

STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF WASHTENAW

CAN IV PACKARD SQUARE LLC, a
Delaware limited liability company,

Plaintiff,

v.

PACKARD SQUARE LLC, a Michigan
limited liability company,

Defendant,

No. 16-990-CB

And

THE BELDEN BRICK SALES CO., a
Michigan corporation, et al.,

Additional Lien Claimant
Defendants and any and all Counter,
Cross, and Third-Party Claims.

VIDEOTAPED DEPOSITION OF JOHN PLAGA

LOS ANGELES, CALIFORNIA

SEPTEMBER 20, 2018

REPORTED BY:

LINDSAY PINKHAM

CSR 3716, CCRR 17

VIDEOTAPED DEPOSITION OF JOHN PLAGA, taken on behalf of Defendant, commencing at 9:34 a.m., Thursday, September 20, 2018, at 2000 Avenue of the Stars, 11th Floor, Los Angeles, California 90067, before LINDSAY PINKHAM, CSR 3716.

APPEARANCES:

For Plaintiff:

DICKINSON WRIGHT PLLC
BY: J. BENJAMIN DOLAN, ESQ.
ARIANA PELLEGRINO, ESQ.
(Via videoconference)
2600 Big Beaver Road
Suite 300
Troy, Michigan 48084
(248) 433-7200
bdolan@dickinsonwright.com

For Defendant:

SWISTAK & LEVINE, P.C.
BY: I. MATTHEW MILLER, ESQ.
(Via videoconference)
30883 Northwestern Highway
Suite 120
Farmington Hills, Michigan 48334
(248) 851-8000
mmiller@swistaklevine.com

Also Present:

KYLE LOSKAMP, VIDEOGRAPHER
JONATHAN KAPLAN, ESQ.
CRAIG SCHUBINER (Via videoconference)
MARCUS NEUPERT (Via videoconference)

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INSTRUCTIONS NOT TO ANSWER

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LOS ANGELES, CALIFORNIA; THURSDAY, SEPTEMBER 20, 2018

9:34 A.M.

THE VIDEOGRAPHER: Good morning. Here begins the videotaped deposition of John Plaga in the matter of Can IV Packard Square LLC versus Packard Square LLC, et al, in the State of Michigan Circuit Court for the County of Washtenaw. The case number is 16-990-CB. Today's date is September 20, 2018, and the time on the monitor is 9:34 a.m. This deposition is taking place at 2000 Avenue of the Stars, Los Angeles, California, and is being made at the request of the defendants. Your videographer today is Kyle Loskamp representing Hanson Reporters.

Would counsel and all present please identify themselves and state whom you represent.

MR. MILLER: Good morning. My name is I. Matthew Miller. I'm here on behalf of the defendant counterplaintiff CAN -- no, that's you. I do it every time -- counterplaintiff Packard Square LLC, and I'm the one taking the deposition this morning.

MR. DOLAN: Benjamin Dolan on behalf of Can IV Packard Square, the plaintiff.

THE VIDEOGRAPHER: The court reporter today is Lindsay Pinkham, and she will now swear in the witness.

1 JOHN PLAGA,
2 having been first duly sworn, was
3 examined and testified as follows:
4

5 MR. MILLER: Sir, before we get started, I'm
6 just going to note for the record that Ariana Pellegrino
7 of the Dickinson Wright Law Firm is also on this line
8 remotely, as is Craig Schubiner, a representative of the
9 defendant. None of them are going to participate, but
10 they're paying attention and watching.
11

12 EXAMINATION

13 BY MR. MILLER:

14 Q Sir, will you please state your name for the
15 record.

16 A Yes. John Plaga.

17 MR. DOLAN: Matt, let me just interrupt for a
18 second. Jonathan Kaplan, general counsel of Canyon, is
19 in the room as well.

20 MR. MILLER: Thank you.

21 Q Sir, as I said, my name is Matthew Miller, and
22 I'm here to ask you some questions. I'm not trying to
23 trick you; I'm not trying to confuse you. I'm going to
24 try and keep this moving along as briskly as we can.
25 Obviously we had a little technical issue this

1 Q And what are your responsibilities in that
2 role?

3 A Main responsibilities would be to oversee the
4 financials and accounting of the firm's books and
5 records.

6 Q And what responsibilities do you have as it
7 pertains to the other entities there at Canyon Partners,
8 for example, Canyon Partners Real Estate or even the
9 plaintiff in this action, Can IV Packard Square LLC?

10 A I am the chief financial officer for Canyon and
11 all of its subsidiaries. So it would be all of those
12 entities.

13 Q So there's not a specific chief financial
14 officer for Canyon Partners Real Estate, then; correct?

15 A Correct.

16 Q So as it pertains to Packard Square -- and when
17 I say "Packard Square," I really mean Can IV Packard
18 Square LLC, so I don't have to keep saying that mouthful
19 each time -- as it pertains to that entity, what are
20 your specific roles and responsibilities?

21 A My specific roles, I don't have very specific
22 roles with respect to that entity.

23 Q You must have some roles, because you've
24 participated in some fashion, have you not?

25 A Yes. We have a real estate controller that is

1 morning which delayed things, and we're also awaiting
2 the issue of the exhibits, which will delay things, but
3 while that's happening, I'm going to ask you some
4 questions in some different directions in the hope that
5 we can keep things moving as quickly as we can.

6 This deposition can be used for any reason
7 under the Michigan Court Rules and the Michigan Rules of
8 Evidence.

9 You're here pursuant to notice, and I
10 appreciate your appearing here today. Just remember to
11 answer questions audibly, no shrugs of the shoulders or
12 uh-huh or huh-uhs. If you're not sure about a question
13 that I've asked, please ask me to repeat or rephrase the
14 question. I'll be happy to do so.

15 And finally, it's not really an issue, I don't
16 think, so much in these videotaped depositions, now that
17 I've done all of two of them, but we shouldn't have a
18 problem talking over each other, because with the lag of
19 the video, we have to sort of wait to stop to allow the
20 other person to answer, to speak. So please keep that
21 in mind as you're answering my questions. All right?

22 A Okay.

23 Q Great. Sir, what is your position there at
24 Canyon Partners?

25 A The chief financial officer.

1 directly responsible and works with the real estate
2 group on the real estate companies.

3 Q Okay. But clearly you have a role and
4 responsibility with Packard Square, because you've been
5 involved in this entity. So what is your role as it
6 pertains to the real estate controller's role?

7 MR. DOLAN: I'm just going to object to the
8 form of the question. It assumes facts that have not
9 been established.

10 MR. MILLER: Well, okay.

11 MR. DOLAN: You said, "you must be involved,"
12 and "you must have a role." That's not been
13 established.

14 MR. MILLER: Okay.

15 Q So is it your testimony, sir, that you've had
16 no role in the Packard Square project?

17 A I'm not sure how to answer that. Maybe
18 rephrase the question?

19 Q Sure. What involvement have you personally had
20 in the Packard Square project?

21 A Very little, if none.

22 Q Have you ever signed documents related to the
23 project?

24 A Yes, I have.

25 Q Okay. So can you describe some of those?

1 **A I can't, because I don't specifically recall**
2 **specific documents.**
3 Q Who's the real estate controller?
4 **A Sheriden Mansfeld.**
5 Q And what is his job description?
6 **A Her job description is overseeing the**
7 **accounting and financial records for the real estate**
8 **entities.**
9 Q Does that person send out default letters?
10 **A I don't know. I don't know the answer to that**
11 **specific question.**
12 Q Well, do you?
13 **A I don't specifically send out default letters,**
14 **no.**
15 Q What types of letters do you send out in your
16 role as chief financial officer?
17 MR. DOLAN: Related to Can IV Packard Square,
18 or related to -- what?
19 Q BY MR. MILLER: In general. Do you send out
20 any letters to borrowers on behalf of Canyon?
21 MR. DOLAN: I'm going to object to the form of
22 the question to the extent that "send out" is unclear.
23 MR. MILLER: Well, would you prefer the word
24 "issue"?
25 Q Do you issue or sign letters on behalf of

1 **A Yes. I would say the authorized signatory role**
2 **is one in which I am asked to sign documents and bind**
3 **the company on behalf of various companies of Canyon.**
4 Q Are you the only authorized signatory?
5 **A I am not. There are several authorized**
6 **signatories.**
7 Q Who else is an authorized signatory who would
8 have signed a letter as it relates to the Packard Square
9 project?
10 **A Again, there's several authorized signatories.**
11 **I wouldn't know who else signed them without looking at**
12 **them.**
13 Q Who else, without worrying about the particular
14 letters at the moment, who else is an authorized
15 signatory for any of the Canyon entities of which you
16 are aware?
17 **A Jonathan Kaplan, Josh Friedman, and Mitch**
18 **Julis.**
19 Q Would somebody say, for example, Gerald Goldman
20 could be considered an authorized signatory?
21 **A He's not an authorized signatory that can bind**
22 **the company contractually.**
23 Q Okay. So what would be the difference between
24 a letter that you would sign and a letter perhaps that
25 Mr. Goldman, for example, would sign?

1 Canyon to borrowers?
2 MR. DOLAN: I'm just going to ask for
3 clarification. "Issue" and "sign" are two different
4 things. If you're asking him both, then just split it
5 up, if you don't mind.
6 MR. MILLER: Okay.
7 Q Have you ever issued a letter to a borrower on
8 behalf of Canyon?
9 **A I'm not sure what you mean by "issue." So...**
10 Q Have you ever written a letter to a borrower on
11 behalf of any Canyon entity?
12 **A I have not written a letter.**
13 Q Have you signed any such letter?
14 **A I probably have signed a letter.**
15 Q Why is it that you're a person who signs a
16 letter but doesn't write a letter?
17 **A I would say in my role, my role is one of**
18 **authorized signatory, and the person responsible for the**
19 **project or the entity are responsible for writing the**
20 **letter.**
21 MR. MILLER: I would note just for the record
22 that Marcus Neupert has joined the conference remotely.
23 Q Sir, when I asked you about your role, you
24 didn't share "authorized signatory" as one of your
25 roles. Can you describe that role for me?

