

STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF WASHTENAW

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

Plaintiff, )

v. )

PACKARD SQUARE LLC, a Michigan )  
limited liability company, )

No. 16-990-CB

Defendant, )

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. )

VIDEOTQAPED DEPOSITION OF ROBIN POTTS

LOS ANGELES, CALIFORNIA

SEPTEMBER 20, 2018

REPORTED BY:

LINDSAY PINKHAM

CSR 3716, CCRR 17

1 VIDEOTAPED DEPOSITION OF ROBIN POTTS, taken on  
 2 behalf of Defendant, commencing at 12:21 p.m, Thursday,  
 3 September 20, 2018, at 2000 Avenue of the Stars, 11th  
 4 Floor, Los Angeles, California 90067, before LINDSAY  
 5 PINKHAM, CSR 3716.  
 6  
 7  
 8 APPEARANCES:  
 9  
 10 For Plaintiff:  
 11 DICKINSON WRIGHT PLLC  
 12 BY: J. BENJAMIN DOLAN, ESQ.  
 13 ARIANA PELLEGRINO, ESQ.  
 14 (Via videoconference)  
 15 2600 Big Beaver Road  
 16 Suite 300  
 17 Troy, Michigan 48084  
 18 (248) 433-7200  
 19 bdolan@dickinsonwright.com  
 20  
 21 For Defendant:  
 22 SWISTAK & LEVINE, P.C.  
 23 BY: I. MATTHEW MILLER, ESQ.  
 24 (Via videoconference)  
 25 30883 Northwestern Highway  
 Suite 120  
 Farmington Hills, Michigan 48334  
 (248) 851-8000  
 mmiller@swistaklevine.com  
 Also Present:  
 KYLE LOSKAMP, VIDEOGRAPHER  
 JONATHAN KAPLAN, ESQ. (1:30 to 2:15 p.m.)  
 CRAIG SCHUBINER (Via videoconference)  
 MARCUS NEUPERT (Via videoconference)  
 GERALD GOLDMAN (Via videoconference)

1 LOS ANGELES, CALIFORNIA; THURSDAY, SEPTEMBER 20, 2018  
 2 12:21 P.M.  
 3  
 4 (Deposition Exhibits 1, 2, and 3  
 5 were marked for identification.)  
 6  
 7 THE VIDEOGRAPHER: Good afternoon. Here begins  
 8 the videotaped deposition of Robin Potts in the matter  
 9 of Can IV Packard Square LLC versus Packard Square LLC  
 10 et al., in the State of Michigan, Circuit Court for the  
 11 County of Washtenaw. Case number is 16-990-CB.  
 12 Today's date is September 20, 2018. The time  
 13 on the monitor is 12:21 p.m. This deposition is taking  
 14 place at 2000 Avenue of the Stars, Los Angeles,  
 15 California. It is being made at the request of the  
 16 defendant. Your videographer today is Kyle Loskamp,  
 17 representing Hanson Reporting.  
 18 Would counsel and all present identify  
 19 themselves and state whom they represent.  
 20 MR. MILLER: Good afternoon. My name is  
 21 I. Matthew Miller and I'm here on behalf of the  
 22 defendant and counterplaintiff Packard Square LLC.  
 23 MR. DOLAN: Benjamin Dolan on behalf of  
 24 plaintiff Can IV Packard Square. And Ariana Pellegrino  
 25 is also on the line.

I N D E X

2	WITNESS	EXAMINATION BY	PAGE
3	ROBIN POTTS	MR. MILLER	5
4			
5		E X H I B I T S	
6	EXHIBIT NO.	DESCRIPTION	PAGE
7	Exhibit 1	Email chain, top one 10-24-14 to Carly Fickes from Chris Stanley, 7 pages	4
8			
9	Exhibit 2	Email chain, top one 3-14-16 to Gerald Goldman and Robin Potts from Maria Stamolis, 2 pages	4
10			
11	Exhibit 3	Email chain, top one 8-3-16 to Gerald Goldman from Craig Schubiner, 6 pages	4
12			
13			
14			
15		INSTRUCTIONS NOT TO ANSWER	
16		(None)	
17			
18			
19		INFORMATION REQUESTED	
20		(None)	
21			
22			
23			
24			
25			

1 THE VIDEOGRAPHER: The court reporter today is  
 2 Lindsay Pinkham, and she will now SWEAR in the witness.  
 3  
 4 ROBIN POTTS,  
 5 having been first duly sworn, was  
 6 examined and testified as follows:  
 7  
 8 EXAMINATION)  
 9 BY MR. MILLER:  
 10 Q Ma'am, would you state your name for the  
 11 record, please.  
 12 A Robin Potts.  
 13 Q Great. Before we can move forward, I just want  
 14 to note for the record that according to the computer,  
 15 Marcus Neupert, Craig Schubiner and Gerald, I assume  
 16 Goldman, are also watching along.  
 17 And Ben, are there any other people in the room  
 18 there with you?  
 19 MR. DOLAN: There's nobody else in the room  
 20 with me.  
 21 MR. MILLER: Okay.  
 22 Q Ma'am, again, my name is Matthew Miller, and  
 23 I'm the attorney for Packard Square LLC, and I'm here to  
 24 ask you some questions. I'm not here to trick or  
 25 confuse you. If there is something you don't

1 understand, please let me know, and I will rephrase the  
2 question to make sure that we're both on the same page.

3 It's important to remember that we are speaking  
4 audibly, even though you're on video, to answer audibly  
5 with yeses or nos rather than shrugs of the shoulder or  
6 uh-huhs or huh-uhs.

7 I'm going to try to ask questions and then have  
8 you answer them, and then I'll speak again, because I  
9 don't want to have a type of situation where we're both  
10 speaking at the same time. Hopefully that won't be the  
11 case. But you and I will do our very best to make that  
12 happen.

13 I don't really expect to spend too much time  
14 with you today. There are a number of issues I do want  
15 to discuss with you, but I don't think it will take that  
16 much time, and just -- oh, and the deposition may be  
17 used for the purposes under the Michigan Court Rules and  
18 the Michigan Rules of Evidence. You've got Mr. Dolan  
19 there, so we'll get started. Okay?

20 A Okay.

21 Q How long have you been in your current role at  
22 Canyon?

23 A Since the second half of 2015.

24 Q Two zero one five, you said?

25 A Two zero one five, yes.

1 **originations and acquisitions team.**

2 Q Do you have anything to do with the asset  
3 management teams there at Canyon?

4 A In a tangential way.

5 Q Can you describe the manner by which you have  
6 an involvement in the asset management relationship or  
7 team, whatever they call themselves?

8 A Maria and I will update each other on events  
9 that each of us are managing. But she is the head of  
10 asset management.

11 Q So do you divide those responsibilities between  
12 yourself and Ms. Stamolis?

13 A Yes.

14 Q So there's no overlap between you?

15 A Very little.

16 Q I see. When Jonathan Roth was there, was his  
17 role similar or different from the role you have today?

18 A It was different.

19 Q How was his role different from what's  
20 happening today?

21 A I can't speak to how he operated in his role.

22 Q Was there a cohead of real estate or was he the  
23 sole head of real estate?

24 A His title was president.

25 Q President of what?

1 Q And that is "cohead of real estate"? Is that  
2 what it's called?

3 A My title is cohead of real estate, director of  
4 acquisitions.

5 Q I see. And you've been both cohead of real  
6 estate and director of acquisitions since 2015; correct?

7 A September 2015.

8 Q Did you come to that role from inside of Canyon  
9 or from outside of Canyon?

10 A Inside of Canyon.

11 Q How long have you been working in any capacity  
12 at Canyon Partners?

13 A Since 2006.

14 Q And have you always been in the real estate  
15 division there?

16 A Yes.

17 Q What have your roles been since you started in  
18 2006?

19 A Analyst, associate, assistant vice-president,  
20 vice-president, director, and then cohead.

21 Q How has your role changed in the last three  
22 years now that you're cohead of real estate versus what  
23 it was when you had those other roles?

24 A I oversee our originations and acquisitions  
25 team, whereas previously I was a member of the

1 A Canyon Partners Real Estate.

2 Q I see. So is there a president of Canyon  
3 Partners Real Estate today?

4 A No.

5 Q So are you and Ms. Stamolis dividing what used  
6 to be his role, or is it a different division of labor  
7 even than it was when he was there?

8 A I can't speak to what his role was. I do not  
9 occupy what his role was.

10 Q And you and Ms. Stamolis together are not the  
11 same as his role?

12 A Correct.

13 Q So do you and she report to different people,  
14 or do you and she report to the same people?

15 A We report to the same people.

16 Q So who do the two of you report to?

17 A Josh Friedman and Mitch Julis.

18 Q So if you could give me the 30-second  
19 description of what it is you do versus what it is  
20 Ms. Stamolis does, I would appreciate that. It might  
21 speed things along.

22 A I oversee the originations and acquisitions  
23 team, and she oversees the asset management team.

24 Q I see. Okay. Do you have an involvement in a  
25 body known as the investment committee?

1 A Yes.

2 Q What is your role in the investment committee?

3 A I'm a member of the investment committee.

4 Q And who else is a member of the investment

5 committee?

6 A It's different for each investment, so I can't

7 speak generally.

8 Q Is it different for each real estate

9 investment, or each Canyon investment?

10 A Both.

11 Q Are you a -- I'm going to make a UN Security

12 Council parallel here. Are you a permanent member of

13 the investment committee and there are people who rotate

14 on, or are you a temporary member who rotates on and

15 off?

16 A I am a permanent member.

17 Q Okay. So who are the permanent members of the

18 investment committee?

19 A It varies by platform. So I can't speak

20 generally.

21 Q What types of platforms are you referring to as

22 to what varies?

23 A We manage multiple platform.

24 Q What are the multiple platforms you're

25 referring to?

1 Q So who are the members who appear on the

2 investment committee, regardless of platform?

3 A Again, it varies by platform. I can't speak

4 generally.

5 Q Well, name the other people who sit in the

6 meetings?

7 A It's different by platform. It's different by

8 year. I can only speak that I've been on since 2015.

9 Q Other than the three other people, other than

10 yourself, who else have you witnessed being in the room

11 on the committee during the last three years?

12 A Josh, Mitch, Maria.

13 Q I said those. Other than those three people

14 and yourself, who are the other people whom you have

15 witnessed in the committee during the last three years?

16 A Marcus Neupert.

17 Q Anyone else?

18 A Not that I recall.

19 Q So what about all the different platforms? I

20 don't understand.

21 A I can only speak to what I've witnessed since

22 2015.

23 Q Right. I understand. That's all I've asked

24 you to do. And you testified that there were different

25 platforms, so that's how the committee varied, and now

1 A We have debt and equity strategies.

2 Q And this is all within the real estate context

3 you're referring to now?

4 A Yes.

5 Q Okay. So regardless, you said you were a

6 permanent member of the committee. Presumably you're

7 not the only permanent member of the committee. Who are

8 the other permanent members of the committee?

9 A What do you mean by "permanent"? I can only

10 speak for myself.

11 Q Well, you said you were a permanent member of

12 the committee.

13 A In my current role, which I've only been in

14 since 2015.

