

# EXHIBIT 7

1 IN THE UNITED STATES DISTRICT COURT  
2 FOR THE SOUTHERN DISTRICT OF FLORIDA  
3 CASE NO.: 10-20206-CIV-MARTINEZ

4 LORRENE DA SILVA FERREIRA and ARLETE DA  
5 SILVA FERREIRA, individually and on  
6 behalf of all others similarly situated,

7 Plaintiffs,

8 vs.

9 EFG CAPITAL INTERNATIONAL CORP., and EFG  
10 BANK f/k/a EFG PRIVATE BANK SA,

11 Defendants.  
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12 Tuesday, November 23, 2010  
13 201 South Biscayne Boulevard  
14 Miami, Florida  
15 9:14 a.m. - 4:00 p.m.

16 VIDEOTAPE DEPOSITION

17 OF

18 MIGUEL YANNUZZI

19 Taken before Patricia C. Weiner, Registered  
20 Professional Reporter, Certified Realtime Reporter,  
21 Registered Merit Reporter, Florida Professional Reporter  
22 and Notary Public in and for the State  
23 of Florida at Large, pursuant to Notice of Taking  
24 Deposition filed in the above cause.  
25

2	<p>1 APPEARANCES:</p> <p>2 On behalf of the Plaintiff:</p> <p>3 LEVINE, KELLOGG, LEHMAN, SCHNEIDER &amp; GROSSMAN, LLP</p> <p>4 34th Floor, Miami Center</p> <p>5 201 South Biscayne Boulevard</p> <p>6 Miami, Florida 33131</p> <p>7 (305) 403-8788</p> <p>8 lak@kllaw.com</p> <p>9 BY: LAWRENCE A. KELLOGG, ESQ., and</p> <p>10 jk@kllaw.com</p> <p>11 JASON KELLOGG, ESQ.</p> <p>12</p> <p>13 On behalf of the Defendant/EFG Capital International</p> <p>14 Corp.:</p> <p>15 GREENBERG TRAUERIG</p> <p>16 Suite 300 East</p> <p>17 777 South Flagler Drive</p> <p>18 West Palm Beach, Florida 33401</p> <p>19 (561)650-7903</p> <p>20 coatesj@gtlaw.com</p> <p>21 BY: JOSEPH C. COATES, III, ESQ.</p> <p>22</p> <p>23 ALSO PRESENT: ALEJANDRO MONTALVO, VIDEOGRAPHER</p> <p>24</p> <p>25</p>
3	<p>1</p> <p>2</p> <p>3 INDEX</p> <p>4 WITNESS:</p> <p>5 MIGUEL YANNUZZI</p> <p>6 Direct Examination By Mr. Lawrence Kellogg</p> <p>7 Witness Signature Page 228</p> <p>8 Certificate of Oath For Witness 229</p> <p>9 Reporter's Deposition Certificate 230</p> <p>10 Errata Sheet 231</p> <p>11 Read Letter 232</p> <p>12 Attorney Read Letter 233</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>
4	<p>1</p> <p>2 PLAINTIFF'S EXHIBITS</p> <p>3 NUMBER DESCRIPTION PAGE</p> <p>4</p> <p>5 Exhibit 34 Fairfield Sentry, Ltd Tear Sheet 55</p> <p>6 Exhibit 35 Dear Client Letter 87</p> <p>7 Exhibit 36 February 28, 2003, Letter 100</p> <p>8 Exhibit 37 Calendar 156</p> <p>9 Exhibit 38 Fiduciary Investment Agreement 171</p> <p>10 Exhibit 39 Know Your Client Form 181</p> <p>11 Exhibit 40 Client Information Profile 185</p> <p>12 Exhibit 41 Buy Form 197</p> <p>13 Exhibit 42 June 15, 2006, Portfolio Allocation 200</p> <p>14 Proposal</p> <p>15 Exhibit 43 Call Report 202</p> <p>16 Exhibit 44 Short Form Subscription Agreement 210</p> <p>17 Exhibit 45 Affidavit of Miguel Yannuzzi 211</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>
5	<p>1 PROCEEDINGS</p> <p>2 THE VIDEOGRAPHER: All right. Good morning.</p> <p>3 We're now on the video record. This is the</p> <p>4 videotape deposition of Miguel Yannuzzi in the</p> <p>5 matter of the case Ferreira, Lorrene da Silva and</p> <p>6 Arlete versus EFG Capital.</p> <p>7 Today is Tuesday, November 23, 2010. Time is</p> <p>8 9:13. At this time would counsel please introduce</p> <p>9 themselves for the record and after this the court</p> <p>10 reporter will swear in the witness.</p> <p>11 MR. LAWRENCE KELLOGG: Larry Kellogg and Jason</p> <p>12 Kellogg, Levine, Kellogg, Lehman, Schneider &amp;</p> <p>13 Grossman, for the plaintiffs.</p> <p>14 MR. COATES: Joseph Coates with Greenberg</p> <p>15 Traurig on behalf of defendant EFG Capital.</p> <p>16 Thereupon:</p> <p>17 MIGUEL YANNUZZI</p> <p>18 was called as a witness by the Plaintiff and, having</p> <p>19 been first duly sworn, testified as follows:</p> <p>20 THE WITNESS: Yes.</p> <p>21 DIRECT EXAMINATION</p> <p>22 BY MR. LAWRENCE KELLOGG:</p> <p>23 Q. Please state your name.</p> <p>24 A. Miguel Yannuzzi.</p> <p>25 Q. Mr. Yannuzzi, my name is Larry Kellogg. I</p>

<p style="text-align: right;">6</p> <p>1 represent the plaintiffs in this case and I've asked for                  2 your deposition today so I can ask you some questions                  3 about matters relating to the lawsuit.                  4 Have you ever had your deposition taken                  5 before?                  6 A. No.                  7 Q. Have you ever testified before?                  8 A. Yes.                  9 Q. When have you testified?                  10 A. Car accident.                  11 Q. I'm sorry?                  12 A. Car accident.                  13 Q. I didn't understand.                  14 MR. COATES: Car accident.                  15 MR. LAWRENCE KELLOGG: Car accident. Okay.                  16 BY MR. LAWRENCE KELLOGG:                  17 Q. Have you ever testified in a securities                  18 arbitration?                  19 A. No.                  20 Q. So you testified one time?                  21 A. I can't recall. It was a car accident that I                  22 had.                  23 Q. Years ago?                  24 A. Many years ago.                  25 Q. Okay. Have -- and as you say, you have never</p>	<p style="text-align: right;">8</p> <p>1 Q. Is there any reason you can think of why you                  2 will not be able to give us your best recollection and                  3 your best testimony today?                  4 A. No.                  5 Q. All right. What have you done, sir, to                  6 prepare for this deposition?                  7 A. Well, I -- I read the -- the client's -- I                  8 reviewed the client's documents. The EFG documents.                  9 Q. You reviewed the -- which client, did you very                  10 review?                  11 A. The Ferreriras.                  12 Q. Could you spell that?                  13 A. F-E-R-R-E-I-R-A-S.                  14 Q. Okay. What documents did you particularly                  15 review?                  16 A. The documents pertaining to the opening of the                  17 account.                  18 Q. Okay. Did you do anything else to prepare for                  19 the deposition?                  20 A. Yes.                  21 Q. What else?                  22 A. I spoken to Joe.                  23 Q. You meet with Mr. Coates?                  24 A. Yes.                  25 Q. How long did you meet with Mr. Coates?</p>
<p style="text-align: right;">7</p> <p>1 had your deposition taken before? That's correct?                  2 A. Yes.                  3 Q. The way it will work here today is that I'll                  4 ask you questions. You answer them to the best of your                  5 ability. If you don't understand a question, which is                  6 often the case, I don't always ask clear questions, just                  7 let me know and I'll try to rephrase it. Okay?                  8 A. (Witness nods.)                  9 Q. You have to say "yes" or "no" --                  10 A. Yes.                  11 Q. -- because she's taking it down. So you must                  12 respond verbally.                  13 If you don't tell me that you don't understand                  14 a question, I'm going to assume that you understand it.                  15 Is that fair?                  16 A. Yes.                  17 Q. Do you have any difficulties understanding or                  18 speaking English?                  19 A. No.                  20 Q. Do you feel as though you're prepared to                  21 testify in English here today?                  22 A. Yes.                  23 Q. Are you on any medications that would impair                  24 your ability to testify today?                  25 A. No.</p>	<p style="text-align: right;">9</p> <p>1 A. I don't have exact minute.                  2 Q. Generally.                  3 A. Few hours.                  4 Q. Is that yesterday or before?                  5 A. Yesterday. And one time before.                  6 Q. Have you reviewed any depositions?                  7 A. No.                  8 Q. Other than the account -- opening documents                  9 for the Ferreriras, did you review any other documents to                  10 prepare for your deposition?                  11 A. Well, I read the summons that was sent.                  12 Q. Did you read the complaint?                  13 A. I did, yes.                  14 Q. Did you review anything else?                  15 A. I don't recall.                  16 Q. Okay. Could you tell us your educational                  17 background, please?                  18 A. Well, I went to grammar school, intermediate                  19 school, and what they call here in the United States                  20 high school. And School of Commerce in Cuba. And I                  21 graduated in 1976, Mercy College, in Dobbs Ferry, New                  22 York.                  23 THE COURT REPORTER: Where?                  24 BY MR. LAWRENCE KELLOGG:                  25 Q. Which college?</p>

<p style="text-align: right;">10</p> <p>1 A. Mercy.</p> <p>2 Q. Mercy.</p> <p>3 THE WITNESS: Dobbs Ferry, D-O-B-B-S, Ferry,</p> <p>4 New York, in 1976. It was a bachelor of science</p> <p>5 with a minor in business administration.</p> <p>6 BY MR. LAWRENCE KELLOGG:</p> <p>7 Q. Did I hear correctly that you attended high</p> <p>8 school, the equivalent of high school, in Cuba?</p> <p>9 A. Yes.</p> <p>10 Q. Are you an American citizen?</p> <p>11 A. Yes.</p> <p>12 Q. How long have you been so?</p> <p>13 A. Since 1970.</p> <p>14 Q. So --</p> <p>15 A. American citizen was your question?</p> <p>16 Q. Yes.</p> <p>17 A. When I was naturalized?</p> <p>18 Q. Yes.</p> <p>19 A. 1970.</p> <p>20 Q. When did you come to the United States?</p> <p>21 A. 1962.</p> <p>22 Q. You have a degree in business administration</p> <p>23 from Mercy College.</p> <p>24 Do you have any other degrees?</p> <p>25 A. I have couple of certificates from the</p>	<p style="text-align: right;">12</p> <p>1 A. 2001.</p> <p>2 Q. Prior to 2001, were you -- were you in the</p> <p>3 securities industry?</p> <p>4 A. No.</p> <p>5 Q. What -- just tell us, briefly, what was your</p> <p>6 employment background since 1976.</p> <p>7 A. Well, I really started before that.</p> <p>8 Q. Okay. Tell us your employment background.</p> <p>9 A. I started 1963 at National Bank of</p> <p>10 Westchester, in Westchester County, New York.</p> <p>11 Q. What did you do there?</p> <p>12 A. I was a bookkeeper, then later I was a teller.</p> <p>13 Q. All right. How long were you there?</p> <p>14 A. Until 1966.</p> <p>15 Q. Where did you go then?</p> <p>16 A. Then I went to work with Citibank.</p> <p>17 Q. What did you do at Citibank?</p> <p>18 A. First I was a teller and then I was a consumer</p> <p>19 credit officer.</p> <p>20 Q. When you say "a consumer credit officer," you</p> <p>21 made loans to consumers?</p> <p>22 A. Personal loans, yes.</p> <p>23 Q. How long did you work at Citibank?</p> <p>24 A. Until 1970.</p> <p>25 Q. What happened in 1970?</p>
<p style="text-align: right;">11</p> <p>1 American Banking Institute.</p> <p>2 Q. The what certificate?</p> <p>3 A. American Banking Institute.</p> <p>4 Q. What certificate did you say you have?</p> <p>5 A. I have the basic and intermediate.</p> <p>6 Q. What is the American Banking Institute?</p> <p>7 A. It's a -- it was an institute that will teach</p> <p>8 subjects that are related to banking.</p> <p>9 Q. Where is it located?</p> <p>10 A. I don't know now.</p> <p>11 Q. Is it a physical place or did you take it</p> <p>12 online or --</p> <p>13 A. No. No. No. No. Used to go to -- they have</p> <p>14 different places.</p> <p>15 Q. I see. They would put on --</p> <p>16 A. I think I went to White Plains in New York.</p> <p>17 Q. Okay. Other than that certificate, do you</p> <p>18 have any other degrees?</p> <p>19 A. No.</p> <p>20 Q. All right. What licenses, professional</p> <p>21 licenses, do you hold?</p> <p>22 A. Series 7 and 63.</p> <p>23 Q. How long have you had a Series 7 license?</p> <p>24 A. Since 2001.</p> <p>25 Q. And how long have you had a Series 63 license?</p>	<p style="text-align: right;">13</p> <p>1 A. I went to work for the Amalgamated Bank of New</p> <p>2 York.</p> <p>3 Q. What did you do at the Amalgamated Bank?</p> <p>4 A. Well, first I was in the loan department,</p> <p>5 collecting bad debts. And then I was moved to one of</p> <p>6 the branches, was a platform assistant, and later was</p> <p>7 assistant manager in charge of the branch operations</p> <p>8 and...</p> <p>9 Q. All right. And when did you leave Amalgamated</p> <p>10 Bank?</p> <p>11 A. I left Amalgamated Bank in 1979.</p> <p>12 Q. So you worked there from 1970 to 1979. And</p> <p>13 your last position there was an assistant manager of a</p> <p>14 branch?</p> <p>15 A. It was a title -- it was assistant cashier.</p> <p>16 Q. Assistant cashier?</p> <p>17 A. It was a little over the --</p> <p>18 THE COURT REPORTER: Excuse me?</p> <p>19 THE WITNESS: Assistant cashier.</p> <p>20 BY MR. LAWRENCE KELLOGG:</p> <p>21 Q. So it was a little over -- little above the</p> <p>22 assistant branch manager position?</p> <p>23 A. No.</p> <p>24 Q. What did you mean when you said "a little" --</p> <p>25 A. Well, the assistant branch manager, yes.</p>

