UNITED STATES SECURITIES AND EXCHANGE COMMISSION

In the Matter of: )

) File No. NY-7999

THE RESERVE FUND )

WITNESS: William Montgoris

PAGES: 1 through 128

PLACE: Securities and Exchange Commission

3 World Financial Center

New York, New York 10281

DATE: Tuesday, February 10, 2009

The above-entitled matter came on for hearing,
pursuant to notice, at 10:12 a.m.
PROCEEDINGS

MR. BIRNBAUM: We are on the record at 10:12 a.m. on Tuesday, February 10th. Good morning, my name is Michael Birnbaum, with me is and Mike Osnato and Alison Conn will be joining us momentarily. We are all for purposes of this proceeding officers of the Commission. I've put before you a few different documents. The first is marked as Exhibit No. 1, the form 1662 that had been previously provided to you and we also provided you with a formal order in this matter. Before I ask you questions about those, let me just administer the oath.

Whereupon,

WILLIAM MONTGORIS

was called upon as a witness in this matter, and after having been first duly sworn, was examined by counsel and testified as follows:

MR. BIRNBAUM: Would you state and spell your name for the record.


MR. BIRNBAUM: This is an investigation by the U.S. Securities and Exchange Commission in the matter of Reserve Fund, file number NY-7999A, to determine whether there have been violations of certain provisions of the federal securities laws. However, the facts developed in this investigation might constitute violations of other federal or state, civil or criminal laws.

Have you had a chance to review the formal order that I've placed in front of you?

THE WITNESS: Yes.

MR. BIRNBAUM: Do you have any questions about it?

THE WITNESS: No.

MR. BIRNBAUM: Have you had a chance to review the Form 1662?

THE WITNESS: Yes.

MR. BIRNBAUM: Do you have any questions about that?

THE WITNESS: No.

MR. BIRNBAUM: I'd also place before you what
has been marked as Exhibit No. 70.

(Reserve Exhibit No. 70 was marked for identification.)

MR. BIRNBAUM: Do you recognize that document as a subpoena pursuant to which you are testifying today?

THE WITNESS: Yes.

MR. BIRNBAUM: Let me explain a few general rules for today's testimony that I think will make question answering more efficient and hopefully create a better record. The first is that you will be able I'm unsure on many occasions anticipate my questions but I ask that you let me ask the full question before you answer it. Of course I'll give you the same courtesy when you're responding. Is that clear?

THE WITNESS: Yes.

MR. BIRNBAUM: As you have just done, I would ask that you respond verbally at all times rather than a nod of the head or a shake. Is that clear?

THE WITNESS: Yes.

MR. BIRNBAUM: In the same vein, if I do cut you off in the middle of an answer, I assure you it won't be intentional but I ask that you let me know that you have more to say and I will certainly give you that opportunity.

While the record is controlled by the staff, we certainly are willing to take a break as long as there's no question pending, we would ask you let us know if you want a break for any reason and we're glad to do that.

There is a record today, your testimony will be taped and transcribed and those are the reasons we just discussed.

EXAMINATION

BY MR. BIRNBAUM:

Q. Have you ever been involved in any investigation in which you appeared as a witness?

A. Yes.

Q. Tell me the circumstances.

A. In 1987 there was a transaction between Jardeen Matheson, a Bermuda company that was headquartered in Hong Kong, and Bear Stearns in which Jardeen was to buy a twenty percent interest in Bear Stearns which was a public company at the time. When the stock market crashed in October 1987, that transaction was in the middle of being accomplished. Jardeen decided that they were going to exercise the material change clause in the contract and withdrew from the transaction. Bear Stearns sued and we got through about two weeks of trial in New York and the case was ultimately settled. I testified four or five days and was deposed three times and then subsequent that there was a litigation that involved a real estate broker and Bear Stearns on for all intents and purposes an aborted real estate transaction. The broker sued Bear Stearns, I was deposed on three separate occasions with respect to that matter which was settled before it ended up in trial.

Q. Other than as a representative of Bear Stearns have you ever been involved in a litigation?

A. No.

Q. Have you ever been involved in any investigation other than what you just mentioned?

A. No.

Q. Have you ever testified before any self-regulatory body such as FINRA or previously the NASD?

A. No.

Q. Can you tell me please your education post high school.

A. I have an undergraduate degree in accounting from St. John's University in New York City and about twelve credits of post graduate study in accounting as well at St. John's University and then two honorary degrees, one for Masters from Colby College and one a Doctorate of Commercial Sciences from St. John's University.

Q. And following your graduation from St. John's, can you give me an overview of your employment history, please.

A. I spent four months on active duty in the military and when I returned I started working with Lybrand Russ Brothers & Montgomery which was a predecessor firm to what is now Pricewaterhouse Coopers. I did that for eight years, left in 1975. I went to a firm called Leigy Spendilli 35 percent owned by Insurance Company of North America which ultimately became Signa, was a private company and went there as the controller, became the CFO in 1979. The company was sold by INA to Paine Webber in 1979. I was hired by Bear Stearns, then a private partnership in December 1979, I was employed as the controller, became a general partner in April 1985, became a public company in 1986 and I became the CFO in 1987, became the chief operating officer and CFO in 1993 and retired from Bear Stearns in June 1999 as the chief operating officer.

Q. And since you retired from Bear Stearns, have you had any other employment other than Reserve?

A. I do not have a full time job, I am a director of three public companies, Office Max, Carters Inc. and Stage Stores Inc. and I serve on the boards of four not for profits, St. John's University, Colby College, Hackensack University Medical Center and I am the board chair of Covenant House and of course the Reserve Fund.

Q. What is the first board you served on of the ones you mentioned?

A. Office Max?
1. Q: Chronologically, whether it's one of these.
2. A: A public company?
4. A: The first one was Stage Stores, I've been on that board five years I believe, then Carters a year and a half, two years in July, and Office Max will be two years coming August.
5. Q: And other than the not for profits you mentioned, have you been on any other boards?
6. A: No.
7. Q: When did you join the board of trustees for the Reserve?
8. A: It was either June or July 1999.
9. Q: As a general matter, I may refer to the Reserve meaning a collection of Reserve related entities. I would ask that if you need a clarification as to a particular Reserve entity or if an answer only makes sense in terms of a particular Reserve entity you point that out but for these purposes is my understanding correct that in your role as trustee you were a trustee specifically for certain funds.
10. A: Yes.
11. Q: And is your role as trustee only for funds and not for RSVI or any other Reserve entity?
13. Q: I want to ask you what funds you're trustee for but I don't want to make this a memory test. I'll put in front of you what has been previously marked as Reserve No. 4. Do you recognize that document?
15. Q: What is that document?
17. Q: Are you a trustee for funds in those trusts?
18. A: Yes.
19. Q: And are you a trustee for funds other than those identified on the first page of Reserve Exhibit No. 4?
20. A: There are other funds that we are trustees of, that I'm a trustee of that aren't listed specifically on here. I don't know if they would fall under these trusts. They are state municipal funds.
21. Q: You're not sure whether those state municipal funds fall under these particular - if you'd turn to page 9 of this document, bates 178702, where there's a Schedule A, if you'd take a look at those particular funds, does that look to you to be a list of the funds for which you are a trustee?
22. A: Yes.

1. Q: As best as you can tell sitting here, is that an exhaustive list? For purposes of that question I'll ask as of September 10, 2008.
3. Q: And are certain of those fund money market funds?
4. A: Yes.
5. Q: And are certain of those funds something different than money market funds?
6. A: I believe so.
7. Q: Do you understand whether all of those funds are registered funds?
8. A: Yes.

1. Q: Are there any trustees that are trustees only for certain of those funds or is it your understanding that the same board of trustees sits for all of those funds?
2. A: The same trustee sits for all the funds.
3. Q: Getting back to your work experience, before joining the board of the Reserve Fund did you have any experience with money market funds?
5. Q: Do you know of any other trustees that were on the board as of September 15th of this year that had a background in money market funds?
6. A: I'm not sure if Bill Viklund had experience in money funds. I know his background is primarily banking.

1. It's possible he had some experience in money funds but I believe everyone else that was a trustee did not have experience in the funds.
2. Q: Okay. Just so I can make sure we're using the term "trustee" in the same way, it's my understanding that Bruce Bent, Sr. is the trustee of those funds. Is that correct?
3. A: Yes.
4. Q: Are you referring only to the independent trustees?
5. A: That's correct.
6. Q: Are there any people other than Bruce Bent, Sr. that are trustees but not independent trustees to your knowledge?
7. A: Not to my knowledge.
8. Q: Are there any trustees that were trustees as of September 15, 2008 that are no longer serving as trustees?
10. Q: Who are they?
12. Q: What were the circumstances of his departure?
13. A: Stephen is resident in Seattle on the west coast, he is the chief operating officer and president of a large hospital group and as we were having constant meetings with both the SEC, executive sessions with the independent board five years I believe, then Carters a year and a half, two years in July, and Office Max will be two years coming August.
14. Q: Are there any trustees that were trustees as of September 15th of this year that had a background in money market funds?
15. A: I believe so.
16. Q: As a general matter, I may refer to the Reserve meaning a collection of Reserve related entities. I would ask that if you need a clarification as to a particular Reserve entity or if an answer only makes sense in terms of a particular Reserve entity you point that out but for these purposes is my understanding correct that in your role as trustee you were a trustee specifically for certain funds.
17. A: Yes.
trustees and counsel and board meetings from the 15th through
today his opinions partially because of time and partially
because of his business involvement made it very difficult
for him to be at a majority of those meetings. So about a
month and a half ago I would say or maybe two months ago we
discussed whether or not we should have a conversation with
him about stepping down because we thought it didn't -- for
appearances standpoint it didn't look like it would be a good
thing for him to miss so many meetings and he agreed to do
that.
Q When you say "we discussed" --
A The independent trustees.
Q Who contacted Mr. Zieniewicz?
A Our counsel, Stuart Strauss from Clifford Chance,
and then Bruce Bent or it might have been Bruce Bent first
and then Stuart but I don't know the exact sequence in which
it was discussed with him.
Q Is there anybody other than Mr. Zieniewicz who
has left the board since September 2008?
A No.
Q Has there been anybody added to the board since
September 2008?
A No.
Q You mentioned Mr. Strauss, does he continue to be
counsel to the trustees?
A Yes.
Q And when did he begin as counsel to the trustees?
A I can't be exactly sure but probably about five
years ago or six years ago.
Q How did you first get involved with the Reserve?
A Bruce Bent was a trustee at St. John's University
when I went on the board at St. John's which was now
seventeen years ago. He was on the board for about five or
six years of the seventeen years I've been on the board and
they rotated off and didn't come back. So I knew him from
that experience and the Reserve was the sweep fund for Bear
Stearns retail accounts. So I knew the fund through Bear
Stearns and I knew Bruce Bent, Sr. through my work at St.
John's.
Q And when you retired from Bear Stearns did Mr.
Bent approach you about joining the board?
A Yes, there was a gentleman named Vincent Mattone
who had been at Bear Stearns and had been on the board of the
Reserve who passed away in early June and it was after Mr.
Mattone passed away that Mr. Bent asked me to replace him.
Q At any time since you've been on the board has
there been anyone other than the possibility of Mr. Viklund
and Bent, Sr. that you understood to have any expertise in
the area of money market funds?
A I believe Joseph Donnelly had experienced the
assets in Lehman Brothers debt?

A I don't have a recollection of him having said

Q Was it your assumption that any funds he didn't

mention in response to your question didn't have Lehman

Brothers debt?

A I would say that was probably the conclusion that

I reached.

Q And why did you want to know whether any funds

held Lehman debt?

A Well there had been speculation in the press and

in the financial markets about Lehman's financial situation

almost from the day after Bear Steams was acquired by J.P.

Morgan Chase and I just wanted to be sure that we didn't have

substantial exposure to Lehman Brothers.

Q What was the concern that you had regarding what

threat any Lehman Brothers exposure would present to the

funds?

A Obviously the thing that was going through my

mind was that if there was a real issue with Lehman Brothers

and there was significant positions within a portfolio and

that a position lost some or all of its value, that would be
detrimental to the fund and the shareholders.

Q Did you ever discuss with anybody at RMCI, which

I'll refer to Reserve Management Company Inc., whether the

investment advisor had any plans for what to do if exposure

to a particular asset presented any problem or threat to a

fund?

A No.