1 MR. DOLAN: I'm just going to object to the
2 extent it calls for any privileged information.
3 If it doesn't, you can answer. But I want to
4 caution the witness not to answer relative to anything
5 that was communicated to him by counsel.
6 **THE WITNESS: Okay. I don't specifically know**
7 **what Gerald Goldman has authorized to sign off on. I**
8 **don't specifically review his -- what he signs.**
9 Q BY MR. MILLER: Okay. We'll talk about the
10 letters in particular when they get there.
11 Do you sit on a board or a committee called the
12 investment committee?
13 **A I do not.**
14 Q Do you know who sits on the investment
15 committee?
16 MR. DOLAN: Object to the form of the question.
17 Assumes that there's one.
18 MR. MILLER: We'll, we've had four people
19 deposed say there is. I was trying to cut to the chase
20 a bit.
21 MR. DOLAN: Okay.
22 MR. MILLER: But I'll jump through the hoop.
23 Q Mr. Plaga, are you aware of the existence of an
24 investment committee at Canyon?
25 **A Yes.**

1 Q Okay, thank you. Do you know who sits on said
2 committee?
3 A I may know some of the people. I may not know
4 all of them.
5 Q Are you aware of the structure of the
6 committee?
7 A Yes and no. I don't know the granular details,
8 no.
9 Q What's your best understanding of the structure
10 of the committee?
11 A Structure of the committee or the purpose of
12 the committee? When you say "structure," I'm not sure
13 what you mean by "structure."
14 Q Let's start with structure. Are you familiar
15 with the members of the committee, the number of
16 members, the types of issues they address? Why don't we
17 just go through that.
18 Do you know how many people are on the
19 committee?
20 A No, I don't know the specific number of people
21 that are on the committee.
22 Q Do you know any of the names of the people who
23 are on the committee?
24 A Yes.
25 Q Can you tell me the names of the committee

1 aware of who have previously sat on the investment
2 committee but no longer sit on the investment committee?
3 A No, not that I have direct knowledge.
4 Q All right.
5 I think that there's at least a couple of
6 exhibits that are there.
7 MR. DOLAN: Matt, I have them all now. Just
8 came in the door a minute ago.
9 MR. MILLER: Okay, great. Then I'll move
10 forward. We'll get back to them.
11 Q When a letter goes out with your signature as
12 the authorized signatory on it, is that just a letter
13 that's presented to you from somebody else? I think you
14 testified you don't draft them. Is that right?
15 A Correct. I do not draft the letters.
16 Q So somebody else presents them to you and then
17 you sign them; correct?
18 A Yes.
19 Q I'm assuming, then, that there might be
20 numerous authors who might present a letter for you to
21 sign as the authorized signatory.
22 A Yes. Across Canyon as a firm? Yes.
23 Q So approximately how many different people
24 would present to you a letter to sign on behalf of
25 Canyon as the authorized signatory?

1 people of whom you are aware.
2 A Maria Stamolis, Robin Potts, and Josh Friedman
3 and Mitch Julis.
4 Q All right. And is that just a real estate
5 investment committee, or is that an investment committee
6 for all of Canyon Partners?
7 A That would be a real estate investment
8 committee.
9 Q So is it true that there are more than one
10 investment committee at your company?
11 A Yes.
12 Q I see. So there are different -- is it fair to
13 say, then, that there are different investment
14 committees for real estate as opposed to other types of
15 investments Canyon might be involved with?
16 A Yes.
17 Q All right. What is your understanding of what
18 the real estate investment committee does?
19 A They propose investment ideas to the committee.
20 The committee considers investment ideas.
21 Q And does the committee then approve or reject
22 those ideas?
23 A That is my understanding.
24 Q Other than the four people that you've
25 identified thus far, are there any other people you're

1 A I have no idea.
2 Q Are we talking about a hundred different
3 people?
4 A No.
5 Q Is this like department-head-level-type folks?
6 A No.
7 Q So who presents -- describe for me the type of
8 people at Canyon who do present letters to you for
9 signature as the authorized signatory.
10 A Is this relevant for this? There's various
11 people who could present.
12 Q I didn't ask who they were. I just asked who
13 the type of people were.
14 A The type of them who may present a letter for
15 me to sign?
16 Q Correct.
17 A Could be a controller that works for me, could
18 be a fund accountant that works for me, it could be
19 someone in marketing with respect to a letter that they
20 may have that comes to me. Obviously could be someone
21 in legal.
22 Q So approximately how many letters a day do you
23 sign as the authorized signatory of Canyon?
24 A That would be difficult for me to say.
25 Q Well, how many do you think you signed this

1 week? Today's, what, Thursday? So in this short week.

2 **A Some days it's none, some days it's a handful.**

3 Q All right. And for each of the ones that you
4 do sign, do you read and review them before you sign
5 them?

6 **A It depends on the letter.**

7 Q In what circumstances would you not read and
8 review the letter before you signed it?

9 **A I would say a circumstance would be where
10 internal legal counsel has reviewed and/or another
11 senior executive has reviewed it.**

12 Q So do you mostly then just rely on the author
13 and those other people to ask you to sign it, then you
14 go ahead and sign them? Is that a fair assessment?

15 **A Again, it depends on the letter.**

16 Q Well, for example, a default letter to a
17 borrower. Is that something that you would review
18 yourself before you sign it?

19 **A Again, I'd prefer to be more specific. Depends
20 on the letter and the -- to say whether I would or
21 wouldn't, I'd be guessing.**

22 Q All right. So as your normal practice -- and
23 then we'll get into the specific letters in a moment --
24 but in your normal practice, what is the extent of
25 investigation or due diligence that you perform yourself

1 **A Okay. In a real estate context, the letter
2 would be presented to me by the internal counsel's
3 assistant or by the internal counsel himself.**

4 Q And at that point, by the time it's gotten to
5 you, you mentioned counsel obviously reviewed it. Has
6 anybody else at Canyon or as part of Canyon Real Estate
7 already reviewed it by the time it gets to you?

8 **A With respect to the -- with respect to one,
9 with respect to default notices, I don't know
10 specifically what default notices I've signed, and
11 whether they've been reviewed by another person. The
12 procedure would be that typically a businessperson and
13 the general -- the internal counsel would review the
14 letters.**

15 Q And they would draft it together and then give
16 it to you? Is that how it's generally worked?

17 **A I'm not involved in the drafting of the letter,
18 so I couldn't say.**

19 Q All right. For a default letter, does the
20 investment committee make the determination as to
21 whether a default letter goes out?

22 **A I don't know.**

23 Q So you're not sure necessarily how many levels
24 the letter has gone through before it has gotten to you.
25 Is that your testimony?

1 prior to signing any of the letters as authorized
2 signatory?

3 **A Again, I would answer it depends on the letter
4 and the nature of the letter and who's presenting it to
5 me.**

6 Q So is there a protocol by which there are
7 people who review the letters prior to your signing the
8 letters?

9 **A Yes.**

10 Q All right. So you mentioned legal, and who
11 else reviews letters before you sign them?

12 **A Again, there's many letters that -- for all
13 different purposes that I may sign as an authorized
14 signer for Canyon, and to specifically answer that
15 question would be -- I can't answer that with one
16 answer.**

17 Q All right. So let's talk about the class of
18 letters that I would refer to as a default letter. Do I
19 need to define that for you, or do you know what a
20 default letter is?

21 **A No, I'm familiar with what a default letter
22 would be.**

23 Q So let's talk about default letters. Who
24 generally would present you a default letter? In a real
25 estate context. I should be specific. I'm sorry.

1 **A Yes.**

2 Q I see. Do you have a stamp for your signature?

3 **A No.**

4 Q So every letter that has your name on it,
5 you've personally signed?

6 **A Yes.**

7 Q Let's get off that subject for a second. Maybe
8 we'll come back to it.

9 What's your involvement with the investment
10 side of the financial business at Canyon? Do you deal
11 with investors directly?

12 **A I may deal with investors, our investors
13 directly, if there is a specific question or issue or
14 subject matter that requires my involvement.**

15 Q Is there an investment relations department,
16 for lack of a better word, at Canyon?

17 **A There is an investor relations group.**

18 Q Do they report to you?

19 **A Yes, they report to myself and to Doug
20 Anderson, our chief compliance officer.**

21 Q I see. The acronym RSL, does that stand for
22 Reliance Standard Life?

23 **A Yes.**

24 Q Who is your contact person there?

25 **A Who is the contact person at RSL?**

1 Q Yes.
2 MR. DOLAN: I'm going to object to the question
3 and instruct the witness not to answer. What's the
4 relevance of who the contact person is at RSL?

5 MR. MILLER: So we know to whom to send the
6 subpoena that we need to send.

7 MR. DOLAN: I'm going to object to the question
8 and instruct him not to answer. If you want to send
9 subpoenas to our investors, you're going to have to get
10 an order from the court.

11 MR. MILLER: On what authority, Mr. Dolan?

12 MR. DOLAN: Because I think it's outside the
13 scope of the discovery allowed in this case, and I think
14 it's designed to take discovery for the New York action,
15 and I think that's in violation of the New York court's
16 order.

17 MR. MILLER: No, I've been trying to find out
18 who the investors are so we can get the documents that
19 have been sent to the investors.

20 MR. DOLAN: Which have nothing to do with Can
21 IV Packard Square's lawsuit. And we can fight about
22 this in front of Judge Brown.

23 MR. MILLER: I see. Okay.

24 Q Sir, then would you also agree with me that
25 PIIC stands for Philadelphia Insurance Indemnity

1 this year.

2 Q How long had he been doing it previously?

3 A Three years.

4 Q Okay, perfect. Great. Does the investment --
5 strike that.

6 Does Canyon send documents about the status of
7 its loans to its investors?

8 A I don't have specific knowledge of that, so
9 it's hard for me to answer that.

10 Q You're not aware that Canyon sends out
11 quarterly reports to its investors?

12 A We do send out quarterly reports. I don't look
13 at what's in those reports.

14 Q So you're not aware of any of the content of
15 any of those quarterly reports?

16 A I know that they receive a summary of what
17 their investment balance is worth, but I don't
18 specifically see the specific reports that are sent out
19 or what's the nature of those reports.

20 Q Is it possible that items that have been sent
21 to the investors include information about the status of
22 a loan and how it's performing and or whether it's
23 involved in litigation?