14	<p>1 Q. Okay. In 1979, where did you go?</p> <p>2 A. I went to Bank Hapoalim.</p> <p>3 Q. To where?</p> <p>4 A. Bank Hapoalim.</p> <p>5 Q. Can you spell that?</p> <p>6 A. Let me see, H-A-P-O-A-L-I-M.</p> <p>7 Q. Where is Bank Hapoalim?</p> <p>8 A. Bank Hapoalim was at the Rockefeller Center in</p> <p>9 New York.</p> <p>10 Q. What did you do at Bank Hapoalim?</p> <p>11 A. I was a officer at the platform.</p> <p>12 Q. What does that mean?</p> <p>13 A. It means you sit at the desk and you take care</p> <p>14 of clients that walk into the bank.</p> <p>15 Q. Did you do anything else at Bank Hapoalim?</p> <p>16 A. No, it's -- it was the related job. Take care</p> <p>17 of the clients.</p> <p>18 Q. Then where did you go?</p> <p>19 A. I went to Bank of Boston International in New</p> <p>20 York.</p> <p>21 Q. Bank of Boston International?</p> <p>22 A. (Witness nods.)</p> <p>23 Q. What year was that?</p> <p>24 A. That was 1980.</p> <p>25 Q. All right. What was your job at Bank of</p>	16	<p>1 Q. Okay. How long were you at the Bank of Boston</p> <p>2 International?</p> <p>3 A. 1987.</p> <p>4 Q. Then where did you go?</p> <p>5 A. I went to Bank of America.</p> <p>6 Q. What was your job at Bank of America?</p> <p>7 A. Similar.</p> <p>8 Q. Same thing? Client relationship officer --</p> <p>9 A. Yes.</p> <p>10 Q. -- for international clients?</p> <p>11 Did you expand --</p> <p>12 A. But then I -- yeah, expand the area.</p> <p>13 Q. How did you expand --</p> <p>14 A. It include Argentina and Paraguay.</p> <p>15 Q. Okay. How long were you at Bank of America?</p> <p>16 A. Bank of America was until 1992.</p> <p>17 Q. Then what did you do?</p> <p>18 A. I went with a British Bank, Cuotts &amp; Co.</p> <p>19 Q. Could you spell that?</p> <p>20 A. C-O-U-T-T-S.</p> <p>21 Q. C-O-U-T-T-S.</p> <p>22 A. And Co., C-O.</p> <p>23 Q. Oh, Couotts &amp; Co. All right.</p> <p>24 A. And it was a subsidiary of the National</p> <p>25 Westminster Bank.</p>
15	<p>1 Boston International?</p> <p>2 A. Well, my job was a client relationship</p> <p>3 manager.</p> <p>4 Q. What does that mean?</p> <p>5 A. You take care of clients that have accounts</p> <p>6 with the bank. I also travel, visited clients and open</p> <p>7 new accounts.</p> <p>8 Q. So it was -- was -- was your -- did your job</p> <p>9 include generating client relationships as well as</p> <p>10 servicing client relationships?</p> <p>11 A. Yes.</p> <p>12 Q. Okay. And did -- did your clientele, were</p> <p>13 they -- were they international clients?</p> <p>14 A. Yes.</p> <p>15 Q. When -- when we say "international clients" --</p> <p>16 or when you say it, what do you mean?</p> <p>17 A. They're not U.S. residents.</p> <p>18 Q. Non-U.S. residents.</p> <p>19 Did you -- did you focus your efforts in any</p> <p>20 particular part of the world?</p> <p>21 A. Well, I first started, it was Central America,</p> <p>22 Mexico. Later I was transferred to the Brazilian desk</p> <p>23 in New York.</p> <p>24 Q. Were you based in New York then?</p> <p>25 A. Always.</p>	17	<p>1 Q. Again, based in New York?</p> <p>2 A. Yes.</p> <p>3 Q. And was it the same sort of position --</p> <p>4 A. Yes.</p> <p>5 Q. -- client relationship officer?</p> <p>6 Did you -- did you expand your area of</p> <p>7 concentration during that job? Or was it --</p> <p>8 A. No, it was still those three countries.</p> <p>9 Q. As you moved from bank to bank in this area,</p> <p>10 the client relationship for international clients, did</p> <p>11 you take some or all of your clients with you when you</p> <p>12 changed?</p> <p>13 A. Yes.</p> <p>14 Q. So you had a book of business yourself?</p> <p>15 A. Sure.</p> <p>16 Q. How long were you at Cuotts &amp; Co.?</p> <p>17 A. Huh?</p> <p>18 Q. How long were you at Cuotts &amp; Co. and then</p> <p>19 where did you go?</p> <p>20 A. I was -- I went to -- 1998, I went with the</p> <p>21 American Express Bank International in New York as</p> <p>22 senior director and branch manager.</p> <p>23 Q. Senior director of -- of what?</p> <p>24 A. And branch manager.</p> <p>25 Q. You were -- you were --</p>

18	<p>1 A. It was international, also.</p> <p>2 Q. It was an international position.</p> <p>3 When you say "branch manager," what branch</p> <p>4 were you the manager of?</p> <p>5 A. The American Express Bank International branch</p> <p>6 in New York.</p> <p>7 Q. Okay. For all of New York?</p> <p>8 For all of New York?</p> <p>9 A. Just -- it was an international bank --</p> <p>10 Q. I see.</p> <p>11 A. -- we had no local clients. It was the only</p> <p>12 branch they had in New York.</p> <p>13 Q. And what were your job responsibilities,</p> <p>14 generally speaking, at American Express International?</p> <p>15 A. Well, my job responsibility was supervising</p> <p>16 the branch, but also I had marketing responsibility,</p> <p>17 which I took care of clients also and traveled to the</p> <p>18 assigned area.</p> <p>19 Q. Was -- did the area expand from what you had</p> <p>20 done in the past, or was it the same general countries?</p> <p>21 A. It was the same area.</p> <p>22 Q. Uh-huh. All right. How long were you at</p> <p>23 American Express Bank International?</p> <p>24 A. 2004.</p> <p>25 Q. Till 2004. So you got your Series 7 and</p>	20	<p>1 A. What do you mean for "sponsored products."</p> <p>2 Q. Well, when I say "sponsored products," that</p> <p>3 the bank would -- would do diligence on and recommend</p> <p>4 the clients, for whatever reason.</p> <p>5 MR. COATES: Object to the form.</p> <p>6 You may answer.</p> <p>7 THE WITNESS: Yes.</p> <p>8 BY MR. LAWRENCE KELLOGG:</p> <p>9 Q. So your understanding is there was some change</p> <p>10 in the law or some requirement imposed that if you're</p> <p>11 going to do that --</p> <p>12 A. Requirement imposed, whatever.</p> <p>13 Q. -- you had to get the license?</p> <p>14 So you studied for it and passed it the first</p> <p>15 time?</p> <p>16 A. Yes, but I didn't pass the first time.</p> <p>17 Q. Okay. Eventually --</p> <p>18 A. I pass the second time.</p> <p>19 Q. -- you passed -- second time?</p> <p>20 A. Actually, it was the third time because the</p> <p>21 second time the computer crashed.</p> <p>22 Q. Oh, boy.</p> <p>23 A. And it didn't count.</p> <p>24 Q. Okay. So we'll call that the second time.</p> <p>25 A. No, that's what they term it.</p>
19	<p>1 Series 63 licenses while you were at American Express</p> <p>2 International?</p> <p>3 A. Yes.</p> <p>4 Q. Did they have a brokerage arm?</p> <p>5 A. Yes, they had -- it's called, today,</p> <p>6 Ameriprise.</p> <p>7 Q. Ameriprise?</p> <p>8 A. Today.</p> <p>9 Q. Today.</p> <p>10 A. I don't recall what it was called at the time.</p> <p>11 But it's not part of the American Express anymore.</p> <p>12 Q. But when you got your brokerage licenses --</p> <p>13 A. But I did not work for Ameriprise.</p> <p>14 Q. You worked for American Bank Interna- --</p> <p>15 American Express Bank International?</p> <p>16 A. Yes, but at the time it was required, I</p> <p>17 believe by the regulators, that you had to take Series 7</p> <p>18 and 63 to offer investment to the clients.</p> <p>19 Q. Prior to getting those licenses, had -- had</p> <p>20 your job responsibilities included offering investment</p> <p>21 products to clients?</p> <p>22 A. Yes.</p> <p>23 Q. And were these investment products either</p> <p>24 direct products of the banks you're working for or</p> <p>25 sponsored products?</p>	21	<p>1 Q. All right. So did -- did your job function --</p> <p>2 once you got your Series 7 and your Series 63 licenses,</p> <p>3 did your job function change --</p> <p>4 A. No.</p> <p>5 Q. -- or it was pretty much the same?</p> <p>6 A. The same.</p> <p>7 Q. At some point you joined EFG Capital</p> <p>8 International. Is that right?</p> <p>9 A. 2004.</p> <p>10 Q. 2004. How is it --</p> <p>11 A. June.</p> <p>12 Q. -- that you came to -- to take that job?</p> <p>13 A. Well, it was offered to me.</p> <p>14 Q. Had EFG Capital International had a branch in</p> <p>15 New York already that you were joining --</p> <p>16 A. No.</p> <p>17 Q. -- or did you open it up?</p> <p>18 A. I -- I -- I helped them.</p> <p>19 Q. Were you one of the first financial advisors</p> <p>20 or client relationship officers hired by the New York</p> <p>21 branch?</p> <p>22 A. Can you repeat your question?</p> <p>23 Q. Were you -- were you one of the first client</p> <p>24 relationship officers hired in the New York branch of</p> <p>25 EFG Capital International?</p>

22	<p>1 A. Yes.</p> <p>2 Q. When you say you helped them open it, what do</p> <p>3 you mean?</p> <p>4 A. Well, we look for a space, and also for people</p> <p>5 to join the -- the branch.</p> <p>6 Q. So you helped them recruit other financial</p> <p>7 officers?</p> <p>8 A. Yes.</p> <p>9 Q. At that time who was the branch office manager</p> <p>10 there?</p> <p>11 A. Victor Echevarria.</p> <p>12 Q. And is he still branch office manager?</p> <p>13 A. Yes.</p> <p>14 Q. When you joined, did anyone else come over</p> <p>15 from American Express Bank International?</p> <p>16 A. Yes.</p> <p>17 Q. Who else came over?</p> <p>18 A. My assistant and another senior.</p> <p>19 Q. What's your assistant's name?</p> <p>20 A. Belkys Porras.</p> <p>21 Q. And what other financial officer came over,</p> <p>22 relationship officer?</p> <p>23 A. Esther Mizrahi.</p> <p>24 Q. Now, I've seen her name on some of the</p> <p>25 documents here. Does Esther Mizrahi -- do you have some</p>	24	<p>1 Q. And how much is that?</p> <p>2 A. Today?</p> <p>3 Q. Yes.</p> <p>4 A. It's around a hundred and fifty-one thousand</p> <p>5 dollars a year.</p> <p>6 Q. And has that changed since you joined?</p> <p>7 A. Yes.</p> <p>8 Q. How has it changed?</p> <p>9 A. It was decreased.</p> <p>10 Q. In addition to the fixed salary, did you</p> <p>11 receive any bonuses or other incentive compensation --</p> <p>12 A. Bonus.</p> <p>13 Q. -- based upon your performance.</p> <p>14 Bonus?</p> <p>15 What -- what was the nature of the bonus? How</p> <p>16 was it computed?</p> <p>17 A. The bonus is computed -- is the net income of</p> <p>18 my book of accounts.</p> <p>19 Q. Okay. How do you compute --</p> <p>20 A. 20 percent.</p> <p>21 Q. I'm sorry. So -- how does --</p> <p>22 A. 20 percent of the net income.</p> <p>23 Can you repeat your question?</p> <p>24 Q. Yeah, I'm sorry.</p> <p>25 MR. COATES: Excuse me. Miguel, let</p>
23	<p>1 sort of a partnership or arrangement with her?</p> <p>2 A. No.</p> <p>3 Q. Do you have any compensation sharing</p> <p>4 arrangement where you share clients or jointly service</p> <p>5 clients, anything like that?</p> <p>6 A. We had with one account.</p> <p>7 Q. Which account is that? Not -- not this one?</p> <p>8 A. (Witness nods.) Not this one.</p> <p>9 Q. Did the -- did that account have a Fairfield</p> <p>10 investment in it?</p> <p>11 A. No.</p> <p>12 Q. Okay. How -- what is the basis of -- all</p> <p>13 right. Go ahead.</p> <p>14 What is the basis of your compensation from</p> <p>15 EFG Capital International?</p> <p>16 A. What do you mean?</p> <p>17 Q. How were you compensated, commissions, draw,</p> <p>18 combination?</p> <p>19 A. I get a salary. I get a fixed salary.</p> <p>20 Q. Has it always been the case that -- since you</p> <p>21 joined them --</p> <p>22 A. Yes.</p> <p>23 Q. -- that you get a fixed salary?</p> <p>24 Yes?</p> <p>25 A. Yes.</p>	25	<p>1 Mr. Kellogg finish asking the question.</p> <p>2 THE WITNESS: Yes.</p> <p>3 MR. COATES: And then you respond, because the</p> <p>4 court reporter needs to take down --</p> <p>5 THE WITNESS: Okay.</p> <p>6 MR. COATES: Let me finish.</p> <p>7 -- needs to take down your -- his question and</p> <p>8 your answer.</p> <p>9 THE WITNESS: (Witness nods.)</p> <p>10 MR. COATES: All right. Thank you.</p> <p>11 BY MR. LAWRENCE KELLOGG:</p> <p>12 Q. You know, when people -- when people talk to</p> <p>13 each other, I learned this early on, people talk to each</p> <p>14 other, they understand what the other one is saying in</p> <p>15 the middle of the sentence and a real conversation just</p> <p>16 goes back and forth, jumping over each other. I</p> <p>17 learned, though, that when you get to reading this,</p> <p>18 ultimately, it won't make sense unless you do it in an</p> <p>19 artificial way. Even though you know what I'm going to</p> <p>20 ask and even though I might know what you're going to</p> <p>21 say pretty much, in some circumstances, we need to wait</p> <p>22 for each other to finish. So I'll try to do that, too.</p> <p>23 MR. COATES: With all that, I think we -- if</p> <p>24 you could repeat the question so Miguel understands</p> <p>25 what he's --</p>



<p style="text-align: right;">26</p> <p>1 MR. LAWRENCE KELLOGG: I don't know if there 2 is one. Let me -- let me do the -- 3 BY MR. LAWRENCE KELLOGG: 4 Q. The question is, how is the bonus computed? 5 A. The bonus is computed this way: Gross 6 revenues less expenses. So that's how you find the net 7 bonus. And it's 20 percent of that, but your revenues 8 have to reach \$666,000 to qualify for the bonus. 9 Q. So once the gross revenues reach \$666,000, 10 there's a calculation done where you come to a net 11 revenue figure, after you offset some -- 12 A. Calculation is done for the calendar year 13 after the end of the year. 14 Q. And if -- if the account -- if your book of 15 business doesn't reach \$666,000, there is no bonus at 16 all? 17 A. Yes. 18 Q. In 2004, did you receive a bonus? 19 A. No. 20 Q. What time of year did you join? 21 A. June 1st. 22 Q. So you only had about six months of revenue 23 for that year? 24 A. Yes. 25 Q. Is that why you didn't get a bonus?</p>	<p style="text-align: right;">28</p> <p>1 A. Yes. 2 Q. So -- 3 A. Generated -- yes. 4 Q. Well, how -- how would -- what are the gross 5 revenues in the sense of how does EFG Capital earn 6 revenues off your book of business? 7 A. They have an accounting system. 8 Q. Are the commissions charged? 9 A. Every revenue produce by the accounts. 10 Q. Okay. So let's talk about what sorts of 11 revenues, to your understanding, might be produced by 12 the accounts? 13 There are revenues that are directly -- that 14 are derived directly from charging the client something. 15 Is that right? 16 A. Custody? 17 Q. Custody? 18 So for EFG Capital to hold custody of a 19 security in your client's account, a fee is charged to 20 the client for that. Is that correct? 21 A. Yes. 22 Q. Do you know what it is? 23 A. It varies. Depending on the clients. 24 Q. All right. If a trade is made, will there be 25 a commission --</p>
<p style="text-align: right;">27</p> <p>1 A. Yes. 2 Q. All right. In 2005, did you get a bonus? 3 A. No. 4 Q. Why not? 5 A. I didn't reach the threshold. 6 Q. You didn't reach the \$666,000? 7 A. (Witness nods.) Yes. 8 Q. In 2006, did you receive a bonus? 9 A. No. 10 Q. Same -- is that for the same reason? 11 A. Yes. 12 Q. And in 2007, did you receive a bonus? 13 A. Yes. 14 Q. Okay. What was the amount of the bonus, if 15 you recall? 16 A. I cannot recall exactly. 70 -- about \$70,000. 17 Q. And in 2008, did you receive a bonus? 18 A. Yes. 19 Q. How much was your bonus that year? 20 A. A little over a hundred thousand. 21 Q. In 2009, did you receive a bonus? 22 A. No. 23 Q. Now, when -- when you refer to gross revenues 24 that are generated by your book of business, do you mean 25 gross revenues to EFG Capital International?</p>	<p style="text-align: right;">29</p> <p>1 A. Yes. 2 Q. -- charged? 3 So is that another source of revenue? 4 A. Yes. 5 Q. If a client of yours opens an account at EFG 6 Bank, the private bank, is their revenue from that 7 credited to your account, for your bonus? 8 A. It's considered for the bonus. 9 Q. How is -- 10 A. Considered. 11 Q. I'm sorry. 12 A. Considered for... 13 Q. How is that -- what do you mean it's 14 considered for the bonus? 15 A. I don't know how they do the accounting. 16 Q. But your understanding is that if one of your 17 customers opens up a private bank account at the private 18 bank, your bonus -- that revenue somehow is going to be 19 credited to your account and considered in 20 calculating -- 21 A. Yes, I have a profit and loss statement. 22 Q. When -- do they actually give you a profit and 23 loss statement for each year so you can see how the 24 calculation's made? 25 A. Yes.</p>

