

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549

ADMINISTRATIVE PROCEEDINGS RULINGS
Release No. 4721 / March 30, 2017

ADMINISTRATIVE PROCEEDING
File No. 3-17387

In the Matter of

DONALD F. (“JAY”) LATHEN, JR.,
EDEN ARC CAPITAL MANAGEMENT, LLC, and
EDEN ARC CAPITAL ADVISORS, LLC

ORDER GRANTING IN PART
MOTIONS TO CORRECT
HEARING TRANSCRIPT

The hearing in this proceeding was held from January 30, 2017, to February 17, 2017, and closing arguments were held on March 1, 2017. On March 17, 2017, Respondents submitted a motion proposing transcript corrections, and the Division of Enforcement submitted a document titled “Division Transcript Corrections,” which I will construe as a motion to correct the transcript.¹ On March 24, 2017, the Division submitted objections to some of Respondents’ proposed corrections and requested one additional correction, which Respondents did not object to.

I GRANT in part the parties’ respective motions as follows: (1) I adopt the Division’s proposed corrections, which are unopposed, including the additional correction submitted on March 24, 2017. (2) I adopt Respondents’ unopposed proposed corrections. (3) I have reviewed the disputed proposed corrections; in most cases, I agreed with the Division’s objection, but in one instance, I found Respondents’ correction to be more reasonable. Accordingly, I ORDER the attached transcript corrections. The court reporter is requested to issue a complete, amended hearing transcript. The amended transcript should also be provided in electronic format to my office.

Jason S. Patil
Administrative Law Judge

¹ Transcript corrections should be submitted either by stipulation or by signed motion stating the grounds for relief. *See* 17 C.F.R. §§ 201.153(a), .154(a), .302(c).

Division of Enforcement's Transcript Corrections

Page: Line	Correction
49:8	change "Citi" to "city"
54:8	change "forms ABB" to "Forms ADV"
54:12	change "form ABB" to "Form ADV"
66:13	change "or the page number" to "not the page number"
69:6	change "structure" to "structured"
154:13	change "U.S. Abroad" to "U.S. Broad"
168:9	change "Gersten Savich" to "Gersten Savage"
173:21	change "Gersten Savich" to "Gersten Savage"
174:22	change "attune" to "attuned"
238:11	change "submit" to "submitted"
259:2	change "955" to "95/5"
299:18	change "send" to "sent"
300:10	change "conform" to "confirm"
304:2	change "...payment that they received to impose" to "...payment that they received. To impose..."
333:9 ²	change "Savvy Capital" to "Sabby Capital"
335:4	change "assuage" to "suasion"
364:16	change "by the day" to "by the way"
397:4	change "qualify" to "qualified"
417:4	change "2064" to "206-4"
489:17	change "Exhibit 164" to "Exhibit 104"
490:8	change "blank/brokerage" to "bank/brokerage"
506:21	change "2000" to "2011"
514:19	change "10-K" to "\$10k"
514:21	change "risk of the successful claim" to "risk of successful claim"
541:7	change "The fund investment securities" to "The fund invests in securities"
642:2	change "Galuglian" to "Calaguio"
714:4	change "bringing capital markets, products" to "bringing capital markets products"
758:9	change "how long you been" to "how long have you been"
776:24	change "an individual and Mr." to "an individual named Mr."
790:2	change "him about in it this time period?" to "him about it in this time period?"
802:16	change "with regulators on which" to "with regulators of which"
954:19	change "Weinstock" to "Brown"

² The Division included a correction labeled "33:9," which I have omitted it because it appears to have been an accidental duplication of the correction labeled "333:9."

