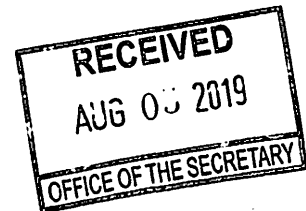


**UNITED STATES OF AMERICA**  
**Before the**  
**UNITED STATES SECURITIES AND EXCHANGE COMMISSION**

**ADMINISTRATIVE PROCEEDING**  
**File No. 3-18960**

**In the Matter of**  
  
**JOHN SHERMAN JUMPER**  
  
**Respondent.**



**DECLARATION OF PETER J. DISKIN IN SUPPORT OF MOTION BY**  
**DIVISION OF ENFORCEMENT FOR A FINDING THAT RESPONDENT IS**  
**IN DEFAULT AND FOR IMPOSITION OF REMEDIAL SANCTIONS**

I, Peter J. Diskin, pursuant to 28 U.S.C. § 1746, do hereby declare as follows:

1. I am over 21 years of age and am a citizen of the United States. I have resided in Georgia from 1992 through the present. I am a licensed attorney and have been a member of the State Bar of Georgia since 1995. I am also a certified public accountant (currently unregistered).

2. I am Assistant Regional Director in the Atlanta Regional Office of the United States Securities and Exchange Commission (“Commission”), where I have been employed since 2000.

3. I submit this declaration in support of the Division’s Motion for a Finding that Respondent John Sherman Jumper (“Jumper”) is in Default and for Imposition of Remedial Sanctions.

4. I have personal knowledge of the matters set forth in this declaration.

5. I oversaw the investigation that led to the filing of the district court action entitled Securities and Exchange Commission v. John Sherman Jumper, et al., Case No. 2:18-CV-02259 –TLP-tmp (W.D. Tenn.), and have knowledge of the evidence adduced by the staff. During the investigation, witness Brett C. Blair (“Blair”) gave sworn testimony on April 13, 2017. A true and correct copy of Blair’s testimony, and the relevant Exhibits thereto, are attached to this declaration as Exhibit A.<sup>1</sup>

6. In 2006, Jumper was hired to help sell Snow Shoe Refractories LLC (“Snow Shoe”), a privately-held business located in central Pennsylvania that

---

<sup>1</sup> Also in connection with the investigation, on February 21, 2017, Jumper appeared for sworn testimony pursuant to subpoena. During his testimony, Jumper asserted his right against self-incrimination under the Fifth Amendment in response to all substantive questions.

makes high heat-resistant products. Jumper marketed the business to Blair, an acquaintance residing in Sarasota, Florida. In February of 2007, Blair purchased Snow Shoe. Jumper was not given a job, any title, or any definite responsibilities with respect to Snow Shoe.

7. Snow Shoe had a pension plan for its employees called the Snow Shoe Refractories LLC Pension Plan for Hourly Employees (“Pension Plan”). At the time, the Pension Plan assets totaled approximately \$8,300,000.

8. On April 27, 2007, Jumper forged Blair’s signature on a document that caused the Pension Plan assets to be transferred from their custodial bank to broker-dealer Merrill Lynch.

9. On January 8, 2008, Jumper signed another forged form as the “V.P. of Finance” of Snow Shoe, and submitted it to Merrill Lynch. Jumper forged similar forms again on October 26, 2012, March 20, 2014 and August 27, 2014.

10. In early 2015, a group of business associates of Jumper were in discussions to acquire an entity called American Tubing Arkansas, LLC (“ATA”).

11. At a late stage of the negotiations, however, Jumper’s business associates realized that they did not have sufficient capital to acquire ATA. When

Jumper became aware of the shortfall, he offered to provide the funds to complete the acquisition.

12. In March 2015, Jumper forged documents causing \$3,000,000 of Pension Plan funds to be transferred to his business associates. A true and correct excerpt of the Pension Plan's March 2015 brokerage statement from Merrill Lynch showing the \$3,000,000 transfer is attached to this declaration as Exhibit B. Jumper himself received payments amounting to \$540,000 from those funds.

13. On November 20, 2015, Jumper misappropriated an additional \$2,000,000 from the Pension Plan.

14. On that day, Jumper submitted a letter on Snow Shoe letterhead, along with a phony board resolution containing the forged signature of Blair, to the Pension Plan custodian authorizing the transfer of \$2,000,000 in Pension Plan funds to a trust controlled by Jumper. A true and correct excerpt of the Pension Plan's November 2015 brokerage statement from Merrill Lynch showing the \$2,000,000 transfer is attached to this declaration as Exhibit C.

15. Jumper then transferred some of the \$2,000,000 to his other businesses or personal bank accounts, where he used it for personal expenses.

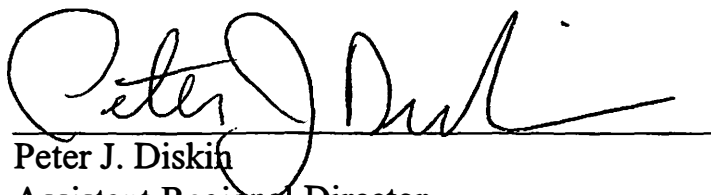


16. On February 16, 2016, Blair was informed by an actuary to the Pension Plan that \$5,000,000 had been transferred out of the Plan by Jumper between March and November 2015. Blair contacted Jumper to inquire about the missing funds. Jumper responded that the funds were invested with a wealth management firm called American Holdings.

17. Two days later, Jumper again used forged documents to transfer an additional \$700,000 from the Pension Plan. A true and correct excerpt of the Pension Plan's February 2016 brokerage statement from Merrill Lynch showing the \$700,000 transfer is attached to this declaration as Exhibit D.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on August 2, 2019

A handwritten signature in black ink, appearing to read "Peter J. Diskin", written over a horizontal line.

Peter J. Diskin  
Assistant Regional Director  
United States Securities and Exchange Commission

**DISKIN DECLARATION**  
**EXHIBIT A**

UNITED STATES SECURITIES AND EXCHANGE COMMISSION

In the Matter of: )  
AMERICAN INVESTMENTS FUND I, LLC ) FILE NO. A-03754-A

WITNESS: BRETT CAMERON BLAIR

PAGES: 1 through 93

PLACE: U.S. Securities and Exchange Commission  
950 E. Paces Ferry Road, Suite 900  
Atlanta, Georgia 30326

DATE: Thursday, April 13, 2017

The above-entitled matter came on for  
investigative interview pursuant to subpoena at 10:45 a.m.

DIVERSIFIED REPORTING SERVICES, INC.

(202) 467-9200

Page 2

1 APPEARANCES

2 On behalf of the Securities and Exchange Commission:

3 GRANT MOGAN, Attorney

4 PETER DISKIN, Attorney

5 U.S. Securities and Exchange Commission

6 950 E. Paces Ferry Road, Suite 900

7 Atlanta, Georgia 30326

8 (404)842-7693

9 For the witness:

10 W. ANDREW CLAYTON, JR., Attomeye

11 Icard Merrill

12 2033 Main Street, Suite 600

13 Sarasota, Florida 34237

14 (941)366-6384

15

Page 3

1 CONTENTS e

2 WITNESS	EXAMINATION
3 Brett C. Blair	4
4	
5	
6	
7 EXHIBITS: DESCRIPTION	IDENTIFIED
8 14 Subpoena	6
9 15 Letter Jumper to Williams	75
10 16 11/2015 Letter Jumper to Williams	79
11 17 11/20/2015 Letter re Pension Plan	80
12 18 11/20/2015 Unanimous Written Consent	81
13 19 2/2016 Letter re Pension Plan	82
14 20 Unanimous Written Consent	83
15	
16 EXHIBITS PREVIOUSLY IDENTIFIED	
17 1 Form 1662	5
18 3 Board of Directors Resolution	57
19 4 Snow Shoe Defined Benefits Plan	60
20 5 2008 Named Fiduciaries & Auth. Signatures	63
21 6 2012 Named Fiduciaries & Auth. Signatures	64
22 7 2014 Named Fiduciaries & Auth. Signatures	70
23 8 9/12/2014 document w/fax cover	73

Page 4

1 PROCEEDINGS

2 MR. MOGAN: We are on the record at 10:45 a.m. on

3 April 13th, 2017.

4 Mr. Blair, can you raise your right hand, please?

5 Do you swear to tell the truth, the whole truth,

6 and nothing but the truth?

7 MR. BLAIR: I do.

8 MR. MOGAN: Thank you, sir.

9 Whereupon,

10 BRETT CAMERON BLAIR

11 appeared as a witness herein and, having been first duly

12 sworn, was examined and testified as follows:

13 EXAMINATION

14 BY MR. MOGAN:

15 Q Mr. Blair, please state your full name and spell

16 your name for the record.

17 A Brett Cameron Blair, that's B-r-e-t-t C-a-m-e-r-o-

18 n B-l-a-i-r.

19 Q Thank you, sir.

20 Mr. Blair, my name is Grant Mogan and to my left

21 is Peter Diskin. We are both officers of the Commission for

22 the purposes of this proceeding.

23 This is an investigation by the United States

24 Securities and Exchange Commission in the matter of American

25 Investments Fund I, LLC, to determine whether there have been

Page 5

1 violations of certain provisions of the federal securities

2 laws. However, the facts developed in this investigation

3 might constitute violations of other federal or state civil

4 or criminal laws.

5 Prior to the opening of the record, you were

6 provided with a copy of the Formal Order of Investigation in

7 this matter. It will be available for your examination

8 during the course of this proceeding.

9 Mr. Blair, have you had an opportunity to review

10 the Formal Order?

11 A I have.

12 MR. MOGAN: Thank you.

13 I'm going to show you what has been previously

14 marked as Exhibit 1 in this matter. If you'll take a look at

15 that, sir.

16 (Exhibit Number 1 was

17 previously marked.)

18 BY MR. MOGAN:

19 Q This is a copy of the Commission's Form 1662, our

20 Supplemental Information Form. If you could take a look at

21 that and please let me know if you have any questions.

22 (The witness reviews a document.)

23 Q Do you have any questions, sir?

24 A No.

25 Q Okay, thank you.

Page 6

1 Mr. Blair, are you represented by counsel today?  
 2 A Yes.  
 3 MR. MOGAN: Okay, would counsel please identify  
 4 himself?  
 5 MR. CLAYTON: Yes, Drew Clayton.  
 6 MR. MOGAN: And your firm's name, sir?  
 7 MR. CLAYTON: It's Icard Merrill and that's in  
 8 Sarasota, Florida.  
 9 MR. MOGAN: Great. Thank you.  
 10 I'm going to mark Exhibit 14.  
 11 (Exhibit Number 14 was  
 12 marked for identification.)  
 13 MR. MOGAN: Thank you.  
 14 BY MR. MOGAN:  
 15 Q This is a copy of the subpoena we issued to you,  
 16 Mr. Blair. Could you just take a look at that and let me  
 17 know if you've got any questions.  
 18 (The witness reviews a document.)  
 19 Q Do you have any questions on the subpoena, sir?  
 20 A No, sir.  
 21 Q Is that the subpoena pursuant to which you're  
 22 testifying today?  
 23 A Yes.  
 24 MR. MOGAN: Thank you.  
 25 As the exhibits go today, I'm going to be handing

Page 7

1 you certain exhibits. If I could just ask that when we're  
 2 done with the document, that you just turn it over.  
 3 THE WITNESS: Okay.  
 4 MR. MOGAN: To keep a running pile. There's not  
 5 that many document, as you can see, but I want to keep some  
 6 semblance of order.  
 7 BY MR. MOGAN:  
 8 Q Is that okay with you?  
 9 A Yes.  
 10 Q Great.  
 11 Mr. Blair, is there any reason why you can't  
 12 testify truthfully today?  
 13 A No.  
 14 Q Have you ever testified before in any proceeding?  
 15 A I have not.  
 16 Q Okay, so let me go through some basic ground  
 17 rules. And so far, you're doing an excellent job.  
 18 You want to make sure all of your answers are  
 19 audible, so no nodding of the head or rolling of the eyes,  
 20 just speak whatever is on your mind, so the reporter can get  
 21 an accurate transcript of what we discuss today.  
 22 We will take breaks every once in awhile just to  
 23 stretch our legs. If you need a break, just let me know and  
 24 I will accommodate you. I would just ask that if there's a  
 25 pending question, you would answer it before we go on a

Page 8

1 break, so there's no question hanging in the air while we're  
 2 on a break.  
 3 Is that okay with you as well?  
 4 A Yes.  
 5 Q Great.  
 6 Mr. Blair, just for the record, we did speak on  
 7 the phone and Mr. Clayton was present as well for that call.  
 8 And a lot of what we're going to discuss today is what we  
 9 discussed then. But I'd like to sort of go back to when you  
 10 acquired Snow Shoe Refractories. If you could just explain  
 11 how that transaction came about.  
 12 A Snow Shoe Refractories was acquired in 2007-2008.  
 13 We acquired that shop because we had previously acquired  
 14 Mount Savage Refractories in 2005 and we deemed it to be a  
 15 good fit. The first purchase, of Mount Savage, was a  
 16 domestic firebrick shop and the Snow Shoe Refractories was an  
 17 industrial firebrick shop. So we thought that was a good  
 18 coverage of the market.  
 19 Both of those purchases were conducted by Alluvion  
 20 Securities and John Jumper and David Lensing were the  
 21 principal officers of the company that accomplished the  
 22 acquisition of those two shops for me.  
 23 Q And how were those transactions presented to you,  
 24 Mr. Blair?  
 25 A John Jumper had come across those businesses and

Page 9

1 we were friends at the time and he suggested that they might  
 2 be a good business to get into because it was a relatively  
 3 simple shop and was doing really well, at least we thought so  
 4 on the books.  
 5 Q And how do you know Mr. Jumper?  
 6 A We've known each other since we were about 20  
 7 years old, from a church in Memphis.  
 8 Q Are you originally from Memphis?  
 9 A Yes.  
 10 Q Okay. And you met – was it in a divinity program  
 11 there or how specifically did you meet?  
 12 A No, no. Just in a church youth group.  
 13 Q Youth group, okay.  
 14 And did you go to college with Mr. Jumper?  
 15 A No, I did not.  
 16 Q Okay. And when you met Mr. Jumper, what did you  
 17 think of him?  
 18 A Back then?  
 19 Q Yes.  
 20 A I thought he was a reasonably upstanding guy and  
 21 we were casual friends in the youth group, we didn't know  
 22 each other that well, but later when I came back to Memphis  
 23 from college, we ended up being roommates, had an apartment  
 24 together.  
 25 Q Okay.

Page 10

1 A So we got to know each other a little better then.  
2 That was in 1990, '91.  
3 Q Okay. And did you have any business dealings with  
4 Mr. Jumper in those years?  
5 A No.  
6 Q And what was your principal occupation in those  
7 years?  
8 A I was going through the process of ordination in  
9 the United Methodist Church.  
10 Q And was Mr. Jumper also involved in the United  
11 Methodist Church?  
12 A No, he was not.  
13 Q What was he doing?  
14 A I think he was working for Duncan Williams, an  
15 investment firm in Memphis. Maybe that came a little later.  
16 At that time, I'm not sure exactly what he was doing in 1990.  
17 Q Okay.  
18 A A little later, he was working for Duncan  
19 Williams.  
20 Q Okay. And you both lived in Memphis at the time;  
21 is that right?  
22 A Yes.  
23 Q And when did you leave Memphis?  
24 A The United Methodist Church that I was finally  
25 given an appointment was in '92 and I went to Edith,

Page 11

1 Tennessee, but I stayed mostly in the west Tennessee area  
2 with the church.  
3 Q And you currently live in Sarasota; right?  
4 A Correct.  
5 Q So when did you move to Sarasota?  
6 A Seven years ago.  
7 Q And what prompted that move?  
8 A My son's allergies and migraine headaches.  
9 Q Okay. So a more agreeable climate?  
10 A Yes.  
11 Q Okay. And what business are you involved in now?  
12 A The firebrick business, refractories industry and  
13 also in the publishing industry.  
14 Q And what do you publish, sir?  
15 A I own sermons.com which provides sermon and  
16 worship prep resources for clergy all around the world.  
17 Q And how much of your time do you spend on the  
18 firebrick business versus the publishing business you  
19 described?  
20 A Probably about 15 hours a week to both.  
21 Q Fifteen hours a week to both?  
22 A Each, 15 hours each.  
23 Q So, at the time that Mr. Jumper presented these  
24 businesses to you, did you have any financial dealings with  
25 Mr. Jumper?

Page 12

1 A I had not.  
2 Q Okay. So this was your first financial dealing  
3 with him?  
4 A Yes.  
5 Q Okay. Did you trust him at the time?  
6 A I did.  
7 Q And why is that?  
8 A He seemed to know what he was doing and we had  
9 been friends for a long time and roommates and I didn't have  
10 any reason not to trust him.  
11 Q How much money approximately did you invest in I  
12 guess the first one, the Mount Savage Refractory; do you  
13 recall?  
14 A About \$600,000.  
15 Q Okay. And that was your equity investment?  
16 A Yes, sir.  
17 Q Did you take on any debt?  
18 A Yes.  
19 Q How much debt did you take on?  
20 A About 10 million.  
21 Q Ten million, okay.  
22 And was that from a bank?  
23 A Yes.  
24 Q Which bank was that from, if you recall?  
25 A I believe that was a bond issuance, a Maryland

Page 13

1 State Bond.  
2 Q Okay. So from the state?  
3 A Yes.  
4 Q Okay. And was that sort of a state inducement to  
5 the purchase?  
6 A Uh-huh.  
7 Q As far as the Snow Shoe Refractories, which you  
8 said happened in '07-'08, came after Mount Savage; is that  
9 right?  
10 A Yes.  
11 Q Do you recall what your investment in the Snow  
12 Shoe Refractory was?  
13 A Couple hundred thousand.  
14 Q So less than Mount Savage?  
15 A Yes.  
16 Q And do you recall if there was debt on that  
17 acquisition?  
18 A Yes.  
19 Q How much debt was on that acquisition?  
20 A Eight million.  
21 Q And was this again a state bond?  
22 A No, it was – the bank was First Capital.  
23 Q And that was a loan to who?  
24 A To me.  
25 Q To you, okay. Is that loan – how is that loan

Page 14

1 performing?  
2 A Both the loans have been restructured.  
3 Q Uh-huh.  
4 A And they were restructured in 2012 by the Bank of  
5 Montgomery.  
6 Q Montgomery, Alabama?  
7 A Yes.  
8 Q Okay. And how was it restructured? What are the  
9 terms of the loan, if you know?  
10 A I believe they are 20-year loans.  
11 Q On both refractories?  
12 A Yes.  
13 Q And what is the interest rate; do you know that?  
14 A It's an adjustable.  
15 Q Adjustable. Based on LIBOR or --  
16 A I think so, yes.  
17 Q Are those loans currently performing?  
18 A Yes.  
19 Q So you're making payments on those loans?  
20 A Yes, never been late.  
21 Q Never been late, there's never been a default?  
22 A No.  
23 Q How has the Mount Savage Refractory performed as  
24 an investment for you?  
25 A The Mount Savage had done really well up to 2012.

Page 15

1 Q Okay.  
2 A And we had strong net profits at the end of the  
3 year, 2011, 2012. And then the market finally caught up with  
4 us. The industry took a downturn, China supplies were kind  
5 of gutting the industry and we suffered as a result. And  
6 that -- more specifically, the steel industry was suffering  
7 because of China and we supply resources to the steel  
8 industry. The housing market took a dive, that caused Mount  
9 Savage to under-perform since 2013.  
10 Q And has it recovered at all in let's say the last  
11 year or two?  
12 A The last six months have been a little better, we  
13 were barely keeping our head above water, but the last six  
14 months have been a bit better.  
15 Q And I'll ask the same question about the Snow  
16 Shoe, is it the same type of trajectory?  
17 A Same, yes.  
18 Q Okay. Because they're in the same business;  
19 right? They're literally two different brickyards doing the  
20 same thing; right?  
21 A Well, they're both firebricks, but one is to the  
22 domestic market for residential fireplaces, and the other one  
23 is to the industrial sector for kilns and furnaces and  
24 medical incinerators, et cetera.  
25 Q And which is which, I'm sorry.

Page 16

1 A Mount Savage is domestic and Snow Shoe is the  
2 industrial.  
3 Q Got it.  
4 Okay, so going back to Mr. Jumper's involvement in  
5 the transactions, what was his compensation on the Mount  
6 Savage transaction?  
7 A I believe we paid him \$250,000.  
8 Q That was in cash?  
9 A Yes.  
10 Q Did he have any equity in the Mount Savage  
11 brickyard?  
12 A No.  
13 Q Okay.  
14 A He did not.  
15 Q What about the Snow Shoe transaction?  
16 A I believe his pay was about the same.  
17 Q Two fiftyish?  
18 A Right. And he did not have any equity in it as  
19 well.  
20 Q Okay. Did he ever ask for equity in either  
21 company?  
22 A Yes, we had talked about potentially him coming in  
23 later and having some equity in the Mount Savage company but  
24 we never discussed that with the Snow Shoe. I didn't want to  
25 get involved again.

Page 17

1 Q And why is that?  
2 A I wanted to keep the entitles clean and not be  
3 entangled down the road with him.  
4 Q Just to be clear, you're the sole owner of both of  
5 those; right? Snow Shoe and Mount Savage.  
6 A I'm the managing member and I own about 82  
7 percent. My brother owns a small percentage also.  
8 Q Okay. And was he an equity investor or did you  
9 give him a small --  
10 A Sweat equity. He went up there to actually run  
11 the places and he's still there today.  
12 Q Okay.  
13 MR. DISKIN: Can I ask a question, Mr. Blair?  
14 How -- and I don't think you talked about this --  
15 how did it come about that Mr. Jumper was -- I assume he  
16 proposed to you to take on Mount Savage. Can you just give  
17 us a little bit of overview? You had a relationship with Mr.  
18 Jumper, had you talked about investments prior to that or was  
19 it something he just called you out of the blue? Can you  
20 give us a little color on that kind of background?  
21 THE WITNESS: It's a good question and it's hard  
22 for me to remember exactly how those conversations got  
23 started, but John and I were starting to talk to one another  
24 because I had come back to Memphis and I had gone up and gone  
25 to his brokerage firm and saw what he did. And so we started

Page 18

1 talking a bit. We went to lunch and he started talking about  
2 businesses that occasionally come across his desk that are up  
3 for sale. Because I think he was, in addition to the bond  
4 business, he was also doing these kind of acquisitions,  
5 having I think two entities that he was involved with, his  
6 Alluvion Securities and then Alluvion Investments.  
7 And so maybe that enticed me a little bit and we  
8 started talking, because I – you know, I was doing pretty  
9 well with my publishing entity and I thought it'd be good to  
10 have another investment. So then eventually he brought up the  
11 brickyard. And I don't know exactly how that was brought up.  
12 But that's the best that I can recall.  
13 BY MR. MOGAN:  
14 Q Who were the existing owners of the brickyards at  
15 the time you acquired them; do you remember that?  
16 A The Rost, R-o-s-t, family owned Mount Savage and  
17 they had sole ownership with no debt.  
18 Q Uh-huh.  
19 A So they're the ones that sold it to us. And then  
20 Snow Shoe was owned by Premier Industries, a subsidiary of  
21 France Company – Vesuvius, Vesuvius France owned Premier  
22 Industries, which was the name of the Snow Shoe then. Before  
23 that, it was J.H. France. And the guy, J.H. France, was  
24 still around when I purchased it and lived in the area, but  
25 he had sold it to Premier.

Page 19

1 Q Okay. So you mentioned Mr. Jumper got payments of  
2 both of those – at the closings of both of those deals.  
3 That's right?  
4 A Uh-huh.  
5 Q Did he propose the amount to you or did you  
6 propose the amount to him?  
7 A I don't recall.  
8 Q Do you think he was satisfied with the amount he  
9 got?  
10 A No.  
11 Q Why is that?  
12 A He arranged with the Rosts -- and I learned this  
13 after the transaction – for the loan, which I think was \$9  
14 million. I can't recall what the loan was.  
15 Q This was for Mount Savage; right?  
16 A Yes, sorry, for Mount Savage.  
17 So, he arranged for the loan to be \$9,250,000 and  
18 so I was saddled with that loan, and I didn't know until  
19 after the transaction that the \$250,000 was being given to  
20 the Rosts to pay John.  
21 Q So he got his 250 from the Rost family.  
22 A Yes. Which really was the loan debt.  
23 Q So it was unbeknownst to you.  
24 A Yes.  
25 Q So you -- were you planning on giving him any

Page 20

1 compensation for the Mount Savage deal?  
2 A Yes, he got the 250 from me, but then he created  
3 this loan situation without my knowing it, for a little extra  
4 to be left on top that the Rosts would pay to him.  
5 Q Oh, so he got 250 from you and also about 250 from  
6 the Rosts.  
7 A Yes.  
8 Q Okay, understood.  
9 MR. DISKIN: And how did you find that out?  
10 THE WITNESS: I think my brother Randy found that  
11 out and he called me. We were up at Mount Savage at the time,  
12 I called John and was pretty upset, because it was never  
13 revealed to me that that was being done.  
14 MR. DISKIN: And when was that, what point in  
15 time, if you recall?  
16 THE WITNESS: 2005, yeah. It was immediately  
17 after the purchase that I learned that that had happened.  
18 BY MR. MOGAN:  
19 Q And then given that, you still went ahead on the  
20 second deal with him?  
21 A Yes, but I watched what happened to the loan.  
22 Q Okay. And did he get more money from Snow Shoe?  
23 A No.  
24 Q Okay.  
25 A Just the money that I paid him.

