IN THE SUPERIOR COURT OF THE STATE OF ARIZONA

IN AND FOR THE COUNTY OF MARICOPA

THOMAS AND WONG, GENERAL CONTRACTOR,	)	
Plaintiff,	)	
vs.	)	No. CV 2005-051325
BLUME LAW FIRM, P.C., an Arizona professional corporation; GARY BLUME and JANE DOE BLUME, husband and wife; JAN WALLACE, an individual,	)	
Defendants.	)	DEPOSITION OF JAN MARY WALLACE
BLUME LAW FIRM, P.C., an Arizona professional corporation,	)	
Counterclaimant,	)	Phoenix, Arizona
vs.	)	June 19, 2007
THOMAS AND WONG, GENERAL CONTRACTOR,	)	
Counterdefendant.	)	
BLUME LAW FIRM, P.C., an Arizona professional corporation,	)	Reported by:
Third-Party Plaintiff,	)	Cathy A. Miccolis,
vs.	)	RPR/CRR
	)	Certified Reporter
EDWARD TARAPASKI and JANE DOE TARAPASKI, husband and wife,	)	No. 50068
Third-Party Defendants.	)	

A P P E A R A N C E S

For the Plaintiff/Counterdefendant/Third-Party Defendant:
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Also Present: Mr. Edward Tarapaski

I N D E X

E X H I B I T S

THE DEPOSITION OF JAN MARY WALLACE was taken on June 19, 2007, commencing at 1:05 p.m. at the offices of BURCH & CRACCHIOLO, P.A., 702 East Osborn Road, Phoenix, Arizona, before CATHY MICCOLIS, a Certified Reporter in the State of Arizona.

JAN MARY WALLACE,

having been first duly sworn to tell the truth, the whole truth, and nothing but the truth, was examined and testified as follows:

EXAMINATION

BY MR. MURPHY:

Q. Your full name, please.

A. Jan Mary Wallace.

Q. What is your business address, please?

A. 4223 Glencoe, G-L-E-N-C-O-E, Marina Del Rey, California.

Q. What is your occupation?

A. I am just appointed Friday the CEO of a company called Davi Skin.

Q. And what is the business of Davi Skin?

A. It makes cosmetic creams.

Q. Would you give me a brief recap of your educational history, please?

A. Starting from when?
Q. Oh, college forward.
A. Okay. Went to Queens University in Kingston, Ontario, Canada. Went to Carleton University in Ottawa, Canada. Didn't have any postgraduate degrees or anything.
Q. Did you complete your education and get a degree?
A. No. I left in my third year.
Q. And what year was that?
A. God, I don't recall. '80 something.
Q. Would you give me a recap of your employment history from that time forward?
A. I was hired out of university by Pitney Bowes. I worked for Pitney Bowes and was -- finally left the company as an executive manager for the corporation. Opened my own company after I left and was a major distributor for a Swiss company called Ascom Hasler.
Q. And what was the business of Ascom Hasler?
A. They were the competition to Pitney Bowes.
Q. And when did you leave their employment?
A. I didn't leave. I sold my business.
Q. When was that?
A. 19 -- either '89 or '90.
Q. And from that point forward please continue with your employment background.

A. I took two years off. And I worked -- started to do venture capital deals. The next one I did was Active Systems. My partner was Stanley Young in Boston. Active Systems was a computer software company dealing in SGML language.

Q. And after that?

A. After that Active Systems was sold. I started doing venture deals. I can't remember all of them. I think the next one after that we did a company for virtual reality technology out of the University of Washington in Seattle. There were five or six deals that I did in multiple business areas.

Q. And that ended at about what time?

A. What ended?

Q. The employment you just described.

A. It's not an employment. When you're a venture capitalist --

Q. Are you still involved in that business?

A. I still do that.

Q. And Davi Skin, was that a venture capital investment that you made?

A. Davi Skin, I did a reverse merger in 2004 from a company that I had been the CEO and funded to 1.4 million.

Q. Let me talk about litigation background.

A. Uh-huh.
Q. There is a case involving DB Mayer. Is that case ongoing?
A. That case ended a long time ago.
Q. Did that case settle?
A. No. That case -- DB Mayer's was a contracting company, and Daniel Ben-Mayer was given $200,000 by me to start a reconstructive project, remodel on my home. I went to Europe to do financing, came back. The 200,000 was gone. Liens were on my property. I sued him. He filed a 13, a 7. It went into bankruptcy. We went to the Registrar of Contractors, filed the case. Two and a half or three years later the Registrar of Contractors paid me out whatever the minimum fee is for the fraud, and the Bankruptcy Court dismissed everything because he had no money.
Q. MW Medical, there was a case involving Ken Karachuk. What was the nature of that claim?
A. The gentleman's name was Ken Karachuk. Ken Karachuk was an independent contractor out of California that distributed multiple cosmetic devices in the United States. Ken Karachuk had signed a distribution agreement with us. He never actually sold anything. The company ended the distribution agreement. He argued that he was owed options. He could never produce the option agreement

with the company. He sued the company for $5 million. He -- the case continued for a short period of time, and subsequently what he got was he claimed that we didn't pay him for expenses for two months. We told him he never submitted his receipts for the expenses. Finally, he was given I think some stock, which he gave to his attorneys to pay for his fees. And he got $11,000 for three months of back expenses after he submitted the receipts.

Q. Ma'am, did your insurer pay $70,000 to settle that case?

A. No, they did not.

Q. Let me -- MD Medical versus Luc Burwell, you were a defendant in that case?

A. I am always a defendant in the cases. I was serving as a CEO of the company -- of the public company.

Q. What was the nature of that claim?

A. Luc Burwell was the regional sales manager for MW Medical (sic). He worked for the company and had a contract that was drafted by the manager above him, which was Mitch Deshon. Mitch Deshon and Luc Burwell were old friends from a prior medical company. When Mitch Deshon oversaw his contract, Mitch Deshon promised him options from the company. It was never cleared by the board. Luc Burwell sued the company saying that he never got his options. Again, he never had an option agreement; never produced one. He sued the company. Mitch Deshon gave testimony that he had promised it to him. The company fought the case, and the insurance company it went for -- I think Gallagher & Kennedy was the attorneys for the corporation, and the insurance company insisted that we just settle out of the case because they didn't want to spend all the money.

Q. That was the $70,000?

A. Yes. I think $47,000 went to Gallagher & Kennedy.

Q. Nancy Ouprie versus MD Medical?

A. Dismissed out of Hampton. Nancy Ouprie was an attorney. We put a device -- a laser device in the doctor's office up in New Hampshire. The -- Nancy Ouprie was a nurse working at the doctor's office. She would not wait for our technician to come and do the training seminar. And she took the device, never read the instructions, put it around her pubis and burnt herself badly and sued the company. The case was ultimately dismissed. No monies exchanged hands.

Q. SDI versus Biddle, Strand, Trolf and Nationwide Commercial Brokers?

A. SDI is a real estate company out of Newport Beach, California. Cliff Strand, Bill Biddle and Gernot Trolf were the prior management in the company. The board of directors terminated their agreement and hired me to come in as the interim CEO to clean up the company. They had an employment agreement where they forgave their old stock and hold in the company.

They never submitted the stock in the company, and they wanted payout of another hundred and something thousand dollars from a real estate transaction in the company. They interceded on the real estate transaction. We lost the first deal. We told them we would not pay them their severance because they were causing further harm. They sued for their severance. So on and so forth.

Bill Biddle and Gernot Trolf, because they worked for Cliff Strand, they decided that we would pay them their severance; we would not pay Cliff Strand. Again, the insurance company interceded. We came out with a deal, and Cliff Strand had to turn over his proxy of all his shares back to the corporation, and some number was given out.

Q. How much was he paid?

A. I don't recall, and you would have to contact his attorney because his attorneys' fees had to come out first.

Q. An ongoing case, David Leeper here in Maricopa County, what is the nature of that case?

A. David Leeper I was introduced to, and he is a real estate agent. He was doing what they call in slang language flips where he would tie up a piece of property; he would make a buyer/seller on the other side. He needed me to raise the capital to tie up the property. We formed a small partnership. He used monies that were deposited by the partnership to tie up a property, told us the property didn't close. He closed the property with somebody else and pocketed the proceeds. We sued him for the breach of contract, and that case is still ongoing.

Q. And he has made a counterclaim against you?

A. Yes.

Q. And what is the nature of that counterclaim?

A. Some -- same thing everybody sues for: fraud.

Q. And could you describe the claim of fraud that he has made?

A. Something about I didn't tell him that -- about my public background, my prior litigation.

Q. Wallace versus Kagel, that case is ongoing?

A. No, it is not.

Q. What is the status of that then?

A. That was a case down in front of Judge Manny Real in Federal Court in California. I won on a summary judgment.

Q. And when was that ruling?

A. A month and a half, a month, month and a half ago.

Q. Wallace versus Parish Medley?

A. Same case. Related case. Same outcome.

Q. Buddy Lucky versus Dynamics?

A. Dynamics was a public company. We raised $18 million. He sold the company to Dynamics' associate called Genesis Health Management located out of Shreveport, Louisiana. We paid him the money, and he had shares inside of the company.

It turned out that we started seeing a depletion of funds from the subsidiary. When we asked questions, they stonewalled us. The president, Billy Means, and Buddy Lucky created 40- -- by the time we sued them they had created 47 additional corporations where they were filtering off the assets of our subsidiary into other corporations of which they held position.

We sued them. It went -- we sued under RICO for the mail fraud violation, and the case went back in front of Federal Court in Louisiana. It turned out that the CPA that they had hired, a Mr. Cox, was priorly charged in an FBI scam for mail fraud where he was convicted. Billy Means, the president of the company, had just prior had an ankle bracelet taken off for Federal fraud charges in a savings and loan scandal. The -- when the judge saw the prior fed charges, he told his clients they better find a way to settle. They settled it and turned all the shares back over to the company because all the money was gone.

Q. Ma'am, let me mark -- show you what was marked previously as Exhibit 1 to Gary Blume's deposition.

A. Yes.

Q. Some of the cases you just described, Mr. Blume still represents you; is that correct?

A. Mr. Blume only represents me on the Leeper case.

Q. When did you first meet Gary Blume?

A. Oh, my God. I don't recall the date. Years and years.

Q. How long have you had an attorney/client relationship with him?

A. Years and years.

Q. Can you be more specific than that?

A. '94, '95, '96, someplace around there.

Q. Now, I show you Exhibit 1. What is that document, ma'am?

A. This is a document that was created for John Beardmore of Beardmore Investments where I had ownership to the assets of the subsidiary companies of MW Medical, one of them being MW Asia, and it was a document that was drafted because they wanted to find a vehicle to go public.

Q. And MW Asia was a public shell corporation?

A. MW Asia was a subsidiary of the public company MW Medical.

Q. Describe in summary fashion what the transaction was proposed for that particular -- in Exhibit 1 to Mr. Blume's deposition.

A. It -- they had a company that they wished to take public. They chose the path of doing what is called a reverse merger. What they would do is they would take the shares of those corporation (sic), and they would reverse it in and exchange it for the shares in the public corporation. You would file the appropriate forms with the SEC. The SEC would review. They would then apply to the NASD for a symbol, and they would be a public company on the OTCBB.

Q. How did you meet John Beardmore?

A. Kelly Black, who is someone I worked with, she did PR security stuff. Kelly Black was in a storefront we had, which was called Le Vanishe. She came to me and told me that a guy by the name of Casey Strunk that she was working with, that Casey Strunk had a client by the name of John Beardmore who was looking for bridge financing.

Q. Did she describe anything more than that?

A. That's it.

Q. And then I gather you met Mr. Beardmore?

A. I eventually met Mr. Beardmore at a breakfast with Kelly Black and Casey Strunk.

Q. When was that?

A. I can't remember. December, November, October -- between October and December of '02, I believe.

Q. Did you do any investigation into his background?

A. Of Mr. Beardmore at that time?

Q. Yes.

A. No.

Q. Were you aware that he was in default on numerous debts at that point?

A. No.

Q. Were you aware that he had judgments against him at that point?

A. No.

Q. The company that you were going to involve in the transaction that Mr. Beardmore controlled, what was his entity named under Exhibit 1?

A. I don't remember.

Q. And was it Beardmore Investments?

A. I'm not sure if it was just that.

Q. That document recites that you would be paid $50,000 upon execution of the agreement. Were you paid

$50,000?

A. Yes, I eventually was.

Q. Were you paid anything else under the terms of that document?

A. No.

Q. Did Mr. Beardmore inform you that he needed bridge financing for his company BDV Investments?

A. I don't know. I don't recognize that acronym or those initials.

Q. Actually, I think it would be BDV, BDV Investments. Did he tell you he needed bridge financing for BDV Investments?

A. Actually I can't recall the whole conversation, and like I said, I was an invited guest. Casey Strunk was doing the financing. The only reason I was there was because Casey Strunk, through Kelly Black, wanted to know if I knew of any kind of people that had investment capital to invest in transactions.

Q. Did you make any agreement that you would work with Mr. Beardmore to try and get financing for BDV Investments?

A. No. There was never any paperwork that was done. Again, Casey Strunk brought him to me. Casey Strunk was the lead guy.

Q. Did you ever make a verbal agreement that you would be paid compensation if you brought financing to BDV Investments?

A. No.

Q. Did you ever get compensation for doing so?

A. No.

Q. Ma'am, let me jump ahead in sequence. Thomas and Wong, General Contractor provided $1,500,000 in bridge financing in March of 2003; I think that's when it started. Payments continued I think in April. You're generally familiar with that?

A. I am generally familiar with the fact that there was a $1.5 million investment from Thomas and Wong.

Q. Were you paid anything in conjunction with that transaction?

A. Zero.

Q. And let me ask, Did you receive any commission?

A. Zero.

Q. Did any company that you were involved with receive compensation with regard to that?

A. Zero. The only compensation is what this contract states.

Q. Now, you received $50,000. When did you get that payment under Exhibit 1?

A. Sometime between April and June, I think, John Beardmore had -- I had told John Beardmore I had a buyer for MW Asia, and I was not willing to wait any longer. John Beardmore told me that he still wanted to go forward. I told him the terms of the contract are still there. He told me he would send the $50,000 to secure the position for MW Asia.

Q. And how did he send that?

A. By wire.

Q. Was that money transferred from a trust account in Las Vegas at Cane & Associates?

A. No.

Q. Do you know if the money that was provided to the company, to BDV Investments, by Thomas and Wong, General Contractor was the source of the funds that was used to pay your $50,000?

A. I have no exact knowledge of that.

Q. Do you have any knowledge of that, exact or otherwise?

A. I do now because it was told to me that that -- that somehow the monies had come after a financing.

Q. Who told you that?

A. I think it was Tom Kell, the manager of Lake Bank.

Q. If I could borrow that document back, please, Exhibit 1.

A. Sure.

MR. MOSKOWITZ: She said between April and June of what year?

MR. MURPHY: 2003 was my understanding.

Q. Is that correct, ma'am?

A. I believe so, yeah.

Q. Ma'am, Beardmore Investments, Inc. was the signator to Exhibit 1, was it not?

A. Yes.

Q. And so that's the entity you understood you were dealing with in conjunction with Exhibit 1. Would that be a fair statement?