24 MR. DOLAN: Object to foundation.

25 MR. MILLER: If he knows. I'm only asking if

1 Company?

2 MR. DOLAN: I'm just going to object to all
3 these questions about the investors. This is clearly an
4 effort to harass and harm Canyon's business and has
5 nothing to do with this lawsuit. So we're going to move
6 on to another topic, and we can have a motion in front
7 of the court on this.

8 Q BY MR. MILLER: Who runs the investor relations
9 group at Canyon?

10 A Currently it is Deidre DeCaro.

11 Q How do you spell the last name?

12 A D-e-C-a-r-o.

13 Q Thank you. And when you say currently, did she
14 just recently take that position?

15 A Yes.

16 Q Who preceded her?

17 A Kyle Furutani.

18 Q Oh, gosh. I have to ask you to spell that one,
19 too. I'm sorry.

20 A F-u-r-u-t-a-n-i.

21 Q And how long has it been since -- strike that.
22 That's a terrible question.

23 Kyle was in charge of the group as of
24 approximately when?

25 A Up until approximately January, end of January

1 he knows.

2 MR. DOLAN: He just said he didn't know what's
3 in there, and now you're asking for something specific
4 that's in the -- whatever it is.

5 MR. MILLER: Well, I asked him if it's possible
6 that those items were in such a report.

7 MR. DOLAN: Anything's possible.

8 But go ahead and answer if you can.

9 THE WITNESS: Again, I don't see those specific
10 reports, so I can't guess as to what's in them.

11 Q BY MR. MILLER: I see. All right. Let's look
12 at Exhibit 15 there.

13 MR. DOLAN: Can you say what it is? There are
14 no numbers on any of those.

15 MR. MILLER: I'm sorry. They were numbered
16 when we sent them. It's a portion of the privilege log,
17 then.

18 MR. DOLAN: Okay. It's about 10 or 12 pages.
19 (Off record)

20 (Deposition Exhibit 15 was marked
21 for identification.)

22 MR. MILLER: Ben, would you take a look at that
23 and see if it's got a number at the bottom right-hand
24 corner of 764 on the first page, and the bottom of the
25 last page, it's 3008?

1 MR. DOLAN: Yes, this is it. I found the right
2 thing.

3 MR. MILLER: All right. So that's Exhibit 15.

4 Q Sir, I'm showing you what's been marked as
5 Exhibit 15. And I don't really expect you to be able to
6 identify this. I'm just going to let you know, and your
7 attorney can correct me if I'm wrong, but these are
8 excerpted pages of a privilege log that was presented to
9 my client and me in this case. It was created by your
10 attorneys. And I just want to ask you a couple of
11 questions about some of the items in these descriptions,
12 okay?

13 A Okay.

14 Q On the first page that's marked 764 at the
15 bottom, there's a document description in column E of
16 item 1528 that says "Packard - PIIC letter to investors
17 re reinvestment of funds."

18 We talked about PIIC. Would you have had
19 anything involved with a letter to investors re
20 reinvestment of funds?

21 A I have no idea.

22 Q As authorized signatory, do you sign letters to
23 investors about reinvestments of funds?

24 A Not that I'm aware of.

25 Q Have you ever reviewed a letter to an investor

1 regarding a reinvestment of funds?

2 A I don't know. Couldn't say.

3 Q All right. Okay. PIIC, though, is certainly
4 not a Canyon entity; correct?

5 A I do not recognize that acronym.

6 Q Well, we talked about it a few moments ago, and
7 you told me it was the Philadelphia Indemnity Insurance
8 Company.

9 A No, I don't think I answered that question,
10 because I think Ben objected.

11 MR. DOLAN: That's correct.

12 Q BY MR. MILLER: Okay, but as we sit here, as
13 far as you know, PIIC is not a Canyon acronym.

14 A Yes, that's what I just said.

15 Q Okay. And so if you look at 1529 on the same
16 page, you would agree with me that RSL is also not a
17 Canyon acronym.

18 A Correct.

19 Q And if you turn the page to 1485 on the second
20 page marked 742 in the lower right-hand side -- you see
21 those?

22 A Yes.

23 Q So 1485 has a "Re: RSL and Duke Vrf." Are any
24 of those Canyon entities of which you're aware?

25 A Yes.

1 Q Which one or ones is?

2 A VRF is a Canyon entity.

3 Q What does that stand for?

4 A Value Realization Fund.

5 Q All right. Okay. But the other two are not?

6 A Duke is a Canyon entity.

7 Q Duke is also a Canyon entity? What does Duke
8 stand for?

9 A Well, let me correct that. Actually, I don't
10 know, in the context of this, I don't know if it's a
11 Canyon entity or not.

12 Q Is there a Canyon entity with a name similar to
13 "Duke"?

14 A No.

15 Q So when you say Duke is a Canyon entity, that
16 was erroneous.

17 A Correct.

18 Q Okay, very good.

19 Turning the page to the next page, which has
20 340 at the bottom, do you know what a participation
21 agreement is?

22 A Yes.

23 Q What is a participation agreement?

24 A A participation agreement is an agreement
25 whereby an entity has a participation or an interest in

1 a specific investment.

2 Q So correct me if I'm wrong, then. In taking
3 what you just said, is it an agreement between Canyon
4 and an investor relating to an investment?

5 MR. DOLAN: I'm just going to object to the
6 extent it calls for a legal conclusion. But the witness
7 can answer beyond that.

8 THE WITNESS: Could you repeat the question?

9 Q BY MR. MILLER: I just didn't quite understand
10 your answer. I was just trying to understand what that
11 meant in layman's, not financial terms. I'm trying to
12 just understand. Because it says it's a participation
13 agreement. You described what that was. Does that have
14 to do with an agreement to invest in a particular
15 investment?

16 MR. DOLAN: Same objection. But go ahead.

17 THE WITNESS: Yes, typically a participation
18 agreement relates to an investment.

19 Q BY MR. MILLER: And do you know who, in a
20 situation such as this real estate investment here, who
21 the parties to a participation investment would be?
22 Would it be Can IV Packard Square? Would it be Canyon
23 Real Estate Partners? Would it be some other entity?

24 A I don't specifically know the entities
25 involved.

1 Q Okay. When we turn the page to 775, which is
2 the next page, on the top one, No. 1550 on the left-hand
3 column refers to "Packard - Gothic Corp. letter
4 reinvestment of funds." Do you see that?

5 A Yes.

6 Q Is Gothic a Canyon entity?

7 A No.

8 Q So it sounds like, as we're looking at this,
9 there must be a letter. Do you know what this refers
10 to, what type of letter a Corp letter would be?

11 A I do not. I have not seen that letter.

12 Q I'm not asking if you've seen the letter,
13 because I certainly haven't, either. I'm just wondering
14 if you know what a Corp letter, a Packard - Gothic Corp
15 letter re reinvestment of funds. What do you believe
16 that to be?

17 MR. DOLAN: Well, I'm just going to object, to
18 the extent you're asking him what a document on a
19 privilege log is. The court has not ruled that this
20 document can be discussed or ruled. So on that
21 question, I'm going to object and instruct the witness
22 not to answer.

23 MR. MILLER: I'm not asking for any of the
24 contents in the letter. So I can certainly understand
25 your objection if I were asking about contents in a

1 A No.

2 Q Okay. The letter beneath it, SNCC, is that a
3 Canyon entity?

4 A No.

5 Q Okay. Would you have any idea what a Packard -
6 SNCC letter re reinvestment of funds might be?

7 A No.

8 Q Okay. Turn the page to 763. There's another
9 couple of new acronyms that I've not seen before. Do
10 you know what "JBD" stands for in the first one on
11 No. 1526?

12 A I do not.

13 Q Is that a Canyon entity acronym of which you're
14 aware?

15 A No.

16 Q And then down below in 1527 there's reference
17 to a Packard - Gothic HSP letter to investors. Do you
18 know what "HSP" stands for?

19 A No.

20 Q Are you aware of that being a Canyon entity?

21 A No.

22 Q Okay. Some of those names are repeated again
23 for the next few pages, so I'm not going to bother with
24 those. If you would jump ahead to the page that says
25 2653 at the bottom, please. Are you there?

1 letter. But I'm not asking about content in a letter.

2 I'm simply asking, what is a Packard - Gothic Corp
3 letter re reinvestment of funds? Is it a letter from
4 Packard? I know who Packard is. Is it a letter from
5 Canyon to Gothic? What's Gothic Corp? I don't know
6 what any of these things are. And if they're not Canyon
7 entities, they're not privileged.

8 MR. DOLAN: Then I'm going to object on
9 foundation, because you haven't established that this
10 witness knows anything about this letter.

11 MR. MILLER: He just said that Gothic isn't a
12 Canyon entity.

13 MR. DOLAN: Okay. You can know that Gothic's
14 not a Canyon entity without knowing anything about a
15 letter.

16 MR. MILLER: I understand.

17 Q So my question, my original question was, as
18 the chief financial officer of the company, what would
19 be the purpose of a Packard - Gothic Corp letter re
20 reinvestment of funds?

21 MR. DOLAN: Just object to foundation.

22 You can answer if you know.

23 THE WITNESS: I don't know.

24 Q BY MR. MILLER: You don't have any idea what
25 that could be?

1 A Yes.

2 Q Thank you. Do you see in column E in both of
3 those documents the acronym CUOS?

4 A Yes.

5 Q Are you familiar with that acronym's
6 description -- not description -- what that acronym
7 stands for?

8 A I know what that entity is. I don't recall
9 specifically what the acronym stands for.

10 Q Is that a Canyon entity?

11 A Yes.

12 Q Do you have any idea of that entity, if you
13 don't know what it stands for, what its business purpose
14 is?

15 A Yes. It's a -- it is a fund that makes
16 investments.

17 Q Okay. There are some emails in here that I'd
18 like to ask you about.

19 But before I do, is it protocol for Joshua
20 Friedman to always include an attorney in every email
21 that he sends?

22 MR. DOLAN: Object to the foundation. You're
23 asking this witness what Mr. Friedman does on all of the
24 emails he sends? Go ahead.

25 MR. MILLER: If he's aware that there's a

1 protocol in place, yes, I'm asking this witness.

