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| <p>5</p> <p>1 EXHIBITS (Continued): 2 Exhibit 6 Analysis Business Checking, 3 Account 55-1531-0561, 4 National Heritage Foundation 5 Dec 1, 07 to Dec 31, 07 14 6 Exhibit 7 NHF Notes Received Schedule 7 for the Year Ended 12-31-2007 18 8 Exhibit 8 Investment Account Schedule 9 as of 12-31-07 25 10 Exhibit 9 Schedules Item 14 Note Payable 11 Summary and Interest Expense, 12 PNC Commercial Loan, 13 12-28-05 - 12-28-07 36 14 Exhibit 10 Schedules Item 14 Note Payable 15 Summary and Interest Expense, 16 PNC Line of Credit, 5-11-07 38 17 Exhibit 11 Real Property Schedule as of 18 12-31-07 77 19 Exhibit 12 Life Insurance Schedule as of 20 12-31-07 79 21 Exhibit 13 Partnerships Schedule as of 22 12-31-07 86 23 - - - 24 25</p> | <p>7</p> <p>1 THE VIDEOGRAPHER: Thank you. The court 2 reporter today is Rebecca Stonerock of LAD 3 Reporting. 4 Will the court reporter please swear in the 5 witness? 6 JULIA WELTMANN 7 having been duly sworn, testified as 8 follows: 9 EXAMINATION OF JULIA WELTMANN 10 BY MR. GARCIA: 11 Q State your name, please. 12 A Julia Weltmann. 13 Q Ms. Weltmann, with whom are you employed? 14 A National Heritage Foundation. 15 Q In what capacity? 16 A I am the financial analyst. 17 Q And how long have you held that position? 18 A Since May of 2005. 19 Q Okay. Now, you've been designated by 20 National Heritage Foundation to testify as their 21 corporate representative regarding several matters in 22 the deposition notice; is that correct? 23 A That is correct. 24 (Exhibit 1 referenced.) 25 BY MR. GARCIA:</p> |
| <p>6</p> <p>1 PROCEEDINGS 2 (Exhibit 1, Exhibit 2 and Exhibit 3 were 3 marked for identification and attached to the 4 deposition transcript.) 5 THE VIDEOGRAPHER: Here begins Videotape 6 Number 1 in the deposition of National Heritage 7 Foundation corporate representative Julia Weltmann 8 in the matter of Juan J. Mancillas, MD, et al. 9 versus National Heritage Foundation, Incorporated 10 in the District Court, 404th Judicial District, 11 Cameron, County, Texas, Case Number 12 C-2005-12-6163-G. 13 Today's date is January 8, 2009. The time 14 on the monitor is 8:58 a.m. The video operator 15 today is Rick Sanborn. This deposition is taking 16 place at the offices of LAD Reporting Company, 17 8484 Westpark Drive, McLean, Virginia. 18 Will counsel and others please identify 19 themselves and state whom they represent? 20 MR. GARCIA: Albert Garcia for the 21 plaintiffs. 22 MR. LEACH: Rex Leach for National Heritage 23 Foundation. 24 MR. HOUK: John Houk, National Heritage 25 Foundation.</p> | <p>8</p> <p>1 Q I just handed you Exhibit 1 to your 2 deposition -- 3 A Uh-huh. 4 Q -- which is a deposition notice with the 5 various areas of testimony. And you're here to 6 testify on all of those areas? 7 A Correct. 8 (Exhibit 2 referenced.) 9 BY MR. GARCIA: 10 Q Okay. Let's start off with the first one, 11 and that is the 2007 audit. Now, I have made a copy 12 to attach to the deposition -- 13 A Okay. 14 Q -- so I'll use your copy. I just need you 15 to confirm that that is -- Exhibit 2 here is a true 16 and correct copy of NHF's 2007 audit. So take 17 whatever time you need to go through it and confirm 18 that, please. 19 A (Complying.) Looks pretty -- let me just 20 make sure some of the numbers match up. 21 Q Sure. 22 A Look at one more and we should be good to 23 go. 24 Yeah, it seems to be the same. 25 Q Okay. So, then, Exhibit 2 is a true and</p> |

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| <p>9</p> <p>1 correct copy of NHF's 2007 audit?</p> <p>2 A Correct.</p> <p>3 Q Are you familiar with Form 990 that is</p> <p>4 filed with the IRS?</p> <p>5 A Yes.</p> <p>6 (Exhibit 3 referenced.)</p> <p>7 BY MR. GARCIA:</p> <p>8 Q I've attached as Exhibit 3 a copy of Form</p> <p>9 990. Can you confirm that that is a true and correct</p> <p>10 copy of the Form 990 that NHF filed with the IRS for</p> <p>11 2007?</p> <p>12 A Sure. (Complying.) These numbers are</p> <p>13 different than the numbers that I have.</p> <p>14 Q Okay.</p> <p>15 A So I don't know -- in page 2 you have 106,</p> <p>16 I have 189. I mean, there's a point missing here. So</p> <p>17 this is what I got from my auditors, so I don't know</p> <p>18 where you --</p> <p>19 Q Okay. Well, I got this off the website.</p> <p>20 But why don't we just attach your copy so that you're</p> <p>21 more comfortable.</p> <p>22 A Okay. Perfect.</p> <p>23 Q And I'm going to ask you -- we're going to</p> <p>24 mark your copy of Form 990 as Exhibit 4.</p> <p>25 A Okay.</p> | <p>11</p> <p>1 different reconciliation date.</p> <p>2 Q Okay. What about cash?</p> <p>3 A Cash we reconcile on a monthly basis.</p> <p>4 Q So if you wanted to, you could pull up the</p> <p>5 cash balances reconciled for at least through the end</p> <p>6 of December '08?</p> <p>7 A Yeah. The only problem with that is it</p> <p>8 doesn't give a clear picture because there's always --</p> <p>9 cash is changing every day.</p> <p>10 Q Sure.</p> <p>11 A There's outstanding checks that clear, that</p> <p>12 don't clear. You know what I mean? We reissue. So</p> <p>13 cash is a very, very hard thing to take a snapshot of</p> <p>14 because it's everchanging.</p> <p>15 Q Are you familiar with the financial</p> <p>16 condition of NHF as of the end of 2008?</p> <p>17 A At the end of 2008 not yet. We don't have</p> <p>18 all our reports in yet for December. So -- and the</p> <p>19 investment company hasn't sent us their, you know,</p> <p>20 concluding statements even yet.</p> <p>21 Q Let's go through the '07 audit. If you'd</p> <p>22 pull Exhibit 2 here.</p> <p>23 A Okay.</p> <p>24 Q Okay? At the end of December 31, '07 shows</p> <p>25 about \$2.4 million in cash and cash equivalents,</p> |
| <p>10</p> <p>1 Q And that's the one that I'm going to ask</p> <p>2 you about.</p> <p>3 A Okay.</p> <p>4 Q Okay? Is that fair?</p> <p>5 A That is fair.</p> <p>6 Q I'll put it right here on the bottom.</p> <p>7 (Exhibit 4 was marked for identification</p> <p>8 and attached to the deposition transcript.)</p> <p>9 BY MR. GARCIA:</p> <p>10 Q You can hold on to that.</p> <p>11 A Okay. Perfect.</p> <p>12 Q Now, did you bring any financial statements</p> <p>13 with you for NHF that are more current than the 2007</p> <p>14 audit?</p> <p>15 A Absolutely not. No.</p> <p>16 Q Are there any?</p> <p>17 A No.</p> <p>18 Q Okay. Do you have the capacity to generate</p> <p>19 financial statements -- not audited, but financial</p> <p>20 statements off of a computer system or something like</p> <p>21 that at NHF?</p> <p>22 A But it is -- it's unaudited and it has not</p> <p>23 been reconciled through any specific date.</p> <p>24 Q Okay. How often do you all reconcile?</p> <p>25 A Depends on what asset class it is there's a</p> | <p>12</p> <p>1 correct?</p> <p>2 A Correct.</p> <p>3 Q Can you explain what cash equivalents are?</p> <p>4 A Cash equivalent is what we use as any type</p> <p>5 of money market or what we use in a sweep account.</p> <p>6 Q Can you explain what a money market and a</p> <p>7 sweep account are?</p> <p>8 A A money market account is a financial</p> <p>9 instrument that we use to generate more income. A</p> <p>10 sweep account is similar to a savings account and it</p> <p>11 earns interest.</p> <p>12 Q Okay. Differentiate cash equivalents which</p> <p>13 are money market and sweep account versus just cash.</p> <p>14 A Cash is what sits in our checking account</p> <p>15 and is able to clear.</p> <p>16 Q Okay. So is it fair to say that the money</p> <p>17 designated as cash or cash equivalents is either in a</p> <p>18 checking account, a money market account or a sweep</p> <p>19 account?</p> <p>20 A Correct.</p> <p>21 Q Any other types of accounts that constitute</p> <p>22 cash or cash equivalents?</p> <p>23 A No.</p> <p>24 Q Okay. Let's talk about checking first.</p> <p>25 A Okay.</p> |

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| <p>13</p> <p>1 Q How many checking accounts does NHF have 2 today? 3 A Two. 4 Q Okay. And where are they? 5 A PNC. 6 Q PNC Bank? 7 A Correct. 8 Q Where? 9 A The -- you want the exact -- there's many 10 branches. We use many branches. We use a consortium 11 around the DC area. But what specific bank do we use? 12 I can give you the PO Box number that's on our 13 statement. 14 Q Sure. 15 A It is PO Box 609, Pittsburgh, Pennsylvania 16 15230-9738. 17 Q What are you reading from? 18 A The statements. 19 Q Can I see that? 20 MR. LEACH: Sure. 21 A Okay. Here are -- here we have a life 22 income account and we have a -- 23 Q You brought two statements from PNC Bank 24 for the two bank accounts? 25 A Yes. I did not bring the sweep accounts.</p> | <p>15</p> <p>1 A Correct. 2 Q Are those the only two checking accounts 3 that National Heritage Foundation has? 4 A Correct. 5 Q These statements are dated 12/31/07. Do 6 you receive statements every month? 7 A Yes. 8 Q So you do have -- 9 A I can -- 10 Q -- statements through '08? 11 A Yes. 12 Q Are there any other checking accounts? 13 A For the National Heritage Foundation, no. 14 Q Okay. Let's talk about money market 15 accounts. 16 A Yes. 17 Q How many money market accounts exist? 18 A Well, it's a sweep account. So basically 19 when we have over a certain amount of balance into our 20 National Heritage account it sweeps into a different 21 account and it's just invested in money markets that 22 earn interest, and then when we need the money in this 23 account it sweeps back in. Does that make sense? 24 Q No. 25 A Okay.</p> |
| <p>14</p> <p>1 MR. GARCIA: Rex, can I mark these as 2 exhibits? 3 MR. LEACH: Sure. 4 MR. GARCIA: I'm going to mark these as 5 5 and 6 and then hand them back to you. 6 A Sure. 7 (Exhibit 5 and Exhibit 6 were marked for 8 identification and attached to the deposition 9 transcript.) 10 BY MR. GARCIA: 11 Q Can you explain what Exhibit 5 is? 12 A Exhibit 5 is our life income account. It 13 denotes a different title because that's what we use 14 to pay our annuity payments. 15 Q Okay. Is that account still in existence 16 today? 17 A Correct. 18 Q Explain what is Exhibit 6 is. 19 A That -- that is our NHF operating account. 20 Every donation that every foundation gives us goes 21 into this account and every request that a donor 22 advised fund makes comes out of this account. 23 Q Is that account still in existence today? 24 A Yes. 25 Q And they're both at PNC Bank?</p> | <p>16</p> <p>1 Q I'm trying to identify all the different -- 2 hold on. Here is what I want to do. I want to 3 identify all of the accounts that constitute cash and 4 cash equivalents on the audit. 5 A Okay. 6 Q You mentioned checking, money market and 7 sweep. 8 A Okay. 9 Q I'd like to be able to identify them by 10 bank, account number, all those things. 11 A Okay. 12 Q So we've talked about two of them. 13 A Uh-huh. 14 Q Are there any other accounts that would 15 fall into the cash and cash equivalent category such 16 as the money market and sweep accounts you discussed 17 earlier? 18 A And again, they're all under the same 19 account number. So -- this is a wonderful thing that 20 PNC offers us is just they -- for every banking 21 account they have they have a sweep that comes behind 22 it that let's us sweep in and out. So it doesn't have 23 a different account number. Yes, the activity, but 24 you can see if you look at the statements the sweep 25 coming in and coming out.</p> |

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| <p>17</p> <p>1 Q Okay.</p> <p>2 A So it is not a different bank account</p> <p>3 number. It is still held at PNC and that is the cash</p> <p>4 and cash equivalents portion.</p> <p>5 Q Okay. So if we were to identify all of the</p> <p>6 cash and cash equivalents by account number, there</p> <p>7 would be just the two?</p> <p>8 A Correct.</p> <p>9 Q They're our Exhibits 5 and 6?</p> <p>10 A Correct. Sorry.</p> <p>11 Q Now, does all that cash belong to NHF?</p> <p>12 A Yes, the National Heritage Foundation.</p> <p>13 Q Okay. Any CDs?</p> <p>14 A Yes, there are CDs, but they're owned by</p> <p>15 the donor advised fund or -- well, they're owned by</p> <p>16 us, but they're designated for the donor advised fund.</p> <p>17 And we actually count any type of investment like that</p> <p>18 in our investment platform. Does that make sense?</p> <p>19 Q Okay. Okay. And we're going to get into</p> <p>20 investments here --</p> <p>21 A Yes.</p> <p>22 Q -- and then the audit, but as far as cash</p> <p>23 and cash equivalents, no other cash or cash</p> <p>24 equivalents at least as those are designated in the</p> <p>25 audit, correct?</p> | <p>19</p> <p>1 Q So these are moneys that a foundation owes</p> <p>2 to the National Heritage Foundation?</p> <p>3 A Correct.</p> <p>4 Q Why would individual foundations or</p> <p>5 subfoundations owe money to the National Heritage</p> <p>6 Foundation?</p> <p>7 A We believed in their cause.</p> <p>8 Q Explain that financially, though. I mean,</p> <p>9 does NHF lend them money --</p> <p>10 A Yeah.</p> <p>11 Q -- to do something?</p> <p>12 A We -- we very much believed in their cause</p> <p>13 and what they proposed to us, and we then took it in</p> <p>14 as a receivable where we will give you this up front</p> <p>15 and you'll make interest payments back to pay it off.</p> <p>16 Q And are all of these current?</p> <p>17 A Yes, except it says some say "paid in full</p> <p>18 2008." Those are the ones that are paid in full.</p> <p>19 Q Okay. So these -- these notes receivable</p> <p>20 are paying current in accordance to whatever terms NHF</p> <p>21 gave the subfoundation?</p> <p>22 A Correct.</p> <p>23 Q Whether interest payments or installment</p> <p>24 payments or what have you, they have been paid in</p> <p>25 accordance with the agreement?</p> |
| <p>18</p> <p>1 A Correct.</p> <p>2 Q Okay. All right. Let's talk about notes</p> <p>3 receivable, then, on the audit. Do you have the</p> <p>4 audit?</p> <p>5 A Yes. (Handing.)</p> <p>6 Q Okay. And what did you just hand me here?</p> <p>7 A This is our note receivables ending</p> <p>8 12/31/07. We do only reconcile that once a year.</p> <p>9 Q Okay.</p> <p>10 A So we are not going to get another snapshot</p> <p>11 of that until, again, 12/31/08. And that audit is</p> <p>12 normally finished around June.</p> <p>13 Q Okay. This appears to be a June 11, '08</p> <p>14 spreadsheet. Does that sound about right?</p> <p>15 A Correct. That's how our auditor accepts</p> <p>16 our schedule.</p> <p>17 Q I'm going to mark this as Exhibit 7.</p> <p>18 (Exhibit 7 was marked for identification</p> <p>19 and attached to the deposition transcript.)</p> <p>20 BY MR. GARCIA:</p> <p>21 Q And this is a list of all of the notes</p> <p>22 receivables as of 12/31/07?</p> <p>23 A By foundation, yes.</p> <p>24 Q By foundation?</p> <p>25 A Correct.</p> | <p>20</p> <p>1 A Yes.</p> <p>2 Q Very good. And are all of these notes</p> <p>3 receivable supported by some kind of documentation</p> <p>4 such as a note actually signed by somebody?</p> <p>5 A Correct.</p> <p>6 Q Each one of them has a note?</p> <p>7 A Correct.</p> <p>8 Q And you have copies of those?</p> <p>9 A Not with me, but yes.</p> <p>10 Q Okay. But those are easily accessible?</p> <p>11 You have those?</p> <p>12 A Correct.</p> <p>13 Q Okay. And those -- those notes, the actual</p> <p>14 original notes are held by you at the National</p> <p>15 Heritage Foundation or they're held at the National</p> <p>16 Heritage Foundation?</p> <p>17 A They're held at the National Heritage</p> <p>18 Foundation.</p> <p>19 Q You can access the original note with the</p> <p>20 original signatures?</p> <p>21 A Yes.</p> <p>22 Q Is there any collateral behind these notes</p> <p>23 receivable?</p> <p>24 A I would have to research more each -- each</p> <p>25 specific one has a different terms and agreement and I</p> |

21

1 **don't know the detailed specifics with me in front --**
2 **right now.**
3 Q Okay. Very good. Okay. What are you
4 holding right now?
5 A **What?**
6 Q You have another document you were looking
7 at?
8 A **No, I was just looking at the same thing**
9 **that you were looking at.**
10 Q Same document? Okay.
11 A **I made two copies; one for me, one for you.**
12 Q Very good. Thank you.
13 A **No problem.**
14 Q Okay. Let's talk about investments.
15 A **Which one?**
16 Q That's -- well, first let's look at the
17 audit.
18 A **Okay.**
19 Q The 12/31/07 audit shows \$212 million in
20 investments.
21 A **Right.**
22 Q Sound about right?
23 A **Correct.**
24 Q Okay. The first thing I want you to do is
25 have you break that down for me in general categories.