Page 21

1 Q Just the 250 on Snow Shoe.  
2 A Yes.  
3 Q Did you reprimand Mr. Jumper for his behavior in  
4 the Mount Savage deal?  
5 A Yes, I had a phone call and I was pretty angry and  
6 we talked about it and he said he would make up for it. I  
7 didn't know what that meant then and I still don't know what  
8 it means today, but --  
9 Q Okay. Did Mr. Jumper ever ask for any employment  
10 position with either Mount Savage or Snow Shoe?  
11 A No.  
12 Q Do you know what Mr. Jumper's financial situation  
13 was back during the time of those acquisitions?  
14 A I don't and I never have known his financial  
15 position.  
16 Q Does he live a lavish lifestyle?  
17 A I don't think so.  
18 Q Does he have a family inheritance that he  
19 inherited or anything like that?  
20 A No, his mother is still alive.  
21 Q Do you know how much money he made from his  
22 Alluvion businesses?  
23 A I have no clue.  
24 Q So there's no sign of any conspicuous consumption  
25 as far as you're concerned.



Page 22

1 A No.

2 Q Okay. Why do you think Mr. Jumper proposed these

3 acquisitions to you, Mr. Blair? I know it's hard to get

4 inside someone's head, but tell me what you think.

5 A I don't know.

6 Q Is it because you were –

7 A Maybe I showed an interest and so it just

8 snowballed from there.

9 Q Showed an interest in just acquiring businesses or

10 brickyards specifically?

11 A Acquiring businesses and acquiring one that would

12 be lucrative.

13 Q Okay. Did he ever ask to manage any of your money?

14 A No.

15 Q Did he ever manage any of your money?

16 A No.

17 Q Did he ever give you advice on how to invest your

18 money, besides these two acquisitions obviously?

19 A No, not really.

20 Q Do you know any of Mr. Jumper's clients at

21 Alluvion?

22 A I do not.

23 Q Do you know if he has any clients?

24 A I do not.

25 Q When is the last time you spoke to him?

Page 23

1 A Probably February 2016.

2 Q February 2016. And what was the substance of that

3 conversation?

4 A Where the monies were that were taken from the

5 pension plan.

6 Q The Snow Shoe pension plan.

7 A Yes.

8 Q And how did you discover that monies were missing

9 from the Snow Shoe pension plan?

10 A The actuarial firm that has duty to oversee those

11 monies, Conrad Siegel.

12 Q Uh-huh.

13 A The lady there, Abigail, emailed Randy just

14 letting him know that she had not yet found out from John

15 Jumper the details of where the \$5 million had been sent and

16 that she was still, you know, seeking to find out. And that

17 was the first we had heard and she was not aware that we were

18 unaware of the transactions.

19 Q Okay. So she thought you had known about it.

20 A Yeah.

21 Q And why did she think that?

22 A I think it was just an assumption on her part that

23 we would know whether \$5 million was taken from the pension

24 plan or not. I don't think she had any like active

25 information that we knew.

Page 24

1 Q Right, just an assumption based on the amount of

2 money.

3 A Right.

4 Q Did your brother know before February 2016 about

5 the missing money?

6 A No.

7 Q You said your brother – so your brother lives in

8 Pennsylvania?

9 A In Frostburg, Maryland.

10 Q Okay. But he manages both of the brickyards.

11 A Uh-huh.

12 Q Do you compensate him for that?

13 A Yes.

14 Q Okay. Is he sort of your eyes on the ground?

15 A Yes.

16 Q Okay. I take it you have a good relationship with

17 your brother?

18 A Absolutely.

19 Q Okay. Did you brother ever encounter Mr. Jumper

20 at either brickyard, physically?

21 A Yes.

22 Q When were those encounters?

23 A 2005 and in 2008, both times we acquired the

24 businesses.

25 Q That was when Mr. Jumper visited the brickyards?

Page 25

1 A Hold on. I'm remembering when John visited.

2 Randy was not there in 2005 because we were just purchasing.

3 But Randy has encountered John there on a couple of

4 occasions, I think – at the Snow Shoe plant in 2007 and

5 2008.

6 Q Anything since then?

7 A We had a meeting in October of 2014 – no, no,

8 2015. We had a meeting with John Jumper at the Snow Shoe

9 plant with the bank to go over the loans and the state of the

10 businesses because we were just keeping our head above water

11 financially there. And so we met in 2015, October 2015 –

12 Randy and me and John and the bank president met at Snow Shoe

13 Refractories to talk about the state of the businesses.

14 And John was, at that time, trying to restructure

15 the loans – no, no, that's 2012. At that time, October

16 2015, John Jumper came up there because the bank wanted to

17 talk to us and I was asking John to sell the businesses for

18 me. And so he came to be present to speak to that matter with

19 the bank.

20 Q And why was he included in that discussion, Mr.

21 Blair – Mr. Jumper?

22 A Because I had tasked him with trying to sell the

23 businesses.

24 Q And why did you task him with that as opposed to

25 someone else?

Page 26

1 A It's a case of the devil you do know. He was  
 2 intimately familiar with the businesses, he got me in it, and  
 3 I asked him to get me out.  
 4 Q And did he undertake that willingly?  
 5 A Yes.  
 6 Q You mentioned an instance of dishonesty with  
 7 respect to the loan on the Mount Savage transaction. Do you  
 8 recall that testimony?  
 9 A Yes.  
 10 Q In between that instance of dishonesty and the  
 11 October 2015 meeting, were there other instances of  
 12 dishonesty with respect to Mr. Jumper?  
 13 A In -- yes, in 2012 -- this is what I was  
 14 conflating earlier.  
 15 Q Yeah, yeah.  
 16 A In 2012, John restructured the loans for me.  
 17 Q The loans on Mount Savage and Snow Shoe?  
 18 A On both refractories. And when he did, he  
 19 developed a relationship working pretty closely with my CEO,  
 20 who was Jeff Pougé. I believe Pougé's name is spelled P-o-u-  
 21 g-e. And --  
 22 Q I'm sorry, Pougé was CEO of which brickyard?  
 23 A Of both.  
 24 Q Both, okay.  
 25 A But he worked at Snow Shoe.

Page 27

1 Q Understood.  
 2 A And it's difficult for me to get behind the  
 3 curtain on this and understand the relationship that he  
 4 developed with Jeff Pougé, but I think he gained Jeff Pougé's  
 5 confidence and Jeff Pougé was kind of an odd fellow and he  
 6 never really communicated with Randy and me very effectively  
 7 and that relationship deteriorated from that point on until I  
 8 fired him, as a result of there being checks written that I  
 9 think were for things that were false, expenses that were  
 10 false. Maybe half of it was legitimate but the other half I  
 11 think was false and it amounted to about \$200,000 that I  
 12 think was falsely acquired by John Jumper through Jeff Pougé.  
 13 Q Okay, so \$200,000 in you're saying sort of phony  
 14 expenses from the brickyards paid to Mr. Jumper, is that  
 15 right?  
 16 A Right.  
 17 Q And you believe that Mr. Pougé collaborated with  
 18 Mr. Jumper on those --  
 19 A Yes.  
 20 Q Okay.  
 21 A But by the time those were being discovered, we  
 22 were closing on the loan and so there was no way to get off  
 23 that horse.  
 24 Q This is back in 2012.  
 25 A Yes.

Page 28

1 Q Because I asked about other instances of  
 2 dishonesty. It sounds like you were looking back from the  
 3 beginning of the acquisition of Mount Savage, there was that  
 4 original sin of the 250 that he saddled you with on the loan  
 5 with the Rost family that ended up being paid to him.  
 6 A Uh-huh.  
 7 Q In addition to you paying 250 out of your own  
 8 pocket, so it amounted to 500, just for summarizing.  
 9 And then in 2012, in connection with the  
 10 restructuring of the debt, you discovered there were some  
 11 false expenses; is that right?  
 12 A Right.  
 13 Q Did you have a discussion with Mr. Jumper about  
 14 those false expenses?  
 15 A I did.  
 16 Q What was that conversation?  
 17 A He argued that they were legitimate and that they  
 18 were necessary expenses.  
 19 Q Expenses for what? Do you have any idea what they  
 20 were for, purportedly?  
 21 A There was one situation where he asked, I think it  
 22 was an \$8500 check and it was for some expenses, I don't  
 23 remember what it was. But then he called Jeff and said he  
 24 lost the check and could he write him another check. He  
 25 wrote him another check and Jeff of course told him to tear

Page 29

1 up the other one if you find it. He ended up cashing both  
 2 checks.  
 3 Q Okay.  
 4 MR. DISKIN: He being Mr. Jumper.  
 5 THE WITNESS: Mr. Jumper. Sorry.  
 6 MR. DISKIN: And what was originally the 8500 for;  
 7 do you recall?  
 8 THE WITNESS: I believe it was for the appraisal  
 9 of the businesses, or expenses in getting that appraisal  
 10 accomplished. That's a guess, it's been a long time since  
 11 I've looked at those documents.  
 12 And then there was this dubious hedge fund that  
 13 John created that I think had \$45,000 routed into it and I  
 14 confronted him about the hedge fund and what it was for and  
 15 he never would tell me. I would keep asking and he just  
 16 never told me. And he put it off and put it off and finally,  
 17 I walked away. The brickyards were doing very well at the  
 18 time. The restructuring was going to end up bringing us  
 19 about six or seven hundred thousand dollars a year in  
 20 savings, which was pretty important then. And so I walked  
 21 away, wrote it off and just decided to break my relationship  
 22 with him.  
 23 And I think for the next several years, until  
 24 2015, I didn't have one conversation with him.  
 25 MR. DISKIN: I'm sorry, I don't mean to jump in.

Page 30

1 What was the nature of the 45,000 that went into the hedge  
 2 fund? Was there a purported business purpose because it was  
 3 coming from one of the refractories; right?  
 4 THE WITNESS: Right, and that's what I was trying  
 5 to discover, you know, you're using this hedge fund to invest  
 6 in what, and he never would tell me what he was in the hedge  
 7 fund for.  
 8 MR. DISKIN: Why was the money coming from a  
 9 refractory to Mr. Jumper's hedge fund? What was the purpose,  
 10 was it an investment purportedly, or was it -- you know, what  
 11 was the purported purpose of why the money was there?  
 12 THE WITNESS: What was he saying it was for?  
 13 MR. DISKIN: Right. How did he get money -- how  
 14 did he get the 45,000? Did he say --  
 15 THE WITNESS: Speaking to Jeff Pogue. How did he  
 16 get it from Jeff Pogue.  
 17 MR. DISKIN: Correct.  
 18 THE WITNESS: Okay. The accountant, the CFO or  
 19 the accountant -- we didn't really use titles there -- I  
 20 don't know what he told Jeff Pogue but -- and I suspected  
 21 that Jeff Pogue was playing kind of loose with this check  
 22 writing as well, because we were kind of falling out of  
 23 sorts, Jeff and I and my accountant. And I think that  
 24 because Jeff and John Jumper spoke kind of the same language  
 25 and they developed a relationship, there was -- I did find

Page 31

1 one email way down the road where I saw a conversation  
 2 between John and Jeff where John was undermining my authority  
 3 at the brickyards, and putting me down to Jeff.  
 4 So there was a little bit of grooming going on  
 5 that John was doing in order to gain the confidence of Jeff.  
 6 Again, it's hard to get behind the curtain and know exactly  
 7 what they were doing and how all that happened.  
 8 I eventually just had to fire Jeff because he  
 9 essentially quit talking to Randy and me and wouldn't tell us  
 10 what was going on at the business.  
 11 BY MR. MOGAN:  
 12 Q So Mr. Jumper, in 2012 in connection with the  
 13 restructuring, it sounds like you saw some malfeasance there  
 14 or it sounds like you were doing the restructuring and you  
 15 let it go forward. Then you said you fell out with him and  
 16 didn't speak to him. But then things come back again in '15  
 17 in connection with the sale. I don't want to restate your  
 18 testimony, but you said something to the effect of "I needed  
 19 him to get me out." You wanted to get out in 2015; right?  
 20 A Yes, that's correct. And he accidentally called  
 21 me in the fall of 2015 and I saw the call on my phone, I  
 22 didn't get it. And so I called him back and I think we just  
 23 struck up a conversation then and I had no one else to turn  
 24 to. I wanted to get out of the business, I no longer wanted  
 25 to be in them and I felt that he had clients that might be

Page 32

1 interested and he said he might. And I said well, see what  
 2 you can do.  
 3 Q So how did those discussions end up going in 2015?  
 4 A There weren't too many. I think the conversation  
 5 about that occurred for about a month, about four or five  
 6 weeks. And he came up -- the bank at the same time just  
 7 happened to be coming down to kind of do a review after so  
 8 many years of the businesses. And we knew that we were kind  
 9 of fighting to keep ourselves afloat because of the steel  
 10 industry crashing, the bank president did. So he was coming  
 11 up, I wanted to assure the bank that things were under  
 12 control, and I thought the way to do that was to of course  
 13 present our books to them and show them, hey, you know, we've  
 14 not missed a single note, we've paid on time every time, and  
 15 I'm -- put a comma splice here -- John had a good  
 16 relationship also with Steven, the bank president, and I felt  
 17 that if -- because he had done other deals with that bank.  
 18 And I felt if John was present there and could kind of speak  
 19 about the selling of the businesses and that we're going to  
 20 try and get out from under this and move on, I felt like that  
 21 would also give the bank some assurance, because he and John  
 22 had a good relationship.  
 23 Q So did you have any offers put in on the  
 24 brickyards?  
 25 A No.

Page 33

1 Q When that sale process ended, did you and Mr.  
 2 Jumper stay in touch?  
 3 A We did, but there wasn't much talk because he was  
 4 putting off the possibility of selling the companies. About  
 5 five weeks into my first conversation with John, he mentioned  
 6 that he might have a suitor in Arkansas. And I don't know if  
 7 it was in that conversation or a subsequent conversation that  
 8 he finally told us that it was a company called American  
 9 Tubing and that they had an interest. They were an air  
 10 conditioning fitting company and I wondered why they would  
 11 have an interest. And he made something up about expanding  
 12 into other industries.  
 13 But at that time, the purchase of American Tubing  
 14 had already occurred and had occurred back in March of 2015,  
 15 and so here we were about nine months later -- seven or eight  
 16 months later -- and he's presenting it to me as this company  
 17 that he knows about in Arkansas, that they might be  
 18 interested in acquiring the brickyards.  
 19 Q And what did you think of that?  
 20 A I thought great. We looked them up, saw that they  
 21 were -- you know, looked like they were a big business and I  
 22 thought great, let's go with it.  
 23 And that conversation went on, I think, once every  
 24 two weeks we might have talked, once every three weeks,  
 25 because there didn't seem to be much steam building for this.

Page 34

1 And he said something about the company and its liquidity and  
 2 they had some kind of issue and they weren't going to be able  
 3 to get the liquidity that they thought -- do you recall this  
 4 at all, Drew?  
 5 I'd have to look at my notes there, but that went  
 6 on for a few weeks and then finally in February, we found out  
 7 about the withdrawals from the pension plan.  
 8 Q Uh-huh.  
 9 A And it took us I don't know how long, months to  
 10 finally figure out that American Tubing had been bought back  
 11 in March of 2015 with the pension funds.  
 12 Q So do you think that the proposed acquisition of  
 13 Snow Shoe by American Tubing was a real --  
 14 A It was a ruse.  
 15 Q You think it was a ruse, okay.  
 16 A It was a ruse.  
 17 Q To keep you interested in selling or to distract  
 18 you? What do you think?  
 19 A To distract me.  
 20 Q Okay.  
 21 MR. CLAYTON: Could we go off the record just a  
 22 second?  
 23 MR. MOGAN: Sure. Off the record?  
 24 MR. CLAYTON: Yeah.  
 25 MR. MOGAN: Okay, we're off the record at 11:28

Page 35

1 a.m. on April 13th.  
 2 (A short recess was taken.)  
 3 MR. MOGAN: We are back on the record at 11:29  
 4 a.m. on April 13th.  
 5 BY MR. MOGAN:  
 6 Q So we were discussing the potential sale of the  
 7 brickyard and it sounds like you ended up not selling them.  
 8 And you had testified earlier you currently own them;  
 9 correct?  
 10 A Correct.  
 11 Q To your knowledge, -- strike that. Tell me who  
 12 Brent Porterfield is.  
 13 A I met Brent Porterfield in Murray, Kentucky  
 14 because we were both serving as United Methodist clergy in  
 15 the Memphis Conference of the United Methodist Church.  
 16 Q What year was this?  
 17 A I want to say 1999.  
 18 Q Okay. And what was Mr. Porterfield, he was  
 19 serving in the clergy there as well?  
 20 A Yes.  
 21 Q And did you stay in touch with Mr. Porterfield?  
 22 A Afterwards?  
 23 Q Yes.  
 24 A Yes.  
 25 Q And what was your -- go ahead.

Page 36

1 A The main reason that we stayed close is that his  
 2 daughter ended up working for me and did work for me up until  
 3 a year ago, from then until a year ago. And so, we've always  
 4 kind of been in touch with one another.  
 5 Q And why did she stop working for you?  
 6 A She had a teaching degree and her daughters were  
 7 finally going to a local school, and she was going to take on  
 8 an assistant teacher's position so that she could be with her  
 9 daughters, and be with them before, during and after school.  
 10 And she'd done 15 years with me, she'd kind of run her  
 11 course.  
 12 Q Did Mr. Porterfield have any involvement with the  
 13 brickyards you've discussed today?  
 14 A He's a 12 percent owner of both Mount Savage and  
 15 Snow Shoe and he put some money, initial monies, into their  
 16 acquisition and has since been paid back his initial  
 17 investment and earned some profits.  
 18 Q Who paid him back?  
 19 A The companies did.  
 20 Q So he's no longer an owner?  
 21 A He's.  
 22 Q Oh, okay. But he's been earning some profit on  
 23 his --  
 24 A Yes.  
 25 Q Okay. How much money did he put into the

Page 37

1 refractories?  
 2 A Fifty thousand.  
 3 Q For each or both, total?  
 4 A I think total.  
 5 Q Okay. Do you know why he made this investment?  
 6 A We were friends and he wanted a piece of the  
 7 action.  
 8 Q Is he a wealthy man?  
 9 A No.  
 10 Q So do you know why he would put \$50,000 into  
 11 brickyards?  
 12 A He thought it would be profitable.  
 13 Q Okay. Does he know Mr. Jumper?  
 14 A He does. He did not know him until he met John  
 15 through me.  
 16 Q He met John through you.  
 17 A Yes.  
 18 Q Okay, understood. And Mr. Porterfield lives in  
 19 Memphis; correct?  
 20 A I think so.  
 21 Q You're not currently in touch with Mr.  
 22 Porterfield?  
 23 A No.  
 24 Q When did you lose touch with Mr. Porterfield?  
 25 A We quit talking in February of 2016.

Page 38

1 Q And is that because of the events that we  
2 discussed --  
3 A Yes.  
4 Q -- the pension plan withdrawals?  
5 A Yes.  
6 Q Did Mr. Porterfield know about the pension plan  
7 withdrawals?  
8 A We're still trying to get at that. It appeared in  
9 February of 2016 that he did know, because of conversations  
10 that he'd had with my brother Randy Swafford. He had a  
11 conversation with Randy where -- and this is vague too --  
12 where he said he knew about the funds that were taken, that  
13 he authorized John to sign his signature but then we've had  
14 another conversation with him, Drew has, where John was  
15 surprised by his signature being forged on subsequent  
16 documents that took out --  
17 Q Sorry, you mean Brent?  
18 A Sorry, sorry.  
19 Q Brent was surprised.  
20 A Brent was surprised, sorry -- Brent was surprised  
21 at the forging of his signature and the withdrawal of the  
22 \$700,000 which was the third withdrawal. So, it's been kind  
23 of hard to pin down exactly what John knew and what he didn't  
24 -- sorry --  
25 Q Brent

Page 39

1 A -- what Brent knew and what he didn't know.  
2 Q Hard to pin down, is what you're saying.  
3 A Yes.  
4 Q Okay. But your brother had told you at one point  
5 that Mr. Porterfield knew about the withdrawals.  
6 A Knew about the withdrawals and Brent said to my  
7 brother that with some of those monies that were taken, that  
8 John had crossed the line.  
9 Q Brent had said that?  
10 A Yes, that John had crossed the line. Then Brent  
11 indicated that he had some culpability too. I forget exactly  
12 how he expressed that, but he expressed -- do you remember  
13 his exact words?  
14 Q Do you remember anything about what he said about  
15 culpability?  
16 A No.  
17 Q Okay.  
18 A But we have it written down in our time line that  
19 we presented to you.  
20 Q Okay. What time line that you presented to me?  
21 MR. CLAYTON: We prepared a time line. Did we not  
22 send it to you?  
23 MR. MOGAN: I don't believe so. You can get us a  
24 copy, you can do it later, that's fine.  
25 BY MR. MOGAN:

Page 40

1 Q So it sounds like Mr. Porterfield -- was Mr.  
2 Porterfield on site at the brickyards from time to time?  
3 A I'd say all in all, he's been up there about four  
4 times.  
5 Q You mentioned that Mr. Jumper had gone to the  
6 brickyards as well; right?  
7 A Yes.  
8 Q Do you know if Mr. Jumper had gone to the  
9 brickyards on any kind of regular basis?  
10 A No, but he had been up there prior to my acquiring  
11 the businesses and before I knew about them. I think he had  
12 already been up there and met the owners and was speaking to  
13 them about a possible sale.  
14 Q And you mentioned Mr. Pogue I believe, the former  
15 CEO. Did Mr. Jumper befriend any other employees at Snow  
16 Shoe?  
17 A Yes, he attempted to.  
18 Q What employees are those?  
19 A Ron Park, who was the assistant accountant, and  
20 then the senior accountant.  
21 Q And when you say "attempted to," can you explain  
22 that?  
23 A I think that he tried to get in the good graces of  
24 Ron Park the same way he had with Jeff Pogue, but Ron Park  
25 was a very honest person and meticulous to a fault I guess.

Page 41

1 And he wouldn't write a check that I didn't authorize. Ron  
2 Park -- I had complete confidence in Ron Park and he in me.  
3 Q Do you think Mr. Jumper thought he could take  
4 money from the brickyards without you noticing it?  
5 A Yes.  
6 Q Why do you think he thought that?  
7 A Since 2008 when we acquired Snow Shoe, he had been  
8 managing the Snow Shoe Refractories' pension fund and I was  
9 completely unaware of the powers that he had with regard to  
10 that fund. Randy and I were under the impression that the  
11 pension fund at Snow Shoe was a lot like the pension fund at  
12 Mount Savage, that it was untouchable, that there was no way  
13 monies could be taken out of the fund. And that's true at  
14 Mount Savage, I've subsequently learned. You can't draw any  
15 money out of it. But you can at Snow Shoe because at Snow  
16 Shoe we actually own that pension fund where at Mount Savage,  
17 it's kind of a group setting, there are several corporations  
18 that pool.  
19 So I had no idea of the withdrawal capabilities of  
20 that fund until -- I'm sorry, what was the original question?  
21 Q The original question was did Mr. Jumper believe  
22 he could take money from the Snow Shoe brickyard without you  
23 noticing it.  
24 A Without my noticing.  
25 Q Yeah.

