?  
24 A Yes.  
25 Q And do you understand that he's presenting

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00062

1 A Yes, I do.  
2 Q And what was your understanding of what  
3 Mr. Yannuzzi was presenting to you?  
4 A Yes. I understood, basically, that it was  
5 a bonus, like it says here, Federal Home Loan, with  
6 a date of December 22 of '06, and I remember I  
7 didn't want to invest in something that it would  
8 take so long.  
9 Q So, is it your testimony you wanted  
10 something of a shorter duration?  
11 A No. I wanted something with a longer  
12 duration.  
13 MR. COATES: Let's go look at the next  
14 document, which we will mark as Defendant's No.  
15 6.  
16 (Whereupon, Defendant's Exhibit  
17 6 was marked for  
18 identification.)  
19 BY MR. COATES:  
20 Q What I handed you, Defendant's No. 6, is  
21 an E-mail from Lorrene to Mr. Yannuzzi, dated April  
22 8, 2005.  
23 Is this your response to Mr. Yannuzzi, to  
24 his prior E-mail?  
25 A Yes.

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00064

1 you with yet another bond as a potential investment?  
2 A Yes.  
3 Q Were you interested in buying this bond?  
4 A When I saw that it was an investment for  
5 the same year that I was investing, I wasn't that  
6 interested.  
7 Q Okay. Was the coupon of four percent too  
8 low?  
9 A I don't even know what a four percent  
10 coupon means.  
11 Q Well, do you understand a four percent  
12 rate of return?  
13 A Yes.  
14 (Whereupon, Defendant's Exhibit  
15 8 was marked for  
16 identification.)  
17 BY MR. COATES:  
18 Q I hand you what's been marked as  
19 Defendant's Exhibit 8, which is an E-mail from  
20 Mr. Yannuzzi to you, dated on or about April --  
21 dated April 22, 2005.  
22 A Okay.  
23 Q And did you receive this from Mr. Yannuzzi  
24 on or about April 22?  
25 A I did.

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00065

1 Q And what did you understand Mr. Yannuzzi  
2 was telling you about Fairfield Sentry, as  
3 referenced in this E-mail?

4 A I had understood that from the funds that  
5 he had sent me, this was the most stable one, and  
6 that if I was interested -- that if I was  
7 interested, he would send the documents for me to  
8 open the account.

9 Q Well, did you tell him that you were not  
10 interested in the bonds?

11 A No, I don't -- I don't think I commented  
12 anything about that. It was from this E-mail that  
13 he sent me, that I decided to go with Fairfield  
14 Sentry.

15 Q All right. Well, in addition to the  
16 E-mails, and now I want to focus on the time period  
17 between April 8, 2005 and April 22, 2005, did you  
18 have any telephone discussions with Mr. Yannuzzi?

19 A Okay. To focus on this date?

20 Q Yes, on these dates, between April 8 and  
21 April 22. Did you talk to him on the phone?

22 A I don't remember talking over the phone  
23 with him. I remember that there was discussion  
24 about real estate investment, but I don't remember  
25 having talked to him about it.

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00067

1 dated April 25, 2005.

2 Did you send this E-mail to Mr. Yannuzzi?

3 A Yes, I did.

4 Q All right. Can you, please, read what  
5 you -- out loud, what you wrote to Mr. Yannuzzi?

6 A "Hello, Yannuzzi. I'm sorry for the  
7 delay, but I was in Rio taking care of certain  
8 issues, personal or particular issues. I was  
9 thinking exactly about this fund. I will await the  
10 sending of the documents for the opening of the  
11 account."

12 Q Why did you pick the Fairfield fund among  
13 the others presented by Mr. Yannuzzi to you?

14 A Well, after this E-mail that he sent,  
15 where he says that it was a more stable fund, I  
16 decided to invest in it.

17 Q Did you give any consideration to the  
18 other funds, the Permel funds, that we looked at  
19 before lunch, that were included in the same E-mail  
20 as the Fairfield information?

21 A Well, since I don't understand much about  
22 investments, and I had understood from what he had  
23 said, that Fairfield was the most stable, that's how  
24 I decided on.

25 MR. COATES: Let's go to the next

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00066

1 Q Did you talk to Mr. Davies regarding the  
2 E-mails that we just reviewed, regarding the bonds?

3 MR. KINNE: Objection.

4 BY MR. COATES:

5 Q Let me rephrase that question.

6 Document -- Defendant's Exhibits No. 5, 6  
7 and 7, did you discuss the information that was  
8 given to you by Mr. Yannuzzi, with Mr. Davies?

9 MR. KINNE: In those exhibits, you mean?  
10 From those exhibits?

11 BY MR. COATES:

12 Q In those exhibits.

13 A No, no. I don't remember exactly, you  
14 know. I know that I made comments that he had sent  
15 me options to invest, and he had sent me -- I  
16 mentioned he had sent me an E-mail with a stable  
17 fund, and he said that I could trust Mr. Yannuzzi,  
18 because he was his advisor.

19 Q Let me hand you what we marked as  
20 Defendant's Exhibit 9.

21 (Whereupon, Defendant's Exhibit  
22 9 was marked for  
23 identification.)

24 BY MR. COATES:

25 Q It's an E-mail from you to Mr. Yannuzzi,

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1 document. I show you what we will mark as  
2 Defendant's Exhibit 10.

3 (Whereupon, Defendant's Exhibit  
4 10 was marked for  
5 identification.)

6 BY MR. COATES:

7 Q Do you recall receiving this E-mail from  
8 Belkys Porras, on behalf of Mr. Yannuzzi?

9 A Yes.

10 Q Who was Ms. Porras?

11 A From the E-mail I notice that it was  
12 Miguel's assistant.

13 Q Okay. Did you have any direct dealings,  
14 other than the E-mails, with Ms. Porras?

15 A Direct dealings?

16 Q Did you ever speak to her on the phone?

17 A I don't remember speaking with her.

18 Q Did you ever meet her face-to-face?

19 A No.

20 Q What did you understand that Ms. Porras  
21 was asking you in this E-mail?

22 A She was answering to the E-mail that I had  
23 sent to him before, and that she was going to be  
24 sending the documents that were needed to open the  
25 account.

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Pages 65-68

00069

1 Q And if we go to the next E-mail, which is  
2 Exhibit No. 11 --  
3 (Whereupon, Defendant's Exhibit  
4 11 was marked for  
5 identification.)  
6 BY MR. COATES:  
7 Q I ask if you recognize that document?  
8 A Yes.  
9 Q And that's the response that you sent to  
10 Ms. Porras. Correct?  
11 A Yes.  
12 Q And you are giving her your address for  
13 the mailing of the account opening documents.  
14 Right?  
15 A Correct. Yes.  
16 (Whereupon, Defendant's Exhibit  
17 12 was marked for  
18 identification.)  
19 BY MR. COATES:  
20 Q I hand you what's been marked as Exhibit  
21 No. 12, and this is an E-mail from Mr. Yannuzzi to  
22 you, dated June 7, 2005.  
23 Do you recall receiving this E-mail?  
24 A Yes.  
25 Q Now, this -- this E-mail is approximately

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00071

1 that they needed the name of the bank where I had an  
2 account in Uruguay, and for -- to send it via  
3 E-mail.  
4 Q For the record, that document that you  
5 just testified from, we had marked as Defendant's  
6 Exhibit 13.  
7 A Yes.  
8 (Whereupon, Defendant's Exhibit  
9 14 was marked for  
10 identification.)  
11 BY MR. COATES:  
12 Q Again, the next exhibit is No. -- Exhibit  
13 No. 14. It's an E-mail from you to Mr. Yannuzzi  
14 dated June 8, 2005.  
15 A Yes.  
16 Q And will you, please, read into the record  
17 what you told Mr. Yannuzzi?  
18 A "Hello, Miguel. How are you? Regarding  
19 the passport topic, the subject, I am going to be  
20 sending it to you tomorrow, and my bank here in  
21 Uruguay is Bank Boston. You do not need to send me  
22 through the mail. Anyway, I will give you my  
23 address. Calle Jose Maria Montero 3083, Apartment  
24 401."  
25 (Whereupon, Defendant's Exhibit

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1 five weeks after your E-mail to Ms. Porras sending  
2 your address. Correct?  
3 A Correct.  
4 Q And what was Mr. Yannuzzi asking of you on  
5 June 7, 2005?  
6 A The page of the Brazilian passport with  
7 the number, the passport number, asking me to send  
8 it via scan, via E-mail or fax, you know, the  
9 passport.  
10 Q And you understood he needed that in order  
11 to open up the account?  
12 A Yes.  
13 (Whereupon, Defendant's Exhibit  
14 13 was marked for  
15 identification.)  
16 BY MR. COATES:  
17 Q Let me hand you the next document, which  
18 is an E-mail dated June 7, from Mr. Yannuzzi to you.  
19 Do you recall receiving this E-mail from  
20 Mr. Yannuzzi?  
21 A Yes.  
22 Q And what was Mr. Yannuzzi asking of you in  
23 this E-mail?  
24 A To confirm if I wanted them to send me the  
25 correspondence to my home address in Uruguay, and

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00072

1 15 was marked for  
2 identification.)  
3 BY MR. COATES:  
4 Q Let me hand you what's been marked as  
5 Defendant's Exhibit 15. It's an E-mail with  
6 attachments, dated June 16, 2005, from Ms. Porras to  
7 Lorrene.  
8 A Okay.  
9 Q Okay. You recall receiving this document.  
10 Correct?  
11 A Yes.  
12 Q All right. And there are three  
13 attachments, Correct?  
14 A Yes.  
15 Q And the first one is a wire transfer  
16 instruction. Correct?  
17 A Yes.  
18 Q And in your business, where you work,  
19 you've seen wire instructions before. Correct?  
20 A Yes.  
21 Q So, you understood that this was a wire  
22 transfer instruction to do what?  
23 A To open an account in the bank in order to  
24 be able to invest.  
25 Q You said "the bank." What bank?