Page: Line	Correction
957:3	change “for the Prospect note he is was trying to redeem” to “for the Prospect note he was trying to redeem”
957:5	change “ownership or the decease’s ownership” to “ownership or the deceased’s ownership”
959:8	change “you received other than that” to “you received other”
991:7	insert “ ‘13,” before “ ‘14”
1004:7	insert “attributable” before “to”
1025:7	change “16 by 4” to “16.4”
1031:2	change “fees” to “bonds”
1031:3	delete “401”
1041:24	change “One” to “Bond”
1052:11	change “631-C” to “631-A”
1062:15	insert “and 963” after “631-D”
1085:21	change “July 9, 2015” to “June 9, 2015”
1167:4	change “Ms. Weinstock” to “Ms. Brown”
1170:14	change “bounder” to “binder”
1175:7	change “are those the” to “is that the”
1175:16	change “pricing” to “summary”
1178:10	change “down a page” to “down the page”
1190:4	change “side” to “site”
1196:19	insert “of” after “owner instead”
1199:13	change “from Lathen to” to “from Mr. Lathen to”
1202:6, 8	change “Ms. Weinstock” to “Ms. Brown”
1207:1, 4	change “Ms. Weinstock” to “Ms. Brown”
1207:15	change “we fear” to “that’s clear”
1262:17	change “but until such time we receive it” to “but until such time as we receive it”
1263:1	change “years being also in the Detroit area.” to “year also in the Detroit area.”
1263:8	change “of Chicago that focused primarily on fixed income” to “of Chicago that is focused primarily on fixed income”
1268:4-5	change “that’s filed with the SEC that the issuer -- that issues those notes from.” to “that’s filed with the SEC that the issuer issues those notes from.”
1268:15	change “would go in our prospective” to “would go in the prospectus”
1271:22	change “person’s death to testify the proceeds from the” to “person’s death to receive the proceeds from the”
1271:23	change “distribution of the note as well as the right to” to “disposition of the note as well as the right to”
1277:3	change “the note at time of death and his or her interest in” to “the note at the time of death and his or her interest in”

Page: Line	Correction
1280:2	change "limit an aggregate principal amount of the notes as" to "limit the aggregate principal amount of notes as"
1320:12	change "proceeds from the deposition of this note as well as" to "proceeds from the disposition of this note as well as"
1320:20	change "has a beneficial ownership of a note, how would that" to "has a beneficial ownership interest in a note, how would that"
1320:25	change "that we were just looking at tab 1 in your binder?" to "that we were just looking at in tab 1 in your binder?"
1321:13	change "provide the following items to broker or entity" to "provide the following items to the broker or other entity"
1357:12	change "Zeroxed" to "Xeroxed"
1359:2	change "Ms. Berke" to "Mr. Protass"
1367:18	insert "171" after "Exhibit"
1367:24	insert "Bates" after "Lybecker"
1468:24	change "JUDGE PATIL: So his name is spelled with" to "JUDGE PATIL: So his name spelled with"
1470:2	change "And helped get the team off the ground there." to "And I helped get the team off the ground there."
1472:25	change "to what is called put the notes back in the company." to "to what is called "put" the notes back to the company."
1473:20	change "2012. So we're recovering the final quarter of 2012." to "2012. So we're covering the final quarter of 2012."
1475:21	change "think is Division Exhibit 23." to "think is Division Exhibit page 23."
1476:25	change "S-15, which is Division Exhibit 23." to "25 S-15, which is Division Exhibit page 23."
1477:16	change "a" -- "in a note such as tenant in common with a" to "a" -- "in a note as tenant in common with a"
1486:9	change "your attention, you say?" to "your attention, you said?"
1510:10	change "Lindsay" to "Lindsey"
1511:4	change "455" to "456"
1518:18, 22	change "Lindsay" to "Lindsey"
1524:9	change "Lindsay" to "Lindsey"
1543:9	change "determination, first or all, to tell U.S. Bank" to "determination, first of all, to tell U.S. Bank"
1570:24	change "least a condensation at least of what is in here," to "least a consideration at least of what is in here,"
1597:10	change "is -- purports with any facts in evidence." to "is -- comports with any facts in evidence."
1613:21	change "bullet where we discussed upon direct and in cross," to "bullet where we discussed on direct and in cross,"