2 **THE WITNESS: I don't know.**

3 Q BY MR. MILLER: Okay, because I'm looking at
4 the email that's described as 5307 on the same page, and
5 I would note that it's an email from Mr. Friedman to
6 Ms. Stamolis, but that there are a couple of attorneys
7 copied on that. Do you see that?

8 A Yes.

9 Q And if you turn the page, we're now at page
10 2662, there's an email from Mitch Julis to Maria
11 Stamolis, No. 5325, that also has attorneys copied on it
12 as well. Do you see that?

13 A Yes.

14 Q And you, of course, were copied on both of
15 those also. Right?

16 A It looks that way.

17 Q Okay. I'm not going to ask you the context or
18 the content of the email, but I'm going to rephrase my
19 prior question, which is, are you aware of any protocol
20 which either Mr. Julis or Mr. Friedman or both of them
21 always include lawyers in every email that either of
22 them sends to other Canyon employees?

23 MR. DOLAN: Just going to object to foundation.
24 Go ahead and answer if you can.

25 **THE WITNESS: I don't think I can answer that.**

1 reviewed documents that were sent to investors, the
2 quarterlies or otherwise. Have you seen those?

3 A I don't know if I've seen them.

4 Q All right. Well, here's one that's described
5 as a Packard - investor update proposal. Without
6 getting into the specifics of it, are you familiar with
7 what this document refers to?

8 A No, other than the title.

9 Q All right. Do you have any recollection of
10 this particular email?

11 A No.

12 Q All right. Are you familiar with any emails
13 that are sent by Josh Friedman or Mitchell Julis which
14 do not include attorneys on them?

15 MR. DOLAN: Object to foundation. You can
16 answer if you can.

17 **THE WITNESS: Repeat the question?**

18 Q BY MR. MILLER: Yes. Are you familiar with
19 having received or seen any emails from Joshua Friedman
20 or Mitchell Julis upon which an attorney was not also
21 included?

22 A Yes, I'm aware of emails.

23 Q Okay. Are you aware of any involving Packard
24 Square that either of them authored that did not include
25 an attorney on?

1 Q BY MR. MILLER: Are you aware of such a
2 protocol?

3 A I don't know.

4 Q You don't know if you're aware of a protocol,
5 or you don't know if there is a protocol?

6 A I don't know if there is a protocol.

7 Q Okay. On the same page we're on, 2662, the
8 bottom right-hand corner, I'm still looking at document
9 5325. Do you know what CPRE stands for, in column E?

10 A Here? Yes.

11 Q What's that?

12 A Canyon Partners Real Estate.

13 Q Okay, great. On the next page, No. 5739 on
14 page 2869 -- are you with me?

15 A Uh-huh.

16 Q Yes? Okay. There's a document referenced
17 there as a "Packard - investor update proposal." Do you
18 see that?

19 A Yes.

20 Q And you again were copied on this email. Is it
21 still your testimony that you've not reviewed documents
22 sent from Canyon to its investors relating to Packard
23 Square or other loans?

24 A I don't know that I said that.

25 Q I thought earlier you said that you had not

1 A I don't know.

2 Q Let's talk about page 2894 of Exhibit 15,
3 please. On the second document, which is numbered 5789
4 on the left side, there is another set of acronyms in
5 column E. Do you see CPRE-VMF?

6 A Yes.

7 Q I think you just told us CPRE -- well, forget
8 it. What do those stand for, please?

9 A Canyon Partners Real Estate.

10 Q And "VMF"?

11 A I'm not quite sure I know what VMF is.

12 Q Is VMF not a Canyon entity?

13 A I don't know what VMF is.

14 Q Okay. Let's turn a couple pages further to
15 2974 in the lower right-hand corner.

16 A Okay.

17 Q In No. 5949, do you know who Doug Anderson is?

18 A Yes.

19 Q What is Doug Anderson's role at Canyon?

20 A Chief compliance officer.

21 Q Is he an attorney?

22 A Yes.

23 Q He is an attorney. And he works out of your
24 same Los Angeles office there?

25 A Yes.

1 Q And who's Ginger Norman?
 2 A **Our deputy general counsel.**
 3 Q Deputy general counsel, not compliance officer.
 4 A **Correct.**
 5 Q Okay. And she also works in your office there
 6 in Los Angeles?
 7 A **Yes.**
 8 Q Flipping ahead to the last page, 3008, you
 9 already told me who Sheriden Mansfeld was, but who is
 10 Ramin Manteghi?
 11 A **Ramin is an accountant who reports to Sheriden.**
 12 Q Do you know what that person's responsibilities
 13 are relative to the Packard Square project?
 14 A **I do not.**
 15 Q And does Ramin work in the L.A. office?
 16 A **He did.**
 17 Q Doesn't work for Canyon any longer?
 18 A **Correct.**
 19 Q I see. How long ago did that person leave
 20 Canyon?
 21 A **Within the last year.**
 22 Q Okay. Let's talk about Packard Square a little
 23 bit now.
 24 Have you ever been to the Packard Square site?
 25 A **Yes.**

1 A **Okay.**
 2 Q Was that the one and only time you visited the
 3 site?
 4 A **Yes.**
 5 Q Why did you go?
 6 A **I was in Detroit. My son plays ice hockey. I**
 7 **was there for an ice hockey tournament. We were close**
 8 **to Ann Arbor. I thought it would be interesting to go**
 9 **see a site under construction.**
 10 Q When you went there, the lawsuit had already
 11 been filed and the receiver had already been appointed;
 12 correct?
 13 MR. DOLAN: Object to the foundation.
 14 Q BY MR. MILLER: I asked him to read the two
 15 emails. Who did he think he was emailing?
 16 MR. DOLAN: I don't know that he knows who he
 17 was emailing.
 18 MR. MILLER: Okay.
 19 Q Who did you email, sir?
 20 MR. DOLAN: You're asking him if he remembers,
 21 or to read the email?
 22 MR. MILLER: I'm just asking if he knows who he
 23 emailed.
 24 **THE WITNESS: Looks like I emailed Matthew**
 25 **Mason.**

1 Q And when did you go there?
 2 A **It was the fall, October-November of 2016, two**
 3 **years ago.**
 4 Q I think that's correct.
 5 Mr. Dolan, do you have Exhibits 9 and 10 there,
 6 by chance? No, you don't have numbers on them.
 7 Actually, maybe you do. At the top of the page they're
 8 numbered. They're emails numbered 9 dash Can IV and a
 9 Bates number. And 10 dash Bates number. Do you see
 10 that?
 11 MR. DOLAN: No. At the top of the document
 12 itself there's no number. Are you looking for emails?
 13 MR. MILLER: Yeah, they're emails.
 14 MR. DOLAN: Oh, I got it. So 9 and 10. I have
 15 them, yes.
 16 MR. MILLER: Okay. If we could just mark
 17 those, that would be great, as 9 and 10.
 18 (Deposition Exhibits 9 and 10 was
 19 marked for identification.)
 20 Q BY MR. MILLER: Mr. Plaga, take a moment to
 21 review 9 and 10. It's just to refresh your
 22 recollection. I don't have any specific questions about
 23 the emails themselves. I just wanted you to make sure
 24 you were on the same page as I with when you went and
 25 where you went, et cetera.

1 Q BY MR. DOLAN: Do you know who that is in
 2 relation to this lawsuit?
 3 A **Not really. Not that I can remember.**
 4 Q Okay. Do you know why you reached out via
 5 email to Mr. Mason in order to visit the site?
 6 A **Yes, just to visit the site, because I was in**
 7 **town.**
 8 Q But do you know why it was that you asked to do
 9 it through Mr. Mason and not somebody else, for example?
 10 A **Because he was on site.**
 11 Q Are you aware that Mr. Mason was the
 12 court-appointed representative for the receiver that was
 13 appointed in this action?
 14 A **Not that I specifically recall, no.**
 15 Q What's your familiarity with the entity known
 16 as McKinley Incorporated?
 17 A **None.**
 18 Q Have you ever dealt with any people at McKinley
 19 other than perhaps Mr. Mason?
 20 A **No, not that I'm aware of.**
 21 Q Have you ever heard the name Ronald Weiser?
 22 A **Not that I recall.**
 23 Q How about the name Albert Berriz?
 24 A **Not that I recall.**
 25 Q When you went to the site in November of 2016,

1 can you describe what you saw there?
 2 **A The Packard Square project in a trailer in**
 3 **which I met two gentlemen.**
 4 Q Do you recall who you met with?
 5 **A I don't know their specific names. Gathering**
 6 **from the email...**
 7 MR. DOLAN: I don't want you to guess. If you
 8 know, you know. If you don't, you don't.
 9 Q BY MR. MILLER: If you don't recall their
 10 names, were they construction workers? Were they people
 11 from the receivership? Were they lawyers? Any
 12 recollection?
 13 **A Well, again, I'd be assuming if I said who they**
 14 **were with.**
 15 Q What kind of activity was taking place at the
 16 site when you were there?
 17 **A The day I was there, there was no activity.**
 18 Q And according to your email, it says you were
 19 going to be going there on a Friday afternoon. Was that
 20 accurate?
 21 **A I'm recalling that weekend. Yes, I think so.**
 22 Q All right. And if you look at Exhibit 9 -- and
 23 I don't know if you have any insight into this at all,
 24 and if you don't, that's fine. But on Exhibit 9, on the
 25 email, the one from Gerald Goldman to Matthew Mason

1 project take?
 2 **A Maybe an hour, 45 minutes.**
 3 Q What did you and Mr. Mason and the others
 4 discuss?
 5 MR. DOLAN: Object to the form of the question.
 6 It assumes Mr. Mason was there.
 7 Q BY MR. MILLER: Well, do you recall meeting
 8 Matthew Mason at the site?
 9 **A Again, I recall meeting two gentlemen. I don't**
 10 **recall everybody's name.**
 11 Q Okay. Can you tell me what you and these
 12 unnamed people discussed?
 13 **A We just discussed -- they showed me the**
 14 **project, showed me the various aspects of the project,**
 15 **the different rooms that were being built, talked about**
 16 **what they were going to look like when they were done.**
 17 Q Did you discuss the anticipated completion date
 18 of the project?
 19 **A No.**
 20 Q Was there any discussion as to how long the
 21 people you were meeting with thought it might take to
 22 finish?
 23 **A Not that I recall, no.**
 24 Q All right. Let's look at Exhibit 8, Mr. Dolan,
 25 if you don't mind, which is the email that preceded 9