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Pages 69-72

00073

- 1 A EFG Private Bank, SA.  
2 Q And where was EFG Private Bank?  
3 A Switzerland.  
4 Q All right. The next document in this --  
5 let me make sure I understand you. Let me go back.  
6 So that I'm clear, was it that you were  
7 going to give this wire transfer instruction to Bank  
8 Boston for transferring money from your Bank Boston  
9 account to EFG Private Bank in Switzerland?  
10 A No. I didn't understand the question.  
11 Q Let me rephrase it.  
12 What was the purpose of the wire transfer?  
13 A Transfer the money in order to open an  
14 account.  
15 Q Transfer from where?  
16 A From where, I don't know from where. It  
17 was to transfer into this -- transfer to this  
18 account.  
19 Q Okay. The money that you had to invest,  
20 where did it come from?  
21 A The money I received from work.  
22 Q Yes. Where was it held?  
23 A I think it was in the safe deposit in  
24 Mr. Howell's company.  
25 Q Whose company?

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00075

- 1 A I don't remember.  
2 Q Let me make sure I understand then. Did  
3 you have an account, you, in your name, with the  
4 exchange house?  
5 A No.  
6 Q You did not?  
7 A No.  
8 Q You had no account in your name?  
9 A I don't remember.  
10 Q Let me be clear on this.  
11 A I don't know if I could open an account to  
12 do that. I don't remember.  
13 Q Let me be clear on this. Was this your  
14 money that you invested in Fairfield, or was it  
15 Mr. Davies' money?  
16 A It was my money.  
17 Q Did it come from an account held in your  
18 name?  
19 MR. KINNE: Objection.  
20 THE WITNESS: I don't know about this  
21 detail.  
22 BY MR. COATES:  
23 Q Let me ask you this. In May -- May or  
24 June of 2005, did you, at any bank or financial  
25 institution, have an account which held \$120,000,

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00074

- 1 A Mr. Howell.  
2 Q Who's Mr. Howell?  
3 A Raul. Raul Davies. Raul.  
4 Q At the time, did you have a bank account?  
5 A I did.  
6 Q Had you deposited your bonus into a bank  
7 account?  
8 A I don't remember.  
9 Q All right. Well, tell me how you invested  
10 in Fairfield. Where did the money come from?  
11 A I invested in Fairfield -- it was a bonus  
12 from my company, from the company I worked for, for  
13 having gone to -- moved to Uruguay, having left my  
14 family, and for the years of service.  
15 Q Did you give Mr. Yannuzzi a check for your  
16 investment in Fairfield?  
17 A No.  
18 Q Did you give him cash?  
19 A No.  
20 Q Where did the money come from then that  
21 was used to invest in Fairfield on your behalf?  
22 A I think I used an account, a Mr. Raul  
23 Davies account, in order to transfer. It was an  
24 account of an exchange house.  
25 Q What exchange house?

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00076

- 1 U.S. dollars?  
2 A No. I received the bonuses in money, in  
3 cash.  
4 Q In dollars, actual dollars?  
5 A In dollars, yes.  
6 Q Did you receive it all at one time?  
7 A All at one time. You mean the one  
8 hundred? I first received 50 and then 50 more.  
9 Q Let's go with the first one hundred. How  
10 did you receive it?  
11 MR. KINNE: Objection. Objection.  
12 THE WITNESS: The first 50?  
13 BY MR. COATES:  
14 Q Yes.  
15 A I received it in cash.  
16 Q Was it given to you in an envelope?  
17 A Well, he called me into his room, into the  
18 office, and he gave it to me.  
19 Q Was it sitting on the table? Was it in an  
20 envelope?  
21 A In an envelope.  
22 Q All right. What did you do -- after you  
23 received it, what did you do with the \$50,000?  
24 A Well, Mr. Raul, Raul, he had a safe in the  
25 company, and I asked him to please keep it there for

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Pages 73-76

00077

1 me.  
2 Q Okay. That's the 50,000. What about the  
3 \$100,000 bonus?  
4 MR. KINNE: Objection.  
5 THE WITNESS: The same way.  
6 BY MR. COATES:  
7 Q He took the money and put it in a safe?  
8 A I think so. I -- I think so. I think so,  
9 yes. No. Yes. Yes.  
10 Q Did you report this bonus on your tax  
11 returns?  
12 A No. There is no income tax in Uruguay.  
13 Q Is there an obligation to file tax returns  
14 in Uruguay?  
15 A No, it is not.  
16 Q No. Just so we're clear, you don't know  
17 from what financial institution the money came from  
18 that was used to make the investment in Fairfield on  
19 your behalf. Right?  
20 A I think it was the -- one of the company's  
21 accounts. I don't remember.  
22 Q Okay. Let's go back to -- let's go back  
23 to the other exhibits to this E-mail, to this June  
24 16 E-mail. And for the record, this is the EFG  
25 Capital International hedge fund customer consent

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00079

1 A No, I don't remember.  
2 Q Do you recall discussing this with anyone?  
3 A No.  
4 Q I'd like you to go back to the first page  
5 of the E-mail, the E-mail from Ms. Porras to you.  
6 And you notice on this document that the -- there  
7 are two -- the second and third attachments -- do  
8 you see the second and third attachments?  
9 A Uh-huh.  
10 Q Right above that there is a sentence sent  
11 to you from Ms. Porras. Right?  
12 A Yes.  
13 Q What did she advise you? What did she say  
14 to you?  
15 A "Please sign the attached form and send it  
16 back to us."  
17 Q Is that "form" or "forms"?  
18 A "The attached form."  
19 MR. COATES: Let's go off the record for a  
20 minute.  
21 (Thereupon, a short recess was  
22 taken.)  
23 BY MR. COATES:  
24 Q Before we broke, we were looking at the  
25 attachments to Exhibit 15, to include the second

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1 form.  
2 The second page of that -- the second  
3 exhibit that's attached to the E-mail -- for the  
4 reference, the Bates number is EFG Capital 938.  
5 MR. KINNE: The second exhibit or the  
6 second document?  
7 MR. COATES: The second exhibit to the  
8 E-mail. The second attachment to the E-mail.  
9 THE WITNESS: Yes.  
10 BY MR. COATES:  
11 Q Do you recall receiving this?  
12 A There are so many pages, I don't know.  
13 Q Do you remember reading it?  
14 A No, I don't remember.  
15 Q Do you remember discussing it with anyone?  
16 A I don't even know what it relates to.  
17 Q Did you talk to Mr. Yannuzzi about it?  
18 A What is this?  
19 Q You don't know what it is?  
20 A No. No, and I don't remember what I read  
21 then.  
22 Q Let's go to the next attachment. This is  
23 the EFG Capital International supplemental risk  
24 disclosure information.  
25 Do you see that?

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00080

1 attachment, which was the hedge fund customer  
2 consent form. And you, in fact -- I'll hand this to  
3 you, Exhibit No. 16.  
4 (Whereupon, Defendant's Exhibit  
5 16 was marked for  
6 identification.)  
7 BY MR. COATES:  
8 Q You, in fact, signed, didn't you, a hedge  
9 fund customer consent form?  
10 A Yes.  
11 Q And is that your signature on the bottom  
12 of this document?  
13 A Yes.  
14 Q And for the record, this is the hedge fund  
15 customer consent form for Fairfield Sentry. Right?  
16 A Yes.  
17 Q And did you read this before you signed  
18 it?  
19 A I don't remember. I mean, I remember  
20 signing a lot of pages, but what I signed, I don't  
21 remember.  
22 Q Let me show you, right above your  
23 signature, it reads, and you can quote this, "By my  
24 signature below, I attest to everything in this  
25 statement."

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Pages 77-80

00081

1 A Yes.  
2 Q Is that a true statement?  
3 A I signed where Mr. Miguel Yannuzzi asked  
4 me to sign.  
5 Q Is it a true statement that, "By signing  
6 the signature below, I attest to everything in this  
7 statement"?  
8 MR. KINNE: Objection.  
9 THE WITNESS: I would have to, you know,  
10 read again whatever is written in here.  
11 BY MR. COATES:  
12 Q Take whatever time you need. Is it true?  
13 Let me rephrase it.  
14 At the time you signed this, not today, at  
15 the time you signed it, is it a true statement, "By  
16 my signature below, I attest to everything in this  
17 statement"?  
18 MR. KINNE: Objection to the form.  
19 THE WITNESS: I simply signed where Miguel  
20 told me, "You have to sign here and you have to  
21 sign here."  
22 BY MR. COATES:  
23 Q Do you attest to everything in this  
24 statement? Yes or no?  
25 MR. KINNE: Objection.

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1 THE WITNESS: No, I -- I don't. I don't  
2 understand English. I don't know what's  
3 written in here. I simply trusted Miguel. He  
4 said for me to sign, and I signed.  
5 BY MR. COATES:  
6 Q Was Mr. Yannuzzi in your presence when you  
7 signed this document?  
8 A I don't remember.  
9 Q Well, did you -- to make sure I'm clear,  
10 did you ever sign any documents in Mr. Yannuzzi's  
11 presence?  
12 A I believe so.  
13 Q And which documents were they?  
14 A I don't remember.  
15 Q When did you -- let me back up.  
16 How many times did you meet Mr. Yannuzzi  
17 face-to-face?  
18 A I think twice.  
19 Q And when?  
20 A When he went to Uruguay to pick up the  
21 documents, to show me the documents, and I don't  
22 know. Maybe he went to visit Mr. Raul. They were  
23 friends, also.  
24 Q My question is, how many times did you  
25 meet with him? Not Mr. Raul, I'm asking you. Your

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1 dealings with him.  
2 A About twice.  
3 Q All right. The first time was when he --  
4 you mentioned a few minutes ago, when he brought you  
5 some documents to sign. When was the second time  
6 that you met face-to-face with Mr. Yannuzzi?  
7 MR. KINNE: Objection.  
8 You can answer.  
9 THE WITNESS: I don't remember. I don't  
10 remember.  
11 BY MR. COATES:  
12 Q You met Mr. Yannuzzi the first time in  
13 Uruguay. Correct?  
14 A Yes. Yes.  
15 Q Where was the second time you met him?  
16 A Well, he went to the office. I don't  
17 remember exactly, but I -- and I don't know if it  
18 was to talk to me, but he went to the office where I  
19 work.  
20 Q So the answer is, you met him the second  
21 time in Uruguay?  
22 A I only met with Miguel in Uruguay.  
23 Q Correct. Did you meet with anyone else  
24 from EFG Capital, face-to-face?  
25 A No.