Q Did Mr. Ledford --

MR. SCHIEREN: Excuse me, are you referring to

at or about the time of this --

MR. BIRNBAUM: Fair question.

Q At any time before September 15th did you talk

with anybody from RMCI about any plans RMCI had for action in

the event some asset threatened the NAV of any particular

fund?

A No, I have no recollection of having a discussion

like that.

Q Were you ever at the meeting on the 10th where

Mr. Ledford convinced you that any Lehman exposure did not

present a threat to any of the funds?

A I think I was satisfied with the answers. I

think the minutes are indicative of the conversation. I was

on the phone, so I was not physically at the meeting but I

think that the answers he gave satisfied me at the time.

Q Regardless of whether you recall any

conversations with anybody from RMCI are you aware of any

plans that RMCI had to support any funds before September

15th in the event some asset was compromised in the way it

threatened a fund's NAV?

A No, I'm not.

Q I want to show you a document that's previously

marked as Exhibit No. 28. This is Moody's 000031 and I'd ask

you to take as much time as you need to look at the document

and just let me know when you're ready.

(Witness perusing document.)

A Okay.

Q This is an e-mail from June 17, 2008 from Henry

Shilling to bbent@ther.com copying Robert Kapak, subject

"Forwarding our discussion this afternoon." Do you know who

Henry Shilling is?

A I have no idea who he is.

Q Do you know whether any of these funds, Reserve

Fund, are rated by any rating agencies?

A I know the funds are rated by Morningstar, I did

not know until events since September 15th that there was a

Moody's rating on some or all of the funds. I don't even

know if it's on all the funds at this point and I don't know

if any of the rating agencies rate the funds.

Q Sitting here today, do you know whether Standard

& Poor's has ever rated any of the Reserve Funds?

A I do not know that.

Q I'll represent to you that Mr. Schilling works

for Moody's.

A I have no idea.

Q I'm representing that to you.

A I'm sorry.

Q Do you know bbent@ther.com, do you know of the

Bents that refers to?

A That would be Sr.

Q Did you ever correspond with Bent, Sr. by e-mail?

A I don't believe so.

Q I want to call your attention to number four in

the e-mail.

MR. SCHIEREN: Do you know if this is Bent, Sr.?

THE WITNESS: I would say it's Bent, Sr. only

because Bent, Jr. usually has the Roman numeral II after his

name.

Q Do you see in the e-mail where it refers to your

sons who are now managing day to day operations?

A Yes.

Q Does that consist with your understanding that

this would be Bent, Sir.?

A Yes.

Q Moving to number four under "Hi Bruce," it read

"Contingency planning around credit and liquidity events,
timely response to unexpected events" and the introduction to

those enumerated topics are "Here are the four areas we wish
to explore in more detail." Did you have any understanding
Page 22

1. any rating agency wished to explore with the Bents
2. contingency planning around credit and liquidity events?
3. A No.
4. Q How about timely response to unexpected events?
5. A No.
6. Q Do you know whether any ratings -- you had any
7. concerns about whether RMCI had adequate contingency planning
8. around credit liquidity events?
9. A No.
10. Q As a trustee of the funds, would you have wanted
11. to be made aware of any concerns that a rating agency had?
12. A I would have liked to have been told that rating
13. agencies were questioning some issues with respect to the
14. funds.
15. Q And why would you want to be told that?
16. A I think it would -- especially in the four items
17. here, this is information that would be a good thing for us
18. as trustees to understand that some outside agency is
19. questioning and see the response that debt management would
20. give to those questions.
21. Q And those responses you expect would help you
22. discharge your duties as trustee?
23. A I would expect so.
24. Q Is it fair to say you were never made aware of
25. any of the four areas that Mr. Shilling says he wishes to

Page 23

1. explore in more detail?
2. A That's correct.
3. Q You can put this aside. When did you become
4. aware that any of the funds were rated by Moody's?
5. MR. SCHIEREN: Are you aware?
6. A I would say sometime around the time that I was
7. last here.
8. Q So certainly after the week of September 15th?
9. A Yes.
10. Q Did anybody on September 15th or 16th express to
11. you any concerns that any rating agency had about any of the
12. Reserve Funds?
13. A No.
14. Q If any rating agency had expressed to anybody at
15. RMCI concerns about any Reserve Fund on the 15th or the 16th
16. is that something that you as a trustee would have wanted to
17. be made aware of?
18. A My view of that on the 15th and the 16th of
19. September is that there were so many other things that were
20. transpiring and so many other things that were taking place,
21. concerns that a rating agency might have had about what was
22. happening at the Reserve would have probably been very low or
23. the scale of things that I wanted to know.
24. Q I want to distinguish between the general
25. concerns they might express and concerns specific to the 15th

Page 24

1. and 16th. If any rating agency had expressed a concern on
2. the 15th and indicated that concerns may have led to -- if
3. not answered, may have led to a rating downgrade, would that
4. have been something you would want to hear about?
5. A I'm going to kind of stick with the answer I gave
6. you because with all the turmoil that was taking place on the
7. 15th, if one of the rating agencies was going to call and say
8. that they were thinking about downgrading the fund, that
9. would have been very low on the scale of information that I
10. would have wanted to know about.
11. Q Okay. I want to give you a document that's been
12. previously marked as Exhibit No. 32. Again take as much time
13. as you need to read that. It's an e-mail from Bruce Bent
14. to Patrick Ledford on September 15th at 12:58 p.m. I will
15. represent to you our understanding is where e-mails that I
16. show you today that says GMT, that's Greenwich mean time, and
17. at that time Greenwich mean time was four hours different
18. than New York.
19. MR. SCHIEREN: Four hours ahead.
20. MR. BIRNBAUM: Yes.
21. (Witness perusing document.)
22. A Okay.
23. Q We'll work chronologically, so starting with the
24. second e-mail on the page, it starts "I just go off the phone
25. with the folks at S&P."

Page 25

1. A Okay.
2. Q Were you aware that anybody at Moody's or S&P
3. were "looking for some type of capital support facility" to
4. be put in place?
5. A No.
6. Q The next paragraph from Mr. Ledford to Mr. Bent
7. he notes that "Also just aside, last year when the SIV
8. market imploded money funds only provided capital support fo
9. the difference between a market price and the par amount."
10. Do you recall the SIV market imploding?
11. A Yes.
12. Q What do you understand Mr. Ledford to mean by
13. that?
14. A I do not know what he meant by that.
15. Q Do you have an understanding as to what an SIV
16. is?
17. A Yes.
18. Q What is that?
19. A It was a -- I think it was subprime securities.
20. I wouldn't be able to give you a tutorial on it but I believe
21. it's subprime markets.
22. Q And do you remember something in that market
23. imploding?
24. A There were issues with the subprime markets, yes.
25. Q Do you remember if that impacted any of the
21 reserve funds?
22 A I don't believe it did.
23 Q We'll put this document aside for now. Before
24 September 15th how were board meetings ordinarily run? Was
25 there somebody with a gavel, somebody who would lead the
26 meetings? Tell me as much as you can about in the ordinary
27 course how board meetings were run.
28 A The day would start with an audit committee
29 meeting, the audit committee technically was myself as chair,
30 Ron Artenian and Santa Albococca as the other two independent
31 trustees making up the entire audit committee but as a
32 practical matter all of the trustees attended the audit
33 committee meetings and I chaired those meetings. Mr. Bent,
34 Sr. as chair of the board was at the meeting along with all
35 the other independent trustees. We would go through the
36 business of that meeting, usually depending on the time of
37 the year and the status of the audits with KPMG and before
38 then Pricewaterhouse Coopers, those meetings would last
39 anywhere from an hour to an hour and a half.
40 At the conclusion of that meeting the regular
41 business of the board would begin. Those meetings would be
42 chaired by Bruce Bent, Sr. as chair of the board. Normally
43 in the years preceding, I'd say last maybe two years, we
44 would get a very large volume of hard covered book with the
45 agenda and all the information supporting the presentations
46 that were to be made at the board meeting would be usually
47 mailed to us anywhere from a few days to a week before the
48 board meeting so we'd have a chance to go through it and then
49 you would go through this agenda and whatever presentations
50 were to be made would be made.
51 We had recently taken to having the chief
52 investment officer come in with presentations to us and we
53 would basically go through the agenda, authorize whatever
54 resolutions needed to be authorized again through the agenda
55 and conclude the meeting. They could last anywhere after the
56 audit committee meeting from two hours to three and a half
57 hours, a lot would depend on the business that was
58 transpiring at the meeting.
59 Q In the ordinary course how often did the board
60 meet?
61 A Four times a year.
62 Q Since you have served on the board, was there
63 ever an occasion prior to September of this year that the
64 board held any emergency or unscheduled meetings or not
65 regularly scheduled meetings?
66 A Yes.
67 Q Tell me about any such instances.
68 A They were almost entirely around the two years I
69 believe that Pricewaterhouse Coopers issued certifications on
70 the financial statements with material weaknesses in the
71 financial statements but the very nature of writing on a
72 financial statement that it's a draft is indicative of the
73 material weaknesses that would be called, almost entirely audit
74 committee meetings but because the entire independent board
75 of trustees came to all the audit committee meetings they
effectively full board meetings although they were not I
believe reflected in the record as full board meetings, they
were reflected as audit committee meetings.
78 Q What were those material weaknesses?
79 A There were several. One was on reconciliations
that were not being completed on a timely basis and the
reconciling items were not being cleared up on a timely
basis.
80 Q Could you explain to me what you mean by
81 reconciliations.
82 A Reconciliations between the transfer agent --
83 bank reconciliations, the bank balances. There was another
material weakness on "books and records" in that
Pricewaterhouse determined that they had been given drafts of
the financial statements and after receiving the drafts they
received other financial statements, other iterations of the
financial statements that had changes to the drafts so that
the final financial statements were adjusted from the drafts
and then there was -- I don't remember the exact details of
it now, I believe it was the first one. There was some
technical violation of -- they believed some technical
violation of an SEC rule I believe.
86 Q Do you know what SEC rule?
87 A No, I don't remember.
88 Q Getting back to what you called the books and
records violation, how did RMCI address that violation or
 correct it if they did?
89 A They were corrected. There were -- can I just
give you my opinion?
90 Q Sure.
91 A I was not a strong supporter of Pricewaterhouse's
position, I thought they were taking small items and blowing
them up into weaknesses that didn't rise to the level of
material weakness. We had a lot of things about it. I
thought they were for whatever reason being completely
unrealistic in the positions that they were taking with
respect to these items. I mean at the end of the day between

counsel and the financial office's office everything was
rectified and cleaned up and as a practical matter when KPMG
came on board from their first vote to the last vote they
accomplished there no material weaknesses.
98 Q Did you think it was unreasonable for
99 Pricewaterhouse to require a final financial?
100 A No, absolutely reasonable to expect final
financial statements but the very nature of writing on a
financial statement that it's a draft is indicative of the
Q And who did you hire?
A KPMG.
Q Was KPMG for all the funds for which you're a trustee?
A Yes.
Q And at some point did KPMG look at what Price Waterhouse Coopers identified as material weaknesses?
A Yes.
Q And did KPMG express an opinion as to whether or not they agreed that those items were material weaknesses?
A Yes.
Q What did they express?
A I feel like I'm getting in the middle of two firms but they did not believe that the items that had been written up rose to the level of material weakness.
Q Is that because -- if you know, is that because the Reserve had since changed something they did or was KPMG looking at the same facts that you believe PwC was looking at?
A No, KPMG was looking at the same facts. We're now dealing in some esoteric accounting issues and one person's definition of a significant deficiency is another person's definition of a material weakness. One of the things that people say all the time about accounting is that it's not a science and I think this is where you see that.
Q At some point Price Waterhouse Coopers quit? A Price Waterhouse Coopers actually resigned from the engagement before we had a chance to replace them. The audit committee had voted -- I'm sorry, the audit committee had voted to put out an RFP. Our intention had been to invite Price Waterhouse Coopers to participate in the RFP but before we had a chance to do that they called me as chair of the audit committee and said they were resigning from the engagement.
Q Before they resigned, had the Reserve addressed all material weaknesses in a way that Price Waterhouse Coopers expressed satisfaction?
A They did with respect to the first ones because they were cleaned up in the second but they managed through their procedures to find different material weaknesses in the audit just before they resigned. So those had not been resolved by the time they resigned because they resigned right after they signed off on the audit.
Q If I can just clarify to make sure I understand, is it your testimony that other than the material weaknesses identified by Price Waterhouse Coopers in their final audit, all other material weaknesses that had been identified previously had been addressed by the Reserve.
A That's correct.
Q And had been addressed in a way that Price Waterhouse Coopers acknowledged satisfied them.
A Yes.
Q Price Waterhouse Coopers left, you ended up doing your RFP.
A Yes.
BY MR. BIRNBAUM:

Q I want to turn a little bit closer to the events of September 15th. When did you first learn that RMCI wished to convene a meeting of the board of trustees?

