Court File No. CV-17-11779-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

RD/am

B E T W E E N:

ONTARIO SECURITIES COMMISSION

Applicant

- and -

CRYSTAL WEALTH MANAGEMENT SYSTEM LIMITED, CLAYTON SMITH, CLJ EVEREST LTD., 1150752 ONTARIO LIMITED, CRYSTAL WEALTH MEDIA STRATEGY, CRYSTAL WEALTH MORTGAGE STRATEGY, CRYSTAL ENLIGHTENED RESOURCE & PRECIOUS METALS FUND, CRYSTAL WEALTH MEDICAL STRATEGY, CRYSTAL WEALTH ENLIGHTENED FACTORING STRATEGY, ACM GROWTH FUND, ACM INCOME FUND, CRYSTAL WEALTH HIGH YIELD MORTGAGE STRATEGY, CRYSTAL WEALTH BULLION FUND, ABSOLUTE SUSTAINABLE DIVIDEND FUND, ABSOLUTE SUSTAINABLE PROPERTY FUND, CRYSTAL WEALTH ENLIGHTENED HEDGE FUND, CRYSTAL WEALTH CONSCIOUS CAPITAL STRATEGY, CRYSTAL WEALTH RETIREMENT ONE FUND and CHRYSALIS YOGA INC.

Respondents

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This is the Examination out of Court of CLAYTON SMITH, taken at the offices of VICTORY VERBATIM REPORTING SERVICES, Suite 900, Ernst & Young Tower, 222 Bay Street, Toronto, Ontario, on the 25th day of January, 2018.

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APPEARANCES:

MARK van ZANDVOORT STEVEN L. GRAFF	-- for Grant Thornton Limited in its capacity as Court-Appointed Receiver of the Crystal Wealth Group

ALSO PRESENT:

Bruce S. Bando

INDEX OF PROCEEDINGS

--- upon convening at 10:00 a.m.
--- upon commencing at 10:10 a.m.

CLAYTON SMITH, affirmed
EXAMINATION BY MR. van ZANDVOORT:
1. Q. Good morning, Mr. Smith. Can you state your full name for the record, please?
A. Clayton Edward Smith.
2. Q. Okay. And your date of birth?
A. 26 November, 1966.
3. Q. Okay. And where do you currently reside?
A. 2308 Silverwood Court, Oakville, Ontario.
4. Q. Is that a house?
A. It is.
5. Q. Do you own it?
A. I do not.
6. Q. Who does?
A. John Wong, I believe his name is.
7. Q. Do you have any personal ties with John Wong, or is this a third...
A. He is a third party. I am renting his house.
8. Q. Okay. And are you living in the

house with anyone?

A. Yes, my fiancee.

9. Q. And who is that?

A. Jillian Van Osch, our child, Annika, and two of my other children part-time.

10. Q. And Ms. Van Osch is the same individual who worked as your executive assistant at Crystal Wealth?

A. Correct.

11. Q. And, sorry, you said your child...and there was one other?

A. So, we have one child together that is with us 100 percent of the time. I have two other children, Jaxen and Lacey, that reside with us one week on, one week off.

12. Q. And that is your children with Lee-Ann Smith?

A. Correct.

13. Q. And who is paying for the rent at the house?

A. Jill, predominantly.

14. Q. Are you currently working?

A. I am working part-time with my brother, doing roofing.

15. Q. For what company?

A. I believe his company's name is Micasa Home Improvements.

16. Q. Can you spell that?

A. M-I-C-A-S-A. And I am not sure the...I think it is Home Improvements, but I am not sure of the sub.

17. Q. Do they operate from a business address?

A. I don't think so. I think he just runs it out of his house, and we work at different job sites.

18. Q. Sure. And his house is located at what address?

A. I don't know his address.

19. Q. I was asking where the brother's house address is. Do you know?

A. I know it is in Pickering. I don't know the exact address.

20. Q. Would you undertake to send me an e-mail giving me the address...

A. Of course.

21. Q. ...within the next week?

A. Yes. U/T

22. Q. Does he just pay you cash?

A. He pays me by cheque or cash.

23. Q. And do you deposit the cash into a bank account?

A. I usually use it to help the rent or buy groceries. I don't have a bank account, currently.

24. Q. So, whose bank account does it go into?

A. If it gets deposited, it would go into Jillian Van Osch's.

25. Q. Okay. The cheque I gave you for the attendance money today, would that be deposited to Jillian Van Osch's account?

A. Either that or cash it at a...you know, one of those cheque cashing places.

26. Q. And how long have you had a personal relationship with Ms. Van Osch? And by personal, I mean an intimate relationship.

A. About two years.

27. Q. And for the two years that you have had that relationship with Ms. Van Osch, can you give us copies of her bank statements for the account you are referencing?

A. I guess if I was ordered to by the court, sure.

28. Q. Okay. But I am asking, would you

voluntarily produce those to us by way of undertaking?

A. I guess I would ask what the purpose of that would be.

29. Q. Well, we just want to see the full extent. That has been the bank account since the Receiver's appointment that you have been using, to the extent you deposit monies from employment or otherwise?

A. I haven't really been using a bank account, so...

30. Q. To the extent you deposit your cheques from the roofing company into a bank account, you would use hers?

A. Correct.

31. Q. So, again, I would just ask for the last two years, if you could produce account statements for that account.

A. Again, if I was ordered to by a court, I would, yes. /R

32. Q. Okay. So, you are refusing, subject...unless ordered by the Court?

A. I guess I don't see the point of it, so I would have to understand better what the purpose of that would be. I don't see that Ms. Van

Osch has any connection with the actions being taken against me.

33. Q. And what bank is it with?

A. TD.

34. Q. At what branch?

A. I am not sure which her home branch is.

35. Q. In Oakville?

A. Well, that is where we do our banking now, because that is where we live, but I don't know her account when her account was established.

36. Q. Okay. Would you undertake, at a minimum, to advise me of the branch that her bank account is based out of?

A. Sure. U/T

37. Q. Within seven days again?

A. Sure.

MR. GRAFF: Sorry, can I interrupt you? Do you want to take notes of any of that?

THE DEPONENT: Will you be following up with an e-mail of any sort?

38. MR. van ZANDVOORT: Yes, we can send you an e-mail, but it is probably a good idea if you want to write them down, as well, so

that way there is no delay.

--- DISCUSSION OFF THE RECORD

BY MR. van ZANDVOORT:

39. Q. What level of education do you have?
A. University.
40. Q. Okay. From where?
A. Royal Military College.
41. Q. Okay. And what did you obtain?
A. Bachelor of Arts in History.
42. Q. And what other certifications and trainings do you have?
A. I have done Chartered Financial Analyst, Level 1, Chartered Alternative Investment Analyst. I have done some securities courses, Chartered Financial Planner Program. That is about it.
43. Q. Okay. The OMs for each of the funds said you had a broad background in investment and financing experience. Prior to Crystal Wealth in 1998, do you have any other experience?
A. I joined the financial industry in 1994.
44. Q. In what capacity?

A. As a financial planner, licensed stockbroker, I guess.

45. Q. With who?

A. Financial Concept Group.

46. Q. Based out of?

A. Burlington.

47. Q. And after that?

A. I left there in January 1996, I believe, and joined FUNDex Investments.

48. Q. And where was that based?

A. Our office was in Grimsby.

49. Q. Okay. And after that?

A. Crystal Wealth.

50. Q. Okay. And what was your...what did you do at Financial Concept Group and FUNDex? What was your...

A. Financial planning. I dealt with individual clients, helping them with their financial plans and advising on investments.

51. Q. But you weren't actually engaging in trades on behalf of clients at that time?

A. Correct.

52. Q. Did you have the ability...were you just giving financial planning advice, or if a client wanted to execute a trade, could you do that

or no?

A. When I was at Financial Concept Group, yes, for stocks, bonds, mutual funds. At FUNDex, we were strictly licensed as...I was strictly licensed as a mutual fund salesperson.

53. Q. And explain to me the circumstances that resulted in you beginning Crystal Wealth in 1998.

A. I developed a market timing system to move in and out of Canadian and U.S. equity markets, based on a technical trading system I developed. And we created Crystal Wealth in order to be able to manage client money using that system.

54. Q. And when you say "we created Crystal Wealth", were others involved in that initiative to start the company?

A. I had a business partner at the time, John Moir.

55. Q. Okay. And anybody else involved at the inception of Crystal Wealth?

A. No.

56. Q. And what was the shareholding split?

A. 50/50.

57. Q. And when did the split change?

A. In 2003, I believe. In 2004.

58. Q. And what happened in 2003 or 2004 that caused the change?
A. My holding company bought the shares of his holding company that owned 50 percent of Crystal Wealth.
59. Q. Which holding company of yours, 115 or CLJ?
A. No, 115 was the company that CLJ Everest owned 50 percent of, and his company, Sarbro Inc., owned 50 percent of, then 115 owned 100 percent of Crystal Wealth. So, CLJ Everest Limited bought the shares of 115 from Sarbro.
60. Q. Can you spell Sarbro?
A. S-A-R-B-R-O.
61. Q. And at that time, did Moir exit the company?
A. Yes.
62. Q. And why was that?
A. Our system...the original Crystal system had stopped working, the markets had changed. So, we didn't have...we weren't managing very much money. There weren't many assets in the company to manage, and I wanted to go in a different direction, and he wanted to go in a different direction, so...
63. Q. Okay. And from 1998 until Moir

exited in 2003 or 2004, what was the business of Crystal Wealth?

A. Managing two prospectus-based mutual funds.

64. Q. Which funds were those?

A. Crystal Balanced Momentum Fund and Crystal Wealth Protection Fund, maybe. I can't remember the exact names.

65. Q. Can you undertake, again, within seven days, just to send an e-mail that says what the exact names were?

A. If I can find them. I don't have records of it at that point, so...I will do a Google search. U/T

66. Q. And were those proprietary funds created by Crystal Wealth?

A. Yes.

67. Q. And did you otherwise manage accounts for discretionary clients during that time, other than investments in those two funds? In other words, was Crystal Wealth only managing...

A. I understand the question. I am just trying to remember back. I can't recall. I believe we had some clients that had some other investments, but the majority of our client assets would have been in either of those two Crystal funds.

68. Q. Give me a ballpark. How many clients would have been invested?

A. I don't know, Mark. I honestly can't remember that far back.

69. Q. What about...how many assets under management would the two funds have had?

A. I believe, at its peak, 65 million.

70. Q. And what were the funds invested in?

A. We were actively trading S&P 500 Futures contracts. So, the money was either invested in...well, the money was kept in cash, and then we either had exposure to the American market through S&P 500 Futures contracts, or we were 100 percent cash, or money markets...

71. Q. So, no "off-book investments", as that phrase is being used in this receivership?

A. Correct.

72. Q. So, after...and was anybody else involved between 1998 and 2004?

A. Well, Gary Allen was involved from the inception of Crystal Wealth as the chief compliance officer under whom I apprenticed to get my licensing on the portfolio management side. And

I believe he remained licensed with us until 2005 or 2006, I think, or 2007. He was also a minority owner of Crystal Wealth.

73. Q. Okay. So, what was the business direction you wanted to take the company after Moir exited in 2004?

A. We started creating, at that point, mutual funds in the non-prospectus world, offering memorandum mutual funds.

74. Q. Okay. Now, of the 15 mutual funds in this present proceeding, the earliest one created was 2007?

A. Correct.

75. Q. Okay. So, what was created between...was there something created between 2004 and 2007?

A. Yes, we created...I think it was five other funds, and in 2007, we...at that point, we were working with another company who was the promoter of the funds called Advisor Asset Management Group. In 2007, we ended that relationship, and they acquired several of those funds. And I don't think any of the funds crossed over. So, I think, at that point, we wound down funds that we had, and started our new batch of funds which would have been the Mortgage Funds in 2007.

76. Q. Okay. Can I have an undertaking, as well, for the names of the five funds created between 2004 and 2007?

A. I will try, yes. U/T

77. Q. And, again, all the undertakings are requested within seven days. You understand that?

A. I do understand that, yes.

78. Q. Okay. And getting to the point in 2007 when the Mortgage Fund is created, who is involved with Crystal Wealth at that time, either in addition to yourself or as an advising representative?

A. Scott Whale. I don't think he was an advising representative yet, at that point, but he was working with me. Gary Allen was still a minority owner, but was not working within the business on a day-to-day basis. And I believe we had...we would have had maybe a receptionist or something at that point. I don't believe there were any other advising reps.

79. Q. So, walk me through...whose initiative was it to create the Mortgage Fund, and moving forward chronologically from there, you know,

how did the other funds come to be created, and what led to that process?

A. Well, we were already managing a mortgage fund. One of the funds we are managing that we launched in 2005 was the Peer Diversified Mortgage Fund. So, we already had the relationship set up with Spectrum, I believe, and we, I guess, wanted to continue managing funds within that space. So, that is why I created the Mortgage Fund we currently had. And then from there, I can't recall the exact order of which funds were created, but...

80. Q. Well, I can help you. April was the Mortgage Fund. 2009, the Resource and Precious Metals Fund is created.

A. Okay.

81. Q. And explain to me, you know, who was involved, whose idea was it to start it?

A. Well, I believe...well, the Resource and Precious Metals Fund was the idea of Al Housego. He had joined Crystal Wealth at that point, or was...I believe he already joined us as an advising representative, or associated advising representative. I can't recall what his licensing was originally. And I believe we launched the Enlightened Resource Precious Metals Fund and

Crystal Enlightened Growth Fund, and Crystal Enlightened Income Fund at that point.

82. Q. How did you come to be connected with Al Housego?

A. I believe I was introduced to him through this other company, Advisor Asset Management Group, that were promoting the original batch of funds from 2004 through 2007, with the idea to, at that point, create a mutual fund. I think Al was licensed with IPC Securities at the time. I think the intention was to create a fund...I don't know, I can't remember if Al was going to move over and join Advisor Asset Management Group, or was going to join us, or we were just going to create the fund and stay licensed at IPC. And then I think somewhere along the line, that conversation turned into him leaving IPC and joining Crystal Wealth.

83. Q. And that was in 2009?

A. I believe so. I don't remember exactly what year.

84. Q. Okay. So, when the Resource and Precious Metals Fund was created in 2009, who would be involved in planning out the investment objectives for the fund, drafting the OM?

A. Myself and Al, and Scott Whale may

have had some involvement at that point, I can't recall.

85. Q. In 2009, was anyone else involved in the company, aside from admin staff, in any way? You said Scott Whale, Gary Allen, yourself, Al Housego?

A. I think that was it.

86. Q. Okay. And in 2010, the Enlightened Income Fund, now The Factoring Fund was created. Again, whose decision-making process was that? Yours and Al's?

A. Yes.

87. Q. And would Al...was he living in B.C. at the time?

A. Yes.

88. Q. So, how would you and Al communicate?

A. Mostly by phone or e-mail. I would have travelled out to see him several times, but I can't recall how many times and what years, but typically twice or three times a year, I would travel to B.C.

89. Q. Okay. And when you travelled to B.C., where did you meet him?

A. Typically his office.

90. Q. And beyond your working relationship at Crystal Wealth, do you and Al Housego, you know...would you say you maintained contact, even still after the Receiver's appointment?

A. No, I haven't spoken to Al since probably shortly after the receivership was...

91. Q. Have you communicated with him otherwise?

A. No.

92. Q. Since the Receiver's appointment?

A. I have not.

93. Q. Okay. So, it looks like just, again, looking at the chronology, the 2010 Factoring Fund is created, as well as the Medical Fund. And whose idea was the Medical Fund?

A. We were approached by a group of people that had managed a similar fund in either the Bahamas or Barbados, who were originally Canadians, I think, and they closed that fund. They approached us about possibly creating a fund similar to that for Canadian investors. I am trying to remember their names. I don't remember their names off the top of my head. And through them, I was introduced to Alejandro at Xynergy Medical Capital in Florida.

94. Q. Have you had any type of personal

relationship outside of Crystal Wealth with Al Housego?

A. No.

95. Q. Do you know where he invests his money?

A. I do not.

96. Q. So, just moving forward, there was the Medical Fund in 2010. 2011, you start the Media Fund. What led to the, you know, beginning of the Media Fund?

A. I was approached in 2009, I believe it was, by a financial planner that was licensed with another company in Burlington. I can't recall...

97. Q. Who is that?

A. I am trying to remember his name now. It may come to me. I can't recall right off the top of my head what his name was at the time.

98. Q. To the extent you don't remember today, you can let me know?

A. If I can remember it, yes. I met with him. He brought the idea of creating a media fund. I met with him in his office in Burlington at the time. I think we had one or two meetings in 2009, and then I didn't hear from them until, I think, about a year later, at which time I had a meeting again with him and Dave Bodanis, who I understood at the time was associated with Media House Capital.

Well, I spent another year, I guess, doing due diligence on that market, trying to understand the film investing market, working with lawyers at Borden Ladner Gervais on the film financing side. And we created the fund...I think it was September 2011.

99. Q. You said David Bodanis was affiliated with Media House?

A. Yes.

100. Q. Was he also working for Crystal Wealth at any point?

A. He was later on, yes, in 2000-and...I can't remember if it was 2014.

101. Q. So, maybe just while we are on the topic, so explain to me, what was Bodanis' role at Media House, and how did that transfer into a role at Crystal Wealth?

A. I don't know what his original role at Media House was. As I understood at the time, I thought he was part owner, a minority owner. He may have been on the books as chief financial officer, but I don't know if that is necessarily the case. So, he was a gentleman that I met in Burlington as the face of Media House Capital at the time.

Once we launched the fund in 2011, he was active trying to get...I guess on a wholesaling level, I would say, trying to get appointments for us to meet with advisors to get them interested in putting their clients' money into the Media Fund. And then in 2000-and...like I said, I think it was 2014 or 2015, I brought him on-board himself and Jennifer Pinto, I believe her name was, at the time.

102. Q. What is it now?

A. She got married. I can't remember her last name now...to, again, be out wholesaling all Crystal Wealth funds at that point. So, when he was working for Media House Capital, they were just really wholesaling when you are trying to get meetings to discuss the Media Fund. When I brought them into Crystal Wealth, their job was to try and get meetings or conversations with third party financial advisors to discuss all of our Crystal Wealth funds.

103. Q. To get them to have their clients invest in the funds?

A. Correct.

104. Q. So, did Bodanis and Pinto essentially become your, you know...the two individuals who really pounded the pavement to raise funds from investors for the Crystal Wealth funds? Is that fair to say?

A. Yes, that is fair to say. I mean, our growth model at the time was to try and attract advisors, such as Al Housego, Dale Wells. I mean that was how we grew Crystal Wealth, I guess, from 2007 onwards, was to try and attract advisors over to move their whole book of business over to Crystal Wealth. So, that was really where my efforts were focused on. What you just said is accurate, that Dave Bodanis and Jennifer Pinto their job was to pound the pavement to try and get us appointments with third party advisors, trying to grow the funds.

And then in 2016, I believe it was, I hired a third party wholesaling firm to, I guess, take over that role.

105. Q. And who is that?

A. I am sorry, it will come to me. I will undertake
to try and find it for you. U/T

106. Q. And their contact information. Okay, and at what point did you come to meet other

representatives of MHC?

A. I believe it would have been in 2010. Prior to starting the fund, I would have met Aaron Gilbert and other, I guess, members of the team at that point.

107. Q. Who were the other members?

A. I don't remember. It would have been, I think, Margot Hand.

108. Q. And what was Margot's role?

A. I didn't really understand what her role was. I think business development of some sort. Aaron and Dave were the key people that I was interacting with. I believe I met...

109. Q. Steven?

A. I don't believe Steven was involved at that point.

110. Q. When did Steven get involved?

A. I don't recall the exact year. I believe it was after we launched the fund, though. I may have met Pat Murray at the time, who I think was on the board of directors, and I may have met Adam Davids, their legal counsel. I can't recall exactly when...I remember meeting them face to face, but I can't recall if it was before we launched the fund or after.

111. Q. Okay. And with respect to the Media Fund in particular, who at Crystal Wealth was responsible for the decisions to invest on behalf of the fund?

A. I was.

112. Q. Anybody else?

A. No.

113. Q. Do you know why MHC changed its name to BRON Capital Partners, during their relationship?

A. As I understood it, they had a sister company, if you will, called BRON Productions, that was in existence...I believe it was in existence prior to was launching the fund. And, as I understood it, they just wanted to...not streamline, but I guess rebrand in order to have the same name for both companies, the branding. I think it was a branding decision, as it was presented to me.

114. Q. And when the Media Fund invested in these film loans...and you understand what I mean by that, correct?

A. Yes.

115. Q. Did you...what did you understand regarding Aaron Gilbert and Steven Thibault's role in the underlying films? Did you know that they

were associated with the films?

A. I knew they were associated with some of the films, yes. Not all of them. A couple of the investments that we made were in BRON Productions films...

116. Q. Which films were those?

A. I don't recall off the top of my head.

117. Q. Henchmen, Hunters of the Stars, Mercy, Kingdom, Mighty Monsters?

A. Those five for sure.

118. Q. Are there others?

A. I believe so, but, again, I can't remember. I think Foreverland may have been one, and...but I don't recall which were and which weren't.

119. Q. And we have seen the agreements entered into by Crystal Wealth and Media House, but explain to me how it practically worked out. How did you deal with MHC to make decisions concerning purchasing these film loans, and what level of due diligence was provided with respect to them?

A. I explained all this to the OSC when they also investigated or interrogated me. So, Media House Capital would present to me certain projects in which to invest. Along with that would be whether it was verbal or oral...sorry, verbal or written certification, that due diligence guidelines had been met, that we had established when we created the fund, which I believe were attached to the administration agreement or one of the agreements that we signed with Media House Capital. I generally would have a conversation with Aaron Gilbert regarding the merits of that particular investment over others that may be available, and then I would make the decision whether or not to invest in that project.

120. Q. And the most recent film loan purchased by the Media Fund was in January 2015?

A. That sounds right.

121. Q. Childhood of a Leader?

A. That sounds right, yes.

122. Q. Did any other funds purchase film loans, or was it just the Media Fund?

A. The Mortgage Fund had purchased a couple over the period 2010 to 2015, I believe.

123. Q. Why would the Mortgage Fund be purchasing film loans?

A. There were a couple of occasions where the Mortgage Fund had excess cash that we could not get invested. Certain projects became available that looked attractive for the Media Fund. Part of the Mortgage Fund's mandate is to invest in other income-generating type of investments. So, the intention was to invest in a film loan through the Mortgage Fund, and at a later date, when the Media Fund had cash available to acquire that loan from the Mortgage Fund.

124. Q. Okay. And were the film loans purchased by the Mortgage Fund repaid or ever transferred to the Media Fund?

A. I believe they were. All of them were, yes. I think there were three that we did in that respect.

125. Q. They were repaid or they were transferred?

A. They were purchased by the Media Fund.

126. Q. Okay. And which loans are those?

A. I don't remember their names now.

127. Q. Can you undertake to let me know?

A. I will try and find them again. I don't have any of my records from Crystal Wealth, but it would all be in there. U/T

128. Q. And in 2015, you projected that the

receipts from the film loans would be $31.8 million, correct?

A. If that is what is in the record, sure.

129. Q. Do you recall there being approximately a $25 million shortfall in your projections for film loan receipts in 2015 versus what was realized?

A. I remember it being lower. I don't remember the exact numbers.

130. Q. And what procedures would you follow when determined whether to accrue a loan loss provision...or accrue a loss provision with respect to a film loan?

A. Well, from the start...well, not the exact start, but near the start of the fund, we started accruing a...one of the schedules I provided to the OSC has the exact breakdown, but I think it was a 1 or 2 percent loan loss provision. And I would occasionally adjust that as...as time went on and film loans weren't being repaid on the schedule that I understood they would be, I believe I increased that.

When...most of the film loans we did at 18 months had an interest acceleration. So, the rate would jump, typically, from 13 to 17 or 18 percent. So, I believe as more of the film loans came into that accelerated interest, I would...I think I increased the loan loss provision up to...I can't remember. I adjusted it a few times, 3 or 4 percent, maybe 5 percent of the assets. Yes, so it was not a scientific thing, because, again, we had no experience of losses. We had no experience of realized losses, so I was trying to guesstimate if you will what potentially might be losses, and trying to accrue a loan loss provision that would cover any potential losses.

131. Q. So, help me understand this. So, you have a shortfall of $25.2 million in film loan receipts in 2015 versus what you projected. But then you are able to sell over $31 million in units of the Media Fund in 2016. How are you able to raise that amount of money for the Media Fund, despite the poor performance of the loan?

A. I mean, I can't answer you. I wasn't the one that made the decision, I guess, for most of those investors to put their money into the fund.

132. Q. Who made those decisions?

A. It would be the financial advisors

who represented those clients, or the clients themselves.

133. Q. Okay.

A. And those...the projections that were made, I think it started...well, most of the projections were based on information I would be receiving from Media House, and I think just because the receipts weren't made during that time frame, in my mind certainly didn't indicate we wouldn't get the receipts. It just indicated that there were slower sales in certain territories for those film loans.

134. Q. Other than getting spreadsheets from Media House or e-mail updates, did you ever get any underlying source documentation from Media House concerning the actual performance of these films out in the marketplace?

A. Such as?

135. Q. Reporting from sales agents, distributors, the underlying production companies themselves. I mean, Media House was supposed to give you monthly reporting...

A. Right.

136. Q. ...so you could evaluate the performance of these film loans. What was given to

you, aside from the spreadsheets and e-mail updates?
A. I think...not a lot. And, so, in 2016, I believe it was, I started getting more involved directly with the underlying production companies, or the sales agents, anyway, to try and gather information direct from them as opposed to relying on Media House.
137. Q. You mean with respect to the audit efforts for the 2016 year?
A. Even prior to the audit, it was, I think, June or July of 2016 that...again, I was, at that point, becoming extremely nervous about...
138. Q. Sure.
A. ...the fact that the payments weren't coming in as projected by Media House. I was becoming, I guess, less confident about the information I was getting from Media House as to the underlying performance of those movie loans. So, I started establishing relationships, at that point, directly with the sales companies that represented the various film productions, to try and get feedback from them on exactly what territories were still outstanding, and what the estimation of sales would be on those.
I think it was late 2016, as well, that I

engaged an independent consultant, Paco Alvarez. He and I travelled to the American Film Market in Santa Monica in late 2016. I met directly with a lot of the sales agents that represented our films.

And also, at that point...at some point during that six-month period, late 2016, gained access to the collection account manager accounts, Fintage and Freeway, so I could go in and verify the information I was getting from Media House, as well.

139. Q. Let me ask you this: why were monies flowing from the Media Fund to MHC to purchase these film loans? We can agree...we know they weren't being used to purchase film loans. Fair?

A. No, that is not fair.

140. Q. Why would money...like, you have seen the evidence that was relied on in supporting the Receiver, monies flowing to MHC from the Media Fund, and on the same day flowing to you and used by your companies to purchase the Mount Nemo property or to fund the yoga studio, or to go into the joint bank account of your...you know, Lee-Ann Smith and yourself. Why was that occurring?