Page 42

1 A So I don't know if John was managing those funds  
 2 just because he felt like he should or it was just something  
 3 he was saddled with, or he was -- he had these plans all  
 4 along.  
 5 Q When you say funds, you're talking about the  
 6 pension funds.  
 7 A Yes.  
 8 Q And just to be clear, did you authorize him as the  
 9 fiduciary for the pension plan?  
 10 A I did not.  
 11 Q Do you know if anyone else did?  
 12 A No, I don't know that anyone else did.  
 13 Q Did anyone else have the authority to?  
 14 A No.  
 15 Q Okay. So Mr. Jumper anointed himself; is that  
 16 fair?  
 17 A Yes. In 2008, he put together the paperwork to  
 18 transfer the funds from Merrill Lynch to the Bank of  
 19 Montgomery -- I'm sorry, to the Bank of America.  
 20 Q Isn't it the reverse?  
 21 A It eventually came back.  
 22 Q I think it's Bank of America to Merrill Lynch;  
 23 right?  
 24 MR. CLAYTON: That's right.  
 25 A That's right. And then Bank of America

Page 43

1e consolidated --  
 2 Q It was circular.  
 3 A Yes.  
 4 Q Bank of America went to Merrill, Bank of America  
 5 then bought Merrill, so it ends up being --  
 6 A So it transferred from BoA to Merrill Lynch.  
 7 Q Correct.  
 8 A Okay.  
 9 Q But he did that without you knowing it; is that  
 10 fair?  
 11 A Yes, and he drew up like a board meeting that took  
 12 place and falsified those records to put himself in that  
 13 position.  
 14 Q We discussed the forgeries on the phone call we  
 15 had and I'm going -- we'll go through some of them a little  
 16 bit later, but is there any way, Mr. Blair, that Mr. Jumper  
 17 thought in his brain that he had the authority to forge your  
 18 signature?  
 19 A No.  
 20 Q Did you ever say to him "oh, I can't deal with the  
 21 pension plan, you handle that"? Or words to that effect. Did  
 22 you ever throw up your hands and say "oh, I can't deal with  
 23 the financial side of this company, you handle that, John."  
 24 A No, I never said that.  
 25 Q Did you say anything like that? I'm trying to get

Page 44

1 at -- you know what I'm trying to get at.  
 2 A Yes.  
 3 Q I'm trying to get at is there any way that Mr.  
 4 Jumper could think that he had that authority? I know it's  
 5 hard for you to speak to someone else's brain. I'm not  
 6 trying to --  
 7 A I guess there is a way that he thought that, but  
 8 there is no way that he was authorized to falsify my  
 9 signature and to withdraw the funds from the pension plan.  
 10 As to getting in his brain and him thinking, you  
 11 know, he was tasked with that; maybe.  
 12 Q Nowhow --  
 13 A To be fair.  
 14 Q So are you a financially savvy person?  
 15 A I think so.  
 16 Q Do you manage your own funds?  
 17 A Yes.  
 18 Q Okay. Is there any way that Mr. Jumper thought  
 19 something to the effect of "well, Mr. Blair is busy with his  
 20 publishing business and managing his own finances, he owns  
 21 the brickyards as a passive investment, I'm going to be the  
 22 eyes and ears on the ground here."  
 23 A No.  
 24 Q You never gave him that authority.  
 25 A No.

Page 45

1 Q Because Mr. Swafford was your eyes and ears on the  
 2 ground; right?  
 3 A That's right.  
 4 Q Okay. What was Mr. Swafford's relationship with  
 5 Mr. Jumper?  
 6 A Antagonistic from the beginning.  
 7 Q Why?  
 8 A Randy never liked him.  
 9 Q Going back again to exploring Mr. Jumper's brain,  
 10 you said that he didn't have the authority to forge your  
 11 signature. You never gave him that authority; right?  
 12 A No.  
 13 Q Did you ever sit in a meeting with Mr. Jumper and  
 14 Mr. Porterfield where you discussed the brickyards, in  
 15 Memphis; do you recall a meeting in Memphis that the three of  
 16 you sat in? Or any meetings to those effects --  
 17 A I think there were some informal conversations  
 18 that we had. You know, I don't think it was a convened  
 19 meeting of any kind, but informal conversation about the  
 20 brickyards, yes.  
 21 Q And did the pension plan come up?  
 22 A No.  
 23 Q Did the finances --  
 24 A The pension plan was always discussed because of  
 25 the unfunded liability and that was the big concern, because

Page 46

1 there was \$1.8 million of unfunded liability and during the  
 2 transaction, there was talk about how much that was going to  
 3 hinder us in moving forward with the company.  
 4 Q The unfunded liability.  
 5 A Right.  
 6 Q And did Mr. Jumper have a plan to rectify that  
 7 unfunded liability?  
 8 A No.  
 9 Q Did he ever propose one to you?  
 10 A No.  
 11 Q Did he ever offer his services to bridge that gap?  
 12 A No.  
 13 Q Is there any way that he thought that you  
 14 authorized him to do that?  
 15 A No.  
 16 Q So tell me how Mr. Jumper could think that he had  
 17 the authority to be the fiduciary for the pension plan. Walk  
 18 me through that. You alluded to it earlier, but just walk me  
 19 through that thought process for him.  
 20 A For him.  
 21 Q Yeah.  
 22 A I don't know how to speak to that.  
 23 Q Well, we know about the forged documents; right?  
 24 A Right.  
 25 Q We discussed those. So there's two scenarios that

Page 47

1 I can think of, and you should free to add scenarios.  
 2 One scenario is he forged them outright. So you  
 3 gave him no authority to do it, there was no way he thought  
 4 he had the authority to do it, they're all fakes. He put  
 5 himself in charge and then did the withdrawals. Is that one  
 6 scenario?  
 7 A That's one scenario.  
 8 Q Okay, there's a second scenario under which he  
 9 forged the documents, it's not your signature, you didn't  
 10 know about it. But through words or deeds, he thought you  
 11 were going to be okay with it. Does that make sense?  
 12 A It makes sense.  
 13 Q Is it possible?  
 14 A No.  
 15 Q Okay, why is it not possible?  
 16 A Because I would never authorize -- to me the  
 17 pension funds are a sacred trust between the company and the  
 18 union guys. And I would never put those funds at risk  
 19 outside of some company like Merrill Lynch or Bank of  
 20 America. The thought of doing that would scare the hell out  
 21 of me.  
 22 Q Understood on the withdrawals, I understand what  
 23 you're saying. And I don't think anyone could argue that you  
 24 knew about the withdrawals. What I'm saying is what about the  
 25 fiduciary aspect? Because he did put himself in as the

Page 48

1 fiduciary from the beginning; right?  
 2 A Yes. He put himself in.  
 3 Q Correct.  
 4 A Yes.  
 5 Q So I'm saying -- he did put himself in. I'm  
 6 saying there are two scenarios here. He put himself in  
 7 without you knowing about it, he had no authority to do it  
 8 and it was all a fraud from the very beginning. Or, he put  
 9 himself in, forged signatures, but forged the signatures  
 10 because you were either too busy or distracted or absentee,  
 11 and he thought "oh, Mr. Blair" -- I'm speaking as Jumper --  
 12 "Mr. Blair is too busy with his publishing business and he's  
 13 got this brother up there who's not paying attention and I  
 14 need to get involved, and he wants me to do this."  
 15 A In 2015, John and I were not talking. I had no  
 16 personal relationship with him and he had no relationship  
 17 with the businesses. Nor was he tasked in any way with  
 18 handling the businesses.  
 19 He had -- I was aware that he had set up 401k's.  
 20 MR. CLAYTON: I can't help you answer.  
 21 Q You answer what you know. It's not an SAT test,  
 22 just whatever you know.  
 23 A Yeah. In 2015, there was no relationship and he  
 24 was not involved. And for him to think that he had the  
 25 ability to act as a fiduciary with regard to those pension

Page 49

1 funds is just not an imaginable thing, because he was not  
 2 involved with me, he was not involved with the companies.  
 3 Q Now this is now in 2015. I understood that, I  
 4 understood the time line. I'm talking now about 2007, 2008,  
 5 back when your relationship was better. Right? Your  
 6 relationship was better. You --  
 7 A Yes.  
 8 Q -- had the one incident of dishonesty and you  
 9 addressed it with him; right?  
 10 A Yes.  
 11 Q On Mount Savage. But with respect to -- and I  
 12 understand about the withdrawals, I hear your testimony  
 13 there. But as far as the original moment, because he did  
 14 become the fiduciary back at the very beginning, in '07, '08  
 15 when you first bought the companies before the withdrawals.  
 16 There were no withdrawals until 2015; right?  
 17 A (Witness nods.)  
 18 Q Yes? You have to answer audibly.  
 19 A Right, yes.  
 20 Q So I'm talking about now in the beginning, 2007,  
 21 2008, is there any way that Mr. Jumper, through a meeting  
 22 with you and Mr. Porterfield or through some action you took  
 23 or lack of action you didn't take, that he thought he should  
 24 step in and be the fiduciary for this pension plan?  
 25 A I'm sure there's a way he convinced himself that

Page 50

1 that was possible.  
 2 MR. MOGAN: Let's go off the record -- go ahead.  
 3 MR. DISKIN: Is there anything that you can recall  
 4 that -- you don't know what he thought or why he thought it -  
 5 - Mr. Jumper -- but is there anything that you did that you  
 6 can recall that you think possibly gave him reason to believe  
 7 that? And there might not be, but we're just trying to make  
 8 sure.  
 9 And let me give you an example. Sometimes people  
 10 say look, I'm really busy, you're allowed to sign my name  
 11 unless it's over this dollar amount, unless it's over this,  
 12 or sometimes people just as a practice might give someone  
 13 authority verbally and say I don't have time to deal with  
 14 minor things, I'm busy doing my publishing business, so go  
 15 ahead and take care of it.  
 16 We're just asking if you recall anything along  
 17 those lines that you might have --  
 18 THE WITNESS: I don't recall anything, but that  
 19 very well could have taken place in some manner, initially  
 20 when we had a better relationship.  
 21 MR. DISKIN: You don't recall anything?  
 22 THE WITNESS: But I don't recall anything.  
 23 MR. DISKIN: And you don't recall ever giving him  
 24 permission to sign you name.  
 25 THE WITNESS: Absolutely not.

Page 51

1 MR. DISKIN: And there was no practice -- did you  
 2 ever let your brother sign your name?  
 3 THE WITNESS: No. Randy is kind of squeamish  
 4 about doing that.  
 5 MR. DISKIN: Yeah.  
 6 THE WITNESS: Randy has never signed my signature.  
 7 MR. DISKIN: Okay.  
 8 MR. MOGAN: Let's go off the record at 11:52 a.m.  
 9 on April 13th. Let's take like 10 or 15 minutes. I want to  
 10 just look through my notes and talk to Peter for a little  
 11 while.  
 12 (A short recess was taken.)  
 13 MR. MOGAN: We are back on the record at 12:04  
 14 p.m. on April 13th, 2017.  
 15 Mr. Blair, while we were off the record, did you  
 16 have any discussion with the SEC staff -- any substantive  
 17 discussions?  
 18 THE WITNESS: No.  
 19 MR. MOGAN: Thank you.  
 20 BY MR. MOGAN:  
 21 Q Before we went on break, we were talking about Mr.  
 22 Jumper and the pension plan. When you bought the Snow Shoe  
 23 Refractories brickyard, who was in charge of the pension  
 24 plan, Mr. Blair?  
 25 A I thought Merrill Lynch was in charge of it.

Page 52

1 Q And who at Merrill Lynch?  
 2 A I didn't know any names.  
 3 Q Did you come to learn a name?  
 4 A Not at that time.  
 5 Q When did you learn a name at Merrill Lynch?  
 6 A In 2016.  
 7 Q And what was that name?  
 8 A Amina Williams.  
 9 Q Amina Williams. And what was her role?  
 10 A I think she's a department head for these kinds of  
 11 investments.  
 12 Q Okay, and how did you come to know her?  
 13 A As a result of acquiring the history of the  
 14 paperwork that had been accomplished with regard to the  
 15 pension fund.  
 16 Q And do you know someone named Carroll Todd?  
 17 A Yes.  
 18 Q Who is he?  
 19 A He is the broker in Germantown, Tennessee, just  
 20 outside Memphis, that was -- had charge of this investment,  
 21 that oversaw it.  
 22 Q Which investment, sir?  
 23 A The pension fund.  
 24 Q Okay. So he was the broker for the pension fund?  
 25 A Yes.

Page 53

1 Q Okay. And did you have any dealings with Mr.  
 2 Todd?  
 3 A It seems to me I had a conversation with him years  
 4 ago, but I don't remember the nature of that conversation, or  
 5 any of the content.  
 6 Q So it sounds like -- just to summarize the  
 7 testimony a little bit, and you correct me if I'm wrong, it  
 8 sounds like since you had acquired the Mount Savage  
 9 Refractory first and their pension plan was a group plan that  
 10 you couldn't access, you assumed the Snow Shoe plan was the  
 11 same; right?  
 12 A Uh-huh.  
 13 Q So you didn't put much thought into the Snow Shoe  
 14 plan when you first acquired Snow Shoe; is that right?  
 15 A No, I didn't, other than just trying to make the  
 16 unfunded liability.  
 17 Q Okay. And as far as the unfunded liability, what  
 18 discussions did you have regarding how to bridge that  
 19 liability?  
 20 A The only way we were going to be able to bridge  
 21 that is by having some profits in the company, and it took a  
 22 long time to get that to happen. And it wasn't until the  
 23 restructuring of the loan that I think we were able to pay  
 24 down a substantial part of the unfunded liability in 2012.  
 25 Q Do you know what the pension plan was invested in



Page 54

1 when you first acquired it?  
2 A No.  
3 Q Did you ever come to find out what it was invested  
4 in?  
5 A I finally did in 2016. And by invested in, I mean  
6 the details of how it was being invested by Merrill Lynch. I  
7 mean, I always knew that it was with Merrill Lynch.  
8 Q Okay. And how was it being invested?  
9 A In stocks and bonds and municipal bonds. It was  
10 kind of a floating investment, it changes on a weekly basis.  
11 Q And Mr. Todd was the one who was overseeing that?  
12 A Yes.  
13 Q Did Mr. Todd ever contact you regarding those  
14 investments during the time you owned Snow Shoe?  
15 A No.  
16 Q And what is Mr. Todd's role now?  
17 A I think he's still the broker on record.  
18 Q Are you currently in touch with him regarding the  
19 pension plan?  
20 A I spoke with him about three weeks ago.  
21 Q And what was that discussion regarding?  
22 A Asking him about the performance of the fund.  
23 Q And how was the performance?  
24 A Over the last two years it had done very well, and  
25 I was expecting it to have done pretty well with the recent

Page 55

1 market climb. But it had pretty much stayed the same.  
2 Q So as far as the gap, it sounds like you were  
3 looking to the profits from the company to put back into the  
4 pension plan; is that right?  
5 A That's correct.  
6 Q You weren't looking to get more aggressive on the  
7 pension plan's investments; were you?  
8 A No. I wouldn't even know what that would mean.  
9 Q Okay. So getting back to Mr. Jumper, we had  
10 discussed before the break a little bit about the possibility  
11 that while he did forge your signature and you did testify  
12 that he had no authority to write your name on any document,  
13 that he may have thought in his own head -- and you're  
14 speculating obviously -- that he might have been able to  
15 exercise authority over the pension plan; do you remember our  
16 discussion there?  
17 A Yes.  
18 Q Okay. So do you know if Mr. Jumper ever spoke to  
19 anybody at Snow Shoe regarding the pension plan besides  
20 yourself?  
21 A I think he did have a conversation with Ron Park  
22 because of the restructuring of the loan, and we were hoping  
23 to be able to take down some of the unfunded liability as a  
24 result of that refinancing.  
25 Q And in that discussion with Mr. Park, did Mr.

Page 56

1 Jumper indicate that he was the fiduciary for the pension  
2 plan; do you know?  
3 A I don't know that he did.  
4 Q Do you know if Mr. Park thought that Mr. Jumper  
5 was the fiduciary for the pension plan?  
6 A I can't speak to that.  
7 Q Why would Mr. Jumper be concerned about the  
8 pension plan in 2012? Do I have that right, that refinancing  
9 was in 2012?  
10 A Well, I think that he was -- I don't know that he  
11 was concerned with it, I think that that was just one of the  
12 items on the table that we were saying that we weren't yet  
13 able to deal with, because of the kind of onerous loan  
14 structure with First Capital, which to us was kind of a loan  
15 shark situation. They had everything set up in such a way  
16 that they took our last dime at the end of the year. And so  
17 we were -- one of the things on the table was we needed to  
18 take care of this unfunded liability. And the loan seemed to  
19 be a means of being able to do that. So it was just one of  
20 the items on the table -- one of our responsibilities.  
21 Q And why would Mr. Jumper think that would be one  
22 of the responsibilities on the table?  
23 A Because it was presented in conversation with the  
24 whole idea of restructuring. You know, these are the things  
25 that we've not been able to do and we need to restructure in

Page 57

1 order to be able to do them. And that was just one of the  
2 items.  
3 Q And Mr. Jumper was brought into the restructuring  
4 by you; is that correct?  
5 A Yes.  
6 Q Okay. And did he know about the unfunded  
7 liability in the pension plan?  
8 A I assume he did.  
9 Q Do you know how he knew that?  
10 A Because it had always been there, from the very  
11 beginning.  
12 Q Okay. It was an issue when you first acquired the  
13 company?  
14 A Yes.  
15 Q And he was there at the acquisition.  
16 A Yes. And he presented that to us, that that was  
17 something that we were buying into.  
18 Q He presented that as an issue, as a problem.  
19 A Yes.  
20 MR. MOGAN: All right, let's look at a document.  
21 This has been previously marked as Exhibit Number  
22 3. If you could just take a look at this, Mr. Blair, and let  
23 me know when you are ready for questions, sir.  
24 (Exhibit Number 3 was  
25 previously marked.)

Page 58

1 (The witness reviews a document.)  
 2 THE WITNESS: Okay.  
 3 BY MR. MOGAN:  
 4 Q Do you recognize this document?  
 5 A I do.  
 6 Q What is this document, sir?  
 7 A It's a Board of Directors Resolution that I was  
 8 given by Merrill Lynch.  
 9 Q And when were you given this by Merrill Lynch?  
 10 A March of 2016.  
 11 Q This is in connection with your inquiries as to  
 12 the withdrawals?  
 13 A Correct.  
 14 Q Okay. Were you at a meeting on April 27, 2007 at  
 15 5:30 in the afternoon in Memphis?  
 16 A I have no idea what I was doing on that day.  
 17 Q Okay. Do you recall a meeting with Mr.  
 18 Porterfield and Mr. Jumper regarding the pension in or around  
 19 2007?  
 20 A I do not.  
 21 Q Is it possible this meeting occurred?  
 22 A It's possible.  
 23 Q Is that your – there's an Authorized Officer line  
 24 on the bottom.  
 25 A Right.

Page 59

1 Q Is that your name, Brett C. Blair?  
 2 A That's my name.  
 3 Q Is that your signature?  
 4 A No, sir.  
 5 Q Okay. Do you know who signed that?  
 6 A I do not.  
 7 Q But it's not you.  
 8 A It is not my signature.  
 9 Q Under Secretary, there's a signature. Do you know  
 10 whose signature that is?  
 11 A Looks like John Jumper.  
 12 Q Okay. It's hard to tell from this but there's  
 13 J's.  
 14 A I recognize his J's.  
 15 Q Okay. So that looks like his signature?  
 16 A It, yes, halfway does. A messy form of it if it  
 17 is.  
 18 Q Okay. So this document, Mr. Blair, indicates that  
 19 the pension plan was terminating Bank of America and moving  
 20 the funds to Merrill Lynch; is that right?  
 21 A Correct.  
 22 Q And did you approve such a move?  
 23 A I don't recall that I did.  
 24 Q Did you learn of such a move at some point?  
 25 A Yes.

Page 60

1 Q When did you learn of that?  
 2 A In 2016.  
 3 Q In connection with the withdrawals we've  
 4 discussed.  
 5 A Yes.  
 6 MR. MOGAN: You can put that aside, just flip it  
 7 over and put it down. Thank you very much.  
 8 I'm going to show you another document that's been  
 9 previously marked as Exhibit Number 4.  
 10 (Exhibit Number 4 was  
 11 previously marked.)  
 12 MR. DISKIN: Could I ask a question on the last  
 13 exhibit? Mr. Blair, do you keep a calendar or, you know, a  
 14 Day-Timer type thing, anything that you could consult to see  
 15 if you were in Memphis – I believe you said it was in  
 16 Memphis.  
 17 THE WITNESS: Uh-huh.  
 18 MR. DISKIN: We're going back a lot of years. So  
 19 some people are very fastidious about –  
 20 THE WITNESS: You mean on that day, was I at home  
 21 in my home in Memphis.  
 22 MR. DISKIN: Right, okay, so that's where you  
 23 lived. So you could have been there.  
 24 THE WITNESS: Right. Probably was there in  
 25 Memphis.

Page 61

1 MR. DISKIN: Do you keep a Day-Timer?  
 2 THE WITNESS: I do not. The best way for me to go  
 3 back and look at potentially what I did on any given day is  
 4 my emails. I actually have a file with emails going I think  
 5 back to this time, I have all the emails I've ever received  
 6 or written.  
 7 MR. DISKIN: Okay.  
 8 THE WITNESS: So I could potentially – that's my  
 9 calendar.  
 10 MR. DISKIN: Okay. We'll talk to your counsel.  
 11 THE WITNESS: Okay. That might be helpful.  
 12 MR. MOGAN: Thank you. I appreciate that, sir.  
 13 BY MR. MOGAN:  
 14 Q If you could look at Exhibit Number 4, Mr. Blair  
 15 and let me know when you're ready for questions. You're  
 16 probably familiar with this one as well.  
 17 (The witness reviews a document.)  
 18 MR. CLAYTON: This is a form document.  
 19 MR. MOGAN: Yes, it's a form document.  
 20 THE WITNESS: Okay.  
 21 BY MR. MOGAN:  
 22 Q Do you recognize this document?  
 23 A I do.  
 24 Q What is this document, sir?  
 25 A It's the Defined Benefit Plan for the Snow Shoe

Page 62

1 Refractories Pension Fund.  
 2 Q It's entered into May 22nd, 2007.  
 3 A Correct.  
 4 Q Were you the owner of Snow Shoe at that time?  
 5 A I believe I was.  
 6 Q Do you recognize the handwriting on this document?  
 7 A I do not.  
 8 Q Is it yours?  
 9 A No, it is not.  
 10 Q If you go to the last page of the document,  
 11 there's some signatures and there's a print name. Do you see  
 12 Mr. Jumper's name there?  
 13 A Uh-huh.  
 14 Q It says "By Authorized Signature," Mr. Jumper,  
 15 April 27, 2007. Was Mr. Jumper authorized to sign for the  
 16 pension plan on this document?  
 17 A No. And again, he may have thought he was, but no.  
 18 Q Why would he have thought he was?  
 19 A Well, going back to our questions about whether  
 20 John felt that he might have, you know, been helping out by  
 21 taking care of the paperwork for these funds, and he may very  
 22 well have felt that he was helping out. And it would have  
 23 been -- in 2007, it would have been a matter of continuing to  
 24 try and close the transaction and get the last few paperworks  
 25 in order. But again, he was being tasked to do this for me,

Page 63

1 the closing, and was being paid for it. And if he felt that  
 2 he was helping out, then fine. But I don't recall whether he  
 3 was tasked to do this or not.  
 4 MR. MOGAN: Thank you. You can put that aside.  
 5 THE WITNESS: Okay.  
 6 MR. MOGAN: Let me show you what's been previously  
 7 marked as well, Mr. Blair, as Exhibit Number 5 in this case.  
 8 If you could look at Number 5 for me, please. It's a one-  
 9 page document. It's a Named Fiduciaries and Authorized  
 10 Signature Information.  
 11 THE WITNESS: Uh-huh.  
 12 MR. MOGAN: If you could look at this, it's dated  
 13 in 2008, January 8, 2008.  
 14 (Exhibit Number 5 was  
 15 previously marked.)  
 16 BY MR. MORGAN:  
 17 Q Who is Hazel Renard?  
 18 A She was the human resources employee at Snow Shoe  
 19 Refractories.  
 20 Q Okay, an HR person there?  
 21 A Yes.  
 22 Q It says here assistant plant manager. Was that  
 23 her title?  
 24 A Yes, yes.  
 25 Q And then we have the named investment fiduciaries.

Page 64

1 And you see Mr. Jumper there?  
 2 A Correct.  
 3 Q VP of Finance. What does that mean?  
 4 A We've never had a vice president of finance at the  
 5 company.  
 6 Q So that position does not exist?  
 7 A It does not exist, never did exist.  
 8 Q Okay. So -- and do you recognize that signature  
 9 there next to his name?  
 10 A Yes.  
 11 Q Is that Mr. Jumper's signature?  
 12 A Looks like it.  
 13 MR. MOGAN: We can put that aside. And let's look  
 14 at Exhibit Number 6. I appreciate you keeping my neat pile.  
 15 Thank you.  
 16 This is a two-page document, sir, excuse me.  
 17 (Exhibit Number 6 was  
 18 previously marked.)  
 19 BY MR. MOGAN:  
 20 Q So this is again Bank of America/Merrill Lynch  
 21 Named Fiduciaries. This goes up to 2012 now. It looks like  
 22 this is after the Bank of America/Merrill Lynch merger. We  
 23 mentioned Mr. Park earlier in your testimony. Do you see Mr.  
 24 Park's signature there?  
 25 A Yes.

Page 65

1 Q Is that HR Manager-CFO; is that right?  
 2 A Yes.  
 3 Q Do you believe that Mr. Park's signature there is  
 4 genuine?  
 5 A I can't say that I'm familiar with his signature.  
 6 Q Do you see Mr. Jumper there again as vice  
 7 president?  
 8 A Yes.  
 9 Q And again, let me just reiterate, you had  
 10 testified earlier that the position of vice president does  
 11 not exist.  
 12 A Well, I testified that the vice president of  
 13 finance did not exist.  
 14 Q Okay.  
 15 A And then suddenly, this is vice president.  
 16 Q Yes, thank you for the distinction.  
 17 A Yeah, and that title was really never given to  
 18 anyone, ever at the company.  
 19 Q So just to reiterate -- I appreciate your  
 20 exactitude.  
 21 A Yes.  
 22 Q So as far as the VP of finance on the previous  
 23 document, that position did not exist. And now it's vice  
 24 president and you're also testifying that position does not  
 25 exist; right?