Page: Line	Correction
1622:12	change “was a time. Six months had to pass before the” to “12 was a time frame. Six months had to pass before the”
1675:18	change “issuer trustee” to “issuer or trustee”
1675:24-25	change “bond prospectus in this” to “bond prospectuses”
1685:14	change “ask you to tell you” to “ask you to tell them”
1688:7	change “fund” to “funds”
1688:9	change “excepting” to “expecting”
1706:10	change “assistance” to “assistant”
1709:10	change “assistance” to “assistant”
1722:8-9	change “We were at the same place” to “We were not at the same place”
1735:4	change “waive the 10 percent aggregate put limit in restriction” to “waive the 10 percent aggregate put limit restriction”
1739:17	change “In your decision” to “if your decision”
1799:2	change “investor” to “investment advisor”
1857:22	change “dockets that we’ve” to “documents that we’ve”
2031:19	change “parody” to “parity”
2052:14	change “that you have” to “that you had”
2056:21	change “only individuals, not entity,” to “only individuals, not entities,”
2060:21	change “What does it says” to “What does it say”
2062:5	change “and the form” to “in the form”
2066:17	change “disclose” to “disclosure”
2078:14	change “made be necessary” to “may be necessary”
2082:8	Remove first quotation mark before “So it says”
2138:11	Change “of the four-fact test” to “of the four-factor test”
2239:6	change “estate law” to “state law”
2285:9	change “was she looking for” to “is she looking for”
2436:19	change “I was looking at market time” to “I was looking at market timing”
2457:14	change “about 15 or 20 mostly college funds” to “about 15 or 20 mostly college friends”
2462:17	change “you offer” to “you offered”
2463:12	change “if you had -- and giving” to “if you had been giving”
2464:15	change “Sabby is the SEC” to “Sabby Management is the SEC”
2469:19	change “wouldn’t you?” to “wouldn’t it?”
2472:14	change “trustee” to “trusts”
2479:14	change “entries in” to “entries and”
2484:11	change “might be possible” to “might be liable”
2530:21	change “Weinstock” to “Hugel”
2531:4	change “Securevest” to “SEC”
2532:3, 4	change “CAT” to “ACAT”
2533:10	change “CAT” to “ACAT”
2534:1	change “CAT” to “ACAT”
2546:20	change “CAT” to “ACAT”

Page: Line	Correction
2551:9	change "Miller" to "Lathen"
2653:19	change "you looked a the participant" to "you looked at the participant"
2663:12	change "They hold no" to "They hold in"
2689:1	change "have you" to "had you"
2712:5	change "which will then allocation" to "which will then allocate"
2726:4	change "must prove," to "must provide,"
2746:10	change "about the replicable trust" to "about the revocable trust"
2785:25	change "if whether" to "of whether"
2797:12	change "MNA advice" to "M & A advice"
2798:13	change "all financial and MNA-related" to "all financial and M & A-related"
2809:25	change "energy NMA at" to "energy M & A at"
2825:18	change "And I'm meant" to "And I meant"
2828:1	change "he was an MNA" to "he was an M & A"
2828:13	change "in any of the MNA" to "in any of the M & A"
2828:23	change "also added the MNA" to "also added the M & A"
2829:12	change "the EVP and corporate" to "the EVP of corporate"
2830:8	change "more of an MNA" to "more of an M & A"
2830:10	change "consumer of MNA" to "consumer of M & A"
2833:6	change "he would able be to" to "he would be able to"
2842:6	change "you pursued that" to "you received that"
2979:1	change "to represent client in subsequent litigation" to "represent the client in subsequent litigation"
2992:16	change "bonds, the," quote, "Prospect litigation." to "bonds, the, quote, "Prospect litigation.""
2996:6	change "with Respondents' lead SEC defense counsel with the" to "with Respondents' lead SEC defense counsel, with"
2997:4	change "filings that Clayman & Rosenberg has made in this," to "filings that Clayman & Rosenberg has made in this case,"
3015:16	change "that the," quote, "source of funds used to make" to "that the, quote, "source of funds" used to make"
3015:17	change "investments are," quote, "another account, that the" to "investments are, quote, "another account, that the"
3015:23	change "liquidity needs are 90 plus one to five years (Sic.)" to "liquidity needs are 90 percent one to five years"
3032:18	change "Q So, for example -- I just want to flush" to "Q So, for example -- I just want to flesh"
3039:20	change "Kevin -- kevingalbraith@kevingalbraithlaw.com:" to "Kevin -- kevin@kevingalbraithlaw.com wrote:"
3042:19	change "position to author any sort or opinion at this point" to "position to author any sort of opinion at this point"
3051:22	change "pull up Division Exhibit 1088." to "pull up Division Exhibit 1008."

