

Exhibit 27

Part 1



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Transcript of Mr. Jerome Muller

Date: May 20, 2022

Case: Picard -v- Square One Fund, Ltd, et al.

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Conducted on May 20, 2022

<p>1 UNITED STATES BANKRUPTCY COURT SOUTHERN DISTRICT OF NEW YORK</p> <p>2</p> <p>3 <u>SECURITIES INVESTOR PROTECTION</u> : CORPORATION, : 4 Plaintiff-Applicant, : v. : Adv. Pro. No. 5 BERNARD L. MADOFF INVESTMENT : 08-01789(CGM) 6 SECURITIES LLC, : Defendant. : 7 <u>In re:</u> : 8 BERNARD L. MADOFF, : 9 Debtor. : 10 <u>IRVING H. PICARD, Trustee for the:</u> Liquidation of Bernard L. Madoff : 11 Investment Securities LLC and the: Chapter 7 Estate of Bernard L. : 12 Madoff, : Plaintiff, : 13 v. : 14 SQUARE ONE FUND LTD., : Defendant. : 15</p> <p>16 CONFIDENTIAL</p> <p>17 VIDEOTAPED DEPOSITION OF JÉRÔME MÜLLER</p> <p>18 Friday, May 20, 2022</p> <p>19 London, England, United Kingdom</p> <p>20</p> <p>21</p> <p>22 Job No. 449048</p> <p>23 Pages: 1 - 354</p> <p>24 Reported stenographically by:</p> <p>25 LEAH M. WILLERSDORF, RPR, CRR, FBIVR, ACR, QRR2, CLR</p>	<p>1 Friday, May 20, 2022</p> <p>2</p> <p>3 10:03 a.m. (British Summer Time)</p> <p>4</p> <p>5</p> <p>6 Videotaped deposition of JÉRÔME MÜLLER at</p> <p>7 the offices of Browne Jacobson LLP, 6 Bevis Marks,</p> <p>8 Bury Court, London EC3A 7BA, England, United Kingdom,</p> <p>9 before Mr. Frederico Singarajah, having been duly</p> <p>10 appointed as the Examiner in this matter as ordered by</p> <p>11 Senior Master Fontaine in the High Court of Justice,</p> <p>12 Queen's Bench Division, such order being dated</p> <p>13 April 14, 2022.</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>
<p>1 Claim No. QF-2022-001838</p> <p>2</p> <p>3 IN THE HIGH COURT OF JUSTICE QUEEN'S BENCH DIVISION</p> <p>4 IN THE MATTER OF THE EVIDENCE (PROCEEDINGS IN OTHER JURISDICTIONS) ACT 1975</p> <p>5 AND IN THE MATTER OF THE HAGUE CONVENTION OF 18 MARCH 1970 ON THE TAKING OF EVIDENCE ABROAD IN CIVIL OR 6 COMMERCIAL MATTERS</p> <p>7 AND IN THE MATTER OF RULES 34.17 TO 34.21 OF THE CIVIL 8 PROCEDURE RULES 1998</p> <p>9 AND IN THE MATTER OF PROCEEDINGS NOW PENDING BEFORE THE UNITED STATES BANKRUPTCY COURT FOR THE SOUTHERN 10 DISTRICT OF NEW YORK</p> <p>11</p> <p>12 B e t w e e n</p> <p>13</p> <p>14 IRVING H. PICARD (Trustee for the substantively consolidated 15 SIPA liquidation of Bernard L. Madoff Investment Securities LLC and 16 the Estate of Bernard L. Madoff)</p> <p>17 Applicant</p> <p>18 -and-</p> <p>19 JÉRÔME MÜLLER</p> <p>20 Respondent</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p>1 A P P E A R A N C E S</p> <p>2 On behalf of the Trustee/Applicant:</p> <p>3 BAKER HOSTETLER, LLP</p> <p>4 45 Rockefeller Plaza New York, NY 10111 5 (212) 589 4200</p> <p>6 BY: MARCO MOLINA, ESQ. VICTORIA L. STORK, ESQ. 7 ANDREW M. SERRAO, ESQ. mmolina@bakerlaw.com vstork@bakerlaw.com aserrao@bakerlaw.com</p> <p>8</p> <p>9 -and-</p> <p>10 BROWNE JACOBSON, LLP</p> <p>11 15th Floor 12 6 Bevis Marks Bury Court 13 London EC3A 7BA England, United Kingdom 14 44 (0)370 270 6000</p> <p>15 BY: JOHN ADAMS (Partner) ANDREW WOOLSEY (Solicitor) 16 john.adams@brownejacobson.com andrew.woolsey@brownejacobson.com</p> <p>17</p> <p>18 On behalf of the witness, Jérôme Müller:</p> <p>19 JENNER & BLOCK, LLP</p> <p>20 25 Old Broad Street London EC2N 1HQ 21 England, United Kingdom 44 (0)330 060 5400</p> <p>22 BY: MATTHEW WORBY (Solicitor-Advocate) mworby@jenner.com</p> <p>23</p> <p>24</p> <p>25</p>

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APPEARANCES

(continued)

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ALSO PRESENT:

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Trustee	Deposition	Page	Irving Picard, from BakerHostetler.		
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Exhibit 37	Email string, with the most recent being from Jérôme Müller to Richard Levin, dated September 17, 2019, with redactions (SQ000036712 - 713) (Bundle tab 172, 3370-3371) [Confidential]	339	counsel for Mr. Müller.		
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Exhibit 39	Email string, with the most recent being from Richard Levin to Jérôme Müller, et al., dated June 25, 2021, with redactions (SQ000036881 - 882) (Bundle tab 174, 3453-3454)	344	Singarajah. I am the Examiner from Gatehouse		
EXHIBITS PREVIOUSLY MARKED			Chambers, 1 Lady Hale Gate, London WC1X 8BS.		
Trustee	Description	Page	Mr. Müller, you have indicated that you		
Exhibit No.			would like to affirm, so if I could please ask you to		
Exhibit 11	Certified English-language translation of the evidence of Mr. Albert Collette and Mrs. Melissa Alessandra Massetta Hariri, the hearing date being October 18, 2021 (Bundle pages 152 - 184)	244	repeat these words after me: I do solemnly, sincerely		
			and truly declare and affirm the evidence I shall give		
			shall be the truth, the whole truth and nothing but		
			the truth.		
			JÉRÔME MÜLLER,		
			having been duly affirmed,		
			was examined and testified as follows:		
			THE EXAMINER: Thank you, Mr. Müller.		
			Mr. Molina will now have some questions for you.		
			MR. MOLINA: Thank you. Before I begin		
			asking questions, I want to state something for the		
			record.		
			As has already been confirmed this		
			morning, Mr. Jérôme Müller is being represented in		
			this action by the law firm of Jenner & Block. We		
			were first advised of this representation on April 21,		
14			16		
(On the record at 10:03 a.m.)			2022. And after studying this issue closely, the		
THE VIDEOGRAPHER: Good morning. Here			Trustee thinks it's appropriate at this time to note		
begins the videorecorded deposition of Jérôme Müller,			some concerns about the fact that the same attorneys		
in the matter of Picard versus Square One Fund,			who represent the named defendant in this action,		
et al., in the United States Bankruptcy Court,			Square One Fund, are now representing Mr. Müller, a		
Southern District of New York, Case No. 08-01789(CGM),			thirdparty witness who is being asked to provide		
English Claim No. QF-2022-01838.			testimony about facts that are relevant to the claims		
Today's date is May 20, 2022, and the time			and defenses against -- sorry, to the claims against		
is 10:04 a.m.			Square One Fund.		
The videographer today is Wendy Viner on			We hereby reserve the Trustee's right to		
behalf of Planet Depos.			make any objection related to this representation and		
This video deposition is taking place at			this deposition should in no way be deemed to be a		
Browne Jacobson, 6 Bevis Marks, London EC3, UK.			waiver of any such objection.		
Could I ask all parties present to			Thank you.		
identify themselves for the record.			EXAMINATION ON BEHALF OF THE APPLICANT:		
MR. WOOLSEY: Andrew Woolsey, Browne			BY MR. MOLINA:		
Jacobson, for the applicant.			Q. Now we have that out of the way,		
MR. ADAMS: John Adams, Browne Jacobson,			Mr. Müller. My name is Marco Molina. Nice to meet		
for the Trustee, Irving Picard.			you.		
MR. GOODISON: Adam Goodison, UK Trustee			A. Nice to meet you, too.		
for the -- UK counsel for the Trustee.			Q. I'm a partner at BakerHostetler and, as		
MR. SERRAO: Andrew Serrao of			you heard, we represent the Trustee, Irving H. Picard,		
BakerHostetler, for the Trustee, Irving Picard.			in this action.		
MS. STORK: Victoria Stork,			A. Mmm-hmm.		
BakerHostetler, for the Trustee, Irving Picard.			Q. Before we begin, I just want to thank you		

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<p>17</p> <p>1 again for taking the time to speak with us today. 2 I understand this may be inconvenient for you; 3 however, any and all information you can provide is 4 greatly appreciated. 5 I want to state what you should -- what 6 should already be obvious: This is a very serious 7 matter. We're here today because the Bankruptcy Court 8 in New York City appointed my client, Mr. Irving H. 9 Picard, to trace and recover the billions of dollars 10 that Madoff and his associates stole from tens of 11 thousands of investors. This is the largest financial 12 fraud in recorded history, and the Bankruptcy Court 13 has deemed that your testimony, Mr. Müller, is 14 necessary and important to aid Mr. Picard's efforts to 15 recover the stolen assets so that he may return them 16 to the victims. 17 In light of the foregoing, and 18 notwithstanding the fact that you're being represented 19 by the defendant's lawyers in this action, I want to 20 stress that the Bankruptcy Court summoned you here 21 today to provide helpful and truthful testimony. 22 You're under oath and everyone in this room expects 23 you to state the truth, the whole truth, and nothing 24 but the truth. 25 And I just want to confirm you have no</p>	<p>19</p> <p>1 transcribed by the court reporter. The reporter 2 cannot record head-nods or hand gestures so you will 3 need to answer my questions audibly, for example by 4 saying yes or no. 5 Do you understand that? 6 A. Yeah, absolutely. 7 Q. Also, in order for the reporter to 8 accurately take down everything that is said, I ask 9 that you wait until I finish asking my questions 10 before you start answering, and I will do my best to 11 wait until you finish giving your answers before I ask 12 another question. 13 A. Mmm-hmm. 14 Q. From time to time, you may hear Mr. Worby 15 make an objection, which will be noted on the record. 16 After the objection is noted, you can proceed to 17 answer the question posed except if the answer would 18 implicate a legal privilege. 19 And as we said earlier, if you need a 20 break at any time, just let us all know. I only ask 21 that if I have a question pending, that you answer the 22 question before we go on a break. 23 A. Sure. 24 Q. Okay. Mr. Müller, your first language is 25 French; is that right?</p>
<p>18</p> <p>1 problem with being helpful and truthful today, 2 Mr. Müller. 3 A. Absolutely not, no. 4 Q. Okay. I'm going to be asking you a series 5 of questions. If at any time -- 6 (Stenographer interruption.) 7 MR. MOLINA: Thank you. I apologize. 8 THE STENOGRAPHER: It's okay. 9 BY MR. MOLINA: 10 Q. I'm going to be asking you a series of 11 questions today. If at any time I ask you a question 12 that you do not understand, please let me know and 13 I will do my best to restate or repeat the question. 14 If you realize that an earlier answer you gave me was 15 inaccurate, or incomplete, just say that you want to 16 correct or supplement your answer and you'll be 17 allowed to do so. 18 If you answer a question, I will assume 19 that you've heard it and understood it, and you've 20 given me your best recollection. And I understand a 21 great deal of time has passed since many of these 22 conversations and correspondence took place, so I'll 23 just ask that you do your best to recall what 24 occurred. 25 As you can see, your testimony is being</p>	<p>20</p> <p>1 A. It is correct. 2 Q. Are you able to read and understand 3 English? 4 A. Yes. 5 Q. Do you understand that your testimony 6 you're about to give has the same force and effect as 7 though you were testifying in a courtroom? 8 A. I do. 9 Q. Are you suffering from any medical 10 conditions, mental or physical, that would prevent you 11 from testifying fully, truthfully, and accurately 12 today? 13 A. Not that I know of, no. 14 Q. Are you taking any medications or 15 substances that would prevent you from testifying 16 fully, truthfully and accurately today, or would 17 otherwise affect your recollection? 18 A. No. 19 Q. Is there anything else we should be aware 20 of that would prevent you testifying fully, truthfully 21 and accurately today? 22 A. Nothing. No, nothing comes to mind. 23 Q. Do you mind if you say your full name for 24 the record. 25 A. Sure. It's Jérôme Müller.</p>

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<p>21</p> <p>1 Q. And what is your current home address?</p> <p>2 A. 86 Twyford Avenue, N2 9NN.</p> <p>3 Q. Have you been deposed before?</p> <p>4 A. Never.</p> <p>5 Q. Have you ever given testimony in a</p> <p>6 courtroom?</p> <p>7 A. I have.</p> <p>8 Q. Do you want to describe the circumstances</p> <p>9 behind that.</p> <p>10 A. It was a wrongful termination case,</p> <p>11 I guess; a disgruntled employee suing Partners</p> <p>12 Advisers, in fact.</p> <p>13 Q. Who was the employee that was suing</p> <p>14 Partners Advisers?</p> <p>15 A. He was called Sella Yavin.</p> <p>16 Q. And in what capacity were you asked to</p> <p>17 testify?</p> <p>18 A. As a witness. Oh, you mean --</p> <p>19 Q. As a thirdparty witness?</p> <p>20 A. Yes.</p> <p>21 Q. Were you a named party in that action?</p> <p>22 A. No, I wasn't.</p> <p>23 Q. Have you ever given testimony in an</p> <p>24 arbitration or mediation?</p> <p>25 A. No, never.</p>	<p>23</p> <p>1 Q. And if you read, in the middle of the</p> <p>2 first page, it explains that this order approves a</p> <p>3 letter of request, dated 7 March 2022, that was signed</p> <p>4 by the Chief Judge Cecelia G. Morris of the United</p> <p>5 States Bankruptcy Court for the Southern District of</p> <p>6 New York.</p> <p>7 Do you see that?</p> <p>8 A. Yes, I see. I do.</p> <p>9 Q. And you understand that the purpose of</p> <p>10 that letter of request was to request the testimony</p> <p>11 that you're about to give today?</p> <p>12 A. Mmm-hmm.</p> <p>13 MR. MOLINA: Can I get tab 2. Set that to</p> <p>14 the side.</p> <p>15 Ms. Court Reporter, I am handing you what</p> <p>16 is now tab 2 of the bundle. If you would be so kind</p> <p>17 as to mark this as Trustee Exhibit No. 13.</p> <p>18 (Trustee Exhibit 13 marked for</p> <p>19 identification.)</p> <p>20 BY MR. MOLINA:</p> <p>21 Q. Mr. Müller, you have just been handed what</p> <p>22 has been marked as Trustee Exhibit No. 13, which is a</p> <p>23 copy of the Litigation Protective Order and</p> <p>24 undertaking entered on June 6, 2011, which governs,</p> <p>25 amongst other things, the confidentiality of the</p>
<p>22</p> <p>1 Q. Have you ever been asked to provide</p> <p>2 testimony to a government entity?</p> <p>3 A. No.</p> <p>4 Q. Okay.</p> <p>5 MR. MOLINA: If we go to tab 1. All</p> <p>6 right.</p> <p>7 Court Reporter, I am handing you tab 1 of</p> <p>8 the bundle. Can you please mark this as Trustee</p> <p>9 Exhibit No. 12.</p> <p>10 (Trustee Exhibit 12 marked for</p> <p>11 identification.)</p> <p>12 BY MR. MOLINA:</p> <p>13 Q. Mr. Müller, I'm handing you what has been</p> <p>14 marked as Trustee Exhibit No. 12. I'll represent to</p> <p>15 you that this is a copy of the order that was issued</p> <p>16 by the High Court of Justice on April 14, 2022.</p> <p>17 Are you familiar with this document?</p> <p>18 A. I have seen it, yes.</p> <p>19 Q. Do you see in the top part, top-left part</p> <p>20 of the document, it shows that this document was</p> <p>21 issued by the High Court of Justice?</p> <p>22 A. Mmm-hmm.</p> <p>23 Q. Do you see that, from the seal, it's dated</p> <p>24 April 14, 2022?</p> <p>25 A. Yes.</p>	<p>24</p> <p>1 testimony you're giving today.</p> <p>2 Have you ever seen this document?</p> <p>3 A. It was part of the bundle but I have to</p> <p>4 admit I haven't read it.</p> <p>5 Q. If you may turn to paragraph 10f, which</p> <p>6 starts on page 5 of 17, if you look at the top of the</p> <p>7 document and go to page 5 of 17.</p> <p>8 I'm going to give you an opportunity to</p> <p>9 read this paragraph, Mr. Müller.</p> <p>10 A. Mmm-hmm.</p> <p>11 Q. But I just want to preview that you will</p> <p>12 see that this paragraph provides that you, through</p> <p>13 your attorneys, will have the ability to designate any</p> <p>14 information you provide today as confidential, to the</p> <p>15 extent it falls within the purview of this order. If</p> <p>16 so designated, the Trustee would be required to</p> <p>17 provide notice to you and your counsel, prior to</p> <p>18 disclosing that information to any third party.</p> <p>19 Please review this paragraph closely and</p> <p>20 let me know if you have any questions.</p> <p>21 A. No, no questions.</p> <p>22 Q. Thank you, Mr. Müller.</p> <p>23 A. Thank you.</p> <p>24 Q. Mr. Müller, what did you do to prepare for</p> <p>25 this deposition?</p>

Conducted on May 20, 2022

<p>25</p> <p>1 A. I read -- well, I skimmed through the</p> <p>2 bundle of documents that I received. And I had a</p> <p>3 meeting with Mr. Worby.</p> <p>4 Q. Was the meeting here in London?</p> <p>5 A. Yes.</p> <p>6 Q. And did you meet with US counsel as well?</p> <p>7 A. No.</p> <p>8 Q. Without discussing the contents, did your</p> <p>9 counsel give you any notes or information with respect</p> <p>10 to your testimony today?</p> <p>11 A. No.</p> <p>12 Q. Aside from your counsel, did you speak</p> <p>13 with anyone else in preparation for your testimony</p> <p>14 today?</p> <p>15 A. I did not, no.</p> <p>16 Q. You didn't speak to anyone from -- that</p> <p>17 was either -- that is either a current or former</p> <p>18 employee of Partners Advisers?</p> <p>19 A. I didn't.</p> <p>20 Q. Did you speak with Mr. Christophe Khaw?</p> <p>21 A. I did not, no.</p> <p>22 Q. Mr. Albert Collette?</p> <p>23 A. No.</p> <p>24 Q. Other than the documents in the bundle,</p> <p>25 did you review any other documents in preparation for</p>	<p>27</p> <p>1 A. I didn't, no.</p> <p>2 Q. Mr. Müller, I'm going to ask you to just</p> <p>3 give some background information about -- let's start</p> <p>4 with your education. If you don't mind just listing</p> <p>5 the degrees that you have obtained in chronological</p> <p>6 order, that would be useful.</p> <p>7 A. Sure. I have a master's degree in</p> <p>8 international relations from the University of Geneva</p> <p>9 that I received in 1970 -- sorry, 1997, and that's my</p> <p>10 only university degree. I also passed the CFA</p> <p>11 examination, so I'm a CFA charterholder. That's a</p> <p>12 professional degree, obviously.</p> <p>13 Q. What is a CFA degree?</p> <p>14 A. It's a chartered financial analyst degree,</p> <p>15 which is sort of the standard in my profession.</p> <p>16 Q. What's the purpose of that degree?</p> <p>17 A. It's a degree to sort of -- well, it's</p> <p>18 sort of focused on financial analysis of securities,</p> <p>19 so it's basically to learn how to analyze securities,</p> <p>20 equities, fixed income.</p> <p>21 Q. And do you need that degree to do the job</p> <p>22 that you're currently doing?</p> <p>23 A. No, I think it's good on a CV. It's, you</p> <p>24 know, I guess, helpful at the margin.</p> <p>25 Q. And when did you obtain that CFA?</p>
<p>26</p> <p>1 your testimony today?</p> <p>2 A. I had a quick read through the complaint,</p> <p>3 actually, which I had a copy of.</p> <p>4 Q. When you say "the complaint," do you mean</p> <p>5 the amended complaint that was filed in the action in</p> <p>6 New York City?</p> <p>7 A. I suppose so. It's the document that</p> <p>8 actually mentioned a number of sections of a due</p> <p>9 diligence officer, which is obviously me, and I guess</p> <p>10 the elements I supposedly had sort of disclosed to an</p> <p>11 investigator, so I read that document.</p> <p>12 Q. Other than the bundle of documents and</p> <p>13 this complaint, is there anything else that you read</p> <p>14 in preparing for your testimony today?</p> <p>15 A. Nothing else.</p> <p>16 Q. Did you select those documents yourself</p> <p>17 that you read or did someone tell you to read those</p> <p>18 documents?</p> <p>19 A. No, I selected them myself.</p> <p>20 Q. Did those documents help refresh your</p> <p>21 recollection of the relevant facts related to your</p> <p>22 testimony?</p> <p>23 A. Yeah, it did. Yeah, I guess so. Yeah.</p> <p>24 Q. Did you bring any documents with you</p> <p>25 today?</p>	<p>28</p> <p>1 A. That was in 2002.</p> <p>2 Q. And where did you go to obtain that</p> <p>3 degree?</p> <p>4 A. It's actually self-learning, so you don't</p> <p>5 go anywhere but you have to pass three exams three</p> <p>6 years in a row, so three levels.</p> <p>7 Q. And all those exams were passed in around</p> <p>8 2002?</p> <p>9 A. Mmm, so it's three years, so I started in</p> <p>10 2000, 2001, and 2002.</p> <p>11 Q. Do you have to do anything -- after 2002,</p> <p>12 have you had to do anything to keep that degree</p> <p>13 current?</p> <p>14 A. You have to commit to continuous learning</p> <p>15 or, sort of -- yeah, but that's, I guess, just sort of</p> <p>16 reading, you know, financial literature sort of</p> <p>17 qualifies for that. So it's not a big ask.</p> <p>18 Q. You don't have to take any other</p> <p>19 examinations?</p> <p>20 A. No.</p> <p>21 Q. Other than the master's in international</p> <p>22 relations and this CFA, do you have any other degrees?</p> <p>23 A. I don't.</p> <p>24 Q. Do you have any publications?</p> <p>25 A. I don't think so, no.</p>

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<p>29</p> <p>1 Q. Any other professional licenses?</p> <p>2 A. No.</p> <p>3 Q. Where have you had to register as part of</p> <p>4 your profession?</p> <p>5 A. I don't think I had, actually. What I --</p> <p>6 for a long time, my profession and the firms I was</p> <p>7 working at were unregulated, so -- and I don't think</p> <p>8 when they became regulated I actually had to register.</p> <p>9 When I moved to the UK, I, with my own</p> <p>10 sort of consultancy firm, I became an appointed</p> <p>11 representative of another firm that was regulated, so</p> <p>12 I was sort of -- I had to fill in a number of</p> <p>13 documents with the FCA, but I wasn't directly under</p> <p>14 FCA regulation, it was through another firm.</p> <p>15 Q. Okay. Mr. Müller, you said that you</p> <p>16 obtained your university degree in 1997. Correct?</p> <p>17 A. That's correct.</p> <p>18 Q. Did you take a job soon after finishing</p> <p>19 that degree?</p> <p>20 A. I did, yes.</p> <p>21 Q. Where did you get that job?</p> <p>22 A. It was at a Swiss private bank called UBP,</p> <p>23 which stands for Union Bancaire Privée. Sorry for the</p> <p>24 French spelling.</p> <p>25 Q. And what was your role at UBP?</p>	<p>31</p> <p>1 searches to see if those people had indeed the</p> <p>2 business they claimed they had, or things like this.</p> <p>3 We were also looking at the concept of --</p> <p>4 the concept of PEP, which is, sort of, politically</p> <p>5 exposed person. Didn't exist back then but it was</p> <p>6 also, sort of, intending to sort of see if any of the</p> <p>7 funds were sort of connected to politicians or</p> <p>8 dictators.</p> <p>9 Q. And who did you report to when you held</p> <p>10 this position?</p> <p>11 A. So we were a team of 12. My direct</p> <p>12 supervisor changed for every mission, so there was one</p> <p>13 person. The head of that department was a Vietnamese</p> <p>14 man called Ngyuen. I can't remember his first name,</p> <p>15 though.</p> <p>16 Q. So you were a team of 12, 12 internal</p> <p>17 auditors?</p> <p>18 A. Yes.</p> <p>19 Q. And how long did you hold that role?</p> <p>20 A. For slightly over a year and a half.</p> <p>21 Q. So to roughly 1999?</p> <p>22 A. Early '99, yes.</p> <p>23 Q. And what other roles did you hold while</p> <p>24 you were at UBP?</p> <p>25 A. That's the only role I held.</p>
<p>30</p> <p>1 A. I was a junior internal auditor.</p> <p>2 Q. Just for the record, what is UBP again?</p> <p>3 A. It's Union Bancaire Privée.</p> <p>4 Q. I apologize. I mean what is the</p> <p>5 institution? What is --</p> <p>6 A. Oh, it's a private bank.</p> <p>7 Q. And where were you located when you worked</p> <p>8 at UBP?</p> <p>9 A. In Geneva.</p> <p>10 Q. You said you were a junior -- I'm sorry,</p> <p>11 could you repeat that?</p> <p>12 A. Yeah. Internal auditor.</p> <p>13 Q. And what did that job entail?</p> <p>14 A. That job entailed going through the</p> <p>15 onboarding documents of private wealth clients and</p> <p>16 making sure that the funds they were depositing in the</p> <p>17 bank were, sort of, had legal origins. So we were</p> <p>18 sort of making sure that the bank wasn't, sort of, at</p> <p>19 risk of being accused of money laundering, basically.</p> <p>20 Q. How did you conduct that job?</p> <p>21 A. So it was sort of evidence-based, I guess.</p> <p>22 So we were, sort of, going through the documents that</p> <p>23 these clients were providing the bank, showing their</p> <p>24 proof of, sort of, funds, origins of funds, and just</p> <p>25 making sure that they were real, doing internet</p>	<p>32</p> <p>1 Q. And where did you go after you -- sorry,</p> <p>2 let me retract that and start again.</p> <p>3 When did you leave UBP?</p> <p>4 A. I left at the end of March 1999.</p> <p>5 Q. What were the circumstances behind your</p> <p>6 departure?</p> <p>7 A. A colleague from this internal audit</p> <p>8 department had left to join a family office, and she</p> <p>9 contacted me saying that they were looking for</p> <p>10 a junior analyst and so I applied for that role and</p> <p>11 I was hired.</p> <p>12 Q. Who was this colleague that told you</p> <p>13 that -- who was this fellow junior auditor that left</p> <p>14 and told you about this job?</p> <p>15 A. She was actually a senior auditor, but she</p> <p>16 was called Dorothée, with two e's at the end, and</p> <p>17 I can't remember her last name.</p> <p>18 Q. And you said that you applied for a job as</p> <p>19 a junior analyst at a family office?</p> <p>20 A. Yes.</p> <p>21 Q. What's the name of the family office?</p> <p>22 A. This is where it gets complicated. The</p> <p>23 family office was called Parly Company, P-a-r-l-y, but</p> <p>24 I was actually hired by Partners Advisers, who, at</p> <p>25 the time, were sharing offices with that family</p>

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<p>33</p> <p>1 office. And I was hired. Basically, while my</p> <p>2 contract was with Partners Advisers, my role was to</p> <p>3 sort of work part time for Partners Advisers and part</p> <p>4 time for that family office.</p> <p>5 Q. Okay. Just so I understand, you were</p> <p>6 working for -- part time for Parly Company and part</p> <p>7 time for Partners Advisers, and these are separate</p> <p>8 companies?</p> <p>9 A. Yes.</p> <p>10 Q. But they share the same office space?</p> <p>11 A. Yes.</p> <p>12 Q. This is in 1999?</p> <p>13 A. In April '99, yes.</p> <p>14 Q. And --</p> <p>15 A. So officially my contract was with</p> <p>16 Partners Advisers, and I think Partners Advisers</p> <p>17 billed part of my salary to Parly Company, so</p> <p>18 I basically -- anyway, that's -- and my role was</p> <p>19 basically reporting to Luc Estenne, the founder of</p> <p>20 Partners Advisers, on one hand, and then a person</p> <p>21 called Philippe Hostettler on the family office side.</p> <p>22 Q. Okay. Let's start with Parly Company.</p> <p>23 What is Parly Company?</p> <p>24 A. It's a family office for an Italian</p> <p>25 family.</p>	<p>35</p> <p>1 [REDACTED]</p> <p>2 [REDACTED]</p> <p>3 [REDACTED]</p> <p>4 [REDACTED]</p> <p>5 [REDACTED]</p> <p>6 [REDACTED]</p> <p>7 [REDACTED]</p> <p>8 [REDACTED]</p> <p>9 [REDACTED]</p> <p>10 [REDACTED]</p> <p>11 [REDACTED]</p> <p>12 [REDACTED]</p> <p>13 [REDACTED]</p> <p>14 Q. And, again, just sticking with Parly</p> <p>15 Company for now, who did you work with at Parly</p> <p>16 Company?</p> <p>17 A. So my direct boss was called Philippe</p> <p>18 Hostettler.</p> <p>19 Q. Anyone else at Parly Company that you</p> <p>20 worked with?</p> <p>21 A. Philippe's boss was called Peter Fletcher.</p> <p>22 He was the head of that -- he was the CEO of the</p> <p>23 family office. I did interact with him and report to</p> <p>24 him as well.</p> <p>25 Q. So what role did Philippe Hostettler have</p>
<p>34</p> <p>1 Q. What does "a family office" mean?</p> <p>2 A. Family office means it's a company that</p> <p>3 manages the affairs of one single family, usually</p> <p>4 financial affairs, potentially other elements as well,</p> <p>5 administration, management of buildings, and stuff</p> <p>6 like that.</p> <p>7 [REDACTED]</p> <p>8 [REDACTED]</p> <p>9 [REDACTED]</p> <p>10 [REDACTED]</p> <p>11 [REDACTED]</p> <p>12 [REDACTED]</p> <p>13 [REDACTED]</p> <p>14 [REDACTED]</p> <p>15 [REDACTED]</p> <p>16 [REDACTED]</p> <p>17 [REDACTED]</p> <p>18 [REDACTED]</p> <p>19 [REDACTED]</p> <p>20 [REDACTED]</p> <p>21 [REDACTED]</p> <p>22 [REDACTED]</p> <p>23 [REDACTED]</p> <p>24 [REDACTED]</p> <p>25 [REDACTED]</p>	<p>36</p> <p>1 at Parly Company?</p> <p>2 A. He was sort of the hedge fund analyst.</p> <p>3 Q. And what did that job entail?</p> <p>4 A. That job entailed, sort of, finding,</p> <p>5 analyzing hedge fund, sort of -- and sort of produce</p> <p>6 due diligence reports and invest in these hedge funds.</p> <p>7 Q. When you say "invest in these hedge</p> <p>8 funds," that would be using the funds from the</p> <p>9 family --</p> <p>10 A. Yes.</p> <p>11 Q. -- to invest in a -- was it only one fund</p> <p>12 that they were investing in?</p> <p>13 A. No, they were investing in a range of</p> <p>14 funds, so each -- they had three different portfolios</p> <p>15 with different mandates that they were running for</p> <p>16 this family. Each of those funds -- portfolios were</p> <p>17 sort of invested across a number of funds.</p> <p>18 Q. Was Parly Company an investment adviser to</p> <p>19 any of those funds?</p> <p>20 A. No.</p> <p>21 Q. So Parly Company was simply acting as an</p> <p>22 investor?</p> <p>23 A. Yes, they were. They were an LP in, sort</p> <p>24 of, the US language, yes.</p> <p>25 Q. You mentioned Peter Fletcher. What was</p>

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<p>37</p> <p>1 his role at Parly Company?</p> <p>2 A. So he was managing the entire family</p> <p>3 office, so his role was partly managing the people,</p> <p>4 the, sort of, operations and administration of the</p> <p>5 business, and partly overseeing all the portfolios</p> <p>6 that were run within the family office.</p> <p>7 Q. So what did you do when you were at Parly</p> <p>8 Company, specifically?</p> <p>9 A. I was -- I mean, I was hired as a junior</p> <p>10 analyst. I didn't know anything about the investment</p> <p>11 world, so I think my role was to learn about it, to</p> <p>12 begin with, and then potentially to sort of find</p> <p>13 interesting investment opportunities, and, for the</p> <p>14 most part, sort of spending time analyzing potential</p> <p>15 investments that Philippe would find and pass on to me</p> <p>16 to do work on.</p> <p>17 Q. What sort of investments did this family</p> <p>18 office invest in?</p> <p>19 A. For the vast majority of the capital, it</p> <p>20 was in hedge funds and in other thirdparty funds. So</p> <p>21 they weren't actually investing in any equities or</p> <p>22 fixed income directly, securities directly; they were</p> <p>23 always using funds.</p> <p>24 Q. And, roughly, what was the size of the</p> <p>25 portfolio that they were managing?</p>	<p>39</p> <p>1 floor I would rarely go to. And then upper floor was</p> <p>2 the investment team. It was basically one shared,</p> <p>3 sort of, open-space office with four desks, on which</p> <p>4 sat Philippe Hostettler, Luc Estenne, and myself.</p> <p>5 There was a free desk, and then a meeting room.</p> <p>6 Q. What was the reason that they shared an</p> <p>7 office?</p> <p>8 A. I think Luc was starting his business and</p> <p>9 he was looking to sort of minimize costs and Parly</p> <p>10 offered him basically part of their office, or their</p> <p>11 free space, for him to start his business from.</p> <p>12 Q. When you say Luc, do you mean Mr. Luc</p> <p>13 Estenne?</p> <p>14 A. Yes.</p> <p>15 Q. How many people were in the upper floor?</p> <p>16 A. So initially when I started, we were</p> <p>17 three; so Philippe, Luc Estenne, and myself.</p> <p>18 Q. You said it was an open space?</p> <p>19 A. Yes.</p> <p>20 Q. Would all three of you have free-flowing</p> <p>21 conversations about the investments that you were</p> <p>22 analyzing at the time?</p> <p>23 A. Yes.</p> <p>24 Q. So now let's talk about Partners Advisers.</p> <p>25 What was Partners Advisers when you were there?</p>
<p>38</p> <p>1 A. I think it was around 400 million.</p> <p>2 Q. Dollars?</p> <p>3 A. Dollars, yeah.</p> <p>4 Q. Okay. So just to be clear, Parly Company</p> <p>5 was sharing office space with Partners Advisers in</p> <p>6 Geneva?</p> <p>7 A. Yes.</p> <p>8 Q. And where were they located in Geneva, do</p> <p>9 you remember?</p> <p>10 A. They were located rue François-Bonivard.</p> <p>11 I can make it sound more English if you wanted.</p> <p>12 Q. It's for the court reporter.</p> <p>13 A. So it's -- do you want me to spell it?</p> <p>14 THE STENOGRAPHER: Yes, please.</p> <p>15 THE WITNESS: So r-u-e, other word</p> <p>16 F-r-a-n-ç-o-i-s, other word B-o-n-i-v-a-r-d, number</p> <p>17 12.</p> <p>18 THE STENOGRAPHER: Thanks.</p> <p>19 BY MR. MOLINA:</p> <p>20 Q. And how big was this office space that</p> <p>21 they were sharing?</p> <p>22 A. It was on two floors. The lower floor</p> <p>23 had, basically, all the operations, administrations</p> <p>24 for the family. Those people I wouldn't -- sort of,</p> <p>25 personal assistants, different family members. That</p>	<p>40</p> <p>1 A. So Partners Advisers was basically --</p> <p>2 I mean, when I started, it was just one person who was</p> <p>3 basically trying to set up an asset management firm.</p> <p>4 When I started, the firm had about 50 million in</p> <p>5 assets under management, although it wasn't really</p> <p>6 management, it was advisory. They were co-advising a</p> <p>7 Luxembourg-based bank on their hedge fund portfolio.</p> <p>8 The bank was called KBL.</p> <p>9 Q. Okay. You said there was one person. Was</p> <p>10 that Mr. Estenne?</p> <p>11 A. Yes.</p> <p>12 Q. And what was his role?</p> <p>13 A. Well, he founded the firm so I guess his</p> <p>14 role was everything, really.</p> <p>15 Q. When did he found the firm?</p> <p>16 A. I don't know. Not long before I arrived,</p> <p>17 but I don't know exactly when.</p> <p>18 [REDACTED]</p> <p>19 [REDACTED]</p> <p>20 [REDACTED]</p> <p>21 [REDACTED]</p> <p>22 [REDACTED]</p> <p>23 [REDACTED]</p> <p>24 [REDACTED]</p> <p>25 Q. And you said it was at that time, in 1999,</p>