15 Q That's three years. That's a long time. So in

16 the last three years, as a permanent members of the

17 investment committee, who else has been involved in the

18 investment committee consistently through that time?

19 A Maria, Josh, and Mitch.

20 Q Okay. And so when you say that there are

21 people who are temporary, what's the determination as to

22 whether there are additional members of the committee at

23 a given time or not, in addition to yourself?

24 A It varies by platform. So I can't speak

25 generally.

1 you've answered that the one and only other person,

2 other than yourself and the three that you mentioned,

3 was Marcus Neupert.

4 Who else has been in the committee in the last

5 three years with the other people that you've mentioned

6 thus far?

7 A I don't know.

8 Q You don't know if you've seen another person --

9 strike that.

10 Are these committee meetings -- does this

11 committee meet in a room with people around a table?

12 A Yes.

13 Q And how often does the committee meet?

14 A When needed.

15 Q Is it more than once a month?

16 A It convenes when needed.

17 Q Does it appear more than 12 times a year?

18 A If needed.

19 Q So that's a yes?

20 A No. Only if needed.

21 Q In the calendar year that we're nine months

22 through thus far, how many times has the investment

23 committee met?

24 A I don't remember.

25 Q 25? 4? 6? 10? I mean, you have no

1 estimation at all?  
 2 **A I don't remember.**  
 3 Q So who are the other people in the committee  
 4 hearing room, committee meeting room this year, other  
 5 than yourself and the three other people you've  
 6 identified?  
 7 MR. DOLAN: I think you've asked this question  
 8 a few times and she's answered a few times.  
 9 MR. MILLER: No, she's actually not answered at  
 10 any time. She says she wasn't sure, based on different  
 11 platforms, and then she ultimately said Marcus Neupert,  
 12 and then I said if there's anyone else. She said, "I  
 13 can't remember."  
 14 MR. DOLAN: Right. So that's an answer.  
 15 Q BY MR. MILLER: You can't remember who was at  
 16 the last meeting?  
 17 **A No.**  
 18 Q When was the last meeting?  
 19 **A Last week.**  
 20 Q And you can't remember who was there?  
 21 **A No.**  
 22 Q What did you have for breakfast this morning?  
 23 MR. DOLAN: Object to the question. No need to  
 24 be ridiculous.  
 25 MR. MILLER: I'm not being ridiculous. I'm

1 Q And have you had any other education or  
 2 training which has led to a certificate or a degree of  
 3 any kind since 2004?  
 4 **A Yes.**  
 5 Q What else have you done since then?  
 6 **A I have passed the Series 63 and Series 82 FINRA**  
 7 **exams.**  
 8 Q And what does that certify you to do or be?  
 9 **A A registered investment adviser.**  
 10 Q There's all kinds of investment advisers that  
 11 are registered. Can you describe for me what those  
 12 certificates enable you to do?  
 13 **A One of them enables me to interact with**  
 14 **investors for private placements, and another one is**  
 15 **just a broader securities exam license.**  
 16 Q Do you deal with investors on a day-to-day or  
 17 week-to-week basis in your position as cohead of real  
 18 estate?  
 19 **A Yes.**  
 20 Q And how often do you notify investors of how  
 21 particular deals are progressing?  
 22 **A It varies.**  
 23 Q Is there a standard reporting function that you  
 24 utilize with the investors of the various deals at  
 25 Canyon?

1 wondering if she has short-term memory issues.  
 2 Q What did you have for breakfast this morning,  
 3 ma'am?  
 4 MR. DOLAN: Why don't you ask a real question.  
 5 MR. MILLER: I'm asking a real question.  
 6 MR. DOLAN: No, it's not a real question. It's  
 7 designed to harass.  
 8 MR. MILLER: It's not harassing.  
 9 MR. DOLAN: Yeah, it is.  
 10 MR. MILLER: I think the harassment really is  
 11 the answer in which she's telling me she can't remember  
 12 who was at a meeting she sat in last week.  
 13 MR. DOLAN: You don't have to believe her. But  
 14 you don't get to harass her because you don't like her  
 15 answers.  
 16 So if you have a real question, please ask it.  
 17 If you want to make fun of her --  
 18 MR. MILLER: This deposition that was going to  
 19 go really fast is getting really slow all of a sudden.  
 20 Q Ms. Potts, where did you go to college?  
 21 **A Harvard.**  
 22 Q When did you graduate?  
 23 **A 2004.**  
 24 Q And did you go to grad school after that?  
 25 **A No.**

1 **A We have standard reporting practices.**  
 2 Q What are those standard reporting practices?  
 3 **A Reporting to investors on their investment from**  
 4 **a cash flow and portfolio perspective.**  
 5 Q How often do you do that?  
 6 **A Quarterly.**  
 7 Q Are there any times when you do reporting to  
 8 investors more frequently than quarterly?  
 9 **A I personally do not.**  
 10 Q Does the Canyon real estate department do that  
 11 more often?  
 12 **A On an as-needed basis.**  
 13 Q Are you familiar with the Packard Square deal  
 14 that's the subject of this litigation?  
 15 **A Yes.**  
 16 Q Are you familiar with the reporting frequency  
 17 to the investors on the Packard Square deal?  
 18 **A No.**  
 19 Q So you don't know how often those investors  
 20 were provided information regarding this transaction?  
 21 **A No.**  
 22 Q Have you ever been to the Packard Square site?  
 23 **A No.**  
 24 Q What has your involvement been in the Packard  
 25 Square project?



1 A I do not have any direct involvement in the  
2 Packard Square project.

3 Q Did you ever have any involvement in the  
4 Packard Square project?

5 A No.

6 Q So you were not involved at all in the  
7 acquisition phase or the loan creation phase?

8 A No.

9 Q In fall of 2014, what was your role at Canyon?

10 A I was a member of the originations team.

11 Q So was somebody else working on the Packard  
12 Square project that was a member of your team, just not  
13 you?

14 A A colleague handled it. I did not handle it.

15 Q Okay. When your investment committee makes a  
16 decision, does it require unanimity for a decision to go  
17 forward?

18 MR. DOLAN: Just clarifying. You're asking now  
19 or at a different time?

20 MR. MILLER: In the last three years that she's  
21 been on the committee.

22 THE WITNESS: While I've been on the committee,  
23 it requires unanimity.

24 Q BY MR. MILLER: Let me try to understand your  
25 role as it pertains to the -- the asset management role.

1 time, are there deals or projects or loans on which both  
2 the asset management team and the acquisition team are  
3 working together in some respect?

4 A I don't know.

5 Q Well, who in your department would know that?

6 A Maria.

7 Q But aren't you the head of the acquisition  
8 department?

9 A Yes.

10 Q So how would Maria know and you wouldn't know,  
11 if people on your team were working on an existing loan?

12 A Because she would.

13 Q Why wouldn't you know?

14 A Because I don't.

15 Q Maria would not tell you if she was talking to  
16 members of the asset management team?

17 A Correct.

18 Q Are there instances where you talk to members  
19 of the asset management team?

20 A Yes.

21 Q And do you not let Maria know when you do that?

22 A Not necessarily.

23 Q In what circumstances would you discuss that  
24 with Maria and in what circumstances would you not?

25 A It varies widely.

1 When does your team's involvement in a deal end?

2 A Our primary role is through the closing of the  
3 transaction.

4 Q So what of your team or -- strike that.

5 Does anyone on your team do anything involving  
6 the loan after it closes?

7 A Not on a day-to-day basis.

8 Q On what type of a basis would a member of the  
9 acquisition team be involved in a loan or a project post  
10 closing?

11 A If asset management would like advice or  
12 consultation.

13 Q What types of things would that include? Like  
14 when would they ask for advice or consultation?

15 A It varies widely, depending on the specific  
16 situation.

17 Q How many loans that have closed does the active  
18 management team go back to your team and ask for  
19 involvement on after closing?

20 A I don't recall.

21 Q Are there loans or projects pending right now  
22 in which members of the asset management team and the  
23 acquisition team are working together in some fashion?

24 A Can you rephrase the question?

25 Q Yeah. Right now, September 20, 2018, in this

1 Q Can you describe some of the circumstances  
2 where it varies?

3 A I can't speak generally. Every situation's  
4 different.

5 Q Well, can you give me an example of a time that  
6 you did discuss with Maria and a time that you talked to  
7 people in the asset management team and didn't discuss  
8 it with Maria?

9 A Again, it varies widely across many situations.  
10 We're colleagues. We all speak to members of the team.

11 Q On the investment committee, did you vote in  
12 favor of sending default letters to Packard Square?

13 A The investment committee did not vote on that  
14 matter.

15 Q So what types of things would, as it pertains  
16 to this lawsuit, the investment committee make decisions  
17 about, and what types of things would it not? The  
18 investment committee doesn't decide to send a default  
19 letter? What does the investment committee decide?

20 A The investment committee meets to approve the  
21 closing of a transaction.

22 Q Were you never in a meeting with the investment  
23 committee to discuss whether to present a deed in lieu  
24 of foreclosure document to my client?

25 A I was not involved. I'm not aware of that

1 meeting.

2 Q So if a decision was made to issue a deed in  
3 lieu of foreclosure document or a default letter, that's  
4 not an investment committee decision?

5 A I was not involved.

6 Q I don't understand your answer. You're on the  
7 investment committee. What do you mean, you were not  
8 involved? Involved in what?

9 A I was not an investment committee member for  
10 this transaction, so I have no involvement.

11 Q I thought you were a permanent member of the  
12 investment committee.

13 A Since September 2015.

14 Q Right. You don't know anything of the things  
15 that have happened since September of 2015?

16 A I do not have day-to-day involvement on this  
17 investment.

18 Q Okay. Is it possible that the investment  
19 committee made decisions relating to pursuing  
20 foreclosure or deed in lieu of foreclosure or default  
21 letters without your involvement?

22 A Those decisions were made without my  
23 involvement.

24 Q Were those decisions made by the investment  
25 committee or by others?

1 Q Can you describe any of those cases for me?

2 A No.

3 Q And what -- strike that.  
4 How many times have you been deposed before  
5 today?

6 A Zero.

7 Q This is the first time?

8 A Yes.

9 Q I'm sorry. I would have been more welcoming.  
10 I apologize.

11 Have any of the properties that you have been  
12 involved with on the asset management -- strike that.  
13 You're on the other side.

14 Have any of the properties on which you've been  
15 involved on the acquisition side gone into litigation?

16 A Yes.

17 Q Can you tell me about those properties?

18 A Not specifically, but I do know that there has  
19 been litigation in the course of certain deals that I  
20 worked on.

21 Q So let's talk about some of those deals. Can  
22 you tell me where one of the deals was located?

23 A I don't recall.

24 Q You can't name a single property on which you  
25 worked that went to litigation?

1 A I don't know.

2 Q With your overreaching position as cohead of  
3 real estate and a member of the investment committee, on  
4 what issues have you been consulted or included as it  
5 relates to the Packard Square?

6 A Very few. I have very little involvement in  
7 the deal.

8 Q What were the ones that you were involved with,  
9 those very few? Describe those, please.

10 A I was consulted once on cash flow analysis.

11 Q Anything else?

12 A No.

13 Q That's the one and only item?

14 A Yes.

15 Q And when was that?

16 A I don't recall.

17 Q Are you aware of the number of cases that  
18 Canyon has filed for foreclosure against lenders since  
19 you've been working there?