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00084

1 Q Did you ever come to the United States to  
2 meet with anyone from EFG Capital?  
3 A No.  
4 Q Before we broke we were talking about the  
5 bonuses that you received in cash in U.S. dollars.  
6 What about your regular salary? What currency did  
7 you receive your regular salary?  
8 A Also in dollars.  
9 Q And did you receive that once a month in  
10 an envelope from Mr. Davies?  
11 A Yes.  
12 Q Did the other employees of the company  
13 receive their salary in the same way?  
14 A In dollars?  
15 Q Yes.  
16 A Yes.  
17 Q And did other employees who received  
18 bonuses, receive it in the same way as you described  
19 how you received it?  
20 A Yes.  
21 Q In Uruguay, you mentioned that there was  
22 no income tax. Are there other taxes on businesses?  
23 A I wouldn't know what to answer.  
24 Q Are there taxes on assets?  
25 A I don't know.

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00085

1 Q Did you report your bonuses to Brazil?

2 MR. KINNE: Object. Objection.

3 THE WITNESS: Do I have to answer that?

4 MR. KINNE: Yes, you may answer.

5 THE WITNESS: In Brazil? No.

6 BY MR. COATES:

7 Q Did you file a Brazilian tax return

8 between 2004 and 2008?

9 A Since I am a resident in Uruguay, I don't

10 have to pay income tax in Brazil.

11 Q I simply asked, did you file a tax return

12 in Brazil?

13 A My income tax -- my income tax in Brazil

14 is declared as living abroad.

15 Q So, you file a tax return in Brazil?

16 A The only thing that I declare in Brazil is

17 that I live abroad.

18 Q I want to make sure that I understand

19 Mr. Davies' business to clear up any confusion.

20 Is Mr. Davies' business where he exchanges

21 one currency for another?

22 A Yes.

23 Q In other words, someone will come to

24 Mr. Davies with dollars, and ask him to exchange it

25 for the Uruguay currency. Right?

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00087

1 A I actually only took note of the client's

2 information. How the transaction was done, I don't

3 know.

4 Q Well, did Mr. Davies buy and sell

5 currencies?

6 A From the clients, yes.

7 Q What about from the markets, the FX

8 markets? You know what FX is, don't you?

9 A No.

10 Q You don't know foreign exchange markets?

11 A No, I don't.

12 Q Mr. Davies was not involved in FX

13 transactions?

14 A I have no idea.

15 Q Let me go back to the documents.

16 Before I do that, is Mr. Davies still

17 living?

18 A He passed away in 2007.

19 Q And who was Mr. Davies' partner?

20 A His sons. His sons.

21 Q And what are their names?

22 A Raul Fernando Davies, Jorge Davies and

23 Guillermo Davies.

24 (Whereupon, Defendant's Exhibit

25 17 was marked for

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00086

1 A No. In Uruguay Mr. Raul Davies only had

2 authorization to work with -- with abroad, not with

3 the Uruguayan currency.

4 Q All right. So let me make sure that I

5 understand then.

6 He would -- who are his customers? Where

7 do they live?

8 A Brazil, abroad, in Europe.

9 Q And what were they trying to accomplish

10 with Mr. Davies?

11 MR. KINNE: Objection.

12 You can answer.

13 THE WITNESS: To do the exchange.

14 BY MR. COATES:

15 Q Exchange from what to what? I don't

16 understand the business.

17 A For example, a client has reais in Brazil,

18 and he has a son who studies in the U.S., and he

19 would then say to Mr. Davies, "I'd like to send

20 money to my son in the United States."

21 Q So, Mr. Davies would do what?

22 A Well, this part, how this transaction

23 would work, I believe he had a partner in Uruguay to

24 work with.

25 Q And how did the transaction take place?

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00088

1 identification.)

2 BY MR. COATES:

3 Q Let me show you what's been marked as

4 Defendant's Exhibit 17. This is an E-mail from

5 Ms. Porras to you, on June 17, 2005.

6 Do you recall receiving this?

7 A Yes.

8 Q And what is Ms. Porras asking you?

9 A "Yes, I do need to verify if Ocaso courier

10 went there."

11 Q And why was the courier going to the

12 office?

13 A I don't remember.

14 (Whereupon, Defendant's Exhibit

15 18 was marked for

16 identification.)

17 BY MR. COATES:

18 Q Let me show you the next document then,

19 and maybe it will refresh your memory.

20 This is Defendant's Exhibit 18. For the

21 record, this is another E-mail dated June 17, this

22 time from you, Lorrene, to Ms. Porras. Correct?

23 A Yes.

24 Q And what did you advise Ms. Porras?

25 A That the courier has already called me and

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Pages 85-88

00089

1 I am handing the documents.  
 2 (Whereupon, Defendant's Exhibit  
 3 19 was marked for  
 4 identification.)  
 5 BY MR. COATES:  
 6 Q I hand you the next document. The next  
 7 document is Defendant's Exhibit 19, which is an  
 8 E-mail from you to Ms. Porras dated, again, June 21,  
 9 2005. Right?  
 10 A Correct.  
 11 Q And what did you advise Ms. Porras?  
 12 A "I am sending today \$125,000."  
 13 Q Let me show you the next document, which  
 14 is an E-mail dated June 30.  
 15 (Whereupon, Defendant's Exhibit  
 16 20 was marked for  
 17 identification.)  
 18 BY MR. COATES:  
 19 Q Let me hand you what's been marked as  
 20 Exhibit No. 20, an E-mail from Ms. Porras to you,  
 21 dated June 30, 2005, with an attachment.  
 22 A Okay.  
 23 Q Do you recall receiving this E-mail with  
 24 the attachment, from Ms. Porras, on or about June  
 25 30, 2005?

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00090

1 A Yes.  
 2 Q And what did Ms. Porras tell you in the  
 3 E-mail?  
 4 A "I am sending you the brochure for your  
 5 information of the fund, invested fund. The  
 6 document has 48 pages."  
 7 Q And did you read the prospectus?  
 8 A I don't remember.  
 9 Q Other than the documents that we have  
 10 looked at previously, are you aware of any other  
 11 documents that you received regarding Fairfield,  
 12 before you decided to invest?  
 13 MR. KINNE: Objection.  
 14 THE INTERPRETER: I'm so sorry. May I  
 15 please ask you to repeat that?  
 16 (Whereupon, the requested  
 17 portion of the record was read  
 18 by the reporter.)  
 19 MR. KINNE: Objection, for the record.  
 20 THE WITNESS: If I had other investments  
 21 before Fairfield?  
 22 BY MR. COATES:  
 23 Q No. Whether you received any additional  
 24 documentation regarding Fairfield.  
 25 A No.

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00091

1 Q Did Mr. Yannuzzi tell you who was going to  
 2 actually invest on behalf of the Fairfield Sentry  
 3 fund that you invested in?  
 4 MR. KINNE: Objection to the form.  
 5 You can answer.  
 6 THE WITNESS: Can you please repeat it?  
 7 BY MR. COATES:  
 8 Q Sure. Who did you understand was the  
 9 investment manager for Fairfield Sentry?  
 10 A I never really asked myself that question.  
 11 For me, it was a fund that was recommended by the  
 12 bank, and that was the only information that I --  
 13 precise information that I had.  
 14 Q Did you know that the investments in  
 15 Fairfield Sentry were to be invested by a man named  
 16 Bernard Madoff?  
 17 THE INTERPRETER: Mr. Coates, I'm so  
 18 sorry, I have a terrible headache. I'm going  
 19 to have to ask you to repeat it. It's so  
 20 sharp, and sometimes I can't --  
 21 MR. COATES: Sure. Let's take a five  
 22 minute break.  
 23 I need an answer to that. Can you answer  
 24 the question?  
 25 THE INTERPRETER: Brian, can you please

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00092

1 repeat it? I'm so sorry.  
 2 (Whereupon, the requested  
 3 portion of the record was read  
 4 by the reporter.)  
 5 THE WITNESS: No.  
 6 MR. COATES: Let's take a break.  
 7 (Thereupon, a short recess was  
 8 taken.)  
 9 MR. KINNE: Joe, before you ask another  
 10 question, I just want to state for the record  
 11 that while we were off the record, we had a  
 12 conversation about the remaining time for this  
 13 deposition, and the plaintiff, our client, has  
 14 come up here from Uruguay specifically for this  
 15 deposition, and we understood that it would be  
 16 a seven hour deposition.  
 17 She has a flight out tonight at 8:30. We  
 18 started at 10. We understood that you would be  
 19 finished in time for her to catch that flight,  
 20 and -- within the time frame permitted by the  
 21 rules, and we understand that it may -- that  
 22 your intention now is to go beyond that time  
 23 period, and we obviously would object,  
 24 especially since she flew up here specifically  
 25 for this deposition and that we thought you

00093

1 understood her constraints.  
2 MR. COATES: Well, I will proceed in  
3 continuing to ask questions, and if we have a  
4 time issue, we will have to deal with it at the  
5 end. I don't know what else to say in response  
6 to your statement.  
7 I will say that it is -- that the  
8 deposition has taken longer because of the  
9 necessity to have a translator present, and  
10 unlike the other -- the depositions that -- the  
11 deposition that's occurred earlier in this  
12 case, there was not a translator, and it just  
13 makes things slower. It's just the -- that's  
14 just the reality of it. But in any event, we  
15 are pressing ahead and we will see what we can  
16 get done.  
17 BY MR. COATES:  
18 Q Did you rely upon anything in the  
19 prospectus that is in front of you attached to the  
20 E-mail of -- noted as Exhibit No. 20?  
21 MR. KINNE: Objection to the form.  
22 THE WITNESS: If I what?  
23 BY MR. COATES:  
24 Q Excuse me?  
25 A If I what?

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00095

1 and I didn't read it.  
2 Q And so you did not rely upon the  
3 prospectus in making your decision to invest in  
4 Fairfield Sentry. Correct?  
5 A Not in this memorandum.  
6 Q Well, did you rely upon another  
7 memorandum?  
8 A No, not in a memorandum.  
9 Q Well, what document did you rely on in  
10 making the investment in Fairfield Sentry?  
11 A The main was Miguel Yannuzzi. I trusted  
12 him completely.  
13 Q Now, did you know that the Fairfield  
14 Sentry, Limited fund that you invested in was  
15 audited by Price Waterhouse Coopers?  
16 A No. For me that's the bank's duty, not  
17 mine.  
18 Q What bank?  
19 A EFG.  
20 Q EFG?  
21 A Capital EFG, where Miguel was an employee  
22 of.  
23 Q To make sure I'm clear, when you say "the  
24 bank," you mean EFG Capital, where Mr. Yannuzzi was  
25 employed. Right?