22

1 A **Okay.**
2 Q That is, are we talking about stocks, are
3 we talking about bonds, talking about CDs generally,
4 and then we'll take each category in more detail. So
5 first of all, give me an idea of the general
6 categories of investments that would fall into that
7 line item on the audit.
8 A **The first thing that would fall into the**
9 **line item of that audit is our investment accounts**
10 **that we owned designated to the donor advised funds**
11 **and the different projects we have under us.**
12 Q I'm going to classify them as investment
13 accounts.
14 A **Correct.**
15 Q Is that fair?
16 A **That is fair.**
17 Q What's the next category?
18 A **The next category is the partnerships that**
19 **we own an interest in per -- per donor advised fund**
20 **that we have.**
21 Q Okay. Next category?
22 A **Would be -- those are going to be the main**
23 **two because I see we have life insurance as something**
24 **separate and we have our real property as something**
25 **separate.**

23

1 Q Right. So basically just those two
2 categories?
3 A **Yes.**
4 Q Okay. I want to break that down further
5 and talk about the first category --
6 A **Okay.**
7 Q -- which you called "investment accounts."
8 A **Yep.**
9 Q Can you give me subcategories of stuff that
10 falls under there such as stocks, bonds, things like
11 that?
12 A **Yeah. Do you mind if I show it to you?**
13 Q Sure.
14 A **The less -- it's easier for me to speak**
15 **about.**
16 Q Okay. What did you just hand me?
17 A **That is the investment account schedule as**
18 **of 12/31/07.**
19 THE REPORTER: I'm sorry, let me have that
20 again, please.
21 THE WITNESS: I'm sorry. I speak fast.
22 I'm from New Jersey. Investment account schedule
23 as of 12/31/07.
24 Q Does -- what is the most current investment
25 account schedule that exists?

24

1 A **Again, each platform is reconciled**
2 **differently. Sometimes we get monthly statements**
3 **depending on the brokerage house. And if you want to**
4 **see the actual reconcile date of when a statement**
5 **comes in, if you turn to "Instrument name" --**
6 Q What page on the bottom?
7 A **Just look at -- for example, look at page**
8 **34.**
9 Q Okay.
10 A You can see that we have instruments here
11 titled "Quarterly," "Monthly." That's when we
12 actually received the investment statement on behalf
13 of the foundation, the project underneath us.
14 Q Certainly there is a 2008 investment
15 account schedule that is in some final form.
16 A **Yeah. Unfortunately, part of the**
17 **investment schedule, and why I couldn't get you**
18 **anything more current, is that we have some private**
19 **placements in here and they only get reported on to us**
20 **once a year, 12/31/08. And we're still waiting for**
21 **those reports.**
22 And if you want to look on page -- give me
23 a second to actually -- if you look on page, for
24 example, 25, you can see we have something titled,
25 "The Vantage Funds." And that is a private placement,

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| <p style="text-align: right;">25</p> <p>1 and that we only get reported, again, on 12/31/08. So</p> <p>2 I felt to give you an entire picture I needed to</p> <p>3 include that. So 12/31/07 would be the -- the</p> <p>4 snapshot that I'm very comfortable giving you. But if</p> <p>5 you want any other updated information, it would just</p> <p>6 take me time to gather it for you.</p> <p>7 (Exhibit 8 was marked for identification</p> <p>8 and attached to the deposition transcript.)</p> <p>9 BY MR. GARCIA:</p> <p>10 Q Okay. Now, I have marked as Exhibit 8,</p> <p>11 okay, this investment account schedule. And you're</p> <p>12 looking at a copy of that --</p> <p>13 A Correct.</p> <p>14 Q -- is that correct?</p> <p>15 A Yep.</p> <p>16 Q Okay. Now, I notice the way this</p> <p>17 spreadsheet is set up you have in the first column or</p> <p>18 the second column the account name --</p> <p>19 A Uh-huh.</p> <p>20 Q -- in the first column, the account --</p> <p>21 well, you have an account as a first column and the</p> <p>22 last column account number. What's the difference</p> <p>23 between the two?</p> <p>24 A Okay. The account ID is, like, for</p> <p>25 example, Mancillas had an account ID and then their</p> | <p style="text-align: right;">27</p> <p>1 A No, it's a stock. And if you look at the</p> <p>2 instrument name, you can see that one -- the one BUD</p> <p>3 is Budweiser Anheuser-Busch. That's what --</p> <p>4 Q And other designations, mutual fund, that's</p> <p>5 pretty self-explanatory.</p> <p>6 A Uh-huh.</p> <p>7 Q Any other types of investments other than</p> <p>8 the ones we've discussed?</p> <p>9 A If you turn to page 25, we can see that it</p> <p>10 is a -- you can look at the private placements.</p> <p>11 That's, again, private -- that we're waiting on</p> <p>12 reporting. 12/31/08 is the next time we'll get</p> <p>13 reporting on that one. And that's designated per</p> <p>14 foundation.</p> <p>15 And then if you flip the page -- this is</p> <p>16 going to be a little different. If you flip the page</p> <p>17 and you look at page 26 and you start with 8102,</p> <p>18 account ID 8102, you can see that it belongs to the</p> <p>19 Good Gifts Foundation. You can see that it is -- you</p> <p>20 see our donation is NSPN. That's no statement</p> <p>21 promissory note. And -- and if you look at the</p> <p>22 external account name all the way at the end, you can</p> <p>23 see that it is a -- that Good Gifts donated a</p> <p>24 promissory note to us with Mixay, LLC, and the account</p> <p>25 number listed on that promissory note is 4.</p> |
| <p style="text-align: right;">26</p> <p>1 account name was Mancilla, if I'm pronouncing that</p> <p>2 correctly.</p> <p>3 Q It's Mancillas.</p> <p>4 A Mancillas. I'm sorry.</p> <p>5 Q That's okay.</p> <p>6 A So basically we designate every -- what --</p> <p>7 so their insurance instrument on the computer would be</p> <p>8 designated as this is their account ID, this is their</p> <p>9 account name and this is the asset that belonged to</p> <p>10 their donor advised fund.</p> <p>11 Q Got it.</p> <p>12 A And this is the exact same way that we do</p> <p>13 it for all of our foundations.</p> <p>14 Q Okay. The type, which is the fourth</p> <p>15 column, indicates the type of investment.</p> <p>16 A CD. Correct.</p> <p>17 Q On those notice ones it says "CD/TD." What</p> <p>18 does TD stand for?</p> <p>19 A Time deposit.</p> <p>20 Q Okay. "Money market" means it's some kind</p> <p>21 of money market account --</p> <p>22 A Correct.</p> <p>23 Q -- correct? "Stock" means it's stock of an</p> <p>24 individual company or a mutual fund with several</p> <p>25 different kinds of stocks?</p> | <p style="text-align: right;">28</p> <p>1 Now, we're going to go through and we're</p> <p>2 going to go down -- I mean, there's pages and pages</p> <p>3 with account numbers. You know, some of them are with</p> <p>4 FBI, Fidelity Brown Investment, GE Private Trust</p> <p>5 Company, we have annuities, you know, our foundations</p> <p>6 donate us the assets and we record them.</p> <p>7 Q Got it. Okay. Explain to a layperson what</p> <p>8 a private placement is.</p> <p>9 A A private placement is an investment that</p> <p>10 is not registered with the SEC that is something that</p> <p>11 we had an investment banker work out the deals for us.</p> <p>12 So basically our investment banker is in New York City</p> <p>13 and he worked out some investments that he thought</p> <p>14 could really do well by us.</p> <p>15 Q Who is NHF's investment banker?</p> <p>16 A We have two. Jim Cahill and Ian</p> <p>17 Dunn-Scott.</p> <p>18 Q Jim Cahill is with what organization?</p> <p>19 A He is with McKim Capital in New York, New</p> <p>20 York City.</p> <p>21 Q And Ian Dunn-Scott you said --</p> <p>22 A Correct.</p> <p>23 Q -- is with what organization?</p> <p>24 A He is with Stellar Financial and he is in</p> <p>25 Strasburg, Pennsylvania.</p> |

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| <p>29</p> <p>1 Q Okay. Explain how they --</p> <p>2 A I think it's Scott-Dunn.</p> <p>3 Q I'm sorry?</p> <p>4 A I think his name is Scott-Dunn. I always</p> <p>5 flip it. Hyphenation doesn't work well with me.</p> <p>6 Q So it's Ian, and then Scott and Dunn is a</p> <p>7 hyphenated --</p> <p>8 A Yes.</p> <p>9 Q Got it. I'm having trouble understanding</p> <p>10 this notion of a private placement. Let me see if we</p> <p>11 can go through it slowly.</p> <p>12 A Okay.</p> <p>13 Q If NHF wants to invest in investments such</p> <p>14 as stocks or bonds and mutual funds, they just contact</p> <p>15 a broker of some kind of say, "Buy in stock" or "Buy</p> <p>16 this bond" --</p> <p>17 A Correct.</p> <p>18 Q -- or "Put money into this mutual fund"?</p> <p>19 A Correct.</p> <p>20 Q Explain how a private placement would work</p> <p>21 keeping it simple, such as NHF is going to write a</p> <p>22 check to somebody and it's going to be placed in this</p> <p>23 private placement somehow. Explain that in as simple</p> <p>24 terms as you can. I'm having trouble understanding</p> <p>25 you.</p> | <p>31</p> <p>1 it's on behalf of our foundations as well.</p> <p>2 Q So if I understand this right, a private</p> <p>3 placement is where NHF invests money in a smaller</p> <p>4 company that is not publicly traded?</p> <p>5 A Correct.</p> <p>6 Q And is that investment in the form of</p> <p>7 buying stock of that company, making the loan to that</p> <p>8 company, buying a bond of that -- what is it?</p> <p>9 A It's usually in two forms. There's some</p> <p>10 equity in there. We don't do a lot of equity. Mostly</p> <p>11 loan -- mostly in the loan facility.</p> <p>12 Q Equity is stock?</p> <p>13 A Correct. Sorry.</p> <p>14 Q So when you say, "We don't do a lot of</p> <p>15 equity," meaning when NHF puts money into a private</p> <p>16 placement they don't necessarily buy stock of those</p> <p>17 companies?</p> <p>18 A We -- we did in two, but very small</p> <p>19 portions, maybe 200,000 here, 100,000 there. We</p> <p>20 didn't do it in a greater portion whatsoever. We did</p> <p>21 more of a loan platform because that's where we saw</p> <p>22 the returns on behalf of our foundations to be strong.</p> <p>23 Q And I guess we could add these up, but</p> <p>24 generally in the aggregate how much are we talking</p> <p>25 about that's in private placements?</p> |
| <p>30</p> <p>1 A Perfect. Let's say that -- can I use an</p> <p>2 example -- hypothetical?</p> <p>3 Q Sure. Sure.</p> <p>4 A Let's say you had a company and you were --</p> <p>5 you know, you wanted an investment and you wanted</p> <p>6 somebody to back you and you were looking for people</p> <p>7 to invest in you and you wanted us to make a loan to</p> <p>8 you, and then in return we would get interest payments</p> <p>9 back on a monthly basis at, let's say, a designated</p> <p>10 rate of 7 percent. But you aren't -- you're a small</p> <p>11 company or a very -- you could be a big company, but</p> <p>12 you're not registered with the SEC.</p> <p>13 If you -- if you are not registered with</p> <p>14 the SEC, you cannot be traded on any of the New York</p> <p>15 Stock Exchanges, you know, the -- you can't be traded</p> <p>16 on any market, the NASDAQ. So therefore, you -- it</p> <p>17 would be a private placement because you are not</p> <p>18 registered with the SEC.</p> <p>19 Q Okay.</p> <p>20 A So, for example, the private placements is</p> <p>21 made up of -- and again, this is all off the top of my</p> <p>22 head because I didn't -- I didn't bring specific</p> <p>23 information about that -- about 16 private placement</p> <p>24 investments where we work with different companies and</p> <p>25 we have different agreements with them. And again,</p> | <p>32</p> <p>1 A Twenty-five million. Right around there.</p> <p>2 Q Okay. So about 10 percent of the total</p> <p>3 investments?</p> <p>4 A (Nodding head up and down.)</p> <p>5 Q Okay. What about the other categories such</p> <p>6 as stocks, bonds, mutual funds? What would you say --</p> <p>7 how would you say the percentages break down?</p> <p>8 A The percentages, I mean, it's -- again, off</p> <p>9 the top of my head, since we are actually not the</p> <p>10 investment advisors, we are just kind of the custodian</p> <p>11 of it, we take directions from our donor advised</p> <p>12 funds. We take the recommendation of what they want</p> <p>13 to do and we just follow through with their written</p> <p>14 directions.</p> <p>15 So it's not like we're the investment</p> <p>16 advisors placing these investments, they are the ones</p> <p>17 giving us the directions to invest in this. So for</p> <p>18 the percentages it's not like we have an investment</p> <p>19 strategy that we are keeping to. We're just following</p> <p>20 directions of our donors.</p> <p>21 Q Who is Sterne, Agee & Leach?</p> <p>22 A Sterne, Agee & Leach is -- we decided to</p> <p>23 offer a -- it's a brokerage house.</p> <p>24 Q Okay. Okay. And they get a fee for all of</p> <p>25 the transactions --</p> |

33

1 **A Correct.**
2 Q -- that you direct them to do with all
3 these investments?
4 **A Correct.**
5 Q They just handle that transaction for you?
6 **A Correct.**
7 Q Do they provide any other services?
8 **A No. By -- you know, they do the trading,**
9 **they take a fee and they -- you know, the thing about**
10 **that platform is it is in one account but it's sub --**
11 **it's subdonated to the different, you know, account**
12 **IDs that you can see here on the -- on the left. And**
13 **basically they also do keep track of what foundations**
14 **own what and they keep track of what foundations --**
15 **for example, if you look in here, you can see that we**
16 **have multiple foundations that owns the money market**
17 **account P -- position PRTXX. When this offers a**
18 **dividend through the brokerage house it offers one**
19 **dividend of, let's say, \$100, 100 shares. Well, we**
20 **have -- then the brokerage house then breaks it up of**
21 **foundation 101 has this much of this 100 shares and it**
22 **breaks it up for us. That is not -- but that is also**
23 **the other service that they offer us and that's why we**
24 **broker with them.**
25 Q How many brokerage accounts does NHF have?

34

1 **A Multiple. I don't have a -- a total number**
2 **for you.**
3 Q Because you said -- I thought I understood
4 you to say that there was one brokerage account within
5 Sterne, Agee & Leach and then they have subaccounts
6 under them.
7 **A All under the same account ID. So one --**
8 Q What is the account ID with Sterne, Agee &
9 Leach?
10 **A 62200 --**
11 Q 74?
12 **A Yep.**
13 Q Okay. So for the first 25 pages of this
14 investment account schedule all of these CDs, money
15 markets, stocks, mutual funds and so on with Sterne,
16 Agee & Leach as the broker are all held under Account
17 Number 62200740?
18 **A Correct.**
19 Q Okay. Now, do you all get a statement, a
20 regular statement from Sterne, Agee & Leach for that
21 one account number?
22 **A Absolutely.**
23 Q Do you have any with you?
24 **A No.**
25 Q What is the last one you have?

35

1 **A I think I just got in 12/31/07 -- or '08.**
2 **I'm sorry.**
3 Q '08. Okay. So they do send you a monthly
4 statement?
5 **A Correct.**
6 Q With all these accounts is it a pretty
7 thick thing?
8 **A Yeah.**
9 Q Okay. And that statement would then show
10 all the balances for each of these --
11 **A (Shaking head side to side.)**
12 Q -- items -- hold on -- that you list on
13 this schedule through the first 25 pages?
14 **A Oh, yes.**
15 Q Okay. Okay.
16 **A I should have let you finish your question.**
17 Q Now, before I move on from -- because it
18 looks like the first group are all of these
19 investments held through Sterne, Agee & Leach as NHF's
20 broker.
21 **A Uh-huh.**
22 Q Okay. Are any of those investments pledged
23 to any -- any debt?
24 **A Yes. This entire account is pledged to a**
25 **debt.**

36

1 Q The account is pledged?
2 **A Uh-huh.**
3 Q Not the individual items?
4 **A The entire -- the entire account is pledged**
5 **to debt.**
6 Q I want to make sure I've got this right.
7 The entire brokerage account, which is account number
8 62200740 --
9 **A Uh-huh.**
10 Q -- is pledged to -- held by Sterne, Agee &
11 Leach as NHF's broker is pledged to debt.
12 **A Correct.**
13 Q Debt owed to whom?
14 **A As of 12/31/07 it was PNC, but in 2008 we**
15 **renegotiated the loan and now it is held with Virginia**
16 **Heritage Bank.**
17 Q What are you looking at?
18 **A Our note. I'm sorry. That was our note**
19 **payable summary.**
20 Q Okay. I'm going to mark this as Exhibit 9.
21 **A Sure.**
22 **(Exhibit 9 was marked for identification**
23 **and attached to the deposition transcript.)**
24 **BY MR. GARCIA:**
25 Q Okay. This is the \$6.5 million line of

37

1 credit?