A. Those were separate transactions. So, I was taking personal loans from either Aaron Gilbert or Aaron Gilbert's companies. Separate from that, the Media Fund was investing in film production loans.

141. Q. Okay. I need to understand the full particulars of this personal loan structure that you say...I mean, you have seen the records, the same way I have. So, you are saying that despite the fact that the Media Fund transferred significant amounts of money, and in the same day or the next day, you then received the money back from MHC or BRON, you are saying that those two transactions are entirely unrelated?

A. Correct.

142. Q. And explain to me the full particulars of the personal loans, what the terms were, what the repayment terms were, so I understand fully what the terms of those loans are.

A. We didn't have specific terms, as far as repayment times or time frames or payment terms. It was pretty loose.

143. Q. I want to use an example. The Henchman film. You received $329,000 into your TD account, do you remember that?

A. I don't remember specifically.

144. Q. Okay. That was in February of 2014, and at that point in time, you send an e-mail on

February 23rd, 2014 to Margon Hand copying Steven Thibault at Media House. And you say:

"...Could you get Adam to prepare paperwork similar to the other loans, but in such a form that allows for multiple advances, as we have moved money on several occasions for Henchmen..."

So, that is 2014 February. Money has already flowed from the Media Fund to MHC. It has already flowed back to you, and the result is film loan agreements are then created, dated October 2013 retroactively for Henchmen, so you can provide it to the auditor. Is that not accurate?

A. I think that e-mail that I sent, actually, was in error, because I believe the documents already did exist, because I think Margot's response...I am not sure if it is in there or not, was that the documents were already there. So, I think there was just confusion on my part. But, again, I don't have the records in front of me.

145. Q. So, just going back to the terms of the personal loans, you said there is no specific terms for repayment, they were pretty loose. Were they only discussed with...were the terms only discussed with Aaron Gilbert?

A. Yes.

146. Q. Okay. Explain to me the context as to how you go about asking for the loans, why you ask for them, why you would think a third party who does business with Crystal Wealth would never agree to lend you such significant sums of money without repayment terms or security?

A. I think I just...the conversation was me asking Aaron if I could borrow some money from him, for either to fund Crystal sales growth to help or fund Crystal Wealth or for other personal matters. And as to why he chose to do so, you would have to ask him. I don't know what his motivation was. I can't speak to his motivation.

MR. GRAFF: Really? Is that true?

THE DEPONENT: Is what true?

147. MR. GRAFF: That you borrowed money for BRON, and there were no terms associated with it.

THE DEPONENT: Correct.

MR. GRAFF: And they just agreed to lend you money without any paper?

THE DEPONENT: Yes.

MR. GRAFF: All at a time when you were concerned about the performance of the

Media House investments and the BRON investments?

MR. GRAFF: I don't think at that point I was concerned about the performance. That was earlier on, before...I became more concerned starting in late 2015, 2016. But as to the fact that there was no paper and there were no terms, that is accurate, and there was conversations between Aaron and I. It is true that I can't speak to his motivation...

MR. GRAFF: Have you paid back the money?

THE DEPONENT: I have not, no.

MR. GRAFF: Is he all over you to pay back the money?

THE DEPONENT: Well, I think he is aware now that the odds of being repaid are slim to nil, since all my stuff was seized.

BY MR. van ZANDVOORT:

148. Q. So, did you ever receive money back from BRON or MHC or Aaron, other than for personal loans?

A. No.

149. Q. For no other purpose? You were never paid, you never were engaged by them to provide a service or receive...

A. No.

150. Q. Okay. So, when you say the...so, MHC and BRON, they give you the money to buy the Mount Nemo property, correct?

A. Yes, I borrowed the money from them.

MR. GRAFF: Did you have to produce the evidence or documentation to support the personal loan?

THE DEPONENT: To...

MR. GRAFF: To BRON.

THE DEPONENT: No, it was all verbal. Again, there was no paperwork involved with those loans,

BY MR. van ZANDVOORT:

151. Q. So, if it was a personal loan, explain to me why, in January 2015, when you bought the Mount Nemo property, you sent Steven Thibault and Aaron Gilbert an e-mail, just reading it here, concerning the monies you used for the deposit and the down payment:

"...Any chance you could send copies of the wire transfer instructions from your end for two large deposits to CLJ Everest end of last year, 450 and 1.3 million-ish. I provided the mortgagee with the attached invoices to prove that the deposits are not loans that will be repayable, but they want to see some sort of wire proof or something..."

And then you say:

"...Any ideas?..."

And then you suggest that maybe BRON sends one letterhead and Media House sends another, saying that it was payment for the invoices and his commissions on financial brokering, and is not a loan. So, is this a complete fiction, or is this...

A. Yes, because I believe the deposit couldn't be borrowed money.

152. Q. And, again, Aaron and Steven are just quite willing to assist you in whatever you needed to facilitate that purpose?

A. I guess so.

MR. GRAFF: I am going to interrupt you again. Clayton, how much money did you borrow from Media House?

THE DEPONENT: I don't have the exact

number in front of me.

MR. GRAFF: Can you give me an estimate?

THE DEPONENT: It was several million, 3 or 4 million.

BY MR. van ZANDVOORT:

153. Q. Now, I have a hard time believing that you can't remember the difference between 3 or 4 million and over 6 million. That is a significant difference. You are putting your statutory declaration to the Receiver. I believe the amount was in the ballpark of $6.35 million to companies of Aaron Gilbert. So, what is it?

A. I think I borrowed the amount, I think, of that number. I included the accrued interest of what I believed that I was going to pay back to Mr. Gilbert.

MR. GRAFF: Help me, because I am having a hard time understanding. I know you say "ask them why they did it", but why do you think they did it?

THE DEPONENT: Honestly, I can't speak to that.

MR. GRAFF: I want to know what you think.

THE DEPONENT: But I am not them, so I don't...

MR. GRAFF: No, but I want to know what you think about why they lent you money like that.

THE DEPONENT: Perhaps they were personal friends, or he is a personal friend, and felt like giving me a personal loan. I mean, I have given people personal loans.

MR. GRAFF: Of $6 million?

THE DEPONENT: I can't speak to his motivation. I am sure you understand that.

MR. GRAFF: Did you give him security over any other assets?

THE DEPONENT: No.

MR. GRAFF: Did he ask for security over assets?

THE DEPONENT: No.

MR. GRAFF: Had there been efforts on his part to collect it?

THE DEPONENT: No, there hasn't, not that I am aware of.

MR. GRAFF: Do you have an expectation that you will repay it at some point?

THE DEPONENT: I don't now. I had an expectation when Crystal Wealth was running, I believe, yes.

BY MR. van ZANDVOORT:

154. Q. Do you think that the reason why he has not sought repayment is because every dollar that you borrowed from him was received by him from the Media Fund?

A. No, I believe the reason he hasn't sued me for repayment is because of the Receiver action, and he is aware that all my assets have been frozen or taken or vested or what have you, so I believe he knows I have nothing or own nothing.

MR. GRAFF: By the way, just to be clear, when you talk about the loan loss provisions on the media loans, were you consulting with BDO about the loan loss provisions and the quantum of the loan loss provisions?

THE DEPONENT: Yes, every year we conducted the audit.

MR. GRAFF: Only at that time?

THE DEPONENT: It was definitely at that time each year. We would analyze...look at, you know, what the loan loss provision was versus what we kind of expected we might lose, if anything, on certain movie loans, and we discussed the, I guess...not reality, but the reasonability of the loan loss provision. The only experience we really had to go off of at that point in time was what was happening within the Mortgage Fund, which we had then ten years...well, whatever, five, six, seven, eight, nine, ten years of experience with loan losses in that fund.

But with the Media Fund, again, neither I nor BDO really had any data that we could draw on industry-wise to try and determine how much we might potentially end up losing. So, I may have had conversations with them throughout the year about the loan loss provision, but typically I would adjust it on my own, and then we would have the discussion at the end of each year during the audits.

MR. GRAFF: Let me go back to the loans to you from BRON, and really those were just commissions that you were receiving in connection with the loans that you were making...or the loans that you were taking an assignment of from Media House, is that correct?

THE DEPONENT: No, that is not correct.

MR. GRAFF: Were they kickbacks?

THE DEPONENT: Not at all. I fully expected to repay those loans, and Mr. Gilbert fully expected to be repaid on those loans, as far as I know. They were not commissions. There was never a discussion about "You are just going to give me this money and then be done with it". That was never discussed.

MR. GRAFF: Contemporaneously with the advances from Crystal Wealth to BRON, you received these funds almost in exact sequential timing. And your suggestion is that they are loans which were entirely unpapered, and for which there is no security?

THE DEPONENT: That is not my suggestion. That is my statement. That is my truthful statement.

MR. GRAFF: If you were sitting in our

shoes, would you have any belief as to the credibility of those statements?

THE DEPONENT: I can't speak to your credibility.

MR. GRAFF: Well, I want to know. Do you...

THE DEPONENT: No, I am not going to answer your question.

MR. GRAFF: If you were hearing yourself speak in our shoes, would you believe you?

THE DEPONENT: I am not going to answer what I think you are thinking of.

MR. GRAFF: Because I think that that you are telling me a complete fabrication.

THE DEPONENT: I guess that is your prerogative.

MR. GRAFF: I guess it is, and it is your prerogative to show that it is not, but you have no evidence, no piece of paper to show that there is a loan. Just your comment that there is a loan there.

THE DEPONENT: It is not a comment. It is my on-oath statement, and I believe Mr. Gilbert has probably stated the same thing.

MR. GRAFF: Do you pay interest on them?

THE DEPONENT: I haven't. Like I said, I accrued interest on my side, but I haven't made any payments on those loans.

MR. GRAFF: Did you reflect them in your tax returns as loans?

THE DEPONENT: Yes.

MR. GRAFF: You will show us your tax returns where you reflect that?

THE DEPONENT: I am happy to share my tax returns with you. U/T

MR. GRAFF: Sure. I am love to see them.

BY MR. van ZANDVOORT:

155. Q. And if you could provide those within seven days?

A. For which years?

156. Q. As far back as when the loans commenced.

A. My personal tax returns?

MR. GRAFF: Did you ever take any...

MR. van ZANDVOORT: And the tax returns for CLJ Everest and 115.

THE DEPONENT: I may need more than seven days for those. I don't believe I

have those. I will have to try and get
them reproduced. U/T
MR. GRAFF: Do you have any personal relationship with Aaron Gilbert? Were you friends?
THE DEPONENT: We became friends, yes.
MR. GRAFF: Did you take trips together?
THE DEPONENT: No.
MR. GRAFF: Did you socialize with your respective spouses?
THE DEPONENT: Yes, on several occasions.
MR. GRAFF: In British Columbia? Locally, in Ontario?
THE DEPONENT: I think a couple of times at TIFF here, Toronto International Film Festival. I visited him at his office in B.C. We had dinner several times. We met in New York City one time. So, yes, I would say...
MR. GRAFF: What was that for?
THE DEPONENT: To discuss some business, and to have lunch.
MR. GRAFF: What kind of business?
THE DEPONENT: The Media Fund.

MR. GRAFF: What specifically?
THE DEPONENT: To discuss what the status was on some loans, what he was doing with his company, what the expectation was going forward. I believe that was in late 2006, and that is...out of that conversation is really when I decided to hire Paco Alvarez, because Richard (sic) Gilbert told me that his focus was going to be more on the production side and, ideally, if at some point Media House Capital could stop servicing...or be replaced on servicing the media loans, that would be beneficial. So, that was the gist of that conversation.
MR. GRAFF: And you flew to New York for that?
THE DEPONENT: Yes.
MR. GRAFF: Did you charge that to Crystal Wealth?
THE DEPONENT: Crystal Wealth company? Yes.
MR. GRAFF: Why didn't you just have the discussion on the phone?
THE DEPONENT: I have found often

in-person meetings are more beneficial than over the phone. That is why I would travel at least two or three times a year out to my various offices out west, and because they are located in British Columbia, as well, I would typically stop by and see Spectrum and Media House, as well.

BY MR. van ZANDVOORT:

157. Q. Why did BRON Studios and BRON Animation, then, file claims over $12 million against the receivership?

A. I honestly have no idea where that number is coming from. I haven't spoken to Mr. Gilbert or Mr. Thibault or anybody from Media House since either before the receivership, or just when the receivership was imposed, or just after. So, I don't know where they got that number.

158. Q. Well, why would Media House transfer money to Carol Matthews?

A. I believe they bought a mortgage from Carol Matthews that she owned on my ex-wife, Lee-Ann Smith's, property.

159. Q. Media House bought a mortgage on your ex-wife's property?

A. That Carol Matthews had personally, yes.

160. Q. Why would Media House do that?

A. Again, I don't know.

161. Q. Did you ask Aaron and Steven to do that?

A. I believe I had spoken with Aaron about it.

162. Q. And was that mortgage then transferred from Media House to you or to any of the funds?

A. No.

163. Q. And what address was that?

A. It was on Dryden Avenue, in Burlington. I don't remember the exact address.

164. Q. Did you have a personal relationship with Carol Matthews from Spectrum?

A. Again, similar to that of my relationship with Aaron Gilbert. I didn't know her prior to us starting the Peer Diversified Mortgage Fund in 2005, but having worked together 12 years we established a relationship.

165. Q. Did you travel to see one another?

A. Yes, when she was in Toronto, we would get together. When I was out in B.C., we would get together.

166. Q. And with...anywhere else?
A. I don't believe so.
MR. GRAFF: Clayton, were there other funds...sorry, were there other investee companies that any of the funds invested in, from whom you borrowed money?
THE DEPONENT: Sorry, I...
MR. GRAFF: Were there any other investees of fund capital...so, the equivalent of Media House, that lent you money personally?
THE DEPONENT: No.
MR. GRAFF: Just Aaron Gilbert?
THE DEPONENT: Correct.
167. MR. van ZANDVOORT: Or lent money to...
THE DEPONENT: No, sorry, that isn't accurate. I also borrowed money from Craig Clydesdale personally.
MR. GRAFF: How much?
THE DEPONENT: I think that was around $2 million.
MR. GRAFF: $2 million? Timing?
THE DEPONENT: 2016.
MR. GRAFF: All in one shot?

THE DEPONENT: It was a couple of different advances, and it was treated as a...we had a contract which the OSC has. I don't know if you have a copy of that or not, that I was doing consulting work for his company. So, it was treated as an advance against future earnings in that contract. I think it was...there is one large advance when I purchased the shares in Crystal Wealth from Scott Whale, which I think was $1,650,000, and there were prior advances during 2016 for $100,000 or $200,000 each.

MR. GRAFF: Were those advances coincidentally timed, commensurate or close in proximity to the time at which funds were advanced to Clydesdale or his companies?

THE DEPONENT: I don't recall off the top of my head.

MR. GRAFF: Well, think about it.

THE DEPONENT: I can't remember now. You would have all those records, though.

MR. GRAFF: We are going to go through them and put them to you now.

THE DEPONENT: That is fine. I mean, the OSC, like I say, I am sure you have a record of their...well, maybe you don't, but you asked me the same question if we had this conversation about...

MR. GRAFF: What happened to all the money?

THE DEPONENT: It went to...

MR. GRAFF: What happened to the $8 million you borrowed?

THE DEPONENT: Crystal Wealth...

MR. GRAFF: No, that you borrowed personally.

THE DEPONENT: A lot of it went back into Crystal Wealth. Crystal Wealth was operating at a loss for a number of years. It went into the Mount Nemo property. It went into Chrysalis Yoga. I was obviously living beyond my means at that point, so it was...some of it was just spent on living expenses, if you will.

MR. GRAFF: Do you have an offshore account?

THE DEPONENT: I do not have any offshore accounts, as previously testified.

MR. GRAFF: Do you have any accounts in companies you haven't disclosed?

THE DEPONENT: I do not. I have no other assets, other than what you have already seized and vested.

MR. GRAFF: Are you friends with Clydesdale?

THE DEPONENT: Again, similarly to my relationship with Mr. Gilbert and Ms. Matthews. But, again, I haven't spoken with...I haven't spoken with any of them since...I would say within a month or two after the receivership being imposed. Certainly in the last seven, eight months. I am not in contact with any of them.

BY MR. van ZANDVOORT:

168. Q. And Bodanis and Pinto, they also introduced you to Clydesdale?

A. Through...Craig Clydesdale was through two gentlemen that Mr. Bodanis introduced me to that were representing Mr. Clydesdale and trying to find financing.

MR. GRAFF: Is there paper surrounding the loans from Clydesdale?

THE DEPONENT: Yes, the OSC has a copy of that contract.

MR. GRAFF: It is just the contract you are talking about?

BY MR. van ZANDVOORT:

169. Q. Is the only document we are talking about the business consulting agreement between CLJ Everest and Magnitude CS Energy Inc.?

A. Yes.

170. Q. There is no other paper concerning the loan arrangements?

A. No, that is the document.

MR. GRAFF: Did you ever pay any of it back?

THE DEPONENT: No, because...again, no.

BY MR. van ZANDVOORT:

171. Q. You provided services to Clydesdale companies to...as repayment for the advance?

A. Right. So, there is...

172. Q. Even though the contract reads that you are going to receive money for your services, you weren't, because it was just clawing back the loan amounts already provided.

MR. GRAFF: Do you consider Clydesdale an honourable person?

THE DEPONENT: I am not going to comment or speak to what I think of people's honour or not. I believe I did at the time, or I wouldn't have been in a business relationship with him.

MR. GRAFF: How about since then?

THE DEPONENT: Sorry?

MR. GRAFF: How about since then?

THE DEPONENT: I don't really know. I mean, I don't know what his dealings have been with you, and I have no dealings with with him, so...

MR. GRAFF: You know what the recovery has been from the monies that Crystal Wealth advanced to his businesses.

THE DEPONENT: I don't actually know that.

MR. GRAFF: Don't you read the reports?

THE DEPONENT: I try to, yes. I understand that he may not have been communicating with you...again, I don't know the details of either...I don't know the details of those conversations, and I am not...

MR. GRAFF: Did you know the history of Clydesdale's business operations when you started dealing with him?

THE DEPONENT: I believe that that company was relatively new.

MR. GRAFF: Did you look for a history of all of the business dealings?

THE DEPONENT: We had a conversation about his prior employment with...I can't remember now the construction company here in Toronto, but that was...

MR. GRAFF: Did you get CVs, resume, references?

THE DEPONENT: I got resume and CV and an understanding of his history, but...

MR. GRAFF: So, all those resume...the resume and the CV should be in Crystal Wealth's books?

THE DEPONENT: I don't know if they are or not. Again, I got a lot of that information from...there is Guy and Guy. I can't remember the name of their company, but who were representing Mr. Clydesdale, trying to find financing for his Leaside project, which is the first one that we financed.

MR. GRAFF: So, did you call his references?

THE DEPONENT: I believe those were his references in my mind, so...

MR. GRAFF: You lent him $10 million in four shell companies, effectively. Fairly responsible, I consider that to be. That is sarcastic.

THE DEPONENT: No, I am aware of that. Thank you.

MR. GRAFF: Don't you consider it irresponsible?

THE DEPONENT: I am not here to get into an argument. I am here...

MR. GRAFF: Don't you consider it irresponsible? We are here representing a bunch of investors who are out of pocket millions and millions of dollars as a result of your imprudent investment decisions. Don't you consider your conduct to be irresponsible?

THE DEPONENT: I am not going to respond to that.

MR. GRAFF: Well, I am telling you that I think it is.

THE DEPONENT: I understand that, and you are entitled to that.

MR. GRAFF: All your investors think it is.

THE DEPONENT: I understand that, and had you not...

MR. GRAFF: In hindsight, don't you think it is? Don't you think it was?

THE DEPONENT: No, because I think if you hadn't seized Crystal Wealth, then we would have realized on those loans.

MR. GRAFF: You would have recovered your $10 million from thin air, right?

THE DEPONENT: It is not thin air. You can go to Leaside and see the first plant operating.

MR. GRAFF: What about the next ones?

THE DEPONENT: They were in the business of being built.

BY MR. van ZANDVOORT:

173. Q. The Mortgage Fund made a loan to one of Clydesdale's companies to finance a facility in

Jenner, Alberta. Was that ever installed?

A. In where, sorry?

174. Q. Jenner, Alberta. Was it ever installed?

A. It was being installed, I believe. I don't remember the status of the project right now. Was that the Imaginea project? Is that what you are referring to?

175. Q. M'hmm.

A. It was being built.

MR. GRAFF: Sorry, did you get...you said you have a relationship with Clydesdale. Did you spend time with him personally?

THE DEPONENT: Again, in the context of business meetings...

MR. GRAFF: Did you travel with him?

THE DEPONENT: No, I did not.

MR. GRAFF: Did you and your respective spouses get together?

THE DEPONENT: No, I met his spouse at my yoga studio once. But, no, we didn't engage in social interactions together with our spouses, no.

BY MR. van ZANDVOORT:

176. Q. Did you have a personal relationship with Suzanne West from Imaginea?

A. I met Suzanne West on a couple of occasions. She came to visit the Clydesdale project at Leaside, because she was interested in doing one...at her sites out in Alberta, and we met Pond, as well, because she had a sudden interest in investing in Pond or having their technology attached to our sites.

177. Q. Aside from the Pond loan, did she have a stake in any other Crystal Wealth projects?

A. No.

178. Q. Are you aware of any other OOM Energy installations that were successful, aside from Leaside?

A. No, they were working on the one for Detroit, St. Marys Cement, Detroit. They were doing the prep work there.

179. Q. What do you know about the prep work there?

A. I don't know exactly the status of the prep work.

180. Q. Sorry...

A. I was told...

181. Q. ...prep work, yes.

A. And I was also in communication with the president of St. Marys Canada, because they also have an interest in Pond. So, I had several lunches and meetings with them. So, I was aware that Mr. Clydesdale wasn't just feeding me false information.

MR. GRAFF: Did you deal with Bill McKenzie when you dealt with Clydesdale?

THE DEPONENT: I met Bill McKenzie on a couple of occasions. So, we had some interactions via lawyers, and like I say, on one or two occasions I had coffee with him.

MR. GRAFF: Did you use Bill McKenzie as counsel for anything ever?

THE DEPONENT: No, I did not.

BY MR. van ZANDVOORT:

182. Q. Did he have an active interest in any of Craig's companies?

A. I don't know that.

MR. GRAFF: You have no recollection or knowledge of that?

THE DEPONENT: I don't know whether Mr. McKenzie has an equity interest in any of

Mr. Clydesdale's companies.
MR. GRAFF: Did he have an equity interest in any of Crystal Wealth funds?
THE DEPONENT: No.

BY MR. van ZANDVOORT:
183. Q. With respect to Imaginea, we have been told that no generation was installed. Can you explain that, why that was not done?
A. I don't know whether he had all the money yet to buy the equipment to do the installation.
184. Q. Well, why would you have advanced $2 million of the 2.6 when you didn't even have all of the relevant information and transactional documents?
A. I had the transactional documents. I had the contract between Imaginea and him or his company.
185. Q. And what is the status, currently as you know, about the facility in Detroit?
A. I don't know.
186. Q. What is the relationship between 2G Capital, Crystal Wealth and OOM?
A. 2G Capital are the two guys I was

just...Guy and Guy are the names. 2G Capital...

187. Q. Sorry, spell those?

A. G-U-Y and G-U-Y, but one is pronounced "gai" and one is pronounced "gi".

188. Q. So, Jennifer Pinto and David Bodanis essentially introduced you to Guy and Guy. Guy and Guy then introduced you to Craig Clydesdale?

A. Correct.

189. Q. Okay, sorry, go ahead. So, what is the relationship?

A. So, they had a contract with...I can't remember which company...MCS Energy with Craig Clydesdale, to try and get him financing for the Leaside...St. Marys Cement Leaside project. That is how we got involved. Part of the contract was that they were to be paid a monthly amount by MCS Energy. If they are successful in finding him money, and so that is all part of an original contract that was signed between the fund and MCS Energy. So, every month we would collect from MCS Energy, the monthly amount on our loan, plus the portion that was due to 2G Capital, and we would then flow that money to 2G Capital.

MR. GRAFF: Did you have an interest in 2G Capital?

THE DEPONENT: No, I don't know them, other than having been introduced to them. The monthly amount, I think, was around $3,000-ish.

MR. GRAFF: Did you ever receive kickbacks from 2G Capital?

THE DEPONENT: No, I did not.

MR. GRAFF: No funds flowing from 2G Capital to you personally, or any related party?

THE DEPONENT: No, the only money flowed from...of the Mortgage Fund account to 2G Capital, once a month, as we received payment from MCS Energy.

BY MR. van ZANDVOORT:

190. Q. You sent an e-mail to Darryl B. at Crystal Wealth on July 31st. Who is Darryl B.?

A. Darryl B.?

191. Q. M'hmm.

A. Do you have his last name? I am sorry...

MR. GRAFF: You employed a Darryl.

BY MR. van ZANDVOORT:

192. Q. You are talking about the payment arrangements, Craig and MCS.

A. Right. I don't remember Darryl's last name. I was introduced to Darryl through Bodanis. Darryl used to work at Scotiabank for a number of years as a commercial lending officer. I employed Darryl for five or six months, I think, out of Crystal Wealth to try and assist with structuring the Infrastructure Fund, and also trying to get a better handle on MCS Energy's business and that.

193. Q. Did any employees or relatives of 2G work at Crystal Wealth?

A. No.

194. Q. And why did Clydesdale and Bill McKenzie want to exclude 2G Capital from future deals?

A. I think after he was introduced to us, and he felt we would be able to raise more money, perhaps, than 2G Capital, I think that was the reasoning, but again I don't...

195. Q. Had you ever raised any money?

A. Had I?

196. Q. What did you do...the $10 million you already had, what did you actively do to raise money otherwise?

A. Sorry, I don't understand your question. 2G was involved before we were involved. Once we financed the Leaside project, I believe Mr. Clydesdale severed his relationship with 2G Capital for future projects, and we then went about creating the Infrastructure Fund to fund, initially, future projects other than energy.

197. Q. And do you think Clydesdale severed the relationship with 2G because of the ease with which he was able to get money from the Crystal Wealth Funds to fund his projects?

A. I can't speak to what his motivations were with respect to 2G Capital. I don't know what his relationship was there. Like I say I met with him once or twice, and that was it.

198. Q. Who is Marcel Rada?

A. Marcel Rada?

199. Q. Yes. Do you know him? What do you know about him?

A. I don't know anything about him.

MR. GRAFF: Sorry, is the name familiar?

THE DEPONENT: The name rings a bell, but I honestly don't know who he is. I have never spoken to him.

BY MR. van ZANDVOORT:

200. Q. There is a loan assigned to the Factoring Fund by Crystal Wealth, the company, to 1092545 B.C. Limited, which is a company controlled by Rada.

A. Okay.

201. Q. Do you know who brokered that deal?

A. Mr. Houseco was the lead portfolio manager on that fund, so he would have brokered... well, I don't know if he brokered the deal, but he would have made that investment.

202. Q. So, in the Resource, Bullion, Hedge and Factoring Funds that Al was the lead portfolio manager on, did he drive all of the investment decisions of those funds?