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00094

1 Q Did you rely?  
2 MR. KINNE: Object.  
3 BY MR. COATES:  
4 Q I'll rephrase the question.  
5 In front of you is Exhibit No. 20. It's  
6 an E-mail with the attached Fairfield Sentry  
7 prospectus.  
8 Let me rephrase that.  
9 In front of you is Exhibit No. 20.  
10 Attached to that is the confidential private  
11 placement memorandum for Fairfield Sentry, Limited.  
12 Right?  
13 A Okay.  
14 Q Do you recognize it as the private  
15 placement memorandum for Fairfield?  
16 A Well, for me this is a prospectus,  
17 brochure, or is the explanation of the fund.  
18 Q Do you recognize it as the private  
19 placement memorandum for the Fairfield Sentry,  
20 Limited investment in which you invested?  
21 A Yes.  
22 Q Did you read it?  
23 A No. In English, all of it, no.  
24 Q Well, any of it?  
25 A No. I had received the previous brochure

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00096

1 A Where he was an employee, yes.  
2 Q Did you -- did Mr. Yannuzzi mention to you  
3 that the auditors for the fund that you invested in,  
4 were Price Waterhouse Coopers?  
5 A No.  
6 Q Did you have any discussions with  
7 Mr. Yannuzzi that the custodian of the Fairfield  
8 Sentry fund was a company called CITCO Global  
9 Custody?  
10 A No.  
11 Q Did you have any discussions with  
12 Mr. Yannuzzi regarding due diligence into the fund?  
13 A No.  
14 Q Did Mr. Yannuzzi tell you at the time that  
15 you invested in Fairfield, that he would monitor  
16 your investment?  
17 A I understood it that way.  
18 Q What did he tell you precisely?  
19 A I don't remember.  
20 Q When did he tell you?  
21 A I don't remember.  
22 Q What were the precise words that he used?  
23 A It's impossible to remember.  
24 Q Is this in writing regarding monitoring?  
25 A I don't believe so.

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Pages 93-96

00097

1 Q Is there any agreement that you have seen  
 2 in this case so far, in which Mr. Yannuzzi agreed to  
 3 monitor your investment in Fairfield Sentry?  
 4 A I believe that that's between the bank and  
 5 the employee, Mr. Yannuzzi.  
 6 Q My question was, have you seen any  
 7 agreement in this case where Mr. Yannuzzi agreed to  
 8 monitor your Fairfield Sentry investment?  
 9 A No.  
 10 Q Prior to the exposure of Mr. Madoff's  
 11 fraud in December of 2008, any time between the day  
 12 you invested in Fairfield up to that time, did you  
 13 have any concerns whatsoever regarding your  
 14 Fairfield Sentry investment?  
 15 A I was sure that the funds that I had  
 16 invested in were not fraudulent.  
 17 Q Well, that wasn't my question. Did you  
 18 have any concerns between the day you invested and  
 19 the day in December of 2008, that Mr. Madoff's fraud  
 20 was exposed?  
 21 A No. I had no concerns.  
 22 Q Okay. Now, did any of your co-workers  
 23 invest in Fairfield?  
 24 A I don't know.  
 25 Q You don't know. Okay.

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00098

1 Did you speak to anybody other than  
 2 Mr. Yannuzzi regarding your Fairfield investment,  
 3 from the time that you invested through the exposure  
 4 of Mr. Madoff's fraud in December 2008?  
 5 A No.  
 6 Q I want to make sure I've exhausted all of  
 7 the people with whom you spoke to before you  
 8 invested in Fairfield.  
 9 You spoke to Mr. Yannuzzi. You spoke to  
 10 Mr. Davies. You spoke or communicated with  
 11 Ms. Porras. Is there anyone else that you spoke to  
 12 about your decision to invest in Fairfield, before  
 13 you decided to invest?  
 14 MR. KINNE: Objection to form.  
 15 You can answer.  
 16 THE WITNESS: I don't remember.  
 17 BY MR. COATES:  
 18 Q Did you speak to your mother?  
 19 A No.  
 20 Q Did Mr. Yannuzzi ever speak to your  
 21 mother?  
 22 A Yes.  
 23 Q When did Mr. Yannuzzi speak to your  
 24 mother, to your knowledge?  
 25 A He went to meet my mother in Rio right

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00099

1 after he met me in Uruguay.  
 2 Q Was your mother -- again, I want to make  
 3 sure I'm clear on this. Was your mother involved in  
 4 any way regarding your decision to invest in  
 5 Fairfield?  
 6 MR. KINNE: Objection.  
 7 THE WITNESS: No.  
 8 BY MR. COATES:  
 9 Q What country is your mother a citizen of?  
 10 A Brazil.  
 11 Q And does she have a visa to enable her to  
 12 come to the United States?  
 13 A No.  
 14 Q Did there come a time that you opened up  
 15 an account with a Swiss bank?  
 16 A I don't think so, no.  
 17 Q Well, didn't you have an account with EFG  
 18 Bank in Switzerland?  
 19 A For me it was the same institution, the  
 20 EFG that I transferred money to.  
 21 Q Well, did you understand that your assets  
 22 were being held in an account in Switzerland?  
 23 A Yes.  
 24 Q Today, do you have a Swiss account?  
 25 A No. No.

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00100

1 Q Where did you transfer your holdings from  
 2 when they left EFG Bank?  
 3 A Where did I transfer from?  
 4 Q Where did they transfer to?  
 5 A Where did I transfer to?  
 6 Q Yes. Your assets that were held --  
 7 A At EFG?  
 8 Q After EFG.  
 9 A After EFG, I think it was for -- into an  
 10 account in Uruguay.  
 11 (Whereupon, Defendant's Exhibit  
 12 21 was marked for  
 13 identification.)  
 14 BY MR. COATES:  
 15 Q Let me show you what we will mark as  
 16 Exhibit No. 21.  
 17 For the record, this is an EFG Private  
 18 Bank fiduciary investment agreement.  
 19 At the bottom of the page, is that your  
 20 signature?  
 21 A Yes.  
 22 Q And beneath your signature, is that your  
 23 mother's signature?  
 24 A Yes.  
 25 Q Did you read this document before you

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Pages 97-100

00101

1 signed it?  
2 A It's in English. I read the title maybe.  
3 I don't remember.  
4 Q Other than perhaps reading the title, do  
5 you remember anything else about reading this  
6 document?  
7 A No, I don't remember.  
8 (Whereupon, Defendant's Exhibit  
9 22 was marked for  
10 identification.)  
11 BY MR. COATES:  
12 Q I hand you what we've marked as Exhibit  
13 No. 22. Exhibit No. 22, for the record, is an EFG  
14 Private Bank application to open an account.  
15 At the bottom right-hand side of this  
16 document, is that your signature?  
17 A Yes.  
18 Q And beneath your signature, do you  
19 recognize your mother's signature?  
20 A Yes.  
21 Q Is any of the handwriting on this document  
22 yours?  
23 A No.  
24 Q If you look under "Occupation," it reads,  
25 "Investment advisor."

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00103

1 identification.)  
2 BY MR. COATES:  
3 Q It is titled an EFG Private Bank document,  
4 labeled, "General Conditions."  
5 I would ask you to go to the last page of  
6 this document. And on the last page of this  
7 document, is that your signature?  
8 A Yes, it's my signature.  
9 Q And beneath that, do you recognize that as  
10 your mother's signature?  
11 A Yes.  
12 Q The last few documents, the Defendant's  
13 Exhibits No. 23, and 22, and 21, do you recall  
14 whether you signed these with your mother?  
15 A No.  
16 Q Let me hand you the next document.  
17 (Whereupon, Defendant's Exhibit  
18 24 was marked for  
19 identification.)  
20 BY MR. COATES:  
21 Q Let me hand you what's been marked as  
22 Defendant's Exhibit 24, which is an EFG Private Bank  
23 document titled, "Information and Provisions  
24 Applicable to Securities, Foreign Exchange,  
25 Derivative Instruments and Similar Transactions."

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00102

1 Is that a false statement?  
2 MR. KINNE: Objection.  
3 THE WITNESS: Well, I didn't write that.  
4 BY MR. COATES:  
5 Q Well, were you an investment advisor?  
6 A No.  
7 Q Was your -- underneath that,  
8 "Psychoanalyst." Was your mother a psychoanalyst?  
9 A Psychologist.  
10 Q Did you sign this with this information  
11 completed?  
12 MR. KINNE: You mean the handwritten  
13 information?  
14 BY MR. COATES:  
15 Q The handwritten sections completed.  
16 A I don't remember.  
17 Q Well, do you have a practice of signing  
18 blank documents? You do.  
19 A From people that I trust, yes.  
20 Q Well, do you recall signing this in blank?  
21 A No, I don't remember.  
22 Q Let me hand you the next document, which  
23 has been marked as Defendant's Exhibit No. 23.  
24 (Whereupon, Defendant's Exhibit  
25 23 was marked for

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00104

1 A Yes.  
2 Q This is a two page document. Correct?  
3 A Yes.  
4 Q And does your signature appear at the  
5 bottom of both pages?  
6 A Yes.  
7 Q And did you -- is your mother's  
8 signature -- let me rephrase that.  
9 Do you recognize your mother's signature  
10 beneath your signature on both pages?  
11 A Yes.  
12 Q Did you read this document before you  
13 signed it?  
14 A I don't think so.  
15 (Whereupon, Defendant's Exhibit  
16 25 was marked for  
17 identification.)  
18 BY MR. COATES:  
19 Q I hand you the next document, Defendant's  
20 Exhibit 25, which is an agreement concerning  
21 communications and banking secrecy between EFG  
22 Private Bank and other companies or officers of the  
23 EFG Bank Group.  
24 A Okay.  
25 Q Is that your signature at the bottom?