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<p style="text-align: right;">41</p> <p>1 it was just you and Mr. Estenne at Partners Advisers?</p> <p>2 A. Yes.</p> <p>3 Q. So what was the day-to-day</p> <p>4 responsibility -- what were the day-to-day</p> <p>5 responsibilities that you had at that time?</p> <p>6 A. It was very similar to the ones for Parly.</p> <p>7 In fact, my job, although I was working part time for</p> <p>8 each of those firm, I wouldn't sort of make a</p> <p>9 difference in my day job, right; so what I was doing</p> <p>10 for one I was doing for the other. So it was</p> <p>11 basically, sort of, analyzing potential investment</p> <p>12 opportunity, obviously, sort of attending meetings</p> <p>13 with hedge fund managers that would come through the</p> <p>14 office. Tried to learn as much as I could about this</p> <p>15 business.</p> <p>16 Q. And you said that Partners Advisers was</p> <p>17 also a family office?</p> <p>18 A. Well, it was -- it wasn't -- no, it</p> <p>19 wasn't, really. Luc -- Luc's family had some sort of</p> <p>20 wealth from Luc's father's -- Luc's father sold the</p> <p>21 business and they had some wealth, but Luc's father</p> <p>22 was very involved in running that and that wasn't run</p> <p>23 by us.</p> <p>24 So, if anything, we were sort of giving</p> <p>25 Luc's father investment advice but it was pro bono.</p>	<p style="text-align: right;">43</p> <p>1 investments and they would, you know, take these</p> <p>2 recommendations and implement them, or not.</p> <p>3 As I mentioned, we were co-advising this</p> <p>4 mandate with another firm called Signet, and so every</p> <p>5 investment that was brought to KBL was first discussed</p> <p>6 with this other firm and we would sort of agree on</p> <p>7 which investments we would put forward.</p> <p>8 Q. Okay. So what was Signet at that time?</p> <p>9 A. Signet was, I guess, an investment</p> <p>10 advisory firm. I mean, I -- it was started by a</p> <p>11 person called Bob Marquardt. They were based in</p> <p>12 Lausanne, Switzerland. Bob used to be a sort of</p> <p>13 placement agent and sort of reinvented himself as an</p> <p>14 investor. I suppose -- I mean, that's sort of -- that</p> <p>15 was sort of the message I received at the time.</p> <p>16 I sort of never investigated who they were, what they</p> <p>17 were doing, except that, sort of, common mandate.</p> <p>18 Q. So how did Partners Advisers make money</p> <p>19 during that time?</p> <p>20 A. I have no idea. I was a junior person.</p> <p>21 I mean, they were obviously paid for that KBL mandate,</p> <p>22 but I didn't have any visibility into the finance of</p> <p>23 the firm.</p> <p>24 Q. How long were you a junior analyst at</p> <p>25 Partners Advisers?</p>
<p style="text-align: right;">42</p> <p>1 Q. Who was Luc's father?</p> <p>2 A. I don't remember his first name. But he</p> <p>3 was -- I only met him twice. He was an executive who</p> <p>4 started a pharmaceutical business which he then sold.</p> <p>5 But I don't have any more details than</p> <p>6 that.</p> <p>7 Q. Other than advising Luc's father on a</p> <p>8 pro bono basis, who were the clients of Partners</p> <p>9 Advisers at that time?</p> <p>10 A. So there was only that one bank, KBL,</p> <p>11 which we were co-advising actually with another firm</p> <p>12 called Signet Capital.</p> <p>13 Q. So you said KBL was a bank?</p> <p>14 A. Yes. Kredietbank Luxembourg is what it</p> <p>15 stands for.</p> <p>16 Q. And what sort of investments did KBL vet,</p> <p>17 or have you and Luc vet?</p> <p>18 A. So, yeah, so we were advising on their</p> <p>19 hedge fund portfolios. There were two portfolios with</p> <p>20 different sort of mandate, one more directional</p> <p>21 or aggressive than the other; one was sort of supposed</p> <p>22 to be an equity replacement, the other one a bond</p> <p>23 replacement.</p> <p>24 We were advising them so we had no</p> <p>25 discretion. We were basically, sort of, recommending</p>	<p style="text-align: right;">44</p> <p>1 A. Well, I mean, at some point I probably</p> <p>2 moved from junior to, sort of, an analyst position or</p> <p>3 senior analyst position but there was no title so</p> <p>4 I don't exactly know when that happened. We did hire</p> <p>5 another analyst that reported to me. I want to say in</p> <p>6 2001.</p> <p>7 Q. Who was that?</p> <p>8 A. But I'm not sure about the date. He was</p> <p>9 called Olivier Magnin. He's still at the firm today.</p> <p>10 Q. So he reported --</p> <p>11 A. Shall I spell it.</p> <p>12 Q. Oh.</p> <p>13 THE STENOGRAPHER: I've got it.</p> <p>14 BY MR. MOLINA:</p> <p>15 Q. He reported to you at that time, when he</p> <p>16 was hired?</p> <p>17 A. Yeah, he reported to Luc and I. I was his</p> <p>18 senior, yes.</p> <p>19 Q. This is in 2001?</p> <p>20 A. I think so. I'm not exactly -- yeah, not</p> <p>21 a hundred percent sure of the dates.</p> <p>22 Q. And as of around that time, around 2001,</p> <p>23 was Partners Advisers still focused on simply</p> <p>24 providing advice to KBL or were there other clients?</p> <p>25 A. So in 2001, we launched our own sort of</p>

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<p style="text-align: right;">45</p> <p>1 fund-of-fund product called ART.</p> <p>2 Q. What was ART?</p> <p>3 A. So it was basically a fund -- a portfolio</p> <p>4 hedge fund, a fund of fund. There were three</p> <p>5 different classes of shares, three different sort of</p> <p>6 type of products, labeled A, B, C; so ART-A, ART-B,</p> <p>7 ART-C. Maybe there was a D as well, I can't remember.</p> <p>8 There was a D at some point but I can't remember if it</p> <p>9 was there day one or not. I don't think so.</p> <p>10 Q. Where was the fund based?</p> <p>11 A. In Luxembourg.</p> <p>12 Q. What did the ART stand for?</p> <p>13 A. Absolute Return Target.</p> <p>14 Q. What was the portfolio of ART Fund, do you</p> <p>15 remember?</p> <p>16 A. So we -- what was in the portfolios or...</p> <p>17 Q. I apologize, yes. What was in --</p> <p>18 what sort of investments was ART Fund invested in?</p> <p>19 A. So their older investments were hedge fund</p> <p>20 investments. ART-A was actually run for -- was a</p> <p>21 specific vehicle that was run for another, sort of,</p> <p>22 wealth management firm. And ART-B was sort of a bond</p> <p>23 replacement program. ART-C was sort of an equity</p> <p>24 replacement program. For a range of investors, that</p> <p>25 was openended. Investors could subscribe into this.</p>	<p style="text-align: right;">47</p> <p>1 Q. And when did they become a client of</p> <p>2 Partners Advisers?</p> <p>3 A. So -- well, I mean with the launch of this</p> <p>4 ART Fund.</p> <p>5 Q. So just so I understand, prior to the</p> <p>6 launch of the fund, Partners Advisers focused almost</p> <p>7 exclusively on advising KBL bank?</p> <p>8 A. Yes.</p> <p>9 Q. And it wasn't until the launch of the fund</p> <p>10 in -- you said it was around 2001?</p> <p>11 A. Yes, January 2001, I think.</p> <p>12 Q. And that's when they, Partners Advisers,</p> <p>13 brought on other investors?</p> <p>14 A. Yes. I think Partners Advisers actually</p> <p>15 initially -- let me correct that. I think -- and</p> <p>16 that's only -- I wasn't part of this conversation, but</p> <p>17 I sort of understood that Partners Advisers was also</p> <p>18 getting paid for advice by Parly. So part of -- they</p> <p>19 also had a contract with Parly, which is sort of --</p> <p>20 I was part of that, obviously, because I was also</p> <p>21 working there for them, but I think Luc also got</p> <p>22 compensated by Parly.</p> <p>23 So, yeah, so KBL and Parly were those two</p> <p>24 clients, if you want, yeah.</p> <p>25 Q. Parly was paying Partners Advisers for</p>
<p style="text-align: right;">46</p> <p>1 Q. Okay. Let's break that down.</p> <p>2 So you said ART-A was actually run for a</p> <p>3 specific vehicle that was another wealth management</p> <p>4 firm. Could you expand on that a little bit.</p> <p>5 A. So it was -- sure. It was sort of similar</p> <p>6 to the KBL program in the sense that we were running</p> <p>7 this portfolio specifically for one other entity that</p> <p>8 didn't have an internal expertise in hedge funds and</p> <p>9 so required another firm to run it for them.</p> <p>10 And then ART -- yeah. Whereas the other</p> <p>11 two, B and C, were sort of typical fund of funds that</p> <p>12 were open to other -- to any investors that -- I mean,</p> <p>13 any, I guess, sophisticated investor to invest in. It</p> <p>14 wasn't -- they weren't retail products.</p> <p>15 Q. So what was the name of the entity that</p> <p>16 was invested in the Class A?</p> <p>17 A. It was called Trendtrust.</p> <p>18 Q. What is Trendtrust?</p> <p>19 A. It was a wealth management firm.</p> <p>20 Q. Based where?</p> <p>21 A. In Geneva.</p> <p>22 Q. Managed by whom?</p> <p>23 A. At the time there were two partners: one</p> <p>24 called Hugues Janssens; the other one called Andrea</p> <p>25 Manghi.</p>	<p style="text-align: right;">48</p> <p>1 investment advice?</p> <p>2 A. Yes. Yeah.</p> <p>3 Q. I'm going to get back to the other classes</p> <p>4 of the ART fund, but I just want to go back to the</p> <p>5 launch --</p> <p>6 A. Sure.</p> <p>7 Q. -- of the fund.</p> <p>8 What was the purpose -- what was the</p> <p>9 reason, do you remember, why Partners Advisers decided</p> <p>10 to create and launch this fund?</p> <p>11 A. Yeah. I mean, I think Luc's ambition was</p> <p>12 to create an asset management firm, so the goal was to</p> <p>13 grow the assets under management of the firm and have</p> <p>14 a product that we would sort of run ourselves in order</p> <p>15 to create our own track record. Whereas the KBL</p> <p>16 mandate, it was advisory only and it was co-advised</p> <p>17 with another firm, so...</p> <p>18 But, ultimately, it was just basically</p> <p>19 with the goal of creating a product that could grow</p> <p>20 and be profitable for the firm.</p> <p>21 Q. Was Partners Advisers the investment</p> <p>22 adviser to the ART Fund?</p> <p>23 A. Yes.</p> <p>24 Q. Who were the directors of ART Fund, do you</p> <p>25 remember?</p>

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<p style="text-align: right;">49</p> <p>1 A. No. Well, I mean, Luc was one of the 2 directors and then there was a number of people from 3 Rothschild Bank, which was the custodian, the 4 administrator of that -- with the ART Fund. They had 5 a number of directors on the board as well but I can't 6 remember their names. 7 Q. You mentioned there was a Class B and 8 Class C, and potentially a Class D of ART Fund, right? 9 A. Mmm-hmm. 10 Q. And you mentioned that there were other 11 thirdparty investors other than Trendtrust could 12 invest through those classes? 13 A. Yes. 14 Q. What -- how many investors -- in the first 15 year, how many of those investors were there? 16 A. I have no idea. Can't remember. I'm 17 actually not sure I was part of that either. I was 18 sort of shielded from -- my job was making sure that, 19 you know, the investments we put in the portfolio made 20 sense. 21 I was not, sort of, very actively involved 22 in conversation with potential investors. 23 Q. When you say you were shielded, who 24 shielded you? 25 A. Well, Luc Estenne was sort of leading the</p>	<p style="text-align: right;">51</p> <p>1 A. I'm sure. 2 Q. -- later, but I just want to go back to 3 the specific roles. 4 So when you said that you would -- you 5 would recommend investments for the ART Fund 6 portfolio, you mean you would recommend them to 7 Mr. Estenne? 8 A. Yes. 9 Q. And at that time he would be the one that 10 would ultimately decide what the fund would invest in? 11 A. Yeah, he would be very involved. He would 12 meet with the people I would, you know, recommend as 13 well, do his own sort of work, apply his own 14 experience. He was obviously ten years my senior and 15 much more experienced than I was. 16 Q. And so in 2001 -- you mentioned 17 Mr. Magnin. Am I pronouncing that correctly? 18 A. You're pronouncing it the American way, 19 which is fine. 20 Q. I apologize. So Mr. Magnin was working 21 with you and Luc. Was there anyone else that joined 22 the team? 23 A. We had a team assistant, actually, or an 24 assistant, mostly to Luc. But she was helping with 25 the team as well. That was it. Yes.</p>
<p style="text-align: right;">50</p> <p>1 marketing efforts for the funds, so he did shield me 2 from that, initially at least. I was -- that sort of 3 changed over time, but, yeah, back in 2001 for sure. 4 Q. So your role with respect to the ART Fund 5 was, at that time, around the time of the launch, was 6 to simply select the investments that would be put in 7 the portfolio? 8 A. Yeah. I mean I wasn't -- I was two year 9 in the job, so my job was to help select the 10 investments, I would say, rather than selling them 11 myself. 12 Q. So how would you go about doing that? 13 A. So I would try to find investment 14 opportunities, mostly talking to other investors, 15 talking to a number of service providers that are sort 16 of active in our industry, traveling to the US on a 17 regular basis to meet with these potential 18 investments, conduct due diligence, which basically 19 meant meeting with the manager, with his or her team, 20 understanding the strategy, and then sort of, 21 you know, compare it to others that were doing similar 22 things, and then ultimately approve them for 23 investment. 24 Q. Okay. And we will go through the due 25 diligence process --</p>	<p style="text-align: right;">52</p> <p>1 Q. Who was the assistant? 2 A. She was called Nathalie Mottier. 3 Q. And when you say she was an assistant, do 4 you mean an assistant to the entire team or to only 5 Luc? 6 A. Well, she was mostly doing work for Luc, 7 but she was -- she would sort of help the team as well 8 when it came to sort of booking hotels and flights, 9 stuff like that. 10 Q. And at that time you were still sharing 11 office space with Parly Company at that address in 12 Geneva? 13 A. We were, yes. 14 Q. She worked up on the second floor with 15 you -- 16 A. Yes. 17 Q. -- and the rest of the analysts? 18 A. Yeah. She had sort of a reception desk 19 that was separate from the open space. 20 Q. Who else was at Partners Advisers around 21 that time in early 2001/2002? 22 A. That was the full team, I think. 23 Q. Who is Carole Müller? 24 A. Who? Sorry. 25 Q. Carole Müller.</p>

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<p>53</p> <p>1 A. K-a-r-e-l-l?</p> <p>2 Q. C-a-r-o-l-e.</p> <p>3 A. Oh.</p> <p>4 Q. And I'm sorry if I'm mispronouncing that</p> <p>5 name as well.</p> <p>6 A. Same last name as mine? I don't know.</p> <p>7 I don't know who she is. I mean, the way you</p> <p>8 pronounce it, sounded like my daughter, so, like -- so</p> <p>9 -- who is called Karell. But I don't know that</p> <p>10 person.</p> <p>11 Q. Okay.</p> <p>12 A. Or I can't remember.</p> <p>13 Q. Who is Fabien Duteil?</p> <p>14 A. He was a person that was hired to the firm</p> <p>15 as -- to lead the distribution effort, sales effort</p> <p>16 for the firm later on.</p> <p>17 Q. When you say "the firm," you mean Partners</p> <p>18 Advisers?</p> <p>19 A. Yes.</p> <p>20 Q. Did he also work at Parly Company?</p> <p>21 A. No. By that time we had separated.</p> <p>22 Q. When did you separate?</p> <p>23 A. Yeah, I knew that question was coming, but</p> <p>24 I can't remember the date. Probably around 2002 or</p> <p>25 2003.</p>	<p>55</p> <p>1 Q. But just when you would recommend</p> <p>2 investments to Mr. Estenne, would you share those</p> <p>3 recommendations or that work product with Parly</p> <p>4 Company?</p> <p>5 A. Not directly, no. I think Luc had</p> <p>6 meetings with Peter Fletcher on a regular basis but</p> <p>7 I don't know what was discussed. Maybe it was</p> <p>8 investments were discussed, but I wasn't sort of</p> <p>9 discussing them directly.</p> <p>10 We were obviously sharing an office space</p> <p>11 with -- and we were in an open space with Philippe</p> <p>12 Hostettler so he would be very aware of what was going</p> <p>13 on.</p> <p>14 Q. Would Parly Company have access to the</p> <p>15 systems, the computer systems, that Partners Advisers</p> <p>16 used?</p> <p>17 A. I honestly can't remember.</p> <p>18 Q. So you had Mr. Duteil. Do you know when</p> <p>19 he joined the firm?</p> <p>20 A. I can't remember that, no.</p> <p>21 Q. Around 2002?</p> <p>22 A. No, I think it was later. I think it was</p> <p>23 much later but I can't remember the exact day.</p> <p>24 Q. So as far as you could remember, in the</p> <p>25 2002/2003 time frame, who was at Partners Advisers?</p>
<p>54</p> <p>1 Q. Why did they separate?</p> <p>2 A. We were growing as a firm and so I think</p> <p>3 the relationship became sort of less useful for</p> <p>4 Partners Advisers. Parly was moving in different</p> <p>5 direction as well in terms of their own investments</p> <p>6 away from hedge funds and so it made sense to</p> <p>7 separate. We were outgrowing the space as well so we</p> <p>8 needed new space.</p> <p>9 Q. So Partners Advisers moved to a different</p> <p>10 address?</p> <p>11 A. Yes.</p> <p>12 Q. Where did they move? Partners Advisers,</p> <p>13 where did Partners Advisers move?</p> <p>14 A. To which address, is that --</p> <p>15 Q. Yeah, sorry, to which address?</p> <p>16 A. To 100 rue du Rhône.</p> <p>17 It's R-h-ô-n-e.</p> <p>18 THE STENOGRAPHER: Thanks.</p> <p>19 BY MR. MOLINA:</p> <p>20 Q. And just going back to the whole sharing</p> <p>21 office space, when you would recommend investments --</p> <p>22 and, again, we will go through the due diligence</p> <p>23 process in detail so I don't want to get too far into</p> <p>24 that.</p> <p>25 A. Yeah.</p>	<p>56</p> <p>1 A. 2002/2003 time frame? I think those four</p> <p>2 people that I mentioned. At some point we did hire</p> <p>3 a salesperson. I think the first person we hired was</p> <p>4 Fabien Duteil. There was quite a bit of turnover on</p> <p>5 the sales team so there were multiple people that had</p> <p>6 that role over time. But I can't remember when he</p> <p>7 joined.</p> <p>8 Q. You said he was a salesperson?</p> <p>9 A. Yes.</p> <p>10 Q. What did he do?</p> <p>11 A. So his role was to, sort of, find</p> <p>12 investors for our ART Fund.</p> <p>13 Q. And did he report to Luc?</p> <p>14 A. He did, yes.</p> <p>15 Q. But he wasn't involved in what you were</p> <p>16 doing at that time?</p> <p>17 A. No. No, he was sort of outward facing.</p> <p>18 He was not involved in the investment -- the</p> <p>19 investment process.</p> <p>20 Q. And at that time it was you and Mr. Magnin</p> <p>21 working together on due diligence and selecting --</p> <p>22 A. Yes.</p> <p>23 Q. -- potential investments?</p> <p>24 A. Yes. And Luc was very involved, too.</p> <p>25 I mean, Luc was driving that process, right. He was</p>

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<p style="text-align: right;">57</p> <p>1 -- again, he was the de facto CIO of the business, the 2 chief investment officer. 3 Q. And your role -- your title at that time 4 was still analyst? 5 A. Well, again, we didn't have titles, right. 6 I mean, ultimately, I guess my title at that time was 7 probably senior analyst because I had one person 8 reporting to me, right. 9 We actually got to title later on. I can 10 expand on it if you want. 11 Q. We'll get there. Other -- at this time, 12 for the -- other than selecting potential investments 13 for the ART Fund, what else were you doing? 14 A. We also started running an investment 15 program for a Geneva-based bank called MeesPierson 16 bank. It had two -- I can't remember when that 17 started by my -- I think it started in 2003, Two 18 Thousand -- maybe late 2002 or early 2003. There was 19 two programs, one which was -- again, sort of bond 20 replacement, the other one was an equity replacement. 21 It was hedge fund portfolios as well. 22 We call those "white labeled," which means 23 that we were running them but they had the name of the 24 bank on them. 25 Q. For the record, do you want to explain</p>	<p style="text-align: right;">59</p> <p>1 through a special vehicle or... 2 A. Yes, they had their own fund. 3 Q. What was the name of the fund? 4 A. I can't remember it. I think it was 5 called MeesPierson something, but I can't remember the 6 exact name of the fund. 7 Q. And was Partners Advisers an investment 8 adviser to that fund? 9 A. I can't remember the exact structure. 10 Q. Okay. 11 A. I think we were -- I don't know if we were 12 officially the investment adviser to the fund or if we 13 were an adviser to MeesPierson, who was then the 14 investment adviser to the fund. 15 Q. Okay. 16 MR. MOLINA: Tab 157. 17 (Trustee Exhibit 14 marked for 18 identification.) 19 MR. MOLINA: Court reporter, sorry, I've 20 handed you what was tab 157 in the bundle, which I see 21 now has been marked as Trustee Exhibit No. 14. 22 BY MR. MOLINA: 23 Q. Mr. Müller, if you may open up this 24 document you'll see that -- the first thing you'll see 25 is that there's an original cover email that's in</p>
<p style="text-align: right;">58</p> <p>1 what bond replacement means. 2 A. Yeah. It means that the return target we 3 were -- or the returns we were trying to generate by 4 investing in hedge funds was sort of similar to a bond 5 portfolio; so steady returns, not very -- not very 6 high, but steady returns. 7 Q. And what's an equity replacement? 8 A. An equity replacement is, similarly, a 9 hedge fund portfolio that aims to mimic the return 10 profile of an equity portfolio, so basically have some 11 upside to equity markets and also potentially capture 12 some of the downside of equity markets. 13 Q. Was MeesPierson also an investor of the 14 ART Fund at that time? 15 A. No. No, it was a separate program. It 16 was run in the same way, which means that the 17 investments we were making in ART Fund B, which was 18 the bond replacement, were, in general, the same ones 19 as we would do in their bond replacement program, 20 which was called Arbitrage. And the investments we 21 would do in ART-D, which appeared later on, which was 22 basically an equity replacement, would be done in 23 their equity replacement program, which was called 24 Investing. And -- yeah. 25 Q. Did MeesPierson make these investments</p>	<p style="text-align: right;">60</p> <p>1 French. Do you see that? 2 A. Yes. 3 Q. And you'll know, as you flip through this, 4 that this email has been translated into English -- 5 A. Mmm. 6 Q. -- through a certified translation by an 7 outside vendor. Do you see that? 8 A. I see that, yes. 9 Q. And you see that this -- the email in 10 question was sent on May 26, 2004. Do you see that? 11 A. Absolutely, yeah. 12 Q. Have you ever -- do you remember -- are 13 you familiar with this document? 14 A. I can't remember it. You mean the email 15 or the attached document? I mean -- 16 Q. Both. 17 A. I don't remember that email, but I see I'm 18 copied on it so I did receive it. 19 Q. Right. So, just for the record, this 20 email was sent by Mr. Fabien Duteil. Do you see that? 21 A. Yes. 22 Q. This is the gentleman that we were 23 discussing who was the head of business -- 24 A. Development, yeah. 25 Q. -- of marketing at Partners Advisers?</p>

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<p>61</p> <p>1 A. Yes.</p> <p>2 Q. And this email was sent to Mr. Luc Estenne</p> <p>3 and to yourself; yes?</p> <p>4 A. Yes.</p> <p>5 Q. And the Subject line is "DD." Correct?</p> <p>6 A. Yes.</p> <p>7 Q. What does DD stand for?</p> <p>8 A. Due diligence.</p> <p>9 Q. And the attachment is "DDQ Partners</p> <p>10 Advisers." Do you see that?</p> <p>11 A. Yes.</p> <p>12 Q. Do you see that the body of the email says</p> <p>13 that this is a -- the document is being sent for your</p> <p>14 review?</p> <p>15 A. Yes.</p> <p>16 Q. Yeah. Why don't we turn to the attachment</p> <p>17 itself. Do you see at the first page of the</p> <p>18 attachment that it's dated May 10, 2004?</p> <p>19 A. Yes.</p> <p>20 Q. Do you see that it's named -- it's titled</p> <p>21 "Lloyds TSB Bank PLC - Fund of Hedge Fund Due</p> <p>22 Diligence Questionnaire"?</p> <p>23 A. Yes.</p> <p>24 Q. What's a due diligence questionnaire?</p> <p>25 A. A due diligence questionnaire is a</p>	<p>63</p> <p>1 Executive - Luc Estenne"?</p> <p>2 A. Yes.</p> <p>3 Q. And then underneath it says, "Head of</p> <p>4 Research - Jérôme Müller, CFA"?</p> <p>5 A. Yes.</p> <p>6 Q. That's you?</p> <p>7 A. It is.</p> <p>8 Q. So at this time your title was head of</p> <p>9 research?</p> <p>10 A. Yes. I received that title in early 2003.</p> <p>11 That was my first title; hence my comment before, the</p> <p>12 titles came in later. Yes.</p> <p>13 Q. What did you do as head of research?</p> <p>14 A. The same thing -- the same thing as I was</p> <p>15 doing before but with a louder voice. So I guess by</p> <p>16 that time I'd been with the firm for three years. I'd</p> <p>17 gained in experience and so I was basically having</p> <p>18 more in-depth conversation with Luc about investments</p> <p>19 and my voice carried more weight in the investment</p> <p>20 decision process.</p> <p>21 But I was also managing the investment</p> <p>22 team, which, at that point, was one person.</p> <p>23 Q. Mr. Magnin?</p> <p>24 A. Yes.</p> <p>25 Q. And do you see that at -- in this same box</p>
<p>62</p> <p>1 document that firms fill in for the benefit of</p> <p>2 potential investors; so basically going through what</p> <p>3 they do, so both on investment side and sort of how</p> <p>4 the operational aspects of these investments are</p> <p>5 structured.</p> <p>6 Q. Are you familiar with this attachment?</p> <p>7 A. I don't remember it.</p> <p>8 Q. But you have no reason to believe that you</p> <p>9 didn't receive it at that time?</p> <p>10 A. Absolutely, yeah.</p> <p>11 Q. Let's go to -- let's go to the -- and</p> <p>12 I will be referring to -- if you note at the bottom</p> <p>13 righthand corner there's a series of numbers and</p> <p>14 letters.</p> <p>15 A. Yes.</p> <p>16 Q. I'm going to be referring to those. So</p> <p>17 let's go to the page that has the SQO, and then the</p> <p>18 letters -- so the numbers ending in 18135.</p> <p>19 Actually, I'm sorry, first let's go to</p> <p>20 18130. Apologies.</p> <p>21 A. Yes.</p> <p>22 Q. Do you see there's a chart at the top of</p> <p>23 that page?</p> <p>24 A. I can see that, yes.</p> <p>25 Q. Do you see at the top it says, "Chief</p>	<p>64</p> <p>1 that refers to you, it says, "Manager Selection &</p> <p>2 Monitoring."</p> <p>3 A. Mmm-hmm.</p> <p>4 Q. It also says, "Quantitative & Qualitative</p> <p>5 Analysis."</p> <p>6 A. Yes.</p> <p>7 Q. We'll get into those terms later, but is</p> <p>8 there anything else that you were doing, besides</p> <p>9 what's in this box and what you've already told us, as</p> <p>10 head of research?</p> <p>11 A. Anything else that I was doing?</p> <p>12 Q. Yes.</p> <p>13 A. So what this mentions is obviously the</p> <p>14 manager selection, sort of, analysis part of it.</p> <p>15 What's missing here is obviously, sort of, the more</p> <p>16 managerial role of take -- looking after Mr. Magnin.</p> <p>17 And then I was also involved in -- I was</p> <p>18 more involved -- not fully involved but I was more</p> <p>19 involved in the running of the firm at that point, so</p> <p>20 I would have maybe quarterly meetings with Luc Estenne</p> <p>21 about more the strategy of the firm, so where we</p> <p>22 wanted to take it, which investors to try and convince</p> <p>23 to partner up with us, et cetera.</p> <p>24 Q. Yeah. Do you see on the right, the box to</p> <p>25 the right of where your name is mentioned --</p>

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<p style="text-align: right;">65</p> <p>1 A. Mmm-hmm.</p> <p>2 Q. -- there's the Carole Müller I was</p> <p>3 referencing earlier?</p> <p>4 A. Yeah. I honestly can't remember her. I</p> <p>5 don't think she stayed with the firm for very long.</p> <p>6 Q. I'm going to draw your attention on the</p> <p>7 same page under section K. I'm going to read this</p> <p>8 sentence into the record. It says:</p> <p>9 "Mr. Luc Estenne and Mr. Jérôme Müller are</p> <p>10 the two partners of Partners Advisers and both have</p> <p>11 70% of their liquid net worth invested in A.R.T. -</p> <p>12 Absolute Return Target Fund."</p> <p>13 Do you see that?</p> <p>14 A. Yes, I see that.</p> <p>15 Q. Let's break that down. It says here that</p> <p>16 you were -- you and Mr. Estenne were the two partners</p> <p>17 of Partners Advisers. When did you become a partner?</p> <p>18 A. I think when I became head of research in</p> <p>19 2003, although "partner" didn't mean that I was a</p> <p>20 shareholder of the firm. It was sort of more,</p> <p>21 I guess, a shadow equity-holder. I was getting a</p> <p>22 share of the profits of the firm.</p> <p>23 Q. Do you remember what share?</p> <p>24 A. I ended up with 15 percent of the profits,</p> <p>25 but I don't know if-- I can't remember if that was</p>	<p style="text-align: right;">67</p> <p>1 I think it's something that everybody does.</p> <p>2 Q. Okay. So you said it's a requirement. Is</p> <p>3 this a legal requirement in Geneva?</p> <p>4 A. No, it's a requirement for investors to</p> <p>5 invest in your fund. Basically, they want to see</p> <p>6 alignment of interest.</p> <p>7 Q. So it's a business --</p> <p>8 A. Requirement, yeah.</p> <p>9 Q. -- decision in order to appeal to</p> <p>10 investors?</p> <p>11 A. Yes.</p> <p>12 Q. And when you said everybody was doing it,</p> <p>13 do you mean everybody in Geneva or do you mean --</p> <p>14 A. Everybody in this industry does it</p> <p>15 actually, including -- so it's not geographically</p> <p>16 specific. Every manager of hedge funds or fund of</p> <p>17 funds do the same thing pretty much globally</p> <p>18 because -- I mean, it's not -- 70 percent is an</p> <p>19 arbitrary number, right. Sometimes it's 50, sometimes</p> <p>20 it's 100. I mean it's just significant amounts of</p> <p>21 liquid net worth invested in the funds they run.</p> <p>22 You sort of -- I guess a business -- it's</p> <p>23 sort of a business decision that most people do.</p> <p>24 Q. How did you get to 70 percent? Who</p> <p>25 decided the 70 percent figure?</p>
<p style="text-align: right;">66</p> <p>1 from the outset or if it grew over time.</p> <p>2 Q. And this was subject to a specific</p> <p>3 agreement between you and Mr. Estenne?</p> <p>4 A. Yes.</p> <p>5 Q. Okay. And it says that you had -- you and</p> <p>6 Mr. Estenne both had, at that time, 70 percent of your</p> <p>7 liquid net worth invested in the ART Fund.</p> <p>8 A. Yes.</p> <p>9 Q. Do you see that? Is that accurate?</p> <p>10 A. It probably was but my liquid net worth</p> <p>11 was very tiny so it didn't represent a lot of money,</p> <p>12 but yes.</p> <p>13 Q. Roughly, how much money at that time would</p> <p>14 70 percent of your liquid net worth have represented?</p> <p>15 A. 10 or \$20,000.</p> <p>16 Q. And why did you invest 70 percent of your</p> <p>17 liquid net worth at that time in the ART Fund?</p> <p>18 A. Well, I was involved in managing these</p> <p>19 portfolios, so it was the best place to invest any</p> <p>20 capital I had, right, rather than actually giving it</p> <p>21 to someone else, so yes.</p> <p>22 But it was also a requirement, I think --</p> <p>23 in our industry it's a requirement that people running</p> <p>24 portfolios of financial assets invest in their own --</p> <p>25 in their own funds, right; so eating your own cooking.</p>	<p style="text-align: right;">68</p> <p>1 A. I have -- I don't know.</p> <p>2 Q. Approximately, how much would</p> <p>3 Mr. Estenne's liquid net worth -- or 70 percent of</p> <p>4 Mr. Estenne's liquid net worth have represented around</p> <p>5 this time?</p> <p>6 A. I don't know. He's always been very</p> <p>7 guarded when it came to his finances.</p> <p>8 Q. As head of research and as someone</p> <p>9 involved in running the firm, would you have access to</p> <p>10 that information?</p> <p>11 A. No.</p> <p>12 Q. Would you assume it's more than 10,000 or</p> <p>13 \$20,000?</p> <p>14 A. It definitely was, yes.</p> <p>15 Q. Hundreds of thousands of dollars?</p> <p>16 A. Probably, yeah.</p> <p>17 Q. Millions of dollars, probably?</p> <p>18 A. Maybe. Maybe, yeah.</p> <p>19 Q. Okay. If you could flip to the page that</p> <p>20 has the 18134 numbering. Do you see at the very</p> <p>21 bottom there's some biographical information for</p> <p>22 yourself?</p> <p>23 A. Mmm-hmm.</p> <p>24 Q. So just quickly, it says that you began at</p> <p>25 Partners Advisers in April 1999, that you were in</p>