Page 66

1 A Correct.

2 Q Do you believe that Mr. Park knew about this

3 document in 2012?

4 A I don't know.

5 Q Okay.

6 A Mr. Park has a very good memory of all of this and

7 he could tell you, but I can't speak to it.

8 MR. CLAYTON: Can we go off the record for a

9 second?

10 MR. MOGAN: Sure. We can go off the record a

11 12:22 p.m., yes.

12 (A short recess was taken.)

13 MR. MOGAN: We'll go back on the record at 12:24

14 p.m. on April 13th.

15 BY MR. MOGAN:

16 Q So Mr. Blair, you were testifying about this

17 document, Named Fiduciaries and Authorized Signature

18 Information. Mr. Park's name is on the document, Mr. Jumper's

19 name is on the document. Do you believe that Mr. Park knew

20 that Mr. Jumper was signing the Named Fiduciaries and

21 Authorized Signature Information regarding the pension plan?

22 A I don't know, because I can't speak to whether

23 that's his signature or not. And I can't recall whether Ron

24 spoke to me about that, that these documents were signed. I

25 don't know.

Page 67

1e Q Did Mr. Park have any responsibility for the

2 pension plan at Snow Shoe?

3 A Yes.

4 Q What was his responsibility for the pension plan

5 at Snow Shoe?

6 A He was keeping track of the unfunded liability and

7 the payouts. And he was working in restructuring of the loan

8 in 2012, to try and save money in order to pay down some of

9 the unfunded liability.

10 Q Okay. Mr. Park – did Mr. Park know about the

11 series of withdrawals that we discussed earlier today by Mr.

12 Jumper at the time they occurred?

13 A In 2012?

14 Q The withdrawals started in 2015; is that right?

15 A He was no longer around.

16 Q Where was Mr. Park then?

17 A He was working for another company.

18 Q When did he leave Snow Shoe?

19 A I don't remember the date.

20 Q Did he leave on his own accord?

21 A Yes.

22 Q Because you had testified earlier that you had

23 worked well with him.

24 A Yes.

25 Q Who replaced Mr. Park?

Page 68

1 A Bob Wilder.

2 Q Bob Wilder, okay. Did Mr. Wilder know about the

3 withdrawals at the time they occurred?

4 A I don't know.

5 Q Did you ever discuss that with him?

6 A I think I did after he was let go.

7 Q Okay. And what was that discussion?

8 A I think he said he was not aware.

9 Q He said he was not aware. Do you believe him?

10 A I was suspicious.

11 Q Why?

12 A Because things didn't add up. And I don't know

13 that I can really speak to the details of that except to say

14 that – I've had a bad string of luck in hiring accountants

15 and Bob Wilder was also a real funny character, non-

16 communicative. We could never get information out of him.

17 He seemed reluctant at times to give us information, even the

18 most basic information, call us as a courtesy call and let us

19 know what was going on with the company. Because he was up

20 there at Snow Shoe, Randy was down at Mount Savage, and when

21 I hired him, I really wanted to have some ears on the ground.

22 And he never turned out to be that kind of person.

23 So I had my suspicions about what he knew or

24 didn't know and when Randy went up there to let him go, Randy

25 got a really strange vibe from him. Randy made some comment

Page 69

1 about how bad things were and how difficult things were

2 financially and Bob looked at Randy in the office and he

3 said, "Oh, you have no idea." And he did not elaborate on

4 that. But looking back on that, I think that that's what he

5 was referring to by that.

6 I believe that we let Bob go in October of 2015,

7 but I'm not sure.

8 Q After these revelations; is that correct?

9 A Yeah.

10 MR. CLAYTON: I'm sorry, I don't think that was

11 correct.

12 THE WITNESS: No, no. No, not after – 2015, the

13 revelations had not – the revelations occurred in 2016.

14 BY MR. MOGAN:

15 Q So you let him go before – why did you let him go

16 then, just because he was non-communicative?

17 A Non-communicative.

18 Q Do you believe he had a good relationship with Mr.

19 Jumper?

20 A If he did, I'd have no idea that they were

21 talking.

22 Q Okay.

23 A Because John was not involved in the company in

24 any capacity.

25 Q To your knowledge.

Page 70

1 A To my knowledge.  
 2 Q Right.  
 3 A Now right at that moment, October, November, he  
 4 and I had had that conversation about selling the company.  
 5 Q Uh-huh.  
 6 A But just prior to that, no.  
 7 MR. MOGAN: Okay, you can put that aside. Thank  
 8 you.  
 9 I'm going to reintroduce again Exhibit 7  
 10 previously marked. Please take a look at Exhibit 7 for me,  
 11 please. Again, a Named Fiduciaries form, this is from 2014.  
 12 (Exhibit Number 7 was  
 13 previously marked.)  
 14 BY MR. MOGAN:  
 15 Q Again, we see Mr. Jumper listed as vice president.  
 16 You testified that position did not exist. Who is Mr.  
 17 Jacobs?  
 18 A The plant engineer.  
 19 Q And why would he be on this form?  
 20 A That's a good question. Mark at times has --  
 21 during the Premier years, the previous owner, and during my  
 22 ownership has been the pseudo director of the company and at  
 23 times we've entrusted him with running the company and then  
 24 at other times not. So he certainly would have felt that he  
 25 could sign anything at the company. But that was another

Page 71

1 issue, like Bob Wilder, like Jeff Pougé, Mark Jacobs was a  
 2 big issue at the company, was non-communicative, was always  
 3 agitated with us, didn't like our involvement.  
 4 And that's a legacy thing. Jacobs had been there  
 5 with Premier and I think even with J.H. France, and that  
 6 plant had pretty much run with no oversight for years. And so  
 7 all the employees there wanted to be left alone, they just  
 8 wanted to do their job, they didn't want any oversight and  
 9 Jacobs was one of those individuals.  
 10 So throughout the history of the company, he  
 11 probably has signed many things.  
 12 Q But to your knowledge, he's not a named  
 13 administrative fiduciary of the pension plan?  
 14 A Mark Jacobs?  
 15 Q Yeah.  
 16 A No.  
 17 Q Do you believe Mr. Jumper asked him to sign this?  
 18 A I think so, and that looks like Mark's signature.  
 19 Q Okay, so that looks genuine to you. Do you believe  
 20 Mr. Jacobs thought that Mr. Jumper was the fiduciary for the  
 21 pension fund?  
 22 A Probably because John and -- John had also gained  
 23 the confidence of Mark Jacobs and they oftentimes  
 24 commiserated over me and Randy.  
 25 Q Who else did Mr. Jumper gain the confidence of at

Page 72

1 Snow Shoe, besides Mr. Jacobs? Was Mr. Wilder one of those  
 2 people?  
 3 A Yes. I believe so. If he did, I had no idea that  
 4 John was calling up there.  
 5 Q Do you know if he went there physically?  
 6 A During 2015?  
 7 Q Yeah.  
 8 A No.  
 9 Q You don't know or he didn't go?  
 10 A He didn't go.  
 11 Q Okay. Do you know if he went there in 2014?  
 12 A That would be a surprise also.  
 13 Q Do you know if he went there in 2013 or any year?  
 14 Would the fact of an in-person visit surprise you?  
 15 A Yes.  
 16 Q Why would it surprise you?  
 17 A Because we fell out in 2012. Once the loan had  
 18 taken place and the issues with the checks that were written,  
 19 we had a parting of the ways at that point.  
 20 Q Who else besides Mr. Wilder and Mr. Jacobs and Mr.  
 21 Pougé -- who am I forgetting that Mr. Jumper cultivated at  
 22 Snow Shoe? Anybody else that you know?  
 23 A Huh-uh. Kaprevich, I have no idea whether  
 24 Kaprevich and John Jumper had a relationship.  
 25 Q Who is Kaprevich?

Page 73

1 A John Kaprevich was the manager of the plant for  
 2 three years.  
 3 Q How do you spell his last name, if you know?  
 4 A K-a-p-r-e-v-i-c-h.  
 5 Q Okay. He's another possible person that Mr.  
 6 Jumper communicated with?  
 7 A Yeah, possible. But John Kaprevich mostly was  
 8 communicative with us and told us what was going on, so I  
 9 think that's less likely.  
 10 MR. MOGAN: You can put that aside. Let's look at  
 11 previously marked Exhibit Number 8. This has a fax cover on  
 12 it and then a page behind it.  
 13 (Exhibit Number 8 was  
 14 previously marked.)  
 15 BY MR. MOGAN:  
 16 Q If you could look at that please.  
 17 (The witness reviews a document.)  
 18 Q It looks like it's from Mr. Todd.  
 19 A Uh-huh.  
 20 Q Friday, September 12th, looks like it's probably  
 21 in 2014 based on the date of the second page. You see Mr.  
 22 Jacobs' name and Mr. Wilder, both names we've seen before.  
 23 Mark Jacobs is signing as director here again. Do you  
 24 recognize this document?  
 25 A Perhaps. I don't -- there were so many documents

Page 74

1 that I received from Merrill Lynch, I'm not sure if this is  
2 one that was in that stack. And I'm assuming it was.  
3 Q Okay. So Mr. Jacobs is director, we discussed that  
4 and Mr Wilder is CFO. Is that -- was that his position?  
5 A Yes.  
6 Q Are Mr. Jacobs and Mr. Wilder still at the  
7 company?  
8 A No.  
9 Q Did you dismiss them both?  
10 A I dismissed Bob Wilder and Mark Jacobs left of his  
11 own accord.  
12 Q When did Mr. Jacobs leave?  
13 A In November 2015.  
14 Q And remind me again when Mr. Wilder left?  
15 A September or October of 2015.  
16 Q Both at the end of 2015.  
17 A Yes.  
18 Q And you testified earlier that it's possible that  
19 Mr. Jacobs and Mr. Wilder believed that Mr. Jumper was a  
20 fiduciary of the pension plan; correct?  
21 A They could have thought that.  
22 MR. MOGAN: You can put that aside. Give me a  
23 moment.  
24 (Brief pause.)  
25 MR. MOGAN: I'm going to introduce a new exhibit,

Page 75

1 we are on Exhibit Number 15, I believe -- yes, 15. This is  
2 going to be 15. I'll just hand this to you. It's on Snow  
3 Shoe Refractories letterhead to Ms. Amina Williams, you  
4 mentioned her name earlier today.  
5 (Exhibit Number 15 was  
6 marked for identification.)  
7 THE WITNESS: Uh-huh.  
8 MR. MOGAN: Trust officer, Bank of America. Take  
9 a moment to look at this and let me know when you're ready to  
10 discuss it.  
11 (The witness reviews a document.)  
12 THE WITNESS: I'm ready.  
13 BY MR. MOGAN:  
14 Q Okay. Is that the Snow Shoe Refractories  
15 letterhead, to your knowledge?  
16 A It's close to it.  
17 Q Do you believe that it was created by someone or  
18 did this person actually use the proper letterhead?  
19 A It looks like it was created. I don't remember  
20 the line at the top and things being arranged like this.  
21 Q Okay. So this letter is from Mr. Jumper who signs  
22 as vice president. And you testified earlier that there was  
23 no such position. Is that still your testimony?  
24 A Yes.  
25 Q Okay. This is referring to a \$3 million senior

Page 76

1 promissory note issued by an entity called American  
2 Investments Fund I, LLC. Do you know what American  
3 Investments Fund I, LLC is?  
4 A I do now.  
5 Q But you didn't know at the time?  
6 A No.  
7 Q Okay. Did you know about this \$3 million  
8 investment in March of 2015?  
9 A I did not.  
10 Q Did you know that the fund was going to be  
11 acquiring American Tubing Arkansas?  
12 A I did not.  
13 Q There's something in the third paragraph I wanted  
14 to ask you about, Mr. Blair. It says "This private debt  
15 instrument conforms to the company's plan document and meets  
16 the company's investment policy guidelines."  
17 What is -- do you know what that means?  
18 A I know what it means but the company didn't really  
19 have a plan document that I'm aware of. We looked through  
20 the files to find any kind of plan document for the pension  
21 fund and I don't know that that ever got into the settlement  
22 papers.  
23 Q Do you know if the plan had investment policy  
24 guidelines?  
25 A No, I don't think it did.

Page 77

1 Q Who would know if the plan had investment policy  
2 guidelines, if it's not you?  
3 A Probably the previous owners.  
4 Q Would Mr. Todd know, the broker?  
5 A He might, but I would think that those documents  
6 would have been sent with the cache of documents that I got  
7 from Amina Williams when I requested them in March of 2016.  
8 Q And those documents were not included?  
9 A No.  
10 Q Did Mr. Todd know about these transfers at the  
11 time they occurred, Mr. Blair?  
12 A We had a conversation with Todd and from what I  
13 can recall, John and Carroll Todd had a conversation before  
14 this took place and Carroll Todd advised John not to move the  
15 monies. The best I can recall from my conversation with  
16 Carroll Todd months ago, a year ago, whenever that was. But  
17 I believe that Carroll Todd knew at the time that it was  
18 taking place.  
19 Q But he advised against it.  
20 A Yes.  
21 Q Were you in touch with Mr. Todd at all before  
22 these events transpired?  
23 A No.  
24 Q Okay, thank you. Did you know who Mr. Todd was?  
25 A Vaguely, yes. I knew that he was a Merrill Lynch

Page 78

1 broker. It would have been hard for me to recall the name  
2 because I didn't hear it that often, but I would have been  
3 able to put it together.  
4 Q Are you surprised that he didn't call you after  
5 receiving a request for a \$3 million withdrawal?  
6 A Yes, and – or anyone at Merrill Lynch calling  
7 Snow Shoe itself and making sure that it was authorized.  
8 Q You're surprised that they didn't do that second  
9 check?  
10 A Yes.  
11 MR. MOGAN: We can put this aside. Thank you.  
12 BY MR. MOGAN:  
13 Q Do you know – the \$3 million withdrawal was given  
14 in exchange for a promissory note; correct?  
15 A Yes.  
16 Q Do you know if that promissory note has been  
17 paying interest and principal to the pension plan?  
18 A It has.  
19 Q Has it missed any payments?  
20 A No.  
21 Q Has the investment been profitable for the pension  
22 plan?  
23 A I suppose so, it's been eight percent, so that's a  
24 pretty good return. But the risk has – I would never take  
25 the eight percent with the risk that came with it.

Page 79

1 Q And what risk are you referring to?  
2 A The \$3 million note is not a senior note and it  
3 has no liability – has no –  
4 Q Collateral?  
5 A Collateral. Sorry. It's not collateralized at  
6 all, to my understanding.  
7 Q Okay. Have you been contacted at all by the  
8 holder of the note?  
9 A No.  
10 Q Have you had any dealings with Trent Curry?  
11 A Never have, don't know that I've ever met him.  
12 Q Okay. What about David Lensing?  
13 A David was involved with John Jumper as a partner  
14 in Alluvion and was intimately involved in the closing of the  
15 two companies.  
16 Q Do you know if Alluvion received any payments from  
17 the issuance of the promissory note related to the American  
18 Tubing transaction?  
19 A That's a good question, that's something we've  
20 been trying to get at and we've not been able to determine.  
21 MR. MOGAN: Give me a moment, sir.  
22 (Brief pause.)  
23 MR. MOGAN: We'll mark the next exhibit, it's  
24 going to be Exhibit Number 16. Thank you.  
25 (Exhibit Number 16 was

Page 80

1 marked for identification.)  
2 BY MR. MOGAN:  
3 Q I'll hand this to you, Mr. Blair, 16. Take a look  
4 at that.  
5 A Okay, I'm ready.  
6 Q This is on the Snow Shoe Refractories letterhead  
7 again. It's again to Amina Williams, November of 2015, it  
8 refers to a \$2 million withdrawal. It says here, "Mr. Jumper  
9 has been appointed as successor trustee to a separate trust  
10 for American Investments Fund 2."  
11 Do you know what American Investments Fund 2 is?  
12 A I do now, I did not then.  
13 Q What is it, sir?  
14 A It's an LLC shell that John created in order to  
15 route this money into.  
16 MR. MOGAN: And again, it's signed John Jumper,  
17 vice president. We can go on to the next exhibit and put  
18 that one aside, please.  
19 We're up to Exhibit Number 17.  
20 (Exhibit Number 17 was  
21 marked for identification.)  
22 BY MR. MOGAN:  
23 Q This is again a letter regarding the same two  
24 million, issued by American Investments Fund 2 and it refers  
25 to a promissory note.

Page 81

1 Are you aware of that note, sir?  
2 A No.  
3 Q Have you received any payments on a promissory  
4 note from American Investments Fund 2?  
5 A Nothing.  
6 MR. MOGAN: You can put that aside.  
7 THE WITNESS: And I'll say that we received no  
8 plan to pay nor was it ever exposed to us that there was a  
9 plan to pay.  
10 MR. MOGAN: Let's look at Exhibit Number 18.  
11 (Exhibit Number 18 was  
12 marked for identification.)  
13 THE WITNESS: The note on – the second note on  
14 this that John put together in an Excel spreadsheet actually  
15 had a payment date of 2035. That's the one detail. The \$3  
16 million withdrawal had a due date of 2025 and the \$2 million  
17 withdrawal had a due date of 2035.  
18 BY MR. MOGAN:  
19 Q Right. So he dated it further out into time.  
20 A Those were what I think are the fictitious notes  
21 that he delivered to Conrad Siegel to try and throw Conrad  
22 Siegel off the trail.  
23 Q Remind me again who Conrad Siegel is.  
24 A The actuarial company.  
25 Q Look at Exhibit Number 18. This is a Unanimous

Page 82

1 Written Consent in Lieu of a Meeting of Snow Shoe  
 2 Refractories. It refers to the \$2 million trust, talks about  
 3 Mr. Jumper being the trustee.  
 4 A Yes.  
 5 Q Do you recognize this document?  
 6 A I do.  
 7 Q Is that your signature there on the bottom?  
 8 A It is not.  
 9 Q Okay. Is that Mr. Jumper's signature in the upper  
 10 left-hand corner?  
 11 A I believe it's.  
 12 Q And what about Mr. Porterfield?  
 13 A That is not his signature.  
 14 Q Not Mr. Porterfield's?  
 15 A No.  
 16 Q He told you that's not his signature?  
 17 A No, I know Mr. Porterfield's signature.  
 18 Q Okay, and you're telling me it's not his  
 19 signature.  
 20 A It's not his signature.  
 21 MR. MOGAN: You can put that aside. Let me show  
 22 you another exhibit. This is Exhibit Number 19.  
 23 (Exhibit Number 19 was  
 24 marked for identification.)  
 25 BY MR. MOGAN:

Page 83

1 Q Take a look at this, sir, a short letter. This is  
 2 February 2016, toward the end of the events here, \$700,000  
 3 promissory note, again issued by the same entity, American  
 4 Investments Fund 2, eight percent coupon, ten year maturity.  
 5 Do you recognize this letter?  
 6 A I do.  
 7 Q Have you received any payments on this promissory  
 8 note?  
 9 A I have not.  
 10 MR. MOGAN: You can put that aside. And I'm going  
 11 to show you another exhibit, it's Exhibit Number 20.  
 12 (Exhibit Number 20 was  
 13 marked for identification.)  
 14 BY MR. MOGAN:  
 15 Q If you could look at this, sir. Very similar  
 16 document to the one we just saw for the \$700,000 now, dated  
 17 now in February of 2016. It talks about a separate trust,  
 18 again with Mr. Jumper's signature and the two signatures of  
 19 Mr. Porterfield and Mr. Blair.  
 20 Mr. Blair, is that your signature?  
 21 A It is not.  
 22 Q Is that Mr. Porterfield's signature?  
 23 A No.  
 24 Q All right, thank you.  
 25 A And these meetings never took place.

Page 84

1 Q Okay. When was the last time you spoke to Mr.  
 2 Porterfield?  
 3 A It was -- the last time was February or March of  
 4 2016, I believe was the last time.  
 5 Q Around the time you learned of these events.  
 6 A Right. Randy may have spoken to him a month or  
 7 two after that but since that time we've not had any further  
 8 conversations. We have had emails from him about his  
 9 insurance, his medical insurance, and that has been dealt  
 10 with.  
 11 Q Was he getting medical insurance through Snow  
 12 Shoe?  
 13 A Yes.  
 14 Q Okay.  
 15 A Through Mount Savage I think.  
 16 Q Through Mount Savage, okay.  
 17 What do you think Mr. Porterfield's involvement  
 18 was here? We discussed it a bit earlier, but I want you to  
 19 crystalize it and summarize it for me.  
 20 A I think John early on kind of -- I'm sorry, let me  
 21 start again. I think Brent Porterfield had thrown in with  
 22 John Jumper pretty early in our ownership of these companies.  
 23 And I think he did so because he felt ostracized. And it was  
 24 never my intent to make him an executive in the company, an  
 25 officer, or have any kind of leadership role. I was trying

Page 85

1 to take care of him, I appreciated his daughter's work for  
 2 me, she's an upstanding lady. Brent and I had a friendship  
 3 then and I wanted him to have some passive income.  
 4 Q Just sort of remind me, he met Mr. Jumper through  
 5 you?  
 6 A Yes.  
 7 Q Because you were friends with Mr. Porterfield  
 8 before you introduced him to Mr. Jumper.  
 9 A Yes.  
 10 Q Why do you think he threw in with Mr. Jumper?  
 11 A I think because he felt ostracized and he felt  
 12 like his only way to have any kind of control was through  
 13 John Jumper.  
 14 Q So you think that when he came into these  
 15 businesses he wanted some operational role?  
 16 A I guess so, but he was still a minister in the  
 17 Methodist Church and he had no means to be an officer in the  
 18 company, and he continued to be a minister up until a few  
 19 years ago.  
 20 Q That was his principal occupation; right?  
 21 A Yes.  
 22 Q Okay. So as far as -- when I say, you know,  
 23 involvement here, Mr. Porterfield's involvement here, do you  
 24 believe that he helped Mr. Jumper undertake these actions  
 25 with respect to the pension plan or tried to obfuscate in any



Page 86

1 way?

2 A I think he tried to obfuscate, yes. And once we

3 were in the middle of discovery, he certainly did try to

4 obfuscate. But how – saying that in reference to our

5 conversations in 2016 with Brent, my brother and I's

6 conversation with him.

7 Q When you say discovery, discovery in a civil case?

8 A No, our own personal discovery of these funds that

9 had been taken out.

10 Q I see. Discovery is almost a term of art for

11 lawyers.

12 A I'm sorry, yes. But how far back Brent

13 Porterfield goes – and that is back to March 2015 when the

14 initial \$3 million was taken out –

15 Q Uh-huh.

16 A – I don't know when he knew. And we've never

17 been able to get at that. It's something that Randy and I

18 tried to get at, but Brent would never answer in those few

19 conversations that we had with him.

20 Q Do you know if Mr. Porterfield has any involvement

21 with American Tubing?

22 A We learned that he had a 25 percent ownership,

23 because he told us that he had 25 percent ownership of

24 American Tubing.

25 Q Did that surprise you?

Page 87

1e A Yes, it did.e

2 Q Why?

3 A Because he had used pension fund money to enrich

4 himself.

5 Q Explain that for me.

6 A It's my understanding that the pension funds are

7 under pretty tight security regulations and that the IRS only

8 has certain approved institutions where these kind of

9 regulated pension funds can be placed. And last time I

10 checked, American Tubing is not on that list.

11 So it surprised us that personal purchases were

12 taking place and being put at risk in non-senior note

13 positions for the advancement of people who had no

14 relationship to the pension fund. That is, the union guys

15 who were supposed to be getting the money.

16 Q Do you know of any concrete steps that Mr.

17 Porterfield took in connection with the withdrawal from the

18 pension plan?

19 A The only vague reference that he made, and he made

20 it to my brother Randy, was that he knew about them and he

21 authorized John to sign his signature. That's it.

22 Q And that's included on the signatures we just saw

23 on those unanimous consents that were not his signature?

24 A Correct.

25 Q That he authorized Mr. Jumper to sign his name.

Page 88

1 A He says he did.

2 Q To your brother.

3 A Yes.

4 Q Okay.

5 A But subsequently in a conversation with my

6 attorney, John Jumper – sorry, sorry – Brent Porterfield

7 was surprised to learn that the signature had been forged or

8 signed by Jumper and company on the subsequent withdrawals.

9 He was not aware – he indicated to Drew Clayton that he was

10 unaware of that.

11 Q So it sounds like he changed his story. Am I

12 getting that right?

13 A Yes, it does.

14 Q Sounds very confusing.

15 A It does.

16 Q Okay. So do you have clarity –

17 A It's part of the obfuscating.

18 Q As you sit here today, you think that he's

19 muddying the waters, at best.

20 A Yes.

21 Q Okay. Do you believe Mr. Porterfield is a

22 trustworthy person? You've known him for a long time, going

23 back to the ministry.

24 A I did until he started throwing in with Jumper and

25 taking his side on some of these key issues, and then I began

Page 89

1 to have doubts and I pushed him outside the company. He had

2 always been a passive investor, I was willing to listen to

3 him and have him involved up until that point. And for him

4 just to at least be able to bend my ear and talk to me about

5 the company and what was going on. But back in 2012 when he

6 kind of threw in with John Jumper, at that point, I lost

7 faith and trust in him.