1 dated November 14, 2016 at 7:50 p.m. Do you see that
 2 one on the first page?
 3 **A Yes.**
 4 Q Down below it says that, announces that you're
 5 going to visit, and that Mr. Goldman wants Mr. Mason to
 6 give you a tour. Did you tour the whole project?
 7 **A Yes. We walked around the project.**
 8 Q Do you have any recollection as to the
 9 condition of the construction at that time, like where
 10 it was in process?
 11 **A It was an incomplete project.**
 12 Q But do you know to what extent it was
 13 incomplete or have any opinion about that?
 14 **A No, I couldn't guess as to percentage of**
 15 **completion.**
 16 Q Okay, that's fair.
 17 The next sentence asks about, it says:
 18 "Obviously, we would like to avoid
 19 the borrower being onsite at the same
 20 time, if possible."
 21 Had you made had a request to ensure that the
 22 borrower would not be on site, or was that something
 23 that came from Mr. Goldman?
 24 **A I did not make a specific request.**
 25 Q Approximately how long did your tour of the

1 and 10 there, please.
 2 MR. DOLAN: I'm looking. Okay.
 3 MR. MILLER: Can we mark that?
 4 (Deposition Exhibit 8 was marked for
 5 identification.)
 6 Q BY MR. MILLER: Sir, you have what's been
 7 marked as Exhibit 8 in front of you. It's a little bit
 8 more detailed than 9 and 10. Would you take a moment
 9 and make sure you read through the whole email chain for
 10 yourself, please.
 11 **A Okay, I'm done reading it.**
 12 Q Thank you. Who is Amy J. Johnson?
 13 **A She works for Sheriden Mansfeld.**
 14 Q And who is Pich Pratt?
 15 **A Pich Pratt is my assistant.**
 16 Q And who is Jennifer Alaquinez? I'm sorry.
 17 That's a different entity. Do you know who that is?
 18 **A No.**
 19 Q It says "citi.com."
 20 **A Uh-huh.**
 21 Q Do you know what entity that's referring to?
 22 **A No.**
 23 Q Somebody's trying to schedule a meeting here.
 24 Is that a fair assessment of these emails?
 25 **A Yes.**

1 Q It looks like you were to be a party to this
 2 meeting. Correct?
 3 A Yes.
 4 Q Do you recall participating in this meeting?
 5 A I don't. I don't know if this meeting
 6 occurred.
 7 Q You're not sure if it occurred. Do you have
 8 any idea what the purpose or the subject matter of the
 9 meeting was supposed to be about?
 10 A No, I do not.
 11 Q Were you asked about your opinion as to whether
 12 or not Canyon should institute some type of a lawsuit,
 13 or a default and then a lawsuit against my client?
 14 MR. DOLAN: Object to the extent it calls for a
 15 privileged communication.
 16 If he's having a conversation concerning those
 17 issues with an attorney or at an attorney's request, I
 18 instruct the witness not to answer.
 19 MR. MILLER: There's not a single attorney on
 20 this whole email string, so I'm guessing if there was
 21 going to be a meeting, it wasn't going to include an
 22 attorney. So --
 23 MR. DOLAN: I don't know that that's a fair
 24 assumption at all.
 25 MR. MILLER: Do you see one on this list?

1 A Since 1997.
 2 Q Okay. Long time. During that time, do you
 3 know how many different lawsuits Canyon or its entities
 4 have been involved with?
 5 A No.
 6 Q Do you know how many entities Canyon has sued
 7 for default or foreclosure?
 8 A No.
 9 Q Would you have any idea of what that number
 10 might be?
 11 A No.
 12 Q More or less than 25?
 13 A I don't know. Couldn't guess.
 14 Q Are you aware of -- hold on. My phone is going
 15 crazy. Just have to make sure it's not my wife.
 16 MR. DOLAN: Could we take a little break? The
 17 witness has asked.
 18 MR. MILLER: Sure.
 19 THE VIDEOGRAPHER: Off the record at 10:39 a.m.
 20 (Recess)
 21 THE VIDEOGRAPHER: We are back on the record at
 22 10:47 a.m. This is disc 2 of the deposition of John
 23 Plaga.
 24 Q BY MR. MILLER: Sir, we were talking briefly
 25 about some emails. To whom have you sent emails in

1 MR. DOLAN: I don't know that that indicates
 2 anything about an attorney. But go ahead.
 3 Q BY MR. MILLER: So were you consulted by any of
 4 these people on this meeting relative to filing a
 5 lawsuit or issuing a default letter to my client in the
 6 fall of 2016?
 7 A I don't know.
 8 Q Are you familiar with the litigation history of
 9 Canyon and its various entities?
 10 A That's a broad question. Could you be more
 11 specific? I don't know what the question is.
 12 Q Okay. I was just wondering if you as chief
 13 financial officer are aware of what litigation is or has
 14 been in existence involving Canyon or any of its
 15 entities.
 16 A Yes, I'm aware of litigation.
 17 Q Approximately how many -- approximately how
 18 many lawsuits are you aware of pending at this time at
 19 Canyon?
 20 A I don't know the number.
 21 Q Is there a list that would produce such a
 22 number?
 23 A Not -- I don't know.
 24 Q How long have you been the chief financial
 25 officer?

1 Canyon or outside of Canyon relating to the Packard
 2 Square project?
 3 A I don't specifically know.
 4 Q Are there -- well, let's try it this way. Have
 5 you emailed directly to Maria Stamolis about the Packard
 6 Square project?
 7 A I don't know.
 8 Q Have you emailed directly to Gerald Goldman
 9 relating to the Packard Square project?
 10 A I don't know.
 11 Q Have you ever emailed directly to Mitchell
 12 Julis about the Packard Square project?
 13 A Don't know.
 14 Q Have you ever emailed to Joshua Friedman
 15 relating to the Packard Square project?
 16 A Don't know.
 17 Q Are there any people outside of Canyon --
 18 outside of Canyon -- about the Packard Square project --
 19 strike that.
 20 Are there any people outside of Canyon with
 21 whom you have emailed relative to the Packard Square
 22 project?
 23 A Not that I recall, other than this one email
 24 that was presented as an exhibit.
 25 Q You're talking about with the Matthew Mason

1 issue?
 2 **A Correct.**
 3 Q Okay. Other than that, you don't have any
 4 recollection?
 5 **A No.**
 6 Q All right. Let's go through some of these
 7 exhibits that I've sent over there. The top one there
 8 should be Exhibit 1. It's a Sidley Austin letter dated
 9 November 11, 2016. Do you have that?
 10 **A Yes.**
 11 MR. MILLER: Could we mark that as 1?
 12 (Deposition Exhibit 1 was marked for
 13 identification.)
 14 Q BY MR. MILLER: Sir, take a moment, review it,
 15 let me know when you've reviewed it and finished, and
 16 then we'll ask you about it.
 17 **A Okay.**
 18 Q Have you ever seen this letter before?
 19 **A Not that I'm aware of.**
 20 Q Are you familiar with any of the facts in the
 21 letter?
 22 **A No.**
 23 Q For example, like in the first paragraph where
 24 it talks about the original amount of a loan, without
 25 seeing the figure on this page, would you know that the

1 paragraph on the first page where it says:
 2 "...borrower breached section 5.27
 3 of the loan agreement by failing to
 4 perform under the Property 2500 PSA and
 5 causing the termination of the property
 6 2500 PSA?"
 7 MR. DOLAN: I'm just going to object to the
 8 form of the question. You asked him if he was familiar
 9 with the facts. He said no. And then you asked him,
 10 "Who informed you of this fact."
 11 But go ahead and answer if you can. I think
 12 the question is improperly formed.
 13 Q BY MR. MILLER: Let me ask you a different way.
 14 Did you just sign this letter without reading it?
 15 **A I don't know.**
 16 Q Well, if you read the letter, would you have
 17 inquired as to whether the facts in the letter were
 18 accurate?
 19 **A I don't recall.**
 20 Q Is it your normal course of action to issue a
 21 notice of acceleration without being personally familiar
 22 with the facts alleged?
 23 What are you looking at, Mr. Plaga?
 24 **A I was looking at Ben. Can you repeat the**
 25 **question?**

1 loan amount was \$53,783,184?
 2 **A No.**
 3 Q In paragraph 2, would you have knowledge about
 4 whether or not these lender's expenses of \$215,000 were
 5 included in the sweep amount?
 6 **A No. I don't know.**
 7 Q Let's move on from Exhibit 1, then.
 8 Exhibit 2 is a letter dated March 30, 2015.
 9 Can we have that marked, please?
 10 (Deposition Exhibit 2 was marked for
 11 identification.)
 12 Q BY MR. MILLER: Take a moment, read and review
 13 that one, let me know when you're ready.
 14 **A Okay.**
 15 Q You've reviewed Exhibit 2?
 16 **A Yes.**
 17 Q And correct me if I'm wrong. It's a letter
 18 dated March 30, 2015, from Can IV Packard Square LLC to
 19 Packard Square, LLC, and you signed it. Correct?
 20 **A Yes.**
 21 Q In this letter, were you familiar with the
 22 facts that were set forth in this letter before you
 23 signed it on March 30, 2015?
 24 **A No. Not that I'm aware.**
 25 Q So who informed you, for example, of the second

1 Q Yeah. When you send out a notice of
 2 acceleration, do you make sure that the facts in the
 3 letter that you're signing are true and accurate before
 4 you sign them?
 5 **A My role as authorized signer is to sign this**
 6 **letter. I look for our legal team to have reviewed it,**
 7 **as well as the business person, and if those two have**
 8 **reviewed it, then I sign the letter.**
 9 Q How do you know those two have reviewed it?
 10 **A Their initials. They typically initial the**
 11 **document.**
 12 Q Is that the case in Exhibit 2?
 13 **A Yes.**
 14 Q And what are the initials you're referring to?
 15 Are they on page 3 of Exhibit 2?
 16 **A Yes.**
 17 Q Whose initials are those?
 18 **A It's hard for -- looks like "GG" and "R"**
 19 **something.**
 20 Q Could it be "RS"?
 21 **A Looks like it.**
 22 Q So who are those two people?
 23 **A Gerald Goldman and our -- one of our former**
 24 **internal counsels.**
 25 Q Roshan Sonthalia?