A It was about 6:15 or 6:30 in the morning on September 15th.

Q How did you learn that?

A I got a telephone call from Bruce Bent II, he told me that the Lehman filing had taken place earlier in the morning or during the night and that we needed to convene a meeting of the audit committee so that audit committee could make a decision as to whether or not the valuation of the Lehman paper in the portfolio could be changed from amortize cost to fair value accounting.

Q Was that call the first you learned that Lehman had filed for bankruptcy?

A When I went to sleep that night, I knew that they were -- I understood from the press that they were in the process of preparing their filing but I would say that I definitively knew that was the first time.

Q On the 14th, Sunday?

A Yes.

Q Did you talk to anybody from the board of trustees or RMCI or the Reserve or generally on the 14th?

A No.

Q When you got the call from Bent II on the morning of the 14th, was that the first you spoke to anybody from the Reserve?

A Yes.

Q Were you given a dial-in number?

A Well I suggested to Bruce that it should be a full board meeting. While I felt it was an audit committee decision since all the trustees came to the audit committee meetings and since this would be a significant change going from amortized cost to fair value accounting that all the trustees should be invited to the meeting and he said he would arrange for that and I believe, I could be mistaken, but I think we all got an e-mail with a call-in number and a time to call.

Q Between the time you first heard from Bent II and the time you got on the call for the 8:00 board meeting, did you have any conversations with anybody from the Reserve or any trustees?

A No.

Q Did you communicate in any way excluding the e-mail with the call-in number and the time to call, with anybody from the Reserve or the board of trustees?

A No.

Q What did you understand the purpose of the call to be? Was it limited to the valuation of the Lehman paper...
or was there anything else on the agenda as you understood it?

A As I understood it, it was limited to the negative value in the Lehman paper.

Q Did you have an understanding as to the total Lehman paper held by the funds?

A Before the meeting or after the meeting?

Q Before the meeting. Is it fair to say the last you discussed it was at the September 10th board meeting?

A Yes.

Q And at the first board meeting on the 15th did you learn anything about any of the funds of Lehman Holdings that was inconsistent with what you understood to be the case coming out of the 10th?

A With the Primary Funds?

Q We can start with the Primary Funds. Did you learn anything on the 15th at that first meeting about Primary Funds of Lehman Holdings that was inconsistent with what you already knew?

A No.

Q How about any other funds?

A I believe at that meeting there was a very brief discussion about Yield Plus.

Q What do you remember about that discussion?

A That there was Lehman paper and there was a Lehman position in Yield Plus and that the percentage was larger than the percentage in the Primary Fund.

Q Was there any discussion of the fund called International Liquidity?

A I don't remember that there was but we’re not trustees of International Liquidity.

Q That was my next question. Do you recall any fund being identified as having Lehman exposure other than Yield Fund and Primary?

A No.

Q Was it your assumption there was another fund with Lehman paper limiting the amount of funds for which you’re a trustee that somebody would have informed the trustees that that person be here on Monday?

A I would hope so, yes.

Q Was it your understanding that whatever action the board was contemplating with respect to Lehman paper was equally to Lehman paper or any funds that held Lehman paper?

A Yes.

Q Do you have an understanding as to whether there was some kind of difference Lehman paper held by one fund to the other, any difference relevant to your evaluation decision?

A You mean the nature of the paper that was --

Q The nature of the paper.

A The Lehman paper?

Q Yes. My question is whether it’s -- you found it relevant whether it’s longer term or shorter term, whether some were senior or junior, did you have an understanding that one fund held a different kind of paper than another fund?

A No, my recollection was that it was mostly commercial paper but there were some medium term notes involved in the positions.

Q And was it you understanding that whatever action you took with respect to Lehman paper would apply equally to any Lehman paper in any of the funds, any of the funds of which you were trustee?

A Yes.

MR. BIRNBAUM: I think this is a good time to take a short break. Let's go off the record at 11:10 a.m.

(Whereupon, a recess was taken.)

MR. BIRNBAUM: On the record at 11:22. Mr. Montgoris, am I correct in stating that while we were off the record we did not discuss the substance of this matter with the staff?

THE WITNESS: Yes.

Q Did you ever have occasion before September 15th to learn about any credit support for any money market funds?

A Reserve Funds?

Q Let's start with the Reserve Funds, sure.

A There was one point in time over the course of the past ten years where I believe, and I don’t remember the fund, that the management company provided support to maintaining NAV. It was not -- I don’t remember which fund it was and my recollection was that it wasn’t a gigantic number.

Q If I suggested it was the Enhanced Cash Fund, does that ring a bell?

A That could be it.

Q And that’s not a fund to which you’re a trustee.

A Correct?

Q Did you understand how that credit support arrangement worked?

A No.

Q Did you understand where the money came from? Was it from Vince personally, from RMCI, from an outside source?

A It was either from Vince or RMCI, it wasn’t from an outside source.

Q Did you ever have occasion to -- did you have any understanding that other money market funds outside the Reserve had used some kind of credit support arrangement to support a non-Reserve money market fund?
A No.
Q You saw an e-mail before that spoke of exposure and problems earlier in 2008, did you have any understanding as to whether any funds utilized any kind of credit support arrangements to get through problems relating to SIV’s?
A No.
Q Do you have any understanding as to how a credit support arrangement can work to support a fund such as the Primary Fund?
A I’m not sure I understand the question.
Q Do you understand what a credit support arrangement is?
A Yes.
Q What do you understand that to be?
A It could be a bank providing financial support, it could be a company providing financial support, it could be guarantees. It’s a legal document that’s got to follow certain strictures, it’s got to meet certain requirements and it’s got to be signed and counter signed by the various parties.
Q Do you have any understanding as to whether the Bents or RMCI were considering putting in place some kind of credit support for any of the Reserve Funds on the 15th?
A Yes.
Q Of the kinds you just described or other kinds,
do you have an understanding of what format the support might take?
A No.
Q I want to show you a document that’s been previously marked as Exhibit No. 13. Of course take as much time as you want to review that. I’ll remind you the 10:11 GMT time appears to be 6:11 eastern time.
A 6:11 p.m.
Q Right.
(Witness perusing document.)
A Okay.
Q I want to refer you first to the 9/14/2008 e-mail from Eric Lanske to Bruce Bent at 5:35 p.m., the subject is "Just sharing what reading and not sure applicable." Mr. Lanske writes "Other fund companies which had significant SIV exposure calmed investors by stating they had line of credits available” and he goes on. Is a line of credit a one time credit support arrangement that you understood on the 15th could be used to support a fund?
A Yes.
Q And do you see Mr. Bent’s response to that e-mail?
A Yes.
Q What does that say?
A “This is not an option for us.”
Q What do you understand Mr. Bent to be referring to when he says “This is not an option for us”?
A I don’t know if he’s referring to a line of credit or -- I’m assuming he’s talking about a line of credit.
Q Did you know -- do you know sitting here today whether a line of credit was an option to support any of the Reserve Funds?
A I don’t know if it was an option. I don’t know if it was a doable option. It certainly would have been an option that I would have explored.
Q On the 15th at some point did you learn that the Bents were contemplating some kind of credit support?
A Yes.
Q How did you learn that?
A We had another board call at 1:00 p.m. on the 15th and we were asked to authorize a couple things, one of which was the credit support agreement.
Q At that point did you have any understanding as to whether that credit support agreement could have taken the form of a line of credit?
A My recollection is that there wasn’t a lot of discussion about what form a credit support agreement would take.
Q Do you remember anything about having an understanding on the 15th as to what options were available to support any of the Reserve Funds?
A No.
Q If a line of credit was not an option for the Reserve or to support any of the Reserve Funds, is that something you as a trustee would have wanted to know in deciding whether to authorize RMCI to pursue a credit support agreement?
A That would have been helpful information.
Q And were you ever told whether a line of credit was an option to support any of the Reserve Funds?
A Was an option?
Q Were you ever told whether it was an option -- let me start the question over. Were you ever told on September 15th whether a line of credit was an option for supporting any of the Reserve Funds?
A No.
MR. OSNATO: Mr. Montgoris, if you had been told on the 15th that a line of credit was not a viable option for RMCI to explore, why do you think that would have been helpful information to the board?
THE WITNESS: Could you repeat that question.
MR. OSNATO: Of course. If the board had been told in the course of deciding whether to approve credit support for any of the funds that among the various options
available, obtaining a line of credit from an outside source
was not one of the options on the table, why would that
information have been helpful to the board?

THE WITNESS: I think that in my view if we were
being told that there were options that might have been
options that could have provided credit support that either
didn't exist or couldn't be used and the options were getting
smaller, that would have I think led to more discussion and
more questions about how we were going to accomplish it.

Q Mr. Montgoris, I want to give you a document
previously marked as Exhibit No. 52. You're welcome to read
as much as you like of it although I will focus your
attention when you're ready on a couple specific pages. I'll
represent to you that these have been identified for us as
Ms. Massaro. Do you know who Ms. Massaro is?

A Yes.

Q Who is that?

A Chief compliance officer.

Q If you can turn to RF-SEC 00178707, on the top
left there appears to be a notation 9/15 which we understand
to reflect a 9/15 meeting and under that it appears to say
1:00. Do you see that?

A Yes.

Q Do you see on the top right anything identified
that appears to identify you?

A Yes.

Q Do you see on the top right anything identified
that appears to identify you?

A Yes.

Q What is that?

A One of the Bents, I don't know which one.

Q What is that?

A Bill M.

Q You did attend this 1:00 meeting?

A By phone, yes.

Q Can you read what it says under 1:00.

A "Do whatever we need to do to support Primary," I
don't know, is that YP?

Q Do you have an understanding as to what Primary
means there?

A The Primary Fund.

Q Do you have an understanding of what YP means?

A I would guess it's yield plus.

Q Is this consistent with your recollection of what
you heard, a 1:00 meeting that somebody mentioned that
"whatever needs to be done should be done to support Primary
Yield Fund"?

A With respect to Primary, yes. I don't remember
specifically Yield Plus because during the course of the day
we had previously talked about the fact that Yield Plus was
not a dollar NAV fund, it was a variable NAV fund but that
the position that the management company had taken was that
it was going to maintain a dollar or NAV in Yield Plus. So
yes, definitely with respect to Primary. I'm not sure about
Yield Plus.

Q When you say something had been discussed earlier
in the day regarding Yield Plus, can you explain to me what
was discussed?

A In one of the earlier meetings when we were
talking about the exposure to Lehman Brothers, we talked
about the exposure in the Primary Fund and Yield Plus and
during that course of that conversation -- and Yield Plus had
a larger exposure as a percentage of the portfolio than
Primary did. During that discussion what I just said
basically was discussed that this was a variable NAV fund, it
wasn't a 2(a)(7), it didn't have to maintain a dollar NAV, so
we were at that point in that discussion just then focused on
Primary.

Q Was it your understanding that RMCI intended to
support Yield Plus regardless of whether it was a 2(a)(7)
fund?

A It was my understanding that it was their
intention to support Yield Plus.

Q What did you base that understanding on?

A Basically what was said, that we had consistently
said that we would do whatever we can to maintain a dollar
NAV in Yield Plus and we will continue to try to do that.

Q That was said by somebody on the 15th.

A Yes.

Q By whom?

A One of the Bents, I don't know which one.

Q Can you narrow it down. Was it Arthur?

A Bill M.

Q Continue with note from Ms. Massaro, you'll see
it says "Credit backstop from advisor."

A Yes.

Q Is it consistent with your understanding -- with
your memory of the 1:00 meeting on the 15th that the Bents or
RMCI was contemplating some kind of credit backstop from
RMCI?

A That's my recollection.

Q Did you have an understanding at that point as to
whether the entire backstop would come directly from RMCI or
whether it would come from some other source?

A Neither. No understanding that it would come
from either RMCI or from some other source.

Q Did you have any understanding as to how much of
a backstop was needed to support any of the funds?

A Not at that -- there were no numbers that were
specifically given to the best of my recollection.