A. That's what the document says.

Q. And that was also the entity that borrowed the funds from Thomas and Wong, General Contractor?

A. I don't know.

Q. Let's take a look at Exhibit 2 to Mr. Blume's deposition, the Promissory Note of March 6, 2003, for $1,500,000. That identifies BDV Investments as the Promissor on that note; correct?

A. I don't think that's what this document says. They don't correlate, if that's what you're looking for.

Q. I don't understand what you're asking me. The signator to Exhibit 1?

A. Is what?

Q. Beardmore Investments; I beg your pardon.

A. Thank you.
Q. So that's a different entity controlled by Mr. Beardmore?
A. Yes; that's my understanding.
Q. Very good. But the money to pay you the $50,000 under your deal with Beardmore Investments, Inc., Exhibit 1, came from money that was loaned by Thomas and Wong, General Contractor to a different company, BDV Investments; is that correct?
A. Again, all I can tell you is that what I was told by Tom Kell is once Lake Bank had received some financing, they had issued the payment. This was way after. Do I know exactly who sent it? You can probably find it from the wire. But I believe it came from the Lake Bank. What transpired, I have no knowledge of, no.
Q. Ma'am, you met Ed Tarapaski in early 2003. What were the circumstances?
A. Ed Tarapaski came in to Le Vanishe with a gentleman by the name of Jeff Halbirt. Jeff Halbirt came in to Le Vanishe because Kelly Black, his associate, came and told me that Jeff Halbirt was bringing a gentleman that lived in Korea that was looking to open spas in Korea who he had bought equipment from San Francisco and he was going to open cosmetic spas. And Kelly suggested to him that Jeff Halbirt bring Mr. Tarapaski over to Le Vanishe

and talk to me about what our plan was for opening spas.

Q. To shortcut, he had some eye surgery and ended up moving into your residence for a period of time?

MR. MOSKOWITZ: Object to the form.

Q. Is that correct?

MR. MOSKOWITZ: Same objection.

Q. Ed Tarapaski had eye surgery and for a period of time resided in your home; is that correct?

MR. MOSKOWITZ: Same objection.

A. I -- could you like -- I'm having a problem with the way that you're asking me the question.

Q. Did Ed Tarapaski have eye surgery?

A. Ed Tarapaski had a procedure.

Q. On his eyes; is that correct?

A. Ed Tarapaski had a procedure to correct a prior procedure on his eyes.

Q. And after that he needed a place to stay. He had some problems with a hotel reservation, and you offered to allow him to stay at your house. Is that correct?

A. The two are not related.

Q. Then I will break it down.

A. Thank you.

Q. Did you offer to have him stay at your house?

A. Yes, I did eventually offer that he could stay at my guesthouse.

Q. When did he do so?

A. He had -- Jeff Halbirt's daughter worked at a rent-a-car place, and he had had a rent-a-car, and something happened with the rent-a-car, and then something happened with his hotel reservation. And when all that happened, I offered up to him that he could stay in my guesthouse. It had nothing to do with the cosmetic procedures that he needed to have done.

Q. I just asked: When did he move in?

A. Sometime after all that transpired.

Q. Was it February of 2003? March?

A. It probably was around -- I'm guessing February maybe.

Q. Did you introduce to him the opportunity to make a loan to BDV Investments?

A. I did not invite him. Ed Tarapaski, from being in my home and being a pleasant fellow, which was the only reason I let him be in my home, was interested in things that he was doing. He had cosmetic devices arrive to my guesthouse. He asked me about them. We were sharing lots of conversations on lots of issues. And I was talking about other multiple business issues. He heard me talk about BDV. I explained to him what they were looking to doing. I told him my primary reason for doing it was to take them public.

Q. And when you say primary reason to help them do it, you're talking about raise bridge financing?

A. Yes.

Q. Who else had you attempted to raise funding for -- strike that.

Who else had you talked to about trying to raise funding for BDV Investments?

A. Again, I will make it as clear as I can. Casey Strunk was the gentleman. Casey Strunk asked me if I knew people. I did not do anything for Casey Strunk. I was not getting a commission for doing any of that. I didn't understand all of the parameters of the deal at the beginning when Casey Strunk asked me. I told Ed Tarapaski what the deal was about. My primary contractual obligation was only the one that you just produced with a Mr. John Beardmore. That is it.

Q. Did you talk to anyone else about the possibility of providing bridge financing to BVD -- BDV, excuse me, aside from Ed Tarapaski?

A. I don't recall if I mentioned it to other people. But it -- I was not doing it because I wasn't being paid a commission.

Q. Did you tell Ed Tarapaski at that time that you were in financial distress because your broker in Bermuda

had sold shares without authority?
A. No.
Q. Did you tell him that you were facing foreclosure as a result of that?
A. No.
Q. Ma'am, were you in financial distress at that point?
A. Okay. No.
Q. Let me ask this, ma'am: Did you have a meeting involving Ed Tarapaski and John Beardmore where the subject of his investment into this company was discussed?
A. Yes.
Q. When was the first such meeting?
A. I don't recall. I would think it was sometime around a week or 10 days after.
Q. After what?
A. After meeting Mr. Tarapaski.
Q. And how much before the date the Promissory Note was signed did that occur? Are you talking about a month before the Promissory Note was signed? Two weeks? Do you have any handle on that?
A. I don't recall. I only recall that after they met and they talked, they called me and asked me if I could find an attorney because Ed needed to leave town, and it was a Saturday, and that nobody could find an

attorney on a Saturday. Could I do a favor and see if I have an attorney that I can call that they could meet with.

Q. Ma'am, in your meeting with Mr. Beardmore and Mr. Tarapaski, describe what was discussed.

A. Mr. Beardmore told Mr. Tarapaski everything that they were doing. They brought up the business at hand, the Lake Bank, just whatever the transaction was. Mr. Tarapaski is a savvy businessman. He sat there. He asked all the appropriate questions. I sat there. Discussions were had.

Q. Was there a discussion about using gold that was stored in New Mexico as collateral for the loan?

A. I don't remember if there was details about where it was stored. I know that there was some discussion that there was -- somebody and some entity had some kind of gold dore.

Q. Ma'am, let me show you a document that we won't mark as an exhibit, but I will identify it: a letter from DeConcini, McDonald, Yetwin & Lacy, March 7, 2003, covering an opinion letter of February 26, 2003, stamp numbers TW 01183 to TW 01280.

When did you first see that document?

MS. AMBROSIO: Assumes facts not in evidence.

Have you ever seen that document?

THE WITNESS: Yes.

Q. When did you first see it?

A. I can't recall. It might have been presented at the first meeting. I can't recall. I have seen it dozens of times.

Q. Did you review it at the time you first received it?

A. It wasn't for me to review.

Q. Did you review it?

A. I read it.

Q. You understood that that letter was directed to a company called A-Mark Precious Metals; is that correct -- if you look at the second page of the document, the February 26, correspondence?

A. Sir, I don't understand any of what it is. It is what it says.

Q. Did you ever talk with John Beardmore about what had happened to the application of A-Mark Precious Metals for financing?

A. There were several conversations going down the road, and it may have been asked, but it was not mine to review.

Q. What did he tell you about it, about the application that they made to A-Mark for financing?

A. He told me what was written here (indicating).

Q. Did he tell you that A-Mark had turned them down?

A. At some point there were lots of people that turned them down, and at some time through this whole process I heard lots of people had turned him down.

Q. Was there conversation -- let me focus on this: At the first meeting that you had with Ed Tarapaski and with John Beardmore, was there conversation about Thomas and Wong, General Contractor taking possession of the gold as collateral?

A. I believe that the -- one of the things that he wanted to secure was to have not only that as collateral, but lots of other things as collateral.

Q. I want to make sure that it's clear. Take physical possession of the collateral, was that discussed where it would be held by Thomas and Wong, General Contractor?

A. I am pretty sure that all things were asked about that gold dore. Do I recall all of them? Do I think that was ever mentioned? It could have been mentioned with 10 other things.

Q. Do you believe it was mentioned?

A. I think it was mentioned.

Q. What was Mr. Beardmore's position on that?

A. Mr. Beardmore was saying just about everything

he could say to make Mr. Tarapaski feel comfortable.
Q. Did you feel that he was misrepresenting anything to Mr. Tarapaski?
A. I did not know enough to say that.
Q. You say he was saying everything to make him feel comfortable. Did you have a suspicion the transaction wasn't legitimate?
A. No.
Q. Did Mr. Beardmore state any position about whether Thomas and Wong, General Contractor could take physical possession of the gold dore as collateral?
A. Again, I don't know if it was at that meeting. I don't know if it was later on. I believe that there was some kind of thing like that that took place, but I can't recall exactly what happened.
Q. So you don't know whether Mr. Beardmore said yes or no to that?
A. I cannot recall what exactly was said.
Q. Ma'am, you say that you were asked to find a lawyer to help you do the deal.
A. Uh-huh.
Q. That lawyer was Gary Blume?
A. Yes. He was kind enough to come in on a Saturday.
Q. And when you say "kind enough to come in on a

Saturday," how many meetings were there between Ed Tarapaski, yourself, and Mr. Blume before this transaction was finalized?

A. Are you asking before the Saturday when they walked in?

Q. Well, the first meeting that -- let me withdraw this question and ask this: The first meeting that Mr. Tarapaski had with Gary Blume was on a Saturday?

A. That's what I recall.

Q. Do you recall the date?

A. Sometime in March, beginning of March, someplace around there.

Q. I think we can look at the calendar and see that March 8 in 2003 was a Saturday, although I have to -- before I say that, I want to make sure that this calendar bears years on it.

This is your calendar, ma'am, I believe. Would you confirm that the document I've just handed you Bates stamped BLU 01838 through BLU 01899 is a copy of your calendar with your handwriting on it.

A. It looks like my calendar. It looks like my handwriting.

Q. Would you tell me, ma'am, March 8 of 2003, what day of the week did that fall on?

A. I don't have a calendar.

Q. Could you pick up your own calendar and look at it.

A. This calendar doesn't have the year.

Q. So you're unable to tell?

A. From this calendar, if that's what you want me to look at.

Q. I would like you to, if you can. I don't know what data is in it.

A. It doesn't have a year.

Q. Ma'am, the first meeting you think was on a Saturday?

A. That's what I believe.

Q. Describe what was discussed -- let me ask this first: Who was in attendance at that meeting?

A. I believe it was myself, Gary Blume, John Beardmore, and Mr. Tarapaski.

Q. So Mr. Beardmore was to your recollection in attendance at the first meeting?

A. That's what I recall.

Q. What was discussed at that meeting?

A. They came in and they wanted to -- I guess there was lots of conversations as to how they were going to work, and they wanted to memorialize it. Mr. Tarapaski had to get back overseas, and he would only feel comfortable by having some kind of document drafted up so that they could have some working document as to what securities could be offered up or how it can actually be put to paper.

Q. What was discussed with regard to how the loan that Thomas and Wong, General Contractor was going to make would be secured?

A. Well, if I recall the meeting, Gary Blume sat here (indicating), right next to me, and everybody was talking and giving him documents. Everybody was filtering out documents, and Gary was trying to go through the documents; and he goes: You know, I'm ill equipped to make an opinion of this. I'm not comfortable. They were talking about creating some kind of Promissory Note, maybe some idea of collateral, something about the gold. Gary was extremely uncomfortable.

At one point he asked me to step out and go into his office, and he said, What is this? What is this stuff with the gold? What is all this?

And I said, Gary, it's a deal. This is what they want to do. Basically you can listen and just tell me, you know, what you think you can do or not do.

Gary went back in, and I know a few times when things were handed to him, he said -- and I think Mr. Tarapaski was asking him certain things that can be done, and Mr. Blume said, Look, I don't know. I don't even know what this is or that is. All I can tell you is if you guys want to make a deal and you want me to draft up something for you, that -- I guess I could do that. But I don't know anything about this deal. And as a matter of fact, he wasn't comfortable with the deal, and he made it obvious.

Q. Were you comfortable with the deal?

A. From what I knew of the deal and the fact that I can tell you this: Mr. John Beardmore seemed to me to be a savvy businessman. Mr. Tarapaski seemed to be a savvy businessman and had done multiple deals and apparently had done global deals. I had never done any due diligence on any of their backgrounds. Mr. Tarapaski at that point was always up front, told me about his business experience. And I sat there and I thought, if they are all comfortable and as they presented themselves, I thought it seemed like an okay deal.

Q. Did you ever tell Ed Tarapaski: Don't do this deal?

A. No. Ed Tarapaski did, in my kitchen -- he had asked me opinions on things and what I thought about this or thought about that. And I gave an uneducated opinion as far as any due diligence in the issue. I also was not involved in the agreement at all, so anything that I did was an opinion.

The things that we talked about, we talked about the going public. And then once he said, What do you know about this guy, Billy Cortegiano? And I said, I don't know. Billy seems like a nice guy. They all seem like nice guys. And he asked me something about -- he had a meeting with Billy and John about portable cashing machines, that Billy had previously had a business where he had portable cash machines, and how they were able to tie that business into the whole business. And there were constantly discussions on multiple other ways this thing was going to come together.

And Ed said to me, Well, what do you know about him? And I said, I don't know, but I think he once told me he was involved in the garbage industry in New Jersey. And Ed raised his voice and said, The garbage industry, in New Jersey? I can't believe it. You know all those guys are crooks and criminals, and I'm not touching this deal. And I said, Ed, if you're not comfortable and you don't like it, don't do the deal. I don't care. I don't care. You don't want to do it, don't do it.

He went and met with Bill and John once again, I think. And then he came back and he said, Yeah, these garbage people. And I said, Well, Ed, be comfortable. Don't do something if you're not comfortable. And then he made a joke about how Billy Nooe seemed like a nice guy and blah, blah, blah, and he had a conversation with them. And it was -- seemed to me that he felt more comfortable after he met and spoke to them. That was it.

Q. You mentioned at the beginning of that answer that you gave an uneducated opinion. What was that opinion?

A. It looks okay to me on the surface.

Q. Now, did Gary Blume ever tell Ed Tarapaski: Don't do this deal?

A. I think at the first meeting Gary was making a lot of disclaimers about how he wasn't comfortable, that they are asking him to draft something where people are showing him documentation. He does not have time to verify it, and that they are asking him to draft something up. He did warn them that he is only going to write a document that they told him to write. Because how does a guy meet strangers on a Saturday in an afternoon because I asked him to do it as a favor and Gary asked, Who is paying for this? Mr. Tarapaski did not have a checking account in town. He also didn't have -- at the time he said he didn't have the cash. John Beardmore said that they would reimburse for it. And I ended up, because I didn't want Gary to be stuck with a bill, I paid that bill. And basically Gary was acting as a scribe.

Q. Ma'am, you paid the bill. Who did you understand that Gary Blume was representing?

A. Who did I think he was representing?

Q. Yes.

A. I don't think Gary thought he was representing anybody. I think Gary came in to act as a scribe.

Q. Who did you think he was representing?

A. Again, because John Beardmore and Ed Tarapaski were both in the room and they were outlining the deal to Gary, I would think that if he is drafting a Promissory Note, that maybe it was Ed, but I don't think Gary Blume actually thought he was retaining a client at that first meeting.