Page: Line	Correction
3064:25	change “we’ve reasonably require to document beneficial” to “we reasonably require to document beneficial”
3067:10	change “the --” to “the deceased person from any beneficial interest in the Notes,”
3079:12	change “according to GECC, the participant agreement form” to “according to GECC, the participant agreement bore”
3082:14	change “create joint tenancies in an effort to obtain” to “create sham joint tenancies in an effort to obtain”
3098:4	change “MS. BURKE: Okay. And can you scroll” to “MS. BERKE: Okay. And can you scroll”
3109:13	change “Lathen, which the agreement acknowledges and an” to “Lathen, which the agreement acknowledges (in an”
3109:14	change “enormous understatement was expected.” to “enormous understatement) was expected.”
3149:19, 22	change “M-Prize” to “Emprise”
3150:11	change “M-Prize” to “Emprise”
3202:12	change “2009” to “2010”
3211:25	change “accused or” to “accused of”
3221:1	change “Mosher” to “Boshart”
3322:10	change “it wasn’t an interactive process” to “it was an interactive process”
3359:1	change “\$22” to “\$22,000” or “\$22k”
3359:24	change “deemed” to “redeemed”
3500:15	change “reretired” to “retired”
3513:2	change “ruling” to “rule”
3516:18, 20, 22 ³	change “certificatated” to “certificated”
3517:12	change “custody” to “custodied”
3544:18	insert “not” after “fund”
3545:25	change “participating” to “participant”
3556:2	change “termination” to “determination”
3561:24	change “Aurelius” to “Neroulia”
3592:24	change “inconsistent” to “consistent”
3594:5	change “borrower” to “bar”
3595:2	change “David and John Bower” to “David Jungbauer”
3593:10	change “borrower” to “bar”
3595:23	change “955” to “95-5”
3604:11	change “L. Lathen” to “Lathen”
3604:18	change “ailments” to “elements”
3605:22	change “CATS” to “tax”
3618:23-24	insert parentheses around “borrower/lender and assignment of profits”
3624:17-18	change “participated in agreements” to “participant agreements”

³ Additional unopposed correction submitted on March 24, 2017.