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Pages 101-104

00105

1 A It is mine.  
2 Q And is that your mother's signature  
3 beneath yours?  
4 A Yes.  
5 Q Did you read this document before you  
6 signed it?  
7 A I don't remember.  
8 (Whereupon, Defendant's Exhibit  
9 26 was marked for  
10 identification.)  
11 BY MR. COATES:  
12 Q I show you what's been marked as  
13 Defendant's Exhibit 26. This document is titled,  
14 "EFG Private Bank Client Instructions Concerning  
15 Unsolicited Special Purchases."  
16 Is that your signature at the bottom?  
17 A Yes.  
18 Q And is your mother's signature -- do you  
19 recognize your mother's signature beneath yours?  
20 A Yes.  
21 Q Did you read this before you signed it?  
22 A I don't remember. I may have.  
23 (Whereupon, Defendant's Exhibit  
24 27 was marked for  
25 identification.)

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00107

1 signature beneath yours?  
2 A Yes.  
3 Q Did you read this document before you  
4 signed it?  
5 A I don't remember.  
6 Q Well, when you were signing these  
7 documents, did you understand that you were going to  
8 open up an account with a Swiss bank?  
9 A Yes. I was going to open an account  
10 abroad.  
11 Q In Switzerland?  
12 A Yes.  
13 (Whereupon, Defendant's Exhibit  
14 29 was marked for  
15 identification.)  
16 BY MR. COATES:  
17 Q Let me show you another document which is  
18 going to be marked as Exhibit No. 29. It's titled,  
19 "Fondo Fairfield Sentry Class B Shares."  
20 Now, that document in front of you is in  
21 Spanish. Correct?  
22 A Yes.  
23 Q And did you receive that document prior to  
24 your decision to invest in Fairfield Sentry?  
25 MR. KINNE: Object.

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00106

1 BY MR. COATES:  
2 Q I show you what's been marked as  
3 Defendant's Exhibit No. 27, and this is an EFG  
4 Private Bank document labeled, "Establishment of the  
5 Beneficial Owner's Identity."  
6 Did you sign this document?  
7 A Yes.  
8 Q And do you recognize your mother's  
9 signature beneath yours?  
10 A Yes.  
11 Q Is any of the, above your signature, but  
12 any of the handwriting here yours, on the document?  
13 A None of it. None of it is mine.  
14 (Whereupon, Defendant's Exhibit  
15 28 was marked for  
16 identification.)  
17 BY MR. COATES:  
18 Q I show you what's been marked as  
19 Defendant's Exhibit No. 28. And this is a document  
20 from EFG Private Bank entitled, "Fiduciary Deposits  
21 Mandate."  
22 Do you recognize your signature at the  
23 bottom of the page?  
24 A Yes.  
25 Q And do you recognize your mother's

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00108

1 THE WITNESS: I don't remember.  
2 MR. COATES: Let's mark this as a  
3 composite exhibit. Composite Exhibit 30.  
4 MR. KINNE: Defendant's Exhibit 30.  
5 MR. COATES: Composite Exhibit 30.  
6 Defendant's composite Exhibit 30.  
7 (Whereupon, Defendant's Exhibit  
8 30 was marked for  
9 identification.)  
10 BY MR. COATES:  
11 Q Take a moment to just flip through those.  
12 MR. GARCIA: Just so the record is clear,  
13 I think all the exhibit references today have  
14 been to defendant's exhibits.  
15 MR. KELLOGG: Apostrophe "s" or "s"  
16 apostrophe?  
17 BY MR. COATES:  
18 Q My question to you is, do you recognize  
19 these as the monthly statements that you received  
20 from EFG Bank regarding the account that you  
21 maintained in Switzerland?  
22 A Yes.  
23 Q And I would ask you to -- if you could  
24 flip ahead, at the bottom of the page there are  
25 something called Bates numbers at the very bottom.

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Pages 105-108

00109

1 You will see it says "EFG Capital" and then some  
2 numbers at the bottom of the document, in the  
3 corner. Okay?  
4 I'd like you to flip ahead to page 732,  
5 and I'm directing your attention to the middle of  
6 the page on document numbered 732.  
7 For the record, this is the monthly  
8 statement of valuation as at 30 November 2006. The  
9 date of the document is 1 December 2006.  
10 I'm asking you to please focus your  
11 attention to the middle of that page.  
12 Do you see that there's a reference to a  
13 bond?  
14 A Yes.  
15 Q In addition to the Fairfield Sentry  
16 investment, is it true that you also bought a bond  
17 through Mr. Yannuzzi?  
18 A Yes.  
19 Q And what type of bond was this that you  
20 bought?  
21 A It was paper from Sul America, S-U-L, and  
22 then America, a Brazilian company.  
23 Q How did you come to invest in that bond?  
24 A Someone mentioned it to me. Someone  
25 indicated it to me.

Page 109

00111

1 A Dr. Kevin.  
2 Q Dr. Kevin?  
3 A Yes.  
4 Q Who is Dr. Kevin?  
5 A The first lawyer.  
6 Q Who is he? Dr. Kevin what? What's his  
7 last name?  
8 A I don't know how to say it in English.  
9 "Kynnee," Kinne.  
10 Q How did you meet him?  
11 A I was referred to him by Ana Maria and  
12 Jorge. These were friends from Uruguay who lost  
13 money in a fund, and I think that -- and they lost  
14 money in a fund and Dr. Kevin Kinne represented  
15 them, and they referred me to him.  
16 Q Did they lose money in a Fairfield fund?  
17 A No.  
18 Q When did you first meet your attorney?  
19 A Two thousand -- right after I found out  
20 about the fund loss, and I think it was 2009.  
21 Q And where did you meet?  
22 A These friends, Ana Maria and Jorge, they  
23 did a conference through Skype.  
24 Q Well, when is the first time that you met  
25 him face-to-face?

Page 111

00110

1 Q And then you called up Mr. Yannuzzi and  
2 asked him to buy it for you. Right?  
3 A Yes. Yes.  
4 Q And who mentioned this to you?  
5 A Antonio Carlos Germano, G-E-R-M-A-N-O,  
6 Santos, S-A-N-T-O-S.  
7 Q And who is Mr. Santos?  
8 A He was Mr. Raul's -- an old client of  
9 Mr. Raul's, who had worked at a bank in the past, a  
10 Brazilian bank.  
11 I don't know if he was a client, but he  
12 was Mr. Raul's friend.  
13 Q Did you ever speak to Mr. Santos about  
14 Fairfield?  
15 A No.  
16 Q Are your lawyers in this room?  
17 A Yes.  
18 Q And will you please point to them?  
19 A Kevin.  
20 Q And they have been sitting in the same  
21 seats throughout this deposition. Right?  
22 A Yes.  
23 Q And who was the first lawyer you spoke to  
24 about the possibility of bringing a claim against  
25 EFG Capital?

Page 110

00112

1 A I think -- it was here in Miami. I think  
2 it was Tuesday or Monday. I'm not sure.  
3 Q Of this week?  
4 A Yes.  
5 Q Who paid for your flight from Uruguay?  
6 A My lawyers.  
7 Q And where are you staying?  
8 A Intercontinental Hotel.  
9 Q Are they paying for your hotel?  
10 A They're paying for the hotel.  
11 Q Did you bring anybody with you?  
12 A I brought a friend of mine.  
13 Q Are your lawyers paying for his flight, as  
14 well?  
15 A No, only mine.  
16 Q When is the first time that you met with  
17 Mr. Kellogg, sitting over there?  
18 A I'm sorry, who?  
19 Q Do you know who Mr. Kellogg is?  
20 A Yes. It was Tuesday, at the meeting,  
21 together with Mr. -- Dr. Kevin.  
22 Q What is your fee arrangement with your  
23 lawyers?  
24 A If I win the case, they'll have a  
25 percentage.

Page 112  
Pages 109-112

00113

- 1 Q And what percentage?  
2 A Around 15, 20 percent.  
3 Q How much are you seeking in this case?  
4 A The money I invested in the fund.  
5 Q Do you understand that you are serving as  
6 a class representative plaintiff?  
7 THE INTERPRETER: I'm going to look for  
8 the exact terminology.  
9 (Pause.)  
10 THE WITNESS: Yes.  
11 BY MR. COATES:  
12 Q Are you being paid for your time?  
13 A For my time? No.  
14 Q Have any of your family members been paid  
15 for their time?  
16 A No.  
17 Q Is your agreement with your attorneys in  
18 writing?  
19 A It was sent through the E-mail.  
20 Q And is it in English?  
21 A It's in English, yes.  
22 Q How long is it?  
23 A How many pages are there?  
24 Q Yes.  
25 A You mean the lawsuit or the agreement?

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00115

- 1 A I related what happened to my lawyers, and  
2 I trust them totally. I handed the case over to  
3 them.  
4 Q Did you review any documents before you  
5 walked in here today?  
6 A Yes.  
7 Q And what documents did you review before  
8 you walked in here today?  
9 A Many of the documents that were shown to  
10 me here, and also the lawsuit that they have against  
11 EFG.  
12 Q Was that the first time that you saw the  
13 lawsuit?  
14 A They sent it to me through E-mail.  
15 Q When did they send it to you?  
16 A I think it was Friday.  
17 Q Friday?  
18 A Thursday or Friday.  
19 Q Thursday or Friday of last week?  
20 A Yes.  
21 Q Since you traveled to Miami for this  
22 deposition, how many times have you met with the  
23 attorneys before this morning?  
24 A Once, and today.  
25 Q One day?

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00114

- 1 Q The agreement.  
2 A I don't know. Two, three pages. I don't  
3 remember.  
4 Q Did you read it?  
5 A Yes.  
6 Q Did you understand it?  
7 A I asked for the translator's help.  
8 Q And what translator?  
9 A Serrana, S-E-R-R-A-N-A, next word, Casa,  
10 C-A-S-A, next word, Grande, with an E at the end.  
11 Q How much -- does she have any legal  
12 training, the person that reviewed it with you?  
13 A She lived in the United States for many  
14 years and she has very good English.  
15 Q But she has no legal training. Right?  
16 A No.  
17 Q How much time have you spent so far in  
18 this case?  
19 A How much time? I mean, how can I assess  
20 that? It's very difficult to assess it.  
21 Q Well, can you estimate how much time  
22 you've spent on the case so far?  
23 A There's no way for me to measure how much  
24 time I've spent with this case.  
25 Q What have you done so far in this case?