A. Yes.

203. Q. Did you have any involvement in them?

A. Occasionally I did, and I would have overseen it. So, if something looked weird or unusual, I would get involved, if things ran into trouble with certain investments, I would get involved. But as far as the origination and those initial dealings, I had nothing to do with those.

MR. GRAFF: Sorry, did Houseco or any of

your other representatives take loans from any of Media House, Clydesdale or any other party...

THE DEPONENT: Not that I am aware of. I am not privy to that information, if there was any.

MR. GRAFF: Do you have any knowledge of any?

THE DEPONENT: I do not.

MR. GRAFF: Do you have any suspicion of any?

THE DEPONENT: I do not.

BY MR. van ZANDVOORT:

204. Q. Do you have any knowledge of Houseco or any of your reps doing any sort of business initiatives with, you know, representatives or companies that the funds invested in?

A. I do not.

MR. GRAFF: Would it surprise you to learn that they did?

THE DEPONENT: It would surprise me, yes.

MR. GRAFF: Would they have had to disclose that to you?

THE DEPONENT: They were supposed to, yes. All external business, outside business activities, I think is the definition, are supposed to be disclosed to me and then to the OSC.

MR. GRAFF: And were there other business activities, outside business activities that were disclosed to you?

THE DEPONENT: There would have been some. That would have been disclosed to the OSC. I can't remember what they were now, but, certainly I would know...yes, it would surprise me greatly to find out that Mr. Houseco was involved with those other businesses in any respect other than as a portfolio manager.

BY MR. van ZANDVOORT:

205. Q. How did Frontline Factoring get involved? Who brought them into the fold?

A. I was introduced to Frontline through Al Housego.

206. Q. And how did Al know Frontline?

A. I don't know that.

MR. GRAFF: You didn't ask?

THE DEPONENT: I may have at the time, but I didn't make a record of it, and I have no memory of it.

BY MR. van ZANDVOORT:

207. Q. And how did the arrangement come to bring Frontline in to be responsible for administering certain investments of the Factoring and Hedge Funds?

A. I met with Frontline...with...

MR. GRAFF: Jerry.

THE DEPONENT: Thank you. I don't remember what year now, or when it was, but I travelled out to see Al. On my way back, I stopped and met Jerry Froese at his home office in Lethbridge, I believe. And we converted Al's fund...we were going to make a couple of investments at that point, when it was still the Crystal Enlightened Income Fund. And then we started doing more and more factoring projects, and we changed the name and mandate to be the Crystal Enlightened Factoring Strategy or Fund. So, the predominant investments within that fund became factoring contracts done through Frontline.

BY MR. van ZANDVOORT:

208. Q. And you are aware...you have been following this receivership proceeding, correct?

A. Yes.

209. Q. So, you are aware that Frontline is saying that they were supposed to be paid other than as set out in the agreement entered into with Crystal Wealth?

A. I am sorry, I don't understand what you just said.

210. Q. How was Frontline supposed to be paid for their services?

A. They established a contract with the end client. If they were charging that end client, say, a 30 percent factoring fee, the arrangement was that our fund would get...I can't remember if it was 13 to 16 percent, and they would keep the difference.

211. Q. Okay. But based on your agreement with Frontline, the funds were supposed to be paid back dollar for dollar first, before Frontline got any of their payments. Was that not how it is supposed to be?

A. I think it was a pro rata deal on each investment...sorry, on each repayment.

212. Q. And how did monies flow from...

MR. GRAFF: Sorry, when you say "pro rata", to what?

THE DEPONENT: Meaning that if...I know there was some discussion about this early on, because...so, the intention was that if a $1 million investment was made, and that was accruing 30 percent factoring fee...excuse me, if 13 percent of that belonged to the fund, and 17 percent belonged to Frontline, at the time a repayment was made on that $1 million invoice, if...it would be pro rata based on the amount of principal versus interest the fund was owed...the fund was owed, versus Frontline Factoring was owed. So, if the whole thing was repaid, obviously we all got our money back. If half of it was repaid at whatever point, that point... whatever amount, at that point, had accrued...you know, in those two different buckets, the money would go back pro rata. I didn't feel that was fair...as the fund got rolling, I didn't feel that was a fair way to do it. I thought the fund should get its money, and Frontline should wait until all the monies on a particular invoice were repaid. I know we had conversations about that, but I can't remember if we changed the agreement or not.

MR. GRAFF: Was there an agreement that reflected the pro-rated arrangement?

THE DEPONENT: I believe the administration agreement laid that out.

MR. GRAFF: Who ensured that the payments that you were receiving from Frontline followed the agreement that you entered into?

THE DEPONENT: Quite a few of those statements would come directly to the fund.

MR. GRAFF: Was that your responsibility?

THE DEPONENT: Yes.

MR. GRAFF: Was there anybody else at Crystal Wealth who would have dealt with that?

THE DEPONENT: Joanne Bentley may have

dealt with some of the money movements, but she wouldn't have dealt with the calculations as to what amounts were owed. There would have been conversation between myself and Frontline or exchanges of their providing weekly reports with all the accrued amounts.

BY MR. van ZANDVOORT:

213. Q. So, this is your factoring agreement with Frontline. And Section 4.6 addresses the fact that the funds are to be repaid before Frontline gets any fee for its services. And the factoring agreements themselves are entered into by Crystal Wealth or the funds with the underlying merchants directly. So, just so I understand it, why was that procedure in 4.6 not followed? Why was Frontline entitled to retain a pro rata portion, as you said? Did you read this agreement?

A. Well, I would have been instrumental drafting the agreement.

214. Q. Okay. And would you not agree that it is very important to know that the funds are supposed to be repaid, dollar for dollar, first before Frontline is entitled to any payment?

A. Yes.

215. Q. Would it not be utterly negligent of you to allow Frontline to retain payments in the face of that provision?

A. Sorry, I am just...because I don't remember this paragraph, honestly. So...yes, I would agree with what you just said.

MR. GRAFF: Clayton, what was your...sorry, did you deal with Jerry Froese on any social basis at all?

THE DEPONENT: No.

MR. GRAFF: What kind of due diligence did you do into Frontline?

THE DEPONENT: I guess I met with him in his office. I relied heavily on Al's presentation on Frontline, and Al's...

MR. GRAFF: You really relied on Al?

THE DEPONENT: I did. Yes, I would agree with what you just said, absolutely.

BY MR. van ZANDVOORT:

216. Q. You are referring to my statement about the utter negligence of not following the paper provisions?

A. Yes.

217. Q. FILE 12When it came to the merchants of the Factoring and Hedge Fund, who brought those investments into the fold? Was it you? Was it Housego?

A. It was Al.

218. Q. It was Al, okay. And what was...how would he make that decision? Did he have to consult with you, or is that his decision alone?

A. No, it was his decision alone. Again, my job, as compliance officer, was to ensure that the investment itself met the provisions of the offering memorandum...

MR. GRAFF: So, are you suggesting you did that kind of due diligence in connection with the investments we have talked about so far?

THE DEPONENT: Well, that due diligence was if this investment was a factoring contract and fell within the parameters of the OM. But as far as...I didn't do any additional due diligence on the end debtors or the invoices that we were purchasing. I did not do that.

MR. GRAFF: So, you say that all of these investments, you actually looked at them and determined they fit within the OM?

THE DEPONENT: Well, I looked at the paperwork that we were signing at the time, and we would have been the ones that advanced the money, "we" meaning within our office, we would have coordinated advancing the money on those contracts.

MR. GRAFF: And what about the Clydesdale deals? Same thing? Those agreements were within the confines of what was represented in the OM?

THE DEPONENT: I believe so.

BY MR. van ZANDVOORT:

219. Q. But in fairness, that is not really a true statement, is it? Because we have spoken with Joanne Bentley, and Joanne Bentley's evidence was that at a certain point in time, you told her, "You know what? Housego can just deal with you directly concerning the Frontline advancement of funds" on account of, you know, merchants that Housego was bringing in. So, you took a step out and you weren't looking at everything, correct?

A. Well, we would still have to have the Frontline factoring agreement, or the factoring agreement in place between Crystal Wealth and I would have given Joanne Bentley instruction on that. SHe would have had to forward that or parts of that to NBCN prior to them advancing the money, so...

220. Q. But she said at some point it just became Housego could just deal with her directly to authorize her, and you would look at it after the fact?

A. Well, that is true. He was the portfolio manager.

221. Q. Okay.

A. But, just, my instruction to her would be that we would need that agreement in place.

222. Q. But we can agree, because we are going to get to a couple of examples and it will soon become plainly obvious, you didn't look behind the agreements to see what...the agreements were standard form with merchants. You didn't look behind them to see what is the true nature of the arrangement, pursuant to which we are about to advance millions of dollars of funds to this...

A. I agree, and I just stated that.

223. Q. So, what kind of level due diligence did you do on the Dome Mountain merchant?

A. Again, I relied entirely on Mr.

Housego.

224. Q. Okay. And what did Mr. Housego tell you about Dome?

A. I can't remember now the specifics. It was a fairly complicated deal. I did get involved at the renewal, if you will, when it wasn't repaid.

225. Q. In 2016?

A. Sure, I don't remember the exact date. Involved in the sense of through Mr. Housego, and I believe may have had a conversation...a conference call with a gentleman from Dome Mountain or one of the reinsurers regarding extending this loan. But, again, Mr. Housego would have all that information. I would have relied on Mr. Housego.

226. Q. So, in 2015, $12.5 million is advanced by the Factoring Fund, ACM Growth Fund, to Frontline, which presumably makes it way to Dome Mountain. Fair?

A. Yes.

227. Q. Twenty-six...

A. Actually, I don't know for a fact that it went to Frontline. If that is what you have as your records, yes.

228. Q. Well, do you have...Joanne Bentley

was the person who transferred the funds?

A. Okay.

229. Q. I am asking you.

A. I don't know. I can't remember, Mark. You know, we were managing a lot of stuff...

230. Q. Yes.

A. ...and I was overwhelmed, if you will, and so I can't remember the specifics of four years ago or three years ago.

231. Q. So, you say a year later, "The funds weren't repaid in November 2016". You had discussions...you know, I assume there was that great level of concern, because we are talking about $12.5 million...

A. Yes.

232. Q. ...which was probably approximately 50 percent of the investments of the Factoring Fund?

A. Yes.

233. Q. So, what was done, at that point in time, as panic set in at Crystal Wealth and with Al Housego to pound the pavement, to do whatever it took to get that money back?

A. I don't know what Mr. Housego's actions were specifically. I know there were a number of conversations, and I can't remember if we involved legal counsel at that point. I believe I may have involved Jonathan Dyck of Miller Thomson at that point, to get involved on ensuring that we are going to do this renewal, that the insurance contract, the reinsurance contract that we had in place would be valid.

But, again, I can't remember the specifics of what we did. And, again, I would have relied on Mr. Housego doing the majority of that work, but I was involved on some of those conversations and, again, was involved in making sure that the insurer, for what it is worth, was going to pay out on those.

234. Q. And you understand, now, that nobody bothered to pay the premium to keep that policy in place?

A. I read that somewhere, yes.

235. Q. Okay. How does that happen?

A. I don't know.

MR. GRAFF: I do. You didn't pay attention to it.

THE DEPONENT: As I said, that was Mr. Housego's responsibility at that point. And, yes, obviously I didn't provide sufficient oversight. I would agree with you.

MR. GRAFF: Sorry, I apologize for interrupting your question, but just so I understand it, I know you have already answered Mr. van Zandvoort's question on how you met Mr. Housego. Did you develop a personal relationship with Mr. Housego?

THE DEPONENT: Again, I mean, a business personal relationship. I have had dinner with his wife once, I think, when I was out visiting his office.

MR. GRAFF: And what level of due diligence did you do into Housego?

THE DEPONENT: Well, I had known him, prior to him joining Crystal Wealth, probably three or four years at that point. We had been working together on trying to create this fund. I knew he was a registered representative with PBC. I knew his record was clean on the OSC's...excuse me, the BCSC's site. I had been to his place of business.

MR. GRAFF: Was it your impression he was a wealthy guy?

THE DEPONENT: No. It was my impression that he was a financial advisor, sort of an average financial advisor in a small town in B.C.

BY MR. van ZANDVOORT:

236. Q. At what point in the relationship with Al Housego did you gain the level of confidence to hand him the keys to the fund and say, "I am going to allow you to invest $12.5 million of investor money without doing any due diligence on what it is you are doing"?

A. When he joined me, he worked under my supervision as an associate advising representative for about two years, I believe it was, did the requisite courses, then became an advising representative, or a portfolio manager. So, at that point I had worked with him for whatever that was, four or five years. And within Crystal Wealth, that is the way that the...and I believe that is the way it is with most mutual fund companies, is the portfolio manager is responsible for making investments within the fund. My job, as chief compliance officer, is overseeing that, but it was...again, it is his job as the portfolio manager to make those investment decisions.

237. Q. Did you have any dealings with Darcy

Pahl of Dome Mountain?

A. I did not.

238. Q. Do you know anything about Darcy Pahl?

A. The name...I don't even know the name.

239. Q. Do you know the relationship between Al Housego and Darcy Pahl?

A. I do not.

240. Q. Do you know who Robert Maljaars is?

A. How do you spell the last name?

241. Q. M-A-L-J-A-A-R-S.

A. I think I have seen that name, but I have not had interactions or dealings with him, no.

242. Q. Did you look at the due diligence summaries that Frontline would provide to Crystal Wealth, or was that Al?

A. That would have been Al.

243. Q. Do you know why Al would instruct Frontline how to prepare their due diligence summaries to the fund?

A. I do not.

244. Q. Would you not agree that sounds a little strange, that the company you engaged to provide due diligence is being told by your own

portfolio manager how to prepare due diligence summaries to your company?

A. The way you present that, it doesn't sound good.

245. Q. What do you know about Gavin Mines?

A. Is that a person or a company? Sorry.

246. Q. It is a company.

A. Yes, I don't know.

247. Q. Do you know why or what the purpose even was of the $12.5 million advance to Dome? And I am talking about the purported purpose, the purpose that would have been recorded on Crystal Wealth's...as what the reason for that money was?

A. Again, this is going to be sketchy, because I can't remember the details. But I remember it was...they were developing a mine, and they had a guaranteed...some company, I can't remember if was from New York, was buying Dome Mountain a year hence for $80 million, if I remember the numbers correctly. So, this money was to...I can't remember if it was...it was against that contract. I believe that contract, that purchase contract was the security for that $12.5 million. I think they were drilling at the time, or had already drilled and were in the process of getting things together so that this purchase could go through. I believe there were some conditions that had been met by Dome Mountain Dome Mountain for this purchase to go through. I believe that was the purpose of the money.

248. Q. Okay. So, what was done to follow up on the status of the mines and the financing Dome Mountain was purportedly trying to raise from MGE?

A. Again, Al Housego would have been doing all that, and we would have been having conversations...and when I say "we", I mean myself, Scott Whale, other advisors within Crystal Wealth. We were typically having weekly conference calls, and we would have asked Al on a number of occasions during those calls what the status was, what was going on. Al would have provided us with updates that sounded, obviously, like everything was progressing as it should be.

Joanne Bentley may have already told you, but she and I had a number of conversations that we were very nervous about that investment.

249. Q. How much have you talked to Joanne Bentley since the appointment of the Receiver?

A. I haven't. The day we were let go,

we had a drink right after that, myself, her and Amanda, and I haven't spoken to her since.

250. Q. What did you guys talk about over the drink?

A. We had just been fired, so that was it.

251. Q. Did you have any dealings...just going back to Dome Mountain, with MGE or Steve Miller?

A. I am sorry, did I have any dealings...

252. Q. Yes.

A. ...with any of them?

253. Q. Yes.

A. No.

254. Q. You weren't engaged in discussions at all concerning that investment, or MGE's role, potentially, in it?

A. Like I said before, I think we had one conference call with Al, and I can't remember the gentleman's name. I think he was out in New York, and I can't remember which of those entities that he worked for, whether it was...MGE was the acquiror, I think, or whether he worked for an insurance company. I don't recall. I remember having a conference call at the time. I think my lawyer was on it, as well.

255. Q. Jonathan Dyck?

A. I believe so, but I can't...I don't know for a fact that he was on that call.

MR. GRAFF: Was Al familiar with the offering memorandum?

THE DEPONENT: I would hope so, yes. He and I drafted them together.

MR. GRAFF: So, Al, too, would have had the responsibility for ensuring that the investments were suited for the fund and the investors in the fund as it had been designed?

THE DEPONENT: Yes.

MR. GRAFF: Did he report back to you on the investments...or report back to Crystal Wealth on the investments, to confirm that they, in fact, did adhere to the standards set out in the OM?

THE DEPONENT: Yes, at the time of doing the investment, I would have had that conversation with Al, and he would have assured me of that, and that is what I would have relied on. And then the administrative part of it, as far as getting the contract signed, would have been done between us and Frontline, and then advancing the money, but the...I guess the verification that this investment met the standards of OM would have been given by Al to me at each time we made an investment.

MR. GRAFF: And what was your knowledge...at the time you hired Al, before he started doing investments, as to his experience and knowledge in investing in private companies?

THE DEPONENT: When I first met Al, I don't know that he had...we never discussed his investment experience with private companies, so I don't know that he had any. But I don't know that he didn't, but it certainly wasn't part of our conversation at that point. I think he had been a mutual fund, salesperson/financial planner for roughly ten years at that point. The rest of the experience would have been, I guess, gained or garnered during the time that he was a representative of Crystal

Wealth.

BY MR. van ZANDVOORT:

256. Q. What discussions do you recall with Al about making sure that performance premium had been viewed for the insurance contract?

A. I don't recall having any conversation with him about that, other than...we had a conversation about the insurance policy, and I expressed concern that...I asked him to make sure to look into those insurance companies, and make sure they are valid. And I think I Google searched at the time about the reinsurer to see if it actually existed, and...

257. Q. Did you call the reinsurer?

A. I didn't call them, no.

258. Q. Just Google searched?

A. Well, yes. So, I looked at their information. I don't recall it being our responsibility to pay that insurance premium. I may have thought that would have been either Frontline's or the company's part. I agree that we should have been...we, meaning Crystal Wealth, should have verified that it had been paid, but I wasn't involved in that.

259. MR. van ZANDVOORT: Do you want to take a five-minute break?

--- upon recessing at 11:45 a.m.
--- A BRIEF RECESS
--- upon resuming at 12:10 p.m.

CLAYTON SMITH, resumed
CONTINUED EXAMINATION BY MR. van ZANDVOORT:

260. Q. So, before we went for a break, Mr. Smith, we were talking about Dome Mountain. Do you have any...other than what you have already said, do you have any other understanding or involvement with the funding of Dome Mountain, or the efforts to try and have the $12.5 million repaid?

A. No. I am trying to remember...I think we probably had a few more discussions...after we refunded...we extended the second year, if you will. I know there were a lot of discussions amongst that weekly conference call that I was mentioning between all the Crystal Wealth advisors.

261. Q. Sorry, who would have been involved in those...

A. So, it would have been all licensed advisors in Crystal Wealth.

262. Q. So, who was that?

A. So, it would have been Scott Whale, Dale Wells, Al Housego, myself. Joanne Bentley would have been on all the calls, as well. Jeff Mushaluk would have been on. He wasn't licensed for Crystal Wealth, but he was operating as a referral agent. I believe that is it.

263. Q. And how did you land on the decision to extend the financing as opposed to just call on the insurance in November 2016? What information did Crystal Wealth receive to say, "Extending by a year would be a good idea in the circumstances"?

A. I don't recall what information we received. I believe the discussion surrounded that it appeared we were going to get paid out within a couple of months, so extending by that, I can't remember if it was six months or a year made mor sense than forcing the insurance issue.

I seem to recall or seem to think there may have been some question as to the likelihood of us getting the insurance. And, like I said, I relied heavily on what Mr. Housego was reporting to all of us, that there is just some delays but the drilling results have come back extremely favourable. MGE, if that was the purchaser, I can't remember exactly, was definitely moving forward. It was just a question of timing and finalizing the exact amount they were going to pay. So, it seemed like the best course of action at the time.

264. Q. There are two other factoring merchants: a numbered company, 156 Alberta, and another one called 647 B.C. Are you familiar with those?

A. I am familiar with those numbers.

265. Q. Okay. Do you know what the purpose was of the monies that were advanced to those companies?

A. I don't. I mean, we were purchasing invoices, as far as I understood and was led to believe. But I don't remember that. I don't know the business operations of those two.

266. Q. Okay, well, the invoices for those two entities are predominantly from Dome Mountain. So, did you not find it strange that you were also purchasing...you were funding Dome Mountain as a factoring merchant, but at the same time you were funding these two numbered companies, whose underlying debtor was Dome Mountain?

A. I did find it strange.

267. Q. Okay. And what did you do?

A. I discussed it with Al, and I believe with Jerry Froese at the time, but definitely with Al, to find out just...again, it did strike me as odd. And I can't remember now what he told me, but it reassured me, to the extent that he had felt that these were still sound and valid investments.

268. Q. Who reassured you?

A. Al, Mr. Housego.

269. Q. And what did he say?

A. Again, I don't remember the details of that conversation.

270. Q. Do you know that Jeff Maljaars and Robert Maljaars are the principals of 156 Alberta?

A. I don't. I didn't anyway.

271. Q. Okay. And, again, you don't understand the relationship between the Maljaars and Dome Mountain?

A. I don't.

272. Q. Do you know what Al Housego's relationship is to the Maljaars?

A. I do not.

273. Q. Or Jerry Froese's?

A. I don't, other than Mr. Housego introduced me to Jerry Froese, but I don't know any other relationships.

274. Q. Okay. Do you know Mary and David DenHollander?

A. I know the name. I don't know them personally.

275. Q. Okay. What do you know about them?

A. I seem to think we may have purchased invoices from one of their companies. There was also some incestuous thing where they offered up one of their properties as a mortgage on another client that we had done through Frontline, which I only found out in...I found out subsequently when that particular company, and I can't remember now which company that was, got into trouble and was trying to refinance. And at that point for sure, Jonathan Dyck, Miller Thomson, myself, Jerry Froese, Al Housego, had numerous conversations regarding this whole refinancing and restructuring thing that Mr. Froese had negotiated with his client.

It was at that point that I became aware that this property that was offered as a mortgage was actually owned by the DenHollanders or something, and that struck me as very weird, as well.

276. Q. So, just to summarize, we have

Robert Maljaars, a principal of 156 Alberta, signing loan documents on behalf of Dome Mountain. And then...so, we have a relationship between those two merchants, and Dome is also the underlying debtor. Then you have the DenHollanders of 647 B.C., a merchant of the Factoring Fund, also providing a mortgage over their house in favour of Zomongo, which is yet another different merchant. So, at some point, did a meeting not be held to say, "Why is the Factoring Fund...one of the funds that used the most investor money, next to the Media Fund... why they are investing or giving money to all of these companies that are related? Is this not a conflict?"

A. That conversation was had too late, I would say, Mark. I mean, I didn't become aware of it until, like I say, much later, when Zomongo who I was just referring to, was trying to restructure and refinance, and I was not at all comfortable with the refinancing agreement...arrangement that Frontline had presented to us. And that is when I got Jonathan Dyck of Miller Thomson involved with trying to help me understand this and trying to renegotiate that whole thing.

So, again, at the time we did the

financings, I did not do the extra due diligence, other than what was presented to me by Mr. Housego. And, so, I was not aware of those inter-related entities.

277. Q. Is it not true that monies given to Dome Mountain via the Factoring Fund flowed upwards to the two numbered companies, 647 B.C. and 156 Alberta?

A. I don't know that.

278. Q. Is it possible? Now in hindsight, do you think that that maybe is what occurred?

A. I presume it is possible. But, again, I have no knowledge of that and wasn't aware of it at the time.

279. Q. Sure. And when we reached out to Mr. DenHollander in October or November, he told the Receiver he was out of the country for an indefinite period of time. Do you know where he would be?

A. I do not. I never had a conversation with either of the DenHollanders.

280. Q. And with respect to Zomongo TV Corp., what was your involvement with that investment by the Factoring Fund?

A. Well, again, my understanding, and it was confusing, two different companies. But my understanding was that they were installing media outlets in convenience stores or something, and selling the advertising on those media outlets. And they were growing incredibly rapidly. They deployed, I think, at one point 10,000 of these screens. The advertisements are...this is what was represented to me....the advertisements are already sold, and we were basically buying those income streams that were going to come from the advertising.

This whole restructuring I was just previously referring to involves Zomongo, Zomongo TV Corp., and some other financier out of the States. They wanted us to take a second position in exchange for security over these other screens that they were going to be installing. And, like I say, it seemed like a dog's breakfast, and at that point I was...that is when the mortgage thing came up, because I said to Mr. Froese, and Al, I said, "No". I said, "We shouldn't do this. We should foreclose on this mortgage security that we have". And that is when they said, "Well, we can't really do that". I said, "Well, we have mortgage security. The fund has mortgage security against that house. I believe we should not do this refinancing and foreclose on the house", and that was just before, I think, the receivership was...I believe we were in the midst of that when receivership was imposed.

281. Q. Okay. So, I just want to take a step back. So, the Factoring Fund advances close to $8 million to Zomongo TV, correct?

A. I don't know the exact number.

282. Q. Who from Zomongo was involved in that arrangement?

A. I don't know.

283. Q. Well, who did you deal with from Zomongo?

A. I didn't deal with anybody from Zomongo.

284. Q. Okay. Who did Al deal with?

A. Again, I don't know. I am not aware.

285. Q. Okay. Did you ever deal with Tim Barnes?

A. Name doesn't ring a bell to me.

286. Q. Or BFF Ventures?

A. No.

287. Q. Okay. So, explain to me how it came about that Crystal...the Factoring Fund and Hedge Fund subordinated its first position against Zomongo

to TCA, which is the lender in the States? Why would Crystal Wealth do that?

A. That was the conversation we were just having.

288. Q. I understand, but why would they do that? You never got any sort of security that you just talked to me about over screens or...there was no benefit derived from Crystal Wealth to taking that subordinated position. So, why did you agree to do it?

A. I don't recall agreeing to do it. Again, that was the conversation. I think it was over Christmas or it was early in the New Year, and then all of this was happening with the receivership. I recall several conversations with Jonathan Dyck and Jerry Froese. I believe we were trying to get additional information from them, but that was my question, too. Why would we subordinate our thing? And I can't remember now what the gist of those conversations culminated in.

289. Q. Well, you signed the subordination agreement in favour of TCA, which was registered. So, I am asking you, why did you make that decision?

A. I can't remember now. I would have made the decision, because it would have seemed to me, at the time, to be the best course of action for trying to recover some of our assets.

290. Q. Yes, but surely you can...like, we are not talking about a great length of time ago. What led you to do the subordination?

A. I don't recall the conversations, Mark. Again, I believe...if I signed it, I believed it would have been the best course of action based on the conversations we had with TCA, with Froese, with Jonathan Dyck. It wasn't ideal, but it seemed like if we didn't do it, we might not get anything, so...

291. Q. Who were you dealing with from TCA?

A. I don't recall.

292. Q. Donna Silverman?

A. I don't recall. And I believe...it may have been Jonathan Dyck who had that conversation with them. I do recall there was some other lawyer from Miller Thomson of the Calgary branch, I believe, that was involved with one of those companies that Jonathan Dyck had a conversation with, because he also works at Miller Thomson.