30	<p>1 Q. Is it done --</p> <p>2 A. Monthly.</p> <p>3 Q. Monthly.</p> <p>4 All right. In addition to custody, trade,</p> <p>5 what I'll call referrals, to the EFG Bank, are there any</p> <p>6 sources of revenue that impact your bonus?</p> <p>7 A. The managed portfolios.</p> <p>8 Q. What do you mean by that?</p> <p>9 A. The portfolios that they are managed by the</p> <p>10 EFG Capital --</p> <p>11 Q. So EF -- if --</p> <p>12 A. -- Asset Management Group.</p> <p>13 Q. If EFG Capital Asset Management actually</p> <p>14 manages your clients' accounts, the fees that are</p> <p>15 charged for that service will be credited to your</p> <p>16 account. Is that right?</p> <p>17 A. To my P &amp; L.</p> <p>18 Q. To your P &amp; L. Okay.</p> <p>19 If -- if a product that's sold to one of your</p> <p>20 customers pays a commission or a fee to EFG Capital</p> <p>21 International, is that also credited to your profit and</p> <p>22 loss statement?</p> <p>23 A. Yes.</p> <p>24 Q. So we know in this case, for example,</p> <p>25 Fairfield paid EFG Capital some amount of money, shared</p>	32	<p>1 of?</p> <p>2 A. I can't recall at this time.</p> <p>3 Q. Now, you talked about expenses that would be</p> <p>4 charged against that -- that gross revenue. What sorts</p> <p>5 of expenses are you referring to?</p> <p>6 A. Salaries.</p> <p>7 Q. So, for example, your salary, would that be</p> <p>8 charged against -- as an expense --</p> <p>9 A. Yes.</p> <p>10 Q. -- against the P &amp; L?</p> <p>11 And your assistant's salary?</p> <p>12 A. Yes.</p> <p>13 Q. Any -- are there any other salaries that are</p> <p>14 charged against your P &amp; L?</p> <p>15 A. No.</p> <p>16 Q. Is there any overhead factor?</p> <p>17 A. Yes.</p> <p>18 Q. What's the overhead factor?</p> <p>19 A. Rent. What -- yes, rent.</p> <p>20 Q. Rent. Okay. So is there -- so do you pay</p> <p>21 rent for the office that you use, essentially?</p> <p>22 A. Yes.</p> <p>23 Q. Do you pay for the use of computers or --</p> <p>24 A. Yes.</p> <p>25 Q. -- supplies?</p>
31	<p>1 some of the management fee.</p> <p>2 Were you aware of that?</p> <p>3 A. Yes.</p> <p>4 Q. Okay. And -- and that source of revenue, if</p> <p>5 it's related to one of your customers, would be credited</p> <p>6 to your profit and loss statement.</p> <p>7 Is that right?</p> <p>8 A. Yes.</p> <p>9 Q. Okay. Is there anything else that you can</p> <p>10 think of, any other kind of --</p> <p>11 A. Yes.</p> <p>12 Q. -- source of revenue.</p> <p>13 What is it?</p> <p>14 A. Mutual funds.</p> <p>15 Q. Mutual funds?</p> <p>16 So if your client deposits in a mutual fund</p> <p>17 and there's a --</p> <p>18 A. It's not a deposit, it's an investment.</p> <p>19 Q. Okay. An investment. You think of it that</p> <p>20 way.</p> <p>21 If there's an investment in a mutual fund that</p> <p>22 results in revenue to EFG Capital, that will be credited</p> <p>23 to your P &amp; L. Is that right?</p> <p>24 A. Yes.</p> <p>25 Q. Anything -- anything else that you can think</p>	33	<p>1 A. Business trips.</p> <p>2 Q. Since you've been at EFG Capital, do you --</p> <p>3 are you provided with any funds to market? In other</p> <p>4 words, they give you expense reimbursements for</p> <p>5 marketing? Or is that something you do?</p> <p>6 Say, for example, you go -- you fly somewhere</p> <p>7 and you meet with a potential client. Does the firm pay</p> <p>8 your expenses to do that? Or do you pay them?</p> <p>9 A. They will give me a refund, but it's charged</p> <p>10 to my P &amp; L.</p> <p>11 Q. Okay. They'll lend it to you, in essence.</p> <p>12 Okay.</p> <p>13 Do you do -- have you ever done any EFG</p> <p>14 Capital seminars?</p> <p>15 A. Attend seminars?</p> <p>16 Q. Seminars. You put on seminars for potential</p> <p>17 clients.</p> <p>18 A. No.</p> <p>19 Q. Have -- how -- on the -- before we get to</p> <p>20 that.</p> <p>21 On the expense side, if -- if a customer</p> <p>22 suffers a loss and EFG Capital International makes up</p> <p>23 that loss, let's say, files an arbitration, makes a</p> <p>24 claim, or -- or does something to -- to contend he's</p> <p>25 been damaged, he or she, and gets reimbursed. Is that</p>

34	<p>1 something that's charged against your P &amp; L?</p> <p>2 A. I don't know.</p> <p>3 MR. COATES: Object to the form of the</p> <p>4 question.</p> <p>5 You may answer.</p> <p>6 THE WITNESS: I don't know.</p> <p>7 BY MR. LAWRENCE KELLOGG:</p> <p>8 Q. Okay. Have you ever had a situation where one</p> <p>9 of your clients has sued or made a claim and -- and the</p> <p>10 firm has paid that client something?</p> <p>11 A. No.</p> <p>12 Q. If you -- if you disagree with a -- with a</p> <p>13 calculation for a given year, is there a way for you to</p> <p>14 appeal that?</p> <p>15 A. So far it's never happened.</p> <p>16 Q. So far it's never come up?</p> <p>17 A. No.</p> <p>18 Q. All right. Since you've been at EFG</p> <p>19 Capital --</p> <p>20 A. Can you rephrase -- the question before,</p> <p>21 please.</p> <p>22 Q. The question before --</p> <p>23 MR. LAWRENCE KELLOGG: What was it? Could you</p> <p>24 read it back. I've forgotten already.</p> <p>25</p>	36	<p>1 A. Referrals.</p> <p>2 Q. When you -- when you meet with a potential new</p> <p>3 customer or client, generally speaking, what do you tell</p> <p>4 them that you're going to provide for them?</p> <p>5 A. First I listen to their needs.</p> <p>6 Q. And then what do you do?</p> <p>7 A. Then from there we discuss if we can provide</p> <p>8 what the client's needs are. Sometimes you just cannot.</p> <p>9 Q. Well, when you say you listen to their needs.</p> <p>10 That's sort of general.</p> <p>11 You're talking about their financial</p> <p>12 investment needs?</p> <p>13 A. Financial needs, yes. That's what we're</p> <p>14 talking about.</p> <p>15 Q. Okay. And once they -- once you get an</p> <p>16 understanding of what you think their financial needs or</p> <p>17 their goals are, how do you -- how do you go about</p> <p>18 determining whether or not you and EFG Capital can meet</p> <p>19 those needs?</p> <p>20 A. Well, first we have to see if the client</p> <p>21 qualifies to invest in what he wants to invest.</p> <p>22 Q. Okay.</p> <p>23 A. And from there we offer various products</p> <p>24 according to the client needs and desires. Investment</p> <p>25 products.</p>
35	<p>1 BY MR. LAWRENCE KELLOGG:</p> <p>2 Q. If you disagree with a calculation for a given</p> <p>3 year, is there a way for you to appeal that?</p> <p>4 A. Yes.</p> <p>5 Q. Okay. How -- how is that accomplished?</p> <p>6 A. I would look at my P &amp; L, and if I figure or</p> <p>7 I -- that something was not credited, I will notify the</p> <p>8 accounting department and they will look and -- and come</p> <p>9 back with the answer.</p> <p>10 Q. Okay. So is that -- that sort of thing</p> <p>11 happened in the past?</p> <p>12 A. No.</p> <p>13 Q. Have you -- have you ever been disciplined</p> <p>14 while you were at EFG Capital?</p> <p>15 A. No.</p> <p>16 Q. All right. For -- what -- what is your method</p> <p>17 of marketing your services to clients? How do you do</p> <p>18 it?</p> <p>19 A. Well, what do you mean for "method"?</p> <p>20 Q. Do you have -- I mentioned seminars before.</p> <p>21 Some financial advisors will do a seminar. Some will</p> <p>22 rely totally on referrals. Some will -- may -- may</p> <p>23 advertise. Some may do other things.</p> <p>24 Do you have any particular way in which you</p> <p>25 develop clientele?</p>	37	<p>1 Q. Now, when you offer investment products, first</p> <p>2 thing you want to do is see what your client needs. And</p> <p>3 then you have some -- assuming they qualify, you have</p> <p>4 some financial products that you might offer them.</p> <p>5 Right?</p> <p>6 A. It's according to his needs.</p> <p>7 Q. Sure. How do you get --</p> <p>8 A. Or her needs.</p> <p>9 Q. How do you -- how do you learn about these</p> <p>10 investment products?</p> <p>11 A. Well, we are visited by funds. MFS, Permal --</p> <p>12 THE COURT REPORTER: I'm sorry?</p> <p>13 THE WITNESS: MFS, Permal, et cetera. And the</p> <p>14 EFG will qualify those investments to see which</p> <p>15 ones we can offer and we cannot.</p> <p>16 BY MR. LAWRENCE KELLOGG:</p> <p>17 Q. Are you -- as a practice, do you offer</p> <p>18 products to clients that EFG Capital hasn't already</p> <p>19 determined qualify?</p> <p>20 A. Can you repeat -- I didn't -- didn't</p> <p>21 understand the first word.</p> <p>22 Q. Sure.</p> <p>23 A. Can you repeat the --</p> <p>24 Q. As a -- as a matter of practice --</p> <p>25 A. Yes.</p>

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1 Q. -- do you offer hedge fund products, for  
 2 example, that have not been prequalified by EFG Capital?  
 3 A. No.  
 4 Q. All right. Do you ever prequalify any of  
 5 these funds or --  
 6 A. No.  
 7 Q. -- do you rely on -- or do you rely on EFG  
 8 Capital to do it?  
 9 A. I don't prequalify.  
 10 Q. Okay. How does that process, to your  
 11 knowledge, work at EFG Capital? If you know.  
 12 A. I don't work in that department.  
 13 Q. All right.  
 14 A. My -- my function is different.  
 15 Q. Okay. You're -- you're given the information.  
 16 A. Yes.  
 17 Q. You assume it's been prequalified. Right?  
 18 A. Yes.  
 19 Q. And assuming that, if the client -- it looks  
 20 like a product that your client may be able to use,  
 21 you'll offer it to the client. Correct?  
 22 A. Yes.  
 23 Q. Okay. How are the -- how are the products  
 24 that are qualified, the identity of them, how are they  
 25 disseminated to people like you?

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1 A. Well, EFG has what is called intranet. And we  
 2 will access the intranet, and there they have all the  
 3 qualified products.  
 4 Q. Okay. What is an intranet? Tell us what that  
 5 is.  
 6 A. Well, intranet is a intranet system, computer  
 7 system. It's a program.  
 8 Q. Now, does the intranet system have products by  
 9 different strategies or different classes or -- how is  
 10 it you search that?  
 11 A. Well, if you want to see bonds, you access the  
 12 bonds. If you want to see other product, you look at  
 13 the list and you access them.  
 14 Q. Okay. When a client says to you, "I'd like to  
 15 have" -- or you talk to a client and you think, you  
 16 know, the client wants some -- some capital appreciation  
 17 at a certain -- you know, moderate-risk tolerance. I'm  
 18 going to offer some products. How do you go in to the  
 19 intranet and say these are the products that might fit  
 20 these categories that I'm gonna offer?  
 21 A. Can you repeat the question?  
 22 MR. COATES: Yeah, I was going to object to  
 23 it. It's vague and ambiguous.  
 24 MR. LAWRENCE KELLOGG: Not to me. I  
 25 understood, but I'll --

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1 MR. COATES: And a little compound, but --  
 2 THE WITNESS: Yeah.  
 3 MR. LAWRENCE KELLOGG: I understood exactly  
 4 what I was asking.  
 5 MR. COATES: Why don't you rephrase it.  
 6 MR. LAWRENCE KELLOGG: I will try.  
 7 THE WITNESS: Yeah.  
 8 BY MR. LAWRENCE KELLOGG:  
 9 Q. When you're talking to a client one of the  
 10 things you want to find out is do -- is this a client  
 11 who wants growth or income. Is that something you ask?  
 12 A. Sure.  
 13 Q. And some clients might want both. Right?  
 14 A. Yes.  
 15 Q. And some clients might want one or the other.  
 16 Once you decide what that client wants, how is it you go  
 17 to the intranet and you find products that are going to  
 18 fit what that client wants? How do you search it?  
 19 A. Well, they have growth funds; they have  
 20 balance funds. We also have the Asset Management Group,  
 21 if the person has -- has enough money.  
 22 Q. When you say -- what do you mean by the "Asset  
 23 Management Group"?  
 24 A. Yes. This is a -- these are -- is -- the  
 25 Asset Management Group are the ones who manage

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1 portfolios that give complete discretion to them.  
 2 Q. Okay. Assuming you have a customer who's not  
 3 granting the firm complete discretion, can you still  
 4 consult with the asset managers, the management group,  
 5 to find out about particular products?  
 6 A. No, because doesn't make sense.  
 7 Q. Okay. So if someone is completely managed,  
 8 then you'll consult -- the Asset Management Group will  
 9 make those decisions?  
 10 A. If the person wants to be complete management.  
 11 Q. But if the person says, "I want" -- you know,  
 12 they all say, "I don't want to lose money." But  
 13 assuming -- "I want to make money. I -- I want -- and I  
 14 have a certain risk tolerance." You might have, what,  
 15 10 funds that might fit that bill? Twenty?  
 16 MR. COATES: I'm going to object to form. If  
 17 you could --  
 18 MR. LAWRENCE KELLOGG: Let me rephrase it.  
 19 MR. COATES: -- rephrase the question.  
 20 BY MR. LAWRENCE KELLOGG:  
 21 Q. How is it that you -- out of the number of  
 22 funds that are available to be recommended to a client,  
 23 how do you choose one over another?  
 24 A. There is another group.  
 25 Q. There is a what?