Page 114

00116

- 1 A Yes.  
2 Q And where did you meet?  
3 A At the law office of Mr. -- I don't know  
4 how to pronounce his name. Kellogg.  
5 Q And how long did you meet?  
6 A About eight hours.  
7 Q And who was there?  
8 A My friend who came with me, myself, and  
9 both lawyers who are present here.  
10 Q Any other lawyers?  
11 A There was another lawyer who did not  
12 participate in the whole meeting, but I don't  
13 remember the name.  
14 Q What is your friend's name?  
15 A Jorge, J-O-R-G-E, last name Celline,  
16 C-E-L-L-I-N-E.  
17 Q Did he invest in Fairfield?  
18 A I don't know. I don't know.  
19 Q Do you understand that you will have to  
20 appear and testify in front of the judge in this  
21 case?  
22 A Yes.  
23 Q And do you understand -- are you prepared  
24 to spend weeks in Miami during a trial of this case?  
25 A Yes.

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Pages 113-116

00117

1 Q Why did you agree to be a class plaintiff  
2 in this case instead of filing an arbitration claim?  
3 A My lawyers are able to answer that more  
4 than I am.  
5 Q Well, do you know that you have an  
6 arbitration agreement with EFG Capital?  
7 A Arbitration agreement? What is that,  
8 arbitration agreement?  
9 Q You don't know what arbitration is?  
10 A Yeah, I know what it means.  
11 Q What do you know -- what do you understand  
12 about arbitration?  
13 A Arbitration, in legal terms, I don't know.  
14 Q What's your understanding of arbitration?  
15 A You know, arbitration, I -- I have kind of  
16 a blank. The word doesn't come to me. I'm not able  
17 to define it.  
18 Q Well, whether you can define it or not,  
19 did you give any consideration of bringing your  
20 claim in arbitration as opposed to a court case?  
21 A No.  
22 Q Well, was the potential of bringing an  
23 arbitration claim discussed?  
24 MR. KINNE: Just for the record, to the  
25 extent there was any communication with your

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00118

1 lawyer, any of the discussions involved your  
2 lawyer, I instruct you not to answer that.  
3 BY MR. COATES:  
4 Q Do you have any understanding who is going  
5 to pay the costs that are incurred in this case?  
6 A I didn't understand. If I win, if I lose,  
7 who is going to cover the costs?  
8 Q Well, what's your understanding of who is  
9 going to pay for your expert witness in this case?  
10 A I don't understand the question.  
11 Q Well, do you know what an expert witness  
12 is?  
13 A No, I don't know what an expert witness  
14 is.  
15 Q Have you had any discussions with your  
16 attorneys about whether you are going to hire an  
17 expert witness?  
18 MR. KINNE: I object and instruct you not  
19 to answer. Don't answer.  
20 (Whereupon, Defendant's Exhibit  
21 31 was marked for  
22 identification.)  
23 BY MR. COATES:  
24 Q Let me hand you what has been marked as  
25 Exhibit No. 31, the complaint in this case.

Page 118

00119

1 Is this the document that you received  
2 last week?  
3 A Yes.  
4 Q Let me take you to page number 11, and I'd  
5 like you to look at paragraph 11 at the bottom.  
6 I'll read it to you in the record and I'm  
7 going to ask you a question about it.  
8 MR. KINNE: I think you said page 11 or  
9 paragraph --  
10 MR. COATES: Paragraph 11.  
11 BY MR. COATES:  
12 Q "Furthermore, EFG Capital failed to  
13 adequately disclose that in exchange for investing  
14 the assets of plaintiffs and class members in the  
15 fund, EFG Capital would be receiving continuing  
16 placement fees from Fairfield Sentry's owner, FGG,  
17 for the duration of the time the plaintiffs' and  
18 class members' assets remained in the fund."  
19 Did you have any discussions with  
20 Mr. Yannuzzi regarding how EFG Capital was to be  
21 compensated for your investment in the fund?  
22 A They charged commission for having  
23 introduced the fund.  
24 Q Anything else?  
25 A Well, my commission, and also they

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00120

1 received a commission from the Fairfield fund as  
2 long as I maintained it there.  
3 Q And you knew that to be the case. Right?  
4 A The case?  
5 Q Well, Mr. Yannuzzi told you that, that --  
6 let me clear this up.  
7 Mr. Yannuzzi told you that his company  
8 would be receiving a fee from Fairfield during the  
9 time that you continued to hold the fund. Right?  
10 A No. He said to me that I would pay the  
11 commission.  
12 Q I'm sorry?  
13 MR. COATES: Go back to two answers before  
14 and let's get this cleared up.  
15 (Whereupon, the requested  
16 portion of the record was read  
17 by the reporter.)  
18 BY MR. COATES:  
19 Q Let me go back to this document here,  
20 Exhibit No. 16 in front of you, please.  
21 MR. KINNE: Joe, if you're going to a new  
22 document, can we just take a five minute break?  
23 MR. COATES: No. No, not on this.  
24 MR. KINNE: You won't let us take a break?  
25 MR. COATES: There's a pending question

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Pages 117-120

00121

1 right now, so I want to clear up this --  
 2 MR. KINNE: There's not a pending  
 3 question, Joe. You're going to another  
 4 document and there's not a pending question.  
 5 MR. COATES: I want to clear this up.  
 6 MR. KINNE: And you are telling us that we  
 7 can't take a break?  
 8 MR. COATES: No, not until -- no, I'm not  
 9 going to let you talk to her during this  
 10 question and answer.  
 11 MR. KINNE: I won't talk to her, but I  
 12 would like to take a break.  
 13 MR. COATES: No, I want to continue with  
 14 this.  
 15 MR. KINNE: So you are not going to let us  
 16 take a break. I just want to be really clear  
 17 for the record. You are telling us you're not  
 18 going to let us take a break?  
 19 MR. COATES: Two minutes. In two minutes  
 20 you can take a break.  
 21 BY MR. COATES:  
 22 Q Look at Exhibit No. 16.  
 23 MR. KINNE: Two minutes we can go take a  
 24 break? Is that what you are saying?  
 25 MR. COATES: In two minutes.

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00123

1 did not tell you about the fees that EFG Capital  
 2 earned as a result of your investment in Fairfield.  
 3 MR. KINNE: Objection.  
 4 MR. COATES: She filed a complaint saying  
 5 she wasn't told. I want to know. She's  
 6 already contradicted herself all over the  
 7 record.  
 8 THE WITNESS: Can you please repeat it,  
 9 because I have lost what you said, because  
 10 everybody is talking at one time?  
 11 MR. COATES: Sure. The court reporter  
 12 will please repeat the question.  
 13 (Whereupon, the requested  
 14 portion of the record was read  
 15 by the reporter.)  
 16 MR. KINNE: Objection.  
 17 THE WITNESS: I did not know that by  
 18 maintaining my -- my investment, my fund, in  
 19 Fairfield, that they would earn anything.  
 20 MR. COATES: Let's take a break.  
 21 (Thereupon, a short recess was  
 22 taken.)  
 23 BY MR. COATES:  
 24 Q I'd like you to go, on the complaint, to  
 25 paragraph 34, which is on page 8.

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00122

1 BY MR. COATES:  
 2 Q Exhibit 16, please. Okay.  
 3 Now, you've already testified that you  
 4 signed this document. Right?  
 5 A Yes, I did sign it.  
 6 Q Okay. And this -- I want you to look at  
 7 this bullet point right here, at the bottom. The  
 8 second from the bottom. I'll read it into the  
 9 record.  
 10 "The fees and expenses associated with the  
 11 above hedge fund purchases have been explained to me  
 12 and I understand them."  
 13 A No, they weren't explained to me.  
 14 Q Is that a true statement?  
 15 A They were not explained to me.  
 16 Q Well, you just testified a few minutes ago  
 17 that Mr. Yannuzzi explained to you that you would  
 18 pay a commission, and that he would earn a fee from  
 19 Fairfield during the time that you had your  
 20 investment with Fairfield. Right?  
 21 MR. KINNE: Objection.  
 22 THE WITNESS: No. That was never  
 23 explained to me.  
 24 BY MR. COATES:  
 25 Q Well, tell me right now what Mr. Yannuzzi

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00124

1 Here it reads, "In 2005, EFG Capital  
 2 specifically recommended that plaintiffs invest  
 3 their assets in Fairfield Sentry. In fact,  
 4 Fairfield Sentry was the only investment option that  
 5 EFG Capital recommended."  
 6 A Yes.  
 7 Q Is that a true statement?  
 8 A Yes.  
 9 Q Isn't it true that EFG Capital also  
 10 provided you information on the Permel hedge funds?  
 11 A Recommend? They recommended Fairfield.  
 12 Q They did not recommend anything else other  
 13 than Fairfield?  
 14 A As I had understood, which is in the  
 15 E-mail that was mentioned before, in that E-mail was  
 16 that the most stable fund was the one, Fairfield.  
 17 Q Didn't Mr. Yannuzzi also recommend the  
 18 short term agency bond to you, as we saw earlier  
 19 today in an E-mail?  
 20 MR. KINNE: Objection to form.  
 21 You can answer.  
 22 THE WITNESS: I did not consider that a  
 23 recommendation.  
 24 BY MR. COATES:  
 25 Q What did you consider it?

