

# Exhibit M

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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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PASHA S. ANWAR, et al.,

Plaintiffs,

vs.

Civil Action No.  
09-CV-0118 (VM)

FAIRFIELD GREENWICH LIMITED, et al.,

Defendants.  
-----x

VIDEOTAPED DEPOSITION  
OF ANTHONY CONSTANTINE MALLIS  
New York, New York  
September 22, 2011

Reported by:  
KATHY S. KLEPFER, RMR, RPR, CRR, CLR  
JOB NO. 42089

1 A. MALLIS  
 2 Defendants' Joint First Set of Interrogatories  
 3 to the Plaintiffs.  
 4 Q. Who is -- I'm sorry, if I mispronounce  
 5 his name -- Fouad Rashid?  
 6 A. Fouad Rashid used to work with me. He  
 7 used to be the company's COO. He left us about  
 8 six years ago.  
 9 Q. What were his responsibilities?  
 10 A. He was effectively managing the  
 11 treasury and investments. He was, as a chief  
 12 operating officer, he also had responsibilities  
 13 for the firm, the good running of the firm.  
 14 Q. And who is Mr. Osama Muein?  
 15 A. Osama Muein was the head of Marketing  
 16 and, again, who left us in about 2004.  
 17 Actually, earlier than that. Probably around  
 18 2003.  
 19 Q. What were Mr. Muein's  
 20 responsibilities?  
 21 A. He was the head of Marketing, which  
 22 was basically, when I joined the firm, was to  
 23 effectively sell third-party funds.  
 24 Q. And now, after your March 2002 meeting  
 25 with Fairfield and after your discussion with  
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1 A. MALLIS  
 2 your colleagues, it was either Mr. Fouad or Mr.  
 3 Muein --  
 4 A. Fouad.  
 5 Q. Mr. Fouad. Sorry.  
 6 A. Right.  
 7 Q. -- who contacted Mr. Landesberger at  
 8 Fairfield?  
 9 A. I don't know the specific answer to  
 10 that, frankly. I mean, I don't remember who of  
 11 the two called them first or got in touch with  
 12 them.  
 13 Q. But it was one of those two men?  
 14 A. One of the two.  
 15 Q. What did they discuss with Mr.  
 16 Landesberger?  
 17 A. I was not party to the conversation.  
 18 Q. Did they tell you what they discussed  
 19 with Mr. Landesberger?  
 20 A. I assumed that if Fouad called him,  
 21 his brief was limited to the \$1 million  
 22 investment. I think Osama actually came later,  
 23 so it would have been Fouad. Osama really came  
 24 as a sort of follow-up.  
 25 Q. And did anyone at Fairfield send Fouad  
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1 A. MALLIS  
 2 any materials regarding Fairfield Sentry?  
 3 A. Yes, because that was part of the,  
 4 sort of the package.  
 5 Q. What were those materials?  
 6 A. I don't remember.  
 7 Q. At this point, SICO is considering  
 8 making an investment in Fairfield Sentry. Would  
 9 they -- sorry. Is that correct?  
 10 A. Say again?  
 11 Q. At this point, once Fouad is  
 12 contacting Mr. Landesberger and Fairfield is  
 13 sending documents to SICO?  
 14 A. Uh-huh.  
 15 Q. Is SICO considering making an  
 16 investment in Fairfield Sentry?  
 17 A. Yes.  
 18 Q. What would -- now, at this point would  
 19 the Investment & Treasury Department get  
 20 involved?  
 21 A. It was a very small department. I  
 22 mean, it was actually effectively headed by  
 23 Fouad.  
 24 Q. So, now, what kind of due diligence  
 25 would Fouad and SICO do prior to making the  
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1 A. MALLIS  
 2 investment in Fairfield Sentry?  
 3 A. Be looking -- I think one of the  
 4 primary sort of considerations would be, and  
 5 there would be basically three considerations,  
 6 which we still very much stick to, one of them  
 7 is the performance; two would be who the manager  
 8 is and how -- what his reputation is; three  
 9 would be the, as I keep saying, as I keep  
 10 calling it, the sort of the supporting actors,  
 11 which is, is it being audited, is it being  
 12 monitored, is it being transparent; and -- and  
 13 last, but not least, because we are a very  
 14 conservative entity, whether they meet the  
 15 criteria of us -- of the product being  
 16 effectively transparent and conservative,  
 17 conservatively run.  
 18 Q. Now, were these formal or informal  
 19 diligence procedures?  
 20 A. Again, can you be a little bit more  
 21 specific in terms of informal and formal?  
 22 Q. Did you -- did SICO have a formal  
 23 diligence policy?  
 24 A. As you can see from the -- from the  
 25 documents that you have given me, there is a --  
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1 A. MALLIS

2 there is a process that we have to follow.