293. Q. Darren Smits?

A. Yes.

294. Q. Sorry, and in what context was he dealing with Darren Smits?

A. I can't recall now how Darren Smits fits into the whole picture there. I am not trying to be obstructive. I just really can't remember. There was, like, a lot going on at the time, and that was such a complicated thing. I remember he owned a piece of the company, I believe, or a company that we had financed, and I think he also owned a piece of property that he had mortgaged against it or something. And Jonathan Dyck from...our counsel's concern was, obviously, a conflict of interest, that Darren Smits was the lawyer acting for them, but also had an equity interest in it.

295. Q. We are jumping around a bit, so I am going to stop you. Did you ever use Darren Smits as Crystal Wealth's lawyer?

A. No.

296. Q. He never did anything on behalf of Crystal Wealth?

A. I don't believe so.

297. Q. Did Al Housego ever use him on behalf of Crystal Wealth?

A. I don't know.

298. Q. And we are talking December 2016 was when Crystal Wealth executed the subordination agreement in favour of TCA. You don't remember why you did that, though?

A. Well, again, the reasons...I don't remember the specific pros and cons of it. I would have done it because it seemed like the best way for us to get our...

299. Q. But we are talking just over a year ago. You can't remember what was put before you to satisfy...

A. You would have my e-mail, actually, from...

300. Q. No, I understand. We have looked at them, and we can't for the life of us figure out why you would have ever agreed to do that.

A. Me, neither. And then we had a number of conversations, phone conversations between Jonathan Dyck, Jerry Froese, myself, Al Housego, and the culmination of that, I guess, was me signing that subordination agreement. I don't recall the gist of those conversations, but it would have been a risk assessment at the time that, if we do nothing, chances are we are not going to get anything. This company is just going to go bankrupt. If we agree to the subordination, it would appear that we are going to get...I think we are supposed to get a million dollar payment immediately against certain invoices. And then we were also getting secured against these 500 or 5,000 machines that...the advertising revenue from those. We were going to be in first position there. Apparently, the invoices, we already owned, I thought, weren't going to be affected by this refinancing.

So, as I understood it, I think what we were subordinating to was strictly general security over other assets of Zomongo, but the things that we supposedly own, wouldn't be affected by that.

301. Q. And where does that agreement lie that says, "The subordination wouldn't apply to"...the whole point of the subordination is so TCA would get paid out first.

A. Not in the invoices that we purchased.

302. Q. Okay, but where is that agreement that carves out that exception?

A. I don't have it.

303. Q. Was there an agreement in writing that said that?

A. I believe so.
Q. Entered into by whom?
A. Well, again, I believe it was...I don't know if it was part of that same agreement...
304. Q. Was TCA a party to it?
A. I don't even remember signing the agreement at the time, so...
305. Q. Was TCA a party to it?
A. I can't remember that the agreement exists, Mark. That was the way it was presented to me. I think if you go through my e-mails, you will see that was the way it was presented to me by Mr. Froese.
306. Q. Did you ever have any dealings with Jeremy Ostrowski?
A. I don't recall that name at all.
307. Q. So, again, this is all Al Housego arranging the Zomongo...
A. Right.
308. Q. ...relationship? What about Yvonne Martin-Morrison from Restoration Energy? Did you ever...
A. I never had any conversations with her.
309. Q. Okay. And what was done to

investigate the Restoration Energy factoring investment before it was made?

A. Again, I don't know that. Mr. Housego would know.

310. Q. What level of due diligence did you do on the proposal from Mr. Housego before authorizing it to proceed?

A. I don't recall doing any extra due diligence, if you will.

311. Q. In fairness, you did not, in all likelihood?

A. No, I would have looked at the agreement. Mr. Housego would have presented it...

312. Q. But you would have looked at the factoring agreement...

A. Yes.

313. Q. ...which is the same terms...

A. Yes.

314. Q. ...as all the factoring agreements with all the merchants?

A. Yes.

315. Q. And beyond that, you wouldn't have done anything?

A. Correct.

316. Q. Okay. And what do you know about

the Pine Lake lands out in Alberta?

A. That name rings a bell. It may be the one...that sounds like the Darren Smits thing.

317. Q. Okay. So, as part of the lending agreement with Restoration Energy, the Factoring Fund gets a mortgage from on entity 131 Alberta Limited. Does that ring a bell?

A. That name doesn't ring a bell, but that concept rings a bell.

318. Q. Okay. And is it not true that funds were being paid on a monthly basis to 131 Alberta in exchange for giving that mortgage to the fund?

A. The funds being paid by us?

319. Q. No, flowing back from...instead of flowing back to the fund, the Factoring Fund, they were flowing from Restoration Energy to 131 Alberta, we had granted the mortgage to secure the Restoration debt.

A. I don't recall that. That doesn't ring a bell to me at all.

320. Q. Who was involved in getting the collateral mortgage from 131 Alberta?

A. Again, it would have been Mr. Housego and, I presume, Mr. Froese, but I am not sure.

321. Q. Did you have any discussions about that arrangement?
A. No.
322. Q. What about the proposed debt security exchange agreement between 131 Alberta and Crystal Wealth and Restoration?
A. That doesn't ring a bell, but that may be...again, another conversation that...
323. Q. Do you recall...
A. Sorry, is that...131, is that the Darren Smits company?
324. Q. Darren Smits had an interest in, yes.
A. Right. So, then, I would have had some conversation at that point, but I don't recall what the culmination of that was.
325. Q. And did you have any dealings with the Advance Metal or Single Source merchants?
A. No.
326. Q. Do you know what the business of either of those companies are?
A. I don't.
327. Q. Or their principals?
A. I don't.
328. Q. Do you know who Tanya McCrary-Singh

is?

A. No.

329. Q. Did you and Mr. Housego end your relationship on good terms?

A. Well, our relationship, I would say, was ended by the Receiver.

330. Q. But you said you haven't spoken to him, which is surprising to me, because it seems to me that, over the past three years, Al Housego has played a substantial if not the most significant role in at least 50 percent of the business of the Crystal Wealth funds. Is that not fair?

A. That sounds...he was a significant part of Crystal Wealth, yes.

331. Q. And yet you have had no telephone calls with him about...or e-mails or text messages concerning the receivership, or...

A. No. Like I said, in the first month or so, after the receivership...not even. I would say the first...until I was terminated on May whatever it was, 10th or so, and I got the e-mail from...I believe it was you, Mr. Bando, instructing me not to be in communication with clients.

I ceased communications with, I would say, virtually everyone from Crystal Wealth. I certainly did not discuss Crystal Wealth's business with any of our advisors after that point, and after my initial attempts to...I guess I would say fight the receivership, I sort of let the process take its course. I haven't been involved in trying to track down Crystal Wealth assets. I haven't been involved in communications with advisors, including Mr. Housego. So, that is not...

332. Q. And to your knowledge, after Mr. Housego left Crystal Wealth earlier this year, what has he been doing?

A. I do not know.

333. Q. Do you know where he has been working?

A. I don't know anything about Mr. Housego's...

334. Q. What about Dale Wells?

A. He had already left Crystal Wealth prior to the receivership and started his own company.

335. Q. Okay. And where is that?

A. Lloydminster.

336. Q. And did anybody from Crystal Wealth go work with him?

A. I think Joanne Bentley might have

done some contract work for him shortly after the receivership.

337. Q. Did she tell you that she was going to do that?

A. I think she might have been in communication with Jill, because Jill also worked with Joanne... Jillian, my fiancee, so I think Jill related it to me. But, again, I thought...I think that was, like, a week she went out there or something, and did some work. But beyond that, Idon't know, because we haven't had communication.

338. Q. Is there anybody else working for Wells' new firm, who is from Crystal Wealth?

A. I have no idea. I am not in communication with Mr. Wells or, like I said before, anybody from Crystal Wealth at this point.

339. Q. Do you know if Jeff Mushaluk went out there?

A. I didn't know.

340. Q. So, Joanne Bentley, did she text message you, to tell you that she was going to go work for Dale Wells?

A. No, as I just said, I think she worked...she mentioned it to Jill. This was back when the receivership had just ended, I think, and she went out there, as I understood at that time, for a week or something. But, again, I had no communication with her. I haven't texted her.

341. Q. Do you have a cell phone?

A. Do I have a cell phone?

342. Q. M'hmm.

A. Yes.

343. Q. Would you give us copies... undertake to provide us with copies of the detailed, itemized telephone calls and text messages that you sent and received from your phone since the appointment of the receivership?

A. I have no idea how to do that, but...I mean, I don't keep...

344. Q. Would you authorize the Receiver as your agent to obtain those from the phone company?

A. Sure. U/T

345. Q. What is your cell phone number?

A. 905-517-6172.

346. Q. And who is your carrier?

A. Telus.

347. Q. Do you have a personal e-mail account?

A. catalystrising99@gmail.

348. Q. Would you undertake to provide the

Receiver with full access to your personal e-mail account, to see the e-mails received and sent since the Receiver's appointment?

A. Not without a Court Order, I don't think. I don't see what the purpose of that is. I think the same would be true for the telephone. I have nothing to hide, but at the same time I don't understand what the purpose of that would be. So, if I was ordered by the Court...

349. Q. We are just trying to understand... we are trying to find out where all this money went. And if there was...in the event you are not telling the truth today, we would like to see some objective evidence to corroborate the fact that you haven't, in fact, been communicating with others involved who may know where the money went. So, I think it is quite relevant, but are you now refusing it?

A. I am not refusing it. I am just trying to understand the scope of what it is you are looking for...

350. Q. Well, I want to see...

A. It is my personal e-mail address. So, there are personal e-mails in there that I have no desire to be made public. Let's put it that way.

351. Q. No, I understand that. It would

be...

A. I would be happy to...given the...if there was a limited scope of what you are looking for, if you will...

352. Q. Well, I think I would limit it in the sense of I am asking since the Receiver's appointment.

A. Well, limited in the sense of who you are looking that I have communicated with, and what would be done with...but to better understand what would be done with...

353. Q. We are only looking...

A. ...texts of...

354. Q. Mr. Smith, we would only be looking for what is relevant, contained within it, if there are things that are irrelevant to this, it is no...it is not something we would...neither care nor wish to spend time on. But, of course, in order to fully satisfy ourselves, we would like to look to see what is there. So, we are asking for access.

A. So, if I had an undertaking from you, then, none of that would...

355. Q. We don't give undertakings, Mr. Smith, and we don't know what it is we are going to find. But I am telling you, as far as what the

mandate would be, we would be, of course, looking for things that are relevant to our ability to realize upon and recover monies for investors. And that would include communications with other previous advisors, and others who were involved with the funds.

A. So, again, given...if I had a limited scope of engagement in that sense, then I would be happy to give you permission. Otherwise, I think it would be a court order, but I have nothing...again, it is just...I just don't like the idea of giving over to you, and not knowing what you are going to do with all of my e-mails and texts and phone calls...and, again, that is personal information to me. So, e-mails from my dad and I, I don't necessarily want being made public in some document that is going be...to the OSC, you know? That is all I am getting at...

356. Q. Well, I have asked for the undertaking. I am not going to qualify it any more. You can refuse it for the basis you have said. That is your option.

A. Okay, then I am refusing. /R

357. Q. What level of involvement did you have with the gold loans?

A. Similar to the factoring agreements.

358. Q. Is that Al Housego who organized the...

A. Yes.

359. Q. ...gold loans?

A. Yes.

360. Q. So, did you have any dealings with OnStar or Alan BRON?

A. I had no initial dealings with any of those companies. I believe I may have had a conversation...just trying to get their reporting from them. But, again, I think Joanne Bentley was doing the bulk of that, trying to get the monthly reporting as to make sure our records and...on the accounting side coincided with theirs. I don't recall ever having a conversation with Mr. BRON or anybody from those companies.

361. Q. What do you know about Al Housego's relationship to Alan BRON or how they met?

A. I don't know anything about him.

362. Q. What about Chuck Pinnell? Do you know Chuck Pinnell, or know...

A. Again, the name rings a bell. I don't believe I have ever had a conversation with him, I don't know what the relationship is between

him and Mr. Housego or anybody at Crystal Wealth.
363. Q. He is the principal of 611802 B.C. Limited. Do you know that?
A. If you are telling me that, yes.
364. Q. What about Inca 1 Gold or Solid Holdings? Did you have any dealings with either of those entities?
A. Again, other than trying to get the monthly reporting to match what...or make sure that it matched with what we were reporting, I don't recall having conversations around it.
365. Q. And what do you know about the settlement loans that were entered into with Inca, Solid Holdings, OnStar and 611?
A. The settlement loans?
366. Q. Were they more interim loans, as opposed to the purchase of gold?
A. I don't know that term, settlement loans. I am not sure...
367. Q. It is a term used by the Receiver in the second report, but essentially, were the gold loans entered into in effect, essentially, term loans?
A. No, I understood them to be...that we were...I understood them to be a forward contract

of sorts.
368. Q. Well, no actual gold was being delivered, correct?
A. Correct, although we had the right to demand delivery of gold within the contract.
369. Q. And, essentially, there were monthly renewals which matured at the end of a term, at which point payment would be required to be delivered, correct?
A. Right, but I believe at the end of each of those monthly terms, if I remember the contracts correctly, we could demand that we actually get the...
370. Q. But you didn't. That is my point.
A. We did not.
371. Q. Now, there was next to no information in the company's books and records concerning OnStar, 611 B.C., Inca or Solid Holdings. Do you remember doing any due diligence on these companies?
A. No.
372. Q. Was any due diligence done?
A. I would have presumed that Al Housego had done that.
373. Q. Well, did you not look at the due

diligence before doing...to enter into these arrangements?

A. No, I didn't.

374. Q. Do you know if Al Housego had existing or personal relationships with any of the principals involved in these companies?

A. I don't know that.

375. Q. Do you know who Taz Faryad is?

A. No.

376. Q. So, at Appendix 45, the Receiver's report. You sent a letter to the British Columbia Securities Commission?

A. M'hmm.

377. Q. And you met with Taz Faryad listed in item number 4?

A. Okay.

378. Q. You don't know who that is, though?

A. No, these names were provided to me in the order for production that is referenced there. The B.C. Securities Commission provided me with these names...so, I was just regurgitating their names and stating what I stated there in number 4.

379. Q. So, you say:

"...Listed below are the names and contact

information of persons who communicated
with any staff of the Registrant regarding
some investments in funds..."

And you don't have any recollection of who Taz...

A. Well, Al Housego is included...

380. Q. Yes.

A. ...in the staff of the Registrant. So, again, I don't know...I mean, I recognize these names, some of these names, but I didn't know these people. So, it would have been that Al had had... because when I received this order for production on April 11th, I would have sent it to Al, and told him to provide me with the information he had in relation to all these things. We would have then compiled this letter to send back to BCSC.

381. Q. Okay. So, you don't know who Taz Faryad is?

A. I do not know who Taz Faryad is.

382. Q. What about Rene Gladu?

A. I do not know who Rene Gladu is.

383. Q. Brent Johnson?

A. No.

384. Q. Jorge Lopehandia?

A. His name rings a bell in connection with Inca, but again, I don't know him.

385. Q. Do you know the status of a mine in Juneau, Alaska, that OnStar was going to complete?

A. No.

386. Q. Do you know where it is located?

A. I do not.

387. Q. Now, there were supposed to be executed gold certificates delivered by OnStar. Do you know where they are?

A. I do not. I think, as I...someone asked me from the Receiver recently in an e-mail, I believe, and I think if those had come to us, we would have provided those to National Bank, and Joanne Bentley would have handled that, but I don't have them, and I don't recall ever seeing them.

388. Q. Have you heard of an entity called Black Sand Gold Inc.?

A. No.

389. Q. Or Near North Construction Limited, or Placer One Mines?

A. No.

390. Q. Is it fair to say that you know nothing about the investments into gold loans?

A. Nothing other than understanding... as I understood the structure, and knowing, I guess, what we are trying to track on a monthly basis of how many ounces were due, I would know nothing about the...

391. Q. Underlying...

A. Correct.

392. Q. ...parties who you entered into those agreements with?

A. That is correct.

393. Q. So, you have never heard of Petra Capital Corporation?

A. No.

394. Q. Why did the hedge fund put $320,000 more into Inca after it had to restructure over $13.5 million of debt?

A. I can't answer that. It is not that...I don't remember doing that transaction. I don't remember what the rationale behind it was.

395. Q. So, in the Receiver's second report at paragraph 256...my apologies, 258, the Receiver notes that after Inca had to restructure $13.5 million of its debt, Housego on behalf of the hedge fund entered into another loan with Inca whereby the hedge fund advanced $320,000 to Inca, which put more money from the fund into an already distressed company. Why was that ever allowed to occur?

A. I don't recall the specifics around

that.

396. Q. Do you know Stan Spletzer?

A. No.

397. Q. Have you ever heard of Solid Holdings?

A. For Solid Holdings...

398. Q. And what do you recall from the dealings with Solid Holdings?

A. I don't recall any dealings. I believe they were a factoring client.

399. Q. What due diligence was performed on these gold sellers by the company, before the agreements were entered into?

A. I don't recall. I mean, I didn't recall. I don't know. I relied on Mr. Housego having done his due diligence. I didn't ask him for copies of that.

400. Q. Well, what would he say is due diligence? What was he telling you about the mines or, you know, the likelihood of repayment, or how long the companies have been in business?

A. I don't recall those conversations.

401. Q. Was any due diligence actually done to your knowledge? Do you know if Al actually did any?

A. I don't know for a fact that he did. I presumed that he did, but I did not do any on my own. I did not do any secondary due diligence.

402. Q. Earlier this morning, we were talking about Craig Clydesdale and the OOM Energy Group. I have a couple of follow-up questions with respect to that. We also talked about Marcel Rada and a promissory note that was provided. And you said you didn't recall an individual named Marcel Rada.

A. Sorry, Marcel Rada in relation to Craig Clydesdale?

403. Q. No, in...well, potentially, but in relation to debts owing or commercial loans made by the funds. So, with respect to Rada, there was a loan brokered by Crystal Wealth, which we had talked about was assigned to a numbered company, a 1092545 B.C. Limited.

A. That is in the factoring fund?

404. Q. Assigned to the factoring fund, yes.

A. Okay.

405. Q. And you said Al Housego brokered that deal?

A. I believe so. I don't recall Marcel Rada. I recognize the name, but I don't remember...

I don't think I have had a conversation with him.

406. Q. I am going to show you a copy of the note, and it says:

"...The note is secured by the trust account deposit, and the account is held by Morton Law, LLC..."

And then it sets out the particulars, Ed Mayerhofer and his legal assistant. Do you know...are you familiar with that firm, or that...

A. No.

407. Q. ...trust deposit? Do you know where those trust account monies went?

A. I do not.

408. Q. Did you communicate with Al Housego about this loan?

A. I presume I did at some point during the thing, but I don't recall.

409. Q. Do you recall what Century Energy's involvement was with this loan?

A. No.

410. Q. To the best of your...so, you received, you say, $6.5 million from the BRON entities?

A. I don't think I have received that much. I think that is the amount that I determined was owing at the time I filed my...

411. Q. How did you determine what the interest was, if you didn't have any terms?

A. Well, I just charged 13 percent, because that was my intention, to pay back 13 percent interest to him.

412. Q. Why did you pay such a high number?

A. Because no bank would give me a loan like that, so I just felt that was a fair interest rate to pay him.

413. Q. Okay. So, to the best that you can, give me a breakdown of how you used the money that was lent to you by BRON?

A. I know a couple million went into the yoga studio.

414. Q. So, let me get...so, $2 million into the yoga studio?

A. Something $2 million-ish.

415. Q. Yes?

A. $1 million-something went into the Mount Nemo property.

416. Q. Okay.

A. A certain amount would have gone back into Crystal Wealth, which would be on Crystal Wealth's books and records, but I can't remember the exact number all the time.

417. Q. For what purpose?

A. To keep Crystal Wealth operating, because we were operating at a loss for a number of years. In 2000-and...probably 2015, 2016...2014, 2015, 2016, perhaps, we were at a loss, so I was putting money back in to keep the company operational.

A portion went into my RRSP, as specified in the OSC's original reports. As I say, my monthly expenses, living expenses were more than what I was earning out of Crystal Wealth. So, a portion would have been paying for that.

418. Q. What were you doing that was so extravagant?

A. Well, nothing, but I was making...so, the separation agreement that I have with Leanne Smith was I was paying her $10,000 a month in combined child and spousal support, and I was drawing $200,000 a year salary out of Crystal Wealth. So, I was left with $80,000 gross on which to live, and I was living beyond that, whatever that net amount is after tax. So, it wasn't...that is the fact. That would have been the bulk of it. I mean, once I bought the Mount Nemo property, I would probably spend another $300,000 on...I was going to redevelop the barn. So, there was some money that was there, that had gone out to various construction companies and architects.

419. Q. What construction companies?

A. I can look up that name.

420. Q. Can you undertake to advise me...

A. Yes. U/T

421. Q. ...what construction companies and architects you paid money to...

A. Okay.

422. Q. ...using the personal loans from BRON and how much?

A. No money flowed anywhere else.

423. Q. And explain to me the full nature of the arrangements as to why you put the money in the yoga studio, and what the split was on ownership, and where it currently stands?

A. So, when we first..."we" meaning Shanine Dennill and I...first created the yoga studio, I was on as a 50 percent owner. But before we constructed it, or opened it, I removed myself and Shanine Dennill from...not day one, but for all intents and purposes day one, as 100 percent owner of that studio, of the corporation...

424. Q. You put her as 100 percent?
A. Correct. So, yes, sorry, she is the 100 percent owner, and as far as I understand, still is, although it is in receivership. And Shanine Dennill and I, we were living in...we were cohabiting in a common law...
425. Q. When you say it is in a receivership, you are not referring to this receivership, are you?
A. Yes.
426. Q. Or you are?
A. I believe...
427. Q. Is it still operating?
A. As far as I know, yes. I have no involvement with it, and haven't had since we split up.
428. Q. Okay.
A. And...
429. Q. And, so, what was the...why did you put $2 million in it? What were you supposed to get back? Were you not supposed to have an interest in it?
A. Well, we were in a common law relationship at the time. So, I guess when, you know...the belief was that over time, that I would

still be in that relationship with her, and then I would...not own, but would subsequently benefit from when the studio started making money, right?

So, the money went into construction, and then, again, it was operating at a loss, and may still be operating at a loss. I was putting money in on an annual basis to keep it operating.

430. Q. So, when did Dale Wells get involved with Crystal Wealth?

A. I believe he joined us in 2010, although he had some investor money in some of our other funds from, I think, 2005 onwards. So, he was previously licensed with another securities firm, First Financial Securities, I believe. So, for the years from 2005 to 2010...I think it was 2010, he was still licensed with First Financial, but had client money invested in our funds. And then in 2010, he moved his licence to Crystal Wealth.

431. Q. So, what was his role when he first joined Crystal Wealth?

A. He was...he moved his client book of business over. So, I think he was an associate advisor and representative, and then became a full advising representative, and was then lead manager on, I think, two funds. Two or three funds, one or two funds.

432. Q. Which province? You are talking about one, but what others? I can tell you, he is not listed as the portfolio manager for any of the funds.

A. Yes, it is just the Retirement One fund.

433. Q. Okay. So, it seems to me...

A. But prior to that, we had another...I seem to recall we had another fund that we had created with him.

434. Q. Okay. So, it looks like around 2014 or 2015, something happens at Crystal Wealth where Al Housego wants to be portfolio manager of certain funds, and Dale Wells wants to start the retirement fund, and they both want to move their clients out of other funds and into their...call it their own funds.

A. Yes.

435. Q. Is that fair?

A. Yes.

436. Q. So, what led to that development? What...

A. Really, just the timing of their licensing. So, Al joined us in 2009 or 2010. So, it takes four years to become a full portfolio manager. So, he would have become that full portfolio manager in 2013, 2014. Dale Wells joined us in 2010 or 2011, and in those four years became full portfolio manager.

As I understood at the time from Dale, he wanted to create his own brand, if you will, which is why we started that fund, so he could be seen by his clients as being portfolio manager as opposed to just putting his client's money into our other Crystal Wealth funds.

With Al Housego, the factoring funds seemed to be doing well, and the hedge funds seemed to be doing...or just started, or were just starting it. So, he wanted to, I think, move more of his client money out of our other funds and into those funds. So, it wasn't that anything happened at Crystal Wealth. It was just the timing of those two gentlemen...

437. Q. And why did you allow this to happen?

A. Well, that was Crystal Wealth's growth model, was to attract advisors from other firms on the understanding that they could apprentice under me and then become full portfolio managers, then we could create funds specific to their style and management.

438. Q. And how was money going to be raised in order to allow these new funds to essentially redeem out investors from other Crystal Wealth funds, to move, of them into their own...

A. Sorry...

439. Q. Well, Al and Dale's clients were invested into other funds...

A. Yes.

440. Q. ...Media Fund, whatever it may have been. They want other clients to be moved into their own funds. So, how are those transfers made? How were the redemptions funded? By raising new money?

A. Yes, and/or investments maturing, mortgages paying out, Media loans paying out. With Dale in particular, his fund, basically, was a fund of funds. So, where his clients may have been... let's say we had $10 million invested directly in client accounts in, say, the Media Fund, when we created his fund, those clients would redeem out of on the Media Fund, but his fund would buy them the $10 million position within the Media Fund.

So, from the Media Fund's point of view, it is really a zero sum game. His clients just were from owning the fund directly into owning units in his fund, which then owned the same percentage of that, of the underlying funds.

With Al again, a couple of his funds owned the other funds, like the Media Fund, the Medical Fund and the Mortgage Fund...and, again, as investments matured and/or new money was raised, redemptions were funded.

441. MR. van ZANDVOORT: So, I know we took the last break not that long ago, but that may be a good time to break for a lunch break.

--- upon recessing at 1:00 p.m.

--- A LUNCHEON RECESS

--- upon resuming at 1:30 p.m.

CLAYTON SMITH, resumed

CONTINUED EXAMINATION BY MR. van ZANDVOORT:

442. Q. Just going back to the Media Fund Mr. Smith, did you receive any sort of a 3 percent fee or any sort of fee from MHC?

A. I didn't directly. Mr. Wales and I had started a company called Crystal Wealth

Marketing Inc., in...I am not sure if it was 2014 or 2015. And when we hired Mr. Bodanis and Mr. Pinto (sic) away from, if you will, Media House Capital, the agreement that we entered into with...

443. Q. Sorry, Mr. Bodanis and...yes.

A. And Jennifer Pinto. An agreement that we had entered into with...sorry, with Mr. Gilbert or with Media House Capital was that from that point forward, the movies that we financed or purchased through them, that they would pay to Crystal Wealth Marketing Inc. a 3 percent fee, out of the 10 percent that they get from the production company.

444. Q. Well, the 10 percent they took from the monies advanced by the fund, they took it off the top. So, you are saying that they remit 3 percent of that to Crystal Wealth Marketing. And who owned the shares of Crystal Wealth Marketing?