20 A No.

21 Q What has your involvement been over the years  
22 you've been working at Canyon with cases that have gone  
23 to litigation?

24 A Very little, because I'm not on the asset  
25 management team.

1 A I don't recall offhand which ones.

2 Q You can't name one?

3 A No.

4 Q Not a one?

5 A No.

6 Q Is there a list or a document that's kept at  
7 Canyon that would be able to refresh your recollection  
8 about those properties?

9 A We do not have a list tracking litigation  
10 against our track record.

11 Q Have you had involvement with a company called  
12 McKinley?

13 A No.

14 Q Have you ever heard of a company called  
15 McKinley?

16 A Yes.

17 Q What have you heard about a company called  
18 McKinley?

19 A Just their name.

20 Q Do you have any idea what that company does?

21 A No.

22 Q In what context did you hear their name?

23 A Mentioned by the asset management team.

24 Q In what context?

25 A I don't recall.

1 Q Let me show you what's been marked as Exhibit I  
2 in your deposition. It's a document that should be  
3 there right now.

4 A Okay.

5 Q This is a -- this looks to me like the document  
6 I have in front of me, a seven-page document that says  
7 Can IV 049576 at the top. Are we looking at the same  
8 document?

9 A Can IV 049576?

10 Q Yes.

11 A Yes, uh-huh.

12 Q And it's seven pages?

13 A Yes.

14 Q Will you take a moment and read through this  
15 email chain and let me know when you're done, please?

16 A (Examining document) Okay.

17 Q Have you had a chance to familiarize yourself  
18 with this email chain?

19 A Yes.

20 Q Can you explain why you're copied in any part  
21 of it?

22 A Are you referring to page 4?

23 Q I believe that is where you're located, yes.

24 A The email says:

25 "I will be taking over the

1 maintenance of the master tracker for  
2 Spencer and Robin."

3 Q So what does that mean?

4 A That Carly is now the person collecting this  
5 information on this deal.

6 Q What were you doing before this date?

7 A Spencer and I previously asked people to fill  
8 out this information.

9 Q Fill out what information?

10 A The information that Carly requested in this  
11 email.

12 Q You mean the items that start at the bottom of  
13 page 4 and go through page 5?

14 A Correct.

15 Q So someone was supposed to fill that out? Is  
16 that what you're saying?

17 A It looks like that, based on the email.

18 Q Well, I don't know anything about your business  
19 or how you conduct it, so I can only ask you to explain  
20 it to me. So what's the master tracker?

21 A It's simply the data that you see in the email.

22 Q Well, there's no data in the email.

23 A The data fields that you see in the email.

24 Q So who would fill those items in?

25 A It looks like this email chain is to Marty and

1 Chris.

2 Q So it was going to be their obligation to fill  
3 this in?

4 A I don't know.

5 Q So why would you have been maintaining the  
6 master tracker? I don't understand.

7 A At one point I asked for these items, and then  
8 I no longer had that responsibility.

9 Q So at what point did you have any  
10 responsibility for that information?

11 A I don't recall.

12 Q Even looking at Exhibit 1, you can't tell me?

13 A I don't recall.

14 Q You don't recall what? Anything about it?

15 A I don't recall when I handled it.

16 Q What is Carly Fickes's position at Canyon?

17 A I don't know her title off the top of my head.

18 Q Does she still work there?

19 A Yes.

20 Q Did you know what her title was when she sent  
21 this email back in October of 2014?

22 A I don't remember her title on that date, no.

23 Q What about Spencer Schlee, S-c-h-l-e-e? What  
24 was his role on October 3, 2014?

25 A He's a member of the originations team.

1 Q Were he and you somehow working together on  
2 this project in some fashion?

3 A Previously we would send the email requesting  
4 these data fields.

5 Q To whom would you send that request?

6 A The originations team.

7 MR. MILLER: Is that your alarm to go make a  
8 phone call, Ben?

9 MR. DOLAN: Yeah. Do you mind?

10 MR. MILLER: I don't mind. How much time will  
11 you need?

12 MR. DOLAN: I'm going to guess 15 minutes, if  
13 we can take a break.

14 MR. MILLER: Okay, that's no problem. We'll  
15 see you back here at 1:15 your time.

16 MR. DOLAN: Thank you.

17 THE VIDEOGRAPHER: Off the record at 12:58 p.m.  
18 (Recess)

19 THE VIDEOGRAPHER: And we are back on the  
20 record at 1:30 p.m. This is disc 4 of the deposition of  
21 Robin Potts.

22 Q BY MR. MILLER: Ma'am, when we were last  
23 talking, we were looking at Exhibit 1. I'm assuming  
24 that's still right there in front of you; correct?

25 A Yes.



1 Q So we were talking about the items that were  
2 going into the field. And I just want to direct your  
3 attention to pages 2 and 3 of Exhibit 1, where the  
4 fields have been filled in. At least, that's what it  
5 looks like to me. Would you agree?

6 A It appears so.

7 Q Okay. So Chris Stanley -- I may have asked  
8 you, and if I did, I apologize. But what's his role at  
9 Canyon?

10 A He was on the originations team.

11 Q He's not there any longer?

12 A Correct.

13 Q So because you've done this, and he's not  
14 there, when you fill in these fields, where would he or  
15 you, before him, go to get this information?

16 A I don't know. I did not fill in these fields.

17 Q I know you didn't fill in these fields. That  
18 wasn't my question. Shall I repeat it?

19 A Yes.

20 Q My question was, where would you have gone  
21 prior to Mr. Stanley to get the information to fill in  
22 these fields in one of these that you would have done?

23 A I was not responsible for filling out these  
24 fields.

25 Q Well, can you explain, then, the part about the

1 MR. DOLAN: I didn't think so, but I get it  
2 now.

3 MR. MILLER: I'm sorry. It's certainly  
4 possible I didn't say what I meant. That's happened.

5 Q Do you understand my question, ma'am?

6 A Would you repeat it, please?

7 Q Yeah. Prior to the email that we talked about  
8 earlier on page 4, there's a reference made to the fact  
9 that somebody else is taking over the maintenance of the  
10 master tracker. Right? You did that once. Right?

11 A Right.

12 Q So when you were still maintaining the master  
13 tracker, you just testified you don't fill in the  
14 numbers, you had somebody else to go fill in the  
15 numbers; right?

16 A Correct.

17 Q Where would the person who was directed to go  
18 get the information to fill in the numbers in the fields  
19 go to get the information?

20 A I can't guess how they would have obtained the  
21 information. I don't know directly.

22 Q When you had somebody working for you and you  
23 directed them to do this task, you didn't tell them how  
24 to complete it?

25 A I simply sent out an email asking for fields to

1 maintenance of the master tracker email that we talked  
2 about before?

3 A Right. That's referring to the email sending  
4 out the fields.

5 Q So a different person sends out the fields than  
6 the person who fills in the fields?

7 A Yes.

8 Q I see. So where would Mr. Stanley have gone at  
9 your direction or somebody else at your direction prior  
10 to Mr. Stanley to get information to fill in fields such  
11 as this?

12 A I don't know.

13 Q So when you have somebody working for you and  
14 Spencer, and you said, "Hey, go fill in these fields on  
15 the master tracker," they were just supposed to find the  
16 fields themselves?

17 A I can't speak for how others may fill in  
18 fields.

19 Q How many people did you direct, when you had  
20 the role, to fill out the fields in the master tracker?

21 MR. DOLAN: Object to the form of the question.  
22 She never said she had the job of filling out the  
23 fields.

24 MR. MILLER: No, no. Directed other people to  
25 fill out the fields. Did I not say that?

1 be filled in.

2 Q And they magically appeared.

3 A They filled it out and returned the  
4 information.

5 Q And you don't know where they got the  
6 information from?

7 A No.

8 Q And as you sit here today, as the cohead of  
9 real estate, overseeing what I assume is still a process  
10 that's proceeding to this day, you don't know where the  
11 information comes from?

12 A I don't directly, no.

13 Q All right. Looking at the information, though,  
14 there are fields that are filled in. As you look at  
15 this information today, as of Chris Stanley filling this  
16 in and sending this to Carly, would you have any reason  
17 to believe that Chris's information was erroneous?

18 A I don't have enough information to answer that  
19 question.

20 Q Well, if you look at page 1, it looks like  
21 Carly did. She said, at the bottom of page 1, she  
22 pointed out a mistake relative to the date of  
23 maturation. You see that, in the emails on page 1?

24 A I see the email.

25 Q How would Carly have known that mistake if she

1 had been doing the task that you had been doing prior to  
2 her?

3 **A I cannot speak for how Carly came to this  
4 conclusion.**

5 Q Well, if you had asked Chris to fill out this  
6 form and he had returned it to you, how would you have  
7 checked his work?

8 **A I can't guess how I might have done that.**

9 Q Well, how did you do it when you had that role?

10 **A I did not do it for this deal, and it's  
11 specific to each deal, so I don't have the information  
12 you're asking.**

13 Q I didn't ask about how you would do it for this  
14 deal, ma'am. I know full well you didn't do it for this  
15 deal. I know that. We've gone around a few times about  
16 that. I'm not asking about this deal as it pertains to  
17 the work you did.

18 I'm asking, according to this email, and your  
19 testimony, you previously had asked other people to fill  
20 in these fields at your request. It looks like Carly  
21 had some fashion of checking Chris's work. When you  
22 were the person who was Carly at the time, did you ever  
23 check the work that came back to you when the fields  
24 were filled out?

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

1 Q Do you have any reason to believe after this  
2 communication back and forth between Carly and Chris  
3 that the information set forth in the master tracker on  
4 pages 2 and 3 is correct?

5 **A I don't have any direct knowledge to confirm or  
6 deny that statement.**

7 Q Would you be willing to rely on Chris and  
8 Carly's belief as we sit here today that those items  
9 were correct?

10 **A I would not rely on an email chain for maturity  
11 dates, no.**

12 Q So what would you do to go confirm that?

13 **A I would consult with counsel.**

14 Q How would counsel know?

15 **A Legal counsel would have closed this  
16 transaction.**

17 Q What would your role have been? Didn't you  
18 participate in the negotiation of these, not of Packard  
19 Square, but of the other loans you worked on?

20 **A I participated in negotiations on deals that  
21 I've worked on.**

22 Q And wouldn't you have at your fingertips the  
23 information about the terms that are set forth in the  
24 master tracker that Mr. Stanley produced?

25 **A I would not have data points at my fingertips**

1 Q So when you were in Carly's role, it's your  
2 belief you just took the information at face value when  
3 it was provided to you without checking its accuracy?

4 **A I didn't say that. I don't recall.**

5 Q What do you recall about your management of  
6 the, what's it called, the master tracker?

7 **A That I sent out requests for data fields.**

8 Q And without any concern as to whether those  
9 data fields were accurate when they came back?

10 **A I didn't say that.**

11 Q So how did you check the validity of the facts  
12 that came back?

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

14 Q It was only four years ago. Ma'am, you don't  
15 recall doing it, ever, not one time, in order to  
16 remember how you checked the facts to make sure it was  
17 accurate?