1 A Yes.
 2 Q If I'm pronouncing the name correctly? Okay.
 3 So would that also be true to the Annex A, the last page
 4 of this exhibit, that you didn't review or confirm any
 5 of the figures on that page before signing the letter?
 6 A Yes. I signed the letter based upon what I
 7 answered previously.
 8 Q So as you sit here today, in looking at
 9 Annex A, is it fair to say you have no idea whether
 10 these numbers are true and accurate?
 11 A I don't know.
 12 Q Okay. Let's look at Exhibit 4, please.
 13 MR. DOLAN: Is that the very next one or is
 14 that two more down?
 15 MR. MILLER: 3 was like the construction loan.
 16 I'm not doing that. So 4 is another letter dated August
 17 17, 2016.
 18 MR. DOLAN: Okay, got it.
 19 MR. MILLER: Thank you.
 20 (Deposition Exhibit 4 was marked for
 21 identification.)
 22 Q BY MR. MILLER: Sir, take as much time as you
 23 need to review Exhibit 4, please. Let me know when
 24 you're done.
 25 A Okay.

1 event-of-default letter.
 2 Q BY MR. MILLER: And you sign event-of-default
 3 letters regularly. I think you testified to that
 4 earlier; correct?
 5 A No, I don't think I said that. I may sign
 6 them.
 7 Q You may sign them. In a given year,
 8 approximately how many default letters do you sign out,
 9 you personally, John Plaga?
 10 A I do not know.
 11 Q More than a hundred?
 12 A Again, I don't know.
 13 Q You said sometimes you don't sign any letters
 14 in a day, and sometimes, I think you said, six, seven,
 15 eight, nine, I don't remember what the number was,
 16 letters in a day.
 17 Other than default letters -- and Exhibit 2 was
 18 an example of an acceleration letter -- I think you
 19 talked about a few other different classes of letters
 20 that you do sign; right?
 21 A Yes.
 22 Q Okay. So you don't have any way to approximate
 23 how many letters of default you send out in a given
 24 week, month, year?
 25 A No. I'd be guessing.

1 Q Okay. Have you had an opportunity to review
 2 Exhibit 4?
 3 A Yes.
 4 Q And you would agree with me that it is in fact
 5 a letter dated August 17, 2016, from Can IV Packard
 6 Square LLC to Packard Square LLC with your signature on
 7 it; correct?
 8 A Correct.
 9 Q And just to move things along, this is a
 10 default notice letter? Is that a fair assessment?
 11 A I don't know. I don't recall what this
 12 document is.
 13 Q Having just read it, does it familiarize you --
 14 are you familiar now with what it was?
 15 A I'll read it more specifically.
 16 MR. DOLAN: Are you asking him based on his
 17 reading of it now, or his recollection of August of
 18 2016?
 19 MR. MILLER: I'm asking him, as he looks at it
 20 now, am I characterizing it accurately as a default
 21 letter. I might not be.
 22 MR. DOLAN: I'll just object to the extent it
 23 calls for a legal conclusion, but otherwise, the witness
 24 is free to answer.
 25 THE WITNESS: Yes, looks like an

1 Q Is it more than a hundred?
 2 A I don't know.
 3 Q How about notice-of-acceleration letters, like
 4 Exhibit 2? Approximately how many of those do you send
 5 out in a given week, month, or year, or whatever you'd
 6 like to define it as?
 7 A Again, I don't know.
 8 Q No idea?
 9 A Correct.
 10 Q Back to Exhibit 4, then. This document,
 11 Exhibit 4, is this a document that you reviewed prior to
 12 signing it or is it a document that was presented to you
 13 and it was just signed?
 14 MR. DOLAN: Did you hear the question?
 15 THE REPORTER: I think I got it. I can read it
 16 back if you want.
 17 MR. DOLAN: Do you mind reading it back?
 18 (Record read as follows:
 19 "Q This document, Exhibit 4, is
 20 this a document that you reviewed prior
 21 to signing it or is it a document that
 22 was presented to you and it was just
 23 signed?")
 24 THE WITNESS: I don't recall. Don't know.
 25 Don't know the answer to that question.

1 Q BY MR. MILLER: All right. As we sit here
2 today, having reviewed Exhibit 4, do the facts set forth
3 in Exhibit 4 refresh your recollection to your having
4 reviewed these facts back in August of 2016?

5 A Again, whether I reviewed the letter or just
6 signed it back in 2016, I don't know.

7 Q Do you have any recollection of checking before
8 signing this letter whether any of the allegations set
9 forth in the letter were true, or did you just sign it?

10 A Again, I think I answered that question. I
11 don't recall whether I did or did not.

12 Q As we sit here today, having read Exhibit 4, do
13 you have any personal knowledge as to whether any of the
14 facts set forth in Exhibit 4 are true today?

15 A I don't know.

16 Q When you say -- you don't know whether any of
17 the facts are true, or you don't know if you're familiar
18 with any of the facts?

19 A I'm not familiar with the specific facts in
20 this letter.

21 Q Okay. So if I referred you to, for example, on
22 page 1, the July 21 demand for immediate payment and
23 notice of right-to-stop-work letter, you have no
24 recollection of whether you have seen that letter. Is
25 that a fair statement?

1 Let's go to Exhibit 5, please, which is a
2 letter dated October 19, 2016.

3 (Deposition Exhibit 5 was marked for
4 identification.)

5 THE WITNESS: Okay.

6 Q BY MR. MILLER: Have you had a chance to review
7 Exhibit 5?

8 A No. Let me take a look at it.

9 Q Please.

10 A (Examining document) Okay.

11 Q Have you had a chance to review Exhibit 5?

12 A Yeah, not every word, but reviewed it.

13 Q Okay. Is it fair to say that Exhibit 5 is a
14 letter from Can IV Packard Square LLC to Packard Square
15 LLC dated October 19, 2016, which you signed?

16 A Yes.

17 Q This one does not have any bold language in the
18 "re" line. Is there a Canyon way to characterize what
19 this letter is?

20 A Not that I'm aware of.

21 Q So do you know if this is a default letter or
22 some other type of letter?

23 A I don't know. Wouldn't be able to guess other
24 than to read the contents of the letter.

25 Q Okay. And just so we're clear, do you have any

1 A Correct.

2 Q Okay. Now, on the fourth page, again, there
3 are those two boxes that we talked about [technical
4 interference with audio] Exhibit 4?

5 THE REPORTER: I'm going to need a repeat of
6 that.

7 Mr. Miller, you're breaking up again. I got,
8 "Now, on the fourth page, again, there are those two
9 boxes that we talked about?"

10 Q BY MR. MILLER: That we also previously
11 discussed on Exhibit 2. They're on page 4. Can you
12 look at those, please.

13 MR. DOLAN: Exhibit 2, page 4?

14 MR. MILLER: No, Exhibit 4, page 4. I'm sorry.

15 MR. DOLAN: All right.

16 Q BY MR. MILLER: Exhibit 4, page 4, the August
17 17 letter. Are you with me on page 4?

18 A Yes.

19 Q Okay. There's two boxes. Again, there's a
20 legal and something else. It looks like the same "GG"
21 initial for Gerald Goldman; is that correct?

22 A Correct.

23 Q Who's the legal initial? Do you know?

24 A Don't know.

25 Q Okay.

1 further knowledge of any of the facts set forth in
2 Exhibit 5 as being true or accurate at the time you
3 signed it than you had for the prior letters we talked
4 about?

5 A No.

6 Q So you didn't check the claims of lien or
7 whether they existed or any of that before the letter
8 was signed.

9 A Not that I recall.

10 Q And again, is it your testimony that this
11 letter was presented to you by the two people who put
12 their initials in the boxes on page 3?

13 A Yes.

14 Q And you relied upon them to make sure that it
15 was accurate before you signed it; correct?

16 A Correct.

17 Q Whose initials are these?

18 A Looks like Gerald Goldman and Marcus.

19 Q You think that's Marcus Neupert, that line
20 there?

21 A Actually, don't know. Couldn't tell you for
22 sure.

23 Q What about looking back on Exhibit 4, page 4 of
24 Exhibit 4? There's a squiggly line that looks similar
25 to the squiggly line, at least to me, on Exhibit 5.

1 Would you think those are referencing the same person in
2 the legal department?

3 **A I don't know.**

4 Q When you receive a letter such as Exhibit 4 or
5 Exhibit 5, do you confirm with the person who
6 purportedly initialed it that they in fact initialed it?

7 **A No.**

8 Q So is it possible that somebody else other than
9 a lawyer could have put the initial in on behalf of the
10 legal department with the legal department not even
11 having reviewed the letter?

12 **A I don't know.**

13 Q So that is possible.

14 MR. DOLAN: I think his answer was "I don't
15 know."

16 Q BY MR. MILLER: He doesn't know if it's
17 possible?

18 MR. DOLAN: That's what his answer was.

19 Q BY MR. MILLER: Okay, so to what extent do you
20 delve into the validity of these letters to make sure
21 they were properly vetted before you sign them?

22 MR. DOLAN: I'm going to object. It's been
23 asked and answered.

24 But go ahead, you can tell him again.

25 **THE WITNESS: Repeat the question.**

1 Q I understand. So prior to today, have you ever
2 questioned whether or not, or maybe you're not
3 questioning it now, but have you ever considered whether
4 or not the signatures on these boxes were of the people
5 in the legal department?

6 **A Repeat the question?**

7 Q Yeah. We looked at Exhibit 4 and Exhibit 5,
8 and they have a couple of squiggly lines representing
9 the legal department. Correct?

10 **A Correct.**

11 Q How do we know that -- do you have any
12 knowledge that in fact these initials were made by
13 actual attorneys in the legal department, or an actual
14 attorney in the legal department?