A. Initially myself, or CLJ Everest, sorry, and Scott Whale, in 2016, I believe, mid-2016, I approached Mr. Whale and said that I had no interest in owning my shares in that company anymore because it didn't feel correct for me to be receiving a fee.

So, at that time we changed the agreement with Mr. Gilbert that the one...through all the 1.5 percent that would have been coming indirectly to me would go back to the fund as a lender's fee, and the other 1.5 percent would go to Crystal Wealth Marketing Inc., which Mr. Whale would own 100 percent.

445. Q. Except for at that point in time in 2016, there were no more funds being advanced on account of purchasing media loans, because they had all...all the film loans had been purchased at that point?

A. Well, that is the way it turned out, but we didn't know that at the time, so...

446. Q. And what did...what was done with using the 3 percent fee?

A. What do you mean, what was done?

447. Q. Well, when Crystal Wealth Marketing got 3 percent back, what did they do with that... what did you do with the money?

A. In effect, it flowed up to CLJ Everest or Mr. Whale.

448. Q. And what did CLJ Everest then use it for?

A. I can't remember exactly...personal, or some of the money towards Mount Nemo, maybe some of it flowed into the yoga studio. I don't recall.

449. Q. Okay. And, sorry, just to be clear, when did this arrangement start, the 3 percent?

A. I believe it was 2014, but it may have been 2015.

450. Q. And whose idea was it?

A. I can't remember. I believe it was Mr. Whale's at the time.

451. Q. Elaborate for me. Explain to me what was discussed.

A. Mr. Gilbert, I believe, had approached us about...that they were going to let Mr. Bodanis and Ms. Pinto go, because we weren't financing any more movies, basically, and they couldn't afford to continue to pay them, pay for their office here in Toronto, et cetera. We thought that Mr. Bodanis...we being Scott Whale and myself, thought Mr. Bodanis and Ms. Pinto might be beneficial at wholesaling for us as a whole, and trying to get relationships with external advisors. So, we agreed to take them on, with the intention that hopefully this money would come from future movies that we finance, and to pay...excuse me, their salaries in the Toronto office.

452. Q. How much did you pay Mr. Bodanis and

Ms. Pinto?

A. I believe it started out at $65,000 a year for Mr. Bodanis, and I am going to say $40,000 or $45,000 per year for Ms. Pinto. I think in late 2016, that increased slightly, but I can't remember. It wasn't...ballpark, that was the numbers.

453. Q. Did they have an employment agreements?

A. Should have, yes.

454. Q. With Crystal Wealth Management System Limited...sorry, Crystal Wealth...

A. Eventually...yes, it was with Crystal Wealth Management, I believe. And, actually, it was Crystal Wealth Management that paid them.

455. Q. So, did Crystal Wealth Marketing have any sort of independent existence or operation, or was it really just created to receive the 3 percent?

A. It was just a holding company that...yes, it had no operations. In fact, Ms. Pinto and Mr. Bodanis ended up paying out of Crystal Wealth.

456. Q. Yes.

A. Crystal Wealth Management System Limited.

457. Q. And what did Scott Whale do with his 1.5 percent?

A. I don't know.

458. Q. How much, throughout the last five years, has Scott Whale really been...you know, we have omitted here some really glaring negligence as far as what was done with investor money and due diligence. How much was Scott Whale aware of what was being done by way of investments?

A. Until...sorry, I am trying to remember my dates, whether it was 2014 or 2015. I believe it was 2015. Mr. Whale was...he took over as lead portfolio manager on the Mortgage Fund in 2009 or 2010, I believe, until 2015, I think it was, or 2014. Somewhere in the record books of Crystal Wealth, there should be a record of my terminating his employment status, but keeping him on as a registered advisor.

He is a part owner of the business of Crystal Wealth, as well. So, he was intimately involved in a lot of the decisions that we were making, that I was making. As far as the investments go, he was aware of...we would discuss the media loans that we were making. We would discuss the mortgages that we were doing. We would discuss, in general, I would say, the status of the factoring strategy and the other funds, and what the investments looked like.

He had some client money of his own private clients invested in the factoring strategies. So, he was trying to keep abreast of what was happening with those investments. He would have conversations with me, but also with Mr. Housego directly. And, like I say, every Friday we had...pretty much every Friday, we had a conference call where those investments would be discussed with the group that I mentioned earlier.

459. Q. Why did the Mortgage Fund lend money to David Bodanis?

A. It was a mortgage against his house, I think...or there was going to be a mortgage against his house. I don't know that that mortgage ever got put in place.

460. Q. So, whose position was it to lend them the money?

A. It was mine.

461. Q. Okay. And why wasn't the mortgage ever registered, then?

A. There was some issue with...there was a lien against this house from...I don't recall what the status was. The purpose of the loan was that so he could pay the legal bill to get this lien lifted. The agreement was...I think we did the loan in April or May, and by November we would then register as a mortgage or he would pay it out by...he was going to get a second mortgage elsewhere and pay us out of there.

462. Q. And how much did you lend them?

A. I don't recall a number. I believe it was $50,000 or $60,000, or something like that.

463. Q. Was it repaid?

A. At the time the receivership was put in place, no.

464. Q. Why did he require money? Why did he lend the money?

A. Again, I think, if I recall correctly, it was to clear up this legal matter that had a lien against his house. His house was worth $1 million at the time, he had shown me an appraisal. He had a $300,000 first mortgage against it. He showed me a document saying that there was a second mortgage...there was another mortgage company that was going to put a second on once that lien was lifted. So, the purpose of this money was to lift that lien, so that that second mortgage would come in and take out the money we had lent him.

465. Q. So, again, in hindsight, you recognize that that is completely improper to have used monies from the Mortgage Fund to lend to Mr. Bodaris?

A. Well, I wouldn't say it was improper. It was personal...it was a loan, and the Mortgage Fund is entitled to loans.

466. Q. Was it papered?

A. Yes.

467. Q. What was Gary Allen's ongoing role?

A. Very limited. He was a minority shareholder, about once a quarter, he and Scott Whale and I would have a shareholder's meeting. And that was pretty much it. If he and I had spoke...if Gary Allen and I had spoke at all in between those meetings, it was very few and far between, and we wouldn't discuss business matters with...

468. Q. So, Scott was more actively involved than Gary?

A. Scott was very actively involved, yes.

469. Q. So, if you were going to order

sequentially between you, Al Housego, Dale Wells, Scott Whale, Joanne Bentley, as far as the decision-making hierarchy was concerned, what would the sequence be?

A. That depends on the time frame we were referring to, and what decisions would be made, if that makes sense. I would say that Scott Whale started working with me and Crystal Wealth in 2005, I believe. Sorry, working alongside me, but he was actually employed by Advisor Asset Management Group, which was the promoter of the other funds.

In 2006, I believe he made his first investment in Crystal Wealth. In 2007, we ended our relationship with Advisor Asset Management Group. He stayed with me and went on the Crystal Wealth payroll at that time.

In 2009 or 2010, he made a further investment in Crystal Wealth. So, at that point, he had a more active interest in the day-to-day business affairs, as well as the decisions regarding trying to recruit Dale and Al and how we were growing Crystal Wealth. When I terminated his... that role, if you will, within Crystal Wealth in 2014 or 2015, his, I guess, input on a day-to-day basis went down somewhat, but he was still in the office every day, and we would still chat everyday about things that were going on in the business.

Ultimately, at the end of the day, I was the ultimate designated person. So, I sit at the top, as far as from a decision-making responsibility point of view. With the individual funds, Al Housego is the lead portfolio manager on the funds we have mentioned. Dale Wells was the lead portfolio manager on the Retirement One fund. So, they would make the decisions regarding the investments in those funds. It was my responsibility to oversee those, you know, both monitor and supervise them, oversee those decisions.

So, Joanne Bentley was strictly a...I wouldn't say an order taker, but she had no responsibility. She wasn't...she became licensed, but had no interactions with individual clients, had no decision-making responsibility, had no responsibility for the decisions made regarding what was being done within the funds. She would execute what I asked her to execute, basically.

470. Q. And did you fund or did Crystal Wealth fund Joanne Bentley's courses to obtain her Chartered Investment Manager's certification?

A. Yes, that is part of our employment

contract with all employees.

471. Q. And you funded that for her and for who else?

A. I believe Jillian Van Osch did level 1 of the CIM. The securities course, we paid for that, and Cayla Altorf, who was an employee for a period of time, we actually paid for her...she was working on her accounting degree, and she was working on her fund accounting sections, so we paid for some of those courses. I believe that is it, but I can't remember exactly. And I believe we paid for Scott Whale's courses, as well.

472. Q. So, in the initial application record, filed in support of the appointment of the Receiver, just returning to the Media Fund, one of the exhibits to Michael Ho's affidavit is an e-mail from you to Steven Thibault, copying Aaron Gilbert from October 30th, 2014. And you say:

> "...Hi, Steven. Please wire the following amounts to the respective parties in accordance with our discussion. Tracking $2,632,000, mercy loan..."

And then you set out below, wire number 1, Spectrum Canada, amount $2.430 million. Wire number 2, Carol Matthews, $106,000. Why are you directing MHC to wire money to Spectrum and Carol Matthews, but directing them to track it to the Mercy loan?

A. I don't remember.

473. Q. Why would Carol Matthews have...why would you ever be directing MHC to wire money to Carol Matthews or Spectrum?

A. Because we had previously discussed them buying investments, buying mortgages from the Mortgage Fund and/or Carol Matthews, in this case, which we discussed previously. So, I was just giving them the wire instructions or directions to whom to send that money...

474. Q. But you are telling them, "We are transferring you $2.632 million towards the Mercy film loan, but then wire it out to Spectrum and to Carol Matthews".

A. Yes, I don't...

475. Q. Why are you telling them that?

A. Well, the instructions about wiring the money out was to purchase those mortgages.

476. Q. But tracking it as a payment on the Mercy loan by the Media Fund.

A. It may have been that that is to whom...that that is the...it may have been Mercy that was buying those mortgages from them, like within their books.

477. Q. You clearly knew that the Mercy loan wasn't going to the underlying production company. It was being used for other purposes by BRON?

A. The loan went to Mercy, and that is papered. So, Mercy owes the fund that money.

478. Q. No, I understand it is in the agreement...

A. Okay, so what they did with the money...

479. Q. ...but the fact of the matter was, when you bought the film loans, the monies were not actually funding the underlying production.

A. But the simple fact is there is a loan that exists between the fund and Mercy productions...

480. Q. So, you are saying that you think that MHC had already funded the Mercy loan? So, the underlying borrower?

A. Yes, or it was simultaneous with us funding them. I guess the point I am trying to make, Mark, is simply that there is a loan in place between Mercy productions back to the fund. What they then did with the money doesn't impact the fact that they still owe the fund that money, and I believe that Mr. Gilbert has acknowledged that factor prior to the receivership. And he and I were talking...he verified to me that that is the case.

481. Q. Well, but you understood, with respect to those...when we talked about them earlier, the five column BRON-related production companies, there had never actually been underlying funding between MHC and the underlying production company before funds were advanced by...

A. That was the case with a lot of the other loans, as well, that the...simultaneously, the paper would be executed, but we would provide the funding.

482. Q. But the Media Fund on its own was not actually supposed to be loaning money?

A. Correct, that is why it was originally prepared between MHC and the underlying production, then we would buy that loan. The money flow may happen simultaneously, but the paperwork was in place to...that we were purchasing...

483. Q. So, again, just ignore Mr. Ho's affidavit in the original application record. At Exhibit 8, there is an e-mail from you to Steven Thibault, September 18th, 2015, where you say:

"...Hi, Steven. Check out the attached and

see if it makes sense and simplifies
things..."

And you attach a chart that says, in the left-hand column:

"...Borrower..."

And underneath it, you list:

"...MHC, Mortgage Fund, CLJ Everest,
Chrysalis Yoga and Clayton..."

And then across the top, it lists projects:

"...Henchman, Mercy, Hunter of the Stars,
Mighty Monsters, Kingdom, Mortgage Fund
Loan 1, Mortgage Fund Loan 2 and Mortgage
Fund Loan 3..."

So, why are you sending...this spreadsheet that you are sending to MHC clearly presents that the actual underlying borrowers for each of those film loans is you, Chrysalis Yoga, CLJ, the Mortgage Fund and MHC. Is that not what it says?

A. No, I think that was a spreadsheet to help him and I track...for him to track on his side, which...who owed back the money to them, or which production, and for me to track on my side which of those loans...how much money I owed back to them, versus Chrysalis Yoga versus CLJ Everest.

484. Q. But why would that information

concerning how much money you owe appear on the same table which deals with those film loans? You said they had no relation, one to the other.

A. Right. I think what I am saying is that the money may have flowed out of his companies to me, out of those. But...

485. Q. Did you author this spreadsheet, the table that I just referenced?

A. I believe so.

486. Q. And...

A. I may have been copying it and pasting it from other spreadsheets, because it looks very similar to tracking other loans.

487. Q. Yes. And the spreadsheets appended to it for each of these film loans, did you author that?

A. They look like it from here.

488. Q. Yes. And yet these spreadsheets trace advances by the Media Fund for these film loans, and also trace payments back to you personally.

A. They track the personal loans that I made from Aaron Gilbert, yes.

489. Q. Yes, but they are also tracking...I mean, the spreadsheets that...again, that you

produce, they each name the name of the film in each of them, in the corner of each of these spreadsheets at Exhibit E. So, your evidence...and, again, I am reminding you that you are under oath, you are saying that your personal loans from BRON had absolutely nothing to do with the advances made by the Media Fund with respect to these film loans?

A. Correct, what I am saying is that we had film loans in place with Mr. Gilbert, or those various production companies. The fund has loans in place with those various production companies, and I personally and/or CLJ or Chrysalis had owed money from Mr. Gilbert. And he owes...

490. Q. Then why create a document that shows the monies being advanced by the funds for media loans coming back to you, and listing you as the borrower?

A. Again, I think to help them track, on their end, how much money was owed back.

491. Q. But, again, all you would have to do to do that, Clayton, if that was the truth, is say, "Well, this is how much money you gave me". Why do you have to show, from the same document, Media Fund advances to BRON? You are saying they are unrelated. Why create a document that ties it all

together if it is not because you are advancing money out of the Media fund to BRON that was just going to come right back to you?

A. Again, as I said earlier, Mark, and as I testified to the OSC, a lot of that was just cutting and pasting, using spreadsheets I created to help track the loans.

492. Q. Clayton, be truthful.

A. I am being truthful with you, Mark. At the end of the day, you have the legal documents in place that show the loans exist between those production companies and the fund. What they then did with that money is unrelated, in the sense that they still owe that money back to the fund, and I still owe that money to...

493. Q. I understand, but the purpose of the advances made by the Media fund were to purchase film loans that had already been funded, correct? But what was clear with respect to these film loans was they had not been already funded, and that the monies advanced by the Media fund flowed back to you and to the Mortgage Fund to CLJ. And that is what this document at Exhibit 8 that you created shows.

A. That is your interpretation, Mark. I am not going to argue with you.

494. Q. That is a sophisticated, voluminous document. I am just putting to you, Clayton, it is just simply not credible to say that the two are unrelated, being the Media fund advances and the monies that came back to you.

A. Mark, can I just ask why...

495. Q. Yes.

A. ...we are wasting all this time? You have asked me, basically, a lot of the same questions the OSC asked me, so I am just...

496. Q. I am trying to understand exactly where you...where this money went...

A. Right, but I am just saying the OSC has asked me the identical questions, so...

497. Q. Well, I obviously would not be privy, as counsel to the Receiver, to whatever questions the OSC asked you.

A. Fair enough.

498. Q. Our mandate here today...

A. I thought...

499. Q. No. Our mandate here today is to examine you with respect to the decisions you made that caused over $100 million worth of investor money to be misplaced. So, we are trying to figure out exactly...

A. I understand.

500. Q. ...the decision-making process that you went...the path you went down to that resulted in, you know...

A. Understood.

501. Q. ...a terrible result for investors. Can you explain to me what the U.S. real estate LP investment was?

A. Not well.

502. Q. Why?

A. Because it was pretty confusing. The way I understand it was our fund purchased units in a Canadian LP that had both an investment and a loan component to a U.S.-based LP that was buying distressed apartment buildings, and then refurbishing those and then flipping them. That is the big picture.

503. Q. How did this investment opportunity arise?

A. From Mr. Housego.

504. Q. Okay. Elaborate.

A. The gentleman I met that was associated with it was Albert Storelli. I met him on one occasion. And somewhere in the exhibits, I believe, is the spreadsheet that...or the diagram that shows the way the investments worked. Some were, I think, in the exhibit, as well as my e-mail to BDO, and our legal counsel at the time, asking them to vet...not vet, but look at this structure, and tell me whether or not it made sense and was legal, and whether it made sense from an accounting point of view. I do believe you have those. If not, they would be...they should be in my Crystal Wealth files or e-mails.

505. Q. And what did you know about the actual underlying investments, the distressed properties that were being renovated?

A. That basically, there was an apartment building that might be at 40 percent occupancy because it had been run down and there was a newer building beside it that was at 80 or 90 percent occupancy. And these gentlemen that ran these underlying companies had done this on several other occasions where they would go in and buy the distressed one, put some money into it, then ramp up the vacancy rates, and then refinance it or sell it.

506. Q. Okay. And what kind of updates did you get regarding the progress of the projects?

A. I don't recall exactly what I had done. I seem to recall...I mean, they were relatively young investments at the time of receivership.

507. Q. So, what was your...so, were you predominantly involved in this investment, that was about $7.5 million from the hedge and factoring fund between June 2016 and March 2017?

A. I wasn't predominantly involved.

508. Q. Okay.

A. I was involved from the point of view of getting legal and accounting opinions, if you will...

509. Q. Were actual legal and accounting opinions obtained?

A. I got e-mails back from both... sorry, our legal counsel at the time...

510. Q. Is that Jonathan Dyck?

A. No, that was Kelly Margaritis, and from BDO...

511. Q. Who at BDO?

A. I am trying to remember. I think it was our most recent relationship manager...Carmen Macoretta, I believe...I think the e-mail is somewhere in one of those exhibits, the e-mail exchange between him and I.

512. Q. So, aside from those e-mails, was

any other due diligence done?

A. Well, I presume by...

513. Q. Projections...

A. Yes.

514. Q. ...cash flows...

A. Yes, all that was provided. All of that was...I saw all that prior to us doing the investment and looked on paper, and looked from the conversations with Mr. Housego, and the conversations with the lawyer that structured it all, which I can't remember his name off the top of my head, but out in B.C. But it looked above board and it looked like it was going to be a good investment.

515. Q. Who is the lawyer in B.C.?

A. I can't remember. I just said I can't remember his name right there. I think there are e-mails in there, or if not, in my files.

516. Q. Can you undertake to try and figure that out?

A. Well, I don't have those files. You guys have them, but there is a number of exchanges, and like I say, I believe it is in the exhibits there, because...in fact, there is a number of e-mails between him and BDO, as well, when they were doing the audit in early 2017, where he was providing them additional information regarding financial statements of those underlying LPs, but I can't remember his name.

517. Q. And explain to me your role in the Medical fund?

A. Basically, I created it and made the investment decisions for the Medical fund.

518. Q. Okay. And what led to the NFL participation agreements?

A. It was presented to me by Alejandro Nathan, as...

519. Q. Sorry, who is Nathan?

A. He is the CEO...

520. Q. Spell his name for the record, I mean.

A. Yes, N-A-T-H-A-N, president of Synergy Medical Capital. Yes, and it was presented to me, and it seemed like a good investment opportunity.

521. Q. Do you not believe that it is contrary to the objective of the Medical Fund's OM?

A. No, because we were basically factoring receivables, they were factoring receivables by these players from their settlements

from the NFL.
522. Q. And that constituted...comprised about 75 percent of the fund's NAF?
A. At the end, when the receivership was imposed, yes.
523. Q. I just had some follow-up questions on the commercial loans. Why was the mortgage, in High Yield Mortgage, and Factoring funds making commercial loans?
A. Well, it is part of their mandate to invest in other income-producing properties or income-producing investments. And at times, we couldn't, I guess, deploy sufficient...rather than sitting on cash, and having cash drag down the performance of your portfolio, we would have invested in commercial loans.
524. Q. So, your view is that the type of investments that, for example, OOM Energy...or the OOM Energy Group were consistent with the High Yield Mortgage and Factoring funds?
A. I believe so, and according to the mandates saying the investment of their income...
525. Q. Were Jennifer Pinto and David Bodanis ever able to successfully raise money?
A. No.

526. Q. Why not?

A. That is a good question. I really don't know. We worked and worked and worked with them. We tried to have our...they got a few appointments or introductions, but they were just never successfully...never successfully and introduced me to business that we closed on.

I shouldn't say that, sorry. When they were working at Media House Capital, they were successful in getting Richardson GMP...Richardson GMP...several of those advisors interested in the fund. And they did invest some money in the fund. But during the time they were employed at Crystal Wealth, they weren't successful at bringing on any additional money.

527. Q. I will just show you a document. This concerns the lending arrangements with the numbered company, 244 Ontario Inc., regarding St. Mary's Cement in Leaside?

A. Right.

528. Q. Did you or Crystal Wealth have any involvement in preparing this document? It is entitled "OOM-Related Projects"?

A. I...

529. Q. Have you seen this document before?

A. It does not look familiar to me, no.

530. Q. Do you know who would have prepared it?

A. I presume OOM.

531. Q. Are you aware what...have you heard of the related projects discussed in this?

A. Yes, the Detroit, Michigan one, obviously there is St. Mary's Cement. I have heard of the Shreveport, Louisiana, and the Shelby, Texas one. Yes, the Go Oshawa one, these are all ones that were done by Craig Clydesdale under previous employment with another company.

532. Q. Sorry, under...

A. Previous employment with another company, a different company, before I got to know him.

533. Q. Okay. So, those are already completed projects?

A. The related projects...again, I think that is why he has worded it this way, OOM management have designed, built and completed the following projects, and it doesn't say OOM has done that, because OOM hadn't done it, but I believe Mr. Clydesdale had done it under previous employment.

534. Q. Okay, but I think you said earlier,

aside from Leaside, you are not aware of any other successful OOM Energy generator installations regarding...

A. No, there are a couple that were ongoing at the time, the Imaginea Oil and the Detroit one.

535. Q. And the Detroit facilities have never went online, right?

A. Correct, at the time that the receivership was imposed, as he says here, they were presently installing a co-gen facility in Detroit.

536. Q. Do you know why...if you just flip over to tab 4, the Detroit facility never went online. Do you know why this energy services agreement was signed?

A. Well, these are signed prior to the installation commencing. It never went online because we hadn't raised sufficient money for him to place the order for the generators, which are typically built by Cummins or some other large generator company.

So, prior to that order being placed, the prep work would be the pouring of the pad where the facilities kind of sit. The creation of the wiring and the interface between the plant's electrical site and when the co-generation facility...so, I think it just hadn't proceeded yet because the money hadn't yet been raised.

And I think somewhere in the agreement, certainly in the Leaside one, I believe it is in here, as well, that from the signing of this agreement, he would have a certain length of time, I think 365 days to get that project installed and operational.

537. Q. Okay. Do you know if a blocked account was ever set up with TD, or payments from St. Mary's Cement under the Energy Services Agreement?

A. No, we were in the process of setting that up, again, when the receivership was imposed.

538. Q. Was the intention on all sides to set it up, however?

A. The intention on our side certainly was to force Clydesdale to set it up.

539. Q. Was he giving resistance?

A. Yes, there was some resistance.

540. Q. Why?

A. He just felt it was...that is what he expressed to me, was that he felt it would be a pain in the ass, and would cause operational issues, blah, blah, blah, and I was saying "Too bad, we are putting this account in place". Jonathan Dyck was working with me and with TD to get the...and there is a draft account. There is a draft agreement somewhere that we had circulated to both Clydesdale and Bill McKenzie to get that blocked account set up.

541. Q. And who was the rep at TD you were working with?

A. Jonathan Dyck was working with the rep. I wasn't working with him directly, and...I remember Jonathan having drafted an agreement that was circulated to McKenzie and Clydesdale. Again, I don't remember the timing, but I seem to recall it was just before the receivership was imposed.

542. Q. What do you know about the company, Magnitude CS Energy. It is another...

A. I think it is the parent company of...again, he had a number of companies, like Magnitude CS Energy...

543. Q. You say "he", you are talking about...

A. Sorry...

544. Q. ...Clydesdale?

A. ...Craig Clydesdale. Magnitude CS Energy, I believe, is the parent company, with each installation. So, it is St. Mary's Cement, Leaside, that would be a separate operating company, owned by Magnitude CS Energy, but the agreement would be between...the agreement with the end user would typically be between the end user and that opco for that specific site.

545. Q. Now, with respect to Magnitude, the relationship that Crystal Wealth had was a working capital arrangement?

A. That was part of it, and the new part of it was project specific.

546. Q. So, if you turn to tab 7, that document July 6, 2016, loan to Magnitude CS Energy Inc., do you recall that?

A. Yes.

547. Q. And what was the purpose of this?

A. I believe working capital. I think it says in here. Yes, it is on page 2, general operating expenses and working capital.

548. Q. So, over $6 million was advanced under this document at tab 7, right? The loan agreement?

A. I don't have those numbers in front

of me. If you are saying that, yes.

549. Q. And do you know what was done by Craig with that money?

A. What I understood to have been done...no, I do not know specifically what was done with that money. What I understood to be being done was some of the prep on Detroit, building the pond, biofuels, reactor that sits adjacent to the Leaside co-generation plant, and then it says "General operating expenses to keep his business running".

550. Q. Now, under this loan agreement, there is a security heading that calls for a general security agreement, it guaranteed to be given by Craig Clydesdale personally, a pledge of shares to be given by Clydesdale personally, and other security documents. And we haven't found...the Receiver has not been able to find any of the security in Crystal Wealth's books and records. Was it ever provided?

A. I don't know that all of it was provided. Again, I was working with Jonathan Dyck at Miller Thomson to try and get all of those things caught up and cleaned up. The simple fact is, Mark, that a lot of this...I was overwhelmed. I mean, this is no excuse. I am just trying to explain the state of mind at the time.

That is why the oversight wasn't sufficient on a lot of these things. I was working with Jonathan Dyck to try and get a lot of these agreements in place, and as you have now experienced, Mr. Clydesdale, with Mr. McKenzie, there was some resistance, delays, obstruction. We were getting on with running other stuff at Crystal Wealth. So, time would go by. It is not an excuse, but that is a simple fact, so...

551. Q. So, why advance the money without that protection in hand to secure the investment?

A. In hindsight, it was a bad idea. At the time, it seemed like a great investment opportunity that we had a first right of refusal on. It seemed like it was going to go. We had done the one at Leaside and it was operating as expected. So, I had no reason to think that A) he couldn't do it, or B) that future projects wouldn't be as successful as that one was. And we were scrambling to try and maintain that first right of refusal position, and to finance future projects, because I thought it was going to be a great investment opportunity for our investors.

552. Q. Did Clydesdale ever provide its

personal guarantee?