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<p>69</p> <p>1 charge of selection, due diligence and monitoring of</p> <p>2 hedge fund managers, and also quantitative and</p> <p>3 qualitative analysis.</p> <p>4 Do you see that?</p> <p>5 A. I do.</p> <p>6 Q. It also -- on the next page, it also</p> <p>7 mentions your previous role at UBP?</p> <p>8 A. Yes.</p> <p>9 Q. If you go to the middle of that page, and</p> <p>10 that ends in 18135, there's a section called</p> <p>11 "Compensation for key personnel..."</p> <p>12 Do you see that?</p> <p>13 A. Yes.</p> <p>14 Q. So I'm just going to read this into the</p> <p>15 record:</p> <p>16 "The Investment professionals, including</p> <p>17 Luc Estenne, Jérôme Müller and Olivier Magnin, get a</p> <p>18 base salary and a bonus which is a fixed percentage of</p> <p>19 the incentive fees earned by the company."</p> <p>20 What's an incentive fee?</p> <p>21 A. Incentive fee is a fee that is linked to</p> <p>22 the performance of a -- of a fund or an investment</p> <p>23 program.</p> <p>24 Q. And so if a fund does not perform well,</p> <p>25 you would not be getting an incentive fee?</p>	<p>71</p> <p>1 when I left the firm my base salary was around 250,000</p> <p>2 Swiss francs. But that's later on.</p> <p>3 Q. You said that's when you left the firm?</p> <p>4 A. Yeah, in 2011, but my base salary was</p> <p>5 pretty -- was at that level for quite a prolonged</p> <p>6 period of time, so I don't know if that was the case</p> <p>7 already back then.</p> <p>8 Q. And so other than the base salary, your</p> <p>9 only other compensation at that time would have been</p> <p>10 this fixed percentage of the incentive fee?</p> <p>11 A. That's correct.</p> <p>12 Q. And the incentive fee is tied to the</p> <p>13 performance of the ART Fund?</p> <p>14 A. Of every fund we were running basically,</p> <p>15 yes. So it was sort of the incentive fee earned by</p> <p>16 the firm on every one of its investment programs.</p> <p>17 Q. And remind me again. So you had the ART</p> <p>18 Fund. You mentioned the MeesPierson --</p> <p>19 A. Yes.</p> <p>20 Q. -- they had two programs. What other</p> <p>21 funds were you -- was the firm advising at that time?</p> <p>22 A. So, again, when you say "at that time,"</p> <p>23 I don't have exact recollections of the dates, but we</p> <p>24 were also running a small program called -- well, for</p> <p>25 another bank called Arab Bank, and then we were</p>
<p>70</p> <p>1 A. That's correct, yes.</p> <p>2 Q. All right. So, by its name, it implies</p> <p>3 that you have an economic incentive in the fund</p> <p>4 performing well?</p> <p>5 A. Exactly, yes.</p> <p>6 Q. Do you remember what percentage, what</p> <p>7 fixed percentage, you had of the incentive fees?</p> <p>8 A. So I think that's the 15 percent</p> <p>9 I referred to. Although I don't know if at that time</p> <p>10 it was 15 percent. I ended up getting 15 percent,</p> <p>11 because that's -- I mentioned of the profits, but the</p> <p>12 incentive fee is typically pure profit, right. You</p> <p>13 get it; there's no costs associated with it.</p> <p>14 So these investment funds typically have a</p> <p>15 management fee that is there to cover costs of the</p> <p>16 business, and then an incentive fee that is,</p> <p>17 basically, you get if you perform well, and it's sort</p> <p>18 of there to compensate your team for, you know, the</p> <p>19 hard work on the performance.</p> <p>20 Q. It also mentions here that you received</p> <p>21 a base salary at that time.</p> <p>22 A. Yes.</p> <p>23 Q. Do you remember approximately how much</p> <p>24 that would have been?</p> <p>25 A. I don't at that time. I remember that</p>	<p>72</p> <p>1 running a specific program for a wealth management</p> <p>2 firm based in Hong Kong called Axiom Capital, or Axiom</p> <p>3 something. Those two were small.</p> <p>4 And I can't remember from -- you know,</p> <p>5 when they started, but they were programs that were</p> <p>6 run at the firm during its existence.</p> <p>7 Q. And those funds did similar investments as</p> <p>8 the ART Fund?</p> <p>9 A. Yeah. I mean, for the most part they were</p> <p>10 run pari passu, which means that every investment that</p> <p>11 was made in one program was made in the others, if the</p> <p>12 mandate was the same, right. We had these two</p> <p>13 mandates; bond replacement, equity replacement.</p> <p>14 Q. Roughly, how many investments would be in</p> <p>15 the portfolio that you were putting together?</p> <p>16 A. Between 20 and 30 per portfolio.</p> <p>17 Q. And would you be involved in the selection</p> <p>18 of all of those investments?</p> <p>19 A. Yes, after -- after 2003, when I became</p> <p>20 head of research, for sure.</p> <p>21 Q. So as head of research, starting in 2003,</p> <p>22 if something was in the portfolio, you would be --</p> <p>23 it would have to go through you at some point?</p> <p>24 A. Yeah. I would -- I would be involved in</p> <p>25 that decision-making, but the ultimate decision stayed</p>

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<p style="text-align: right;">73</p> <p>1 with Luc. I'm jumping around, but in 2006 I became 2 co-CIO, at which point every decision, investment 3 decision or divestment, was basically a common 4 decision between Luc and I. 5 Q. Prior to 2003, so before you became the 6 head of research, what was -- would you be aware or 7 privy to the investments that would be placed in the 8 ART Fund portfolio? 9 A. I would, yes. 10 Q. So, as you said earlier, it's -- your 11 roles with respect to these investments was more or 12 less similar but you just had a louder voice as head 13 of research? 14 A. Yes. 15 Q. And then when you became co-CIO, you said 16 in 2006, that's when that happened? 17 A. Yes. 18 Q. And the other CIO would have been? 19 A. Luc. 20 Q. Mr. Estenne? 21 A. Yes. 22 Q. So in 2006, you and Mr. Estenne became 23 co-CIOs. What's a CIO? 24 A. Chief investment officer. 25 Q. And what does that entail?</p>	<p style="text-align: right;">75</p> <p>1 during that time. That wasn't only ART, though. 2 Obviously, the MeesPierson mandate also grew quite 3 large, probably 6, 700 million. 4 And so -- so, yeah, so -- but I -- the way 5 from 50 million to 1.8 at the firm level, or probably 6 1,800 to 1 billion at ART in 2008, I don't know, 7 I can't remember what the path was to that, actually. 8 I think we had a lot of inflows in 2003 9 because the performance was very good, but, again, 10 that's just sort of -- I can't put numbers on it. 11 Q. And going back to the incentive fee, what 12 was -- do you remember what the percentage was of 13 the -- what the performance fee was at that time? 14 A. No. It's probably in that document 15 actually, but -- I mean, typical incentive fees for 16 fund-of-fund structures are usually about 10 percent 17 of the profits, so possibly around there. 18 THE EXAMINER: Mr. Molina, I'm conscious 19 of the time. I don't want to interrupt your line of 20 questioning but when you come to a natural break, 21 perhaps you can -- 22 MR. MOLINA: About ten minutes, would that 23 work? 24 THE EXAMINER: Sure. 25 MR. MOLINA: Thank you.</p>
<p style="text-align: right;">74</p> <p>1 A. It entails -- it entails running the 2 investment program entirely, so making all the 3 investment decisions, not only -- we're only talking 4 about investment decisions here but it also -- there's 5 also a component of portfolio construction, trying to 6 build portfolios that are as, sort of, robust as 7 possible with, sort of, different type of strategies 8 leading to diversification and sort of, I guess, 9 trying to get the best possible return with the least 10 amount of risk. 11 So portfolio construction was part of it 12 as well for a CIO, right, and then obviously running 13 the investment team as well. 14 Q. How many assets under management was in -- 15 was the ART -- 16 (Stenographer clarification.) 17 MR. MOLINA: Sure. 18 BY MR. MOLINA: 19 Q. How many assets under management did the 20 ART Fund have around this time? 21 A. So it grew. I don't have, sort of, very 22 precise recollection. I think when we started in 23 2001, it had about 50 million. When we -- assets 24 under management at the firm peaked in 2008, at 25 something around 1.78 billion, so it grew tremendously</p>	<p style="text-align: right;">76</p> <p>1 BY MR. MOLINA: 2 Q. So 10 percent and you said the fund was 3 performing -- between 2003, when you became head of 4 research, to 2008, when you hit this peak in assets 5 under management, the fund was performing well; that's 6 what you said? 7 A. Yes. 8 Q. So your incentive fees for the fund would 9 have been significant? 10 A. There were -- I mean, they -- I guess so, 11 yes. 12 Q. And your net worth would have increased 13 over this time? 14 A. Yeah. I mean, I did get bonuses that were 15 quite comfortable, yes. 16 Q. Yeah. And you were still -- between 2003 17 and 2008, you were still investing 70 percent of your 18 liquid net worth in the ART Fund? 19 A. Yes, but I think it was by -- it was by -- 20 it might not have been 70 percent. That, I don't 21 know. But it was by design because I think part of my 22 compensation was deferred and reinvested in the funds. 23 That's also, sort of, a typical sort of 24 structure, to retain employees, is to have their 25 bonuses being deferred over a number of years and</p>

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<p style="text-align: right;">77</p> <p>1 re-invested in the funds that they run.</p> <p>2 Q. Did Mr. Estenne have the same percentage</p> <p>3 just like we see in this document? Did the same --</p> <p>4 did both of you maintain the same level of</p> <p>5 co-investing over this time?</p> <p>6 A. I don't know. Again, Mr. Estenne was very</p> <p>7 guarded when it came to his finances.</p> <p>8 Q. After 2006, when you became the co-CIO --</p> <p>9 sorry, let me retract that.</p> <p>10 You said you left the firm when? Partners</p> <p>11 Advisers.</p> <p>12 A. 2011.</p> <p>13 Q. 2011?</p> <p>14 A. Yeah, end of 2011.</p> <p>15 Q. And so between 2006, when you became the</p> <p>16 co-CIO, and when you left the firm in 2011, what other</p> <p>17 roles did you hold at Partners Advisers?</p> <p>18 A. No other roles. Co-CIO was sort of my</p> <p>19 last role.</p> <p>20 Q. You never became the sole CIO?</p> <p>21 A. No.</p> <p>22 Q. Why did you leave the firm in 2011?</p> <p>23 A. Because I was getting divorced, which sort</p> <p>24 of triggered a sort of broader reflection about my</p> <p>25 life, and I decided that I wanted to move on. It was,</p>	<p style="text-align: right;">79</p> <p>1 I was self-employed.</p> <p>2 Q. You say you work now at Stable Asset</p> <p>3 Management?</p> <p>4 A. Yes.</p> <p>5 Q. What's Stable Asset Management?</p> <p>6 A. It's an asset management firm specializing</p> <p>7 investing in hedge funds at an emerging stage; so when</p> <p>8 they start, basically.</p> <p>9 Q. You said you hold the role of CIO?</p> <p>10 A. I do.</p> <p>11 Q. When did you start working at Stable Asset</p> <p>12 Management?</p> <p>13 A. In January '17.</p> <p>14 Q. Have you always been the CIO since you</p> <p>15 started working there?</p> <p>16 A. I have, yes.</p> <p>17 Q. How many people report to you?</p> <p>18 A. There's been quite a bit of turnover at</p> <p>19 Stable. So at the moment, three, four. Four.</p> <p>20 Q. And you report to the CEO?</p> <p>21 A. I do.</p> <p>22 Q. This firm is based here in the UK?</p> <p>23 A. It has offices here in the UK and the US.</p> <p>24 Q. Do you travel a lot to the US?</p> <p>25 A. I used to pre-Covid, yes.</p>
<p style="text-align: right;">78</p> <p>1 you know, I'd been with the firm for 13 years, so it</p> <p>2 was time to move on.</p> <p>3 Q. And just, if you could just quickly -- we</p> <p>4 will be taking a break soon, but quickly just go</p> <p>5 through the other jobs that you've had since you left</p> <p>6 Partners Advisers.</p> <p>7 A. Sure. So I left with no job, actually.</p> <p>8 I just decided to leave. And I then started my own</p> <p>9 business, my own investment advisory business, which</p> <p>10 I started with one client, a family office that I knew</p> <p>11 well, and ran that business until early 2017 when</p> <p>12 I joined Stable Asset Management, where I'm at</p> <p>13 currently, as their CIO.</p> <p>14 Q. When you say you created your own</p> <p>15 business, what was the name of that business?</p> <p>16 A. So it had a number of names. Initially,</p> <p>17 it was called J. Müller Capital. But I was -- and</p> <p>18 then I set up a limited liability company called</p> <p>19 Aspheric in Switzerland. When I moved to the UK,</p> <p>20 I then set up an LLP here in the UK called Aspheric as</p> <p>21 well but obviously they were different legal entities.</p> <p>22 But I was self-employed. I mean, I was the only</p> <p>23 employee. So the name of the firm was sort of just --</p> <p>24 you know, just to -- it was a decoration. It</p> <p>25 wasn't -- you know, for all intents and purposes,</p>	<p style="text-align: right;">80</p> <p>1 Q. Mainly to New York?</p> <p>2 A. Mainly to New York.</p> <p>3 Q. And when you were with Partners Advisers,</p> <p>4 you also traveled frequently to the United States, you</p> <p>5 mentioned?</p> <p>6 A. I did, yes.</p> <p>7 Q. To New York?</p> <p>8 A. Yeah, New York. Not only. But New York</p> <p>9 principally, yes, and to Asia as well.</p> <p>10 Q. Just going back to something you said at</p> <p>11 the outset of today, you mentioned that you were</p> <p>12 called as a witness in a dispute between Mr. --</p> <p>13 I think you said Sella Yavin?</p> <p>14 A. Yes.</p> <p>15 Q. Who is Sella Yavin?</p> <p>16 A. He was a person at the firm hired as an</p> <p>17 operational due diligence analyst, I want to say</p> <p>18 around 2006.</p> <p>19 Q. So he would have worked underneath you?</p> <p>20 A. He was reporting to me, yes.</p> <p>21 Q. And you mentioned that he brought a</p> <p>22 lawsuit for wrongful termination against the company?</p> <p>23 A. It wasn't actually wrongful termination.</p> <p>24 It was -- he left himself but he left with a grudge,</p> <p>25 I think. So I can't remember what exactly he sued the</p>

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<p>81</p> <p>1 company for, but, yeah, he was unhappy.</p> <p>2 Q. What was he unhappy about, do you recall?</p> <p>3 A. No. I mean, he was reporting to me.</p> <p>4 I found him extremely hard to manage. At some point</p> <p>5 I basically told Mr. Estenne that I didn't want to</p> <p>6 deal with him anymore and we should terminate him, and</p> <p>7 Mr. Estenne was reluctant to terminate him so I told</p> <p>8 him that he should just manage him himself.</p> <p>9 That didn't go very well either, so he</p> <p>10 ended up leaving. But I think he was very unhappy</p> <p>11 about the way he had been handled.</p> <p>12 MR. MOLINA: I think this would be a good</p> <p>13 time for a break.</p> <p>14 THE EXAMINER: Thank you, Mr. Molina.</p> <p>15 THE VIDEOGRAPHER: We are going off the</p> <p>16 record. The time is 11:27.</p> <p>17 (Break taken.)</p> <p>18 THE VIDEOGRAPHER: We are back on the</p> <p>19 record. The time is 11:45.</p> <p>20 MR. MOLINA: Thank you.</p> <p>21 BY MR. MOLINA:</p> <p>22 Q. Mr. Müller, so I know you mentioned that</p> <p>23 you were sort of learning on the job when you started</p> <p>24 with Partners Advisers and Parly Company back in 1999,</p> <p>25 but now you've had more than 20 years of investment</p>	<p>83</p> <p>1 A. I was asked by a client of Stable to speak</p> <p>2 at that conference, and the purpose of the</p> <p>3 presentation was to sort of present to a number of</p> <p>4 family offices that were present, the interest in</p> <p>5 investing in absolute return investments. Absolute</p> <p>6 return investments sort of include hedge funds and</p> <p>7 private equity and real estate, typically.</p> <p>8 Q. And do you remember -- do you remember</p> <p>9 what you said during this conference?</p> <p>10 A. Yes. Yes, I do. Yes.</p> <p>11 Q. What were your conclusions?</p> <p>12 A. The conclusions were that it was a good</p> <p>13 area for investment if it was done the right way.</p> <p>14 Q. I have a couple quotes.</p> <p>15 A. Sure.</p> <p>16 Q. I would have a -- you know, it's a video.</p> <p>17 I would have a video of it but I don't think --</p> <p>18 A. Yeah. I wasn't expecting it to be that</p> <p>19 public.</p> <p>20 Q. So I'm just going to read some quotes and</p> <p>21 you can tell me if you remember saying that --</p> <p>22 A. Sure.</p> <p>23 Q. -- and, if so, what you meant by the</p> <p>24 quote.</p> <p>25 A. Mmm-hmm.</p>
<p>82</p> <p>1 due diligence experience.</p> <p>2 A. Yes.</p> <p>3 Q. Would you consider yourself to be good at</p> <p>4 what you do?</p> <p>5 A. I'm my biggest critic, so I don't know.</p> <p>6 I mean, I'm experienced, but, yeah. I mean, there's</p> <p>7 always room for improvement.</p> <p>8 Q. How do you hold yourself out to third</p> <p>9 parties?</p> <p>10 A. As an expert.</p> <p>11 Q. Expert in what?</p> <p>12 A. In hedge fund investing.</p> <p>13 Q. Do you speak at conferences?</p> <p>14 A. Rarely. I'm not a big public speaker, but</p> <p>15 it happens.</p> <p>16 Q. You spoke recently at the Generations</p> <p>17 Conference for the CFA Switzerland Institute?</p> <p>18 A. That's correct.</p> <p>19 Q. This happened last year?</p> <p>20 A. It did, yes.</p> <p>21 Q. And you were speaking about alternative</p> <p>22 investments?</p> <p>23 A. That's correct.</p> <p>24 Q. Do you remember what the purpose of the</p> <p>25 talk was?</p>	<p>84</p> <p>1 Q. So you said:</p> <p>2 "Every time I'm looking at an investment,</p> <p>3 I'm sort of thinking, okay, so what's the downside</p> <p>4 here. And a few lessons learned over the years is if</p> <p>5 you have really good returns you will have big</p> <p>6 drawdowns. If there's no apparent downside to a</p> <p>7 strategy, you are probably picking nickels in front of</p> <p>8 a steamroller."</p> <p>9 A. That's correct.</p> <p>10 Q. Do you remember saying that?</p> <p>11 A. I did.</p> <p>12 Q. What do you mean by that?</p> <p>13 A. What I meant was -- what I meant was if a</p> <p>14 return stream looks very stable and with no apparent</p> <p>15 downside, typically it involves a strategy that is</p> <p>16 called shorting volatility, which basically means</p> <p>17 selling option premium, which provides a very regular</p> <p>18 income, but, over time, when there's an increase in</p> <p>19 market volatility, it tends to lead to very big</p> <p>20 drawdowns.</p> <p>21 What I was -- yeah, I mean, I guess the</p> <p>22 "picking nickels in front of a steamroller" is exactly</p> <p>23 what this is; so it's making small gains but with,</p> <p>24 like, potential for big losses.</p> <p>25 Q. Right. So that was a metaphor?</p>

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<p>85</p> <p>1 A. Yes.</p> <p>2 Q. The steamroller is the downturn in a</p> <p>3 market, or the loss?</p> <p>4 A. Right, exactly. Yeah.</p> <p>5 Q. What's a drawdown? Do you want to explain</p> <p>6 for the record?</p> <p>7 A. Yeah. A drawdown is a loss of capital.</p> <p>8 Q. So your conclusion -- just tell me if what</p> <p>9 I'm saying is fair and feel free to correct me if I</p> <p>10 have misstated or mischaracterized.</p> <p>11 So your conclusion was that if you're</p> <p>12 involved in these sort of strategies that, while you</p> <p>13 might make some shortterm gains, you're exposing</p> <p>14 yourself to a potential major loss down the road?</p> <p>15 A. Yes.</p> <p>16 Q. And you said this is part of a shorting</p> <p>17 volatility strategy?</p> <p>18 A. That's one of the -- that's one -- that's</p> <p>19 the main strategy that actually leads to that type of</p> <p>20 return profile. There's others.</p> <p>21 Q. What are the others?</p> <p>22 A. Excessive use of leverage, coupled with --</p> <p>23 coupled with potential illiquidity of the underlying</p> <p>24 assets is another one.</p> <p>25 Q. Any more?</p>	<p>87</p> <p>1 mirror."</p> <p>2 Do you remember saying that?</p> <p>3 A. I did.</p> <p>4 Q. What does that mean?</p> <p>5 A. That means that a lot of investors focus</p> <p>6 overly on past investment performance of their -- of</p> <p>7 the funds they invest in. But that's obviously past</p> <p>8 information and it rarely gives a fair view of what's</p> <p>9 going to happen in the future with that performance.</p> <p>10 Q. Why is that?</p> <p>11 A. Because the market conditions that led to</p> <p>12 that performance are going to be different because the</p> <p>13 mindset of the manager who is running that fund will</p> <p>14 probably be different if he's been successful and has</p> <p>15 raised a lot of assets. He might actually have an ego</p> <p>16 and hubris and things that actually will potentially</p> <p>17 lead to more difficult returns.</p> <p>18 Q. So other than past history, what else</p> <p>19 would you recommend investors should review?</p> <p>20 A. Well, what investors are better off</p> <p>21 reviewing, the strategy itself, spending time with</p> <p>22 that manager, trying to figure out if they're</p> <p>23 committed, what are the real risk they're taking,</p> <p>24 what's the opportunity set in that strategy today</p> <p>25 versus in the past, and so on; so actually make an</p>
<p>86</p> <p>1 A. Yeah, those are the two main, actually,</p> <p>2 ones, yeah.</p> <p>3 Q. Those are the ones you are referencing in</p> <p>4 this talk?</p> <p>5 A. Yes. Yes. Sometimes -- I would add that</p> <p>6 sometimes shorting volatility is implicit not</p> <p>7 explicit, so sometimes it's actually not the fact of</p> <p>8 shorting volatility but certain types of investments</p> <p>9 have that kind of characteristics.</p> <p>10 Like, buying credit instruments above par,</p> <p>11 for instance, has that characteristic. It has very</p> <p>12 limited upside but you're getting the coupon from an</p> <p>13 investment, it has a sizable amount of downside if</p> <p>14 things turn bad for the company or the market.</p> <p>15 Q. You mentioned earlier buying options.</p> <p>16 What are options?</p> <p>17 A. Options are a contract that allow you to</p> <p>18 buy a security at a given date at a given price, or</p> <p>19 sell a security at a given date at a given price.</p> <p>20 Q. I'm going to tell you another quote. Same</p> <p>21 thing, just tell me if you remember saying it --</p> <p>22 A. Sure.</p> <p>23 Q. -- and, if so, what you meant:</p> <p>24 "Don't focus so much on track record.</p> <p>25 That's like driving your car looking in the rearview</p>	<p>88</p> <p>1 assessment of how good that investment is in today's</p> <p>2 market condition or with today's knowledge rather than</p> <p>3 focusing on what happened in the past.</p> <p>4 Q. How do investors obtain that information</p> <p>5 to be able to make those assessments?</p> <p>6 A. By engaging with the manager, typically.</p> <p>7 Q. What if the manager does not want to give</p> <p>8 him that information?</p> <p>9 MR. WORBY: Objection; speculation --</p> <p>10 asking for speculation.</p> <p>11 THE WITNESS: Well, in this case, that</p> <p>12 assessment is impossible to make.</p> <p>13 BY MR. MOLINA:</p> <p>14 Q. You also had another quote. It says --</p> <p>15 you said:</p> <p>16 "If an opportunity is too good to be true,</p> <p>17 it's probably not true."</p> <p>18 Do you remember saying that?</p> <p>19 A. Yes.</p> <p>20 Q. What did you mean by that?</p> <p>21 A. I'm trying to find other words to say</p> <p>22 again, but, I mean, it means that sometimes the return</p> <p>23 profile just looks too -- just looks too good and is</p> <p>24 unexplainable by the opportunity set in the market or</p> <p>25 what other managers do in the same strategy, in which</p>

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<p style="text-align: right;">89</p> <p>1 case there's something about it that is a source of</p> <p>2 risk, right, which is potentially hidden. So it</p> <p>3 might be that they're taking a lot more leverage or</p> <p>4 concentration risk in their portfolios than others</p> <p>5 and, therefore, it is like a risk that's present but</p> <p>6 not always disclosed.</p> <p>7 Q. When you gave this talk, were you just</p> <p>8 limiting it to undisclosed risk, such as leverage, or</p> <p>9 were you also referencing potential things like fraud?</p> <p>10 A. I mean, it's sort of implicit, I guess,</p> <p>11 in that comment, right, but fraud, in our industry, is</p> <p>12 actually very rare, and so it's not the main risk</p> <p>13 I'm focused on typically.</p> <p>14 The other thing is that the industry's</p> <p>15 evolved dramatically since the early 2000s, with a</p> <p>16 specific role that's been created which didn't exist</p> <p>17 back then which is operational due diligence analysts,</p> <p>18 right, and those people -- those people's role is</p> <p>19 actually to make sure that the risk of fraud is</p> <p>20 very limited.</p> <p>21 So these people typically -- so, as a</p> <p>22 result, I think the overall risk of fraud in our</p> <p>23 industry has decreased dramatically over the last</p> <p>24 20 years.</p> <p>25 Q. So I'm going to ask you just some basic --</p>	<p style="text-align: right;">91</p> <p>1 diligence?</p> <p>2 A. Well, that links back to your question</p> <p>3 around past track record, and the reason why you do</p> <p>4 qualitative due diligence is to sort of assess if the</p> <p>5 opportunity set and the strategy make sense today in</p> <p>6 the current environment.</p> <p>7 Q. When you were at Partners Advisers, were</p> <p>8 you conducting or overseeing qualitative due</p> <p>9 diligence?</p> <p>10 A. So I was, after 2003. I mean, I was</p> <p>11 always involved in it but I was responsible for it</p> <p>12 after 2003, yes.</p> <p>13 Q. What does operational due diligence mean</p> <p>14 to you?</p> <p>15 A. So that's what I described just earlier,</p> <p>16 which is it's the assessment of the risk of fraud or</p> <p>17 misbehavior in a manager. So qualitative due</p> <p>18 diligence actually focuses on the investment side, you</p> <p>19 know; are these people good at investing and</p> <p>20 generating returns, performance, investment</p> <p>21 performance. Operational due diligence is, is there a</p> <p>22 risk of fraud or manipulation or misbehavior.</p> <p>23 Q. How do you conduct operational due</p> <p>24 diligence?</p> <p>25 A. You basically check that there is a number</p>
<p style="text-align: right;">90</p> <p>1 you just mentioned a few minutes ago that you hold</p> <p>2 yourself out as an expert in investing in hedge funds.</p> <p>3 So I'm just going to mention some terms and you can</p> <p>4 tell me what your understanding is of those terms.</p> <p>5 A. Mmm-hmm.</p> <p>6 Q. Qualitative due diligence.</p> <p>7 A. Yeah. That's the assessment of the</p> <p>8 strategy, spending time with the manager,</p> <p>9 understanding what he's doing, going through the</p> <p>10 portfolio; so it's, sort of, typically not number</p> <p>11 based.</p> <p>12 Q. When you say "not number based," what do</p> <p>13 you mean?</p> <p>14 A. Well, it's typically, sort of, background</p> <p>15 information on how they invest, and what resources are</p> <p>16 required to invest that way successfully.</p> <p>17 Q. How do you assess that?</p> <p>18 A. Well, it's very dependent on which</p> <p>19 strategy, right. So, again, it's sort of a body of</p> <p>20 knowledge that has been sort of built over the years</p> <p>21 that, you know, you can't invest with in an</p> <p>22 algorithmic way if you only have two people because it</p> <p>23 requires a huge amount of resources, for instance.</p> <p>24 That's just an example.</p> <p>25 Q. Why would you do qualitative due</p>	<p style="text-align: right;">92</p> <p>1 of procedures in place, and checks and balances of the</p> <p>2 firm, that there is independence between certain</p> <p>3 functions of the firm, that there is service providers</p> <p>4 that are used for certain functions that are</p> <p>5 independent from the manager.</p> <p>6 Q. You said you check to see if there are a</p> <p>7 number of procedures in place.</p> <p>8 A. Mmm-hmm.</p> <p>9 Q. What do you mean by that?</p> <p>10 A. Well, I mean it's very vast. I'm</p> <p>11 struggling to sort of answer that question in a</p> <p>12 reasonable amount of words. It's basically making</p> <p>13 sure that there's segregation of duties and that</p> <p>14 there's operational procedures that are followed by</p> <p>15 people that are independent from the people investing</p> <p>16 the capital, because that minimizes the risk of</p> <p>17 manipulation.</p> <p>18 Q. So you check to see if there are third</p> <p>19 parties that are overseeing what the manager is doing?</p> <p>20 A. Yeah, I mean, that's one element of it.</p> <p>21 The other element is just that internally, within the</p> <p>22 firm itself, there's a COO who is independent from the</p> <p>23 investment team, with a team underneath him that</p> <p>24 reports to him, not to the investment team.</p> <p>25 So it's segregation of duties internally</p>

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<p style="text-align: right;">93</p> <p>1 as well.</p> <p>2 Q. So independence -- what do you mean by</p> <p>3 independent?</p> <p>4 A. Independent meaning they're not part of</p> <p>5 the same family. They're -- yeah, they're not linked</p> <p>6 to one another in some way, shape or form, yeah. They</p> <p>7 report typically to the board of directors</p> <p>8 independently as well.</p> <p>9 Q. As part of operational due diligence,</p> <p>10 would you -- do you -- or, first, let me take a step</p> <p>11 back.</p> <p>12 Did you conduct operational due diligence</p> <p>13 at Partners Advisers?</p> <p>14 A. I did not, actually. We hired people to</p> <p>15 do it.</p> <p>16 Q. Who did you hire?</p> <p>17 A. So we hired Sella Yavin in 2006, and then</p> <p>18 after he left we hired another gentleman, called</p> <p>19 Nicolas Janson. He joined in 2010, so that was</p> <p>20 shortly before I left, but I did hire him.</p> <p>21 Q. So prior to 2006, who was conducting</p> <p>22 operational due diligence?</p> <p>23 A. No one. That was, sort of, a new -- that</p> <p>24 was a new area of our industry. Nobody really had any</p> <p>25 operational due diligence function pre mid-2000s.</p>	<p style="text-align: right;">95</p> <p>1 A. Yeah, they're calculating an NAV, net</p> <p>2 asset value, usually, which is basically the value of</p> <p>3 each unit of a fund.</p> <p>4 Q. And then you mentioned also a custodian.</p> <p>5 A. Yes.</p> <p>6 Q. What's a custodian?</p> <p>7 A. Custodian is a bank that holds the</p> <p>8 securities of a fund.</p> <p>9 Q. Are custodians typical in the industry?</p> <p>10 Thirdparty custodian, sorry.</p> <p>11 A. Yeah. They're -- they are, although they</p> <p>12 are usually not called custodians, they're called</p> <p>13 prime brokers. But, yes, they are.</p> <p>14 Q. And you said these are typically banks?</p> <p>15 A. Yes.</p> <p>16 Q. And what's their primary role as</p> <p>17 custodian?</p> <p>18 A. So it gets technical. The -- so if the</p> <p>19 custodian is a prime broker, the main role is actually</p> <p>20 to facilitate trading for the investment fund, and</p> <p>21 then one of the side, sort of, responsibilities is</p> <p>22 holding the assets as well. And then if the custodian</p> <p>23 is just a custodian, then, actually, it's just holding</p> <p>24 securities and cash for the fund.</p> <p>25 Q. Why is it important to have a custodian?</p>
<p style="text-align: right;">94</p> <p>1 Q. So --</p> <p>2 A. So let me rephrase that. I guess the</p> <p>3 investment team was doing it but at a very high level,</p> <p>4 right. There was no, sort of, real sort of expertise</p> <p>5 or practice in that space before that time.</p> <p>6 Q. But prior to 2006, you were checking to</p> <p>7 see if there were checks and balances on the</p> <p>8 management?</p> <p>9 A. Yeah. At a far less detailed level, yes.</p> <p>10 Q. So could you describe the level -- this</p> <p>11 high level, could you describe what that entailed?</p> <p>12 A. That entailed -- so we weren't -- I guess</p> <p>13 that entailed more checks on external service</p> <p>14 providers rather than internal procedures. So we were</p> <p>15 checking that there was an administrator that was</p> <p>16 valuing the accounts independently and valuing</p> <p>17 securities independently; that there was a custodian</p> <p>18 holding securities; that there was an auditor that was</p> <p>19 independent, auditing the books and records.</p> <p>20 Q. What's an administrator?</p> <p>21 A. An administrator is basically an</p> <p>22 accounting firm that provides services to investment</p> <p>23 funds.</p> <p>24 Q. And you said that the administrator is</p> <p>25 responsible for valuing the fund?</p>	<p style="text-align: right;">96</p> <p>1 A. Well, I mean, it's segregation of duties.</p> <p>2 Q. Do you recommend investments that do not</p> <p>3 have a thirdparty custodian?</p> <p>4 A. No.</p> <p>5 Q. Why not?</p> <p>6 A. Well, because in this case the manager</p> <p>7 controls the assets and there's no checks and balances</p> <p>8 in place.</p> <p>9 Q. And what's wrong with that?</p> <p>10 A. Well, it opens -- back to your due</p> <p>11 diligence, operational due diligence, question</p> <p>12 I guess, it opens the possibility for, sort of,</p> <p>13 manipulation, right.</p> <p>14 Q. What do you mean by manipulation?</p> <p>15 A. Well, I mean, I guess -- which means that</p> <p>16 -- I mean, if the manager controls the securities,</p> <p>17 then you -- then they can basically say they trade</p> <p>18 when they don't, and they can price -- they can price</p> <p>19 also securities themselves, so valuations that are not</p> <p>20 in line with the market, et cetera.</p> <p>21 Q. You also mentioned auditors. What's an</p> <p>22 auditor?</p> <p>23 A. An auditor is a firm that verifies, each</p> <p>24 yearend, that the books and record of the investment</p> <p>25 fund are correct.</p>

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<p style="text-align: right;">97</p> <p>1 Q. And why is it important to have an 2 auditor?</p> <p>3 A. I think it's a legal requirement, 4 actually, to have an auditor for most companies. It's 5 important because that gives assurance to the 6 investors that, indeed, the company or the investment 7 fund is doing what they say they do in holding the 8 securities they say they hold, and a valuation that 9 they claim those securities are worth.</p> <p>10 Q. Do you know how auditors conduct this 11 review?</p> <p>12 A. I do, yes. Well, I mean, at a high level 13 I do.</p> <p>14 Q. Please.</p> <p>15 A. Sure. So they either sample securities 16 from statements they get from the custodian or the 17 administrator, or both, and they verify that the 18 numbers of shares held are indeed the ones that are 19 reported by these entities and that the pricing of 20 these instruments is, indeed, in line with the pricing 21 of the securities in the market to a certain pricing 22 service, like a Bloomberg terminal. They verify 23 presence of assets and they usually also verify that 24 there is sort of checks and balances in place, both at 25 the administrator and at the management entity level.</p>	<p style="text-align: right;">99</p> <p>1 would talk to them, in general terms, about managers 2 they had on their books and what they were doing.</p> <p>3 Q. I think you've mentioned this briefly, but 4 could you just explain for the record just what a 5 prime broker is.</p> <p>6 A. Yeah. A prime broker is a bank that holds 7 securities and cash for funds but also facilitates 8 trading, which means they're executing trades for the 9 investment funds. They typically offer financing or 10 leverage to investment funds as well, borrowing 11 basically, and also facilitate short selling, 12 basically helping funds to borrow securities to be 13 sold in the market.</p> <p>14 Q. What is quantitative due diligence?</p> <p>15 A. Quantitative due diligence is part of the 16 investment due diligence and revolves around looking 17 at the past track record, trying to analyze that past 18 track record and reconciling it with the strategy. 19 Yeah.</p> <p>20 Q. And what does that entail?</p> <p>21 A. That entails, typically, sort of looking 22 under the hood of just the numbers, asking the manager 23 for what we call attribution numbers, which is 24 basically what has generated returns, what kind of 25 position, which sector or geography, fits the long and</p>
<p style="text-align: right;">98</p> <p>1 Q. And when you said that you, at a high 2 level, were conducting this operational due diligence 3 at Partners Advisers, that entailed meeting or 4 speaking with the auditors of the funds that you were 5 looking into?</p> <p>6 A. No. No, because auditors do not speak to 7 investors, actually. That's not something that 8 they -- auditors are hired by the board of directors 9 of investment funds and they don't speak directly with 10 the investors in funds.</p> <p>11 Q. Would you review the audit reports that 12 were --</p> <p>13 A. We review the audit reports, yes.</p> <p>14 Q. What about with custodians, would you meet 15 with them?</p> <p>16 A. We would meet with them. Well, we would 17 talk to them, yes.</p> <p>18 Q. What would you talk about?</p> <p>19 A. We would talk about -- well, we would not 20 necessarily speak specifically about -- for the same 21 reason as the auditors, custodians actually are not 22 going to be super transparent with investors about the 23 specifics of the assets they hold, so they're unlikely 24 to give you any information. But because custodians, 25 in a lot of cases, are actually prime brokers, we</p>	<p style="text-align: right;">100</p> <p>1 the short side of their investment portfolios, et 2 cetera; so asking for, sort of, numbers, historical 3 numbers, and then running some analysis on these 4 numbers.</p> <p>5 Q. Do you have experience conducting 6 quantitative due diligence?</p> <p>7 A. I do, yes.</p> <p>8 Q. You conducted quantitative due diligence 9 at Partners Advisers?</p> <p>10 A. I did.</p> <p>11 MR. WORBY: Objection.</p> <p>12 What sort of time period do you mean?</p> <p>13 MR. MOLINA: When he was at Partners 14 Advisers.</p> <p>15 BY MR. MOLINA:</p> <p>16 Q. What's correlation analysis?</p> <p>17 A. Correlation analysis is the analysis of 18 the -- now I need to find a synonym of "correlation." 19 Is the analysis of how similar an investment is to 20 another, or to a market index.</p> <p>21 Q. What's the utility of a correlation 22 analysis?</p> <p>23 A. It shows how diversifying a fund will be 24 in a portfolio. If its correlation to other 25 investments in that portfolio is low, then it will be</p>