15 **A Based on our process, they would be the
16 attorney's signature.**

17 Q But you can't identify which attorney it was.

18 **A I don't specifically watch them sign it.**

19 Q Let's look at Exhibit 6, please. It's a letter
20 dated January 24, 2017. It's the next one down. Just
21 tell me when it's been marked and you've had a chance to
22 review it.

23 (Deposition Exhibit 6 was marked for
24 identification.)

25 **THE WITNESS: (Examining document) Okay.**

1 Q BY MR. MILLER: To what extent do you ensure
2 that these letters have been properly vetted before you
3 sign them, if you're not even sure who the initial on
4 whom you're relying?

5 **A Again, I'll go back to my statement previously.
6 I look at the -- for the boxes to be signed, and to be
7 reviewed by those people.**

8 Q But if you don't know what Marcus Neupert's
9 initials look like, you wouldn't be able to know whether
10 or not he actually initialed it; isn't that right?

11 **A I can't tell from this specific document, nor
12 recall these specific documents, what the context of the
13 signatures were.**

14 Q Well, let me just ask you this way. Did the
15 signatures on these letters just appear on your desk one
16 day, or did Mr. Goldman or Mr. Neupert bring these
17 letters to you for you to sign it in their presence?

18 **A I don't recall who gave me the letters to sign.**

19 Q Well, how does it normally work in your office?
20 Do they normally have a stack of letters that you sign,
21 or do the people who want them signed bring them to you
22 in person?

23 **A Typically the assistant that works for the
24 general counsel brings them to me to sign. Not the
25 general counsel. The internal counsel.**

1 Q BY MR. MILLER: Have you had a chance to review
2 Exhibit 6?

3 **A Yes.**

4 Q And it's a letter dated January 24, 2017, from
5 Can IV Packard Square LLC to Packard Square LLC with
6 your signature upon it; correct?

7 **A Correct.**

8 Q And just so we're clear -- strike that. I
9 don't want to be clear.

10 Do you recognize this letter?

11 **A No.**

12 Q Can you describe for me what the purpose of
13 this letter is?

14 **A It looks like a payoff statement.**

15 Q Is that a letter that you would normally sign
16 on behalf of a Canyon entity?

17 **A I don't know.**

18 Q Approximately how many payoff letters a week or
19 a month or a year do you sign off on?

20 **A I wouldn't be able to calculate that number.
21 Don't know.**

22 Q Before you signed Exhibit 6, did you review the
23 facts set forth in Exhibit 6?

24 **A I don't recall.**

25 Q As you sit here today, having reviewed

1 Exhibit 6, do you have any idea whether any of the facts
2 alleged in Exhibit 6 are true?

3 **A I don't know.**

4 Q When you looked at the last page of
5 Exhibit 6 -- can you flip to that for me, please?

6 **A Okay.**

7 Q Are you familiar with a document that looks
8 like this, or this particular document?

9 **A Does the last page say Exhibit A on it?**

10 Q No, it says "repayment date."

11 MR. DOLAN: Someone stapled it to the wrong
12 document. Hold on.

13 MR. MILLER: Okay.

14 MR. DOLAN: Hold on.

15 MR. MILLER: No problem. Take your time.

16 MR. DOLAN: Okay.

17 Q BY MR. MILLER: Exhibit 6 is supposed to be
18 five pages, sir. Is that what you've got?

19 **A Yes.**

20 Q And Exhibit A, as you described, on page 4
21 makes reference to a "Payoff Statement [See Attached]."

22 Would you define the page 5 document as in fact a payoff
23 statement?

24 **A Based on what it says on page 5, where it says**
25 **"this payoff statement," yes.**

1 document?

2 **A I don't recall for this specific document.**

3 Q Well, do you recall any specific document, ever
4 having seen a payoff statement?

5 **A Repeat the question? Sorry?**

6 Q Do you recall, in any specific payoff statement
7 letter, ever having reviewed the actual payoff statement
8 before signing the letter?

9 **A I don't know. Don't recall.**

10 Q When you look at the second page of the
11 exhibit, page 2, again, there are legal and another
12 signed signature that looks like the one we assigned
13 already as being Gerald Goldman. Would you agree with
14 that?

15 **A Gerald Goldman?**

16 Q Yeah, on the bottom of page 2.

17 **A Yes.**

18 Q Okay. Do you recognize the initials there for
19 the "legal" box?

20 **A Yes. Looks like Marcus.**

21 Q You believe this one is Marcus Neupert?

22 **A Yes.**

23 Q And you think -- okay. Very good. Let's look
24 to Exhibit 7, please.

25 MR. DOLAN: Just to be sure, what's the first

1 Q Okay. But without the language at the bottom,
2 where it talks about "Note 1: This payoff statement,"
3 is this a common format of a document at Canyon?

4 **A I don't know.**

5 Q Well, this can't be the first payoff statement
6 you're ever seen; right?

7 **A Again, I told you what I said. I don't know.**

8 Q Have you ever seen a payoff statement issued by
9 someone at Canyon prior to right now?

10 **A Again, don't know.**

11 Q You don't know if you've ever seen a payoff
12 statement?

13 MR. DOLAN: That's what he just said. Are you
14 asking him the same question again?

15 MR. MILLER: I just want to make sure that
16 that's really his answer. His testimony as the chief
17 financial officer for the last 21 years is that he's
18 never seen a payoff statement before.

19 MR. DOLAN: That's what he said.

20 Q BY MR. MILLER: Is that your answer, sir?

21 **A Yes.**

22 Q Okay. When you look at the document,
23 Exhibit 6, I'm imagining -- I'm not imagining -- so
24 having never seen a payoff statement before, is it fair
25 to say you didn't review this one before you signed this

1 and last page?

2 MR. MILLER: It's "Receiver's Notice of
3 Prepayment Amount," and the last page is a payoff
4 statement.

5 (Deposition Exhibit 7 was marked for
6 identification.)

7 MR. MILLER: When you've marked 7 and reviewed
8 7, please let me know.

9 **THE WITNESS: (Examining document) Okay.**

10 Q BY MR. MILLER: Thank you. Exhibit 7 is a
11 document that was presented called the Receiver's Notice
12 of Prepayment Amount and Reserve for Costs. I'm not
13 really so interested in the first two pages. I'm much
14 more interested in the pages that follow, because they
15 are a letter -- correct me if I'm wrong -- a letter from
16 Can IV Packard Square LLC to McKinley Inc. dated January
17 28 -- sorry -- January 26, 2017, which bears your
18 signature. Correct?

19 **A Yes.**

20 Q Do you recall ever seeing this letter before?

21 **A No.**

22 Q Do you know what this letter is?

23 **A Based on the reference on page 1, looks like a**
24 **payoff statement.**

25 Q And have you ever reviewed the facts in this

1 letter to confirm whether or not they were true at the
 2 time you signed them?
 3 **A Not that I recall.**
 4 Q Did you ever review the payoff statement which
 5 is the last page of the exhibit prior to signing the
 6 letter?
 7 **A I don't recall.**
 8 Q Do you work with payoff statements frequently?
 9 **A Describe "frequent."**
 10 Q I don't know. On a weekly or monthly basis?
 11 **A I do not directly get involved with the**
 12 **preparation of payoff statements.**
 13 Q How much time would you think would be
 14 reasonable upon the delivery of a payoff statement to
 15 allow the borrower to come up with the money to pay off
 16 the amount set forth in the payoff statement?
 17 MR. DOLAN: Object to foundation. Calls for a
 18 legal conclusion.
 19 MR. MILLER: It's a business question.
 20 MR. DOLAN: We can disagree on that.
 21 Go ahead and answer if you can.
 22 **THE WITNESS: I don't know if I can answer**
 23 **that.**
 24 Q BY MR. MILLER: Well, would you think, if you
 25 sent a statement to somebody, let's say, today,

1 signature or is that some type of an electronic
 2 signature?
 3 **A That's a real signature.**
 4 Q Okay. It's hard to tell with the copy as well.
 5 Now, the bold, all-caps paragraph above the
 6 statement, where you signed it -- do you see that?
 7 **A Yes.**
 8 Q Do you know why it mattered to you when you
 9 signed this letter in the middle, starting on the fifth
 10 line:
 11 "Lender may in its sole and absolute
 12 discretion return the payment to such
 13 other person or persons having made such
 14 payment"?
 15 **A What's the question?**
 16 Q Do you know why you put that language in this
 17 letter, or you signed this letter with that language in
 18 it?
 19 **A I don't know.**
 20 Q Do you have an opinion as to why it would
 21 matter to Canyon who the money comes from to pay off the
 22 loan amount?
 23 MR. DOLAN: I'm just going to object to the
 24 form of the question. Go ahead.
 25 **THE WITNESS: I don't know.**

1 September 20, and said, you need to pay \$38 million, how
 2 much time would normally be allotted to somebody to come
 3 up with that amount of money and pay off the payoff
 4 statement?
 5 MR. DOLAN: Same objection.
 6 **THE WITNESS: I don't know.**
 7 Q BY MR. MILLER: Okay. Let's look at page 2 of
 8 your letter encompassed within Exhibit 7, your signature
 9 page. Do you see that?
 10 **A Yes.**
 11 Q There are some -- can you tell me whose
 12 initials are in the "legal" box on page 2 of this
 13 letter?
 14 **A Don't know.**
 15 Q Do you recognize the initials below the "legal"
 16 box?
 17 **A It's hard to see what they are.**
 18 Q They're not familiar to you?
 19 **A No, it's just hard to tell with the copy.**
 20 Q What about the letters in the box to the right
 21 of the "legal" box? Do you recognize those?
 22 **A Yeah. Yes.**
 23 Q Are those Gerald Goldman's again?
 24 **A Yes.**
 25 Q And what about your signature? Is that a real

1 Q BY MR. MILLER: All right. Let's jump ahead
 2 to --
 3 Ben, can you give me the last three letter
 4 exhibits? The first one we'll call No. 20. It's dated
 5 October 21, 2016. It should be the last three documents
 6 in your stack.
 7 MR. DOLAN: I have October 21, February 21, and
 8 February 24.
 9 MR. MILLER: That is correct. Those should be
 10 20, 21, and 22, in that order.
 11 (Deposition Exhibits 20, 21, and 22
 12 were marked for identification.)
 13 **THE WITNESS: Before we move on, can I get a**
 14 **glass of water?**
 15 MR. DOLAN: Sure.
 16 (Off record)
 17 Q BY MR. MILLER: Let's do them one at a time.
 18 Mr. Plaga, will you please review Exhibit 20. It's a
 19 letter dated October 21, 2016. And let me know when
 20 you're done.
 21 **A Yes.**
 22 Q Thanks.
 23 **A (Examining document) Okay, I looked at**
 24 **Exhibit 20.**
 25 Q Excellent. So let's talk about Exhibit 20.