Q. Was he representing you?

A. I don't think so.

Q. You had no interest in this transaction?

A. I had no interest in the transaction.

Q. There was no reason that Gary Blume would be representing you in this transaction?

A. Again, I believe that Gary Blume did a favor and was acting as a scribe.

Q. Ma'am, was there any reason for Gary Blume to represent you in this transaction?

MR. MOSKOWITZ: Objection; form. Asked and answered.

A. None -- I don't know. I don't know what he thinks.

Q. Ma'am, let's go to Exhibit 2, and perhaps you can work with the stamped copy.

The first meeting you mentioned you think was on Saturday?

A. I think so.

Q. There was a subsequent meeting -- tell me how many meetings there were all total before the final Promissory Note was generated.

A. I think two, maybe three. I'm not sure.

Q. The second meeting, was that on March 6th of 2003?

A. It could be.

Q. Let me do this, ma'am: I will show you the -- if I can borrow the exhibits, please.

I show you what was marked as Exhibit 8. Pardon me. Wrong one. That was part of the Disclosure Statement.

MR. MURPHY: Let me see if I have that here, Carlo. I may need you to get me that.

Frank, maybe we could save some time. Do you happen to have a copy of that Disclosure Statement?

MR. MOSKOWITZ: What are we looking for?

MR. MURPHY: The one that you served yesterday, your supplemental.

MS. AMBROSIO: With the invoices attached.

Q. Ma'am, that appears to show entries that you paid for a meeting on March 6th of 2003 and on March 8, 2003?

A. Uh-huh.

Q. Yes?

A. Yes.

Q. And do you recall that you picked up the Promissory Note for signature on Saturday, March 8 of 2003?

A. I'm sorry. I'm reading this document, and it says Wallace versus DB Mayer.

Q. I don't know what page you're looking at.

A. I'm looking at the exact document you asked me to read.

Q. This was identified in testimony this morning as an invoice that Mr. Blume sent to you with regard to services he provided in drafting the Promissory Note.

A. That would make absolute sense. If this says Wallace versus DB Mayer, it's Saturday and because I paid it, I was not a client in this case. I was nothing in the situation between Beardmore and Ed Tarapaski, other than to do a favor. Gary Blume only had one account running with me, which was DB Mayer. So he showed -- this payment says that, as his client in another suit, that was the only way he showed and recorded how he got money.

Q. Looking at the entries, ma'am, do you believe it was Saturday, May 8, 2003, when he gave the final Promissory Note out for signature?

MR. MOSKOWITZ: Objection.

A. May 8th?

Q. Thank you for correcting me. Looking at the time entries, do you believe it was Saturday, March 8, 2003, when he gave you the final Promissory Note for execution?

A. Would you excuse me? My eyes are going, so I'm going to have to put out some granny glasses. I hope I have some glasses. I've got some here. Okay.

What date are you looking for?

Q. March 8, 2003.

A. March 8. Yeah.

Q. Do you believe that was a Saturday?

A. No.

Q. And why do you think it's not?

A. Well, the first time he ever met them would have been earlier than the 8th.

Q. I understand. But the last time that he met them when the Promissory Note had been typed --

A. Are you asking me if the 8th is a Saturday is the last time?

Q. Yes, ma'am.

A. I'm not sure.

Q. Do you recall that that day you went to the offices of Gary Blume and you had to leave before the Promissory Note was signed because you had an engagement with your daughter?

A. I know that could have been the second or third meeting I was at Gary's office and they were drafting up documents, and I guess at some point I left. I don't recall what it was for, but I left at some point.

Q. And, ma'am, March 6th, do you have any recollection of the meeting that took place on that date, March 6, 2003?

A. Well, it says what it says. I don't know if that was the Saturday. I don't know if that was the first one. But ...

Q. Regardless of what day of the week it is, do you have any recollection of it?

A. If it's the first meeting, I recall being there.

Q. And have you described all you remember of that?

A. Yeah.

Q. Now, the DeConcini, McDonald opinion letter, a copy of that was provided to Mr. Blume at that time;

correct?

MR. MOSKOWITZ: Objection. Which time?

MR. MURPHY: At that first meeting as she is describing.

A. I wouldn't -- it would be my recall that that document was more than likely tossed onto the table, along with others.

Q. What other documents were given at that time?

A. I don't know. John had some other paperwork with him. I can't remember all of them.

Q. And, ma'am, do you have a recollection of the conversations that the parties had in the course of all of these meetings at Mr. Blume's office about what the collateral for security would be for this transaction?

A. I can't recall everything. Spot conversations I probably have some good recall to.

Q. Would you please describe what you do recall.

A. I recalled on the meeting that was met in Gary's office, which could have been the second or the third, that there was an idea that Ed, and I may even have said it myself, that Ed should try to get as much collateral that he can if he was going to fund -- go ahead and fund the company.

At that meeting Ed also decided that he wasn't comfortable yet with doing the whole 1.5, so what he wanted to do was scale it down to the -- to 800,000, and he asked Gary, Can you -- I think he said, Just go ahead and make the document, the whole document for 1.5, but at this point I only want to do an 800,000 tranche. Gary said, Whatever you want.

Then there was discussions of: Why don't we try to collateralize at 800,000 with as much hard asset as you can get.

Q. And what was described in that regard, what hard assets?

A. We had -- I don't remember if I took it upon myself or if Kelly Black took it upon herself to look up John Beardmore's credit report. She was an ex-loan officer with Wells Fargo. She had some way of doing it. I don't know how she did it. And in it we saw some of his holdings. And I think John Beardmore had also volunteered some of his holdings.

Q. When you say "holdings," you mean assets that he controlled?

A. Yeah.

Q. And what financial picture emerged with regard to Mr. Beardmore?

A. The most important one was the property on Solano in Paradise Valley, which had a value of 2 million, and I think the loan on the property was a million bucks, or something like that.

The other one was an office building in Minnesota that I believe was supposed to be acting as the office building for either Beardmore Investments, BDV or both of them or entities, whatever. It was a small strip mall business center.

I think Gary or Ed said that they wanted personal guarantees. I think Ed, and with all rights, was asking for everything under the kitchen sink.

Q. And did Gary Blume give advice to the effect that that was an appropriate course, that he should get as much security as possible?

A. Gary Blume once again was trying to wrap himself around all of this. He was listening to what Mr. Tarapaski was telling him. I think to some degree he put a lot of credibility on the fact that I was there because I was the one he knew the best. Gary had lots of warning signals along the way. I do remember he spent a lot of time doing that. And then he would of course, being an attorney, I think he did say that he should ask for as much as he could get.

Q. Was there discussion about how that collateral would be secured or perfected?

A. There were discussions with getting Billy Cortegiano and John Beardmore to sign personal guarantees.

There was a -- when it came to the first 800,000, there was an idea of the calculation that I think at the time the Minnesota office building was worth 250- or $300,000. The property again was the primary source because it had an appraised value of 2 million, with a debt allocation of a million, which meant there was a million dollars available. So on the first 800,000, that property was a good collateral value.

I can't recall if at that time -- I think we knew about his car. I think Kelly had looked up and saw something about the Mercedes. I can't remember if there were other things at that time, but certainly for the first 800,000, and what Gary had to do and what I witnessed in the meeting is that the real estate properties were probably the safest bet as collateral, as safe as you can get.

Q. The real estate properties you're describing, one has been listed as a condominium. That's an office condominium?

A. I believe it was an office condominium.

Q. If you could take a look at Exhibit 2. I have it right here for you. There is a reference in the third paragraph, and I will quote it first before I hand it to you: "Real property described as 660 North Second Street, Minneapolis, Minnesota." Is that what you understood was a reference to this office condominium that was going to form part of the security?

A. I believe so.

Q. And, ma'am, the other property, real property that was going to serve as collateral was on Solano Drive in Phoenix, in the 5200 block?

A. Yes.

Q. Did you go by and look at that at any point?

A. Yes.

Q. It was near Camelback Mountain?

A. That's right around from where I live.

Q. And there was a discussion and agreement that that would form part of the collateral for this transaction; is that correct?

A. Yes.

Q. Would you look in that document, Exhibit 2, ma'am, and see if there is any reference to the Solano real property, or Solano Drive I think more accurately.

A. (Pause.)

It's not in here, but it wouldn't have been in here.

Q. Why wouldn't it have been in here?

A. Because John Beardmore was going through a divorce, and the bank -- I think when Kelly looked it up, we saw the loan. John Beardmore -- I can't remember if

John Beardmore and Billy came in later to sign the document and the personal guarantees, but they were supposed to provide clear title documents, and the first 250,000 that had to come out ASAP was for that building.

And so because the first tranche of money to go out was for the building and we didn't know what clear title was being on the house because John Beardmore's wife, Catherine, and he were in a nasty, nasty divorce, and the title would show that Catherine had some kind of rights to the property. So all of that was discussed about the property. And Ed did not want, and I think either I did or somebody suggested that if the real first tranche of money to come out was the 250- and the 250- was for that office building, then we would secure that, and then we would secure all the other collaterals as we got them.

Q. How was it proposed that 250- for the office condo in Minneapolis would be secured?

A. They were to have title to the office condo.

Q. When you say "title," what do you mean? Who was going to have title?

A. I believe Thomas and Wong.

Q. So they were going to transfer the title to that building to Thomas and Wong?

A. You know what? I will tell you this. I'm not an attorney. All I can tell you is I don't know how they were going to do it because I'm not an attorney. I just know that that office building and the first 250- to secure it was supposed to be done as a collateral against that money.

Q. Ma'am, was there discussion of stock in Superior Financial Holding being used as collateral for this transaction?

A. Like I said to you, there was all kinds of things that John had told Ed that he can have as collateral, and he was going to present them, and there was a -- there was a time and essence thing because Ed was leaving. They had requirements in short periods of time. I think that's probably why Gary was uncomfortable with the whole thing. There seemed to be a time crunch.

Mr. Tarapaski, even at the day that he met, decided he wasn't going to commit to 1.5 and reduced it to 8-. All of those situations took place in multiple discussions, with fragmented ideas of how we can put this together. And Mr. Blume was doing his best to try to see what would be the ways that we can do this.

Again, on that 8th we were -- I know that Billy and John were supposed to appear and sign a promissory, and we were trying to draft documents on things that -- I think we eventually got something signed, and I don't know if it was that day, from the people that held the mortgage or the title on the property, and it was faxed over. And there was just all this stuff going on.

And at the end of the day there was -- most of the discussion was: What can we do quickly? What advice can anyone, including myself -- which I was just giving an opinion, that the 250- was the first tranche of money to come out. And that would be secured against Mr. -- I think it was Lach. I think the person that signed was -- was it -- it was Lach, the Lach -- I think it was the Lach family.

Q. Ma'am, you say that Ed reduced his commitment to $800,000?

A. Yes, he did.

Q. Wasn't it more accurate that he funded the first $800,000 and said that his company would have to sell off some property in St. Maarten's before they could sell off the remaining 800,000?

A. My recollection is Ed would feel more comfortable because there were things to come. Obviously, all the things he was asking for wasn't produced right there in two days. So Ed stated that he would feel more comfortable doing 800,000 first. He said that he did not -- it was business decisions, and it could be that he needed to sell off property. It could have meant that he needed to take a second look. Whatever it was, he stated that he was more comfortable with 800,000. Why he was comfortable and the multiple reasons belong to Mr. Tarapaski.

Q. But the Promissory Note was not for $800,000?

A. Mr. Tarapaski said, Continue and do it for 1.5, but the first 800,000 was where he was going to sit for now.

Q. And that had been deposited with a Las Vegas firm called Cane & Associates already; is that correct?

A. Correct. Again, Mr. Tarapaski tapped on me. He was not familiar with anybody in town. These are lawyers that I have known. I called them. They were not happy to open a trust account over a case that they knew nothing about; I can tell you that. And only because I asked them to do it as a favor did they even allow for their trust account to be used.

Q. Let me -- now, you mentioned that in the first meeting Gary Blume expressed concerns about the transaction. Did he continue to express those concerns, or by the end did he seem satisfied that the deal had been documented appropriately?

A. Gary Blume looked at everything that was given to him, listened to everything that everyone told him, and he drafted up some documents. What he drafted he felt, given what clients or whoever was telling him, that they wanted this business deal to go down. He did. Do I think that Mr. Gary Blume had personal thoughts about it? I don't know. Did Gary Blume feel that as an attorney he was trying to write something and give as much security as possible given the information? Yeah, I think that's what he did.

Q. Ma'am, let me jump ahead in sequence.

MR. MOSKOWITZ: Just put a belated objection down to all that testimony as to what Gary Blume thought. Foundation.

MS. AMBROSIO: While you are doing that, can I take a moment with my client?

MR. MURPHY: Absolutely. Why don't we take a short break.

(Recess taken at 2:12; resumed at 2:29 p.m.)

Q. Ma'am, I will show you Exhibit 6 to Gary Blume's deposition, a Certificate of Liability Insurance involving a Charles Schayer & Company. Have you ever seen that document before?

A. It doesn't look familiar.

Q. Ma'am, I turn that out as an example to trigger the next question. If you would take a look at Exhibit 2, the Promissory Note of March 6, 2003, for $1,500,000. The second to last paragraph recites: "Attached hereto as

Exhibit B is the insurance policy and certificate of insurance." And I'm not representing to you that Exhibit 6 is that.

Did you ever have in your hands a certificate of insurance in favor of Thomas and Wong, General Contractor related to the gold dore collateral?

A.   I don't understand the question.

Q.   Did you ever have a certificate of insurance with regard to the collateral in this case, the gold dore that was securing Thomas and Wong, General Contractor?

A.   Are you asking if somebody ever put a piece of paper or I picked up a piece or paper, or are you asking if I took ownership of a piece of paper?

Q.   If you ever saw one.

A.   I saw something about an insurance, yes.

Q.   And the reason I ask is that it says it's to be attached to this document, but I have never seen one. Did you get the certificate of insurance, a copy of a certificate of insurance at any point in favor of Thomas and Wong, General Contractor?

A.   Why would I get it?

Q.   I'm just asking you, ma'am.

A.   I'm sure I saw one. I'm not responsible for the paperwork.

Q.   Ma'am, the testimony you gave before was that

there was an urgency to getting $250,000?
A. Right.
Q. But there was going to be some other work done afterward to finalize the deal with regard to the other transaction; is that correct?
A. Yeah.
Q. Was the insurance part of that?
A. I have -- I don't recall. There was lots of stuff.
Q. Ma'am, let me next show you the DeConcini, McDonald opinion letter, and I will go to a specific document, if I could. The document stamped TW 01210 is a Safekeeping Receipt, this between Dulce Vida De Vallarta on one hand and D.E.N. Enterprise, a Trust, on the other hand.
My question to you is: In the course of the meetings at Gary Blume's office, was there a discussion about getting a safekeeping receipt for Thomas and Wong, General Contractor to ensure that the gold dore would not be moved from the warehouse?
A. I don't recall specifics of everything, and I wasn't always privileged to everything. I recall seeing this document.
Q. Whether you -- I'm just asking, Was that subject discussed that you're familiar with, whether you

were there all the time or not? Did you hear conversation about: We will get a safekeeping receipt for Thomas and Wong, General Contractor to ensure that the gold dore is not moved from the warehouse?