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<p style="text-align: right;">101</p> <p>1 a good addition because it's likely that it will, sort 2 of, benefit the portfolio as a whole. 3 Q. Is there any other reason that you would 4 conduct a correlation analysis? 5 A. Yes. You would conduct a correlation 6 analysis versus a market index to understand how much 7 value-add does a manager bring versus just investing 8 in a market index. 9 Q. And how do you conduct a correlation 10 analysis? 11 A. Well, there's an Excel function for it 12 which you basically -- there's a mathematical formula, 13 the details of which I can't remember right now, but 14 basically you compare a return stream to another 15 return stream and that formula, sort of, you know, 16 looks at how similar they are or how one return stream 17 reacts when the other reacts a certain way. 18 Q. Going back a couple minutes when we were 19 talking about quantitative due diligence, you 20 mentioned -- well, let me ask you: Do you have 21 experience with reverse engineering a strategy? 22 A. I do not. No, I never did that. 23 Q. What is reverse engineering? 24 A. Reverse engineering is looking at a return 25 stream or performance stream of a fund and trying to</p>	<p style="text-align: right;">103</p> <p>1 (Stenographer clarification.) 2 THE WITNESS: A Sharpe ratio is a measure 3 of risk reward. 4 BY MR. MOLINA: 5 Q. What's its utility? 6 A. It helps understand how much units of 7 performance you get per unit of risk, and so the 8 higher the number, the better the risk reward of that 9 strategy. 10 Q. How do you come up with a Sharpe ratio? 11 A. You're taking the return, the return of 12 the strategy minus the risk-free rate, and you divide 13 it by its standard deviation, which is a measure of 14 volatility. 15 Q. I take it you have experience with 16 conducting these sort of analyses? 17 A. I do. 18 Q. Did you conduct these analyses when you 19 were at Partners Advisers? 20 A. I did. 21 Q. What's a Sortino ratio? 22 A. A Sortino ratio is the same measure as a 23 Sharpe ratio, but you divide -- instead of dividing it 24 by the standard deviation of the returns, you divide 25 it by the downside deviation, which is the standard</p>
<p style="text-align: right;">102</p> <p>1 figure out what strategy they're doing based on that 2 return stream. 3 Q. And you just said that you don't have 4 experience doing that? 5 A. I never did it, no. 6 Q. Why not? 7 A. Because I'd usually start with the 8 qualitative part of the due diligence, which is trying 9 to understand what the strategy is like. So I'm using 10 the numbers more to confirm what I've discovered in 11 the qualitative analysis rather than the reverse. 12 Q. Is it fair to say you think qualitative 13 due diligence is more important than quantitative due 14 diligence? 15 A. Overall, yes, but it's not always possible 16 to do it in an appropriate way. 17 I'll give you an example. For algorithmic 18 strategies or quantitative strategies, the level of 19 disclosure you get is very low because there's a 20 trade secret component to it and so what you are going 21 to get in the qualitative due diligence is going to be 22 quite limited, so you will actually require to do 23 quite a bit of work on a quantitative due diligence to 24 understand what they're doing. 25 Q. What is a Sharpe ratio?</p>	<p style="text-align: right;">104</p> <p>1 deviation but only of the negative months or the 2 negative observation in that return stream. 3 Q. Why is that analysis useful? 4 A. Well, it's useful because standard 5 deviation is a bit of a blunt tool. If you have very 6 strong positive performance, very low negative 7 performance, actually your Sharpe ratio will suffer 8 because your overall standard deviation will be high 9 because of your positive months; whereas the downside 10 deviation, by only measuring the negative observation, 11 is basically a fair assessment of what the real 12 downside of that return stream is, right, and so the 13 Sortino ratio is actually probably a better measure of 14 the quality of the risk reward. 15 It's disputed, though. I mean, I'm giving 16 you a view that is not necessarily sort of industry 17 standard. 18 Q. The higher the Sortino ratio, the better 19 the investment? 20 A. Yeah. The less downside there is per unit 21 of return, historically. 22 Q. What's a typical threshold for a Sortino 23 ratio that you would be looking for when vetting 24 investments? 25 A. I actually don't really look at Sortino</p>

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<p style="text-align: right;">105</p> <p>1 ratio. I'm actually mostly looking at Sharpe ratio.</p> <p>2 But the typical threshold of Sharpe ratio would be 1.</p> <p>3 Q. So if it's greater than 1, then that's a</p> <p>4 favorable -- potentially a favorable investment?</p> <p>5 A. Yes.</p> <p>6 Q. That's for Sortino ratio?</p> <p>7 A. That's for Sharpe ratio, actually.</p> <p>8 Q. Oh, I'm sorry.</p> <p>9 A. Yeah. Sortino ratio should be higher, I</p> <p>10 guess, but I'm rarely looking at Sortino ratio.</p> <p>11 Q. How much higher would the threshold be for</p> <p>12 Sortino ratio?</p> <p>13 A. Maybe 1.2.</p> <p>14 Q. So for a Sharpe ratio, if it's greater</p> <p>15 than 1, it could be a favorable investment?</p> <p>16 A. Yes.</p> <p>17 Q. And for Sortino ratio, if it's greater</p> <p>18 than 1.2, it could be a favorable investment?</p> <p>19 A. Yes.</p> <p>20 Q. But if it's lower than those thresholds,</p> <p>21 the investment may not be as favorable?</p> <p>22 A. Yeah. It's a bit of an</p> <p>23 oversimplification. But, I mean, yeah, from a</p> <p>24 quantitative analysis, yes. Although, we also take</p> <p>25 into account the diverse -- the correlation or the</p>	<p style="text-align: right;">107</p> <p>1 market return. And the alpha is basically the excess</p> <p>2 return over that beta.</p> <p>3 Q. I'm sorry. Could you explain again what</p> <p>4 beta is, for the record?</p> <p>5 A. Yes. Beta is -- in mathematical terms,</p> <p>6 beta is the variance of a -- it's the variance of</p> <p>7 a return stream multiplied by the co-variance between</p> <p>8 that return stream and the market benchmark divided by</p> <p>9 the variance of that market benchmark.</p> <p>10 What it means is that it measures how much</p> <p>11 of the return a fund is generating is linked to -- is</p> <p>12 explained by the market or is linked to the return of</p> <p>13 the market.</p> <p>14 Q. Is it typical, when conducting due</p> <p>15 diligence, for you to run these numbers for alpha and</p> <p>16 beta?</p> <p>17 A. Yeah. I mean they typically -- you're</p> <p>18 testing my mathematical skills here because they</p> <p>19 typically -- we typically have softwares for that so</p> <p>20 we actually don't run these calculations on a</p> <p>21 standalone basis.</p> <p>22 Q. I don't mean that you manually are doing</p> <p>23 the mathematical. But I guess my question is, more</p> <p>24 generally, when you are conducting the due diligence</p> <p>25 that you conduct --</p>
<p style="text-align: right;">106</p> <p>1 diversification that that investment brings. So you</p> <p>2 can have an investment with a very low Sharpe ratio,</p> <p>3 but just because it is very uncorrelated that it</p> <p>4 brings return when other investments are suffering,</p> <p>5 it's actually a really good investment.</p> <p>6 So Sharpe ratio is not something that you</p> <p>7 look at in a vacuum. It's a component of a</p> <p>8 quantitative analysis.</p> <p>9 Q. What is alpha?</p> <p>10 A. Alpha is a measure of outperformance of</p> <p>11 a return stream versus a benchmark.</p> <p>12 Q. Why is that useful?</p> <p>13 A. That actually measures how much value-add</p> <p>14 a manager adds versus just investing in a benchmark,</p> <p>15 in a market instrument.</p> <p>16 Q. What's the range?</p> <p>17 A. What's the range of alpha?</p> <p>18 Q. Mmm-hmm.</p> <p>19 A. Well, it goes from negative to, I don't</p> <p>20 know, 15 percent alpha is a very big number.</p> <p>21 Q. How do you conduct -- how do you come up</p> <p>22 with an alpha number?</p> <p>23 A. So the alpha number actually involves</p> <p>24 another calculation, which is beta, beta being -- beta</p> <p>25 being what part of a return stream is explained by the</p>	<p style="text-align: right;">108</p> <p>1 A. You look at those numbers, yes. Yes.</p> <p>2 And, generally, they're actually provided to you by</p> <p>3 the manager themselves because they know it's a</p> <p>4 standard request.</p> <p>5 Q. But you would double-check what the</p> <p>6 manager tells you?</p> <p>7 A. Yeah.</p> <p>8 Q. And the inputs for this calculation,</p> <p>9 largely, is the past performance?</p> <p>10 A. Yes, it is. Entirely, yes.</p> <p>11 Q. What's an R-squared coefficient?</p> <p>12 A. R-squared is actually the -- R is the</p> <p>13 correlation; so R-squared is basically the</p> <p>14 correlation-squared. It's another measure of how</p> <p>15 diversifying an investment is compared to another.</p> <p>16 It's very similar to correlation. It's basically the</p> <p>17 same measure.</p> <p>18 I mean, it gives you the same information.</p> <p>19 They're different numbers but it gives you exactly the</p> <p>20 same information as correlation.</p> <p>21 Q. What's a range for R-squared coefficient?</p> <p>22 A. -1 to +1.</p> <p>23 Q. What does it mean if the R-squared</p> <p>24 coefficient is -1?</p> <p>25 A. It means that it's perfectly un -- it's</p>

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<p style="text-align: right;">109</p> <p>1 perfectly inversely correlated, which means that if an</p> <p>2 index or an instrument goes up 1 percent, the other</p> <p>3 one goes down 1 percent. It's basically perfect</p> <p>4 inverse correlation.</p> <p>5 Q. What does it mean if the figure is 1?</p> <p>6 A. It means perfect correlation, which means</p> <p>7 that if one goes up 1, the other one goes up 1.</p> <p>8 Q. And what does it mean if it's 0?</p> <p>9 A. It means that there is no correlation at</p> <p>10 all, which means that if one is up 1 or down 1, the</p> <p>11 other one will have a completely random number that is</p> <p>12 different from that.</p> <p>13 Q. And you said the R-squared coefficient is</p> <p>14 the same as the -- the same figure that you would</p> <p>15 obtain using a correlation analysis?</p> <p>16 A. Well, it's just -- it's the correlation</p> <p>17 number squared, right, so it's basically -- it gives</p> <p>18 you the same information. If correlation is -1 or +1,</p> <p>19 that number squared -- actually, it's only a positive</p> <p>20 number. That number squared will actually be 1,</p> <p>21 right, and then, if it's 0, it's going to be 0.</p> <p>22 So it's basically a range of 0 to 1, not -1/+1 as I</p> <p>23 told you before.</p> <p>24 (Stenographer clarification.)</p> <p>25 THE WITNESS: Sorry, sorry. So R-squared</p>	<p style="text-align: right;">111</p> <p>1 are definitely measures that we look at, yes.</p> <p>2 Q. Could you give me some examples?</p> <p>3 A. Well, standard deviation is a measure we</p> <p>4 look at. That's the volatility of an investment.</p> <p>5 Q. And how do you conduct a standard</p> <p>6 deviation?</p> <p>7 A. Well, that's basically the -- it's an</p> <p>8 Excel formula but it basically, sort of, measures the</p> <p>9 dispersion of return around the mean of that return</p> <p>10 stream, and it's a measure of, like, how risky an</p> <p>11 investment is.</p> <p>12 Q. Is there a range that you would expect to</p> <p>13 see for a standard deviation?</p> <p>14 A. Not really. The standard deviation is</p> <p>15 very dependent on the type of strategy or the -- yeah,</p> <p>16 the type of strategy. Certain strategies have lower</p> <p>17 standard deviation than others.</p> <p>18 Q. Any other metrics that are relevant to</p> <p>19 your -- to quantitative due diligence?</p> <p>20 A. I think those are the main ones, yes.</p> <p>21 MR. MOLINA: If we have tab -- sorry,</p> <p>22 tab 157, which I think is Exhibit No. 14.</p> <p>23 Does he still have that?</p> <p>24 MS. STORK: Yes.</p> <p>25 MR. MOLINA: Oh, you still have that. All</p>
<p style="text-align: right;">110</p> <p>1 is the correlation number squared, to the power of 2.</p> <p>2 BY MR. MOLINA:</p> <p>3 Q. What is a T-statistic?</p> <p>4 A. I don't know that actually.</p> <p>5 Q. You've never heard of a T-statistic?</p> <p>6 A. I've heard of that term but I don't know</p> <p>7 what it is. I wouldn't have paid any attention to it.</p> <p>8 Q. Is it something that you've come across in</p> <p>9 your work?</p> <p>10 A. Very rarely, yes.</p> <p>11 Q. It's not part of what you do on a regular</p> <p>12 basis when you do quantitative due diligence?</p> <p>13 A. No.</p> <p>14 Q. The other numbers, though -- the other</p> <p>15 figures that we've discussed, R-squared coefficient,</p> <p>16 beta, alpha --</p> <p>17 A. Yes.</p> <p>18 Q. -- Sharpe ratio, Sortino ratio, those are</p> <p>19 figures that you do come across when you conduct</p> <p>20 quantitative due diligence?</p> <p>21 A. I do, yes.</p> <p>22 Q. Are there any other metrics that are</p> <p>23 relevant to your quantitative due diligence?</p> <p>24 A. Yes. Yes, there are. I mean, there's an</p> <p>25 unlimited number of metrics you can look at. There</p>	<p style="text-align: right;">112</p> <p>1 right. Mr. Müller, we're going to be on this document</p> <p>2 for some time. And I think that -- just for the</p> <p>3 record, I think that if we -- at 1:00 p.m. or</p> <p>4 thereabouts we could probably break for lunch. And so</p> <p>5 -- I don't know if we'll be finished with this</p> <p>6 document but I think it makes sense to feed people,</p> <p>7 so...</p> <p>8 THE EXAMINER: Sure, Mr. Molina.</p> <p>9 MR. MOLINA: Yeah.</p> <p>10 THE EXAMINER: If you're close to</p> <p>11 finishing up around 1:00, we can go over slightly, or</p> <p>12 if you're --</p> <p>13 MR. MOLINA: I think 1:00 p.m. would be a</p> <p>14 good metric, so someone should just let me know.</p> <p>15 MS. STORK: I'll let you know.</p> <p>16 MR. MOLINA: Give me a second. Okay.</p> <p>17 BY MR. MOLINA:</p> <p>18 Q. Okay. If you can go to the -- in that --</p> <p>19 this is, by the way, for the record, we are looking</p> <p>20 again at what has been marked as Trustee</p> <p>21 Exhibit No. 14, specifically the attachment to the</p> <p>22 email which we've already established is a due</p> <p>23 diligence questionnaire for Lloyds Bank.</p> <p>24 THE STENOGRAPHER: Sorry.</p> <p>25 MR. MOLINA: Oh. I'll repeat that.</p>

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<p style="text-align: right;">113</p> <p>1 BY MR. MOLINA:</p> <p>2 Q. For the record, we are going back to the</p> <p>3 document that has been marked as Trustee</p> <p>4 Exhibit No. 14, and this is the attachment to the</p> <p>5 email that was dated May 2004.</p> <p>6 Do you have that document in front of you,</p> <p>7 Mr. Müller?</p> <p>8 A. I do.</p> <p>9 Q. If you could go to the page that has the</p> <p>10 number ending in 18138. If you look at the bottom of</p> <p>11 that page, there's a header titled "Investment</p> <p>12 Philosophy and Process."</p> <p>13 A. Yes.</p> <p>14 Q. Just taking a step back, I just want to</p> <p>15 confirm, is it your understanding that the information</p> <p>16 in this document was inputted by you and other members</p> <p>17 of Partners Advisers?</p> <p>18 A. I'm not sure I was involved in putting any</p> <p>19 information in the document, but it was definitely</p> <p>20 inputted by members of the team at Partners Advisers.</p> <p>21 For the most part, Mr. Duteil And probably input from</p> <p>22 Mr. Estenne as well.</p> <p>23 Q. We'll get back to that. So just to go</p> <p>24 back, you mentioned earlier what a due diligence</p> <p>25 questionnaire was. This is from Lloyds Bank. Is it</p>	<p style="text-align: right;">115</p> <p>1 mark it as Trustee Exhibit No. 15.</p> <p>2 (Trustee Exhibit 15 marked for</p> <p>3 identification.)</p> <p>4 BY MR. MOLINA:</p> <p>5 Q. Mr. Müller, you've now been handed a</p> <p>6 document that has been marked Trustee Exhibit No. 15.</p> <p>7 If you turn to the first page, again you will notice</p> <p>8 there is a cover email that is in the original French</p> <p>9 language. Do you see that?</p> <p>10 A. Yes.</p> <p>11 Q. Have you seen this document before?</p> <p>12 A. I can't remember it.</p> <p>13 Q. Do you see that it's dated May 19, 2004?</p> <p>14 A. Yes.</p> <p>15 Q. And it was sent -- it's an email sent by</p> <p>16 you?</p> <p>17 A. Yes.</p> <p>18 Q. And it was sent to Mr. Fabien Duteil and</p> <p>19 Mr. Luc Estenne?</p> <p>20 A. Yes.</p> <p>21 Q. The Subject line is "DD Lloyds"?</p> <p>22 A. Yes.</p> <p>23 Q. And the attachment is DDQ Partners</p> <p>24 Advisers Final?</p> <p>25 A. Yes.</p>
<p style="text-align: right;">114</p> <p>1 fair to say -- tell me if you disagree and explain</p> <p>2 what you mean, but is it fair to say that this</p> <p>3 questionnaire was sent to you by Lloyds Bank to obtain</p> <p>4 information about Partners Advisers' due diligence</p> <p>5 processes?</p> <p>6 A. Correct, yes.</p> <p>7 Q. That's fair?</p> <p>8 A. Yes.</p> <p>9 Q. And it's typical for a firm like Partners</p> <p>10 Advisers to receive questionnaires from third parties?</p> <p>11 A. That were interested in potentially</p> <p>12 investing, yes.</p> <p>13 Q. So the purpose of a questionnaire is to</p> <p>14 learn more about Partners Advisers so that this</p> <p>15 third party, in this case Lloyds Bank, could make an</p> <p>16 assessment as to whether to invest in the portfolio</p> <p>17 that Partners Advisers was --</p> <p>18 A. That's correct.</p> <p>19 Q. Let me just finish the question.</p> <p>20 A. Oh, sorry.</p> <p>21 Q. ... that Partners Advisers was promoting?</p> <p>22 A. Yes.</p> <p>23 Q. One second.</p> <p>24 MR. MOLINA: Ms. Court Reporter, I am</p> <p>25 handing you what is tab 162 of the bundle. Please</p>	<p style="text-align: right;">116</p> <p>1 Q. Is it fair to say that in this document</p> <p>2 you are attaching a version of this questionnaire with</p> <p>3 your comments, and after you have -- after</p> <p>4 reviewing -- after you had a chance to review this</p> <p>5 document?</p> <p>6 A. Yes.</p> <p>7 Q. Does that refresh your recollection as to</p> <p>8 whether you would have been involved in the --</p> <p>9 A. I was involved in reading it and</p> <p>10 commenting it, yes. I probably wasn't involved in</p> <p>11 inputting any information initially, and I think the</p> <p>12 document says -- I'm sorry, I got the French version</p> <p>13 here -- that I skimmed through it, which is probably a</p> <p>14 fair assessment of what I did.</p> <p>15 Q. So if you could go back to Trustee</p> <p>16 Exhibit No. 14. Thank you.</p> <p>17 A. I might just add one element.</p> <p>18 Q. Sure.</p> <p>19 A. No, I don't need the document.</p> <p>20 Which is, as I mentioned, I tended to be</p> <p>21 shielded from the sales effort. That was actually</p> <p>22 part of the sales effort, to fill in a due diligence</p> <p>23 questionnaire for a prospective client. Because my</p> <p>24 role was actually on the investment side, I was</p> <p>25 typically not involved in that in a lot of detail,</p>

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<p>117</p> <p>1 right. I was involved in it as -- to review it, in</p> <p>2 order to comment if there was any sort of erroneous</p> <p>3 information. But I was not involved in the production</p> <p>4 of it.</p> <p>5 Q. But you were involved in conducting due</p> <p>6 diligence for Partners Advisers?</p> <p>7 A. I was involved -- I mean, I was involved</p> <p>8 in making sure the information that was sent out to</p> <p>9 potential investors was correct when it came to the</p> <p>10 investment side of things, because that was my area of</p> <p>11 responsibility, yes.</p> <p>12 Q. Okay. So if you look at the bottom of</p> <p>13 back to Trustee Exhibit No. 14.</p> <p>14 A. Yes.</p> <p>15 Q. Back to the page ending in 18138.</p> <p>16 A. Yes.</p> <p>17 Q. Okay. You see at the bottom it has</p> <p>18 a graphic --</p> <p>19 A. Yeah.</p> <p>20 Q. -- at the bottom of the page?</p> <p>21 That supposedly displays the -- what was</p> <p>22 at that time the due diligence process for Partners</p> <p>23 Advisers?</p> <p>24 A. That's -- yeah, the investment process,</p> <p>25 yes.</p>	<p>119</p> <p>1 investments to be made, so...</p> <p>2 MR. MOLINA: Why don't we go to -- we're</p> <p>3 going to take a quick detour to what is tab 135 of</p> <p>4 the bundle.</p> <p>5 Tori.</p> <p>6 MS. STORK: Sorry.</p> <p>7 MR. MOLINA: No worries.</p> <p>8 Ms. Court Reporter, I'm going to be</p> <p>9 handing you, again, what is included as tab 135 in the</p> <p>10 bundle. Please mark it as Trustee Exhibit No. 16.</p> <p>11 (Trustee Exhibit 16 marked for</p> <p>12 identification.)</p> <p>13 BY MR. MOLINA:</p> <p>14 Q. Mr. Müller, you've just been handed what</p> <p>15 is Trustee Exhibit No. 16. I'll represent to you that</p> <p>16 this is an email containing various attachments. The</p> <p>17 email is dated April 5, 2004, and it was sent by</p> <p>18 Mr. Luc Estenne to a Robert Kosowski.</p> <p>19 Are you familiar with this document?</p> <p>20 A. No.</p> <p>21 Q. Do you know who Robert Kosowski is?</p> <p>22 A. No.</p> <p>23 Q. Do you see in the Attachments line --</p> <p>24 A. Yes.</p> <p>25 Q. -- there are various attachments. But do</p>
<p>118</p> <p>1 Q. It's a six-step process?</p> <p>2 A. Mmm-hmm.</p> <p>3 Q. Just for the record, I'm going to read the</p> <p>4 six steps.</p> <p>5 A. Sure.</p> <p>6 Q. Screening; due diligence; portfolio</p> <p>7 structuring; placement; ongoing monitoring; reporting</p> <p>8 and sharing.</p> <p>9 Is that right?</p> <p>10 A. That's right.</p> <p>11 Q. So what did screening entail?</p> <p>12 A. Screening was sourcing of investment</p> <p>13 ideas; basically, screening the market for potential</p> <p>14 interesting investments.</p> <p>15 Q. And you were involved in the screening</p> <p>16 process?</p> <p>17 A. I was.</p> <p>18 Q. Who else was involved?</p> <p>19 A. Let me rephrase that. I was involved in</p> <p>20 that process very heavily after '03, when I became</p> <p>21 head of research. I was involved more marginally</p> <p>22 before that.</p> <p>23 Q. Why is it important to do screening?</p> <p>24 A. Well, that's identification of potential</p> <p>25 investments. If you don't do that, there's no</p>	<p>120</p> <p>1 you see in the last document, or one of the -- yeah,</p> <p>2 the last thing that is attached is titled "PASA</p> <p>3 presentation 2004"?</p> <p>4 A. Yes.</p> <p>5 Q. I'm going to be taking you to that</p> <p>6 document, which starts in the page -- sorry, it starts</p> <p>7 on the page that has the number 15955 in the bottom</p> <p>8 righthand corner.</p> <p>9 Do you see that this particular attachment</p> <p>10 is titled "Partners Advisers: An Introduction to the</p> <p>11 Company" and it's dated February 2004?</p> <p>12 Do you see that?</p> <p>13 A. Yes.</p> <p>14 Q. Are you familiar with this presentation?</p> <p>15 A. I've probably seen it. I can't really</p> <p>16 remember it, but yeah.</p> <p>17 Q. Okay. If we could turn to 15960, which is</p> <p>18 a few pages in to the presentation.</p> <p>19 A. 159?</p> <p>20 Q. 6-0.</p> <p>21 A. 6-0, yes.</p> <p>22 Q. Okay. Do you see that on this page there</p> <p>23 is a slide titled "Investment Process"?</p> <p>24 A. Yes.</p> <p>25 Q. Do you see that in that slide you have the</p>

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<p style="text-align: right;">121</p> <p>1 same six-step process that we just saw in Trustee 2 Exhibit No. 14? 3 A. Yes. 4 Q. And, again, for the record, it says: 5 screening; due diligence; portfolio structuring; 6 placement; ongoing monitoring; and reporting and 7 sharing? 8 A. Mmm-hmm. 9 Q. Do you see that, under the slide, there 10 are various notes? 11 A. Mmm-hmm. 12 Q. I'm just going to ask you some questions 13 about some of these notes. 14 A. Sure. 15 Q. One of the notes says: 16 "Predominance of Qualitative." 17 A. Yes. 18 Q. What does that mean to you? 19 A. That means that most of the due diligence 20 is qualitative rather than quantitative. That would 21 basically put more importance on the qualitative due 22 diligence. 23 Q. And this is for the same reasons that 24 we've already discussed today? 25 A. Yes.</p>	<p style="text-align: right;">123</p> <p>1 100 percent it takes a huge amount of time. So there 2 was, like, some balance between getting to the nth 3 degree of information and getting information that was 4 useful. 5 And transparency means, in this case, I 6 think -- wait a minute. 7 So this comment, actually, to me, refers 8 to a -- I'm going to take a step back. 9 This comment, to me, refers to the 10 portfolio construction because it comes after the 11 portfolio construction -- a sentence about portfolio 12 construction. 13 So what this means is there is 14 effectiveness in the portfolio construction, which 15 I sort of referred to, and transparency, meaning that 16 we were actually very transparent with our investors 17 about what was in the portfolio. 18 Q. You've mentioned a couple times that these 19 are not your words. Do you know who was involved in 20 drafting this, these notes? 21 A. Well, that was either the head of sales, 22 so Mr. Duteil, or Mr. Estenne. 23 Q. You don't have any specific recollection 24 of them drafting this presentation? 25 A. No. I would put these words into the -- I</p>
<p style="text-align: right;">122</p> <p>1 Q. Underneath that, there's a note that says: 2 "Equilibrium between rigorous and 3 systematic process." 4 What does that mean to you? 5 A. I didn't come up with that, for sure. It 6 means that the process we were trying to build was 7 repeatable and followed a certain structure in the due 8 diligence. I mean the due diligence process, yes. 9 Q. A few notes down, there's a note that 10 reads: 11 "High level of process effectiveness and 12 transparency." 13 What does that note mean to you? 14 A. Again, these are not my words, so this is 15 going to be more of me guessing than giving you, sort 16 of, a definitive answer. 17 Q. If I may, I'm only asking what it means to 18 you. 19 A. To me, okay, yeah. Well, I think that 20 means that there was -- effectiveness, to me, means 21 that there was a balance between the depth of the work 22 and what we were getting out of it, right. I think it 23 means that we were sort of following the rule of 24 80/20, right, which means that 80 percent of the work 25 takes 20 percent of the time, and if you want to go to</p>	<p style="text-align: right;">124</p> <p>1 would think that they were Mr. Duteil's because he was 2 not as good an English speaker and it doesn't sound me 3 as, sort of, very clear messaging. 4 Q. If you turn -- 5 A. I don't have any recollection of it, no. 6 Q. If you turn the page to the next page, 7 which, for the record, is 15961, do you see that at 8 the top there's another slide titled "Screening 9 Principles"? 10 A. Mmm-hmm. 11 Q. So we were just beginning to talk about 12 the screening process. 13 A. Yes. 14 Q. And then, just for the record, the slide 15 reads that screening is: 16 "An alternative to market timing; 90% of 17 funds are not worth looking at; 100% control is not 18 achievable; past performance has no predictive power; 19 best managers are hard to find." 20 Do you agree with those statements? 21 A. I do. 22 Q. What do you mean by -- well, what do you 23 think -- what does the phrase "an alternative to 24 market timing" mean to you? 25 A. That means that we were trying to identify</p>

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<p style="text-align: right;">125</p> <p>1 investments that would work in most market</p> <p>2 environments. That would be an all-weather strategy</p> <p>3 rather than relying on trying to time market regimes.</p> <p>4 Q. Could you explain what it means to time</p> <p>5 market regimes?</p> <p>6 A. That means trying to sort of second-guess</p> <p>7 what the market's going to do and position your</p> <p>8 portfolio accordingly.</p> <p>9 Q. So Partners Advisers, at least at this</p> <p>10 time, was looking for investments that were -- whose</p> <p>11 strategies were not focused on market timing?</p> <p>12 A. Yeah, overly dependent on market</p> <p>13 direction, yes, which is actually something that hedge</p> <p>14 funds are meant to do, in general. So it's sort of an</p> <p>15 underpinning of that industry.</p> <p>16 Q. I'm sorry, what is it that hedge funds are</p> <p>17 meant to do?</p> <p>18 A. They are supposed to not be dependent on</p> <p>19 market environments, basically sort of protect you</p> <p>20 from market direction.</p> <p>21 Q. Why is that important?</p> <p>22 A. I don't know if it's important, but</p> <p>23 I think people that invest in hedge funds are seeking</p> <p>24 to avoid being exposed to markets and potentially</p> <p>25 having losses of capital when markets go down.</p>	<p style="text-align: right;">127</p> <p>1 managers to be trying to time the market, because</p> <p>2 obviously if you do that successfully your returns are</p> <p>3 going to be much better. And so what this says is</p> <p>4 avoiding investing in managers that are trying to time</p> <p>5 the market.</p> <p>6 Q. A few notes down, there's a note that</p> <p>7 reads:</p> <p>8 "Know concern about manager strength and</p> <p>9 blowup risk."</p> <p>10 Do you see that?</p> <p>11 A. Yes.</p> <p>12 Q. What does that note mean to you?</p> <p>13 A. I think that is very similar to the</p> <p>14 question you asked about picking pennies in front of a</p> <p>15 steamroller. So there's certain types of strategies</p> <p>16 that offer extremely consistent returns but have the</p> <p>17 risk of a very large loss of capital in the wrong</p> <p>18 market environment; that's the blowup risk.</p> <p>19 Q. That was my next question. So blowup</p> <p>20 risk, that's the steamroller in the metaphor?</p> <p>21 A. Yeah. I mean, it's just knowing what the</p> <p>22 downside profile of a strategy looks like, basically,</p> <p>23 yes.</p> <p>24 Q. And when it says "know concern," how can</p> <p>25 you know of this concern? I mean, it might be the</p>
<p style="text-align: right;">126</p> <p>1 Q. Okay. So you see there's notes on the</p> <p>2 bottom of that slide --</p> <p>3 A. Yes.</p> <p>4 Q. -- similar to the last page.</p> <p>5 The first note says:</p> <p>6 "Marketing timing doesn't work."</p> <p>7 A. Right.</p> <p>8 Q. What does that mean to you?</p> <p>9 A. That means impossible to forecast where</p> <p>10 the market is going, repeatedly.</p> <p>11 Q. Why is it impossible?</p> <p>12 A. Well, I mean, it's like -- it's impossible</p> <p>13 because of factors that determine if markets go up and</p> <p>14 down are impossible to forecast.</p> <p>15 Q. Have you ever seen a manager who was</p> <p>16 successful in predicting what the markets would do on</p> <p>17 a regular basis?</p> <p>18 A. No.</p> <p>19 Q. Do you see on the bottom of that there's</p> <p>20 a note that says:</p> <p>21 "Avoid the request for timing."</p> <p>22 Is that similar to what we just discussed?</p> <p>23 A. Yeah. What that means, I think -- again,</p> <p>24 it's a bit of broken English, really. I think what</p> <p>25 this means is that a lot of investors want their</p>	<p style="text-align: right;">128</p> <p>1 English, but...</p> <p>2 A. Yeah, yeah. I mean, I think this just</p> <p>3 means like not walking into investments blindly; just</p> <p>4 being cognizant of what the risks are, right, the</p> <p>5 strength and the risks of that manager.</p> <p>6 Q. Underneath that note, there's a note that</p> <p>7 reads:</p> <p>8 "Diversification and best detection</p> <p>9 manager principles."</p> <p>10 What does that note mean to you?</p> <p>11 A. I have no idea.</p> <p>12 Q. What's diversification?</p> <p>13 A. I think I know what, actually, this means.</p> <p>14 Diversification meaning, sort of, having an</p> <p>15 appropriate number of underlying investments or</p> <p>16 managers so that, you know, you're not relying too</p> <p>17 much on one being -- bringing, sort of, returns, but</p> <p>18 you have a diversified set of return drivers and risk</p> <p>19 drivers in your portfolio. That's diversification.</p> <p>20 Diversification is, sort of, the</p> <p>21 underpinning of the investment industry, right.</p> <p>22 Everybody that invests in the market typically doesn't</p> <p>23 hold just one security or one fund because you're sort</p> <p>24 of extremely exposed to that, and so you have a</p> <p>25 diversified number of investments.</p>