8 Q Did he – did you eventually buy him out of Snow

9 Shoe?

10 A No.

11 Q So he currently owns part of the company?

12 A Yes.

13 Q Okay. Does that concern you that he's a current

14 owner of the company?

15 A Yes, it does.

16 Q Have you looked into purchasing his stake?

17 A I've not looked into it, but I was hoping at the

18 close this affair of asking him to relinquish those –

19 Q That stake?

20 A Yes.

21 Q And I take it you're currently not in touch with

22 Mr. Porterfield.

23 A I am not.

24 Q Okay. Are you in touch with his daughter?

25 A I am not.

Page 90

1 Q Has this affected your relationship with his  
 2 daughter, these – this affair, as you said?  
 3 A I don't know. When she was considering starting to  
 4 teach again, this had just started and we didn't know what to  
 5 make of her exit, whether it had any relation to this because  
 6 it was so serious, or whether it was just time for her to go  
 7 anyway.  
 8 Q Okay.  
 9 MR. MOGAN: All right, let's go off the record now  
 10 at 12:59 p.m. on April 13th. Give me please like five, ten  
 11 minutes. I want to talk to Peter and we'll have you back in.  
 12 Okay?  
 13 (A short recess was taken.)  
 14 MR. MOGAN: We are back on the record at 1:09 p.m.  
 15 on April 13th, 2017.  
 16 Mr. Blair, while we were off the record, did you  
 17 have any substantive conversations with the staff?  
 18 THE WITNESS: No, I did not.  
 19 MR. MOGAN: Thank you.  
 20 Mr. Blair, we have no further questions at this  
 21 time. We may, however, call you again to testify in this  
 22 investigation. Should this be necessary, we will contact Mr.  
 23 Clayton.  
 24 Mr. Blair, do you wish to clarify anything or add  
 25 anything to the statements you have made today?

Page 91

1 THE WITNESS: I wanted to make one observation  
 2 about the monies that were taken out February 16, 2016.  
 3 MR. MOGAN: Yes, sir.  
 4 THE WITNESS: Sorry, the money was taken out  
 5 February 19th of 2016.  
 6 MR. MOGAN: That's the second –  
 7 THE WITNESS: That's the \$700,000, the third.  
 8 MR. MOGAN: Right, the last withdrawal.  
 9 THE WITNESS: The last withdrawal of \$700,000.  
 10 MR. MOGAN: Yes, sir.  
 11 THE WITNESS: Three days -- two or three days  
 12 prior to that withdrawal, Conrad Siegel, the actuarial firm,  
 13 alerted Randy Swafford, my brother, about the withdrawal of  
 14 the three million and the two million. We immediately at  
 15 that moment on that day, on the 16th, got ahold of John  
 16 Jumper and asked him what was going on. He had yet to  
 17 fulfill his obligation to report to Conrad Siegel about the  
 18 whereabouts of the money and how it had been invested. And  
 19 we wanted to know where the money was and how it was invested  
 20 and who it was with.  
 21 He indicated that, either that day or close to  
 22 that day, that the monies had been invested in a reputable  
 23 securities firm and he called it American Holdings, I think  
 24 was the name. And he wouldn't give me the location, the  
 25 website. We went through a process of trying to get him to


Page 92

1 reveal who that company was and to give me access so that I  
 2 could look at the funds and see how they were performing,  
 3 what was happening to them. And he kept obfuscating and  
 4 promising. So some of those last few details occurred well  
 5 after the 16th of February.  
 6 Now back to February 16th itself. When I talked to  
 7 him initially about where the monies were, what was going on,  
 8 he of course obfuscated, but three days later, he withdrew  
 9 another \$700,000, knowing that – the grave concerns that I  
 10 had and that the actuarial firm I'm sure had at the time.  
 11 So I just wanted to get that on the record in case  
 12 those sequence of events get lost in the details.  
 13 MR. MOGAN: That's very helpful. Anything else,  
 14 sir?  
 15 THE WITNESS: No.  
 16 MR. MOGAN: Mr. Clayton, do you wish to clarify –  
 17 ask any clarifying questions?  
 18 MR. CLAYTON: No.  
 19 MR. MOGAN: Okay, we are off the record at 1:13  
 20 p.m. on April 13th, 2017. Thank you.  
 21 (Whereupon, the interview was concluded at  
 22 1:13 p.m.)  
 23  
 24  
 25

Page 93

1 U.S. SECURITIES AND EXCHANGE COMMISSION  
 2 REPORTER'S CERTIFICATE  
 3  
 4 I, Susan M. Breedlove, reporter, hereby certify that  
 5 the foregoing transcript, consisting of 92 pages is a  
 6 complete, true and accurate transcript of the testimony  
 7 indicated, held on April 13, 2017 at Atlanta, Georgia  
 8 In the Matter of: American Investments Fund I, LLC  
 9 A-03754-A  
 10 I further certify that this proceeding was recorded by  
 11 me, and that the foregoing transcript has been prepared under  
 12 my direction.  
 13  
 14 Date: April 26, 2017  
 15  
 16 \_\_\_\_\_  
 17e Official Reporter  
 18  
 19  
 20  
 21  
 22

# EXHIBIT 3 TO JUMPER TESTIMONY

 **Board of Directors Resolution**

Resolution of a Meeting of the Board of Directors of

Plan Sponsor Snow Shoe Refractories LLC (the "Corporation")

held at 5100 Poplar Ave on 4 / 27, 2007 at 5:30 o'clock in the PM  
(Mo. Day Yr.)

There were present:

Brett Blair, Brent Porterfield, who presided as Chairman of the meeting, and  
John Junper, who acted as Secretary of the meeting.

It was stated that the purpose of the meeting was to consider and discuss the adoption of the Snow Shoe Refractories LLC Pension Plan ("Plan") and the Trust Agreement containing the terms and conditions governing the relationship between Merrill Lynch Bank & Trust Co., FSB ("MLBT-FSB") and the Corporation with respect to the appointment by the Corporation of MLBT-FSB as Trustee of the Snow Shoe Plan

and, if applicable, the termination of Bank of America the ("Current Trustee") effective 5 / 1, 2007; and the appointment, and termination if applicable,) was in order.

Following a discussion thereof, upon motion duly made, seconded and unanimously carried, it was

Resolved that the attached Trust Agreement be adopted and that MLBT-FSB shall be appointed as Trustee of the Trust established under said Plan and the Current Trustee, if any, which had been serving as Trustee of said Trust, is hereby relieved of such position effective as of 5 / 1, 2007; and it was

Resolved Further that the proper officers of the Corporation are, and each of them is, hereby authorized and directed, in the name of and on behalf of the Corporation, to execute and deliver the Trust Agreement and to do all other things, including the execution of all other documents and the designation of other individuals to represent the Corporation in matters pertaining to the Trust, which they deem necessary or appropriate to implement the foregoing resolution, or such other matters pertaining to the Trust.

There being no further business before the meeting, the same was on motion duly made, seconded and carried, duly adjourned.

Authorized Officer: Brett C Blair  
Secretary: John Junper

Note: This resolution, which you may use, is provided as a convenience to you as the Employer. If you prefer to use a customized resolution, please include original evidence of adoption and appointment of MLBT-FSB, as Trustee.

**Δ π EXHIBIT 3**  
Deponent JUNPER  
Date 2/21/17 Rptr LP  
WWW.DEPOBOOK.COM

# EXHIBIT 4 TO JUMPER TESTIMONY

Defined Benefit Plan Institutional Trust 03.19.07

**Defined Benefit Plan  
Institutional Trust Account Agreement between Merrill Lynch  
Bank & Trust Co., FSB and Employer**

Defined Benefit Plan Trust Agreement entered into as of:

5/22/2007 ("Effective Date")  
among Merrill Lynch Bank & Trust Co., FSB ("MLBT-FSB"),

Snow Shoe REFRACTORIES LLC ("Employer") and the  
Plan Fiduciary, as named in the Specimen Signature Document.

WHEREAS, the Employer maintains the Snow Shoe REFRACTORIES  
LLC PENSION PLAN FOR HOURLY EMPLOYEES a  
defined benefit employee benefit pension plan (the "Plan");

WHEREAS, the Plan Fiduciary (as indicated in the Specimen Signature document) is the Named  
Investment Fiduciary of the Plan;

WHEREAS, the Employer herewith desires to retain MLBT-FSB as a non-discretionary directed Trustee  
of the Plan (the "Trustee") pursuant to the terms and conditions of this Trust Agreement;

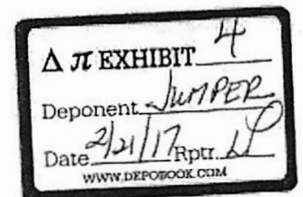
WHEREAS, MLBT-FSB desires to perform such services pursuant to the terms and conditions specified  
in this Agreement;

NOW, THEREFORE, the Employer and the Trustee hereby agree as follows:

**ARTICLE I: STATUS OF TRUST AND APPOINTMENT AND ACCEPTANCE OF TRUSTEE**

- 1.01 Status of Trust. The Trust is intended to be a qualified trust under Section 401(a) of the Internal Revenue Code of 1986, as amended from time to time (the "Code"), and exempt from taxation pursuant to Section 501(a) of the Code.
- 1.02 Appointment of Trustee. The Employer represents that all necessary action has been taken for the appointment of the Trustee as trustee of the Trust and that the Trust Agreement constitutes a legal, valid and binding obligation of the Employer.
- 1.03 Acceptance of Appointment. The Trustee accepts its appointment as a non-discretionary directed trustee of the Trust.
- 1.04 Effectiveness. This Trust Agreement shall not become effective until the executed and delivered by both the Employer and the Trustee.

Original to Trust Officer 5/22/07



**ARTICLE II: ADMINISTRATIVE AND INVESTMENT FIDUCIARIES**

- 2.01 **Named Administrative and Investment Fiduciaries.** For purposes of this Trust Agreement, the term "Named Administrative Fiduciary" refers to the person(s) or entity named or provided for in the Plan as responsible for the administration and operation of the Plan, and the term "Named Investment Fiduciary" refers to the person(s) or entity provided for in the Plan as responsible for the investment and management of Plan assets to the extent provided for in this Trust Agreement. The Named Administrative Fiduciary and the Named Investment Fiduciary may be the same person(s) or entity. If any such person is not named or provided for in the Plan, or if so named or provided for, is not then serving, the Employer shall be the Named Administrative Fiduciary or the Named Investment Fiduciary or both, as the case may be. The Named Administrative Fiduciary and the Named Investment Fiduciary are treated as named fiduciaries under this Trust Agreement (within the meaning of Section 402(a) of the Employee Retirement Income Security Act of 1974, as amended ("ERISA")). Neither the Trustee nor Merrill Lynch, Pierce, Fenner & Smith Incorporated shall serve as the Named Administrative Fiduciary or the Named Investment Fiduciary.
- 2.02 **Identification of Named Fiduciaries and Designees.** The Named Administrative Fiduciary and the Named Investment Fiduciary under the Plan shall each be identified to the Trustee in writing by the Employer, and specimen signatures of each, or of each member thereof, as appropriate, shall be provided to the Trustee by the Employer. The Employer shall promptly give written notice to the Trustee of a change in the identity either of the Named Administrative Fiduciary or the Named Investment Fiduciary, or any member thereof, as appropriate. Until such notice is received by the Trustee, the Trustee shall be fully protected in assuming that the identity of the Named Administrative Fiduciary or Named Investment Fiduciary, and the members thereof, as appropriate, is unchanged. Each person authorized in accordance with the Plan to give a direction to the Trustee on behalf of the Named Administrative Fiduciary or the Named Investment Fiduciary shall be identified to the Trustee by written notice from the Employer or the Named Administrative Fiduciary or the Named Investment Fiduciary, as the case may be, and such notice shall contain a specimen of the signature of each such person. The Trustee shall be entitled to rely upon each such written notice as evidence of the identity and authority of the persons appointed until a written cancellation of the appointment, or the written appointment of a successor, is received by the Trustee from the Employer, the Named Administrative Fiduciary or the Named Investment Fiduciary, as the case may be.

**ARTICLE III: RECEIPTS AND TRUST FUND**

- 3.01 **Receipt by Trustee.** The Trustee shall receive in cash or other assets all contributions paid or delivered to it which are allocable under the Plan and to the Trust and all transfers paid or delivered under the Plan to the Trust from a predecessor trustee or another trust (including a trust forming part of another plan qualified under Section 401(a) of the Code); provided, however, that the Trustee shall not be obligated to receive any such contribution or transfer unless prior thereto or coincident therewith, as the Trustee may specify, the Trustee has received such reconciliation, allocation, investment or other information concerning, or such direction, instruction or representation with respect to, the contribution or transfer or the source thereof as the Trustee may require. The Named Administrative Fiduciary shall have the sole duty and responsibility, and the Trustee shall have no duty or responsibility, to: (a) require any contributions or transfers to be made under the Plan or to the Trustee, (b) compute any amount to be contributed or transferred under the Plan to the Trustee, or (c) determine whether amounts received by the Trustee, and the timing thereof, comply with the Plan and applicable law. In addition, without

exercising any discretionary authority over the investments of the Plan or this Trust, the Trustee may establish certain assets or asset categories that may not be permissible for the Trustee to hold in trust for all plans (or certain types of plans) with respect to which the Trustee may be serving as trustee. The Trustee has the right to refuse to accept such assets or asset categories into the Trust Fund and, upon providing the Named Investment Fiduciary reasonable advance written notice, the Trustee may refuse to continue to hold any such existing assets or asset categories in the Trust Fund. Upon written request (which may be provided through electronic communication in accordance with Section 11.12 hereof) the Trustee shall provide to the Employer or Named Investment Fiduciary additional information concerning which assets or asset categories are not capable of being held in this Trust Fund.

- 3.02 **Trust Fund.** For purposes of this Trust Agreement, the "Trust Fund" consists of all money and other property received by the Trustee pursuant to Section 3.01 hereof, increased by any income or gains on or increment in such assets and decreased by any investment loss or expense, benefit or disbursement paid pursuant to this Trust Agreement. The Trustee shall hold the Trust Fund, without distinction between principal and income, as a nondiscretionary, directed trustee pursuant to the terms of this Trust Agreement. Assets of the Trust may be held in an account maintained with an affiliate of the Trustee or such other financial institution as the Trustee considers appropriate.

#### ARTICLE IV: PAYMENTS, ADMINISTRATIVE DIRECTIONS AND EXPENSES

- 4.01 **Payments by Trustee.** Payments of money or property from the Trust Fund shall be made by the Trustee upon direction from the Named Administrative Fiduciary or its designee. Payments by the Trustee shall be transmitted to the Named Administrative Fiduciary or its designee for delivery to the proper payees or to payee addresses supplied by the Named Administrative Fiduciary or its designee, and the Trustee's obligation to make such payments shall be satisfied upon such transmittal. The Trustee shall have no obligation to determine the identity of persons entitled to payments under the Plan or their addresses.
- 4.02 **Named Administrative Fiduciary's Directions.** Directions from or on behalf of the Named Administrative Fiduciary or its designee shall be communicated to the Trustee or the Trustee's designee only in a manner and in accordance with procedures acceptable to the Trustee. The Trustee's designee shall not, however, be empowered to implement any such directions except in accordance with procedures acceptable to the Trustee. The Trustee shall have no liability for following any such directions or failing to act in the absence of any such directions.
- The Trustee shall have no liability for the acts or omissions of any person making or failing to make any direction under the Plan or this Trust Agreement nor any duty or obligation to review any such direction, act or omission.
- 4.03 **Disputed Payments.** If a dispute arises over the propriety of the Trustee making any payment from the Trust Fund, the Trustee may withhold the payment until the dispute has been resolved by a court of competent jurisdiction or settled by the parties to the dispute. The Trustee may consult legal counsel and shall be fully protected in acting upon the advice of counsel.
- 4.04 **Trustee's Compensation and Expenses.** The Trustee's compensation and expenses payable under this Trust Agreement in accordance with the fee schedule agreed to in writing by the Employer shall be, to the extent permitted by ERISA, expenses of the Plan and may be paid from Plan assets, unless paid by the Employer, as described below.

- (a)e The Employer may (i) pay the Trustee compensation for its services under this Trust Agreement in accordance with the Trustee's fee schedule in effect and applicable at the



time such compensation becomes payable, and (ii) pay or reimburse the Trustee for all expenses incurred by the Trustee in connection with or relating to the performance of its duties under this Trust Agreement or its status as Trustee, including reasonable attorneys' fees.

(b) If the Employer does not pay the amounts referred to in Section 4.04(a) for a period of 75 days after the date of an invoice for the same, and the Employer or Named Administrative Fiduciary has not objected to such compensation/expenses in writing within such 75-day period, the Employer hereby authorizes and directs the Trustee to charge against and withdraw from the Trust Fund all such compensation and expenses owing as provided below: Any objection to compensation and expenses charged by the Trustee, as applicable, shall be made by the Employer or the Named Administrative Fiduciary in writing and presented to the appropriate party within 75 days after the date of the invoice provided to the Employer. Unresolved objections shall be settled, at the Trustee's option, either by an agreement of settlement between the Trustee and the Employer or by a judicial settlement in an action instituted by the Trustee.

(c) The Employer authorizes the Trustee and/or its affiliates to receive payments from mutual funds (and/or collective trusts) in which the Trust invests (or from the principal distributors and/or advisors of those funds or trusts), in connection with the performance of reasonable and necessary services (including recordkeeping, subaccounting, account maintenance, administrative and other shareholder services). The Employer understands that different mutual funds (or collective trusts) may be subject to different fee arrangements. Upon written request, the Trustee or its designee shall provide further details on any specific fee arrangements that may be applicable to investments under the Plan.

4.05 **Taxes.** The Trustee is authorized, with or without direction from the Named Administrative Fiduciary or any other person, to withdraw from the Trust Fund and pay any federal, state or local taxes, charges or assessments of any kind levied or assessed against the Trust or assets thereof. Such taxes shall be payable from and an expense of the Plan. The Trustee shall give notice to the Named Administrative Fiduciary of its receipt of a demand for any such taxes, charges or assessments. The Named Administrative Fiduciary shall have a reasonable opportunity under the circumstances to contest any such taxes, charges or assessments prior to any payment by the Trustee. The Trustee shall not be personally liable for any such taxes, charges or assessments.

4.06 **Expenses of Administration.** All reasonable expenses incurred by or on behalf of the Trust, or incurred in connection with the administration of the Trust by the Employer, the Named Administrative Fiduciary, the Named Investment Fiduciary, any Investment Manager designated pursuant to Section 5.02 or any other person designated to act on behalf of the Employer, the Named Administrative Fiduciary or the Named Investment Fiduciary, including reimbursement for expenses incurred in the performance of their respective duties and any premium payments to the Pension Benefit Guaranty Corporation, as necessary, shall be paid or reimbursed from the Trust Fund to the extent permitted by ERISA. Such expenses, however, may be paid from the Trust Fund only upon the written direction to the Trustee by the Named Administrative Fiduciary. The Employer may, however, make alternative arrangements to pay such expenses or reimburse the Trust Fund for any such payment, if the Employer so elects.

4.07 **Restriction on Alienation.** Except as provided in Section 4.08 or under Section 401(a)(13) of the Code, the right or interest of any Plan participant or beneficiary in the Trust Fund shall not be subject to the claims of such person's creditors and may not be assigned, sold, transferred, alienated or encumbered. Any attempt to do so shall be void; and the Trustee shall disregard any attempt. Trust assets shall not in any manner be liable for or subject to debts, contracts,

liabilities, engagement or torts of any Plan participant or beneficiary, and benefits shall not be considered an asset of any such person in the event of the person's insolvency or bankruptcy.

- 4.08 **Payment on Court Order.** The Trustee is authorized to make any payments directed by courts order in any action in which the Trustee is a party or pursuant to a "qualified domestic relations order" under Section 414(p) of the Code or Section 206(d) of ERISA; provided that the Trustee shall not make such payment if so directed by the Employer or Named Administrative Fiduciary and the Trustee is indemnified and held harmless by the Employer in a manner satisfactory to the Trustee against all consequences of such failure to pay. The Trustee is not obligated to defend actions in which the Trustee is named but shall notify the Employer or Named Administrative Fiduciary of any such action and may tender defense of the action to the Employer, the Named Administrative Fiduciary or the participant or beneficiary whose interest is affected. The Trustee may in its discretion defend any action in which the Trustee is named and any reasonable expenses, including reasonable attorneys' fees, incurred by the Trustee in that connection shall be paid or reimbursed in accordance with Section 4.04 hereof.

#### ARTICLE V: INVESTMENTS

- 5.01 **Investment Management.** The Named Investment Fiduciary shall manage the investment of the Trust Fund except insofar as a person (an "Investment Manager") who meets the requirements of Section 3(38) of ERISA, has authority to manage Trust assets as referred to in Section 5.02 hereof. The Trustee shall invest the Trust Fund as directed by the Named Investment Fiduciary or an Investment Manager, as the case may be, and shall have no discretionary control over, nor any other discretion regarding, the investment or reinvestment of any asset of the Trust.

It is understood that the Trustee may, from time to time, have on hand funds which are received as contributions or transfers to the Trust which are awaiting investment or funds from the sale of Trust assets which are awaiting reinvestment. Absent receipt by the Trustee of a direction from the proper person for the investment or reinvestment of such funds or otherwise prior to the application of funds in implementation of such a direction the Trustee shall in accordance with the Trustee's normal procedures in this regard cause such funds to be invested under the Plan in shares of the money market fund acceptable to the Trustee as the Employer or Named Investment Fiduciary may in writing to the Trustee specify for this purpose from time to time. Any such fund may be sponsored, managed or distributed by an affiliate of the Trustee. The Employer or the Named Investment Fiduciary, as the case may be, hereby acknowledges that prior to any such specification the appropriate Plan fiduciary will have the responsibility for having reviewed the current prospectus that has been made available for the specified fund.

- 5.02 **Investment Managers.** The Employer or the Named Investment Fiduciary may appoint one or more Investment Managers, who may be an affiliate of the Trustee, to direct the Trustee in the investment of all or a specified portion of the assets of the Trust. Any such Investment Manager shall be directed by the Employer or the Named Investment Fiduciary, as the case may be, to act in accordance with the procedures referred to in Section 5.04. The Named Investment Fiduciary shall notify the Trustee in writing before the effectiveness of the appointment or removal of any Investment Manager. If there is more than one Investment Manager whose appointment is effective under the Plan at any one time, the Trustee shall, upon written instructions from the Employer or the Named Investment Fiduciary, establish separate funds for control by each such Investment Manager. The funds shall consist of those Trust assets designated by the Employer or the Named Investment Fiduciary.

**5.03 Direction of Voting and Other Rights.** Notwithstanding anything in the Plan document to the contrary:

- (a) The voting, tender and other rights in securities or other assets held in the Trust shall be exercised by the Trustee as directed by the Named Investment Fiduciary or any Investment Manager having control over the security or other assets involved, if any have been appointed.
- (b) If a person other than the Named Investment Fiduciary responsible for a voting or other decision regarding an asset held in the Trust (i) does not communicate a decision on a matter to the Trustee or the Trustee's designee by the time prescribed by the Trustee or the Trustee's designee for that purpose or (ii) the Trustee notifies the Named Investment Fiduciary either that it does not have precise information as to the securities or other assets involved or (iii) time constraints make it unlikely that the Investment Manager direction, can be received on a timely basis, then the decision shall be the responsibility of the Named Investment Fiduciary and, the Named Investment Fiduciary shall communicate such direction to the Trustee on a timely basis.
- (c) If the Named Investment Fiduciary with any right under the Plan or this Trust Agreement to direct a voting, tender or other decision with respect to any security or other asset held in the Trust, does not communicate any decision on the matter to the Trustee or the Trustee's designee by the time prescribed by the Trustee for that purpose, the Trustee may, at the cost of the Employer, obtain advice from a bank, insurance company, investment adviser or other investment professional (including any affiliate of the Trustee) or retain an Investment Manager or other independent fiduciary with full discretion to make the decision.
- (d) The Trustee shall follow all directions above-referred to in this Section and shall have no duty to exercise voting or other rights relating to any such security or other asset.

**5.04 Investment Directions.** Directions for the investment or reinvestment of Trust assets or directions of a type referred to in Section 5.03 from the Employer, the Named Investment Fiduciary, or an Investment Manager shall, in a manner and in accordance with procedures acceptable to the Trustee, be communicated to and implemented by, as the case may be, the Trustee, the Trustee's designee or, with the Trustee's consent, the broker/dealer designated for the purpose by the Employer or the Named Investment Fiduciary. Communication of any such direction to such a designee or broker/dealer shall conclusively be deemed an authorization to the designee or broker/dealer to implement the direction even though coming from a person other than the Trustee. The Trustee (a) shall have no liability for its or any other person's following such directions or failing to act in the absence of any such directions; (b) shall have no liability for the acts or omissions of any person directing the investment or reinvestment of Trust Fund assets or making or failing to make any direction referred to in Section 5.03; and (c) shall have no duty or obligation to review any such investment or other direction, act or omission or, except upon receipt of a proper direction, to invest or otherwise manage any asset of the Trust which is subject to the control of any such person or to exercise any voting or other right referred to in Section 5.03.