A. It seems reasonable. I don't --

Q. Do you have recollection of that actually having been discussed?

A. I have a recollection of so many things being discussed since 2003, but the specifics, no.

Q. Ma'am, I will show you Exhibit 3 to Gary Blume's deposition. This is a document dated March 7, 2000 -- pardon me, March 6, 2003 --

A. Uh-huh.

Q. -- $275,000 Promissory Note, BDV Investments, the promissor; promisee, Thomas and Wong, General Contractor. Do you recall when you first saw this document?

A. I think I told you this was the document that they had to get signed. I think it was -- yeah, the Lach family. That's what it is.

Q. Who prepared this Promissory Note to your recollection?

A. I'm not sure. I'm -- I can guess. I'm not sure.

Q. What's your best guess?

MR. MOSKOWITZ: Don't guess.

MS. AMBROSIO: Yeah, don't guess.

Q. If you have any idea, testify to it and qualify your answer by stating that you're unsure, if you would, please.

MR. MOSKOWITZ: Objection; foundation. Object to asking her to guess. We are here to discover facts --

A. I don't recall.

MR. MOSKOWITZ: -- not guesses.

Q. Do you believe Gary Blume had any role in creating it?

MR. MOSKOWITZ: Objection; form, foundation.

A. I think that's the same question. If I'm not sure, I'm not sure.

Q. Now, this bears a telefax transmittal sheet of 3/7/2003, March 7, 2003, from the Literacy Company. You understood that was a company in which William Cortegiano was involved?

A. I know he had some company. I guess that's it. I'm not absolutely sure.

MS. AMBROSIO: No guessing.

A. Sorry.

Q. Did you play any role in getting this document prepared or executed?

A. No.

Q. Now, this refers to L Trust, LLC at the bottom. Sokim Lach is the signator.
A. Uh-huh.
Q. That was Mr. Beardmore's girlfriend?
A. Is that a statement?
Q. No. That's a question to you. Was that his girlfriend?
A. I don't know absolutely for sure. I was told it was his girlfriend, but I don't know.
Q. What was the L Trust, LLC?
A. I have no idea.
Q. Now, this appears to -- there is a statement at the bottom of the first paragraph: "By signing this Note, L Trust, LLC, a Minnesota limited liability corporation, consents to a complete transfer of their interest in the same real property to Thomas and Wong in the event of default. The real property discussed above is known as 660 North Second Street, Minneapolis, Minnesota."
Did you understand that to be the office condominium that we had testimony about previously?
A. Are you asking did I understand it was then, or are you asking me if that's what I understand it today?
Q. Did you understand it back in March of 2003?
A. You mean March -- March 6 of 2003?
Q. Any date in March.

A. Well, the document says March 6, 2003.

Q. Any date in March.

A. March 6 of 2003, I recall, as I previously stated, that they were trying to secure an office building and write up some kind of collateral.

Q. And that address, 660 North Second Street, Minneapolis, Minnesota, is the same -- in Exhibit 3 is the same address as the property described in Exhibit 2, the Promissory Note for a million five?

A. That's what it says.

Q. Now, ma'am, you have repeatedly -- let me ask this: What did you understand was going to happen to the $1,500,000? What was BDV Investments going to use that money for?

A. Again, from what I recall, I recall that the first set of money was to make sure that this office building was to be secured. I don't know why. It was supposed to be their office building, something. These are what I heard. I was not part of any of the doings with this. It's what I was told.

The other part of the money, I think for the first -- within the first 800,000 was the rest of the monies were to pay off bills or debts or something that was on the Lake loans that were on the Lake Bank and they had to come off of the Lake Bank. That's what I recall.

Q. Ma'am, let's keep marking documents in sequence. I believe this would be Exhibit 20.

(Exhibit 20 marked.)

Q. The first question would be: Is that document your handwriting?

A. A part of it.

Q. What part of it is?

A. Not the top. The rest.

Q. When you say "not the top," read into the record the words that are not your handwriting.

A. "Use of proceeds, 500,000 Lake Bank," 500,000 VC -- or "500 VC, 250 ATM INV, 250 balance."

Q. Whose handwriting is that?

A. I don't know.

Q. And underneath there is the name John Duke, 15 percent of actual funds. Is that your handwriting?

A. Yeah.

Q. And everything that follows behind that is your handwriting, that is?

A. Yeah.

Q. Is this consistent with your understanding of what the use of the loan proceeds would be?

A. No.

Q. How isn't it?

A. Well, first of all, this was notes that were made at the very first time I think I met with Casey Strunk, Kelly Black, and John Beardmore. And John Beardmore was telling me his problems, what he needed, what was outstanding, and I made notes.

Q. When you say "his problems," we previously marked Exhibit 5. If you could look in your stack. Exhibit 5 is a memo that recites from the Lake Bank to BDV Investments. The payoff figure, including accrued interest and legal fees, is $570,505.60 as of January 17, 2003.

Did you understand that Mr. Beardmore had an indebtedness to the Lake Bank in the approximate amount of $570,000 that they needed to get off the books to avoid regulatory problems?

A. First of all, I don't recognize this document. Never seen it before. Don't know where the numbers came from. And I don't know the absolute number that Mr. Beardmore had. Like I told you, in that document, that was the first meeting, and all I did was take notes from a guy that told me something.

Q. Did you understand that Mr. Beardmore had an indebtedness to the Lake Bank --

A. That's what he said.

Q. And that he needed to get that off the books to comply with regulatory compliance?

A. I don't recall Mr. Beardmore saying that in that fashion. Mr. Beardmore through Casey Strunk told me that he had a debt on the Lake Bank and that they needed to have it off the Lake Bank because it didn't meet some regulatory requirements. That's what I recall.

Q. Going back to Exhibit 20, your handwritten notes, it is your handwriting in the middle of the first page that says, "Lake Bank, indebtedness to bank $600,000, guarantor"?

A. Yeah.

Q. Is that a reference to the debt that Mr. Beardmore owed to Lake Bank?

A. Again, from what I can recall, Mr. Beardmore was telling me his story. I wrote it down. Did I retain everything that he told me? That's what I wrote. And this was in October to December of 2002, if you look at my prior testimony.

Q. Was it your understanding at the time the Thomas and Wong loan transaction was documented in March of 2003 that that had changed, that Mr. Beardmore had found some way to pay the bank off already?

A. By the time Thomas and Wong came into being, there was lots of talks about John Beardmore actually accessing lots of other people for the debt.

Q. Now, you have repeatedly stated, ma'am, that you really had no role to play in this transaction. Is that a fair characterization?

A. Absolutely.

Q. Let me mark as Exhibit 21 a meeting of the board of directors of BDV Investments March 6, 2003.

(Exhibit 21 marked.)

Q. Just before Thomas and Wong signed the Promissory Note, you became a member of the BDV board of directors; isn't that correct?

A. I don't understand your question.

Q. On March 6, 2003, you became a member of the BDV Investments board of directors, didn't you?

A. I don't recall that date at all.

Q. Let's mark Exhibit 22.

(Exhibit 22 marked.)

Q. Is that your handwriting, ma'am?

A. Yes, it is.

Q. And it opens: "BDV meeting: Board of directors meeting. Meeting called 4:00 p.m., March 6, 2003"?

A. Yes.

Q. That is the very date recited in Exhibit 21?

A. Yes.

Q. The typewritten notes -- minutes of that; correct, ma'am?

A. Yes.
Q. Did you become a member of the BDV Investments board of directors on March 6, 2003?
A. That's what I'm trying to tell you. I don't think I accepted on that day. They asked me to take some notes of the meeting asking me if Mr. Tarapaski -- Mr. Tarapaski wanted me to join the board of directors of BDV because he didn't know them. He trusted me. At the time our relationship was a good one, and I told him I would do it. I also told them that as a director, that I would be conflicted if he wanted to have information. They asked me to take these notes and invited me on March 6th. I didn't take it the same day. Do you have an acceptance letter?
Q. When did you accept it?
A. Sometime after.
Q. Can you be more specific than that?
A. No.
Q. But you did step forward to become a member of the board at the request of Ed Tarapaski?
A. He had asked me to do that.
Q. And you agreed to do that?
A. I agreed that I would do that, and I told him I would be conflicted.
Q. Ma'am, I'm going to mark Exhibit 23.

(Exhibit 23 marked.)

Q. Do you recognize those as minutes of the BDV Investments board of directors on March 6, 2003?

A. Uh-huh.

Q. Yes?

A. I recognize that the paper says March 6, 2003.

Q. And the second page of that document bears your signature as a director; is that fair?

A. Yes, it does.

Q. Did that meeting in fact occur on March 6, 2003?

A. I don't recall.

Q. Ma'am, your handwritten notes, which are Exhibit 22, read as follows, after the heading, "Purpose of the meeting is: 1: To elect Jan Wallace to the board as a new director."

And then it continues: "2nd action, to approve the loan from Thomas and Wong, General Contractors for the purchase of property with the existing structure located at 660 North Second Street, Minneapolis, Minnesota." And I will stop my quotation from the text there, although it continues.

That again is your handwriting?

A. This one? Are we on this one?

Q. No, ma'am. Exhibit 22.

A. Okay. Because you asked me to look at this one. Which one is this?

Yeah.

Q. And that's what you wrote in your notes dated March 6, 2003; is that correct?

A. Yes.

Q. And you then signed a resolution of the board approving the loans -- loan from Thomas and Wong on March 6, 2003; correct?

A. That's what this paper says. I don't know when I signed it.

Q. But you do know the meeting occurred on March 6; is that right?

A. I don't know that for absolute at all.

Q. Do you have any reason to believe that it was on another date?

A. It may be. All these people are all over the map.

Q. How long did you remain on the board of directors?

A. I can't recall.

Q. Why don't I just continue. I think I eventually have a document that relates to that.

And I will just pose to you the question, ma'am: Did you vote as a member of the BDV Investments board of directors to approve the loan from Thomas and Wong, General Contractor for $1,500,000?

A. If my signature is on the document, and I'm not sure what date I signed it, if that's what it says, then I signed it.

Q. Did you approve that in fact?

A. As a director I put in a vote, yes.

Q. To approve that loan?

A. I don't know if I approved it. I may have abstained. I may have voted no. Do you have the minutes?

Q. Ma'am, the second page of Exhibit 23, the typewritten minutes of that March 6 meeting ends with the following statement: "The undersigned, being all the directors of BDV Investments, Inc., consent to all actions taken hereby." End quote.

Is that what you evidenced by your signature on this document?

A. That doesn't mean I didn't abstain.

Q. Now, I'm going to mark Exhibit 24.

(Exhibit 24 marked.)

Q. I will hand you a document stamped TW 03587. Is your handwriting anywhere on that page?

A. It looks like my scrawl.

Q. Now, ma'am, this appears to be a list that starts with item 3, and there may have been a preceding page. I can only say that I haven't located that in my search from the files. I will just ask a long-shot question. Do you have any recollection of there was another page that had items 2 and 3 on it that preceded this?

A. I don't know.

Q. This appears to be a checklist of items, ma'am, related to the loan transaction with Thomas and Wong, General Contractor. Is that what it in fact is?

A. I don't know. I'm reading what it says. It is what it says.

Q. Item 3(a) reads: "Insurance coverage, all policies representing the warehouse and product. (b) an assignment of the insurance to law firm or nominee. (c) any additional insurance policies existing."

What did that relate to?

A. I don't know. This is a partial document. It doesn't have a date. This could be somebody asked me to write it. This could be notes I made to myself. I recognize what it says, and I recognize it's my handwriting when I write fast. That's all I know.

Q. Were you involved in discussions about getting insurance to cover Thomas and Wong, General Contractor with regard to the gold --

A. No.

Q. Ma'am, I need to finish my question so that we have a record.

Were you involved in discussions about getting insurance for Thomas and Wong, General Contractor to cover the gold bullion that secured their loan?

MS. AMBROSIO: This has been asked and answered several times previously. I'm going to allow her to answer it this last time, but this has been covered.

A. No.

Q. Item 4 reads -- why don't you go ahead and read in your handwriting.

A. "Mr. Wark" -- it looks like "Wark to sign agreement."

Q. And do you have a recollection what that related to?

A. No.

Q. Item 5, read that into the record, please.

A. "Beardmore to sign personal guarantee signature of all the officers of BDV. (Nooe, Bill, Casti)."

Q. Item 6, if you could read that in, please.

A. "Safekeeping receipt transferred to the name of law firm and/or nominee."

Q. And do you have an idea what law firm that related to?

A. No.

Q. Item 7, if you could read that in, please.

A. "The complete opinion letter from DeConcini with the appropriate exhibits attached."

Q. And item 8?

A. "Articles of Incorporation of BDV."

Q. Did you do anything to try and assemble information consistent with this checklist?

A. First of all, you're calling this a checklist. I don't know if this is a memo -- once again, I will say it. I don't know if it's a memo that someone asked me to write. I don't know if I was present in a meeting and I took notes. You're asking me a question, but you're ascertaining that this is a checklist. I don't know what this is.

Q. Did you do anything to get Mr. Wark to sign an agreement?

A. No.

Q. Did you do anything to get Mr. Beardmore to sign a personal guaranty?

A. No.

Q. Did you do anything to get a safekeeping receipt transferred to benefit Thomas and Wong?

A. No.

Q. Did you do anything to get the complete opinion letter from DeConcini, McDonald?

A. No.
Q. Did you do anything to try and secure or get copies of the Articles of Incorporation of BDV?
A. No.
Q. Now, ma'am, was there discussion that there would be a viewing of this gold bullion at the warehouse at any time?
A. At one point after a meeting with Ed, Bill, John, and there was another group that was going to fund. The group that was going to fund, somebody was out of New York. The group that was going to fund was going to set up a viewing.
Q. That was Dumaine & Company, John Ohle, the president?
A. I have no idea.
Q. Was it intended that Dumaine & Company was going to arrange financing that would take out the bridge loan from Thomas and Wong, General Contractor?
A. I think I just added that I didn't know it was Dumaine & Company. If it's a related question, I don't know who said they would do what.
Q. Have you ever heard of John Ohle, O-H-L-E?
A. Yes.
Q. Who did you understand him to be?
A. John Ohle represented to be the head of some

company. We had a meeting with him at a restaurant in Phoenix.

Q. Was it your understanding that he was going to be one of the persons attending this viewing of the collateral of the warehouse?

A. No, I don't particularly recall it was him.

Q. Was it your intention to go to view the collateral at the warehouse?

A. It was suggested that I go and view the collateral.

Q. Did you agree to do so?

A. I said I would submit the paperwork because they told me -- even before I could say I would go, they told me that it was very difficult to go and do it and that I had to have paperwork submitted, and I said, Well, I will submit the paperwork. You guys tell me what you want.

Q. Did you agree to go?

A. Again, I submitted the paperwork. By the time I even got the answer back, there wasn't a choice for me to agree or disagree.

Q. Let's go ahead and mark Exhibit 25.

(Exhibit 25 marked.)

Q. Is that a copy of your passport and Social Security Number on the first, second and third pages?

A. Yep.
Q. And is that your handwriting in the margin of the first page?
A. Yes.
Q. It reads -- just quote into the record what it says on the left margin about halfway up the first page in your handwriting.
A. Which part?
Q. It looks to say, "My TN document."
A. Oh. "My TN document represents my right to work in the U.S.," yes.
Q. And what does TN refer to?
A. You would have to ask my immigration attorney.
Q. Then read into the record the handwriting at the bottom of the page, your handwriting.
A. "Please give these documents to John Beardmore so that I may travel Monday to Lordsborough (sic). Also could you please fax me the bylaws, minutes and incorporation documents of BDV since I'm now director, as this is stan" -- what does that say?
Q. "Standard"?
A. -- "standard to" -- I better put my glasses on.
-- "standard to the position."
Q. Do you have any recollection of what date you were scheduled to travel to Lordsburg?