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<p style="text-align: right;">129</p> <p>1 And I think what the "best detection</p> <p>2 manager principle" means is like that we had</p> <p>3 principles around trying to find the best managers to</p> <p>4 invest in, and that mostly revolves around doing what</p> <p>5 we call peer group analysis, so you don't decide in a</p> <p>6 vacuum. You just -- you don't look at a manager and</p> <p>7 say, well, I want to invest with him or her. You look</p> <p>8 at a manager and say how does he compare -- he or she</p> <p>9 compare to other managers with similar strategies and</p> <p>10 are we picking the best horse in that race.</p> <p>11 Q. Going back to diversification, you said --</p> <p>12 well, let me just ask you again: Is it standard</p> <p>13 practice for a company such as the ones you've worked</p> <p>14 for to seek a diversified portfolio?</p> <p>15 A. Yes.</p> <p>16 Q. And, again, could you explain the purpose,</p> <p>17 or what you understand to be the purpose for that?</p> <p>18 A. Well, the -- there is two purposes. The</p> <p>19 first is not take -- not over-concentrate your</p> <p>20 investments in just one manager because if that</p> <p>21 manager doesn't do well, you're very exposed to it.</p> <p>22 So that's one element.</p> <p>23 The second element is if you're running an</p> <p>24 all-weather strategy, which I mentioned before, then</p> <p>25 you have to have a diversified set of managers because</p>	<p style="text-align: right;">131</p> <p>1 managers, right, because you can actually have several</p> <p>2 managers in the same strategy. So just to clarify</p> <p>3 that.</p> <p>4 But, typically, you would sort of have at</p> <p>5 least five or six different strategies and probably at</p> <p>6 least 10 to 15 managers.</p> <p>7 Q. And this, you followed this principle with</p> <p>8 the ART Fund?</p> <p>9 A. We did, yes.</p> <p>10 Q. And the other funds that you mentioned</p> <p>11 Partners Advisers was managing at that time?</p> <p>12 A. Yeah. They were run the exact same way,</p> <p>13 yes.</p> <p>14 Q. A couple notes down, there's a note that</p> <p>15 reads:</p> <p>16 "No bet, no gambling but investing."</p> <p>17 A. Mmm-hmm.</p> <p>18 Q. What does that mean to you?</p> <p>19 A. Well, it means that certain types of</p> <p>20 strategies or certain managers have a tendency to view</p> <p>21 their fund, like going to the casino and taking very</p> <p>22 big, concentrated risks on bets, instead of doing,</p> <p>23 sort of -- investing, in that sense, means being</p> <p>24 diligent about the way you put capital to work, doing,</p> <p>25 you know, the fundamental work that's required.</p>
<p style="text-align: right;">130</p> <p>1 not all of them will do well all the time. So the</p> <p>2 only way you get to an all-weather strategy is by</p> <p>3 having a diversified number of manager -- having a</p> <p>4 certain number of manager in different strategies that</p> <p>5 are trying to exploit different sets of opportunities.</p> <p>6 Q. In your career, have you ever made an</p> <p>7 exception to that general principle of having a</p> <p>8 diversified investment portfolio?</p> <p>9 A. With -- I did with my PA, yes.</p> <p>10 Q. What's PA?</p> <p>11 A. My personal account.</p> <p>12 Q. Oh.</p> <p>13 A. But never with investors' capital.</p> <p>14 Q. So in your career, you would never</p> <p>15 recommend to your clients, your investors, to put</p> <p>16 their investments in only one -- under one strategy?</p> <p>17 A. No, never.</p> <p>18 Q. You would always have them diversify among</p> <p>19 different strategies?</p> <p>20 A. Yes.</p> <p>21 Q. Typically, how many strategies would you</p> <p>22 consider are necessary to have a diversified</p> <p>23 portfolio?</p> <p>24 A. So I'm going to answer your question</p> <p>25 specifically. Strategies is not being the same as</p>	<p style="text-align: right;">132</p> <p>1 Q. If you go to the next page, do you see at</p> <p>2 the top there's another slide for -- related to the</p> <p>3 screening process?</p> <p>4 A. Yes.</p> <p>5 Q. And underneath the slide there are more</p> <p>6 notes?</p> <p>7 A. Yes.</p> <p>8 Q. There's a note. The first note reads:</p> <p>9 "Managers only motivated by 2/20%."</p> <p>10 A. Yes.</p> <p>11 Q. What does 2/20 percent mean to you?</p> <p>12 A. That's the fee structure for most hedge</p> <p>13 funds, which means a 2 percent management fee and a</p> <p>14 20 percent incentive fee.</p> <p>15 Q. Could you explain what 2 percent</p> <p>16 management fee means?</p> <p>17 A. Yes, sure. So most -- well, that's</p> <p>18 changed today, but back in the day most managers would</p> <p>19 charge 2 percent of the assets under management as a</p> <p>20 management fee, so they would charge that to cover</p> <p>21 their cost of running the capital. And then they</p> <p>22 would charge 20 percent of the profits they generate,</p> <p>23 the incentive fee we talked about earlier.</p> <p>24 Q. This is the same incentive fee that you</p> <p>25 were receiving when you were at Partners Advisers?</p>

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<p style="text-align: right;">133</p> <p>1 A. So I think a fund of fund, which is what</p> <p>2 ART was, would actually charge an additional</p> <p>3 management fee and incentive fee on top of that</p> <p>4 charged by the managers, right. So we would -- I see</p> <p>5 you're lost.</p> <p>6 We would invest in hedge funds that would</p> <p>7 charge something like 2 and 20, and then Partners</p> <p>8 Advisers, on top of that, would charge, typically,</p> <p>9 1 and 10, I think would probably sort of be the</p> <p>10 typical sort of fee structure, on top of that.</p> <p>11 Q. This is implicit in what we've been</p> <p>12 discussing today, but just for the record, can you</p> <p>13 just explain the difference between a fund of fund and</p> <p>14 a hedge fund?</p> <p>15 A. Sure. A hedge fund is an investment</p> <p>16 vehicle that invests in marketable securities. A fund</p> <p>17 of fund is an investment vehicle that invests in hedge</p> <p>18 funds.</p> <p>19 Q. A few notes down, there's a note that</p> <p>20 says:</p> <p>21 "Deep understanding of the performance</p> <p>22 engine."</p> <p>23 Do you see that?</p> <p>24 A. Yes.</p> <p>25 Q. What does that note mean to you?</p>	<p style="text-align: right;">135</p> <p>1 A. (Nonverbal response.)</p> <p>2 Q. Yes?</p> <p>3 A. Yes.</p> <p>4 Q. The slide at the top again pertains to</p> <p>5 the screening process?</p> <p>6 A. Mmm-hmm.</p> <p>7 Q. There's a note, the first note, that</p> <p>8 reads:</p> <p>9 "No selection nor understanding without</p> <p>10 market news and info."</p> <p>11 And in parentheses, it says:</p> <p>12 "Bloom & Market watch."</p> <p>13 A. Mmm-hmm.</p> <p>14 Q. Do you see that?</p> <p>15 A. Yes.</p> <p>16 Q. What does that mean to you?</p> <p>17 A. That means you can't select hedge funds</p> <p>18 without understanding what is happening in the market.</p> <p>19 And Bloom means Bloomberg, and Market watch was</p> <p>20 a document that was basically an extraction of market</p> <p>21 data that I developed at Partners Advisers that we</p> <p>22 would sort of get every week, a sort of recap of what</p> <p>23 different markets were doing.</p> <p>24 Q. The next note on the same page reads:</p> <p>25 "Referencing in the network."</p>
<p style="text-align: right;">134</p> <p>1 A. Well, that goes back to qualitative due</p> <p>2 diligence, which is understanding how the returns are</p> <p>3 generated, what are the attributes of that strategy,</p> <p>4 and the investment style that generates the return.</p> <p>5 Q. So going back in time to 2004 when this</p> <p>6 presentation was created, is it fair to say that</p> <p>7 Partners Advisers was focused on understanding -- was</p> <p>8 very focused on understanding the strategy of the</p> <p>9 various investments that were in the ART Fund</p> <p>10 portfolio?</p> <p>11 A. Yes.</p> <p>12 Q. And, to you personally, it was an</p> <p>13 important part of the process?</p> <p>14 A. It was, yes.</p> <p>15 Q. A few lines down, there's a note that has</p> <p>16 a typographical error, but I'm going to read it into</p> <p>17 the record:</p> <p>18 "Example = plane and car paradigm."</p> <p>19 Do you see that?</p> <p>20 A. Yes.</p> <p>21 Q. Do you have any sense of what that means?</p> <p>22 A. Absolutely not.</p> <p>23 Q. If you turn the page, this is now the</p> <p>24 page ending with 15963, again, it's another slide at</p> <p>25 the top with notes on the bottom.</p>	<p style="text-align: right;">136</p> <p>1 A. Yes.</p> <p>2 Q. What does that mean to you?</p> <p>3 A. That means we were very actively engaged</p> <p>4 with other investors. And, by the way, investors in</p> <p>5 hedge funds are called allocators. I might refer to</p> <p>6 allocators as being investors in hedge funds. That's</p> <p>7 the way that they're sort of called in our industry.</p> <p>8 So this was basically meaning talking to</p> <p>9 our network of allocators about certain managers and</p> <p>10 reference-checking them with that network.</p> <p>11 Q. So how many allocators would you have in</p> <p>12 your network?</p> <p>13 A. Dozens.</p> <p>14 Q. This is at Partners Advisers at this time?</p> <p>15 A. Yes. We each had different types of</p> <p>16 networks, but I was talking to dozens of persons, yes.</p> <p>17 Q. Okay. Just on the next page, this is the</p> <p>18 page ending in 15964, again there's a slide at the</p> <p>19 top, notes on the bottom.</p> <p>20 A. Mmm-hmm.</p> <p>21 Q. The slide, again, pertains to the</p> <p>22 screening process. Yes?</p> <p>23 A. Yes.</p> <p>24 Q. There is only one note here. It says:</p> <p>25 "Style drift."</p>

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<p>137</p> <p>1 A. Yes.</p> <p>2 Q. What does style drift mean to you?</p> <p>3 A. Style drift means that a manager that</p> <p>4 invests in a certain way with a certain strategy</p> <p>5 suddenly starts to change the strategy they're</p> <p>6 investing in so their style of investing drifts. It's</p> <p>7 typically early signals of a problem.</p> <p>8 Q. Why would that be an early signal of a</p> <p>9 problem?</p> <p>10 A. Because there is -- the reason to drift</p> <p>11 into other investment styles are linked to either,</p> <p>12 sort of, the belief that they can manage outside of --</p> <p>13 assets outside of their specific area of expertise,</p> <p>14 which typically is wrong, but most people are not very</p> <p>15 good at managing strategies that they're not experts</p> <p>16 in, or that their assets under management have reached</p> <p>17 a level where they're becoming too large to express</p> <p>18 their original strategy and so they need to, sort of,</p> <p>19 look elsewhere.</p> <p>20 Both those things tend to lead to poor</p> <p>21 performance.</p> <p>22 Q. So when you said there's early signs of</p> <p>23 a problem, the problem in this case is potential</p> <p>24 losses?</p> <p>25 A. Yeah. Underperformance or losses, yes.</p>	<p>139</p> <p>1 BY MR. MOLINA:</p> <p>2 Q. Hello, Mr. Müller.</p> <p>3 A. Hello.</p> <p>4 Q. We are still looking at what has been</p> <p>5 marked Trustee Exhibit No. 14. Sorry, number -- no,</p> <p>6 this is 16, this is the presentation.</p> <p>7 MS. STORK: Oh yes.</p> <p>8 BY MR. MOLINA:</p> <p>9 Q. Number 16.</p> <p>10 A. Yep.</p> <p>11 Q. It has the number in the bottom 15965.</p> <p>12 A. Mmm-hmm.</p> <p>13 Q. This is the page that we left off. You'll</p> <p>14 see on the top there's a slide titled "Due Diligence -</p> <p>15 Objectives."</p> <p>16 A. Mmm-hmm.</p> <p>17 Q. And at the bottom there are notes under</p> <p>18 the slide.</p> <p>19 A. Yes.</p> <p>20 Q. You'll recall that we looked earlier at</p> <p>21 this graphic that had the six components of the</p> <p>22 investment process?</p> <p>23 A. Yes.</p> <p>24 Q. And after screening, which was the first</p> <p>25 component, there was a due diligence. Do you recall</p>
<p>138</p> <p>1 Not always losses, but it could be underperformance.</p> <p>2 Q. Anything else?</p> <p>3 A. No. I mean, that style drift doesn't</p> <p>4 belong in screening. It sort of belongs in due</p> <p>5 diligence, really, or monitoring more. But other than</p> <p>6 that, no.</p> <p>7 Q. Okay.</p> <p>8 MR. MOLINA: I have -- just quickly,</p> <p>9 I have a few more slides to go through here. We will</p> <p>10 likely not be able to do it in 3 minutes, so</p> <p>11 I recommend that we -- it's a good time to take a</p> <p>12 pause, have a lunch break and then we can resume.</p> <p>13 THE EXAMINER: In your hands, Mr. Molina.</p> <p>14 So, yes, we can pause now.</p> <p>15 THE VIDEOGRAPHER: We are going off the</p> <p>16 record. The time is 12:57.</p> <p>17 (Lunch break taken.)</p> <p>18 THE VIDEOGRAPHER: For the record, we have</p> <p>19 been on the record for 2 hours and 35 minutes.</p> <p>20 We are now back on record. The time is</p> <p>21 1:45.</p> <p>22 MR. MOLINA: May I resume questioning?</p> <p>23 THE EXAMINER: Yes, please. Please</p> <p>24 continue, Mr. Molina.</p> <p>25 ///</p>	<p>140</p> <p>1 that?</p> <p>2 A. Yes.</p> <p>3 Q. So this is the second component of this</p> <p>4 process?</p> <p>5 A. Absolutely, yes.</p> <p>6 Q. On the slide, you will see that it appears</p> <p>7 that there's a -- it shows a flowchart, correct?</p> <p>8 A. Yes.</p> <p>9 Q. The flowchart shows that there are boxes</p> <p>10 for information network, public information, and</p> <p>11 market information, that then all flow to the</p> <p>12 screening process. Do you see that?</p> <p>13 A. Yes.</p> <p>14 Q. And then after the screening process,</p> <p>15 there's a flow to what's called radar screen. Do you</p> <p>16 see that?</p> <p>17 A. Mmm-hmm.</p> <p>18 Q. What's radar screen?</p> <p>19 A. A shortlist of potential investments.</p> <p>20 Q. So can you just explain briefly what this</p> <p>21 flowchart means to you?</p> <p>22 A. Yeah, sure. So the three boxes to the</p> <p>23 left, information network, public information, and</p> <p>24 market information, are basically ways to source</p> <p>25 potential investments: information network meaning our</p>

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<p>141</p> <p>1 own network of people, allocators, service providers, 2 in the hedge fund ecosystem, like prime brokers; 3 public information being sort of newspapers, 4 publications, databases; and then market information 5 is more sort of linked to market data, so equity 6 markets, FX income market data, and how that informs 7 potential investments.</p> <p>8 So, anyway, those three sources were sort 9 of used to source investments. These investments that 10 were sourced would go into a screening process where 11 we would sort of weed out the investments that made 12 no sense or were unattractive or didn't compare very 13 well to others, et cetera, and that led to a short 14 list of potential investments called the radar screen, 15 which we would then pick from to conduct due diligence 16 pre-investment.</p> <p>17 Q. Okay. When you said that "we" would use 18 the screening process to weed out, we just covered in 19 the -- before the break we were talking about the 20 different components of the screening process.</p> <p>21 Do you remember that?</p> <p>22 A. Yes.</p> <p>23 Q. When you said just now "we," who are you 24 referencing to when you say that "we" would weed out 25 investments at this stage?</p>	<p>143</p> <p>1 single funds and it was a five-page, sort of, 2 quantitative analysis document which, actually, I've 3 seen in the documents that I was provided with, so 4 there's example of that and it was sort of-- it was a 5 tool that was automated; and then the second one was 6 actually to perform peer group analysis, so it was 7 actually for multiple funds to be compared to one 8 another, which I think is also in that pack of 9 documents, at least an example of it.</p> <p>10 Q. Do these programs have names?</p> <p>11 A. They had, but I struggle to remember. It 12 was called SMART something, which was a play on the 13 word with ART but I can't remember the something.</p> <p>14 Q. Okay. A couple notes down, it says: 15 "Index and Peer comparison."</p> <p>16 A. Mmm-hmm.</p> <p>17 Q. Can you just explain what that means to 18 you?</p> <p>19 A. Yeah. So that's what I meant by comparing 20 an investment to other similar investments in that 21 universe and to market indices.</p> <p>22 Q. Okay. On the next page, which has the 23 numbers 15966 on the bottom righthand corner, it's 24 another slide with notes on the bottom.</p> <p>25 A. Mmm-hmm.</p>
<p>142</p> <p>1 A. Yeah, the investment team at Partners 2 Advisers, so that would be the analysts, myself and 3 Mr. Estenne. Yeah. Typically, after 2003, that would 4 sort of-- I would be the lead on that with my 5 analysts and then Mr. Estenne would be brought in at a 6 later stage, probably at the stage of the radar screen 7 when we already had a short list.</p> <p>8 Q. In the notes under the slide, if you look 9 to first note, it says: 10 "Due diligence qualitative process." 11 Is this the process that we discussed 12 earlier when we discussed qualitative due diligence?</p> <p>13 A. Yes.</p> <p>14 Q. And the next note, when it says 15 "Quantitative tools," is this the same as the 16 quantitative due diligence process that we discussed 17 earlier today?</p> <p>18 A. Yes.</p> <p>19 Q. When it says -- in the bottom, or in the 20 middle of those notes, it says "Proprietary analysis 21 program" --</p> <p>22 A. Yes.</p> <p>23 Q. -- what does that mean to you?</p> <p>24 A. This was the quantitative analysis tool 25 that we used. There was two of them: one was for</p>	<p>144</p> <p>1 Q. The slide is titled "Due Diligence - Risk 2 Management."</p> <p>3 A. Mmm-hmm.</p> <p>4 Q. Now, some of these, the text here is small 5 and we'll do our best to see if we can read some of 6 this text. So I'm just going to ask you to briefly 7 explain what these different risks mean to you.</p> <p>8 So let's start with credit risk. Could 9 you briefly describe what that means to you.</p> <p>10 A. Yeah. So this is a chart that is taken 11 from a chapter of a book that Luc Estenne actually 12 wrote; not the book but that specific chapter. So he 13 came up with that or took it from somewhere. I never 14 paid much attention to this chart specifically, but 15 I'll tell you what it means to me.</p> <p>16 So credit risk is actually linked to the 17 credit of counterparties, so it's sort of linked to 18 counterparty risk. It's basically being exposed to 19 the creditworthiness of the people you trade or 20 interact with.</p> <p>21 Q. And there's -- in this chart, at least, it 22 shows that there's various other risks that are spawns 23 of the credit risk.</p> <p>24 Do you see that?</p> <p>25 A. Yes. Transaction risk, portfolio</p>

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<p>145</p> <p>1 concentration risk.</p> <p>2 Q. Counterparty risk?</p> <p>3 A. Yeah. And then I can't read the other.</p> <p>4 Q. Nor can I. What do you -- first of all,</p> <p>5 is this chart something that you -- do you agree with</p> <p>6 the order of the risks, the way they're structured in</p> <p>7 this chart?</p> <p>8 A. I don't know about the order but those</p> <p>9 three types of risk are basically the risks that you</p> <p>10 have to manage when you're investing in hedge funds.</p> <p>11 So I agree with the types. They're risk</p> <p>12 typologies.</p> <p>13 Q. What's counterparty risk?</p> <p>14 A. Counterparty risk is the risk of your</p> <p>15 counterparty, the entity that holds your assets,</p> <p>16 defaulting or going bankrupt, in which case you might</p> <p>17 lose your assets because they're deposited there, so</p> <p>18 I guess -- deposited there. So Lehman going bankrupt</p> <p>19 is a perfect example of counterparty risk.</p> <p>20 Q. How do you assess counterparty risk?</p> <p>21 A. You assess it by making sure that the</p> <p>22 funds you're investing in typically use multiple</p> <p>23 counterparties and have their assets in separate --</p> <p>24 in, sort of, a number of different sort of entities.</p> <p>25 You basically assess it by making sure it's spread --</p>	<p>147</p> <p>1 Q. What does human factor risk mean to you?</p> <p>2 A. Well, human factor risk is the risk of</p> <p>3 human mistake or human misbehavior within a firm.</p> <p>4 There was a previous slide that mentioned 100 percent</p> <p>5 control is not possible, which is sort of something</p> <p>6 that I strongly believe now, and believed then, which</p> <p>7 is obviously you can conduct as much due diligence you</p> <p>8 want; ultimately, you're still exposed to human factor</p> <p>9 risk.</p> <p>10 Q. How do you mitigate human factor risk?</p> <p>11 A. Well, you mitigate it by conducting</p> <p>12 operational due diligence and making sure there is all</p> <p>13 the sort of checks and balances in place, including</p> <p>14 having, you know, thirdparty service providers and</p> <p>15 so on.</p> <p>16 But, ultimately, even so, I mean, you're</p> <p>17 mitigating it, right; you're never eliminating it,</p> <p>18 I think.</p> <p>19 Q. Do you see at the bottom there are notes</p> <p>20 under the slide?</p> <p>21 A. Yes.</p> <p>22 Q. There's a note at the end that says:</p> <p>23 "No risk no perf?"</p> <p>24 A. Yes.</p> <p>25 Q. What does that mean to you?</p>
<p>146</p> <p>1 the risk is spread out instead of being concentrated.</p> <p>2 Q. On the same chart in the slide, there's</p> <p>3 a category called market risk. Do you see that?</p> <p>4 A. Yes.</p> <p>5 Q. What's market risk?</p> <p>6 A. Well, market risk is the risk of being</p> <p>7 exposed to certain markets and their behavior, right.</p> <p>8 So there's equity risk in there, interest rate risk,</p> <p>9 currency risk, commodity risk, and I guess one is</p> <p>10 called liquidity risk, which is the risk of being</p> <p>11 exposed to illiquid assets.</p> <p>12 Q. And then underneath that, there's another</p> <p>13 category of risk called operational risk. Do you see</p> <p>14 that?</p> <p>15 A. Yes.</p> <p>16 Q. What's operational risk?</p> <p>17 A. So that's what we covered before, which is</p> <p>18 the risks that are linked to the operational structure</p> <p>19 of the managers and the funds. So that's typically</p> <p>20 what would be covered by the operational due diligence</p> <p>21 analyst.</p> <p>22 Q. There's a sub-component of operational</p> <p>23 risk in this chart that's titled "Human factor risk."</p> <p>24 All the way at the bottom.</p> <p>25 A. Yes.</p>	<p>148</p> <p>1 A. That means you can't generate any</p> <p>2 performance if you don't take any risks.</p> <p>3 Q. And you agree with that statement?</p> <p>4 A. Yeah. I mean, there's a notion of</p> <p>5 risk-free rate, which is basically the rate offered to</p> <p>6 you by US government bonds, right, because there you</p> <p>7 actually don't take any risks. Well, you take the</p> <p>8 risk that the US defaults but that's a very remote</p> <p>9 risk. But it's called risk-free rate for that reason,</p> <p>10 right. Everything that's -- other investments contain</p> <p>11 risk because you're trying to generate better returns</p> <p>12 than the US Treasury, so...</p> <p>13 Q. So when you were at Partners Advisers,</p> <p>14 let's say this time frame in 2004, did you invest --</p> <p>15 A. You just changed page, right?</p> <p>16 Q. Oh, sorry. I'm just asking separate from</p> <p>17 this document.</p> <p>18 A. Okay.</p> <p>19 Q. When you were at Partners Advisers in</p> <p>20 2004, in this time frame did Partners Advisers</p> <p>21 recommend investments that were risk-free?</p> <p>22 A. No. No, we -- I mean, that would have</p> <p>23 come -- that would have meant recommending investments</p> <p>24 that -- in US treasuries, which we didn't do.</p> <p>25 Q. Do you see the next page, which has the</p>

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<p>149</p> <p>1 number 15967? Again, same thing --</p> <p>2 A. Yeah.</p> <p>3 Q. -- slide/notes. I'm going to look at the</p> <p>4 notes. There's a note at the bottom that says:</p> <p>5 "HF strategy, Prime broker and</p> <p>6 positioning."</p> <p>7 What does that note mean to you?</p> <p>8 A. Give me a minute just to review this.</p> <p>9 That means analyzing the hedge fund</p> <p>10 strategy, who the prime broker is, or are if they're</p> <p>11 multiple, and how the fund's positioned, so the</p> <p>12 positioning of the portfolio of that investment.</p> <p>13 Q. And you see on the slide here there's a</p> <p>14 reference to two different questionnaires; one's</p> <p>15 a first contact questionnaire and the other is a due</p> <p>16 diligence questionnaire?</p> <p>17 A. Yes.</p> <p>18 Q. If you look at the next page, there is a</p> <p>19 breakdown under -- there's sort of a focus on the</p> <p>20 first contact questionnaire. Do you see that?</p> <p>21 A. Yes.</p> <p>22 Q. This is the page ending in 15968.</p> <p>23 A. Yes.</p> <p>24 Q. Briefly, could you explain what a first</p> <p>25 contact questionnaire is?</p>	<p>151</p> <p>1 this first face-to-face meeting with the manager?</p> <p>2 A. No.</p> <p>3 Q. There's another note, that says:</p> <p>4 "Networking importance."</p> <p>5 Could you explain what that means to you?</p> <p>6 A. Yeah. That's linked to what we were</p> <p>7 discussing before, which is checking out investment</p> <p>8 ideas with people from our network.</p> <p>9 Q. I know earlier you mentioned that there</p> <p>10 were dozens of people that would be part of your</p> <p>11 network; is that right?</p> <p>12 A. Yes.</p> <p>13 Q. I'm going to go through some names --</p> <p>14 A. Sure.</p> <p>15 Q. -- and I'm going to ask you to tell me if</p> <p>16 you can recall whether these individuals or entities</p> <p>17 were part of your network. Is that fair?</p> <p>18 A. Sure.</p> <p>19 Q. Okay. There's an entity by the name of</p> <p>20 Calabria?</p> <p>21 A. Yes.</p> <p>22 Q. Are you familiar with that entity?</p> <p>23 A. Yes.</p> <p>24 Q. What is that entity?</p> <p>25 A. It was a competitor of ours in Geneva, so</p>
<p>150</p> <p>1 A. That would be the meeting notes -- or it</p> <p>2 would be sort of a template we would fill in during</p> <p>3 the first -- a first meeting, physical face-to-face</p> <p>4 meeting with a manager.</p> <p>5 Q. This would be pre-investment?</p> <p>6 A. Yes.</p> <p>7 Q. Would you always have face-to-face</p> <p>8 meetings with a manager pre-investment?</p> <p>9 A. Yes.</p> <p>10 Q. Why?</p> <p>11 A. Because it was part of our investment</p> <p>12 process, to visit managers in their own office and</p> <p>13 spend time with them face to face.</p> <p>14 Q. Why was that part of your process?</p> <p>15 A. Because it allowed to meet the team, it</p> <p>16 allowed to sort of read body language and get</p> <p>17 comfortable with the manager, his team, the setup, you</p> <p>18 know, seeing that there's an office, servers, things</p> <p>19 like this.</p> <p>20 Q. Do you see at the bottom here, it says:</p> <p>21 "Know and meet the managers."</p> <p>22 Is this what you're referring to?</p> <p>23 A. Yes.</p> <p>24 Q. Would there be a scenario where you would</p> <p>25 recommend an investment where you would not have had</p>	<p>152</p> <p>1 they were a fund of fund as well, people that came out</p> <p>2 of JPMorgan.</p> <p>3 Q. I'm going to list some names and you'll</p> <p>4 tell me if you recall whether these people were with</p> <p>5 Calabria at the time that you were liaising with this</p> <p>6 network.</p> <p>7 A. Yes, mmm-hmm.</p> <p>8 Q. Christophe Khaw?</p> <p>9 A. Yes, I know him.</p> <p>10 Q. Who was Christophe Khaw?</p> <p>11 A. Christophe Khaw was one of the partners of</p> <p>12 Calabria and he was in a similar role to mine,</p> <p>13 conducting due diligence on managers.</p> <p>14 Q. How often would you speak with Mr. Khaw</p> <p>15 during -- while you were at Partners Advisers?</p> <p>16 A. On a monthly basis.</p> <p>17 Q. And when you say that you would discuss</p> <p>18 your -- these potential investments, could you just</p> <p>19 explain briefly what that -- what those discussions</p> <p>20 entailed?</p> <p>21 A. Yeah, of course. It entailed discussing</p> <p>22 the reputation of a manager, his background, the firm</p> <p>23 he came out of, how -- what was the reputation of that</p> <p>24 firm, what was the manager's reputation within that</p> <p>25 firm, with peers and other people from our network.</p>

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<p style="text-align: right;">153</p> <p>1 Mr. Khaw might have had a different network to mine, 2 he most certainly did actually, and so he might have 3 information, potentially, that I didn't have. 4 We were discussing the soundness of the 5 investment strategy, how sustainable we thought that 6 strategy was. You know, all the points in the due 7 diligence around, sort of, the market opportunity, and 8 how the treasury was likely to do in the current 9 market condition we would sort of compare notes on as 10 well. 11 So, basically, it was he and others, but 12 I was quite close to Mr. Khaw as a sounding board, and 13 I was to him. 14 Q. Would these discussions occur in person? 15 A. Yeah, we were both in Geneva, so, for the 16 most part, yes. 17 Q. Would you trade emails or written 18 correspondences about these investments? 19 A. Probably. I think most of the 20 communication was oral, in person, but we might have 21 exchanged emails as well. 22 Q. Would you -- is it fair to say that most 23 of the people in this network were located in Geneva 24 at the time? 25 A. No. No, I mean there was people in Geneva</p>	<p style="text-align: right;">155</p> <p>1 There was people that were working for 2 prime brokers I would talk to very frequently. There 3 was a person called Trudi Usher, who actually we then 4 hired at Partners Advisers, I would speak to 5 frequently. She was at Morgan Stanley. There was a 6 person called Marlin Naidoo who was working for a 7 prime broker, Deutsche Bank, I think, in Asia and he 8 would be a good source of information for Asian 9 manager investments. 10 So those are the ones who sort of come up 11 top of my head but there were multiple others, yeah. 12 Q. I'm going to name other names and you can 13 just -- 14 A. Sure. 15 Q. -- tell me -- similar with Mr. Khaw, just 16 tell me if they were in your network and, if so, who 17 they were -- 18 A. Sure. 19 Q. -- and how often you spoke to them. 20 Albert Collette? 21 A. Yeah, I mean, he was a colleague of 22 Mr. Khaw. I did not interact with him much but I know 23 him and, you know, if I were to see him on the street, 24 we would sort of chat for ten minutes. But I was not 25 very close with him.</p>
<p style="text-align: right;">154</p> <p>1 but I was exchanging with people in London, New York. 2 I was traveling a fair bit. I was going to 3 conferences, meeting people from across the globe, so 4 it was a very global network, actually, yeah. 5 Q. And you mentioned Mr. Khaw is somebody who 6 was a significant part of this -- of these -- let me 7 restate that. 8 You mentioned earlier Mr. Khaw is somebody 9 you would speak to regularly within this network? 10 A. Yes. 11 Q. Are there other people with whom you spoke 12 to regularly, similar to how often you spoke to 13 Mr. Khaw? 14 A. Yes, there were. Yes. 15 Q. Can you -- do you remember their names? 16 A. I mean, it's a lot of them. Yeah, sure. 17 I remember some of them, for sure, yeah. 18 Q. Can you give us some names? 19 A. Yeah, there was a person called Karim 20 Leugel who was the CIO of a fund of fund that was 21 attached to a Italian bank called Rasini. He's now 22 with JPMorgan. I would compare notes with him. There 23 was a person called John Patton who was running the 24 portfolio, a hedge fund portfolio, for an insurance 25 company.</p>	<p style="text-align: right;">156</p> <p>1 Q. So you would not consider him to be part 2 of your network? 3 A. He was not someone I was bumping ideas 4 off, no. 5 Q. Philippe Baumann? 6 A. He was also part of Calibria. I was very 7 limited interaction with him. 8 Q. He was not part of your network? 9 A. Not really, no. 10 Q. Tanvir Ghani. 11 And, Ms. Court Reporter, I will provide 12 you with the spelling for these names at the break. 13 A. Yes, I would speak to Tanvir. Tanvir was 14 at Goldman Sachs and I was quite close to him. 15 Q. He was part of your network? 16 A. Yes. 17 Q. And he was at Goldman Sachs during 18 the time that he was part of your network? 19 A. Yes. 20 Q. Peter Fletcher? 21 A. Yes. I mean, he was my -- he was much -- 22 he was my boss for a while and I didn't speak to him 23 about investment much, but I respect him and we would 24 sort of speak from time to time. 25 Q. And we mentioned earlier Philippe</p>

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<p>157</p> <p>1 Hostettler. Was he part of your network?</p> <p>2 A. Yes. Yes.</p> <p>3 Q. And during this time, he would have been</p> <p>4 still at Parly?</p> <p>5 A. He changed, shortly after we took another</p> <p>6 office, so he was -- yeah, I don't know when exactly,</p> <p>7 but he left at some point. He went to another firm.</p> <p>8 Q. I'm going to then now refer you to -- in</p> <p>9 the same document that's in front of you, this is</p> <p>10 still Trustee Exhibit No. 16, please go to the</p> <p>11 page that has the number 15970 on the bottom</p> <p>12 righthand corner.</p> <p>13 Similar to the other pages that we've been</p> <p>14 looking at, this is a page with a slide at the top and</p> <p>15 some notes at the bottom; yes?</p> <p>16 A. Mmm-hmm.</p> <p>17 Q. If you look at the notes, the first note</p> <p>18 says:</p> <p>19 "Better have a good manager with an</p> <p>20 average strategy than the reverse."</p> <p>21 A. Mmm-hmm.</p> <p>22 Q. What does that note mean to you?</p> <p>23 A. That note means that -- it means that if</p> <p>24 you're in the wrong strategy with the right manager,</p> <p>25 so if your strategy is not in favor or doesn't sort of</p>	<p>159</p> <p>1 note that says:</p> <p>2 "Bonus to bottom up."</p> <p>3 Do you see that?</p> <p>4 A. I don't. Where is that?</p> <p>5 Q. It's the second note --</p> <p>6 A. Oh, yeah, yeah, of course. Yeah, sorry,</p> <p>7 sorry. I was looking at the flowchart. Yeah.</p> <p>8 Q. What does that note mean to you?</p> <p>9 A. Well, it means something similar, which is</p> <p>10 there's -- it makes more sense to focus on investments</p> <p>11 bottom up, which means finding managers we really sort</p> <p>12 of believe are strong, and then worry about the</p> <p>13 strategy, rather than top down, which is worry about</p> <p>14 the strategy first and then trying to find the manager</p> <p>15 in there.</p> <p>16 Q. If you turn the page, so this is now the</p> <p>17 page that has the number 15971 in the bottom</p> <p>18 righthand corner.</p> <p>19 A. Yes.</p> <p>20 Q. Do you see in this slide at the top of</p> <p>21 that page there's a reference to this bottom-up and</p> <p>22 top-down approach?</p> <p>23 A. Mmm-hmm.</p> <p>24 Q. Does this refer to what you just stated on</p> <p>25 the record?</p>
<p>158</p> <p>1 do well in the current market environment with the</p> <p>2 right manager, it's a better -- that is a better</p> <p>3 investment approach than trying to time strategies</p> <p>4 that pick the wrong managers to do it.</p> <p>5 Q. Do you agree with that statement?</p> <p>6 A. I certainly did back in the day. I'm not</p> <p>7 quite sure about it today.</p> <p>8 Q. But when you were at Partners Advisers,</p> <p>9 this is something that you and your team would abide</p> <p>10 by --</p> <p>11 A. Yeah.</p> <p>12 Q. -- when selecting investments?</p> <p>13 A. Yeah.</p> <p>14 Q. The emphasis being that the manager is</p> <p>15 more important than the performance of the manager's</p> <p>16 strategy; is that fair to say?</p> <p>17 A. Yes. The idea was that a good manager, an</p> <p>18 above-average manager would be able to generate decent</p> <p>19 return even if his strategy was out of favor; whereas</p> <p>20 a below-average manager would probably not do well</p> <p>21 even if the strategy he or she was managing was in</p> <p>22 favor.</p> <p>23 That was sort of the thought process or</p> <p>24 the belief.</p> <p>25 Q. And also on that page, there's a final</p>	<p>160</p> <p>1 A. Yes. So that's actually slightly</p> <p>2 different because it refers to portfolio structuring,</p> <p>3 whereas I think this one -- well, actually, it refers</p> <p>4 to structuring, too, but...</p> <p>5 So -- yes. I mean, it basically refers to</p> <p>6 the fact that we need to find managers that are high</p> <p>7 quality, which is bottom up, and then make sure that</p> <p>8 the portfolio structure overall, so the collection of</p> <p>9 these managers, makes sense from a market perspective.</p> <p>10 Q. And then underneath that in the slide, the</p> <p>11 second bullet, it reads:</p> <p>12 "Farm team, Intermediate & Senior</p> <p>13 Structure."</p> <p>14 A. Mmm-hmm.</p> <p>15 Q. What does that mean to you?</p> <p>16 A. Means that each investment that we had in</p> <p>17 the portfolio was in one of these three buckets: farm</p> <p>18 team being, sort of, test positions, smaller, more</p> <p>19 risky, more uncertain; intermediate being, sort of,</p> <p>20 you know, mid-level positions in terms of sizing and</p> <p>21 conviction level; and senior being the biggest</p> <p>22 position in which we had high conviction.</p> <p>23 Q. If you could just approximate, what</p> <p>24 would be the level of exposure that Partners Advisers</p> <p>25 would have to a farm team investment? What would be</p>