**5.05 Communication of Proxy and Other Materials.** The Employer or Named Administrative Fiduciary shall establish a procedure acceptable to the Trustee for the timely dissemination to each person entitled to direct the Trustee or its designee as to a voting or other decision called for thereby or referred to therein of all proxy and other materials bearing on the decision.

- 5.06 **Common and Collective Trust Funds.** Any person authorized to direct the investment of Trust assets may direct the Trustee to invest such assets in a common or collective trust (including any such common or collective trust maintained by the Trustee or its affiliate) for the investment of assets of qualified trusts under Section 401(a) of the Code, individual retirement accounts under Section 408(a) of the Code and plans of governmental units described in Section 818(a)(6) of the Code. The documents governing any such common or collective trust fund in which Trust assets have been invested, are hereby incorporated into this Trust Agreement by reference.
- 5.07 **Disclosure to Merrill Lynch Affiliates and Portfolio Companies.** In order to provide for the ongoing administration of the Trust, the Employer authorizes the Trustee to provide information relating to the Trust to any of the affiliates of the Trustee and their employees, including Merrill Lynch, Pierce, Fenner & Smith Incorporated.

The Employer hereby directs the Trustee to withhold from any company in which securities are held under the Trust with respect to the Plan now or in the future (which companies are referred to herein as "Portfolio Companies") any information requested by Portfolio Companies (including but not limited to the name and address of the Trust and any securities positions held in the Trust Fund with respect to the Plan).

#### **ARTICLE VI: RESPONSIBILITIES AND INDEMNITY**

- 6.01 **Relationship of Fiduciaries.** Each fiduciary of the Plan and the Trust shall be solely responsible for its own acts or omissions, except as provided in ERISA. The Trustee shall have no duty to question any other Plan fiduciary's performance of fiduciary duties allocated to such other fiduciary pursuant to the Plan. The Trustee shall not be responsible for the breach of responsibility by any other Plan fiduciary except as required under ERISA.
- 6.02 **Benefit of Participants.** Each fiduciary shall, within the meaning of the Code and ERISA, discharge its duties with respect to the Trust solely in the interest of participants in the Plan and their beneficiaries and for the exclusive purpose of providing benefits to such participants and beneficiaries and defraying reasonable expenses of administering the Plan.
- 6.03 **Status of Trustee.** The Trustee acknowledges its status as a "fiduciary" of the Plan within the meaning of ERISA, in its capacity as a non-discretionary directed trustee.
- 6.04 **Location of Indicia of Ownership.** Except as permitted by ERISA, the Trustee shall not maintain the indicia of ownership of any assets of the Trust outside the jurisdiction of the district courts of the United States.
- 6.05 **Trustee's Reliance.** The Trustee shall have no duty to inquire whether directions by the Employer, the Named Administrative Fiduciary, the Named Investment Fiduciary or any other person conform to the Plan, and the Trustee shall be fully protected in relying on any such direction communicated in accordance with procedures acceptable to the Trustee from any person who the Trustee reasonably believes is a proper person to give the direction. The Trustee shall have no liability to any participant, any beneficiary or any other person for payments made, any failure to make payments, or any discontinuance of payments, on direction of the Named Administrative Fiduciary, the Named Investment Fiduciary or any designee of either of them or for any failure to make payments in the absence of directions from the Named Administrative Fiduciary or any person responsible for or purporting to be responsible for directing the investment of Trust assets. Except as required by ERISA, the Trustee shall have no obligation to request proper directions from any person. The Trustee may request instructions from the Named Administrative Fiduciary or the Named Investment Fiduciary and shall have no duty to act or liability for failure to act if such instructions are not forthcoming. The Trustee shall have no

responsibility to determine whether the Trust Fund is sufficient to meet the liabilities under the Plan, and the Trustee shall not be liable for payments or Plan liabilities in excess of the Trust Fund.

**6.06 Indemnification.**

- (a) The Employer hereby indemnifies the Trustee against, and shall hold the Trustee harmless from, any and all loss, claims, liability, and expense, including reasonable attorneys' fees, imposed upon the Trustee or incurred by the Trustee as a result of any acts taken, or any failure to act, in accordance with the directions from the Named Administrative Fiduciary, Named Investment Fiduciary, Investment Manager or any other person specified in Article IV or V hereof, or any designee of any such person, or by reason of the Trustee's good faith execution of its duties with respect to the Trust, including, but not limited to, its holding of assets of the Trust as provided for in Section 3.02, the Employer's obligations in the foregoing regard to be satisfied promptly on request by the Trustee, unless the loss, claim, liability or expense involved resulted from the Trustee's negligence, willful misconduct or breach of this Trust Agreement.
- (b) The Trustee hereby indemnifies the Employer against, and shall hold the Employer harmless from, any and all loss, claims, liability, and expense, including reasonable attorneys' fees, imposed upon the Employer or incurred by the Employer as a result of the Trustee's negligence, willful misconduct or breach of this Trust Agreement.

**6.07 Protection of Designees.** To the extent that any designee of the Trustee is acting on behalf of the Trustee or otherwise performing a function of the Trustee under this Trust Agreement, the designee shall have the benefit of all of the applicable limitations on the scope of the Trustee's duties and liabilities, all applicable rights of indemnification granted hereunder to the Trustee and all other applicable protections of any nature afforded to the Trustee.

**ARTICLE VII: POWERS OF TRUSTEE**

**7.01 Nondiscretionary Investment Powers.** Solely at the direction of the person authorized to direct such action as referred to in Article V hereof, but limited to those assets or categories of assets acceptable to the Trustee, the Trustee, or the Trustee's designee or a broker/dealer as referred to in Section 5.04, is authorized and empowered:

- (a) To invest and reinvest the Trust Fund, together with the income therefrom, in common stock, preferred stock, convertible preferred stock, bonds, debentures, convertible debentures and bonds, mortgages, notes, commercial paper and other evidences of indebtedness (including those issued by the Trustee), shares of mutual funds (which funds may be sponsored, managed or offered by an affiliate of the Trustee), guaranteed investment contracts, bank investment contracts, other securities, policies of life insurance, annuity contracts, options, options to buy or sell securities or other assets, and all other property of any type (personal, real or mixed, and tangible or intangible);
- (b) To deposit or invest all or any part of the assets of the Trust in savings accounts or certificates of deposit or other deposits in a bank or savings and loan association or other depository institution, including the Trustee or any of its affiliates; provided, that with respect to such deposits with the Trustee or an affiliate, the deposits bear a reasonable interest rate;

- (e)d To hold, manage, improve, repair and control all property, real or personal, forming part of the Trust Fund; to sell, convey, transfer, exchange, partition, lease for any term, even extending beyond the duration of this Trust, and otherwise dispose of the same from time to time;d
- (d) To have, respecting securities, all the rights, powers and privileges of an owner, including the power to give proxies, pay assessments and other sums deemed by the Trustee necessary for the protection of the Trust Fund; to vote any corporate stock either in person or by proxy, with or without power of substitution, for any purpose: to participate in voting trusts, pooling agreements, foreclosures, reorganizations, consolidations, mergers and liquidations, and in connection therewith to deposit securities with or transfer title to any protective or other committee; to exercise or sell stock subscriptions or conversion rights; and, regardless of any limitation elsewhere in this instrument relative to investments by the Trustee, to accept and retain as an investment any securities or other property received through the exercise of any of the foregoing powers;d
- (e) Subject to Section 5.01 hereof, to hold in cash, without liability for interest, such portion of the Trust Fund which it is directed to so hold pending investments, or payment of expenses, or the distribution of benefits; d
- (f) To take such actions as may be necessary or desirable to protect the Trust from loss due to the default on mortgages held in the Trust including the appointment of agents or trustees in such other jurisdictions as may seem desirable, to transfer property to such agents or trustees, to grant to such agents such powers as are necessary or desirable to protect the Trust Fund, to direct such agent or trustee, or to delegate such power to direct, and to remove such agent or trustee;
- (g) To settle, compromise or abandon all claims and demands in favor of or against the Trust Fund;
- (h) To invest in any common or collective trust fund of the type referred to in Section 5.06 hereof maintained by the Trustee or its affiliate;d
- (i) To exercise all of the further rights, powers, options and privileges granted, provided for, or vested in trustees generally under the laws of the state in which the Trustee has its principal place of business, so that the powers conferred upon the Trustee herein shall not be in limitation of any authority conferred by law, but shall be in addition thereto;d
- (j) To borrow money from any source and to execute promissory notes, mortgages or other obligations and to pledge or mortgage any trust assets as security, subject to applicable requirements of the Code and ERISA;d
- (k) To maintain accounts at, execute transactions through, and lend on an adequately secured basis stocks, bonds or other securities to, any brokerage or other firm, including any firm which is an affiliate of the Trustee;d
- (l) To lend, through a collective investment fund, any securities held in such collective investment fund to brokers, dealer or other borrowers and to permit such securities to be transferred in the name and custody and be voted by the borrower or others; and d



- (m) To invest and reinvest the trust Fund, together with the income there from, in shares of a registered investment company, whether or not the Trustee or any of its affiliates is an advisor to, or other service provider to, such company.

**7.02 Additional Powers of Trustee.** To the extent necessary or which it deems appropriate to implement its powers under Section 7.01 or otherwise to fulfill any of its duties and responsibilities as trustee of the Trust Fund, the Trustee shall have the following additional powers and authority:

- (a) To register securities, or any other property, in its name or in the name of any nominee, including the name of any affiliate or the nominee name designated by any affiliate, with or without indication of the capacity in which property shall be held; or to hold securities in bearer form and to deposit any securities or other property in a depository or clearing corporation;
- (b) To designate and engage the services of, and to delegate powers and responsibilities to, such agents, custodians, representatives, advisers, counsel and accountants as the Trustee considers necessary or appropriate, including trust recordkeeping and accounting, investment, and subcustodial services with respect to all or any portion of the Trust, any of whom may be an affiliate of the Trustee or a person who renders services to such an affiliate, and; as a part of its expenses under this Trust Agreement, to pay their reasonable expenses and compensation;
- (d) To make, execute and deliver, as Trustee, any and all deeds, leases, mortgages, conveyances, waivers, releases or other instruments in writing necessary or appropriate for the accomplishment of any of the powers listed in this Trust Agreement;
- (d) To make premium payments to the Pension Benefit Guaranty Corporation, as necessary; and
- (e) Generally to do all other acts which the Trustee deems necessary or appropriate for the protection of the Trust Fund.

**ARTICLE VIII: RECORDS, ACCOUNTINGS AND VALUATIONS**

**8.01 Records.** The Trustee shall maintain or cause to be maintained accurate records and accounts of all Trust transactions and assets. The records and accounts shall be available at reasonable times during normal business hours for inspection or audit by the Named Administrative Fiduciary and the Named Investment Fiduciary or any person designated for the purpose by either of them.

**8.02 Accountings.** Within 90 days following the close of each fiscal year of the Plan or the effective date of the removal or resignation of the Trustee, the Trustee shall file with the Named Administrative Fiduciary a written accounting setting forth all transactions since the end of the period covered by the last previous accounting. The accounting shall include a listing of the assets of the Trust showing the value of such assets at the close of the period covered by the accounting. On direction of the Named Administrative Fiduciary, and if previously agreed to by the Trustee, the Trustee shall submit to the Named Administrative Fiduciary interim valuations, reports or other information pertaining to the Trust.

The Named Administrative Fiduciary may approve the accounting by written approval delivered to the Trustee or by failure to deliver written objections to the Trustee within 60 days after receipt

Defined Benefit Plan Institutional Trust 03/19/07

of the accounting. Any such approval shall be binding on the Employer, the Named Administrative Fiduciary, the Named Investment Fiduciary and, to the extent permitted by ERISA, all other persons. If the Employer provides to the Trustee written notice of its objections after the expiration of such 60-day period then the Trustee shall use its reasonable best efforts to correct such inaccuracies or errors but the Employer shall be fully responsible for all costs incurred in correcting such inaccuracies or errors.

- 8.03 **Valuation.** The assets of the Trust shall be valued as of each valuation date under the Plan at fair market value as determined by the Trustee based upon such sources of information as it may deem reliable, including, but not limited to, stock market quotations, statistical evaluation services, newspapers of general circulation, financial publications, advice from investment counselors or brokerage firms, or any combination of sources. The reasonable costs incurred in establishing values of the Trust Fund shall be a charge against the Trust Fund, unless paid or disputed by the Employer in accordance with Section 4.04 hereof.

When the Trustee is unable to arrive at a value based upon information from independent sources, it may rely upon information from the Employer, Named Administrative Fiduciary, Named Investment Fiduciary, appraisers, or other sources, and shall not incur any liability for inaccurate valuation based in good faith upon such information.

#### **ARTICLE IX: RESIGNATION AND REMOVAL OF TRUSTEE**

- 9.01 **Resignation.** The Trustee may resign at any time upon at least 60 days written notice to the Employer.
- 9.02 **Removal.** The Employer may remove the Trustee upon at least 60 days written notice to the Trustee.
- 9.03 **Appointment of a Successor.** Upon resignation or removal of the Trustee, the Employer shall appoint a successor trustee, provided that in connection with its resignation, the Trustee may designate another entity to be the successor unless the Employer appoints a successor within 30 days of the notice of resignation. Notwithstanding the foregoing, upon failure of the Employer to appoint, or the failure of the effectiveness of the appointment by the Employer of, a successor trustee by the effective date of the resignation or removal, the Trustee may appoint a successor trustee.

Subject to Sections 9.04 and 9.05 hereof, promptly after receipt by the Trustee of notice of the effectiveness of the appointment of the successor trustee, the Trustee shall deliver to the successor trustee such records as may be reasonably requested to enable the successor trustee to properly administer the Trust Fund and all property of the Trust after deducting therefrom such amounts as the Trustee determines to provide for expenses, taxes, compensation or other amounts due to or by the Trustee pursuant to Sections 4.04 or 5.03 hereof not otherwise paid by the Employer or paid from the Trust Fund prior to the delivery.

- 9.04 **Settlement of Account.** Upon resignation or removal of the Trustee, the Trustee shall have the right to a settlement of its account, which settlement shall be made either by an agreement of settlement between the Trustee and the Employer or, if no such agreement is reached, by binding arbitration in accordance with the arbitration provision in Section 11.13.
- 9.05 **Expenses and Compensation.** The Trustee shall not be obligated to transfer Trust assets until the Trustee is provided assurance by the Employer satisfactory to the Trustee that all fees and



expenses reasonably anticipated will be paid in accordance with Section 4.04, or that such fees and expenses will otherwise be paid to the Trustee by the Employer, as agreed by the parties.

- 9.06 **Termination of Responsibility and Liability.** Upon settlement of the account and transfer of the Trust Fund to the successor trustee, all rights and privileges under this Trust Agreement shall vest in the successor trustee and all responsibility and liability of the Trustee with respect to the Trust and assets thereof shall, except as otherwise required by ERISA, terminate subject only to the requirement that the Trustee execute all necessary documents to transfer the Trust assets to the successor trustee.

#### ARTICLE X: AMENDMENT AND TERMINATION

- 10.01 **Amendment.** The Employer reserves the right to amend this Trust Agreement, provided that no amendment of this Trust Agreement or the Plan shall be effective which would (a) cause any assets of the Trust Fund to be used for, or diverted to, purposes other than the exclusive benefit of Plan participants or their beneficiaries other than an amendment permissible under the Code and ERISA, or (b) affect the rights, duties, responsibilities, obligations or liabilities of the Trustee without the Trustee's written consent. The Employer shall amend this Trust Agreement as requested by the Trustee to reflect changes in law which counsel for the Trustee advises the Trustee require such changes. Amendments to the Trust Agreement or certified copies of the amendments shall be delivered to the Trustee promptly after adoption, and if practicable under the circumstances, any proposed amendment to the Trust Agreement under consideration by the Employer shall be communicated to the Trustee to permit the Trustee to review and comment thereon in due course before the Employer acts on the proposed amendment.
- 10.02 **Termination.** The Trust may be terminated by the Employer upon at least 90 days' written notice to the Trustee. Upon such termination and subject to Section 11.01 hereof, the Trust Fund shall be distributed as directed by the Named Administrative Fiduciary.

In the case of termination of the Plan, any residual assets of the Trust Fund may be distributed to the Employer at the direction of the named Administrative Fiduciary (or a trustee appointed by the Pension Benefit Guaranty Corporation), provided that the Named Administrative Fiduciary (or a trustee appointed by the Pension Benefit Guaranty Corporation) determines, represents and warrants that all obligations of the Trust Fund and all liabilities under the Plan to participants and their beneficiaries have been satisfied and such distribution does not contravene any applicable provisions of law. In the event that the Plan is terminated in whole or in part by the Employer pursuant to the provisions of Section 4041 of ERISA, or by the Pension Benefit Guaranty Corporation pursuant to the provisions of Section 4042 of ERISA, the Trustee, reserving such sums as the Trustee shall deem necessary in settling the Trustee's accounts and discharging their obligations of the Trust Fund for which the Trustee may be liable, shall apply or distribute the Trust Fund in accordance with the written directions of the Named Administrative fiduciary or any trustee appointed by the Pension Benefit Guaranty Corporation. When the Trust Fund has been so applied or distributed, the Trustee shall be released and discharged from all further accountability or liability respecting the Trust Fund and shall not be responsible in any way to any person for the further disposition of the Trust Fund. No liquidation of the assets of the Trust Fund shall be made by the Trustee until the Trustee has been advised by the Named Administrative Fiduciary or any trustee appointed by the Pension Benefit Guaranty Corporation in writing that the applicable plan termination requirements under ERISA have been, or are being, obtained. The Trustee shall be entitled to prior receipt of such rulings and determinations from such administrative agencies as it may deem necessary or advisable to assure itself that the distribution directed is in accordance with law and will not subject the Trust Fund or the Trustee to liability.

**ARTICLE XI: MISCELLANEOUS**

- 11.01 **Exclusive Benefit Rule.** Except as provided in Section 11.02, or as otherwise permitted or required by ERISA or the Code, no asset of the Trust shall be used for, or diverted to, purposes other than the exclusive benefit of Plan participants or their beneficiaries or for the reasonable expenses of administering the Plan and Trust until all liabilities for benefits due Plan participants or their beneficiaries have been satisfied.
- 11.02 **Refunds to Employer.** The Trustee shall, upon the written direction of the Named Administrative Fiduciary which shall include a certification that such action is proper under the Plan, ERISA and the Code specifying any relevant sections thereof, return to the Employer any amount referred to in Section 403(c)(2) of ERISA.
- 11.03 **Authorized Action.** Any action to be taken under this Trust Agreement by an Employer or other person which is: (a) a corporation, shall be taken by the board of directors of the corporation or any person or persons duly empowered by the board of directors to take the action involved, (b) a partnership, shall be taken by an authorized general partner of the partnership, or (c) a sole proprietorship, shall be taken by the sole proprietor.
- 11.04 **Qualified Plan Representation.** By entering into the Trust Agreement, the Employer represents that the underlying Plan is a qualified plan under Section 401(a) of the Internal Revenue Code. The Employer further represents that prior to the execution of this Trust Agreement by both parties it delivered to the Trustee the text of the Plan, as in effect as of the date of this Trust Agreement, and all other documents governing the Plan that are relevant to the Trustee's duties. The Employer shall deliver to the Trustee promptly after the adoption of any amendment of the Plan, or the adoption of any other document governing the Plan that is relevant to the Trustee's duties, a certified copy of each such amendment or document. The Employer further represents that the Plan maintains adequate procedures for identifying and avoiding, unless an appropriate exemption is available, "prohibited transactions", as defined in ERISA.
- 11.05 **Conflict with Plan.** The rights, duties, responsibilities, obligations and liabilities of the Trustee are as set forth in this Trust Agreement, and no provision of the Plan or any other document shall be deemed to affect such rights, duties, responsibilities, obligations and liabilities. If there is a conflict between provisions of the Plan, any other document and this Trust Agreement with respect to any subject involving the Trustee, including but not limited to the responsibility, authority or powers of the Trustee, the provisions of this Trust Agreement shall be controlling.
- 11.06 **Failure to Maintain Qualification.** If the Trust fails to qualify as a qualified trust under Section 401(a) of the Code, or loses its status as such a qualified trust, the Employer shall immediately so notify the Trustee, and the Trustee shall, without further notice or direction, remove the Trust assets from any common or collective trust fund for investments by qualified trusts.
- 11.07 **Governing Law and Construction.** This Trust Agreement and the Trust shall be construed, administered and governed under ERISA and other pertinent federal law, and to the extent that federal law is inapplicable, under the laws of the state in which the Trustee has its principal place of business. If any provision of this Trust Agreement is susceptible to more than one interpretation, the interpretation to be given is that which is consistent with the Trust being a qualified trust under Section 401(a) of the Code. If any provision of this Trust Agreement is held by a court of competent jurisdiction to be invalid or unenforceable, the remaining provisions shall continue to be fully effective to the extent possible under the circumstances.

- 11.08 **Successors and Assigns.** This Trust Agreement shall inure to the benefit of and be binding upon the parties hereto and their respective successors and assigns.
- 11.09 **Gender.** As used in this Trust Agreement, the masculine gender shall include the feminine and the neuter genders and the singular shall include the plural and the plural the singular as the context requires.
- 11.10 **Headings.** Headings and subheadings in this Trust Agreement are for convenience of reference only and are not to be considered in the construction of the provisions of the Trust Agreement.
- 11.11 **Counterparts.** This Trust Agreement may be executed in several counterparts, each of which shall be deemed an original, and these counterparts shall constitute one and the same instrument which may be sufficiently evidenced by any one counterpart.
- 11.12 **Notice.** Any written notice required by this Trust Agreement shall be deemed given on the date personally delivered to an authorized representative of the Trustee or the Employer, Named Administrative Fiduciary, or Named Investment Fiduciary (or any other party to whom written notice is required) or deposited in the United States mail, return receipt requested, addressed to the Trustee or the Employer, the Named Administrative Fiduciary, or Named Investment Fiduciary (or any other party to whom written notice is required) at the most recent address provided by the Trustee and the other party to the other. In addition, any written notice required by this Trust Agreement may be provided through e-mail or other electronic means that are readily convertible into legible and readable paper copy. g g

11.13 **Arbitration.**

By signing this Trust Agreement, including this arbitration clause, the Employer and the Trustee agree as follows:

- g The Employer and the Trustee are giving up the right to sue each other in court, including the right to a trial by jury, except as provided by the rules of the arbitration forum in which a claim is filed. g g
- g Arbitration awards are generally final and binding; a party's ability to have a court reverse or modify an arbitration award is very limited.g
- g The ability of the Employer and the Trustee to obtain documents, witness statements and other discovery is generally more limited in arbitration than in court proceedings.g
- g The arbitrators do not have to explain the reason(s) for their award.g
- g The panel of arbitrators will typically include a minority of arbitrators who were or are affiliated with the securities industry.
- g The rules of some arbitration forums may impose time limits for bringing a claim in arbitration. In some cases, a claim that is ineligible for arbitration may be brought in court.g
- The rules of the arbitration forum in which the claim is filed, and any amendments thereto, shall be incorporated into this agreement.

- Nothing herein shall constitute a waiver of the right to seek a judicial forum where such a waiver would be void under the Employee Retirement Income Security Act of 1974, as amended.

The undersigned Employer agrees on behalf of the Plan that all controversies which may arise between the Employer and the Trustee in connection with this Trust Agreement or any document or agreement incorporated by reference therein, including but not limited to those involving any transaction related to the Plan or the Plan accounts, or the construction, performance, or breach of this or any other agreement between the Employer and the Trustee, whether entered into prior to, on, or subsequent to the date hereof, shall be determined by arbitration.

Any arbitration under this Trust Agreement shall be conducted only before the New York Stock Exchange, Inc. ("NYSE"), an arbitration facility provided by any other exchange of which Merrill Lynch, Pierce, Fenner & Smith Incorporated is a member, or the National Association of Securities Dealers, Inc. ("NASD"), and in accordance with its rules then in force.

The Employer may elect in the first instance whether arbitration shall be conducted before the NYSE, another exchange of which Merrill Lynch, Pierce, Fenner & Smith is a member, or the NASD. If the Employer fails to make such election, by registered letter or telegram addressed to:

Merrill Lynch Bank & Trust Co., FSB  
Institutional Trust Administration  
1300 Merrill Lynch Drive, MSC 0303  
Pennington, NJ 08534

before the expiration of five (5) days after receipt of a written request from the Trustee to make such election, then the Trustee may make such election. Judgment upon the award of arbitrators may be entered in any court, state or federal, having jurisdiction. No person shall bring a putative or certified class action to arbitration, nor seek to enforce any pre-dispute arbitration agreement against any person who has initiated in court a putative class action, or who is a member of a putative class who has not opted out of the class with respect to any claims encompassed by the putative class action until:

- (i) the class certification is denied;
- (ii) the class is decertified; or
- (iii) the person is excluded from the class by the court.