18 MR. DOLAN: I'm going to object. You have  
19 asked this question three times. She said she didn't  
20 recall three times.

21 Q BY MR. MILLER: As you sit here today, looking  
22 at Exhibit 1, after Carly caught what she purports to be  
23 some type of a mistake of Chris's, Chris notes in the  
24 top email, "Thanks for the catch." See that?

25 **A Yes, I see that.**

1 **for every deal that I've closed, no.**

2 Q What about the deal that was being closed at  
3 the time that this work was being performed in the  
4 master tracker? It's not like it's off in storage  
5 somewhere, is it? Wouldn't that be readily available,  
6 that information?

7 **A I don't understand the question.**

8 Q I'm not asking you to go find the terms or the  
9 facts or the information relative to some deal that was  
10 done five years ago.

11 This is a contemporary email. This is an email  
12 from October of 2014 talking about a loan that had  
13 closed three weeks prior. Wouldn't that information  
14 have been readily available for you to confirm Chris's  
15 information if you were the person to whom Chris had to  
16 respond with the information?

17 MR. DOLAN: I'm just going to object to the  
18 form of the question. She answered that question and  
19 said she would consult with counsel.

20 Q BY MR. MILLER: You'd have to go to counsel to  
21 find out what city the property was located in?

22 MR. DOLAN: That wasn't the question you asked.

23 **THE WITNESS: That wasn't what I said.**

24 Q BY MR. MILLER: I know. I'm looking at the  
25 items on the master tracker. What items on the master

1 tracker would you have to go to counsel for?  
2 **A Legal terms within the loan documents.**  
3 Q Okay, let's look at the master tracker. Tell  
4 me which one of these items on the master tracker that's  
5 still down on page 2 and page 3 would you or Chris or  
6 Carly have to go to counsel to get answered?

7 MR. DOLAN: I'm going to object to the form of  
8 the question to the extent it asks for what Chris or  
9 Carly would do. If you're asking what she would do,  
10 that's fine.

11 MR. MILLER: I'm asking her in her capacity as  
12 the person who used to direct the people who used to do  
13 this job. That's all I'm asking.

14 **THE WITNESS: I can't speak to how others might**  
15 **have filled out data fields.**

16 Q BY MR. MILLER: I'm not asking you to ask what  
17 others would do. I'm asking you, which of these data  
18 fields would require a conversation with counsel in  
19 order to get the information provided?

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

21 Q Have you ever filled out one of these trackers  
22 before?

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

24 Q So in the 12 years you worked at Canyon and  
25 moved up the ranks, you don't believe you ever filled

1 **A Okay.**

2 Q Do you know why you were involved in this email  
3 chain?

4 **A Not specifically, no.**

5 Q Do you know what an "SAM" is?

6 **A No. Where is an "SAM"?**

7 Q It's not on here. I'm asking if you know what  
8 that phrase is as it pertains to an asset manager. Have  
9 you ever heard that acronym before?

10 **A Senior asset manager.**

11 Q Okay. Great. When you received this email,  
12 did you have any communications relative to what was  
13 going on here with building the relationship and  
14 completing the visit and any of this?

15 **A Not that I recall.**

16 Q Were there a significant number of emails  
17 relating to Packard Square with which you were copied?

18 **A Not that I recall.**

19 Q Are there protocols for asset manager site  
20 visits?

21 **A Maria oversees our asset management team. I**  
22 **don't have any direct involvement in the protocols.**

23 Q We were talking earlier about deals that you'd  
24 worked on. How many deals have you worked on?

25 **A I don't recall offhand.**

1 out one of these?

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

3 Q Okay. Whether you did or you didn't, you  
4 received them; correct?

5 **A Yes.**

6 Q Okay. So which of these items could be found  
7 without going to counsel?

8 **A I don't know. I simply received them.**

9 Q Project name? Did you have to go to counsel to  
10 find out the name of the project?

11 **A I don't know how other people chose to fill**  
12 **these out.**

13 Q I'm asking how you would do it.

14 **A I didn't fill these out.**

15 Q And you can't tell me, even though you answered  
16 that you would talk to counsel, about which items you  
17 would talk to counsel on this list?

18 **A No.**

19 Q I see.

20 Let's go to Exhibit 2, shall we? Exhibit 2 is  
21 a two-page exhibit that says Can IV 051204 at the top.  
22 Do you have that?

23 **A 051204. Yes.**

24 Q Take a moment, please, and read through that,  
25 if you would. Let me know when you're done.

1 Q More than a hundred?

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

3 Q More than 500?

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

5 Q What's your best estimate as to the number of  
6 deals you've worked on while you've been at Canyon for  
7 the last 12 years?

8 **A I don't want to guess.**

9 Q I'm not asking you to guess. I'm asking you to  
10 estimate.

11 **A I don't want to estimate.**

12 Q Well, do you think it's more or less than 50?

13 **A I don't know offhand.**

14 Q I'm not asking you for a direct number. I'm  
15 asking you to estimate if it's more or less than 50.

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

17 Q What's the deal you're most proud of?

18 **A I wouldn't describe deals as being proud of**  
19 **them.**

20 Q What would you describe them as being?

21 **A Transactions.**

22 Q There are no deals that stand out in your mind  
23 as being those that you recall more fondly than any  
24 others?

25 **A I don't have emotions of the type that you're**

1 **describing as it relates to deals.**  
 2 Q Was there one deal that you recall in the last  
 3 12 years that you were really excited got closed and  
 4 worked out great for everybody?  
 5 **A I don't recall any offhand.**  
 6 Q Can you name one deal you worked on?  
 7 **A Yes.**  
 8 Q Okay. Name one deal you've worked on.  
 9 **A Echo Brickell.**  
 10 Q Where is that located?  
 11 **A Miami, Florida.**  
 12 Q And what type of a deal was it?  
 13 **A Condominium loan.**  
 14 Q And when did that close?  
 15 **A I don't know the details off the top of my**  
 16 **head.**  
 17 Q Last week? Last year? Last decade?  
 18 **A I don't know the details off the top of my**  
 19 **head.**  
 20 Q Who was the developer?  
 21 **A Property Markets Group.**  
 22 Q And was it a construction loan or an equity  
 23 loan?  
 24 **A Construction loan.**  
 25 Q And how long did the construction take?

1 Q And no physical or mental impairment that would  
 2 affect your ability to remember things today?  
 3 **A No.**  
 4 Q You're not on any medication today?  
 5 **A No.**  
 6 Q Okay. Let's look at Exhibit 3.  
 7 **A Okay.**  
 8 Q This is a document that I believe to be six  
 9 pages and has "Can IV 059236" at the top. Correct?  
 10 **A Yes.**  
 11 Q Why don't you take a moment and familiarize  
 12 yourself with this email chain, these. Let me know when  
 13 you're ready.  
 14 **A Okay.**  
 15 Q Let's look at page 4, please. There's an email  
 16 there that you are copied on. Do you see that one,  
 17 dated July 28, 2016?  
 18 **A Yes.**  
 19 Q Why were you involved in this communication?  
 20 **A I wasn't involved. I was copied.**  
 21 Q Did you get involved in a discussion about next  
 22 steps or overall strategy ideas?  
 23 **A Not that I recall.**  
 24 Q Did you ever have a discussion with Maria  
 25 Stamolis relative to any next steps as it pertained to

1 **A I don't recall.**  
 2 Q Was the construction completed successfully?  
 3 **A Yes.**  
 4 Q Was there a takeout loan that Canyon did?  
 5 **A No.**  
 6 Q What made you remember that one?  
 7 **A Nothing in particular.**  
 8 Q Just the first one that came to your mind?  
 9 **A Yes.**  
 10 Q I see. On the matters that we talked about  
 11 briefly that you said there had been litigation  
 12 involving, is it true you cannot remember a single name  
 13 of any of the projects that went into litigation?  
 14 **A Yes.**  
 15 Q And you can't name a single city in which any  
 16 of those litigations or projects occurred?  
 17 **A No.**  
 18 Q Can you name a single state in which any of  
 19 those litigations or projects occurred?  
 20 **A No.**  
 21 Q Can you name any of the developers that were  
 22 involved?  
 23 **A No.**  
 24 Q Do you have any memory issues?  
 25 **A No.**

1 Packard Square?  
 2 **A I have not had direct involvement in strategy.**  
 3 Q Did you discuss any next steps with  
 4 Ms. Stamolis?  
 5 **MR. DOLAN:** Just going to object. To some  
 6 extent, the conversations you might be seeking would  
 7 involve counsel. So I'm just cautioning the witness  
 8 that if there were discussions with Maria and counsel,  
 9 that those are covered by the privilege, and I would  
 10 object to you responding to those.  
 11 **MR. MILLER:** Pretty sure I didn't ask if she  
 12 had any conversations with counsel. I asked if she had  
 13 any conversations with Ms. Stamolis.  
 14 **MR. DOLAN:** Right. But she might have had a  
 15 conversation with Ms. Stamolis and Marcus or Jonathan or  
 16 me, or somebody who's a lawyer.  
 17 **MR. MILLER:** Well, she can answer that way, if  
 18 that were the case.  
 19 Q **BY MR. MILLER:** Ma'am, did you have any  
 20 conversations with Ms. Stamolis about any next steps?  
 21 **A I have not had conversations with Ms. Stamolis**  
 22 **about next steps that were outside of the context of**  
 23 **privileged conversations.**  
 24 Q So you were involved in conversations with  
 25 Ms. Stamolis and lawyers about next steps.



1 A Not that I recall.  
 2 Q Well, explain to me the two answers you just  
 3 gave. Either you had the conversations or you didn't  
 4 have the conversations.  
 5 A I don't recall having conversations on next  
 6 steps as it relates to this email.  
 7 Q Well, then why did you qualify it by saying  
 8 that you didn't have any as it pertained to the next  
 9 steps without counsel present?  
 10 A I don't know.  
 11 Q Well, was it true?  
 12 A It's true that I have not had conversations  
 13 with Maria as it relates to next steps.  
 14 Q I see. With or without counsel present.  
 15 A I don't recall.  
 16 Q I see. Have you had any conversations with  
 17 Ms. Stamolis regarding any overall strategy ideas as it  
 18 pertains to Packard Square?  
 19 A No, I have no direct involvement on the  
 20 day-to-day strategy of Packard Square.  
 21 Q How about the overall global strategy of  
 22 Packard Square?  
 23 A No, I have no direct involvement.  
 24 Q What about indirect involvement, like Maria  
 25 coming down to your office and saying, "What do you

1 A If it is a construction deal, then we would  
 2 require a completion guarantee.  
 3 Q A personal completion guarantee?  
 4 A A completion guarantee from an individual.  
 5 Q Is that the case -- I'm sorry. You were going  
 6 to say something. Pardon me.  
 7 A No, go ahead.  
 8 Q What's a completion guarantee?  
 9 A It's a legal term.  
 10 Q You used it, ma'am. What is it? What do you  
 11 think it is, based on what you referred to? What is it?  
 12 MR. DOLAN: I'm just going to object that it  
 13 calls for a legal conclusion. But otherwise, she can  
 14 answer.  
 15 THE WITNESS: It's a guarantee of completion.  
 16 Q BY MR. MILLER: Completion of what?  
 17 A I would consult with counsel for a legal  
 18 definition of it.  
 19 Q Ma'am, I didn't know the term. You brought the  
 20 term up to me. You work in this field. I don't. What  
 21 are you talking about? What are you referring to? I  
 22 don't know what you're even talking about. What is a  
 23 completion guarantee?  
 24 MR. DOLAN: Well, you can look at the  
 25 completion guarantee in the closing book on this

1 think about this?" Had any of those conversations?  
 2 A Not that I recall.  
 3 Q Have you been on any investor calls about  
 4 Packard Square?  
 5 A No.  
 6 Q Have you ever negotiated personal guarantees on  
 7 any loans you've originated?  
 8 A Define "personal guarantee."  
 9 Q A guarantee by a person, in addition to a  
 10 corporate loan.  
 11 A What type of guarantee?  
 12 Q A personal guarantee.  
 13 A We obtained guarantees from individuals in  
 14 certain cases.  
 15 Q So do you negotiate those terms in your role?  
 16 A No.  
 17 Q How is the decision made whether to have a  
 18 personal guarantee or not have a personal guarantee on a  
 19 particular loan?  
 20 A It varies by the type of loan.  
 21 Q What are the considerations in construction  
 22 loans?  
 23 A The considerations relate to the construction.  
 24 Q What considerations? What are the  
 25 considerations?