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<p>161</p> <p>1 the allocation?</p> <p>2 A. 1 to 2 percent.</p> <p>3 Q. 1 to 2 percent?</p> <p>4 A. Yes.</p> <p>5 Q. What about an intermediate position?</p> <p>6 A. 3 to 5.</p> <p>7 Q. What about a senior position?</p> <p>8 A. Usually around 7. 6, 7.</p> <p>9 Q. Would it be abnormal for Partners Advisers</p> <p>10 to have an investment in the portfolio that would have</p> <p>11 an allocation greater than 7 percent?</p> <p>12 A. It was, yes.</p> <p>13 Q. And this is because of the diversification</p> <p>14 principle that we discussed earlier?</p> <p>15 A. Yes.</p> <p>16 Q. If you look in the notes, there's a bolded</p> <p>17 note. Do you see that?</p> <p>18 A. Mmm-hmm.</p> <p>19 Q. And I'm going to read it for the record.</p> <p>20 It's got -- it says, "PPP." The three letter Ps.</p> <p>21 A. Mmm-hmm.</p> <p>22 Q. An equal sign, and then it says:</p> <p>23 "People Process Performance."</p> <p>24 A. Yes.</p> <p>25 Q. Underneath that, in bold, it reads:</p>	<p>163</p> <p>1 one was most important to you when deciding whether to</p> <p>2 divest from an investment?</p> <p>3 MR. WORBY: Objection.</p> <p>4 Can we specify when during Mr. Müller's</p> <p>5 time --</p> <p>6 MR. MOLINA: When he was at --</p> <p>7 THE STENOGRAPHER: Sorry. I didn't hear</p> <p>8 what you said.</p> <p>9 MR. WORBY: Can we specify when during</p> <p>10 Mr. Müller's time at Partners Advisers.</p> <p>11 MR. MOLINA: During the time of this</p> <p>12 presentation, 2004.</p> <p>13 THE WITNESS: So the most important was</p> <p>14 linked to people and process. Again, I think if we</p> <p>15 redeem just for performance reasons, that basically</p> <p>16 meant that, you know, I felt I had done a bad job at</p> <p>17 picking this manager because I obviously, sort of, was</p> <p>18 wrong on the ability of that manager to generate good</p> <p>19 performance.</p> <p>20 Process and people were not something we</p> <p>21 could forecast and when they changed, then it was</p> <p>22 a good enough reason to divest, and typically these</p> <p>23 changes occurred before there was an impact on</p> <p>24 performance, so we were sort of getting ahead of</p> <p>25 deterioration in performance.</p>
<p>162</p> <p>1 "A decision solely based on Performance</p> <p>2 is not complete guidance must also come from Team and</p> <p>3 Process misleading."</p> <p>4 So there's some grammatical issues there.</p> <p>5 A. Mmm-hmm.</p> <p>6 Q. But what does that note mean to you?</p> <p>7 A. So I will tell you what it means to me,</p> <p>8 which is maybe not what it's meant to say here. Our</p> <p>9 divestment process revolved around that sort of PPP</p> <p>10 sort of rule, which was when we divested from an</p> <p>11 investment, typically, sort of -- well, it sort of --</p> <p>12 we had to sort of explain it either by a disappointing</p> <p>13 performance of that manager, a change in the</p> <p>14 process -- we mentioned style drift, sort of, would</p> <p>15 fall in that bucket -- or changing people, so senior</p> <p>16 people departing the firm or a hire that we sort of</p> <p>17 didn't feel was appropriate.</p> <p>18 And usually -- usually, we sort of -- we</p> <p>19 felt we -- or at least I felt I was doing a bad job if</p> <p>20 the reason to exit a position was actually just solely</p> <p>21 due to performance because that meant we had picked</p> <p>22 the wrong manager.</p> <p>23 Q. So between -- of these three Ps, which,</p> <p>24 again, are People, Process and Performance, which one</p> <p>25 did you -- when you were at Partners Advisers, which</p>	<p>164</p> <p>1 BY MR. MOLINA:</p> <p>2 Q. You just stated -- you just said around</p> <p>3 the time of 2004. Would this principle apply equally</p> <p>4 before 2004 or did it evolve over time, your opinion</p> <p>5 that you just stated on the record?</p> <p>6 A. I think the process, the PPP rule, was</p> <p>7 formalized probably around that time, so we didn't</p> <p>8 have a specific rule or a specific process around this</p> <p>9 before that. And then before 2003, I was obviously</p> <p>10 not in charge of that decisionmaking, right. I mean,</p> <p>11 I was part of a team. The decisionmaking, sort of,</p> <p>12 was solely with Mr. Estenne.</p> <p>13 Q. So prior to 2003 and before the</p> <p>14 implementation of this rule, this PPP rule, the</p> <p>15 decision whether to divest from a position in the</p> <p>16 portfolio was done exclusively by Mr. Estenne?</p> <p>17 A. Prior to 2003, it was. Divestment and</p> <p>18 investments, for that matter, yes.</p> <p>19 Q. And what do you recall was the process</p> <p>20 that he followed when making those decisions?</p> <p>21 A. I think, ultimately, the process was</p> <p>22 probably similar but it wasn't formalized, so it was</p> <p>23 sort of implicit rather than explicit.</p> <p>24 Q. A couple notes down, there's a note that</p> <p>25 reads:</p>

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<p>165</p> <p>1 "Family invested allow to defend an ideal 2 strategy." 3 Do you see that? 4 A. Yes. 5 Q. What does that note mean to you? 6 A. That is very unclear. It's -- I think 7 what it probably means is that the Estenne family was 8 invested alongside other investors, but why -- I don't 9 know what "defend an ideal strategy" means. 10 Well, I guess -- well, sorry, let me take 11 that back. It probably means that there's alignment 12 of interest and that we wouldn't invest in managers 13 that the family didn't want to have exposure to 14 themselves. 15 Q. You just stated then Mr. Estenne's family 16 invested. When you say that they invested, do you 17 mean in the ART Fund? 18 A. I don't think Luc's family had investments 19 in the ART Fund, to be honest, but they probably 20 invested in the same managers themselves. That's what 21 it means, probably. We were not running or 22 advising -- we were not officially running or advising 23 the Estenne's family assets. 24 Q. Did anyone in your family invest in the 25 ART Fund?</p>	<p>167</p> <p>1 for the other meetings that we talked about 2 pre-investment. 3 A. Yes. 4 Q. Would there be reports that would be 5 generated as a result of these meetings -- 6 A. Yes. 7 Q. -- by Partners Advisers? 8 A. Yes. 9 MR. WORBY: Objection again. 10 When do you mean in Mr. Müller's time at 11 Partners Advisers, please? 12 BY MR. MOLINA: 13 Q. Well, let me ask you, Mr. Müller. During 14 your time at Partners Advisers, your entire time 15 there, so 1999 to 2011, during the entire time, would 16 you meet with managers or someone from your team meet 17 with managers? 18 A. Yes. 19 Q. Would there be reports that were generated 20 as a result of those meetings? 21 A. Yes, although let me qualify that 22 somewhat. There were reports written for each meeting 23 that the investment team had with managers. That 24 might not apply to Mr. Estenne specifically, though, 25 because, I mean, he was running the firm, he was</p>
<p>166</p> <p>1 A. No. No, I do come from a pretty modest 2 family, actually, so they didn't have the money to do 3 so. 4 Q. Let's go to the page that has the number 5 15974 on the bottom righthand corner. 6 A. Yes. 7 Q. Again, it has a slide at the top, notes at 8 the bottom. Do you see that? 9 A. Yes. 10 Q. Okay. This slide is titled "On Going 11 Monitoring." Do you see that? 12 A. Yes. 13 Q. What does ongoing monitoring mean to you? 14 A. That meant the monitoring on a regular 15 basis of the active investments in the portfolio. So 16 when we invested in the manager, we would then make 17 sure that we were tracking what that manager was 18 doing, and that involved a number of things, most 19 importantly reading any communication that they would 20 send, like shareholder letters, risk reports, et 21 cetera, and then also meeting with them on site on a 22 regular basis, right, twice a year. 23 Q. When you mention these meetings -- and 24 I'm going to ask specifically for the ongoing 25 monitoring meetings but also, later, I will ask you</p>	<p>168</p> <p>1 obviously the founder and nobody was there to control 2 that he was writing reports. 3 So I don't think -- I don't think he would 4 actually write reports most of the time, but for all 5 the other meetings, involving other team members, 6 there would be reports written, yes. 7 Q. What's the purpose of having a report 8 written? 9 A. I mean, the main reason to have a report 10 written is obviously to have sort of a -- to have a 11 means to sort of go back to see what information 12 managers gave you and how coherent it is with what 13 they're telling you today. So there's a reason, sort 14 of, from an investment perspective, just sort of 15 to make sure that the manager's not doing something 16 that he said he wouldn't, so it's linked to that. 17 The other reason, which was very crucial 18 as well, was more commercial. So we would have 19 investors coming to the office and wanting to see the 20 reports we were writing on managers, and I think it 21 was practice across the industry to actually have 22 reports when you had meetings, and making those 23 available to investors. 24 Q. Who would write these reports? 25 A. Usually the person who was having the</p>

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<p>169</p> <p>1 meeting.</p> <p>2 Q. How many people would be in these meetings</p> <p>3 from Partners Advisers? Again, I'm asking over the --</p> <p>4 and let me just state, just so we can pre-empt this --</p> <p>5 MR. WORBY: Yes.</p> <p>6 BY MR. MOLINA:</p> <p>7 Q. -- that if there's an evolution --</p> <p>8 A. Yeah, I mean there --</p> <p>9 Q. -- just, you know, please go ahead and</p> <p>10 explain if the policy or process changed over time.</p> <p>11 A. Yeah, I mean, there obviously was</p> <p>12 evolution. Again, I started as a junior person,</p> <p>13 right. I mean, initially I would only have meetings</p> <p>14 in Geneva in our office, I would not travel. And</p> <p>15 those meetings I would never have by myself. There</p> <p>16 would always be a senior person in that meeting.</p> <p>17 Over time, as I started to travel, most of</p> <p>18 the time these meetings would be held with just one</p> <p>19 person in the meeting room because it was that person</p> <p>20 who was traveling, right. So I did travel -- I did a</p> <p>21 lot of traveling alone. Probably my entire time at</p> <p>22 Partners Advisers, I traveled with Mr. Estenne maybe</p> <p>23 three or four times, and that's in the context of</p> <p>24 traveling probably between six to eight times every</p> <p>25 year. And then I was sometimes traveling with my</p>	<p>171</p> <p>1 A. No, she probably started before that.</p> <p>2 I don't know. 2005/6.</p> <p>3 Q. Back to the reports. When you met with</p> <p>4 managers on behalf of Partners Advisers, how would you</p> <p>5 record what was communicated during those meetings?</p> <p>6 A. I would type notes.</p> <p>7 Q. And then would you immediately circulate</p> <p>8 those notes to anyone else at Partners Advisers?</p> <p>9 A. No. I would clean them up, put them into</p> <p>10 a template and then circulate them.</p> <p>11 Q. To whom would you circulate your notes?</p> <p>12 A. To the team, so to Luc and any of the</p> <p>13 analysts usually. I think most of the time, though,</p> <p>14 they were -- most of the time, our debriefing from</p> <p>15 trips would actually be oral because it was more</p> <p>16 efficient than actually asking people to read through</p> <p>17 pages and pages of reports. So we would have an oral</p> <p>18 debriefing and the notes were just archived somewhere</p> <p>19 on the server.</p> <p>20 So there was not a lot of distribution of</p> <p>21 notes happening, really.</p> <p>22 Q. And if you could just give me a basic</p> <p>23 rundown of how long these meetings took and what would</p> <p>24 occur during these meetings?</p> <p>25 A. Sure. So the meeting typically took</p>
<p>170</p> <p>1 analyst but obviously -- but only for just, like, from</p> <p>2 a costs perspective we sort of tried to avoid having</p> <p>3 multiple people travel at the same time because it</p> <p>4 just sort of increased the cost of that travel without</p> <p>5 sort of necessarily bringing anything to the table</p> <p>6 because one person in a meeting was enough, really.</p> <p>7 Q. When you had these meetings with managers,</p> <p>8 would there always need to be either Mr. Estenne or</p> <p>9 yourself with -- would every meeting need to have at</p> <p>10 least one of you two present?</p> <p>11 A. No. No. Mr. Magnin would travel by</p> <p>12 himself and meet with manager by himself. We actually</p> <p>13 had Mrs. Usher as well and -- yeah, those were, sort</p> <p>14 of, the senior analysts. They had strategy</p> <p>15 responsibilities so they were focused on different</p> <p>16 types of strategies and therefore different types of</p> <p>17 managers, and they would travel by themselves, both</p> <p>18 meeting with managers and to conferences to meet with</p> <p>19 the managers that were under their coverage.</p> <p>20 Q. When you said Mrs. Usher, you mean Trudi</p> <p>21 Usher?</p> <p>22 A. Yes.</p> <p>23 Q. And you mentioned that she began working</p> <p>24 at Partners Advisers sometime after you became the</p> <p>25 co-CIO?</p>	<p>172</p> <p>1 between an hour and an hour and a half. If it was an</p> <p>2 initial meeting where there was no prior knowledge or</p> <p>3 very little prior knowledge and therefore a lot to</p> <p>4 cover, it would sort of be 90 minutes.</p> <p>5 For monitoring meetings with managers</p> <p>6 where we had already a position, typically they would</p> <p>7 be shorter, 60 minutes, because we obviously --</p> <p>8 (Stenographer interruption.)</p> <p>9 THE WITNESS: Oh sorry.</p> <p>10 Yes. It would typically take 60</p> <p>11 minutes --</p> <p>12 THE STENOGRAPHER: Thank you.</p> <p>13 THE WITNESS: -- because we had prior</p> <p>14 knowledge of what they were doing, so it was just to</p> <p>15 refresh on what happened since we last met them.</p> <p>16 The coverage was basically -- I mean, it</p> <p>17 depended on what type of meetings, but if it was an</p> <p>18 initial meeting, it would be around the manager's</p> <p>19 background, their team, what strategy they were</p> <p>20 running, a little bit on, sort of, the business setup,</p> <p>21 you know, assets under management, and that was, sort</p> <p>22 of, most of the content of a first meeting.</p> <p>23 If it was, sort of, subsequent due</p> <p>24 diligence meeting, it would be the same areas but we</p> <p>25 like more depth and focus on these various areas.</p>

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<p>173</p> <p>1 Usually, at least post '06 when Mr. Yavin 2 joined, he would have separate operational due 3 diligence meeting with, typically, the COO of that 4 firm, and those were typically, like, three-, 5 fourhour meetings to cover everything. 6 And -- yeah, and then monitoring meeting, 7 it would be, sort of, on the current portfolio, the 8 opportunities set, how the fund was positioned. 9 We would talk about attribution, what worked, what 10 didn't, what contributed to return, what attracted. 11 If the manager was in a rough patch and having 12 a drawdown, so losing money, we would sort of spend 13 more time on what that was, if it was something that 14 was concerning or structural or last longer, or if it 15 was just a moment in time and it would correct. Sort 16 of focusing on whatever area was a concern at that 17 time. 18 BY MR. MOLINA: 19 Q. You mentioned earlier that it was very 20 important to you at that time to have face-to-face 21 meetings prior to investing with the manager. 22 A. Yes. 23 Q. Do you remember telling me that? 24 A. Yes. 25 Q. Why was it equally -- or why would you</p>	<p>175</p> <p>1 Q. Back to the page that we were just on. 2 A. Yes. 3 Q. There's a note at the bottom that says: 4 "Correlation analysis and Back testing." 5 Do you see that? 6 A. Yes. 7 Q. What does that mean to you? 8 A. So that means the same thing we discussed 9 before but for existing positions. So we would sort 10 of do the same quantitative analysis on existing 11 positions to see how they stacked up to their 12 competitors and how their correlation to the market 13 had evolved over time. 14 Q. If you could turn the page, please. This 15 is the page that has the number 15975 in the bottom 16 righthand corner. 17 A. Yes. 18 Q. Do you see on the slide that there's five 19 bullets that are still under the topic of "On Going 20 Monitoring"? Do you see that? 21 A. Yes. 22 Q. And in the first bullet, it talks about 23 having, on average, one call and one visit per 24 quarter. 25 Do you see that?</p>
<p>174</p> <p>1 have face-to-face meetings with a manager after you 2 decided to invest with him or her? 3 A. Same thing; first-off things, just like 4 noticing that the manager might be uncomfortable in 5 a meeting, body language, that he might be, you know, 6 reluctant to bring his team in. 7 And the other thing is, don't forget, 8 there was no Zoom, right. I mean, virtual meetings 9 didn't exist. So it was either having a phone call, 10 which was actually quite expensive because Voice over 11 IP didn't exist either, so it was sort of 12 international communication or it was taking a plane 13 and going to visit them, right, so -- and since we 14 were traveling to meet with potential new investments 15 anyway, we were basically in these cities already so 16 it made total sense to go see them face to face. 17 Q. Is it fair to say that what you were doing 18 at that time at Partners Advisers was above and beyond 19 the industry standard? 20 A. I think it was very typical. I wouldn't 21 say it was above and beyond; I think it was very 22 typical of other investors. I think -- you mentioned 23 Calabria, but I think the people at Calabria certainly 24 did the same type of work that we did, and others 25 similarly.</p>	<p>176</p> <p>1 A. Yes. I see that, yes. 2 Q. Who were you having one call and one visit 3 per quarter with? 4 A. Well, that was the managers that we were 5 invested in. So what that means is probably two 6 visits a year and two calls a year, right? 7 Q. A year or per quarter? 8 A. Well, probably one quarter we had a call, 9 then a visit, then a call -- 10 THE STENOGRAPHER: Sorry. Can you say 11 that again, please. I didn't -- 12 THE WITNESS: Yeah, we had two calls and 13 two visits per year, but they were, sort of, every 14 quarter; so we would have one call, and then the next 15 quarter a visit -- 16 BY MR. MOLINA: 17 Q. Mmm. 18 A. -- then the next quarter a call and then 19 the next quarter a visit, although that was 20 aspirational because it was sort of dependent on the 21 schedules of our traveling and, therefore, it wasn't 22 always perfect. 23 Q. For the bullet, it says "Weekly 24 Estimates." What does that mean to you? 25 A. That means we were asking the managers we</p>

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<p style="text-align: right;">177</p> <p>1 were invested in to provide us with weekly performance</p> <p>2 estimates.</p> <p>3 Q. Why would you do that?</p> <p>4 A. Because it allowed us to track their</p> <p>5 performance on a more regular basis than the official</p> <p>6 performance which came out monthly.</p> <p>7 Q. And the next bullet, where it says</p> <p>8 "Monthly or Quarterly Manager Report," do you see</p> <p>9 that?</p> <p>10 A. Yes.</p> <p>11 Q. What does that mean to you?</p> <p>12 A. Means that the managers would typically</p> <p>13 send us either monthly or quarterly reports, which</p> <p>14 were basically shareholder letters explaining their</p> <p>15 performance, their portfolios, and so on.</p> <p>16 Q. Would you have a chance to edit or modify</p> <p>17 these reports before they were -- let me retract that.</p> <p>18 Were these reports being sent by the</p> <p>19 manager to you, Partners Advisers, or were they being</p> <p>20 sent by the manager to the customers of Partners</p> <p>21 Advisers?</p> <p>22 A. No, they were sent by the managers in our</p> <p>23 portfolios to us and other -- and their other</p> <p>24 investors, right. So, yeah, so that would be the</p> <p>25 manager's communication with their LPs.</p>	<p style="text-align: right;">179</p> <p>1 Sharing" and then there's some notes underneath the</p> <p>2 slide.</p> <p>3 Do you see that?</p> <p>4 A. Mmm-hmm, yes.</p> <p>5 Q. Okay. Under the notes, there's five</p> <p>6 notes. Do you see those notes?</p> <p>7 A. Yes. Yes.</p> <p>8 Q. In particular, there's a note that says:</p> <p>9 "Daily feed back and communication</p> <p>10 availability."</p> <p>11 What does that mean to you?</p> <p>12 A. I think what it means is that the</p> <p>13 investment team was available any time to discuss with</p> <p>14 the investors of Partners Advisers.</p> <p>15 Q. Would you have daily feedback within your</p> <p>16 team?</p> <p>17 A. Yeah. We were working in an open space,</p> <p>18 so, yes, we were talking, right, on a constant basis.</p> <p>19 Q. So in the circumstances where Mr. Magnin</p> <p>20 would have a visit and come back to Geneva, you would</p> <p>21 have open discussions with him about the visits that</p> <p>22 he undertook?</p> <p>23 A. Yes. We would have sort of -- actually,</p> <p>24 it was -- that was actually not informal. That was</p> <p>25 formal. If it was after a trip, we would, sort of,</p>
<p style="text-align: right;">178</p> <p>1 Q. And you -- and what would you do with</p> <p>2 these reports?</p> <p>3 A. We would read them and we would use them</p> <p>4 as the basis for questioning when we had a call with</p> <p>5 them or a meeting.</p> <p>6 Q. And, again, when you say "we," you mean</p> <p>7 you and your investment team --</p> <p>8 A. Yes.</p> <p>9 Q. -- at Partners Advisers?</p> <p>10 A. Exactly, and Luc Estenne as well, yes.</p> <p>11 Q. Last bullet on this slide says:</p> <p>12 "Quantitative Review, Peer Group</p> <p>13 Comparison."</p> <p>14 A. Yes.</p> <p>15 Q. What does that mean to you?</p> <p>16 A. So that's the same thing I mentioned for</p> <p>17 prospective investments, we did for existing</p> <p>18 investments as well. So we would sort of see how they</p> <p>19 track compared to their competitors, or peers, and see</p> <p>20 how they tracked versus indices as well.</p> <p>21 So we would use the same two quantitative</p> <p>22 reports that I mentioned to track our existing</p> <p>23 managers as well.</p> <p>24 Q. If you go to the next page, ending in</p> <p>25 15976, there's a slide that goes through "Reporting &</p>	<p style="text-align: right;">180</p> <p>1 all sit together in a conference room and go through</p> <p>2 a formal sort of debriefing.</p> <p>3 Q. Why don't you just -- if you briefly just</p> <p>4 walk us through from the moment that you have that</p> <p>5 debriefing after a meeting to the moment where there's</p> <p>6 a final decision made on whether to invest or maintain</p> <p>7 the investment.</p> <p>8 MR. WORBY: Objection.</p> <p>9 What time period during Mr. Müller's --</p> <p>10 BY MR. MOLINA:</p> <p>11 Q. It's the same comment I made earlier where</p> <p>12 I'm asking generally, and if there's been an</p> <p>13 evolution, please let us know.</p> <p>14 A. Yeah. So, I mean, just as a general</p> <p>15 comment, you have to make a big difference between</p> <p>16 pre-2003 and after 2003, right, because my</p> <p>17 responsibilities changed dramatically when I became</p> <p>18 head of research. I was basically, then, officially</p> <p>19 running that team and I was running the process that</p> <p>20 led to investments. Mr. Estenne picked the managers</p> <p>21 and approved the managers, but the managers we were</p> <p>22 picking was that process of sourcing and finding, and</p> <p>23 due diligence then was very much, sort of, under my</p> <p>24 purview, so -- whereas that's not the case pre-2003.</p> <p>25 Where it was actually -- pre-2003, you</p>

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<p style="text-align: right;">181</p> <p>1 have to think of myself as like being an Olivier 2 Magnin to Mr. Estenne, right. I was basically an 3 analyst. He was driving my area focus much more and 4 I was basically, you know, conducting due diligence 5 work under his guidance and review. 6 Q. So -- 7 A. So, with that said, I'll answer your 8 question. So -- and there's no -- I mean, I wish 9 there was, sort of, anything sort of formal. Every 10 case was slightly different, so there was no sort 11 of -- I can answer your question by, sort of, what was 12 typical but it wasn't -- not everything was like this. 13 So, typically, when one of us would come 14 back from a trip and had, sort of, a number of 15 meetings to debrief about, we would sit in a 16 conference room for a couple of hours and go through 17 each of the meetings and talk about what we had sort 18 of discussed/uncovered, and then very quickly sort of 19 weeded out things that we felt were of no interest and 20 focused on the ones that were potentially interesting. 21 From there, we would request -- if it was 22 interesting, we would request material from the 23 manager, and that sort of typically involved a 24 presentation and a due diligence questionnaire, their 25 offering memorandum, probably -- that was sort of a</p>	<p style="text-align: right;">183</p> <p>1 basically just a contributor. I was -- I started 2 traveling -- my first -- I think my first ever trip 3 professionally at Partners Advisers was actually -- 4 I can remember the date because of what had happened 5 before. It was in November of '01. 6 So that was my first ever trip. It was a 7 trip that I did with Mr. Estenne. And then, 8 thereafter, I started traveling by myself but it was 9 basically a year before I became head of research, 10 right. Before that, I was only taking meetings in 11 Geneva. 12 And so during that year I would sort of 13 travel, come back, discuss my ideas and my take-aways 14 from my meetings, but I was just the analyst sort of 15 feeding information to Luc, right. Whereas after '03, 16 I was sort of in that seat and the analysts feeding 17 information to me. 18 Obviously, Mr. Estenne was in those 19 meetings as well, and we would sort of discuss -- if 20 he was excited about an investment and I wasn't, we'd 21 sort of discuss it and so on. But he was finally -- 22 he was the final decision-maker, but that's just more 23 weight in that process. 24 Q. I think we're clear on the distinction of 25 you being a junior analyst, or an analyst and then</p>
<p style="text-align: right;">182</p> <p>1 start. And then if it was still of interest, we would 2 sort of start to talk to our network about that 3 manager and try to find out, you know, what was the 4 reputation of that manager with our network. We would 5 then sort of ask for further documents, including past 6 audit reports. 7 We would run a quantitative analysis 8 looking at that manager in isolation to a market index 9 and then look at that manager compared to competitors 10 and peers, as I mentioned. And then if all of those 11 were sort of, you know, green lights, we would then 12 sort of spend probably, I'd say, two to three hours 13 with the manager on a call typically at that point in 14 time, to go through our due diligence reports -- our 15 own due diligence report, not the one that the manager 16 sent out -- and sort of answer any unanswered question 17 and write a pretty thorough, lengthy due diligence 18 report on that manager, which would be the basis of an 19 approval. 20 Q. With respect to the caveat that you gave, 21 just so I understand, it's your testimony that prior 22 to you becoming the head of research at Partners 23 Advisers in 2003, Partners Advisers was not following 24 the process that you just laid out? 25 A. It was, but I wasn't leading it. So I was</p>	<p style="text-align: right;">184</p> <p>1 being the head of research and what that meant 2 vis-à-vis you and your responsibilities or your 3 authority within Partners Advisers. 4 My question's a little bit different. 5 Understanding that it wasn't you running the -- or 6 even having a significant role in the investment 7 decisionmaking process prior to 2003 -- 8 A. Yeah. 9 Q. -- my question is: The process that you 10 laid out just a few minutes ago of all the different 11 steps that were taken under your tenure, either as 12 head of research -- 13 A. Yeah. 14 Q. -- or as CIO, were those processes 15 undertaken, prior to 2003, under Mr. Estenne's 16 tutelage? 17 A. Yeah. I mean, for the most part, yes. 18 Although he was a smaller firm, he was the only senior 19 member of the team and it might well be that some 20 investments were put into the portfolio without much 21 discussion, right, because he was ultimately the 22 decision-maker and it was his firm, right, so that 23 might have happened. 24 Q. You told me a few -- I'm sorry, go ahead. 25 A. No. But, in general, the process was</p>

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<p>185</p> <p>1 that, you know, things were discussed -- let's put it 2 that way. If I had an investment idea, it would be 3 discussed in depth and there would be debate around 4 it. If Luc had an idea, it would be discussed very 5 briefly because it was his idea, he was the 6 decision-maker and he didn't have to justify it 7 towards his junior guy, and so there was -- the 8 process was, like, accelerated and sped up quite a 9 bit.</p> <p>10 Q. Do you remember a couple minutes ago, 11 Mr. Müller, I asked you if what you were doing at 12 Partners Advisers when you were the head of research 13 and CIO, if that was above and beyond the industry 14 standard and you said this was pretty standard across 15 the industry? Do you remember telling me that?</p> <p>16 A. Yes.</p> <p>17 Q. I guess my question is: Why wasn't 18 Mr. Estenne following what was standard across the 19 industry under --</p> <p>20 MR. WORBY: Objection; that calls for 21 speculation.</p> <p>22 THE WITNESS: Shall I answer?</p> <p>23 MR. MOLINA: You can answer.</p> <p>24 THE WITNESS: There's one thing, I want to 25 put some context here. The hedge fund industry has</p>	<p>187</p> <p>1 the way, making mistakes, right, and sometimes 2 investing with the wrong people.</p> <p>3 But -- so I wouldn't sort of qualify what 4 happened at the firm pre -- in the early days of me 5 joining as, sort of, being sub industry standard. 6 I think, actually, there was no industry standard. It 7 was the Wild West.</p> <p>8 And, yes, so the fact that, you know, in 9 the firm where there was three investment 10 professional, one guy who was 26, that was me, and 11 Olivier Magnin who was -- actually, he's a year older 12 than me so he was 27, and then the founder, who was 36 13 at the time and much more experienced, him sort of 14 making decisions without much consulting his two 15 junior guys, sort of makes sense. I mean, I wouldn't 16 sort of think that it was surprising.</p> <p>17 BY MR. MOLINA:</p> <p>18 Q. Just so we get the timeline clear and the 19 record's clear, is it your testimony that prior to you 20 becoming head of research in 2003, it was the -- the 21 industry standard for due diligence was the Wild, Wild 22 West?</p> <p>23 A. Well, it changed gradually, right. 24 I think when I joined in '99, it definitely -- it was 25 very -- all of that process was very embryonic.</p>
<p>186</p> <p>1 massively evolved over the last 20 years, and when 2 I started, back in '99, it was mostly dominated by 3 family offices. The concept of due diligence wasn't 4 really existing. It was very secretive. There was -- 5 most managers, including very successful ones that are 6 today billionaires, Paul Tudor Jones and so on, they 7 were very, very opaque about what they were doing. 8 They were actually not communicating to -- the concept 9 of shareholder letters didn't exist.</p> <p>10 I remember when I started, we would get an 11 NAV through a fax machine from SAC, right, which 12 became a monster, and that was it, and if we were 13 lucky we can meet Steve Cohen, like, once every two 14 years. I mean, that was the state of the hedge fund 15 industry back then. It was not institutional, and 16 most of the capital came from family offices.</p> <p>17 So, from there, it evolved into something 18 that today -- or even sort of back in '04, it evolved 19 quite rapidly into something that actually became much 20 more institutional, where there were outside investors 21 outside of family offices that actually had a need for 22 reporting and information and so on, which actually 23 sort of led to that entire process of due diligence 24 and making sure that you were investing in things 25 that, you know, weren't too risky and so on and, along</p>	<p>188</p> <p>1 Again, I mean, the information that you would get from 2 managers was very -- was very sparse. And then that 3 evolved, right.</p> <p>4 I think by the time -- by the time 2002, 5 Two Thousand -- well, I mean, by the time I became 6 head of research, it had changed already. I'm not 7 saying I became head of research and I changed 8 everything. That's definitely not what happened. So 9 it had changed already. Because it was an interest 10 from wealth management firms and banks and 11 institutions to invest in that type of assets, and 12 they had sort of forced those changes on the industry, 13 right, by actually being -- requesting more 14 information.</p> <p>15 And I think the managers themselves were 16 slow to adapt, certain ones, while others sort of felt 17 the opportunity of, like, if I'm more transparent and 18 I'm communicating more and I'm giving more information 19 out, then actually I'll build a bigger business 20 because the money will flow. Whereas others, like 21 SAC, Renaissance Technologies, Two Sigma, I mean these 22 firms, still today, are super opaque, right, so some 23 actually didn't evolve that much.</p> <p>24 Q. So, again, just to put timing on this, we 25 know that you became head of research in 2003.</p>

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<p>189</p> <p>1 You just said a few minutes ago that it didn't --</p> <p>2 everything didn't change the moment you became head of</p> <p>3 research; it likely changed before you became head of</p> <p>4 research.</p> <p>5 A. Yes.</p> <p>6 Q. So can you just put a time frame, when did</p> <p>7 -- the diligence processes that you mentioned a few</p> <p>8 minutes ago that were industry standard, when did that</p> <p>9 standard, in your opinion, come into place?</p> <p>10 A. Well, it was gradual. So I can't really</p> <p>11 tell you when because things changed gradually. They</p> <p>12 were probably already changing at the margin when</p> <p>13 I started in '99. Partially, it was the result of '98</p> <p>14 and LTCM blowing up which sort of made people realize</p> <p>15 that there were risks in that industry that were not</p> <p>16 well controlled, and so when I joined -- but I joined</p> <p>17 straight after LTCM blowing up and those changes were</p> <p>18 sort of embryonically sort of happening.</p> <p>19 But there was no sort of, like, one day to</p> <p>20 the next change. It was a very gradual process.</p> <p>21 Q. You mentioned a few -- now hours ago, that</p> <p>22 Mr. Estenne had authored a book chapter. Do you</p> <p>23 remember telling me that?</p> <p>24 A. Yes.</p> <p>25 Q. I believe you said you're aware of it but</p>	<p>191</p> <p>1 probably have to come back at some point to this but</p> <p>2 I think I'm going to go for another 12 minutes and</p> <p>3 then if we can take a break, that'd be good. 12,</p> <p>4 15 minutes?</p> <p>5 THE EXAMINER: Yeah, I think try and take</p> <p>6 a break about every hour now in the afternoon,</p> <p>7 for Leah to --</p> <p>8 MR. MOLINA: We can take a quick break now</p> <p>9 or --</p> <p>10 THE STENOGRAPHER: No, it's fine.</p> <p>11 MR. MOLINA: Okay.</p> <p>12 BY MR. MOLINA:</p> <p>13 Q. If you go back to what is Trustee Exhibit</p> <p>14 No. 14. This was at tab 157 in the bundle but, again,</p> <p>15 it's been marked No. 14.</p> <p>16 A. Mmm-hmm.</p> <p>17 Q. This is the due diligence questionnaire.</p> <p>18 A. Mmm-hmm.</p> <p>19 Q. If you could go to -- give me a second.</p> <p>20 If you go to the page with the number</p> <p>21 18152 in the bottom righthand corner. A lot of this</p> <p>22 is stuff we already covered and we're going to move</p> <p>23 through this somewhat rapidly.</p> <p>24 A. Mmm-hmm.</p> <p>25 Q. But do you see at the bottom of this page,</p>
<p>190</p> <p>1 you may not have read the whole chapter.</p> <p>2 A. I have not read it, no.</p> <p>3 Q. Yeah. Are you generally aware -- since we</p> <p>4 saw the chart earlier with the risks, do you remember?</p> <p>5 A. Yes.</p> <p>6 Q. Are you generally aware that the book</p> <p>7 chapter discusses due diligence and investment due</p> <p>8 diligence? Is that something you're generally aware</p> <p>9 of?</p> <p>10 A. I think the book was -- I think the book</p> <p>11 was -- I seem to remember, although I wouldn't be</p> <p>12 certain, the book was about risk in general and that</p> <p>13 one chapter was about risk, I guess, in hedge fund</p> <p>14 investments. I think. But I'm not entirely sure.</p> <p>15 Q. I'm sorry, that wasn't clear. Are you</p> <p>16 aware -- just yes or no. Are you aware whether that</p> <p>17 chapter discusses due diligence from Mr. Estenne's</p> <p>18 perspective?</p> <p>19 A. I don't think it discusses due diligence.</p> <p>20 I think it discusses the risk management of investing</p> <p>21 in hedge funds.</p> <p>22 Q. But you have not read the chapter?</p> <p>23 A. No.</p> <p>24 Q. Okay.</p> <p>25 MR. MOLINA: I'm going to go to -- we'll</p>	<p>192</p> <p>1 there's a paragraph that starts:</p> <p>2 "The due diligence process includes the</p> <p>3 following steps..."</p> <p>4 A. Yes.</p> <p>5 Q. Do you see the first bullet, it says, and</p> <p>6 I'm going to read it into the record:</p> <p>7 "Meetings with managers by the two</p> <p>8 partners. At least 1 and preferably 2 onsite</p> <p>9 visits."</p> <p>10 Do you see that?</p> <p>11 A. Yes.</p> <p>12 Q. This is what we were referring to earlier</p> <p>13 with respect to having a face-to-face meeting with</p> <p>14 managers?</p> <p>15 A. Mmm-hmm.</p> <p>16 Q. And, again, this questionnaire was</p> <p>17 completed by Partners Advisers in May 2004, correct?</p> <p>18 A. Yes.</p> <p>19 Q. There's a notation here about in-depth</p> <p>20 reference checks. Do you see that?</p> <p>21 A. Yes.</p> <p>22 Q. What is an indepth reference check?</p> <p>23 A. That means reference checks with a number</p> <p>24 of people sort of -- I mean, we would just, sort of,</p> <p>25 call that a 360 sort of reference check today.</p>