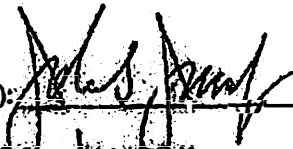
Such forbearance to enforce an agreement to arbitrate shall not constitute a waiver of any rights under this Trust Agreement except to the extent stated herein.

BY SIGNING THIS TRUST AGREEMENT. THE UNDERSIGNED EMPLOYER AND TRUSTEE ACKNOWLEDGE THAT, (1) IN ACCORDANCE WITH SECTION 11.13 ABOVE, THE EMPLOYER AND TRUSTEE ARE AGREEING IN ADVANCE TO ARBITRATE ANY CONTROVERSIES WHICH MAY ARISE AND (2) RECEIPT OF A COPY OF THIS TRUST AGREEMENT.

IN WITNESS WHEREOF, the Employer and the Trustee have executed this Trust Agreement each by action of a duly authorized person.

Employer

By (authorized signature):



Print Name/Title:

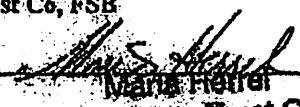
John Junger

Date:

4/27/07

Merrill Lynch Bank & Trust Co, FSB

By (authorized signature):



Print Name/Title:

Maria Petter  
New Accounts Trust Officer

Date:

5.24.07

N  
N  
N

# EXHIBIT 5 TO JUMPER TESTIMONY



NAMED FIDUCIARIES AND AUTHORIZED SIGNATURE(S) INFORMATION

PLAN NAME ML Trust Company Tree Snow Shoe Refractories Pension  
ACCOUNT NUMBER(S) [REDACTED] 02 [REDACTED] 05

Named Administrative Fiduciaries (Fiduciaries responsible for the administration and operation of the plan):

1. Hazel Renaud Hazel Renaud Asst. Plant Manager  
Signatory Name (Please Type) Signature Title  
[REDACTED] Snow Shoe, PA [REDACTED] [REDACTED]  
Home Address (Street, City, State, Zip code) Social Security #

2. \_\_\_\_\_  
Signatory Name (Please Type) Signature Title  
Home Address (Street, City, State, Zip code) Social Security #

3. \_\_\_\_\_  
Signatory Name (Please Type) Signature Title  
Home Address (Street, City, State, Zip code) Social Security #

4. \_\_\_\_\_  
Signatory Name (Please Type) Signature Title  
Home Address (Street, City, State, Zip code) Social Security #

Named Investment Fiduciaries (Fiduciaries responsible for investment and management of plan assets):

1. John S. Jumper [Signature] V.P. Finance  
Signatory Name (Please Type) Signature Title  
[REDACTED] Mad, TN [REDACTED] [REDACTED]  
Home Address (Street, City, State, Zip code) Social Security #

2. \_\_\_\_\_  
Signatory Name (Please Type) Signature Title  
Home Address (Street, City, State, Zip code) Social Security #

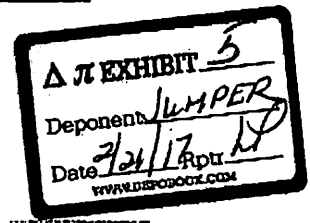
3. \_\_\_\_\_  
Signatory Name (Please Type) Signature Title  
Home Address (Street, City, State, Zip code) Social Security #

4. \_\_\_\_\_  
Signatory Name (Please Type) Signature Title  
Home Address (Street, City, State, Zip code) Social Security #

I, John S. Jumper am the Vice President (Title) of Snow Shoe (Plan Sponsor - the "Company") and do hereby certify that the individuals named above were duly authorized by the Company, as the Named Administrative Fiduciaries and the Named Investment Fiduciaries, respectively, of \_\_\_\_\_ (The Plan).

Signature: [Signature] Date: 9/08

amped



# EXHIBIT 6 TO JUMPER TESTIMONY





NAMED FIDUCIARIES AND AUTHORIZED SIGNATURE(S) INFORMATION

PLAN NAME Snowshoe Refractor's Pension Plan for Hourly Employees.

ACCOUNT NUMBER(S) [REDACTED]

Named Administrative Fiduciaries (Fiduciaries responsible for the administration and operation of the plan):

1. Ronald F. Park Jr Ronald Flaherty HR Manager, CFO  
 Signatory Name (Please Type) Signature Title  
 [REDACTED] Sykesville Pa [REDACTED]  
 Home Address (Street, City, State, Zip code) Social Security #  
REDACTED

2. \_\_\_\_\_  
 Signatory Name (Please Type) Signature Title  
 Home Address (Street, City, State, Zip code) Social Security #

3. \_\_\_\_\_  
 Signatory Name (Please Type) Signature Title  
 Home Address (Street, City, State, Zip code) Social Security #

4. \_\_\_\_\_  
 Signatory Name (Please Type) Signature Title  
 Home Address (Street, City, State, Zip code) Social Security #

Named Investment Fiduciaries (Fiduciaries responsible for investment and management of plan assets):

1. John S. Junper [Signature] Vice President  
 Signatory Name (Please Type) Signature Title  
 [REDACTED] Paids, TN [REDACTED]  
 Home Address (Street, City, State, Zip code) Social Security #  
REDACTED

2. \_\_\_\_\_  
 Signatory Name (Please Type) Signature Title  
 Home Address (Street, City, State, Zip code) Social Security #

3. \_\_\_\_\_  
 Signatory Name (Please Type) Signature Title  
 Home Address (Street, City, State, Zip code) Social Security #

4. \_\_\_\_\_  
 Signatory Name (Please Type) Signature Title  
 Home Address (Street, City, State, Zip code) Social Security #

**EXHIBIT 6**  
 Deponents JUNPER  
 Date 2/21/17 Rptr. [Signature]  
 www.dcfbook.com

I, John S. Jumper am the Vice President of Snow Shoe (Plan Sponsor - the

"Company") and do hereby certify that the individuals named above were duly authorized by the Company, as the Named Administrative  
Fiduciaries and the Named Investment Fiduciaries, respectively, of Snow Shoe Pension Plan for Hourly Employees (The Plan).

Signature: [Handwritten Signature] Date 10/26/17

Print or Type Name and Title: John S. Jumper

Please forward document to:

Bank of America, N.A. (MLTC)  
Employee Benefit Trust Operations  
P.O. Box 1522  
Pennington, NJ 08534-1522

For overnight delivery, the address is:

Bank of America, N.A. (MLTC)  
Employee Benefit Trust Operations  
1300 Merrill Lynch Drive, Mail Code: NJ2-130-03-37  
Pennington, New Jersey 08534

# EXHIBIT 7 TO JUMPER TESTIMONY



NAMED FIDUCIARIES AND AUTHORIZED SIGNATURE(S) INFORMATION

PLAN NAME Snow Shoe Refractories Pension Plan for Hourly Employees  
ACCOUNT NUMBER(S) REDACTED 02 REDACTED 05

Named Administrative Fiduciaries (Fiduciaries responsible for the administration and operation of the plan):

1. Mark E. Jacobs, Sr. Mark E. Jacobs, Sr. Director  
 Signatory Name (Please Type) Signature Title  
[REDACTED] Snow Shoe PA [REDACTED]  
 Home Address (Street, City, State, Zip code) Social Security #
2. Signatory Name (Please Type) Signature Title  
 Home Address (Street, City, State, Zip code) Social Security #
3. Signatory Name (Please Type) Signature Title  
 Home Address (Street, City, State, Zip code) Social Security #
4. Signatory Name (Please Type) Signature Title  
 Home Address (Street, City, State, Zip code) Social Security #

Named Investment Fiduciaries (Fiduciaries responsible for the investment and management of plan assets):

1. John S. Jumper [Signature] Vice President  
 Signatory Name (Please Type) Signature Title  
[REDACTED] [REDACTED] [REDACTED]  
 Home Address (Street, City, State, Zip code) Social Security #
2. Signatory Name (Please Type) Signature Title  
 Home Address (Street, City, State, Zip code) Social Security #
3. Signatory Name (Please Type) Signature Title  
 Home Address (Street, City, State, Zip code) Social Security #
4. Signatory Name (Please Type) Signature Title  
 Home Address (Street, City, State, Zip code) Social Security #

Δ Π EXHIBIT 7  
Deponent Jumper  
Date 2/21/17 Rptr [Signature]  
WWW.DEPOBOOK.COM

I, John S. Jumper on the Vice President (title) of Shoe Store (Plan Sponsor - the "Company") and do hereby certify that the individuals named above were duly authorized by the Company, as the Named Administrative Fiduciaries and the Named Investment Fiduciaries, respectively, of Shoe Store Pension Plan for Hourly Employees

Signature: [Handwritten Signature] Date: 3/20/14  
Print or Type Name and Title: John S. Jumper V.P.

Please forward documents to:

For overnight delivery, the address is:

Bank of America, N.A. (MLTC)  
Employee Benefit Trust Operations  
P.O. Box 1522  
Pannington, NJ 08534-1522

Bank of America, N.A. (MLTC)  
Employee Benefit Trust Operations  
1300 Merrill Lynch Drive, Mail Code: NJ2-130-01-27  
Peanington, New Jersey 08534

# EXHIBIT 8 TO JUMPER TESTIMONY

Sep 12 2014 14:21:00 19018813815

->

Merrill Lynch

Page 001



**FACSIMILE COVER SHEET**

TO: Karen  
PHONE:  
FAX: 16097510944

FROM: Merrill Lynch  
SENDER: G Todd  
DATE: Fri Sep 12 14:20:38 CDT 2014  
PHONE: (901) 756-2000  
FAX: 19018813815

No. of Page(s) (including this page): 2

Subject: Snow Shoe Ref Signer Form

**CONFIDENTIALITY NOTE:** The information contained in this FAX message is intended only for the confidential use of the designated recipient named above. This message may contain contractual and proprietary information and as such is privileged and confidential. If the reader of this message is not the intended recipient or an agent responsible for delivering it to the intended recipient, you are hereby notified that you have received this document in error, and that any review, dissemination, distribution or copying of this message is strictly prohibited. If you have received this communication in error, please notify us immediately by telephone and return the message to us by mail.

Merrill Lynch, Pierce, Fenner & Smith Incorporated Investment products

Are Not FDIC Insured	Are Not Bank Guaranteed	May Lose Value
----------------------	-------------------------	----------------

© 2013 Bank of America Corporation. All rights reserved.

**Opt-out instructions**

This fax may contain promotional materials from Bank of America or one of our affiliate companies. You may choose not to receive future faxes that contain promotional materials by: Faxing: 1.804.627.7042 or Calling: 1-888-341-5000 or by mail to Bank of America CDM VA2-100-04-32 PO Box 27026 Richmond VA 23286-9085.

Important: You must inform the bank of the specific fax number(s) to which the fax opt-out request will apply. As required by Federal law we will honor your opt-out request within 30 days. Bank of America Corporation. All rights reserved.

**Please note:** You may still continue to receive fax communications from your assigned account representative, such as your Financial Advisor to address your financial needs.

Comments:

-----  
This message, and any attachments, is for the intended recipient(s) only, may contain information that is privileged, confidential and/or proprietary and subject to important terms and conditions available at <http://www.bankofamerica.com/emaildisclaimer>. If you are not the intended recipient, please delete this message.



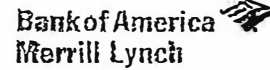
Sep 12 2014 14:21:16 19818813815

->

Merrill Lynch

Page 882

**Authorized Signer Designation / Change Form**



Plan Sponsors must provide to Bank of America Merrill Lynch the names of the current Named Administrative Fiduciaries and Named Investment Fiduciaries of the Plan (collectively, the "Named Fiduciaries") and any other non-fiduciary individuals who are authorized to sign for and initiate plan changes or transactions (for example, withdrawals, investment changes and plan amendments) on behalf of the Named Fiduciaries. Specimen signatures are also required. The same individual(s) can be designated as a Named Administrative Fiduciary and a Named Investment Fiduciary.

Any changes to the persons designated must be immediately provided to Bank of America Merrill Lynch on a new Authorized Signer Designation/Change Form.

Plan Name: Stow Shoe Refractories Pension Plan (the Plan) Plan Number: REDACTED 101

I, Mark E. Jacobs, Sr., duly authorized and acting on behalf of the Plan Sponsor of the Plan, hereby certify that the undersigned persons have been appointed by the Plan Sponsor as the Named Administrative Fiduciaries and/or Named Investment Fiduciaries of the Plan, or, as noted, are authorized in full compliance with the Plan's documents and Trust to provide directions on behalf of the Named Administrative Fiduciaries and/or Named Investment Fiduciaries of the Plan.

I further acknowledge that this Authorized Signer form contains the names and signatures of all individuals who will be providing directions and requests to Bank of America Merrill Lynch with respect to the Plan and that directions or requests from any individual whose name is not included on this certification will not be accepted.

Signature: [Signature] Date: 8/2/2014

Print Name and Title: Mark E. Jacobs, Sr. Director

**Note:** Authorized Signers are subject to verification of identity to comply with the requirements of the USA PATRIOT Act. If necessary, additional information such as Date of Birth or Social Security Number may be requested to complete identity verification.

**Authorized Signers - Named Fiduciaries (Required)**

Named Administrative Fiduciaries (fiduciaries responsible for the discretionary authority and control of the administration and operation of the Plan) and Named Investment Fiduciaries (fiduciaries responsible for the discretionary authority and control of the investment and management of Plan assets) (Any individual can serve in both capacities):

1. Mark E. Jacobs, Sr. Director [Signature]  
 Print Name (Last / First / M.I.) Title Signature Specimen

[Redacted] Stow Shoe PA [Redacted]  
 Residential Address

Named Administrative Fiduciary  
 Named Investment Fiduciary
2. WILDER/ROBERT L CFD [Signature]  
 Print Name (Last / First / M.I.) Title Signature Specimen

[Redacted] SPRING MILLS, PA [Redacted]  
 Residential Address

Named Administrative Fiduciary  
 Named Investment Fiduciary
3. JUMPER/JOHN/S VICE PRESIDENT [Signature]  
 Print Name (Last / First / M.I.) Title Signature Specimen

[Redacted] Eads, TN [Redacted]  
 Residential Address

Named Administrative Fiduciary  
 Named Investment Fiduciary
4. \_\_\_\_\_  
 Print Name (Last / First / M.I.) Title Signature Specimen

\_\_\_\_\_ Residential Address

Named Administrative Fiduciary  
 Named Investment Fiduciary



# EXHIBIT 15 TO JUMPER TESTIMONY



[www.firebricks.com](http://www.firebricks.com)

## Snow Shoe Refractories, LLC

895 Clarence Road  
Clarence, PA 16829

Phone: 814-387-6811 - Toll Free: 800-944-3748  
Customer Service Fax: 814-387-6209 - Accounting Fax: 814-387-4698

March 12, 2015

Ms. Amina M. Williams  
Trust Officer  
Bank of America Merrill Lynch  
1300 Merrill Lynch Drive  
Mail Code NJ2-140-03-65  
Pennington, NJ 08534

Re: Snow Shoe Refractories, LLC Pension Plan For Hourly Employees

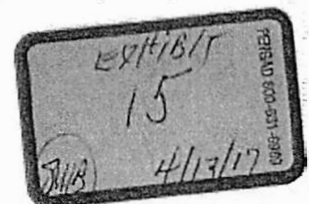
Ms. Williams:

We are purchasing a \$3,000,000 senior promissory note issued by American Investments Fund I, LLC. This promissory note will have a fixed rate coupon of 8.00% with a 10-year maturity with quarterly payments of principal and interest.

American Investments Fund I, LLC ("AIF") is a Delaware limited liability company that owns 100% of American Tubing Arkansas, LLC ("ATA"). ATA recently acquired the assets of American Tubing, Inc., a subsidiary of National Tube Holding Company based out of Birmingham, Alabama. ATA manufactures and fabricates aluminum and copper tubing products for the split-type residential air conditioning industry.

This private debt investment conforms to the company's Plan Document and meets the company's investment policy guidelines. We have performed extensive due diligence on this investment including, but not limited to, analyzing the historical audited financial statements, pro formas, visiting the facilities, meeting the management team members, legal counsel and auditors. Further we have conducted meeting with the company's largest customer and reviewing its facilities and interviewing team members, reviewing environmental issues such as hiring consultants to perform Phase I and Phase II environmental studies, having appraisals done of the facilities, real estate and equipment, and performing other activities.

AIF will provide Bank of America/Merrill Lynch ("BoFA") with confirmation that the Plan has an investment in AIF as evidence by a copy of the promissory note. AIF will also provide B of A with quarterly pricing for the promissory note coupled with quarterly financial statements that will provide an indication of valuation for the promissory note. We understand that the timing of the



monthly statement at quarter end will be dependent on the receipt of the quarterly statement from AIF. In addition, the asset will not be held in Custody by Bank of America, N.A., and will therefore not be audited, examined, or otherwise verified by BANA. AIF is the Custodian of this asset and is responsible for the safekeeping.

We authorize you to establish an "Alternative Investments" account to reflect the American Investments Fund, I LLC promissory note and to charge the \$300.00 account set up fee as well as the \$300.00 annual update fee.

On March 16, 2015 please wire \$3,000,000.00 from the Alternative Investment account to the following instructions:

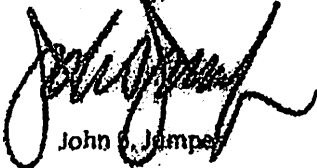
Wire to: First Tennessee Bank  
Memphis, TN

Routing Number: REDACTED  
For Credit to: First Capital Bank  
Account Number: REDACTED  
Final Credit to: American Investments Fund I, LLC  
5101 Wheelis Drive, Suite 200  
Memphis, TN 38117

Account Number: REDACTED

Thank you for your assistance in this matter.

Sincerely,



John S. Jumper  
Vice President  
Snow Shoe Refractorles

# EXHIBIT 16 TO JUMPER TESTIMONY



## Snow Shoe Refractories, LLC

895 Clarence Road  
Clarence, PA 16829

Phone: 814-387-6811 - Toll Free: 800-944-3748  
Customer Service Fax: 814-387-6209 - Accounting Fax: 814-387-4698

November 20, 2015

Bank of America, N.A.  
Amina Williams, Trust Officer  
1400 Merrill Lynch Drive  
Mailcode NJ2-140-03-650  
Pennington, NJ 085340

Re: Snow Shoe Refractories, LLC Pension Plan for Hourly Employees

Dear Ms. Williams:

Snow Shoe Refractories, LLC (the "Company"), as sponsor of the above-referenced plan (the "Plan"), has decided to remove \$2,000,000.00 (the "Transferred Assets") from the assets of the trust currently being held by Bank of America, N.A. ("BANA"), as the directed trustee of the Plan pursuant to a Trust Agreement between BANA and Snow Shoe Refractories, LLC (the "Trust Agreement") and transfer the Transferred Assets to a separate trust. John S. Jumper has been appointed as the successor trustee and the named fiduciary with responsibility for the Transferred Assets and the separate trust, and Metropolitan Bank has been designated as custodian of the Transferred Assets. A true and correct copy of the duly enacted resolutions, certified by Snow Shoe Refractories, LLC Secretary, taking and authorizing these actions is attached hereto, along with a copy of the trust instrument that will govern the Transferred Assets.

Accordingly, Snow Shoe Refractories, LLC directed BANA to transfer the Transferred Assets to Metropolitan Bank on November 20, 2015, according to the following wiring instructions.

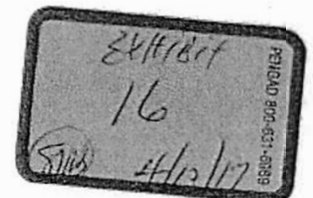
### Wiring Instructions:

Receiving Bank: The Metropolitan Bank  
201 Northlake Avenue, Suite 109  
Ridgeland, MS 39157

Account Name: American Investment Fund II LLC  
5101 Wheelis Drive, Suite 200  
Memphis, TN 38117

Account #  
Routing#

REDACTED  
REDACTED



Snow Shoe Refractories, LLC desires that BANA continue as the directed trustee of the remaining Plan assets following transfer of the Transferred Assets according to the terms of the Trust Agreement.

Name of Plan Record Keeper will provide recordkeeping services for the Transferred Assets. Please send duplicate copies of all trust reports and brokerage statements to the following:

CONRAD SIEGEL ACTUARIES  
ATTN: ABIGAIL FORTINO  
501 CORPORATE CIRCLE  
P.O. BOX 5900  
HARRISBURG, PA 17110

Snow Shoe Refractories, LLC hereby acknowledges and agrees as follows:

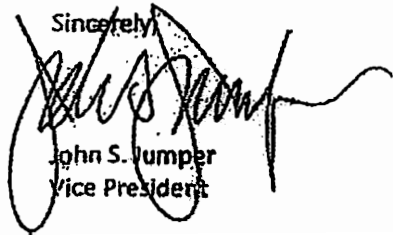
- Any information provided by Bank of America, N.A. (BANA) or Merrill Lynch, Pierce, Fenner & Smith Incorporated ("MLPF&S") regarding the Plan assets reflect only the Plan assets held by BANA and will not include any information regarding the Transferred Assets.
- Neither BANA, MLPF&S, nor any other Merrill Lynch entity shall be responsible or liable for reporting any information with respect to Plan assets not held by BANA, including without limitation, the Transferred Assets, including without limitation annual reporting on IRS Form 5500 or distribution reporting on IRS Form 1099R.

Snow Shoe Refractories, LLC hereby represents, warrants, and covenants as follows:

- John S. Jumper has been duly appointed by Snow Shoe Refractories, LLC as the successor trustee with respect to the Transferred Assets and has acknowledged and accepted such appointment in writing and executed a trust instrument governing the Transferred assets, and a true and correct copies of the acknowledgement and trust instrument are attached;
- Metropolitan Bank has been duly appointed by Snow Shoe Refractories, LLC as the custodian with respect to the Transferred Assets and Metropolitan Bank has acknowledged and accepted such appointment in writing, a true and correct copy of which is enclosed.
- Upon transfer to Metropolitan Bank, BANA will not be responsible or liable for the Transferred Assets, including without limitation responsibility for processing distributions with respect to the Transferred Assets.

The undersigned represents, warrants, and covenants that the information contained herein is true and complete to the best of his knowledge, information, and belief, and that the directions to BANA given herein have been duly authorized by Snow Shoe Refractories, LLC.

Sincerely,

A handwritten signature in black ink, appearing to read "John S. Jumper", written over the typed name and title.

John S. Jumper  
Vice President

Enclosures: Snow Shoe Refractories, LLC  
Fiduciary Acknowledgement  
Trust Instrument  
Custodial Acknowledgement

# EXHIBIT 17 TO JUMPER TESTIMONY





www.firebricks.com

## Snow Shoe Refractories, LLC

895 Clarence Road  
Clarence, PA 16829

Phone: 814-387-6811 - Toll Free: 800-944-3748  
Customer Service Fax: 814-387-6209 - Accounting Fax: 814-387-4698

November 20, 2015

Ms. Amina M. Williams  
Trust Officer  
Bank of America Merrill Lynch  
1300 Merrill Lynch Drive  
Mail Code NJ2-140-03-65  
Pennington, NJ 08534

Re: Snow Shoe Refractories, LLC Pension Plan for Hourly Employees

Ms. Williams:

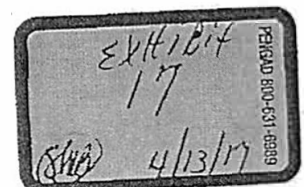
We are purchasing a \$2,000,000 senior promissory note issued by American Investment Fund II. This promissory note will have a fixed rate coupon of 8.00% with a 10-year maturity with quarterly payments of principal and interest.

This private debt investment conforms to the company's Plan Document and meets the company's investment policy guidelines. We have performed extensive due diligence on this investment. On November 20, 2015 please wire \$2,000,000.00 from account [REDACTED] to the following instructions:

Receiving Bank: The Metropolitan Bank  
201 Northlake Avenue, Suite 109  
Ridgeland, MS 39157

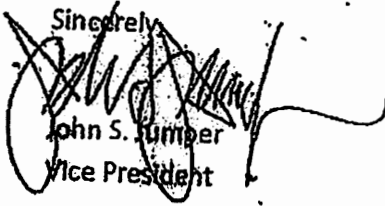
Account Name: American Investment Fund II LLC  
5101 Wheelis Drive Suite 200  
Memphis, TN 38117

Account# [REDACTED]  
Routing# [REDACTED]



Thank you for your assistance in this matter.

Sincerely,

A handwritten signature in black ink, appearing to read 'John S. Umper', is written over the typed name. The signature is stylized and somewhat illegible.