Page: Line	Correction
3626:5	change “myself” to “yourself”
3635:8	change “one has to protect. What’s the basis for” to “one has to protect the basis for”
3635:9	change “investment?” to “investment.”
3639:3	change “September 29th” to “September 9th”
3656:2	change “And I should know” to “And as you know”
3690:13	change “certificatated” to “certificated”
3700:5	change: “By Ms. Weinstock” to “By Ms. Brown”
3719:11, 17, 25	change “Weinstock” to “Brown”
3722:6	change “Grunstein” to “Grundstein”
3723:17	change “fund structure formation” to “fund structure or formation”
3729:9	change “personal training” to “personal trading”
3729:14	change “Weinstock” to “Brown”
3730:5	change “Grunstein” to “Grundstein”
3735:5	change “Weinstock” to “Brown”
3738:19	change “Weinstock” to “Brown”
3743:4, 11	change “Weinstock” to “Brown”
3763:17, 20	change “2072” to “2074”
3767:22	change “Q You right, “Hi, Jay. I have reviewed the” to “Q You write, “Hi, Jay. I have reviewed the”
3769:15	change “purposes, anyway, for him to have deemed to be the agent” to “purposes, anyway, for him to have been deemed to be the agent”
3770:22	change “of the bond does not appear to be fatal to the” to “of the bond, does not appear to be fatal to the”
3771:12	change “to the issues was not fatal to the agency arrangement” to “to the issuers was not fatal to the agency arrangement”
3773:16	change “LP, an investment ‘fund’ in the process of being” to “LP, an investment fund (the “fund”) in the process of being”
3773:17	change “established by Eden Arc Capital Advisors LLC ‘GP,’ a” to “established by Eden Arc Capital Advisors LLC (the ‘GP’), a”
3773:18	change “limited liability company owned by Jay Lathen.’ A number” to “limited liability company owned by Jay Lathen. A number”
3786:3	change “You will then borrow money from the funds using loans” to “You will then borrow money from the fund using loans”
3786:5	change “that is based on the increase in value in the securities” to “that is based on the increase in value when the securities”

Respondents' Transcript Corrections

Page	Line	Original Text	Corrected Text
25	19	My name is Harlan Protass, together with Paul	My name is Harlan Protass. Together with Paul
25	22	seated right here. We	seated right here, we
26	20	Also, we expect the testimony in	Also, we expect the testimony and
27	9	a reckless	the
27	10	intent, scienter required	intent, scienter, required
27	22	tenant, that is the participant	tenant, that is, the participant
29	7	or omission	of omission
30	9	Division's fraud applications generated profits of	Division's fraud allegations generated profits of
30	24	legal formalities. Here, Jay and participants	legal formalities. Here, Jay and participants
30	25	tenancy account	tenancy accounts
32	3	potential investors. All of whom	potential investors, all of whom
32	12	strategy, because	strategy because
32	14	Issuers' offer documents spelled out	Issuers' offering documents spelled out
32	17	requirements, and	requirements and
34	8	of time; actions	of time, actions
34	25	or trustee for The	or trustee for the
35	3	The Fund's money or securities. Rather, The	the Fund's money or securities. Rather, the
36	8	faith; evidence that the Division	faith, evidence that the Division
46	22	MNA	M + A
48	10	Approximately 750,000	Approximately \$750,000
48	18	I think it's around 650,000.	I think it's around \$650,000.
49	8	On my apartment in the Citi,	On my apartment in the city,
49	10	approximately 8.1	approximately \$8.1
52	25	you maintained that in February	you maintained that until February
54	8, 12	forms ABB	forms ADV
54	15	Now, the funds's strategy	Now, the Fund's strategy
58	16	me by a Macloud Carre	me by a Macleod Carre
59	19	No objection, Your Honor. With	No objection, Your Honor, with
66	15	The "General partner section"?	The "General Partner" section? ⁴
68	1	before The Fund	before the Fund
69	6	structure finance	structured finance
71	13	as a discount	at a discount
72	10	Sothat obviously	So that obviously
76	15	for purpose of	for purposes of

⁴ Adopted as amended by the Division because it appears that Respondents' correction included a typographical error.