42	<p>1 A. There is another group.</p> <p>2 Q. Okay. What is that?</p> <p>3 A. That we will consult with them.</p> <p>4 Q. What group is that?</p> <p>5 A. It's within the EFG Capital.</p> <p>6 Q. Does it have a name?</p> <p>7 A. I just can't recall the exact name. I know</p> <p>8 the guys' names, you know.</p> <p>9 Q. What -- what's the person's name?</p> <p>10 A. Well, they have two. They have -- they have a</p> <p>11 few. But usually I talk to Mike Donnell or Francisco</p> <p>12 Soler.</p> <p>13 Q. Mike Donnell.</p> <p>14 A. Or Francisco Soler.</p> <p>15 Q. And what -- what is the purpose of consulting</p> <p>16 with them? What -- what do you -- what do you ask?</p> <p>17 What are you trying to find out from them?</p> <p>18 A. Well, is to -- to get guided to the proper</p> <p>19 fund that fill the client's needs.</p> <p>20 The group is called IBCS.</p> <p>21 Q. IBCS?</p> <p>22 A. Yes.</p> <p>23 Q. Do you know what that acronym stands for?</p> <p>24 A. I can't recall right now. I will.</p> <p>25 Q. Where are these individuals located?</p>	44	<p>1 firm-wide policy?</p> <p>2 A. Yes.</p> <p>3 Q. Is there -- are there written manuals that</p> <p>4 would explain procedures that financial advisors like</p> <p>5 yourself need to follow at EFG Capital?</p> <p>6 A. Yes.</p> <p>7 Q. What -- what are the names of these manuals?</p> <p>8 A. Just manual with values chapters.</p> <p>9 Q. I'm sorry?</p> <p>10 A. This is a manual that has chapters.</p> <p>11 Q. I see. And is that available to every</p> <p>12 financial advisor?</p> <p>13 A. Yes.</p> <p>14 Q. Has it changed since you joined in 2004?</p> <p>15 A. Yes.</p> <p>16 Q. Is that something also on the intranet or do</p> <p>17 you have physical copies of it?</p> <p>18 A. It is -- you can get a computer copy.</p> <p>19 Q. And does this manual have -- this isn't a --</p> <p>20 is this a manual that -- that has the regulations from</p> <p>21 FINRA or is this manual with company policies? Or both?</p> <p>22 A. The manual comply with regulators.</p> <p>23 Q. Okay. So when -- when a product has been</p> <p>24 removed from the qualified list in the past, at EFG</p> <p>25 Capital, you have informed your customers of that fact?</p>
43	<p>1 A. They're located at the EFG Capital office in</p> <p>2 Brickell Avenue.</p> <p>3 Q. So here in Miami?</p> <p>4 A. Yes.</p> <p>5 Q. Now, in your experience at EFG Capital, has</p> <p>6 any investment product that was once on the intranet, on</p> <p>7 the approved qualified list, has -- has any product, to</p> <p>8 your knowledge, ever been removed from that list?</p> <p>9 A. Yes.</p> <p>10 Q. Okay. Is that something that's unusual or...</p> <p>11 A. No.</p> <p>12 Q. Now, when a product is removed from the list</p> <p>13 and you've sold it, is there some communication to the</p> <p>14 financial advisors --</p> <p>15 A. Yes.</p> <p>16 Q. -- that's it's been taken off the list?</p> <p>17 A. Yes.</p> <p>18 Q. And -- and -- and what is the reason for that?</p> <p>19 So you don't sell it anymore?</p> <p>20 A. Well, advise the clients.</p> <p>21 Q. I see. So when -- when it's removed from the</p> <p>22 list, your practice is to advise the clients about that.</p> <p>23 Right?</p> <p>24 A. Yes.</p> <p>25 Q. Now, if -- and that's -- is that a, you know,</p>	45	<p>1 If you sold it to them.</p> <p>2 A. Yes.</p> <p>3 Q. How do you do that? Just do you -- do you</p> <p>4 automatically know it or do you search your customer</p> <p>5 list and see who's got that product?</p> <p>6 A. Yes.</p> <p>7 Q. I mean, is that what you do, you search?</p> <p>8 A. (Witness nods.)</p> <p>9 Q. And so you have the capability --</p> <p>10 A. Yes.</p> <p>11 Q. -- of searching your customer -- customer</p> <p>12 database or list to determine who might have purchased</p> <p>13 any particular product. Is that right?</p> <p>14 A. Yes.</p> <p>15 Q. What's the reason that you want to tell your</p> <p>16 customers if something's been removed from the qualified</p> <p>17 list?</p> <p>18 A. Well, because the -- the circumstances under</p> <p>19 they were sold changed.</p> <p>20 Q. I see.</p> <p>21 A. Or from the last time we talked to them it</p> <p>22 changed. So they have to be advised for them to make a</p> <p>23 decision.</p> <p>24 Q. You want to protect your customers, right?</p> <p>25 MR. COATES: Object to form.</p>

<p style="text-align: right;">46</p> <p>1 You may answer.</p> <p>2 THE WITNESS: We want to inform the clients.</p> <p>3 BY MR. LAWRENCE KELLOGG:</p> <p>4 Q. So that they know what's going on?</p> <p>5 A. Yes.</p> <p>6 Q. When -- is it your practice -- you have -- you</p> <p>7 have clients all over the -- well, not all over the</p> <p>8 world, but all over Central and South America?</p> <p>9 A. No.</p> <p>10 Q. Where you do have your clients, essentially?</p> <p>11 A. Brazil, Argentina, Mexico.</p> <p>12 Q. And there -- do you have a practice of meeting</p> <p>13 with each one of your clients periodically to discuss</p> <p>14 their -- their accounts and the performance of their</p> <p>15 accounts?</p> <p>16 A. Yes.</p> <p>17 Q. I saw in one of the documents that -- and I --</p> <p>18 I'll find it at some point -- but with respect to the</p> <p>19 Ferreiras, you told them -- you said that when you</p> <p>20 opened the account, that you planned to meet with them</p> <p>21 quarterly.</p> <p>22 Is that your practice?</p> <p>23 A. Yes.</p> <p>24 Q. What is the purpose of meeting with them</p> <p>25 quarterly?</p>	<p style="text-align: right;">48</p> <p>1 Q. Okay. But does the firm also send out, either</p> <p>2 quarterly or semiannual or annually, a overall account</p> <p>3 review?</p> <p>4 A. That's the statement. That's the accounting</p> <p>5 statement.</p> <p>6 Q. Just every month, that's the only thing that</p> <p>7 goes out? Not a quarterly?</p> <p>8 A. I don't understand your question.</p> <p>9 Q. Okay. Some -- some firms, in my experience,</p> <p>10 will -- will send out, periodically, in addition to the</p> <p>11 monthly statements, showing how the account has done</p> <p>12 over a period of time, maybe comparing it to some</p> <p>13 benchmarks for similar accounts.</p> <p>14 Does EFG Capital do that?</p> <p>15 A. No. That is just done with the managed</p> <p>16 portfolio where the bank has.</p> <p>17 Q. I see. Okay.</p> <p>18 In 2004, when you joined EFG Capital, did you</p> <p>19 bring your book with you or some part of it?</p> <p>20 A. Yes.</p> <p>21 Q. What was the -- the dollar amount of assets</p> <p>22 under management that you brought with you?</p> <p>23 A. I can't recall the exact amount.</p> <p>24 Q. Do you have a general recollection?</p> <p>25 A. No.</p>
<p style="text-align: right;">47</p> <p>1 A. With -- the purpose is to review the accounts</p> <p>2 and make sure they still exist. The clients there, they</p> <p>3 are...</p> <p>4 Q. And do you discuss things like performance of</p> <p>5 their accounts?</p> <p>6 A. What do you mean?</p> <p>7 Q. I mean, you said last quarter this is what --</p> <p>8 well, let me step back a minute.</p> <p>9 Does EFG Capital generate -- it generates</p> <p>10 monthly account statements. Right?</p> <p>11 A. Yes.</p> <p>12 Q. Does it also either have quarterly,</p> <p>13 semiannual, or annual reviews of the account performance</p> <p>14 that it sends out to customers?</p> <p>15 A. They get a statement every month.</p> <p>16 Q. Yes.</p> <p>17 A. The statement shows the pertinent infor- --</p> <p>18 information.</p> <p>19 Q. Sure.</p> <p>20 A. You just cannot talk to all your clients every</p> <p>21 month.</p> <p>22 Q. No.</p> <p>23 A. So if they see something they don't like, they</p> <p>24 should call us, or something that they are apprehensive</p> <p>25 about, they should inform us.</p>	<p style="text-align: right;">49</p> <p>1 Q. Okay. And in 2004, did the assets under</p> <p>2 management increase from your initial book or did it</p> <p>3 decrease?</p> <p>4 A. What is?</p> <p>5 Q. Did your assets under management at the end of</p> <p>6 2004, had it increased or had it decreased or pretty</p> <p>7 much stayed the same?</p> <p>8 A. I don't really understand the question.</p> <p>9 Q. Okay. When you -- when you joined EFG</p> <p>10 Capital, you took a book of customers with you who had</p> <p>11 what we -- do you understand the term "assets under</p> <p>12 management"?</p> <p>13 A. Yes.</p> <p>14 Q. Okay. You don't remember what that figure</p> <p>15 was. What I'm asking you is --</p> <p>16 A. No.</p> <p>17 Q. -- did it grow that year or did it decrease?</p> <p>18 A. In -- you mean the amount of money or the</p> <p>19 amount of clients?</p> <p>20 Q. Amount of money.</p> <p>21 A. When you move, you're at zero.</p> <p>22 Q. Okay.</p> <p>23 A. So every time you bring an account, it</p> <p>24 increases your book.</p> <p>25 Q. Okay.</p>

50	<p>1 A. So based on that, yes, my book increase in 2 2004.</p> <p>3 Q. When you -- when you moved over in 2004, were 4 you -- were you paid any amount of money that was 5 contingent upon how many of your customers came with 6 you? In other words, did you get -- did you get a -- an 7 advance and maybe --</p> <p>8 A. No.</p> <p>9 Q. -- a recalculation, anything like that?</p> <p>10 A. No.</p> <p>11 Q. Sometimes the book is valued based on the -- 12 what they call the "trailing 12."</p> <p>13 A. No.</p> <p>14 Q. Did that happen with you?</p> <p>15 A. No.</p> <p>16 Q. Okay. And so --</p> <p>17 A. I had to bring certain amount of money to get 18 that. The money had to be in.</p> <p>19 Q. If you didn't bring that amount of money, what 20 would happen?</p> <p>21 A. I would not get the bonus.</p> <p>22 Q. I see. Okay. So it's just all -- the bonus 23 calculations we already discussed --</p> <p>24 A. Yes.</p> <p>25 Q. -- that was your total compensation.</p>	52	<p>1 A. No.</p> <p>2 Q. Did -- before you joined EFG Capital, had -- 3 did you know anything about that fund, Fairfield Sentry?</p> <p>4 A. I heard of the fund.</p> <p>5 Q. I'm sorry?</p> <p>6 A. I heard of the fund. I knew the fund was 7 there.</p> <p>8 Q. You heard of it?</p> <p>9 A. I knew the fund was there.</p> <p>10 Q. But you never sold it?</p> <p>11 A. No.</p> <p>12 Q. Did American Express Bank International have 13 recommended or qualified products --</p> <p>14 A. Yes.</p> <p>15 Q. -- for its customers? 16 Was Fairfield --</p> <p>17 A. The money has.</p> <p>18 Q. I'm sorry?</p> <p>19 A. Yes.</p> <p>20 Q. Was Fairfield Sentry one of those qualified 21 products, do you recall?</p> <p>22 A. While I was there -- I think it was qualified 23 after I left.</p> <p>24 Q. Okay. But not while you were there?</p> <p>25 A. I don't recall.</p>
51	<p>1 All right. In 2000 -- at the end of 2005, had 2 your assets under management increased?</p> <p>3 A. Yes.</p> <p>4 Q. By -- by how much? What were your assets 5 under management at the end of '05?</p> <p>6 A. I can't recall.</p> <p>7 Q. What's the -- what's the highest your assets 8 under management has been at EFG Capital International?</p> <p>9 A. As a whole?</p> <p>10 Q. Yes.</p> <p>11 A. That's a hard question because values --</p> <p>12 Q. Depends on the values of what the market is 13 doing in some cases.</p> <p>14 A. And also there is another factor, the currency 15 exchanges. The Euro --</p> <p>16 THE COURT REPORTER: Excuse me?</p> <p>17 THE WITNESS: Currency exchanges. You have 18 the money in Euro and there is a -- although your 19 money -- your book increase, but if the Euro -- the 20 value of the Euro decrease, then you show a 21 decrease. So it's --</p> <p>22 BY MR. LAWRENCE KELLOGG:</p> <p>23 Q. Okay. All right. Prior to joining EFG 24 Capital, had you ever offered Fairfield Sentry to any of 25 your customers?</p>	53	<p>1 Q. How -- how did you first come to learn that 2 Fairfield Sentry was a qualified product and something 3 you should offer to interested clients?</p> <p>4 A. A few clients were asking for it because some 5 of their friend had them.</p> <p>6 Q. So when a client would ask for Fairfield, what 7 did you do, check to see if it was qualified?</p> <p>8 A. I check with EFG Capital to see if it was a 9 approved product that I could offer the client.</p> <p>10 Q. And what did you learn?</p> <p>11 A. Yes, that it could be offered.</p> <p>12 Q. Did you ever sell Fairfield Sigma to any of 13 your clients?</p> <p>14 A. Yes.</p> <p>15 Q. Was Fairfield Sigma a qualified, approved --</p> <p>16 A. Yes.</p> <p>17 Q. -- product?</p> <p>18 To your knowledge, what was the difference 19 between Fairfield Sigma and Fairfield Sentry?</p> <p>20 A. The Fairfield Sentry was in U.S. dollars and 21 the Sigma was in Euro.</p> <p>22 Q. So it was just in the currencies?</p> <p>23 A. Yes.</p> <p>24 Q. When you say you checked with EFG Capital to 25 see if it was qualified, did you check with a particular</p>