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Pages 121-124

00125

1 A It was another product, one more product  
2 that he was showing.  
3 Q Other than this case, have you ever been a  
4 plaintiff?  
5 A No.  
6 Q Have you ever been convicted of a crime?  
7 A No.  
8 Q Have you ever been charged with a crime?  
9 A No.  
10 Q Your friends, Ana Maria and Jorge, you  
11 mentioned earlier that they had also invested in a  
12 fund. Was that fund a Madoff fund?  
13 A No.  
14 Q Are you planning on suing anybody else?  
15 Let me finish the question.  
16 Are you planning on suing anyone else  
17 arising from your investment in Fairfield Sentry?  
18 A No.  
19 Q Have you considered suing anybody else?  
20 A No. Only the bank who sold me the  
21 product.  
22 Q Other than your EFG account, did you ever  
23 have, through today, another securities account?  
24 A No.  
25 Q Other than your salary and the bonuses

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00127

1 meetings with your attorneys. You described the  
2 Skype, the Internet based meeting, and then the  
3 meeting you had earlier this week.  
4 Had you had any other face-to-face  
5 meetings with your attorneys?  
6 A We exchanged E-mails.  
7 Q Did you have any telephone calls?  
8 A Yes.  
9 Q And how many telephone calls did you have?  
10 A How many, I don't know.  
11 Q Can you give me an approximation?  
12 A Three, four.  
13 Q And when did -- do you recall when they  
14 took place?  
15 A No.  
16 MR. COATES: Let me hand you another  
17 exhibit. We will mark this as 33.  
18 (Whereupon, Defendant's Exhibit  
19 33 was marked for  
20 identification.)  
21 BY MR. COATES:  
22 Q This is a confidential private placement  
23 memorandum for Fairfield Sentry dated as of July 1,  
24 2003.  
25 Do you recall ever receiving or reviewing

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00126

1 that you testified about earlier today, do you have  
2 any other sources of income?  
3 A No.  
4 Q Between 2005 and the end of 2008, what  
5 were your -- all your E-mail addresses?  
6 A Lorrene@competcorp.com.  
7 Q Is that your only E-mail address that you  
8 had during that time period?  
9 A I think so. I think so.  
10 (Whereupon, Defendant's Exhibit  
11 32 was marked for  
12 identification.)  
13 BY MR. COATES:  
14 Q I'm going to show you what we will mark as  
15 the next exhibit. Mark it as 32.  
16 Do you recall receiving this document from  
17 EFG Capital International?  
18 A No.  
19 Q It's entitled, "Notice To Clients Re  
20 Fairfield Sentry Fund (the fund)."  
21 A Okay.  
22 Q You just don't recall receiving that.  
23 Right?  
24 A No, I don't remember.  
25 Q Before we broke, you testified about your

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00128

1 this before today?  
2 A It could be. You mean if I saw this  
3 today?  
4 Q Yes.  
5 A Today?  
6 Q Have you seen it before? Yes.  
7 A No. I don't remember.  
8 MR. COATES: Let's take a quick break. I  
9 need to make a copy of something and then I  
10 believe we're getting close to being finished,  
11 but we'll see.  
12 (Thereupon, a short recess was  
13 taken.)  
14 (Whereupon, Defendant's Exhibit  
15 34 was marked for  
16 identification.)  
17 BY MR. COATES:  
18 Q Let me show you what we marked as  
19 Defendant's Exhibit No. 34. It is titled,  
20 "Plaintiffs' Motion for Class Certification and  
21 Incorporated Memorandum of Law."  
22 Have you seen this document before?  
23 A Yes.  
24 Q When is the first time you saw it?  
25 A It was via E-mail at the beginning of

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Pages 125-128

00129

1 2010, or after -- I can't remember.  
2 Q Do you understand this is your motion?  
3 A Yes.  
4 Q So, as you sit here today, you don't  
5 remember the first time you saw it?  
6 A The first time was in the beginning of  
7 2010.  
8 Q Do you understand what this motion is  
9 attempting to accomplish?  
10 A Yes.  
11 Q And what is it attempting to accomplish?  
12 A To be able to have the losses back, not  
13 only for myself, but for the members that I  
14 represent in Fairfield fund, through EFG.  
15 Q Through EFG?  
16 A Yes.  
17 Q Did you have any discussions with  
18 Mr. Yannuzzi about EFG Bank?  
19 A About EFG Bank?  
20 Q Yes.  
21 A No.  
22 Q Did you have any discussions with Miguel  
23 regarding the relationship between EFG Capital  
24 International and EFG Bank?  
25 A I'm sorry. I was reading over here.

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00131

1 this fund invested in.  
2 Q How do you know that?  
3 A Through the media.  
4 Q What media?  
5 A TV, newspapers.  
6 Q Where?  
7 A Uruguay, Brazil, E-mails. The world is  
8 globalized, and you get information.  
9 Q Okay. Between 2005 and 2008, what  
10 newspapers did you subscribe to?  
11 A I would read newspapers online. For  
12 example, El, E-L, Pais, P-A-I-S, O Globo, O and then  
13 G-L-O-B-O, these are newspapers, and also I would go  
14 into Yahoo, Yahoo News, Summarized News. These were  
15 the newspapers that I had access to.  
16 Q And this is the time period, again, 2005  
17 to 2008. That's what I'm asking. Do you understand  
18 that?  
19 A The newspapers that I read from 2005 to  
20 2008?  
21 Q Yes.  
22 A Yes.  
23 Q Does your business -- let me rephrase it.  
24 Did your business subscribe to any  
25 financial publications between 2005 and 2008?

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00130

1 THE INTERPRETER: May I repeat the  
2 question?  
3 MR. COATES: Please repeat the question.  
4 (Whereupon, the requested  
5 portion of the record was read  
6 by the reporter.)  
7 THE WITNESS: No.  
8 BY MR. COATES:  
9 Q Did you ever speak with anybody in  
10 Switzerland at EFG Bank, regarding your account?  
11 A No.  
12 Q In your own words, why are you suing EFG  
13 Capital?  
14 A Well, EFG Capital recommended a fund to  
15 me, Fairfield, which turned out to be a fraudulent  
16 fund -- they charged me -- when they should have  
17 checked, and what investments this fund was involved  
18 in, and the bank was negligent.  
19 Q Why are you suing EFG Bank?  
20 A I'm suing them for negligence, lack of  
21 fiduciary responsibility, and unfair enrichment.  
22 Q I'm confused. What did EFG Bank  
23 specifically do?  
24 A They sold me a fund that they did not  
25 analyze the fund before. They did not check what

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00132

1 A I don't remember.  
2 Q A few minutes ago you mentioned the word  
3 "fiduciary." What does a fiduciary mean?  
4 A Fiduciary relates to financial area, and  
5 it's the bank's duty to analyze the products.  
6 Q I want to be clear about this. You keep  
7 using the word "bank."  
8 You testified earlier that the account  
9 that you had here was with EFG Capital  
10 International. Right?  
11 MR. KINNE: Objection.  
12 THE WITNESS: Well, EFG Bank, EFG Capital,  
13 their two institutions, to me, almost the same.  
14 BY MR. COATES:  
15 Q But you understood that Mr. Yannuzzi  
16 worked for EFG Capital International. Right?  
17 A For me, he worked for the bank.  
18 Q And what's the basis for that -- your  
19 testimony now, at 6:10, that he worked for the bank?  
20 A For me, EFG Capital was a section, a  
21 sector, of EFG Bank.  
22 Q Who told you that?  
23 A In order to invest, I had to open an  
24 account in the bank.  
25 Q Who told you that?

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Pages 129-132

00133

1 A Miguel.  
 2 Q But you opened up an account with EFG  
 3 Capital International. Right?  
 4 A EFG International Bank?  
 5 Q No, EFG Capital.  
 6 A I thought I had an account at EFG Bank.  
 7 Q So, is your testimony you did not have an  
 8 account at EFG Capital either?  
 9 A I had an account at the EFG Bank. The  
 10 bank invested my money in EFG Capital.  
 11 Q Did Mr. Yannuzzi ever tell you he worked  
 12 for the bank?  
 13 A I don't remember this detail.  
 14 Q Who is your boss now? Let me rephrase it.  
 15 Who do you report to now?  
 16 A Who do I work for?  
 17 Q Yes. Who do you work for now, the person?  
 18 A Elio, E-L-I-O, next word, Tesolin,  
 19 T-E-S-O-L-I-N, next word, Boer, B-O-E-R.  
 20 Q Have you invested in any hedge funds other  
 21 than Fairfield Sentry, at any time?  
 22 A No.  
 23 Q At the time that you invested in  
 24 Fairfield, did you have a net worth of \$1 million?  
 25 A No.

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00135

1 certain things, and I'm trying to understand what  
 2 you believe they should have checked.  
 3 A They should have checked because it was a  
 4 fraudulent investment. They did not check and there  
 5 was an investment that was a fraudulent investment.  
 6 Q When did you first learn that Fairfield  
 7 had invested through or with Madoff?  
 8 A Through the TV.  
 9 Q Do any of your lawyers speak Portuguese?  
 10 A No.  
 11 Q How do you communicate with them?  
 12 A I use this friend who came with me.  
 13 Well, normally most of my communications  
 14 with my attorneys is through E-mail, and I always  
 15 ask someone to help me out.  
 16 Q What do you understand your duties to be  
 17 as the class representative in this case?  
 18 A My duties are to expose my case and to say  
 19 what really happened.  
 20 Q Anything else?  
 21 A No. And I'm representing the people who  
 22 are in the same situation as I am.  
 23 Q And how are you going to represent them?  
 24 A For example, doing this deposition that  
 25 I'm doing right now.