Q Did you have an understanding that Primary Fund
held 750 million of Lehman paper at par value?

A At the 1:00 meeting it was my understanding that
we had roughly $750 million of Lehman paper in Primary Fund
but I believe we had already made a decision to carry that by
Q Did you have any understanding as to how a credit backstop would work in terms of how much of that Lehman paper would need to be supported under an agreement to backstop any funds?
A No.
Q Continuing with the notes, after a 750M Primary it says 350M Yield Plus. I believe you mentioned earlier that you recall somebody knowing a percentage of Lehman paper in the Yield Plus fund. Is that correct?
A Yes.
Q And is your recollection consistent with the idea that Yield Plus held approximately 350 million in Lehman that's valued at par?
A I don't remember the number, I remember the percentage was about two and a half percent of the portfolio. I don't remember the size of the portfolio at the time. I think that would be -- I remember the two and a half percent.
Q When it says "Motion passed," do you have any understanding as to what "motion passed" is?
A It would be independent trustees authorizing the advisor to put a credit facility in place, a credit backstop in place.
Q I'll ask you to put that aside for now although I expect to return to the document.
A Reserve.
Q Can I return to your testimony about a discussion at some point prior to the 1:00 meeting about supporting the Yield Plus fund. I understand your testimony is you recall a discussion that even though this was not a 2(a)(7) fund and there was no legal obligation to maintain the dollar that as a matter of business policy or practice RMCI indicated to the trustees that it intended to nonetheless support the NAV. Is that correct?
A Yes.
Q And in your capacity as a trustee of the Yield Plus fund, is that a decision that you approve?
A Yes.
Q And based on what you saw or heard from your fellow independent trustees, do you think that the independent trustees as a collective unit approved of RMCI's decision to support the Yield Plus fund?
A I would say yes.
Q After you heard or RMCI indicated its commitment to the Yield Plus dollar NAV, was it your expectation that if at some point later in the day on the 15th that fund NAV was impaired and fell below a dollar, that RMCI would take the steps necessary to protect the NAV?
A Yes. Before the 1:00 meeting?
Q At any point thereafter.
A Yes.
MR. OSNATO: Thank you.
BY MR. BIRNBAUM:
Q I want to give you a document previously marked as Exhibit No. 45 which I'll represent to you that it has been represented to us as the notes of Catherine Crowley. Do you know who Ms. Crowley is?
A Yes.
Q Who is she?
A General counsel.
Q To?
A To the funds.
Q You can certainly have as much time as you want to read through all of these notes.
A Why don't you just tell me where you want me to go.
Q Sure. If you turn to the RF-SEC 00252419, you'll see the numbers are bit covered but -- we understand this to reflect the 1:00 p.m. call, the same meeting on September 15th and if you can just read under where it says B-2.
A Yes. Do you want me to read it out loud?
Q Would you.
A "R will enter into credit support agreement with primary and yield plus."
Q Do you have any understanding as to what R refers to there?
A Reserve.
Q And is this something that you recall Mr. Bent II telling the board?
A Yes, this is consistent with Christina Massaro's minutes.
Q And is it consistent with your recollection?
A Yes.
Q And under that you see "Capital large enough to fund credit support? Stuart Strauss?" and there's a check next to that. Do you recall any discussions that you believe those words to reflect?
A The question was asked by Stuart Strauss "Is there enough capital support and credit support facility" and the answer was yes.
Q Do you know who gave that answer?
A No.
Q If I represented to you that certain minutes reflect it was Mr. Bent, Sr., is that consistent with your recollection?
A Probably.
Q Did you have an understanding sitting at that 1:00 board meeting as to whether the answer that there was capital sufficient to fund credit support was sufficient to fund credit support for only one fund or any fund with Lehman
1 exposure? A My assumption was that it was for any fund with Lehman exposure.
2 Q Would you have expected as trustee to be told if the answer was limited to one fund or the other?
3 A Yes.
4 Q Now under that I see your name, it says "Motion made, Montgoris; seconded, Santa." Do you recall what motion you made?
5 A I don't recall but if you gave me the minutes I'm sure it would be reflective of the motion that was made.
6 Q I'm happy to do that. Do you recall making a motion that the Bents or RMCI be permitted to pursue a credit support agreement?
7 A Yes.
8 Q Do you recall -- withdrawn. Was the answer to Stuart Strauss' question regarding RMCI's ability to provide credit support relevant in your decision making process concerning whether you would authorize RMCI to pursue an agreement?
9 A Yes.
10 Q How is it relevant?
11 A Well I don't think I would have made the motion to authorize it if we were told that there wasn't enough capital to support it.

1 Q Did anybody in that meeting express to the board any limitations on RMCI's ability to support any of the funds?
2 A Not to my recollection.
3 Q Did you have an understanding that support was conditioned on keeping Lehman at 80?
4 A I don't have any recollection of that being said as a condition.
5 Q That it was relevant to you if RMCI did not intend to support the fund if the board had decided to lower the value of Lehman below 80?
6 A Yes.
7 Q Do you recall anybody at the 1:00 meeting expressing to you or the board more generally that any capital support depended on the numbers of redemptions in any fund on the 15th?
8 A No.
9 Q Were there any conditions at all that you recall?
10 A No.
11 Q I want to ask you another question about your motion but you had asked to see the minutes from that meeting on the 15th. Concerning that motion you did make, do you recall making separate motions for different funds, that is did you make separate motions to authorize RMCI to support one fund and then to authorize RMCI to support some other fund?
security position that is not at par as the size of portfolio decreases, that position will have a larger impact on the net asset value and if the redemptions are big enough without making any changes to the valuation of that security, it can break the buck, so there's two ways to break it. When you say two ways, some combination of how far from par value an asset might be marked and how many shares that asset is --

Q: Focusing on the Primary Fund to move from general to specific, is it your understanding that whether the Primary Fund would break a buck would depend more on a combination of how the Lehman people would value and net redemptions of the Primary Fund?

A: Yes.

Q: Is it fair to say as a trustee you want to be kept aware of that redemption to the Primary Fund?

A: Yes.

Q: Do you have an understanding as to when the board moved the value of Lehman from par to 80, that forced the Primary Fund to break the buck at that time?

A: Do I think it broke the buck when we repriced it to 80?

Q: My question is whether when you repriced it you had any understanding at that time as to whether that was moving the net asset value.

A: That would create a breaking of the buck?

Q: That is my question but for the record let me find a way to say it. Thinking back to September 15th do you recall voting to devalue the Lehman assets or Lehman paper from par to 80?

A: Yes.

Q: And did you have an understanding at that time as to whether that action would force the Primary Fund to break the buck?

A: Yes.

Q: What was that understanding?

A: That it would not.

Q: Did you understand at that time that with a value of 80 there was some number of redemptions that could cause the Primary Fund to break the buck?

A: Yes.

Q: And were you ever told on the 15th that redemptions were approaching a number that the $1 per share NAV was compromised or in jeopardy?

A: No.

Q: I want to refer you to what's been marked as Exhibit No. 71 and take as long as you want to read it. I'm going to ask you in particular a question about or a series of questions about the second paragraph, the one starting "Initially."

A: Okay.

(Q: Do you recognize this document?)

A: Yes.

Q: What is the document?

A: These are minutes of an executive session of just the independent trustees that was held on Tuesday morning, September 16th, right after the full board meeting that morning.

Q: Do you know who put together the first draft of these minutes?

A: Clifford Chance, I'm not sure who exactly at Clifford Chance.

Q: Did you have a chance to review a draft of these minutes before they became final?

A: Yes.

Q: Did you have the opportunity to propose any edit?

A: Yes.

Q: Do you recall proposing any edit?

A: I don't remember.

Q: Do you recall anything -- have you had a chance to review the final version of these minutes?

A: Yes.

Q: And does anything that's included in the final version appear false to you?

A: No.

Q: In any way inaccurate?

A: No.

Q: In that second paragraph starting "Initially," it reads "The independent trustees indicated how shocked they were by the information relayed to them by Reserve Management during the morning's earlier call." For starters, I take it this independent session or trustees session was held after some meeting with RMCI?

A: Yes, it was immediately after the board meeting from the morning of the first board meeting on September 16th which started at 10:00.

Q: And do you recall being shocked?

A: Yes.

Q: Do you recall why you were shocked?

A: Yes.

Q: Why were you shocked?

A: I was shocked and surprised when we were told that the redemptions had gotten to a very large number, almost $25 billion and also surprised and shocked to hear that the management had conversations with various people about buying the fund, buying the management company, about hiring an investment banker to see if there was anybody that would be interested in buying it because it seemed that 1:30
or 2:00 whenever it was that we had the last call on the 15th
that things were seemingly under control and then when they
started the meeting at 10:00 we were given all this
information that was a radically different picture from what
we had been left with the prior day at 1:30, 2:00, whatever
time it was, and it was shocking to me that there had been
such a substantive and large run on the bank in such a short
period of time.

Q When you say a large run on the bank in such a
short period of time, what time period are you referring to?
A Well my recollection was from either 1:30 or
2:00, whatever time that meeting actually ended on the 15th
until 10:00 a.m. the following morning, so we're talking
about 23 hours that there had been this very, very
significant run on the bank. Certainly we were in
unchartered waters and we were in very significant market
turmoil but it was shocking it had happened so fast.

Q I want to refer you to Exhibit No. 44, the last
page, RF-SEC 00210248, and I will represent to you that we
understand this to be a draft of the September 15th board
minutes as the covering e-mail seems to reflect. If I call
your attention to the second paragraph, the second sentence,
you'll see a sentence that begins "As of the beginning of the
1:00 p.m. call, redemption requests from the Primary Fund
were approximately [8 billion]."

A Yes.

Q Do you know why those are bracketed?
A I don't know why they're bracketed.

Q Did you have a chance to review any draft minutes
of the general board meetings on the 15th?
A Yes.

Q Did you have any comment as to whether eight
billion was accurate?
A I don't have a recollection as to whether I did
or did not of the eight billion.

Q And if I can show you what's been marked Reserve
No. 5, the page marked RF-SEC 00178718, under 1:00.
A Yes.

Q I call your attention to the sentence about seven
lines down, "As of the beginning of the 1:00 p.m. call,
redemption requests from the Primary Fund were approximately
16.5 billion."

A Yes.

Q Did I read that right?
A You did.

Q Do you have any understanding as to why the
number was changed at some point from eight billion at least
16.5 billion to 16.5 billion?
A I do not.

Q Do you recall ever hearing at the 1:00 meeting
that redemption requests were up to 16.5 billion?
A I did not.

Q Do you recall hearing that redemption requests
were that high even for the funds combined?
A No.

Q Was part of your shock on the morning of the 16th
a result of hearing of a discrepancy between the redemption
figures you were learning on the morning of the 16th and the
numbers you had last heard on the 15th?
A I'm sorry, could you repeat that again.

Q Sure. Was part of your shock on the morning of
the 15th a result of hearing of a discrepancy between the redemption
figures you were learning on the morning of the 15th and the
numbers you had last heard on the 15th?
A Yes.

MR. SCHIEREN: Do you remember the number you
heard on the 15th, the last number?

THE WITNESS: Well my memory remembers the $8
billion number. Obviously as you can see from all of these
documents there was a lot going on and there were numbers
that were coming at everybody fast and furious and furious
and in the minutes of the executive session we talked about
five billion dollars which doesn't even match the eight
billion that's in the draft of the board minutes but I would
say that my recollection, the last number that I remember was
$8 billion on the first day.

Q It would not shock you if you learned that the
number was five. Is that fair? The last number you heard on
the 15th.
A No, it wouldn't.

Q Are you confident that the number wasn't as high
as sixteen?
A Yes.

Q If you had learned of a number as high as
sixteen, would that have influenced your thinking as a
trustee in any way on the 15th?
A To the extent that if I had heard a number of
16 1/2, I probably would have suggested or requested that we
have another meeting after the 1:00 meeting later in the day
to get a better understanding of exactly what was going on.
Q Now at one of the meetings on the 15th was there
any discussion about under what circumstances the board would
be reconvened?
A What we were doing on the 15th was we were trying
to set times up to have meetings so that the markets could
sort of settle themselves out a little bit if that was going
to happen. That was our hope, that they might settle
themselves out a little bit and the management team the chief
investment officer could have some more time to get a feel
for what was actually going on in the marketplace. So as far as two things were concerned, we set up time so that we could clear our calendars and we didn't have to be trading e-mails back and forth and as far as I was concerned, after we finished the 1:00 meeting, we didn't really set a time for another meeting and my understanding and my feeling was that we were going to have a meeting the next day.