2 **A That is the 6.5 million commercial loan.**

3 Q The -- the audit describes it as a line of

4 credit --

5 **A Oh, okay. I'm sorry.**

6 Q -- which -- which NHF had drawn upon

7 completely to 6.5. But --

8 **A Correct.**

9 Q -- you -- you understand it as a

10 commercial loan?

11 **A Yes.**

12 Q Okay.

13 **A I'm sorry.**

14 Q Now, Exhibit 9 is a -- is a spreadsheet

15 describing a \$6.5 million loan at PNC commercial or

16 PNC Bank. However, today in January of '09 that loan

17 is no longer at PNC?

18 **A Huh-uh.**

19 Q Correct?

20 **A It's at Virginia Heritage Bank.**

21 Q It's at Virginia Heritage Bank. And what

22 is the amount of the loan today?

23 **A 6.5 million.**

24 Q Okay. And it's secured by the brokerage

25 account at Sterne, Agee & Leach?

38

1 **A Correct.**

2 Q Is there any other collateral on that loan?

3 **A Say that again.**

4 Q Is there any other collateral -- other than

5 the brokerage account at Sterne, Agee & Leach, is

6 there any other collateral --

7 **A Yes.**

8 Q -- pledged to the Virginia Heritage Bank

9 loan?

10 **A Yes.**

11 Q Okay.

12 **A I'll give you another sheet. This is what**

13 **I consider the PNC line of credit. And at 12/31/07 it**

14 **was 750,000, but today it is -- we've maxed it out at**

15 **a million dollars.**

16 Q Okay. All right. Let me -- let me make

17 sure I understand this.

18 **A Go ahead.**

19 **(Exhibit 10 was marked for identification**

20 **and attached to the deposition transcript.)**

21 **BY MR. GARCIA:**

22 Q Okay. How many -- we're going off course

23 here just a little bit, but it is related to the

24 investments so I want to make sure I understand this.

25 How many loans or lines of credit does National

39

1 Heritage Foundation have today?

2 **A Those two.**

3 Q Two. 6.5 million to Virginia Heritage

4 Bank --

5 **A Uh-huh.**

6 Q Correct?

7 **A Uh-huh.**

8 Q Yes?

9 **A Yes. I'm sorry.**

10 Q Yeah. She can't take down "uh-huh," so

11 that's why I'm asking you to --

12 **A Oh. I'm sorry.**

13 Q That's all right. That's all right.

14 You're doing well.

15 And then a million dollar loan to PNC Bank?

16 **A Yes. But that has since then been**

17 **renegotiated and it is now with Virginia Heritage.**

18 **Both of them are with Virginia Heritage.**

19 Q Okay. So, then, today there is \$7.5

20 million owed to Virginia Heritage Bank --

21 **A Correct.**

22 Q -- correct?

23 **A Correct.**

24 Q Any other loans that you're aware of that

25 NHF owes?

40

1 **A No.**

2 Q Any lines of credit?

3 **A (Shaking head side to side.)**

4 Q No?

5 **A No.**

6 Q Any applications for additional credit that

7 you're aware of?

8 **A Yes.**

9 Q Okay. What applications for additional

10 credit are outstanding today?

11 **A One million.**

12 Q And that application is to whom?

13 **A Virginia Heritage Bank.**

14 Q What was the purpose -- what would be the

15 purpose of that?

16 **A The purpose is to have additional cash for**

17 **our operating needs.**

18 Q What's the status of the application?

19 **A Pending.**

20 Q When do you expected to get a response?

21 **A Two weeks.**

22 Q All right. Now, getting back to the

23 investments, we know that the brokerage account at

24 Sterne, Agee & Leach is pledged to the \$6.5 million

25 loan with Virginia Heritage Bank, correct?

| | |
|--|---|
| <p>41</p> <p>1 A Correct.</p> <p>2 Q Any collateral -- any other collateral</p> <p>3 pledged to that particular loan?</p> <p>4 A Yes.</p> <p>5 Q What other collateral?</p> <p>6 A There is some of the other brokerage</p> <p>7 accounts that we have listed.</p> <p>8 Q Which ones?</p> <p>9 A There is the Douglas Foundation and --</p> <p>10 Q What page is that?</p> <p>11 A Yeah, I'm looking. I don't know it off the</p> <p>12 top of my head. I apologize.</p> <p>13 Q That's all right.</p> <p>14 A This is a million dollar annuity, so -- and</p> <p>15 also on page 34 --</p> <p>16 Q Okay. Hold on. Before we go on, this</p> <p>17 Douglas Foundation that you were talking about, did</p> <p>18 you find what page that was on?</p> <p>19 A No. But I was going to tell you the other</p> <p>20 one because I found the other one, or do you want me</p> <p>21 to stick with finding Douglas?</p> <p>22 Q How about on page 36? Is that it on page</p> <p>23 36 somewhere near the bottom?</p> <p>24 A There you go, yep, 7958, Douglas Family</p> <p>25 Foundation. And it is with EquiTrust. That is --</p> | <p>43</p> <p>1 Heritage Bank?</p> <p>2 A Yes. If you turn to page 34 --</p> <p>3 Q Okay.</p> <p>4 A -- if you look at third up from the bottom,</p> <p>5 6721, the Helen Dundee Nelson Foundation --</p> <p>6 Q Okay.</p> <p>7 A -- it is a brokerage account with Fidelity.</p> <p>8 Q That is not an annuity, that's a brokerage</p> <p>9 account?</p> <p>10 A With Fidelity.</p> <p>11 Q Okay. Any other collateral on the two</p> <p>12 loans with Virginia Heritage Bank?</p> <p>13 A No.</p> <p>14 Q What is proposed to be pledged to the new</p> <p>15 loan that you've applied for with Virginia Heritage</p> <p>16 Bank?</p> <p>17 A Multiple foundation accounts -- I do not</p> <p>18 have that list with me -- and some life insurance as</p> <p>19 well.</p> <p>20 Q Okay. There is a list somewhere --</p> <p>21 A Correct.</p> <p>22 Q -- of what is proposed and you have access</p> <p>23 to that?</p> <p>24 A Correct.</p> <p>25 Q Okay. Generally in terms of value, what is</p> |
| <p>42</p> <p>1 Q When you say that the Douglas Family</p> <p>2 Foundation is pledged to a loan, what is it that is</p> <p>3 pledged? Is it a CD? Is it a money market fund? Is</p> <p>4 it a --</p> <p>5 A It's an -- EquiTrust is an annuity.</p> <p>6 Q An annuity?</p> <p>7 A Correct.</p> <p>8 Q Okay. So to answer my question what other</p> <p>9 collateral is pledged to the \$6.5 million Heritage</p> <p>10 Bank note, it is -- the answer is it is the annuity</p> <p>11 associated with the Douglas Family Foundation on page</p> <p>12 36 of the investment --</p> <p>13 A Correct.</p> <p>14 Q -- account schedule?</p> <p>15 A Can I just correct you?</p> <p>16 Q Sure.</p> <p>17 A It's 7.5 million. There's two of them.</p> <p>18 Q Oh, okay. Is it just one loan now or is it</p> <p>19 two different loans?</p> <p>20 A It's two different loans, two different</p> <p>21 loan numbers.</p> <p>22 Q They're cross-collateralized?</p> <p>23 A Yes. Exactly.</p> <p>24 Q Okay. So it's the Douglas annuity. Any</p> <p>25 other collateral on those two loans with Virginia</p> | <p>44</p> <p>1 the value of those other accounts and life insurance</p> <p>2 that you're proposing to pledge to this million dollar</p> <p>3 loan application?</p> <p>4 A Virginia Heritage is looking for a 70</p> <p>5 percent loan to value. And it's actually being</p> <p>6 debated whether it's 70 percent or 50 percent. So</p> <p>7 that number is going back and forth. I don't know</p> <p>8 what the final number will be as of yet. So in</p> <p>9 additional collateralization we are looking at about</p> <p>10 \$10 million -- I'll say \$12 million all together is</p> <p>11 what I'm looking to do to collateralize the additional</p> <p>12 line of credit.</p> <p>13 Q The line of credit application is for 1</p> <p>14 million?</p> <p>15 A Uh-huh.</p> <p>16 Q And you're proposing to put up 10 million</p> <p>17 in collateral, 10 to 1?</p> <p>18 A No, no. For all of the accounts.</p> <p>19 Q Okay.</p> <p>20 A Yeah.</p> <p>21 Q Okay.</p> <p>22 A I think it's about 12.</p> <p>23 Q Now, getting back to the investments --</p> <p>24 A Sure.</p> <p>25 Q -- list, pages 1 through 25, which are the</p> |

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|---|--|
| <p style="text-align: right;">45</p> <p>1 Sterne, Agee & Leach brokerage account pledged, 2 correct? 3 A Correct. 4 Q The private placements which are on page 25 5 and a little on 26, any of those pledged? 6 A They are not pledged, no. 7 Q And who is holding the private placements? 8 It says here, "Exact account name, Vantage Funds," 25 9 and 26. 10 A I'm unsure -- I'm unsure what you mean, 11 "who is holding." I have the agreements. 12 Q Okay. You have an agreement for each one 13 of these private placements? 14 A I -- how we set it up in our system is 15 instead of -- it was -- it was hard for us to set up 16 in our system so our foundations could see -- you 17 know, log on and see their account. We set up these 18 16 private investments in one mutual fund -- in what 19 we call a "mutual fund." It's not technically a 20 registered mutual fund. It's the version of a mutual 21 fund. 22 And we'll take all 16 instruments and, you 23 know, as they go up and down or as they pay interest, 24 we allot it back to that foundation. So who is 25 holding the contract, we are holding the individual</p> | <p style="text-align: right;">47</p> <p>1 receivable? 2 A Yes. 3 Q Not stocks or bonds or things like that, 4 correct? 5 A Correct. Primarily, yes. 6 Q And you have a list of what those 16 7 instruments are somewhere? 8 A Correct. 9 Q Do you have that with you? 10 A No. 11 Q Okay. Easily generated? 12 A Yes. 13 Q And the original instruments associated 14 with those 16 you have in your possession or NHF has? 15 A The original what? 16 Q Well, you said they're notes receivable, 17 for example. 18 A Oh, the original documents? 19 Q Yes. 20 A Yes. I'm sorry, I didn't know the original 21 what. 22 Q And they're in your possession -- 23 A Correct. 24 Q -- or NHF's possession? Okay. And those 25 things total about \$25 million?</p> |
| <p style="text-align: right;">46</p> <p>1 loans or -- not very much equity -- loans or bonds 2 with -- I'm holding the contracts, but, you know, you 3 see that more as a -- as a way to record the activity. 4 Q I'm not sure I got that, so -- 5 A I'm sorry. 6 Q That's all right. 7 A It's confusing. 8 Q Let me ask about the first one, the first 9 private placement. Account name: Alice Ordway CRAT. 10 Instrument name: Vantage Aggressive. Mutual fund, 11 \$603,000. Explain what that is. 12 A Okay. Basically if -- okay. Basically the 13 Vantage Funds, again, is made up of 16 different 14 private placement investments. Out of the total value 15 of the \$25 million, Alice Ordway owns approximately 16 \$681,000 of that account. And when I say "owns," yes, 17 it is in our tax ID number, but it's a donor advised 18 fund designated to her. 19 Q The private placement consists of 16 -- 20 A Correct. 21 Q -- different instruments? 22 A Uh-huh. 23 Q Those -- yes? 24 A Yes. 25 Q Those instruments are primarily notes</p> | <p style="text-align: right;">48</p> <p>1 A As of 12/31/07. In this market today they 2 have dropped significantly. 3 Q Why would a note receivable drop in value? 4 A Default. 5 Q Okay. So you've had some defaults? 6 A Yes. 7 Q What's the approximate value today? 8 A I would say we are estimating it to be 9 about 16 million. 10 Q Are those -- any of the 16 instruments 11 associated with the private placement, are any of 12 those pledged to any debt? 13 A No. 14 Q Let me ask you about some of the larger 15 ones. 16 A Sure. 17 Q The two largest ones says, "Due to/due from 18 NHF projects" -- 19 A Correct. 20 Q -- 11 million or so. What does at that 21 mean? 22 A That is what -- we have endowment funds, we 23 have different foundations that donate into our cash 24 account, and what we did is we decided for the benefit 25 of our foundations is to take that money and invest</p> |

| | |
|---|---|
| <p>49</p> <p>1 it.</p> <p>2 Q In what?</p> <p>3 A In the private placement. In the private</p> <p>4 placements. So we took the money out of our checking</p> <p>5 account, and that means it's foundation-owned money,</p> <p>6 and we took it and invested it because they chose not</p> <p>7 to.</p> <p>8 Q When you say "foundation-owned money," what</p> <p>9 foundation?</p> <p>10 A Multiple. I can get you a list.</p> <p>11 Q The subfoundations?</p> <p>12 A Yeah. I can get you --</p> <p>13 Q Not the National Heritage Foundation?</p> <p>14 A No. Correct. Sorry, sorry.</p> <p>15 Q There's two of them here that say, "Due</p> <p>16 to/due from NHF projects." What's the difference</p> <p>17 between the two? One for 11.4 million, one for 8</p> <p>18 million. What's the difference between the two?</p> <p>19 A There is none. I don't know why my report</p> <p>20 has it twice.</p> <p>21 Q You do see it there twice, right?</p> <p>22 A Yeah.</p> <p>23 Q Okay.</p> <p>24 A They're both in the -- hmm. I will check</p> <p>25 into that. I apologize.</p> | <p>51</p> <p>1 Q -- in a private placement --</p> <p>2 A Uh-huh.</p> <p>3 Q -- is it in one or two or multiple of these</p> <p>4 16 --</p> <p>5 A Multiple.</p> <p>6 Q -- investment vehicles you've described?</p> <p>7 A Multiple.</p> <p>8 Q Multiple. Okay. And they're notes</p> <p>9 primarily?</p> <p>10 A Yes.</p> <p>11 Q Due from -- due from whom?</p> <p>12 A We have one with --</p> <p>13 Q What's the largest one? How's that?</p> <p>14 A The largest one is 14 million. It's with</p> <p>15 Stellar McKim Capital.</p> <p>16 Q Okay.</p> <p>17 A And it is -- it is in the process of being</p> <p>18 renegotiated due to the -- some of the -- the defaults</p> <p>19 and the downturns in the market. We're in the process</p> <p>20 of renegotiating, so it is not going to be defaulted.</p> <p>21 Does that make sense?</p> <p>22 Q Stellar McKim Capital --</p> <p>23 A Correct.</p> <p>24 Q -- is about to default?</p> <p>25 A No, no. No, no, no.</p> |
| <p>50</p> <p>1 Q So if you add them together, there's about</p> <p>2 19, 20 million?</p> <p>3 A (Nodding head up and down.)</p> <p>4 Q That sound about right?</p> <p>5 A Yeah.</p> <p>6 Q Okay. I want to make sure I understand</p> <p>7 this. Somebody sets up a subfoundation with NHF?</p> <p>8 A Correct.</p> <p>9 Q They put money into the foundation?</p> <p>10 A Uh-huh.</p> <p>11 Q They don't designate a particular</p> <p>12 investment to put the money in --</p> <p>13 A Correct.</p> <p>14 Q -- whether it's a CD, money market, mutual</p> <p>15 fund or what have you.</p> <p>16 A Right.</p> <p>17 Q Rather than let it sit around in a checking</p> <p>18 account, you all decided to invest it in this private</p> <p>19 placement because it'll earn some interest or some</p> <p>20 return of some kind?</p> <p>21 A Correct.</p> <p>22 Q Is that accurate?</p> <p>23 A Correct.</p> <p>24 Q Okay. Now, the 20 million or so --</p> <p>25 A Uh-huh.</p> | <p>52</p> <p>1 Q So you're negotiating so they don't</p> <p>2 default?</p> <p>3 A Yeah. Basically what -- what happened</p> <p>4 is -- with the investment account, it's in the process</p> <p>5 of being renegotiated because we thought it would be</p> <p>6 better to -- for us to get a better rate of return and</p> <p>7 a more stable rate of return rather than what we were</p> <p>8 getting. Before it was high. It was a high interest</p> <p>9 rate and they were not able to -- they asked us to</p> <p>10 renegotiate it and we are in the process of.</p> <p>11 Q Okay. The 14 million with Stellar McKim</p> <p>12 Capital is a note receivable from them?</p> <p>13 A Yes.</p> <p>14 Q And it is one note?</p> <p>15 A Correct.</p> <p>16 Q And what is the interest rate on the note</p> <p>17 as it exists today?</p> <p>18 A As it exists today, 7 percent.</p> <p>19 Q Because it hasn't been renegotiated yet?</p> <p>20 A No. It is in the process.</p> <p>21 Q So today it's a 7 percent note?</p> <p>22 A Uh-huh.</p> <p>23 Q And how is it that they pay NHF on this</p> <p>24 note? Is it just interest? Is it interest and</p> <p>25 principal? What's the payment schedule on the note</p> |

53

1 receivable?