3 Q. And did SICO follow the process in  
4 making its investment in Fairfield Sentry?

5 A. We're quite religious, yes.

6 Q. Now, what you mentioned before in  
7 terms of the three considerations that you  
8 discussed?

9 A. Well, three or four considerations,  
10 yes.

11 Q. Was that part of the formal diligence  
12 process?

13 A. It's a fundamental part of any due  
14 diligence that you undertake under any  
15 situation.

16 Q. What else was part of the due  
17 diligence process?

18 A. I can't off the top of my head think  
19 of what other considerations one would sort of  
20 have, other than the reputation and the  
21 performance and the supporting actors there and  
22 if it was meeting our own criteria.

23 Q. What else would SICO do as part of its  
24 due diligence process?

25 A. I think that's probably at one of the

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1 A. MALLIS

2 -- with that level of investment that we were  
3 looking at at that point, would probably be as  
4 far as we would go.

5 Q. What was your role in the due  
6 diligence process?

7 A. I didn't have a role other than  
8 basically approving the investment in its final  
9 form, but I didn't have any influence on the due  
10 diligence.

11 Q. And how long did this process take?

12 A. Well, it can take between a week and a  
13 couple of months.

14 Q. How long did it take with respect to  
15 the initial investment in Fairfield Sentry?

16 A. I suspect a couple of months.

17 Q. And what did you learn through this  
18 investigation?

19 A. That it was a name that we should --  
20 that we should consider investing with.

21 Q. Was there anything you learned that  
22 concerned you?

23 A. No. If anything concerned us, we  
24 wouldn't have invested in the fund.

25 Q. Was there only one communication

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1 A. MALLIS

2 between SICO and Fairfield prior to the  
3 investment, the request for the documents, or  
4 would SICO have made multiple requests of  
5 Fairfield during this diligence process?

6 A. I don't remember.

7 Q. Did you speak to anyone at Fairfield  
8 after your meeting with Mr. Piedrahita and Mr.  
9 Landesberger in March of 2002 and prior to your  
10 initial investment?

11 A. I don't remember, because I didn't --  
12 but then I didn't record it. I would have  
13 recorded it if I had talked to either of the two  
14 gentlemen.

15 Q. Do you recall any specific  
16 conversations -- or, rather, did anyone at SICO  
17 tell you about any specific conversations they  
18 had with anyone at Fairfield?

19 A. Well, they certainly did mention the  
20 fact that they had been talking to Mr.  
21 Landesberger.

22 Q. Did they discuss any substantive  
23 aspects of those discussions?

24 A. I don't remember.

25 Q. And what documents did you consider in

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1 A. MALLIS

2 making the investment decision?

3 A. What documents we would look at?

4 Q. What documents did you look at?

5 A. Well, we certainly looked at the  
6 performance numbers. We certainly looked at the  
7 PPM, at the placement memo. I think these would  
8 have probably been the fundamental, the  
9 fundamental documents that we would be looking  
10 at in terms of taking our decision.

11 Q. Was there anything else that you  
12 considered?

13 A. I can't remember off the top of my  
14 head.

15 Q. Now, what kind of documents would have  
16 the performance numbers?

17 A. If I remember rightly, the PPM had it.  
18 That's when we started. However, as you know,  
19 they probably -- they had a brilliant Website  
20 which was exceptionally informative that they --  
21 I can't remember which year, but I would imagine  
22 it was around 2004-2005 that I personally was a  
23 great admirer of because it had so much  
24 information in terms of the risk management,  
25 their approach to managing funds, et cetera, and