A. I don't recall.

553. Q. Do you recall any of the security I mentioned being provided?

A. Well, I thought there was a whole bunch of documents that were signed at the time of the Leaside agreement, that...and I am pretty sure that GSA or Magnitude CS Energy was one of those. And when I asked Jonathan Dyck...again, I think it was early 2017, to come back and verify to me which of these documents were done and were in place, he came back in the e-mail...and I don't have access to that e-mail right now, but it should be in the files, verifying that the GSA was in place on Magntitude, but I don't know if it was in place...and on Leaside subordinate company. But I don't know that it was in place on him personally, and the other issues that are expressed in here.

554. Q. And if you flip over to tab 8, this is a factoring agreement that was entered into July 31st, 2015 by the income funds, now the factoring funds with 244 Ontario Inc. Why did Crystal Wealth enter into a factoring agreement with Magnitude?

A. I think the intention here was that the income fund would fund...we hadn't set up the infrastructure fund yet, so the intention was...and I think that is subsequently how the infrastructure fund bought out this particular borrowing...

555. Q. But isn't it true that, once again, there was never an intention of factor or anything. It was a loan, but this is how it was papered.

A. Well, we were factoring the...sorry, I am just trying to...we were factoring against the signed ESA contract, which it states on Schedule A...

556. Q. Yes, but what these were in reality were loans?

A. I would not say that. I wouldn't characterize it that way. Again, we had to sign the ESA agreement that showed the future cash flow going to me. That is what we were factoring against, was that future cash flow.

557. Q. And, again, there is security required on page 3. Was that security provided?

A. I have to go back to the documentation. I believe that was done, the execution of the...but, again, I don't know. I can't state categorically off the top of my head that that was put in place and papered.

558. Q. I do believe, though, if you check

them, there should be a GSA over at the parent company, which, as I understand it, owns those subcompanies?

A. I believe that is what I was told by Jonathan Dyck at the time and I can say there is extensive documentation that should be in a separate binder in our office. When the Receiver took over that had all the documentation relating to the Leaside project.

559. Q. Okay. And going back to the loan agreement at tab 7, it is also secured, you will see, by a specific assignment of a licence agreement between an entity call MSCnox Recovery Inc. and...

A. Yes.

560. Q. ...Pond Biofuels. Are you familiar with that?

A. Yes.

561. Q. What is the nature of that licence agreement?

A. They had signed a licence agreement with Pond at the time, Biofuels, but now Pond Technologies, that gave them the rights to reuse Pond's technology, bioreactor technologies to build and create a bioreactor that would take the exhaust gas from the co-generation facility, turn it into a

non-pollutant, basically.
562. Q. So, why would OOM be doing this installation work on Pond's behalf?
A. They weren't doing it on Pond's behalf. They were acquiring the technology from Pond. The concern of it...
563. Q. Go ahead.
A. No, the concern at the time was if, in the future, Pond was no longer in business, we wanted to have the ability...we wanted to have the ability to continue using that bioreactor technologies. And that licence agreement should be somewhere in our files or our records, because we did take security or take assignment of that.
564. Q. So, what receivables were owing by the OOM companies, except Pond? Were any monies owing from OOM to Pond?
A. At the time of what, sorry?
565. Q. At the time we are talking about, with this agreement.
A. I don't...at the time of this agreement?
566. Q. M'hmm.
A. I don't know. I don't believe so, but...I know that they did acquire some...they had

originally signed, it was a $50,000, I think, licensing agreement. At the time of this agreement, I don't know if they had started the construction on their algae bioreactor at Leaside, and whether they owed any monies to Pond for equipment they purchased...or not.

567. Q. And who was going to install the bioreactor?

A. Pond was. And Pond did. Again, I think maybe...if I remember correctly, the licence agreement was put in place in the event that Pond no longer existed. However, when they built the bioreactor at Leaside, Pond was still in existence and did the work, and I believe invoiced MCS Energy for that work.

568. Q. And what was the relationship between Pond and the OOM Group generally?

A. I was introduced to Pond through Clydesdale. And, again, just introducing this technology of this Pond algae bioreactor, I don't know what their relationship was with respect to...I don't know if there is any co-ownership or anything like that. I don't believe so. I know St. Mary's Cement was the majority owner of Pond. I had numerous meetings with the president of St. Mary's

Cement Canada and Steve Martin at Pond, at which we discussed both Pond and the work that they were doing...or that Magnitude CS Energy was doing for St. Mary's Cement.

569. Q. And then the loan agreement with MCS...MCSnox Recovery at tab 9. Did you ever do any due diligence before this agreement, into what assets the borrower had?

A. Well, yes, I don't believe they had much assets. I believe it was a relatively new company that, again, was going to generate revenue based on having these bioreactors attached to their co-gen which then would create either carbon credits or BS source...creating algae that could then be sold, as well, from a commercial basis.

570. Q. Do you know what the current state of the update of...with respect to MCSnox?

A. I don't. I haven't been in touch with Mr. Clydesdale either...

571. Q. When was the last time you have any communications with Mr. Clydesdale?

A. I am going to guess May of last year, 2016...2017, sorry.

572. Q. Why haven't you had any communications with him since 2016?

A. 2017. As I said earlier, I haven't had contact with anyone since shortly after the receivership happened because, again, I am not entitled to or allowed to or...and involved with realizing on the assets and the funds.

573. Q. Do you believe that MCSnox owns any intellectual property?

A. I believe they own the licence agreement with Pond. And other than that, no, I don't believe so.

574. Q. Do you have a sense of the value?

A. No. I wouldn't know how to estimate that.

575. Q. Was the GSA provided by MCSnox in favour of...

A. Again, that is one of the things that I was trying to verify with Jon Dyck at the time. I can't remember what his response was on that. I believe we have done that, but...

576. Q. For an IP security agreement?

A. I don't think IP because, again, I don't think they had any IP. I think the IP, ultimately, was Pond's IP over which Crystal Wealth does have an agreement in place because of the Pond loan. But in this case, it was a licence agreement, and I don't think there was any intellectual property that MCSnox Recovery had.

577. Q. Okay. Did Crystal Wealth or OOM, to your knowledge, have any discussions or dealings with Export Development Canada with respect to the St. Mary's Cement investment?

A. I met with Export Development Canada a couple of times, trying to get them to fund...part of our plan...of our efforts with OOM was to try and get financing for them from banks or companies like Export Development Canada so that they could take out part of our investors' investment, and we could then redeploy it into other projects as they grew.

578. Q. What projects did you discuss with EDC specifically?

A. Probably Leaside, which was already in existence, so hopefully that they would acquire a piece of that. Sorry, that was with the Royal Bank. We had that conversation. With EDC, I believe we were focusing on the St. Mary's Cement Detroit project, because...

579. Q. Any other projects?

A. That was the one in talks at the time. I don't recall that they were...I mean, we have talked in general about other contacts that

Craig was making down in the States, but the St. Mary's Cement Detroit was the primary one that we were trying to focus on.

580. Q. And was any sort of investment or Export Development guarantee given by EDC with respect to any of the projects?

A. No. And we had similar conversations with Royal Bank extensively on OOM's behalf, trying to, again...and Royal Bank was nearing, I guess, their end of their due diligence to buy out a piece of the Leaside project, and then to co-invest going forward, but that didn't happen.

581. Q. And what do you know about the participation interest, and the mortgage issue to Kanwal Investments by Liberty Mortgage?

A. Well, I know it was in...it has been in foreclosure for a long time.

582. Q. Who originated that investment?

A. Liberty.

583. Q. Okay.

A. And then we bought a piece.

584. Q. Okay. Who from Liberty were you dealing with?

A. I seem to think at the time, it was...their lawyer was Barry Burnhardt, who subsequent to that separated and started Burnhardt Mortgage Group. I am trying to think of who the principal was at the time of Liberty. I can't remember now. He was an older gentleman. I met him once, but I can't recall.

585. Q. And what led Crystal Wealth to want to invest in participation of this mortgage?

A. Well, again, when we first started the fund back in 2007, our intention was to...we didn't specify...almost do like 50/50 commercial and residential mortgages. So, we were introduced to Liberty by...I can't remember now. By Dale Wells. It doesn't matter. And we purchased a number of mortgage participation and pieces, if you will, through mortgages initiated by them. So, the Kanwal, I think, was the only one remaining at the time of the receivership, and had been in foreclosure for a number of years. They were in the process of redeveloping that property and selling it off and...

586. Q. And there was a promissory note issued by Cinnos Mission Critical Incorporated?

A. M'hmm.

587. Q. Which is purchased by the Infrastructure Fund for $300,000?

A. Yes.

588. Q. Who brought that investment in at Crystal Wealth?

A. Through the Angel One Investors in Burlington.

589. Q. Who specifically?

A. Well, I was a member of Angel One. It was introduced at one of their meetings. They are angel investors. Typically it is private individuals that are buying pieces of these investments. It seemed like a good investment that fit the Infrastructure Fund mandate. And, so, I initiated buying a piece of that participation.

590. Q. Do you know anything about the current status of Cinnos?

A. I don't right now, no.

591. Q. You don't know if the company is performing?

A. I think it is...they were when the receivership was imposed. At that time, there had just been an update issued by the CEO, and they seemed to be on track with their sales, I think they just signed a contract with Rogers, I believe, to do several installations over the coming year. So, it looked as if the investment, it was performing well at the time.

592. Q. And what was the purpose of the Conscious Capital strategy?

A. Specifically to invest in companies like Pond, companies that can make a difference in the world through their technologies. That was the mandate of it, to basically green companies, or companies...

593. Q. And was that the one that was going to be an initiative between Crystal Wealth and the Pond and Imaginea?

A. Well, we had had a discussion about that, Suzanne West, Steve Martin and myself and a couple of other people from both of those companies about doing a joint venture capital fund, if you will. That didn't go forward, and so I launched the...I was already in the process of developing the Conscious Capital fund, we hadn't yet launched it. When I had that conversation, Suzanne West decided not to proceed with that, and so I went ahead and launched the Conscious Capital Fund.

594. Q. Did it ever actually do anything?

A. The Conscious Capital Fund?

595. Q. Yes.

A. It bought shares in Pond

Technologies. That was the first investment and the only investment.

596. Q. So, walk me through the process of how the NAV was established on a regular basis for each of the Crystal Wealth funds.

A. Okay.

597. Q. And I am talking as far as the time stamp point, over the last...call it two years, and if it changed at any time, you know, you can explain that, as well. Two to three years?

A. I mean, basically it is laid out in the offering memorandum. We would take...typically, every Friday, it is a business day and at the end of each month. Basically, the assets of the fund, minus liabilities of the net assets, and divided by the number of units would be the net asset volume per unit.

In the OM for each fund, it specifies how we are going to determine the value of the assets.

598. Q. No, I understand what the OMs say, but I want to understand, practically speaking, you know...take the Media fund, for example. Take a specific period of time, June 2015, for example. What was done throughout the month to set the NAV each week? Who was involved? What was looked at?

A. Okay. So, any...well, I will talk generally, Mark, because this will apply to all funds, and I will specifically address funds such as the Media and Mortgage Fund. IAS, so our fund accountant, they had access to our NBCN, all the funds, NBCN accounts, they would get the access in the sense of viewing. They could view those accounts and the transactions within them. They would get reports from IFDS, our record-keeper, every week, showing what capital unit transactions took place, as far as from a unitholder point of view went.

They also had access, from a reviewing point of view, of our interactive brokers' accounts for those funds that have those accounts. There is only three or four of them. So, I mean, money movements, or publicly traded securities that would be...that would show up on the National Bank system, they would automatically price based on Bloomberg price feeds coming in, price...they would price out all those things, all those securities.

For off-book assets, for the mortgages, the various mortgage...so, Spectrum would send a weekly report to me, but they would cc IAS, so would Squire Mortgages showing the mortgage principal, the outstanding interest, the transactions during the week. IAS would put all that, those transactions into their books, for the funds' books. The Medical Fund, same thing, Alejandro Nathan would send a report from...again, weekly to me and cc them. They would...again, similar process.

The media loans, I tracked on a weekly basis, and I would provide a report to IAS...

599. Q. And when you say a report, are you referring to your spreadsheet that you would maintain?

A. No.

600. Q. That same spreadsheet that you had provided as part of the exhibits in the materials in the receivership application?

A. Yes, principal, it would show all the loans and the principal plus...

601. Q. No underlying documentation, though, correct?

A. Correct.

602. Q. What was provided...

A. Same with the infrastructure fund, I think. So, any off-book assets that weren't being administered by a third party such as Spectrum, Squire, XMC, I would track and provide that information to the fund accountant. They had instructions, they were accruing...because the management fee is fixed, they would accrue that every week.

Expenses, they would accrue an estimated percentage on an annual basis. And at the end of each month, when we paid the actual expenses every month or two, I may adjust that percentage of what to approve going forward, you know, just to keep it close and in line with what we were...so, we accrue by the end of the month the approximate amount to pay the actual bills.

The loan loss provisions, I would tell them what percentage...not every week that they would just accrue...sorry, with Mortgage Fund it would be 1 percent, they would accrue that loan loss provision every week. I think that is...that sort of covers most of it, I think.

603. Q. Okay. And take, for example, the Dome Mountain lending arrangement for the Factoring fund. What would it be provided to IAS on a weekly basis in support of the Factoring funds now?

A. So, Frontline Factoring was sending weekly reports somewhere to Spectrum, that would show the Factoring...they would send that to...sent it to me. I think they cc'ed IAS. I had my own report that I would then send to IAS, as well, and I would make sure to verify it to Frontline's report, showing accrued interest, accrued Factoring fees, et cetera, on various contracts. And those should all be getting...in the Crystal Wealth files, every week when you have...

604. Q. And the NAV for each fund was determined on a weekly basis always?

A. Yes, on a weekly basis, unless Friday was...yes, on a weekly basis and at the end of each month.

605. Q. And were trades only executed of Crystal Wealth funds on a specific day of the week?

A. No, not necessarily.

606. Q. Explain to me...

A. Do you mean investors buying into or getting out of funds...

607. Q. Yes.

A. ...or trades within the funds?

608. Q. No, investors redeeming out...

A. Yes, they could only happen on the weekly valuation dates. So, during the week that investors put orders in through their brokers, whatever, those would all queue...and Friday night, we would strike our NAVs. Those prices got sent to IFDS. IFDS would then process all of the queued client orders at those NAV prices, and then settlement for those trades would occur the following week.

609. Q. On Monday?

A. Typically T-plus 3 settlement, which was the industry standard. I think it has changed to T-plus 2, but at the time it was T-plus 3. So...and, again, those money movements would be done between the IPS and the funds, NBCN bank accounts, or NBCN custody accounts, and all those reports would also be sent to IAS, and IAS would track that to make sure that, you know, all the redemptions have been paid, their purchases have been received, et cetera.

610. Q. And what was Joanne Bentley's role in setting the NAV?

A. She had a role in setting the NAV. In fact, she was involved in coordinating some of those reports, but on...sorry, on Friday afternoons, I would do a quick review of the NAVs published by IAS...sorry, before IAS published the NAVs and distributed them, I would do a quick review of their work to see that it looked reasonable.

Monday morning, Joanne would take all those NAVs, go through and verify all the information against NBCN, interactive brokers, the Squire report, the Spectrum report, the XMC report, the reports I had sent. So, hers was more of the verification process, not setting the NAV. She had no responsibility or involvement in setting the NAV...

611. Q. So, did you have from your own review, before you sent to the materials to IAS each week, an idea of what the NAV is going to be for each fund and what you expected it to be?

A. I had, like, variances that I would look for, if you will. So, you know, I would have an idea if we lost money on a mortgage or a media loan or something that...the return. I had an idea about the returns for those funds, what the range should be. If they are outside of that range, then I would look for...was there something anomalous that happened during the week that would dictate that?

In the case of, say, the resource and precious metals funds that held mostly marketable securities, I would just sort of look at what the...because that return was pretty dramatic. It would fluctuate dramatically. I would sort of look at how the market had done during the week, just to see whether that return was kind of in line with what would be expected.

I wouldn't have time to go through and verify that all 40 securities, let's say, held by it were accurately priced. Joanne would do that on Monday. She would literally verify each security. And if it was inaccurate, we would then go back to IAS, if they had to reprice the fund, because they had actually made an error, then they would send that corrected price to IFDS, and they would rerun any unitholder transactions in that fund so the people got their purchases and redemptions at the right price.

612. Q. And were there instances where there were NAV errors?

A. Only, I will say, a handful over the last three or four years. And every quarter, when we file a report with the OSC we would have to report any repricing we had done, any pricing discrepancies.

613. Q. And the valuation package that you prepared for the Receiver, attached as Appendix A to the report, do you recall that?

A. Yes, it looks like the IAS package, yes.
614. Q. Okay. So, how was this package generated?
A. IAS generated that.
615. Q. IAS, based on the type of information that you provided to IAS on a weekly basis?
A. Based on everything I just discussed...
616. Q. Okay.
A. They would have...that was basically driven off their fund accounting record books.
617. Q. Understood. And who were your main points of contact at IAS?
A. Jane Lee was the day-to-day, if you will, supervisor.
618. Q. That is L-E-E?
A. Yes. So, she was head of the fund accounting team that was looking after Crystal Wealth funds. So, if there were issues...if we were trying to get stuff together for the auditors, et cetera, it would be Jane that I would go to. I don't remember the names of her subordinates or her team, and they would change, you know, fairly often,

I guess.

And then maybe once a quarter...not even once a quarter, once a year, maybe twice a year, I would have lunch or coffee with David...sorry, the president of IAS. I can't remember his last name right now. But, again, we wouldn't discuss fund accounting per se, we would just discuss life and how his business was going, and how mine was going. But Jane Lee was the prime point of contact.

619. Q. Okay. So, when you requested the package at Appendix A, you would have went to Jane for that?

A. Yes.

620. Q. Now, from a compliance standpoint, since the inception of Crystal Wealth and, I guess, you know, moreso recently, but since inception, what type of compliance procedures did Crystal Wealth have in place for its employees, and to ensure that proper protocols were being, you know, followed?

A. That is pretty extensive. I don't think I would recount that verbally right now. There is a compliance manual that lays out, that would be in the Crystal Wealth books, that would have the record of everything and all the checks and balances that were being done. So, that is not a question for me to...

621. Q. Yes, no, fair enough. I have seen that compliance manual, but my understanding was it was created relatively recently. Is that not the case?

A. No, it was modified recently. It was...we have had a compliance manual since day one. It would be continuously updated. When the OSC did their most recent full audit with us in 2014, there were a number of discrepancies that we worked with them until...I think it was December of 2016 that we finally had fixed all the discrepancies, and they gave us a clean bill of health, so to speak. So, that version that you are looking at is the most recent version, but it wasn't just created. It would have been modified from our previous ones.

622. Q. And did you have meetings with all of Crystal Wealth personnel, representatives to go over that compliance manual, or what type of procedures were in place to ensure that it was...you know, it is a voluminous document.

A. Yes.

623. Q. What was done by way of safeguards to make sure that everyone involved with the business of Crystal Wealth, or the funds had read it

and was agreed to be bound to comply with it?

A. So, upon hiring, each person would sign a certification that they had read and giving oath whatever, that they would fall and comply with that manual. Annually, we will get a certification that throughout the year, they had complied with the manual, but it was a self-certification process. There was no way for me to verify that they had actually read, if you will, updates, et cetera, or would rely on their self-certification.

624. Q. Was there any sort of training seminar where...

A. Yes, sorry, and on specific issues we would have training sessions, usually done by conference call or webinar, either conducted by...the most recent ones would have conducted by Kelly Margaritis, who is our...not our in-house counsel, but the one we were looking at closely from a legal point of view.

So, she ran a couple of trainings of leave on...I can't remember the issues right now, but...and, again, that would all be part of that manual and part of the spreadsheet that...I think at the end, Jillian Van Osch was maintaining, that had a list of all the monthly, quarterly, semi-annual,

annual things that needed to be done, and they would be initialled off in there that those things were done.

So, we would, for instance, get copies of all of our personnel's trading statements if they had accounts at other institutions. So, part of Jillian's job was to verify that we actually got all those. I would then go through and initial off that I reviewed them, that there were no unauthorized trades in there, because if they were going to do a trade somewhere else, I would have to approve that.

625. Q. And Kelly Margaritis, she was with Compliance Support Services?

A. That is where I met her, and then the owner of Compliance Support Services passed away, and Kelly, I believe, acquired that business, but Kelly also had a side business. She was just under...working under contract, I think, with Compliance Support Services. And she has a company called Margaritis Law.

626. Q. She is a lawyer?

A. She is a lawyer.

627. Q. Yes.

A. And, so, from that meeting, I still had a relationship with Compliance Support Services to clean up all the discrepancies that the OSC had identified. We also then hired Margaritis Law, I mean, Kelly, on a contract basis, basically, to be our legal counsel in securities matters.

628. Q. Okay. And I saw in your risk questionnaire that you filled out to the OSC, it had asked you to identify, prior to March 31st...in the two years prior to March 31st, 2016, who was your compliance consultant. And it said you had none. So, did you...

A. Sorry, said what?

629. Q. It said it had not changed...

A. Oh, it had not changed, sorry.

630. Q. Yes. So, when did you start having Compliance Support Services as your compliance consultant?

A. Shortly after the...December of 2014, I believe it was, when we signed it, something like that.

631. Q. Okay.

A. I think...I can't remember the exact dates.

632. Q. And prior to that, you didn't have one?

A. BLG would have been...Borden Ladner

Gervais would have been our...that is who I would have interacted with and relied on. When the OSC audited me in 2011, it was Borden Ladner Gervais that then worked with me to work with the OSC to resolve all the discrepancies from that audit. And then 2014, sometime, again, I hired Compliance Support Services as the dedicated loan compliance team.

633. Q. And then, at some point, Kelly Margaritis became, like, a full-time employee of Crystal Wealth...

A. No.

634. Q. ...in your office, right?

A. No, no, no. No, we had a...like, a retainer contract.

635. Q. Independent...

A. Independent.

636. Q. But was she not working from your office, pretty much on a day-to-day basis?

A. No. No, never. She was in there the odd day if we were doing training or going over something, but she was never working out of our offices, no.

637. Q. Did you ever have...what type of meetings did you have with the registered

representatives on an ongoing basis, you know, to check in on the status of investments? Were there routine meetings of any sort?

A. Yes, as I previously mentioned, every Friday...at least during the last, I would say, year and a half prior to the receivership-ish, I don't remember the exact date we started them, but we would have weekly conference calls. Other than that, during the week I would have individual conversations with, you know, various representatives about either client accounts or, in Al's case or Dale's case about investments within their funds or, you know, any other issues that came up that was...

638. Q. And who would be on those calls? So, it would be you, it would be Al Housego, it would be Dale Wells, Tim Johnston?

A. No. Scott Whale, Joanne Bentley and Jeff Mushaluk.

639. Q. Why would Jeff Mushaluk be on there?

A. He was a referral agent who had a significant amount of...he referred a significant amount of clients to us. He, I think, originally had acquired a part of Al Housego's book of business, when they were both at IPC...

640. Q. Jeff and Al knew each other from before?

A. Yes. I think Jeff actually worked in Al's office. Prior to me knowing him, Jeff had worked in Al's office, I think when he had bought part of his business, and then they were both licensed at IPC. Al joined us. I met Jeff at that point when he was still at IPC. And then Jeff started referring clients to us. I don't remember the exact year. 2012, 2013, something like that.

641. Q. And Jeff, as I know and I have mentioned to you, has ended up at Dale Wells' new office.

A. Right.

642. Q. So, was there also a relationship between Jeff and Dale, as well, previously, prior to Crystal Wealth?

A. Yes, once a year, we would have a Crystal Wealth conference, where we bring everybody together physically. We just started doing that. So we had one in Toronto in 2015, and then in 2016 we had one in B.C. So, yes, all the advisors and all the personnel within Crystal Wealth would have known each other...

643. Q. No, what I mean, prior to Crystal

Wealth...

A. I have no idea. I don't think so, but I am not sure.

644. Q. Did you know Joanne Bentley prior to hiring her at Crystal Wealth?

A. No.

645. Q. What about Geoff Reiner? Who did he know from Crystal Wealth that resulted in him being...

A. Originally, he had engaged...I will call it a business consulting firm.

646. Q. What firm was that?

A. It became Persistus Strategies, but at the time that I engaged them, it was...I don't remember. There was himself and Troy...

647. Q. Claus?

A. Sorry, the Cliner Group was the name of the company, Troy Claus, yes.

648. Q. Can you spell the name of that company?

A. C-L-I-N-E-R.

649. Q. And Cliner what?

A. Group.

650. Q. Okay, sorry.

A. I engaged with them in December of

2015, I believe.

651. Q. What was their business?

A. Business consulting, sales consulting.

652. Q. Was...

A. So, I engaged with them in order to help me grow Crystal Wealth.

653. Q. To find investors to invest the money?

A. No, they weren't a licensed entity. They were strictly generic sales and business consulting. So, I engaged with them to help me form a strategic division, rebrand a new website, some sales training.

654. Q. Does Troy Claus now work for Craig Clydesdale?

A. I don't believe so. I believe Troy Claus now is a fireman, but that is...again, I haven't spoken to him in a long time either, but his daughter and my daughter, I think, are connected on Facebook, and I recently saw a picture in of him in a fireman's outfit. So,...like at a graduation, not at a costume party or something.

He did work for Clydesdale for a bit. He also worked directly for Crystal Wealth for a bit.

Yes.

655. Q. So, how did Jeff Reiner come to be involved in Crystal Wealth?

A. Well, again, Jeff and Troy, I originally contracted with them as third parties, the Cliner Group, there were two of them. I then...Troy then came out and worked 100 percent of his time with Crystal Wealth, as we started growing through 2015. And then Jeff got licensed as an exempt market dealing representative in 2016, I believe, through Crystal Wealth.

656. Q. And what was Tim Johnston's main responsibilities and roles during us time at Crystal Wealth?

A. He was an advising representative. So, he had his own client base, and that was basically it. He would advise his own clients and manage their money on a discretionary basis.

657. Q. And he was the one who referred Paco Alvarez to you?

A. Yes.

658. Q. How do you know Paco Alvarez?

A. I don't know him.

659. Q. Now, at some point, Scott Whale, Dale Wells and Al Housego began questioning the

NAV...the Media fund to you?

A. Yes, that is a fair statement.

660. Q. When did that happen?

A. I can't remember if it was late 2015 or early 2016.

661. Q. Can you just elaborate on how those concerns were raised, in what forum, what was discussed?

A. Well, I think the concern...and we were all experiencing this concern, was that these loans that we originally thought would be 18-month to 24-month loans, a lot of them now were dragging on because we had lots of funds in September 2011. So, say, until the end of 2013, even in 2014, we didn't really suspect that anything was not going according to plan, if you will, because we kind of figured it was going to be a, you know, two-year type of turnaround.

As more of these loans got longer in the tooth and weren't being paid out as the projections that you referred to earlier being made by Media House didn't pan out as far as repayments, we all got more and more concerned.

662. Q. So, I think by the end of 2014, panic would have been setting in?

A. No, because, again, we launched the funds September 2011, but throughout 2012, we didn't do that many...because there wasn't that much money in the funds. So, we haven't really done a lot of loans. It wasn't like we launched the fund and immediately invested a bunch of money in a bunch of loans, right?