2 **A There is not. It's interest at due time of**

3 **maturity.**

4 Q And when is the maturity?

5 **A 2012.**

6 Q How -- when was the note originally made?

7 **A 2005, I think. I'm not sure. I can look**

8 **that up for you.**

9 Q More or less?

10 **A More or less.**

11 Q And you have the original note in your

12 possession?

13 **A Correct.**

14 Q Okay. So generally in 2005 NHF loans money

15 to Stellar McKim Capital, \$14 million?

16 **A Not -- it wasn't \$14 million to begin with.**

17 **The original -- that's why we're in the process of**

18 **renegotiating it. It was in -- it was over a time**

19 **period that it built up to \$14 million. Now we're in**

20 **the process of getting a legal document in place to**

21 **get interest payments and get cash in here on a**

22 **monthly basis because obviously we need -- well, we**

23 **are in the process of wanting some type of --**

24 Q Sure, liquidity.

25 **A Liquidity. Thanks.**

54

1 Q Yeah, it's clear from the loans that you

2 all are in a little bit of a liquidity crunch.

3 **A Correct.**

4 Q So you're trying to get some case out of

5 Stellar McKim Capital.

6 **A Correct.**

7 Q Okay. So the note started out in '05?

8 **A Uh-huh.**

9 Q Yes?

10 **A Correct.**

11 Q And built up to \$14 million?

12 **A Uh-huh.**

13 Q Yes?

14 **A Correct.**

15 Q Remember she can't take down "uh-huhs."

16 That's all right. You're okay.

17 Have they paid any interest up to now?

18 **A Yes. It stopped in 2006.**

19 Q So they paid interest through 2006?

20 **A (Nodding head up and down.)**

21 Q Yes?

22 **A Correct.**

23 Q Have not paid interest since then?

24 **A Correct.**

25 Q But interest has, nonetheless, accrued?

55

1 **A Correct.**

2 Q How much is there in accrued interest?

3 **A I can't do that off the top of my head.**

4 **I'm not good with math.**

5 Q All right.

6 **A I'm good with math, but not like that,**

7 **compounding.**

8 Q So all I have to do is from '06 do 7

9 percent for 14 million -- is it 14 in '06?

10 **A Uh-huh.**

11 Q Through today?

12 **A Correct. And it's simple interest, not**

13 **compounding.**

14 Q Is there any collateral that NHF has to

15 secure this note receivable from Stellar McKim

16 Capital?

17 **A We're in the process of adding it, but no,**

18 **it's unsecured at this point.**

19 Q Okay. Okay. Why -- who is Stellar McKim

20 Capital and why would NHF lend them \$14 million?

21 **A Stellar McKim Capital is our software**

22 **company.**

23 Q Soft -- they're a software company?

24 **A They are a software company.**

25 Q Okay.

56

1 **A And why? The -- my -- again, I did not**

2 **make the decision to do that, so the why was not very**

3 **much shared with me.**

4 Q Okay. What's your understanding of the

5 purpose for the loan? To buy a building? To invest

6 in --

7 **A Enhance their software.**

8 Q Enhance software?

9 **A Uh-huh. Enhance their software that we**

10 **currently use. To enhance their software and to have**

11 **a good rate of return. That was the ideals behind it**

12 **was to get the 7 percent interest payment on a monthly**

13 **basis.**

14 Q Okay. It's just, I guess, from the name

15 Stellar McKim Capital, it sounds like some kind of

16 investment bank. That's not right. It's a -- it's a

17 software company?

18 **A Yeah. There's -- once -- well, Stellar**

19 **McKim Capital is the parent company and underneath it**

20 **is Stellar Financial and that's what it owns.**

21 Q Yeah, yeah, you mentioned -- okay,

22 that's --

23 **A Does that make sense?**

24 Q You mentioned a Stellar Financial and a

25 Stellar McKim Capital. Are they related?

| | |
|---|--|
| <p>57</p> <p>1 A Yes. The Stellar McKim Capital is like the 2 umbrella. 3 Q The holding company? 4 A Yeah. And underneath it is the -- is 5 Stellar Financial. 6 Q And which one is the software company? 7 A Stellar Financial. 8 Q Stellar Financial is the software company? 9 A Uh-huh. 10 Q Stellar McKim Capital is the holding 11 company? 12 A Correct. 13 Q The note receivable is from the holding 14 company? 15 A Correct. But its only asset is Stellar 16 Financial. 17 Q They don't have any other assets? 18 A Correct. 19 Q Is there a McKim Capital? 20 A Yes. 21 Q Is that related to Stellar McKim Capital? 22 A Yes. That is also under the umbrella. But 23 from what -- my understanding is that it has no value 24 at this time. 25 Q What about a McKim & Company?</p> | <p>59</p> <p>1 Q Who is he an investment advisor with? What 2 organization? Is it one of -- one of these on the 3 list, too? 4 A No. 5 Q What organization is he an investment 6 advisor with? 7 A He is not. He's our -- he's the person 8 that, I guess, took -- I don't know how to describe 9 it -- took responsibility for making the contacts with 10 the different companies and negotiating the private 11 placement loans with the different 16 positions. He 12 is the person that took responsibility and made the 13 contacts for that. Is he a registered investment 14 advisor? No. Did he act in that capacity to us? 15 Yes. 16 Q Okay. So he's not with a brokerage firm -- 17 A No. He's not licensed, no. 18 Q Not licensed in any way with -- 19 A Correct. 20 Q Why is he NHF's investment advisor if he's 21 not licensed to do that? 22 A (Shaking head side to side.) 23 Q Do you understand that? 24 A (Shaking head side to side.) 25 Q Can you explain that?</p> |
| <p>58</p> <p>1 A I don't know McKim & Company. 2 Q Who are the -- who are the principals 3 associated with Stellar McKim Capital? 4 A The principals are Ian Dunn-Scott -- Ian 5 Scott-Dunn. 6 Q That's the guy you mentioned earlier, 7 correct? 8 A Yeah. That's our investment advisor, 9 correct. He did -- yes. 10 Q He did what? 11 A He -- yeah, I did mention him before. He 12 is our investment -- sorry. 13 Q Okay. And who else? 14 A I want to say -- and again, I'm going to -- 15 I can pull it up off the website to give you a better 16 understanding. I'd rather not give you wrong 17 information. I know Ian Scott-Dunn is there, but the 18 other information I would feel more comfortable not 19 giving you and providing you at a later date if that's 20 possible. 21 Q You said this Ian Scott-Dunn is a financial 22 advisor or is he a software guy? 23 A He acts as both. 24 Q For NHF? 25 A Correct.</p> | <p>60</p> <p>1 A No, I have no answer for that. 2 Q Okay. But he is the principal of this 3 organization Stellar McKim Capital that owes NHF \$14 4 million? 5 A Correct. 6 Q Okay. Now, you said that this \$14 million 7 note was being renegotiated? 8 A Correct. 9 Q Tell me the terms of the renegotiation. 10 What is it that NHF is trying get? 11 A Security, liquidity, personal guarantees. 12 Q Anything else? 13 A That -- 14 Q Okay. Security in what form? 15 A Security as in we want an asset behind it 16 saying if you don't pay us we can take this. 17 Q What asset? 18 A We looking at their source code, which 19 is -- source code -- 20 Q What does that mean? 21 A You know, like when programmers, like, go 22 on and they, like, do the Internet updates and, you 23 know -- because we're all on line, all our software is 24 on line, we can access it anywhere, that is the main 25 value that we are looking at.</p> |

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1 Q Source code?

2 A Uh-huh.

3 Q Okay. What else is NHF looking for in

4 terms of security?

5 A That is the only thing of value that we

6 could secure.

7 Q Okay. Guarantees from whom?

8 A We are looking at what we call just

9 personal guarantees from Ian Scott-Dunn.

10 Q And who else?

11 A Deborah Seal.

12 Q Deborah Seal?

13 A Uh-huh, who is currently the CFO of Stellar

14 Financial.

15 Q Okay. Anyone else?

16 A (Shaking head side to side.)

17 Q And liquidity --

18 A No.

19 Q No? Okay. And liquidity, what are you

20 looking for in terms of liquidity?

21 A We would like a payment plan.

22 Q What payment plan are you proposing?

23 A That has not been discussed yet. We know

24 that that's something we want, but it has not been

25 discussed with the lawyers that we have retained yet.

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1 Q Okay. All right. So this \$14 million from

2 Stellar McKim Capital makes up the bulk of the 25

3 million in private placements, correct?

4 A Correct.

5 Q Is there another -- what's the next biggest

6 one? Just that one listed on here for 600,000, Alice

7 Ordway CRAT?

8 A That's only a portion of the 16 --

9 Q Oh, that's right. That's her share.

10 A Yeah. Yeah, exactly. I don't know off the

11 top of my head. I apologize. I can get that for you.

12 Q Well, what would you get? What would you

13 look to to give me that information?

14 A I can look at the 12/31/07 -- like, the

15 breakdown, and I can do a summary of what has proposed

16 to change.

17 Q Let me back up and ask one more question --

18 A Sure.

19 Q -- and maybe we can take a break here.

20 You've been going for a while there. I appreciate

21 your patience.

22 A No problem.

23 Q We talked about cash and cash equivalents.

24 Is any of that pledged?

25 A No.

63

1 Q Okay. What's the approximate balance in

2 the cash and cash equivalents today?

3 A I'm trying to remember the report that we

4 did yesterday. I think it's about 300,000.

5 MR. GARCIA: Want to take a short break?

6 THE WITNESS: Yeah. Is that okay?

7 MR. GARCIA: Is that all right?

8 MR. LEACH: Sure.

9 MR. GARCIA: Been going for a while.

10 THE VIDEOGRAPHER: This concludes Tape 1 in

11 the deposition of NHF corporate representative

12 Julia Weltmann. Off the record at 9:51.

13 (Recess taken.)

14 THE VIDEOGRAPHER: Here begins Tape 2 in

15 the deposition of National Heritage Foundation

16 corporate representative Julia Weltmann. On the

17 record at 10:04.

18 BY MR. GARCIA:

19 Q Okay. Ms. Weltmann, we were speaking of

20 the private placements. I understand -- okay. You

21 said there were about 16 million today, more or less,

22 in terms of fair market value, correct?

23 A Correct.

24 Q Are there any new ones other than the ones

25 listed in your '07 investment account schedule?

64

1 A New private placements?

2 Q Yes.

3 A No.

4 Q Okay. Okay. Now, the renegotiation, what

5 is the status of that? How far along is it? When do

6 you expect it to resolve itself? What kind of time

7 frame are we talking?

8 A I would say four to six weeks.

9 Q Okay. I'm having trouble with the source

10 code stuff. I understand from y'all's perspective

11 that is the true value from this company Stellar McKim

12 Capital, but I'm having trouble understanding why it

13 has value, why National Heritage Foundation would feel

14 more secure having that as collateral in the event

15 that they're unable to pay this \$14 million debt. Can

16 you explain that to a layperson as best you can?

17 A Yes. Source code is what actually makes

18 the computer software run. So, for example, when you

19 go to your bank account, right, and you talk -- you

20 type in your user name, right, and your password and

21 it brings up your account, that's all -- what -- what

22 it does behind the scenes, all of that, the programs

23 that are written to bring up the bank account is

24 your -- the source code. That is -- it's the actual

25 software, the actual language, the code that it is

| | |
|--|--|
| <p>65</p> <p>1 written in is what makes the software work.</p> <p>2 Q Okay. Okay. As I understand the -- what</p> <p>3 Stellar McKim Capital does is they sell software,</p> <p>4 correct?</p> <p>5 A They don't sell anything. Stellar</p> <p>6 Financial --</p> <p>7 Q Oh, Stellar Financial --</p> <p>8 A Stellar Financial sells the software.</p> <p>9 Q Stellar Financial is the software company.</p> <p>10 Stellar McKim Capital is the holding company.</p> <p>11 A Correct.</p> <p>12 Q Stellar Financial, their primary business</p> <p>13 is selling software?</p> <p>14 A Correct.</p> <p>15 Q That's how they make their money?</p> <p>16 A Correct.</p> <p>17 Q And that's -- the money that they make is</p> <p>18 how they're going to pay you all back?</p> <p>19 A Correct.</p> <p>20 Q Okay. How large of a company are we</p> <p>21 talking about here, how -- in revenues?</p> <p>22 A I just received their audit in my in box.</p> <p>23 I am trying to remember the number and I don't.</p> <p>24 Q This is an '07 audit? '08 audit?</p> <p>25 A Correct, '07.</p> | <p>67</p> <p>1 Q Okay. In terms of revenues, any general</p> <p>2 idea how big they are?</p> <p>3 A No.</p> <p>4 Q Before NHF made a decision to lend them \$14</p> <p>5 million, I assume there's some kind of credit analysis</p> <p>6 done to see what kind of revenues they make and who</p> <p>7 their clients are; in other words, the ability to be</p> <p>8 paid back. Is that fair?</p> <p>9 A No, there -- yes, that is fair, but no,</p> <p>10 that was not done.</p> <p>11 Q That was not done?</p> <p>12 A Correct.</p> <p>13 Q Okay. What's your understanding as to how</p> <p>14 the decision was made to invest \$14 million in this</p> <p>15 company?</p> <p>16 A On good faith.</p> <p>17 Q Whose good faith?</p> <p>18 A Our -- our president, our board, and Ian</p> <p>19 Scott-Dunn.</p> <p>20 Q There's a relationship with Ian Scott-Dunn</p> <p>21 and NHF? They knew each other somehow?</p> <p>22 A Correct.</p> <p>23 Q It wasn't just some stranger that said,</p> <p>24 "Hey, have I got a deal for you." They knew each</p> <p>25 other somehow?</p> |
| <p>66</p> <p>1 Q What's the fiscal year?</p> <p>2 A Their fiscal year?</p> <p>3 Q Yes.</p> <p>4 A January-December, 12/31/07-12/31/08 is the</p> <p>5 closing of their fiscal year.</p> <p>6 Q Okay. So you got their '07 audit, not</p> <p>7 their '08 audit?</p> <p>8 A Correct.</p> <p>9 Q You mentioned a website. They have website</p> <p>10 --</p> <p>11 A Do --</p> <p>12 Q -- of some kind?</p> <p>13 A Yes.</p> <p>14 Q They have a website?</p> <p>15 A Uh-huh.</p> <p>16 Q Does that have any financial information</p> <p>17 about how big they are?</p> <p>18 A No. It's private.</p> <p>19 Q Do you have any general idea how big they</p> <p>20 are?</p> <p>21 A Sixteen -- I would say they have anywhere</p> <p>22 from 9 to 16 employees. They have about -- they</p> <p>23 probably have about -- last time I looked about 50</p> <p>24 clients that use their software, National Heritage</p> <p>25 being one.</p> | <p>68</p> <p>1 A Because he offered to -- yes.</p> <p>2 Q Offered to what?</p> <p>3 A Implement our software.</p> <p>4 Q Tell me about this software that NHF uses</p> <p>5 from Stellar Financial. What kind of software is it?</p> <p>6 A It's the program -- or the -- it's called</p> <p>7 "North Star 500."</p> <p>8 Q What's it used for?</p> <p>9 A To keep track of all our books, every</p> <p>10 client, every holding, every dollar that we receive</p> <p>11 in. And we do all our audits off of it, print all our</p> <p>12 reports off of it.</p> <p>13 Q Is NHF Stellar's biggest client?</p> <p>14 A No.</p> <p>15 Q Who else do they have?</p> <p>16 A Their -- their biggest client is actually</p> <p>17 PNC, PNC's donor --</p> <p>18 Q PNC Bank?</p> <p>19 A Yeah, PNC's donor advised funds, yep. They</p> <p>20 have Fidelity's, they have Vanguard's donor advised</p> <p>21 funds.</p> <p>22 Q Okay. So they -- their software is used by</p> <p>23 PNC Bank, Fidelity --</p> <p>24 A Vanguard.</p> <p>25 Q -- Vanguard, to also keep track of their</p> |