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1 A. MALLIS  
 2 the performance was something that I looked at  
 3 religiously every month.  
 4 Q. Prior to your initial investment in  
 5 2002, you didn't look at the Website, correct?  
 6 A. There wasn't a Website, if I'm not  
 7 mistaken, or if there was, it was very general  
 8 one.  
 9 (Mallis Exhibit 9, a document bearing  
 10 Bates Nos. FGANWH72640 through 72691, marked  
 11 for identification, as of this date.)  
 12 Q. I'm handing you a document marked as  
 13 Mallis Exhibit 9, Bates-stamped FGANWH72640  
 14 through 72691.  
 15 A. Uh-huh.  
 16 Q. What is this document?  
 17 A. This is a placement memo.  
 18 Q. And do you recall reviewing this  
 19 document?  
 20 A. Uh-huh.  
 21 Q. And when did you read it?  
 22 A. I don't remember the date, but it was  
 23 definitely in 2002. But I can't remember the  
 24 precise date.  
 25 Q. Was it before signing the subscription

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1 A. MALLIS  
 2 investment date, the investment date was July 1,  
 3 2002. This placement memo was done on -- was --  
 4 is dated the 15th of June. So we would have  
 5 been given access to this document.  
 6 Q. And just before we go on, the document  
 7 that I handed you, Exhibit 10, do you recognize  
 8 this document?  
 9 A. Indeed I do.  
 10 Q. And what do you recognize this  
 11 document to be?  
 12 A. It's an Addendum Number 2 to the  
 13 Plaintiffs' Responses and Objections to  
 14 Defendants' Joint First Set of Interrogatories  
 15 to Plaintiffs' for Securities & Investment  
 16 Company (SICO) Bahrain.  
 17 Q. Did you have any involvement in  
 18 drafting this document?  
 19 A. Well, there was certainly the part  
 20 which basically talks about me being registered  
 21 with the UK's SFA, yes.  
 22 Q. Did you review all the responses?  
 23 A. I looked at the responses, but I  
 24 didn't have -- I did not contribute to them  
 25 because there isn't really that much in them.

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1 A. MALLIS  
 2 agreement?  
 3 A. It probably was, yes. Depending on  
 4 when the -- I can't remember when we signed the  
 5 agreement. I would have read it, yes.  
 6 Q. Was it before making the investment?  
 7 A. When was the investment made? Can you  
 8 help me with when we made the investment?  
 9 Q. If you look at your interrogatory  
 10 responses, which is Exhibit 7.  
 11 A. Yes.  
 12 Q. I believe actually I'll need to show  
 13 you your second addendum to interrogatory  
 14 responses.  
 15 A. Where is the second addendum?  
 16 (Mallis Exhibit 10, Addendum No. 2 to  
 17 Plaintiffs' Responses and Objections to  
 18 Defendants' Joint First Set of  
 19 Interrogatories to Plaintiffs for Securities  
 20 & Investment Company (SICO) Bahrain, marked  
 21 for identification, as of this date.)  
 22 Q. What's being marked as Exhibit 10, I  
 23 hand you, is the second addendum to SICO's  
 24 interrogatory responses.  
 25 A. As you can see from the -- from the

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1 A. MALLIS  
 2 Q. Did anyone ask you for information to  
 3 include in these interrogatory responses?  
 4 A. No. No.  
 5 Q. Did you sign this document?  
 6 A. I believe I did. It's, as you can see  
 7 from the third page, it has my signature.  
 8 Q. Now, is everything in this document  
 9 accurate?  
 10 A. Well, I think everything is accurate,  
 11 yes.  
 12 Q. Is there anything you would like to  
 13 change?  
 14 A. No.  
 15 Q. Turning back to the PPM?  
 16 A. Uh-huh.  
 17 Q. Which is marked as Exhibit 9?  
 18 A. Right.  
 19 Q. So now that your memory has been  
 20 refreshed in terms of when you made the initial  
 21 investment, did you read this prior to your  
 22 initial investment?  
 23 A. Indeed.  
 24 Q. And did you read the whole document?  
 25 A. I can't remember, but I read it. I

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1 A. MALLIS

2 point, you were also acting as auditors to these  
3 funds.

4 Q. Does PricewaterhouseCoopers also audit  
5 one of SICO's subsidiaries?

6 A. Yes. You probably ought to talk to  
7 SFS, which is our custody arm.

8 Q. After your meeting with Mr. Piedrahita  
9 in March of 2002, I believe you testified  
10 earlier that you returned to SICO and discussed  
11 that meeting with your colleagues?