A. No.

Q. This was telefaxed from Le Vanishe. That's a company you've referred to before?

A. Yes.

Q. That was your company?

A. Yes.

Q. And it was faxed on March 7 of 2003?

A. That's what the header says.

Q. Was it your plan to head to Lordsburg the next Monday?

A. I have no idea. I don't know if that header is a correct header. I don't recall when I was supposed to travel. It says a Monday. Which Monday I have no idea.

Q. Lordsburg, New Mexico, is where the total NM warehouse was where the collateral was supposed to be located; correct?

A. I'm trying to listen to what you're saying. Could you rephrase the question?

Q. I think it was okay.

MR. MURPHY: Could you read it back?

(Record read.)

A. I still don't understand the question because I don't recall that the warehouse was called total NM warehouse. I just don't recall that.

Q. It was -- the warehouse was in Lordsburg, New

Mexico?

A. There was a warehouse in Lordsburg, New Mexico, yes.

Q. And the reference there to Lordsburg was you were going to that warehouse, whatever it was named, to view the collateral? That was your intention?

A. It says I'm going to Lordsburg. That's what it says.

Q. Did that ever occur? Did you ever go to Lordsburg to view the collateral?

A. No.

Q. What happened? Why didn't that occur?

A. I told you again, I submitted this document, and shortly after I submitted it, I got a phone call that said that it wasn't going to work. It takes two weeks for them to even process, so don't bother making any plans.

Q. And so was it your understanding that the trip was going to be postponed or that you weren't going to go at all?

A. It was my understanding I wasn't going. That's all I know.

Q. And do you have any recollection as to when Ed Tarapaski left the United States?

A. Sometime -- I don't have an exact recollection.

Q. Was that -- I have an understanding that John

Beardmore informed parties involved in the transaction that he had rented a King Air airplane to fly them over to view the collateral and that was postponed because the -- let me stop there. Did you hear that?

A. Never.

Q. Did you hear that he had rented a plane of any kind?

A. Never.

Q. You did hear that the trip had to be postponed at least because it took two weeks for them to investigate backgrounds before you could go to the warehouse?

A. I didn't understand anything. I was told that -- after I sent over this document, I got a phone call, and I believe it was Billy, and Billy told me that it's not going to happen. Don't make plans to go anywhere, that it takes at least two weeks for them to process the documentation. That's all I was told. I have no understanding. That's what I was told.

Q. And Billy is a reference to William Cortegiano?

A. Yes.

Q. And he was another director of BDV Investments?

A. BDV.

Q. Thank you. He is another director of BDV Investments?

A. Correct.

Q. And when you put on your passport, "Billy: Please give these documents to John Beardmore," that was a reference to Billy Cortegiano?

A. Yes.

Q. Did Ed Tarapaski ask you a question along the following lines: I have to go back and leave the United States. Would you please follow through and view the collateral for me when this trip is rescheduled?

A. Again, you're making a nice sentence there. I don't recall Ed Tarapaski saying that sentence to me. I recall Ed Tarapaski asking me to do multiple things for him.

Q. Ma'am, did Ed Tarapaski ever make a statement that you heard that he wanted some reassurance that Dumaine & Company was going to fund the permanent loan that would take out and refinance his bridge loan?

A. No.

Q. Let's go ahead and mark Exhibit 26.

(Exhibit 26 marked.)

Q. This is a -- the first page is a telefax from the law office of Clark Griffith.

You understood him to be a lawyer who represented BDV Investments?

A. That's what I was told.

Q. And it's listed to Jan and Ed, fax number

(480) 994-0288. Whose fax was that?

A. I don't know. I don't recall it.

Q. Ma'am, we just looked at Exhibit 25. The fax number recited for Le Vanishe, a company you were affiliated with, was (480) 994-0288; is that correct?

A. If that's what it says. I don't know the fax numbers of my offices.

Q. It is the same fax number on the --

A. If that's what the header says, then that's what it says. I don't know my fax numbers of my companies.

Q. Did you receive a copy of this document on or about March 11, 2003?

A. I don't know. I don't recall. I don't recall it.

Q. Did Ed at any time make statements that you were familiar with, whether he made them to you or in your presence, to the following effect: The money that we are putting into this bridge loan is very important to my company. I need to make sure that it's paid by the due date in May of 2003?

A. Again, the way that you're stating what that is, Ed Tarapaski said a lot of things. Do I recall that he said that exactly? I'm sure that Ed Tarapaski had lots of reasons why he should be concerned about his 1.5

million. Everybody is when they lend money. You are making a statement just now that you want me to recall did he ever say that or it sounds like he said that? Ed Tarapaski said multiple things about what was important about his 1.5 million.

Q. Was one of them that he wanted it repaid by the due date in May of 2003 because it was important to his business?

A. Ed Tarapaski said he wanted his loan repaid.

Q. And did he ask for assurances from the BDV Investments representatives that the permanent financing they were seeking would come through in time to pay off his loan?

A. I am sure that BDV did give Mr. Tarapaski assurances that they were trying to pay back his loan on time.

Q. Ma'am, let's mark Exhibit 27.

(Exhibit 27 marked.)

Q. Ma'am, this is a document from Lake Bank NA, attention: Jan Wallace, fax (480) 994-0288.

Do you recall if you received this document on or about March 12, 2003?

A. I don't recall the date. I recall the document.

Q. And did you receive it?

A. Yes. I don't know if I received it then, if I got a copy later, I don't know, but I recall the document.

Q. And it is headed "Collateral Transfer to Thomas and Wong, General Contractor. Please be advised upon the receipt of wired funds The Lake Bank will assign the following collateral to Thomas and Wong, General Contractor a second mortgage on Mr." -- it says "Beadmore's Arizona home. The home is appraised at $2 million with a first mortgage of" 999,000 -- "$999,997. Equity $1 million, a 1999 Mercedes, and a 2000 18-foot Mystic ski boat with a shore station and lift total value of $50,000. A 22 percent interest in Founders Mezzanine stock fund estimated value $150,000, dividends in 2002 of $7,000, Superior Financial Holdings, Inc. stock value $200,000. We understand the $500,000 wire will be transferred today."

Had there been an agreement that you were familiar with that this collateral would be provided to Thomas and Wong, General Contractor?

A. If you recall my prior testimony, the date that we were in Gary Blume's office discussing the first tranche of money that was supposed to be secured against the office building, I stated that there was lots of other security documents that were supposed to come across. These are all parts of those other things that were supposed to come across, and Mr. Tarapaski did not want his money to go until he saw the rest of those documents.

Q. And is that in fact what occurred? He got the rest of those documents, the stock certificates, the mortgage documents that are described here, before the money was wire transferred?

A. Mr. Tarapaski I believe was now overseas, or he was someplace else, because Mr. Tarapaski, before the 500,000 would leave, asked that Lake Bank send over a document of the list of things that he was supposed to get additional. All I did was have them send over the list of things that he was supposed to have. That's why I received the piece of paper.

Q. Exhibit 28.

(Exhibit 28 marked.)

Q. Do you recognize this as a document that Ed Tarapaski signed on March 12, 2003 -- let me reframe that question.

Do you recognize this as a document dated March 12, 2003, signed by Ed Tarapaski, that gave you authority to release funds from the trust account at Cane & Company in Las Vegas?

A. I recognize everything that it says on the paper.

Q. Did you agree to do that, to be responsible for authorizing the release of trust funds?

A. I think you're reading this document improperly.

Q. And how is that wrong?

A. If you take a look at it, it says, "Michael Cane, Cane & Company, 2300 West Sahara Boulevard, Las Vegas, Nevada." Cane & Company wanted to see a document that says that if Ed Tarapaski told me to wire the money, they had a piece of paper that Ed Tarapaski said so.

Q. Right.

A. It didn't give me authority to do it. This document was to answer what came and was required for the trust account.

Q. Ma'am, let's mark Exhibit 29.

(Exhibit 29 marked.)

Q. This is a fax from Susan Johnson, Cane O'Neill Taylor, LLC, in Las Vegas, to you --

A. Uh-huh.

Q. -- dated March 13, 2003, attention Jan Wallace. Did you receive that document?

A. I guess so.

Q. And ma'am, this was transmitted, according to the telefax header, on March 13, 2003, the date that it is dated.

A. Uh-huh.

Q. Do you have any reason to think that's inaccurate?

A. I don't know.

Q. The letter that we looked at before, Exhibit 28, was dated March 12, 2003.

A. Yes.

Q. Was that document, Exhibit 28, drafted by the Cane, O'Neill and Taylor, LLC?

A. Which one are you asking was drafted by what?

Q. Exhibit 28, was that drafted --

A. That's this?

Q. Yes. Was Exhibit 28 drafted by the lawyers in Las Vegas at Cane O'Neill Taylor or their employees?

A. I don't know.

Q. There is a release form referred to here. Do you know what that's referring to, the -- I'm referring to Exhibit 29. "Jan: Following is the release form that you need to sign and return to me. Thanks for saving my hide."

Do you know what that's talking about?

A. Well, first of all, they were my SEC attorney for three companies. That's number one. Susan Johnson is the assistant to Kyleen Cane for foreign documents on the filings of SEC documentation. The fax number that's listed on this piece of paper refers to 310-201-02 (sic).

It has nothing to do with what they sent to Le Vanishe. This document could be a cover sheet for anything at any time that Susan Johnson in the multiple documents I get from Cane Clark. I have no reason to believe that they could have been, would have been. Maybe they were. I have no idea.

Q. Do you have any recollection as to what Exhibit 29 represents?

A. Could be anything.

Q. Ma'am, do you recall that the representatives of Cane, O'Neill and Taylor called you and said, Funds had been released from the trust account, but we didn't have a written authority. Would you please provide an authority to cover us?

A. No.

Q. You don't know what she says is "Thanks for saving my hide" refers to?

A. I think I have said this already. I have no idea in the multiple documents that Susan Johnson of Cane Clark, while I'm still president of a public company and the fax numbers don't correlate, I have no idea what this document refers to.

MS. AMBROSIO: I'm going to object if you're going to continue on this line of questioning. It seems clear from the witness's testimony that since there is no re as to a specific matter on this fax sheet --

MR. MURPHY: In this jurisdiction objections are limited to form, and speaking or coaching objections are not allowed. And I will just move on.

Q. Exhibit 30, please.

(Exhibit 30 marked.)

Q. This appears to be a memo signed by you to Cane O'Neill Taylor, LLC, date of March 12, 2003.

Is that your signature?

A. Yes.

Q. And that said, "Please use this as your letter" -- strike that.

"Please use this letter as your authorization to wire transfer $500,000 from Cane O'Neill Taylor's client trust account to the following account," and then there is an account listed for the Lake Bank.

Did you in fact give that authorization?

A. I know it was sent over to them.

Q. Before you sent that did you have express communication with Ed Tarapaski where you asked if you could release that $500,000?

A. Every time I had to ask Ed Tarapaski.

Q. You had the authority -- strike that.

Ed Tarapaski had given you in writing authority to withdraw funds from that account. Is that correct so far?

A. I had at no time carte blanche to do anything I wanted in that trust account. Every time money had to move, Ed Tarapaski would either fax or by phone I would talk to him. I had to tell him what it was needed for, see if something was going on. He always wanted an update, and before I even sent a letter of authorization to move any monies, I'm supposed to talk to Ed.

Q. Did you talk to him before you sent the 500,000 -- strike that.

Did you talk to him before you authorized the release of the $500,000 on March 12, 2003?

A. I would tell you it would be my practice. I would also tell you I don't recall exactly how I talked to Ed. However, I think because I kept my journal and Ed was overseas, I have phone numbers that I was supposed to contact him in. So ...

Q. Do you have an actual recollection of such a telephone conversation regarding this $500,000 wire transfer?

A. I just said to you, I don't actually recall whether it was by fax, e-mail, a phone call, but I know that before I would ask or send a letter for the monies and hence, if you take a look at it, that's why Cane O'Neill Taylor wanted to see Ed telling them that I had the authorization to do it. They were not comfortable doing it just on my say-so.

Q. I show you Exhibit 31.

(Exhibit 31 marked.)

Q. This appears to be a memo to Cane O'Neill Taylor from you dated March 21, 2003, bearing your signature.

Is that your signature and date in your handwriting at the bottom?

A. Yes.

Q. And there is a struck-out line at the bottom that said, when it was typed, "I further authorize Cane O'Neill Taylor to use the remaining $4,960 as payment towards legal fees incurred." That is stricken out and there is an initial. Is that your initial?

A. Yes.

Q. Did you in fact transmit this to Cane O'Neill Taylor?

A. Yes.

Q. Now, I asked you before -- this reads as follows: "This letter will authorize Cane O'Neill Taylor, LLC to make a wire transfer in the amount of $20,000 from money being held in its trust account to Thomas Wong at the following account: Wells Fargo Bank, ABA#," and it continues there, "Account name: L Trust."

I will ask you. I believe you said before you don't know who L Trust is?

A. Well, I know now.

Q. What is it now? What do you know now?

A. It was the family or the family trust that controlled the office condominium building that was mentioned in the Promissory Note.

Q. On March 21, 2003, did you know that?

A. I saw the Promissory Note, and yeah, I would know who L -- I know L Trust was the people that signed the document for the Promissory Note. Yes, I knew that then.

Q. Was L Trust obligated to repay money under the Promissory Note -- let me withdraw that and get to the note itself.

I want you to take a look at Exhibit 3.

MS. AMBROSIO: Which exhibit are we on?

MR. MURPHY: Exhibit 3.

Q. Do you have that in front of you, ma'am?

A. Yes.

Q. Exhibit 3?

A. Yes.

Q. I say that because that doesn't look like Exhibit 3. I beg your pardon. It's off to your side.

Who were the parties to the Promissory Note?

Who was the party that made the promise to repay the $275,000 listed in that document?

A. BDV Investments.

Q. And L Trust it recites was signing off on that -- oh, I'm going to have to unbury my copy to quote it accurately.

A. Do you want this one?

Q. If that would be simpler, sure.

A. Sure.

Q. It reads, at the bottom of the first paragraph: "By signing this Note, L Trust, LLC, a Minnesota limited liability corporation, consents to a complete transfer of their interest in the same real property to Thomas and Wong in the event of default." And then it goes on to identify the 660 North Second Street property.

A. Yes.

Q. Did this document as you understood it obligate L Trust to repay anything?

A. No.

Q. Why were you sending $20,000 to L Trust in Exhibit 31 or authorizing the release of $20,000?

A. I have no idea.

Q. Before you authorized the release of that money to L Trust, did you discuss that with Ed Tarapaski?

A. I just stated, every time money had to move from that account, I discussed with Ed Tarapaski what it was about.

Q. Do you have an express or explicit recollection of such a discussion regarding the March 21, 2003, authorization with regard to L Trust?

A. Again, I don't recall exactly when. I don't recall if it was with lots of other things that we talked about. I know that there was maybe at best three transactions out of that trust account, and every time that money was to move, Ed Tarapaski knew about it, period.