| | |
|--|---|
| <p>69</p> <p>1 donor advised funds?</p> <p>2 A Correct.</p> <p>3 Q Okay. Ian Scott-Dunn and Deborah Seal,</p> <p>4 tell me about their financial condition and why NHF</p> <p>5 feels that their guarantee is -- would be of value and</p> <p>6 enhance the NHF security somehow.</p> <p>7 A I would say that the -- we are concerned</p> <p>8 about the security of it and we are concerned about</p> <p>9 getting paid back our \$14 million. So I feel if we</p> <p>10 put some type of personal guarantees in there, whether</p> <p>11 it's a lien on their house or what not, we are willing</p> <p>12 to go there. I don't know if we are going to go</p> <p>13 there. Does that make sense?</p> <p>14 Q Yeah. Who makes that decision?</p> <p>15 A The president -- our president, vice</p> <p>16 president and our board.</p> <p>17 Q Okay. Let me ask you about the next</p> <p>18 category, managed money.</p> <p>19 A Uh-huh.</p> <p>20 Q What is managed money?</p> <p>21 A That is the title that we use. It's just</p> <p>22 an individual brokerage account that has a different</p> <p>23 account number. Brokerage -- okay. I oversimp --</p> <p>24 it's a brokerage account. It could be an annuity, it</p> <p>25 could be just a CD, but it is in a different account</p> | <p>71</p> <p>1 rather say investment house because not all of them</p> <p>2 are brokerage accounts.</p> <p>3 Q Explain what an investment house is.</p> <p>4 A An -- an investment house is anybody that</p> <p>5 has the ability to buy marketable securities. A</p> <p>6 brokerage account does not necessarily have the</p> <p>7 ability to hold a REETS (ph), some of the investments</p> <p>8 that are inside of this. So I'd rather, if we're</p> <p>9 going to generalize it, say investment house and then</p> <p>10 in that investment house there are brokerage accounts.</p> <p>11 Q Okay. Let me ask about some of the bigger</p> <p>12 ones --</p> <p>13 A Sure.</p> <p>14 Q -- make sure I understand.</p> <p>15 A Absolutely.</p> <p>16 Q Okay. On page 27 there's one for 592,000</p> <p>17 for the John O. Anderson World Charities Foundation.</p> <p>18 See that?</p> <p>19 A Uh-huh. Absolutely.</p> <p>20 Q I guess what is held is GE Private Asset.</p> <p>21 A Correct.</p> <p>22 Q Explain what that means.</p> <p>23 A GE Private Asset is an investment house and</p> <p>24 it can hold multiple securities inside of it. Do I</p> <p>25 know exactly off the top of my head what is held in</p> |
| <p>70</p> <p>1 number and it is designated account number to</p> <p>2 foundation number.</p> <p>3 Q Okay.</p> <p>4 A Make sense?</p> <p>5 Q The first category of investments we spoke</p> <p>6 about are all tied to the -- and that's pages 1</p> <p>7 through 25 of your investment account schedule -- are</p> <p>8 all tied to one brokerage account at Sterne, Agee &</p> <p>9 Leach, correct?</p> <p>10 A Correct.</p> <p>11 Q Now, the managed money accounts we're</p> <p>12 talking about, which are pages 26 through 43, through</p> <p>13 the end, are separate brokerage accounts --</p> <p>14 A Uh-huh.</p> <p>15 Q -- individual brokerage accounts with</p> <p>16 different organizations, correct?</p> <p>17 A Correct.</p> <p>18 Q Okay. Now, under the column "Exact account</p> <p>19 name," which is the second-to-the-last column, what</p> <p>20 information is listed there?</p> <p>21 A The foundation number, the foundation name</p> <p>22 and where it is held.</p> <p>23 Q Where it is held is the broker where that</p> <p>24 account is held?</p> <p>25 A It could be a brokerage account. I'd</p> | <p>72</p> <p>1 this brokerage account? No. I can get you a</p> <p>2 statement on it if I needed to.</p> <p>3 Q So you have a statement from GE Private</p> <p>4 Asset for that account number 123965?</p> <p>5 A Correct. And if you go cross the line and</p> <p>6 you look at instrument name, you can see that we get</p> <p>7 that in quarterly. So that would be March, June,</p> <p>8 September, December.</p> <p>9 Q Let me ask you about a couple of other big</p> <p>10 ones, make sure I understand them.</p> <p>11 A Sure.</p> <p>12 Q On page 32 --</p> <p>13 A Uh-huh.</p> <p>14 Q -- Townsley Family Foundation?</p> <p>15 A Correct.</p> <p>16 Q There's 1.2 million and that's held at</p> <p>17 Merrill Lynch?</p> <p>18 A Correct.</p> <p>19 Q Would that be a brokerage account at</p> <p>20 Merrill Lynch?</p> <p>21 A Correct.</p> <p>22 Q And you have a statement for that that you</p> <p>23 get monthly?</p> <p>24 A Yes.</p> <p>25 Q On page 33, 1.3 million for the Peterson</p> |

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1 Anderson Foundation. That's a brokerage account with
2 Edward Jones?
3 **A Correct.**
4 Q And you get a statement quarterly for that
5 account?
6 **A Yes.**
7 Q So what has happened in that -- in these
8 situations with the managed money -- managed money
9 designated accounts that are held in a brokerage,
10 someone that runs a subfoundation said, "Put this
11 money into this brokerage account," NHF put the money
12 into that brokerage account and some investment
13 advisor or money manager or somebody within that
14 brokerage firm is in charge of that account --
15 **A Correct.**
16 Q -- and sends you all, NHF, statements,
17 monthly/quarterly statements?
18 **A Yep.**
19 Q And you keep track of that for the
20 foundation?
21 **A Correct.**
22 Q Are -- approximately how much in the
23 aggregate is in the managed money category?
24 **A About 47, but it dropped -- as of 12/31/07**
25 **it has dropped. I -- my estimate now is -- really**

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1 **I -- to be -- I would say maybe 29, 30. We've lost**
2 **\$10 million in these accounts.**
3 Q Those accounts under managed money are
4 primarily in stocks or mutual funds tied to the stock
5 market, correct?
6 **A Correct.**
7 Q So as the stock market has dropped those
8 have dropped as well, correct?
9 **A Yeah. And we're about two standard**
10 **deviations away from the S&P. So if you want to look**
11 **at any of our assets, we move very much close to the**
12 **S&P, about two standard deviations away.**
13 Q Very good. Now, any of this money that
14 you've classified as managed money on this report here
15 in Exhibit 8, any of that pledged to any debt?
16 **A Currently as of today, only the two we went**
17 **over.**
18 Q Okay. Do you anticipate any more being
19 pledged?
20 **A Yes.**
21 Q Okay. Tell me why.
22 **A Why?**
23 Q Yeah. Why are you anticipating pledging
24 more? Is there new debt applications out there?
25 **A Yeah, the one -- remember we talked about**

75

1 **the additional 1 million line of credit. Yes.**
2 Q Okay. So the additional 1 million line of
3 credit is not going to be collateralized by the large
4 brokerage account at Sterne, Agee & Leach, but by some
5 of these individual managed money accounts?
6 **A All of it. The Sterne, Agee & Leach has**
7 **dropped so significantly that they are requiring that**
8 **we put more in.**
9 Q From some individual managed money --
10 **A (Nodding head up and down.)**
11 Q How are you picking which ones?
12 **A We're talking to our donors, explaining**
13 **them --**
14 Q Okay. So it's their -- their decision?
15 **A Yes. I mean, technically the money is in**
16 **our tax ID number, but we can't -- you know, they can**
17 **request it to be moved out of there like this. I**
18 **mean, they can request it to all be transferred to**
19 **the, you know, Red Cross Foundation. So we do talk to**
20 **our donors and say, "Listen, this is what we want to**
21 **do," in fear that they're just going to transfer the**
22 **asset out.**
23 Q Okay. So how many donors has NHF
24 contacted?
25 **A I would say about 30.**

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1 Q And what kind of responses have you got?
2 **A To be honest, I was very surprised with how**
3 **wonderful people have been. You know, they understand**
4 **the market situation and they understand, you know,**
5 **operating revenue and they understand just basically,**
6 **you know, what's going on.**
7 **And we're a charity as itself. So whether**
8 **they give it to the Red Cross or they -- you know,**
9 **they give it to us or, you know, they let us**
10 **collateralize it, you know -- they've been very, very**
11 **good and very, very positive.**
12 Q Which means you've gotten a lot of yeses,
13 "Go ahead and pledge it as collateral"?
14 **A Yeah, making my job easier.**
15 Q Are you guys there yet where you've got
16 enough of these pledges to satisfy the bank?
17 **A I'm in the process. It takes a very, very**
18 **long time. It's not something that happens overnight.**
19 Q Are you leading that effort to --
20 **A Yes.**
21 Q And how is it -- how are you doing it? Are
22 you sending letters, are you making phone calls,
23 sending e-mails? How --
24 **A We did all three. We made phone calls as**
25 **well as sent e-mails and sent letter. And then what**

| | |
|--|---|
| <p style="text-align: right;">77</p> <p>1 the process is, once we get the yes back from the 2 donor I am then contacting the brokerage account and 3 seeing what I need to do to collateralize it, whether 4 I new -- I have to open a new investment account with 5 a new number, you know, and instead of how we normally 6 title them, "National Heritage for the benefit of," 7 whatever, "the Julia Weltmann Foundation," it is 8 the -- it's going to be, "Virginia Heritage for the 9 benefit of the National Heritage Foundation for the 10 benefit of the Julia Weltmann Foundation." So just 11 seeing what each brokerage account needs. 12 Q Okay. Okay. Very good. Okay. I think I 13 understand the investments. 14 A Perfect. 15 Q What a bold statement that I understand 16 this stuff. Okay. Let me ask you about investments 17 in real and other property. And is this the right 18 schedule here before I mark it? 19 A Yes. Correct. 20 Q Okay. I'm going to mark this as Exhibit 21 11. 22 (Exhibit 11 was marked for identification 23 and attached to the deposition transcript.) 24 BY MR. GARCIA: 25 Q Okay. Now, you've given me a schedule of</p> | <p style="text-align: right;">79</p> <p>1 A Well, communications between -- letters 2 that were written, the donation application, I mean -- 3 but as pertaining to the investment, just the deed. 4 Q And this would be land donated by a donor 5 into this sub -- for the benefit of this foundation? 6 A Yes. 7 Q The WR -- 8 A Mutes (ph). 9 Q -- Mutes Foundation? 10 A They're one of our biggest donors. 11 Q Okay. Any of the assets on this real 12 property schedule pledged to any debt? 13 A No. 14 Q Any plans to do that? 15 A No. 16 Q Let me ask you about life insurance. 17 A Sure. 18 Q I have a schedule here, "Life insurance 19 schedule as of 12/31/97" (sic). Do you have that? 20 A Okay. 21 Q I'll mark that as Exhibit 12. 22 (Exhibit 12 was marked for identification 23 and attached to the deposition transcript.) 24 BY MR. GARCIA: 25 Q Okay. Tell me what this is generally.</p> |
| <p style="text-align: right;">78</p> <p>1 -- a spreadsheet. It's entitled "Real property 2 schedule as of 12/31/07," and that lists all of the 3 real estate owned by National Heritage Foundation, 4 correct? 5 A Real estate and buildings. 6 Q Okay. Has that changed much through today? 7 A No. 8 Q Okay. The biggest one here is 3.5 million, 9 some land somewhere in Illinois. 10 A Correct. 11 Q What is it? 12 A Land. 13 Q Just some raw land? 14 A Land. 15 Q How many acres are we talking about? 16 A I would have to look at files. 17 Q No building on it, no improvements on it as 18 far as you know? 19 A No. 20 Q When you go look at the file what do you 21 expect to find in that file? 22 A The deed. 23 Q Anything else? 24 A No. 25 Q Okay.</p> | <p style="text-align: right;">80</p> <p>1 A Life insurance policies donated into the 2 foundations. 3 Q Is there a difference between life 4 insurance policies donated into a foundation and a 5 life insurance policy for which premiums are paid out 6 of money donated into the foundation? 7 A I don't understand your question. 8 Q Okay. In my client's case, the 9 Mancillases' case, they would send money to their 10 foundation? 11 A Correct. 12 Q NHF would then turn around and use money in 13 that foundation to pay premiums on an insurance 14 policy? 15 A Correct. 16 Q The policy was not necessarily given to the 17 foundation. Do you -- is there a difference or is 18 this just every life insurance policy of any -- in 19 whatever forms that NHF has any kind of involvement 20 with? 21 A We only -- we only can pay the premiums of 22 the life insurance policies that we own and that we 23 are the beneficiary of. I'm legally not allowed to 24 pay any other life insurance premium per the IRS. So 25 if we paid a premium out of their foundation, it was</p> |

81

1 **because we were the owner and the beneficiary. Make**
2 **sense.**
3 Q Okay. So then that helps me understand
4 this schedule. This schedule, Exhibit 12, is every
5 life insurance policy that, one, NHF is the owner
6 of --
7 A **Correct.**
8 Q -- and, two, NHF is the 100 percent
9 beneficiary of.
10 A **Correct.**
11 Q Okay. Very good.
12 A **Yes.**
13 Q Are there any policies that -- life
14 insurance policies that NHF may pay premiums on that
15 it is not a beneficiary on?
16 A **Yes, but that's my personal -- my -- for**
17 **its employees we get the package of. But other than**
18 **that, no, not for foundation purposes.**
19 Q Okay. Very good. Okay. Now, under the
20 "Face value" column, that is the death benefit on each
21 life insurance policy?
22 A **Correct.**
23 Q Okay. So there is an aggregate of \$74
24 million?
25 A **Correct.**

82

1 Q Has that changed much through today?
2 A **Yes.**
3 Q Today what's that number approximately?
4 A **I have -- we only do an update on this once**
5 **a year. I can't tell you, but with -- I have received**
6 **a lot of notices that they have -- the policies has**
7 **lapsed due to the fact that if it's a variable policy**
8 **or universal policy the interest rates drop and**
9 **they're not able to feed the premiums anymore.**
10 Q Okay.
11 A **Does that make sense?**
12 Q Yeah. But do you have a general idea of
13 how much it's dropped from the 74 million --
14 A **I would say maybe about 5 million. So**
15 **around 69.**
16 Q Under the next column, "Account value,"
17 almost 7 million, what does that represent?
18 A **That is the cash -- the account value is**
19 **the actual accumulated value inside the policy,**
20 **whether it's the universal, it is then an interest**
21 **rate and it is a separate cash account. And in a**
22 **variable policy it's made up of mutual funds and**
23 **stocks. In a -- if it's a whole policy, it's just**
24 **regular cash value. There's about seven different**
25 **policies.**

83

1 Q You know this stuff?
2 A **Sorry.**
3 Q That's good. That's awesome.
4 All right. Under the "Cash surrender
5 value" column, which is 6.1 million, it's about
6 800,000 less.
7 A **Correct.**
8 Q Explain what cash surrender value is.
9 A **That is if I -- if I liquidated the policy**
10 **today, it's the actual amount of cash that I could**
11 **receive in.**
12 Q Why is that number different from the
13 account --
14 A **Surrender charges.**
15 Q So for a layperson, if NHF wanted cash out
16 of one of these policies, they call the insurance
17 company or send them a letter saying, "Hey, I want the
18 cash surrender value that has built up in that
19 policy," they will charge a fee called the "surrender
20 value" if it applies?
21 A **It's not called -- it's surrender charge.**
22 Q Surrender charge. Surrender charge, you're
23 right, if it applies, and then you'll end up with
24 what's called the "cash value."
25 A **Correct.**

84

1 Q Generally correct?
2 A **Yeah.**
3 Q Okay. Now, today what would be the
4 approximate cash value of these several policies
5 today?
6 A **And I'm going to estimate this based on how**
7 **closely this platform moves with the S&P 500. That's**
8 **only the best estimate I can give you. And I would**
9 **say that since it's farther away from it, I would say**
10 **it probably would drop to about 5, 5.2 would be a good**
11 **estimate in my head.**
12 Q Are any of these policies or the cash
13 values associated with these policies pledged?
14 A **Yes.**
15 Q Okay. To what debt?
16 A **The 6.5, the additional 1 -- the 6.5**
17 **commercial loan, the \$1 million credit, and the**
18 **additional 1 million that we are now asking for.**
19 Q All of them or selected policies?
20 A **Selected policies.**
21 Q Okay. Which ones are pledged and which
22 ones are not pledged?
23 A **I don't have that with me today.**
24 Q Okay. There are seven pages worth of
25 policies. I don't know how many are on here, but over