12 A. Uh-huh.

13 Q. Is that correct?

14 A. Correct.

15 Q. Do you recall your earlier testimony  
16 that you shared with your colleagues at SICO  
17 your impression that Fairfield Sentry had the  
18 right sort of, quote/unquote, framework --

19 A. Very much so.

20 Q. -- that SICO considered for its  
21 investments?

22 A. Very much so.

23 Q. And with respect to that framework, I  
24 believe that you said -- one of the things you  
25 said was that it had the likes of

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1 A. MALLIS

2 PricewaterhouseCoopers as auditors; do you  
3 recall that testimony?

4 A. Yes.

5 Q. Do you also recall your earlier  
6 testimony when counsel for Fairfield asked you  
7 what kind of due diligence SICO performed before  
8 making its initial investment in Fairfield  
9 Sentry, and you answered in part that it looks  
10 at whether the investment is being audited?

11 A. Correct.

12 Q. Do you recall that? Is it fair to say  
13 that -- that in 2002, when you were considering  
14 an investment in Fairfield Sentry on behalf of  
15 SICO, that you appreciated that the Fairfield  
16 Sentry Fund was audited?

17 A. Oh, definitely.

18 Q. And is it also fair to say that you  
19 were satisfied that the fund was audited by  
20 PricewaterhouseCoopers?

21 A. That was a plus for us.

22 Q. So you had the March 1, 2002 meeting  
23 at Fairfield with Mr. Piedrahita -- Piedrahita,  
24 excuse me, and then SICO invested around July 1,  
25 2002 for the first time in Fairfield Sentry,

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1 A. MALLIS

2 right?

3 A. Correct.

4 Q. Do you recall when in that period SICO  
5 actually made the decision that they would  
6 invest in Fairfield Sentry?

7 A. As I've mentioned previously, it was  
8 between the time that I had gone to London  
9 and -- rather, returned back from London and the  
10 first of July.

11 Q. In that period of time that you just  
12 described, did you contact Fairfield Greenwich  
13 Group again to discuss the auditor of the  
14 Fairfield Sentry Fund?

15 A. No, I didn't call them up. I don't  
16 believe -- I personally didn't call them up to  
17 ask them, you know, additional information in  
18 regards to the auditor -- yeah, in regards to  
19 Pricewaterhouse.

20 Q. Would you like to get some more water?

21 A. No. No. I'm fine.

22 Q. Did you contact PricewaterhouseCoopers  
23 to discuss their engagement with the Fairfield  
24 Sentry Fund during that period of time you just  
25 referred to?

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1 A. MALLIS

2 A. No. And chances are that they  
3 wouldn't even have answered us.

4 Q. Why do you say that?

5 A. I would imagine that, up to the point  
6 that we didn't invest, there was a client  
7 confidentiality between -- between  
8 Pricewaterhouse and Fairfield.

9 Q. Are you aware that the auditor of  
10 Fairfield Sentry changed during the course of  
11 SICO's investment?

12 A. No. We always thought of  
13 Pricewaterhouse as being the -- as being the  
14 auditors from inception.

15 Q. So you don't know which  
16 PricewaterhouseCoopers firm audited Fairfield  
17 Sentry for which years of your investment?

18 A. No.

19 Q. Prior to SICO's decision to reinvest  
20 in Fairfield Sentry in 2004, did you contact  
21 Fairfield about the auditors of the Fairfield  
22 Sentry Fund?

23 A. No. You know, a red flag would have  
24 been raised if the auditor had changed; i.e., if  
25 they had switched out of, say, Pricewaterhouse