Q Were you available after the 1:00 meeting on the 15th if circumstances dictated that the board reconvene?

A Yes.

Q Did somebody express at some point during the day that the trustees would be generally available if a board meeting needed to be held?

A We expressed from the first meeting on that if they needed us, we would be available.

Q Was it your understanding that you would be contacted if there were any significant events on the 15th that the --

A Yes.

Q Were you ever contacted to inform you on the 15th that redemption levels had exceeded eight billion?

A No.

Q If somebody at RMCI knew that redemption levels had gotten this high or higher than the $16 billion, would that be the kind of fact that you would have wanted to be contacted about?

Page 66

Page 67

Page 68

Page 69
marketplace because of the turmoil that was taking place.

Q Did you think that an inability to satisfy redemption pay outs would impact investors decisions as to whether to withdraw funds from the merger?
A That's a tough question to answer. I'd have to put myself in the mind of an investor. We were in -- again as I said before, we were in unchartered water and the markets were reacting emotionally. They certainly weren't reacting the way anyone else had seen them react, at least in my career. So I can't say why a customer would have been making redemption requests. We could have been funding all the redemption requests and people would still be redeeming, making redemption requests -- when investors started investing their money in treasuries with negative yields, there's really not a whole lot of logic taking place. It's really much more on emotion.

Q Were you told why State Street had suspended redemption requests after eight or nine million, to use the numbers you gave?
A My recollection at the time is that State Street was having their own problems with liquidity and just cut Reserve off.

Q Did anybody express to you that State Street had concerns about the Reserve and posted concems about their own liquidity?
A No.

Q Is State Street's reasons for redemptions were at least in part about concerns State Street had about the Reserve, is that something you would have wanted to learn as trustee?
A Sure.

Q Did you have any understanding as to how State Street decided which investors in which funds would get their money out first?
A My understanding was that people would pay on a first in, first out basis.

Q Was it your understanding that the Reserve provided at list to State Street indicating whose requests were first in?
A My understanding was that everything was done electronically and as redemption requests came in they would be electronically sent to State Street and State Street would pay them.

Q Just so I understand, the question could refer to within a particular fund or a cross fund and so I'll ask it both ways, when you say first in, first out, is it your understanding that two investors in the same fund would be paid out in the order in which their redemption requests were made?
A Yes.

Q And in terms of two investors that were invested in different funds, was it your understanding that any particular fund was given a priority over another in terms of redemptions?
A I don't think so.

BY MR. OSNATO:
Q Mr. Montgoris, to back up, do you know if the Primary Fund was accepting new purchases of shares on the 15th?
A I believe -- my recollection is that at the beginning of the day they were but at some point that was stopped.

Q On the 15th?
A I'm not sure if it was the 15th or the 16th.

Q If on the 15th the board of trustees was informed that RMCI could no longer timely meet redemption requests and that situation was likely to continue to the short to medium term future, do you think it would have been prudent for the board of trustees to consider suspending the acceptance of new purchases into the fund?
A Yes.

MR. BIRNBAUM: This is a good time for a break, it's 12:14. Let's go off the record.
(Whereupon, a recess was taken.)

MR. BIRNBAUM: On the record, it's 12:31. Mr.

Montgoris, am I correct in stating while we were off the record you did not discuss the substance of this matter with anybody from the staff?
THE WITNESS: Yes.

BY MR. BIRNBAUM:
Q Before we went off the record we were discussing State Street's decision not to continue to fund redemption requests on the 15th. Am I correct in stating that you never learned about that decision on the 15th?
A Yes.

Q Is that something you as a trustee would have wanted to know about on the 15th?
A Yes.

Q Why would you have wanted to know about that?
A Well again because there was no liquidity in the markets, we couldn't sell securities at an amortized cost to be able to satisfy redemption requests. If State Street was not providing overdraft privileges, then there would have been no way to fund redemption requests and that just wouldn't have been a good thing to do for the Money Fund.

Q You had mentioned in the context of the question about you being shocked on the 16th something about RMCI selling or marketing the funds or the business. Can you expand on what your understanding was as of the morning of the 16th.
A Really not much more than that. I mean we were told that they had tried to sell the funds, they had hired an investment banker, I think if I'm correct they said they had tried to contact either the treasury or the fed to see if they can get any support from there and that nothing had worked and nothing had been successful. There wasn't a whole lot of more detail than that.

Q Did you have an understanding as to whether RMCI or something different?
A We were told both.

Q Who told you?
A Either Bruce I or Bruce II.

Q Did you have any understanding as to whether a buyer would be required to protect the NAV of any Reserve Fund?
A No, I did not.

Q Would you have wanted to know if they were seeking a buyer and allowing that buyer to purchase a fund without protecting NAV?
A Yes, I would have wanted to know that, that would not have been a logical thing to do.

Q As a trustee for the funds, would it have been relevant to the decision making process on the 15th and 16th to know whether the Bents were conditioning any sale of any funds protecting the NAV?
A Yes.

Q Do you know who Joseph Hirschberger is?
A I have no idea.

Q Do you see a statement that says "The buyer is not required to protect the NAV, that is their option. If they don't protect it and we liquidate Primary in particular, there's still a lot of good assets"?
A Yes.

Q Is that statement by Bruce Bent II consistent with what your understanding was as of 9:33 a.m. about how the Bents were marketing the fund?
A No, it's not. This is the first time I'm seeing or hearing any of this.

Q Later in the message Mr. Bent II states "We can anticipate that Primary assets may bottom out at about twelve billion, so total AUM after the bleeding would be about 78 billion." Do you understand what AUM means?
A Assets under management.

Q Would that be for RMCI in general?
A RMCI is the advisor, so I'm only assuming that that would be -- I don't know if that's the assets in all the funds, in the funds that we were not trustees on. I don't know.

Q There was certainly no fund as of the 16th that by itself was as large as 78 billion.
A No.

MR. SCHIEREN: But you don't know what he's referring to.

THE WITNESS: No, I do not.

Q Just to clarify my last question, did you know of any funds, specific funds that that would refer to?
A No.

Q And where it says we can anticipate that the Primary assets may bottom out at about twelve billion, had you been told by 9:33 a.m. on Tuesday that the Bents anticipated Primary assets may bottom out at about twelve billion?
A No.

Q Regardless of whether you were told that, was it your understanding as of the first meeting on September 16th of the board that the Bents believed they could anticipate that Primary assets may bottom out at twelve billion?
A Absolutely.
1 Q Why would you want to know that?
2 A Because at twelve billion dollars there was no
3 way that the funds would not have broken up and in my view
4 that would have constituted a complete and total run on the
5 bank and we would not at that point be a going concern. We
6 would be in the process of liquidating the fund.
7 Q Is it fair to say that your understanding as of
8 the first meeting on Tuesday was that the Primary Fund was
9 nowhere near that kind of number?
10 A That's correct.
11 Q Sitting here today do you know of anything that
12 happened overnight before the close of business on Monday to
13 where the markets opened on Tuesday that significantly
14 impacted the NAV of Primary Fund?
15 A I would say that the only thing that happened
16 overnight was that the foreign markets now were having the
17 same reaction as the U.S. markets were having and if
18 anything, the emotion and the sentiment that had manifested
19 itself on Monday was building -- had built overnight and when
20 the markets opened up on Tuesday it was just a continuation
21 of what was going on on Monday.
22 Q When you say emotion and sentiment, are you
23 referring to something that the board felt or do you mean the
general market?
24 A I'm talking the general market. I mean there was
25 no -- when you ask a question like that, I assume that you're
asking did somebody else file bankruptcy, did something
specific happen and as we know from what transpired over the
course of that week, the Lehman event took place on Sunday
night, Monday morning and then emotion took over and then the
markets just continued to deteriorate but if anything, I
think on Tuesday the government announced that they were
going to be bailing out AIG which at first one would have
thought would have been a positive.
26 Q Were you aware at any time on the 15th that
17 individuals on RMCI's behalf were drafting a public statement
to be made on behalf of the Reserve?
18 A No.
19 Q Were you aware at any time on the 15th that --
15 excuse me, were you aware at any time on September 15th
16 whether Mr. Bent II had instructed RMCI's sales force
17 regarding what should be communicated with respect to any
18 Reserve Fund?
19 A No.
20 Q I want to show you a document that's been
21 previously marked as Exhibit No. 15. Certainly take as much
time as you wish to read it. It's an e-mail from Bruce Bent
22 II to John Drazel, Eric Lansky, copying Catherine Crowley and
23 Bruce Bent, Sr. and Arthur Bent entitled "Protecting NAV on
24 Primary." It is from Monday, September 15th at 1:19 eastern
time.
25 A Yes.
26 Q Have you ever seen this document before?
27 A No.
28 Q As of 1:19 on Monday, is it your understanding
that the board was meeting?
29 A Yes.
30 Q What time do you think that meeting ended?
31 A Around 2:00 p.m.
32 Q When you say around, you're not sure of the exact
minute but you're confident that it was at least later than
1:19. Is that fair?
33 A Yes.
34 Q Was that the meeting where on your motion the
board authorized RMCI to approach the SEC concerning credit
support?
35 A Yes.
36 Q What time do you think that meeting ended?
37 A Around 2:00 p.m.
38 Q Was that the meeting where on your motion the
board authorized RMCI to approach the SEC concerning credit
support?
39 A Yes.
40 Q Was it your understanding that RMCI
eventually approached the SEC about credit support?
41 A Eventually, yes.
42 Q Did the board take a break to allow certain
individuals to contact the SEC or did that call happen after
the meeting or something different?
43 A I have no idea. We did not take a break, I don't
know when the contact was made.
44 Q Do you remember anybody announcing during the
meeting that started at 1:00 p.m. on the 15th that they were
leaving the meeting or dropping off a call so they can go
contact the SEC?
45 A I don't remember that.
46 Q Reading this e-mail, "We, Reserve Management
Company Inc., intend to protect the NAV on the Primary Fund
to whatever degree is required. We have spoken with the SEC
and are waiting for their final approval which we expect to
have in a few hours. You may communicate this to client on
an as needed basis" and it continues. Do you have any
understanding as to whether anybody from RMCI spoke to the
SEC before the 1:00 board meeting about any credit support?
47 A No.
48 Q Do you have any reason to believe any such
contact was placed before 1:19 on the 15th?
49 A I have no reason to believe that.
50 Q Was it your understanding at any time on the 15th
that the Bents or RMCI was awaiting final approval from the
SEC on anything relating to credit support?
51 A No.
52 Q Was it your understanding that RMCI had expected
to have any approval from the SEC within a few hours of this
e-mail?
53 A No.
1 Q Do you know who Mr. John Drazel is?
2 A No.
3 Q Did the Bents ever convey to the board that there
4 was a limit to the amount of money that the Bents and RMCI
5 would use to protect the NAV of the Primary Fund?
6 A No.
7 Q Did they ever convey to the board that they
8 anticipated an agreement with a $10 million cap to protect
9 the NAV of the Primary Fund?
10 A I have no recollection of that.

BY MR. BIRNBAUM:

11 Q I want to call your attention please to Exhibit
12 No. 29 which you have in front of you, the final minutes of
13 the September 16th meeting.

14 A Okay.

15 Q You're looking at the end of the second full
16 paragraph on the first page, about six lines up there's a
17 sentence that begins "Mr. Bent II told the trustees that by
18 Monday night it had become apparent to management of RMCI the
19 effect of those redemption requests when coupled with the
20 inability of the Primary Fund's investment manager to sell
21 fund assets at reasonable prices in a virtually illiquid
22 market made it unlikely that RMCI could provide the level of
23 credit support necessary to support a fund's NAV of one
24 dollar per share should the NAV of the Primary Fund fall
25 below that value." Did I read that correctly?

Page 82

1 Q Do you know who Mr. John Drazel is?
2 A No.
3 Q Look at the first sentence where it says "We,
4 intend to protect the NAV on the Primary Fund to
5 whatever degree is required." Is that statement consistent
6 with what you understood the Bents to tell the board at the
7 1:00 meeting?
8 A Yes.
9 Q Did you ever learn that that statement was false?
10 A I learned the next morning that they couldn't
11 meet that obligation.
12 Q When you say they couldn't, what do you mean by
13 that?
14 A That they couldn't support the NAV to whatever
15 degree was required.