Page	Line	Original Text	Corrected Text
83	18	would have been noticed by The	would have been noticed by the
98	20	I didn't tell them about it, because	I didn't tell them about it because
102	9	In the event they outlive	In the event I outlive
117	23	from the issuer who wanted that	from the issuer who honored that ⁵
154	15	U.S. High Yield, or USHW,	U.S. High Yield, or USHY
168	9	Gersten Savich came up with.	Gersten Savage came up with.
173	6	that you're harping with.	that you're harping on.
173	21	Gersten Savich	Gersten Savage
174	22	attune to it	attuned to it
203	6	refers to a UCC 1 that we	refers to a UCC-1 that we
203	25	meant a UCC 1.	meant a UCC-1.
205	3-4	We definitely had UCC ones.	We definitely had UCC-1s.
222	11	that he produced to	that he produced to the
223	1	our REA Bates number.	our RIA Bates number.
226	9	amount of a Prospect capital	amount of a Prospect Capital
234	17	the participate must have a true	the participant must have a true
237	20	notice from the Division of Enforcement	Notice from the Division of Enforcement
242	19	Donald F. Jay Lathen	Donald F. "Jay" Lathen
245	25	10,000 and a maximum of 15,000	\$10,000 and a maximum of \$15,000
249	8	are realized upon the debt?	are realized upon the death?
259	2	going from the 955	going from the 95/5
292	4	discretion. This, I believe	discretion." This, I believe
292	21	stock. And we	stop. And we
299	23	not to send broker statements	not to send brokerage statements
323	11	told you in the 2000 time frame	told you in the 2010 time frame
325	11	Caterpillar loans.	Caterpillar bonds.
333	9	an entity called Savvy Capital	an entity called Sabby Capital
346	19	"Current growth asset	"Current gross asset
391	6	"The compliant manual	"The compliance manual
424	5	accountholders or their estates.	account holders or their estates.
439	8	description says "AO	description says "A/O
459	18	someone was on Medicaid, Don't	someone was on Medicaid; don't
473	11	16,187.	16,187.
476	19	fees amounted to 259,628	fees amounted to \$259,628
485	22	flow of fund.	flow of funds.
489	1	22,811,577, which was—	\$22,811,577, which was—
506	13	the donations was 1500, and the	the donations was \$1,500, and the

⁵ I find Respondents' correction reasonable based on the context, and overrule the Division's objection.

Page	Line	Original Text	Corrected Text
		other was maybe 2,000.	other was maybe \$2,000.
506	21	And in 2000, you earned	And in 2011, you earned
512	16	advance? any	advance? Any
512	17	concern? could there be	concern? Could there be
513	18	fund it seems? but where	fund it seems? But where
515	16	his stock of awards	his stock awards
528	14	of counsel's defense on this issue.	of counsel defense on this issue.
541	7	"the fund investment securities	"the fund invests in securities
557	23	A couple of coffee.	A cup of coffee.
575	16	out of the good of his heart	out of the goodness of his heart
580	6	sediment factor type issues	Steadman factor type issues
589	24	summer of 2011.	summer of 2012.
598	23	in the funds?	in the fund?
607	23	this sufficiently.	this efficiently.
609	16	respect to a 100,000 face amount	respect to a \$100,000 face amount
615	25	received a Wells notice	received a Wells Notice
617	21	connection with a putback	connection with a put-back
620	16	the brokerage firms are people that	the brokerage firms are the people that
628	22	or the INA or	or the IMA or
634	12	"Email from Galbraithe to	"Email from Galbraith to
642	2	named Cheryl Galuglian.	named Cheryl Calaguio.
649	11	that it had	that it had not
651	24	that an issuer might	that an issuer might not
652	17	Kevin Galbraithe.	Kevin Galbraith.
710	11	the Pacer markings at the top	the PACER markings at the top.
710	12	Pacer, from my understanding.	PACER, from my understanding.
710	24	a Pacer imposed banner	a PACER imposed banner
722	22	accountholders on a	account holders on a
723	23	accountholders was acting	account holders was acting
758	17	And I was their chief Reg W officer	And I was their Chief Reg W Officer
781	12	proceeds of the fund;	proceeds of the redemption
815	14	So retail large was	So retail largely was
822	13	documents for the opening bank CDs	documents for the Goldman bank CDs
842	1	estate will participate in profits	estate will not participate in profits
866	20	Grosse Ronald—Ronalding?	Gross Ronald—Ronald?
871	13	a neither admit or	a neither admit nor
871	19	roughly 102 percent of	roughly 1 or 2 percent of
883	20	accounts were earning and	accounts were earning interest and
895	5	"The purpose for overturning	"The burden for overturning