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1 A. MALLIS  
 2 to KPMG, that would have been a sign that one  
 3 would have sort of delved a little bit more  
 4 into.  
 5 Q. Did you attempt to contact the  
 6 auditors, did you attempt to contact  
 7 PricewaterhouseCoopers prior to your decision to  
 8 invest in 2004 in Fairfield Sentry?  
 9 A. No.  
 10 Q. Is your answer the same for the 2005  
 11 investment?  
 12 A. All the way up to 2008.  
 13 Q. All the way up to 2008 you did not  
 14 contact PricewaterhouseCoopers in connection  
 15 with your investment in Fairfield Sentry?  
 16 A. No. No.  
 17 Q. I'm going to narrow in now and talk  
 18 specifically about PricewaterhouseCoopers  
 19 (Netherlands), so I may say "PwC (Netherlands)."  
 20 A. Right.  
 21 Q. Prior to this litigation, had you  
 22 heard of the PricewaterhouseCoopers  
 23 (Netherlands) office of PwC?  
 24 A. I'm assuming that you have a -- if you  
 25 have an office in Bahrain and/or somewhere in  
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1 A. MALLIS  
 2 the Gulf, you are most everywhere in Europe  
 3 also.  
 4 Q. Aside from your assumption, were you  
 5 specifically familiar with the Netherlands  
 6 PricewaterhouseCoopers?  
 7 A. I wasn't aware -- I wasn't familiar  
 8 with the practice in the Netherlands, and there  
 9 was no reason for me to.  
 10 Q. In connection with SICO's investments  
 11 in Fairfield Sentry in 2002, 2004, 2005 and  
 12 2008, did you have any contact with  
 13 PricewaterhouseCoopers (Netherlands) concerning  
 14 SICO's decisions to invest in the Fairfield  
 15 Sentry Fund?  
 16 A. No.  
 17 Q. So you did not speak to anyone at PwC  
 18 (Netherlands) concerning SICO's investments in  
 19 Fairfield Sentry?  
 20 A. No.  
 21 Q. You had no meetings with anyone at  
 22 PricewaterhouseCoopers (Netherlands) in  
 23 connection with SICO's investment in Fairfield  
 24 Sentry?  
 25 A. No.  
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1 A. MALLIS  
 2 Q. You did not send any written  
 3 communications to PricewaterhouseCoopers  
 4 (Netherlands) in connection with Fairfield  
 5 Sentry investment on behalf of SICO?  
 6 A. There was no reason for us to do so.  
 7 Q. And you, sir, did not receive any  
 8 written communications directly from  
 9 PricewaterhouseCoopers (Netherlands) concerning  
 10 SICO's investments in Fairfield Sentry?  
 11 A. That was passed through the custodian,  
 12 Citco.  
 13 Q. Switch gears again and talk about  
 14 SICO's funds for a few minutes. Does SICO  
 15 arrange for the funds that it offers its clients  
 16 the SICO funds to be audited?  
 17 A. Yes, definitely. It's part of the --  
 18 it's part of the requirements of the Central  
 19 Bank.  
 20 Q. And those audits occur on an annual  
 21 basis?  
 22 A. Those -- the audits occur on an annual  
 23 basis, but they are reviewed quarterly.  
 24 Q. Do the auditors issue opinions?  
 25 A. For year-end, they certainly do.  
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1 A. MALLIS  
 2 Q. Are the audited financials in the  
 3 audit opinions of the SICO funds shared with  
 4 SICO's investors?  
 5 A. Definitely.  
 6 Q. How often does SICO share this  
 7 information with the investors in the SICO  
 8 funds?  
 9 A. If they're reviewed on a quarterly  
 10 basis, we have to -- to give it to not only the  
 11 shareholders but to the regulators, and then on  
 12 an annual basis, when there is an opinion that  
 13 is sort of added onto the financial statements,  
 14 we, as a normal course, we pass them on to  
 15 our -- on to the investors.  
 16 Q. Is that something that SICO does  
 17 directly with its investors, or do you rely on a  
 18 third party to communicate that information?  
 19 A. No, we usually do it directly.  
 20 Q. Do the auditors communicate directly  
 21 with the investors, or does that information  
 22 passthrough SICO to the investors?  
 23 A. The auditors? The auditors -- I'm  
 24 sorry, go back again on the question.  
 25 Q. Sure. I just want to understand how  
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1 A. MALLIS

2 September and made the investment in October --

3 A. Correct.

4 Q. -- 2008 timeframe?

5 And of course, at that point, there  
6 are no financial statements for 2008, correct?

7 A. There are no financial statements, but  
8 there were performance reports.

9 Q. And there were no audited financial  
10 statements for 2008?

11 A. Audited for 2008?

12 Q. For the period 2008.

13 A. I don't recollect that, although I  
14 think the financials were -- their cycle, their  
15 accounting cycle ended in June, June -- it  
16 wasn't -- if I'm not mistaken, June, end of June  
17 every year.