54	<p>1 person?</p> <p>2 A. Yes.</p> <p>3 Q. Who?</p> <p>4 A. At the time, I can't recall the name of the</p> <p>5 person, but it was the person in charge of that</p> <p>6 particular job.</p> <p>7 Q. Was it a male or a female person? Don't</p> <p>8 remember?</p> <p>9 A. I don't remember.</p> <p>10 Q. Did -- when you checked to see if it was</p> <p>11 approved product, did the person tell you anything about</p> <p>12 the product or just simply say, "Yeah, that's approved"?</p> <p>13 A. Can you repeat the question, please?</p> <p>14 Q. When -- when you checked into Fairfield</p> <p>15 Sentry, did you try -- did that person give you any</p> <p>16 information about the fund other than it's approved?</p> <p>17 A. Yes.</p> <p>18 Q. What information did they give?</p> <p>19 A. Well, there was information about the fund,</p> <p>20 who the Fairfield company was and -- and they say a tear</p> <p>21 sheet that had the information.</p> <p>22 Q. A tear sheet?</p> <p>23 A. Yes.</p> <p>24 MR. LAWRENCE KELLOGG: You want to take a</p> <p>25 break?</p>	56	<p>1 A. Yes.</p> <p>2 Q. What information, generally speaking, is on a</p> <p>3 tear sheet?</p> <p>4 A. Well, if you look at it, there is a Fund</p> <p>5 Description, Community Return, Risk/Return Scattergram</p> <p>6 Historical Performance, Risk Analysis, Drawdown</p> <p>7 Analysis, Monthly Return, monthly Calculation. Page 2,</p> <p>8 Performance Analysis -- there's a whole lot of</p> <p>9 information.</p> <p>10 Q. This particular tear sheet, Exhibit 34, is for</p> <p>11 Fairfield Sentry. Is that right?</p> <p>12 A. I have to read. "Fairfield Sentry, Ltd.,</p> <p>13 Class B" says here on top.</p> <p>14 Q. And is this tear sheet, is this -- if you went</p> <p>15 on the intranet and looked up EFG Capital, would this</p> <p>16 sort of information be on the intranet?</p> <p>17 A. Not now.</p> <p>18 Q. I'm sorry? No?</p> <p>19 A. (Indicating.)</p> <p>20 Q. Not now. Okay.</p> <p>21 A. Not now.</p> <p>22 Q. But back in, say, 2005. Let's take that as</p> <p>23 the year. In 2005, if you were going to --</p> <p>24 A. It was --</p> <p>25 Q. -- learn something about it, would this</p>
55	<p>1 MR. COATES: Yeah, let's take a break.</p> <p>2 MR. LAWRENCE KELLOGG: Okay. Sure.</p> <p>3 MR. COATES: It's been over an hour. Let you</p> <p>4 guys mark that.</p> <p>5 MR. LAWRENCE KELLOGG: Okay.</p> <p>6 THE VIDEOGRAPHER: Okay. Off the record. The</p> <p>7 time is 10:15.</p> <p>8 (Thereupon, a recess was taken from 10:16 a.m.</p> <p>9 to @ a.m.)</p> <p>10 (Thereupon, the referred-to document was</p> <p>11 marked by the court reporter for Identification as</p> <p>12 Plaintiff's Exhibit 34.)</p> <p>13 THE VIDEOGRAPHER: We are now back on the</p> <p>14 record. Time is 10:29.</p> <p>15 MR. JASON KELLOGG: You may have two copies</p> <p>16 there.</p> <p>17 MR. LAWRENCE KELLOGG: Yeah, I think I do.</p> <p>18 BY MR. LAWRENCE KELLOGG:</p> <p>19 Q. Mr. Yannuzzi, I have marked as Exhibit 34 a</p> <p>20 document Bates-labeled EFG Capital 1678 through -- goes</p> <p>21 through 1685, I believe.</p> <p>22 We were discussing, before we took the break,</p> <p>23 you mentioned the term "tear sheet."</p> <p>24 A. Yes.</p> <p>25 Q. Is that what this is?</p>	57	<p>1 information be on the intranet or is this separate</p> <p>2 information you get somewhere else?</p> <p>3 A. It was sent to us at the time.</p> <p>4 Q. All right. Who would send it to you?</p> <p>5 A. The department in charge of doing that.</p> <p>6 Q. So even if you weren't looking to recommend a</p> <p>7 particular product, on a periodic basis EFG Capital</p> <p>8 would circulate to its financial advisors financial</p> <p>9 information such as contained on this tear sheet,</p> <p>10 Exhibit 34?</p> <p>11 A. Can you repeat the question?</p> <p>12 Q. Sure. I'm trying to understand what you see</p> <p>13 on the intranet.</p> <p>14 A. Yes.</p> <p>15 Q. But what you're telling us, I think, is that</p> <p>16 tear sheets about Fairfield Sentry were sent around to</p> <p>17 financial --</p> <p>18 A. Before the intranet system was in effect.</p> <p>19 Q. I gotcha.</p> <p>20 So when did the intranet system come into</p> <p>21 effect?</p> <p>22 A. It was a few years ago. I can't recall the</p> <p>23 exact time.</p> <p>24 Q. So did the intranet replace the tear sheets?</p> <p>25 A. No. The tear sheets were included.</p>



58	<p>1 Q. How often would a tear sheet on a product be 2 circulated? 3 A. Most of the product they had a monthly one. 4 Mutual funds, most of the mutual funds. And the 5 Fairfield Sentry had a monthly one. 6 Q. So every month -- every -- would every 7 financial advisor get information on Fairfield in this 8 tear sheet or would just those like you had told me -- 9 A. I don't know. 10 Q. Now, when you would receive a monthly tear 11 sheet on Fairfield Capital[sic], would you review it? 12 A. On Fairfield? Can you repeat? You said 13 "Fairfield Capital"? 14 Q. I'm sorry. Fairfield Sentry. 15 A. Yes, what was the question? 16 Q. Yeah. When you would receive a monthly tear 17 sheet regarding Fairfield Sentry, was it your practice 18 to review it? 19 A. Yes, I would look at the performance and see 20 how the fund was doing. 21 Q. Would you circulate the tear sheet to your 22 clients who had purchased Fairfield Sentry? 23 A. Sometimes. 24 Q. What would make you do it? 25 A. To inform them.</p>	60	<p>1 BY MR. LAWRENCE KELLOGG: 2 Q. Now, looking at Exhibit 34, the tear sheet -- 3 and we just picked one out randomly essentially -- this 4 appears to be dated October of 2007. 5 Do you see that? 6 A. Yes. 7 Q. What was your understanding in -- in 2005, at 8 the time that the Ferreras made their investment, what 9 was your understanding as to the -- if any -- as to the 10 strategy that Fairfield Sentry was using? 11 A. It was a hedge fund. 12 Q. Other than it was a hedge fund, did you know 13 the particular strategy that was being used? 14 A. They -- as this says, they invested in the 15 S &amp; P 500. The S &amp; P 100 is stock. 16 Q. Okay. From your perspective as a -- as a 17 client relationship officer, you were relying, weren't 18 you, on -- on EFG Capital to understand the particulars 19 about any hedge fund, including Fairfield Sentry? 20 A. Yes. 21 MR. COATES: Object -- I want to object to the 22 form of the question. 23 THE WITNESS: Yes. 24 BY MR. LAWRENCE KELLOGG: 25 Q. Okay. Did you -- had you heard, in 2005, of</p>
59	<p>1 Q. And would you -- would you do it to particular 2 customers or for all of them? 3 A. On and off, all of them. 4 Q. All right. You figure -- did you consider 5 that to be part of the service you provided to your 6 clients? 7 A. Yes, if the client had the Fairfield Sentry 8 Fund. 9 Q. Yeah. Now, if somebody didn't have the 10 Fairfield Sentry Fund but was -- you were either talking 11 to them about it or they were interested in it, would 12 you provide the tear sheets to those persons? 13 A. Yes. 14 Q. So did you use the tear sheets to -- to market 15 this product to potential purchasers? 16 A. Yes. 17 Q. Other than the tear sheets, would there be any 18 other marketing information regarding Fairfield Sentry 19 that you would use for potential customers? 20 A. There is the offering memorandum. 21 Q. All right. Anything else? 22 A. That was -- 23 THE COURT REPORTER: Excuse me? 24 THE WITNESS: No. 25</p>	61	<p>1 the term "split-strike conversion strategy"? 2 A. Yes. 3 Q. All right. Did you have an understanding 4 whether or not Fairfield Sentry employed a strategy 5 called "split-strike conversion"? 6 A. Yes. 7 Q. What's your understanding of what that 8 strategy is, if you have any? 9 A. I don't recall at this time. 10 Q. Okay. It says on the tear sheet here that the 11 investment manager is Fairfield Greenwich (UK) Limited. 12 Do you see that? It's in the third box from 13 the top on the left. 14 A. Okay. 15 Q. If you look at the third box down, it says 16 "investment manager." 17 A. Yes. 18 Q. Fairfield Greenwich (UK) Limited. 19 A. Yes. 20 Q. Is that your understanding as to who was 21 managing this fund? 22 A. Well, this says "investment manager," yes. 23 Q. Okay. And you got that information from the 24 tear sheet that EFG Capital was providing. Is that 25 right?</p>

62	<p>1 A. Fairfield provide this (indicating).</p> <p>2 Q. To EFG Capital?</p> <p>3 A. Yes.</p> <p>4 Q. And then EFG Capital provided it to you and</p> <p>5 that's how you knew it, right?</p> <p>6 A. Yes.</p> <p>7 Q. In 2005 --</p> <p>8 MR. LAWRENCE KELLOGG: Let's go off the record</p> <p>9 for a second.</p> <p>10 THE VIDEOGRAPHER: Going off the record. Time</p> <p>11 is 10:38.</p> <p>12 (Thereupon, a recess was taken from 10:38 a.m.</p> <p>13 to 10:39 a.m.)</p> <p>14 THE VIDEOGRAPHER: We're back on the record.</p> <p>15 Time is 10:39.</p> <p>16 BY MR. LAWRENCE KELLOGG:</p> <p>17 Q. In 2005, did you have an understanding that</p> <p>18 Fairfield Greenwich (UK), Limited, had delegated all</p> <p>19 investment decisions as to the Fairfield Sentry Fund to</p> <p>20 Bernard Madoff Investment Securities?</p> <p>21 A. I can't recall.</p> <p>22 Q. Okay. Before all this came out, Madoff was</p> <p>23 revealed as a fraud, did -- had you -- did you know</p> <p>24 anything about Bernard Madoff Securities and its</p> <p>25 relationship to the Fairfield Sentry Fund?</p>	64	<p>1 Q. Okay. How did you find out this was a feeder</p> <p>2 fund?</p> <p>3 A. It says here somewhere. If it's not this one,</p> <p>4 another one (indicating.)</p> <p>5 And also the other document I indicated to</p> <p>6 you.</p> <p>7 Q. The offering memorandum?</p> <p>8 A. Yes.</p> <p>9 Q. All right. So you think the offering</p> <p>10 memorandum and some tear sheets somewhere will show that</p> <p>11 Bernard Madoff was actually making investment decisions</p> <p>12 and that's how you knew it. Right?</p> <p>13 A. What? Can you repeat again?</p> <p>14 Q. Sure. The reason you know -- and when you</p> <p>15 sold these products, you knew this was a feeder fund</p> <p>16 from Madoff?</p> <p>17 A. That was a common knowledge to everybody.</p> <p>18 Q. Okay.</p> <p>19 A. It was not a secret.</p> <p>20 Q. Okay. Okay. What did you know about Madoff,</p> <p>21 if anything?</p> <p>22 A. Well, people -- he was a -- supposed to -- he</p> <p>23 was the -- one of the director of the NASD at the time,</p> <p>24 and he was a -- a person known to the financial</p> <p>25 community.</p>
63	<p>1 A. I can't recall that.</p> <p>2 Q. You don't recall one way or another or you</p> <p>3 don't think you knew anything about that?</p> <p>4 MR. COATES: Object to form.</p> <p>5 You may answer.</p> <p>6 THE WITNESS: Can you repeat the question?</p> <p>7 BY MR. LAWRENCE KELLOGG:</p> <p>8 Q. Yes. We're looking here at 2007, this tear</p> <p>9 sheet --</p> <p>10 A. Yes.</p> <p>11 Q. -- shows Fairfield Sentry (UK)[sic] as being</p> <p>12 the investment manager.</p> <p>13 A. Yes.</p> <p>14 Q. We know now that Bernard Madoff Investment</p> <p>15 Securities was the actual -- making the actual decisions</p> <p>16 as to investments supposedly made in this fund. You</p> <p>17 know that now.</p> <p>18 MR. COATES: Object to form.</p> <p>19 You may answer.</p> <p>20 THE WITNESS: This is a feeder fund to -- to</p> <p>21 Madoff and everybody -- this is a feeder fund.</p> <p>22 BY MR. LAWRENCE KELLOGG:</p> <p>23 Q. Yes. Did you know it was a feeder fund to</p> <p>24 Madoff at the time that you were offering it to --</p> <p>25 A. Yes.</p>	65	<p>1 Q. What was your understanding, if any, in --</p> <p>2 when you were selling these products, the Fairfield</p> <p>3 Sentry product -- as to what EFG Capital's relationship</p> <p>4 was with Fairfield Sentry?</p> <p>5 A. What do you mean for "relationship"?</p> <p>6 Q. Contractual relationship. Did you know that</p> <p>7 they had a contractual relationship?</p> <p>8 A. Oh, yes.</p> <p>9 Q. What was your understanding of that?</p> <p>10 A. That it was a contractual relationship.</p> <p>11 Q. Okay. Did you know any of the terms of it?</p> <p>12 A. No.</p> <p>13 Q. Had you ever seen the contract?</p> <p>14 A. No.</p> <p>15 Can I rephrase that?</p> <p>16 Q. Sure.</p> <p>17 A. I -- you said a contractor relationship.</p> <p>18 Q. Yes.</p> <p>19 A. For EFG to offer the feeder, it had to be an</p> <p>20 agreement. I don't know whether it was an agreement on</p> <p>21 a contract or -- but some type of agreement.</p> <p>22 Q. So in order for EFG to -- to offer -- what did</p> <p>23 you say, the feeder fund?</p> <p>24 A. Yes.</p> <p>25 Q. There had to be some relationship, whether it</p>

<p style="text-align: right;">66</p> <p>1 was a contract --</p> <p>2 A. With Fairfield Sentry. With Fairfield Sentry.</p> <p>3 Q. Okay. Do you know --</p> <p>4 A. Whether it was a contract or not.</p> <p>5 Q. I see.</p> <p>6 What was your understanding -- whether or not</p> <p>7 it was contract -- what was your understanding as to the</p> <p>8 relationship between EFG Capital and Fairfield Sentry?</p> <p>9 A. If he has an open platform -- do you know what</p> <p>10 an open platform is?</p> <p>11 Q. No, please -- please explain it.</p> <p>12 A. An open platform is that you can offer -- that</p> <p>13 if a client wants to buy a product and EFG doesn't offer</p> <p>14 the product, if the client assumes the responsibility</p> <p>15 for the product, EFG will try to get that product for</p> <p>16 them.</p> <p>17 Q. What do you mean "if the client assumes the</p> <p>18 responsibility"? What do you mean?</p> <p>19 A. Yes. EFG is not taking any -- recommending</p> <p>20 anything or suggesting.</p> <p>21 Q. Okay. So the client comes in and says, "I've</p> <p>22 heard about this fund and I would like to buy it." An</p> <p>23 open platform means that EFG Capital would say, "Fine,</p> <p>24 but we're not vouching for this product" --</p> <p>25 A. Well, he has to sign a letter to that effect,</p>	<p style="text-align: right;">68</p> <p>1 Q. "Sometimes they will"?</p> <p>2 THE COURT REPORTER: "They" what?</p> <p>3 THE WITNESS: Sometimes they will get the</p> <p>4 client approval to buy, other times EFG will not.</p> <p>5 BY MR. LAWRENCE KELLOGG:</p> <p>6 Q. They won't do it?</p> <p>7 A. They won't do it.</p> <p>8 Q. So there are instances where a client says, "I</p> <p>9 want to buy a particular hedge fund," EFG Capital will</p> <p>10 look into it and say, "We're just not going to do it"?</p> <p>11 A. For a reason. Maybe it's not available, maybe</p> <p>12 they don't want to sell it. Who knows.</p> <p>13 Q. Okay. If they decide that it's okay, then, is</p> <p>14 that when the client --</p> <p>15 A. Not that the fund is okay.</p> <p>16 Q. No, I'm -- let me rephrase.</p> <p>17 When they decide "we'll allow you to" -- "we</p> <p>18 will sell you this or find this for you."</p> <p>19 A. Yeah. We will execute the order.</p> <p>20 Q. We will execute the order.</p> <p>21 Then at that time a letter is signed, you</p> <p>22 mentioned?</p> <p>23 A. Before.</p> <p>24 Q. Before. What is -- what is the purpose of the</p> <p>25 letter?</p>
<p style="text-align: right;">67</p> <p>1 the client.</p> <p>2 MR. COATES: Object to form.</p> <p>3 Please, again, let --</p> <p>4 THE WITNESS: Oh, yes. I'm sorry. I'm sorry.</p> <p>5 MR. COATES: Mr. Kellogg and Mr. Yannuzzi,</p> <p>6 please, I would ask both of you to please let each</p> <p>7 other finish so the court reporter can get down --</p> <p>8 take down the question and answer.</p> <p>9 BY MR. LAWRENCE KELLOGG:</p> <p>10 Q. And in an open platform, a letter would have</p> <p>11 to be signed by the client saying, "I understand EFG</p> <p>12 isn't recommending this," or words to that effect?</p> <p>13 A. Not in the open platform. Is when the client</p> <p>14 wants to buy something that is not on the approved list</p> <p>15 of --</p> <p>16 Q. Yes.</p> <p>17 A. -- EFG Capital.</p> <p>18 Q. Okay. Somebody wants to buy something not on</p> <p>19 the approved list through EFG Capital. What was the</p> <p>20 procedure, in 2004 until 2008, as to how that would be</p> <p>21 accomplished?</p> <p>22 A. Well, the procedure for that was the client</p> <p>23 will indicate what product he wanted to purchase. And</p> <p>24 EFG will look into. And sometimes they were patient,</p> <p>25 other times they don't.</p>	<p style="text-align: right;">69</p> <p>1 A. Well, the letter is -- is a client assuming</p> <p>2 the responsibility for the purchase of.</p> <p>3 Q. I'm not sure I heard that. The client</p> <p>4 assuming --</p> <p>5 A. -- responsibility for the purchase of that</p> <p>6 particular product or investment matter.</p> <p>7 Q. Now, we were talking before we got off on that</p> <p>8 about what your knowledge was about the relationship</p> <p>9 between EFG Capital and Fairfield Sentry. You said you</p> <p>10 didn't know if it was a contract or not, but there was</p> <p>11 some sort of relationship. Is that right?</p> <p>12 A. Yes.</p> <p>13 Q. What was your understanding of what the</p> <p>14 relationship was?</p> <p>15 A. I have no knowledge of it. It's --</p> <p>16 Q. Did -- did you have an understanding that</p> <p>17 Fairfield Sentry was going to compensate EFG Capital for</p> <p>18 every sale of the Fairfield Sentry product?</p> <p>19 A. It's a common practice in the industry to</p> <p>20 compensate, whether it's Fairfield Sentry, MFS, Pernal,</p> <p>21 et cetera.</p> <p>22 Q. So you're saying it's a common practice for a</p> <p>23 hedge fund --</p> <p>24 A. In the industry.</p> <p>25 Q. In the industry -- for a hedge fund to pay</p>