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| <p>85</p> <p>1 100. That sound right?</p> <p>2 A Oh, yeah, I'd say about 200.</p> <p>3 Q Of the approximate 200, how many would you</p> <p>4 say --</p> <p>5 A Ten.</p> <p>6 Q -- are pledged?</p> <p>7 A Ten.</p> <p>8 Q Ten. Ten of the larger ones?</p> <p>9 A Yeah.</p> <p>10 Q Okay. Do you know which ten?</p> <p>11 A No.</p> <p>12 Q Would you have access to that kind of</p> <p>13 information?</p> <p>14 A Yes.</p> <p>15 Q Okay. Any plans to pledge the rest of it?</p> <p>16 A No. But let me -- let me explain that</p> <p>17 more.</p> <p>18 Q Go ahead.</p> <p>19 A No, but if needed, yes.</p> <p>20 Q If the banks require?</p> <p>21 A Yes.</p> <p>22 Q Okay. Okay. Partnership schedule, do you</p> <p>23 have that?</p> <p>24 A Yes, I do.</p> <p>25 Q I'm going to mark that as Exhibit 13.</p> | <p>87</p> <p>1 A Sure.</p> <p>2 Q On page 4 there's one under the foundation</p> <p>3 name the JP Leap Foundation.</p> <p>4 A JP --</p> <p>5 Q Leap Foundation. Second from the bottom.</p> <p>6 A Second to the bottom?</p> <p>7 Q Yeah. See it?</p> <p>8 A JP --</p> <p>9 Q Leap, L-E-A-P.</p> <p>10 A Oh. Well, it would be good if I was</p> <p>11 actually on page 4.</p> <p>12 Q Page 4.</p> <p>13 A Thanks. Yes.</p> <p>14 Q 4.6 million --</p> <p>15 A Uh-huh.</p> <p>16 Q -- appraised value?</p> <p>17 A Correct.</p> <p>18 Q What is -- what's the nature of that</p> <p>19 partnership?</p> <p>20 A If you look at the asset type, the</p> <p>21 partnership, which is column 7, the partnership</p> <p>22 consists of cash, variable annuities and real estate.</p> <p>23 Q What is it that NHF holds in connection</p> <p>24 with that partnership?</p> <p>25 A We own 97 percent of that partnership. So</p> |
| <p>86</p> <p>1 (Exhibit 13 was marked for identification</p> <p>2 and attached to the deposition transcript.)</p> <p>3 BY MR. GARCIA:</p> <p>4 Q Tell me generally what that is.</p> <p>5 A It is a partnership, also known as an -- it</p> <p>6 could be an LCC, an LCD, that has donated a percent</p> <p>7 interest to their foundation at the National Heritage</p> <p>8 Foundation.</p> <p>9 Q What kind of partnerships are we talking</p> <p>10 about here?</p> <p>11 A All different. If you look at the</p> <p>12 partnership name, which is column 3, you can see it's</p> <p>13 Mount Baker LLC, Ann Cord, Page One. There are all</p> <p>14 different types of partnerships.</p> <p>15 Q Is NHF a partner in any of these</p> <p>16 partnerships?</p> <p>17 A We are not a partner. We just own a</p> <p>18 percentage of the partnership. And if you want to see</p> <p>19 the percentage that we own, if you go to column 6.</p> <p>20 Q Okay. Are any of these pledged --</p> <p>21 A No.</p> <p>22 Q -- to any debt?</p> <p>23 A No.</p> <p>24 Q Okay. Let me ask you about a couple of</p> <p>25 bigger ones here.</p> | <p>88</p> <p>1 let's say the variable annuity returns \$10,000 a year.</p> <p>2 We will get 97 percent of that \$10,000 a year.</p> <p>3 Q Is it 97 percent or .97 percent?</p> <p>4 A Okay. It's .97, which is equal to 97</p> <p>5 percent.</p> <p>6 Q Ninety-seven percent. Okay. So I assume</p> <p>7 you have a file somewhere on this partnership</p> <p>8 interest.</p> <p>9 A Yes.</p> <p>10 Q What would you expect to find in that file</p> <p>11 in terms of documents?</p> <p>12 A There is -- to accept a partnership into</p> <p>13 our foundation we need multiple documents. We need an</p> <p>14 8283 --</p> <p>15 Q What is an 8283?</p> <p>16 A It's a tax form that signs off on the fair</p> <p>17 market value.</p> <p>18 Q Okay.</p> <p>19 A We need an appraisal form from an</p> <p>20 independent appraiser that uses three valuation</p> <p>21 approaches; we need a letter of intent saying this is</p> <p>22 what our plans are, this is what we want; and we need</p> <p>23 an operating agreement that states how we are going to</p> <p>24 get the distribution, how we are going to get the</p> <p>25 interest and what is NHF's benefit in this; and we</p> |

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| <p style="text-align: right;">89</p> <p>1 also need a list of the people that are associated 2 with the partnership. 3 Q Under the column that says "Donated 4 interest of partnership interest" -- 5 A Uh-huh. 6 Q -- that percentage represents NHF's share? 7 A Correct. 8 Q A lot of these are 98 percent, 99 percent, 9 97 percent. 10 A Correct. 11 Q Who do you -- who would you expect in 12 general is the partner for the remaining 1, 2 or 3 13 percent? 14 A I don't know. 15 Q Would it be the donor in most 16 circumstances? 17 A I would assume. But again, it would be an 18 assumption on my part. 19 Q And you wouldn't have that in the file for 20 each individual partnership? 21 A No. Has nothing to do with us. 22 Q And none of this -- none of these 23 partnerships are pledged? 24 A Correct. If you can figure out a way to 25 pledge them, I would. No, I'm kidding.</p> | <p style="text-align: right;">91</p> <p>1 A Again, I don't know who the original donors 2 are on this. I would need to research that. 3 Q And you have a file for each one of those 4 on your list of notes receivable? 5 A Correct. 6 Q All right. Investments, we've talked about 7 several. On your audit there's 212 million or so. We 8 talked about several. Any of those investments held 9 in Texas? 10 A I don't know. 11 Q Okay. How would you go about finding out 12 if you had to do that? 13 A See, my -- my problem is saying -- is when 14 you say, "held in Texas." I can tell you the 15 information I would be able to tell you about each 16 account. 17 Q I'll give you an example. The Sterne, Agee 18 & Leach brokerage account is in New York; is that 19 right? Or where is it? 20 A Colorado. 21 Q Colorado. Okay. There you go. Bad guess 22 on my part. Okay. So obviously those are not in 23 Texas. 24 A Correct. But I don't know if the donors 25 that originally gave the money to us are donors from</p> |
| <p style="text-align: right;">90</p> <p>1 Q Has the value of these dropped from '07? 2 '07's approximately 134 million? 3 A Uh-huh. 4 Q Okay. Is that a yes? 5 A Yes. 6 Q What would you expect the value to be today 7 approximately a year later more or less? 8 A I would say under 100 million. The bigger 9 the asset, the more it takes in losses. 10 Q Let me back up a little bit and ask you a 11 couple of things. And I think I know the answer, but 12 I just want to make sure I've got it from you. Okay. 13 The cash and cash equivalents, any of those held in 14 Texas? 15 A No. 16 Q Okay. The notes receivable -- 17 A Can I take that back? 18 Q Sure. 19 A I don't know if PNC has a branch that -- in 20 Texas. I don't know. 21 Q Okay. Okay. The notes receivable, are 22 those from anyone in Texas? 23 A I would have to -- 24 Q Please look at the list. I don't want you 25 to guess.</p> | <p style="text-align: right;">92</p> <p>1 Texas. 2 Q No, I don't need to know that. I need to 3 know where the -- where the asset, the investment is 4 held. Obviously the Sterne, Agee & Leach brokerage 5 account -- 6 A Right. 7 Q -- all that money is held in that brokerage 8 account. It's not held by the donor anymore. 9 A No. 10 Q Donor gave it up. 11 A Exactly. But my -- my question then comes 12 to you is that you're going to have an Edward Jones 13 office in all 50 states, so tell me how am I supposed 14 to know which one it's actually held in. 15 Q Okay. Well, there's an example, I guess. 16 Could be held in multiple states. Okay. 17 A Exactly. And for PNC that was the same 18 question. I don't -- you know, PNC could very well 19 have a bank in the -- 20 Q The private placements -- the private 21 placements, which are mostly loans to individual 22 companies, any of those companies -- 23 A In Texas? 24 Q -- in Texas? 25 A I would have to research.</p> |

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| <p>93</p> <p>1 Q Each individual file?</p> <p>2 A Correct.</p> <p>3 Q There's about 16 of them?</p> <p>4 A Correct.</p> <p>5 Q Okay. The managed money, obviously</p> <p>6 brokerage accounts, Edward Jones, Merrill Lynch, they</p> <p>7 all have offices in Texas. But any others come to</p> <p>8 mind that are in Texas?</p> <p>9 A Not to my knowledge, no.</p> <p>10 Q The real estate we've discussed and we have</p> <p>11 a spreadsheet here. Any of those properties in Texas?</p> <p>12 A I think I had the address, did I not, on</p> <p>13 them? Yeah, I did. Okay. Let me just go see.</p> <p>14 Florida, Illinois, Virginia, Oregon --</p> <p>15 Q They do list the state. I see that. Okay.</p> <p>16 A And if it does not have a state, then it's</p> <p>17 multiple states.</p> <p>18 Q Okay. Partnerships, any Texas partnerships</p> <p>19 that you're aware of?</p> <p>20 A I would have to research.</p> <p>21 Q Okay. Life insurance, the list of life</p> <p>22 insurance, any of those life insurance companies that</p> <p>23 issued any of those policies in Texas?</p> <p>24 A That would be very hard for me to answer</p> <p>25 just like the brokerage account. I'm sure that, you</p> | <p>95</p> <p>1 prepare the audit there are certain accounting</p> <p>2 principles that the CPA adheres to that may not be</p> <p>3 applicable to the Form 990. As an example, you know,</p> <p>4 annuities or life insurance, all that's going to be on</p> <p>5 an audit, for example, is cash -- the cash value of</p> <p>6 the life insurance, not the death benefit or the face</p> <p>7 value.</p> <p>8 A Correct.</p> <p>9 Q Do you understand that? And I don't know</p> <p>10 if there are different rules for the Form 990 that</p> <p>11 have more of a disclosure than what will be in the</p> <p>12 audit. And I just use life insurance as an example</p> <p>13 because you gave me this sheet that showed \$75 million</p> <p>14 in life insurance. Obviously that number, 75 million,</p> <p>15 wouldn't be in an audit --</p> <p>16 A Correct.</p> <p>17 Q -- because the accounting principles that</p> <p>18 apply to an audit are just to show the cash value.</p> <p>19 A Right. But in the Form 990 as well it</p> <p>20 would only be the cash value. You can never, ever</p> <p>21 book regardless to the IRS the future benefits.</p> <p>22 Q Annuities. There are annuities payable on</p> <p>23 the audit.</p> <p>24 A Correct.</p> <p>25 Q Explain what those are.</p> |
| <p>94</p> <p>1 know, you have a -- but I don't know if one -- if</p> <p>2 you're -- if their headquarters, does that -- if their</p> <p>3 headquarters could be in Texas, I don't know. I'd</p> <p>4 have to research. But I don't know very much how I'd</p> <p>5 come about that information.</p> <p>6 Q Okay. You do list the -- the life</p> <p>7 insurance company on your schedule under "carrier"; is</p> <p>8 that right?</p> <p>9 A Correct.</p> <p>10 Q Very good. Okay. Let me ask you about</p> <p>11 Form 990. Explain generally what Form 990 is.</p> <p>12 A It -- it is what we have to file with the</p> <p>13 IRS to keep our charity status of a 501(c)(3).</p> <p>14 Q What kind of data, generally speaking, is</p> <p>15 included in the Form 990? It's a rather thick report.</p> <p>16 What kind of data generally is on there?</p> <p>17 A All our assets, how they performed, what</p> <p>18 our president, vice president gets paid, what our</p> <p>19 benefits are, it goes through how much we got donated</p> <p>20 in, I mean, our financial information.</p> <p>21 Q Okay. Are there any other substantial or</p> <p>22 material assets disclosed on the Form 990 that would</p> <p>23 not be in the audit?</p> <p>24 A No.</p> <p>25 Q And understanding that an audit -- to</p> | <p>96</p> <p>1 A We took in money -- do you understand</p> <p>2 what -- this is -- not do you understand. The</p> <p>3 basic --</p> <p>4 Q I need you to explain what an annuity is.</p> <p>5 A Okay. Okay. I didn't know.</p> <p>6 Q That's all right.</p> <p>7 A Okay. An annuity is basically when we take</p> <p>8 in a lump sum -- when an insurance company or anybody</p> <p>9 takes in a lump sum of money and then pays a -- a</p> <p>10 certain type of payments.</p> <p>11 Now, you have -- there's 19 different</p> <p>12 payment options. It could be for life at a set</p> <p>13 interest rate. It could be for a term of five years.</p> <p>14 It could be -- it could be like an arm where it</p> <p>15 changes every five years. There's very -- there's</p> <p>16 many types of annuity payment options that they can</p> <p>17 take. But annuities payable for the National Heritage</p> <p>18 Foundation is we took in a lump sum of money and we</p> <p>19 promised to make a streamline of payments.</p> <p>20 Q Make sure I understand it. A donor sent</p> <p>21 money to NHF --</p> <p>22 A Correct.</p> <p>23 Q -- to a particular foundation --</p> <p>24 A Correct.</p> <p>25 Q -- with a request that that money be used</p> |

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| <p>97</p> <p>1 to purchase an annuity?</p> <p>2 A Correct.</p> <p>3 Q NHF purchases the annuity from a life</p> <p>4 insurance company?</p> <p>5 A No. In this case we ran the program as a</p> <p>6 charitable gift annuity, which means that we did not</p> <p>7 actually have to purchase anything, that we could pick</p> <p>8 the investments ourself.</p> <p>9 Q And what investments -- what do you mean</p> <p>10 pick the investments yourself? Explain that.</p> <p>11 A We put it in the private placement. We</p> <p>12 could pick what --</p> <p>13 Q The money we've spoken about, the 25</p> <p>14 million?</p> <p>15 A Correct. Yeah.</p> <p>16 Q In a typical situation the lump sum is paid</p> <p>17 to a life insurance company?</p> <p>18 A Correct.</p> <p>19 Q And they make the promise to pay those</p> <p>20 future payments --</p> <p>21 A Correct.</p> <p>22 Q -- correct? Okay. In this case, the</p> <p>23 annuities that NHF has on its book, who's obligated --</p> <p>24 who made the promise to make those payments?</p> <p>25 A National Heritage Foundation.</p> | <p>99</p> <p>1 A (Nodding head up and down.)</p> <p>2 Q And it's invested it in these private</p> <p>3 placements?</p> <p>4 A Correct.</p> <p>5 Q All of it?</p> <p>6 A Yes.</p> <p>7 Q None in mutual funds?</p> <p>8 A (Shaking head side to side.)</p> <p>9 Q Just all in private placements?</p> <p>10 A Correct.</p> <p>11 Q All right. Whose decision was that?</p> <p>12 A Our president, vice president and board --</p> <p>13 Q And the bulk of these private placements --</p> <p>14 A -- and CEO.</p> <p>15 Q -- are with this Ian Scott-Dunn fellow?</p> <p>16 A Correct.</p> <p>17 Q Okay. Is there any litigation with Ian</p> <p>18 Scott-Dunn or Stellar Financial or Stellar McKim</p> <p>19 involving this debt or anything like that?</p> <p>20 A With the National Heritage Foundation?</p> <p>21 Q Yes.</p> <p>22 A No.</p> <p>23 Q With other folks?</p> <p>24 A With --</p> <p>25 Q Because you hesitated as if there was some</p> |
| <p>98</p> <p>1 Q Okay. All right. So if something happens</p> <p>2 to National Heritage Foundation, that person's not</p> <p>3 going to receive their annuity payments?</p> <p>4 A Correct.</p> <p>5 Q Just like in the life insurance example,</p> <p>6 something happens to AIG, for example --</p> <p>7 A Correct.</p> <p>8 Q -- life insurance company, they're not</p> <p>9 going to make those annuity payments.</p> <p>10 A Correct.</p> <p>11 Q So these are -- these annuities are not</p> <p>12 placed with a life insurance company as in the</p> <p>13 traditional --</p> <p>14 A Correct.</p> <p>15 Q -- sense that people think of annuities?</p> <p>16 A Correct.</p> <p>17 Q The credit behind these annuities is NHF?</p> <p>18 A Correct.</p> <p>19 Q In the typical situation a life insurance</p> <p>20 company will then invest that money somewhere and as</p> <p>21 it grows over time it keeps some of that and then uses</p> <p>22 some of those -- some funds to pay these annuity</p> <p>23 payments, correct?</p> <p>24 A Correct.</p> <p>25 Q Okay. NHF has invested that money itself?</p> | <p>100</p> <p>1 litigation.</p> <p>2 A Oh. Like are we suing them? Is that -- I</p> <p>3 just want to make sure what you're asking. Are we</p> <p>4 suing them?</p> <p>5 Q I want to know -- well, that's one</p> <p>6 question. No?</p> <p>7 A No, we're not.</p> <p>8 Q Is Stellar Financial or Stellar McKim</p> <p>9 involved in any litigation that NHF is not involved</p> <p>10 in?</p> <p>11 A Yes.</p> <p>12 Q Okay. What's the nature of --</p> <p>13 A I'm not very sure of the sides or what's</p> <p>14 going on with it, but I know that they are involved in</p> <p>15 another lawsuit.</p> <p>16 Q What do you know about it?</p> <p>17 A I just -- you know, when you see it on</p> <p>18 their financials and you can see it in the footnote,</p> <p>19 you just know.</p> <p>20 Q Do you know where it is?</p> <p>21 A No.</p> <p>22 Q Do you know who else is involved in the</p> <p>23 litigation?</p> <p>24 A I -- I can't remember the guy's name. I'm</p> <p>25 sorry.</p> |

101

1 Q That's all right. No?

2 A **No. I'm trying to think.**

3 Q Okay. Who is James Cahill?

4 A **James Cahill is another investment advisor**

5 **that we have worked with to place some of the other**

6 **private placement investments.**

7 Q So all of the private placements we've

8 discussed are not through Ian Scott-Dunn?