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<p style="text-align: right;">193</p> <p>1 That's how I would call it. So basically checking 2 references not only with ex-bosses but also people 3 from the -- from -- these people would interact with, 4 so people from brokers and potential peers or 5 ex-colleagues, and then obviously from investors as 6 well that we knew.</p> <p>7 So it was basically -- it meant sort of 8 doing extensive -- in-depth means extensive reference 9 checks.</p> <p>10 Q. Okay. If you go to the page that has 11 number 18154 at the bottom.</p> <p>12 A. Mmm-hmm.</p> <p>13 Q. Do you see there's a section titled 14 "Ongoing Manager Monitoring"?</p> <p>15 A. Yes.</p> <p>16 Q. So this is similar to what we were just 17 discussing?</p> <p>18 A. Mmm-hmm.</p> <p>19 Q. But you see at the bottom of this 20 page there are several bullets?</p> <p>21 A. Yes.</p> <p>22 Q. Is this an exclusive list of the types of 23 items that you would be monitoring?</p> <p>24 A. Well, it's probably not comprehensive but 25 it's sort of -- it's what I refer to as, you know,</p>	<p style="text-align: right;">195</p> <p>1 Q. But there were instances where you would 2 share information in writing?</p> <p>3 A. I suppose so, yes.</p> <p>4 Q. This whole process that we just spent the 5 last hour or so discussing, I know your lawyer has 6 made various objections about the timing and you 7 yourself have made various distinctions.</p> <p>8 So now I'm just going to ask you: Prior 9 -- between 1999 and 2003, so just before you became 10 head of research, during that four- or five-year 11 period, what do you remember the process to be?</p> <p>12 A. The investment process?</p> <p>13 Q. That's correct.</p> <p>14 A. So for the most part, it was -- so for the 15 most part, it was Luc Estenne traveling, meeting with 16 managers, and then he would sort of find managers he 17 liked. We would sort of discuss them, he would factor 18 in my point of view, in general, and then we would 19 sort of conduct a due diligence. Because I was a 20 junior analyst, I was usually in charge of writing 21 that paper, due diligence report, and -- me or 22 Mr. Magnin, right. And then that paper, that due 23 diligence report, would sort of serve as a basis for 24 investment which Luc would then use to invest in the 25 funds.</p>
<p style="text-align: right;">194</p> <p>1 sort of, having an update on the organization of the 2 firm, then the portfolio, what's in the portfolio, 3 what the outlook of the manager is and then sort of 4 understanding what drove the performance.</p> <p>5 So when I mentioned that, I sort of 6 referred to these various bullet points.</p> <p>7 Q. And just for the record, the bullets 8 continue into the next page.</p> <p>9 A. Yes.</p> <p>10 Q. On the page ending in 18156 --</p> <p>11 A. Mmm-hmm.</p> <p>12 Q. -- on what is paragraph number 6, there's 13 a note that says:</p> <p>14 "After monitoring meetings Partners 15 Advisers usually shares its conclusion with members of 16 its contact network who are also investors in order to 17 confront point of views and conclusions."</p> <p>18 A. Yes.</p> <p>19 Q. Is this what we were discussing earlier 20 with respect to your network where you would have -- 21 bounce ideas off one another?</p> <p>22 A. Yes.</p> <p>23 Q. And, again, just to be clear, these 24 conversations were largely oral in nature?</p> <p>25 A. Yes, they were.</p>	<p style="text-align: right;">196</p> <p>1 I would -- we would also discuss the 2 portfolio construction, composition, and we would -- 3 he would sort of, again, take my and Mr. Magnin's 4 opinion onboard when it came to, sort of, how to 5 structure the portfolio, which investment we should 6 add and why, and why it made sense in the portfolio 7 context, and which investment we should divest and why 8 as well.</p> <p>9 So the process was very much driven by 10 him, with usually some discussion with Mr. Magnin and 11 myself about the merits of an investment.</p> <p>12 Q. With respect specifically to ongoing 13 manager monitoring, do you remember we discussed a lot 14 about --</p> <p>15 A. Yeah.</p> <p>16 Q. -- that particular part of the investment 17 process?</p> <p>18 A. Mmm-hmm.</p> <p>19 Q. Could you just drill down specifically on 20 what you remember prior to 2003 to be the ongoing 21 manager monitoring process at Partners Advisers?</p> <p>22 A. Yes. Well, I mean, it involved -- it 23 involves the same thing, although it wasn't as 24 formalized. So I think, as a team, we met with 25 managers that we had investments with as well, and</p>

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<p>197</p> <p>1 these meetings were initially mostly held by</p> <p>2 Mr. Estenne, who was the only one traveling, and then,</p> <p>3 over time, myself and Mr. Magnin would actually meet</p> <p>4 with these managers as well. We probably didn't meet</p> <p>5 them twice a year. It was probably more infrequent</p> <p>6 and less sort of well-organized. It was sort of more</p> <p>7 -- it would be more reactive, right. If a manager</p> <p>8 had, sort of, a negative performance, we would</p> <p>9 prioritize seeing him or her. On the flip side, if</p> <p>10 performance was exceptionally good and out of the</p> <p>11 norm, we would also prioritize seeing them.</p> <p>12 The process became gradually more</p> <p>13 formalized as the firm grew, took in outside</p> <p>14 investors, and the industry was itself evolving</p> <p>15 towards something that was more institutional.</p> <p>16 Q. When you traveled to New York -- again,</p> <p>17 same caveat as before, where, if it changed over time,</p> <p>18 please let me know. When you or anyone at Partners</p> <p>19 Advisers and your team traveled to New York to meet</p> <p>20 with managers, where would they stay?</p> <p>21 A. In a hotel.</p> <p>22 Q. Did Partners Advisers have an apartment in</p> <p>23 New York City to --</p> <p>24 A. Yes.</p> <p>25 Q. -- where analysts could stay?</p>	<p>199</p> <p>1 he was also traveling.</p> <p>2 So, yes, there was a bunch of us traveling</p> <p>3 which made hotel bills quite expensive.</p> <p>4 Q. But Mr. Estenne would go approximately</p> <p>5 three times a year in or around 2006?</p> <p>6 A. Yeah. That's my -- by my recollection,</p> <p>7 yeah.</p> <p>8 Q. Would that number, ballpark number, be</p> <p>9 similar in 2007?</p> <p>10 A. Probably, yes.</p> <p>11 Q. 2008?</p> <p>12 A. Probably as well, yes.</p> <p>13 Q. What about 2005?</p> <p>14 A. Yeah, 2005 he probably traveled more, so</p> <p>15 maybe -- might have looked like four or five times,</p> <p>16 maybe six. I don't know.</p> <p>17 Q. Okay. Last question before we probably</p> <p>18 can break. And this is my last question for now on</p> <p>19 this document. If you go to the tab -- sorry, the</p> <p>20 page that ends in 18158 --</p> <p>21 A. Yes.</p> <p>22 Q. -- do you see under paragraph 2 --</p> <p>23 A. Mmm-hmm.</p> <p>24 Q. -- there's a question that's posed to</p> <p>25 Partners Advisers that says, "What risk management</p>
<p>198</p> <p>1 A. It had, later. We -- the firm did rent an</p> <p>2 apartment for a few years to limit the cost of staying</p> <p>3 in New York, yes. But I can't remember the dates, but</p> <p>4 it definitely wasn't the case in '04. It came --</p> <p>5 Q. It definitely was not the case in '04?</p> <p>6 A. Yeah. I think it came later.</p> <p>7 Q. Would you say it came around 2006?</p> <p>8 A. Probably, yeah.</p> <p>9 Q. When you were the co-CIO?</p> <p>10 A. Yeah.</p> <p>11 Q. And you said it was to limit the cost. Is</p> <p>12 that because there were so many visits to New York</p> <p>13 City that the hotel costs would have been significant?</p> <p>14 A. Yes.</p> <p>15 Q. How often were you or members of your team</p> <p>16 traveling to New York City around that time?</p> <p>17 A. I struggle to remember. So this is going</p> <p>18 to be a ballpark number. I would probably go six</p> <p>19 times a year, maybe every two months. Luc, by then,</p> <p>20 was traveling less, so maybe three times. And then</p> <p>21 the -- and the analysts, Olivier and Trudi, maybe four</p> <p>22 times. The other thing is we had, by then, hired an</p> <p>23 operational due diligence person who was also doing</p> <p>24 onsite visits for operational due diligence and so he</p> <p>25 was also traveling. I don't know what frequency, but</p>	<p>200</p> <p>1 systems are used?"</p> <p>2 A. Mmm-hmm.</p> <p>3 Q. Do you see that?</p> <p>4 A. Yes.</p> <p>5 Q. And do you see that one of the responses</p> <p>6 is that these systems consist in a mix of Cogendi, and</p> <p>7 that's spelled C-o-g-e-n-d-i.</p> <p>8 And then in parenthesis it says:</p> <p>9 "Software for hedge fund portfolio</p> <p>10 management."</p> <p>11 End of the parenthesis. And then it says:</p> <p>12 "... and Excel programming?"</p> <p>13 Do you see that?</p> <p>14 A. Yes.</p> <p>15 Q. What do you recall Cogendi to be?</p> <p>16 A. Cogendi actually still exists. It's a</p> <p>17 software that allows input of quantitative data on,</p> <p>18 like, any investments, really, and market index, and</p> <p>19 also qualitative information. So it was used as a</p> <p>20 database basically that we can then extract into</p> <p>21 Excel, which I think is why the "Excel programming" is</p> <p>22 there. We would basically use Cogendi as a store of</p> <p>23 information and then have Excel extractions on it and</p> <p>24 Excel calculations on it.</p> <p>25 Q. When you say store information, would this</p>

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<p>201</p> <p>1 be electronically stored?</p> <p>2 A. Yes.</p> <p>3 Q. Would this be electronically stored in the</p> <p>4 computers of Partners Advisers?</p> <p>5 A. On the server, yes.</p> <p>6 Q. And was the server -- do you know who</p> <p>7 controlled the server at that time?</p> <p>8 A. I don't know, no. I wasn't involved in</p> <p>9 the IT system actually when it was set up.</p> <p>10 MR. MOLINA: I think, for now, it would be</p> <p>11 a good time to take a break.</p> <p>12 THE EXAMINER: Thank you.</p> <p>13 THE VIDEOGRAPHER: We are going off the</p> <p>14 record. The time is 3:01.</p> <p>15 (Break taken.)</p> <p>16 THE VIDEOGRAPHER: The time on the record</p> <p>17 so far is 3 hours and 51 minutes.</p> <p>18 We are back on the record. The time is</p> <p>19 3:13.</p> <p>20 BY MR. MOLINA:</p> <p>21 Q. Mr. Müller, we were just talking about the</p> <p>22 due diligence process. I just have one question, and</p> <p>23 I'm sorry if you've already explained it but I don't</p> <p>24 think it was in the record.</p> <p>25 Did Partners Advisers -- and, again,</p>	<p>203</p> <p>1 it would have been Luc Estenne, Olivier Magnin and</p> <p>2 myself. As the team grew, they were part of the</p> <p>3 committee as well, including the operational due</p> <p>4 diligence person.</p> <p>5 Q. And how often would the committee meet?</p> <p>6 A. Monthly.</p> <p>7 Q. Pre-2003, were there committee meetings?</p> <p>8 A. I actually can't remember. Actually,</p> <p>9 there were. There were but I don't know when they</p> <p>10 started. That, I don't know.</p> <p>11 Q. And those meetings were similar to the</p> <p>12 meetings you just described that happened after 2003?</p> <p>13 A. So in terms of the things that were</p> <p>14 discussed, they were, yes. Again, I mean, with, like,</p> <p>15 various levels of responsibilities from people, right,</p> <p>16 but, yes, the content was the same.</p> <p>17 Q. And the members would have still included</p> <p>18 you, Mr. Estenne, and Mr. Magnin?</p> <p>19 A. Yes.</p> <p>20 Q. Mr. Müller, what's a red flag?</p> <p>21 A. In the context of an investment, it's not</p> <p>22 a word we would use at Partners Advisers. It's not</p> <p>23 a word that I'm using today but I can tell you what</p> <p>24 I understand by it, which is that there is a problem</p> <p>25 with an investment that warrants a redemption or an</p>
<p>202</p> <p>1 I'm going to ask the -- let's do it this way: Let's</p> <p>2 talk about after 2003 and then pre-2003, to make it</p> <p>3 easy.</p> <p>4 A. Okay.</p> <p>5 Q. After 2003, did Partners Advisers hold</p> <p>6 monthly investment committee meetings to assess the</p> <p>7 underlying positions?</p> <p>8 A. We did.</p> <p>9 Q. Could you explain about -- could you give</p> <p>10 a little bit of description of what those meetings</p> <p>11 entailed.</p> <p>12 A. Yes. These meetings entailed going</p> <p>13 through each of the portfolios we were running, line</p> <p>14 by line, talking about each of the managers, any view</p> <p>15 we would have on those managers post a meeting or a</p> <p>16 call or reading a letter. Then we would look at those</p> <p>17 managers in the context of the portfolio, using our</p> <p>18 peer group analysis tool, and basically comparing the</p> <p>19 manager to one another, typically zooming in and</p> <p>20 focusing on the bottom managers or the ones that were</p> <p>21 performing the worst, and sort of discussing and</p> <p>22 potentially deciding what to do with these</p> <p>23 under-performing managers in the portfolio.</p> <p>24 Q. Who was in the committee?</p> <p>25 A. The investment team. So in early 2003,</p>	<p>204</p> <p>1 exit, a sale.</p> <p>2 Q. What word would you use for that? You</p> <p>3 said that it's not -- you wouldn't use "red flag," so</p> <p>4 what would be the word they would use to refer to a</p> <p>5 problem with an investment that warrants a redemption</p> <p>6 or an exit?</p> <p>7 MR. WORBY: Objection. "They" would or</p> <p>8 Mr. --</p> <p>9 (Stenographer clarification.)</p> <p>10 MR. WORBY: It's my fault.</p> <p>11 Objection.</p> <p>12 You had two questions. What would</p> <p>13 Mr. Müller say or what "they" would. Who are "they"?</p> <p>14 BY MR. MOLINA:</p> <p>15 Q. If you understand the question, you can</p> <p>16 answer.</p> <p>17 A. So there was no specific terminology,</p> <p>18 I think. I mean, we alluded to the PPP rule, so we</p> <p>19 would typically -- after that rule has been -- was</p> <p>20 formalized, we sort of typically referred to what</p> <p>21 P was -- triggered the decision to exit that position.</p> <p>22 But there wasn't, sort of, necessarily a terminology</p> <p>23 for an investment. We were just basically -- you</p> <p>24 know, we just discussed exiting that position. We</p> <p>25 weren't saying it's a red flag or -- you know, or any</p>

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<p>205</p> <p>1 sort of specific wording.</p> <p>2 Later on, when we started having an</p> <p>3 operational due diligence process, which was basically</p> <p>4 post '06, there was a number of -- I think there</p> <p>5 was -- I can't remember the details but there was a</p> <p>6 ranking that was used, and if the ranking was not good</p> <p>7 enough, that basically sort of prevented an investment</p> <p>8 or warranted an exit, from an operational standpoint.</p> <p>9 But I don't think the concept of red flag was used</p> <p>10 either. It was basically sort of a level-type of</p> <p>11 approach.</p> <p>12 Q. When you say there was a ranking that was</p> <p>13 used, what did that ranking entail?</p> <p>14 A. So operational best practice for the best</p> <p>15 score and, sort of, issues that were serious enough to</p> <p>16 prevent an investment or redeem from investment for</p> <p>17 the worst score, but I can't remember how the scoring</p> <p>18 mechanism worked.</p> <p>19 Q. Do you still have handy what was marked</p> <p>20 as Trustee Exhibit No. 14?</p> <p>21 A. Yes.</p> <p>22 Q. If you could turn to the page that has the</p> <p>23 number 18145 at the bottom.</p> <p>24 A. Yes.</p> <p>25 Q. Yes. Do you see at the top, or near the</p>	<p>207</p> <p>1 abnormal, given the strategy, either too good,</p> <p>2 abnormally good, or abnormally poor, given our</p> <p>3 understanding of what the manager was doing in terms</p> <p>4 of strategy, or what other managers in the same type</p> <p>5 of strategy were doing, right. So if he was sort of</p> <p>6 deviating too much from peers, it would also sort of</p> <p>7 be, sort of, an abnormal performance that we would</p> <p>8 investigate.</p> <p>9 Q. Do you recall, when you were at Partners</p> <p>10 Advisers, again, at any point, coming across</p> <p>11 investments where the performance did not match the</p> <p>12 strategy?</p> <p>13 A. Not as -- I mean -- let me try to phrase</p> <p>14 that the best possible way.</p> <p>15 It happened frequently that the</p> <p>16 performance was abnormal, right, and so any trigger,</p> <p>17 it sort of warranted investigation. Usually, the</p> <p>18 performance, that could be explained by either, what</p> <p>19 I mentioned before, style drift, the manager venturing</p> <p>20 into something else, another strategy, or an</p> <p>21 over-concentration of the portfolio, or sometimes just</p> <p>22 doubling down on risk because the performance had been</p> <p>23 poor and the manager was trying to get back to even.</p> <p>24 So there's -- there was multiple</p> <p>25 occurrences. Like, every year there were sort of</p>
<p>206</p> <p>1 top of the page, there's a question that's --</p> <p>2 A. Mmm.</p> <p>3 Q. -- posed to Partners Advisers? It says:</p> <p>4 "What types of 'alert' factors are used in</p> <p>5 monitoring single managers?"</p> <p>6 A. Mmm-hmm.</p> <p>7 Q. Do you see that Partners Advisers responds</p> <p>8 with:</p> <p>9 "There are three types of alerts used in</p> <p>10 monitoring?"</p> <p>11 A. Mmm-hmm.</p> <p>12 Q. And then I'm not going to read the three</p> <p>13 paragraphs into the record --</p> <p>14 A. Mmm-hmm.</p> <p>15 Q. -- but is it fair to say that the three</p> <p>16 that were -- alert factors that were identified here</p> <p>17 are: (1) unusual performance; (2) stop loss; and (3)</p> <p>18 a sudden increase of risk factors?</p> <p>19 A. Yes.</p> <p>20 Q. Is that fair?</p> <p>21 So why don't we go one at a time. What's</p> <p>22 your understanding of the alert related to unusual</p> <p>23 performance?</p> <p>24 A. Yeah, sure, I think I alluded to it</p> <p>25 before. But, typically, the performance could be</p>	<p>208</p> <p>1 occurrences of, like, performance being abnormal to</p> <p>2 our understanding of the strategy and warranting sort</p> <p>3 of a deeper dive.</p> <p>4 I mean -- yeah. The -- yeah, that's --</p> <p>5 your question was with regards to strategy. There was</p> <p>6 a number of cases -- and, obviously, I mean, we can</p> <p>7 address the elephant in the room. There was a number</p> <p>8 of cases where the strategy was very unclear or it was</p> <p>9 very hard to sort of understand what the manager was</p> <p>10 doing, which wasn't sort of necessarily a reason for</p> <p>11 not investing if the risk -- if -- and I can expand on</p> <p>12 this, but in those cases, the only way we could assess</p> <p>13 the manager was doing, what, you know, we thought he</p> <p>14 was doing, was to look at the numbers, right.</p> <p>15 And so any abnormal numbers with regards</p> <p>16 to that would sort of warrant an investigation.</p> <p>17 Q. You've used the word "warranting" or</p> <p>18 a variation of that word several times in your answer.</p> <p>19 A. Yes.</p> <p>20 Q. Why would an unusual performance warrant</p> <p>21 a deeper dive or an investigation? I believe you used</p> <p>22 several of those terms.</p> <p>23 A. Well, because we had a fundamental or a</p> <p>24 qualitative understanding of what the strategy was and</p> <p>25 the type of risk that the manager was taking was, and</p>

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<p style="text-align: right;">209</p> <p>1 so if the performance wasn't coherent with our 2 understanding, there was something we were missing, 3 and so -- and so if we're missing something, we had to 4 sort of understand what it was in trying to get on top 5 of it. 6 Q. The second bullet on this page refers to 7 a stop loss. What's a stop loss? 8 A. So when we were conducting due diligence 9 on managers, we will ask them what they felt the worse 10 possible loss could be for their strategy and their 11 style, and then we would use that number as sort of 12 a -- what we called a stop loss, which basically means 13 that if they got to that level of loss, then we -- 14 that would sort of trigger an alert, as it's written 15 here, and we would sort of understand, try to 16 understand why the loss was less severe or more severe 17 than what the manager thought could be the worst-case 18 scenario. 19 At that point, again, sort of, we would 20 have a meeting with the manager, go through that loss, 21 try to understand what happened and then decide if 22 we wanted to exit that investment or stay invested, 23 depending of the reasoning behind it. 24 Q. Okay. You made a reference a second ago 25 to "the elephant in the room." I assume you were</p>	<p style="text-align: right;">211</p> <p>1 could state for the record what your understanding is 2 of who was Bernard L. Madoff? 3 A. So he was a financier who pretended to be 4 running a strategy that obviously was a Ponzi scheme, 5 and he was a fraudster. 6 Q. If I say the name "DiPascali," I'm going 7 to be referring to Frank DiPascali. 8 A. Mmm-hmm. 9 Q. Sitting here today, do you know who was 10 Frank DiPascali? 11 A. Yeah. He was Madoff's righthand man. 12 Q. What do you mean by righthand man? 13 A. I guess the person who sort of helped him 14 perpetrate that Ponzi scheme. 15 Q. If I use the term "Madoff feeder fund" -- 16 A. Mmm-hmm. 17 Q. -- I'm going to be referring to investment 18 vehicles that invested with BLMIS. 19 A. Mmm-hmm. 20 Q. Is that fair? Do you understand that? 21 A. Yes. 22 Q. What was the first time you heard of 23 BLMIS? 24 A. I can't remember, but probably sometime in 25 '99 or 2000.</p>
<p style="text-align: right;">210</p> <p>1 mentioning Bernard L. Madoff Investment Securities? 2 A. Yes. 3 Q. We are going to be asking you some 4 questions about this entity. I'm going to be 5 referring to it as "BLMIS." 6 A. Yes. 7 Q. But do you understand that if I say 8 "BLMIS" that I'm referring to BLM Investment 9 Securities? 10 A. Yes. 11 Q. What is or what was BLM Investment 12 Securities? 13 A. Well, my knowledge of it is very limited, 14 to be honest. It was obviously an investment house or 15 at least it pretended to be an investment house that 16 was both, sort of, having a market-making business in 17 options and an asset management business, I suppose. 18 Q. If I use the word "Madoff," I'm going to 19 be referring to Bernard L. Madoff. Is that fair? 20 A. Yes. 21 Q. Who was Bernard L. Madoff? 22 A. So are you asking me that question with my 23 knowledge today or back in the day, which is obviously 24 different, but... 25 Q. I'm asking you your -- as of today, if you</p>	<p style="text-align: right;">212</p> <p>1 Q. When you were at Partners Advisers? 2 A. Yes. 3 Q. You didn't have any recollection of BLMIS 4 -- of knowing about BLMIS when you were at UBP? 5 A. No. No, I wasn't involved with hedge 6 funds back then, so no. 7 Q. Can you describe the circumstances of how 8 you came to understand or know about BLMIS? 9 A. I actually don't recall how I heard about 10 it. Obviously you mentioned the feeder funds and 11 I think they were sort of actively raising capital in 12 Switzerland, so I probably had meetings with them 13 initially, learning about what they were doing and 14 what product they were offering. 15 Q. What was your understanding of what BLMIS 16 was doing, as of 1999 or 2000 when you first learned 17 about BLMIS? 18 A. So my understanding is that they were sort 19 of applying a strategy that was called split-strike 20 conversion, which actually is not a terminology that's 21 used by anyone else and so it's not a strategy that, 22 you know, people recognize unless you sort of get some 23 explanation of what it is, which involved buying 24 equities and selling and buying options around that 25 equity position to generate a return profile that</p>

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<p>213</p> <p>1 looked very attractive.</p> <p>2 MR. MOLINA: If we could do tab 21.</p> <p>3 Ms. Court Reporter, I'm going to be</p> <p>4 handing you tab 21 in the bundle, which should be</p> <p>5 marked as Trustee Exhibit No. 17.</p> <p>6 (Trustee Exhibit 17 marked for</p> <p>7 identification.)</p> <p>8 BY MR. MOLINA:</p> <p>9 Q. Mr. Müller --</p> <p>10 A. Thank you.</p> <p>11 Q. -- you've just been handed what has now</p> <p>12 been marked as Trustee Exhibit No. 17.</p> <p>13 A. Yes. Sorry.</p> <p>14 Q. The name of this document is called</p> <p>15 "Square One Fund, Ltd - Summary Confidential</p> <p>16 Memorandum."</p> <p>17 A. Yes.</p> <p>18 Q. Do you see that?</p> <p>19 A. I do.</p> <p>20 Q. Are you familiar with this document?</p> <p>21 A. No.</p> <p>22 Q. Just quickly for the record, what's your</p> <p>23 understanding of what Square One Fund Ltd. is?</p> <p>24 A. It's a feeder fund to Madoff.</p> <p>25 Q. It's a Madoff feeder fund?</p>	<p>215</p> <p>1 Q. Okay. What's a summary confidential</p> <p>2 memorandum, generally?</p> <p>3 A. It's, again, not a term that is very</p> <p>4 commonly used in our industry. In general, what this</p> <p>5 is is an offering memorandum which is not a summary</p> <p>6 but is like a more, sort of, comprehensive document,</p> <p>7 which is basically sort of the basis of -- the legal</p> <p>8 basis on which an investment is offered to investors.</p> <p>9 This is obviously a summary of it, so</p> <p>10 that's not something I've seen before.</p> <p>11 Q. If you turn to -- in this document, if you</p> <p>12 turn to the page that has the number 5917 in the</p> <p>13 bottom righthand corner. At the top of that</p> <p>14 document, do you see that it says "Exhibit A - Split</p> <p>15 Strike Strategy"?</p> <p>16 A. Yes.</p> <p>17 Q. Do you see in the first paragraph it says,</p> <p>18 and I'm going to read this into the record:</p> <p>19 "Bernard L. Madoff Investment Securities</p> <p>20 offers investors access through different funds to</p> <p>21 a non traditional investment strategy which is often</p> <p>22 described as a split-strike conversion."</p> <p>23 Do you see that?</p> <p>24 A. Yes.</p> <p>25 Q. Do you agree, based on your understanding</p>
<p>214</p> <p>1 A. Yes.</p> <p>2 Q. Do you know who run -- who ran Square One</p> <p>3 feeder -- Square One Fund?</p> <p>4 MR. WORBY: Objection.</p> <p>5 At what point in time are you asking for</p> <p>6 Mr. Müller's --</p> <p>7 MR. MOLINA: Right now.</p> <p>8 MR. WORBY: Right now.</p> <p>9 THE WITNESS: I mean, I don't know what</p> <p>10 you mean by "ran." I mean, in effect, Madoff ran that</p> <p>11 fund, right, so -- but I -- do you mean who --</p> <p>12 BY MR. MOLINA:</p> <p>13 Q. Who created Square One Fund?</p> <p>14 A. I actually don't know. I'm pretty sure</p> <p>15 Luc Estenne didn't create it but he obviously sort of</p> <p>16 took it over at some point.</p> <p>17 Q. So your understanding, sitting here today,</p> <p>18 is that Mr. Estenne --</p> <p>19 A. Yes.</p> <p>20 Q. -- managed Square One Fund --</p> <p>21 A. Yes.</p> <p>22 Q. -- is that fair?</p> <p>23 If you turn the page, you see that this</p> <p>24 document is dated June 1, 1999. Do you see that?</p> <p>25 A. Yes.</p>	<p>216</p> <p>1 sitting here today, that the split-strike conversion</p> <p>2 was a non-traditional investment strategy?</p> <p>3 A. Yeah. I mean, nobody else was doing this,</p> <p>4 so, yes, I suppose it's non-traditional.</p> <p>5 Q. If you look in the second paragraph, it</p> <p>6 lists four components of this supposed strategy.</p> <p>7 A. Mmm-hmm.</p> <p>8 Q. Do you see in the first component is that</p> <p>9 the manager in this case, BLMIS, purported to be</p> <p>10 purchasing equity shares? Do you see that?</p> <p>11 A. Yes.</p> <p>12 Q. Does that comport with your understanding,</p> <p>13 sitting here today, of the strategy?</p> <p>14 A. Yes.</p> <p>15 Q. Do you see the second component, it talks</p> <p>16 about selling out-of-the-money call options? Do you</p> <p>17 see that?</p> <p>18 A. Yes.</p> <p>19 Q. Does that comport with your current</p> <p>20 understanding of what that strategy was supposed to be</p> <p>21 doing?</p> <p>22 A. Yes.</p> <p>23 Q. Same questions for number 3, which talks</p> <p>24 about buying related out-of-the-money or at-the-money</p> <p>25 put options?</p>

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<p>217</p> <p>1 A. Yes.</p> <p>2 Q. That comports with your understanding of</p> <p>3 -- your current understanding of what the strategy was</p> <p>4 purported to do?</p> <p>5 A. Yes.</p> <p>6 Q. Lastly, what is at romanette (iv), this</p> <p>7 talks about how BLMIS purported to remain in cash or</p> <p>8 USTB when he believed the market was due to weaken.</p> <p>9 Do you see that?</p> <p>10 A. I see that, yes.</p> <p>11 Q. Does that comport with your current</p> <p>12 understanding of what the strategy's supposed to do?</p> <p>13 A. It does.</p> <p>14 Q. What is USTB? What does that mean to you?</p> <p>15 A. US treasury bills.</p> <p>16 Q. What are US treasury bills?</p> <p>17 A. They're obligation to the US government.</p> <p>18 Q. What does it mean to hold US treasury</p> <p>19 bills?</p> <p>20 A. Well, it basically -- I mean, I mention</p> <p>21 the fact that they're a risk-free investment, so it</p> <p>22 basically involves holding bonds of the US government</p> <p>23 and basically holding risk-free investments.</p> <p>24 Q. Would you expect, if you were holding</p> <p>25 USTB, that you would be making a sizable return on</p>	<p>219</p> <p>1 Q. And do you see that, within that, there's</p> <p>2 another line that goes:</p> <p>3 "The manager utilizes strategy which</p> <p>4 entails..."</p> <p>5 Do you see that portion?</p> <p>6 A. Yes.</p> <p>7 Q. And, again, this is similar to what I just</p> <p>8 did with you a few minutes ago but let's try again.</p> <p>9 Now there's three romanettes.</p> <p>10 So the first romanette talks about</p> <p>11 purchasing a basket of 30 to 35 S&P 100 Index stocks.</p> <p>12 Do you see that?</p> <p>13 A. Yes.</p> <p>14 Q. What's the S&P 100 Index?</p> <p>15 A. It's the index of the 30 largest -- sorry,</p> <p>16 the 100 most largest companies in -- publicly listed</p> <p>17 companies in the US.</p> <p>18 Q. What does it mean to purchase a basket?</p> <p>19 A. It means buying a subset of those hundred</p> <p>20 names.</p> <p>21 Q. Do you see that after the -- after that</p> <p>22 part -- or do you see at the end of this romanette,</p> <p>23 it says that at the time the purchases are made, this</p> <p>24 basket presents a high degree of correlation with the</p> <p>25 general market?</p>
<p>218</p> <p>1 your investment?</p> <p>2 A. No. Back in the day, that was probably a</p> <p>3 5 percent return or something. That was probably the</p> <p>4 rate, the interest rate, on a US treasury bill. Yes.</p> <p>5 Today it's much lower than that.</p> <p>6 Q. When you say "back in the day," what</p> <p>7 time frame are you referring to?</p> <p>8 A. Well, '99 to 2002.</p> <p>9 Q. What does it mean to remain in cash?</p> <p>10 A. That means holding cash in the fund rather</p> <p>11 than any other investments.</p> <p>12 Q. Is it fair to say -- is it your</p> <p>13 understanding that what this romanette's referring to</p> <p>14 is if the market was doing poorly, Madoff purported to</p> <p>15 be removing his positions in the stock market and</p> <p>16 simply converting those positions into cash or US</p> <p>17 treasury bills?</p> <p>18 A. That's my understanding, yes.</p> <p>19 Q. If you look at -- further down this page,</p> <p>20 there's a sentence that starts:</p> <p>21 "A properly executed strategy along these</p> <p>22 lines will limit losses at the price of the stocks</p> <p>23 decline."</p> <p>24 Do you see that?</p> <p>25 A. Yes.</p>	<p>220</p> <p>1 A. Yes.</p> <p>2 Q. Okay. Do you understand what this</p> <p>3 sentence is conveying?</p> <p>4 A. Yes.</p> <p>5 Q. What's your understanding?</p> <p>6 A. My understanding is that he was buying a</p> <p>7 subset of the hundred most largest companies, publicly</p> <p>8 listed companies, in the US, so that this given subset</p> <p>9 was as close as possible -- the behavior of that</p> <p>10 subset would be as close as possible to the behavior</p> <p>11 of the market.</p> <p>12 Q. So it was the intention, at least as</p> <p>13 purported by BLMIS at the time, that Madoff, through</p> <p>14 his firm, would be purchasing S&P 100 stocks in order</p> <p>15 to more or less track the performance of that index?</p> <p>16 A. Yes, which is something that actually is</p> <p>17 still done by certain types of strategies today. Yes.</p> <p>18 Q. Then the second romanette, it says that</p> <p>19 Mr. Madoff purported to sell out-of-the-money OEX</p> <p>20 index call options.</p> <p>21 A. Yes.</p> <p>22 Q. What does OEX stand for?</p> <p>23 A. It's the S&P 100 Index. It's probably the</p> <p>24 ticker for that index, although I'm not entirely sure.</p> <p>25 Q. Okay. What does it mean to sell</p>