Q. You say sometimes he sent you a fax?

A. Ed Tarapaski, depending on where he was, whether it be Cambodia or Vietnam or Korea or Canada, wherever he was, Ed Tarapaski would either give me a telephone number overseas or he would send a fax or he would send an e-mail or he would phone. Whatever it was, he found some way to communicate. That was it.

Q. Now, do you have in your records any such telefax or written document from Ed Tarapaski giving you authority to transfer funds from that account?

A. Ed Tarapaski came to my home and asked me to box up every single thing, every paper that ever transacted and give it to him. I did exactly that.

Q. When was that?

A. I don't recall. More than a year ago.

Q. This litigation has been pending more than a year. Was it after this suit was filed?

A. No. It was before the suit was filed.

Q. And I believe the litigation was filed in 2005. Do you believe it was in 2005?

A. It could have been. It was before the suit was filed.

Q. Were you given a receipt or anything to document that those files were taken?

A. No.

Q. Ma'am, according to the Promissory Note, the debt to Thomas and Wong, General Contractor came to you in early May of 2003. Was that your understanding?

A. It was sometime in May I recall.

Q. You were a member of the board of directors of BDV Investments at that time; is that correct?

A. I don't know if I told John and Billy that I didn't want any -- to be any part of it because I did not like it -- at the point where they had told Ed that they would pay him back and when they couldn't pay him back, I wasn't happy with that.

Q. As a member of the board of directors, were you given any explanation as to why he wasn't being repaid?

A. There was lots of explanation. Ed was also part of all of that information.

Q. What explanation was given to you as a director as to why he wasn't repaid?

A. The one I remember the most was that they had one or two or a few people that were ready to give a loan that would repay Ed's loan, but everybody wanted security of the collateral. And before they would do the loan, they wanted them to melt a portion of the dore to secure the monies and that they needed to have Wark or Nooe or Dulce Vida, that they had to approve for the melt. And everybody was chasing them down to do that. And at one point they said they would, and they wanted documents, and we chased them down, and then finally they said, no, they won't do any melt.

Q. Ma'am, after the debt came due, did you have a telephone conversation with Ed Tarapaski where you told him that ore had been melted in Salt Lake, the funds had been routed offshore, but were then deposited in a Florida bank, and that you had been in touch with the Florida bank president to confirm the receipt of those funds?

A. No.

Q. Did you have a conversation with Ed Tarapaski where you told him that ore had been melted in Salt Lake City?

A. I had a conversation with Ed Tarapaski, and I told him that Billy Cortegiano had made a deal and that Billy was in a truck, and he was taking it over to a refinery, and that Billy had told me that they are melting it; and I told him that.

Q. Did you tell Ed Tarapaski that funds realized as a result of a melt had been deposited in a Florida bank?

A. No.

Q. Did you tell him that you had spoken with the bank president who had confirmed the receipt of those funds?

A. No.

Q. Did you subsequently tell him that there had been no melt?

A. I subsequently told him that when I kept asking Billy what happened from the melt, that Billy finally said that they couldn't get the melt done.

Q. Did he explain why?

A. I'm sure Billy told me a lot of things. Do I recall all of them? No.

Q. Do you remember anything that he told you?

A. It had a lot to do with something with the refinery, who owned the gold, Clark Griffith was trying to get a release, they wanted to make sure that BDV was the owner. A million things.

Q. Now, describe -- let me mark another document. This would be Exhibit 32.

(Exhibit 32 marked.)

Q. Is this your handwriting, ma'am?

A. Yes.

Q. Who is Charlene?

A. Ed Tarapaski's liaison for his funds in Vancouver, Canada.

Q. This involved -- the text reads: "Dear Charlene, Edward is wiring 300,000 U.S. dollars to the above bank. He wanted me to send the instructions to you so that the wire can be posted on Monday, the 31st. It is really imperative that the funds be posted on Monday, March 31, 2003. Please call me if you need to speak to me. Thank you for your help, Jan Wallace."

A. I'm sorry. I didn't read that. I don't -- I'm trying to follow where you read that.

Q. Just the handwritten text at the lower half of the page.

A. What I read is: "Edward is wiring 300,000 U.S.D. to the above bank. He wanted me to send the instructions to you so that the wire can be posted on Monday, the 31st." It does not say March 31st. You said March 31st.

Q. Thank you for the correction. Please continue reading it.

A. "It is really imperative that the funds be posted on Monday, March 31st, 2003. Please call if you need to speak to me. Thank you for your help, Jan Wallace."

Q. Do you have a recollection as to why it was imperative that those funds be posted by Monday --

A. No.

Q. -- March 31st, 2003?

A. No.

Q. Who told you that it was imperative?

A. The document speaks for itself. This is Ed Tarapaski's person. I am sure that Mr. Tarapaski and Charlene have more information about their own conversations.

Q. Mark Exhibit 33.

(Exhibit 33 marked.)

Q. This is a page of handwritten notes. They are not dated, stamped number TW 00719.

Is that your handwriting?

A. It looks like mine, yes.

Q. Do you recall the circumstances under which you wrote this down?

A. I will finish reading it, but it looks like what I just told you.

Thomas and Wong ...

(Pause.)

Yes.

Q. What were the circumstances that led you drafting this document?

A. Exactly what I just told you previously. When they couldn't -- when Ed did not get his money, it was decided that we were going to take the barrel and we were going to melt the gold, being BDV. BDV stated, according to what they told everyone, is that they felt that they had the right to that gold, but that Ed Tarapaski, because it was collateralized in his agreement, had to give them approval to go and melt the gold.

Q. Was this transmitted to anyone in typewritten form? In handwritten form?

A. I don't recall.

MR. MURPHY: Excuse me. I need to take a short break.

(Recess taken at 3:34; resumed at 3:46 p.m.)

(Exhibit 34 marked.)

Q. Ma'am, I will show you what's been marked as Exhibit 34. That is an unsigned copy of a document.

Did you prepare this?

A. No.

Q. Do you know who did?

A. No.
Q. Have you ever seen it before?
A. No.
Q. We had this from the files maintained by Gary Blume. Did you resign from the board of BDV Investments on or about September 5 of 2003?
A. Earlier than that.
Q. When was it?
A. I had told you in prior testimony that when the whole instance came that they weren't paying, couldn't pay Ed back, I didn't like it, and I called John and Billy, and I said, Whatever you guys got to do, you've got to pay the guy his money, and I don't want to be on this board. I told them, and I continued to tell them.
Q. Can you be more specific as to when that occurred?
A. Around the time that they didn't pay, couldn't pay Ed his money.
Q. The debt was due on I believe May 5 of 2003?
A. Yeah, around that time.
Q. Did you submit any written document to BDV Investments to reflect your resignation from the board?
A. I'm sure I sent an e-mail someplace.
Q. And do you have copies of that e-mail or would you have the hard drive that has that e-mail?

A. No.

Q. What computer were you using?

A. I don't know, but I have a brand-new one, just about seven months ago.

Q. Ma'am, the text of this document, you say you don't even know who created this document?

A. No.

Q. The second sentence reads: "My decision to resign is based upon the potentially conflicting interests between BDV and Thomas and Wong as I am listed as a board member of BDV and a representative of Thomas and Wong." Ending my quote.

Do you think that's an inaccurate statement?

A. Absolutely.

Q. How is it wrong?

A. I wasn't a representative of Thomas and Wong.

Q. And had you been a representative of Thomas and Wong in any capacity in the course related to this transaction where money was loaned by Thomas and Wong, General Contractor?

A. No.

Q. It continues: "Further, as we progress with transactions potentially involving that I am a principal of or facilitator of financing to BDV, it is apparent that my involvement as a board member may not be appropriate."

Ending my quote.

Did you have any discussions with anyone at BDV about being a facilitator of financing or trying to arrange financing for them?

A. I represent nothing that you're reading from that document.

Q. Whether this document is accurate or not, did you have any conversations with representatives of BDV in that regard?

A. If this document says September 5th of 2003, the relationship between all parties was extremely soured. By September of 2003, I wouldn't have raised those guys a nickel.

Q. Let me mark Exhibit 35 and 36.

(Exhibits 35 and 36 marked.)

Q. Exhibit 35 is labeled Bill of Exchange, date of January 6, 2004. Exhibit 36 is escrow letter and instructions, Cane & Associates, January 30, 2004.

And ma'am, do you have an understanding of these documents, what they represent?

A. I have an understanding.

Q. Describe your understanding of what this transaction involved?

A. My limited understanding is that Mr. Tarapaski and a Mr. Richard Kirby had decided that they would do some kind of a deal where if Ed transferred his legal position that was granted by the court in Arizona, if he gave Mr. Kirby somehow the right to his legal position that was granted in Arizona, that Mr. Kirby was going to pay Mr. Tarapaski X amount of dollars for that, and Mr. Tarapaski would then be out of this whole headache with BDV.

Q. Do you recall the amount of the payment that was supposed to come with Richard Kirby?

A. I just recall it was millions.

Q. Did you have conversations with Ed Tarapaski about whether he should enter into this transaction?

A. Ed Tarapaski actually told me about the deal. I actually did not like Mr. Richard Kirby because he screamed at me the first time I ever met him. So Ed apparently had been dealing with him, and Ed came and told me that Mr. Kirby would like to enter into this kind of an agreement. Again, Ed asked me if I knew of an attorney that can draft up all of the documents to make that deal happen.

Q. And who did you recommend him to?

A. I recommended Cane Clark, and I think Richard -- I don't -- I was on the outskirts of this deal. I saw paper go back and forth, and I think Richard Kirby called me a few times, but basically, I think if you look at all this stuff here that says wit A, B, C, E, all of those I believe were the injunctive orders and everything that the courts had granted to Mr. Tarapaski, and I think that was the asset or something that Mr. Kirby wanted and he would give some money. It was basically their deal.

Q. Did you ever take a position on whether he should or should not enter into this transaction?

A. No. I -- no. I thought anything that Mr. Tarapaski did to get his money was okay by me. A man should have his money.

Q. Ed Tarapaski had a girlfriend in January of 2004 named Sung Ran Yoo, S-U-N-G R-A-N Y-O-O. Are you familiar with her?

A. I remember meeting a very nice girl, but I don't remember her name.

Q. Did she and Ed stay in your guesthouse for a period of time?

A. If it was the one I'm thinking about, Ed had a female friend. I thought at one point there was two, but I remember a girl in a guesthouse, yes.

Q. And was that Sung Ran Yoo?

A. I honestly don't remember her name.

Q. Did you ever have an occasion where you told Ed that if he did not enter into the Bill of Exchange with Richard Kirby, he and his girlfriend would have to move out of your guesthouse?

A. Oh, no. No.

Q. Now, eventually Ed sold the home -- I want to make clear. You're saying that emphatically from what I gather?

A. Yes.

Q. Did you ever talk to anyone at Cane & Associates about this transaction?

A. Yes. Ed had asked me once again if I would do him a favor and have the paperwork go back and forth. And I said, Okay. I will receive the paper. And I said, Ed, why am I doing this? I'm busy with other things. And he said, Well, what do you want?

And there was some discussions, and I said, You know what, Ed? If you're going to get this settlement, I think if you're asking me to do this, to somehow just oversee it for you as a favor, if it happens, I think you should pay me a commission.

Q. And how much was that commission?

A. I don't know. It was a percent of something.

Q. A percent of the total that Mr. Kirby was going to pay for --

A. Right.

Q. -- the judgment I gather?

A. Right.

Q. And was that ever documented in any fashion?

A. I'm not sure. Maybe. I don't know.

Q. Who prepared the documentation?

A. I don't know.

Q. Do you know of any document that would identify the percentage of the commission or the dollar value of it?

A. I don't recall. I know it was some sort of percent or -- I don't know. It was a long time ago.

Q. Did he agree that if Mr. Kirby paid him that money, he would pay you the commission?

A. Yeah, I think he said he would do that.

Q. Mr. Kirby made a demand that he be given $5,000 at about this time in conjunction with this transaction; is that correct?

A. I don't recall.

Q. Did you have an argument with Ed about who would fund that money? Let me withdraw this.

Did Ed ask you to make that payment to Richard Kirby?

A. I don't recall that at all.

Q. Did you become angry with him about any payment that he asked you to make to Richard Kirby?

A. At that point I was getting angry with Ed for a lot of payments that I had put out on his behalf.

Q. What specifically?

A. Telephone -- the cell phone was mine, and he used it, and he was in my guesthouse off and on for months. I got him -- I picked him up and drove him to the airport. I gave him one of my cars every time he had to go to Lordsburg. I went shopping at a store called At Ease. I bought some sweaters for him. I ran up all kinds of bills, including the legal bill to Mr. Blume.

Q. Now, Ed -- there was a house in the 5200 block of Solano Drive in Phoenix that eventually was sold and proceeds were paid to Thomas and Wong, General Contractor; correct?

A. Yes.

Q. Did you receive a portion of that money?

A. No, I didn't receive any of that money.

Q. Did you play a role in that transaction?

A. Yes. For weeks I went to a rat infested house. All the plants were dead. The house was smelly. It was disgusting. I spent days cleaning that house, turning on the water, watering the grass that had gone dead, hired people to come and clean and get up in the rafters, fix things that were broken, tried to make sure every day that I went by, because I heard that Billy Cortegiano was breaking into the house, and I went up there to make sure it was safe. The real estate agent and I moved furniture around so that the house was viewable. I did a lot of things at that house.

Q. Let me mark Exhibit 37.

(Exhibit 37 marked.)

Q. Do you recognize this as an e-mail that you sent to Ed Tarapaski dated May 18, 2004? I should mention there is a series of e-mails. That would be the top e-mail on the page.

A. Which paragraph are you asking about?

Q. The very top.

A. Where it says, "Ed"?

Q. Yes.

A. (Pause.)

Yes.

Q. And the text reads, "Ed, I went to pick up the title at Gary's because the attorney at the bank said he was sending it. Then he didn't do it. He is now making Gary draft a document and wants me as a board member to sign some document representing BDV. I keep getting buried deeper and deeper. The attorneys for the bank are being cautious because Clark is trying to disrupt the action, but it is not working for Clark. The attorney is still working with Gary right up to today." And I will end my quote, although the text continues.

Did that title refer to getting the title transferred for the Solano Drive property into Thomas and Wong, General Contractor?

A. I don't absolutely know.

Q. Pardon me?

A. I don't absolutely know if that's the reference. I would assume, but I don't actually know.

Q. The transaction closed in mid-June of 2004, about a month after this e-mail; correct?

A. If I remember.

Q. And is it your -- to the best of your knowledge, is that what this refers to?

A. It's reasonable that that's what it may refer to.

Q. Did you ever sign a document as a board member of BDV to help transfer the title?

A. If you take a look at the date, May 18th, in prior testimony I told you I had already told John Beardmore and Billy that I was extremely unhappy and didn't want to be a board member anymore. At that point I was not comfortable signing anything, and I didn't feel, after I told them that I was no longer a director of BDV. Whatever formally happened, I don't recall. And I don't have any more of my paperwork because I handed it over.

Q. Your reference was "and wants me as a board member to sign some document representing BDV."

Your testimony is, though, that you were not then a board member?

A. In my mind I was not a board member because I told those guys I didn't want to do it anymore.

Q. You say in your mind, but can you attest to any specific conduct that you had undertaken up to that date, May 18, 2004, to resign as a director of the corporation?