Page	Line	Original Text	Corrected Text
968	20	aggregate angle limit on	aggregate limit on
1025	7	just multiplied 16 by 4	just multiplied 16.4
1046	17	realized by the funds due	realized by the fund due
1064	7	and collected by a fund quarterly	and collected by the fund quarterly
1067	7	Q Have you we exhausted	Q Have we exhausted
1068	21	register a paying agent.	register or paying agent.
1091	20	Eden has advised the bank	Eden Arc has advised the bank
1152	22	He was 94 years old.	She was 94 years old.
1224	21	Did you receive the article?	Did you review the article?
1251	23	And despite Mr. Gundstein's	And despite Mr. Galbraith's
1282	13	And that inquiry, at least for those,	And that inquiry, at least for those
1297	12	in the securities entry and had	in the securities industry and had
1367	7	joint tenants themselves; that being	joint tenants themselves, that being
1369	12	you conclude that for a variety	you conclude that, for a variety
1373	8	before I repaid you that \$1,000.	before I repay you that \$1,000.
1373	17	into smaller bit-size	into smaller bite-size
1407	8	any additional money	any additional money other
1519	20	And that was in 2010, July 2, 2010.	And that was in 2010, to July 2, 2010.
1557	22	met and spoke who	met and spoke, who
1572	19	options bond issue	options bond issued
1582	12	nominee for DCT (sic);	nominee for DTC (sic);
1611	16	only told them, because	only told them because
1637	16	that clear through or maintain	"that clear through or maintain
1637	18	directly or indirectly.	directly or indirectly."
1645	18	that that "Beneficial Owner,"	that that "Beneficial Owner"
1647	9	It's does.	It does.
1681	9	and/or their agency?	and/or their agents?
1705	9	Sir or Madam, the New Jersey	Dear Sir/Madam: The New Jersey ⁶
1737	24	attachment Tracy email	attachment to the Tracy email
1892	25	You got to binder there.	You got the binder there.
1937	21	power of attorney, the POA, to grant	power of attorney, the "POA," to grant
1940	25	from this paragraph, but in total.	this paragraph, but in total.
1945	7	Lathen's open joint accounts	Lathen's joint accounts
1979	24	patients to take average of a	patients to take advantage of a
2017	7	So I guess he never	So I guess the SEC never
2031	19	no requirement of parody between	no requirement of parity between

⁶ Adopted as amended by the Division because the Division's correction matches the exhibit being discussed in the testimony.

Page	Line	Original Text	Corrected Text
2244	17	the explications of the weaknesses	the explanations of the weaknesses
2273	2	galley. As exciting	gallery. As exciting
2278	17	Schedule C or my personal	Schedule C on my personal
2288	14-15	during the off season to Ship to Shore	during the off season at Ship Ashore
2292	14	used it for 20, 28 days	used it for 28/29
2294	20	flow from me, but it	flow to me, but it
2297	10	that will be only	that will be on
2301	9	investing in them by expanse	investing in them to help expansion
2301	16	say, Okay. Now we have	say Okay, now we have some cash
2302	1	10-year for these bonds?	10-year for these funds?
2312	8	underneath the LEDPEF,	underneath the LB DPEF,
2313	10	Linwood Bowl, partnership 0001 is	Lynwood Bowl, LLC Partnership '00/'01 ⁷
2318	13	So for the corporate, the next portion	So for the court reporter, the next portion
2367	16	Rema Hort Mann, which is the	Rema Hortman, which is the
2367	19	Nort Mann memorializing the price	Hortman memorializing the price
2380	23	Taxation and finance is approximately	Taxation and Finance is approximately
2392	5	audited 2015 financials.	audited 2014 financials.
2605	19	account with them, by what were	account with them, buy what were
2638	24	remember pairing any of your	remember during any of your
2644	18-19	the participant with the fund, have a legitimate	the participate would the fund have a legitimate
2663	12	They hold no nominee name.	They hold in nominee name.
2746	10	about the replicable trust structure	about the revocable trust structure
3149	19	about a company called M-Prize.	about a company called Emprise
3150	11	Did M-Prize have any employees	Did Emprise have any employees
3160	25	layoffs and account	layoffs and headcount
3172	2	seriously in the next	seriously in the near
3179	7	local—legal guidance.	legal—legal guidance.
3209	9	\$83 million in retail	\$83 billion in retail
3221	1	Mosher who's sort of	Boshart who's sort of
3225	7	I saw her once	I saw her wince
3233	3	appears me to be	appears to be me

⁷ Adopted as amended by the Division because the Division's correction matches the financial affidavit.