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<p>221</p> <p>1 out-of-the-money call options?</p> <p>2 A. That means selling the right to buy that</p> <p>3 index at a price that's above the current price; so</p> <p>4 basically allowing the buyer of these options to</p> <p>5 purchase that index from you at a price that's</p> <p>6 predetermined but higher than the current price.</p> <p>7 That's what "out of the money" means.</p> <p>8 Q. Right. Just so I understand and just so</p> <p>9 it's clear on the record, if a stock -- if an equity</p> <p>10 position is at \$50, there could be a call option</p> <p>11 where, if that security reaches \$52, that option</p> <p>12 would be triggered and you would sell your position in</p> <p>13 that equity. Is that fair?</p> <p>14 A. Yeah. Yeah, you're basically committing</p> <p>15 to sell it at that level, yes.</p> <p>16 Q. Okay. (iii) talks about purchasing</p> <p>17 out-of-the-money or at-the-money OEX index puts.</p> <p>18 Do you see that?</p> <p>19 A. Yes.</p> <p>20 Q. Do you understand what that means?</p> <p>21 A. Yes.</p> <p>22 Q. Could you please explain to us what your</p> <p>23 understanding is.</p> <p>24 A. So that means purchasing the right to sell</p> <p>25 your index position, either at a lower price than the</p>	<p>223</p> <p>1 Q. And in this particular case, Mr. Madoff,</p> <p>2 or BLMIS, is purporting to be purchasing those options</p> <p>3 and presumably funding those purchases with the sale</p> <p>4 of the call options, is that --</p> <p>5 A. That's correct.</p> <p>6 Q. And that's pretty typical -- is that</p> <p>7 typical in your industry?</p> <p>8 A. It's actually a pretty common strategy,</p> <p>9 yes.</p> <p>10 Q. But when you -- by doing this -- by</p> <p>11 performing this strategy that Mr. Madoff was at least</p> <p>12 purporting to be doing is essentially limiting the</p> <p>13 upside --</p> <p>14 A. Mmm-hmm.</p> <p>15 Q. -- in order to protect the downside; is</p> <p>16 that fair?</p> <p>17 A. Yes.</p> <p>18 Q. And could you just expand on what your</p> <p>19 understanding is on that particular component of the</p> <p>20 strategy.</p> <p>21 A. I'm not sure what you mean by that.</p> <p>22 Q. Is it your understanding that Mr. Madoff</p> <p>23 was capping his upside, at least if he performed to</p> <p>24 what he said he was doing here?</p> <p>25 A. Yes.</p>
<p>222</p> <p>1 current price today, that's "out of the money"; or at</p> <p>2 a price at which it is today, which is "at the money."</p> <p>3 Q. So, again, using my example of if you have</p> <p>4 an equity position at \$50, you're essentially</p> <p>5 reserving the right to sell that security if the price</p> <p>6 dips to a predetermined amount under \$50?</p> <p>7 A. Yes.</p> <p>8 Q. Why would you set up that sort of option?</p> <p>9 Why would that option -- let me retract. Let me</p> <p>10 restate that.</p> <p>11 Why would a manager purport to have a put</p> <p>12 option?</p> <p>13 MR. WORBY: Objection; that's speculation.</p> <p>14 THE WITNESS: I'm happy to answer it.</p> <p>15 It's to protect your downside. So if you buy a put</p> <p>16 option against one of your position, you're absolutely</p> <p>17 certain of how much you can lose. If the price goes</p> <p>18 to the level of that option, you basically have the</p> <p>19 right to sell it at that price. So you basically</p> <p>20 limit your downside.</p> <p>21 BY MR. MOLINA:</p> <p>22 Q. It's essentially an insurance policy --</p> <p>23 A. It is.</p> <p>24 Q. -- in case the equity price falls?</p> <p>25 A. Yes, exactly.</p>	<p>224</p> <p>1 Q. Why? Why is that your understanding?</p> <p>2 A. Because he was selling calls, which</p> <p>3 basically means that he would be bought out of his</p> <p>4 position at the strike price of that call.</p> <p>5 Q. So in the scenario that I raised a few</p> <p>6 minutes ago, if he had a call option to sell the</p> <p>7 position at 52 and the price went up to 60, Mr. Madoff</p> <p>8 would not be enjoying the upside of the full \$60 value</p> <p>9 because he would be selling his position at the \$52</p> <p>10 price --</p> <p>11 A. Correct.</p> <p>12 Q. -- is that fair?</p> <p>13 A. Yes.</p> <p>14 Q. Okay. And, again, the reason you would --</p> <p>15 or any manager would be capping that upside is to</p> <p>16 protect the downside?</p> <p>17 A. No. Some managers would do that because</p> <p>18 they have a view that a company's share price will</p> <p>19 move, to take your example, from 50 to 52 over the</p> <p>20 next month or so, but unlikely to move much higher, in</p> <p>21 which case selling a call at 52 is basically a way to</p> <p>22 express a fundamental view that that stock will move</p> <p>23 to 52 but because they don't have the belief that it</p> <p>24 won't move much higher, they can actually get an</p> <p>25 additional income from selling call options, right.</p>

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<p style="text-align: right;">225</p> <p>1 I mean, they might get \$1 or \$2 out of that sale, so 2 instead of gaining \$2 from 50 to 52, they'll gain 3 or 3 4 because, on top of moving to 52, they've sold calls 4 against it. 5 Q. If you turn to the next page, the one with 6 5918 in the -- 7 (Stenographer clarification.) 8 BY MR. MOLINA: 9 Q. If you turn to the next page, with the 10 number 5918 on the bottom right-hand corner -- 11 A. Yes. 12 Q. do you see the paragraph near the front 13 of the -- the top of the page that starts with -- and 14 I'm just going to read this sentence into the record: 15 "This attractive level of downside 16 protection, though, has its counterpart in the fact 17 that the upside potential is limited to an S&P 100 18 Index." 19 Do you see that? 20 A. Yes. 21 Q. Could you explain -- do you understand 22 what that sentence means? 23 A. Yes. 24 Q. Could you explain what your understanding 25 is.</p>	<p style="text-align: right;">227</p> <p>1 understanding. I mean, they were basically just 2 selling the track record, right. 3 So I can't remember much of all those 4 meetings, to be honest, other than they were 5 aggressive salespeople. 6 Q. Okay. Well, let's try to unpack this and 7 maybe we can try to refresh your memory. 8 When you say that you met with Madoff 9 feeder fund salespeople -- 10 A. Mmm-hmm. 11 Q. -- was this in the context of your work as 12 an analyst at Partners Advisers? 13 A. Yes. 14 Q. So this would have been earlier when we 15 discussed how part of your job entailed meeting with 16 managers? 17 A. Yes. 18 Q. This was part of that process? 19 A. Yes. 20 Q. And do you recall the names of the feeder 21 funds, the Madoff feeder funds, that you were meeting 22 with at that time? 23 A. I'm pretty sure I met with Fairfield 24 Sentry. They were very active in Geneva. I think 25 I met with a guy called Santiago Reyes --</p>
<p style="text-align: right;">226</p> <p>1 A. I think it's what we discussed before, 2 which is he's protecting the downside through the 3 sale -- sorry, through the purchase of a put, but that 4 comes at the expense of the upside, which is capped as 5 well because he sells the call to fund the purchase of 6 the -- 7 (Stenographer clarification.) 8 THE WITNESS: He sells the call to cover 9 the cost of the put. 10 THE STENOGRAPHER: Thanks. 11 BY MR. MOLINA: 12 Q. Okay. Okay. Back to your first 13 understanding of Mr. Madoff. You mentioned a few 14 minutes ago, when I first asked you when you first 15 learned of BLMIS, you mentioned that you might have 16 had meetings with Madoff via fund managers? 17 A. I am pretty sure I did, yes. 18 Q. Let's walk through that. What do you 19 recall? 20 A. Very little, to be honest. It was very -- 21 I mean, it was 22 years ago, 3 years ago. 22 So I remember very little. And, on top of it, the 23 meetings I would have would actually be with sales 24 representative of the feeder funds, so they were not 25 the people that, you know, had a really sort of good</p>	<p style="text-align: right;">228</p> <p>1 Q. Okay. 2 A. -- which was a salesperson for Fairfield. 3 And then I met -- I think I met with 4 Kingate as well, although I can't remember who I met 5 there. 6 Q. Okay. Let's start with Fairfield since 7 that's the first one you mentioned. You said 8 Fairfield Sentry? 9 A. Yes. 10 Q. What is Fairfield Sentry? 11 A. It's a Madoff feeder fund. 12 Q. Okay. And your understanding at that time 13 was that Fairfield Sentry was a Madoff feeder fund? 14 A. Well, I mean, I basically was told it, 15 right, during one of these meetings. To me, Madoff 16 wasn't a known quantity before that, so, yes. 17 Q. So the marketing angle that these 18 salespeople took at that time, from what you can 19 recall, is that they gave you access, or they would 20 give Partners Advisers access to Madoff? 21 A. Yes. 22 Q. And your understanding was that Fairfield 23 Sentry had investment accounts at BLMIS? 24 A. Yes. I mean, I never spent much time sort 25 of digging into it, but yes. Yes.</p>

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<p>229</p> <p>1 Q. Do you remember if anyone else from 2 Partners Advisers went with you to these meetings? 3 A. No, I don't remember. There were meetings 4 held in Geneva, so in Geneva I would often have 5 meetings by myself. Sometimes Mr. Estenne was in 6 those meetings, too, but I couldn't tell you with 7 regards to Fairfield Sentry specifically. 8 Q. And I know you said it was sometime ago 9 and you don't remember much, but let's see if we 10 can -- would this meeting have occurred around 2001? 11 A. I have no idea, to be honest. Probably. 12 I mean, yeah. My recollection is that they were in 13 Geneva very often, right. I didn't meet with them 14 very often but they were there all the time; so when a 15 meeting occurred, I don't really know. 16 Q. Well, using the 2003 threshold that we've 17 been using all day -- 18 A. Yeah. 19 Q. -- would it have been after 2003 or before 20 2003? 21 A. It would have been before 2003, although 22 I did meet with them post-2003 as well, at least once, 23 and I don't know if you want me to go into the details 24 but they were -- or you tell me. 25 Q. Well, let's -- finish your answer.</p>	<p>231</p> <p>1 Sentry people? 2 A. I might have, although he's the only one 3 I remember. 4 Q. I'm going to name some names. You tell me 5 if they ring a bell. 6 A. Sure. 7 THE STENOGRAPHER: Sorry. Just one 8 second, please. 9 Thanks. 10 MR. MOLINA: Sorry. 11 THE STENOGRAPHER: It's okay. 12 MR. MOLINA: I'll slow down. 13 BY MR. MOLINA: 14 Q. Walter Noel. 15 A. No, doesn't ring a bell. 16 MR. MOLINA: And I'm going to give you the 17 spelling of these names afterwards. 18 BY MR. MOLINA: 19 Q. Amit Vijayvergiya. 20 A. No. 21 Q. Corina Noel Piedrahita. 22 A. No. 23 Q. Jeffrey Tucker? 24 A. No. 25 Q. Was the meeting in person?</p>
<p>230</p> <p>1 A. Because they were basically claiming they 2 had no capacity in Madoff anymore and they were sort 3 of looking for a manager that could potentially offer 4 the same type of return target and they basically came 5 with that manager to visit. So I met with them 6 post-'03 to review that investment opportunity and 7 that other manager, which I decided to pass on. 8 Q. Going back to the initial meeting you had, 9 you said it likely occurred before 2003? 10 A. Yes. 11 Q. Would it have been around 2002? 12 A. Yeah. I mean, I -- I think it was earlier 13 than -- and that, again, sort of is -- I don't have 14 sort of a precise recollection but I think it would 15 have been before 2002. I think it would have been 16 probably pretty soon after I joined. So my gut feel 17 is, like, end of '99 or 2000. 18 Q. Okay. And you remember meeting -- what 19 was it? Santiago Reyes -- 20 A. Yeah. 21 Q. -- is that the name you said? 22 A. Yes. 23 Q. And who was Santiago Reyes? 24 A. He was one of the salesmen for Fairfield. 25 Q. Did you meet with any other Fairfield</p>	<p>232</p> <p>1 A. Yes. 2 Q. Was it at your -- at Partners Advisers' 3 offices? 4 A. Yes. 5 Q. Did they present -- give their 6 presentation orally? 7 A. Yes, they probably handed out a 8 presentation, too, which was typical during these 9 meetings. 10 Q. Did the presentation include the 11 performance of the fund? 12 A. I have no recollection but I'm pretty sure 13 it did. Usually, these presentations did, right, so, 14 yes, but I can't remember specifically in this case. 15 THE EXAMINER: Sorry, just one moment. 16 MR. MOLINA: Shall we go off the record? 17 THE VIDEOGRAPHER: We are going off the 18 record. The time is 3:51. 19 (Off the record.) 20 THE VIDEOGRAPHER: We are back on the 21 record. The time is 3:52. 22 BY MR. MOLINA: 23 Q. Do you remember that you and I, 24 Mr. Müller, had a conversation by telephone in 2016? 25 A. I do remember that, yes. Vaguely, though.</p>

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<p style="text-align: right;">233</p> <p>1 Yes, I remember it.</p> <p>2 Q. What do you remember from that</p> <p>3 conversation?</p> <p>4 A. I remember -- I actually didn't realize it</p> <p>5 was you. I remember being asked questions about my</p> <p>6 knowledge of Madoff/Square One and questions about the</p> <p>7 fact, you know, if Square One had been held in</p> <p>8 Partners Advisers' portfolio at any one time, I think</p> <p>9 my understanding of what Square One was and my</p> <p>10 suspicions about Madoff. That's pretty much what</p> <p>11 I remember.</p> <p>12 Q. Do you remember we discussed these</p> <p>13 meetings that you had with Fairfield Sentry?</p> <p>14 A. So I read that in the complaint.</p> <p>15 I remember we discussed it. Yes, I do, but I don't</p> <p>16 remember these meetings well, though. Maybe</p> <p>17 I remember them better in 2016. Today, I don't</p> <p>18 remember them that well.</p> <p>19 Q. I'm going to tell you -- I'm going to give</p> <p>20 you statements from my recollection of that</p> <p>21 discussion --</p> <p>22 A. Sure.</p> <p>23 Q. -- and you'll tell me if it refreshes your</p> <p>24 memory.</p> <p>25 A. Sure.</p>	<p style="text-align: right;">235</p> <p>1 benefit of a hundred percent hindsight, but it wasn't</p> <p>2 necessarily something that was unusual back in the</p> <p>3 day. Again, I -- as I mentioned, there was -- hedge</p> <p>4 funds were very secretive and being cagey about an</p> <p>5 investment strategy was something that often happened</p> <p>6 because people felt that they had trade secrets, they</p> <p>7 had a way of doing things that if it was getting into</p> <p>8 the market it would be taken away or arbitrated away.</p> <p>9 So it wasn't uncommon. And it still is</p> <p>10 pretty common for certain types of strategy today.</p> <p>11 Q. You also mentioned you had a meeting with</p> <p>12 Kingate.</p> <p>13 A. Yes.</p> <p>14 Q. And you say you did not remember</p> <p>15 specifically --</p> <p>16 A. I don't remember who specifically I met</p> <p>17 with, yes.</p> <p>18 Q. I'll give you some names.</p> <p>19 A. Sure.</p> <p>20 Q. You'll tell me if that jogs your memory.</p> <p>21 A. Okay.</p> <p>22 Q. And if that person was in your meeting.</p> <p>23 A. Sure, sure.</p> <p>24 Q. Federico Ceretti.</p> <p>25 A. No.</p>
<p style="text-align: right;">234</p> <p>1 Q. Is that fair?</p> <p>2 A. Sure.</p> <p>3 MR. WORBY: Objection.</p> <p>4 Are you going to give that document to</p> <p>5 Mr. Müller?</p> <p>6 MR. MOLINA: No. I don't have to. It's</p> <p>7 my work product.</p> <p>8 BY MR. MOLINA:</p> <p>9 Q. Mr. Müller, you mentioned that during that</p> <p>10 call -- during the meeting with Fairfield Sentry, that</p> <p>11 you came away without any clear indication of how</p> <p>12 Mr. Madoff was performing the returns for Fairfield</p> <p>13 Sentry that were being displayed to you during that</p> <p>14 presentation.</p> <p>15 Does that refresh your memory?</p> <p>16 A. Yeah, that's correct. I mean, I can't</p> <p>17 tell you if it was specific to meetings with Fairfield</p> <p>18 Sentry, but I think those meetings with Fairfield</p> <p>19 Sentry and my discussions with other investment</p> <p>20 professionals from my network and so on, and some</p> <p>21 hedge fund managers, led me to -- led me to the</p> <p>22 conclusion that I couldn't sort of understand how</p> <p>23 these returns were generated, that's correct.</p> <p>24 I want to add one thing, just quickly,</p> <p>25 here. It wasn't necessarily -- and I know we have the</p>	<p style="text-align: right;">236</p> <p>1 Q. Carlo Grosso.</p> <p>2 A. Doesn't ring a bell.</p> <p>3 MR. MOLINA: And first name?</p> <p>4 MS. STORK: Shazieh Salahuddin.</p> <p>5 MR. MOLINA: And, again, I'm going to give</p> <p>6 you the spelling.</p> <p>7 THE STENOGRAPHER: I have that one.</p> <p>8 MR. MOLINA: Oh, you have them already?</p> <p>9 You're ahead of me because I had to ask her.</p> <p>10 BY MR. MOLINA:</p> <p>11 Q. Shazieh Salahuddin.</p> <p>12 A. No.</p> <p>13 Q. Okay. Do you recall -- you just said that</p> <p>14 your meeting with Fairfield likely occurred soon after</p> <p>15 you started at Partners Advisers, sometime in 1999 or</p> <p>16 2000?</p> <p>17 A. Yes. Probably, yes.</p> <p>18 Q. Is this the same -- is the Kingate meeting</p> <p>19 also in the same time frame?</p> <p>20 A. Yeah, it's -- the Kingate meeting is even</p> <p>21 more hazy so I might really struggle to sort of</p> <p>22 pinpoint it to a specific date, but yes.</p> <p>23 Q. Okay.</p> <p>24 MR. MOLINA: Let me -- Ms. Court Reporter,</p> <p>25 I'm going to hand you what is tab 23 of the bundle,</p>

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<p>237</p> <p>1 if you don't mind marking as Trustee Exhibit No. 18. 2 (Trustee Exhibit 18 marked for 3 identification.) 4 BY MR. MOLINA: 5 Q. Mr. Müller, you've just been handed what 6 is now Trustee Exhibit No. 18. I'll get to it myself. 7 Are you familiar with this document? 8 A. Not at all. 9 Q. Do you see it's a onepage document? Do 10 you see that? 11 A. Yes. 12 Q. At the very top, it says "Partners 13 Advisers S.A." 14 A. Yes. 15 Q. That's obviously the company you were 16 working for at this time? 17 A. Yeah. 18 Q. Do you see that it's dated 20 December 19 2001? 20 A. It is, yes. 21 Q. And there's a From line -- 22 A. Mmm-hmm. 23 Q. -- from an individual named Tamsin Mann? 24 A. Yes. 25 Q. Do you recognize that name?</p>	<p>239</p> <p>1 was running a strategy, the strategy was this, right, 2 which we actually just covered it, and the return 3 stream, you know, was extraordinary, right. 4 And then -- and that was information which 5 I couldn't question or whatever. I didn't have any, 6 sort of, enough information about it. I probably -- 7 and I can't remember it but I probably had a 8 conversation with not only Luc but also probably 9 Philippe Hostettler about it and, you know -- and they 10 probably gave me context, right. And I think Philippe 11 Hostettler specifically was quite skeptical about the 12 strategy, so he probably sort of told me about this as 13 well. 14 And so, with him, and then discussing with 15 others, I probably formed, you know, an opinion that 16 I couldn't understand how the returns were generated. 17 But I -- that wasn't a secret. I certainly 18 communicated that with Luc, for sure. 19 So -- yeah, I mean, Philippe probably did 20 the same, right. So he was quite skeptical about it, 21 too. 22 Q. We just went over, not long ago, the 23 strategy that Madoff purported to be using. 24 A. Yes. 25 Q. So when you say you did not understand how</p>
<p>238</p> <p>1 A. No. 2 Q. Do you see next to that name there's a 3 series of words and symbols? 4 A. Yes. 5 Q. Included in that series is the name 6 Fim Limited? 7 A. Yes. 8 Q. Do you understand -- do you have any 9 understanding of what Fim Limited is? 10 A. I don't, actually. Well, I mean, I think 11 it was a Madoff feeder but I'm not sure about it. 12 Q. Okay. After you audited these meetings -- 13 and I understand it's been 20 years and that your 14 memory is hazy, but after you audited these meetings, 15 did you discuss the content of those meetings with 16 anybody at Partners Advisers? 17 A. I mean, I'm pretty sure I did because we 18 discussed every meeting, right, so, yes. Probably, 19 yes. 20 Q. And what do you remember your reactions to 21 the presentations of those meetings to be? 22 A. So, again, I think initially these 23 meetings were -- what I was -- the information I was 24 getting fed was new to me and so I was basically told 25 that there was, you know, someone called Madoff that</p>	<p>240</p> <p>1 the performance could be achieved, you're not 2 referring to you did not understand the strategy, 3 because it's clear that you understood it. Correct? 4 A. Well, I understood the strategy 5 conceptually but that's about it. And I guess in 6 order to justify the returns -- I think the narrative 7 was you explain the strategy conceptually. I think 8 the narrative was that he might over-hedge, right, he 9 might buy more puts or less puts, and buy more calls 10 or sell more calls, less calls and so on, and so that 11 immediately sort of creates, like, a scenario where he 12 could do anything, right, with that basis of, like, 13 selling calls and buying puts, and that, like, doing 14 anything, including being in treasuries when he felt 15 the market was going down, was actually hard -- it was 16 hard to explain the consistency of the returns, given 17 the fact that, you know, he was basically doing 18 whatever he wanted, right, buying less calls -- sorry, 19 less puts or more puts, or selling less calls or more 20 calls, or being in treasuries. 21 So I think that's what I couldn't 22 understand, is how were these returns so consistent 23 given the fact that it felt like he was market-timing. 24 Q. So other than Mr. Hostettler -- well, let 25 me back up.</p>

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<p>241</p> <p>1 You mentioned you spoke to Mr. Hostettler</p> <p>2 and he was skeptical. Could you expand on what that</p> <p>3 means?</p> <p>4 A. Well, I think he was -- he had the same</p> <p>5 questions, right, which were sort of how can a return</p> <p>6 stream like this be generated with such a simple</p> <p>7 strategy. And I think the belief -- and I'm sure you</p> <p>8 know that because I read Albert Collette's deposition</p> <p>9 in the document. But the belief in Geneva was that he</p> <p>10 was using information from his market-making business,</p> <p>11 option market-making business, to take position in the</p> <p>12 hedge fund with, sort of, the knowledge of where the</p> <p>13 market was going because he saw the volume in the</p> <p>14 option business, right. So that was sort of the</p> <p>15 common belief in Geneva back in the day, and everybody</p> <p>16 was sort of pretty much sort of thinking that this was</p> <p>17 the case.</p> <p>18 Q. Okay. And when you say that he was using</p> <p>19 the other business to get a preview of how the market</p> <p>20 may move, are you referring to the term of</p> <p>21 front-running?</p> <p>22 A. Well, yeah. I mean, if -- yeah. There</p> <p>23 should have been Chinese walls, I guess, yes, between</p> <p>24 these businesses.</p> <p>25 Q. So just to unpack what you said, when you</p>	<p>243</p> <p>1 front-running, yes.</p> <p>2 Q. And you understand front-running to be</p> <p>3 illegal?</p> <p>4 A. Yes.</p> <p>5 Q. But you said it was the common</p> <p>6 understanding amongst Geneva investment community, and</p> <p>7 I understand the caveat that they weren't sure, this</p> <p>8 is just what their suspicion was. Is that fair?</p> <p>9 A. Yes.</p> <p>10 Q. And how do you know that that was the</p> <p>11 common suspicion amongst the Geneva investment</p> <p>12 community?</p> <p>13 A. Because people would mention it during</p> <p>14 conversations.</p> <p>15 Q. Like Mr. Collette?</p> <p>16 A. Yeah. Although that 2003 conversation,</p> <p>17 I can't remember, but I have no doubt -- I have no</p> <p>18 reason to doubt it, yes.</p> <p>19 Q. Okay. Why don't we just turn to that --</p> <p>20 A. Sure.</p> <p>21 Q. -- to make it clear for the record.</p> <p>22 MR. MOLINA: Ms. Court Reporter, I'm going</p> <p>23 to be handing you what has been previously marked as</p> <p>24 Trustee Exhibit No. 11. So if you don't mind</p> <p>25 re-marking it as 11, as Trustee Exhibit No. 11.</p>
<p>242</p> <p>1 said it was a common understanding amongst Geneva</p> <p>2 managers, is it that he was -- that Madoff was</p> <p>3 front-running and that's how he was achieving these</p> <p>4 returns? Was that the common understanding that</p> <p>5 you're referring to?</p> <p>6 A. Well, I mean, it wasn't certainty. It was</p> <p>7 sort of what people assumed would explain these</p> <p>8 super consistent returns, yes.</p> <p>9 Q. Front-running?</p> <p>10 A. Yeah.</p> <p>11 Q. Just so -- I just want to make sure --</p> <p>12 A. I mean, I didn't go into the specifics of,</p> <p>13 like, you know, is it legal or not, or I didn't, sort</p> <p>14 of, you know, read the US financial regulations to</p> <p>15 know if it was legal or not. It didn't sound --</p> <p>16 you know, it didn't sound very -- well, it didn't</p> <p>17 sound very clean, yes.</p> <p>18 Q. You're now 20-some years in this industry,</p> <p>19 right?</p> <p>20 A. Yes.</p> <p>21 Q. So, sitting here today, what do you know</p> <p>22 about front-running?</p> <p>23 A. Yeah. I mean today, obviously, obviously</p> <p>24 what he was doing, or what I thought he was doing,</p> <p>25 because obviously that's not what he was doing, was</p>	<p>244</p> <p>1 (Trustee Exhibit 11 previously marked</p> <p>2 for identification.)</p> <p>3 THE EXAMINER: Would that be a good time?</p> <p>4 MR. MOLINA: This is a good time to stop.</p> <p>5 Thank you for reminding me.</p> <p>6 THE VIDEOGRAPHER: We are going off the</p> <p>7 record. The time is 4:05.</p> <p>8 (Break taken.)</p> <p>9 THE VIDEOGRAPHER: Total time on the</p> <p>10 record is 4 hours and 42 minutes.</p> <p>11 We are back on the record. The time is</p> <p>12 4:16.</p> <p>13 BY MR. MOLINA:</p> <p>14 Q. Mr. Müller, I think you were just handed</p> <p>15 what is now -- or has been already marked Trustee</p> <p>16 Exhibit No. 11.</p> <p>17 A. Yes.</p> <p>18 Q. I will represent to you that this is an</p> <p>19 English-language translation of the examination of</p> <p>20 Mr. Albert Collette. I think you said earlier that</p> <p>21 you had read this document, so I assume you're</p> <p>22 familiar with it?</p> <p>23 A. Yes, although I -- it's a pretty lengthy</p> <p>24 document, so I -- but I did read it.</p> <p>25 Q. If you turn to -- I'm going to refer to</p>

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<p>245</p> <p>1 the bundle page that's in the bottom -- page number</p> <p>2 that's in the bottom righthand part of the document.</p> <p>3 Turn to page 156.</p> <p>4 Just so it's in the record, this</p> <p>5 examination occurred in October of last year. Is that</p> <p>6 correct? It should be on the first page of the --</p> <p>7 A. Yes.</p> <p>8 Q. And you've already established -- you</p> <p>9 already mentioned his name but just, again, to be</p> <p>10 clear on the record, who was Albert Collette?</p> <p>11 A. Albert Collette was one of the partners of</p> <p>12 Calibria, which was an asset management firm in Geneva</p> <p>13 that was, sort of, friendly competitors of Partners</p> <p>14 Advisers.</p> <p>15 Q. And after, since you've read this</p> <p>16 document, you're aware that Mr. Collette gave this</p> <p>17 testimony pursuant to a discovery request from the US</p> <p>18 Bankruptcy Court presiding over this litigation</p> <p>19 between Mr. Picard and Square One Fund?</p> <p>20 A. That was my understanding, yes.</p> <p>21 Q. Similar to the procedure that we have here</p> <p>22 today?</p> <p>23 A. Yes.</p> <p>24 Q. And you understand that this examination</p> <p>25 took place in Switzerland?</p>	<p>247</p> <p>1 The presiding judge said:</p> <p>2 "... 'I promise.'"</p> <p>3 Mr. Collette responded:</p> <p>4 "I promise to tell the truth, the whole</p> <p>5 truth and nothing but the truth."</p> <p>6 Do you see that?</p> <p>7 A. Yes.</p> <p>8 Q. So you're aware that similar to your</p> <p>9 examination today, Mr. Collette was summoned and asked</p> <p>10 to provide testimony, you know, with the understanding</p> <p>11 that he would swear to tell the truth, the whole truth</p> <p>12 and nothing but the truth. Correct?</p> <p>13 A. Yes.</p> <p>14 Q. If you go to page 159, lines 9 and 10,</p> <p>15 this exchange references a meeting. Mr. Collette is</p> <p>16 being asked about a meeting between himself and</p> <p>17 yourself in or around 2003 in a conference in Miami,</p> <p>18 Florida.</p> <p>19 A. Yes.</p> <p>20 Q. Do you see that?</p> <p>21 A. I can see that, yes.</p> <p>22 Q. Do you have any recollection of this</p> <p>23 meeting?</p> <p>24 A. No. No. Conferences were busy events</p> <p>25 where we would typically meet lots of people, so</p>
<p>246</p> <p>1 A. Yes.</p> <p>2 Q. If you look at the top of the page, it</p> <p>3 says "Nyon, Switzerland."</p> <p>4 A. Yes.</p> <p>5 Q. That's near Geneva?</p> <p>6 A. Yeah. That's where I grew up, actually.</p> <p>7 Q. Nice.</p> <p>8 And this is a transcript that -- of the</p> <p>9 formal court transcript of that proceeding, correct?</p> <p>10 A. Yes.</p> <p>11 Q. And, again, it's an English-language</p> <p>12 translation. The original's in French.</p> <p>13 A. Mmm-hmm.</p> <p>14 Q. You understand that?</p> <p>15 A. Yes.</p> <p>16 Q. If you look at this page 156, at the very</p> <p>17 bottom, the presiding judge, I'm going to read this</p> <p>18 question into the record:</p> <p>19 "So, I am going to ask you to swear or</p> <p>20 solemnly promise that the testimony you are about to</p> <p>21 give shall be the truth, the whole truth and nothing</p> <p>22 but the truth."</p> <p>23 I'm now turning the page to page 157.</p> <p>24 Mr. Collette responds with:</p> <p>25 "Yes, yes, OK."</p>	<p>248</p> <p>1 I don't remember that encounter specifically.</p> <p>2 Q. But you said earlier on the record that --</p> <p>3 A. I have no -- yeah, I mean, I have no</p> <p>4 reason to doubt that this happened.</p> <p>5 Q. Okay. So what I'm going to do now is,</p> <p>6 just quickly, we'll go through some relevant passages</p> <p>7 in this transcript.</p> <p>8 A. Sure.</p> <p>9 Q. And you can just give me your impression</p> <p>10 of whether that comports with what you understand,</p> <p>11 sitting here today.</p> <p>12 A. Sure.</p> <p>13 Q. Looking at lines 19 through 22,</p> <p>14 Mr. Collette recalls that at some point during that</p> <p>15 conference that he came to understand that you had</p> <p>16 reasons to doubt Madoff, and that's -- those are his</p> <p>17 words.</p> <p>18 Do you see that?</p> <p>19 A. Yes.</p> <p>20 Q. Does that comport with your understanding?</p> <p>21 A. Is your question did I say that or --</p> <p>22 Q. Yeah, I'm sorry, let me strike that. Let</p> <p>23 me try again.</p> <p>24 Is his characterization of your opinion</p> <p>25 with respect to BLMIS and Madoff accurate?</p>

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<p style="text-align: right;">249</p> <p>1 A. Well, I -- it's a bit vague, right, "doubt 2 Madoff," but I did definitely -- I did definitely not 3 like that investment, yes. 4 Q. And you -- turns out that you proved to be 5 correct in your hunch, correct? 6 A. Yes, although I wasn't suspecting -- and 7 that's something else that Mr. Collette said; I wasn't 8 suspecting any Ponzi scheme, but I -- I was -- I mean, 9 I couldn't explain the returns and so it was something 10 that I just didn't want to deal with. 11 Q. All right. But at the time, it wasn't -- 12 when you were looking at Madoff in the early 2000s, it 13 wasn't your job to get to the bottom of what Madoff 14 was doing, correct? 15 A. No, because we didn't have a position 16 actually in our portfolios. 17 Q. Your job was to simply assess whether or 18 not it made sense for this investment to be added to 19 the portfolio? 20 A. Yes. I have a -- I have an investment 21 philosophy to this day which is to find reasons not to 22 invest in things rather than finding reasons to invest 23 in things. And so that immediately sort of fell into 24 the "I don't understand it. I won't do it." 25 Q. Going to turn now to lines 30 to 37 on</p>	<p style="text-align: right;">251</p> <p>1 sort of have-nots camp, so that's not something -- 2 that's not a pressure I felt, really. 3 Q. What about his allusion to the idea that 4 managers in Geneva believed that if you invested with 5 Madoff, it's as if you -- it's akin to doping in the 6 Tour de France? 7 A. Yeah, it's a good analogy, I guess, but 8 obviously, I mean, the returns were what they were, 9 right, and I think ultimately -- ultimately, people 10 felt like they needed that position in their portfolio 11 in order to boost their returns. 12 The one thing I would mention, though, 13 is the returns weren't that -- I mean, they were 14 extremely consistent but they weren't that incredible 15 in the sense that our own portfolios had a return 16 target of, like, 10 to 12 percent, and so adding a 17 position in Madoff in that portfolio didn't actually 18 add any value because once you take out the fees that 19 we were charging you would get something that was also 20 10 percent. So it wasn't actually sort of boosting 21 your returns, it was basically just generating your 22 return target. 23 And so that's maybe one of the reasons why 24 I didn't feel under pressure to add it in our 25 portfolio, or, you know -- yeah.</p>
<p style="text-align: right;">250</p> <p>1 that same page. 2 A. Yes. 3 Q. I'll give you a chance to read it and I'll 4 ask you a question about it. So let me know when 5 you're ready. 6 A. Yeah. I've read that part, so I'm ready, 7 actually. 8 Q. Okay. You mentioned to me earlier on the 9 record that there was this -- there was talk about 10 Madoff in Geneva, and I think he's referencing some of 11 those opinions that -- 12 A. Mmm-hmm. 13 Q. -- in this passage. 14 Do you share -- or, sitting here today, 15 does this comport with what your understanding was of 16 that time, of being in Geneva at that time and being 17 an investor manager specifically vetting Madoff at 18 that time? 19 A. Yeah, I mean I -- this paragraph, and in 20 general, Mr. Collette's testimony seems to imply that 21 he was under tremendous pressure himself, or Calabria 22 as a firm, to add Madoff to their portfolio. I never 23 felt that way. I never felt under pressure or I never 24 sort of felt like we should have it in our portfolio 25 because otherwise we would sort of be in the have-not,</p>	<p style="text-align: right;">252</p> <p>1 Q. If you look at page 160, lines 19 through 2 28. Again, I'll give you a chance to review that 3 paragraph, then I'll ask you a question. 4 A. Mmm-hmm. 5 Yes. 6 Q. Do you see that line, the concluding line 7 in that paragraph -- 8 A. Yes. 9 Q. -- which I'm going to read into the 10 record? It says: 11 "You couldn't talk about Madoff without 12 talking about the risks that were associated with 13 Madoff." 14 Do you see that? 15 A. Yes. 16 Q. Does that comport with your recollection 17 of that time period? 18 A. It does, although I would also, sort of, 19 have a slightly different view to Mr. Collette's when 20 it came to Madoff in Geneva. I was, at that time, the 21 head of research of a firm that had something like 50 22 to 70 investments, active investments, in the 23 portfolio. I would very rarely talk about Madoff with 24 people because it was not in my portfolio and I didn't 25 have much interest in it. So when people brought it</p>