MS. CONN: Why not?

17 THE WITNESS: A combination of redemptions and
18 the fact that they were unable I believe to get any credit
19 facility from outside and my supposition at the time was that
20 they didn't have enough of their own capital to be able to
21 support it to the degree that it required.
22 Q When the Bents answered Mr. Strauss' question at
23 the 1:00 meeting on the 15th regarding the means to support
24 certain funds, did you understand the response to be
25 conditioned on their ability to get outside funding or an

Page 83

outside line of credit?

1 A No.
2 Q When you learned on the morning of the 16th that
3 the Bents did not intend to support the Primary Funds, was
4 that before the board decided to lower the value of Lehman
5 paper from 80 to zero?
6 A I believe so.
7 Q Did you understand the Bents decision to decline
9 to support the Primary Fund's NAV to be related in any way to
10 an expectation as to what the board would value Lehman at on
11 the 16th?
12 A No.
13 Q So it's your understanding that the Bents decided
14 not to support the NAV even with Lehman at 80?
15 A Yes.

BY MS. CONN:

16 Q In terms of the inability to get any credit
17 facility from the outside, who conveyed to the board that
19 that was part of the reason that the Bents or RMCI couldn't
20 support the Primary Fund?
21 A I don't remember if it was Bruce I or Bruce II.
22 Q It was one of those two?
23 A I think so, yes.
24 Q Did they provide any other details about their
25 attempts to obtain a credit facility from outside?

Page 84

1 Q Did the Bents ever convey to the board that there
2 was a limit to the amount of money that the Bents and RMCI
4 would use to protect the NAV of the Primary Fund?
5 A No.
6 Q Did they ever convey to the board that they
7 anticipated an agreement with a $10 million cap to protect
8 the NAV of the Primary Fund?
9 A I have no recollection of that.

BY MR. BIRNBAUM:

10 Q I want to call your attention please to Exhibit
11 No. 29 which you have in front of you, the final minutes of
12 the September 16th meeting.
13 A Okay.
14 Q You're looking at the end of the second full
15 paragraph on the first page, about six lines up there's a
16 sentence that begins "Mr. Bent II told the trustees that by
17 Monday night it had become apparent to management of RMCI the
19 effect of those redemption requests when coupled with the
20 inability of the Primary Fund's investment manager to sell
21 fund assets at reasonable prices in a virtually illiquid
22 market made it unlikely that RMCI could provide the level of
23 credit support necessary to support a fund's NAV of one
24 dollar per share should the NAV of the Primary Fund fall
25 below that value." Did I read that correctly?

Page 85

1 Q Did anybody tell the board how it had become
2 apparent to RMCI management that these factors made it
3 unlikely that RMCI could provide the level of credit support
5 necessary?
6 A I don't have a recollection of that.

Q Did anybody inform the board that RMCI was having
8 trouble on the 15th getting accurate redemption request
9 figures so that they didn't know in a timely fashion the
10 level of redemptions for any particular fund?
11 A Yes, I think that there was discussion that the
12 redemptions were coming in in such a fast rate that they were
13 having a hard time keeping up with the numbers.
14 Q Is that in some kind of automated way?
15 A What I know is automated is the or what was
16 automated was the transmission of the redemption requests
17 from RMCI to State Street but I'm not sure how the redemption
19 requests got processed into the system, if it was automated
20 or not.

Q What do you remember somebody telling you, if
21 anything, about RMCI's ability to keep up with redemption
22 requests?
23 A The things were happening so quickly and there
24 was so much turmoil that was taking place in the market and
25 you can see by some of the stuff that there were different
numbers that were being used for the same things and I think in part that was because there was inability to keep track of things as one would like because it was happening so fast. I mean -- maybe by today's standards they're not any more but these were humongous numbers. There was a lot going on at that point in time.

Q Did anybody representing redemption numbers to you ever communicate that the figures represented to you could be significantly off?

A No.

Q Turning to the second page of Exhibit No. 29, I want to call your attention to the third paragraph which reads "Mr. Bent II informed the trustees that if redemption requests were to continue on the 16th at the same high level as the day before, then the Primary Funds could be in danger of breaking the buck unless it received an infusion of liquidity from another source." What do you understand the reference to an infusion of liquidity to mean?

A Cash.

Q How would that work?

A One of the things that we thought might be pursued would be to go to the Fed and see if the Fed could provide some liquidity. The government had open access through the window after Bear Stearns to broker dealers and our hope was that that type of facility could be extended to the Reserve or we tried to get them to think about possibly going to banks and try to collateralize with the portfolio since they couldn't sell securities, there was no liquidity in the market to do some sort of collateralized borrowings so that they could fund redemption requests but that was going to be an issue obviously because banks were having problems that were as big as the problem that Reserve was having, maybe bigger.

Q I just want to make sure I understand what you mean by liquidity. When you mentioned some kind of infusion of cash, are you referring to cash infused in exchange for certain assets so that assets that might not come due for some time could be converted to cash more quickly or are you referring to some kind of infusion of cash that would serve a role providing some kind of support for NAV to improve the value?

A I'm talking at this point in time about anything that will give us the ability to fund redemption requests. If Warren Buffett wanted to give them five billion dollars and he wanted to take securities as collateral, that would have been fine with me, any way to get cash to satisfy the shareholders redemption requests.

Q So the cash that you're referring to is a means towards funding redemption requests rather than a means towards changing the per share NAV of a particular fund?

A Yes.

MR. SCHIEREN: The redemption requests would be as dollars.

THE WITNESS: As a dollar.

Q I want to explore that just a bit. Redemption requests would be a dollar, how would increased liquidity impact the per share value of a fund?

A It wouldn't. At that point in time when we were having this discussion we were still carrying Lehman at 80 and we still had a dollar NAV. We had -- because State Street had turned off the overdraft privileges, we had a huge amount of unfunded redemption requests. So what the trustees were trying to encourage them to do was to find out since they could not sell any securities into the market at amortized cost, create the cash to satisfy those unfunded redemption requests. What we were trying to do was get them to think creatively outside the box any way they could to generate enough cash to satisfy those unfunded redemption requests.

Q Well at some point on the 16th did you consider moving the price of Lehman from 80 to something less than 80?

A Yes.

Q When is the first time you recall that happening?

A We had a discussion after the first board meeting, an executive session, with just the independent trustees and our counsel and at that meeting we started to discuss what we thought was happening in the market with respect to Lehman and whether or not 80 was still an accurate representation of what the fair value was and in light of increase in redemption requests whether or not we were still a going concern or seeing such an event that we were really in the beginnings of a liquidation of the fund.

Q I want to refer you back to Ms. Massaro's notes, Exhibit No. 52. As always, take as much time as you need for context. I'm going to ask you a question about page ending 711 about four or five lines down.

A The one below Price Sell, the line below that one?

Q That line actually. To the left of that there appears to be MORT and what I'm trying to figure out is MORT indicates something that you may have said or is some fragment of "amortized" or any other speculative -- so if you'd just read that paragraph.

A I don't think that's MORT, I think it's MONT.

MR. SCHIEREN: Meaning you.

THE WITNESS: Meaning me.

Q I'm sorry.

A If you look at the top, she has Mr. B. Arthur and I think that's probably MONT, that's probably me.

Q Okay. You can read that paragraph to yourself.
25 21 biggest thing we were trying to do during the course of that 21 day was talk to the Fed about getting some kind of relief 22 hands for some period of time or anything else we were 23 from them, possibly having them take the Lehman paper off our 23

24 we were trying to do whatever we could to see if we could get 19

25 A I wouldn't characterize it as a delay. From the 17th? 16

26 I don't remember that. 13

27 Q Did you at some point suggest that maybe Lehman 22 mark down Lehman without the Primary Fund breaking the buck? 23 A I don't remember. 24 A I believe so.

28 Q Now by this time at the 12:00 meeting, were you 20

29 aware that any markdowns of -- were you aware of what impact 15 any markdown of Lehman would have on the Primary Fund? 19

30 A I believe so. 24 MR. SCHIEREN: Markdown below 80.

31 MR. BIRNBAUM: Below 80.

32 20/20 and say you should have marked it down first thing in 2 the morning or you should have marked it down with the 10:00 3 pricing or the 11:00 pricing. My business judgment was we 4 should try to do whatever we could to avoid that. I wouldn't 5 say I was optimistic that anything was going to happen with 6 the Fed but we did have the conversation and it was certainly 7 I thought worth the effort.

8 Q When the board decided to leave the Lehman value 9 at 80 at its first meetings on the 16th, did you agree with 10 that?

11 A Yes.

12 Q Did you at some point suggest that maybe Lehman 13 paper should be moved to 50?

14 A I don't remember.

15 Q Do you recall anybody suggesting a number lower 16 than 80?

17 A I don't believe so.

18 Q Was your agreement that the Lehman paper should 19 remain at 80 a product of your believing the paper could be 20 sold at 80 or was it for lack of some other number that you 21 could support or for some other reason?

22 A I think it was the latter. At that point there 23 wasn't any paper trading, not only wasn't there any Lehman 24 paper trading, there was hardly any paper trading and there 25 wasn't any empirical data available to change what was a
1 subjective decision. I mean that's what fair value
two accounting is basically, it's a subjective decision. If
three there was any discussion about prices other than zero, they
four were only held in the context of our saying that the only
five valuation that we put when we changed the pricing, the right
six valuation was zero. So there was probably -- my recollection
seven is there was discussion about other prices but we were not
eight inclined to do anything other than take it to zero.

Q So if the board had previous to the meetings on
nine the 16th moved the Lehman value to 60, is it your expectation
ten that the price would have been left at 60 during the meetings
11 of the 16th until it moved to zero?
A In that hypothetical with all the other facts
12 being the same as they were, yes.
Q Who were you relying on to inform the board as to
13 any market activity that would be relevant for Lehman paper?
A We were getting most of our input from either the
14 Bents or Patrick Ledford directly or Patrick Ledford through
15 the Bents.
Q Was that also true on the 15th?
A Yes.
Q And what information did you expect them to
21 convey to you, what kind of information?
A Whether or not paper was trading, how much paper
22 was trading, at what prices paper was trading and with the

Q Q Was that also true on the 15th?
A Yes.
Q And what information did you expect them to
22 convey to you, what kind of information?
A Whether or not paper was trading, how much paper
22 was trading, at what prices paper was trading and with the

lack of any actual trading activity what indications of
2 pricing were.
Q On the 15th do you recall before the board voted
3 to mark down the paper to 80 that Mr. Bent, Sr. advocated
4 leaving Lehman paper at par?
A Yes.
Q Do you recall personally challenging Bent, Sr.
5 regarding that?
A Yes.
Q Is that because you believed par was not fair
6 value?
A Yes.
Q Do you recall why you thought par was not the
7 appropriate value?
A Yes.
Q Why?
A Because I had never in my career seen any debt of
10 a company that had filed bankruptcy being deemed at par.
11 It's an illogical assumption to think that an institution
12 that is in bankruptcy is going to redeem its paper at par.
Q The final minutes on the 15th indicate that the
14 board discussed among other things that Lehman had total deb
15 outstanding of $613 billion and total assets of $630 billion.
16 The statements you just made about the likelihood of a
17 company like Lehman having its paper traded at par, did you
18
1. A Yes.
2. Q Is that consistent with your recollection of what was told to the board on the 15th?
3. A Yes.
4. Q Was the board told that the soft bids that Ledford had been hearing about in the market were between 30 and 40 cents on the dollar?
5. A No.
6. Q Was the board told that in terms of a workout or recovery price that Ledford had earned 60 to 80 cents on the dollar?
7. A I have a vague recollection of something on that order, yes.
8. Q So if you had been told that there were soft bids, no trading, no actual trades but soft bids in the range of 30 to 40 cents on the dollar but maybe speculation about an ultimate workout or recovery price of 60 to 80 cents on the dollar, would that have been something that you considered in valuing the Lehman paper on the 15th?
9. A Yes.
10. Q Is that in your view consistent with the minutes we just read about indicative pricing at 45 to 80 cents on the dollar?
11. A More or less.
12. Q So in your mind there is a significant difference between a workout price and a soft bid?
13. A Yes, there is insofar as this is a money fund and it didn't have the luxury of waiting for a workout price which in the bankruptcy situation as we all know could take months, it could take years whereas a soft bid is something that you would view as being more current.
14. Q So if Ledford had been learning the market, the top bids that you were hearing about were 30 to 40 cents on the dollar as opposed to something else, 80 cents on the dollar, do you think that's something that should have been disclosed to the board?
15. A I think it would have been more information.
16. Q Is that information you would have considered in coming to your assessment of fair value?
17. A It's information I would have considered, I'm not sure if it would have changed the decision that we made only because it's 9:30 in the morning and the markets have only been opened for a little bit and this thing has just been dropped on the market like an atomic bomb and trying to come to a conclusion on fair value and it's more information but I don't think I would have changed where I came out or we would have changed where we came out.
18. Q Did the board get market information from any other sources besides RMCI? By market information I mean soft bids, indicative pricing, whatever?
19. A Yes.
20. Q On the first paragraph under that question, "The majority of the Lehman Brothers senior debt will be coming due over the next several weeks." Did you understand on the
15th that for a company in bankruptcy senior debt coming due would make that money available to the holders?