1 Correct me if I'm wrong. It's a letter dated October
2 21, 2016, from Can IV Packard Square LLC to Packard
3 Square LLC. It's got four pages and your signature page
4 is at page 3. Correct?

5 **A Correct.**

6 Q And this document in the "re" line is entitled
7 "Notice of Sweep of Accounts." Correct?

8 **A Yes.**

9 Q Do you know what that means?

10 **A Based on reading the letter, yes.**

11 Q What does it mean?

12 **A Per the letter, it's notifying the ability to
13 sweep cash from an account.**

14 Q Notify the borrower of that fact; correct?

15 **A Yes.**

16 Q All right. And before you signed this letter,
17 did you review it?

18 **A I don't recall.**

19 Q So is it your testimony, then, that you did not
20 check to ensure that all the facts set forth in this
21 letter were true before you signed it; correct?

22 **A I don't know, based on -- I don't know.**

23 Q Have you ever sent a notice of sweep of account
24 letter before this one?

25 **A I don't know.**

1 **A Correct.**

2 Q Okay. Let's go to Exhibit 21, please. Take a
3 moment and let me know when you've reviewed that.

4 **A (Examining document) Okay.**

5 Q So Exhibit 21 is a letter from Can IV Packard
6 Square to Craig Schubiner dated February 21, 2017.
7 Correct?

8 **A Correct.**

9 Q And according to this letter, it's defined as a
10 demand for payment for guaranteed obligation. Do you
11 see that on the "re" line?

12 **A Yes.**

13 Q Can you explain to me why Gerald Goldman is the
14 authorized signatory on this letter?

15 **A I cannot.**

16 Q Can you tell me who signed on behalf of the
17 legal or the other box on this letter?

18 **A Difficult to tell who the initials are based on
19 this copy under "legal." I believe that's Maria's
20 signature.**

21 Q Maria Stamolis in the right-hand box?

22 **A Yeah.**

23 Q Is it fair to say that Acq/AM means
24 acquisitions/asset manager?

25 **A "Acq" stands for -- yes. It's acquisitions.**

1 Q Do you recall -- strike that.

2 Have you sent a notice of sweep of accounts
3 letter since October 21, 2016?

4 **A I don't know.**

5 Q So the figures that are on page 2 of the
6 letter, you didn't check those before you signed the
7 letter; correct?

8 **A On page 2?**

9 Q Yes.

10 **A I don't know.**

11 Q You don't know whether you checked them, or you
12 think you might have checked them?

13 **A No, I don't know if I checked them.**

14 Q I see. So the figures, the \$215,000 of costs
15 or expenses incurred by lender in that first set-off
16 paragraph, as we sit here today, you believe they were
17 true because someone told you that they were; correct?

18 **A I believe they were true, based upon this
19 letter being provided to me and initialed by the people
20 on this letter.**

21 Q And who were those two people again?

22 **A Page 3, it looks like Gerald. It's difficult
23 for me to tell whose signature that is.**

24 Q So you're not sure who signed on behalf of the
25 legal department.

1 Q Right. So somebody from acquisitions or asset
2 management's going to sign in the box in all these
3 letters; correct?

4 **A Yes.**

5 Q Okay. Do you know what types of letters Gerald
6 Goldman is the authorized signatory for?

7 **A I do not.**

8 Q Is this letter of any surprise to you, seeing
9 him as the signatory on it rather than yourself?

10 **A No.**

11 Q Is there a reason why you signed the prior
12 letters with Gerald's approval, but now Gerald is able
13 to sign Exhibit 21 with Maria's approval?

14 **A I don't know.**

15 Q Who would make that decision, if not the chief
16 financial officer?

17 **A General counsel.**

18 Q So is it unusual for general counsel to change
19 the authorized signatory from you to somebody else
20 without your knowledge?

21 **A I'm sorry. Repeat the question?**

22 Q Did you know that Mr. Goldman sent out this
23 letter?

24 **A Not that I recall. I don't recall.**

25 Q Is it common for the authorized signatory to

1 change from you to Mr. Goldman or someone else without
2 your knowledge?

3 **A Don't know. Don't know why this would have --**
4 **I don't know why this would have been done this way.**

5 Q Is this unusual it would have been done this
6 way?

7 **A No.**

8 Q Have you seen many authorized signatory letters
9 signed by Gerald Goldman?

10 **A I don't recall.**

11 Q Well, how do you know whether it is or is not
12 unusual?

13 **A Don't know.**

14 Q Well, what makes something usual or unusual?

15 **A Again, there may be specific reasons why this**
16 **was done this way. I don't know what those reasons**
17 **were.**

18 Q And who would have given Gerald Goldman the
19 authority to sign as the authorized signatory?

20 **A I don't know.**

21 Q Do you have the authority to give Gerald
22 Goldman the authority to be the authorized signatory?

23 **A Yes. There's instances where we can approve**
24 **another authorized signer to sign a document.**

25 Q Do you recall doing that in this situation?

1 **and either one of us can sign as authorized signer.**

2 Q And it doesn't matter who that is on a
3 particular day or particular circumstance?

4 **A Correct.**

5 Q Okay. Do you recognize the initials in the
6 legal and acquisition/asset manager boxes?

7 **A I don't know in the acquisition/asset**
8 **management. Legal, again, looks like Marcus.**

9 Q Do you recognize the initials under the "legal"
10 box?

11 **A I do not.**

12 Q And you're not familiar with the name, or
13 initials, I should say, SM in acquisitions or asset
14 management?

15 **A I'd have to go through the employee list. I**
16 **don't know.**

17 Q Would a person of -- strike that.

18 At what level of Canyon employee must you be to
19 approve a letter for an authorized signatory to sign?

20 **A For this, it's just a requirement that someone**
21 **in acquisitions/asset management is signing off on this.**

22 Q That wasn't my question. My question was, at
23 what level of employee do you have to be to present a
24 letter with your initial on it for an authorized
25 signator to bind the company?

1 **A I don't recall.**

2 Q Okay. Let's look at Exhibit 22, please. It's
3 just a little over a page.

4 **A Okay.**

5 Q So Exhibit 22 -- correct me if I'm wrong -- is
6 a letter from Can IV Packard Square to City National
7 Bank dated three days after Exhibit 21. Correct?

8 **A Yes.**

9 Q Okay. So Exhibit 21 was February 21,
10 Exhibit 22 is February 24. And I would note, as I'm
11 sure you would as well, you again are not the authorized
12 signatory on this letter. You see that?

13 **A Yes.**

14 Q I think, though, that you did testify earlier
15 that Mr. Kaplan is an authorized signatory. Correct?

16 **A Yes.**

17 Q Okay. So in what circumstances would he sign a
18 letter such as Exhibit 22 instead of your doing it?

19 **A Could be any circumstance. We're both**
20 **authorized signers.**

21 Q So are you saying that people just bring
22 letters to your office or to his office without regard
23 as to who the particular signer should be that day or
24 for that letter?

25 **A I'm saying that we're both authorized signers,**

1 **A Again, we don't -- it's not based upon level of**
2 **employee; it's based upon the knowledge of the employee**
3 **on the team of the acquisitions/asset management team.**

4 Q So anybody on the team could do it?

5 **A Don't know. Don't know the answer to that**
6 **question.**

7 Q I see. All right. Other than the case -- let
8 me ask you this way. Are you aware of this Packard
9 Square case and that the plaintiff, Can IV Packard
10 Square, has sued my client for foreclosure to repossess
11 the property?

12 **A I'm aware of the lawsuit.**

13 Q Okay. How many other foreclosure suits are
14 pending by other Canyon entities at this time?

15 **A I don't know. I think that's a better question**
16 **for general counsel.**

17 Q Except I'm not allowed to ask general counsel
18 any questions. Is that how that works?

19 **A Yeah.**

20 Q So are you familiar with any at the moment?

21 **A No, I don't have specific knowledge to other**
22 **lawsuits.**

23 Q Do you know how many foreclosure lawsuits there
24 have been in the 28 years you've been working at Canyon,
25 foreclosure against borrowers?

1 A I know there have been some. I don't know how
2 many.

3 Q All right, sir, I appreciate it. Thank you,
4 I'm done.

5 A Okay, thank you.

6 MR. DOLAN: No questions.

7 (Off record)

8 THE VIDEOGRAPHER: This concludes today's
9 deposition of John Plaga. The time is 11:46 a.m. We
10 are now off the record.

11 (At 11:46 a.m. the deposition of
12 JOHN PLAGA was concluded.)

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2
3
4 I declare under penalty of perjury under the
5 laws of the State of California that the foregoing
6 testimony is true and correct.

7 In witness whereof, I have hereunto subscribed
8 my name this _____ day of _____,
9 20____, at _____,
10 _____.

11
12
13
14
15 _____
16 JOHN PLAGA
17
18
19
20
21
22
23
24
25

1 STATE OF CALIFORNIA)
) ss:
2 COUNTY OF LOS ANGELES)
3

4 I, Lindsay Pinkham, a Certified Shorthand
5 Reporter, CSR 3716, do hereby certify:

6 That prior to being examined, the witness in the
7 foregoing proceedings was by me duly sworn to testify to
8 the truth, the whole truth, and nothing
9 but the truth;

10 That said proceedings were taken before me
11 at the time and place therein set forth and were
12 taken down by me in shorthand and thereafter transcribed
13 into typewriting under my direction and supervision;

14 I further certify that I am neither counsel for,
15 nor related to, any party to said proceedings, nor in
16 anywise interested in the outcome thereof.

17 In witness thereof, I have hereunto
18 subscribed my name.

19
20 Dated: September 27, 2018.

21
22
23 _____
Lindsay Pinkham, CSR 3716

24
25

John Plaga
09/20/2018

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09/20/2018

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