1 transaction, if you want to know what one looks like.  
 2 MR. MILLER: I'm not doing that. I'm not the  
 3 witness. I'm asking her. She's the one who came up  
 4 with the term. I'd like her to define it for me.  
 5 THE WITNESS: It's a guarantee of completion.  
 6 Q BY MR. MILLER: Of construction?  
 7 A It would be highly negotiated and specific to  
 8 each deal.  
 9 Q So are you saying that there are different  
 10 types of completion guaranties, depending on the deal?  
 11 A Not necessarily. I'm saying I can't speak in  
 12 generalities the way that you're asking.  
 13 Q Who does the negotiating to the level of  
 14 completion that an individual would have to agree to  
 15 guarantee?  
 16 A Legal documents are negotiated by counsel.  
 17 Q So does the acquisition team direct counsel to  
 18 what it thinks the level of guarantee to be, or is it  
 19 counsel that tells the acquisitions, "This is the  
 20 completion guarantee we require"? Who's driving the car  
 21 here?  
 22 A I can't speak in generalities. Each deal is  
 23 highly negotiated and specific.  
 24 Q So -- but I asked you and you didn't really  
 25 answer. What are the different conditions that are



1 considered to determine the level to which a completion  
 2 guarantee would be required?  
 3 **A It's specific to the deal.**  
 4 Q Okay. What are the types of considerations  
 5 that could be specific to the deal?  
 6 **A Again, I can't speak in generalities. It**  
 7 **depends on each deal.**  
 8 Q Why can't you speak in generalities? There  
 9 must be a variety of variables that are considered,  
 10 based upon a variety of issues that come up with a  
 11 result that there is or is not a completion guarantee to  
 12 one extent or another. Is that not the case?  
 13 **A Can you rephrase the question?**  
 14 Q Yes. There obviously are a number of variables  
 15 to consider to determine whether or not there's going to  
 16 be a completion guarantee or to what extent one will be  
 17 put in place. What are the variables that are  
 18 considered?  
 19 **A There's numerous variables specific to each**  
 20 **deal.**  
 21 Q Give me six numerous variables that are  
 22 considered.  
 23 **A I can't generalize.**  
 24 Q Of course you can.  
 25 **A No.**

1 Canyon over the last 12 years on a construction loan  
 2 that did not include a completion guarantee?  
 3 **A I don't recall.**  
 4 Q So does that mean that you believe that they  
 5 all have completion guaranties?  
 6 **A I don't know.**  
 7 Q All right. The last one that you do remember  
 8 seeing that had a completion guarantee was what deal?  
 9 **A I don't remember the last completion guarantee**  
 10 **document that I've seen.**  
 11 Q When was the last construction loan closed at  
 12 Canyon?  
 13 **A This year.**  
 14 Q And where was that deal located?  
 15 **A Los Angeles.**  
 16 Q And do you remember the name of the deal?  
 17 **A Los Angeles loan.**  
 18 Q Los Angeles loan?  
 19 **A There's not a name of the project yet, so I'm**  
 20 **referring to it as Los Angeles loan.**  
 21 Q Son construction has yet to commence?  
 22 **A Correct.**  
 23 Q I see. And do you know who the developer of  
 24 that construction deal is, or the sponsor?  
 25 **A I do.**

1 Q Name a particular deal with a completion  
 2 guarantee, and tell me what variables were used in that  
 3 deal.  
 4 **A Each deal is highly negotiated, and I don't**  
 5 **have specifics offhand.**  
 6 Q Well, let's think of a last deal that was  
 7 highly negotiated that was completed. What was the last  
 8 deal that you highly -- strike that.  
 9 Did you do the high negotiations or counsel  
 10 did?  
 11 **A I personally have not been involved in the**  
 12 **completion guarantee negotiations of the last deal.**  
 13 Q So the last deal that you recall there being a  
 14 construction contract signed -- I believe you already  
 15 testified that every construction contract has a  
 16 completion guarantee. Correct?  
 17 **A I would need to check the record if that's what**  
 18 **I said. I'm not sure.**  
 19 Q So there are construction contracts, then, that  
 20 don't have completion guaranties?  
 21 **A You asked me if I said a certain thing, and I'm**  
 22 **saying, I don't know if you phrased it exactly how I**  
 23 **said it. So I don't know.**  
 24 Q Okay, then let's ask it a different way. Are  
 25 there any deals that you have seen while you've been at

1 Q What's the name of that entity or person?  
 2 **A Well, excuse me. I don't know the entity name**  
 3 **of the borrower.**  
 4 Q Who's the sponsor?  
 5 **A Like I said, I don't recall the exact name of**  
 6 **the borrower entity.**  
 7 Q What's the name of the guarantor?  
 8 **A I don't recall who the guarantors are on that**  
 9 **deal.**  
 10 Q What was the amount of the loan?  
 11 MR. DOLAN: Matt, I'm just going to object to  
 12 this sort of exercise of futility and ask you to move to  
 13 a topic that relates to this lawsuit.  
 14 MR. MILLER: I'm trying, Ben. But we can't  
 15 seem to get there. So I'm trying the only way I can to  
 16 get information which she's unwilling to share.  
 17 MR. DOLAN: Well, you've asked her about deals  
 18 in Florida and Los Angeles and other places that have --  
 19 I mean, admittedly, you asked her the most recent loan.  
 20 These have nothing to do with anything in this lawsuit.  
 21 MR. MILLER: I'm just trying to find out about  
 22 the construction completion guarantee. That's all I'm  
 23 trying to find out.  
 24 MR. DOLAN: There's no issue in this lawsuit  
 25 that involves a completion guarantee. You know that.

1 So what does it matter what -- some other loan has a  
2 completion guarantee, and what the terms are and why  
3 they were asked for? What does it have to do with  
4 anything in this lawsuit? Nothing. This is just a  
5 waste of Ms. Potts's time and everybody else's time  
6 that's on the phone here.

7 MR. MILLER: If she would just answer the  
8 question, we could be done already.

9 MR. DOLAN: She has, and you don't like her  
10 answer, which is --

11 MR. MILLER: No, she hasn't. I haven't even  
12 asked the question yet, Ben. I'm trying to --

13 MR. DOLAN: Who are the guarantors of the most  
14 recent deals she did? Who cares? Who cares? I mean,  
15 you're asking completely irrelevant questions.

16 MR. MILLER: Okay. May I continue, now?

17 MR. DOLAN: Yeah. I'd love it if you asked a  
18 question about Packard Square.

19 Q BY MR. MILLER: So this guarantee that was just  
20 done on the L.A. loan, what were the factors in  
21 consideration as to whether or not to have a completion  
22 guarantee?

23 MR. DOLAN: Object. Completely irrelevant.

24 MR. MILLER: That's okay. She can answer.

25 THE WITNESS: I'm unclear.

1 asking about the one deal we were just talking about  
2 that you recalled from years ago. That's the one I'm  
3 asking about. I'm not asking about general. I'm asking  
4 about those terms. What were the terms of that deal?

5 A I don't recall. It was years ago.

6 MR. MILLER: Ben, give me five minutes. I  
7 think I'm just about done.

8 MR. DOLAN: Okay.

9 MR. MILLER: Let's go off the record.

10 THE VIDEOGRAPHER: Off the record at 2:07 p.m.  
11 (Recess)

12 THE VIDEOGRAPHER: We're back on the record at  
13 2:12 p.m.

14 Q BY MR. MILLER: Ma'am, just a little bit of  
15 final housekeeping, and then I'll let you go.

16 You testified to your name as being Robin  
17 Potts. Is that your full name?

18 A My middle name is Outcault.

19 Q How do you spell that?

20 A O-u-t-c-a-u-l-t.

21 Q And is Robin Potts a married name or a maiden  
22 name?

23 A I don't wish to disclose personal information.

24 Q What was the name that shows up on your Harvard  
25 diploma?

1 MR. MILLER: The judge will decide whether it's  
2 irrelevant or not --

3 MR. DOLAN: I did not tell her not to answer.  
4 She can answer.

5 THE WITNESS: Can you repeat the question?

6 Q BY MR. MILLER: Yes. What were the factors  
7 that were considered in the construction completion  
8 guarantee in the L.A. loan we just were talking about?

9 A Our counsel considered those factors. I did  
10 not directly.

11 Q You can't name a single factor that was  
12 considered?

13 A No.

14 Q Have you ever been involved directly in  
15 negotiations of a guarantee document?

16 A Yes.

17 Q Okay. How long ago was that?

18 A Multiple years ago.

19 Q And what were the factors that were considered  
20 then as to the terms of the guarantee and whether a  
21 construction completion guarantee was necessary?

22 A Again, it's highly specific to each deal, and  
23 it varies by deal, and I can't speak in generalities  
24 from things from years ago.

25 Q I'm not asking about generalities, ma'am. I'm

1 A Robin Potts.

2 Q Robin O. Potts?

3 A I don't recall if they included a middle  
4 initial.

5 Q And what was the degree you earned there?

6 A Economics.

7 Q Is that a B.A. or B.S.? They actually probably  
8 do it backwards in Latin.

9 A It was an undergraduate degree. I'm not sure  
10 what the initials are.

11 Q I think at Harvard it's an A.B. or an S.B.

12 A I don't recall.

13 Q Have you ever been convicted of a felony?

14 A No.

15 Q Have you ever been convicted of a misdemeanor  
16 having to do with lying or thievery?

17 A No.

18 MR. MILLER: Okay. I have no further  
19 questions. Thank you.

20 THE WITNESS: Thank you.

21 MR. DOLAN: No questions.

22 THE VIDEOGRAPHER: This concludes the  
23 deposition of Robin Potts. The time is 2:15 p.m. We  
24 are now off the record.