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00134

1 MR. COATES: Let's go off the record for a  
 2 minute.  
 3 (Discussion held off the  
 4 record.)  
 5 BY MR. COATES:  
 6 Q Ms. Ferreira, before we broke I asked you  
 7 a question about why you are suing EFG Capital  
 8 International, and you testified that they should  
 9 have checked out. What should EFG Capital have  
 10 checked?  
 11 A Well, checked where Fairfield placed the  
 12 investors' money. They should have checked in what  
 13 the money was invested in.  
 14 Q What else?  
 15 A And then afterwards, Fairfield passed the  
 16 amount on to Madoff.  
 17 Q And what should they have checked about  
 18 that? What should they have checked about that?  
 19 A They should have gone to Madoff and  
 20 checked in what Madoff was investing in.  
 21 Q And how should they have done that?  
 22 A Well, in that case the bank has more  
 23 knowledge in how to go about doing that than I do.  
 24 Q But you sued them. You sued EFG Capital  
 25 International and EFG Bank because they didn't check

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1 Q You said a few minutes ago that part of  
 2 your role was for you to expose your case. We've  
 3 been here for all day. Is there any part of your  
 4 case that you believe exists, that you have not told  
 5 me about?  
 6 MR. KINNE: Objection.  
 7 MR. COATES: What's the basis of the  
 8 objection?  
 9 MR. KINNE: You're asking her whether any  
 10 part of this case she hasn't told about?  
 11 MR. COATES: Yes.  
 12 MR. KINNE: She's responding to your  
 13 question. The question that you just posed is  
 14 objectionable as to form. She's answered every  
 15 question that you've given her.  
 16 MR. COATES: I don't understand that  
 17 objection. Let me ask the question again.  
 18 BY MR. COATES:  
 19 Q You just testified that one of your jobs  
 20 is to expose your case. Right?  
 21 A Yes.  
 22 Q Okay. Is there any part of your case that  
 23 we haven't talked about so far today?  
 24 MR. KINNE: I object to the form.  
 25 THE WITNESS: I don't know. I don't think

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1 so. I think I answered everything that was  
2 asked of me.  
3 BY MR. COATES:  
4 Q Is there anything else that you believe  
5 that Mr. Yannuzzi did improperly in connection with  
6 your investment in Fairfield?  
7 MR. KINNE: Objection.  
8 THE WITNESS: All that I have presented  
9 here. He sold me a false product, and I  
10 believe this was his main mistake.  
11 BY MR. COATES:  
12 Q Do you believe that Mr. Yannuzzi lied to  
13 you?  
14 A I think he was negligent with me.  
15 Q In what way?  
16 A I think that one of the reasons he  
17 introduced me to this fund is because he received a  
18 good commission from this fund.  
19 Q Okay. He received a commission, but what  
20 did he do wrong?  
21 A He received my commission and he also  
22 received it from -- a commission from the fund. My  
23 commission is already a mistake, because he did not  
24 comply with his duties.  
25 Q What didn't he do?

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1 A He didn't have knowledge of the fund that  
2 he was selling.  
3 Q And how do you know that?  
4 A Well, it was a false fund and after  
5 everything happened, it was -- everybody knew it was  
6 not a fund, investment fund.  
7 Q When you say, "after it happened," you  
8 mean after the fraud was disclosed?  
9 A Yes.  
10 MR. COATES: At the request of plaintiffs'  
11 counsel, we will conclude at this time. I  
12 understand that the witness and her counsel  
13 have a flight to make.  
14 MR. KINNE: Just in response, we do want  
15 you to be able to finish if you have some  
16 additional questions. You had indicated at two  
17 previous breaks that you were almost done. If  
18 you have some more, we want to respect your  
19 right to ask additional questions.  
20 Do you have more to ask?  
21 MR. COATES: Well, I have substantial  
22 questions yet to ask, but I have curtailed  
23 those questions at the request -- at your  
24 request and, you know, it's 6:30 now. I  
25 understand that you wanted to get out of here

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00139

1 by now.  
2 MR. KINNE: What questions did you curtail  
3 that you didn't ask?  
4 MR. COATES: I intended to go over in more  
5 detail the complaint in this case that was  
6 filed by the plaintiff.  
7 MR. KINNE: Do you want to keep going?  
8 MR. COATES: Well, you need to make a  
9 decision on what you want to do.  
10 MR. KINNE: I just want to know how much  
11 more time you have with the questions you have  
12 on the complaint.  
13 MR. COATES: Let's go off the record real  
14 quick.  
15 (Discussion held off the  
16 record.)  
17 MR. COATES: I'm going to conclude the  
18 deposition and let you get on your flight.  
19 MR. KINNE: I will have just two  
20 clarification questions when the interpreter  
21 returns.  
22 CROSS EXAMINATION  
23 BY MR. KINNE:  
24 Q Would you please look at Exhibit 31?  
25 Exhibit 31 is the class action complaint.

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1 Had you seen the class action complaint  
2 before Friday, last week?  
3 A I did  
4 Q When did you see it for the first time?  
5 A I received it via E-mail in the beginning  
6 of this year.  
7 MR. KINNE: Thank you. I have no further  
8 questions.  
9 MR. COATES: All right. Let me go back on  
10 the record then.  
11 REDIRECT (LORRENE DA SILVA FERREIRA)  
12 BY MR. COATES:  
13 Q Did you read the complaint -- you are  
14 changing your testimony now, or correcting your  
15 testimony, that you received it before last Friday.  
16 When is the first time that you received  
17 it? I want to know the day.  
18 A I had not understood the question.  
19 Q What day did you receive the class action  
20 complaint the first time?  
21 A The exact date I don't know, but I  
22 received it in the beginning of the year.  
23 Q All right. Did you receive it before it  
24 was filed with the court?  
25 A Yes.

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Pages 137-140

00141

1 Q Did you read every word of that complaint?  
 2 A I read the main content of it. I did not  
 3 read each and every word of it. I knew of the  
 4 content of it.  
 5 Q So your English was good enough to read  
 6 the -- as you described, the contents of it?  
 7 MR. KINNE: Objection.  
 8 THE WITNESS: No. I had help.  
 9 BY MR. COATES:  
 10 Q Who did you have help?  
 11 A The person who's here with me, Jorge  
 12 Celline.  
 13 Q Did he sit down with you and go over this  
 14 word-by-word?  
 15 A Yeah. He sat down with me and he read the  
 16 paragraphs.  
 17 Q Every single word. Is that right?  
 18 MR. KINNE: Objection.  
 19 THE WITNESS: Each word, precise, that I  
 20 know that he sat with me, he read it, and it  
 21 was in the beginning of the year, and he  
 22 explained to me what the complaint was about.  
 23 BY MR. COATES:  
 24 Q Were you provided with a translated copy  
 25 of that complaint at any time?

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1 Q All right. Maybe -- I want to clear this  
 2 up. Did you receive the motion for class  
 3 certification, as you testified earlier today, at  
 4 the beginning of the year?  
 5 A I received it at the beginning of the  
 6 year.  
 7 Q Okay. And did you read that document  
 8 before it was filed?  
 9 A Yes, I did.  
 10 MR. COATES: That's all.  
 11 MR. KINNE: All set?  
 12 MR. COATES: Yes, I'm done.  
 13 THE REPORTER: Are you going to read or  
 14 waive?  
 15 MR. KELLOGG: Read.  
 16 THE REPORTER: When do you need this?  
 17 MR. COATES: Monday.  
 18 MS. WHETSTONE: What we're going to do --  
 19 MR. COATES: We're going to keep the  
 20 original exhibits and we will then make copies  
 21 and give them to you once we get a copy of the  
 22 transcript.  
 23 THE REPORTER: Same delivery, Mr. Garcia?  
 24 MR. GARCIA: Yes, please.  
 25 THE REPORTER: Mr. Kellogg?

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1 A No. I received it in English.  
 2 Q Did you make any changes whatsoever to  
 3 that complaint, before it was filed?  
 4 A No.  
 5 Q Do you know if everything in that  
 6 complaint is true and accurate?  
 7 MR. KINNE: Objection.  
 8 MR. COATES: What's the objection?  
 9 MR. KINNE: Are you asking her to verify  
 10 the complaint in this deposition?  
 11 MR. COATES: Yes. I'm asking her whether  
 12 everything in that complaint is true and  
 13 accurate.  
 14 THE WITNESS: I trust my lawyers, and from  
 15 what I understood, yes.  
 16 BY MR. COATES:  
 17 Q You testified that you received the motion  
 18 for class certification earlier in the year, this  
 19 document here. After you corrected your testimony  
 20 on when you received the complaint, is this the  
 21 document that you received last Friday for the first  
 22 time?  
 23 A First I received this through E-mail, and  
 24 later I received it on the day that I went to meet  
 25 with Dr. Kevin.

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1 MR. KELLOGG: Just a copy. We don't need  
 2 expedited.  
 3 (Witness excused.)  
 4 (Thereupon, at 6:48 p.m., the  
 5 deposition was concluded.)  
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Pages 141-144

00145

DEPOSITION ERRATA SHEET

1  
 2 Our Assignment No. 190642  
 3 Case Caption: FERREIRA  
 4 vs. EFG  
 5 DECLARATION UNDER PENALTY OF PERJURY  
 6 I declare under penalty of perjury  
 7 that I have read the entire transcript of  
 8 my Deposition taken in the captioned matter  
 9 or the same has been read to me, and  
 10 the same is true and accurate, save and  
 11 except for changes and/or corrections, if  
 12 any, as indicated by me on the DEPOSITION  
 13 ERRATA SHEET hereof, with the understanding  
 14 that I offer these changes as if still under  
 15 oath.  
 16 Signed on the \_\_\_\_\_ day of  
 17 \_\_\_\_\_, 20\_\_\_\_  
 18 \_\_\_\_\_  
 19 \_\_\_\_\_  
 20 LORRENE DA SILVA FERREIRA  
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00147

DEPOSITION ERRATA SHEET

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 24 LORRENE DA SILVA FERREIRA  
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DEPOSITION ERRATA SHEET

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 23 SIGNATURE: \_\_\_\_\_ DATE: \_\_\_\_\_  
 24 LORRENE DA SILVA FERREIRA  
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CERTIFICATE OF OATH

1  
 2  
 3 STATE OF FLORIDA )  
 4 COUNTY OF MIAMI-DADE )  
 5  
 6 I, the undersigned authority, certify that  
 7 LORRENE DA SILVA FERREIRA personally appeared before  
 8 me and was duly sworn Witness my hand and official  
 9 seal this 15th day of October, 2010.  
 10  
 11  
 12 \_\_\_\_\_  
 13 Brian Gary Berkowitz  
 14 Notary Public - State of Florida  
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CERTIFICATE

1

2

3 STATE OF FLORIDA )

4 COUNTY OF MIAMI-DADE )

5

6 I, Brian Gary Berkowitz, Shorthand Reporter, do

hereby certify that LORRENE DA SILVA FERREIRA was by

7 me first duly sworn to testify the whole truth; that

I was authorized to and did stenographically report

8 the foregoing deposition in stenotype; and that the

foregoing pages, numbered from 1 to 144 inclusive,

9 are a true and correct transcription of my shorthand

notes of said deposition.

10

I further certify that said deposition was

11 taken at the time and place hereinabove set forth

and that the taking of said deposition was commenced

12 and completed as hereinabove set out.

13 I further certify that I am not a relative,

employee, attorney or counsel of any of the parties,

14 nor am I a relative or employee of any of the

parties or counsel connected with the action, nor am

15 I financially interested in the action.

16 The foregoing certification of this transcript

does not apply to any reproduction of the same by