So, even by the end of 2014, we might have had...again, I don't remember, two or three loans that maybe should have been paying out more aggressively than they were, but we had had a couple already paid out completely, as well. And, so I wouldn't say there were any red flags that were raised until we came into 2015, and then definitely towards the end of 2015, when these projections at Media House were making, as far as sales went, just weren't, for the most part, transpiring.

That is when we all got quite concerned, and started...that is when I raised the loan loss provision, how much I was accruing. We started getting...I started getting more aggressive, if you will, with...I shouldn't say more aggressive. I started doing what I should have been doing from the start, which wasn't relying solely on Media House, but going directly to the production company, sales agents themselves to get feedback, as opposed to taking Media House's word for it, so to speak.

And, again, that all happened in...late 2016 is when I met Paco and decided to bring him on board to assist me with trying to get a handle on this, and trying to get some accurate information. And then, going forward, because the conversation I had with Aaron Gilbert in New York regarding his future plans, and really not focused so much on that, but focused more on the production company, I really wanted to build in some sort of placement, and Paco seemed to be the guy to assist me in doing that.

663. Q. But, as you just said, by the end of 2015, significant concerns were being raised?

A. Yes.

664. Q. And, so, my initial question to you was in what context were those concerns raised to you by Scott Dale and Al Housego?

A. Do you mean, like, in what format?

665. Q. Yes, or, you know...

A. Verbally, these weekly conference calls we were having, e-mails, general phone conversations. We had a couple of meetings with Aaron and Steven, actually one in particular at the

Edmonton airport, and I can't remember if that was in 2016, I think that was, where we...like, "Let's get together here and find out what the hell is going on".

666. Q. Who was all at that meeting?

A. Dale, his son, who was working in his office at the time, I can't remember his name now. Jeff, Al, Scott, myself.

667. Q. And Aaron?

A. Sorry, and Aaron Gilbert and Steven Thibault. And we discussed the status of projects, what the projected outlook would look like for repayment on these things, what the plan was going forward, how we could grow out of this...and that really became, I guess, the intention, Mark, was why I continued to aggressively try and raise money for the Media fund, was I was hoping that we could grow out of this, and have new investments perform better with Paco's assistance, so that we could...again, we had accrued a pretty major loan loss provision at that point. I was hoping that would look after a lot of the losses that may come down the pipe on those earlier movies. Our plan was to start writing off some of those movies completely, and just forget about them.

668. Q. Yes. Despite the fact that these concerns all were at the forefront at the end of 2015, you still went out and sold $31.7 million of Media fund units in 2016 without any decrease in the NAV of the funds?

A. Well, how much money we brought into the fund has no bearing on the NAV, the NAV per unit.

669. Q. So, explain this to me, then. How, during the period of 2011 until, I will call it 2017, do you have almost less than 50 from in fluctuation of the NAV at any given time?

A. Because the way we accrued principal plus accrued interest in that...there weren't fluctuations in the value of the...excuse me, loans, and if there were projected losses, which I think in the audit of 2016, you know, we analyzed all the movies that look like we might lose $2 million to $3 million, our loan loss provision at the time was just over $2 million, I think.

But, again, none of those were realized losses. We didn't actually know we were going to lose...or how much on each movie, which is the way we had managed the other...like, the mortgage funds, as well, was a general loan loss provision to be used against losses that came. So...and the $31 million number is a...I think that is a misguiding number, because we look at the amount of redemptions, again, the 2016, I think, is when we launched Dale Wells' fund. A lot of that movement was movement of individual clients out of the Media fund in their accounts, but really into the Retirement One fund, and then purchasing the Retirement One Fund bought units in the Media fund.

So, really, you have to look at the net between the purchases and redemptions to know, really, how much new money came into the fund.

670. Q. Well, the Retirement One fund was created in January of 2015. So, that is not the period of time...I was talking about 2016.

A. Right, but I don't think we started moving client money in the way I just talked about until 2016. So, I am saying you need to look at the net number to see how much...

671. Q. Yes, so wasn't the concern, though, what happened was you faced a liquidity crunch because Dale wanted his clients...

A. Yes.

672. Q. ...out of the Media fund, Al wanted his clients out of the Media fund, wanted them into

their own funds. You weren't getting any income. You were trying to...

A. We were getting some. Not as much as they expected.

673. Q. You are raising as much money...new money for investors as you could, and just funding redemptions, almost predominantly out of the Media fund, through either inter-fund investments or through the sale of new units?

A. Yes, that is fair.

674. MR. van ZANDVOORT: All right, that is probably a good time for the afternoon break.

--- upon recessing at 3:00 p.m.

--- A BRIEF RECESS

--- upon resuming at 3:20 p.m.

CLAYTON SMITH, resumed

CONTINUED EXAMINATION BY MR. van ZANDVOORT:

675. Q. When the Receiver was appointed, they noticed that Joanne Bentley's entire Crystal Wealth e-mail account had been wiped, and most of your e-mails from your e-mail account had been wiped, as well as the e-mails of Al Housego. Did

you clear those e-mail accounts?
A. I did not.
676. Q. Do you know who cleared them?
A. No, and, in fact, when I read that I was surprised, because I didn't know...because you guys already had access to our e-mail account in the first night, I think it was, or the next morning, I believe, your IT expert...
677. Q. Yes, everything was promptly moved to back up everything, but nevertheless, the entirety of Joanne's and, as I said, most of yours and Al's were wiped. Any explanation?
A. I have no knowledge of that. I certainly...yes. Like I say, I thought...
678. Q. Would anybody have had access to do so remotely?
A. Well, I don't know if...Joanne and Al, I presume would have access to their e-mails. Like I say, I know it was the first day, I believe we were sitting in the office, and the IT...Michael, I think, was there. And I provided him with all of the passwords for the next day, which...he would have had access to the GoDaddy account and everything else.
679. Q. So, you had no knowledge...

A. I don't.
680. Q. ...haven't talked to anybody who is...
A. No.
681. Q. On the initial application record...
A. Would that be here?
682. Q. ...filed in support of the receivership, there was an affidavit from Marcel Tillie...and at the last paragraph of Mr. Tillie's affidavit, he says:

"...Macoretta [I believe is a reference to Carmen Macoretta from BDO]..."

A. Correct.
683. Q. "...also advised him of a potential transaction involving the principal assets of the Media fund arranged by Smith and Dale Wells, a former investment advisor of Crystal Wealth, who has started a registered firm called Wells Asset Management in Alberta. The transaction would involve the sale of six film loans owned by the Media fund to Wells for approximately 80 cents on the dollar. Wells had clients who were invested in the Media fund. The objective of the

transaction was for Wells to redeem his
clients out of the Media fund. I am
unaware of whether this transaction was
consummated..."

Can you explain to me what that prospective transaction was, and how it came about, what was intended?

A. So, Dale Wells wanted to just basically be able to separate his clients from Crystal Wealth. He had started...he created his own firm. He had started a mortgage fund, I think a media fund, and a Retirement One fund. I think he named it the exact same as the one we had at our...sorry, at our company. So, he and I talked about basically, redeeming in kind, if you will. So, we came up with an idea...he actually approached me with the idea of buying...of this fund, his media fund buying certain of our existing media loans that were on our books, that were roughly equivalent... the equivalent to the amount of dollars that his clients had invested into our Media Fund. And that number was roughly $11 million.

So, we came up with five, I think it said, five movies. At that time, our loan loss provision that I had accrued as general loan loss provision was roughly 20 percent of the value of fund. So, in my mind, I said, "Well, it would make sense to get rid of these five loans, sell them at 80 cents on the dollar".

And, in fact, those loans would then be owned by his fund, his media fund, and his clients would no longer have any investment in our Media Fund. So, that was the intention of that transaction.

684. Q. And did it transpire?

A. It did not, no.

685. Q. Okay. And why not?

A. I believe the receivership was imposed prior to it culminating.

686. Q. And where would his media fund have come up with the funds to purchase the film loan?

A. His clients, I guess. I don't know.

687. Q. Why were series F units in the Media fund launched in September 2016?

A. Certain of the new third party investment advisors that we had been introduced to, I believe they were...these ones in specific were at RGMP fee-only businesses with their clients. So, they asked whether we could create an F series of units for certain of our funds that they could then buy for their clients.

688. Q. And the result of the raise in 2016 was about $2.8 million based invested into the Media fund?

A. I think the initial raise, yes.

689. Q. All right.

A. Yes.

690. Q. And was the purpose of that raise, really, to fund redemptions for Dale and for Al's...their clients to get out of the Media fund?

A. That wasn't the purpose. I mean, as an open-ended mutual fund, all my funds are subject to when cash is available. As manager, my job is to manage the cash available to either invest it in new investments and/or meet client redemptions. And that is ongoing, because they are available weekly on a purchase and redemption basis. That is an ongoing challenge.

In this case, that money, I believe, paid redemptions, but it wasn't specifically designed to raise money in order to fund redemptions.

691. Q. Okay. And then on September 12th, 2016, you sent an e-mail to your investment advisors saying:

"...We launched F-class versions of both

Mortgage, Media, Medical and Infrastructure Funds and 2.8 million was invested by a third party broker in the Media fund..."

And then you said to them:

"...I know we discussed this briefly at the Edmonton meeting and shortly thereafter, but I wanted to revisit the idea of using part of the new money to invest in new loans, and partly to satisfy your desired redemptions..."

Whose desired redemptions were you talking about?

A. Housego, Mushaluk, Whale and Wells. So, the situation, quite frankly, was they were presenting me with ultimatums that if they didn't get all their money out of Media, Mortgage, Medical, and invest their own investment-owned funds, that they would just...they would put through redemptions that would force me to halt the funds.

So, my...again, in trying to look after all the different participants in the funds, my desire was, "Look, I understand you guys want to move your money and get invested in other things, but if all the money that comes in just goes out the door in redemptions, the money that is coming in is just going to stop coming in, if we are not doing any new projects, any new investments. So, let's just balance it. We need to grow the fund by investing in new projects. You guys get your money out over time", but that was the...that was sort of the ultimatum I was facing and what I was trying to balance.

692. Q. But doesn't that go back to the point of, you know...it seems that you gave Housego and Wells quite a lot. This was your company. You could have said to them, "I am not allowing you to open your funds", which, as we have seen in the reports, made them very, very wealthy. But is it fair to say that...did they turn on you? Is that what you are saying?

A. Yes, that is what it feels like. That is what it felt like. To be fair, I mean, without them bringing their clients over, Crystal Wealth probably wouldn't have survived as long as it is, which...or as long as it did, which, in hindsight, I know it has never been a good thing or bad thing.

But, yes, the simple fact is that...well, I think they are different situations. So, Wells, it is a different...he got disgruntled. He always wanted to have his own firm. He basically wanted to tell me how to run my firm. When I said, "No", that is when he started his own firm and went off on his own.

In Housego's case, I think the simple fact was originally, his clients' money was invested in the funds that I was managing, Media, Mortgage, Medical, et cetera. As he started to achieve what, at the time, felt like success in the Factoring Fund and the Hedge Fund, he came up with these other investment opportunities. His intention was...he just wanted to redirect his client money more into those as opposed to the other ones.

So, with Housego, it wasn't that he had, as I understood it, lost faith in those funds, or necessarily wanted to get his client money out, and the intention simply was he wanted to redeploy his clients' money more into the stuff that he was now the active front manager on.

So, he was definitely more patient and wasn't issuing ultimatums. Wells and Whale were definitely more combative, and more issuing ultimatums about closing down the firm, closing down the funds, halting funds.

So, that is what I was trying to, as manager, deal with.

693. Q. And was Mr. Housego's compensation structured in such a way that he would make more money if he had more clients invested in the funds in which he was portfolio manager of?

A. No, he made the same...I believe I had my contract with him...I think he got paid 1.2 percent on wherever his funds were. Or, if other advisors put client money into his funds, I think my deal with him was I was paying him an additional 0.1 percent, because he was now managing other people's money, if you will. But, no, he was getting paid the same. I think he just felt that his investment opportunities were better, because of the yields and the factoring strategy on the U.S. real estate LP and the gold thing, et cetera, et cetera.

694. Q. And just going back to your September 12th, 2016 e-mail, what was the Edmonton meeting you were referring to?

A. That was the one I referred to before the break here today, where we met at the Edmonton Airport, with Aaron Gilbert and Steven Thibault over there. And we discussed, again...we had this big discussion about what should we do here with the Media fund and what, should we just close it? Should we halt it? Should we whatever?

And one of the ideas that I had suggested at that meeting, which I alluded to in my e-mail was, "Look, instead of the money just coming in, whether it is on investments paying out or new money coming in, if all that just continuously going out, and our fund isn't doing any new investments in media loans, A) we are not going to be replacing some of these non-performing loans with what we hope to be better performing loans, and B) with no activity, any money coming in will dry up and, you know, it will just be there".

In hindsight, I probably just have just closed the fund at that point or halted the fund. I thought we could, like I say, grow out of it, but...

695. Q. Why invite Aaron and Steven to that meeting from MHC?

A. Because at that point...and I don't really blame them in this sense, Wells and Whale in particular, and Mushaluk, as well, they weren't believing what I was telling them about the Media fund, and what I was telling them was what Gilbert and Thibault were telling me, because that is where I was getting the bulk of my information at that point.

So, they wanted to have a face-to-face with them, and just better understand...be able to better, I guess, sit across the table, and ask...

696. Q. Was it a pretty heated meeting?

A. Like, I think it started maybe heated, but it was a fairly rational conversation. And, like I say, it seemed like, by the end of it, we had a consensus that we could sort of chill out, we...not chill out. That is an odd expression. We could sort of calm down the level of anxiety or yelling and screaming on these Friday conference calls that we were having, and hopefully work together to, again, grow out of this. You know, get rid of some of these loans, there was lots of talk about Aaron had several ideas about how to sell some of these loans off. He was trying to get another investor in to...like, another investor outside of Crystal Wealth and BRON to buy some of our loans with the losses that this person could use as tax losses. So, there were a bunch of discussions about strategies to, you know, clean up what were some of these non-performing loans.

697. Q. Did...

A. Sorry.

698. Q. Did any of the advisors, Housego, Mushaluk, Johnston, Wells, did they know about your

personal loans that you...

A. No.

699. Q. ...as you call them from the BRON entities?

A. No.

700. Q. Or...

A. Well, not that I am aware of. I never discussed it with them, and they never discussed it with me. Whether they knew about it or not, I can't speak to that, but I never had any discussions with them about it.

701. Q. So, during the...you said, you know, people were screaming at each other on the Friday conference calls. Who was really the most agitated of the group, or...

A. Wells and Whale...

702. Q. Yes.

A. ...and Mushaluk, but Wells and Whale were in the lead, agitators, if you will, to the point where Stephanie...she is from Compliance Support Services, she is the lawyer that passed away. McManis, Stephanie McManis. She was on...we had one conference call. She was on it, our auditors were on it, as well, as well as all the representatives.

And Wells and Whale, in particular, and Mushaluk, as well, were literally threatening all this stuff. "We are going to go to the OSC. We are going to shut this fund down. We are going to put in redemptions and halt the company. We are going to destroy the company. We are going to..."

At the end of it, both separately...we finished the call, McManis, Stephanie and...I don't think it was Carmen Macoretta at the time. I think it was somebody else from BDO, both called me individually and said, "You have got to get this under control and calm down, because they are going to destroy the firm. They are going to destroy the funds. They are going to destroy...in the process, they are going to destroy investors".

And I said, "You know, that is what I am trying to do".

703. Q. Did anyone ever...you were getting a ton of heat for the failure of the Media fund, but was anybody reciprocating the heat towards Al Housego for having a Factoring Fund with investments, none of which performed, yet...

A. See, at that time...you know, the factoring strategy was relatively young, and I don't think people, including me at that point on that call or even leading up to maybe three or four months before the receivership, had any idea, you know, that things were going badly, if you will, or were starting to go badly in the Factoring Fund.

So, no. To answer your question, no, there were a lot of questions to Al about the Dome Mountain transaction and about putting so much money into one investment that, as the year went on, and the next year started it seemed dangerous. But, again, Al was telling everybody things were fine, and it was going to pay out, the mine was operating and the sale was going through. We were going to get all the money, plus this incredible return that, you know, had been built into the fund. So...

704. Q. And of like everyone involved in Crystal Wealth, who dealt with Al the most on the internal side? Like, of all the advisors including yourself...

A. I would have dealt with Al most on the funds, I believe. Mushaluk was involved a lot within...because they are not co-located, but Al is in Armstrong, B.C., and Jeff is in Salmon Arm, which is 20 miles away. They were friends before they both come to Crystal Wealth. So, I know they would have tons of conversations, and Mushaluk would be in on some of those meetings.

As I understood it, he was in on some of those meetings that Al was having with maybe the Dome Mountain people and stuff, and would reiterate what Al had said, that everything looked good, looked like they were going to pay out, the mine was good, everything was fine and so, that is what we were hearing on...I guess on our end of the call, if you will.

705. Q. So, why wouldn't Mushaluk have gone with Al Housego after the whole thing collapsed, as opposed to going to Dale Wells' firm? Do you know?

A. I don't know what Al Housego is doing right now, so...

706. Q. Yes.

A. I don't know if he went to another firm, or...I honestly don't know.

707. Q. And what about...where was Tim Johnston in the midst of all of these discussions?

A. Well, Tim wasn't really involved, because Tim only joined us in mid-to-late 2016. I can't remember exactly what date, but...so, a lot of this, you know, these arguments, these weekly conference calls and that were all trying to deal with these, I would say, past issues. Not past issues, they were present, but coming out of the past, there was this ton of, at that time, bad blood, I guess, between myself and Whale, Wells, lot of arguments with Mushaluk.

So, we didn't include Johnston on those weekly conference calls. So, Tim, you know, really, I mean, didn't know anything about what was going on behind the scenes, if you will, in that respect. And he...like I say, his...he wanted to become a portfolio manager. He was previously licensed as just an investment advisor/stockbroker. So, he left to join us to do that, and then he got caught up in all this.

708. Q. Okay. What about Sameer Azam?

A. So, again, he was with Fundex Investments as a financial planner. He had written level 1 and 2, I think, of the CFA, or was writing level 2 of the CFA. He wanted to become a portfolio manager. And, again, that was one of our growth modules within Crystal Wealth, was to attract advisors who wanted to become portfolio managers.

So, he became an exempt market dealing representative with Crystal Wealth. He entered into a referral agreement. He referred his clients over. We created two funds specific to his client base, the Absolute Sustainable Funds, which are Sharia-compliant.

And I believe the bulk of his clients' money is either in those two funds or in other investments that he brought over in kind from Fundex.

709. Q. And did anybody in the Crystal Wealth group know Sameer before he joined?

A. No, I think Troy found him on LinkedIn. Troy was doing some marketing for us, trying to find...

710. Q. Troy Claus?

A. Troy Claus. I believe it was Troy that introduced me to Suzanne.

711. Q. And when you talked about...

A. Sameer, sorry.

712. Q. ...Troy Claus before the break, you mentioned that his firm was called...where Geoff Reiner was is called Cliner Group?

A. Which then became Persistus. They rebranded.

713. Q. Okay. And, again, as far as Geoff Reiner's involvement, where does he fall within all this in the last year? Was he involved in these discussions or...

A. No. He was...once Troy came over and worked with me full-time, we didn't really have a relationship with Persistus Strategies. Geoff then wanted to get into the investment business, became an exempt market dealing representative, referred a handful of clients that then went under my name as my clients.

But that was about it, he was just getting started, I guess, in the investment industry. He was still working...I think at that time, he may have been doing some work for Clydesdale or for OOM, but he also was running his company, Persistus. So, weren't co-located, he wasn't in my office.

714. Q. And what was Amanda Tasch's...

A. Administration.

715. Q. Administration?

A. Yes, just client administration.

716. Q. And Jill Van Osch, obviously your...I think you said fiancee, maybe, but was your executive assistant. What was her role?

A. As the title implies, trying to assist me with the growth we were experiencing, with scheduling and all that stuff, she would handle some of the compliance tracking of...she couldn't do the compliance stuff, because she wasn't licensed, but she would track to make sure she gathered up all the monthly statements from the brokers, et cetera, et cetera.

717. Q. Did she take minutes during any of the calls?

A. We never took minutes during the calls. She took minutes of our...I don't think we did. She took minutes of our directors'...or our shareholder meetings, between Gary Allen and Scott Whale and I.

718. Q. Where did you keep the minutes from those meetings?

A. I presume they would have been on her computer or on the server, but I can certainly ask her.

719. Q. If you can ask her where she would have stored any minutes that she recorded from any type of meetings involving Crystal Wealth?

A. So, basically...and just to flesh out that. So, yes, I mean, just general stuff that I would ask her to do. Draft a memo...not a memo, draft an e-mail, maybe draft a...you know, work on this, proofread this-type thing, so...

720. Q. Okay. And as far as bringing in clients to the firm, how did you deal with that

process, bringing in new clients? Did clients come into the office, or how did you make sure that, you know, your client information was properly done and...

A. Well, again, the bulk of our growth was by tracking advisors who then had their own clients. So, typically a client...so, there are two, I guess, streams, if you will, of clients, first of all. The one would be a client that is actually a Crystal Wealth discretionary managed account client. And that client would have a relationship with one of the registered advisors at Crystal Wealth.

The other way was through third party advisors with whom their clients...we would have no contact directly with the client. We would have contact with the advisor. The advisor would just be buying our funds within their system for their clients. So, they wouldn't know that client, other than, "Bob Jones put $1 million into our fund", type thing.

721. Q. And were any benefits ever given to advisor...third party advisors for investing their clients into your funds?

A. No, they got the trailer fee or, in

the case of the F-class units, they wouldn't have been paid anything.

722. Q. And what is Integrity Wealth Management? Whose company is that?

A. Integrity Wealth Management...

723. Q. Phil Everdeen?

A. Oh, sorry. He was a strictly referral agent. He is...

724. Q. During what period of time?

A. I would say probably starting in 2015, if I remember correctly, through to the receivership.

725. Q. And who brought him in?

A. He was...his office was originally side by side with us in the building we were in on Harvester Road. So, I met him...I can't remember, in the hallway, or...you know, I was talking, he is an his insurance agent. He had been in the mutual fund business, so we got talking about what I did and what investments we had, and he started referring individual clients, and those clients I would have met with, and they would have become discretionary clients of mine. Somewhere in the files, there should be a referral agreement in place between us and IWM.

726. Q. And what is Trivium Analytics, or Analystics?
A. Sorry, I don't know.
727. Q. So, in your 2016 risk questionnaire that you submitted...
A. Yes.
728. Q. ...to the OSC, you listed Integrity Wealth Management, Jeffrey Mushaluk and Trivium Analytics and Geoff Reiner as having referral agent arrangements with Crystal Wealth.
A. It is somebody's holding company. I don't remember whose company that was...oh, no, wait, sorry. He was a gentleman from Scotiabank, a broker from Scotiabank that I have been introduced to. He referred one client to us. So, we were paying him a referral fee, that one client, and then he was out of the business at the time I met him. He got back into the business, and from that point forward, the referral fee would have been paid to his dealer. I don't remember his name. I apologize.
729. Q. Had BDO always been Crystal Wealth's auditor, or the auditor for the funds? Or was there an auditor other than BDO that you used previously?
A. Well, in 1998 when we created

Crystal Wealth through to...I think BDO became our auditor in 2005.

730. Q. Okay. And who...

A. So, a lot of the funds under this, yes, they...

731. Q. And did you know somebody from BDO...

A. No.

732. Q. ...in the relationship before you retained BDO?

A. No. We went out to market with an RFP. We got three proposals back. I think prior to that, it was State Street, which is the parent company of IFDS, and we just felt they were charging way too much. So, in 2005, we moved the back office to NBCN, and found a new auditor in BDO.

733. Q. Okay. And I guess going back, let's say, since 2010, was it always the same team from BDO who did the audits, or the same team lead, let's say?

A. Yes. So, our relationship manager was always Rick Chittley-Young. So, I would say he was at the top, if you will. And then the person, the day-to-day person doing...heading up the audit team...I don't know how accounting firms work, exactly, but the person heading up the audit team who, at the end, was Carmen Macoretta, that person changed, I think, twice during the ten years. Two times prior to Carmen Macoretta.

I don't recall the first gentleman's name. The second person was Scott Jarrett, and...

734. Q. Didn't Scott get promoted?

A. Yes, I think that is how it works. Once they get partner or whatever then they move up into another level and a more junior person takes over. And then typically, the team under that person, they would last for a couple of years, and then they would be taken out and it would be a different team coming in.

735. Q. So, when did Carmen Macoretta replace Scott Jarrett as the...

A. I think he was involved during the 2016 audit as a shadow, if you will, and Scott was still the lead. But I was introduced to Carmen during the 2016 audit, and at the end was told that Carmen would be taking over the following year.

736. Q. So, who led the BDO audits of the Crystal Wealth funds during the period of 2012 to 2016?

A. I mean, don't quote me on this

exactly, but I know for the latter of those years, it was Scott Jarrett. I don't recall if he was around 2012 or if it was the prior gentleman.

737. Q. Would he have been 2013 year, 2014 year?

A. I don't know for sure, sorry. He was there for a few years, but again, I don't want to state categorically that he was.

738. Q. And do you remember who preceded him?

A. I don't remember his name, like I said.

739. Q. Okay. And who else...with respect to the 2016 audit and the 2015 audit, do you remember who else was part of the team?

A. Well, there would have been people above them on the quality control and on the valuations team. So, I would have been introduced to...I would have had conversations with a couple of different people. I can't remember their...I am trying to remember their names now. It is...

740. Q. Selena Mastroianna?

A. So, Selena would have been one of the people under Carmen. So, she was, like I say, one of the junior people that was part of that team that I would say would change every couple of years. So, Selena, she was there for a couple of years, anyway. But above that level, like above the Scott Jarrett...

741. Q. Was Rick?
A. Rick wasn't really involved. Rick is more the relationship manager. There was one gentleman that I had quite a few dealings with this year, and I am trying to remember what his name was. It would be in the file somewhere, sorry.
742. Q. By "this year", you mean...
A. 2017, sorry.
743. Q. Can you give some thought to who that person was...
A. Well, in the exhibit record, there would be e-mails and conversations about my e-mails with him, I think, and conversations with him.
744. Q. Was it Michael...
A. Yes.
745. Q. Was it...
A. Michael...
746. Q. ...Cockayne? C-O-C-K-A-Y-N-E?
A. No, he was involved...sorry, he was involved with the valuation of Crystal Wealth in 2014/15...I thought his name was Michael, as well.

Yes, I will try and give it some thought. If I think of it, I will e-mail it to you.

747. Q. And over the years that he worked at BDO to do the audits, did he develop any personal relationships with any of the representatives?

A. Nothing outside of the audit, no.

748. Q. No. No drinks or anything?

A. Well, I mean, at the end of the audit, within a couple of years, Rick and, say, Scott and I would have had the year...