25 (At 2:15 p.m. the deposition of

1 ROBIN POTTS was concluded.)

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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 \_\_\_\_\_.  
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14 \_\_\_\_\_  
15 ROBIN POTTS  
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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 \_\_\_\_\_  
24 Lindsay Pinkham, CSR 3716  
25

Robin Potts  
09/20/2018

Index: -o0o-..aware

---

-

---

-o0o- 58:2

---

0

---

049576 26:7,9  
051204 39:21,23  
059236 44:9

---

1

---

1 4:4 26:1 28:12 29:23 30:3  
33:20,21,23 35:22  
10 13:25  
12 13:17 38:24 41:7 42:3 52:1  
12:21 4:2,13  
12:58 29:17  
15 29:12  
16-990-CB 4:11  
1:15 29:15  
1:30 29:20

---

2

---

2 4:4 30:3 36:4 38:5 39:20  
20 4:1,12 19:25  
2000 4:14  
2004 15:23 16:3  
2006 7:13,18  
2014 18:9 28:21,24 37:12  
2015 6:23 7:6,7 11:14 12:8,22  
22:13,15  
2016 44:17  
2018 4:1,12 19:25  
25 13:25  
28 44:17  
2:07 56:10

2:12 56:13  
2:15 57:23,25

---

3

---

3 4:4 28:24 30:3 36:4 38:5 44:6  
30-second 9:18

---

4

---

4 13:25 26:22 27:13 29:20 32:8  
44:15

---

5

---

5 27:13  
50 41:12,15  
500 41:3

---

6

---

6 13:25  
63 16:6

---

8

---

82 16:6

---

A

---

A.B. 57:11  
ability 44:2  
accuracy 35:3  
accurate 35:9,17  
acquisition 18:7 19:9,23 20:2,7  
24:15 49:17  
acquisitions 7:4,6,24 8:1 9:22  
49:19  
acronym 40:9  
active 19:17  
addition 11:23 47:9

additional 11:22  
admittedly 53:19  
advice 19:11,14  
adviser 16:9  
advisers 16:10  
affect 44:2  
afternoon 4:7,20  
agree 30:5 49:14  
ahead 48:7  
alarm 29:7  
amount 53:10  
analysis 23:10  
Analyst 7:19  
Angeles 4:1,14 52:15,17,18,20  
53:18  
answers 15:15 46:2  
apologize 24:10 30:8  
appeared 33:2  
appears 30:6  
approve 21:20  
Ariana 4:24  
as-needed 17:12  
asks 38:8  
asset 8:2,6,10 9:23 18:25 19:11,  
22 20:2,16,19 21:7 23:24 24:12  
25:23 40:8,10,19,21  
assistant 7:19  
associate 7:19  
assume 5:15 33:9  
assuming 29:23  
attention 30:3  
attorney 5:23  
audibly 6:4  
Avenue 4:14  
aware 21:25 23:17

**Robin Potts**

**09/20/2018**

**Index: B.A...confuse**

---

**B**

---

**B.A.** 57:7  
**B.S.** 57:7  
**back** 19:18 28:21 29:15,19 34:23  
35:9,12 36:2 56:12  
**backwards** 57:8  
**based** 14:10 27:17 48:11 50:10  
**basis** 16:17 17:12 19:7,8  
**begins** 4:7  
**behalf** 4:21,23  
**belief** 35:2 36:8  
**Ben** 5:17 29:8 53:14 54:12 56:6  
**Benjamin** 4:23  
**bit** 56:14  
**body** 9:25  
**book** 48:25  
**borrower** 53:3,6  
**bottom** 27:12 33:21  
**break** 29:13  
**breakfast** 14:22 15:2  
**Brickell** 42:9  
**briefly** 43:11  
**broader** 16:15  
**brought** 48:19  
**building** 40:13  
**business** 27:18

---

**C**

---

**calendar** 13:21  
**California** 4:1,15  
**call** 8:7 29:8  
**called** 7:2 25:11,14,17 35:6  
**calls** 47:3 48:13

**Canyon** 6:22 7:8,9,10,12 8:3 9:1,  
2 10:9 16:25 17:10 18:9 23:18,  
22 25:7 28:16 30:9 38:24 41:6  
43:4 52:1,12  
**capacity** 7:11 38:11  
**car** 49:20  
**cares** 54:14  
**Carly** 27:4,10 28:16 33:16,21,25  
34:3,20,22 35:22 36:2 38:6,9  
**Carly's** 35:1 36:8  
**case** 4:11 6:11 45:18 48:5 50:12  
**cases** 23:17,22 24:1 47:14  
**cash** 17:4 23:10  
**catch** 35:24  
**caught** 35:22  
**cautioning** 45:7  
**certificate** 16:2  
**certificates** 16:12  
**certify** 16:8  
**chain** 26:15,18 27:25 36:10 40:3  
44:12  
**chance** 26:17  
**changed** 7:21  
**check** 34:23 35:11 51:17  
**checked** 34:7 35:16  
**checking** 34:21 35:3  
**chose** 39:11  
**Chris** 28:1 30:7 33:15 34:5 35:23  
36:2,7 37:15 38:5,8  
**Chris's** 33:17 34:21 35:23 37:14  
**Circuit** 4:10  
**circumstances** 20:23,24 21:1  
**city** 37:21 43:15  
**clarifying** 18:18  
**client** 21:24  
**close** 42:14

**closed** 19:17 36:15 37:1,2,13  
42:3 52:11  
**closes** 19:6  
**closing** 19:2,10,19 21:21 48:25  
**cohead** 7:1,3,5,20,22 8:22 16:17  
23:2 33:8  
**colleague** 18:14  
**colleagues** 21:10  
**collecting** 27:4  
**college** 15:20  
**commence** 52:21  
**committee** 9:25 10:2,3,5,13,18  
11:6,7,8,12,17,18,22 12:2,11,15,  
25 13:4,10,11,13,23 14:3,4  
18:15,21,22 21:11,13,16,18,19,  
20,23 22:4,7,9,12,19,25 23:3  
**communication** 36:2 44:19  
**communications** 40:12  
**company** 25:11,14,17,20  
**complete** 32:24  
**completed** 43:2 51:7  
**completely** 54:15,23  
**completing** 40:14  
**completion** 48:2,3,4,8,15,16,23,  
25 49:5,10,14,20 50:1,11,16  
51:1,12,16,20 52:2,5,8,9 53:22,  
25 54:2,21 55:7,21  
**computer** 5:14  
**concern** 35:8  
**concluded** 58:1  
**concludes** 57:22  
**conclusion** 34:4 48:13  
**conditions** 49:25  
**Condominium** 42:13  
**conduct** 27:19  
**confirm** 36:5,12 37:14  
**confuse** 5:25



**Robin Potts**

**09/20/2018 Index: consideration..driving**

**consideration** 54:21  
**considerations** 47:21,23,24,25  
50:4  
**considered** 50:1,9,18,22 55:7,9,  
12,19  
**consistently** 11:18  
**construction** 42:22,24,25 43:2  
47:21,23 48:1 49:6 51:14,15,19  
52:1,11,21,24 53:22 55:7,21  
**consult** 36:13 37:19 48:17  
**consultation** 19:12,14  
**consulted** 23:4,10  
**contemporary** 37:11  
**context** 11:2 25:22,24 45:22  
**continue** 54:16  
**contract** 51:14,15  
**contracts** 51:19  
**convenes** 13:16  
**conversation** 38:18 45:15  
**conversations** 45:6,12,13,20,21,  
23,24 46:3,4,5,12,16 47:1  
**convicted** 57:13,15  
**copied** 26:20 40:17 44:16,20  
**corporate** 47:10  
**correct** 7:6 9:12 20:17 27:14  
29:24 30:12 32:16 36:4,9 39:4  
44:9 51:16 52:22  
**Council** 10:12  
**counsel** 4:18 36:13,14,15 37:19,  
20 38:1,6,18 39:7,9,16,17 45:7,  
8,12 46:9,14 48:17 49:16,17,19  
51:9 55:9  
**counterplaintiff** 4:22  
**County** 4:11  
**court** 4:10 5:1 6:17  
**covered** 45:9  
**Craig** 5:15

**creation** 18:7  
**current** 6:21 11:13

---

**D**

---

**data** 27:21,22,23 29:4 35:7,9  
36:25 38:15,17  
**date** 4:12 27:6 28:22 33:22  
**dated** 44:17  
**dates** 36:11  
**day** 33:10  
**day-to-day** 16:16 19:7 22:16  
46:20  
**deal** 16:16 17:13,17 19:1 23:7  
27:5 34:10,11,14,15,16 37:1,2,9  
41:17 42:2,6,8,12 48:1 49:8,10,  
22 50:3,5,7,20 51:1,3,4,6,8,12,  
13 52:8,14,16,24 53:9 55:22,23  
56:1,4  
**deals** 16:21,24 20:1 24:19,21,22  
36:20 40:23,24 41:6,18,22 42:1  
51:25 53:17 54:14  
**debt** 11:1  
**decade** 42:17  
**decide** 21:18,19 55:1  
**decision** 18:16 22:2,4 47:17  
**decisions** 21:16 22:19,22,24  
**deed** 21:23 22:2,20  
**default** 21:12,18 22:3,20  
**defendant** 4:16,22  
**define** 47:8 49:4  
**definition** 48:18  
**degree** 16:2 57:5,9  
**deny** 36:6  
**department** 17:10 20:5,8  
**depending** 19:15 49:10  
**depends** 50:7  
**deposed** 24:4

**deposition** 4:4,8,13 6:16 15:18  
26:2 29:20 57:23,25  
**describe** 8:5 16:11 21:1 23:9  
24:1 41:18,20  
**describing** 42:1  
**description** 9:19  
**designed** 15:7  
**details** 42:15,18  
**determination** 11:21  
**determine** 50:1,15  
**developer** 42:20 52:23  
**developers** 43:21  
**diploma** 56:25  
**direct** 18:1 30:2 31:19 36:5 38:12  
40:22 41:14 45:2 46:19,23 49:17  
**directed** 31:24 32:17,23  
**direction** 31:9  
**directly** 32:21 33:12 55:10,14  
**director** 7:3,6,20  
**disc** 29:20  
**disclose** 56:23  
**discuss** 6:15 20:23 21:6,7,23  
45:3  
**discussion** 44:21,24  
**discussions** 45:8  
**divide** 8:11  
**dividing** 9:5  
**division** 7:15 9:6  
**document** 21:24 22:3 25:6 26:2,  
5,6,8,16 44:8 52:10 55:15  
**documents** 38:2 49:16  
**Dolan** 4:23 5:19 6:18 14:7,14,23  
15:4,6,9,13 18:18 29:9,12,16  
31:21 32:1 35:18 37:17,22 38:7  
45:5,14 48:12,24 53:11,17,24  
54:9,13,17,23 55:3 56:8 57:21  
**driving** 49:20

duly 5:5

---

E

---

earlier 32:8 40:23

earned 57:5

Echo 42:9

Economics 57:6

education 16:1

else's 54:5

email 26:15,18,24 27:11,17,21,  
22,23,25 28:21 29:3 31:1,3 32:7,  
25 33:24 34:18 35:24 36:10  
37:11 40:2,11 44:12,15 46:6