A. In my prior testimony I stated to you that around the time that they didn't repay Mr. Tarapaski the money, I told them, and there were probably e-mails that I sent off telling them I wish no longer to be on the board of directors of BDV.

Q. Now, I will next mark exhibit -- I guess this would be 38, Exhibit 38.

(Exhibit 38 marked.)

Q. This is an e-mail appears to be from someone named Char --

A. Char.

Q. -- Char, date of June 19, 2004, to Ed Tarapaski. "Hi Eddie, Jan has the money ($4,500), the buyer gave it to her in cash. I am not allowed to touch money in a transaction at all, so when he gave it to her, she told me she would get with you. Let me know if you need me to do anything." Ending my quote.

Who was Char?

A. The real estate agent.

Q. Did you receive $4,500 from the buyer of the Solano Drive property?

A. Yes, I did.

Q. What did you do with that money?

A. I called Mr. Ed Tarapaski, told him that we took all the furniture and tried to sell some of the furniture, and Mr. Tarapaski said that in his view the furniture was all his, so any proceeds we get from the furniture, that he is supposed to have that money.

I said, Ed, the guy just gave me $4,500 in cash, but I am going to keep it. And he said, Why are you going to keep it? And I said, Because I have run up a lot of bills that I have been paying on your behalf, and I did it as a friend for a very long time, but I want to have payment.

Ed said to me -- he got upset and he said, Why didn't you tell me that? You could have put it in the escrow. And you could have been paid out of the escrow.

I said, Ed, seeing that this transaction is so important and I needed to get it done and Char needed to get it done, it was in your best interest to just close it and not muddy up the works with more instructions.

Ed said, Well, I will tell you what. I have to come to town. I need the $4,500.

I said, Well, Ed, I'm keeping the money. He came into town, and he asked me where the cash was. I said, I told you, the cash is in the bank. I'm keeping the money. He got very upset and said, I need that cash. He was having a cosmetic procedure, and he wanted to pay with the cash. It has been a bone of contention between us, like many other things since then.

Q. What was the source of the cash?

A. Inside of John Beardmore's house on Solano when he and his wife Catherine were fighting, it was a nasty situation. She was showing up and pulling furnishings out of the house. Billy Cortegiano was hanging out and trying to make sure that John's stuff wasn't taken out of the house. Char and I are trying to sell the house. So we took every piece of furniture, given all these things going on, and we loaded them in the garage. Ed knew about the furniture. We said it should just be sold off. Ed said according to him everything that's inside of the house is his. As a matter of fact, there was a white grand piano that Ed knew about, got very angry when we told him it wasn't there and said, Who got the grand piano? I said, I don't know. I think his wife took it out of here.

We told him about the furniture and suggested that it should be a sell-off. Ed believed that the personal effects inside of the house also belonged to him, and he demanded any proceeds from it. The only proceeds that came out of it was the $4,500. The buyer said, Oh, well, I will buy some of this crap.

Q. When you made that deal with the buyer, had you told Ed that you were going to keep any money that came off of that transaction?

A. When the buyer gave me the money, Ed Tarapaski wasn't in the country. Anytime I needed to get ahold of Ed Tarapaski I wasn't on the same time zone. So when I got the money, it would be not until later that I told Ed, I'm keeping the money.

Q. And how did Ed find out about the $4,500?

A. There was discussion once again that we had told Ed that there was furniture in the house and that there could be a sell-off of the furniture. Ed felt -- we didn't know if he had legal rights to the personal possessions. So we weren't going to make that call. Ed said that as far as he is concerned, he felt that all of the contents of the house belonged to him. So if there was any proceeds from the sale of those furnishings, they were his.

The buyer came to the house, was in the garage, looked at the stuff. Char said, I can't be involved with this, which she is absolutely correct. It was not part of escrow. And the guy said to me, What do you think they would want for this? I said, I don't know. Here is a number, and he negotiated, and he gave $4,500 in cash.

Q. And that reimbursed his use of the guesthouse. That's correct so far?

A. No. It didn't reimburse all of the payments, not at all.

Q. Well --

A. But it did go towards some of the outstanding bills I incurred.

Q. And those were the legal bill of $600 that you described?

A. I'm sorry. I don't know where you got $600 from. I said it went towards some of the legal bills that I incurred on his behalf doing him a favor. It incurred things like going up and getting the water turned on. Char paid part of that bill. I paid my gardener, Fonzy, to go ahead and clean the whole property, and I picked up that cost. It paid for the cell phone bills where every time he came here to this state he used my cell phone and he used it at his own discretion. I paid those bills. He never paid for rent, room, board, electricity, water, anything. It was all done as a favor. When he wanted to go to the airport, when he needed a car, it was my car. When the tires got ruined on the car, he went and bought some, and he told me that the tires were shot out or exploded or something like that. I eventually had to get rid of that car because it was ruined. I would like to give you a laundry list, but I can't think of them all. But the $4,500 in cash certainly did not cover my costs.

MR. MURPHY: Nothing further.

MS. AMBROSIO: Can we put on the record that we have made an accommodation today regarding the --

MR. MURPHY: Yes. The issue that we discussed was we accepted service today of an injunction against harassment. It's been agreed that Ed's attendance at this deposition does not represent any waiver of rights with regard to that. Anything else need to be said?

MS. AMBROSIO: No. That's fine.

MR. TARAPASKI: Excuse me. What does that say?

MR. MURPHY: That there is no waiver of rights with regard to -- that they have consented to us all gathering here today for this proceeding. There is no waiver of rights under this injunction by the fact that you're in the same room.

MR. TARAPASKI: Well, for one --

MR. MURPHY: Please don't speak. We can talk, and I will make a record if we need to. Does that make sense?

MR. TARAPASKI: Yes.

MR. MURPHY: Okay.
MR. MOSKOWITZ: I just have a few questions.
MR. MURPHY: Fine.

EXAMINATION

BY MR. MOSKOWITZ:
Q. Jan, my name is Frank Moskowitz, and I represent Mr. Blume and his law firm.
I want to show you something that was discussed today, which is a March 14, 2003, invoice from Gary's firm to you, and I think you saw it earlier. Does that refresh your memory about the invoice I'm talking about?
A. Yes.
Q. It's Bates labeled BLU 07063. Do you see that?
A. Yes.
Q. Do you have any reason to believe that Gary did anything in connection with the deal that we have been talking about today after March 8th of 2003 and before May 14, 2003?
A. I'm sorry. Could you say that again?
MR. MOSKOWITZ: Can you read the question back?
(Record read.)
Q. If you look here, his last billing entry is March 8th on this deal.
A. Yes.

Q. And his next billing entry is May 14, 2003.
A. Okay. I understand now. No, I -- I don't believe that Gary had anything to do with the transaction from that time to that time. And like I said before, he was a scribe, and I paid the bill.
Q. And then is it your understanding that when Gary got back involved on May 14, 2003, that was after there had been a default and he was being asked to take action with regard to the default --
A. Yes.
Q. -- on the loan; is that correct?
A. Yes.
THE WITNESS: That's it?
MR. MOSKOWITZ: No.
MR. MURPHY: Nothing further.
MR. MOSKOWITZ: I'm not done.
MR. MURPHY: Oh, I beg your pardon. I thought you were.
Q. Jan, I will try and speak louder from down here.
A. Okay.
Q. After the default, which was in roughly May of 2003 -- are you with me on that time frame?
A. Yes.
Q. Do you remember any action that you or

Mr. Tarapaski took with regard to getting the loan repaid to Mr. Tarapaski or getting any collateral -- getting possession of any collateral for Mr. Tarapaski after --

A. After March 8 and before --

Q. No. Let me start over.

The time frame is -- the default was roughly in May of 2003; is that correct?

A. Yeah, 6th, sometime around there. Beginning of May sometime.

Q. Around May 6th, the beginning of May?

A. Somewhere around there, yeah.

Q. My question is, After that occurred, after the default occurred, did you take any action to try and obtain any collateral that was supposed to secure the loan after the default?

A. It's a hard question. After the default there were so many things we were trying to do to make Mr. Tarapaski whole. If it was securing more collateral, if it was trying to chase down any monies, there was just so much going on that I really can't specifically say if we did anything.

Q. Let me ask you this: After May 6 of 2003, did you ever make any trips to the warehouse in New Mexico after May 6th?

A. I'm trying to remember when we -- I think --

yeah, it would have -- I'm trying to recall. It would have had to have been after -- yeah, it would have had to have been after the default, I think, and we took a trip up to New Mexico, to Lordsburg.

Q. Were you granted access or not granted access to the warehouse?

A. I'm trying to remember. Billy Cortegiano and I -- I want to say there was -- I can't recall if Ed was there or not, but Billy Cortegiano and I went up there trying to get access to the warehouse.

Q. Is this before the order of the court, which is July 9th or 10th of 2003?

A. Yeah, I think that's when we figured out we had to get an order from the court because we were jumping a fence and going around, and everything was boarded up, locked up. It's the weirdest looking thing I ever saw. And we were trying to see if there was any open door or trying to get in, and we weren't getting in. And I cannot remember if the door or chain or something got cut. I don't recall, and I don't recall if it was that time that we walked in or if it was the time after we got the order. I just can't recall, but I know we made a visit, and then we had to -- the only way we could do it the right way was to go and get all the orders and all the legal ramifications handled.

Q. So sometime between May 6th of 2003 and July 9th or 10th of 2003, you recall at least that you and Mr. Cortegiano tried to get access to the warehouse in New Mexico?

A. Yes.

Q. Did you make any contact during that time frame with the owner of the warehouse?

A. Yeah. Okay. Billy and I were told that there was an attorney in town. We ended up meeting up at a library in Lordsburg, but we were supposed to find -- we were supposed to find -- BDV needed an attorney in New Mexico to represent their rights in the state. The first name that we were given was this guy; I want to say it was a Hispanic name.

And we drove to his offices in Lordsburg. He wasn't there, but we started conversations, and we went to the police department to ask if they knew about this attorney or how we can get ahold of him. And then we asked: Did they know anything about this warehouse.

They told us that Adair Merrill owned the warehouse. And I said, Oh, does he live here? And being a small town they said no, no. He lives out on the outskirts.

I can't remember if I then went back to the police station and asked the secretary or the girl that was Sheriff Hall's assistant, whatever she was, and she gave us an address. And Billy and I left, drove out and went to Adair Merrill's house. We went up to the farmhouse and his wife -- Adair Merrill was not there. His wife was there.

And we sat -- his wife was very ill, and we sat and talked to her, and she got her husband on the phone; and we said we want access to the warehouse. And he said, You're not getting access to anything. We don't know who you are. And he also said something about how much money he is owed. Something about it's rent, or we said, Well, who pays for the warehouse? Or it was our understanding that that was our warehouse, and he said, I don't give a damn what your understanding is. You're not getting in. People owe me money. And Billy and I were ushered out of the door. His wife was very sweet, but Adair Merrill was not so sweet on the phone.

Q. Did you or Billy Cortegiano or anyone else explain to Mr. -- what was his last name?

A. Merrill.

Q. Did you explain to him that there was a Promissory Note in which this gold that was supposedly in his warehouse was securing? Did you tell him that you had that?

A. I'm try- -- I know that we were telling him everything under the sun because he wasn't going for anything, nothing. And as a matter of fact, I think he would have put down the phone, but his wife was so nice that she said, You know, these people are really concerned and talk to them.

And I think we went through the whole story about apparently that there is containers that we own, and the company or a company, BDV owns or somebody owns something, and that we are supposed to have -- and he said he rents out that warehouse to train parts or something, big machinery.

I said, Well, I am told that we have a caged-off area, so can we just have access to where we pay a lease? And he said, No. You're not getting in at all. He said, I don't care what you ask me about.

And we went through -- I can't tell you I specifically know we talked just about that, but we talked about everything, and we told him everything.

Q. Did you relay this conversation on to Mr. Tarapaski at any time?

A. I -- and that's what I'm trying to remember. I'm trying to remember if Billy and I went there and then the next day Mr. Tarapaski came in or if it was the same time, but Mr. Tarapaski certainly knew about the meeting with Adair Merrill and the farmhouse.

Q. Were you present at any time in the discussion Mr. Tarapaski had with Mr. Merrill? Were you present for any of those discussions?

A. I'm trying to think of when I met Adair Merrill. I think Adair Merrill was this tall guy.

Q. But I'm just asking about any discussions you overheard that may have occurred between Mr. Tarapaski on the one hand and Mr. Merrill on the other. Were you present at any discussions?

A. I honestly can't recall.

Q. Did Mr. Merrill ever say to you the words of: Unless you show me a UCC-1 financing statement, I'm not giving you access to these records? Or did he -- let me strike the question.

A. That --

Q. Let me rephrase the question.

A. Yeah, because ...

Q. Do you recall if Mr. Merrill ever told you what he would require in order to give you access, whether it was a court order or something to that effect?

A. Mr. Merrill told us that he didn't care what court order or any paperwork or anything that we gave him. Until he got his money for the rent, he wasn't letting anybody in the warehouse. That I remember.

Q. Do you know if Mr. Tarapaski was present during any such conversation where that was related?

A. I don't recall Mr. Tarapaski inside of the farmhouse with Mrs. Merrill. I think it was just Billy and I.

Q. Now, after you and Billy heard what Mr. Merrill had to say about that -- this is between May 6th and June -- excuse me, July 9 or 10, 2003 --

A. Yes.

Q. -- did you call Mr. Tarapaski or otherwise communicate that to him so that he knew what this Mr. Merrill was saying?

A. He absolutely knew everything that was going on in Lordsburg. We told him everything that went on. I think we even told him the address of the farmhouse, and subsequently I think he went there himself. As a matter of fact, Ed was the one that told me that Sheriff Hall lived across the street from Adair Merrill.

Q. Do you know whose idea it was to have an insurance policy that's referenced in that first Promissory Note for 1.5 million? I know you weren't responsible. You're saying you weren't responsible. Do you know whose idea it was to put that language in there? If you know. Do you know whose idea it was?

A. Well, remember I told you at the first meeting John Beardmore was there, and I said there was -- in my

testimony I said there were lots of papers on the table?
Q. Uh-huh.
A. And that's the -- I'm pretty sure the DeConcini thing was there, and there were other documents. And that's where Gary was getting antsy, because we were -- he was being given all these documents and he is reading them and he goes, What does this mean?
Q. I just want to know, do you know whose idea it was to put --
A. What I'm saying is I think as a scribe, Gary Blume put everything they said to put --
Q. No, no. I'm just saying, was it Mr. Beardmore's? Was it Mr. Cortegiano's? Was it Mr. Tarapaski's? Was it yours? Do you know whose idea it was specifically?
A. Not specifically, but from the first day John Beardmore and Ed Tarapaski had all the documents, and I think Gary was just told to put everything inside the document.
Q. So do you have a recollection whether it was your idea?
A. I don't think it was my idea.
Q. You don't have a recollection whether it was Gary's idea? He was just writing it down; right?
A. I think Gary was just writing everything down

that they were giving him.

Q. So it was either Mr. Tarapaski's idea or Mr. Beardmore's idea?

A. Yeah. I can't remember if Clark Griffith was on the phone at one point.

Q. And he is the attorney for BDV?

A. Yeah.

Q. All right. And these meetings that are going on between Mr. Tarapaski and Mr. Beardmore at Gary Blume's office, was Gary sitting in those -- in the office in both of those meetings the whole time, or was Gary getting up, coming back in, getting up, coming back in?