749. Q. Yes.

A. ...at the end of 2016, Carmen took me out for lunch, I think, but that was the extent of it.

750. Q. When you say "2016", you mean after the 2015 audit was complete?

A. No, after the 2016 audit, sorry. Like, in April 2016...2017...sorry, the 2015 audit.

751. Q. Yes. So, explain to me, what was the process, you know, looking at the last five years. Was the process always the same as to how BDO conducted their audit? Did the process change?

A. I mean, it was similar every year, and it seemed to get tougher and tougher as years went by. This past year seemed particularly tough...

752. Q. So, early 2017 for the past...

A. Yes, so the audit for 2016...

753. Q. Yes.

A. ...would have occurred...started in December, January 2017 through to the receivership, seemed more intense, but the process was basically the same, where we would have an initial meeting, me being myself and usually Scott, maybe Rick...Scott and Carmen, maybe Rick and maybe Selena, or whoever was in that role. We would meet, go over, they would provide me with a list of requirements for all the funds, which basically was boilerplate, you know, cut and paste from previous years with what they needed to see. And then we would start providing that information. Selena, and usually one to three other people would be in our office, doing the, you know, field work for two, three, four weeks, typically.

And then they would go back to their office, I guess, and finish the process. Typically, every year I would only get the draft statements on the day they were due with the OSC, March 31st, which every year was a bone of contention between myself and BDO. The 2016 audit, so now in the March

2017, we started coming in towards the end of March, and it seemed to me to be way further behind than with the other years, and that is when I started to get panicky, and there is a couple of e-mail exchanges between myself and Carmen and Rick and whoever else, just expressing my extreme concern, at that point, that we are going to miss our OSC deadline.

But to go back, sorry, to their process, they would verify all the information that we were giving them with both IAS and IFDS, NBCN, brokers, all of our third party providers, Squire, Spectrum, Media House, et cetera.

754. Q. But the onion was never peeled back...prior to the 2016 audit in 2017, was the onion never peeled back in that process, to look at the underlying, call it, source documents, to use an example...did they ever look behind a schedule prepared by MHC to actually contact production companies?

A. I don't think so. I don't think prior to 2017...prior to the 2016 audit, I don't think they had ever directly contacted production companies.

755. Q. And what about...like, what would

they rely on with respect to the factoring investments?

A. The documentation, basically.

756. Q. So, the same, you know, boilerplate agreements with merchants that...

A. Well, the documentation and the Frontline reports, and they would get verification from Frontline in that case, of the investments that they were administering on our behalf, et cetera.

757. Q. So, BDO would contact Frontline?

A. Yes, and they would get reports directly from them, directly from Spectrum and directly from XMC...

758. Q. Directly from Media House?

A. Correct.

759. Q. Now, how did BDO value the film loans?

A. That is a good question, Mark. I didn't really understand their valuation method. They did some sort of net present value calculation based on expected...their concept of expected cash flows. I think the first year they really did that was in...sorry, for the 2015 audit, so in early 2016. That was the first time that they did their own independent valuation methodology, as I remember it.

760. Q. 2016 audit year?

A. The 2015 audit year. So, in early 2016.

761. Q. Now, why would you tell Media House to write down for...and maybe it is best just to do this by way of an example. So, there is an e-mail that you sent to Steven Thibault and Aaron Gilbert of MHC on February 10th, 2014, where you say...you are talking about the media...film loans, and you say, "What can I say"...so, "What can I say to this so they don't write them down?" And I believe that is a reference to BDO, because you are talking about the audit. So, why are you asking Media House for information to prevent BDO from writing these film loans down?

A. I don't know whatever precedes that, Mark, but I believe what I am asking is just more information about the loans themselves.

762. Q. Well, I can tell you, it says...you said:

"...Based on the actual sales below estimate averages, the auditors are going to jump to the assumption that we are definitely going to lose money on

Foreverland and Silent. What can I say to this so they don't write them down?..."

A. Yes, well, the languaging sounds bad, but what I was asking them for was more information regarding what is going on here, like what is happening with these films, what information do you have that I can tell them that will show that we are going to recover fully on these loans? So, I was just trying to dig for more information, because, again, at that...in 2014, I had not yet sort of started going directly to the sales companies to get that information. I was relying on Media House, and the information I had at that point wasn't sufficient to justify not writing them down, yes.

763. Q. But then you sent a follow-up e-mail after Steven sends you a response. And you say on February 13th, 2014:

"...Thanks, Steven, I will play with the spreadsheet and send it back to you to send directly to the auditors, so we are all using the same one and so they get it directly from you..."

Again, it just seems like...was Media House not being held out as an independent third party? It seems like you are working with them to present misleading information?

A. No, not to present misleading information. That is not accurate, but to present accurate information. So, when we first started the relationship, you have seen the agreement between Media House and Crystal Wealth. They were obliged to prevent or provide monthly reports and track all this stuff. They started doing that. I think Margot Hand was originally doing that. I don't think Steven was involved with way back at the start.

I had a lot of trouble getting that to continue on a regular basis. It is like they hadn't allocated enough resources to actually do the job that they had been hired to do by the fund. So, a lot of it was...I won't say battling, but trying to force them to use the...to allocate more resources to provide me with the reports, that I could then verify my reports, and what I was tracking more accurate against what they had. So, that...like I say, the wording is...sounds bad, but that is not what the intention was, to mislead anybody. The intention was...

764. Q. Okay.

A. ...here are my numbers, and you guys have been tracking these and, if so, do they match? If they don't, let's make sure they are accurate before you send stuff off to BDO that is different and is wrong somehow.

765. Q. And you mentioned that you became frustrated, and there were some heated e-mails back and forth. I think I saw one where you referred to Mr. Macoretta as taking a "Nazi approach". You know, what was your concern? What had changed so drastically in 2017? And if you could really particularize for me, so I can understand, you know, what the issue was?

A. Well, I wish I had all the e-mails out of the exchange. But, again, as I mentioned a few minutes ago, as we came into the second-last week of March, and I still had no drafts of any of the funds, and we had expanded dramatically the number of funds that we were...and I was obliged to get those audited financials filed with the OSC by March 31st, or sent out to investors by that date, or posted in the website.

My experience in prior years, it was always March 31st when they gave them to me, no matter when they started the audit. Well, now with so many, there is no way I am going to review all of these on March 31st. Start sending me the drafts as you have them, so I can get them reviewed so we are not panicking, or so we are not late. Because my concern with being late was that the OSC would halt us, would do something because we had missed a deadline.

So, my frustration was that I have got a deadline in the OSC, but it is out of my control because I can't force the auditor to give me statements. I provided them with everything they have asked for, and March 23rd, I think it was, he provided me with a list, now, of...I think it was...somewhere I have summarized it, 78 or 80 new items...well, items outstanding still, some of which they had already been provided. Some of them were just plain out-and-out wrong. They brought up the wrong mortgage on the system, for instance, to compare ours.

Some of them were internal things that they still had to do. I went back to himself and Rick and whoever else I could cc on this e-mail, saying, like, this is ridiculous. And I started getting that information over that weekend. We started checking off all the boxes. On the Monday or

Tuesday, which was now the deadline was Thursday. I said, "You now should have everything".

That night...I think his name was Michael, but anyways, the supervisor said, "Don't deal with Carmen anymore". It is probably after that e-mail. "Deal directly with me. Here is the list of all outstanding items".

A lot of them, again, we had provided to them from the previous list. There were now new items on there. So, this seemed like a game of whack-a-mole, where there was no way I was going to be able to catch up with and provide them with all the information they were asking for.

I think, in hindsight, what had happened was they had received a summons from the OSC to provide some information that the OSC had asked me for in December. And I think that spooked them, and I think that is why they weren't completing the audits, but I didn't know that until subsequently. So, it seemed to me as if there was...it was being particularly challenging.

766. Q. Are Wells Retirement and Wells Entertainment the two funds that Wells created?

A. Yes, I believe he also has a mortgage fund, but, yes.

767. Q. Do you know who his lawyer was on that prospective deal, where he was going to purchase six of the film loans? I think you said five earlier. Your summary notes do say six.

A. I think he originally approached me with five and he changed to six, but I don't remember the guy's name. I had one conversation with him, I believe, and that was it. Not even a conversation. I think I exchanged an e-mail with him. If I can just expand on that, I will give you one example of sort of how the audit changed.

So, typically, in December or January, they provide me with a list of all the information they wanted to receive from me. And it would pretty much stay the same year over year. This year, they provided me with that list for that year, in early 2017 for the 2016 audit. It was basically the same as it was the prior year.

We gathered and provided all that stuff, and they did all their work. As we came into the...I believe it was...during the second week of March is when they then came to me and said, "We need to get independent verification from all of the production companies, from all of the factoring firms, from each NFL player, from each medical factoring client. We need to have you draft letters, send those out to all them, and we need to get those back before we complete our audits.

And my point to them was, like...so, I scrambled like hell, got these letters out, but my point to them was, "I have no control over when all of these...this would be the first time they had ever received this. I have no control to get those back March 30th and March 31st. And if you are saying that is going to hold up the audit, well, again, I am just going to be screwed by the OSC, because I can't complete the audit. That is my responsibility, but I can't force you to complete the audit or sign off on it until you have gotten everything you need to do".

So, it was a series of, sort of...I will say new requirements that, between you and me, they should have been doing, I would argue, going all the way back. This was the first year. If they had done it in December or January, we would have had a better chance of getting all of that stuff, but they didn't do it until the second week of March.

So, that was just an example of frustration we were facing.

768. Q. Understood. Did you know who Martin

McCready was, who entered into the deal...
A. No.
769. Q. ...to buy the Mount Nemo property?
A. I didn't know that.
770. Q. Have you talked to your sister, who would act as the listing agent on that deal, about what she knows about him?
A. Well, she didn't know him either. She was a listing agent. She got a call. She has explained it all, I think, in some testimony somewhere, or a letter or e-mail. She just got a call from this gentleman, she had never heard of him before. She didn't know him, but her name was on the listing sign.
And she showed him the house. He wanted to put in an offer, she wrote up the offer. So, no.
771. Q. And just...I want to just understand which lawyers you have utilized for Crystal Wealth over the last...call it eight years.
A. Okay.
772. Q. So, you said Jonathan Dyck...
A. Sorry...so, Borden Ladner Gervais was my primary legal counsel.
773. Q. And who from BLG?
A. It would have been a variety of

people, depending on what I was dealing with. So, they were...National Registration Database, they maintained that for us. So, that was Matthew... someone.

774. Q. Okay. But BLG was your primary legal counsel? From what period...

A. From the time I started Crystal Wealth in 1998.

775. Q. All the way to 2017?

A. Yes, I was still using them in 2017, when all...when the receivership was first sort of initiated.

776. Q. So, why did you use Jonathan Dyck, then, from Miller Thomson?

A. Well...so, they are typically my legal counsel for all securities-related matters. They are incredibly expensive. So, occasionally, I would use other law firms for, say, commercial stuff. So, when we did the first OOM financing of St. Mary's Leaside, I was introduced to a lawyer at Miller Thomson.

777. Q. Who made that introduction?

A. Stephanie McManus who was Compliance Support Services. I just asked her if she knew a good commercial lawyer that can help me with the loan transaction. So, I started working with her. Part of her being...I can't remember the person, the lawyer's name, but at Miller Thomson, part of her team was Jonathan Dyck, on specifically the loan documentation.

So, subsequent to that transaction, I continued to use Jonathan on a few of the more loan-type stuff. We started to use Kelly Margaritis for more general sort of compliance stuff, after the...my contract with Compliance Consulting Services or Support Services was, you know, coming to a close.

But Borden Ladner Gervais was still my, I guess, primary counsel when the OSC action happened, et cetera.

778. Q. And what about Brechin & Huffman?

A. They were just my real estate counsel.

779. Q. Okay. You didn't use Brechin & Huffman for corporate law matters?

A. And some of the corporate stuff, yes. Sorry, I used BLG...originally in 1998, I used BLG for corporate stuff. But, again, they are just so crazy expensive that for typical...for standard or routine corporate matters from that point forward, filing the annual return, et cetera, I switched to Brechin & Huffman at some point.

780. Q. Did Brechin & Huffman deal with any of the investments...

A. No.

781. Q. ...transactions, or just for filings?

A. Just for Crystal Wealth corporate filings, and my own personal real estate transactions.

782. Q. Do you have...did CL...other than acquiring the Mount Nemo property, has CLJ ever purchased any property in the last five years?

A. No.

783. Q. What about 115?

A. No.

784. Q. And by "property", I mean any asset.

A. No. CLJ, however, has bought the shares of Crystal Wealth and Scott Whale or from Scott Whale Holdings, but...yes, they are not...

785. Q. And, sorry...and you may have said this earlier, but why did Scott Whale want to sell his shares in November 2016? Is it because the relationship was...

A. Yes, our relationship had soured

dramatically when I fired him in 2014, I think it was. At that point is when I started the thought process to buy him out, and that is when I actually initiated, I think, getting valuation done by BDO of Crystal Wealth, the company.

786. Q. So, you fired Scott in 2014, but his ongoing involvement was as a result of his position as the...

A. Advisement representative, and as a minority shareholder. From his day-to-day...because he was drawing a salary equivalent to mine up to the point where I fired him.

787. Q. Was that $200,000 a year?

A. Yes. So, after that he strictly became an advisement representative. He was being paid under a similar arrangement to the other advisors, as far as a percentage of assets under management of his clients.

788. Q. Yes.

A. So, yes, our relationship had soured pretty dramatically. I really wanted to get him out of the...well, being able to have a day-to-day impact or conversations with me about the running of the business, so it finally culminated in November 2016, but it had been ongoing for a number of years.

789. Q. Okay. And what about...have you been keeping in touch with Gary Allen, who is still a shareholder?

A. No. Again, I had, probably, exchanged one or two e-mails after the fact, after the receivership with him very early on, but I haven't talked to him or seen him in...

790. Q. Are you on good terms with him?

A. Oh, yes. Well, as far as I know.

791. Q. And when you say he was your mentor going back?

A. Yes, like we have been in relationship, if you will, since 1998.

792. Q. And, sorry, just going back to the lawyers you have used. So, Margaritis, Jonathan Dyck, Brechin & Huffman, BLG, anybody else?

A. Yes, the lead at Miller Thomson at the time, which...I can't remember her name. But she subsequently moved to another firm. She moved to AUM Law, I think, but we never actually did any work through there. Sorry, I can't remember her name.

793. Q. Yes, can you undertake to provide me with her name?

A. Sure. She was only involved in the

OOM transaction. U/T

794. Q. And, now we have seen indication in the records that Darren Smits from Miller Thomson in Calgary may have done isolated jobs on behalf of Crystal Wealth. Do you recall ever engaging him on behalf of Crystal Wealth?

A. I don't recall engaging him.

795. Q. Have you ever spoken with Darren Smits?

A. I am trying to remember if I had a conversation with him regarding buying the lands thing at the time.

796. Q. Pine Lake lands, the 131...

A. Yes, I am trying to remember if I had a conversation, or if I relied on Jonathan Dyck to have that conversation with him, because they were both in the same firm, and Jonathan had a concern about, A) whether Jonathan could act for me because Darren Smits was involved, and was also MT. But also, more importantly, Jonathan Dyck had a concern that Darren Smits may have been offside from a legal point of view. It seemed like a conflict of interest in the association, but I can't recall by...I don't think that I ever used Darren Smits for anything. I don't know if Al Housego did.

797. Q. So, at some point did Jonathan Dyck have to stop acting for you, because of Darren...
A. No.
798. Q. ...Smits' involvement...
A. No, they had the conversation, and then Jonathan Dyck came back to me and just said, "It is fine, we can carry forward here".
799. Q. And, so, on the transaction with Restoration Energy, and going back to the factoring arrangement...
A. Yes.
800. Q. ...with Restoration Energy, where 131 Alberta provided a mortgage, did you use Jonathan Dyck or Miller Thomson with respect to that transaction?
A. No, I think that was all done by Frontline and other lawyers...whatever lawyers they were using. So, I think that mortgage was in place when the fund entered in that factoring agreement, or bought that factoring agreement.
801. Q. Do you know who Frontline's lawyer is?
A. I don't.
802. Q. Do you know if it is Darren Smits at Miller Thomson?

A. I don't know off the top of my head.

803. Q. Okay. And you provided us, Clayton, with a statutory declaration, which was sworn on August the 24th, 2017. Do you remember that?

A. Yes.

804. MR. van ZANDVOORT: Can we go off for a second?

--- DISCUSSION OFF THE RECORD

BY MR. van ZANDVOORT:

805. Q. So, I just provided you with a duplicate copy of the statutory declaration dated August 24th, 2017.

A. Yes.

806. Q. And when you solemnly declared that the statutory declaration...the contents of it were true, has anything changed since what you have outlined in this document?

A. Like, do you mean do I remember anything else?

807. Q. Yes. Is there any revisions that you would like to make? Has your circumstances in any way changed?

A. I don't...no, I don't think so.

808. Q. In Schedule A, you list your three bank accounts?
A. Yes.
809. Q. Do you, 115 or CLJ Everest or any other entity through whom you directly or indirectly control, have any other bank accounts?
A. Well, CLJ and 115 aren't listed here, but...
810. Q. Yes, but do they...
A. ...other than that, I do not have any bank accounts, nor do I control any bank accounts under those entities' names, or any other entities' names anywhere in the world.
811. Q. So, currently, do you have access to any bank accounts?
A. No, I do not.
812. Q. Do you have a debit card for any bank accounts?
A. I do not. Or credit card or anything.
813. Q. And I see, in Schedule B, you have listed your automobiles?
A. Yes.
814. Q. Are you the sole owner of those automobiles?

A. I was. They have all been repossessed.

815. Q. And do you remember me following up with you early on in the receivership concnering the location of the RV and trailer?

A. Yes.

816. Q. Where are they?

A. Well, the RV has now been repossessed by a bailiff out of Kingston, and as per our e-mail exchange the trailer had been sold prior to that. Remember, you and I exchanged e-mails.

817. Q. And I believe we asked you for a copy of the underlying agreement for the sale, and that was not provided.

A. Did I not send that?

818. Q. No.

A. I will undertake to send that to you. I thought for sure I had e-mailed that to you.

819. Q. And you haven't acquired any new automobile?

A. My father bought me a used vehicle that I am using.

820. Q. What kind of vehicle?

A. 2006 Hyundai Azera.

821. Q. And then in Schedule C, it talks

about any ownership in real estate?

A. M'hmm.

822. Q. What property is this in Burlington?

A. Again, as I indicated, it was a property that I purchased and then sold.

823. Q. Okay. When did you purchase it?

A. I am going to say in 2014, and sold it in 2015 or something like that.

824. Q. You flipped it?

A. Yes, I lost money on it. I bought it with the intention to move into it, and then subsequently bought the Mount Nemo property. So, I decided not to move into this property. So when I invested I think I lost $50,000 or $100,000 on it.

825. Q. So, you bought this property before Mount Nemo?

A. Correct.

826. Q. Who did you sell it to? An arm's-length party?

A. Yes, as I swear there, to an arm's-length third party.

827. Q. And why didn't you mention the Mount Nemo property in Schedule C?

A. Because I don't own it. CLJ Everest owns it.

828. Q. Okay. So, just to be clear, your statutory declaration says that you have not had any legal or equitable interest, and technically, I guess, your interest in the property was indirectly through your holding companies. But, assuming that the question was set out in the same manner, do you have any other interest in properties through other companies?

A. No.

829. Q. Or entities?

A. No, I am sorry if I misunderstood that. I...no.

830. Q. And no changes to Schedule D?

A. What is that, a safety deposit box? No.

831. Q. Okay. And turning to Schedule G...

A. M'hmm.

832. Q. ...these are loans that you have made?

A. Correct.

833. Q. And when did you loan $1,094,000 to CLJ Everest?

A. It would be...I mean, it is basically an owner's loan account, that would have been fluctuating back and forth since I had that company. That was the balance as of August 24th, or as of the last date that I knew.

834. Q. Okay. And for what purpose was it loaned?

A. I don't know. I mean...again, it would have fluctuated up and down over the time. Perhaps I borrowed the money personally that I put into the company to buy the Mount Nemo property, and then I borrowed some out of CLJ Everest over time. Again, it would be a constantly fluctuating owner's draw balance, if you will.

835. Q. Do you have any documentation to support the loans for...to Crystal Wealth or CLJ?

A. Just the Crystal Wealth and CLJ Everest books, yes, books and records. There wouldn't be documentation, because it would just be me, but...with the entries in accounting records.

836. Q. And then turning to Schedule I, you have listed here your direct and indirect liabilities and indebtedness...

A. Yes.

837. Q. ...and creditors in excess of $1,000?

A. Correct.

838. Q. You have a $6,000 loan for legal

expenses. Did you actually...from Jillian Van Osch. Did you ever actually retain McCarthy Tetrault?
A. Yes.
839. Q. Did you?
A. Yes.
840. Q. But they...
A. Sorry, this $6,000 was for...yes, sorry. Yes, Jillian had lent Crystal Wealth $5,000 when we retained...sorry, when I first let go of Borden Ladner Gervais and retained as an individual...
841. Q. Martin Doane?
A. Yes, Martin Doane. This $6,000 Jillian lent to me personally to retain Rene Sorell, at McCarthy Tetrault, on a limited engagement to review all the stuff at that point to give me just his opinion on where things stood, and what I should do. It was a very limited...it wasn't a retainer...
842. Q. Understood.
A. Yes.
843. Q. And the indebtedness to TD Auto Finance, what is that on?
A. The RV loan.
844. Q. That is the one that has been repo'd?

A. Yes.

845. Q. And have you borrowed any money through the receivership to meet your obligations?

A. No, I have been relying on family and the small amounts of work I have been getting.

846. Q. Okay, and having reviewed your statutory declaration, everything else remains true?

A. Yes. Sorry, the only thing I would add that I became aware of after this was a CRA indebtedness of, I think it is now $7,000, $7,200 for taxes payable in my 2016 filing. So, I would have to add that, I guess, to Schedule I, but that would be the only adjustment.

847. Q. And why was it that you never hired...you don't have an accounting background yourself?

A. No, not specifically.

848. Q. Why not hire a CFO for the company?

A. We just didn't have the money.

849. Q. You didn't have the money?

A. No. Crystal Wealth wasn't making sufficient money to...you know, we basically been hand to mouth, if you will, for the...since 2005 onwards, in particular. Early on, we made some decent money, in the 1998 to 2005 period, but from

2005 onwards, there just wasn't any budget to hire a CFO.

850. Q. And they were still netting over...getting over $2.5 million in management fees in 2015, were they not?

A. Well, in gross.

851. Q. M'hmm.

A. Half of that would go out to trailer fees or commissions. And I am sure you have the financial statements that would say what that net income was, and like I say, we were operating at a loss for a number of those years.

852. Q. How much were you paying Jillian Van Osch to be your executive assistant?

A. I think, when I hired her, it was $50,000, and then increased it to 65, I think. And just early in 2016, I increased it again to 100, I believe. That was I think of January or February of 2017...sorry, not 2016.

853. Q. Do you not think somebody could have been retained for Jillian Van Osch's role at a much more inexpensive rate, and shift money to instead be used on a CFO?

A. Hindsight is 20/20. You know, I mean, that was...in the process of trying to hire a

CFO, or part-time CFO, I also didn't feel there was sufficient work for a CFO. So, I was...we had just hired a headhunter agency to try and find us someone that could take over as CCO, and partially do CFO duties, but...

854. MR. van ZANDVOORT: Can we just take a final two-minute break? And we will wrap up shortly thereafter.

--- upon recessing at 4:25 p.m.

--- A BRIEF RECESS

--- upon resuming at 4:30 p.m.

CLAYTON SMITH, resumed

CONTINUED EXAMINATION BY MR. van ZANDVOORT:

855. Q. So, Mr. Smith, subject to further questions I may have at a subsequent time, as the Receiver's mandate is ongoing...and, of course, the responses to the undertakings that you will be provided, I am prepared to adjourn the examination for today, but with the understanding that we may require a subsequent examination of you. Is that agreeable?

A. Yes, understood.

856. MR. van ZANDVOORT: Okay. Thank you for

your time today.

--- DISCUSSION OFF THE RECORD

BY MR. van ZANDVOORT:

857. Q. We are back on just to ask one final question for clarification. So, Clayton, at what point in time, just so I understand, did Dale Wells, Scott Whale, Jeff Mushaluk and Al Housego really start to turn, and things heat up as it concerned their issues regarding the Media fund and...

A. I believe it was possibly late 2014, and maybe early 2015.

858. Q. And did the relationship ever repair, or did it just continue to get progressively worse?

A. Well, my relationship with Dale Wells and Scott Whale never really got better, but it hadn't been great for a while before that anyway. My relationship with Al Housego wasn't...he was involved in those conversations, but he was never vociferous, if that is the word. He was never angry and you know, as yelling and screaming as those two were.

With Jeff Mushaluk, it sort of fluctuated all over the place. So, he would be super angry one week, and seemingly fine the next week, and super angry the next week. So...

859. Q. And generally...in that last, you said for late 2014 all the way through the end, what generally was...what were they yelling about? What was the biggest point of concern?

A. It was...it sort of varied from different people. So, Scott Whale, being a minority owner, was concerned that I was trying to grow and was operating at a loss because I had a lot of salaried people on board, and was spending a lot of money to market, et cetera, et cetera, trying to grow our assets.

So, his issues were partly shareholder... like I say, Al Housego was on the calls in that, but he was never angry about anything. He was fine. With Dale and Jeff and Scott, the issue was a lack of liquidity in the key funds, being Mortgage, Media, Medical, because they wanted to redeploy some of their assets into other investments.

And in general, I think they just weren't happy with the way that Crystal Wealth...that I was managing Crystal Wealth, maybe. But the majority of it was just about the Media fund...the majority of it was about the Media fund and the status of loans within the Media fund, which was...

860. Q. That was a shared concern amongst the four of them throughout that period?

A. It was a shared concern amongst all of us, quite frankly.

861. Q. Yes, yes.

A. I just felt there were better ways to deal with it than just yelling and screaming and, you know...anyways. But, no, there was...yes, like I say, Dale Wells and I never really saw eye to eye, and I think his issue was that he wanted to run his own company...he wanted to run Crystal Wealth as if it was his company and not mine, which that sort of bore out when he started his own company and went off on his own.

With Scott Whale, I think there was bad blood because I had terminated his employment two years previously, and as a minority shareholder, he wasn't getting dividends, and he was upset about that and didn't agree with my path to managing the company.

Jeff Mushaluk was just...he was always up and down. That seems to be his personality or his temperament. Yes.

862. Q. Did Jeff have his own independent concerns, or did he kind of piggyback on the concerns of one of the specific others?

A. Yes, I would say he piggybacked mostly off of one, and then the other one and then the other one.

863. Q. But generally speaking, did he kind of fall, align with one of them, or...

A. I don't recall that. It was just generally...it was just generally not a great environment towards the end.

864. MR. van ZANDVOORT: Okay. All right, thank you.

--- upon adjourning at 4:45 p.m.

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REPORTER'S NOTE:

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I hereby certify the foregoing to be a true and accurate transcription of the above-noted proceedings held before me on the 25th DAY OF JANUARY, 2018, and taken to the best of my skill, ability and understanding.

} Certified Correct:

Robert Dudley
Certified Verbatim Reporter