9 A **No. About 80 percent of them are.**

10 Q And who is James Cahill affiliated with?

11 A **McKim & Capital.**

12 Q That's a different organization?

13 A **It's so confusing. Yes. It's very -- yes.**

14 Q There's no debt to his organization or owed

15 from Cahill's organization to NHF, it's just from

16 Stellar -- it's just from Ian's organization?

17 A **Yes. Correct.**

18 Q Okay. One of the items on the deposition

19 notice, item number 8 --

20 A **The amount, location --**

21 Q Yeah, "The amount, location and nature of

22 credit available, applied for or payable to financial

23 institutions or other access to credit." Now, we've

24 spoken about the million dollar loan app to Virginia

25 Heritage Bank. Any other applications or access to

102

1 credit, anything like that?

2 A **No.**

3 Q In the form of bonds or anything else?

4 A **No.**

5 Q Or appeal bonds or anything --

6 A **Oh. Oh. Yeah. Well, I'm trying**

7 **liquidate -- I'm trying to get enough. Can I -- okay.**

8 **I'm trying to -- we have to talk to the donors about**

9 **people that are willing to liquidate their foundation**

10 **money to -- you know, to not make any donations out,**

11 **to not do any, you know, charity work with it. I'm in**

12 **the process of liquidating the appeals bond to get --**

13 **to put up the money at the bank, but I have to get the**

14 **line of credit from the bank first for 6.7 million**

15 **before the bank will even take our application in for**

16 **the appellate bond. And currently I have -- as of**

17 **today I'm doing good, though. I have three.**

18 Q Okay. And the appellate bond would come

19 from the bank?

20 A **No, the appellate bond would come from an**

21 **insurance company. But the bank -- the insurance**

22 **company will not accept my application until I have**

23 **the 6.7 line, you know -- letter of credit.**

24 Q Which insurance company are you working for

25 the appellate?

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1 A **Uni -- Uni -- I don't -- I don't know. I'm**

2 **sorry. So that's -- when you said if it's in the -- I**

3 **haven't applied for it yet because I haven't gotten**

4 **the money yet.**

5 Q That's fine. Any other attempts to raise

6 money other than this loan app we've discussed with

7 Virginia Heritage Bank?

8 A **No -- well, attempts to raise money?**

9 Q Yeah.

10 A **We all the time are doing our marketing and**

11 **soliciting and saying, "Hey, listen, donor advised**

12 **funds are good to do." But yeah.**

13 Q And anything big -- I've seen some

14 reference to the World Philanthropic Mandate where

15 they're trying to raise 50 million bucks or something.

16 A **Yeah, it's one of our CEO's programs that**

17 **he's trying to raise money for.**

18 Q Any money been raised for that?

19 A **(Shaking head side to side.)**

20 Q Nothing yet?

21 A **Nothing new.**

22 Q Anything like that where there's a large

23 amount of money, there's a big plan, large amount of

24 money trying to be raised?

25 A **No. Not that I know of, but -- I don't**

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1 **know if you ever met Doc. And I'm saying this out of**

2 **the kindness of my heart. He has a new idea every**

3 **day.**

4 Q Okay. Yeah, I've met him. He's a good

5 guy.

6 A **Yeah.**

7 Q Who is Susan Schoch or Schoch? Does that

8 ring a bell with you?

9 A **Susan -- what's --**

10 Q S-C-H-O-C-H.

11 A **I don't know who that is. Should I?**

12 Q I don't know.

13 A **I'm like, "Who is that?" Yeah.**

14 Q Okay. At Sterne, Agee & Leach --

15 A **Uh-huh.**

16 Q -- which is not affiliated with Rex

17 Leach -- who is it that you deal with over there?

18 A **Donna Schultz.**

19 Q Donna Schultz. And that's in the Colorado

20 office?

21 A **Correct.**

22 Q Where in Colorado?

23 A **Denver.**

24 Q Denver. Okay. At Virginia Heritage Bank

25 who do you deal with over there?

| | |
|--|--|
| <p>105</p> <p>1 A Multiple people, but mostly Tom Powell.</p> <p>2 Q And what office is Tom Powell?</p> <p>3 A The Fairfax, Virginia, office.</p> <p>4 Q At Stellar McKim or Stellar Financial, who</p> <p>5 do you deal with over there?</p> <p>6 A Deborah Seal.</p> <p>7 Q She's the CFO?</p> <p>8 A Correct.</p> <p>9 Q Vantage Funds, what are -- what is that?</p> <p>10 I've seen that in some of these schedules. What is</p> <p>11 Vantage Funds?</p> <p>12 A That's the -- that is the name that we gave</p> <p>13 to the 16 firm private placements to book on our --</p> <p>14 our books.</p> <p>15 Q Oh, you guys made up that name?</p> <p>16 A Yeah.</p> <p>17 Q Because I've heard of a Vantage that has</p> <p>18 mutual funds. That's not the same company?</p> <p>19 A Yeah, no. It's --</p> <p>20 Q Is Vantage Funds something that you</p> <p>21 administer?</p> <p>22 A No.</p> <p>23 Q Who does?</p> <p>24 A Officially Ian Scott-Dunn.</p> <p>25 Q This guy's name keeps coming up, Ian</p> | <p>107</p> <p>1 everything in -- and I'm going to say -- in God's name</p> <p>2 to make the payments until it's paid off.</p> <p>3 Q But he doesn't work for Stellar Financial</p> <p>4 anymore, as I understand. He doesn't run it so he has</p> <p>5 no control over them generating revenues --</p> <p>6 A He still --</p> <p>7 Q -- which is then what is used to pay your</p> <p>8 loan.</p> <p>9 A Correct. But he still is there in a -- he</p> <p>10 still has an office there. He may not be the CFO, but</p> <p>11 he still has an -- he still has an office there and</p> <p>12 he's still very, very, very closely tied with making</p> <p>13 sure the business runs well. And he does marketing</p> <p>14 and he does meet with clients. So yes, he may have</p> <p>15 stepped down as CFO for some reason I -- but he is</p> <p>16 still there in a capacity.</p> <p>17 Q He still has a position there of some kind?</p> <p>18 A Yes, but I'm not quite sure of the</p> <p>19 relationship.</p> <p>20 Q And where is that office?</p> <p>21 A Strasburg, Pennsylvania.</p> <p>22 Q Okay. How old is this guy?</p> <p>23 A I would say -- and again, I've never asked</p> <p>24 his specific age -- sixties.</p> <p>25 Q You've met him?</p> |
| <p>106</p> <p>1 Scott-Dunn.</p> <p>2 A Correct.</p> <p>3 Q And you're looking -- does he run the</p> <p>4 Stellar Financial or Stellar McKim?</p> <p>5 A He used to. He was --</p> <p>6 Q He doesn't run it anymore?</p> <p>7 A He was recently replaced.</p> <p>8 Q Who replaced him?</p> <p>9 A Deborah Seal.</p> <p>10 Q Who made that decision?</p> <p>11 A Ian Scott-Dunn and Deborah Seal.</p> <p>12 Q They don't have a board of some kind?</p> <p>13 A Not that I'm aware of.</p> <p>14 Q So he stepped down and Deborah Seal took</p> <p>15 over?</p> <p>16 A Correct.</p> <p>17 Q Do you know why he stepped down?</p> <p>18 A No.</p> <p>19 Q Why do you all -- why does NHF feel that</p> <p>20 his guarantee is valuable?</p> <p>21 A I don't know. I -- I -- I have nothing</p> <p>22 better to say about it than the fact that if I --</p> <p>23 if -- for me personally in protecting the assets of</p> <p>24 the National Heritage Foundation, if I can put a lien</p> <p>25 on his house I will feel that he will then do</p> | <p>108</p> <p>1 A Yes, multiple times.</p> <p>2 Q When did he start working with -- in some</p> <p>3 capacity with NHF?</p> <p>4 A I think he made his first proposal to NHF</p> <p>5 before I started in 2003.</p> <p>6 Q You started in '03 or he made his first</p> <p>7 proposal in '03?</p> <p>8 A He -- he made his first proposal in '03.</p> <p>9 Actually it might have been before that. It might</p> <p>10 have been '01, '02, but the proposal was accepted in</p> <p>11 '03. And we then changed our software starting as</p> <p>12 1/1/04, and I did not start until '05.</p> <p>13 Q Okay. Is he a PDO as well with NHF?</p> <p>14 A No.</p> <p>15 Q Does he have any foundations at NHF?</p> <p>16 A No.</p> <p>17 Q Do you know if Stellar has a board?</p> <p>18 A I'm unsure.</p> <p>19 Q Are there any NHF people on their board?</p> <p>20 A I'm unsure if they have a board, so I can't</p> <p>21 say if -- I don't know if -- if anybody would be on</p> <p>22 their board from our -- I don't know if they have a</p> <p>23 board.</p> <p>24 Q Whose software did NHF use prior to '04</p> <p>25 when it switched to Stellar Financial?</p> |

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1 **A** It used something that we called "APT" --
2 **"AP."** It was a mixture of Access -- you know,
3 Microsoft Access, you know, pulling queries and using
4 those databases and we called it "AP," but I don't
5 know any more information other than that. I rarely
6 go into the old system. It's hard to work with.
7 Q So he -- he came into the picture in '03 --
8 **A** Uh-huh.
9 Q -- and '04 is when NHF started using the
10 Stellar software?
11 **A** Yeah, 1/1/04 we made the switch. Yeah.
12 Q Is all of this money that was loaned or
13 invested in Stellar Financial, was that all done after
14 '04, then?
15 **A** Correct.
16 Q So in the last four years?
17 **A** It -- we started giving them money in '04,
18 '05, and then '06 we stopped.
19 Q Okay. And you have a file somewhere that
20 shows all the loans that have been advanced, all the
21 payments that have been made, all the notes and
22 collateral and what have you --
23 **A** Correct. Just not one file, multiple
24 files, yes, but we have documents.
25 Q Why would there be multiple files?

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1 **A** Each investment.
2 Q How many investments were --
3 **A** Sixteen.
4 Q In Stellar Financial?
5 **A** Oh, in Stellar -- in just -- no.
6 Q Just them.
7 **A** Yes, that -- they -- that is one file.
8 Q One file.
9 **A** Yes.
10 Q How large of a file is it?
11 **A** Pretty big.
12 Q Three inches or three feet?
13 **A** I'm really bad at that. Can you tell me --
14 can you do it with your hands?
15 Q Yes. It's like --
16 **A** That would be what? That would be --
17 Q About four inches?
18 **A** I would say it's a little bit bigger, maybe
19 about five or six.
20 Q So what kind of documents would be in that
21 file if it's that thick?
22 **A** Every time we renegotiated a note we have
23 the old document, then the new document. Every time
24 there was any type of correspondence in between, you
25 know, what was going on or what payments were going

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1 on, that's in the file.
2 I recently put a lot more in the file
3 because I made copies of all, like, the transfers in
4 and out of what bank account and to keep track of
5 everything what money is owed where to do the research
6 for putting the bond in place.
7 Q Okay. As I understand, the money that was
8 loaned or invested in Stellar came from donations to
9 the general fund where the donor didn't specify how
10 that money should be invested.
11 **A** Yes. But when you say a general fund, it
12 is not a general fund. It was donated -- for example,
13 it was donated -- we'll use it in the case of me as an
14 example. I donated \$200,000 to the Julia Weltmann
15 Foundation at the National Heritage Foundation. I
16 said I do not want to do anything with investments, I
17 just want to let it sit there in a checking account.
18 Then what we did is in order to keep track of it we
19 then keep it in their checking account -- we keep it
20 in their cash account on the -- the system, right, and
21 then we take it out of the checking account, put it in
22 the investment account and we code it to this "due
23 to."
24 Q What I -- I guess what I meant "general
25 fund" is you said there were only two checking

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1 accounts.
2 **A** Yes.
3 Q Each individual foundation doesn't have
4 their own checking account?
5 **A** Correct.
6 Q Okay. When that money is -- was invested
7 in Stellar Financial, was a donor notified of that?
8 **A** No.
9 Q Okay. Was anyone notified of that? It's
10 just the board knows and Stellar Financial knows?
11 MR. LEACH: Objection, form.
12 Q Yeah, I was vague in my question, that's
13 why he's objecting, when I said "anyone." Well, let
14 me -- let me go through this. I assume what happens
15 is Ian Scott-Dunn comes in and does his horse-and-pony
16 show to the board and then the board decides, yep,
17 we're going to invest money into this investment
18 thing.
19 **A** Correct.
20 Q Is that the way it worked?
21 **A** That's the way it worked.
22 Q And it was a decision by the board versus
23 the CEO or the president or a CFO or -- is that the
24 way it worked?
25 **A** Correct.

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1 Q And so there would be documents of some
2 kind, some kind of board resolution of some kind?
3 A **Board minutes, correct.**
4 Q Board minutes. And would those be in the
5 Stellar Financial file or would those be in a separate
6 file?
7 A **They would be -- yeah, they would be in a**
8 **separate file.**
9 Q So there is documentation of the board
10 approving this?
11 A **Correct.**
12 Q Okay. Would these -- go ahead.
13 A **That is my under -- my understanding.**
14 Q You're not sure?
15 A **I was not -- I'm not part of the board**
16 **meetings, but when I have asked the question to the --**
17 **to specific people of what's going on, I said -- I**
18 **heard back it was board approved. So that is what**
19 **I -- the assumption I am making.**
20 Q What specific people told you that?
21 A **My COO.**
22 Q Who is that?
23 A **Marian Houk.**
24 Q Anyone else?
25 A **Yeah. Jan Ridgely, our vice president, and**

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1 **our president Tick Houk, John T. Houk.**
2 Q Those three people told you that?
3 A **Correct. Not for every single investment,**
4 **but for -- when I asked.**
5 Q Sure. Now, this Stellar Financial issue --
6 the notes, the loans or the investments to them, the
7 renegotiation, the trying to get more collateral, all
8 that stuff -- is the bank, Virginia Heritage Bank, are
9 they aware of that issue?
10 A **No.**
11 Q Okay.
12 A **When you say "aware of the issue," can**
13 **you --**
14 Q In other words, I gather from your
15 testimony is there is some concern about whether
16 Stellar Financial is going to pay you back. And
17 that's a lot of money. That's \$14 million.
18 A **It's --**
19 Q If the bank -- if First -- if Virginia
20 Heritage Bank is going to lend you all more money
21 above the 7 and a half million dollars they've already
22 loaned you, I assume the bank wants to know about any
23 issues that might affect NHF's ability to repay
24 back -- repay that loan.
25 A **It's --**

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1 MR. LEACH: Objection to the form.
2 Q When I was a vice president in a commercial
3 bank I used to ask those questions.
4 A **Right.**
5 Q And so my question is --
6 A **They have not been asked -- those questions**
7 **have not been asked to us. And the reason for there's**
8 **no discovery into our assets is because we've pledged**
9 **specific accounts. So if anything does happen to the**
10 **National Heritage Foundation, they will go over the**
11 **specific asset's pledge, not the private placements.**
12 **And that's how it's set up and that's how they are**
13 **secured.**
14 Q Okay. So they just haven't come up?
15 A **No reason to offer.**
16 Q Are you involved with the discussions with
17 Virginia Heritage Bank?
18 A **Yes.**
19 Q Who else is involved with it?
20 A **John T. Houk, our president; Janet Ridgely,**
21 **our vice president.**
22 Q Anyone else?
23 A **No.**
24 Q Is Mrs. Houk, Marian Houk, involved?
25 A **No.**