A. No. Like I said, Gary was at the end; I was next to him. Ed and John I believe were across the way. And Gary, as he would -- they would get him documents, he would get up, and there would be, okay, well, let's do this. Gary would get up, go back into his office, leave the boardroom, go back to his office. He would write something up. He'd bring it back and he'd say, Well, here is something. What do you guys think? And then he would get up and go back if they wanted something else added.

Q. So is it fair to say the negotiations about the terms were going on and being handled between Mr. Tarapaski and Mr. Beardmore?

A. Absolutely.

Q. And Mr. Blume would then try and memorialize what those were, come back, and then it would change, and he would try and memorialize what they came up with the next time?

A. Whatever was going down at that meeting, Gary was thrown all this stuff, didn't like it, and as they told him what they want, I think at times Ed said something like: Do you think it's a good idea? Or what do you think we can do about this or that? And Gary was very uncomfortable and said -- I know Gary didn't like the deal.

Q. Can you look at Exhibit 20 real quick, please. Exhibit 20 is like a handwritten note. Sorry to go back over this. But there is a reference in there: "Judgment entered 1.96 million was put up to pay out." See that reference? "Judgment was entered 1.96 million was put up"?

A. Yeah.

Q. Do you know if that is a judgment that was entered against Mr. Beardmore?

A. Oh, that's that thing with that guy.

Q. Because here, Exhibit 18 today -- excuse me. Exhibit -- here we go. Exhibit 15 today was a Notice of Filing Foreign Judgment of $1.96 million that was entered against Mr. Beardmore. It was an August 19, '02, judgment totaling 1.9 million. Do you know if that's the same 1.9 million judgment you're referencing; do you know?

A. It could be.

Q. Do you remember explaining to Mr. Tarapaski that there was a judgment entered of 1.96 million entered against Mr. Beardmore prior to Mr. Tarapaski loaning the money to BDV?

A. That's easy -- like I said, I think this is the first day I met Casey Strunk and all of them, and I was just taking down notes of stuff, but I know that John Beardmore told Ed Tarapaski everything that was against him, against the bank, who it was with, because -- and I don't want to confuse, but I think that judgment had to do with some other business, and there was a guy that they were somewhat partners with, and he filed something and -- but --

Q. Your testimony is you recall that all being disclosed to Mr. Tarapaski before he loaned the money?

MR. MURPHY: Object to the form.

A. Ed was told all this stuff.

Q. Can you hand me the DeConcini letter over there.

I'm going to show you this DeConcini letter. Michael Urman authored it. It's TW 01183 through TW 01280.

Do you recall whether Mr. Tarapaski told you that he was relying on this letter when he decided to go ahead and loan the monies to BDV? Do you have a recollection of that?

A. Well, the document was the document that John Beardmore presented to everybody, that this document was somehow a document that you can rely on. It was well-done. The offer --

Q. Let me ask you this: Did Mr. Tarapaski tell you -- did you hear him say to you or to anyone else that he was relying on this document in making his decision to loan BDV the 1.5 million or whatever he ended up loaning? Do you have a recollection of that?

A. Specifically, and not with everything else he was relying on, I can't recall. I'm sure it mattered, but I can't recall that exact thing.

Q. Did you read this letter before the deal was put in place, the notes were signed?

A. The Saturday -- I think I read it the day before, I think.

Q. Did you see the representation in here that based solely on the lien searches that were done by DeConcini, as of the date of the lien searches, there were no UCC judgments or state or federal tax liens presently attaching to the security, which is the gold dore referenced on the first page of the letter?

A. Yes.

Q. Did you have any discussions with Mr. Tarapaski about that statement?

A. No, I don't specifically remember just discussing that statement.

Q. The last two questions I have: You referenced a meeting with John Ohle, O-H-L-Y (sic), or Ohle. John Ohle?

A. Oh, yeah, that guy, yeah.

Q. Gary wasn't at that meeting, was he?

A. I can't remember if it was that meeting or -- I know that Ed and I met with -- at the Phoenician in the restaurant in the Phoenician, and I think that was the first time I met John Ohle. I don't like him, but that was the first time I met him. And most of the conversation really had to do with Ed discussing things with them, and I was sitting there.

Q. But Gary wasn't there is my point.

A. No. Gary was not at the Phoenician.

Q. Okay. And then there is this reference to Exhibits 35 and 36, which have to do with some deal between Mr. Kirby and Mr. Tarapaski.

Mr. Blume was not in any way involved with that, was he?

A. No.

Q. Do you remember when Billy Cortegiano told you that there was going to be a melt and then told you there was not going to be a melt of this gold? Do you remember the time frame?

A. Like I said, after the default, there was so much scrambling going on, just trying to figure out how to pay the note, and I think there was lots of talks about melting the dore, but I can't remember if it was that Wark and Nooe had to agree to melt the dore or if it was prior to the judgment, and then after the judgment BDV was going to try to do anything it could to get hold of containers and just melt it. I can't recall exactly.

Q. Now, there eventually was a judgment of attachment issued by a court in New Mexico, I think it was July 9th or 10th of 2003, sending in the sheriff to go seize whatever was in there that matched the security for the note, whatever was in that warehouse. Do you remember that?

A. The six barrels, yeah.

Q. A writ of attachment was issued by a court in New Mexico on or about July 9th or 10th of 2003. Is that your recollection?

A. I recall being in the courthouse because it was my birthday.

Q. What's your birthday?
A. July 2nd, and we drove back and celebrated it.
Q. A writ of attachment was able to be issued from the court in New Mexico to have the sheriff go and seize whatever he could obtain from the warehouse in New Mexico; correct?
A. Yes.
Q. And that was done notwithstanding whether a UCC-1 had been filed or not; correct?
A. Correct.
Q. And BDV initially was doing everything they could to cooperate to allow that collateral to the extent it existed to be attached? They were in no way interfering up through July 10th, 2003; correct?
A. There was never a time that BDV did not try to do everything they could to make Ed Tarapaski whole.
Q. At no time did BDV say to you: Ed Tarapaski and Thomas and Wong have no right to any of this because there was no UCC-1 filed. Am I correct about that?
A. Never.
MR. MOSKOWITZ: I think we are done.

FURTHER EXAMINATION

BY MR. MURPHY:
Q. Ma'am, one follow-up question. If I could

borrow the marked exhibits.

MS. AMBROSIO: Can we go off the record a second?

MR. MURPHY: Sure.

(Discussion off the record.)

Q. Ma'am, I show you Exhibit 31. We looked at this before. March 21, 2003, a memo from you to the Cane O'Neill Taylor firm authorizing release of funds. And before I asked you about striking out the statement: "I further authorize Cane O'Neill Taylor to use the remaining $4,960 as payment toward legal fees incurred." And you struck that out. What happened to that money?

A. I'm not sure, but they had incurred costs sending these wires and producing papers, and they wanted to have their bill paid. And they put -- asked me to put this in.

When I spoke to Ed, Ed was only going to authorize the 20. So if Ed said it wasn't going, I struck it out.

Q. But did you ever authorize the -- is that money still sitting in a trust account?

A. I have no idea. I think that at one point -- ah, I think it was when -- you know the transaction -- that's it. The transaction with Richard Kirby and Ed Tarapaski, the other one that you showed me?

Q. Uh-huh.

A. I don't know what exhibit it was. It went back to Cane Clark, and Kyleen Cane did not want to do anything in that transaction because they had an outstanding bill because that never got authorized. And I think around that time that money got cleared up that they are to pay, and then Kyleen said that she would go ahead and do this Richard Kirby transaction.

Q. Okay. And we can subpoena those records and get the details.

A. Sure.

Q. You talked about the trip -- on examination by Frank, you talked about the trip you made to Lordsburg, New Mexico, with Bill Cortegiano to hire a lawyer for BDV. You talked to a Hispanic gentleman, whose name you don't recall, and that was in what month and what year?

A. Well, I would think that it was around May, after the default, maybe around that time. I can't remember. 2003 for sure. Wait. No. Maybe. I don't know. I really can't recall.

Q. Ma'am, you knew from your review of the DeConcini, McDonald document that BDV claimed an ownership interest in all of some $50 million of this gold dore; is that correct?

MR. MOSKOWITZ: Objection; form.

A. I know that BDV claimed they had a right to six barrels of dore that had an estimated value of X 50. The number went from 35 million to 55 million, whatever that was.

Q. Bill Cortegiano wasn't just interested in going to Lordsburg to get Ed Tarapaski paid. He was trying to protect the $50 million assets that BDV supposedly had in that warehouse. Was that your understanding?

MR. MOSKOWITZ: Objection; form, foundation.

A. I think you should ask Bill Cortegiano that.

Q. And you were still -- you were collaborating with Mr. Cortegiano on that time to get a lawyer hired for BDV. You were still acting on behalf of that corporation at that time, trying to assist its interests; correct?

A. No. No.

Q. Whose interests were you trying to protect?

A. I was there for my own interest. Ed Tarapaski I had assumed was a very good friend of mine. I didn't do all of those things like I described to you because I didn't like the man. I did those things because I liked him, and I went along and I told them, and I told Ed, that I will do anything that I can to help out.

Q. Now, ma'am, you were asked some questions about the meetings in Gary Blume's office between John Beardmore and Ed Tarapaski. Now, you said that they would talk and negotiate terms. Gary Blume would get up and leave the room, have something drafted, and come back in and show it to them?

A. He would draft up some things, yes.

Q. And that occurred during the first meeting that occurred in his office?

A. Yeah.

Q. So he was drafting at that time?

A. He was making -- yeah, he went to his computer and wrote up some things. If you take a look at his bill, the $400 was because he was actually trying to do something.

Q. Now, ma'am, didn't you show up on Saturday and have to wait for about an hour in his office while he finished the Promissory Note?

A. I don't recall how long I stayed there. I don't recall if the Promissory Note got finished. I don't recall if it was anything but a draft. I do recall that Gary went into his office a couple of times, and at one time I went with him.

Q. But it's your recollection that there were drafts created at the first meeting that took place in his office?

A. There was some kind of writings that Gary had printed up as some kind of sampling. He didn't know -- he was tossed all this stuff.

Q. Now, you say there was never a time that BDV did not cooperate to get Ed Tarapaski paid?

A. There was never a time that I had a conversation with John Beardmore or Billy Cortegiano, Clark Griffith, that they did not say: All we want to do is get Ed paid off.

Q. Ma'am, going to the documents that were marked included Exhibit 27, a memo of March 12 stating that: Upon receipt of the wired funds, the Lake Bank will assign the following collateral to Thomas and Wong, General Contractor, a second mortgage on Mr. Beardmore's Arizona home, a 1999 Mercedes, an 18-foot Mystic ski boat, a 22-percent interest in Founders Mezzanine stock, Superior Financial Holdings valued at $200,000.

A. Uh-huh.

Q. The bank certainly did not provide that collateral upon receipt of the $500,000, did it?

A. I don't know why you're asking me. I'm not the bank.

Q. Didn't you assist in trying to get that collateral assembled and delivered to Ed Tarapaski?

A. No.

Q. Are you aware that Gary Blume did?

MR. MOSKOWITZ: Objection; form, foundation.

A. In my prior testimony when you asked me about that document, I told you what it was. 500,000 of the 800,000 had to go to the Lake Bank. Ed Tarapaski in all the discussions about additional collaterals and so on and so forth wanted Lake Bank to put in writing something that said that they would turn those things over to have the 500,000 come in. That's all I did.

Q. And when the bank gave that collateral or if it ever did, you don't know?

A. I have no idea.

MR. MURPHY: Nothing further.

FURTHER EXAMINATION

BY MR. MOSKOWITZ:

Q. Just a couple questions.

To refresh your memory I'm going to show you a document --

A. You guys are killing me.

Q. It's Bates labeled EW 01422 through TW 01425. Can you identify that as a fee agreement that Mr. Tarapaski signed on or about July 9, 2003, retaining the law firm of Robinson and Lopez in New Mexico?

A. It looks like that, yes. I'm trying to recall if I was around for this one. I can't recall.

Q. And then do you recall ever seeing that there was a writ of execution issued by the court the next day in New Mexico, July 10, 2003, giving the sheriff the authority to obtain possession of the collateral that was supposedly in the warehouse?

A. I know that there were writs. Are you asking me was I there for this?

Q. No. Are you aware that that writ was issued?

A. Yeah, I know that there was a writ issued.

Q. And the writ was issued with the consent of BDV's attorney, Clark Griffith?

A. Oh, yeah. No, there was never a problem.

Q. And he didn't say, No, I'm not going to agree to this because you didn't file a UCC-1?

A. No.

Q. Do you recall if Mr. Robinson, Mr. J.C. Robinson, or Mr. Lopez was the attorney that you were looking for to meet with Mr. Cortegiano?

A. No, it wasn't them. It was another guy's name.

Q. Okay. And then last, the letter that Mr. Murphy just showed you from Lake Bank, that was sent to you on March 12, 2003; right -- not to Mr. Blume?

A. Correct.

Q. So Exhibit 27 was sent to you and not to Mr. Blume?

A. That's correct.

Q. And you have no knowledge as to whether or not Mr. Blume ever saw that on or about March 12th; correct?

A. I don't know.

MR. MOSKOWITZ: Thank you. Nothing further.

MR. MURPHY: I believe that does it. Thank you.

MS. AMBROSIO: Stipulation to read and sign. And I'm sorry, Frank. I'm going to ask you to put that stipulation on the record since I'm not totally familiar with Arizona.

MR. MOSKOWITZ: Just request to read and sign.

MS. AMBROSIO: Just to request it? Okay. We would just read and sign.

(Concluded at 4:49 p.m.)

SIGNATURE OF THE WITNESS

I, JAN MARY WALLACE, the witness in the above deposition, do hereby certify that I have read the foregoing deposition taken on June 19, 2007, and that the said deposition is a true and correct record of my testimony, with such corrections and changes, if necessary, attached.

JAN MARY WALLACE   Date

(IF THERE ARE NO CHANGES, WRITE "NONE" BELOW. PLEASE RETURN THIS PAGE TO BAMFORD REPORTING, 4105 N. 20TH STREET, SUITE 135, PHOENIX, AZ 85016 WITHIN 30 DAYS OF RECEIPT OF DEPOSITION TRANSCRIPT.)

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) ss.
COUNTY OF MARICOPA)

BE IT KNOWN that the foregoing deposition was taken before me, Cathy A. Miccolis, RPR, a Certified Reporter, Certificate #50068, for the State of Arizona, and by virtue thereof authorized to administer an oath; that the witness before testifying was duly sworn by me to testify to the whole truth; that the questions propounded to the witness and the answers of the witness thereto were taken down by me in shorthand and thereafter reduced to print by computer-aided transcription under my direction; that pursuant to request, notification was provided that the deposition is available for review and signature; that the foregoing 133 pages are a full, true and accurate transcript of all proceedings and testimony had and adduced upon the taking of said deposition, all done to the best of my skill and ability.

I FURTHER CERTIFY that I am in no way related to nor employed by any of the parties hereto nor am I in any way interested in the outcome hereof.

DATED at Phoenix, Arizona, this 29th day of June, 2007.

Cathy A. Miccolis, RPR, CRR
Certified Reporter #50068