A No.

Q Is it something that doesn't make sense about senior debt will come due in those circumstances?

A It's an incorrect statement.

Q Why?

A Because it could come due but it's not going to be paid while a company is in bankruptcy.

Q The next sentence "Based on the current valuation of these holdings we believe that the holdings will mature at par value." Is that consistent with your belief at 11:05 on Monday the 15th?

A No.

Q Do you know if anybody on the board of the independent trustees believed the holdings would mature, the holdings matured at par value?

A No.

Q Were you made aware of this communication being sent in this form or in substance to the public?

A No.

Q Would you have wanted to know the trustee that the Reserve was communicating the statement in this document to investors?

A Yes.

Q The last sentence of that paragraph, "Due to the small exposure as well as par value at maturity, the NAV is not negatively impacted." Did you have any understanding as to whether the NAV of the Primary Fund would be impacted by the Lehman Brothers debt?

A Could you try that again.

Q Sure. Let's start with in looking at the question and answer at the bottom of the page ending in 282, do you have any understanding as to whether the document is intended to refer only to the primary fund or to Reserve Fund in general?

A The way it's written is it does not say specifically. The way this is written it looks like it's talking about all of the funds.

Q And --

MR. SCHIEREN: Hold on one second.

(Pause)

A The top says "How does this affect the Reserve's money market and Yield Plus Funds."

Q Just for the record you're welcome to think out loud like that but try to do your best to distinguish between the two.

A I'm sorry.

(Pause)

A This paragraph, the third paragraph from the bottom indicates that this was just with respect to Yield Plus and the Primary Fund.

Q And your understanding is that the answer to the next question, the answer starting "The majority of the Lehman Brothers senior debt" also refers to Primary and Yield Fund. Correct?

A Yes.

Q And did you have any understanding on the 15th as to how the Lehman paper would impact the Yield Plus Fund's NAV?

A Yes.

Q What was your understanding on the 15th?

A That depending on the value that Lehman was carried at, was marked at it would affect the NAV.

Q Did you know at what value absent redemptions Yield Plus would break the buck on Monday, the 15th?

A I don't believe so.

Q Did you expect somebody would tell you Yield Plus did break the buck?

A Yes.

Q Were there actions that you understood the board would need to take if Yield Plus did break the buck?

A I think -- again my understanding of Yield Plus was that it was not a guaranteed dollar NAV fund, so I'm not sure that there were any actions that I knew about that the board would be required to take if Yield Plus broke the buck.

Q Would you have sought advice as to whether the NAV of the Primary Fund would be impacted by the Lehman Brothers debt?

A The way it's written is it does not say specifically. The way this is written it looks like it's talking about all of the funds.

Q And --

MR. SCHIEREN: Hold on one second.

(Pause)

A The top says "How does this affect the Reserve's money market and Yield Plus Funds."

Q Just for the record you're welcome to think out loud like that but try to do your best to distinguish between the two.

A I'm sorry.

(Pause)

A This paragraph, the third paragraph from the back. Would you have sought advice as to whether the board had any responsibilities if Yield Plus broke the buck?

A Yes, I'm sure counsel would have advised us.

Q My question was a little different. My question is whether you would have sought advice if you learned that Yield Plus broke the buck.

A Yes.

Q Turning to what's been marked as Exhibit No.8, this is "Reserve Insights." Have you seen this or any other document published by the Reserve with the "Insight" title before?

A Yes.

Q Did you seek any advice, I don't want to ask specifically about any legal advice that might be rendered but did you seek any legal advice in general on the 15th concerning Yield Plus?

A I don't remember that we did.

Q Turning to what's been marked as Exhibit No.8, this is "Reserve Insights." Have you seen this or any other document published by the Reserve with the "Insight" title before?

A Yes.

Q What do you understand "Reserve Insights" as a general matter to be?

A Just a marketing piece or -- a marketing piece basically.

Q A way of communicating with investors?

A Yes.

Q And I want to call your attention to the
1 paragraph on the right that starts "The majority of Lehman
2 Brothers senior debt."
3 A Yes.
4 Q In that paragraph -- once again that paragraph
5 reads "Based on the current valuations of these holdings, we
6 believe that the holdings will mature at par value." Do you
7 understand that to be a false statement?
8 A Yes.
9 Q And would you have wanted to know whether this
document was sent to investors?
10 A Yes.
11 Q Why would you want to know that?
12 A Because it's wrong.
13 Q Did anybody ever ask the board -- withdrawn. Did
anybody ever inform the board about any communications being
made public on behalf of the Reserve?
14 A About this specific communication?
15 Q You can start with that specifically.
16 A Not to my knowledge, not with respect to this.
17 Q More generally do you recall on the 15th ever
learning of any public communications the Reserve was making
excluding the conversations discussed earlier that they may
have had with the SEC?
18 A No.
19 Q Have you learned since the week of the 16th that
the Primary Fund broke the buck earlier in the day than you
initially understood?
20 A Yes.
21 Q What do you understand to be the circumstances
that led to the Primary Fund breaking the buck earlier?
22 A My understanding is that there was a calculation
error that was made and that I believe it was at the 11:00
pricing that the proper calculation would have rounded down
90 cents because of the redemptions and at that point we
would have broken the dollar.
23 Q When you say at the 11:00 pricing, does that mean
that sometime between 10:00 and 11:00 there were sufficient
redemptions to cause the Primary Fund to break the buck?
24 A Yes.
25 Q And that was with an 80 value for Lehman?
26 A Yes.
27 Q And you were never told that on the 16th.
28 Correct?
29 A No.
30 Q When did you first learn about this error?
31 A I believe it was sometime in November of 2008,
32 near the end of the month I think.
33 Q Was it before the Reserve publicly disclosed this
mistake?
34 A Yes.
35

1 Q Were you involved in drafting any statement or
2 editing any statement disclosing these facts to the public?
3 A At that point we had already hired Rubenstein,
4 Howard Rubenstein's company to help with publicity and press
relations. So it was a process where any releases were being
drafted, they would get passed through counsel and then they
would get passed through Rubenstein and then the trustees
would see them before they went out to make any comment that
they felt were appropriate and then it would go back through
the same process and ultimately be distributed. So I believe
with respect to this specific item we did see drafts.
5 Q Do you recall commenting on it?
6 A I do not.
7 Q On the 15th and 16th were you relying on RMCI to
inform the trustees when redemptions became so great that any
of the funds were in jeopardy of breaking the buck?
8 A Yes.
9 Q I want to show you a document that's been
previously marked as Exhibit No. 42. This is an e-mail from
David Lentinella on Tuesday, December 16 at what we
understand to be 10:39 eastern time to the Bents and others
attaching a snapshot report according to the subject line as
of 9/15/08. I can represent to you that as produced to us
the age of that snapshot report.
10 A Okay.
11 Q Did you ever see this snapshot report?
12 A No.
13 Q Do you know what a snapshot report is?
14 A No.
15 Q Looking at the e-mail accompanying the snapshot
report, it reads "Due to Lehman write down and large
redemptions in the funds, receivables from RMCI were booked
in Yield Plus and its actual liquidity in the funds of 1.7
million and 14.8 million respectively. You do not need to
book a receivable in Primary due to its large asset value."
It then goes on. When did you first become aware, if you're
aware, that the receivable was booked on the 15th for Yield
Plus?
16 A Around the first week in November.
17 Q How did you become aware of this receivable that
was booked on the 15th?
18 A We were called for a special board meeting and
the situation was described to us.
19 Q By whom?
20 A It was described by counsel.
21 Q Counsel to the board or counsel to RMCI?
22 A Willkie Farr.
23 Q Did you understand Willkie Farr to represent
24 RMCI?
25 A Yes.
Q Did you understand Willkie Farr to also for these purposes represent the trustees?
A Represent the funds.
MR. BIRNBAUM: We can go off the record at 1:36.
(Whereupon, a recess was taken.)
MR. BIRNBAUM: Back on the record at 1:38 p.m.
Mr. Montgoris, am I correct in stating that while we were off the record you did not discuss the substance of the investigation with the staff?
THE WITNESS: Yes.
Q Who was on the phone when you first learned about the receivable? I'm not asking for every individual but -- let's start with this, were there other board members on?
A The independent trustees. I couldn't tell you if they were all on but the independent trustees. We definitely had a quorum.
Q Was KPMG on the phone or some representative of KPMG?
A I don't remember.
Q Was anybody other than counsel or the independent trustees on the phone that you recall?
A Yes. Bruce, Sr. was on the phone, I believe Bruce II was on the phone, I don't know about Arthur. I believe Kate Crowley was on the phone and Pat Farrell and Christina Massaro.

Q What fund did you understand them to discuss in the context of the receivables?
A Yield Plus.
Q And on the 15th did you understand that RMCI had implemented -- withdrawn. Before this November conversation did you at any time understand that RMCI had implemented any kind of credit support arrangement on the 15th for Yield Plus?
A No.
Q Did anybody ask at any board meeting on the 16th whether credit support arrangement had been implemented for Yield Plus?
A No.
Q Did anybody ask at any board meeting on the 16th whether credit support arrangement had been implemented for Yield Plus?
A Not to my recollection.
Q Do you recall any discussions about whether any credit support arrangement was pursued for Yield Plus?
A I don't have a recollection.
Q At some point on the 16th whether it became clear to you that Lehman would be down to zero. Did you understand that the Yield Fund if it hadn't broken the buck would then break the buck?
A Yes.
Q Was there any discussion about whether credit support would be utilized for Yield Fund?
A No.
Q Was there any discussion on that date regarding an announcement that Yield Fund had broken the buck?
A Not that I remember.
Q Were you consulted before -- are you aware of any press release that Reserve issued relating to a receivable for Yield Fund?
A No.
Q Are you aware of any public statements that Reserve has made relating to any receivable, actual or contemplated regarding Yield Plus?
A No.
Q Did the board at any time discuss whether to take any action to compel RMCI to fund a receivable for the Yield Plus fund?
A No.
Q Has the board arrived at any decision as to whether it will pursue any action, legal or otherwise, against RMCI to obtain any funds for Yield Plus related to this receivable?
A When we had the meeting in early November and were given the facts as they were known at that time by one of the litigators from, I think she was a litigator, from Willkie, the board authorized hiring a forensic accounting firm to do a review of the facts related to the receivable. We had a subsequent update I want to say about maybe a month and a half, two months ago, sometime in December. We have not seen the final report from the forensic auditors and we have not gotten a final report from Willkie, as a practical matter, we haven't seen drafts either. So other than the verbal presentations that were made at two meetings, we have not come to any conclusions because we haven't seen final reports.
Q What is this forensic accountant tasked with?
A Getting to the facts surrounding the setup and subsequent reversal of the receivable on Yield Plus specifically.
Q And do you understand the forensic accountant to work for the funds, RMCI or some combination?
A Not RMCI but I couldn't tell you specifically if the contract is between the forensic auditors in the funds, the forensic auditors in the trustees or for -- it might be obvious or not so obvious reasons, the forensic auditors and counsel. I'm not sure who the contract is actually with.
Q How did Yield Plus account for the receivable or lack thereof in its financials for 2008?
A Which financials?
Q Did they put together their annual financials yet?
A No, but they reversed the receivable on October 24th.
Q When you say they reversed, who did you...
1. understand to reverse the receivable?
2. A I don't know if Lentinella did it specifically or
3. if he was instructed to do it by somebody from RMCI but the
4. receivable was reversed on October 24th.
5. Q Did you understand it to be a receivable owed to
6. Yield Plus fund?
7. A Yes.
8. Q Did the Yield Plus fund ever vote to authorize
9. Mr. Lentinella or anybody else to reverse the receivable?
10. A Not to my knowledge.
11. Q Who has the authority to reverse a receivable
12. owed to Yield Plus?
13. A That's a hard question to answer, I'm not sure.
14. I mean the authority would reside in the accounting
15. department to actually book the entry. If you're asking me
16. who had the authority to instruct someone to reverse it --
17. Q What I'm asking is as a trustee for the Yield
18. Plus Fund is it your understanding that someone outside the
19. Yield Plus Fund can decide without the Yield Plus Fund's
20. consent, without the trustees of the Yield Plus Fund's
21. consent to reverse a receivable that was otherwise booked for
22. Yield Plus' benefit?
23. A I would answer that question by saying to you
24. that I believe the ultimate responsibility would lie with the
25. trustees because this was a receivable. Obviously the