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1 Q Mr. Houk, who's here in the room, is the
2 president?
3 A **Correct.**
4 Q His sister Jan is a vice president?
5 A **Correct.**
6 Q And your position is, again?
7 A **Senior financial analyst.**
8 Q Who's the -- between the three of you all,
9 who's the numbers person? Who knows the numbers --
10 A **Me.**
11 Q -- best? Okay. And who do you report to,
12 to Jan or to Mrs. Houk?
13 A **I report to Jan mostly.**
14 Q So she's kind of a numbers person, too?
15 A **No.**
16 Q No?
17 A **Not at all.**
18 Q You're the numbers person?
19 A **Yeah. But it's only been here recently**
20 **that I have been asked to be in on the numbers more**
21 **so.**
22 Q Who was involved before you? Who was the
23 numbers person before you?
24 A **There wasn't one, to be honest.**
25 Q I mean, who -- who kept up -- who did all

| | |
|--|---|
| <p style="text-align: right;">117</p> <p>1 these spreadsheets before you?</p> <p>2 A A mixture of Donyal -- you know, our old</p> <p>3 controllers, but we never had any detailed reports</p> <p>4 like this before.</p> <p>5 Q You created these reports?</p> <p>6 A Yes.</p> <p>7 Q And when did you start doing this?</p> <p>8 A '05.</p> <p>9 Q '05. Who's the controller now?</p> <p>10 A David Koury.</p> <p>11 Q And you don't report to that guy? I mean,</p> <p>12 since you're a numbers person, it makes sense you</p> <p>13 would report to a controller. That's not the way it</p> <p>14 works?</p> <p>15 A No.</p> <p>16 Q How come?</p> <p>17 MR. LEACH: Objection, form.</p> <p>18 A Because I have a very big problem working</p> <p>19 with him, personality conflict.</p> <p>20 Q He's just a difficult guy? Okay. Okay.</p> <p>21 No, I understand.</p> <p>22 A Can he not see this, though? I don't want</p> <p>23 that on record.</p> <p>24 Q No, no, no. That's all right.</p> <p>25 A So it was -- the decision was made that I</p> | <p style="text-align: right;">119</p> <p>1 that that organization owes to NHF and there's some</p> <p>2 concern that you all are trying to restructure them,</p> <p>3 what information has NHF obtained regarding this</p> <p>4 lawsuit that Stellar Financial is involved in and how</p> <p>5 will that affect, you know, its financial situation?</p> <p>6 A We have received a copy of the Complaint,</p> <p>7 we have received -- I know that our president and vice</p> <p>8 president and I have been there for brief -- like when</p> <p>9 we talk to them on our conference calls and stuff,</p> <p>10 brief mention of the -- the case, but other than the</p> <p>11 specifics of what actually happened and what -- you</p> <p>12 know, I'm not aware of.</p> <p>13 Q Okay. Well, based on those conference</p> <p>14 calls and your reading of the Complaint, explain your</p> <p>15 general understanding of what the allegations are in</p> <p>16 that lawsuit.</p> <p>17 A I can't remember the name is upset with Ian</p> <p>18 Dunn-Scott and Deborah Seal for pretty much taking</p> <p>19 some of his money and not putting it in the right</p> <p>20 place.</p> <p>21 Q And that's just the one lawsuit?</p> <p>22 A Correct.</p> <p>23 Q How much money is at issue?</p> <p>24 A Two million dollars. That I know. I</p> <p>25 remember numbers well.</p> |
| <p style="text-align: right;">118</p> <p>1 would report to Jan or I was -- it was either I was</p> <p>2 going to leave or my position would change. Personal</p> <p>3 conflict.</p> <p>4 Q Yeah, we don't -- that's all right.</p> <p>5 A Thanks.</p> <p>6 Q I'm sorry, we didn't -- I didn't mean to</p> <p>7 make things awkward for you.</p> <p>8 A No, it's okay. That's all right.</p> <p>9 Q I'm sure Mr. Leach will agree he doesn't --</p> <p>10 A I seem like a nice person -- no, I'm</p> <p>11 kidding.</p> <p>12 MR. GARCIA: Yeah, you are. Okay. Why</p> <p>13 don't we take a short break and let me look at my</p> <p>14 notes and I may not have any more, but --</p> <p>15 THE WITNESS: Okay.</p> <p>16 MR. GARDIA: -- I may just have a little --</p> <p>17 little bit more. So why don't we take a break.</p> <p>18 THE WITNESS: Perfect.</p> <p>19 MR. GARCIA: Off the record.</p> <p>20 THE VIDEOGRAPHER: Off the record at 10:57.</p> <p>21 (Recess taken.)</p> <p>22 THE VIDEOGRAPHER: On the record at 11:03.</p> <p>23 BY MR. GARCIA:</p> <p>24 Q Okay, Ms. Weltmann, regarding Stellar</p> <p>25 Financial and Ian Scott-Dunn, since there is so much</p> | <p style="text-align: right;">120</p> <p>1 Q Okay. Do you know anything about a former</p> <p>2 principal advisor or investor or something like that</p> <p>3 in McKim Capital or Stellar McKim or whatever the</p> <p>4 organization was is no longer there and is suing these</p> <p>5 people? Do you know anything about that?</p> <p>6 A No.</p> <p>7 Q The 2 million -- the lawsuit you've just</p> <p>8 described about the 2 million, where is that pending?</p> <p>9 A I know that's Pennsylvania.</p> <p>10 Q Pennsylvania?</p> <p>11 A Yeah.</p> <p>12 Q Okay. Do you know whether it's in a State</p> <p>13 Court or a Federal Court?</p> <p>14 A No idea. If you've ever read legal</p> <p>15 documents, which I assume you have, they're really</p> <p>16 just dry and boring and it's hard to follow.</p> <p>17 Q I prepare some of those dry and boring</p> <p>18 documents.</p> <p>19 A Yeah, thanks. I appreciate it.</p> <p>20 Q Okay. And Mr. Scott-Dunn has explained to</p> <p>21 you all the nature of the lawsuit and what his</p> <p>22 position is and given you all some comfort level?</p> <p>23 A Not so much me, but yes, our president and</p> <p>24 vice president.</p> <p>25 Q Meaning Mr. Houk and Ms. Ridgely?</p> |

| | |
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| <p>121</p> <p>1 A Correct.</p> <p>2 Q Okay. And is it your understanding that</p> <p>3 NHF through Mr. Houk and Ms. Ridgely has some comfort</p> <p>4 level --</p> <p>5 A Correct.</p> <p>6 Q -- that this lawsuit is not going to affect</p> <p>7 Stellar's ability to repay the large debt it owes NHF?</p> <p>8 A Yes.</p> <p>9 Q Okay. As the numbers person, do you feel</p> <p>10 comfortable the same way?</p> <p>11 A No.</p> <p>12 Q Numbers people tend to be more conservative</p> <p>13 about numbers, and so what is your feeling about</p> <p>14 Stellar's ability to repay this debt?</p> <p>15 MR. LEACH: Objection, form.</p> <p>16 A If I had to look -- if I had to do the risk</p> <p>17 analysis that, you know, I've learned -- that I've</p> <p>18 learned to do through college and grad school, I would</p> <p>19 say that this is probably one of the riskiest things</p> <p>20 that we could do and that the chances of them repaying</p> <p>21 us is slim to none, and that we are probably only --</p> <p>22 if we are going to recoup anything, we will only</p> <p>23 recoup about 50 percent of the asset if we recoup.</p> <p>24 Q Fifty percent of the amount that they owe</p> <p>25 you?</p> | <p>123</p> <p>1 hired. I don't have the -- I would like to do</p> <p>2 valuations for my own records. I don't have the</p> <p>3 information needed.</p> <p>4 Q And was that report -- that valuation</p> <p>5 report provided to NHF?</p> <p>6 A No. They're in the process of.</p> <p>7 Q They're in the process of finishing it or</p> <p>8 in the process of providing it?</p> <p>9 A In the process of finishing it and</p> <p>10 providing it.</p> <p>11 Q So the valuation hasn't been finished?</p> <p>12 A Correct.</p> <p>13 Q But you have preliminary numbers that</p> <p>14 you've heard?</p> <p>15 A In my head.</p> <p>16 Q In your head?</p> <p>17 A You know what I mean? Like when you do --</p> <p>18 Q Based on your own analysis?</p> <p>19 A Yeah.</p> <p>20 Q Okay. What is the time frame for when</p> <p>21 Stellar -- let me back up.</p> <p>22 What is the time frame for when the</p> <p>23 valuation will be completed?</p> <p>24 A I would -- I would say four to six weeks.</p> <p>25 Q And then it will be provided to NHF?</p> |
| <p>122</p> <p>1 A Out of 14, correct.</p> <p>2 Q And would that -- do you expect that would</p> <p>3 be recouped in liquid funds or in assets such as this</p> <p>4 source code or other things?</p> <p>5 A I think the only way that it is going to be</p> <p>6 recouped is if the company is sold. And I think the</p> <p>7 value of the company and the value of the source code</p> <p>8 will not be for the \$14 million they owe us.</p> <p>9 I think if you look at their -- you know,</p> <p>10 what they estimate their, you know, present value to</p> <p>11 be, if you take the future value of their cash flows</p> <p>12 and all that kind of stuff and you go back, it's</p> <p>13 probably -- the company is only probably worth about 9</p> <p>14 million. If that lawsuit comes out and, you know,</p> <p>15 they get a pledge on the base of the asset, they get 2</p> <p>16 million and that leaves us with 7. That's where I</p> <p>17 think it's going to go.</p> <p>18 Q And that was going to be my next question.</p> <p>19 Has NHF undertaken some form of valuation of what the</p> <p>20 company's worth?</p> <p>21 A Have we? No.</p> <p>22 Q Has someone else?</p> <p>23 A Yes.</p> <p>24 Q Okay. Who?</p> <p>25 A Some financial analyst that is -- that they</p> | <p>124</p> <p>1 A Correct.</p> <p>2 Q Has the issues about Stellar -- the amount</p> <p>3 that's owed, the risk of not being repaid in full --</p> <p>4 has that been disclosed to any donors?</p> <p>5 A I'm unsure. I know that we took an -- I</p> <p>6 know that our -- when I spoke to the auditor and I</p> <p>7 voiced my concern to our -- our auditor, Bob Ben-Kori,</p> <p>8 he said we are going to put -- in the 2007 financial</p> <p>9 statements we are going put an allowance against the</p> <p>10 Vantage count that shows up in our audit. The</p> <p>11 allowance is for about \$5 million. So that reduces</p> <p>12 the value as of 12/31/07 as of my concerns. And</p> <p>13 there -- I know there was a footnote provided into why</p> <p>14 the allowance was taken. I've never read it.</p> <p>15 Q Is it in the '07 audit?</p> <p>16 A It should be.</p> <p>17 Q Can you show me that?</p> <p>18 A Yeah. And I'm assuming that if he takes</p> <p>19 a -- there would have to be a footnote if he takes a</p> <p>20 \$5 million allowance.</p> <p>21 Q See, because I didn't see it in the '07 and</p> <p>22 I wondered if maybe you were talking about something</p> <p>23 like that being in the '08 audit.</p> <p>24 A No, I'm -- I know he took a \$5 million</p> <p>25 in -- presentations, investments, cash flow -- let me</p> |

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| <p>125</p> <p>1 see if --</p> <p>2 Q That's all right.</p> <p>3 A He would have to put an allowance and that</p> <p>4 would be on our balance sheet.</p> <p>5 Q Well, under the income statement there is</p> <p>6 an investment loss of 4.1 million. Could that be it?</p> <p>7 A Nope.</p> <p>8 Q Okay.</p> <p>9 A The reason being because -- and that was</p> <p>10 actually what it lost.</p> <p>11 Q Right.</p> <p>12 A But it would have to be an allowance, it</p> <p>13 would have to be -- it would be a contra- asset.</p> <p>14 Q Right.</p> <p>15 A So we'd have the asset and then there would</p> <p>16 be an allowance. Now, since the rules for foundations</p> <p>17 are different than the rules for public companies, I</p> <p>18 don't know if they -- and this is a question I would</p> <p>19 have to ask my auditor. If you are a publicly traded</p> <p>20 company, you have to say "asset," "contra-asset." If</p> <p>21 you are a foundation, you might be able to combine</p> <p>22 them together and not show a contra-asset.</p> <p>23 Q So you don't see that in the '07 audit?</p> <p>24 A No. But again, I would have to look at it</p> <p>25 more to -- I've never -- and again, I've never read it</p> | <p>127</p> <p>1 A 2006.</p> <p>2 Q So certainly by '07 the issues were</p> <p>3 significant enough that would have been brought to the</p> <p>4 attention of the auditor?</p> <p>5 A Yes.</p> <p>6 Q Do you expect any kind of charge to show up</p> <p>7 on the '08 audit related to Stellar Financial?</p> <p>8 MR. LEACH: Objection, form.</p> <p>9 A I would say I would put more in the</p> <p>10 allowance account.</p> <p>11 Q Okay. So your understanding is 5 million</p> <p>12 has been put in there --</p> <p>13 A Correct.</p> <p>14 Q -- already?</p> <p>15 A Uh-huh.</p> <p>16 Q How much more would you expect?</p> <p>17 A I would say another --</p> <p>18 MR. LEACH: Objection, form.</p> <p>19 A I would say another 5, total of 10, write</p> <p>20 it down enough.</p> <p>21 MR. GARCIA: All right. Well,</p> <p>22 Ms. Weltmann, thank you so much for your time.</p> <p>23 THE WITNESS: No problem.</p> <p>24 MR. GARCIA: And I'll pass the witness.</p> <p>25 MR. LEACH: We'll reserve any questions.</p> |
| <p>126</p> <p>1 before, but I thought there would have to be some type</p> <p>2 of -- I thought he said he was going to disclose it.</p> <p>3 Q In the '07 audit --</p> <p>4 A Correct.</p> <p>5 Q -- not the '08?</p> <p>6 A Yeah, the '07.</p> <p>7 Q And you don't see anything in there?</p> <p>8 A I'm -- no, not as of skimming through it</p> <p>9 right now. But I -- wouldn't be on the 990. There's</p> <p>10 no schedules attached to the 990. Where is his</p> <p>11 management letter?</p> <p>12 Q I haven't seen the management letter. Are</p> <p>13 you talking about his opinion letter?</p> <p>14 A Yeah.</p> <p>15 Q Well, he says it presents fairly the</p> <p>16 financial condition of NHF as of 12/31/07.</p> <p>17 A That may be in an internal document that we</p> <p>18 don't publish. He goes -- he lists all the stuff that</p> <p>19 he would like us to change, make better, you know, all</p> <p>20 the stuff that he thinks we could do a better job of</p> <p>21 accounting.</p> <p>22 Q So you all have a copy of that?</p> <p>23 A Yes.</p> <p>24 Q When did the issues -- the credit concerns</p> <p>25 with respect to Stellar Financial start?</p> | <p>128</p> <p>1 MR. GARCIA: Thank you, ma'am.</p> <p>2 THE WITNESS: Thank you.</p> <p>3 THE VIDEOGRAPHER: This concludes Tape 2 in</p> <p>4 the deposition of National Heritage Foundation</p> <p>5 corporate representative Julia Weltmann. The</p> <p>6 deposition concludes at 11:14.</p> <p>7 (Signature having not been waived, the</p> <p>8 deposition of Julia Weltmann, ended at 11:14 a.m.)</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p> |

VIDEOTAPED DEPOSITION OF JULIA WELTMANN
CONDUCTED ON THURSDAY, JANUARY 8, 2009

33 (Pages 129 to 131)

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| <p>129</p> <p>1 CAUSE NO. C-2005-12-6163-G</p> <p>2</p> <p>3 JUAN J. MANCILLAS, M.D. : IN THE DISTRICT COURT</p> <p>4 and SYLVIA MANCILLAS, :</p> <p>5 Individually and as Next :</p> <p>6 Friends of Carlo Landa :</p> <p>7 Mancillas and Omar Landa :</p> <p>8 Mancillas, :</p> <p>9 : 404TH JUDICIAL DISTRICT</p> <p>10 Plaintiff, :</p> <p>11 :</p> <p>12 v. :</p> <p>13 :</p> <p>14 NATIONAL HERITAGE :</p> <p>15 FOUNDATION, INC., :</p> <p>16 :</p> <p>17 Defendant. : CAMERON COUNTY, TEXAS</p> <p>18 -----x</p> <p>19</p> <p>20 REPORTER'S CERTIFICATION</p> <p>21 VIDEOTAPED DEPOSITION OF JULIA WELTMANN</p> <p>22 As Corporate Representative of the</p> <p>23 National Heritage Foundation</p> <p>24 JANUARY 8, 2009</p> <p>25</p> | <p>131</p> <p>1 I further certify that I am neither counsel</p> <p>2 for, related to, nor employed by any of the parties or</p> <p>3 attorneys in the action in which this proceeding was</p> <p>4 taken; and further, that I am not financially or</p> <p>5 otherwise interested in the outcome of this action.</p> <p>6</p> <p>7 Further certification requirements pursuant to</p> <p>8 Rule 203 of TRCP will be certified to after they have</p> <p>9 occurred.</p> <p>10</p> <p>11 Certified to by me this January 14, 2009.</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17 <u>Rebecca L. Stonerock, RPR</u></p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p> |
| <p>130</p> <p>1 I, Rebecca L. Stonerock, Registered</p> <p>2 Professional Reporter, hereby certify the following:</p> <p>3</p> <p>4 That the witness, JULIA WELTMANN, was duly</p> <p>5 sworn by the officer and that the transcript of the</p> <p>6 videotaped deposition is a true record of the</p> <p>7 testimony given by the witness;</p> <p>8</p> <p>9 That the deposition transcript was submitted</p> <p>10 on January 8, 2009, to the witness or to the attorney</p> <p>11 for the witness for examination, signature and return</p> <p>12 to me by _____;</p> <p>13</p> <p>14 That the amount of time used by each party at</p> <p>15 the deposition is as follows:</p> <p>16 Mr. Garcia: 2 hours and 15 minutes.</p> <p>17</p> <p>18 That pursuant to information given to the</p> <p>19 deposition officer at the time said testimony was</p> <p>20 taken, the following includes all parties of record:</p> <p>21 Mr. Alberto T. Garcia III, Attorney for</p> <p>22 Plaintiff.</p> <p>23 Mr. Rex Leach, Attorney for Defendant National</p> <p>24 Heritage Foundation.</p> <p>25</p> | |

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