70	<p>1 compensation to the financial advisor?</p> <p>2 A. Not just for the -- not just hedge funds,</p> <p>3 mutual funds also.</p> <p>4 Q. Okay. For -- for securities products?</p> <p>5 A. Yes.</p> <p>6 Q. It's a common practice for securities products</p> <p>7 to compensate the broker who is recommending that</p> <p>8 product to a client. Is that right?</p> <p>9 MR. COATES: I'm going to object to the form.</p> <p>10 THE WITNESS: To compensate the company that</p> <p>11 the broker works for.</p> <p>12 BY MR. LAWRENCE KELLOGG:</p> <p>13 Q. Okay. And in this instance, do you know what</p> <p>14 the compensation arrangement was between EFG Capital and</p> <p>15 Fairfield Sentry?</p> <p>16 A. No.</p> <p>17 Q. Do you know how much as a percentage-wise --</p> <p>18 well, let me -- did you understand that Fairfield Sentry</p> <p>19 was paying a portion of its management fee to EFG</p> <p>20 Capital for every customer that -- of EFG Capital that</p> <p>21 was purchasing the product?</p> <p>22 A. Yes.</p> <p>23 Q. Did you know the amount of the management fee?</p> <p>24 A. No.</p> <p>25 Q. Did you have any understanding as to whether</p>	72	<p>1 generally tell us what this is meant to show?</p> <p>2 A. I can't recollect.</p> <p>3 Q. All right. And -- and whether you recollect</p> <p>4 or not, today you just can't help us with that, as to</p> <p>5 what it means, performance versus the universe?</p> <p>6 A. It is performance versus an array of</p> <p>7 investments that they call the universe.</p> <p>8 Q. Okay. At the bottom there is something called</p> <p>9 a "risk, hyphen, return scattergram,"</p> <p>10 S-C-A-T-T-E-R-G-R-A-M. Do you know what that means?</p> <p>11 A. Yes, this explains the -- the risk and return</p> <p>12 of the fund.</p> <p>13 Q. And what is -- this particular one,</p> <p>14 risk-return scattergram, can you tell us what this</p> <p>15 shows? There seems to be three boxes on here. What</p> <p>16 does it show to you?</p> <p>17 A. Shows the return on the left.</p> <p>18 Q. Uh-huh.</p> <p>19 A. And the risk on the bottom.</p> <p>20 Q. So would you say on this risk-return</p> <p>21 scattergram it shows that the Fairfield Sentry has a</p> <p>22 higher return at lower risk than two different</p> <p>23 benchmarks also indicated here?</p> <p>24 Is that what that shows to you?</p> <p>25 A. That is what they're trying to show.</p>
71	<p>1 Bernard Madoff was charging any fee for his services as</p> <p>2 an investment advisor to Fairfield Sentry?</p> <p>3 A. No.</p> <p>4 Q. Going back to Exhibit 34 for a minute. The</p> <p>5 first page of Exhibit 34, which is the tear sheet, has a</p> <p>6 description of the fund and its strategy and then has</p> <p>7 some information about its -- the returns that it earned</p> <p>8 over periods of time. Do you see that?</p> <p>9 A. Yes.</p> <p>10 Q. The next page has some somewhat different</p> <p>11 categories. I wonder if you might be able to explain,</p> <p>12 generally speaking, what they mean.</p> <p>13 At the very top it says "Performance and</p> <p>14 Statistical Analysis." And it has -- it looks like a</p> <p>15 chart that says "Performance versus Universe."</p> <p>16 Do you see that?</p> <p>17 A. Where?</p> <p>18 Q. It's in the middle of page 2. It's a chart.</p> <p>19 A. Yes.</p> <p>20 Q. It says "Performance versus Universe." You</p> <p>21 see that?</p> <p>22 A. Yes.</p> <p>23 Q. What does that show?</p> <p>24 A. I can't recollect about this.</p> <p>25 Q. As you look at it here today, can you just</p>	73	<p>1 Q. Okay. The -- the bottom two categories here</p> <p>2 look like they're some statistical analysis done of</p> <p>3 something.</p> <p>4 Do -- do -- do you have an understanding of</p> <p>5 what this means?</p> <p>6 MR. COATES: Are you at the bottom of the</p> <p>7 page?</p> <p>8 MR. LAWRENCE KELLOGG: The last two. It's</p> <p>9 called "Annualized Statistical Analysis."</p> <p>10 BY MR. LAWRENCE KELLOGG:</p> <p>11 Q. There's several columns: Analyzed Statistical</p> <p>12 Analysis, ROR, Standard Deviation, Sharp, Alpha, Beta,</p> <p>13 R, R2. Do you know what that means?</p> <p>14 A. They are different type of standards to</p> <p>15 analyze the fund.</p> <p>16 Q. When -- when you were offering this product</p> <p>17 for sale, what -- what sort of client -- or what sort of</p> <p>18 client objectives would be appropriate, in your view,</p> <p>19 for the Fairfield Sentry Fund?</p> <p>20 A. Client objective?</p> <p>21 Q. Yeah.</p> <p>22 A. Can you repeat?</p> <p>23 Q. Yes. If -- during the years you were offering</p> <p>24 this fund, we'll say -- when was the first time you</p> <p>25 offered this fund? 2004?</p>

74	<p>1 A. That time, 2005. I can't recall the exact 2 date.</p> <p>3 Q. And did you continue to offer the product 4 right up until the time the fraud was revealed?</p> <p>5 A. No.</p> <p>6 Q. When did you -- is there -- did there come a 7 point in time where you stopped offering this product?</p> <p>8 A. Well, because -- most of the clients request 9 it. So it was not really an open offering to people in 10 Miami.</p> <p>11 Sometime -- I just don't have the exact date.</p> <p>12 Q. Well, was it -- do you have a year that you 13 stopped offering it?</p> <p>14 A. It could be 2007 or beginning of 2008. I just 15 can't recall.</p> <p>16 Q. And was there some event that made you decide 17 no longer to offer the product?</p> <p>18 A. Well, remember what I mentioned to you before. 19 Clients requested the fund, the majority of them. So 20 there were other type of investments that probably were 21 more attractive or...</p> <p>22 Q. Well, I'm just trying to get to -- there were 23 instances, weren't there, where a client came to you and 24 said, "These are my objectives," and Fairfield was one 25 of the products you brought to their attention. That</p>	76	<p>1 A. -- performance.</p> <p>2 Q. Okay. If you look at the third page of 3 Exhibit 30 -- or fourth page.</p> <p>4 A. The Fairfield Sentry, if you look in year 5 2000, and you start looking that the historical 6 performance decrease.</p> <p>7 Q. The performance decreased.</p> <p>8 A. Yes.</p> <p>9 Q. The returns; is that what you're saying?</p> <p>10 A. Sure.</p> <p>11 Q. What changed, if anything, about the 12 volatility of the fund that would make you stop 13 recommending it?</p> <p>14 MR. COATES: Object to form.</p> <p>15 You may answer.</p> <p>16 BY MR. LAWRENCE KELLOGG:</p> <p>17 Q. Answer.</p> <p>18 A. I just explain it to you.</p> <p>19 Q. Yeah.</p> <p>20 A. The decrease in the historical performance.</p> <p>21 Q. Okay. Where are you looking?</p> <p>22 A. The first page.</p> <p>23 Q. Okay. During the year 2000 --</p> <p>24 A. Look at 2000 and then look up (indicating.)</p> <p>25 Q. And if you look at the year 2000 through two</p>
75	<p>1 happened, didn't it?</p> <p>2 A. Among other products.</p> <p>3 Q. Yeah, among --</p> <p>4 A. Yes.</p> <p>5 Q. -- a range of products.</p> <p>6 And at some point did you stop doing that? 7 Did you stop including Fairfield Sentry as part of the 8 products that you might bring to the attention of a 9 particular customer?</p> <p>10 A. Yes.</p> <p>11 Q. What made you stop?</p> <p>12 A. Well, the volatility in the markets. 13 Volatility in the markets. You -- you have to reassess 14 your clients' investments.</p> <p>15 Q. Okay. And you think that happened sometime in 16 late 2007, early 2008?</p> <p>17 A. Probably. Yes.</p> <p>18 Q. What was your understanding, if any, about the 19 volatility of the Fairfield Sentry Madoff feeder fund?</p> <p>20 MR. COATES: Object. Lack of predicate.</p> <p>21 BY MR. LAWRENCE KELLOGG:</p> <p>22 Q. You can answer.</p> <p>23 A. Well, to that you have to look at the 24 historical --</p> <p>25 Q. Okay.</p>	77	<p>1 thousand---</p> <p>2 A. So maybe "volatility" is not the perfect word 3 for that. I would say the decrease in performance.</p> <p>4 Q. I see. All right.</p> <p>5 So the -- what you're looking at here, just 6 we're using Exhibit 34 as an example, but this shows 7 from 2000 to 2007 how much money Fairfield Sentry earned 8 each year by month. Is that right?</p> <p>9 MR. COATES: I'm sorry. Are you on the --</p> <p>10 THE WITNESS: Here (indicating).</p> <p>11 MR. COATES: Okay.</p> <p>12 MR. LAWRENCE KELLOGG: Exhibit 30.</p> <p>13 MR. COATES: Okay.</p> <p>14 THE WITNESS: This is the performance what is 15 called the "net asset value," which is either what 16 the Fairfield will make monthly or lose monthly.</p> <p>17 BY MR. LAWRENCE KELLOGG:</p> <p>18 Q. Okay.</p> <p>19 A. Actually, what they were paying to the 20 clients.</p> <p>21 Q. And in -- from 2000 until 2007, according to 22 this chart here, on an annual basis, Fairfield Sentry 23 always earned money. Is that right?</p> <p>24 A. In an annual base, yes. But in a monthly, 25 there are a few minuses. If you look at the --</p>

78	<p>1 Q. I count --</p> <p>2 A. -- age column, January, February, it show a</p> <p>3 minus before the figure.</p> <p>4 Q. Yeah, I'm looking at the 82 months listed</p> <p>5 here. One, two, three, four months in which Fairfield</p> <p>6 Sentry lost money. And one month where they didn't make</p> <p>7 or lose any money. That's December of 2002.</p> <p>8 In your experience as a financial advisor,</p> <p>9 were there any other funds that you were aware of that</p> <p>10 during this period of time, 2000-2007, made money every</p> <p>11 year?</p> <p>12 A. I will have to look at charts and --</p> <p>13 Q. Okay. As you sit here, you don't remember</p> <p>14 any --</p> <p>15 A. I don't remember.</p> <p>16 Q. All right. So now looking at this chart here,</p> <p>17 you're telling us that in 2007 or early 2008 you decided</p> <p>18 no longer to recommend Fairfield Sentry, because of --</p> <p>19 A. Well --</p> <p>20 Q. -- the decrease in return.</p> <p>21 A. It was --</p> <p>22 Q. Was there --</p> <p>23 A. Yes.</p> <p>24 Q. -- any other reason?</p> <p>25 A. No.</p>	80	<p>1 weren't asking for it?</p> <p>2 A. Correct.</p> <p>3 Q. Did you tell any of your existing customers</p> <p>4 that you had made this decision?</p> <p>5 A. I can't recall.</p> <p>6 Q. All right. So if somebody wanted to buy a</p> <p>7 Fairfield Sentry Fund through you, through EFG Capital,</p> <p>8 how would that physically be accomplished? How would</p> <p>9 you execute that trade?</p> <p>10 A. Well, after the person decide to -- to invest,</p> <p>11 we will send the offering memorandum and -- and a</p> <p>12 consent form that that particular client had to read</p> <p>13 that she or he understood the purchase and the risk</p> <p>14 involved and send it back to us.</p> <p>15 Q. Okay.</p> <p>16 A. And have the money in their account.</p> <p>17 Q. Did any of your customers become direct</p> <p>18 subscribers of Fairfield Sentry or did they do that</p> <p>19 through EFG Bank?</p> <p>20 A. I don't have knowledge of.</p> <p>21 Q. When you would sell to customers the Fairfield</p> <p>22 Sentry product, would EFG Bank be the subscriber or</p> <p>23 would the individual customer be the subscriber?</p> <p>24 A. It was special street name.</p> <p>25 Q. Sell them street name by who?</p>
79	<p>1 Q. This return -- from 2006 through October,</p> <p>2 anyway, of 2007, it had -- it had earned 5.9 percent,</p> <p>3 6 percent for the year.</p> <p>4 Was that insufficient, in your mind?</p> <p>5 A. Well, it's nothing to rock the boat.</p> <p>6 Q. Okay.</p> <p>7 A. I mean, 6 percent at that time is nothing.</p> <p>8 Q. Did you sell any Fairfield Sentry after the</p> <p>9 fall of 2007, to your knowledge?</p> <p>10 A. I can't recall.</p> <p>11 Q. Was there any directive from anybody at EFG</p> <p>12 Capital to stop selling Fairfield Sentry during that</p> <p>13 time period --</p> <p>14 A. No.</p> <p>15 Q. -- when you did, when you stopped selling it?</p> <p>16 A. No.</p> <p>17 Q. At that time when you decided you'd no longer</p> <p>18 offer Fairfield Sentry as a product to customers, did</p> <p>19 you tell any of them about your decision?</p> <p>20 A. Let me -- if a client had requested, "I want</p> <p>21 to buy this," and he understood the product, I would</p> <p>22 have sold it.</p> <p>23 Q. Okay.</p> <p>24 A. Okay?</p> <p>25 Q. But you weren't bringing it to people who</p>	81	<p>1 A. By EFG Capital.</p> <p>2 Q. When you were opening up --</p> <p>3 A. Purchase from Fairfield Sentry street name.</p> <p>4 Q. Would -- what do you mean by that, in "street</p> <p>5 name"?</p> <p>6 A. It's in the EFG Capital name.</p> <p>7 Q. EFG Capital name or EFG Bank?</p> <p>8 A. I can't -- I don't recall.</p> <p>9 Q. Did -- did you present any of your customers</p> <p>10 with a subscription agreement from Fairfield that they</p> <p>11 would fill out and sign as subscribers in their own</p> <p>12 names? Did that ever happen?</p> <p>13 A. No.</p> <p>14 Q. Okay. And every time that you -- that you</p> <p>15 sold to any customer, the Fairfield Sentry, it would be</p> <p>16 held in the street name of either EFG Capital or EFG</p> <p>17 Bank?</p> <p>18 A. Yes.</p> <p>19 Q. How --</p> <p>20 A. To my knowledge.</p> <p>21 Q. Okay. If it was -- would -- did all of your</p> <p>22 customers who held EFG Capital open up Swiss bank</p> <p>23 accounts with the Private Bank?</p> <p>24 MR. COATES: Object to form.</p> <p>25 THE WITNESS: What?</p>