emails 33:23 40:16

emotions 41:25

enable 16:12

enables 16:13

end 19:1

entity 53:1,2,6

equity 11:1 42:22

erroneous 33:17

estate 7:1,3,6,14,22 8:22,23 9:1,  
3 10:8 11:2 16:18 17:10 23:3  
33:9

estimate 41:5,10,11,15

estimation 14:1

et al 4:10

events 8:8

Evidence 6:18

exact 53:5

exam 16:15

EXAMINATION 5:8

examined 5:6

examining 26:16

exams 16:7

excited 42:3

excuse 53:2

exercise 53:12

exhibit 26:1 28:12 29:23 30:3  
35:22 39:20,21 44:6

Exhibits 4:4

existing 20:11

expect 6:13

explain 26:20 27:19 30:25 46:2

extent 38:8 45:6 50:12,16

---

F

---

face 35:2

fact 32:8

factor 55:11

factors 54:20 55:6,9,19

facts 35:11,16 37:9

fall 18:9

familiar 17:13,16

familiarize 26:17 44:11

fashion 19:23 29:2 34:21

fast 15:19

favor 21:12

felony 57:13

Fickes's 28:16

field 30:2 48:20

fields 27:23 29:4 30:4,14,16,17,  
22,24 31:4,5,6,10,14,16,18,20,  
23,25 32:18,25 33:14 34:20,23  
35:7,9 38:15,18

filed 23:18

fill 27:7,9,15,24 28:2 30:14,16,17,  
21 31:10,14,17,20,25 32:13,14,  
18 34:5,19 39:11,14

filled 30:4 33:1,3,14 34:24 38:15,  
21,25

filling 30:23 31:22 33:15

fills 31:6

final 56:15

find 31:15 37:8,21 39:10 53:21,  
23

fine 38:10

fingertips 36:22,25

FINRA 16:6

Florida 42:11 53:18

flow 17:4 23:10

fondly 41:23

foreclosure 21:24 22:3,20 23:18

form 31:21 34:6 37:18 38:7

forward 5:13 18:17

found 39:6

frequency 17:16

frequently 17:8

Friedman 9:17

front 26:6 29:24

full 34:14 56:17

fun 15:17

function 16:23

futility 53:12

---

G

---

gave 46:3

general 56:3

generalities 49:12,22 50:6,8  
55:23,25

generalize 50:23

generally 10:7,20 11:25 12:4  
21:3

Gerald 5:15

give 9:18 21:5 50:21 56:6

global 46:21

Goldman 5:16

**Robin Potts**

**09/20/2018**

**Index: Good..lawyer**

**Good** 4:7,20  
**grad** 15:24  
**graduate** 15:22  
**great** 5:13 40:11 42:4  
**Group** 42:21  
**guarantee** 47:8,9,11,12,18 48:2,3,4,8,15,23,25 49:5,15,18,20 50:2,11,16 51:2,12,16 52:2,8,9 53:22,25 54:2,19,22 55:8,15,20,21  
**guarantees** 47:6,13  
**guaranties** 49:10 51:20 52:5  
**guarantor** 53:7  
**guarantors** 53:8 54:13  
**guess** 29:12 32:20 34:8 41:8,9

---

**H**

---

**half** 6:23  
**handle** 18:14  
**handled** 18:14 28:15  
**Hanson** 4:17  
**happen** 6:12  
**happened** 22:15 32:4  
**happening** 8:20  
**harass** 15:7,14  
**harassing** 15:8  
**harassment** 15:10  
**Harvard** 15:21 56:24 57:11  
**head** 8:9,23 20:7 28:17 42:16,19  
**hear** 25:22  
**heard** 25:14,17 40:9  
**hearing** 14:4  
**Hey** 31:14  
**high** 51:9  
**highly** 49:7,23 51:4,7,8 55:22

**housekeeping** 56:15  
**huh-uhs** 6:6  
**hundred** 41:1

---

**I**

---

**idea** 25:20  
**ideas** 44:22 46:17  
**identification** 4:5  
**identified** 14:6  
**identify** 4:18  
**impairment** 44:1  
**important** 6:3  
**include** 19:13 52:2  
**included** 23:4 57:3  
**indirect** 46:24  
**individual** 48:4 49:14  
**individuals** 47:13  
**information** 17:20 27:5,8,9,10 28:10 30:15,21 31:10 32:18,19,21 33:4,6,11,13,15,17,18 34:11 35:2 36:3,23 37:6,9,13,15,16 38:19 53:16 56:23  
**initial** 57:4  
**initials** 57:10  
**inside** 7:8,10  
**instances** 20:18  
**interact** 16:13  
**investment** 9:25 10:2,3,4,6,9,13,18 11:17,18 12:2 13:22 16:9,10 17:3 18:15 21:11,13,16,18,19,20,22 22:4,7,9,12,17,18,24 23:3  
**investor** 47:3  
**investors** 16:14,16,20,24 17:3,8,17,19  
**involve** 45:7  
**involved** 11:17 18:6 19:9 21:25 22:5,8 23:8 24:12,15 40:2 43:22

44:19,20,21 45:24 51:11 55:14  
**involvement** 8:6 9:24 17:24 18:1,3 19:1,19 22:10,16,21,23 23:6,21 25:11 40:22 45:2 46:19,23,24

**involves** 53:25

**involving** 19:5 43:12

**irrelevant** 54:15,23 55:2

**issue** 22:2 53:24

**issues** 6:14 15:1 23:4 43:24 50:10

**item** 23:13

**items** 27:12,24 28:7 30:1 36:8 37:25 38:4 39:6,16

**IV** 4:9,24 26:7,9 39:21 44:9

---

**J**

---

**job** 31:22 38:13

**Jonathan** 8:16 45:15

**Josh** 9:17 11:19 12:12

**judge** 55:1

**Julis** 9:17

**July** 44:17

---

**K**

---

**kind** 16:3

**kinds** 16:10

**knowledge** 36:5

**Kyle** 4:16

---

**L**

---

**L.A.** 54:20 55:8

**labor** 9:6

**Latin** 57:8

**lawsuit** 21:16 53:13,20,24 54:4

**lawyer** 45:16

**Robin Potts**  
**09/20/2018**

**Index: lawyers..negotiate**

lawyers 45:25  
led 16:2  
legal 36:15 38:2 48:9,13,17 49:16  
lenders 23:18  
letter 21:19 22:3  
letters 21:12 22:21  
level 49:13,18 50:1  
license 16:15  
lieu 21:23 22:3,20  
Lindsay 5:2  
list 25:6,9 39:17  
litigation 17:14 23:23 24:15,19,  
25 25:9 43:11,13  
litigations 43:16,19  
LLC 4:9,22 5:23  
loan 18:7 19:6,9 20:11 37:12  
38:2 42:13,22,23,24 43:4 47:10,  
19,20 52:1,11,17,18,20 53:10,19  
54:1,20 55:8  
loans 19:17,21 20:1 36:19 47:7,  
22  
located 24:22 26:23 37:21 42:10  
52:14  
long 6:21 7:11 11:15 42:25 55:17  
longer 28:8 30:11  
Los 4:1,14 52:15,17,18,20 53:18  
Loskamp 4:16  
love 54:17  
lying 57:16

---

**M**

---

made 4:15 22:2,19,22,24 32:8  
43:6 47:17  
magically 33:2  
maiden 56:21  
maintaining 28:5 32:12

maintenance 27:1 31:1 32:9  
make 6:2,11 10:11 15:17 21:16  
29:7 35:16  
makes 18:15  
manage 10:23  
management 8:3,6,10 9:23 18:25  
19:11,18,22 20:2,16,19 21:7  
23:25 24:12 25:23 35:5 40:21  
manager 40:8,10,19  
managing 8:9  
manner 8:5  
Marcus 5:15 12:16 13:3 14:11  
45:15  
Maria 8:8 11:19 12:12 20:6,10,  
15,21,24 21:6,8 40:21 44:24  
45:8 46:13,24  
marked 4:5 26:1  
Markets 42:21  
married 56:21  
Marty 27:25  
master 27:1,20 28:6 31:1,15,20  
32:10,12 35:6 36:3,24 37:4,25  
38:3,4  
Matt 53:11  
matter 4:8 21:14 54:1  
matters 43:10  
Matthew 4:21 5:22  
maturation 33:23  
maturity 36:10  
Mckinley 25:12,15,18  
meant 32:4  
medication 44:4  
meet 13:11,13  
meeting 14:4,16,18 15:12 21:22  
22:1  
meetings 12:6 13:10  
meets 21:20

member 7:25 10:3,4,12,14,16  
11:6,7,11 18:10,12 19:8 22:9,11  
23:3 28:25  
members 10:17 11:8,16,22 12:1  
19:22 20:16,18 21:10  
memory 15:1 43:24  
mental 44:1  
mentioned 13:2,5 25:23  
met 13:23  
Miami 42:11  
Michigan 4:10 6:17,18  
middle 56:18 57:3  
Miller 4:20,21 5:9,21,22 14:9,15,  
25 15:5,8,10,18 18:20,24 29:7,  
10,14,22 31:24 32:3 35:21  
37:20,24 38:11,16 45:11,17,19  
48:16 49:2,6 53:14,21 54:7,11,  
16,19,24 55:1,6 56:6,9,14 57:18

mind 29:9,10 41:22 43:8  
minutes 29:12 56:6  
misdemeanor 57:15  
mistake 33:22,25 35:23  
Mitch 9:17 11:19 12:12  
moment 26:14 39:24 44:11  
monitor 4:13  
month 13:15  
months 13:21  
morning 14:22 15:2  
move 5:13 53:12  
moved 38:25  
multiple 10:23,24 55:18