18 Q. Do you have the exhibit that you were  
19 just discussing with counsel?

20 A. No, let me retract that back. It  
21 actually, from looking at this, it does show  
22 that as of the end of December 31. So the  
23 answer to your question is, yes, we hadn't  
24 received anything for 2008.

25 Q. No audited financial statements for

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1 A. MALLIS

2 2008 at the time you made -- SICO made the  
3 decision --

4 A. For the last one.

5 Q. -- to make the additional investment  
6 in 2008?

7 A. Correct.

8 Q. But you were interested in preserving  
9 capital and you thought that an additional  
10 investment in Fairfield Sentry in 2008 was one  
11 way to do that?

12 A. Yes.

13 Q. And you liked that Fairfield Sentry  
14 year to date in 2008 was outperforming the  
15 market?

16 A. According to the numbers that they  
17 were sending us, yes.

18 Q. Now, some of my questions might seem  
19 repetitive from my colleague's, but I'm going to  
20 specify that these questions, when I refer to  
21 PwC now, are going to be referring to PwC  
22 (Canada).

23 A. Right.

24 Q. So I just want to ask you about any  
25 contact or communications that you had with PwC

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1 A. MALLIS

2 (Canada), and I believe in the context of other  
3 questions you've answered this, but let me ask  
4 it again.

5 Did you have any direct  
6 communications, oral or written, with PwC  
7 (Canada) at any time that SICO was considering  
8 or made investments in Fairfield Sentry?

9 A. No.

10 Q. Did you have any in-person meetings  
11 with anyone at PwC (Canada) with regard to  
12 SICO's investments in Fairfield Sentry?

13 A. No, sir.

14 Q. Did you send any written  
15 correspondence to anyone at PwC (Canada)  
16 regarding SICO's investments in Fairfield  
17 Sentry?

18 A. No, sir.

19 Q. And you received no written  
20 correspondence in connection with those  
21 investments?

22 A. No, sir.

23 MR. VICKERY: Objection to form.

24 There's a -- you mean direct communications,  
25 I believe, because he got financial

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1 A. MALLIS

2 statements. He just came --

3 MR. TRESSLER: Written correspondence,  
4 which I think is generally understood.

5 Q. We know that the audited financial  
6 statements contained an audit opinion letter?

7 A. Uh-huh.

8 Q. But you have also testified --  
9 correct?

10 A. Testified to?

11 Q. The audited financial statements  
12 contained an audit opinion letter?

13 A. Right.

14 Q. You have testified several times today  
15 that you did not receive the audited financial  
16 statements directly from any  
17 PricewaterhouseCoopers entity, correct?

18 A. Correct.

19 (Continued on the next page to include  
20 the jurat.)  
21  
22  
23  
24  
25

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1 A. MALLIS  
 2 Q. So it's fair to summarize that you  
 3 received no written correspondence from  
 4 Pricewaterhouse?  
 5 A. Very fair statement, sir.  
 6 MR. TRESSLER: Thank you, Mr. Mallis,  
 7 I have no further questions.  
 8 THE WITNESS: Thank you, sir.  
 9 THE VIDEOGRAPHER: The time is 5:44.  
 10 This is the end of the deposition, September  
 11 22, 2011.  
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\_\_\_\_\_  
 ANTHONY C. MALLIS

Subscribed and sworn to  
 before me this day  
 of 2011.

\_\_\_\_\_  
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CERTIFICATE  
 STATE OF NEW YORK )  
 : ss  
 COUNTY OF NEW YORK)

I, Kathy S. Klepfer, a Registered  
 Merit Reporter and Notary Public within and  
 for the State of New York, do hereby  
 certify:  
 That ANTHONY CONSTANTINE MALLIS, the  
 witness whose deposition is herein before  
 set forth, was duly sworn by me and that  
 such deposition is a true record of the  
 testimony given by such witness.  
 I further certify that I am not  
 related to any of the parties to this action  
 by blood or marriage and that I am in no way  
 interested in the outcome of this matter.  
 In witness whereof, I have hereunto  
 set my hand this 28th day of September,  
 2011.

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 KATHY S. KLEPFER, RPR, RMR, CRR, CLR

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