---

Page 115

1. trustees aren't running the accounting functions, so there
2. would be a lot of accounting entries that might be made
3. during the normal course that would not be something that the
4. trustees would have to pass on but since this was a
5. receivable between the management company and Yield Plus, I
6. would say that the ultimate responsibility or the ultimate
7. authority for reversing that receivable would ultimately lie
8. with the trustees.
9. I think the issue that's still being examined is
10. what was the authority for setting it up in the first place
11. and what was the authority for reversing it at the end and
12. quite frankly at this point without having the final report
13. there's not a whole lot that I know about the entire
14. situation other than what little I told you.
15. Q Let's break down those different components. In
16. terms of the authority to first set up a receivable, am I
17. correct -- what is your understanding as to what Yield Plus
18. would have to do, if anything, to accept the receivable from
19. RMCI?
20. A I wouldn't expect they would have to do anything.
21. Q So if the Yield Plus board had authorized RMCI to
22. pursue a receivable and RMCI decided to go ahead and book a
23. receivable or go ahead and pursue a receivable, it's your
24. understanding that Yield Plus could accept that money without
25. any further action from the board. Correct?

---

Page 116

1. A Yes.
2. Q And on the 15th you did in fact authorize RMCI to
3. pursue a receivable for Yield Plus. Correct?
4. A To provide credit support.
5. Q To provide credit support and a receivable, you
6. would want oral credit support.
7. A Sure.
8. Q So when you say one of the issues being explored
9. is the authority to implement a receivable, is it fair to say
10. you're concerned only with RMCI's authority to enter into
11. such an agreement?
12. A No. The preliminary report that we were given,
13. and again this was the preliminary report, was that
14. Lentinella thought he was told to set the receivable up and
15. he thought he was told to do that by Bruce II and that Bruce
16. II indicated that that was not what he instructed Mr.
17. Lentinella to do, that he instructed Lentinella to get
18. prepared to set up the receivable.
19. Q And that also led to a dispute about whether RMCI
20. intended to enter into such an agreement with Yield Plus. Correct?
22. Q That doesn't represent any concern on your part
23. about whether Yield Plus was authorized to accept such a
24. receivable if everything was kosher on the RMCI side.

---

Page 117

1. Correct?
2. A Kosher being a term of art, yes.
3. Q Now when we turn to the reversing of a
4. receivable, am I correct that the board was never consulted
5. when RMCI chose to reverse the receivable between RMCI and
8. Q Do you know why the matter was eventually brought
9. to the board's attention?
10. A I think it was brought to our attention because
11. someone told the management company that they had a
12. responsibility to bring this to the attention of the
13. trustees. I don't remember who that was.
14. Q Have the Bents ever discussed with you or anybody
15. from the board to your knowledge anything regarding their
16. intention to actually fund the receivable for Yield Plus?
17. A I would say -- I can't speak for the rest of the
18. board, certainly not to me but at this point there's nothing
19. to fund because the receivable has been reversed.
20. Q That's what I'm trying to understand. I thought
21. you told me one of the issues you're trying to still parse
22. out is whether the receivable was properly reversed.
23. Correct?
24. A Properly set up and properly reversed or properly
25. set up or properly reversed.
Q: So at this point it's unclear to you whether or not the receivable to the extent it existed was properly reversed.
A: That's correct, or properly set up. I don't mean to be parsing words here but --
Q: Understood, but you are certain that the board of trustees for Yield Plus never authorized the reversal of any receivable at RMCI. Correct?
A: Absolutely.
Q: And it's your understanding that only the board for the trustees, the board of trustees for the Yield Plus Fund would be authorized to reverse a receivable with RMCI.
A: Yes.
Q: Do you know on the 16th whether an NAV was struck for Yield Plus?
A: I don't know definitively.
Q: Do you have reason to believe one way or the other?
A: We were striking NAV's every hour, so I would assume that Yield Plus was having NAV struck.

Q: Do you know whether Yield Plus was required to strike NAV every hour?
A: No, I don't.
Q: Do you know whether Yield Plus at any time struck an NAV on the 16th or afterwards that included any receivable from RMCI?
A: I don't know. I don't know the answer to that question.

BY MS. CONN:
Q: Do you know if Yield Plus struck NAV on September 15th which included a receivable from RMCI?
A: No, I don't.
Q: If the NAV that was struck on the 15th for Yield Plus was supported by a receivable as a form of credit support from RMCI that allowed the fund to maintain a dollar NAV, is that something you would have expected the board to have been told about?
A: Absolutely.
Q: But you were never told that.
A: No.
Q: Is it fair to say on the 15th you understood that the Yield Plus fund had not broken the buck?
A: Yes.
Q: Would it surprise you to learn that the Yield Plus fund broke the dollar NAV at the time that the board moved the valuation to 80 cents on the dollar?
A: Yes.
Q: In the meeting in early November with the board about this issue, did Bruce II describe for the board his version of events in connection with the receivables?
A: My recollection of that meeting was that neither of the Bents said anything.
Q: Do you know why they didn't speak?
A: It was -- the whole presentation was made by counsel.
Q: When are you expecting the final report?
A: I don't know. We've been asking.
Q: Are there minutes from that meeting in early November with counsel on this issue?
A: Yes, but unfortunately with all the meetings that have been held since September 15th we are currently suffering from a lack of current minutes. So I have no recollection of having seen drafts of those minutes for that meeting.
Q: You assume there are drafts somewhere but you have not --
A: I certainly hope so.
Q: Is Catherine Crowley still the secretary?
A: She's still general counsel, I assume she's still secretary, yes. She's still there.

Q: Is she still attending the meetings?
A: Yes.
BY MR. BIRNBAUM:
Q: Was this a presentation to the board generally or was it a presentation to the independent trustees such that notes would be taken by somebody else?
A: Well it wasn't an executive session, if that what you're asking but it was a presentation to the independent trustees. I mean it was for the benefit of the independent trustees. We were the only ones that didn't know about it.

MR. SCHIEREN: But others were there.
THE WITNESS: Yes, the Bents, Farrell, Kate Crowley, Christina.
Q: And I'm sorry if I asked you this before, I just want to make sure I understand fully. In working with daylight to develop this report, Willkie Farr, do you understanding Willkie Farr to be advising the board or the funds?
A: Representing the funds.
Q: And you also understand them to be representing RMCI.
A: I don't think they are any more.
Q: Do you know if anybody else on this issue for the purposes of the receivable is representing RMCI?
A: I do not.
1 Q Just a few general questions to close. As the board is currently constituted, do you continue to have executive sessions?
2 A We do.
3 Q And are those regularly scheduled or responding to some specific event?
4 A They're in response to specific events or when your colleagues would like to speak with us.
5 Q And are minutes kept for those meetings?
6 A Yes.
7 Q And are those minutes circulated or up to date in the way you described the general board minutes?
8 A No.
9 Q Do trustees continue to get paid?
10 A Yes.
11 Q Do you have any understanding as to where that money comes from? Is it funds, is it RMCI, something different?
12 A It's funds.
13 Q And has the fee arrangement been altered since the 15th?
14 A Yes.
15 Q How so?
16 A The normal quarterly meetings fees are the same but the trustees have been paid for September, October, November at a rate of $15,000 a month, not for December. There will be a quarterly meeting next week that was originally scheduled for March. We will be paid the normal quarterly fee for that meeting and $15,000 for January and the hope of all of us is that as we get further into this year they'll be less and less conversations, less and less meetings and we won't get paid anything on a monthly basis and hopefully the funds will liquidate and there won't be any more quarterly meetings and we can all move on with our lives.
17 Q My understanding is prior to the 15th certain board members, and I believe you're one of them, were paid additional funds for roles on the audit committee or other functions. Is that right?
18 A I am paid as chair of the audit committee and the new arrangement also pays the other two members of the audit committee meeting fees. I do not get paid meeting fees.
19 Q Who are those two?
20 A Santa Albococca and Ron Artenian.
21 Q What are their additional fees?
22 A I think they get $3,000 a meeting, audit committee meetings. Next week for the regular board meeting they would get $3,000 more than the rest of the board members that aren't on the audit committee.
23 MR. SCHIEREN: That are not on the audit committee.
24 Q Are you aware that the Bents are moving their programs, like their Bank Sweep program, an insured deposit program, into entities that don't bear the Reserve name?
25 A No.
26 Q Do you know who oversees from an operational standpoint either the insured deposit or the Bank Sweep program?
27 A No.
28 Q Are you aware of the creation after September 15th, this fall, of an entity called Double Rock?
29 A No.
30 Q Are you aware of the Reserve's insured deposit program?
31 A No, not to my knowledge.
32 BY MS. CONN: Did you have any role with the Reserve's insured deposit program?
33 A No, we don't have any role in that and we've actually asked Bruce at the next board meeting to explain to us what other businesses they have that are outside the purview of us, just so we could understand when he makes certain comments, the context of those comments.
34 Q Do you have any role or have you had any role with respect to the Reserve's Bank Sweep program?
35 A No.
36 Q Are you aware of the creation after September 15th, this fall, of an entity called Double Rock?
37 A No.

Page 123

1 Q Are you aware that the Bents are moving their programs, like their Bank Sweep program, an insured deposit program, into entities that don't bear the Reserve name?
2 A No.
3 Q Do you know who oversees from an operational standpoint either the insured deposit or the Bank Sweep program?
4 A No.
5 MR. BIRNBAUM: Let's go off the record at 2:03. (Whereupon, a recess was taken.)
6 MR. BIRNBAUM: Back on the record at 2:08. Mr. Montgoris, am I correct in stating that while we were off the record you did not discuss the substance of this matter with the staff?
7 THE WITNESS: Correct.
8 BY MR. BIRNBAUM: Do you as a trustee have any insurance that covers you in your role as a trustee for the Primary Fund or the Yield Plus fund?
9 A We do.
10 Q Do you know what the limits of that insurance are?
11 A $10 million.
12 Q Is it per trustee or in the aggregate?
13 A In the aggregate.
Q Are there any limitations in terms of per lawsuit or $10 million per issue for all trustees?
A I don't know the details in that matter but at present it's $10 million but the reality is it's being taken up by all the legal fees.
Q And do you know if that $10 million has already been spent?
A I don't believe it's been all spent but a substantial portion of it.
Q Do you know who pays for that insurance?
A No, I don't. I'm not sure if it's the management of the company or the funds.
Q What is your understanding as to who will pay the legal fees if that $10 million is burnt through?
MR. SCHIEREN: Legal fees for the trustees?
MR. BIRNBAUM: For the trustees.
Q Specifically my question is whether there's any agreement with RMCI or any other entity to cover your legal fees or if you've been told you're covering yourself or something different?
A No, we're indemnified by the funds.
Q Is that by some agreement?
A I think it's in the prospectus.
Q Other than the prospectus is there any agreement you're aware of that speaks to whether and how the trustees are covered for any legal expenses?
A Not to my knowledge.
Q Is there anything -- any answer you'd like to supplement or clarify from your testimony today?
A No.
MR. BIRNBAUM: Then on behalf of the staff and the Commission we truly appreciate your coming in. Thank you for that. We will go off the record at 2:10.
(Whereupon, at 2:10 p.m. the hearing was adjourned.)

CERTIFICATE
I, Peggy Miller, hereby certify that the foregoing transcript consisting of 128 pages is a complete, true and accurate transcript of the investigative hearing, held on Tuesday, February 10, 2009 at 3 World Financial Center, New York, New York, in the matter of The Reserve Fund. I further certify that this proceeding was recorded by Thanus Stevenson and that the foregoing transcript has been typed and proofread by me.

Typist/Proofreader Date

33 (Pages 126 to 129)