John S. Umper  
Vice President

# EXHIBIT 18 TO JUMPER TESTIMONY



# Snow Shoe Refractories, LLC

895 Clarence Road  
Clarence, PA 16829

Phone: 814-387-6811 - Toll Free: 800-944-3748  
Customer Service Fax: 814-387-6209 - Accounting Fax: 814-387-4698

## UNANIMOUS WRITTEN CONSENT IN LIEU OF A MEETING FOR SNOW SHOE REFRATORIES, LLC

The undersigned, being all of the Directors of Snow Shoe Refractories, LLC (the "Corporation"), acting by unanimous written consent in lieu of a meeting, hereby consent to, approve, and adopt the following Resolutions:

WHEREAS, the Corporation sponsors the Snow Shoe Refractories, LLC Pension Plan for Hourly Employees (the "Plan"); and

WHEREAS, Bank of America, N.A. ("BANA") is currently the directed trustee for the assets of the Plan and holds such assets in trust according to the terms of a Trust Agreement; and

WHEREAS, the Corporation desires to divide the trust and assign all fiduciary and other responsibility for a portion of the trust to a successor trustee;

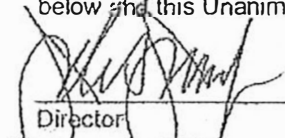
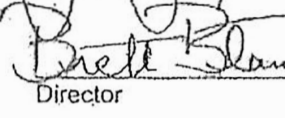
THEREFORE, BE IT RESOLVED, that the Corporation establishes a second trust for the Plan (the "Second Trust"), and BANA is directed to divide and transfer a portion of the trust in the amount of \$2,000,000.00 to the custodian account established under a Custodianship Agreement between the Corporation and Trustee; and

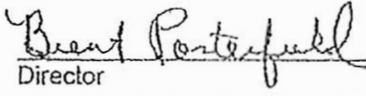
BE IT FURTHER RESOLVED, that Mr. John S. Jumper is appointed as the trustee and named fiduciary with respect to the Plan assets transferred from BANA to Metropolitan Bank (the "Transferred Assets"), to be effective upon Mr. Jumper signing a written acknowledgment of his fiduciary status in the form attached to these Resolutions, and a trust instrument with the Corporation to govern the Second Trust; and

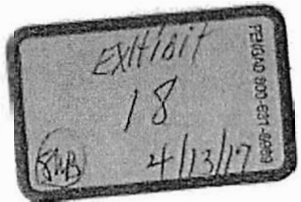
BE IT FURTHER RESOLVED, that BANA is relieved, discharged, and absolved of all responsibility and liability with respect to the Transferred Assets and the Second Trust established herein; and

BE IT FURTHER RESOLVED, that the officers of the Corporation be, and each individually is, hereby authorized to do and perform any and all such acts, including execution of any and all documents and certificates, as said officers shall deem necessary or advisable, to carry out the purposes of the foregoing resolutions, and any actions take by such officers prior to the date of the foregoing resolutions adopted hereby that are within the authority conferred thereby are hereby ratified, confirmed, and approved as the acts and deeds of the Corporation.

IN WITNESS WHEREOF, we have each signed this Unanimous Written Consent on the date(s) set forth below and this Unanimous Written Consent shall become effective upon the latest date set forth below.

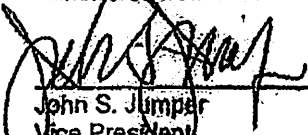
  
 Director \_\_\_\_\_ Date 11-20-15  
  
 Director \_\_\_\_\_ Date 11-20-15

  
 Director \_\_\_\_\_ Date Nov 20, 2015  
 Director \_\_\_\_\_ Date \_\_\_\_\_



**TRUSTEE ACKNOWLEDGMENT**

I, John S. Jumper, do hereby accept appointment as trustee (within the meaning of Section 403(a) of the Employee Retirement Income Security Act of 1974, as amended, ("ERISA")) of the Snow Shoe Refractories, LLC Pension Plan for Hourly Employees (the "Plan"), and acknowledge and agree that I am the successor trustee and "named fiduciary" (within the meaning of ERISA Section 402(a)(2)) of the Plan with respect to Plan assets transferred from Bank of America, N.A. to Metropolitan Bank on November 20, 2015.

  
John S. Jumper  
Vice President  
Snow Shoe Refractories

11-20-15  
Date

**Certification of the Secretary**

The undersigned, being the Secretary of the Corporation, hereby certifies that the foregoing Resolutions were duly adopted by the Corporation and that such Resolutions have not been modified or rescinded.

Brent P. [Signature]      November 20, 2015  
Secretary of the Corporation      DATE

# EXHIBIT 19 TO JUMPER TESTIMONY



[www.firebricks.com](http://www.firebricks.com)

## Snow Shoe Refractories, LLC

895 Clarence Road  
Clarence, PA 16829

Phone: 814-387-6811 - Toll Free: 800-944-37480  
Customer Service Fax: 814-387-6209 - Accounting Fax: 814-387-46980

February 18, 2016

Ms. Amina M. Williams  
Trust Officer  
Bank of America Merrill Lynch  
1300 Merrill Lynch Drive  
Mail Code NJ2-140-03-65  
Pennington, NJ 08534

Re: Snow Shoe Refractories, LLC Pension Plan for Hourly Employees

Ms. Williams:

We are purchasing a \$700,000.00 Senior Promissory Note issued by American Investment Fund II. This promissory note will have a fixed rate coupon of 8.00% with a 10-year maturity with quarterly payments of principal and interest.

This private debt investment conforms to the company's Plan Document and meets the company's investment policy guidelines. We have performed extensive due diligence on this investment. On February 19, 2016 please wire \$700,000.00 from account [REDACTED] to the following instructions:

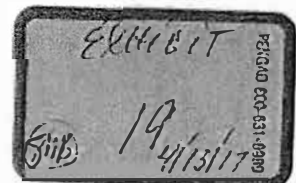
**Wiring instructions:**

Receiving Bank: The Metropolitan Bank  
201 Northlake Avenue, Suite 109  
Ridgeland, MS 39157

Account Name: American Investment Fund II LLC  
5101 Wheelis Drive, Suite 200  
Memphis, TN 38117

Account #

[REDACTED]



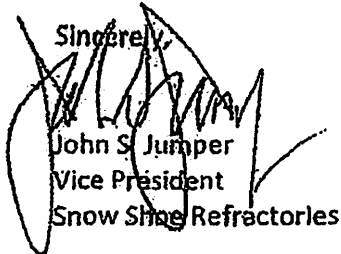


Routing#

REDACTED

Thank you once again for your assistance in this matter..

Sincerely,



John S. Jumper  
Vice President  
Snow Shoe Refractories

**EXHIBIT 20 TO JUMPER TESTIMONY**



www.firebricks.com

# Snow Shoe Refractories, LLC

895 Clarence Road  
Clarence, PA 16829

Phone: 814-387-6811 - Toll Free: 800-944-3748  
Customer Service Fax: 814-387-6209 - Accounting Fax: 814-387-4698

**UNANIMOUS WRITTEN CONSENT  
IN LIEU OF A MEETING FOR  
SNOW SHOE REFRATORIES, LLC**

The undersigned, being all of the Directors of Snow Shoe Refractories, LLC (the "Corporation"), acting by unanimous written consent in lieu of a meeting, hereby consent to, approve, and adopt the following Resolutions:

WHEREAS, the Corporation sponsors the Snow Shoe Refractories, LLC Pension Plan for Hourly Employees (the "Plan"); and

WHEREAS, Bank of America, N.A. ("BANA") is currently the directed trustee for the assets of the Plan and holds such assets in trust according to the terms of a Trust Agreement; and

WHEREAS, the Corporation desires to divide the trust and assign all fiduciary and other responsibility for a portion of the trust to a successor trustee;

THEREFORE, BE IT RESOLVED, that the Corporation establishes a second trust for the Plan (the "Second Trust"), and BANA is directed to divide and transfer a portion of the trust in the amount of \$700,000.00 to the custodian account established under a Custodianship Agreement between the Corporation and Trustee; and

BE IT FURTHER RESOLVED, that Mr. John S. Jumper is appointed as the trustee and named fiduciary with respect to the Plan assets transferred from BANA to Metropolitan Bank (the "Transferred Assets"), to be effective upon Mr. Jumper signing a written acknowledgment of his fiduciary status in the form attached to these Resolutions, and a trust instrument with the Corporation to govern the Second Trust; and

BE IT FURTHER RESOLVED, that BANA is relieved, discharged, and absolved of all responsibility and liability with respect to the Transferred Assets and the Second Trust established herein; and

BE IT FURTHER RESOLVED, that the officers of the Corporation be, and each individually is, hereby authorized to do and perform any and all such acts, including execution of any and all documents and certificates, as said officers shall deem necessary or advisable, to carry out the purposes of the foregoing resolutions, and any actions take by such officers prior to the date of the foregoing resolutions adopted hereby that are within the authority conferred thereby are hereby ratified, confirmed, and approved as the acts and deeds of the Corporation.

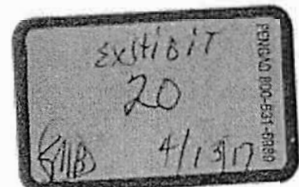
IN WITNESS WHEREOF, we have each signed this Unanimous Written Consent on the date(s) set forth below and this Unanimous Written Consent shall become effective upon the latest date set forth below.

Brent Porterfeld 2/18/16  
Director Date

[Signature] 2-18-16  
Director Date

Brett Blaw 2/18/16  
Director Date

\_\_\_\_\_  
Director Date



**Certification of the Secretary**

The undersigned, being the Secretary of the Corporation, hereby certifies that the foregoing Resolutions were duly adopted by the Corporation and that such Resolutions have not been modified or rescinded.

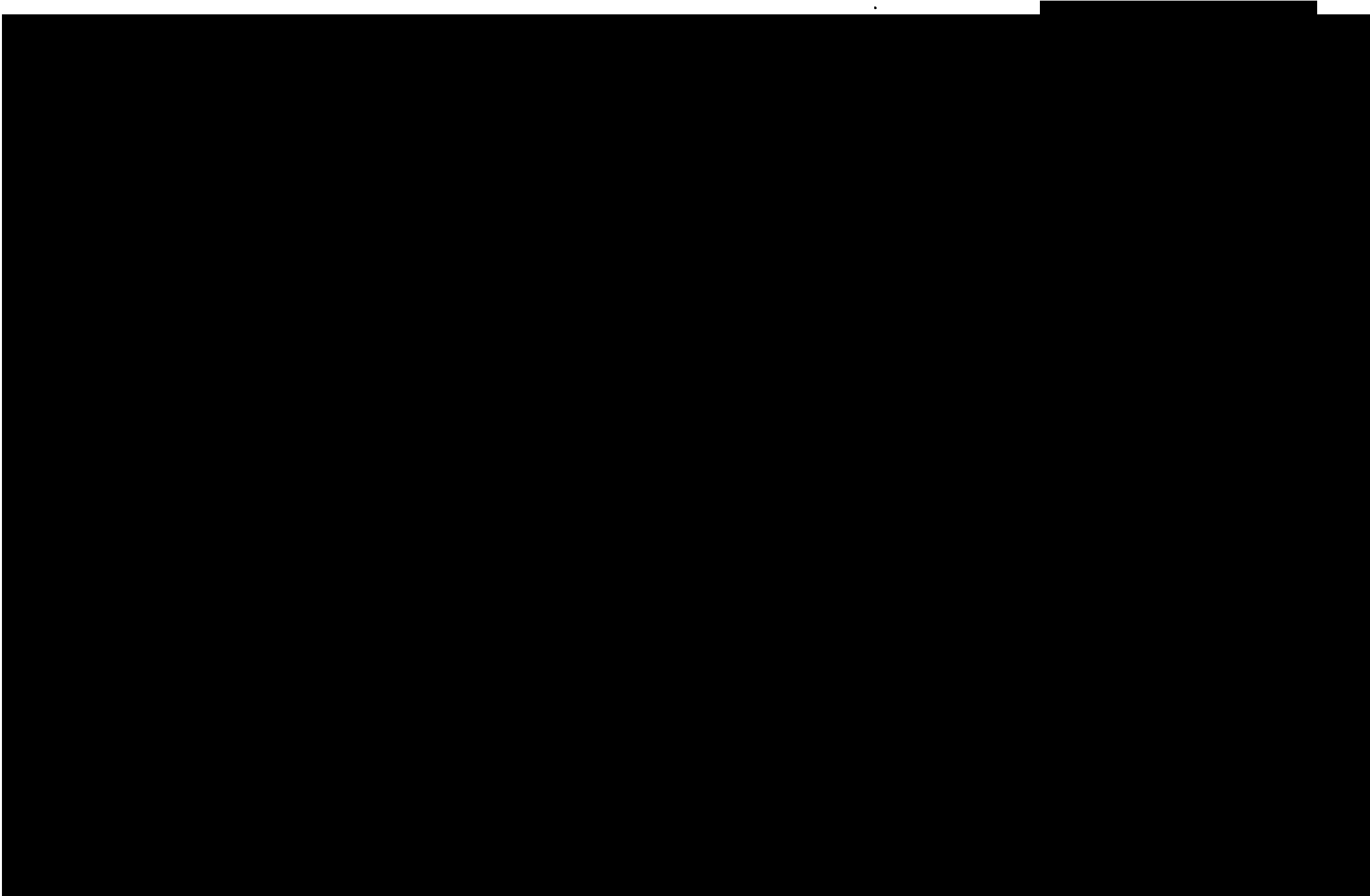
Secretary of the Corporation                      February 18, 2016  
DATE

**TRUSTEE ACKNOWLEDGMENT**

I, John S. Jumper, do hereby accept appointment as trustee (within the meaning of Section 403(a) of the Employee Retirement Income Security Act of 1974, as amended, ("ERISA")) of the Snow Shoe Refractories, LLC Pension Plan for Hourly Employees (the "Plan"), and acknowledge and agree that I am the successor trustee and "named fiduciary" (within the meaning of ERISA Section 402(a)(2)) of the Plan with respect to Plan assets transferred from Bank of America, N.A. to Metropolitan Bank on February 18, 2016.

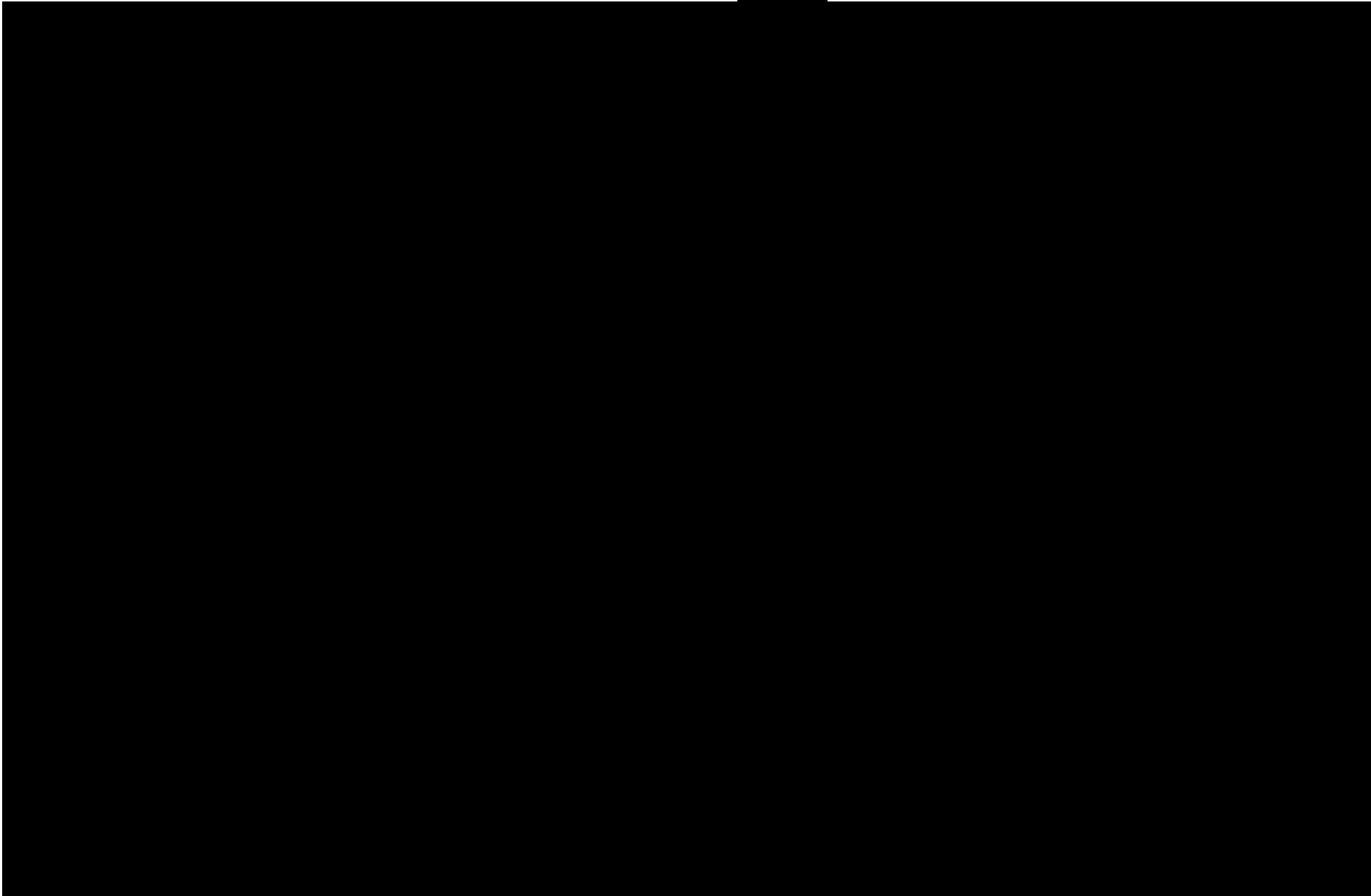
John S. Jumper                      2-18-16  
Vice President                      Date  
Snow Shoe Refractories

**DISKIN DECLARATION**  
**EXHIBIT B**



BANK OF AMERICA, N.A.

Account Number: [REDACTED]



015

dit

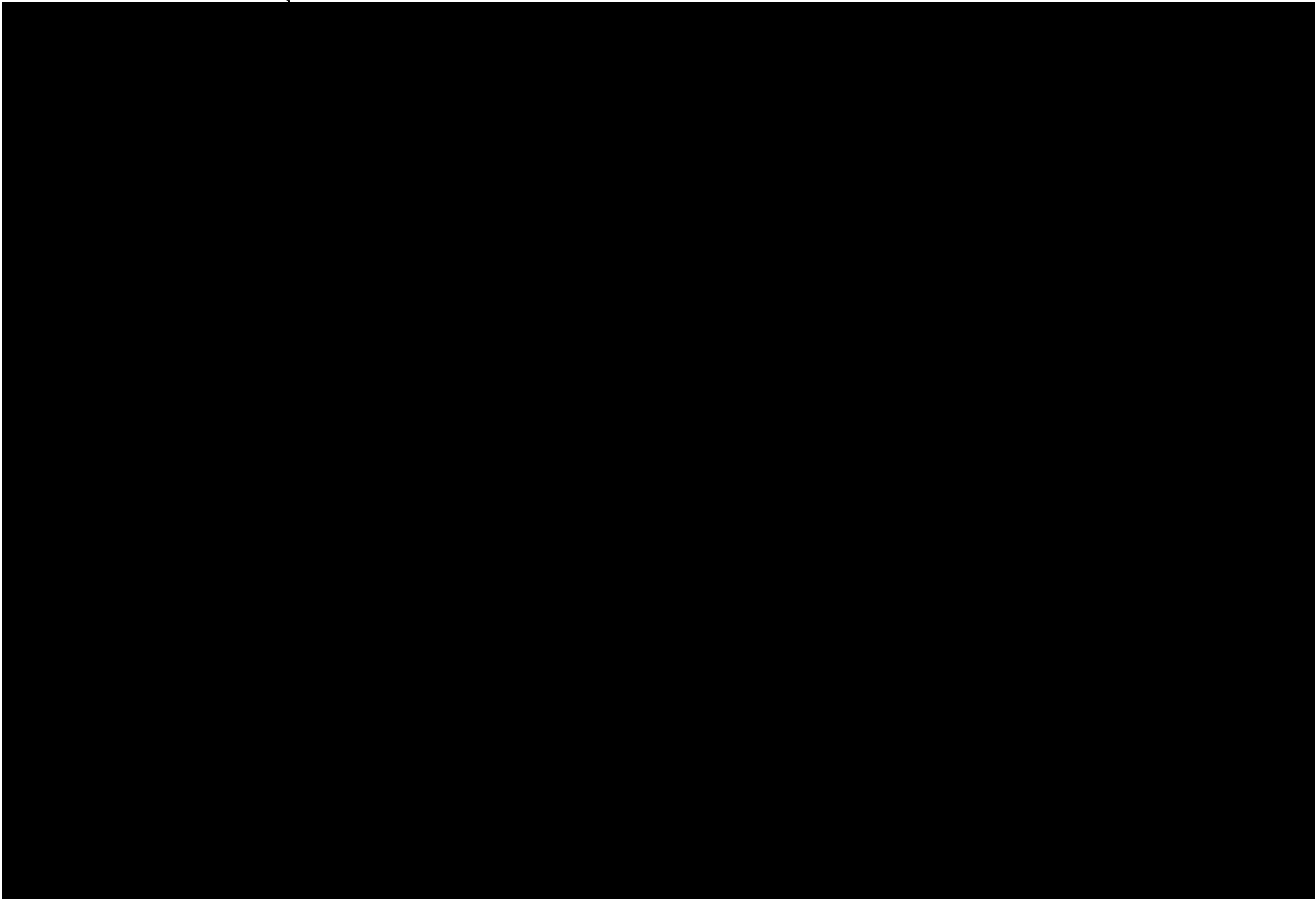
02

39

17

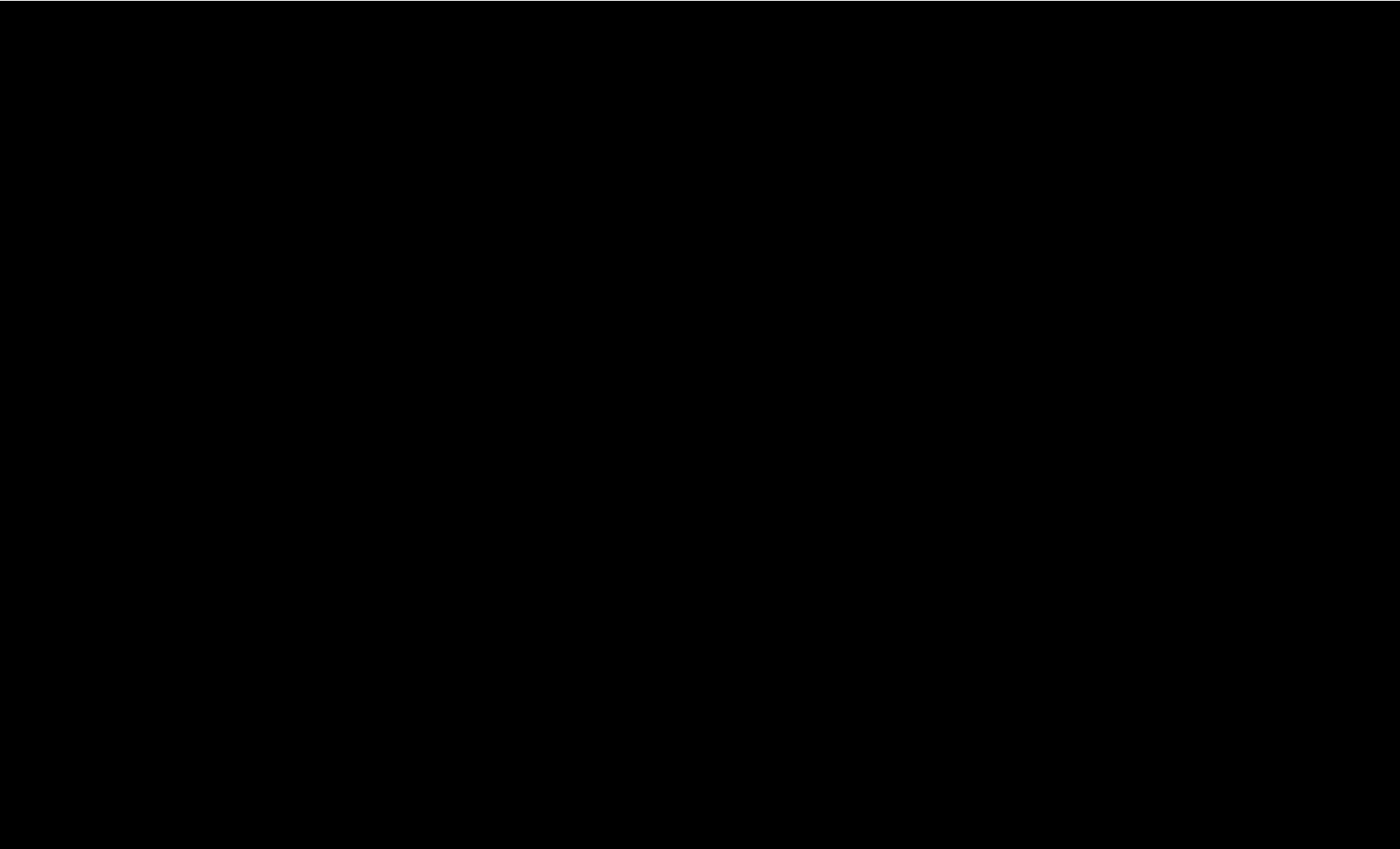
**DISKIN DECLARATION**  
**EXHIBIT C**





BANK OF AMERICA, N.A.

Account Number: [REDACTED]



**DISKIN DECLARATION  
EXHIBIT D**