Page	Line	Original Text	Corrected Text
3266	3	they would get anything.	they would get everything.
3293	3	It's the JPMorgan reviewer	It's the JPMorgan reorg
3390	24	Bank of America, SOC Gen,	Bank of America, Soc Gen,
3408	17	entitled to redeem me.	obligated to redeem me.
3486	16	in fact—for Southwest,	in fact—First Southwest,
3517	12	could be custody,	could be custodied,
3548	21	likely was covered by that advice.	likely was colored by that advice.
3582	21	that a firm could	that that firm could
3595	2	account with David and John Bower	account with David Jungbauer
3595	23	Under the 955 arrangement	Under the 95/5 arrangements
3605	22	I think the term he uses is CATS owner.	I think the term he uses is Tax owner.
3625	1	at the time, they probably thought	at the time, I probably thought
3626	5	Just read it to myself.	Just read it to yourself.
3635	8-9	What's the basis for their investment?	That's the basis for their investment.
3655	14	discouragement as related	disgorgement as related
3670	1-2	joint owner unless until	joint owner unless and until
3674	5	questioning that says "entity clear."	questioning that says "And to be clear."
3677	9	auditor.	owner.
3681	16	It just created potential	It created potential
3686	20	'9.	2009.
3690	15	building would need to be held	building would not need to be held
3693	2	MR. HUGEL: Mr. Lathen,	[Judge Patil continues speaking] Mr. Lathen,
3729	9	personal training. So my	personal trading. So my

Closing Arguments

Page	Line	Original Text	Corrected Text
57	6	given	if even
57	8	amounted to a fraud on issuers they would be waving	amounted to a fraud on issuers. They would be waiving
57	11	believed what he was doing was lawful yet when six	believed what he was doing was lawful. Yet when six
60	21	Individual by ILFC note	Individual and buy an ILFC note
62	9	Biegelman	Begelman
65	21	On the screen are from four of the issuers that	On the screen is the wording from four of the issuers that

Page	Line	Original Text	Corrected Text
70	22	bonds. Based upon New York State banking law	bonds based upon New York State banking law
70	23	675 we'll discuss	675. We'll discuss
70	24	brief at length for purposes	brief at length. For purposes
73	21	specifically told him	specifically told them
77	19	for his funds and he provided them with the investment	for his fund and he provided them with the Investment
77	20	management agreement, that very same investment	Management Agreement, that very same Investment
77	21	management agreement	Management Agreement
78	13	secret side agreements	"secret side agreements":
90	8	to retain	to represent

Respondents' corrections not adopted after considering the Division's objections:

- A. 167:2 - the text in question is a direct quote from Division Exhibit 191.
- B. 292:2 - the text in question is a direct quote from Division Exhibit 119.
- C. 342:25 - the text in question is a clarification by Division counsel regarding which exhibits she did not wish to be admitted into evidence, and the present text accurately describes those exhibits.
- D. 557:24 (which actually appears at 577:24) - the surrounding portions of the transcript are consistent with the present text.
- E. 898:8 - the witness was cut off during his testimony; if there is any dispute about how he would have completed the sentence, it is inappropriate for either party to unilaterally complete his sentence for him.
- F. 1687:22 - the text in question is a direct quote from Division Exhibit 122.
- G. 1735:19 - the present text appears appropriate in context.
- H. 1799:7 - the present text appears appropriate in context.