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1 BY MR. LAWRENCE KELLOGG:  
 2 Q. I mean if -- if you wanted to -- if you wanted  
 3 to purchase Fairfield Sentry and it was done in the name  
 4 of, say, EFG Bank, would a -- would a -- would a EFG  
 5 Bank account have to be opened for that to be  
 6 accomplished?  
 7 MR. COATES: Object to form.  
 8 THE WITNESS: I don't really understand the  
 9 question, to tell you the truth.  
 10 BY MR. LAWRENCE KELLOGG:  
 11 Q. Did your customers -- did you offer to your  
 12 customers the opportunity to open up bank accounts with  
 13 EFG Private Bank?  
 14 A. Yes.  
 15 Q. And if -- did you offer the opportunity for  
 16 your customers to have custody of their securities held  
 17 by the Private Bank, EFG Private Bank?  
 18 A. Yes.  
 19 Q. And did most of your customers take advantage  
 20 of that opportunity?  
 21 A. Yes.  
 22 Q. Were you compensated for -- for referring --  
 23 is that --  
 24 A. No.  
 25 Q. -- earlier you said custody --

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1 A. No.  
 2 Q. -- custody fees were --  
 3 A. No.  
 4 Q. -- charged to your account.  
 5 Would custody fees from EFG Bank accounts be  
 6 charged?  
 7 A. Yes.  
 8 Q. Okay. Credited, I should say, to you?  
 9 A. Credit to the P & L.  
 10 Q. During your -- during your employment from,  
 11 say, 2004 to 2008 with EFG Capital, did they offer any  
 12 training programs to you?  
 13 A. Any what?  
 14 Q. Training programs?  
 15 A. Yes.  
 16 Q. What -- what training programs did you  
 17 participate in?  
 18 A. I -- I can't recall.  
 19 Q. Do you recall any of them?  
 20 A. (Witness nods.) I can't recall.  
 21 Q. Did you ever meet with anybody from the  
 22 Fairfield Sentry Fund?  
 23 A. Yes.  
 24 Q. Who did you meet with?  
 25 A. Lourdes Barreneche.

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1 Q. Can you spell her last name, please.  
 2 A. Let's see if I can remember. B, for boy,  
 3 A-R-R-E-C-H-E [sic].  
 4 Q. Okay. What was the occasion for you to meet  
 5 with her?  
 6 A. She was a salesperson.  
 7 Q. Salesperson employed by Fairfield Sentry?  
 8 A. Yes. And they have other funds, not just the  
 9 Fairfield. They have various funds that they offer.  
 10 Q. When you say "they," who do you mean?  
 11 Greenwich?  
 12 A. The -- the Fairfield Sentry.  
 13 Q. The Fairfield sponsor?  
 14 A. Yes.  
 15 Q. How many times did you meet her?  
 16 A. I cannot recall the exact number. Few times.  
 17 Q. Okay. And what were the purposes of the  
 18 meetings?  
 19 A. The meeting, as I said before, she wanted to  
 20 present those funds to the values CROs.  
 21 THE COURT REPORTER: "The values"?  
 22 THE WITNESS: Values.  
 23 MR. LAWRENCE KELLOGG: So she would --  
 24 THE WITNESS: CROs.  
 25 THE COURT REPORTER: Okay.

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1 BY MR. LAWRENCE KELLOGG:  
 2 Q. And where -- where would this take place, in  
 3 New York or --  
 4 A. Yes.  
 5 Q. -- Miami or both?  
 6 A. With me it was in New York.  
 7 Q. How many CROs were in New York during  
 8 2004-2008?  
 9 A. Between two and four.  
 10 THE COURT REPORTER: I'm sorry?  
 11 THE WITNESS: Between two and four.  
 12 BY MR. LAWRENCE KELLOGG:  
 13 Q. And the purpose of these meetings is  
 14 essentially for her to explain what her -- what her  
 15 employer's funds offered?  
 16 A. More products, investments. Funds.  
 17 Q. Would she provide you with written handouts  
 18 and so forth?  
 19 A. Yes.  
 20 Q. Did you ever meet with anyone else from  
 21 Fairfield Sentry?  
 22 A. I don't recall.  
 23 Oh, yes. The lady, Veronica Barko.  
 24 Q. Veronica Barko?  
 25 A. Yeah, but she was Lourdes' assistant. We talk

86	<p>1 on the telephone. She would call to set up appointment 2 for Lourdes or whatever. 3 THE COURT REPORTER: She'd call to set up? 4 THE WITNESS: An appointment for Lourdes or -- 5 BY MR. LAWRENCE KELLOGG: 6 Q. Would Mr. Echevarria attend these meetings? 7 A. I don't recall in New York. I don't recall. 8 Q. Did you ever meet with anybody from Fairfield 9 down here in Miami? 10 A. I don't recall. 11 Q. So it would just be you and whoever the CR -- 12 other CROs were? 13 A. Yes. 14 Q. Just for information exchange? 15 A. Yes. 16 Q. Did you ever do any separate due diligence at 17 all on Fairfield Sentry? 18 A. No. 19 Q. Did you ever meet with Mr. Madoff? 20 A. No. 21 Q. Did you ever tour the facilities of Fairfield 22 Sentry? 23 A. Once. 24 Q. How did that come about? 25 A. Lourdes invited me to visit their office.</p>	88	<p>1 A. Yes. 2 Q. What is it? 3 A. It's a Notice to Client. 4 Q. This says: "Re: Fairfield Sentry Limited, the 5 fund. We enclose for your information and review a copy 6 of the latest revised version of the fund's information 7 memorandum that you should review carefully. The fund's 8 performance speaks for itself. Attached. However, we 9 would like to highlight" -- the language is garbled 10 here. Next thing I can read is: "Bernard L. Madoff 11 Investment Securities had capital as of October 31, 12 2004, of U.S. \$500 million. This is much less than the 13 capital of a major international bank. To that extent, 14 investing in the fund represents one of the risks of 15 investing in the fund." 16 I'm going to stop there. Prior to now, have 17 you ever seen a Notice to Clients about Fairfield Sentry 18 that says what I just read to you? 19 A. You mean prior to 2005? 20 Q. No, prior to today's deposition. 21 Did you send these notices out yourself? 22 A. No. 23 Q. Have you ever seen -- have you ever seen a 24 Notice to Clients relating to Fairfield Sentry Limited 25 that has the language I just read to you?</p>
87	<p>1 Q. Where was it, in Connecticut? 2 A. No -- 3 Q. Or in New York? 4 A. -- it was in her office in New York. 5 To talk about new products, whatever. 6 Q. Did -- but did she actually give you a tour -- 7 A. No. 8 Q. -- of her operations? 9 A. No. 10 (Thereupon, the referred-to document was 11 marked by the court reporter for Identification as 12 Plaintiff's Exhibit 35.) 13 BY MR. LAWRENCE KELLOGG: 14 Q. All right. I'm marking as Exhibit 35 a 15 composite exhibit, which is Exhibit 5 to the affidavit 16 of Sixto Campano; and I have marked with a sticky, I 17 believe, page EFG 7808. 18 Is that the one you have in front of you? 19 Are you with me? On page EFG Capital 007808 20 there's a document entitled "Notice to Clients" that 21 appears to be dated sometime in 2005. And the reason 22 I'm showing this to you is it appears to be during the 23 time frame when you were employed by EFG Capital. 24 And I ask if you've ever seen a letter or a 25 notice like this.</p>	89	<p>1 A. Yes. 2 Q. Okay. When did you see it? 3 A. (Indicating) Now. 4 Q. Okay. Now. All right. 5 When you were selling the Fairfield Sentry 6 product for EFG Capital in 2004, '5, '6, '7, maybe 2008, 7 did you know that notices to clients were going out that 8 said this? 9 A. No. 10 Q. All right. Now, it says that -- 11 A. Not to my knowledge. I didn't know. 12 Q. Okay. So did you -- do you understand, as you 13 read this now -- and maybe this is a bad copy to ask you 14 about this -- 15 A. Yes. 16 Q. -- but -- maybe if we could get a better copy 17 of it. 18 If you look at the prior page. 19 A. Okay. 20 Q. Look at the prior page -- and this is undated, 21 that's why I didn't use it. I don't know what date this 22 was used. 23 But it's EFG Capital 8038. And it says: "The 24 fund's performance speaks for itself. Attached." 25 A. Which one is, 8038?</p>



90	<p>1 Q. Yes. And the second paragraph says: "Fund's 2 performance speaks for itself. Attached. However, we 3 would like to highlight the fact that the fund's assets 4 are custodized with its investment advisor, Bernard L. 5 Madoff Investment Securities, rather than with a major 6 international bank, directly or through a subsidiary, as 7 is the case with most investment funds." 8 I'm going to stop there. Did you know that, 9 in 2004 or, '5, '6, or '7? 10 A. That was in 2003 when I wasn't there. 11 Q. But did you know it in 2004, '5, '6, or '7, 12 that the securities were with Bernard Madoff Investment 13 Securities -- 14 A. Yes. 15 Q. -- not -- rather than an international bank? 16 A. Yes. But if you read Notice to Client, 17 Fairfield Sentry Limited, which is Exhibit 7986. 18 Q. Which is? 19 A. (Indicating.) 20 Q. I'm trying to see what you're showing me here. 21 Okay. So you're looking at the next page? 22 A. This is the new form. 23 Q. The new form. 24 Have you seen -- have you seen the new form? 25 A. Yes.</p>	92	<p>1 expenses, and is the safe document upon which investor 2 should rely. 3 "In addition to the risk factors, included in 4 this document, we would like to highlight the fund's 5 custodian services management. As a result of the 6 investment manager's selection of Bernard L. Madoff 7 Investment Securities, LLC, BLM, as execution agent of 8 the fund's split-strike conversion strategy. BLM..." -- 9 I don't know what the -- "serves"? 10 BY MR. LAWRENCE KELLOGG: 11 Q. "Serves," it looks like. 12 A. Something sub-custodian of the fund. 13 Q. Yes. 14 A. According here, the client is being informed 15 the same thing, more explicit -- 16 Q. What -- what I'm asking you is -- 17 A. -- which is this one. 18 Q. -- and my question was, in -- this is dated 19 October 2006. You see that? 20 A. Yes. 21 Q. The one we were looking at before, is the 22 prior page, looks to be a 2005 form, which is somewhat 23 different. You see that? 24 A. Which form number is? 25 Q. 00 -- 007808, previous page to what we were</p>
91	<p>1 Q. And did you see it at the time? 2 A. I saw it -- yes, when it came out. 3 Q. All right. And did you know in 2006 that the 4 securities were in the custody of Bernard Madoff 5 Investment Securities, not with an international bank? 6 A. Do you read what this says? 7 Q. Yes, I read what it says. 8 A. Can you read the same way you read the other 9 one to me? 10 Q. Okay. Let's -- 11 MR. COATES: It's very blurry. 12 BY MR. LAWRENCE KELLOGG: 13 Q. You know, I didn't make these copies. These 14 are the way they were given to me by EFG Capital, so I 15 can't make any better copies of them. 16 However, what I'm asking you about -- and 17 there are several -- 18 A. I read it. I read it for you. 19 Q. Okay. 20 A. "We enclose for your information and review a 21 copy of the fund's private placement. Memorandum 22 dated" -- had different dates. This one was dated 2008. 23 "It contains the significant information 24 needed to evaluate a potential investment in the fund 25 and important disclosures regarding risk, fees,</p>	93	<p>1 just looking at. 2 A. Here's the one that you read. 3 Q. It's the page before the marked page. 4 MR. COATES: Okay. 5 BY MR. LAWRENCE KELLOGG: 6 Q. Or the marked page. 7 A. Yes. 8 Q. The marked page, Exhibit 7808, appears to be a 9 2005 form. 10 Do you see that? 11 A. Yes. 12 Q. My question is pretty simple. Did you -- did 13 you know about the 2005 form or just the 2006 form? 14 A. I don't know if this is a 2005 form. It was 15 signed in 2005. 16 Q. Okay. Well, what do you mean by that? 17 A. Meant that by that time a new form existed, 18 which was more explicit. 19 Q. Than the prior form? 20 A. Yes, to my understanding. 21 Q. Okay. Had you ever seen the prior form? 22 A. I don't recall. 23 Q. Were these forms sent out to every customer 24 when they signed up? 25 A. I don't know.</p>

94	<p>1 Q. Under what circumstances would a customer get 2 this notice or a Notice to Client about the issue of 3 custody of the securities? 4 A. This Notice to Client (indicating), dated 5 October 24, 2006, is sent to the client when the client 6 wishes to purchase a Fairfield -- 7 Q. Okay. So -- 8 A. -- form. 9 Q. So your understanding is that the 2006 form 10 would go out when someone was considering a purchase. 11 Is that right? 12 A. The other one also. 13 Q. And the other one. 14 When -- 15 A. But this form took place of the other one. 16 That's what I'm trying to tell you. 17 Q. I don't -- I don't understand what you just 18 said. 19 A. This is the new form. 20 Q. Yes. Yes. Right. 21 A. And this is the form my client sign. 22 Q. Okay. 23 MR. LAWRENCE KELLOGG: We need to change the 24 tape. 25 THE VIDEOGRAPHER: Going off the record. The</p>	96	<p>1 was being considered or were they sent out to existing 2 customers on a periodic basis? 3 A. I don't know. I don't recall. My 4 understanding is that is -- it was sent if the client 5 had shown interest to purchase. 6 Q. This notice would come from EFG Capital, not 7 from you. Is that correct? 8 A. I cannot answer because the notice in here is 9 before I start working and I don't know. 10 Q. What notice are you looking at? 11 A. I'm looking at all of them. 12 Q. If you take the one -- Exhibit 35, where I've 13 marked with the red sticker there. Do you see that? 14 This is Bates-labeled EFG Capital 007808. 15 This appears to be signed in July of 2005. Is that 16 after you -- you joined? 17 A. July -- it was June. This one is the one that 18 the person certifying that he's an individual that has 19 in excess of a million dollars. 20 Q. Yes. And prior to -- and my question to you 21 is, is: You were there then? 22 A. Yes, in 2005, in July, I was there. 23 Q. Do you know -- 24 A. Yes. 25 Q. -- whether this Notice to Clients was sent by</p>
95	<p>1 time is 11:27. 2 (Thereupon, a recess was taken from 11:27 a.m. 3 To 11:47 a.m.) 4 THE VIDEOGRAPHER: Now back on the record. 5 The time is 11:49. 6 BY MR. LAWRENCE KELLOGG: 7 Q. Okay. Before we broke we were talking about 8 Exhibit 35, and I had marked in Exhibit 35 with a red 9 tab a Notice to Client from 2005. And then you had 10 pointed out to me the next page, which is a Notice to 11 Client for 2006, a different form. I think I heard you 12 testify -- I just want to make sure -- that when -- when 13 the clients would be considering purchasing Fairfield 14 Sentry, they would be given a Notice to Clients in one 15 of these two forms. 16 A. There is a third form. 17 Q. There's a third form? All right. 18 A. Uh-huh. It's not here. 19 Q. What form are you referring to? 20 A. Consent form. 21 Q. Is that in Exhibit 35? 22 A. It is not here. 23 Q. All right. Focusing right now on the Notice 24 to Clients, these Notices to Clients. 25 Were they only sent out when the investment</p>	97	<p>1 you or by the firm? 2 A. This notice, if the client wishes to purchase 3 the Fairfield Sentry Fund and had more than a million 4 dollars, he had to sign that that he have credit so he 5 could purchase. 6 Q. Okay. And so you would have this form and you 7 would have the client fill it out or would it come from 8 the firm? 9 A. All the forms, they come from the firm to us. 10 We don't invent forms. 11 Q. This Notice to Clients that's signed by 12 somebody, we don't know who because it says redacted -- 13 this form Notice to Clients, when your customers would 14 open up a Fairfield Sentry account or investment, would 15 you give them this notice? 16 A. If you read the notice, it says, "I have a net 17 worth in excess of a million dollars." 18 Q. Yes, right. 19 A. For those it was given the notice. 20 Q. Okay. If you had a net worth in excess of a 21 million dollars, you were given -- would you be the 22 person to give this notice? 23 A. Yes. 24 Q. And you were the person who would get it 25 signed. Is that right?</p>