---

**N**

---

necessarily 20:22 49:11  
needed 13:14,16,18,20  
negotiate 47:15

negotiated 47:6 49:7,16,23 51:4,7

negotiating 49:13

negotiation 36:18

negotiations 36:20 51:9,12 55:15

Neupert 5:15 12:16 13:3 14:11

nos 6:5

note 5:14

notes 35:23

notify 16:20

number 4:11 6:14 23:17 40:16 41:5,14 50:14

numbers 32:14,15,18

numerous 50:19,21

O

O-U-T-C-A-U-L-T 56:20

object 14:23 31:21 35:18 37:17 38:7 45:5,10 48:12 53:11 54:23

obligation 28:2

obtained 32:20 47:13

occupy 9:9

occurred 43:16,19

October 28:21,24 37:12

offhand 25:1 40:25 41:13 42:5 51:5

office 46:25

operated 8:21

order 35:15 38:19

originated 47:7

originations 7:24 8:1 9:22 18:10 28:25 29:6 30:10

Outcault 56:18

overlap 8:14

overreaching 23:2

oversee 7:24 9:22

overseeing 33:9

oversees 9:23 40:21

P

p.m. 4:2,13 29:17,20 56:10,13 57:23,25

Packard 4:9,22,24 5:23 17:13,17,22,24 18:2,4,11 21:12 23:5 36:18 40:17 45:1 46:18,20,22 47:4 54:18

pages 26:12 30:3 36:4 44:9

parallel 10:12

Pardon 48:6

part 26:20 30:25

participate 36:18

participated 36:20

Partners 7:12 9:1,3

passed 16:6

Pellegrino 4:24

pending 19:21

people 5:17 9:13,14,15 10:13 11:21 12:5,9,13,14 13:5,11 14:3,5 20:11 21:7 27:7 31:19,24 34:19 38:12 39:11

performed 37:3

permanent 10:12,16,17 11:6,7,8,9,11,16 22:11

person 13:1,8 27:4 31:5,6 32:17 34:22 37:15 38:12 47:9 53:1

personal 47:6,8,12,18 48:3 56:23

personally 17:9 51:11

perspective 17:4

pertained 44:25 46:8

pertains 18:25 21:15 34:16 40:8 46:18

phase 18:7

phone 29:8 54:6

phrase 40:8

phrased 51:22

physical 44:1

Pinkham 5:2

place 4:14 50:17

placements 16:14

places 53:18

plaintiff 4:24

platform 10:19,23 11:24 12:2,3,7

platforms 10:21,24 12:19,25 14:11

point 28:7,9

pointed 33:22

points 36:25

portfolio 17:4

position 16:17 23:2 28:16

post 19:9

Potts 4:8 5:4,12 15:20 29:21 56:17,21 57:1,2,23 58:1

Potts's 54:5

practices 17:1,2

present 4:18 21:23 46:9,14

president 8:24,25 9:2

Pretty 45:11

previously 7:25 27:7 29:3 34:19

primary 19:2

prior 30:21 31:9 32:7 34:1 37:13

private 16:14

privilege 45:9

privileged 45:23

problem 29:14

proceeding 33:10

process 33:9

produced 36:24



progressing 16:21  
 project 17:25 18:2,4,12 19:9 29:2  
 39:9,10 52:19  
 projects 19:21 20:1 43:13,16,19  
 properties 24:11,14,17 25:8  
 property 24:24 37:21 42:21  
 protocols 40:19,22  
 proud 41:17,18  
 provided 17:20 35:3 38:19  
 purports 35:22  
 purposes 6:17  
 pursuing 22:19  
 put 50:17

Q

qualify 46:7  
 quarterly 17:6,8  
 question 6:2 14:7,23 15:4,5,6,16  
 19:24 30:18,20 31:21 32:5 33:19  
 35:19 37:7,18,22 38:8 50:13  
 54:8,12,18 55:5  
 questions 5:24 6:7 54:15 57:19,  
 21

R

ranks 38:25  
 read 26:14 39:24  
 readily 37:5,14  
 ready 44:13  
 real 7:1,3,5,14,22 8:22,23 9:1,3  
 10:8 11:2 15:4,5,6,16 16:17  
 17:10 23:3 33:9  
 reason 33:16 36:1  
 recall 12:18 19:20 23:16 24:23  
 25:1,25 28:11,13,14,15 34:25  
 35:4,5,13,15,20 38:23 39:2  
 40:15,18,25 41:2,4,23 42:2,5  
 43:1 44:23 46:1,5,15 47:2 51:13

52:3 53:5,8 56:5 57:3,12  
 recalled 56:2  
 received 39:4,8 40:11  
 recent 53:19 54:14  
 Recess 29:18 56:11  
 recollection 25:7  
 record 5:11,14 25:10 29:17,20  
 51:17 56:9,10,12 57:24  
 reference 32:8  
 referred 48:11  
 referring 10:21,25 11:3 26:22  
 31:3 48:21 52:20  
 refresh 25:7  
 registered 16:9,11  
 relate 47:23  
 relates 23:5 42:1 46:6,13 53:13  
 relating 22:19 40:17  
 relationship 8:6 40:13  
 relative 33:22 37:9 40:12 44:25  
 rely 36:7,10  
 remember 6:3 13:24 14:2,13,15,  
 20 15:11 28:22 35:16 43:6,12  
 44:2 52:7,9,16  
 repeat 30:18 32:6 55:5  
 rephrase 6:1 19:24 50:13  
 report 9:13,14,15,16  
 reporter 5:1  
 reporting 4:17 16:23 17:1,2,3,7,  
 16  
 represent 4:19  
 representing 4:17  
 request 4:15 29:5 34:20  
 requested 27:10  
 requesting 29:3  
 requests 35:7  
 require 18:16 38:18 48:2 49:20

required 50:2  
 requires 18:23  
 respect 20:3  
 respond 37:16  
 responding 45:10  
 responsibilities 8:11  
 responsibility 28:8,10  
 responsible 30:23  
 result 50:11  
 returned 33:3 34:6  
 ridiculous 14:24,25  
 Robin 4:8 5:4,12 27:2 29:21  
 56:16,21 57:1,2,23 58:1  
 role 6:21 7:8,21 8:17,19,21 9:6,8,  
 9,11 10:2 11:13 18:9,25 19:2  
 28:24 30:8 31:20 34:9 35:1  
 36:17 47:15  
 roles 7:17,23  
 room 5:17,19 12:10 13:11 14:4  
 rotate 10:13  
 rotates 10:14  
 Roth 8:16  
 Rules 6:17,18

S

S-C-H-L-E-E 28:23  
 S.B. 57:11  
 SAM 40:5,6  
 sat 15:12  
 Schlee 28:23  
 school 15:24  
 Schubiner 5:15  
 securities 16:15  
 Security 10:11  
 seeking 45:6

send 21:18 29:3,5  
 sending 21:12 31:3 33:16  
 sends 31:5  
 Senior 40:10  
 September 4:1,12 7:7 19:25  
 22:13,15  
 Series 16:6  
 set 36:3,23  
 seven-page 26:6  
 share 53:16  
 short-term 15:1  
 shoulder 6:5  
 show 26:1  
 shows 56:24  
 shrugs 6:5  
 side 24:13,15  
 signed 51:14  
 significant 40:16  
 similar 8:17  
 simply 27:21 32:25 39:8  
 single 24:24 43:12,15,18 55:11  
 sit 12:5 33:8 35:21 36:8  
 site 17:22 40:19  
 situation 6:9 19:16  
 situation's 21:3  
 situations 21:9  
 slow 15:19  
 sole 8:23  
 Son 52:21  
 sort 53:12  
 speak 6:8 8:21 9:8 10:7,19 11:10,  
 24 12:3,8,21 21:3,10 31:17 34:3  
 38:14 49:11,22 50:6,8 55:23  
 speaking 6:3,10  
 specific 19:15 34:11 49:7,23

50:3,5,19 55:22  
 specifically 24:18 40:4  
 specifics 51:5  
 speed 9:21  
 spell 56:19  
 Spencer 27:2,7 28:23 31:14  
 spend 6:13  
 sponsor 52:24 53:4  
 Square 4:9,22,24 5:23 17:13,17,  
 22,25 18:2,4,12 21:12 23:5  
 36:19 40:17 45:1 46:18,20,22  
 47:4 54:18  
 Stamolis 8:12 9:5,10,20 44:25  
 45:4,13,15,20,21,25 46:17  
 stand 41:22  
 standard 16:23 17:1,2  
 Stanley 30:7,21 31:8,10 33:15  
 36:24  
 Stars 4:14  
 start 27:12  
 started 6:19 7:17  
 state 4:10,19 5:10 43:18  
 statement 36:6  
 steps 44:22,25 45:3,20,22,25  
 46:6,9,13  
 storage 37:4  
 strategies 11:1  
 strategy 44:22 45:2 46:17,20,21  
 strike 13:9 19:4 24:3,12 51:8  
 subject 17:14  
 successfully 43:2  
 sudden 15:19  
 supposed 27:15 31:15  
 SWEAR 5:2  
 sworn 5:5

T

table 13:11  
 takeout 43:4  
 taking 4:13 26:25 32:9  
 talk 20:18 24:21 39:16,17  
 talked 21:6 31:1 32:7 43:10  
 talking 20:15 29:23 30:1 37:12  
 40:23 48:21,22 55:8 56:1  
 tangential 8:4  
 task 32:23 34:1  
 team 7:25 8:1,7 9:23 18:10,12  
 19:4,5,9,18,22,23 20:2,11,16,19  
 21:7,10 23:25 25:23 28:25 29:6  
 30:10 40:21 49:17  
 team's 19:1  
 teams 8:3  
 telling 15:11  
 tells 49:19  
 temporary 10:14 11:21  
 term 48:9,19,20 49:4  
 terms 36:23 37:8 38:2 47:15 54:2  
 55:20 56:4  
 testified 5:6 12:24 32:13 51:15  
 56:16  
 testimony 34:19  
 thievery 57:16  
 thing 51:21  
 things 9:21 19:13 21:15,17 22:14  
 44:2 55:24  
 thinks 49:18  
 thought 22:11  
 THURSDAY 4:1  
 time 4:12 6:10,13,16 11:15,18,23  
 14:10 18:19 20:1 21:5,6 24:7  
 29:10,15 34:22 35:15 37:3 54:5  
 57:23

times 13:17,22 14:8 17:7 24:4  
34:15 35:19,20

title 7:3 8:24 28:17,20,22

today 4:16 5:1 6:14 8:17,20 9:3  
24:5 33:8,15 35:21 36:8 44:2,4

Today's 4:12

top 26:7 28:17 35:24 39:21  
42:15,18 44:9

topic 53:13

track 25:10

tracker 27:1,20 28:6 31:1,15,20  
32:10,13 35:6 36:3,24 37:4,25  
38:1,3,4

trackers 38:21

tracking 25:9

training 16:2

transaction 17:20 19:3 21:21  
22:10 36:16 49:1

Transactions 41:21

trick 5:24

true 43:12 46:11,12

two-page 39:21

type 6:9 19:8 35:23 41:25 42:12  
47:11,20

types 10:21 19:13 21:15,17  
49:10 50:4

---

U

---

uh-huh 26:11

uh-huhs 6:6

ultimately 14:11

UN 10:11

unanimity 18:16,23

unclear 54:25

undergraduate 57:9

understand 6:1 12:20,23 18:24  
22:6 28:6 32:5 37:7

unwilling 53:16

update 8:8

utilize 16:24

---

V

---

validity 35:11

variables 50:9,14,17,19,21 51:2

varied 12:25

varies 10:19,22 11:24 12:3 16:22  
19:15 20:25 21:2,9 47:20 55:23

variety 50:9,10

versus 4:9 7:22 9:19

vice-president 7:19,20

video 6:4

visit 40:14

visits 40:20

vote 21:11,13

---

W

---

Washtenaw 4:11

waste 54:5

watching 5:16

week 14:19 15:12 42:17

week-to-week 16:17

weeks 37:13

welcoming 24:9

widely 19:15 20:25 21:9

witnessed 12:10,15,21

wondering 15:1

work 28:18 34:7,17,21,23 37:3  
48:20

worked 24:20,25 36:19,21 38:24  
40:24 41:6 42:4,6,8

working 7:11 18:11 19:23 20:3,  
11 23:19,22 29:1 31:13 32:22

---

Y

---

year 12:8 13:17,21 14:4 42:17  
52:13

years 7:22 11:15,16 12:11,15  
13:5 18:20 23:21 35:14 37:10  
38:24 41:7 42:3 52:1 55:18,24  
56:2,5

yees 6:5