98	<p>1 A. Well, we will send it to the client and the 2 client would sign. 3 Q. "We" being you, Miguel Yannuzzi; wouldn't come 4 from the firm. Right? 5 A. No. 6 Q. "No," it would come from you -- 7 A. If this letter was going to be sent out, I 8 don't sign this letter. 9 Q. I know you don't sign it. Do you provide it 10 to the customer? 11 A. I don't recall. 12 Q. Okay. If -- if you were a customer in 13 Fairfield Sentry who did not have a net worth in excess 14 of a million dollars, like the Ferreriras, you would not 15 receive this notice -- 16 A. No. 17 Q. -- is that your testimony, or would you still 18 receive this notice? 19 A. No, because she doesn't have a million 20 dollars. Over here it says specific, you know. 21 Q. Okay. Would someone like Lorrene, who does 22 not have a million-dollar net worth and was investing in 23 Fairfield Sentry, would they be given -- would she be 24 given a notice that says, "We want you to understand 25 this about the custody of the funds at Fairfield"?</p>	100	<p>1 Clients only sent to those customers who were 2 considering a purchase, or was it also sent to customers 3 who already had purchased Fairfield Sentry but hadn't 4 received the notice before? 5 If you know. 6 A. Don't know. 7 Q. Okay. 8 A. Now let me just -- according to what the 9 notice says, notice -- or any other notice, regarding 10 the Fairfield, including the memorandum, has to be sent 11 before the purchase. 12 Q. Yes, it has to be sent before the purchase. 13 Is that right? 14 A. Or at the time of purchase. 15 Q. Okay. 16 (Thereupon, the referred-to document was 17 marked by the court reporter for Identification as 18 Plaintiff's Exhibit 36.) 19 BY MR. LAWRENCE KELLOGG: 20 Q. Let me have marked as Exhibit 36 a February 21 28, 2003, letter to Fairfield Sentry Fund client from 22 Victor Echevarria, Bates-labeled 007733. Also attached 23 to Exhibit 36 is a letter in another language, date -- 24 with a Bates label 007725; and another one, EFG Capital 25 008159; and another one, EFG Capital 008164 and 8165</p>
99	<p>1 A. She would get the Consent Form that she has to 2 read. 3 Q. Yes. 4 A. And she would get the memorandum. And the 5 memorandum is explicit on all that. And in the case of 6 Lorrene, she was a investment advisor. That is what, 7 you know, her qualify for the purchase of this fund. 8 Q. So she wouldn't have to sign a form that says 9 she has a net worth more than a million dollars? 10 A. Because she doesn't have a million dollars. 11 That's why she doesn't have to sign it. 12 Q. Looking at the next page of Exhibit 35, which 13 is the October 24, 2006, signed Notice to Clients, EFG 14 Capital 007986. This is the new form? 15 A. It's the same thing. 16 Q. Well, it doesn't say anything in here about 17 having a net worth over a million dollars. 18 Do you see that? 19 A. Yes. 20 Q. All right. This form of notice, was it sent 21 to all of the customers when they were considering 22 investing or was it sent -- also sent to customers who 23 already had the -- the investment? 24 A. Can you repeat the question? 25 Q. Was it only -- was this form of Notice to</p>	101	<p>1 Together these are Composite Exhibit 8 to Sixto 2 Campano's affidavit filed in this case. 3 I'm handing you Exhibit 36, and my question is 4 simple: Have you ever seen this letter before? 5 Or any -- 6 A. Exhibit 36? 7 Q. -- or any of these letters. Have you seen any 8 of these letter before? 9 A. Exhibit 36? 10 Q. Yes, sir. 11 A. No. 12 Q. And how about -- 13 A. I was not employed at the time by EFG -- 14 Q. Okay. 15 A. -- Capital. 16 The same thing with Exhibit C187 or 07782. I 17 was not employed by EFG at the time. 18 Q. Okay. Whether or not you saw this letter, do 19 you have any knowledge as to whether this -- well, 20 strike that. 21 Whether or not you saw this letter, when -- at 22 any time when you were employed by EFG Capital, did 23 anyone tell you that EFG Capital's view about Fairfield 24 Sentry was that no customers should have greater than 25 20 percent concentration in their account with Fairfield</p>

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1 Sentry?  
 2 MR. COATES: Object to form.  
 3 You may answer.  
 4 THE WITNESS: Unless the client insists.  
 5 THE COURT REPORTER: I'm sorry? Just repeat  
 6 what you said.  
 7 THE WITNESS: Unless the client insist to  
 8 invest more.  
 9 BY MR. LAWRENCE KELLOGG:  
 10 Q. Okay. Did anyone tell you that with Fairfield  
 11 Sentry you should tell your clients that they should not  
 12 have more than 20 percent of their account invested in  
 13 Fairfield Sentry?  
 14 A. Yes. But if the client requested to invest  
 15 more and insisted.  
 16 Q. Who told you that Fairfield Sentry should be  
 17 limited to less than 20 percent if at all possible?  
 18 A. It was a circular. It was for everybody. It  
 19 was not just for me.  
 20 Q. And you say "it was a circular." What do you  
 21 mean by that?  
 22 A. Well, we were told at a meeting probably.  
 23 Yeah.  
 24 Q. And was -- was this a direction -- was this a  
 25 direction from EFG Capital to the financial advisors,

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1 this is what we want you to do?  
 2 A. Yes.  
 3 Q. All right. Did -- and you say it was  
 4 discussed at some meeting of some sort. Is that right?  
 5 A. Yes.  
 6 Q. What -- what meeting?  
 7 A. I can't recall.  
 8 Q. Did the financial advisors have, you know,  
 9 periodic meetings with Mr. Echevarria or some other  
 10 supervisor?  
 11 A. Yes. We had meetings, yes.  
 12 Q. And you talk about firm policies and --  
 13 A. Yes.  
 14 Q. -- things like that?  
 15 You talk about marketing --  
 16 A. Yes.  
 17 Q. -- right?  
 18 Why was it that Fairfield Sentry was to be  
 19 limited to 20 percent of anybody -- of any investor's  
 20 account?  
 21 A. Any investment, not just the Fairfield Sentry.  
 22 Q. I see. So it was the policy of EFG Capital  
 23 for any investment not to exceed 20 percent?  
 24 A. Well, to advise the client --  
 25 Q. Sure.

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1 A. -- that they should not exceed 20 percent.  
 2 Q. Okay.  
 3 A. But if the client wishes to invest more...  
 4 Q. Gotcha.  
 5 Was there any meeting or circular or  
 6 discussion where Fairfield Sentry was focused as an  
 7 investment that should not exceed 20 percent?  
 8 MR. COATES: Object to form.  
 9 THE WITNESS: No, was -- no.  
 10 BY MR. LAWRENCE KELLOGG:  
 11 Q. It was just for every investment?  
 12 A. Yes.  
 13 Q. All right. Were you ever told that EFG  
 14 Capital had informed its investors, in 2003, that if  
 15 they're purchasing -- if they have more than 20 percent  
 16 of Fairfield Sentry, they should consider reducing it?  
 17 A. I don't recall.  
 18 Q. When you sold Fairfield Sentry to customers,  
 19 did you have any knowledge that EFG Capital had  
 20 circulated a letter to all of its Fairfield investors  
 21 saying reduce your investment, if you can, to less than  
 22 20 percent?  
 23 A. No.  
 24 Q. Did EFG Capital have a system in place, to  
 25 your knowledge, where client accounts would periodically

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1 be reviewed to measure concentration levels?  
 2 A. Just for the managed portfolio where the EFG  
 3 Asset Management had the -- the client's participation.  
 4 Q. So if -- I'm sorry. So if -- in instances  
 5 where the client's account was managed by the Asset  
 6 Management division, with full discretion given to the  
 7 asset management --  
 8 A. Yes.  
 9 Q. -- in those situations concentration levels  
 10 were reviewed. Is that right?  
 11 A. They reviewed always by the portfolio  
 12 managers.  
 13 Q. If a -- if a customer was not a managed  
 14 customer, was not a discretionary customer, was there a  
 15 system in place that would measure the concentration  
 16 levels of a customer's account?  
 17 A. No, because it's the customer's  
 18 responsibility. The customer did not choose EFG Capital  
 19 Asset Management to manage their money to do that.  
 20 Q. In your experience at EFG Capital, was there  
 21 ever a situation, to your knowledge, where EFG Capital  
 22 searched every account to see whether a particular  
 23 investment was in that account?  
 24 A. I can't recall -- I can't recall that.  
 25 Q. Do you recall any situation in which EFG

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<p>1 Capital reviewed every customer's account and then sent 2 out communications regarding any particular investment 3 in the account after that review? 4 A. I can't recall. 5 Q. So you have no knowledge, as you sit here 6 today, of whether, in 2003, EFG Capital reviewed every 7 account containing a Fairfield Sentry investment and did 8 an analysis as to whether that investment was 9 concentrated. 10 A. I was not at EFG -- 11 MR. COATES: Object -- excuse me. Object to 12 form. 13 You may answer. 14 THE WITNESS: I was not employed by EFG. 15 BY MR. LAWRENCE KELLOGG: 16 Q. Okay. And you've never heard it since you've 17 been employed. Is that right? 18 A. Well, as we discussed previously, we were told 19 of the 20 percent, to advise the client that they should 20 not have more than 20 percent. 21 Q. Across the board? 22 A. Whether it was Fairfield or the other clients. 23 (A discussion was held off the record.) 24 BY MR. LAWRENCE KELLOGG: 25 Q. Okay. All right. Let me show you what I --</p>	<p>1 A. No. 2 Q. Have you ever seen this article before? 3 A. No. 4 Q. It says: "Madoff chops -- tops the charts; 5 skeptics ask how." 6 A. No. 7 Q. You've never seen it? 8 Did anyone at EFG Capital ever discuss with 9 you news articles that had come out in 2001 that had 10 questioned the returns and the operations of Mr. Madoff? 11 A. No. 12 Q. Did anyone ever discuss with you whether in 13 2001, after these articles came out, EFG Capital -- 14 whether EFG Capital did any additional due diligence or 15 inquiry of Mr. Madoff? 16 A. No, I was not there. This -- 17 Q. Okay. 18 A. -- long before I start with them. 19 Q. Yes, but after you came, did you ever hear any 20 discussion about that? 21 A. About these two articles? 22 Q. About the articles or any due diligence that 23 might have been triggered by the publication of these 24 articles? 25 A. No. Because how many years went by, about</p>
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<p>1 what's previously been marked as Exhibit 4. This is a 2 Barron's magazine article. 3 A. This is for the Army? 4 Q. I'm sorry? 5 A. This is for the Army? "Don't ask, don't 6 tell." (Indicating.) 7 Q. "Don't ask, don't tell." 8 Let me ask you your views on "don't ask, don't 9 tell." No, I don't -- 10 A. I have no opinion. 11 Q. Okay. Exhibit 4 was marked at a previous 12 deposition. This is a Barron's article entitled "Don't 13 Ask, Don't Tell." My question is -- 14 A. What year? Because -- 15 Q. This is May 7th, 2001. My question to you 16 is: Have you ever seen this before? 17 A. No. 18 Q. Did anyone at EFG Capital ever inform you 19 about -- well, let me show you what I'll mark as -- it's 20 already been marked as Exhibit 5. 21 A. I have an extra one here. 22 Q. Oh, thank you. 23 I'll show you what I'm marking as Exhibit 5, 24 which is a May 2001 news article from a publication 25 known as Hedge MAR.</p>	<p>1 three, four years? And this guys were -- no action was 2 taken by the U.S. regulators. 3 Q. Yes. 4 Did anyone talk to you, though -- my question 5 to you is, did anyone discuss with you at EFG Capital 6 that there might have been additional due diligence done 7 by EFG Capital during this period of time as a result of 8 these articles? 9 A. No. 10 Q. Okay. Do you have any particular 11 understanding or knowledge as to what due diligence was 12 actually done by EFG Capital -- 13 A. No. 14 Q. -- of Fairfield Sentry? 15 Do you have any knowledge of what due 16 diligence EFG Capital might have done regarding Bernard 17 Madoff and his firm? 18 A. No. 19 But what I don't understand is why they would 20 talk to me about an article that was three years before 21 and the regulators in the U.S. never acted on it. 22 Q. Well, I don't know, all I -- only you know 23 what happened. I wasn't there. So I'm just asking you 24 whether there was any discussion. If there wasn't, 25 there wasn't.</p>

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111	<p>1 A. Not to my knowledge.</p> <p>2 Q. Do you know whether any managers of EFG</p> <p>3 Capital invested?</p> <p>4 A. Not to my knowledge.</p> <p>5 Q. In your own mind, did you -- did you ever</p> <p>6 wonder how Mr. Madoff was able to have such consistent</p> <p>7 returns for 10 years straight?</p> <p>8 MR. COATES: Object to form.</p> <p>9 You may answer, sir.</p> <p>10 THE WITNESS: The returns of the Fairfield</p> <p>11 fund were not out of this world. In 2007 to be</p> <p>12 paying 5.96 and 6 percent, it was...</p> <p>13 BY MR. LAWRENCE KELLOGG:</p> <p>14 Q. So the answer is "no, never -- never occurred</p> <p>15 to me"?</p> <p>16 A. No.</p> <p>17 Well, you look at this and -- if they were</p> <p>18 making 25 percent every year or what's -- let's find</p> <p>19 out. You know what I mean?</p> <p>20 Q. So in your mind, if it was making way more</p> <p>21 than the market, that would be something that you would</p> <p>22 be curious about how they're doing that. Right?</p> <p>23 MR. COATES: Object to form.</p> <p>24 BY MR. LAWRENCE KELLOGG:</p> <p>25 Q. Every year.</p>	113	<p>1 A. Verbally.</p> <p>2 Q. Verbally?</p> <p>3 A. By each CRO. At least that's what I did.</p> <p>4 Q. So each CRO would call their -- their client.</p> <p>5 A. I did call my clients, all of them.</p> <p>6 Q. I'm just curious as to what was the firm-wide</p> <p>7 direction as to how to respond this situation.</p> <p>8 A. Well, the -- the firm issue a Notice to</p> <p>9 Clients of what happened. And is -- after I had</p> <p>10 informed my clients verbally, the notice was sent.</p> <p>11 Q. Okay.</p> <p>12 THE COURT REPORTER: Are you saying "Beverly"?</p> <p>13 THE WITNESS: Saying --</p> <p>14 MR. COATES: Verbally.</p> <p>15 THE WITNESS: Verbally.</p> <p>16 MR. LAWRENCE KELLOGG: Verbally.</p> <p>17 BY MR. LAWRENCE KELLOGG:</p> <p>18 Q. As a result of the -- well, once -- once the</p> <p>19 fraud was revealed, were you able -- were any of your</p> <p>20 customers able to redeem their investments?</p> <p>21 A. No. They say -- order was placed, but was --</p> <p>22 it was redeem, you know; they were not paid.</p> <p>23 Q. So those customers who were not able to redeem</p> <p>24 suffered losses in some sense. Right?</p> <p>25 A. Yes.</p>